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PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Thursday, March 20, 1997*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. BARTON of Texas].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 20, 1997.

I hereby designate the Honorable JOE BARTON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we view our world, O God, we see the ironies of life and the incongruities of our human experience. There is the destruction of the floods and yet there is the beauty of a rainbow; there are the conflicts and the violence of war and the satisfaction of peace; there is the pain of sickness and the enjoyment of health. We pray, merciful God, that whatever our condition and whatever our need, we will know the assurance that Your grace is sufficient for whatever occurs and Your love for us never ends. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Iowa [Mr. BOSWELL] come forward and lead the House in the Pledge of Allegiance.

Mr. BOSWELL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain five 1-minutes on each side.

OMEGA BOYS CLUB

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, I am honored today to have my friends, the gentlewoman from California [Ms. PELOSI] and the gentleman from California [Mr. DELLUMS] join me in presenting the Freedom Works Award to the Omega Boys Club of San Francisco.

I established the Freedom Works Award to celebrate freedom by recognizing individuals and groups who promote personal responsibility instead of a reliance on government.

The Omega Boys Club was founded by Joe Marshall and Jack Jackwa in 1987 with a mission to rescue inner city youth from the influence of gangs, drugs, and violence. Since its founding, the club has taken more than 600 children off gang warfare and drug dealing and has pushed them, tutored them, and even raised enough money to send them, 140 of them, to colleges around the country.

The club has enjoyed these positive results without receiving a single penny of Federal assistance. Instead they have relied on the personal initiative taken by Joe Marshall, Jack Jackwa, Margaret Norris, Coach Wilbur Jiggetts, and other Omega members.

The success of the Omega Boys Club is based on these four principles:

There is nothing more important than an individual's life;

A friend will never lead you to danger;

Change begins with you;

Respect comes from within.

Mr. Speaker, government alone cannot solve our Nation's problems. That does not mean we simply throw our hands up in frustration. It means every single one of us, no matter what our politics, must roll up our sleeves and do the work each of us is capable of doing to rebuild our neighborhoods and communities. Every day, groups like the Omega Boys Club demonstrate the understanding that with freedom comes responsibility.

Sadly enough, youth violence has taken more than twice as many American lives each year as cancer, heart disease, and car accidents combined.

Today's inner city children need hope, they need love, they need a place to go where they know someone cares. They have found all these things, and more, in the Omega Boys Club.

If we are a great country today, and if we are to be a great country in the future, it will be because of groups like the Omega Boys Club, who have recognized their freedom to dream, and who have voluntarily taken upon themselves the responsibility for making America's best dreams come true.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I want to thank the gentleman from Texas [Mr. ARMEY], the distinguished majority leader, for awarding his Freedom Works Award to the Omega Boys Club of San Francisco. It is a national organization now. As he says, it is about self-initiative, it is about respect for the individual.

The Omega Boys Club, and Joe Marshall, who is here today, as the gentleman mentioned, and others, Jack Jackwa, who have been involved in its founding, seek to reduce violence and to provide higher education to children, giving them something to say yes to.

I am pleased to join with the majority leader in giving this high acknowledgment and recognition of their fine

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

work. Nothing that any of us do is more important than the work of the Omega Boys Club.

Mr. ARMEY. With the Speaker's continued indulgence and the kind consideration given by my colleagues, I yield to the gentleman from California [Mr. DELLUMS] for a brief closing statement.

Mr. DELLUMS. Mr. Speaker, it is with a great deal of pride and pleasure that I join my distinguished colleagues, the gentleman from Texas [Mr. ARMEY] and the gentlewoman from California [Ms. PELOSI], as we come together to present the majority leader's Freedom Works Award to an extraordinary, inspired, and inspiring young man, Joe Marshall, who is the executive director of the Omega Boys Club, that has intervened positively in the lives of over 600 young people, moving them from gang activity and violence and drug abuse to a higher quality of life.

It would seem to me that the extraordinary byproduct of all of this, as the distinguished majority leader picked up the book, "Street Soldiers" and began to read about the inspired work of this extraordinary young man, it says to all of us that when we begin to understand the reality of each of our respective constituencies, it lifts the level of our awareness and it helps us understand that when we are prepared to positively intervene, providing options and opportunities, that young people can move to a higher quality of life.

So it is with a great deal of pride and pleasure that I stand here on a bipartisan basis as we embrace the work of this extraordinary young man and this extraordinary agency.

DEAN SMITH'S ACHIEVEMENT

(Mr. PRICE of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Speaker, 877 victories and still counting. Dean Smith, the basketball coach at the University of North Carolina at Chapel Hill, has now claimed the title of the all-time winningest coach in basketball history, with 877 victories. And the winning continues. Division I college basketball has changed a great deal since the early 1960's, when Dean Smith became head coach at Carolina. Three decades later Dean Smith is still winning, with class and consistency.

It is an amazing feat to coach in 877 games, let alone to win that many. Dean Smith has proven that you can be socially conscious, academically serious, you can play by the rules, and still rise to the top. He choose not to bask in the glory of this achievement, but rather, gives full credit to the hard work of others.

Let us all congratulate and honor Dean Smith. His victories on and off the court set an outstanding example for all Americans, and we are as proud as we can be that he hails from the Fourth Congressional District.

TODAY BRINGS THE OPPORTUNITY TO END PARTIAL-BIRTH ABORTION

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, I guess everybody now knows how far the so-called pro-choice movement will go. They will lie, as one top pro-abortionist recently admitted, to sustain the myth that abortion is somehow sane, compassionate, and even pro-child.

Americans will now see that the real extremists are not the people who insist on calling attention to the grisly details of abortion, such as dismemberment of an unborn child, injections of poison, or puncturing the child's skull and sucking out his or her brains. Americans now know that the real extremists are those who actually do these abusive acts, and then lie through their teeth to sanitize and conceal the truth. The dangerous person is not the one who shows the pictures of partial-birth abortion, the dangerous person is the child abuser who holds the scissors at the base of the skull of that baby's brain.

Let us end partial-birth abortion. We have the opportunity today. I hope we have a good bipartisan vote to do so later on this afternoon.

THE JUSTICE DEPARTMENT CANNOT POLICE ITSELF

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Justice Department cannot police itself. At Ruby Ridge, a 14-year-old boy was shot and killed, and his mother, holding her infant child, was shot and killed, shot right between the eyes; no criminal charges.

At Waco, 83 Americans were killed, including 20 children; no criminal charges were filed.

In Chicago, a court ruled that Justice Department personnel gave sex and drugs and alcohol to a number of informants to get them to offer perjured testimony; no criminal charges were filed.

Mr. Speaker, who is kidding whom? When an unarmed 14-year-old can be shot and killed, his mother shot between the eyes, and there are no criminal charges filed, and the Justice Department says it was simply a mistake, Mr. Speaker, there is no justice in America. It is time for Congress to pass laws that will provide for independent counsel to investigate wrongdoing at the Justice Department.

ARE WE A CIVILIZED SOCIETY?

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, prohibiting barbaric partial-birth abortions is a matter of whether we are a civilized society, not whether we are pro-life or pro-choice. It is a sad commentary on the slippery slope of loss of respect for the dignity of human life in our society that we in Congress once more have to debate whether it is OK to kill babies this way.

Let us understand exactly what is involved in this procedure. Labor in the mother is induced, the baby is turned and then partially delivered, feet first, with its head kept inside the womb. While still living, scissors or a trocar are inserted in the back of the baby's head, its brain is then suctioned out and skull collapsed before the baby is removed from the womb.

If Congress were voting about a method of execution, stabbing someone in the back of their head and sucking out their brains I am sure would not get a single vote in the Congress. If this would be wrong for the most heinous criminals, how can it be right for innocent babies?

TRIBUTE TO MARCIA STEIN

(Mr. DIXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DIXON. Mr. Speaker, this morning I rise to pay tribute to Marcia Stein, who retired from this body on January 20, 1997, after serving 15 years with the Official Reporters of the House. Marcia and her husband are here in the gallery this morning, and I am pleased to have this opportunity to commend her for her outstanding service to this institution.

Marcia joined the staff of the Official Reporters in November 1981. She enjoyed specializing in hearings on national security and intelligence. Some of her career highlights included reporting the Iran-Contra hearings and traveling to Bonn, Germany and other parts of the globe for field hearings.

She has enjoyed observing history in the making and feels privileged to have reported on some of the most interesting events taking place in this august body. Those of us who have had the pleasure of working with her also feel privileged to have had the opportunity to work with an individual of such outstanding ability and professionalism.

Thank you, Marcia, for your service to your country and to the House of Representatives. I wish you and Bob a long and prosperous retirement.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER PRO TEMPORE. The gentleman is requested to delete his reference to individuals in the gallery.

☐ 1015

REPUBLICAN AGENDA

(Mr. PAPPAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAPPAS. Mr. Speaker, Republicans in the House have outlined a 13-point agenda to create a better America. Our agenda reflects a genuine desire to preserve America and to have a Nation that is safe and economically stable, but this whole process starts with protecting the American family.

Part of protecting the family is protecting life. The effort to end partial-birth abortions is crucial because this procedure denies human life and human dignity. But this whole matter of ending partial-birth abortion is not just a Republican versus Democrat or liberal versus conservative issue. Public support to end this barbaric procedure is very wide and very deep. Polls show 84 percent public approval of the ban.

A bipartisan group of Members of Congress have taken the lead on this issue, not because it is popular or politically expedient. We take the lead because it is right to protect life and, in doing that, the future of America.

CALLING FOR A NEW HEAD OF FBI FORENSICS

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, I would like to invite Members of the House to join me in sending a letter to the Director of the FBI asking that he consider appointing our colleague, the gentleman from Indiana [Mr. BURTON], as the new head of the FBI forensics lab. Given the problems the FBI is having, he obviously has the ability to do the job.

He discovered, when nobody else did, that Vince Foster's body was moved. Second, he obviously has the experience because he used his backyard to fire a bullet into "a headlike object" to test his forensic theories. And certainly, in light of the revelations in the Washington Post yesterday about conversations with Pakistanis, he certainly can be counted on to run that lab with at least as much evenhandedness as he apparently will run the congressional investigation.

Of course, given his decision to exempt Congress from the review of his committee, that is indeed damning with faint praise.

THE AMERICAN FARMER

(Mr. CHAMBLISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHAMBLISS. Mr. Speaker, today is National Agriculture Day across this country. It is fitting on such a day to thank the farming families who work hard every day to make the finest food and fiber in the world. Our country's entire farming community deserves a pat on the back for a job well done.

Just think, how often in your occupation does your paycheck depend on whether or not we get enough rain. Probably never. But for our country's farming families, it is a genuine concern every single year. Georgia's farmers not only help America produce the safest, highest quality and most affordable food supply in the world, but their contribution to our local economies is overwhelming. The revenue our farmers receive from their labors is pumped back into local economies where everyone from barbers to bakers benefit.

As you sit down over supper tonight, take a moment to thank the folks that made it possible, the American farmer. They deserve it.

QUESTIONABLE FUNDRAISING ACTIVITIES

(Ms. DeLAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DeLAURO. Mr. Speaker, this week's news report makes it clear why my colleagues on the other side of the aisle have adamantly refused today to allow an investigation into 1996 Republican fundraising activities. As it turns out, the Republican chairman of the committee charged with investigating campaign fundraising improprieties has himself engaged in very, very questionable fundraising practices. Today's Washington Post editorial said it best: Mr. BURTON should step aside. To have this chairman preside over this investigation would make a mockery of the proceedings.

Let me quote the chairman. Calling the charges distortions and outright lies, he said, I have never tried to put the arm on anybody in my life. But he acknowledged asking Mark Siegel for cash and complaining to Pakistan's ambassador when he did not deliver. My, my, I think he protests too much on his lack of involvement here.

The chairman should step aside. The Washington Post said it best. To do any less would cast doubt on the integrity of this House and its ability to conduct a fair investigation.

MOTION TO ADJOURN

Mr. OBEY. Mr. Speaker, I offer a preferential motion.

The SPEAKER pro tempore (Mr. BARTON of Texas). The Clerk will report the motion.

The Clerk read as follows:

Mr. OBEY moves that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 183, nays 221, not voting 28, as follows:

[Roll No. 60]

YEAS—183

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Cummings
Danner
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fazio
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E.B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Murtha
Nadler
Neal
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Reyes
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Spratt
Stabenow
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)

Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NAYS—221

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Fox
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McDade
McHugh
McInnis
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Rahall
Ramstad
Regula
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stump
Sununu
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)

NOT VOTING—28

Blagojevich
Clay
Clement
Cramer
Crane
Davis (IL)
Fattah
Flake
Forbes
Franks (NJ)
Herger
Hinchey
Kaptur
Klug
McCrery
McIntosh
Oxley
Radanovich
Rangel
Riggs
Saxton
Stark
Stenholm
Stokes
Talent
Turner
Weygand
Young (AK)

□ 1038

Messrs. FAWELL, McDADE, PORTER, GILMAN, BATEMAN, and McCOLLUM changed their vote from "yea" to "nay."

Messrs. GREEN, MURTHA, BALDACCI, GOODE, LIPINSKI, BOSWELL, SCOTT, McINTYRE and COSTELLO

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PROVIDING FOR CONSIDERATION OF H.R. 1122, PARTIAL-BIRTH ABORTION BAN ACT OF 1997

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 100 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 100

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 1122) to amend title 18, United States Code, to ban partial birth abortions. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) 2 hours of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to recommit.

The SPEAKER pro tempore. (Mr. BARTON of Texas). The gentlewoman from North Carolina [Mrs. MYRICK] is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York [Ms. SLAUGHTER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

□ 1045

Mr. Speaker, the resolution provides for consideration of H.R. 1122, the Partial-Birth Abortion Ban Act of 1997, under a closed rule. The rule provides for 2 hours of debate divided equally between the chairman and the ranking minority member of the Committee on the Judiciary. Finally, it provides for one motion to recommit.

In short, H.R. 1122 outlaws the practice of partial-birth abortions. Any physician who performs this inhumane act may receive a fine or receive up to 2 years in prison, or both. The bill explicitly states that if the procedure is necessary to save the life of a mother who is threatened by a physical disorder, illness or injury and no other medical procedure would do, then the physician will not be held liable.

The language in H.R. 1122 is identical to the language in the Partial-Birth Abortion Ban Act of 1995, which was vetoed by the President. Members may hear objections by the other side that this bill has not passed through the committee process, but I would like to point out that this is the same language that 80 percent of the American people supported when it passed through Congress previously. The bottom line is that this is not new language we are trying to sneak past anybody. My colleagues are well aware of what this bill contains and any other assertion would be disingenuous at best.

During debate on the resolution and the bill itself, you may hear some voices of discontent from Members on both sides of the aisle. I urge my colleagues to make sure they do not lose sight of the true focus of this debate, the horrible procedure known as partial-birth abortion. Try not to forget that the reason we are considering this important bill is to preserve the life of these vulnerable and fragile children. We are talking about human life. When this issue was before the subcommittee, they received testimony from Whitney Goin, proud mother of a beautiful young baby that was born with the organs developed outside of the body. The doctors told her to abort the child, but she elected to have her baby. With the help of skilled doctors and extensive surgery, the child was able to survive and is alive today. No one can ever replace the love and affection that she will be able to share with her baby for the rest of her life.

I would encourage all of my colleagues to read the piece by George Will that appeared in yesterday's newspaper. In it, he gives an eloquent argument against this procedure. His son Jon is about to celebrate his 21st birthday. Jon has Down's syndrome, and his parents were asked to decide if they should take him home or not. Jon is leading a productive, happy life despite his mental retardation.

I point out these two cases, and there are countless others, because they are a testament to the fact that life is precious and should not be squandered. The joy that children bring to their parents, regardless of their physical or mental condition, is boundless and must be respected. I cannot help but think of my own two sons and my seven grandchildren and the joy that they bring to us.

Mr. Speaker, I again implore my colleagues to support the ban and allow these children the opportunity to live a happy and productive life.

Abortion has long been an issue that divides our Nation. People on both sides argue with great conviction that they are protecting sacred human rights. However, we are not talking about the general issue of abortion during this debate. Today's debate is about what our society values as right or wrong. We will decide whether our Nation will continue to allow the appalling practice of partial-birth abortion to continue.

I am sure that every one of my colleagues is fully aware of the details of this particularly repugnant form of abortion. Therefore, I am not going to again describe the procedure. But I am going to challenge my colleagues to consider H.R. 1122 on the merits of the legislation and make their decision based on the facts as we know them to be today.

I am sure some of my colleagues made a decision to oppose similar legislation in the past based on false information provided to them by pro-abortion groups and Ron Fitzsimmons, the Executive Director of the National Coalition of Abortion Providers. He said that he lied through his teeth when he said the procedure was rarely used. He now admits that pro-life groups were accurate when they said that the procedure is common. By Mr. Fitzsimmons' estimate, every year.

To further underscore the lies and deception, Mr. Fitzsimmons said in the Medical News, an American Medical Association journal, that "In the vast majority of cases, the procedure is performed on a healthy mother with a healthy fetus that is 20 weeks or more along." He further went on to state that the abortion rights folks know it, the antiabortion folks know it and so probably does everybody else.

In fact, the truth is the vast majority of cases are performed on healthy mothers with healthy babies. Mr. Fitzsimmons intentionally lied about partial-birth abortions to mislead people because he feared the truth would damage the cause of his allies. While explaining his veto, the President echoed the argument of Mr. Fitzsimmons and his colleagues. H.R. 1122 will allow the President the opportunity to reevaluate this issue, this time with accurate information on which to base his decision.

He is not alone. I urge my colleagues who opposed banning partial-birth abortions in the past to reflect on the truth about the misinformation that Mr. Fitzsimmons and the pro-abortion lobby has circulated before making your final decision on this critical issue.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ARMEY], the distinguished majority leader.

Mr. ARMEY. I thank the gentlewoman for yielding me this time. Let me also thank the minority side for their patience with this yield.

Mr. Speaker, this rule makes in order 2 hours of debate on a subject that many of us would rather we did not have to debate in this country. This is a subject that is heartbreaking to all of us. Irrespective of which side of the debate we find ourselves, it breaks one's heart to realize the subject under consideration here.

We are talking about whether or not this Nation can, through its elected representation, tolerate or must it ban a particular procedure by which the life of a child is snuffed out. There are going to be heartfelt differences on this issue, make no mistake about it.

Mr. Speaker, whether you think this is about the child and the Government's obligation to protect life or if you think it is about the mother and her rights to her freedom, her privacy and her control over her own destiny, should we expect any Member of this body to come at this issue casually, or should we not expect us to have in each of the two sides an intensity of conviction and commitment to our point of view?

In this 2 hours of debate, Mr. Speaker, there are going to be a lot of hard facts that are going to be put up before us. There are going to be a lot of things we do not want to hear about and do not want to see. There are going to be some arguments we are not going to particularly appreciate. But let us ask this of ourselves: Out of respect for the importance of this issue to both sides and the gravity of the issue and the lives of the people who are affected by it across this Nation, even if we are not able to respect the arguments made by one another, can we respect their right to make those arguments? And can we carry on a discourse over this subject that is serious, that is sober and that is, if I may daresay, as reverent as this subject demands. That is the plea I would make for our body today.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume. I rise in strong opposition to the rule and the underlying bill, H.R. 1122.

Mr. Speaker, I urge all my colleagues in the strongest possible terms to defeat the previous question on this rule. The process the majority has used to bring this rule and bill before the House of Representatives makes a mockery of our legislative process. The bill that would be made in order by this rule is not the bill reported by the Judiciary Committee. It is not the bill that the Rules Committee heard testimony on yesterday.

Last night in an unprecedented move, the majority members of the Committee on Rules discarded legislation that had been approved by the subcommittee and the full Committee on the Judiciary and replaced it with a bill from the last term.

Several improving amendments that had been accepted by the Committee on the Judiciary were tossed away. In an unusual agreement with the Senate, the majority leadership of this body determined that they wanted to send the President a bill identical to the one he vetoed last year. The President has made it clear that he will veto any bill that does not pass the test of the four women who visited him in his office explaining that the procedure we are discussing today was necessary to preserve their health, their lives, and their reproductive ability.

The minority of the Committee on Rules had no more input than did the Committee on the Judiciary. We were simply confronted with a fait accompli in the form of the already-vetoed and expired bill from the last term. It is obvious that the Committee on Rules chose to invite another veto rather than meeting the President's criteria for signing this bill, and that calls into question their sincerity on this entire issue.

One amendment approved by the Committee on the Judiciary that is not in this bill would have prevented a father who had abandoned or abused the mother of the fetus from suing for damages. I want to make this clear, that anyone who votes for this bill made in order by this rule is voting to allow batterers and abusers to profit from the tragedy that leads to this procedure. Imagine, an abuser, an abandoner, or rapist can sue his victim who is already damaged.

Ironically, providers can be sued for damages resulting from both psychological and physical injuries, and yet the majority refuses to allow the bill to be amended to provide an exception to protect the woman's psychological health. In other words, her's does not matter. The father's does. That amendment would have enhanced the chances of this bill becoming law.

Another amendment passed by the Committee on the Judiciary but deleted in the new version of the bill passed last night clarified that the life exception in the bill includes situations in which the mother's life is endangered by the pregnancy itself. There is no protection for her. Regardless of where one stands on the issue of abortion, I believe all of us would agree that these two amendments are necessary.

All Members know that at the end of a congressional term, all bills previously filed have died and certainly a vetoed bill has died. Bringing back a bill from a previous term has not only rendered useless the work of the committee and those interested enough to produce amendments, but has disenfranchised the new members of the Committee on the Judiciary and their constituents who were not members last term. This means they had no input on the bill whatsoever, they were not privy to any of the discussions on the bill, they never voted for this bill.

I do not believe personally that it is the role of Congress to determine medical procedures. The doctor-patient relationship in this country has been accepted as totally private. My dismay and disbelief at the process in which this bill has been brought to the floor overrides my concern, however, about Congress inserting itself into the most private of decisions because we are saying not only are we competent to make medical judgments but we are saying that the Committee on Rules is the only competent body to make the decision, more competent even than the

Committee on the Judiciary, which has jurisdiction over the issues, overstepping the bounds in which we have always operated since the days of Thomas Jefferson.

Does congressional reform mean that from now on there is only going to be a Committee on Rules? Are we going to completely override the product of other committees, taking away the rights and responsibilities that have always been the prerogatives of Members of Congress? Is this the new civility? Does the majority really care about this issue or does their mistaken belief that they will embarrass President Clinton override their judgment?

□ 1100

I urge my colleagues in the strongest possible terms to reject this rule that would permit debate on a bill that is not properly before us and has bypassed every single part of the legislative process, and I urge defeat of the previous question.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, I rise to oppose this rule and to address a concern that is deeply rooted in the conscience of every Member in the House of Representatives and, I think, in the hearts of almost every citizen of this great country.

For many, the debate over abortion is a deeply personal and emotional issue. It is one that commands throughtful and sincere reflection and frankly ought to be protected from politically charged debate. But there is one area where I hope every person of conscience in this body can agree, and that is that the right to choose must be available when a woman's life is in danger for any reason and that a very personal decision on that issue should be up to the woman, her doctor, her family and her clergy.

This bill does not protect a woman, even when her life is in danger, if her pregnancy goes forward. The changes made in the Committee on Rules last night remove that assurance provided in the Committee on the Judiciary markup. The other side tragically will not even allow a discussion where that life protection can be debated, discussed, and perhaps offered as an alternative.

All of us oppose late term abortions. All of us. But many of us believe that an abortion should be allowed if the woman's life is in danger. The Republican bill says a woman must carry her pregnancy to term even if she could die doing so. We should have been able to consider the bipartisan Hoyer-Greenwood bill that prohibits all late-term abortions unless the life or severe health consequences of the mother is at stake.

By not allowing this bipartisan bill to be offered, the motive of the Republican leadership becomes apparent. They simply want to win. The ability to use this issue politically is at stake. The truth is I believe they have no interest in solving a problem by bringing this country together because we could reach almost complete unanimity on this issue in this body. I think their only motive is the 30-second spots that are running now and will run again in 18 months.

Mr. Speaker, it is a shame and a sham.

Mrs. MYRICK. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, I would like to just really respond to the last comment and say that this bill is coming to the floor today because forces on both sides of this issue were pulling so hard in opposite directions that they ultimately could not reach agreement on H.R. 929. It was totally impossible for the Committee on Rules to reach a consensus with all parties involved, so in the interests of fairness we decided to bring up legislation that the House has considered in the past. In fact, this is the same legislation that the President vetoed in the 104th Congress.

Mr. Speaker, it is not a sneak attack by the majority. It is merely an attempt to bring forth legislation that had broad support in the past so we can consider this extremely important bill; Members can cast their votes with a clear conscience without the pressure tactics from powerful groups on both sides of this divisive issue.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentlewoman for yielding me the time to rise in strong support of this rule and this bill. This is a fair rule which will allow the House to present to the President of the United States the exact same bill he vetoed last year for his needed consideration.

But let me speak to something else here because I am really disturbed with the statement by the gentleman from California that just spoke as well as the gentlewoman from New York. I hope she will be listening here. I would like to address her remarks, if I might, and I am trying to be very calm about this because she is a gentlewoman that I deeply respect, but I am concerned with her remarks because, first of all, she questioned the sincerity of Members on the other side of this issue, and we could read back her remarks in which she said, "questions of sincerity."

Mr. Speaker, I think that is beneath all of us. If she had put a name to that statement, naming me or the gentlewoman from North Carolina [Mrs. MYRICK] or anyone else on this side of the aisle or some on their side of the aisle, her words would have been taken down. We should keep this on the highest plane that we can because we all are emotional about this issue. I am, as the father of five children and the grandfather of five, and so are people on their side from their philosophical persuasion as well. So let us keep it elevated, my colleagues. Let us not get into this.

Let me get into one other thing that the gentlewoman brought up because she questioned the hypocrisy of us bringing before the Congress a bill that had not been reported. Well, I would just remind the gentlewoman and everybody on that side of the aisle that on March 19, 1992, when the gentlewoman was a member of the Committee on Rules before she left and subsequently came back this past year, that our Committee on Rules, under the leadership of the gentleman from Massachusetts [Mr. MOAKLEY] and the Democrat leadership, reported special order waving all points of order against an unreported bill under a closed rule. And do my colleagues have any idea what that was? It dealt with the removal of limitations on the availability of funds previously appropriated to the Resolution Trust Corporation when we were arguing over the bailout of these S&L's. That was probably one of the most important bills to come before the Congress that year, and it came before the Congress as an unreported bill. They did the same thing that I did in taking the bill that was on the President's desk last year and dropping it in the hopper last night and then bringing it to the Committee on Rules. That is exactly what we are doing here today.

And while we are at it, the gentlewoman spoke, and so did the gentleman from California, about the life of the mother and the fact that this was not contained in this bill before us today. Let me read for my colleagues the paragraph on page 2, line 3.

Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years or both, and then the next sentence goes on to say, and it is here in plain print for anybody to read: This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of the mother whose life is endangered by a physical disorder, by illness or by injury.

That is in the bill, and true, the bill reported by the committee did have additional language which was put in there just to clarify the obvious that is here.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. CUNNINGHAM. I came down because I was upset at the gentlewoman's statement, not against it but what she was saying, because I am 100 percent pro-life; but I also want to support the life endangerment of the mother, and the gentleman from New York [Mr. SOLOMON] is telling me—because I was ready to vote against the bill. He is telling me it is covered in this bill.

Mr. SOLOMON. The gentleman can read it, and the sponsor of the bill can tell the gentleman.

Mr. Speaker, if I could get back now to settle down a little bit and just to talk about the issue before us.

Do we as a body support or oppose a truly unconscionable, a truly immoral procedure called partial-birth abortion?

As my colleagues know, when my wife and I were first married, the husband did not go into the room and watch the birth of the baby. I am sorry I did not back in those days, but my children, all of them, have, and can you just picture this immoral, this inhumane procedure? If my colleagues do, and if they had ever watched the birth of a baby, I am sure that they would be voting for this bill here today. As my colleagues know, for me it is just clear.

As my hero, Ronald Reagan, stated so well:

> We cannot diminish the value of one category of human life, the unborn, without diminishing the value of all human life. There is no cause more important. And, my colleagues, think about that.

In this spirit in the last Congress I joined with two-thirds of this House, and that was a majority of Republicans and Democrats together, two-thirds of this body, in making a clear and unequivocal statement that this inhumane procedure, a partial-birth abortion, should be banned in this country. The U.S. Senate concurred by also voting to ban this same kind of procedure. Nevertheless, when the bill reached the President's desk, it was vetoed. Although it was only one signature away from becoming a law, that bill was rejected because of the President's belief that partial-birth abortions occur only rarely and only when necessary to save the life of the mother. That is what he said in his veto message.

However, the Nation now knows that President Clinton's whole decision was based on erroneous and incorrect information. This information was, in fact, so wrong that one of the strongest supporters of partial-birth abortion admitted publicly that he deliberately misled the American people, Congress, and even the President into believing this was true; and indeed on February 25, 1997, just past, Ron Fitzsimmons, the executive director of the second largest abortion provider in the country, admitted on Nightline, and go back and get it; we have got the videotapes to show our colleagues—and admitted on Nightline, and later to the New York Times, that he lied through his teeth. That is his statement, not mine, that he said I lied through my teeth.

Mr. Speaker, and my colleagues, partial-birth abortions do in fact happen far more often than acknowledged and on healthy mothers bearing healthy babies.

Today Congress is poised at the same moral crossroads where it found itself during the last Congress. While Congress made the right decision last year, the President, standing at those same crossroads, made an immoral decision by vetoing that bill, and in light of these latest revelations of the truth, the broad-based support of the American people, and as Ronald Reagan called it, the most important cause there is, we need to pass this bill again and give it to the President, give him another chance to do the right thing, because the only reason he vetoed it was because of the lies by Ron Fitzsimmons. Now he knows the difference, he has a obligation now to sign this bill, and I would urge everyone to come over here and vote for this rule, vote for the bill, and let us save these decent human beings' lives.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to say that on March 7, the President said that he was not persuaded at all by Mr. Fitzsimmons but had made his decision on other matters.

Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this morning as a mother of two children age 11 and 17 and hoping that God will bless me to have grandchildren in the future. I also rise this morning as a member of the House Committee on the Judiciary and someone who participated in the Committee on Rules hearing yesterday.

This is an issue of life and death, and I ask my colleagues, Do you know that? It seems to be that even though I respect those who have a difference of opinion, and I am gratified of the previous speaker's acknowledgment that we must be civil, but this is nothing but a game, late into the night another piece of legislation that none of us on the Judiciary Committee got to see appeared, the same legislation that the President had vetoed because it protects the health of the mother. This bill does not care about the health of the mother. It does not care about the opportunity for future fertility so that that family can have another child. This is a wrongheaded bill.

And when we had the opportunity to be bipartisan with the Greenwood-Hoyer bill, what happened to it? It fell by the wayside.

I ask my friends to be bipartisan and allow us to pass out a bill that will speak to the American people and preserve the life of a mother and the health of a mother. Vote down this rule.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. DICKEY].

Mr. DICKEY. Mr. Speaker, I am going to vote for H.R. Bill 1122, and these are the reasons:

At day 22 of a pregnancy a baby's heart begins to beat with blood often a different type than the mother's. At week 5, eyes, hands, and feet begin to develop. At week 6, brain waves are detectable. Week 8, all body systems are present, and bones begin to form. Week 9, the baby is sucking his or her thumb, kicking and bending fingers. Week 11, the baby can smile. And at week 17 the baby can have dream sleep.

Mr. Speaker, we are talking about a procedure that takes place at weeks 20 to 24, a procedure where the child is turned around in the womb and grabbed by the feet and the baby is killed, as has been described before.

There has been another time when babies have been grabbed by the feet and killed, and it happened in Cambodia outside of Phnom Penh, the killing fields. At the edge of the killing fields is a tree that stands there, stained with red right now, because those people, in the midst of the genocide that was taking place there, took the babies by the feet and beat their heads against the tree, and that tree is stained with blood; it is red until its death as a symbol of the genocide and the infanticide that took place in Phenom Penh at the hands of the Khmer Rouge.

We are doing the same thing except just a matter of inches, a matter of difference of time. We are doing the same thing. We are grabbing the feet of the baby, and we are killing them, we are killing these people who are living in the womb and are supposed to be a protected environment.

Our Nation cannot withstand this assault. Our Nation's conscience cannot withstand this assault. We must do something. We will pay for this disobedience to the very reason for our creation.

□ 1115

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. HALL].

Mr. HALL of Ohio. Mr. Speaker, I want to thank my colleague for yielding me this time.

I rise as an original cosponsor of the Partial-Birth Abortion Act. Abortion, except to save the mother's life, is wrong. However, this particular procedure is doubly wrong. It requires a partial delivery, and it involves pain to the baby.

Mr. Chairman, we will hear the medical details of these abortions from others. I just want to lend my support to the bill as one who tries to follow a moral code of common sense. A compassionate society should not promote a procedure that is gruesome and inflicts pain on the victim. We have humane methods of capital punishment, we have humane treatment of prisoners; we even have laws to protect animals. It seems to me we should have some standards for abortions as well.

Many years ago, surgery was performed on newborns with the thought that they did not feel pain, and now we know they do feel pain. According to Dr. Paul Ranalli, a neurologist at the University of Toronto, at 20 weeks a human fetus is covered by pain receptors and has 1 billion nerve cells. Pain is inflicted to the fetus with this procedure.

Mr. Chairman, I do not want to discuss a bill relating to abortion without saying that we have a deep moral obligation to improving the quality of life for children after they are born. I could not stand here and honestly debate this subject with a clear conscience if I and my colleagues did not spend a good portion of our time on improving hunger conditions and trying to help children and their families achieve a just life after they are born.

On a final note, I want to express my serious concern about the rule. Last night's action by the Committee on Rules on this bill was a travesty of process. If there has ever been an issue that we ought to be knocking out of the ball park, it is this one. To me, there is no gray area on this issue. Enough is enough. If there is one thing this Congress ought to do this year, it is to stop this very reprehensible and gruesome technique of abortion. We treat dogs better than this.

I will vote for the rule. I do so reluctantly because of my strong objections to the process. However, my determination to ban this gruesome, immoral process is stronger. Vote "yes" on the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, I rise in opposition to this rule. This is a bill that I supported last year and I will probably support it again this year, but I am deeply troubled by what the Committee on Rules did.

The Committee on Rules said that a woman whose life is threatened by the pregnancy itself should die. The original bill said we are not going to do that; if my wife is going to die because of the pregnancy, we are not going to let that happen. This bill says, let the woman die, and that is wrong.

The Committee on Rules abused this process. We should go back to the original language in this bill that was put in as it was introduced. There is no woman in this country that should die because of the pregnancy itself. This bill should be changed.

Every person in this room knows that there is not a woman in this country that should die because her life is threatened by her pregnancy. That is an outrage, and this bill originally recognized that there was a problem with that. It originally realized that this is a spot where this bill was vulnerable last year, so it corrected it. Now they are back to playing politics.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes and 15 seconds to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, I am outraged that the leadership of this House has once again decided to play politics with women's lives. This bill values abusive fathers more than women's lives. This bill, as reported here, eliminated amendments made by the committee that would have helped save some women.

Let me explain how this bill works. A woman becomes pregnant. While she is pregnant, the father of the fetus rapes her. He then beats her to a pulp. He throws her down the stairs, he batters her. He then disappears from the scene and abandons her.

This woman, who is now severely traumatized, who is physically injured by the battering, whose doctor tells her that because of her injuries, carrying the pregnancy to term will probably result in permanent, severe physical injury, perhaps permanent paralysis, for life, decides to have an abortion. The doctor tells her the safest method of abortion is the so-called, what some people call the partial-birth abortion. It is the safest method. Other methods might kill her, might increase the chance of paralysis, but this, he says, is the safest method.

This bill says, First, she cannot have that abortion that way. If she does, the doctor is criminally liable. The bill also says that the father of the child, of the fetus, who raped her, who abused her, who abandoned her, now can sue her and her doctor for damages. The abusive father is entitled to damages. In fact, he is even entitled to money for physical and emotional damages that he has suffered.

This is ludicrous. It is an outrage. It is disgusting. Not only does this bill intrude, infringe, and violate the constitutional right to choose, but it rewards abusive fathers. It rewards rapists.

The committee's amendment that would have said that a father who beats the woman, who abuses her, who abandons her, cannot sue her for damages, was eliminated in proceedings by the Committee on Rules. This is shameful. I urge the House to reject this bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, it seems very clear to me that we have people who would prefer an issue to a bill that could become law. I offered an amendment in committee that would have provided an exception to the ban in cases where it was necessary to use this procedure to avoid serious adverse physical health consequences to the mother.

Now, people on the other side have argued that health is too broad. I do not agree with that. I find the health concept important. But I also understand the health concept, including mental health, is most directly relevant when we are talking about whether or not to have an abortion.

This bill does not say you cannot have an abortion; it says you may not use this particular procedure. Where we are talking about a ban on a specific procedure, then physical issues become more prominent, because the mental question generally is as to whether or not an abortion is permitted.

Here is what the majority is insisting upon. A doctor believes he can show that it is necessary under the wording of this bill to use this procedure for a woman who has established her right to an abortion, because otherwise there would be severe physical adverse health consequences, and the majority says no. The majority says even if avoiding this procedure will subject the woman to severe adverse physical health consequences, as long as she is not going to die, but if she is severely physically damaged, then they cannot use this procedure. And the chairman of the full committee, with the intellectual honesty he brings to the issue, said if it is a choice between the woman incurring serious physical health damage and the life of the fetus, then the woman's health must give way.

The chairman of the committee made that explicit when he opposed the amendment, and that is the choice that the Members are not being allowed to make. I am not being allowed to offer an amendment that would have provided an exception to severe physical adverse health consequences. I think that bespeaks an interest on the part of some in an issue and not a law.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise in strong opposition to this closed rule.

Mr. Speaker, this is a difficult issue. That is why I had hoped that we could work with the GOP leadership to reach consensus on this legislation. We have repeatedly tried to compromise with the Republican leadership to write a bill that the President could support. As my colleagues know, the President has said very clearly that he will sign this legislation if it contains a narrow exception to protect those few women who need this procedure to preserve their health. I personally asked the leadership to work with us, to craft a narrow health exception to the bill. They were unwilling.

The GOP leadership was also unwilling to allow a vote on the bipartisan

Hoyer-Greenwood substitute. That legislation would have banned all late-term abortions, all late-term abortions, except those performed to save the life or preserve the health of the pregnant woman.

The President will veto the bill in its current form. He has made that very clear. So rather than work with us to send the President a bill that he will sign, the Republican leadership would rather pass legislation that he will veto.

Let us be clear. This vote today is about the value of women's health. The President said that he will not sign a bill unless it protects women's health, and the GOP leadership will not go along. I am sorry that the leadership chose to turn this sensitive matter into a political issue. Unfortunately, it has become very clear that this leadership does not want to ban this procedure, they want a political issue.

I urge my colleagues to defeat this closed rule so that we can include a health exception to the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, I strongly oppose late-term abortions, but I believe that when the mother's life or health are at risk, that choice should be made by a woman and her physician and not by the Federal Government.

Mr. Speaker, what the American people do not know about this bill is this: If we want to save babies, why does this bill just outlaw one abortion procedure? The fact is, this bill still makes it legal to have abortions at the end of the eighth or ninth month of pregnancy. What the American people do not know is that late last night the Committee on Rules refused to even let this House vote on the bipartisan Greenwood-Hoyer bill that would have outlawed all late-term abortion procedures, not just one procedure.

I can respect those who support this bill, Mr. Speaker, but they should be honest. There is no proof that this bill will save even one baby. By outlawing one procedure and allowing others, you are not saving babies, you are risking the health of mothers.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. BUNNING].

□ 1130

Mr. BUNNING. Mr. Speaker, today I rise as a father of 9 and a grandfather of 30, in strong support of the partial-birth abortion ban and the rule which allows this bill to come to the floor.

Today's debate is different from most abortion debates we see on the floor each year. This debate is not about the viability of the fetus, this debate is not when life begins. This is about the killing of an infant.

The defenders of partial-birth abortion do not even try to deny that we are talking about a viable human being. Instead, the defenders of partial-birth abortion have always tried to defend it by saying it is only used in cases of protecting the health and future fertility of the woman or the mother. This claim is obviously not true. Former Surgeon General C. Everett Koop, along with doctors from all over this country, have stated that partial-birth abortions are never medically necessary to protect the health or future fertility of the mother.

During the last month the truth regarding this procedure has finally come to surface. The pro-abortion movement has developed a serious credibility problem. Mr. Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers, admitted that he misled Congress. The pro-abortion movement lied about partial-birth abortion. The truth is that this barbaric procedure is not a rarity. Doctors are performing thousands of partial-birth abortions each year. The majority of them are being performed as elective procedures done on healthy women carrying healthy babies. That is a tragedy.

It is time to put an end to this barbaric procedure. I ask my colleagues to join me in support of H.R. 1122.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I am pleased to follow the gentleman from Kentucky. The Hoyer-Greenwood bill would have prevented any abortion, not just by this procedure but by any procedure, I tell the gentleman from Kentucky, on healthy women with healthy babies. This bill that the gentleman is supporting will prevent not one abortion, not one. Why? Because it deals with only one procedure.

There are other procedures, and I presume that the gentleman believes those procedures are equally, in his terms, barbaric. If he does not, I would yield for a question on that issue. But my assumption is he does. So the issue here is whether they are going to allow in order Hoyer-Greenwood.

The Republican Party, when it was in the minority, railed against the Democrats for arbitrarily and arrogantly preventing amendments to reflect different views. They said we wanted to prevent open and fair debate.

Not only did the Committee on Rules last night prevent debate and prevent other amendments, they also prevented even the work of their own committee. They had the temerity to reject out of hand the committee process. This group that came to reform the Congress in 1995 and talk about process, talk about fairness, talk about openness, this rule is outrageous. America, because it does not allow the views of the American public to be reflected on this floor and allow Members the right to say, as I want to tell my constituents, and I presume many do as well, I am against late-term abortion, period. Do I make exceptions? Yes, I do.

I recently lost my wife on February 6. It was a painful experience. We have three children. I could not do anything about the cancer that gripped her body, but if I could have done something had she been pregnant with one of our three girls and saved her life, by God, I would have done it. If the doctor had told me, Judy will not be able to have further children if we do not perform an abortion, I would have said, as much as I love my three daughters, Doctor, save Judy's life and our ability to have more children.

That is what this debate is about. The Committee on Rules has muzzled us. We cannot address that issue. We address only one procedure.

Is it a procedure which we revile? It is. Is there a Member in this House who will come to this floor and tell me there is another procedure they believe is more humane, more fair, more acceptable?

If there is, have them come to the floor. I understand there is an honest difference of opinion. The alternative procedures that can be employed are not supported by many, by most, perhaps by all who will vote for this bill. I understand that. I think that is a fair position.

But what, I say to the gentleman from New York [Mr. SOLOMON] is not fair, what is deeply unfortunate in this Democratic body, is to not give us the opportunity to have Members be able to express their views by voting for or against alternative amendments.

Vote against this unfair, this unfortunate rule that has been presented to us.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. MCINNIS].

Mr. MCINNIS. Mr. Speaker, I yield to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, there is nothing more unfair than using this inhumane treatment on an unborn child, a living human being. Let me quote, and I will include the article by Robert Novak in this morning's Washington Post; he says, "Hoyer's bill makes this exception: 'If in the medical judgment of the attending physician the abortion is necessary to avert serious health consequences to the woman,'" and then it goes on to say that when HOYER was asked March 12, what does that mean, and the question said, does it include mental health, Mr. HOYER said, "Yes, it does." HOYER then launched into a discourse that indicated no psychosis is necessary, only what he calls "psychological trauma."

The article goes on to say, in short, any doctor could perform a partial-birth abortion at his own inclination. That means there are no detriments at all. Any partial-birth abortion could be allowed at any time. That is why we want this bill to be only on the issue of partial-birth abortion and not on the issue of abortion itself.

Mr. Speaker, I include for the RECORD the article referred to:

CLINTON'S ABORTION SCAM

(By Robert D. Novak)

Rep. Steny Hoyer, a nine-term Maryland Democrat who is carrying President Clinton's abortion colors, was all too honest in a Capitol Hill press conference March 12. He revealed that his Clinton-blessed bill to supposedly ban "late-term" abortions provides no restriction at all. In fact it is a world-class scam.

Public opinion, for once, is on the pro-life side when it comes to "partial-birth" abortions, which remove the living baby from the mother, as if in a birth, and suck out its brains, often with the help of surgical scissors. The Republican-sponsored Partial-Birth Abortion Act, to be voted on by the House today, permits this only in very rare instances where the life of the mother is endangered. But Bill Clinton has promised to repeat his 1996 veto unless the health of the mother is also protected.

Accordingly, Hoyer's bill makes this exception: "if in the medical judgment of the attending physician, the abortion is necessary . . . to avert serious health consequences to the woman." What, Hoyer was asked March 12, does that mean?

"We're not talking about a hangnail," Hoyer replied. "We're not talking about a headache . . . Does it include mental health? Yes, it does." Hoyer, than launched a discourse that indicated no phychosis is necessary, only what he called "psychological trauma." In short, any doctor could perform a partial-birth abortion at his own inclination.

That's all there is to the "dramatic shift" by Clinton feverishly heralded on the Boston Globe's front page March 7. The newspaper disclosed a Clinton "compromise" would ban late-term abortions, except for the mother's life and health exemptions. That day at his press conference, the president was fuzzy about what he supported. But on March 8, the Globe reported that the White House said, "Clinton's remarks should be interpreted as an endorsement for a bill banning third-trimester abortions," though there would be a "a very narrow exception for health reasons."

But not so narrow, it turned out. Four days later, Hoyer and Republican Rep. James Greenwood of Pennsylvania, ardent abortion rights advocates, introduced the bill the Globe was talking about. It would outlaw any abortion "after the fetus has become viable." The doctor on hand would be the one to define viability (the earliest a baby can survive outside the womb). So, the Hoyer-Greenwood bill really permits any abortion any time an abortionist sees fit.

A formal presidential statement will endorse that bill, Clinton aides say, if a vote on it is permitted today. On Tuesday, Hoyer asked Rep. Henry Hyde, Judiciary Committee chairman, whether the House could vote on his bill. "Over my dead body!" Hyde, long a pro-life stalwart, cheerily replied.

Hyde's obstinacy is justified by last year's comments from pro-abortion activist Susan Cohen, referring to a close Senate vote on a health-of-the-mother exception: "We were almost able to kill the bill." Hoyer-Greenwood is intended to be a killer that would mean no bill at all.

Meanwhile, the president persists in fantasies in the face of collapsing myths. Abortion clinic spokesman Ron Fitzsimmons has admitted that he "lied through my teeth" last year when he "spouted the party line" that partial-birth abortions are not routine. As I wrote last December, the procedure is widespread and elective—used in the fifth and sixth months of pregnancy because it is an easier, though more grisly, way to abort the developed fetus.

In his March 8 press conference, Clinton insisted that, contrary to all medical evidence, there are "a few hundred women" a year who resort to this procedure so "that they could have further children." Why does he persist in this untruth? "Because he believes it," a senior White House aide told me.

During the 1996 campaign, the president wrote leaders of his own denomination, the Southern Baptist Convention, that when partial-birth abortion is used "in situations where a woman's serious health interests are not at risk, I do not support such uses, I do not defend them and I would sign appropriate legislation banning them." But that promise is broken by his support of Steny Hoyer's killer substitute. Clinton would be in political trouble if he violated a gun-control pledge, but not where lives of the unborn are concerned.

Mr. McINNIS. Mr. Speaker, let me say something to the gentleman from Maryland. My wife faced exactly the same challenge. I want to make it just as clear as he made it up here, there is never, ever the necessity to abort partial-birth. That means the baby is partially born, to abort that baby, to assist the mother in her challenge against cancer. That is out of this class. It never faces them. There is never a medical necessity to abort a baby 9 months after conception as the baby is all but 1 inch of the delivery.

We would not do that to the worst criminal in this country. For Members who support partial-birth abortion, would they tell me that they would take the worst criminal in this country, they would take him down for his execution, they would pierce his brain, skull, and suck out his brains? Tell me you would do that. Tell me that you support this.

In this country we have more regulations on rats and baboons than we do for the protection of a baby that is partially born.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan [Ms. KILPATRICK].

Ms. KILPATRICK. Mr. Speaker, I rise to oppose the closed rule that is before us this afternoon, and amazingly because it does not talk about abortion, it does not stop one abortion, but stops a procedure that trained professionals have been trained to make those decisions. It takes that right away from them.

As a new person in Congress and having served 18 years in the Michigan House of Representatives, I am appalled that such a rule would come before this Congress where we would not be allowed to debate the issue, where we would not be allowed to actually set forth our opinions and then come to a final vote.

The proposed rule that is before us this afternoon is not fair, it is not right, and it does not allow those who have been elected by our constituencies across America to represent our views and to speak for them.

I urge my colleagues, vote against this closed proposed rule.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, 7 days ago this little girl's mother died of cancer. She was diagnosed with cancer 5½ months into the pregnancy, but under this rule and under this bill, she could have chosen to have aborted the baby. She could have chosen to take cancer treatments. But this little girl's mother, Margie Janovich, said no, life is too precious. Life is too important. I am not going to take the life of my unborn child. I am not going to endanger it.

But even under this bill she could have chosen to go the route of an abortion. I think it is wrong, but this bill allows that. This bill is a fair bill. When we are talking about the physical health of the mother, the life of the mother is in danger, this bill allows that.

But little Mary Beth Janovich is 18 months old today. Her mother is in heaven. She made the ultimate sacrifice. She gave her life for her child. Her other eight children besides Mary Beth look at their mother and respect her mother, and know how much she loves them because she gave her life for little Mary Beth.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, let me tell the Members what I support. Like most people, I believe that late-term abortions should be outlawed unless the mother's life is in danger or she would suffer serious health problems by continuing the pregnancy. Yet I will not be permitted today to vote on this. My language would stop far more late-term abortions than what will be voted on today. But the leadership will not let us debate this.

I oppose late-term abortions. I cosponsored legislation to outlaw them. But most people believe that if a mother's life is in danger or there is a serious health problem for the mother, then there should be an exception. That is only common sense.

This Congress today votes on eliminating only a single medical procedure, and it may stop a limited number of late-term abortions, yet I support language that stops all late-term abortions, regardless of medical procedure, unless the mother's life is in danger or she will suffer serious health consequences.

Abortion is an agonizing decision and an agonizing debate. It requires all views. Yet we are not going to be permitted today to vote and to air these views. We will not be permitted to protect the mother against serious health consequences. I oppose this rule.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, why does the majority not want open debate on this issue, which is literally a matter of life and death? Why have they produced a rule with no amendments and required us to vote on only the most extreme measure, which they know will not become law, because the President has already said he will veto it? Why will they not let us debate this, like we would in all American systems? That is what this country is about.

But they do not want to do that, because this is not about late-term abortion. This is about politics. This is about creating a political issue that we can use in the next election to beat each other up with. That is wrong. What we should be dealing with here is the issue. There are many of us, a vast majority of the House, that agree with what 40 other States, 40 of the 50 States and the District of Columbia do in limiting late-term abortions, except allowing for both the life of the mother and the health of the mother.

We are not the AMA. We are not physicians. We are politicians. We should rely on their expertise. But let us not play politics here. Let us debate the issue. Let us debate it like America debates it, in open and fair debate.

Ms. SLAUGHTER. Mr. Speaker I yield 1½ minutes to the gentleman from Pennsylvania [Mr. GREENWOOD].

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Mr. GREENWOOD. Mr. Speaker, I thank the gentlewoman for yielding time to me.

When I was thinking about running for Congress a few years ago, I came to Washington and I met with the leaders of my party. The leaders of my party said there are many things wrong with the Democrats, but the thing that is perhaps the wrongest with them is that they have changed the House of Representatives, designed by our Founding Fathers to be the greatest deliberative body on Earth. They have changed it into a place where debate cannot occur. They closed the rules.

I said that I am going to run for Congress, and I am going to come to Washington, and I am going to change that process so we can have real debate in the House of Representatives again. And I did. I got here 4 years ago.

Yesterday I went to my Committee on Rules and I asked permission to bring to this floor an idea. The idea is simple. It says there is another way to look at this issue. The other way to look at this issue is that it is not important, the issue is not how an abortion is performed. The issue is when it is performed. I think there should not be any late-term abortions, any late-term abortions. We do not want abortions in the 7th month or the 8th month or the 9th month. That is wrong. It is too late then. You had your choice. Unless your life is at stake or the woman is seriously at risk of losing her health in a serious way, critical way, and then that is her decision. That is the decision for her and her mate and her priest to make. But I was denied that, and that is wrong and that is why I am against this rule.

Ms. SLAUGHTER. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Speaker, once again this body has been given the opportunity to draw a line against barbarism and brutality by outlawing a form of infanticide known as partial-birth abortion. I will not belabor the gruesome details.

All of us understand the mechanics of this horrendous procedure. Despite the myths that were promulgated by the abortion industry, we know that this procedure is designed to camouflage infanticide as a therapy. We have all heard how Ron Fitzsimmons of the National Coalition of Abortion Providers confessed to having lied to defend the indefensible.

The fact that Fitzsimmons was misleading people was already known last year. In a Wall Street Journal article, a number of doctors had already refuted the myths last year that had been put forward about this procedure. They pointed out that the defenders of this procedure first claimed that the abortion practice did not exist. Then they claimed that the child, yes the child, was already killed by anesthesia. That also turned out to be false. The fact is that this horror is real and that 80 percent of the time this brutal procedure is elective.

While the goal of this legislation is to put an end to this particularly horrifying procedure, I believe that the debate surrounding this legislation has served to remind the American people about the true nature of abortion, that a child is killed. It is the sacred nature of each child's life that compels this legislation. We take this step not only to blot out a particularly blatant horror but to affirm the value of life, however helpless.

As with the case with partial-birth abortion, when the shocking reality of abortion is made clear and the euphemisms are dispelled, the pro-life position prevails. It is time to draw a line against such child abuse and vote in favor of this bill and in favor of life.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I voted for the ban on partial-birth abortions last year. I expect to do it again. But I am against this rule because it prevents me from voting in a way that fully expresses my own conscience.

My conscience tells me that this procedure ought to be prevented. But it also tells me that in cases of serious, long-term physical health damage—not temporary emotional or physical inconvenience—that the choice ought to be made not by politicians but by the woman involved. If there are not any cases where such a drastic choice exists, as is suggested by those on the Republican side of the aisle, then there would be no exceptions. So there would be no harm in allowing the House to vote on the Frank amendment. I believe the problem with this rule is that, among other things, it does not allow for a vote on the Frank amendment and it should.

Some will say it is not right to trade a life for health, that a woman who is in that situation should suffer long-term physical health problems in order to preserve a life. I might very well agree with that. I probably do theologically. But the fact is that what is being missed here is that, even in that case, it is not my choice. Who anointed me or you or any of us to make that choice in those circumstances?

The essence of adulthood is that adults are supposed to be allowed to make their own moral choices. That is what I was taught and that is what I deeply believe. This rule is nothing but a gag rule. It ensures that we will have to choose between the two political extremes on this issue. It does not allow us to search common ground, and that is dead wrong.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. NEUMANN].

Mr. NEUMANN. Mr. Speaker, I thank the gentlewoman from North Carolina for yielding me the time.

Mr. Speaker, I rise in support of the bill to stop partial-birth abortions and thank my colleagues who have worked so hard to bring this measure to the floor to end this gruesome procedure. I am pro-life. But regardless of one's position on the issue of abortion, whether they are pro-life or otherwise, the partial-birth abortion procedure is too inhuman to be sanctioned by any civilized society. In this procedure, the abortionist reaches into the woman and forcefully turns the baby around and delivers it, delivers the baby all the way to where almost the entire body is delivered except for the head. The baby is then stabbed in the back of the head, the brains are sucked out of the child with a vacuum. The baby of course at this point is dead, and it is then pulled out of the mother.

I have a hard time even saying this, it is one of the most disgusting and stomach-turning things that I have ever heard in my life. But as disgusting as this procedure is, what is perhaps even more disgusting is the extreme positions that are taken to defend it. In fact when this issue was debated in the other body, one Senator concluded, when the question was asked, that it would still be the decision of the mother and the doctor to kill the child if the head accidentally slipped out of the mother as the partial-birth abortion procedure was being performed. That is outright killing of a child, and defenders of abortion try to defend it as legal, medical practice.

But that is just one example of the extreme positions that are taken to defend this horrible procedure. I would just say, Mr. Speaker, that I hope this body will come to its senses and put an end to this gruesome procedure known as partial-birth abortions.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong opposition to this rule. It is a sad day when on such an important matter, important in conscience, important to women, that the Republican Party would not allow a constructive amendment and open debate on some of the gut-wrenching issues this deceivingly simple but dramatic bill raises but fails to address.

I support banning this type of abortion and every other type of abortion after viability, except when the life of the mother is endangered or her health is seriously at risk. Forty States in America have banned all late term abortions, including Connecticut. I support Connecticut's law. No procedure or any other abortion, no procedure at all to abort a viable fetus except to protect the life or health of the mother.

That is the kind of amendment I wanted to propose so we could talk about the real issues here: the rights of the mother, the life of the mother, the health of the mother, not about the rights of the fetus.

No abortions after viability. That is what we should be talking about. I urge opposition to the rule.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, if the previous question is defeated, I will offer an amendment making in order the amendments offered by the gentleman from Massachusetts [Mr. FRANK] and the gentleman from New York [Mr. NADLER], which were approved by the Committee on the Judiciary, and also make in order the Hoyer-Greenwood substitute. I strongly urge my colleagues to defeat the previous question so that these worthy amendments can be put in order.

This vote on whether or not to order the previous question is not merely a procedural vote. It is a vote against the agenda and a vote to allow the opposition at least for the moment to offer an alternative plan. It is a vote about what the House should be debating.

I urge, again, all my colleagues who are listening to me to understand that we are not following normal House procedure here, that another bill that had been defeated, that will be vetoed, has been brought up in a new term simply as a matter of embarrassment. I know that it may hurt, but it seems to me, in listening to the debate, that the issue itself on late term abortions has taken second place to the political question.

Mr. Speaker, I include for the RECORD the following:

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's *Precedents of the House of Representatives*, (VI, 308–311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling if January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership *Manual on the Legislative Process in the United States House of Representatives*, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual:

"Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's *Procedure in the U.S. House of Representatives*, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues:

"Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

The vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

PREVIOUS QUESTION TO H.R. 100

On page 2, line 1, of House Resolution 100, strike "(2)" and insert "(3)"

On page 2, line 1, of House Resolution 100, immediately following "Judiciary;" insert the following:

"Notwithstanding any other provision of this rule, it shall be in order to consider an amendment to be offered by Representative Frank, which shall be debatable for 30 minutes, and shall be considered as read. The text of the amendment is as follows: "in Section 1531 (a) of H.R. 1122 after "or injury" insert "or to avert serious adverse longterm physical health consequences to the mother."

"Notwithstanding any other provision of this rule, it shall be in order to consider an amendment to be offered by Representative Nadler, which shall be debatable for 30 minutes, and shall be considered as read. The text of the amendment is as follows: "in Section 1531(c)(1) of H.R. 1122 at the appropriate place add the following: "A father cannot obtain relief under this subsection if the father abused or abandoned the mother."

"Notwithstanding any other provision of this rule, it shall be in order to consider an amendment in the nature of a substitute to be offered by Representative Hoyer, or Rep. Greenwood which shall be debatable for one hour, which shall in order without intervention of any point of order or a demand for a division of the question and shall be considered as read. The text of the amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Late Term Abortion Restriction Act".

SEC. 2. PROHIBITION ON CERTAIN ABORTIONS.

(a) IN GENERAL.—It shall be unlawful, in or affecting interstate or foreign commerce, knowingly to perform an abortion after the fetus has became viable.

(b) EXCEPTION.—This section does not prohibit any abortion if, in the medical judgment of the attending physician, the abortion is necessary to preserve the life of the woman or to avert serious adverse health consequences to woman.

(c) CIVIL PENALTY.—A physician who violates this section shall be subject to a civil penalty not to exceed $10,000. The civil penalty provided by this subsection is the exclusive remedy for a violation of this section.

Mrs. MYRICK. Mr. Speaker, I yield myself the balance of my time.

A lot of different amendments have been mentioned here today, but I would like to remind my colleagues that the veto override vote for this text in this bill today was 286 Members in the House and 58 Members in the Senate.

I would also like to remind my colleagues that the life of the mother is protected in this bill. We are bringing this bill forward because it speaks to the partial birth procedure alone. I urge my colleagues to support the rule on H.R. 1122.

Mr. LEWIS of Kentucky. Mr. Speaker, we are set to vote on a rule for a very important piece of legislation.

I urge my colleagues on both sides of the aisle—pro-life and pro-choice—to vote "yes" on the rule.

This rule is more important than most, Mr. Speaker. I'll explain why in a moment.

We have a chance today, in light of new evidence on the subject, to save unborn, late-term babies from a horrible death most people wouldn't wish on an animal.

Let's remember what happens during this procedure: The baby, often as old as 8 or 9 months, is partially delivered. Then killed by the abortionist with surgical scissors.

For years, the proponents of abortion on demand have said that only 500 partial birth abortions were performed each year.

Only 2 weeks ago, the executive director of the National Coalition of Abortion Providers admitted he's "lied through his teeth" when he said the procedure was rarely used. He has admitted that pro-life groups are accurate when saying the procedure is more common, and almost always performed on a healthy mother.

When President Clinton vetoed the partial-birth abortion ban we passed last year, one reason he cited was that we didn't include an exception to protect the health of the mother.

Unfortunately, Mr. Speaker, U.S. abortion law defines health to include emotional, psychological, familial, and even the mother's age as factors.

Indeed, as even the defenders of this practice must admit, these are often the reasons this brutal procedure is used.

That's why I urge members to vote "yes" on the rule.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to voice my opposition to the closed rule on H.R. 1122 that is before us. There is a great deal of emotion surrounding the debate on H.R. 1122. While I may not agree with some of my colleagues views on this issue, I respect that those views are both thoughtful and deeply held. I believe that the strength of our democracy lies in the fact that we open the door to all voices and all opinions—both those that we disagree with and those that we do not.

It is for this reason that I am compelled to speak. I am distressed that this rule does not respect or acknowledge the divergence in our views. I do not ask my colleagues to agree with me on the issue of abortion, or to vote with me, but I do ask that they allow me the opportunity to cast a vote that reflects my views.

In addition, as a member of the Judiciary Committee I am disturbed to see the legislative process so manipulated. At the markup of H.R. 929, the predecessor to today's bill, the Judiciary Committee engaged in extensive, probing debate on the issue of the partial birth abortion ban. While I was not in support of the committee report that emerged from this markup, I respected the fact that it resulted from the legitimate course of the legislative process. That process has now been subverted.

H.R. 1122, the bill that is before us today, is not the bill that came before the Judiciary Committee last week. It is not the bill that went to the Rules Committee last night. It is an even more narrow and restrictive interference with a mother's privacy, her health, and her life. Further the amendments I proposed to protect the health of the mother and to clarify that a woman would not be civilly liable if she sadly had to have this procedure were rejected. Finally, the Greenwood-Hoyer bipartisan response to protecting the life and health of the mother, although raised in the Rules by myself and others was rejected without reason.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. BARTON of Texas). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mrs. MYRICK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair announces that he may reduce to not less than 5 minutes the time within which a vote by electronic device, if ordered, may be taken on agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 243, nays 184, not voting 5, as follows:

[Roll No. 61]

YEAS—243

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kildee
Kim
King (NY)
Kingston
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)

NAYS—184

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clyburn
Condit
Conyers
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gilman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
Kleczka
Klug
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Molinari
Moran (VA)
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Price (NC)
Ramstad
Rangel
Reyes
Rivers
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays

Sherman
Sisisky
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—5

Brown (CA)
Kaptur
Lewis (CA)
Oxley
Young (FL)

□ 1214

Mr. GREENWOOD changed his vote from "yea" to "nay."

Mr. SKELTON and Mr. EHLERS changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BARTON of Texas). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mrs. MYRICK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 247, noes 175, not voting 10, as follows:

[Roll No. 62]

AYES—247

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Borski
Brady
Bryant
Bunning
Burr
Buyer
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kildee
Kim
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kucinich
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—175

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clyburn
Condit
Conyers
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gilman
Gonzalez
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
Klug
Kolbe
LaFalce
Lampson
Lantos
Lazio
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Molinari
Moran (VA)
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Pickett
Pomeroy
Price (NC)
Ramstad
Rangel
Reyes
Rivers
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Tanner
Tauscher
Thompson
Thurman
Tierney
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—10

Bono
Burton
Callahan
Hilleary
Kaptur
McIntosh
Oxley
Smith, Linda
Torres
Waxman

□ 1223

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. McINTOSH. Mr. Speaker, on rollcall No. 62, I was unavoidably detained. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. HILLEARY. Mr. Speaker, on rollcall No. 62, I was unavoidably detained from the House Chamber. Had I been present I would have cast my vote as a "Yes".

GENERAL LEAVE

Mrs. MYRICK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 100.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McINNIS). The Chair notes that there has been a disturbance in the visitor's gallery in contravention of the law and the rules of the House of Representatives. The doormen and the police will remove from the gallery those persons participating in the disturbance.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 14. Concurrent resolution providing for a conditional adjournment or recess of the Senate and the House of Representatives.

The message also announced that pursuant to Public Law 104–264, the Chair, on behalf of the Democratic leader, appoints the following individuals to the National Civil Aviation Review Commission:

Linda Barker, of South Dakota; and
William Bacon, of South Dakota.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 100, I call up the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of H.R. 1122 is as follows:

H.R. 1122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Partial-Birth Abortion Ban Act of 1997".

SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

"CHAPTER 74—PARTIAL-BIRTH ABORTIONS

"Sec.
"1531. Partial-birth abortions prohibited.

"§ 1531. Partial-birth abortions prohibited

"(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than two years, or both. This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, on injury: *Provided*, That no other medical procedure would suffice for that purpose. This paragraph shall become effective one day after enactment.

"(b)(1) As used in this section, the term 'partial-birth abortion' means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

"(2) As used in this section, the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: *Provided, however*, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

"(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

"(2) Such relief shall include—

"(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

"(B) statutory damages equal to three times the cost of the partial-birth abortion.

"(d) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

"74. Partial-birth abortions .... 1531".

The SPEAKER pro tempore. Pursuant to House Resolution 100, the gentleman from Florida [Mr. CANADY] and the gentleman from Michigan [Mr. CONYERS] each will control 1 hour.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

□ 1230

Mr. Speaker, today for the fourth time the House considers an issue which has provoked discussion around the country and last year brought a flood of millions of postcards and calls to Capitol Hill. H.R. 1122, the Partial-Birth Abortion Ban Act of 1997, bans a particular type of abortion procedure known as partial-birth abortion. A partial-birth abortion is any abortion in which a living baby is partially vaginally delivered before the abortionist kills the baby and completes the delivery. An abortionist who violates the ban would be subject to fines or a maximum of 2 years imprisonment or both. The bill also establishes a civil cause of action for damages against an abortionist who violates the ban. The cause of action can be maintained by the father of the child or, if the mother is under 18, the maternal grandparents.

Thousands of partial-birth abortions are performed each year, primarily in the fifth and sixth months of pregnancy on the healthy babies of healthy mothers. The infants subjected to partial-birth abortion are not unborn. Their lives instead are taken away during a breech delivery.

Mr. Speaker, the infants subjected to partial-birth abortion are not unborn. Their lives instead are taken away during a breech delivery. Thus breech delivery, a procedure which obstetricians use in some circumstances to bring healthy children into the world, is perverted and made an instrument of death. The physician traditionally trying to do everything in his power to assist and protect both mother and child during the birth process deliberately kills the child in the birth canal.

While every abortion takes a human life, the partial-birth abortion method takes that life during the fifth month of pregnancy or later as the baby emerges from the mother's womb, and this procedure bears an undeniable resemblance to infanticide. H.R. 1122 would end this cruel practice.

The realities of this practice are truly horrible to contemplate. The partial-birth abortion procedure is performed from around 20 weeks to full term. It is well documented that a baby is highly sensitive to pain stimuli during this period and even earlier.

In his testimony before the Constitution Subcommittee on June 15, 1995, Prof. Robert White, director of the Division of Neurosurgery and Brain Research Laboratory at Case Western Reserve School of Medicine, stated, and I quote, "The fetus within this timeframe of gestation, 20 weeks and beyond, is fully capable of experiencing pain." After specifically analyzing the partial-birth abortion procedure, Dr. White concluded, and I quote again, "Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure."

Now, the advocates of abortion have engaged in a furious effort to deny the realities of partial-birth abortion. They have repeatedly misrepresented the facts on this gruesome procedure. Shortly after H.R. 1833, the Partial-Birth Abortion Ban Act of 1995, was introduced in 104th Congress the National Abortion Federation, the National Abortion Rights Action League, and Planned Parenthood began to make a variety of false claims about the partial-birth abortion procedure. These claims continued into the 105th Congress that continue to this day. Let me give just two examples.

Opponents of the bill argued, and the media accepted, that anesthesia administered to the mother during a partial-birth abortion kills the infant before the procedure begins, and therefore there is no partial delivery of a living fetus. But Dr. Norig Ellison, the President of the American Society of Anesthesiologists, says this claim regarding anesthesia has, "absolutely no basis in scientific fact."

Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology, says it is crazy because anesthesia does not kill an infant if one does not kill the mother.

The American Medical News reported on the controversy in a January 1, 1996, article which stated, "Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia. But while some abortion proponents are now qualifying their assertion that anesthesia induces fetal death, they are not backing away from it."

The creation of this anesthesia myth by abortion advocates is particularly unconscionable because it poses a threat to the health of mothers. Dr. Ellison explained that he was deeply concerned that widespread publicity may cause pregnant women to delay necessary and perhaps lifesaving medical procedures totally related to the birthing process due to misinformation regarding the effect of anesthetics on the fetus. He also pointed out that annually more than 50,000 pregnant women receive anesthesia while undergoing necessary, even lifesaving surgical procedures. If the concept that anesthesia could produce neurologic demise of the fetus were not refuted, pregnant women might refuse to undergo necessary procedures.

Clearly, anesthesia administered during a partial-birth abortion neither kills the unborn child nor alleviates the child's pain. But despite the widespread circulation and the egregious nature of the falsehood that anesthesia harms unborn children, proabortion organizations which purport to care for women's health have taken no steps to retract their erroneous statements or to inform women that anesthesia administered to a mother does not kill her unborn child.

Abortion advocates have also claimed that partial-birth abortion is rare and used only in difficult circumstances. This has been a claim that has been at the center of the debate in opposition to this bill. In fact, the National Abortion Federation, the National Abortion Rights Action League, and Planned Parenthood have falsely claimed from the beginning of the debate over partial-birth abortion that it is a rare procedure performed only in extreme cases involving severely handicapped children, serious threats to the life or the health of the mother or the potential destruction of her future fertility. Once again this claim is contradicted by the evidence.

Dr. Martin Haskell, an Ohio abortionist, told the American Medical News that the vast majority of partial-birth abortions he performs are elective. He stated, "And I'll be quite frank: Most of my abortions are elective in that 20-to-24 week range. In my particular case, probably 20 percent are for genetic reasons. And the other 80 percent are purely elective."

Another abortionist, Dr. McMahon of California, used the partial-birth abortion method through the entire 40 weeks of pregnancy. He sent the Constitution Subcommittee a graph which showed the percentage of flawed fetuses that he aborted using the partial-birth abortion method. The graph shows that even at 26 weeks of gestation half the babies that Dr. McMahon aborted were perfectly healthy, and many of the babies he described as flawed had conditions that were compatible with long life either with or without a disability. For example, Dr. McMahon listed nine partial-birth abortions performed because the baby had a cleft lip.

On September 15, 1996, the Sunday Record, a newspaper in Bergen, NJ, reported that in New Jersey alone at least 1,500 partial-birth abortions are performed each year, three times the supposed national rate. Moreover, doctors say only a minuscule amount are for medical reasons.

This article refuted the abortion advocates' claims that partial-birth abortion was both rare and only performed in extreme medical circumstances. The article quotes an abortionist at the New Jersey clinic that annually performs the 1,500 partial-birth abortions as describing their patients who come in during the fifth and sixth months of pregnancy, quote:

"Most are Medicaid patients, and most are for elective, not medical, reasons. People did not realize or did not care how far along they were, most are teenagers."

The evidence is incontrovertible. Thousands of partial-birth abortions are performed every year on the healthy babies of healthy mothers during the fifth and sixth months of pregnancy. However, abortion advocates have continued to disseminate false information to Congress, the press and the public. As recently as February 25 of this year, the home page of the National Abortion Federation informed journalists and other Web visitors, quote:

"This procedure is used only in about 500 cases per year, generally after 20 weeks of pregnancy and most often when there is a severe fetal anomaly or maternal health problems detected late in pregnancy."

The same week the National Abortion Federation Web page misinformed the public the New York Times reported that an abortion rights advocate admitted that he had lied about partial-birth abortion. Ron Fitzsimmons, the executive director of the second largest trade association of abortion providers in the country, said that he intentionally lied through his teeth. And I am using his words there. He said he lied through his teeth when he told a "Nightline" camera that partial-birth abortion is rare and performed only in extreme medical circumstances. The New York Times reported that Mr. Fitzsimmons says the procedure is performed far more often than his colleagues have acknowledged and on healthy women bearing healthy fetuses. "The abortion rights folks know," he said. The Times took some of its information from an American Medical News article in which Mr. Fitzsimmons was interviewed. Fitzsimmons told the American Medical News that proabortion spokespersons should drop their spins and half-truths. He explained that their disinformation has hurt the abortionists he represents and said:

"When you're a doctor who does these abortions and the leaders of your movement appear before Congress and go on network news and say these procedures are done in only the most tragic of circumstances, how do you think it makes you feel? You know they are primarily done on healthy women and healthy fetuses, and it makes you feel like a dirty little abortionist with a dirty little secret," close quote.

Ron Fitzsimmons' admissions makes clear that the proabortion lobby has engaged in a concerted and ongoing effort to deceive the Congress and the American people about partial-birth abortion. They attempted to hide the truth because they know the American people would be outraged by the facts that thousands of partial-birth abortions are performed every year, primarily in the fifth and sixth months of pregnancy, on the healthy mothers of healthy babies.

When President Clinton vetoed H.R. 1833 during the last Congress, he relied on information, or I should say misinformation, from abortion advocates. He claimed that, unless partial-birth abortion was performed in some situations, women would be eviscerated or ripped to shreds so they could never have another baby.

I suggest what is eviscerated and ripped to shreds in this debate by the opponents of this bill is the truth.

The claim that the President made has been proven to be completely false. When he was interviewed in the American Medical News, former Surgeon General C. Everett Koop said: "In no way can I twist my mind to see that the late-term abortion, as described, the partial birth, and then the destruction of the unborn child before the head is born, is a medical necessity for the mother. It certainly can't be a necessity for the baby. So I am opposed to partial-birth abortions."

In addition, a group of over 400 obstetricians, gynecologists and maternal fetal specialists have unequivocally stated partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact the opposite is true. The procedure can pose a significant and immediate threat to both the pregnant woman's health and her fertility.

Not only are obstetricians, gynecologists and maternal fetal specialists concerned that women may be harmed by partial-birth abortion, but a leading authority on abortion techniques himself has also expressed concern about the safety of the procedure.

Warren Hern, M.D., an abortionist who wrote the Nation's most widely used book on abortion procedures, said quote, "I have very serious reservations about this procedure. You can't really defend it. I'm not going to tell somebody else they should not do this procedure, but I'm not going to do it." He continued:

I would dispute any statement that this is the safest procedure to use. It is clear that there is no need for partial-birth abortion. Look at what this procedure is. This is partial-birth abortion.

Now, I have described this procedure many times in the course of this debate. Every time I describe it, I wince. This is something we should not have to be talking about here. But this is something that is going on in America, and it is something that the American people have a right to know about, and it is something which should come to an end.

In partial-birth abortion, guided by ultrasound, the abortionist grabs the live baby's leg with forceps.

□ 1245

The baby's leg is pulled out into the birth canal. The abortionist delivers the baby's entire body, except for the head. Then, and this is the critical step in this procedure, I hope all of the Members will pay particular attention to this step, because in this step the abortionist jabs scissors into the baby's skull, the scissors are then opened to enlarge the hole made in the baby's skull. Of course, that is the step that kills the baby.

Then, having killed the child, the scissors are removed and a suction catheter is inserted into the hole, the baby's brains are sucked out, and the delivery is completed.

Let me ask my colleagues this, particularly those who have claimed that this is a procedure necessary to protect the health of women. How could jamming scissors into the back of the baby's head be required for the health of the mother? If my colleagues look at this procedure, they will simply see that the claims make no sense. The claims made by supporters of partial-birth abortion about the mother's health, along with all of the other falsehoods, are advanced by people who are desperate to escape from reality in their quest to defend the indefensible.

In this House many issues come and go. Most of the votes we cast in this Chamber are soon forgotten. But today's vote on partial-birth abortion will be remembered. The Members of this House will not be able to escape their responsibility for the votes they cast on this important issue. I appeal to my colleagues, put aside the myths, put aside the distortions, put aside all of the misinformation. Look at the facts. Consider the truth. Face up to the reality of partial-birth abortion. Look at this procedure, look at it, look at what it results in. It cannot be defended. Support the Partial-Birth Abortion Ban Act and bring this brutal practice to an end.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I say to my colleagues of the 105th Congress, we assemble again to take up an issue that we have dealt with in the previous Congress, the President has dealt with by vetoing it, the Congress has dealt with the attempt to override by not being able to override, and so we gather today with the same piece of legislation attempting to do the same thing. Why?

Well, it just so happens that notwithstanding my good friend, the gentleman from Florida [Mr. CANADY], whose desire and commitment to this subject matter has led the Congress into this situation for two Congresses in a row, we are faced with a constitutional problem.

Let us spell it out right at the beginning of this debate, shall we?

It is a constitutional problem that we did not invent, and it is embodied in two parts of the Constitution, the 5th amendment and the 14th amendment, in the parts of those amendments that are known as the due process clauses. In the due process clauses, it has been found by the U.S. Supreme Court on more than one occasion that a right of privacy to the woman that has a reproductive choice is grounded in constitutional guarantees.

Now, that is the state of the American law as we meet here this afternoon in the House of Representatives. Unfortunately, I say to the gentleman from Florida [Mr. CANADY], there is only one way we can change that, and that is through a constitutional amendment that would alter the Supreme Court's repeated findings on this subject.

So my colleagues might ask that since we have been through this exercise in the 104th Congress, why do we not just introduce a constitutional amendment? Good question. Why do we not just amend the Constitution if we are trying to stop abortion?

Well, the reason I believe is patently clear. Most Americans and certainly most women and certainly a far majority of the doctors realize that some abortions are necessary, and they also realize that some abortions are not necessary. As a matter of fact, most of the States have already outlawed the gruesome drawing that was first brought forward by the gentleman from Florida [Mr. CANADY] because that is a late-term abortion, banned by statute in 40 States and the District of Columbia, prohibited entirely. And so we want to talk about not trying to inflame this discussion.

So I say to my colleagues, we are coming back on a constitutionally protected question in which the health and the life of the mother is constitutionally protected. Elementary.

In the Canady proposal before us there is a safeguard of life; there is not a safeguard of health. Why will we not put in health?

Well, ask the gentleman. But because it is not in here, we are not able to move this forward as a constitutional proposition, whether myself or the gentleman from Florida [Mr. CANADY] like it or not. It is unconstitutional. Most legal scholars have said that. The President has said that. Most of the Congress, in failing to override the veto, have conceded that. So why are we doing it again? Why?

Well, because the only way we can get to this problem if we do not want to introduce a constitutional amendment, as we ought to, is to go at ending abortion in this country procedure by procedure, and where else to start but the inaccurately, politically named partial-birth abortion ban. Is there such a term in medical dictionaries? No. Used in medical circles? No. Used in political circles? Yes. Invented for the purpose of this debate? Yes. So here we are again.

The fact of the matter is, the health of the mother is what prevents the President from supporting a congressional ban. As long as we leave that out, President Clinton will veto this bill. He has told us that repeatedly, and he is telling us that again today. I am explaining it again today. I do not care how many Congresses we use, how many times we reintroduce this bill, how many times the House Committee on the Judiciary votes this to the floor, it is unconstitutional. Please understand that.

So we are here confronted with whether the health of the mother should be overridden or whether it should not. Well, we say that unless you put health in, we will have to respectfully oppose this proposition as it was in the other Congress. The President will respectfully veto this proposition as he did in the other Congress. The override is probably going to be as unsuccessful as it was in the other Congress.

So we gather here today to follow the Canady mission. No matter how legal, no matter how constitutional, we are going to do this anyway. We are going to get a vote, we are going to debate it, we are going to put up inaccurately rendered depictions.

Of course, there are doctors that agree with the gentleman from Florida [Mr. CANADY]. Of course there are doctors, and the American College of Obstetricians and Gynecologists, that do not agree with the gentleman from Florida [Mr. CANADY], and so here we are to begin the debate.

Mr. Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to respond briefly to a point the gentleman made about the constitutionality of this legislation. The claim made by opponents of the bill is that this is a bill that violates Roe versus Wade. There is an important point to understand here. I do not agree with Roe. I think the Court was wrong in that decision, and that is a debate that will go on.

However, in that decision the Court dealt with the status of the unborn child. In this bill we are not dealing with the unborn child, we are dealing with a child that is partially delivered, the child that is in effect four-fifths born, and I think that distinguishes this bill from the facts in Roe, and actually in that case, which involved a Texas statute, there was a particular provision in the Texas statute which imposed penalties for killing a child in the process of birth, and the Court explicitly withheld a ruling on the constitutionality of that provision.

So I believe that although I find fault with Roe, I do not believe that this bill is inconsistent with it.

Mr. Speaker, I yield 1 minute and 15 seconds to the gentlewoman from Missouri [Mrs. EMERSON].

Mrs. EMERSON. Mr. Speaker, I want to express my absolute support for the Partial-Birth Abortion Ban Act. I thank the gentleman from Florida [Mr. CANADY] for all of his hard work on this bill, and I join all of those who believe in the basic value of human life in working for passage of this important legislation.

The truth of the matter is that partial-birth abortion is a horrendous act of murder. It is not a late-term abortion, it is not a necessary medical procedure. Such phrases conceal the brutal and inhumane reality. The details of a partial-birth abortion are horrible beyond words, and the law must not continue to condone so terrible an atrocity.

Today this Congress and this Nation has the opportunity to take an affirmative stand for the basic value of human life. We might talk for hours about the medical evidence, the detailed studies, and the expert testimony, all of which would tell us that the ban on partial-birth abortions is the right and just thing.

However, we must always keep in mind that the fundamental issue is the life of an unborn child and the value that our Nation places on that life. This is the matter before the Congress, which is why we must make certain to pass the ban. To ban the partial-birth abortion is to say that America will not tolerate the cruelty and inhumanity that it represents.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. SCOTT].

Mr. Speaker, will the gentleman yield?

Mr. SCOTT. I yield to the gentleman from Michigan.

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Mr. CONYERS. Mr. Speaker, this is implied from the Federal court decision in Ohio that the gentleman from Florida [Mr. CANADY] does not like on Roe versus Wade. The contention that H.R. 929 falls outside of the restriction of Roe because the fetus is "almost" born is fallacious on its face. The intact D&E procedure targeted by the bill, and by the way, D&E procedure is the correct term, the D&E procedure targeted by the bill falls within the general understanding of abortion. The definitions used in the bill and even the title of the bill, repeatedly utilize the term "abortion." To attempt to assert that the abortion procedures covered by the bill are somehow exempt from the constitutional protections of Roe is to abandon legal credibility. Indeed any arguments to such effect have already been implicitly rejected by the Federal court in Ohio, which has found unconstitutional a State law ban on intact D&E procedures absent an adequate health exception.

Mr. SCOTT. Could the gentleman indicate what he was reading, Mr. Speaker?

We will get the citation on that for the gentleman.

Mr. Speaker, I cannot support this bill because it is unconstitutional. In a full committee debate on a similar bill, the proponents have acknowledged that it is in fact unconstitutional under the present Supreme Court decisions. Though abortion has always been a controversial issue, the fact is that since 1973, in the Supreme Court Roe versus Wade, abortion has been legal in this country.

It is still the law of the land that a woman's right to an abortion before fetal viability is a fundamental right, but the Government may prohibit postviability abortions absent a substantial threat to the life or health of the mother.

We may agree or disagree on the Supreme Court decisions, but that is in fact the law of the land. The Supreme Court has prohibited regulations that place an undue burden on women seeking abortions, and included in this undue burden concept is a prohibition against regulations that jeopardize a woman's health by chilling the physician's exercise of discretion in determining which abortion method may be used.

Mr. Speaker, this bill will prohibit the use of one procedure that may be the safest for women in certain circumstances. The American College of Obstetricians and Gynecologists, the largest organization of women's doctors, says that this legislation has the potential of prohibiting specific medical practices that are critical to the lives and health of American women.

Mr. Speaker, such interference in a physician's exercise of discretion jeopardizes the health of women and is as dangerous as it is unconstitutional. Although the health of the mother must remain the primary interest in order to meet constitutional muster, this bill includes no provision which allows an exception from the ban in those cases where other methods pose a serious health risk to the mother.

The Partial-Birth Abortion Act will not prevent a single abortion. It simply prevents one procedure that in certain circumstances is the most appropriate procedure available.

Mr. Speaker, many of my colleagues and I are open to working with the majority on language that would have brought this bill within constitutional limits. For example, many of us support a ban, a total prohibition, on all abortions not protected by Roe versus Wade; that is, all abortions not specifically excepted and prohibited from prohibition under Roe versus Wade. This bill only prohibits one procedure, not the decision to undergo an abortion.

Therefore, if this bill passes, some women may be relegated to a more dangerous procedure which may well increase their chances of being killed, maimed, or sterilized, and I hope my colleagues will work to protect the health of the women in America by defeating this bill.

Mr. CONYERS. Mr. Speaker, if the gentleman will continue to yield, I want to point out to the gentleman from Florida [Mr. CANADY] that my referencing the statement that I read was implied from a Federal court decision in Ohio entitled Women's Medical Professional Corporation versus Voinovich.

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, this a very difficult issue. It is difficult for Members of Congress, it is difficult for America, it traumatizes most people to debate this issue. I would hope that we could do it in a civil manner, in an intelligent manner, and in a bipartisan manner, because if we ban this particular procedure, I think we are doing what is right to bring down the number of abortions in this country that I think both sides want to accomplish.

Mr. Speaker, I know that this is difficult because many of my colleagues tell me that they are not doctors. Mr. Speaker, we are asked every day in this body to be scientists, to vote on the hydrogen program; to be road experts, and vote for ISTEA programs for construction; to be gun experts and decide whether to ban an AK-47. Today we must vote on this particular issue. I would hope my colleagues, Democrat and Republican, conservative and liberal, would vote to ban this brutal, gruesome, and inhumane procedure.

When I talk about this procedure, I am not going to describe it. I am not going to describe it. I am going to give hopefully the advice that I have received from the medical community, because I am not a doctor, but I have talked to the medical profession about this.

What have they said? The American Medical Association's Council on Legislation voted unanimously, unanimously, 12 to 0, to prohibit this medical procedure, 12 to nothing. They called it basically repulsive. Surgeon General, former Surgeon General C. Everett Koop, very respected by both sides of the aisle, has said, and I quote, "In no way can I twist my mind to see that the late-term abortion as described, you know, partial-birth and then destruction of the unborn child before the head is born, is a medical necessity for the mother."

Finally, OB–GYN's that I have talked to and my staff has talked to with over 40 years of experience have said that there is absolutely no medical need for this gruesome abortion procedure. Mr. Speaker, I would hope that we would come together today and ban this procedure.

Finally, Mr. Speaker, in the February 3, 1997 edition of Time Magazine, "How a Child's Brain Develops," we are finding that the most critical years, based upon cutting edge research, now are 0 to 5 in children's learning abilities. In 5 years we will probably learn that it takes place even earlier, and in this article, it also says that a child's capability of learning a second language is best at zero to 6.

As a Democrat that believes in education and will fight for every dollar for preschool programs, that believes in the rights of children, I would hope that we would start by banning this procedure today to help our children, and continue to fight later on to help prevent unwanted pregnancies, to help with preventive and abstinence programs, and to fund programs for our children in this Nation.

Mr. CONYERS. Mr. Speaker, I am pleased now to yield 4 minutes to the gentlewoman from New York, Mrs. NITA LOWEY, the former chair of the Congressional Woman's Caucus.

Mrs. LOWEY. Mr. Speaker, I rise in opposition to H.R. 1122. This is a highly emotional and personal issue. There are deeply held views on both sides of the debate, and I know that my colleagues who oppose a woman's right to choose do so sincerely and with great conviction. Mr. Speaker, I say to my friends, I respect their beliefs but I oppose this bill.

The legislation before us today is clearly unconstitutional. It endangers the lives and health of American women. It would put doctors in jail, and it is the first step on the road to the back alley.

Mr. Speaker, this bill tramples on Roe versus Wade and is a direct assault on the constitutionally protected right to choose. The legislation bans abortions prior to fetal viability, a prohibition that the Supreme Court has repeatedly declared unconstitutional.

Prior to viability, women have the right to choose without Government interference, and although the Supreme Court has consistently ruled that abortion restrictions after viability must protect the life and health of the pregnant woman, the bill contains only a narrow exception to protect a woman's life, and no exception at all to protect her health.

The bill says that the health of the woman does not matter. I say it does. Women from around the Nation testified before Congress that this procedure protected their lives and health, women like Tammy Watts, Claudia Addes, and Maureen Britel, who would have been harmed by this bill.

These women desperately wanted to have children. They had purchased baby clothes, they had picked out names. They did not decide to abort because of a headache. They did not choose to abort because their prom dress did not fit. They chose to become mothers and only terminated their pregnancies because of tragic circumstances.

Mr. Speaker, who in this body stands in judgment of them? Who would impose himself in the operating room and circumscribe their options? In those tragic cases where family hear the news that their pregnancies had gone horribly awry, who should decide? When the couple gets the news that their baby's brain is growing outside of its head, that it has no spine, who should decide?

The one thing I know for sure is that this body, this Congress, should not be making that decision. At that terrible, tragic moment the Government has no place. Yet this ban will put Congress directly in the operating room, and impose the Federal Government in the doctor-patient relationship. It will force trained physicians to choose between the health of their patients and imprisonment.

We know that women will continue to seek abortions, even if they are criminalized. We remember the days before Roe versus Wade. We know that thousands of women died undergoing unsafe, illegal abortions, and we will not allow this Congress to force American women into the back alley ever again. This is just the beginning. The Republicans will not stop with one procedure. They want to ban all abortions at any time by any method.

Mr. Speaker, as a mother of three beautiful grown children, as a recent grandmother, as one who respects life with every ounce of my soul, I urge my colleagues to vote against this ban.

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Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from Washington [Mrs. SMITH].

Mrs. SMITH of Washington. Mr. Speaker, I rise today in support of the Partial-Birth Abortion Ban Act. America is too good for infanticide. Babies have to stay protected by our Constitution. If babies go first, who is next?

I want to take this opportunity to share with you a memo from a pro-abortion group that I just got, assuming that all women will support this gruesome procedure. They gave us instructions on how to debate the procedure and they said, and I will quote, Do not talk about the fetus. No matter what we call it, this kills an infant. Do not argue about the procedure, the partial-birth procedure is gruesome. There is no way to make it pleasant to voters or even only distasteful.

Mr. Speaker, I urge my colleagues to see past the smoke screen that has been created by the abortion lobby. Again, America is too good to support infanticide.

NATIONAL RIGHT TO
LIFE COMMITTEE, INC.,
Washington, DC, March 20, 1997.

CONGRESSMAN HOYER SAYS THE GREENWOOD-HOYER "MOTION TO RECOMMIT WITH INSTRUCTIONS" ALLOWS EVEN THIRD-TRIMESTER ABORTIONS FOR "MENTAL HEALTH" AND "PSYCHOLOGICAL TRAUMA"

When the House takes up the Partial-Birth Abortion Ban Act (HR 1122) Thursday, March 20, Rep. Steny Hoyer (D–Md.) and Rep. Jim Greenwood (R-Pa.) are expected to offer a "motion to recommit with instructions" that will include the substance of the measure that they introduced on March 12 as HR 1032, which they call the "Late-Term Abortion Restriction Act."

The Hoyer-Greenwood measure would:

Allow all methods of abortion, including partial-birth abortion, on demand until "viability"; and

Empower the abortionist himself ("the attending physician") to define what "viability" means; and

Even after this self-defined "viability," and *even in the third-trimester*, allow partial-birth abortions to be performed whenever "in the medical judgment of *the attending physician*, the abortion is necessary . . . to avert serious adverse *health* consequences to the woman." [emphasis added] [see Hoyer's explanation below]

At a March 12 press conference in the House Radio-TV Gallery, which was tape-recorded, Congressman Hoyer was asked what the word "health" means in his statement. Mr. Hoyer responded as follows:

[We] included the language "*serious* adverse health consequences." We're not talking about a hangnail, we're not talking about a headache. Does it include—and this is one of the things that the opponents of this particular legislation, the proponents of the pro-life position, would contend—*does it include mental health? Yes, it does.* [emphasis added]

I point out that the overwhelming majority of Americans, and Members who vote on this floor, are for an exception for rape and incest. The exception of rape and incest, of course, is *not* because a pregnancy resulting from rape or incest causes a *physical* danger to the woman. It is because it poses a *psychological trauma* to the woman to carry to term, either because she is very young, impregnated by her father or brother or some other family member, or because she is raped. In the debate some years ago, for example, I used Willy Horton as an example. [End of Hoyer quote. Italics indicates Mr. Hoyer's verbal emphasis]

Thus, by the explicit statement of its author, the Hoyer-Greenwood motion would allow partial-birth abortions (and other abortions) even in the final three months of pregnancy, whenever an abortionist simply affirms that this would prevent "serious" "mental health" "consequences." Further, Mr. Hoyer's own interpretation of "mental health" is not limited to women who are, say, severely psychotic. Rather, Mr. Hoyer explicitly acknowledged that "serious . . . health" covers "psychological trauma." Legally, the language is all-encompassing.

Morever, under the Hoyer-Greenwood measure, the abortionist himself decides what "viability" means. This is like Congress passing a bill to "ban" so-called "assault weapons," with a provision to allow each gundealer to define "assault weapon." The Hoyer-Greenwood bill does not "regulate" the abortionist; rather, it empowers the abortionist to regulate himself.

In real medical practice, "viability" begins at 23 weeks, when the baby's lung development is sufficient to allow survival in about one case in four. But late-term abortionists often have their own idiosyncratic notions of when "viability" occurs, which may have no relationship to neonatal medicine or to the babies' actual survival prospects.

In short, the Hoyer-Greenwood bill does not "restrict" abortions after viability, nor does it "restrict" third-trimester abortions. Indeed, the Hoyer measure would be an empowerment by Congress for abortionists to perform third-trimester abortions with complete impunity.

Under the Hoyer-Greenwood measure, Congress would confer on the abortionist himself explicit authority to judge, by his own standards and immune from review by any other authority: (1) what "viability" means, and (2) whether an abortion would prevent "serious" harm to "health," including "mental health" or "psychological trauma," in Mr. Hoyer's words.

Thus, under the Hoyer-Greenwood bill, it is impossible for an abortionist to perform an "illegal" third-trimester abortion, because he alone decides what is legal. Such a law would be a mere facade—it would not prevent a single partial-birth abortion, nor would it prevent a single third-trimester abortion.

For further documentation on partial-birth abortions, the Partial-Birth Abortion Ban Act, and the Clinton-Hoyer-Daschle "phony bans," contact the National Right to Life Committee's Federal Legislative Office at (202) 626-8820, fax (202) 347-3668, or see the NRLC Homepage at www.nrlc.org.

[From the Washington Post Health Section, Sept. 17, 1996]

VIABILITY AND THE LAW

(By David Brown, M.D.)

The normal length of human gestation is 266 days, or 38 weeks. This is roughly 40 weeks from a woman's last menstrual period.

Pregnancy is often divided into three parts, or "trimesters." Both legally and medically, however, this division has little meaning. For one thing, there is little precise agreement about when one trimester ends and another begins. Some authorities describe the first trimester as going through the end of the 12th week of gestation. Others say the 13th week. Often the third trimester is defined as beginning after 24 weeks of fetal development.

Nevertheless, the trimester concept—and particularly the division between the second and third ones—commonly arises in discussion of late-stage abortion.

Contrary to a widely held public impression, third-trimester abortion is not outlawed in the United States. The landmark Supreme Court decisions Roe v. Wade and Doe v. Bolton, decided together in 1973, permit abortion on demand up until the time of fetal "viability." After that point, states can limit a woman's access to abortion. The court did not specify when viability begins.

In Doe v. Bolton the court ruled that abortion could be performed after fetal viability if the operating physician judged the procedure necessary to protect the life or health of the woman. "Health" was broadly defined.

"Medical judgment may be exercised in the light of all factors—physical, emotional, psychological, familial and the woman's age—relevant to the well-being of the patient," the court wrote. "All these factors may relate to health. This allows the attending physician the room he needs to make his best medical judgment."

Because of this definition, life-threatening conditions need not exist in order for a woman to get a third-trimester abortion.

For most of the century, however, viability was confined to the third trimester because neonatal intensive-care medicine was unable to keep fetuses younger than that alive. This is no longer the case.

In an article published in the journal Pediatrics in 1991, physicians reported the experience of 1,765 infants born with a very low birth weight at seven hospitals. About 20 percent of those babies were considered to be at 25 weeks' gestation or less. Of those that had completed 23 weeks' development, 23 percent survived. At 24 weeks, 34 percent survived. None of those infants was yet in the third trimester.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. FRANK] the ranking member of the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank our senior member for yielding me the time. I appreciate the skill with which he is managing our side of this very difficult issue.

I want to call attention to an amendment which the majority refused to allow. When Members have come forward, as the gentlewoman from New York just did, with an eloquence and passion that is a model of how issues ought to be discussed, and talk about threats to the health of women and talk about how this bill does not allow a doctor to take into account serious adverse health consequences, some of my friends on the other side said, well, health is too vague. Health could mean severe mental health problems. We want to rule that out.

But what they do not say is that they do not only want to rule out mental health, which seems to be a valid consideration, they would deny the use of this procedure to a woman even if the doctor could show that it was necessary to avoid serious physical damage to her health. And I have offered an amendment that says only that, that we will not preclude this if a doctor finds it necessary to avoid long-term serious adverse physical health damage. They will not allow that amendment. They will not allow even a vote on that.

The chairman of the full committee, a man of great intellectual integrity who was against abortion in any form or shape, says the reason he voted against that amendment was that if it is a choice between the life of the fetus and severe physical health damage to the mother, then the mother must incur that damage and not only that, we in Congress will decide that the mother must incur that damage.

I think the failure to allow a vote on serious physical health adverse consequences in the first place deprives them the right to argue about mental health because they will not allow any health requirement.

We are not talking about whether or not you have an abortion at all but about the procedure. And what they are trying to do is to force a vote which would, and let us be very clear, the vote would make it impossible for a doctor to even try to show that it was necessary to use this procedure to avoid serious long-term physical damage.

Mr. COBURN. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Speaker, I think the point is there is not ever a case, never a case where this procedure is needed to protect the life of a woman.

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman has made his point.

Let me say this, if in fact Members were confident of that, then the amendment would be harmless because this bill does not say, I do not like this bill, but I am dealing with the framework you put forward, the bill does not say, if in the opinion of the physician, it says you can have such an exception for life if it is necessary. My amendment tracks that language. My amendment says, the doctor would have to show that it was necessary to prevent long-term physical health.

The gentleman at the microphone, a doctor, is convinced that never, ever, ever in the whole history of the world would it be physically possible. That is a judgment he is qualified to make.

But I do not believe we as a Congress ought to legislate that it is never possible. The fact is that if it is never possible, the exception will not be a very large one because it is not a subjective amendment.

I will go back to what the chairman of the full committee said, as I said, a man of great integrity, he said, if there is a choice between physical damage to the mother, serious adverse physical damage, and the life of the fetus, even if we are talking about a fetus with the brain on the outside, as the gentlewoman from New York pointed out, that tragic situation, this would not be allowed.

I want to make it clear, I do not believe you should restrict into physical health in general, but here we have an unusual bill. This bill concededly by its sponsors does not try to stop abortions. It would allow all manner of abortion except this procedure.

Now, your mental health would be relevant, and it still would be as to whether or not you could have an abortion. A severely depressive situation would be a justification for an abortion, as the exception. When we are talking only about this procedure versus that procedure, then it seems to me it is relevant to talk only about physical. But again the assertion that it is never, ever going to be physical, and we have had women and doctors who disagree, the doctors do disagree, the question is, Should the Congress adopt the view that it is never valid to try to avoid serious physical health damage to the mother if that means this particular abortion procedure?

That, I wanted to point out, is the amendment that they would not even let us vote on. That is the choice. I think it is unfortunately indicative of some Members who might rather have an issue to take to the country than a piece of legislation.

I believe the adoption of this legislation, of this amendment, even though I might not like it, could lead to a signed bill. The failure even to allow a vote on this and the insistence on defeating it, it seems to me, shows a preference for an issue over a piece of legislation.

I thank my ranking member for yielding me the time.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I think it is important, first of all, having delivered greater than 3,100 babies and cared for over 10,000 women in my medical experience, I want to again reemphasize, there is no medical indication ever for this procedure.

To answer the gentleman from Massachusetts' question, why would you, if in fact there is a reason to do this procedure, why would you do it to a live baby? Why would not the doctor kill the baby first, which in fact is what they do.

The very false arguments, false arguments that are put forward is that the baby, with the encephalocele or the externalized brain, the people that do this procedure actually kill the children first. There is no reason to use that as an argument. That sets up my second point.

This argument is about whether or not we are going to talk about the truth of the procedure. You will not find in any medical textbook, you will not find in any residency training program where they teach doctors to care for women's health, you will never find where this procedure is taught or is shown as an indicated procedure. Why not? Very simple reason: It is not ever indicated. It is not indicated in the medical literature. It has been abhorred.

There was a statement earlier that said that the ACOG was worried about this because it had the potential of inhibiting. They said, they do not like this procedure either. What they said is the Congress dealing with these issues have the potential of inhibiting care. Potential is very much different than changing or affecting care.

We were told that this was done on a small number of infants and that it was always done or most always done on infants with severe deformities. That was an out-and-out lie. I stood on this floor last year and said that was untrue. I will tell Members today, it is untrue, absolutely, without question that this is ever needed to take care of a woman's health.

Second point, it was said that a woman's fertility can only be protected sometimes by using this. That is exactly the opposite of the truth. I can give you cases where women's fertility because of this procedure has been ruined forever. It goes against everything we are taught in the medical community to preserve fertility and to preserve a woman's health.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding time to me.

First, I would say, I think the gentleman from Oklahoma's comments help focus this. He said that as far as this legislation is concerned, if the fetus was killed earlier in the procedure, then this bill would not have any affect. I think that shows, we are not here talking about not having the abortion or not bringing an end to the potential life. I think that ought to be clear.

I think we have heard arguments on the other side that suggested that this is opposition to abortion. That underlines the point that has been made here. This is not a bill about stopping abortions in any circumstances, mental health, whatever the reason. It is saying, well, you did not perform the fatal act early enough.

I think that is a great distinction with very little difference. I think that it undercuts the arguments they have been making. I think people have been led to believe that this was going to prevent late term abortion. We have the acknowledgment that it does no such thing and does not even try to.

Second, as to the medical argument, I do not think Congress ought to arbitrate disagreements among doctors. There are doctors who have said they would find this procedure useful in some particular circumstances. For Congress to legislate that it would never ever be useful physically to use this particular procedure rather than another is, it seems to me, a great overreach.

Again, I want to underline, as the gentleman from Oklahoma made clear, we are not talking about stopping abortions. We are not talking about stopping abortions even late in pregnancy. We are talking about dictating particular procedures to doctors even if they think the physical health of their patient would be better served otherwise.

Mr. CANADY of Florida. Mr. Speaker, I would inquire of the Chair concerning the amount of time remaining on each side.

The SPEAKER pro tempore [Mr. MCINNIS]. The gentleman from Michigan [Mr. CONYERS] has 34¾ minutes remaining, and the gentleman from Florida [Mr. CANADY] has 34¾ minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BUYER], a member of the Committee on the Judiciary.

Mr. BUYER. Mr. Speaker, I rise in support of this measure to ban the partial-birth abortion procedure. The procedure is defined in the bill as the partial delivery of a living fetus which is then destroyed prior to the completion of delivery. This is a particularly appalling procedure in which the difference between complete birth and abortion is a matter of a few inches in the birth canal.

The bill applies only to the procedure in which the living fetus is partially delivered prior to the abortion act being completed. There is the exception in the bill for the instances in which the life of the mother is at risk. It is amazing for me to listen to people here say we are not going to let Congress get involved in this issue. They should stay out of the operating room, when in fact Congress does get involved with prohibiting certain drugs to be used, overnight stays for mastectomy, prohibiting physician-assisted suicide.

We have got mandates. I heard a gentlewoman from New York standing here who is an advocate of the overnight stays for Medicaid births, and I agree with her. But yet she wants the Government to get involved in certain things but not certain things—drawing the line.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I rise in strong opposition to this bill. Make no mistake about it, this vote with all the emotional rhetoric and the exaggerated testimony is a frontal attack on Roe versus Wade, plain and simple.

The majority leadership wants to do away with Roe, the radical right wants to do away with Roe, and this bill is the first step. So let us be honest about this. This bill, which the President vetoed last year, will outlaw a medical technique which is rarely used but is sometimes required in extreme and tragic cases.

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For example, when the life of the mother is in danger or a fetus is so malformed that it has no chance for survival. When a woman is forced to carry a malformed fetus to term, they are in danger of chronic hemorrhaging, permanent infertility or death.

Friends, I have a personal story. My life has been touched by these extreme and tragic cases. In the early 1900's, when my grandmother was in the late stages of her first pregnancy, a terrible complication arose. At a critical moment they knew that my grandmother would die unless a late-term abortion was performed. Because of my grandmother's life and health and because her life and health were saved, my mother was born a few years later. A late-term abortion made my life possible.

Let me read my colleagues a brief list of organizations that oppose this bill: The American College of Obstetricians and Gynecologists, the American Public Health Association, the American Nurses Association, the list goes on and on. Doctors and nurses oppose this bill because they see tragic cases like my grandparents all the time. They know that H.R. 1122 will cost women their lives or reproductive health.

The majority party in this House has proved time and again its resolve to make Roe versus Wade ring hollow for most American women. We cannot let this happen. Protect a woman's right to choose, protect women's lives and women's health, leave medical decisions up to the patient and the physician, not the Congress. Vote "no" on this bill.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee, [Mr. BRYANT] a member of the Committee on the Judiciary.

Mr. BRYANT. Mr. Speaker, I guess we have moved from the spirit of Hershey and our bipartisan retreat and we are now talking about the radical right and calling names.

I would remind the gentlewoman from California that this radical right that opposed this procedure voted in record numbers last year, 288 Members of the House, which showed a bipartisan spirit. Both Democrats and Republicans supported this ban. If they are all radical right, then more power to the radical right.

I want to talk very quickly on this issue of health. I sat on the floor last year and heard the arguments from the other side, maybe it is the radical left, I do not know, using numbers: There are only 500 of the procedures done a year and it is only in the most grossly abnormal cases. However, Mr. Fitzsimmons cleared that up when he came out and said no, that is an absolute lie.

We have seen reports out of a New Jersey newspaper where there are 1,500 procedures like this done in one hospital. Are there that many abnormalities in one hospital that they do 1,500 of these? No. I suggest to my colleagues that these are being done for the convenience of the doctors.

It is a grossly inhumane procedure. If it were a criminal penalty, it would be outlawed by the eighth amendment to the Constitution which prevents cruel and inhuman treatment.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. McCARTHY].

Mrs. McCARTHY of New York. Mr. Speaker, I have only been here 3 months, and what I hear today upsets me greatly. I am against late-term abortion. I am against any kind of abortion. I am also a nurse. We have 435 Members in this Congress. Two, I believe, are doctors; two, I believe, are nurses; and yet here we are making decisions on women's health and lives and the children.

I am sorry, there is not one person in this Chamber that wants to see a child die, but I feel we are hypocrites.

I am on the Committee on Economic and Educational Opportunities and I am fighting for every dollar to certainly take care of those children that have severe disabilities. I am on the Juvenile Task Force trying to protect the children that are alive. If we cannot take care of the children that are chosen to be born in this country, because women do want children, who are we to have the right to have that decision?

Further down the road we will have bills here that we are going to be voting on so doctors can have the choice of saying what is good for a patient that has breast cancer, and yet here we stand making these choices.

No one wants to take a child's life. Nobody. Who are we to make a decision for that woman? We cannot make that decision for the woman. We are not in her shoes.

And as it seems we are going to make those choices, I am not even allowed to vote on a bill that would certainly take away late-term abortions. I am being forced to vote for a bill that I do not want. Those are the choices that I am being given here. I think that is terrible.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, during this debate we have heard a great deal about exceptions, about medical judgment and about statistics. I believe this debate goes much deeper. This debate searches out the soul of our culture. It is ultimately a question of how we are willing to define ourselves as a civilization.

We must ask ourselves, are we so self-indulgent in our Nation that all notions of right and wrong can be summarily reduced to a matter of choice? Is there no point at which we can agree that the sanctity of human life takes precedence over the lure of choice?

A recent editorial writer in Arkansas defined the true debate that we face today. He said partial-birth abortion has long since ceased to be a medical question. It is a political question. It is about competing values. It is about whether we should be able to destroy human life in order to shape ours in a way that we would prefer. It is about what we hold sacred in our Nation. It is about our culture.

Mr. Speaker, let us reaffirm America as a culture of hope, a culture of life.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, I think many people here will have noticed that there are very few women in this body, but I want to speak to the women of America:

You are the ones that this bill will harm. Ask yourself this question. What will it be like if this bill passes? When you go to your doctor's office, who will make the medical decisions? Will you and your physician or will the politicians in this room make the decision?

I want to tell my colleagues about somebody who went to her doctor's office with a terrible decision: Coreen Costello from California. They had a much-wanted pregnancy but they found that the fetus had become dreadfully damaged. What her physician said was, "We want you to have this surgery because it will save your opportunity to have another child."

They were opposed to abortion, this family, but this was a medical decision. They went ahead with the procedure. And just 2 years later, Coreen was delivered of a healthy baby.

But let me tell you, make no mistake, women of America, that the next time, if this bill passes, that you go to your doctor's office, you will not get all the options. You will not get the best medical advice. You will get the advice of a great number of politicians.

I am going to vote "no" on this bill. I am going to vote for women, I am going to vote for doctors, and I encourage my colleagues to do the same.

Mr. CANADY of Florida. Mr. Speaker, I yield 1¼ minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Speaker, today I am wearing a pin given to me by one of my constituents, Luella Britton, from Bay City, Michigan.

These tiny feet that are fully formed are the exact size of an unborn baby's feet at 10 weeks after conception, the first trimester. The procedure we are debating is most often performed during the second or third trimester. In some cases, the baby is fully developed and could survive outside the womb.

If modern medical science considers a child delivered at 24 weeks viable, how can we consider his or her counterpart expendable?

I agree that individuals should have the right to make decisions that affect their lives. I also strongly believe in the sanctity of life. If 80 percent of abortions in this country are elective, we have to reevaluate the value that our society places on human life.

If this decision is not made in the case of rape or of incest, or if the mother's life is not in danger, then this is a selfish decision. At 10 weeks an unborn child's feet are perfectly formed. I ask my colleagues to think of an unborn child at 4 months or 8 months. That child is whole, alive, and in many cases can survive outside the womb.

A vote for House Resolution 1122 will protect children. A vote against House Resolution 1122 will end thousands of children's lives.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. DELAHUNT], a distinguished member of the Committee on the Judiciary.

Mr. DELAHUNT. Mr. Speaker, this legislation infringes on the constitutional right of a woman to elect a medical procedure which may, in the judgment of her physician, be the best means of preserving her life and her health. This bill is not about procedure, it is about women's lives.

At the Committee on the Judiciary markup I read into the record a portion of the testimony of Maureen Britell, a constituent of mine from Sandwich, MA. She is also a woman of remarkable courage who came forward to tell her story because of her concern that the procedure performed on her would be illegal if this bill becomes law. She describes herself as a textbook case of why this legislation is dangerous.

Mrs. Britell discovered in the sixth month of her pregnancy that her unborn daughter had a fatal anomaly in which the fetal brain fails to develop. Her doctors advised her to induce labor and end the pregnancy immediately for the sake of her health. As a devout Catholic, she was extremely reluctant to do this, but ultimately decided, with the support of her family and her priest, to have the abortion.

During the delivery, the fetus became lodged in the birth canal. The doctors had to cut the umbilical cord, ending the baby's life in order to complete the delivery and avoid serious health consequences to Mrs. Britell.

In her testimony she said, "Although the delivery did not proceed as expected, the doctors acted in a medically appropriate way and I recovered well. At the hospital we were able to hold our baby and say our goodbyes. Our parish priest performed a small Catholic funeral for the family and a few close friends. Our baby was buried at Otis Air Force Base on Cape Cod. My husband and I are still mourning the loss of our daughter."

One might have hoped that, confronted with a story such as this, the authors of this legislation would think again; that they would try to modify their bill. Unfortunately, nearly all amendments offered in committee were rejected and the bill we are considering excludes even the few that were agreed to.

As we heard, my friend, the gentleman from Massachusetts [Mr. FRANK], offered an amendment to confine the constitutionally mandated health exception to situations in which the abortion is necessary to avert serious adverse physical health consequences to the mother. The proponents defeated that amendment and they have refused to allow a similar amendment to come to the floor today.

Supporters of this bill have expressed a concern that a health exception could mean anything and would allow a woman to have abortions for frivolous reasons. The Frank amendment, had they accepted it, would have dealt with that concern.

Rather than accept this amendment to accommodate situations like that of Maureen Britell, it was claimed that her procedure was not a partial-birth abortion at all, and would not be subject to the bill. In fact, the primary sponsor of the bill claimed at the committee markup that it was not even an abortion.

This despite the fact that her doctors considered it an abortion. Her Insurance company considered it an abortion and refused to cover it. And the bill itself defines a "Partial-birth abortion" as one "in which the person performing the abortion partially vaginally delivers a living fetus before killing the infant and completing the delivery." Well, that is precisely what took place in Ms. Britell's case.

One can understand the desire of the proponents to try to distinguish such cases because they cannot answer for them. They may also be legitimately confused as to which procedures are covered by the bill and which are not. In this they would hardly be alone. A statute that unintelligible cannot pass constitutional muster. In fact, the Supreme Court has stuck down an abortion statute because it, like the present bill, "condition[ed] potential criminal liability on confusing and ambiguous criteria."

Furthermore, the bill cannot be reconciled with the decision in Roe v. Wade. Among other things, it fails to provide an exception for the health of the mother, as both Roe and later cases require. A State may not prohibit abortion even after the point of fetal viability "where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother." Even the dissenting justices in Roe and its companion case, Doe v. Bolton, said that abortion could not be barred if necessary to avoid "substantial hazards to either life or health."

Even more tellingly, the majority has refused to allow a vote on a bipartisan substitute that would bar all abortions—regardless of the procedure by which they are carried out—after the point of fetal viability, except where necessary to preserve the woman's life or avert serious health consequences. This is the law today in 40 States and the District of Columbia. Yet it is not enough for the proponents.

That is because the true purpose of this bill was never to end a particular abortion procedure nor even to restrict late term abortions. Its true goal is to undermine the central principle of Roe v. Wade, which prohibits the government from placing the welfare of a nonviable fetus above the health and safety of the pregnant woman.

Again, the proponents have been quite frank about his. At our markup, the chairman himself expressed his belief that the life of the unborn child—regardless of its stage of development—should take precedence over the woman's health.

While I have only the deepest respect for the gentleman's convictions, I cannot share them. And I do not think he or anyone else has the right to impose them on a woman who finds herself in the devastating situation that Maureen Britell and her family went through. Despite the intemperate language of the bill and some of its supporters, she is not a murderer, and the choice she made was not infanticide. It was the only choice she had, and no government has the authority to take that away.

Mr. CANADY of Florida. Mr. Speaker, I yield 3½ minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding this time to me.

Mr. Speaker, the leadership of the pro-abortion movement are highly skilled and extraordinarily savvy in masking the violence and cruelty to baby girls and boys killed by abortion and the harmful effects to women. Nobody muddies the water like they do. That leadership has now been exposed once again by one of its own as a fraud. And to think they almost got away with it again.

Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers, has publicly confessed that he, "Lied through his teeth" when he told a TV interviewer, according to the New York Times, that partial-birth abortion was used rarely and only on women whose lives were in danger or whose fetuses were damaged.

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It seems I heard a lot of my colleagues say that in the last debate on this matter. According to the AMA News and the New York Times, Mr. Fitzsimmons now says that his party line defense of this method of abortion was a deliberate lie and that in the vast majority of cases the procedure is performed on a healthy mother with a healthy fetus that is 20 weeks or more along.

Mr. Fitzsimmons says that the abortion folks knew it, which means the whole antibaby gang deliberately tried to deceive us all and the Nation. And they almost got away with it.

Interestingly, he also said the anti-abortion people, the pro-lifers, we knew it as well, and we did, and we said it on this floor. Unfortunately, there were very few who listened when we pointed out these facts.

As a matter of fact, most in the media believed and amplified as true the falsehoods and lies put out by Planned Parenthood Federation of America, the Alan Guttmacher Institute, the ACLU, NARAL, the National Family Planning and Reproductive Health Association, NOW, the National Republican Coalition for Choice, People for the American Way, Population Action International, Zero Population Growth and others who signed letters that went to my office and yours, one of them on October 25, 1995 that said, "This surgical procedure is used only in rare cases, fewer than 500 per year, and most often performed in the case of wanted pregnancies gone tragically wrong."

We know that is not true. It is a lie. We know that these groups have lied to us, and it is not the first time, Mr. Speaker, that these groups have lied to us.

Dr. Bernard Nathanson, the former abortionist who did thousands of abortions and one of the founders of NARAL, has said that lying and junk science were and continue to be commonplace in the pro-abortion movement. It is the way they sell abortion to a gullible public. Dr. Nathanson has said that in the early days they absolutely lied about maternal mortality, they lied about the number of illegal abortions, they lied and said that there is no link between abortion and breast cancer, and there is a link, and they lie about the so-called safety of abortion, and of course, the big lie on partial-birth abortion has been exposed for everybody in this Chamber to see. The procedure is not rare. It is common. It is common, and it is used with devastating consequences on both the mothers as well as on the babies.

Remember last year several of you took to the floor and said that anesthesia caused fetal demise. That falsehood was blown right out of the water as well as another big lie that was used by my friends on the other side of the aisle and on this side of the aisle and spoon fed to you in fact sheets and talking points by the pro-abortion lobby. The president of the American Society of Anesthesiologists, Dr. Noring Ellison came forward and testified before the Senate Judiciary Committee on November 17, 1995 and said:

> I believe this . . . to be entirely inaccurate. I am deeply concerned, moreover, that the widespread publicity given to Dr. McMahon's testimony may cause pregnant women to delay necessary and perhaps life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus.
>
> In my medical judgment, it would be necessary—in order to achieve neurological demise of the fetus in a partial-birth abortion—to anesthetize the mother to such a degree as to place her own health in serious jeopardy.
>
> I have not spoken with one anesthesiologist who agrees with Dr. McMahon's conclusion, and in my judgment, it is contrary to scientific fact. It simply must not be allowed to stand.

Remember all this when Planned Parenthood, which performs or refers for 230,000 abortions each year, lobbies you and plies you with talking points and fact sheets. They simply are not to be trusted—even their ideological soulmates in the government and media should have serious doubts about these groups' credibility.

These same pro-abortion groups—many of which get huge Federal, State, and local government subsidies—also wrote us that, "lawmakers . . . have no place . . . in the operating room."

But unless you construe an unborn baby to be a disease or tumor, it is the abortionists who have turned the operating room into an execution chamber.

Like some deranged horror movie doctor who dresses well and looks respectable on the outside, the abortionist in these execution rooms partially delivers a helpless child, only to thrust a pair of scissors into the baby's head so a suction device can vacuum out his or her brains.

This is madness. This is inhumane. And lawmakers should not shrink from our moral responsibility to stop it.

Mr. CONYERS. Mr. Speaker, would the gentleman from New Jersey be reminded that we do not call each other liars in the course of the debate?

Mr. SMITH of New Jersey. Will the gentleman yield?

The SPEAKER pro tempore [Mr. McINNIS]. The request of the gentleman from Michigan [Mr. CONYERS] is denied.

The Chair recognizes the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado [Ms. DeGETTE] and remind our membership that she is replacing Pat Schroeder, our distinguished ranking member on the Committee on the Judiciary.

Ms. DeGETTE. Mr. Speaker, I rise today to urge my colleagues to vote no on this resolution. There has been a great deal of distortion spread about this so-called partial-birth ban. First of all, this bill does not ban abortions, even post viability. It would still allow post viability abortions.

What it does do is outlaw an ill-defined medical procedure. It stops a procedure which is so vaguely defined that it is not even recognized in medical literature because partial-birth is not a medical term at all.

Tragically, deliberate confusion has driven this debate out of control to a point where rational people are ignoring the facts, their own principles and even their own hearts. We have just heard rhetoric today that the pro-choice community has distorted the facts on this procedure. Quite to the contrary. Neither side has concrete national or State statistics on the number of intact D&E procedures that are performed.

Let us focus on what we do know and not on what we do not know. In 1992, the last year for which we have statistics, only .04 percent of all abortions even took place after 26 weeks when this procedure may become necessary. At this stage, every single one of these women were facing threats to their life or health or were carrying a fetus with severe abnormalities.

Mr. Speaker, I urge my colleagues to think rationally. To assume that any woman would choose this tragic procedure after carrying a healthy fetus for 8 or 9 months is offensive to the women who are facing this gruesome decision and it is offensive to all women.

I think if my colleagues had had the opportunity to hear Eileen Sullivan testify before the Committee on the Judiciary last week, they would understand how frightening and dangerous this proposed ban is to women.

Eileen is 1 of 11 children in an Irish Catholic family. She faced this tragedy in the eighth month. She stated to the committee: We wept. We discussed what to do, what was best and safest, and in the end she, her husband, and her doctor made this tragic choice.

Eileen Sullivan chose this procedure as a last resort. She and her husband desperately wanted this baby, but the pregnancy had gone awry. To ban this procedure for women like Ms. Sullivan who face no other option will deprive them of their lives or their future ability to have children.

Let me be clear to those who are unsure of the serious ramifications of this bill or the meaning of their vote today. In the 24 years since Roe versus Wade, American women have never been in more danger of losing their right to choose their own health decisions than they are today.

Mr. Speaker, I urge my colleagues to vote against this bill.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Speaker, partial-birth abortions should not be a partisan issue. Democrats and Republicans who share a fundamental belief that life is precious are in agreement: The partial-birth abortion procedure is gruesome, it is hideous, and it is unnecessary. We believe that life should be protected, not cut short by a pair of scissors in the hands of an abortionist.

If there is one good thing that we can do this year, one thing that would save the lives of children who are being brutally killed, it is the passage of legislation that would outlaw this terrible procedure. Members on both sides of the aisle know how atrocious it is, and we have all heard the grisly details, because we know the truth, that thousands of partial-birth abortions are performed each year on healthy mothers with healthy babies. We must act now to ban this terrible procedure.

Mr. Speaker, the choice is simple. We can either turn our backs and allow thousands of babies to be killed at the very moment of birth, or we can vote to preserve life, protect innocent children and ban partial-birth abortions once and for all. I urge passage of this important legislation.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California [Ms. LOFGREN], a distinguished member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Speaker, about 2 weeks ago, Members of this body went to Hershey, PA, to learn how we might disagree in a civilized manner, and I think this issue is challenging and testing the commitments we made at that time to deal and disagree with each other in a way that is respectful and civilized. This is an issue that American people have very strong feelings about, and those strong feelings are shared by Members of this body.

I think it is important that we state where we agree and where we disagree because there are some agreements. I do not believe there is a single Member of this body, and I definitely include myself, who believes that abortion ought to be an elective procedure post viability, and to the extent that any of us have suggested otherwise, we should stop doing that because we do not believe that. That is not where our disagreement is.

There are those of us in this Chamber who believe, and oftentimes it is a matter of religious belief, that abortions should be made illegal in all cases. I am not among those who believe that. But I respect the Members of this body who do. The disagreement is over who should make the decision to terminate a pregnancy post viability, when a woman's life is in danger or she is facing a serious health consequence, and then prior to viability who should make the decision in every case.

There has been a lot of discussion about numbers and who said what when. The issue is this, simply this. If there is even a single woman, and I know one, Vickie Wilson, who needs access to this procedure in order to protect against a very serious health ramification, then in my judgment she and her family, not the Congress of the United States, ought to make that decision.

That is what this issue is about. We have an alternative that would prohibit abortions post viability on an elective basis. I think we ought to adopt this alternative and I think we ought to allow the woman and her family to decide when serious health consequences and her life are at risk.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. ADERHOLT].

Mr. ADERHOLT. Mr. Speaker, I am not here to reiterate what has already been said about the partial-birth abortion procedure. We all know it is a gruesome and horrific way to end a life. We have heard the testimony of Brenda Pratt Shafer, a pro-choice nurse who wrote that witnessing this procedure was the "most horrible experience of my life," and Mr. Ron Fitzsimmons admitting that we had been lied to about the frequency of abortions on healthy fetuses. We have been told that this procedure is used rarely, in dire circumstances and only to protect the health and life of the mother. But it is just not true.

If we were to begin executing criminals by stabbing scissors in the back of their skulls and then sucking out their brains until the body goes limp, we would have every human rights group in this country screaming.

I ask my colleagues to remember that over 400 doctors, including C. Everett Koop, the former Surgeon General, has stated that it is never medically necessary to have a partial-birth abortion. In fact, in many cases the health of the mother is highly at risk and jeopardized by this procedure.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. CAPPS].

Mr. CAPPS. Mr. Speaker, today is the first day of spring, but I believe that we are continuing to be surrounded by darkness. I ask, Mr. Speaker, will the vote we are taking today help us reach what I believe are our twin goals, to preserve the dignity of a woman's right to choose and to decrease and diminish the need for abortions? Sadly, this vote will not.

Does the discussion we are having today create more civility in Congress? Will it create a more resilient bond of trust between ourselves and the people we represent? The answer once again, Mr. Speaker, is not at all.

Abortion is a terribly tragic consequence, but we will not take away the tragedy of abortion by banning it legislatively or by placing extreme restrictions on its availability. In my judgment, exceptions must always be sustained in the event that the life of the mother, the health of the mother, or the future reproductive capacity of the mother, are placed in jeopardy.

I wish to add, Mr. Speaker, that those who are touting this issue as a religious issue, in my humble judgment, should be a bit more cautious. Search the New Testament through and through. There are no references to abortion. For that matter examine the teachings of Jesus and see if you can find one, even one comment on abortion. I submit, Mr. Speaker, that a matter deemed so central to the faith would have drawn at least one comment from the founder of the faith who did say, "He who is without sin cast the first stone," who did say "I have come that you might have life and have life more abundantly."

Tout this issue as a religious issue if you will, but please do not forget that, created in the image of God, we humans are endowed with the ability as well as the responsibility to make responsible human choices and to live with the consequences. We in the Congress, still predominantly white males, have not been given authority to usurp choice for the women who must face these terrible life defining decisions, nor are we assigned the task of being moral arbiters of a situation that defies the imposition of moral, religious, and spiritual absolutes.

The challenge that abortion presents to the well-being of this country will not go away because Congress acts on legislation whose primary purpose is to exercise excessively sanctimonious, righteous indignation.

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Let us not substitute the real work we have to do in this Congress and in the country with intrusive and restrictive governmental decree or with questionable dogmatic fiat. I am voting against this divisive bill, Mr. Speaker, because of its dehumanizing quality and demeaning spirit that is part of it.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. BARR], a member of the Committee on the Judiciary.

Mr. BARR of Georgia. Mr. Speaker, there are certain common themes that seem to be repeating themselves by the pro-abortion arguments on the other side, over and over and over again. There is a very good reason for that. The strategy, including the precise words to use, are well laid out in a memorandum that lays out the blueprint for the pro-abortionist in this argument in order to disguise what is really at stake here. I read from a memo dated September 17, 1996, from Lake Research:

Do not talk about the health and condition of the fetus. Voters believe that this procedure, no matter what we call it, kills an infant.

Truer words were never spoken.

Do not argue about how often this procedure is used. Voters believe that even one time is too many.

Truer words were never spoken.

Do not argue about the procedure. The partial-birth procedure is gruesome. There is no way to make it pleasant to voters or even only distasteful.

Truer words were never spoken.

Yet those on the other side that keep arguing for this horrible, gruesome procedure would have us believe that it is just commonplace, that there is nothing wrong with it, that it is simply a matter of choice. It is not simply a matter of choice, it is a matter of life. They know it, and American voters know it.

[Memorandum]

SEPTEMBER 17, 1996.

To: Clients and friends.
From: Lake Research.
Subject: Positioning on so-called "partial birth" abortion.

Many of you have asked for research on the best way to frame a vote against legislation to ban the so-called "partial birth" abortion procedure. We have developed the following guidelines from a range of research we have done this fall that has touched on the issue. Overall, we believe that our strongest message is that late abortion is a medically necessary procedure to save the life and health of the mother.

Do talk about the life and the health of mothers.

Voters take the health of women, of mothers especially, very seriously. Importantly, many women who are more traditional (homemakers, for example), who tend to be anti-choice, also believe that motherhood tends to be undervalued, and they are responsive to a message that makes the health of mothers, and protecting their ability to bear children and care for them in the future, a high priority.

Don't talk about the health and condition of the fetus.

Voters believe that this procedures, no matter what we call it, kills an infant. We cannot get around this basic belief. When we start to talk about cases where the fetus is not viable, we risk sliding down a slippery slope that leads voters to conclude that we should risk subjective judgments about which babies live and which die. However, being sure to use the language of "severely deformed fetuses" helps counter this, by making clear that the infant would not be close to being viable.

Do talk about this procedure as medically necessary.

This communicates to voters that having this procedure is not a "choice," and certainly not a decision that is made casually or lightly. On the contrary, these abortions happen only in the most tragic and dire of health circumstances, and only when it is medically necessary. This language also implies that a doctor is involved, and voters believe that politicians should stay out of this decision.

Don't argue about how often this procedure is used.

The absolute number of times this procedure is used is irrelevant. Voters believe that even one time is too many. What we can say is that we wish this procedure was never necessary, but that when it is necessary to save the life and health of the mother, it should not be illegal and it should not be something that involves politicians. Instead, it should be a decision made by a woman, her family, her doctor, and her clergy.

Do put a very human face on the issue.

The other side would like voters to believe that this procedure is chosen by heartless and irresponsible people who are murdering children because it is more convenient. We know that this is not true. The women who undergo this procedure are often mothers with families. This is something tragic that happens to families, and something they would have done almost anything to avoid. President Clinton's veto message was affective in large part because he introduced America to the real women who have suffered through this.

Don't argue about the procedure.

The "partial-birth" procedure is gruesome. There is no way to make it pleasant to voters, or even only distasteful. Absolutely do not try to point out inaccuracies in the other side's descriptions. It gets us nowhere.

Note that the message used by many in the pro-choice community that this legislation is just the first chip in Roe versus Wade, a foot-in-the-door strategy towards the ultimate goal of eliminating reproductive rights, works only among pro-choice activist. It is not effective among voters broadly. In addition, the message used by some that this bill is wrong because it is the first time that a specific medical procedure has been the subject of legislation is also ineffective among voters broadly. Remember that, no matter what we say, we cannot make voters think that late-term abortions are a good thing. The public is by-and-large pro-choice, but this mainly means that they think that abortion is an issue the government and politicians should pretty much stay out of, not that they view abortion as a positive choice. Most Americans would agree with President Clinton's framework of "abortion should be safe, legal, and rare," and they are comfortable with many types of regulation, including substantial restrictions on abortion after the first trimester.

In sum, there are many reasons that this legislation appalls us, but voters are most likely to agree with us when we focus on a single argument: that this is a medically necessary procedure to save the life and health of the mother, and that making it illegal is just the wrong thing to do.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the deputy whip of the minority, the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, this is not a debate that should be occurring in the Congress today. This is not a decision for us, for legislators, for policymakers. We are not men and women of medicine, of science. I am not a doctor; I did not go to medical school. We have no business telling doctors how to practice medicine.

No government, Federal, State or local, should tell a woman what she can or cannot do with her body. Decisions about health, decisions about medicine, decisions about conscience, are not for us to make. These decisions should be left in the homes, churches, and synagogues of women facing these hard, wrenching decisions.

This is an issue between a woman and her family, a woman and her doctor, a woman and her conscience, a woman and her God. Let us not invade the homes of American women, the hospital, and the health care centers. Let us not attempt to play doctor. Let us not attempt to play God. Let us say no to politicians in the bedrooms, the family rooms, and the operating rooms.

Mr. Speaker, let us say no to this ill-conceived bill.

Mr. BARR of Georgia. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. WELDON] a gentleman who does not play at being a doctor, who is a medical doctor.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise in strong support of this legislation. I would like to reference my comments to some comments made earlier about not lying or calling each other liars. And there has been a lot of debate today with claims that this procedure is rare and only used in the setting of fetal deformities, and there is an abundant amount of information out there that shows that it is not rare. We have one clinic that is reported doing 1,500 in one clinic, and then there is also abundant evidence that in the vast majority of cases there are no fetal deformities. These are done on healthy infants, and the debate is involving are we going to respect the sanctity of the life of the child?

It is not a decision just between a woman and her God. There is a third party involved in this. In many cases it is a fully developed normal child, and to repeat over and over again that it is rare and to repeat over and over again that the children, the babies, have fetal deformities is just wrong.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute to ask the distinguished doctor and Member of Congress a question.

If we add a doctor, the health exception, we would agree with the gentleman, and this bill could possibly become law. Would the gentleman have any objection to that?

Mr. WELDON of Florida. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Florida.

Mr. WELDON of Florida. Mr. Speaker, I would be willing to accept that if the gentleman from Michigan will define "health" in terms of the physical health of the woman to mean only the life of the mother. Now the Supreme Court has decided that the health of the mother can mean just about anything. The definition of mental health is so broadly interpreted as to make any restriction meaningless.

Mr. CONYERS. Exactly right.

Mr. WELDON of Florida. Has to include mental health.

Mr. CONYERS. Mr. Speaker, before I yield back to the gentleman I just want to remind him, and I thank him for his agreement, that the gentleman from Massachusetts [Mr. FRANK] tried to offer a physical health limitation amendment and was precluded by the gentleman's party's leadership. That is why we cannot come to closure on this issue. And the gentleman will have on the chance for recommittal to vote for precisely that provision that he has articulated, and I yield to the doctor.

Mr. WELDON of Florida. Mr. Speaker, I have looked into this amendment language and believe that the language is still too broad and would create a loophole in the current bill that is unacceptable.

The SPEAKER pro tempore. Time of the gentleman from Michigan has expired.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY of New York. Mr. Speaker, today we face yet another attempt by the new majority to roll back a woman's right to choose. Let me place this vote today in perspective.

Last Congress there were 52 antichoice votes on the floor of Congress. My colleagues who support this bill are barely trying to disguise their agenda. They mean to attack Roe versus Wade procedure by procedure. They mean to attack the right of women to control their decisions about their health, their families, and their life. Eliminating late-term abortion is just their first step toward sending the debate back more than 20 years back before the Supreme Court.

Congress can outlaw procedures, but they can never outlaw the circumstances that lead some women to need abortions late in pregnancy. No matter how good the technology gets, tragic discoveries are sometimes made late in pregnancies, and for these women we need to have the best and safest medical care available.

This new bill would have a woman die if her life were threatened by the pregnancy itself. Again instead of allowing a doctor, a woman, and her family to make this decision, they would have the woman die.

This bill also allows abusive and absent husbands to sue doctors who perform procedures that are sometimes necessary in tragic situations. So now we care more about abusive husbands than we do about a woman's health.

How odd that the new majority calls itself family friendly. How odd that the new majority says that they want to get government off our backs. Yet they are trying to dictate, procedure by procedure, the most intimate decisions that a woman has to make in her life about her own life, about her health, and about the future of her family.

Congress has no place in women's decisions and no place in women's tragedies.

Mr. CONYERS. Mr. Speaker, I yield the gentlewoman from New York [Mrs. MALONEY] an additional 30 seconds and I ask her to yield to me.

Mrs. MALONEY of New York. Mr. Speaker, I yield to the gentleman from Michigan.

Mr. CONYERS. The gentlewoman could not be more correct. The Republican platform of 1996 reads that the constitutional protection of women's right to choice should be revoked by constitutional amendment. Here are bills that are pending in the Committee on the Judiciary for doing it, at least the legitimately correct way, through a constitutional amendment. But here they are coming through the back door again with CANADY's partial-birth abortion bill.

The SPEAKER pro tempore. The Chair advises that the gentleman from Michigan [Mr. CONYERS] has 12 minutes remaining and the gentleman from Florida [Mr. CANADY] has 23 minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN of Virginia. Mr. Speaker, my colleagues know that I do not support the Republican agenda on abortion or constitutional amendments to preclude it. In fact I have fought for a woman's right to choose. But this is an extremist amendment. This is an extremist procedure, and it is not about a woman's right to choose; it is about a baby's right to life.

That is what this is about. We have protected a woman's right to choose. That is why more than 99 percent of all the abortions performed in this country are performed before the third trimester, but if we asked the doctors who performed this procedure, they will tell us that the vast majority of these procedures are performed on young, healthy women with healthy fetuses, and it is wrong.

I spoke to a group of junior high students this morning. They asked me about this issue. I told them my position. They disagreed, and one of the women, young girls; these were 13- and 14-year-old girls; she said "But what if a girl has a baby and then she decides when that baby is almost due to be delivered that she has a lot of other things in her life and the baby is going to get in her way?" Hard to understand, but hard to sanction, hard to support.

The fact is that we discredit the credibility of the pro-choice movement, the right of a woman to control her life when we support this kind of extremist position.

I support this bill. The Democratic Party and the pro-choice movement ought to as well.

Mr. Speaker, I have been committed throughout my career to making reproductive choice a right for women as proscribed by the Supreme Court of the United States. I have fought to uphold the principle that no government should tell women that such an important decision is not her own.

And this is what the Supreme Court has said repeatedly. They said in Roe versus Wade that the Government has no right to limit a woman's right to choose to have an abortion in the first trimester of pregnancy. In the second trimester they said that the Government may make some restrictions and in the third they may restrict it entirely except to save her life or health.

With advances in medical technology the Supreme Court updated this decision. In 1992 they reformed the trimester framework in deciding Casey versus Planned Parenthood and said that States may make restrictions only after fetal viability. Recent studies suggest that this occurs around the 24th week of gestation.

The procedure in this bill defined as partial-birth abortion is not a procedure protected by the Supreme Court. It occurs after fetal viability, and despite the lack of recorded information as to its prevalence, recent revelations of several members of the pro-choice community lead us to believe that it occurs on normal fetuses and healthy mothers.

According to the Center for Disease Control, only 1.5 percent of all abortions performed in the United States are performed after 21 weeks gestation. This argument over the number of these procedures performed is irrelevant. This procedure should not be performed on healthy viable fetuses and healthy mothers. Even if it is only once a year, but certainly not 5,000 times a year.

Let me address briefly the controversy surrounding Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers.

Mr. Fitzsimmons is a constituent of mine, and I have been acquainted with him for many years.

Mr. Fitzsimmons has been the object of criticism from many within the pro-choice community because he made the decision to confirm what had already been reported in the Washington Post and other publications. This was that late term abortions were bring performed more frequently than we were being told, and that they were being performed on normal fetuses. He also confirmed that these facts were plainly inconsistent with previous statements he made.

But this episode is not about Ron Fitzsimmons. It is about the obligation of the pro-choice movement to be candid and forthcoming to members of the public, the President, and Members of this House. I hope that the pro-choice community will learn from this episode and use it as an occasion to re-channel its efforts toward a reaffirmation of the truth in public discourse and a reasonable sense of balance between the freedom to choose and taking responsibility for our actions.

Mr. CONYERS. Mr. Speaker, I reserve the balance of our time. We have a lot less than the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Speaker, those of us who are pro-life are concerned about the health of the mother, and I believe those in this body who are pro-choice are concerned about the life of the child. We cannot reduce this debate to simple accusations which demagog rather than try to embrace the whole of our separate concerns, whichever side of this debate on which we fall. The dividing line here is the exception of health of the mother, which some want to incorporate into in bill. No one argues about the need to save the life of the mother.

I have listened to statements by the AMA and Dr. Koop, and I would like to offer a statement by Dr. Bernard Nathanson who has spent a great part of his professional life dealing with these issues. Dr. Nathanson, when he made this statement, was a visiting scholar at the Center for Clinical and Research Ethics at Vanderbilt University. He says and I quote:

With respect to late-term abortions for women who suffer serious health consequences as a result of the pregnancy, let me assure you that this operation, partial-birth abortion, is so fraught with significant surgical hazards and complications that it is more likely to tip the health scales and kill the pregnant woman than it is to save her life. As the hazards and complications of the procedure, I have yet to see in the conventional peer review medical literature a well-controlled, thoroughly documented study of the procedure in question.

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But given my own extensive experience with abortion, I would venture with reasonable certainty that the short- and long-term consequences of this procedure are, to be charitable, formidable.

Mr. Speaker, I support this bill and I feel it offers the protection necessary for vulnerable children who have no voice in this matter.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. INGLIS], a member of the Committee on the Judiciary.

Mr. INGLIS of South Carolina. Mr. Speaker, I thank the gentleman for yielding me this time.

I am particularly happy to follow the two colleagues that have just spoken, because I think that it shows that this truly is an issue on which Republicans and Democrats can agree, and particularly it shows that even people like the gentleman from Virginia [Mr. MORAN], who is a pro-choice Member, see this procedure as on the other side of the acceptable line. I think it is very nice tc follow both of my colleagues.

Mr. Speaker, I insert in the RECORD an article from the Sunday Record that talks about some of the facts of this procedure and some of the implications of it. I think it is very important that we speak the truth here and that we get to the bottom of this.

Basically, what we are talking about is a procedure that I believe, and I hope most of our colleagues believe, should not be countenanced in a civilized society. It is something really that we cannot tolerate in a civilized society, and therefore something that I hope we can all vote, Republicans and Democrats and yes, even some pro-choice Members, can vote to ban today.

The article referred to is as follows:

[From the Inglis, SC, Sunday Record, Sept. 15, 1996]

REVIEW AND OUTLOOK: THE FACTS ON PARTIAL-BIRTH ABORTION

(By Ruth Padawer)

Even by the highly emotional standards of the abortion debate, the rhetoric on so-called "partial-birth" abortions has been exceptionally intense. But while indignation has been abundant, facts have not.

Pro-choice activists categorically insist that only 500 of the 1.5 million abortions performed each year in this country involve the partial-birth method, in which a live fetus is pulled partway into the birth canal before it is aborted. They also contend that the procedure is reserved for pregnancies gone tragically awry, when the mother's life or health is endangered, or when the fetus is so defective that it won't survive after birth anyway.

The pro-choice claim has been passed on without question in several leading newspapers and by prominent commentators and politicians, including President Clinton.

But interviews with physicians who use the method reveal that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year—three times the supposed national rate. Moreover, doctors say only a "minuscule amount" are for medical reasons.

Within two weeks, Congress is expected to decide whether to criminalize the procedure. The vote must override Clinton's recent veto. In anticipation of that showdown, lobbyists from both camps have orchestrated aggressive campaigns long on rhetoric and short on accuracy.

For their part, abortion foes have implied that the method is often used on healthy, full-term fetuses, an almost-born baby delivered whole. In the three years since they began their campaign against the procedure, they have distributed more than 9 million brochures graphically describing how doctors "deliver" the fetus except for its head, then puncture the back of the neck and aspirate brain tissue until the skull collapses and slips through the cervix—an image that prompted even pro-choice Sen. Daniel P. Moynihan, D-N.Y., to call it "just too close to infanticide."

But the vast majority of partial-birth abortions are not performed on almost-born babies. They occur in the middle of the second trimester, when the fetus is too young to survive outside the womb.

The reason for the fervor over partial birth is plain: The bill marks the first time the House has ever voted to criminalize an abortion procedure since the landmark Roe vs. Wade ruling. Both sides know an override could open the door to more severe abortion restrictions, a thought that comforts one side and horrifies the other.

HOW OFTEN IT'S DONE

No one keeps statistics on how many partial-birth abortions are done, but pro-choice advocates have argued that intact "dilation and evacuation"—a common name for the method, for which no standard medical term exists—is very rare, "an obstetrical non-entity," as one put it. And indeed, less than 1.5 percent of abortions occur after 20 weeks gestation, the earliest point at which this method can be used, according to estimates by the Alan Guttmacher Institute of New York, a respected source of data on reproductive health.

The National Abortion Federation, the professional association of abortion providers and the source of data and case histories for this pro-choice fight, estimates that the number of intact cases in the second and third trimesters is about 500 nationwide. The National Abortion and Reproductive Rights Action League says "450 to 600" are done annually.

But those estimates are belied by reports from abortion providers who use the method. Doctors at Metropolitan Medical in Englewood estimate that their clinic alone performs 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact dilation and evacuation. They are the only physicians in the state authorized to perform abortions that late, according to the state Board of Medical Examiners, which governs physicians' practice.

The physicians' estimates jibe with state figures from the federal Centers for Disease Control, which collects data on the number of abortions performed.

"I always try an intact D&E first," said a Metropolitan Medical gynecologist, who, like every other provider interviewed for this article, spoke on condition of anonymity for fear of retribution. If the fetus isn't breech, or if the cervix isn't dilated enough, providers switch to traditional, or "classic," D&E—in utero dismemberment.

Another metropolitan area doctor who works outside New Jersey said he does about 260 post-20-week abortions a year, of which half are by intact D&E. The doctor, who is also a professor at two prestigious teaching hospitals, said he has been teaching intact D&E since 1981, and he said he knows of two former students on Long Island and two in New York City who use the procedure. "I do an intact D&E whenever I can, because it's far safer," he said.

The National Abortion Federation said 40 of its 300 member clinics perform abortions as late as 26 weeks, and although no one knows how many of them rely on intact D&E, the number performed nationwide is clearly more than the 500 estimated by pro-choice groups like the federation.

The federation's executive director, Vicki Saporta, said the group drew its 500-abortion estimate from the two doctors best known for using intact D&E, Dr. Martin Haskell in Ohio, who Saporta said does about 125 a year, and Dr. James McMahon in California, who did about 375 annually and has since died. Saporta said the federation has heard of more and more doctors using intact D&E, but never revised its estimate, figuring those doctors just picked up the slack following McMahon's death.

"We've made umpteen phone calls [to find intact D&E practitioners]", said Saporta, who said she was surprised by The Record's findings. "We've been looking for spokespeople on this issue. . . . People do not want to come forward [to us] because they're concerned they'll become targets of violence and harassment."

WHEN IT'S DONE

The pro-choice camp is not the only one promulgating misleading information. A key component of The National Right to Life Committee's campaign against the procedure is a widely distributed illustration of a well-formed fetus being aborted by the partial-birth method. The committee's literature calls the aborted fetuses "babies" and asserts that the partial-birth method has "often been performed" in the third trimester.

The National Right to Life Committee and the National Conference of Catholic Bishops have highlighted cases in which the procedure has been performed well into the third trimester, and overlaid that on instances in which women have had less-than-compelling reasons for abortion. In a full-page ad in the Washington Post in March, the bishops' conference illustrated the procedure and said women would use it for reasons as frivolous as "hates being fat," "can't afford a baby and a new car," and "won't fit into prom dress."

"We were very concerned that if partial-birth abortion were allowed to continue, you could kill not just an unborn, but a mostly born. And that's not far from legitimizing actual infanticide," said Helen Alvare, the bishops' spokeswoman.

Forty-one states restrict third-trimester abortions, and even states that don't—such as New Jersey—may have no physicians or hospitals willing to do them for any reason. Metropolitan Medical's staff won't do abortions after 24 weeks of gestation. "The nurses would stage a war," said a provider there. "The law is one thing. Real life is something else."

In reality, only about 600—or 0.04 percent—of abortions of any type are performed after 26 weeks, according to the latest figures from Guttmacher. Physicians who use the procedure say the vast majority are done in the second trimester, prior to fetal viability, generally thought to be 24 weeks. Full term is 40 weeks.

Right to Life legislative director Douglas Johnson denied that his group had focused on third-trimester abortions, adding, "Even if our drawings did show a more developed baby, that would be defensible because 30-week fetuses have been aborted frequently by this method, and many of those were not flawed, even by an expansive definition."

WHY IT'S DONE

Abortion rights advocates have consistently argued that intact D&Es are used under only the most compelling circumstances. In 1995, the Planned Parenthood Federation of America issued a press release asserting that the procedure "is extremely rare and done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality."

In February, the National Abortion Federation issued a release saying, "This procedure is most often performed when women discover late in wanted pregnancies that they are carrying fetuses with anomalies incompatible with life."

Clinton offered the same message when he vetoed the Partial-Birth Abortion Ban Act in April, and surrounded himself with women who had wrenching testimony about why they needed abortions. One was an anti-abortion marcher whose health was compromised by her 7-month-old fetus' neuromuscular disorder.

The woman, Coreen Costello, wanted desperately to give birth naturally, even knowing her child would not survive. But because the fetus was paralyzed, her doctors told her a live vaginal delivery was impossible. Costello had two options, they said: abortion or a type of Caesarean section that might ruin her chances of ever having another child. She chose an intact D&E.

But most intact D&E cases are not like Coreen Costello's. Although many third-trimester abortions are for heart-wrenching medical reasons, most intact D&E patients have their abortions in the middle of the second trimester. And unlike Coreen Costello, they have no medical reason for termination.

"We have an occasional amino abnormality, but it's a minuscule amount," said one of the doctors at Metropolitan Medical, an assessment confirmed by another doctor there. "Most are Medicaid patients, black and white, and most are for elective, not medical, reasons: people who didn't realize, or didn't care, how far along they were. Most are teenagers."

The physician who teaches said: "In my private practice, 90 to 95 percent are medically indicated. Three of them today are Trisomy-21 [Down syndrome] with heart disease, and in another, the mother has brain cancer and needs chemo. But in the population I see at the teaching hospitals, which is mostly a clinic population, many, many fewer are medically indicated."

Even the Abortion Federation's two prominent providers of intact D&E have showed documents that publicly contradict the federation's claims.

In a 1992 presentation at an Abortion Federation seminar, Haskell described intact D&E in detail and said he routinely used it on patients 20 to 24 weeks pregnant. Haskell went on to tell the American Medical News, the official paper of the American Medical Association, that 80 percent of those abortions were "purely elective."

The federation's other leading provider, Dr. McMahon, released a chart to the House Judiciary Committee listing "depression" as the most common maternal reason for his late-term non-elective abortions and listing "cleft lip" several times as the fetal indication. Saporta said 85 percent of McMahon's abortions were for severe medical reasons.

Even using Saporta's figures, simple math shows 56 of McMahon's abortions and 100 of Haskell's each year were not associated with medical need. Thus, even if they were the only two doctors performing the procedure, more than 30 percent of their cases were not associated with health concerns.

Asked about the disparity, Saporta said the pro-choice movement focused on the compelling cases because those were the majority of McMahon's practice, which was mostly third-trimester abortions. Besides, Saporta said, "When the Catholic bishops and Right to Life debate us on TV and radio, they say a woman at 40 weeks can walk in and get an abortion even if she and the fetus are healthy." Saporta said that claim is not true. "That has been their focus, and we've been playing defense ever since."

WHERE LOBBYING HAS LEFT US

Doctors who rely on the procedure say the way the debate has been framed obscures what they believe is the real issue. Banning the partial-birth method will not reduce the number of abortions performed. Instead, it will remove one of the safest options for mid-pregnancy termination.

"Look, abortion is abortion. Does it really matter if the fetus dies in utero or when half of it's already out?" said one of the five doctors who regularly uses the method at Metropolitan Medical in Englewood. "What matter is what's safest for the woman," and this procedure, he said, is safest for abortion patients 20 weeks pregnant or more. There is less risk of uterine perforation from sharp broken bones and destructive instruments, one reason the American College of Obstetricians and Gynecologists has opposed the ban.

Pro-choice activists have emphasized that nine of 10 abortions in the United States occur in the first trimester, and that these have nothing to do with the procedure abortion foes have drawn so much attention to. That's true, physicians say, but it ducks the broader issue.

By highlighting the tragic Coreen Costellos, they say, pro-choice forces have obscured the fact that criminalizing intact D&E would jettison the safest abortion not only for women like Costello, but for the far more common patient: a woman 4½ to 5 months pregnant with a less compelling reason—but still a legal right—to abort.

That strategy is no surprise, given Americans' queasiness about later-term abortions. Why reargue the morality of or the right to a second-trimester abortion when anguishing examples like Costello's can more compellingly make the case for intact D&E?

To get around the bill, abortion providers say they could inject poison into the amniotic fluid or fetal heart to induce death in utero, but that adds another level of complication and risk to the pregnant woman. Or they could use induction—poisoning the fetus and then "delivering" it dead after 12 to 48 hours of painful labor. That method is clearly more dangerous, and if it doesn't work the patient must have a Caesarean section, major surgery with far more risks.

Ironically, the most likely response to the ban is that doctors will return to classic D&Es, arguably a far more gruesome method than the one currently under fire. And, pro-choice advocates now wonder how safe from attack that is, now that abortion foes have America's attention.

Congress is expected to call for the override vote this week or next, once again turning up the heat on Clinton, barely seven weeks from the election.

Legislative observers from both camps predict that the vote in the House will be close. If the override succeeds—a two-thirds majority is required—the measure will be sent to the Senate, where an override is less likely, given that the initial bill passed by 54 to 44, well short of the 67 votes needed.

[From the Management of Metropolitan Medical Associates, Englewood, Sept. 23]

Abortion Numbers Questioned

We, the physicians and administration of Metropolitan Medical Associates, are deeply concerned about the many inaccuracies in the article printed on Sept. 15 titled, "The facts on partial-birth abortions."

The article incorrectly asserts that MMA "performs 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact dilation and evacuation."

This claim is false, as is shown in reports to the N.J. Department of Health and documents submitted semiannually to the state Board of Medical Examiners. These statistics show that the total annual number of abortions for the period between 12 and 23.3 weeks is about 4,000, with the majority of these procedures being between 12 and 16 weeks.

The intact D&E procedure (erroneously labeled by abortion opponents as "partial-birth abortion") is used only in a small percentage of cases between 20 and 23.3 weeks, when a physician determines that it is the safest method available for the woman.

Certainly, the number of intact D&E procedures performed is nowhere near the 1,500 estimated in your article. MMA performs no third-trimester abortions, which the state is permitted to ban except where life and health are endangered.

Second, the article erroneously states that most women undergoing intact D&E procedures have no medical reason for termination. The article then misquotes a physician from our clinic as stating that "most are Medicaid patients . . . and most are for elective, not medical, reasons . . . Most are teenagers."

This is a misrepresentation of the information provided to the reporter. Consistent with Roe vs. Wade and state law, we do not record a woman's specific reason for having an abortion. However, all procedures for our Medicaid patients are certified as medically necessary, as required by the New Jersey Department of Human Services.

Because of the sensitive and controversial nature of the abortion issue, we feel that it is critically important to set the record straight.

[From the Inglis, SC Record, Oct. 2, 1996]

Letters to the Editor

The Record's response:

The editor replies: The Record stands behind the story and rebuts the claims in Metropolitan Medical's unsigned letter. Company officials subsequently declined through an attorney to have their names appear on the letter.

Metropolitan Medical's letter contradicts what two prominent staff physicians at the clinic—one of whom is also a high-ranking administrator—told Staff Writer Ruth Padawer independently of each other. The first physician said the clinic each week performs 60 to 100 abortions at 20 weeks gestation or later, or 3,000 to 5,000 a year. The second physician told Padawer that the clinic handles 3,000 such cases a year.

Both physicians also independently told Padawer that at least half the post-20 week abortions performed at the clinic were by the intact D&E method.

Metropolitan Medical asserts that it performs no third-trimester abortions. The Record never said otherwise; we referred only to abortions between weeks 20 and 24.

As for the Metropolitan Medical's claim that a quotation by one of its doctors was "erroneous": Padawer read back to him all of his quotations, including the one about the Medicaid patients. She also read him the paragraph preceding the following the quotations. He confirmed the accuracy and context of each quotation. He also said he had no problem with their publication, as long as his name was not revealed. We stood by that promise.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PAPPAS].

Mr. PAPPAS. Mr. Speaker, when something is wrong, we as a Congress are compelled to address the situation. The last Congress moved the ball forward and raised awareness that it is time for us to finish the job.

I urge this debate to remain focused on the truth. There are those that claim that this procedure is rare, yet one clinic in my home State of New Jersey admitted to performing over 1,500 of these abortions that occur while the baby's heart is still beating.

The number of these procedures, which is nothing less than infanticide, is too many in New Jersey and far too many in our Nation.

Day after day, issue after issue, Members take to the floor of the House and talk about legislation in terms of how much better it will make the lives of the American people. But before we continue on issues that might make life better, we must show a greater commitment to life itself. We must give life a chance before we can make it better.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I just would like to clarify several statements that we heard from our colleagues. The American College of Obstetricians and Gynecologists states, and I quote, "D&X may be the best and most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman."

My colleagues, do we want to compromise that physician's judgment in the delivery room and perhaps cause hazard to the health or life of a woman? Let us think carefully.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. SALMON].

Mr. SALMON. Mr. Speaker, I am not going to stand up here and rant and rave or accuse the other side of being evilminded, because frankly, I think there are a lot of people over there that strongly believe in their position, but I believe they are really misguided. I think instead of using their heads, maybe it is time to use their hearts.

This issue is divided between whether we should save the life of the mother or save the life of the child. Life is life. It is important no matter whose life it is. It really saddens me that we cannot stand up for the most innocent of life.

We have detailed how gruesome and how disgusting this procedure is. Many would stand up when we talk about China, when a baby girl has her back snapped when she is born because the people want a baby boy instead of a baby girl and they have a one-child policy. We say that is disgusting. We say that is infanticide. If this is not infanticide, then what is?

I would think that our God goes to the outer edges of our universe and weeps bitterly that a people could do this to the most innocent in a society. Let us stand up for all life, be it the life of the mother or the life of the baby. Let us stop this heinous practice.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE], a distinguished member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is very important that we take this solemn occasion in the manner that it should be taken, and that is that we are discussing life and death and we are discussing the opportunity for the future life and the fertility of a woman.

I think that this discussion also suggests very clearly that there is much disagreement with how we preserve the life and health of the mother that then preserves the life and health of the child.

Doctors disagree, and therefore, it is important to note that we here on this floor should not take it upon ourselves to interfere with a very important, delicate and personal decision. The American College of Gynecologists and Obstetricians says that the best and the most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, can only be decided by the doctor, in consultation with the patient, based upon the woman's particular circumstance.

Why are the Republicans trying to first put upon the floor of the House this bill, and then replacing it with last term's bill, and refuse to allow any consideration of real legislation that would preserve the health of the mother in order to preserve the future fertility of a woman.

What about Vicki Stellar? Vicki wanted a child, however, it was determined by her physicians that she had a fetus that did not have a brain, whose cranium was filled with water. They wanted this child. They named him Anthony. But with her God and the physician and her family, they decided that this procedure was the best procedure for Vicki to remain fertile. And because of the procedure, it preserved her fertility, and she was able to get pregnant again and able to give birth to a healthy boy named Nicholas in 1995.

This Congress had a choice that would have helped more women like Vicki. We had a bipartisan approach. We had the Greenwood-Hoyer amendment or substitute that my colleagues on the other side of the aisle could have simply accepted, that would have this Congress to preserve the life and health of the mother. This provision, to preserve the life and health, was rejected and late into the night the Republicans came with an undisclosed piece of legislation.

King Solomon had this choice, one baby and two women, and he represented the government; and King Solomon, in his wisdom, in his Biblical wisdom, knew that the women should decide. He took away government. The women decided, a life was preserved, the baby survived. Leave the choice to the woman, her physician, her family, and her spiritual leader.

Mr. Speaker, I rise this morning to voice my opposition to H.R. 1122. H.R. 1122 as it is written now presents us with a moral issue, a religious issue, and, as Members of Congress who have sworn to uphold the U.S. Constitution, a constitutional issue. I admit today that I am pro-preserving life over the tragedy of having to abort at late term. However, I am also for preserving the life and health of the woman. Sadly, we do not do that today.

Partial birth abortions are performed because a physician, with the benefit of his expertise and experience, determines that, given a woman's particular circumstances, this procedure is the safest available to her; that this is the procedure most likely to preserve her health and her future fertility. Only a doctor can make this determination. We, in Congress, should not interfere with the close relationship that exists between a doctor and patient; but more importantly her spiritual leader and her God.

It is a tragic fact that sometimes a mother's health is threatened by the abnormalities of the fetus that she is carrying. When this occurs the mother is faced with a terrible decision of whether to carry a fetus suffering from fatal anomalies to term and in so doing jeopardize her own health and future fertility or whether to abort the fetus and preserve her chances of bringing a later healthy life into the world.

When a woman is faced with this type of painful circumstance, it is one that she should face free from government interference. This is too intimate, too personal, and too fragile a decision to be a choice made by the government. We should protect the sanctity of the woman's right to privacy and of the home by letting this choice remain in her hands. Families and their physicians, not politicians, should make these difficult decisions. It is a decision that should be between a woman, her physician, and her God. This legislation criminalizes the legal decision of physicians and potentially makes the woman liable.

I am reminded of the story of King Solomon. In that story Solomon is faced with deciding between two women who claim that a certain male child is their own. The power and authority to determine to whom that child belongs rests only with King Solomon, but in his wisdom this man gave those mothers the power to choose the child's fate. In his wisdom, King Solomon realized that the relationship between a mother and child is one with which the State should not interfere.

I believe that anti-abortion activists are truly committed to preserving the sanctity of life. However, those Members in their wisdom, should accept the Greenwood-Hoyer compromise amendment that would protect the health and life of the mother. I intend to vote for that legislation today. With such an exception this legislation would have been made law last year and many of these procedures could have been averted. I believe Republicans do not want bipartisan legislation to save lives. They simply want a crucifixion.

In addition, we cannot ignore the fact that H.R. 1122 is unconstitutional. We in Congress should not attempt to undercut the law of the land as set forth by the U.S. Supreme Court in Roe versus Wade. In Roe the Supreme Court held that women had a privacy interest in electing to have an abortion. This right is qualified, however, and so most be balanced against the State's interest in protecting prenatal life. The Roe Court determined that post-viability the State has a compelling interest in protecting prenatal life and may ban abortion, except when necessary to preserve the woman's life or health. In line with this decision, 41 States have already passed bans on late-term abortions, except where the life or health of the mother is involved.

In Planned Parenthood versus Casey, the Court held that the States may not limit a woman's right to an abortion prior to viability when it places an "undue burden" on that right. An undue burden is one that has "the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus." Let's not try to overturn the law of the land.

H.R. 1122 in its current form interferes with a woman's access to the abortion procedure that her doctor has determined to be safest for her, and so unduly burdens her right to choose. It is therefore inconsistent with the principles outlined in Roe and Casey, which has been reaffirmed by every subsequent Supreme Court decision on this issue, and so is unconstitutional.

I ask my colleagues to vote against H.R. 1122 and in so doing signal their commitment to preserving the health and future fertility of American women and to upholding the U.S. Constitution.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentlewoman from Wyoming [Mrs. CUBIN].

Mrs. CUBIN. Mr. Speaker, I thank the gentleman from Florida [Mr. CANADY] for his hard work and diligence on this issue.

I am proud to say that I am an original cosponsor of the ban on partial-birth abortions. This bill, which is identical to last year's legislation, prohibits medical doctors who perform abortions from utilizing partial-birth abortion procedures.

I am married to a physician, and we have discussed this a lot of times throughout our married life and just through our intimate lives. Taking a life, a viable life, at any stage is not acceptable. One time my son said to me, "Mom, you know, I do not believe there is such a thing as an unwanted child." I believe there is such a thing as unwanted pregnancies, but not an unwanted child, and especially when that life could be viable outside the womb and when the life could go on.

Mr. Speaker, H.R. 929 imposes fines or potential imprisonment of up to 2 years for abortionists who perform partial-birth abortion, and it allows the father or maternal grandparents to file a civil lawsuit against the doctor for monetary damages. The bill, however, does include an exception to save the life of the mother.

Since the beginning of the debate over this legislation, it has become evident that there is still a great deal of misinformation about how often this procedure is actually utilized. In the last few weeks, much has been made of the abortion rights lobbyist, Ron Fitzsimmons, who admitted, and I quote, "lying through his teeth" when he said the procedure was rare and invoked almost exclusively to protect the mother's health. He was lying through his teeth when he said that.

A national organization of over 400 physicians who specialize in obstetrics, gynecology, fetal medicine, and pediatrics recently stated that, "Never is the partial-birth procedure medically indicated. Rather, such infants are regularly and safely delivered alive with no threat to the mother's health or fertility."

Mr. Speaker I ask my colleagues to support this bill.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Texas, Ms. EDDIE BERNICE JOHNSON.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to admit that I am not pro-abortion. My roots consist of growing up in the Catholic church and being educated at a Catholic college. I am a nurse, and I am pro-choice.

A woman's decision to undergo an abortion procedure is one of the most personally agonizing decisions she will have to make. In late term abortions, women have had the opportunity to choose abortion and did not because they wanted the child. But because of some untoward turn of health events, sometimes this procedure becomes necessary.

To the maximum extent possible, the Government should avoid any intrusion into this painful process. The Government cannot and should not replace family, friends, clergy, and physicians. These are not the kind of issues that any woman comes to this body to ask for an answer. This is not where they seek that advice.

We have been guaranteed by our Constitution a right to privacy and a freedom of religion. This is not the proper body to discuss life and death issues that licensed physicians and families should be making without the intrusion of this body.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, we hear a lot about the life of the mother, but that is in this bill, right here. It says, "it is necessary to save the life of a mother whose life is endangered by a physical disorder, illness or injury."

Mr. Speaker, in the name of compassion, in the name of mercy, what about the choice of the unborn child? Hear her scream, hear his scream. How can we continue to defend something as gruesome as this? Have mercy on this body.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from the District of Columbia [Ms. NORTON].

□ 1430

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the results of this debate are a foregone conclusion, yet this matter is too serious to have been treated as it has been, as a setup. There was a better way.

We have questions that need answering: Why a bill that is unconstitutional on its face in defiance of Roe versus Wade? Why a bill that was never considered in committee? Why a bill that trades off mother for fetus? Why a bill that is sure to be vetoed? Why a bill that lower Federal courts have already indicated was unconstitutional? Why a bill that makes a tragic necessity for a late-term abortion even more tragic?

This is very serious. It deserved to be treated seriously. It deserved the bipartisan solution that was indeed available. We have compounded the tragedy of late-term abortions here today.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, for many of us as Christians we begin to celebrate Easter this week. Easter, for our faith, represents the triumph of life over death. This legislation today could represent the triumph of life over death for thousands of the unborn.

How ironic it is for our President to surround himself with children and many photo opportunities, and submit legislation to this Congress to provide health coverage to our children, and then to veto legislation banning the slaughter of innocent unborn.

This great Nation really is separated from other nations not just by a standard of material wealth, but rather, and most exclusively, by our standards of justice. I ask the Members, how can we claim that justice prevails in our Nation when we allow this barbaric procedure to continue unchecked? How can we as a Congress and a nation continue to ignore the health and life of children?

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I would like to read a letter which I received yesterday from a constituent in Hamden, CT:

> DEAR CONGRESSWOMAN DELAURO: I am writing to implore you to vote against the bill banning late-term dilation and evacuation, more commonly known as "partial-birth abortions". The bill would ban this abortion when a mother's or the fetus' health is the reason for this choice. This is a very personal issue to me since I am one of the women who opted to undergo this procedure.
>
> We had been trying to conceive a child for more than a year and were in the process of undergoing infertility testing when, to our surprise and utter joy, we discovered that I was pregnant. I spent many hours talking and singing to my child, and dreaming of her future; dreams which all shattered when a routine blood test at 16 weeks revealed abnormalities.
>
> I was urged to undergo amnio- centesis and ultrasound. I found myself lying on that table praying. I knew in my heart that something was terribly wrong.
>
> The 2 weeks that followed were among the longest of my life. At one point I awakened from a nightmare sobbing. Ten days later, my husband came home early from work. He sat down on our bed and told me that our doctor had called him and the news was not good. He burst into tears.
>
> We met with our Rabbi and a genetics counselor from the hospital. Our baby had a very rare chromosomal abnormality, so rare it did not have a name. The genetic counselor came to our home with all the case studies she could find relating to this disorder, fewer than ten. Perhaps there were so few cases because most died young or died in utero.
>
> On December 7, 1992, I chose to end this much-desired and sought-after pregnancy. More than 4 years later I still mourn the loss of this child, a little girl. I know that our decision was the right one for all concerned and I am thankful that we have the right to make it. I feel certain that it was a decision that no woman wants to make, but one which in some situations is the least horrific of truly horrendous alternatives.
>
> After more struggles with infertility, we were finally blessed with a wonderful, happy baby girl. She turned 2 years old last month and has been an endless source of joy and comfort to us. . . . There really are extenuating circumstances that require truly horrible measures to be taken. Thank you. Please continue in your efforts to keep abortion legal, even late in a pregnancy.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. RYUN].

Mr. RYUN. Mr. Speaker, the Lord has blessed my wife and me with four precious children. When they were babies I held them, I fed them, I took care of them, and I even helped change their diapers. I knew then that if anyone would really try and hurt them, that I would do whatever I could to defend them, and as I know all the Members would here with their children.

This is the time to stand up and to defend the innocent, the children of our country. We in this Chamber have been elected to defend the truths of our country, one of which is we believe in the rights of the individual, the pursuit of life and liberty, and the pursuit of happiness.

Have we as citizens allowed our minds and hearts to be seared in such a way that the crushing of the skull that was described earlier and the sucking out of the brains of a head that is still in the mother's womb is really to be considered a defensible act? This is a gruesome act, and if Members winch when I talk about that, then they should. How can we allow this to continue? We must stop this. A Nation cannot long endure which condones participation in such brutality and uncivilized acts.

Mr. Speaker, I challenge my colleagues that are here today and will vote later that we end this uncivilized and brutal act of partial-birth abortions.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from New York, JERRY NADLER, the ranking member of our subcommittee.

Mr. NADLER. Mr. Speaker, this bill says very clearly that a fetus is more important than the physical health of the mother. But this bill is not about abortion. We all have different views. Some people view abortion as murder. Some think it is perfectly permissible. Some think it permissible up to a certain stage, others to a later stage. The Supreme Court says the constitutionally guaranteed right to choose is until viability.

But this bill is not about abortion, it is about electoral politics. If an abortion is permitted under our law at 20 weeks or at 23 weeks or at 24 weeks, what moral distinction, what moral distinction is there between whether the fetus is killed in the uterus and then extracted or partially extracted and then killed? The fetus is still dead, it is an abortion. An abortion involves killing a fetus.

We have different views on abortion here, but the Supreme Court, the Constitution guarantees the right to abortion. There is no moral distinction. It is purely electoral politics, an electoral politics in which the majority wishes to put the health of the mother at risk.

Mr. Speaker, I rise to strongly oppose this unprecedented and mean-spirited assault on the constitutional right to choose.

What this bill says very clearly is that a fetus is more important than the physical health of the mother.

So, let us say a woman becomes pregnant, and while she's pregnant the father rapes her, and beats her to a pulp, and throws her down the stairs.

This abuse then causes severe damage to her and to the fetus, and the doctor tells her that, because of her injuries, carrying the pregnancy to term will probably result in permanent severe physical injury, perhaps leaving her sterilized or paralyzed for life. Maybe the fetus is so severely damaged that it has no chance at life.

Even if the doctor determines that the best abortion procedure to protect her life and health is the one that would be banned by this bill, this woman cannot have that procedure.

This woman, who is now severely traumatized, who is injured by the battering, would be forced to have another procedure that could leave her sterile, or paralyzed. The bill supporters seem to believe that it is OK.

How dare any Member, have the arrogance to step in at this critical moment and say they know best, that they have the right to make this difficult decision.

If she decides to have the abortion anyway, this bill would allow the father to sue her and her doctor. My amendments, which were accepted by the committee and included in the bill up until last night, would have prevented abusive fathers, or fathers who abandon women, from suing for damages. But this provision has been taken out.

Some Members of this House may believe that women have abortions for trivial reasons. Some have even suggested that a woman who has had a fight with her boyfriend might have a late term abortion. That is a vile slander against every woman in America today. In fact, women who choose to have abortions do not do so lightly. Some Members of Congress may not see women as rational and moral individuals, but the Constitution still recognizes their moral and individual autonomy. That is why it prohibits governmental intrusions like this bill.

But this is not about abortion. It is about electoral politics.

How dare a bunch of Washington politicians presume to dictate to American women faced with a difficult situation—in many cases, with a fetus that will not be able to survive and grow—children without brains, or with brains growing on the outside of their heads—women who are faced with the prospect of death or sterility from a ruptured uterus if they don't have this procedure. These are wrenching, life-altering moments. These women have in many instances named their babies, furnished nurseries, notified grandparents, and then, in an instant, their dreams are wiped out by tragedy.

Do we really want to make this situation the subject of a criminal prosecution or a law suit? Do we really want to see doctors in handcuffs? Do we really want to put doctors behind bars for doing what they believe is in the best interest of their patients? Do we really want to make women and their medical providers go to court to prove in lengthy litigation that death would have occurred in any event? Can this always be proved, and if so, how certain do you have to be? Is a 50 percent chance of death tolerable under this law? Twenty-five percent? And a threat to a woman's health or to her ability to try to have more children doesn't even rate consideration in this bill.

By refusing to add an exception in order to avoid serious health consequences to the woman, the proponents of this bill are admitting that they would rather argue this issue, than ban this procedure.

Shame on this House for having the arrogance to judge people in this most vulnerable and tragic of circumstances. Shame on this House for playing politics with the lives of American families.

Mr. CANADY of Florida. Mr. Speaker, I reserve the balance of my time for the purpose of closing.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentlewoman from California [Ms. PELOSI]

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the Canady legislation, because this bill would force doctors to choose between their best medical judgment and a prison sentence. The bill is an unprecedented intrusion by Congress into medical decisionmaking, and in fact, indeed, lacks respect for women.

I urge my colleagues to vote against this legislation, and heed the words of Vicky Wilson, who said, "I strongly believe this decision should be left within the intimacy of the family unit. We are the ones who have to live with the decision." Indeed, Vicky had to do that when she was faced with carrying a fetus who had a fatal condition, and carrying it to term would have imperiled her life and her health.

I urge my colleagues to vote "no" on the Canady legislation.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I have not listened to all of the debate, but I know the substance of I think all the debate. There has been some discussion about dishonesty, misrepresentation that existed on the pro-choice side, and I suggest to Members that exists on the pro-life side of this issue.

Mr. Speaker, I will oppose this bill, and will offer at the appropriate time legislation which will in fact speak to stopping late-term abortions.

Will it have exceptions? Yes, it will. I think the overwhelming majority of Americans support exceptions. In fact, the gentleman from Illinois [Mr. HYDE] supports exceptions, rape and incest. As I have pointed out to the Committee on Rules, rape and incest is not a physical competition, it is a mental health exception.

I think, in fairness to the gentleman from Illinois [Mr. HYDE], he intellectually does not believe that ought to be accepted. I think he is intellectually honest in that position. We have legitimate differences.

This bill deals with one procedure, as if to say that this procedure ought to be eliminated. My good friend, the gentleman from New Jersey [Mr. SMITH], for whom I have great respect and affection, will tell us, I think, that none of the alternative procedures are humane, are appropriate, are anything but murder. I think that is his position.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. SMITH of New Jersey. Will the gentleman yield?

Mr. HOYER. I would yield.

Mr. SMITH of New Jersey. Will the gentleman yield?

The SPEAKER pro tempore. The gentleman's time has expired.

The gentleman will suspend.

The gentleman's time has expired. The gentleman from Michigan [Mr. CONYERS] has 1 minute remaining.

Mr. CONYERS. Mr. Speaker, I yield the balance of our time to the distinguished gentleman from Texas, Mr. CHET EDWARDS.

The SPEAKER pro tempore. The gentleman from Texas [Mr. EDWARDS] is recognized for 1 minute.

Mr. EDWARDS. Mr. Speaker, when I first voted on this bill in November of 1995, I agonized about it, because my wife was pregnant, 8 months pregnant with our first child, a child that I had prayed and hoped for.

Fortunately, that baby was born and is today the joy of our life. But I voted against this bill at that time because I felt no one, no one in this House had the right to tell my wife or me what we should do if her health or her fertility had been at risk.

Today I am voting against this bill with another person in mind, the child by the name of Nicholas Stella, born 1 week before our first blessed child came into this world. Had this bill been law 3 years ago, Nicholas Stella would not be alive today. What right does any Member of this House to tell Vicky Stella that she should have been denied the joy of having her son, just as we have had the joy, so many of us, of having children ourselves?

I am voting pro-life. I am voting for the lives of Nicholas Stella and all the other children who would not be alive today had this bill been the law of the land.

Mr. CANADY of Florida. Mr. Speaker. I am pleased to yield the balance of my time to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

□ 1445

Mr. HYDE. Mr. Speaker, I beg of my colleagues the courtesy of not asking me to yield. I do not intend to yield. I have much to say and little time to say it in.

Mr. Speaker, when you have a theme as large and as profound as ours is today, you need the help of great literature to describe the magnitude of the horror of partial-birth abortion. I suppose Edgar Allen Poe could describe it, but it is startling how the words of the ghost of Hamlet's father seem to anticipate our debate today:

> I could a tale unfold, whose lightest word would harrow up thy soul, freeze thy young blood; make thy two eyes, like stars, start from their spheres; thy knotted and combined locks to part; and each particular hair to stand on end, like quills upon the fretful porcupine.

There is no Member of this House who does not know in excruciating detail what is done to a human being in a partial-birth abortion. A living human creature is brought to the threshold of birth. She is four-fifths born, her tiny arms and legs squirming and struggling to live. Her skull is punctured. The wound is deliberately widened. Her brains are sucked out. The remains of the deceased are extracted. In the words of the abortion lobby, the baby undergoes demise. What a creative addition to the lexicon of dehumanization.

If calling an infant a fetus helps you, if calling this obscene act intact dilation and evacuation assuages your conscience, by all means do so. Anything is better than a troubling conscience. But you must know the only thing intact in this procedure is the baby, before, of course, the abortionist plunges his scissors, his assault weapon, into her tiny neck. Then she is not very intact.

Something was rotten in the state of Denmark in Shakespeare's great drama. Something is rotten in the United States when this barbarity is not only legally sanctioned but declared a fundamental constitutional right.

While we are on Hamlet, who can forget the most famous question in all literature: "To be or not to be?" Every abortion asks that question, but forbids an answer from the tiny defenseless victim struggling to live.

When this issue was debated in the last Congress, the President and the defenders of partial-birth abortion claimed that the procedure was, in the President's now familiar euphemism, rare, and that it was used only in times of grave medical necessity. All of us know now, as many of us knew then, that those claims were lies. They were lies. The executive director of the National Coalition of Abortion Providers admitted on national television that he and others in the pro-abortion camp simply flatly lied about the incidence of partial-birth abortion.

It is not the case that these abortions are rare. It is not the case that this procedure is used only reluctantly and in extremis. It is not the case that this procedure is used only in instances of medical emergency. Partial-birth abortion, infanticide in plain English, is business as usual in the abortion industry. That is what the executive director of the National Coalition of Abortion Providers told us.

Is this House prepared to defend the proposition that infanticide is a fundamental constitutional right?

Partial-birth abortion is not about saving life. Partial-birth abortion is about killing. Killing is an old story in the human drama, fratricide scarred the first human family, according to Genesis, but the moral prohibition on killing is as old as the temptation to kill. Most of the familiar translations of the Bible render the commandment, Thou shalt not kill. A more accurate translation of the Hebrew text would read, Thou shalt not do murder. That is to say, Thou shalt not take a life wantonly for the purposes of convenience or problem solving or economic benefit, nor trade a human life for any lesser value.

The commandment in the Decalogue against doing murder is not sectarian dogma. Its parallel is found in every moral code in human history. Why? Because it has been understood for millennia that the prohibition against wanton killing is the foundation of civilization.

There can be no civilized life in a society that sanctions wanton killing. There can be no civil society when the law makes the weak, the defenseless and the inconvenient expendable. There can be no real democracy if the law denies the sanctity of every human life. The founders of our Republic knew this. That is why they pledged their lives, their fortunes, their sacred honor to the proposition that every human being has an inalienable right to life.

Our Constitution promises equal protection under the law. Our daily pledge is for liberty and justice for all. Where is the protection, where is the justice in partial-birth infanticide?

Over more than two centuries of our national history, we Americans have been a people who struggled to widen the circle of those for whom we acknowledge a common responsibility. Slaves were freed, women were even franchised, civil rights and voting rights acts were passed, our public spaces made accessible to the handicapped, Social Security mandated for the elderly—all in the name of widening the circle of inclusion and protection.

This great trajectory in our national experience, that of inclusion, has been shattered by Roe versus Wade and its progeny. By denying an entire class of human beings the protection of the laws, we have betrayed the best in our tradition. We have also put at risk every life which someone, some day, somehow might find inconvenient. "No man is an island," preached the Dean of St. Paul's in Elizabethan times. He also said, "Every man's death diminishes me, for I am involved in mankind."

We cannot today repair all the damage done to the fabric of our culture by Roe versus Wade. We cannot undo the injustice that has been done to 35 million tiny members of the human family who have been summarily killed since the Supreme Court, strip-mining the Constitution, discovered therein a fundamental right to abortion. But we can stop the barbarity of partial-birth abortion. We can stop it. We must stop it, and we diminish our own humanity if we fail.

Historians tell us we live in the bloodiest century in human history. Lenin, Stalin, Hitler, Mao, Pol Pot, the mountain of corpses reaches to the heavens and hundreds of millions of innocents cry out for justice.

We cannot undo the horrors inflicted on the human spirit. We cannot repair the wounds already sustained by civilization. We can only say, never again.

But in saying never again, we commit ourselves to defend the sanctity of life. In saying no to the horrors of 20th century slaughter, we solemnly pledge not to do murder, because the honoring of that pledge is all that stands between us and the moral jungle.

Mr. Speaker, we have had enough of the killing. The constitutional fabric has been shredded by an unenumerated abortion license which, sad to say, includes the vicious cruelty of partial-birth abortion. The moral culture of our country is eroding when we tolerate a cruelty so great that its proponents do not even wish us to learn the truth about this procedure.

This Congress has been blatantly, willfully, maliciously lied to by proponents of the abortion license.

Enough. Enough of the lies, enough of the cruelty, enough of the distortion of the Constitution. There is no constitutional right to commit this barbarity. That is what we are being asked to affirm.

In the name of humanity, let us do so, and in the words of St. Paul, "Now is the acceptable time."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCINNIS). The Chair would remind visitors in the gallery that they are not allowed to express approval or disapproval. The Chair asks that they respect that rule.

Mr. PICKERING. Mr. Speaker, several weeks ago, a national journalist asked, "What kind of nation are we that would allow a procedure known as the partial birth abortion?"

I am proud to be an original cosponsor of H.R. 929—the Partial-Birth Abortion Ban Act of 1997. Currently, thousands of these types of abortions are performed annually from the fifth and sixth months of pregnancy through the full term on healthy mothers carrying healthy babies—babies that have reached the point of viability.

The partial birth abortion is so gruesome, even some supporters of abortion are opposed to it. Senator DANIEL PATRICK MOYNIHAN refers to this heinous procedure as infanticide. In 1995, the American Medical Association's Legislative Council—a panel consisting of 12 doctors—unanimously voted to recommend banning partial birth abortions. One of these doctors described the procedure as "basically repulsive." More than 300 physicians and medical specialists joined former U.S. Surgeon General C. Everett Koop last year in saying that this procedure is never medically necessary to protect a mother's life or her future fertility.

Mr. Speaker, it is unfortunate and disturbing that President Clinton, even when presented with clear medical evidence, refuses to support a ban on partial birth abortions. Opponents of the ban on this type of abortion characterized the procedure, in previous congressional debates, as a rare technique seldom used for anything but protection of the life of the mother or in cases of extreme fetal abnormality. But then, Mr. Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, a pro-abortion group, admitted that he "lied through his teeth" last year when he said that this procedure is rare and only performed about 500 times a year under extreme circumstances. Mr. Fitzsimmons now says that thousands upon thousands of these procedures are performed every year, on primarily healthy women with healthy babies.

Mr. Speaker, I have four young children. During each of my wife's pregnancies, modern technology allowed me to hear our babies' heartbeats. Sonograms allowed me to see inside the womb as my children kicked and moved. I watched their heartbeats and counted their fingers and toes. In later stages, I touched and felt their movements inside their mother. These experiences presented clear and unmistakable evidence that there is life before birth.

Through recent technological advances, we now know many things about child development prior to birth. Sonograms and other technologies make it possible for all parents to hear, see, and touch our children before actual delivery. With this new knowledge, we cannot turn our backs on our responsibility to protect the lives of innocent children.

We must ask ourselves the same question as the journalist, "What kind of nation are we that would allow partial birth abortions?" An early observer of America, Alexis de Tocqueville, said "America is great because America is good." If this is to continue to be true, we must act now to stop this grisly procedure that opponents and supporters of abortion alike refer to as infanticide.

Mr. Speaker, it's time to call on our Nation's conscience and the "better angels of our nature." It's time to stop partial birth abortions and pass this bill for our children. We are a better Nation than one that allows such practices to exist. We can start here to renew and reaffirm that we hold certain truths as self-evident—that life and liberty are inseparable and both should be held as sacred.

Ms. MCCARTHY of Missouri. Mr. Speaker, when Congress considers issues as critical as those debated today involving the life and health of American women, public policy considerations should take precedence over partisan politics. I am disappointed that we were unable to engage in such a discussion on this difficult issue.

The procedural maneuvers of the majority party removed all hope of having meaningful consideration of the late term abortion issue. The original language proposed in H.R. 929 was dropped by the Rules Committee last night and the consideration of the bipartisan Hoyer-Greenwood measure prohibited. The Frank motion would have allowed the House to reflect further on language which would provide necessary safeguards for women who might have no other option but to use this procedure.

I firmly support the current law of the land regarding a woman's right to privacy. I believe that viable pregnancies dictate more protection and that adopting the Frank language is a reasonable solution. Unfortunately, political gamesmanship has thwarted thoughtful policymakers who want to meaningfully address this issue.

I have wrestled with this difficult vote in terms of balancing my concern associated with this specific procedure and the need to observe the Roe decision which reflects the mainstream in Congress and in America. I will continue to work for a more thoughtful deliberation by the House of Representatives on this divisive issue.

Mr. Speaker, thank you for the opportunity to discuss this important subject.

Mr. LEVIN. Mr. Speaker, I do not favor late-term abortions and feel they should only be allowed when necessary to preserve the life of or prevent serious health consequences to the mother. The bill we are considering today, like the similar bill I opposed last year, does not protect a woman from serious threats to her health—from serious threats to her future ability to have children.

Unfortunately, the leadership did not allow us to consider an alternative today that does provide an exception to preserve the life of the mother or to prevent serious health consequences to the mother. I support the Greenwood-Hoyer legislation that would ban all late-term abortions—not just those considered "partial-birth" abortions in H.R. 1122—except in cases when necessary to preserve the life of or to prevent serious health consequences to the mother, as required by the Supreme Court.

Mr. SENSENBRENNER. Mr. Speaker, I rise in earnest support of the Partial-Birth Abortion Ban Act. I thank the chairman of the Constitution Subcommittee, Mr. CANADY, for yielding and for his dedication to this cause. It is regrettable the President vetoed this bill, but thankfully, Mr. CANADY, along with Chairman HYDE, have continued the fight and today we again have the opportunity to present our case to the American people and to appeal directly to the President to reconsider his misguided position.

The President's veto of the Partial-Birth Abortion Ban Act is indefensible and his reason for vetoing the bill does not hold up under scrutiny. The President claims this abortion procedures is the "only way," for women with certain prenatal complications to avoid serious physical damage, including the ability to bear further children. If this is accurate, then why is partial-birth abortion not taught in a single medical residency program anywhere in the United States? Why has no peer-reviewed medical research ever endorsed it?

The fact is a partial-birth abortion is never necessary to preserve the health or future fertility of the mother. However, you do not have to take my word for it. Former Surgeon General C. Everett Koop has stated he believes the President was "mislead by his medical advisors on what is fact and what is fiction in reference to late-term abortions." Dr. Koop concluded that there was no way he could twist his mind to see that a partial-birth abortion is a medical necessity for the mother. Hundreds of other doctors have come forward to reiterate Dr. Koop's position. The sad and dangerous fact is the partial-birth abortion procedure itself is very risky and poses a significant threat to the pregnant woman's health and fertility.

The difference between a partial-birth abortion and homicide is a mere 3 inches. A Congress, President, and society that strives for civility and decency should not tolerate such barbarism.

Mr. COYNE. Mr. Speaker, I am opposed to late-term abortions except in cases where it is absolutely necessary to preserve the life or the health of the mother. Accordingly, I am opposed to H.R. 929 because it does not provide for the serious health concerns of the mother when she and her doctor believe that her health is in jeopardy.

This procedure should only be used in cases where there is a serious risk to a woman's life or health, and I believe that H.R. 929 could have been drafted to allow a limited exception for those cases in which it is truly necessary.

Currently the 40 States—including Pennsylvania—that prohibit postviability abortions must provide exceptions for the life and health of the mother. Surely the supporters of H.R. 929 could have written exceptions that would prohibit the procedure in most cases but that would allow women and their physicians, in the most limited and serious of cases, access to a procedure that will preserve both the life and health of the women involved.

Further, I believe that H.R. 929 is inconsistent with Supreme Court precedent set forth in Roe versus Wade and upheld in Planned Parenthood versus Casey. Even those Justices who dissented in Roe asserted that life and health exceptions in abortion laws could not constitutionally be forbidden. Further, the Supreme Court has consistently held—in both Roe and Casey—that States cannot prohibit abortions before fetal viability. Because H.R. 929 does not provide an exception for threats to the mother's health, and because it prohibits some previability abortions, I believe that the legislation is unconstitutional and would be declared so by the current Supreme Court.

I believe that H.R. 929 is a tragedy. It is a tragedy not only because of the terrible consequences it will have for women facing devastating circumstances, but also because of the manner in which the bill has been moved through the legislative process. The legislation's proponents fully realize the constitutional infirmities of H.R. 929 and they fully realize the likelihood that the Supreme Court will declare the legislation unconstitutional. They have nevertheless persisted in refusing to incorporate changes in the legislation that would allow it to become law and thereby consistent with Supreme Court decisions. Because of the bill's supporters' intransigence, the good that could come from limiting the number of late-term abortions—with the appropriate constitutional protections—may never be realized. I can only conclude that this legislation is being exploited for political gain. That is a tragedy.

For these reasons, I cannot support H.R. 929.

Mr. PORTMAN. Mr. Speaker, as an original cosponsor of the Partial-Birth Abortion Ban Act, I wish to express my support for outlawing the troublesome practice of partial-birth abortions. I cosponsored and supported this legislation during the last session of Congress and voted to override the President's unfortunate veto of the bill.

As my distinguished colleague from Illinois, Mr. HYDE, so eloquently pointed out earlier, partial-birth abortion is, in many respects, a polite term for infanticide. Indeed, Mr. Speaker, I ask you: What will future generations think of a society that allows this practice? For the moral health of our country, and for future generations, we should take action today to ban partial birth abortions.

Opponents of the ban suggest that partial-birth abortions are needed to protect mothers with pregnancy-related complications, but this argument simply does not hold up to the testimony of abortion providers and medical experts. Indeed, the executive director of the National Coalition of Abortion Providers has admitted that, in most cases, the partial-birth abortion procedure is performed on a healthy mother with a healthy fetus more than 20 weeks old. Former Surgeon General of the United States C. Everett Koop has said that there is "no way" he can see a medical necessity for this barbaric procedure. The American American Medical Association's legislative council has unanimously supported the partial-birth abortion ban.

Congress has the opportunity today to do the right thing by banning partial-birth abortions. We have a duty to protect the unborn from this horrific procedure. I hope my colleagues will listen to their consciences and vote to make partial-birth abortions illegal once and for all.

Ms. HARMAN. Mr. Speaker, I rise today in strong opposition to H.R. 1122, the late-term abortion ban, which represents a direct challenge to Roe versus Wade and a woman's right to choose. I cannot support legislation which takes choices about a woman's health from her, her family, and her doctor, and places them in the hands of legislators.

And make no mistake about it: that's exactly what this bill is designed to do. With no exception for the health of the mother, this bill is not about families and children; it's about laying the groundwork for an assault on reproductive choice.

Since the initial introduction of this bill, I have met with a number of women who had the procedure this bill attempts to ban, and in each case the story was the same. These were wanted children but, to each woman's horror, it was learned at 30 weeks or more of pregnancy that the baby had such severe deformities—no internal organs, a brain outside the head, no brain—as to prevent its survival outside the womb. As Coreen Costello told me:

> In my 30th week of my third pregnancy, I had a procedure that would have been

banned by [H.R. 1122]. Our daughter, Katherine Grace, was diagnosed with a lethal neurological disorder that left her unable to move any part of her tiny body for almost two months. Her muscles had stopped growing and her vital organs were failing. Her head was swollen with fluid, her little body was stiff and rigid and excess fluid was puddling in my uterus. Our doctors—some of the best medical experts in the world—told us there was no hope for our daughter. Because of our strong pro-life views, we rejected having an abortion. But when it became apparent that the pregnancy was affecting my health and might ruin my fertility, we knew we had to act and an intact D&E was the best option for my circumstances.

For women like Coreen Costello, the ability to bear children in the future will be jeopardized if they do not have the medical option that H.R. 1122 bans. This is a tremendously difficult, painful, and above all personal choice, and legislators should not force their will on women or medical professionals in this situation.

Mr. Speaker, there is simply no reason not to include an exemption in this bill for a woman's health. The fact that there is no such exemption in the bill's language points to the political nature of this legislation. I urge my colleagues to consider the importance of protecting women, and to vote against this bill.

Mr. WELDON of Pennsylvania. Mr. Speaker, once again we are on the floor of the House to discuss the partial birth abortion. Because of the political debate surrounding this important issue, advocates have been able to take a truly horrific procedure and whittle it down to a 5-second soundbite, a paragraph in type, and a few diagrams and charts; none of which can truly capture this gruesome operation. Gruesome as it is, however, the debate should not be about the operation itself, but rather its victim.

We are often quick to forget in this age of convenience, that as a result of each one of these procedures, a single, special, unique human life is lost. Each time, a life is stolen along with all of its potential and promise and we will never know how many future astronauts, fathers, teachers, counselors have been lost in the mechanical movement of those metzenbaum scissors.

As recent information has shown, most of the lives snuffed out are those of healthy, viable children whose only crime is temporary inconvenience. Each one is a hope, a future, and a promise that is lost and can never be recovered.

Mr. Speaker, today we have the opportunity to make a difference, to protect the lives and futures of these victims. For their future, I urge my colleagues to vote for this bill and I will look forward to the Senate and President joining us in our important work.

Mr. DOOLITTLE. Mr. Speaker I rise today in strong support of the Partial-Birth Abortion Ban Act, just as I did a year ago. I would like to insert into the RECORD the following column by Charles Krauthammer, which destroys many of the myths surrounding this issue.

[From the Washington Post, Mar. 14, 1997]

SAVING THE MOTHER? NONSENSE

(By Charles Krauthammer)

Even by Washington standards, the debate on partial-birth abortion has been remarkably dishonest.

First, there were the phony facts spun by opponents of the ban on partial-birth abortion. For months, they had been claiming that this grotesque procedure occurs (1) very rarely, perhaps only 500 times a year in the United States, (2) only in cases of severe fetal abnormality, and (3) to save the life or the health of the mother.

These claims are false. The deception received enormous attention when Ron Fitzsimmons, an abortion-rights advocate admitted that he had "lied through his teeth" in making up facts about the number of and rationale for partial-birth abortions.

The number of cases is many times higher—in the multiple thousands. And the majority of cases involve healthy mothers aborting perfectly healthy babies. As a doctor at a New Jersey clinic that performs (by its own doctors' estimate) at least 1,500 partial-birth abortions a year told the Bergen Record: "Most are for elective, not medical, reasons: people who didn't realize, or didn't care, how far along they were."

Yet when confronted with these falsehoods, pro-abortion advocates are aggressively unapologetic. Numbers are a "tactic to distract Congress," charges Vicki Saporta, executive director of the National Abortion Federation. "The numbers don't matter." Well, sure, now that hers have been exposed as false and the new ones are inconvenient to her case.

Then, the defenders of partial-birth abortion—led by President Clinton—repaired to their fall-back position: the heart-tugging claim that they are merely protecting a small number of women who, in Clinton's words, would be "eviscerated" and their bodies "ripped . . . to shreds and you could never have another baby" if they did not have this procedure.

At his nationally televised press conference last Friday, Clinton explained why this is so: "These women, among other things, cannot preserve the ability to have further children unless the enormity—the enormous size—of the baby's head is reduced before being extracted from their bodies."

Dr. Clinton is presumably talking about hydrocephalus, a condition in which an excess of fluid on the baby's brain creates an enlarged skull that presumably would damage the mother's cervix and birth canal if delivered normally.

Clinton seems to think that unless you pull the baby out feet first leaving in just the head, jam a sharp scissors into the baby's skull to crack it open, such out the brains, collapse the skull and deliver what is left—this is partial-birth abortion—you cannot preserve the future fertility of the mother.

This is utter nonsense. Clinton is either seriously misinformed or stunningly cynical. A cursory talk with obstetricians reveals that there are two routine procedures for delivering a hydrocephalic infant that involve none of this barbarity. One is simple to tap the excess (cerebral spinal)fluid (draw it out by means of a small tube while the baby is still in utero) to decompress (reduce) the skull to more normal size and deliver the baby alive. The other alternative is Caesarean section.

Clinton repeatedly insists that these women, including five he paraded at his ceremony vetoing the partial-birth abortion ban last year, had "no choice" but partial-birth abortion. Why, even the American College of Obstetricians and Gynecologists, which supports Clinton's veto, concedes that there are "no circumstances under which this procedure would be the only option to save the life of the mother and preserve the health of the women"—flatly contradicting Clinton.

Moreover, not only is the partial-birth procedure not the only option. It may be a riskier option than conventional methods of delivery.

It is not hard to understand that inserting a sharp scissors to penetrate the baby's brain and collapse her skull risks tearing the mother's uterus or cervix with either the instrument or bone fragments from the skull. Few laymen, however, are aware that partial-birth abortion is preceded by two days of inserting up to 25 dilators at one time into the mother's cervix to stretch it open. That in itself could very much compromise the cervix, leaving it permanently incompetent, unable to retain a baby in future pregnancies. In fact, one of the five women at Clinton's veto ceremony had five miscarriages after her partial-birth abortion.

Why do any partial-birth abortions, then? "The only possible advantage of partial-birth abortion if you can call it that," Dr. Curtis Cook, a specialist in high-risk obstetrics, observes mordantly, "is that it guarantees a dead baby at time of delivery."

Hyperbole? Dr. Martin Haskell, the country's leading partial-birth abortion practitioner, was asked (by American Medical News) why he didn't just dilate the woman's uterus a little bit more and allow a live baby to come out. Answer: "The point is here you're attempting to do an abortion . . . not to see how do I manipulate the situation so that I get a live birth instead."

We mustn't have that.

Mr. LARGENT. Mr. Speaker, I would like to insert the following article from the American Medical News into the RECORD.

[From the American Medical News, Mar. 3, 1997]

MEDICINE ADDS TO DEBATE ON LATE-TERM ABORTION

[BY DIANE M. GIANELLI]

WASHINGTON.—Breaking ranks with his colleagues in the abortion rights movement, the leader of one prominent abortion provider group is calling for a more truthful debate in the ongoing battle over whether to ban a controversial late-term abortion procedure.

In fact, Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, said he would rather not spend his political capital defending the procedure at all. There is precious little popular support for it, he says, and a federal ban would have almost no real-world impact on the physicians who perform late-term abortions or patients who seek them.

"The pro-choice movement has lost a lot of credibility during this debate, not just with the general public, but with our pro-choice friends in Congress," Fitzsimmons said. "Even the White House is now questioning the accuracy of some of the information given to it on this issue."

He cited prominent abortion rights supporters such as the *Washington Post's* Richard Cohen, who took the movement to task for providing inaccurate information on the procedure. Those pressing to ban the method call it "partial birth" abortion, while those who perform it refer to it as "intact" dilation and extraction (D&X) or dilation and evacuation (D&E).

What abortion rights supporters failed to acknowledge, Fitzsimmons said, is that the vast majority of these abortions are performed in the 20-plus week range on healthy fetuses and healthy mothers. "The abortion rights folks know it, the anti-abortion folks know it, and so, probably, does everyone else," he said.

He knows it, he says, because when the bill to ban it came down the pike, he called around until he found doctors who did them.

"I learned right away that this was being done for the most part in cases that did not involve those extreme circumstances," he said.

The National Abortion Federation's Vicki Saporta acknowledged that "the numbers are greater than we initially estimated."

As for the reasons, Saporta said, "Women have abortions pre-viability for reasons that they deem appropriate. And Congress should not be determining what are appropriate reasons in that period of time. Those decisions can only be made by women in consultation with their doctors."

BILL'S REINTRODUCTION EXPECTED

Rep. Charles Canady (R-Fla.) is expected to reintroduce legislation this month to ban the procedure.

Those supporting the bill, which was also introduced in the Senate, inevitably evoke winces by graphically describing the procedure, which usually involves the extraction of an intact fetus, feet first, through the birth canal, with all but the head delivered. The physician then forces a sharp instrument into the base of the skull and uses suction to remove the brain. The procedure is usually done in the 20- to 24-week range, though some providers do them at later gestations.

Abortion rights activists tried to combat the images with those of their own, showing the faces and telling the stories of particularly vulnerable women who have had the procedure. They have consistently claimed it is done only when the woman's life is at risk or the fetus has a condition incompatible with life. And the numbers are small, they said, only 500 to 600 a year.

Furthermore, they said, the fetus doesn't die violently from the trauma to the skull or the suctioning of the brain, but peacefully from the anesthesia given to the mother before the extraction even begins.

The American Society of Anesthesiologists debunked the latter claim, calling it "entirely inaccurate." And activists' claims about the numbers and reasons have been discredited by the very doctors who do the procedures. In published interviews with such newspapers as American Medical News, The Washington Post and The Record, a Bergen County, N.J., newspaper, doctors who use the technique acknowledged doing thousands of such procedures a year. They also said the majority are done on healthy fetuses and healthy women.

The New Jersey paper reported last fall that physicians at one facility perform an estimated 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact D&E. One of the doctors was quoted as saying, "We have an occasional amino abnormality, but it's a minuscule amount. Most are Medicaid patients . . . and most are for elective, not medical reasons: people who didn't realize, or didn't care, how far along they were."

A Washington Post investigation turned up similar findings.

'SPINS AND HALF-TRUTHS'

Fitzsimmons says it's time for his movement to back away from the "spins" and "half-truths." He does not think abortion rights advocates should ever apologize for performing the procedure, which is what he thinks they are doing by highlighting only the extreme cases.

"I think we should tell them the truth, let them vote and move on," he said.

Charlotte Taft, the former director of a Dallas abortion clinic who provides abortion counseling near Santa Fe, N.M., is one of several abortion rights activists who share many of Fitzsimmons' concerns.

"We're in a culture where two of the most frightening things for Americans are sexuality and death. And here's abortion. It combines the two," Taft said.

She agrees with Fitzsimmons that a debate on the issue should be straightforward. "I think we should put it on the table and say, 'OK, this is what we're talking about: When is it OK to end these lives? When is it not? Who's in charge? How do we do it?' These are hard questions, and yet if we don't face them in that kind of a responsible way, then we're still having the same conversations we were having 20 years ago."

Fitzsimmons thinks his colleagues in the movement shouldn't have taken on the fight in the first place. A better bet, he said, would have been "to roll over and play dead, the way the right-to-lifers do with rape and incest." Federal legislation barring Medicaid abortion funding makes exceptions to save the life of the mother and in those two cases.

Fitzsimmons cites both political and practical reasons for ducking the fight. "We're fighting a bill that has the support of, what, 78% of the public? That tells me that we have a PR problem," he said, pointing out that several members of Congress who normally support abortion rights voted to ban the procedure the last time the measure was considered.

From a practical point of view, it also "wasn't worth going to the mat on. . . . I don't recall talking to any doctor who said, 'Ron you've got to save us on this one. They can't outlaw this, It'd be terrible." No one said that."

He added that "the real-world impact on doctors and patients is virtually nil." Doctors would continue to see the same patients, using an alternative abortion method.

In fact, many of them already do a variation on the intact D&E that would be completely legal, even if the bill to outlaw "partial birth" abortions passed. In that variation, the physician makes sure the fetus is dead before extracting it from the birth canal. The bill would ban only those procedures in which a live fetus is partially vaginally delivered.

Lee Carhart, MD, a Bellevue, Neb., physician, said last year that he had done about 5,000 intact D&Es, about 1,000 during the past two years. He induces fetal death by injecting digoxin or lidocaine into the fetal sac 72 hours before the fetus is extracted.

DAMAGE CONTROL

Fitzsimmons also questions whether a ban on an abortion procedure would survive constitutional challenge. In any event, he concludes that the way the debate was fought by his side "did serious harm" to the image of abortion providers.

"When you're a doctor who does these abortions and the leaders of your movement appear before Congress and go on network news and say these procedures are done in only the most tragic of circumstances, how do you think it makes you feel? You know they're primarily done on healthy women and healthy fetuses, and it makes you feel like a dirty little abortionist with a dirty little secret."

Saporta says her groups never intended to send this message to doctors.

"We believe that abortion providers are in fact maligned and we work 24 hours a day to try to make the public and others understand that these are heroes who are saving women's lives on a daily basis," she said.

When Fitzsimmons criticizes his movement for its handling of this issue, he points the finger at himself first. In November 1995, he was interviewed by "Nightline" and, in his own words, "lied," telling the reporter that women had these abortions only in the most extreme circumstances of life endangerment or fetal anomaly.

Although much of his interview landed on the cutting room floor, "it was not a shining moment for me personally," he said.

After that, he stayed out of the debate.

DON'T GET 'SIDETRACKED' BY SPECIFICS

While Fitzsimmons is one of the few abortion rights activists openly questioning how the debate played out, it is clear he was not alone in knowing the facts that surround the procedure.

At a National Abortion Federation meeting held in San Francisco last year, Kathryn Kohlbert, one of the chief architects of the movement's opposition to the bill, discussed it candidly.

Kohlbert, vice president of the New York-based Center for Reproductive Law and Policy, urged those attending the session not to get "sidetracked" by their opponent's efforts to get them to discuss the specifics of the procedure.

"I urge incredible restraint here, to focus on your message and stick to it, because otherwise we'll get creamed," Kohlbert told the group.

"If the debate is whether the fetus feels pain, we lose. If the debate in the public arena is what's the effect of anesthesia, we'll lose. If the debate is whether or not women ought to be entitled to late abortion, we probably will lose.

"But if the debate is on the circumstances of individual women . . . and the government shouldn't be making those decisions, then I think we can win these fights," she said.

PUBLIC REACTION

The abortion rights movement's newest strategy in fighting efforts to ban the procedure is to try to narrow the focus of the debate to third-trimester abortions, which are far fewer in number than those done in the late second trimester and more frequently done for reasons of fetal anomaly.

When the debate shifts back to "elective" abortions done in the 20- to 24-week range, the movement's response has been to assert that those abortions are completely legal and the fetuses are considered "pre-viable."

In keeping with this strategy, Sen. Thomas Daschle (D-S.D.), plans to introduce a bill banning third-trimester abortions. Clinton, who received an enormous amount of heat for vetoing the "partial birth" abortion ban, has already indicated he would support such a bill.

But critics counter that Daschle's proposed ban—with its "health" exception—would stop few, if any, abortions.

"The Clinton-Daschle proposal is constructed to protect pro-choice politicians, not to save any babies," said Douglas Johnson, legislative director of the National Right to Life Committee.

Given the broad, bipartisan congressional support for the bill to ban "partial birth" abortions last year, it's unlikely Daschle's proposal would diminish support for the bill this session—particularly when Republicans control both houses and therefore, the agenda.

And given the public reaction to the "partial birth" procedure—polls indicate a large majority want to ban it—some questions occur: Is the public reaction really to the procedure, or to late-term abortions in general? And does the public really make a distinction between late second- and third-trimester abortions?

Ethicists George Annas, a health law professor at Boston University, and Carol A. Tauer, PhD, a philosophy professor at the College of St. Catherine in St. Paul, Minn., say they think the public's intense reaction to the "partial birth" abortion issue is probably due more to the public's discomfort with late abortions in general, whether they occur in the second or third trimesters, rather than to just discomfort with a particular technique.

If Congress decided to pass a bill banning dismemberment or saline abortions, the public would probably react the same way, Dr. Tauer said. "The idea of a second-trimester fetus being dismembered in the womb sounds just about as bad."

Abortions don't have to occur in the third trimester to make people uncomfortable, Annas said. In fact, he said, most Americans see "a distinction between first-trimester and second-trimester abortions. The law doesn't but people do. And rightfully so."

After 20 weeks or so, he added, the American public sees a baby.

"The American public's vision of this may be much clearer than [that of] the physicians involved," Annas said.

Mr. CUNNINGHAM. Mr. Speaker, I rise today in support of H.R. 1122, the Partial-Birth Abortion Ban Act, as an original cosponsor of similar legislation, H.R. 929.

This important legislation will bring to an end the common practice of a most mean and extreme procedure. As we know, Congress adopted the Partial-Birth Abortion Ban Act in 1995–96, only to see President Clinton veto the measure. The House overrode the President's veto, but it was sustained in the Senate. Thus, this grotesque procedure remains in place today.

Partial-birth abortion is obviously strongly opposed by Americans who are pro-life. But it is so outrageous and so extreme that a respected Member of the other body—a member of the President's political party—said that partial birth abortion is just too close to infanticide. Thus, many Americans who are pro-choice also oppose partial birth abortion. I expect that many pro-choice Representatives will vote to ban partial birth abortion today.

Unfortunately, supporters of this procedure have gone to every length to continue to protect partial-birth abortion for every purpose. The President justified his veto based on facts which have since been debunked.

The Washington Post editorialized in a piece titled "Lies and Late-Term Abortions," on March 4, 1997, that "Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, has admitted . . . that he, and by implication other pro-choice groups, lied about the real reasons women seek this particular kind [partial-birth] of abortion . . . Mr. Clinton will be hard-pressed to justify a veto on the basis of the misinformation on which he rested his case last time." Mr. Fitzsimmons said he "lied through his teeth" about the nature and frequency of partial birth abortion in the United States. Furthermore, according to Dr. Pamela Smith, the Director of Medical Education in the Department of Obstetrics and Gynecology at Mt. Sinai Hospital in Chicago, "there are absolutely no obstetrical situations encountered in this country which require a partially-delivered human fetus to be destroyed to preserve the health of the mother."

I believe all sides of this issue should base their case on the truth. And the truth is that partial birth abortion is barbaric. This measure represents simple mainstream common sense. I urge support of the bill.

Mr. WATTS of Oklahoma. Mr. Speaker, I thank Mr. CANADY of Florida and I congratulate him on his leadership on this critical issue.

Let us not fool ourselves about what we are voting on here today. The partial-birth abortion procedure inflicts a terrible violence on the body of a helpless child. This is not a point of debate—everyone acknowledges the medical details of what the abortionist does during a partial-birth abortion. It is a violent and horrific procedure.

And let us be clear. A partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. In fact, the procedure can significantly threaten a mother's health or ability to carry future children to term.

So how can we—the citizens of a supposedly civilized society—how can we say that abortion is a procedure that will be unrestrained and unrestricted—that there will be absolutely no limits and no parameters placed on this procedure that does such terrible violence to its victim.

Who will speak for the victim—the unborn child, or in this case the partially-born child—who has no voice—unless we are their voice, unless we speak for them.

My colleagues, I urge you to speak for these voiceless victims today by voting to ban this brutal abortion procedure.

Mr. STOKES. Mr. Speaker, I rise in opposition to H.R. 1122, the Partial-Birth Abortion Ban Act. This legislation constitutes an unprecedented intrusion by Congress into medical decisionmaking, and poses a significant risk to women's health. In addition, this legislation fails to meet clearly established constitutional standards.

H.R. 1122, introduced by Congressman SOLOMON, is identical to the partial-birth abortion ban legislation vetoed by President Clinton during the 104th Congress. I voted against this measure during the last Congress, and will continue to oppose a ban on certain abortion procedures that does not provide an exception to protect a woman's life or health.

Moreover, since partial-birth abortion is not a medically recognized term, H.R. 1122 uses extremely vague and nonmedical terminology to indicate exactly what is outlawed. As a result, the measure could be interpreted to prohibit a wide range of medical procedures. Furthermore, there are no accepted medical or legal guidelines to help doctors determine whether procedures they perform may fall within the prohibitions of this bill.

This would have a devastating impact on a medical community already intimidated by murders, threats, and violent blockades of medical facilities. Doctors would now fear imprisonment for performing late-term abortions where a fetus will not survive, or where a woman's life, health, or future reproductive capacity may be severely threatened.

The intact D&E, one of the procedures this bill appears designed to outlaw, is used by some physicians who have stated that, in their judgment, it best protects their patient's health. In these situations, these doctors report that the intact D&E procedure causes less trauma to the woman, lowers the risk of unnecessary bleeding and reduces complications, including enhancing a woman's prospect for success in future pregnancies. In this regard, H.R. 1122 unethically forbids doctors from exercising their best professional judgment on behalf of their patients.

Mr. Speaker, a law banning a specific surgical technique would be an unprecedented intrusion by Congress into the practice of medicine, and an intrusion that has no basis under the Constitution. By banning the use of certain abortion procedures before fetal viability, H.R. 1122 is a clear violation of the Roe versus Wade decision which affirmed that, before viability, a woman has the right to choose to terminate her pregnancy without interference by Government.

Furthermore, without an exception to protect a woman's health or life, H.R. 1122 also violates the Supreme Court's 1992 Planned Parenthood versus Casey decision. This ruling asserted that, after viability, the Government may restrict abortion, but only if the law contains exceptions for pregnancies that, if carried to term, would endanger the woman's life or health. I support the Court's decision and will continue to oppose efforts that would take this right away from the individual.

Mr. Speaker, it is ill-advised and potentially harmful to any individual seeking medical attention for Congress to interfere with professional medical judgments and outlaw treatment options that may best preserve a patient's health. I urge my colleagues to join me in opposing H.R. 1122.

Mr. GOODLATTE. Mr. Speaker, as a member of the Subcommittee on the Constitution and an original cosponsor of this important legislation. I rise in strong support of H.R. 929, the Partial-Birth Abortion Ban Act of 1997.

Partial-birth abortions are gruesome procedures. They are something I wouldn't wish on my worst enemy. Only the most calloused among us can hear a description of this procedure and not wince. To borrow from John Wesley, it is the "sum of all villainies"—infancticide in its rawest form.

A greater tragedy occurred last year, however, than the several thousand partial-birth abortions that were performed in the fifth and sixth months of pregnancy on the healthy babies of healthy mothers. That tragedy occurred when President Clinton vetoed our attempt to stop this horrific procedure.

During the debate over partial-birth abortions in the 104th Congress, the pro-abortion camp asserted that this procedure is rarely performed. Those of us who supported a ban on partial-birth abortions took serious exception to this allegation, arguing that they are performed with alarming frequency. In vetoing the Partial-Birth Abortion Ban Act last year, President Clinton obviously bought into the arguments of the pro-abortion lobby.

In the last few weeks, Ron Fitzsimmons—the executive director of the National Coalition of Abortion Providers—has admitted that he "lied through his teeth" about the nature and number of partial-birth abortions. As we argued last year, Mr. Fitzsimmons is now admitting that thousands of partial-birth abortions are performed every year, in the fifth and sixth months of pregnancy or later, on healthy babies with healthy mothers. Clearly, the pro-abortion lobby engaged in a pattern of deception regarding this issue—only time will tell whether President Clinton was an ignorant victim or a knowing perpetrator of this terrible cover-up.

With the Partial-Birth Abortion Ban Act of 1997, Congress is giving President Clinton an opportunity to atone for last year's sinful veto. The President still has time to do the right thing. I hope he will.

I was asked recently why, since we failed in our attempt to ban this procedure last year and Bill Clinton is still the President, the 105th Congress believes it will succeed where the 104th Congress failed. Leaving the recently-exposed lies of the abortion industry aside for a moment, the answer is that regardless of the odds, we have a duty to end injustice where we find it, and a solemn responsibility to protect those who cannot protect themselves.

At a recent subcommittee hearing, representatives from the pro-abortion lobby repeated time and again that Congress should not involve itself with this issue. However, the pro-abortion lobby needs to remember that Congress consists of the people's representatives. What these people are really saying, therefore, is that the American people should not be allowed to debate this issue through their duly elected representatives. I strongly disagree—a civilized society cannot afford to abandon its standards of morality.

Mr. Speaker, Congress will continue the fight to protect and preserve innocent children. I urge all of my colleagues, whatever their position on abortion, to vote "yes" on H.R. 929. I yield back the balance of my time.

Mr. BLUMENAUER. Mr. Speaker, I rise today in opposition to H.R. 1122. This deeply personal and private decision is between a woman, her family, her physician and her beliefs, not the Federal Government. Without providing protection for the health and life of the mother, legislation that prevents doctors from providing patients with the most appropriate medical care is unacceptable. My position on this most sensitive of personal decisions is very simple. When the life or health of a woman is at stake, the Federal Government should not tell the family and their doctor what to do. Regrettably, the alternate bill introduced by Representatives GREENWOOD and HOYER that provided an exception for severe health consequences will not be considered today. Instead, with this legislation, Congress is once again promoting an indifference to the health of women instead of rendering a serious policy determination on a matter of grave consequence.

Mr. RILEY. Mr. Speaker, I rise today in support of the Partial-Birth Abortion Ban Act of 1997 which would put an end to the barbaric procedure known as the partial-birth abortion.

Mr. Speaker, it is now a matter of public record that this type of abortion is performed at least several thousand times a year, usually in the fifth or sixth month of pregnancy.

I want to be clear on one point. We have heard time and again from the other side today that we must protect the life of the mother.

Hundreds of medical doctors including former Surgeon General C. Everett Koop have come forward and stated without reservation that the "partial birth abortion is never medically necessary to protect a mothers health or her future fertility."

Let me repeat that, "partial birth abortion is never medically necessary * * *"

So let's stop playing politics and using fear and scare tactics. Let's honestly debate the issue at hand.

Partial birth abortion is a horrifying procedure that must be ended. We have a moral obligation to stand up for the sanctity of life.

I urge my colleagues to join in this bi-partisan effort to protect those who cannot protect themselves.

Mrs. CHENOWETH. Mr. Speaker, I rise today in strong support of H.R. 929, the Partial-Birth Abortion Ban Act.

Last year—apologists for this abominable practice raised a fog of mendacity during our deliberations. Today that fog has been pierced.

What everyone can clearly see today, Mr. Speaker, is that partial-birth abortion is a practice that exposes abortion for what it truly is—the killing of an infant.

This debate is not about when life begins—for the infants targeted by this procedure are most certainly alive. This debate is over a matter of inches.

And Mr. Speaker—I submit that the constitutional right to life has jurisdiction over those inches.

Ms. KILPATRICK. Mr. Speaker, my colleagues, I rise in opposition to the final passage of legislation in this form. As a life-long pro-choice elected official, I would normally reject this legislation as a matter of principle. However, my opposition to this legislation is also based on several specific reasons that, if implemented by this legislation, would have a chilling effect upon the lives and safety of women and for the respect of precedents established by the Supreme Court.

This legislation is constitutionally unsound. This legislation directly opposes the precedents established in the Supreme Court under Roe versus Wade, in that it bans a particular procedure during the pre-viability stage of pregnancy.

This legislation handcuffs health care options for physicians. While I am not a medical doctor, a lot of the procedures that doctors perform—gynecological examinations, emergency tracheotomies, setting broken bones—are not pretty and can seem downright gruesome. However, sometimes, procedures that are needed to absolutely, positively save someone's life is necessary. For example, I am sure that many of us recall the person who had to have her leg amputated while trapped in the rubble of the Oklahoma City bomb blast. This operation was the only way that this person's life would have been spared. If we ban this procedure, what will be next? Congress has no business telling a well-trained and intelligent physician what is or is not acceptable medical procedures.

This legislation does not allow an exception for the utilization of this procedure to spare the life or the health of the mother. Physicians often have to make life or death decisions. While it is my hope that this procedure is performed during those infinitesimal instances in which it is absolutely necessary, we should not eliminate the possibility that it might be needed to save the life or preserve the health of the mother. Like you, we have all heard the different statistics on how often this procedure is used. But statistics do not mean a thing if that is your mother, your wife, your sister, or your daughter on the gurney and the choice is this procedure or the death of your loved one.

The decision to have or not have a child is a very difficult one. This is a decision that should remain among a woman, a man, and a doctor—not the Federal Government. It is my hope and desire that as individuals of the family of humanity, we will do all that we can to proactively provide the education and support to our Nation's women so that abortion is a choice that fewer and fewer women have to make.

The doctors of our Nation deserve to be able to fully implement their Hippocratic oath—"I will use treatment to help the sick according to my ability and judgment"—without governmental intervention. I urge my colleagues to support our Nation's doctors, the lives and health of women, and the Supreme Court, and ask for a "nay" vote on final passage of this legislation.

Mr. PACKARD. Mr. Speaker, today I rise to discuss a procedure that I find—and an overwhelming number of Americans find—absolutely abhorrent, partial birth abortion. It is brutal and inhumane. It is not necessary and should not be permitted.

Last year, when we brought a bill to the floor to ban the practice, abortion advocates falsely claimed the procedure was both rare and a necessary late term procedure. The President vetoed our bill based on this misrepresentation. Finally, the media got wind of the lie.

Ron Fitzsimmons, leader of the National Coalition of Abortion Providers, in a March 3, 1997, interview with the American Medical News, said that he "lied through [his] teeth" when he said the procedure was rarely used. He now admits that pro-life groups are accurate in saying that the procedure is more common.

To add insult to injury, Mr. Fitzsimmons also admitted that, in the vast majority of cases, the partial-birth abortion procedure is performed on a healthy mother with a healthy fetus that is 20 or more weeks along.

Americans overwhelmingly oppose this form of elective infanticide. It has no place in our society. This practice is indefensible, and I challenge my colleagues to give the President another chance to ban the procedure. The President can no longer hide behind pro-abortion falsehoods. He should admit he was wrong and show the moral courage Americans expect from their President.

Mr. ABERCROMBIE. Mr. Speaker, today I rise to discuss the Partial-Birth Abortion Ban, H.R. 1122 that was introduced yesterday and which we are voting on today. This measure is supposed to be a new improved version of Representative CANADY's bill, H.R. 929. However, it is more draconian, offensive and degrading to women. This newly introduced bill, like the one we were supposed to debate, still tears apart the principle that women have reproductive rights which was set in Roe versus Wade (1973) and reaffirmed in Planned Parenthood of Southeastern Pennsylvania versus Casey (1992). H.R. 1122 also still uses the same vague, nonmedical terms as Representative CANADY's bill. However, H.R. 1122 does include two provisions that were not in Representative CANADY's bill, H.R. 929. First of all, a "partial-birth abortion," whatever that means, can not be performed to save the life of the mother even if her very life was endangered by the pregnancy itself. Secondly it allows would-be fathers who had abused or abandoned the mother to sue and collect monetary damages from the physician who performed the improperly defined medical procedure. I find this provision one of the hardest to comprehend—why allow a person that has abused a woman repeatedly to be able to gain monetarily if he gets her pregnant and something goes tragically awry to her fetus after viability?

If supporters of H.R. 1122 are concerned about abortions being performed after viability, they would support Representative HOYER and GREENWOOD's bill, H.R. 1032, which bans all abortions after viability except in cases when "the abortion is necessary to preserve the life of the woman or to avert serious adverse health consequences to the woman." But, as my colleagues well know, we can not even debate that bill today under this closed rule. This bill takes away a woman's right to choose. H.R. 1122 says to American women: Your health and fertility are not an issue. It demotes women to second class citizenry.

I strongly urge my colleagues to re-read the testimony given last year by women like Coreen Costello and Mary-Dorothy Line. These women wanted their babies. However, once they realized that their babies could not survive outside of the womb, they had to make a soul searching decision. That was a very difficult decision made by the women and their husbands, but because they chose to have an intact dilation and evacuation they saved their lives and preserved their ability to have more children.

In addition, proponents still do not understand that no matter what has been said about the number of abortions performed using the intact dilation and evacuation procedure before and after viability, the law of the land already grants individual States the right to ban abortion after fetal viability except when necessary to preserve a woman's life or health. Forty States and the District of Columbia, ban post-viability abortions. The U.S. Supreme Court has struck a balance between a woman's right to choose and the protection of potential life. I fully support a woman's right to choose as upheld by the U.S. Supreme Court.

I strongly urge my colleagues to vote against H.R. 1122.

Mr. POMEROY. Mr. Speaker, I rise in support of H.R. 1122, a bill to ban the late-term abortion practice known as partial birth abortion.

While I will vote in favor of this legislation, as I did last year, I regret that the bill is being considered under a closed rule that will not allow the House to debate and vote on amendments proposed by my colleagues on both sides of the aisle. That is why I voted against the rule, and why I will vote in favor of motions that provide Members the opportunity to offer amendments to this legislation. In my view, the House ought to uphold a standard of democratic and open debate that allows alternative proposals to receive a fair hearing.

Second, as my colleagues know, the legislation before us is identical to the bill that was passed last year and vetoed by the President. In the interests of enacting legislation that will bring an end to this abhorrent procedure, I believe it advisable to support amendments that address the concerns stated by the President. Therefore, if the motion to recommit H.R. 1122 contains instructions to include an exception where the physical health of the mother is severely at risk, I will support the motion.

Mr. Speaker, in the final analysis, it is my position that the partial birth abortion is an inhumane and unnecessary procedure that should be outlawed. I believe that Congress ought to pass legislation that will gain the President's signature and achieve that end.

Mr. SKAGGS. Mr. Speaker, I wish we were debating the best way to reduce the number of late term abortions. That is a goal we all can share.

Instead, under the terms of debate imposed on this bill, we are able to consider only a text drafted to make a political statement and keep an issue alive rather than to solve a problem.

The question, that the advocates of this bill haven't, and can't answer, is this: Why should the Congress prohibit this particular medical procedure when a physician has determined: First, that a late term abortion is medically necessary to preserve the health of the mother and second, that this procedure is the one that is medically prudent?

The bill would substitute the political judgment of the Congress for the medical judgment of a woman's physician. The bill provides no exception for medical circumstances involving grave physical risks to the health of the mother, no matter what the circumstance nor how tragic the circumstance may be.

As we debate this issue, we need to remember how the Supreme Court has interpreted the Constitution. In Roe versus Wade the Court stated: "For the stage subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother."

That decision is the law of the land. Its language is clear and unambiguous. States may not proscribe late term abortions that are medically necessary to preserve a mother's life or health. Nor may the Congress.

What Roe versus Wade does permit, however, is the Government's restriction on or prohibition of late term abortions that are not necessary to protect the mother's life or health. Unfortunately, this bill would do nothing to reduce the number of such late term abortions. That should be our common goal.

In considering this bill, the Congress is attempting to set itself up as a national board of medical examiners. The country and professional medical practice won't be well-served if we become the arbiter of which medical judgments should be respected and which medical procedures should be performed.

If there is a medical need for an abortion to protect a woman's health and if this particular procedure is determined by a woman's physician to be medically warranted under the circumstances, then the Congress should respect that judgment not criminalize it. We should not substitute our political judgment for professional medical judgment grounded in the particular circumstances of real cases.

This bill should be defeated.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 100, the bill is considered as having been read for amendment and the previous question is ordered.

The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. HOYER

Mr. HOYER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. HOYER. Yes, Mr. Speaker, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. HOYER moves to recommit the bill H.R. 1122 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendments:

Strike all after the enacting clause and insert the following:

section 1. short title.

This Act may be cited as the "Late Term Abortion Restriction Act".

sec. 2. prohibition on certain abortions.

(a) IN GENERAL.—It shall be unlawful, in or affecting interstate or foreign commerce, knowingly to perform an abortion after the fetus has become viable.

(b) EXCEPTION.—This section does not prohibit any abortion if, in the medical judgment of the attending physician, the abortion is necessary to preserve the life of the woman or to avert serious adverse health consequences to the woman.

(c) CIVIL PENALTY.—A physician who violates this section shall be subject to a civil penalty not to exceed $10,000. The civil penalty provided by this subsection is the exclusive remedy for a violation of this section.

POINT OF ORDER

Mr. CANADY of Florida. Mr. Speaker, I rise to a point of order that the motion to recommit is not germane to the bill.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. CANADY of Florida. Mr. Speaker, the fundamental purpose of the underlying bill, H.R. 1122, deals with a very limited class of abortions, specifically partial-birth abortions. This is one specific type of procedure as defined in the bill.

The fundamental purpose of the motion to recommit amendment deals with any abortion procedure done post-viability. It purports to cover a much broader class of procedures than the one procedure specifically prohibited in this bill.

Therefore, since the fundamental purpose of the motion to recommit purports to deal with a class of procedures that is broader than the one procedure in the underlying bill, a proposition on a subject different from that under consideration, it is not germane to the bill and I insist on the point of order.

The SPEAKER pro tempore. Does the gentleman from Maryland [Mr. HOYER] wish to be heard on the point of order?

Mr. HOYER. I do, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the Chair for recognizing me on the point of order.

Mr. Speaker, this amendment is offered for the purpose, as it says, of limiting all late-term abortions, of prohibiting all late-term abortions, including abortions to which the gentleman spoke. We believe it does in fact expand upon but is inclusive of the procedures to which the gentleman's bill speaks. We believe it is an effort and an opportunity for the Congress to say that not only the late-term partial birth to which the bill speaks but that all procedures to effect late-term abortions ought to be prohibited. They ought to be prohibited as the policy of the United States of America.

It does provide, as does the underlying bill, with certain exceptions: The life of the mother, as is consistent with the bill on the floor. It also expands upon that to say serious adverse health consequences as well.

We believe in that context and, frankly, got an initial judgment as it was offered in the Committee on the Judiciary that this amendment was believed initially to be in order.

We believed that initial judgment was in fact correct. We believed this gives an opportunity for Members not only to speak to the instant issue raised by the particular 1122 bill, but also importantly gives to Members the opportunity to express their view that all late-term abortions, not just one procedure, but that procedure and all procedures to effect post-viability abortions be outlawed, be illegal, be against the policy of the United States of America, except in very limited circumstances.

Because of that, Mr. Speaker, Members will have the opportunity to express themselves as being against late-term abortions, which is the context, I suggest to the Speaker, in which this debate has occurred and proceeded.

Because of that, this gives Members the opportunity to particularly but more broadly, as Mr. CANADY did in fact correctly observe, express themselves on limiting all procedures for late-term abortions.

For that reason, we think it expands upon, he is correct, expands upon and makes more broad the prohibition on late-term abortions. It is for that reason that we think it critically important that the Chair rule that this is in fact in order so that Members can appropriately—because we believe it to be in order—express themselves in opposition to late-term abortions.

□ 1500

The SPEAKER pro tempore (Mr. MCINNIS). The gentleman from Florida has made a point of order that the amendment proposed——

Mr. EDWARDS. Mr. Speaker, the gentleman from Florida stated his point of order very rapidly and I want to be clear on this.

Is the parliamentary point of order on the point that the bill before the House only prohibits one type of abortion procedure, but the motion of the gentleman from Maryland [Mr. HOYER] would actually prohibit more types, in fact all types of late-term abortion procedures?

Is that the point of order that the gentleman from Florida is trying to make and objecting to letting the measure of the gentleman from Maryland up on the floor?

Mr. CANADY of Florida. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS. I yield to the gentleman from Florida.

The SPEAKER pro tempore. The gentlemen will suspend. The Chair will recognize Members to argue the point of order. Does the gentleman from Florida seek that recognition?

Mr. CANADY of Florida. Mr. Speaker, I seek the opportunity to respond to the question posed by the gentleman from Texas.

The SPEAKER pro tempore. The Chair will hear argument confined to the point of order. The gentleman may proceed, confined to the point of order.

Mr. CANADY of Florida. Mr. Speaker, the point of order is the fundamental purpose of the underlying bill, H.R. 1122, deals with a very limited class of abortion, specifically partial-birth abortions.

One specific type of procedure in the bill is what is dealt with in H.R. 1122. The fundamental purpose of the motion to recommit, in contrast to that, deals with any abortion procedure done post viability. It, therefore, purports to cover a much broader class of procedures.

I believe that the impact of the motion to recommit would essentially be nil, because although it purports to affect a broader class of procedures, due to the exceptions contained in the motion to recommit, it is essentially meaningless.

Mr. EDWARDS. Mr. Speaker, I guess going back to my original question to the Speaker, the point of order is being made on the basis that the bill before the House simply outlaws one type of abortion procedure, the motion made by the gentleman from Maryland would actually ban many other types of late-term-abortion procedures, and the gentleman from Florida objects to that being voted upon in the House; is that correct, Mr. Speaker?

The SPEAKER pro tempore. The Chair hopes to clarify this point in the Chair's ruling. The Chair is now prepared to rule.

The gentleman from Florida makes a point of order that the amendment proposed in the instructions with the motion to recommit offered by the gentleman from Maryland is not germane.

The pending bill prohibits a certain class of abortion procedures.

The amendment proposed in the motion to recommit prohibits any or all abortion procedures in certain stages of pregnancy. It differentiates between the stages of pregnancy on the basis of fetal viability. In so doing, the amendment arguably addresses a subset of the category of pregnancies addressed by the bill. Still, by addressing any or all abortion procedures, the prohibition in the amendment exceeds the scope of the prohibition in the bill.

The bill confines its sweep to a single, defined class of abortion procedures. Thus, even though the amendment differentiates between pregnancies on narrower bases than does the bill, the amendment also, by addressing any or all abortion procedures, broadens the prohibition in the bill.

One of the basic lines of precedent under clause 7 of rule 16, the germaneness rule, holds that a proposition addressing a specific subject may not be amended by a proposition more general in nature. As noted in section 798f of the House Rules and Manual, this principle applies even when both propositions address a common topic.

Thus, on March 23, 1960, the Chair held that an amendment to criminalize the obstruction of any court order was not germane to a bill to criminalize only the obstruction of court orders relating to the desegregation of public schools.

On the reasoning reflected in this line of precedent, the Chair holds that the amendment proposed in the motion to recommit is not germane to the bill. Accordingly, the point of order is sustained and the motion to recommit is not in order.

Mr. HOYER. Mr. Speaker, it is with great reluctance, because I believe very strongly that the Chair's rulings ought to be upheld, but in this instance, Mr. Speaker, I am compelled, because of the importance of the issue and the closed rule that prevented any amendments, and because I believe, Mr. Speaker, in your ruling you correctly indicated that the Hoyer and Greenwood bill broadens the scope of this bill and broadens the application to procedures beyond what the bill refers to, and for that reason held it not to be germane, I am compelled to appeal the ruling of the Chair.

Mr. CANADY of Florida. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. First of all, the question is, Shall the decision of the Chair stand as the judgment of the House?

Now, the Chair will recognize the gentleman from Florida [Mr. CANADY].

MOTION TO TABLE OFFERED BY MR. CANADY OF FLORIDA

Mr. CANADY of Florida. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CANADY] to lay on the table the appeal of the ruling of the Chair.

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. HOYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 265, nays 165, not voting 2, as follows:

[Roll No. 63]

YEAS—265

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Borski
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kildee
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Moakley
Molinari
Mollohan
Moran (KS)
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—165

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Condit
Conyers
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
Kleczka
Lampson
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moran (VA)
Morella
Nadler
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Price (NC)
Rangel
Reyes
Rivers
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOT VOTING—2

Kaptur
Oxley

□ 1525

Messrs. BASS, KINGSTON, and RAMSTAD, and Mrs. KELLY changed their vote from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1530

MOTION TO RECOMMIT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. McINNIS). Is the gentleman opposed to the bill?

Mr. FRANK of Massachusetts. I am in its form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FRANK of Massachusetts moves to recommit the bill H.R. 1122 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendments:

Page 2, line 10, insert after the words "or injury" the following:

", including a life endangering physical condition caused by or arising from the pregnancy itself, or to avert serious adverse longterm physical health consequences to the mother"

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK) is recognized for 5 minutes in support of his motion to recommit.

Mr. FRANK of Massachusetts. Mr. Speaker, after the Committee on Rules tried to keep this from being heard, I appreciate your helping make sure that it is.

This is an amendment that would in its most important form add one more exception. Remember we had the bill that does not prevent the abortions, as the gentleman from Florida acknowledged, but bans a particular procedure.

Mr. Speaker, the bill bans a specific procedure. The sponsors said in opposition to the amendment that we just voted on that was ruled nongermane when it came up before, well, we do not like health as an exception. I do. I wanted health as an exception. That was voted down, and I regret it. But now I am offering a narrower one that meets some of the arguments we heard.

Health broadly defined by the Supreme Court when there is no other reference, and it is just health when there is no modifier, the Supreme Court has said that includes mental health, et cetera, as I think it should. But in this case where we are talking about one procedure where we have already voted down health, I have a further amendment. This says, "You can have an exception if it is necessary to avert serious adverse long-term physical health consequences." This, Mr. Speaker, is what the House is about to vote on.

I ask my colleagues, "Are you prepared to say to a doctor if you believe in your best medical judgment that it is necessary to avert serious physical long-term adverse health consequences, and the only way to avert them is to use this procedure, this amendment says to a doctor, because it follows the language of the bill, if it is necessary, not if it's in your subjective opinion, but if it's necessary, and you can show in a judicial proceeding that it was necessary to avert serious long-term adverse physical health consequences you can perform the procedure." And the majority is going to say no apparently.

Well, some say it is never possible. If my colleagues really believe that, then the amendment would do no harm. But is the House ready to tell every doctor in America that never under any circumstances can he or she use a medical judgment to say this procedure? Because again we are not talking about whether or not there can be an abortion. There can be an abortion. It may be on mental health grounds, it may be on physical health grounds. Then the question is what is the procedure. And we are asking for a vote that says if it is necessary so that a woman does not lose her fertility so that there is not permanent damage to her organs, if she is not in horrible pain for a prolonged period.

Is that not likely to happen? I do not know; along with almost everybody in the House, I do not know. And therefore I am not prepared to legislate it. I am prepared to say that the physicians can decide that.

How much time do I have remaining, Mr. Speaker?

The SPEAKER pro tempore. The gentleman from Massachusetts has 2 minutes remaining.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, in all my years in the House I have never been more disturbed by a vote, but yet what happened in the Committee on Rules last night and on the floor here today, my concerns have not been allayed. Mr. Speaker, let me talk about those concerns.

I do not think the State should interject itself before viability and that women should have the right to protect their life and their health as under Roe versus Wade. I am concerned about viability of pregnancies, and I know health has been broadly interpretated, but under Frank it will be interpretated as the serious, serious physical health of the mother.

I am concerned about this, and it is before us, this method. It is brutal, it is inhuman, and it should never be used. However, may I say that is not my decision. Under Roe versus Wade the law of the land aids the decision of the mother and the doctor.

Mr. Speaker, I am so concerned about this body today. We have let political considerations and efforts do away with Roe versus Wade take over this and not let us resolve this situation.

Forty States, Mr. Speaker, have resolved this situation. We can resolve it by putting the serious health of the mother into this mix.

Mr. Speaker, we can do better.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me anticipate. Members on the other side have said, "Well, when you say health, the Supreme Court reads a broader version." Yes, I have that opinion right here. When it only said health, the Supreme Court interpreted a statute referring to health more broadly. The Supreme Court has never said that health always—that physical health does not just mean physical health. There is no argument for that, and the Supreme Court has never interpreted a statute on physical health. That is the key issue here.

I also add a language point that others have brought up making it clear that, if life is endangered by a condition arising from the pregnancy itself, that is also an exception. And that is not in the bill explicitly, and it ought to be, but this key point is before us now: "Do you believe as the chairman of the committee said, and the chairman of the committee in his intellectual integrity said if the choice is serious long-term physical health damage to the mother or the life of the fetus, apparently even a severely damaged fetus that could not live long, the woman's health must suffer."

I hope the House will not vote that way.

The SPEAKER pro tempore. Is the gentleman from Florida opposed to the motion to recommit?

Mr. CANADY of Florida. I am, Mr. Speaker.

The SPEAKER pro tempore. The chair recognizes the gentleman from Florida [Mr. CANADY] for 5 minutes in opposition to the motion to recommit.

Mr. CANADY of Florida. Mr. Speaker, regarding the life exception language contained in the gentleman's proposal, it is already covered in H.R. 1122. The language in the amendment simply restates what is obvious in the language in the bill. The life exception in H.R. 1122 states, and I will read it; it is on page 2 beginning on line 7:

> This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by physical disorder, illness, or injury.

That very statement is made on the floor today that this bill does not provide an exception for the life of the mother. It is clearly right here in the bill. I have asked the Members to read it, look at it with their own eyes.

Regarding the health exception, partial-birth abortion is never necessary for a mother's health or future fertility. Hundreds of obstetricians, gynecologists, and maternal fetal specialists, along with former Surgeon General C. Everett Koop, have come forward to unequivocally state that, quote, "Partial-birth abortion is never medically necessary to protect the mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both," close quote.

Furthermore, in an American Medical News article Dr. Warren Hern, a late-term abortionist, disputed the safety of the partial-birth abortion procedure. I want to quote directly from this article. Now, this is Dr. Hern, M.D., one of the leading experts on abortion procedures in this country. This is what he said:

I have very serious reservations about this procedure, said Dr. Hern, the author of Abortion Practice, the Nation's most widely used textbook on abortion standards and procedures. He specializes in late-term procedures. He opposes the bill, he said, because he thinks Congress has no business dabbling in the practice of medicine. But of the procedure in question he says this: "You really can't defend it. I'm not going to tell someone else that they should not do this procedure, but I'm not going to do it."

Now, Dr. Hern's concern centers around claims that the procedure in late-term pregnancy can be safest for the pregnant woman and that without this procedure women would have died, and this is what Dr. Hern says: "I would dispute any statement that this is the safest procedure to use," close quote. "Turning the fetus to a breech position is potentially dangerous." He added, "You have to be concerned about causing amniotic fluid embolism or placental abruption if you do that."

Pamela Smith, M.D., director of medical education in the department of obstetrics and gynecology at Mt. Sinai Hospital of Chicago added two more concerns. Cervical incompetence and subsequent pregnancy caused by 3 days of forceful dilation of the cervix and uterine rupture caused by rotating the fetus within the womb. Partial-birth abortion is used by some abortionists for their own convenience. It is never necessary to partially deliver a live child and jam scissors into the back of his or her head to preserve the mother's health. Just consider what is involved in this procedure.

I would ask my colleagues to consider what is involved in this procedure. A living human child is partially delivered. With the child three-fourths out of the mother, with only the head remaining in the mother, the child is stabbed in the back of the head.

I hate describing this, but this is what goes on.

Explain to me how stabbing the child in the back of the head in this gruesome procedure protects the mother's health. It is nonsense; it does not. It is not necessary. What we are seeing here is an effort by people who believe that abortion should be permitted under any circumstance at any time during pregnancy for any reason, an attempt to derail this bill, put in amendments that will create loopholes and will render the bill meaningless.

I urge my colleagues who are serious about addressing this procedure to oppose this motion to recommit and support the bill.

Mr. Speaker, I yield the balance of my time to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, we once again deal with deception. There is no serious adverse long-term physical health consequence to the mother that can be best treated by this procedure. It does not exist, it has never existed, it will never exist. It is a falsehood, it is an untruth. Partial-birth abortion, D&E on the live baby is done for the convenience of an abortionist. It is never done for any other reason. It is done for the convenience of an abortionist.

This is a deceptive way to confuse the issue. There is no truth that this allowance needs to be there, because it never exists. It is a falsehood. It is something that was set up so that we can create a false climate.

I will repeat. It never happens. It never is indicated.

□ 1545

The SPEAKER pro tempore (Mr. MCINNIS). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRANK of Massachusetts. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 282, not voting 2, as follows:

[Roll No. 64]

AYES—149

Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Filner
Flake
Ford
Frank (MA)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gilchrest
Gilman
Gonzalez
Green
Greenwood
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
Kleczka
Klug
Kolbe
Lampson
Lantos
Levin
Lewis (GA)
Luther
Maloney (CT)
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Moakley
Moran (VA)
Morella
Neal
Obey
Olver
Owens
Pallone
Pastor
Payne
Pomeroy
Price (NC)
Ramstad
Rangel
Reyes
Rivers
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Shays
Sherman
Skaggs
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Thompson
Thurman
Tierney
Torres
Towns
Vento
Waters
Watt (NC)
Wise
Woolsey
Wynn
Yates

NOES—282

Abercrombie
Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Borski
Boswell
-Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeGette
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Fazio
Foglietta
Foley
Forbes
Fowler
Fox
Franks (NJ)
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kanjorski
Kasich
Kildee
Kim
King (NY)
Kingston
Klink
Knollenberg
Kucinich
LaFalce
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Mink
Molinari
Mollohan
Moran (KS)
Murtha
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Schumer
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Velázquez
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—2

Kaptur
Oxley

Mr. FOGLIETTA changed his vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore [Mr. MCINNIS]. The question is on the passage of the bill.

The question was taken.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 295, noes 136, not voting 2, as follows:

[Roll No. 65]

AYES—295

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Flake
Foglietta
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht

Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manton
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—136

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Becerra
Bentsen
Berman
Bishop
Blagojevich
Blumenauer
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gilman
Gonzalez
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Kennedy (MA)
Kennelly
Kilpatrick
Kolbe
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Morella
Nadler
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Pickett
Price (NC)
Rangel
Rivers
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Stokes
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOT VOTING—2

Kaptur
Oxley

□ 1618

Mr. BENTSEN changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 91, PROVIDING AMOUNTS FOR THE EXPENSES OF CERTAIN COMMITTEES ON THE HOUSE OF REPRESENTATIVES IN THE ONE HUNDRED FIFTH CONGRESS

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 101 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 101

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the resolution (H. Res. 91) providing amounts for the expenses of certain committees of the House of Representatives in the One Hundred Fifth Congress. The resolution shall be considered as read for amendment. The amendment in the nature of a substitute recommended by the Committee on House Oversight now printed in the resolution shall be considered as adopted. The previous question shall be considered as ordered on the resolution, as amended, to final adoption without intervening motion or demand for division of the question except: (1) 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on House Oversight; (2) the further amendment specified in the report of the Committee on Rules accompanying this resolution, if offered by a Member designated in the report, which shall be considered as read, shall be in order without intervention of any point of order, and shall be separately debatable for the time specified in the report equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit.

The SPEAKER pro tempore (Mr. MCINNIS). The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this rule makes in order House Resolution 91, authorizing funding for all but one of the committees of the House of Representatives for the 105th Congress under a modified closed rule.

It provides that the Committee on House Oversight amendment in the nature of a substitute now printed in the resolution shall be considered as adopted.

The rule further provides one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on House Oversight.

The rule provides the further amendment specified in the report of the Committee on Rules, if offered by a Member designated in the report, shall be in order without intervention of any point of order and shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent. Finally the rule provides one motion to recommit.

Mr. Speaker, the process established by this rule for the consideration of House Resolution 91 is no different than the process established for previous committee funding resolutions.

Under clause 4(a) of rule XI, committee funding resolutions are privileged on the House floor and unamendable. A rule is unnecessary to bring up the resolution unless there is a need to waive points of order that could legitimately be sustained against the resolution. Such a waiver is needed to address what I am sure the other side of the aisle agrees is a technical violation of House rules.

Specifically clause 2(d)(2) of House rule X requires committees to vote to approve their oversight plans for submission to the Committee on Government Reform and Oversight and the Committee on House Oversight by February 15 of the first session of each Congress.

The rule further prohibits consideration of a committee funding resolution if any committee has not submitted plans by February 15 or if the plans were not adopted in an open session with a quorum present.

As we know, certain committees were not able to organize before February 15 because the committee assignment process was not complete by that date. Therefore, these certain committees were unable to meet and vote to approve their oversight plans on time. However, I am pleased to report that every committee has submitted an approved oversight plan to both the Committee on House Oversight and the Committee on Government Reform and Oversight.

Mr. Speaker, House Resolution 91 is a responsible funding measure. I would like to commend the gentleman from California [Mr. THOMAS] and our colleagues on his committee for producing a balanced plan under what are obviously challenging circumstances. It is clear that the current level of resources available to House committees is insufficient to meet their oversight responsibilities.

H. Res. 91 addresses the needs of committees while maintaining the bipartisan commitment made by the House at the beginning of the 104th Congress to reduce permanent committee staffs by a third and provide more resources to the minority party. To ensure that these new resources do not on their own result in increased spending on the operations of Congress, the rule makes in order an amendment by Mr. THOMAS that requires any net increase in spending to be offset by reductions in expenditures for other legislative branch activities.

In addition, to ensure that any additional staffing resources that the committees may need during the course of the 105th Congress do not become permanent staff, House Recolution 91 provides $7.9 million for a reserve fund to cover the cost of any unanticipated needs.

This fund is in compliance with clause 5(a) of rule XI which authorizes the Committee on House Oversight to include with its primary expense resolution for committees a reserve fund for unanticipated committee expenses. The actual allocation of any money from the fund is subject to approval by that committee.

Contrary to charges that have been made, and I suspect will be made by the minority, this is not a slush fund to be spent by the Committee on House Oversight as it sees fit. As explained in the section-by-section analysis of the resolution adopting House rules for the 105th Congress, the funds will only be used in, and I quote, extraordinary emergency or high priority circumstances. That is what the House rules actually say. And, quote, any proposals for its allocation will be carefully scrutinized and coordinated at the highest levels prior to a vote by the Committee on House Oversight. Other committee requests beyond their initial biennial budget authorization will still require a supplemental expense resolution to be approved by the House. That is what the House rules state.

Mr. Speaker, House Resolution 91 is a fiscally responsible committee funding resolution. It maintains the commitment of this Congress to lead by example when it comes to streamlining the Federal Government. It also maintains the commitment of the Republican majority to provide more committee resources to the minority than were provided to the minority when Republicans held that status in the House.

Therefore, Mr. Speaker, I urge adoption of this very fair and balanced rule and this balanced approach to committee funding.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume. I thank the gentleman from California [Mr. DREIER] my colleague and very good friend, for yielding me the customary half hour.

□ 1630

Mr. MOAKLEY. Mr. Speaker, as the ranking member on the House Committee on Rules, I have it pretty good. My good friend, the gentleman from New York, JERRY SOLOMON, treats the minority as fairly as he can. He gives us one-third of the committee's salary, and he is just as fair to us as we were to him, and we really appreciate it.

The gentleman from California [Mr. Thomas], chairman of the Committee on House Oversight, has always been gracious to us and has seen to it that the Rules minority is treated fairly and also for that, Mr. Speaker, we are very grateful.

Unfortunately, Mr. Speaker, other committees are not quite as fair as the Committee on Rules. Given the American people's obvious dislike of partisan squabbling, given the promises of the collegiality retreat at Hershey, PA, I would expect some of my Republican colleagues would see the wisdom of bipartisanship. But, Mr. Speaker, the Republican members of the Committee on Government Reform and Oversight, in a lack of consideration for the needs and I believe rights of the Members of the minority party, are not giving Democrats anywhere near their share of the salary money.

Mr. Speaker, my colleagues on the Republican side are operating with the slimmest majority in history. Republicans outnumber Democrats 227 to 205. Mr. Speaker, that hardly justifies a 7 to 1 ratio of salary money on the Committee on Government Reform and Oversight, whose chairman is the gentleman from Indiana, [Mr. BURTON].

To make matters worse, to make sure that the American people completely lose their faith in the idea of cooperation in their Federal Government, my Republican colleagues are about to spend $25 million investigating the Democratic Party and the Democratic White House.

Now, this is not to say that I think it is impossible that there have been occasions in which Democrats have engaged in questionable campaign fundraising. I think it is entirely possible that there have. But it is absolutely preposterous to suggest that there has not been one single such time on the Republican side, particularly given the recent stories about lobbyists in the news and the supposed use of congressional buildings for Republican fundraising activities.

Even my Republican colleagues on the Senate side admitted that they did not hold some sort of monopoly on perfect campaigning. They agreed that to be fair they had better investigate everybody; that is, if the U.S. Government is really going into the investigation business. Because, if not, Mr. Speaker, if my Republican colleagues spend those millions of taxpayers' dollars trying to dig up dirt on Democrats, I doubt many people will be able to take it without a very large grain of salt. About the size of a pillar.

Frankly, I do not think we should spend much money or time investigating anyone. I think the reason we are here, the reason the American people voted to send us to Washington is to make their lives better, and I cannot think of a single person who will benefit from more mud-slinging here in Washington.

Rather than sifting through people's garbage, we should be passing campaign finance reform to clarify and also to strengthen the rules. We should be expanding Head Start to more needy children. We should be looking into ways to strengthen our Medicare and our Social Security programs. We should be helping our police officers make America's streets as safe as they possibly can be. We should be working as hard as we possibly can to make a college education a reality for every single American student. We should not be wasting our time on these overpriced repetitive investigations.

Mr. Speaker, at the rate we are going, every committee in the Congress is going to be issuing subpoenas. And on the issue of subpoenas, I am sorry to see that the chairman of the Committee on Government Reform and Oversight has issued over 30 subpoenas without his committee's approval.

Mr. Speaker, it does not take this former chairman of the House Committee on Rules to recognize these subpoenas are completely against the spirit of House rules. The subpoena power of Congress is a very sacred right given to us by the American people, and under no circumstance should it be used in such a partisan or a capricious way.

To make matters worse, in the beginning of this Congress my Republican colleagues changed the House rules and they created a committee slush fund. This $7.9 million, I repeat it, this $7.9 million, which is a Republican fund, is financed by American tax dollars and can be dipped into by any committee with a complaint. All they need to do is get approval from the Committee on House Oversight.

For the first time, the House never gets a chance to vote on the additional committee funding, and the American people's money will be squandered on yet another witch hunt.

Mr. Speaker, it is a shame that the Congress has come to this. Furthermore, Mr. Speaker, Members who vote for this rule should not be fooled into thinking that the amendment to pay for the bill with promises of spending cuts will provide them any cover. A vote for this $22 million spending increase will leave Members completely exposed, and rightly so, to accusations of voting to waste exorbitant amounts of taxpayer money.

Mr. Speaker, make no mistake about it, a vote for this rule and a vote for this bill is a vote to increase the amount of money Congress spends on itself by nearly $22 million. Let me repeat that, Mr. Speaker. A vote for this bill is a vote to increase the amount of money Congress spends on itself by nearly $22 million.

Mr. Speaker, I get a lot of letters and I get a lot of calls in my office from people asking the Congress to consider funding this or voting for that. They ask for all kinds of things, from saving Medicare to money for Irish orphans. But I can tell you, Mr. Speaker, that of all of my letters and e-mails that come into my office every day, not one single one of them has asked me to help vote for the $22 million fund. Not one single constituent has asked me for this funding increase, and it is an irresponsible waste of taxpayers' money.

Mr. Speaker, I urge my colleagues to oppose this rule. If we are going to go into the business of investigations, if we are going to assume the mantle of the FEC or the Justice Department, we need to put on the same blindfolds that the statue of Justice wears and investigate every potential violation, and not just the alleged Democratic ones. If we are going to spend millions of tax dollars, then let us spend it on something that helps somebody. Let us send some kids to college. Let us find a cure for cancer.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to the gentleman from Glens Falls, NY, [Mr. SOLOMON], my friend and the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Claremont, CA, for yielding me this time.

Before I start off here, let me say it was nice to hear something nice said about the Committee on Rules in the beginning of my good friend the ranking member's testimony.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, I would just remind the gentleman that I also said something nice about the chairman.

Mr. SOLOMON. Mr. Speaker, reclaiming my time, I would say to the gentleman that that was very nice to hear, after the bashing we have been going through here for the last few hours.

Second, let me say to some of the Members that may be around here, however, I do not see them on the floor here, but I have been around here for about 19 years, and I guess there is not anybody more fiscally conservative than JERRY SOLOMON is, especially when I put my name on a bill like this and introduce $800 billion in cuts. I say to the rest of my colleagues that if they want to cut this budget and they want to balance the budget, then they should come in here and take their pick. That is fiscal conservatism with guts. So I will say, come over here and vote for this bill.

Mr. Speaker, Members have two reasons to vote for it. One is because it is the right thing to do, and the other is because if they do not, I am going to tell them something right now: They will be back here tomorrow, they may be back here Monday, they may be back here Tuesday, because their staffs and their committee people do not get paid.

Members have an obligation to govern around here. And when I say there is no increase in this bill, they can believe it.

Mr. Speaker, before I speak in support of the resolution any further, I might point out that this measure is coming to the floor under a rule that gives the minority an opportunity for more input in the process than would normally happen in most cases.

Committee funding resolutions are typically privileged. They are unamendable on the House floor. The rule before us allows for the House to vote on an amendment to the resolution and allows a motion to recommit to further study the issue in the committee, if Members want to do that. That is their privilege. They would not have that privilege if it were brought here under a normal privileged resolution straight to the floor.

Mr. Speaker, the Committee on House Oversight has produced what I would consider, and I give the gentleman from California, BILL THOMAS, wherever he is here, great credit. This resolution is reasonable and it deserves the support of this House. It keeps our commitment to maintaining, and this is what some of the new Members should listen to because they were not here 2 years ago, this resolution keeps our commitment to maintaining a reduction in staff levels by one-third from the 103d Congress.

That is right. We cut one-third of every single staff in this body, and we reduced the spending by one-third of every committee in this body.

The total authorization in this resolution is also 20 percent below the levels in the 103d Congress, the last Congress controlled by the other party, which represents a $45 million savings. That means we did not spend $45 million more.

Mr. Speaker, the reductions that the Congress has made in streamlining committees and the legislative branch budget overall should serve as a model for the rest of the Federal Government. That is why we slashed one-third in the last Congress.

We have made real cuts and we have saved real money in doing our part to try to set the example to shrink the size of the power of the Federal Government. That is what this is all about. That is what we are doing here today, we are maintaining that philosophy.

Mr. Speaker, the Committee on Rules performed its function in the House in the last Congress, living under the cuts we mandated. This was extremely difficult, given the frenetic pace of legislation in the last Congress. However, as partisan, and I will say to my good friend, the gentleman from Massachusetts [JOE MOAKLEY], and I will return the compliment, as partisan and pressure-filled as the Committee on Rules tends to be because of our institutional role, it is remarkable the degree to which Mr. MOAKLEY and I have worked together on our committee's budgets over the years.

Mr. Speaker, when I was the ranking member and he was the chairman, Mr. MOAKLEY was eminently fair as the chairman, and I have tried to return that favor and have had the same kind of ratios that we had under his leadership. We are a model in terms of our treatment of the minority.

The only increase that we ask for in our budget that is before us today is for a well-deserved COLA for our staff, who work many long hours into the night after the Congress has shut down and gone to bed. An example being last night, when we convened a Rules meeting late in the evening, and many of us stayed here until after midnight before we finally closed up shop and went home. They deserve that COLA. They deserve that little increase, cost-of-living increase.

Mr. Speaker, the other increases contained in the resolution, which are absolutely necessary, are guaranteed offsets. Again I will say to the Members back in their offices, these are guaranteed offsets through an amendment that will be offered today by chairman of the Committee on House Oversight, BILL THOMAS, sitting over here, or his designee. That amendment requires an offset, by reduction in expenses of other legislative branch activities, for expenses of committees in the 105th Congress that exceed the amount appropriated for the committees in the 104th Congress. That means there can be no increase in spending.

This amendment reflects the fiscally responsible policy of House Republicans, and that is that authorization or appropriation increases should be paid for, and we do that in this authorization bill.

Mr. Speaker, I could go on, but I simply want to urge every Member to come over here. I want them to vote for this eminently fair rule, and I want them to vote for this resolution. We need to get it done.

Additionally, House Resolution 91 provides funds for the campaign finance investigation already underway in the Government Reform and Oversight Committee.

Mr. Speaker, the revelations of wrongdoing among administration officials and campaign staff, appearing on an almost daily basis, are among the most serious I have seen in my time in public life.

The allegations involving economic espionage and national security breaches are even more serious than mere campaign finance law violations which are, in themselves, serious enough to warrant criminal indictments. And the suggestion that American foreign policy may have been directed by the flow of laundered money is absolutely appalling.

Mr. Speaker, this committee funding resolution provides the necessary resources to investigate the burgeoning campaign finance scandal in the Clinton administration.

The amendment that will be offered later today also ensures that any committee expenses increased beyond the authorization in the last Congress will be paid for. The rule allows the House to vote on these important items today.

I urge strong support for the rule and the committee funding resolution.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I rise in opposition to this rule.

The Republican majority running this House likes to portray itself as the party of fiscal conservatism. However, I would like to know how they can justify this expenditure of up to $12 million of the taxpayers' money for a fundraising investigation of the White House.

The other body has already budgeted itself less money than this House, and has broadened the scope of its investigation to include congressional fundraising, fundraising abuses of both Democrats and Republicans. I should also mention that every Republican in the other body voted for a broader scope and a smaller budget.

Republicans in the House, however, have decided that they need significantly more than their colleagues in the other body, but they are going to investigate less.

I do not think the blatant partisanship of the Republican leadership has been lost on anyone here. They are not looking for fairness, nor are they looking to have a balanced investigation into campaign wrongdoing. They are taking up to $12 million of the taxpayers' money and wasting it on a political witch hunt.

If anybody is wondering why the House Republican leadership has decided not to broaden the scope of the committee's investigation into improper acts by congressional campaigns, one only needs to look at the top.

□ 1645

Indeed, if the scope of the committee was broadened to consider congressional campaigns, I suppose the first witness to be called would have to be the Republican committee chairman. Only yesterday the Nation learned that the Republican chairman of the Committee on Government Reform and Oversight was appealing to a foreign ambassador for campaign contributions. How can this gentleman hold an objective view and write a committee report on the alleged abuses of the White House? Anything that comes of the investigation headed up by the gentleman from Indiana will be tainted. The Republican leadership of this House will better serve the integrity of this institution if they remove the gentleman from Indiana from the chair and broaden the scope of the investigation.

Without these actions, the country will rightly consider this investigation a joke. I would point out, as others have already, that already in the Washington Post today it was suggested, rightly I think, that the chairman should step down from the investigation, and in the New York Times it was very emphatically pointed out that the scope of the investigation should be broadened to include congressional campaigns, both Democrat and Republican. I think that the public is crying out to action in that regard, and that is why we should vote down this rule and we should vote against the resolution.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Albuquerque, NM [Mr. SCHIFF].

Mr. SCHIFF. I thank the gentleman for yielding me this time.

Mr. Speaker, we have heard a great deal from our colleagues on the other side of the aisle about fiscal responsibility, and they suggest that the amount of money being appropriated for an investigation is not fiscally appropriate. I respectfully suggest first that they never said that when they appropriated funds for investigations conducted on whatever subject while they were the majority.

Second, and I think more important, even if there were no setoff to the spending proposed here and, as Chairman SOLOMON said, there will be an amendment offered that will have setoffs, even if there were no setoffs, the total funding for committees proposed in this bill is $178.3 million for the 105th Congress. The total appropriation for the 103d Congress, two Congresses ago, under our Democratic colleagues' majority was $223 million. So that is getting close to a $50 million difference between what the majority spent in the 103d Congress and what the majority proposes to spend in the 105th Congress for the purpose of committees.

It will be interesting for our Democratic colleagues to explain what they were doing with all of the money that they spent in the 103d Congress that came to $223 million. How are we able to function on $178.3 million, even with an investigation? So I submit that we are being entirely fiscally responsible.

Second, the average appropriation for the Democratic minority staff is 29 percent in our bill. In previous Congresses, the average appropriated to Republican minorities was 21 percent. So we are giving the Democrats a larger percentage of the budget for committees than we were given when we were in the minority. If one looks at all these figures, I submit that everyone should support the rule and support the bill.

Mr. MOAKLEY. Mr. Speaker, before I yield, I would like to just correct a statement of the gentleman from New Mexico [Mr. SCHIFF]. There are no specific offsets in this bill. It is just general language.

Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I rise in strong opposition to this rule. In walking over here to speak on this matter, I wondered what the gentleman from Georgia [Mr. GINGRICH] would have said when he was in the minority if a Democratic majority brought a committee funding bill to the floor under a closed rule, meaning no amendments allowed, a bill that provided a record funding level, $12 million, for one committee and created a mysterious $8 million reserve fund that was controlled by the majority; a bill that provides this funding, even though the money will be used exclusively to investigate the minority and the chairman will unilaterally issue subpoenas and release documents, even confidential information, as he sees fit. And that bill provided at most 25 percent of the committee's resources to the minority?

Mr. Speaker, NEWT GINGRICH would have said that it was an arrogant abuse of power, that debate was quashed, that the funding was an outrageous waste of money, taxpayers' dollars, he would have said it was an act of war against the minority, and he would have been right.

No matter what other wrongs we may have done when we were in the majority, we never went this far. Today, the Republican majority is crossing the line. They are trying to jam a funding bill through without any opportunity for an amendment, and they are authorizing an investigation that is limited to Democrats, limited to the White House, that is unwilling, at least at this point, to even examine what campaign finance abuses took place by the Congress of the United States. That cannot be interpreted as anything other than a coverup.

This bill would allow this investigation to be conducted under the rules that the chairman of the committee seeks to impose, which is he could act unilaterally. He can issue subpoenas everywhere. He can compel information to be submitted to him, which is a very serious matter. It involves people spending money, hiring lawyers, getting the information together at expense to them and facing criminal penalties if they do not comply. And this investigation, as the chairman of the committee would envision it, would allow him to take that information and release it as he sees fit, even if it involved national security.

This is a concentration of power that has never been given to any chairman anywhere. And as far as the funding is concerned, the majority would take 75 percent, leaving the minority with less, around 25 percent at best.

This is blatantly partisan and egregiously unfair. It poisons what should be a bipartisan effort to investigate all fund-raising abuses and reform the system. It is wrong, and I appeal to my Republican colleagues to say no to this outrageous travesty.

There is an easy and obvious solution. Fund all the other committees except the Committee on Government Reform and Oversight. We have not even had a meeting of our committee to decide the rules under which this investigation will be conducted. We do not even know the scope yet except what the chairman would have us believe is the scope that he would want for this investigation. Fund the other committees, and allow us to not have a disruption of them, and then leave the investigation by the Committee on Government Reform and Oversight to be decided later. Defeat this rule.

Mr. DREIER. Mr. Speaker, I yield 3½ minutes to the gentleman from Winter Park, FL [Mr. MICA].

Mr. MICA. Mr. Speaker, I was elected to this body in 1992, and I have been waiting for this day. You cannot imagine in your wildest imagination, Mr. Speaker, the way our side was treated by the former predecessor of this committee, the Government Operations Committee. We now have the Government Reform and Oversight Committee.

I pulled these charts out of the attic, but look at these charts. You want to talk about fairness? In the 103d Congress, this is the investigative staff that they gave the minority. This chart was presented on this floor, and I came to this well and railed against what was done to us. How dare they come here today and say we are mistreating them when we offer such an incredible increase in percentage. In fact, we are running Government Operations, we are running the Postal and Civil Service Committee, the D.C. Committee, all combined, for about half of what they were spending.

What this is about, is fairness and equity. We gave them in our proposal 25 percent. It is higher than anything they ever gave us. So I have been waiting for this day. I do not have enough time to go into all the grisly details, Mr. Speaker, but I will present every one of them when I get my full time when this rule is completed.

So do not come here and say this is unfair. In the 103d Congress, $25 million for Government Operations, Civil Service and Post Office. What we are doing now, the 104th Congress, we spent $13.5 million for the same task. This request if for $20 million. It is still almost $5 million less than what they expended.

Again, look at the distribution of what they did to us, and that is when they controlled the House, the Senate and the White House. There was no oversight. We see the results of it. The results of it is the scandal, the unprecedented scandal. I chair the House Subcommittee on Civil Service. I have 7 staffers that replaced 54 Civil Service staffers, 7 staffers. I have in my possession right now 1,000 documents, almost 10,000 pages, almost as much as we had in the Filegate matter.

Mr. Speaker, this is about a scandal that is unprecedented in the history of this Congress, and they are trying to blur the focus, they are trying to make it look like a partisan attack, they are trying to attack our chairman, they are trying to attack our Members and they are trying to say, most unfairly, that we are being unfair. Mr. Speaker, there could not be anything further from the truth.

Mr. MOAKLEY. Mr. Speaker, I yield 2¼ minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. I thank the gentleman for yielding me this time.

Mr. Speaker, there has been so much talk about bipartisanship and so much self-congratulation around here that until just now I was of the opinion that momentum was building for a resolution for a joint session of Congress to convene and hear an address from Mr. Rogers. But I suppose that when we get down to substance, that the interest in bipartisanship and fairness is a little weaker than when it is just "I smile at you and you smile at me."

I believe that the alleged improprieties at the White House deserve a thorough investigation by this body. I think this should be adequately funded and adequately staffed. But why just the White House and not this House? Has this House been exempt from complaints about the distribution of tobacco money right here on the floor of the House, from complaints about the "farsighted" use of tax-exempt money to fund campaign efforts, from one complaint after another? Why is it that we look only to the White House and not to this House with reference to the growing problem of members of any Federal position having to chase money for the increasing cost of campaigns?

Well, certainly it is not because it is not a problem. If you turn only to today's Roll Call, one finds a report of one lobbyist with Republican ties who said that Members routinely shake down lobbyists and foreign agents:

> Are there shakedowns happening? Absolutely. Every minute of every day with very rare exceptions on both sides of the aisle, on both sides of the Capitol dome. It is a disgusting, despicable scene.

And so it is. I do not say it is all a Republican problem or all a Democratic problem, but that it is time to look not just at the White House but at this House, and if you vote for this resolution, what you are doing is voting to exempt this House from any investigation concerning financial improprieties in the course of campaigns. Why not look at the whole problem, not just to point fingers but to find solutions? That is what this matter should be about.

You would think with so many shakedowns someone would be concerned about shaking up the system and providing the American people a solution. I maintain we need more than Hershey kisses. We need the type of genuine bipartisanship the Senate finally engaged in to investigate all manner of improprieties in any part of the Federal system. Only then will the American people be adequately served.

☐ 1700

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Smyrna, Georgia [Mr. BARR].

Mr. BARR of Georgia. Mr. Speaker, I thank the distinguished gentleman for yielding this time to me.

Mr. Speaker, were it not such a lengthy document and were it not also residing in the office of every Member of this body, I would ask to have the House Rules and Manual accepted into the RECORD at this point because apparently, even though I have only been here a little over 2 years, I know just a tiny bit more about what those rules contain than many Members of the other side who are out here blasting the resolution before this body.

The fact of the matter is that the jurisdiction of the Committee on Government Reform and Oversight does not extend to Members of this body. Regardless of what the Senate may or may not do, we still have to abide not by what we see as press accounts, not by what the Senate does, but by the Rules of the House of Representatives of the United States of America, and those rules provide very clear jurisdiction for the Committee on Government Reform and Oversight, and it happens to be the executive branch of Government.

Despite the fact that we may wish on the other side that these rules said otherwise, despite the fact that Members on the other side who are so partisan they do not even understand what the rules are, may want the rules to say otherwise, they do not.

We have to abide by the rules, and the resolution before this body at this time does indeed reflect the rules of this House and it reflects the proper jurisdiction of each and every one of the committees, including the Committee on Government Reform and Oversight for which funds are proposed through this resolution.

Now we heard a little bit ago that, I believe it was the gentleman from New Jersey that seemed to feel that the scope of the investigation proposed to be conducted by the House Committee on Government Reform and Oversight was inconsequential. Well, it may be to the people of his State but it is not to the people of the United States of America. They are deeply disturbed by the mounting evidence of very, very serious possible violations of law ethics and wasting government conducted by this administration and by agencies of the U.S. Government executive branch, and it does indeed fall within the jurisdiction of the Committee on Government Reform and Oversight to conduct an investigation of those for the American people.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

The statement of the gentleman is factually incorrect when it comes to the duties of the House Oversight jurisdiction, Government Reform rather. The argument is factually incorrect. The House gives House Oversight legislative jurisdiction over all Federal elections, both congressional and Presidential. Government Reform and Oversight has oversight responsibilities that are extraordinarily broad, so broad in fact that under House rules, Government Reform and Oversight may conduct investigations on any matter with regard to any committee's jurisdiction.

So what we have here is a situation where the Republicans on the Committee on Government Reform and Oversight are selectively investigating some of the matters that fall within the legislative jurisdiction of the House Oversight, but not others; the gentleman from Indiana [Mr. BURTON] saying, "Well I think we should go and take a look at the Presidential election. I know that's within the jurisdiction of the House Oversight Committee, and I can do that under the rules of the House." But when pressed to look at congressional elections, Chairman BURTON says, "Oh, no, I can't do that. That is within the jurisdiction of the House Oversight Committee."

Mr. Speaker, that is not right, that is not fair, and I can only conclude that this investigation is being conducted in a very partisan way.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I checked with the House Parliamentarian on this very issue, and he assured me that our committee does have jurisdiction, Government Reform and Oversight Committee, over all campaign finance issues. We need not be restricted only to the White House unless it is being done for partisan reasons.

Mr. MOAKLEY. I think the gentleman that spoke before the gentleman from California [Mr. WAXMAN] may have confused legislative and investigative oversight. It does have the investigative oversight over all committees.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Long Beach, California [Mr. HORN], my very good friend.

Mr. HORN. Mr. Speaker, this is a very difficult situation. What we have, and it is the press that has done most of the work, the media, to this point, we have major national scandals, clear violations of the law, and the first emphasis, it would seem to me, would be to deal with those.

Now I am fascinated by my friends on the other side of the aisle. They are right, I think, on the jurisdictional point. We can go anywhere and investigate, anywhere an authorization committee can go. The question is what comes first?

What comes first is what bothered this Nation for the last 6 months because these were slowly, slowly unfolding during the election period, but mostly since the general election, and it seems to me we ought to concentrate our resources at this time on solving that problem. And I will tell my friend from California that as one that takes no PAC money, I would love nothing better than to be involved in an investigation of the fund-raising on both sides of the aisle. I do not think the gentleman wants that to happen, but I would be glad to get into that.

Mr. WAXMAN. Will the gentleman yield?

Mr. HORN. I yield to the gentleman for a question, but I have got a few other things I want to cover. A 10-second question.

Mr. WAXMAN. The Senate voted unanimously to investigate the Congress and the White House. I think we ought to do the same. There ought to be Democrats and Republicans. If we are only going to investigate the White House, it seems to me that the opens this up to the fact that we are covering up what goes on in the Congress.

Mr. HORN. Mr. Speaker, I would say to my colleague that if the Senate is already investigating that area, and I know it is and that was my second point, why are we spending resources to be diverted into the area?

I hear a lot from liberals and a lot from conservatives about, "Gee, we have to save money on committee." Now frankly they are dead wrong on both sides because what we need to do is make sure that the prerogatives of the Congress of the United States can faithfully be carried out. To skimp on that budget is just dead wrong. Frankly, it means some people do not want the investigation to be carried out. We should want it to be completed.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, you know one of the problems we have here, there are a number of issues before us. First of all, if we fail to pass this resolution, it does not stop the legislative process. Frankly, when we came here in January we operated without a funding resolution. The Congress then organized and we are able to continue.

If we do not pass this rule today, we can come back here on the 8th or the 9th of April and pass a funding resolution that pays people for the work they have done, and there is no crisis in government if we do not pass this rule today.

One of the major issues as a Member of Congress, and we do not do this for Federal agencies as a general rule, is we do not create slush funds.

Now as my colleagues know, it seems the answer around here is, "If you put gates at the end of almost any term it becomes somehow criminalized." So I guess we have to call this Slushgate. We are bringing up here an amount of money that no Member of Congress in his right mind would vote for investigations—the October Surprise spent under $2 million; I think a million four. We are taking the committee of the gentleman from Indiana [Mr. BURTON], and we are moving it from about 6½ million to around 12 million, and then we have got Slushgate. Then we got another 7.8 or $9 million sitting there in a little pot that no Member of Congress on this floor is going to have a chance to vote on on the floor. They are going to do it back in the committee where there are no lights.

So we are taking almost $8 million more, and again the focus is very narrow, but we are taking the committee that last year did three political investigations, and I know the country is better off for finding out what happened in the travel office and all the other things that we spend tens of millions of dollars investigating, but we are going to spend another 12 to $20 million now.

What is the goal of our oversight? The goal of our oversight ought to be campaign reform. That is not the goal here. The goal here is to spend as much money as you can with as little opportunity for any real debate and looking at how we work.

We need to regain the confidence of the American people. We are not going to do that going after the White House or Congress. If my colleagues want to rebuild the confidence in the American people, we have to pass campaign finance reform, and we have to bring a budget here for the Congress that does not have an $8 million slush fund. We want to appropriate the funds as they are needed. Our colleagues have not got guts enough to come here and ask for 20 million bucks from the committee of the gentleman from Indiana [Mr. BURTON] so they are going to come here and say, "We're going 6 to 6½, we're going to bring that to 12, and then we got 8 million over here."

They got a slush fund on the floor of this House. It is no way to run this Congress. We ought to vote this rule down, we ought to come back here after the recess and try to pass a budget that will really address the issues we have to take care of as a Congress.

PARLIAMENTARY INQUIRY

Mr. DREIER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman will state his parliamentary inquiry.

Mr. DREIER. Mr. Speaker, I would simply like to inquire of the Chair what the ground rules are on personal references to Members of the House.

The SPEAKER pro tempore. Members should avoid personalities, derogatory personal references, to other Members of the House.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON], the very distinguished chairman and, I believe, unfairly maligned chairman of the Committee on Government Reform and Oversight.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding this time to me.

As my colleagues know, the founder of our party, Abraham Lincoln, said one time, I hope I am quoting him correctly; he said, "If I do the wrong thing, a thousand angels screaming from the rooftops won't make it right, but if I do the right thing, history will prove I did the right thing."

Mr. Speaker, I hope that is what happens with my committee and my conducting of my committee's activities over the next few months.

I have been accused of some things that I think unfairly, but I expected that to happen because when we start investigating the executive branch of government that involves the President, we got to expect that they are going to be firing back, and I fully anticipated that. I did not think it would happen this soon, but nevertheless I expected it.

But let me just say to my colleagues I still commit to my Democrat friends that we are going to try to run this committee in as fair and as bipartisan a way as possible.

I told the gentleman from California [Mr. WAXMAN] on three different occasions when we had meetings that we would give him notice before we sent out correspondence, he would have 24 hours notice before we sent out subpoenas, we would not release documents without his approval or give him 24 hours notice unless it was an emergency and we had to do it, and so far we have released no documents.

Today many people are talking about us releasing documents. We have released no documents. The White House has been doing that, and if Members do not believe me, ask the media. We are keeping our word, and our scope, the scope of our investigation, I want it to be relatively narrow so we can get this thing over with in a quick and a short period of time.

I want to investigate alleged illegal activities in the executive branch, illegal activities. Were we selling foreign influence overseas for campaign contributions?

This is something that is very important to the American people. Was our national security jeopardized because we were selling our national security for contributions? Were we selling business deals to foreigners for campaign contributions that might hurt the economy of the United States? These are things that we need to look into that are alleged illegal activities.

Now I did not say that we would not look into the illegal activities of Congressmen or Senators, or the DNC, the RNC, or the DCCC or NRCC. What I did say was, if we found illegal activities or what appeared to be illegal, we would turn them over to the committee of jurisdiction in the Congress.

The Committee on Standards of Official Conduct investigates Congressmen. We knew that when Speaker GINGRICH and Speaker Wright were investigated; that is where we went when there was an alleged ethical or illegal violation. That is what I intend to do; not sweep it under the rug if it is a Republican, but turn it over to the Committee on Standards of Official Conduct with the information we have.

The House administration or the Committee on House Oversight, if we find something going wrong with the RNC, or the DNC, we will give that illegal information, or that information looks like it is illegal, to that committee for proper work.

Let me just wrap up because we are running out of time. I want to pledge to Members that this will be a fair investigation. I will be as fair to the minority as I am the majority. But I want to tell my colleagues this:

As long as I can stand on my two legs, I am going to do my dead level best to get to the bottom of these scandals; make no mistake about it.

□ 1715

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. TIERNEY].

Mr. TIERNEY. Mr. Speaker, I thank my colleague from Massachusetts for yielding me this time.

As a member of the Committee on Government Reform and Oversight, let me say that I think that all of the Members of that committee would wish that it were true that we had some indication that things were going to be done fairly and justly on that committee. I am here to tell you as a member that we have no indication that that is so.

It is very unique that we should have had a meeting called for last week to discuss these very issues about process, to discuss the very issues about funding, to discuss whether or not we would be investigating all of the irregularities in campaign finance reform, only to have that meeting postponed so that this issue could be brought to the floor and rushed through without any debate and without dealing with these matters.

The American public demands to know what went wrong with campaign financing at all levels, not just at the White House if anything went wrong there, but in Congress if something went wrong there and in the Senate if something went wrong there.

There is no clamoring, no clamoring at all that I know of in the public for us to duplicate the expenditure of funds on this investigation. Nobody that I know of out there is saying, let us spend $6 million in the Senate and another $6 million in the House, and oh, yes, please, if you can, put an $8 million slush fund together so they can hold that in reserve. There is none of that out there in the public.

I think we should all take cognizance of the fact that we should have one thorough, complete, nonpartisan and fair investigation, get it done, have it done by a joint committee or by the Senate, because at least the Senate indicates that it wants to do it right. If we insist on having the Committee on Government Reform and Oversight of the House want to be partisan and want to be unfair, at the very least the appearance of being unfair and partisan, then we ought to back off, we ought to let the Senate do it and we ought to get on the with the people's business. There are many things we could be doing in this Congress; providing a slush fund is not one of them.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding me this time.

I would like to join my colleagues and add my voice as a member of the Committee on Government Reform and Oversight, speaking out against the $7.9 million slush fund that will not go to the House floor. It is really wrong. I also oppose the $12 million that they are asking for for clearly a partisan investigation against the White House and the Democratic party.

The committee has yet to reveal any information or any details about how they intend to spend this slush fund or any of this money.

I would like to quote, please, Becky Cain, president of the League of Women Voters. She said about this, "The House investigation into campaign fundraising should include a thorough examination of both parties' Presidential and congressional practices, both improper and illegal. A limited scope will turn the investigation into a partisan charade."

Today's Washington Post editorial goes even further. It warns that this investigation runs the risk of becoming, and I quote, "its own cartoon, a joke and a deserved embarrassment."

The New York Times editorial recommended today that the House should follow the Watergate precedent and let the Senate conduct a single investigation.

I would like to submit into the RECORD the editorials in both the Washington Times and in the Washington Post against this investigation, and also the Roll Call editorial.

Instead of using this money for the slush fund for a partisan investigation of the House, we should be increasing funding for the bipartisan agency that is charged with regulating campaigns: The Federal Election Commission. The FEC has requested an increase of $8.2 billion for fiscal year 1998 to deal with its increasing caseload. In the last 3 years the FEC's caseload has increased. I am opposed to the slush fund. We should be funding the FEC instead.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, we have a job here and the job is to make a decision as to what the proper method to proceed is.

Now, we are going to go back and see our constituents over this next recess. The question as constituents meet us on the street, whether we are on this side of the aisle or the other, is can we explain to them an $8 million slush fund. That is the real question here. Are we going to vote for a process, adding all of the other issues about fairness, about how the investigation ought to proceed? Should we not really be looking at campaign finance reform and not just more partisan battles?

Putting all of that aside, the question is, do we want to walk down the streets of our hometown and have them ask, should Congress have a slush fund? We do not do that for other agencies. If we think this investigation warrants $8 million more, then put it in the committee of the gentleman from Indiana [Mr. BURTON]. My colleagues on the other side do not have guts enough to do that. Frankly, I do not think we should support that kind of process.

Let us vote this rule down, because we were not given any opportunities to amend it; let us vote the rule down, let us continue the regular order. We can either have an extension tonight by unanimous consent, our side is ready to do that, or we can stay here tomorrow and do it.

A lot of Members have plans. I think we can come back here on April 8 or 9 and deal with this properly. I do not think the American people want us to have an $8 million slush fund in the budget. When we take a look at how we operate here and how we ought to operate here, we have never before put slush funds in. We have always come back to the Congress. We come back to the Congress, we say there is a need, we have a debate on the floor of the House, and when we complete that debate, we make a decision.

Not this time. This time we double the funding of the committee of the gentleman from Indiana [Mr. BURTON]; we come here, and on top of that doubling of funding we have the slush fund in the budget. Vote down this slush fund. Let us come back here and have campaign finance reform. Let us come back here, examine the way we work, not with a political motive, but a motive on how to rebuild confidence of the American people in our system.

We have to have real reform that limits spending, that limits the large amounts of money. That is what we have to do. But we are not going to achieve that in this game. This is a political game. I say to my colleagues, you are going to embarrass yourselves in this process.

Let us join together and vote this resolution down. Let us come back with a fair resolution, without a slush fund, with a proper activity legislatively that will give us the basis for coming together and passing campaign finance reform. That is what we ought to be doing. Join with us together, Democrats and Republicans, in rejecting this proposal which has a slush fund in it, and come back here with a bill that will make us proud to be Members of Congress.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time.

CALL OF THE HOUSE

Mr. DREIER. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 66]

ANSWERED "PRESENT"—421

Abercrombie
Ackerman
Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy

Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Schumer
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

□ 1757

The SPEAKER pro tempore [Mr. LaTOURETTE]. On this rollcall, 421 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 91, PROVIDING AMOUNTS FOR THE EXPENSES OF CERTAIN COMMITTEES OF THE HOUSE OF REPRESENTATIVES IN THE ONE HUNDRED FIFTH CONGRESS

Mr. DREIER. Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts [Mr. MOAKLEY] be able to reclaim the 1 minute that he yielded back, and I ask unanimous consent that I be able to yield to him 2 minutes of the 5¾ minutes that I have remaining.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] has 3 minutes remaining, and the gentleman from California [Mr. DREIER] has 3¾ minutes remaining.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. CONDIT].

□ 1800

Mr. CONDIT. Mr. Speaker, I stand today opposed to the rule.

Let me say that all of us in this body today are working frantically to try to do what we can to balance the budget of this country. Both my Republican colleagues and my Democratic colleagues are working very hard to do that. Yet today we stand here considering expending $15 million to do an investigation in the Committee on Government Reform and Oversight, $15 million, when we are trying very hard to balance the budget of this country.

This is confusing to the American people. We are spending $15 million, or requesting $15 million, when in the Senate they are spending $4 million. They are spending $4 million to do a bigger and broader, more encompassing investigation than what we are considering here in the House. That does not make sense to the American people.

I came here in 1989. I do not think there has been 30 days since I have been here that we have not been investigating someone or something. I will tell my colleagues, the American people are sick and tired of that.

I think that we ought to have full disclosure. We ought to have investigations, but it makes no sense when the Senate or the other body has an investigation, asks questions, calls in witnesses, and then 2 weeks later we are doing the very same thing over here. That is a show. That is a show, and we are doing it over here to the tune of twice, three times as much money as the Senate is spending.

What we need to do is to change the process. We need to quit this. If we are going to have investigations, and we should, from time to time, we ought to clean the process up. We ought not to duplicate what the other body does. We ought not to spend money that we do not have to spend.

This is about the process. This is about doing what is right and what is fair. We did not even have a committee hearing about this issue. We did not discuss it a bit. That is not right. We can do better than that. That is not the way to do the House's business. We, at a minimum, should have discussed this in a committee hearing.

I want to tell my colleagues that out of the $15 million we have $8 million in a fund that we do not even know what is done with it. What are the American people going to say about that, when we are talking about reducing the costs of Medicare and Medicaid? This is wrong. This is not right and we ought to reject this rule today.

I say to my colleagues, if we want to do what we said we were going to do a couple of weeks ago, we ought to start today. We ought to start today by rejecting this rule.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume to inform my colleagues that on July 16th of 1787 we established the Connecticut compromise, a bicameral legislature.

Someone who understands that is the very distinguished chairman of the Committee on House Oversight, my friend from Bakersfield, California [Mr. THOMAS].

Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I have to admit I am genuinely confused. It is indeed a rare occasion when I come to the floor and I find out that not only is my friend from Massachusetts saying good things about me in terms of the way I run a committee and the way we split funds, but I read the minority views from my friend from Connecticut, signed by all the members of the committee, about how fair I am and the fact that the distribution of the funds was reasonable. And my colleagues really ought to read it, it is almost embarrassing how flattering they are about the way I run the committee, and then they immediately turn around and talk about this slush fund and they are worried about the slush fund and what is going to happen with it.

I am the same person who is chairman of the committee who is going to control the reserve fund. The reserve fund is just exactly that, reserve.

Now, these folks ought to know what a slush fund is. In the 103d Congress they had $223 million to slush around. And what my colleagues need to know is that out of that $223 million, more than half was spent outside public scrutiny. More than $112 million was spent in the shadows, in closed door rooms.

What we did in the 104th Congress was put it all together, let sunshine in, and what you see is what you get. What we are asking for for this Congress is $45 million less than they spent.

Now, how about a slush fund for $45 million. Where was it? Soaked away in the committees. I just do not understand it, but we cannot have it both ways.

My friend from California, Mr. WAXMAN, he does understand it, his concern is that we said the funds are controlled by the majority. That is true, majority rules. That is called democracy.

He also said when we are in the majority we never went this far. That is a quote, and he is right. He is right. They never did go that far. He said, "We only have 25 percent of the resources." My friends, the 103d Congress, the minority, us at the time, had 14 percent of the resources in the Committee on Commerce. We had 15 percent of the resources in the Committee on House Oversight. We had 11 percent of the resources in the Committee on the Judiciary.

I tell my friend from California, he is right, they never went as far as we have.

My friend from Texas, Mr. DOGGETT, says we should not just point fingers, we ought to offer solutions. And then what he says is he wants more money to the Committee on Government Reform and Oversight for the gentleman from California, Mr. WAXMAN, because

Mr. WAXMAN has a letter from the Parliamentarian that says all they can do is investigate.

What is investigating? It is exposing. They cannot offer solutions. They cannot have it both ways. The committee that has the jurisdiction to pass the laws is the Committee on House Oversight. We have what we believe is appropriate. We will do the job.

Then I listened to a number of my friends in terms of how much money we are spending. My good friend from California, Mr. CONDIT, talks about how much money this is. In the 103d Congress they had $223 million. We have passed welfare, we have passed reforming, we have ended patronage, and we have audits with a whole lot less money.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in opposition to the rule on House Resolution 91. In allocating a tremendous amount of money for an investigation of alleged fundraising abuses whose scope is restricted to the administration and the DNC, House Resolution 91 is overtly partisan and inequitable. It is amazing to me then, that the only amendment allowed under the rule, is the Thomas amendment. The rule allows the Thomas amendment, but denies important amendments which would have ensured that the investigation into alleged fundraising abuses, are conducted in as fair and nonpartisan manner as possible. These amendments would have moved House Resolution 91 closer to the broader, more bipartisan Senate bill. Now this rule allows the spending of up to $15 million wasteful dollars on a witch hunt.

The Thomas amendment is meaningless. Its purpose is to provide Members who are squeamish about voting for the very large funding increase provided by House Resolution 91, a cover. In so doing, it will facilitate passage of House Resolution 91. What proponents of the Thomas amendment would have us ignore, however, is the fact that this amendment is utterly unenforceable. It is simply a promise, a nonbinding promise. We have far more important actions that can be taken. This Congress can pass real campaign finance reform. I am for that but not a misguided attempt at partisan politics at its worst.

I urge my colleagues to oppose the rule, to oppose House Resolution 91, and to oppose the Thomas amendment. And real debate on campaign finance reform lets Republicans and Democrats work to clean our own house without this enormous expenditure for the Republican House Oversight Committee to play politics.

Mr. LANTOS. Mr. Speaker, a few years ago, as the chairman of the Subcommittee on Employment and Housing of the Government Operations Committee, I conducted an investigation of fraud, waste, abuse, and mismanagement of billions of Federal dollars at the Department of Housing and Urban Development during the Reagan administration. That investigation required almost 2 years to complete and involved the holding of some 30 public hearings.

That investigation was carried out with the regular subcommittee staff, which was augmented for a portion of that time by two investigators from the General Accounting Office. I received no additional funding for my investigation. We conducted a serious and thorough investigation with no allocation of additional funds.

Today, we are considering a Committee Funding Resolution that will provide some $12 to $15 million for the investigation Chairman BURTON proposes to conduct in the Government Reform and Oversight Committee. This resolution includes a slush fund of an additional $8 million for this same investigation. The Government reform investigation is being allocated two to three times the amount which the Senate committee under Senator THOMPSON has received. Not only is Chairman BURTON's investigation duplicating only a portion of that same Senate investigation, he is doing so at three times the cost.

Mr. Speaker, the committee funding resolution is a serious waste of taxpayer dollars. Many of my colleagues on the other side of the aisle have given us lengthy speeches about the necessity to reduce government waste and reduce the deficit. Here we have an opportunity to avoid waste, duplication, and encourage efficiency—but my colleagues on the other side of the aisle are simply voting to spend taxpayer moneys wastefully and unnecessarily.

The second concern that I would like to raise in connection with this legislation, Mr. Speaker, is the partisan nature of the Government Reform and Oversight Committee investigation that is being endorsed by supporting the committee funding resolution.

Mr. Speaker, an investigation that is bipartisan has credibility with the American people. An investigation that is partisan will be dismissed—as it should be—by the American people.

Again referring to the HUD investigation that I conducted earlier, our actions were totally bipartisan. Subpoenas were issued on the basis of the vote of the subcommittee—not by the unilateral action of the chairman—and every vote to issue a subpoena was unanimous. The direction and the details of that investigation were worked out with the active involvement and cooperation of my distinguished Republican colleague, CHRIS SHAYS of Connecticut. That investigation was taken seriously because it was bipartisan, that investigation had credibility with the American people because it was bipartisan.

This resolution today provides excessive funding for an investigation that is partisan and wasteful and outrageous. Mr. Speaker, a vote for this resolution will come back to haunt those of my colleagues who mistakenly vote for it.

Mr. DREIER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 210, nays 213, not voting 10, as follows:

[Roll No. 67]

YEAS—210

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chambliss
Chenoweth
Christensen
Coble
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gilman
Gingrich
Goodlatte
Goodling
Goss
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Saxton
Schaefer, Dan
Schaffer, Bob
Schiff
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Snowbarger
Solomon
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—213

Abercrombie
Ackerman
Allen
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Chabot
Clay
Clayton
Clement
Clyburn
Coburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell

Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Graham
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hoekstra
Holden
Hooley
Hoyer
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Largent
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Scarborough
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Souder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—10

Andrews
Flake
Gillmor
Kaptur
Kasich
Kennedy (MA)
Oxley
Sensenbrenner
Smith (TX)
Smith, Linda

□ 1822

So the resolution was not agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. ARMEY asked and was given permission to address the House for 1 minute.)

Mr. ARMEY. Mr. Speaker, as the body knows, the committee funding expires on March 31 during a period of time in which Congress is in recess. That being the case, it is necessary that we resolve this issue of committee funding before we leave.

Mr. Speaker, what I would like to suggest that the House do is every Member, of course, understanding that we are weighing the importance of completing this work against the natural, in many cases urgent, desire of Members to catch trains and airplanes, that we might ask that the House recess for 15 minutes during which time I can inquire to the minority as to the possibility of working out a unanimous-consent request that would allow us to complete our evening's work tonight, and if so, we would be able to come back in 15 minutes, make an announcement, and proceed, or if necessary we would have to make an announcement about a session tomorrow.

RECESS

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 6 o'clock and 28 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2345

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MCINNIS) at 11 o'clock and 45 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 91, RESOLUTION PROVIDING AMOUNTS FOR THE EXPENSES OF CERTAIN COMMITTEES OF THE HOUSE OF REPRESENTATIVES IN THE 105TH CONGRESS

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105-41) on the resolution (H. Res. 105) providing for consideration of the resolution (H. Res. 91) providing amounts for the expenses of certain committees of the House of Representatives in the One Hundred Fifth Congress, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DREIER) to revise and extend their remarks and include extraneous material:)

Ms. WATERS, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

(The following Members (at the request of Mr. DREIER) to revise and extend their remarks and include extraneous material:)

Mr. HANSEN, for 5 minutes, today.

Mr. WAMP, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, today.

Mr. GINGRICH, for 5 minutes, today.

Mr. CANNON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DREIER) to revise and extend their remarks and include extraneous material:)

Mr. STARK.
Mr. EDWARDS.
Ms. NORTON.
Ms. FURSE.
Mr. ALLEN.
Mr. BLAGOJEVICH.
Mr. MCNULTY.
Mr. FRANK of Massachusetts.
Mr. TORRES.
Ms. KAPTUR.
Ms. HARMAN.
Mr. ACKERMAN.
Mr. KLECZKA.
Mr. BLUMENAUER.
Mr. BORSKI.
Mrs. MALONEY of New York.
Mr. FALEOMAVAEGA.
Mr. MENENDEZ.
Mr. LANTOS.
Mr. CLEMENT.
Mr. BARCIA.
Mr. MORAN of Virginia.
Mrs. MEEK of Florida.
Ms. MCCARTHY of Missouri.
Mr. BENTSEN.
Mr. STOKES.
Mr. OBERSTAR.
Ms. DELAURO.
Mr. HOYER.
Mr. KILDEE.
Mr. BROWN of California.
Mr. WAXMAN.
Mr. PICKETT.
Mr. MCDERMOTT.
Mr. SKELTON.
Mr. FAZIO of California.
Mr. FILNER.
Mrs. MINK of Hawaii.
Mr. BAESLER.
Mr. BERMAN.
Mr. HINCHEY.
Mr. SHERMAN.
Mr. POMEROY.
Mr. ABERCROMBIE.

(The following Members (at the request of Mr. DREIER) to revise and extend their remarks and include extraneous material:)

Mr. CANADY of Florida.
Mr. COMBEST.
Mrs. KELLY.
Mr. HEFLEY.
Mr. THOMAS in three instances.
Mr. CAMPBELL.
Mr. PETRI.
Mr. LARGENT.
Mr. LEWIS of California in two instances.

Mr. HYDE.

Mr. WELDON of Pennsylvania in two instances.

Mr. FORBES.

Mr. DOOLITTLE.

Mr. OXLEY.

Ms. GRANGER.

Mr. WOLF.

Mr. PORTMAN.

Mr. SHAW.

Mr. MCCOLLUM.

Mr. CUNNINGHAM.

Mrs. MORELLA.

Mrs. JOHNSON of Connecticut.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 410. An act to extend the effective date of the Investment Advisers Supervision Coordination Act.

ADJOURNMENT

Mr. DREIER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 49 minutes p.m.), the House adjourned until tomorrow, Friday, March 21, 1997, at 10 a.m.

CONTRACTUAL ACTIONS, CALENDAR YEAR 1996 TO FACILITATE NATIONAL DEFENSE

The Clerk of the House of Representatives submits the following report for printing in the CONGRESSIONAL RECORD pursuant to section 4(b) of Public Law 85–804:

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, DC, March 11, 1997.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: In compliance with Section 4(a) of Public Law 85–804, enclosed is the calendar year 1996 report entitled Extraordinary Contractual Actions to Facilitate the National Defense.

Section A, Department of Defense Summary, indicates that 45 contractual actions were approved and that three were disapproved. Those approved include actions for which the Government's liability is contingent and cannot be estimated.

Section B, Department Summary, presents those actions which were submitted by affected Military Departments/Agencies with an estimated or potential cost of $50,000 or more. A list of contingent liability claims is also included where applicable. The Ballistic Missile Defense Organization, National Imagery and Mapping Agency, and the Defense Special Weapons Agency reported no actions, while the Departments of the Army, Navy, and Air Force, the Defense Logistics Agency, and the Defense Information Systems Agency, provided data regarding actions that were either approved or denied.

Sincerely,

D.O. COOKE,
Director.

Enclosure: As stated.

DEPARTMENT OF DEFENSE

EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE (Public Law 85–804) Calendar Year 1996

FOREWORD

On October 7, 1992, the Deputy Secretary of Defense (/DepSecDef) determined that the national defense will be facilitated by the elimination of the requirement in existing Department of Defense (DoD) contracts for the reporting and recoupment of nonrecurring costs in connection with the sales of military equipment. In accordance with that decision and pursuant to the authority of Public Law 85–804, the DepSecDef directed that DoD contracts heretofore entered into be amended or modified to remove these requirements with respect to sales on or after October 7, 1992, except as expressly required by statute.

In accordance with the DepSecDef's decision, on October 9, 1992, the Under Secretary of Defense for Acquisition and Technology directed the Assistant Secretaries of the Army, Navy, and Air Force, and the Directors of the Defense Agencies, to modify or amend contracts that contain a clause that requires the reporting or recoupment of nonrecurring costs in connection with sales of defense articles or technology, through the addition of the following clause:

The requirement of a clause in this contract for the contractor to report and to pay a nonrecurring cost recoupment charge in connection with a sale of defense articles or technology is deleted with respect to sales or binding agreements to sell that are executed on or after October 7, 1992, except for those sales for which an Act of Congress (see section 21(e) of the Arms Export Control Act) requires the recoupment of nonrecurring costs.

This report reflects no costs with respect to the reporting or recoupment of nonrecurring costs in connection with sales of defense articles or technology, as none have been identified for calendar year 1996.

EXTRAORDINARY CONTRACTUAL ACTIONS TAKEN PURSUANT TO PUBLIC LAW 85–804 TO FACILITATE THE NATIONAL DEFENSE, CALENDAR YEAR 1996

SECTION A—DEPARTMENT OF DEFENSE SUMMARY

SUMMARY REPORT OF CONTRACTUAL ACTIONS TAKEN PURSUANT TO PUBLIC LAW 85–804 TO FACILITATE THE NATIONAL DEFENSE—JANUARY–DECEMBER 1996

Department and type of action	Actions approved			Actions denied	
	Number	Amount requested	Amount approved	Number	Amount
1. Department of Defense, total	45	37,149,785.00	37,149,785.00	3	15,928,654.00
a. Amendments without consideration	2	37,149,785.00	37,149,785.00	2	15,918,654.00
b. Formalization of informal commitment	0	0.00	0.00	1	10,000.00
c. Contingent liabilities	43	0.00	0.00	0	0.00
2. Army, total	4	37,149,785.00	37,149,785.00	2	15,918,654.00
a. Amendments without consideration	2	37,149,785.00	37,149,785.00	2	15,918,654.00
b. Contingent liabilities	[1] 2	0.00	0.00	0	0.00
3. Navy, total	38	0.00	0.00	0	0.00
Contingent liabilities	38	0.00	0.00	0	0.00
4. Air Force, total	2	0.00	0.00	0	0.00
Contingent liabilities	[2] 2	0.00	0.00	0	0.00
5. Defense Logistics Agency, total	1	0.00	0.00	0	0.00
Contingent liabilities	1	0.00	0.00	0	0.00
6. Ballistic Missile Defense Organization, total	0	0.00	0.00	0	0.00
7. Defense Information Systems Agency, total	0	0.00	0.00	1	10,000.00
Formalization of informal commitment	0	0.00	0.00	1	10,000.00
8. National Imagery and Mapping Agency, total	0	0.00	0.00	0	0.00
9. Defense Special Weapons Agency, total	0	0.00	0.00	0	0.00

[1] Indemnification Clause was added to the contracts; estimated or potential cost cannot be determined at this time.

[2] One of the indemnifications is for fiscal year 1997 annual airlift contracts and is included in this report. The Air Force has deemed the second indemnification to be "classified," not subject to this report's purview.

SECTION B—DEPARTMENT SUMMARY

DEPARTMENT OF THE ARMY

Contractor: Nuclear Metals, Inc.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $4,549,785.

Service and activity: U.S. Army Tank-Automotive and Armaments Command, Armament Research, Development, and Engineering Center; and U.S. Army Materiel Command.

Description of product or service: Low-level radioactive metal processing.

Background: Nuclear Metals, Inc., 2229 Main Street, Concord, Massachusetts (NMI or company), requested extraordinary relief under Public Law 85-804, as implemented in Part 50 of the Federal Acquisition Regulation (FAR). NMI's request was processed through the U.S. Army Tank-Automotive and Armaments Command, Armament Research, Development, and Engineering Center, Picatinny Arsenal, New Jersey, (Picatinny), and through the U.S. Army Materiel Command, Alexandria, Virginia (AMC), with both headquarters recommending that the Army Contract Adjustment Board (ACAB or Board) grant the requested relief.

After reviewing NMI's written request for extraordinary relief, additional matters submitted subsequent to NMI's initial application, and the recommendations of both Picatinny and AMC, the Board determined that extraordinary contractual relief was warranted under the unique circumstances of this request.

Statement of Facts

In 1958 NMI moved its low-level radioactive metal processing operations to Concord, Massachusetts, from the campus of the Massachusetts Institute of Technology, where NMI and predecessor entities had engaged for many years in a variety of nuclear research programs, to include work on the Manhattan Project. NMI established a licensed and permitted holding basin on its Concord site as a place where it could neutralize with lime the spent acid used in some of NMI's metal processing operations. This neutralization process precipitated uranium and copper into the holding basin in the form of hydrated oxides and hydroxides. Relatively small quantities of these deposits slowly accumulated in the basin until 1974.

NMI, a small business, began producing significant quantities of depleted uranium (DU) penetrators to support defense ammunition programs in 1974. With this increased production, which supported Army, Navy, Air Force, and Marine Corps requirements, the volume of uranium precipitates in the holding basin also began to grow rapidly. Although NMI's holding basin remained in compliance with applicable laws, the large volume of precipitates accumulating in the basin, the adoption of increasingly restrictive environmental laws at both the federal and state levels, and advancements in uranium recovery technologies prompted NMI in 1985 to adopt a closed-loop DU recovery process, eliminating further need for the holding basin. In 1986 NMI covered the holding basin with an impervious material to prevent water infiltration and the escape of airborne particles.

By the mid-1980s, both NMI and the Army had become concerned about the need to clean up the holding basin to meet tightening federal and Massachusetts environmental standards. The Army paid for complete and proper disposal of new wastes produced under its ongoing contracts during the 1980s and into the 1990s, but NMI and the Army could not agree on how the cleanup of old waste produced under completed contracts should be handled because most of these contracts were already closed out.[1] By 1993, only one contract under which waste in the basin had been produced remained open. However, the work under that cost-type contract, DAAK10-81-C-0323, had produced only about 2.7% of all holding basin deposits.[2] Consequently, because most of the waste in the basin was not produced under that single open contract, the cost of cleaning up the entire basin could not be allocated to contract DAAK10-81-C-0323.

During the early 1990's, the uncertain liability that the holding basin represented to NMI became a point of contention between NMI and the Nuclear Regulatory Commission (NRC). The NRC licenses NMI to handle the low-level radioactive materials used in NMI's industrial operations at its Concord site. One of the prerequisites for the issuance or renewal of an NRC license is the furnishing of financial assurances that the licensee will be able to bear the decontamination and decommissioning costs associated with eventual closure of its facilities. Specifically, 10 CFR, §40.36, requires a licensee to submit a decommissioning funding plan,[3] together with a cost estimate for the decommissioning effort and a description of the method the licensee will use to ensure that funds are available in an amount equal to that estimated cost.[4]

Additionally, an NRC licensee must provide the required financial assurances through a means acceptable to the NRC, such as through prepayment, a surety, insurance, or an external sinking fund coupled with a surety or insurance.[5] As environmental standards became more strict in the 1980s and early 1990s, the NRC began demanding more substantial financial assurances from NMI than it previously had required. NMI sought to meet these demands through commitments from various Army organizations that the Army would pay some or all of NMI's decontamination costs, but the Army refused to enter into such an open-ended commitment at a privately-owned site.

Concurrently, NMI's sales declined dramatically in the early 1990s due to decreased defense ammunition requirements and fewer Army contracts and subcontracts for DU penetrators. This decline in sales cut NMI's revenues by more than half in the early 1990s, leaving NMI with operating losses exceeding $10 million per year in both 1993 and 1994. NMI's weakened financial condition forced it to request a partial exemption from the NRC's financial assurance requirement in 1995.

As its DU sales declined dramatically in the early 1990s, NMI sought to diversify its product line of specialty metals. One of the new products that NMI introduced was Beralcast™, a patented beryllium-aluminum product that is both lighter and stronger than aluminum, and capable of being cast into complex shapes. One important new customer of this NMI product was the Lockheed Martin Electronics and Missiles Company (Lockheed Martin), which currently uses NMI Beralcast™ for 52 components in the electro-optics system that Lockheed Martin is developing for the Comanche helicopter program. According to the Army's Comanche Program Manager (PM Comanche), Beralcast™ was the only known material capable of meeting critical Comanche weight requirements without the Comanche program incurring additional costs in the range of $300 million, and schedule delays of eighteen to twenty-four months. These additional costs and schedule delays would be needed for PM Comanche to accomplish the redesign of key components and/or research and develop alternate materials.

After a number of meetings and exchanges of correspondence between NMI, the Army, and the NRC in the early and mid-1990's, NMI received an official response to its request for a partial exemption from the NRC's financial assurance requirement on July 16, 1996. The NRC denied NMI's request, and directed NMI to provide the financial assurances mandated by 10 CFR §40.36, not later than September 16, 1996. After that date, NMI faced the potential shutdown of its Concord facility.

Application for relief

NMI initially submitted its request for relief on September 22, 1995, and later certified its request on March 15, 1996. NMI requested $4,549,785 to pay the costs of removing low-level radioactive wastes from its holding basin and of restoring the site. NMI also requested the Army to furnish government-provided transportation and disposal of the extracted waste (estimated to cost $2.1 million), for an estimated total cost to the Army of $6.65 million.[6] NMI based its request on NMI's essentiality to the national defense as a producer of DU products and beryllium-aluminum castings;[7] and, the interest of fairness[8] because NMI did not include disposal costs for the waste in the holding basin in its prices under past Army contracts, which benefited the Army through lower prices.

In conjunction with reviewing NMI's application for relief, Picatinny asked the Defense Contract Audit Agency (DCAA) to audit NMI's Public Law 85-804 request. Among its other findings, DCAA concluded that a denial of NMI's application for extraordinary relief would result in a high probability of NMI's financial insolvency. Based on this conclusion and the recommendation of PM Comanche, both Picatinny and AMC recommended that the ACAB grant NMI the requested relief.

Discussion

NMI requested Public Law 85-804 relief under the provisions of FAR 50.302-1.

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[1] The Army suggested that NMI bill basin cleanup costs against an appropriate overhead pool or corporate general and administrative accounts, but NMI declined to do so to avoid making its prices less competitive for ongoing work.

[2] Of the total amount of waste in the holding basin, NMI estimates that 96% is attributable to work done under defense contracts. The remaining 4% is attributable to commercial work and independent NMI research efforts.

[3] 10 CFR, §40.36(a).

[4] 10 CFR, §40.36(d).

[5] 10 CFR, §50.36(e). NRC regulations also permit a federal, state, or municipal government licensee to meet the NRC's financial assurances requirement through a statement of intent to obtain funds for decontamination and decommissioning when necessary. 10 CFR, §40.36(e)(4). Although this provision is not strictly applicable to NMI's privately-owned site, the NRC has allowed private licensees in past cases to meet the financial assurance requirement through government commitments to clean up private sites when they are decommissioned. Because the responsibility for cleanup at NMI's site lies principally with NMI, however, and because the total cleanup liability at NMI's Concord site is uncertain, the Army has not provided NMI such an open-ended commitment.

[6] Transportation and disposal of the waste by the Army was anticipated to be considerably less expensive than the cost to NMI of procuring these services at commercial rates and passing these costs on to the Army.

[7] FAR 50.302-1(a).

[8] FAr 50.302-1(b).

"Amendments Without Consideration." Paragraph (a) provides that:

> "When an actual or threatened loss under a defense contract, however caused, will impair the productive ability of a contractor whose continued performance on any defense contract or whose continued operation as a source of supply is found to be essential to the national defense, the contract may be amended without consideration, but only to the extent necessary to avoid such impairment to the contractor's productive ability."

The circumstances of NMI's request for relief did not meet precisely the situation contemplated in the provision at FAR 50.302–1(a), because NMI was not asking for relief based on an actual or threatened loss under a particular defense contract. Instead, NMI faced an environmental liability related to its research, development, and production efforts under many different defense contracts, nearly all of which were completed and closed out. Although the rights and obligations of the parties under those contracts no longer existed (except under a single contract relevant to only a small portion of the deposits in the holding basin), and NMI was not at risk of a loss under a single contract as described in FAR 50.302-1(a), NMI Nevertheless faced significant financial liability that threatened its ability to perform future defense contracts. It is the future viability of an essential defense contractor that FAR 50.302–1(a) seeks to protect, not merely the prevention of a loss to an essential contractor under a single contract.

The description in FAR 50.320–1(a) of when relief to a contractor deemed essential to the national defense may be appropriate is more narrowly drafted than required by Public Law 85–804. FAR 50.301 more broadly describes the circumstances under which an agency may grant relief to a contractor when it is essential to the national defense. FAR 50.301 states:

> "Whether appropriate action will facilitate the national defense is a judgment to be made on the basis of all of the facts of the case. Although it is impossible to predict or enumerate all the types of cases in which action may be appropriate, examples are included in 50.302 below. Even if all of the factors in any of examples are present, other considerations may warrant denying a contractor's request for contract adjustment. The examples are not intended to exclude other cases in which the approving authority determines that the circumstances warrant action."

Thus, the fact that NMI's holding basin liability did not represent a possible loss under an existing contract did not preclude the ACAB from granting relief to preserve NMI's continued viability as an essential Army contractor.

After reviewing the facts and circumstances surrounding NMI's request for extraordinary relief, the Board was satisfied that NMI was a contractor essential to the national defense. The Comanche helicopter is critically important to the Army in facing its future missions. PM Comanche unequivocally stated that NMI's Beralcast™ products are vitally important to the Comanche program, and PM Comanche adequately described the significant and adverse cost and schedule consequences that the program would suffer if NMI were no longer available as a supplier. With no other material or supplier reasonably available to the Army to substitute for NMI's Beralcast™ in its Comanche applications, NMI was clearly a contractor essential to the Army in performing its national defense missions.[9]

The Board was also satisfied that granting the relief sought in NMI's Public Law 85–804 request was essential to preserving NMI as a viable defense contractor. As a small business that had borne significant losses in each of the last three years.[10] NMI lacked the financial capability to undertake the cleanup of its holding basin while still meeting its other financial and environmental obligations.[11] Without the relief requested, a chain of events may have been initiated that likely would have resulted in a loss or suspension of NMI's NRC license, a loss of its lines of credit from its leaders, and, ultimately, insolvency and/or bankruptcy for the company. Because DCAA concluded in its audit report that failure to grant NMI's request for relief would result in a high probability that NMI would become insolvent, there by threatening NMI's continued availability as a supplier of essential defense products, the Board concluded that granting relief up to the amount NMI requested was appropriate under the circumstances of this application.

NMI also requested extraordinary contractual relief in the interest of fairness, based on its course of dealings with the Army over many years. NMI contented that the prices it charged the Army from 1958 to 1985 did not reflect the full cost of NMI's performance, because basis cleanup costs were not included in those prices, even through basin cleanup costs could properly have been billed against Army contracts during this period. NMI thus alleged that the Army benefited by this undercharging, and that the Army should, accordingly, now pay for the basin cleanup. NMI did not explain, however, how the Army induced NMI not to include basin cleanup costs in its prices.[12] Instead, the Army actually encouraged NMI to begin cleaning up the basin and to charge cleanup costs as overhead against ongoing work. NMI also contended that various contract clauses had committed the Army to pay cleanup costs at its site, and that Army representatives had expressed some degree of responsibility for basin cleanup costs in the past. The Board was not convinced, however, that any contract ever committed the Army to pay more than the allocable share of site cleanup costs under any particular contract, and the Board could not reconcile NMI's agreement to close out past contracts with its current assertion that the Army retained cleanup responsibility for work done under those contracts. Nevertheless, given the Board's determination that NMI was a contractor essential to the national defense, the Board did not need to resolve whether NMI was also entitled to relief in the interest of fairness. The Board considered this issue moot given its disposition of NMI's application for extraordinary relief.

The Board was cognizant during its consideration of NMI's application for relief under Public Law 85–804 that NMI faced a September 16, 1996, deadline with the NRC for the submission of satisfactory financial assurances. But for this regulatory dilemma that NMI faced with the NRC, in addition to NMI's weakened financial condition after three consecutive years of losses, the Board would have been inclined to allow resolution of the environmental problems at NMI's site through more traditional mechanisms. For instance, NMI could have billed cleanup costs against overhead or general and administrative accounts, or pursued contract or environmental litigation to definitively resolve the relative legal responsibilities of the parties under the terms of past contracts and applicable environmental laws. However, the Board found that these means of resolving the current dilemma were inadequate[13] to ensure that NMI remained a reliable supplier of essential defense products. Therefore, it was appropriate for the Board to act on NMI's request without the delay associated with the normal pursuit of traditional relief mechanisms.

Decision

By unanimous decision of the Board, an amendment without consideration was authorized under FAR 50.301 and FAR 50.302–1. The Board concluded that NMI's continued performance under its existing defense contracts, and NMI's continued availability as a source of critical supplies, was essential to the national defense within the intent of FAR 50.302–1. This relief was subject to the following conditions:

a. Picatinny was authorized and directed to enter into negotiations for a supplemental agreement with NMI, under an appropriate existing contract, agreeing that the Army would pay an amount not to exceed $4,549,785, on a fixed-price, no-profit basis, for NMI to clean up the holding basin at its Concord facility. This amount was subject to downward negotiation only, with negotiations addressing, in addition to the matters below, the questioned costs identified in DCAA's audit report and other relevant pricing matters. Picatinny may only conclude this agreement after proper funding is obtained in accordance with paragraph b. below. In performing this effort, if NMI's costs for cleaning up the holding basin exceed the negotiated price of this supplemental agreement, NMI will treat the excess costs in accordance with paragraph d. below.

b. The funds committed to support this supplemental agreement will be appropriate defense ammunition funds. No funds will be obligated under this supplemental agreement until they are properly identified and certified as available. Picatinny will coordinate with higher headquarters to identify appropriate funds for this effort as expeditiously as possible.

c. The supplemental agreement also would obligate the Army to provide transportation and disposal of the waste removed from NMI's holding basin. The volume of waste that the Army was obligated to remove will be identified in the supplemental agreement, and the Army will have no further removal or disposal obligation after this volume is removed. Picatinny will coordinate with the Radioactive Waste Disposal Office at Rock Island to obtain the support needed to meet this commitment. Certified funds of the same type identified in paragraph b. above also would support this transportation and disposal effort.

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[9] NMI also claimed in its application for extraordinary contractual relief that it produces other products that also makes it essential to the national defense. These products include tank armor, tank ammunition, other ammunition employing DU penetrators, and Beralcast™ Patriot missile components. The ACAB did not reach the question of whether NMI is a contractor essential to the national defense in its production of these other items because NMI's status as an essential supplier to PM Comanche made resolution of the question of its essentiality to these other programs unnecessary.

[10] NMI reported operating losses in its corporate annual report of $10.5 million in 1993, nearly $11 million in 1994, and nearly $2 million in 1995.

[11] In addition to the holding basin, NMI must also assess its responsibility for other contamination at its Concord site and begin cleanup operations or reserve funds to clean up these ares at some future time, as required by law. These obligations, which NMI will recognize as operating expenses as they are incurred, presented NMI with significant financial challenges, even with the assistance NMI sought under Public Law 85–804.

[12] FAR 50.302-1(b) requires some government action to be associated with a contractor's loss for that loss to be the basis for extraordinary relief.

[13] The Board's ability to grant relief is limited by FAR 50.203(b)(2), which states that no Public Law 85–804 relief is available "[u]nless other legal authority within the agency concerned is deemed to be lacking or inadequate[.]"

d. As a condition of this supplemental agreement, NMI agreed to complete necessary environmental assessments at its site within a reasonable period, and to submit a site remediation plan approved by the NRC (or other governmental entity performing the NRC's current oversight role) to the contracting officer by a date to be designated in the supplemental agreement.

(1) Cleanup of areas not supporting current production at NMI's Concord site, in addition to the holding basin work addressed in paragraphs a., b., and c. above, and pursuant to the plan identified above, will proceed at a reasonable pace to ensure compliance with applicable environmental standards. These additional site assessment, planning, and cleanup costs will be billed by NMI against appropriate overhead and/or general and administrative pools as normal operating expenses, and not against the contract line item(s) established by this supplemental agreement for holding basin cleanup. Excess holding basin cleanup costs, if any, which exceed the amount negotiated pursuant to paragraph a. above, also will be charged in a manner consistent with the costs discussed in this paragraph against appropriate NMI overhead and/or general and administrative cost pools.

(2) In addition, normal waste processing and cleanup efforts associated with future work at NMI's Concord site to be performed under current and future contracts will be billed as appropriate against those contracts; such efforts are not affected by this supplemental agreement.

(3) NMI will provide for the long-term decontamination and decommissioning of facilities and equipment supporting current production in accordance with 10 CFR §40.36.

e. As a further condition of this supplemental agreement, NMI will execute a release in conjunction with this supplemental agreement waiving and holding the Army harmless from any contract or environmental claims related to existing contamination and waste at NMI's Concord site. This release may except from its coverage the Army's responsibility for eventual decontamin5855ation and disposal of government-furnished equipment that NMI maintains under its facilities contract with the U.S. Army Industrial Operations Command, Rock Island, Illinois. This release will not prohibit NMI's normal billing for its ongoing incurrence of assessment, cleanup, and decontamination costs in accordance with paragraph d.(2) above.

In addition to ensuring that the above conditions are met, Picatinny was authorized to incorporate into the implementing supplemental agreement with NMI such additional terms and conditions as Picatinny believed were reasonably necessary to protect the Army's interests.

This action authorized by this decision will facilitate the national defense consistent with the intent of Public Law 85–804.

Contractor: Uniroyal Chemical Company, Inc.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $32,600,000.

Service and activity: U.S. Army Armament, Munitions & Chemical Command.

Description of product or service: Post-retirement benefits.

Background: Uniroyal Chemical Company, Inc., sought an adjustment to its Contract No. DAAA0990–Z–0003 to provide funding for post-retirement benefits (PRBs) earned by Uniroyal employees who performed work at the Government-owned contractor-operated (GOCO) Joliet Army Ammunition Plant (JAAP), Illinois, under that cost reimbursement contract and its predecessor contracts. For the reasons set forth in this opinion, the Army Contract Adjustment Board granted Uniroyal's request in an amount not to exceed $32.6 million, subject to certain conditions expressed below.

Statement of facts

Uniroyal began serving as the operating contractor for the Army Armament, Munitions and chemical Command (AMCCOM) GOCO ammunition plant at Joliet, Illinois, during World War II and served in that capacity until December 1993 when plant operations were terminated as a part of post-Cold War Defense Department "downsizing." During those decades, Uniroyal workers at the plant manufactured explosives, chemicals, bombs, shells and other munitions needed by the Army and the other military services.

As part of the compensation package provided to attract and retain personnel for the potentially dangerous work at the ammunition plant, Uniroyal offered its JAAP workers medical and death benefit insurance coverage in addition to pension plans. By 1951 this compensation package included death benefits for qualified retirees, and by 1954 it included post-retirement medical benefits. These benefits were, and continue to be, comparable to those offered Uniroyal employees in similar commercial work. Under the terms of the Army's cost reimbursement contract with Uniroyal, Uniroyal was required to obtain approval by the Army of such benefit plans, and it did so.

Unlike pension plans, which the Employee Retirement Income and Security Act (ERISA) requires to be fully funded to cover the actuarially predicted liabilities of the company, the PRBs at issue were not required to be so funded, and for decades were not even required for accounting purposes to be recognized as a corporate liability. Rather, as was the normal practice in industry, that is, in accordance with generally accepted accounting principles, Uniroyal's PRB program was administered on a "Pay-As You-Go" (PAYG) basis. Rather than accruing this liability during the employees' working years and obtaining reimbursement from the Army on that basis, Uniroyal's use of the PAYG methodology, with the Army's approval, meant that in each year only the payments of retirees' medical and death benefit costs experienced that year were reimbursed by the Army. No funds were set aside in advance to "pre-fund" a reserve account to cover this liability.

By postponement of the Government's obligation to pay for such PRBs until costs were actually incurred, the Government benefited from Uniroyal's methodology. During the Vietnam conflict years in particular, when the build-up of the workforce would have required setting aside tens of millions of dollars into a reserve for PRBs if pre-funding were the norm, Uniroyal's use of the standard PAYG practice freed up those million of dollars for other essential defense purposes.

In 1977, as JAAP operations were reduced dramatically following the end of the Vietnam conflict, Uniroyal contemplated the possibility that its JAAP contract would terminate and not be renewed as it had been since 1951. The possibility of a contract termination presented a substantial financial liability issue to Uniroyal because at that time the pension benefit obligation was not fully funded and, because PRBs were handled on a PAYG basis, no funds had been set aside in a reserve for PRBs. Uniroyal's Director of Pension and Benefits asked the Uniroyal JAAP Plant Manager to confirm that the Army would provide funding to reimburse all accumulated pension and PRB costs attributable to its JAAP service in the event the contract were to terminate. The Plant Manager reported that Government personnel monitoring the contract had concurred with his understanding that, upon termination, determination of the amounts due and payable by the Government to Uniroyal would include projected costs to cover life and hospitalization insurance for Uniroyal's JAAP retirees.[14] Based upon this report, Uniroyal did not disclose in its financial statements as an unfunded liability of the corporation any cost attributable to the PRB obligations accumulated at JAAP, and Uniroyal continued its service at JAAP under the same PRB accounting and payment practices.

Although compliance with ERISA eventually led to accrual and funding of pension benefits, the PRB obligation for retiree health insurance and death benefits continued to be funded on a PAYG basis. Uniroyal continued performance at JAAP under several successor contracts. The current and preceding contracts contained a "carryover" clause (Section A–2(3)) which provided that obligations and liabilities not finalized under earlier contracts would be treated as if incurred under the successor contract. For Government cost accounting purposes, Uniroyal treated its PRB obligations (that is, the PAYG expenditures) as insurance expenditures under Cost Accounting Standard (CAS) 416 rather than as a pension expenditure under CAS 412. There was no evidence that this accounting treatment of PRBs was not the norm or that it was ever questioned by Government contracting officials.

Over the years, the Government continued to reimburse Uniroyal for its PRB expenditures on a PAYG basis, and when Uniroyal's GOCO operation for the Army at Newport Army Ammunition Plant terminated in 1985, the Army agreed to subsume the extant PRB obligation for Uniroyal's Newport retirees under the JAAP contract and to continue to pay those costs on a PAYG basis under this contract. The Defense Contract Audit Agency (DCAA) subsequently expressed the opinion that the Government's liability for those costs had terminated when the Newport contract ceased. The Army then decided to hold funding of the Newport retirees' PRB costs in abeyance. Uniroyal filed a certified claim for the Newport PRBs, and the contracting officer eventually (after the current contract had been executed in 1992) settled that claim for approximately $5.7 million, evidently without the concurrence of DCAA.

Accounting for PRBs on a PAYG basis continued to be the industry norm through the late 1980's, when rising health care costs

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[11] See Uniroyal's Exhibit 10. Although the Government officials who reportedly concurred in Uniroyal's understanding at that time were not identified, the Army, in responding to the Petition for Relief under PUBLIC LAW 85–804, has not rebutted or denied that such assurances were provided to Uniroyal.

caused accountants increasing concern that companies' burgeoning PRB commitments to their employees were not being reflected as liabilities in their financial statements. In response to those concerns, in late 1990 the Financial Accounting Standards Board (a private organization whose rules establish generally accepted accounting principles followed by businesses to account for revenues, expenses, assets, and liabilities) promulgated Financial Accounting Standard (FAS) 106. FAS 106 effectively required businesses to start accounting for PRBs by accrual—during years that an employee renders the necessary service—of the expected cost of providing those benefits to the employee and the employee's covered dependents.

Transitioning from a PAYG method of accounting for PRBs to an accrual method presented businesses with the problem of how to account for the potentially enormous sums needed to cover the expected PRB costs for current employees and retirees that had not been recognized and funded over previous years under the PAYG system. FAS 106 gave businesses two options to address this "transition obligation." Per paragraph 110 and 111 of FAS 106 they could immediately recognize this entire obligation. Alternatively, per paragraph 112, they could "delay recognition" over the average remaining service period of active plan participants, except that (a) if the average remaining service period were less than 20 years, businesses could elect to amortize this obligation over 20 years, and (b) if all or almost all of the plan participants were inactive (retired), the employer was to use the average remaining life expectancy period of those retirees as the amortization period.

Upon issuance of FAS 106, had Uniroyal been free to immediately recognize this "transition obligation" for its work at JAAP over the decades on a cost reimbursement basis, the Army arguably would have been compelled to pay that sum under the predecessor to the current contract (although such a change might have been deemed a voluntary change in accounting practices not entitling Uniroyal to reimbursement for the resulting cost increase). However, this option was precluded by the issuance of a new cost principle in the Federal Acquisition Regulations (FAR), currently section 31.2056(o), to cover the allowability of PRBs.

Issued to deal with the change in accounting practices prescribed in FAS 106, the primary purpose of the new FAR cost principle was to mandate that businesses actually fund the PRB obligations which they would now be accruing on their books before they could bill the Government for those costs under cost reimbursement contracts. Due, however, to the Defense Department's concern over the potentially enormous fiscal impact for cost reimbursement contracts of "immediate recognition" of the PRB "transition obligation," FAR 31.205–6(o) was amended shortly after its promulgation in the summer of 1991 to provide that allowable PRB costs assigned to any contractor fiscal year for this transition obligation were limited to the amount derived from the "delayed recognition" methodology prescribed in paragraph 112 of FAS 106. On its face, FAR 31.205–6(o) does not provide for any acceleration of PRB transition obligation recognition, and consequent increased allowability, if a business or business segment totally terminates its operations.

Prior to issuance of FAS 106 and FAR 31.205–6(o), DCAA, as noted above, had questioned the propriety of the Army's agreement to continue to provide payment under Uniroyal's JAAP contract of the PRBs for Uniroyal's former employees at Newport Army Ammunition Plant. In addition, Uniroyal was aware that there was a controversy over payment of PRBs for Remington Arms Company, Inc., retirees based on work at Lake City Army Ammunition Plant.[15] These controversies, coupled with recognition that cessation of JAAP operations was a realistic possibility as post-Cold War downsizing began, had caused Uniroyal increased concern, as the September 1990 expiration of the predecessor to the current contract was approaching and negotiation of the current contract was in progress, over how its PRB obligation would be handled. Execution of the current contract was delayed based on these concerns.

In September 1990, Uniroyal proposed funding this PRB costs at JAAP on an accrual basis, although DCAA had previously opined that a similar plan for Uniroyal's Newport employees would be deemed a voluntary change in accounting practices, the increased costs of which were not required to be reimbursed by the Government. In February 1991, the contracting officer emphasized that Uniroyal's proposed change in accounting practices would be deemed such a voluntary change, and in July 1991, the Government declined to enter into an agreement with Uniroyal to provide for accrual of PRB costs. After issuance of FAR 31.205–6(o), however, the Army and Uniroyal agreed that Uniroyal would begin accounting for PRBs on an accrual basis and would fund PRB costs attributable to both past and ongoing service at JAAP consistent with that FAR provision. A Memorandum of Agreement (MOA) to this effect was executed in January 1992, concurrently with execution of the current contract into which it was incorporated.

In negotiating the MOA, Uniroyal had sought assurances from AMCCOM regarding the future availability of the PRB funding vehicle provided by the JAAP contract. In the MOA, AMCCOM undertook that it would make its best efforts to obtain adequate funding for Uniroyal's JAAP contract, subject to the needs of the Government. AMCCOM also stated in the MOA that it had no intention of discontinuing its contracting with Uniroyal for the operation and maintenance of JAAP. The Army did not concede a contractual obligation to fund Uniroyal's outstanding PRB obligation in the event of cessation of Uniroyal's operations at JAAP, but AMCCOM—that is, the contracting officer who executed the MOA—indicated in the MOA that in such eventuality, AMCCOM would support favorably a Uniroyal request pursuant to Public Law 85–804 for funding the PRB costs attributable to Uniroyal's operation of JAAP.

Thus, as performance of the current contract began in early 1992, the Army began funding Uniroyal's accrual of its PRB obligation, including the large transition obligation previously not recognized on Uniroyal's books because it had been handled on a PAYG basis.[16] Within months, however, the Army determined to deactivate JAAP, and by the end of 1993 Uniroyal's JAAP operation was terminated.[17] At this point, of course, Uniroyal's accumulated PRB obligation had not been fully funded, and this claim was brought in the subsequent year to seek amendment to the contract to cover that obligation.

Analysis

Public Law 85–804 authorizes the amendment or modification of federal contracts without regard to other provisions of law governing the administration of such contracts when such action would facilitate the national defense. Executive Order 10789 authorizes federal agencies to implement the act within the limits of appropriated funds and empowers agencies to amend or modify contracts "without consideration" (that is, to confer an additional benefit upon a contractor without the Government receiving some additional contractual benefit in return) when circumstances warrant.

FAR 50.302–1 delineates examples (not intended to be exclusive) of when such amendment without consideration is appropriate. When actual or threatened loss under a defense contract will impair the productive ability of a contractor whose services are deemed essential to the national defense, the contract may be amended to avoid such impairment. Alternatively, regardless of the essentiality of the contractor services to future defense needs, if a contractor would suffer a loss because of Government action in its contractual dealings with the contractor, the contract may be adjusted in the interest of fairness, even though the Government's action did not make it liable under the contract terms and the law applicable to the contract.

Per FAR 50.102, a threshold issue must be resolved before proceeding to address whether the circumstances in this case warrant the extraordinary relief sought: Public Law 85–804 may not be relied upon for relief when other adequate legal authority for the requested relief exists. In other words, if Uniroyal had an adequate basis for relief under the terms and conditions of its contract and the governing rules and regulations, pursuit of such a legal remedy rather than the equitable one sought here would be required. Although litigation by other contractors of entitlement to PRB coverage is presently ongoing in other forums, and resolutions of such litigation might alter the status quo as to legal entitlement, at present the Board was satisfied that Uniroyal had no adequate remedy under the contract terms for the following reasons.

In this cost reimbursement contract, FAR clause 52.216–7 provided that the contractor's entitlement to reimbursement was limited to those costs determined to be allowable in accordance with the cost principles of FAR Subpart 31.2 in effect on the date of the contract. The above discussed FAR provision 31.205–6(o), limiting the allowability of PRB transition obligation costs in any contractor fiscal year to the portion allocable to that year, using the delayed recognition methodology described in paragraphs 112 and 113 of FAS 106, was in effect when the current contract was executed. This provision did not provide for any alternate method of calculating allowable costs, such as allowing assignment of the entire transition obligation to one accounting period upon termination of a contract or upon a contractor's total cessation of operations.[18]

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[15] That controversy was resolved by this Board's decision of May 8, 1991, ACAB No. 1238, granting extraordinary contractual relief to Remington Arms Company to cover its PRB obligation after cessation of its operation of the Lake City plant, which occurred as the result of another company winning the competition for the contract to continue work at that plant.

[16] Pursuant to the provisions of FAR 31.205–6(o) and the MOA, the PRB funds were deposited into a trust, with the Government having a reversionary right to any sums left in the trust upon termination or expiration of Uniroyal's PRB obligations to the retired JAAP employees and their covered dependents.

[17] JAAP employees who were not eligible to retire at that time were terminated.

Although the contracting officers, over the course of Uniroyal's service at JAAP, had approved Uniroyal's pension and retirement plans in accordance with the provisions now found in clause H–26 of the contract, that clause provided that the contractor would be reimbursed for those costs only if such reimbursement was not contrary to the applicable cost principles set forth in the FAR. Similarly, clause H–24.1 of the contract provided that reimbursement to Uniroyal for fringe benefits, for disbursements it might be required by law to make during or after the contract term, and for other expenses, was subject to compliance with the cost principles in FAR part 31.[19] In sum, the Board was of the opinion that Uniroyal had no contractual right to the sum which forms the basis for this claim and that consideration of this claim under Public Law 85–804 was therefore appropriate.

Turning to the equities, the Board was satisfied that adequate grounds for relief under Public Law 85–804 had been established. The Board did not find that Uniroyal had demonstrated that denial of relief would impair a productive ability essential to the national defense. ACAB found, however, that denial of the relief requested would have the effect of Uniroyal's operating the JAAP for the Army for decades without recompense for these PRB obligations incurred in the performance of the GOCO work, obligations which exceed the cumulative fee earned by Uniroyal over those decades. The Board also found sufficient Government action over the course of the JAAP operation, upon which Uniroyal relied, which contributed to Uniroyal's having this large unfunded PRB obligation at the time operations terminated.

Admittedly, Uniroyal was not induced by the Army to account for and fund its PRB obligations on a PAYG basis; that was the industry norm when such benefits first began being offered to employees. Nonetheless, these liabilities were incurred under a series of cost reimbursement contracts to operate JAAP to manufacture essential munitions for the military, and the PRB obligations constitute a cost of manufacture that was simply being deferred to future time periods—with the Army's approval. The Army benefited by having available for other defense purposes the sums that would have been tied up in reserves had such liabilities been accrued and charged to the contracts during the working lives of the JAAP employees. Once accrual became the norm following the issuance of FAS 106, the Army would have fully funded these costs over ensuing years had JAAP operations continued long enough to complete amortization in accordance with FAR 31.205–6(o). Were Uniroyal's other business segments not involved in Army contracts now obligated to undertake those costs, the Army would in effect receive a windfall by not having paid the full cost of Uniroyal's JAAP operations. It cannot be said that either party envisioned such an outcome when they entered into the agreement to have Uniroyal operate JAAP on a cost reimbursement basis.

Indeed, the Army, through its conduct, continually evidenced its intent to fund the PRB obligation, and Uniroyal relied upon this consistent Army position. As previously noted, the Army approved Uniroyal's pension and retirement plans, and there was no evidence over the decades when the plant's operations were at peak employment levels that it warned Uniroyal that its PAYG methodology might result in unrecoverable obligations. On the contrary, when in 1977 Uniroyal sought assurances in the face of post-Vietnam downsizing that its PRB obligations would ultimately be satisfied by the Government if operations terminated, Uniroyal evidently received such assurances from Government officials responsible for administering the contract and, consequently, continued to perform the JAAP work without seeking modification of the contract terms and with no change in its accounting practices. The "carry-over" provisions in the contracts (currently section A-2(3)) reinforced the impression that the Government would reimburse Uniroyal for all incurred, accrued, or contingent liabilities. The Army's agreement to cover Uniroyal's PRB obligations for its Newport Army Ammunition Plant retirees under the JAAP contract further reinforced Uniroyal's view that no additional steps had to be taken to assure that its retirees' PRBs would be reimbursed by the Government.[20] If there remained another similar Army operation to which the extant JAAP PRB obligation could now be applied, perhaps no extraordinary relief would be necessary. However, that was not the case, and considerations of fundamental fairness, ensuring that a defense contractor whose work was vital to the national defense receives adequate compensation for that work, made it in the interest of national defense to provide relief under the authority of Public Law 85–804.

Neither the issuance of FAS 106, changing the general accounting practices related to PRBs, nor the issuance of FAR 31.205–6(o), precluding Government contractors from obtaining immediate recognition and reimbursement for the large obligation resulting from transition to an accrual basis for accounting for PRBs, was anticipated by either of the parties to the JAAP operation when Uniroyal began performance and during most of the ensuing years when the bulk of the liability was being incurred. It was not until the late 1980's that the possibility of such changes became apparent. When those changes in acceptable practices and governing regulations occurred, AMCCOM, in executing the 1992 MOA with Uniroyal, expressly indicated to Uniroyal that it would support Uniroyal's equitable claim to recover for such costs in the event that operations terminated before full accrual could occur. That Command (now Industrial Operations Command) had in fact supported Uniroyal's claim, which bolstered the Board's conclusion that relief was warranted under the circumstances involved.

In reaching the conclusion that relief was warranted, the Board was cognizant of the possibility that Uniroyal might not be obligated as a matter of law to continue to pay PRB costs to its JAAP retirees, although Uniroyal had provided an opinion of counsel that it would be so obligated. Counsel representing Uniroyal in the hearing before the Board frankly admitted that there was some unsettledness among the courts in the area. However, Uniroyal had manifested that it had no desire to put the benefits of its retirees in jeopardy, and the relief granted would ensure that that does not occur. The Army's equitable obligation, in the Board's view, was indirectly to the hundreds of employees who devoted their working lives to the potentially hazardous duty at JAAP in service of the national defense. The PRBs at issue were made part of Uniroyal's compensation package to attract and retain a workforce in an environment that exposed them not only to explosives but to contaminants bearing potential health risks. It was in the interest of the national defense that the health care and death benefits that such employees anticipated receiving in compensation for their service to the nation not be imperiled.

The Board therefore determined in principle to grant Uniroyal's request, and a discussion of the terms and conditions of the relief that should be afforded Uniroyal under the authority of this decision follows.

Remedy

Uniroyal originally requested relief in the amount of $56 million. Since the submission of this claim, negotiations with the Government led to Uniroyal's agreement to alter the methodology and some of the assumptions used to estimate its JAAP PRB liability. Uniroyal had also agreed that the excess in its pension fund, estimated when negotiations last occured to be approximately $9 million, would be applied to satisfy its PRB obligation. At the time those negotiations were concluded, Uniroyal and the Government appeared to have agreed in principle that $32.6 million would suffice to meet this PRB obligation. No formal agreement was reached at that time, and a substantial period has passed since negotiations occurred. Subject to the additional conditions specified below, the Board authorized amendment of the contract to provide relief in an amount not greater than that $32.6 million figure, with direction that the parties enter into good faith negotiations to reevaluate the premises upon which that figure was reached and to adjust that figure downward in the event that such downward adjustment is warranted by changes in premises, indices or factors upon which that $32.6 million figure was based. The contracting officer, in executing this amendment, must be satisfied that the sum is fair and reasonable, both to Uniroyal and the Government.

This relief was subject to the following additional conditions: Pursuant to FAR 31.205–6(o), and consistent with practices already established to provide for payments of accrued PRB liabilities since the issuance of that FAR provision and Uniroyal's 1992 MOA with the Government, the sum negotiated pursuant to this decision was to be deposited into a trust fund (or escrow account) established for the sole purpose of providing PRBs for the covered retirees. The funds deposited therein may be used for costs associated with administering Uniroyal's PRB program with respect to its JAAP retirees, including reimbursing Uniroyal for PRB claims of its JAAP retirees, the payment of reasonable trustee or escrow agent compensation, other reasonable and proper fees necessary to ensure effective and productive management and administration of the account, and any taxes to which the account may be subject. The contracting officer may specify such other terms as deemed appropriate regarding investment and management of the fund to ensure that the retirees' interests as well as those of the Government are adequately protected, including affirmation of the Government's right to examine and audit the account and records of all transactions conducted in its administration. The Government was given a reversionary interest in any sum (undistributed principal and income) remaining in the account upon completion of payment to the last beneficiary of the trust or upon termination of the trust for any reason. The aforementioned surplus in Uniroyal's pension fund was to be contributed to this PRB trust. The Government will have no liability for any shortfalls in the account. Uniroyal will release the Government from liability for any and all claims arising from or related to the PRB liability for which this trust was established.

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[18] Even if FAR 31.205-6(o) had not been issued prior to execution of the current contract, the Army's position is, as it was in the Remington Arms case, that Uniroyal's accounting practice (which was not alleged to be different from the industry norm) of treating PRB costs as insurance costs under Cost Accounting Standard 416, rather than as pension costs which are covered under CAS 412 and 413, precludes an adjustment allowing allocation of the unaccrued liabilities to the contract upon plan termination as would be the case under CAS 413.

[19] For the purpose of resolving this threshold issue of legal entitlement, we accept the view of the Army Materiel Command Command Counsel's office that clause H–24.2, which purports to allow the contracting officer to approve reimbursement of other costs and expenses, without mentioning the cost principles, cannot reasonably be construed to give the contracting officer license to approve reimbursement of costs contrary to the cost principles.

[20] When, in 1990, perhaps seeing the writing on the wall as to the impending FAS 106 change in acceptable accounting practices regarding PRBs, Uniroyal broached the subject of changing its accounting practices to an accrual basis, the Government led Uniroyal to believe that such voluntary change in its practice might not allow reimbursement for any resulting increased costs.

This award of relief was expressly conditioned on the availability of funds, either from (a) expired funds which remain available to fund this contract adjustment, (b) other currently available Defense ammunition funds, (c) if necessary, approval by Congress (through its authorizing and appropriating committees) of a reprogramming or transfer request to make available the necessary funds out of other existing appropriations, or (d) if necessary, supplemental appropriations. The Contracting Officer was directed to act expeditiously to negotiate the contract modification necessary to implement this decision and, with the assistance of higher headquarters, to secure adequate appropriated funds to cover the relief authorized herein.

Conclusion

Subject to the above conditions, the Board has found that it was in the interest of national defense to award to Uniroyal a sum not to exceed $32.6 million to reimburse Uniroyal for its obligation to provide post-retirement benefits to the more than 800 affected retirees who worked in the Army's critical munitions production mission at Joliet Army Ammunition Plant over the decades since World War II. Such relief was consistent with the expectations of all the parties that Uniroyal would be fully compensated in accordance with the bargain it entered into with the Army to perform the work at JAAP on a cost reimbursement basis.

If the ultimate negotiated amount of the proposed contract modification implementing this decision exceeds $25 million, the modification cannot be executed by the parties until the Senate Committee on Armed Services and the House Committee on National Security and the Senate and House Appropriations Committees are notified of the proposed obligation and 60 days of continuous session of Congress have passed after transmittal of such notification.

Contractor: Precision Machining, Inc.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $9,392,870.

Service and activity: Department of the Army, Aviation and Troop Command.

Description of product or service: Ribbon Bridges.

Background: Precision Machining, Inc., (PMI) submitted a request for amendment without consideration on contract number DAAK01-93-C-0075, Ribbon Bridge, and a request for relief under Public Law 85-804, dated August 11, 1995. Based on the Aviation and Troop Command (ATCOM) Contract Adjustment Board (ACAB) meeting on June 27, 1996, and in accordance with the authority delegated to the Department of the Army, Headquarters, ATCOM, Acquisition Center, Field Support Branch, it was decided that PMI was not essential to the Government in performance of the Ribbon Bridge contract.

This decision was based on the availability of other sources and the non-urgent need for Ribbon Bridges. It was true that PMI had the only contract for the Ribbon Bridge at that time, however, the item had a competitive level III drawing package the Government could resolicit for the remaining 20 Ramp Bays needed by the Marine Corps. As the Army had downsized, extra Interior Bays were transferred from the Army to the Marines, reducing the need for bays from PMI.

Statement of Facts

In its request under Public Law 85-804, PMI cited several instances of Government action which allegedly caused losses to PMI. Each allegation is addressed below.

PMI alleged the Government delayed inventory availability prior to award and alleged a long delay in making award. However, PMI agreed to the contract by its signature dated July 24, 1993, which the Contracting Officer executed July 29, 1993. There was no basis for compensation since PMI freely signed the contract.

PMI alleged delay and impact incorporating the termination inventory of the prior contractor into the production because some of it was not useable. PMI had inspected that inventory and it made the choice to use it. The basic contract did not include the termination inventory. PMI knew they would have to inspect the inventory to determine what could be used. The property listed in Modification P00009 was the useable property that PMI screened as acceptable and for which they paid by a reduction in contract price.

PMI had failed to set forth specific supporting information of delays in processing of Engineering Change Proposals/Requests for Waivers/Requests for Deviations (ECPs/RFWs/RFDs). Therefore, ACAB could not track which ones PMI believed the Government caused to be delayed and how that delay impacted the claimed loss. Many of the ECPs were delayed because PMI failed to furnish a legible document for microfilming and necessary data was consistently omitted or incorrect data was entered on the form.

The Government did not agree that the specifications were outdated, inadequate, inaccurate, or defective. There were five previous producers of this item. If there were inadequacies, inaccuracies, and defects, they would have been discovered previously. As far as being outdated, the specifications had been in use for some time, but not that much had changed in welding, painting, etc. Without specifics on which specifications were so outdated that they caused delays, this could not be addressed in detail.

The Government's lack of decisive action on the First Article Test Report (FATR) approval was caused by PMI failing to comply with contractual requirements for procedures to be approved before production began. The FAs should not have been built, let alone tested, before these approvals were received. The Government could not continue to ignore that fact when the FAs were presented for acceptance.

The Government attempted to obtain more details on the allegations in the August 11, 1995, request by letter from the Contracting Officer dated October 16, 1995. Instead of responding with the facts requested by the Contracting Officer, PMI continued with vague comments about how many people worked on the inventory, how ECPs from the previous contract impacted the effort, and that the parts were inspected for form, fit, and function at that time. This was not in agreement with information provided earlier. PMI had only one person counting at the Post Award and told the Government the parts were inspected as they were pulled for production. Additionally, PMI had seen the inventory before it was shipped. There should not have been anything unexpected.

PMI's October 18, 1995, letter also failed to explain how the waivers delayed full production. The statement was made in the attachment to the letter that one open waiver would delay acceptance. However, one of the waivers was shown as 700 days old. PMI did not have to wait until September 26, 1995, for acceptance of bridges. The question remained unanswered.

PMI was asked for details supporting the loss claimed. PMI had not been able to do that either for themselves or for the DCAA to calculate it for them. There were no records from the original bid. PMI could not provide any details on the 25 percent efficiency factor and $1,000,000.00 loss on the inventory, except to say it was an estimate. The documentation provided to support transporter problems did not contain hours, only copies of inspection reports. PMI corrected the sequence of events on the Taber purchase order to show the order was placed two years after the inventory was received.

It was hard to understand how PMI was able to produce the bays they did if the drawings were "illegible and virtually unusable." It would have been difficult for the Government representative to inspect and accept those bays. The Government level III drawings were not production drawings; each contractor must decide how they will produce the items and develop the necessary in-house drawings.

There were no ECPs that changed the drawing package while Ketron had the contract, therefore, none could be provided. PMI should have prepared an ECP for the change to Parker-Hannafin as soon as they knew the situation existed. That was the only example PMI provided for the delay in this area.

PMI revised their allegation to say the bays were conditionally accepted, not that the bays were not accepted at all. Conditional acceptance allowed the invoices to be paid. The failure of the PMI-02 to be approved was due to the failure on PMI's part to provide adequate information for the Government to make a decision.

Federal Acquisition Regulation (FAR) 17.202 does not address the five year recommended limit; FAR 17.204 states approval before use is required. This part of the FAR does not apply to a reprocurement. Also, the award was a bilateral agreement PMI was willing to make. The options were exercised fourteen months after award.

PMI stated they did not understand what was meant by supporting the costs they incurred for each delay mentioned in their request for relief. PMI give the impression to the auditor they were hoping the DCAA audit would do that for them. However, since the auditor could find no records for the original award and few records for the current contract, he was also unable to provide support for the areas of delay.

Conclusion

Based on the above, it was decided that none of the Government acts identified by

PMI have harmed them and, therefore, the request for recompense was denied. Also, PMI's request to reform the contract, revise the delivery schedule, or convert the contract to a cost plus fixed fee contract was denied.

Contractor: Precision Machining, Inc.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $6,525,784.

Service and activity: U.S. Army Missile Command.

Description of product or service: HELLFIRE storage and shipping containers.

Background: Precision Machining, Inc., (PMI) submitted a request for relief under Public Law 85-804 for amendment without consideration in connection with contract number DAAH01-90-C-0253 with the U.S. Army Missile Command (MICOM) for HELLFIRE storage and shipping containers. The Principal Assistant Responsible for Contracting (PARC) at MICOM was delegated the authority to deny or refer requests for contract price adjustment without consideration.

Upon receipt of PMI's request by the Contracting Officer, it was forwarded to a Command Contract Adjustment Board (CAB) for review and recommendation. This Board, which was comprised for senior Command officials, served in an advisory capacity. The Board completed a detailed investigation of PMI's request and made its recommendation to the PARC for action. The official response of MICOM to PMI's request follows.

Statement of Facts

PMI's essentiality request under the provisions of FAR 50.302-1(a) was addressed in a memorandum from the Office of the U.S. Army Deputy Chief of Staff for Operations and Plans (ODCSOPS). This memorandum, dated February 1, 1996, which was directed to the attention of the Army's Air to Ground Missile Systems Project Office at Redstone Arsenal, Alabama, hereinafter referred to as the Project Office, noted that HELLFIRE II missile deliveries were currently being delayed due to PMI's inability to produce missile containers. It concluded that, given the number of HELLFIRE II missiles that were currently available for deployment, a delay in delivery of 500 to 700 additional missiles until July 1996, when containers from a new container supplier were scheduled for delivery, was non-critical/essential. The 500 to 700 number was computed by the Project Office after taking into consideration PMI's production capacity and the fact that approximately one-third of the missiles scheduled for delivery under PMI's contract were for the U.S. Navy.

Decision

Based on the above and in accord with the authority delegated by the PARC, it was decided that the facts surrounding PMI's essentially request do not support the relief requested. Accordingly, PMI's request on that basis was denied.

Statement of Facts

PMI's request under the provisions of FAR 50.302-1(b) cited several instances of Government action which they characterized as unfair which were alleged to have produced losses to PMI. These were addressed as follows:

The first was an allegation that contract specifications for a container component identified as a shock mount contained excessive testing requirements. The investigation of the CAB disclosed that both the Project Office and PMI had agreed that the testing requirements were necessary to avoid the possibility of a vendor stockpiling shock mounts that would fail.

The second allegation was that components of the container, identified as the latch and the stud assembly, were sole source and that delays by the sole source vendors had increased costs and caused delays. The investigation by the CAB determined that delays involving the vendors identified had occurred but that the sources were "suggested sources" rather than "sole sources." Further, that some of the delays were caused by the poor financial condition of PMI. Finally, that approval of additional sources was a contractor responsibility.

The third allegation was that components of the container, identified as the shock mount, the latch assembly, the stud assembly, and the ammunition box handle, contained insufficient information for alternate source development, leaving the vendors identified as "sole source" by default. The investigation by the CAB disclosed that the drawings in question were specification control drawings which made it clear that suggested sources included in the drawings were not guaranteed to be presently available as a source.

The fourth allegation was that the Project Office had been reluctant to issue drawing changes with a resulting delay in issuance of Engineering Change Proposals, Requests for Deviations, and Requests for Waivers. The investigation by the CAB disclosed that while there were delays in the areas noted, those delays were caused by the failure of PMI to properly document the need for proposed changes, deviations, or waivers.

The next allegation was that Government design changes created delays and increased costs. Two instances were cited. In one of these, the change in question was settled by bilateral contract modification wherein PMI agreed to a specific increase in the price of the contract in settlement of the change. The second situation involved a case where PMI was allowed to ship containers in place until room could be made for them at the contract destination (another Government contractor). PMI was promptly paid for the items and confirmed it had plenty of room and would hold them on site at PMI as an accommodation for the other contractor.

The next allegation was that the Government provided faulty GFM. The investigation of the CAB disclosed that the material involved was not GFM, but material owned by a former Government producer which PMI bought from the Government "as is."

The final allegation was that the Army violated the provisions of FAR 17.204(e) in connection with the contract. The investigation of the CAB disclosed that the facts of the case did not support any such conclusion in that while the option exercise period of the last option was extended, no quantities were added. Furthermore, if the facts were viewed in the most favorable light for PMI, only slightly more than four percent of the items bought under the contract could possibly be involved.

Decision

Based on the above, it was the decision of the PARC that none of the Government acts that PMI identified were unfair. Accordingly, the request on this basis was also denied.

Contractor: Westinghouse Electric Corporation.

Type of action: Contingent Liability.

Actual or estimated potential cost: The amount the Contractor will be indemnified cannot be determined at this time, but will depend upon the occurrence of an incident related to the performance of the contract.

Service and activity: Department of the Army, Anniston Chemical Demilitarization Facility (ANCDF).

Description of product or service: Construction, systemization, operations, maintenance, and decommission of ANCDF.

Background: In accordance with Federal Acquisition Regulation (FAR) 50.403-1, Westinghouse Electric Corporation requested that, pursuant to authority provided in Public Law 85-804, the Army include an indemnification clause in its contract DAAA09-96-C-0018 for the construction, systemization, operations, maintenance, and decommission of the Anniston Chemical Demilitarization Facility (ANCDF).

Statement of Facts

Under this contract, Westinghouse is responsible for all facets of the process to destroy the lethal chemical agents and munitions stockpiled at the Anniston Army Depot. Upon review of the functions and responsibilities that Westinghouse has, the Secretary of the Army found that execution of such would subject the contractor to certain unusually hazardous risks as defined below.

The Secretary of the Army considered the availability, cost, and terms of private insurance to cover these risks, as well as the viability of self-insurance, and concluded that adequate insurance to cover the unusually hazardous risks was not reasonably available.

It was not possible to determine the actual or estimated cost to the Government as a result of the use of an indemnification clause since the liability of the Government, if any, would depend upon the occurrence of an incident related to the performance of the contract.

The Secretary of the Army found that the use of an indemnification clause in this contract would facilitate the national defense.

Decision

In view of the foregoing and pursuant to the authority vested in the Secretary of the Army by Public Law 85-804 (50 U.S.C. 1431-1436) and Executive Order 10789, as amended, inclusion of the indemnification clause prescribed in FAR 52.250-1, with its Alternate 1, in the contract for ANCDF was authorized, provided the clause defines the unusually hazardous risks and includes the limitations on coverage precisely as described in the definition below. The Secretary of the Army further authorized the inclusion in subcontracts (at any tier) under this contract, provided the pass-through indemnification was limited to the defined unusually hazardous risks and provided that the Contracting Officer approves each pass-through indemnification in writing.

The contractual document executed pursuant to the authorization shall comply with the requirements of FAR Subparts 50.4 and 28.3, as implemented by Department of Defense and the Department of the Army.

Definition of unusually hazardous risks

The risks of:

(1) sudden or slow release of, and exposure to, lethal chemical agents during the disposal of stockpiles of chemical munitions, mines, and other forms of weapons-related containerization and during facility decommissioning and closure;

(2) explosion, detonation, or combustion of explosives, propellants, or incendiary materials during the course of disposal of stockpiles of chemical munitions, mines, or other forms of weapons-related containerization;

(3) contamination present at or related from the installation prior to the contractor's construction or operation of the chemical demilitarization facility CDF, whether known or unknown by the Government or contractor at such time;

(4) contamination resulting from the activities of third parties when the contractor has no control over such activities or parties; and

(5) contamination resulting from the placement of components and materials from decommissioning and placement of wastes and residues from demilitarization, destruction, or closure in accordance with the contract and all applicable laws and regulations.

Provided that the indemnification clause shall in no way indemnify the contractor against local, state, or federal civil or criminal fines or penalties levied by local, state, or federal tribunals, nor shall this clause indemnify the contractor against the costs of defending, settling, or otherwise participating in such civil or criminal actions brought in local, state, or federal tribunals.

The term "lethal chemical agents," for the purposes of this clause, means the chemicals as listed in the table on record and their naturally occurring breakdown products, but does not include residues and wastes produced from the demilitarization process except to the extent that these residues and wastes contain, or are deemed by a court or agency of competent jurisdiction to contain, chemicals as listed in the table on record.

The term "disposal" for the purposes of this clause, includes the reconfiguration, destruction, or demilitarization and interim storage and movement of chemical munitions, mines, and other forms of weapons-related containerization, decontamination of equipment and facilities, and the transportation and placement of wastes and residues from destruction or demilitarization.

The term "damage to property" in this clause shall include the costs of monitoring, investigation, removal, response, and remediation for property (to include groundwater) due to the risks above once certification of closure in accordance with the closure plan has been accepted by the State or the Environmental Protection Agency, and contract performance has been completed and accepted by the Army.

Contractor: Raytheon Engineers and Constructors, Inc.

Type of action: Contingent Liability.

Actual or estimated potential cost: The amount the Contractors will be indemnified cannot be determined at this time, but will depend upon the occurrence of an incident related to the performance of the contract.

Service and activity: Department of the Army.

Description of product or service: Construction, operations, maintenance, and closure of the Johnston Atoll Chemical Agent Disposal System (JACADS) faicility.

Background: In accordance with Federal Acquisition Regulation (FAR) 50.403-1, Raytheon Engineers and Constructors, Inc., requested that, pursuant to authority provided in Public Law 85-804, the Army include an indemnification clause in its contract DAAA09-96-C-0081 for the construction, operations, maintenance, and closure of the Johnston Atoll Chemical Agent Disposal System (JACADS) facility.

Under this contract, Raytheon is responsible for all facets of the process to destroy the lethal chemical agents and munitions stockpiled at the JACADS facility. Upon review of the functions and responsibilities that Raytheon has, it was found that execution of such will subject the contractor to certain unusually hazardous risks which are defined below.

Statement of Facts

The Secretary of the Army considered the availability, cost, and terms of private insurance to cover these risks, as well as the viability of self-insurance, and concluded that adequate insurance to cover the unusually hazardous risks was not reasonably available.

It was not possible to determine the actual or estimated cost to the Government as a result of the use of an indemnification clause since the liability of the Government, if any, would depend upon the occurrence of an incident related to the performance of the contract.

The Secretary of the Army found that the use of an indemnification clause in this contract would facilitate the national defense.

Decision

In view of the foregoing and pursuant to the authority vested in the Secretary of the Army by Public Law 85-804 (50 U.S.C. 1431-1436) and Executive Order 10789, as amended, inclusion of the indemnification clause prescribed in FAR 52.250-1, with its Alternate 1, in the contract for the JACADS facility was authorized, provided the clause defines the unusually hazardous risks and includes the limitations on coverage precisely as described in the definition below.

The contractual document executed pursuant to this authorization shall comply with the requirements of FAR Subparts 50.4 and 28.3 as implemented by the Department of Defense and the Department of the Army.

Definition of unusually hazardous risks

The risks of:

(1) sudden or slow release of, and exposure to, lethal chemical agents during the disposal of stockpiles of chemical munitions, mines, and other forms of weapons-related containerization and during facility decommissioning and closure;

(2) explosion, detonation, or combustion of explosives, propellants, or incendiary materials during the course of disposal of stockpiles of chemical munitions, mines, or other forms of weapons-related containerization;

(3) contamination present at or released from the installation prior to the contractor's construction or operation of the chemical demilitarization facility CDF, whether known or unknown by the Government or contractor at such time;

(4) contamination resulting from the activities of third parties when the contractor has no control over such activities or parties; and

(5) contamination resulting from the placement of components and materials from decommissioning and placement of wastes and residues from demilitarization, destruction, or closure in accordance with the contract and all applicable laws and regulations.

Provided that the indemnification clause shall in no way indemnify the contractor against local, state, or federal civil or criminal fines or penalties levied by local, state, or federal tribunals, nor shall this clause indemnify the contractor against the costs of defending, settling, or otherwise participating in such civil or criminal actions brought in local, state, or federal tribunals.

The term "lethal chemical agents," for the purposes of this clause, means the chemicals as listed in the table on record and their naturally occurring breakdown products, but does not include residues and wastes produced from the demilitarization process except to the extent that these residues and wastes contain, or are deemed by a court or agency of competent jurisdiction to contain, chemicals as listed in the table on record.

The term "disposal," for the purposes of this clause, includes the reconfiguration, destruction, or demilitarization and interim storage and movement of chemical munitions, mines, and other forms of weapons-related containerization, decontamination of equipment and facilities, and the transportation and placement of wastes and residues from destruction or demilitarization.

The term "damage to property" in this clause shall include the costs of monitoring, investigation, removal, response, and remediation for property (to include groundwater) due to the risks above once certification of closure in accordance with the closure plan has been accepted by the State or the Environmental Protection Agency, and contract performance has been completed and accepted by the Army.

Contingent Liabilities

Provisions to indemnify contractor's against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the contractors insurance program were included in these contracts. The potential cost of the liabilities cannot be estimated since the liability to the Government, if any, will depend upon the occurrence of an incident as described in the indemnification clause. Items procured are generally those associated with nuclear-powered vessels, nuclear armed missiles, experimental work with nuclear energy, handling of explosives, or performance in hazardous areas.

Contractors	*Number*
Raytheon Engineers & Constructors, Inc	1
Westinghouse Electric Corporation	1
Total	2

DEPARTMENT OF THE NAVY

Contingent Liabilities

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the Contractor's insurance program were included in these contracts. The potential cost of the liabilities could not be estimated since the liability to the United States Government, if any, would depend upon the occurrence of an incident as described in the indemnification clause. Items procured were generally those associated with nuclear-powered vessels, nuclear armed missiles, experimental work with nuclear energy, handling of explosives, or performance in hazardous areas.

Contractors	*Number*
Lockheed Martin Missiles & Space	3
Vitro Corporation	1
Interstate Electronics Corporation	1
Lockheed Martin Defense Systems	7
Rockwell International Corporation	1
Electric Boat Corporation	7
Loral Defense Systems—East	1
Raytheon Company	1
Rockwell Corporation, Autonetics Strategic Systems Division	1
Northrop Grumman Marine Systems	3
Alliant Techsystems, Inc./Thiokol	1
Honeywell, Inc	1
Lockheed Martin Tactical Systems, Inc	2
The Charles Stark Draper Lab, Inc.	1
Kearfott Guidance & Navigation Corporation	1

Contractors	*Number*
Newport News Shipbuilding and Drydock Company	6
Total	38

CONTINGENT LIABILITIES SUMMARY TABLE

Contractor	Service and activity	Description of product service
Lockheed Martin Missiles & Space.	Department of the Navy, Strategic Systems Programs	FY 1996 Training Support.
	Department of the Navy, Strategic Systems Programs	Trident Re-entry Systems Applications Program.
	Department of the Navy, Strategic Systems Programs	FY 1997 Trident II (D5) Missile Production, related hardware and services.
Vitro Corporation	Department of the Navy, Strategic Systems Programs	Engineering technical services in support of the U.S. Trident I and Trident II Weapon Systems Integration.
Interstate Electronics Corporation	Department of the Navy, Strategic Systems Programs	Test Instrumentation Engineering, Logistics Services, and Field Services.
Lockheed Martin Defense Systems	Department of the Navy, Strategic Systems Programs	FY 1997 Trident Training Support Services.
	Department of the Navy, Strategic Systems Programs	Fire Control Training Engineering Services.
	Department of the Navy, Strategic Systems Programs	U.S. FBM/SWS and U.K. Polaris and U.K. Trident II Systems.
	Department of the Navy, Strategic Systems Programs	Verification of Failures on MK–5 Inertial Measurement Units.
	Department of the Navy, Strategic Systems Programs	Replenishment spares, repair, SPALTS, overhaul and EOC parts, tools, test equipment and operational support services for Trident I (including C4 B/F) & Trident II FC systems and support equipment.
	Department of the Navy, Strategic Systems Programs	Basic Ordering Agreement for repair, modification, SPALTS and repair parts for Trident I/II guidance IMUS, MCAS, and Guidance Ancillary Support Equipment.
Lockheed Martin Defense Systems	Department of the Navy, Strategic Systems Programs	Basic Ordering Agreement for support of Trident I and Trident II Fire Control Systems, Guidance Support Equipment and related support equipment.
Rockwell International Corporation.	Department of the Navy, Strategic Systems Programs	FY 1997 Technical Assistance Program
Electric Boat Corporation	Department of the Navy, Strategic Systems Programs.	FY 1997 COTS Hardware/Software.
	Department of the Navy, Strategic Systems Programs	COTS Implementation Analysis.
	Department of the Navy, Strategic Systems Programs	Technical Support for Ship Systems and Subsystems Support U.S. SSBN Weapon Systems during Submarine DASO's.
	Department of the Navy, Naval Sea Systems Command	Reactor Plant Planning Yard Services for Nuclear Power Submarines, Moored Training Ships and Guided Missile Cruisers.
	Department of the Navy, Naval Sea Systems Command	NSSN IPPD 1996.
	Department of the Navy, Naval Sea Systems Command	SSN 23 Construction.
	Department of the Navy, Naval Sea Systems Command	Basic Ordering Agreement for Design Studies for SSN 688 Program Office.
Loral Defense Systems—East	Department of the Navy, Strategic Systems Programs	Modification/Repair of Items on U.S. Trident Weapons Subsystems.
Raytheon Company	Department of the Navy, Strategic Systems Programs	FY 1996 Captive Line.
Rockwell Corporation, Autonetics Strategic Systems Division.	Department of the Navy, Strategic Systems Programs	FY 1996 Inertial Equipment Modification and Repair.
Northrop Grumman Marine Systems.	Department of the Navy, Strategic Systems Programs	FY 1996 Expendable Hardware Procurement.
	Department of the Navy, Strategic Systems Programs	Technical Services to support the SWS Launcher Training Systems Maintenance and Operational Support, and to related formal and informal training materials acquisition and support, in the U.S. and the U.K.
	Department of the Navy, Strategic Systems Programs	FY 1997 Launcher Backfit Program and Technical Engineering Services.
Alliant Techsystems, Inc./Thiokol	Department of the Navy, Strategic Systems Programs	Disposal of C3 Second Stage Rocket Motors at the Utah Test and Training Range.
Honeywell, Inc	Department of the Navy, Strategic Systems Programs	Repair and Recertification of Size 10 PIGAS for the MK–6 Guidance System.
Lockheed Martin Tactical Systems, Inc.	Department of the Navy, Strategic Systems Programs	FY 1997 Technical Services and Logistics Program (FY 1997 base year and FY 1998 option year).
	Department of the Navy, Strategic Systems Programs	FY 1997 base year and FY 1998 option year Trident I (C4) and II (D5) Navigation Subsystem technical services and support.
The Charles Stark Draper Lab., Inc.	Department of the Navy, Strategic Systems Programs	Technical Engineering Services and support.
Kearfott Guidance and Navigation Corporation.	Department of the Navy, Strategic Systems Programs	Failure verification, repair and recertification of MITA–5 Gyros in support of the Trident II MK–6 Guidance System.
Newport News Shipbuilding and Drydock Company.	Department of the Navy, Naval Sea Systems Command	Reactor Plant Planning Yard Services for Nuclear Power Submarines.
	Department of the Navy, Naval Sea Systems Command	Reactor Plant Planning Yard Services for CVN–65.
Newport News Shipbuilding and Drydock Company.	Department of the Navy, Naval Sea Systems Command	Advance Planning and Material Procurement for U.S.S. Enterprise (CVN 65) FY 1997 Extended Selected Restricted Availability (ESRA).
	Department of the Navy, Naval Sea Systems Command	Engineering, Technical and Logistics Services in Support of Aircraft Carrier Programs.
	Department of the Navy, Naval Sea Systems Command	Basic Ordering Agreement to Support Depot Level Maintenance of CVN 65.
	Department of the Navy, Naval Sea Systems Command	Basic Ordering Agreement for Design Studies for SSN 688 Program Office.

DEPARTMENT OF THE AIR FORCE

Contractor: Various.

Type of action: Contingent Liability.

Actual or estimated potential costs: The amount the Contractors will be indemnified by the Government cannot be predicted, but could entail millions of dollars.

Service and activity: Civil Reserve Air Fleet (CRAF).

Description of product or service: FY 1997 Annual Airlift Contracts.

Reference: Definitions of unusually hazardous risks applicable to CRAF FY 1996.

Background: Thirty-one contractors requested indemnification under Public Law 85–804 for the unusually hazardous risks (as defined) involved in providing airlift services for CRAF missions (as defined). In addition, Headquarters, Air Mobility Command (AMC), requested indemnification for subsequently identified contractors and the subcontractors who conducted or supported the conduct of CRAF missions. The contractors for which indemnification was requested were those awarded contracts on August 14, 1996, as a result of solicitation F11626–96–R0002. The 31 contractors who requested indemnification are listed below:

CONTRACTORS TO BE INDEMNIFIED AND PROPOSED CONTRACT NUMBER

Air Transport International (ATN), F11626–96–D0013.

Alaska Airlines (ASA), F11626–96–D0015.

American International Airways (CKS), F11626–96–D0014.

American Trans Air (ATA), F11626–96–D0013.

Atlas Air (GTI), F11626–96–D0017.

Burlington Air Express (BAX), F11626–96–D0013.

Carnival Airlines (CAA), F11626–96–D0014.

Continental Airlines (COA), F11626–96–D0018.

Delta Air Lines (DAL), F11626–96–D0019.

DHL Airways (DHL), F11626–96–D0020.

Emery Worldwide (EWW), F11626–96–D0012.

Evergreen International (EIA), F11626–96–D0012.

Federal Express (FDX), F11626–96–D0013.

Fine Airlines (FBF), F11626–96–D0021.

Miami Air (MYW), F11626–96–D0012.

North American Airlines (NAO), F11626–96–D0022.

Northwest Airlines (NWA), F11626–96–D0012.

OMNI Air (OAE), F11626–96–D0023.

Polar Air Cargo (PAC), F11626–96–D0013.

Rich International (RIA), F11626–96–D0012.

Southern Air Transport (SAT), F11626–96–D0012.

Sun Country Airlines (SCX), F11626–96–D0014.

Tower Air (TWR), F11626–96–D0014.

Trans Continental Airlines (TCA), F11626–96–D0014.

Trans World Airlines (TWA), F11626–96–D0024.

United Airlines (UAL), F11626–96–D0025.

Inted Parcel Service (UPS), F11626–96–D0026.

US Air (USA), F11626–96–D0012.

US Air Shuttle (USS), F11626–96–D0027.

World Airways (WOA), F11626–96–D0012.

Zantop International (ZIA), F11626–96–D0028.

Note: The same contract number may appear for more than one company because in some cases the companies provided services under a joint venture arrangement.

Desert Shield/Storm and Restore Hope showed that air carriers providing airlift services during contingencies and war require indemnification. Insurance policy war risk exclusions, or exclusions due to activation of CRAF, left many carriers uninsured—exposing them to unacceptable levels of risk. Waiting until a contingency occurs to process an indemnification request could result in delaying critical airlift missions. Contractors need to understand up front that risks will be covered by indemnification and how the coverage will be put in place once a contingency is declared.

Statement of Facts

The specific risks to be indemnified are identified in the applicable definitions. No actual cost to the Government was anticipated as a result of the actions that were to be accomplished under this approval. However, if the air carriers were to suffer losses or incur damages as a result of the occurrence of a defined risk, and if those losses or damages, exclusive of losses or damages that were within the air carriers' insurance deductible limits, were not compensated by the contractors' insurance, the contractors would be indemnified by the Government. The amount of indemnification could not be predicted, but could entail millions of dollars.

All of the 31 contractors were approved DoD carriers and, therefore, considered to have adequate, existing, and ongoing safety programs. Moreover, HQ AMC has specific procedures for determining that a contractor is complying with government safety requirements. Also, the contracting officer had determined that the contractors maintain liability insurance in amounts considered to be prudent in the ordinary course of business within the industry. Specifically, each contractor had certified that its coverage satisfied the minimum level of liability insurance required by the Government. Finally, all contractors were required to obtain war hazard insurance available under 49 U.S.C. Chapter 443 for hull and liability war risk. Additional contractors and subcontractors that conduct or support the conduct of CRAF missions may be indemnified only if they request indemnification, accept the same definition of unusually hazardous risks as identified, and meet the same safety and insurance requirements as the 31 contractors who sought indemnification in this action.

Without indemnification, airlift operations to support contingencies or wars might be jeopardized to the detriment of the national defense, due to the non-availability to the air carriers of adequate commercial insurance covering risks of an unusually hazardous nature arising out of airlift services for CRAF missions. Aviation insurance is available under 49 U.S.C. Chapter 443 for air carriers, but this aviation insurance, together with available commercial insurance, does not cover all risks which might arise during CRAF missions. Accordingly, it was found that incorporating the indemnification clause in current and future contracts for airlift services for CRAF missions would facilitate the national defense.

Decision

Under authority of Public Law 85–804, the request was approved on October 2, 1996, to indemnify the 31 air carriers listed above and other yet to be identified air carriers providing airlift services in support of CRAF missions for the unusually hazardous risks as defined. Approval was also granted to contracting officers to indemnify subcontractors that request indemnification, with respect to those risks as defined. Indemnification under this authorization shall be effected by including the clause in FAR 52.250–1, entitled "Indemnification Under Public Law 85–804 (Apr 1984)," in the contracts for these services. This approval is contingent upon the air carriers complying with all applicable government safety requirements and maintaining insurance coverage as detailed above. The HQ AMC Commander will inform the Secretary of the Air Force immediately upon each implementation of the indemnification clause.

Definition of unusually hazardous risks applicable to CRAF FY 1996 annual airlift contracts

1. Definitions:

a. "Civil Reserve Air Fleet (CRAF) Mission" means the provision of airlift services under this contract (1) ordered pursuant to authority available because of the activation of CRAF, or (2) directed by Commander, Air Mobility Command (AMC/CC), or his successor for missions substantially similar to, or in lieu of, those ordered pursuant to formal CRAF activation.

b. "Airlift Services" means all services (passenger, cargo, or medical evacuation), and anything the contractor is required to do in order to conduct or position the aircraft, personnel, supplies, and equipment for a flight and return. Airlift Services include Senior Lodger and other ground related services supporting CRAF missions. Airlift Services do not include any services involving any persons or things which, at the time of the event, act, or omission giving rise to a claim, are directly supporting commercial business operations unrelated to a CRAF mission objective.

c. "War risks" means risks of:

(1) War (including war between the Great Powers), invasion, acts of foreign enemies, hostilities (whether declared or not), civil war, rebellion, revolution, insurrection, martial law, military or usurped power, or attempt at usurpation of power;

(2) Any hostile detonation of any weapon of war employing atomic or nuclear fission and/or fusion, or other like reaction or radioactive force or matter;

(3) Strikes, riots, civil commotions, or labor disturbances related to occurrences under subparagraph (1) above;

(4) Any act of one or more persons, whether or not agents of a sovereign power, for political or terrorist purposes, and whether the loss or damage resulting therefrom is accidental or intentional, except for ransom or extortion demands;

(5) Any malicious act or act of sabotage, vandalism, or other act intended to cause loss or damage;

(6) Confiscation, nationalization, seizure, restraint, detention, appropriation, requisition for title or use by; or under the order of, any Government (whether civil or military or de facto), public, or local authority;

(7) Hijacking or any unlawful seizure or wrongful exercise of control of the aircraft or crew (including any attempt at such seizure or control) made by any person or persons on board the aircraft or otherwise, acting without the consent of the insured; or

(8) The discharge or detonation of a weapon or hazardous material while on the aircraft as cargo or in the personal baggage of any passenger.

2. For the purpose of the contract clause entitled "Indemnification Under Public Law 85–804 (APR 1984)," it is agreed that all war risks resulting from the provision of airlift services for a CRAF mission, in accordance with the contract, are unusually hazardous risks, and shall be indemnified to the extent that such risks are not covered by insurance procured under Chapter 443 of Title 49, United States Code, as amended or other insurance, because such insurance has been canceled, has applicable exclusions, or has been determined by the government to be prohibitive in cost. The government's liability to indemnify the contractor shall not exceed that amount for which the contractor commercially insures under its established policies of insurance.

3. Indemnification is provided for personal injury and death claims resulting from the transportation of medical evacuation patients, whether or not the claim is related to war risks.

4. Indemnification of risks involving the operation of aircraft, as discussed above, is limited to claims or losses arising out of events, acts, or omissions involving the operation of an aircraft for airlift services for a CRAF mission, from the time that aircraft is withdrawn from the contractors regular operations (commercial, DoD, or other activity unrelated to airlift services for a CRAF mission), until it is returned for regular operations. Indemnification with regard to other contractor personnel or property utilized or services rendered in support of CRAF missions is limited to claims or losses arising out of events, acts, or omissions occurring during the time the first prepositioning of personnel, supplies, and equipment to support the first aircraft of the contractor used for airlift services for a CRAF mission is commenced, until the timely removal of such personnel, supplies, and equipment after the last such aircraft is returned for regular operations.

5. Indemnification is contingent upon the contractor maintaining, if available, non-premium insurance under Chapter 443 of Title 49, United States Code, as amended, and normal commercial insurance, as required, by this contract or other competent authority. Indemnification for losses covered by a contractor self-insurance program shall only be on such terms as incorporated in this contract by the contracting officer in advance of such a loss.

Contingent Liabilities

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the Contractor's insurance program were included; the potential cost of the liabilities cannot be estimated since the liability to the United States Government, if any, would depend upon the occurrence of an incident as describe in the indemnification clause.

Contactor	*Number*
Civil Reserve Air Fleet (CRAF) FY 1997 Annual Airlift Contracts	1
Total	[1]1

[1] One additional indemnification was approved; however, the Air Force has deemed it to be "classified," not subject to this report's purview.

DEFENSE LOGISTICS AGENCY

Contractor: Roche Products Limited.

Type of Action: Contingent Liability.

Actual or estimated potential cost: Estimated or potential cost cannot be determined at this time.

Service and activity: Defense Personnel Support Center, Defense Logistics Agency

Description of product or service: Pyridostigmine Bromide Tablets (PBT)

Background: Roche Products Limited submitted a request that the clause entitled "Indemnification Under Public Law 85–804," FAR 52.250–1, be included in Contract SPO200–95–D–0005.

On September 13, 1995, the Defense Personnel Support Center (DPSC), a field activity of the Defense Logistics Agency (DLA), awarded indefinite quantity contract SPO2000–95–D–0005 to Roche for Pyridostigmine Bromide Tablets, 30mg (PBT), NSN 6505–01–178–7903. PBT is used as a nerve agent pre-treatment to enhance the efficacy of post-exposure antidote therapy. Under the terms of the contract, delivery was contingent upon approval of indemnification.

Statement of Facts

This indemnification action would facilitate the national defense since the availability of PBT was critical to the protection and welfare of military personnel in combat situations where the threat of nerve agents existed. In addition, Roche is the sole manufacturer of this item: Duphar B.V. no longer manufactures nerve agent antidotes for the Department of Defense. Due to allegations that PBT played a role in Gulf War veterans' illnesses, Roche refused to deliver PBT without an indemnification provision.

Acquisition of the PBT involves an unusually hazardous risk that could impose liability upon the contractor in excess of financial protection reasonably available. Since allegations have been made that PBT, or PBT in combination with other agents, e.g., insecticides, have caused Gulf War veterans' illnesses, Roche, as manufacturer, was threatened by unknown liability for which insurance coverage was not available. It was not possible to determine the actual or estimated cost to the Government as a result of the use of an indemnification clause because the liability of the Government, if any, would depend upon the occurrence of an incident described in the indemnification clause.

The Contracting officer believed the approval of the Indemnification Request would be in the best interests of the Government. Accordingly, it was agreed that the following would be incorporated in the contract, if indemnification was approved:

"The Contractor requests inclusion of Indemnification Clause FAR 52.250-1 in Contract SPO200-95-D-0005 for the supply of pyridostigmine bromide in a 30 milligram dose ("the Product"). Indemnification was requested because the Contractor identified an unusually hazardous risk associated with supply and use of the Product. Specifically, there is an unusually hazardous risk since the Contractor is acting purely as a contract manufacturer and has no knowledge of the Product's safety or efficacy for the Government's purpose or any purpose whatsoever. The contractor considered this risk magnified since the Product will be relied upon for military combat use as a pretreatment against nerve-agent intoxication, although there is no actual clinical experience with pyridostigmine bromide as an effective pretreatment antidote to actual chemical weapons attack. Given the critical nature of the Product's use, individual may be injured or killed. Those individuals or their estates may seek to hold the contractor responsible for the injuries or death, thus exposing the contractor to unlimited liability. In addition, there have been allegations that pyridostigmine bromide, either alone or in combination with other agents, in a possible causative factor in Gulf War veterans' illnesses. The Contractor regards any risk (known or unknown, and arising anywhere in the world) associated with the procurement, use or distribution of the Product as unusually hazardous. In light of the foregoing, the parties have agreed to the following definition of the risk:

(1) Claims as to lack of efficacy of the Product; and

(2) Claims as to adverse short-term or long—term reactions as a result of human use of the Product, alone or in combination with other agents, including, but not limited to, temporary or permanent disability, birth defects, or death."

Decision

It was determined that authorization of the inclusion of the FAR Indemnification Clause in DPSC contract SPO200-95-D-005 with Roche Products Limited will facilitate the national defense. Pursuant to the authority vested in the Under Secretary of Defense (Acquisition and Technology) by Public Law 85-804 and Executive Order 10709, the inclusion of clause 52.250-1 in the instant contract for the risks identified above was authorized.

Contingent Liabilities

Provisions to indemnify Contractor against liabilities due to claims which may result from the hazardous risk associated with the supply and use of pyridostigmine bromide, or other risks, as defined, not covered by the Contractor's insurance program were included; the potential cost of the liability cannot be estimated since the liability to the United States Government, if any, would depend upon the occurrence of an incident as described in the indemnification clause.

Contractor	*Number*
Roche Products Limited	1
Total	1

DEFENSE INFORMATION SYSTEMS AGENCY

Contractor: Total Procurement Services, Inc.

Type of action: Formalization of Informal Commitment.

Actual or estimated potential cost: $10,000.

Service and activity: Defense Information Systems Agency, Defense Commercial Communications Office.

Description of product or service: Processing of noncompliant transactions.

Background: The Defense Information Technology Contracting Organization (DITCO) notified Total Procurement Services, Inc. (TPS) by letter dated September 24, 1996, that the Defense Information Systems Agency (DISA) would no longer process TPS's noncompliant transactions. DITCO and the operational personnel in the electronic commerce initiative had been working with TPS since at least July 1996, but noncompliance continued.

TPS responded to that notice in a letter dated September 24, 1996. TPS's letter raised a number of issues but essentially contended that the noncompliance was on the part of the Network Entry Point (NEP) at Ogden, principally in the areas of script writing and segment delimiters and terminators. TPS further claimed $10,000 under authority of Public Law 85-804 for TPS's cost to support the 2003 Implementation Convention (IC) over a ten month period.

Decision

DISA did not agree that the Government was at fault in the problems TPS experienced. DISA did not see evidence of Government-caused problems. As TPS was aware, the Government conducted an extensive Independent Validation and Verification (IV&V) review of Ogden NEP operations in relation to TPS. The Government took great pains and incurred great expense to ensure that this IV&V of the Ogden NEP was conducted independently and with no bias toward the Ogden operation or against TPS. This review, conducted by expert personnel not associated with the Ogden NEP, concluded that NEP processing and communications were not responsible for frequent data anomalies reported and observed in unprocessed data retrieved from TPS since August 26, 1996. Furthermore, the IV&V found no indication that TPS's data problems reported before August 26, 1996, were caused by NEP processing or the NEP-TPS file exchange.

On November 1, 1996, the EC/EDI system migrated from the NEP environment to the Electronic Commerce Processing Node (ECPN) environment. This new system will provide far greater accuracy in identifying and rejecting incoming transactions that do not comply with processing standards. The system is not designed to allow for human intervention.

Insofar as TPS's claim was concerned, no loss was shown. The Navy's migration to the 3050 IC was delayed. If the migration had been on schedule, however, DISA presumed that TPS would have been supporting 3050 IC. Implicit in TPS's continued support of the 2003 IC was a desire to continue processing Navy business for TPS's trading partners. Thus, either the 2003 or the 3050 IC would have been supported.

It should be noted that the authority conferred by Public Law 85-804 is for use in extraordinary situations where the productive ability of a contractor or its continued operation as a source of supply is essential to national defense. Even if a loss occurred, which it did not, that is not a sufficient basis for exercising the authority. Furthermore, the statute may not be relied on when other adequate legal authority exists within the Agency to address the claim. The old VAN License Agreement incorporated the Disputes clause which represents an adequate legal authority to resolve this claim. TPS's claim of September 24, 1996, was denied.

Contingent Liabilities: None.

Contractor: None.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2347. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Tebufenozide; Pesticide Tolerance for Emergency Exemptions [OPP-300461; FRL-5595-3] (RIN: 2070-AC78) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2348. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Imidacloprid; Pesticide Tolerance for Emergency Exemptions [OPP-300460; FRL-5594-2] (RIN: 2070-AB78) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Argriculture.

2349. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Avermectin B1 and Its Delta-8,9,-Isomer; Pesticide Tolerance [OPP-300465; FRL-5597-7] (RIN: 2070-AB78) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2350. A letter from the Director, Office of Management and Budget, transmitting a report that appropriation to the National Transportation Safety Board [NTSB] for "Salaries and Expenses" for the fiscal year 1997 has been apportioned on a basis which indicates the necessity for a supplemental appropriation, pursuant to 31 U.S.C. 1515(b)(2); to the Committee on Appropriations.

2351. A letter from the Assistant Secretary for Command, Control, Communications, and Intelligence, Department of Defense, transmitting the section 381 report (expanded as required by section 830 of the National Defense Authorization Act for fiscal year 1997), pursuant to 10 U.S.C. 113 note; to the Committee on National Security.

2352. A letter from the Director, Administration and Management, Department of Defense, transmitting the calendar year 1996 report entitled "Extraordinary Contractual Actions to Facilitate the National Defense" (report printed in the RECORD), pursuant to 50 U.S.C. 1434; to the Committee on National Security.

2353. A letter from the Assistant Secretary for Force Management Policy, Department of Defense, transmitting the Department's report on the status of the DOD actions to implement a demonstration project for uniform funding of morale, welfare and recreation activities, pursuant to Public Law 104–106, section 335(e)(1) (110 Stat. 262); to the Committee on National Security.

2354. A letter from the Adjutant General, the Veterans of Foreign Wars of the United States, transmitting proceedings of the 97th National Convention of the Veterans of Foreign Wars of the United States, held in Louisville, KY, August 17–23, 1996, pursuant to 36 U.S.C. 118 and 44 U.S.C. 1332 (H. Doc. No. 105–60); to the Committee on National Security and ordered to be printed.

2355. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a draft of proposed legislation to amend the Export-Import Bank Act of 1945, as amended; to the Committee on Banking and Financial Services.

2356. A letter from the Chairman, Federal Trade Commission, transmitting the 19th annual report to Congress on the administration of the Fair Debt Collection Practices Act, pursuant to 15 U.S.C. 1692m; to the Committee on Banking and Financial Services.

2357. A letter from the Secretary of Education, transmitting a draft of proposed legislation entitled the "Partnership to Rebuild America's Schools Act of 1997"; to the Committee on Education and the Workforce.

2358. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Government Securities Sales Practices [Regulations H and K, Docket No. R–0921] received March 12, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2359. A letter from the General Counsel, Department of Transportation, transmitting the Department's "Major" final rule—Federal Motor Vehicle Safety Standards; Occupant Crash Protection [Docket No. 74–14; Notice 114] (RIN: 2127–AG59) received March 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2360. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Final Interim Approval of Operating Permits Program; State of Connecticut [AD–FRL–5702–5] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2361. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District [CA 184–0031a, FRL–5709–3] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2362. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans, Tennessee; Approval of Revisions to Knox County Regulations for Violations and General Requirements [TN–165–01–9633a; FRL–5709–8] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2363. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plan for New Mexico: General Conformity Rules [NM 22–1–7103a; FRL–5709–6] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2364. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Approval and Promulgation of State Implementation Plans; Connecticut: PM10 Prevention of Significant Deterioration Increments; and Approval of a Second 1-Year Extension of PM10 Attainment Date for New Haven [CT27–1–7200a; FRL–5667–4] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2365. A letter from the Chair, Federal Energy Regulatory Commission, transmitting the Commission's final rule—Standards For Business Practices of Interstate Natural Gas Pipelines [Docket No. RM96–1–004; Order No. 587–C] received March 19, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2366. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Paper and Paperboard Components [Docket No. 92F–0313] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2367. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Paper and Paperboard Components [Docket No. 94F–0257] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2368. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Paper and Paperboard Components [Docket No. 96F–0070] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2369. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adhesives and Components of Coatings; Adjuvants, Production Aids, and Sanitizers [Docket No. 91F–0356] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2370. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adhesives and Components of Coatings [Docket No. 96F–0053] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2371. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adhesives and Components of Coatings [Docket No. 94F–0398] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2372. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adhesives and Components of Coatings [Docket No. 88F–0426] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2373. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 94F–0022] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2374. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 92F–0357] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2375. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 88F–0339] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2376. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 91F–0289] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2377. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 93F–0167] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2378. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 95F–0332] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2379. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 84F–0330] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2380. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 95F–0402] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2381. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 95F–0331] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2382. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 96F–0031] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2383. A letter from the Director, Regulations Policy Management Staff, Office of

Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 95F–0365] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2384. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Polymers [Docket No. 95F–0201] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2385. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 92F–0339] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2386. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 93F–0136] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2387. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 93F–0385] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2388. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 94F–0251] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2389. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 92F–0475] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2390. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 92F–0117] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2391. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 95F–0175] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2392. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 96F–0027] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2393. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 96F–0052] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2394. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 96F–0092] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2395. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 89F–0331] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2396. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 93F–0385] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2397. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 96F–0164] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2398. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers—received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2399. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 93F–0309] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2400. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Secondary Direct Food Additives in Food for Human Consumption [Docket No. 94F–0358] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2401. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Secondary Direct Food Additives in Food for Human Consumption [Docket No. 95F–0160] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2402. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Secondary Direct Food Additives in Food for Human Consumption [Docket No. 95F–0161] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2403. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Secondary Direct Food Additives in Food for Human Consumption; Correction [Docket No. 93F–0483] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2404. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Additives Permitted for Direct Addition to Food for Human Consumption; Dimethyl Dicarbonate [Docket No. 94F–0189] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2405. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Additives Permitted for Direct Addition to Food for Human Consumption; Aspartame [Docket No. 94F–0405] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2406. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Additives Permitted for Direct Addition to Food for Human Consumption; Curdlan—received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2407. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Direct Food Substances Affirmed as Generally Recognized as Safe: High Fructose Corn Syrup [Docket No. 85N–0548] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2408. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Direct Food Substances Affirmed as Generally Recognized as Safe: Cocoa Butter Substitute Derived From High-Oleic Safflower or Sunflower Oil [Docket No. 88G–0388] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2409. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Direct Food Substances Affirmed as Generally Recognized as Safe: Enzyme-Modified Lecithin [Docket No. 85G–0335] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2410. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Direct Food Substances Affirmed as Generally Recognized as Safe: Listing of Color Additives Exempt From Certification; Ferrous Lactate [Docket No. 93G–0017] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2411. A letter from the Director, Regulations Policy Management Staff, Office of

Policy, Food and Drug Administration, transmitting the Administration's final rule—Direct Food Substances Affirmed as Generally Recognized as Safe in Feed and Drinking Water of Animals; Hydrophobic Silica [Docket No. 95G–0039] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2412. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Labeling; Nutrient Content Claims and Health Claims; Restaurant Foods; Correction [Docket No. 93N–0153] (RIN: 0910–AA19) received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2413. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Labeling: Nutrient Content Claim for "Extra"; Correction [Docket No. 94P–0216] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2414. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Additives Permitted in Feed and Drinking Water of Animals; Formaldehyde [Docket No. 90F–0297] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2415. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Standards: Amendment of Standards of Identity for Enriched Grain Products to Require Addition of Folic Acid; Clarification [Docket No. 91N–100S] (RIN: 0910–AA19) received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2416. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Revocation of Certain Regulations Affecting Food [Docket No. 95N–310F] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2417. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Irradiation in the Production, Processing, and Handling of Food [Docket No. 94F–0125] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2418. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—List of Color Additives for Coloring Contact Lenses; 1,4-Bis[(2-hydroxyethyl) amino]-9,10-anthracenedione bis(2-propenoic) ester copolymers [Docket No. 91C–0189] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2419. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Anticaries Drug Products for Over-the-Counter Human Use; Final Monograph; Technical Amendment; Partial Delay of Effective Date [Docket No. 80N–0042] (RIN: 0910–AA01) received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2420. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Elimination of Establishment License Application for Specified Biotechnology and Specified Synthetic Biological Products; Correction [Docket No. 95N–0411] (RIN: 0910–AA71) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2421. A letter from the Legislative and regulatory Activities Division, Office of the Comptroller of the Currency, transmitting the final rule—Government Securities Sales Practices [Docket No. 97–05] (RIN: 1557–AB52) received March 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2422. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 02–97 for Coordination Registration [CR] in the Over-The-Horizon Radars Project Arrangement [PA], pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

2423. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Indonesia (Transmittal No. DTC–36–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2424. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with the United Kingdom (Transmittal No. DTC–7–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

2425. A letter from the Chair, Federal Energy Regulatory Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1996, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2426. A letter from the Chief Administrative Officer, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period July 1, 1996, through September 30, 1996, as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a (H. Doc. No. 105–59); to the Committee on House Oversight and ordered to be printed.

2427. A letter from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting a draft of proposed legislation to provide for the division, use and distribution of judgment funds to the Sault Ste. Marie Tribe of Chippewa Indians of Michigan and the Bay Mills Indian Community of the Sault Ste. Marie Band of Chippewa Indians pursuant to Docket numbered 18–R before the Indian Claims Commission; to the Committee on Resources.

2428. A letter from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting a draft of proposed legislation to provide for the division, use and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan pursuant to Dockets Numbered 18–E, 58, and 364 before the Indian Claims Commission; to the Committee on Resources.

2429. A letter from the Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Coastal Services Center Coastal Management Fellowship [Docket No. 970121009–7009–01] (RIN: 0648–ZA27) received March 18, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2430. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 1997 Scup Specifications [Docket No. 961129337–7040–02; I.D. 112096A] (RIN: 0648–xx75) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2431. A letter from the Secretary of Commerce, transmitting a report on northeast multispecies harvest capacity and impact of New England harvest capacity reduction, pursuant to Public Law 104–297, section 402 (110 Stat. 3618); to the Committee on Resources.

2432. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Civil Monetary Penalty Inflation Adjustment Rule [FRL–5711–7] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2433. A letter from the Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting the Department's final rule—Danger Zones and Restricted Areas, National Guard Training Center, Sea Girt, New Jersey (Corps of Engineers, Department of the Army) [33 CFR Part 334] received March 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2434. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328–100 Series Airplanes Equipped with Burns Aerospace Corporation Passenger Seats (Federal Aviation Administration) [Docket No. 96–NM–117–AD; Amdt. 39–9964; AD 97–06–07] (RIN: 2120–AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2435. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; de Havilland Model DHC–7 Series Airplanes (Federal Aviation Administration) [Docket No. 95–NM–158–AD; Amdt. 39–9965; AD 97–06–08] (RIN: 2120–AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2436. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company (formerly Beech Aircraft Corporation) 35 Series Airplanes (Federal Aviation Administration) [Docket No. 96–CE–44–AD; Amdt. 39–9968; AD 97–06–11] (RIN: 2120–AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2437. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–67–AD; Amdt. 39–9966; AD 97–06–09] (RIN: 2120–AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2438. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model BAe 146 and Avro 146-RJ Series Airplanes (Federal Aviation Administration) [Docket No. 96-NM-26-AD; Amdt. 39-9969; AD 97-06-12] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2439. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron, Inc. Model 214B, 214B-1 and 214ST Helicopters (Federal Aviation Administration) [Docket No. 94-SW-24-AD; Amdt. 39-9959; AD 97-06-02] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2440. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron, Inc. (BHTI) Model 214ST Helicopters (Federal Aviation Administration) [Docket No. 94-SW-25-AD; Amdt. 39-9960; AD 97-06-03] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2441. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company (formerly Beech Aircraft Corporation) 90, 99, 100, 200, and 1900 Series Airplanes (Federal Aviation Administration) [Docket No. 96-CE-11-AD; Amdt. 39-9963; AD 97-06-06] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2442. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Avions Pierre Robin Model R2160 Airplanes (Federal Aviation Administration) [Docket No. 92-CE-25-AD; Amdt. 39-9962; AD 97-06-05] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2443. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 757-200 Series Airplanes (Federal Aviation Administration) [Docket No. 97-NM-23-AD; Amdt. 39-9961; AD 97-06-04] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2444. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company (formerly Beech Aircraft Corporation) Model 76 Airplanes (Federal Aviation Administration) [Docket No. 94-CE-34-AD; Amdt. 39-9967; AD 97-06-10] (RIN: 2120-AA64) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2445. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Ephraim, WI, Ephraim-Fish Creek Airport (Federal Aviation Administration) [Airspace Docket No. 96-AGL-24] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2446. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Hot Springs, SD, Hot Springs Municipal Airport (Federal Aviation Administration) [Airspace Docket No. 96-AGL-27] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2447. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Gregory, SD, Gregory Municipal Airport (Federal Aviation Administration) [Airspace Docket No. 96-AGL-28] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2448. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Lemmon, SD, Lemmon Municipal Airport (Federal Aviation Administration) [Airspace Docket No. 96-AGL-29] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2449. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Shawano, WI, Shawano Municipal Airport (Federal Aviation Administration) [Airspace Docket. No. 96-AGL-30] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2450. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Oakes, ND, Oakes Municipal Airport (Federal Aviation Administration) [Airspace Docket No. 96-AGL-31] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2451. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Gallup, NM (Federal Aviation Administration) [Airspace Docket No. 96-ASW-20] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2452. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Wahoo, NE (Federal Aviation Administration) [Airspace Docket No. 97-ACE-4] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2453. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Alliance, NE (Federal Aviation Administration) [Docket No. 96-ACE-22] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2454. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Sidney, NE (Federal Aviation Administration) [Docket No. 96-CE-24] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2455. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Change in Using Agency for Restricted Area R-2513, Hunter-Liggett, CA (Federal Aviation Administration) [Airspace Docket No. 97-AWP-1] (RIN: 2120-AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2456. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Operating Requirements: Domestic, Flag, Supplemental, Commuter, and On-Demand Operations: Editorial and Other Changes (Federal Aviation Administration) [Docket No. 28154; Admt. Nos. 21-74, 25-90, 91-253, 119-3, 121-262, 125-28, 135-66] (RIN: 2120-AG26) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2457. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Sensitive Security Information (Federal Aviation Administration) [Docket No. 27965; Amdt. Nos. 107-10, 108-15, 109-3, 129-26, and 191-4] (RIN: 2120-AF49) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2458. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Fees for Air Traffic Services for Certain Flights Through U.S.-Controlled Airspace and for Aeronautical Studies (Federal Aviation Administration) [Docket No. 28860; Amendment No. 187-7] (RIN: 2120-AG17) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2459. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Guidelines for Implementing the Hardship Grants Program for Rural Communities Section 102(d) of the Clean Water Amendments of the 1995 Omnibus Appropriations and Rescission Act [FRL-5711-8] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2460. A letter from the Under Secretary for Acquisition and Technology, Department of Defense, transmitting a letter regarding the joint DOD and NASA plan for coordinating and eliminating unnecessary duplication in the operations and planned improvements of rocket engine test facilities, pursuant to Public Law 104-201, Section 211 (110 Stat. 2453); jointly, to the Committees on National Security and Science.

2461. A letter from the Chair, Christopher Columbus Fellowship Foundation, transmitting annual report of the Christopher Columbus Fellowship Foundation for fiscal year 1996, pursuant to Public Law 102-281, Section 429(b) (106 Stat. 145); jointly, to the Committees on Banking and Financial Services and Science.

2462. A letter from the Architect of the Capitol, transmitting a letter indicating that an energy efficient lighting retrofit program has been developed and a contract awarded to ERI Services of Pittsburgh, PA, to implement the retrofitting of existing fluorescent fixtures with energy efficient lamps and ballasts; jointly, to the Committees on Commerce and Transportation and Infrastructure. March 20, 1997.

2463. A letter from the Secretary of Commerce, transmitting the Department's report regarding bluefin tuna for 1995-96, pursuant to 16 U.S.C. 971i; jointly, to the Committees on International Relations and Resources.

2464. A letter from the Administrator, Panama Canal Commission, transmitting a draft of proposed legislation to authorize expenditures for fiscal year 1998 for the operation and maintenance of the Panama Canal and for other purposes, pursuant to 31 U.S.C. 1110; jointly, to the Committees on National Security, Government Reform and Oversight, and the Judiciary.

2465. A letter from the Executive Director, Assassination Records Review Board, transmitting a copy of the Assassination Records Review Board fiscal year 1996 report, pursuant to Public Law 102-526, section 9(f)(2) (106 Stat. 3456); jointly, to the Committees on the Judiciary, Rules, House Oversight, and Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of Oregon: Committee on Agriculture. H.R. 111. A bill to authorize the Secretary of Agriculture to convey a parcel of unused agricultural land in Dos Palos, California, to the Dos Palos Ag Boosters for use as a farm school (Rept. 105-34). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Oregon: Committee on Agriculture. H.R. 394. A bill to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, MI. (Rept. 105-35). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Oregon: Committee on Agriculture. H.R. 785. A bill to designate the J. Phil Campbell, Senior Natural Resource Conservation Center (Rept. 105-36). Referred to the Committee of the Whole House on the State of the Union.

Mr. BURTON: Committee on Government Reform and Oversight. A Citizen's Guide on Using the Freedom of Information Act and the Privacy Act of 1974 to Request Government Records (Rept. 105-37). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 757. A bill to develop the economy of American Samoa; with an amendment (Rept. 105-38). Referred to the Committee of the Whole House on the State of the Union.

Mr. COBLE: Committee on the Judiciary. H.R. 400. A bill to amend title 35, United States Code, with respect to patents, and for other purposes; with an amendment (Rept. 105-39). Referred to the Committee of the Whole House on the State of the Union.

Mr. BURTON: Committee on Government Reform and Oversight. H.R. 240. A bill to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes; with an amendment (Rept. 105-40 Pt. 1). Ordered to be printed.

Mr. DREIER: Committee on Rules. House Resolution 105. Resolution providing for consideration of the resolution (H. Res. 91) providing amounts for the expenses of certain committees of the House of Representatives in the 105th Congress (Rept. 105-41). Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 240. Referral to the Committees on House Oversight, the Judiciary, and Transportation and Infrastructure extended for a period ending not later than April 4, 1997.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. THUNE:

H.R. 1137. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit the movement in interstate commerce of meat and poultry products that satisfy State inspection requirements that are at least equal to Federal inspection standards; to the Committee on Agriculture.

By Mr. HUNTER (for himself, Mr. CUNNINGHAM, Mr. BARTLETT of Maryland, Mr. BONO, and Mr. SOLOMON):

H.R. 1138. A bill to prohibit the conveyance, directly or indirectly, of property at Naval Station, Long Beach, CA, to a commercial shipping company owned or controlled by a foreign country; to the Committee on National Security.

By Mr. TAUZIN:

H.R. 1139. A bill to amend the National Voter Registration Act of 1993 to require individuals applying to register to vote in elections for Federal office to produce actual proof of citizenship and to permit States to require individuals to produce a photographic identification in order to vote in an election for Federal office; to the Committee on House Oversight.

By Mr. GEPHARDT (for himself, Ms. PELOSI, Mr. BONIOR, Mr. SOLOMON, Mr. MILLER of California, Mr. SMITH of New Jersey, Ms. KAPTUR, Mr. LEVIN, Mr. OBEY, Mr. GEJDENSON, Mr. CARDIN, Mr. EVANS, Mr. ROHRABACHER, Ms. NORTON, Mr. DEFAZIO, Mr. WOLF, Mr. BORSKI, Mr. BROWN of Ohio, Mr. HUNTER, Mr. GUTIERREZ, Mr. LANTOS, Mr. STEARNS, Mr. FRANK of Massachusetts, Mr. SANDERS, Mr. HINCHEY, Mr. PAYNE, Mrs. MEEK of Florida, Mr. TORRES, Mr. LIPINSKI, Mr. STARK, Mrs. THURMAN, Mr. WATTS of Oklahoma, Ms. RIVERS, Mr. KLINK, Mr. SCARBOROUGH, Mr. TIERNEY, Mr. KUCINICH, and Mr. PETERSON of Pennsylvania):

H.R. 1140. A bill to require prior congressional approval before the United States supports the admission of the People's Republic of China into the World Trade Organization, and to provide for the withdrawal of the United States from the World Trade Organization if China is accepted into the WTO without the support of the United States; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEFAZIO:

H.R. 1141. A bill to amend title 49, United States Code, to require the use of child safety restraint systems approved by the Secretary of Transportation on commercial aircraft and to restrict the fares charged by air carriers for air transportation provided to children under 3 years of age; to the Committee on Transportation and Infrastructure.

By Mrs. MALONEY of New York (for herself, Mr. RAMSTAD, Ms. NORTON, and Mr. SMITH of New Jersey):

H.R. 1142. A bill to amend title I of the Employee Retirement Income Securities Act of 1974 and the Internal Revenue Code of 1986 to permit the creation or assignment of rights to employee pension benefits if necessary to satisfy a judgment against a plan participant or beneficiary for physically, sexually, or emotionally abusing a child; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. VENTO:

H.R. 1144. A bill to amend the Stewart B. McKinney Homeless Assistance Act to revise and extend programs providing urgently needed assistance for the homeless, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. TALENT (for himself, Mrs. LINDA SMITH of Washington, Mr. PORTMAN, Mrs. EMERSON, Mr. PAPPAS, Mr. ENGLISH of Pennsylvania, Mr. EHRLICH, Mrs. MORELLA, Mr. HILL, Mr. CHABOT, Mr. MANZULLO, Mrs. KELLY, Mr. BARTLETT of Maryland, Mr. JONES, and Mr. MCINTOSH):

H.R. 1145. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals, to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home, to clarify the standards used for determining that certain individuals are not employees, and for other purposes; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 1146. A bill to provide for complete withdrawal of the United States from the United Nations; to the Committee on International Relations.

H.R. 1147. A bill to repeal the prohibitions relating to semiautomatic firearms and large capacity ammunition feeding devices; to the Committee on the Judiciary.

By Mr. BATEMAN (for himself and Mr. ABERCROMBIE) (both by request):

H.R. 1148. A bill to authorize expenditures for fiscal year 1998 for the operation and maintenance of the Panama Canal, and for other purposes; to the Committee on National Security.

By Mr. BILIRAKIS:

H.R. 1149. A bill to amend the Internal Revenue Code of 1986 to clarify the exclusion from gross income for veterans' benefits; to the Committee on Ways and Means.

By Mr. SHAW (for himself, Mr. MATSUI, Mr. CRANE, Mr. THOMAS, Mr. STARK, Mr. HOUGHTON, Mr. HERGER, Mr. LEVIN, Mr. MCCRERY, Mr. CARDIN, Mr. ENSIGN, Mr. CAMP, Mr. COLLINS, Mr. ENGLISH of Pennsylvania, Mr. WELLER, and Ms. DUNN of Washington):

H.R. 1150. A bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts; to the Committee on Ways and Means.

By Mr. LaTOURETTE (for himself, Mr. KANJORSKI, Mr. SOLOMON, Mr. BROWN of California, Mr. Lewis of California, Ms. KAPTUR, Mr. MCDADE, Mr. DINGELL, Mr. BURTON of Indiana, Ms. RIVERS, Mr. LIVINGSTON, Ms. ROYBAL-ALLARD, Mr. QUINN, Mr. YATES, Mr. WAMP, Mr. SANDERS, Mr. HINCHEY, and Mr. CARDIN):

H.R. 1151. A bill to amend the Federal Credit Union Act to clarify existing law and ratify the longstanding policy of the National Credit Union Administration Board with regard to field of membership of Federal credit unions; to the Committee on Banking and Financial Services.

By Ms. CHRISTIAN-GREEN (for herself, Mr. MILLER of California, Mr. FALEOMAVAEGA, and Mr. UNDERWOOD):

H.R. 1152. A bill to amend the Revise Organic Act of the Virgin Islands, and for other purposes; to the Committee on Resources.

By Mr. CUNNINGHAM (for himself, Mr. LEWIS of California, Mr. HUNTER, Mr. WELDON of Pennsylvania, Mr. SHAYS, Mr. GILLMOR, Mr. GREENWOOD, Ms. PRYCE of Ohio, Mr. FILNER, Mr. BILBRAY, Mr. ENGLISH of Pennsylvania, Mr. FOLEY, Mr. FOX of Pennsylvania, Ms. LOFGREN, Mr. NORWOOD, Mr. WICKER, Mr. COOK, and Mr. GIBBONS.):

H.R. 1153. A bill to amend the Internal Revenue Code of 1986 to enhance the incentive for contributions of computer technology and equipment for elementary or secondary school purposes; to the Committee on Ways and Means.

By Mr. FALEOMAVAEGA:

H.R. 1154. A bill to provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes; to the Committee on Resources.

By Mr. FAZIO of California (for himself, Mr. DOOLEY of California, and Mr. CONDIT):

H.R. 1155. A bill to exempt certain maintenance, repair, and improvement of flood control facilities in California from the Endangered Species Act of 1973 during the flood emergency period; to the Committee on Resources.

By Mr. FRELINGHUYSEN (for himself, Mr. PAXON, Ms. MOLINARI, Mr. FRANKS of New Jersey, Mr. GILMAN, Mr. SMITH of New Jersey, Mr. ENGLISH of Pennsylvania, Mr. PAPPAS, Mr. HOUGHTON, Mrs. KELLY, Mr. SOLOMON, Mr. QUINN, Mrs. ROUKEMA, and Mr. MENENDEZ):

H.R. 1156. A bill to provide for greater equity in the allocation by the Secretary of Veterans Affairs of amounts appropriated for medical care programs of the Department of Veterans Affairs for the next 2 fiscal years and for other purposes related to the needs of veterans medical care; to the Committee on Veterans' Affairs.

By Mr. FRELINGHUYSEN:

H.R. 1157. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide that the U.S. Army Corps of Engineers perform contract oversight of fund financed remedial actions under that act; to the Committee on Commence, and in addition to the Committee on Transportation and Infrastructure, for a period to be substantially determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 1158. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to restrict the liability under that act of local educational agencies; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. FURSE (for herself, Ms. STABENOW, Mr. ALLEN, Ms. CHRISTIAN-GREEN, Ms. WOOLSEY, Mr. DEFAZIO, Ms. RIVERS, and Mr. MARKEY):

H.R. 1159. A bill to amend the Public Health Service Act to assure the availability of health insurance coverage for children in the individual market in a manner similar to guaranteed availability of individual health insurance coverage for certain previously covered individuals under the Health Insurance Portability and Accountability Act of 1996; to the Committee on Commerce.

By Mr. GONZALEZ:

H.R. 1160. A bill to promote accountability and the public interest in the operation of the Federal Reserve System, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HARMAN (for herself, Mr. GILMAN, Mr. SOLOMON, Mr. HOLDEN, Mr. HORN, Mr. KING of New York, Mr. MCNULTY, and Mr. RAMSTAD):

H.R. 1161. A bill to mandate the display of the POW/MIA flag on various occasions and in various locations; to the Committee on Government Reform and Oversight.

By Mr. HEFLEY (for himself, Mr. BLILEY, Mr. DAN SCHAEFER of Colorado, Mr. BOB SCHAFFER, Mr. HUNTER, Mr. TAYLOR of North Carolina, Mr. SKEEN, Mr. CALVERT, Mr. BARTLETT of Maryland, Mr. NORWOOD, and Mr. PAUL):

H.R. 1162. A bill to amend the Occupational Safety and Health Act of 1970; to the Committee on Education and the Workforce.

By Mr. HEFLEY (for himself and Mr. MCINNIS):

H.R. 1163. A bill to amend title 10, United States Code, to transfer jurisdiction over Naval Oil Shale Reserves Numbered 1 and 3 to the Secretary of the Interior and to authorize the leasing of such reserves for oil and gas exploration and production; to the Committee on National Security, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HERGER (for himself, Mr. BARRETT of Nebraska, Mr. HOUGHTON, Mr. WATKINS, Mr. CAMP, Mr. FROST, Mr. LATHAM, Mr. MINGE, Mr. KINGSTON, Mr. MCHUGH, Mr. GILCHREST, Mr. WALSH, and Mr. NETHERCUTT):

H.R. 1164. A bill to amend the Internal Revenue Code of 1986 to provide taxpayers engaged in certain agriculture-related activities a credit against income tax for property used to control environmental pollution and for soil and water conservation expenditures; to the Committee on Ways and Means.

By Mr. HINCHEY (for himself, Mr. ACKERMAN, Mr. DELAHUNT, Mr. DELLUMS, Mr. EVANS, Mr. HOLDEN, Mr. MASCARA, Mr. OLVER, Ms. RIVERS, and Mr. THOMPSON):

H.R. 1165. A bill to require Medicare providers to disclose publicly staffing and performance in order to promote improved consumer information and choice, to protect employees of Medicare providers who report concerns about the safety and quality of services provided by Medicare providers or who report violations of Federal or State law by those providers, and to require review of the impact on public health and safety of proposed mergers and acquisitions of Medicare providers; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOYER (for himself, Mrs. MORELLA, Mr. BOEHLERT, Mr. FILNER, Mr. WYNN, Mr. FAZIO of California, Mr. HUNTER, Mr. LANTOS, Mr. LEWIS of California, Mr. DAVIS of Virginia, Mr. EHRLICH, Mr. SMITH of New Jersey, Mr. MATSUI, Mr. CUNNINGHAM, Mr. LEACH, and Mr. GILMAN):

H.R. 1166. A bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. INGLIS of South Carolina:

H.R. 1167. A bill to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities; to the Committee on the Judiciary.

By Mr. ISTOOK (for himself, Mr. VISCLOSKY, Mr. GRAHAM, Mr. COBLE, Mr. SNOWBARGER, Mr. MCINTOSH, Mr. WATKINS, Mr. SOLOMON, Mr. WHITFIELD, Mr. BARCIA of Michigan, Mr. LATHAM, Mr. COBURN, Mr. LUCAS of Oklahoma, Mr. WATTS of Oklahoma, and Mr. MORAN of Kansas):

H.R. 1168. A bill to encourage competition and tax fairness and to protect the tax base of State and local governments; to the Committee on Resources.

By Mrs. JOHNSON of Connecticut (for herself, Mr. MATSUI, Mr. HOUGHTON, Mr. CRANE, Mr. HERGER, Mr. MCCRERY, Mrs. KENNELLY of Connecticut, Mr. ENGLISH of Pennsylvania, Mr. NEAL of Massachusetts, Mr. ENSIGN, Mr. CHRISTENSEN, Mr. WATKINS, Mr. COYNE, Mr. HULSHOF, Mrs. THURMAN, Mr. MCDERMOTT, Mr. EHRLICH, Ms. ESHOO, Mr. WAXMAN, Mr. DINGELL, Mr. DELAHUNT, Mr. FRANK of Massachusetts, Ms. ROYBAL-ALLARD, Mr. CHABOT, and Mr. TOWNS):

H.R. 1169. A bill to amend the Internal Revenue Code of 1986 to permanently extend the orphan drug credit; to the Committee on Ways and Means.

By Mr. BONO (for himself, Mr. HYDE, Mr. COBLE, Mr. SMITH of Texas, Mr. GEKAS, Mr. MCCOLLUM, Mr. CANADY of Florida, Mr. SENSENBRENNER, Mr. GALLEGLY, Mr. GOODLATTE, Mr. BARR of Georgia, Mr. BRYANT, Mr. SCHIFF, Mr. CHABOT, Mr. SOLOMON, Mr. DREIER, Mr. CALVERT, Mr. ROHRABACHER, Mr. HORN, Mr. BILBRAY, Mr. RIGGS, Mr. MCKEON, Mr. ROYCE, Mr. HERGER, Mr. HUNTER, Mr. LEWIS of California, Mr. KIM, Mr. EHRLICH, Mr. COBURN, Mr. CUNNINGHAM, Mr. GRAHAM, Mr. HOSTETTLER, Mr. BARTLETT of Maryland, and Mr. MCINTOSH):

H.R. 1170. A bill to provide that an application for an injunction restraining the enforcement, operation, or execution of a State law adopted by referendum may not be granted on the ground of the unconstitutionality of such law unless the application is heard and determined by a 3-judge court; to the Committee on the Judiciary.

By Mr. KASICH (for himself, Mr. CONDIT, Mr. ROYCE, Mr. ANDREWS, Mr. KLUG, Mr. MILLER of Florida, and Mr. CHABOT):

H.R. 1171. A bill to provide for the elimination of 12 Federal subsidy programs and projects; to the Committee on Agriculture, and in addition to the Committees on Resources, Commerce, Science, International Relations, Transportation and Infrastructure, Ways and Means, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KASICH (for himself, Mr. SPENCE, Mr. CONDIT, Mr. HILLEARY, Mr. JONES, Mr. BUYER, Mr. FRANK of Massachusetts, Mr. PARKER, and Mr. HEFLEY):

H.R. 1172. A bill to prohibit the use of funds appropriated to the Department of Defense or any other Federal department or agency from being used for the deployment on the ground of United States Armed Forces in the territory of the Republic of Bosnia and Herzegovina after September 30, 1997, and for other purposes; to the Committee on International Relations, and in addition to the Committees on National Security, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KILDEE (for himself, Mr. NEY, Mr. CLEMENT, Mr. DUNCAN, Mr. FOLEY, and Mr. KLECZKA):

H.R. 1173. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; to the Committee on Education and the Workforce.

By Mr. KOLBE (for himself, Mr. TORRES, Mr. PORTER, Mr. ROGERS, Mr. LIPINSKI, Mr. KLUG, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. WYNN, Mr. LAFALCE, and Mr. METCALF):

H.R. 1174. A bill to provide for the minting and circulation of $1 coins, and for other purpose; to the Committee on Banking and Financial Services.

By Mr. LEWIS of California (for himself, Mr. FAZIO of California, Mr. BONO, and Ms. ROYBAL-ALLARD):

H.R. 1175. A bill to authorize the granting of money to control methamphetamine; to the Committee on the Judiciary.

By Mrs. LOWEY (for herself, Mr. SHAYS, Mr. HYDE, Mrs. MALONEY of New York, Ms. PELOSI, Mr. MEEHAN, Mr. TRAFICANT, Mr. CLAY, Mr. TORRES, Mr. MORAN of Virginia, Mr. GOSS, Mr. FILNER, Mr. MANTON, Mr. MARTINEZ, Ms. WOOLSEY, Mr. PORTER, Ms. SLAUGHTER, Mr. DEUTSCH, Mr. YATES, Ms. ROYBAL-ALLARD, Mr. GEJDENSON, Mr. MARKEY, Mr. FARR of California, Mr. ABERCROMBIE, Mr. ANDREWS, Mr. FOGLIETTA, Ms. NORTON, Mrs. MINK of Hawaii, Mrs. KENNELLY of Connecticut, Mr. LEWIS of Georgia, Mrs. MORELLA, Mr. GALLEGLY, Mr. MATSUI, Mr. GILMAN, Mr. BERMAN, Mr. OLVER, Mr. LEVIN, Mr. DEFAZIO, Mr. SKAGGS, Mr. SCHIFF, Mr. SMITH of New Jersey, and Mr. LANTOS):

H.R. 1176. A bill to end the use of steel jaw leghold traps on animals in the United States; to the Committee on Commerce, and in addition to the Committees on Ways and Means, International Relations, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY of New York:

H.R. 1177. A bill to require the head of each Federal agency to ensure that computer systems of the agency are capable of performing their functions after December 31, 1999; to the Committee on Government Reform and Oversight.

H.R. 1178. A bill to amend title 13, United States Code, to make clear that sampling may be used in order to improve the accuracy of the decennial censuses of population, and for other purposes; to the Committee on Government Reform and Oversight.

By Mrs. MALONEY of New York (for herself, Mr. DELLUMS, and Mr. SHAYS):

H.R. 1179. A bill to authorize appropriations for the Federal Election Commission for fiscal year 1998; to the Committee on House Oversight.

By Mr. MCDADE:

H.R. 1180. A bill to amend the Communications Act of 1934 to require Internet access providers to provide screening software to permit parents to control Internet access by their children; to the Committee on Commerce.

By Mr. MEEHAN (for himself, Mr. MANTON, Mr. NEAL of Massachusetts, Mr. GILMAN, Mr. WALSH, Mr. MORAN of Virginia, Mrs. KELLY, and Mr. SHAYS).

H.R. 1181. A bill to authorize the President to enter into a trade agreement concerning Northern Ireland and certain border counties of the Republic of Ireland, and for other purposes; to the Committee on Ways and Means.

By Mr. MENENDEZ (for himself, Mr. DIAZ-BALART, Ms. ROS-LEHTINEN, and Mr. BURTON of Indiana):

H.R. 1182. A bill to withhold United States assistance for programs or projects of the International Atomic Energy Agency in Cuba, and for other purposes; to the Committee on International Relations.

By Mr. METCALF:

H.R. 1183. A bill to extend the deadline under the Federal Power Act for the construction of the Swamp Creek and Ruth Creek hydroelectric projects located in the State of Washington, and for other purposes; to the Committee on Commerce.

H.R. 1184. A bill to extend the deadline under the Federal Power Act for the construction of the Bear Creek hydroelectric project in the State of Washington, and for other purposes; to the Committee on Commerce.

By Mr. MINGE (for himself, Mr. PETERSON of Minnesota, and Mr. GUTKNECHT):

H.R. 1185. A bill to ensure that land enrolled in the land conservation program of the State of Minnesota known as Reinvest in Minnesota remains eligible for enrollment in the conservation reserve upon the expiration of the Reinvest in Minnesota contract; to the Committee on Agriculture.

By Mrs. MINK of Hawaii:

H.R. 1186. A bill to provide authorities to, and impose requirements on, the Secretary of Defense in order to facilitate State enforcement of State tax, employment, and licensing laws against Federal construction contractors; to the Committee on National Security.

H.R. 1187. A bill to provide for the regulation of the airspace over National Park System lands in the State of Hawaii by the Federal Aviation Administration and the National Park Service, and for other purposes; to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NADLER (for himself, Mr. BERMAN, Mr. WAXMAN, Ms. NORTON, Mr. SANDERS, Mr. DELLUMS, Mr. HINCHEY, Mr. EVANS, and Mr. PALLONE):

H.R. 1188. A bill to amend the Federal Water Pollution Control Act to eliminate certain discharges of chlorine compounds into the navigable waters, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. NUSSLE (for himself, Mr. POSHARD, Mrs. EMERSON, Mr. BONILLA, Mr. BEREUTER, Mr. DEFAZIO, Mr. HILLIARD, Mr. KIND of Wisconsin, Mrs. JOHNSON of Connecticut, Mr. MINGE, Mr. POMEROY, Mr. MORAN of Kansas, Mr. STENHOLM, Mr. PETERSON of Pennsylvania, Mr. BARRETT of Nebraska, Mr. BOUCHER, Mr. CLYBURN, Mr. COSTELLO, Mr. CRAPO, Mr. GANSKE, Mr. HILL, Mr. LATHAM, Mr. LEACH, Mr. OBERSTAR, Mr. RAHALL, Mr. PETRI, Mr. THORNBERRY, Mr. WALSH, Mr. WATTS of Oklahoma, and Mr. PETERSON of Minnesota):

H.R. 1189. A bill to amend the Social Security Act and the Public Health Service Act with respect to the health of residents of rural areas, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBEY:

H.R. 1190. A bill to require the Secretary of Agriculture to consider the feasibility of basing the basic formula price for milk under Federal milk marketing orders on the costs of production for dairy farmers and the benefits to farmers and consumers of such a pricing approach; to the Committee on Agriculture.

By Mr. OWENS:

H.R. 1191. A bill to provide patients with information and rights to promote better health care; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAXON:

H.R. 1192. A bill to amend the Social Security Act to require the Secretary of Health and Human Services to approve or deny an application for a waiver for certain demonstration projects under title IV or XI of the Social Security Act in a timely manner; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROYCE:

H.R. 1193. A bill to amend the Internal Revenue Code of 1986 to allow indexing of capital assets for purposes of determining gain or loss and to allow an exclusion of gain from the sale of a principal residence; to the Committee on Ways and Means.

By Mr. DAN SCHAEFER of Colorado (for himself and Mr. Norwood):

H.R. 1194. A bill to amend the Federal Water Pollution Control Act relating to Federal facilities pollution control; to the Committee on Transportation and Infrastructure.

By Mr. DAN SCHAEFER of Colorado:

H.R. 1195. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to ensure full Federal compliance with that act; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SKAGGS (for himself, Mr. McInnis, and Ms. DeGette):

H.R. 1196. A bill to amend the Colorado Wilderness Act of 1993 to extend the interim protection of the Spanish Peaks planning area in the San Isabel National Forest, CO; to the Committee on Resources.

By Mr. SMITH of Oregon:

H.R. 1197. A bill to amend title 35, United States Code, to protect patent owners against the unauthorized sale of plant parts taken from plants illegally reproduced, and for other purposes; to the Committee on the Judiciary.

H.R. 1198. A bill to direct the Secretary of the Interior to convey certain land to the city of Grants Pass, OR; to the Committee on Resources.

By Mr. SOUDER:

H.R. 1199. A bill to protect residents and localities from irresponsibly sited hazardous waste facilities; to the Committee on Commerce.

By Mr. McDERMOTT (for himself, Mr. Conyers, Ms. Christian-Green, Mr. Dellums, Mr. Evans, Mr. Fattah, Mr. Frank of Massachusetts, Mr. Gonzalez, Mr. Hinchey, Ms. Jackson-Lee, Mr. Lewis of Georgia, Mr. Martinez, Mr. Nadler, Mr. Olver, Mr. Payne, Ms. Pelosi, Mr. Rush, Mr. Scott, Mr. Sanders, Mr. Serrano, Mr. Towns, Mr. Watts of Oklahoma, Mr. Waxman, Ms. Woolsey, and Mr. Yates):

H.R. 1200. A bill to provide for health care for every American and to control the cost and enhance the quality of the health care system; to the Committee on Commerce, and in addition to the Committees on Ways and Means, Government Reform and Oversight, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK:

H.R. 1201. A bill to amend title XVIII of the Social Security Act to establish a medication evaluation and dispensing system for Medicare beneficiaries, to improve the quality of pharmaceutical services received by our Nation's elderly and disabled, and to reduce instances of adverse reactions to prescription drugs experienced by Medicare beneficiaries; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BROWN of California (for himself, Mr. Shays, Mr. Gejdenson, Mr. Manton, Mr. Gilchrest, Mr. Wynn, Ms. Woolsey, Mr. Farr of California, Mr. Borski, Mr. Abercrombie, Mr. Moran of Virginia, Mr. Berman, Mr. Stark, Mr. Filner, Ms. Slaughter, Mr. Leach, Mrs. Morella, Mr. Lantos, Mr. Miller of California, Mr. DeFazio, Ms. Rivers, Mr. Clay, Ms. Pelosi, Mr. Markey, Mr. Meehan, Mr. Foglietta, Mr. Conyers, Mr. Porter, Ms. Norton, Mr. Neal of Massachusetts, Mr. Doyle, Mr. Klug, Mrs. Kennelly of Connecticut, Mr. Skaggs, Mr. Castle, Ms. Kaptur, Mr. Davis of Illinois, Ms. Lofgren, and Mr. Rangel):

H.R. 1202. A bill to amend title 18, United States Code, to prohibit interstate-connected conduct relating to exotic animals; to the Committee on the Judiciary.

By Mr. STUMP:

H.R. 1203. A bill to amend the Elementary and Secondary Education Act of 1965 to ensure that funds provided under such act are not used to promote the teaching or use of regional or group dialects; to the Committee on Education and the Workforce.

By Mr. THOMAS (for himself, Mr. English of Pennsylvania, Mr. Stark, and Mr. Wicker):

H.R. 1204. A bill to amend the Internal Revenue Code of 1986 to provide that the sale of a life estate or a remainder interest in a principal residence qualifies for the one-time exclusion of gain on sale of a principal residence; to the Committee on Ways and Means.

By Mr. THOMAS (for himself and Mr. Crane):

H.R. 1205. A bill to amend the Internal Revenue Code of 1986 to retreat distributions from publicly traded partnerships as qualifying income of regulated investment companies; to the Committee on Ways and Means.

By Mr. VISCLOSKY:

H.R. 1206. A bill to require the Administrator of the Environmental Protection Agency to establish a program under which States may be certified to carry out voluntary environmental cleanup programs for low and medium priority sites to protect human health and the environment and promote economic development; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WATKINS:

H.R. 1207. A bill to amend the Internal Revenue Code of 1986 to provide all taxpapers with a 50-percent deduction for capital gains, to increase the exclusion for gain on qualified small business stock, to index the basis of certain capital assets, and for other purposes; to the Committee on Ways and Means.

H.R. 1208. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Ways and Means.

By Mr. WAXMAN (for himself, Mr. Gephardt, and Mr. Miller of California):

H.R. 1209. A bill to provide for the defense of the environment, and for other purposes; to the Committee on Rules, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WOLF (for himself, Mr. Packard, and Mr. DeLay):

H.R. 1210. A bill to provide an equitable process for strengthening the passenger rail service network of Amtrak through the timely closure and realignment of routes with low economic performance; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER (for himself, Mr. Becerra, Mr. Torres, Mr. Martinez, Mr. Pastor, Mr. Brown of California, Mr. Serrano, Ms. Woolsey, Mr. McDermott, Ms. Lofgren, Mrs. Mink of Hawaii, Ms. Roybal-Allard, Mr. Berman, Mr. Underwood, Ms. Pelosi, Ms. Velázquez, Mr. Green, Mr. Gonzalez, Mr. Romero-Barceló, Mr. Kennedy of Massachusetts, Mr. Kennedy of Rhode Island, Ms. Sanchez, Mr. Hinojosa, Mr. Reyes, Mr. Menendez, Mr. Hastings of Florida, Mr. Hinchey, Mr. Jackson, Mr. Dellums, Mr. Fattah, Ms. Millender-McDonald, Ms. Christian-Green, Ms. Furse, Mr. Gutierrez, Mr. Owens, Mr. Rangel, Ms. Norton, Mr. Ortiz, Mr. Stark, Mr. Sanders, and Mr. Davis of Illinois):

H.J. Res. 65. Joint resolution to commemorate the birthday of Cesar E. Chavez; to the Committee on Government Reform and Oversight.

By Mrs. MALONEY of New York (for herself, Mrs. Morella, Mr. Shays, Mr. Frank of Massachusetts, Mrs. Johnson of Connecticut, Mr. Lantos, Mr. Filner, Mr. Frost, Mr. Delahunt, Ms. Eshoo, Mrs. Meek of Florida, Mr. Stark, Mr. Brown of California, Mr. Fattah, Mrs. Kennelly of Connecticut, Mr. Kind of Wisconsin, Mr. Clay, Ms. Norton, Mr. McDermott, Ms. Lofgren, Ms. Slaughter, Mr. Sabo, Ms. Stabenow, Mr. Berman, Mr. Ackerman, Mr. Nadler, Mr. Yates, Mr. Olver, Mr. Markey, Ms. Jackson-Lee, Mr. Gonzalez, Mr. Boucher, Ms. Kilpatrick, Mr. DeFazio, Mr. Rush, Mr. Evans, Ms. DeLauro, Mr. Lewis of Georgia, Mr. Andrews, Mr. Davis of Illinois, Ms. Furse, Mr. Clyburn, Mr. Levin, Ms. Christian-Green, and Mrs. Clayton):

H.J. Res. 66. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. WICKER (for himself, Mr. NORWOOD, Mr. HALL of Texas, Mr. HEFLEY, Mr. CANNON, Mr. BONILLA, Mr. PARKER, Mr. COMBEST, Mr. CHAMBLISS, Mr. HAYWORTH, Mr. EVERETT, Mr. SESSIONS, Mr. COLLINS, Mr. BACHUS, Mrs. MYRICK, Mr. BURR of North Carolina, Mr. BALLENGER, Mr. MCINTOSH, Mr. PICKERING, Mr. DICKEY, Mr. GOODLING, Mr. STUMP, Mr. ADERHOLT, Mr. SUNUNU, Mr. POMBO, Mr. HERGER, Mr. ISTOOK, Mr. COBLE, Mr. JONES, and Mr. LIVINGSTON):

H.J. Res. 67. Joint resolution disapproving the rule of the Occupational Safety and Health Administration relating to occupational exposure to methylene chloride; to the Committee on Education and the Workforce.

By Mr. BONILLA (for himself, Mr. ORTIZ, Mr. SKEEN, Mr. BALDACCI, and Mr. REYES):

H. Con. Res. 51. Concurrent resolution expressing the sense of the Congress that there should be parity among the countries that are parties to the North American Free-Trade Agreement [NAFTA] with respect to the personal allowance for duty-free merchandise purchased abroad by returning residents; to the Committee on Ways and Means.

By Mr. QUINN (for himself, Mr. LATOURETTE, Mr. FOGLIETTA, Mr. RAHALL, Mr. LUCAS of Oklahoma, Mr. FLAKE, Mr. LIPINSKI, Mr. KLINK, Mr. DOYLE, Mr. KLECZKA, Ms. DANNER, Mr. VENTO, and Mr. KUCINICH):

H. Con. Res. 52. Concurrent resolution urging that the railroad industry, including rail labor, management and retiree organizations, open discussions for adequately funding an amendment to the Railroad Retirement Act of 1974 to modify the guaranteed minimum benefit for widows and widowers whose annuities are converted from a spouse to a widow or widower annuity; to the Committee on Transportation and Infrastructure.

By Mr. SOLOMON:

H. Con. Res. 53. Concurrent resolution encouraging and expediting the integration of Romania at the earliest stage into the North Atlantic Treaty Organization [NATO]; to the Committee on International Relations.

By Mr. THOMAS:

H. Res. 102. Resolution providing amounts from the applicable accounts of the House of Representatives for continuing expenses of certain standing and select committees of the House from April 1, 1997, through May 2, 1997, and for other purposes; to the Committee on House Oversight.

By Mr. BEREUTER (for himself and Mr. SPENCE):

H. Res. 103. Resolution expressing the sense of the House of Representatives that the United States should maintain approximately 100,000 U.S. military personnel in the Asia and Pacific region until such time as there is a peaceful and permanent resolution to the major security and political conflicts in the region; to the Committee on International Relations.

By Mr. ENGEL (for himself and Ms. MOLINARI):

H. Res. 104. Resolution concerning the crises in Albania; to the Committee on Inernational Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. VENTO:

H.R. 1143. A bill for the relief of Mary M. Mertz; to the Committee on the Judiciary.

By Mr. MCCOLLUM:

H.R. 1211. A bill for the relief of Global Exploration and Development Corp., Kerr-McGee Corp. and Kerr-McGee Chemical Corp.; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4: Mr. FARR of California, Mr. MANZULLO, Mr. BILBRAY, Ms. SANCHEZ, Mr. MCNULTY, Mr. SISISKY, Mr. LEACH, Mr. KING of New York, Mr. SKEEN, Mr. BOB SCHAFFER, Mrs. CHENOWETH, Mr. EVERETT, Mr. SPENCE, Mr. BILIRAKIS, Mr. BALDACCI, Mr. DOOLITTLE, Mr. FORD, Mr. FOLEY, Ms. CHRISTIAN-GREEN, Mr. BAESLER, Mr. ISTOOK, Mr. MANTON, Mr. CLAY, Mr. HILL, Mr. WELDON of Florida, and Mr. CAMP.

H.R. 14: Mr. WICKER, Mr. COX of California, Mr. PACKARD, Mr. POMBO, Mr. LINDER, Mr. HOBSON, Mr. WHITE, Mr. EVERETT, Mr. MCINNIS, Mr. PARKER, Mr. HERGER, and Mr. BONO.

H.R. 15: Mr. YOUNG of Florida, Mr. WELDON of Florida, Mr. WATKINS, Mr. LEVIN, Mr. BUNNING of Kentucky, Mr. CRAPO, Mr. GREENWOOD, Mr. ADAM SMITH of Washington, Mrs. LOWEY, Mr. MCCOLLUM, Mr. KLECZKA, Mr. GORDON, Mr. MCGOVERN, Mr. TALENT, Mr. BECERRA, Mr. ACKERMAN, Mr. BOUCHER, and Mr. COBLE.

H.R. 27: Mr. MCKEON, Mr. HILLEARY, and Mr. THORNBERRY.

H.R. 29: Mr. DELAHUNT, Mr. BONIOR, Mr. RUSH, Mr. FAZIO of California, Mr. OBERSTAR, Mr. DEFAZIO, and Mr. WATTS of Oklahoma.

H.R. 49: Ms. ESHOO.

H.R. 54: Ms. FURSE, Ms. WOOLSEY, Mr. CONDIT, Mr. STARK, Mr. SMITH of Oregon, Mr. PETERSON of Minnesota, Mr. POMBO, Mr. MATSUI, Mr. PACKARD, Ms. KAPTUR, and Mr. PALLONE.

H.R. 58: Mr. HILLIARD and Mr. COYNE.

H.R. 66: Mr. BUNNING of Kentucky, Mr. SHADEGG, Mr. WATT of North Carolina, Mr. PICKERING, Mrs. MYRICK, Ms. SLAUGHTER, Mr. LEWIS of Georgia, Mr. DUNCAN, and Mr. LAMPSON.

H.R. 76: Mr. BLILEY, Mr. CHRISTENSEN, Mr. CONDIT, Mr. CRAMER, Mr. DICKS, Mr. GOODE, Mr. HALL of Ohio, Mr. HAYWORTH, Mr. HOLDEN, Mr. MCGOVERN, Mrs. LINDA SMITH of Washington, and Mr. SMITH of New Jersey.

H.R. 80: Mr. CHRISTENSEN and Mr. GUTKNECHT.

H.R. 96: Mr. OBERSTAR, Mr. CHRISTENSEN, and Mr. PETERSON of Pennsylvania.

H.R. 107: Mrs. THURMAN.

H.R. 123: Mr. PAXON.

H.R. 143: Mrs. THURMAN and Mr. TORRES.

H.R. 145: Mr. METCALF.

H.R. 192: Mr. SISISKY, Mr. WICKER, Mr. MANZULLO, Mr. CALLAHAN, Mr. GOODE, Mr. KOLBE, Mr. BARTON of Texas, Mrs. LINDA SMITH of Washington, and Mr. LAHOOD.

H.R. 198: Mr. DUNCAN.

H.R. 213: Mr. CLYBURN and Ms. STABENOW.

H.R. 218: Mr. RAHALL, Mr. NEY, Mr. KLECZKA, and Mr. NORWOOD.

H.R. 230: Mr. KNOLLENBERG.

H.R. 240: Mr. ENSIGN, Mr. MANZULLO, and Mr. ENGLISH of Pennsylvania.

H.R. 250: Mr. TIAHRT.

H.R. 279: Mr. FOX of Pennsylvania, Mr. BISHOP, Mr. BLAGOJEVICH, Mr. BONIOR, Mr. CARDIN, Mr. DELAHUNT, Mr. FATTAH, Mr. GEPHARDT, Mr. HEFNER, Mrs. MCCARTHY of New York, Mr. MANZULLO, Mrs. MEEK of Florida, Mr. NADLER, Mr. PAYNE, Mr. SCOTT, Mr. UNDERWOOD, Mr. WATT of North Carolina, Mr. WEYGAND, Ms. WATERS, Mr. THOMPSON, and Mrs. MINK of Hawaii.

H.R. 280: Mr. BROWN of California, Mr. JEFFERSON, and Ms. STABENOW.

H.R. 285: Mr. DELLUMS.

H.R. 286: Mr. DELLUMS.

H.R. 287: Mr. DELLUMS.

H.R. 297: Mr. FOGLIETTA and Mr. TOWNS.

H.R. 301: Mr. FOGLIETTA and Mr. TOWNS.

H.R. 306: Mr. CARDIN and Mr. TORRES.

H.R. 312: Mr. YOUNG of Alaska and Mr. SALMON.

H.R. 320: Mr. LEWIS of Georgia.

H.R. 335: Mr. GILMAN and Mrs. KELLY.

H.R. 338: Mr. PAXON.

H.R. 339: Mr. LAHOOD.

H.R. 347: Mr. GOSS.

H.R. 371: Mr. KLUG, Mr. KIND of Wisconsin, and Mr. POMBO.

H.R. 383: Mr. LOBIONDO.

H.R. 400: Ms. SLAUGHTER, Mr. DICKS, Mr. VENTO, Mr. ACKERMAN, Mr. GUTKNECHT and Mr. BROWN of California.

H.R. 404: Mr. MCKEON and Mr. STUPAK.

H.R. 407: Mr. PACKARD and Mrs. TAUSCHER.

H.R. 414: Mr. SISISKY, Mr. WICKER, Mr. CALLAHAN, Mr. GOODE, Mr. KOLBE, Mr. BARTON of Texas, and Mrs. LINDA SMITH of Washington.

H.R. 417: Mr. GEJDENSON, Mr. ENGLISH of Pennsylvania, Mr. MCINTYRE, and Mr. THOMPSON.

H.R. 418: Mr. LEWIS of Georgia, Mr. KUCINICH, Mr. PASTOR, Mrs. MYRICK and Ms. KAPTUR.

H.R. 443: Mr. KENNEDY of Massachusetts, Mr. WEXLER, and Mr. GEJDENSON.

H.R. 446: Mr. FOX of Pennsylvania, Ms. MCCARTHY of Missouri, Mr. HOUGHTON, Mr. LATHAM, Ms. DEGETTE, and Mr. HEFLEY.

H.R. 450: Mr. WELLER.

H.R. 475: Mr. LEWIS of Kentucky, Mr. SHAW, and Mr. PAUL.

H.R. 478: Mr. DELAY, Mr. HASTINGS of Washington, Mr. BONO, Mr. WICKER, Mr. KIM, and Mr. GALLEGLY.

H.R. 481: Mr. LIPINSKI.

H.R. 495: Mr. HERGER.

H.R. 519: Mr. LEVIN, Mr. ACKERMAN, Mr. COYNE, and Mr. LATOURETTE.

H.R. 528: Mr. GALLEGLY.

H.R. 533: Mr. KLECZKA, Ms. CHRISTIAN-GREEN, and Mr. MCCRERY.

H.R. 534: Mr. FROST and Ms. CHRISTIAN-GREEN.

H.R. 535: Mr. JEFFERSON and Mr. CLEMENT.

H.R. 538: Mr. TOWNS.

H.R. 543: Mr. VENTO, Ms. LOFGREN Mr. JEFFERSON, Mr. SCHIFF, Mr. COSTELLO, Mr. PETERSON of Pennsylvania, Mr. STUPAK, Mr. BROWN of California, Mr. HASTINGS of Washington, and Mr. LEWIS of Georgia.

H.R. 548: Mr. SOLOMON and Mr. ACKERMAN.

H.R. 561: Mr. KUCINICH.

H.R. 574: Mr. MARTINEZ.

H.R. 577: Mr. FALEOMAVAEGA, Mr. RAHALL, and Mr. DELLUMS.

H.R. 582: Mrs. CARSON, Mr KUCINICH, Mr. GREEN, Mr. YATES, and Mr. FOGLIETTA.

H.R. 586: Mr. BERRY, Mr. CAMPBELL, Mr. COBLE, Mr. COLLINS, Mr. COMBEST, Ms. DANNER, Mr. GALLEGLY, Ms. GRANGER, Mr. HILLIARD, Mr. MCHUGH, and Mr. TORRES.

H.R. 587: Mr. OWENS, Mr. BORSKI, and Mr. SHAYS.

H.R. 589: Mrs. LINDA SMITH of Washington.

H.R. 590: Mr. JOHNSON of Wisconsin, Mr. QUINN, and Mr. BARRETT of Wisconsin.

H.R. 598: Mr. HALL of Texas, Mr. LOBIONDO, Mr. SMITH of New Jersey, Mrs. MINK of Hawaii, and Mr. BARCIA of Michigan.

H.R. 600: Mr. Skaggs.

H.R. 610: Mr. Wolf and Mr. Poshard.

H.R. 611: Mr. Rush, Mr. Stupak, Mr. Clay, Mr. Yates, Mr. Lewis of Georgia, Mr. Davis of Illinois, Mr. Campbell, Mr. Allen, Ms. Furse, Mr. Blagojevich, Mr. Owens, Mrs. Morella, Ms. Harman, and Mr. Luther.

H.R. 612: Mr. Barrett of Nebraska, Mr. Martinez, Mr. Kennedy of Rhode Island, Mrs. Emerson, Ms. DeGette, Mr. Brown of California, and Mr. Nussle.

H.R. 614: Mr. Goode and Mr. English of Pennsylvania.

H.R. 619: Mr. Largent, Mr. Berman, Mr. Matsui, and Mr. Davis of Illinois.

H.R. 634: Mrs. Roukema, Mr. Ballenger, Mr. Barrett of Nebraska, Mr. McKeon, Mr. Sam Johnson, Mr. Talent, Mr. Knollenberg, Mr. Bob Schaffer, Mr. Upton, Mr. Deal of Georgia, Mr. Snowbarger, Mr. Dickey, Mr. Christensen, Mr. Coble, and Mr. Cunningham.

H.R. 640: Mr. Cooksey and Mr. Crapo.

H.R. 662: Mr. Brown of California, Mr. Cummings, and Mr. Dellums.

H.R. 663: Mr. Frost, Mr. Diaz-Balart, Mr. Cummings, Mr. Martinez, Mr. Towns, and Mr. Barcia of Michigan.

H.R. 674: Mr. Inglis of South Carolina and Mr. Neumann.

H.R. 679: Mr. Bunning of Kentucky.

H.R. 699: Mr. Archer, Mr. Weldon of Pennsylvania, Mr. Skeen, Mr. Crane, Ms. Granger, Mr. Filner, Mr. Saxton, Mr. Smith of Texas, Mr. Sessions, Mr. Thornberry, Mr. Combest, Mr. Barton of Texas, Mr. Paul, and Mr. Watts of Oklahoma.

H.R. 714: Mr. Coyne, Mr. Klink, and Mr. Fattah.

H.R. 716: Mr. Bachus, Mr. Cooksey, Mr. Hefley, and Mr. Burton of Indiana.

H.R. 723: Mr. Combest, Mr. Ewing, Mr. Herger, Mr. Nussle, Mr. Tanner, Mr. McIntosh, Mr. Souder, Mr. Holden, Mr. Lewis of Kentucky, Mr. Lucas of Oklahoma, Mr. Bryant, Mr. LaHood, Mr. Berry, Mr. Blunt, Mr. Boswell, Mr. Cooksey, Mrs. Emerson, Mr. Jenkins, Mr. Johnson of Wisconsin, Mr. Moran of Kansas, Mr. Bob Schaffer, Ms. Stabenow, Mr. Thune, Mr. Evans, Mr. Poshard, Mr. Leach, Mr. Latham, Mr. Coburn, Mr. Crapo, Ms. Granger, Mr. Kind of Wisconsin, Mr. Parker, Mr. Pitts, Mr. Smith of Texas, Mr. Thornberry, and Mr. Whitfield.

H.R. 734: Ms. McKinney, Ms. Woolsey, and Mr. Yates.

H.R. 735: Mr. Foglietta.

H.R. 744: Mr. Foglietta, Mr. Frank of Massachusetts, Mr. Frost, Mr. LaFalce, Mr. Tierney, Mr. Sanders, Ms. Norton, Mr. Hinojosa, Mr. Markey, Mr. Davis of Illinois, Mr. Underwood, Mr. Fattah, Mr. Conyers, Ms. Rivers, Mr. Kennedy of Rhode Island, Mr. Brown of California, Ms. McKinney, Mr. Faleomavaega, Mr. Fox of Pennsylvania, Mr. Jefferson, Mr. Rush, Mr. Stark, Mr. Clement, and Mr. Ackerman.

H.R. 746: Mr. Mascara, Mr. Kim, and Mr. Bartlett of Maryland.

H.R. 752: Mr. Skeen.

H.R. 753: Mr. Minge, Mr. Brown of California, Mr. Tierney, Mr. Becerra, and Mr. Abercrombie.

H.R. 766: Mr. Foglietta.

H.R. 774: Mr. Kind of Wisconsin.

H.R. 784: Ms. Eddie Bernice Johnson of Texas.

H.R. 800: Mrs. Carson, Mr. Davis of Illinois, and Mr. Foglietta.

H.R. 802: Mr. Boucher and Mr. Watts of Oklahoma.

H.R. 812: Mr. Campbell.

H.R. 814: Ms. Woolsey and Mr. Ackerman.

H.R. 815: Mr. Coyne and Mr. Kildee.

H.R. 819: Mr. Fattah.

H.R. 820: Mr. Pastor, Mr. Delahunt, and Mr. Lewis of Georgia.

H.R. 867: Mr. Bliley, Mr. Watts of Oklahoma, Mr. Nethercutt, Ms. Molinari, Ms. Lofgren, Mr. Farr of California, and Mr. Canady of Florida.

H.R. 871: Mr. Rush, Mr. Foglietta, Mrs. Lowey, Mr. Manton, and Mr. Gutierrez.

H.R. 872: Mrs. Emerson, Mr. Hutchinson Mr. Inglis of South Carolina, and Mr. Pickering.

H.R. 873: Mr. Quinn and Mr. Franks of New Jersey.

H.R. 875: Mr. Berman and Mr. Hastings of Florida.

H.R. 890: Mr. Cunningham, Mr. Dellums, Mr. Capps, Mr. Stark, Mr. Frank of Massachusetts, Mr. McGovern, and Mr. Kennedy of Rhode Island.

H.R. 901: Mr. Blunt, Mr. Chambliss, Mr. Lucas of Oklahoma, Mr. McInnis, Mr. Watkins, Mr. Paxon, Mr. Bonilla, Mr. Goode, Mr. Watts of Oklahoma, Mr. Hunter and Mr. Tiahrt.

H.R. 902: Mr. Boucher, Mr. Condit, Mr. Cunningham, Mr. Dickey, Ms. Dunn of Washington, Mr. Latham, Mr. Paxon, and Mr. Spence.

H.R. 910: Mr. Lipinski, Mr. Boehlert, and Ms. Danner.

H.R. 911: Mr. DeLay, Mr. Barcia of Michigan, Mr. Pastor, Mrs. Morella, Mr. Boehner, Mr. Paxon, Mr. Radanovich, and Mr. Inglis of South Carolina.

H.R. 920: Mr. Owens.

H.R. 922: Mr. Coburn, Mr. Calvert, and Mr. Wolf.

H.R. 923: Mr. Coburn and Mr. Wolf.

H.R. 947: Mr. Kolbe and Mr. Lewis of Georgia.

H.R. 950: Mr. Bonior, Mr. Stark, and Mr. Coyne.

H.R. 953: Mr. Abercrombie and Mr. Towns.

H.R. 956: Mr. Ackerman.

H.R. 965: Mr. Smith of Oregon.

H.R. 967: Mr. Wolf, Mr. Miller of Florida, Mr. Lipinski, Mr. Horn, Mr. Underwood, Mr. Chabot, Mr. Watts of Oklahoma, Mr. Bunning of Kentucky, Mr. Canady of Florida, Mr. Bob Schaffer, Mr. Frank of Massachusetts, and Ms. Pelosi.

H.R. 971: Mr. McNulty, Mr. Horn, and Mr. Forbes.

H.R. 979: , Mr. Matsui, Mr. Pickett, Mr. Torres, Mr. Bliley, Mr. Shaw, Mr. Delahunt, Mr. Vento, Ms. Danner, Mr. Sabo, Mr. Skaggs, Mr. Kennedy of Massachusetts, Mr. Clay, Mr. Barcia of Michigan, and Mr. Filner.

H.R. 981: Mr. Gilman, Mr. Miller of California, and Ms. Norton.

H.R. 982: Mr. Hansen, Mr. Gilman, Mr. Miller of California, and Ms. Norton.

H.R. 988: Ms. Woolsey and Mr. Conyers.

H.R. 991: Ms. Danner.

H.R. 1002: Mr. Stark, Mr. Ackerman, Mr. McGovern, Mr. Borski, and Mr. Andrews.

H.R. 1003: Mr. Ballenger, Mr. Ensign, Mr. Frost, Mr. Hefley, Mr. Hulshof, Mr. Inglis of South Carolina, Mr. Klug, Mr. LaHood, Mr. Lewis of California, Mr. McKeon, Mr. Moran of Kansas, Mr. Ramstad, Mr. Bob Schaffer, Mr. Stupak, and Mr. Young of Alaska.

H.R. 1005: Mr. Paul.

H.R. 1010: Mr. Watkins, Mr. English of Pennsyvania, Mr. Canady of Florida, and Mr. Inglis of South Carolina.

H.R. 1014: Ms. Slaughter, Mr. Hinojosa, Mr. Vento, and Mr. Owens.

H.R. 1016: Mr. Peterson of Pennsylvania.

H.R. 1041: Mr. Borski.

H.R. 1049: Ms. DeLauro, Mr. Gejdenson, Mrs. Kennelly of Connecticut, and Mrs. Meek of Florida.

H.R. 1054: Mr. Christensen and Mr. Campbell.

H.R. 1060: Mr. Dooley of California, Mr. Weller, Mr. Pickering, Mr. Whitfield and Mr. Baesler.

H.R. 1062: Mr. Solomon, Mr. English of Pennsylvania, Mr. Gibbons, Mr. Pappas, Mr. Traficent, Mr. Istook, Mr. Paxon, Mr. Ewing, Mr. Gilman, Mr. Pitts, Mrs. Northop, Mr. Weldon of Pennsylvania, Mr. Inglis of South Carolina, Mr. McHugh, and Mr. Deal of Georgia.

H.R. 1066: M. Brown of Florida, Mr. Romero-Barcelo, Mr. Clyburn, Ms. Christian-Green, Ms. Jackson-Lee, Mr. Bishop, Mr. Stokes, Mr. Serrano, Mrs. Meek of Florida, Mr. Frost, Mr. Thompson, and Mr. Filner.

H.R. 1089: Mr. Torres and Mr. Watts of Oklahoma.

H.R. 1090: Mr. Smith of New Jersey, Mr. Bilirakis, Mr. Spence, Mr. Everett, Mr. Buyer, Mr. Bachus, Mr. Stearns, Mr. Moran of Kansas, Mr. Cooksey, Mr. Hutchinson, Mr. Hayworth, Mr. Kennedy of Massachusetts, Mr. Gutierrez, Mr. Clyburn, Mr. Doyle, Mr. Mascara, Mr. Peterson of Minnesota, Mrs. Carson, Mr. Reyes, Mr. Snyder, Ms. Brown of Florida, Mr. Dan Schaefer of Colorado, Mrs. Chenoweth, Mr. LaHood, and Mr. Dellums.

H.R. 1104: Mr. Owens, Mr. Foglietta, Ms. Lofgren, Mr. Wynn, Mr. Yates, Mr. Serrano, Ms. Roybal-Allard, Mr. Bonior, and Mr. Manton.

H.R. 1130: Mr. Skaggs and Mr. Torres.

H.J. Res. 54: Mr. Baesler, Mr. Houghton, and Mr. Smith of Texas.

H.J. Res. 56: Ms. DeGette.

H.J. Res. 62: Mr. Bachus, Mr. Ballenger, Mr. Bilirakis, Mr. Bryant, Mr. Crapo, Mr. Klug, Mr. Paul, and Mr. Paxon.

H. Con. Res. 10: Mr. Weller and Mr. Goss.

H. Con. Res. 13: Mr. Oberstar, Mr. Quinn, Mr. Saxton, Mr. Packard, Ms. Eshoo, Mrs. McCarthy of New York, Mr. Frost, Mr. Torres, Mr. McKeon, and Mr. Wexler.

H.J. Con. Res. 43: Mrs. Lowey, Mrs. Johnson of Connecticut, Mr. Dellums, and Mrs. Roukema.

H. Res. 21: Mrs. Emerson.

H. Res. 22: Mr. Green and Mr. Davis of Illinois.

H. Res. 30: Mr. Bob Schaffer.

H. Res. 40: Ms. Slaughter, Mrs. Maloney of New York, Mr. Foglietta, Ms. Eddie Bernice Johnson of Texas, Mr. Hastings of Florida, Mrs. Carson, Ms. Christian-Green, and Ms. Roybal-Allard.

SENATE—*Thursday, March 20, 1997*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our prayer this morning will be led by Commissioner Robert A. Watson, of the Salvation Army.

PRAYER

The guest Chaplain, Commissioner Robert A. Watson, the Salvation Army, Alexandria, VA, offered the following prayer:

Sovereign Lord, we thank You for this day, the day You have made. We will be glad and rejoice in it. We acknowledge You as omnipotent, omniscient, and omnipresent God, the Creator, Preserver, and Governor of all things, and the only proper object of religious worship. How privileged we are, Father, to live in America. We thank You for those of earlier generations who sacrificed so much, making possible the freedoms we enjoy. Help us not to take for granted the benefits of our society, and to happily share our blessings with those around us. We thank You for the gifts of experience, intellect, and talent with which the Members of this legislative body are endowed. As they deal with the complex issues which are so important to the people of our Nation, please grant them wisdom, compassion, sound judgment, and the satisfaction of having served well. And now, as we enjoy again the beauty of a Washington springtime, help us to allow each sign of new life to remind us that You are the giver and sustainer of life, and to use Your gift wisely and well. In Your majestic name we pray. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Ms. COLLINS. Mr. President, on behalf of the majority leader, I announce that it is hoped that the Senate will shortly enter into a consent agreement, which would allow for consideration of the resolution relating to the decertification of Mexico. If that agreement is reached, the Senate would be expected to begin consideration of the resolution this morning, possibly as early as 10 o'clock. Rollcall votes are expected on the Mexico resolution, and all Members will be notified as to when those votes can be anticipated once we reach this agreement. It is also possible that the Senate will begin consideration of the nuclear waste legislation prior to the Easter adjournment. And, again, all Senators will be notified accordingly. I thank my colleagues for their attention.

(Mr. HAGEL assumed the chair.)

Ms. COLLINS. Mr. President, I yield myself the time allotted to the majority leader under the standing order.

The PRESIDING OFFICER. The Senator from Maine is recognized.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 482 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. COLLINS. Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

Mr. GRAMS. Mr. President, I ask unanimous consent to be allowed to speak for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Thank you very much, Mr. President.

WHATEVER BECAME OF THE TAXPAYERS' AGENDA?

Mr. GRAMS. Mr. President, in November 1994, the American voters sent a clear message to Washington that resulted in a watershed election and the first Republican Congress in 40 years. That message was to enact a taxpayers' agenda of balancing the budget, limiting the size and scope of Government, and returning tax dollars and power to the taxpayers.

Two years ago today, the House of Representatives was marking day 76 of its unprecedented 100-day effort to carry out the taxpayers' agenda reflected in the Contract With America. They kept their promise to the American people by bringing all 10 provisions of the contract up for a vote and passing almost all of them.

In 1996, despite an unprecedented assault by the media, hostile special interest groups, and the big tax and spenders in Washington, the Republican majorities in Congress were preserved, indeed, even increased here in the Senate. The voters once again sent the message that they wanted the taxpayers' agenda enacted, but they wanted Congress and the President to come together in completing the work started in the 104th Congress.

Yet somehow this message has been misinterpreted by a number of my Republican colleagues, who seem to have come away from the 1996 elections with the mistaken notion that the effort to pass the taxpayers' agenda should be stalled or delayed. What concerns me most is that some of the loudest calls for retreating from that agenda are coming from within our own party leadership. This is not the same Republican majority that arrived in Washington in January 1995, ready to create fundamental change in a government that had enslaved so many working families for so many years. It is like the ancient Vikings who sometimes burned their boats after arriving in a new land. We stepped onto the shore and claimed there was no turning back to the era of big Government and higher taxes. We were determined that Washington would never be the same once we passed the taxpayers' agenda into law.

Today, it appears some of my colleagues are wishing they had their boats back.

Mr. President, I have tremendous respect and admiration for my friend and colleague from Georgia, the Speaker of the House. As a freshman Member of the House in the 103d Congress, I worked with NEWT GINGRICH, TIM HUTCHINSON, and others in making the $500-per-child tax credit the centerpiece of the Republican budget alternative in 1994. I was honored that Mr. GINGRICH included our tax cut in the Contract With America, creating a platform on which I ran and won election to the Senate.

That said, you can imagine how disappointed, and even a little saddened, I was to read his comments in the newspapers this week, when he was quoted as endorsing the suggestion that plans for a major tax cut be temporarily shelved.

With all due respect to the Speaker, such a retreat would be a horrible mistake.

Mr. President, it was 2 years ago this week that the Speaker wrote a commentary for the Wall Street Journal he titled "The Contract's Crown Jewel." The crown jewel in this case was our package of tax cuts around which our balanced budget legislation was crafted, and the Speaker was its most vocal supporter.

"The bill proposes fundamental change in the relationship between the American government and the American citizenry," wrote the Speaker,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

"and is the plainest assertion we have yet made of the key principle underlying the Contract With America.

"Simply put," he went on to say, "the bill says this: 'The American government's money does not belong to the American government. That money belongs to Americans, and it's time to give Americans some of their own money back.'¿¿"

Mr. President, I realize those words were written before the Government shutdowns, before the thrashing the Republicans took in the press, before the special interests waged a guerilla war of lies and distortions against us. Even so, those words were true in March 1995 and are no less true in March 1997. The only thing that has changed during these past 2 years is that courage has been supplanted by timidity and lions have turned into lambs.

It was disheartening to read in the Washington Times on Tuesday that popular radio host Michael Reagan, son of the former President, was denouncing his ties to the Republican Party. The Times quoted him as saying:

> The Republican Party has forgotten grassroots America, they are not talking to grassroots America, not paying attention to grassroots America. Until the Republican Party remembers it won the election and acts like a winner and not a loser, I find myself as an independent.

I wonder how many other Americans are feeling equally abandoned?

The Washington Post this week carried the comments of a senior Republican aide in the House who suggested we were, quote, "¿¿'just drifting' on budget and tax issues because many Republican leaders were unwilling to stick their necks out." Well, that is how it feels here some days. Imagine how it must feel to the millions of American taxpayers who are outside the insulation of the Washington Beltway.

Two years ago, we promised them tax relief. Congress delivered, but our hard work fell victim to a Presidential veto. So the American people were denied the tax relief that we promised in 1995—enacted and passed in our legislation; vetoed by the President. They were again denied tax relief in 1996. And now, the leaders of our party—our majority party, the party of the taxpayers, of families, the working class—are suggesting that the American people will not get tax cuts this year, either. And I say to them, you ought to be ashamed.

Believe it or not, Mr. President, when I am back home in Minnesota, people do not stop me on the street to tell me how grateful they are we failed to enact the $500-per-child tax credit, or how grateful they are we cut the capital gains tax, or that we were unable to enact estate tax relief. No, the Minnesotans who stop me are angry and they are disappointed, because when they ask, "Where are the tax cuts you promised?" They are really asking "when are you going to do what you were elected to do?"

The folks here in Washington seem to have forgotten there are two parts to every promise: the making, and the keeping. The politicians have never had a problem with the making, but they have a great deal to learn about the keeping. And Mr. President, this is one issue that all comes down to keeping promises.

To go back on our promises now would deprive average American taxpayers of the leadership they voted for in 1994 and 1996, and say we were wrong in staking our claim on the side of the taxpayers and against big government. More importantly, it will deprive us of our biggest and most important constituency—and that is the hard-working, middle-class voters who cannot pay for the high-priced lobbyists, who cannot afford to take time off from work or take a break from caring for their kids to fly out to Washington to lobby us on a moment's notice for more money from taxpayers.

Let us not forget the people we represent. Our constituents are not the Washington talking heads who chant and babble as if they can read the minds of the family farmers in Winona, MN, or the senior citizen working the counter at the Brainerd hardware store. And our constituents are certainly not the big spenders who have used and abused the people's tax dollars for decades.

No, our constituents are the American taxpayers who sent us here to Washington to fight for them, because if we do not, who else will? If we do not stand beside them today, what reason do the taxpayers have to stand beside us, if all they will get in return are empty promises without any action or leadership to back them up?

If we retreat from the taxpayers' agenda now, then who really won the 1996 elections, despite our majority in Congress? If we do not carry out the taxpayers' agenda, we may as well pack up our bags and go home, because we will have failed. And the price of that failure will fall on the backs of those we were elected to represent.

We should make a good-faith effort to work with the President, present him with our plan to balance the budget and cut taxes this year, and if he cannot accept it, let the voters decide who is right and who is wrong. Bipartisan action should not translate into inaction, and trying to cooperate should not involve being coopted.

If Congress and the President find the courage to move forward, the rewards can be immense. Let me tell you what has happened in my home State of Minnesota, where the headlines focus on a budget surplus, not a deficit, and our taxpayers finally have something to smile about on the State level in Minnesota. It is an example of what can be achieved when leaders make a promise and stick to it, even when it is not the politically easy thing to do.

When Minnesota Gov. Arne Carlson was elected to office in 1990, he inherited a deficit greater than $1.8 billion and a government that was spending 15 percent faster than the rate of inflation. The Governor and the State legislature cut spending by making the tough choices elected officials are supposed to make, decisions that met the needs of our residents and left no one behind. Thanks to that dedication, Minnesota today finds itself with a stronger economy, more jobs, an unemployment rate of just 3.5 percent, well below the national average, and a $2.3 billion budget surplus.

So now the Governor has now presented a plan of tax relief that will cut income taxes in the State by an amazing 22 percent, offer $900 million in property tax relief, $150 million in education tax credits, and eliminate the sales tax on all capital equipment replacement. It has been an amazing turnaround for Minnesotans.

Tax relief and fiscal discipline have worked in Minnesota. It is a combination that can work for the rest of the country as well. We need to remember, however, that Rome was not built in 1 day and neither was big government. The problem will not be fixed in 1 day, one year, or even 2 years. But every journey begins with one step—it is our job to ensure it is one step forward, not backward.

In less than a month, Tax Day will arrive, and in preparation, the American taxpayers will once again gather around their kitchen tables to take stock of their finances. One can almost hear the collective groan. Unfortunately, it is too late for Congress to make any changes to lighten the tax load this year. It is not too late to enact the tax relief that will fundamentally transform the next.

Mr. President, I did not come to the floor today to draw a line in the sand—at least not at this time. I must admit that I will be hard pressed to support any budget, any budget, that does not call for significant tax relief for the working families of Minnesota and each of the other 50 States. If we, as the majority, cannot deliver on this one, fundamental promise we made to the voters, we will have abandoned the taxpayers. And in doing so, we, the Republican majority, and this Congress as a whole, will have raised significant questions about our desire, and ability, to lead this Nation. It will be hard for us or this generation to explain to our children and to our grandchildren how we failed to provide them with a future as bright as the future that our parents and 200 years of generations left to us.

Thank you, Mr. President. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous-consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEXICO CERTIFICATION ISSUE

Mr. LOTT. Mr. President, I have a series of unanimous consent requests that may be necessary unless we get some agreement very quickly now from the minority leader.

I just came from a committee hearing, where I just finished testifying so I could come to the floor at 10:30 and call up the agreement entered into last night after monumental efforts by Senators on both sides of the aisle, working with the administration, with regard to the Mexico certification issue regarding drugs and how the drug war is being fought with the United States Government being involved and, of course, with the Mexican Government being involved, but in ways that are very troublesome.

I had hoped we could get started at 10:30, get a time agreement that was reasonable, maybe 4 hours equally divided, so we could have a full discussion about what is happening with regard to law enforcement efforts and dealing with drugs coming from Mexico into the United States, so we could talk about the President's difficult decision to go forward with certification, but also to make sure that the American people understand that the Congress is not satisfied with the status quo. More must be done.

We have a right—in fact, we have an obligation—to get more from our Government's efforts in fighting the drug war and dealing with the flood of drugs that are killing America's children. They are flooding into this country from Mexico. We have a right to expect hardened drug criminals to be extradited into this country. Some of them have, some of them have not. We have a right to expect that our law enforcement people dealing with the drug barons, the drug lords, are able to defend themselves. We have a right to expect some thresholds to be met with regard to what Mexico must do and, frankly, what we must do in our Government. This is a very important issue, one that we cannot leave today or tomorrow without taking action on.

I want to say how much I appreciate the great effort by the Senators here on the floor now—Senator HUTCHISON from Texas, Senator COVERDELL from Georgia, Senator FEINSTEIN from California, and other Senators that have worked to try to do the responsible thing. I want to point out that these Senators, along with others, for a total of 40, wrote a letter to the President of the United States saying, "Mr. President, don't certify Mexico as doing what needs to be done in this drug battle that we are engaged in." The President did that.

Now, the House took an action that will allow them to put down some markers and, after 90 days, look and see if progress is being made and then, perhaps, act further. I believe that is the gist of their action. That resolution is pending here at the desk.

But, again, in a full, good-faith effort, the Senators have worked with the administration, which included a whole variety of people. I was stunned by all the people that got involved. The Secretary of State was involved; the head of our drug effort, General McCaffrey; the head of NSC, Sandy Berger; the Secretary of Treasury was there. It was a long list of people, and a lot of work was done. I think these Senators here gave a great deal. They wanted to say that these are some things that must be done and be certified by the President; when they are, we should have the right to have another vote on whether or not there should be decertification with waivers, or certification, or whatever. They agreed to not insist on that. But what they did do was reach an agreement that requires a report from the President, by September 1, on what is being done by our Government and by Mexico to do a better job.

Now, I finally decided last night that the administration really didn't want any action by the Senate. They want us to just leave and not do anything. We can't do that. The Senate should take action on something this important. So we will act on this. We will vote. We will do it today, or we will do it tonight or tomorrow; it's OK with me. We are going to vote on this issue before we leave here.

There is a process where the Democratic leader cannot stop that—it is a privileged resolution, with 10 hours of debate and then a vote. I don't want to do it that way. I want us to come to an agreement. The resolution that I thought we were going to call up at 10:30 requires specific reporting on steps taken by Mexico and the United States to combat illegal narcotics trafficking. It makes clear the Senate view that Mexico has not done enough—and they have not. We have seen that many times. We have seen it with the devastating story recently about the top drug enforcer in Mexico who, as a matter of fact, had to be removed from office because he was, in fact, being involved in what he is supposed to be trying to control. That is as gently as I can possibly put it. I fear there are going to be more devastating reports like that.

The revision allowing for a vote, as I indicated, was dropped last night, after direct involvement by the Secretary of State, head of the NSC, as well as Senators here, and Senator MCCAIN was involved in that. But it makes clear that the administration and the Government of Mexico should provide real demonstrable progress by September. If they don't, under this procedure, we would not have another vote, but we can have more votes. There will be authorization bills, and there will be appropriations bills, like the State, Justice, Commerce bill. If we don't get a response or action here, the Senate has a powerful weapon called the power of the purse. We can withhold funds. We can make our views known.

Based on that, the fact that we can act in other ways with other vehicles, I thought this was a good agreement. I thought that the Senators here on the floor bent over backward to reach an agreement. Now, we have—get this picture—the Secretary of State, who is now in Helsinki, and the head of NSC, now in Helsinki, both directly involved, saying, yes, we can go with this. General McCaffrey, head of the drug administration, who was there and said, yes, we can go with this. Democrat and Republican Senators said yes. The majority leader says this is not perfect, but this is a responsible thing to do. And then what happens? There is a Democratic Caucus this morning. They meet and decide that because they can't dictate the schedule on another issue, because they can't make the majority leader give them a date certain on another unrelated issue, they want the United States Senate not to act on the drug problem in Mexico.

Now, my friends, this is a big-time loser for those that are objecting to this procedure. It cannot stand. We have to find a way to move this forward.

So all these administration officials are for it, Senate Republicans and Democrats are for it, and now they are saying, "If you don't give us a guarantee on another issue, that we will do it by a date certain, we are not going to let you bring this up." Look, I know we like to play games just before we get to go home. But this is not the way to do serious business. We are not dealing with partisanship here. We are not dealing with some traditional authorization. We are dealing with drugs. How can we not express ourselves on this? We must, and we will.

I am going to ask unanimous consent, when the minority leader arrives, to bring up Calendar No. 29, House Joint Resolution 58, regarding the certification of the President with respect to Mexico, that there be 4 hours total for debate on that resolution, to be equally divided in the usual form, and that one amendment—and only one amendment—be in order to be offered by Senators COVERDELL, FEINSTEIN, HUTCHISON, and others.

I will ask that no other amendments or motions be in order, and following the conclusion or yielding back of the time, the Senate proceed to a vote.

We can take it up, and we can have a calm, cool, nonpartisan debate on a very, very important issue.

I have here the resolution that was the subject of the negotiations and the one that was agreed to last night at about 7:30 or 8 o'clock. I was around and in and out of those meetings. This was interesting, I thought, because I actually have the copy here, or a copy of what was agreed to. See that. These are circled paragraphs the administration had problems with, and the compromise language that was worked out. I don't like this compromise. But it was a responsible thing to do. The same thing on the next page. The work was so intense and so committed right up to the last minute. Here is a paragraph. It circles this, and it is out.

I am going to ask for that. I hope that Senators on both sides of the aisle will agree to that. If that effort fails—and I am going to make this request not later than 11 o'clock—I hope to hear from the minority leader quickly so we can get started.

If I don't get that consent, then I am going to ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Senate Joint Resolution 21 regarding the decertification—this is the decertification process, not certification; this is decertification—with additional waiver language, that the Senate proceed to its immediate consideration, and that there be a limited period of time—presumably maybe 4 hours—for debate. After that, of course, we go to a vote.

If that is objected to, then I am going to go to the privileged resolution, which is not amendable, provides for 10 hours of debate, and a vote. I do not want to do this. It provides for 10 hours of debate in the law. This is a privileged resolution that sets out very tightly how we would vote on this privileged resolution issue. This is dangerous. It is not good for the administration. I don't think it is good for the country because the vote that is taken would be on decertifying Mexico as being seriously involved in this drug-fighting effort with us.

It might pass. And if we are going to have games played here on other unrelated issues, it puts me under extraordinary pressure.

I have indicated that I do not want to vote for decertification. But I might.

Also, even if it does not pass, what if the vote is 60 to 40? What does it say about the administration's effort? What does it say about the President's effort? What does it say to Mexico that 40 United States Senators voted to decertify Mexico? Then that would have to go—unless the House just accepts that—to conference. And then here is what will be pending in conference: decertification, or 90 days of delay and a vote. Neither one of those should look very tempting to those that want to do the right thing.

So I do not want to go on at length. I want us to get started. We need to get started. But I hope we can get an agreement to move forward on the agreement that was entered into last night. It is the right thing to do. It is the right thing for the Senate. It is the right thing for the administration. And, on a close call, I guess it is the right thing in our efforts to control drugs coming out of Mexico.

But, Mr. President, I am in good spirits today. I understand we have to do this positioning around here. I understand you have to try to drag the majority leader into doing something he might not want to do, or cannot do. But I think this is the wrong place and the wrong time to be playing this game.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I want to, first of all, thank the distinguished majority leader because last night he played a very key role in assisting us in making what I thought was an extremely difficult agreement.

I also want to thank the Democrat leader, Senator DASCHLE, who also was in agreement that he would move forward on this issue, get it resolved, and have it done. I was prepared to come over here shortly before the vote in praise of really what was an outstanding bipartisan effort. The administration, the Democrats, and the Republicans worked together to come up with something which required significant compromise on the part of all sides in order to come up with an agreement that we could move forward and get this issue behind us, which we know has extraordinary dimensions associated with it, given the emotion associated with the issue of drugs and the explosiveness of our relations with Mexico.

Now, I understand that one of the Members of this body wants to tie this hard-fought agreement, of which he was not a party, to the Chemical Weapons Convention. I hope that the individual who wants to block moving forward with this resolution understands that we are working on a Chemical Weapons Convention and an agreement to move forward on it. There are active discussions and negotiations that are going on. But to tie that to this, in my view—and I say this with careful consideration—is totally irresponsible.

The Senator from California, the Senator from Georgia, the Senator from Texas, the Senator from Connecticut, Senator DODD, and the Senator from Massachusetts, Senator KERRY, the President's National Security Adviser, the Secretary of State all joined together. I again applaud the Senator from California who had a very tough position on this, and a very principled one, I might say. And now we are being hung up on a Thursday before going into a recess, which a lot of us would like to go on, because one Member of this body who was not a part of the negotiations, nor, by the way, is a part of the Chemical Weapons Convention negotiations, of which I am a part, is going against the direct agreement of the majority leader, the Democratic leader, and all of us.

Mr. President, I urge my colleagues to get this thing done. And I hope that the majority leader will move this unanimous-consent agreement, and let whoever objects come to the floor and move forward in a parliamentary fashion with a live quorum call.

This is an important issue that we have to get done with today. The majority leader has described this scenario of what happens if we went to conference, and what happens if we go ahead on a direct vote for decertification. This flies directly in the face of a completely bipartisan agreement.

Mr. President, there is a lot of conversation about the rancor and partisanship. We just went through a very bitter situation on the point of the CIA Director. We proved that we can work together for the good of the country, and now it is about to be derailed. I strongly object to it.

I yield to the Senator from Texas for a question.

I apologize for taking time from the Senator from California. Again, I have the utmost praise for her, not only on agreement on the compromise last night, but for her constant attention and concern over this vitally important issue.

I don't know of anything right now that is more important than our relations with Mexico and the war on drugs, which is destroying young Americans as we speak.

I yield to her for a question.

Mrs. HUTCHISON. Mr. President, the Senator from Arizona just touched on an important point, and that is, all of us are trying to avoid a vote directly on decertification. No one wants that to happen. But, in fact, if the Senator from Arizona is correct—what all of us worked so hard to put together was a positive, productive statement that we could work from to make progress in the war on drugs between our countries—if what he is saying is true, then we are all going to be forced to make the worst of all votes because we just can't get our bill on the floor for debate.

Is that correct?

Mr. McCAIN. That is correct.

I appreciate the efforts of the Senator from Texas. All of us understand the importance of the war on drugs. Those of us from border States perhaps—I emphasize perhaps—appreciate it a little bit more because of the direct involvement that we have.

I am not going to speak on this again in the Chamber and take time. I think we are going to work this out. We have to. I want to especially express my appreciation to the Senator from California, the Senator from Texas, the Senator from Georgia, Mr. COVERDELL, and the Senator from Connecticut, Mr. DODD, Senator KERRY of Massachusetts, and others, and members of the administration who sat down with us and negotiated, I think, an important and positive agreement and a way around this issue.

Mr. President, I appreciate the courtesy of the Senator from California, and I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I really rise to lament the situation we are in. I believe the people of this Nation sent us to the Senate to work across the aisle, to work in a bipartisan way and particularly on issues of major concern. Whether Mexico is certified or not is an issue of major concern. It is of major concern certainly to Mexico; it is to America; it is to the cities of America; it is to every Representative in the House and to every Member of this body as well.

I wish to pay tribute to the senior Senator from Georgia, with whom I have worked, with the junior Senator from Texas, with whom I have worked, Senator KERRY of Massachusetts, to the administration team, and to many others. I believe we have demonstrated we can, in fact, work across party lines.

We have developed a resolution which I think is a major achievement; it is law—it is not a sense-of-the-Senate resolution; it is a law—in which we state our concerns; we make findings; we ask the administration to move forward; we ask the President to move forward in his trips to Mexico and other Latin American nations to work in a multilateral way to bring back a new agreement; we indicate 10 areas where we would like to see progress; and we ask the administration to report to this Congress on September 1 on the progress made.

We did not start here. Senator D'AMATO and I began this a year ago. Not many people listened. We said we do not really believe that Mexico has fulfilled the test of a friend and neighbor and an ally who has been fully cooperative as the law calls for to be certified. At that point he and I put forward certain tests that we felt had to be met prior to certification.

A year went by, and we saw very little progress, if any. And then the President made the decision to certify Mexico. In his mind, he had many good reasons to do so. It was a decision that was spiritedly debated within the White House. It was debated within the Department of State. And that was the ultimate decision of the President.

There were those of us in this body, myself included, who had a profound difference of opinion with this decision. We thought that the Colombian model was the appropriate model and that Mexico should be decertified but with a national interest waiver as was the procedure with Colombia 2 years ago because we felt certification was not the appropriate vehicle. But it is the vehicle that we have, and therefore Mexico should be treated in the same way Colombia was if the findings were as we believe them to be.

We have had meeting after meeting after meeting. The senior Senator from Georgia and I find ourselves in real agreement. The Senator from Texas and the two of us have worked together. Democrats came in; Republicans came in; the administration came in; and we forged an agreement which I believe, based on a conversation at least on my side with the Democratic leader of the House of Representatives last night, can be acceptable to the House and can be a clear statement which gives the President certain—not directives—but I think certain clear requests from this body to follow on his trip to Mexico which is upcoming and from which I believe our Nation, our big cities, our streets can derive significant benefit.

I am profoundly disappointed to find ourselves in this situation and really urge colleagues on my side who are rightly concerned with the Chemical Weapons Convention treaty, rightly concerned, to please let this resolution go, let us have the debate, because absent that debate and given no opportunity in law to express ourselves, you leave us with no choice but to move for decertification because that is the only direct resolution that can come to the floor on an expedited procedure, as the majority leader has just said.

I cannot tell you how strongly I feel about the cooperation I and others have had from the Republican side of the aisle. I have had an opportunity to work very closely with the senior Senator from Georgia, with his excellent staff, certainly with my excellent staff, with the Senator from Texas, Senators MCCAIN, KERRY, DODD, DOMENICI, all of whom came at a very critical time last night into these discussions and played a very helpful role. The administration has agreed in the areas of consensus. I think some things they did not want to be forced to put forward in law they have agreed to. We have agreed to take out something that the administration did not want, which was a September 1 expedited procedure giving us the opportunity to comment again in law on progress made between March 1 and September 1. We removed that. We have consensus. The administration has said the President would sign this; we believe the House will pass it; and we have a strong policy document with which to move forward.

It would just be tragic if we fragment, if we have to use the only thing we have, which is a decertification, a straight and outright decertification, as the means to express ourselves. So I am very hopeful we would have an opportunity today, now, to bring this resolution to the floor. If we cannot achieve unanimous consent, as the majority leader has just said, it leaves him with no alternative but to call up the decertification resolution, and once that debate begins it would take unanimous consent to stop it, and unanimous consent to bring this resolution up during that 10-hour period, which I see really fraught with great difficulties.

Once again, I cannot tell you how many hours the Senator from Georgia, the Senator from Texas, I and a number of other people have been involved in this effort. We have consulted the Democratic leader as we moved along. I believe he is pleased with this outcome.

So I plead with colleagues on my side not to hold this resolution hostage to an agreement on the Chemical Weapons Convention. It is too important. Please, do not do it.

I thank the Chair.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The Chair recognizes the distinguished minority leader.

Mr. DASCHLE. Madam President, let me begin by associating myself with the remarks of the distinguished Senator from California. She speaks for many on our side as well, who want very much to bring this issue to closure today. It is because of her efforts and the efforts, as she has indicated, of the Senator from Texas and the Senator from Georgia and others who have dedicated an extraordinary amount of time in the last couple of weeks to working with the administration and others to bring us to a point where, on one of the most contentious issues we have had to confront in this Congress, we have actually come to a point where Republicans and Democrats can reach agreement. That does not happen very often in this Congress, and especially in this session of this Congress so far. I hope we can avail ourselves of the opportunity it presents and come to an agreement on procedure and allow this resolution to be taken up and voted upon sometime by early afternoon.

I did not hear a lot of what the majority leader has indicated is his position with regard to the chemical weapons treaty. He knows of the great concern on our side of the aisle about achieving a process that will allow us consideration of that treaty no later than the 19th of April so that, by the 29th of April, that treaty can be ratified and that we can be full-fledged members of the Chemical Weapons Convention. If we miss that small window, from April 7 to April 19, we will have lost the opportunity, that 125 other countries have already taken, that we have sought for decades to have an international agreement on chemical weapons. Our failure to become part of the convention will put us in the company of Iraq, Iran, Libya, and countries that in every way, shape, and form and by any definition are rogue states today. Do we want to be in that position?

I would think there would be an unequivocal, unanimous verdict that, no, we do not want to be in the company of Libya, Iraq, and Iran. But we are in a position which, in a very short period of time, will force us into that company if we do nothing. That is why my Democratic colleagues feel so strongly about this issue and believe that there are very few other issues out there more important, and if we do not turn up the pressure and find ways in which to assert our determination to get this convention considered, we will have lost an opportunity, not only for the Senate, for the country, but perhaps for the convention itself. This is why it is so critical.

Having said all of that, and I could say a lot more but in the interests of time, let me say I believe the majority leader is doing as much as he can at this point to bring us to a set of circumstances that will allow us consideration in due time. I believe there is a great deal of difference within the Republican caucus on this issue. I understand that. There are many issues that divide the Democratic caucus. So it is not out of the ordinary to be divided on an issue of this importance and controversy. But I do believe that the majority leader has given me adequate reason to be confident that we will take this treaty up in a time that will accommodate ratification on the Senate floor prior to the 19th of April.

So, given all of his cooperation and his willingness to work with us, I think the most important thing for us to do today is to pass this compromise to allow us to work with Mexico to deal with the drug issue in a meaningful way without slapping them in the face. So I hope, as the Senator from California has so articulately pointed out just a moment ago, that we recognize how important this opportunity is for all of us, that we seize the moment, that we get an agreement, and we move forward.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 58

Mr. LOTT. Madam President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 29, House Joint Resolution 58, regarding the certification of the President with respect to Mexico, that there be no time restraints for debate on the resolution and an amendment. Further, I ask unanimous consent that there be only one amendment in order to be offered by Senators COVERDELL and FEINSTEIN.

The PRESIDING OFFICER. Is there objection?

Mr. BINGAMAN. Madam President, without objecting, I would like to ask a question of the majority leader before proceeding or determining whether to object.

As the majority leader and the Democratic leader both know, I have been very concerned that we get some agreements or understanding about how the Chemical Weapons Convention is to be handled in April. We have a deadline coming at us. I think the convention, as I understand it, goes into effect on the 29th of April. We have to, if the United States is to participate, if the judgment of the Senate is we should participate in that, we would have to make that judgment several days before that. At least that is what I have been informed.

I am just concerned that time is running out. We seem to be taking one legislative or executive matter up after another here without really having an understanding about how we are going to dispose of this Chemical Weapons Convention.

I wondered if the majority leader could assure me about how this is going to be brought to the Senate and dealt with in the coming month?

Mr. LOTT. Madam President, if the Senator from New Mexico will yield. First, I would like to just briefly clarify what we have in this consent request. It is to bring up this certification issue and to allow an amendment that would put in place the agreement that was entered into last night by a bipartisan group of Senators and the administration.

So this just basically sets up a process to begin the debate and get a vote on the agreement with regard to certification, with the understanding it does set out some markers as to what we think should be done, and it does require the President to report by September 1 as to the progress that is being made there. But it does not have a subsequent date where a vote could occur. This is going to be the vote on certification, or decertification, depending on your point of view. So I want to clarify what I was asking for there.

With regard to the inquiry of the Senator from New Mexico, first of all, let me assure him I understand there is concern about the April 29 date and the need for some action before that date by a number of Senators.

There is disagreement on how essential it is we act before the 29th. As a matter of fact, whenever the United States should ratify such a treaty, certainly we would be sort of the big kid on the block and we would be involved in the process. But there are arguments on the other side of it, and I certainly understand that.

I acknowledged to the Senator from Michigan, I believe it was yesterday or the day before, that I also understand that in order to get a treaty completed and the subsequent actions that go along with it, enacting or enabling legislation——

Mr. DASCHLE. Reform.

Mr. LOTT. Reform legislation—it takes some time after the actual vote.

So it is my intent for this issue to come up when we come back after the Easter recess.

There is a statute or bill that has been introduced that we hope to get up and get a vote on. Very serious. I think good efforts are underway to deal with the parallel issues of U.N. reform. The administration is working with a bipartisan group of House and Senate Members. I think everybody is beginning to understand, themselves, and we may be able to get some reforms and some process on how we deal with what is the number we may be indebted to the United Nations for and how that ever would be addressed.

We are also working with the chairman of the committee, Senator HELMS, and Senator BIDEN, the ranking member, on this reorganization of the State Department issue. The new Secretary of State has indicated some encouraging things there, and I believe there is going to be good faith by all to try to address this issue.

There are some legitimate concerns about the treaty—the verification question, search and seizure questions, how it affects different things in America. On some of those, the administration this year came back and said, "You're right. We have some concerns about this issue."

So a number of them have been worked out. An equal number are within the range of being worked out. Again, Senator BIDEN has been working with Senator HELMS to address some of those concerns.

There are some we just will not be able to get worked out. I mean, we will have to have votes on amendments on the floor or there will probably be a substitute. But my intention is to continue to work with all involved, including the chairman and ranking member, to get this issue to the floor in April. That is why I had our list of items. It is not my intent to stonewall or delay this.

I understand that every time we go out or every time a bill comes up, the

Senator from New Mexico will be up here raising questions and maybe even objections. We have other things we need to do that are equally or more important. So it is not my intention at all to allow this thing to go on indefinitely.

But you do understand, as the majority leader, you work with the chairman, you help the chairman, and the chairman helps you, and you work with the ranking member. This is a place of great comity, and we want to keep that. I am trying to honor that as a majority leader who is, you know, sort of learning as I go along, making a few mistakes here and there, but getting some things done on the way, too. So I think you know from what we have been able to do over the last 8 months, I work steadily at these things, and at some point we are going to get to vote on this. I do not mean to say in the great wild blue wonder. We are working very aggressively, and I believe we are going to get a process to get it dealt with in April.

Mr. BINGAMAN. Madam President, let me just respond by saying I appreciate the statements by the majority leader. I have observed the majority leader here for several months, and I have great confidence that when he expects and intends for a particular matter to come to the Senate floor and be dealt with, that that will actually occur, and I am encouraged by his statements to that effect. On that basis, I will not object to this particular unanimous-consent request.

I will plan to renew my concern once we return from this recess if it is not clear at that time that we have all parties in agreement as to the timing to bring that convention to the floor. I think timing is essential.

I have no problem with amendments and changes. I am not trying to dictate the end result on what the Senate does, but I think it is very important that we vote on it in a timely fashion. I take the statement by the majority leader to be a statement that he intends and expects that we will work assiduously to bring that about. I thank the majority leader.

I do not object.

The PRESIDING OFFICER. Is there an objection to the request?

Without objection, it is so ordered.

Mr. LOTT. Madam President, I thank the Democratic leader and the Senators on both sides for the work that has been done on this. I believe now we will have a good discussion about what is or is not going on with regard to the drug battle that we are fighting, with the American Government and the Mexican Government being involved.

Madam President, I believe we are able now to get a time agreement, which I think would be very helpful to all Senators to know that we are going to proceed and there will be a time specified so we can have a vote by 4 o'clock, hopefully. I discussed this with the Democratic leader and other Senators. I believe we have a reasonable agreement here.

I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 29, House Joint Resolution 58, regarding the certification of the President with respect to Mexico and there be 4 hours 45 minutes total for debate on the resolution and an amendment, to be divided as follows: Senator COVERDELL in control of 1 hour, Senator FEINSTEIN in control of 1 hour, 1 hour under the control of the majority leader and 1 hour under the control of the Democratic leader, Senator GRASSLEY in control of 30 minutes, and Senator TORRICELLI in control of 15 minutes.

I further ask unanimous consent that there be one amendment in order to be offered by Senators COVERDELL and FEINSTEIN. I further ask unanimous consent that no other amendments or motions be in order, and following the conclusion or yielding back of time, the Senate proceed to a vote on the amendment, to be followed by third reading and final passage of House Joint Resolution 58 without further action or debate.

Mr. DASCHLE. Reserving the right to object, I ask unanimous consent that in addition to this request, which I fully support, that the request be amended to accommodate a need by the senior Senator from West Virginia, Senator BYRD, to speak for 30 minutes on another matter. I ask unanimous consent that following the vote, the Senator from West Virginia be recognized for 30 minutes.

Mr. LOTT. Madam President, I amend my unanimous-consent request to include that additional 30 minutes for the Senator from West Virginia after the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Again, Madam President, I thank Senator DASCHLE for his cooperation.

PROVIDING FOR THE CONDITIONAL ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. LOTT. Madam President, I send an adjournment resolution to the desk calling for adjournment of the Congress for the Easter holiday.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 14) providing for a conditional adjournment or recess of the Senate and the House of Representatives.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 14) was agreed to as follows:

S. CON. RES. 14

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, March 20, 1997, Friday, March 21, 1997, or Saturday, March 22, 1997, pursuant to a motion made by the Majority Leader or his designee in accordance with the resolution, it stand recessed or adjourned until noon on Monday, April 7, 1997, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, March 20, 1997, Friday, March 21, 1997, or Saturday, March 22, 1997, it stand adjourned until 12:30 p.m. on Tuesday, April 8, 1997, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The majority leader of the Senate and the Speaker of the House, acting jointly after consultation with the minority leader of the Senate and the minority leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

DISAPPROVAL OF THE CERTIFICATION OF THE PRESIDENT REGARDING MEXICO

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

The joint resolution (H.J. Res. 58) disapproving the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Madam President, first, let me thank the majority leader, the minority leader, and all of those Senators who have been engaged this morning in our efforts to move House Joint Resolution 58. Needless to say, I am very pleased that we have been able to come to this unanimous consent to consider this resolution of paramount importance as it relates to the drug cartels and the impact they are having on our country, on Mexico, and in all countries within our hemisphere.

Madam President, I will read from a statement by Thomas A. Constantine, Administrator of the Drug Enforcement Administration, which was given before the Senate Foreign Relations Committee on March 12, 1997. I am giving this statement as a prelude to my remarks to frame the scope of the issue to which this resolution confronts.

Many phrases have been used to describe the complex and sophisticated international drug trafficking groups operating out of Colombia and Mexico, and frankly, the somewhat respectable titles of "cartel" or "federation" mask the true identity of these vicious, destructive entities. The Cali organization, and the four largest drug trafficking

> organizations in Mexico—operating out of Juarez, Tijuana, Sonora and the Gulf region—are simply organized crime groups whose leaders are not in Brooklyn or Queens, but are safely ensconced on foreign soil. They are not legitimate businessmen as the word "cartel" implies, nor are they "federated" into a legitimate conglomerate. These syndicate leaders—the Rodriguez Orejuela brothers in Colombia to Amado Carrillo-Fuentes, Juan Garcia-Abrego, Miguel Caro-Quintero, and the Arellano-Felix Brothers—are simply the 1990's version of the mob leaders U.S. law enforcement has fought since shortly after the turn of the century.
>
> But these organized crime leaders are far more dangerous, far more influential, and have a great deal more impact on our day to day lives than their domestic predecessors. While organized crime in the United States during the 1950's through the 1970's affected certain aspects of American life, their influence pales in comparison to the violence, corruption and power that today's drug syndicates wield. . . . The drugs—and the attendant violence which accompanies the drug trade—have reached into every American community and have robbed many Americans of the dreams they once cherished.

And I add, even, in thousands of cases, their lives.

In the face of this massive drug problem and its effect on two friendly countries, the United States and Mexico, the administration decided to certify Mexico as being fully cooperative in our joint battle. The message that sent, Madam President, to the people of both of our countries was that things are going along pretty well. They are not. In fact, they are in crisis proportions.

We cannot accept a statement to the American people, a statement to the people of Mexico, and a statement to the people of this hemisphere that we are winning the struggle, because we are not. We are losing it in its current configuration.

That led, Madam President, a number of the Members of the Senate on both sides of the aisle, in every region of our country, and of every political and philosophical persuasion, to say no. That is a ratification of the status quo, and the status quo is unacceptable. It is unacceptable.

Now, some interpret that as an attack on Mexico. I do not see it that way. I see it as an honest appraisal of a situation that is debilitating to both Republics. The President of Mexico himself has said that the greatest threat to the Mexican Republic are the drug cartels. We cannot accept the status quo.

Madam President, House Joint Resolution 58 is a rejection of the status quo and a victory for the people of both countries who want to renew and reinvigorate this battle, to put it on a new course. Throughout the debate, I have argued that we need to find a new place to be other than just the debate over whether any country has met a criteria established by the United States as to whether they are adequately fighting the battle or not. The point is, the battle, as it has been fought, is being lost and we must find a new way to come to the struggle. I am pleased to say that in House Joint Resolution 58 there is language that is adopting my suggestion, along with that of Senator DODD of Connecticut, that we reconstruct in the hemisphere the way we come to the battle. And it calls on the President, when he goes to Mexico and Latin America later this year, and to the Caribbean, to bring this subject up and to begin talking about how we can come together as equal partners to confront this stealth adversary that cares for no human being nor any sovereign nation. If we fought the battle in the Persian Gulf, Madam President, like we are fighting this adversary—and I might add that it is virtually as dangerous—we would have lost that struggle, as we are losing this one. We need to reinvigorate the struggle, and this proposal, which is endorsed by such a wide array of people, does just that.

Madam President, I want to say a few words about this, because every time somebody stands up and says the status quo is unacceptable, you are immediately pushed into a category of being insensitive to those in Mexico, or other countries who were trying to help us, and, indeed, we know they are there. And no one who is an author of that resolution has it in their mind that they want to make their job more difficult. But if the only answer we get is, "Just keep this quiet, don't raise the issue," and every time it is raised you are categorized as somebody who is offending another nation, that is inappropriate and unacceptable.

The work that we have been doing here is absolutely on target. This country and Mexico, and all the other countries in the hemisphere, have to go public about the scope of the enemy we are struggling with. That is what this resolution does. It takes us to a new place and a new day and a more open and honest discussion in the hemisphere about this adversary.

Technically, Madam President, this resolution will cause the administration to come to the Congress and demonstrate to us that they have renewed this battle not only in the hemisphere, but in the United States. There is a mutuality about this resolution. It acknowledges that our country is a key element in the problem. Not only are we a consumer and the No. 1 consumer of these illicit drugs, but we are a producer of the drugs themselves, and a grower of them. We have to get this on the table. If you are going to eradicate marijuana in Mexico, let's get it eradicated here. The technologists tell us we can find any of these products where they are growing. Well, let's find them and get rid of them.

A contention that made this resolution such a struggle to come to was that the administration did not want us to come back and revisit this question later in the year. In the last hours, as the majority leader described, late last evening, that provision was removed. I think the administration needs to take note of the fact that this report will be due at just the time this Senate and this Congress will be dealing with appropriations. And the appropriators and the authorizers who have been following this for a long time are going to keep right on doing that, and they eagerly await the report. You will not be able to remove Congress from this issue, and everybody should take note of that. Every friend of the hemisphere should take note of it.

Madam President, I hope that this is interpreted throughout the hemisphere as an instrument of assistance, good will, rededication, compassion, and concern, because that is what was in the hearts and minds of all the Senators, and others, who worked to produce this document.

I want to particularly say thank you to Senator FEINSTEIN, who has been at this job a lot longer than I, and I admire her work; Senator D'AMATO of New York, who joined her last year; Senator GRASSLEY, who is the chairman of our drug task force, who has worked tirelessly to deal with these problems; Senator KERRY of Massachusetts, who is a member of the Foreign Relations Committee and worked in these final negotiations; Senator McCAIN of Arizona; Senator DOMENICI of New Mexico, and, of course, our coauthor, the junior Senator from Texas, KAY BAILEY HUTCHISON, who was in every step of the negotiations from the beginning. The prints of her work are fashioned into this resolution as well. I know I will have left somebody out and, for that, I apologize because it has been such a wide array of people who brought this resolution to the floor.

There are many, many issues that are very important in the U.S. Congress, but I believe when you look at the hemisphere and all the opportunity in this hemisphere of democracies—40 percent of all United States exports occur in this hemisphere, which is much larger than Europe, and larger than the Pacific rim. We have a lot at stake, big time. But there is one cloud that hangs over us throughout the hemisphere, and it's the drug cartels. We have to restructure the battle. I hope this stands as a beginning to go to a new struggle and, ultimately, a victory.

Madam President, parliamentary inquiry. Do you have the resolution? Has it been submitted?

The PRESIDING OFFICER. The resolution is pending. The amendment has not been offered.

AMENDMENT NO. 25

(Purpose: To propose a substitute.)

Mr. COVERDELL. Madam President, under the previous consent agreement, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. COVERDELL], for himself, Mrs. FEINSTEIN, Mr. HELMS, Mrs. HUTCHISON, Mr. MCCAIN, Mr. DOMENICI, Mr. KERRY, Mr. DODD, Ms. MOSELEY-BRAUN, and Ms. LANDRIEU, proposes an amendment numbered 25.

Mr. COVERDELL. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the resolving clause and insert the following:

SECTION 1. REPORT REQUIREMENT.

(a) FINDINGS.—Congress makes the following findings:

(1) The abuse of illicit drugs in the United States results in 14,000 deaths per year, has inordinate social consequences for the United States, and exacts economic costs in excess of $67,000,000,000 per year to the American people.

(2) An estimated 12,800,000 Americans, representing all ethnic and socioeconomic groups, use illegal drugs, including 1,500,000 users of cocaine. Further, 10.9 percent of Americans between 12 and 17 years of age use illegal drugs, and one in four American children claim to have been offered illegal drugs in the past year. Americans spend approximately $49,000,000,000 per year on illegal drugs.

(3) There is a need to continue and intensify anti-drug education efforts in the United States, particularly education directed at the young.

(4) Significant quantities of heroin, methamphetamines, and marijuana used in the United States are produced in Mexico, and a major portion of the cocaine used in the United States is imported into the United States through Mexico.

(5) These drugs are moved illegally across the border between Mexico and the United States by major criminal organizations, which operate on both sides of that border and maintain the illegal flow of drugs into Mexico and the United States.

(6) There is evidence of significant corruption affecting institutions of the Government of Mexico (including the police and military), including the arrest in February 1997 of General Jesus Gutierrez Rebollo, the head of the drug law enforcement agency of Mexico, for accepting bribes from senior leaders of the Mexican drug cartels. In 1996, the Attorney General of Mexico dismissed more than 1,200 Mexico federal law enforcement officers in an effort to eliminate corruption, although some were rehired and none has been successfully prosecuted for corruption. In the United States, some law enforcement officials may also be affected by corruption.

(7) The success of efforts to control illicit drug trafficking depends on improved coordination and cooperation between Mexico and United States drug law enforcement agencies and other institutions responsible for activities against illicit production, traffic and abuse of drugs, particularly in the common border region.

(8) The Government of Mexico recognizes that it must further develop the institutional financial regulatory and enforcement capabilities necessary to prevent money laundering in the banking and financial sectors of Mexico and has sought United States assistance in these areas.

(9) The Government of Mexico has recently approved, but has yet to implement fully, new and more effective legislation against organized crime and money laundering.

(10) The Government of the United States and the Government of Mexico are engaged in bilateral consideration of the problems of illicit drug production, trafficking, and abuse through the High Level Contact Group on Drug Control established in 1996.

(11) The President of Mexico has declared that drug trafficking is the number one threat to the national security of Mexico.

(12) In December 1996, the Government of the United States and the Government of Mexico joined with the governments of other countries in the Western Hemisphere to seek to eliminate all production, trafficking, and abuse of drugs and to prevent money laundering.

(13) Section 101 of division C of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104-208) requires the Attorney General to increase the number of positions for full-time, active-duty patrol agents within the Immigration and Naturalization Service by 1,000 per year through the year 2001.

(14) The proposed budget of the President for fiscal year 1998 includes a request for 500 such agents.

(15) Drug cartels continue to operate with impunity in Mexico, and effective action needs to be taken against Mexican drug trafficking organizations, particularly the Juarez and Tijuana cartels.

(16) While Mexico has begun to extradite its citizens for the first time and has cooperated by expelling or deporting major international drug criminals, United States requests for extradition of Mexican nationals indicted in United States courts on drug-related charges have not been granted by the Government of Mexico.

(17) Cocaine seizures and arrests of drug traffickers in Mexico have dropped since 1992.

(18) United States law enforcement agents operating in Mexico along the United States border with Mexico must be allowed adequate protection.

(b) SENSE OF CONGRESS ON COOPERATION ON DRUGS BY COUNTRIES IN THE WESTERN HEMISPHERE.—It is the sense of Congress to urge the President, in his official visits in the Western Hemisphere, to examine with leaders of governments of other countries in the Western Hemisphere the effectiveness of efforts to improve counterdrug activities in order to curtail the production, traffic, and abuse of illicit drugs, and to define plans for specific actions to improve cooperation on such activities, including consideration of a coordinated multilateral alliance.

(c) SENSE OF CONGRESS OF PROGRESS IN HALTING PRODUCTION AND TRAFFIC OF DRUGS IN MEXICO.—It is the sense of Congress that there has been ineffective and insufficient progress in halting the production in and transit through Mexico of illegal drugs.

(d) REPORT TO CONGRESS.—Not later than September 1, 1997, the President shall submit to Congress a report describing the following:

(1) The extent of any significant and demonstrable progress made by the Government of the United States and the Government of Mexico, respectively, during the period beginning on March 1, 1997, and ending on the date of the report in achieving the following objectives relating to counterdrug cooperation:

(A) The investigation and dismantlement of the principal organizations responsible for drug trafficking and related crimes in both Mexico and the United States, including the prevention and elimination of their activities, the prosecution or extradition and incarceration of their leaders, and the seizure of their assets.

(B) The development and strengthening of permanent working relationships between the United States and Mexico law enforcement agencies, with particular reference to law enforcement directed against drug trafficking and related crimes, including full funding and deployment of the Binational Border Task Forces as agreed upon by both governments.

(C) The strengthening of bilateral border enforcement, including more effective screening for and seizure of contraband.

(D) The denial of safe havens to persons and organizations responsible for drug trafficking and related crimes and the improvement of cooperation on extradition matters between both countries.

(E) The simplification of evidentiary requirements for narcotics crimes and related crimes and for violence against law enforcement officers.

(F) The full implementation of effective laws and regulations for banks and other financial institutions to combat money laundering, including the enforcement of penalties for noncompliance by such institutions, and the prosecution of money launderers and seizure of their assets.

(G) The eradication of crops destined for illicit drug use in Mexico and in the United States in order to minimize and eventually eliminate the production of such crops.

(H) The establishment and implementation of a comprehensive screening process to assess the suitability and financial and criminal background of all law enforcement and other officials involved in the fight against organized crime, including narcotics trafficking.

(I) The rendering of support to Mexico in its efforts to identify, remove, and prosecute corrupt officials at all levels of government, including law enforcement and military officials.

(J) The augmentation and strengthening of bilateral cooperation.

(2) The extent of any significant and demonstrable progress made by the Government of the United States during the period beginning on March 1, 1997, and ending on the date of the report in—

(A) implementing a comprehensive anti-drug education effort in the United States targeted at reversing the rise in drug use by America's youth;

(B) implementing a comprehensive international drug interdiction and enforcement strategy; and

(C) deploying 1,000 additional active-duty, full-time patrol agents within the Immigration and Naturalization Service in fiscal year 1997 as required by section 101 of division C of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104-208).

Mr. COVERDELL. Madam President, I ask unanimous consent to add the name of Senator LANDRIEU of Louisiana as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Madam President, I yield the floor at this time.

Mr. HELMS. Mr. President, I am genuinely grateful to the distinguished Senator from Georgia [Mr. COVERDELL] and the distinguished Senator from California [Mrs. FEINSTEIN] for their excellent work on this issue. They deserve credit for keeping the Senate focused on the question of Mexico's counterdrug cooperation with the United States.

Through this resolution, Senators COVERDELL and FEINSTEIN, in a very fair and very essential way, have made clear the Senate's dissatisfaction with the status quo.

Mr. President, I know of no Senator who was pleased with the President's decision to certify Mexico as cooperating fully with the United States; the evidence clearly supports a different conclusion. This resolution gives both the President of Mexico and President Clinton an opportunity for redemption.

Mexico's President Zedillo has made numerous declarations against drug trafficking—which we applaud. Moreover, we recognize that President Zedillo is no Ernesto Samper. But, as for the two countries, Colombia and Mexico, the only difference between the two is that, in Colombia, the Presidency was bought and paid for by drug lords, while, in Mexico, the Presidency may be the only level of government not bought and paid for by the drug lords.

Mr. President, U.S. law requires more than well-meaning statements for a nation to be certified as cooperating fully. Our law requires performance. In the case of Mexico, performance has fallen far short of the rhetoric.

While the creation of bilateral commissions perhaps satisfies the bureaucratic need for meetings, meetings are meaningless unless they produce tangible results—arrests, convictions, and seizures.

The same can be said of laws: The passage of new laws does not stop drug trafficking; enforcement of laws does. We are still waiting for any implementation whatsoever of the laws against organized crime and money laundering. Indeed, the latter's effect may have already been negated when Mexico expanded legalized gambling, a time-honored way for criminals to launder money.

Corruption with impunity remains the modus operandi for the Federal Judicial Police, which more often resembles a criminal enterprise than a law enforcement agency. At the January wedding of drug kingpin Amado Carrillo Fuentes' sister, for example, policemen were guarding Carrillo's family and friends. This is further evidence that Mexican police are more likely to protect than arrest drug traffickers and their interests. Impunity is also the unwritten law for drug traffickers and their allies in official positions, such as Gen. Jesus Gutierrez Rebollo, Zedillo's drug czar.

Here was a case in which the senior Mexican counternaroctics official was protecting the biggest Mexican drug kingpin, Amado Carrillo. The administration argues that the arrest of General Gutierrez Rebollo is evidence of the Mexican Government's commitment to fight corruption. My questions are: Why was he ever hired in the first place as Mexico's senior counternarcotics official? Was this an intelligence failure? What damage has Gutierrez Rebollo done to compromise law enforcement and intelligence operations against the drug cartels? And are U.S. law enforcement agents now at greater risk because of this fiasco?

Mr. President, this is not an isolated incident. Just this past Monday, on March 17, another Mexican Army general was arrested for drug corruption. It seems that on the day the administration certified the Mexican Government's cooperation with United States counterdrug efforts, this general was offering a Mexican official $1 million in exchange for allowing cocaine shipments to pass through Tijuana.

In Mexico, corruption is not confined to the federal government. It is equally pervasive at the state and local levels. Just last week, a judge in Guadalajara dropped charges against a major drug trafficker. Also, according to credible reports, a number of state governors, who are also prominent within the ruling PRI party, have been on the drug traffickers' payroll. As long ago as 1989, I cited one of these governors, Manuel Bartlett, as one senior official compromised by drug traffickers.

Mr. President, I won't cite all the statistics that show that, over the past 6 years, arrests of drug traffickers and cocaine seizures have decreased significantly in Mexico, while the volume of cocaine, heroin and methamphetamine going through or coming from Mexico increases. Despite this record, the United States has continuously pretended that the Mexican Government has been a faithful partner in the fight against illegal drugs. The vast majority of the Mexican people are our allies; but I have grave reservations about most of the Mexican Government.

The President and Barry McCaffrey, amongst others, have spoken eloquently about the horrors of drug use on our streets, recognizing that this scourge is destroying lives throughout this hemisphere. The American and Mexican people deserve better. Silence is tacit consent to this corruption which allows the drug trade to flourish. Only by exposing the corruption can we begin to make a genuine difference in attacking this evil.

In this light, Mr. President, the refusal to recognize the marriage between Mexican Government officials and drug traffickers is all the more troubling. Congress must make known its disagreement with the conclusion that the Mexican Government is cooperating fully.

Mrs. FEINSTEIN. Mr. President, I ask to be recognized for such time as I might consume within the hour allocated to me.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator is recognized.

Mrs. FEINSTEIN. Thank you, very much.

Mr. President, this country has always had a great debate about drugs. Do you fight drugs on the supply side, or do you fight drugs on the demand side? There is no question but that we have a demand problem. But there is also no question that we have a supply problem. My answer to that is that this country has never really done both really well. We have never really engaged in an all-out fight against drugs on both the supply side and the demand side.

What is before us today is somewhat limited in scope because it has to do with the certification action involving Mexico and whether that action should, in fact, take place; whether Mexico should be certified, as the President said.

The resolution now before this body, known as the Coverdell-Feinstein amendment, I think is significant. Let me tell you the two ways that I look at this.

This resolution is either the first step to a new and forceful partnership to fight drugs all out on both the supply side and the demand side, and to join with Mexico in so doing, to accept President Zedillo's statement that drugs are the No. 1 security problem of Mexico, and to add to that the United States statement that drugs are, in fact, the No. 1 security problem for the United States of America, which I believe them to be, or this is the first step in a major battle next year, if this resolution is ignored, to decertify Mexico as being noncooperative in the supply side of the cooperation that goes into the retardation of drug flow into this country.

Mr. President, I want to begin by once again paying my respects to the Senator from Georgia, the chairman of the Western Hemisphere Subcommittee, Senator COVERDELL. He and I share a dedication to the idea that the status quo on United States-Mexican counterdrug cooperation is simply not acceptable, and his leadership on this issue has helped us reach this point. It has been an honor and a privilege to be his partner in this effort. And I look forward to continuing to work with him and his outstanding staff in the fight against international drug trafficking.

I also want to acknowledge the Senator from Texas, Senator HUTCHISON, whose contribution to this effort was invaluable. Her State, like mine, shares a long border with Mexico. So this issue hits home to us in a direct and a meaningful way. Other Senators too numerous to list, with names like DODD, KERRY, MCCAIN, DOMENICI, as well as others, the majority leader, the Democratic leader, have all weighed in to bring this effort to fruition. And I have appreciated working with each and every one of my colleagues to get to this outcome.

Just over a year ago, as has been said, Senator D'AMATO and I started talking about whether Mexico merited certification as a fully cooperative partner in the war against drugs. Our view was that Mexico had simply not made enough progress in the war on drug trafficking to justify certification. At that time, despite the fact that we laid down 10 specific criteria, no one paid us much attention.

Well, people have paid attention this year. On February 28 of this year, the President made the decision to certify Mexico as fully cooperating with the United States in the fight against drug trafficking. But it just didn't wash in the Congress. The evidence simply does not support the claim that Mexico met the standard of full cooperation in 1996.

As all of my colleagues are well aware, Senate procedures made it impossible for us to get a vote on what many of us believed was the best option—to decertify Mexico but allow the President to waive the sanctions based on what is termed a "national interest waiver." If decertification with a waiver had come up for a vote I believe it would have passed the Senate by a large and even possibly veto-proof margin. I do not say that lightly. In the House, it would have passed overwhelmingly. Instead, the House passed with over 250 votes a resolution that decertifies Mexico in 90 days unless specific conditions are met.

So this resolution, which we will pass today, expresses Congress' deep concern over the lack of progress in key areas of Mexico's counterdrug effort.

Let me quote from subsection (c) of the amendment. "It is the sense of the Congress that there has been ineffective and insufficient progress in halting the production in, and transit through, Mexico of illegal drugs."

This statement has never before been made by this body and the other body in concert. And I believe it will be, and no one should underestimate what that means.

In short, while we could not decertify Mexico, the Congress rejects the administration's claim that Mexico has fully cooperated with the United States. The evidence I believe is overwhelming. Last week, I tried to lay this case out with some specificity, the case that Mexico has not earned decertification. I will not repeat here all of the facts to prove that Mexico has not met the test of full cooperation. But let me just remind my colleagues of a few of those facts.

No. 1, cocaine seizures by Mexican authorities in 1996, 23.6 metric tons, were barely half of what they were in 1993 when there were 46.2 metric tons. You see how they have dropped and how they have barely picked up this past year.

Drug related arrests in 1996 were 11,038, less than half of what they were in 1992. In 1992, what I am saying is that the cooperative effort on arrests was double what it has been this past year. And these are specific measurements that can't be challenged. They are there. You have to look at them.

Another way of measuring this, for those of us that are familiar with how drugs reverberate on streets, is whether street prices are dropping or rising. If the street prices for cocaine and for heroin drop on the streets, you know there is more supply.

If they rise on the streetcorners of New York and Los Angeles and Chicago and Dallas and other cities in this Nation, then you know there is less supply. Let us for a moment take a major city, a huge city, over 6 million people in Los Angeles, and let us look at street prices. The street prices of cocaine today, in Los Angeles, are 22 percent lower than they were in 1993. This is for a kilogram, $21,000 in 1993, dropping to $16,000 today.

Let us take a look at the street value of black tar heroin, almost entirely transferred to the United States from Mexico. Here is the street value of this black tar heroin in California.

In 1993, per ounce, it was $1,200. Look at it go straight down. Today, it is $400. Part of that is the fact that it is in competition with the pure white cocaine that comes from other places, but still the black tar heroin is heavily used by addicts, and you can see the drop in the street price, which clearly means more supply.

Then you take the major traffickers. What has happened is that as the Cali cartels of Colombia become less potent in this area, the Mexican cartels have become more potent. Specifically, Senator COVERDELL enumerated four of them—the Juarez, Tijuana, Sonora, and Gulf cartels. And our DEA has clearly stated to us in testimony, written and verbal, that the Mexican major drug cartels today are operating with impunity, and even the State Department admits that "the strongest groups such as the Juarez and Tijuana cartels have yet to be effectively confronted."

Mexican cartels have assassinated 12 high-level prosecutors and senior law enforcement officers in just the last year. Here is the clincher. None of these murders has been solved. Twelve major Federal and statewide prosecutors, sometimes the head prosecutor, people who want to do a good job, have been assassinated for doing that good job. It has often been said that those they cannot buy, the cartels will kill.

Corruption is endemic in Mexico's Government, police, and military. The Mexican drug czar was arrested for corruption as was another senior army general just 2 days ago. DEA Administrator Constantine has said "there is not one single law enforcement institution in Mexico with whom DEA has an entirely trusting relationship."

Mexico has enacted money laundering legislation last year. So far the legislation has not been implemented. Banking regulations were finally issued last week, 2 months late, but they do not take effect until May, and their effectiveness has not yet been evaluated.

Mexico has failed to adequately fund the Binational Border Task Forces agreed to by the two sides in a much touted bilateral meeting, and as we all know, to this day Mexico has forbidden our DEA agents taking part in these border task forces, if they cross the border from our country to Mexico, to carry sidearms to protect themselves on that side of the border.

Mexico has refused to allow United States Navy ships patrolling for drug smugglers to put into Mexican ports to refuel without 30 days' notice.

The reason this is so important is that if you are trailing a ship, whether it is a fishing vessel or another maritime vessel, you may need to pursue it into Mexican waters. More drugs are now coming into our country via maritime channels. Fishing boats, commercial boats, ships, and other maritime transportation devices are today carrying increased tonnage of drugs. If we have a Coast Guard ship tracking one of these vessels, it may have to put into port—and the Mexican traffickers have become very sophisticated about moving out, taking the time so that they know the ship following them needs to refuel. If our vessels have to put in, they cannot because our ships have to give 30-day notice before they refuel.

Well, of course, one of the biggest tonnages of cocaine transferred through maritime channels actually was a ship leaving Peru which our Navy was able to get to, but the cartels are very smart. They learn how to prevent this from happening. So this is an important area.

And then finally a battle that we have had back and forth—and I still hold fast to this statement—Mexico has never extradited a single Mexican national to the United States on drug charges despite 52 extradition requests, for at least 13 of which the paperwork has been completed. Now they have made advances, they have begun to extradite Mexican nationals on other charges, and I think they should be commended for that. But that is not yet full cooperation.

So I think the record is clear. It is not credible to make claim that Mexico has fully cooperated with the

United States in combating drug trafficking, and that is the standard required by section 490 of the Foreign Assistance Act.

Despite these facts, the claim has been made by the administration that progress has been made, and I respect that. The administration has said that they believe some of the things I have just alluded to are in the process of being corrected. That is why originally we felt it was so important to have this body be able to monitor progress, comment on progress on September 1 in an expedited way, and make a finding if we found the progress inadequate.

That has been removed from this resolution, but the administration will still report on progress. You can be sure that I and others in this body will come to the floor and make our comments on September 2 or 3 or 4 or 5 on whether we regard this progress as being adequate.

So as we engaged in negotiations with the administration over the past week on this resolution, it was extremely important to put into place a mechanism by which we could hold the administration accountable. We have compromised here. But we also have 10 specifics. Subsection (d) requires the President to support on progress in 10 specific areas—and I urge Members to begin to look at this. It begins on page 6 of the resolution following this historic statement that "it is the sense of Congress that there has been ineffective and insufficient progress in halting the production and transit through Mexico of illegal drugs." We say that not later than September 1 the President shall submit to the Congress a report and then we list 10 areas of concern to be addressed in the report. Let me outline those 10 areas.

The first is effective action to dismantle the major drug cartels and arrest and extradite their leaders. This goes specifically to the two most powerful groups, the Juarez and Tijuana cartels, as well as others like the Sonora and the Gulf cartels.

Second, better cooperation between the United States and Mexican law enforcement including the funding and deployment of the Binational Border Task Forces and allowing United States agents in these forces to arm themselves for self-defense. That is the implication. By September 1 we will know whether it has been achieved or not. The answer then will be yes or no.

Third, better enforcement at the border. This means increased screening for and seizures of contraband. It also means, and Senator HUTCHISON was very effective in incorporating this into our resolution, that we call for the funding and the assignment of an additional 1,000 agents on the border this next year. The administration's budget has funding for 500. Let me say to the administration, from this side of the aisle, that is not adequate. We are asking for 1,000, by official action, incorporated in this legislation.

Improved cooperation on extraditions—that is the fourth. This goes specifically to the need for Mexico to extradite Mexican nationals who are wanted in the United States on drug charges. A good start would be the 13 such requests pending. There are several dozen more on the way. On September 1, we will see how many extraditions there have been.

Fifth states easier rules of prosecution of drug traffickers. At the present time, the evidentiary rules in Mexico—and Mexico is aware of this—are such that, in their country it is very difficult to come by a conviction.

Sixth, full and ongoing implementation of effective money laundering legislation and enforced regulations—for banks and other financial institutions—these are the money-changing houses outside of banks—with penalties and sanctions for those who do not comply and immunity for those who help, so people who turn in money launderers will not be assassinated. We are hopeful—and I commend Mexico for taking action in this regard—we are hopeful that last week's progress in issuing these regulations will lead, now, to effective enforcement. We all know it is one thing to have something on the books, it is another thing to see that something is carried out and enforced. On September 1, Senator COVERDELL and I and others will both be looking at these. Are they in place? Have they been effected? Have they been enforced?

Seventh, increased eradication of drug crops, including marijuana and opium—this is the seventh. We hope and expect that eradication figures will increase this year. I believe our Nation is prepared to play a role in any binational cooperation that the Mexican Government would wish in that regard.

Eighth, implementation of a comprehensive screening program to identify, weed out, and prosecute corrupt officials at all levels of the Mexican Government, police, and military. This means vigorous screening of candidates before they are hired, not rehiring corrupt policemen after their dismissal, and prosecution of those found to be corrupt. We commend Mexico for firing 1,250 law enforcement officers. The problem is, none were prosecuted. That is the problem. And we are asking for cooperation.

I think it is worth noting that the Los Angeles Times reported yesterday that 3 percent of the Mexican police tested positive for drug use in a recent survey. This was 3 percent of Federal personnel screened. I think it added up to some 424 Federal law enforcement officers who failed drug tests. We have that same problem in our Nation. So we admit it and we try and screen. We are asking our partner in Mexico to do the same thing.

Ninth, we have a clause in there regarding support by the United States of Mexico's efforts to combat corruption. I cannot conclude without saying that Mexico has made efforts. I believe Mexico has made efforts. I simply question the adequacy of those efforts. But, for those efforts that have been made, we should provide support, and I believe every Member of this Congress, and certainly this Senate, wants to do so. So, this clause reads, "the rendering of support to Mexico in its efforts to identify, remove and prosecute corrupt officials"—they would ask us for that support, but we would certainly say that support would be forthcoming.

The 10th and final provision calls for "the augmentation and strengthening of bilateral cooperation." This is not specific in the law we are writing. It is nonspecific. At the administration's request, we removed a direct reference to air and maritime cooperation. But I think the record should show that Congress does expect this report to discuss progress made in areas such as aircraft overflight and refueling rights, aircraft radar coverage, and maritime refueling rights.

I look forward to receiving this report on September 1. The record will reflect that, and Senator COVERDELL and I and Senator HUTCHISON and others, come September 1, as sure as the sun will come up, we will make an inquiry to see what the progress has been. And if the Congress finds the progress cited by the administration to be inadequate, it will no doubt find ways to respond.

This report, in essence, in addition to the findings carried up front in this resolution and the two senses of the Senate, urging the President on his visit to put forward this new, multilateral cooperative, hemispheric drive, if you will, reflect a new strategy, a new plan, new bilateral cooperation, and the specific sense of the Senate, and our conclusions as to why we would have to say there has not been full cooperation up to this point.

I very much hope, in summary, that there will be a very strong vote in this Chamber for this resolution. If it passes, I have been assured by John Hilley of the White House Office of Legislative Affairs and General McCaffrey, Director of the Office of National Drug Control Policy, that the administration will work hard to get this resolution passed by the House. If they do, I believe it will pass the House. John Hilley and General McCaffrey also assured me that the President will sign this resolution as passed by the Senate.

We, for the first time in history, will have passed a law, not a sense of the Senate resolution, but a law which states a purpose, which states a new effort, which states specifics, and which asks that on both the supply side and the demand side there be a new effort by both the United States of America and the sovereign, independent country of Mexico, to address the drug problem together, both on the demand side here with us and the supply side there with Mexico.

It is a very important, significant piece of legislation. I believe, I sincerely believe, it can have major, long-term impact. If it does not, the alternative is very clear next year. It is very clear. And it will not be just Senator D'AMATO and I next year, or Senator COVERDELL and I, and Senator HUTCHISON and others, and hopefully a majority this year. It will be a full-blown effort to see that this progress is carefully evaluated. And whatever action we must take, we will, in fact, take.

Mr. President, let me express my thanks to the distinguished Senator from New Mexico, Senator BINGAMAN, for lifting his objection. I know he has very deep and heartfelt feelings about the Chemical Weapons Convention. I have said to him informally, and I will say here, I will certainly do everything I possibly can to provide him with any help I can give, to see that it comes to the floor. But I am very pleased he has withdrawn his objection and we will be able to bring this debate to a conclusion with a vote on this resolution.

Mr. President, I ask how much time remains on my hour?

The PRESIDING OFFICER. The Senator from California has 31 minutes of time remaining.

Mrs. FEINSTEIN. I thank the Chair. Mr. President, I yield the floor and reserve the remainder of my time.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, before the Senator from California leaves, I want to express my gratitude for her tireless work. I do want to mention, while she is here, a debt I believe we both owe to the chairman of the Foreign Relations Committee. Senator HELMS of North Carolina hovered over these efforts throughout, and as late as minutes before an accord was struck, personally heard out all the suggestions that had been made, compromises, and I believe was a major contributor to the conclusion by his attention, concurrence and coauthorship of this provision. I know the Senator from California would acknowledge that as well.

Mrs. FEINSTEIN. Will the Senator yield for a moment?

Mr. COVERDELL. I yield.

Mrs. FEINSTEIN. Thank you very much. I would like to acknowledge that. The chairman of the Foreign Relations Committee is, in fact, a cosponsor of this legislation. Like me, he had very strong feelings, and I know when you have very strong feelings, compromise is difficult. He did do that. I am very thankful, because I think we have a very strong piece of legislation as a result, and his support was certainly vital and, I think, crucial to getting this resolution on the floor and getting the vote that, hopefully, we will get. So I thank the Senator from Georgia.

Mr. COVERDELL. I thank Senator FEINSTEIN. Mr. President, also thank Dan Fisk and Elizabeth DeMoss from Senator HELMS' Foreign Relation Committee staff, Dan Shapiro with Senator FEINSTEIN, Randy Scheunemann on the majority leader's staff, and especially Terri Delgadillo and Steve Schrage of my staff.

I yield up to 10 minutes of my time to the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HUTCHINSON. Thank you, Mr. President. I commend Senator COVERDELL, in particular, for his leadership on this issue, his hard work and, along with him, Senator FEINSTEIN, Senator HELMS, the chairman, Senator MCCAIN, Senator DODD, Senator HUTCHISON, and the leaders for the hard work they put in. Certainly they put in many, many hours working to resolve a very thorny and very difficult issue.

Having said that, it is with regret and some reservation that I say I believe the resolution before us today is totally insufficient. We have now taken a very substantive and meaningful action against a poor decision by the Clinton administration and turned it into a political football and, Mr. President, I believe we have fumbled the football on the goal line.

While I realize the outcome of this vote is evident, it is clear I cannot, in good conscience, stay silent and not speak to the deficiencies of the resolution on which we will be casting our votes.

As best I can tell, while the resolution says many good things, while it says some very meaningful things, when you boil it all down and when you look at it, the essence of what we get from this resolution is a report that we are asking the administration, we are telling the administration to give us in a few months, and that, after all is said and done, is all there is to it.

I hold in my hand several newspaper accounts, recent newspaper articles which raise serious questions as to the efficacy of the Mexican Government's counternarcotics efforts. Let me just give you some of the headlines:

"Another Mexican General is Arrested and Charged with Links to Drug Cartel."

"2nd Mexican General Faces Drug Charges."

"424 Fail Drug Exams in Mexican Law Enforcement."

The list goes on and on. I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[The New York Times, Mar. 18, 1997]

ANOTHER MEXICAN GENERAL IS ARRESTED AND CHARGED WITH LINKS TO DRUG CARTEL

(New proof that traffickers have corrupted high levels of Mexico's military)

(By Julia Preston)

MEXICO CITY, March 17.—A Mexican Army brigadier general was arrested today on charges that he offered a multimillion-dollar bribe to a top Mexican law enforcement official on behalf of a notorious cocaine cartel.

Brig. Gen. Alfredo Navarro Lara is the second high-ranking military officer to be jailed on drug-related charges in a month. His arrest is new proof that traffickers have succeeded in corrupting the highest levels of the Mexican armed forces.

Jesús Gutiérrez Rebollo, a division general who was the head of the federal drug agency, was arrested on Feb. 18 and accused of protecting and receiving benefits from Mexico's most powerful drug lord, Amado Carrillo Fuentes.

Today's arrest also indicates that competing drug gangs have divided the officer corps in their campaign to buy protection. General Navarro Lara is accused of trying to buy off the authorities in the border state of Baja California in the service of the Arellano Félix brothers, a criminal cartel that has waged a bloody war across northern Mexico against the rival band of Mr. Carrillo Fuentes.

The only announcement of General Navarro Lara's arrest came in a terse press release tonight by the office of Attorney General Jorge Madrazo Cuéllar. Neither Mr. Madrazo nor any Defense Ministry official was available for further comment.

According to the release, General Navarro Lara invited the top federal justice official in Baja California to a private meeting in a "luxurious suite" in a Tijuana hotel early this month. The general is said to have offered the official, José Luis Chávez Garcia, who is also an army brigadier general, payments amounting to $1 million a month in return for cooperation in allowing cocaine and other narcotics to pass through the state en route across the border into the United States.

General Navarro Lara is said to have conveyed a threat from the Arellano Félix brothers that they would kill General Chávez Garcia and his family if he refused to agree to the plan.

A justice official who formerly held the top post in Baja California, Ernesto Ibarra Santés, was shot dead in Mexico City in September 1996. Several gunmen arrested in that killing were known to be hired members of the Arellano Félix gang.

General Navarro Lara was formally charged today with drug trafficking and racketeering and was confined to a maximum security penitentiary on the outskirts of Mexico City. He was described in news reports here as a commander in a military region with headquarters in the central city of Guadalajara, where General Gutiérrez Rebollo also served.

In his first sworn statements taken at the prison, General Navarro Lara admitted making the bribe offer but said he had not taken any payments from the Arellano Félix brothers and only cooperated with them after they threatened to kill one of his children.

The arrest comes as President Ernesto Zedillo is struggling to rebuild Mexico's anti-narcotics program after the devastating arrest of General Gutiérrez Rebollo, under pressure from the United States Congress, which is moving to reverse President Clinton's recent decision to certify Mexico as a fully cooperating ally in the drug war.

Mr. Zedillo has said he is determined to detect and arrest officials implicated in the drug trade no matter how high their rank.

Last week Mr. Zedillo chose a civilian official with no narcotics investigating experience, Mariano F. Herrán, to replace General Gutiérrez Rebollo as head of the drug agency.

[L.A. Times/News/Nation & World, Mar. 18, 1997]

SECOND MEXICAN GENERAL FACES DRUG CHARGES

(By Mark Fineman)

MEXICO CITY.—For the second time in a month, federal authorities here Monday announced the arrest of an army general on drug charges. The senior officer was accused of offering $1 million a month to Mexico's top counter-narcotics official in Tijuana to protect one of the country's largest drug cartels—and of threatening to kill him and his family if he refused.

The attorney general's office announced late Monday that Brig. Gen. Alfredo Navarro Lara had been charged with drug corruption, bribery and criminal association and jailed earlier in the day outside Mexico City in the Almoloya de Juarez high-security federal prison.

On Feb. 18, Gen. Jose de Jesus Gutierrez Rebollo, then Mexico's anti-drug czar, was sent to Almoloya after he was charged with taking bribes to protect the nation's most powerful drug-trafficking cartel, allegedly headed by Amado Carrillo Fuentes.

Gutíerrez's arrest last month stunned a nation unaccustomed to drug corruption within its army and sent shock waves as far as Washington just two weeks before the Clinton administration recertified Mexico as a U.S. ally in the drug war. President Clinton cited the arrest as evidence that Mexican President Ernesto Zedillo is committed to rooting out drug corruption—even in the nation's powerful army.

But U.S. congressional concerns that widespread official drug corruption here had compromised U.S. intelligence and drug enforcement efforts helped drive the House to pass a resolution decertifying Mexico last week.

As the Senate begins debate this week on that decertification resolution—which Clinton has vowed to veto--Navarro's arrest Monday further demonstrated both the depth of drug corruption in Mexico and Zedillo's resolve to punish it.

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MEXICO LET SUSPECTED DRUG TRAFFICKER MOVE $168 MILLION OUT OF SEVERAL BANKS

(By Wall Street Journal staff reporters Laurie Hays and Michael Allen in New York and Craig Torres in Mexico City)

Mexican officials failed to stop a major suspected drug trafficker from spiriting away $168 million despite a joint U.S.-Mexican effort to freeze his bank accounts, U.S. officials allege.

The money transfers, which effectively crippled an ambitious bilateral investigation into Mexican money laundering, came just weeks before President Clinton certified that Mexico was cooperating fully in the international drug fight, U.S. officials say. The episode is likely to fuel congressional criticism of the decision.

Clinton administration officials themselves have sharply criticized Mexico's handling of the affair. Testifying before a Senate panel earlier this month, Deputy Treasury Secretary Lawrence Summers said he had registered "our strong protest" at the failure to freeze the money.

A spokesman for the Justice Department said agency officials, along with those from the State and Treasury departments, had a "face-to-face confrontation" with Mexican officials over the incident. He declined to elaborate.

Mexican officials involved in the matter disputed the U.S. version of events.

The case centers on the Gaxiola Medina family, a prominent clan that runs a local lumber-distribution business in the northern Mexican state of Sonora.

INDICTMENT IN UNITED STATES

In May 1994, a federal grand jury in Detroit indicted Rigoberto Gaxiola Medina on charges that he ran a trafficking organization that distributed more than 2,200 pounds of marijuana in the U.S. beginning in 1992. The indictment lists 25 other defendants.

According to the indictment, the operation loaded marijuana on trucks in Tucson, Ariz., and delivered it throughout the U.S. Sales proceeds were allegedly collected in Michigan and wired to Mexican banks.

BANCO MEXICANO AND BANCA SERFIN

Mr. Gaxiola Medina didn't enter a plea in the case and couldn't immediately be located for comment.

The U.S. Customs Service began a money-laundering investigation into the money transfers in April 1996, according to people familiar with the matter. U.S. agents contacted Mexican Finance Ministry officials, who in turn traced almost $184 million in deposits to 15 Mexican bank accounts. The Finance Ministry put in an official request to the Mexican attorney general's office on Jan. 8 to freeze the accounts, these people add, but when the money was frozen on Jan. 20, only $16 million remained.

Customs officials were notified by the Mexicans on Feb. 27 that the money was gone, these people add—one day before the White House's decision to certify Mexico was announced.

"Let's just say we gave them the information and they weren't as successful as everyone would have hoped in seizing it," said Allan Doody, director of financial investigations for U.S. Customs. "I would say the Mexican government is looking into exactly what happened. Right now nobody knows where the money went."

Three Mexican officials involved in the case said it isn't clear when the money left the accounts. They say roughly $183 million arrived from U.S. and Mexican banks into accounts controlled by the Gaxiola Medina family. But the officials deny that most of this money was transferred out of those accounts in 1997. "The most logical hypothesis is that the money left over a period of time," said one official. "These are high turnover accounts."

ROLE OF FINANCE MINISTRY

U.S. officials said they believe the Mexican Finance Ministry, which has authority over certain Mexican money-laundering regulations, acted honorably. Suspicion of wrongdoing centers on the Mexican attorney general's office, which Mexican officials themselves acknowledge is rife with corruption. The Mexican general running the attorney general's antiarcotics program at the time of the incident was later arrested on charges that he took bribes from a powerful drug lord.

Reports of the money disappearance first appeared in the Mexican newspaper El Universal.

Members of the Gaxiola Medina family couldn't be reached for comment. Regoberto Gaxiola Medina is listed in corporate records as the divisional administrator of the family wood business, known as Grupo Industrial Gaxiola Hermanos SA, but it wasn't immediately clear whether he was the same person indicted in Detroit.

Pedro Garcia Palzzuelos, an attorney for the Gaxiola Medinas, said the family businesses naturally deal in large sums of money and foreign exchange. Mexican law-enforcement officials "didn't encounter any crime related to drug trafficking and they aren't going to find one," said Mr. Garcia Palazuelos, adding that there isn't "proof of money laundering."

U.S. officials have long worried about Mexico's role in laundering drug profits. "Given the primary methods used to move narcotics proceeds in the mid-90s, Mexico's financial system has become the indispensable money-laundering center for criminal organizations throughout the Americas," the State Department wrote in its latest overview of narcotics trends.

Mr. HUTCHINSON. Mr. President, the importance of Mexico's full cooperation with the United States antinarcotics efforts cannot, I believe, be overstated. Drug use among American teenagers has nearly doubled in the last 5 years. More importantly, more than 70 percent of illegal narcotics coming into the United States flow through Mexico. I know that many of those drugs originate in Colombia, incidentally, which we decertified, but 70 percent of those coming into the United States now flow through the nation of Mexico.

Mr. President, as we all know, on February 28, the Clinton administration certified that Mexico cooperated fully with United States efforts to combat international narcotics trafficking during 1996. However, on February 27, the day before, the administration received a bipartisan letter from 39 Senators—I signed it, Senator FEINSTEIN signed it, and many of my colleagues signed it—urging our Government to deny certification to Mexico. The facts unequivocally show us that Mexico has not—I say, has not—fully cooperated with us.

Not one Mexican national out of the 100 or more that the United States wants for trial here on serious drug charges has been extradited to the United States, despite our Government's numerous requests. Not one has been extradited.

Our own DEA Administrator, Tom Constantine, has recently said:

> There has been little or no effective action taken against the major Mexico-based cartels . . .

Then he said:

> The Mexicans are now the single most powerful trafficking group—worse than the Colombian cartels.

So while we are willing to decertify Colombia, our own DEA Administrator says Mexico is now worse, and we are going to certify them. You explain to me the logic in that, explain to me the consistency in that, explain to me how we, in good conscience, can do that.

Mexico's counternarcotics effort is plagued by corruption in the government and the national police. Among the evidence are the eight prosecutors and law enforcement officials who have been murdered in Tijuana in recent months. Furthermore, the revelation that General Rebollo, Mexican's top narcotics official and a 42-year veteran of the armed forces, had accepted bribes from the Carrillo-Fuentes cartels casts grave doubts on Mexico's ability to curb corruption at the highest level of its government. Corruption is now, in fact, pervasive in the Mexican Government.

Mr. President, we in this body must all be well aware that Mexico continues to be a major transit point for cocaine illegally entering the United States from South America, as well as a major source country for heroin and marijuana.

The 1997 International Narcotics Control Strategy Report, issued by the United States State Department, explicitly notes that Mexico is the transshipment point for 50 to 60 percent—50 to 60 percent—of the United States-bound cocaine shipments and up to 80 percent of the meth precursors. This report notes that in 1996, Mexico supplied 20 to 30 percent of the heroin and up to 80 percent of the foreign-grown marijuana entering the United States of America.

The fact is that four Mexican drug trafficking organizations dominate the narcotics trade between the United States and Mexico. The DEA calls these groups the "Mexican federation" and estimates that they gross $10 billion to $30 annually in drug sales. Mr. President, those drug sales are to our children, to our Nation and to our culture, and they threaten the very future of our Nation.

On February 28, 7 hours after the President announced his certification of Mexico, again with the full knowledge of congressional disapproval, Mexico's Attorney General's office issued a statement that its own senior officials had released Humberto Garcia Abrego, a reputed money launderer and brother of convicted drug kingpin, Juan Garcia Abrego. We do not know whether he was released earlier—whether it occurred on the 28th or earlier—with the announcement being held until after the President's certification decision was made public. But, again, we see how this country has been treated over a decade of this certification process.

Mr. President, I ask you, can we not do better? Tom Constantine said, in short, there is not one single law enforcement institution in Mexico with whom DEA has an entirely trusting relationship. Can we not do better than that, certifying a country that cannot fully cooperate with our counterdrug efforts? What message does this send to our children about the seriousness of the drug war? Our children are the real victims of this policy.

I have heard the repeated argument that if the narcotics market in the United States was not so bloated, then there would be no reason for a continual supply of drugs coming across our borders. Supply and demand. Quite frankly, I agree with that assertion. However, let's tackle that issue in the crime bill, not on the certification of a foreign country not being cooperative with our efforts.

I am committed to winning the war on drugs, and we can only do that by championing the causes to reduce the amount of drugs in this country, appropriating funds for antinarcotics efforts, and assisting the DEA in the fight. But Mexico has not been helpful, and that is the fact and that is the truth.

It is ironic, I think, that while we stand aside and certify Mexico's full cooperation, we pass a resolution that asserts that in fact that has not been the case.

I have the joint resolution before me. It says this:

> There is evidence of significant corruption affecting institutions of the Government of Mexico (including the police and military). . . .

It says this:

> In 1996, the Attorney General of Mexico dismissed more than 1,200 Mexico federal law enforcement officers . . . although some were rehired and none [none] has been successfully prosecuted for corruption.

We are going to say, through the certification of Mexico, that they have been fully cooperative when that is not the reality of the resolution that we are passing.

We say in the resolution:

> The Government of Mexico has recently approved, but has yet to implement fully, new and more effective legislation against organized crime and money laundering.

That is what we say in the resolution we are going to vote for, which flies absolutely in the face of the certification of Mexico.

The resolution says:

> Drug cartels continue to operate with impunity in Mexico, and effective action needs to be taken. . . .

And yet we are going to certify Mexico as being fully cooperative and making progress.

We have a resolution that we are going to vote on that says:

> Cocaine seizures and arrests of drug traffickers in Mexico have dropped since 1992.

So while we say that arrests and seizures are down, we are going to say that we are going to certify them as making progress and being fully cooperative.

Then on page 6 of the resolution, the sense-of-Congress portion of the resolution, we say:

> It is the sense of Congress that there has been ineffective and insufficient progress in halting the production in and transit through Mexico of illegal drugs.

While we say that, we stand aside and allow certification to take place.

I ask Mr. COVERDELL, who controls this time, for 5 additional minutes.

Mr. COVERDELL. Mr. President, I yield 5 additional minutes to the Senator from Arkansas.

Mr. HUTCHINSON. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. So while we say in the resolution it is our sense they have been ineffective and there has been insufficient progress, we allow certification to go forward, which says in fact they have been making progress and that they have been fully cooperative.

To my colleagues I simply say, I think that is inconsistent, I think that is intellectually dishonest, and it is unfortunate, and it does a disservice to the citizens and our constituents whom we serve.

We pass a resolution asserting that they have failed, that they have not made progress, and then we allow certification to go forward.

How can we reconcile our treatment of the nation of Colombia a year ago and decertify and with a straight face now certify Mexico through which 70 percent of the illegal drugs flow into this country? You do it. I cannot.

I believe that this certification process has become a sham. It is intellectually dishonest to move forward with that. The entire resolution upon which we will be voting contradicts that certification—two standards—that they have been fully cooperative and they have been making progress. We pass a resolution that says they have not been fully cooperative and they have not been making adequate progress. You reconcile that. I cannot. I yield the floor.

Thank you, Mr. President.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. I yield up to 10 minutes of my time to the distinguished Senator from New Mexico.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I ask the Senator, how much time do you have?

Mr. COVERDELL. Let me ask the Chair. I assume about 20 minutes.

The PRESIDING OFFICER. The Senator from Georgia has 29 minutes remaining.

Mr. DOMENICI. Mr. President, under those conditions, I ask that you notify me when I have used 7 minutes. I do not think I should use 10.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 7 minutes.

Mr. DOMENICI. Mr. President, about 4 years ago I came to the floor of the U.S. Senate—I did not check for the exact date, but I came to the floor to congratulate and praise Mexico. In particular, I was praiseworthy of their then-President Carlos Salinas.

I even said on the floor of this Senate that, man for man, I thought he had the best Cabinet in the free world. In fact, I chose some of his Cabinet members because of their tremendous intellectual capacity and great training and compared them with our then-Cabinet members and said, I am pleased to tell the Senate that for the first time in history they probably have a better Cabinet than the United States of America.

For those people in Mexico who wonder how Senators like Senator DOMENICI have become more and more concerned about what is going on in Mexico, let me suggest that it was a very serious letdown to this Senator. It was a serious letdown having made statements like that, to find out what they were doing and what that pinnacle of free enterprise and privatization, a graduate of our best schools of economics, Carlos Salinas, was all about.

So it was that just a few weeks ago, as one Senator, I joined in saying to the President that he should not certify Mexico as being in compliance and cooperating fully.

But I would remind my good friend, the new Senator from Arkansas, that we in the Congress do not certify. The President certifies. What happened, even with many of us saying he should not, the President certified that Mexico was in cooperation and compliance.

So now we are confronted with the situation where our own President and all of those who work for him, including a very able drug czar, Gen. Barry McCaffrey, have told us that the best thing we can do is keep the pressure on Mexico, but not to proceed with decertification from our end on the legislative side because in their opinion, instead of making matters better, it will make matters worse. Instead of causing more cooperation, it will cause less. Instead of causing Mexico to work with us in many areas that they are working in that we are now all becoming familiar with, it will force them politically to sever those kinds of relationships and to go their own way.

Might I remind fellow Senators, all of this is happening in the context of an election in Mexico which is going to take place in the not-too-distant future.

Fellow Senators, I understand Mexico. My State borders Mexico. For those who wonder whether I know about their culture, I would remind you that 38 to 40 percent of the residents of my State speak the Spanish language. While many of them are truly Hispanics from Spain, there are many who are Mexicans. But in all respects, I understand the relationship of Mexico and its populace, to the United States. I understand how they feel about us in terms of whether we really are their friends or are we the big giant to the north who is always trying to tell them what to do?

So I have come to the conclusion, absolutely and unqualifiedly, that it is better for us not to override the President but to go ahead and state our case, state our case in a resolution and then say godspeed to the President and General McCaffrey and all the others. Let us see if we can get better cooperation between these two great neighbors in the next few years.

I remind everyone the best experts now say we are not going to fix this drug problem with Mexico where all of these drugs come flowing into our States.

I might say to my friend, Senator COVERDELL, they are pouring into my State, you can be assured, and into the principal city, although it is a couple hundred miles from the border, Albuquerque. We have never had so many murders and gang slayings and drug addictions as we have now because we are at the crossroads of the two interstate highways, both of them leading in some way to the south toward Mexico.

So I am aware of that. But I came to the floor to make sure that Mexico understands that we have once again—and I hope it will be rather unanimous in the Senate—that we have come to the conclusion that we want to urge our nations to cooperate and we are urging, if not begging, Mexico to do what it can to be more cooperative and do more to alleviate this scourge on our people.

I want to also say that the current President of Mexico, Ernesto Zedillo is a very competent man. Some say he is not a good enough politician. But indeed he has a good enough brain and a good enough commitment to that country. I believe—and here again I hope I am right—that he is absolutely honest, that he is truly dedicated to clean up what he can clean up in Mexico.

President Zedillo I hope you will do that. And I hope America is there helping you rather than hindering you as you attempt to do that.

This resolution is a good resolution because it requires that sometime in September a full report will be sent to the Congress of the United States by our President, indicating whether there has been progress made in the many areas cited in this resolution. We are clearly laying before the Mexican leaders what we hope is a constructive resolution, by saying these are the kinds of things where we must see some progress.

We will be around for another day. The Mexican Government knows that. The President will be around next year and have to decide on certification again. I think the President understands that we are not expecting certification to come easy and to be a matter of course or ever just be a matter of whatever the State Department recommends. We are moving in the direction of saying we should be honest about it.

For now, most of us who urged that the President not certify, we have all come to the same conclusion. We want to lay before the American people and the Mexican people and their government what we think is going wrong in Mexico and say we want to help with it. We want to say that we are willing to stand back and do what we can in our appropriation process with the things we must do on the border for law enforcement, but we are also saying to Mexico, you can count on it. We are doing this because our President urges us to. Gen. Barry McCaffrey, the drug czar, urges us to. The State Department urges us to. But we are going to hold all of them accountable, not just Mexico.

We are expecting our Government to say the Senate really is serious and we should do something about these areas. I must say to our Government, we really risk future action by the U.S. Senate—I do not speak for the House—if we do not get some real performance and some honest evaluation in this report that we are requesting here.

That is why I am here. I feel this will do more good in our efforts to work binationally with Mexico. We need to work with Mexico on myriad fronts—those affecting this drug scourge that is flowing into American cities and thus into our young people and Americans across the board.

I thank Senator COVERDELL for his leadership, and the distinguished Senator from California.

It was a pleasure to help you get the letter signed. I think I got a few Senators, and I am pleased to have been on that. I believe our collective work will bring forth positive fruit both for us and for Mexico.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Georgia.

Mr. COVERDELL. I thank the Senator from Mexico for his generous remarks and his long work on this subject.

Mr. President, I ask unanimous consent that at the hour of 4:45 p.m., the Senate proceed to a vote on amendment No. 25, and immediately following that vote, the joint resolution be read for a third time and passed to and the motion to reconsider be laid upon the table, all without intervening action or debate.

The PRESIDING OFFICER. Without objection, rule XII is waived and the agreement is entered.

Mrs. FEINSTEIN. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the quorum time be applied proportionately to all who have time reserved.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TORRICELLI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TORRICELLI. Mr. President, I, too, would like to commend the distinguished Senator from the State of California, DIANNE FEINSTEIN, as well as the Senator from Georgia, Mr. COVERDELL, and those who I believe in good faith have come together with this agreement. I respect their work. I know their purpose and their intent.

I do not know whether other Senators will vote in opposition to this agreement on this day. I do not know if there are any, but I will not vote for it. I want, Mr. President, to make clear my reasons, because I look at the same facts and I simply come to a different conclusion.

I remember, Mr. President, being told at the end of the cold war we were going to be free of some of the compromises of our own interests which were necessary when we were defending ourselves in that great international struggle. We would be able to speak the truth again and to put our own interests of our own people first.

This is a test of that principle. It is argued that to tell the truth about Mexico and to decertify Mexico as an ally in the war against narcotics would involve offending Mexican sensibilities. Given the realities of Mexican history or the Mexican political situation, it would cause political complications.

Mr. President, the question is not whether or not Mexico would be offended by a truthful analysis. The issue raised is whether or not Mexico is an ally in the war against narcotics. That is the only question that was asked. It is the only question that is relevant.

The truth is unmistakable. Mexico is not assisting, is not an ally in the war against narcotics, and saying that it is or postponing the judgment, as would be done by this resolution, does not escape that truth.

The truth, Mr. President, is that 14,000 Americans die every year from illegal narcotics. If this judgment is to be postponed until September 1, and March, April, May, June, July, and August are to pass, then another 7,000 Americans will be consumed in the spiral of death by illegal narcotics, and they will have died while we maintain a false conclusion.

What is it, Mr. President, we would say to the law enforcement officers from New York to Los Angeles to Chicago, to small towns all across America, to DEA agents around the world, who risk their lives every day facing the truth, if we will not face the truth?

Mexico has had an opportunity in the last year to choose sides in the war against narcotraffickers. They had a choice when the United States filed 52 extradition requests with the Mexican Government and no one was extradited. They had a choice when is 250 Mexican law endorsement officers were dismissed from their positions because of corruption, and none were prosecuted. They had a choice when the Mexican Congress passed money laundering statutes which were not enforced. Mr. President, Mexico has had a choice every day for the last year.

Now, it may be the will of this institution to give them another 6 months to make that choice again. I believe, Mr. President, that given the extensive corruption in the Mexican Government, the compromising of Mexican law enforcement officials, and their pervasive operation of narcotrafficking criminal organizations in Mexico, Mexico may now not only lack the will, but may no longer possess the ability to control the flow of narcotics to the United States. We cannot construct a policy of interdicting narcotics in Mexico by becoming part of a silent conspiracy, where Mexico pretends to be helping interdict narcotics and we pretend to believe them.

This judgment gets no less painful after 6 more months pass than it will be today. It was said, Mr. President, during the cold war that the United States and the Soviet Union went eye to eye and America never blinked. The United States and Mexico are now facing a war against narcotics, and we have made an unfortunate decision to turn our face away from the truth. The proper action of this Senate, in my judgment, would be to vote to decertify Mexico and place both Mexico and those who influence her on notice that a price will be extracted for the deaths of 14,000 Americans every year by illegal narcotics, a price will be extracted for failing to choose sides in the war against narcotics.

Mr. President, I know this is a difficult decision for every Member of the Senate. But we do not face the hardest choices. The real choices are made by our agents in the Drug Enforcement Administration, by those on border control, by the families who wait up every night to see whether their fathers and mothers and brothers and sisters in law enforcement in our cities and on our borders will come home alive. Our choice is easy. Look at the facts, review the evidence, and tell the truth. There is an open season on the American border for narcotics. Calling Mexico an ally in the war against drugs will not make them a friend and not force them to choose sides. This is a painful choice that must be made by the citizens of Mexico and her business and political leaders. If some are voting for this postponement of judgment until September 1 because they believe it would cause political problems for the PRI, the current political leadership of Mexico, then let it be so.

We serve no American or Mexican purpose by hiding from judgment the current political leadership of Mexico. It is a moment of truth by our own people. If elements of the leadership are corrupted or compromised against the interests of not only other nations against fighting narcotics, but against defending Mexico in the interests of our own people, then let the Mexican people understand that truth and vote accordingly. That is the decision, Mr. President. I believe that we postpone not only recognizing the truth about Mexico's participation in the war against drugs, but we postpone, by our silence, the Mexican people realizing the truth about their own government, at a time of political judgment in the Mexican electoral system.

For Mexican interests and for American interests, I will vote against this resolution.

A long time ago, we came to the decision that there would be a war against drugs. In wars, there are casualties. At the moment, the principal casualties are our own children and the police officers of our own country. It would be unfortunate if some in the Mexican political establishment have to face the wrath of their own people, or if the good name of Mexico is compromised. Perhaps, Mr. President, they will be added to the list of victims in the war against drugs. No war is ever won without casualties. It's time to get serious in the war against drugs. I believe decertifying Mexico is an important step.

Mr. President, I will vote accordingly.

I yield the floor.

Mr. COVERDELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the quorum call time be equally divided on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

In the last few weeks, the Congress has spent considerable time considering Mexico. A great deal has been said and a number of proposals are on the table about how to respond to the President's decision to certify Mexico as fully cooperating.

These proposals include a resolution to simply decertify Mexico. And a resolution that would put on record the Congress' concern about the lack of visible progress on drugs. We also have a House proposal that is critical of the administration. This proposal would create another minicertification process. That means we get to have this discussion on Mexico all over again in September based on a report to follow the President's summit in Mexico next month.

In my view, these various proposals reflect a generalized concern about Mexican cooperation and a lack of consensus on how best to respond.

We need to ask ourselves where we began on this issue. The whole reason for this debate grows out of a simple fact. Congress did not accept the President's decision on Mexico. Many in Congress doubt the willingness or ability of Mexico to fight drugs. In response, Congress sought to exercise its legal obligations under the Foreign Assistance Act to find a means to overturn his decision. The means available were not satisfactory. Thinking in the Senate does not seem to favor a straight up-or-down decertification of Mexico. In addition, any such effort, even if it should pass both Houses, will face a veto. Congress does not have the votes to override. Thus, our options on how to proceed have narrowed.

Many people have compared the decision to decertify Colombia with the decision to certify Mexico. They have pronounced the process unfair since both countries have corruption problems but they were judged differently. While that is true, the basic reason is that the situations are not the same. The reason for decertifying Colombia was based on reasonably convincing evidence of corruption at the highest levels of Government. We do not have parallel information on Mexico. On the other hand, when you look at the same categories of achievement or cooperation, Mexico scores at least as well as Colombia on most of them. This is not to say that we should be content with what Mexico has done. I do not believe that Mexican officials are content. Nor do I think they take any pride in recent revelations about high-level corruption. My point is that we should not be hasty in making decisions about a country with whom we are so closely linked. We should not rush to decisions involving our third largest trading partner.

Instead, I offered an approach that I believe was both reasonable and responsible. It would have maintained our concern for accountability but it did not create yet more certification procedures for us to have to get through. And I doubt that circumstances will be any less ambiguous 90 or 120 days from now. My proposal did establish clear guidelines whereby we all—Mexico, Congress, and the public—could judge the state of cooperation using the same terms of reference. This proposal would have kept the process that Congress created. We created that process with clear intent and deliberation. I do not think it is time to change that. It is not time for the proposed experiment in Government currently on the table. Given where we started, it does not achieve what we said we expected at the outset. Nevertheless, it is the only proposal on the table. Thus we come to this vote.

I will vote for this joint resolution with reservations. I will look forward, however, to working with my collegaues in the future for a formula that ensures accountability within a framework that permits informed decisionmaking.

Mr. FEINGOLD. Mr. President, I will support the bi-partisan compromise crafted by Senators FEINSTEIN, COVERDELL and the administration because I believe the United States must signal the Mexican Government that the status quo is no longer acceptable in regard to anti-narcotics cooperation. The massive and growing influx of illegal drugs into this country from Mexico is a significant threat to both of our countries and it must be stopped.

Prior to the President's decision to certify Mexico, I joined 40 of my Senate colleagues in writing to the President and urging him to decertify Mexico because of its abysmal record —a record which includes a complete failure to extradite nationals wanted for drug crimes in this country, as well as rampant corruption at all levels of the anti-drug effort. The arrest last month of Mexico's top anti-drug official on charges that he was on the payroll of one of Mexico's largest drug cartels illustrates the nature and extent of this problem. Further, I am deeply concerned about Mexico's decision to replace much of its national police force, which was removed due to widespread corruption, with the Mexican military, an organization with a very poor record in regard to human rights offenses.

Mexico may well be a significant economic partner with the United States, but the current level of illegal drugs entering this Nation unabated from the south is simply unacceptable. Our economic partnership with Mexico should not include the flourishing drug trade which currently uses Mexico as a primary transit point. While I believe the President should not have certified Mexico, I support the Feinstein compromise because, in light of the Administration's decision, it represents the only legitimate opportunity to hold the Mexican Government accountable. I will watch the actions of our southern neighbor very closely over the coming months in the sincere hope that the Mexican Government will rededicate itself to join the United States in our effort to deal with illicit narcotics which infect both of our nations.

Mr. BIDEN. Mr. President, I am pleased to join my colleagues on the Foreign Relations Committee in bringing forward this compromise resolution with regard to Mexico and the narcotics issue.

At the outset, I want to compliment the Senators who have been deeply involved in the negotiations on this matter—the chairman of the committee, the Senator from Georgia, the Senator from California, and the Senator from Texas.

They and many other Senators have a deep and abiding concern about the serious threat that drug trafficking in Mexico posts to both that country and the United States.

Indeed, we all agree, I suspect, on several issues.

First, it is clear that we cannot overstate the role of Mexico as a source for narcotics. Mexico is the primary transit route for cocaine entering the United States, a major source country for heroin, methamphetamines, and marijuana, and a major money laundering center for illicit profits from the narcotics trade.

Second, I believe we agree that the United States bears a significant responsibility for combating the narcotics trade. Undeniably, the demand for narcotics in this country spurs the narcotics trade. But we are not solely to blame for Mexico's ills.

As the Mexican Government continually reminds us, Mexico is a sovereign nations, and it has the responsibility to do all that it can to confront the threat of the powerful drug cartels—cartels which now have considerable influence in Mexican society.

Third, we agree that corruption in Mexican law enforcement is endemic. That corruption is deeply rooted, as even Mexican President Zedillo acknowledged in his State-of-the-Nation address last fall.

Fourth, we all agree that Mexico must do much, much more in the war on drugs—as the White House acknowledged last month when the President made his certification.

All this leads to the fundamental question now facing us: What can Congress do to help us achieve our objective of reducing the flow of narcotics from Mexico to the United States?

I was disappointed that the President certified that Mexico had met the standard of fully cooperating, or taking adequate steps on its own. The systemic corruption in Mexico, combined with several failures to follow through on commitments made, argued against granting Mexico a full stamp of approval. Instead, I urged the President to invoke the national waiver, because I believed that our interests would be better served by not isolating ourselves from Mexico—which would surely occur were we to fully decertify Mexico. For my part, I believe it could have long-lasting, damaging repercussions that we cannot now predict. At a minimum, it would inhibit the political space that President Zedillo has to press forward with his agenda of reform.

And if we destroy President Zedillo's political resolve to combat the drug traffickers, we will have achieved nothing—and we may well lose the gains we have recently made. In other words, decertification and exercising the full penalties possible under decertification offers a cure that appears to be worse than the disease.

I am pleased that we have come to a bipartisan agreement—reached last night in negotiations with the administration—on the best way forward. The resolution recognizes the aspects of the issue that I have stated—specifically that both countries must take strong action to combat the scourge of narcotics. In addition, the resolution lays out several benchmarks—a set of policies that we expect both the Mexican Government and the United States Government to undertake in the coming months.

For example, it makes clear that Mexico must implement its recently enacted anti-crime laws, including the new money laundering statute and the organized crime law. In addition, Mexico must investigate and prosecute official corruption at all levels of government—and we must do all we can to assist Mexico in that effort. And Mexico must deny safe haven to persons and organizations responsible for drug trafficking.

These and many other measures—if vigorously implemented—will be critical to strengthening the effort against the drug trade.

Mr. President, we have a major problem in Mexico. It is, in part, the result of our success in reducing the flow of narcotics through the Caribbean and Florida—and our success, in cooperation with the Government of Colombia, in dismantling the major cartels in that country. The emergence of powerful cartels in Mexico is a manifestation of the so-called balloon effect—if you pressure the drug traffickers in one area, they will move to another. Unfortunately, the traffickers are nothing if not resilient.

The result, for both Mexico and the United States, is the expansion of organized crime syndicates that have considerable power and influence over not only the drug trade, but also Mexican society itself. Combating this development will require a major commitment—of resources and political will—by both our Government and the Mexican Government.

The cooperation we have received from Mexico in the past year is far from perfect. We all acknowledge that. But we have made important progress in the past few years, and this measure will be an important contribution to spurring even greater cooperation between our two Governments.

Mr. CHAFEE. Mr. President, I am pleased that the Senators from Georgia, California, and Texas were able to reach agreement with the administration on a resolution addressing certification of Mexico's cooperation in fighting illegal drugs. I have been strongly opposed to a straight or even qualified decertification, which I believe would have undermined U.S. interests and been counterproductive in our efforts to address the scourge of illegal drug use in America.

I am not here to argue that the situation in Mexico today, with respect to drug trafficking, is in any way acceptable or serves United States interests. The Senators from California, Georgia, and many others deserve commendation for speaking out strongly about the deteriorating condition surrounding anti-drug efforts in Mexico, and the critical imperative that Mexico take stronger action to stem the flow of illegal drugs across its border into the United States. The statistics with which we have become familiar are alarming and worsening: 10.9 percent of children in the United States between 12 and 17 years of age use illegal drugs; Mexico is the source of 70 percent of the marijuana shipped into the United States, and is a transit point for between 50 percent and 70 percent of the cocaine shipped into our Nation; drug arrests and drug seizures in Mexico are only half of what they were just 4 to 5 years ago; there are 52 outstanding United States extradition requests for drug dealers in Mexico, although few, if any, Mexican nationals have been extradited to the United States on drug charges; drug-related corruption has reached the highest levels of the Mexican Government, with the recent arrest of Mexico's highest ranking antidrug official.

Mr. President, I could go on, but the fact is clear: the Mexican Government, in partnership with the United States, must do a better job of stopping illegal drug production and trafficking. The 10 billion dollars' worth of narcotics that is illegally smuggled from Mexico into the United States each year must be sharply reduced, or even better, eliminated.

But let's be clear about one thing: Solely addressing the situation in Mexico—the "supply side" of the drug problem—is incomplete and insufficient. Precious little time in the debate on decertification has been devoted to addressing the demand side of this problem, that is, the tragic, insatiable appetite for illegal drugs in the United States. If there were no demand for illegal drugs here at home, the drug kingpins and cartel chiefs that have caused so much misery, would be unemployed. A Washington Post editorial earlier this month makes this point clear, stating "the demand equation remains the true frontline of the war on drugs." I am pleased that the language agreed to in these negotiations at least in part addresses this critical aspect of our fight against drugs. We would be remiss in not putting today's debate in its proper perspective.

Nevertheless, Congress is right to speak out in an appropriate manner on the deterioration of antidrug efforts in Mexico, and the need to take concrete measures to stem this tide. I would argue that much—not enough, but much—has already been done: the drug certification law passed in 1986, while imperfect, has produced a framework that can produce real results. Nations that receive United States and international assistance are each year held to a very large measure of accountability for their cooperation with the United States in combating drugs. The specter of losing most United States foreign aid and having IMF and World Bank loans vetoed is certainly a strong incentive for governments such as Mexico to cooperate with us and take needed action.

Despite all of the problems in Mexico, there is evidence that the certification law has compelled Mexico to do more than it would have done were the law not in place. President Zedillo, in particular, has taken a number of steps, including the arrest and firing of thousands of corrupt and criminal individuals in Mexico. His Government has also eradicated an area the equivalent of 5½ times the island of Manhattan. Finally, President Zedillo has declared the drug cartels and the corruption associated with them to be Mexico's principal national security threat. But more needs to be done, and the Clinton administration has the appropriate tools available at its disposal to make further progress on achieving some very important goals. The amendment before us today not only maintains the administration's ability to enhance its cooperation with Mexico, but provides for needed accountability to Congress and the American people.

On February 28, President Clinton certified to Congress that the Government of Mexico was fully cooperating with the United States in antidrug efforts. The question before the Senate during the past several weeks is should we overrule the President's decision and decertify Mexico? I have argued that, despite the deteriorating situation in Mexico, congressional decertification is the wrong approach, and would actually be counterproductive in solving these problems. I am gratified that the authors of the original decertification resolution have made significant compromises with the administration so that such a vote has been avoided.

Decertification would have been a slap in the face to our diplomats, who have labored, often painstakingly, to prod the Mexicans to help us crack down on illicit drug trafficking. Not only would it upset these delicate diplomatic efforts, a straight decertification would incite the well-known nationalistic political forces in Mexico, making it even more difficult for President Zedillo to further cooperate with us in achieving the goals all of us share. If it's difficult to work with Mexico now, I shudder to think what would have happened if Congress had overruled the administration by passing a straight or even qualified decertification.

I prefer instead to entrust our diplomats with the task of negotiating expanded antidrug efforts with the Mexicans, rather than hoping that decertification, even if sanctions were waived, would compel action on their part. As the March 3 Washington Post editorial states, decertification is "a blunt instrument poorly designed for the delicate political work of drug enforcement. . . . A nationalistic reaction is the inevitable result." I ask unanimous consent that this editorial be printed in the RECORD at this time.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, March 3, 1997]

A FINE LINE FOR MEXICO

President Clinton drew a fine line, but a sensible one, between certifying Mexico and decertifying Columbia as a reliable partner of the United States in fighting drug trafficking. The record of both Latin countries in stemming the dread trade is sad. But at least the Mexican government is demonstrably trying—it had the political courage to arrest its corrupted drug policy chief on the eve of the certification proceedings—while the president of Colombia is established as the creature of a drug cartel. Mr. Clinton decided that President Ernesto Zedillo's capacity to do better would be strengthened by certification and that President Ernesto Samper was beyond redemption. It is an arguable decision, but it fits the exigencies of the American certification law, and it also fits the facts.

By now it is accepted in the White House and elsewhere in the administration that the American certification law is a blunt instrument poorly designed for the delicate political work of drug enforcement. In a hemisphere where the premise of effective diplomacy is to respect the sovereign equality of member states, this law brings American power to bear on supply and transit states without either consulting them or providing them a reciprocal opportunity to pass judgment on American policy. A nationalistic reaction is the inevitable result. Still it is the law, and the president is bound to enforce it. Secretary of State Madeline Albright, in announcing the administration's decision on Friday, acknowledge the obligation of the United States to press ahead with its own strategy to reduce demand—a strategy it had introduced, to something less than full public attention, earlier in the week. The demand equation remains the true front line of the war on drugs.

Mexico was unconditionally certified as an American drug-fighting partner. So it is not exposed either to the political rebuke or to the economic penalties that follow from being de-certified. But Mexico is far from being in the clear. Mrs. Albright publicly listed the particular policy areas (capture and extradition of kingpins, money laundering and so on) in which the United States expects to see Mexican progress, and which she, the attorney general and the anti-drug chief will monitor.

A considerable number of legislators have indicated that they will attempt to reverse the administration's certification of Mexico. They should ask themselves how such a gesture, satisfying as it might be for the moment, actually would serve their cause, and what effect it might have in other areas of policy—trade, immigration, environment—where good relations with Mexico are vital to American interests.

Mr. CHAFEE. Mr. President, the amendment before us today represents a far more prudent approach to this sensitive issue. It outlines in detail the serious problems involved in Mexico today, and makes it clear that further progress is needed. However, instead of simply clubbing Mexico and walking away, this amendment sets very specific benchmarks for improved antidrug efforts by Mexico, and requires a progress report from the administration by September 1. Among other things, this report must describe the extent to which our two nations have made significant and demonstrable progress on dismantling drug cartels, improving law enforcement relationships, and increasing cooperation on extradition of Mexican drug dealers wanted in the United States. The amendment makes it entirely clear both to this administration and to Mexico where the failings have been and what our priorities are. However, under this compromise, nationalist forces will not be incited in Mexico, and our diplomatic efforts can continue smoothly.

I urge all of my colleagues to support this amendment. Thank you.

Mr. LEAHY. Mr. President, I think the process that has culminated in this amendment has shown that however well-intentioned, the drug certification process is poorly conceived. Mexico is clearly not cooperating in the counternarcotics effort as it should. How can it, when practically the highest ranking Mexican officials responsible for dealing with the problem are profiting from the drug trade themselves?

But decertifying Mexico would cause more problems than it would solve, by creating resentment with the very people with whom we are seeking to build stronger relations.

I will vote for the amendment, but I want to stress that I am very disappointed that the administration has not acted more forcefully and visibly to encourage the Mexican Government to deal effectively with the corruption and human rights abuses committed by Mexico's police and armed forces. We should send a strong signal to Mexico that this will no longer be ignored. I would have favored a stronger resolution than this, as I know many others would have, including the resolution's sponsor, but I hope the Mexican Government appreciates the seriousness with which we regard these concerns.

The reports of rampant corruption among Mexican military and law enforcement officials, and the human rights abuses they have been involved in, are alarming, as are reports of growing paramilitary activity in Mexico. I am concerned that, with United States support, Mexico is blurring the line between its police and armed forces. I am also concerned that our ability to monitor the equipment we provide to Mexico is inadequate. I have urged the administration to be very specific in its agreements for the transfer of equipment to the Mexican police or armed forces, so there is no ambiguity that it is to be used for counternarcotics activities and not counterinsurgency activities. Those agreements should also specify that if members of police or military units that receive our assistance are implicated in abuses, they will be immediately removed and steps taken to bring them to justice. We have done this recently in agreements with Colombian officials, and there is no reason why it could not be done in Mexico.

The United States and Mexico must work together to combat this problem. But while I and others expect far more from the Mexican Government to deal with corruption and the violence perpetrated by their own agents, unless we curb the demand in our own country, drug abuse will remain a national crisis.

In the last 10 years, the United States has spent $103 billion on programs here and abroad against drugs. Yet the DEA reports that the amount of cocaine entering the country, as well as the rates of heroin and cocaine abuse among Americans, have remained steady. Again, the evidence is clear. We will not solve this problem until we aggressively deal with the causes of drug use and addiction in our own country.

Mr. President, I want to thank Senators DODD, FEINSTEIN, COVERDELL, KERRY, MCCAIN, and HUTCHISON who have worked very hard to reach a compromise on this difficult issue.

Mr. DEWINE. Mr. President, I rise today in support of the Mexico resolution.

I think it offers a constructive solution to the bilateral problem we are facing. It gives the President of the United States an opportunity to discuss with President Zedillo of Mexico the various concerns many of us have about the progress our two countries are making in the drug war. And it does so without provoking unnecessary and counterproductive tensions between our countries.

The problems in Mexico's drug enforcement are well known. You can hardly open a newspaper without learning about even more instances of corruption and incompetence at all levels of government and law enforcement.

It's a sad chronicle that makes for truly depressing reading. It's understandable why so many concerned Members of Congress are raising serious questions about the effectiveness of Mexico's antidrug effort.

But it's important that we in Congress stay focused on doing what's in our own national interest—not on symbolic gestures that fail to accomplish that interest.

The problems we face are real.

There are 12.8 million Americans who use illegal drugs, including 1.5 million cocaine users and 600,000 heroin addicts.

More than 1 out of every 10 children between 12 and 17 years of age use illegal drugs. One out of every four claims to have been offered illegal drugs in the past year.

The American people recognize that these are important problems—and that we have to take serious action. But let me point out, Mr. President, that there are many, many people in Mexico who support our goals. To succeed, we need that support.

Without their support, it would not have been possible for Mexico to make even today's limited progress against the drug traffickers.

That progress is limited, but it is nonetheless real.

Over the last year, in spite of the well-known cases of corruption, the Mexican Government has posted increases in drug seizures and crop eradications. That includes a 15-percent increase in marijuana seizures, a 6.3-percent increase in cocaine seizures, and an almost 80-percent increase in heroin seizures.

In 1996, Mexican authorities reported an increase of nearly 14 percent in the number of people arrested on drug trafficking and related offenses, including 28 high-level members of drug trafficking organizations. This year, as has been widely reported, Mexican authorities arrested General Jesus Gutierrez Rebollo—who had been in charge of the National Institute to Combat Drugs—for supporting the activities of the Juarez cartel.

We didn't catch him, Mr. President. The Mexicans themselves did.

Should we expect further improvements in law enforcement operations? Absolutely. We need to monitor the full enforcement of the law—in other words, keep close watch on how many of these arrests lead to prosecution and jail time.

In 1996, the Mexican Congress passed tough laws to address the problems of money laundering, chemical diversion, and organized crime. Now we should insist on full enforcement of those new laws.

This year, we have seen improved cooperation in the areas of money laundering and extradition. Mexico and the United States established a high level contact group on narcotics control to explore joint solutions to the shared drug threat and to coordinate bilateral efforts. We should now expect this increased cooperation to yield clear, positive results.

But one thing is clear: Both Governments need to dedicate greater resources to stop trafficking along our border. Senator HUTCHISON informed the Foreign Relations Committee last week of the enormous difficulties faced by her fellow Texans along the border. Specifically, ranchers with property along the border are being bribed, coerced, or having their lives threatened by traffickers seeking to use private property as a back door into our Nation. These ranchers have been told by Federal officials that it would be years before enough new border agents could be assigned to better secure their property.

Listen to some of the stories these ranchers tell—stories about the gunfights they have fought with drug gangs, and having to carry guns whenever they leave the house. It sounds like a John Ford movie about the Old West.

That has got to change.

Mr. President, let me conclude by making a broader point about Mexico's future. In my view, with this resolution, we create the opportunity for a new round of cooperation between the United States and Mexico. Mexico is not only a neighbor with whom we share a 2,000-mile border, it is also this country's third largest trading partner. If we are to be successful in our antidrug efforts, Mexico must be our ally.

Yes, the Government of Mexico needs to do more within its borders, and with us, to combat drug trafficking. The real question before us is how can we improve on that partnership.

We all know what the problems are. We all agree that they are very, very serious. But we should also recognize that this is a crucial moment in Mexico's history—and they need our support if they are going to continue in the right direction.

What the Mexican people are trying to do is make the transition from a one-party state, in which corruption and excessive government mandates stifle the hope for widespread prosperity, to a multiparty state that creates jobs and rewards job creators.

President Zedillo appears to be trying to free up Mexican society and reform the political process—changes that will make Mexico a more stable neighbor for the United States. He is opposed by powerful elements in his ruling party, and make no mistake, the outcome is still in doubt.

Now more than ever, the people of Mexico need to know that we want them to be our partners. Our national interest is served by a prosperous and democratic Mexico—a Mexico that offers hope and opportunity for its citizens.

The drug war is one area where we must continue to work together. We should redouble our efforts to look for constructive solutions—to reduce trafficking, to crack down on money laundering, and most important of all, to reduce the demand for drugs.

Our countries must be united in a very important partnership. In the anti-drug effort, as in so many other areas, we have a major common challenge, and we can only prevail if we face it together.

Mr. President, I yield the floor.

Mr. CAMPBELL. Mr. President, this month both Houses of Congress have been engaged in a difficult debate over whether to uphold or overturn the President's certification of Mexico as fully cooperating with the United States to fight drug trafficking.

This debate has had a growing negative impact on U.S. relations with an important country and trading partner along our southern border. The debate also has shown how the certification process under the Foreign Assistance Act of 1961 is not as effective as Congress originally intended it to be.

Under current law, notice provided to the target country is often too late and not specific enough to fix the problems. Moreover, access to more timely and specific information would assist Congress in exercising its legislative and oversight responsibilities.

Therefore, on Tuesday of this week, I introduced S. 457, a bill to provide a new option to the President to place countries such as Mexico on a probationary status of 7 months, during the period of March 1 through September 30. If by the end of this probationary period, the target country complies with the specific conditions stipulated by the President, full certification would be granted. However, if these conditions are not met, the United States would act firmly by cutting off aid beginning on October 1 of this year.

I am pleased that the compromise the Senate is considering today reflects to some extent the main components of my bill. The pending resolution recognizes that Mexico has taken insufficient steps to stop drug trafficking and it stipulates a 6-month period of time in which the President will review Mexico's progress in this area. The resolution also requires the President to submit a report to Congress by September 1 on Mexico's progress.

However, the resolution we consider today does not nearly go far enough.

Its findings regarding Mexico are not specific; it does not provide specific steps Mexico must take to continue receiving aid; and it does not amend the existing law to improve the certification process in the future, as my bill does.

I am voting in favor of the pending resolution today because it is the only legislation the Senate will consider this week to address the certification of Mexico. Nevertheless, I urge my colleagues to support S. 457 to improve the certification process for the future.

I thank the Chair and I yield the floor.

Mr. BURNS. Mr. President, I rise today to express my support for the joint resolution that the majority leaders, my fellow Republican and Democratic colleagues, and the administration has concluded with relation to certification of Mexico. Even though I do not think that this resolution goes far enough, I realize that this agreement is a bipartisan effort that should be enacted for the good of the Nation.

Frankly, I am disappointed that we consider a nation that supports drug cartels and warlords worthy of programs funded by the hard earned dollars of American tapayers. However, this resolution will make certain demands of Mexico and the administration to ensure that progress is made in Mexico. This resolution does not entirely burden Mexico with this responsibility; it will also create a partnership. This partnership will try to strengthen bilateral border enforcement, create a permanent working relationship between law enforcement agencies of both nations and actually assist Mexico to identify, remove and prosecute corrupt officials at all levels of Government. By creating this partnership, Mexico and the United States will closely study this situation and actually try to ensure that both of our efforts are being met. With such limited resources, our assistance to Mexico should make a difference.

Mr. President, we must work toward ensuring that Mexico halts these destructive practices for our most precious national asset, our children. Over the past few years, there has been a marked increase in the levels of cocaine, heroin, methamphetamines, and marijuana flowing into the United States through Mexico. This is hitting every urban and rural community in the United States. The protection of our most vulnerable possession, our children is the strongest argument for the passage of this legislation.

Finally, we should not be saying to the American people that this law is only good if we can also pass the chemical weapons convention treaty. This is not to suggest my opposition or support for the treaty, but I believe that each issue should be kept separate so as to ensure that both are considered on their own merits.

Thus, the most important issue for this Congress today—the only issue for Congress today—is to move forward on this resolution.

Mr. KYL. Mr. President, today we will vote on one of the most difficult issues facing our Nation: the illegal drug trade in Mexico and the United States. The resolution we will vote on requires the President to report by September 1, 1997, on the efforts of Mexico and the United States to achieve results in combating the production of and trafficking in illicit drugs. I support the resolution, and am hopeful that the report will show significant progress by Mexico and the United States in fighting the war on illegal drugs.

As my colleagues have discussed today, we cannot win the war on drugs unless Mexico achieves significant progress in the areas of drug trafficking, extradition, corruption among Mexican law enforcement and other officials, interdiction networks, implementation of laws and regulations to combat money laundering, eradication of crops destined for illegal drug use in the United States, and the strengthening of bilateral border control.

Border control must also be a top priority of the United States; and while my colleagues, including Senators COVERDELL, FEINSTEIN, and HUTCHISON, have done an excellent job detailing what must be done to further our and Mexico's efforts to fight illegal drugs, I want to concentrate for a moment on the need for additional United States Border Patrol agents.

First, I am pleased that one of three things we are asking the President to do by September 1 is detail the progress made in the deployment of 1,000 additional U.S. Border Patrol agents in 1997 as required by my amendment to the Immigration Act of 1996.

Without an effectively controlled border, the United States cannot even begin to win the war on drugs. I was disturbed that the President's fiscal year 1997 budget to Congress requested the addition of only 500 Border Patrol agents, instead of the 1,000 required in the 1986 Act. Senators MCCAIN, GRAMM, HUTCHISON, and DOMENICI recently joined me in sending a letter to the President, urging him to comply with the law, revise his budget request, and deploy 1,000 additional agents in 1997. Without an adequate contingent of customs and border agents, the problem of individuals smuggling drugs and illegal immigrants across our border will only worsen.

Border Patrol agents are on the front lines every day, working hard to seal off our borders from increasing levels of illegal immigration and the drug trade. The agents that Congress has added over the past few years have made a difference, but the need for additional agents keeps growing. Drug and illegal alien smuggling continues to grow—illegal immigrants are expected to increase by 275,000 per year over the next several years—and the effects of illegal drugs, particularly methamphetamine, have been devastating for the citizens of Arizona and the rest of the Nation.

Just a few weeks ago, a study on drug use in America showed a large increase in youth drug use over the last 5 years. Arizona fared poorly, with much higher drug use than the national average, including a startling statistic that our sixth graders are twice as likely to have tried methamphetamine than high school seniors nationwide. While we continue to talk about the need to fight illegal drugs, the precursor chemicals that make methamphetamine are being smuggled into Arizona in increasing volume. It must stop.

As the resolution we are voting on today says, the abuse of illicit drugs results in at least 14,000 deaths per year in the United States, and "exacts economic costs in excess of $67 billion per year to the American people."

Although many of us would like to see more specific actions that the Mexican government should take to show serious improvement in the war against illicit drugs, it is my hope that Mexico will be able to show significant accomplishments in the areas outlined in the resolution. Likewise, the administration must be able to show specific, detailed action in the war against drugs by, among other things, deploying 1,000 additional agents in 1997.

Mr. President, not rhetoric, but actions. That is what we must demand of Mexico and that is what we must demand of ourselves. We must work diligently to eradicate the scourge of illegal drugs that has taken so many of our citizens, young and old alike, hostage. This compromise resolution should be passed by the U.S. Senate.

Mr. DASCHLE. Mr. President, I join with my colleagues today in strongly endorsing this bipartisan resolution, which represents an important step in the fight to curb the flow of drugs from Mexico.

This resolution strongly registers Congress' unhappiness with the current situation in Mexico. It includes a clause stating that it is the sense of Congress that "there has been ineffective and insufficient progress in halting the production in and transit through Mexico of illegal drugs."

There is ample evidence that Mexico is not doing enough to combat this problem. Let me cite a few examples.

More than half the cocaine coming into the United States is smuggled across the United States-Mexican border.

Major quantities of heroin, marijuana and methamphetamines used in the United States are produced in Mexico.

Drugs are being moved illegally across the United States-Mexico border by major criminal organizations operating on both sides of the border.

And, of great concern to the United States, there is evidence of significant corruption affecting the Mexican Government and undermining its antidrug commitments. The most dramatic recent evidence of this fact was Mexico's February 1997 arrest of its drug czar, General Gutierrez.

This resolution helps us move beyond the annual certification debate in achieving concrete action in a constructive way. Passage of this resolution will strengthen the President's hand in his upcoming April trip to Mexico. It puts the United States in a position to get the greatest possible cooperation from the Mexicans in fighting the war on drugs. And, most importantly, it puts the Mexicans on notice that we will expect such cooperation.

This resolution clearly expresses Congress' view that the Mexican Government must do more and that the United States needs a plan to push that effort. The resolution lays out the positive steps they must take by requiring the President to submit a report to Congress by September 1 of this year laying out progress with Mexico in the following important areas: Investigation and dismantling of drug cartels, development and strengthening of the working relationship between the United States and Mexican law enforcement officials; strengthening of bilateral border enforcement; denial of safe havens for those responsible for drug trafficking, including improvement of cooperation on extradition matters between the United States and Mexico; simplification of evidentiary requirements for narcotics and other related crimes; full implementation of effective laws and regulations to combat money laundering; eradication of crops intended for illicit drug use; establishment of screening process to assess the suitability of all law enforcement personnel involved in the fight against organized crime; and the support given to Mexico in its efforts to identify and remove corrupt officials throughout the government, including law enforcement and military officials.

The resolution also directs that the report include progress on important domestic goals, including the implementation of antidrug education efforts in the United States focusing on reducing drug use among young people; the implementation of a comprehensive international drug interdiction and enforcement strategy; and providing the additional personnel needed to get the job done.

This resolution is not, and must not be, the end of this process. The 1998 drug certification process will give Congress another chance to express its support or disapproval of the progress we have made with Mexico.

The resolution is not perfect, but it takes us in the right direction.

Let there be no mistake: the United States cannot tolerate anything less than an all-out effort to control illegal drugs. Mexico must demonstrate a dramatic increase in its cooperation in the effort to stop the flow of drugs across the United States-Mexico border. The United States obligation is to insist on Mexico's cooperation and to make it clear that we will do everything we can to support their effort. We will be closely monitoring progress in this area. Without it, we will face an intolerable threat to our children and a severe degradation of our relationship with Mexico.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. How much time remains?

The PRESIDING OFFICER. The leader has 50 minutes.

Mr. DODD. Mr. President, I yield myself 15 minutes of leader's time, and I will try to use less than that time.

Let me begin these remarks by thanking the sponsors of this resolution that is pending before the Senate. I want to especially thank our colleague from Georgia, Senator COVERDELL, with whom I have the pleasure of serving with as ranking member of the Subcommittee on Western Hemisphere, Peace Corps, Narcotics and Terrorism of the Committee on Foreign Relations. He played a very major role in shaping the compromise that is now before us. I would mention as well our colleagues, DIANNE FEINSTEIN from California, KAY BAILEY HUTCHISON from Texas, JOHN MCCAIN of Arizona, and others who worked tirelessly in helping put this resolution together.

I commend them for their work in putting this resolution together. I am happy to have been a part of it. Even though I do not agree with every word in it, on balance I believe it is a very constructive approach to a very difficult problem. I am sure that all of us who worked to forge this compromise would have liked to see things added or subtracted depending upon our points of view. But, that is the nature of how a resolution like this is assembled.

I think the pending amendment captures the views of this body fairly accurately, and I suspect, the views of the American people whom we represent. Yes, there is a sense of outrage, fear, worry, and frustration over the ongoing threat posed by the Mexican drug cartels. We have paid a very heavy price for their relentless efforts to ply their trade whereever they can get away with it. The human costs of drug use are real and mounting. This scourge that still ravages this country called drugs has caused great damage to millions of people in this country and elsewhere.

The pending amendment is an attempt to express to our neighbor and ally to the south of us, Mexico, where more than 50 percent of all the drugs that come to this country are produced or transit through, that we would like to see more cooperation in our efforts to eliminate drugs from both our countries.

Mr. President, the economic costs to the American people from the illegal use of narcotics is in excess $67 billion annually. Estimates are that nearly 13 million Americans regularly use illegal substances. The revenues generated by the drug kingpins totals more than $49 billion annually—a rather remarkable statistic.

The Mexican drug cartels allocate more than $6 billion of ill gotten gains for the sale of drugs in order to bribe, or otherwise corrupt Mexican law enforcement and judicial authorities involved in counternarcotics programs.

We consume 50 percent of all the illegal drugs produced in the world. We represent 5 percent of the world's population. So clearly the United States is at the heart of the international drug problem. More and more, this is not solely an American problem. Drug consumption is beginning to ravage countries which in the past never had a problem with illegal substances and drugs. But today that is changing, and even in producing countries—transit countries—nations where money laundering goes on, consumption and the ravages of consumption are beginning to wreak havoc in these nations as well.

I cite just of few statistics. There are clearly many more. I know my colleague from California provided some other statistics in the course of her remarks concerning, for example, the amount of product coming into this country.

Let me say that I think it is perfectly appropriate and proper that we raise the issue of the effectiveness of our allies and neighbors' counter-narcotics efforts. But we should admit as well that we could do a better job here at home in helping to wage an all out effort against illegal drug use. We need to take a good hard look in the mirror as well.

I would argue very strenuously that were it not for the consumption in this country, were it not for our consumption problems, that we would have far less of a problem with nations like Mexico and others. I don't say that is an excuse to let those nations off the hook who produce, process, and tranship these illegal drugs that wind up on our streets. But if we are going to have an intelligent and thoughtful discussion about drug abuse and illegal drug production, and the problems these create, then we need to spend at least as much time in analyzing what we in the United States are doing or are not doing in our own country that creates the market for these products as we do pointing the accusing finger at those who are involved on the supply side.

Simply put, if we did not have a domestic consumption problem we would not have the magnitude of the problem of the supply side that exists in Mexico today. With enough resources we can probably deal with Mexico. Or we can deal with Peru, and Colombia. But what we have learned historically is that as we begin to put pressure on narcotraffickers in one country, they simply relocate to another. This will continue to be the case so long as our domestic consumption rates continue to go up. The producing countries, the transit countries, the money laundering countries, are only temporary locations in the transnational international drug trafficking business.

So the first line of defense has to be a far more aggressive effort here at home to try to educate young people against the dangers and the problems associated with illegal drug use. We also need better treatment programs so that those who are hooked on drugs who want to change will have someplace to go to for help in breaking these incredibly debilitating habits. Yet today, there is a long waiting list at our drug treatment centers—a list of addicts' wanting treatment that is currently unavailable to many of them. The waiting period to get into treatment can be as long as 4 years in some instances. Having to wait months and months for treatment certainly doesn't contribute to our efforts to reduce the problem of consumption.

I hope as we attempt to seriously come to grips with the international drug threat to the United States —and it is not going to disappear overnight—that we focus a lot of our attention on reducing domestic drug abuse.

Just as I believe we need to place more emphasis on the demand side, I think we need a serious rethinking of how we approach the supply side of the equation. The current approach as embodied in the annual certification process is not working. In 1986 when Congress enacted the drug certification law there was a great deal of frustration that neither the United States nor other countries were doing enough to fight the drug war. So Congress, on a bipartisan basis, set up a certification process in order to bring attention to the issue and try to do something about it. I strongly suggest to my colleagues—and I realize that I may be in the minority on this issue—that we ought to scrap this certification process and try to come up with some alternative idea that would allow us to develop a working partnership with other governments, particularly those in our own hemisphere.

There are good people in Mexico who want to see this problem stopped as well.

In fact, I made note the other day—it is worth repeating here today—that when President Zedillo of Mexico came forward and took some significant steps in dealing with the people in his own country who had been corrupted by this process, his favorability rating rose more than 10 percent in Mexican public opinion polls. It isn't just American citizens who are deeply troubled by the rising cost of illegal substances and drugs. The people of Mexico, the average citizen in the street, is worried about this. The mother in Mexico City is just as worried about her child becoming hooked on these substances as a mother in Hartford, or a mother in Atlanta, or a mother in Los Angeles. We need to be sensitive to that because they have to help us as well in trying to build a base of public support in Mexico that will encourage Mexican authorities to get tough on narcotraffickers and corrupt government officials.

My colleague from Georgia may have addressed this already. I will just state it briefly. I think our colleague from Georgia has a very sound idea in terms of how we might look at this problem a bit differently. He has proposed that all countries that are involved in the various aspects of the drug trade, whatever their level of involvement, sit down and start figuring out how we can work together to solve this problem. It isn't going to be solved in one year or two. It isn't going to be solved at all unless we come up with a common plan—a plan developed by coequals trying to deal with this issue. That is the only way to get the kind of cooperation that is absolutely critical if we are going to be successful in dealing with our allies and others who are producing these products.

I see my colleague. I will be glad to yield to him because I raised his name and mentioned his program.

Mr. COVERDELL. Mr. President, first, I want to acknowledge the almost tireless support of the Senator from Connecticut in behalf of the concept.

Just to take a second, the resolution before this body does for the first time enumerate the concept and calls on the administration to air it during the upcoming meetings in Mexico. I just wanted to mention that.

Mr. DODD. I thank my colleague for mentioning that.

I strongly urge the administration and others to take a strong, hard look at this and come forward with ideas so we can get off the certification track that brings us back here year in and year out picking winners and losers and deciding whether or not they are going to be on the good list, or the bad list, or the marginally good list. Whether they are going to be certified, decertified, or granted a national interest waiver. Debating that kind of question and getting votes of 55 to 45 or 65 to 30 for the various legislative initiatives surrounding certification doesn't get us anywhere.

We have significant evidence that decertification has not fostered better cooperation from other countries. For the last 11 years we have decertified a handful of countries year in and year out. None of these countries counter narcotics efforts have improved as a result of that action.

The simple question that must be asked about the current procedure is if it is not working should it continue? Shouldn't we consider an alternative that might really be effective in achieving the cooperation that is necessary to reduce the ravages of this problem?

If we don't try something new, we will be sitting here, I promise you, with more charts next year and more charts the year after that, and more charts the year after that, and we can beat our chests, pound the table, and scream at neighbors and allies. But my fear is that it doesn't get any better.

So, when your idea is not working very well, you ought to think anew. What the Senator from Georgia has done in my view is think anew on this. I commend him for it. I don't think he thinks nor do I think it is a perfect idea. But I think it has the seeds of success written into it. If we give it a chance and try to make it work, then I think it can produce the results that we all are looking for.

Mr. President, again I commend the authors of this amendment. I think they have expressed the views of all of us more or less. We are all blessed to have General McCaffrey heading up narcotics efforts. He has done an excellent job and he enjoys universal support for his efforts.

I urge the adoption of this amendment. But, more importantly, Mr. President, I urge that we find a different way in the coming weeks and months to address this issue before we find ourselves back again engaged in an exercise that isn't achieving the kind of results that many of us would like to see accomplished.

With that, Mr. President, I urge adoption of the resolution and yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia.

Mr. COVERDELL. I thank my colleague from Connecticut for his remarks and again, as I have in the past, for his attention to this concept that we have been discussing for now 2 years, and hopefully this resolution will bring it to a new level of discussion. I apologize for interrupting, but I did want to note that we had embraced some of this concept in the resolution.

Now, Mr. President, I yield up to 5 minutes of my time to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. I thank the Chair. I thank my good colleague from Georgia for yielding time to me. I would also like to thank and recognize and compliment Senator COVERDELL, Senator FEINSTEIN, and others who have worked tirelessly on this effort to try to get more help in stopping all the drug trafficking through Mexico. I know they have worked very hard to try to craft a vehicle and language to be able to get at this issue, which we all want to do, which is reduce the drug trafficking, reduce the amount of drug flow from and through Mexico to the United States. I applaud their efforts and their tireless work in getting this done.

However, in looking at the language of this bill, I must rise in opposition to certifying Mexico as complying with our drug-trafficking efforts, and this is not, in my estimation, as I consider this vote and weigh it carefully, about bashing Mexico. This is not about bashing the administration. This is about complying with the law and interpretation of that law and a judgment that each of us must make. The fact is section 490 of the Foreign Assistance Act requires that the President certify that Mexico has cooperated fully with the United States or taken adequate steps on its own to fight drug trafficking.

That is the law, and that is the interpretation and that is what each of us have to interpret, whether this is done: Has Mexico cooperated fully with the United States or taken adequate steps on its own? Sadly, I come to the conclusion the facts are that Mexico has not cooperated fully with the United States and the steps they have taken to combat the drug trade are far from adequate. I am sad in taking that position and in looking at it this way, but I can arrive at no other conclusion.

There was a slight increase in 1996 in both drug seizures and arrests of drug traffickers. But sadly, again, this is because the numbers for 1995 were so low. Their record over the 1992 to 1993 period shows that they can do much better; they were much, much higher. So the Mexican Government, working more in cooperation with us, can do much better. In fact, Mexico's current record clearly indicates that they should not be certified for antidrug cooperation. U.S. drug agents report that the situation on the border has never been worse.

I applaud Senator COVERDELL and Senator FEINSTEIN for laying out in detail the facts that are before us. I would like to reiterate some of them again if I could.

Mexico continues to be a major transit point for cocaine entering the United States from South America. Fifty to 70 percent of the cocaine entering the United States transits Mexico, and Mexico is a supplier of 20 to 30 percent of the heroin to the United States market and up to 80 percent of the foreign-grown marijuana. Seizures of cocaine were about the same as the last 2 years but about half the level of seizures in 1991 to 1993. Drug arrests were up for 1995. However, they were considerably less than arrests in 1992 to 1993. Mexico refuses to allow the United States Navy ships patrolling for drug smugglers to put into Mexican ports to refuel without 30 days' notice. Mexico has enacted money laundering legislation, but so far the legislation has not been implemented, and Mexico is 12 months late in producing necessary banking regulations.

The record on this issue is clear, and sadly so. It is not credible to claim that Mexico has fully cooperated with the United States in fighting drug trafficking. On the contrary, the major Mexico-based drug cartels have risen to being some of the most powerful trafficking groups in the world.

I think we absolutely have to send a strong signal to the administration and to our neighbors to the south that the certification process is not just a rubberstamp exercise and that we require action on this issue. I say again that I arrive at this conclusion sadly because I think everybody in this body would much rather be able to easily certify, and I do applaud the efforts of Senator COVERDELL, Senator FEINSTEIN, Senator HUTCHISON, and many others in working on this. But we are just not there and I cannot support the certification.

I thank the Chair. I thank the Senator for yielding.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, the junior Senator from Massachusetts has requested time. I will yield 7½ minutes of my time to him, and I believe the Senator from Georgia will yield time.

Mr. COVERDELL. If the Senator from California will withhold this allotment of time for one moment while I deal with a unanimous consent that both sides agreed to in trying to facilitate a number of our Members who are trying to visit the White House and some others who are trying to catch aircraft. I will do this and then we move to Senator KERRY from Massachusetts under the circumstances the Senator has just outlined.

I ask unanimous consent, Mr. President, that the vote scheduled to occur at 4:45 today now occur at 3 p.m., and further, the following Senators to speak for up to the designated time: Senator KERRY for 15 minutes, Senator HUTCHISON for 10, Senator FEINSTEIN for 5, Senator BOXER for 5 minutes, Senator COVERDELL for 5 minutes, and any statements relating to the issue provided for in the consent remain in order prior to the close of business today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Chair and I thank the Senator from Georgia for his intercession and his help, and I particularly want to pay tribute to the Senator from California, [Mrs. FEINSTEIN], who has been pressing so hard on this absolutely vital issue of concern to every single American.

I listened carefully to the comments in the Chamber, particularly those of the Senator from Connecticut a moment ago. We differ on the question of whether certification is effective or not. The fact is, were it not for certification, we would not be here today fighting about what the appropriate action is with respect to Mexico and there would not be such sensitivities by Mexico or us to the consequences of our actions. Were it not for the certification process, there are whole countries that would continue to disregard, as they did prior to the certification process, any notions of cooperation. It is, frankly, only by virtue of the certification process that we have made the extra judgments with respect to Mexico that lead us to understand the dire circumstances that we find ourselves in today.

Having said that, I want to comment on one other aspect of this, because I agree with the Senator from Connecticut. I have been, I think, forceful in speaking out on this over the last years. Any efforts to make any judgment about any other country must be accompanied by efforts to make judgments about ourselves. In fact, efforts to judge ourselves ought to come first, and we ought to be much tougher on ourselves than we are on the others.

The fact is that after all these years of so-called declarations of war on drugs and all of the talk about its importance and all of the hype, we really do not have a legitimate war on drugs in our own country. I hear some people sometimes say, well, the reason we are losing the war on drugs is x, y or z. We are not losing the war on drugs, Mr. President. We are not fighting the war on drugs. Ask a lot of prosecutors around the country whether they have sufficient resources. Ask judges whether they can move people through the courts fast enough. What happened to the initiative to have drug courts? Ask drug addicts, who are the first people we ought to discuss this with, what they say about the system and if it is serious, because we treat less than 50 percent of the drug addicts in this country. If you want to take the pushers' clients away, we ought to have treatment on demand in America, clean the streets up of the addicts, have an outreach effort that identifies them in community after community and show some tough love in the United States and provide the treatment. You cannot have pushers come along fast enough to make up for that loss of business. Do you want to deal with the people who are hitting people over the heads and robbing cars and stealing radios and entering houses at night? Then that is the way to do it. But we do not. We do not even educate all our kids in America about the danger of drugs. Only 55 percent of our children get education about drugs. The fact is that from 1956 until 1994, we enacted 43 so-called comprehensive laws to deal with international narcotics control. From 1961 to 1991 we passed over 100 bills to combat drugs. There have been 10 major multilateral declarations and agreements signed between 1970 and 1992. Between 1966 and 1991 we created roughly 18 new agencies, councils, offices, and institutes to pretend to deal with drugs. Since President Bush established the White House Office of National Drug Control Policy, we have had four drug czars.

I think these efforts tell the story. Drug use by adults may be down a little bit, but the fact is that drug use by kids is on the rise. In 1992, the number of 12th graders using illegal drugs was 27 percent; in 1996 it was 40 percent. And our efforts to educate kids about the dangers of drugs are just plain inadequate. In 1996, only 36 percent of 8th graders thought that if they took LSD once or twice they could risk harming themselves. Similarly, only 51 percent believe that crack can harm them; and only 45 percent think that cocaine could hurt them. All of these numbers are down from 1991.

So, as we talk about Mexico, let us not forget the failure of our own efforts. I intend to bring us back to this issue again and again, in the next months. It is time for us to do the job here. Every day there are 20 million 10–15 year old kids out there who need something to do after school. We cannot shut schools in the afternoon, we cannot be devoid of after-school programs, we cannot cut sports, music, arts, all of the options for our children, and suggest that they go home to houses where there is no parent, and not expect to reap the harvest of that kind of abandonment. Mr. President, that is our responsibility.

Now, what about Mexico? They also have a responsibility. We are honest, at least, about judging our court system. We are honest about putting our cops in the street, 100,000 more of them, to try to deal with this. We are honest about trying to prosecute people, police officers and others in various departments across the country, who have shown a proclivity to break the law. That does not really happen in Mexico—not really. There is a fake process that goes on there. In fact, what really happens in Mexico is that one cartel buys out the police and the judges and the prosecutors in order to bring pressure on its rival cartels. For example, the attorney general and 90 percent of police, prosecutors and judges in Tijuana and the state of Baja California are judged to be on the payroll of the Arellano-Felix cartel.

Do you want to sit around and expect them to do something? They will not because drug corruption is endemic throughout the system. Let me turn to some other examples. During his 2 years in office, former Attorney General Lozano fired some 1,250 Federal police officers and technical personnel for corruption. Yet not one of these has been successfully prosecuted. When Mexican army officers raided the wedding party of Amado Carillo Fuentes sister, they found members of the Mexican Federal Judicial Police guarding the party. Carillo Fuentes escaped thanks to a tip from the police about the raid. And on the very day that certification for Mexico was announced, Humberto Garcia Abrego, brother of Juan Garcia Abrego, and chief money launderer of the Gulf cartel was allowed to go free by Mexican officials, even though he was still under investigation for drug related crimes.

Until the Mexican Government recognizes this reality and throws out all the policemen, prosecutors, judges, and military officials on the payrolls of the traffickers, and basically says, "We are going to start again, and we are committed to this," it is impossible to have the kind of cooperation that is necessary in this effort. Our own DEA Administrator, Thomas Constantine, has told us that "There is not one single law enforcement institution in Mexico with whom DEA has an entirely trusting relationship."

When we went down to meet with the President of the United States and various Cabinet people on this subject, President Clinton properly put the issue to us. He made a judgment, for reasons that I can understand—I do not agree with, but I understand—he made a judgment that the best way to get Mexico to try to engage in this effort was to certify them. I disagree. In my judgment, to certify them, or anything less than what we are doing here now, is to ratify the status quo. And it is to say that the same patterns of behavior that have sufficiently gotten you by any critical judgments over the span of the last 10 years will be able to continue into next year and the next year until whenever it is that the United States decides they are going to start to judge things the way they really are.

The way they really are is known by everybody. Let me quote from our own State Department's International Narcotics Control Strategy Report for this year:

> Taking advantage of the 2,000 mile border between Mexico and the United States and the massive flow of legitimate trade and traffic, well entrenched polydrug trafficking organizations based in Mexico have built vast criminal empires that produce illicit drugs, smuggle hundreds of tons of South American cocaine, and operate drug distribution networks reaching well into the continental United States. Mexico is the principal transit route for South American cocaine, a major source of marijuana, and heroin, as well as a major supplier of methamphetamines to the illicit drug market in the United States.

And nowhere but California do they understand the methamphetamine aspects of this better.

> Mexico is the transshipment point for at least 50 to 60 percent of the United States-bound cocaine shipments and up to 80 percent of the methamphetamine precursors.

According to our U.S. health experts the consumption of methamphetamines is on the rise and may soon outdistance the use of cocaine as the drug of choice in the United States. Mexican-based drug trafficking organizations are the heart of this trade. The DEA reported in 1996 that:

> . . . criminal organizations from Mexico, deepening their involvement in methamphetamine production and distribution in the United States, have radically reshaped the trade. With access to wholesale suppliers of precursor chemicals on international markets . . . these groups can manufacture unprecedented quantities of high purity methamphetamine in large labs, both in Mexico and across the border in California.

Mr. President, the problem is these very cartels have reached their tentacles so far into the Mexican structure that you really have to engage in the most extraordinary kind of effort in order to change what is happening. I recognize that there have been some positive steps here and there, but the fact is, they are truly small developments measured against what we know Mexico has to do and what we have asked Mexico to do. That is the true measure of cooperation.

The fundamental problem in Mexico is the corruption that exists at any and all levels, even among those charged with fighting the drug effort. You see an occasional arrest, yes. But those arrests by Mexican authorities are not necessarily reflective of the commitment to root out drug traffickers, but rather of a well-coordinated plan by one cartel to eradicate the other by having law enforcement officials on their payroll. One of the reasons we did not immediately realize that Mexico's drug czar, Jesus Gutierrez Rebollo, was corrupt was because he arrested major drug traffickers but only those who worked for the rivals of the cartel that he worked for, that of Amado Carillo Fuentes. So, on February 18 the Mexican Defense Secretary, Enrique Cervantes announced that Gutierrez aided the Carillo cartel for 7 years by protecting cocaine shipments in exchange for vehicles, real estate and cash.

It was his taste for the good life, not Mexican efforts to root out corruption, that caught him up. And you could read a number of journalistic accounts of what happened that show that it was actually accidental that Gutierrez finally got caught.

Mexican authorities have also tried to tout the arrest and deportation of Juan Garcia Abrego, and there is no doubt that the Gulf cartel has been severely hurt by that. But what we are seeing, already, are indications that the only long term effect of those efforts is going to be to allow Carillo Fuentes to move in and takeover the Gulf cartel's operations. Likewise, efforts to target the Tijuana cartel, run by the Arellano-Felix brothers, are likely to wind up being orchestrated by Carillo Fuentes through his connections with corrupt law enforcement officials.

Mr. President, what we are trying to do here today is be sensitive to the needs of a friend and of relationships. I hope, and I pray that President Zedillo will be able to move in the direction that he has indicated that he wants to move. Unlike Colombia where you have a top-down kind of corruption, in Mexico you have a bottom-up kind of corruption. President Zedillo is going to need all the help he can get.

In my judgment what the United States Senate is going to do today, by going on record as supporting this resolution, will, hopefully, send a signal that all of us need to do more, that all of us need to hold each other up to a tougher standard, and that we need to ask Mexico to do more to help us stem this flow of drugs.

Is that the whole deal? No. As I have made clear, the bulk of the responsibility is ours.

Until we face up more to the demand side of the equation, it may seem difficult to be as demanding internationally. But that does not mean we should not be, and it does not mean that we must not ask a country as deeply affected by this as Mexico has been to begin to join us to a greater degree in this battle. It is my hope and my belief that this effort today will enable us to continue to cooperate while simultaneously sending an important signal about the seriousness of our certification process.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized for up to 10 minutes.

Mrs. HUTCHISON. Mr. President, I thank Senators COVERDELL and FEINSTEIN. I think they have come a long way in this process, and I appreciate their willingness to stand with what I think will be the strongest vote in the Senate and do something that is constructive, rather than destructive.

I thank Senator DODD, Senator MCCAIN, and Senator DOMENICI. I thank Senator LUGAR for coming in and helping in this process. It took all of us together to come up with a solution that we thought would be something workable with our Senate colleagues, hopefully with our House colleagues, and something that would be a help to our relationship with Mexico.

I think that was the key to this matter, because, in fact, Mr. President, we are losing the war on drugs. Mexico is losing the war on drugs. They are seeing their country rifled with corruption because of the billions of dollars that are coming in illegally, and America is losing the war on drugs because we see 1 in 4 of our children who say they have been offered illegal drugs, children as young as 8, 9, 10, 11, 12 years old. Yes, Mr. President, what we are saying today is it is no longer business as usual in the drug war.

Mexico is not a country that is thousands of miles from our border. This is our border. Mexico is our border. We are tied. We are tied economically; we are tied in security interests. We cannot walk away from this issue. It is our joint problem, and that is what we are saying today by passing this resolution.

We had $8 billion of trade with Mexico in 1975. Today, it is over $100 billion. Mexico is the United States' third largest trading partner; it is Texas' largest trading partner, with $22 billion of trade between Texas and Mexico. But our relationship is deeper than that. It is not just dollars. Every one of the border States—California, New Mexico, Arizona and Texas—were once part of Mexico. So our cultures are ingrained. We together, in the past few years, have drifted into accepting unacceptable conditions in the arena of drug trafficking. I cannot imagine a worse situation.

In my State, we have ranchers who will not go outside into their front yards without guns, because they may meet someone with an AK–47 walking across their ranch with illegal drugs. There is a state of lawlessness in my State that we have not seen since the frontier days, and we cannot let this stand. In fact, a number of our ranchers are selling their land to the highest bidders because they feel defenseless. And guess who the highest bidders are? They are people fronting for those who are trafficking illegal drugs. They are paving their way through the United States through the remote areas of our border States. This is a frightening situation.

In Eagle Pass, the intimidation began when "coyotes" were smuggling illegal aliens through this remote border area took to cutting fences and using cattle ranches as a back-door entrance to America. When local and State officials complained to the Federal Government, the response was that would be 2 years before we can get help to you. So my State sent Texas Rangers down to the border. But even that has not been enough to do the job. So we have a problem that we must solve together.

Another new thing that seems to be happening is our customs agents on our side of the border, many of whom have relatives in Mexico, are now being threatened with harm to their relatives in Mexico if they do not cooperate with drug traffickers. So this corruption is on both sides of the border.

The number of drug seizures in Mexico in 1996 was only half the number of seizures in 1993. The number of drug-related arrests in Mexico in 1996 was half the number in 1992. Mexico is the source of 20 to 30 percent of the heroin coming into our country, 70 percent of the foreign-grown marijuana, and the transit point for 50 to 70 percent of the cocaine shipped into our country. This is a sieve, and we must plug the holes.

I will say that having just described a horrendous situation in Mexico, let's look at America. In America, according to the Office of National Drug Control Policy, over 12 million people are drug addicts; 10.9 percent of young Americans between the ages of 12 and 17 are using illegal drugs; drug-related illness, death and crime cost this country nearly $67 billion in 1996.

So I have been troubled about what we are doing on our side, and yet, shortly after taking office, the Clinton administration cut the Office of National Drug Control Policy staff by more than 80 percent, hardly making it a priority. They also have made proposals to cut the DEA, the Drug Enforcement Agency, the FBI, the Immigration and Naturalization Service and other Federal agencies, including, though Congress has authorized 1,000 Border Patrol agents, only coming forward with a budget for 500.

I have spoken to the Attorney General, Janet Reno, I have spoken to the new drug czar, Barry McCaffrey, both of whom I respect very much, and I have said this is unacceptable. I cannot have my State being overrun and have only half the contingent of new Border Patrol agents that Congress has authorized. Congress has made this a priority, and we must have the same commitment from the administration.

The "Just Say No" campaign that Nancy Reagan put forward was effective, and we must have an education effort much like that one that says to our young people, "Drugs will hurt you, they will hurt you tomorrow, and they will hurt you 20 years from now when you have children." We must let them know that if we are going to win this war on drugs.

So, Mr. President, we are asking for more. We are asking for more from our country and more from Mexico, because the fact of the matter is, we are in this together. Just like any good marriage, when there is a problem, you cannot solve it if only one party is willing to talk. We must have both parties willing to talk, both parties willing to give, both parties willing to say, yes, if we make a bigger effort together, we can lick this problem, just as we have licked the problems for over 300 years between our two countries. We don't really have an alternative and our children's lives are in the balance.

So the differences between Senator FEINSTEIN and Senator COVERDELL and myself and others about how we would solve this problem were all differences of what would be the most effective. There was never a difference among any of us about what the problem is. And that is, we are losing the war on drugs. We are losing a generation of our young people. And that is not good enough.

We must do better. And we will do better with the resolution that is before us today that says the two countries will sit down together and we will address the concerns, we will address the concerns of money laundering, of corruption. We will address the concerns of demand on our side. And, Mr. President, we will do it together. And that is why I hope this vote of the Senate is a clear message to our friend and neighbor to the south that we want to work together and we want results for the sake of both of our future generations.

Thank you, Mr. President.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia.

Mr. COVERDELL. I would like to yield 3 minutes of my 5 minutes to the Senator from California, Senator BOXER.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mrs. BOXER. Thank you very much, Mr. President.

I want to thank the Senator from Georgia, my colleague from California, Senator FEINSTEIN. Both of them worked so hard on this.

Mrs. BOXER. Mr. President, on February 28, the administration, pursuant to the requirement of the international narcotics trafficking statute, made a decision regarding our Nation's fight against illegal drug trafficking. The decision was made to certify that Mexico has, in the past year, taken all appropriate and necessary actions in the fight against international narcotics trafficking.

I respectfully disagree with this decision, and I would like to explain why.

Under our international narcotics trafficking statutes, in order for a country which is known to be either a major source of narcotics or a major drug transit country to continue to receive U.S. aid, the President must certify by March 1 that the country is either performing adequately in cooperating with the United States or is taking steps on its own in the fight against international narcotics trafficking.

The law gives the administration three choices:

First, certification that the country is either fully cooperating with the United States or has taken adequate steps on its own to combat the narcotics trade.

Second, decertification of the country, concluding that the country has failed to meet the requirements of cooperation or action.

Third, no certification, but a vital national interest waiver—essentially a finding that the country has not met the standards of the law, but that our own national interests are best protected by continuing to provide assistance to the country.

The question of Mexico is complicated. Mexico is the leading transit country for cocaine coming into the United States: 50 to 70 percent of all cocaine shipped into the United States comes through Mexico. It is also a significant source of heroin, methamphetamines, and marijuana.

President Zedillo seems to be strongly committed to rid the Mexican law enforcement system of corruption and to fight the Mexican drug cartels. However, the reports and events of the past few weeks have made it clear that corruption in police ranks—even up to the very top ranks—is still rampant in Mexico.

Just a few weeks ago, it was revealed that the man hired to be Mexico's drug czar—the head of their anti-narcotics agency—was fired abruptly after being accused of taking bribes from one of Mexico's most powerful drug lords.

It would be as if our own drug czar, Gen. Barry McCaffrey, were found to be in league with drug gangs in our country. Why didn't the Mexican Government tell us they were investigating their drug czar? Why did they let our own drug agency brief him and give him important intelligence about our antidrug efforts? I do not call that cooperation.

Mexico has also failed to take its own steps to meet the standards of the certification law. It has not acted boldly to root out corruption in its law enforcement establishment; it has extradited to the United States only a few Mexican nationals suspected of involvement in United States drug activities; it has failed to implement new anticrime laws enacted last year.

Given these facts, I do not believe Mexico qualifies to be certified in full compliance with the drug law. I do believe that the President would have been justified in granting a vital national interest waiver for Mexico so that sanctions would not have to be applied, and I wish that he had followed that course.

Granting a waiver would send a message to Mexico that its actions in the past year were inadequate, but it would also allow the United States to continue its efforts to work with President Zedillo and others in his administration who are committed to the drug fight. Unfortunately, our parliamentary procedures do not permit a vote on such a measure, because that is not what the President supported.

The resolution before the Senate today makes some good points. It finds that, in several areas, Mexico's actions against narcotics trafficking have been inadequate:

First, evidence of significant corruption among Mexican officials, especially law enforcement;

Second, Mexico's failure to fully implement new anti-money laundering laws;

Third, drug cartels operating with impunity in Mexico;

Fourth, Mexico's failure to grant our extradition requests concerning Mexican nationals who have been indicted in United States courts; and

Fifth, decline in the number of cocaine seizures and arrests of drug traffickers in Mexico in the past few years.

These findings put Congress on record stating that Mexico is not doing enough to fight narcotics trafficking or to cooperate with the United States in doing so.

In addition to the findings, there is a sense of the Congress section stating that there has not been enough progress in halting the production in and transit through Mexico of illegal drugs.

The meat of the resolution is contained in subsection (d), which requires the President, by September 1, to submit a report to Congress on the extent of progress made by the United States and Mexico in ten areas:

First, bringing down the drug cartels;

Second, strengthening United States/Mexico law enforcement cooperative efforts;

Third, strengthening bilateral border enforcement;

Fourth, improvement of extradition matters between the United States and Mexico;

Fifth, simplifying evidentiary requirements for narcotics and related crimes;

Sixth, full implementation of money laundering laws;

Seventh, Crop eradication;

Eighth, screening backgrounds of law enforcement officials;

Ninth, increasing support for Mexico's efforts to prosecute corrupt public officials; and

Tenth, strengthening overall bilateral cooperation.

The resolution does not specify a process for congressional review of the President's report. However, as Senator FEINSTEIN said earlier, many of us will be keenly interested in the details of the report, and of course, Congress may respond in any way it deems appropriate.

So I conclude that while this resolution is not what I had hoped to vote for, I must support it, as it is the only vehicle we will have on which to make a statement concerning the Mexico drug certification question.

Finally, Mr. President, I would like to speak briefly on another subject concerning our relationship with Mexico. That is the United States embargo against Mexican tuna and the efforts by some, including the Mexican Government, to lift this embargo.

The current embargo—which was imposed in 1990 against all countries that do not have environmental policies that protect dolphins from unsafe tuna fishing practices—prohibits Mexican tuna vessels from selling their products in the United States market.

Lifting the embargo would undoubtedly lead to an increase in the number of Mexican vessels operating in the eastern tropical Pacific. I believe that, given the current power and reach of the drug cartels in Latin America—particularly Colombia and Mexico—and their frequent reliance on maritime vessels to make drug shipments, now is not the time to open up a whole new avenue of maritime trade from Mexico.

Cartels are using fishing boats and cargo ships more and more often to smuggle cocaine from Colombia to Mexico where it is then shifted to trucks and other vehicles for transport across the border into the United States.

The risk of capture for these vessels is low in an ocean so large. And even when the ships are stopped, it is hard for law enforcement to find the drugs, which are hidden in secret compartments. Many fishing vessels have sophisticated radar equipment that allows them to keep ahead of law enforcement.

According to an article in the January 30 Washington Post, our own Coast Guard admits that the eastern Pacific is "one of the most difficult places for us to interdict drug shipments. It's a vast ocean. There are no choke points, no places to hide and lots of places to search—including 2,000 miles of coast."

So why, at this time when narcotics trafficking in and through Mexico into the United States is threatening to undermine our two countries' relationship, would we deliberately make it harder to bring these cartels under control?

Mr. President, I ask unanimous consent to have printed in the RECORD two documents relating to this question—one, the Post article to which I just referred, and two, a recent report by the Humane Society of the United States on the predicted impact on narcotics trafficking of lifting the tuna embargo at this time.

And I trust that we will not act in any way to increase opportunities for drug smuggling.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 30, 1997]

Latin Drugs Flow North Via Pacific—Traffickers' Ships Hard to Intercept

(By Molly Moore)

MEXICO CITY.—The crew of the Ecuadoran ship Don Celso claimed to be fishermen, but, hundreds of miles off Ecuador, the 150-foot vessel's fishing gear looked as if it had not been used in months. And when a U.S. Coast Guard law enforcement team yanked open the fish hatches, it found 50,000 gallons of diesel fuel instead of tuna on ice.

If there was fuel where there should have been fish, Coast Guard Petty Officer 2nd Class Keith Thompson wondered what he would find in the fuel tanks. It took his team six days of hard searching to find out—nearly seven tons of cocaine crammed into secret containers inside the fuel tanks, the second largest maritime cocaine bust in history.

The massive cocaine discovery last October, along with three other record-breaking seizures in just the last 18 months, illustrate how quickly sophisticated Colombian and Mexican drug cartels are adjusting to law enforcement efforts and finding new trafficking routes to the United States despite the billions of dollars the U.S. government is spending on its war against drugs.

Even as the United States has increased interdiction efforts in the Caribbean and Mexico has forced curtailment of incoming flights of huge cargo planes stuffed with cocaine, traffickers have made the vast open waters and virtually unpatrolled shipping lanes and coasts of the eastern Pacific Ocean the primary trafficking route for cocaine entering the United States, Mexican and U.S. law enforcement officials say.

"When you press the balloon in one area, it pops up in another," said Vice Adm. Roger T. Rufe Jr., U.S. Coast Guard commander for the Pacific area. "We've been putting a lot of stumbling blocks in their way in the Caribbean. It's a market economy; with demand as it is in the U.S., they have plenty of incentive to try other routes."

Most of the cocaine travels by ship from South America to Mexico's Pacific Coast, where it is unloaded onto trucks and vans and transported across Mexican land borders into the Southwest United States.

Officials estimate that as much as two-thirds of all the cocaine destined for the United States, or at least 275 tons a year, now travels by ship via the eastern Pacific in what law enforcement authorities describe as the most formidable interdiction battle they have faced in recent years.

Only 23 tons of cocaine was intercepted by U.S. maritime operations in the region in the past 2½ years—most of it in just three seizures, according to the U.S. Coast Guard.

"The eastern Pacific has been one of the most difficult places for us to interdict drug shipments," said Adm. Robert E. Kramek, commandant of the U.S. Coast Guard and interdiction coordinator for President Clinton's anti-drug efforts. "It's a vast ocean. There are no choke points, no places to hide and lots of places to search—including 2,000 miles of coast."

The cocaine traffickers of Colombia and Mexico are not the only drug organizations that have discovered the eastern Pacific trafficking lanes. Illicit drug shipments are pouring into Mexico's Pacific ports by the ton, hidden in secret compartments of commercial vessels or mixed with legitimate cargo in huge metal containers—hashish from Pakistan; precursor chemicals for methamphetamines, or speed, from Asia; and huge hauls of marijuana from South America.

The drug cartels believe the risk of getting caught is so small that they are loading shipments of up to 12 tons of cocaine on fishing vessels and commercial container ships, which can slip largely undetected from South America and up the western coast of Mexico. Moreover, the cartels use sophisticated radar equipment and surveillance techniques as a means of countering search and seizure efforts of drug enforcement agencies.

Even the most primitive-looking fishing boat is often equipped with radar and electronic equipment to help smugglers determine if they are being followed, as well as scanners that can eavesdrop on military frequencies, according to U.S. law enforcement officers involved in maritime interdiction. In addition, the cartels also frequently send aircraft to fly over the trafficking routes to be used by their ships in an effort to identify anti-drug operations.

The discovery of 11 tons of cocaine on the Panamanian ship Nataly I off the coast of Peru in July 1995—the largest maritime cocaine haul ever—was the first tip-off that traffickers were shifting operations to the eastern Pacific, according to the Coast Guard's Kramek.

Last August, a Honduran ship intercepted 50 miles off the coast of Colombia was found to be carrying two tons of cocaine, a seizure followed by confiscation of the Don Celso's seven tons in October. And last Thursday, U.S. Coast Guard and Mexican authorities detained a fishing vessel 250 miles off Mexico's Pacific coast whose fuel tanks were hiding almost 3½ tons of cocaine.

Late last year the U.S. Coast Guard, which works with the U.S. Navy, the Drug Enforcement Administration, the Customs Service and other agencies, launched Operation Caper Focus off northern South America and up the Pacific coastline northward to Mexico in an effort to identify and intercept drug trafficking shipments closer to their departure ports.

"Once they've loaded and are proceeding into the ocean, it's very easy to hide," said Capt. Robert Wicklund, chief of the Coast Guard's law enforcement section for the Pacific area. "There are no natural choke points that a vessel has to pass through where we can sit and wait for them to come to us."

And often even large-scale deployments do not result in seizures. In November 1995, after a two-year intelligence-gathering operation by anti-drug agents, a U.S. Coast Guard cutter was dispatched to the eastern Pacific to monitor a fishing vessel believed to be carrying—or preparing to load—20 tons of cocaine.

The ship left Panama and headed for fishing grounds west of the Galapagos Islands. The Coast Guard cutter tailed the vessel for 2½ months but was never able to determine if it was carrying cocaine and did not stop it.

"We had the ability to know when he was fishing, when he was doing his laundry, but we didn't know whether he had drugs on board," a Coast Guard official said.

The most difficult drug shipments to detect are those secreted in the cargo containers aboard commercial vessels. Without informants at ports of departure or arrival, it is virtually impossible to detect such drug shipments, according to law enforcement officials.

"At our two main ports of Veracruz and Manzanillo, 200 containers arrive daily," said Francisco Molina Ruiz, until recently the chief of Mexico's Institute to Combat Drugs, the Mexican equivalent to the U.S. DEA. "To check one container, we need anywhere from

10 hours to three days. Some containers are frozen; others contain toxic substances, and often the dogs can't sniff for drugs."

Mexican law enforcement agencies recently have discovered several large drug stashes in container shipments, usually after receiving tips or noticing irregularities in shipping manifests.

Problems of drug interdiction in the eastern Pacific are exacerbated because the United States has few bilateral agreements with Pacific Coast nations on law enforcement cooperation, such as those it has developed over the years throughout the Caribbean.

As a result, until a few recent diplomatic breakthroughs with some nations, U.S. law enforcement officials frequently spent days in bureaucratic tangles attempting to get permission to stop or pursue suspicious vessels.

And despite the large increase in the number of drug shipments off the Mexican Pacific coast, the United States and Mexico have not conducted joint operational exercises in a year. Mexico declined to take part in the latest scheduled exercises after former defense secretary William J. Perry embarrassed Mexican officials by discussing the operations before they had been announced to the Mexican public.

Lifting the Tuna Embargo and Changing the Dolphin-Safe Label: The Predicted Impact on Narcotics Trafficking

(A Confidential Report of the Humane Society of the United States, National Investigations, March 5, 1997)

Three U.S. laws are under attack from several Latin American nations who want to regain access to our lucrative tuna market: 1) the embargo provisions contained in the Marine Mammal Protection Act (MMPA; prohibiting the importation of yellowfin tuna from countries whose tuna fleet kills over 25% more dolphins than the U.S. fleet); 2) the International Dolphins Conservation Act (IDCA; prohibiting the sale of dolphin unsafe tuna in the U.S.); and 3) the Dolphin Protection Consumer Information Act (DPCIA; prohibiting the use of the "dolphin safe" label on any tuna caught by chasing and setting nets on dolphins).

Since the establishment of the "dolphin safe" label and the embargo against purchasing tuna caught by setting nets on dolphins, the number of vessels fishing for tuna in the Eastern Tropical Pacific Ocean (ETP) has decreased substantially. Lifting the embargo and changing the "dolphin safe" label to allow its use on "dolphin-unsafe" tuna will most likely result in a substantial increase in the number of vessels fishing in the ETP. We are concerned that this will—in addition to causing increased injury and death to dolphins—create conditions that may lead to increased and easier narcotics smuggling into the United States.

THE FLOW OF NARCOTICS INTO THE UNITED STATES

Most of the world's cocaine—an estimated 80%—originates in Colombia. In recent years, Colombian traffickers began to funnel their cocaine through Mexico. Mexican drug smugglers became the key transporters of Colombian cocaine, a service for which they were paid in cash. Through the development of successful networks and trans-border relationships, and the ability to easily bribe local police, they became more and more powerful. Eventually, they started taking their pay—50% of each load—in cocaine. This development, and the weakening of the Colombian cartels through arrests and deaths, allowed Mexican traffickers to gain greater control over narcotics trafficking in the Americas.

According to the U.S. Drug Enforcement Administration (DEA), over 70% of all cocaine entering the U.S. comes through Mexico. In 1994 and 1995, approximately 200 of the 300 metric tons of cocaine that entered the U.S. each year transited Mexico. At least two-thirds of the cocaine that enters Mexico is shipped in maritime vessels from other Latin American countries. It is then smuggled into the U.S. over various land routes into California, Arizona, and Texas.

GOVERNMENT CORRUPTION EASES SMUGGLING

Narcotics trafficking is, arguably, Mexico's biggest business. Drug sales account for as much as $30 billion a year in illegal proceeds to Mexico—more than the country's top two legitimate exports combined. Traffickers take in tens of billions of dollars every year from the sale of cocaine, and they spend millions of dollars—at least $500 million each year by some estimates—to ensure the protection and cooperation of government officials. Officials with the U.S. State Department's Bureau for International Narcotics and Law Enforcement Affairs have stated, "Drug traffickers used their vast wealth to corrupt police and judicial officials as well as project their influence into the political sector.

According to testimony obtained during the trial of drug lord Juan Garcia Abrego, the Gulf Cartel (one of Mexico's four major cartels) spends millions of dollars every month buying the support of corrupt government officials. Garcia himself has been charged with paying at least $25 million in bribes to high-ranking Mexican officials. One of his aides has testified that some of this money went to buy Javier Coello Trejo, the Deputy Attorney General in charge of drug enforcement during the Salinas administration. The use of bribes to ease smuggling is not limited to the Gulf Cartel: José Gutiérrez Rebollo, the head of Mexico's National Institute for Combatting Drugs (Mexico's DEA), was recently arrested for allegedly accepting bribes from the Juarez Cartel, considered to be the most powerful of Mexico's cartels.

Corruption in the Mexican government extends all the way from the highest government officials, such as Coello and Gutiérrez, to federal and state police, who have reportedly participated directly in cocaine smuggling. According to a recent report from the General Accounting Office (GAO), Mexican federal and state personnel were caught unloading a jet carrying 6 to 10 metric tons of cocaine in November 1995. In June 1995, federal judicial police were arrested for protecting a major narcotics trafficker. In March 1995, officers of the National Institute for Combatting Drugs were arrested for accepting cocaine and cash to allow a shipment of over a metric ton of cocaine to pass unimpeded. Mexican and American officials have also acknowledged that, during the Salinas administration, at least half a dozen traffickers, including the Juarez Cartel's Carillo, were "quietly" arrested and released by corrupt police and/or judges.

Drug corruption is found on both sides of the border: U.S. government agents have been swayed by the promise of easy money as well. In February 1996, a U.S. Customs inspector was convicted of scheming to allow 2,200 pounds of cocaine in from Mexico through the Texas border in exchange for $1 million.

Corrupt government officials in the right positions can ease the transporting of narcotics in shipments of tuna and other foodstuffs. According to witnesses in a pending U.S. civil trial of a key Salinas administration political figure, both former president Carlos Salinas de Gortari and his brother Raul had ties to the Gulf Cartel during Salinas' presidency. Raul Salinas is alleged to have received millions of dollars from drug lords and to have distributed bribes to other political figures. During this time period, Raul Salinas directed the Mexican government's food distribution organization, a position which he could have taken advantage of to aid his narcotics-trafficking associates.

NARCOTICS TRAVEL VIA EASTERN TROPICAL PACIFIC OCEAN

In recent years, as counternarcotics forces have become more adept at intercepting drugs in the air, Latin American drug traffickers have shifted their preferred method of transporting cocaine to Mexico to the sea. Department of Defense records show that since 1992, known drug-trafficking events involving aircraft decreased 65 percent, while those involving maritime vessels increased 40 percent.

Maritime vessels, such as fishing trawlers and cargo ships, are becoming more widely used by drug cartels to smuggle cocaine because the risk of capture is so low: The vastness of the ocean makes intercepting ships nearly impossible. Even when ships are apprehended, actually finding the drugs is extremely difficult, because the illicit cargo is hidden in hard-to-find secret compartments. In one recent seizure, it took authorities six days of searching to discover a seven ton load of cocaine on board a vessel of the type used for tuna fishing. Moreover, many fishing vessels are equipped with radar and scanners that allow them to determine if they are being followed, giving them an edge over law enforcement officials.

Law enforcement officials state that, without informants, drug shipments in maritime vessels are essentially impossible to detect. Drug interdiction in the Eastern Pacific is made more difficult because the U.S. has few law enforcement cooperative agreements with Pacific nations.

Officials estimate that at least 275 tons of cocaine transit the Eastern Tropical Pacific (ETP) every year. The ETP is the preferred tuna fishery of many Latin American tuna fleets that continue to fish by chasing and netting dolphins. A class 5 or 6 tuna vessel—the type used to set purse-seine nets on dolphins—is capable of concealing multi-ton shipments of cocaine with much less risk of discovery than other smuggling methods. Class 5 and 6 tuna vessels fish on the high seas for months at a time. Although they may embark for specific fishing areas, these areas cover hundreds of square miles. Furthermore, unlike a cargo vessel, which generally travels directly from point "A" to point "B," a fishing vessel may traverse an area many times—creating unique opportunities for transporting illegal goods.

The following information describes several recent incidents in which tuna vessels and other fishing-type vessels were apprehended carrying shipments of drugs. The section also discusses the arrests for alleged drug-related activity of persons with involvements in fishing businesses. In some instances, our sources identified the vessel or business in question as involved specifically in tuna fishing; in others, the sources did not specify whether the particular fishing enterprise was a tuna operation. In addition, the sources sometimes made it clear that the vessels or business were not actually engaged in fishing, but were merely false fronts. Our discussion reflects these distinctions where they apply.

During the last eighteen months, four "record-breaking" seizures of cocaine on fishing vessels have been made: in July 1995, the Nataly 1, a Panamanian tuna vessel, was caught off the coast of Peru with more than 12 tons of cocaine; in August 1996, the Limerick, a Honduran-registered fishing ship crewed by Colombians and Ecuadorians, was seized off the Colombian coast with 2 tons of cocaine; in October 1996, the Ecuadoran tuna-type vessel, Don Celso, was captured off the country's coast with almost 7 tons of cocaine—cargo which took a U.S. Coast Guard team 6 days to find; in January 1997, the Viva Sinaloa, a Mexican fishing vessel operating out of Mazatlan, was intercepted off Mexico's Pacific coast carrying 3.5 tons of cocaine.

In September 1996, Manuel Rodriguez Lopez—believed to be tied to the Cali Cartel—and owner of Grupo Pesquero Rodriguez, which includes tuna companies in Baja California, was placed under house arrest at the port of La Paz on charges of money laundering. Rodriguez's close ties with PRI officials (the ruling party in Mexico) were also under investigation. Assets confiscated during his arrest—including six tuna vessels—were valued at $15 million. Rodriguez also owned the Nataly I and administered the fishing companies Pesquera Carimar S.A. de C.V., Pesquera Santo Tomas, Pesquera Kino, and Pesquera Cipes—all fishing companies believed to be involved in drug trafficking and money laundering.

Colombian Cali Cartel trafficker José Castrillón Henao—allegedly partners with Mexico's Rodriguez—was believed to have a fleet of 100 vessels at his disposal for transporting drugs. He owned the Panamanian-registered fishing company, Pesquera Azteca, to which the Nataly I was registered. The fleet's long range fishing boats were used to transport cocaine to islands off the Mexican coast, where the drugs were then loaded onto smaller boats for distribution along the Mexican coast. Castrillon helped finance Colombian President Ernesto Perez Balladares' 1994 campaign; the President's party said they had assumed his tuna business was legitimate when he made the contributions.

Victor Julio Patino Fomeque, a leader for the Cali Cartel, allegedly in charge of its naval smuggling operations, was recently captured by Colombian officials. A former police chief, he has been accused of using false fishing businesses to smuggle tons of cocaine to the United States from the Pacific port of Buenaventura.

THE IMPLICATIONS OF LIFTING THE EMBARGO

The current embargo on tuna from countries whose fleets set on dolphins in the ETP prohibits Mexican tuna vessels from selling their products in the U.S. market. After the embargo was imposed in 1990, the number of Mexican vessels fishing for tuna fell from 85 to 40. Lifting the embargo will most likely lead to a greater number of vessels operating in the ETP. More fishing vessels in the ETP will lead to conditions that may provide greater opportunities for drug smuggling and a reduced risk of being caught. An increase in the number of vessels, combined with the likelihood that Latin American tuna vessels would have more reason to approach the U.S. coast, would render our interdiction efforts even more difficult.

The long term potential for the well-financed narcotics smugglers to establish facilities for "tuna" processing at U.S. ports is a significant additional incentive. The existence of family connections on both sides of the border has proven to be a significant aid to narcotics trafficking, and the extension of the same methodology to smuggling via the tuna industry is possible, should the embargo be lifted. Direct coastal access to the U.S., either through offloading at sea to small fast boats which can complete the journey to our shores, or through direct unloading at tuna processing facilities at U.S. ports, may expedite smuggling by eliminating the need to cross the land border.

Mrs. BOXER. Thank you very much, Mr. President.

I thank my friend from Georgia.

Mr. COVERDELL. Mr. President, I believe, according to the previous unanimous consent, the next 5 minutes is allotted to my colleague from California.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank you.

I would like to thank again the Senator from Georgia. It has been a great pleasure to work with him and Senator HUTCHISON. We began this effort over a week ago. It has been a very intensive effort. I believe it has resulted in a resolution which will have dominant support from this body, pass the House, and be signed by the President of the United States.

More importantly, I think this resolution will become the law and will have teeth. And those teeth are: Administration: Report on September 1 the progress that has been made. Here are the specific areas in which we wish you to make progress. If there is inadequate progress made, it leaves no alternative really but to fuel up for a massive decertification battle in a year.

I want to say one thing about America's demand problem. Because the Senator from Massachusetts, Senator KERRY, who spoke on this issue, I think had it right. One of the things that I have found is that we have programs in this country that work and programs that do not work. And I would just like to recommend to everybody that might be watching this a program that does work, a program which has no Government funds, a program with whom my colleague from California and I are very well familiar.

That is a program called Delancy Street in San Francisco which takes the hardest core drug addicts, with about a 4-year stay, and puts them through an intensive program—changes their environment, changes their lifestyle, and does rehabilitate. As mayor, I helped Delancy get some land right on the waterfront. The Delancy people built their own facilities, which are stellar. They run their own businesses. They pay for their program through their labor.

And I would just like to invite—Delancy does not know I am doing this—anyone, anywhere in the United States that has an interest in replicating a program to rehabilitate American drug addicts that works, to go to San Francisco, to call Mimi Silbert, the director, and take a look at a program that works, does not take dime one of public money and does it all on their own. It is one of the most impressive programs anywhere in the United States.

If we had more Delancys and more kinds of permeations of Delancy, Delancy Streets for young children, children 14, 15, 16 years old, I think we could turn this Nation around. If we had more programs like Facts on Crack from Glide Memorial Church in San Francisco, we could begin to turn this Nation around. But in the meantime, we have to retard the supply of drugs. And that is a major first step.

So again, I say thank you to everyone that has participated. I look forward to the vote. I thank the Chair and I yield back the balance of my few minutes.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Chair recognizes the Senator from Georgia.

Mr. COVERDELL. Mr. President, we are about at the hour to bring to a conclusion a very long and arduous effort to produce a positive result as we struggle with the ravages of drugs in our country and in Mexico and in the hemisphere.

I want to acknowledge Senator KYL of Arizona who has made a contribution in terms of border agents. Again, I want to thank the chairman of the Foreign Relations Committee, Senator HELMS of North Carolina, for his great work and, of course, my immediate colleagues in the work, Senator FEINSTEIN and Senator HUTCHISON and the staffs that have worked so long and late to produce this resolution.

This resolution is a renewal statement. It is a new place and it changes the dynamics of the debate with regard to the drug cartels in the United States, in Mexico, and the hemisphere.

I would simply close by reiterating my statement earlier. I hope all of our colleagues in the hemisphere, Mexico and the other countries, will understand that this is a new statement, it is an honest appraisal of a war that is ravaging the opportunities before us as we come on the new century, and see it as a new statement, a statement of renewal and reinvigorated alliance.

Mr. President, the hour of 3 o'clock has arrived, and by the previous unanimous consent, I believe that moves us to the vote. I yield the floor.

Mrs. FEINSTEIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The hour of 3 o'clock having arrived, the question now occurs on agreeing to amendment No. 25. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

The result was announced—yeas 94, nays 5, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—94

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (OR)
Snowe
Specter
Stevens
Thompson
Thurmond
Wellstone
Wyden

NAYS—5

Brownback
Hutchinson
Smith (NH)
Thomas
Torricelli

NOT VOTING—1

Warner

The amendment (No. 25) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read the third time.

The PRESIDING OFFICER. The question now is on passage of joint resolution, as amended.

The joint resolution (H.J. Res. 58), as amended, was passed.

The title was amended so as to read:

Amend the title to read as follows: "A joint resolution requiring the President to submit to Congress a report on the efforts of the United States and Mexico to achieve results in combating the production of and trafficking in illicit drugs.".

The PRESIDING OFFICER. Under the previous order, the Chair will now recognize the Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair.

EASTER

Mr. BYRD. "The year's at the spring; the day's at the morn; morning's at seven; the hillside's dew-pearled; the lark's on the wing; the snail's on the thorn; God's in his Heaven—all's right with the world."

Mr. President, the Senate is preparing to recess at the close of this week. Some Senators will use this time to travel to distant and exotic locations. Others will return home for busy rounds of meetings. Schools around the nation are also closing their doors for spring break. For many college students, spring break has become a beach vacation ritual, replete with loud parties, little self-restraint, and the overconsumption of booze—alcohol. At home, spring sales are in full force, with stores luring credit-happy buyers away from the outdoor pleasures that warming days and budding gardens invite. The celebration of winter's passing and the rekindling of life all around us has been lost, for many, in the materialistic and hedonistic whirlwind of everyday life. Only the pastel colors of paper flowers link the climate-controlled interior of the shopping malls with the greening of the spring earth.

But today is also the vernal equinox, that chiming peal on the celestial clock that marks the turning of the seasons, the day on which the periods of light and dark are again of equal length following the long, cold, dreary nights of winter. In 325 A.D., during the reign of that great convert to Christianity, the Emperor Constantine, the council of Nicaea met. With the help of the Archbishop of Alexandria and the astronomers of that distant day, the Council decreed that Easter should fall on the first Sunday after the first full moon following the vernal equinox. So, today we may look ahead with certainty toward the Sunday after next for the enduring celebration of that central mystery of the Christian faith, the resurrection of Jesus Christ.

Mr. President, although in recent years the trend has been to strip every religious overtone from our calendar and from our schools—and thank God the Constitution protects my right to stand on this Senate floor and talk about whatever I may please. Let it be religion. The Supreme Court cannot do anything about it.

So the trend has been to strip every religious overtone from our calendar and from our schools to rename the Christmas holiday a "winter break" and the Easter holiday a "spring break." I am not sure that the result—a nation more interested in consumption, department store sales, junk television, and professional sports performances, than in church, community and family—is a happy one. I still believe that there is a deep wellspring of religious belief that sustains our Nation as it does in the close-knit and caring communities in which I grew up. The community churches which still thrive in West Virginia were the focal point of towns and communities of my childhood.

And contrary to the beliefs of some of our sophisticated brethren in Washington and some of the other great metropolitan centers in this country, they do not have rattlesnakes in all of those churches. As a matter of fact, I have never been in a church where there was a rattlesnake—a few two-legged ones perhaps, but that is where they ought to go, to church. Social life revolved around Sunday services and activities sponsored by, or otherwise intimately linked with, the church and celebrations of faith. But as I witness the slow unraveling of our communities, their weave frayed by casual greed and picked apart by drugs and violence, I worry that the clear-flowing waters of family, church and community that nourished me and millions like me are becoming fouled and turbid. The erosion of Easter into a crass and commercial "spring break" is but one sad example of the materialistic trend in this country and in this age. More media coverage is awarded to the excesses of Mardi Gras on Fat, or Shrove, Tuesday—also called Pancake Day—than on the entire forty days of Lent. I wonder how many people who dress up and masquerade in that carnival parade recall that the original purpose of Mardi Gras was to prepare for the Lenten fasts by using up the available cooking oil and fat in a pre-fast eating binge? The binge was fun, but it did not blot out the central religious purpose of the repentant fast to follow.

Mr. President, Easter Sunday ends forty days of religious observance beginning with Ash Wednesday, set as the beginning of Lent by Pope Gregory at the beginning of the sixth century. This coming Sunday is known as Palm Sunday, in observance of the palm-strewn entrance of Jesus into Jerusalem. The following Friday, or Good Friday, marks the day that Jesus suffered on the Cross and died. It is a solemn day indeed, yet I fear that, for too many people, it is just another day off from work, filled with errands, or shopping, or travel, with not a passing thought given to the suffering of God's only Son on the cross.

I am not a minister. I do not profess to be worthy of the title. But I grew up in a Christian home. My foster father was a coal miner and my foster mother was the only mother I ever knew. They were religious people. They were not of the religious left or of the religious right. They were not of the Christian center or the Christian left or the Christian right. Neither am I. They just were plain, down-to-Earth, God-fearing, God-loving Christian parents.

And, so it is that I come to the Senate Chamber today, as I say, not as a cleric or as a minister. I probably could not be one. But I do believe in the Bible and its teachings, even though I have not always found it so easy to live up to those teachings.

Easter Sunday is not just a day to mark with brightly colored hard-boiled eggs or chocolate bunnies, or with jelly beans and plastic grass in wicker baskets. All of these ancient symbols of spring and rebirth have their place, but it disturbs me to think that children may know Christmas day only for its early morning toy-filled stockings, and Easter only for its baskets and Easter egg hunts.

Easter Sunday commemorates the resurrection of Jesus Christ. I do not ask everyone to believe as I do. I do not ask everyone to be a missionary Baptist. It does not make any difference to me whether the Senator from Illinois, the Senator from Idaho, or the Senator from Iowa is a Baptist or a Methodist or an Episcopalian or Catholic or Jewish rabbi or Moslem; it doesn't make any difference to me. I can listen to all of them and still maintain my own way of looking at things.

So, all of these ancient symbols of spring and rebirth have their place. But it disturbs me to think that children, as I say, may know Easter only as a day for baskets and Easter egg hunts.

Easter Sunday commemorates the resurrection of Jesus Christ. And I now read from the King James version. That is the only version I will read. That is the Bible that was in my father's house. It is the only one I know and the only one I will have in my house. So I read from the King James version of the Bible the Gospel of St. Mark, Chapter 16, verses 1–7. Let us listen to Mark. He was the attendant of Peter. He speaks to us of the resurrection:

> And when the sabbath was past, Mary Magdalene, and Mary the mother of James, and Salome, had bought sweet spices, that they might come and anoint him.
>
> And very early in the morning the first day of the week, they came unto the sepulcher at the rising of the sun.
>
> And they said among themselves, Who shall roll us away the stone from the door of the sepulcher?
>
> And when they looked, they saw that the stone was rolled away: for it was very great.
>
> And entering into the sepulcher, they saw a young man sitting on the right side, clothed in a long white garment; and they were affrighted.
>
> And he saith unto them, Be not affrighted: Ye seek Jesus of Nazareth, which was crucified: he is risen; he is not here: behold the place where they laid him.
>
> But go your way, tell his disciples and Peter that he goeth before you into Galilee: there shall ye see him, as he said unto you.

So Easter is a vivid and lasting celebration of the promise of life after death. Like spring itself, Easter is, in its essence, a celebration of the rebirth of living things. That hope, that promise of life after death, guides our behavior in the here-and-now. It reinforces the need to act not only in our own selfish interests, but also for the common good, else we be judged unworthy of Christ's sacrifice. It sustains us when we encounter harsh difficulties and tragic events in our lives—and I know because I have experienced such, as have many others of us in this Chamber.

We believe that there is a better life still to come. And, if we did not have that hope, then this life would be empty. The promise of a life after death comes to us through John, "the beloved disciple". Reading from the King James version of the Bible, the Gospel of St. John, Chapter 20, verses 24–31:

> But Thomas, one of the twelve, called Didymus, was not with them when Jesus came.
>
> The other disciples therefore said unto him, We have seen the Lord. But he [Thomas] said unto them, Except I shall see in his hands the print of the nails, and put my finger into the print of the nails, and thrust my hand into his side, I will not believe.
>
> And after eight days again his disciples were within, and Thomas with them: then came Jesus, the doors being shut, and stood in the midst, and said, Peace be unto you.
>
> Then saith he to Thomas, Reach hither thy finger, and behold my hands; and reach hither thy hand, and thrust it into my side: and be not faithless, but believing.
>
> And Thomas answered and said unto him, My Lord and my God.
>
> Jesus saith unto him, Thomas, because thou hast seen me, thou hast believed: blessed are they that have not seen, and yet have believed.
>
> And many other signs truly did Jesus in the presence of his disciples, which are not written in this book:
>
> But these are written, that ye might believe that Jesus is the Christ, the Son of God; and that believing ye might have life through his name.

And so, Mr. President, that is the promise—"that believing" we might have life. The next two weeks may be a recess for some, and for some a "spring break," but for millions of Americans, the next two weeks are also a life-affirming celebration of the greatest gift any of us has ever received—hope in a future life. For those who have lost loved ones, Easter brings the joyous hope that we can again see, we can again be with that loved one, as I lost my grandson 15 years ago this coming April the 12th. He died on the Monday morning after Easter Sunday, perhaps around 3:30, 4 o'clock in the morning, the victim of a truck crash into a tree and a fire that devastated his beautiful body—17 years old, looking forward to graduation from high school, 6 feet 5, and 300 pounds, all man, with life ahead of him. And there are others in this Chamber who have suffered the loss of a child or a grandchild or a parent, a sister or brother or wife or husband. We can see our loved ones again.

So Easter represents the resurrection, it is the celebration of the resurrection, and it gives us hope that there will be a future resurrection. That is what it means to millions of people in this country.

As the sun warms our backs, and the spring breezes carry past us the mingled scents of pear blossoms and magnolia blossoms and the warm earth, let us offer our heartfelt prayers for our faith, for our family, for our church, for our community, and for our Nation. I hope that my colleagues and those who hear or read my words will also take a few moments away from the commerce of everyday life to reflect on the true reason why a recess is scheduled at this time—to celebrate this most holy of Christian holidays, Easter.

Edwin L. Sabin captures both the solemnity and the joy of Christ's resurrection in his poem, "Easter:"

> The barrier stone has rolled away,
> And loud the angels sing;
> The Christ comes forth this blessed day
> To reign, a deathless King.
> For shall we not believe He lives
> Through such awakening?
> Behold, how God each April gives
> The miracle of Spring.

Mr. President, I invite my colleagues to recall this miracle, and the faith that gives them and gives communities throughout our Nation the strength to persevere—to fight against the violence, the greed, and the moral decay that threaten the fabric of our families, our communities, and our Nation.

I also invite my colleagues and my fellow citizens—and I invite myself—to again see Easter Sunday as the celebration of the resurrection and the promise that there is a life after death. William Jennings Bryan and my congenial colleague from the State of Illinois, Mr. DURBIN, will appreciate this especially. William Jennings Bryan expressed it well in "The Prince of Peace":

> If the Father deigns to touch with divine power the cold and pulseless heart of the buried acorn and to make it burst forth from its prison walls, will He leave neglected in the earth the soul of man, made in the image of his Creator? If He stoops to give to the rosebush, whose withered blossoms float upon the autumn breeze, the sweet assurance of another springtime, will He refuse the words of hope to the sons of men when the frosts of winter come? If matter, mute and inanimate, though changed by the forces of nature into a multitude of forms, can never be destroyed, will the imperial spirit of man suffer annihilation when it has paid a brief visit like a royal guest to this tenement of clay? No, I am sure that He who, notwithstanding His apparent prodigality, created nothing without a purpose, and wasted not a single atom in all of His creation, has made provision for a future life in which man's universal longing for immortality will find its realization. I am as sure that we live again as I am sure that we live today.

William Jennings Bryan spoke those words in "The Prince of Peace."

Mr. President, may all of us, as we approach the blessed Easter season, enjoy renewed hope in the message that we shall live again.

And when you get closer to 79—79 years and 4 months, as I am today—the more you will believe and begin to see more and more the truth, the universal truth, the eternal truth that God still lives, that He created this great universe and all the universes, and that He created man. I don't know how He created man. I am not worried about that, by what method or through what process all that was done. But we are told that God created man out of the dust of the ground in His own image, and breathed into his nostrils the breath of life. And man became a living soul. That is good enough for me.

So, Mr. President, as we approach this Easter, let us learn again the message that comes to us from Him who said 2,000 years ago: "I, if I be lifted up from the Earth, will draw all men unto me."

Mr. President, I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, before I speak on the subject that I am here to speak on, I want to thank the Senator from West Virginia for his statement. I know that he believes what he says. And I think that he does a wonderful public service by the expression of that philosophy.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

EXPLANATION OF ABSENCE

Mr. WARNER. Mr. President, in reference to today's vote concerning the certification of Mexico, I was unavoidably absent due to delays in travel returning to Washington from a previously scheduled speech in Richmond, VA, to the Richmond Bar Association. Had I been present, I would have voted "aye" during the recorded vote on the Coverdell/Feinstein substitute amendment to House Joint Resolution 58, the Mexico drug certification.

UPSIDE-DOWN MANAGEMENT IN THE CRIME LAB

Mr. GRASSLEY. Mr. President, this is the fifth time I have taken the floor to make observations about the FBI's upside-down management of its crime lab.

In my view, the FBI's Director, Louis Freeh, continues to mislead the public about the lab. He would have us think that the FBI lab has met the highest standards. He has maintained that the allegations of the lab's whistleblower, Dr. Frederic Whitehurst, are all wrong. He has said that no other scientist in the lab has come forward with similar accusations. His testimony before Congress recently was totally consistent with that image.

But documents belie the Director's rosy portrayal of the lab., and of his dark portrayal of Dr. Whitehurst.

Thus far, I have released documents showing there is credibility to some of Dr. Whitehurst's allegations. I have pointed to press accounts in which the public has learned the IG's still-secret report uncovers problems in three specific cases, thus backing up Dr. Whitehurst with specifics. I released documents showing that Director Freeh was aware of the exact same allegations, investigated them, yet covered them up. I revealed that there was a second scientist who came forward with serious allegations that paralleled those of Dr. Whitehurst.

I do not know what it will take for Mr. Freeh to admit these things, Mr. President. Perhaps the public needs to see more of the FBI's documents that underscore my points. That's fine by me. Because documents don't mislead. They do not have a motive to. But, people do. And when leaders of the people mislead, there's a breakdown in confidence and trust.

And so, I am here today, Mr. President, to test the boundaries of Mr. Freeh's denials. Today, I am releasing yet more FBI documents, obtained through the Freedom of Information Act. These documents contradict Mr. Freeh's own assertions. The American people have a right to know this.

Today, I will reveal a third scientist in the FBI lab, who substantiated some of Dr. Whitehurst's more serious allegations. He substantiated them just months after the FBI Director and his team of lawyers whitewashed them. This third scientist, in fact, was Whitehurst's unit chief in the lab.

Here are the facts. In December 1992, Dr. Whitehurst made the serious allegations that his lab reports were being altered by other agents who lacked authority to do so. Altered reports could constitute tampering with evidence and obstruction of justice, and could therefore be criminal.

The universe of cases being looked at was 48 cases. Not all of them were altered. But all had to be checked. Some appeared to contain substantial changes. The Whitehurst memo of allegations went to the Assistant Director of the FBI for the Laboratory Division.

In May 1994, a review of the Whitehurst allegations—much more extensive than just the altered reports issue, but including them—was done by Mr. Freeh's lawyers, rather than by an independent body with some scientific background. Ironically, it was the IG's investigation that supplied the needed independence and a scientific approach, and only then did these problems get aired.

But, the FBI's review was headed by Mr. Freeh's general counsel, Howard Shapiro. He's the Director's top lawyer, himself a controversial figure with Congress. Mr. Shapiro felt there was no need to have an independent review because, as he said, the FBI has a long, proud history of doing its own reviews. Upon completion, the review was eventually read and signed-off-on by Director Freeh.

So, here is what the FBI's own review found. First, there were no major problems in the lab. Everything was hunky dory. On the specific issue of altered lab reports, here is what Mr. Shapiro found.

> [Laboratory Division] management made it clear that this will not be tolerated and has instructed the Unit Chief's (sic) to reiterate this policy.

How about that for a finding for this crack review team, Mr. President. They're investigating serious, possibly criminal activities. Instead of finding out whether it happened, Mr. Shapiro merely said it's not supposed to happen. His recommendation? If there were alterations, just correct the written report.

You see, Mr. President, under the long-standing Brady decision, the government is required to provide the accused with any information that might point to their innocence. Material alterations of lab analysis might fit into that category. If changes had been discovered in some reports, the proper thing to do was to judge the impact of any alterations on each court case. Instead, Mr. Shapiro thought justice would be served by simply correcting the paperwork. Cases closed.

By October 1994—about 5 months after Mr. Shapiro's review was issued—the IG got hold of the same allegations. The IG began its own review of the 48 cases.

Meanwhile, in September 1994, the FBI lab managers discovered another agent making the same allegations of altered reports as Dr. Whitehurst was making. The allegations by then were being investigated thoroughly by lab personnel.

By January 1995, the lab's investigation was completed. An FBI unit chief, whose name I will not divulge, wrote a memo of investigation to his section chief. In it, he stated that 13 of Whitehurst's 48 cases had significant alterations. He recommended the following:

> That [Supervisory Special Agent] (blank) be held accountable for the unauthorized changes he made in the [Auxilliary Examiner] dictation of SSA Whitehurst by administrative action to include both oral reprimand and a letter of censure.

The unit chief concluded his memo this way: "(Blank) committed errors which were clearly intentional. He acted irresponsibly; he should be held accountable; he should be disciplined accordingly."

The scientist-unit chief writing the memo, and who backed up Dr. Whitehurst's allegations, identified the culprit. I won't reveal who either one is. But the memo is significant. It reveals yet another scientist—a unit chief, no less—who substantiated Whitehurst's allegations. It is another apparent example of an FBI lab agent shaving the evidence to get a conviction.

What was covered over by Mr. Shapiro's team of crack lawyers less than 1 year before, was now popping up. The lab's management was finding the opposite of what Shapiro and his lawyers found. That meant there were conflicting findings. And that is serious. The lab unit chief's report was at odds with Director Freeh's. What was senior management—those above the lab managers—to do?

The answer was not long in coming. During this time frame, FBI management indeed found a suitable discipline for this rogue agent. Mr. President, they promoted him. They made him a unit chief. The agent found to have intentionally altered evidence was promoted. That tells us how senior management resolved the dilemma. They promoted the rogue, and shot the messenger.

That set the stage for the coverup. Because just 10 months later, when the Whitehurst allegations became public, Mr. Freeh issued the following statement in response. This was on November 8, 1995. He said:

> The FBI has vigorously investigated his (Whitehurst's) concerns and is continuing to do so. The FBI alone has reviewed more than 250 cases involving work previously done by the Laboratory. To date, the FBI has found no evidence tampering, evidence fabrication, or failure to report exculpatory evidence. Any finding of such misconduct will result in tough and swift action by the FBI.

Is that what happened to the rogue agent, Mr. President? Yes. The FBI took swift action to get him promoted.

The fact is, the statement by Mr. Freeh on November 8, 1995, was utterly false. Lab reports are evidence. If altered substantially—and 13 reports were—that is evidence of possible evidence tampering, and more.

Ultimately, the IG caught up with the rogue agent. The FBI did not. But the IG did. When the IG report finally reached the Bureau, this rogue agent became one of the three who were transferred from the lab. Yet no other action has been taken against him by the FBI. I aim to find out why not.

Mr. President, what is clear about all this is, the FBI is buried under a mountain of evidence showing it cannot police itself. It took the inspector general's investigation to finally root out what the FBI had covered up. Some good people in the FBI tried to do the right thing. But senior management got in the way. Senior management apparently places a higher value on maintaining image, rather than rooting out wrong.

Therefore, the time may have come for independent review of the FBI. Someone needs to police the police. They cannot police themselves. That is for sure. Perhaps the way to go is to beef up the independent IG, instead of the FBI's Office of Professional Responsibility, as the Director has proposed.

Growing up on the family farm in Iowa, my father taught us to revere and respect the FBI. They were the champions of right versus wrong in our society. We looked up to them, whether justified or not.

I still have that same respect for the FBI. There are literally thousands of good, decent men and women serving their country as FBI employees.

But those honest, hardworking agents need and deserve leadership that has integrity and credibility. They need leaders who will go after bad guys, and protect good guys. Not the other way around. They need leaders who reward honesty and punish wrongdoing—not the other way around, as we see in this case.

The issue of bad management in the crime lab is serious. Bad scientific analysis used in court means good guys can go to prison, and bad guys can walk. That's not what we want. That is un-American. That's what they have in dictatorships. There is no room for that in a democracy.

Mr. President, I have talked to my colleagues about the culture at the FBI under the present management. It seems to reward those who rush to a conviction. It seems to punish those who, in the FBI's eyes, "commit truth."

There is no better image to show this than how they treated the rogue agent—they promoted him—and how they treated Dr. Whitehurst—they went after him.

Mr. President, I do not have to say anything else. That says it all.

Mr. President, I ask unanimous consent to have relevant documents to which I referred, plus others that will help provide additional context, printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

From SSA Frederic Whitehurst
To Asst Director John Hicks
Re alteration of laboratory report of SSA Whitehurst.

Purpose: to document the alterations of auxiliary examiner * * * laboratory reports of SSA Whitehurst * * *

Recommendation: That any alteration of AE dictation of SSA Whitehurst be done with the full concurrence of SSA Whitehurst and the Unit Chief of the Materials Analysis Unit.

Details: On 11/27/92 * * * of the Materials Analysis Unit advised SSA Whitehurst, * * * that * * * had been told by * * * that he was changing the auxiliary examiner dictation of SSA Whitehurst before publishing reports from the Laboratory. This information was the first that SSA Whitehurst has had concerning the changing of his dictation in the five and one half years that SSA Whitehurst has been a examiner in the Laboratory. At no time has SSA * * * consulted SSA Whitehurst concerning these changes.

As a result of receiving this information, SSA Whitehurst reviewed his files to determine the cases that SSA Whitehurst as worked as an auxiliary examiner since 1987 * * * which these alterations have been taking place and the possible effect of the alterations on the reported expert opinion of SSA Whitehurst.

During the period from 1987 to present SSA Whitehurst has written forty eight auxiliary examiner reports * * *. Of those reports SSA Whitehurst was able to retrieve sixteen files from records. The other files were listed as checked out and their location was not pursued. Review of the files indicates that * * * has often paraphrased or totally altered the reports. Of the sixteen files reviewed, the Laboratory reports were placed into four groups: 1.) Those where no change was made to the auxiliary examiner report. 2.) Those where paraphrasing of the report was such that the meaning was the same but the words different. 3.) Those where paraphrasing could cause possible problems in court. 4.) Those where paraphrasing changed the meaning or significantly altered the content of the report. In group one there were three reports (70921005, 91121007, and 90615067). In group two there were five reports (71116047, 71221007, 70921006, 91121008, and 71116048). In group three there were three reports (80217150, 71125046 and 91207016). In group four there were five reports (71124001, 90823043, 70920045, 90623042, and 91130017). Copies of the AE report and the final Laboratory report from each matter are included in the attached package.

This communication has been submitted to bring attention to possible problems during testimony if AE dictation is arbitrarily changed in the manner described. For example, in Laboratory matter 90823043 the AE dictation is as follows:

"Chemical and physical analyses of specimen Q4 have identified the presence of Pyrodex low explosive.

The results of chemical analyses of specimen Q6 are consistent with the presence of residues of Pyrodex low explosive.

It is the opinion of this examiner that the residues in Q6 originated from a low explosive mixture which contained Pyrodex.

Pyrodex is a commercial low explosive produced by Hodgdon Powder Co."

On the other hand the final report dictation reads,

"Present in specimen Q6 are explosive residues which chemical analysis show to have originated from a low explosive mixture which contained Pyrodex. Pyrodex is a commercial low explosive produced by Hodgdon Powder Co. . . .

Present in specimen Q4 is a quantity of black-colored powder which has been identified as Pyrodex low explosive."

Though the wording in the first paragraph is a paraphrase of the contents of the AE dictation, the contents of the second paragraph do not say at all what was said in the AE dictation. There is a big difference between determining that Pyrodex is present and saying that the powder is Pyrodex. In this particular matter there happened to be other materials present in the powder. If faced on the stand with that argument the examiner would have to admit that the dictation was wrong. Opinions presented in the AE reports from the Materials Analysis Unit have been thought out very carefully and reviewed by the Unit Chief very carefully.

In FBI Laboratory matter 70920045 the AE dictation reads:

"Specimen Q4 has the chemical and physical characteristics of C-4 explosive. Semi-quantitative analysis determined that Q4 is composed of 2.5% polyisobutylene, 7.0% Di-(2-ethylhexyl) adipate plasticizer and oil and 91.5% high explosive RDX containing a small amount of HMX high explosive. C-4 is a military plastic explosive.

White powder found in specimen Q6 has the physical and chemical characteristics of pentaerythritol tetranitrate (PETN), a high explosive commonly found in detonating cord."

The final Laboratory report reads:

" . . . Present in specimen Q4 is a white putty-type material which has been identified as United States Military explosive type M112 commonly referred to as 'C-4.' . . .

Present in specimen Q6 are two (2) lengths of detonating cord which are yellow in color with three black tracer threads that contain the high explosive PETN."

In this particular matter no mention is made of the analysis conducted on specimens Q4 or Q6 nor could the Laboratory notes or AE report be found in the file.

In order to determine if the practice of altering the AE dictation of SSA Whitehurst's explosives analysis results is endemic to the Explosives Unit the reports of three other examiners who are now or have been in the Explosives Unit were reviewed. That review included reports from SSA * * *, SSA * * * and SSA * * *. In not one of their reports were the AE dictation reports of SSA Whitehurst changed even to paraphrase the reports. SSA * * * practice of altering AE reports appears to be an isolated situation.

OCTOBER 7, 1994.

Re allegations regarding changes in FBI laboratory reports by Frederick Whitehurst.

DAVID R. GLENDINNING,
Office of Inspector General, Department of Justice, Washington, DC.

DEAR MR. GLENDINNING: As you will recall, several months ago you contacted me regarding numerous allegations your office had received against the FBI Laboratory Division (LD) from Supervisory Special Agent Frederick Whitehurst who is an explosive residue examiner in the LD. You explained that Whitehurst had made numerous allegations regarding problems in the FBI LD, but that only one, involving the changing of auxiliary examination dictation, warranted further investigation by your office. I told you that the FBI's Office of the General Counsel (OGC) had also received the same allegations from Whitehurst and was already conducting an investigation. As you know, our preliminary investigation is complete, and the report dated May 24, 1994, was made available to your office.

As you will recall, the allegation you were interested in investigating involved Whitehurst's claim that in some cases, Principal Examiners (PE) from the Explosives Unit had changed his Auxiliary Examiner (AE) dictation without his approval or knowledge. OGC contacted the LD management regarding this allegation who advised that the LD had a longstanding policy prohibiting any changes in AE dictation by the PE without the express permission of the AE. The LD immediately reaffirmed this policy with all its examiners. The May report made the following recommendation regarding Whitehurst's allegations on this matter:

Recommendation: We feel that LD management has appropriately addressed this issue. However, we are making the following recommendations to correct any past unapproved AE dictation changes and ensure that the AE has a chance to review final reports:

1. Examine all past reports where SSA Whitehurst and * * * (the other explosive residues examiner) were the AE's, and compare with the language of the final reports to ensure there were no changes. If changes were made, appropriate action should be taken to correct any substantive errors that were contained in the final report(s).

2. Require a copy of the final report be distributed to the AE examiners at the same time the final report is mailed to the contributor.

The FBI adopted the recommendations from the report which are currently being implemented by the LD. The deadline for the review conducted pursuant to recommendation number one is October 15, 1994, and I will forward a copy of the report to your office as soon as it becomes available.

The LD examiner who is reviewing the Whitehurst and * * * PE/AE reports advised that he believes there are still one or two reports that have not yet been retrieved. Once a final accounting of every report is completed, I will send you a copy of any remaining reports not enclosed with this letter. The only redactions in the enclosed reports are the case names and other personal identifying data.

The following is a list of the enclosed reports which are identified by the FBI LD number:

1. 00530046
2. 70724075
3. 70921005
4. 70921006
5. 70928045
6. 71019029
7. 71116047
8. 71116048
9. 71125046
10. 71224001
11. 71228078
12. 80121007
13. 80217150
14. 80803018
15. 80803019
16. 81108029
17. 81223004
18. 90403032
19. 90509063
20. 90615067
21. 90623042
22. 90626055
23. 90808074
24. 90823043
25. 91121007
26. 91121008
27. 91130017
28. 91204079
29. 91207016
30. 20124011
31. 20207023
32. 20416043
33. 20618039
34. 20624009
35. 20729026
36. 20812032
37. 21118013
38. 21123024
39. 21214070
40. 21221093
41. 21221094
42. 30422012
43. 30611054
44. 30708031
45. 30802045
46. 30812043
47. 30816032
48. 31001027

Please do not hesitate to contact me if you need any further information or additional assistance. I can be reached at * * *.

Sincerely yours,

——— ———,
Associate General Counsel.

To: Mr. Ahlerich
From: J. J. Kearney
Re alternations and changes in AE reports by PE examiners without approval of AE examiner scientific analysis section [SAS] Laboratory Division [LD].

Reference Mr. H. M. Shapiro memorandum to Mr. Hicks, dated 6/8/94 and Messrs * * * and * * * memorandum to Mr. Shapiro, dated 5/25/94.

Purpose: To Advise you of the actions being taken to resolve the captioned issue.

Recommendation: None, for information only.

Details: As described in the * * * and * * * memorandum to Mr. Shapiro, SSA Frederic Whitehurst, Materials Analysis Unit, SAS, has alleged that in some instances Principal Examiners (PE) from the Explosives Unit have changed his Auxiliary Examiner (AE) dictation without his approval. Following some review it appears that the practice is isolated to one * * *.

In addition, prior to issuance of the referenced memoranda, I was approached by * * * a second * * * who rendered a similar complaint concerning the work of * * * I met with * * *, Explosives Unit in an attempt to resolve the issue. During the meetings, it was apparent there was a deeper unresolved issue which existed between the examiners of the two units. The issue centered around what each unit believed their individual roles were when reporting the examinations of evidence in bombing matters. It was the position of the Explosives Unit that examiners in the Materials Analysis Unit should limit their reporting to the chemical analysis of the explosive residues and not discuss the nature of explosive materials. On the Other hand, the Materials Analysis Unit's position was that the Explosives Unit periodically went too far in their interpretation of the residue data when they formulated their conclusions and summary statements in their reports.

In these meetings, the practice that a PE not change an AE's dictation without first discussing the matter with, and getting the AE's approval was reemphasized with each of the Unit Chiefs and the Examiners. It was agreed that the two units would follow the practice. In addition, in order to ensure that the AE examiner is kept informed as to what is being reported on regarding his work, it was reemphasized that a tickler copy of the final report would be provided to the AE examiner for his review and records.

Further, I recommended that when bombing cases go to trial, we send both the explosive expert and explosive residue expert to testify to their results. This policy is in keeping with how testimony is handled in other cases in the Laboratory having both AE and PE testimony and would prevent any further confusion or possible misrepresentation of the AE dictation in bombing cases.

In order to resolve the issue * * * I have asked * * * to review * * *. Some of the cases have already been reviewed by * * *. The remainder of the cases will be reviewed by * * * and all cases will be placed into two categories:

Category One will include all those cases where no alteration occurred or if an alteration occurred, it did not change the meaning of the dictation.

Category Two will include all those cases where an alteration of the dictation occurred which caused a change in the meaning of the dictation and may have resulted in a misrepresentation of the data.

It is anticipated that the remainder of the review will be completed by October 15, 1994. A summary report of * * * findings will be prepared. At that time, it will be determined * * *.

I have enclosed * * * copy of this memorandum * * * so that the review of this matter will be comprehensive and efficient.

JANUARY 13, 1995.

To: Mr. Kearney
From: * * *
Re alterations and Changes in auxiliary examiner (AE) reports by principal examiner (PE) without approval of AE examiner; Scientific Analysis Section (SAS) Laboratory Division (LD).

Reference J.J. Kearney's directive on 1/4/95, to document recommendations resulting from a review of captioned matter.

Purpose: To make recommendations regarding the documented alterations of auxiliary examiner dictation from the Materials Analysis Unit (MAU) by SSA Explosives Unit (EU).

Recommendations: 1. That SSA * * * be held accountable for the unauthorized changes he made in the AE dictation of SSA WHITEHURST by administrative action to include both oral reprimand and a letter of censure.

2. That the Assistant Director in Charge of the Laboratory Division mandate that all PEs provide a copy of all outgoing reports that include AE dictation to the respective AEs to avoid the possibility of mistakes/errors being furnished to a contributor as a result of misuse or misinterpretation of the AE dictation by the PE.

3. That the issue as to whether or not revised reports should be prepared and furnished to the contributors in the thirteen (13) cases where I have concluded significant alterations were done SSA * * * be referred to General Counsel for resolution.

4. That Laboratory policy be re-emphasized to insure that PEs never be allowed to testify to the results/meaning of AE dictation furnished to them that clearly falls outside their expertise.

Details: Based upon a memorandum to each Laboratory Unit Chief from J.W. HICKS dated 5/24/91, the approved, current Laboratory policy for errors made by a person in the Laboratory is clearly documented. This memorandum lists four types of errors. The alteration of another examiner's dictation without consultation with that examiner or his/her Unit Chief would fit, in my opinion, the criteria of the most serious type of error defined by the "willful or grossly negligent error."

It has always been understood practice (perhaps not written policy) that PEs do not change/alter/reword/revise AE dictation without consulting with and receiving permission from the AE, or their respective Unit chief in combination with the AE.

The problems that could arise during testimony when AE dictation is arbitrarily changed cannot be over-emphasized. The wording in all MAU dictation is carefully thought out, discussed, peer reviewed often times, and results from correct interpretations of the data. Any dictation signed out by the MAU Unit Chief or his designee should not be changed in any manner without the proper notification and consent of the AE.

In my opinion, SSA * * * chose to ignore this longstanding practice, a practice that everyone else adheres to.

It is clear that SSA * * * does not understand the scientific issues involved with the interpretation and significance of explosives and explosives residue composition. He therefore should realize this deficiency and differentiate between his personal opinions and scientific fact. An expert's opinion should be based upon objective, scientific findings and be separated from personal predilections and biases.

In order to identify a given material, it is necessary for the examiner to acquire sufficient data using acceptable scientific techniques/protocols and instrumentation to specifically identify it. If that level of data is not acquired or does not exist, then complete identification is not possible and words such as "consistent with" or "similar to" are used. This is nothing new. It is taught in our colleges and universities. It is a standard set by MAU based on experience/background, education, discussions, research and peer review of the analytical procedures in place. By rewording AE dictation, SSA * * * places an examiner in the position where he/she would be required to advise the court that the report overstates the findings and therefore is incorrect.

A FBI Laboratory report is evidence. Often times the report itself is entered into evidence during the trial proceedings. The fact that SSA * * * did make unauthorized changes in these reports could have resulted in serious consequences during legal proceedings and embarrassment to the Laboratory as well as the entire FBI.

In conclusion, SSA * * * committed errors which were clearly intentional. He acted irresponsibly; he should be held accountable; he should be disciplined accordingly. The problems regarding AE alterations by SSA * * * are verified. All of the AE dictation furnished to SSA * * * by SSA WHITEHURST has been reviewed. The causes, reasons and events which led to the occurrence of the errors has been discussed. The appropriate administrative action, in my opinion, should be that SSA * * * be given a letter of censure.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, November 8, 1995.

FBI Director Louis J. Freeh today released the following statement:

The FBI looks forward to working with the Blue Ribbon Panel named today. The FBI will assist the panel in every manner possible to ensure an objective review of our examinations and policies.

Over the past several years, Special Agent Frederic J. Whitehurst has raised a variety of concerns about forensic protocols and procedures employed in the FBI Laboratory. The FBI has vigorously investigated his concerns and is continuing to do so. The FBI alone has reviewed more than 250 cases involving work previously done by the Laboratory. To date, the FBI has found no evidence tampering, evidence fabrication or failure to report exculpatory evidence. Any finding of such misconduct will result in tough and swift action by the FBI.

The FBI Laboratory conducts over one million examinations per year and our experts testify hundreds of times annually in state and federal courts of law. At trials, FBI Laboratory examinations are constantly subject to extraordinarily vigorous challenge through cross-examination and the presentation of expert testimony by defense witnesses.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

BALANCE THE BUDGET

Mr. ROBB. Mr. President, leadership often involves seizing the moment. And right now the moment is a realbut rapidly fleeting chance to actually balance the Federal budget. For those of us who have long been dedicated to stopping the Federal Government from spending more than it takes in, the moment is now. While we're away from Washington during the recess, I hope that we will use this time to prepare ourselves for serious work on the budget when we return. We cannot let another opportunity to do what's right pass us by.

I recognize the fear on both sides. The President is understandably reluctant to embrace a necessary change in the Consumer Price Index because of its effect, however minimal, on benefits for a large and vocal segment of the population. The Republican Party is reluctant to scale back its calls for a massive tax cut because of a similar effect on an equally vocal segment of their supporters.

But simple math dictates that both must occur if we are truly interested in balancing the budget and keeping it in balance over the long term. And the reality is that entitlements have got to be curbed, and the resulting savings have got to go to reducing the deficit, not tax cuts.

The Speaker of the House has taken a bold step by expressing a willingness to surrender tax cuts until the budget is balanced. I hope the President will meet this bold step by expressing his willingness to reconsider an adjustment in the CPI, or some other means to accomplish the same goal.

As meetings take place over the course of the congressional recess, I would encourage both sides to use as a starting point the Centrist Coalition budget developed last year by a bipartisan group of Senators, including myself.

The Centrist plan, known also as the Chafee-Breaux plan, was the only budget in the Senate last year that received bipartisan support. In fact, the Centrist plan received 46 votes. And to me, that seems like a logical place to start.

Our plan used conservative economic assumptions, a rational reduction in the Consumer Price Index, and a modest tax cut. We did not have, within our coalition, universal agreement on all aspects of the plan. Personally, I have always wanted to postpone even modest tax cuts until we actually achieve balance. But, I believe it provides a reasonable roadmap now of how to get from here to a budget that balances. I hope that this plan will help guide congressional and White House negotiators during their upcoming budget talks.

With that, Mr. President, I hope all of our colleagues come back fully reenvigorated and ready to start producing some results.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. GRASSLEY. addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

COL. JOHN BOYD

Mr. GRASSLEY. Mr. President, I am very sad to report that Air Force Col. John Boyd died in West Palm Beach, FL, on March 9, 1997.

He was 70 years old.

He passed away after a long and difficult fight with cancer.

His remains were laid to rest today in Arlington Memorial Cemetery.

John was a native of Erie, PA. But John came to Iowa to go to college.

Iowa is where his Air Force career began.

He won an athletic scholarship to the University of Iowa and enrolled in the Air Force ROTC program.

After graduating in 1951, he went to flight school. He earned his wings and began flying the F–86 Saber jet.

Then he went to Korea with one goal: shoot down a MiG.

Fortunately, for everyone concerned, that conflict came to an end before his wish came true.

But to John that was one of the biggest disappointments of his life.

Mr. President, I am proud that John Boyd was educated in Iowa.

He was a great American who dedicated his life to public service.

I would like to honor him by speaking briefly about some of his most important accomplishments.

First and foremost, John Boyd was a legendary Air Force fighter pilot.

But John was no ordinary jet jockey. He applied his vast intellect to understand the dynamics of air combat maneuvering at which he excelled.

To do that, though, he had to teach himself calculus so he could work the formulas to quantify the problem.

This was the problem he saw.

Why did the heavier and slower American F–86 achieve near total domination of the superior MiG–15 encountered in Korea?

John wanted an answer to the question.

After doing some truly original and pioneering work, he began advancing a theory.

His tactical "Aerial Attack Study" became the bible for air-to-air combat training.

It was instrumental in the creation of the Fighter Weapons School at Nellis Air Force Base, NV.

That's the Air Force equivalent of the Navy's "Top Gun" program.

John being John, he never slacked off. He kept right on working and developing his theory of aerial combat.

He wanted to take it to a higher plane.

And he did.

It culminated in the Energy Maneuverability Theory.

This was a very important piece of work.

John Boyd's Energy Maneuverability Theory was seminal in the development of two of our premier fighters: first the F–15 and then the F–16.

That theory helped to shape the design of those two very important airplanes.

So, Mr. President, John Boyd was truly a giant in the field of air warfare.

When I first met John in early 1983, he was applying his genius in an entirely different field.

He had retired from the Air Force and had set up shop over in the Pentagon.

He was given a small consulting contract and a cubbyhole-size office to go with it.

His Pentagon cubbyhole was the birthplace of some very important ideas.

That's when I met John Boyd. He was just beginning his reform crusade.

He was the leader of the Military Reform Movement.

At that point in time, I was wrestling with the Reagan administration's plan to pump up the defense budget.

I was searching for an effective strategy to freeze the defense budget.

Cap Weinberger was the Secretary of Defense, and he kept asking for more and more money.

The DOD budget was at the $210 billion level that year.

But Cap Weinberger had plans to push it first to $300, then $400, and finally to $500 billion.

The money sacks were piled high on the steps of the Pentagon.

It seemed like there was no way to put a lid on defense spending—that is until John Boyd walked in my office.

To this day, I don't know how he got there. Ernie Fitzgerald may have introduced us. I don't quite remember.

But John had a secret weapon.

His secret weapon was Chuck Spinney.

Chuck was an analyst in the Pentagon's office of Program Analysis and Evaluation, or PA&E.

He had a briefing entitled "Plans/Reality Mismatch."

John's plan was to use Spinney's material to expose the flaws in Weinberger's plan to ramp up the defense budget.

So I asked DOD for Mr. Spinney's briefing but ran smack into a stone wall.

At first, the bureaucrats tried to pretend it didn't exist.

For example, Dr. Chu, Spinney's boss, characterized Spinney's briefing as nothing more than: "Scribblings and writings gathered up and stapled together."

Well, that didn't wash. It just added fat to the fire.

DOD could no longer suppress the truth.

The Wall Street Journal and Boston Globe had already published major reports on Spinney's briefing. A number of other newspapers had it and were ready to roll.

The press knew this was a substantial and credible piece of work.

John's behind-the-scenes maneuvering finally led to a dramatic hearing that was held in the Senate Caucus Room in February 1983.

It was an unprecedented event.

It was the only joint Armed Services/Budget Committee hearing ever held.

In a room filled with TV cameras and bright lights, Spinney treated the committee to a huge stack of his famous spaghetti charts.

This was Spinney's bottom line: The final bill of Weinberger's 1983–87 defense plan would be $500 billion more than promised. It was devastating.

Mr. Spinney's outstanding performance won him a place on the cover of Time Magazine on March 7, 1983.

And it effectively put an end to Weinberger's plan to pump up the defense budget.

Two years later, my amendment to freeze the defense budget was adopted by the Senate.

If John Boyd hadn't come to my office and told me about Chuck Spinney, the hearing in the Senate Caucus Room might not have taken place.

And if that hearing hadn't happened like it did, I doubt we would have succeeded in putting the brakes on Weinberger's spending plans.

The Plans/Reality Mismatch hearing was just one episode in the history of the military reform movement, but it is the one that brought me and John together.

There were many others. John was always the driving force behind the scenes, giving advice, planning the next move, and always talking with the press.

John Boyd always set an example of excellence—both morally and professionally.

Mr. President, since John died, there have been several articles published about some of his exploits.

There was a truly beautiful obituary—if such a thing exists—in the March 13 issue of the New York Times.

It describes John's vast contributions to air warfare.

Second, there is a more colorful piece, which will appear in the March 24 issue of U.S. News and World Report.

That one is written by Jim Fallows and is entitled "A Priceless Original."

Mr. Fallows describes some of John's important contributions against the backdrop of his unusual character traits.

Then, there is the letter from the Marine Corps Commandant, General Krulak.

General Krulak describes John as "an architect" of our military victory over Iraq in 1991.

That's an oblique reference to John's "Patterns of Conflict" briefing. This piece of work had a profound impact on U.S. military thought.

It helped our top military leadership understand the advantages of maneuver warfare. Those ideas were used to defeat Iraq.

And finally, Col. David Hackworth has devoted his weekly column to John Boyd. It is entitled: "A Great Airman's Final Flight."

I ask unanimous consent to have these reports printed in the RECORD.

Mr. President, we have lost a great American—a true patriot. I will miss him.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 13, 1997]

Col. John Boyd Is Dead at 70; Advanced Air Combat Tactics

(By Robert McG. Thomas, Jr.)

Col. John R. Boyd, a legendary Air Force fighter pilot whose discovery that quicker is better than faster became the basis of a far-reaching theory that helped revolutionize American military strategy, died on March 9 at a hospital in West Palm Beach, Fla. He was 70 and had lived in Delray Beach.

The cause was cancer, his family said.

To combat pilots of the late 1950's, it was always high noon in the skies above the Nevada desert. A pilot, a crack instructor at

Nellis Air Force Base, perhaps, or a hotshot Navy flier passing through would get on the radio to call him out and within minutes Colonel Boyd would have another notch in his belt.

They did not call him 40-second Boyd for nothing. From 1954 to 1960 virtually every combat pilot in the country knew that Colonel Boyd, a former Korean War pilot who helped establish the Fighter Weapons School at Nellis, had a standing offer: take a position on his tail, and 40 twisting, turning seconds later he would have the challenger in his own gun-sights or pay $40. Colonel Boyd never lost the bet in more than 3,000 hours of flying time.

A high school swimming champion who won an athletic scholarship to the University of Iowa, Colonel Boyd, a native of Erie, Pa., had superior reflexes and hand-eye coordination, but what made him invincible in mock combat was something else.

At Nellis he taught himself calculus so he could work out the formulas that produced his repertory of aerial maneuvers and led to his 1960 report, "Aerial Attack Study," the bible of air-to-air combat.

His combat experience was limited to a few missions in Korea, but they were enough to produce a breakthrough insight. Wondering why the comparatively slow and ponderous American F–86's achieved near total domination of the superior MIG–15's, he realized that the F–86 had two crucial advantages: better visibility and a faster roll rate.

This, in turn, led Colonel Boyd to develop what he called the OODA Loop, to denote the repeated cycle of observation, orientation, decision and action that characterized every encounter. The key to victory, he theorized, was not a plane that could climb faster or higher but one that could begin climbing or change course quicker—to get inside an adversary's "time/cycle loop."

The fast-cycle combat theory, expanded by Colonel Boyd into a lecture he later delivered hundreds of times, has since been widely applied to fields as diverse as weapons procurement, battlefield strategy and business competition.

One implication of the theory was that the best fighter plane was not necessarily the one with the most speed, firepower or range. Colonel Boyd, who enrolled at Georgia Tech after his Nellis tour, was helping a fellow student with his homework over hamburgers and beer one night when he had an insight that led to a way to quantify his ideas. The resulting Energy Maneuverability Theory, which allows precise comparisons of maneuverability, is now a standard measure of aerial performance.

Assigned to the Pentagon in 1964, Colonel Boyd became an important figure in a movement that started in response to $400 hammers and other headline excesses of Defense Department spending and soon expanded to question the need for many hugely expensive weapons systems.

Although he had allies in the Pentagon, Congress and business, Colonel Boyd's ideas often went against the grain of a military-industrial bureaucracy devoted to the procurement of the most advanced, most expensive and (not coincidentally, he felt) most profitable planes.

Although his design ideas helped give the F–15 a big, high-visibility canopy, his major triumph was the F–16, a plane lacking many of the F–15's high-tech, expensive features, but which is far more agile and costs less than half as much, allowing for the purchase of many more of them for a given expenditure.

Top Air Force officers were so opposed to the concept of producing a plane that did not expand on the F–15's cutting edge technology that Colonel Boyd and some civilian allies developed it in secret.

The plane was hailed for its performance in the Persian Gulf war, a war whose very strategy of quick, flexible response was based largely on ideas Colonel Boyd had been promoting for years.

Colonel Boyd, who maintained that the lure of big-money defense contracts invariably perverted weapons assessment, was so personally fastidious that during his years in the Pentagon he became known as the Ghetto Colonel because he lived in a basement apartment.

He carried his notion of propriety to such an extreme that when he retired in 1975 and began some of his most productive work, as a Pentagon consultant, he insisted that his family live on his retirement pay. Initially offering to work full time without pay, he was persuaded to accept one day's pay every two-week pay period, because he had to be on the Pentagon payroll to have access to the building, before retiring in 1988.

He is survived by his wife, Mary; three sons, Stephen, of Springfield, Va., Scott, of Burke, Va., and Jeff, of Delray Beach, Fla.; two daughters, Kathryn, of Delray Beach and Mary Ellen Holton of Centerville, Va.; a brother, H.G. Boyd of Pompano Beach, Fla.; a sister, Marion Boyd of Erie, and two grandchildren.

[From Inside the Pentagon, Mar. 13, 1997]

LETTER TO THE EDITOR

TO THE EDITOR: I was deeply saddened to learn of the passing of Colonel John Boyd, USAF (Ret.). How does one begin to pay homage to a warrior like John Boyd? He was a towering intellect who made unsurpassed contributions to the American art of war. Indeed, he was one of the central architects in the reform of military thought which swept the services, and in particular the Marine Corps, in the 1980's. From John Boyd we learned about competitive decision making on the battlefield—compressing time, using time as an ally. Thousands of officers in all our services knew John Boyd by his work on what was to be known as the Boyd Cycle or OODA Loop. His writings and his lectures had a fundamental impact on the curriculum of virtually every professional military education program in the United States—and on many abroad. In this way he touched so many lives, many of them destined to ascend to the very highest levels of military and civilian leadership.

Those of us who knew John Boyd the man knew him as a man of character and integrity. His life and values were shaped by a selfless dedication to Country and Service, by the crucible of war, and by an unrelenting love of study. he was the quintessential soldier-scholar—a man whose jovial, outgoing exterior belied the vastness of his knowledge and the power of his intellect. I was in awe of him, not just for the potential of his future contributions, but for what he stood for as an officer, a citizen, and as a man.

As I write this, my mind wanders back to that morning in February, 1991, when the military might of the United States sliced violently into the Iraqi positions in Kuwait. Bludgeoned from the air nearly round the clock for six weeks, paralyzed by the speed and ferocity of the attack, the Iraqi army collapsed morally and intellectually under the onslaught of American and Coalition forces. John Boyd was an architect of that victory as surely as if he'd commanded a fighter wing or a maneuver division in the desert. His thinking, his theories, his larger than life influence, were there with us in Desert Storm. He must have been proud at what his efforts wrought.

So, how does one pay homage to a man like John Boyd? Perhaps best by remembering that Colonel Boyd never sought the acclaim won him by his thinking. He only wanted to make a difference in the next war . . . and he did. That ancient book of wisdom—Proverbs—sums up John's contribution to his nation: "A wise man is strong, and a man of knowledge adds to his strength; for by wise guidance you will wage your war, and there is victory in a multitude of counsellors." I, and his Corps of Marines, will miss our counsellor terribly.—Proverbs 24:5–6

Sincerely,

C.C. KRULAK,
General, U.S. Marine Corps,
Commandant of the Marine Corps.

EDITOR'S NOTE: Col. John Boyd, who retired from the Air Force in 1975, died March 9 at age 70. A fighter pilot of legendary ability, Boyd was the author of several pivotal explorations of warfighting theory, including "Destruction and Creation" (1976), "Patterns of Conflict" (1981), and "Conceptual Spiral" (1991).

While still in the Air Force, Boyd was largely responsible for the early design of the F–15 and F–16 fighters, and contributed significantly to the design of the A–10 close air support aircraft. His "energy maneuverability theory" is still in use in designing aircraft for maximum performance and maneuverability.

Boyd is probably best known for developing the concept of the "OODA Loop," short for "observe, orient, decide, act"—effectively a guide to anticipating enemy moves in a fast-paced battle and heading them off at the pass. The term was widely used during the 1991 Persian Gulf war in reference to the U.S. force's ability to get "inside" Iraq's decisionmaking cycle.

Boyd is considered the father of the Air Force's original "fighter mafia" and, after his retirement, a key leader of the military reform movement in the 1980s.

[From U.S. News & World Report, March 24, 1997]

A PRICELESS ORIGINAL

(By James Fallows)

True originality can be disturbing, and John Boyd was maddeningly original. His ideas about weapons, leadership, and the very purpose of national security changed the modern military. After Boyd died last week of cancer at age 70, the commandant of the Marine Corps called him "a towering intellect who made unsurpassed contributions to the American art of war." Yet until late in his life, the military establishment resisted Boyd and resented him besides.

Boyd was called up for military service during the Korean War and quickly demonstrated prowess as an Air Force fighter pilot. More important, he revealed his fascination with the roots of competitive failure and success. U.S. Planes and pilots, he realized, did better in air combat than they should have. In theory, the Soviet-built MiG they fought against was far superior to the F–86 that Boyd flew. The MiG had a higher top speed and could hold a tighter turn. The main advantage of the F–86 was that it could change from one maneuver to another more rapidly, dodging or diving out of the MiG's way. As the planes engaged, Boyd argued, the F-86 could build a steadily accumulating advantage in moving to a "kill position" on the MiG's tail.

Boyd extended his method—isolating the real elements of success—while maintaining his emphasis on adaptability. In the late 1950s, he developed influential doctrines of air combat and was a renowned fighter instructor. In the 1960s, he applied his logic to the design of planes, showing what a plane would lose in maneuverability for each extra bit of weight or size—and what the nation lost in usable force as the cost per plane went up. Within the Pentagon, he and members of a "Fighter Mafia" talked a reluctant Air Force into building the F-16 and A-10—small, relatively cheap, yet highly effective aircraft that were temporary departures from the trend toward more expensive and complex weapons.

Warrior virtues. After leaving the Air Force as a colonel in 1975, Boyd began the study of long historical trends in military success through which he made his greatest mark. He became a fanatical autodidact, reading and marking up accounts of battles, beginning with the Peloponnesian War. On his Air Force pension, he lived modestly, working from a small, book-crammed apartment. He presented his findings in briefings, which came in varying lengths, starting at four hours. Boyd refused to discuss his views with those who would not sit through a whole presentation; to him, they were dilettantes. To those who listened, he offered a worldview in which crucial military qualities—adaptability, innovation—grew from moral strengths and other "warrior" virtues. Yes-man careerism, by-the-book thought, and the military's budget-oriented "culture of procurement" were his great nemeses.

Since he left no written record other than the charts that outlined his briefings, Boyd was virtually unknown except to those who had listened to him personally—but that group grew steadily in size and influence. Politicians, who parcel out their lives in 10-minute intervals, began to sit through his briefings. The Marine Corps, as it recovered from Vietnam, sought his advice on morale, character, and strategy. By the time of the gulf war, his emphasis on blitzkrieglike "maneuver warfare" had become prevailing doctrine in the U.S. military. As a congressman, Dick Cheney spent days at Boyd's briefings. As defense secretary, he rejected an early plan for the land war in Iraq as being too frontal and unimaginative—what Boyd would have mockingly called "Hey diddle diddle, straight up the middle"—and insisted on a surprise flanking move.

John Boyd laughed often, yet when he turned serious, his preferred speaking distance was 3 inches from your face. He brandished a cigar and once burned right through the necktie of a general he had buttonholed. He would telephone at odd hours and resume a harangue from weeks before as if he'd never stopped. But as irritating as he was, he was more influential. He will be marked by a small headstone at Arlington Cemetery and an enormous impact on the profession of arms.

[From King Features Syndicate, Mar. 18, 1997]

DEFENDING AMERICA, A GREAT AIRMAN'S FINAL FLIGHT

(By David H. Hackworth)

Col. John R. Boyd of the United States Air Force is dead.

Future generations will learn that John Boyd, a legendary fighter pilot, was America's greatest military thinker. He's remembered now by all those he touched over the last 52 years of service to our country as not only the original "Top Gun," but as one smart hombre who always had the guts to stand tall and to tell it like it is.

He didn't just drive Chinese fighter pilots nuts while flying his F-86 over the Yalu River during the Korean War, he spent decades causing the top brass to climb the walls and the cost-plus, defense-contractor racketeers to run for cover.

He was not only a fearless fighter pilot with a laser mind, but a man of rare moral courage. the mission of providing America with the best airplane came first, closely followed by his love for the troops and his concern for their welfare. Many of the current crop of Air Force generals could pull out of their moral nose dive by following his example.

After the Korean War, he became known as "40-Second" Boyd because he defeated opponents in aerial combat in less than 40 seconds. Many of his contemporaries from this period say he was the best fighter pilot in the U.S. Air Force.

Not only was he skilled and brave, but he was also a brain. The Air Force recognized this and sent him to Georgia Tech, not to be a "rambling wreck," but to become a top graduate engineer. It was there that he developed the fighter tactics which proved so effective during the Vietnam War, and the concepts that later revolutionized the design of fighter aircraft and the U.S.A.'s way of fighting wars, both in the air and on the ground.

He saved the F-15 from being an 80,000-pound, swing-wing air bus, streamlining it into a 40,000-pound, lean and mean fixed-wing fighter, which Desert Storm proved still has no equal.

Boyd was also a key player in the development of the F-16, probably the most agile and maneuverable fighter aircraft ever built, and costing half the price of the F-15. The top brass didn't want it. To them, more expensive was better. Boyd outfoxed them by developing it in secret.

Chuck Spinney, who as a Pentagon staffer sweated under Boyd's cantankerous, demanding tough love says, "The most important gift my father gave me was a deep belief in the importance of doing what you think is right—to act on what your conscience says you should act on and to accept the consequences. The most important gift Boyd gave me was the ability to do this and survive and grow at the same time."

Boyd never made general—truth-tellers seldom do in today's slick military because the Pentagon brass hate the truth, and try to destroy those who tell it. They did their best to do a number on John. But true to form, he always out-maneuvered them.

Norman Schwarzkopf is widely heralded as the hero of Desert Storm, but in fact, Boyd's tactics and strategy were the real force behind the 100-Hour War. Stormin' Norman simply copied Boyd's playbook, and the Marines were brilliant during their attack on Kuwait.

As USMC Col. Mike Wyly tells it, Boyd "applied his keen thinking to Marine tactics, and today we are a stronger, sharper Corps."

His example inspired many. He affected everyone with whom he came in contact. He trained a generation of disciples in all the services, and they are carrying on his good work, continuing to serve the truth over self.

For those who know, the name Boyd has already become a synonym for "doing the right thing." His legacy will be that integrity—doing the hard right over the easy wrong—is more important than all the stars, all the plush executive suites and all the bucks.

God now has the finest pilot ever at his side. And He, in all His wisdom, will surely give Boyd the recognition he deserves by promoting him to air marshal of the universe.

For sure, we can all expect a few changes in the design of heaven as Boyd makes it a better place, just as he did planet earth.

The PRESIDING OFFICER. The Senator from Kentucky.

ANTITRUST IMPLICATIONS OF THE COLLEGE BOWL ALLIANCE

Mr. McCONNELL. Mr. President, Senator BENNETT of Utah, Senator THOMAS and Senator ENZI of Wyoming, and I have been working on a matter that we wish to discuss with our colleagues in the Senate for the next few moments. Senator THOMAS needs to leave so he is going to lead off.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. I thank the Chair.

● Mr. President, I rise today to speak about the college football Bowl Alliance. I am concerned that under the Bowl Alliance structure, athletic excellence is not being recognized in postseason I-A college football play.

Fresh in the minds of Wyoming football fans is the last game of regular season play when the nationally ranked Cowboys played against No. 5-ranked Brigham Young University for the Western Athletic Conference [WAC] championship title. Both teams went into the game believing the winner would be selected for major postseason bowl action. UW and BYU delivered a terrific conference championship game. BYU won 28–25 over Wyoming in overtime play. It was the first WAC title game won in overtime. Unfortunately, neither WAC team was invited to a major New Year's bowl.

The 1996 selections to the New Year's bowl games shed revealing light on the college football Bowl Alliance. Invitations to the most lucrative major bowls games—the Orange Bowl, the Sugar Bowl, and the Fiesta Bowl—were largely sent to high-profile, highly marketable teams instead of worthy teams. Many sports fans were disappointed at the postseason New Year's bowl matchups. I am concerned about the closed selection process that has developed and the impact the Bowl Alliance structure will have on I-A collegiate football.

The Bowl Alliance operates outside the purview of the National Collegiate Athletics Association [NCAA]. The Bowl Alliance was created in 1993 when the Atlantic Coast Conference, the Big East Conference, the Big 12 Conference, the Southeastern Conference and Notre Dame came together and took it upon themselves to provide and acquire teams to participate in the major bowl games. These Bowl Alliance conferences have contracts with the television networks and large corporate sponsors—Federal Express, Tostitos, and Noika. Champions from each alliance conference are automatically guaranteed a berth in one of the major bowl games. The nonalliance conferences remaining out in the cold are the Western Athletic Conference [WAC], the Big West Conference, Conference USA, the Mid American Conference and the 11 Independent teams.

The Bowl Alliance claims its purpose is to create optimal matchups and identify and national champion. Considering the 1996 selections for the bowl games, I question if quality matchups is the true goal. Last season, TV viewers saw No. 20 Texas lose to No. 7 Penn State 38–15 in the Fiesta Bowl. Texas' record was 8-4. The Orange Bowl showcased No. 9 Virginia Tech losing to No. 6 Nebraska 41–21.

Appearance in a Bowl Alliance game pays well. Each participating team takes approximately $8,000,000 back to its school. In addition, the teams get the national visibility and prestige that leads to strong athletic recruitment. Conferences outside the alliance have a remote chance of participating in one of the Alliance Bowls. Over time it will hurt the quality of the nonalliance teams who will have difficulty in recruitment. The Alliance Bowl structure will make the alliance teams stronger and relegate the nonalliance teams to a second-tier status.

The alliance ensures its monopoly through the use of the at-large rule. Although the champions of the self-selected Alliance Bowl conferences automatically appear in one of the major bowl games there are two remaining at-large spots. It is questionable as to whether those two spots are truly at-large and open to any high-quality team that can play their way into one of the spots. A team from the WAC was deserving of one of those at-large spots last year, but the invitation never came.

I am concerned for the future of the athletes and schools in the nonalliance conferences. That is why I joined with Senators MITCH MCCONNELL, ROBERT BENNETT, and MIKE ENZI in writing to the Department of Justice [DOJ] and the Federal Trade Commission [FTC] to request an investigation of the Bowl Alliance. We suspect possible violations of the Sherman Antitrust Act. In 1996, the eight Alliance Bowl participants, including the Rose Bowl participants, went home with a total of $68 million. The 28 teams that played in the minor bowl games shared a pot of $31 million. We requested a formal investigation of the matter. If there is wrong-doing we want to see the DOJ and the FTC use their statutory enforcement powers to break this lock on college football.

We are not asking for special consideration for any one team. We would like to see genuinely open competition restored to college football postseason bowls. Postseason play should be about recognizing achievement. Letting the best teams play is in the best interest of our student athletes and our schools.●

I wish to associate myself with the efforts of the Senator from Kentucky, the Senator from Utah, and my friend from Wyoming in doing some things that we think have impact in football. The Bowl Alliance has a great effect on small schools, particularly the University of Wyoming, BYU, Louisville, and others, and so we think this is an issue which needs to be discussed. I am very proud to be associated with the comments my friends will make.

I thank the Chair.

Mr. McCONNELL. I thank my friend from Wyoming for his contribution to the matter that we will now proceed to discuss with our colleagues.

Mr. President, at a time when the country is swept away by March madness—particularly, I notice the occupant of the chair has a fine team in March madness that will probably, no doubt, come in second to Kentucky in the end—and the excitement of competitive college basketball, we are nevertheless reminded of the fundamental unfairness of college football's pseudo playoffs. Specifically, I am talking about the College Bowl Alliance.

The alliance is a coalition of top college football conferences and top postseason bowls. Over the past few years, the alliance has entered into a series of restrictive agreements to allocate the market of highly lucrative postseason bowls. By engaging in this market allocation, the coalition bowls and the coalition teams have ensured that they will receive tens of millions of dollars, while the remaining teams and bowls are left to divide a much smaller amount. The alliance agreements have the purpose and effect of making the already-strong alliance teams stronger while relegating the remaining teams to a future of, at best, mediocre, second-class status.

Mr. President, in college football, there can be no Cinderella stories. There can be no unranked, unknown Coppin State going to the playoffs and beating the SEC regular season champion, South Carolina, and going down to the wire with a Big 12 power like Texas.

A team like Coppin State could never make it to the lucrative college football postseason. You see, a team like that would be excluded because it's not in the College Bowl Alliance and its fans don't travel well. It doesn't even have its own band.

College football has no room for a Sweet 16 that includes teams like St. Joseph's and the University of Tennessee at Chattanooga. The opportunity to be in college football's Elite Eight and Final Four is essentially determined before the season begins.

The basic message, Mr. President, is that—if David wants to slay Goliath—he'd better do it during basketball season. He won't be allowed to play Goliath when the football postseason rolls around.

College football has no room for the underdog. In fact, as evidenced by the 1997 New Year's bowls, college football doesn't even have room for top-ranked teams—unless those teams are members of the exclusive Bowl Alliance.

I first raised this issue in 1993 when my alma mater, the University of Louisville, had a 7–1–0 record and a top ranking, but was automatically excluded from the most lucrative New Year's bowls. I contacted the Justice Department and explained that the alliance agreements constituted a group boycott, and, thus, violated the Sherman Act.

The Justice Department promised to promptly review the matter.

Shortly thereafter, the College Bowl Alliance entered into a revised agreement whereby the 1997 New Year's bowls would be open to any team in the country with a minimum of eight wins or ranked higher than the lowest ranked—alliance—conference champion.

Despite this pledge, the alliance continued its apparent boycott of nonalliance teams. During the 1996 season, Brigham Young University and the University of Wyoming, both members of the nonalliance Western Athletic Conference [WAC], met the alliance criteria. Wyoming finished the season 10–2 and ranked 22d in the country, while BYU won 13 games and was ranked the fifth best team in the country.

Neither team, however, was afforded an opportunity to play in the alliance bowls. In fact, BYU's record and ranking was superior to nearly every alliance team, including four of the six teams who participated in the high-visibility, high-payout alliance bowls.

Mr. President, this issue is about more than football, apple pie, and alma mater. This is about basic fairness and open competition. This is about a few conferences and a few bowls dividing up a huge multimillion-dollar pie among themselves.

In 1997, the eight participants in the alliance bowls, including the Rose Bowl participants shared an estimated pot of $68 million while the 28 nonalliance bowl participants were left to divide approximately $34 million. In short, the market has been divided such that eight teams rake in 70 percent of the postseason millions, while 28 teams get nothing more than the leftover 30 percent.

This chart may have printing that is too small for the camera to pick up, but it illustrates the nature of the problem.

The Alliance bowls—Fiesta, Sugar, Orange, and Rose—totaled $68.2 million. That is eight teams that benefited from the $68.2 million. The nonalliance bowls—and here is a whole list of them—collectively shared $34 million. Clearly, most of these teams never had an opportunity, no matter how good they were, to participate in the New Years Day payout bowls. Therein lies the antitrust problem, a clear antitrust problem I might say.

These short-term millions lead to long-term benefits for the alliance conferences. Guaranteed appearances in high-visibility bowls directly translate to: more loyal fans, more generous alumni, and much more willing athletic recruits.

If you don't believe it's easier for alliance teams to recruit, just pick up the phone and call the coach at an independent school like Central Florida, or the coach at the University of Louisville or BYU. These coaches will tell you time after time that the top high school athletes don't want to play for teams that don't have a shot at the top New Year's bowl games.

Mr. President, in summary, there is substantial evidence that the most powerful conferences and the most powerful bowls have entered into agreements to allocate the postseason bowl market among themselves and to engage in a group boycott of nonalliance teams and bowls. The effect of these agreements is to ensure that the strong get stronger, while the rest get weaker.

I have joined with my colleagues—Senator BENNETT, Senator ENZI, and Senator THOMAS—to request that both the Justice Department and the Federal Trade Commission investigate the intent and effect of the alliance agreements. I ask unanimous consent that the Justice Department letter be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCONNELL. In closing, I'd like to point out that this effort is much more than just a few Senators cheering for their home teams. The Supreme Court has said it much more clearly than we ever could. So, I quote the Court, which I seem to be doing quite often these days:

> [O]ne of the classic examples of a *per se* violation of section 1 is an agreement between competitors at the same level of the market structure to allocate territories in order to minimize competition . . . This Court has reiterated time and time again that "horizontal territorial limitations . . . are naked restraints of trade with no purpose except stifling of competition."

This fundamental principle of antitrust law should guide the review of the Justice Department and the Federal Trade Commission. In the words of the D.C. Circuit, "the hallmark of the [unlawful] 'group boycott' is the effort of competitors to 'barricade themselves from competition at their own level.' "

Today, we are calling on all interested parties to break the barricade. We are challenging the NCAA, the Bowl Alliance commissioners, and the Alliance bowl committees to take action to bring about genuine competition to college football and the postseason.

Postseason playoffs can be a reality for college football. It works for college basketball, college baseball, and it works for college football—at the Division I-AA, Division II, and Division III levels. They all have a playoff system, all of them except Division I.

The opportunity to compete in postseason bowls should be based on merit, not membership in an exclusive coalition.

So, Mr. President, I thank my good friend and colleague from Utah, Senator BENNETT, for his fine work on this issue. And also Senator ENZI for his great work on this. We are hoping for the best. Obviously, the solution to this problem that we would all prefer is for the organizations themselves to solve the problem. But, if they do not, it seems pretty clear to each of us that this is an antitrust case the Justice Department should pursue.

With that, Mr. President, I yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, DC, March 14, 1997.

Hon. Joel I. Klein,
Acting Assistant Attorney General, Antitrust Division, U.S. Department of Justice, Washington, DC.

DEAR MR. KLEIN: We believe that there is substantial evidence of serious violations of Section 1 of the Sherman Act (15 U.S.C. 1) by the College Bowl Alliance ("Alliance").

The Alliance is a coalition of top college football conferences and representatives of top postseason college football bowls. Over the past few years, the Alliance has entered into a series of restrictive agreements to allocate the market of highly-lucrative New Years' bowls. By engaging in this market allocation, the coalition bowls and the coalition teams have ensured that they will receive tens of millions of dollars, while the remaining teams and bowls are left to divide a much smaller amount. In 1996, for example, the eight Alliance bowl participants (including the Rose Bowl participants) went home with a total of $68 million, while the 28 non-Alliance bowl participants shared a pot of $31 million. Moreover, the Alliance agreements have the additional purpose and effect of making the already-strong Alliance teams stronger while relegating the remaining teams to a future of, at best, mediocre, second-class status.

As you will recall, the Antitrust Division commenced a review of this coalition in late 1993. Shortly thereafter, the Alliance agreed that the top bowls would be open to all teams based on merit. The 1997 New Year's Bowls, however, proved to the contrary. We are writing to advise you of these recent material events and to urge that you initiate a formal investigation into this matter.

I. BACKGROUND

Courts have routinely declared that agreements among competitors to allocate territories and exclude would-be competitors are a violation of Section 1 of the Sherman Act. See, e.g., Smith v. Pro Football, Inc., 593 F.2d 1173, 1178 (D.C. Circuit 1978). As the D.C. Circuit has explained:

"The classic 'group boycott' is a concerted attempt by a group of competitors at one level to protect themselves from competition from non-group members who seeks to compete at that level. Typically, the boycotting group combines to deprive would-be competitors of a trade relationship which they need in order to enter (or survive in) the level wherein the group operates. . . . [The hallmark of the 'group boycott' is the effort of competitors to barricade themselves from competition at their own level.' "

Id. This fundamental principle should be kept in mind while reviewing the facts surrounding the College Bowl Alliance.

A. ORIGINAL COLLEGE BOWL ALLIANCE AGREEMENT

In 1991, five college football conferences (ACC, Big East, Big Eight, Southeastern, and Southwestern conferences) and the independent University of Notre Dame, formed a coalition with the prestigious College Bowl Committees of the Federal Express Orange, USF&G Sugar, IBM Fiesta, and Mobil Cotton Bowls ("Alliance bowls").[1] The Pac-10 and Big Ten also participated in the coalition, although their champions played in the Rose Bowl under a separate agreement.

The coalition agreement was expressly designed to reduce competition in the postseason match-ups of teams and bowls, and to guarantee every coalition team an opportunity to vie for a lucrative, high-visibility bowl. The contract specifically guaranteed that each coalition team participating in any of the Alliance bowls would receive a minimum payout based on similar terms. Typically, an Alliance bowl team has taken home a purse in excess of eight million dollars. Moreover, the original Request for Proposal contained a clause requiring that no Alliance bowl or Alliance team could compete in time slots opposite other Alliance bowls.

The agreement also stipulated the procedure by which the top-ranked and lesser-ranked Alliance teams were matched up with participating Alliance bowls. Three conferences were guaranteed berths at a specific Alliance bowl regardless of the ranking of their champion team. Any team not in the Alliance, however, was precluded from competing in any of the Alliance bowls, regardless of its record or ranking.

The Alliance conferences and Notre Dame received substantial benefits from the coalition agreements. They were assured a berth at a major postseason bowl—regardless of their topmost ranking. Further, all of the participants in the Alliance bowls were guaranteed to receive a substantial minimum payment and national visibility. Such visibility in turn enhanced fan support, alumni fund-raising, and athletic recruiting for the bowl teams.

By dividing the lucrative market of major postseason bowls among themselves, the Alliance Conferences and Notre Dame expressly and effectively excluded a substantial number of the other Division 1A teams from any of the prestigious New Year's Bowls. The excluded teams were those which were either independent or in non-Alliance conference such as the Western Athletic Conference, the Big West, and the Middle America Conference.

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[1] The Bowl Alliance was originally called the Bowl Coalition. Additionally, pursuant to the dissolution of the Southwest Conference, the Big Eight became the Big 12, and the Cotton Bowl dropped out of the coalition.

B. INITIAL REQUEST FOR ANTITRUST INVESTIGATION

In response to these market allocations, Senator Mitch McConnell formally requested that the Justice Department investigate the intent and effect of the Bowl Alliance agreements. Specifically, Senator McConnell pointed out that the Bowl Alliance agreements precluded a non-Alliance team from going to the significant and lucrative Alliance Bowls—even when the non-Alliance team had a better record and a better ranking than an Alliance team. In response, the Justice Department commenced a review of the Bowl Alliance.

C. "REVISED" COLLEGE BOWL ALLIANCE

Thereafter, the College Bowl Alliance entered into a revised agreement whereby the 1997 New Year's bowls would supposedly have two of the six Alliance slots "open to any team in the country with a minimum of eight wins or ranked higher than the lowest-ranked conference champion from among the champions of the Atlantic Coast, The Big East Football, The Big Twelve and Southeastern conferences."

At that point, Senator McConnell concluded that the "new arrangement seems to open competition to the top tier bowl games." (Letter from Honorable Mitch McConnell to the College Football Association, December 21, 1995.) The Justice Department apparently made a similar determination.

Notwithstanding the promise of open competition, the Alliance announced that it would consider non-Alliance teams for the "at-large" openings only if they signed a special restrictive agreement. The Alliance demanded that the terms of this "participation agreement" be kept confidential. Nevertheless, a key term of this agreement apparently was that the at-large participants had to promise to accept an offer from an Alliance bowl over any offers from non-Alliance bowls. In the words of the Alliance, "[t]here are no 'pass' or withdrawal options."[2]

D. CONTINUED BOYCOTT OF NON-ALLIANCE TEAMS

The potential antitrust fears became a reality after the 1996 regular season when the Alliance continued its apparent boycott of non-Alliance teams. During the 1996 season, Brigham Young University and the University of Wyoming, members of the non-Alliance Western Athletic Conference, had "a minimum of eight wins or [were] ranked higher than the lowest-ranked [Alliance] conference champion. . . ."

BYU, in fact, met both of the Alliance criteria by compiling a remarkable 13–1 record and earning a ranking of the fifth best team in the country. This record and ranking was superior to nearly every Alliance team, including the University of Texas, 8–5 record and a No. 20 ranking; Pennsylvania State University, 11–2 record and a No. 7 ranking; Virginia Tech, 10–2 record with a No. 13 ranking; and Nebraska, 11–2 record and a No. 6 ranking. Nevertheless, BYU did not receive an at-large invitation to play in any of the prestigious Alliance bowls; while Texas, Penn State, Virginia Tech, and Nebraska all were invited to play in various Alliance bowls, with the attendant financial and recruiting benefits. Similarly, Wyoming finished with an impressive 10–2 record and a No. 22 ranking, but was not afforded an offer to play in the Alliance bowls.

E. FORMATION OF THE "SUPER ALLIANCE"

In June 1996, the Alliance lock on college football power was strengthened as the Rose Bowl agreed to join the Alliance, which guaranteed the Big Ten and Pac–10 conferences automatic berths in an Alliance bowl. The Alliance has officially renamed itself the "Super Alliance."

II. SHERMAN ACT PROHIBITS MARKET ALLOCATIONS AND GROUP BOYCOTTS

The Sherman Act prohibits the Alliance agreements. Section 1 of the Sherman Act is violated where: (1) there is an agreement, (2) that unreasonably restrains trade, and (3) affects interstate commerce. 15 U.S.C. 1. It is beyond dispute that interstate commerce is affected by the millions of dollars that flow through the Alliance bowls to the Alliance conference teams. Thus, our analysis focuses on the existence of agreements and the unreasonable restraint of trade.

A. THE ALLIANCE IS LINKED BY AT LEAST THREE AGREEMENTS

The Alliance coalition is linked by a minimum of three agreements that limit competition. First, the Alliance conferences—the ACC, Big East, Big 12, Big Ten, Pacific 10 and the Southeastern conferences—have horizontally agreed not to compete with each other for the top postseason bowls. Next, the Alliance bowls—the Sugar, Fiesta, and Orange bowls—have horizontally agreed not to compete with each other for the top-ranked teams. Third, the Alliance conferences and the Alliance bowls have vertically agreed to further their horizontal agreements by limiting participation with non-Alliance teams and non-Alliance bowls. These agreements individually and in their totality demonstrate "a conscious commitment to a common scheme designed to achieve an unlawful objective." *Monsanto Co.* v. *Spray-Rite Serv. Corp.*, 465 U.S. 752, 768 (1984).

Moreover, strong evidence suggests the existence of an "anti-overlap" agreement. The coalition's original Request for Proposal contained an explicit "anti-overlap" clause. Under the terms of such an agreement, no Alliance bowls or teams could compete in time slots opposite other Alliance bowls. Although this clause was officially removed following a letter of protest from the Holiday Bowl, the Alliance's exclusive prime television slots are strong indicators of an anti-overlap agreement. Such circumstantial evidence may be used to prove the existence of an agreement. *See id.*

B. THE ALLIANCE AGREEMENTS UNREASONABLY RESTRAIN TRADE UNDER EITHER A PER SE TEST OR A RULE OF REASON TEST

The effect of these interlocking agreements is to unreasonably restrain trade. Courts determine the reasonableness of a restraint by applying either a *per se* test or a rule of reason test. *See, e.g., NCAA* v. *Board of Regents*, 468 U.S. 85, 100–01 (1984). The Alliance agreements fail under either analysis.

(1) PER SE ANALYSIS

The facts underlying the Alliance warrant the stringent *per se* analysis. Although courts have often analyzed regulations of sports organizations under a rule of reason, *see, e.g., Justice* v. *NCAA*, 577 F. Supp. 356, 380 (D. Ariz. 1983) (citations omitted), such a lenient review is inappropriate where the purpose of the regulations is to eliminate business competition. *See, e.g., id.* (citing *M & H Tire Company, Inc.* v. *Hoosier Racing Tire Corp.*, 560 F. Supp. 591, 604 (D. Mass. 1983); *Blalock* v. *Ladies Professional Golf Assoc'n*, 359 F. Supp. 1260, 1264–68 (N.D. Ga. 1973)). The Alliance cannot cloak its purpose and effect under the garb of NCAA self-regulation, *cf.*, *Justice*, 577 F. Supp. at 379 (rule of reason is appropriate where NCAA enforced rules against compensating athletes), where the underlying facts demonstrate that business-minded entities acted with the clear intent to exclude non-Alliance bowls and non-Alliance teams from multi-million dollar opportunities.

Courts have routinely condemned such market allocations and group boycotts under the *per se* rule. *See Fashion Originators' Guild* v. *Federal Trade Comm'n*, 312, U.S. 457 (1941) (group boycott); *United States* v. *Addyston Pipe & Steel Co.*, 85 Fed. 271 (6th Cir. 1898), *mod.*, 175 U.S. 211 (1,899) (market division). As the Supreme Court has explained:

> [o]ne of the classic examples of a per se violation of section 1 is an agreement between competitors at the same level of the market structure to allocate territories in order to minimize competition. . . . This Court has reiterated time and time again that "horizontal territorial limitations . . . are naked restraints of trade with no purpose except stifling of competition."

United States v. *Topco Associates*, 405 U.S. 596, 608 (1972) (citations omitted).

For example, in *United States* v. *Brown*, 936 F.2d 1042 (9th Cir. 1991), the Ninth Circuit held that an agreement between two billboard advertising companies providing that each would not compete with the other's former billboard leaseholds for one year was *per se* illegal. Similarly, the agreement among the Alliance bowls not to compete with each other for teams should be *per se* illegal. *Id.* Likewise, the agreement among the Alliance teams not to compete with each other for the Alliance bowls should be struck down. *Id.*

(2) RULE OF REASON

The Alliance agreements also fail under a rule of reason analysis. Under the rule of reason, courts require a plaintiff to show that there are significant anti-competitive effects. *See NCAA* v. *Board of Regents*, 468 U.S. 85, 100–01 (1984). Once this burden has been met, the defendant must show that there are pro-competitive effects, which then shifts the burden back to the plaintiff to demonstrate that such effects can be achieved in a less restrictive manner. *Id.* at 120 (striking down restraint on broadcast of college football where there was no sufficient pro-competitive justification).

(A) ANTI-COMPETITIVE EFFECTS

As set forth above, the anti-competitive effects of the Alliance on college football generally and the New Year's bowls specifically are undeniable. Instead of having all the bowls bidding for all the teams, a super-coalition of powerful bowls and powerful teams has divvied up the prized opportunities among themselves. As the Supreme Court stated in *NCAA* v. *Board of Regents*, "[t]he anti-competitive consequences . . . are apparent . . . [when] [i]ndividual competitors lose their freedom to compete." 468 U.S. at 107–08.

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[2] In the fall of 1996, the Alliance sent out "participation offers" to presumably all of the non-Alliance teams. Both Brigham Young University and the University of Wyoming signed the restrictive participation agreements, but included a proviso stating they would not agree to all of the restrictive terms. Specifically, the University of Wyoming explained that "the University . . . and the Western Athletic Conference will not comply with any expressed or implied provision that prevents other members of the WAC from participating in bowls that compete with any Alliance Bowl, or with any other provisions that might violate antitrust laws."

The facts of the 1996 season indicate that non-Alliance teams were not allowed to genuinely compete for one of the lucrative Alliance bowls. For example, BYU was not invited to an Alliance bowl in spite of having a "minimum of eight wins" *and* being "ranked higher than" four of the Alliance teams participating in Alliance bowls. Moreover, non-Alliance bowls were unable to genuinely compete for the Alliance teams in light of the anti-overlap rule and the "no-pass" rule—the latter of which mandated that all Alliance-eligible teams must accept offers from Alliance bowls—regardless of how lucrative a non-Alliance bowl offer might be.

These anti-competitive effects are in direct contravention of well-established Supreme Court precedent. In *NCAA*, the Court explained that "'[i]n a competitive market, each college fielding a football team would be free to sell the right to . . . its games for whatever price it could get.'" *NCAA*, 468 U.S. at 106 (quoting district court and striking down restraints). The Alliance agreements clearly restrict such a right for both the non-Alliance bowls and the non-Alliance teams. *See also United States* v. *Paramount Pictures, Inc.*, 334 U.S. 131, 154 (1948) (striking down block booking because it "eliminate[s] the possibility of bidding for films theater by theater. [Such agreements] eliminate the opportunity for the small competitor to obtain the choice first runs, and put a premium on the size of the circuit.")

(B) NO PRO-COMPETITIVE EFFECTS

The Alliance cannot establish that its restrictive agreements produce any pro-competitive effects. In fact, the Alliance's own language reveals that it did not have *even* a pro-compeititve *purpose*. The Alliance states that its "framework enhances the quality of postseason college football match-ups, increases the likelihood of pairing the two highest ranked teams in the nation in a bowl game, and provides excitement for the coaches, players, and fans." According to a recent *Sports Illustrated* article, the purpose and effect of the Alliance is not to determine the true national champion, but rather "is to avoid the creation of NCAA-run national playoffs. . . . The Alliance exists to keep the power and the money in the hands of the Alliance bowls and the four conferences that receive guaranteed berths in those bowls. . . . Any national championship games that result are a bonus." Layden, Tim, "Bowling for Dollars," *Sports Illustrated*, Dec. 16, 1996 at 36.

The Alliance goals fall far short of actually allowing the best teams to compete in the best bowls. The 1996 season is a painful reminder of this fact. Instead of consumers getting to watch a highly-competitive match-up between No. 5 ranked BYU and another top-ranked team, they were forced to endure two blow-outs in the Alliance: the Fiesta Bowl where No. 7 Penn State defeated No. 20 Texas 38–15, and the Orange Bowl, where No. 6 Nebraska trounced No. 9 Virginia Tech 41–21. These match-ups were based on membership in the Alliance, not on merit.[3]

In short, the Alliance "framework" fails to enhance competition, as well as failing to meet its own stated goals. The rule of reason inquiry must end here where the anti-competitive restrictions are "not offset by any pro-competitive justifications sufficient to save the plan . . . ." *NCAA*, 468 U.S. at 97–98.

III. CONCLUSION

Based on the facts available at this time, it is clear that the Alliance agreements fail under either *a per se* rule or a rule of reason. As the Supreme Court has explained, "the essential inquiry remains the same—whether or not the challenged restraint enhances competition." *NCAA*, 468 U.S. at 104. The restrictive Alliance agreements reduce competition in the lucrative New Year's bowls, and guarantee every Alliance team an opportunity to reap the short- and long-term profits of a high-visibility bowl. The Alliance not only perpetuates the current power structure, but, in fact, exacerbates it. The strong get stronger, while the rest get weaker.

As policymakers and football fans, we urge the Justice Department to use its statutory enforcement powers to break this lock on college football. We have every reason to believe that your investigation will reveal additional evidence of the Alliance's anti-competitive purpose and effects. Action must be taken to restore genuinely open competition to college football and to postseason bowls.

Sincerely,

MITCH MCCONNELL.
CRAIG THOMAS.
ROBERT F. BENNETT.
MIKE ENZI.

The PRESIDING OFFICER. The Senator from the home State of the BYU Cougars, the Senator from Utah.

Mr. BENNETT. Mr. President, I thank you for that commercial. I must, in the spirit of full disclosure, report that I am not a graduate of Brigham Young University but of the University of Utah, which happens to be ranked in the top three in the current basketball season along with the University of Kansas and the University of Kentucky. I wish the Final Four could include Utah, Kentucky, and Kansas, but I am afraid Utah and Kentucky will have their showdown prior to the Final Four and only one of the two will make it. If it is not Utah—as I am confident, of course, that it will be—I hope, for the sake of my friendship with the Senator from Kentucky, that it will be Kentucky that goes to the Final Four with Kansas.

But the very fact that we can have this conversation about the NCAA underscores the importance of what we are talking about with respect to football. These teams will get to the Final Four in basketball on the playing field and not in the boardroom. The decision will be made on the basis of how good they are and how entertaining they can be on television by virtue of their skill, rather than how sharp the negotiators were that put together the stacked deck in advance of the final event.

I have a chart here that reports what happened in the last bowl circumstance. Every team in color, whether it is the two in yellow, the two in orange, or the two in red, appeared in an alliance bowl.

The two teams in white, No. 2 and No. 4, that did not appear in an alliance bowl, appeared in the Rose Bowl, which is now part of the alliance. Only one of the top seven teams did not appear in a lucrative alliance bowl—and that happens to be the team from BYU.

Rather than go on in a parochial fashion, as the Senator from the State in which BYU appears, I would like to summarize this circumstance from a source that is clearly not parochial and not particularly biased to BYU as a school.

I am quoting from the article that appeared in Sports Illustrated on the 16th of December, 1996, entitled, "Bowling For Dollars." In the article they made it very clear what the real criteria was here. Quoting from the article:

> Sunday's selections shed revealing light on the alliance. . . . It was the shunning of Brigham Young, however, despite the fact that the Cougars have a higher ranking and a better record than either of the at-large teams chosen (Nebraska and Penn State) by the alliance, that served to trash two widely accepted myths.
>
> Myth No. 1: The purpose of the alliance is to determine the true national champion.

Sports Illustrated says:

> Not even close. The purpose of the alliance is to avoid the creation of NCAA-run national playoffs. Such playoffs would put the NCAA in charge of the beaucoup dollars the event would generate. The alliance exists to keep the power and the money in the hands of the alliance bowls and the four conferences that receive guaranteed berths in those bowls.

A fairly direct statement to the point raised by my friend from Kentucky.

Now, Sports Illustrated goes on:

> Myth No. 2: The alliance bowls exist to give fans the best possible games.
>
> Bowls are businesses, with major corporate sponsorship and huge television deals. Their purpose is to fill stadiums, generate TV ratings, and create precious "economic impact" on their communities in the days leading up to the games.

Now, Mr. President, comes the paragraph that makes it clear that Sports Illustrated is not necessarily friendly to BYU in every circumstance, but summarizes why this decision was made.

> BYU fails, not only on the strength-of-schedule issue but also on the economic-impact side. Bowls, particularly the Sugar Bowl, thrive on bar business. One of the tenets of the Mormon faith is abstinence from alcohol. You do the math. In the French Quarter, they don't call the most famous thoroughfare Milk Street. "We used to go to the Holiday Bowl, and our fans would bring a $50 bill and the Ten Commandments, and break neither" says BYU Coach LaVell Edwards. Nebraska fans, on the other hand, travel like Deadheads, and spend like tourists.
>
> Choosing bowl teams based in significant part on the rabidity and spending habits of their fans isn't fair to the audience watching the bowls at home. For all its flaws, BYU would even be a more intriguing opponent for Florida State than a team the Seminoles have already beaten. Unfortunately, money rules all matchups.

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[3] Additionally, there is evidence which indicates that the decision was not based on consumer preference. One poll is reported to have shown that fans would have preferred the following teams in an Alliance bowl: BYU—48%, Penn State—22%, and Colorado—21%. As the Court has stated, "[a] restraint that has the effect of reducing the importance of consumer preference . . . is not consistent with [the] fundamental goal of anti-trust law." *NCAA*, 468 U.S. at 107 (citation omitted).

Mr. President, BYU did go to a postseason game—the Cotton Bowl. The Presiding Officer from Kansas and this Senator from Utah entered into a friendly wager, which fortunately this Senator from Utah won when BYU beat the team from Kansas.

Satisfying as that victory was for Brigham Young University, the point made by Sports Illustrated is still important. It is the fans on television who support the tremendous amount of money available to these alliance bowls, by tuning in and being available as an advertising audience.

It is those fans who were deprived of the opportunity of seeing the best game available on New Year's Day.

So for that reason, I am delighted to join in this effort to see to it that we do something to see that the antitrust laws apply here and that a conspiracy in a boardroom does not take place to siphon off the heavy money to one group at the expense of not only the other group but also of the fans.

Mr. McCONNELL. Will the Senator yield for a question?

Mr. BENNETT. Yes, I yield.

Mr. McCONNELL. I am not sure it is a question, but rather an observation. Also, the BYU Cougars, as a result of the Cotton Bowl appearance probably—I don't have the figure in front of me, maybe staff does—probably got about $2.5 million as opposed to the roughly $8 million that would have been available had they been selected, as they obviously should have been selected, for an alliance bowl. We are talking not just about bragging rights here, we are talking about real money. We are talking about a $6 million differential, Mr. President. So this is not just putting a trophy in the school gym. This is a big business with huge economic implications.

Mr. BENNETT. The Senator from Kentucky is exactly correct. One of the reasons, I am sure, why the Senators from Wyoming are joining in this effort is that under the rules of the Western Athletic Conference, Brigham Young would not take that money home by itself. It would be shared with the other schools in the conference, one of whom posted a sterling record themselves, the Wyoming Cowboys. They were frozen out of any bowl appearance at all on New Year's Day. They cannot even salve that particular wound with the money Brigham Young would distribute throughout the Western Athletic Conference with participation in an alliance bowl.

As I said before, the money comes primarily from television revenues, and by creating a restraint-of-trade circumstance to hold those television revenues for a certain set of conferences, the leaders of the alliance have damaged every other conference in the country, including schools like Wyoming, which would have received a significant amount of money had it been available to the Western Athletic Conference.

The message out of the alliance is: WAC need not apply, regardless of how their teams are or have ever been.

I yield the floor.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Thank you, Mr. President. Today, I am pleased to join my colleagues, Senator THOMAS from Wyoming, Senator MCCONNELL from Kentucky, and Senator BENNETT from Utah, in urging the Justice Department to exercise its enforcement powers to break the current anticompetitive lock on college football, if football does not do it itself.

I have a special interest in college athletics. I followed college athletics for some years, and I enjoy the excitement and competition of college basketball and football. I especially enjoy the competition in the Western Athletic Conference. My son, Brad, played basketball at the University of Wyoming, and so I watched numerous WAC games, both as a Cowboy fan and as a father. I am disappointed to see the University of Wyoming and other very competitive WAC teams kept out of the top college bowl games because of the anticompetitive College Bowl Alliance. These clandestine agreements keep our players on the bench and in the grandstand when they should be out there on the field.

I think it is interesting we are discussing the anticompetitive effects of the college football alliance in the midst of the NCAA college basketball tournament. The NCAA basketball playoff system, while not perfect, aims to include the finest 64 college basketball teams in the Nation. In this tournament, any of those 64 teams has the possibility of winning the national championship. This arrangement is designed to maximize competition for the benefit of all the players, the fans, and the schools involved. In contrast, the College Bowl Alliance has decreased the competitiveness of college football to the detriment of the fans and schools involved.

The alliance is a coalition of top football college conferences and representatives of the top post-season college football bowls. Over the past few years, the alliance has entered into a number of restrictive agreements designed to divide the market of the most highly lucrative New Year's football bowls. These agreements effectively preclude the nonalliance teams from having access to the most prestigious and lucrative bowl games, even when one of the nonalliance teams has a better record and a higher national ranking than any of the alliance teams. These restrictive agreements are bad for football, and they violate Federal antitrust law.

Just this last January, as you have heard, 2 of the top 25 ranked football teams in the country fell victim to this anticompetitive alliance. Brigham Young University, a member of the nonalliance Western Athletic Conference, finished the year with a remarkable record of 13 and 1 and was ranked 5th in the Nation. Another member of the WAC, the University of Wyoming, finished its regular season with a formidable 10 and 2 record and a national ranking of 22, but it was not given an offer to play in any of the alliance bowls. In fact, as has been mentioned, despite its excellent year, the University of Wyoming was not given the opportunity to play in any postseason bowl game. This came as a great disappointment to the Cowboy fans nationwide.

The alliance is bad for football since, as a practical matter, it prohibits teams from outside the alliance playing the top bowl games. The football games are now taking a back seat to the money games being played behind doors closed to both players and the fans. This has resulted in alliance teams having an institutional advantage in both bowl receipts and future recruiting.

In 1996, the eight alliance bowl participants, including the teams playing in the Rose Bowl, split a total of $68 million. That was eight teams. In contrast, the 28 nonalliance participants divided a total of $31 million. This disparity in financial return is not good business. It results in a built-in advantage for alliance teams in the areas of future recruiting and program development.

The alliance agreement provides unlawful economic protection for its members to the detriment of college football generally. The alliance's market allocation agreements have, in turn, hurt consumers. One poll has shown that college football fans would have preferred to have seen several nonalliance teams, including Brigham Young University and the University of Colorado, in top bowl games. These agreements amounted to changing the rules with 2 minutes left in the fourth quarter. These are precisely the type of market allocation agreements the Sherman Antitrust Act was passed to prohibit.

I strongly urge the Justice Department and the Federal Trade Commission to use their statutory powers to end the alliance's anticompetitive stranglehold on college football if they cannot do it on their own.

I thank the Chair and yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. McCONNELL. Will the Senator from Minnesota just allow me a couple minutes?

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I thank my good friend from Wyoming for his important contribution to this issue and express to our colleagues that we intend to stay interested in this. There is some indication in today's paper that some accommodation to the WAC and to the Conference USA may be forthcoming. But I want to reassure all of those who have been left out that the antitrust case is clear and that the four of us plan to continue our interest in this, if the problem is not solved by the organizations themselves. I thank my friend from Wyoming for his important contribution.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I would like to add one more statement for the edification and information of Senators. The Senator from Wyoming referred to his team's record of 10 and 2. One of those two was a loss to Brigham Young University literally in the last seconds with a field goal that no one expected anybody could make that caused the game to go into overtime, and then Brigham Young won in overtime.

If that had gone the other way, it would have been Wyoming that would have earned the position that BYU was denied. They would have beaten the fifth ranked team, would have had a 10 and 1 record and would have been a clear choice for an alliance bowl. It was BYU's victory over Wyoming that pulled BYU to that level. That is why I am happy to join with him in saying we both got robbed.

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. GRAMS. Thank you very much, Mr. President.

Not to take away from the debate of my fellow Senators and friends here, I still have to just root on our Minnesota Gophers tonight as they take on Clemson in the "Sweet Sixteen" and hope and wish them the best.

THE 90TH BIRTHDAY OF HAROLD STASSEN

Mr. GRAMS. Mr. President, I rise today to pay tribute to the accomplishments and contributions of a great Minnesotan, Harold Edward Stassen, as he approaches his 90th birthday.

Harold Stassen began to make his mark on our Nation's history when he was elected Governor of Minnesota in 1938 at the young age of 31. He was known as the Boy Governor, he was twice reelected and remained the youngest chief executive of any State until 1943.

In 1943, Mr. Stassen resigned from office as Governor to accept a commission in the U.S. Navy. There, he served honorably on the staff of Adm. William Halsey until 1945 and attained the rank of Captain. During World War II, Mr. Stassen earned the Legion of Merit award, was awarded six major battle stars, and was otherwise decorated three times.

One little known fact about Harold Stassen is that he was personally responsible for freeing thousands of American prisoners of war in Japan shortly before that country surrendered in World War II.

According to a 1995 newspaper account, Mr. Stassen spent 2 weeks planning the evacuation of some 35,000 prisoners from POW camps scattered throughout Japan. At the time, there was considerable anxiety that Japanese soldiers would choose to retaliate against the prisoners for their country's loss in the war.

On August 29, 1945, before the official surrender date, Mr. Stassen actually set foot in Japan and began what would be the largely successful implementation of his evacuation plan.

After World War II, Harold Stassen was appointed by President Franklin Roosevelt as a delegate to the 1945 San Francisco conference on the founding of the United Nations. He is now the only living American who participated in the drafting, negotiating, and signing of the United Nations Charter.

Mr. Stassen went on to become an influential advisor throughout the administration of President Eisenhower. This included serving as a member of the National Security Council, as the Director of the Foreign Operations Administration, and as the Deputy Representative of the United States to the United Nations Disarmament Commission.

Mr. Stassen also has made many contributions outside of public life, including his service as the president of the University of Pennsylvania from 1948 to 1953.

However, he will be best remembered for his life-long interest in the United Nations. Since his involvement in the founding of the United Nations, Harold Stassen has maintained a dedicated and passionate commitment to bettering this international organization.

In fact, he has published numerous proposals for reforming the United Nations Charter and has made it his personal mission to educate the American public about the U.N.

Just 2 years ago, we celebrated the 50th anniversary of the United Nations. On April 13th of this year, Harold Stassen will celebrate his 90th birthday. A wide array of national and State officials will come together on this day in St. Paul, MN, to recognize Mr. Stassen.

As we continue our bipartisan efforts to renew and strengthen the relationship between the United States and the United Nations, I think it is fitting to honor one American with a distinguished record of public service who has long supported that effort.

As the chairman of the International Operations Subcommittee, the U.S. Congressional Delegate to the United Nations General Assembly, and also a fellow Minnesotan, I want to wish Harold Stassen a very happy 90th birthday and congratulate him for his accomplishments and many positive contributions to the history of the State of Minnesota, the United States, and the United Nations.

Thank you very much, Mr. President. I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AGRICULTURE IN WASHINGTON STATE

Mr. GORTON. Mr. President, agriculture is a cornerstone of Washington State's economy. Washington State farmers produce over $5.8 billion worth of agriculture products, employ more that 100,000 people, and export nearly a quarter of all their goods to international markets. Without a doubt, Agriculture is Washington's No. 1 industry.

As I travel around the State I have listened closely to the comments, suggestions, and concerns of our State's agriculture community. Farmers and ranchers in Washington have without exception told me they want a smaller and less intrusive Government; a Government that lets farmers, ranchers, and local communities make decisions for themselves; and most importantly, a Government that will step up to the plate and fight for issues that affect their lives. As Washington's senior Senator, I plan to work for just that.

The web of Federal practices, laws and regulations governing agriculture in the United States should offer our farmers consistency, flexibility and market access for their goods. Farmers view the Federal Government, like the weather and seasons, as an outside force to be dealt with. I want to ensure that the Federal Government is a partner with agriculture, instead of an east-coast overseer.

This year, the wheat, barley, canola, pea and lentil, potato, hops, sweet cherry, and apple associations, as well as countless other growers' organizations, have visited me in Washington, DC. From our discussions, I have compiled a list of broad agriculture priorities on which I will focus in the 105th Congress.

I have always had, and will retain, open channels of communication with my State's agriculture communities. Firsthand knowledge of the situations and problems that farmers and growers face is, for me, an invaluable tool as I work on issues that impact their way of life. So, I intend to meet with farmers, ranchers, irrigators, processors, shippers, and other agricultural interests during the April recess to discuss these matters.

For 3 days I will tour eastern Washington to discuss private property rights, tax reform, salmon recovery issues, agriculture research, transportation issues, the Endangered Species Act, trade policies, regulatory relief, the future of the Hanford reach and the reform of immigration policies important to the agricultural communities throughout Washington State.

During my visits to Yakima, Spokane, and the tri-cities, I will discuss my top 10 priorities for agriculture, refine them, and solicit feedback from the various agriculture interests that are affected by a wide range of intrusive Federal policies. My visit to eastern Washington will give me the opportunity to continue discussions already begun with Washington State's farmers, explain my intentions, and reaffirm my commitment to the agriculture community.

To reiterate, the agriculture community's interests are Washington State's interests—Washington's economic health and job base are greatly affected by the success or failure in this sector of our economy. I will therefore pursue my 10 priorities, which I believe will help build a stronger future for Washington State.

Two years ago agriculture communities in eastern Washington gave me the opportunity to work for them, represent their interests, and fight against policies that threaten their livelihood. As their Senator, I will be working aggressively to promote their interests in the 105th Congress.

Mr. President, I take this occasion to thank my friend and colleague from Hawaii who has been here longer than I have and has waited patiently for recognition, allowing my short remarks to precede his longer ones. He is a kind and thoughtful gentlemen.

Mr. AKAKA. Mr. President, I thank my colleague for his appreciation and wish him well during this break.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 490 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

ASIAN-AMERICANS AND THE POLITICAL FUNDRAISING INVESTIGATION

Mr. AKAKA. Mr. President, as we prepare for hearings on campaign fundraising irregularities, I would like to express concern about the negative impact that this issue is having on the image of the Asian-American community.

Mr. President, Asian-Americans are an important part of our body politic. They have made significant contributions to politics, business, industry, science, sports, education, and the arts. Men and women like Senator DAN INOUYE, Kristy Yamaguchi, Tommy Kono, I.M. Pei, David Henry Hwang, An Wang, and Ellison Onizuka have enhanced and invigorated the life of the Nation.

Indeed, Asian-Americans have played a fundamental part in making this country what it is today. Asian immigrants helped build the great transcontinental railroads of the 19th century. They labored on the sugar plantations of Hawaii, on the vegetable and fruit farms of California, and in the gold mines of the West. They were at the forefront of the agricultural labor movement, especially in the sugarcane and grape fields, and were instrumental in developing the fishing and salmon canning industries of the Pacific Northwest. They were importers, merchants, grocers, clerks, tailors, and gardeners. They manned the assembly lines during America's Industrial Revolution. They operated laundries, restaurants, and vegetable markets. They also served our Nation in war: the famed all-nisei 100th/442d combat team of World War II remains the most decorated unit in U.S. military history.

Despite their historical contributions, Asian immigrants and Asian-Americans have suffered social prejudice and economic, political, and institutional discrimination. They were excluded from churches, barber shops, and restaurants. They were forced to sit in the balconies of movie theaters and the back seats of buses. They were required to attend segregated schools. They were even denied burial in white cemeteries—in one instance, a decorated Asian-American soldier killed in action was refused burial in his hometown cemetery. Rather than receive equal treatment, Asians on the whole were paid lower wages than their white counterparts, relegated to menial jobs, or forced to turn to businesses and industries in which competition with whites was minimized.

For more than 160 years, Asians were also refused citizenship by a law that denied their right to naturalize, a law that remained in effect until 1952. Without citizenship, Asians could not vote, and thus could not seek remedies through the Tammany Halls or other political organizations as did other immigrant groups. The legacy of this injustice is seen today in the relative lack of political influence and representation of Asian-Americans at every level and in every branch of government.

Additionally, Asians were denied immigration rights. The Chinese Exclusion Act of 1882 singled out Chinese on a racial basis, and the Gentlemen's Agreement of 1908 and the National Origins Act of 1924 prohibited Japanese immigration—while permitting the annual entry of thousands of immigrants from Ireland, Italy, and Poland. The 1924 law also allowed European immigrants to bring their wives from their homelands, but barred the entry of women from China, Japan, Korea, and India. Even Asians who were United States citizens were prohibited from bringing Asian wives into the country. Conversely, the 1922 Cable Act provided that any American woman who married an Asian would lose her citizenship. It was not until the 1965 Immigration and Nationality Act eliminated immigration by national origins that the vestiges of these legal restrictions were lifted.

Asians were also targeted by laws prohibiting them from owning property. The alien land laws passed by California and other Western and Southern States earlier this century, fostered by nativists and envious competitors, placed heavy obstacles in the path of struggling Asian immigrants and their children that were not faced by others.

Perhaps most egregiously, Asians were denied civil rights guaranteed under the Constitution. The relocation of Asian-Americans from the west coast and Hawaii and their detention in internment camps between 1941 and 1946 is one of the worst civil rights violation in our history. One hundred twenty thousand men, women, and children of Japanese descent, two-thirds of them citizens, were incarcerated behind barbed wire fences, without due process or evidence of wrongdoing, under the grim view of machine gun towers. German-Americans or Italian-Americans did not suffer a similar fate. In the process, Americans of Asian ancestry were torn from their friends, their loved ones, their property, and their faith in the American dream. It was only in 1988, through legislation sponsored by Senator INOUYE, Senator STEVENS, and others who serve in this body today, that the U.S. Government officially apologized for this injustice.

The reasons for historical prejudice and discrimination against Asians are complex, often involving economic or political motives. For example, at one time European immigrant labor groups felt threatened by cheap Asian labor and staged strikes and acts of violence against Asians. Employers cultivated such ethnic antagonism as a stratagem to depress wages for all workers, Asian and European. Nativists used Asians as a foil for their racist philosophies. Politicians cynically exploited anti-Asian sentiment to maintain power. And the press used the "Yellow Peril", the specter of unlimited "oriental" immigration, to sell papers. But at heart, the reasons for anti-Asian practices remain far simpler: Asians looked different, they had accents, they worshipped different gods. They came from cultures and spoke languages that were beyond the narrow experience of traditional, white America.

Thus, Asians and Asian-Americans were targets. Unlike other contemporaneous immigrants—Irish, Italians, Poles, Jews—Asians stood out; they could not blend into the majority white population. Asians were naturally suspect for their skin color and appearance: they looked different so many Americans believed they must be different; that is to say, somehow less than true-blooded American. In many instances, the reaction of Asians was to turn inward, to establish their own communities or ghettoes, like Chinatown or Japantown, or turn to small businesses or farms where they did not have to compete for employment against Caucasians—further isolating and insulating their communities from the rest of American society.

In time, however, Asians became more integrated in American life. The progeny of immigrants were born citizens, spoke only English, watched television and went to the movies, danced to the latest music, and felt they earned their place in society through workplace contributions and military service. As they assimilated, Asian-Americans enjoyed success in many areas of endeavor; in fact, they have been so successful that Asian-Americans have been cited as the "model minority." Today, Asian-Americans tend to have high educational achievement, some are prominent in business and the professions, and they have been cited by social scientists for having community spirit, a sense of fiscal responsibility, and a strong work ethic.

But the model minority image is mythical in many respects. On average, Asian-Americans earn less than Caucasians. There is a significant income disparity between Asians and whites with equal education. Asian-Americans also tend to be located in secondary labor markets, where wages are low and prospects minimal, and occupy lower or technical positions, where income potential is not as great as in the executive ranks. Proportionately fewer Asian-Americans are managers than is the case with other population groups; they constitute less than half of 1 percent of the officers and directors of the Nation's thousand largest companies. In corporate America, Asian-Americans have their own "glass ceiling."

In addition, many Americans mistakenly view the successful assimilation of more established, affluent groups such as Chinese-Americans and Japanese-Americans as the community norm. They do not realize that the community is extremely diverse in terms of ethnicity and recency of immigration. The more recent arrivals from Southeast Asia—for example, Vietnamese, Thais, Cambodians, Laotians—have significantly lower levels of income, education, and occupational advancement.

Perhaps because of their success, perceived and otherwise, Asian-Americans continue to suffer for their minority status. They are periodically targets of hate crimes. The 1982 baseball bat killing of Vincent Chin in Detroit, a scapegoat for the Detroit auto industry's inability to compete with Japan, illustrated America's ignorance about Asian-Americans—Chin was of Chinese, not Japanese, heritage—and the inequality of justice for Asian-Americans—the killers paid a fine of $3,780 and never served jail time. In 1987, teenagers chanting, "Hindu, Hindu," beat a young Indian-American to death. These are not isolated incidents. Last year, a report by the National Asian Pacific American Legal Consortium found that hate crimes against Asian Pacific-Americans grew from 335 incidents in 1993 to 458 incidents in 1995, a 37 percent increase in just two years.

These violent incidents have been paralleled and surely fed by a growing national xenophobia. The fear of things foreign has manifested itself in cutbacks in international programs; the growth of the English only movement; and the passage of California's proposition 187 and Federal legislation to curtail social services to undocumented aliens and legal residents. Fear of Asians and other minorities is also seen in proposals to rollback minority language provisions of the Voting Rights Act and in broadbased attacks on affirmative action in education, employment, and contracting.

I recall that only a few years ago, during the height of the debate over the budget deficit, much was made of the fact that a significant portion of our debt was held by Japan, but overlooked was the fact that both the British and Dutch had far greater investments in United States debt and property than the Japanese. Likewise, Japanese purchases of signature properties like Pebble Beach and Rockefeller Center received sensationalized coverage, but few stories traced the decline and eventual sale of these high-profile investments to other owners.

Today, with the hype and hoopla surrounding Asians and Asian-Americans involved in the fundraising controversy, we see hints of the kinds of anti-Asian treatment that have been practiced in the past.

The first and most obvious of these is the inappropriate and misguided attention paid by the media, commentators, and public figures to the ethnic heritage of those involved in the fundraising controversy. For example, an early Washington Post front page headline trumpeted an "Asian Funds Network." However, upon a careful examination of the article, the reader found the article was principally concerned with Asian-Americans, not Asians. Clearly, in some quarters, "Asian" and "Asian-American" are synonymous, unlike the case with Europeans and European-Americans. In fact, the term "European" Americans is rarely heard in public discourse, because the ethnic origin of European Americans is not presumed to have a bearing on their patriotism.

Despite the fact that Asian-Americans have paid taxes, lived and worked here for several generations, and died in military service, a different standard applies: Asian-Americans are still deemed to have an extraordinary, perhaps sinister, connection to their countries of origin.

Mr. President, I think that I speak for the entire Asian-American community in expressing the hope that we can get to the bottom of this whole controversy, wherever the cards may fall. Those responsible for violations of laws or improper conduct should be identified and appropriately dealt with by the relevant authorities. However, I know that Asian-Americans also agree that the gratuitous attention to the heritage and citizenship of John Huang and other fundraisers is unjust and destructive. According to the press and others, John Huang isn't simply a DNC fundraiser or even an Asian-American fundraiser; rather, he is referred to as a "Taiwan-born naturalized citizen with ties to an Indonesian conglomerate" or, worse, "an ethnic Chinese with overseas connections."

Last fall, during an appearance at the University of Pennsylvania, Presidential candidate Ross Perot erroneously referred to John Huang as an "Indonesian businessman." Later, alluding to the fundraising controversy, Mr. Perot rhetorically asked his audience, "Wouldn't you like to have someone out there named O'Reilly? Out there hard at work. You know, so far we haven't found an American name." The implication of these and other characterizations is that being Asian and naturalized, rather than of European stock and native born, somehow renders one less American.

Mr. President, this hyphenation or qualification of citizenship status is one of the subtle ways in which Asian-Americans are cast as different and therefore suspicious. To some, Asians and Asian-Americans are the Fu Manchus of Hollywood legend—evil, cunning, and inscrutable Easterners who march in lockstep to some hidden agenda. According to this view, being of Filipino or Thai or Pakistani heritage is all the same—if your skin is yellow or brown, you are alleged to share certain invidious characteristics of your race; your individualism fades into a kind of monolithic group identity.

Thus, all Asians and Asian-Americans are, by extension, responsible for John Huang's or Charlie Trie's or Johnny Chung's alleged misdeeds. Furthermore, goes this circular reasoning, since it is accepted that Asians lack individualism, John Huang, Charlie Trie, and Johnny Chung must be part of an Asian conspiracy.

A columnist for the New York Times played on this stereotype when, in a series of editorials last year, he wrote of the "penetration of the White House by Asian interests" and characterized John Huang as "the well-subsidized

Lippo operative placed high inside Clinton Commerce." The columnist also referred to an "Asian connection" which provided contributions through "front men with green cards." Even the respected Wall Street Journal described some of John Huang's donations as coming from "people with tenuous connections to this country," although it is unclear whether it was referring to Asian residents or Asian-Americans.

A more recent manifestation of this stereotype can be found on this week's cover of the National Review, which depicts President Clinton and Mrs. Clinton with slanted eyes, buckteeth, and wearing a coolie hat and Mao cap, respectively, over the headline, "The Manchurian Candidates." This is a true low for reporting standards, more reminiscent of William Randolph Hearst's Yellow Press than of modern journalism. Some irresponsible publications, in the interests of sensationalism, are obviously more than willing to conflate racist stereotypes with modern standards of objective journalism. The President, Mrs. Clinton, and the Asian-American community are owed an apology for this gross affront to decency and taste.

Mr. President, a second major fallout of the fundraising affair is the impression fostered by the media and commentators that legal Asian-American participation in the political process is illegitimate. Charges of undue influence on the part of the Asian-American community have been raised with regard to immigration policy, specifically, the "fourth preference" category that allows siblings of citizens to immigrate.

The press makes much of the fact that Asian-Americans who are concerned about this matter also contributed money to the campaign. Certainly Asian-Americans, the majority of whom are immigrants, wish to be reunited with their families. However, it is improper to imply that contributions to political campaigns by Asian-Americans should be held to a higher standard or any more suspect than contributions by other Americans. This is tantamount to suggesting that the practice of giving to political campaigns should be limited only to non-Asians.

A third troublesome impact of the fundraising allegations is the overhasty and excessive reaction to the issue of legal contributions by permanent residents. In the wake of the "Asian donor" story, proposals have been made to eliminate their eligibility to make political contributions. Alarmed by the public fallout of the controversy, the Clinton administration and the Democratic National Committee have preemptively decided not to accept contributions from permanent residents or U.S. subsidiaries of foreign corporations. And a number of Members of Congress have returned contributions made by permanent residents who are Asian, not because the contributions were illegal but because they feared the public's reaction to their accepting "Asian" money.

Mr. President, I acknowledge that there are legitimate concerns regarding the wisdom of allowing permanent residents to make contributions to political campaigns, apart from the possibility that proscribing such contributions may violate the free speech rights accorded all residents, citizens and aliens alike, by the Constitution. As my colleagues know, the Supreme Court has held that campaign contributions are an activity protected by the first amendment, and that the first amendment rights of legal residents are fully protected.

In this instance, however, I am more concerned by the possibility that the only reason why campaign contributions by permanent residents has become an issue now is because, for the first time, Asians and Asian-Americans happen to be involved in a major way. Evidence of this perhaps can be seen in the DNC's private audit of supposedly suspect contributions.

Reportedly, DNC auditors asked Asian-American donors whether they were citizens, how they earn their money, if they would provide their tax returns, and other intrusive questions, while threatening to tell the press if the donors did not cooperate. Some of the Asian-Americans contacted were longtime political contributors with impeccable reputations, who were naturally outraged. The DNC audit clearly smacked of selective harassment of those who happened to have Asian surnames; it underscores the Asian-American community's fear that they are being asked to pay for the alleged transgressions of a handful of individuals who happen to be of Asian heritage.

Mr. President, a fourth major concern of the fundraising affair is that it has undermined Asian-American leadership opportunities in Government. According to some analyses, the fundraising affair impelled the Clinton administration to drop from consideration the names of University of California-Berkeley Chancellor Chang-Lin Tien and former U.S. Congressman Norm Mineta for the positions of Secretary of Energy and Secretary of Transportation, respectively. Thus far, no Asian-American has ever held Cabinet rank, and only a handful are represented in the senior ranks of Government.

Furthermore, I would not be surprised to learn that every Asian-American candidate for political appointment is currently being scrutinized for contacts he or she may have had, no matter how innocent, with the Asian and Asian-American principals in the fundraising investigation. As a consequence, I greatly fear that promising Asian-American candidates for responsible Federal office will fall by the wayside, victims of guilt by association.

A fifth and perhaps most serious impact of the fundraising story, however, is its long-term effect on Asian-American participation in the political process. Last year, a record 75,000 Asian-Americans registered to vote, a sign of the Asian-American community's newfound confidence and political maturity. I am deeply concerned that biased scrutiny of Asians and Asian-Americans by the press, politicians, and investigators will kill this initial flowering of a historically quiescent and apolitical community, a flowering that led to the historic election of an Asian-American to governorship of a mainland State.

Will this scandal confirm Asian-Americans' fears that the system is rigged against them, discouraging them from participating in the development of public policy in a meaningful way? If so, this would be tragic for a community that is by far the fastest growing in the Nation, which is expected to comprise 7 percent of the population by 2020, and which has so many skills and experiences to offer our country. This tragedy would be compounded for those immigrants recently escaped from the yoke of authoritarianism, who might find the consequences of political activism reminiscent of the penalties experienced in their countries of origin.

In conclusion, Mr. President, as we investigate the fundraising affair, let us remember the bigotry, prejudice, and discrimination faced by Asian immigrants and Asian-Americans as they struggled for acceptance in the New World. Let us recall how they overcame steep social, economic, and institutional barriers to become valuable, contributing members of society.

With this in mind, Mr. President, let us keep our attention on matters of substance—the laws that were possibly broken, the processes and procedures that were bent, the individuals who circumvented or corrupted the system, and most of all what we can do to prevent abuses in the future. These are the real issues at hand.

By the same token, Mr. President, let us avoid focusing on such irrelevancies as the ethnicity of the participants in this affair. Let us cease characterizing individuals by meretricious stereotypes; conversely, let us avoid judging an entire community by the actions of a few individuals. To do otherwise, Mr. President, would be a grave disservice to the seven million Americans of Asian ancestry who are valued and rightful participants in our great democratic experiment.

Thank you, Mr. President. I ask unanimous consent that the text of articles by Robert Wright and Frank Wu addressing Asian-Americans and the fundraising controversy be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Legal Times, Feb. 10, 1997]

The Asian-American Connection—The Campaign Contributions Fiasco and Racial Stereotyping

(By Frank H. Wu)

As Congress prepares for hearings on the campaign fund-raising fiasco arising from the work of Democratic Party official John Huang, the racial aspects of the controversy have become obvious to many Asian-Americans, if not to the general public. But to combat the problem of racial stereotyping in this matter, its presence first must be acknowledged.

Consider the following evidence:

Before the November election, independent presidential candidate Ross Perot commented about the controversy: "You know, so far we haven't found an American name." And: "Wouldn't you like to have someone out there named O'Reilly? Out there hard at work." Likewise, during the campaign, Republican candidate Robert Dole and House Speaker Newt Gingrich warned of foreigners buying the White House. After Bill Clinton's re-election, auditors from the Democratic National Committee began contacting Asian-American donors, asking whether they are citizens, how they earn their money, and if they will provide their tax returns, all the while threatening to tell the press if the donors do not cooperate.

Meanwhile, New York Times columnist William Safire, who seems to have written about nothing else since introducing this scandal to the mainstream media, dubs the controversy the "Asian connection"—the title itself revealing a perceived racial element to the matter. The Wall Street Journal, in its initial series of articles, described Asian-Americans as "people with tenuous connections to this country." Huang himself is almost always referred to as an "ethnic Chinese" with overseas connections, despite his U.S. citizenship and low-key assimilationist approach.

Imagine how odious the same stories would be with a different racial or religious group standing in for Asian-Americans. If Jewish politicos were described as having a "Jewish connection" or portrayed as traitors who represented Israeli interests, many more people might be troubled by the anti-Semitic implications. When Pat Buchanan and Gore Vidal began to verge on such claims in the 1980's, none other than William F. Buckley was prompted to publish a book of essays discussing the "new" anti-Semitism.

Furthermore, nobody has suggested that the ethical lapses of Speaker Gingrich can be traced to his ancestry. Nor do people believe that the disgrace of consultant Dick Morris reflects on his entire racial group. Yet the leading newspapers and television networks continue to focus almost exclusively on Asian-Americans who are alleged to have given money improperly, attributing their behavior to their racial backgrounds, while giving only passing notice to campaign contribution transgressions by whites. (In this past election, after all, it was a Dole adviser who received the heaviest fine ever assessed for a proven case of money-laundering.)

Recently, journalists Robert Wright and Michael Kelly argued over whether l'affaire Huang was an incident of "yellow peril" revisited. Writing in the online magazine Slate, Wright suggested that racism had been used to transform a minor scandal into a case of alleged major wrongdoing. Kelly responded in The New Republic that this view was merely a ploy by the Democrats to avoid answering questions about misconduct.

Despite this focus, Asian-Americans are strangely missing from the scene, the silent subjects of the debate. Asian-Americans cannot afford simply to stand by and allow the attacks on Huang to proceed, without at least asking people to pause before assuming he represents all of us. By the very nature of the allegations, however, Asian-American (as well as Democratic) commentators are assumed to be self-interested or covering up. Moreover, if we do speak out, we look like we are defending not only the behavior of a monolithic community but also the actions of foreign companies. We're in a classic Catch-22 situation.

There have been a few exceptions to this silence. As the scandal was developing last October, the nonpartisan Congressional Asian Pacific American Caucus Institute (CAPACI) held coordinated press conferences in Washington, Chicago, and Los Angeles to denounce the treatment of the Huang matter. Yet the only coordinated Asian-American response to the crisis was given minimal media coverage.

Similarly, the day before CAPACI held its event, the Rev. Jesse Jackson called a press conference in New York. The Rainbow Coalition leader was as supportive of Asian-American political empowerment as he was critical of Indonesian government labor policies. His statements attracted even less attention than did CAPACI's.

Despite the intense media interest in Asian-American involvement in campaign contributions, our positive electoral accomplishments are ignored. Until the president praised him in his State of the Union message last week, how many Americans were aware that Gary Locke, the son of Chinese immigrants, was the first person of Asian descent to win a governorship on the continental United States when he was elected to head the state of Washington last November? Nor was it widely reported that in the last election, Asian-American civil rights and community groups organized an unprecedented nationwide naturalization drive to ensure that eligible individuals became citizens and exercised their rights. Or that a record number of Asian-Americans voted. These stories and others received a fraction of the coverage that the Huang spectacle has attracted.

The nature of the impropriety alleged against Huang also belies a racial bias, or at least a lack of understanding of what constitutes valid national vs. improper special interests. Initially, the nexus between the contributions and public policy decisions was said to be some vague influence on American foreign policy by multinational companies or Asian governments. Later, the alleged "payoff" for campaign contributions was alleged to be related to immigration matters—an issue that clearly is of particular interest to the Asian-American community, but also one of national concern.

Indeed, last year, immigration was the issue dividing the country. The Clinton administration's strategy, like that of moderates in Congress, was to distinguish between legal and illegal immigration: Save the legal immigrants by sacrificing the illegal immigrants.

As it happens, Asian-Americans—a majority of whom are immigrants—generally supported family-based immigration. Like other Americans, many Asian-Americans were especially concerned with protecting the so-called fourth preference, which allows citizens to sponsor their brothers and sisters as immigrants.

Huang recognized the obvious. He organized a dinner bringing together Asian-Americans and the Democratic Party at a lucrative fund-raiser, a dinner at the Hay-Adams Hotel in Washington at $25,000 per couple. President Clinton himself attended the fete.

Huang wrote a briefing memo prior to the dinner stating that immigration would be a key issue for Asian-American voters. President Clinton denies that he ever read the memo. In any event, his administration had already made the strategically sensible decision to oppose abolition of the fourth preference.

Critics have suggested that this series of events demonstrates that the president "flip-flopped" on the fourth preference, sacrificing the interests of the American public in controlling the borders for an infusion of foreign money to his campaign. Such a view, of course, ignores the fact that the people who seek to bring over their relatives are themselves citizens. And the view is based on an erroneous understanding of what the administration's position had been.

In fact, in the past, the Clinton administration had sought only to suspend use of the fourth preference temporarily, until the waiting list was cleared out. It never pushed for outright elimination of the provision. Thus, a misunderstanding of the distinction between interrupting use of the fourth preference and abolishing it may have produced the appearance of impropriety.

Indeed, the scandal is not that Asian-Americans were able to voice our views on immigration, but that we had to look like we were potential donors of large sums of money before we would be heard. Assuming that Asian-American contributors helped save the national tradition of immigration, there is nothing shocking about people trying to bring together their families or actively participating in politics in an effort to do so.

Immigration connects our nation to the rest of the world. Much as the rules of immigration affect citizens along with their immigrant relatives, they also turn on domestic politics blended with foreign affairs. If Asian-Americans and others who care about allowing immigrants to come to this country are motivated by some sort of racial self-interest, then the same might be said of whites and others who wish to close the borders.

There is a better way than to allow political disagreements to degenerate into such suspicions. Otherwise, genuine issues of campaign finance reform will be obscured by racial accusations and counter-accusations.

Slanted—Racial Prejudice Is Part of What Fuels the Clinton Campaign Scandal

(By Robert Wright)

The New York Times runs a lot of headlines about scandals, but rarely does it run a headline that is a scandal. On Saturday, Dec. 28, it came pretty close. The headline over its lead Page One story read: "Democrats Hoped To Raise $7 Million From Asians in U.S." On the inside page where the story continued, the headline was: "Democrats' Goal: Millions From Asians." Both headlines were wrong. The story was actually about a 1996 Democratic National Committee document outlining a plan to raise (as the lead paragraph put it) "$7 million from Asian-Americans."

Memo to the New York Times: "Asian-Americans" are American citizens of Asian ancestry. "Asians," in contrast, are Asians—citizens of some Asian nation. And "Asians in U.S." are citizens of some Asian nation who are visiting or residing in the United States. This is not nit-picking. It gets at the heart of the subtle, probably subconscious racial prejudice that has turned a legitimately medium-sized scandal into a journalistic blockbuster.

Would a Times headline call Polish-Americans "East Europeans in U.S."? (Or, in the jump headline, just "East Europeans"?) And the headline was only half the problem with Saturday's story. The story itself was wrongheaded, implying that there's something inherently scandalous about Asian-Americans giving money to a political campaign. In fact, the inaccurate headline was necessary to prevent the story from seeming absurd. Can you imagine the Times running—over its lead story—the headline "Democrats Hoped To Raise Millions From U.S. Jews"?

Political parties target ethnic groups for fund-raising all the time (as Jacob Weisberg recently showed in these pages). They target Hispanics, they target Jews, they pass the hat at Polish-American dinners. To be sure, the Asian-American fund-raising plan was, in retrospect, no ordinary plan. It went quite awry. Some of the projected $7 million—at least $1.2 million, according to the Times—wound up coming in the form of improper or illegal donations (which, of course, we already knew about). Foreign citizens or companies funneled money through domestic front men or front companies. And sometimes foreigners thus got to rub elbows with President Clinton. For all we know, they influenced policy.

But the truly scandalous stuff was old news by Dec. 27. What that day's story added was news of the existence of this document outlining a plan to raise money from Americans of Asian descent. And that alone was considered worthy of the high-scandal treatment.

Leave aside this particular story, and consider the "campaign-gate" scandal as a whole. What if the same thing had happened with Europeans and Americans of European descent? It would be just as improper and/or illegal. But would we really be so worked up about it? Would William Safire write a column about it every 15 minutes and use the loaded word "aliens" to describe European noncitizens? If Indonesian magnate James Riady looked like John Major, would Newsweek have put a huge, ominous, grainy black-and-white photo of him on its cover? ("Clinton's European connection" wouldn't pack quite the same punch as "Clinton's Asian connection"—the phrase that Newsweek put on its cover and Safire has used 16 times in 13 weeks.) Would the Times be billing minor investigative twists as lead stories?

Indeed, would its reporters even write stories like that Saturday's? The lead paragraph, which is supposed to crystallize the story's news value, is this: "A White House official and a leading fund-raiser for the Democratic National Committee helped devise a strategy to raise an unprecedented $7 million from Asian-Americans partly by offering rewards to the largest donors, including special access to the White House, the committee's records show." You mean Democrats actually offered White House visits to Americans who cough up big campaign dough? I'm shocked. Wait until the Republicans discover this tactic! The Friday after Christmas is a slow news day, but it's not that slow. And as for the "unprecedented" scale of the fund-raising goal: Virtually every dimension of Clinton's 1996 fund-raising was on an unprecedented scale, as we've long known.

There are some interesting nuggets in the Times story. But among them isn't the fact, repeated in the third paragraph, that fund-raisers told Asian-American donors that "political contributions were the path to power." And among them isn't the fact, repeated (again) in the fourth paragraph, that "the quid pro quo promised" to Asian-American donors was "in many cases a face-to-face meeting with the President." And, anyway, none of these nuggets is interesting enough to make this the day's main story. The only way to do that is to first file Asian-Americans in the "alien" section of your brain. That's why the story's headline is so telling.

The funny thing about this scandal is that its root cause and its mitigating circumstance are one and the same. Its root cause is economic globalization—the fact that more and more foreign companies have an interest in U.S. policy. But globalization is also the reason that the scandal's premise—the illegality of contributions from "foreign" interests—is increasingly meaningless. Both the Times and the Washington Post (in its blockbuster-lite front-page story, the next day) cited already-reported evidence that a $185,000 donation (since returned) may have originated ultimately with the C.P. Group. The C.P. Group is "a huge Thai conglomerate with interests in China and elsewhere in Asia" (the Times) and is "among the largest foreign investors in China" (the Post). But of course, Nike, Boeing, General Motors, Microsoft, IBM, and so on are also huge companies with interests in China and elsewhere in Asia. They, no less than Asian companies, at times have an interest in low U.S. tariffs, treating oppressive Asian dictators with kid gloves, and so on. Yet it is perfectly legal for them to lubricate such lobbying with big campaign donations.

Why no journalistic outrage about that? Well, for starters, try looking at a grainy newsweekly-sized photo of Lou Gerstner and see if it makes you remember Pearl Harbor. (By the way, neither the Times nor the Post noted that the ominous C.P. Group is involved in joint ventures with Ford and Nynex.)

You might think that, in an age of globalization and with the United States' fate increasingly tied to the fate of other nations, the United States' best newspaper would be careful not to run articles that needlessly feed xenophobia. Guess again. Six weeks ago a Times op-ed piece by political scientist Lucian Pye explored the formidable mindset that governs China today. Current Chinese leaders have "distinctive characteristics" that give them "significant advantages" over the United States in foreign policy. They "see politics as exclusively combative contests, involving haggling, maneuvering, bargaining and manipulating. The winner is the master of the cleverest ploys and strategems [sic]." Moreover, Chinese leaders are "quick to find fault in others" and try "always to appear bold and fearless." Finally ("in a holdover from classical Chinese political theory"), China's leaders "insist on claiming the moral high ground, because top leaders are supposed to be morally superior men." In short, China's "distinctive" edge lies in combative, Machiavellian, mud-slinging, blustery, self-righteous politicians. Gosh, why didn't we think of that?

These peculiar traits, Pye noted, aggravate another disturbing feature of modern China. It seems that the Chinese people vacillate "between craving foreign goods and giving vent to anti-foreign passions." in other respects, too, they evince a "prickly xenophobic nationalism." Imagine that.

LINKS

Feel free to read the Times story that got me so exercised (the Times Web site requires that you register before serving you the page; registration is free). Or, instead, you can subject yourself to my further exegesis on appropriate ethnic terminology. You can also view the grainy Newsweek cover featuring Asian-American James Riady—the Oct. 28 issue, which is headlined "Candidates for Sale: Clinton's Asia Connection." From Slate's "The Compost," read Jacob Weisberg's column about the history of fund-raising fraud in the United States and Eric Liu's piece damning the press for painting Asian-Americans a having dual loyalties. PoliticsNow begins the new year with a feature, titled "1996 Yearbook; Scandals," that covers the fund-raising issue. Visit the DNC Web site for a more positive portrayal of the embattled organizations.

EPA'S COSTLY REGULATIONS

Mr. BYRD. Mr. President, the Environmental Protection Agency has proposed new rules to modify the ambient air standards for ozone and particulate matter. I recently wrote to the EPA and urged the agency to reaffirm the current standards, conduct additional monitoring of particulate matter and related air quality issues, and allow our States to complete action on the ambitious clean air standards that are already in place before implementing additional regulations. I was joined in this letter by Senators ROCKEFELLER, FORD, GLENN, and ROBB.

These proposed rules have been extremely controversial, and have been sharply criticized by State Governors, municipal leaders, and business organizations. I have recently been made aware that these rules have also been criticized by other Federal agencies.

During the interagency review of these rules overseen by the Office of Management and Budget, several Federal agencies submitted comments which questioned many aspects of the proposed rules, including their scientific basis and cost effectiveness. These comments are part of the public record. Judging by the tone of the comments from the interagency review process, it appears that many Federal agencies are concerned about these proposed rules.

In but one example, the EPA has stated that the total national cost of implementing the ozone rule would be $2.5 billion. However, the Council of Economic Advisers has stated that the cost of full attainment of just the ozone rule could be $60 billion, or $57.5 billion more than estimated by the EPA. This is a substantial discrepancy. The Department of Transportation, in its initial interagency review submission, concluded that "it is incomprehensible that the administration would commit to a new set of standards and new efforts to meet such standards without much greater understanding of the problem and its solutions." The U.S. Small Business Administration stated that EPA's proposed regulation "is certainly one of the most expensive regulations, if not the most expensive regulation faced by small businesses in 10 or more years." The SBA said that "considering the large economic impacts suggested by EPA's own analysis that will unquestionably fall on tens of thousands, if not hundreds of thousands of small businesses, this (proposal) would be a startling proposition to the small business community."

I understand that some of these Federal agencies had also planned on submitting comments to the EPA as part of the public comment period. However, the Oil Daily, a trade publication, has reported that these agencies were prevented from doing so. The Oil Daily reported that "according to a leaked memo, the agencies were muzzled [by OMB] * * *" The article further quotes the memo as instructing agencies that "based upon reports from a meeting this morning * * * Federal agencies will not [I repeat not] be transmitting comments on the EPA proposals."

Although the agencies provided critical comments during the interagency review process, there is no evidence that the proposed rules were significantly modified to reflect their concerns. OMB cannot, therefore, defend its "muzzling" of Federal agencies—as characterized by the Oil Daily—by arguing that the proposed rules reflect the collective wisdom and judgment of Federal agencies, when the exact opposite is the case. I would also note that the interagency review comments from last fall are part of the public record, and so there is no reason why the agencies could not also submit comments during the public comment period. EPA and OMB are apparently holding conversations with some of the Federal agencies, but the critical comments of other agencies will not be shared with Congress and other interested parties. On its face, this becomes a private comment period, rather than a public comment period.

I am disturbed by this apparent lack of candor and public accountability on the part of the administration in discussing these rules. These proposed rules will impose significant costs, not only on our Nation, but also on Federal agencies themselves. Many agencies and departments operate facilities that will be directly affected by these rules. As the ranking member of the Senate Appropriations Committee, I believe that these impacts and costs must be considered and reviewed as part of the appropriations process.

I am, therefore, today writing to various Federal agencies requesting that these agencies individually comment on the cost of the proposed EPA rules, both with regard to the operations of the individual departments, and upon that aspect of the Nation's infrastructure that is regulated by the departments in question. I am also writing to the Director of the Office of Management and Budget, requesting his comments on the cost of these proposed rules to the Federal Government in its entirety.

As our Nation strives to balance the budget, while at the same time providing Federal programs and services desired by the public, it is important that the significant costs of new regulations, such as these, be made available and taken into account as part of the budget process.

Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, I do not want to take much time. Am I correct in assuming that the Senate is ready to recess shortly?

The PRESIDING OFFICER (Mr. ABRAHAM). The Senate is still waiting for the House with respect to the adjournment resolution.

(The remarks of Mr. DOMENICI and Mr. GORTON pertaining to the submission of S. Con. Res. 16 and S. Con. Res. 17 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, with the concurrence of my good friend from North Dakota, I will just proceed for a moment.

HAPPY BIRTHDAY TO SENATOR DANIEL PATRICK MOYNIHAN

Mr. LEAHY. Mr. President, on March 16, Daniel Patrick MOYNIHAN, the senior Senator from New York State, turned 70. Senator MOYNIHAN has been referred to, quite properly, as the intellectual of the Senate and called by many, a renaissance man. I mean no disrespect when I say that during a couple of the gatherings of the Irish on March 17, he was also referred to as the "World's Largest Leprechaun."

To me, Senator MOYNIHAN is a good friend and a mentor, a wise voice that I heard before I was in the Senate, and since. He is a man who has spoken with great prescience on issues involving families and the economy, global power and welfare reform, on so many things.

Senator MOYNIHAN has served in administrations of both Democrat and Republican Presidents. He has always been ahead of his time, sometimes with a controversial voice that then turns out to be the only accurate voice.

Like all other Senators, I wish him very well as he heads into the latest decade of his life.

Mr. President, I ask unanimous consent that a column by David Broder entitled "The Moynihan Imprint" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 16, 1997]

THE MOYNIHAN IMPRINT

(By David S. Broder)

Today is the 70th birthday of a unique figure in the public life of this nation for the past four decades, the senior senator from New York, Daniel Patrick Moynihan. Tomorrow, a day-long symposium and a celebratory dinner at the Woodrow Wilson Center will make it clear just how large Moynihan's legacy is.

Previewing the papers to be delivered, as Georgetown professor Robert A. Katzmann, a onetime student of Moynihan's and organizer of the tribute, allowed me to do, was a reminder of just how rich and varied the New York Democrat's contributions have been.

He has been prescient about subjects as diverse as the crisis of the American family and the breakup of the Soviet Union. As his fellow scholar Seymour Martin Lipset points out, his 1965 report for President Johnson, titled "The Negro Family: The Case for National Action," was bitterly controversial at the time. But 30 years later, everyone has come to understand that the wave of out-of-wedlock births and the scarcity of jobs in the inner cities are overwhelming the welfare system and threatening the stability of the whole society.

As Michael Barone of Reader's Digest notes, it was Moynihan in January of 1980 who said that "the defining event of the decade might well be the breakup of the Soviet empire."

Moynihan was unable to persuade his colleagues in government to move in timely fashion to head off the family crisis he discerned, or to curb the excessive costs of the 1980s arms race with the Russians.

But as Stephen Hess, his deputy in the Nixon White House, and half a dozen others argue, he was a shrewd and often successful operative in policy jobs and diplomatic posts under four presidents (two of each party) and for the last 20 years as a member of the Senate.

For all his focus on social problems, Moynihan has left a strong physical imprint on the nation as well. In his Labor Department days under President Kennedy, he managed to rewrite the architectural standards for government buildings and to launch the rehabilitation of Pennsylvania Avenue into what is now nearing completion as the grand ceremonial thoroughfare of the Republic.

As a senator, Moynihan six years ago fundamentally redirected national transportation policy by converting the traditional highway program into something grandly called the Intermodal Surface Transportation Efficiency Act—a charter for states and communities to use federal funds for mass transit as well as roads. Characteristically, as another paper points out, he had written a magazine article as far back as 1960 on the negative impact the highway-building boom of the 1950s was having on older cities like New York.

Sweeping as they are, the papers to be delivered tomorrow do not embrace all the aspects of the Moynihan persona. Together with his wife, Liz, a warmhearted woman with the toughness it takes to have run most of his campaigns, Moynihan has a great gift for friendship, a talent for keeping score of slights or rebuffs—and a really wicked sense of humor.

On the last point, a speech that Moynihan delivered at a Gridiron Club dinner during the Reagan administration remains indelible in the memories of all who were there. It was his idea to explain to a bemused President Reagan that David Stockman—Reagan's precocious but controversial budget director, who had been a live-in baby sitter of the Moynihans during his Harvard graduate student years—was in fact a Democratic mole who had been programmed to subvert the Reagan presidency from within. It may have been the funniest Gridiron speech ever.

I also cherish the memory of a Moynihan speech in Philadelphia during the Democratic presidential primaries of 1976. Moynihan was supporting his great friend, Sen. Henry M. "Scoop" Jackson of Washington, and had been dispatched by the Jackson campaign to fire up a dinner audience of labor union Jackson backers. They were, of course, drunk and boisterous by the time he arose, but Moynihan delivered a scholarly discourse on the forces shaping the American economy and the Western alliance, worthy of a Harvard seminar. And when he got around to his candidate, a man of sterling qualities but no great pizazz, he was inspired to describe Jackson with one of the most gracious phrases ever applied to someone who was really boring. "Our candidate," said Moynihan, "is blessed with the charisma of competence."

The union guys had no idea what the hell he meant, but they knew it deserved applause. That's the way many of us in the press feel about Moynihan. He's sometimes over our heads, and often light years ahead of us. But we know he's something special.

Mr. LEAHY. Mr. Broder speaks far more eloquently than I could of what Senator MOYNIHAN has done and continues to do as he climbs new heights every year.

Mr. President, I also ask unanimous consent that an article from The Hill of Wednesday, March 19, entitled "The Senate's Renaissance Man Turns 70," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Hill, Mar. 19, 1997]

DANIEL PATRICK MOYNIHAN—THE SENATE'S RENAISSANCE MAN TURNS 70

In a public career spanning three decades in the groves of academe and the halls of government, Sen. Daniel Patrick Moynihan (D-N.Y.) has helped shape public policy on a wide range of issues that bear on almost every major aspect of American life.

Thus, when he turned 70 on St. Patrick's Day, a group of Moynihan's friends, aides, colleagues and supporters used the occasion to highlight his accomplishments at a day-long celebration at The Woodrow Wilson Center.

The four-term senator, former U.S. ambassador to India, former Harvard professor and aide to three presidents was the guest of honor at a dinner culminating the tribute to "The Intellectual as Public Servant," excerpts of which follow.

(By Michael Barone, Senior Staff Editor, Reader's Digest)

Harry McPherson, writing about the Senate of the 1950s, described a Senate dominated by "whales" and populated otherwise by 'minnows.' But the Senate in which Daniel Patrick Moynihan took his place was quite another place. The senators after whom the three Senate office buildings were named had all died—Richard Russell in 1971, Everett Dirksen in 1969, Philip Hart in 1976. Sam Ervin had retired in 1974 and William Fulbright was beaten that year. Hubert Humphrey was battling the cancer that killed him in 1978 and his old adversary James Eastland would retire that year. Lyndon Johnson and Robert Taft were long gone. Mike Mansfield had retired and the new majority leader, Robert Byrd, was regarded as a technician, in an office that carries none of the great powers appertaining to the Speaker of the House. Fully 18 of the 100 senators in January 1977 had been elected for the first time. CBS News had to rent the large room in the Sheraton Carlton Hotel and repaint it for their "Meet the Senators" program. This was a heavily Democratic Senate, but a Senate without driving Democratic leaders, and a Senate which knew little or nothing about its new Democratic president. It was a Senate in which political and policy entrepreneurs could articulate their ideas and advance their causes: not a bad place for a Renaissance man. "In this Senate, you do your work in committees, not on the floor," Moynihan has said. And so Moynihan's first and perhaps most important decisions were what committees to serve on. He had confronted the question in a debate in the 1976 primary, unsure at first how to answer. His opponents gave predictable answers—Labor, said one, because that is where the great urban aid programs are drawn up; Foreign Relations, said another, the forum for the great debates on the Vietnam War; another said Judiciary, which handled civil rights. Moynihan's answer: "Finance. Because that's where the money is."

(By Nicholas N. Eberstadt, Visiting Scholar, American Enterprise Institute)

Anyone even vaguely familiar with his long and distinguished career will already know that Daniel Patrick Moynihan is a polymath. For over four decades, this sometime speechwriter, political adviser, domestic affairs counselor, diplomat and senator has also occupied himself, with seeming effortlessness, as an established expert—in fact, a pre-eminent authority—in an unnerving multiplicity of intellectual disciplines and academic fields: among them, American history, architectural criticism, arms control, educational policy, ethnology, income policy, international law, public finance, public policy research and evaluation, the sociology of the family, and urban planning. As a habitual and evidently incorrigible trespasser in the sometimes jealously guarded fields of specialized learning, it should come as no surprise that Moynihan's intellectual ambit has taken him into many other areas not enumerated above.

(By Suzanne Garment, Resident Scholar, American Enterprise Institute)

The foreign service will never be composed of Moynihans—and a good thing, too. The international political system would collapse under the pressure. Still, every so often the debate resumes about whether the foreign service is professionalized enough and whether too many ambassadorial appointments are going to outsiders who do not have "ambassadorial temperament." When we hear this argument, we should remember that making reasonable room for outsiders is necessary if we are to have room for the Moynihans, and that having one Moynihan around at a crucial foreign policymaking juncture makes it worthwhile to put up with entire troops of lesser professionals in the ambassadorial ranks.

(By Robert A. Katzmann, Walsh Professor, Georgetown University, The Brooking Institution)

But for the 20th Amendment, March 4, 1997, would have been the day the nation inaugurated its president. Instead, it may come to be remembered as the day when the nation began to change its mindset about secrecy in government. For that is when the Commission on Protecting and Reducing Government Secrecy issued its report.

Most commissions receive scant attention. Rare is the commission report which has a life beyond its issuance; most are consigned to the microfiche collection in the basement of some federal depository library. But this report on secrecy would be different because of its chair, Sen. Daniel Patrick Moynihan.

If the typical commission is concerned with moving organizational units from one place to another, this would seek to change the way we think about a problem so as to better address it. It is vintage Moynihan—using an instrument of government, in this case a commission, to shape the very definition of policy and its debate.

(By Stephen Hess, Senior Fellow, The Brookings Institution)

Sen. Moynihan is the political man of ideas. Some are his own, some he borrows, some are cosmic, others more modest: Our generation greatest spotter of ideas that might make our society somehow better. This is a remarkable talent. But what turns it into a national treasure is a finely attuned antenna for knowing when an idea is ready for the public arena, the skill to be in positions to make his ideas matter, and the flair to make others notice. It is a harnessing of intellectual energy and political smarts that is so rare that when such a person is also blessed with long life, we must create opportunities to celebrate.

(By Seymour Martin Lipset, Hazel Professor of Public Policy, George Mason University)

Why was Moynihan so prescient? I would say because he has known from the start that there is no first cause, not in politics, not in social science.

What Pat teaches is that not only are there no utopias, there are no solutions, not in the state or in the completely uncontrolled market. There are only approximations, only the continuing struggle for decency, for morality, for equality of opportunity and respect.

(By Robert A. Peck, Commissioner, Public Buildings Service)

What did he know and when did he know it? Ask this about Pat Moynihan in the matter of public works and, as in so many other fields of public policy, the answers are: more than everyone else and long before, as well. In public works, as in other arenas, he has transformed the debate. Public architecture he single-handedly disinterred from the grave and resurrected on the political agenda. If you would see his monuments in this field, look about you literally.

On public buildings, urban design, highways, transit, waterways, water supply and even sewers, he has brought to bear his trademark qualities; an eclectic historical memory, a rapier tongue and typewriter, a nose for demography and geography, an inner ear for the data that matter and immunity to ideological blinkering. In this field in particular Moynihan the political vote-counter and Moynihan the passionate

> New Yorker rival Moynihan the political scientist. Moynihan's achievements are worthy of the great public builders, from Hadrian to Hausmann to Robert Moses, only Moynihan's are humane.

Mr. LEAHY. Mr. President, I thank the forbearance of my good friend, the senior Senator from North Dakota, and I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I want to thank the Senator from Vermont for his observations on the ranking member of the Finance Committee, who is really an American legend.

I also want to just say to my colleague, Senator BUMPERS, who is coming on the floor, that I will be brief so that Senator BUMPERS can have his time. And I look forward to hearing his remarks.

THE BUDGET

Mr. CONRAD. Mr. President, let me just say that Senator DOMENICI, the chairman of the Budget Committee, has come to the floor this afternoon and presented two possible budgets. One is the President's budget, but without the trigger mechanism the President provided to assure balance even if the Congressional Budget Office projections are the ones that are used.

The President's budget, of course, reaches unified balance by the estimates of the Office of Management and Budget, but it does not reach balance by the estimates of the Congressional Budget Office. And I want to emphasize, "unified balance." All of us need to understand that is not real balance.

Nobody should be fooled anywhere about any of these budgets that talk about balancing on a so-called unified basis, because when they use that big word, what they are talking about is putting all of the trust funds into the pot to claim balance. So I think it is important to understand I do not believe any of these budgets that claim unified balance are really balanced budgets at all.

But, with that said, I think it is also important to understand when you hear these differences between Office of Management and Budget projections and Congressional Budget Office projections, the fact is both of them over the last 4 years have been overly pessimistic. They have overestimated what the deficit would be. And I think that is also important to keep in mind.

As I understand it, the Senator from New Mexico, the chairman of the Budget Committee, offered the President's budget but without his trigger mechanism. Why did the President not balance according to CBO's projections? Well, very simply, when he did his budget he did not have available to him the CBO baseline. He did not have available the CBO projections. Although he asked for them, and asked for them repeatedly, they were not prepared in time.

So in order to fulfill his responsibility to present a budget, he used his Office of Management and Budget projections, which, again, I emphasize have been overly pessimistic, not a rosy scenario, overly pessimistic over the last 4 years in order to present a budget. He provided a trigger mechanism so that if, in fact, CBO's projections were different, were even more pessimistic than his own Office of Management and Budget's, that he could still be in unified balance by the year 2002.

I also understand the Senator from New Mexico has offered a second budget that has no tax cuts or no net tax cuts and also has very deep cuts in domestic discretionary spending. When we use the term "domestic discretionary spending," what we are talking about is that category of spending that includes education, roads, bridges, airports, parks. Those are the categories of spending that are included in so-called domestic discretionary spending.

Mr. President, if I could, the reason I came to the floor this afternoon was to try to put this all in some perspective. Because I think unless people have an idea of what we are talking about in terms of the estimated expenditures of the Federal Government over the next 5 years and the estimated revenues and where the money goes, it is very hard to understand the nuances of these budget discussions.

This chart shows over the next 5 years what we are anticipating spending from the Federal Government: $9.3 trillion. The revenue that is forecasted for the Federal Government over the next 5 years is here in this block: $8.5 trillion.

So it is readily apparent that we are faced with a circumstance that, without change, we are going to be adding $800 billion to the national debt.

Unfortunately, our friends on the other side of the aisle in Senate bill 2, which means clearly that is one of their highest priorities, says the first thing to do is to cut the revenue anticipated by $200 billion. So they take this sliver off to start with. They reduce our revenue from $8.5 trillion down to $8.3 trillion as the initial step in addressing this gap between expenditure and revenue. It makes no sense to me why you would dig the hole deeper before you start filling it in. That is what our friends on the other side of the aisle have been talking about.

Instead of addressing this $9.3 trillion worth of expenditures with $8.5 trillion of revenue, they say cut it to $8.3 trillion of revenue to begin with. So now we have $1 trillion that will be added to the national debt.

Mr. President, this chart shows where the money is going to be going over the next 5 years. This is where the money is scheduled to be spent, and I think this is what our friends across the way are struggling with as they struggle to come up with a budget resolution. Where are you going to cut? If we can see we are faced with adding $1 trillion to the national debt based on scheduled spending and scheduled revenues, and they start out by first taking $200 billion of revenue away, so you create a $1 trillion hole to fill in, where are you going to cut?

Here is where the money is scheduled to go: Social Security, $2.1 trillion of the $9.3 trillion that we are scheduled to spend over the next 5 years. Interest on the debt, $1.3 trillion. Clearly you cannot cut interest on the debt. Everybody is against cutting Social Security. Those two alone are 37 percent of the scheduled expenditures. Defense, $1.4 trillion, another 15 percent. We do not hear much of anybody talking about cutting defense. So you start adding it up, defense is 15 percent, Social Security is 23 percent, which is 38 percent, and interest on the debt is 14 percent. That is 52 percent of the scheduled expenditures which nobody is talking about cutting.

That takes us to Medicare, $1.3 trillion, or another 14 percent of Federal expenditures. Medicaid, $600 billion, about 7 percent of Federal expenditures over the next 5 years. Other entitlements. We use that terminology and it refers to things like retirement, nutrition for children, welfare. Those are things that are in the categories of "other entitlements."

Then there is nondefense discretionary spending, which I referred to earlier and which Senator DOMENICI, in the second budget that he laid down here, would cut very deeply. He would cut from an unconstrained baseline $263 billion out of this category. That is a tremendous amount of money out of defense and nondefense. Those two are called discretionary spending. From the nondefense discretionary side, the budget he just presented would cut $183 billion out of a total that we are scheduled to spend over the next 5 years of $1.5 trillion. Again, what we are talking about there is education, roads, bridges, airports, parks, law enforcement.

Do we really want to be cutting those areas in the magnitude of the budget that the chairman of the Budget Committee has laid down? I do not think so. I do not think Senator DOMENICI thinks so. In fact, I am quite confident he does not think so. He is just making a point with the second budget he laid down of what it would take even with no tax cuts to achieve unified balance. Remember, unified balance is not balance at all. That is when you take all the money from all the trust funds and throw those into the pot to claim that you are balancing the budget.

I hope this puts in some perspective what it is that we face this year. This is not going to be easy. That is, hopefully, the message that I have communicated here. When you look at what the scheduled revenue is of the Federal Government—maybe we could show that chart again—$9.3 trillion are the expenditures, and we are scheduled to have $8.5 trillion of revenue. If the first thing you do is take $200 billion out of the revenue column, now you are at $8.3 trillion, and you have $9.3 trillion of expenditures, you have $1 trillion added to the national debt. Is that what we want to do? To have the kind of massive tax cut that some have talked about, you have to borrow it all. Does that make sense? Should we borrow money to have a tax cut? Does that make sense to people? We already have a $5 trillion national debt. How deep in the hole are we going to go around here before we respond?

Mr. President, these are the major categories of Federal spending. I think one can see that if we are going to be serious about balancing the budget and doing it in an honest way, we have a tall order in front of us. Talking about tax cuts of $200 billion over the next 5 years, which our friends on the other side of the aisle have put up as their Senate bill No. 2, really makes no sense to me. It especially makes no sense when you look at what happens to that tax cut proposal in the second 5 years. This is not just a matter of reaching some kind of balance in the year 2002. We have to be looking over the horizon here, because the real challenge is, where is this all going? The real challenge is we have the baby boom generation coming along, and they are going to start retiring in the year 2012, and they will double the number of people almost overnight eligible for our major programs.

We are headed for a circumstance in which, if we fail to change course, we are going to either have an 80 percent tax rate—yes, 80 percent; does anybody believe we will do that?—or a one-third cut in all benefits. Cut Social Security one-third, cut Medicare one-third, cut all veterans benefits one-third. Those are the kind of draconian options that will be presented to this Congress and a future President if we fail to act.

We have a responsibility to respond. I submit that having tax cuts of $200 billion over the next 5 years that explode to $500 billion over the next 10 years is not rational, is not responsible, is not the way to begin to fill in the hole. I have never seen anybody that went out to fill in a hole and the first thing they did was dig it deeper. It makes very little sense to me.

I hope that Senator DOMENICI, by presenting these budget options this afternoon, sobers up people on both sides of the aisle here, sobers up those who think that we can have massive tax cuts. That is not in the cards. That is not serious if people are going to be honest with the long-term fiscal imbalances this country faces. That is not facing it head on or squarely. Also, I hope it stands as a message to people on my side of the aisle, some who are opposed, for example, to correcting the Consumer Price Index that we use to adjust for the cost of living. The evidence is overwhelming that we are making an overcorrection for the cost of living by as much as perhaps 1 percent a year. It sounds like a small amount, but it makes a big difference over time. That 1 percent mistake will cost the U.S. Government $1 trillion over the next 12 years. Some on my side say we cannot touch that.

If we can't touch that, and the other side says we have to have a big tax break, you begin to wonder what can we do around here? Goodness knows, if we can't correct a mistake, which I believe the CPI is in terms of adjusting for the cost of living based on the best evidence that we have, what can we do? If our friends on the other side want to have dessert before we start eating our vegetables in the face of this enormous challenge of these long-term fiscal imbalances, then how serious are they really about addressing the challenges facing America's future?

We have an opportunity here to do something great for America, because this isn't just some dry discussion about making columns of numbers add up. That isn't what this is about. This is not a counting exercise. This is about the future economic strength of America. This is about what kind of jobs are going to be available for our kids. This is about what kind of life future Americans are going to enjoy. This is about the competitive position of America. That is what is at stake. It is not just some dull, lifeless debate about balancing a budget. This discussion is about what we can do to strengthen America for the future and the difference that we can make in the lives of the people of our country by being responsible now, because what we have been told is, if we balance this budget in this window of opportunity we have before the baby boomers start to retire, our economy in the future will be 30 percent larger than if we fail to act.

Some may be listening to this saying, "Wait a minute. I am lost. What is the connection between balancing the budget now and having a bigger economy later?" It is very simple, but it is very real. If we are going to grow the economy, if we are going to make it bigger, if we are going to have more jobs, we need investment. To have investment you have to have savings. The biggest threat to savings in this country is the deficits that the Federal Government runs, because those deficits take money out of the pool of savings of our society.

That is why this debate matters. It is perhaps the single most important debate we will have in this Congress this year. If we all do it seriously and honestly and face our responsibilities squarely, we can do something great for our country.

I thank the Chair. I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President.

THE NOMINATION OF PETE PETERSON

Mr. DURBIN. Mr. President, I rise this evening to address an issue which is one that many of us have labored over for decades, the legacy of the Vietnam war.

So many people have said and written that the returning veterans did not receive the credit which they deserved for putting their lives on the line for our Nation. Regardless of the wisdom or popularity of that war, so many of those veterans came home and, frankly, found it difficult to start their lives again in America.

In this Congress of the United States about 12,000 men and women have served in the House of Representatives, and it is my understanding that 1,843 men and women have served in this U.S. Senate.

It was my good fortune to serve in the House before I came to the Senate and my better fortune to meet an extraordinary individual in the House of Representatives, a Vietnam veteran, who had an amazing story to tell. This colleague of mine in the House from the State of Florida, Pete Peterson, was an Air Force pilot in the Vietnam war. Pete served 27 years in the Air Force. He gave most of his adult life in service to his country. But the most amazing part of his service in Vietnam was not in an airplane in the clouds but on the ground. For 6½ years Pete Peterson was a prisoner of war in Vietnam.

He is a very soft-spoken and friendly person. He hardly ever brings up the subject about his military service. But one day over lunch, I said, "Pete, if you are not uncomfortable to talk about it, tell us what you remember about those 6½ years." For the next hour Pete spoke and answered our questions from his colleagues in the House. I will tell you that my memory of that conversation will be with me for the rest of my life. To try for a moment to envision or imagine what it must have been like to spend 6½ years in a prison camp in North Vietnam is almost beyond any of us. He talked about the deprivations, physical and mental, and how he managed to survive.

Pete is not one to boast about it. He is not alone in having gone through that experience. Our colleague from Arizona, Senator JOHN MCCAIN, had a similar experience as prisoner of war in

Vietnam. I have not spoken to my colleague, JOHN MCCAIN about it. But I read about it in a book published recently entitled "The Nightingale Song," which told the history and the story of others who went through that experience.

The interesting thing about Pete Peterson is that he came out of that experience, went to work in Florida, and decided that there was more to give to this country. So he ran for the U.S. House of Representatives and was elected.

Then in April of last year President Clinton turned to then Congressman Pete Peterson and asked him to undertake what was a major responsibility, to serve as the first U.S. Ambassador to Vietnam. It was a controversial posting. Some in this body and others really questioned whether or not we should have diplomatic relations. But many, like Pete Peterson and JOHN MCCAIN, believe that we have reached that moment in history where the best thing for both of our countries is to have diplomatic relations. I thought the President made a wise choice.

Those who watched the program 60 Minutes which was on last Sunday night may have seen the segment about Pete Peterson, once a downed pilot in a rice paddy in Vietnam, pushed away into a prison camp for 6½ years, now with the opportunity to return as the Ambassador from the United States of America to Vietnam and, I am certain, to return to that same village and meet the people who held him at bay and pushed him into that prisoner-of-war camp.

So Pete Peterson's name was put up and suggested, and the reaction was positive. People said what a fitting choice to take someone who has been through this life experience, who has endured this time as a prisoner of war, and to ask him to serve as our Ambassador in Vietnam.

Of course, his name was submitted to the Senate at that point for confirmation. Some problems arose and questions about whether or not as a sitting Congressman he could be appointed to a post that was created during his term in office. But after all was said and done, his name was resubmitted this year in January, and he received a favorable hearing in the Senate Foreign Relations Committee. In fact, his sponsors at his hearing included not only his home State Senator, Senator GRAHAM of Florida, but also Senator JOHN MCCAIN, a man from the opposite side of the aisle who identified with Pete's experience and said that he would be an excellent choice as the Ambassador to Vietnam.

So we come this evening to the Chamber in the hopes that we can make it clear that his name, Pete Peterson's name, will come before this Senate for consideration and, I hope, confirmation in the very near future.

The majority leader, Senator LOTT, and I had a conversation on this subject earlier in the day. He was kind enough to return to the Chamber for this moment to speak to this issue. I thank my colleague for doing that. I will at this point yield the floor so the Senator from Mississippi may make comments on this confirmation of Pete Peterson.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. If the Senator from Illinois will yield, I will be glad to respond to his comments. They have certainly been very good ones.

We all understand and appreciate and agree with the remarks about the tremendous service and the quality of man that Pete Peterson is. I am satisfied that he would be a great representative for our country in any position, whether it be an easy one, great luxury, or a tough one, as this one will be when he is confirmed.

The Senator is right that there are those of us in the Chamber and in America who doubt the wisdom of going forward with this normalization with Vietnam for a variety of reasons. Particularly, the Senator from New Hampshire, Mr. SMITH, has raised a lot of questions and concerns over the years about POWs and missing in action, accounting for those POWs. He is very concerned about those servicemen that have not been identified, have not been accounted for. He has made that very clear. He has serious doubts that Vietnam is actually doing all that it can do or all it has said it would do in moving toward normalization and accounting for those POW/MIAs, and he has asked me as majority leader in a very good, strong letter, lengthy letter to give him an opportunity to ask some questions and get some answers.

I try to honor that kind of request for any Senator on either side of the aisle whenever I can within reason. And I have also joined him through my staff that deals with the Intelligence Committee to work with the intelligence staff to try to get a report or reports in response to the questions that Senator SMITH has asked.

Those reports may not be sufficient or they may not be good, but Senator SMITH has indicated he has no desire to hold this nomination up at length. In fact, I think he would agree with me and the Senator that this is an excellent choice for any position.

So it is my intent, barring some unforeseen complication, that this nomination would be brought up on Tuesday or Wednesday the week we come back. I believe that would be the 8th or 9th. I do not think it would be appropriate to hold it up beyond that. And again, barring something that I cannot imagine right now—and, of course, assuming that over the next 2½ weeks we will get these reports—we would call that nomination up. I think we would be able to do that, and I certainly want to. I do not see any reason why we would not be able to based on my conversations with Senator SMITH.

We appreciate the interest of the Senator in his former colleague from the House, and look forward to working with the Senator on this and other issues.

Mr. DURBIN. I thank the majority leader. This will be good news in Marianna, FL, where Pete Peterson is waiting for word on his new assignment. He has accepted the important assignment for this country. He has given so much more than any of us have ever been asked to give. And this new assignment to Vietnam is one that Pete takes very seriously.

My colleague and friend from Mississippi, the majority leader, has raised an important critical issue of the unaccounted for POWs and MIAs. I cannot think of a person who will take that responsibility more seriously than Pete Peterson, who knows men whom he served with in the Air Force and other branches who are not accounted for. And I am certain that he will work with diligence to try to establish their whereabouts to the satisfaction of their families as quickly as possible.

Of course, in terms of our relations with Vietnam, that debate will go on, and our relationship with that country will be decided based on the conduct of Vietnam toward the United States and vice versa. A man of Pete Peterson's stature I think will enhance that relationship, and I am confident that when he is called for consideration on Tuesday or Wednesday after we return, he will receive strong bipartisan support for this assignment.

I thank the majority leader for coming to the floor. I know he has a very busy schedule, but I consider this an important matter, as I am sure he does. I appreciate his cooperation. I thank my colleague from Arkansas for giving me this opportunity to speak first.

I yield back my time.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Will the Senator from Arkansas allow me to put a couple brief statements in the RECORD and make a unanimous consent request. This should not take very long at all.

Mr. BUMPERS. My pleasure, Mr. President.

Mr. LOTT. I thank the Senator.

TRIBUTE TO SAM ADCOCK

Mr. LOTT. Mr. President, I take this opportunity to recognize and say farewell to an outstanding staffer and dear friend of mine, Sam Adcock.

For the past 7 years, Sam has served not only as my national security advisor, but as one of my most-trusted and able advisors. Sam is moving on to other challenges, but it is my privilege to commend him for the service he has provided me and the Senate as a whole.

The youngest of four children born to Pat and Larry Adcock, Sam was born in Baton Rouge, LA, and although Sam was not a native Mississippian, he assured me he had relatives in the Magnolia State.

I am not sure what effect being the youngest in such a large family had on Sam, but I think it must have played some part in cultivating his competitive nature.

It is this, combined with a gut instinct for effective legislation, which has made Sam Adcock such an important part of my team.

Sam joined my staff as a full-time employee in 1990, after serving for a year as a military liaison. He served as my legislative assistant while I was a member of the Armed Services Committee, and quickly sank his teeth into the complicated process of military appropriations.

Mississippi's shipyards and military bases owe Sam Adcock a debt of gratitude for the countless hours he spent arguing on their behalf.

During the 1991, 1993, and 1995 Base Realignment and Closure [BRAC] procedures, due in large part to Sam's hard work, Mississippi was the only State that had no bases closed.

Among the many areas where Sam's expertise was invaluable to me were the development of the LHA and LHD programs. Perhaps one of our greatest legislative triumphs was working in 1995 to help Ingalls Shipbuilding of Pascagoula, MS, win the $1.4 billion contract for LHD 7.

Sam worked around the clock to help Ingalls win this contract so important to the men and women of Jackson County, MS, but that was not unusual for him. I know Mississippians would be proud to know how relentlessly Sam pursued what was in their State's best interests.

The country, too, should be proud to have had such a champion of strong military ideals fighting to preserve our Nation's military prowess. I could always count on Sam to go into a meeting for me and come away with the best possible deal for Mississippi and our country as a whole.

In addition to his service as my armed services advisor, Sam was promoted to the position of legislative director. He has always been a take-charge kind of guy, and he ensured that my office's legislative staff was prepared and proactive. As effective as Sam's leadership was, he was also one of the most well-liked members of my staff.

While those who have worked against Sam know what a formidable opponent he is, those who have worked with him know what a pleasant and approachable man he can be.

As Sam Adcock moves on to a new and exciting position as vice-president for government operations at Daimler Benz, I wish him, his wife Carol, and their young son Austin, the best of luck.

Sam exemplifies all that is good in the congressional staffers who work so hard here on Capitol Hill. He is honest, industrious, intelligent, and talented.

My office will be poorer for his departure, but the people of this country are richer from his time as a Senate staffer. For his loyal and dedicated service, I thank him.

Mr. President, I yield the floor.

TRIBUTE TO JIM GRAHNE

Mr. LOTT. Mr. President, I want to express the gratitude of the Senate to Jim Grahne, the director of our Senate Recording and Photographic Studios. Jim is retiring this week after 27 years of dedicated service to the Senate.

Jim Grahne has been one of our most talented technical and management professionals in the Office of the Sergeant at Arms.

He is an engineer by training and profession and has used his skill, creativity and expertise to shepherd the Senate through nearly 30 years of broadcast and photographic technology. I am referring to the television, radio and photographic services on which we as members, and as an institution, so readily rely.

It was Jim's leadership that made technically possible the broadcast of the proceedings of the Senate floor.

While that accomplishment may be one of his professional highlights, he always sought ways to improve products and services to members.

Some of the recent successes of Jim and his staff include the installation of a fiber optic network for the broadcast of committee hearings, CD-Rom and on-line photo data base services for members' offices. Jim and his staff have also pioneered the use of closed captioning text, audio and visual technologies.

This year the studios released full text and audio search and retrieval of floor proceedings. Offices may now search for and download any speech or debate text and audio with 15 minutes of its being given.

Our gratitude for Jim is not limited to his understanding and appreciation for technology. Because he came to the Senate from the commercial news and broadcast industry, he understands the importance of the press and of the role played by visual and sound images.

Every day that the proceedings of the Senate are made available to the press here and around the world, it is an affirmation and practical example of democracy in action. That goal has been an important part of Jim's motivation.

Mr. President, our Senate family wishes Jim and Linda, his wife of 34 years, and their children—Mark, Lena, and Karen—the very best and hope he gets some time to spend on that sailboat with his granddaughter, Megan. But, knowing Jim as we do, we can expect his sleeves will be rolled up and into another challenge in the very near future.

NUCLEAR WASTE POLICY ACT AMENDMENTS

MOTION TO PROCEED

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 27, S. 104, the nuclear waste bill.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, on behalf of colleagues on this side of the aisle, I do object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. LOTT. Mr. President, I move to proceed to the nuclear waste bill and send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to S. 104, a bill to amend the Nuclear Waste Policy Act of 1982:

Trent Lott, Larry Craig, John Ashcroft, Dan Coats, Tim Hutchinson, Sam Brownback, Mitch McConnell, Conrad Burns, Frank Murkowski, Jon Kyl, Connie Mack, Spencer Abraham, Chuck Hagel, John McCain, Don Nickles, and Gordon Smith.

Mr. LOTT. Mr. President, I regret the objection from our colleagues on the other side of the aisle. I know the Senator from Illinois was objecting on behalf of other Senators that could be directly affected by this issue. I have filed a cloture motion on the motion to proceed to the nuclear waste bill. So I now ask unanimous consent that the cloture vote be at 2:30 p.m. on Tuesday, April 8, and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LOTT. In light of this agreement to conduct this cloture vote on Tuesday, April 8, I now announce that there will be no votes during the session of the Senate on Monday, April 7, the day that we return, although there will be debate on that day. I expect debate to occur on the pending motion to proceed to the nuclear waste bill on that Monday, and the Senate may be asked to consider other legislative or executive items on that Monday. I will be discussing Monday's schedule further with the Democratic leader and will inform the Senate as to what other items the Senate may consider when it reconvenes following the Easter recess period.

I thank all my colleagues for their attention. I now withdraw the motion.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. LOTT. Mr. President, just in conclusion, I want to recognize the Senator from Arkansas, who is in the Chamber at this time. I thank him again for his courtesy in allowing me to do this and recognize that he is a member of the Committee of Energy and Natural Resources that reported this legislation. I think it is very important legislation. I understand that the Senators from Nevada will have to make their points in opposition to what it would do, but I do think it is just absolutely essential that this country face up to the need to deal with our nuclear waste. There is no easy way to do it. There is no perfect solution for all 100 Senators. But we passed it last time through the Senate and it died aborning in the House. I am told this time that we will, when we pass it, the House will also pass it, and this time we hope we can get it to the President. And we hope we can get it to the President in a way that he feels he can sign it.

We must do this because it is an issue that will not go away. Nuclear waste is sitting in cooling pools and barrels all over this country from South Carolina to Vermont, from the banks of the Mississippi River to the shores of the Pacific Ocean. We must deal with this problem, and so that is why I take this procedure to make sure that we get it up for consideration and for debate when we return from the Easter recess.

I thank the Chair. I thank the Senator from Arkansas.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, let me say before I begin my remarks on a separate subject, that the majority leader is absolutely right when he talks about the necessity for developing a system of disposing of high-level nuclear waste in this country from our nuclear powerplants.

I, when I was Governor of Arkansas 22 years ago, wondered how on Earth we were going to deal with that. That was the reason I was always opposed to building more nuclear plants when we had not figured out how we were going to decommission the ones that we had and dispose of the nuclear waste that was coming out of them. So it is one of the most difficult, knotty problems I have ever faced.

I am ranking on the Energy Committee and we have wrestled with this at length over the years. This is no time to debate it, except to say it is one of the most awesome, difficult problems I have ever been confronted with.

FORGO TAX CUTS UNTIL WE BALANCE THE BUDGET

Mr. BUMPERS. Mr. President, I rise to pay tribute to my colleague in the House, Speaker GINGRICH. For those of you who think that I must need a saliva test for saying that, here is why. It was earlier this week in a press conference, that Speaker GINGRICH made a very responsible statement. He said that this Congress should forgo tax cuts until we balance the budget—an eminently sensible, unassailable proposition insofar as I am concerned.

I expected him to get the reception he got. Some of his very best friends in the House jumped on him and said, "You have betrayed us." Thirty House Members sent him a hot letter, saying, "What on Earth are you thinking?"

I don't know what he was thinking, but I assume he was thinking the same thing I was thinking, and that is that the snake oil of cutting taxes and balancing the budget makes no sense whatever. We have tried it. Ten years from now or 20 years from now, when memories have faded a little further, I would rather expect people to say, yes, we can cut taxes and balance the budget. But we are, really, only 4 years away from the end of George Bush's tenure as President; we are 16 years away from 1981 when the U.S. Senate took leave of its senses and passed a massive tax cut on the proposition that if we would do that and simultaneously balance the budget, which was at that moment $87 billion out of kilter, that we could balance the budget by 1984 if we just bought into this proposition that we needed to cut taxes monumentally to stimulate the economy.

But I am again happy to report to my colleagues I did not buy that snake oil. There were 11 Senators—believe it—11 U.S. Senators who said, "This is crazy. It will never work. It makes no sense whatever. It violates economic principle, violates normal sanity." But we went ahead and did it, and I will never forget that fall day when President Reagan, at Rancho Mirage, signed the bill in front of about 100 television cameras, saying, "You have given me the tools. Now I'll do the job and nobody will be left behind."

Here is what happened. Twelve years later, we had accumulated $2.5 trillion in additional debt to go with the already $1 trillion debt that we had incurred during the first 200 years of this country's history—actually less than that. But from the date we adopted and ratified the Constitution in 1789, until the day we passed that tax cut in 1981, the debt had accumulated to less than $1 trillion. Twelve short years later, we had increased that trillion-dollar debt by $3 trillion, and the national debt at that time then became $4 trillion, and we have been striving to dig ourselves out of that hole ever since.

Mr. President, 3 or 4 weeks ago I was walking out that door to go back to my office and one of the most conservative Republican Senators in the U.S. Senate, who happens to be a good friend, came over to me and he said, "I'll tell you, DALE, confidentially, I've never seen things better. The economy is as good as it ever gets. A lot of things are going right in this country." I almost fainted. I said, "I could not agree with you more."

I sometimes wonder why people are not dancing in the streets. Since 1992 we have taken the deficit from $290 billion to $107 billion in 4 short years. The unemployment rate in this country is the lowest in years. Some economists say you you cannot get it much lower than 5.3 or 5.4 percent. Interest rates are at a manageable level. And this morning, everybody who read the Washington Post saw a feature story about how the deficit is continuing to go down.

Let me back up. The President sent his budget over here and he said: In 1997, the deficit will be about $127 billion. It will be about the same in 1998. This morning the newspaper reports that because of this economy, enjoying the longest sustained growth since Dwight Eisenhower was President, even CBO, which is very conservative in their projections, says the deficit this year is going to be down to $115 billion. But other very reputable economists say, no, you are underestimating the taxes the people of this country are going to pay this year because the economy is doing just fine. They say, we believe the deficit will be under $100 billion.

I am the eternal optimist. I like to believe that last statement, that the deficit will be below $100 billion, turns out to be true, in which case we will have done something that is unprecedented in this country. We will have had 5 sustained years of deficit reduction.

Do you want the economy to continue as it is now and have this sustained growth that we have been enjoying? I will tell you a simple way to do it. You send a message to the American people that the U.S. Congress has come to its senses, and decided to forgo tax cuts of any kind until the United States budget is in balance.

Then tell them, on top of that, this year's deficit is not going to be $99 billion; we're going to further reduce it to $90 billion or $85 billion. I can tell you, Wall Street will jump with joy.

Why would we be considering tax cuts of $193 billion, almost $200 billion? Why would the U.S. Senate be considering a $200 billion tax cut over the next 5 years and $508 billion over the next 10 years? Why are we considering that when we know that a tax cut of that magnitude is going to stimulate the economy? And why do we want to stimulate an economy that is perking along so well that Alan Greenspan keeps Wall Street on edge every day saying, "If this economy gets any hotter, I'm going to raise interest rates"? That is the constant threat every time the Federal Reserve Board meets, the threat of higher interest rates.

You cut capital gains taxes, and I promise you it will not be long until you will have an interest rate increase from the Fed. You cut these other taxes to the tune of $200 billion over the next 5 years, and I promise you interest rates will go up. Alan Greenspan will see to it. And if interest rates go up, the market will drop and economic activity will drop. So why would we insist on making a crazy economic decision to stimulate an economy which is moving along sharply?

I see statements in the press every morning of some politician saying, "Well, people know how to handle their money a lot better than Washington. It's a lot better to leave it in their pocket than send it to Washington." I understand that, and I understand that if you are looking for applause, that statement is a good way to get it. But I also understand that we have a golden opportunity that does not present itself often, and that is to honestly balance the budget and give the people of this Nation a night's sleep like they have never had before.

The Senator from New Mexico offered two budgets this afternoon. One was the President's. I said many times on this floor, I am not enamored with the President's budget. I am not enamored with any budget which does not reduce the deficit this year and next. The Senator from New Mexico is getting very close to singing my song. You like bipartisanship? You like for Republicans and Democrats to agree? The Senator from New Mexico probably is not trying to curry my favor, but he is getting awfully close to doing it with his resolution which says no tax cuts until we get to a balanced budget using CBO's figures.

Mr. President, the Budget Committee has been deliberating, and I think they have been making some progress, incidentally. They even think they have the deficit down to $111 billion now, and if they are that close, I think it is absolutely imperative that we improve over the 1996 deficit by cutting it below $107 billion this year and below that next year.

One of the things about the proposal of the Senator from New Mexico is that when we reach that happy day—when we are in balance—then half of any surplus will go to reduce the cuts made in nondefense discretionary spending. That is education, law enforcement, environment, health care, medical research. It is all the things that make us a great nation. But the Senator from New Mexico very carefully has focused on making cuts in nondefense discretionary spending. Well, what is wrong with asking the Defense Department to help out? Why in the name of all that is good and holy would we, in 1996, insist that the Defense Department take $9 billion more than they even asked for?

I sit on the Defense Appropriations Committee, and I am telling you, I get absolutely nauseated at times. You take the F-22 fighter plane, which we do not need, I promise you—and I am going to stand at this desk and maybe lose another battle on the F-22—but when you start talking to me about building 438 airplanes at $180 million each to compete with a Russian airplane that is not even on the drawing board, let alone being off the drawing board, and at a time when we are building 1,000 advance F-18's which will be as good, or better, than any plane that could possibly challenge us for the next 20 years, and then follow that in 2015 with a joint strike fighter—no, they want to fill in what they say is a gap with a plane, Mr. President, that costs $180 million a copy, 438 of them.

Would you like to know how much the estimated cost of the F-22 has gone up in the past year compared to what we were told in 1996? $15 billion. $15 billion in 1 year. God knows what it will be by the year 2006 or 2007 when we start building these airplanes. We will not be able to afford them, I can tell you that.

I am simply saying that we should look at what we are going to cut. The Senator from New Mexico has a $100 billion cut in Medicare. And what about Medicaid? I do not know whether we are cutting Medicaid $9 billion or $22 billion. You hear conflicting numbers on that, but bear in mind what these programs are. Medicare is health care for our elderly; Medicaid is health care for the poor, the most vulnerable of all our children.

Last year, we cut welfare recipients' food stamps, everything, for the poorest people in the country, $55 billion. Mr. President, I am not going to go home and tell my constituents that I voted to savage the most vulnerable people in our population, the children and the elderly and the poor, and that I voted to give the money to the wealthiest 5 percent of the people in America. And I promise you, if I were running against somebody that had done that, I could make that case in spades and be absolutely certain of my ground.

I did not vote for the welfare bill last year. I was one of the 21 people that did not. You can call me a bleeding heart liberal. You can call my anything you want to. But when this body starts saying the only way we can balance the budget is by giving the Pentagon billions they did not even ask for and cutting Medicare by $100 billion, and depriving the poorest children in the country of Medicaid to the tune of $22 billion, and making $55 billion in welfare cuts—you see, I would have to say I never went to Methodist Sunday school as a boy, but I did. I believed those Methodist Sunday school stories about my obligation to my fellow man. You hurt your fellow man, you insult God.

So I am not going to do it, whether you want to talk about religion or whether you want to talk about common sense, whether you want to talk about what has made this country great. One thing that has made this country great is our commitment to the elderly. We reduced the poverty rate among them from 25 percent to 12 percent since 1950. We ought to keep doing it. We ought to come to our senses.

I intend to sit down and visit with the Senator from New Mexico and talk seriously with him about this. I am not negotiating on behalf of the President or anybody else. But I want to applaud the Senator from New Mexico this afternoon because he has made a very important statement that a lot of people on that side will disagree with. But I think he is on the right track. I think NEWT GINGRICH made a very important statement earlier this week, and I applaud him for it.

Mr. President, I appreciate having the opportunity to make these statements. I have been intending to do this all week and had such a schedule I could not do it. But I am feeling better tonight about the direction we are headed than I have in some time.

I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the executive calendar: Calendar Nos. 39, 40, 61, and 62.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, for the information of all Senators, this involves two appointments to the Federal Mine Safety and Health Review Commission, a nominee to be a U.S. district judge for the District Court in DC, Colleen Kollar-Kotelly, and Rose Ochi to be Director, Community Relations Service, Department of Justice.

NOMINATION OF JUDGE COLLEEN KOLLAR-KOTELLY

Mr. LEAHY. Mr. President, last night we finally broke through the stall and the Senate confirmed the nomination of Merrick Garland to be a judge on the United States Court of appeals for the District of Columbia Circuit. During that extended debate on a nomination that had been delayed too long, I urged the Republican leadership to take up the nomination of Judge Colleen Kollar-Kotelly to the U.S. District Court for the District of Columbia.

I am encouraged that those who schedule matters in the Senate have heard our plea and are finally willing to consider this nomination, as well. When we confirm Judge Kollar-Kotelly, we as a Senate will literally double the number of judges we have confirmed this year—from one to two. Unfortunately, there will still be 68 vacancies on the district courts around the country and a record 24 vacancies on the Federal courts of appeals.

Judge Colleen Kollar-Kotelly's nomination was first received from the President in March 1996 and was previously reported to the Senate in September 1996. This nomination was not acted upon before the adjournment of the 104th Congress. She was renominated on the first day of this Congress. her nomination was re-reported again without a single dissent from the Judiciary Committee 2 weeks ago. During that time there has been an anonymous Republican with an unspecified concern that has prevented this nomination from being considered. In other words, there is an unspecified hold.

Over the last 5 years, the District Court for the District of Columbia has been at full strength with 15 active judges for only about 6 months. The court has been operating with three vacancies for over a year and another judge is currently absent due to illness. I understand that the vacancies have been contributing to a rise in the backlog of civil and criminal cases pending before the court.

The criminal case backlog increased by 37 percent in 1996. So much for getting tough on criminals. We are fortunate to have senior judges who were willing and able to pitch in during these vacancy periods. Indeed, senior judges recorded one-third of the total court time spent by all judges in this district from July 1995 to June 1996. In the words of the court's chief judge: "The Court cannot continue to rely on senior judges to bear this much of the caseload." I agree.

I thank the majority leader for agreeing to proceed to Senate consideration of Judge Kollar-Kotelly's nomination. And I thank Chairman HATCH of the Judiciary Committee for pressing forward with this important nomination.

The Senate has not been doing its job when it comes to considering and confirming nominations for judicial vacancies. I asked last night what justified the unconscionable delay in taking up Judge Garland's nomination, what fatal flaw in his character or fairness the Republicans had uncovered? I ask those questions again with respect to this nominee, a hard-working woman who has been serving on the superior court bench here in the District of Columbia for the last 13 years, having been appointed by President Ronald Reagan. The answer is the same: There is no explanation why she was not confirmed before now. She is another of the unlucky victims of the majority's shutdown of the confirmation process last year.

With respect to this nominee, I note that the ABA Standing Committee unanimously found her well qualified for this position, thereby giving her the ABA's highest rating. She has been an associate judge of the Superior Court of the District of Columbia since 1984 and has served as the deputy presiding judge of the Criminal Division.

Before that she was the chief legal counsel at Saint Elizabeths Hospital here in the District. She served as an attorney in the appellate section of the Criminal Division of the Department of Justice for almost 3 years.

She is a distinguished graduate of Catholic University and its Columbus School of Law. She clerked for the Honorable Catherine B. Kelly on the District of Columbia Court of Appeals. She has been active in bar associations and on numerous committees of the Superior Court.

I thank all Senators for confirming this nominee as a judge on the United States District Court for the District of Columbia.

Mr. FAIRCLOTH. Mr. President, I am not going to object to the unanimous consent for the confirmation of the nomination of Colleen Kollar-Kotelly to be U.S. district judge for the District of Columbia, but I would like it recorded that if we had conducted a rollcall vote on the nominee, I would have voted in the negative.

Mr. LOTT. Mr. President, I ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were confirmed as follows:

THE JUDICIARY

Colleen Kollar-Kotelly, of the District of Columbia, to be U.S. District Judge for the District of Columbia.

DEPARTMENT OF JUSTICE

Rose Ochi, of California, to be Director, Community Relations Service, for a term of 4 years.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Mary Lucille Jordan, of Maryland, to be a Member of the Federal Mine Safety and Health Review Commission for a term of 6 years expiring August 30, 2002. (Reappointment)

Theodore Francis Verheggen, of the District of Columbia, to be a Member of the Federal Mine Safety and Health Review Commission for a term expiring August 30, 2002.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

Mr. LOTT. I yield the floor, Mr. President.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senate from Montana.

(The remarks of Mr. BURNS pertaining to the introduction of S. 509 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PARTIAL-BIRTH ABORTIONS

Mr. SANTORUM. Mr. President, I rise to talk about an issue that was talked about at great length today in the House of Representatives and voted on. That is the issue of partial-birth abortions, or as the Congressman who led the debate on the floor of the House, Congressman HENRY HYDE, refers to it as partial-birth infanticide where, in fact, you have a baby that is at or near viability in the fifth and sixth month of pregnancy when most of these abortions are performed, delivered completely out of the mother, and all that is left in the mother is the head—what we are talking about here is not an abortion. What we are talking about is killing a child.

I think, incredibly, frankly, given the results of the last election where the Republicans lost seats in the House, and getting a sufficient number of House votes to override a—hopefully not, but probably—Presidential veto of this bill—we needed 290 votes. We thought going in we would be assured of that number. In fact, we thought we would be well assured of that number, given the results of the election and what we thought was the intention of the Members.

It turned out that the House passed the partial-birth abortion ban by a vote of 295 to, I believe, 136. That is five votes more than the required constitutional majority of 67 percent of the House. So they do have enough votes in the House of Representatives to override a Presidential veto.

The action now shifts here to the U.S. Senate. We are going into recess and will be for the next couple of weeks, but I have had conversations with the majority leader, and we anticipate bringing that bill up sometime shortly after we reconvene here in the Senate in April and hope for a full debate on this issue.

As to what happened in the House, when we saw the number of votes change, resulting in a sufficient number to override the President's veto, I hope that same kind of dynamic occurs here in the Senate. Those votes changed because of new information that has been brought to light about what actually is going on out in America on this issue of partial-birth abortions. We were originally told by the advocates of the procedure, the industry and those who support the procedure, the abortion rights groups, that this was "a rare procedure." That phrase was used over and over again, "A rare procedure." The President of the United States used "a rare procedure, done only in the third trimester, in cases where the mother's life or health was in danger or where there was a severe fetal deformity."

That was the argument and the reason the President vetoed it, and that is why many Members of the Senate stood here and said they could not find themselves in a position where if someone was in this kind of dire consequence that they would limit a person's option.

We had plenty of medical testimony at the time, and even more has come in since, that says that this is never an indicated procedure to protect the life or health of the mother, never an indicated procedure. It is not in any textbook on obstetrics. You will not find it in any of the medical literature. I am quoting lots of obstetricians who have testified before Congress, including an obstetrician in the House of Representatives, Dr. Tom Coburn, a Member of the House, and C. Everett Koop, the former Surgeon General, who worked with small premature babies. So we have overwhelming medical authority that this procedure is never indicated to protect the life and health of the mother.

But we also found out new information, that in fact this is not a rare procedure. This is a procedure that is done thousands upon thousands of times. The estimate given by the abortion providers is 3,000 to 5,000 times a year. The only independent evidence we have been able to gather is by a press reporter in Bergen County, NJ, who surveyed a clinic in her community, and in that one clinic in northern New Jersey there were 1,500 partial-birth abortions performed every year. Now, if there are 1,500 in one clinic, and we have another doctor who has testified in Nebraska, Bellevue, NE—no offense to my colleagues from Nebraska, but hardly a large metropolitan area—where this doctor said in the last 2 years he has done 1,000 partial-birth abortions, if you just take those two isolated instances and the fact, as the reporter from Bergen County said, that this procedure, according to the doctors there, is done in other places in the New York metropolitan area, but if you just take those two sites alone, it is very hard to say we only have 3,000 to 5,000 of these being performed nationwide.

There is no way to check because the people who provide the statistics are the advocates for the procedure. So, of course, they are not going to give us the real numbers. They know that their Achilles heel in this debate, in the debate not just on partial-birth abortions but, frankly, on all abortions, is late-term abortion. This is not something the American public feels comfortable with, but in fact, something the American public overwhelmingly rejects. They think that goes too far. So there is really no reason for them to give us accurate information. When I say there is no reason for them to give us accurate information, it is because there is no way to check whether that information is accurate. The Government keeps no statistics on the number of partial-birth abortions. So there is no way for anybody to independently verify this.

Now, I have asked many reporters who have covered this issue, "How about doing a little reporting? How about verifying your story instead of taking what the Alan Guttmacher Institute," which is an arm of the abortion advocacy group and is always cited in literature and in the press as this "independent source." That is just ludicrous. They are an advocate, a zealous advocate of the absolute right to choose. So using their information is as bad as using the providers themselves who are advocates of the procedure.

Now, some reporters have actually gone through the process of calling their clinics. We have gotten a variety of different feedback. I talked to a reporter from the Baltimore Sun who said she called some of the hospitals and clinics in Baltimore that do abortions, and they hung up the phone on her. They didn't want to talk to the press. It is none of their business. Others have said they have called and had nice conversations and were told, "We don't do that here." They very well may not do it, but we have no way of checking. The press has no way of checking because they are not going to make their records available. It is confidentiality, and I understand that. But there is no way for us to know how many abortions are done, partial-birth or late-term abortions. You will have advocates get up for this procedure on the Senate floor and talk about this as being "very rare," or "only a few thousand." Just imagine, put yourself in the context of children—children are used a lot on this floor as a defense for a lot of Government programs.

Imagine if you were talking about 3,000 to 5,000 children who we would let starve to death in this country; what would we do about it here? Would we say it is only 3,000 or 5,000 who we are going to let die because we don't want to take any action? I am not too sure that we would do that. But, in fact, that is what we are doing. We are accepting their numbers, which I don't accept. I don't think, frankly, the press should accept them. I think throwing this number out of 3,000 to 5,000, quoting an advocate of the procedure as the authority for the statistical information as a basis for the debate—I mean, I will throw a number out—let's say 50,000, which is probably as credible as the number you are going to get from the other side. It is probably as credible, and probably even more credible because I am just pulling it out of a hat; they are deliberately throwing a number out that they know is well below what the actual number is.

So I hope that when we have this debate, we realize, number one, that it is not a rare procedure. And, frankly, we don't know how rare it is. What we do know is that the numbers given out in the past were lies. Let's call it what they were—lies, a deliberate attempt by the abortion industry and advocates to mislead the Congress. They sent people up here and they testified to that lie. So now we are going to believe them and give them a second chance to lie to us.

I am sorry. Fool me twice, shame on me. They are not going to fool me twice. I am not going to accept their number, and I don't think anybody should. They have no credibility because they have lied once and, number two, there is no independent verification of that number, because they will not open up their books. They won't even let reporters talk to them. So I encourage the press covering this debate now, and who covered it in the past, not to use a phony number. As horrible as that number is, my goodness we are talking of an admission of at least 3,000 to 5,000—3,000 to 5,000 innocent children, at least 90 percent of which—according to their industry—are healthy babies and healthy mothers.

Frankly, even if it were 300 to 500, or just 30 to 50, it should outrage every Member of the Senate that we allow that to happen in such a barbaric way. But 3,000 to 5,000—maybe it's 30,000 to 50,000; who knows? But it is not a rare procedure, and it is not done just on mothers who have severe health complications or life-threatening ailments. We know that. One reason is obvious that we know it. We know it by understanding what the procedure is. The other reason we know is because we have all the medical experts testifying that this procedure is never indicated to protect the health or the life of the mother. But the other reason we know that this procedure would not be used is just by knowing what the procedure is. Take a case. We have a mother whose life is in danger. Now, I will add that we have a provision in this bill to protect the life of the mother. If this procedure is ever needed to protect the life of the mother, it can be used. But let me suggest that that would never happen. We have it in there, frankly, for cosmetic reasons. It would never happen, because if a mother's life is in imminent danger, would any physician use a procedure that takes 3 days to perform? If the woman presents herself to the hospital in a life-threatening condition, would you say, "We have this great procedure that takes 3 days to do; we will give you medication, come back in 2 days"? You would if you want to kill the mother, or if you want malpractice, but not if you want to provide competent medical services to a woman in need. So it would not be used in that situation.

Let's talk about the health condition. Again, if somebody presents herself with a severe health consequence, they could use their fertility or—to be honest with you, I don't know why someone would suggest that we want to protect ourselves from losing our fertility by killing a healthy baby. I don't understand that. If you want to protect your fertility to have children, why would you kill a healthy baby to do that? This is something that strikes me as an argument that I have not heard a sufficient answer to on the other side. Why would you kill one child so you could have more children? As far as I know, there is no guarantee of being able to get pregnant again. Unfortunately, there are tens of thousands, probably hundreds of thousands of couples who are trying to have children and can't. If you have been blessed with a healthy baby and a healthy pregnancy, I don't know why you would do this procedure. But the point is, you would not go through this 3-day procedure if there was an imminent health risk to the mother. It is just not logical.

This procedure was not designed by a physician who was looking out for the health and life of the mother. This was designed by a physician, in his own words, as a more efficient way to do abortions for the abortionist, not for the mother. It is efficient in that the mother can come in and do it on an outpatient basis. Late-term abortions are much more complicated. It is much more involved. This basically prepares the woman for a shorter visit to the clinic and a more convenient way for this abortionist to perform the abortion and to be able to do more of them in one day. That is the reason this procedure was developed.

You will hear testimony of people who have written textbooks on abortion, who said they would never use this, and they do late-term abortions. So I just ask my colleagues to listen to all of the facts. We had, I think, last year—and it was unfortunate, and I will not point blame at anybody. I am not too sure there is blame. We had a situation where the vote came up in an election year, in an election climate. Members are people, too. They feel a comfort zone on issues. It is very hard for them to sort of break out of this comfort zone into unknown territories, particularly around a very politically charged environment, even though the facts were there; many of the facts were available for the override vote. Certainly, a lot of them were not given credibility in the mainstream media. Now they have been.

So I ask many of my colleagues who have already cast a vote more than once on this issue to have an open mind, to step back and look at the reality of partial-birth infanticide and recognize your obligation to those children, recognize your obligation to your constituents in trying to ascertain the truth, and make a decision that is in the best interest for America and for your State, not for the interest group that supports you in your election, not for the advocates who you may have good relationships with. We are in our comfort zone with people who agree with us. It is very easy for us to sort of hang around those people and sort of feed off each other. I understand that. But sometimes you have to step back from all of that. You have to step out in the cold and look at the cold, hard facts and make a decision using your mind and using your heart on what is right—not what is right politically for me, not what is right for my friend, but what is right for our culture and what is right for our whole existence as a country.

I think when we do that, I think when Members take time to do that, we will see something very special happen here, which is what happened in the House today. Members will have stepped out of that comfort zone, which I know is very hard to do, will take an honest look at the facts and make a decision that is right for America. That is my hope.

I am going to be working very diligently, and I know other Members are, in making sure that this information is disseminated.

I again encourage the press to do your job, fact-check your stories before you write them, and ascertain the truth. Do not just report what people say. I know some people think that is their job. If that is the job of a reporter, then reporting has sunk to a new low in this country if all we do is run around and report what people say. That is not journalism, in my book. At least make an attempt to find out the truth. At least check. This is serious stuff. We are not talking about how the Senate buys paper here. It is important. It takes taxpayer dollars. We have a system. We are talking about very weighty issues. We are talking about the issues of life and death, about a barbaric procedure that just goes beyond any vision that I can imagine that people in this country have of what our civilization and what humanity is.

So take that responsibility seriously on your side. We take it seriously here. I think, if you do your job and if Members of the Senate do their job, which is to honestly face the facts, allow those facts to rebound off your sense of judgment, your sense of right and wrong, then I think what will bounce back is a vote to end this barbarism in this country by an overwhelming vote.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

ACCEPTANCE OF PRO BONO LEGAL SERVICES

Mr. BYRD. Mr. President, on October 3, 1996, the Senate adopted Senate Resolution 321, which I introduced, and which had the bipartisan support of both the Majority and Minority Leaders. The resolution authorizes a Senator to accept pro bono legal services when challenging the constitutionality of a Federal statute, and then only when the statute in question expressly authorizes the Senator to file such a suit.

In addition, Senate Resolution 321 required the Select Committee on Ethics to establish regulations providing for the public disclosure of information relating to the acceptance of pro bono legal services performed as authorized by the resolution. Those regulations were adopted by the Committee on February 13, 1997, and were subsequently printed on page 2421 of the CONGRESSIONAL RECORD dated February 24, 1997.

Specifically, those regulations state, in relevant part:

> A Member who accepts pro bono legal services with respect to a civil action challenging the validity of a Federal statute as authorized by S. Res. 321 shall submit a report to the Office of Public Records of the Secretary of the Senate and the Senate Select Committee on Ethics. * * *

The regulations go on to state:

> All reports filed pursuant to these Regulations shall include the following information: (1) A description of the nature of the civil action, including the Federal statute to be challenged; (2) the caption of the case and the cause number, as well as the court in which the action is pending, if the civil action has been filed in court; and (3) the name and address of each attorney who performed pro bono services for the Member with respect to the civil action, as well as the name

and the address of the firm, if any, with which the attorney is affiliated.

On January 2, 1997, I, along with former Senator HATFIELD, Senator LEVIN, Senator MOYNIHAN, and Representatives WAXMAN and SKAGGS, filed a civil action in U.S. District Court for the District of Columbia challenging the constitutionality of Public Law 104–130, the Line Item Veto Act. That suit, titled Byrd v. Raines, was filed pursuant to section 3 of the Act, which authorizes precisely this type of suit.

In our quest to utilize the best legal talent available, we have, in accordance with Senate Resolution 321, chosen to accept the pro bono services of several distinguished attorneys. To date, they have provided each of us with invaluable service through consultation, research, analysis, and legal representation.

At this time, I would like to advise the Senate that, as required by the aforementioned regulations issued by the Select Committee on Ethics, Senators LEVIN, MOYNIHAN, and I have filed the necessary reports fully disclosing the representation which we have received. However, in an effort to comply with not only the letter of those regulations, but also with their spirit, I am today placing in the CONGRESSIONAL RECORD copies of those reports so that all Senators will be thoroughly apprised of the details of this matter.

Mr. President, I ask unanimous consent that the two reports to which I have referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, March 12, 1997.

Hon. MITCH MCCONNELL, *Chairman*,
Hon. BYRON L. DORGAN,
Vice-Chairman, Select Committee on Ethics, U.S. Senate, Washington, DC.

GENTLEMEN: In accordance with the regulations promulgated by the Select Committee on Ethics pursuant to Senate Resolution 321 of October 3, 1996, we are submitting this report with respect to our acceptance of certain pro bono legal services. Those services have been, and will continue to be, accepted by us in connection with the filing of a civil action challenging the validity of a federal statue. Please find below the details of this action as required by the regulations, which were published in the Congressional Record dated February 24, 1997.

1. This is a civil action in which we, as plaintiffs, have challenged the constitutionality of Public Law 104–130, the Line Item Veto Act.

2. The case, captioned *Senator Robert C. Byrd, et al* v. *Franklin D. Raines, et al*, civil action number 97–0001, was filed on January 2, 1997, and is currently pending in the United States District Court for the District of Columbia before the Honorable Thomas Penfield Jackson.

3. *Pro bono* legal services have been provided to us by:

Mr. Lloyd N. Cutler, Mr. Louis R. Cohen, Mr. Lawrence A. Kasten, Wilmer, Cutler & Pickering, 2445 M Street, N.W., Washington, DC; Mr. Charles J. Cooper, Mr. Michael A. Carvin, Mr. David Thompson, Cooper and Carvin, 2000 K Street, N.W., Suite 401, Washington, DC; Mr. Alan B. Morrison, Ms. Colette G. Matzzie, Public Citizen Litigation Group, 1600 20th Street, N.W., Washington, DC; Mr. Michael Davidson, 3753 McKinley Street, N.W., Washington, DC.

As always, it is our intent to fully comply with both the letter and the spirit of the regulations issued by the Select Committee on Ethics. We trust that this report serves to fulfill that intention. Should you or your staff wish further information pertaining to the matter, please have your staff contact Peter Kiefhaber (Senator Byrd) at 4–7215, Linda Gustitus (Senator Levin) at 4–5538, or Mark Patterson (Senator Moynihan) at 4–7800.

Sincerely,
ROBERT C. BYRD,
CARL LEVIN,
DANIEL PATRICK MOYNIHAN.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, March 12, 1997.

Hon. GARY SISCO,
Secretary of the Senate, U.S. Senate, Washington, DC.

DEAR MR. SISCO: In accordance with the regulations promulgated by the Select Committee on Ethics pursuant to Senate Resolution 321 of October 3, 1996, we are submitting this report with respect to our acceptance of certain *pro bono* legal services. Those services have been, and will continue to be, accepted by us in connection with the filing of a civil action challenging the validity of a federal statute. Please find below the details of this action as required by the regulations, which were published in the CONGRESSIONAL RECORD dated February 24, 1997.

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Should you or your staff in the Office of Public Records wish further information pertaining to the matter, please have your staff contact Peter Kiefhaber (Senator Byrd) at 4–7215, Linda Gustitus (Senator Levin) at 4–5538, or Mark Patterson (Senator Moynihan) at 4–7800.

Sincerely,
ROBERT C. BYRD,
CARL LEVIN,
DANIEL PATRICK MOYNIHAN.

ADDITIONAL COSPONSOR—S. 6

Mr. INHOFE. Mr. President, I ask unanimous consent that my name be added as an original cosponsor to S. 6, the partial-birth abortion bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOSTON GLOBE SERIES OF ARTICLES ON POVERTY IN WESTERN MASSACHUSETTS

Mr. KENNEDY. Mr. President, last week, the Boston Globe carried a superb series of articles on poverty in the rural towns of western Massachusetts. The series was entitled "Hidden Massachusetts" and it was written by two Globe reporters—David Armstrong and Ellen O'Brien. These two have done an excellent job portraying the impact of job loss on both individuals and communities. The towns in this area have been devastated by plant closings and layoffs. Factories and mills throughout the region have pulled out for warmer climates and cheap overseas labor. The jobs which remain are predominantly low paying. Salaries in the communities west of Worcester are dramatically lower than those in the remainder of the state. With this sense of economic hopelessness has come increased levels of crime, violence and abuse.

These articles are a poignant reminder that the rising economic tide has not lifted all boats. Similar stories could be told about impoverished communities in every one of our states. For those with limited education and outdated employment skills, the economic environment is growing increasingly hostile. The macro-economic numbers which describe a growing economy conceal a great deal of individual pain and dislocation. As a nation, we need to pay much more attention to the disturbing growth in income disparity. The working poor are becoming poorer, and the middle class are finding it tougher to maintain their living standard. We must provide these hard working men and women with the tools they need to succeed in the new economy. We must provide them with the opportunity to share in the prosperity.

I call these articles to your attention, and I ask unanimous consent that excerpts from them be printed in the RECORD, because their message is a national one. The problems faced by the people of western Massachusetts are the same problems which confront us all across America. We must make the American dream a reality for more of our citizens. These stories are an important reminder that we have not yet done so.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Mar. 9, 1997]

HIDDEN MASSACHUSETTS

BEHIND THE SCENIC LANDSCAPES, ON THE BACK ROADS OF A RURAL MASSACHUSETTS, IS A WORLD OF POVERTY AND ABUSE, VIOLENCE AND DESPERATION

(By David Armstrong and Ellen O'Brien)

It's dim and stale in the basement lockup at district court, the sickly yellow walls echoing the tales of a thousand petty criminals who have sat here waiting to see the judge upstairs. There are two cells, each with heavy steel bars painted black. There are no windows.

In the far cell, on the edge of a wooden bench, sits a stocky, babyfaced 11-year-old with straight brown hair that's cut short. He stares at a concrete wall where someone has scratched the words "White Power." In the corner is a shiny, metal toilet welded to the wall.

He is Chevy Van Pickup—so named because his parents thought it sounded cool. He's here for allegedly mugging a woman outside a package store in Athol, a small town near the New Hampshire border where he lives.

Chevy already is the youngest child in the custody of the State Department of Youth Services, the agency that oversees the treatment and punishment of kids in trouble.

His rap sheet would be impressive if he were an adult, never mind a child a decade shy of the legal drinking age.

Athol police first picked him up when he was 5 years old (his mother can't remember what he did). When Chevy was 7 years old, the youngest age at which someone can be charged with a crime in Massachusetts, he was arrested four times—once for attacking another student with a trumpet.

Now confirmed to a facility for young criminals in Lancaster, Chevy spends his free time making cards for his grandfather and trying to earn good behavior points so he can buy presents for his sisters. For the first time, he is learning how to read.

On the rare occasions his mother visits, Chevy repeatedly asks for hugs and tells her how much he loves her.

Head west from Boston, past the pricey suburbs, beyond the bustle of Interstate 495, and you'll find some of the loveliest landscapes in New England.

But it's a cruelly deceiving portrait.

Behind the pastoral facade live some of the poorest, most violent, most abused, and desperate young people in the state. This is the hidden Massachusetts—the tragic, ugly underside of a state renowned for prestigious universities, famous hospitals, high incomes, and educated residents.

In many towns and small cities along Route 2, where tourists crowd maple sugar stands, assaults are more widespread than in Boston or Springfield.

South of the Quabbin Reservoir, a stone's throw from antique shops and Old Sturbridge Village, there are towns with more high school dropouts, pregnant teenagers, and families on food stamps per capita than in Brockton or Lynn.

And in parts of Berkshire County, where the well-to-do spend summer nights sipping wine on the lawn at Tanglewood, the rate of child abuse is the highest in Massachusetts.

Police and city officials in Boston, 80 miles from Chevy's house in Athol, brag about a drop in juvenile crime and earn praise nationally for their efforts. It's just part of a steady diet of good news in the Boston area these days: Home sales are up, unemployment down, consumer confidence high.

But police chiefs in many small towns watch as their crime rates soar. Child protection officials may tout an overall decline in reported child abuse, but in some places out here, it's happening more and more.

People in these towns talk not of success stories, but of a lost generation growing up without hope on the backroads of Massachusetts.

"People in Boston think I am dealing with Mayberry RFD," says Southbridge Police Chief Michael Stevens. "They don't know anything. I've got big-city problems."

PASSING TIME, MAKING TROUBLE

Before he was sent off to Lancaster, Chevy often roamed the streets of downtown Athol. It wasn't that long ago that Main Street pulsed with the comings and goings of thousands of factory workers. On Thursdays, payday at the two biggest mills, stores stayed open until 9 p.m.

Today, clothing shops and theaters have given way to human service agencies. One of the remaining industries is the casket manufacturer where Chevy's father worked before he died. The buzz on the street comes not from shoppers, but the "benchies," teenagers who hang out on Main Street benches, doing drugs and harassing passersby.

Teenagers in towns like Athol complain they are trapped. They say there is nothing to keep them busy and no buses or subways to take them to malls or theaters. When they quit school or graduate, they quickly find out there are few jobs that pay more than $6 an hour.

For some, making trouble is an easy way to pass the time.

It was three teenagers from Athol who captured national headlines two years ago when they embarked on a wild spree down the Eastern Seaboard that ended with the shotgun murder of a elderly Florida man in his home.

In Greenfield, a 22-year-old mildly retarded man was slowly tortured to death in 1995 by four men he considered his friends, police say.

And last August, two teenage Sturbridge girls were brutally beaten to death with a log, allegedly by an older man who regularly offered to buy beer for young girls in town.

Many in Athol, a town of 11,588 residents, dismiss the Florida incident as an aberration, pointing out that murders are still rare and crimes committed by strangers an exception. Residents of other rural towns make the same point.

But clearly, life has changed.

Once cherished for their simple ethos of hard work, many of these former farming and industrial centers are among the most violent places in the state.

Of the 30 communities with the highest rates of assault, eight are located along scenic Route 2, from Interstate 495 to the New York border.

Some of the youngest children ordered into state custody in the past two years come from similar towns just the other side of the Quabbin Reservoir.

They include two 12-year-olds from Ware; two 13-year-olds from Warren and West Brookfield; and a 13-year-old Brookfield boy committed this June for possession of a hypodermic syringe.

Ask anybody—a teacher, a cop or a social worker—what went wrong and what can be done to fix it, and the answer is always the same: The good jobs left and until they are replaced things will probably get worse.

"The lack of an economic future for these kids is unbelievable," says Lynne Simonds, who coordinates youth programs in the Central Massachusetts town of Ware. "Look around: They see what you see. People out of work, hanging on street corners. They choose crime as a way to make a living."

[From the Boston Globe, Mar. 11, 1997]

HIDDEN MASSACHUSETTS

WITHOUT JOBS THAT PAY A LIVING WAGE, LITTLE WILL CHANGE FOR THE STRUGGLING FAMILIES OF RURAL MASSACHUSETTS

(By David Armstrong and Ellen O'Brien)

Although many poor families in Central and Western Massachusetts are on welfare, most struggle to stay off, working at low-paying jobs, creatively juggling their bills, accepting private charity when desperate.

These are their stories.

HEATH.—Bob Tanner's day begins shortly after 2 a.m. with a 22-mile drive down unforgiving mountain roads to his job sweeping floors and cleaning restrooms at McDonald's.

The trip is hard enough, but some mornings Tanner climbs into his car and finds his fuel tank empty. The gas thieves, armed with siphons, have hit three times this winter.

"It's just hard times," his wife, Donna, says matter-of-factly, grimly acknowledging that those who steal gas from struggling families are also hurting.

Bob, who recently turned 44, takes home about $180 a week, after $60 a week is deducted for health insurance. It is the only income for the couple and their two children.

The commute alone costs $50 a week in gas, and their rent is $100 a week.

"Sometimes I'm just worn out," Donna says of the constant struggle to pay bills and buy the basics, like food. "ninety percent of the people out here die from stress."

The Tanners live with Donna's mother in a home that sags under the burden of long winters and years of neglect. The only heat comes from a wood stove in the front room. The homemade stove was crafted from a 50-gallon oil drum.

Wood is the primary or only source of heat in many homes throughout the hill towns near the Vermont and New Hampshire borders. In Heath, 42 percent of the homes are heated by wood, according to the US Census. The state average is 1.5 percent. A third of the homes in Heath also lack complete plumbing, the largest percentage in the state.

Bob cuts as much wood as he can in the spring, but he usually ends up having to buy three cords each winter. In the never-ending battle for survival, it is a major expense.

Bob has applied for other jobs, at Mayhew Steel down in Shelburne Falls and at several businesses in Greenfield, but he is not optimistic about improving his situation any time soon.

"If you don't have a good job now, forget it," he says. "It's getting worse. Every company is moving."

The Tanners point to neighboring Colrain, where the largest employer in town, American Fiber & Finishing, has announced it will move to North Carolina next June. The town's second largest employer, Veratec Cotton Bleachery, is also threatening to leave unless it gets economic incentives to stay.

Neil Stetson, 49-year-old pastor of the Colrain Community Church and a native of Heath, said the scenic hill towns off Route 2 in Western Massachusetts are filled with hard-working people who lose hope with the departure of every decent-paying job.

"You can't eat the view," he says. "It's a beautiful area. I know that's what tourists see. But it's kind of a facade of beauty. Behind it, there is much pain. With every plant closing, the window of opportunity diminishes."

Isolated by geography, families like the Tanners also feel forgotten. They read about the billions of dollars spent on the Big Dig in Boston and find it hard to believe more can't be done to help bring jobs to the western part of the state.

"Governor Weld and all of them never come this way," Bob says. "They forget the people here are helping to pay their salaries."

FAMILIAR, DESTRUCTIVE CYCLE

ATHOL John Guyer walks into his small, basement apartment carrying a pillow and sleeping bag. It's 7:30 p.m. and he is tired, sore, and reeking of chicken. He woke up before dawn, sat or slept in a cramped van with no heat for two hours, and worked all day at a farm in Connecticut before making the long return trip home. His hands and arms are a patchwork of red scratch marks left by angry birds.

The 22-year-old Guyer spends his day moving chickens in and out of cages, giving them shots to inoculate them from disease and slicing the beaks off chicks. Most of the work takes place in stifling hot barns where it is difficult to breathe in the swirl of dust and feathers. During busy times, the grueling work can stretch nonstop over several days and nights.

For this, John is paid $6 an hour.

He hates working with the chickens, but has been unable to find anything better. From time to time he quits, only to go back when he needs the money. He is deep in debt and behind on the rent and almost every other bill.

When asked about the good jobs in the area, John ticks off a few: Installing satellite dishes for as much as $110 a day or building above-ground pools during the summer at $175 a unit. These jobs are hard to get, however, and tend to be seasonal.

In the not-so-distant past, men like John could find decent paying work at one of the many factories in Athol. They were the kinds of jobs that could support a family and provide a comfortable retirement. But today, only one large factory remains—the Starrett Tool Co., which employs 1,100.

"For kids right out of school, there are low-paying jobs out there," says Tom Kussy, director of the North Quabbin Chamber of Commerce in Athol. "We have plenty of those jobs. It is a problem. We will never be the great industrial center we were before."

John is typical of a lot of struggling young men in Athol. He dropped out of high school in the ninth grade and became a father before he was 20. He and his 18-year-old wife, Sherry, were married in October. They have been together since she became pregnant in middle school with their first son, who is now 3. They have another boy 8 months old.

The danger for John, say probation officers and police in Athol, is slipping into a familiar cycle of excessive drinking and violence that often follows the frustration of working one lousy job after another or not working at all.

John has been arrested several times, mostly for minor incidents. In July, he was charged with assaulting Sherry and placed on probation.

Despite a court order to stop drinking, John hosted his own bachelor party in October. Police found him sitting with friends in the smoke-filled living room of his apartment. In a chair in the corner, Sherry fed their baby a bottle. John admitted drinking a few beers that night and was ordered into alcohol counseling sessions, which he reluctantly attends.

John recently quit the chicken job again. He is working 20 hours a week for $6.50 an hour at a Shell station in Gardner, 15 miles away.

As bad as things are now, some worry it could get worse in Athol. There are whispers about Starrett's moving south, like so many of the other factories that once made this a vibrant industrial center.

Douglas R. Starrett, the company's CEO, has heard the rumors and is the first to admit Athol would be "devastated" if his company left. Nonetheless, he offers no guarantees.

"I can't say we will never do anything, but we want to stay here," says Starrett, who is 76 and a lifelong resident. "A lot of people see a gritty mill town, but that is not what I see. It is a great place * * * made on the wood stove.

One of her children jokes about being able to make "welfare casserole" again: macaroni and cheese, a can of tuna fish and cream of mushroom soup.

Although the family is not on welfare, they subsist entirely on government benefits and the generosity of local charities.

There is $212 a month in food stamps, $1,135 a month in disability payments, $106 every other week in veterans' benefits, $325 each winter in fuel assistance, and clothes and food baskets form the Clothing Collaborative in nearby Orange. All the children receive free or reduced-priced lunches at school.

Only one member of the family has health insurance and that is provided by the publicly funded MassHealth plan.

Cindy worked for a time last year as a store clerk in nearby Winchester, N.H., at $6 an hour, but says she quit because her son was having problems at school.

The Sheffields are one of thousands of families barely surviving in the hill towns of Central and Western Massachusetts.

"People have no idea this town exists," Cindy says. "You say Warwick and they say, 'Warwick, Rhode Island?' "

Warick sits about five miles north of Route 2 between Athol and Greenfield. It is a town of fewer than 1,000 people with no industry. The only store in town recently went out of business.

The Sheffields live up a steep, dirt road in a house built by Cindy's husband, Bob, who collects disability payments for mental illness. The interior was never finished, and Cindy doubts they will ever have enough money to cover the plywood floors.

While the long country roads in Warwick recall another era, the scene inside Cindy's home is decidedly modern and chaotic.

Her oldest son, Donald, just had a baby with his 15-year-old girlfriend; all three are living in the home. There are Cindy's other children, a 10-year-old son and 12-year-old daughter, adding to the crunch are relatives from South Carolina, a family of six that has returned to Massachusetts to look for work and are staying with the Sheffields temporarily.

Every day begins early, with the children getting ready for school. The oldest are bused to Northfield, a trip that takes an hour each way.

At 10 a.m., Cindy bundles up the baby and walks her son, Ben Morin, to the elementary school nearly two miles away. Cindy recently bought a car, but has no money to register or insure it. At noon, the three of them make the return trip, either on foot or in the car of a school employee.

They walk because Ben is not allowed on the school bus and only allowed to attend a special two-hour tutoring session in a room isolated from other students. The arrangement was made after he allegedly threatened to kill his teacher earlier in the year, a charge he and his mother deny.

There is a telephone in the Sheffield home, but it can't receive incoming calls and only toll-free and collect calls are possible when dialing out.

A shiny satellite dish stands out among the abandoned cars and furniture in the front yard. Cindy bought the dish after a cable company employee told her there was a "better chance of seeing Jesus Christ" than having cable installed in her area.

"We got to get something for the kids," she says. The Sheffields couldn't keep up the payments, however, and the satellite service was shut off.

Satellite dishes sprout like weeds in the yards of many of the poorest homes in this part of the state. It's one of the things social workers count on seeing when they visit.

Ray Burke, head of the westernmost office of the state Department of Social Services, says a former social worker who left to take a similar job in North Carolina explained there was only one difference between poor families in the two states.

In rural Massachusetts, every poor family has a satellite dish, TV and piles of cut wood. In North Carolina, every poor family has a satellite dish, TV and air conditioner.

SHOULD HAVE STAYED ON WELFARE

ORANGE.—Tina Jellison works the first shift at Catamount Manufacturing in this old mill town, stuffing plastic ties into boxes as they roll down an assembly line.

At $6.83 an hour, it's a job that pays her only about $50 a month more than what she received on welfare three years ago. The paycheck is not nearly enough to pay off her debts and keep up with the rent and never-ending bills.

Tina is realistic about the chances of finding a higher paying job, so she turns to lady luck and the Massachusetts State Lottery for help. She is a self-described scratch ticket addict, looking for a big hit to turn around her life.

"I started playing lottery tickets because I was desperate to get out of the hole," she says. "I've never hit on scratch tickets and I've cut back lately."

Cutting back means spending $25 instead of $60 on payday for scratch tickets.

Tina, who lives in a second floor apartment in downtown Athol with her two sons, ages 10 and 12, is not the only one with lottery fever. In a town with one of the state's lowest median incomes, residents spent $5.1 million on instant tickets alone in 1995.

Tina is struggling to hold onto her job. Her two sons are frequently in trouble with the police and forced to skip school to attend hearings at the Orange courthouse. A single mother, she never misses a court hearing or school meeting. It also means a lot of missed workdays.

Then there is her car, an aging Chevy Citation with so many problems Tina is thankful for each day it gets her to work.

"I should have just stayed on welfare," she says.

But she plans to keep working, in part because new welfare rules will make it difficult to begin collecting again. As for those scratch tickets?

"I could get over the hump if I could just get over the scratch tickets," she says.

NEW WELFARE LAW HURTS MENTALLY DISABLED IMMIGRANTS

Mr. KENNEDY. Mr. President, under the new welfare law, many mentally disabled legal immigrants will lose their SSI and AFDC benefits. As a result, some of these immigrants will be unable to pay their room and board at residential treatment facilities. They may be forced to live on the street, without enough money to buy their life-saving medication.

Two cases demonstrate this problem. In the first case, Mr. X, a former officer in the South Vietnamese army, came to the US as a refugee in 1991. As a result of 12 years on the front lines of the Vietnam War, and 10 years of torture in a re-education camp, he suffers from serious mental illness. At the age of 54, he is too old to start over, learn a new language, and hold down a job.

He receives treatment at a mental health center in California, and receives SSI. If his benefits are terminated, he will no longer have enough money to pay for his treatment. He is studying to pass the naturalization exam, but his memory impairment limits his ability to study.

In the second case, a refugee from Vietnam receiving SSI has been diagnosed with schizophrenia, and relies heavily on medication. Without it, he hears voices, and cannot concentrate, follow instructions, or remember anything he learned. He receives $772 a month, of which $692 goes for room and board at a residential facility. If his SSI benefits are cut off, he will be forced to leave the facility, and will be unable to pay for his medication.

Unless Congress takes action, these stories will continue, and immigrants who need help for serious mental disabilities will be turned away from their treatment centers and residential facilities. I ask unanimous consent that two recent newspaper articles on this issue may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Miami Herald]

A CATASTROPHE AWAITS

In the rhetoric of Congress, welfare reform was to push the able-bodied off the dole and into the work place. In the reality of South Florida's legal immigrants—those who have met every legal test for being here, but who now are cruelly to the rejected—it bids to push the aged, the sick, and the disabled off their balance and into the street. Or the grave.

What awaits is a human tragedy. It is unwise, unfair, and manifestly un-American. It will be felt in South Florida as in few places in this, the nation made great by immigrants.

Maria Cristina Rodriguez is 76 and a social worker at the Little Havana Activities and Nutrition Center. She now runs six support groups for anxious seniors. She can't forget the 79-year-old woman who—as talk of benefits cuts rolled radio waves last year—jumped to her death from her subsidized apartment. "Here I finish," said her suicide note, "before they finish me."

Now the final countdown has started, and this kind of panic is spreading. One day recently, 500 distressed seniors waited for the local office of U.S. Rep. Ileana Ros-Lehtinen, R-Miami, to open. There they sought succor. But little was to be had. Congress had spoken.

Social-service agencies already are feeling the rising tide of dread and demand. At the Little Havana Center, two 80-year-old women walked in with a written suicide pact. With no family to turn to, and facing loss of their Supplemental Security Income—their sole means of living—they thought it best to kill themselves. Heed that, Congress.

Would that this panic were overblown. It is not. Thanks to last year's welfare-reform law, legal immigrants who are destitute, sick, or aged will lose their federal assistance beginning in August. Florida expects 115,000 immigrants to lose life-sustaining benefits, principally food stamps and SSI.

The numbers in Dade are particularly frightening. Here, if nothing is done, 80,000 legal immigrants—nearly twice the number of Dade's U.S.-citizen "welfare moms" who'll lose benefits in the next two years—will lose there life-line support. That 80,000 includes more than 40,000 who get SSI—the cash aid for the most poor, aged, and disabled.

The new welfare law did make some exceptions. Immigrants who worked in the United States 10 years, were veterans of the nation's armed forces, or who were admitted as refugees or granted asylum may remain eligible for aid. For most legal immigrants, though only citizenship offers a safety net.

What the welfare law did not provide was any assistance for those immigrants too old and infirm to document their work history or other eligibility criteria. Not did it provide for those already in the naturalization process. Nor did it allow for those who, because of mental disability, are not legally competent to take the citizenship oath. In this saddest of categories, at least 5,000 immigrants will lose benefits in Dade and Broward, says the Alliance for Aging, which administers federal funds to 30 local agencies.

U.S.-citizen Floridians transitioning from welfare to work are getting two years and job training before their aid is cut. In that light, the transition time offered legal immigrants—a scant one year—its pathetic. It comes at a time when the Miami Immigration and Naturalization Service office has 90,000 cases to process, and becoming a citizen can easily take 10 to 13 months. So even if the INS adds 70 new employees to process applications—a plan announced this week—some legal immigrants could lose months of vital benefits before becoming citizens and having their eligibility restored.

Picture Dade (and to a lesser extent Broward) after August. Elderly legal immigrants evicted and homeless. Anxiety-provoked deaths and disease. Overwhelmed families and social-services agencies. For the economy, the loss of $200 to $300 million annually. It is a book of tragedy waiting to be written not in chapters, but in paragraphs—each representing a single, undeserved, preventable human tragedy.

Many Floridians express concern, but few so far have taken meaningful action. Some legislators have been searching for solutions in Tallahassee and Washington. Governor Chiles has been pressing for federal fixes as well. Area agencies are cooperating in trying to think the unthinkable. Catholic Charities of the Archdiocese of Miami, for one, has been trying to raise funds for a massive naturalization and immigrant-assistance drive.

Yet, altogether, inexplicably, with five months to go, south Florida remains woefully undermobilized. (By comparison, Los Angeles County, Calif. organized 200 agencies and started a massive naturalization drive last October.)

Unless superhuman efforts begin now, there won't be enough time to avert the human carnage.

[From the Salt Lake Tribune, Jan. 27, 1997]

AFTER DECADES, UNCLE SAM TELLS ELDERLY NONCITIZENS WE WON'T HELP YOU ANYMORE: UNCLE SAM ROLLING UP WELCOME MAT

(By Patty Henetz)

Federal lawmakers meant to be absolutely clear when they ordered the end of public assistance to legal immigrants in the Personal Responsibility and Work Opportunity Act of 1996.

Just look at the bill's name. If questions remain, its backers will spell it out: Come to America. But never forget you are a guest and must pull your own weight.

Rose Boyer assumed that responsibility when she emigrated here from Lebanon 76 years ago. But the 92-year-old widow, who has been in nursing homes for the past 30 years, can't speak for herself because she has no idea what is going on around here.

Which may be just as well, since the letter she received from the state the first week of December would have been incomprehensible even if she did not suffer from dementia.

The letter said her medical-assistance case would be closed as of Dec. 31, 1996. Under new federal regulations, she is not qualified to receive Medicaid benefits. The $2,700 her nursing home received each month for her care would cease. Incredibly, the government appeared to be telling her it was time she quit shirking her responsibilities.

At the same time, state Humane Services Director Robin Arnold-Williams alerted Gov. Mike Leavitt that Boyer was likely to lose her aid, as could several others. The governor vowed to protect her—at least until August. "He isn't going to kick people out on the street because there was a line in the regulation that said we had to," says Leavitt spokeswoman Vicki Varela.

So now, no legal immigrants will lose their Medicaid protections. And if Leavitt, state humane services officials, the immigrants' families and friends have their way, no one will—even though on its face the federal law would have done it otherwise.

Rose Boyer's husband was naturalized in 1939 and died in 1946. She reared nine children, all U.S. citizens. She has outlived one of them. Her youngest living child, Sandy resident Louis Boyer, is 59. Her oldest son is retired and ill; another lives on his Social Security payment of $500 per month. The other three sons have diabetes. One has lost two legs, another has lost one leg, and all three were blinded by their disease. One daughter is a retired maid who can't walk much anymore; the other daughter, a 61-year-old clerical worker who wants to retire, also has difficulty walking.

Louis Boyer helps out the five siblings who live in Utah.

"I try to do what I can," he says. "I could pay for her keep, but then I would be in trouble. Our family has a lot of problems, but so far our mother is the only one on welfare. It was a big shock to me when they said they were going to kick her out."

Kris Mosley, Murray Care Center's social worker, was beyond shock. "I was furious," she says. "I was screaming mad. Who would want to discharge this little lady who can't walk, can't talk, who can barely feed herself?"

It may be difficult for affected families to take much comfort in this, but Utah is getting off easy. The federal welfare cuts are hammering more populous states, particularly those on the coasts.

Nationwide, 250,000 elderly immigrants are expected to lose their food-stamp allotments. About 500,000 legal noncitizens, the vast majority of them elderly, will lose their Supplemental Security Income benefits. SSI is paid to qualified people with severe disabilities. In California alone, about 390,000 of the 2.7 million on Aid to Families with Dependent Children are legal noncitizens.

Utah officials are optimistic that few residents here will be hurt by the new restrictions because the state can decide whether to continue some benefits. Leaders are working to avoid harming noncitizens who are in the country legally, especially the most vulnerable elders on Medicaid.

Last fall, the Utah departments of Health and Human Services surveyed the rolls of legal noncitizens receiving Medicaid and found that as many as 250 could be in jeopardy. They examined ways to keep from cutting benefits and reduced that list to 10 names. Further culling left only three people ineligible for Medicaid, says Michael Diely, director of the state Health Department's division of health-care financing. Two are in nursing homes, one is at the state training center.

Legal noncitizens who receive food stamps will lose that benefit April 1, and the state is not allowed to do anything to continue it. Some 1,900 Utah legal noncitizens receiving SSI are now under review; because SSI eligibility requirements have become increasingly strict under the reforms, hundreds stand to lose their disability pay.

The Utah Legislature this session will consider a bill, the Family Employment Program Bill, sponsored by Rep. Lloyd Frandsen, R-South Jordan, that could provide noncitizen legal residents with cash payments. And Leavitt has been asked to take part in related negotiations with federal leaders during the National Governors Association meeting next month.

"The whole issue of having a handful of people that we need to take care of and the possibility of more down the road demonstrates the need for more flexibility from the federal government," Varela says.

Many of the people affected by the reforms are noncitizens who have not bothered to become naturalized. They are known as PRUCOLS, or people residing in the country under color of law. The Immigration and Naturalization Service knows and has known they are here, but has made no move to deport them. This group includes those who came to the country on temporary or student visas and never left. They work here, have families and pay taxes, have stayed beyond their legal limit but have not been deemed illegal. Many of them are old, and now, most of them are scared.

Lorena Riffo, who heads the state Office of Hispanic Affairs, says she is working with the federal Immigration and Naturalization Service to assist the many older legal noncitizens who have applied for citizenship since the federal reforms were enacted. It may be possible, she says, to allow people older than 65 to take the citizenship exam in their native languages and in senior centers instead of INS offices, which could quell anxieties.

These measures won't help people who are incapable of becoming citizens, such as Rose Boyer and Lia Andrienko.

Andrienko's husband was one of the millions killed during the Stalinist purges in the old Soviet Union. After her husband was killed in 1938, she was ordered to leave Kiev or risk death for having married an enemy of the state. Her daughter was 1 year old. For most of her life, Mila Andrienko, now Popova, kept her father's history a fearful secret.

In 1989, when it was possible, Mila and her husband, Oleg, left Ukraine for the United States. Mila, who had been a physician, now works as a medical assistant. Oleg, formerly a civil engineer, delivers newspapers. In 1991, they sent for Lia, who was 82 and without other family. She became ill with dementia soon afterward. She would not sleep at night; her daughter and son-in-law, who worked all day, stayed awake while Lia roamed the house sobbing and tearing her clothes. "For three years, I did not sleep," says Popova. "She did awful things at night. I do not know why I didn't give her pills."

Finally, the Popova asked the state for help, Andrienko went on Medicaid and moved into the Murray Care Center, where Rose Boyer also lives. And like Rose Boyer, Andrienko got a letter in December telling her—though she could not understand—that her time on American medical assistance had run out.

"When I received this letter, I cried," says Popova. "What will I do? I cannot leave my job to care for her. And Kris (Mosley) said 'We will fight. We will fight.'¿¿"

Social worker Mosley has been fighting since the letters came. The promise Leavitt made to protect the three legal noncitizens who otherwise would lose their Medicaid is good until August. Mosley is on an ad hoc committee trying to figure out how to extend the protection. "One answer is to go through the deportment process, with an attorney," she says. A judge could find it absurd to send Rose Boyer back to Lebanon more than seven decades after she left and issue a 'suspension of deportation,' which would allow her to stay on Medicaid. Lia Andrienko could apply for political asylum, but probably wouldn't get it, leaving the Popovas to pay for care they simply cannot afford.

"Their answer is not a pretty one," Mosley says. "Under all the guidelines, no matter what piece of paperwork I fill out, I cannot change their alien status."

Naturally, Louis Boyer is worried. "My mother needs 24-hour care. I wouldn't be able to take care of her," he says. "I don't know why she never became a citizen. She went to school here, but never finished her education because she was barefoot and pregnant for so many years. She must have figured that with her husband and her children all citizens, it was no big deal. She entered the country legally, but she never had a green card. She has a Social Security card, given to her in 1972."

Popova doesn't know what is going to happen with her mother. She certainly can't go back to Ukraine. For now, Popova consoles herself with her sense of gratitude and good luck at being in the United States.

"Every time I am in the nursing home, I say, 'Bless America. Bless these people.'¿¿" she says. "I am happy because my family is happy here. I am an American."

SPONSORSHIP STUDY SHOWS DEVASTATING EFFECTS OF IMMIGRATION LAW

Mr. KENNEDY. Mr. President, a soon-to-be-released study commissioned by the Immigration and Naturalization Service shows that the immigration law Congress passed last year will have a devastating impact on family reunification—especially for working families.

Members of Congress may think they voted last year to put aside proposals to reduce legal immigration. But in fact, as this new study shows, last year's bill may have accomplished back door cuts that could not have been achieved through the front door. The onerous new sponsorship requirements are likely to cause a one-third reduction in the number of immigrants entering the United States to join close family members here.

The new law requires immigrants and US citizens seeking to bring immigrant relatives to the US to meet strict income requirements. Anyone sponsoring an immigrant relative for admission to the US must earn at least 125% of the poverty level. For a family of four, 125% of the poverty level is more than $20,000 per year.

The INS study examined sponsorship patterns under the old law, and found that 29% of family sponsors had incomes below 125% of poverty. That means 3 out of every 10 families who came here in recent years probably could not have been reunited with family members under the new 125% rule. In addition, 52% of immigrants who sponsored their spouses did not meet the 125% income threshold. In other words, over half of all immigrants who brought in husbands or wives—the closest of all family members—would be disqualified if they tried to bring them in today.

In addition, according to the study, 29% of American citizens who sponsored their spouses earn below the 125% level. That's 3 out of every 10 American citizen sponsors who could not be reunited with their spouses under the new law.

The new requirement hurts both working American families and legal immigrants. As a result, large numbers of them cannot reunite with their loved ones. The new threshold means that the average construction workers with two children could not sponsor their immigrant spouse.

We are talking about hard-working Americans and legal immigrants—people who have played by the rules. I doubt that anyone in this Congress wants to deny American citizens the opportunity to bring their spouse to America or watch their children grow up here. But, that is what the 125% requirement does. It denies hard-working Americans these opportunities because the full time job they hold doesn't pay enough.

Supporters of the new requirement claim that the income requirement is intended to keep immigrants off welfare. But in reality, after last year's sweeping welfare reforms, there is very little public assistance for which legal immigrants qualify. They are banned from receiving SSI and Food Stamps until they have worked and paid taxes for 10 years—or until they become citizens. They are banned from Medicaid and other needs-based programs for their first five years in the United

States, after which they receive assistance only if their sponsors are unable to provide for them. So even if their sponsors have only modest incomes, the immigrants they sponsor are ineligible for public aid.

I supported measure to make sponsors more responsible for the care of the immigrants they bring in. But these requirements should not be so burdensome that they prevent American citizens from having their wives or husbands or children join them in the United States.

We expect sponsors to be responsible—far more responsible than we expect ordinary Americans to be. We expect sponsors to do it all—pursue the American dream, hold a good job, and under the new law, hold a better job than almost a third of American citizens. The 125% requirement contained in the new immigration law puts family reunification out of reach for many hard-working Americans and the majority of legal immigrants.

In addition, the study found that the 125% requirement disproportionately affects minority communities. Half of the immigrants coming from Mexico and El Salvador had sponsors who earned less than 125% of the poverty level. The same was true for a third of immigrants coming from Korea and the Dominican Republic, and a fourth of immigrants coming from China and Jamaica. So, future immigrants from these countries will have unfair difficulty reuniting with their families in the United States.

Supporters of the 125% requirement often point out that the new law allows low income sponsors to overcome the 125% hurdle by lining up backup sponsors. What they fail to say, however, is that low-income, working class sponsors usually have low-income, working class friends. As a result, it is extremely difficult to find back up sponsors with income sufficient to meet the 125% requirement.

In addition, because the new law makes sponsorship agreements legally binding contracts, non-family members are unlikely to agree to sponsorship. Friends and family know that if they agree to sponsor an immigrant, they can be sued by the federal, state, or local government if the immigrant needs public assistance. If the immigrant they sponsor is injured on the job and needs medical care, the back-up sponsor may have to pay thousands of dollars in medical bills. Many families are not willing to ask their friends and other relatives to shoulder such a heavy burden.

I hope that all of us in this Congress who are concerned about families in the immigration laws will work together to revise these harsh provisions. There is no justification for this blatant kind of bias in the immigration laws, and Congress has an obligation to end it.

I ask unanimous consent that a recent article from the New York Times on this new study be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 16, 1997]

IMMIGRANT STUDY FINDS MANY BELOW NEW INCOME LIMIT

(By Celia W. Dugger)

A new Federal analysis has found that an immigration law adopted last fall will make it much more difficult for poor and working-class immigrants to bring family members to the United States legally, especially Mexicans and Salvadorans, whose incomes are generally lower than those of other immigrant groups.

But Congressional sponsors of the legislation say their intent was not to impose unfair burdens on immigrant families but simply to prevent them from becoming dependent on public aid.

The law requires immigrants seeking to bring relatives here to meet income requirements and to make legally enforceable promises to support the newcomers.

Advocates for immigrants say these restrictions are a backdoor way to slash legal immigration in a year when Republicans in Congress failed to reduce immigration levels directly. They say it will needlessly divide hard-working husbands and wives from each other and their children.

The law, which is to go into effect later this year after regulations are finalized, requires immigrants sponsoring family members for admission to the United States to make at least 125 percent of the poverty level, or $19,500 for a family of four.

Under the old law, there was no income test for sponsors, just a requirement that incoming immigrants show they would not need public aid. In deciding whether to issue visas, consular officers at United States embassies overseas could consider whether prospective immigrants had jobs waiting, marketable skills, enough savings to support themselves or a sponsor.

Preliminary research, sponsored by the United States Immigration and Naturalization Service and based on a random survey of 2,160 statements signed by sponsors of family immigrants in 1994, found that about 3 in 10 of those sponsors had incomes below the new standard.

Another study conducted last year by the Urban Institute, a nonprofit research group in Washington, reached similar conclusions. Its examination of 1993 Census Bureau income data found that 40 percent of immigrant families in the United States and 26 percent of Americans born in the United States would not make enough to sponsor an immigrant under the new standard.

Federal immigration officials refused to discuss their new research, which had not yet been released, or to say whether the preliminary findings had changed. But several people familiar with the research—three who opposed the new law and two who favored it—described the findings on condition that their names not be used.

Based on the survey of statements signed by sponsors, immigration officials estimated that roughly half of the Mexicans and Salvadorans, one-third of the Dominicans and Koreans, one-fourth of the Chinese and Jamaicans and one-fifth of the Filipinos, Indians and Vietnamese would not have met the new income requirements.

One opponent of the new laws who spoke on condition of anonymity said the study showed that half of the legal permanent residents and about 3 in 10 of the citizens who sponsored their wives in 1994 would not have met the income standard.

The cases surveyed included both immigrants seeking to join their families here and those already in the United States, who may have entered on student visas or illegally, trying to become legal permanent residents.

In 1994, 461,725 immigrants came to the United States to join their families here, according to Federal statistics. Demographers with the New York City Planning Department estimate that about 1 in 6 of those immigrants came to the city.

But the new research comes with these cautions: the income reported on each statement was not verified, and the size of the families and the incomes they would need to meet the new standard were difficult to determine in a substantial portion of the cases.

Representative Lamar Smith, a Texas Republican who is chairman of the House Immigration Subcommittee and a sponsor of the law, said in a statement on Friday that he had been advised that the methodology of the immigration service's research was "fatally flawed."

New studies of the impact of last year's immigration law are being scrutinized because the issue of immigration is so politically charged and because legal changes so often have unanticipated consequences.

Complicating this debate is the disagreement among experts about just how much legal immigrants rely on public assistance. The Urban Institute says that 94 percent of immigrants do not receive welfare. George J. Borjas, a professor of public policy at the John F. Kennedy School of Government at Harvard University, using a broader definition of welfare benefits, says that 21 percent of all immigrant households receive some type of public assistance, compared with 14 percent of native households.

Even with the data on the income requirements, it is difficult to predict exactly what impact the new law will have on immigration levels. For one thing, people who cannot immigrate legally may come anyway.

"The perverse effect of the law will be to encourage illegal immigration," said Cecilia Munoz, a deputy vice president of the National Council of La Raza, a nonprofit Hispanic civil rights organization. "The ties between families are probably stronger than our laws."

All immigrants seeking to join their families will need a sponsor when the law takes effect; the old law did not require a sponsor for those who convinced officials that they could support themselves. About one-quarter of the immigrants who joined their families in 1994 had no sponsor, according to the new research, and it is not possible to determine how they would have fared under the new law.

In addition, under the new law, sponsors who do not meet the new income standards will be allowed to recruit a friend or other relative who does earn enough to sign a statement in their stead, promising to support the new immigrant if necessary.

That may enable more people to bring in relatives, although another provision of the law is already discouraging some close family members, not to mention friends, from signing such legally binding statements, immigration lawyers say.

In the past, such promises have generally been found unenforceable in the courts, but the new law specifically empowers Federal, state and local governments to sue sponsors of immigrants who wind up on public assistance. It also allows immigrants to sue their sponsors for support. The sponsor is responsible until the immigrant becomes a citizen or has been working and paying taxes for 10 years.

Ana C. Zigal, an immigration lawyer in Baltimore, said she represents a young college student married to an illegal Mexican immigrant who installs air-conditioners for a living. The student, who works as a sales clerk in a department store, does not make enough to sponsor her husband and her father is "very scared" about signing a statement promising to support his son-in-law if necessary, Mr. Zigal said.

"What if that kid has a car accident that leaves him a paraplegic?" Ms. Zigal said. "The father is weighing his daughter's happiness against these future unknowns."

The new requirements continue to stir debate about the purpose of immigration to the United States. Groups that favor more restrictive policies, like the Federation for American Immigration Reform, contend the law will help keep out those who cannot support themselves.

"We don't need to import a poverty class into this country," John L. Martin, special projects director at the federation, said.

But advocates for immigrants say the new law runs counter to America's commitment to encouraging immigrants to reconstruct their close families here.

"The new law will mean that literally thousands of U.S. citizens and lawful permanent residents won't be able to reunite with their spouses, children and other family members," said Jeanne A. Butterfield, executive director of the American Immigration Lawyers Association.

IN RECOGNITION OF PAUL HOSHIKO

Mr. ALLARD. Mr. President, I rise today to pay tribute to a fine American, a great father and a good friend, Paul Hoshiko of Eaton, Colorado. Paul recently passed away, but left behind him a legacy of accomplishment and achievement that deserves to be recognized by all Americans.

To many, Paul Hoshiko was known as a leader in the agricultural arena. To others he was known for his civic involvement and his donation of time and money for various charities. I knew him not only in those regards, but also as a moral man who put his family first; who had a deep and abiding faith in his God; and one who was an unabashed patriot. But in all regards and to all who knew him, Paul Hoshiko, was admired and respected.

He served on numerous boards and committees throughout his life which showed his standing in the community. One of the most prestigious positions he held was his appointment by the U.S. Secretary of Agriculture to the Colorado State Agricultural Stabilization and Conservation Committee. Some other organizations he was involved with were the Extension Advisory Committee, Colorado Seed Growers Association, Central Weld Water District, member of Kersey & Greeley area Chamber of Commerce, member of Weld County Farm Bureau, Director of Lower Latham Reservoir for over 30 years, and the hospital foundation, among others. He received countless awards from these associations which illustrate his leadership and influence.

Paul was perhaps best known around the country as the "onion king". In fact, his sole appearance on commercial television (at least so far as I know) was standing in an onion field explaining to a future U.S. Senator what it took, "to be a good onion man". He was elected to the Board of the National Onion Association and served as president for five years. During his tenure the national office was moved to Greeley, Colorado. He served on the board of directors of this association until his death.

However, perhaps most notable and dearest to his heart, Paul should be recognized for his lifelong devotion to the 4-H program. He actively participated in this organization his entire life, both as a member and as a leader. He was continuously taking strides to make 4-H an astronomical success, including but not limited to his active involvement in the International Farm Youth Exchange program, the National Western Stock Show, an annual State 4-H golf tournament, and a 4-H lighted softball field. He made a tremendous impact on those lives he touched while partaking in the 4-H program. His devotion is reflected in the faces of those youth who had the opportunity to work with him in these projects.

In summary, Mr. President, as you can see by my remarks, Paul was a born leader. He gave to his family, community, church and region unselfishly. He was the kind of man who only comes along every so often . . . and his life deserves to be recognized.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, March 19, 1997, the federal debt stood at $5,367,674,335,377.56.

One year ago, March 19, 1996, the federal debt stood at $5,058,839,000,000.

Five years ago, March 19, 1992, the federal debt stood at $3,862,284,000,000.

Ten years ago, March 19, 1987, the federal debt stood at $2,243,959,000,000.

Fifteen years ago, March 19, 1982, the federal debt stood at $1,050,933,000,000 which reflects a debt increase of more than $4 trillion ($4,318,164,231,511.65) during the past 15 years.

TRIBUTE TO THE LATE EDWIN CRAIG WALL, JR.

Mr. THURMOND. Mr. President, in any state, there are certain individuals who make their mark in one or more fields, and in the process, they not only earn personal success, but they also make significant contributions to the place they call "home". I rise today to pay tribute to one such man, Edwin Craig Wall, Jr., who was a successful businessman and civic booster, who recently passed away after being struck by a heart attack.

During his adult life, Mr. Wall distinguished himself as a leader of business and industry in the Grand Strand area of South Carolina. This region is one of the fastest growing parts of the Palmetto State and represents a well developed and diversified economy that includes manufacturing, tourism, and shipping concerns. Tens of thousands of South Carolinians are employed in good paying, secure jobs, and the revenues that are contributed to our State's coffers from this area are certainly significant. Without question, Mr. Wall helped to create this very impressive picture of economic health that typifies the Grand Strand and Pee Dee.

Though Mr. Wall entered the businessworld with a tremendous advantage, his father had built a very successful company called Canal Industries, he chose not to rest on the accomplishments of his namesake. Trained at the business schools of Davidson College and Harvard University, Mr. Wall was determined to find ways to streamline Canal and make it more efficient and profitable. From what I understand, he was more than successful in his objectives, as Canal is now a world leader in the timber industry, as well as becoming a prominent company in commercial development in the Myrtle Beach area.

Perhaps one of the hallmarks of a good business person is how much they give back to the community and state which allowed them to prosper. In the case of Mr. Wall, he was very generous in what he contributed to South Carolina and he set an excellent example for other corporate executives to follow. His expertise and insight were valued by many, and he served on countless boards, including those of Davidson College and NationsBank. He was a strong advocate of education and worked hard to ensure that the Palmetto State had a school system that would guarantee that none of our citizens lack for the skills they would require to succeed in life.

Mr. President, Craig Wall was a man who had a tremendous impact on life in South Carolina, and though he passed away at far too young an age, his star certainly shone bright. We are all grateful for the leadership and contributions he made throughout his life and career, and his wife and children have my deepest sympathies.

NATIONAL AGRICULTURE DAY

Mr. COVERDELL. Mr. President, I would guess that many in the gallery today, and even some of my colleagues, are unaware of today's significance for rural America. Today is National Agriculture Day and should be a time of great reflection and celebration for all Americans. It is unfortunate that many in today's society are unaware of agriculture's daily role in their lives, but the fault for this may lie with those of us in the agricultural sector who have not properly told our story. The significance of this day is held in the tremendous, yet quiet, success story American farmers have written in building this nation. Although our agricultural community is in a period of great transition, there still can be no dispute—American farmers produce the world safest, most abundant and affordable food and fibers. This did not come by accident. American farmers, with a few exceptions, have enjoyed a positive partnership with their government. Congress has long backed vital research, promotion and insurance activities for farmers. These efforts, for the most part, need to continue in order to maintain our excellence. Just coming out of the 1996 Farm Bill, we should now carefully evaluate our work to determine where our policies have been successful and where we need work. Let's not forget that agriculture is our nation's number one export product, and in my state, is the largest industry. My point is, just like a good crop, our agriculture community needs attention.

Now, what is the future of agriculture? I tend to believe that our future is in trade and technology. We are strategically positioned to compete and win on a world market. We are also leading the world in our ag research with many exciting advancements on the horizon. Where we need to concentrate is on the crafting of future Agriculture leaders for America. In my state, the Georgia Farm Bureau, the Georgia Agribusiness Council and the state Department of Agriculture and University, in coordination with others involved in agriculture, have teamed up to promote a program for future ag leaders. Program participants are selected for their leadership, integrity and effectiveness and are chosen in order to better communicate with non-ag leaders the many challenges facing agriculture today. This program was adopted six years ago and is called the Georgia Agri-Leaders Forum. The Agri-Leaders of Georgia are all standouts in various fields related to agriculture. They come from farms, banks, electrical membership cooperatives, commodity groups and other organizations with a common agricultural thread. These leaders should be commended for their contributions to agriculture and their service in what should be a mission to better educate America on just what her annual harvests mean to our national security and health. They are the best and brightest in Georgia agriculture each year, and I want to recognize them on this important day. The following are the class of the 1997 Georgia Agri-Leaders Forum:

Dr. David K. Bishop, Extension Animal Scientist (University of Georgia) Tifton, GA; Roger L. Branch, Southeastern Gin Inc., Surrency, GA; Louie Canova, Floyd County Extension Director, Rome, GA; Charles Enfinger, Pineland Plantation, Newton, GA; Clint Hood, President, Allied Bank of GA;, Louisville, GA; Sam James, Regional Marketing Manager, Gold Kist, Inc., Atlanta, GA; Debra M. Cervetti Engineer, Cornerstone Engineering, Moultrie, GA; James Colson, Regional Accounts Manager, Gold Kist Inc., Valdosta, GA; Frank Dean, Vice President, North GA; Farm Credit, ACA Daniel L. Johnson, D.L. Johnson Farms, Alma, GA; Robert F. Jones, The Kroger Company, Atlanta, GA; George Larsen II, Lone Oak Plantation, DeSoto, GA; April Lavender, Georgia Forestry Association, Norcross, GA; Mary Ellen Lawson, GA; Department of Agriculture, Atlanta, GA; Dr. Daniel V. McCracken, Dept. Of Crop and Soil Science (University of GA;), Griffin, GA; Clete Sanders, S&S Farms, Forsyth, GA; Shirley Stripling, Chula Peanuts and Grain, Chula, GA; Stephen L. Morgan, ISK Bioscience, Thomasville, GA; James R. Noble, GA; Power Company, Tifton, GA; Richard L. Oliver, Area Conservationist (USDA/NRCS), Rome, GA; Lynn D. Thornhill, Abraham Baldwin Agricultural College, Tifton, GA; Frank Wade, Jr., A.F. Wade CPA, Cochran, GA;

Mr. President, I want to again recognize and congratulate this fine class of agri-leaders for their contributions to agriculture and to their country on this National Agriculture Day.

NORTHERN IRELAND WOMEN'S COALITION

Mr. KENNEDY. Mr. President, earlier this week, I met with Monica McWilliams of the Northern Ireland Women's Coalition. She and Pearl Sagar were the only two women participating in the Northern Ireland peace talks, so ably chaired by our former Senate colleague George Mitchell, when they began last June.

The Northern Ireland Women's Coalition is composed of Unionist and Nationalist women who have united in common cause for peace and for an end to religious discrimination in Northern Ireland. The Coalition serves as an eloquent voice of civility in an often uncivil climate. It is especially important that women's voices continue to be heard in the search for an end to the violence and a peaceful future for Northern Ireland.

Monica McWilliams talks frankly and effectively about her commitment to inclusive peace talks and an end to the violence in Northern Ireland. Speaking about the intransigence of some in the talks, she has said, "We're naming them, we're blaming them, and we're shaming them." She has called on the IRA to restore its cease-fire, and called on the British Government to admit Sinn Fein to the peace talks when the cease-fire is restored.

Monica McWilliams and her colleagues in the Coalition have shown a great deal of courage in their involvement in the political process. Ms. McWilliams recently had her car vandalized, but as she bravely stated, "That's okay, as long as there's peace."

Mr. President, the Women's Coalition offers real hope for a better future for Northern Ireland. I ask unanimous consent that a recent article about the Coalition which appeared in the Manchester Guardian in England be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Guardian, Feb. 17, 1997]

WOMEN ALL TOGETHER NOW—IF THE POLITICAL TALKS IN NORTHERN IRELAND COLLAPSE, WILL THE WOMEN'S COALITION SURVIVE?

(By David Sharrock)

In its corridors of power, the political brokers of Northern Ireland's future have weighty issues on their minds. Here comes Monica McWilliams of the Women's Coalition, being tackled by one of Ian Paisley's Democratic Unionists lieutenants. Constitutional reform? Bill of Rights? Cross-border bodies? Well no, actually. It's about the trouser suit she's wearing. Doesn't she realise that ladies ought to wear skirts? It's not easy being a woman politician in Ulster. All the main parties have them, but as the DUP's Iris Robinson opined just three years ago, their role has been that of the "ordinary housewife", more often in the kitchen brewing the tea than in the conference hall making policy.

Not any more. When John Major called an election for May 30 last year, a group of women got together and decided to enter the fray. But if the political talks at Stormont collapse under the weight of a renewed terrorist onslaught while everyone awaits a new Government in Westminster, will the Women's Coalition survive? It has been a rocky nine months since the Stormont talks and the Separate Forum meetings began, in many respects a baptism of fire for these women with little experience of life at the political coalface. Perhaps for that reason, the Women's Coalition seems nowhere near as depressed as the other parties by the lack of progress.

A sense of humour helps. Monica McWilliams, a senior lecturer in social policy at the University of Ulster, and Pearl Sagar, an east Belfast community worker, need thick skins to survive the bearpit that is the forum, a body boycotted by Sinn Fein and the SDLP. Ten days ago, for instance, the DUP MP Rev. William McCrea told the Forum in his best Old Testament delivery: "As long as I live, I'll have a mission, which is to teach those two women to stand behind the loyal men of Ulster." So Sagar and McWilliams burst out singing Stand By Your Man. "He was raging," McWilliams laughs, adding: "You can be shocked by the abuse you get. I had to ask the chair to call order three times. At one stage, Ian Paisley Junior started mooing." May Blood knows why they are treated like this. "It's because we're making inroads, they're threatened by us. The strange thing is, I would know the DUP quite well, living and working on the Shankill. Now outside they're one thing, but I can meet them inside the talks and it's as if I didn't even exist. I can understand where they're coming from, but you can't be thinking like that now. They've got to realise that women have as much part to play here and I think this is what really bugs men." But it's not just the way they are treated by their political equals that irks the Women's Coalition. The media, they claim, aren't prepared to take them seriously either. Last month, Blood, McWilliams and Sagar were invited to Number Ten for talks with the prime minister. A half-hour meeting ran on for an hour and a quarter. But neither the BBC nor UTV in Northern Ireland covered the event. The Belfast Telegraph gave it 300 words.

"If it had been any of the other parties, they would have been all over them," says Kate Fearon, a 27-year-old think tank assistant director. "The problem is, we tend to get into the press only when we are being badly treated by the other parties and it's easy to reel off such stories." They are all frustrated at the lack of recognition they have received for the behind-the-scenes work going on at the talks. The confirmation of former US Senate leader George Mitchell as chairman, for example, in a marathon session running into the early hours of the morning.

The drafting of an "Order in Council" which could immediately enact the North report's proposals on regulating parades was another coup. Labour's Mo Mowlam commented: "If the Women's Coalition can produce draft legislation with such speed and with very little administrative back-up, why can't the Government?" Blood thinks a major spin-off from their party has been the promotion of women into public roles by the other parties. Brid Rodgers of the SDLP has a much higher profile now than 12 months ago, while women in Sinn Fein have always been active but rarely received the recognition they deserved. The loyalist Progressive Unionist Party even has its own women's executive.

"Iris Robinson's not saying 'I'm only a housewife' now. She regards and presents herself as a credible representative of her party. And she's good in the debates. You'll find a lot of women in the parties who may not admit it publicly but they are saying privately, thank God the coalition came into being." The greatest good women can bring to the political talks, Fearon believes, is the ability to "Untaint the concept of compromise, because we have always had to compromise. It's a dirty word to men." Compromise may be a long way down the road, but there's one thing the men in the other parties could do straight away to show they are reformable. "They've only recently been able to start calling us the Women's Coalition, before that it was always the Ladies' Coalition. They couldn't get their heads around it. The only time they use women was when they prefixed it with whingeing or whining."

HONORING ARNOLD ARONSON ON HIS 86TH BIRTHDAY

Mr. KENNEDY. Mr. President, I am here along with a number of my colleagues to honor Arnie Aronson on his 86th birthday, which was March 11. Arnie eminently deserves his reputation as one of the greatest founders of the civil rights movement.

Throughout his long and brilliant career, he has been a leader in every stage of the struggle for equal justice for all Americans. Over half a century ago, in 1941, he headed the Bureau of Jewish employment problems, a one-person agency in Chicago that investigated discrimination against Jews. There were no fax machines, no cellular phones, no computers then, no television sets—just one person with an iron will to eradicate discrimination.

Arnie recognized that the plague of discrimination would not be overcome unless victims of different races and religions joined together. As Arnie once said, "the struggle for civil rights cannot be won by any one group acting by or for itself alone, but only through a coalition of groups that share a common commitment to equal justice and equal opportunity for every American."

At that time, Arnie also formed the Chicago Council Against Religious and Racial Discrimination, a coalition of religious, labor, ethnic, civil rights, and social welfare organizations. His organization was immensely successful in addressing the problems of discrimination.

For over 30 years, from 1945 to 1976, Arnie was program director for the National Jewish Community Relations Advisory Council, a coalition of national and local Jewish agencies. During this period, he worked on every major piece of civil rights legislation, and every major civil rights issue. In 1954, after the historic Supreme Court decision in Brown versus Board of Education, Arnie organized the Consultative Conference on Desegregation. This organization provided much-needed support to clergy members who were under fire for speaking out in favor of the decision. He coordinated the campaign that resulted in 1957 in the enactment of the first civil rights laws since reconstruction. He was also a leader in persuading Congress to enact the three great civil rights laws of the 1960's—the Public Accommodations Act of 1964, the voting Rights Act of 1965, and the Fair Housing Act of 1968. The list goes on and on.

Arnie was also a principal founder of the Leadership Conference on Civil Rights. To this day, the Leadership Conference is a powerful force for progress on civil rights precisely because of Arnie's influence and example in the 1950's. When others were seeking to divide the Nation with prejudice and bigotry, Arnie was uniting the Nation through hope and opportunity. The statement of purpose he prepared for the Leadership Conference has as much power today as it did when Arnie drafted it in 1967. The statement reads:

> We are committed to an integrated, democratic, plural society in which every individual is accorded equal rights, equal opportunities and equal justice and in which every group is accorded an equal opportunity to enter fully in the general life of the society with mutual acceptance and regard for difference.

In 1985, Arnie became president of the Leadership Conference Education Fund. Under his guidance, the Fund has focused on working with young children to root out prejudice early and instill an appreciation for the diversity that is the Nation's greatest strength.

As we all know, the battle is not over. Civil rights is still the unfinished business of America. But because of Arnie Aronson, we have made substantial progress. Arnie is powerful proof that one person can make a difference in the lives of millions of our fellow citizens. It is an honor to join in wishing Arnie a very happy belated birthday.

Mr. LEAHY. Mr. President, I come to the Senate floor to wish Arnie Aronson a happy belated 86th birthday and to commend him on his many achievements.

Arnie has been working for civil rights for over 50 years. He began at a time when help wanted ads openly specified "Gentile Only" or "Irish Need Not Apply." In the early 1940's he organized a coalition of religious, ethnic, civil rights, social welfare and labor organizations into the Chicago Council Against Religious and Racial Discrimination. By 1950 he was working with Roy Wilkins and many others to organize support for President Truman's proposed civil rights effort and engineered the combination of national organizations that created the Leadership Conference on Civil Rights.

He and the Leadership Conference were instrumental in the enactment of the first extensive Federal civil rights laws since Reconstruction, the landmark 1964 Civil Rights Act, the fundamental Voting Rights Act of 1965 and the pivotal Fair Housing Act of 1968. They have been critical to our civil rights efforts at every turn ever since.

The Statement of Purpose he drafted for the Leadership Conference says a great deal about this extraordinary man and his dedication to the rights of all: "We are committed to an integrated, democratic, plural society in which every individual is accorded equal rights, equal opportunities and equal justice and in which every group is accorded an equal opportunity to enter fully into the general life of the society with mutual acceptance and regard for difference."

Arnie went on to help organize clergy, churches and synagogues. He was a founding member of the National Urban Coalition and a charter member of Common Cause. In the last 10 years, while well in his 70's, he assumed the presidency of the Leadership Conference Education Fund and helped invigorate its educational and public service activities.

I am proud to call Arnie my friend and to take this opportunity to wish him a happy belated birthday.

Mr. JEFFORDS. Mr. President, I rise today to pay tribute to Arnold Aronson, a man that has spent his life working for a goal that is dear to my heart; an integrated, democratic, plural society in which every individual is accorded equal rights, equal opportunities and equal justice.

Mr. Aronson began his work toward achieving his goal in a time when discrimination was overt and widespread in our country. Beginning in a one-person agency founded in 1941 to combat employment discrimination against people of the Jewish faith, Mr. Aronson eventually became the Secretary of the Leadership Council on Civil Rights, an organization dedicated to insuring equal rights to all segments of society.

Under his guidance the Leadership Council was able to plan, coordinate and facilitate the passage of the 1964 Civil Rights Act, the Voting Rights Act of 1965 and the Fair Housing Act of 1968. His ability to recognize the strength of building coalitions in support of a common legislative goal was instrumental in the passage of all of these bills, and this belief helped assure that the tough decisions that had to be made did not fracture the coalition.

Since 1985, Mr. Aronson has served as the President of the Leadership Conference Education Fund. Under his supervision, the Fund has increasingly focused on programs aimed at developing positive intergroup attitudes among young children. This focus has included a 10-year partnership with the Advertising Council of America aimed at developing public service announcements dealing with diversity and prejudice. As we all know, the children of today will be growing up into the teachers, doctors and Presidents of tomorrow. Discussing this topic with the children of today, should help us achieve our goal of equal rights, equal opportunities and equal justice for all.

Mr. President, while not a household name in the battle for civil rights, Arnold Aronson deserves our recognition and high praise for his years of hard work fighting for civil rights for all. I remain hopeful that in the foreseeable future we will be able to achieve our goal of equal rights, equal opportunities and equal justice for all.

I appreciate this opportunity to pay tribute to Arnold Aronson, and I yield the floor.

Mr. LIEBERMAN. Mr. President, I rise to make a few remarks concerning Arnold Aronson. For some Americans, civil rights is a cause. For others, civil rights has been a crusade. For Arnold Aronson, civil rights has been his life.

In his quiet, effective, persistent way, Arnold Aronson fought the battles that too many Americans simply talked about. It made no difference whether the victims were Jewish workers or Protestant pastors, black adults or white children. Arnold Aronson knew that there was only one American dream and that it applied to all Americans.

Arnold Aronson has over the last half century worked with all the big names in civil rights, Americans like A. Philip Randolph and Roy Wilkins. But Arnold Aronson should not be honored for the big names for whom he worked but for the countless millions who he worked so hard to help.

Arnold Aronson once said: "The struggle for civil rights cannot be won by any one group acting by or for itself alone but only through a coalition of groups that share a common commitment to equal justice and equal opportunity for every American."

For Arnold Aronson, opportunity knew no boundaries of age, race, or religion. Opportunity was simply a principle to be lived and practiced, consistently, lovingly, and most of all, together.

From his work with the Bureau on Jewish employment in Chicago in 1941 to his presidency of the Leadership Conference Education Fund for the past decade, Arnold Aronson has turned that principle of opportunity for all into his life's mission.

Ms. MOSELEY-BRAUN. Mr. President, I rise today to honor one of the founders of our Nation's civil rights movement, Arnie Aronson on the occasion of his 86th birthday.

Mr. Aronson began his fight against discrimination in 1941. He headed the Bureau on Jewish Employment Problems in Chicago, Illinois. At that time discrimination against Jews was overt and widespread. Oftentimes help wanted ads stated "Gentile Only" need apply. Realizing that employment discrimination was a prevalent problem that affected people of all races, he organized the Chicago Council Against Religious and Racial Discrimination, a coalition of religious, labor, ethnic, civil rights, and social welfare agencies. As Council Secretary, Mr. Aronson directed the campaign that led to the first Municipal Fair Employment Practices Commission in the Nation.

He went on to form a statewide coalition, the Illinois Fair Employment Council which initiated the Illinois campaign for fair employment practices legislation. Due to his experience in the area of employment discrimination he served as a consultant to other states that sought similar legislation.

From 1945 until 1976, Mr. Aronson served as the Program Director for the National Jewish Community Relations Advisory Council, a coalition of national and Jewish agencies. He helped develop policies and programs for Jewish agency involvement on issues of civil rights, civil liberties, immigration reform, church/state separation, Soviet Jewish emigration, and support for Israel.

In 1949, Mr. Aronson served as Secretary of the National Emergency Civil Rights Mobilization. This group was formed to lobby in support of President Truman's proposed civil rights program. The Mobilization consisted of approximately 5,000 delegates from 32 states representing 58 national organizations. At the time, it was described as the "greatest mass lobby in point of numbers and geographical distribution" that ever came to Washington.

In 1950, Mr. Aronson helped found the Leadership Conference on Civil Rights, one of the nation's leading civil rights organizations. He served as Secretary of the Conference from 1950 to 1980. In addition to being responsible for the overall administration of the Conference, he helped plan and coordinate the campaign that resulted in the enactment of the first civil rights laws since Reconstruction, the 1964 Civil Rights Act, the Voting Rights Act of 1965, and the Fair Housing Act of 1968. During Mr. Aronson's tenure with the Conference, he helped contribute to some of the Conference's most productive years.

I could go on, Mr. President, for there is no shortage of achievements, but I think that these few examples are sufficient to illustrate what an extraordinary contribution Arnie Aronson has made to the civil rights of our Nation. It is no exaggeration to say that millions of men and women of all races—who may never know Arnie Aronson—have benefited directly from his dedication and personal sacrifice on behalf of civil and human rights. He has made a positive and constructive difference for our Nation. I am pleased to wish him a belated happy 86th birthday.

Mr. WELLSTONE. Mr. President, it is time for attention to be given to Arnold Aronson. Few students in this country, when studying Civics in their high schools and elementary schools, learn of the name Aronson. When they read about the 1964 Civil Rights Act, the Voting Rights Act of 1965, the Fair Housing Act of 1968, the Civil Rights Restoration Act of 1988, and the Americans with Disability Act—each in their own right a high water mark for our Nation—they hear names like King, Kennedy, and Johnson—but not Aronson.

This is a lamentable omission for two reasons. First of all, none of these landmark pieces of legislation would ever have happened if it hadn't been for him. Second, school children across the Nation should be taught about the vital role non-elected individuals have played in our society, and the indispensable role of grass roots efforts and coalition building—two pillars of our political structure exemplified by Arnie Aronson. Mr. President, this nation should understand that our landmark civil rights laws were born in our Nation's communities, not in the minds of our Presidents. The truth is that the leadership came from the bottom, so to speak; not the top. The initiative required for these fundamental shifts in our society were born in the hearts of thousands of individual citizens, each of whom reached out to their respective communities, and were strung together delicately and persistently by a few motivated and foresighted leaders like Arnie Aronson.

The reality is that Arnie has no one to blame but himself for his lack of notoriety. Arnie, as his friends and colleagues all know, shuns publicity with the same energy that some employ in its pursuit. But had Arnie been a self-promoter, then he never could have satisfied the complex interpersonal agendas necessary to organize so many disparate views, so many different goals, so many challenging attitudes. Arnie weaved together practically every major civil rights organization in the country into the grandparent of all coalitions, and perhaps still one of the most successful coalitions this century, the Leadership Conference on Civil Rights. Some of the organizations that eventually found a voice under his umbrella were in their infancy at the time and now are household names; others had such distinct agendas that it is nothing short of miraculous that they were willing to lend their names to any unified cause. But Arnie is a master consensus builder, and he accomplished more than most people could imagine, by advancing the interests of others rather than himself, by the practically unknown arts of self-sacrifice and behind-the-scenes hard work.

By doing what he does, Arnie sets an example for us all. He has shown us what this Nation is capable of accomplishing, if it has the right goal in mind, and the will to reach that goal. He is an inspiration, because of his tolerance, his eagerness to hear out views that others might find offensive, his patience to find new, non-threatening ways of expressing strong opinions, and his ability to harness and channel tremendous energy in productive directions. There are millions of Americans enjoying lives and jobs and suffering far less discrimination than their parents endured, thanks to Arnie.

Mr. President, Arnie Aronson should be anything but a secret in this nation. He is a role model for us all.

PUBLIC CALL FOR CHILDREN'S HEALTH COVERAGE

Mr. DASCHLE. Mr. President, last week, over one-half dozen groups representing millions of Americans spread out across Capitol Hill to lobby for legislation that would guarantee every child health insurance. Their message was simple: it is wrong that America, alone among industrialized nations, doesn't assure health protection for its children.

We in Congress should heed their call and work together to erase this ignoble distinction.

Bolstering their message was the release last week of the Children's Defense Fund's 1997 edition of the "State of the Children Yearbook." The picture that report paints of the state of children's health care is bleak.

Every 48 seconds a child is born without insurance. One in every 7 children is uninsured for the entire year. Nearly 1 in every 3 is uninsured for at least one month during any year. Nine out of every 10 uninsured children is from a family where at least one parent works.

In announcing the results of this report, Marian Wright Edelman, CDF's President, succinctly sums up the situation. "Lack of health insurance is a problem we can solve right now and make a huge difference in many child lives. The issue is whether we care enough to build the political will to do it."

The effects of children not having insurance are well known to us all: Children without health coverage get less cost-effective preventive care, less basic care and more costly acute care when their illness is too advanced to ignore. Further, uninsured children are more likely to suffer preventable disease and have trouble learning.

How can we reverse these trends? Proposals to address this problem are well known to all of us and simply stated through the following principles. First, make health coverage available to every uninsured child through age 18 and every uninsured pregnant woman. Second, make coverage genuinely affordable to all families. Third, give children access to coverage that provides for the full range of health care that children need. Finally, build on—do not replace—the current employer-based system, Medicaid and public-private initiatives in the States.

Advocates of guaranteeing all children health insurance are telling us to act bipartisanly. And there is ample precedent for bipartisan action on behalf of children's health. Almost every health reform bill, Democratic and Republican alike, introduced in the 103d Congress provided assistance to low-income Americans to purchase private health coverage—most had special assistance for the cost of children's coverage.

In other words, we have agreed in the past that children who fall through the cracks deserve proper health coverage.

Children don't vote; they do not sit on corporate boards; and they cannot argue their case on the Senate floor. But we have a vote. We can take it upon ourselves to improve the lives of our children and their families by making our nation's children our top priority.

The public has taken note. Now is the time to answer their call. Our children deserve no less.

MESSAGES FROM THE HOUSE

At 11:54 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1. An act to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector.

At 7:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 1122. An act to amend title 18, United States Code, to ban partial-birth abortions.

MEASURE REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1. An act to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector; to the Committee on Labor and Human Resources.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 1122. An act to amend title 18, United States Code, to ban partial-birth abortions.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1470. A communication from the Assistant Secretary of Defense (Force Management Policy), transmitting, pursuant to law, the report relative to funding of morale, welfare, and recreation activities; to the Committee on Armed Services.

EC–1471. A communication from the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule entitled "Fisheries of the Northeastern United States" (RIN0648–XX75) received on March 19, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1472. A communication from the Inspector General of the Department of Health and Human Services, transmitting, pursuant to law, the report of Superfund financial activities at the National Institute of Environmental Health Sciences for fiscal year 1995; to the Committee on Environment and Public Works.

EC–1473. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of three rules received on March 18, 1997; to the Committee on Finance.

EC–1474. A communication from the Acting Commissioner of Social Security, transmitting, pursuant to law, a report relative to the Supplemental Security Income program; to the Committee on Finance.

EC–1475. A communication from the Acting Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Department of Justice, transmitting, pursuant to law, the rule entitled "Consolidation, Eliminiation, and Clarification of Various Regulations," (RIN1117–

AA33) received on March 18, 1997; to the Committee on the Judiciary.

EC–1476. A communication from the Director of the Office of Communications of the Department of Agriculture, transmitting, pursuant to law, the 1996 annual report of the Department under the Freedom of Information Act; to the Committee on the Judiciary.

EC–1477. A communication from the Director (Government Relations) of the Girl Scouts, transmitting, pursuant to law, the report of work and activities for fiscal year 1996; to the Committee on the Judiciary.

EC–1478. A communication from the Administrator of the Panama Canal Commission, transmitting, a draft of proposed legislation to authorize expenditures for fiscal year 1998 for the operation and maintenance of the Panama Canal and for other purposes; to the Committee on the Armed Services.

EC–1479. A communication from the President and Chairman of the Export-Import Bank, transmitting, a draft of proposed legislation to amend the Export-Import Bank Act; to the Committee on Banking, Housing, and Urban Affairs.

EC–1480. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC–1481. A communication from the Executive Director of the United States Arctic Research Commission, transmitting, pursuant to law, the report under the Inspector General and Federal Managers' Financial Integrity Acts for fiscal year 1996; to the Committee on Governmental Affairs.

EC–1482. A communication from the Director of the Office of the Institute of Museum Services, transmitting, pursuant to law, the report on internal control and financial systems for fiscal year 1996; to the Committee on Governmental Affairs.

EC–1483. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on Governmental Affairs.

EC–1484. A communication from the Public Health Service, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, a rule entitled "Elimination of Establishment License Application" received on March 19, 1997; to the Committee on Labor and Human Resources.

EC–1485. A communication from the Acting Secretary of Labor, transmitting, pursuant to law, the evaluation report on the Youth Fair Chance program; to the Committee on Labor and Human Resources.

EC–1486. A communication from the Assistant Secretary of the Interior for Land and Minerals Management, transmitting, pursuant to law, a rule entitled "Oil Spill Response Requirements" (RIN1010–AB81) received on March 18, 1997; to the Committee on Energy and Natural Resources.

EC–1487. A communication from the Chair of the Federal Energy Regulatory Commission, transmitting, pursuant to law, a rule entitled "Standards For Business Practices" received on March 19, 1997; to the Committee on Energy and Natural Resources.

EC–1488. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the report entitled "Performance Profiles of Major Energy Producers 1995"; to the Committee on Energy and Natural Resources.

EC–1489. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "The National Economic Crossroads Transportation Efficiency Act of 1997"; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Affairs:

Special Report entitled "Legislative Activities Report of the Committee on Foreign Relations of the United States Senate During the One Hundred Fourth Congress" (Rept. No. 105–8).

By Mr. WARNER, from the Committee on Rules and Administration:

Report to accompany the resolution (S. Res. 54) authorizing biennial expenditures by committee of the Senate (Rept. No. 105–9).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (S. 104) to amend the Nuclear Waste Public Act of 1982 (Rept. No. 105–10).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 270: A bill to grant the consent of Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works:

Judith M. Espinosa, of New Mexico, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of four years.

D. Michael Rappoport, of Arizona, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2002.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Ms. COLLINS (for herself, Ms. SNOWE, Mr. HATCH, and Mr. COCHRAN):

S. 482. A bill to amend the Internal Revenue Code of 1986 to partially exclude from the gross estate of a decedent the value of a family-owned business, and for other purposes; to the Committee on Finance.

By Mr. ROBB (for himself and Ms. MIKULSKI):

S. 483. A bill to fully fund the construction of the Woodrow Wilson Memorial Bridge; to the Committee on Environment and Public Works.

By Mr. DEWINE (for himself, Mr. KENNEDY, and Mr. BOND):

S. 484. A bill to amend the Public Health Service Act to provide for the establishment of a pediatric research initiative; to the Committee on Labor and Human Resources.

By Mr. MCCONNELL (for himself, Mr. CRAIG, Mr. KEMPTHORNE, Mr. GRASSLEY, Mr. COCHRAN, Mr. ROBERTS, and Mr. BOND):

S. 485. A bill to amend the Competitive, Special, and Facilities Research Grant Act to provide increased emphasis on competitive grants to promote agricultural research projects regarding precision agriculture and to provide for the dissemination of the results of the research projects, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BROWNBACK (for himself, Mr. GRASSLEY, Mr. HAGEL, and Mr. JOHNSON):

S. 486. A bill to amend the Omnibus Trade and Competitiveness Act of 1988 to clarify the limitation for accession to the GATT and the WTO of foreign countries that have state trading enterprises; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Ms. MOSELEY-BRAUN, Mr. INOUYE, and Mrs. BOXER):

S. 487. A bill to amend the Public Health Service Act with respect to employment opportunities in the Departement of Health and Human Services for women who are scientists, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KYL:

S. 488. A bill to control crime, and for other purposes; to the Committee on the Judiciary.

By Mr. KYL (for himself and Mr. REID):

S. 489. A bill to improve the criminal law relating to fraud against consumers; to the Committee on the Judiciary.

By Mr. AKAKA:

S. 490. A bill to amend the Internal Revenue Code of 1986 to adjust for inflation the dollar limitations on the dependent care credit; to the Committee on Finance.

By Mr. FORD:

S. 491. A bill to amend the National Wildlife Refuge System Administration Act of 1966 to prohibit the United States Fish and Wildlife Service from acquiring land to establish a refuge of the National Wildlife Refuge System unless at least 50 percent of the owners of the land in the proposed refuge favor the acquisition; to the Committee on Environment and Public Works.

By Mr. SARBANES:

S. 492. A bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KYL (for himself and Mr. GORTON):

S. 493. A bill to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia; to the Committee on the Judiciary.

By Mr. KYL (for himself, Mr. ABRAHAM, and Mr. REID):

S. 494. A bill to combat the overutilization of prison health care services and control rising prisoner health care costs; to the Committee on the Judiciary.

By Mr. KYL (for himself, Mr. Lott, Mr. Nickles, Mr. Mack, Mr. Coverdell, Mr. Helms, Mr. Shelby, and Mrs. Hutchison):

S. 495. A bill to provide criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical weapon or biological weapon, and to reduce the threat of acts of terrorism or armed aggression involving the use of any such weapon against the United States, its citizens, or Armed Forces, or those of any allied country, and for other purposes; to the Committee on the Judiciary.

By Mr. CHAFEE (for himself, Mr. Graham, and Mr. Jeffords):

S. 496. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence; to the Committee on Finance.

By Mr. COVERDELL (for himself and Mr. Faircloth):

S. 497. A bill to amend the National Labor Relations Act and the Railway Labor Act to repeal the provisions of the Acts that require employees to pay union dues or fees as a condition of employment; to the Committee on Labor and Human Resources.

By Mr. CHAFEE (for himself and Mr. Moynihan):

S. 498. A bill to amend the Internal Revenue Code of 1986 to allow an employee to elect to receive taxable cash compensation in lieu of nontaxable parking benefits, and for other purposes; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. Baucus, and Mr. Gregg):

S. 499. A bill to amend the Internal Revenue Code of 1986 to provide an election to exclude from the gross estate of a decedent the value of certain land subject to a qualified conservation easement, and to make technical changes to alternative valuation rules; to the Committee on Finance.

By Mrs. BOXER (for herself and Mrs. Feinstein):

S. 500. A bill to authorize emergency appropriations for cleanup and repair of damages to facilities of Yosemite National Park and other California national parks caused by heavy rains and flooding in Decemeber 1996 and January 1997, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MACK (for himself, Mr. Shelby, Mr. Cochran, Mr. D'Amato, and Mr. Hagel):

S. 501. A bill to amend the Internal Revenue Code of 1986 to provide all taxpayers with a 50 percent deduction for capital gains, to increase the exclusion for gain on qualified small business stock, to index the basis of certain capital assets, to allow the capital loss deduction for losses on the sale or exchange of an individual's principal residence, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY:

S. 502. A bill to amend title XIX of the Social Security Act to provide post-eligibility treatment of certain payments received under a Department of Veterans Affairs pension or compensation program; to the Committee on Finance.

By Mr. NICKLES:

S. 503. A bill to prevent the transmission of the human immunodeficiency virus (commonly known as HIV), and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. FEINSTEIN (for herself, Mrs. Boxer, and Ms. Snowe):

S. 504. A bill to amend title 18, United States Code, to prohibit the sale of personal information about children without their parent's consent, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. Leahy, Mr. D'Amato, Mr. Thompson, Mr. Abraham, and Mrs. Feinstein):

S. 505. A bill to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH:

S. 506. A bill to clarify certain copyright provisions, and for other purposes; to the Committee on the Judiciary.

S. 507. A bill to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 508. A bill to provide for the relief of Mai Hoa "Jasmin" Salehi; to the Committee on the Judiciary.

By Mr. BURNS:

S. 509. A bill to provide for the return of certain program and activity funds rejected by States to the Treasury to reduce the Federal deficit, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one Committee reports, the other Committee has thirty days to report or be discharged.

By Mr. MOYNIHAN:

S. 510. A bill to authorize the Architect of the Capitol to develop and implement a plan to improve the Capitol grounds through the elimination and modification of space allocated for parking; to the Committee on Rules and Administration.

By Mr. CHAFEE (for himself, Mr. Rockefeller, Mr. Jeffords, Mr. DeWine, Mr. Dodd, Ms. Moseley-Braun, Mr. Kerry, Mr. Kerrey, and Mr. Kennedy):

S. 511. A bill to require that the health and safety of a child be considered in any foster care or adoption placement, to eliminate barriers to the termination of parental rights in appropriate cases, to promote the adoption of children with special needs, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. Dodd, Mr. Robb, Ms. Moseley-Braun, Mr. Lautenberg, Mr. Kerry, Ms. Snowe, Mrs. Murray, Mr. Feingold, Mr. Harkin, Mr. Chafee, Mr. Jeffords, Mr. Akaka, Mr. Bingaman, and Mrs. Feinstein):

S.J. Res. 24. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MACK (for himself and Mr. Graham):

S. Res. 66. A resolution commending the University of Florida football team for winning the 1996 Division I Collegiate Football National Championship; considered and agreed to.

By Mr. CRAIG (for himself and Mr. Reid):

S. Res. 67. A resolution to authorize the printing of the History Manuscript of the Republican and Democratic Policy Committees in Commemoration of their 50th Anniversaries; considered and agreed to.

By Mr. SPECTER (for himself, Mr. Akaka, and Mr. Smith of New Hampshire):

S. Res. 68. A resolution designating April 9, 1997, and April 9, 1998, as "National Former Prisoner of War Recognition Day"; considered and agreed to.

By Mr. LOTT:

S. Con. Res. 14. A concurrent resolution providing for a conditional adjournment or recess of the Senate and the House of Representatives; considered and agreed to.

By Mr. TORRICELLI:

S. Con. Res. 15. A concurrent resolution expressing the sense of Congress that the United States support the accession of Taiwan to the World Trade Organization; to the Committee on Finance.

By Mr. DOMENICI:

S. Con. Res. 16. A concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1998, 1999, 2000, 2001, and 2002; to the Committee on the Budget.

S. Con. Res. 17. A concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1998, 1999, 2000, 2001, and 2002; to the Committee on the Budget.

By Mr. LAUTENBERG (for himself and Mr. D'Amato):

S. Con. Res. 18. A concurrent resolution recognizing March 25, 1997, as the anniversary of the Proclamation of Belarusan independence, and calling on the Government of Belarus to respect fundamental freedoms and human rights; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS (for herself, Ms. Snowe, Mr. Hatch, and Mr. Cochran):

S. 482. A bill to amend the Internal Revenue Code of 1986 to partially exclude from the gross estate of a decedent the value of a family-owned business, and for other purposes; to the Committee on Finance.

THE FAMILY BUSINESS AND FAMILY FARM PROTECTION ACT OF 1997

Ms. COLLINS. Mr. President, today I am proud to be introducing the Family

Business and Family Farm Preservation Act of 1997, which will provide urgently needed estate tax relief to our Nation's family-owned businesses and farms. It is no accident that this is my first bill as a Member of the U.S. Senate, for I fervently believe that small, family enterprises hold the key to our economic growth and prosperity and that Government policies must promote and not undermine their continued existence.

Simply put, the extremely high estate tax rates make it very difficult for many families to pass their businesses on to the next generation—the very opposite of what Government policy should be. After allowing for what is essentially a $600,000 exemption, an amount which has not been increased in a decade, the marginal rates that effectively apply for estate tax purposes range from 37 to 55 percent, higher than any other generally applicable Federal tax rates. Adding insult to injury, some of what we leave to our children has already been subject to income taxation, and the combined effect of income and estate taxes can be a tax bite as high as 73 percent.

It should come as no surprise that when a family business or farm is left to the sons and daughters of the owner, the estate often lacks the cash to pay the tax. A 1995 Gallup survey found that one-third of the owners of family businesses expect that some or all of the company will have to be sold to satisfy estate tax liabilities. That this actually comes about is reflected in the experience of the inheritors of such businesses, 37 percent of whom reported that they had to shrink or restructure the enterprises solely to meet estate tax obligations.

Mr. President, behind these statistics are the stories of hard-working Americans whose life's work is dismantled by a confiscatory tax. One of those stories was recently told to me by Judy Vallee of Cumberland, ME. In 1933, her father opened a restaurant in Portland and worked hard over time to expand the business into a chain of 25 restaurants along the east coast. When the father died in 1977, the family was left with a staggering estate tax bill of about $1 million. Lacking the cash to pay the tax, they had to take on partners outside the family, totally restructure the company, and arrange to pay the tax in installments. Unfortunately, even these measures were not enough, and they ultimately had to liquidate the business at fire-sale prices.

Ironically, Judy Vallee now finds herself in the very same situation, but this time as a business owner and not a potential heir. When the original business was liquidated, she managed to purchase one of the restaurants in her own name, which she has now developed into a prosperous enterprise. Eager to leave the restaurant to her son and desperate to ensure that history does not repeat itself, she has spent a small fortune on life insurance to enable her son to enjoy the fruits of her own hard work.

Mr. President, jobs are the primary worry of Maine people, and often overlooked in this debate is the negative effect of the estate tax on employment. Let me give you an example. A potato bag manufacturer in northern Maine, the area I'm originally from, has told me that he would be able to expand his operation and hire more people were it not for the money he has to spend on estate planning and life insurance. In another instance, the owner of a Maine trucking company made the painful decision to sell the business to a large, out-of-state corporation rather than leaving it to his children and forcing them to assume a large debt to pay the estate tax. Not only was he compelled to abandon what he and his father before him had spent their lives building, but making matters worse, the new corporate owner moved the administrative operations out of State, costing Maine 50 good jobs.

Maine's experience is common throughout our Nation. The Gallup survey found that 60 percent of business owners reported that they would add to their work forces were it not for the estate tax. Two studies mentioned in a Wall Street Journal editorial last month quantified the job losses caused by this levy—one put it at 150,000 and the other at 228,000. In a word, the harm is widespread.

My bill would give relief to small businesses. It would raise the amount effectively excluded from the tax from $600,000 to $1,000,000, which probably does little more than compensate for inflation during the past decade. While $600,000 understandably seems like a considerable sum, the fact is that many small businesses require investment in complex or heavy equipment which easily exceeds that threshold. Referring to a machine essential to his business, the owner of a Maine sawmill recently asked me, "What are my sons supposed to do? Sell the debarker to pay the tax?" There is no justification for this legal Catch 22, under which the second- or third-generation business owner can only pay the tax by selling assets essential to running the business.

My legislation would also lower the effective tax rate for the next $1.5 million from 55 to 27.5 percent and would increase from 10 to 20 years the time during which family businesses could pay the tax on an installment basis.

These measures are not designed to provide relief to large enterprises. Rather, the beneficiaries, Mr. President, will be enterprising Americans, many of whom risk their life savings and work at their factories, mills, offices, and farms 7 days a week to build a small business, with the reasonable expectation that their Government will let them pass it along to their children.

Prior to becoming a Member of the Senate, I ran Husson College's Family Business Center in Bangor, ME. I would share with you two lessons I learned from that experience. First, those family business owners who understand the estate tax cannot comprehend why the Federal Government imposes a tax that undermines the very type of activity it says it wishes to encourage. Second, many small business owners do not take the extreme measures required to prepare for the estate tax, often with devastating and totally unexpected consequences for their families.

Why do I call these measures extreme? In the Gallup survey, the respondents estimated spending an average of more than $33,000 over 6½ years on lawyers, accountants, and financial experts to help plan and prepare for the estate tax. The cost is not only monetary, for the average number of hours spent in the planning process was 167.

As currently designed, the estate tax represents bad public policy. In my State, it is the 30,000 small businesses, many of them family owned, which provide most of the new employment opportunities, and it is these businesses which will account for two-thirds of the new jobs in the future. By discouraging the development and expansion of family enterprises, the estate tax stands as the enemy of job creation and economic growth.

Mr. President, it is time for our actions to match our rhetoric. If we believe in promoting family businesses, as we say we do, and if we believe in promoting family farms, as we say we do, we must change a tax policy which takes the family out of the family business and family farm. Mine is not a call for Government assistance or for special treatment. Mine is a call to reform an unfair, destructive, and confiscatory tax.

By Mr. ROBB (for himself and Ms. MIKULSKI):

S. 483. A bill to fully fund the construction of the Woodrow Wilson Memorial Bridge; to the Committee on Environment and Public Works.

THE WOODROW WILSON MEMORIAL BRIDGE FULL FUNDING ACT

● Mr. ROBB. Mr. President, I introduce legislation that responds to an urgent situation facing the Capital region—the crumbling Woodrow Wilson Bridge. I am pleased to be joined in this effort by my distinguished colleague from the other side of the Potomac, Senator MIKULSKI. The bridge is already a major bottleneck for travelers on Interstate 95, and in 7 years the current bridge will probably need to be closed as unsafe for travel.

It is with this knowledge that Congress created the Woodrow Wilson Memorial Bridge Authority in 1995 to hasten the selection, design, and replacement of the old bridge. The replacement bridge has now been selected, and construction will begin in late 1998 or 1999.

Last Thursday, the Washington Post joined the chorus calling for action to fund the bridge, and I ask unanimous consent that a copy of the Post editorial, "Fixing a Dangerous Bridge," be included in the RECORD. The Post points out that the Clinton administration's $400 million funding proposal is wholly inadequate, that it wouldn't buy three lanes at yesteryear prices. I wholeheartedly agree.

So today my distinguished colleague, Senator MIKULSKI and I are introducing the Woodrow Wilson Bridge Full Funding Act to ensure the bridge is completed quickly and funded without tolls. Our legislation authorizes full Federal funding for building the new bridge.

This proposal is forward-looking. Today, area roads are already terribly congested. Only Los Angeles has more traffic. And over the next few decades, traffic congestion is expected to increase by 70 percent. The Woodrow Wilson Bridge is a bottleneck today because it is old and narrow. Ten years from now we'll still have a bottleneck if, because of inadequate Federal funding, we're forced to put toll booths on the bridge. We need full funding now to keep tomorrow's traffic moving.

Full funding for the bridge is also important for the environment—this metropolitan area has been classified by the EPA as a nonattainment area because of its poor air quality. Traffic congestion contributes significantly to this pollution. For that reason, I've supported mass transit initiatives like commuter rail service and the Metro system, higher fuel economy standards, alternative-fuel vehicles, and transportation alternatives such as telecommuting. These initiatives, while important, are only part of the solution. We also need to keep traffic moving to reduce the amount of time vehicles stand idling and adding to the smog problem in this region. Full funding for the Woodrow Wilson Bridge replacement will not solve the congestion problems in northern Virginia, but it will help.

Finally, my proposal is also reasonable. The Woodrow Wilson Bridge is part of the interstate highway system. Comparable interstate projects, including the nearby Baltimore's Fort McHenry Tunnel have received 90 percent Federal funding, despite the fact the projects are owned by the individual States. The bridge, on the other hand, is wholly owned by the Federal Government. Moreover, as a recent opinion piece in Car & Travel put it, the bridge is "a major gateway to our Nation's Capital." It's time for the Federal Government to pay its share.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Woodrow Wilson Memorial Bridge Full Funding Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) traffic congestion imposes serious economic burdens on the metropolitan Washington, D.C., area, costing each commuter an estimated $1,000 per year;

(2) the volume of traffic in the metropolitan Washington, D.C., area is expected to increase by more than 70 percent between 1990 and 2020;

(3) the deterioration of the Woodrow Wilson Memorial Bridge and the growing population of the metropolitan Washington, D.C., area contribute significantly to traffic congestion;

(4) the Bridge serves as a vital link in the Interstate System and in the Northeast corridor;

(5) identifying alternative methods for maintaining this vital link of the Interstate System is critical to addressing the traffic congestion of the area;

(6) the Bridge is—

(A) the only drawbridge in the metropolitan Washington, D.C., area on the Interstate System;

(B) the only segment of the Capital Beltway with only 6 lanes; and

(C) the only segment of the Capital Beltway with a remaining expected life of less than 10 years;

(7) the Bridge is the only part of the Interstate System owned by the Federal Government;

(8)(A) the Bridge was constructed by the Federal Government;

(B) prior to the date of enactment of this Act, the Federal Government has contributed 100 percent of the cost of building and rehabilitating the Bridge; and

(C) the Federal Government has a continuing responsibility to fund future costs associated with the upgrading of the Interstate Route 95 crossing, including the rehabilitation and reconstruction of the Bridge; and

(9) the Federal Government should provide full funding for construction of the replacement Bridge.

SEC. 3. FULL FUNDING OF BRIDGE.

(a) INTERCHANGES.—Section 404(5)(F) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (Public Law 104–59; 109 Stat. 629) is amended by inserting "interchange," after "roadway,".

(b) FUNDING.—Section 104(i) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking "From" and all that follows through "final engineering" and inserting "The Secretary shall obligate sums made available under paragraph (3) for final engineering and construction"; and

(2) by adding at the end the following:

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1998 through 2004 such sums as are necessary to carry out this subsection.".●

By Mr. DEWINE (for himself, Mr. KENNEDY, and Mr. BOND):

S. 484. A bill to amend the Public Health Service Act to provide for the establishment of a pediatric research initiative; to the Committee on Labor and Human Resources.

THE PEDIATRICS RESEARCH INITIATIVE ACT OF 1997

Mr. DEWINE. Mr. President, I introduce legislation that will increase our Nation's investment in pediatric research.

THE PROBLEM

Children under the age of 21 represent 30 percent of the population—and yet, the NIH devotes only somewhere between 5 and 14 percent of its budget to their needs.

Just as there has been a recognition in recent years that women and minorities have been neglected in research efforts nationwide, there's a growing consensus that children deserve more attention than they are getting.

THE SOLUTION

The bill I am introducing today would help us begin to remedy this lack of research into children's health. This legislation would create a Pediatric Research Initiative within the Office of the Director of NIH to encourage, coordinate, support, develop, and recognize pediatric research. The bill would authorize $75 million over the next 3 years for this initiative. Last year, we received a $5 million downpayment in the appropriations process, and we look forward to working with the appropriators to continue on the path toward the necessary level of funding.

This is a crucial investment in our country's future—and one that will produce a great return. If we focus on making our children healthy, we'll set the stage for a healthy citizenry 60 to 70 years into the future.

This initiative will also promote greater coordination in children's health research. Today, there are some 20 Institutes and Centers and Offices within NIH that do something in the way of pediatrics. In my view, we need to bring some level of coordination and focus on these efforts.

In developing this initiative, I have made sure that it gives the Director of NIH as much discretion as possible. The money has to be spent on outside research, so that the dollars flow out to the private sector—but it can go toward basic research or clinical research, at the discretion of the Director.

This bill does not create a new Office, Center, or Institute. It proposes spending for research, not infrastructure.

This initiative has the support of the pediatric research community in children's hospitals and university pediatric departments all over the country. It has been endorsed by the National Association of Children's Hospitals, the American Academy of Pediatrics, the Association of Medical School Pediatric Department Chairmen, the American Pediatric Society, Children's Hospitals and University Medical Centers, the Juvenile Diabetes Association, Advocates for Children With Special Conditions, Pediatric Academy Societies, Association of Ohio Children's Hospitals, Children's Hospital Affiliates of the Missouri Hospital Association, Children's Hospital Association of Texas, Federation of Children's With Special Health Care Needs, and Family Voices.

Mr. BOND. Mr. President, I rise today in strong support of Senator DEWINE's effort to establish a pediatric research initiative within the Office of the Director at the National Institutes of Health [NIH].

To achieve real progress in improving the health of our Nation's most vulnerable and valuable resource—our children—we must strengthen public investments in pediatric research; enhance Federal coordination among the NIH Institutes to ensure quality multidisciplinary research in areas of scientific progress; develop new incentives for investment in pediatric clinical trials; support new ways to treat children with special conditions; and develop information to promote safer and more effective use of prescription drugs for children.

The opportunity for scientific progress in combating and preventing illnesses and diseases affecting children has never been greater. To assist the NIH in strengthening its pediatric research efforts, I, along with other members of the Labor, HHS, and Education Appropriations Subcommittee, successfully secured $5 million for the NIH Office of the Director to begin this new pediatric research initiative last year.

Senator DEWINE's legislation builds upon that down payment, and I look forward to working with other Members of the Senate in ensuring passage of this effort.

Although health care spending for children is only a fraction of total health care spending, we must not turn our backs on the health care needs of our children. Pediatric research offers potential savings in health care costs as well as substantial benefits to the well-being of children for a lifetime. Moreover, pediatric research contributes to new insights and discoveries in preventing and treating illnesses and diseases among our country's adult population.

Let me close by saying that this bill complements legislation I introduced last week which will provide surveillance, research, and services aimed at the prevention of birth defects, the No. 1 killer of babies. We currently know the causes of about 30 percent of all birth defects. With the enactment of a pediatric research initiative and the Birth Defects Prevention Act of 1997, we will shed new light on the causes of birth defects as well as numerous other diseases, illnesses, and other health factors afflicting our Nation's children.

By Mr. McCONNELL (for himself,
Mr. CRAIG, Mr. KEMPTHORNE,
Mr. GRASSLEY, Mr. COCHRAN,
Mr. ROBERTS and Mr. BOND):

S. 485. A bill to amend the Competitive, Special, and Facilities Research Grant Act to provide increased emphasis on competitive grants to promote agricultural research projects regarding precision agriculture and to provide for the dissemination of the results of the research projects, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE PRECISION AGRICULTURE RESEARCH, EDUCATION, AND INFORMATION DISSEMINATION ACT OF 1997

• Mr. McCONNELL. Mr. President, today several colleagues and I are introducing the Precision Agriculture Research, Education, and Information Dissemination Act of 1997.

Earlier this month the Senate Committee on Agriculture, Nutrition, and Forestry began a series of hearings on reforming and reauthorizing agricultural research programs. It is our desire that as we move through this process this legislation will become part of the research reauthorization that is signed into law.

This legislation emphasizes research on precision agriculture technologies. These technologies are very exciting and will enable the United States to maintain and augment our competitive edge in global agricultural markets. The legislation amends the Competitive, Special and Facilities Research Grant Act of 1965 by modifying the National Research Initiative [NRI] to give the Secretary of Agriculture authority to provide research, extension, and education competitive grants and programs that emphasize precision agriculture technologies and management practices.

This legislation represents a compromise between various interests. The bill is supported by The Fertilizer Institute, National Center for Resources Innovations, Experiment Station and Extension Service Directors, Lockheed Martin, and a consortium of other high technology companies.

An identical bill H.R. 725 was introduced by Congressman LEWIS and Congressman CRAPO on February 12, 1997.

Precision agriculture technologies are rapidly advancing, and it is crucial that the agricultural research community invest in this field of research so that all farmers will be able to benefit. This bill will not only increase the investment in precision agriculture, but it will also emphasize an educational process that will assist all farmers in adopting precision agriculture technologies and applications.

Emerging technologies in production agriculture are changing and improving the way farmers produce food and fiber in this country. New technologies such as global positioning satellites field mapping, geo-reference information systems, grid soil sampling, variable rate seeding and input applications, portable electronic pest scouting, on-the-go yield monitoring, and computerized field history and record keeping are just a few of the next generation technological tools in use today.

Today, these technologies can map these variables and data instantaneously as an applicator or combine drives across the field. In short, each farm field using precision technology becomes a research pilot. And in the down months or winter season a farmer can collect the data from the previous growing season and adjust dozens of important agronomic variables to maximize the efficient use of all the farmers inputs: time, fuel, commercial inputs, seed rate, irrigation—the list goes on and on.

These precision farming tools are already proving to help farmers increase field productivity, improve input efficiency, protect the environment, maximize farm profitability, and create computerized field histories that may help increase land values. Collectively, these and other emerging technologies are being used in an integrated, site-specific systems approach called "Precision Agriculture." Progressive and production minded farmers are already using these technologies. In a decade they may be as commonplace on the farm as air-conditioned tractor cabs and power steering.

Precision farming seems to offer great promise for improving production performance. Inherently, it sounds very appealing to be able to evaluate production conditions on an individual square foot, yard, or acre basis rather than that of a whole field. It would seem that we should be able to treat any situation more appropriately the smaller the plot we are considering. There have been great strides in predicting productivity on the basis of smaller and smaller units on the ground than we have ever realistically envisioned in the past, measuring yields as we harvest, being able to collect soil samples on a very small pilot basis and prescribe corrective measures on the go. All of these things are possible. They are being done on an experimental basis in many locations. Some producers have adopted the new technology and are using it.

Precision farming is, in its simplest form, a management system for crop production that uses site-specific data to maximize yields and more efficiently use inputs. The technology is quickly gaining acceptance and use by producers, farm suppliers, crop consultants, and custom applicators.

Precision farming links the data-management abilities of computers with sophisticated farm equipment that can vary applications rates and monitor yields throughout a field.

Mr. President, the capabilities of precision agriculture technologies are rapidly increasing. The economic and environmental benefits of these technologies have not been fully realized. Increasing the use of these technologies and development of complementary new technologies will benefit American agriculture, the U.S. economy and both domestic and global environmental concerns. In Kentucky this type of research can help producers increase their yield while protecting environmental concerns such as water quality. I believe these new high-technology tools can make agriculture better by boosting production, environmental quality and profits.●

By Mr. BROWNBACK (for himself, Mr. GRASSLEY, Mr. HAGEL and Mr. JOHNSON):

S. 486. A bill to amend the Omnibus Trade and Competitiveness Act of 1988 to clarify the limitation for accession to the GATT and the WTO of foreign countries that have state trading enterprises; to the Committee on Finance.

THE FAIRNESS IN STATE TRADING ACT OF 1997

Mr. BROWNBACK. Mr. President, I rise today to introduce the Fairness in State Trading Act of 1997. This bill, which is cosponsored by Senators GRASSLEY, HAGEL, and JOHNSON, is a bipartisan approach to addressing the problem faced by U.S. exporters in countries in which state trading enterprises [STE's] dominate the economy.

The Fairness in State Trading Act would subject the import activities of STE's to the jurisdiction of section 1106 of the 1988 Omnibus Trade and Competitiveness Act of 1988, (19 U.S.C. 2905). If this bill passes, the President would have to determine whether the import activities of the state trading enterprises of an applicant to the WTO impede, or are likely to impede, U.S. exports to that country. If the President makes such a determination, the WTO Agreement cannot apply between the United States and that nation until the latter agrees that its STE's will make decisions based exclusively on commercial considerations.

The Brownback bill is designed to ensure that the WTO accession protocol agreements of such countries as China, Russia, and the Ukraine include a provision in which these countries specifically agree that their STE's will make purchasing decisions based solely on commercial considerations. This provision is important because these WTO applicants have indicated that they intend to continue to purchase commodities such as wheat, corn, rice, vegetable oils, and sugar exclusively or almost exclusively through STE's.

Without a strong commitment from these countries to depoliticize their import practices, the United States would only have recourse to GATT article XVII for questionable activities undertaken by China's STE's. In 1995, the GAO determined that article XVII is an ineffective mechanism for policing the activities of STE's, and that the state trading activities of China, Russia, and the Ukraine present problems that article XVII is not capable of addressing.

Weak enforcement of STE activities would enable the STE's of new WTO members to continue to employ a politicized procurement process. Why should the United States be more concerned about the state trading activities of new members of the WTO rather than the activities of current members? Because the state trading activities of current WTO members pale in comparison to the state trading activities of nations such as China, Russia, and the Ukraine.

Import decisions must be made on purely commercial considerations. GATT article XVII is not capable of effectively policing the state trading activities of countries accustomed to a command-and-control economic model. Before we apply the WTO Agreement between the United States and these countries, we must ensure that they agree to depoliticize their import practices.

Kansas, Iowa, Nebraska, South Dakota, and States across the Nation grow the best crops in the world. Exports of these and other U.S. commodities have skyrocketed as tariff and nontariff barriers to these goods have been reduced worldwide. We cannot allow state trading activities to supplant tariff and other nontariff measures as the new barriers to U.S. exports. Let's make sure that U.S. goods can compete on a level playing field in the markets of new members of the WTO before we lock in reductions in our barriers to goods from these countries. Please print statement and bill in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fairness in State Trading Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) State trading enterprises play a significant role in the economies of several countries that have applied to the World Trade Organization (referred to in this Act as the "WTO").

(2) The General Agreement on Tariffs and Trade (referred to in this Act as the "GATT"), and especially GATT Article XVII, does not adequately prevent countries from using state trading enterprises as a disguised barrier to imports from the United States.

(3) The United States economy will be adversely affected by the accession to the WTO of foreign countries that have state trading enterprises that make production or procurement decisions based upon noncommercial considerations.

(4) State trading enterprises have a particularly negative impact on United States farmers.

SEC. 3. ACCESSION OF COUNTRIES WITH STATE TRADING ENTERPRISES TO GENERAL AGREEMENT ON TARIFFS AND TRADE OR WORLD TRADE ORGANIZATION.

Section 1106 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2905) is amended—

(1) by striking "major foreign country" each place it appears and inserting "foreign country";

(2) in subsection (a), by amending paragraph (1) to read as follows:

"(1) whether state trading enterprises produce or procure a significant share of—

"(A) the goods exported from such foreign country;

"(B) the goods imported into such foreign country; or

"(C) the goods produced domestically in such foreign country; and"; and

(3) in subsection (b)(2)(A)—

(A) by amending clause (i) to read as follows:

"(i) will make purchases and sales in international trade based solely on commercial considerations (including price, quality, availability, marketability, and transportation), and"; and

(B) in clause (ii), by striking ", in accordance with customary practice,".

Mr. HAGEL. Mr. President, I rise today as an original cosponsor of the legislation introduced by my distinguished colleague from Kansas, Senator BROWNBACK. This bill is an important step toward opening foreign markets to American products—especially our agricultural products.

Several countries have State Trading Enterprises that control all imports of certain products. These trading enterprises create a bottleneck in trade—a bottleneck controlled by the Government, not by free enterprise. The result is that foreign politics end up controlling trade decisions, and American exporters get hurt.

This bill would require the United States to oppose membership in the World Trade Organization for any country that has a State Trading Enterprise that refuses to buy our products for reasons other than market conditions. Its purpose is simple: It gives America leverage against countries that shut out our exporters for political reasons.

This is important for all of America's exporters, who benefit from having a level playing field. It is especially important for American farmers. This bill will give our negotiators an important new tool to use as they oppose the unjustified actions of State trading enterprises around the world. It will help us get American dairy products into New Zealand and American wheat into Canada.

But its most important effect will be in regard to China. China is an enormous and growing market. As China emerges economically, we must do all we can to bring China into the world trading system as a full partner. If we want our exporters to do business in

China's emerging market, we need to ensure that China plays by all the rules of trade that govern the rest of the world.

The discussions about China's accession to the World Trade Organization are ongoing. I strongly believe China must accept all obligations that WTO membership entails. That includes letting the market, not the politicians, control its trading decisions. China must dismantle its remaining State Trading Enterprises—especially the enterprise that controls the import of wheat into the country.

American farmers—especially our wheat producers—need full and free access to China's market. This bill gives our trade negotiators a small but important tool to help ensure that will happen.

I urge my colleagues to support it.

By Ms. MIKULSKI (for herself, Ms. MOSELEY-BRAUN, Mr. INOUYE and Mrs. BOXER):

S. 487. A bill to amend the Public Health Service Act with respect to employment opportunities in the Department of Health and Human Services for women who are scientists, and for other purposes; to the Committee on Labor and Human Resources.

THE HHS WOMEN SCIENTIST EMPLOYMENT OPPORTUNITY ACT

• Ms. MIKULSKI. Mr. President, I introduce the HHS Women Scientist Employment Opportunity Act. What this bill does is quite simple. It will require all agencies within the Department of Health and Human Services to establish policies to ensure employment opportunities for women scientists within the Department. It will ensure a fair break for the many dedicated women scientists serving at the National Institutes of Health, the Center for Disease Control and Prevention, the Food and Drug Administration, and other agencies or offices in the Department. Policies are to be reviewed regularly and revised if necessary.

This bill is about the promoting equality. It is about supporting and advancing the careers of women scientists. It is about our Government leading the way in setting an example for both academia and industry on career policies for women scientists.

In 1992, it came to my attention that women scientists at the National Institutes of Health were not being treated fairly. Women scientists at NIH indicated that they were not being given research and conference assignments that would help advance their careers. They were not being adequately recognized for their accomplishments. Publication opportunities were limited. Questions were raised about tenure and comparability of pay with male colleagues.

Legislation was introduced in the 103d and 104th Congresses to address these concerns. I am encouraged that NIH voluntarily adopted some of the provisions outlined in these bills. But, this is only a start. We must continue to address the equity issues and policies impacting career advancement of our best and brightest women scientists. These issues deserve our utmost attention. That is why this bill is so important. It will ensure that the policies are in place to promote career opportunities for women scientists. And, it will ensure that policies are reviewed regularly, that progress is monitored and that policies are revised if necessary.

What I like about this bill is that it addresses a problem in our own backyard. It says we in the Federal Government have a problem, and we are going to fix it. It ensures that our women scientists working at HHS are treated fairly. It serves as a model for the private sector by setting the stage for equity among our career scientists. It shows that we are very serious about equity and fair play in the scientific community. I encourage my colleagues to join me in supporting the HHS Women Scientist Employment Opportunity Act.•

By Mr. KYL:

S. 488. A bill to control crime, and for other purposes; to the Committee on the Judiciary.

THE CRIME PREVENTION ACT OF 1997

Mr. KYL. Mr. President, I rise to introduce the Crime Prevention Act of 1997. One of the most important responsibilities for the 105th Congress is to pass a tough comprehensive crime measure that will restore law and order to America's streets. Reported crime may have decreased slightly over the past few years, but the streets are still too dangerous. Too many Americans are afraid to go out for fear of being robbed, assaulted, or murdered. In fact, according to the Bureau of Justice Statistics report "Highlights from 20 Years of Surveying Crime Victims," approximately 2 million people are injured a year as a result of violent crime. Of those who are injured, more than half require some level of medical treatment and nearly a quarter receive treatment in a hospital emergency room or require hospitalization.

THE CRIME CLOCK IS TICKING

The picture painted by crime statistics is frightening. According to the Uniform Crime Reports released by the Department of Justice, in 1995 there was: A violent crime every 18 seconds; a murder every 24 minutes; a forcible rape every 5 minutes; a robbery every 54 seconds; an aggravated assault every 29 seconds; a property crime every 3 seconds; a burglary every 12 seconds; and a motor vehicle theft every 21 seconds.

In short, a crime index offense occurred every 2 seconds. And this is just reported crime.

STATISTICS

Again, according to the Uniform Crime Reports in 1994, there were 1,798,785 violent crimes reported to law enforcement, a rate of 684.6 violent crimes per 100,000 inhabitants. The 1995 total was about 40 percent above that of 1985.

Additionally, in 1995 there were: 21,957 murders, a rate of 8.2 per 100,000 inhabitants; 580,545 robberies, a rate of 220.9 per 100,000 inhabitants; 2,594,995 burglaries, a rate of 987.6 per 100,000 inhabitants; 1,099,179 aggravated assaults, a rate of 418.3 per 100,000 inhabitants; and 97,464 rapes, a rate of 37.1 per 100,000 inhabitants.

Further, juvenile crime is skyrocketing. According to statistics compiled by the FBI, from 1985 to 1993 the number of homicides committed by males aged 18 to 24 increased 65 percent, and by males aged 14 to 17 increased 165 percent. In addition, according to the Department of Justice, during 1993, the youngest age group surveyed—those 12 to 15 years old—had the greatest risk of being the victims of violent crimes.

THE HEAVY COST OF CRIME

Aside from the vicious personal toll exacted, crime also has a devastating effect on the economy of our country. To fight crime, the United States spends about $90 billion a year on the entire criminal justice system. Crime is especially devastating to our cities, which often have crime rates several times higher than suburbs.

A Washington Post article detailed the work of Professors Mark Levitt and Mark Cohen in estimating the real cost of crime to society. According to the article, "[i]nstead of merely toting up the haul in armed robberies or burglaries, Cohen tallied all of the costs associated with various kinds of crime, from loss of income sustained by a murder victim's family to the cost of counseling a rape victim to the diminished value of houses in high-burglary neighborhoods." These "quality of life" costs raise the cost of crime considerably. Cohen and Levitt calculated that one murder costs society on average $2.7 million. A robbery nets the robber an average of $2,900 in actual cash, but it produces $14,900 in "quality of life" expenses. And while the actual monetary loss caused by an assault is $1,800, it produces $10,200 in "quality of life" expenses.

LEGISLATION

Fighting crime must be a top priority. Few would dispute this. According to a poll conducted for Reuters by the New York-based John Zogby Group that was released on January 31, 1997, voters rank crime as the most important issue. Further, according to an article in the July 19, 1995 Tucson Citizen, about 500 business, education, and government leaders in Tucson ranked crime as the number one issue in a survey commissioned by the Greater Tucson Economic Council. Also, according to a November 6, 1996 article in The Arizona Daily Star, Arizonans rank crime as one of the most important issues.

Given the magnitude of the problem of crime in our society, I believe that it is important to consider a comprehensive crime package. My bill has solid reforms that should blunt the forecasted explosion in crime. I would like to take this opportunity to outline of the provisions included in the Crime Prevention Act of 1997.

VICTIM RIGHTS AND DOMESTIC VIOLENCE

Women are the victims of more than 4.5 million violent crimes a year, including half a million rapes or other sexual assaults, according to the Department of Justice. The National Victim Center calculates that a woman is battered every 15 seconds. A message must be sent to abusers that their behavior is not a "family matter." Society should treat domestic violence as seriously as it does violence between strangers. My bill will strengthen the rights of domestic violence victims in Federal court and, hopefully, set a standard for the individual States to emulate.

First, my bill authorizes the death penalty for cases in which a woman is murdered by her husband or boyfriend. Courts will not, under this bill, be able to exclude evidence of a defendant's violent disposition toward the victim as impermissible "character" evidence. My bill also provides that if a defendant presents negative character evidence concerning the victim, the government's rebuttal can include negative character evidence concerning the defendant. It makes clear that testimony regarding battered women's syndrome is admissible to explain the behavior of victims of violence.

We must establish a higher standard of professional conduct for lawyers. My legislation prohibits harassing or dilatory tactics, knowingly presenting false evidence or discrediting truthful evidence, willful ignorance of matters that could be learned from the client, and concealment of information necessary to prevent sexual abuse or other violent crimes.

Violence in our society leaves law-abiding citizens feeling defenseless. It is time to level the playing field. Federal law currently gives the defense more chances than the prosecution to reject a potential juror. My bill protects the right of victims to an impartial jury by giving both sides the same number of peremptory challenges.

The 1994 Crime Act included a provision requiring notice to State and local authorities concerning the release of Federal violent offenders. Under the act, notice can only be used for law-enforcement purposes. The Justice Department opposes this limitation because it disallows other legitimate uses of the information, such as warning potential victims of the offender's return to the community. My bill would delete this restriction.

It is our responsibility to continue to work to combat violent crime, wherever it occurs. Titles I and II take an important step toward protecting the rights of crime victims, curbing domestic violence, and removing violent offenders from our streets and communities.

FIREARMS

Almost 30 percent of all violent crimes are committed through the use of a firearm, either to intimidate the victim into submission or to injure the victim, according to the Bureau of Justice Statistics. And 70 percent of all murders committed were accomplished through the use of a firearm. To help stop this violence the bill increases the mandatory minimum sentences for criminals who use firearms in the commission of crimes. It imposes the following minimum penalties: 10 years for using or carrying a firearm during the commission of a Federal crime of violence or drug trafficking crime; 20 years if the firearm is discharged; incarceration for life or punishment by death if death a person results.

THE EXCLUSIONARY RULE

To ensure that relevant evidence is not kept from juries, the bill extends the "good faith" exception to the exclusionary rule to non-warrant cases, where the court determines that the circumstances justified an objectively reasonable belief by officers that their conduct was lawful.

THE DEATH PENALTY

The vast majority of the American public supports the option of the death penalty. A Gallup poll conducted in April 1996 found that 79 percent of Americans support the death penalty, and an ABC News/Washington Post poll conducted in January 1995 found that 74 percent of Americans favor the death penalty for persons convicted of murder.

To deter crime and to make a clear statement that the most vicious, evil behavior will not be tolerated in our society, the bill strengthens Federal death penalty standards and procedures. It requires defendant to give notice of mitigating factors that will be relied on in a capital sentencing hearing—just as the Government is now required to give notice of aggravating factors—adds use of a firearm in committing a killing as an aggravating factor that permits a jury to consider the death penalty, and directs the jury to impose a capital sentence if aggravating factors outweigh mitigating factors.

HABEAS CORPUS

To eliminate the abuse, delay, and repetitive litigation in the lower Federal courts title VI of this bill provides that the decisions of State courts will not be subject to review in the lower Federal courts, so long as there are adequate and effective remedies in the State courts for testing the legality of a person's detention. This provision limits the needless duplicative review in the lower Federal courts, and helps put a stop to the endless appeals of convicted criminals. Judge Robert Bork has written a letter in support of this provision.

ADMINISTRATIVE SUBPOENA

The bill allows high-ranking Secret Service agents to issue an administrative subpoena for information in cases in which a person's life is in danger. The Department of Agriculture, the Resolution Trust Corporation, and the Food and Drug Administration already have administrative subpoena power. The Secret Service should have it to protect the lives of American citizens.

CONCLUSION

The Kyl crime bill is an important effort in the fight against crime. We can win this fight, if we have the conviction, and keep the pressure on Congress to pass tough crime-control measures. It is time to stop kowtowing to prisoners, apologists for criminals, and the defense lawyers, and pass a strong crime bill.

By Mr. KYL (for himself and Mr. REID):

S. 489. A bill to improve the criminal law relating to fraud against consumers; to the Committee on the Judiciary.

THE TELEMARKETING FRAUD PREVENTION ACT

Mr. REID. Mr. President, I am proud to be an original cosponsor to the Telemarketing Fraud Prevention Act. Unfortunately, my State of Nevada has the highest rate of bogus telemarketing operations in the Nation. I have been involved over the last few years with uncovering these scams. We held a hearing last year in the Special Aging Committee to call attention to this crime, which primarily targets seniors. At the time of the hearing I called these scams electric muggings, and stated that Congress needs to treat these telephone thugs like criminals on the street who attack and steal. This act aims to do just that.

Nationwide these phone schemes cost consumers over $60 billion a year. As I stated earlier, Nevada has the highest rate of fraudulent telemarketing operations. But Kathryn Landreth, U.S. attorney for Nevada, has been working with the Department of Justice to break up these schemes. Last year they rounded up over 200 fraudulent operators in Las Vegas. Nevada AARP members served as decoys for the sting, and I again commend them for doing so.

Sadly, victims of telemarketing fraud are most often our senior citizens. These white-collar thugs who cheat victims out of their hard-earned money, are swindlers who choose to satisfy their greed by bilking others instead of doing an honest day's work. These thugs not only rob their victims of their financial security, but also of their dignity. Many older Americans live alone, may have just lost their spouse, and are particularly vulnerable to con-artists who act like they are their friends. One of the telemarketers prosecuted by the U.S. attorney of Nevada's office collected obituaries from various newspapers so that he could take advantage of recent widows and widowers.

Typical schemes involve the telemarketer promising thousands of dollars, free vacations, or new cars if the victim buys a fur coat or overpriced vitamins, for example. If a victim receives anything at all in return for the money sent to the telemarketer, the items are generally worth far less than represented; in some cases they are no more than worthless junk.

Not only do we need vigilant law enforcement and tough punishments, but we need to inform people. We have to get the message out to people, especially seniors, to be wary of offerings over the phone and hang up when asked for money. Further, they should report the incident to the U.S. attorney's office. Hopefully, strengthening the punishment for these crimes will deter others from entering the arena, but it is extremely important to follow up on this act with enforcement and information.

By Mr. AKAKA:

S. 490. A bill to amend the Internal Revenue Code of 1986 to adjust for inflation the dollar limitations on the dependent care credit; to the Committee on Finance.

THE WORKING FAMILIES CHILD CARE TAX RELIEF ACT OF 1997

Mr. AKAKA. Mr. President, today I am reintroducing legislation that I have sponsored in the past two Congresses to provide a measure of tax relief to working families throughout America. My bill would restore value to the child and dependent care credit by allowing an annual adjustment of the credit for inflation.

Mr. President, as the Federal Government and the states work to move people from welfare to work, the problems faced by working Americans seeking affordable, quality child-care services for their children will likely worsen. The availability and affordability of adequate child care are the principal concerns expressed by an increasing number of middle-class working parents. Many parents are forced to patch together a network of child care providers to secure care for their children.

The evidence in support of improving the child and dependent care credit is clear. The number of single mothers working outside the home has dramatically increased in recent years. More than 56 percent of all mothers with children under 6 years work outside the home, and over 70 percent of women with children over age 6 are in the labor market.

The percentage of Hawaii households in which both parents work outside the home is even higher than the national average. According to projections developed by the Bank of Hawaii based on the 1990 Census, 61.8 percent of all Hawaii families have both parents employed, and 71.3 percent of all households have at least two individuals in the workforce.

The increased participation of single mothers in the labor market and the large number of two-parent families in which both parents work outside the home have made the dependent care credit one of the most popular and productive tax incentives ever enacted by Congress. Unfortunately, the value of the credit has declined significantly over the years as inflation has slowly eaten away at the value of this benefit. Measured in constant dollars, the maximum credit of $2,400 has decreased in value by more than 45 percent since 1982.

In 1981, the flat credit for dependent care was replaced with a scale to give the greatest benefit of the credit to lower income working families. Since that time, neither the adjusted gross income figures employed in the scale, nor the limit on the amount of employment-related expenses used to calculate the credit, has been adjusted for inflation. My bill provides a measure of much needed relief to working American families. It would index the child and dependent care credit and restore the full benefit of the credit.

The maximum amount of employment-related child care expenses allowed under current law—$2,400 for a single child and $4,800 for two or more children—has simply failed to keep pace with escalating care costs. Unlike other tax credits and deductions provided taxpayers in the Internal Revenue Code, the dependent care credit is not adjusted for inflation.

Without an adjustment for inflation, we will continue to diminish the purpose of this credit to offset the expense of dependent and child care services incurred by parents working outside the home. While the cost of quality child care has increased as demand exceeds supply, the dependent care credit has failed to keep up with the spiraling costs. My legislation addresses this chronic problem by automatically adjusting the dependent and child care credit for inflation. Under this legislation, both the dollar limit on the amount creditable and the limitation on earned income would be adjusted annually.

Mr. President, the average cost for out of home child care exceeds $3,500 per child, per year. Child care or dependent care expenses can seriously strain a family's budget. This burden can become unbearable for single parents, almost invariably single mothers, who must balance the need to work with their parental responsibilities.

Middle-class Americans are working harder than ever to maintain their standard of living. In many families, parents have been forced to work longer hours, deplete their savings, and go deeper into debt. There is an urgent need to enact changes in our tax code that are pro-family and pro-children. The Working Families Child Care Tax Relief Act meets both of these goals.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 490

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Working Families Child Care Tax Relief Act".

SEC. 2. INFLATION ADJUSTMENT OF DEPENDENT CARE CREDIT.

(a) IN GENERAL.—Subsection (e) of section 21 of the Internal Revenue Code of 1986 (relating to expenses for household and dependent care services necessary for gainful employment) is amended by adding at the end the following new paragraph:

"(11) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1996, each dollar amount contained in subsections (c) and (d)(2) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

By Mr. FORD:

S. 491. A bill to amend the National Wildlife Refuge System Administration Act of 1966 to prohibit the United States Fish and Wildlife Service from acquiring land to establish a refuge of the National Wildlife Refuge System unless at least 50 percent of the owners of the land in the proposed refuge favor the acquisition; to the Committee on Environment and Public Works.

THE NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT AMENDMENT ACT OF 1997

Mr. FORD. Mr. President, last month in western Kentucky, about 200 citizens of Marshall County packed a junior high school auditorium, taking time out from their busy schedules, to learn more about the proposed Clarks River Wildlife Refuge. So many people were there because it marked the first time they had an opportunity to voice their opinions on a refuge that would go, literally, through their backyards. Backers of the refuge had crafted a proposal and sought funding without any input from the people who owned the land.

I first called the Senate's attention to this refuge last year, during consideration of the omnibus appropriations bill. I made it clear that I'm not necessarily opposed to the creation of a wildlife refuge in western Kentucky. What concerned me then and concerns me now is that those who farm about 7,000 acres within the proposed boundaries of the refuge haven't been heard on whether they support the refuge. As one farmer said to me in a letter last year, "no one seems to listen to what the majority of the landowners and farmers, who are directly involved, are saying."

Well, Mr. President, I'm listening. During last month's hearing, one farmer asked for a show of hands, of the landowners present, who supported the refuge. Three hands went up. When he asked how many landowners opposed the refuge, about 60 hands went up. What's worse, when a farmer asked how many landowners had been contacted to determine support for the refuge, the Government officials admitted that not a single landowner had been contacted—despite the fact that the creation of the refuge will depend solely on the number of willing sellers.

Today I am introducing legislation to correct this practice. My bill would require the Fish and Wildlife Service to contact for an independent, non-biased survey of landowners within the boundaries of any proposed refuge. If the survey shows that a majority of the landowners support the refuge, then the Service would be free to proceed with land acquisitions to create it. If not, then the Service would be prohibited from taking additional steps.

Mr. President, my bill is simply common sense: Creating a wildlife refuge depends on the willingness of landowners to sell their property to the Federal Government. We should first determine if there are enough landowners willing to sell enough land to actually create the refuge before we begin to make purchases. It doesn't make sense to draw up plans for a wildlife refuge if there won't be enough land available to create it.

Mr. President, the people of western Kentucky have asked, repeatedly, for their voices to be heard. My legislation will ensure that they will be, and that future refuges respect the wishes of affected communities.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LANDOWNER REFERENDA ON REFUGES.

(a) IN GENERAL.—Section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) is amended by adding at the end the following:

"(j) LANDOWNER REFERENDA ON REFUGES.—

"(1) IN GENERAL.—Before acquiring land to establish a refuge of the System or preparing a final environmental assessment or environmental impact statement on the proposed acquisition under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Secretary shall—

"(A) hold a public hearing on the proposed acquisition in the area in which the land proposed to be acquired is located; and

"(B) acting through a private, independent entity, conduct a referendum among owners of the land that will be acquired to establish the refuge to determine whether the owners favor the proposed acquisition.

"(2) APPROVAL OF ACQUISITION.—The Secretary may acquire land to establish a refuge of the System only if a majority of owners of the land voting in the referendum favor the proposed acquisition.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 1996.

By Mr. SARBANES:

S. 492. A bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes; to the Committee on Governmental Affairs.

THE FIREFIGHER PAY FAIRNESS ACT

Mr. SARBANES. Mr. President, today I am introducing legislation to improve the pay system used for Federal firefighters. This bill has three broad purposes: First, to improve pay equality with municipal and other public section firefighters; second, to enhance recruitment and retention of firefighters in order to maintain the highest quality Federal fire service; and third, to encourage Federal firefighters to pursue career advancement and training opportunities.

Fire protection is clearly a major concern at Federal facilities and on Federal lands throughout the Nation. From fighting wildland fires in our national parks and forests to protecting military families from fires in their base housing, Federal firefighters play a vital role in preserving lives and property. One only needs to recall the terrible tragedies in Colorado two summers ago to understand the vital importance of our Federal firefighters.

The Department of Agriculture, the Coast Guard, the Department of Commerce, the Department of Defense, the General Services Administration, the Department of the Interior, and the Department of Veterans Affairs are among the Federal agencies which rely on Federal firefighters to protect their vast holdings of land and structures. Just like their municipal counterparts, these firefighters are the first line of defense against threats to life and property.

Mr. President, the current system used to pay our Federal firefighters is at best confusing and at worst unfair. These men and women work longer hours than any other public sector firefighters—yet are paid substantially less. The current pay system, which consists of three tiers, is overly complex and, more importantly, is hurting Federal efforts to attract and retain top-quality employees.

Currently, most Federal firefighters work an average 72-hour week under exceptionally demanding conditions. The typical workweek consists of a one-day-off schedule which results in three 24-hours shifts during the remainder of each week. Despite this unusual schedule, firefighters are paid under a modified version of the same General Schedule pay system used for full-time, 40-hour-per-week Federal workers.

The result of the pay modification is that Federal firefighters make less per hour than any other Federal employee at their same grade level. For example: a firefighter who is a GS–5, Step 5 makes $7.21 per hour while other employees at the same grade and step earn $10.34 per hour. Some have tried to justify this by noting that part of a firefighter's day is downtime. However, I must note that all firefighters have substantial duties beyond those at the site of a fire. Adding to this discrepancy is the fact that the average municipal firefighter makes $12.87 per hour.

Mr. President, this has caused the Federal fire service to become a training ground for young men and women who then leave for higher pay elsewhere in the public sector. Continually training new employees is, as my colleagues know, very expensive for any employer.

The Office of Personnel Management is well aware of these problems. In fact, section 102 of the Federal Employees Pay Comparability Act of 1990 [FEPCA], title V of Public Law 101–509, authorizes the establishment of special pay systems for certain Federal occupations. The origin of this provision was a recognition that the current pay classification system did not account for the unique and distinctive employment conditions of Federal protective occupations including the Federal fire service.

In May 1991, I wrote to OPM urging the establishment of a separate pay scale for firefighters under the authority provided for in FEPCA. Subsequently, OPM established an Advisory Committee on Law Enforcement and Protective Occupations consisting of agency personnel and representatives from Federal fire and law enforcement organizations. Beginning in August of 1991, representatives from the Federal fire community began working with OPM and other administration officials to identify and address the problems of paying Federal firefighters under the General Schedule. The committee completed its work in June of 1992 and in December of that year issued a staff report setting forth recommendations to correct the most serious problems with the current pay system.

Mr. President, I regret that since the release of the OPM recommendations, there has been no effort to implement any of the proposals of the advisory task force. In fact, OPM has communicated quite clearly that it has no plans to pursue any solution to the serious pay deficiencies that have been so widely identified and acknowledged.

It would not be necessary to introduce this legislation today had OPM taken the corrective action that, in my view, is so clearly warranted. However, I have determined that legislation appears to be the only vehicle to achieve the necessary changes in the pay system for Federal firefighters.

Mr. President, the Firefighter Pay Fairness Act would improve Federal firefighter pay in several important and straightforward ways. Perhaps most importantly, the bill draws from existing provisions in title V to calculate a true hourly rate for firefighters. This would alleviate the current problem of firefighters being paid considerably less than other General Schedule employees at the same GS level. It would also account for the varying length in the tour of duty for Federal firefighters stationed at different locations.

In addition, the bill would use this hourly rate to ensure that firefighters receive true time and one-half overtime for hours worked over 106 in a biweekly pay period. This is designed to correct the problem, under the current system, where the overtime rate is calculated based on an hourly rate considerably less than base pay.

The Firefighter Pay Fairness Act would also extend these pay provisions to so-called wildland firefighters when they are engaged in firefighting duties. Currently, wildland firefighters are often not compensated for all the time spent responding to a fire event. This legislation would ensure that these protectors of our parks and forests would be paid fairly for ensuring the safety of these invaluable national resources.

It also ensures that firefighters promoted to supervisory positions would be paid at a rate of pay at least equal to what they received before the promotion. This would address a situation, under the current pay system, which discourages employees from accepting promotions because of the significant loss of pay which often accompanies a move to a supervisory position.

Similarly, the bill would encourage employees to get the necessary training in hazardous materials, emergency medicine, and other critical areas by ensuring they do not receive a pay cut while engaged in these training activities.

Mr. President, this legislation is based upon a bill I authorized in the 103d Congress. A bipartisan group of more than 150 Members cosponsored the measure in the Senate and the House last year. The legislation I am introducing today reflects several modifications that were suggested to the bill following substantial discussions with various Members. However, it is identical to the so-called compromise measure that has been discussed with the authorizing as well as the appropriations committees in previous years and received widespread support.

To reduce initial costs and allow oversight of the effectiveness of the legislation, the bill I am introducing today would implement the new pay system and other provisions beginning October 1, 1997. However, the new rate of pay would be phased in over a 4-year period ending October 1, 2002.

Mr. President, I consulted many of the affected groups in developing my legislation. I am very pleased that this bill has been endorsed by the American Federation of Government Employees, the International Association of Fire Chiefs, the International Association of Fire Fighters, the National Association of Government Employees, and the National Federation of Federal Employees.

As I have said before, Mr. President, fairness is the key word. There is no reason why Federal firefighters should be paid dramatically less that their municipal counterparts. As a cochairman of the Congressional Fire Services Caucus, I want to urge all members of the caucus and, indeed, all Members of the Senate to join in cosponsoring this important piece of legislation.

By Mr. KYL (for himself and Mr. GORTON):

S. 493. A bill to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia; to the Committee on the Judiciary.

THE CELLULAR TELEPHONE PROTECTION ACT

Mr. KYL. Mr. President, I rise to introduce the Cellular Telephone Protection Act, which would improve the ability of law enforcement to investigate and prosecute individuals engaged in the activity of cloning cellular phones. Law enforcement officials and wireless carriers support the bill as an important tool to stem this kind of telecommunications fraud.

Cell phones are manufactured with an embedded electronic serial number [ESN], which is transmitted to gain access to the telecommunications network. Those involved in cloning cell phones sit in parked cars outside of airports or along busy roadways to harvest ESN's from legitimate cell phone users and, in a process known as cloning, use software and equipment to insert the stolen numbers into other cell phones, the clones. A single ESN can be implanted into several cloned phones. The cloned phones charge to the account of the lawful, unsuspecting user. Cellular phone carriers must absorb these losses, which, according to the Cellular Telecommunication Industry Association, amounted to about $650 million in 1995, up from $480 million in 1994. The cellular industry is expanding by about 40 percent a year; efforts to combat fraud are imperative to ensure the integrity of our communications network.

Cloning is more than an inconvenience to the 36 million Americans who currently use cellular phone services, and an expense to wireless communication companies who pay for the fraudulent calls. According to the Secret Service, which is the primary Federal agency responsible for investigating telecommunications fraud, cloning abets organized criminal enterprises that use cellular telephones as their preferred method of communication. Cloned phones are extremely popular among drug traffickers and gang members, who oftentimes employ several cloned phones to evade detection by law enforcement. When not selling cloned phones to drug dealers and ruthless street gangs, cloners set up cornerside calling shops where individuals pay a nominal fee to call anywhere in the world on a replicated phone, or simply purchase the illegal phone for a flat amount.

The cellular telephone protection bill clarifies that there is no lawful purpose to posses, produce or sell hardware, known as copycat boxes, or software used for cloning a cellular phone or its ESN. Such equipment and software are easy to obtain—advertisements hawking cloning equipment appear in computer magazines and on the Internet. There is no legitimate purpose for cloning software and equipment, save for law enforcement and telecommunication service providers using it to improve fraud detection. The bill strikes at the heart of the cloning paraphernalia market by eliminating the requirement for prosecutors to prove that the person selling copycat boxes or cloning software programs intended to defraud. The bill retains an exception for law enforcement to possess otherwise unlawful cloning software, and adds a similar exception for telecommunications service providers.

Moreover, the Cellular Phone Protection Act expands the definition of "scanning receivers," equipment which, unlike cloning software and devices, does have legitimate uses if not used to scan frequencies assigned to wireless communications. The bill clarifies that the definition of scanning receivers encompasses devices that can be used to intercept ESN's even if they are not capable of receiving the voice channel. As mentioned above, criminals harvest ESN's by employing scanners near busy thoroughfares. The revised definition of scanning receiver will ensure that these devices are unlawful when used with an intent to defraud just like scanners that intercept voice.

Finally, the bill increases penalties for those engaged in cloning. A new paradigm is needed for penalizing cloning offenses. Currently, penalties for cloning crimes are based on the monetary loss a carrier suffers, not the potential loss. First-time offenders oftentimes do not face any jail time, which makes these cases unattractive for prosecution. Carriers and law enforcement are forced to choose between keeping the cloner on the telecommunications network to rack up high losses to ensure jail time, or stemming the losses sooner only to have the cloner back on the streets in days. The penalty scheme should be revised to track another indicator of cloning fraud—the number of electronic serial numbers stolen.

Cloning offenses are serious crimes, and the penalties should reflect this. We know that cloned phones are used to facilitate other crimes—particularly drug trafficking. Additionally, cloning offenses are serious economic crimes in themselves that threaten the integrity of the public communications network. In August, two individuals in New York were arrested for allegedly possessing 80,000 electronic serial numbers. Each of the 80,000 ESN's could be implanted into several cloned phones. I look forward to working with the U.S. Sentencing Commission to achieve a more appropriate sentencing structure for cloning fraud.

The cellular phone protection initiative will help to reduce telecommunications fraud. In the process, other criminal activity will be made more difficult to conduct—cloned phones, now a staple of criminal syndicates, would not be so readily available. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cellular Telephone Protection Act".

SEC. 2. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COUNTERFEIT ACCESS DEVICES.

(a) UNLAWFUL ACTS.—Section 1029(a) of title 18, United States Code, is amended—

(1) in paragraph (7), by striking "use of" and inserting "access to";

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by striking paragraph (8) and inserting the following:

"(8) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a scanning receiver;

"(9) knowingly uses, produces, traffics in, has control or custody of, or possesses hardware or software that may be used for—

"(A) modifying or copying an electronic serial number; or

"(B) altering or modifying a telecommunications instrument so that the instrument may be used to obtain unauthorized access to telecommunications services; or".

(b) PENALTIES.—Section 1029(c) of title 18, United States Code, is amended to read as follows:

"(c) PENALTIES.—The punishment for an offense under subsection (a) or (b)(1) is—

"(1) in the case of an offense that does not occur after a conviction for another offense under subsection (a) or (b)(1), or an attempt to commit an offense punishable under subsection (a) or (b)(1), a fine under this title or twice the value obtained by the offense, whichever is greater, imprisonment for not more than 15 years, or both; and

"(2) in the case of an offense that occurs after a conviction for another offense under subsection (a) or (b)(1), or an attempt to commit an offense punishable under subsection (a) or (b)(1), a fine under this title or twice the value obtained by the offense, whichever is greater, imprisonment for not more than 20 years, or both.".

(c) DEFINITION OF SCANNING RECEIVER.—Section 1029(e)(8) of title 18, United States Code, is amended by inserting before the period at the end the following: "or any electronic serial number, mobile identification number, personal identification number, or other identifier of any telecommunications service, equipment, or instrument".

(d) EXCEPTION FOR CERTAIN TELECOMMUNICATIONS SERVICES PROVIDERS.—Section 1029 of title 18, United States Code, is amended by adding at the end the following:

"(g) EXCEPTION FOR CERTAIN TELECOMMUNICATIONS SERVICES PROVIDERS.—

"(1) DEFINITIONS.—In this subsection, the term 'telecommunications carrier' has the same meaning as in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

"(2) PERMISSIBLE ACTIVITIES.—This section does not prohibit any telecommunications carrier, or an officer, agent, or employee of, or a person under contract with a telecommunications carrier, engaged in protecting any property or legal right of the telecommunications carrier, from sending through the mail, sending or carrying in interstate or foreign commerce, having control or custody of, or possessing, manufacturing, assembling, or producing any otherwise unlawful—

"(A) device-making equipment, scanning receiver, or access device; or

"(B) hardware or software used for—

"(i) modifying or altering an electronic serial number; or

"(ii) altering or modifying a telecommunications instrument so that the instrument may be used to obtain unauthorized access to telecommunications services.".

By Mr. KYL (for himself, Mr. ABRAHAM, and Mr. REID):

S. 494. A bill to combat the overutilization of prison health care services and control rising prisoner health care costs; to the Committee on the Judiciary.

THE FEDERAL PRISON HEALTH CARE COPAYMENT ACT

Mr. KYL. Mr. President, I introduce the Federal Prisoner Health Care Copayment Act, which would require Federal prisoners to pay a nominal fee when they initiate a visit for medical attention. The fee would be deposited in the Federal Crime Victims' Fund. Each time a prisoner pays to heal himself, he will be paying to heal a victim.

Most working, law-abiding Americans are required to pay a copayment fee when they seek medical care. It is time to impose this requirement on Federal prisoners.

To date, at least 20 States—including my home State of Arizona—have implemented statewide prisoner health care copayment programs. In addition to Arizona, the following States have enacted this reform: California, Colorado, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Oklahoma, Maryland, Minnesota, Mississippi, Nevada, Hew Hampshire, New Jersey, Utah, Virginia, Tennessee, and Wisconsin. Several other States are expected to soon institute a copayment system, including, Alaska, Connecticut, Maine, Montana, Michigan, North Carolina, Oregon, South Carolina, Washington, and Wyoming.

Moreover, according to the National Sheriffs' Association, at least 25 States—some of which have not adopted medical copayment reform on a statewide basis—have jail systems that impose a copayment.

In June, the National Commission on Correctional Health Care held a conference that examined the statewide fee-for-service programs. At the conference, Dr. Ron Waldron of the Federal Bureau of Prisons provided a survey of some of the States that have adopted inmate medical copayment programs and concluded that "Inmate user fees programs appear to reduce utilization, and do generate modest revenues."

Dr. Waldron reported that prison copayment laws resulted in the reduction of medical utilization of: between 16 and 29 percent in Florida; between 30 and 50 percent in Kansas; 40 percent in Maryland; 50 percent in Nevada; and between 10 and 18 percent in Oklahoma. Terry Stewart, director of the Arizona Department of Corrections, notes that, "Over the life of the [Arizona copayment] program, there has been an overall reduction of about 31 percent in the number of requests for health care services. This strongly suggests that inmates are being more discreet about, and giving more considered thought to, their need for medical attention." I will have his letter placed in the CONGRESSIONAL RECORD.

Reducing frivolous medical visits saves taxpayers money. A December 28, 1996, New York Post editorial, "Toward Healthier Prison Budgets," which I will also include in the RECORD, reported that the copayment law in New Jersey allowed the State to cut its prison health care budget by $17 million.

As to generating revenue, Dr. Waldron reported that California collects about $60,000 per month in prisoner-copayment fees. In my home State of Arizona, the State has collected about $400,000 since the inception of the program in October 1994.

Not only are inmate copayment plans working well on the statewide level, they are achieving success in jail systems across the United States. In the

January-February edition of Sheriff, the National Sheriffs' Association President reported that copayment plans—which, as mentioned above, are operational in jail systems in at least 25 States—have: First, discouraged overuse of service; and second, freed health care staff to provide better care to inmates who truly need medical attention. Yavapai County sheriff, G.C. "Buck" Buchanan, in a letter that I will include in the RECORD, writes: "Prior to the institution of [copayment reform], many inmates in custody were taking advantage of the health care which, or course, must be provided to them. This could be construed as frivolous requests if you will, and took up the valuable time of our health care providers * * *. Since this policy has been in effect, we have realized a reduction in inmate requests for medical services between 45 to 50 percent."

The success of the prison and jail fee-for-service initiatives should come as no surprise. Common sense says that inmates will be less likely to seek unnecessary medical attention if they are required to pick up part of the tab.

I believe that Congress should follow the lead of the States and provide the Federal Bureau of Prisons with the authority to charge Federal inmates a nominal fee for elective health care visits. The Federal system is particularly ripe for reform. According to the 1996 Corrections Yearbook, the system spends more per inmate on health care than any State except Vermont. Federal inmate health care totaled $327 million in fiscal year 1996, up from $138 million in fiscal year 1990. Average cost per inmate has increased over 60 percent during this period, from $2,204 to $3,549.

The Prisoner Health Care Copayment Act provides that the Director of the Bureau of Prisons shall assess and collect a fee of not less than $3 and not more than $5 for each qualified health care visit. The term "qualified health care visit" does not include any health care visit that is: Conducted during the intake process; an annual examination; initiated by the health care staff of the Bureau of Prisons; the direct result of a referral made by a prison official; or an emergency visit. Prisoners who are pregnant or determined to be seriously mentally ill are exempted from the copayment requirement altogether. No prisoner shall be denied treatment on the basis of insolvency.

The act also gives the Director of the Bureau of Prisons the authority to set by regulation a reasonable fee, not to exceed $5, for prescriptions, emergency visits, and juvenile visits. And the legislation permits the Director to charge an inmate's account for medical treatment for injuries an inmate inflicts on himself or others.

As I mentioned above, all fees will be deposited in the Federal Crime Victims' Fund.

Before I conclude, I would like to thank the Arizona Department of Corrections for its assistance in helping me draft this reform. Additionally, I appreciate the assistance that Sheriff Buchanan and his office provided me.

I look forward to working with the Department of Justice, the Bureau of Prisons, and my colleagues on both sides of the aisle, to implement a fee-for-medical-services program—a sensible and overdue reform—for Federal prisoners.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 494

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Prisoner Health Care Copayment Act".

SEC. 2. PRISONER COPAYMENTS FOR HEALTH CARE SERVICES.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"§ 4048. Prisoner copayments for health care services

"(a) DEFINITIONS.—In this section—

"(1) the term 'account' means the trust fund account (or institutional equivalent) of a prisoner;

"(2) the term 'Director' means the Director of the Bureau of Prisons;

"(3) the term 'health care provider' means any person and who is licensed or certified under State law to provide health care services who is operating within the scope of such license;

"(4) the term 'health care visit' means any visit by a prisoner to an institutional or non-institutional health care provider, if the visit is made at the request of the prisoner;

"(5) the term 'prisoner' means any person subject to incarceration, detention, or admission to any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program; and

"(6) the term 'qualified health care visit' means any health care visit except a health care visit

"(A) that—

"(i) is conducted during the incarceration intake process;

"(ii) is an annual examination;

"(iii) is determined by the health care provider to be an emergency visit;

"(iv) is an immunization;

"(v) is initiated by the health care staff of the Bureau of Prisons; or

"(vi) is the direct result of a referral made by a prison official; or

"(B) by a prisoner who is—

"(i) less than 18 years of age;

"(ii) pregnant; or

"(iii) determined by the appropriate official of the Bureau of Prisons to be seriously mentally ill, or permanently disabled.

"(b) COPAYMENTS FOR HEALTH CARE SERVICES.—The Director shall assess and collect a fee in accordance with this section—

"(1) in an amount equal to not less than $3 and not more than $5, for each qualified health care visit;

"(2) in an amount not to exceed $5, which shall be established by the Director by regulation, for—

"(A) each prescription medication provided to the prisoner by a health care provider; and

"(B) each health care visit described in subparagraph (A)(iii) or (B)(i) of subsection (a)(6); and

"(3) in an amount established by the Director by regulation, for each health care visit occurring as a result of an injury inflicted on a prisoner by another prisoner.

"(c) RESPONSIBILITY FOR PAYMENT.—Each fee assessed under subsection (b) shall be collected by the Director from the account of—

"(1) the prisoner making the health care visit or receiving the prescription medication; or

"(2) in the case of a health care visit described in subsection (b)(3), the prisoner who is determined by the Director to have inflicted the injury.

"(d) TIMING.—Each fee assessed under this section shall be collected from the appropriate account under subsection (c)—

"(1) on the date on which the qualified health care visit occurs; or

"(2) in the case of a prisoner whose account balance is determined by the Director to be insufficient for collection of the fee in accordance with paragraph (1), in accordance with an installment payment plan, which shall be established by the Director by regulation.

"(e) NO REFUSAL OF TREATMENT FOR FINANCIAL REASONS.—Nothing in this section shall be construed to permit any refusal of treatment to a prisoner on the basis that—

"(1) account of the prisoner is insolvent; or

"(2) the prisoner is otherwise unable to pay a fee assessed under this section in accordance with subsection (d)(1).

"(f) USE OF AMOUNTS.—Any amounts collected by the Director under this section shall be deposited in the Crime Victims' Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601).

"(g) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of the Federal Prisoner Health Care Copayment Act and annually thereafter, the Director shall submit to Congress a report, which shall include—

"(1) a description of the amounts collected under this section during the preceding 12-month period; and

"(2) an analysis of the effects of the implementation of this section, if any, on the nature and extent of health care visits by prisoners.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"4048. Prisoner copayments for health care services.".

ARIZONA DEPARTMENT OF CORRECTIONS,
Phoenix, AZ, March 7, 1997.

Hon. JON KYL,
U.S. Senate, Senate Hart Office Building, Washington, DC.

Re: Inmate Health Care—Fee for Service

DEAR SENATOR KYL: On October 15, 1994, the Arizona Department of Corrections began its fee for service program for inmate health care. The program was intended to reduce inmate abuse of the health care delivery system, to place on the inmate some responsibility for his/her own health care, and to offset the increasing costs of inmate health care. This program has proven itself effective in accomplishing the purposes intended.

There has been a noticeable decrease in the number of requests for health care services. For example, upon implementation of the program, and depending upon the facility, we experienced an initial reduction of between 40% and 60% in the number of health care requests. Over the life of the program, there has been an overall reduction of about 31% in the number of requests for health care services. This strongly suggests that inmates are being more discreet about, and giving more considered thought to, their need for medical attention.

The program has also proven a great benefit to Arizona's taxpayers. From October 15, 1994 through December 31, 1996, the Arizona Department of Corrections has collected $392,843.59 for health care services provided to its inmates. This money is returned to Arizona's general fund, where it can be utilized to fund other State programs. This means that fewer taxpayer dollars are required to fund State programs.

In light of the results achieved by this program in Arizona, I highly recommend that similar programs be adopted by prison and jail systems nationwide, and I support and greatly appreciate your efforts to this end.

Sincerely,

TERRY L. STEWART,
Director.

YAVAPAI COUNTY SHERIFF'S OFFICE,
Prescott, AZ, March 4, 1997.

Senator JON KYL,
2240 Rayburn House Office Building, Washington, DC.

DEAR SENATOR KYL: As you have requested, a copy of the current Yavapai County Sheriff's Office Detention Services Procedure Manual with respect to Inmate Health Care Co-Payment policy, has been attached. This policy is sanctioned under Arizona Revised Statute 31–151 and has been in existence since November 1995.

Prior to the institution of this policy, many inmates in custody were taking advantage of the health care which, of course, must be provided to them. This could be construed as frivolous requests if you will, and took up the valuable time of our health care providers. Time was not being utilized to full potential including any request for psychological analysis and treatment.

Since this policy has been in effect, we have realized a reduction in inmate requests for medical services between 45% to 50%. Consequently, when an inmate is given the choice of how to best spend his money, the preference is not for unnecessary medical care. Those in custody have nothing better to do than take advantage of the system for just a change in the daily routine. This has ceased. There is no denial of medical services, it just becomes a matter of priority for the inmate.

Over the past eleven months, in the special account in which the co-payment fee is retained, approximately $3500.00 has been placed into deposit. Although this is not a large amount of revenue, the savings which have been noticed are that of a reduction in staff time and an increase in the quality of care the physician provides for this service delivery. One could only imagine the magnitude of budget savings if a program such as this were initiated on the federal inmate population.

In Yavapai County this policy has proven to be a success and it is through this success that you have my full support in this proposed legislation.

In matters of mutual concern I remain,

G.C. "BUCK" BUCHANAN,
Yavapai County Sheriff.

[From the New York Post, Dec. 28, 1996]

TOWARD HEALTHIER PRISON BUDGETS

Since April, New Jersey has experienced a 60 percent drop in the number of prison inmates seeking medical attention. Have prisoners suddenly begun pursuing a healthier lifestyle? Perhaps—but we prefer to think it has something to do with the fact that inmates must now ante up $5 every time they demand to see a doctor.

New Jersey prison officials are extremely pleased with the new system. The fee deters prisoners with vague or minor complaints or whose primary motivation appears to be simply, to get out of their cells for a few hours.

Result: The state has been able to cut its prison health-care budget by $17 million. Fewer inmates being escorted to and from the infirmary also enhances security within prison walls.

Predictably, the American Civil Liberties Union (ACLU) isn't pleased. It claims the $5 fee—equal to about two days' prison wages—is preventing some chronically ill inmates from seeking proper care. Naturally, a lawsuit has been filed. In May, a judge ruled in favor of the prison system (the decision is being appealed).

Charging prisoners a fee for medical services, however, is nothing new, nor is it unique to New Jersey. Prisons and jails in at least 18 states now charge for health care, up from just nine in 1995. New Jersey has allowed such fees since 1995. In fact, the Bergen County jail charges inmates $10 per doctor visit.

State prison officials dismiss the ACLU's concerns as "highly speculative." Inmates diagnosed with chronic illnesses, the officials point out, are not charged for all visits. One diabetic inmate, interviewed by The New York Times, complained that the fee was a "burden" because it meant he could no longer buy "toothpaste and stuff." He admitted, however, that he'd had to pay only "three or four times" since April 1.

This isn't exactly Black Hole of Calcutta stuff. New Jersey appears to be making good use of a sound prison-management technique.

By Mr. KYL (for himself, Mr. LOTT, Mr. NICKLES, Mr. MACK, Mr. COVERDELL, Mr. HELMS, Mr. SHELBY, and Mrs. HUTCHISON):

S. 495. A bill to provide criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical weapon or biological weapon, and to reduce the threat of acts of terrorism or armed aggression involving the use of any such weapon against the United States, its citizens, or Armed Forces, or those of any allied country, and for other purposes.

THE CHEMICAL AND BIOLOGICAL WEAPONS THREAT REDUCTION ACT OF 1997

Mr. KYL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Chemical and Biological Weapons Threat Reduction Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Policy.
Sec. 4. Definitions.

TITLE I—PENALTIES FOR UNLAWFUL ACTIVITIES WITHIN THE UNITED STATES OR BY UNITED STATES NATIONALS ABROAD

Subtitle A—Criminal Penalties

Sec. 101. Criminal provisions.

Subtitle B—Civil Penalties

Sec. 111. Designation of lead agency.
Sec. 112. Prohibitions on chemical and biological weapons-related activities.
Sec. 113. Civil penalties.
Sec. 114. Regulatory authority; application of other laws.

Subtitle C—Other Penalties

Sec. 121. Revocations of export privileges.
Sec. 122. Suspension of patent rights.

TITLE II—FOREIGN RELATIONS AND DEFENSE-RELATED PROVISIONS

Sec. 201. Sanctions for use of chemical or biological weapons.
Sec. 202. Continuation and enhancement of multilateral control regimes.
Sec. 203. Criteria for United States assistance to Russia.
Sec. 204. Report on the state of chemical and biological weapons proliferation.
Sec. 205. International conference to strengthen the 1925 Geneva Protocol.
Sec. 206. Restriction on use of funds for the Organization for the Prohibition of Chemical Weapons.
Sec. 207. Enhancements to robust chemical and biological defenses.
Sec. 208. Negative security assurances.
Sec. 209. Riot control agents.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the United States eliminated its stockpile of biological weapons pursuant to the 1972 Biological Weapons Convention and has pledged to destroy its entire inventory of chemical weapons by 2004, independent of the Chemical Weapons Convention entering into force;

(2) the use of chemical or biological weapons in contravention of international law is abhorrent and should trigger immediate and effective sanctions;

(3) United Nations Security Council Resolution 620, adopted on August 26, 1988, states the intention of the Security Council to consider immediately "appropriate and effective" sanctions against any nation using chemical and biological weapons in violation of international law;

(4) the General Agreement on Tariffs and Trade recognizes that national security concerns may serve as legitimate grounds for limiting trade; title XXI of the General Agreement on Tariffs and Trade states that "nothing in this Agreement shall be construed . . . to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests. . .";

(5) on September 30, 1993, the President declared by Executive Order No. 12868 a national emergency to deal with "the unusual

and extraordinary threat to the national security, foreign policy, and economy of the United States" posed by the proliferation of nuclear, biological and chemical weapons, and of the means for delivering such weapons;

(6) Russia has not implemented the 1990 United States-Russian Bilateral Agreement on Destruction and Non-Production of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, known as the "BDA", nor has the United States and Russia resolved, to the satisfaction of the United States, the outstanding compliance issues under the Memorandum of Understanding Between the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related To Prohibition on Chemical Weapons, known as the "1989 Wyoming MOU";

(7) the Intelligence Community has stated that a number of countries, among them China, Egypt, Iran, Iraq, Libya, North Korea, Syria, and Russia, possess chemical and biological weapons and the means to deliver them;

(8) four countries in the Middle East—Iran, Iraq, Libya, and Syria—have, as a national policy, supported international terrorism;

(9) chemical and biological weapons have been used by states in the past for intimidation and military aggression, most recently during the Iran-Iraq war and by Iraq against its Kurdish minority;

(10) the grave new threat of chemical and biological terrorism has been demonstrated by the 1995 nerve gas attack on the Tokyo subway by the Japanese cult Aum Shinrikyo;

(11) the urgent need to improve domestic preparedness to protect against chemical and biological threats was underscored by enactment of the 1997 Defense Against Weapons of Mass Destruction Act;

(12) the Department of Defense, in light of growing chemical and biological threats in regions of key concern, including Northeast Asia, and the Middle East, has stated that United States forces must be properly trained and equipped for all missions, including those in which opponents might threaten use of chemical or biological weapons; and

(13) Australia Group controls on the exports of chemical and biological agents, and related equipment, and the Missile Technology Control Regime, together provide an indispensable foundation for international and national efforts to curb the spread of chemical and biological weapons, and their delivery means.

SEC. 3. POLICY.

It should be the policy of the United States to take all appropriate measures to—

(1) prevent and deter the threat or use of chemical and biological weapons against the citizens, Armed Forces, and territory of the United States and its allies, and to protect against, and manage the consequences of, such use should it occur;

(2) discourage the proliferation of chemical and biological weapons, their means of delivery, and related equipment, material, and technology;

(3) prohibit within the United States the development, production, acquisition, stockpiling, and transfer to third parties of chemical or biological weapons, their precursors and related technology; and

(4) impose unilateral sanctions, and seek immediately international sanctions, against any nation using chemical and biological weapons in violation of international law.

SEC. 4. DEFINITIONS.

In this Act:

(1) AUSTRALIA GROUP.—The term "Australia Group" refers to the informal forum of countries, formed in 1984 and chaired by Australia, whose goal is to discourage and impede chemical and biological weapons proliferation by harmonizing national export controls on precursor chemicals for chemical weapons, biological weapons pathogens, and dual-use equipment, sharing information on target countries, and seeking other ways to curb the use of chemical weapons and biological weapons.

(2) BIOLOGICAL WEAPON.—The term "biological weapon" means the following, together or separately:

(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

(iii) deleterious alteration of the environment.

(B) Any munition or device specifically designed to cause death or other harm through the toxic properties of those biological weapons specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in this section.

(D) Any living organism specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

(3) CHEMICAL WEAPON.—The term "chemical weapon" means the following, together or separately:

(A) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen mustard, phosgene oxime, lewisite, phenyldichloroarsine, ethyldiDchloroarsine, methyldichloroarsine, phosgene, diphosgene, hydrogen cyanide, cyanogen chloride, and arsine.

(B) Any of the 54 chemicals other than a riot control agent that is controlled by the Australia Group as of the date of the enactment of this Act.

(C) Any munition or device specifically designed to cause death or other harm through the toxic properties of a chemical weapon specified in subparagraph (A) or (B), which would be released as a result of the employment of such munition or device.

(D) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in this section.

(4) KNOWINGLY.—The term "knowingly" is used within the meaning of "knows" as that term is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) and includes situations in which a person has reason to know.

(5) NATIONAL OF THE UNITED STATES.—The term "national of the United States" has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(6) PERSON.—The term "person" means any individual, corporation, partnership, firm, association, or other legal entity.

(7) PURPOSE NOT PROHIBITED UNDER THIS ACT.—The term "purpose not prohibited under this Act" means—

(A) any industrial, agricultural, research, medical, pharmaceutical, or other peaceful purpose;

(B) any protective purpose, namely any purpose directly related to protection against a chemical or biological weapon;

(C) any military purpose that is not connected with the use of a chemical or biological weapon or that is not dependent on the use of the toxic properties of the chemical or biological weapon to cause death or other harm; or

(D) any law enforcement purpose, including any domestic riot control purpose.

(8) RIOT CONTROL AGENT.—The term "riot control agent" means any substance, including diphenylchloroarsine, diphenylDcyanoarsine, adamsite, chloroacetophenone, chloropicrin, bromobenzyl cyanide, 0-chlorobenzylidene malononitrile, or 3-Quinuclidinyl benzilate, that is designed or used to produce rapidly in humans any nonlethal sensory irritation or disabling physical effect that disappears within a short time following termination of exposure.

(9) UNITED STATES.—The term "United States" means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

(A) any of the places within the provisions of section 101(41) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. sec. 1301(41));

(B) any public aircraft or civil aircraft of the United States, as such terms are defined in sections 101 (36) and (18) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. secs. 1301(36) and 1301(18)); and

(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b)).

TITLE I—PENALTIES FOR UNLAWFUL ACTIVITIES WITHIN THE UNITED STATES OR BY UNITED STATES NATIONALS ABROAD

Subtitle A—Criminal Penalties

SEC. 101. CRIMINAL PROVISIONS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 11A the following new chapter:

"CHAPTER 11B—CHEMICAL AND BIOLOGICAL WEAPONS

"Sec.
"229. Penalties and prohibitions with respect to chemical and biological weapons.
"229A. Seizure, forfeiture, and destruction.
"229B. Other prohibitions.
"229C. Injunctions.
"229D. Requests for military assistance to enforce prohibition in certain emergencies.
"229E. Definitions.

"§229. Penalties and prohibitions with respect to chemical and biological weapons

"(a) IN GENERAL.—Except as provided in subsection (c), whoever knowingly develops, produces, otherwise acquires, receives from any person located outside the territory of the United States, stockpiles, retains, directly or indirectly transfers, uses, owns, or possesses any chemical weapon or any biological weapon, or knowingly assists, encourages or induces, in any way, any person to do so, or attempt or conspire to do so, shall be fined under this title or imprisoned for life or any term of years or both, unless—

“(1) the chemical weapon or biological weapon is intended for a purpose not prohibited under this Act;

“(2) the types and quantities of chemical weapons or biological weapons are strictly limited to those that can be justified for such purposes; and

“(3) the amount of such chemical weapons or biological weapons per person at any given time does not exceed a quantity that under the circumstances is inconsistent with the purposes not prohibited under this Act.

“(b) Death Penalty.—Any person who knowingly uses chemical or biological weapons in violation of subsection (a) and by whose action the death of another person is the result shall be punished by death or imprisoned for life.

“(c) Exclusion.—

“(1) In general.—Subsection (a) does not apply to the retention, ownership, or possession of a chemical weapon or a biological weapon by an agency of the United States or a person described in paragraph (2) pending destruction of the weapon.

“(2) Covered persons.—A person referred to in paragraph (1) is a member of the Armed Forces of the United States or any other person if the person is authorized by the head of an agency of the United States to retain, own, or possess the chemical or biological weapon.

“(d) Jurisdiction.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if the prohibited conduct—

“(1) takes place in the United States; or

“(2) takes place outside of the United States and is committed by a national of the United States.

“(e) Reimbursement of Costs.—The court shall order any person convicted of an offense under this section to reimburse the United States for any expenses incurred by the United States incident to the seizure, storage, handling, transportation, and destruction or other disposition of any property that was seized in connection with an investigation of the commission of the offense by that person. A person ordered to reimburse the United States for expenses under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under this subsection to reimburse the United States for the same expenses.

“§ 229A. Seizure, forfeiture, and destruction

“(a) Seizure.—

“(1) Seizures on warrants.—The Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any chemical weapon or any biological weapon that is of a type or quantity that, under the circumstances, is inconsistent with the purposes not prohibited under this Act.

“(2) Warrantless seizures.—In exigent circumstances, seizure and destruction of any such chemical weapon or biological weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant.

“(b) Procedure for Forfeiture and Destruction.—

“(1) In general.—Except as provided in subsection (a)(2), property seized pursuant to subsection (a) shall be forfeited to the United States after notice to potential claimants and an opportunity for a hearing.

“(2) Burden of persuasion.—At such a hearing, the United States shall bear the burden of persuasion by a preponderance of the evidence.

“(3) Procedures.—The provisions of chapter 46 of this title relating to civil forfeitures shall apply to a seizure or forfeiture under this section except to the extent (if any) that such provisions are inconsistent with this section.

“(4) Destruction or other disposition.—The Attorney General shall provide for the destruction or other appropriate disposition of any chemical or biological weapon seized and forfeited pursuant to this section.

“(c) Other Seizure, Forfeiture, and Destruction.—

“(1) Seizures on warrant.—The Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any chemical weapon or biological weapon that exists by reason of conduct prohibited under section 229 of this title.

“(2) Warrantless seizures.—In exigent circumstances, seizure and destruction of any such chemical weapon or biological weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant.

“(3) Forfeiture and destruction.—Property seized pursuant to this subsection shall be summarily forfeited (within the meaning of section 609(b) of the Tariff Act of 1930) to the United States and destroyed.

“(d) Assistance.—The Attorney General may request the head of any agency of the United States to assist in the handling, storage, transportation, or destruction of property seized under this section.

“(e) Owner or Possessor Liability.—The owner or possessor of any property seized under this section shall be jointly and severally liable to the United States in an action for money damages for any expenses incurred by the United States incident to the seizure, including any expenses relating to the handling, storage, transportation, destruction or other disposition of the seized property.

“§ 229B. Other prohibitions

“(a) In General.—Whoever knowingly uses riot control agents as an act of terrorism, or knowingly assists any person to do so, shall be fined under this title or imprisoned for a term of not more than 10 years, or both.

“(b) Jurisdiction.—Conduct prohibited by this section is within the jurisdiction of the United States if the prohibited conduct—

“(1) takes place in the United States; or

“(2) takes place outside of the United States and is committed by a national of the United States.

“§ 229C. Injunctions

“The United States may obtain in a civil action an injunction against—

“(1) the conduct prohibited under section 229 of this title; or

“(2) the preparation or solicitation to engage in conduct prohibited under section 229 of this title.

“§ 229D. Requests for military assistance to enforce prohibition in certain emergencies

“The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 229 of this title in an emergency situation involving a biological weapon or chemical weapon. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

“§ 229E. Definitions

“In this chapter:

“(1) Australia group.—The term ‘Australia Group’ refers to the informal forum of countries, formed in 1984 and chaired by Australia, whose goal is to discourage and impede chemical and biological weapons proliferation by harmonizing national export controls on precursor chemicals for chemical weapons, biological weapons pathogens, and dual-use equipment, sharing information on target countries, and seeking other ways to curb the use of chemical and biological weapons.

“(2) Biological weapon.—The term ‘biological weapon’ means the following, together or separately:

“(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

“(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

“(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

“(iii) deleterious alteration of the environment.

“(B) Any munition or device specifically designed to cause death or other harm through the toxic properties of those biological weapons specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

“(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in this section.

“(D) Any living organism specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

“(3) Chemical weapon.—The term ‘chemical weapon’ means the following, together or separately:

“(A) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen mustard, phosgene oxime, lewisite, phenyldichloroarsine, ethyldichloroarsine, methyldichloroarsine, phosgene, diphosgene, hydrogen cyanide, cyanogen chloride, and arsine.

“(B) Any of the 54 chemicals, other than a riot control agent, controlled by the Australia Group as of the date of the enactment of this Act.

“(C) Any munition or device specifically designed to cause death or other harm through the toxic properties of a chemical weapon specified in subparagraph (A) or (B), which would be released as a result of the employment of such munition or device.

“(D) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in this section.

“(4) Knowingly.—The term ‘knowingly’ is used within the meaning of ‘knows’ as that term is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2) and includes situations in which a person has reason to know.

“(5) National of the united states.—The term ‘national of the United States’ has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(6) PERSON.—The term 'person' means any individual, corporation, partnership, firm, association, or other legal entity.

"(7) PURPOSE NOT PROHIBITED UNDER THE ACT.—The term 'purpose not prohibited under this Act' means—

"(A) any industrial, agricultural, research, medical, pharmaceutical, or other peaceful purpose;

"(B) any protective purpose, namely any purpose directly related to protection against a chemical or biological weapon;

"(C) any military purpose that is not connected with the use of a chemical or biological weapon or that is not dependent on the use of the toxic properties of the chemical or biological weapon to cause death or other harm; or

"(D) any law enforcement purpose, including any domestic riot control purpose.

"(8) RIOT CONTROL AGENT.—The term 'riot control agent' means any substance, including diphenylchloroarsine, diphenylcyanoarsine, adamsite, chloroacetophenone, chloropicrin, bromobenzyl cyanide, 0-chlorobenzylidene malononitrile, or 3-Quinuclidinyl benzilate that is designed or used to produce rapidly in humans any nonlethal sensory irritation or disabling physical effect that disappears within a short time following termination of exposure.

"(9) TERRORISM.—The term 'terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; and

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping.

"(10) UNITED STATES.—The term 'United States' means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

"(A) any of the places within the provisions of section 40102(41) of title 49, United States Code;

"(B) any civil aircraft or public aircraft of the United States, as such terms are defined in paragraphs (16) and (37), respectively, of section 40102 of title 49, United States Code; and

"(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(b)).".

(b) CONFORMING AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended—

(1) by striking the item relating to chapter 10; and

(2) by inserting after the item for chapter 11A the following new item:

"11B. Chemical and Biological Weapons .... 229".

(c) REPEALS.—The following provisions of law are repealed:

(1) Chapter 10 of title 18, United States Code, relating to biological weapons.

(2) Section 2332c of title 18, United States Code, relating to chemical weapons.

(3) In the table of sections for chapter 113B of title 18, United States Code, the item relating to section 2332c.

Subtitle B—Civil Penalties

SEC. 111. DESIGNATION OF LEAD AGENCY.

The President shall designate the Federal Bureau of Investigation as the agency primarily responsible for implementing the provisions of this subtitle (in this subtitle referred to as the "Lead Agency").

SEC. 112. PROHIBITIONS ON CHEMICAL AND BIOLOGICAL WEAPONS-RELATED ACTIVITIES.

(a) CHEMICAL AND BIOLOGICAL WEAPONS ACTIVITIES.—Except as provided in subsection (b), it shall be unlawful for any person located in the United States, or any national of the United States located outside the United States, to develop, produce, otherwise acquire, receive from any person located outside the territory of the United States, stockpile, retain, directly or indirectly transfer, use, own, or possess any chemical weapon or any biological weapon, or to assist, encourage or induce, in any way, any person to do so, or attempt or conspire to do so, unless—

(1) the chemical weapon or biological weapon is intended for a purpose not prohibited under this Act;

(2) the types and quantities of the chemical weapon or biological weapon are strictly limited to those that can be justified for such purpose; and

(3) the amount of the chemical weapon or biological weapon per person at any given time does not exceed a quantity that under the circumstances is inconsistent with the purposes not prohibited under this Act.

(b) EXCLUSION.—

(1) IN GENERAL.—Subsection (a) does not apply to the retention, ownership, or possession of a chemical weapon or a biological weapon by an agency of the United States or a person described in paragraph (2) pending destruction of the weapon.

(2) COVERED PERSONS.—A person referred to in paragraph (1) is a member of the Armed Forces of the United States or any other person if the person is authorized by the head of an agency of the United States to retain, own, or possess the chemical weapon.

(c) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if the prohibited conduct—

(1) takes place in the United States; or

(2) takes place outside of the United States and is committed by a national of the United States.

SEC. 113. CIVIL PENALTIES.

(a) PENALTY AMOUNT.—Any person that is determined, in accordance with subsection (b), to have violated section 112(a) of this Act shall be required by order to pay a civil penalty in an amount not to exceed $100,000 for each such violation.

(b) HEARING.—

(1) IN GENERAL.—Before imposing an order described in subsection (a) against a person under this subsection for a violation of section 112(a), the head of the Lead Agency shall provide the person or entity with notice and, upon request made within 15 days of the date of the notice, a hearing respecting the violation.

(2) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. If no hearing is so requested, the Attorney General's imposition of the order shall constitute a final and unappealable order.

(3) ISSUANCE OF ORDERS.—If the administrative law judge determines, upon the preponderance of the evidence received, that a person named in the complaint has violated section 102, the administrative law judge shall state his findings of fact and issue and cause to be served on such person an order described in subsection (a).

(4) FACTORS FOR DETERMINATION OF PENALTY AMOUNTS.—In determining the amount of any civil penalty, the administrative law judge shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, the ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, the existence of an internal compliance program, and such other matters as justice may require.

(c) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge shall become the final agency decision and order of the head of the Lead Agency unless, within 30 days, the head of the Lead Agency modifies or vacates the decision and order, with or without conditions, in which case the decision and order of the head of the Lead Agency shall become a final order under this subsection. The head of the Lead Agency may not delegate his authority under this paragraph.

(d) OFFSETS.—The amount of the civil penalty under a final order of the Lead Agency may be deducted from any sums owed by the United States to the person.

(e) JUDICIAL REVIEW.—A person adversely affected by a final order respecting an assessment may, within 30 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(f) ENFORCEMENT OF ORDERS.—If a person fails to comply with a final order issued under this subsection against the person and if the person does not file a petition for judicial review under subsection (e), the Attorney General shall file a suit to seek compliance with the order in any appropriate district court of the United States, plus interest at currently prevailing rates calculated from the date of expiration of the 30-day period referred to in subsection (e) or the date of such final judgment, as the case may be. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

SEC. 114. REGULATORY AUTHORITY; APPLICATION OF OTHER LAWS.

(a) REGULATIONS.—The Lead Agency may issue such regulations as are necessary to implement and enforce this subtitle and to amend or revise such regulations as necessary if such Executive orders, directives, or regulations do not require any person to submit information or data on any plant site, plant, chemical weapon, or biological weapon that such person produces, processes, or consumes for purposes not prohibited by this Act.

(b) ENFORCEMENT.—The Lead Agency may designate its officers or employees to conduct investigations pursuant to this Act. In conducting such investigations, those officers or employees may, to the extent necessary or appropriate for the enforcement of this subtitle, or for the imposition of any penalty or liability arising under this subtitle, exercise such authorities as are conferred upon them by other laws of the United States.

Subtitle C—Other Penalties

SEC. 121. REVOCATIONS OF EXPORT PRIVILEGES.

(a) IN GENERAL.—If the President determines, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that any person within the United States, or any national of the United States located outside the United States, has committed any violation of section 112, the President may issue an order for the suspension or revocation of the authority of the person to export from the United States any goods or technology (as such terms are defined in section 16 of the Export Administration Act of 1979 (50 U.S.C. app. 2415)).

(b) Repeal.—Section 11C of the Export Administration Act of 1979 (50 U.S.C. app. 2410c), relating to chemical and biological weapons proliferation sanctions, is repealed.

SEC. 122. SUSPENSION OF PATENT RIGHTS.

(a) Suspension.—The term of any patent granted pursuant to title 35, United States Code, held by any person, including any subsidiary of such person, who knowingly violates any provision of section 112 of this Act shall be suspended for a period of three years.

(b) Effect on Patent Rights.—

(1) Prohibition.—No rights under title 35, United States Code, shall be derived from any patent described in subsection (a) during the period of any such suspension.

(2) No extension of patent term.—Any suspension of patent rights imposed pursuant to the provisions of this section shall not extend the term of any such patent.

(c) Procedures.—

(1) Determination by the commissioner.—Within 30 days after the date of enactment of this Act, the Commissioner of Patents, after a determination has been made regarding which person or persons have violated section 112 of this Act, shall recommend the suspension of the appropriate patents.

(2) Notices of violations.—The Commissioner shall notify the holder of such patent within 30 days after the date of such determination and shall publish in the Federal Register a notice of such determination, together with the factual and legal basis for such determination.

(3) Hearings.—Any interested person may request, within the 60-day period beginning on the date of publication of a determination, that the Commissioner making the determination hold a hearing on such determination. Such a hearing shall be an informal hearing which is not subject to section 554, 556, or 557 of title 5, United States Code. If such a request is made within such period, the Commissioner shall hold such hearing not later than 30 days after the date of the request, or at the request of the person making the request, not later than 60 days after such date. The Commissioner who is holding the hearing shall provide notice of the hearing to the person involved and to any interested person and provide the owner of record of the patent and any interested person an opportunity to participate in the hearing.

(4) Final determinations.—Within 30 days after the completion of the hearing, the Commissioner shall affirm or revise the determination that was the subject of the hearing and shall publish such affirmation or revision in the Federal Register.

(d) Fees.—The Commissioner may establish such fees as are appropriate to cover the costs of carrying out his duties and functions under this section.

(e) Certificate of Suspension.—The Commissioner shall make the determination that a patent is suspended and that the requirements of subsection (c) have been complied with. If the Commissioner determines that the patent is suspended, the Commissioner shall issue to the owner of record of the patent a certificate of suspension, under seal, stating the length of the suspension, and identifying the product and the statute under which regulatory review occurred. Such certificate shall be recorded in the official file of the patent and shall be considered as part of the original patent. The Commissioner shall publish in the Official Gazette of the Patent and Trademark Office a notice of such suspension.

TITLE II—FOREIGN RELATIONS AND DEFENSE-RELATED PROVISIONS

SEC. 201. SANCTIONS FOR USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) In General.—The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended by striking chapter 8 and inserting the following:

"CHAPTER 8—SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS

"SEC. 81. PURPOSE.

"The purpose of this chapter is—

"(1) to provide for the imposition of sanctions against any foreign government—

"(A) that uses chemical or biological weapons in violation of international law; or

"(B) that has used chemical or biological weapons against its own nationals; and

"(2) to ensure that the victims of the use of chemical or biological weapons shall be compensated and awarded punitive damages, as may be determined by courts in the United States.

"SEC. 82. PRESIDENTIAL DETERMINATION.

"(a) Bilateral Sanctions.—Except as provided in subsections (c) and (d), the President shall, after the consultation with Congress, impose the sanctions described in subsections (a) and (b) of section 83 if the President determines that any foreign government—

"(1) has used a chemical weapon or biological weapon in violation of international law; or

"(2) has used a chemical weapon or biological weapon against its own nationals.

"(b) Multilateral Sanctions.—The sanctions imposed pursuant to subsection (a) are in addition to any multilateral sanction or measure that may be otherwise agreed.

"(c) Presidential Waiver.—The President may waive the application of any of the sanctions imposed pursuant to subsection (a) if the President determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that implementing such measures would have a substantial negative impact upon the supreme national interests of the United States.

"(d) Sanctions Not Applied to Certain Existing Contracts.—A sanction described in section 83 shall not apply to any activity pursuant to a contract or international agreement entered into before the date of the Presidential determination under subsection (a) if the President determines that performance of the activity would reduce the potential for the use of a chemical weapon or biological weapon by the sanctioned country.

"SEC. 83. MANDATORY SANCTIONS.

"(a) Minimum Number of Sanctions.—After consultation with Congress and making a determination under section 82 with respect to the actions of a foreign government, the President shall impose not less than 5 of the following sanctions against that government for a period of three years:

"(1) Foreign assistance.—The United States Government shall terminate assistance under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

"(2) Arms sales.—The United States Government shall not sell any item on the United States Munitions List and shall terminate sales to that country under this Act of any defense articles, defense services, or design and construction services. Licenses shall not be issued for the export to the sanctioned country of any item on the United States Munitions List, or for commercial satellites.

"(3) Arms sale financing.—The United States Government shall terminate all foreign military financing under this Act.

"(4) Denial of united states government credit or other financial assistance.—The United States Government shall deny any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

"(5) Export controls.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export of any goods or technology on that part of the control list established under section 5(c)(1) of that Act, and all other goods and technology under this Act (excluding food and other agricultural commodities and products) as the President may determine to be appropriate.

"(6) Import restrictions.—The President shall issue an order imposing restrictions on the importation into the United States of any service, good, or commodity that is the growth, product, or manufacture of that country.

"(7) Multilateral bank assistance.—The United States shall oppose, in accordance with section 701 of the International Financial Institutions Act, the extension of any loan or financial or technical assistance by international financial institutions.

"(8) Bank loans.—The United States Government shall prohibit any United States bank from making any loan or providing any credit, including to any agency or instrumentality of the government, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

"(9) Aviation rights.—

"(A) In general.—

"(i) Notification.—The President is authorized to notify the government of a country with respect to which the President has made a determination pursuant to section 82(a) of his intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

"(ii) Suspension of aviation rights.—Within 10 days after the date of notification of a government under subclause (I), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

"(B) Termination of air service agreements.—

"(i) In general.—The President may direct the Secretary of State to terminate any air service agreement between the United States and a country with respect to which the President has made a determination pursuant to section 82(a), in accordance with the provisions of that agreement.

"(ii) Termination of aviation rights.—Upon termination of an agreement under this clause, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government of that country to engage in foreign air transportation to or from the United States.

“(C) EXCEPTION.—The Secretary of Transportation may provide for such exceptions from the sanction contained in subparagraph (A) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

“(D) DEFINITIONS.—For purposes of this paragraph, the terms ‘aircraft’, ‘air transportation’, and ‘foreign air carrier’ have the meanings given those terms in section 40102 of title 49, United States Code.

“(10) DIPLOMATIC RELATIONS.—The President shall use his constitutional authorities to downgrade or suspend diplomatic privileges between the United States and that country.

“(b) BLOCKING OF ASSETS.—Upon making a determination under section 82, the President shall take all steps necessary to block any transactions in any property subject to the jurisdiction of the United States in which the foreign country or any national thereof has any interest whatsoever, for the purpose of compensating the victims of the chemical or biological weapons use and for punitive damages as may be assessed.

“(c) STATUTORY CONSTRUCTION.—Nothing in this section limits the authority of the President to impose a sanction that is not specified in this section.

“SEC. 84. REMOVAL OF SANCTIONS.

“(a) CERTIFICATION REQUIREMENT.—The President shall remove the sanctions imposed with respect to a foreign government pursuant to this section if the President determines and so certifies to the Congress, after the end of the three-year period beginning on the date on which sanctions were initially imposed on that country pursuant to section 82, that—

“(1) the government of that country has provided reliable assurances that it will not use any chemical weapon or biological weapon in violation of international law and will not use any chemical weapon or biological weapon against its own nationals;

“(2) the government of the country is willing to accept onsite inspections or other reliable measures to verify that the government is not making preparations to use any chemical weapon or biological weapon in violation of international law or to use any chemical weapon or biological weapon against its own nationals; and

“(3) the government of the country is making restitution to those affected by any use of any chemical weapon or biological weapon in violation of international law or against its own nationals.

“(b) REASONS FOR DETERMINATION.—The certification made under this subsection shall set forth the reasons supporting such determination in each particular case.

“(c) EFFECTIVE DATE.—The certification made under this subsection shall take effect on the date on which the certification is received by the Congress.

“SEC. 85. NOTIFICATIONS AND REPORTS OF CHEMICAL OR BIOLOGICAL WEAPONS USE AND APPLICATION OF SANCTIONS.

“(a) NOTIFICATION.—Not later than 30 days after persuasive information becomes available to the executive branch of Government indicating the substantial possibility of the use of chemical or biological weapons by any person or government, the President shall so notify in writing Congress.

“(b) REPORT.—Not later than 60 days after making a notification under subsection (a), the President shall submit a report to Congress that contains—

“(1) an assessment by the President in both classified and unclassified form of the circumstances of the suspected use of chemical or biological weapons, including any determination by the President made under section 82 with respect to a foreign government; and

“(2) a description of the actions the President intends to take pursuant to the assessment, including the imposition of any sanctions or other measures pursuant to section 82.

“(c) PROGRESS REPORT.—Not later than 60 days after submission of a report under subsection (b), the President shall submit a progress report to Congress describing actions undertaken by the President under this chapter, including the imposition of unilateral and multilateral sanctions and other punitive measures, in response to the use of any chemical weapon or biological weapon described in the report.

“(d) RECIPIENTS OF NOTIFICATIONS AND REPORTS.—Any notification or report required by this section shall be submitted to the following:

“(1) The Majority Leader of the Senate and the Speaker of the House of Representatives.

“(2) The Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

“(3) The Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

“SEC. 86. DEFINITIONS.

“In this chapter:

“(1) BIOLOGICAL WEAPON.—The term ‘biological weapon’ means the following, together or separately:

“(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

“(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

“(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

“(iii) deleterious alteration of the environment.

“(B) Any munition or device specifically designed to cause death or other harm through the toxic properties of those biological weapons specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

“(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in this section.

“(D) Any living organism specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

“(2) CHEMICAL WEAPON.—The term ‘chemical weapon’ means the following, together or separately:

“(A) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen mustard, phosgene oxime, lewisite, phenyldichloroarsine, ethyldichloroarsine, methyldichloroarsine, phosgene, diphosgene, hydrogen cyanide, cyanogen chloride, and arsine.

“(B) Any of the 54 chemicals, other than a riot control agent, controlled by the Australia Group as of the date of the enactment of this Act.

“(C) Any munition or device specifically designed to cause death or other harm through the toxic properties of a chemical weapon specified in subparagraph (A) or (B), which would be released as a result of the employment of such munition or device.

“(D) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in this section.

“(3) PERSON.—The term ‘person’ means any individual, corporation, partnership, firm, association, or other legal entity.”.

(b) REPEAL.—Sections 306 through 308 of the Act of December 4, 1991 (Public Law 102–182) are repealed.

SEC. 202. CONTINUATION AND ENHANCEMENT OF MULTILATERAL CONTROL REGIMES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that any collapse of the informal forum of states known as the “Australia Group”, either through changes in membership or lack of compliance with common export controls, or any substantial weakening of common Australia Group export controls and nonproliferation measures in force as of the date of enactment of this Act, would seriously undermine international and national efforts to curb the spread of chemical and biological weapons and related equipment.

(b) POLICY.—It shall be the policy of the United States—

(1) to continue close cooperation with other countries in the Australia Group in support of its current efforts and in devising additional means to monitor and control the supply of chemicals and biological agents applicable to weapons production;

(2) to maintain an equivalent or more comprehensive level of control over the export of toxic chemicals and their precursors, dual-use processing equipment, human, animal and plant pathogens and toxins with potential biological weapons application, and dual-use biological equipment, as that afforded by the Australia Group as of the date of enactment of this Act;

(3) to block any effort by any Australia Group member to achieve Australia Group consensus on any action that would substantially weaken existing common Australia Group export controls and nonproliferation measures or otherwise undermine the effectiveness of the Australia Group; and

(4) to work closely with other countries also capable of supplying equipment, materials, and technology with particular applicability to the production of chemical or biological weapons in order to devise and harmonize the most effective national controls possible on the transfer of such materials, equipment, and technology.

(c) CERTIFICATION.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall determine and certify to Congress whether—

(1) the Australia Group continues to maintain an equivalent or more comprehensive level of control over the export of toxic chemicals and their precursors, dual-use processing equipment, human, animal, and plant pathogens and toxins with potential biological weapons application, and dual-use biological equipment, as that afforded by the Australia Group as of the date of the last certification under this subsection, or, in the case of the first certification, the level of control maintained as of the date of enactment of this Act; and

(2) the Australia Group remains a viable mechanism for curtailing the spread of

chemical and biological weapons-related materials and technology, and whether the effectiveness of the Australia Group has been undermined by changes in membership, lack of compliance with common export controls, or any weakening of common controls and measures that are in effect as of the date of enactment of this Act.

(d) CONSULTATIONS.—

(1) IN GENERAL.—The President shall consult periodically, but not less frequently than twice a year, with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, on Australia Group export controls and nonproliferation measures.

(2) RESULTING FROM PRESIDENTIAL CERTIFICATION.—If the President certifies that either of the conditions in subsection (c) are not met, the President shall consult within 60 days of such certification with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on steps the United States should take to maintain effective international controls on chemical and biological weapons-related materials and technology.

SEC. 203. CRITERIA FOR UNITED STATES ASSISTANCE TO RUSSIA.

(a) IN GENERAL.—Notwithstanding any other provision of law, United States assistance described in subsection (b) may not be provided to Russia unless the President determines and certifies to Congress not later than 180 days after the date of the enactment of this Act, and on an annual basis thereafter, that—

(1) Russia is making reasonable progress in the implementation of the Bilateral Destruction Agreement;

(2) the United States and Russia have resolved, to the satisfaction of the United States, outstanding compliance issues under the Wyoming Memorandum of Understanding and the Bilateral Destruction Agreement;

(3) Russia has fully and accurately declared all information regarding its unitary and binary chemical weapons, chemical weapons production facilities, other facilities associated with the development of chemical weapons, and riot control agents; and

(4) Russia is in compliance with its obligations under the Biological Weapons Convention.

(b) UNITED STATES ASSISTANCE COVERED.—United States assistance described in this subsection is United States assistance provided only for the purposes of—

(1) facilitating the transport, storage, safeguarding, and elimination of any chemical weapon or biological weapon or its delivery vehicle;

(2) preventing the proliferation of any chemical weapon or biological weapon, any component or technology of such a weapon, or any technology or expertise related to such a weapon;

(3) planning, designing, or construction of any destruction facility for a chemical weapon or biological weapon; or

(4) supporting any international science and technology center.

(c) DEFINITIONS.—

(1) BILATERAL DESTRUCTION AGREEMENT.—The term "Bilateral Destruction Agreement" means Agreement Between the United States of America and the Union of Soviet Socialist Republics on Destruction and Nonproduction of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, signed on June 1, 1990.

(2) BIOLOGICAL WEAPONS CONVENTION.—The term "Biological Weapons Convention" means the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow on April 10, 1972.

(3) WYOMING MEMORANDUM OF UNDERSTANDING.—The term "Wyoming Memorandum of Understanding" means the Memorandum of Understanding Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

(4) UNITED STATES ASSISTANCE.—The term "United States assistance" has the meaning given the term in section 481(e)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(4)).

SEC. 204. REPORT ON THE STATE OF CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION.

Not later than 180 days after the date of enactment of this Act, and every year thereafter, the President shall submit to the Speaker of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate a report containing the following:

(1) PROLIFERATION BY FOREIGN COUNTRIES.—A description of any efforts by China, Egypt, India, Iran, Iraq, Libya, North Korea, Pakistan, Russia, and Syria, and any country that has, during the five years prior to submission of the report, used any chemical weapon or biological weapon or attempted to acquire the material and technology to produce and deliver chemical or biological agents, together with an assessment of the present and future capability of the country to produce and deliver such agents.

(2) FOREIGN PERSONS ASSISTING IN PROLIFERATION.—An identification of—

(A) those persons that in the past have assisted the government of any country described in paragraph (1) in that effort; and

(B) those persons that continue to assist the government of the country described in paragraph (1) in that effort as of the date of the report.

(3) THIRD COUNTRY ASSISTANCE IN PROLIFERATION.—An assessment of whether and to what degree other countries have assisted any government or country described in paragraph (1) in its effort to acquire the material and technology described in that paragraph.

(4) INTELLIGENCE INFORMATION ON THIRD COUNTRY ASSISTANCE.—A description of any confirmed or credible intelligence or other information that any country has assisted the government of any country described in paragraph (1) in that effort, either directly or by facilitating the activities of the persons identified in subparagraph (A) or (B) of paragraph (3) or had knowledge of the activities of the persons identified in subparagraph (A) or (B) of paragraph (3), but took no action to halt or discourage such activities.

(5) INTELLIGENCE INFORMATION ON SUBNATIONAL GROUPS.—A description of any confirmed or credible intelligence or other information of the development, production, stockpiling, or use, of any chemical weapon or biological weapon by subnational groups, including any terrorist or paramilitary organization.

(6) FUNDING PRIORITIES FOR DETECTION AND MONITORING CAPABILITIES.—An identification of the priorities of the executive branch of Government for the development of new resources relating to detection and monitoring capabilities with respect to chemical weapons and biological weapons.

SEC. 205. INTERNATIONAL CONFERENCE TO STRENGTHEN THE 1925 GENEVA PROTOCOL.

(a) DEFINITION.—In this section, the term "1925 Geneva Protocol" means the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva June 17, 1925 (26 UST 71; TIAS 8061).

(b) POLICY.—It shall be the policy of the United States—

(1) to work to obtain multilateral agreement to effective, international enforcement mechanisms to existing international agreements that prohibit the use of chemical and biological weapons, to which the United States is a state party; and

(2) pursuant to paragraph (1), to work to obtain multilateral agreement regarding the collective imposition of sanctions and other measures described in chapter 8 of the Arms Export Control Act, as amended by this Act.

(c) RESPONSIBILITY.—The Secretary of State shall, as a priority matter, take steps necessary to achieve United States objectives, as set forth in this section.

(d) SENSE OF THE SENATE.—The Senate urges and directs the Secretary of State to work to convene an international negotiating forum for the purpose of concluding an international agreement on enforcement of the 1925 Geneva Protocol.

(e) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated to the Department of State for fiscal year 1998 under the appropriations account entitled "International Conferences and Contingencies", $5,000,000 shall be available only for payment of salaries and expenses in connection with efforts of the Secretary of State to conclude an international agreement described in subsection (d).

SEC. 206. RESTRICTION ON USE OF FUNDS FOR THE ORGANIZATION FOR THE PROHIBITION OF CHEMICAL WEAPONS.

None of the funds appropriated pursuant to any provision of law, including previously appropriated funds, may be available to make any voluntary or assessed contribution to the Organization for the Prohibition of Chemical Weapons, or to reimburse any account for the transfer of in-kind items to the Organization, unless or until the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature at Paris January 13, 1993, enters into force for the United States.

SEC. 207. ENHANCEMENTS TO ROBUST CHEMICAL AND BIOLOGICAL DEFENSES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the threats posed by chemical and biological weapons to United States Armed Forces deployed in regions of concern will continue to grow and will undermine United States strategies for the projection of United States military power and the forward deployment of United States Armed Forces;

(2) the use of chemical or biological weapons will be a likely condition of future conflicts in regions of concern;

(3) it is essential for the United States and key regional allies of the United States to preserve and further develop robust chemical and biological defenses;

(4) the United States Armed Forces, both active and nonactive duty, are inadequately

equipped, organized, trained, and exercised for operations in chemically and biologically contaminated environments;

(5) the lack of readiness stems from a deemphasis by the executive branch of Government and the United States Armed Forces on chemical and biological defense;

(6) the armed forces of key regional allies and likely coalition partners, as well as civilians necessary to support United States military operations, are inadequately prepared and equipped to carry out essential missions in chemically and biologically contaminated environments;

(7) congressional direction contained in the 1997 Defense Against Weapons of Mass Destruction Act is intended to lead to enhanced domestic preparedness to protect against the use of chemical and biological weapons; and

(8) the United States Armed Forces should place increased emphasis on potential threats to deployed United States Armed Forces and, in particular, should make countering the use of chemical and biological weapons an organizing principle for United States defense strategy and for the development of force structure, doctrine, planning, training, and exercising policies of the United States Armed Forces.

(b) DEFENSE READINESS TRAINING.—The Secretary of Defense shall take those actions that are necessary to ensure that the United States Armed Forces are capable of carrying out required military missions in United States regional contingency plans despite the threat or use of chemical or biological weapons. In particular, the Secretary of Defense shall ensure that the United States Armed Forces are effectively equipped, organized, trained, and exercised (including at the large unit and theater level) to conduct operations in chemically and biologically contaminated environments that are critical to the success of United States military plans in regional conflicts, including—

(1) deployment, logistics, and reinforcement operations at key ports and airfields;

(2) sustained combat aircraft sortie generation at critical regional airbases; and

(3) ground force maneuvers of large units and divisions.

(c) DISCUSSIONS WITH ALLIED COUNTRIES ON READINESS.—

(1) HIGH-PRIORITY JOINT RESPONSIBILITY OF SECRETARIES OF DEFENSE AND STATE.—The Secretary of Defense and the Secretary of State shall give a high priority to discussions with key regional allies and likely regional coalition partners, including those countries where the United States currently deploys forces, where United States forces would likely operate during regional conflicts, or which would provide civilians necessary to support United States military operations, to determine what steps are necessary to ensure that allied and coalition forces and other critical civilians are adequately equipped and prepared to operate in chemically and biologically contaminated environments.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall jointly submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate and to the Speaker of the House of Representatives a report describing—

(A) the results of the discussions held under paragraph (1) and plans for future discussions;

(B) the measures agreed to improve the preparedness of foreign armed forces and civilians; and

(C) any proposals for increased military assistance, including assistance provided through—

(i) the sale of defense articles and defense services under the Arms Export Control Act;

(ii) the Foreign Military Financing program under section 23 of that Act; and

(iii) chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training).

(d) UNITED STATES ARMY CHEMICAL SCHOOL.—

(1) COMMAND OF SCHOOL.—The Secretary of Defense shall take those actions that are necessary to ensure that the United States Army Chemical School remains under the oversight of a general officer of the United States Army.

(2) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the transfer, consolidation, and reorganization of the United States Army Chemical School should not disrupt or diminish the training and readiness of the United States Armed Forces to fight in a chemical-biological warfare environment; and

(B) the Army should continue to operate the Chemical Defense Training Facility at Fort McClellan until such time as the replacement facility at Fort Leonard Wood is functional.

(e) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and on January 1 every year thereafter, the President shall submit a report to the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate and the Committee on International Relations, the Committee on National Security, and the Committee on Appropriations of the House of Representatives, and the Speaker of the House of Representatives on previous, current, and planned chemical and biological weapons defense activities of the United States Armed Forces.

(2) CONTENT OF REPORT.—Each report required by paragraph (1) shall include the following information for the previous fiscal year and for the next three fiscal years:

(A) ENHANCEMENT OF DEFENSE AND READINESS.—Proposed solutions to each of the deficiencies in chemical and biological warfare defenses identified in the March 1996 General Accounting Office Report, titled "Chemical and Biological Defense: Emphasis Remains Insufficient to Resolve Continuing Problems", and steps being taken pursuant to subsection (b) to ensure that the United States Armed Forces are capable of conducting required military operations to ensure the success of United States regional contingency plans despite the threat or use of chemical or biological weapons.

(B) PRIORITIES.—An identification of priorities of the executive branch of Government in the development of both active and passive defenses against the use of chemical and biological weapons.

(C) RDT&E AND PROCUREMENT OF DEFENSES.—A detailed summary of all budget activities associated with the research, development, testing, and evaluation, and procurement of chemical and biological defenses, set forth by fiscal year, program, department, and agency.

(D) VACCINE PRODUCTION AND STOCKS.—A detailed assessment of current and projected vaccine production capabilities and vaccine stocks, including progress in researching and developing a multivalent vaccine.

(E) DECONTAMINATION OF INFRASTRUCTURE AND INSTALLATIONS.—A detailed assessment of procedures and capabilities necessary to protect and decontaminate infrastructure and installations that support the ability of the United States to project power through the use of its Armed Forces, including progress in developing a nonaqueous chemical decontamination capability.

(F) PROTECTIVE GEAR.—A description of the progress made in procuring lightweight personal protective gear and steps being taken to ensure that programmed procurement quantities are sufficient to replace expiring battledress overgarments and chemical protective overgarments to maintain required wartime inventory levels.

(G) DETECTION AND IDENTIFICATION CAPABILITIES.—A description of the progress made in developing long-range standoff detection and identification capabilities and other battlefield surveillance capabilities for biological and chemical weapons, including progress on developing a multichemical agent detector, unmanned aerial vehicles, and unmanned ground sensors.

(H) THEATER MISSILE DEFENSES.—A description of the progress made in developing and deploying layered theater missile defenses for deployed United States Armed Forces which will provide greater geographic coverage against current and expected ballistic missile threats and will assist the mitigation of chemical and biological contamination through higher altitude intercepts and boost-phase intercepts.

(I) TRAINING AND READINESS.—An assessment of the training and readiness of the United States Armed Forces to operate in chemically and biologically contaminated environments and actions taken to sustain training and readiness, including at national combat training centers.

(J) MILITARY EXERCISES.—A description of the progress made in incorporating consideration about the threat or use of chemical and biological weapons into service and joint exercises as well as simulations, models, and wargames, together with the conclusions drawn from these efforts about the United States capability to carry out required missions, including with coalition partners, in military contingencies.

(K) MILITARY DOCTRINE.—A description of the progress made in developing and implementing service and joint doctrine for combat and noncombat operations involving adversaries armed with chemical or biological weapons, including efforts to update the range of service and joint doctrine to better address the wide range of military activities, including deployment, reinforcement, and logistics operations in support of combat operations, and for the conduct of such operations in concert with coalition forces.

(L) DEFENSE OF CIVILIAN POPULATION.—A description of the progress made in resolving issues relating to the protection of United States population centers from chemical and biological attack and from the consequences of such an attack, including plans for inoculation of populations, consequence management, and progress made in developing and deploying effective cruise missile defenses and a national ballistic missile defense.

SEC. 208. NEGATIVE SECURITY ASSURANCES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that in order to achieve an effective deterrence against attacks of the United States and United States Armed Forces by chemical weapons, the President should reevaluate the extension of negative security assurances by the United States to non-nuclear-weapon states in the context of the Treaty on the Non-Proliferation of Nuclear Weapons.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives a report, both in classified and unclassified forms, setting forth—

(1) the findings of a detailed review of United States policy on negative security assurances as a deterrence strategy; and

(2) a determination by the President of the appropriate range of nuclear and conventional responses to the use of chemical or biological weapons against the United States Armed Forces, United States citizens, allies, and third parties.

(c) DEFINITIONS.—In this section:

(1) NEGATIVE SECURITY ASSURANCES.—The term "negative security assurances" means the assurances provided by the United States to nonnuclear-weapon states in the context of the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) that the United States will forswear the use of certain weapons unless the United States is attacked by that nonnuclear-weapon state in alliance with a nuclear-weapon state.

(2) NONNUCLEAR-WEAPON STATES.—The term "nonnuclear-weapon states" means states that are not nuclear-weapon states (as defined in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968 (21 UST 483).

SEC. 209. RIOT CONTROL AGENTS.

(a) PROHIBITION.—The President shall not issue any order or directive that diminishes, abridges, or alters the right of the United States to use riot control agents—

(1) in any circumstance not involving international armed conflict; or

(2) in a defensive military mode to save lives in an international armed conflict, as provided for in Executive Order No. 11850 of April 9, 1975.

(b) CIRCUMSTANCES NOT INVOLVING INTERNATIONAL ARMED CONFLICT.—The use of riot control agents under subsection (a)(1) includes the use of such agents in—

(1) peacekeeping or peace support operations;

(2) humanitarian or disaster relief operations;

(3) noncombatant evacuation operations;

(4) counterterrorist operations and the rescue of hostages; and

(5) law enforcement operations and other internal conflicts.

(c) DEFENSIVE MILITARY MODE.—The use of riot control agents under subsection (a)(2) may include the use of such agents—

(1) in areas under direct and distinct United States military control, including the use of such agents for the purposes of controlling rioting or escaping enemy prisoners of war;

(2) to protect personnel or material from civil disturbances, terrorists, and paramilitary organizations;

(3) to minimize casualties during rescue missions of downed air crews and passengers, prisoners of war, or hostages;

(4) in situations where combatants and noncombatants are intermingled; and

(5) in support of base defense, rear area operations, noncombatant evacuation operations, and operations to protect or recover nuclear weapons.

(d) SENSE OF CONGRESS.—It is the sense of Congress that international law permits the United States to use herbicides, under regulations applicable to their domestic use, for control of vegetation within United States bases and installations or around their immediate defensive perimeters.

(e) AUTHORITY OF THE PRESIDENT.—The President shall take all necessary measures, and prescribe such rules and regulations as may be necessary, to ensure that the policy contained in this section is observed by the Armed Forces of the United States.

By Mr. CHAFEE (for himself, Mr. GRAHAM, and Mr. JEFFORDS):

S. 496. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence; to the Committee on Finance.

THE HISTORIC HOMEOWNERSHIP ASSISTANCE ACT

Mr. CHAFEE. Mr. President, all across America, in the small towns and great cities of this country, our heritage as a nation—the physical evidence of our past—is at risk. In virtually every corner of this land, homes in which grandparents and parents grew up, communities and neighborhoods that nurtured vibrant families, schools that were good places to learn and churches and synagogues that were filled on days of prayer, have suffered the ravages of abandonment and decay.

In the decade from 1980 to 1990, Chicago lost 41,000 housing units through abandonment, Philadelphia 10,000, and St. Louis 7,000. The story in our older small communities has been the same, and the trend continues. It is important to understand that it is not just buildings that we are losing. It is the sense of our past, the vitality of our communities, and the shared values of those precious places.

We need not stand hopelessly by as passive witnesses to the loss of these irreplaceable historic resources. We can act, and to that end I am introducing today the Historic Homeownership Assistance Act along with my distinguished colleagues, Senator GRAHAM of Florida and Senator JEFFORDS.

This legislation is patterned after the existing historic rehabilitation investment tax credit. That legislation has been enormously successful in stimulating private investment in the rehabilitation of buildings of historic importance all across the country. Through its use we have been able to save and reuse a rich and diverse array of historic buildings: landmarks such as Union Station right here in Washington, DC, the Fox River Mills, a mixed use project that was once a derelict paper mill in Appleton, WI, and the Rosa True School, an eight-unit low- and moderate-income rental project in a historic school building in Portland, ME.

In my own State of Rhode Island, Federal tax incentives stimulated the rehabilitation and commercial reuse of more than 300 historic properties. The properties saved include the Hotel Manisses on Block Island, the former Valley Falls Mills complex in Central Falls, and the Honan Block in Woonsocket.

The legislation that I am introducing builds on the familiar structure of the existing tax credit, but with a different focus and a more modest scope and cost. It is designed to empower the one major constituency that has been barred from using the existing credit—homeowners. Only those persons who rehabilitate or purchase a newly rehabilitated home and occupy it as their principal residence would be entitled to this new credit. There would be no passive losses, no tax shelters and no syndications under this bill.

Like the existing investment credit, the bill would provide a credit to homeowners equal to 20 percent of the qualified rehabilitation expenditures made on an eligible building which is used as a principal residence by the owner. Eligible buildings are those individually listed on the National Register of Historic Places or on a nationally certified State or local historic register, or are contributing buildings in national, State or local historic districts. As is the case with the existing credit, the rehabilitation work would have to be performed in compliance with the Secretary of the Interior's Standards for Rehabilitation, although the bill clarifies that such Standards should be interpreted in a manner that takes into consideration economic and technical feasibility.

The bill allows lower-income homebuyers, who may not have sufficient Federal income tax liability to use a tax credit, to convert the credit to mortgage assistance. The legislation would permit such persons to receive an Historic Rehabilitation Mortgage Credit Certificate which they can use with their bank to obtain a lower interest rate on their mortgage or to lower the amount of their downpayment.

The credit would be available to condominiums and co-ops, as well as single-family buildings. If a building is rehabilitated by a developer for resale, the credit would pass through to the homeowner.

One goal of the bill is to provide incentives for middle- and upper-income families to return to older towns and cities. Therefore, the bill does not limit the tax benefits on the basis of income. However, it does impose a cap of $50,000 on the amount of credit which may be taken for a principal residence.

The Historic Homeownership Assistance Act will make ownership of a rehabilitated older home more affordable for homebuyers of modest incomes. It will encourage more affluent families to claim a stake in older towns and neighborhoods. It affords fiscally stressed cities and towns a way to put abandoned buildings back on the tax rolls, while strengthening their income and sales tax bases. It offers developers, realtors and homebuilders a new realm of economic opportunity in revitalizing decaying buildings.

In addition to preserving our heritage, extending this credit will provide an important supplemental benefit—it will boost the economy. Every dollar of Federal investment in historic rehabilitation leverages many more from the private sector. Rhode Island, for example, has used the credit to leverage 252 million dollars in private investment. This investment has created more than 10,000 jobs and 187 million dollars in wages.

The American dream of owning one's own home is a powerful force. This bill can help it come true for those who are prepared to make a personnel commitment to join in the rescue of our priceless heritage. By their actions they can help to revitalize decaying resources of historic importance, create jobs and stimulate economic development, and restore to our older towns and cities a lost sense of purpose and community.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Historic Homeownership Assistance Act".

SEC. 2. HISTORIC HOMEOWNERSHIP REHABILITATION CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 23 the following new section:

"SEC. 24. HISTORIC HOMEOWNERSHIP REHABILITATION CREDIT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the qualified rehabilitation expenditures made by the taxpayer with respect to a qualified historic home.

"(b) DOLLAR LIMITATION.—

"(1) IN GENERAL.—The credit allowed by subsection (a) with respect to any residence of a taxpayer shall not exceed $50,000 ($25,000 in the case of a married individual filing a separate return).

"(2) CARRYFORWARD OF CREDIT UNUSED BY REASON OF LIMITATION BASED ON TAX LIABILITY.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(c) QUALIFIED REHABILITATION EXPENDITURE.—For purposes of this section:

"(1) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

"(A) in connection with the certified rehabilitation of a qualified historic home, and

"(B) for property for which depreciation would be allowable under section 168 if the qualified historic home were used in a trade or business.

"(2) CERTAIN EXPENDITURES NOT INCLUDED.—

"(A) EXTERIOR.—Such term shall not include any expenditure in connection with the rehabilitation of a building unless at least 5 percent of the total expenditures made in the rehabilitation process are allocable to the rehabilitation of the exterior of such building.

"(B) OTHER RULES TO APPLY.—Rules similar to the rules of clauses (ii) and (iii) of section 47(c)(2)(B) shall apply.

"(3) MIXED USE OR MULTIFAMILY BUILDING.—If only a portion of a building is used as the principal residence of the taxpayer, only qualified rehabilitation expenditures which are properly allocable to such portion shall be taken into account under this section.

"(d) CERTIFIED REHABILITATION.—For purposes of this section:

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'certified rehabilitation' has the meaning given such term by section 47(c)(2)(C).

"(2) FACTORS TO BE CONSIDERED IN THE CASE OF TARGETED AREA RESIDENCES, ETC.—

"(A) IN GENERAL.—For purposes of applying section 47(c)(2)(C) under this section with respect to the rehabilitation of a building to which this paragraph applies, consideration shall be given to—

"(i) the feasibility of preserving existing architectural and design elements of the interior of such building,

"(ii) the risk of further deterioration or demolition of such building in the event that certification is denied because of the failure to preserve such interior elements, and

"(iii) the effects of such deterioration or demolition on neighboring historic properties.

"(B) BUILDINGS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph shall apply with respect to any building—

"(i) any part of which is a targeted area residence within the meaning of section 143(j)(1), or

"(ii) which is located within an enterprise or empowerment zone,

but shall not apply with respect to any building which is listed in the National Register.

"(3) APPROVED STATE PROGRAM.—The term 'certified rehabilitation' includes a certification made by—

"(A) a State Historic Preservation Officer who administers a State Historic Preservation Program approved by the Secretary of the Interior pursuant to section 101(b)(1) of the National Historic Preservation Act, or

"(B) a local government, certified pursuant to section 101(c)(1) of the National Historic Preservation Act and authorized by a State Historic Preservation Officer, or the Secretary of the Interior where there is no approved State program),

subject to such terms and conditions as may be specified by the Secretary of the Interior for the rehabilitation of buildings within the jurisdiction of such officer (or local government) for purposes of this section.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

"(1) QUALIFIED HISTORIC HOME.—The term 'qualified historic home' means a certified historic structure—

"(A) which has been substantially rehabilitated, and

"(B) which (or any portion of which)—

"(i) is owned by the taxpayer, and

"(ii) is used (or will, within a reasonable period, be used) by such taxpayer as his principal residence.

"(2) SUBSTANTIALLY REHABILITATED.—The term 'substantially rehabilitated' has the meaning given such term by section 47(c)(1)(C); except that, in the case of any building described in subsection (d)(2), clause (i)(I) thereof shall not apply.

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(4) CERTIFIED HISTORIC STRUCTURE.—

"(A) IN GENERAL.—The term 'certified historic structure' has the meaning given such term by section 47(c)(3).

"(B) CERTAIN STRUCTURES INCLUDED.—Such term includes any building (and its structural components) which is designated as being of historic significance under a statute of a State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance.

"(5) ENTERPRISE OR EMPOWERMENT ZONE.—The term 'enterprise or empowerment zone' means any area designated under section 1391 as an enterprise community or an empowerment zone.

"(6) REHABILITATION NOT COMPLETE BEFORE CERTIFICATION.—A rehabilitation shall not be treated as complete before the date of the certification referred to in subsection (d).

"(7) LESSEES.—A taxpayer who leases his principal residence shall, for purposes of this section, be treated as the owner thereof if the remaining term of the lease (as of the date determined under regulations prescribed by the Secretary) is not less than such minimum period as the regulations require.

"(8) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—If the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such stockholder shall be treated as owning the house or apartment which the taxpayer is entitled to occupy as such stockholder.

"(f) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—In the case of a building other than a building to which subsection (g) applies, qualified rehabilitation expenditures shall be treated for purposes of this section as made—

"(1) on the date the rehabilitation is completed, or

"(2) to the extent provided by the Secretary by regulation, when such expenditures are properly chargeable to capital account.

Regulations under paragraph (2) shall include a rule similar to the rule under section 50(a)(2) (relating to recapture if property ceases to qualify for progress expenditures).

"(g) ALLOWANCE OF CREDIT FOR PURCHASE OF REHABILITATED HISTORIC HOME.—

"(1) IN GENERAL.—In the case of a qualified purchased historic home, the taxpayer shall be treated as having made (on the date of purchase) the qualified rehabilitation expenditures made by the seller of such home.

"(2) QUALIFIED PURCHASED HISTORIC HOME.—For purposes of this subsection, the term 'qualified purchased historic home' means any substantially rehabilitated certified historic structure purchased by the taxpayer if—

"(A) the taxpayer is the first purchaser of such structure after the date rehabilitation is completed, and the purchase occurs within 5 years after such date,

"(B) the structure (or a portion thereof) will, within a reasonable period, be the principal residence of the taxpayer,

"(C) no credit was allowed to the seller under this section or section 47 with respect to such rehabilitation, and

"(D) the taxpayer is furnished with such information as the Secretary determines is necessary to determine the credit under this subsection.

"(h) HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE.—

"(1) IN GENERAL.—The taxpayer may elect, in lieu of the credit otherwise allowable under this section, to receive a historic rehabilitation mortgage credit certificate. An election under this paragraph shall be made—

"(A) in the case of a building to which subsection (g) applies, at the time of purchase, or

"(B) in any other case, at the time rehabilitation is completed.

"(2) HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE.—For purposes of this subsection, the term 'historic rehabilitation mortgage credit certificate' means a certificate—

"(A) issued to the taxpayer, in accordance with procedures prescribed by the Secretary, with respect to a certified rehabilitation,

"(B) the face amount of which shall be equal to the credit which would (but for this subsection) be allowable under subsection (a) to the taxpayer with respect to such rehabilitation,

"(C) which may only be transferred by the taxpayer to a lending institution in connection with a loan—

"(i) that is secured by the building with respect to which the credit relates, and

"(ii) the proceeds of which may not be used for any purpose other than the acquisition or rehabilitation of such building, and

"(D) in exchange for which such lending institution provides the taxpayer—

"(i) a reduction in the rate of interest on the loan which results in interest payment reductions which are substantially equivalent on a present value basis to the face amount of such certificate, or

"(ii) if the taxpayer so elects with respect to a specified amount of the face amount of such a certificate relating to a building—

"(I) which is a targeted area residence within the meaning of section 143(j)(1), or

"(II) which is located in an enterprise or empowerment zone,

a payment which is substantially equivalent to such specified amount to be used to reduce the taxpayer's cost of purchasing the building (and only the remainder of such face amount shall be taken into account under clause (i)).

"(3) USE OF CERTIFICATE BY LENDER.—The amount of the credit specified in the certificate shall be allowed to the lender only to offset the regular tax (as defined in section 55(c)) of such lender. The lender may carry forward all unused amounts under this subsection until exhausted.

"(i) RECAPTURE.—

"(1) IN GENERAL.—If, before the end of the 5-year period beginning on the date on which the rehabilitation of the building is completed (or, if subsection (g) applies, the date of purchase of such building by the taxpayer)—

"(A) the taxpayer disposes of such taxpayer's interest in such building, or

"(B) such building ceases to be used as the principal residence of the taxpayer,

the taxpayer's tax imposed by this chapter for the taxable year in which such disposition or cessation occurs shall be increased by the recapture percentage of the credit allowed under this section for all prior taxable years with respect to such rehabilitation.

"(2) RECAPTURE PERCENTAGE.—For purposes of paragraph (1), the recapture percentage shall be determined in accordance with the table under section 50(a)(1)(B), deeming such table to be amended—

"(A) by striking 'If the property ceases to be investment credit property within—' and inserting 'If the disposition or cessation occurs within—', and

"(B) in clause (i) by striking 'One full year after placed in service' and inserting 'One full year after the taxpayer becomes entitled to the credit'.

"(j) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property (including any purchase under subsection (g) and any transfer under subsection (h)), the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(k) PROCESSING FEES.—Any State may impose a fee for the processing of applications for the certification of any rehabilitation under this section provided that the amount of such fee is used only to defray expenses associated with the processing of such applications.

"(l) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount for which credit is allowed under section 47.

"(m) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations where less than all of a building is used as a principal residence and where more than 1 taxpayer use the same dwelling unit as their principal residence."

(b) CONFORMING AMENDMENT.—Subsection (a) of section 1016 of such Code is amended by striking "and" at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting ", and", and by adding at the end the following new item:

"(27) to the extent provided in section 24(j)."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Historic homeownership rehabilitation credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to rehabilitations the physical work on which begins after the date of enactment of this Act.

SUMMARY OF THE HISTORIC HOMEOWNERSHIP ASSISTANCE ACT

Purpose. To provide homeownership incentives and opportunities through the rehabilitation of older buildings in historic districts. To stimulate the revival of decaying neighborhoods and communities, and the preservation of historic buildings and districts through homeownership.

Rate of Credit: Eligible Buildings. The existing Historic Rehabilitation Tax Credit, which provides a credit of 20 percent of qualified rehabilitation expenditures to investors in commercial and rental buildings, is extended to homeowners who rehabilitate or purchase a newly-rehabilitated eligible home and occupy it as a principal residence. In the case of buildings rehabilitated by developers and sold to homeowners, the credit is passed through to the home purchaser. Eligible buildings are those listed individually on the National Register of Historic Places or on a nationally certified state or local register, and contributing buildings in national, state or local historic districts.

Both single-family and multifamily residences, through condominiums and cooperatives, qualify for the credit. In the case of buildings where one section of the structure is slated for residential use and another for commercial use, such as in two- or three-story buildings in downtown areas, purchasers could utilize the historic homeowner tax credit against the rehabilitation expenditures of the residential portion, and the existing commercial rehabilitation tax credit for the remaining portion.

Maximum Credit: Minimum Expenditures. The amount of the homeownership credit is limited to $50,000 for each principal residence. The amount of qualified rehabilitation expenditures must exceed the greater of $5,000 or the adjusted tax basis of the building (excluding the land) within a 24-month period. For buildings in census tracts targeted as distressed for Mortgage Revenue Bond purposes and those in Enterprise and Empowerment Zones, the minimum expenditure is $5,000. At least five percent of the qualified rehabilitation expenditures must be spent on the exterior of the building.

Pass-Through of Credit: Carry-Forward: Recapture. In the event that the rehabilitation is performed by a developer, the credit accrues to the homeowner. The credit cannot be used to offset the developer's tax liability, but instead must be passed through to the home purchaser. The entire amount of the credit is available to reduce federal income tax liability, subject to Alternative Minimum Tax limitations. The credit is available in the year in which the expenditures are made by the taxpayer or a rehabilitated property is purchased by the homeowner. Any unused credit would be carried forward until fully exhausted. In the event the taxpayer fails to maintain the home as a principal residence for five years, the credit is subject to recapture.

No "Passive Loss"; No Income Limit. The credit is not subject to the "passive loss" limitations. Further, since the legislation is intended to promote economic diversity among residents and increase local property, income and sales tax revenues, taxpayers are eligible for the credit without regard to income.

Standards for Historic Rehabilitation. To qualify for the credit, the rehabilitation must be performed in accordance with the Secretary of the Interior's Standards for Rehabilitation, which guide eligibility of expenditures under the existing commercial rehabilitation tax credit. The intent of the Standards is to assist the long-term preservation of a property's significance through the preservation of historic materials and features. The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility. The proposed legislation clarifies this directive.

State-Level Certifications. As under the existing commercial rehabilitation tax credit program, State Historic Preservation Officers and Certified Local Governments are given the authority to certify the rehabilitation of buildings within their respective jurisdictions. States are given the authority to levy fees for processing applications for certification of the rehabilitation expenditures, provided that the proceeds of such fees are used solely to defray expenses associated with processing the application.

Historic Rehabilitation Mortgage Credit Certificates. Lower income taxpayers may not have sufficient income tax liability to take full use of the credit. The legislation permits anyone eligible for the income tax credit to convert it into a mortgage credit certificate which could be used either to reduce the interest rate on a home mortgage loan or to lower the down payment required to purchase the property.

Under this option, the taxpayer transfers the certificate to the mortgage lender in exchange for a reduced interest rate on a home mortgage loan. The mortgage lender then uses the credit to reduce its federal income tax liability, subject to Alternative Minimum Tax limitations. The credit claimed by the mortgage lender is not subject to recapture.

In many distressed neighborhoods, the cost of rehabilitating a home and bringing it to market significantly exceeds the value at which the property is appraised by the mortgage lender. This gap imposes a significant burden on a potential homeowner because the required downpayment exceeds his or her means. The legislation permits the mortgage credit certificate to be used to reduce the buyer's downpayment, rather than to reduce the interest rate, in order to close this gap. This provision is limited to historic districts which qualify as targeted under the existing Mortgage Revenue Bond program or are located in enterprise or empowerment zones.

Although the right to receive an Historic Rehabilitation Mortgage Credit Certificate is available to all persons entitled to the tax credit, the certificate may not be used by a person who would be precluded from using the income tax credit because of the Alternative Minimum Tax limitation.

Mr. GRAHAM. Mr. President, today I join my colleague Senator CHAFEE in support of the Historic Homeownership Assistance Act. This bill would spur growth and preservation of historic neighborhoods across the country by providing a limited tax credit for qualified rehabilitation expenditures to historic homes.

An understanding of the history of the United States serves as one of the cornerstones supporting this great nation. We find American history reflected not only in books, films, and stories, but also in physical structures, including schools, churches, county courthouses, mills, factories, and personal residences.

The bill that Senator CHAFEE and I are cosponsoring focuses on the preservation of historic residences. The bill will assist Americans who want to safeguard, maintain, and reside in these homes which chronicle America's past.

The Historic Homeownership Assistance Act will stimulate rehabilitation of historic homes while contributing to the revitalization of urban communities. The Federal tax credit provided in the legislation is modeled after the existing Federal commercial historic rehabilitation tax credit. Since 1981, this commercial tax credit has facilitated the preservation of many historic structures across this great land. For example in the last two decades, in my home State of Florida, $238 million in private capital was invested in over 325 historic rehabilitation projects. These investments helped preserve Ybor City in Tampa and the Springfield Historic District in Jacksonville.

The tax credit, however, has never applied to personal residences. It is time to provide an incentive to individuals to restore and preserve homes in America's historic communities.

The Historic Homeownership Assistance Act targets Americans at all economic levels. The bill provides lower income Americans with the option to elect a Mortgage Credit Certificate in lieu of the tax credit. This certificate allows Americans who cannot take advantage of the tax credit to reduce the interest rate on their mortgage that secures the purchase and rehabilitation of a historic home.

For example, if a lower-income family were to purchase a $35,000 home which included $25,000 worth of qualified rehabilitation expenditures, it would be entitled to a $5,000 Historic Rehabilitation Mortgage Credit Certificate which could be used to reduce interest payments on the mortgage. This provision would enable families to obtain a home and preserve historic neighborhoods when they would be unable to do so otherwise.

Mr. President, the time has come for Congress to get serious about urban renewal. For too long, we have sat on the sidelines watching idly as our citizens slowly abandoned entire homes and neighborhoods in urban settings, leaving cities like Miami in Florida and others around the nation in financial jeopardy. For example, according to U.S. Census data, in the decade from 1980 to 1990, Chicago lost 41,000 housing units, Philadelphia 10,000, and St. Louis 7,000. The erosion of a sense of community and culture once shared by our urban neighborhoods and towns further magnifies the loss.

By addressing years of neglect and a general decline in investment in our older neighborhoods, this bill will empower families and individuals with the financial incentives needed to revitalize historic housing in our urban communities.

Recognizing that the States can best administer laws affecting unique communities, the act gives power to the Secretary of the Interior to work with states to implement a number of the provisions.

The Historic Homeownership Assistance Act does not, however, reflect an untried proposal. In addition to the existing commercial historic rehabilitation credit, the proposed bill incorporates features from several state tax incentives for the preservation of historic homes. Colorado, Maryland, New Mexico, Rhode Island, Wisconsin, and Utah have pioneered their own successful versions of a historic preservation tax incentive for homeownership.

At the Federal level, this legislation would promote historic home preservation nationwide, allowing future generations of Americans to visit and reside in homes that tell the unique history of our communities. The Historic Homeownership Assistance Act will offer enormous potential for saving historic homes and bringing entire neighborhoods back to life.

I urge my colleagues to support this bill for the preservation of history.

By Mr. COVERDELL (for himself and Mr. FAIRCLOTH):

S. 497. A bill to amend the National Labor Relations Act and the Railway Labor Act to repeal the provisions of the Acts that require employees to pay union dues or fees as a condition of employment; to the Committee on Labor and Human Resources.

THE NATIONAL RIGHT TO WORK ACT OF 1997

Mr. COVERDELL. Mr. President, I am pleased to introduce the Coverdell-Faircloth National Right to Work Act of 1997. As many of you know, my esteemed colleague from North Carolina, Senator LAUCH FAIRCLOTH, introduced this language last Congress and I commend Senator FAIRCLOTH for his outstanding leadership on this issue.

This bill does not add a single word to Federal law. Rather, it would repeal those sections of the National Labor Relations Act and Railway Labor Act that authorize the imposition of forced-dues contracts on working Americans. I believe that every worker must have the right to join or support a labor union. This bill protects that right. But no worker should ever be forced to join a union.

I am happy to say that my own state, Georgia, is among one of the 21 states that is a "Right to Work" state and has been since 1947. According to U.S. News and World Report, 7 of the strongest 10 State economies in the nation have Right to Work laws. Workers who have the freedom to choose whether or not to join a union have a higher standard of living than their counterparts in non-Right to Work States. According to Dr. James Bennett, an economist with the highly respected economics department at George Mason University, on average, urban families in Right to Work States have approximately $2,852 more annual purchasing power than urban families in non-Right to Work States when the lower taxes, housing and food costs of Right to Work States are taken into consideration.

According to a poll by the respected Marketing Research Institute, 77 percent of Americans support Right to Work, and over 50 percent of union households believe workers should have the right to choose whether or not to join or pay dues to a labor union. That should be no surprise. Because what this is all about is freedom. And right to work expands every working American's personal freedom.

Mr. President, I urge my colleagues to support this legislation that expands the freedom of hard working Americans and gives them the freedom to choose whether to accept or reject union representation and union dues without facing coercion, violence, and work-place harassment by union officials.

Mr. FAIRCLOTH. Mr. President, today I join with my good friend, Senator COVERDELL to introduce the National Right to Work Act of 1997. This is the same legislation that I introduced during the 104th Congress, and I am delighted to have Senator COVERDELL as a partner in this effort during the 105th Congress.

As I have said before, and continue to believe strongly, compulsory unionism violates the fundamental principle of individual liberty—the very principle upon which this Nation was founded. Compulsory unionism basically says that workers cannot and should not decide for themselves what is in their best interest. I can think of nothing more offensive to the core American principles of liberty and freedom.

The National Right to Work Act will address this most fundamental problem of federal labor policy: does America believe that working men and women should be forced, as a condition of employment, to pay dues or fees to a labor union? I believe, as does my colleague, Senator COVERDELL and many others, that no one should be forced to pay union dues just to get or keep a job.

The National Right to Work Act would not change a single word of Federal law. Rather, the measure would repeal those sections of the National Labor Relations Act and Railway Labor Act that authorize the imposition of forced-dues contracts on working Americans. I believe that every worker must have the right to join or support a labor union. This bill protects that right. However, no worker should be forced to join a union.

In 1965, Senator Everett Dirksen said of compulsory unionism, "Is there a more fundamental right than to make a living for one's family without being compelled to join a labor organization?" I could not agree more.

Mr. President, again let me say that I am pleased to introduce today with Senator COVERDELL the National Right to Work Act of 1977.

By Mr. CHAFEE (for himself and Mr. MOYNIHAN):

S. 498. A bill to amend the Internal Revenue Code of 1986 to allow an employee to elect to receive taxable cash compensation on lieu of nontaxable parking benefits, and for other purposes; to the Committee on Finance.

THE COMMUTER CHOICE ACT OF 1997

Mr. CHAFEE. Mr. President, one of the greatest challenges facing metropolitan areas in our Nation is finding a way to reduce traffic congestion. Commuters in cities across the country spend countless hours on the road traveling to and from work. This traffic places tremendous pressure on our highway infrastructure and causes monumental environmental problems. More than 100 cities fail to meet today's clean air standards. The best way to clean up our air is to reduce the number of automobiles which are driven on a daily basis.

Unfortunately, our current tax laws actually encourage commuters to travel to work in single occupant automobiles. Today, employers can provide parking to their employees as a tax-free fringe benefit. As part of the Energy Policy Act of 1992, the value of parking that qualifies for this benefit is limited to $170 per month. By comparison, tax-free transit or van-pool benefits are limited to only $65 per month.

There is another aspect of this benefit that makes the tax-free parking an even greater incentive for employees to drive to work. The fringe benefit must be offered by employers on a take-it-or-leave-it basis. In other words, the employee has the option of accepting the employer-paid parking or nothing at all. The tax-exempt status of the employer-provided parking is lost if employees are offered a choice between the parking fringe benefit and taxable salary.

Let me illustrate the problem this creates. Suppose an employer has two employees, Sally and Jim. Under current law, the employer can pay for a parking space at a garage next door. This fringe benefit will not be taxable to Sally and Jim so long as the cost does not exceed $170 per month. But, let's assume that Sally would prefer to receive cash instead of a parking space, because she can commute to work with her husband or take public transportation. The way the law is currently written, Sally's employer cannot offer her cash instead of the parking fringe benefit, because it would cause Jim's parking fringe benefit to become taxable.

The Commuter Choice Act of 1997, which I am introducing today along with my colleague Senator MOYNIHAN, corrects this bias in the Tax Code by allowing employers to offer their employees the choice of tax-free parking or taxable cash compensation. This proposal is completely voluntary. Employers are not required to offer cash in lieu of parking. Furthermore, it has absolutely no affect on employees wishing to continue receiving tax-free parking. That fringe benefit would remain exempt from income and payroll taxes. However, my proposal would allow employees not interested in the parking fringe benefit to opt instead for taxable cash compensation.

Intuitively, I believe Voluntary Cash Out will have positive revenue consequences for the Federal Government. Some individuals who currently receive tax-free parking will instead opt for taxable cash compensation. For example, trading in a parking space in many cities could be worth almost $2,000 in pretax salary annually, a powerful incentive to consider alternative ways of getting to work. An overwhelming majority of employees receive tax-free parking from their employers—95 percent who drive to work, according to the National Personal Transportation Survey. So, even if only a small portion of this population chooses the taxable cash it should lead to a substantial revenue windfall.

In 1992, the State of California enacted legislation that required employers with 50 or more employees to offer cash in lieu of parking if the employer subsidized commuter parking. A recent study of eight employers who complied with this law provides some evidence of how businesses and their employees might react to Commuter Choice. For the nearly 1,700 employees of the eight firms, the solo driver share fell from 76 to 63 percent; to carpool share increased from 14 to 23 percent. More importantly, because many employees voluntarily chose taxable cash over tax-exempt parking, State and Federal income tax revenues increased by $56 per employee per year.

Finally, employer interest in programs like Commuter Choice will increase as pressure builds to reduce traffic congestion and air pollution in our Nation's cities. Many urban areas that are in nonattainment for national air quality standards have incorporated employee commute option programs as part of their State implementation plans. These programs are hampered, however, by the current tax rules, which prohibit employees from trading in tax-free parking for cash and utilizing alternative commute options. The Commuter Choice Act removes that prohibition.

I encourage my colleagues to cosponsor this legislation, which offers greater flexibility to employers and employees, and which will have a substantial positive effect on our air quality.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 498

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commuter Choice Act of 1997".

SEC. 2. ELECTION TO RECEIVE TAXABLE CASH COMPENSATION IN LIEU OF NONTAXABLE PARKING BENEFITS.

(a) IN GENERAL.—Section 132(f)(4) of the Internal Revenue Code of 1986 (relating to benefits not in lieu of compensation) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any qualified parking provided in lieu of compensation which otherwise would have been includible in gross income of the employee."

(b) Effective Date.—The amendment made by this section shall apply to qualified parking provided after December 31, 1997.

By Mr. CHAFEE (for himself, Mr. Baucus, and Mr. Gregg):

S. 499. A bill to amend the Internal Revenue Code of 1986 to provide an election to exclude from the gross estate of a decedent the value of certain land subject to a qualified conservation easement, and to make technical changes to alternative valuation rules; to the Committee on Finance.

THE AMERICAN FARM AND RANCH PROTECTION ACT OF 1997

Mr. CHAFEE. Mr. President, a serious environmental problem facing the country today is the loss of open space to development. All across the country, farms, ranches, forests, and wetlands are forced to give way to the pressures for new office buildings, shopping malls, and housing developments.

America is losing over 4 square miles of land to development every day. In Rhode Island, over 11 thousand acres of farmland have been lost to development since 1974. In many instances, this is simply the natural outgrowth of urbanization of our society. Other times it is the direct result of improper planning at the State and local levels.

But frequently, the pressure comes from the need to raise funds to pay estate taxes. For those families where undeveloped land represents a significant portion of the estate's total value, the need to pay the tax creates powerful pressure to develop or sell off part or all of the land or to liquidate the timber resources of the land. Because land is appraised by the Internal Revenue Service according to its highest and best use, and such use is often its development value, the effect of the tax is to make retention of undeveloped land impossible.

In addition, our current estate tax policy results in complicated valuation disputes between the donor's estate and the Internal Revenue Service. In many cases, the additional costs incurred as a result of these disagreements cause a potential donor of a conservation easement to decide not to make the contribution.

These open spaces improve the quality of life for Americans throughout this great Nation and provide important habitat for fish and wildlife. The question is how do we conserve our most valuable resource during this time of significant budget constraints.

Mr. President, I think we need to restructure the Nation's estate tax laws to remove the disincentive for private property owners to conserve environmentally significant land. The American Farm and Ranch Protection Act, which I am introducing today along with Senators Baucus and Gregg, will help to achieve this goal by providing an exemption from the estate tax for the value of land that is subject to a qualified, permanent conservation easement.

This bill is similar to legislation that we introduced during the 104th Congress and was included in the Balanced Budget Act of 1995. It excludes land subject to a conservation easement from the estate and gift taxes. Development rights retained by the family—most frequently the ability to use the property for a commercial purpose—remain subject to the estate tax.

In order to target the incentives under this bill to those areas that are truly at risk for development, the bill is limited to land that falls within a 50-mile radius of a metropolitan area, a national park or a national wilderness area, or an urban national forest.

Conservation easements, which are entirely voluntary, are agreements negotiated by landowners in which a restriction upon the future use of land is imposed in order to conserve those aspects of the land that are publicly significant. To qualify for the estate tax exemption under this bill, such easements must be perpetual and must be made to preserve open space, to protect the natural habitat of fish, wildlife, or plants, to meet a governmental conservation policy, or to preserve a historically important land area.

I urge my colleagues to join me in this effort to save environmentally sensitive open spaces.

Mr. President, I ask unanimous consent that additional material be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Farm and Ranch Protection Act of 1997".

SEC. 2. TREATMENT OF LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.

(a) Estate Tax With Respect to Land Subject to a Qualified Conservation Easement.—Section 2031 of the Internal Revenue Code of 1986 (relating to the definition of gross estate) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Estate Tax With Respect to Land Subject to a Qualified Conservation Easement.—

"(1) In general.—If the executor makes the election described in paragraph (4), then, except as otherwise provided in this subsection, there shall be excluded from the gross estate the value of land subject to a qualified conservation easement.

"(2) Treatment of certain indebtedness.—

"(A) In general.—The exclusion provided in paragraph (1) shall not apply to the extent that the land is debt-financed property.

"(B) Definitions.—For purposes of this paragraph—

"(i) Debt-financed property.—The term 'debt-financed property' means any property with respect to which there is an acquisition indebtedness (as defined in clause (ii)) on the date of the decedent's death.

"(ii) Acquisition indebtedness.—The term 'acquisition indebtedness' means, with respect to debt-financed property, the unpaid amount of—

"(I) the indebtedness incurred by the donor in acquiring such property,

"(II) the indebtedness incurred before the acquisition of such property if such indebtedness would not have been incurred but for such acquisition,

"(III) the indebtedness incurred after the acquisition of such property if such indebtedness would not have been incurred but for such acquisition and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition, except that indebtedness incurred after the acquisition of such property is not acquisition indebtedness if incurred to carry on activities directly related to farming, ranching, forestry, horticulture, or viticulture, and

"(IV) the extension, renewal, or refinancing of an acquisition indebtedness.

"(3) Treatment of retained development right.—

"(A) In general.—Paragraph (1) shall not apply to the value of any development right retained by the donor in the conveyance of a qualified conservation easement.

"(B) Termination of retained development right.—If every person in being who has an interest (whether or not in possession) in such land shall execute an agreement to extinguish permanently some or all of any development rights (as defined in subparagraph (D)) retained by the donor on or before the date for filing the return of the tax imposed by section 2001, then any tax imposed by section 2001 shall be reduced accordingly. Such agreement shall be filed with the return of the tax imposed by section 2001. The agreement shall be in such form as the Secretary shall prescribe.

"(C) Additional tax.—Failure to implement the agreement described in subparagraph (B) within 2 years of the decedent's death shall result in the imposition of an additional tax in the amount of tax which would have been due on the retained development rights subject to such agreement. Such additional tax shall be due and payable on the last day of the 6th month following the end of the 2-year period.

"(D) Development right defined.—For purposes of this paragraph, the term 'development right' means the right to establish or use any structure and the land immediately surrounding it for sale (other than the sale of the structure as part of a sale of the entire tract of land subject to the qualified conservation easement), or other commercial purpose which is not subordinate to and directly supportive of the activity of farming, forestry, ranching, horticulture, or viticulture conducted on land subject to the qualified conservation easement in which such right is retained.

"(4) Election.—The election under this subsection shall be made on the return of the tax imposed by section 2001. Such an election, once made, shall be irrevocable.

"(5) Calculation of estate tax due.—An executor making the election described in paragraph (4) shall, for purposes of calculating the amount of tax imposed by section 2001, include the value of any development right (as defined in paragraph (3)) retained by the donor in the conveyance of such qualified conservation easement. The computation of tax on any retained development right prescribed in this paragraph shall be done in such manner and on such forms as the Secretary shall prescribe.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—The term 'land subject to a qualified conservation easement' means land—

"(i) which is located in or within 50 miles of an area which, on the date of the decedent's death—

"(I) is a metropolitan area (as defined by the Office of Management and Budget),

"(II) is a National Park or wilderness area designated as part of the National Wilderness Preservation System (unless it is determined by the Secretary that land in or within 50 miles of such a park or wilderness area is not under significant development pressure), or

"(III) is an Urban National Forest (as designated by the Forest Service),

"(ii) which was owned by the decedent or a member of the decedent's family at all times during the 3-year period ending on the date of the decedent's death, and

"(iii) with respect to which a qualified conservation easement is or has been made by the decedent or a member of the decedent's family.

"(B) QUALIFIED CONSERVATION EASEMENT.—The term 'qualified conservation easement' means a qualified conservation contribution (as defined in section 170(h)(1)) of a qualified real property interest (as defined in section 170(h)(2)(C)), except that for this purpose the term 'qualified real property interest' shall not include any structure or building constituting 'a certified historic structure' as defined in section 170(h)(4)(B), and the restriction on the use of such interest described in section 170(h)(2)(C) shall include a prohibition on commercial recreational activity, except that the leasing of fishing and hunting rights shall not be considered commercial recreational activity when such leasing is subordinate to the activities of farming, ranching, forestry, horticulture or viticulture.

"(C) MEMBER OF FAMILY.—The term 'member of the decedent's family' means any member of the family (as defined in section 2032A(e)(2)) of the decedent."

"(7) APPLICATION OF THIS SECTION TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.—The Secretary shall prescribe regulations applying this section to an interest in a partnership, corporation, or trust which, with respect to the decedent, is an interest in a closely held business (within the meaning of paragraph (1) of section 6166(b))."

(b) CARRYOVER BASIS.—Section 1014(a) of such Code (relating to basis of property acquired from a decedent) is amended by striking the period at the end of paragraph (3) and inserting ", or" and by adding after paragraph (3) the following new paragraph:

"(4) to the extent of the applicability of the exclusion described in section 2031(c), the basis in the hands of the decedent."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 3. GIFT TAX ON LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.

(a) GIFT TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—Section 2503 of the Internal Revenue Code of 1986 (relating to taxable gifts) is amended by adding at the end the following new subsection:

"(h) GIFT TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—The transfer by gift of land subject to a qualified conservation easement shall not be treated as a transfer of property by gift for purposes of this chapter. For purposes of this subsection, the term 'land subject to a qualified conservation easement' has the meaning given to such term by section 2031(c); except that references to the decedent shall be treated as references to the donor and references to the date of the decedent's death shall be treated as references to the date of the transfer by the donor."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to gifts made after December 31, 1996.

SEC. 4. QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.

(a) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—Subsection (c) of section 2032A of the Internal Revenue Code of 1986 (relating to alternative valuation method) is amended by adding at the end the following new paragraphs:

"(8) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—A qualified conservation contribution (as defined in section 170(h)) by gift or otherwise shall not be deemed a disposition under subsection (c)(1)(A).

"(9) EXCEPTION FOR REAL PROPERTY IS LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—If qualified real property is land subject to a qualified conservation easement (as defined in section 2031(c)), the preceding paragraphs of this subsection shall not apply."

(b) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT IS NOT DISQUALIFIED.—Subsection (b) of section 2032A of such Code (relating to alternative valuation method) is amended by adding at the end the following paragraph:

"(E) If property is otherwise qualified real property, the fact that it is land subject to a qualified conservation easement (as defined in section 2031(c)) shall not disqualify it under this section."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contributions made, and easements granted, after December 31, 1996.

SEC. 5. QUALIFIED CONSERVATION CONTRIBUTION WHERE SURFACE AND MINERAL RIGHTS ARE SEPARATED.

(a) IN GENERAL.—Section 170(h)(5)(B)(ii) of the Internal Revenue Code of 1986 (relating to special rule) is amended to read as follows:

"(ii) SPECIAL RULE.—With respect to any contribution of property in which the ownership of the surface estate and mineral interests has been and remains separated, subparagraph (A) shall be treated as met if the probability of surface mining occurring on such property is so remote as to be negligible."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to contributions made after December 31, 1992, in taxable years ending after such date.

SUMMARY OF THE AMERICAN FARM AND RANCH PROTECTION ACT OF 1997

The American Farm and Ranch Protection Act protects family lands and encourages the voluntary conservation of farmland, ranches, forest land, wetlands, wildlife habitat, open space and other environmentally sensitive property. It enables farmers and ranchers to continue to own and work their land by eliminating the estate and gift tax burden that threatens the current generation of owners. The bill does this in the following ways:

By excluding from estate and gift taxes the value of land on which a qualified conservation easement has been granted if the land is located in or within a 50-mile radius of a metropolitan area, a National Park, or a wilderness area that is part of the National Wilderness Area System, or an Urban National Forest; and,

By clarifying that land subject to a qualified conservation easement can also qualify for special use valuation under Code section 2032A.

The bill also contains a number of safeguards to ensure that the benefits of the exclusion are not abused. These safeguards include the following:

The easement must be perpetual and meet the requirements of Code Section 170(h), governing deductions for charitable contributions of easements;

Easements retaining the right to develop the property for commercial recreational use would not be eligible, while other retained development rights would be taxed;

Land excluded from the estate tax would receive a carryover, rather than stepped-up, basis for purposes of calculating gain on a subsequent sale;

The land must have been owned by the decedent or a member of the decedent's family for at least three years immediately prior to the decedent's death; and,

The easement must have been donated by the decedent or a member of the decedent's family.

Under Section 170(h) easements will qualify only if they are made to a federal, state or local governmental unit or certain nonprofit groups. In addition, they must be made: To preserve land areas for outdoor recreation by the general public; to protect the natural habitat of fish, wildlife, or plants; or, to preserve open space (including farmland and forest land).

The bill is effective for decedents dying, or gifts made, after December 31, 1996.

Mr. BAUCUS. Mr. President, I am very pleased to join my colleague Senator CHAFEE in introducing the American Farm and Ranch Protection Act today. This bill represents a bipartisan effort to help protect the open lands of our great country.

Montana is known as Big Sky country for a reason, our expansive open areas dedicated to farming, ranching, and forestry rather than building and development. Our open lands represent a way of life in Montana, they are part of our environmental and cultural heritage. And they are rapidly disappearing as ranches and farms make way for houses and building complexes.

America is losing over 4 square miles of land to development every day. In Montana alone, since 1987 over 560,000 acres of farmland have been taken out of farm use. Since 1974 the number of acres of land taken our of farm use exceeds 2.5 million.

Frequently, the pressure to abandon the farm use of land comes from the need to raise funds to pay estate taxes. For those families where undeveloped land represents a significant portion of the estate's total value, often the heirs must develop or sell off part or all of the land merely in order to pay the tax. Because land is typically appraised by the Internal Revenue Service according to its highest and best use, which usually assumes development on the property, retention of undeveloped land is very difficult.

I have attempted to resolve this problem through changes in the estate tax itself by my sponsorship of the bipartisan Estate Tax Relief for the American Family Act of 1997. That bill will make it easier for all family-owned businesses, including farms and ranches, to be passed on to succeeding generations. At the same time, however, I believe it is important to provide an incentive for the permanent preservation of environmentally significant land, so that our legacy to our children will include Montana's open lands. The American Farm and Ranch Protection Act, which Senator CHAFEE and I are introducing today, will help to achieve this goal by providing an exemption from the estate tax for the value of land that is subject to a qualified, permanent conservation easement.

Conservation easements, which are entirely voluntary, are agreements negotiated by landowners in which a restriction upon the future use of land is imposed in order to conserve those aspects of the land that are publicly significant. To qualify for the estate tax exemption under this bill, the easements must be perpetual and must be made to preserve open space, to protect the natural habitat of fish, wildlife or plants, to meet a government conservation policy, or to preserve a important historical heritage area.

Title 5 of this bill represents an effort to clarify an area of the law that is of particular importance in Montana. Under current law, when mineral rights have been severed from the surface rights in a piece of property, and a qualified conservation easement is created by the owner of the surface rights for the benefit of a nonprofit entity, that owner is unable to take a charitable deduction unless two conditions are met: the probability of surface mining occurring on the property must be so remote as to be negligible, and the severance of the mineral rights must have occurred before June 13, 1976. In Montana, severance of mineral rights for many properties occurred many generations earlier, and they have often been disbursed to farflung relatives in very small portions. So the probability that mining will occur is, indeed, very remote. The Internal Revenue Service, however, has asserted that some uncertainty exists about the congressional intent behind the term "ownership of the surface estate and mineral interest first separated after June 12, 1976."

I was the original authority of the language in question, and I have communicated with the IRS regarding my intention when the language was drafted. However, IRS has been unwilling to issue a favorable letter ruling which would clarify this issue, and as a consequence, it is impossible for many Western landowners to make voluntary charitable contributions of conservation easements in order to protect important Western land. In light of the confusion that this date has caused, and because it has no policy justification, our legislation would eliminate the 1976 date from the statute.

I believe this bill can be an important tool for America's farm and ranch families to utilize in preserving their homesteads. At the same time, it makes a significant contribution to the larger public good of conserving America's increasingly threatened rural lands. I urge my colleagues to join on the bill as cosponsors, and encourage the administration to support the legislation.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 500. A bill to authorize emergency appropriations for cleanup and repair of damages to facilities of Yosemite National Park and other California national parks caused by heavy rains and flooding in December 1996 and January 1997, and for other purposes; to the Committee on Energy and Natural Resources.

THE YOSEMITE EMERGENCY RESTORATION AND CONSTRUCTION ACT

Mrs. BOXER. Mr. President, I am today introducing a bill that will authorize emergency appropriations for cleanup and repair of damages to facilities of Yosemite National Park and other National Park Service areas in California caused by heavy rains and flooding in December 1996 and January 1997.

I expect most of the issues regarding emergency cleanup and repair due to floods in California to be addressed through the appropriations process. I do not therefore expect this bill to be taken up by the appropriate Senate committee and passed by the Senate. The primary purpose of introducing this bill is to set a benchmark for recovery and cleanup efforts at Yosemite National Park.

My bill takes several steps beyond the bill that was introduced last month by Congressman DOOLITTLE and RADANOVICH:

First, it authorizes emergency funding. Second, it authorizes a specific amount—$200 million in emergency funds in fiscal year 1997. Third, it specifies that funds shall only be spent in a manner that is consistent with the Yosemite general management plan, the concession services plan, and when adopted, the Yosemite Valley housing plan, and the valley implementation plan. Fourth, it specifies that funds spent on repair and rebuilding of concessions facilities shall be recovered by the Secretary of the Interior to the greatest extent practicable according to the Department of the Interior's contract with the concessioner. Fifth, it authorizes emergency grants to satellite communities around Yosemite to provide mass transit visitor transportation into the park during repair and restoration activities on access roads. Sixth, it authorizes emergency appropriations for other California parks that suffered flood damage including Redwood National Park, Sequoia-Kings Canyon National Park, and others. Seventh, it authorizes $7 million to be appropriated in fiscal year 1998 and such sums as may be necessary for each fiscal year thereafter for a mass transit system for Yosemite.

Mr. President, the primary goal of the emergency restoration and construction activities authorized in this bill is to reopen Yosemite National Park and restore services to Park visitors as quickly and safely as possible.

The importance of emergency funding for Yosemite cannot be overstated. It is a unique national treasure, recognized all over the world for its spectacular natural beauty. Over 1.4 million people visit the park every year including tens of thousands of international visitors who travel to California for the sole purpose of staying in the park to experience nature. John Muir—one of our Nation's founding leaders of environmental conservation—first encountered the majestic Yosemite Valley in 1864 and immediately realized the importance of preserving its natural wonders. Muir's foresight and passion resulted in the establishment of Yosemite National Park in October 1890. At its onset, the park included 60,000 acres miles of scenic wild lands. Today, some 106 years later, the park embraces over 761,236 acres of granite peaks, broad meadows, glacially carved domes, giant sequoias, secluded tarns, and breathtaking waterfalls.

This winter, tropical storms with heavy rain caused serious flooding in the park. Yosemite's major rivers and tributaries flooded many park areas and caused severe damage to infrastructure. Over 350 damage assessments have been completed by engineers, architects, resource specialists, and other technical experts. Their first damage assessment report shows serious damage to the four main routes leading into the park, major electrical and sewer systems, 224 units of employee housing, over 500 guest lodging units, over 350 campsites, 17 restoration projects, and over 10 archeological sites.

According to the National Park Service, full recovery will take years. We now begin the recovery period during which, interim solutions will be put in place such as temporary housing and lodging while permanent construction is being completed.

The Yosemite Emergency Restoration and Reconstruction Act would authorize $200 million in emergency funds to be appropriated to the Secretary of Interior for cleanup and repair of flood damages to the facilities of Yosemite National Park caused by heavy rains and flooding in December 1996 and January 1997, and other national parks in the State of California. The funds are authorized to remain available until expended.

The authorization requires that any emergency funds spent at Yosemite be consistent with the Yosemite General Management Plan, the Concession Services Plan, and when adopted, the Yosemite Valley Housing Plan, and the Valley Implementation Plan.

Funds are authorized to be spent on repair, restoration, and relocation, where appropriate, of infrastructure vital to Yosemite National Park operations, including but not limited to roads, trails, utilities, buildings, grounds—including campgrounds—natural resources, cultural resources, and lost and damaged property, both within the park boundaries and at the El Portal administrative site servicing the park.

Also, funds are authorized to repair and relocation of park employee housing and the Resource Management Office; repair, maintenance, and opening of Tioga Pass Road within the boundaries of the park; and repair and expeditious opening of highways 120, 140, and 41 within the boundaries of the park.

The bill requires that funds spent on repair and relocation of concession-operated rental cabins, motel rooms, rental structures, and concession employee housing and facilities be recovered by the Department of the Interior to the greatest extent practicable, within the provisions of the concession contract between the Department of the Interior and the Yosemite Concession Services.

Mr. President, a key aspect to the bill is the authorization of $2.5 million in emergency grants to satellite communities around Yosemite National Park for the purpose of providing mass transit visitor transportation into the park during repair and restoration activities on access roads to the park.

Other California parks suffered flood damage. My bill would authorize emergency funds for Redwood National Park, Sequoia-Kings Canyon National Park, Lassen Volcanic National Park, Whiskeytown National Recreation Area, Devils Postpile National Monument, and Lava Beds National Monument.

Last, Mr. President, my bill authorizes $7 million to be appropriated in fiscal year 1998 and such sums as may be necessary for each fiscal year thereafter to the Secretary of Interior for the purpose of helping establish a mass transit system for Yosemite National Park—specifically for the purchase of electric buses and alternative-fueled buses.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 500

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Yosemite Emergency Restoration and Construction Act of 1997".

SEC. 2. AUTHORIZATION OF EMERGENCY APPROPRIATIONS FOR CLEANUP AND REPAIR OF YOSEMITE NATIONAL PARK.

(a) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $200,000,000 for fiscal year 1997, to remain available until expended.

(b) Use of Funds.—

(1) In general.—The Secretary of the Interior (referred to in this Act as the "Secretary") shall use amounts made available under subsection (a) for cleanup and repair of flood damage to the facilities of Yosemite National Park and other national parks in the State of California caused by heavy rains and flooding in December 1996 and January 1997.

(2) Included activities.—Activities by the Secretary under paragraph (1) shall include—

(A) repair, restoration, and, if appropriate, relocation of infrastructure vital to operations at Yosemite National Park, including roads, trails, utilities, buildings, grounds (including campgrounds), natural resources, cultural resources, and lost and damaged property in the park and at the El Portal administrative site servicing the park;

(B) repair and, if appropriate, relocation of Yosemite National Park employee housing and the Resource Management Office;

(C) repair and, if appropriate, relocation of concession-operated rental cabins, motel rooms, rental structures, and concession employee housing and facilities;

(D) repair, maintenance, and opening of Tioga Pass Road in Yosemite National Park;

(E) repair and expeditious opening of Highways 120, 140, and 41 in Yosemite National Park;

(F) any other repair and restoration that is necessary for the expeditious and complete opening of Yosemite National Park;

(G) making emergency grants to satellite communities around Yosemite National Park to provide mass transit visitor transportation into the park during repair and restoration activities on access roads to the park; and

(H) repair and restoration of damage caused by heavy rains and flooding in December 1996 and January 1997 at Redwood National Park, Sequoia-Kings Canyon National Park, Lassen Volcanic National Park, Whiskeytown National Recreation Area, Devils Postpile National Monument, and Lava Beds National Monument.

SEC. 3. EMERGENCY FUNDING FOR YOSEMITE SATELLITE COMMUNITIES.

Of any amounts made available under section 2(a), the Secretary shall make available not less than $2,500,000 to make grants described in section 2(b)(2)(G).

SEC. 4. CAPITAL RECOVERY FROM CONCESSIONAIRES.

To the extent practicable under the concession contract between the Secretary and Yosemite Concession Services, the Secretary shall recover from Yosemite Concession Services any amount used under section 2(b)(2)(C).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR MASS TRANSIT SYSTEM FOR YOSEMITE NATIONAL PARK.

(a) Authorization.—There are authorized to be appropriated to carry out this section $7,000,000 for fiscal year 1998 and such sums as are necessary for each fiscal year thereafter.

(b) Use of Funds.—

(1) In general.—The Secretary shall use amounts made available under subsection (a) to establish a mass transit system at Yosemite National Park.

(2) Included activities.—Activities by the Secretary under paragraph (1) shall include—

(A) using not more than $1,500,000 for the purchase of electric buses; and

(B) using not more than $5,500,000 for the purchase of alternative-fueled buses.

SEC. 6. CONSISTENCY WITH PLANS.

Activities at Yosemite National Park by the Secretary under this Act shall be consistent with the Yosemite General Management Plan, the Concession Services Plan, the Yosemite Valley Housing Plan, and the Valley Implementation Plan.

By Mr. MACK (for himself, Mr. Shelby, Mr. Cochran, Mr. D'Amato, and Mr. Hagel):

S. 501. A bill to amend the Internal Revenue Code of 1986 to provide all taxpayers with a 50-percent deduction for capital gains, to increase the exclusion for gain on qualified small business stock, to index the basis of certain capital assets, to allow the capital loss deduction for losses on the sale or exchange of an individual's principal residence, and for other purposes; to the Committee on Finance.

THE RETURN CAPITAL TO THE AMERICAN PEOPLE ACT

Mr. MACK. Mr. President, today I am introducing legislation, along with Senator Shelby, which provides real cuts in the capital gains rate and indexes capital gains to account for inflation. As we work to achieve a balanced budget, it is our belief that a real reduction in the capital gains rate is essential to ensure greater growth, innovation, and prosperity. Accordingly, the legislation we have proposed offers the best elements of existing capital gains proposals.

Perhaps most importantly, this proposal ensures that homeowners, family farms, and small businesses are not penalized for inflationary—phantom—gains by providing for the indexation of capital gains. The importance of indexation is made clear in the accompanying report recently prepared by the Joint Economic Committee.

Additionally, our bill will offer a 50-percent rate reduction for individuals and corporations, and allow the deduction for a loss on the sale of a principal residence.

Finally, this legislation encourages investment in small businesses by increasing the exclusion from gains for small business stock from 50 to 75 percent; reducing the requirement for holding stock from 5 to 3 years; increasing the eligibility size to $100 million, and providing a 60-day grace period for the rollover of stock between small businesses.

Again, I want to restate the importance of a reduced capital gains rate, which benefits all Americans by stimulating economic growth and prosperity and leading to innovation in biomedical research and other life-enhancing technologies. I look forward to my colleagues joining me in this effort to ensure that a real capital gains rate reduction is included in any balanced budget package the Congress puts together in the coming months.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INDEXING CAPITAL GAINS

(Prepared by Robert Stein)

The case for cutting the capital gains tax is simple and straightforward: It is a win-win situation for all involved—for taxpayers, workers and government revenue.

Everyone who invests would get more bang for their buck. This includes people who start small businesses, workers who have pension money in stocks and those who save for life's goals, like a downpayment on a home, a college education or retirement. More than 40% percent of families own stocks, either directly or indirectly, including more than 25% of the families making between $10,000 and $25,000 per year.[1] And contrary to conventional wisdom, cutting the capital gains tax will increase government revenue, making it easier to balance the budget.

One way to cut the capital gains tax is to limit the tax to real increases in the prices of assets, over and above inflation. This is called indexing. Without indexing, effective tax rates can be much higher than the government's official rate. Consider a couple that buys $10,000 worth of stocks in 1966, to help pay for their retirement. In 1996, they would have about $79,000 worth of stocks.[2] Cashing-in these stocks could require a tax of about $19,000.[3] But much of their gain—the difference between their initial investment and the $79,000 they end up with—was due to inflation, not real increases in purchasing power. In fact, the couple only had about $30,000 in real gains, over and above inflation.[4] And a tax of $19,000 or $30,000 in gains is an effective tax rate of 63%.

Chart 1 shows a history of the difference between the top official tax rate on capital gains and the top effective tax rate, taking inflation into account.[5] As Chart 1 shows, the effective tax rate on capital gains can greatly exceed the official rate, even going well above 100%. In fact, if an investor sells an asset that increased in price, but which didn't keep pace with inflation, she would have to pay taxes without enjoying any real gain at all! It doesn't take much of an imagination to see how the fear of such taxes could deter investment.

(Chart not reproductible in RECORD.)

Would cutting taxes on capital gains reduce government revenue, making it tougher to balance the budget? Certainly not. In fact, cutting the effective tax rate on capital gains should boost revenue. As the following table shows, government revenue from the capital gains tax has grown much more quickly when the effective tax rate has been low or falling than when it's been high or rising.

FIVE PHASES OF THE CAPITAL GAINS TAX

Years	Effective tax rates (in percent)	Capital gains revenue][6] (percent per year)
1954–1967 ..	Low (30 to 40)	+10
1968–1980 ..	Rising/Very High (37 to 126)	+2
1981–1986 ..	Falling (97 to 39)	[7]+10
1987–1991 ..	Rising (39 to 61)	[8]−5
1992–1994 ..	Falling (61 to 50)	+10

Put simply, reducing the effective tax rate on capital gains would kill two birds with one stone: It would both ease the tax burden and make it easier to balance the budget. Case in point: The last time the government cut the official tax rate on capital gains, revenue from the capital gains tax rose from $22 billion to $36 billion in only five years.[9]

QUESTIONS AND ANSWERS

Q: Wouldn't indexation complicate the tax code, as taxpayers would have to keep track of not only the cost of their assets but also the inflation adjustment for each?

A: No. People would have the option of indexing, but could still use the non-indexed cost of their assets when figuring out the amount of their gains. This would mostly happen when inflation was low and the asset wasn't held very long.

Q: If we index capital gains for inflation, don't we have to index debts too? And since it's too difficult to index debts for tax purposes, shouldn't we leave the system the way it is?

A: No. This argument confuses key differences between equity and debt. Theoretically, the tax code could let lenders index their interest income, so they only have to pay taxes on the interest they earn over and above inflation. But for every $1 that lenders reduce their taxable income, borrowers would have to reduce the amount of interest they deduct. Overall, debt transactions would still feel the same tax bite. Only the distribution of the taxes would change: Lenders would pay less; borrowers would pay more. But lenders and borrowers already apportion the tax burden between themselves. It's factored into the interest rate. This interest rate also reflects the inflation the two parties expect, as well as the risk that inflation will differ in either party's favor.

By contrast, bargaining over tax costs doesn't happen with equity. Unlike with debts, nobody deducts capital gains as a cost. Indexing gains would not simply shift the tax burden from one party to another. It would reduce the total tax burden placed on investments in equity, to reflect the erosion of capital gains by inflation.

ENDNOTES

[1] Family Finances in the U.S.: Recent Evidence from the Survey of Consumer Finances, Federal Reserve Bulletin, January 1997. Indirect stock ownership includes owned through mutual funds or retirement accounts.

[2] Between 1966 and 1996 the Standard and Poor's 500 stock index rose from 85.26 to 670.81.

[3] Twenty-eight percent of the capital gain.

[4] The consumer price index for urban worker rose from 32.5 in 1966 to 157 in 1996. This makes the real basis about $48,000 in 1996.

[5] To calculate the effective capital gains tax rate I assumed people hold their assets for five years and use the consumer price index for urban workers as my price index. To avoid a result where people get taxed on zero or negative real gains (which implies a tax rate of infinity!) I assume people earned a 5% real return per year. This method has the added benefit of giving us a view of the expected capital gain tax rate, as almost all people invest with the expectation that they will get a positive return. The expected tax rate should drive investment decisions more than any other tax rate.

[6] Changes in real revenue, with nominal revenue figures adjusted by the consumer price index for urban workers.

[7] This annual rate of changes does not include the huge increase in government revenue in 1986, as people cashed in their gains to avoid an oncoming tax hike in 1987. In other words, as favorable as the data in the table looks for keeping capital gains taxes low, it could have made the table even more favorable, if 1986 were used as the end point. Instead, the increase in gains during this era of lower taxes is cut off in 1985, at a much lower point than the 1986 point.

[8] This calculation does not use the 1986 peak as the starting point. It uses 1985. Had it used 1986 as the starting point the data would have been even more favorable for keeping capital gains tax low.

[9] From 1980, the year before the tax cut, to 1985, the year before the huge surge in revenue that anticipated the hike in rates in 1986. Money figures are in constant 1994 dollars.

By Mr. GRASSLEY:

S. 502. A bill to amend title XIX of the Social Security Act to provide post-eligibility treatment of certain payments received under a Department of Veterans Affairs pension or compensation program; to the Committee on Finance.

STATE VETERANS' HOME LEGISLATION

Mr. GRASSLEY. Mr. President, today I am introducing legislation which, when enacted, will modify the treatment of certain veterans benefits received by veterans who reside in State veterans homes and whose care and treatment is paid for by the Medicaid program. I am joined in introducing this bill by Senator GRAHAM.

Veterans residing in State veterans homes, who are eligible for aid and attendance [AA] and unusual medical expense [UME] benefits, veterans benefits provided under title 38 of the United States Code, who are also eligible for Medicaid, are the only veterans in nursing homes who receive, and who are able to keep, the entire AA and UME benefit amounts. This can be as much as $1,000 per month.

Other veterans, who reside in other types of nursing homes are receiving Medicaid, and who are also eligible for AA/UME can receive only 90 per month from the VA.

Yet, other veterans who reside in State veterans homes but who are not eligible for the AA/UME benefits must contribute all but $90 of their income to the cost of their care.

So, even though veterans residing in State veterans homes who are eligible for AA and UME benefits and who qualify for Medicaid have all of their treatment and living expense paid by the State Medicaid program, they nevertheless may keep as much as $1,000 per month of the AA and UME benefits.

It might be useful for me to review how this state of affairs came to be.

In 1990, legislation was enacted, Public Law 101-508, November 5, 1990, which modified title 38, the veterans benefits title of the United States Code, to stipulate that veterans with no dependents, on title XIX, residing in nursing homes, and eligible for AA and UME, could receive only a $90 per month personal expense allowance from the VA, rather than the full UME and AA amounts.

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[1] Footnotes at end of article.

State veterans homes were subsequently exempted from the definition of nursing homes which had been contained in those earlier provisions of Public Law 101-508 by legislation enacted in 1991, Public Law 102-40, May 7, 1991.

The result was that veterans on title XIX and residing in State nursing homes continued to receive UME and AA. Until recently, the State veterans homes followed a policy of requiring that all but $90 per month of these allowances be used to defray the cost of care in the Home.

Then, a series of Federal court decisions held that neither UME nor AA could be considered income. The court decisions appeared to focus on the definition of income used in pre- and post-eligibility income determinations for Medicaid. The court decisions essentially held that UME and AA payments to veterans did not constitute income for the purpose of post-eligibility income determination. The reasoning was that, since these monies typically were used by veterans to defray the cost of certain series they were receiving, the payments constituted a "wash" for purposes of income gain by the veterans.

However, the frame of reference for the courts' decisions was not a nursing home environment in which a veteran receiving Medicaid benefits might find himself or herself. In other words, the UME and AA payment received by a veteran on Medicaid are provided to a veteran for services for which the State is already paying through the Medicaid program. The veteran is not paying for these services with their own income. So, as a consequence of the court decisions, these payments to the veteran in State veterans homes represent a net gain in income to the veteran; they are not paid out by the veteran to defray the cost of services the veteran is receiving.

VA does not pay AA or UME to veterans who are also on title XIX and residing in non-State veterans home nursing homes. Those veterans get only a $90 per month personal allowance.

And non-Medicaid eligible veterans who reside in State veterans homes must pay for services with their own funds. If they get UME and AA payments, the State veterans homes will take all but $90 of those sums to help defray the cost of the nursing home care.

Although the written record does not document this, I believe that the purpose of exempting the State veterans homes was to allow the Homes to continue to collect all but $90 of the UME and A-A paid to the eligible veteran so as to enable State veterans homes to provide service to more veterans than they otherwise would be able to provide.

In any case, it seems highly unlikely that the purpose of exempting State veterans homes would have been to allow these veterans, and only these among similarly situated veterans, to retain the entire UME and A&A amounts.

The legislation I am introducing today modifies section 1902(r)(1) of the Social Security Act to stipulate that, for purposes of the post-eligibility treatment of income of individuals who are institutionalized, and on title 19, the payments received under a Department of Veterans Affairs pension or compensation program, including aid and attendance and unusual medical expense payments, may be taken into account.

By Mr. NICKLES:

S. 503. A bill to prevent the transmission of the human immunodeficiency virus (commonly known as HIV), and for other purposes; to the Committee on Labor and Human Resources.

THE HIV PREVENTION ACT OF 1997

Mr. NICKLES. Mr. President, I rise today to introduce the HIV Prevention Act of 1997. This legislation appropriately refocuses public health efforts on HIV prevention by using proven public health techniques designed for communicable diseases. The public health initiatives in this bill, which result in early detection of HIV infection, are now more important than ever in light of the tremendous advances that medical science has made.

This bill will balance the needs of HIV-infected patients with the prevention needs of those who are uninfected. The HIV Prevention Act of 1997 establishes a confidential, national HIV reporting effort as already exists for end stage HIV and AIDS; requires partner notification; mandates testing for indicted sexual offenders; protects health care patients and professionals from inadvertent exposure to HIV; provides access to insurance-required HIV test results; and allows adoptive parents to learn the HIV status of a child. In addition, this legislation includes Sense of the Senate language which expresses that the States should criminalize the intentional transmission of HIV; and also expresses the Sense of the Senate that strict confidentiality must be observed at all times in carrying out all of the provisions of the act.

The Senate is on record supporting the provisions of this bill in a 1990 amendment which was adopted by voice vote. The primary sponsors of the amendment were Senators KENNEDY and MIKULSKI. During debate on the amendment, Senator KENNEDY argued, "In a case in which there is a clear and present danger, there is a duty to warn." That is the purpose of the HIV Prevention Act of 1997. The best ways to warn for the prevention of further spread of HIV and AIDS are reporting and partner notification, methods which are currently in use and proven to be effective.

This bill has received overwhelming support from groups including the Independent Women's Forum, Americans for a Sound AIDS/HIV Policy, the Family Research Council, Women Against Violence, the Christian Coalition, and the American Medical Association. I quote from a letter written by the AMA in support of this legislation:

"These public health initiatives which result in early detection of HIV infection are now more important because of the tremendous advances that medical science has made. Early intervention combined with effective treatments will enable those with HIV and AIDS to live longer, healthier lives."

The HIV Prevention Act adds HIV to 52 other notifiable contagious diseases such as gonorrhea, hepatitis A, B, and C, syphilis, tuberculosis, and AIDS that must be reported to the Centers for Disease Control. In terms of partner notification, 26 states, including, I might add, Oklahoma, already require notification. It is time that these policies that are already in practice in some states are applied around the country in order to track and prevent further spread of HIV.

Mr. President, this legislation will greatly increase public health HIV prevention efforts that until now have focused only on AIDS. The HIV Prevention Act of 1997 is a sensible, common sense approach toward containing the spread of AIDS. By using proven, public health techniques and sound medical practices, this bill will curtail the spread of HIV. I thank the chair and encourage my colleagues to support this commonsense legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "HIV Prevention Act of 1997".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) The States should recognize that the terms "acquired immune deficiency syndrome" and "AIDS" are obsolete. In the case of individuals who are infected with the human immunodeficiency virus (commonly known as HIV), the more important medical

fact for the individuals and for the protection of the public health is the fact of infection, and not just the later development of AIDS (the stage at which the infection causes symptoms). The term "HIV disease", meaning infection with HIV regardless of whether the infection has progressed to AIDS, more correctly defines the medical condition.

(2) The medical, public health, political, and community leadership must focus on the full course of HIV disease rather than concentrating on later stages of the disease. Continual focus on AIDS rather than the entire spectrum of HIV disease has left our Nation unable to deal adequately with the epidemic. Federal and State data collection efforts should focus on obtaining data as early as possible after infection occurs, while continuing to collect data on the symptomatic stage of the disease.

(3) Recent medical breakthroughs may enable doctors to treat HIV disease as a chronic disease rather than as a terminal disease. Early intervention in the progression of the infection is imperative to prolonging and improving the lives of individuals with the disease.

(4) The Centers for Disease Control and Prevention has recommended partner notification as a primary prevention service. The health needs of the general public, and the care and protection of those who do not have the disease, should be balanced with the needs of individuals with the disease in a manner that allows for the infected individuals to receive optimal medical care and for public health services to protect the uninfected.

(5) Individuals with HIV disease have an obligation to protect others from being exposed to HIV by avoiding behaviors that place others at risk of becoming infected. The States should have in effect laws providing that intentionally infecting others with HIV is a felony.

SEC. 3. PREVENTION OF TRANSMISSION OF HIV.

(a) Requirements for States.—A State shall demonstrate to the satisfaction of the Secretary that the law or regulations of the State are in accordance with the following:

(1) Reporting of cases.—The State requires that, in the case of a health professional or other entity that provides for the performance of a test for HIV on an individual, the entity confidentially report positive test results to the State public health officer, together with any additional necessary information, in order to carry out the following purposes:

(A) The performance of statistical and epidemiological analyses of the incidence in the State of cases of such disease.

(B) The performance of statistical and epidemiological analyses of the demographic characteristics of the population of individuals in the State who have the disease.

(C) The assessment of the adequacy of preventive services in the State with respect to the disease.

(D) The performance of the functions required in paragraph (2).

(2) Functions.—The functions described in this paragraph are the following:

(A) Partner notification.—

(i) In general.—The State requires that the public health officer of the State carry out a program of partner notification to inform individuals that the individuals may have been exposed to HIV.

(ii) Definition.—For purposes of this paragraph, the term "partner" includes—

(I) the sexual partners of individuals with HIV disease;

(II) the partners of such individuals in the sharing of hypodermic needles for the intravenous injection of drugs; and

(III) the partners of such individuals in the sharing of any drug-related paraphernalia determined by the Secretary to place such partners at risk of HIV infection.

(B) Collection of information.—The State requires that any information collected for purposes of partner notification be sufficient for the following purposes:

(i) To provide the partners of the individual with HIV disease with an appropriate opportunity to learn that the partners have been exposed to HIV.

(ii) To provide the partners with counseling and testing for HIV disease.

(iii) To provide the individual who has the disease with information regarding therapeutic measures for preventing and treating the deterioration of the immune system and conditions arising from the disease, and to provide the individual with other preventive information.

(iv) With respect to an individual who undergoes testing for HIV disease but does not seek the results of the testing, and who has positive test results for the disease, to recall and provide the individual with counseling, therapeutic information, and other information regarding preventative health services appropriate for the individual.

(C) Cooperation in national program.—The State cooperates with the Director of the Centers for Disease Control and Prevention in carrying out a national program of partner notification, including the sharing of information between the public health officers of the States.

(3) Testing of certain indicted individual.—With respect to a defendant against whom an information or indictment is presented for a crime in which by force or threat of force the perpetrator compels the victim to engage in sexual activity, the State requires the following:

(A) In general.—That the defendant be tested for HIV disease if—

(i) the nature of the alleged crime is such that the sexual activity would have placed the victim at risk of becoming infected with HIV; or

(ii) the victim requests that the defendant be so tested.

(B) Timing.—That if the conditions specified in subparagraph (A) are met, the defendant undergo the test not later than 48 hours after the date on which the information or indictment is presented, and that as soon thereafter as is practicable the results of the test be made available to—

(i) the victim;

(ii) the defendant (or if the defendant is a minor, to the legal guardian of the defendant);

(iii) the attorneys of the victim;

(iv) the attorneys of the defendant;

(v) the prosecuting attorneys;

(vi) the judge presiding at the trial, if any; and

(vii) the principal public health official for the local governmental jurisdiction in which the crime is alleged to have occurred.

(C) Follow-up testing.—That if the defendant has been tested pursuant to subparagraph (B), the defendant, upon request of the victim, undergo such follow-up tests for HIV as may be medically appropriate, and that as soon as is practicable after each such test the results of the test be made available in accordance with subparagraph (B) (except that this subparagraph applies only to the extent that the individual involved continues to be a defendant in the judicial proceedings involved, or is convicted in the proceedings).

(D) Consideration of results.—That, if the results of a test conducted pursuant to subparagraph (B) or (C) indicate that the defendant has HIV disease, such fact may, as relevant, be considered in the judicial proceedings conducted with respect to the alleged crime.

(4) Testing of certain individuals.—

(A) Patients.—With respect to a patient who is to undergo a medical procedure that would place the health professionals involved at risk of becoming infected with HIV, the State—

(i) authorizes such health professionals in their discretion to provide that the procedure will not be performed unless the patient undergoes a test for HIV disease and the health professionals are notified of the results of the test; and

(ii) requires that, if such test is performed and the patient has positive test results, the patient be informed of the results.

(B) Funeral-related services.—The State authorizes funeral-services practitioners in their discretion to provide that funeral procedures will not be performed unless the body involved undergoes a test for HIV disease and the practitioners are notified of the results of the test.

(5) Informing of funeral-service practitioners.—The State requires that, if a health care entity (including a hospital) transfers a body to a funeral-services practitioner and such entity knows that the body is infected with HIV, the entity notify the funeral-services practitioner of such fact.

(6) Health insurance issuers.—

(A) In general.—The State requires that, if a health insurance issuer requires an applicant for such insurance to be tested for HIV disease as a condition of issuing such insurance, the applicant be afforded an opportunity by the health insurance issuer to be informed, upon request, of the HIV status of the applicant.

(B) Definition.—For purposes of this paragraph, the term "health insurance issuer" means an insurance company, insurance service, or insurance organization (including a health maintenance organization) which is licensed to engage in the business of insurance in the State and which is subject to State law which regulates insurance.

(C) Rule of construction.—This paragraph may not be construed as affecting the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1154) with respect to group health plans.

(7) Adoption.—The State requires that, if an adoption agency is giving significant consideration to approving an individual as an adoptive parent of a child and the agency knows whether the child has HIV disease, such prospective adoptive parent be afforded an opportunity by the agency to be informed, upon request, of the HIV status of the child.

(b) Sense of Congress Regarding Health Professionals With HIV Disease.—It is the sense of Congress that, with respect to health professionals who have HIV disease—

(1) the health professionals should notify their patients that the health professionals have the disease in medical circumstances that place the patients at risk of being infected with HIV by the health professionals; and

(2) the States should encourage the medical profession to develop guidelines to assist the health professionals in so notifying patients.

(c) APPLICABILITY OF REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply to States upon the expiration of the 120-day period beginning on the date of the enactment of this Act.

(2) DELAYED APPLICABILITY FOR CERTAIN STATES.—In the case of the State involved, if the Secretary determines that a requirement established by subsection (a) cannot be implemented in the State without the enactment of State legislation, then such requirement applies to the State on and after the first day of the first calendar quarter that begins after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session is deemed to be a separate regular session of the State legislature.

(d) DEFINITIONS.—In this section:

(1) HIV.—The term "HIV" means the human immunodeficiency virus.

(2) HIV DISEASE.—The term "HIV disease" means infection with HIV and includes any condition arising from such infection.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(e) RULE OF CONSTRUCTION.—Part D of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-71 et seq.) is amended by inserting after section 2675 the following section:

"SEC. 2675A. RULE OF CONSTRUCTION.

"With respect to an entity that is an applicant for or a recipient of financial assistance under this title, compliance by the entity with any State law or regulation that is consistent with section 3 of the HIV Prevention Act of 1997 may not be considered to constitute a violation of any condition under this title for the receipt of such assistance.".

SEC. 4. SENSE OF CONGRESS REGARDING INTENTIONAL TRANSMISSION OF HIV.

It is the sense of Congress that the States should have in effect laws providing that, in the case of an individual who knows that he or she has HIV disease, it is a felony for the individual to infect another with HIV if the individual engages in the behaviors involved with the intent of so infecting the other individual.

SEC. 5. SENSE OF CONGRESS REGARDING CONFIDENTIALITY.

It is the sense of the Congress that strict confidentiality should be maintained in carrying out the provisions of section 3 of the this Act.

By Mrs. FEINSTEIN (for herself, Mrs. BOXER and Ms. SNOWE):

S. 504. A bill to amend title 18, United States Code, to prohibit the sale of personal information about children without their parent's consent, and for other purposes; to the Committee on the Judiciary.

THE CHILDREN'S PRIVACY PROTECITON AND PARENTAL EMPOWERMENT ACT OF 1997

Mrs. FEINSTEIN. Mr. President, I rise to urge my colleagues to support this simple but strong legislation to protect our children.

This bill, sponsored by myself, Senator BOXER, and Senator SNOWE, would provide three simple protections:

First, the bill would prohibit list brokers from selling personal information about children under 16 to anyone, without first getting the parent's consent.

All kinds of information about our children—more facts than most of us might think or hope for—is rapidly becoming available through these list brokers. It is only a matter of time before this information begins to fall into the wrong hands.

Last year, a reporter in Los Angeles was easily able to purchase parents' names, birth months and addresses for 5,500 children aged 1–12 in a particular neighborhood. The reporter used the name of a fictitious company, gave a non-working telephone number, had no credit card or check, and identified herself as Richard Allen Davis, the notorious murderer of Polly Klaas. When ordering the list, the company representative simply told her "Oh, you have a famous name," and sent her the information C.O.D. This is simply unacceptable.

Second, the bill would give parents the authority to demand information from the list brokers who traffic in the personal data of their children—brokers will be required to provide parents with a list of all those to whom they sold information about the child, and must also tell the parent precisely what kind of information was sold.

If this personal information is out there, and brokers are buying and selling it back and forth, it is only reasonable that we allow parents to find out what information has been sold and to whom that information has been given.

Finally, this bill would prohibit list brokers from using prison labor to input personal information. This seems like common sense to most of us, but unfortunately the use of prison labor is not currently prohibited.

Last year when I introduced this bill, I spoke of the plight of Beverly Dennis, an Ohio grandmother who filled out a detailed marketing questionnaire about her buying habits for a mail in survey. She filled out the questionnaire when she was told that she might receive free product samples and helpful information. Rather than receiving product information, however, she soon began to receive sexually explicit, fact-specific letters from a convicted rapist serving time.

The rapist, writing from his prison cell, had learned the very private, intimate details about her life because he was keypunching her personal questionnaire data into a computer for a subcontractor. Ms. Dennis received letters with elaborate sexual fantasies, weaved around personal facts provided by her in the questionnaire. This bill would have prevented the situation from ever occurring.

Finally, Mr. President, this year I have included in the bill exemptions for sales to law enforcement organizations, the Center for Missing and Exploited Children, and to accredited colleges and universities. We received a great deal of input since we introduced the bill last June, and I believe we have addressed most of the concerns about our bill with these exemptions.

Schools will be able to get information about prospective students, law enforcement will be able to get the lists to help them find missing kids, and the Center for Missing and Exploited Children will be able to do likewise.

This bill is really very simple. Some marketing companies may be unhappy that the government is trying to legislate how they do business, but we have to weigh the safety and well-being of our children against the small inconvenience of requiring parental consent in these cases. Given the rapidly changing nature of the marketing business and the ways in which child molesters and other criminals operate, this bill is an important step in protecting our kids from those who would do them harm.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 504

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Privacy Protection and Parental Empowerment Act of 1997".

SEC. 2. PROHIBITION OF CERTAIN ACTIVITIES RELATING TO PERSONAL INFORMATION ABOUT CHILDREN.

(a) IN GENERAL.—Chapter 89 of title 18, United States Code, is amended by adding at the end the following:

"§ 1822. Sale of personal information about children

"(a) PROHIBITION.—Whoever, in or affecting interstate or foreign commerce—

"(1) being a list broker, knowingly—

"(A) sells, purchases, or receives remuneration for providing personal information about a child knowing that such information pertains to a child without the consent of a parent of that child;

"(B) conditions any sale or service to a child or to that child's parent on the granting of such a consent; or

"(C) fails to comply with the request of a parent—

"(i) to disclose the source of personal information about that parent's child;

"(ii) to disclose all information that has been sold or otherwise disclosed by that list broker about that child; or

"(iii) to disclose the identity of all persons to whom the list broker has sold or otherwise disclosed personal information about that child;

"(2) being a person who, using any personal information about a child in the course of commerce that was obtained for commercial purposes, has directly contacted that child or a parent of that child to offer a commercial product or service to that child, knowingly fails to comply with the request of a parent—

"(A) to disclose to the parent the source of personal information about that parent's child;

"(B) to disclose all information that has been sold or otherwise disclosed by that person about that child; or

"(C) to disclose the identity of all persons to whom such a person has sold or otherwise disclosed personal information about that child;

"(3) knowingly uses prison inmate labor, or any worker who is registered pursuant to title XVII of the Violent Crime Control and Law Enforcement Act of 1994, for data processing of personal information about children; or

"(4) knowingly distributes or receives any personal information about a child, knowing or having reason to believe that the information will be used to abuse the child or physically to harm the child;

shall be fined under this title, imprisoned not more than 1 year, or both.

"(b) CIVIL ACTIONS.—A child or the parent of that child with respect to whom a violation of this section occurs may in a civil action obtain appropriate relief, including monetary damages of not less than $1,000. The court shall award a prevailing plaintiff in a civil action under this subsection a reasonable attorney's fee as a part of the costs.

"(c) LIMITATION.—Nothing in this section shall be construed to affect the sale of lists to—

"(1) any Federal, State, or local government agency or law enforcement organization;

"(2) the National Center for Missing and Exploited Children; or

"(3) any institution of higher education (as that term is defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(d) DEFINITIONS.—In this section—

"(1) the term 'child' means a person who has not attained the age of 16 years;

"(2) the term 'parent' includes a legal guardian;

"(3) the term 'personal information' means information (including name, address, telephone number, social security number, and physical description) about an individual identified as a child, that would suffice to physically locate and contact that individual; and

"(4) the term 'list broker' means a person who, in the course of business, provides mailing lists, computerized or telephone reference services, or the like containing personal information of children.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 89 of title 18, United States Code, is amended by adding at the end the following:

"1822. Sale of personal information about children.".

By Mr. HATCH (for himself, Mr. LEAHY, Mr. D'AMATO, Mr. THOMPSON, Mr. ABRAHAM, and Mrs. FEINSTEIN):

S. 505. A bill to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes; to the Committee on the Judiciary.

THE COPYRIGHT TERM EXTENSION ACT OF 1997

By Mr. HATCH:

S. 506. A bill to clarify certain copyright provisions, and for other purposes; to the Committee on the Judiciary.

THE COPYRIGHT CLARIFICATIONS ACT OF 1997

By Mr. HATCH:

S. 507. A bill to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes; to the Committee on the Judiciary.

THE OMNIBUS PATENT ACT OF 1997

Mr. HATCH. Mr. President, intellectual property is vitally important to sustaining the high level of creativity that America enjoys, which not only adds to the fund of human knowledge and the progress of science and technology, but also results in the more tangible benefits of a strong economy and a favorable balance of trade.

For example, in 1994, copyright-related industries contributed more than $385 billion to the American economy, or more than 5 percent of the total gross domestic product. This represents more than $50 billion in foreign sales, which exceeds every other leading industry sector except automotive and agriculture in contributions to a favorable trade balance. From 1977 to 1994, these same industries grew at a rate that was twice the rate of growth of the national economy, and the rate of job growth in these industries since 1987 has outpaced that of the overall economy by more than 100 percent.

Mr. President, this is impressive to say the least. And these figures don't begin to take into account the contributions of other intellectual property sectors, including trade in patented technologies and the economic value of famous marks. Clearly intellectual property has become one of our Nation's most valuable resources.

As you know, the Judiciary Committee, is charged with monitoring the effectiveness of our intellectual property laws and with proposing to the Senate changes that are called for to meet new challenges. Because of the digital age and the global economy, we've had our hands full. Let me just go through a few highlights.

In the 104th Congress, we passed the Digital Performance Right in Sound Recordings Act, which, as its name signifies, adjusts the existing performance right in the Copyright Act to the demands of the new digital media. I also introduced, with Senator LEAHY, the National Information Infrastructure (NII) Copyright Protection Act of 1995 to begin to lay down the rules of the road for the information highway. The Committee held two hearings on this bill, but not enough time was left in the 104th to complete our deliberations.

In response to the challenges of the global economy, I introduced the Copyright Term Extension Act of 1995, along with Senator THOMPSON and Senator FEINSTEIN, to give U.S. copyright owners parity of term in the European Union. The EU has issued a directive to increase the minimum basic copyright term from life-plus-50 years to life-plus-70. If we do not follow suit, U.S. works in potentially all EU countries will receive 20 years less protection than the works of the nationals of the host country.

The Copyright Term Extension Act was approved by the Judiciary Committee. I am confident that the bill would have been approved by the Senate as well with little or no opposition, but unfortunately this important legislation was held hostage by advocates of music licensing reform—a totally unrelated issue.

In patents, too, we were very active. The Biotechnology Process Patents Act was passed. Also, I introduced the Omnibus Patent Act of 1996, which remade the Patent and Trademark Office into a government corporation. The corporate form would allow the Patent and Trademark Office to escape the micromanagement that it currently endures from the Commerce Department, although my bill preserved a policy link with the Department. The bill also made several very important substantive changes to the Patent Act.

After some tough negotiations, the Clinton administration ended up supporting the final version of the bill. The Judiciary Committee had a hearing on the bill, but Committee action was held hostage to yet another, totally unrelated issue—judicial nominations.

In addition to improving the efficiency of the patent and trademark systems, I have worked tirelessly for a number of years to rectify the injustice of making American inventors bear a heavier burden in deficit reduction than the ordinary citizen through the withholding of patent surcharge funds. Again last year I led an ultimately unsuccessful effort to ease this tax on American ingenuity.

Now no one has demonstrated more zeal for a balanced budget than I have. As you know, Mr. President, I was on the Senate floor for 3 weeks trying to get this body to discipline itself through the Balanced Budget Amendment. But I do not believe that inventors ought to pay a surcharge on their patent applications only to see that surcharge used for the general revenue rather than to improve the service they receive from the PTO. The PTO, after all, is a self-sustaining agency, not receiving a penny from taxpayer dollars. What they charge, they ought to keep. I am currently looking at a legislative solution to this problem.

I have also been looking into the special patent restoration rules that apply to pharmaceutical products. In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act. Essentially, this law—commonly known as, I am proud to say, the Hatch-Waxman Act—allowed generic drug manufacturers to rely on the costly safety and efficacy data of pioneer drug manufacturers and provided for partial patent restoration for pioneer products to offset a portion of the patent term lost due to FDA regulatory review.

I know that many are interested in revisiting particular provisions of the Hatch-Waxman Act now that we have had a decade-plus experience under the new system. In my view, to be successful, any Hatch-Waxman reform must be balanced in a manner that the American public, generic drug firms, and the R&D manufacturers are all able to realize benefits. Toward this end, my staff and I have been meeting with representatives of both segments of the pharmaceutical industry to identify areas of concern.

It is my hope that these discussions will result in proposals to create new incentives in our intellectual property protection system and efficiency in our regulatory processes that will increase the long-term strength of both segments of the industry. Our bottom line goal is clear: We want a climate that produces both innovative new medicines and lower-cost generic copies of off-patent products.

I do not guarantee success in this endeavor. I can only commit that I will listen to all parties involved and see if we can work together to forge a compromise on Hatch-Waxman reform. I would like to do it if we can, but I will not support any approach that is not balanced.

Let me just add that my willingness to work with all parties should not be construed as giving a veto to any particular party. Ultimately, the test I use will be: Will the American public be better off if a particular legislative proposal is adopted? If, and only if, this test can be met, will I ask others in this body to join me in moving legislation.

Mr. President, let me now turn to trademark legislation, an area in which we have had a lot of success. Both the Federal Trademark Dilution Act and the Anticounterfeiting Consumer Protection Act became law in the 104th Congress. The Federal Trademark Dilution Act was significant in that it established the first-ever Federal anti-dilution statute to provide nationwide protection against the whittling away of famous marks. The Anticounterfeiting Consumer Protection Act brought our Nation's anticounterfeiting laws up to speed with the quickly evolving counterfeiting trade by providing stiffer civil and criminal penalties and increasing the tools available to law enforcement to give them the upper hand in this fight.

As you can see though, Mr. President, we have a lot of unfinished business, so today I'm introducing two bills from the last Congress, the Omnibus Patent Act, and the Copyright Term Extension Act. In addition, I'm introducing the Copyright Clarification Act, which is a series of truly technical amendments to the Copyright Act. I am pleased that Senator LEAHY, the distinguished ranking member of the Judiciary Committee, Senator D'AMATO, the distinguished junior Senator from New York, Senator ABRAHAM, the distinguished junior Senator from Michigan, and Senator FEINSTEIN, the distinguished senior Senator from California, are joining me as cosponsors of the Copyright Term Extension Act of 1997.

Of course, Mr. President, these three bills do not comprise my entire intellectual property agenda. For example, at my request, the Copyright Office is taking a look at sui generis protection of databases and at amendments to the Satellite Home Viewer Act. The Copyright Office may very well have recommendations for legislation in this area, and I may introduce such legislation before the end of this session. However, because the three bills I am introducing today have widespread support and have been thoroughly discussed in the last Congress, it is appropriate that they be the first to be considered—old business before new business.

THE OMNIBUS PATENT ACT OF 1997

Mr. President, the Omnibus Patent Act of 1997 is identical to the latest version of a bill I introduced last Congress, S. 1961, except for a few technical changes. Last Congress, S. 1961 gained bipartisan support in the Senate, its counterpart, H.R. 3460 gained bipartisan support in the House, and the Clinton administration also supported this bill. Further, a large, broad coalition of representatives of the patent industry were strongly supportive of the bill. Additionally, the National Treasury Employees Union and the AFL–CIO both supported the provisions that affect their membership. I am fully confident that this far-reaching, bipartisan support will continue this Congress.

I have no doubt that had a vote been taken on S. 1961, it would have passed the Senate by an overwhelming vote. Unfortunately, we did not take up S. 1961 until later in the 104th Congress, and time ran out before we were able to reach a vote on this important measure.

In order to be certain that such a problem is not repeated, I am beginning this process early in the 105th Congress. The House is already acting to move through this important and needed measure without delay. The House counterpart to my bill, H.R. 400, was introduced by Congressman COBLE, the chairman of the House Judiciary Subcommittee on Courts and Intellectual Property. Chairman COBLE has held a hearing on H.R. 400, and the bill was subsequently favorably reported by the subcommittee and the full House Judiciary Committee. I look forward to the consideration of H.R. 400 by the full House of Representatives.

During the last Congress this bill was the subject of multiple hearings in both Houses of Congress. But, this is a new Congress, so I would like to review, once again, the purposes and goals of the Omnibus Patent Act of 1997.

The purposes of this bill are: (1) to provide for more efficient administration of the patent and trademark systems; (2) to discourage "gaming" the patent system while ensuring against loss of patent term and theft of American inventiveness; (3) to protect the rights of prior users of inventions which are later patented by another; (4) to increase the reliability of patents by allowing third parties more meaningful participation in the reexamination process; (5) to make certain that American provisional applications are given the same weight as other countries' provisional applications in other countries' courts; (6) to close a loophole in the plant patent provisions of the Patent Act; and (7) to allow for the filing of patent and trademark documents by electronic medium.

THE UNITED STATES PATENT AND TRADEMARK OFFICE

The United States leads the world in innovation. That leadership is a direct result of our long-standing commitment to strong patent protection. The strong protection of patents and trademarks are of vital importance not only to continued progress in science, but also to the economy. A vast array of industries depend on patents. From the chemical, electrical, biotechnological, and manufacturing industries to computer software and hardware. And trademark is important to all businesses, period.

I believe that we must not only keep our intellectual property laws current and strong, but we must do everything we can to make sure that the offices responsible for the administration of those laws are properly equipped and able to do their job as efficiently as possible.

Thus, the first provision of this bill makes the Patent and Trademark Office a government corporation, called the U.S. Patent and Trademark Organization. Basically, the effect of this provision is to separate the administration of the patent and trademark systems from micromanagement by the Department of Commerce, while maintaining a policy link to that Department. The current PTO has been hampered by burdensome red tape regarding personnel matters, and the office has also been held back from reaching its full potential by the repeated siphoning off of its user fees for other, unrelated expenditures.

The government corporation proposal was the subject of much discussion last Congress. The Administration, various union representatives, representatives of the users of the Patent and Trademark Office, and, of course, the officers of the PTO itself were all involved in helping me to craft this consensus legislation. I am confident that the product of these negotiations will enhance the efficiency of the USPTO while protecting the interests of the Commerce Department and the employees of the USPTO.

The structure of the USPTO under my bill vests primary responsibility for patent and trademark policy in the head of the USPTO, the Director, and primary responsibility for administration of the patent and trademark systems in the respective Commissioners of Patents and Trademarks. The corporate form of the USPTO inoculates the Patent and Trademark Offices as much as possible from the bureaucratic sclerosis that infects many federal agencies. Further, by subdividing the organization into separate patent and trademark offices, the bill will help raise the prominence of trademarks, an important part of intellectual property but long seen as the poor stepchild of the more prominent patent field.

The parties interested in patents and trademarks support having close access to the President by having the chief intellectual policy advisor directly linked to a cabinet officer. The Secretary of Commerce is a logical choice. As a result, while this bill would make the day-to-day functioning of the USPTO independent of the Commerce Department, the policy portion of the new organization will still be under the policy direction of the Secretary of Commerce. Further, as a government corporation, as opposed to a private corporation, the USPTO will remain subject to congressional oversight.

Mr. President, although the creation of the USPTO may be the most dramatic part of this bill, it also contains several important changes to substantive patent law that will, taken as a whole, dramatically improve our patent system.

With the adoption of the GATT provisions in 1994, the United States changed the manner in which it calculated the duration of patent terms. Under the old rule, patents lasted for seventeen years after the grant of the patent. The new rule under the legislation implementing GATT is that these patents last for twenty years from the time the patent application is filed.

In addition to harmonizing American patent terms with those of our major trading partners, this change solved the problem of "submarine patents". A submarine patent is not a military secret. Rather, it is a colloquial way to describe a legal but unscrupulous strategy to game the system and unfairly extend a patent term.

Submarine patenting is when an applicant purposefully delays the final granting of his patent by filing a series of amendments and delaying motions. Since, under the old system, the term did not start until the patent was granted, no patent term was lost. And since patent applications are secret in the United States until a patent is actually granted, no one knows that the patent application is pending. Thus, competitors continued to spend precious research and development dollars on technology that has already been developed.

When a competitor finally did develop the same technology, the submarine applicant sprang his trap. He would cease delaying his application and it would finally be approved. Then, he sued his competitor for infringing on his patent. Thus, he maximized his own patent term while tricking his competitors into wasting their money.

Mr. President, submarine patents are terribly inefficient. Because of them, the availability of new technology is delayed and instead of moving to new and better research, companies are fooled into throwing away time and money on technology that already exists.

By adopting GATT, and changing the manner in which we calculate the patent term to twenty years from filing, we eliminated the submarine problem. Under the current rule, if an applicant delays his own application, it simply shortens the time he will have after the actual granting of the patent. Thus, we have eliminated this unscrupulous, inefficient practice by removing its benefits.

Unfortunately, the change in term calculation potentially creates a new problem. Under the current law, if the Patent Office takes a long time to approve a patent, the delay comes out of the patent term, thus punishing the patent holder for the PTO's delay. This is not right.

The question we face now, Mr. President, is how to fix this new problem. Some have suggested combining the old seventeen years from granting system with the new twenty years from filing and giving the patent holder whichever is longer. But that approach leads to uncertainty in the length of a patent term and even worse, resurrects the submarine patent problem by giving benefits to an applicant who purposefully delays his own application. I believe that Titles II and III of the Omnibus Patent Act of 1997 solve the administrative delay dilemma without recreating old problems.

EARLY PUBLICATION

Title II of the bill provides for the early publication of patent applications. It would require the Patent Office to publish pending applications eighteen months after the application was filed. An exception to this rule is made for applications filed only in the United States. Those applications will be published 18 months after filing or 3 months after the office issues its first response on the application, whichever is later. By publishing early, competitors are put on notice that someone has already beaten them to the invention, thus allowing them to stop spending money researching that same art.

The claims that early publication will allow foreign competitors to steal American technology are simply not true. To start with, between 75 and 80 percent of patent applications filed in the United States are also filed abroad where 18-month publication is already the rule. Further, I have provided in my bill for delayed publication of applications only submitted in the United States to protect them from competitors. Additionally, once an application is published, Title II grants the applicant "provisional rights," that is, legal protection for his invention. Thus, while it is true that someone could break the law and steal the invention, that is true under current law and will always be true, and it will subject them to liability for their illegal actions.

PATENT TERM RESTORATION

Title III deals directly with the administrative delay problem by restoring to the patent holder any part of the term that is lost due to undue administrative delay. To prevent any possible confusion over what undue delay means, the bill sets specific deadlines for the Patent Office to act. The office has fourteen months to issue a first office action and four months to respond to subsequent applicant filings. Any delay beyond those deadlines is considered undue delay and will be restored to the patent term. Thus, Title III solves the administrative delay problem in a clear, predictable, and objective manner.

PRIOR DOMESTIC COMMERCIAL USE

Title IV deals with people who independently invent new art, and use it in commercial sale, but who never patent their invention. Specifically, this title provides rights to a person who has commercially sold an invention more than 1 year before another person files an application for a patent on the same subject matter. Anyone in this situation will be permitted to continue to sell his product without being required to pay a royalty to the patent holder. This basic fairness measure is aimed at protecting the innocent inventor who chooses to use trade secret protection instead of pursuing a patent and who has expended enough time and money to begin commercial sale of the invention. It also serves as an incentive for those who wish to seek a patent to seek it quickly, thus reducing the time during which others may acquire prior user rights. The incentives of this title will improve the efficiency of our patent system by protecting ongoing business concerns and encouraging swift prosecution of patent applications.

PATENT REEXAMINATION REFORM

Title V provides for a greater role for third parties in patent re-examination proceedings. Nothing is more basic to an effective system of patent protection than a reliable examination process. Without the high level of faith that the PTO has earned, respect for existing patents would fall away and innovation would be discouraged for fear of a lack of protection for new inventions.

In the information age, however, it is increasingly difficult for the PTO to keep track of all the prior art that exists. The examiners do the best job they can, but inevitably someone misses something and grants a patent that should not be granted. This is the problem that title V addresses.

Title V amends the existing reexamination process to allow third-parties to raise a challenge to an existing patent and to participate in the reexamination process in a meaningful way. Thus, the expertise of the patent examiner is supplemented by the knowledge and resources of third-parties who may have information not known to the patent examiner. Through this joint effort, we maximize the flow of information, increase the reliability of patents, and thereby increase the strength of the American patent system.

There are also safeguards to prevent this process from being abused by those who merely seek to harass a patent-holder. First, if a third-party requestor loses an appeal of his reexamination request, he may not subsequently raise any issue he could have raised during the examination proceeding in any forum. Second, a party that loses a civil action where that party failed to show the invalidity of the patent, the party may not subsequently seek a re-examination of such patent on any grounds that could have been raised in the civil action. Third, the burden of reexamination on the patent-holder is minimized by the fact that a reexamination is not like a court review, and that the patent holder need not submit any documentation in order to prevail.

PROVISIONAL APPLICATIONS FOR PATENTS

Title VI is comprised of miscellaneous provisions. First, it fixes a matter of a rather technical nature. Some foreign courts have interpreted American provisional applications in a way that would not preserve their filing priority. This title amends section 115 of Title 35 of the U.S. Code to clarify that if a provisional application is converted into a non-provisional application within 12 months of filing, that it stands as a full patent application, with the date of filing of the provisional application as the date of priority. If no request is made within 12 months, the provisional application is considered abandoned. This clarification will make certain that American provisional applications are given the same weight as other countries' provisional applications in other countries' courts.

PLANT PATENTS

Title VI also makes two corrections to the plant patent statute. First, the ban on tuber propagated plants is removed. This depression-era ban was included for fear of limiting the food supply. Obviously, this is no longer a concern. Second, the plant patent statute is amended to provide protection to parts of plants, as well as the whole plant. This closes a loophole that foreign growers have used to import the fruit or flowers of patented plants without paying a royalty because the entire plant was not being sold.

ELECTRONIC FILING

Lastly, this title also allows for the filing of patent and trademark documents by electronic medium. It is high time that the government office that is, by definition, always on the cutting edge of technology, be permitting to enter the age of computers.

Mr. President, this bill is an important, and necessary measure that enjoys overwhelming support. I am confident that it will be enacted into law this Congress.

THE COPYRIGHT TERM EXTENSION ACT OF 1997

Mr. President, the purpose of the Copyright Term Extension Act of 1997 is to ensure adequate copyright protection for American works abroad by extending the U.S. term of copyright protection for an additional 20 years. It also includes a provision reversing the Ninth Circuit decision in *La Cienega Music Co.* v. *ZZ Top* that calls into question the copyrights of thousands of musical works first distributed on sound recordings.

Except for the *La Cienega* provision, the substance of this bill is identical to S. 483, the Copyright Term Extension Act, which was passed by the Judiciary Committee on May 23, 1996, with overwhelming bipartisan support. This legislation also has the strong support of the Administration, as expressed by both the Commissioner of Patents and Trademarks, Bruce Lehman, and the Register of Copyrights, Marybeth Peters, in their testimony before the Judiciary Committee in the last Congress.

Twenty years ago, Mr. President, Congress fundamentally altered the way in which the U.S. calculates its term of copyright protection by abandoning a fixed-year term of protection and adopting a basic term of protection based on the life of the author. In adopting the life-plus-50 term, Congress cited three primary justifications for the change. 1) the need to conform the U.S. copyright term with the prevailing worldwide standard; 2) the insufficiency of the U.S. copyright term to provide a fair economic return for authors and their dependents; and, 3) the failure of the U.S. copyright term to keep pace with the substantially increased commercial life of copyrighted works resulting from the rapid growth in communications media.

Developments over the past 20 years have led to a widespread reconsideration of the adequacy of the life-plus-50-year term based on these same reasons. Among the main developments is the effect of demographic trends, such as increasing longevity and the trend toward rearing children later in life, on the effectiveness of the life-plus-50 term to provide adequate protection for American creators and their heirs. In addition, unprecedented growth in technology over the last 20 years, including the advent of digital media and the development of the National Information Infrastructure and the Internet, have dramatically enhanced the marketable lives of creative works. Most importantly, though, is the growing international movement toward the adoption the longer term of life-plus-70.

Thirty-five years ago, the Permanent Committee of the Berne Union began to reexamine the sufficiency of the life-plus-50-year term. Since then, a growing consensus of the inadequacy of the life-plus-50 term to protect creators in an increasingly competitive global marketplace has led to actions by several nations to increase the duration of copyright. Of particular importance is the 1993 directive issued by the European Union, which requires its member countries to implement a term of protection equal to the life of the author plus 70 years by July 1, 1995.

According to the Copyright Office, Belgium, Denmark, Finland, Germany, Greece, Ireland, Spain, and Sweden have all notified their laws to the European Commission and the Commission has found them to be in compliance with the EU Directive. Luxembourg, The Netherlands, Portugal, the United Kingdom, and Austria have each notified their implementing laws to the Commission and are awaiting certification. Other countries are currently in the process of bringing their laws into compliance. And, as the Register of Copyrights has stated, those countries that are seeking to join the European Union, including Poland, Hungary, Turkey, the Czech Republic, and Bulgaria, are likely to amend their copyright laws to conform with the life-plus-70 standard.

The reason this is of such importance to the United States is that the EU Directive also mandates the application of what is referred to as the rule of the shorter term. This rule may also be applied by adherents to the Berne Convention and the Universal Copyright Convention. In short, this rule permits those countries with longer copyright terms to limit protection of foreign works to the shorter term of protection granted in the country of origin. Thus, in those countries that adopt the longer term of life-plus-70, American works will forfeit 20 years of available protection and be protected instead for only the duration of the life-plus-50 term afforded under U.S. law.

Mr. President, I've already cited some statistics about the importance of copyright to our national economy. The fact is that America exports more copyrighted intellectual property than any country in the world, a huge percentage of it to nations of the European Union. In fact, intellectual property is our third largest export. And, according to 1994 estimates, copyright industries account for some 5.7 percent of the total gross domestic product. Furthermore, copyright industries are creating American jobs at twice the rate of other industries, with the number of U.S. workers employed by core copyright industries more than doubling between 1977 and 1994. Today, these industries contribute more to the economy and employ more workers than any single manufacturing sector, accounting for nearly 5 percent of the total U.S. workforce. In fact, in 1994, the core copyright industries employed more workers than the four leading noncopyright manufacturing sectors combined.

Clearly, Mr. President, America stands to lose a significant part of its international trading advantage if our copyright laws do not keep pace with emerging international standards. Given the mandated application of the rule of the shorter term under the EU Directive, American works will fall into the public domain 20 years before those of our European trading partners, undercutting our international trading position and depriving copyright owners of two decades of income they might otherwise have. Similar consequences will follow in those nations outside the EU that choose to exercise the rule of the shorter term under the Berne Convention and the Universal Copyright Convention.

Mr. President, adoption of the Copyright Term Extension Act will ensure fair compensation for the American creators whose efforts fuel the intellectual property sector of our economy by allowing American copyright owners to benefit to the fullest extent from foreign uses and will, at the same time, ensure that our trading partners do not get a free ride from their use of our intellectual property. And, as stated very simply by the Register of Copyrights in her testimony before the Judiciary Committee in the last Congress: "[i]t does appear that at some point in the future the standard will be life plus 70. The question is at what point does the United States move to this term * * *. As a leading creator and exporter of copyrighted works, the United States should not wait until it is forced to increase the term, rather it should set an example for other countries."

Mr. President, this bill is of crucial importance to our Nation's copyright owners and to our economy. It is also a balanced approach. It contains a provision, allowing the actual creators of copyrighted works in certain circumstances to bargain for the extra 20 years, except in the case of works made for hire. The libraries and archives, too, will be pleased to see that the bill provides them with additional latitude to reproduce and distribute material during the extension term, and it does not extend the copyright term for certain works that were unpublished at the time of the effective date of the 1976 act. This latter provision means that libraries and archives will be able to go forward with their plans to publish those unpublished works in 2003, the year after the current guaranteed term for unpublished works expires.

LA CIENEGA V. ZZ TOP

Mr. President, the Copyright Term Extension Act of 1997 also includes a provision to overturn the decision in *La Cienega Music Co* v. *ZZ Top*, 53 F.3d 950 (9th Cir. 1995), cert denied, 116 S. Ct. 331 (1995). In general, *La Cienega* held that distributing a sound recording to the public—for example by sale—is a "publication" of the music recorded on it under the 1909 Copyright Act. Under the 1909 act, publication without copyright notice caused loss of copyright protection. Almost all music that was first published on recordings did not contain copyright notice, because publishers believed that it was not technically a publication. The Copyright Office also considered these musical compositions to be unpublished. The effect of *La Cienega*, however, is that virtually all music before 1978 that was first distributed to the public on recordings has no copyright protection—at least in the 9th Circuit.

By contrast, the Second Circuit in *Rosette* v. *Rainbo Record Manufacturing Corp.*, 546 F.2d 461 (2d Cir. 1975), *aff'd per curiam*, 546 F.2d 461 (2d Cir. 1976) has held the opposite—that public distribution of recordings was not a publication of the music contained on them. As I have noted, *Rosette* comports with the nearly universal understanding of the music and sound recording industries and of the Copyright Office.

Since the Supreme Court has denied cert in *La Cienega*, whether one has copyright in thousands of musical compositions depends on whether the case is brought in the Second or Ninth Circuits. This situation is intolerable. Overturning the *La Cienega* decision will restore national uniformity on this important issue by confirming the wisdom of the custom and usage of the affected industries and of the Copyright Office for nearly 100 years. My bill, however, also contains a provision to ensure that Congress' affirmation of this view will not retroactively upset the disposition of previously adjudicated or pending cases.

THE COPYRIGHT CLARIFICATION ACT OF 1997

Finally, Mr. President, I am introducing the Copyright Clarification Act of 1997 to make a series of truly technical amendments to the Copyright Act. The need for these technical corrections was brought to my attention in the last Congress by the Register of Copyrights, Ms. Marybeth Peters. This bill was passed by the House of Representatives in similar form in the 104th Congress. Unfortunately time ran short on our efforts to enact the same bill in the Senate. The version I am introducing today is identical to H.R. 672, which passed the House under suspension of the rules just yesterday. I hope the Senate will follow suit and act expeditiously to make these important technical amendments.

CONCLUSION

Mr. President, each of the three bills I am introducing today is tremendously important

For the information of my colleagues I am submitting a brief summary of the Omnibus Patent Act of 1997, a section-by-section analysis of the Copyright Term Extension Act of 1997, and a summary of provisions of the Copyright Clarification Act of 1997. I ask unanimous consent that they be printed in the RECORD, along with the text of the Copyright Term Extension Act of 1997 and the text of the Copyright Clarification Act of 1997.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Term Extension Act of 1997".

SEC. 2. DURATION OF COPYRIGHT PROVISIONS.

(a) PREEMPTION WITH RESPECT TO OTHER LAWS.—Section 301(c) of title 17, United States Code, is amended by striking "February 15, 2047" each place it appears and inserting "February 15, 2067".

(b) DURATION OF COPYRIGHT: WORKS CREATED ON OR AFTER JANUARY 1, 1978.—Section 302 of title 17, United States Code, is amended—

(1) in subsection (a) by striking "fifty" and inserting "70";

(2) in subsection (b) by striking "fifty" and inserting "70";

(3) in subsection (c) in the first sentence—

(A) by striking "seventy-five" and inserting "95"; and

(B) by striking "one hundred" and inserting "120"; and

(4) in subsection (e) in the first sentence—

(A) by striking "seventy-five" and inserting "95";

(B) by striking "one hundred" and inserting "120"; and

(C) by striking "fifty" each place it appears and inserting "70".

(c) DURATION OF COPYRIGHT: WORKS CREATED BUT NOT PUBLISHED OR COPYRIGHTED BEFORE JANUARY 1, 1978.—Section 303 of title 17, United States Code, is amended in the second sentence by striking "December 31, 2027" and inserting "December 31, 2047".

(d) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—

(1) IN GENERAL.—Section 304 of title 17, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (B) by striking "47" and inserting "67"; and

(II) in subparagraph (C) by striking "47" and inserting "67";

(ii) in paragraph (2)—

(I) in subparagraph (A) by striking "47" and inserting "67"; and

(II) in subparagraph (B) by striking "47" and inserting "67"; and

(iii) in paragraph (3)—

(I) in subparagraph (A)(i) by striking "47" and inserting "67"; and

(II) in subparagraph (B) by striking "47" and inserting "67";

(B) by amending subsection (b) to read as follows:

"(b) COPYRIGHTS IN THEIR RENEWAL TERM AT THE TIME OF THE EFFECTIVE DATE OF THE COPYRIGHT TERM EXTENSION ACT OF 1997.—Any copyright still in its renewal term at the time that the Copyright Term Extension Act of 1997 becomes effective shall have a copyright term of 95 years from the date copyright was originally secured.";

(C) in subsection (c)(4)(A) in the first sentence by inserting "or, in the case of a termination under subsection (d), within the five-year period specified by subsection (d)(2)," after "specified by clause (3) of this subsection,"; and

(D) by adding at the end the following new subsection:

"(d) TERMINATION RIGHTS PROVIDED IN SUBSECTION (c) WHICH HAVE EXPIRED ON OR BEFORE THE EFFECTIVE DATE OF THE COPYRIGHT TERM EXTENSION ACT OF 1997.—In the case of any copyright other than a work made for hire, subsisting in its renewal term on the effective date of the Copyright Term Extension Act of 1997 for which the termination right provided in subsection (c) has expired by such date, where the author or owner of the termination right has not previously exercised such termination right, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or any right under it, executed before January 1, 1978, by any of the persons designated in subsection (a)(1)(C) of this section, other than by will, is subject to termination under the following conditions:

"(1) The conditions specified in subsection (c) (1), (2), (4), (5), and (6) of this section apply to terminations of the last 20 years of copyright term as provided by the amendments made by the Copyright Term Extension Act of 1997.

"(2) Termination of the grant may be effected at any time during a period of 5 years beginning at the end of 75 years from the date copyright was originally secured.".

(2) COPYRIGHT RENEWAL ACT OF 1992.—Section 102 of the Copyright Renewal Act of 1992 (Public Law 102–307; 106 Stat. 266; 17 U.S.C. 304 note) is amended—

(A) in subsection (c)—

(i) by striking "47" and inserting "67";

(ii) by striking "(as amended by subsection (a) of this section)"; and

(iii) by striking "effective date of this section" each place it appears and inserting "effective date of the Copyright Term Extension Act of 1997"; and

(B) in subsection (g)(2) in the second sentence by inserting before the period the following: ", except each reference to forty-seven years in such provisions shall be deemed to be 67 years".

SEC. 3. REPRODUCTION BY LIBRARIES AND ARCHIVES.

Section 108 of title 17, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

"(h)(1) For purposes of this section, during the last 20 years of any term of copyright of a published work, a library or archives, including a nonprofit educational institution that functions as such, may reproduce, distribute, display, or perform in facsimile or digital form a copy or phonorecord of such work, or portions thereof, for purposes of preservation, scholarship, or research, if such library or archives has first determined, on the basis of a reasonable investigation, that none of the conditions set forth in subparagraphs (A), (B), and (C) of paragraph (2) apply.

"(2) No reproduction, distribution, display, or performance is authorized under this subsection if—

"(A) the work is subject to normal commercial exploitation;

"(B) a copy or phonorecord of the work can be obtained at a reasonable price; or

"(C) the copyright owner or its agent provides notice pursuant to regulations promulgated by the Register of Copyrights that either of the conditions set forth in subparagraphs (A) and (B) applies.

"(3) The exemption provided in this subsection does not apply to any subsequent uses by users other than such library or archives.".

SEC. 4. DISTRIBUTION OF PHONORECORDS.

Section 303 of title 17, United States Code, is amended—

(1) in the first sentence by striking "Copyright" and inserting "(a) Copyright"; and

(2) by adding at the end the following:

"(b) The distribution before January 1, 1978, of phonorecords shall not constitute publication of the musical work embodied therein for purposes of the Copyright Act of 1909.".

SEC. 5. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) DISTRIBUTION OF PHONORECORDS.—The amendment made by section 4 shall not be a basis to reopen an action nor to commence a subsequent action for copyright infringement if an action in which such claim was raised was dismissed by final judgment before the date of enactment of this Act. The amendment made by section 4 shall not apply to any action pending on the date of enactment in any court in which a party, prior to the date of enactment, sought dismissal of, judgment on, or declaratory relief regarding a claim of infringement by arguing that the adverse party had no valid copyright in a musical work by virtue of the distribution of phonorecords embodying it.

THE COPYRIGHT TERM EXTENSION ACT OF 1997 (S. 505)—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

The proposed legislation is entitled the Copyright Term Extension Act of 1997.

SECTION 2. DURATION OF COPYRIGHT PROVISIONS

Section 2(a)—Preemption with Respect to Other Laws

This subsection amends §301(c) of the Copyright Act to extend for an additional 20 years the application of common law and state statutory protection for sound recordings fixed before February 15, 1972. Under §301, the federal law generally preempts all state and common law protection of copyright with several exceptions, including one for sound recordings fixed before February 15, 1972 (the effective date of the statute extending federal copyright protection to sound recordings). Because federal copyright protection applies only to sound recordings fixed on or after that date, federal preemption of state statutory and common law protection of sound recordings fixed before February 15, 1972, would result in all of these works falling into the public domain. The §301 exception was enacted to ensure a 75-year minimum term of copyright protection for these works. By delaying the date of federal Copyright Act preemption of state statutory and common law protection of pre-February 15, 1972, sound recordings until February 15, 2067, this subsection extends the minimum term of protection for these works by 20 years.

Section 2(b)—Duration of Copyright: Works Created on or After January 1, 1978

This subsection amends §302 of the Copyright Act to extend the U.S. term of copyright protection by 20 years for all works created on or after January 1, 1978. For works in general, which currently enjoy protection for the life of the author plus 50 additional years under §301(a), this section creates a term equal to the life of the author plus 70 years. Likewise, for joint works under §302(b), this section extends the current term of protection to the life of the last surviving author plus 70 years. For anonymous works, pseudonymous works, and works made for hire, which are protected the shorter of 75 years from publication or 100 years from creation under §302(c), this subsection extends the term to the shorter of 95 years from publication or 120 years from the date the work is created.

This subsection also amends §302(e) of the Copyright Act to extend by 20 years the various dates relating to the presumptive death of the author as a complete defense against copyright infringement. Whereas current copyright protection is generally tied to the life of the author, it is sometimes not possible to ascertain whether the author of a work is still living, or even to identify the year of death if the author is deceased. §302(e) provides a complete defense against copyright infringement when the work is used more than 75 years after publication or 100 years after creation, whichever is less, provided the user obtains a certificate from the Copyright Office indicating that it has no record to indicate whether that person is living or died less than 50 years before. This subsection would extend protection of such works for an additional 20 years—95 years from publication and 120 years from creation—as well as base the presumptive death of the author on certification by the Copyright Office that is has no record to indicate whether the person is living or died less than 70 years before, which is 20 years longer than the 50 years currently provided for in §302(e).

Section 2(c)—Duration of Copyright: Works Created But Not Published or Copyrighted Before January 1, 1978

This subsection amends §303 of the Copyright Act to extend the minimum term of copyright protection by 20 years for works created but not copyrighted before January 1, 1978, provided they are published prior to December 31, 2002. Prior to 1978, unpublished works enjoyed perpetual copyright protection. Beginning in 1978, however, copyright protection for unpublished works was limited to the life of the author plus 50 years, or 100 years from creation for anonymous works, pseudonymous works, and works made for hire. Under §303, however, works created but not published before January 1, 1978, are guaranteed protection until at least December 31, 2002. Works subsequently published before that date are guaranteed further protection until December 31, 2027. This subsection provides an additional 20 years of protection for these subsequently published works by ensuring that copyright protection will not expire before December 31, 1047.

Section 2(d)(1)(A)—Duration of Copyright: Copyrights in Their First Term on January 1, 1978

This subsection amends §304(a) of the Copyright Act to extend the term of protection for works in their first term on January 1, 1978, by extending the renewal term from 47 years to 67 years. The effect of this amendment is to provide a composite term of protection of 95 years from the date of publication.

Section 2(d)(1)(B)—Duration of Copyright: Copyright in Their Renewal Term or Registered for Renewal Before January 1, 1978

This subsection amends §304(b) of the Copyright Act to extend the copyright term of pre-1978 works currently in their renewal term from 75 years to 95 years. As amended, this section clarifies that the extension applies only to works that are currently under copyright protection and is not intended to restore copyright protection to works already in the public domain.

Section 2(d)(1)(C) & (D)—Termination of Transfers and Licenses

These subsections amend §340(c) of the Copyright Act and create a new subsection (d) to provide a revived power of termination for individual authors whose right to terminate prior transfers and licenses of copyright under §304(c) has expired, provided the author has not previously exercised that right. Under §304(c), an author may terminate a prior transfer or license of copyright for any work, other than a work made for hire, by serving advance written notice upon the grantee or the grantee's successor at least 2, but not more than 10, years prior to the effective date of the termination. Such termination may be effected at any time within 5 years beginning at the end of 56 years from the date of publication. The purpose of this termination provision was to afford the individual creator the opportunity to bargain for the benefit of the 19-year extension provided by the 1976 Copyright Act.

For most individual creators, the existing power of termination under §304(c) will allow them to terminate prior transfers and to bargain for the benefit of both the extension under the 1976 Copyright Act and the extension under the Copyright Term Extension Act of 1997. For a much smaller group of individuals, the five-year window in which to terminate prior transfers under §304(c) has already expired. Thus, these creators are denied the opportunity to reap the benefits of the extended term, while the current copyright owners are given a 20-year windfall. This subsection amends the existing termination provisions under §304(c) of Copyright Act to create a revived window, beginning at the end of the current 75-year copyright term, in which individual creators or their heirs who did not terminate previous transfers or grants prior to the expiration of their right of termination under §304(c) may bargain for the benefit of the extended term.

Section 2(d)(2)—Copyright Renewal Act revisions

This subsection makes corresponding amendments to §102 of the Copyright Renewal Act of 1992 (P.L. 102-307, 106 Stat. 266) to reflect the changes made by the Copyright Term Extension Act.

Section 3—Clarification of Library Exemption of Exclusive Rights

This subsection amends §108 of the Copyright Act, governing limited exemptions from copyright infringement for libraries and archives, including nonprofit educational institutions that function as such, by redesignating subsection (h) as subsection (i) and inserting a new subsection (h). The new subsection (h)(1) will allow libraries, archives, and nonprofit educational institutions to reproduce and distribute copies of works for preservation, scholarship, or research during the last 20 years of copyright, if the works are not being commercially exploited and cannot be obtained at a reasonable price. The new subsection (h)(2) provides that the limited exemption does not apply where the copyright owner provides notice to the Copyright Office that the conditions regarding commercial exploitation and reasonable availability have not been met. The new subsection (h)(3) provides that the exemption does not apply to subsequent users other than the libraries or archives.

SECTION 4. DISTRIBUTION OF PHONORECORDS

Section 4 affirms the longstanding view that the public distribution of phonorecords prior to 1978, did not constitute publication of the musical composition embodied therein under the 1909 Copyright Act. This section overturns the decision in *LaCienega Music Co.* v. *Z.Z. Top.*, 53 F.3d 950 (9th Cir. 1995), *cert. denied*, 116 S.Ct. 331 (1995), which held that the sale of records constituted "publication" of the musical composition under the 1909 Act, and implicitly ruled that unless such a copy contained a copyright notice, the composition entered the public domain immediately upon the first sale. The result of such a view is that potentially thousands of musical compositions will be stripped of their presumed copyright protection as unpublished works under the 1909 Act. Section 13 adopts the view of the Second Circuit that the pre-1978 sale or distribution of recordings to the public did not constitute a publication for copyright purposes. *Rosette* v. *Rainbo Record Mfg. Corp.*, 354 F.Supp. 1183 (S.D.N.Y.), *aff'd per curiam*, 546 F.2d 461 (2d. Cir. 1976). This same view is adopted by the Copyright Office, which for years has refused to accept registrations for such phonorecords as published works.

SECTION 5. EFFECTIVE DATE

Subsection (a) provides that this Act and the amendments made thereby shall be effective on the date of enactment. Subsection (b) provides, however, that the overturning of the *LaCienega* decision will not retroactively upset the disposition of previously adjudicated or pending cases.

Mr. LEAHY. Mr. President, I am glad to be working with Senator HATCH as original cosponsors of this, the Copyright Term Extension Act of 1997. We worked together on this matter last Congress to craft a bill that was reported by the Judiciary Committee to the Senate by a vote of 15 to 3.

I raised a number of questions and concerns during our Judiciary Committee hearing on this issue back in September 1995. I spoke of a letter I had received from Prof. Karen Burke Lefevre of Vermont and the Rensselaer Polytechnic Institute. She expressed reservations, as a researcher and author, that Congress not extend the term for unpublished works beyond the term set by the 1976 Act. This category of materials is set to have its copyrights expire in 2002. They include anonymous works and unpublished works of interest to scholars. In section 2(c) of the bill we introduce today, we accommodate these interests and preserve the public availability of these materials in 2003, if they remain unpublished on December 31, 2002.

I want to thank Marybeth Peters, our Register of Copyrights, for supporting this improvement in the bill, and Senator HATCH for working with me on it.

I am concerned about libraries, educational institutions and nonprofits being able to access materials and provide access in turn for research, archival, preservation and other purposes. We have also made progress in this area as reflected in section 3 of the bill. Copyright industry and library representatives have narrowed their differences. I ask for their continued help in crafting the best balance possible to create public access for noncommercial purposes during the extension period without undercutting the value of copyrights.

At our hearing I also raised the notion of a new right of termination for works where the period of termination in current law has already passed and the 20-year extension inures to the benefit of a copyright transferee. This bill creates such a right of termination in section 2(d) of the bill.

At our hearing, I was still considering whether there was sufficient justification for extending the copyright term for an additional 20 years. At that time we were considering the European Union Directive to its member countries to provide copyright protection for a term of life plus 70 years by July 1, 1995. While many of our trading partners had not extended their terms by July 1995, they have acted to do so in the past 2 years.

I received a letter from Bruce A. Lehman, the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, in which he reported that Austria, Germany, Greece, France, Denmark, Belgium, Ireland, Spain, Italy and the United Kingdom had complied with the EU Directive on Copyright Term. Sweden, Portugal, Finland and the Netherlands were reported to have legislation to do so pending, as well. With so many of our trading partners moving to the longer term but preparing to recognize American works for only the shorter term, I believe it is time for us to act.

This bill also now includes a revised version of legislation that passed the House last Congress but was stalled in the Senate to clarify the Copyright Act of 1909 with regard to whether the distribution of phonorecords may be held to be a divesting publication of the copyright in the musical composition embodied therein. The revision is intended to clarify the law while not affecting cases in which parties have litigated or are litigating this issue.

Finally, I feel strongly that the extension of the copyright term should include public benefit, such as the creation of new works or benefit to public arts. Senator DODD, Senator KENNEDY, and I have been concerned about finding an appropriate way to benefit the public from this extension and continue to do so. Along these lines, the Copyright Office is examining how the extension in this bill will benefit copyright industries, authors and the public.

Given the changes made to meet the concerns that I raised with an earlier bill and in light of the international developments that are disadvantaging American copyrighted works, I cosponsored the Committee substitute at our Judiciary Committee executive business session last Congress and pressed for its consideration by the Senate. Unfortunately, this bill was not considered by the Senate during the 104th Congress.

Accordingly, I join with Senator HATCH to reintroduce this copyright term extension legislation this Congress and look forward to working with him to see to its enactment, without further delay.

Mrs. FEINSTEIN. Mr. President, I want to express my support for the Copyright Term Extension Act of 1997. I believe that extending the basic term of copyright protection by 20 years is a step in the right direction.

Perhaps the most compelling reason for this legislation is the need for greater international reciprocity in honoring copyright terms. The European Union has formally adopted a life plus 70 copyright term, and countries currently awaiting admission to the Union will adopt this standard in the future. Several countries outside of the European Union also have turned to the life plus 70 term, and many expect it to become the international standard.

By extending to life plus 70 years, Congress will help ensure that American creators receive comparable protection in other countries. If we do not act, other nations will not be required to provide American authors and artists with any more protection than we offer them at home.

And, before the United States is the world's leader in the production of intellectual property, and because the State of California is home to many of the leading copyright industries, this issue is of great importance to me. We could be the net losers if we do not move toward greater harmonization.

Intellectual property—the collective creative output of America's makers of movies, music, art, and other works—is an enormous asset to the Nation's economy and balance of trade.

The International Intellectual Property Alliance estimates that copyright-related industries contributed more than $385 billion to the U.S. economy in 1994, with more than $50 billion in foreign sales.

Many other countries have preferred to appropriate and re-sell American films, music, and computer programs—some of the great exports of my State of California—rather than license American works.

The United States suffers greatly from illegal duplication of our work. Why, then, should we sit back and allow European companies to legally profit from the use of our works, without paying us in return?

As Prof. Arthur Miller of Harvard Law School aptly, albeit bluntly, put it: "Unless Congress matches the copyright extension adopted by the European Union, we will lose 20 years of valuable protection against rip-off artists." Since America is the world's principal exporter of popular culture, extension of the basic copyright term is an important step in the right direction.

Reciprocity in copyright protection becomes even more necessary in today's global information society, where computer networks span the continents, and intellectual property is shuttled around the world in seconds.

The world has changed dramatically since 1976, when Congress established the present copyright terms. Many copyrighted works have a much longer commercial life than they used to have.

Videocassettes, cable television, and new satellite delivery systems have extended the commercial life of movies and television series. New technologies not only have extended but also have expanded the market for creative content. Cable television, which promises hundreds of different channels, has vastly expanded this market. Networked computers add to the demand for content. Interactive television promises to do the same.

The Copyright Term Extension Act will go far to address the global developments I have mentioned.

After introduction, I recommend that my colleagues and I further develop the language of the act to ensure that all contributors to the creative process receive benefits from the extended copyright term.

I urge my colleagues to support this bill.

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Clarifications Act of 1997".

SEC. 2. SATELLITE HOME VIEWER ACT OF 1994.

The Satellite Home Viewer Act of 1994 (Public Law 103-369) is amended as follows:

(1) Section 2(3)(A) is amended to read as follows:

"(A) in clause (i) by striking '12 cents' and inserting '17.5 cents per subscriber in the case of superstations that as retransmitted by the satellite carrier include any program which, if delivered by any cable system in the United States, would be subject to the syndicated exclusivity rules of the Federal Communications Commission, and 14 cents per subscriber in the case of superstations that are syndex-proof as defined in section 258.2 of title 37, Code of Federal Regulations'; and".

(2) Section 2(4) is amended to read as follows:

"(4) Subsection (c) is amended—

"(A) in paragraph (1)—

"(i) by striking 'until December 31, 1992,';

"(ii) by striking '(2), (3) or (4)' and inserting '(2) or (3)'; and

"(iii) by striking the second sentence;

"(B) in paragraph (2)—

"(i) in subparagraph (A) by striking 'July 1, 1991' and inserting 'July 1, 1996'; and

"(ii) in subparagraph (D) by striking 'December 31, 1994' and inserting 'December 31, 1999, or in accordance with the terms of the agreement, whichever is later'; and

"(C) in paragraph (3)—

"(i) in subparagraph (A) by striking 'December 31, 1991' and inserting 'January 1, 1997';

"(ii) by amending subparagraph (B) to read as follows:

'(B) ESTABLISHMENT OF ROYALTY FEES.—In determining royalty fees under this paragraph, the copyright arbitration royalty panel appointed under chapter 8 shall establish fees for the retransmission of network stations and superstations that most clearly represent the fair market value of secondary transmissions. In determining the fair market value, the panel shall base its decision on economic, competitive, and programming information presented by the parties, including—

'(i) the competitive environment in which such programming is distributed, the cost of similar signals in similar private and compulsory license marketplaces, and any special features and conditions of the retransmission marketplace;

'(ii) the economic impact of such fees on copyright owners and satellite carriers; and

'(iii) the impact on the continued availability of secondary transmissions to the public.'; and

"(iii) in subparagraph (C), by inserting 'or July 1, 1997, whichever is later' after 'section 802(g)'.".

(3) Section 2(5)(A) is amended to read as follows:

"(A) in paragraph (5)(C) by striking 'the date of the enactment of the Satellite Home Viewer Act of 1988' and inserting 'November 16, 1988'; and".

SEC. 3. COPYRIGHT IN RESTORED WORKS.

Section 104A of title 17, United States Code, is amended as follows:

(1) Subsection (d)(3)(A) is amended to read as follows:

"(3) EXISTING DERIVATIVE WORKS.—(A) In the case of a derivative work that is based upon a restored work and is created—

"(i) before the date of the enactment of the Uruguay Round Agreements Act, if the source country of the restored work is an eligible country on such date, or

"(ii) before the date on which the source country of the restored work becomes an eligible country, if that country is not an eligible country on such date of enactment,

a reliance party may continue to exploit that derivative work for the duration of the restored copyright if the reliance party pays to the owner of the restored copyright reasonable compensation for conduct which would be subject to a remedy for infringement but for the provisions of this paragraph.".

(2) Subsection (e)(1)(B)(ii) is amended by striking the last sentence.

(3) Subsection (h)(2) is amended to read as follows:

"(2) The 'date of restoration' of a restored copyright is—

"(A) January 1, 1996, if the source country of the restored work is a nation adhering to the Berne Convention or a WTO member country on such date; or

"(B) the date of adherence or proclamation, in the case of any other source country of the restored work.".

(4) Subsection (h)(3) is amended to read as follows:

"(3) The term 'eligible country' means a nation, other than the United States, that—

"(A) becomes a WTO member country after the date of the enactment of the Uruguay Round Agreements Act;

"(B) on such date of enactment is, or after such date of enactment becomes, a member of the Berne Convention; or

"(C) after such date of enactment becomes subject to a proclamation under subsection (g).

For purposes of this paragraph, a nation that is a member of the Berne Convention on the date of the enactment of the Uruguay Round Agreements Act shall be construed to become an eligible country on such date of enactment.".

SEC. 4. LICENSES FOR NONEXEMPT SUBSCRIPTION TRANSMISSIONS.

Section 114(f) of title 17, United States Code, is amended—

(1) in paragraph (1), by inserting ", or, if a copyright arbitration royalty panel is convened, ending 30 days after the Librarian issues and publishes in the Federal Register an order adopting the determination of the copyright arbitration royalty panel or an order setting the terms and rates (if the Librarian rejects the panel's determination)" after "December 31, 2000"; and

(2) in paragraph (2), by striking "and publish in the Federal Register".

SEC. 5. ROYALTY PAYABLE UNDER COMPULSORY LICENSE.

Section 115(c)(3)(D) of title 17, United States Code, is amended by striking "and publish in the Federal Register".

SEC. 6. NEGOTIATED LICENSE FOR JUKEBOXES.

Section 116 of title 17, United States Code, is amended—

(1) by amending subsection (b)(2) to read as follows:

"(2) Arbitration.—Parties not subject to such a negotiation may determine, by arbitration in accordance with the provisions of chapter 8, the terms and rates and the division of fees described in paragraph (1)."; and

(2) by adding at the end the following new subsection:

"(d) Definitions.—As used in this section, the following terms mean the following:

"(1) A 'coin-operated phonorecord player' is a machine or device that—

"(A) is employed solely for the performance of nondramatic musical works by means of phonorecords upon being activated by the insertion of coins, currency, tokens, or other monetary units or their equivalent;

"(B) is located in an establishment making no direct or indirect charge for admission;

"(C) is accompanied by a list which is comprised of the titles of all the musical works available for performance on it, and is affixed to the phonorecord player or posted in the establishment in a prominent position where it can be readily examined by the public; and

"(D) affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located.

"(2) An 'operator' is any person who, alone or jointly with others—

"(A) owns a coin-operated phonorecord player;

"(B) has the power to make a coin-operated phonorecord player available for placement in an establishment for purposes of public performance; or

"(C) has the power to exercise primary control over the selection of the musical works made available for public performance on a coin-operated phonorecord player.".

SEC. 7. REGISTRATION AND INFRINGEMENT ACTIONS.

Section 411(b)(1) of title 17, United States Code, is amended to read as follows:

"(1) serves notice upon the infringer, not less than 48 hours before such fixation, identifying the work and the specific time and source of its first transmission, and declaring an intention to secure copyright in the work; and".

SEC. 8. COPYRIGHT OFFICE FEES.

(a) Fee Increases.—Section 708(b) of title 17, United States Code, is amended to read as follows:

"(b) In calendar year 1997 and in any subsequent calendar year, the Register of Copyrights, by regulation, may increase the fees specified in subsection (a) in the following manner:

"(1) The Register shall conduct a study of the costs incurred by the Copyright Office for the registration of claims, the recordation of documents, and the provision of services. The study shall also consider the timing of any increase in fees and the authority to use such fees consistent with the budget.

"(2) The Register may, on the basis of the study under paragraph (1), and subject to paragraph (5), increase fees to not more than that necessary to cover the reasonable costs incurred by the Copyright Office for the services described in paragraph (1), plus a reasonable inflation adjustment to account for any estimated increase in costs.

"(3) Any newly established fee under paragraph (2) shall be rounded off to the nearest dollar, or for a fee less than $12, rounded off to the nearest 50 cents.

"(4) The fees established under this subsection shall be fair and equitable and give due consideration to the objectives of the copyright system.

"(5) If the Register determines under paragraph (2) that fees should be increased, the Register shall prepare a proposed fee schedule and submit the schedule with the accompanying economic analysis to the Congress. The fees proposed by the Register may be instituted after the end of 120 days after the schedule is submitted to the Congress unless, within that 120-day period, a law is enacted stating in substance that the Congress does not approve the schedule.".

(b) Deposit of Fees.—Section 708(d) of such title is amended to read as follows:

"(d)(1) Except as provided in paragraph (2), all fees received under this section shall be deposited by the Register of Copyrights in the Treasury of the United States and shall be credited to the appropriations for necessary expenses of the Copyright Office. Such fees that are collected shall remain available until expended. The Register may, in accordance with regulations that he or she shall prescribe, refund any sum paid by mistake or in excess of the fee required by this section.

"(2) In the case of fees deposited against future services, the Register of Copyrights shall request the Secretary of the Treasury to invest in interest-bearing securities in the United States Treasury any portion of the fees that, as determined by the Register, is not required to meet current deposit account demands. Funds from such portion of fees shall be invested in securities that permit funds to be available to the Copyright Office at all times if they are determined to be necessary to meet current deposit account demands. Such investments shall be in public debt securities with maturities suitable to the needs of the Copyright Office, as determined by the Register of Copyrights, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(3) The income on such investments shall be deposited in the Treasury of the United States and shall be credited to the appropriations for necessary expenses of the Copyright Office.".

SEC. 9. COPYRIGHT ARBITRATION ROYALTY PANELS.

(a) Establishment and Purpose.—Section 801 of title 17, United States Code, is amended—

(1) in subsection (b)(1) by striking "and 116" in the first sentence and inserting "116, and 119";

(2) in subsection (c) by inserting after "panel" at the end of the sentence the following:

", including—

"(1) authorizing the distribution of those royalty fees collected under sections 111, 119, and 1005 that the Librarian has found are not subject to controversy; and

"(2) accepting or rejecting royalty claims filed under sections 111, 119, and 1007 on the basis of timeliness or the failure to establish the basis for a claim"; and

(3) by amending subsection (d) to read as follows:

"(d) Support and Reimbursement of Arbitration Panels.—The Librarian of Congress, upon the recommendation of the Register of Copyrights, shall provide the copyright arbitration royalty panels with the necessary administrative services related to proceedings under this chapter, and shall reimburse the arbitrators presiding in distribution proceedings at such intervals and in such manner as the Librarian shall provide by regulation. Each such arbitrator is an independent contractor acting on behalf of the United States, and shall be hired pursuant to a signed agreement between the Library of Congress and the arbitrator. Payments to the arbitrators shall be considered costs incurred by the Library of Congress and the Copyright Office for purposes of section 802(h)(1).".

(b) Proceedings.—Section 802 of title 17, United States Code, is amended—

(1) in subsection (c) by striking the last sentence; and

(2) in subsection (h) by amending paragraph (1) to read as follows:

"(1) Deduction of Costs of Library of Congress and Copyright Office from Royalty Fees.—The Librarian of Congress and the Register of Copyrights may, to the extent not otherwise provided under this title, deduct from royalty fees deposited or collected under this title the reasonable costs incurred by the Library of Congress and the

Copyright Office under this chapter. Such deduction may be made before the fees are distributed to any copyright claimants. In addition, all funds made available by an appropriations Act as offsetting collections and available for deductions under this subsection shall remain available until expended. In ratemaking proceedings, the Librarian of Congress and the Copyright Office may assess their reasonable costs directly to the parties to the most recent relevant arbitration proceeding, 50 percent of the costs to the parties who would receive royalties from the royalty rate adopted in the proceeding and 50 percent of the costs to the parties who would pay the royalty rate so adopted.".

SEC. 10. DIGITAL AUDIO RECORDING DEVICES AND MEDIA.

Section 1007(b) of title 17, United States Code, is amended by striking "Within 30 days after" in the first sentence and inserting "After".

SEC. 11. CONFORMING AMENDMENT.

Section 4 of the Digital Performance Right in Sound Recordings Act of 1995 (Public Law 104-39) is amended by redesignating paragraph (5) as paragraph (4).

SEC. 12. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 17, UNITED STATES CODE.—Title 17, United States Code, is amended as follows:

(1) The table of chapters at the beginning of title 17, United States Code, is amended—

(A) in the item relating to chapter 6, by striking "**Requirement**" and inserting "**Requirements**";

(B) in the item relating to chapter 8, by striking "**Royalty Tribunal**" and inserting "**Arbitration Royalty Panels**";

(C) in the item relating to chapter 9, by striking "**semiconductor chip products**" and inserting "**Semiconductor Chip Products**"; and

(D) by inserting after the item relating to chapter 9 the following:

"10. Digital Audio Recording Devices and Media .... 1001".

(2) The item relating to section 117 in the table of sections at the beginning of chapter 1 is amended to read as follows:

"117. Limitations on exclusive rights: Computer programs.".

(3) Section 101 is amended in the definition of to perform or display a work "publicly" by striking "processs" and inserting "process".

(4) Section 108(e) is amended by striking "pair" and inserting "fair".

(5) Section 109(a)(2)(B) is amended by striking "Copyright" and inserting "Copyrights".

(6) Section 110 is amended—

(A) in paragraph (8) by striking the period at the end and inserting a semicolon;

(B) in paragraph (9) by striking the period at the end and inserting "; and"; and

(C) in paragraph (10) by striking "4 above" and inserting "(4)".

(7) Section 115(c)(3)(E) is amended—

(A) in clause (i) by striking "section 106(1) and (3)" each place it appears and inserting "paragraphs (1) and (3) of section 106"; and

(B) in clause (ii)(II) by striking "sections 106(1) and 106(3)" and inserting "paragraphs (1) and (3) of section 106".

(8) Section 119(c)(1) is amended by striking "unless until" and inserting "unless".

(9) Section 304(c) is amended in the matter preceding paragraph (1) by striking "the subsection (a)(1)(C)" and inserting "subsection (a)(1)(C)".

(10) Section 405(b) is amended by striking "condition or" and inserting "condition for".

(11) Section 407(d)(2) is amended by striking "cost of" and inserting "cost to".

(12) The item relating to section 504 in the table of sections at the beginning of chapter 5 is amended by striking "Damage" and inserting "Damages".

(13) Section 504(c)(2) is amended by striking "court it" and inserting "court in".

(14) Section 509(b) is amended by striking "merchandise; and baggage" and inserting "merchandise, and baggage".

(15) Section 601(a) is amended by striking "nondramtic" and inserting "nondramatic".

(16) Section 601(b)(1) is amended by striking "subsustantial" and inserting "substantial".

(17) The item relating to section 710 in the table of sections at the beginning of chapter 7 is amended by striking "Reproductions" and inserting "Reproduction".

(18) The item relating to section 801 in the table of sections at the beginning of chapter 8 is amended by striking "establishment" and inserting "Establishment".

(19) Section 801(b) is amended—

(A) by striking "shal be—" and inserting "shall be as follows:";

(B) in paragraph (1) by striking "to make" and inserting "To make";

(C) in paragraph (2)—

(i) by striking "to make" and inserting "To make"; and

(ii) in subparagraph (D) by striking "adjustment; and" and inserting "adjustment."; and

(D) in paragraph (3) by striking "to distribute" and inserting "To distribute".

(20) Section 803(b) is amended in the second sentence by striking "subsection subsection" and inserting "subsection".

(21) The item relating to section 903 in the table of sections at the beginning of chapter 9 is amended to read as follows:

"903. Ownership, transfer, licensure, and recordation.".

(22) Section 909(b)(1) is amended—

(A) by striking "force" and inserting "work"; and

(B) by striking "sumbol" and inserting "symbol".

(23) Section 910(a) is amended in the second sentence by striking "as used" and inserting "As used".

(24) Section 1006(b)(1) is amended by striking "Federation Television" and inserting "Federation of Television".

(25) Section 1007 is amended—

(A) in subsection (a)(1) by striking "The calendar year in which this chapter takes effect" and inserting "calendar year 1992"; and

(B) in subsection (b) by striking "the year in which this section takes effect" and inserting "1992".

(b) RELATED PROVISIONS.—

(1) Section 1(a)(1) of the Act entitled "An Act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities", approved November 9, 1987 (17 U.S.C. 914 note), is amended by striking "orginating" and inserting "originating".

(2) Section 2319(b)(1) of title 18, United States Code, is amended by striking "last 10" and inserting "least 10".

SEC. 13. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) SATELLITE HOME VIEWER ACT OF 1994.—The amendments made by section 2 shall be effective as if enacted as part of the Satellite Home Viewer Act of 1994 (Public Law 103-369).

(c) TECHNICAL AMENDMENT.—The amendment made by section 12(b)(1) shall be effective as if enacted on November 9, 1987.

SUMMARY OF PROVISIONS—COPYRIGHT CLARIFICATION ACT OF 1997 (S. 506)

The Copyright Clarification Act is intended to make several technical, yet important, changes to Copyright law, as suggested by the U.S. Copyright Office. The following is a brief summary of its provisions.

Satellite Home Viewer Act Technical Amendments. Section 2 makes technical corrections to the Satellite Home Viewer Act of 1994 (SHVA), as recommended by the Copyright Office. First, the bill corrects the dollar figures specified in the Act for royalties to be paid by satellite carriers—the 1994 SHVA amendments mistakenly reversed the rates set by arbitration in 1992 for signals subject to FCC syndicated exclusivity blackout rules vs. those that are not subject to such rules. Second, the bill corrects errors in section numbers and references resulting from the failure of the 1994 SHVA amendments to account for changes made to Title 17 by the Copyright Royalty Tribunal Act of 1993. Third, the bill replaces references to "the effective date of the Satellite Home Viewer Act of 1988" with the actual calendar date so as to avoid confusion caused by the two Acts bearing the same name.

Copyright Restoration. Section 3 clarifies ambiguities and corrects drafting errors in the Copyright Restoration Act, which was enacted as part of the 1994 Uruguay Round Agreements Act to restore copyright protection in the U.S. for certain works from WTO member countries that had fallen into the public domain. First, the bill corrects a drafting error that precludes U.S. creators of derivative works from continuing to exploit those works if copyright protection in the underlying foreign work is restored under GATT. Second, the bill eliminates a duplicative reporting requirement. Third, the bill clarifies Congress' intent that the effective date of restoration is January 1, 1996 (not 1995 as interpreted by some commentators). Fourth, the bill clarifies the definition of "eligible country" as it pertains to limited rights of continued exploitation for those who rely on public domain works that were restored under GATT. An ambiguous reference in the original bill left open the possible interpretation that a party would not qualify as a "reliance party" where reliance had not predated adherence to the Berne Convention for the country of origin—a date that goes as far back as 1886 for many countries.

Digital Performance Right in Sound Recordings. Section 4 ensures that the effective rates under the 1995 digital performance rights bill will not lapse. That bill requires new rates to be established during 2000, and the 1996 rates are to expire at the end of 2000. In the case where the copyright arbitration royalty panel (CARP) does not complete its work by the end of the year, or where the Librarian of Congress does not complete its review of the CARP's report by the end of the year, this section provides that the 1996 rates will continue beyond the December 31, 2000, expiration date until 30 days after the Librarian publishes a decision to adopt or reject the CARP's rate adjustment. This section (as well as provisions in Section 5) also eliminates authorization for a CARP to publish its report in the Federal Register since only federal agencies are permitted to do so. Instead, CARP decisions will be published by the Librarian. Section 11 corrects a numbering mistake in the 1995 Digital Performance Right bill.

Negotiated Jukebox License. Section 6 restores the definitions of a "jukebox" and a "jukebox operator" to §116A of Title 17. These definitions were mistakenly eliminated from the old §116 jukebox compulsory license when that section was replaced by the current §116A negotiated jukebox license in the 1988 Berne Convention implementing legislation. This section also clarifies that all jukebox negotiated licenses that require arbitration are CARP proceedings.

Advance Notice of Intent to Copyright Live Performances. Section 7 changes the current 10-days advanced notice requirement for a copyright owner who intends to copyright the fixation of a live performance to a 48-hours advanced notice requirement. The current provision has proven unworkable for sporting events, in particular, where the teams and times of the event may not be known 10 days in advance.

Copyright Office Fees. Section 8 responds to ambiguities in the Copyright Fees and Technical Amendments Act of 1989. That bill allows the Copyright Office to increase fees in 1995, and every fifth year thereafter to reflect changes in the Consumer Price Index (CPI). The Copyright Office did not raise its fees in 1995, because it determined that the costs associated with the increase would be greater than the resulting revenue. Uncertainty has arisen as to whether the failure to increase fees in 1995 precludes the Copyright Office from increasing its fees again until 2000 and whether the increase in the CPI to be used in calculating the fee increase is the increase since the last fee settlement (1990) or only that since 1995. The bill clarifies that the Copyright Office may increase its fees in any given year, provided it has not done so within the last five years, and that the fees may be increased up to the amount required to cover the reasonable costs incurred by the Copyright Office plus a reasonable inflation adjustment to account for future increases in costs. The bill also allows the Register of Copyrights to invest funds from the prepaid fees in interest bearing securities in the U.S. Treasury and to use the income from those investments for Copyright Office expenses. It is expected that the proceeds will be used for the development of the Copyright Office's new electronic registration, recordation, and deposit system.

Copyright Arbitration Royalty Panels (CARPs). Section 9 clarifies administrative issues regarding the operation of the CARPs. First, it gives the Librarian of Congress express authority to pay panel members directly in ratemaking and distribution proceedings and clarifies that these arbitrators are independent contractors acting on behalf of the U.S. (thus subject to laws governing the conduct of government employees). Second, it clarifies that copyright owners and users are responsible for equal shares of the costs of ratemaking proceedings. Third, it clarifies by way of example the procedural and evidentiary rulings the Librarian of Congress can issue with respect to CARP proceedings. Fourth, it clarifies that the 1997 ratemaking proceeding for the satellite carrier compulsory license is a CARP proceeding.

Digital Audio Recording Devices. Section 10 provides added flexibility for the Librarian of Congress in setting the negotiation period for the distribution of digital audio recording technology (DART) royalties, with the intention of promoting settlements and timely distribution of royalties. The current March 30 annual deadline for determining whether there exist controversies among claimants has proven unworkable and is eliminated by this section.

Miscellaneous Technical Amendments. Section 12 makes various technical corrections, such as spelling, grammatical, capitalization, and other corrections, to title 17.

S. 507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Patent Act of 1997".

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Sec. 601. Provisional applications.
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TITLE I—UNITED STATES PATENT AND TRADEMARK ORGANIZATION

SEC. 101. SHORT TITLE.

This title may be cited as the "United States Patent and Trademark Organization Act of 1997".

Subtitle A—Establishment of the United States Patent and Trademark Organization

SEC. 111. ESTABLISHMENT OF THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION AS A GOVERNMENT CORPORATION.

(a) ESTABLISHMENT.—The United States Patent and Trademark Organization is established as a wholly owned Government corporation subject to chapter 91 of title 31, separate from any department, and shall be an agency of the United States under the policy direction of the Secretary of Commerce.

(b) OFFICES.—The United States Patent and Trademark Organization shall maintain its principal office in the District of Columbia, or the metropolitan area thereof, for the service of process and papers and for the purpose of carrying out its powers, duties, and obligations under this title. The United States Patent and Trademark Organization shall be deemed, for purposes of venue in civil actions, to be a resident of the district in which its principal office is located except where jurisdiction is otherwise provided by law. The United States Patent and Trademark Organization may establish satellite offices in such places as it considers necessary and appropriate in the conduct of its business.

(c) REFERENCE.—For purposes of this title, a reference to the "Organization" shall be a reference to the United States Patent and Trademark Organization, unless the context provides otherwise.

SEC. 112. POWERS AND DUTIES.

(a) IN GENERAL.—The United States Patent and Trademark Organization, under the policy direction of the Secretary of Commerce, shall be responsible for—

(1) the granting and issuing of patents and the registration of trademarks;

(2) conducting studies, programs, or exchanges of items or services regarding domestic and international patent and trademark law, the administration of the Organization, or any other function vested in the Organization by law, including programs to recognize, identify, assess, and forecast the technology of patented inventions and their utility to industry;

(3)(A) authorizing or conducting studies and programs cooperatively with foreign patent and trademark offices and international organizations, in connection with the granting and issuing of patents and the registration of trademarks; and

(B) with the concurrence of the Secretary of State, authorizing the transfer of not to exceed $100,000 in any year to the Department of State for the purpose of making special payments to international intergovernmental organizations for studies and programs for advancing international cooperation concerning patents, trademarks, and related matters; and

(4) disseminating to the public information with respect to patents and trademarks.

(b) SPECIAL PAYMENTS.—The special payments under subsection (a)(3)(B) may be in addition to any other payments or contributions to international organizations and shall not be subject to any limitations imposed by law on the amounts of such other payments or contributions by the United States Government.

(c) SPECIFIC POWERS.—The Organization—

(1) shall have perpetual succession;

(2) shall adopt and use a corporate seal, which shall be judicially noticed and with which letters patent, certificates of trademark registrations, and papers issued by the Organization shall be authenticated;

(3) may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings, subject to the provisions of section 116;

(4) may indemnify the Director of the United States Patent and Trademark Organization, the Commissioner of Patents, the Commissioner of Trademarks, and other officers, attorneys, agents, and employees (including members of the Management Advisory Boards of the Patent Office and the Trademark Office) of the Organization for liabilities and expenses incurred within the scope of their employment;

(5) may adopt, amend, and repeal bylaws, rules, regulations, and determinations, which—

(A) shall govern the manner in which its business will be conducted and the powers granted to it by law will be exercised; and

(B) shall be made after notice and opportunity for full participation by interested public and private parties;

(6) may acquire, construct, purchase, lease, hold, manage, operate, improve, alter, and renovate any real, personal, or mixed property, or any interest therein, as it considers necessary to carry out its functions;

(7)(A) may make such purchases, contracts for the construction, maintenance, or management and operation of facilities, and contracts for supplies or services, without regard to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Public Buildings Act (40 U.S.C. 601 et seq.), and the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.); and

(B) may enter into and perform such purchases and contracts for printing services, including the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the products of such processes, as it considers necessary to carry out the functions of the Organization, without regard to sections 501 through 517 and 1101 through 1123 of title 44, United States Code;

(8) may use, with their consent, services, equipment, personnel, and facilities of other departments, agencies, and instrumentalities of the Federal Government, on a reimbursable basis, and cooperate with such other departments, agencies, and instrumentalities in the establishment and use of services, equipment, and facilities of the Organization;

(9) may obtain from the Administrator of General Services such services as the Administrator is authorized to provide to other agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

(10) may use, with the consent of the United States and the agency, government, or international organization concerned, the services, records, facilities, or personnel of any State or local government agency or instrumentality or foreign government or international organization to perform functions on its behalf;

(11) may determine the character of, and the necessity for, its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of title 35, United States Code and the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946);

(12) may retain and use all of its revenues and receipts, including revenues from the sale, lease, or disposal of any real, personal, or mixed property, or any interest therein, of the Organization, including for research and development and capital investment, subject to the provisions of section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note);

(13) shall have the priority of the United States with respect to the payment of debts from bankrupt, insolvent, and decedents' estates;

(14) may accept monetary gifts or donations of services, or of real, personal, or mixed property, in order to carry out the functions of the Organization;

(15) may execute, in accordance with its bylaws, rules, and regulations, all instruments necessary and appropriate in the exercise of any of its powers; and

(16) may provide for liability insurance and insurance against any loss in connection with its property, other assets, or operations either by contract or by self-insurance.

(d) CONSTRUCTION.—Nothing in this section shall be construed to nullify, void, cancel, or interrupt any pending request-for-proposal let or contract issued by the General Services Administration for the specific purpose of relocating or leasing space to the United States Patent and Trademark Organization.

SEC. 113. ORGANIZATION AND MANAGEMENT.

(a) OFFICES.—The United States Patent and Trademark Organization shall consist of—

(1) the Office of the Director;

(2) the United States Patent Office; and

(3) the United States Trademark Office.

(b) DIRECTOR.—

(1) IN GENERAL.—The management of the United States Patent and Trademark Organization shall be vested in a Director of the United States Patent and Trademark Organization (hereafter in this title referred to as the "Director", unless the context provides otherwise), who shall be a citizen of the United States and who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be a person who, by reason of professional background and experience in patent or trademark law, is especially qualified to manage the Organization.

(2) DUTIES.—(A) The Director shall—

(i) be responsible for the Management and direction of the Organization and shall perform this duty in a fair, impartial, and equitable manner; and

(ii) strive to meet the goals set forth in the performance agreement described under paragraph (4).

(B) The Director shall advise the President, through and under the policy direction of the Secretary of Commerce, of all activities of the Organization undertaken in response to obligations of the United States under treaties and executive agreements, or which relate to cooperative programs with those authorities of foreign governments that are responsible for granting patents or registering trademarks. The Director shall also recommend to the President, through and under the policy direction of the Secretary of Commerce, changes in law or policy which may improve the ability of United States citizens to secure and enforce patent and trademark rights in the United States or in foreign countries.

(C)(i) At the direction of the President, the Director may represent the United States in international negotiations on matters of patents or trademarks, or may designate an officer or officers of the Organization to participate in such negotiations.

(ii) Nothing in this subparagraph shall be construed to alter any statutory responsibility of the Secretary of State or the United States Trade Representative.

(D) The Director, in consultation with the Director of the Office of Personnel Management, shall maintain a program for identifying national security positions and providing for appropriate security clearances.

(E) The Director may perform such personnel, procurement, and other functions, with respect to the United States Patent Office and the United States Trademark Office, where a centralized administration of such functions would improve the efficiency of the Offices, as determined by agreement of the Director, the Commissioner of Patents, and the Commissioner of Trademarks.

(F) Except as otherwise provided in this title, the Director shall ensure that—

(i) the United States Patent Office and the United States Trademark Office, respectively, shall—

(I) prepare all appropriation requests under section 1108 of title 31, United States Code, for each office for submission by the Director;

(II) adjust fees to provide sufficient revenues to cover the expenses of such office; and

(III) expend funds derived from such fees for only the functions of such office; and

(ii) each such office is not involved in the management of any other office.

(3) OATH.—The Director shall, before taking office, take an oath to discharge faithfully the duties of the Organization.

(4) COMPENSATION.—The Director shall receive compensation at the rate of pay in effect for level III of the Executive Schedule under section 5314 of title 5, United States Code and, in addition, may receive as a bonus, an amount which would raise total compensation to the equivalent of the level of the rate of pay in effect for level II of the Executive Schedule under section 5313 of title 5, based upon an evaluation by the Secretary of Commerce of the Director's performance as defined in an annual performance agreement between the Director and the Secretary. The annual performance agreement shall incorporate measurable goals as delineated in an annual performance plan agreed to by the Director and the Secretary.

(5) REMOVAL.—The Director shall serve at the pleasure of the President.

(6) DESIGNEE OF DIRECTOR.—The Director shall designate an officer of the Organization who shall be vested with the authority to act in the capacity of the Director in the event of the absence or incapacity of the Director.

(c) OFFICERS AND EMPLOYEES OF THE ORGANIZATION.—

(1) COMMISSIONERS OF PATENTS AND TRADEMARKS.—The Director shall appoint a Commissioner of Patents and a Commissioner of Trademarks under section 3 of title 35, United States Code and section 53 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946), respectively, as amended by this Act.

(2) OTHER OFFICERS AND EMPLOYEES.—The Director shall—

(A) appoint officers, employees (including attorneys), and agents of the Organization as the Director considers necessary to carry out its functions;

(B) fix the compensation of such officers and employees, except as provided in subsection (e); and

(C) define the authority and duties of such officers and employees and delegate to them such of the powers vested in the Organization as the Director may determine.

(3) Personnel limitations.—The Organization shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Organization shall be taken into account for purposes of applying any such limitation.

(d) Limits on Compensation.—Except as otherwise provided by law, the annual rate of basic pay of an officer or employee of the Organization may not be fixed at a rate that exceeds, and total compensation payable to any such officer or employee for any year may not exceed, the annual rate of basic pay in effect for level II of the Executive Schedule under section 5313 of title 5, United States Code. The Director shall prescribe such regulations as may be necessary to carry out this subsection.

(e) Inapplicability of Title 5, United States Code, Generally.—Except as otherwise provided in this section, officers and employees of the Organization shall not be subject to the provisions of title 5, United States Code, relating to Federal employees.

(f) Continued Applicability of Certain Provision of Title 5, United States Code.—

(1) In general.—The following provisions of title 5, United States Code, shall apply to the Organization and its officers and employees:

(A) Section 3110 (relating to employment of relatives; restrictions).

(B) Subchapter II of chapter 55 (relating to withholding pay).

(C) Subchapters II and III of chapter 73 (relating to employment limitations and political activities, respectively).

(D) Chapter 71 (relating to labor-management relations), subject to paragraph (2) and subsection (g).

(E) Section 3303 (relating to political recommendations).

(F) Subchapter II of chapter 61 (relating to flexible and compressed work schedules).

(G) Section 21302(b)(8) (relating to whistleblower protection) and whistleblower related provisions of chapter 12 (covering the role of the Office of Special Counsel).

(2) Compensation subject to collective bargaining.—

(A) In general.—Notwithstanding any other provision of law, for purposes of applying chapter 71 of title 5, United States Code, pursuant to paragraph (1)(D), basic pay and other forms of compensation shall be considered to be among the matters as to which the duty to bargain in good faith extends under such chapter.

(B) Exceptions.—The duty to bargain in good faith shall not, by reason of subparagraph (A), be considered to extend to any benefit under title 5, United States Code, which is afforded by paragraph (1), (2), (3), or (4) of subsection (g).

(C) Limitations apply.—Nothing in this subsection shall be considered to allow any limitation under subsection (d) to be exceeded.

(g) Provisions of Title 5, United States Code, that Continue to Apply, Subject to Certain Requirements.—

(1) Retirement.—(A) The provisions of subchapter III of chapter 83 and chapter 84 of title 5, United States Code, shall apply to the Organization and its officers and employees, subject to subparagraph (B).

(B)(i) The amount required of the Organization under the second sentence of section 8334(a)(1) of title 5, United States Code, with respect to any particular individual shall, instead of the amount which would otherwise apply, be equal to the normal-cost percentage (determined with respect to officers and employees of the Organization using dynamic assumptions, as defined by section 8401(9) of such title) of the individual's basic pay, minus the amount required to be withheld from such pay under such section 8334(a)(1).

(ii) The amount required of the Organization under section 8334(k)(1)(B) of title 5, United States Code, with respect to any particular individual shall be equal to an amount computed in a manner similar to that specified in clause (i), as determined in accordance with clause (iii).

(iii) Any regulations necessary to carry out this subparagraph shall be prescribed by the Office of Personnel Management.

(C) The United States Patent and Trademark Organization may supplement the benefits provided under the preceding provisions of this paragraph.

(2) Health benefits.—(A) The provisions of chapter 89 of title 5, United States Code, shall apply to the Organization and its officers and employees, subject to subparagraph (B).

(B)(i) With respect to any individual who becomes an officer or employee of the Organization pursuant to subsection (i), the eligibility of such individual to participate in such program as an annuitant (or of any other person to participate in such program as an annuitant based on the death of such individual) shall be determined disregarding the requirements of section 8905(b) of title 5, United States Code. The preceding sentence shall not apply if the individual ceases to be an officer or employee of the Organization for any period of time after becoming an officer or employee of the Organization pursuant to subsection (i) and before separation.

(ii) The Government contributions authorized by section 8906 of title 5, United States Code, for health benefits for anyone participating in the health benefits program pursuant to this subparagraph shall be made by the Organization in the same manner as provided under section 8906(g)(2) of such title with respect to the United States Postal Service for individuals associated therewith.

(iii) For purposes of this subparagraph, the term "annuitant" has the meaning given such term by section 8901(3) of title 5, United States Code.

(C) The Organization may supplement the benefits provided under the preceding provisions of this paragraph.

(3) Life insurance.—(A) The provisions of chapter 87 of title 5, United States Code, shall apply to the Organization and its officers and employees, subject to subparagraph (B).

(B)(i) Eligibility for life insurance coverage after retirement or while in receipt of compensation under subchapter I of chapter 81 of title 5, United States Code, shall be determined, in the case of any individual who becomes an officer or employee of the Organization pursuant to subsection (i), without regard to the requirements of section 8706(b)(1) or (2) of such title, but subject to the condition specified in the last sentence of paragraph (2)(B)(i) of this subsection.

(ii) Government contributions under section 8708(d) of such title on behalf of any such individual shall be made by the Organization in the same manner as provided under paragraph (3) thereof with respect to the United States Postal Service for individuals associated therewith.

(C) The Organization may supplement the benefits provided under the preceding provisions of this paragraph.

(4) Employees' compensation fund.—(A) Officers and employees of the Organization shall not become ineligible to participate in the program under chapter 81 of title 5, United States Code, relating to compensation for work injuries, by reason of subsection (e).

(B) The Organization shall remain responsible for reimbursing the Employees' Compensation Fund, pursuant to section 8147 of title 5, United States Code, for compensation paid or payable after the effective date of this title in accordance with chapter 81 of title 5, United States Code, with regard to any injury, disability, or death due to events arising before such date, whether or not a claim has been filed or is final on such date.

(h) Labor-Management Relations.—

(1) Labor relations and employee relations programs.—The Organization shall develop hiring practices, labor relations and employee relations programs with the objective of improving productivity and efficiency, incorporating the following principles:

(A) Such programs shall be consistent with the merit principles in section 2301(b) of title 5, United States Code.

(B) Such programs shall provide veterans preference protections equivalent to those established by sections 2108, 3308 through 3318, 3320, 3502, and 3504 of title 5, United States Code.

(C)(i) The right to work shall not be subject to undue restraint or coercion. The right to work shall not be infringed or restricted in any way based on membership in, affiliation with, or financial support of a labor organization.

(ii) No person shall be required, as a condition of employment or continuation of employment—

(I) to resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;

(II) to become or remain a member of a labor organization;

(III) to pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization;

(IV) to pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro rata portion of dues, fees, assessments, or other charges regularly required of members of a labor organization; or

(V) to be recommended, approved, referred, or cleared by or through a labor organization.

(iii) This subparagraph shall not apply to a person described in section 7103(a)(2)(v) of title 5, United States Code, or a "supervisor", "management official", or "confidential employee" as those terms are defined in 7103(a) (10), (11), and (13) of such title.

(iv) Any labor organization recognized by the Organization as the exclusive representative of a unit of employees of the Organization shall represent the interests of all employees in that unit without discrimination and without regard to labor organization membership.

(2) Adoption of existing labor agreements.—The Organization shall adopt all

labor agreements which are in effect, as of the day before the effective date of this title, with respect to such Organization (as then in effect).

(i) CARRYOVER OF PERSONNEL.—

(1) FROM PTO.—Effective as of the effective date of this title, all officers and employees of the Patent and Trademark Office on the day before such effective date shall become officers and employees of the Organization, without a break in service.

(2) OTHER PERSONNEL.—(A) Any individual who, on the day before the effective date of this title, is an officer or employee of the Department of Commerce (other than an officer or employee under paragraph (1)) shall be transferred to the Organization if—

(i) such individual serves in a position for which a major function is the performance of work reimbursed by the Patent and Trademark Office, as determined by the Secretary of Commerce;

(ii) such individual serves in a position that performed work in support of the Patent and Trademark Office during at least half of the incumbent's work time, as determined by the Secretary of Commerce; or

(iii) such transfer would be in the interest of the Organization, as determined by the Secretary of Commerce in consultation with the Director.

(B) Any transfer under this paragraph shall be effective as of the same effective date as referred to in paragraph (1), and shall be made without a break in service.

(3) ACCUMULATED LEAVE.—The amount of sick and annual leave and compensatory time accumulated under title 5, United States Code, before the effective date described in paragraph (1), by any individual who becomes an officer or employee of the Organization under this subsection, are obligations of the Organization.

(4) TERMINATION RIGHTS.—Any employee referred to in paragraph (1) or (2) of this subsection whose employment with the Organization is terminated during the 1-year period beginning on the effective date of this title shall be entitled to rights and benefits, to be afforded by the Organization, similar to those such employee would have had under Federal law if termination had occurred immediately before such date. An employee who would have been entitled to appeal any such termination to the Merit Systems Protection Board, if such termination had occurred immediately before such effective date, may appeal any such termination occurring within such 1-year period to the Board under such procedures as it may prescribe.

(5) TRANSITION PROVISIONS.—(A)(i) On or after the effective date of this title, the President shall appoint a Director of the United States Patent and Trademark Organization who shall serve until the earlier of—

(I) the date on which a Director qualifies under subsection (a); or

(II) the date occurring 1 year after the effective date of this title.

(ii) The President shall not make more than 1 appointment under this subparagraph.

(B) The individual serving as the Assistant Commissioner of Patents on the day before the effective date of this title shall serve as the Commissioner of Patents until the date on which a Commissioner of Patents is appointed under section 3 of title 35, United States Code, as amended by this Act.

(C) The individual serving as the Assistant Commissioner of Trademarks on the day before the effective date of this title shall serve as the Commissioner of Trademarks until the date on which a Commissioner of Trademarks is appointed under section 53 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946), as amended by this Act.

(j) COMPETITIVE STATUS.—For purposes of appointment to a position in the competitive service for which an officer or employee of the Organization is qualified, such officer or employee shall not forfeit any competitive status, acquired by such officer or employee before the effective date of this title, by reason of becoming an officer or employee of the Organization under subsection (i).

(k) SAVINGS PROVISIONS.—Compensation, benefits, and other terms and conditions of employment in effect immediately before the effective date of this title, whether provided by statute or by rules and regulations of the former Patent and Trademark Office or the executive branch of the Government of the United States, shall continue to apply to officers and employees of the Organization, until changed in accordance with this section (whether by action of the Director or otherwise).

(l) REMOVAL OF QUASI-JUDICIAL EXAMINERS.—The Organization may remove a patent examiner or examiner-in-chief, or a trademark examiner or member of a Trademark Trial and Appeal Board only for such cause as will promote the efficiency of the Organization.

SEC. 114. UNITED STATES PATENT OFFICE.

(a) ESTABLISHMENT OF THE PATENT OFFICE AS A SEPARATE ADMINISTRATIVE UNIT.—Section 1 of title 35, United States Code, is amended to read as follows:

"§ 1. Establishment

"(a) ESTABLISHMENT.—The United States Patent Office is established as a separate administrative unit of the United States Patent and Trademark Organization, where records, books, drawings, specifications, and other papers and things pertaining to patents shall be kept and preserved, except as otherwise provided by law.

"(b) REFERENCE.—For purposes of this title, the United States Patent Office shall also be referred to as the 'Office' and the 'Patent Office'.".

(b) POWERS AND DUTIES.—Section 2 of title 35, United States Code, is amended to read as follows:

"§ 2. Powers and duties

"The United States Patent Office, under the policy direction of the Secretary of Commerce through the Director of the United States Patent and Trademark Organization, shall be responsible for—

"(1) granting and issuing patents;

"(2) conducting studies, programs, or exchanges of items or services regarding domestic and international patent law, the administration of the Organization, or any other function vested in the Organization by law, including programs to recognize, identify, assess, and forecast the technology of patented inventions and their utility to industry;

"(3) authorizing or conducting studies and programs cooperatively with foreign patent offices and international organizations, in connection with the granting and issuing of patents; and

"(4) disseminating to the public information with respect to patents.

(c) ORGANIZATION AND MANAGEMENT.—Section 3 of title 35, United States Code, is amended to read as follows:

"§ 3. Officers and employees

"(a) COMMISSIONER.—

"(1) IN GENERAL.—The management of the United States Patent Office shall be vested in a Commissioner of Patents, who shall be a citizen of the United States and who shall be appointed by the Director of the United States Patent and Trademark Organization and shall serve at the pleasure of the Director of the United States Patent and Trademark Organization. The Commissioner of Patents shall be a person who, by reason of professional background and experience in patent law, is especially qualified to manage the Office.

"(2) DUTIES.—

"(A) IN GENERAL.—The Commissioner shall be responsible for all aspects of the management, administration, and operation of the Office, including the granting and issuing of patents, and shall perform these duties in a fair, impartial, and equitable manner.

"(B) ADVISING THE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION.—The Commissioner of Patents shall advise the Director of the United States Patent and Trademark Organization of all activities of the Office undertaken in response to obligations of the United States under treaties and executive agreements, or which relate to cooperative programs with those authorities of foreign governments that are responsible for granting patents. The Commissioner of Patents shall advise the Director of the United States Patent and Trademark Organization on matters of patent law and shall recommend to the Director of the United States Patent and Trademark Organization changes in law or policy which may improve the ability of United States citizens to secure and enforce patent rights in the United States or in foreign countries.

"(C) REGULATIONS.—The Commissioner may establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office. The Director of the United States Patent and Trademark Organization shall determine whether such regulations are consistent with the policy direction of the Secretary of Commerce.

"(D) CONSULTATION WITH THE MANAGEMENT ADVISORY BOARD.—(i) The Commissioner shall consult with the Management Advisory Board established in section 5—

"(I) on a regular basis on matters relating to the operation of the Office; and

"(II) before submitting budgetary proposals to the Director of the United States Patent and Trademark Organization for submission to the Office of Management and Budget or changing or proposing to change patent user fees or patent regulations.

"(ii) The Director of the United States Patent and Trademark Organization shall determine whether such fees or regulations are consistent with the policy direction of the Secretary of Commerce.

"(3) OATH.—The Commissioner shall, before taking office, take an oath to discharge faithfully the duties of the Office.

"(4) COMPENSATION.—

"(A) IN GENERAL.—The Commissioner shall receive compensation at the rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5.

"(B) BONUS.—In addition to compensation under subparagraph (A), the Commissioner may, at the discretion of the Director of the United States Patent and Trademark Organization, receive as a bonus, an amount which would raise total compensation to the equivalent of the rate of pay in effect for level III of the Executive Schedule under section 5314 of title 5.

"(b) OFFICERS AND EMPLOYEES.—The Commissioner shall appoint a Deputy Commissioner of Patents who shall be vested with the authority to act in the capacity of the

Commissioner in the event of the absence or incapacity of the Commissioner. In the event of a vacancy in the office of Commissioner, the Deputy Commissioner shall fill the office of Commissioner until a new Commissioner is appointed and takes office. Other officers, attorneys, employees, and agents shall be selected and appointed by the Commissioner, and shall be vested with such powers and duties as the Commissioner may determine.".

(d) Management Advisory Board.—Chapter 1 of part I of title 35, United States Code, is amended by inserting after section 4 the following:

"§5. Patent Office Management Advisory Board

"(a) Establishment of Management Advisory Board.—

"(1) Appointment.—The United States Patent Office shall have a Management Advisory Board (hereafter in this title referred to as the 'Advisory Board') of 5 members, who shall be appointed by the President and shall serve at the pleasure of the President. Not more than 3 of the 5 members shall be members of the same political party.

"(2) Chair.—The President shall designate a Chair of the Advisory Board, whose term as chair shall be for 3 years.

"(3) Timing of appointments.—Initial appointments to the Advisory Board shall be made within 3 months after the effective date of the United States Patent and Trademark Organization Act of 1997. Vacancies shall be filled in the manner in which the original appointment was made under this subsection within 3 months after they occur.

"(b) Basis for Appointments.—Members of the Advisory Board shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the United States Patent Office, and shall include individuals with substantial background and achievement in corporate finance and management.

"(c) Meetings.—The Advisory Board shall meet at the call of the Chair to consider an agenda set by the Chair.

"(d) Duties.—The Advisory Board shall—

"(1) review the policies, goals, performance, budget, and user fees of the United States Patent Office, and advise the Commissioner on these matters;

"(2) within 60 days after the end of each fiscal year—

"(A) prepare an annual report on the matters referred to in paragraph (1);

"(B) transmit the report to the Director of the United States Patent and Trademark Organization, the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and

"(C) publish the report in the Patent Office Official Gazette.

"(f) Compensation.—Each member of the Advisory Board shall be compensated for each day (including travel time) during which such member is attending meetings or conferences of the Advisory Board or otherwise engaged in the business of the Advisory Board, at the rate which is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5, and while away from such member's home or regular place of business such member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

"(g) Access to Information.—Members of the Advisory Board shall be provided access to records and information in the United States Patent Office, except for personnel or other privileged information and information concerning patent applications required to be kept in confidence by section 122.".

(e) Conforming Amendments.—Section 6 of title 35, United States Code, and the item relating to such section in the table of contents for chapter 1 of title 35, United States Code, are repealed.

(f) Board of Patent Appeals and Interferences.—Section 7 of title 35, United States Code, is amended to read as follows:

"§7. Board of Patent Appeals and Interferences

"(a) Establishment and Composition.—There shall be in the United States Patent Office a Board of Patent Appeals and Interferences. The Commissioner, the Deputy Commissioner, and the examiners-in-chief shall constitute the Board. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability.

"(b) Duties.—

"(1) In general.—The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, a patent owner, or a third-party requester in a reexamination proceeding—

"(A) review adverse decisions of examiners—

"(i) upon applications for patents; and

"(ii) in reexamination proceedings; and

"(B) determine priority and patentability of invention in interferences declared under section 135(a).

"(2) Hearings.—Each appeal and interference shall be heard by at least 3 members of the Board, who shall be designated by the Deputy Commissioner. Only the Board of Patent Appeals and Interferences may grant rehearings.".

(g) Annual Report of Commissioner.—Section 14 of title 35, United States Code, is amended to read as follows:

"§14. Annual report to Congress

"The Commissioner shall report to the Director of the United States Patent and Trademark Organization such information as the Director is required to submit to Congress annually under chapter 91 of title 31, including—

"(1) the total of the moneys received and expended by the Office;

"(2) the purposes for which the moneys were spent;

"(3) the quality and quantity of the work of the Office; and

"(4) other information relating to the Office.".

(h) Practice Before Patent Office.—

(1) In general.—Section 31 of title 35, United States Code, is amended to read as follows:

"§31. Regulations for agents and attorneys

"The Commissioner may prescribe regulations governing the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the Office. The regulations may require such persons, before being recognized as representatives of applicants or other persons, to show that they are of good moral character and reputation and are possessed of the necessary qualifications to render to applicants or other persons valuable service, advice, and assistance in the presentation or prosecution of their applications or other business before the Office.".

(2) Designation of attorney to conduct hearing.—Section 32 of title 35, United States Code, is amended in the first sentence by striking "Patent and Trademark Office" and inserting "Patent Office" and by inserting before the last sentence the following: "The Commissioner shall have the discretion to designate any attorney who is an officer or employee of the United States Patent Office to conduct the hearing required by this section.".

(i) Funding.—

(1) Adjustment of fees.—Section 41(f) of title 35, United States Code, is amended to read as follows:

"(f) The Commissioner, after consulting with the Patent Office Management Advisory Board pursuant to section 3(a)(2)(C) of this title and after notice and opportunity for full participation by interested public and private parties, may, by regulation, adjust the fees established in this section. The Director of the United States Patent and Trademark Organization shall determine whether such fees are consistent with the policy direction of the Secretary of Commerce.".

(2) Patent office funding.—Section 42 of title 35, United States Code, is amended to read as follows:

"§42. Patent Office funding

"(a) Fees Payable to the Office.—All fees for services performed by or materials furnished by the United States Patent Office shall be payable to the Office.

"(b) Use of Moneys.—Moneys from fees shall be available to the United States Patent Office to carry out, to the extent provided in appropriations Acts, the functions of the Office. Moneys of the Office not otherwise used to carry out the functions of the Office shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed by the United States, or in obligations or other instruments which are lawful investments for fiduciary, trust, or public funds. Fees available to the Commissioner under this title shall be used only for the processing of patent applications and for other services and materials relating to patents.

"(c) Contribution to the Office of the Director of the United States Patent and Trademark Organization.—The Patent Office shall contribute 50 percent of the annual budget of the Office of the Director of the United States Patent and Trademark Organization.".

SEC. 115. UNITED STATES TRADEMARK OFFICE.

(a) Establishment of the United States Trademark Office as a Separate Administrative Unit.—The Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946) is amended—

(1) by redesignating titles X and XI as titles XI and XII, respectively;

(2) by redesignating sections 45, 46, 47, 48, 49, 50, and 51 as sections 61, 71, 72, 73, 74, 75, and 76, respectively; and

(3) by inserting after title IX the following new title:

"TITLE X—UNITED STATES TRADEMARK OFFICE

"SEC. 51. ESTABLISHMENT.

"(a) Establishment.—The United States Trademark Office is established as a separate administrative unit of the United States Patent and Trademark Organization.

"(b) Reference.—For purposes of this chapter, the United States Trademark Office shall also be referred to as the 'Office' and the 'Trademark Office'.

"SEC. 52. POWERS AND DUTIES.

"The United States Trademark Office, under the policy direction of the Secretary of Commerce through the Director of the United States Patent and Trademark Organization, shall be responsible for—

"(1) the registration of trademarks;

"(2) conducting studies, programs, or exchanges of items or services regarding domestic and international trademark law or the administration of the Office;

"(3) authorizing or conducting studies and programs cooperatively with foreign trademark offices and international organizations, in connection with the registration of trademarks; and

"(4) disseminating to the public information with respect to trademarks.

"SEC. 53. OFFICERS AND EMPLOYEES.

"(a) COMMISSIONER.—

"(1) IN GENERAL.—The management of the United States Trademark Office shall be vested in a Commissioner of Trademarks, who shall be a citizen of the United States and who shall be appointed by the Director of the United States Patent and Trademark Organization and shall serve at the pleasure of the Director of the United States Patent and Trademark Organization. The Commissioner of Trademarks shall be a person who, by reason of professional background and experience in trademark law, is especially qualified to manage the Office.

"(2) DUTIES.—

"(A) IN GENERAL.—The Commissioner shall be responsible for all aspects of the management, administration, and operation of the Office, including the registration of trademarks, and shall perform these duties in a fair, impartial, and equitable manner.

"(B) ADVISING THE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION.—The Commissioner of Trademarks shall advise the Director of the United States Patent and Trademark Organization of all activities of the Office undertaken in response to obligations of the United States under treaties and executive agreements, or which relate to cooperative programs with those authorities of foreign governments that are responsible for registering trademarks. The Commissioner of Trademarks shall advise the Director of the United States Patent and Trademark Organization on matters of trademark law and shall recommend to the Director of the United States Patent and Trademark Organization changes in law or policy which may improve the ability of United States citizens to secure and enforce trademark rights in the United States or in foreign countries.

"(C) REGULATIONS.—The Commissioner may establish regulations, not inconsistent with law, for the conduct of proceedings in the Trademark Office. The Director of the United States Patent and Trademark Organization shall determine whether such regulations are consistent with the policy direction of the Secretary of Commerce.

"(D) CONSULTATION WITH THE MANAGEMENT ADVISORY BOARD.—(i) The Commissioner shall consult with the Trademark Office Management Advisory Board established under section 54—

"(I) on a regular basis on matters relating to the operation of the Office; and

"(II) before submitting budgetary proposals to the Director of the United States Patent and Trademark Organization for submission to the Office of Management and Budget or changing or proposing to change trademark user fees or trademark regulations.

"(ii) The Director of the United States Patent and Trademark Organization shall determine whether such fees or regulations are consistent with the policy direction of the Secretary of Commerce.

"(E) PUBLICATIONS.—(i) The Commissioner may print, or cause to be printed, the following:

"(I) Certificates of trademark registrations, including statements and drawings, together with copies of the same.

"(II) The Official Gazette of the United States Trademark Office.

"(III) Annual indexes of trademarks and registrants.

"(IV) Annual volumes of decisions in trademark cases.

"(V) Pamphlet copies of laws and rules relating to trademarks and circulars or other publications relating to the business of the Office.

"(ii) The Commissioner may exchange any of the publications specified under clause (i) for publications desirable for the use of the Trademark Office.

"(3) OATH.—The Commissioner shall, before taking office, take an oath to discharge faithfully the duties of the Office.

"(4) COMPENSATION.—

"(A) IN GENERAL.—The Commissioner shall receive compensation at the rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(B) BONUS.—In addition to compensation under subparagraph (A), the Commissioner may, at the discretion of the Director of the United States Patent and Trademark Organization, receive as a bonus, an amount which would raise total compensation to the equivalent of the rate of pay in effect for level III of the Executive Schedule under section 5314 of title 5.

"(b) OFFICERS AND EMPLOYEES.—The Commissioner shall appoint a Deputy Commissioner of Trademarks who shall be vested with the authority to act in the capacity of the Commissioner in the event of the absence or incapacity of the Commissioner. In the event of a vacancy in the office of Commissioner, the Deputy Commissioner shall fill the office of Commissioner until a new Commissioner is appointed and takes office. Other officers, attorneys, employees, and agents shall be selected and appointed by the Commissioner, and shall be vested with such powers and duties as the Commissioner may determine.

"SEC. 54. TRADEMARK OFFICE MANAGEMENT ADVISORY BOARD.

"(a) ESTABLISHMENT OF MANAGEMENT ADVISORY BOARD.—

"(1) APPOINTMENT.—The United States Trademark Office shall have a Management Advisory Board (hereafter in this title referred to as the 'Advisory Board') of 5 members, who shall be appointed by the President and shall serve at the pleasure of the President. Not more than 3 of the 5 members shall be members of the same political party.

"(2) CHAIR.—The President shall designate a Chair of the Advisory Board, whose term as chair shall be for 3 years.

"(3) TIMING OF APPOINTMENTS.—Initial appointments to the Advisory Board shall be made within 3 months after the effective date of the United States Patent and Trademark Organization Act of 1997. Vacancies shall be filled in the manner in which the original appointment was made under this section within 3 months after they occur.

"(b) BASIS FOR APPOINTMENTS.—Members of the Advisory Board shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the United States Trademark Office, and shall include individuals with substantial background and achievement in corporate finance and management.

"(c) MEETINGS.—The Advisory Board shall meet at the call of the Chair to consider an agenda set by the Chair.

"(d) DUTIES.—The Advisory Board shall—

"(1) review the policies, goals, performance, budget, and user fees of the United States Trademark Office, and advise the Commissioner on these matters; and

"(2) within 60 days after the end of each fiscal year—

"(A) prepare an annual report on the matters referred to under paragraph (1);

"(B) transmit the report to the Director of the United States Patent and Trademark Organization, the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and

"(C) publish the report in the Trademark Office Official Gazette.

"(f) COMPENSATION.—Each member of the Advisory Board shall be compensated for each day (including travel time) during which such member is attending meetings or conferences of the Advisory Board or otherwise engaged in the business of the Advisory Board, at the rate which is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5, United States Code, and while away from such member's home or regular place of business such member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

"(g) ACCESS TO INFORMATION.—Members of the Advisory Board shall be provided access to records and information in the United States Trademark Office, except for personnel or other privileged information.

"SEC. 55. ANNUAL REPORT TO CONGRESS.

"The Commissioner shall report to the Director of the United States Patent and Trademark Organization such information as the Director is required to report to Congress annually under chapter 91 of title 5, including—

"(1) the moneys received and expended by the Office;

"(2) the purposes for which the moneys were spent;

"(3) the quality and quantity of the work of the Office; and

"(4) other information relating to the Office.

"SEC. 56. TRADEMARK OFFICE FUNDING.

"(a) FEES PAYABLE TO THE OFFICE.—All fees for services performed by or materials furnished by the United States Trademark Office shall be payable to the Office.

"(b) USE OF MONEYS.—Moneys from fees shall be available to the United States Trademark Office to carry out, to the extent provided in appropriations Acts, the functions of the Office. Moneys of the Office not otherwise used to carry out the functions of the Office shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed by the United States, or in obligations or other instruments which are lawful investments for fiduciary, trust, or public funds. Fees available to the Commissioner under this chapter shall be used only for the registration of trademarks and for other services and materials relating to trademarks.

"(c) CONTRIBUTION TO THE OFFICE OF THE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION.—The Trademark Office shall contribute 50 percent of the annual budget of the Office of the Director of the United States Patent and Trademark Organization.".

(b) TRADEMARK TRIAL AND APPEAL BOARD.—Section 17 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946) (15 U.S.C. 1067) is amended to read as follows:

"SEC. 17. (a) In every case of interference, opposition to registration, application to register as a lawful concurrent user, or application to cancel the registration of a mark, the Commissioner shall give notice to all parties and shall direct a Trademark Trial and Appeal Board to determine and decide the respective rights of registration.

"(b) The Trademark Trial and Appeal Board shall include the Commissioner of Trademarks, the Deputy Commissioner of Trademarks, and members competent in trademark law who are appointed by the Commissioner.".

(c) DETERMINATION OF FEES.—Section 31(a) of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946) (15 U.S.C. 1067(a)) is amended by striking the second and third sentences and inserting the following: "Fees established under this subsection may be adjusted by the Commissioner, after consulting with the Trademark Office Management Advisory Board in accordance with section 53(a)(2)(C) of this Act and after notice and opportunity for full participation by interested public and private parties. The Director of the United States Patent and Trademark Organization shall determine whether such fees are consistent with the policy direction of the Secretary of Commerce.".

SEC. 116. SUITS BY AND AGAINST THE ORGANIZATION.

(a) ACTIONS UNDER UNITED STATES LAW.—Any civil action or proceeding to which the United States Patent and Trademark Organization is a party is deemed to arise under the laws of the United States. The Federal courts shall have exclusive jurisdiction over all civil actions by or against the Organization.

(b) REPRESENTATION BY THE DEPARTMENT OF JUSTICE.—The United States Patent and Trademark Organization shall be deemed an agency of the United States for purposes of section 516 of title 28, United States Code.

(c) PROHIBITION ON ATTACHMENT, LIENS, OR SIMILAR PROCESS.—No attachment, garnishment, lien, or similar process, intermediate or final, in law or equity, may be issued against property of the Organization.

SEC. 117. FUNDING.

(a) IN GENERAL.—The activities of the United States Patent and Trademark Organization and each office of the Organization shall be funded entirely through fees payable to the United States Patent Office (under section 42 of title 35, United States Code) and the United States Trademark Office (under section 56 of the Act of July 5, 1946 (commonly known as the Trademark Act of 1946)), and surcharges appropriated by Congress, to the extent provided in appropriations Acts and subject to the provisions of subsection (b).

(b) BORROWING AUTHORITY.—

(1) IN GENERAL.—The United States Patent and Trademark Organization is authorized to issue from time to time for purchase by the Secretary of the Treasury its debentures, bonds, notes, and other evidences of indebtedness (hereafter in this subsection referred to as "obligations") to assist in financing the activities of the United States Patent Office and the United States Trademark Office. Borrowing under this section shall be subject to prior approval in appropriations Acts. Such borrowing shall not exceed amounts approved in appropriations Acts.

(2) BORROWING AUTHORITY.—Any borrowing under this subsection shall be repaid only from fees paid to the Office for which such obligations were issued and surcharges appropriated by Congress. Such obligations shall be redeemable at the option of the United States Patent and Trademark Organization before maturity in the manner stipulated in such obligations and shall have such maturity as is determined by the United States Patent and Trademark Organization with the approval of the Secretary of the Treasury. Each such obligation issued to the Treasury shall bear interest at a rate not less than the current yield on outstanding marketable obligations of the United States of comparable maturity during the month preceding the issuance of the obligation as determined by the Secretary of the Treasury.

(3) PURCHASE OF OBLIGATIONS.—The Secretary of the Treasury shall purchase any obligations of the United States Patent and Trademark Organization issued under this subsection and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under that chapter are extended to include such purpose.

(4) TREATMENT.—Payment under this subsection of the purchase price of such obligations of the United States Patent and Trademark Organization shall be treated as public debt transactions of the United States.

SEC. 118. TRANSFERS.

(a) TRANSFER OF FUNCTIONS.—Except as relates to the direction of patent and trademark policy, there are transferred to, and vested in, the United States Patent and Trademark Organization all functions, powers, and duties vested by law in the Secretary of Commerce or the Department of Commerce or in the officers or components in the Department of Commerce with respect to the authority to grant patents and register trademarks, and in the Patent and Trademark Office, as in effect on the day before the effective date of this title, and in the officers and components of such office.

(b) TRANSFER OF FUNDS AND PROPERTY.—The Secretary of Commerce shall transfer to the United States Patent and Trademark Organization, on the effective date of this title, so much of the assets, liabilities, contracts, property, records, and unexpended and unobligated balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Department of Commerce, including funds set aside for accounts receivable which are related to functions, powers, and duties which are vested in the United States Patent and Trademark Office by this title.

Subtitle B—Effective Date; Technical Amendments

SEC. 131. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 4 months after the date of the enactment of this Act.

SEC. 132. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 35.—

(1) TABLE OF PARTS.—The item relating to part I in the table of parts for title 35, United States Code, is amended to read as follows:

"I. United States Patent Office .... 1.".

(2) HEADING.—The heading for part I of title 35, United States Code, is amended to read as follows:

"PART I—UNITED STATES PATENT OFFICE".

(3) TABLE OF CHAPTERS.—The table of chapters for part I of title 35, United States Code, is amended by amending the item relating to chapter 1 to read as follows:

"1. Establishment, Officers and Employees, Functions .... **1".**

(4) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

"CHAPTER 1—ESTABLISHMENT, OFFICERS AND EMPLOYEES, FUNCTIONS

"Sec.
"1. Establishment.
"2. Powers and duties.
"3. Officers and employees.
"4. Restrictions on officers and employees as to interest in patents.
"5. Patent Office Management Advisory Board.
"6. Duties of Commissioner.
"7. Board of Patent Appeals and Interferences.
"8. Library.
"9. Classification of patents.
"10. Certified copies of records.
"11. Publications.
"12. Exchange of copies of patents with foreign countries.
"13. Copies of patents for public libraries.
"14. Annual report to Congress.".

(5) COMMISSIONER OF PATENTS AND TRADEMARKS.—(A) Section 41(h)(1) of title 35, United States Code, is amended by striking "Commissioner of Patents and Trademarks" and inserting "Commissioner".

(B) Section 155 of title 35, United States Code, is amended by striking "Commissioner of Patents and Trademarks" and inserting "Commissioner".

(C) Section 155A(c) of title 35, United States Code, is amended by striking "Commissioner of Patents" and inserting "Commissioner".

(6) PATENT AND TRADEMARK OFFICE.—The provisions of title 35, United States Code, are amended by striking "Patent and Trademark Office" each place it appears and inserting "Patent Office".

(b) AMENDMENTS TO THE TRADEMARK ACT OF 1946.—

(1) REFERENCES.—All amendments in this subsection refer to the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946).

(2) AMENDMENTS RELATING TO COMMISSIONER.—Section 61 (as redesignated by section 115(a)(2) of this Act) is amended by striking the undesignated paragraph relating to the definition of the term "Commissioner" and inserting the following:

"The term 'Commissioner' means the Commissioner of Trademarks.".

(3) AMENDMENTS RELATING TO PATENT AND TRADEMARK OFFICE.—(A) Section 1(a)(1) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(B) Section 1(a)(2) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(C) Section 1(b)(1) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(D) Section 1(b)(2) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(E) Section 1(d)(1) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(F) Section 1(e) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(G) Section 2(d) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(H) Section 7(a) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(I) Section 7(d) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(J) Section 7(e) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(K) Section 7(f) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(L) Section 7(g) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(M) Section 8(a) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(N) Section 8(b) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(O) Section 10 is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(P) Section 12(a) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(Q) Section 13(a) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(R) Section 13(b)(1) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(S) Section 15(2) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(T) Section 17 is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(U) Section 21(a)(2) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(V) Section 21(a)(3) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(W) Section 21(a)(4) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(X) Section 21(b)(3) is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(Y) Section 21(b)(4) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(Z) Section 24 is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(AA) Section 29 is amended by striking "Patent and Trademark Office" each place such term appears and inserting "Trademark Office".

(BB) Section 30 is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(CC) Section 31(a) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(DD) Section 34(a) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(EE) Section 34(d)(1)(B)(i) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(FF) Section 35(a) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(GG) Section 36 is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(HH) Section 37 is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(II) Section 38 is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(JJ) Section 39(b) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(KK) Section 41 is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(LL) Section 61 (as redesignated under section 115(a)(2) of this Act) is amended in the undesignated paragraph relating to the definition of "registered mark"—

(i) by striking "Patent and Trade Mark Office" and inserting "Trademark Office; and

(ii) by striking "Patent and Trade Office" and inserting "Trademark Office".

(MM) Section 72(a) (as redesignated under section 115(a)(2) of this Act) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(NN) Section 75 (as redesignated under section 115(a)(2) of this Act) is amended by striking "Patent and Trademark Office" and inserting "Trademark Office".

(c) AMENDMENTS TO TITLE 5.—Section 5316 of title 5, United States Code, is amended—

(1) by striking "Commissioner of Patents, Department of Commerce."; and

(2) by striking:

"Deputy Commissioner of Patents and Trademarks.

"Assistant Commissioner for Patents.

"Assistant Commissioner for Trademarks.".

(d) AMENDMENT TO TITLE 31.—Section 9101(3) of title 31, United States Code, is amended by adding at the end the following:

"(O) the United States Patent and Trademark Organization.".

(e) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by striking "or the Commissioner of Social Security, Social Security Administration;" and inserting "the Commissioner of Social Security, Social Security Administration; or the Director of the United States Patent and Trademark Organization, United States Patent and Trademark Organization;"; and

(2) in paragraph (2) by striking "or the Veterans' Administration, or the Social Security Administration;" and inserting "the Veterans' Administration, the Social Security Administration, or the United States Patent and Trademark Organization;".

Subtitle C—Miscellaneous Provisions

SEC. 141. REFERENCES.

Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department, agency, or office from which a function is transferred by this title—

(1) to the head of such department, agency, or office is deemed to refer to the head of the department, agency, or office to which such function is transferred; or

(2) to such department, agency, or office is deemed to refer to the department, agency, or office to which such function is transferred.

SEC. 142. EXERCISE OF AUTHORITIES.

Except as otherwise provided by law, a Federal official to whom a function is transferred by this title may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

SEC. 143. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges that—

(1) have been issued, made, granted, or allowed to become effective by the President, the Secretary of Commerce, any officer or employee of any office transferred by this title, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this title, and

(2) are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(b) PROCEEDINGS.—This title shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office transferred by this title, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS.—This title shall not affect suits commenced before the effective date of this title, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Commerce or the Secretary of Commerce, or by or against any individual in the official capacity of such individual as an officer or employee of an office transferred by this title, shall abate by reason of the enactment of this title.

(e) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and under this title such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred by this title shall apply to the exercise of such function by the head of the Federal agency, and other officers of the agency, to which such function is transferred by this title.

SEC. 144. TRANSFER OF ASSETS.

Except as otherwise provided in this title, so much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred to an official or agency by this title shall be available to the official or the head of that agency, respectively, at such time or times as the Director of the Office of Management and Budget directs for use in connection with the functions transferred.

SEC. 145. DELEGATION AND ASSIGNMENT.

(a) IN GENERAL.—Except as otherwise expressly prohibited by law or otherwise provided in this title, an official to whom functions are transferred under this title (including the head of any office to which functions are transferred under this title) may—

(1) delegate any of the functions so transferred to such officers and employees of the office of the official as the official may designate; and

(2) authorize successive redelegations of such functions as may be necessary or appropriate.

(b) RESPONSIBILITY FOR ADMINISTRATION.—No delegation of functions under this section or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

SEC. 146. AUTHORITY OF DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET WITH RESPECT TO FUNCTIONS TRANSFERRED.

(a) DETERMINATIONS.—If necessary, the Director of the Office of Management and Budget shall make any determination of the functions that are transferred under this title.

(b) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title.

(c) TERMINATION OF AFFAIRS.—The Director shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SEC. 147. CERTAIN VESTING OF FUNCTIONS CONSIDERED TRANSFERS.

For purposes of this title, the vesting of a function in a department, agency, or office pursuant to reestablishment of an office shall be considered to be the transfer of the function.

SEC. 148. AVAILABILITY OF EXISTING FUNDS.

Existing appropriations and funds available for the performance of functions, programs, and activities terminated pursuant to this title shall remain available, for the duration of their period of availability, for necessary expenses in connection with the termination and resolution of such functions, programs, and activities.

SEC. 149. DEFINITIONS.

For purposes of this title—

(1) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(2) the term "office" includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

TITLE II—EARLY PUBLICATION OF PATENT APPLICATIONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Patent Application Publication Act of 1997".

SEC. 202. EARLY PUBLICATION.

Section 122 of title 35, United States Code, is amended to read as follows:

"§ 122. Confidential status of applications; publication of patent applications

"(a) CONFIDENTIALITY.—Except as provided in subsection (b), applications for patents shall be kept in confidence by the Patent Office and no information concerning the same given without authority of the applicant or owner unless necessary to carry out the provisions of an Act of Congress or in such special circumstances as may be determined by the Commissioner.

"(b) PUBLICATION.—

"(1) IN GENERAL.—(A) Subject to paragraph (2), each application for patent, except applications for design patents filed under chapter 16 of this title and provisional applications filed under section 111(b) of this title, shall be published, in accordance with procedures determined by the Commissioner, as soon as possible after the expiration of a period of 18 months from the earliest filing date for which a benefit is sought under this title. At the request of the applicant, an application may be published earlier than the end of such 18-month period.

"(B) No information concerning published patent applications shall be made available to the public except as the Commissioner determines.

"(C) Notwithstanding any other provision of law, a determination by the Commissioner to release or not to release information concerning a published patent application shall be final and nonreviewable.

"(2) EXCEPTIONS.—(A) An application that is no longer pending shall not be published.

"(B) An application that is subject to a secrecy order pursuant to section 181 of this title shall not be published.

"(C)(i) Upon the request of the applicant at the time of filing, the application shall not be published in accordance with paragraph (1) until 3 months after the Commissioner makes a notification to the applicant under section 132 of this title.

"(ii) Applications filed pursuant to section 363 of this title, applications asserting priority under section 119 or 365(a) of this title, and applications asserting the benefit of an earlier application under section 120, 121, or 365(c) of this title shall not be eligible for a request pursuant to this subparagraph.

"(iii) In a request under this subparagraph, the applicant shall certify that the invention disclosed in the application was not and will not be the subject of an application filed in a foreign country.

"(iv) The Commissioner may establish appropriate procedures and fees for making a request under this subparagraph.

"(c) PRE-ISSUANCE OPPOSITION.—The provisions of this section shall not operate to create any new opportunity for pre-issuance opposition. The Commissioner may establish appropriate procedures to ensure that this section does not create any new opportunity for pre-issuance opposition that did not exist prior to the adoption of this section.".

SEC. 203. TIME FOR CLAIMING BENEFIT OF EARLIER FILING DATE.

(a) IN A FOREIGN COUNTRY.—Section 119(b) of title 35, United States Code, is amended to read as follows:

"(b)(1) No application for patent shall be entitled to this right of priority unless a claim, identifying the foreign application by specifying its application number, country, and the day, month, and year of its filing, is filed in the Patent Office at such time during the pendency of the application as required by the Commissioner.

"(2) The Commissioner may consider the failure of the applicant to file a timely claim for priority as a waiver of any such claim, and may require the payment of a surcharge as a condition of accepting an untimely claim during the pendency of the application.

"(3) The Commissioner may require a certified copy of the original foreign application, specification, and drawings upon which it is based, a translation if not in the English language, and such other information as the Commissioner considers necessary. Any such certification shall be made by the foreign intellectual property authority in which the foreign application was filed and show the date of the application and of the filing of the specification and other papers.".

(b) IN THE UNITED STATES.—Section 120 of title 35, United States Code, is amended by adding at the end the following: "The Commissioner may determine the time period during the pendency of the application within which an amendment containing the specific reference to the earlier filed application is submitted. The Commissioner may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Commissioner may establish procedures, including the payment of a surcharge, to accept unavoidably late submissions of amendments under this section.".

SEC. 204. PROVISIONAL RIGHTS.

Section 154 of title 35, United States Code, is amended—

(1) in the section caption by inserting "; **provisional rights**" after "**patent**"; and

(2) by adding at the end the following new subsection:

"(d) PROVISIONAL RIGHTS.—

"(1) IN GENERAL.—In addition to other rights provided by this section, a patent shall include the right to obtain a reasonable royalty from any person who, during the period beginning on the date of publication of the application for such patent pursuant to section 122(b) of this title, or in the case of an international application filed under the treaty defined in section 351(a) of this title designating the United States under Article 21(2)(a) of such treaty, the date of publication of the application, and ending on the date the patent is issued—

"(A)(i) makes, uses, offers for sale, or sells in the United States the invention as claimed in the published patent application or imports such an invention into the United States; or

"(ii) if the invention as claimed in the published patent application is a process, uses, offers for sale, or sells in the United States or imports into the United States products made by that process as claimed in the published patent application; and

"(B) had actual notice of the published patent application, and where the right arising under this paragraph is based upon an international application designating the United States that is published in a language other than English, a translation of the international application into the English language.

"(2) RIGHT BASED ON SUBSTANTIALLY IDENTICAL INVENTIONS.—The right under paragraph (1) to obtain a reasonable royalty shall not be available under this subsection unless the invention as claimed in the patent is substantially identical to the invention as claimed in the published patent application.

"(3) TIME LIMITATION ON OBTAINING A REASONABLE ROYALTY.—The right under paragraph (1) to obtain a reasonable royalty shall be available only in an action brought not later than 6 years after the patent is issued. The right under paragraph (1) to obtain a reasonable royalty shall not be affected by the duration of the period described in paragraph (1).

"(4) REQUIREMENTS FOR INTERNATIONAL APPLICATIONS.—

"(A) EFFECTIVE DATE.—The right under paragraph (1) to obtain a reasonable royalty based upon the publication under the treaty of an international application designating the United States shall commence from the date that the Patent Office receives a copy of the publication under the treaty defined in section 351(a) of this title of the international application, or, if the publication under the treaty of the international application is in a language other than English, from the date that the Patent Office receives a translation of the international application in the English language.

"(B) COPIES.—The Commissioner may require the applicant to provide a copy of the international application and a translation thereof.".

SEC. 205. PRIOR ART EFFECT OF PUBLISHED APPLICATIONS.

Section 102(e) of title 35, United States Code, is amended to read as follows:

"(e) the invention was described in—

"(1)(A) an application for patent, published pursuant to section 122(b) of this title, by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) of this title shall have the effect under this subsection of a national application published under section 122(b) of this title only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language, or

"(B) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, or".

SEC. 206. COST RECOVERY FOR PUBLICATION.

The Commissioner shall recover the cost of early publication required by the amendment made by section 202 by adjusting the filing, issue, and maintenance fees under title 35, United States Code, by charging a separate publication fee, or by any combination of these methods.

SEC. 207. CONFORMING CHANGES.

The following provisions of title 35, United States Code, are amended:

(1) Section 11 is amended in paragraph 1 of subsection (a) by inserting "and published applications for patents" after "Patents".

(2) Section 12 is amended—

(A) in the section caption by inserting "**and applications**" after "**patents**"; and

(B) by inserting "and published applications for patents" after "patents".

(3) Section 13 is amended—

(A) in the section caption by inserting "**and applications**" after "**patents**"; and

(B) by inserting "and published applications for patents" after "patents".

(4) The items relating to sections 12 and 13 in the table of sections for chapter 1 are each amended by inserting "and applications" after "patents".

(5) The item relating to section 122 in the table of sections for chapter 11 is amended by inserting "; publication of patent applications" after "applications".

(6) The item relating to section 154 in the table of sections for chapter 14 is amended by inserting "; provisional rights" after "patent".

(7) Section 181 is amended—

(A) in the first undesignated paragraph—

(i) by inserting "by the publication of an application or" after "disclosure"; and

(ii) "the publication of the application or" after "withhold";

(B) in the second undesignated paragraph by inserting "by the publication of an application or" after "disclosure of an invention";

(C) in the third undesignated paragraph—

(i) by inserting "by the publication of the application or" after "disclosure of the invention"; and

(ii) "the publication of the application or" after "withhold"; and

(D) in the fourth undesignated paragraph by inserting "the publication of an application or" after "and" in the first sentence.

(8) Section 252 is amended in the first undesignated paragraph by inserting "substantially" before "identical" each place it appears.

(9) Section 284 is amended by adding at the end of the second undesignated paragraph the following: "Increased damages under this paragraph shall not apply to provisional rights under section 154(d) of this title.".

(10) Section 374 is amended to read as follows:

"§374. Publication of international application: Effect

"The publication under the treaty, defined in section 351(a) of this title, of an international application designating the United States shall confer the same rights and shall have the same effect under this title as an application for patent published under section 122(b), except as provided in sections 102(e) and 154(d) of this title.".

SEC. 208. LAST DAY OF PENDENCY OF PROVISIONAL APPLICATION.

Section 119(e) of title 35, United States Code, is amended by adding at the end the following:

"(3) If the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or legal holiday as defined in rule 6(a) of the Federal Rules of Civil Procedure, the period of pendency of the provisional application shall be extended to the next succeeding business day.".

SEC. 209. EFFECTIVE DATE.

(a) SECTIONS 202 THROUGH 207.—Sections 202 through 207, and the amendments made by such sections, shall take effect on April 1, 1998, and shall apply to all applications filed under section 111 of title 35, United States Code, on or after that date, and all applications complying with section 371 of title 35, United States Code, that resulted from international applications filed on or after that date. The amendment made by section 204 shall also apply to international applications designating the United States that are filed on or after April 1, 1998.

(b) SECTION 208.—The amendments made by section 208 shall take effect on the date of the enactment of this Act and, except for a design patent application filed under chapter 16 of title 35, United States Code, shall apply to any application filed on or after June 8, 1995.

TITLE III—PATENT TERM RESTORATION

SEC. 301. PATENT TERM EXTENSION AUTHORITY.

Section 154(b) of title 35, United States Code, is amended to read as follows:

"(b) TERM EXTENSION.—

"(1) BASIS FOR PATENT TERM EXTENSION.—

"(A) DELAY.—Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to—

"(i) a proceeding under section 135(a) of this title;

"(ii) the imposition of an order pursuant to section 181 of this title;

"(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court where the patent was issued pursuant to a decision in the review reversing an adverse determination of patentability; or

"(iv) an unusual administrative delay by the Patent Office in issuing the patent,

the term of the patent shall be extended for the period of delay.

"(B) ADMINISTRATIVE DELAY.—For purposes of subparagraph (A)(iv), an unusual administrative delay by the Patent Office is the failure to—

"(i) make a notification of the rejection of any claim for a patent or any objection or argument under section 132 of this title or give or mail a written notice of allowance under section 151 of this title not later than 14 months after the date on which the application was filed;

"(ii) respond to a reply under section 132 of this title or to an appeal taken under section 134 of this title not later than 4 months after the date on which the reply was filed or the appeal was taken;

"(iii) act on an application not later than 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 of this title or a decision by a Federal court under section 141, 145, or 146 of this title where allowable claims remain in an application; or

"(iv) issue a patent not later than 4 months after the date on which the issue fee was paid under section 151 of this title and all outstanding requirements were satisfied.

"(2) LIMITATIONS.—

"(A) IN GENERAL.—The total duration of any extensions granted pursuant to either subclause (iii) or (iv) of paragraph (1)(A) or both such subclauses shall not exceed 10 years. To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any extension granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

"(B) REDUCTION OF EXTENSION.—The period of extension of the term of a patent under this subsection shall be reduced by a period equal to the time in which the applicant failed to engage in reasonable efforts to conclude prosecution of the application. The Commissioner shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

"(C) DISCLAIMED TERM.—No patent the term of which has been disclaimed beyond a specified date may be extended under this section beyond the expiration date specified in the disclaimer.

"(3) PROCEDURES.—The Commissioner shall prescribe regulations establishing procedures for the notification of patent term extensions under this subsection and procedures for contesting patent term extensions under this subsection.".

SEC. 302. EFFECTIVE DATE.

The amendments made by section 301 shall take effect on the date of the enactment of this Act and, except for a design patent application filed under chapter 16 of title 35, United States Code, shall apply to any application filed on or after June 8, 1995.

TITLE IV—PRIOR DOMESTIC COMMERCIAL USE

SEC. 401. SHORT TITLE.

This title may be cited as the "Prior Domestic Commercial Use Act of 1997".

SEC. 402. DEFENSE TO PATENT INFRINGEMENT BASED ON PRIOR DOMESTIC COMMERCIAL USE.

(a) Defense.—Chapter 28 of title 35, United States Code, is amended by adding at the end the following new section:

"§ 273. Prior domestic commercial use; defense to infringement

"(a) Definitions.—For purposes of this section—

"(1) the terms 'commercially used', 'commercially use', and 'commercial use' mean the use in the United States in commerce or the use in the design, testing, or production in the United States of a product or service which is used in commerce, whether or not the subject matter at issue is accessible to or otherwise known to the public;

"(2) the terms 'used in commerce', and 'use in commerce' mean that there has been an actual sale or other commercial transfer of the subject matter at issue or that there has been an actual sale or other commercial transfer of a product or service resulting from the use of the subject matter at issue; and

"(3) the 'effective filing date' of a patent is the earlier of the actual filing date of the application for the patent or the filing date of any earlier United States, foreign, or international application to which the subject matter at issue is entitled under section 119, 120, or 365 of this title.

"(b) Defense to Infringement.—

"(1) In general.—A person shall not be liable as an infringer under section 271 of this title with respect to any subject matter that would otherwise infringe one or more claims in the patent being asserted against such person, if such person had, acting in good faith, commercially used the subject matter before the effective filing date of such patent.

"(2) Exhaustion of right.—The sale or other disposition of the subject matter of a patent by a person entitled to assert a defense under this section with respect to that subject matter shall exhaust the patent owner's rights under the patent to the extent such rights would have been exhausted had such sale or other disposition been made by the patent owner.

"(c) Limitations and Qualifications of Defense.—The defense to infringement under this section is subject to the following:

"(1) Derivation.—A person may not assert the defense under this section if the subject matter on which the defense is based was derived from the patentee or persons in privity with the patentee.

"(2) Not a general license.—The defense asserted by a person under this section is not a general license under all claims of the patent at issue, but extends only to the subject matter claimed in the patent with respect to which the person can assert a defense under this chapter, except that the defense shall also extend to variations in the quantity or volume of use of the claimed subject matter, and to improvements in the claimed subject matter that do not infringe additional specifically claimed subject matter of the patent.

"(3) Effective and serious preparation.—With respect to subject matter that cannot be commercialized without a significant investment of time, money, and effort, a person shall be deemed to have commercially used the subject matter if—

"(A) before the effective filing date of the patent, the person reduced the subject matter to practice in the United States, completed a significant portion of the total investment necessary to commercially use the subject matter, and made a commercial transaction in the United States in connection with the preparation to use the subject matter; and

"(B) thereafter the person diligently completed the remainder of the activities and investments necessary to commercially use the subject matter, and promptly began commercial use of the subject matter, even if such activities were conducted after the effective filing date of the patent.

"(4) Burden of proof.—A person asserting the defense under this section shall have the burden of establishing the defense.

"(5) Abandonment of use.—A person who has abandoned commercial use of subject matter may not rely on activities performed before the date of such abandonment in establishing a defense under subsection (b) with respect to actions taken after the date of such abandonment.

"(6) Personal defense.—The defense under this section may only be asserted by the person who performed the acts necessary to establish the defense and, except for any transfer to the patent owner, the right to assert the defense shall not be licensed or assigned or transferred to another person except in connection with the good faith assignment or transfer of the entire enterprise or line of business to which the defense relates.

"(7) One-year limitation.—A person may not assert a defense under this section unless the subject matter on which the defense is based had been commercially used or reduced to practice more than one year prior to the effective filing date of the patent by the person asserting the defense or someone in privity with that person.

"(d) Unsuccessful Assertion of Defense.—If the defense under this section is pleaded by a person who is found to infringe the patent and who subsequently fails to demonstrate a reasonable basis for asserting the defense, the court shall find the case exceptional for the purpose of awarding attorney's fees under section 285 of this title.

"(e) Invalidity.—A patent shall not be deemed to be invalid under section 102 or 103 of this title solely because a defense is established under this section.".

(b) Conforming Amendment.—The table of sections at the beginning of chapter 28 of title 35, United States Code, is amended by adding at the end the following new item:

"Sec. 273. Prior domestic commercial use; defense to infringement.".

SEC. 403. EFFECTIVE DATE AND APPLICABILITY.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act, but shall not apply to any action for infringement that is pending on such date of enactment or with respect to any subject matter for which an adjudication of infringement, including a consent judgment, has been made before such date of enactment.

TITLE V—PATENT REEXAMINATION REFORM

SEC. 501. SHORT TITLE.

This title may be cited as the "Patent Reexamination Reform Act of 1997".

SEC. 502. DEFINITIONS.

Section 100 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(e) The term 'third-party requester' means a person requesting reexamination under section 302 of this title who is not the patent owner.".

SEC. 503. REEXAMINATION PROCEDURES.

(a) Request for Reexamination.—Section 302 of title 35, United States Code, is amended to read as follows:

"§ 302. Request for reexamination

"(a) In General.—Any person at any time may file a request for reexamination by the Office of a patent on the basis of any prior art cited under the provisions of section 301 of this title or on the basis of the requirements of section 112 of this title except for the requirement to set forth the best mode of carrying out the invention.

"(b) Requirements.—The request shall—

"(1) be in writing, include the identity of the real party in interest, and be accompanied by payment of a reexamination fee established by the Commissioner of Patents pursuant to the provisions of section 41 of this title; and

"(2) set forth the pertinency and manner of applying cited prior art to every claim for which reexamination is requested or the manner in which the patent specification or claims fail to comply with the requirements of section 112 of this title.

"(c) Copy.—Unless the requesting person is the owner of the patent, the Commissioner promptly shall send a copy of the request to the owner of record of the patent.".

(b) Determination of Issue by Commissioner.—Section 303 of title 35, United States Code, is amended to read as follows:

"§ 303. Determination of issue by Commissioner

"(a) Reexamination.—Not later than 3 months after the filing of a request for reexamination under the provisions of section 302 of this title, the Commissioner shall determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request, with or without consideration of other patents or printed publications. On the Commissioner's initiative, and any time, the Commissioner may determine whether a substantial new question of patentability is raised by patents and publications or by the failure of the patent specification or claims to comply with the requirements of section 112 of this title except for the best mode requirement described in section 302.

"(b) Record.—A record of the Commissioner's determination under subsection (a) shall be placed in the official file of the patent, and a copy shall be promptly given or mailed to the owner of record of the patent and to the third-party requester, if any.

"(c) Final Decision.—A determination by the Commissioner pursuant to subsection (a) shall be final and nonappealable. Upon a determination that no substantial new question of patentability has been raised, the Commissioner may refund a portion of the reexamination fee required under section 302 of this title.".

(c) Reexamination Order by Commissioner.—Section 304 of title 35, United States Code, is amended to read as follows:

"§ 304. Reexamination order by Commissioner

"If, in a determination made under the provisions of section 303(a) of this title, the Commissioner finds that a substantial new question of patentability affecting a claim of a patent is raised, the determination shall include an order for reexamination of the patent for resolution of the question. The order may be accompanied by the initial action of the Patent Office on the merits of the reexamination conducted in accordance with section 305 of this title.".

(d) CONDUCT OF REEXAMINATION PROCEEDINGS.—Section 305 of title 35, United States Code, is amended to read as follows:

"§ 305. Conduct of reexamination proceedings

"(a) IN GENERAL.—Subject to subsection (b), reexamination shall be conducted according to the procedures established for initial examination under the provisions of sections 132 and 133 of this title. In any reexamination proceeding under this chapter, the patent owner shall be permitted to propose any amendment to the patent and a new claim or claims, except that no proposed amended or new claim enlarging the scope of the claims of the patent shall be permitted.

"(b) RESPONSE.—(1) This subsection shall apply to any reexamination proceeding in which the order for reexamination is based upon a request by a third-party requester.

"(2) With the exception of the reexamination request, any document filed by either the patent owner or the third-party requester shall be served on the other party.

"(3) If the patent owner files a response to any Patent Office action on the merits, the third-party requester shall have 1 opportunity to file written comments within a reasonable period not less than 1 month after the date of service of the patent owner's response. Written comments provided under this paragraph shall be limited to issues covered by the Patent Office action or the patent owner's response.

"(c) SPECIAL DISPATCH.—Unless otherwise provided by the Commissioner for good cause, all reexamination proceedings under this section, including any appeal to the Board of Patent Appeals and Interferences, shall be conducted with special dispatch within the Office.".

(e) APPEAL.—Section 306 of title 35, United States Code, is amended to read as follows:

"§ 306. Appeal

"(a) PATENT OWNER.—The patent owner involved in a reexamination proceeding under this chapter—

"(1) may appeal under the provisions of section 134 of this title, and may appeal under the provisions of sections 141 through 144 of this title, with respect to any decision adverse to the patentability of any original or proposed amended or new claim of the patent, and

"(2) may be a party to any appeal taken by a third-party requester pursuant to subsection (b) of this section.

"(b) THIRD-PARTY REQUESTER.—A third-party requester may—

"(1) appeal under the provisions of section 134 of this title, and may appeal under the provisions of sections 141 through 144 of this title, with respect to any final decision favorable to the patentability of any original or proposed amended or new claim of the patent; or

"(2) be a party to any appeal taken by the patent owner, subject to subsection (c) of this section.

"(c) PARTICIPATION AS PARTY.—

"(1) IN GENERAL.—A third-party requester who, under the provisions of sections 141 through 144 of this title, files a notice of appeal or who participates as a party to an appeal by the patent owner is estopped from asserting at a later time, in any forum, the invalidity of any claim determined to be patentable on appeal on any ground which the third-party requester raised or could have raised during the reexamination proceedings.

"(2) ELECTION TO PARTICIPATE.—A third-party requester is deemed not to have participated as a party to an appeal by the patent owner unless, not later than 20 days after the patent owner has filed notice of appeal, the third-party requester files notice with the Commissioner electing to participate.".

(f) REEXAMINATION PROHIBITED.—

(1) IN GENERAL.—Chapter 30 of title 35, United States Code, is amended by adding at the end the following new section:

"§ 308. Reexamination prohibited

"(a) ORDER FOR REEXAMINATION.—Notwithstanding any provision of this chapter, once an order for reexamination of a patent has been issued under section 304 of this title, neither the patent owner nor the third-party requester, if any, nor privies of either, may file a subsequent request for reexamination of the patent until a reexamination certificate is issued and published under section 307 of this title, unless authorized by the Commissioner.

"(b) FINAL DECISION.—Once a final decision has been entered against a party in a civil action arising in whole or in part under section 1338 of title 28 that the party has not sustained its burden of proving the invalidity of any patent claim in suit, then neither that party nor its privies may thereafter request reexamination of any such patent claim on the basis of issues which that party or its privies raised or could have raised in such civil action, and a reexamination requested by that party or its privies on the basis of such issues may not thereafter be maintained by the Office, notwithstanding any other provision of this chapter.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 30 of title 35, United States Code, is amended by adding at the end the following:

"308. Reexamination prohibited.".

SEC. 504. CONFORMING AMENDMENTS.

(a) PATENT FEES; PATENT SEARCH SYSTEMS.—Section 41(a)(7) of title 35, United States Code, is amended to read as follows:

"(7) On filing each petition for the revival of an unintentionally abandoned application for a patent, for the unintentionally delayed payment of the fee for issuing each patent, or for an unintentionally delayed response by the patent owner in a reexamination proceeding, $1,250, unless the petition is filed under sections 133 or 151 of this title, in which case the fee shall be $110.".

(b) APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES.—Section 134 of title 35, United States Code, is amended to read as follows:

"§ 134. Appeal to the Board of Patent Appeals and Interferences

"(a) PATENT APPLICANT.—An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(b) PATENT OWNER.—A patent owner in a reexamination proceeding may appeal from the final rejection of any claim by the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(c) THIRD-PARTY.—A third-party requester may appeal to the Board of Patent Appeals and Interferences from the final decision of the primary examiner favorable to the patentability of any original or proposed amended or new claim of a patent, having once paid the fee for such appeal.".

(d) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended by amending the first sentence to read as follows: "An applicant, a patent owner, or a third-party requester, dissatisfied with the final decision in an appeal to the Board of Patent Appeals and Interferences under section 134 of this title, may appeal the decision to the United States Court of Appeals for the Federal Circuit.".

(e) PROCEEDINGS ON APPEAL.—Section 143 of title 35, United States Code, is amended by amending the third sentence to read as follows: "In ex parte and reexamination cases, the Commissioner shall submit to the court in writing the grounds for the decision of the Patent Office, addressing all the issues involved in the appeal.".

(f) CIVIL ACTION TO OBTAIN PATENT.—Section 145 of title 35, United States Code, is amended in the first sentence by inserting "(a)" after "section 134".

SEC. 505. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date that is 6 months after the date of the enactment of this Act and shall apply to all reexamination requests filed on or after such date.

TITLE VI—MISCELLANEOUS PATENT PROVISIONS

SEC. 601. PROVISIONAL APPLICATIONS.

(a) ABANDONMENT.—Section 111(b)(5) of title 35, United States Code, is amended to read as follows:

"(5) ABANDONMENT.—Notwithstanding the absence of a claim, upon timely request and as prescribed by the Commissioner, a provisional application may be treated as an application filed under subsection (a). If no such request is made, the provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival thereafter.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to a provisional application filed on or after June 8, 1995.

SEC. 602. INTERNATIONAL APPLICATIONS.

Section 119 of title 35, United States Code, is amended as follows:

(1) In subsection (a), insert "or in a WTO member country" after "or to citizens of the United States,".

(2) At the end of section 119 add the following new subsections:

"(f) Applications for plant breeder's rights filed in a WTO member country (or in a foreign UPOV Contracting Party) shall have the same effect for the purpose of the right of priority under subsections (a) through (c) of this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents.

"(g) As used in this section—

"(1) the term 'WTO member country' has the same meaning as the term is defined in section 104(b)(2) of this title; and

"(2) the term 'UPOV Contracting Party' means a member of the International Convention for the Protection of New Varieties of Plants.".

SEC. 603. PLANT PATENTS.

(a) TUBER PROPAGATED PLANTS.—Section 161 of title 35, United States Code, is amended by striking "a tuber propagated plant or".

(b) RIGHTS IN PLANT PATENTS.—The text of section 163 of title 35, United States Code, is amended to read as follows: "In the case of a plant patent, the grant to the patentee, such patentee's heirs or assigns, shall have the right to exclude others from asexually reproducing the plant, and from using, offering for sale, or selling the plant so reproduced, or any of its parts, throughout the United States, or from importing the plant so reproduced, or any parts thereof, into the United States.".

(c) EFFECTIVE DATE.—The amendments by subsection (a) shall apply on the date of enactment of this Act. The amendments made by subsection (b) shall apply to any plant patent issued on or after the date of enactment of this Act.

SEC. 604. ELECTRONIC FILING.

Section 22 of title 35, United States Code, is amended by striking "printed or typewritten" and inserting "printed, typewritten, or on an electronic medium" .

OMNIBUS PATENT ACT OF 1997—SUMMARY

TITLE I—THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION

This title establishes the United States Patent and Trademark Organization (USPTO) as a wholly owned government corporation connected for policy-making purposes to the Department of Commerce. Like the existing U.S. Patent and Trademark Office, the USPTO is charged with patent and trademark policy formulation and the administration of the patent and trademark systems. But unlike the present structure, the USPTO will be freed from a heavy-handed federal bureaucracy, which inhibits the ability of the Patent and Trademark Office to meet the demands of those who fully sustain its operation through user fees. Heightened efficiency is also achieved by separating the policymaking functions from the day-to-day operating functions.

The USPTO is headed by a Director of the U.S. Patent and Trademark Office, who is charged with advising the President through the Secretary of Commerce regarding patent and trademark policy. He or she is appointed by the President with Senate confirmation, and he or she serves at the pleasure of the President.

The USPTO has two autonomous subdivisions: the Patent Office and the Trademark Office. Each office is responsible for the administration of its own system. Each office controls its own budget and its management structure and procedures. Each office must generate its own revenue in order to be self-sustaining and to provide for the Office of the Director. The Patent Office and the Trademark Office are headed by the Commissioner of Patents and the Commissioner of Trademarks, respectively. The two Commissioners are appointed by the Director and serve at his or her pleasure.

TITLE II—EARLY PUBLICATION

Title II of the bill provides for the early publication of patent applications. It would require the Patent Office to publish pending applications eighteen months after the application was filed. An exception of this rule is made for applications filed only in the United States. Those applications will be published eighteen months after filing or three months after the office issues its first response on the application, whichever is later. Additionally, once an application is published, Title II grants the applicant "provisional rights," that is, legal protection for his or her invention.

TITLE III—PATENT TERM RESTORATION

Title III deals with the problem of administrative delay in the patent examination process by restoring to the patent holder any part of the term that is lost due to undue administrative delay. Title III gives clear deadlines in which the Patent Office must act. The office has fourteen months to issue a first office action and four months to respond to subsequent applicant filings. Any delay beyond those deadlines is considered undue delay and will be restored to the patent term.

TITLE IV—PRIOR DOMESTIC COMMERCIAL USE

This title provides rights to a person who has commercially sold an invention more than one year before the effective filing date of a patent application by another person. Anyone in this situation will be permitted to continue to sell his or her product without being forced to pay a royalty to the patent holder.

TITLE V—PATENT RE-EXAMINATION REFORM

Title V provides for à greater role for third parties in patent re-examination proceedings by allowing third-parties to raise a challenge to an existing patent and to participate in the reexamination process in a meaningful way.

TITLE VI—MISCELLANEOUS

Provisional Applications for Patents

This title amends section 115 of Title 35 of the U.S. Code to clarify that if a provisional application is converted into a non-provisional application within twelve months of filing, that it stands as a full patent application, with the date of filing of the provisional application as the date of priority. If no request is made within twelve months, the provisional application is considered abandoned. This clarification will make certain that American provisional applications are given the same weight as other countries' provisional applications in other countries' courts.

Plant Patents

Title VI also makes two corrections to the plant patent statute. First, the ban on tuber propagated plants is removed. This depression-era ban was included for fear of limiting the food supply. This is no longer a concern. Second, the plant patent statute is amended to include parts of plants. This closes a loophole that foreign growers have used to import the fruit or flowers of patented plants without paying a royalty because the entire plant was not being sold.

Electronic Filing

Lastly, this title also allows for the filing of patent and trademark documents by electronic medium.

By Mrs. FEINSTEIN:

S. 508. A bill to provide Mai Hoa "Jasmin" Salehi permanent residency; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mrs. FEINSTEIN. Mr. President, this bill grants permanent residency status to Jasmin Salehi, a California constituent who is currently assisting the LA district attorney with the prosecution of her husband's murderer.

Mai Hoa Jasmin Salehi is a Korean immigrant who was denied permanent residency after her husband was violently murdered at a Denny's in Reseda, CA, where he worked as manager. Local INS officials in Los Angeles denied Jasmin's application because the law requires legal immigrants be married for 2 years before they become eligible for permanent resident status. Jasmin and Cyrus Salehi were newlyweds who had been married only 11 months before the murder.

I have previously sought administrative relief for Jasmin by asking the INS if any humanitarian exemptions could be made in Jasmin's case, but the local INS officials in Los Angeles has told my staff that there is nothing they can do.

Jasmin met and married Cyrus Salehi, an American citizen, in March 1995 and has completed all the paperwork necessary to obtain her green card. But now, Jasmin has been told that she can stay in the United States as long as the district attorney needs her to prosecute her husband's murderer. Despite here assistance in the prosecution, Jasmin would be deported once the investigation and subsequent trial are completed.

Jasmin has done everything right in order to become a permanent resident of this country—except for the tragedy of her husband's murder 13 months before she could become a permanent resident. I hope you support this bill so that we can help Jasmin begin to rebuild her life in the United States.

Mr. President, I ask for unanimous consent that the attached news article and the bill be entered into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

I. Permanent Residence:

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Mai Hoa "Jasmin" Salehi, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees.

[From the Los Angeles Daily News]

WIDOW'S TROUBLES MULTIPLY

(By Jeannette DeSantis)

Things have gotten worse instead of better for Jasmin Salehi.

Alone in a new apartment, half of her belongings still packed in moving boxes, Salehi, 32, surveys her new residence and wonders how it came to this.

When the Korean widow first came to the United States more than a year ago, her life was filled with promise. A loving husband with a steady income, friends and a comfortable home in Sherman Oaks were more that she could ask for.

Then life handed her more.

Her husband of 11 months, Cyrus Salehi, was slain earlier this year. Soon after, the Immigration and Naturalization Service notified Salehi she would be deported because she had not been married to a U.S. citizen long enough to get her green card.

And recently, she was evicted from the only home she has known since arriving in the United States.

"All these things happened at one time," Salehi said. "It is really hard for me, and I get depresses . . . especially during the holidays."

In the midst of her first holiday season as a widow, Salehi can only dream of her husband, Cyrus Salehi, killed in February after two robbers shot him during a holdup at the Reseda Denny's restaurant he owned.

"There are lots of memories of my husband . . . and our Christmases together," she said.

"Now, every Christmas will be a Christmas without him."

But it won't be a holiday season without friends.

Francine and Ralph Myers, who informally adopted Salehi since Cyrus's death, met her through a victim support group. The Myers, whose son was slain, know well how those first holiday seasons can affect a victim of crime.

"It can be a real tough time," Francine Myers said. "It is different for everyone. Jasmin doesn't want to decorate. I remember (after my son died) I would try to change every tradition we had and make new ones."

Myers said Salehi is a survivor, who stood up to the INS and was allowed to stay in the country until her husband's accused killer stands trial. Meanwhile, she has not let her own grief stop her from helping others.

"Although she needs help, she unselfishly helps others," Myers said, adding that Salehi has accompanied her to the trial of the person accused of murdering her own son. "That says something about her."

Salehi contends that she is only returning the support the Myers have given her. "She is a victim too, and all that time she is there for me," Salehi said.

Shellie Samuels, the deputy district attorney handling the Cyrus Salehi murder case, said that although all victims of crime are traumatized by a loved one's death, Salehi's ordeal has been especially nightmarish.

"Besides the emotional trauma she has gone through, the U.S. has not done right by her," Samuels said. "Her American citizen husband gets killed and they treat her like an illegal immigrant."

Cyrus and Jasmin Salehi filed the paperwork for Salehi to receive a green card in early 1995, soon after their March nuptials.

But Salehi was deemed ineligible for residence status because her husband was killed before they had been married two years—an INS time requirement for a spouse sponsorship.

The INS has only offered Salehi a temporary reprieve, allowing her to stay in the country for her husband's murder trial.

As for Salehi, she fears if she is sent back to Korea, she will be a stranger in her own country, a place where stigmas are attached to orphans and widows, of which she is both.

Born Mai Hoa Joo in Seoul, Korea, in 1964, Salehi's parents died within months of each other when she was 14. A college graduate, Salehi visited the United States several times before she immigrated.

During a 1993 visit, Salehi met her husband at a Denny's restaurant in Los Angeles. They continued their relationship even as Salehi returned to Korea.

Once married, Salehi received a work permit after she applied for a green card and began working at a clothing manufacturer in downtown Los Angeles, where she still puts in 10-hour days on a regular basis.

But her salary as a production manager was not enough to cover the mortgage payment on the small house the couple owned, even though she has inherited part ownership of the Denny's restaurant where her husband was killed.

"She has run into a lot of roadblocks, but she is a survivor," said Francine Myers. "She will do all right as long as she feels like she has the support behind her."

By Mr. BURNS:

S. 509 A bill to provide for the return of certain program and activity fund rejected by States to the Treasury to reduce the Federal deficit, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

THE FAIR AND RESPONSIBLE FUND USE ACT

Mr. BURNS. Mr. President, I rise to introduce the Fair and Responsible Fund Use Act. It is a bill that will provide for the return of funds, rejected by a State, to the Treasury. These funds will then be used specifically to reduce the Federal deficit.

Sometimes the Federal Government makes available to Montana, and other States, funds which are inconsistent with State priorities. Usually this money comes with strings attached. In other words, the Federal Government wants us to take X action to get Y dollars. Sometimes, out of fiscal conservatism, or philosophical differences, States will return that money to the Treasury. But what has been the reward for an individual State's refusal to grab the Federal carrot that has been dangled in front of it? That money is returned to the program for use by other States.

That's just not right. California or New York should not be the beneficiaries of Montana's restraint and good judgment. The good people of Montana have asked me to take action to stop this from happening and that's why I am introducing this bill today. The Fair and Responsible Fund Use Act will require that we take those funds returned by the States and use them to pay down our national deficit.

Montana and 48 other States are required by law to balance their budgets. While we came one vote short of making that the standard for this Nation, most of us here in Washington are still determine to balance our books. If a State has the courage and willingness to do without a quick Federal buck, then it's only right that the American people, as a whole, should benefit from that action.

Whatever the States send back may seem like small potatoes to some people, but as the late Senator Everett Dirksen once said, "A billion here, and a billion there, and pretty soon you're talking about real money."

We face the very real danger of being crushed by our national deficit. Some of our mindless spending in the past years has left us with a debt of 5.34 trillion dollars—"trillion" with a capital "T." And it's only going to get worse if we don't do something to help out.

This bill makes good common sense. We all must work together in order to pay off the huge national deficit and this is one step in the right direction. I urge my colleagues to support this legislation.

By Mr. MOYNIHAN:

S. 510. A bill to authorize the Architect of the Capitol to develop and implement a plan to improve the Capitol grounds through the elimination and modification of space allocated for parking; to the Committee on Rules and Administration.

THE ARC OF PARK CAPITOL GROUNDS IMPROVEMENT ACT OF 1997

Mr. MOYNIHAN. Mr. President, nearly 100 years ago, in March of 1901, the Senate Committee on the District of Columbia was directed by Senate Resolution to "report to the Senate plans for the development and improvement of the entire park system of the District of Columbia * * * (F)or the purpose of preparing such plans the committee * * * may secure the services of such experts as may be necessary for a proper consideration of the subject."

And secure "such experts" the committee assuredly did. The Committee formed what came to be known as the McMillan Commission, named for committee chairman Senator James McMillan of Michigan. The Commission's membership was a "who's who" of late 19th and 20th-century architecture, landscape design, and art: Daniel Burnham, Frederick Law Olmsted Jr., Charles F. McKim, and Augustus St. Gaudens. The Commission traveled that summer to Rome, Venice, Vienna, Budapest, Paris, and London, studying the landscapes, architecture, and public spaces of the grandest cities in the world. The McMillan Commission returned and fashioned the city of Washington as we now know it.

We are particularly indebted today for the Commission's preservation of the Mall. When the members left for Europe, the Congress had just given the Pennsylvania Railroad a 400-foot wide swath of the Mall for a new station and trackage. It is hard to imagine our city without the uninterrupted stretch of greenery from the Capitol to the Washington Monument, but such would have been the result. Fortunately, when in London, Daniel Burnham was able to convince Pennsylvania Railroad president Alexander Cassatt that a site on Massachusetts Avenue would provide a much grander entrance to the city. President Cassatt assented and Daniel Burnham gave us Union Station.

But the focus of the Commission's work was the District's park system. The Commission noted in its report:

> Aside from the pleasure and the positive benefits to health that the people derive from public parks, in a capital city like Washington there is a distinct use of public spaces as the indispensable means of giving dignity to Government buildings and of making suitable connections between the great departments * * * [V]istas and axes; sites for monuments and museums; parks and pleasure gardens; fountains and canals; in a word all that goes to make a city a magnificent and consistent work

of art were regarded as essential in the plans made by L'Enfant under the direction of the first President and his Secretary of State.

Washington and Jefferson might be disappointed at the affliction now imposed on much of the Capitol Grounds by the automobile.

Despite the ready and convenient availability of the city's Metrorail system, an extraordinary number of Capitol Hill employees drive to work. No doubt many must. But must we provide free parking? If there is one lesson learned from the Intermodal Surface Transportation Efficiency Act of 1991, it is that free goods are always wasted. Free parking is a powerful incentive to drive to work when the alternative is to pay for public transportation. As we have created parking spaces around the Capitol, such as the scar of angle-parked cars at the foot of Pennsylvania Avenue made available "temporarily" during construction of the Thurgood Marshall Federal Judiciary Building, demand has simply risen to meet the available supply. The result—the Pennsylvania Avenue spaces have become permanent and a portion of the Nation's main street remains an aesthetic disaster.

Today, I am reintroducing legislation to complete the beautification of the Capitol Grounds, as envisioned by the illustrious McMillan Commission in 1901, through the elimination of most surface parking and restoration of the sites as public parks. The Arc of Park Capitol Grounds Improvement Act of 1997 would require the Architect of the Capitol to develop and implement a comprehensive plan to improve the Capitol Grounds through the creation of an "arc of park," sweeping from Second Street, NE to the Capitol Reflecting Pool and back to First Street, SE, with the Capitol Building as its approximate center. Delaware Avenue between Columbus Circle and Constitution Avenue would be closed to traffic and rebuilt as a grand pedestrian walkway from Union Station to the Capitol. The angled parking would be eliminated on Pennsylvania Avenue between First and Third Streets, NW, and the Pennsylvania Avenue tree line would be continued onto the Capitol Grounds.

There is, of course, the matter of parking. This legislation authorizes the Architect of the Capitol to construct underground parking facilities, as needed. These facilities, which will undoubtedly be expensive, will be financed simply by charging for the parking. A legitimate user fee. In the matter of parking, this legislation is an appropriate companion to a bill that my colleague from Rhode Island, Senator CHAFEE, and I introduced earlier today, which will enable employers to provide their employees with cash compensation in lieu of a parking space. This bill, which was also included in the Administration's ISTEA reauthorization proposal, will expand employee options for commuting and reduce auto use.

By Mr. CHAFEE (for himself, Mr. ROCKEFELLER, Mr. JEFFORDS, Mr. DEWINE, Mr. DODD, Ms. MOSELEY-BRAUN, Mr. KERRY, Mr. KERREY, and Mr. KENNEDY):

S. 511. A bill to require that the health and safety of a child be considered in any foster care or adoption placement, to eliminate barriers to the termination of parental rights in appropriate cases, to promote the adoption of children with special needs, and for other purposes; to the Committee on Finance.

THE SAFE ADOPTIONS AND FAMILY ENVIRONMENTS ACT

Mr. CHAFEE. Mr. President, today I am pleased to introduce legislation to make some critical reforms to the child welfare system. The goals of the legislation are twofold: to ensure that abused and neglected children are in safe settings, and to move children more rapidly out of the foster care system and into permanent placements.

While the goal of reunifying children with their biological families is laudable, we should not be encouraging States to return abused or neglected children to homes that are clearly unsafe; regrettably, this is occurring under current law.

Our legislation would clarify the primacy of safety and health in decisions made about children who have been abused and neglected. The legislation would also push States to identify and enact State laws to address those circumstances in which the rights of the biological parent should be terminated expeditiously (for example, when the parent has been found guilty of felony assault, chronic sexual abuse, or the murder of a sibling).

The legislation also would provide incentives to move children into permanent placements, either by returning them home when reunification is the goal or by removing barriers to adoption.

I would like to thank those who have worked so hard to develop this legislation. In particular, Senator ROCKEFELLER, the lead Democratic cosponsor, with whom I have worked for many years on childrens' issues. I also want to thank Senator DEWINE, who, as a former prosecutor, brings a good deal of legal expertise and personal experience to this issue. We are also grateful for all Senator JEFFORDS has done in the past to lay the groundwork for this important legislation.

My sincere thanks also goes out to the many child advocacy organizations which were so helpful in the development of this legislation.

Finally, it is encouraging that similar legislation has been introduced in the House by Representatives CAMP and KENNELLY. While there are minor differences between our bills, the overall goals of both bills are the same. In that regard, I look forward to working with our House counterparts toward the enactment this year of child welfare reform legislation this year.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Safe Adoptions and Family Environments Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REQUIRING CONSIDERATION OF THE HEALTH AND SAFETY OF A CHILD IN FOSTER CARE AND ADOPTION PLACEMENTS

Sec. 101. Improving foster care protection requirements.
Sec. 102. Clarifying State plan requirements.
Sec. 103. Including safety in case plan and case review system requirements.
Sec. 104. Multidisciplinary/multiagency child death review teams.

TITLE II—ENHANCING PUBLIC AGENCY AND COMMUNITY ACCOUNTABILITY FOR THE HEALTH AND SAFETY OF CHILDREN

Sec. 201. Knowledge development and collaboration to prevent and treat substance abuse problems among families known to child protective service agencies.
Sec. 202. Priority in providing substance abuse treatment.
Sec. 203. Foster care payments for children with parents in residential facilities.
Sec. 204. Reimbursement for staff training.
Sec. 205. Criminal records checks for prospective foster and adoptive parents and group care staff.
Sec. 206. Development of State guidelines to ensure safe, quality care to children in out-of-home placements.

TITLE III—INCENTIVES FOR PROVIDING PERMANENT FAMILIES FOR CHILDREN

Sec. 301. Reasonable efforts for adoption or location of a permanent home.
Sec. 302. Permanency planning hearings.
Sec. 303. Promotion of adoption of children with special needs.
Sec. 304. One-year reimbursement for reunification services.
Sec. 305. Adoptions across State and county jurisdictions.

TITLE IV—PROMOTION OF INNOVATION IN ENSURING SAFE AND PERMANENT FAMILIES

Sec. 401. Innovation grants to reduce backlogs of children awaiting adoption and for other purposes.
Sec. 402. Expansion of child welfare demonstration projects.

TITLE V—MISCELLANEOUS

Sec. 501. Effective date.

TITLE I—REQUIRING CONSIDERATION OF THE HEALTH AND SAFETY OF A CHILD IN FOSTER CARE AND ADOPTION PLACEMENTS

SEC. 101. IMPROVING FOSTER CARE PROTECTION REQUIREMENTS.

(a) IN GENERAL.—Paragraph (9)(B) of section 422(b) of the Social Security Act (42 U.S.C. 622(b)), as added by section 202(a)(3) of the Social Security Act Amendments of 1994 (Public Law 103–432; 108 Stat. 4453), is amended—

(1) in clause (iii)(I), by inserting "safe and" after "where"; and

(2) in clause (iv), by inserting "safely" after "remain".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—Title IV of the Social Security Act (42 U.S.C. 620–635) is amended—

(1) in section 422(b)—

(A) by striking the period at the end of paragraph (9) (as added by section 554(3) of the Improving America's Schools Act of 1994 (Public Law 103–382; 108 Stat. 4057)) and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) by redesignating paragraph (9), as added by section 202(a)(3) of the Social Security Act Amendments of 1994 (Public Law 103–432, 108 Stat. 4453), as paragraph (10); and

(2) in sections 424(b), 425(a), and 472(d), by striking "422(b)(9)" each place it appears and inserting "422(b)(10)".

SEC. 102. CLARIFYING STATE PLAN REQUIREMENTS.

(a) IN GENERAL.—Section 471 of the Social Security Act (42 U.S.C. 671) is amended—

(1) in subsection (a), by striking paragraph (15) and inserting the following:

"(15) provides that, in each case—

"(A) in determining reasonable efforts, as described in this section, the child's health and safety shall be the paramount concern; and

"(B) reasonable efforts will be made—

"(i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home when the child can be cared for at home without endangering the child's health or safety; and

"(ii) to make it possible for the child to return to the child's home, except—

"(I) if the State through legislation has specified the cases in which the State is not required to make efforts at reunification because of circumstances that endanger the child's health or safety, which shall include cases such as those described in subsection (c); or

"(II) if a court determines that returning the child to the child's home, would endanger the child's health or safety;"; and

(2) by adding at the end the following:

"(c) For purposes of subsection (a)(15)(B)(ii)(I), the cases described in this subsection are as follows:

"(1) A case involving a child with a parent who has been found by a court of competent jurisdiction—

"(A) to have committed murder (as defined in section 1111(a) of title 18, United States Code) of another child of such parent;

"(B) to have committed voluntary manslaughter (as defined in section 1112(a) of title 18, United States Code) of another child of such parent;

"(C) to have aided or abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of another child of such parent;

"(D) to have committed a felony assault that results in serious bodily injury to the child or to another child of such parent; or

"(E) to have abandoned, tortured, chronically abused, or sexually abused the child.".

(b) STATE LEGISLATION REQUIRED.—Section 471 of the Social Security Act (42 U.S.C. 671), as amended by subsection (a), is amended by adding at the end the following:

"(d) Not later than October 3, 1999, a State, in order to be eligible for payments under this part, shall have and enforce State laws that specify—

"(1) the cases, such as those described in subsection (c), in which the State is not required to make efforts at reunification of the child with the child's parent; and

"(2) the cases, such as those described in subsection (c), in which there are grounds for expedited termination of parental rights without efforts first being required to reunify the child with the child's parent because of the circumstances that endanger the child's health or safety."

(c) REDESIGNATION OF PARAGRAPH.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) by striking "and" at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) (as added by section 1808(a) of the Small Business Job Protection Act of 1996 (Public Law 104–188; 110 Stat. 1903)) and inserting "; and"; and

(3) by redesignating paragraph (18) (as added by section 505(3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2278)) as paragraph (19).

SEC. 103. INCLUDING SAFETY IN CASE PLAN AND CASE REVIEW SYSTEM REQUIREMENTS.

Section 475 of the Social Security Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting "safety and" after "discussion of the"; and

(B) in subparagraph (B)—

(i) by inserting "safe and" after "child receives"; and

(ii) by inserting "safe" after "return of the child to his own"; and

(2) in paragraph (5)—

(A) in subparagraph (A), in the matter preceding clause (i), by inserting "a safe setting that is" after "placement in"; and

(B) in subparagraph (B)—

(i) by inserting "the safety of the child," after "determine"; and

(ii) by inserting "and safely maintained in" after "returned to".

SEC. 104. MULTIDISCIPLINARY/MULTIAGENCY CHILD DEATH REVIEW TEAMS.

(a) STATE CHILD DEATH REVIEW TEAMS.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 102(b), is amended by adding at the end the following:

"(e)(1) Not later than 5 years after the date of enactment of the Safe Adoptions and Family Environments Act, a State, in order to be eligible for payments under this part, shall submit to the Secretary a certification that the State has established and is maintaining, a State child death review team, and if necessary in order to cover all counties in the State, child death review teams on the regional or local level, that shall review child deaths, including deaths in which—

"(A) there has been a prior report of child abuse or neglect or there is reason to suspect that the child death was caused by, or related to, child abuse or neglect;

"(B) the child who died was a ward of the State or was otherwise known to the State or local child welfare agency;

"(C) the child death was a suicide; or

"(D) the cause of the child death was otherwise unexplained or unexpected.

"(2) A child death review team established in accordance with this subsection should have a membership that, as defined by the Secretary, will present a range of viewpoints that are independent from any specific agency, and shall include representatives from, at a minimum, specific fields of expertise, such as law enforcement, health, mental health, and substance abuse, and from the community.

"(3) A State child death review team shall—

"(A) provide support to a regional or local child death review team;

"(B) make public an annual summary of case findings;

"(C) provide recommendations for systemwide improvements in services to prevent fatal abuse and neglect; and

"(D) if the State child death review team covers all counties in the State on its own, carry out the duties of a regional or local child death review team described in paragraph (4).

"(4) A regional or local child death review team shall—

"(A) conduct individual case reviews;

"(B) assist with regional or local management of child death cases; and

"(C) suggest followup procedures and systems improvements.".

(b) FEDERAL CHILD DEATH REVIEW TEAM.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by subsection (a), is amended by adding at the end the following:

"(f)(1) The Secretary shall establish a Federal child death review team that shall consist of at least the following:

"(A) Representatives of the following Federal agencies who have expertise in the prevention or treatment of child abuse and neglect:

"(i) Department of Health and Human Services.

"(ii) Department of Justice.

"(iii) Bureau of Indian Affairs.

"(iv) Department of Defense.

"(v) Bureau of the Census.

"(B) Representatives of national child-serving organizations who have expertise in the prevention or treatment of child abuse and neglect and that, at a minimum, represent the health, child welfare, social services, and law enforcement fields.

"(2) The Federal child death review team established under this subsection shall—

"(A) review reports of child deaths on military installations and other Federal lands, and coordinate with Indian tribal organizations in the review of child deaths on Indian reservations;

"(B) conduct ongoing reviews of the status of State child death review teams and regional or local child death review teams, and of the management of interstate child death cases;

"(C) provide guidance and technical assistance to States and localities seeking to initiate or improve child death review teams and to prevent child fatalities;

"(D) review and analyze relevant aggregate data from State child death review teams and from regional or local child death review teams, in order to identify and track national trends in child fatalities; and

"(E) develop recommendations on related policy and procedural issues for Congress, relevant Federal agencies, and States and localities for the purpose of preventing child fatalities.".

TITLE II—ENHANCING PUBLIC AGENCY AND COMMUNITY ACCOUNTABILITY FOR THE HEALTH AND SAFETY OF CHILDREN

SEC. 201. KNOWLEDGE DEVELOPMENT AND COLLABORATION TO PREVENT AND TREAT SUBSTANCE ABUSE PROBLEMS AMONG FAMILIES KNOWN TO CHILD PROTECTIVE SERVICE AGENCIES.

(a) SOURCES OF FEDERAL SUPPORT FOR SUBSTANCE ABUSE PREVENTION AND TREATMENT FOR PARENTS AND CHILDREN.—Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Administrator of the Administration for Children, Youth and Families, and the Director of the Center for Substance Abuse Prevention and the Director of the Center for Substance Abuse Treatment, shall prepare and provide to State child welfare agencies and substance abuse prevention and treatment agencies an inventory of all Federal programs that may provide funds for substance abuse prevention and treatment services for families receiving services directly or through grants or contracts from public child welfare agencies. An inventory prepared under this subsection shall include with respect to each Federal program listed, the amount of Federal funds that are available for that program and the relevant eligibility requirements. The Secretary shall biennially update the inventory required under this subsection.

(b) COLLABORATION BETWEEN FEDERALLY SUPPORTED SUBSTANCE ABUSE AND CHILD PROTECTION AGENCIES.—

(1) SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT.—Section 1932(a) of the Public Health Service Act (42 U.S.C. 300x–32(a)) is amended—

(A) in paragraph (6)(B), by striking "and" at the end;

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting after paragraph (6) the following:

"(7) the application contains an assurance that the State will collect information and prepare the report required under section 201(b)(3) of the Safe Adoptions and Family Environments Act; and".

(2) SOCIAL SECURITY ACT.—Title IV of the Social Security Act is amended—

(A) in section 422(b), as amended by section 101(b) of this Act—

(i) in paragraph (10), by striking "and" at the end;

(ii) in paragraph (11), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(12) provide that the State shall collect information and prepare the report required under section 201(b)(3) of the Safe Adoptions and Family Environments Act."; and

(B) in section 432(a)—

(i) in paragraph (7)(B), by striking "and" at the end;

(ii) in paragraph (8), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(9) provides that the State shall collect information and prepare the report required under section 201(b)(3) of the Safe Adoptions and Family Environments Act.".

(3) REPORT ON JOINT ACTIVITIES.—

(A) IN GENERAL.—In order to be eligible to receive a grant under subpart 2 of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.) and under subparts 1 and 2 of part B of title IV of the Social Security Act (42 U.S.C. 620 et seq.), the State substance abuse prevention and treatment agency responsible for administering a grant under subpart 2 of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.), and the State child welfare agency responsible for administering the State plans under subparts 1 and 2 of part B of title IV of the Social Security Act (42 U.S.C. 620 et seq.) shall, not later than 12 months after the date of enactment of this Act, jointly prepare a report containing the information described in subparagraph (B) on the joint prevention and treatment activities conducted by such agencies, and shall submit the report to the Secretary of Health and Human Services who shall forward such report to the Administrator of the Administration for Children, Youth and Families, the Director of the Center for Substance Abuse Prevention, and the Director of the Center for Substance Abuse Treatment.

(B) REQUIRED INFORMATION.—The information described in this subparagraph shall, to the maximum extent practicable, include—

(i) a description of the characteristics of the parents of children, including the aggregate numbers, who are reported to State or local child welfare agencies because of allegations of child abuse or neglect and have substance abuse treatment needs, and the nature of those needs;

(ii) a description of the characteristics of the children of parents who are receiving substance abuse treatment from services administered by the State substance abuse prevention and treatment and medicaid agencies, including the aggregate number and whether they are in their parents' custody;

(iii) a description of the barriers that prevent the substance abuse treatment needs of clients of child welfare agencies from being treated appropriately;

(iv) a description of the manner in which the State child welfare and substance abuse prevention and treatment agencies are collaborating—

(I) to assess the substance abuse treatment needs of families who are known to child welfare agencies;

(II) to remove barriers that prevent the State from meeting the needs of families with substance abuse problems;

(III) to expand substance abuse prevention, including early intervention, and treatment for children and parents who are known to child welfare agencies; and

(IV) to provide for the joint funding of substance abuse treatment and prevention activities, the joint training of staff, and the joint consultations between staff of the 2 State agencies;

(v) a description of the information available on the treatment and cost-effectiveness of, and the annual expenditures for, substance abuse treatment services provided to families who are known to child welfare agencies;

(vi) available data on the number of parents and children served by both the State child welfare and the substance abuse prevention and treatment agencies and the number of the parents ordered by a court to seek such services; and

(vii) any other information determined appropriate by the Secretary of Health and Human Services.

(c) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Administrator of the Administration for Children, Youth and Families, the Director of the Center for Substance Abuse Prevention, and the Director of the Center for Substance Abuse Treatment, shall, using the information reported to the Secretary jointly by State child welfare and substance abuse prevention and treatment agencies, prepare and submit to the appropriate committees of Congress a report containing—

(1) a description of the extent to which clients of child welfare agencies have substance abuse treatment needs, the nature of those needs, and the extent to which those needs are being met;

(2) a description of the barriers that prevent the substance abuse treatment needs of clients of child welfare agencies from being treated appropriately;

(3) a description of the collaborative activities of State child welfare and substance abuse prevention and treatment agencies to jointly assess clients' needs, fund substance abuse prevention and treatment, train and consult with staff, and evaluate the effectiveness of programs serving clients in both agencies' caseloads;

(4) a summary of the available data on the treatment and cost-effectiveness of substance abuse treatment services for clients of child welfare agencies; and

(5) recommendations, including recommendations for Federal legislation, for addressing the needs and barriers, as described in paragraphs (1) and (2), and for promoting further collaboration of the State child welfare and substance abuse prevention and treatment agencies in meeting the substance abuse treatment needs of families.

SEC. 202. PRIORITY IN PROVIDING SUBSTANCE ABUSE TREATMENT.

Section 1927 of the Public Health Service Act (42 U.S.C. 300x–27) is amended—

(1) in the heading, by inserting "**and caretaker parents**" after "**women**"; and

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting "and all caretaker parents who are referred for treatment by the State or local child welfare agency" after "referred for"; and

(ii) by striking "is given" and inserting "are given"; and

(B) in paragraph (2)—

(i) by striking "such women" and inserting "such pregnant women and caretaker parents"; and

(ii) by striking "the women" and inserting "the pregnant women and caretaker parents".

SEC. 203. FOSTER CARE PAYMENTS FOR CHILDREN WITH PARENTS IN RESIDENTIAL FACILITIES.

Section 472(b) of the Social Security Act (42 U.S.C. 672(b)) is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(3) placed with the child's parent in a residential program that provides treatment and other necessary services for parents and children, including parenting services, when—

"(A) the parent is attempting to overcome—

"(i) a substance abuse problem and is complying with an approved treatment plan;

"(ii) being a victim of domestic violence;

"(iii) homelessness; or

"(iv) special needs resulting from being a teenage parent;

"(B) the safety of the child can be assured;

"(C) the range of services provided by the program is designed to appropriately address the needs of the parent and child;

"(D) the goal of the case plan for the child is to try to reunify the child with the family within a specified period of time; and

"(E) the parent described in subparagraph (A)(i) has not previously been treated in a residential program serving parents and their children together.".

SEC. 204. REIMBURSEMENT FOR STAFF TRAINING.

(a) Training of Personnel.—Section 474(a) of the Social Security Act (42 U.S.C. 674(a)) is amended—

(1) in paragraph (3)(A)—

(A) by striking "75" and inserting "subject to subsection (e), 75";

(B) by inserting ", and training directed at staff maintenance and retention" after "enrolled in such institutions"; and

(C) by striking "of personnel" and all that follows and inserting the following: "of—

"(i) personnel employed or preparing for employment by the State agency or by the local agency administering the State plan in the political subdivision; and

"(ii) personnel employed by courts and State or local law enforcement agencies, and by State, local, or private nonprofit substance abuse prevention and treatment agencies, mental health providers, domestic violence prevention and treatment agencies, health agencies, child care agencies, schools, and child welfare, family service, and community service agencies that are collaborating with the State or local agency administering the State plan in the political subdivision to keep children safe, support families, and provide permanent families for children, including adoptive families;";

(2) in paragraph (3)(B), by striking "75" and inserting "subject to subsection (e), 75"; and

(3) by adding at the end, the following flush sentence:

"Amounts under subparagraphs (A) and (B) of paragraph (3) shall be paid without regard to the primary provider of the training, and shall be determined without regard to the proportion of children on whose behalf foster care maintenance payments or adoption assistance payments are being made under the State plan under this part.".

(b) Requirements for Receipt of Training Funds.—Section 474 of the Social Security Act (42 U.S.C. 674) is amended by adding at the end the following:

"(e) Requirements for Reimbursement of Training Expenditures.—

"(1) Cross-agency training expenditures.—

"(A) Guidelines for qualified expenditures.—The Secretary shall issue guidelines describing the types of training expenditures that shall qualify for reimbursement under subsection (a)(3)(A)(ii). The guidelines issued under the authority of this subparagraph shall emphasize reimbursement of training expenditures to treat and prevent child abuse and neglect, keep children safe, support families, and provide permanent families for children, including adoptive families.

"(B) Documentation.—A State may not receive reimbursement for training expenditures incurred under subsection (a)(3)(A)(ii) unless the State submits to the Secretary, in such form and manner as the Secretary may specify, documentation evidencing that the expenditures conform with the guidelines issued under subparagraph (A).

"(2) Maintenance of effort.—With respect to a fiscal year, a State may not receive funds under subparagraph (A) or (B) of subsection (a)(3) if the total State expenditures for the previous fiscal year for training under such subparagraphs are less than the total State expenditures under such subparagraphs for fiscal year 1996.".

SEC. 205. CRIMINAL RECORDS CHECKS FOR PROSPECTIVE FOSTER AND ADOPTIVE PARENTS AND GROUP CARE STAFF.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 102(c), is amended—

(1) in paragraph (18), by striking "and" at the end;

(2) in paragraph (19), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(20) provides procedures for criminal records checks and checks of a State's child abuse registry for any prospective foster parent or adoptive parent, and any employee of a child-care institution before the foster parent or adoptive parent, or the child-care institution may be finally approved for placement of a child on whose behalf foster care maintenance payments or adoption assistance payments are to be made under the State plan under this part, including procedures requiring that—

"(A) in any case in which a criminal record check reveals a criminal conviction for child abuse or neglect, or spousal abuse, a criminal conviction for crimes against children, or a criminal conviction for a crime involving violence, including rape, sexual or other assault, or homicide, approval shall not be granted; and

"(B) in any case in which a criminal record check reveals a criminal conviction for a felony or misdemeanor not involving violence, or a check of any State child abuse registry indicates that a substantiated report of abuse or neglect exists, final approval may be granted only after consideration of the nature of the offense or incident, the length of time that has elapsed since the commission of the offense or the occurrence of the incident, the individual's life experiences during the period since the commission of the offense or the occurrence of the incident, and any risk to the child.".

SEC. 206. DEVELOPMENT OF STATE GUIDELINES TO ENSURE SAFE, QUALITY CARE TO CHILDREN IN OUT-OF-HOME PLACEMENTS.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 205, is amended—

(1) in paragraph (19), by striking "and" at the end;

(2) in paragraph (20), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(21) provides that the State shall—

"(A) develop and implement State guidelines to ensure safe, quality care for children residing in out-of-home care settings, such as guidelines issued by a nationally recognized accrediting body, including the Council on Accreditation for Services for Families and Children and the Joint Commission on the Accreditation of Health Care Organizations;

"(B) assist public provider agencies and private provider agencies that contract and subcontract with the State to meet over a time period determined by the State the quality guidelines established under subparagraph (A);

"(C) clearly articulate the guidelines against which an agency's performance will be judged and the conditions under which the guidelines established under subparagraph (A) will be applied;

"(D) regularly monitor progress made by the public and private agencies located in the State in meeting the guidelines established under subparagraph (A); and

"(E) judge agency compliance with the guidelines established under subparagraph (A) through measuring improvement in child and family outcomes, and through such other measures as the State may determine appropriate to judge such compliance.".

TITLE III—INCENTIVES FOR PROVIDING PERMANENT FAMILIES FOR CHILDREN

SEC. 301. REASONABLE EFFORTS FOR ADOPTION OR LOCATION OF A PERMANENT HOME.

(a) State Plan.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 206, is amended—

(1) in paragraph (20), by striking "and" at the end;

(2) in paragraph (21), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(22) provides that, in any case in which the State's goal for the child is adoption or placement in another permanent home, reasonable efforts will be made to place the child in a timely manner with an adoptive family, legal guardian, or in another planned permanent living arrangement and to complete whatever steps are necessary to finalize the adoption or legal guardianship.".

(b) Case Plan and Case Review System.—Section 475 of the Social Security Act (42 U.S.C. 675) is amended—

(1) in paragraph (1)—

(A) in the last sentence—

(i) by striking "the case plan must also include"; and

(ii) by redesignating such sentence as subparagraph (D) and indenting appropriately; and

(B) by adding at the end, the following:

"(E) In the case of a child with respect to whom the State's goal is adoption or placement in another permanent home, documentation of the steps taken by the agency to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems."; and

(2) in paragraph (5)(B), by inserting "(including the requirement specified in paragraph (1)(E))" after "case plan".

SEC. 302. PERMANENCY PLANNING HEARINGS.

Section 475(5)(C) of the Social Security Act (42 U.S.C. 675(5)(C)) is amended—

(1) by striking "dispositional" and inserting "permanency planning";

(2) by striking "no later than" and all that follows through "12 months" and inserting "not later than 12 months after the original placement (and not less frequently than every 6 months"; and

(3) by striking "future status of" and all that follows through "long term basis)" and inserting "permanency plans for the child (including whether and, if applicable, when, the child will be returned to the parent, referred for termination of parental rights, placed for adoption, or referred for legal guardianship, or other planned permanent living arrangement)".

SEC. 303. PROMOTION OF ADOPTION OF CHILDREN WITH SPECIAL NEEDS.

(a) In General.—Section 473(a) of the Social Security Act (42 U.S.C. 673(a)) is amended by striking paragraph (2) and inserting the following:

"(2)(A) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if such child—

"(i) prior to termination of parental rights and the initiation of adoption proceedings was in the care of a public or licensed nonprofit private child care agency or Indian tribal organization either pursuant to a voluntary placement agreement (provided the child was in care for not more than 180 days) or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of such child, or was residing in a foster family home or child care institution with the child's minor parent (either pursuant to such a voluntary placement agreement or as a result of such a judicial determination); and

"(ii) has been determined by the State pursuant to subsection (c) to be a child with special needs.

"(B) Notwithstanding any other provision of law, and except as provided in paragraph (7), a child who is not a citizen or resident of the United States and who meets the requirements of subparagraph (A) and is otherwise determined to be eligible for the receipt of adoption assistance payments, shall be eligible for adoption assistance payments under this part.

"(C) A child who meets the requirements of subparagraph (A) and who is otherwise determined to be eligible for the receipt of adoption assistance payments shall continue to be eligible for such payments in the event that the child's adoptive parent dies or the child's adoption is dissolved, and the child is placed with another family for adoption.".

(b) Exception.—Section 473(a) of the Social Security Act (42 U.S.C. 673(a)) is amended by adding at the end the following:

"(7)(A) Notwithstanding any other provision of this subsection, no payment may be made to parents with respect to any child that—

"(i) would be considered a child with special needs under subsection (c);

"(ii) is not a citizen or resident of the United States; and

"(iii) the parents adopted outside of the United States or the parents brought into the United States for the purpose of adopting such child.

"(B) Subparagraph (A) shall not be construed as prohibiting payments under this part for a child described in subparagraph (A) that is placed in foster care subsequent to the failure, as determined by the State, of the initial adoption of such child by the parents described in such subparagraph.".

SEC. 304. ONE-YEAR REIMBURSEMENT FOR REUNIFICATION SERVICES.

Section 475(4) of the Social Security Act (42 U.S.C. 675(4)) is amended by adding at the end the following:

"(C)(i) In the case of a child that is removed from the child's home and placed in a foster family home or a child care institution, the foster care maintenance payments made with respect to such child may include payments to the State for reimbursement of expenditures for reunification services, but only during the 1-year period that begins on the date that the child is removed from the child's home.

"(ii) For purposes of clause (i), the term 'reunification services' includes services and activities provided to a child described in clause (i) and the parents or primary caregiver of such a child, in order to facilitate the reunification of the child safely and appropriately within a timely fashion, and may only include individual, group, and family counseling, inpatient, residential, or outpatient substance abuse treatment services, mental health services, assistance to address domestic violence, and transportation to or from such services.".

SEC. 305. ADOPTIONS ACROSS STATE AND COUNTY JURISDICTIONS.

(a) Study of Interjurisdictional Adoption Issues.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall appoint an advisory panel that shall—

(1) study and consider how to improve procedures and policies to facilitate the timely and permanent adoptions of children across State and county jurisdictions;

(2) examine, at a minimum, interjurisdictional adoption issues—

(A) concerning the recruitment of prospective adoptive families from other States and counties;

(B) concerning the procedures to grant reciprocity to prospective adoptive family home studies from other States and counties;

(C) arising from a review of the comity and full faith and credit provided to adoption decrees and termination of parental rights orders from other States; and

(D) concerning the procedures related to the administration and implementation of the Interstate Compact on the Placement of Children; and

(3) not later than 12 months after the final appointment to the advisory panel, submit to the Secretary the report described in subsection (c).

(b) Composition of Advisory Panel.—The advisory panel required under subsection (a) shall, at a minimum, be comprised of representatives of the following:

(1) Adoptive parent organizations.

(2) Public and private child welfare agencies that place children for adoption.

(3) Family court judges' organizations.

(4) Adoption attorneys.

(5) The Association of the Administrators of the Interstate Compact on the Placement of Children and the Association of the Administrators of the Interstate Compact on Adoption and Medical Assistance.

(6) Any other organizations that advocate for adopted children or children awaiting adoption.

(c) Contents of Report.—The report required under subsection (a)(3) shall include the results of the study conducted under paragraphs (1) and (2) of subsection (a) and recommendations on how to improve procedures to facilitate the interjurisdictional adoption of children, including interstate and intercounty adoptions, so that children will be assured timely and permanent placements.

(d) Congress.—The Secretary shall submit a copy of the report required under subsection (a)(3) to the appropriate committees of Congress, and, if relevant, make recommendations for proposed legislation.

TITLE IV—PROMOTION OF INNOVATION IN ENSURING SAFE AND PERMANENT FAMILIES

SEC. 401. INNOVATION GRANTS TO REDUCE BACKLOGS OF CHILDREN AWAITING ADOPTION AND FOR OTHER PURPOSES.

(a) In General.—Section 474(a) of the Social Security Act (42 U.S.C. 674) is amended—

(1) in paragraph (4), by striking the period and inserting "; plus"; and

(2) by inserting after paragraph (4), the following:

"(5) an amount equal to the State's innovation grant award, if an award for the State has been approved by the Secretary pursuant to section 478.".

(b) Innovation Grants.—Part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) is amended by inserting after section 477, the following:

"SEC. 478. INNOVATION GRANTS.

"(a) Payments.—

"(1) In general.—A State that has an application described in paragraph (3) approved by the Secretary, shall be entitled to receive payments, in an amount determined by the Secretary, under section 474(a)(5) for not more than 5 years for the purpose of carrying out the innovation projects described in paragraph (2).

"(2) Innovation projects described.—The innovation projects described in this paragraph are projects that are designed to achieve 1 or more of the following goals:

"(A) Reducing a backlog of children in long-term foster care or awaiting adoption placement.

"(B) Ensuring, not later than 1 year after a child enters foster care, a permanent placement for the child.

"(C) Identifying and addressing barriers that result in delays to permanent placements for children in foster care, including inadequate representation of child welfare agencies in termination of parental rights and adoption proceedings, and other barriers to termination of parental rights.

"(D) Implementing or expanding community-based permanency initiatives, particularly in communities where families reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed.

"(E) Developing and implementing community-based child protection activities that involve partnerships among State and local governments, multiple child-serving agencies, the schools, and community leaders in an attempt to keep children free from abuse and neglect.

"(F) Establishing new partnerships with businesses and religious organizations to promote safety and permanence for children.

"(G) Assisting in the development and implementation of the State guidelines described in section 471(a)(21).

"(H) Developing new staffing approaches to allow the resources of several States to be used to conduct recruitment, placement, adoption, and post-adoption services on a regional basis.

"(I) Any other goal that the Secretary specifies by regulation.

"(3) Application.—

"(A) In general.—An application for a grant under this section may be submitted for fiscal year 1998 or 1999 and shall contain—

"(i) a plan, in such form and manner as the Secretary may prescribe, for an innovation project described in paragraph (2) that will be implemented by the State for a period of not more than 5 consecutive fiscal years, beginning with fiscal year 1998 or 1999, as applicable;

"(ii) an assurance that no waivers from provisions in law, as in effect at the time of the submission of the application, are required to implement the innovation project; and

"(iii) such other information as the Secretary may require by regulation.

"(4) Duration.—An innovation project approved under this section shall be conducted for not more than 5 consecutive fiscal years, except that the Secretary may terminate a project before the end of the period originally approved if the Secretary determines that the State conducting the project is not in compliance with the terms of the plan and application approved by the Secretary under this section.

"(5) Amounts.—With respect to a fiscal year, the Secretary shall award State grants under this section, in an aggregate amount not to exceed $50,000,000 for that fiscal year. A State shall not receive a grant under this section unless, for each year for which a grant is awarded, the State agrees to match the grant with $1 for every $3 received.

"(6) NONSUPPLANTING.—Any amounts payable to a State under paragraph (5) of section 474(a) shall be in addition to the amounts payable under paragraphs (1), (2), (3), and (4) of that section, and shall supplement but not replace any other funds that may be available for the same purpose in the localities involved.

"(7) EVALUATIONS AND REPORTS.—

"(A) STATE EVALUATIONS.—Each State administering an innovation project under this section shall—

"(i) provide for ongoing and retrospective evaluation of the project, meeting such conditions and standards as the Secretary may require; and

"(ii) submit to the Secretary such reports, at such times, in such format, and containing such information as the Secretary may require.

"(B) REPORTS TO CONGRESS.—The Secretary shall, on the basis of reports received from States administering projects under this section, submit interim reports, and, not later than 6 months after the conclusion of all projects administered under this section, a final report to Congress. A report submitted under this subparagraph shall contain an assessment of the effectiveness of the State projects administered under this section and any recommendations for legislative action that the Secretary considers appropriate.

"(8) REGULATIONS.—Not later than 60 days after the date of enactment of this section, the Secretary shall promulgate final regulations for implementing this section.".

SEC. 402. EXPANSION OF CHILD WELFARE DEMONSTRATION PROJECTS.

Section 1130(a) of the Social Security Act (42 U.S.C. 1320a-9(a)) is amended by striking "10" and inserting "15".

TITLE V—MISCELLANEOUS

SEC. 501. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect on October 1, 1997.

Mr. ROCKEFELLER. Mr. President, children who are at risk of abuse and neglect are among the most vulnerable group in our society, and we have a compelling obligation to do a better job in protecting such children. I am proud to join Senator CHAFEE and others in a bipartisan effort to improve our federal child welfare programs.

Almost a decade ago, I had the opportunity and privilege to serve as the Chairman of the bipartisan National Commission on Children. Our diverse group spent several years traveling the country to meet with families, officials and advocates to delve into the needs of children and families. We issued a unanimous report in 1991 with a comprehensive strategy to help children and strengthen families. One of the chapters of our report was directed toward helping children at risk of abuse and neglect. Since the Children's Commission, I have been working to convert our bipartisan recommendations into policy and programs.

The Children's Commission basic recommendations called for a more comprehensive strategy for child protective services. The panel noted the need for a range of services so that children and families could get what was needed on a case-by-case basis. Our report call for intensive family preservation services when appropriate. If children must be removed from their homes, reunification services need to be available to prepare children and parents for a safe return. There should be better training for foster parents and child welfare staff. Adoption can be the best option for some children so adoption procedures should be streamlined.

The SAFE Act—Safe Adoptions and Family Environments—follows through on the Children's Commission recommendations. Our bill stresses that a child's safety and a child's health must be a primary concern by clarifying current law known as "reasonable efforts." It is designed to encourage states to move children into stable, permanent placements quickly. For some children, this will be adoption. For others, appropriate intervention and support services can enable children to return home safely. This bill will direct states to establish a permanency planning hearing for a child in foster care within 12 months, instead of the current 18 months which will cut by one-third the amount of time a child is without a plan for a stable home. Our bill also offers states incentives to reduce the backlog of children waiting for adoption.

I have fought for children and family programs throughout my career, and will continue to do so. Last Congress, I argued strongly that there is a fundamental difference between welfare reform and child welfare and foster care. I opposed a block grant approach to foster care because abused children should not be placed at further risk or face time-limits. Ultimately, I voted for the block grant of welfare reform.

While I opposed attempts to convert child welfare and foster care into a block grant last year, I acknowledged the problems in the system and pledged to work on ways to strengthen and improve programs for abused and neglected children outside the context of welfare reform. Today, we are delivering on that commitment and working in a bipartisan manner to encourage reform.

Reform is desperately needed. Reports indicate that more than 1 million American children suffered some type of abuse and neglect. Over 450,000 children are in foster care in our country. In my home state of West Virginia, referrals to Child Protective Services are expected to increase from 12,500 reports in 1991 to 17,000 this year. Foster care placements in West Virginia has jumped to 3,113 children in January 1997, up from 2,900 children in January 1996.

Clearly, we must work together with the states to address the complicated needs of abused and neglected children.

While our legislation may seem technical in nature, its goals are focused on protecting children and ensuring that every child moves swiftly into a safe, permanent placement where they can grow up healthy and secure. To achieve such basic goals, we need to invest in a range of services—from prevention of abuse, family reunification, and adoptions.

Protecting children and helping families should be a bipartisan, community based effort. We must forge partnerships with states and advocates. This legislation reflects this spirit and commitment.

By Mr. KENNEDY (for himself, Mr. DODD, Mr. ROBB, Ms. MOSLEY-BRAUN, Mr. LAUTENBERG, Mr. KERRY, Ms. SNOWE, Mrs. MURRAY, Mr. FEINGOLD, Mr. HARKIN, Mr. CHAFEE, Mr. JEFFORDS, Mr. AKAKA, Mr. BINGAMAN, and Mrs. FEINSTEIN):

S.J. Res. 24. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

THE EQUAL RIGHTS AMENDMENT

Mr. KENNEDY. Mr. President, it is an honor to introduce the equal rights amendment on behalf of myself and 14 other Senators. Two days before the 25th anniversary of the first congressional approval of the equal rights amendment, we reaffirm our strong commitment to making the ERA part of the Constitution of the United States. We intend to do all we can to see that it becomes part of the Constitution, which is where it belongs.

In a sense, action now is more important than ever. Women have achieved a great deal during the last two decades. But the statutory route has not been as successful as we had hoped. Too many women and girls still face unfair and discriminatory barriers in their education, careers, sports, and other goals. The glass ceiling, the locked door, the sticky floor, the wage gap, and the occupation gap are very real problems.

Women still earn only 76 cents for each dollar earned by men. After a full day's work, no woman should be forced to take home only three-quarters of a pay-check.

The vast majority of women are still clustered in a narrow range of traditionally low-paying occupations. Too many women continue to be victims of sexual harassment.

We must do more, much more, to guarantee fair treatment in the workplace and in all aspects of society. Existing laws against sex discrimination in all its ugly forms can't get the job done. The need for a constitutional guarantee of equal rights for women is compelling.

Susan B. Anthony said it best over a century ago. When the Constitution says, "We the People," it should mean all the people. Those words speak to us across the years. And in 1997, we intend to see that "all" means "all"—and making ERA part of the Constitution is the right way to do it.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 24

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE—

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SECTION 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SECTION 3. This amendment shall take effect two years after the date of ratification.".

ADDITIONAL COSPONSORS

S. 6

At the request of Mr. INHOFE, his name was added as a cosponsor of S. 6, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 75

At the request of Mr. KYL, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 75, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 127

At the request of Mr. MOYNIHAN, the names of the Senator from Wyoming [Mr. ENZI], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 127, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes.

S. 146

At the request of Mr. ROCKEFELLER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 146, a bill to permit medicare beneficiaries to enroll with qualified provider- sponsored organizations under title XVIII of the Social Security Act, and for other purposes.

S. 169

At the request of Mr. CRAIG, the names of the Senator from Mississippi [Mr. COCHRAN], and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 169, a bill to amend the Immigration and Nationality Act with respect to the admission of temporary H–2A workers.

S. 185

At the request of Mr. HELMS, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 185, a bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools.

S. 197

At the request of Mr. ROTH, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 197, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 220

At the request of Mr. GRASSLEY, the names of the Senator from Texas [Mrs. HUTCHISON] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 220, a bill to require the United States Trade Representative to determine whether the European Union has failed to implement satisfactorily its obligations under certain trade agreements relating to United States meat and pork exporting facilities, and for other purposes.

S. 286

At the request of Mr. ABRAHAM, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 286, a bill to provide for a reduction in regulatory costs by maintaining Federal average fuel economy standards applicable to automobiles in effect at current levels until changed by law, and for other purposes.

S. 317

At the request of Mr. CRAIG, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 317, a bill to reauthorize and amend the National Geologic Mapping Act of 1992.

S. 356

At the request of Mr. GRAHAM, the names of the Senator from North Dakota [Mr. DORGAN] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the medicare and medicaid programs.

S. 358

At the request of Mr. DEWINE, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 365

At the request of Mr. COVERDELL, the names of the Senator from Nebraska [Mr. HAGEL] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 365, a bill to amend the Internal Revenue Code of 1986 to provide for increased accountability by Internal Revenue Service agents and other Federal Government officials in tax collection practices and procedures, and for other purposes.

S. 368

At the request of Mr. BOND, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 368, a bill to prohibit the use of Federal funds for human cloning research.

S. 381

At the request of Mr. ROCKEFELLER, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 381, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for medicare beneficiaries with cancer who are enrolled in an approved clinical trail program.

S. 383

At the request of Mr. D'AMATO, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 383, a bill to require the Director of the Federal Emergency Management Agency to provide funds for compensation for expenses incurred by the State of New York, Nassau County and Suffolk County, New York, and New York City, New York, as a result of the crash of flight 800 of Trans World Airlines.

S. 389

At the request of Mr. ABRAHAM, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from Nebraska [Mr. HAGEL] were added as cosponsors of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 413

At the request of Mrs. HUTCHISON, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 413, a bill to amend the Food Stamp Act of 1977 to require States to verify that prisoners are not receiving food stamps.

S. 415

At the request of Mr. BAUCUS, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Michigan [Mr. ABRAHAM] were added as cosponsors of S. 415, a bill to amend the medicare program under title XVIII of the Social Security Act to improve rural health services, and for other purposes.

S. 425

At the request of Mr. ROTH, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of S. 425, a bill to provide for an accurate determination of the cost of living.

S. 460

At the request of Mr. BOND, the names of the Senator from New Hampshire [Mr. GREGG], the Senator from Nebraska [Mr. HAGEL], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 460, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals, to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home, to clarify the standards used for determining that certain individuals are not employees, and for other purposes.

S. 479

At the request of Mr. GRASSLEY, the names of the Senator from Washington [Mrs. MURRAY] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 479, a bill to amend the Internal Revenue Code of 1986 to provide estate tax relief, and for other purposes.

SENATE CONCURRENT RESOLUTION 7

At the request of Mr. SARBANES, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Nevada [Mr. REID], the Senator from Oregon [Mr. WYDEN], the Senator from Arkansas [Mr. HUTCHINSON], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of Senate Concurrent Resolution 7, a concurrent resolution expressing the sense of Congress that Federal retirement cost-of-living adjustments should not be delayed.

SENATE CONCURRENT RESOLUTION 11

At the request of Mr. GREGG, the names of the Senator from Kentucky [Mr. FORD], the Senator from Washington [Mrs. MURRAY], the Senator from Montana [Mr. BURNS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Georgia [Mr. CLELAND], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Ohio [Mr. DEWINE], the Senator from Tennessee [Mr. FRIST], and the Senator from Oregon [Mr. SMITH of Oregon] were added as cosponsors of Senate Concurrent Resolution 11, a concurrent resolution recognizing the 25th anniversary of the establishment of the first nutrition program for the elderly under the Older Americans Act of 1965.

SENATE RESOLUTION 63

At the request of Mr. DOMENICI, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Nebraska [Mr. HAGEL], the Senator from New York [Mr. D'AMATO], the Senator from New Hampshire [Mr. GREGG], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Resolution 63, a resolution proclaiming the week of October 19 through October 25, 1997, as "National Character Counts Week."

SENATE CONCURRENT RESOLUTION 14—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND THE HOUSE OF REPRESENTATIVES

Mr. LOTT submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 14

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, March 20, 1997, Friday, March 21, 1997, or Saturday, March 22, 1997, pursuant to a motion made by the Majority Leader or his designee in accordance with this resolution, it stand recessed or adjourned until noon on Monday, April 7, 1997, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, March 20, 1997, Friday, March 21, 1997, or Saturday, March 22, 1997, it stand adjourned until 12:30 p.m. on Tuesday, April 8, 1997, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble whenever, in this opinion, the public interest shall warrant it.

* * *

SENATE CONCURRENT RESOLUTION 15—RELATIVE TO TAIWAN

Mr. TORRICELLI submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 15

Whereas the people of the United States and the people of Taiwan have long enjoyed extensive ties;

Whereas Taiwan, a democracy of 21,000,000 people, is currently the eighth largest trading partner of the United States, and United States exports to Taiwan total more than $18,000,000,000 annually, far exceeding the $12,000,000,000 the United States exports to the People's Republic of China;

Whereas the current administration has committed publicly to support Taiwan's bid to join the world Trade Organization (referred to in this resolution as the "WTO") and has declared that the United States will not oppose that bid solely on the grounds that the People's Republic of China, which also seeks WTO membership, is not yet eligible because of the People's Republic of China's unacceptable trade practices;

Whereas the United States and Taiwan have concluded discussions on virtually all outstanding trade issues necessary for Taiwan to be eligible to join the WTO;

Whereas reversion of control over Hong Kong to Beijing, scheduled to occur on July 1, 1997, will, in most respects afford the People's Republic of China WTO treatment for the bulk of its trade goods, despite the fact that the people's Republic of China's trade practices currently fall far short of qualifying for WTO membership;

Whereas the American people's fundamental sense of fairness warrants support by the United States Government for Taiwan's bid for WTO membership, and

Whereas it is in the economic interests of United States consumers and exporters for Taiwan to accede to the WTO at the earliest possible moment: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that negotiations between the United States and Taiwan be concluded promptly and that the United States Government publicly support the prompt accession of Taiwan to the WTO.

Mr. TORRICELLI. Mr. President, the months ahead will require a number of important decisions regarding the continuing evolution of U.S. policy in the region of the Taiwan Straits.

Today, I am submitting a concurrent resolution to help clarify long-standing U.S. commitments in this regard.

While the Clinton Administration and Congress attempt to improve relations with the communist authorities in Beijing, it is important for Congress to make clear the depth of the bipartisan commitment to the burgeoning democratic forces on Taiwan. Any improvement in U.S. relations with Taiwan, does not and should not come at the expense of our ties with the people of Taiwan.

The U.S. must renew our past commitments to the people of Taiwan. For example, as a result of the Taiwan Policy Review throughout 1993 and 1994 and the balance of 1994, the Clinton Administration publicly pledged to support Taiwan's membership in appropriate international organizations. In this regard, few are as important as the World Trade Organization.

Taiwan is currently the U.S.'s fifth largest trading partner and U.S. exports to Taiwan total more than $17 billion annually. This sum is almost twice as much as U.S. exports to the P.R.C. Our trade with the People's Republic has produced a crushing $39 billion deficit last year.

The Clinton Administration is publicly committed to supporting Taiwan's bid to join the World Trade Organization. It has already declared that the U.S. will not oppose the bid solely on the grounds that the P.R.C., which is also seeking WTO membership, is not yet eligible because of its unacceptable trade practices.

The U.S. and Taiwan have concluded discussions on virtually all outstanding trade issues necessary for Taiwan's W.T.O. eligibility. All that is left is for the U.S. to make clear that it is prepared to support Taiwan's membership and for Taiwan and the U.S. to work out the few remaining details governing trade in a few specific sectors.

In the weeks ahead, we will be called upon to vote to renew Most Favored Nation Status for China and analyzing China's actions as they take control of

Hong Kong. As we do all of this, we cannot forget about our commitments to the people of Taiwan.

Congress should reaffirm our support for Taiwan's bid to join the W.T.O. and make clear that our decision regarding Taiwan's bid will not be held hostage to U.S. negotiations with Beijing.

Today, I am submitting a Sense of the Congress concurrent resolution which affirms our support for Taiwan's membership in the W.T.O.. I am pleased that a similar concurrent resolution is being submitted with bi-partisan support in the other body.

SENATE CONCURRENT RESOLUTION 16—SETTING FORTH THE CONGRESSIONAL BUDGET FOR THE UNITED STATES

Mr. DOMENICI submitted the following concurrent resolution; which was referred to the Committee on the Budget:

S. CON. RES. 16

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1998.

(a) DECLARATION.—The Congress determines and declares that this resolution is the concurrent resolution on the budget for fiscal year 1998 including the appropriate budgetary levels for fiscal years 1999, 2000, 2001, and 2002 as required by section 301 of the Congressional Budget Act of 1974.

(b) TABLE OF CONTENTS.—The table of contents for this concurrent resolution is as follows:

Sec. 1. Concurrent Resolution on the Budget for Fiscal Year 1998.
Sec. 2. Recommended levels and amounts.
Sec. 3. Social Security.
Sec. 4. Major functional categories.

SEC. 2. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for the fiscal years 1998, 1999, 2000, 2001, and 2002:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution—

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 1998: $1,154,586,000,000.
Fiscal year 1999: $1,207,938,000,000.
Fiscal year 2000: $1,261,752,000,000.
Fiscal year 2001: $1,317,344,000,000.
Fiscal year 2002: $1,378,690,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1998: $ – 10,063,000,000.
Fiscal year 1999: $ – 4,994,000,000.
Fiscal year 2000: $ – 5,026,000,000.
Fiscal year 2001: $ – 9,576,000,000.
Fiscal year 2002: $ – 9,431,000,000.

(C) The amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1998: $113,467,000,000.
Fiscal year 1999: $119,065,000,000.
Fiscal year 2000: $125,043,000,000.
Fiscal year 2001: $130,653,000,000.
Fiscal year 2002: $136,824,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 1998: $1,409,884,000,000.
Fiscal year 1999: $1,457,185,000,000.
Fiscal year 2000: $1,503,741,000,000.
Fiscal year 2001: $1,541,157,000,000.
Fiscal year 2002: $1,585,080,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 1998: $1,382,422,000,000.
Fiscal year 1999: $1,442,854,000,000.
Fiscal year 2000: $1,496,592,000,000.
Fiscal year 2001: $1,515,497,000,000.
Fiscal year 2002: $1,556,974,000,000.

(4) DEFICITS.—For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 1998: $ – 227,971,000,000.
Fiscal year 1999: $ – 235,126,000,000.
Fiscal year 2000: $ – 235,064,000,000.
Fiscal year 2001: $ – 198,305,000,000.
Fiscal year 2002: $ – 178,284,000,000.

(5) PUBLIC DEBT.—The appropriate levels of the public debt are as follows:

Fiscal year 1998: $5,693,100,000,000.
Fiscal year 1999: $5,990,700,000,000.
Fiscal year 2000: $6,283,200,000,000.
Fiscal year 2001: $6,518,600,000,000.
Fiscal year 2002: $6,678,300,000,000.

(6) DIRECT LOAN OBLIGATIONS.—The appropriate levels of total new direct loan obligations are as follows:

Fiscal year 1998: $33,829,000,000.
Fiscal year 1999: $33,378,000,000.
Fiscal year 2000: $34,775,000,000.
Fiscal year 2001: $36,039,000,000.
Fiscal year 2002: $37,099,000,000.

(7) PRIMARY LOAN GUARANTEE COMMITMENTS.—The appropriate levels of new primary loan guarantee commitments are as follows:

Fiscal year 1998: $315,472,000,000.
Fiscal year 1999: $324,749,000,000.
Fiscal year 2000: $328,124,000,000.
Fiscal year 2001: $332,063,000,000.
Fiscal year 2002: $335,141,000,000.

SEC. 3. SOCIAL SECURITY.

(a) SOCIAL SECURITY REVENUES.—For purposes of Senate enforcement under sections 302, 602, and 311 of the Congressional Budget Act of 1974, the amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1998: $402,670,000,000.
Fiscal year 1999: $422,112,000,000.
Fiscal year 2000: $442,345,000,000.
Fiscal year 2001: $461,400,000,000.
Fiscal year 2002: $482,825,000,000.

(b) SOCIAL SECURITY OUTLAYS.—For purposes of Senate enforcement under sections 302, 602, and 311 of the Congressional Budget Act of 1974, the amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1998: $314,452,000,000.
Fiscal year 1999: $327,149,000,000.
Fiscal year 2000: $340,599,000,000.
Fiscal year 2001: $355,004,000,000.
Fiscal year 2002: $370,379,000,000.

SEC. 4. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority, budget outlays, new direct loan obligations, and new primary loan guarantee commitments for fiscal years 1998 through 2002 for each major functional category are:

(1) National Defense (050):

Fiscal year 1998:
(A) New budget authority, $265,579,000,000.
(B) Outlays, $264,978,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $588,000,000.

Fiscal year 1999:
(A) New budget authority, $268,974,000,000.
(B) Outlays, $263,014,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $757,000,000.

Fiscal year 2000:
(A) New budget authority, $274,802,000,000.
(B) Outlays, $268,417,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $1,050,000,000.

Fiscal year 2001:
(A) New budget authority, $281,305,000,000.
(B) Outlays, $269,275,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $1,050,000,000.

Fiscal year 2002:
(A) New budget authority, $289,092,000,000.
(B) Outlays, $277,358,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $1,050,000,000.

(2) International Affairs (150):

Fiscal year 1998:
(A) New budget authority, $19,882,000,000.
(B) Outlays, $14,713,000,000.
(C) New direct loan obligations, $1,966,000,000.
(D) New primary loan guarantee commitments, $12,751,000,000.

Fiscal year 1999:
(A) New budget authority, $16,415,000,000.
(B) Outlays, $15,667,000,000.
(C) New direct loan obligations, $2,021,000,000.
(D) New primary loan guarantee commitments, $13,093,000,000.

Fiscal year 2000:
(A) New budget authority, $16,360,000,000.
(B) Outlays, $15,255,000,000.
(C) New direct loan obligations, $2,077,000,000.
(D) New primary loan guarantee commitments, $13,434,000,000.

Fiscal year 2001:
(A) New budget authority, $16,603,000,000.
(B) Outlays, $15,128,000,000.
(C) New direct loan obligations, $2,122,000,000.
(D) New primary loan guarantee commitments, $13,826,000,000.

Fiscal year 2002:
(A) New budget authority, $16,920,000,000.
(B) Outlays, $15,316,000,000.
(C) New direct loan obligations, $2,178,000,000.
(D) New primary loan guarantee commitments, $14,217,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1998:
(A) New budget authority, $16,477,000,000.
(B) Outlays, $16,997,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:
(A) New budget authority, $16,458,000,000.
(B) Outlays, $16,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:
(A) New budget authority, $16,277,000,000.
(B) Outlays, $16,269,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:
(A) New budget authority, $16,266,000,000.
(B) Outlays, $16,226,000,000.
(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $16,257,000,000.

(B) Outlays, $16,246,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1998:

(A) New budget authority, $3,100,000,000.

(B) Outlays, $2,281,000,000.

(C) New direct loan obligations, $1,050,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $3,483,000,000.

(B) Outlays, $2,489,000,000.

(C) New direct loan obligations, $1,078,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $3,275,000,000.

(B) Outlays, $2,372,000,000.

(C) New direct loan obligations, $1,109,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $3,073,000,000.

(B) Outlays, $2,132,000,000.

(C) New direct loan obligations, $1,141,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $2,268,000,000.

(B) Outlays, $1,250,000,000.

(C) New direct loan obligations, $1,174,000,000.

(D) New primary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1998:

(A) New budget authority, $23,514,000,000.

(B) Outlays, $22,035,000,000.

(C) New direct loan obligations, $30,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $23,415,000,000.

(B) Outlays, $22,730,000,000.

(C) New direct loan obligations, $32,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $22,860,000,000.

(B) Outlays, $23,111,000,000.

(C) New direct loan obligations, $32,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $22,733,000,000.

(B) Outlays, $23,113,000,000.

(C) New direct loan obligations, $34,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $22,790,000,000.

(B) Outlays, $22,942,000,000.

(C) New direct loan obligations, $34,000,000.

(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1998:

(A) New budget authority, $13,235,000,000.

(B) Outlays, $11,899,000,000.

(C) New direct loan obligations, $9,620,000,000.

(D) New primary loan guarantee commitments, $6,365,000,000.

Fiscal year 1999:

(A) New budget authority, $12,847,000,000.

(B) Outlays, $11,347,000,000.

(C) New direct loan obligations, $11,047,000,000.

(D) New primary loan guarantee commitments, $6,436,000,000.

Fiscal year 2000:

(A) New budget authority, $12,231,000,000.

(B) Outlays, $10,722,000,000.

(C) New direct loan obligations, $11,071,000,000.

(D) New primary loan guarantee commitments, $6,509,000,000.

Fiscal year 2001:

(A) New budget authority, $11,069,000,000.

(B) Outlays, $9,555,000,000.

(C) New direct loan obligations, $10,960,000,000.

(D) New primary loan guarantee commitments, $6,583,000,000.

Fiscal year 2002:

(A) New budget authority, $10,805,000,000.

(B) Outlays, $9,213,000,000.

(C) New direct loan obligations, $10,965,000,000.

(D) New primary loan guarantee commitments, $6,660,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1998:

(A) New budget authority, $6,720,000,000.

(B) Outlays, $ −1,181,000,000.

(C) New direct loan obligations, $4,739,000,000.

(D) New primary loan guarantee commitments, $245,500,000,000. Fiscal year 1999:

(A) New budget authority, $11,095,000,000.

(B) Outlays, $3,946,000,000.

(C) New direct loan obligations, $1,887,000,000.

(D) New primary loan guarantee commitments, $253,450,000,000. Fiscal year 2000:

(A) New budget authority, $15,245,000,000.

(B) Outlays, $9,475,000,000.

(C) New direct loan obligations, $2,238,000,000.

(D) New primary loan guarantee commitments, $255,200,000,000. Fiscal year 2001:

(A) New budget authority, $16,106,000,000.

(B) Outlays, $11,788,000,000.

(C) New direct loan obligations, $2,574,000,000.

(D) New primary loan guarantee commitments, $257,989,000,000. Fiscal year 2002:

(A) New budget authority, $16,723,000,000.

(B) Outlays, $12,218,000,000.

(C) New direct loan obligations, $2,680,000,000.

(D) New primary loan guarantee commitments, $259,897,000,000. (8) Transportation (400): Fiscal year 1998:

(A) New budget authority, $44,180,000,000.

(B) Outlays, $40,178,000,000.

(C) New direct loan obligations, $155,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $42,742,000,000.

(B) Outlays, $38,988,000,000.

(C) New direct loan obligations, $135,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $43,023,000,000.

(B) Outlays, $39,308,000,000.

(C) New direct loan obligations, $15,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $43,293,000,000.

(B) Outlays, $39,361,000,000.

(C) New direct loan obligations, $15,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $43,537,000,000.

(B) Outlays, $39,522,000,000.

(C) New direct loan obligations, $15,000,000.

(D) New primary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1998:

(A) New budget authority, $17,243,000,000.

(B) Outlays, $11,417,000,000.

(C) New direct loan obligations, $2,867,000,000.

(D) New primary loan guarantee commitments, $2,385,000,000.

Fiscal year 1999:

(A) New budget authority, $8,618,000,000.

(B) Outlays, $11,996,000,000.

(C) New direct loan obligations, $2,943,000,000.

(D) New primary loan guarantee commitments, $2,406,000,000.

Fiscal year 2000:

(A) New budget authority, $7,916,000,000.

(B) Outlays, $11,656,000,000.

(C) New direct loan obligations, $3,020,000,000.

(D) New primary loan guarantee commitments, $2,429,000,000.

Fiscal year 2001:

(A) New budget authority, $7,987,000,000.

(B) Outlays, $11,600,000,000.

(C) New direct loan obligations, $3,098,000,000.

(D) New primary loan guarantee commitments, $2,452,000,000.

Fiscal year 2002:

(A) New budget authority, $8,107,000,000.

(B) Outlays, $8,725,000,000.

(C) New direct loan obligations, $3,180,000,000.

(D) New primary loan guarantee commitments, $2,475,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1998:

(A) New budget authority, $64,792,000,000.

(B) Outlays, $57,160,000,000.

(C) New direct loan obligations, $12,328,000,000.

(D) New primary loan guarantee commitments, $20,665,000,000.

Fiscal year 1999:

(A) New budget authority, $62,262,000,000.

(B) Outlays, $61,972,000,000.

(C) New direct loan obligations, $13,092,000,000.

(D) New primary loan guarantee commitments, $21,899,000,000.

Fiscal year 2000:

(A) New budget authority, $63,953,000,000.

(B) Outlays, $63,650,000,000.

(C) New direct loan obligations, $13,926,000,000.

(D) New primary loan guarantee commitments, $23,263,000,000.

Fiscal year 2001:

(A) New budget authority, $64,420,000,000.

(B) Outlays, $64,614,000,000.

(C) New direct loan obligations, $14,701,000,000.

(D) New primary loan guarantee commitments, $24,517,000,000.

Fiscal year 2002:

(A) New budget authority, $65,022,000,000.

(B) Outlays, $63,670,000,000.

(C) New direct loan obligations, $15,426,000,000.

(D) New primary loan guarantee commitments, $25,676,000,000.

(11) Health (550):

Fiscal year 1998:

(A) New budget authority, $139,785,000,000.

(B) Outlays, $139,465,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $85,000,000.

Fiscal year 1999:

(A) New budget authority, $148,562,000,000.

(B) Outlays, $148,369,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $155,428,000,000.

(B) Outlays, $155,184,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $163,926,000,000.

(B) Outlays, $163,481,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $170,144,000,000.

(B) Outlays, $169,582,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(12) Medicare (570):

Fiscal year 1998:

(A) New budget authority, $205,396,000,000.

(B) Outlays, $205,519,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $218,952,000,000.

(B) Outlays, $218,411,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $230,613,000,000.

(B) Outlays, $234,575,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $246,404,000,000.

(B) Outlays, $241,555,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $262,822,000,000.

(B) Outlays, $262,029,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1998:

(A) New budget authority, $238,843,000,000.

(B) Outlays, $248,200,000,000.

(C) New direct loan obligations, $45,000,000.

(D) New primary loan guarantee commitments, $37,000,000.

Fiscal year 1999:

(A) New budget authority, $254,368,000,000.

(B) Outlays, $254,867,000,000.

(C) New direct loan obligations, $75,000,000.

(D) New primary loan guarantee commitments, $37,000,000.

Fiscal year 2000:

(A) New budget authority, $270,654,000,000.

(B) Outlays, $271,973,000,000.

(C) New direct loan obligations, $110,000,000.

(D) New primary loan guarantee commitments, $37,000,000.

Fiscal year 2001:

(A) New budget authority, $277,036,000,000.

(B) Outlays, $276,619,000,000.

(C) New direct loan obligations, $145,000,000.

(D) New primary loan guarantee commitments, $37,000,000.

Fiscal year 2002:

(A) New budget authority, $290,634,000,000.

(B) Outlays, $289,068,000,000.

(C) New direct loan obligations, $170,000,000.

(D) New primary loan guarantee commitments, $37,000,000.

(14) Social Security (650):

Fiscal year 1998:

(A) New budget authority, $11,482,000,000.

(B) Outlays, $11,557,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $12,121,000,000.

(B) Outlays, $12,241,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $12,868,000,000.

(B) Outlays, $12,928,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $13,125,000,000.

(B) Outlays, $13,126,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $14,523,000,000.

(B) Outlays, $14,523,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1998:

(A) New budget authority, $40,907,000,000.

(B) Outlays, $41,469,000,000.

(C) New direct loan obligations, $1,029,000,000.

(D) New primary loan guarantee commitments, $27,096,000,000.

Fiscal year 1999:

(A) New budget authority, $41,422,000,000.

(B) Outlays, $41,598,000,000.

(C) New direct loan obligations, $1,068,000,000.

(D) New primary loan guarantee commitments, $26,671,000,000.

Fiscal year 2000:

(A) New budget authority, $41,868,000,000.

(B) Outlays, $43,661,000,000.

(C) New direct loan obligations, $1,177,000,000.

(D) New primary loan guarantee commitments, $26,202,000,000.

Fiscal year 2001:

(A) New budget authority, $42,286,000,000.

(B) Outlays, $40,582,000,000.

(C) New direct loan obligations, $1,249,000,000.

(D) New primary loan guarantee commitments, $25,609,000,000.

Fiscal year 2002:

(A) New budget authority, $42,724,000,000.

(B) Outlays, $42,787,000,000.

(C) New direct loan obligations, $1,277,000,000.

(D) New primary loan guarantee commitments, $25,129,000,000.

(16) Administration of Justice (750):

Fiscal year 1998:

(A) New budget authority, $24,765,000,000.

(B) Outlays, $22,609,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $25,511,000,000.

(B) Outlays, $24,728,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $24,673,000,000.

(B) Outlays, $25,641,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $25,066,000,000.

(B) Outlays, $26,492,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $25,726,000,000.

(B) Outlays, $25,601,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1998:

(A) New budget authority, $14,881,000,000.

(B) Outlays, $14,023,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $14,698,000,000.

(B) Outlays, $14,549,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $14,388,000,000.

(B) Outlays, $15,088,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $14,301,000,000.

(B) Outlays, $14,692,000,000.

(C) New direct loan obligations, $0

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $14,547,000,000.

(B) Outlays, $14,485,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(18) Net Interest (900):

Fiscal year 1998:

(A) New budget authority, $300,909,000,000.

(B) Outlays, $300,909,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $311,931,000,000.

(B) Outlays, $311,931,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $314,999,000,000.

(B) Outlays, $314,999,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $316,469,000,000.

(B) Outlays, $316,469,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $320,135,000,000.

(B) Outlays, $320,135,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(19) Allowances (920):

Fiscal year 1998:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $0.

(B) Outlays, $0.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 1998:

(A) New budget authority, -$41,806,000,000.

(B) Outlays, -$41,806,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, -$36,689,000,000.

(B) Outlays, -$36,689,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, -$37,692,000,000.

(B) Outlays, -$37,692,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, -$40,311,000,000.

(B) Outlays, -$40,311,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, -$47,696,000,000.

(B) Outlays, -$48,696,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

SENATE CONCURRENT RESOLUTION 17—SETTING FORTH THE CONGRESSIONAL BUDGET FOR THE UNITED STATES

Mr. DOMENICI submitted the following concurrent resolution; which was referred to the Committee on the Budget:

S. CON. RES. 17

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1998.

(a) DECLARATION.—The Congress determines and declares that this resolution is the concurrent resolution on the budget for fiscal year 1998 including the appropriate budgetary levels for fiscal years 1999, 2000, 2001, and 2002 as required by section 301 of the Congressional Budget Act of 1974.

(b) TABLE OF CONTENTS.—The table of contents for this concurrent resolution is as follows:

Sec. 1. Concurrent Resolution on the Budget for Fiscal Year 1998.

TITLE I—LEVELS AND AMOUNTS

Sec. 101. Recommended levels and amounts.
Sec. 102. Social Security.
Sec. 103. Major functional categories.
Sec. 104. Reconciliation.

TITLE II—BUDGETARY RESTRAINTS AND RULEMAKING

Sec. 201. Deficit and discretionary spending limits.
Sec. 202. Adjustments to limits.
Sec. 203. Tax reserve fund in the Senate.
Sec. 204. Exercise of rulemaking powers.

TITLE I—LEVELS AND AMOUNTS

SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for the fiscal years 1998, 1999, 2000, 2001, and 2002:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution—

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 1998: $1,164,800,000,000.
Fiscal year 1999: $1,213,400,000,000.
Fiscal year 2000: $1,267,500,000,000.
Fiscal year 2001: $1,327,900,000,000.
Fiscal year 2002: $1,389,300,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1998: $300,000,000.
Fiscal year 1999: $700,000,000.
Fiscal year 2000: $900,000,000.
Fiscal year 2001: $1,100,000,000.
Fiscal year 2002: $1,200,000,000.

(C) The amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1998: $113,498,000,000.
Fiscal year 1999: $119,114,000,000.
Fiscal year 2000: $125,095,000,000.
Fiscal year 2001: $130,688,000,000.
Fiscal year 2002: $136,824,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 1998: $1,360,500,000,000.
Fiscal year 1999: $1,415,600,000,000.
Fiscal year 2000: $1,449,800,000,000.
Fiscal year 2001: $1,480,600,000,000.
Fiscal year 2002: $1,522,700,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 1998: $1,358,300,000,000.
Fiscal year 1999: $1,405,100,000,000.
Fiscal year 2000: $1,445,800,000,000.
Fiscal year 2001: $1,456,400,000,000.
Fiscal year 2002: $1,497,700,000,000.

(4) DEFICITS.—For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 1998: $-193,500,000,000.
Fiscal year 1999: $-191,700,000,000.
Fiscal year 2000: $-178,300,000,000.
Fiscal year 2001: $-128,500,000,000.
Fiscal year 2002: $-108,400,000,000.

(5) PUBLIC DEBT.—The appropriate levels of the public debt are as follows:

Fiscal year 1998: $5,637,000,000,000.
Fiscal year 1999: $5,870,700,000,000.
Fiscal year 2000: $6,089,400,000,000.
Fiscal year 2001: $6,258,300,000,000.
Fiscal year 2002: $6,404,100,000,000.

(6) DIRECT LOAN OBLIGATIONS.—The appropriate levels of total new direct loan obligations are as follows:

Fiscal year 1998: $33,829,000,000.
Fiscal year 1999: $33,378,000,000.
Fiscal year 2000: $34,775,000,000.
Fiscal year 2001: $36,039,000,000.
Fiscal year 2002: $37,099,000,000.

(7) PRIMARY LOAN GUARANTEE COMMITMENTS.—The appropriate levels of new primary loan guarantee commitments are as follows:

Fiscal year 1998: $315,472,000,000.
Fiscal year 1999: $324,749,000,000.
Fiscal year 2000: $328,124,000,000.
Fiscal year 2001: $332,063,000,000.
Fiscal year 2002: $335,141,000,000.

SEC. 102. SOCIAL SECURITY.

(a) SOCIAL SECURITY REVENUES.—For purposes of Senate enforcement under sections 302, 602, and 311 of the Congressional Budget Act of 1974, the amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1998: $402,805,000,000.
Fiscal year 1999: $422,322,000,000.
Fiscal year 2000: $442,569,000,000.
Fiscal year 2001: $461,552,000,000.
Fiscal year 2002: $482,825,000,000.

(b) SOCIAL SECURITY OUTLAYS.—For purposes of Senate enforcement under sections 302, 602, and 311 of the Congressional Budget Act of 1974, the amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1998: $317,700,000,000.
Fiscal year 1999: $330,400,000,000.
Fiscal year 2000: $343,900,000,000.
Fiscal year 2001: $358,700,000,000.
Fiscal year 2002: $373,700,000,000.

SEC. 103. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority, budget outlays, new direct loan obligations, and new primary loan guarantee commitments for fiscal years 1998 through 2002 for each major functional category are:

(1) National Defense (050):

Fiscal year 1998:

(A) New budget authority, $268,000,000,000.

(B) Outlays, $262,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $588,000,000.

Fiscal year 1999:

(A) New budget authority, $270,600,000,000.

(B) Outlays, $265,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $757,000,000.

Fiscal year 2000:

(A) New budget authority, $273,300,000,000.

(B) Outlays, $269,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,050,000,000.

Fiscal year 2001:

(A) New budget authority, $275,900,000,000.

(B) Outlays, $268,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,050,000,000.

Fiscal year 2002:

(A) New budget authority, $278,700,000,000.

(B) Outlays, $269,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,050,000,000.

(2) International Affairs (150):

Fiscal year 1998:

(A) New budget authority, $13,400,000,000.

(B) Outlays, $13,800,000,000.

(C) New direct loan obligations, $1,966,000,000.

(D) New primary loan guarantee commitments, $12,751,000,000.

Fiscal year 1999:

(A) New budget authority, $12,100,000,000.

(B) Outlays, $13,300,000,000.

(C) New direct loan obligations, $2,021,000,000.

(D) New primary loan guarantee commitments, $13,093,000,000.

Fiscal year 2000:

(A) New budget authority, $12,600,000,000.

(B) Outlays, $13,000,000,000.

(C) New direct loan obligations, $2,077,000,000.

(D) New primary loan guarantee commitments, $13,434,000,000.

Fiscal year 2001:

(A) New budget authority, $12,800,000,000.

(B) Outlays, $12,300,000,000.

(C) New direct loan obligations, $2,122,000,000.

(D) New primary loan guarantee commitments, $13,826,000,000.

Fiscal year 2002:

(A) New budget authority, $13,100,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $2,178,000,000.

(D) New primary loan guarantee commitments, $14,217,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1998:

(A) New budget authority, $16,300,000,000.

(B) Outlays, $16,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $16,400,000,000.

(B) Outlays, $16,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $16,200,000,000.

(B) Outlays, $16,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $16,200,000,000.

(B) Outlays, $16,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $16,200,000,000.

(B) Outlays, $16,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1998:

(A) New budget authority, $2,200,000,000.

(B) Outlays, $1,700,000,000.

(C) New direct loan obligations, $1,050,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $2,600,000,000.

(B) Outlays, $2,000,000,000.

(C) New direct loan obligations, $1,078,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $2,200,000,000.

(B) Outlays, $1,600,000,000.

(C) New direct loan obligations, $1,109,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $2,000,000,000.

(B) Outlays, $1,200,000,000.

(C) New direct loan obligations, $1,141,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $900,000,000.

(B) Outlays, $100,000,000.

(C) New direct loan obligations, $1,174,000,000.

(D) New primary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1998:

(A) New budget authority, $22,500,000,000.

(B) Outlays, $21,400,000,000.

(C) New direct loan obligations, $30,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $22,500,000,000.

(B) Outlays, $21,600,000,000.

(C) New direct loan obligations, $32,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $22,600,000,000.

(B) Outlays, $22,100,000,000.

(C) New direct loan obligations, $32,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $22,800,000,000.

(B) Outlays, $22,400,000,000.

(C) New direct loan obligations, $34,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $23,100,000,000.

(B) Outlays, $22,700,000,000.

(C) New direct loan obligations, $34,000,000.

(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1998:

(A) New budget authority, $13,100,000,000.

(B) Outlays, $11,800,000,000.

(C) New direct loan obligations, $9,620,000,000.

(D) New primary loan guarantee commitments, $6,365,000,000.

Fiscal year 1999:

(A) New budget authority, $12,800,000,000.

(B) Outlays, $11,300,000,000.

(C) New direct loan obligations, $11,047,000,000.

(D) New primary loan guarantee commitments, $6,436,000,000.

Fiscal year 2000:

(A) New budget authority, $12,300,000,000.

(B) Outlays, $10,700,000,000.

(C) New direct loan obligations, $11,071,000,000.

(D) New primary loan guarantee commitments, $6,509,000,000.

Fiscal year 2001:

(A) New budget authority, $11,100,000,000.

(B) Outlays, $9,600,000,000.

(C) New direct loan obligations, $10,960,000,000.

(D) New primary loan guarantee commitments, $6,583,000,000.

Fiscal year 2002:

(A) New budget authority, $10,900,000,000.

(B) Outlays, $9,300,000,000.

(C) New direct loan obligations, $10,965,000,000.

(D) New primary loan guarantee commitments, $6,660,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1998:

(A) New budget authority, $5,900,000,000.

(B) Outlays, $−1,300,000,000.

(C) New direct loan obligations, $4,739,000,000.

(D) New primary loan guarantee commitments, $245,500,000,000.

Fiscal year 1999:

(A) New budget authority, $10,200,000,000.

(B) Outlays, $3,700,000,000.

(C) New direct loan obligations, $1,887,000,000.

(D) New primary loan guarantee commitments, $253,450,000,000.

Fiscal year 2000:

(A) New budget authority, $14,300,000,000.

(B) Outlays, $9,400,000,000.

(C) New direct loan obligations, $2,238,000,000.

(D) New primary loan guarantee commitments, $255,200,000,000.

Fiscal year 2001:

(A) New budget authority, $15,100,000,000.

(B) Outlays, $10,900,000,000.

(C) New direct loan obligations, $2,574,000,000.

(D) New primary loan guarantee commitments, $257,989,000,000.

Fiscal year 2002:

(A) New budget authority, $15,700,000,000.

(B) Outlays, $11,700,000,000.

(C) New direct loan obligations, $2,680,000,000.

(D) New primary loan guarantee commitments, $259,897,000,000.

(8) Transportation (400):

Fiscal year 1998:

(A) New budget authority, $43,400,000,000.

(B) Outlays, $39,100,000,000.

(C) New direct loan obligations, $155,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $43,400,000,000.

(B) Outlays, $37,900,000,000.

(C) New direct loan obligations, $135,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $44,500,000,000.

(B) Outlays, $38,100,000,000.

(C) New direct loan obligations, $15,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $45,300,000,000.

(B) Outlays, $38,000,000,000.

(C) New direct loan obligations, $15,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $46,300,000,000.

(B) Outlays, $38,100,000,000.

(C) New direct loan obligations, $15,000,000.

(D) New primary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1998:

(A) New budget authority, $10,700,000,000.

(B) Outlays, $11,600,000,000.

(C) New direct loan obligations, $2,867,000,000.

(D) New primary loan guarantee commitments, $2,385,000,000.

Fiscal year 1999:

(A) New budget authority, $7,500,000,000.

(B) Outlays, $10,000,000,000.

(C) New direct loan obligations, $2,943,000,000.

(D) New primary loan guarantee commitments, $2,406,000,000.

Fiscal year 2000:

(A) New budget authority, $7,300,000,000.

(B) Outlays, $8,100,000,000.

(C) New direct loan obligations, $3,020,000,000.

(D) New primary loan guarantee commitments, $2,429,000,000.

Fiscal year 2001:

(A) New budget authority, $6,800,000,000.

(B) Outlays, $7,400,000,000.

(C) New direct loan obligations, $3,098,000,000.

(D) New primary loan guarantee commitments, $2,452,000,000.

Fiscal year 2002:

(A) New budget authority, $6,900,000,000.

(B) Outlays, $7,100,000,000.

(C) New direct loan obligations, $3,180,000,000.

(D) New primary loan guarantee commitments, $2,475,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1998:

(A) New budget authority, $52,100,000,000.

(B) Outlays, $53,600,000,000.

(C) New direct loan obligations, $12,328,000,000.

(D) New primary loan guarantee commitments, $20,665,000,000.

Fiscal year 1999:

(A) New budget authority, $53,300,000,000.

(B) Outlays, $53,800,000,000.

(C) New direct loan obligations, $13,092,000,000.

(D) New primary loan guarantee commitments, $21,899,000,000.

Fiscal year 2000:

(A) New budget authority, $54,100,000,000.

(B) Outlays, $54,300,000,000.

(C) New direct loan obligations, $13,926,000,000.

(D) New primary loan guarantee commitments, $23,263,000,000.

Fiscal year 2001:

(A) New budget authority, $55,000,000,000.

(B) Outlays, $55,000,000,000.

(C) New direct loan obligations, $14,701,000,000.

(D) New primary loan guarantee commitments, $24,517,000,000.

Fiscal year 2002:

(A) New budget authority, $55,000,000,000.

(B) Outlays, $54,700,000,000.

(C) New direct loan obligations, $15,426,000,000.

(D) New primary loan guarantee commitments, $25,676,000,000.

(11) Health (550):

Fiscal year 1998:

(A) New budget authority, $135,300,000,000.

(B) Outlays, $135,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $85,000,000.

Fiscal year 1999:

(A) New budget authority, $142,700,000,000.

(B) Outlays, $142,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $150,400,000,000.

(B) Outlays, $150,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $158,000,000,000.

(B) Outlays, $157,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $167,300,000,000.

(B) Outlays, $166,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(12) Medicare (570):

Fiscal year 1998:

(A) New budget authority, $203,800,000,000.

(B) Outlays, $204,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $217,500,000,000.

(B) Outlays, $217,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $226,100,000,000.

(B) Outlays, $230,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $240,900,000,000.

(B) Outlays, $236,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $257,100,000,000.

(B) Outlays, $256,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1998:

(A) New budget authority, $229,500,000,000.

(B) Outlays, $243,100,000,000.

(C) New direct loan obligations, $45,000,000.

(D) New primary loan guarantee commitments, $37,000,000.

Fiscal year 1999:

(A) New budget authority, $243,600,000,000.

(B) Outlays, $248,900,000,000.

(C) New direct loan obligations, $75,000,000.

(D) New primary loan guarantee commitments, $37,000,000.

Fiscal year 2000:

(A) New budget authority, $253,500,000,000.

(B) Outlays, $259,700,000,000.

(C) New direct loan obligations, $110,000,000.

(D) New primary loan guarantee commitments, $37,000,000.

Fiscal year 2001:

(A) New budget authority, $259,000,000,000.

(B) Outlays, $263,100,000,000.

(C) New direct loan obligations, $145,000,000.

(D) New primary loan guarantee commitments, $37,000,000.

Fiscal year 2002:

(A) New budget authority, $270,800,000,000.

(B) Outlays, $273,400,000,000.

(C) New direct loan obligations, $170,000,000.

(D) New primary loan guarantee commitments, $37,000,000.

(14) Social Security (650):

Fiscal year 1998:

(A) New budget authority, $11,700,000,000.

(B) Outlays, $11,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $12,600,000,000.

(B) Outlays, $12,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $13,400,000,000.

(B) Outlays, $13,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $13,800,000,000.

(B) Outlays, $13,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $15,300,000,000.

(B) Outlays, $15,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1998:

(A) New budget authority, $40,800,000,000.

(B) Outlays, $41,200,000,000.

(C) New direct loan obligations, $1,029,000,000.

(D) New primary loan guarantee commitments, $27,096,000,000.

Fiscal year 1999:

(A) New budget authority, $41,700,000,000.

(B) Outlays, $41,800,000,000.

(C) New direct loan obligations, $1,068,000,000.

(D) New primary loan guarantee commitments, $26,671,000,000.

Fiscal year 2000:

(A) New budget authority, $42,000,000,000.

(B) Outlays, $44,000,000,000.

(C) New direct loan obligations, $1,177,000,000.

(D) New primary loan guarantee commitments, $26,202,000,000.

Fiscal year 2001:

(A) New budget authority, $42,500,000,000.

(B) Outlays, $40,800,000,000.

(C) New direct loan obligations, $1,249,000,000.

(D) New primary loan guarantee commitments, $25,609,000,000.

Fiscal year 2002:

(A) New budget authority, $42,800,000,000.

(B) Outlays, $42,800,000,000.

(C) New direct loan obligations, $1,277,000,000.

(D) New primary loan guarantee commitments, $25,129,000,000.

(16) Administration of Justice (750):

Fiscal year 1998:

(A) New budget authority, $21,900,000,000.

(B) Outlays, $21,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $22,400,000,000.

(B) Outlays, $22,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $21,500,000,000.

(B) Outlays, $22,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $22,100,000,000.

(B) Outlays, $22,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $22,700,000,000.

(B) Outlays, $22,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1998:

(A) New budget authority, $13,600,000,000.

(B) Outlays, $13,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $13,600,000,000.

(B) Outlays, $13,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $13,700,000,000.

(B) Outlays, $13,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $13,800,000,000.

(B) Outlays, $13,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $13,900,000,000.

(B) Outlays, $13,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(18) Net Interest (900):

Fiscal year 1998:

(A) New budget authority, $299,900,000,000.

(B) Outlays, $299,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $308,900,000,000.

(B) Outlays, $308,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $309,600,000,000.

(B) Outlays, $309,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $308,200,000,000.

(B) Outlays, $308,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $308,600,000,000.

(B) Outlays, $308,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(19) Allowances (920):

Fiscal year 1998:

(A) New budget authority, −$1,500,000,000.

(B) Outlays, −$900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, −$1,700,000,000.

(B) Outlays, −$1,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, −$1,700,000,000.

(B) Outlays, −$1,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, −$1,700,000,000.

(B) Outlays, −$1,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, −$1,700,000,000.

(B) Outlays, −$1,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 1998:

(A) New budget authority, −$42,100,000,000.

(B) Outlays, −$42,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, −$37,100,000,000.

(B) Outlays, −$37,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, −$38,100,000,000.

(B) Outlays, −$38,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, −$39,100,000,000.

(B) Outlays, −$39,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, −$40,900,000,000.

(B) Outlays, −$40,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

SEC. 104. RECONCILIATION.

(a) SENATE COMMITTEES.—Not later than June 13, 1997, the committees named in this subsection shall submit their recommendations to the Committee on the Budget of the Senate. After receiving those recommendations, the Committee on the Budget shall report to the Senate a reconciliation bill carrying out all such recommendations without any substantive revision.

(1) COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY.—The Senate Committee on Agriculture, Nutrition, and Forestry shall report changes in laws within its jurisdiction that reduce the deficit $41,000,000 in fiscal year 1998 and $283,000,000 for the period of fiscal years 1998 through 2002.

(2) COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS.—The Senate Committee on Banking, Housing, and Urban Affairs shall report changes in laws within its jurisdiction that reduce the deficit $544,000,000 in fiscal year 1998 and $2,892,000,000 for the period of fiscal years 1998 through 2002.

(3) COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION.—The Senate Committee on Commerce, Science, and Transportation shall report changes in laws within its jurisdiction that reduce the deficit $376,000,000 in fiscal year 1998 and $18,004,000,000 for the period of fiscal years 1998 through 2002.

(4) COMMITTEE ON ENERGY AND NATURAL RESOURCES.—The Senate Committee on Energy and Natural Resources shall report changes in laws within its jurisdiction that provide direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985) to reduce outlays $55,000,000 in fiscal year 1998 and $1,693,000,000 for the period of fiscal years 1998 through 2002.

(5) COMMITTEE ON FINANCE.—The Committee on Finance shall report to the Senate a reconciliation bill proposing changes in laws within its jurisdiction that reduce the deficit $2,903,000,000 in fiscal year 2002 and $110,122,000,000 for the period of fiscal years 1998 through 2002.

(6) COMMITTEE ON GOVERNMENTAL AFFAIRS.—The Senate Committee on Governmental Affairs shall report changes in laws within its jurisdiction that reduce the deficit $914,000,000 in fiscal year 1998 and $7,235,000,000 for the period of fiscal years 1998 through 2002.

(7) COMMITTEE ON THE JUDICIARY.—The Senate Committee on the Judiciary shall report changes in laws within its jurisdiction that provide direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985) to reduce outlays $0 in fiscal year 1998 and $476,000,000 for the period of fiscal years 1998 through 2002.

(8) COMMITTEE ON LABOR AND HUMAN RESOURCES.—The Senate Committee on Labor and Human Resources shall report changes in laws within its jurisdiction that reduce the deficit $1,118,000,000 in fiscal year 1998 and $4,551,000,000 for the period of fiscal years 1998 through 2002.

(9) COMMITTEE ON VETERANS' AFFAIRS.—The Senate Committee on Veterans' Affairs shall report changes in laws within its jurisdiction that provide direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985) to reduce outlays $247,000,000 in fiscal year 1998 and $3,929,000,000 for the period of fiscal years 1998 through 2002.

TITLE II—BUDGETARY RESTRAINTS AND RULEMAKING

SEC. 201. DEFICIT AND DISCRETIONARY SPENDING LIMITS.

(a) DEFINITIONS.—

(1) UNIFIED DEFICIT LIMITS.—In this section, the term "deficit limit" means—

(A) with respect to fiscal year 1997, −$118,800,000,000.

(B) with respect to fiscal year 1998, −$111,100,000,000.

(C) with respect to fiscal year 1999, −$98,800,000,000.

(D) with respect to fiscal year 2000, −$78,300,000,000.

(E) with respect to fiscal year 2001, −$25,100,000,000; and

(F) with respect to fiscal year 2002, $0.

(2) DISCRETIONARY LIMITS.—In this section and for the purposes of allocations made for the discretionary category pursuant to section 302(a) or 602(a) of the Congressional Budget Act of 1974, the term "discretionary spending limit" means—

(A) with respect to fiscal year 1998, for the discretionary category: $503,901,000,000 in new budget authority and $541,376,000,000 in outlays;

(B) with respect to fiscal year 1999, for the discretionary category: $505,998,000,000 in new budget authority and $537,631,000,000 in outlays;

(C) with respect to fiscal year 2000, for the discretionary category: $504,791,000,000 in new budget authority and $536,888,000,000 in outlays;

(D) with respect to fiscal year 2001, for the discretionary category $506,049,000,000 in new budget authority and $531,311,000,000 in outlays; and

(E) with respect to fiscal year 2002, for the discretionary category: $510,397,000,000 in new budget authority and $530,536,000,000 in outlays.

(b) POINT OF ORDER IN THE SENATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), it shall not be in order in the Senate to consider—

(A) a revision of this resolution or any concurrent resolution on the budget for fiscal years 1999, 2000, 2001, and 2002 (or amendment, motion, or conference report on such a resolution) that provides—

(i) discretionary spending in excess of the discretionary spending limit for such fiscal year; or

(ii) a deficit in excess of the deficit limit for such fiscal year; or

(B) any bill or resolution (or amendment, motion, or conference report on such bill or resolution) for fiscal year 1998, 1999, 2000, 2001, or 2002 that would cause any of the limits in this section (or suballocations of the discretionary limits made pursuant to section 602(b) of the Congressional Budget Act of 1974) to be exceeded.

(2) EXCEPTION.—

(A) IN GENERAL.—This section shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

(B) ENFORCEMENT OF DISCRETIONARY LIMITS IN FY 1998.—Until the enactment of reconciliation legislation pursuant to subsection (a) of section 104 of this resolution—

(i) subparagraph (A) of paragraph (1) shall not apply; and

(ii) subparagraph (B) of paragraph (1) shall apply only with respect to fiscal year 1995.

(c) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(d) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the concurrent resolution, bill, or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(e) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, new entitlement authority, revenues, and deficits for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

SEC. 202. ADJUSTMENTS TO LIMITS.

(a) DEFICIT CALCULATIONS.—As part of the information included in the annual report of CBO to the Committees on the Budget of the House of Representatives and the Senate, CBO shall include—

(1) the amount, if any, the deficit for the prior year was above the deficit limit in section 201 for such year;

(2) the amount, if any, the deficit for the prior year was below the deficit limit in section 201 for such year; and

(3) the amount (if any) the projected deficit for the budget year is below the deficit limit in section 201 for such year.

(b) ADJUSTMENT CALCULATIONS.—

(1) DIVIDEND.—

(A) IN GENERAL.—The Chairman of the Committee on the Budget of the Senate (in this section referred to as the "Chairman") shall make an adjustment in accordance with subparagraph (B) by an amount equal to the smaller of the estimate calculated pursuant to paragraph (2) or (3) of subsection (a).

(B) ADJUSTMENTS.—The Chairman shall—

(i) increase the budget authority and outlay discretionary spending limits in this resolution for the budget year by an amount equal to 50 percent of the amount determined pursuant to subparagraph (A); and

(ii) after the adoption of the concurrent resolution on the budget for the budget year, credit the prior surplus determined for the pay-as-you-go point of order by an amount equal to 50 percent of the amount determined pursuant to subparagraph (A).

(2) DEFICIT EXCESS.—If the deficit for the prior year was above the deficit limit in section 201, the Chairman shall reduce the deficit limit in this resolution for the budget year by the amount determined pursuant to subsection (a)(1).

SEC. 203. TAX RESERVE FUND IN THE SENATE.

(a) IN GENERAL.—In the Senate, revenue and spending aggregates may be reduced and allocations may be revised for legislation that reduces revenues by providing family tax relief, fuel tax relief, and incentives to stimulate savings, investment, job creation, and economic growth if such legislation will not increase the deficit for—

(1) fiscal year 1998;

(2) the period of fiscal years 1998 through 2002; or

(3) the period of fiscal years 2003 through 2007.

(b) REVISED ALLOCATIONS.—Upon the consideration of legislation pursuant to subsection (a), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this resolution.

(c) REPORTING REVISED ALLOCATIONS.—The appropriate committee shall report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this section.

SEC. 204. EXERCISE OF RULEMAKING POWERS.

The Congress adopts the provisions of this title—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change those rules (so far as they relate to that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

Mr. DOMENICI. Mr. President, as my friends on the other side of the aisle like to point out, the Congressional Budget Act includes a timetable for Congress to adopt a budget resolution that includes having the Senate Budget Committee report a budget resolution by April 1—it used to be May but it was moved back to April 1—and the conference with the House is supposed to be completed by April 15. What, of course, is not being said is the simple fact that since 1987, when we moved the completion date from May 15 to April 15—only once in those 11 years has the Congress ever met the April 15 deadline. Only three times has the Senate Budget Committee itself met the April 1 deadline.

Obviously, we have not been in charge of that committee most of those years that the Democrat majority on the other side was in charge. Nonetheless, this year the Senate Budget Committee received the President's budget on February 6. Incidentally, the President's budget was delayed a few days this year also. Nevertheless, the committee has engaged in many hearings and meetings on the President's budget. And only 17 days ago, on March 3, did the Congress receive the Congressional Budget Office's preliminary analysis of the President's budget. The final analysis is yet to be completed. And we all know that the Congressional Budget Office analysis of the President's budget set us back in our efforts to get this job done quickly. The President's plan did not achieve balance according to this preliminary report in the year 2002 without relying on some awkward triggering mechanisms.

Yesterday, I, along with my fellow House Budget Committee Chairman and two ranking members, met with the President to discuss the budget before he left for Helsinki. We agreed that over the upcoming recess and early when we return we would work to identify and clarify our differences and attempt to seek some settlement of issues so that we might return together a bipartisan budget blueprint that will get us to balance in 2002 and keep us on a path to balance well into the next century.

Our hope is that these meetings which will take place in the next 2 weeks at the staff level to be followed by an intensive week of work on our return will yield a bipartisan budget blueprint with the President working with the Congress. I am not saying to the Senate that I am certain that will work, but I truly believe there is a probability that this could work. There has been a lot of behind-the-scenes work, and I think the issues are pretty well defined. Everybody wants to be rather specific in the solutions and that will take a little bit of time.

As I expressed with the President yesterday, it is my fervent hope and I am committed to finding that common ground that will achieve the goal not for anybody's political gain but for the country's economic future.

For today, however, it is obvious that the statutory deadline in the Senate will come while we are out on Easter recess and while staff is working on this budget process during the recess. So today, in order to ensure that the work of the Senate will go on, regardless of the outcome of these discussions, I am introducing two fully drafted budget resolutions that will be referred to the Budget Committee but will be automatically discharged from the committee on April 1 and placed back on the Senate Calendar. All of this occurs by statute which dictates that procedure. This is not unprecedented and certainly not unreasonable. My former Democratic chairmen, Senators Chiles and Sasser, routinely followed this process to provide that insurance the Senate needs that we would, indeed, be able to work our will even if the committee failed to report a resolution.

So I want to make it clear that I do not intend that the Budget Committee not report a budget resolution. That is clearly not my intention. I would not want to be vested with that result because we have always been able to report a budget resolution out of the Budget Committee for better or for worse. It has always met its responsibilities, and I am certain we are going to do that again this year. But in the event we could not, either of these resolutions which I introduced today could be called off the calendar by the leader and the full Senate would then work its will on either of those as they are called up and made part of the Senate's ordinary business.

The first resolution I am submitting today is simply the President's budget submitted back in February and reestimated by the Congressional Budget Office which we now know did not reach balance in the year 2002 but resulted in a deficit of nearly $70 billion in that year. 'Obviously, I do not support this resolution. I am doubtful whether it would have much support of the Senate. And if it were called up by the Budget Committee in the Chamber, I would work to modify it significantly so that it did achieve balance and make these fundamental changes required to truly address the fiscal concerns that lie beyond 2002.

The second resolution I am introducing, I must say that I do not support it either and I do not think there would be a lot of Senators who would like the medicine provided in that budget resolution but, reluctantly, would be forced to vote for this if progress is not made in the next few weeks to modify the President's proposal, and that might be the case.

This is my own resolution. It is not necessarily a Republican resolution. It is simply my effort to point out to all what would be required to reach balance in 2002 without any changes to the President's limited entitlement savings. This second resolution, based on the Congressional Budget Office benchmark used to analyze the President's budget, assumes the President's relatively low stated savings over the next 5 years in Medicare of $100 billion and Medicaid of $9 billion.

This resolution assumes essentially the same defense spending pattern as the President had. The budget makes no assumptions about any changes to the Consumer Price Index and no changes to the Congressional Budget Office assumptions. This alternative budget resolution assumes no net tax reductions over the next 5 years.

This resolution includes what might be thought of as a reverse trigger. It is based on the Congressional Budget Office economic forecast which is more conservative than the administration's, but the resolution would allow for an adjustment to domestic spending and permit tax cuts, if the administration's more optimistic economic assumptions turn out to be right, more right than the Congressional Budget Office, and the targets toward a balanced budget are being met on a specified timetable. Then there would be a trigger in instead of a trigger out as the President proposed to make up for an unbalanced budget.

Finally, to achieve balance in 2002 with these assumptions, that portion of the Federal Government that represents annually appropriated accounts for most domestic agencies will be reduced by $183 billion over the next 5 years—nearly three times the level that the President assumes in his budget. I estimate that these domestic spending programs would see nearly a 20 percent reduction in the level of spending over the next 5 years. And, of course, that is estimating that they all take the same cut. To the extent that you cause some to increase others would have to be reduced even more. There would be absolutely no room for any new initiatives and many existing programs would obviously have to be terminated.

The message from this second resolution, if the goal is still to reach balance by 2002 using the conservative Congressional Budget Office forecasts and unless the President is willing to do more than his budget now envisions in mandatory programs or entitlement programs, not only would we not be able to fund any new initiatives, there would be significant reductions in programs such as education, environment, crime fighting, transportation, housing and others and neither would tax cuts in the President's budget or the congressional budget be possible.

Again, this is not a preferred option on my part. I certainly am not recommending this to anyone. I think we can do much better, and I think we will. I think we can achieve balance and provide some relief, tax relief, to hard-working American families. I believe we do not need to devastate Government programs in the manner that I have just described.

But it will require courage in dealing with entitlement spending, and I am asking that the President join with us in a bipartisan way to exhibit that courage. I am dedicated to making sure neither of these resolutions I have introduced today will ever need to be considered when we return from this recess, for they will not be considered if we produce a balanced budget in the committee and report it to the Senate, for that will be the subject matter before the Senate at that time.

I believe that is entirely possible. If we cannot work something out with the President, which I am still hoping and indicating today there is a probability that we could, then we will work it out in the committee. One way or another it will come out of there, in my opinion perhaps bipartisan. Work is underway and I remain hopeful that a solid budget will be prepared that will enjoy the support of the President and the vast majority here in the Congress. I think we all understand the significance of these events this year, and I must say that I believe the President understands the significance.

I mean, it seems to me that if, in fact, we do not reach some accord with the President, he can look forward to a very frustrating couple of years, achieving little or nothing, not moving toward a balanced budget with any dispatch and any earnestness. And I am not sure that is good for him.

For Republicans, I am quite positive that we do not want 2 or 4 years of just constant turmoil, working by ourselves, among ourselves as Republicans, but rather should look forward to working this very important set of circumstances out in a bipartisan manner for the benefit of everyone.

Mr. GORTON. Mr. President, my good friend, the distinguished chairman of the Budget Committee and the Senator from New Mexico, Senator DOMENICI, has just introduced and explained to the Senate two alternative budget resolutions.

He has, as a matter of courtesy, introduced the President's budget without change, but with the analysis and economic impacts that it will cost made by the Congressional Budget Office.

The Senator from New Mexico has also introduced a budget, a sparse and bare-bones budget, that he feels will be required as almost the only responsible answer to the refusal of the President of the United States seriously to consider entitlement reform in his budget.

In order to bring the budget of the United States in balance by the year 2002, in order to get the huge fiscal dividend of more than $75 billion that economists tell us will result from a balanced budget, in order to provide the economic opportunities and the increased income to Americans across the country that a balanced budget will provide, in order to end the practice of spending money today and sending the bills to our children and grandchildren, the Senator from New Mexico has introduced a budget that does no more and no less in the way of entitlement reform than the inadequate proposals of the President of the United States, accepts the conservative projections of our economy made by our own Congressional Budget Office and, therefore, includes no room—and I emphasize no room, Mr. President—for overdue and deserved tax relief for the American people.

Even without any tax relief for the American people, this set of decisions requires reductions in domestic discretionary spending that are extremely drastic, more than twice those that either the President or most of us, as Republicans on the Budget Committee, feel to be appropriate. In addition to leaving no room for any tax relief, this budget has no room for any of the new initiatives proposed by the President himself.

The Senator from New Mexico has introduced this budget in this form to indicate precisely what the real world consequences of a failure to reform entitlement spending will be.

In addition, in order to end or to mute the debate with the President over whether the President's far more rosy projections of our economy are correct as against those of the Congressional Budget Office, the proposal of the Senator from New Mexico says if, in fact, the economy operates in a better fashion than is projected by the Congressional Budget Office, half of those additional revenues will be devoted to tax relief and half to reducing the cuts in domestic discretionary spending. In other words, instead of the policies proposed by the President, which is "spend now and then cut everything to ribbons if my projections don't work out," this proposal says, "take the more conservative projections now and spend and provide tax relief in the future if the President's projections show themselves to be correct in whole or in part."

The chairman of the Budget Committee did not present this proposal as his preferred budget, nor is it mine, nor is it, I am sure, that of the distinguished Presiding Officer at this point. It is simply what we are likely to be forced to do if we cannot agree on significant reform in the entitlement programs which are growing both so rapidly as to crowd out all other spending and all tax relief, but also so rapidly as to threaten their own very existence.

What the Senator from New Mexico would prefer, what this Senator would prefer, would be an engagement, a budget resolution reflecting a strong bipartisan consensus in this body and the strong enthusiastic support and recommendations of the President of the United States himself that will require us to deal with entitlements. It will require us to look into the accuracy, or lack of accuracy, in the Consumer Price Index, because it is only if we have a more equitably distributed budget that we can provide for tax relief and for necessary discretionary spending programs. Only then we can have a conversation with the President and between the two parties on exactly what tax relief should be granted to the American people and where additional discretionary funds may be spent.

As I began these remarks, there was on the floor the distinguished Senator from Rhode Island, Mr. CHAFEE, and there is now my friend from North Dakota, Senator CONRAD. Each of them was a leader, one a Republican and one a Democrat, in a bipartisan budget proposal which was presented to this body almost a year ago on this floor. It courageously dealt with each one of these issues, dealt with them in a balanced fashion and dealt with them in a way that decisively would have brought the budget into balance by the year 2002.

One of the curious elements of that budget, I may say, Mr. President, and I am sure my friend from North Dakota agrees with me, was that we hear today numerous favorable comments about it from those who did not vote for it. In fact, if we could try it again and put ourselves back into April of last year, it looks like it might have gotten 70 votes rather than 46.

In any event, that time is past, that time is lost and because we lost it, the challenges we face are even more difficult today. But I know that my friend from New Mexico, who has now returned to the floor, means the introduction of these two alternatives to be a trigger toward an agreement with the President and with many members of the Democratic Party on a budget that will realistically reach balance by the year 2002 which will give needed tax relief to the American people, tax relief that they deserve, that will allow us sufficient money for the important discretionary programs of this Government, whether they are the building of an infrastructure or for education or for environmental purposes, and that will not only reform entitlement programs so that these other goals can be reached, but will reform them so that they are themselves secure and financially sound for the future, and so that what we do reflects the real world and not an artificial set of statistics.

So I came to the floor this evening, Mr. President, to thank the Senator from New Mexico for his thoughtfulness and his tremendous amount of work for the two resolutions that he has submitted, and to simply try to emphasize that with him I hope not that either of these proposals passes and becomes a guideline for the U.S. Senate and for the Congress, but that they help us reach a goal that is not a Republican goal, not a Democratic goal, but a goal for all Americans.

Mr. DOMENICI. Would the Senator yield?

Mr. GORTON. The Senator would.

Mr. DOMENICI. First, let me note the presence of Senator CONRAD on the floor.

Might I just say, I do not think you heard any of my remarks since I returned from a couple of hours at the White House yesterday. And I have not had a chance to speak with the distinguished Senator. But we are busy, as of today, working on trying to reach our differences. There will be a lot of work the next 2 weeks. We are very hopeful 1 week after we return, with that week being spent by some of us getting down to the final stages of negotiations, that we will have something very constructive.

It is hard to say where it will all end up, but I can say the President approached it with a degree of not only earnestness, but a sense that we ought to go ahead and move and we ought to resolve some differences and get going. And I have expressed that here today, indicating that as these two budgets are only there in the event we cannot get a budget out of the Budget Committee, then we have to get something to work off of, and this is a rather normal way to do it: Put a budget resolution in. Then the leader can call it up if we were to fail, and we have something to work on.

I simply think everybody knows there are a lot of possibilities of working a budget together this year because there are many Republicans and Democrats who are looking seriously at ways to put something together that does do some difficult things, that is not just a skirting over the difficulties, and is saying, let us do some things that have real long-term impact and as you, I say to the Senator, have so eloquently said, something we can all be proud of that really does the job.

That is my goal. I will try as best I can in the next few weeks. And, again, subject to the frailties of partisanship and things that can happen that you know nothing about, I said I thought there was a probability we could reach an agreement with the President, bipartisan, that many Senators would like.

SENATE CONCURRENT RESOLUTION 18—RELATIVE TO BELARUS

Mr. LAUTENBERG (for himself and Mr. D'AMATO) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 18

Whereas the seedlings of an independent and democratic Belarus, for which generations of Belarusan patriots have fought and died, are in danger of being swept away as a result of the policies of Belarusan President Alaksandr Lukashenka and the efforts of Russian nationalist leaders to recreate the Soviet empire;

Whereas March 25th is the date that Belarusans throughout the world salute the sacrifices and bravery of the members of the Council of the Belarusan Democratic Republic, who in 1918 liberated their country from czarist rule;

Whereas the Russian Duma in March 1996 voted to declare void the 1991 agreement dissolving the Soviet Union;

Whereas the referendum adopted in November of 1996 expanded President Lukashenka's already considerable powers in violation of the Constitution of Belarus and basic democratic principles;

Whereas on January 16, 1996, the Chairman-in-Office of the Organization for the Security and Cooperation of Europe urged the Government of Belarus "to enter into dialogue with the opposition and to ensure freedom of media and not restrict access to the media for members of the opposition";

Whereas on March 14, 1997, the United States Department of State issued a statement that calls on President Lukashenka's Government to exercise restraint and to observe the international human rights agreements to which it is a party; and

Whereas the Government of President Lukashenka has monopolized the mass media, undermined the constitutional foundation for the separation of powers, suppressed the freedom of the press, undermined efforts to restore the Belarusan language, and undercut the ground for all-Belarusan unity: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the President should urge President Lukashenka and the Government of Belarus to—

(1) abide by the provisions of—

(A) the Helsinki Final Act; and

(B) other agreements of the Organization for the Security and Cooperation of Europe;

(2) guarantee human rights and fundamental freedoms, including freedom of the press, assembly, and expression; and

(3) guarantee separation of powers.

SEC. 2. SUPPORT OF INDEPENDENCE.

It is the policy of the United States to support the people of Belarus in—

(1) maintaining independent statehood;

(2) promoting the rule of law, human rights, and fundamental freedoms; and

(3) assuring that Belarus has the opportunity to survive as an equal and full-fledged member-state among the sovereign nations of the world.

Mr. LAUTENBERG. Mr. President, today I am submitting a concurrent resolution regarding Belarus. I am pleased that Senator D'AMATO is an original cosponsor of this concurrent resolution. Representative PALLONE has submitted a similar measure in the House of Representatives.

I am deeply concerned about events in Belarus and the effort by President Lukashenka to expand his already considerable powers at the expense of basic democratic principles. I am deeply concerned by his proposal to unify Russia and Belarus. And, as the cochairman of the Helsinki Commission, I am dismayed by President Lukashenka's failure to abide by the provisions of the Helsinki Final Act and other OSCE agreements which guarantee respect for human rights and fundamental freedoms.

The resolution recognizes March 25, 1997, as the anniversary of the proclamation of Belarusan independence. It calls on President Lukashenka and the Government to abide by the provisions of the Helsinki Final Act and other agreements of the Organization for the Security and Cooperation of Europe; to guarantee human rights and fundamental freedoms, including freedom of the press, assembly, and expression; and to guarantee separation of powers. The resolution states that it is the policy of the United States to support the people of Belarus in achieving independent statehood, promoting the rule of law, human rights, and fundamental freedoms, and assuring that Belarus has the opportunity to survive as an equal and full-fledged member-state among sovereign nations of the world.

As we approach the anniversary of Belarus' 1918 declaration of independence, we are reminded that Belarus is a nation with a proud history and traditions. It is appropriate that we remember the brave struggle of Belarusan patriots in 1918. At the same time, we must recognize that the struggle for national sovereignty and democratic freedoms continues today and is greatly threatened by the actions of the Lukashenka regime.

I urge my colleagues to approve this resolution.

SENATE RESOLUTION 66—COMMENDING THE UNIVERSITY OF FLORIDA FOOTBALL TEAM

Mr. MACK (for himself and Mr. GRAHAM) submitted the following resolution; which was considered and agreed to:

S. RES. 66

Whereas the University of Florida can trace its beginnings to 1853 but was formally established by the State of Florida when Florida Agricultural College merged with East Florida Seminary, South Florida Military College, and St. Petersburg Normal & Industrial School in 1905;

Whereas the University of Florida adopted the colors of orange and blue for its athletic team in 1905 and the alligator as the school's mascot in 1908;

Whereas the origins of intercollegiate football at the University of Florida can be traced back to 1901, when Dr. T.H. Taliaferro, president of the Florida State Agricultural College, enthusiastically endorsed the new sport of football and by that deed ensured that the University of Florida Fightin' Gator football team exists today;

Whereas the University of Florida is a founding member of the Southeastern Conference, considered by many to be the toughest conference in college football;

Whereas the students, alumni, and friends of the University of Florida are to be commended for the dedication, enthusiasm, and admiration they share for the Fightin' Gator football team;

Whereas in 1990, Stephen Orr Spurrier, the most fabled football player in the history of the University of Florida and winner of the Heisman Trophy in 1966, was hired to be the head football coach to lead the team to the ever elusive "Year of the Gator";

Whereas in 1992, Coach Spurrier and his assistant coaches recruited a group of talented athletes who went on to form the nucleus of the 1996 football team;

Whereas the 1996 Fightin' Gator football team compiled a record of 12 wins and 1 loss and outscored their opponents by a margin of 611 points to 221 points, and for this achievement the Fightin' Gator football team was recognized by the Associated Press and the Division I college football coaches as college football's 1996 Division I national champions;

Whereas the 1996 Fightin' Gators football team and coaches are to be commended for winning the school's first Division I collegiate football national championship.

Whereas the 1996 Fightin' Gator football team broke several school, Southeastern Conference, and Division I football records during the 1996 football season;

Whereas the 1996 senior class of Fightin' Gator football team should be commended for their leadership and their "team first" approach that helped win the 1996 Division I Collegiate football national championship, 4 consecutive Southeastern Conference football championships, and the most victories for a senior class in school history;

Whereas Danny Wuerffel, the team's quarterback, field leader, and spiritual leader should be commended for winning numerous awards and accolades for his performance during the 1996 football season including the Heisman Trophy, which is presented yearly to college football's most outstanding player, and the Draddy Scholarship Trophy, which is presented annually to the Nation's premier football scholar athlete;

Whereas Lawrence Wright, the team's strong safety, should be commended for winning the prestigious Jim Thorpe Award, which is presented yearly to college football's most outstanding defensive back;

Whereas Reidel Anthony, one of the team's clutch wide receivers, should be commended for being selected by both the Football Writers Association and the Associated Press to their respective college football All-American teams;

Whereas Ike Hilliard, another of the team's deep threats at wide receiver, should be commended for being selected by the Walter Camp Football Foundation as a member of its college football All-American team;

Whereas all the loyal sons and daughters of the University of Florida join together in honoring Coach Spurrier and the 1996 Florida Fightin' Gators for winning the 1996 NCAA Division I football championship; and

Whereas the 1996 season will be known forever in the hearts and minds of the University of Florida faithful as the "Year of the Gator": Now therefore, be it

Resolved, That the Senate—

(1) commends the University of Florida for winning the 1996 Division I collegiate football national championship;

(2) recognizes the achievements of all the players, coaches, and support staff who were instrumental in helping the University of Florida win the 1996 Division I collegiate football national championship and invites them to the Capitol to be honored in an appropriate manner to be determined;

(3) requests that the President recognize the accomplishments and achievements of the 1996 University of Florida Fightin' Gator football team and invite the team to Washington, D.C. for the traditional White House ceremony held for national championship teams; and

(4) directs the Secretary of the Senate to make available enrolled copies of this resolution to the University of Florida for appropriate display and to transmit an enrolled copy to each member of the 1996 University of Florida Division I collegiate national championship football team.

SENATE RESOLUTION 67—TO AUTHORIZE A PRINTING

Mr. CRAIG (for himself and Mr. Reid) submitted the following resolution; which was considered and agreed to:

S. Res. 67

Resolved,

SECTION 1. PRINTING OF THE HISTORY MANUSCRIPT OF THE REPUBLICAN POLICY COMMITTEE IN COMMEMORATION OF ITS 50TH ANNIVERSARY.

(a) In General.—There shall be printed as a Senate document the book entitled, "A History of the Senate Republican Policy Committee, 1947–1997," prepared by the Senate Historical Office under the supervision of the Secretary of the Senate, with the concurrence of the United States Senate Republican Policy Committee.

(b) Specifications.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) Number of Copies.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 1,000 copies for use of the Senate, to be allocated as determined by the Secretary of the Senate; or

(2) a number of copies that does not have a total production and printing cost of more than $1,200.

SEC. 2. PRINTING OF THE HISTORY MANUSCRIPT OF THE DEMOCRATIC POLICY COMMITTEE IN COMMEMORATION OF ITS 50TH ANNIVERSARY.

(a) In General.—There shall be printed as a Senate document the book entitled, "A History of the Senate Democratic Policy Committee, 1947–1997," prepared by the Senate Historical Office under the supervision of the Secretary of the Senate, with the concurrence of the United States Senate Democratic Policy Committee.

(b) Specifications.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) Number of Copies.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 1,000 copies for use of the Senate, to be allocated as determined by the Secretary of the Senate; or

(2) a number of copies that does not have a total production and printing cost of more than $1,200.

SENATE RESOLUTION 68—DESIGNATING "NATIONAL FORMER PRISONER OF WAR RECOGNITION DAY"

Mr. SPECTER (for himself, Mr. Akaka, and Mr. Smith of New Hampshire) submitted the following resolution; which was considered and agreed to:

S. Res. 68

Whereas the United States has fought in many wars;

Whereas thousands of members of the Armed Forces of the United States who served in such wars were captured by the enemy and held as prisoners of war;

Whereas many prisoners of war were subjected to brutal and inhumane treatment by their captors in violation of international codes and customs for the treatment of prisoners of war and died, or were disabled, as a result of the treatment; and

Whereas the great sacrifices of the prisoners of war and their families deserve national recognition: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 9, 1997, and April 9, 1998, as "National Former Prisoner of War Recognition Day" in honor of the members of the Armed Forces of the United States who have been held as prisoners of war; and

(2) requests that the President issue a proclamation calling on the people of the United States to commemorate this day with appropriate ceremonies and activities.

Mr. SPECTER. Mr. President, I am pleased to submit a resolution which would recognize the service and dedication of America's former prisoners of war [POW's]. The resolution would designate April 9, 1997, and April 9, 1998, as National Former Prisoner of War Recognition Day. April 9 is the anniversary of the fall of Bataan in 1942. On that day more Americans became POW's than any other day in our history.

Every American who wears the uniform of our country makes a unique commitment of service and duty to our country and to our fellow citizens. Perhaps no American veterans have been called upon to honor their commitment to our country under circumstances more difficult than those endured by our former POW's. For many, their experience was one of malnutrition, torture, and nonexistent medical care, combined with the burden of watching comrades die under terrible conditions.

Even under the best possible conditions, the POW experience places American service members in the position of being dependent upon our Nation's enemies for every scrap of food, every bandage, every human need. In such circumstances, the reward for treason, or even cooperation, is high. The penalty for resistance and loyalty is immediate, frequently painful and sometimes fatal. This resolution recognizes the sacrifice and loyalty of the POW's who maintained their commitment of service to our country. In so doing, it helps fulfill the duty we have to former POW's, derived from their faithful discharge of duty to our nation.

Mr. President, this resolution commemorates the service of former POW's who sustained their commitment to our country under circumstances that few of us can imagine, and none would willingly endure. I ask this body to honor the memory of those who have already died and express our gratitude to those still alive.

AMENDMENTS SUBMITTED

MEXICO CERTIFICATION JOINT RESOLUTION

COVERDELL (AND OTHERS) AMENDMENT NO. 25

Mr. COVERDELL (Mrs. Feinstein, Mr. Helms, Mrs. Hutchison, Mr. McCain, Mr. Domenici, Mr. Kerry, Mr. Dodd, Ms. Moseley-Braun, Ms. Landrieu, and Mr. D'Amato) proposed an amendment to the joint resolution (H.J. Res. 58) disapproving the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997; as follows:

Strike all after the resolving clause and insert the following:

SECTION 1. REPORT REQUIREMENT.

(a) Findings.—Congress makes the following findings:

(1) The abuse of illicit drugs in the United States results in 14,000 deaths per year, has inordinate social consequences for the United States, and exacts economic costs in excess of $67,000,000,000 per year to the American people.

(2) An estimated 12,800,000 Americans, representing all ethnic and socioeconomic groups, use illegal drugs, including 1,500,000 users of cocaine. Further, 10.9 percent of Americans between 12 and 17 years of age use illegal drugs, and one in American four children claim to have been offered illegal drugs in the past year. Americans spend approximately $49,000,000,000 per year on illegal drugs.

(3) There is a need to continue and intensify anti-drug education efforts in the United States, particularly education directed at the young.

(4) Significant quantities of heroin, methamphetamines, and marijuana used in the United States are produced in Mexico, and a major portion of the cocaine used in the United States is imported into the United States through Mexico.

(5) These drugs are moved illegally across the border between Mexico and the United States by major criminal organizations, which operate on both sides of that border and maintain the illegal flow of drugs into Mexico and the United States.

(6) There is evidence of significant corruption affecting institutions of the Government of Mexico (including the police and military), including the arrest in February 1997 of General Jesus Gutierrez Rebollo, the head of the drug law enforcement agency of Mexico, for accepting bribes from senior leaders of the Mexican drug cartels. In 1996, the Attorney General of Mexico dismissed more than 1,200 Mexico federal law enforcement officers in an effort to eliminate corruption, although some were rehired and none has been successfully prosecuted for corruption. In the United States, some law enforcement officials may also be affected by corruption.

(7) The success of efforts to control illicit drug trafficking depends on improved coordination and cooperation between Mexico and United States drug law enforcement agencies and other institutions responsible for activities against illicit production, traffic and abuse of drugs, particularly in the common border region.

(8) The Government of Mexico recognizes that it must further develop the institutional financial regulatory and enforcement capabilities necessary to prevent money laundering in the banking and financial sectors of Mexico and has sought United States assistance in these areas.

(9) The Government of Mexico has recently approved, but has yet to implement fully, new and more effective legislation against organized crime and money laundering.

(10) The Government of the United States and the Government of Mexico are engaged in bilateral consideration of the problems of illicit drug production, trafficking, and abuse through the High Level Contact Group on Drug Control established in 1996.

(11) The President of Mexico has declared that drug trafficking is the number one threat to the national security of Mexico.

(12) In December 1996, the Government of the United States and the Government of Mexico joined with the governments of other countries in the Western Hemisphere to seek to eliminate all production, trafficking, and abuse of drugs and to prevent money laundering.

(13) Section 101 of division C of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208) requires the Attorney General to increase the number of positions for full-time, active-duty patrol agents within the Immigration and Naturalization Service by 1,000 per year through the year 2001.

(14) The proposed budget of the President for fiscal year 1998 includes a request for 500 such agents.

(15) Drug cartels continue to operate with impunity in Mexico, and effective action needs to be taken against Mexican drug trafficking organizations, particularly the Juarez and Tijuana cartels.

(16) While Mexico has begun to extradite its citizens for the first time and has cooperated by expelling or deporting major international drug criminals, United States requests for extradition of Mexican nationals indicted in United States courts on drug-related charges have not been granted by the Government of Mexico.

(17) Cocaine seizures and arrests of drug traffickers in Mexico have dropped since 1992.

(18) United States law enforcement agents operating in Mexico along the United States border with Mexico must be allowed adequate protection.

(b) Sense of Congress on Cooperation on Drugs by Countries in the Western Hemisphere.—It is the sense of Congress to urge the President, in his official visits in the Western Hemisphere, to examine with leaders of governments of other countries in the Western Hemisphere the effectiveness of efforts to improve counterdrug activities in order to curtail the production, traffic, and abuse of illicit drugs, and to define plans for specific actions to improve cooperation on such activities, including consideration of a coordinated multilateral alliance.

(c) Sense of Congress of Progress in Halting Production and Traffic of Drugs in Mexico.—It is the sense of Congress that there has been ineffective and insufficient progress in halting the production in and transit through Mexico of illegal drugs.

(d) Report to Congress.—Not later than September 1, 1997, the President shall submit to Congress a report describing the following:

(1) The extent of any significant and demonstrable progress made by the Government of the United States and the Government of Mexico, respectively, during the period beginning on March 1, 1997, and ending on the date of the report in achieving the following objectives relating to counterdrug cooperation:

(A) The investigation and dismantlement of the principal organizations responsible for drug trafficking and related crimes in both Mexico and the United States, including the prevention and elimination of their activities, the prosecution or extradition and incarceration of their leaders, and the seizure of their assets.

(B) The development and strengthening of permanent working relationships between the United States and Mexico law enforcement agencies, with particular reference to law enforcement directed against drug trafficking and related crimes, including full funding and deployment of the Binational Border Task Forces as agreed upon by both governments.

(C) The strengthening of bilateral border enforcement, including more effective screening for and seizure of contraband.

(D) The denial of safe havens to persons and organizations responsible for drug trafficking and related crimes and the improvement of cooperation on extradition matters between both countries.

(E) The simplification of evidentiary requirements for narcotics crimes and related crimes and for violence against law enforcement officers.

(F) The full implementation of effective laws and regulations for banks and other financial institutions to combat money laundering, including the enforcement of penalties for non-compliance by such institutions, and the prosecution of money launderers and seizure of their assets.

(G) The eradication of crops destined for illicit drug use in Mexico and in the United States in order to minimize and eventually eliminate the production of such crops.

(H) The establishment and implementation of a comprehensive screening process to assess the suitability and financial and criminal background of all law enforcement and other officials involved in the fight against organized crime, including narcotics trafficking.

(I) The rendering of support to Mexico in its efforts to identify, remove, and prosecute corrupt officials at all levels of government, including law enforcement and military officials.

(J) The augmentation and strengthening of bilateral cooperation.

(2) The extent of any significant and demonstrable progress made by the Government of the United States during the period beginning on March 1, 1997, and ending on the date of the report in—

(A) implementing a comprehensive antidrug education effort in the United States targeted at reversing the rise in drug use by America's youth;

(B) implementing a comprehensive international drug interdiction and enforcement strategy; and

(C) deploying 1,000 additional active-duty, full-time patrol agents within the Immigration and Naturalization Service in fiscal year 1997 as required by section 101 of division C of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, March 20, 1997, at 9 a.m. in SR–328A to receive testimony regarding agriculture research reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, March 20, 1997, in open session, to receive testimony on the fiscal year 1998 budget request for Department of Energy national security programs and review environmental management activities.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, March 20, for purposes of conducting a Subcommittee on National Parks, Historic Preservation, and Recreation hearing which is scheduled to begin at 2 p.m. The purpose of this oversight hearing is to address the future of the National Park System and to identify and discuss needs, requirements and innovative programs that will insure the Park Service will continue to meet its many responsibilities well into the next century.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LOTT. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet to consider the nominations of Johnny H. Hayes, nominated by the President to be a member of the board of directors of the Tennessee Valley Authority; Judith M. Espinosa, nominated by the President to be a member of the board of trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation; and D. Michael Rappoport, nominated by the President to be a member of the board of trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation Thursday, March 20, after the first Senate floor vote or at a time to be determined Thursday, March 20, in 406 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. LOTT. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, March 20, 1997, beginning at 10 a.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, March 20, 1997, at 9:30 a.m. for a hearing on the role of the Department of Commerce in the U.S. trade policy, promotion and regulation, and opportunities for reform and consolidation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LOTT. The Committee on the Judiciary would request unanimous consent to hold an executive business meeting on Thursday, March 20, 1997, at 10:30 a.m., in room 226 of the Senate Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Higher Education Act reauthorization, during the session of the Senate on Thursday, March 20, 1997, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, March 20, 1997, beginning at 9:30 a.m. until business is completed, to hold an oversight hearing on the operations and budget of the Congressional Research Service and the Library of Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. LOTT. The Committee on Veterans' Affairs would like to request unanimous consent to hold a joint hearing with the House Committee on Veterans' Affairs to receive the legislative presentation of AMVETS, American Ex-Prisoners of War, Veterans of World War I, and the Vietnam Veterans of America. The hearing will be held on March 20, 1997, at 9:30 a.m., in room 345 of the Cannon House Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Financial Institutions of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 20, 1997, to conduct a hearing to examine the Federal Reserve's proposal to modify the "firewalls" that separate commercial banks and their securities affiliates.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. LOTT. Mr. President, I ask unanimous consent that the Surface Transportation and Merchant Marine Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, March 20, 1997, at 9:30 a.m. on ocean shipping reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ROLLOUT OF THE F-22

Mrs. HUTCHISON. Mr. President, on April 9, 1997, an important milestone will be reached when the Lockheed Martin Corp. rolls out the F-22 in Marietta, GA. The F-22 is a powerful new aircraft that will ensure complete and total air dominance for the United States in the 21st century.

How do you measure success in air superiority. The best measure I know is reflected in the fact that no U.S. soldier has been killed by an enemy aircraft in over 40 years. And that is why the F-22 is critical at this time, for the F-22 ensures that impressive record of protecting our forces continues unbroken.

There are some who fail to understand that the threat to our air forces is growing and that the world remains dangerous despite the end of the cold war. Throughout the world today there are a host of Russian-made surface-to-air missiles readily available on the open market to any nation with the money available to buy them. At the same time, a new generation of tactical fighter is also being produced in Russia and elsewhere which can out perform and defeat our current air superiority fighter, the F-15C. All of these pose significant threats to our ability to maintain air superiority.

The F-22 will ensure that America maintains not just air superiority but air dominance. And as the former Secretary of Defense William Perry once said "everything else we do depends on air dominance.

Mr. President, I am pleased to note that the rollout on April 9 will mark the beginning of a new era for Air Force aviation. As a Texan, I am also proud of the role America's premier tactical fighter complex in Fort Worth, TX played in building this revolutionary aircraft.

I hope my colleagues will take notice of the rollout in a year which marks the 50th anniversary of our Air Force. I also hope my colleagues will take this opportunity to reflect on the importance of our Air Force and the role they have played since their founding 50 years ago in maintaining peace and stability in a dangerous world. The rollout of the F-22 will begin a new chapter in Air Force history and help ensure the Air Force and the country remains strong and capable in the future.

GREEK INDEPENDENCE DAY

• Mr. SARBANES. Mr. President, I rise today to pay tribute to the Greek people on the 176th anniversary of the beginning of their struggle for independence. Since regaining their freedom and reaffirming their commitment to democratic principles, the Greek people have built a modern-day republic that is a strong and positive presence in the Balkans and eastern Mediterranean.

As the only member of the European Union from the region, Greece has played a stabilizing role in the area and helped advance its neighbors' progress toward political and economic security. Greece's own efforts to continue the modernization of its economy and its steadfast defense of democratic governance are critical to the promotion of democracy and stability in neighboring lands.

On March 25, Greece will commemorate the beginning of its quest for independence from four centuries of Ottoman rule. After nearly 10 years of struggle against tremendous odds, the Greek people secured liberty for their homeland and reaffirmed the individual freedoms that are at the heart of their tradition.

From the beginning of their revolution, the Greeks had the support—both material and emotional—from a people who had only recently gained freedom for themselves; the Americans. And since then, our two nations have remained firmly united by shared beliefs in democratic principles and mutual understanding of the sacrifices entailed in establishing a republic.

As a nation whose founders were ardent students of the classics, America has drawn its political convictions from the ancient Greek ideals of liberty and citizenship. And just as we looked to the Greeks for inspiration, Greek patriots looked to the American Revolution for strength in the face of their own adversity.

Since their liberation, the Greek people have never taken their liberty for granted. In both World Wars, Greece never wavered from its commitment to the United States and the other allied nations to resist the forces of totalitarianism. Faced with a Communist uprising after World War II, Greece received support from President Truman and the American people, who helped the Greeks rebuild their war-ravaged nation.

Along with our shared values and traditions, Greece and America share a bond by virtue of those individuals who have remained devoted to the ideals of both countries. The Greek-American community, which maintains an especially close relationship with Greece, also consistently makes significant contributions to American culture, business, and history. Truly, it is a community that enriches our life at home while strengthening our ties abroad.

At this time last year, First Lady Hillary Clinton was in Greece. Her visit was followed by a meeting here in Washington between Greek Prime Minister Kostandinos Simitis and President Clinton, which laid the foundation for even stronger Greek-American relations in the future, and the broadening of existing ties into new arenas.

This year, I was proud to cosponsor Senate Resolution 56, designating March 25, 1997, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy," and I was gratified to see it approved by the Senate last week. Emotionally and philosophically, Greece has remained near the hearts and minds of Americans since this Nation was founded.

President James Monroe aptly summarized these feelings in 1822, observing: "The mention of Greece fills the mind with the most exalted sentiments and arouses in our bosom the best feelings of which our nature is susceptible." Mr. President, more than inspiration, Greece today has a very important and tangible role to play in the democratic progress of its own region. I have no doubt that Greece is up to the task.●

THE 25TH ANNIVERSARY OF THE ESTABLISHMENT OF THE FIRST NUTRITION PROGRAM UNDER THE OLDER AMERICANS ACT

● Mr. JEFFORDS. Mr. President, on Saturday, March 22, our Nation will commemorate the 25th anniversary of the establishment of the national nutrition programs for the elderly under the Older Americans Act. Since their inception, these programs have benefited thousands of our Nation's elderly by providing home-delivered and collective meals to those elderly facing serious challenges and limitations, including economic hardship, physical and health limitations, and rural isolation.

The elderly's ability to obtain meals under the Older Americans Act was originally limited to meal sites, where groups of elderly can congregate for a meal during the day. Following several successful years of service, nutrition programs expanded to serve the homebound elderly. Also, the parameters of the Older Americans Act were extended to allow Area Agencies on Aging to inform the elderly on how to obtain nutrition education, counseling, and screening. Nutritional services have proven to be critical for a significant population of the elderly who can continue to maintain a healthy, independent lifestyle.

Through this program, Vermont's five Area Agencies on Aging contract with various local nutrition service providers to expedite the delivery of meals to people's homes and continue to coordinate meals provided in congregate settings. Federal grants provided for our country's nutrition programs fill resource gaps where nonprofit and State organizations cannot.

Twenty-five years following the first meal served in the early 1970's, 242 million meals have been provided to 3.5 million of our Nation's elderly. Since taking office in the House of Representatives in 1975, I am proud to have been a steadfast supporter of these nutrition programs. They are a wonderful example of the Federal Government's successful contribution to improving the lives of our Nation's senior citizens.●

COST OF UNITED STATES INVOLVEMENT IN BOSNIA

● Mr. FEINGOLD. Mr. President, I rise today to speak about the escalating costs of the United States involvement in Bosnia.

Recently, I asked the administration representatives for a ballpark estimate of the expected cost to the United States taxpayer of the American operation in Bosnia.

I was astonished to hear that administration estimates have been revised to $6.5 billion.

Six-point-five billion dollars. To put that in perspective, we were originally told that the Bosnia mission would cost the United States taxpayer some $2 billion. Later, the estimate was revised to $3 billion. Now, it has risen to a staggering $6.5 billion.

Mr. President, the cost has now risen more than threefold since the original estimates we were given. That is equal to just over half of the entire foreign operation budget for fiscal 1997 which is about $12.2 billion.

Let me review what has happened here. In late 1995, when the administration negotiated the United States troop commitment outlined by the Dayton accords, the administration came to the Congress with an estimate for United States troop participation in the NATO Peace Implementation Force in Bosnia, commonly referred to as IFOR. According to information provided to my office by the Office of the Secretary of Defense [OSD], this initial estimate of $2 billion was generated using a force deployment model based on experience in Desert Storm and Somalia * * * [although] the types of forces, deployment schedules, field conditions, and security situation had not been determined." Once troops were deployed to Bosnia, new information about the field conditions became available and pushed the original estimate up by about 50 percent.

As I understand it, unexpected and adverse weather conditions, including major floods, further complicated the operation—delaying the establishment of land routes and altering placement of planned camp sites. According to the Defense Department, additional reserves were also required to back fill for troops that had been deployed to the region.

Further refinements of the cost estimate were again made in July 1996, when the Defense Department recognized the need for additional moneys—to the tune of almost $310 million—for pulling out heavy armored forces and replacing them with military police, as well as additional communications requirements. A new total cost estimate of $3.2 million for operations through the end of 1996—that is, for approximately one full year—was provided to congressional staff in July.

The conditions that led to these refinements also helped throw the time line for the 1-year mission out of whack. So, no one could have really been surprised by the announcement last October—just as the Congress was preparing to take its long recess—that the United States had decided to dispatch additional troops to Bosnia. The new deployment of an additional 5,000 troops was to be part of a new mission—the one we now call SFOR, or NATO stabilization force—and would last 18 months, through June 1998.

The extension of the U.S. mission in the region, of course, required a new cost estimate. Using actual costs to date, projected force levels for fiscal year 1997 and for fiscal year 1998, and expected operating costs, the Defense Department now says that total costs for the operation are expected to be $6,512,000,000.

Mr. President, when Congress was first consulted about the Bosnia operation back in 1995, I asked whether or not the United States would be able to withdraw troops from IFOR in December 1996, as the administration said then, even if the mission clearly had not been successful. I had my doubts then that the stated goal—ending the fighting and raising an infrastructure capable of supporting a durable peace—would be achievable in 12 months' time. I foresaw a danger that conditions would remain so unsettled that it would then be argued that it would be folly—and waste—to withdraw on schedule.

My concerns and hesitations of October 1995 were only compounded by the October 1996 announcement that additional troops were being deployed to Bosnia, and compounded further in November 1996 when it became clear that the mission was being extended for an additional 18 months.

In my view, the handwriting has been on the wall for some time now.

As many in this Chamber will recall, I was one of the few Members of Congress, and the only Democrat, to vote against the initial deployment of troops in 1995. At that time, I questioned the projections regarding the duration and cost of the mission.

What I feared then has happened. The United States continues to be drawn deeper into a situation from which we appear unable to extricate ourselves. The war in Vietnam was called a quagmire. We referred to continued United States troop deployment in Somalia as mission creep. I fear that the Bosnia operation presents the same dilemma. There will continue to reasons to encourage continued U.S. military presence on the ground. Despite an original estimate of $2 billion, that presence is now moving closer and closer to $7 billion.

I recognize that the Bosnia mission has not been without some positive results. We can all be grateful that people are no longer dying en masse in Bosnia and that United States and troops from other nations are to be applauded for having largely succeeded in enforcing the military aspects of the Dayton accords. But successive delays in holding municipal elections and the lasting, and at-large, presence of indicted war criminals are continuing signs that the progress of American troop presence is transitory at best.

At the heart of the conflict is that the strategic political goals of the warring factions remain unchanged. Peace in the region appears to be achievable, unfortunately, only at the point of NATO arms.

Mr. President, I now fear that, come next June, when the SFOR mission is expected to end, and after we will have invested $6.5 billion, there is a real danger that we will be back at square one.

I hope that the lesson learned from Bosnia is that we should not make commitments of United States resources, be they military, humanitarian, or otherwise, without a candid assessment of the likely level and duration of the commitment. While it is clear that there were sound, military reasons for upping the financial projections for U.S. participation in both IFOR and SFOR, I can not believe that the original estimate was as candid of an assessment as we could have had, even that early in the process.

We are told that U.S. troops will finish their mission next June. But that begs a question: What certainty is there that even this promise will be kept? I fear, as I did when the United States first committed 20,000 ground troops, that there is no easy way out of this situation. The cost of U.S. involvement continues to rise. And troops, from my State and from throughout the Nation, continue to be deployed.

When will it end, Mr. President. When will it end?

At the very time we are straining hard to eliminate the Federal deficit, the dollars continue to pour out of our Treasury. The cost of this excursion goes on and on.•

HATTIE H. HARRIS, A CREDIT TO OUT COUNTRY AND OUR FLAG

• Mr. D'AMATO. Mr. President, one of our Nation's most outstanding citizens Mayor Hattie H. Harris will celebrate her 100th birthday April 25, 1997, God willing. For nearly one century Hattie's unimpeachable integrity, brilliant mind, and inconquerable spirit have dominated the scene in Rochester, NY. She courageously faces each challenge and perpetually accomplishes worthy humanitarian deeds. Hattie consistently demonstrates that eternal youth rules father time. Mayor Hattie's grueling schedule puts to shame some persons half her age.

Mayor Hattie's unswerving devotion to assisting mankind is a tribute to democracy's dream. She embraces every request to inspire mankind: whether it be delivering meals herself as chairperson of the 1995–6 Meals on Wheels Program, or awarding scholarships from the endowment in her name, Hattie is an exemplary humanitarian. She has received accolades and honors too numerous to list here. Suffice it to say that Hattie has done many good things for good people and has been recognized for many of her efforts with awards, titles, honors, and tributes.

Hattie was born on April 25, 1897 in Rochester and has lived there all of her life. She had to leave school at the tender age of 11 and become a buttonhole maker to earn money and help support the family. As a child she never had a birthday party, her toys and clothes were second-hand. All her life she has done all she can so other children will get the chances she never did. She has endowments bearing her name at Monroe Community College, St. John Fisher College, Mary Cariola Children's Center, and Campership Fund for Needy Children.

Hattie is a wonderful human being whose outstanding lifelong humanitarian achievements deserve special recognition from each of us. Happy birthday Hattie Harris.•

TRIBUTE TO JUDGE CHARLES R. RICHEY

• Mr. HOLLINGS. Mr. President, I respectfully rise today and ask that we pay tribute to Judge Charles R. Richey.

Today the flags in front of the Thurgood Marshall Judiciary Building fly at half-mast in mourning for Judge Richey. Charles Richey was a great man and a superlative judge. We join in the loss with his wife, Mardelle, and his sons, Charles and William.

Judge Richey, despite his lofty status in the courts, always considered himself a man of the people and he consistently defied the labels of conservative and liberal. His public career began when he came to Washington as a legislative counsel to Representative Frances Payne Bolton from Ohio. Later he was appointed general counsel for the Maryland Public Service Commission during Spiro Agnew's last years as Governor. He was appointed to the Federal bench by President Nixon in 1971.

In 1979, the American Trial Lawyers Association voted Judge Richey Outstanding Federal Trial Judge. He was one of the busiest judges in the Washington U.S. District Court and ran a tight ship in the courtroom. He was a firm believer in swift justice and had the most up-to-date docket on the circuit.

Over the course of his career, Richey handed down many landmark decisions, including one he loved to recount—his 1976 ruling that called in the California tuna ships for violation of the Marine Mammal Protection Act. In that same year he also became the first judge to hold that employees who are sexually harassed by their superiors can file under title VII of the Civil Rights Act of 1964.

Ever willing to take on the Government on behalf of the little man, in 1981, Richey awarded $6 million in back pay and $10 million in future earnings for 324 women in the sex discrimination suit against the Government Printing Office, then the largest amount ever awarded in a sex discrimination case. Perhaps the case most indicative of his feeling for the citizens though was his dismissal of charges against people camped in protest in Lafayette "Protest" Park. He said they were exercising their rights under the First Amendment.

Judge Richey's courtesy in the court was legendary. He used gender-neutral terms when discussing certain statutes mentioning only men. Despite his own strict Methodist upbringing, he gave witnesses options on oaths containing no religious references and dispensing with the Gideon Bible. One said of him, "Judge Richey is tough as shoe leather, but fair minded almost to a fault."

We shall all miss this man. He leaves behind an unparalled judicial legacy and record of public service.•

INTERNAL REVENUE SERVICE ACCOUNTABILITY ACT

• Mr. HAGEL. Mr. President, the American people are fed up with the IRS and its tactics. They are calling for change. Today I have taken a first step to help. I am joining as a cosponsor of S. 365, the Internal Revenue Service Accountability Act, which was introduced by my distinguished colleague from Georgia, Senator COVERDELL.

The IRS is in disarray from its top management all the way down to its field offices, and American taxpayers are paying the price for that disarray—a price in inefficiency, in inconvenience, in intrusiveness, and even in harassment. It is not fair for American taxpayers to fund an agency that is wasting their money and time. It is time to clean up the IRS. It is time for a change.

The IRS Accountability Act puts a tight rein on the IRS and its agents. It makes IRS agents personally accountable for their actions and subjects them to criminal prosecution if they abuse their authority by harassing taxpayers. The bill makes it a crime to release information from tax returns without proper authority. It restricts the ability of the IRS to conduct audits. It ensures that the IRS will abide by court decisions against it. And it ensures that taxpayers have a chance to correct any honest mistakes on their tax forms without incurring a penalty.

American taxpayers are honest, hard workers. They do not deserve an overzealous agency with its agents tormenting and harassing them. It is time to make the IRS more accountable for its actions.

This bill is an important first step toward protecting Americans from a Tax Code that is unfair, restrictive, punitive, and complicated. We need to do more. We need to completely overhaul our Tax Code to make it flatter, fairer, and simpler. We need to look at all options as we tackle this issue, but we must make sure that a new Tax Code eases the burden for families and businesses and encourages, rather than inhibits, growth, investment, and savings. That should be our top priority.

That is our task for the coming months and years. But until we can successfully meet that greater challenge, the very least we can do for the American taxpayer is to get the IRS cleaned up and off the taxpayers' backs.

The time has come for tax relief. The people of the United States have had enough. They want less government, less regulation, and less taxes. And they want less hassle and harassment from their Government. The IRS Accountability Act is a good start. As we approach tax day, April 15, it is only appropriate that we take a bold step toward fixing the IRS.

The time for change is now.•

THE 50TH ANNIVERSARY OF CENTRALIA, IL. MINING DISASTER

• Mr. DURBIN. Mr. President, I rise today to memorialize 111 miners from the town of Centralia, IL, who died nearly 50 years ago on March 25, 1947, in one of the worst coal mining disasters in U.S. history.

On that day, 142 men were working in mine No. 5 of the Centralia Coal Co. Only a few minutes remained before the end of their shift when there was an explosion in the mine. The blast raced through the tunnels beneath the town of Wamac on the southern edge of Centralia, leaving debris and poisonous fumes in its wake.

Thirty-one men managed to escape, but 111 of their coworkers were trapped 540 feet underground. For 4 days, rescuers worked to save them, but they could not reach the miners in time. In a tragic discovery, the searchers found notes next to some of the miners' bodies that they had written on scraps of paper and cardboard as they lay dying. "Tell Dad to quit the mine and take care of Mom," wrote one miner. "Tell baby and my loving boys goodbye and I am feeling weak. Lots of love." Together, the men left behind 99 widows and 76 children under the age of 18.

But the real tragedy for Centralia was that the disaster could have been prevented. As early as 1942—and continuing right up to the time of the explosion—State and Federal inspectors warned about dangerous conditions at the mine. In fact, when the blast occurred, the latest State and Federal reports were thumbtacked to a bulletin board outside the mine's wash house.

While the inspectors found numerous safety violations, they were particularly concerned about the combustible coal dust which was so thick that it would collect in the miners' shoes as they worked. The miners themselves knew how dangerous the dust could be, and more than a year before the disaster, four of them sent a letter to Illinois Gov. Dwight H. Green warning that it might explode one day. "This is a plea to you," they wrote, "to please save our lives, to please make the Department of Mines and Minerals enforce the laws at the No. 5 mine, before we have a dust explosion."

But neither the Governor nor Federal officials nor the Centralia Coal Co. took any significant action. Investigators later determined that one of the main causes of the explosion was the dust the miners had feared.

Three days after the disaster, Governor Green ordered State inspectors to close all unsafe coal mines. In Washington, Congress held hearings and launched an investigation. But for Centralia, IL, it was too late.

As we near the 50th anniversary of this disaster, our thoughts are with the people of Centralia and the families of those who lost their lives. We are reminded that too often, we react to disasters rather than taking steps to prevent them.

The greatest tribute we can give to the Centralia mine explosion victims is to ensure that critical worker safety and health protections are not weakened or destroyed. We must be vigilant in our efforts to make sure workers don't risk their lives simply by going to work.•

JUNETEENTH INDEPENDENCE DAY

• Mr. ABRAHAM. Mr. President, I rise today to pledge my support for the commemoration of June 19 as "Juneteenth Independence Day." This day marks a significant occurrence in American history, a day every American should reflect upon and remember.

Mr. President, June 19 is a day when all African-Americans were finally liberated from the bondage of slaveowners. Although President Lincoln signed the revolutionary Emancipation Proclamation on January 1, 1865, many slaves were still denied their lawful freedom. It was not until June 19, 1865, that all slaveowners officially recognized and abided by the dictates of the Emancipation Proclamation.

For too many years, African-Americans were denied basic rights and liberties that today all Americans enjoy. I stand here today, 132 years later, to express my view that this shameful aspect of American history should never be forgotten. For these reasons, I proudly endorse Senate Resolution 11. This significant legislative endeavor reminds every citizen of the unspeakable horrors to which many of our fellow Americans were subjected. It is my hope that every June 19 from this year forward will be celebrated as "Juneteenth Independence Day." It also is my hope that this day will serve as a reminder, of our past and a bridge all of us can use to overcome our differences and unite as Americans.

Mr. President, I believe commemoration of "Juneteenth Independence Day" warrants support from all members of the U.S. Senate. As a cosponsor of Senate Resolution 11, I urge my colleagues to join me in officially recognizing this important day.•

LET'S DEBATE THE CHEMICAL WEAPONS CONVENTION

• Mr. FEINGOLD. Mr. President, I rise today to add my voice to those who have spoken about the need to bring the Chemical Weapons Convention [CWC] to the Senate floor for debate at the earliest possible date. As everyone in this body knows, the U.S. Senate must ratify the CWC by April 29, 1997, in order for the United States to become an original party to the convention.

To date, 70 countries have ratified the CWC, and another 161 countries are signatories. The United States has taken a leadership role throughout the negotiations surrounding this treaty, and yet, with time running out, the Senate has not voted on the document that so many Americans have helped to craft.

Time is of the essence in this debate for several reasons. One reason is, of course, the April 29 deadline by which the U.S. Senate must ratify this treaty so that the United States may be a full participant in the Organization for the Prohibition of Chemical Weapons [OPCW], the governing body that will have the responsibility for deciding the terms for the implementation of the CWC.

A second reason is the constitutional responsibility of the Senate to provide its advice and consent on all treaties signed by the President. This treaty was signed by President Bush in January 1993, and was submitted to the Senate by President Clinton in November of that year. Unfortunately, the Senate has not yet fulfilled its responsibility with respect to this treaty.

A third reason, and what I believe is one of the most important, is the need for adequate time for debate of this treaty and its implications for the United States prior to the April 29 deadline for ratification. Many have expressed concern over various provisions in the CWC. Senators should have the opportunity to debate these concerns, and the American people deserve the chance to hear them. Senators will also have the opportunity to voice their concerns during debate of the treaty's implementing legislation, which will most likely be discussed in conjunction with the treaty itself.

As a member of the Senate Committee on Foreign Relations, I have had the opportunity to participate in hearings on this issue. In all the hearings and deliberations over the efficacy of this treaty, two things have been made crystal clear: First, the CWC is not perfect, and second, the CWC is the best avenue available for beginning down the road to the eventual elimination of chemical weapons.

There are real flaws, as we all recognize, with the verifiability of the CWC. There will be cheating and evasions and attempts to obey the letter but not the spirit of the treaty. But most of the responsible players on the international stage will recognize that through the CWC the world has spoken, and firmly rejected chemical weapons.

The CWC was laboriously crafted over three decades to meet the security and economic interests of states parties. The United States was at the forefront of that effort; the treaty reflects U.S. needs and has the blessing and enthusiastic support of our defense and business communities.

Can the treaty be improved? Of course. But the CWC has a provision for amendment after it comes into force. I would hope that the United States would be again at the head of efforts to make the treaty more effective after a period to test its utility. We have the technological means and economic weight to make it so. But only if we are a party to the treaty. And to become a party to the treaty, the U.S. Senate must perform its constitutionally mandated function of debate and ratification before April 29.

Mr. President, it is unfortunate that the Chemical Weapons Convention is being held hostage to other, unrelated, matters. Time is of the essence, Mr. President, and time is running out.

In closing, this treaty should be fully and carefully debated by the U.S. Senate at the earliest possible date, not at the 11 hour when the clock is ticking on our ability to ensure that the United States is an active participant in future revisions to the CWC. The American people deserve no less.●

"ANOTHER BAD ONE"

● Mr. LEAHY. Mr. President, I ask unanimous consent that a copy of the attached editorial from the Vermont newspaper The Time Argus, titled "Another Bad One," and dated March 19, 1997, be printed in the RECORD.

The editorial follows:

ANOTHER BAD ONE

The arguments against amending the U.S. Constitution over campaign financing are the same as the arguments against a balanced budget amendment or a prohibition amendment. It is a waste of effort to target specific evils by way of the Constitution.

The U.S. Senate wisely rejected a campaign finance amendment by a wide margin on Tuesday.

States which have encumbered their constitutions with numerous amendments have found their documents have become just that: encumbrances.

A constitutional amendment will not stop candidates from getting money, and it will not stop people who want to influence candidates from using their money to promote that influence. You might as well have an amendment that said: "Candidates for public office shall not spend money in their quest for the office."

Then there would be a court case to argue whether a candidate who filled his automobile gas tank while on the way to a campaign forum had "spent money in his quest" for the office.

A constitutional amendment against bank robbery would not stop the number of bank robberies that occur. There is a law against bank robbery, and in fact Congress finally got the federal government into the investigations by making it possible for the FBI to enter bank robbery cases immediately.

And something similar relating to campaign financing would be the proper course of action, instead of an amendment to the Constitution. A congressional statute putting greater controls over campaigns would have the same effect as an amendment without the permanent encumbrance of the amendment on matters unforeseen.

In some cases the courts have ruled that specific laws limiting contribution limits infringe on free speech. It ought to be possible for a congressional statute to impose some sort of constraint on money without interfering with speech.

The huge sums spent on campaigns may very well be considered immoral, but history has given ample illustrations of the futility of trying to legislate morality. Prohibition is a relatively recent example. Did it stop people from consuming alcohol? No. In fact, it helped increase the power of law-breaking organizations geared to providing illicit substances, a baneful influence that is still with us.

The present spotlight in Washington on campaign contributions and the methods of solicitation for such funds makes it easy for people to think an amendment to the Constitution would be an appropriate response. But however tawdry such actions have been—and they certainly are tawdry—there will be no change merely by passing an amendment that says, in effect: "Thou shalt not be tawdry. Thou shalt not be greedy."

The existing amendments to the U.S. Constitution that come closest to addressing a specific subject are the 13th and 14th, which after the Civil War abolished slavery and codified equal protection under the law. But even they were not so specific that they can't be applied to races other than African-Americans, and questions of equal protection arise even today.

Efforts for a balanced budget amendment are an abdication of congressional responsibility. Efforts for an amendment on campaign financing constitute a similar abdication.●

EXPRESSING CONCERNS ABOUT AIRPORT IMPROVEMENT BUDGET

● Mr. HOLLINGS. Mr. President, I want to express my concern with the President's proposal for the budget of the Federal Aviation Administration. We all know how important aviation is to our economy, contributing more than $770 billion in direct and indirect benefits. In South Carolina, travel and tourism is the No. 2 industry, accounting for almost 100,000 jobs. The industry is fueled by the aviation industry.

The President has talked a lot about a bridge to the 21st century. Bridges and highway projects are critical parts of our Nation's infrastructure. But so are airports. I have an airport in almost every county of my State. We have a strong airport system, but one that needs money to rebuild and expand. The $1 billion proposal falls far short of what is needed. It is a short-sighted approach to meeting our country's needs. It also undoes a deal that we had last year with the administration. I am certain that the new Secretary wants to make sure that our Nation's infrastructure needs are addressed, and I want to work with him on ways to meet those needs.

The President has proposed a $1 billion airport improvement program. The airport community claims that nationwide it needs almost $10 billion per year. In my State alone, money for airports is critically needed for small and large projects. Without adequate funding, these airports cannot expand and cannot begin to attract new businesses. I can cite many examples of this, but one that comes to mind is the Greenville-Spartanburg Airport project. Without an AIP grant, the runway would not have been lengthened. It helped BMW decide to locate in South Carolina. Airport grants mean business opportunities.●

YALE PUBLIC SERVICE AWARDS

● Mr. MOYNIHAN. Mr. President, I rise today to salute five extraordinary New Yorkers who, on Monday April 7, 1997, will receive the Public Service Award of the Yale Alumni Association of Metropolitan New York [YAAMNY]. These individuals have demonstrated both extraordinary leadership and a deep commitment to public service. Each honoree brilliantly exemplifies the motto of the Empire State: Excelsior.

I thank the Chair, and I ask that the text of YAAMNY's citation of the achievements of the respective honorees be printed in the RECORD.

The Text Follows:

THE YALE ALUMNI ASSOCIATION OF METROPOLITAN NEW YORK, 1997 PUBLIC SERVICE AWARDS, APRIL 7, 1997

THE HONOREES

Peter Rosen, M.F.A., 1968, has produced an directed over 50 full-length films and television programs. His subjects range from student activism at Yale in 1970 (his first film, titled Bright College Years) to I.M. Pei to Carnegie Hall's 100th anniversary, all of which have aired on PBS.

Kimberly Nelson, B.A., 1988, is Team Program Director at Creative Arts Workshop, which provides job and leadership training for at-risk teens. She served as a coordinator for Black Students at Yale. She began her career as a social worker at the Rheedlan Foundation, a Harlem social service agency.

Tania November, B.A., 1988, is a Manhattan Assistant District Attorney in the Office of the Special Narcotics Prosecutor. She launched her career as an intern in the same office before her senior year, and went straight to Harvard Law, where she was a teaching fellow and law tutor in the college.

Sarah Pettit, B.A., 1988, is Editor of OUT, America's largest circulation gay and lesbian magazine. At Yale, she ran the lesbian and gay Co-op. She also helped amend the University's non-discrimination policy to include sexual orientation as a protected category. She makes frequent television appearances.

Jenifer Hadiyia, B.A., 1995, is currently enrolled in a Masters of Pubic Policy and Administration program at Columbia University. She is also an intern at Planned Parenthood. A coordinator for the Women's Center while at Yale, she helped organize the 25th anniversary celebration of coeducation.●

TAX CUTS

● Mr. FEINGOLD. Mr. President, the Speaker of the other body made a remarkable statement earlier this week. He argued that Congress should wait on cutting taxes, and instead make balancing the budget our highest priority. This is a significant and extremely positive development in the fight for a balanced Federal budget, and I congratulate the Speaker for making that statement in the face of significant opposition within his own party.

Mr. President, the Speaker's comments are indeed welcome. They follow the comments made this weekend by the chairman of the Senate Budget Committee [Mr. DOMENICI], who informally offered a no-tax cut, no new spending programs outline of a possible budget agreement. Mr. President, I cannot emphasize enough how important the comments of the chairman were. They came after several days of highly partisan comments on the budget, from both parties and in both houses. Often, without leadership, it is the nature of some to retreat to the security of partisan politics—an easy path that leads us further and further apart. To his great credit, Chairman DOMENICI rejected the considerable forces of partisanship, and offered an alternative path. Mr. President, his path offers us a real chance for a bipartisan budget agreement, and I want to take this occasion to commend my chairman for his courage. I am pleased to serve on the Budget Committee, and deeply honored to serve with the senior Senator from New Mexico.

Mr. President, the Speaker is of course absolutely right on the mark. As dearly as many of us would like to support tax cuts, our first priority must be to balance the budget. This is a position I took when I first ran for the Senate, and one I hold today.

Major tax cuts undercut our ability to craft a politically sustainable balanced budget plan, as was so clearly demonstrated during the 104th Congress. As I have noted before, both parties are at fault. We cannot afford either the President's tax cuts or the Congressional Republican tax cuts.

In November of 1994, I faulted the so-called Contract With America tax cuts—called the crown jewel of the Contract With America at the time. A month later, the day after the President proposed his own set of tax cuts, I took his proposal to task as well.

Mr. President, we dodged a bullet during the 104th Congress. Despite formal support for a tax cut in some form from both the White House and the majority party in Congress, we escaped without doing serious damage to the progress we made in reducing the deficit. Regretfully, we did not build significantly on the work accomplished in the 103d Congress to reduce the deficit. Though we made some modest strides, the bulk of the work that remained at the end of 1994 must still be done.

Mr. President, major tax cuts make the difficult task of enacting a balanced budget impossible. Most obviously, major tax cuts dig the hole even deeper before we begin. But major tax cuts also pose a significant and very real political problem, and the Speaker's comments about how including tax cuts leaves a balanced budget plan open to criticism are absolutely correct. There is no painless solution to the deficit.

The fundamental premise of any plan to balance the budget rests on the willingness of the Nation to sacrifice, but we cannot expect the Nation to embrace a plan which calls for some to sacrifice while providing tax cuts for others. Such a plan would not be sustainable, as was demonstrated so clearly during the 104th Congress. We can enact a balance budget plan if that plan is seen broadly as spreading sacrifice fairly. Mr. President, no partisan plan has any hope of rallying broadbased public support.

The only way we will enact a balanced budget plan, and sustain it through the several years it will take to achieve balance, is through a truly bipartisan effort. Thanks to the leadership of Chairman DOMENICI, and with the support of the Speaker, we have a chance to build such a plan. I hope my colleagues will not squander the opportunity they have given us at some personal political cost to themselves.

I look forward to working with Chairman DOMENICI on the Budget Committee to fashion the beginning of a budget agreement. As I have indicated to him in the committee, there are several budget issues that are especially important to me, but I remain flexible on all aspects of the budget in trying to reach a bipartisan agreement. Mr. President, I applaud the Speaker for change of heart, and especially commend Chairman DOMENICI for his courage and leadership.●

TRIBUTE TO JACK G. JUSTUS

● Mr. BUMPERS. Mr. President, I rise today to pay tribute to a fellow Arkansan who is soon to retire after a long and distinguished career in Arkansas agriculture.

Jack G. Justus has devoted 44 years of service to Arkansas agriculture as a county agricultural agent and as a staff member of the Arkansas Farm Bureau. Under Jack's leadership as executive vice president for the past 15 years, the Arkansas Farm Bureau has nearly doubled in size to more than 200,000 members.

"Progressive Farmer" honored Jack Justus as its 1996 Man of the Year in Service to Agriculture. Throughout his career, Jack has served on numerous boards and commissions, including the Future Farmers of America Foundation, the 4-H Club Foundation, Arkansas State Fair, and other groups committed to the improvement of life for farm youth and the rural community.

Mr. President, on June 1, 1997, Jack Justus will retire from his administrative duties at the Farm Bureau. This native Arkansan, life-long resident, product of our State's educational system, and dedicated public servant is certainly deserving of a long and satisfying retirement.

Our State has benefited greatly from Jack Justus' stewardship and I know I join literally thousands from all across our State who join me in saying thank you.●

CITY OF HACKENSACK

● Mr. TORRICELLI. Mr. President, I rise today to inform the Senate that Americans are still committed to economic progress and that local government is not powerless in the face of economic challenges. In my home State of New Jersey, the city of Hackensack has shown that dedication to solving long-term economic problems can be accomplished with practical leadership utilizing innovative solutions.

Over the past few years, the city of Hackensack had seen its downtown population decrease and its economic stability put at risk. The people of Hackensack were not to be deterred from making their city the best it could be. So, instead of accepting an unsatisfying economic fate, Hackensack's mayor and city council called together local business leaders to establish the Hackensack Economic Development Commission. This pioneering commission set out to study the city's economic climate and propose steps toward its continuing development.

This study, conducted by the Eagleton Institute's Center for Public Interest Polling at Rutgers University, is the first of its kind by a municipality in our State. The city's initiative and creativity in utilizing these research tools should be commended. Hackensack's climate study is unique in that it reached a broad range of people, over 5,000 residents and workers of the Hackensack area. The wide scope and depth of the study is a model for similarly situated cities in New Jersey.

Yet, more than a model for New Jersey, the efforts of the commission serve as a model for the entire country to prove that with solid community commitment, ongoing economic growth can be a reality. Thus, I ask that you join me in recognizing the city of Hackensack in its devotion to be an improved economic development and commend its foresight and planning to other cities across the Nation.●

NATIONAL AGRICULTURE DAY—MARCH 20, 1997

● Mr. DURBIN. Mr. President, I rise today to pay tribute to America's farm families and those involved, both directly and indirectly, in production agriculture.

Today, is National Agriculture Day. It is an opportunity for all of America to pause, reflect, and be thankful that we enjoy the safest and most abundant food supply in the world. But, this doesn't happen by accident.

Every day, 77,000 farm families in Illinois go about the business of producing the food and fiber that our State and our Nation needs to survive. To them I say, thank you.

Mr. President, I am honored to represent the State of Illinois. It is the home of some of the most productive farm land in the world. Illinois farms produce corn, soybeans, pork, beef, wheat, dairy products, and many specialty crops. Our agribusiness community is vibrant. And, our researchers help provide answers to some of the most common as well as the most complex agricultural questions we know.

Over the last few months, I've traveled my home State and talked to farmers and others involved in production agriculture. The message from my fellow Illinoisans has been clear—health insurance affordability and economic opportunity are priority issues.

I believe that a 100-percent tax deduction for health insurance premiums is one of the most basic issues to farm families across this country. Because of the high cost of health insurance, especially individually purchased insurance, lack of affordability is a growing problem. Health insurance is particularly important to those involved in production agriculture because farming is one of the more dangerous occupations. Therefore, it is essential that farmers have access to quality health care and that they be covered by health insurance.

To help with affordability of health insurance, I plan to introduce legislation that would allow farmers and other self-employed individuals to pay for their health insurance premiums with pretax dollars. When it comes to health insurance, farmers and small business owners deserve to be treated the same as corporations. Corporations are allowed to take an income tax deduction for the full cost of the health insurance premiums that they pay.

The self-employed, including farmers, can only deduct 40 percent of their premiums this year. My bill would allow farmers to deduct 100 percent of their health insurance premiums from their taxable income this year and every year thereafter. A 100-percent deduction for health insurance premiums can reduce the net cost of health insurance for a farm family by as much as $500 to $1,000 annually. This savings can make the difference between whether health insurance is affordable or price-prohibitive. The affordability of quality health insurance is vitally important to Illinois' and America's farm families.

Mr. President, another important issue for rural America is finding new or alternative uses for our agricultural products to help ensure economic opportunity for farm families. Ethanol, a renewable fuel made from corn, is one of the best alternative use opportunities that exists today.

Last week the Government Accounting Office released a report, Alcohol Fuels: Tax Incentives Have Had Little Effect on Air Quality or Energy Security." Unfortunately, this report misses the point. That point is simple: Ethanol has a significant economic, environmental, and energy security impact in this country; one that past GAO reports have clearly recognized. The effect on air quality and energy security would be larger if more of our Nation s gasoline contained ethanol.

Ethanol should not be a poster child for Government handouts or corporate welfare. The primary incentive—a 5.4-cents-per-gallon reduction in the gasoline excise tax for 10 percent ethanol blends—is not claimed by major ethanol-producing corporations. The incentive is claimed by thousands of gasoline marketers—mostly independent, small businesses—that sell ethanol blends all across the country. In other words, the incentive is claimed at corner gas stations, not in corporate boardrooms.

On a day like today, it is important to point out the benefits of ethanol. The industry is responsible, both directly and indirectly, for more than 40,000 American jobs. Ethanol contributes more than $5.6 billion annually to our economy. Five percent of our Nation's corn crop goes to ethanol production. Corn growers have seen their incomes increased by more than $1.2 billion because of ethanol. This year over 1.4 billion gallons of ethanol will be produced. Thanks to the reformulated gasoline program, toxic air pollutants like benzene and carbon monoxide have fallen substantially. And, ethanol contributes over $2 billion annually to the U.S. trade balance.

Finally, Mr. President, in order for our country to continue to have a safe and abundant food supply we must support agricultural research. This year, we have an opportunity to reauthorize the research title of the farm bill. Congressional reauthorization will establish national policy for important agricultural research into the 21st century. In these times of constrained Federal budgets, it is vitally important to maintain an effective system for agricultural research.

Agriculture-related research in this country is currently conducted at over 100 ARS labs, including Peoria, IL, and over 70 land grant institutions, including the University of Illinois. Unfortunately, the United State ranks behind Japan, the United Kingdom, France, and Germany in the percentage of total research and development funding that is dedicated to agriculture. From soybean diseases to water quality to biotechnology, agricultural research plays an important part in the safety and quality of our food and fiber system.

Mr. President, last year Congress passed a comprehensive reauthorization of most farm programs. This year we need to continue that commitment by ensuring affordable health care and deductibility of premiums for farmers and the self-employed, promoting the use of alternative agricultural products like ethanol, and modernizing our agriculture system by continuing a strong and active investment in research.

I look forward to working with my colleagues on both sides of the aisle and from rural and urban areas to ensure that American agriculture remains a model of quality and efficiency for all nations.●

NOMINATION OF MERRICK GARLAND

● Mr. FAIRCLOTH. Mr. President, yesterday I voted "no" on the nomination of Merrick Garland to the U.S. Court of Appeals for the District of Columbia Circuit.

In so voting, I take no position on the personal qualifications of Mr. Garland to be a Federal appeals court judge. What I do take a position on is that the vacant 12th seat on the U.S. Court of Appeals for the District of Columbia Circuit does not need to be filled. Senator CHUCK GRASSLEY, chairman of the Senate Judiciary Committee's Subcommittee on Administrative Oversight and the Courts, has examined this issue thoroughly, and has determined that the court's workload does not justify the existence of the 12th seat. Last Congress, Senator GRASSLEY introduced legislation to abolish this unneeded seat. By proceeding to renominate Mr. Garland, President Clinton has flatly ignored this uncontradicted factual record.

I commend Senator GRASSLEY for his important work on this matter, as well as Senator JEFF SESSIONS, who has also emphasized the importance of this matter. With the Federal deficit at an all time high, we should always be vigilant in looking for all opportunities to cut wasteful government spending; this is one such opportunity. After all, each unnecessary circuit judge and his or her staff cost the taxpayer at least $1 million a year.

Lastly, our vote yesterday is an important precedent, since it marks the beginning of the Senate's new commitment to hold rollcall votes on all judicial nominees. This is a policy change which I had urged on my Republican colleagues by letter of January 8, 1997, to the Republican Conference. Voting on Federal judges, who serve for life and who exert dramatic—mostly unchecked—influence over society, should be one of the most important aspects of serving as a U.S. Senator. Rollcall votes will, I believe, impress upon the individual judge, the individual Senator, and the public the importance of just what we are voting on. I hope that my colleagues will regard this vote, and every vote they take on a Federal judge, as being among the most important votes they will ever take.•

TRIBUTE TO PROF. ROBERT J. LAMPMAN

• Mr. FEINGOLD. Mr. President, I rise to offer tribute to Dr. Robert J. Lampman, economist, University of Wisconsin-Madison professor and noted researcher on poverty, who passed away March 4 at his home in Madison.

Mr. President, Dr. Lampman spent much of his distinguished professional career studying and writing about poverty and working to develop strategies to achieve its end. In 1966, he became the founding director of the Institute for Research on Poverty, a nonpartisan center for research into the causes and consequences of poverty and social inequality in America, on the UW-Madison campus, which established the university as a leader of research in that field. A colleague at the University of Wisconsin, Dr. Lee Hansen, called Dr. Lampman "a true scholar in that he was always asking questions to get a better understanding of the issues."

Despite his standing in his profession, Dr. Lampman was known as a professor who regarded his students as colleagues. One news report describing his career included a recollection by Dr. Thomas Corbett, once a graduate student studying with Dr. Lampman and now a University of Wisconsin professor of social work and acting director of the IRP. Dr. Corbett recalled Dr. Lampman's stopping by his office and saying he wanted "to pick my brain." "In a world where egos can become overwhelming, he was a guy who never lost his perspective," Dr. Corbett said.

In 1962, he joined the staff of President John Kennedy's Council of Economic Advisors, where he prophetically warned that economic growth, alone, would not eliminate poverty. He was later a key author of the historic chapter on poverty contained in Lyndon Johnson's "Economic Report of the President" in 1964 that helped call America's attention to poverty.

Dr. Lampman became, in the words of Nobel laureate economist James Tobin, "the intellectual architect of the War on Poverty," and he emphasized the importance of economic growth, income maintenance, and opportunities for education and jobs for those mired in poverty.

In 1964, as the War on Poverty was getting underway, he predicted to a group of University of Wisconsin-Madison graduate students that, within 20 years, "by present standards, no one will be poor."

Mr. President, it turned out that Professor Lampman was overly optimistic. Poverty was not eliminated in 20 years, but the War on Poverty had an impact. In 1964, before the War on Poverty was up and running, 19 percent of Americans were poor. Within 5 years, programs created by the Federal Government and a broadly expanding economy had combined to bring that number down to 12.1 percent. By 1973, the poverty rate was down to 11.1 percent.

That progress stalled, for many reasons. Census Bureau estimates for 1995, the most recent year for which data are available, tell us 13.8 percent of our Nation's population was poor, and, in the wealthiest nation in history, one American child in five lived in poverty.

Mr. President, Dr. Lampman's dedication, his intellectual energy, and his commitment to solving one of the most difficult, complex, and persistent social challenges we face should inform and inspire us. We should apply, as Dr. Lampman did, our best efforts to ridding our world of the plague of poverty and finally establishing social justice. That would be the most fitting tribute we could pay to this man.•

RURAL HEALTH

• Mr. ABRAHAM. Mr. President, I rise today to pledge my support to the Rural Health Improvement Act of 1997. In my home State of Michigan and across the Nation, this legislation would improve the standard of health care for millions of Americans who live in rural areas.

Mr. President, I am very aware of the problems inherent in caring for citizens who live far away from major cities. Too often, these hardworking taxpayers and their children are not given easy access to the quality emergency and primary care services they deserve. There have, however, been two recent efforts that have been extremely successful in providing such care while also controlling costs—the Montana Medical Assistance Facility demonstration project and the Essential Access Community Hospital and Rural Primary Care Hospital demonstration program.

Mr. President, the bill that I endorse today would extend these successful initiatives to all 50 States. It would also ease Federal regulations for small hospitals that wish to be designated as "critical access" institutions. The aim of the bill is to allow these facilities greater flexibility in tailoring their services to the needs of patients in their particular communities. In short, I believe this law would improve care and save lives. A study of these programs by the General Accounting Office, in fact, has found that these initiatives actually decreased Medicare costs while maintaining a high standard of care.

In my view, Michigan and the rest of the Nation must receive the most affordable high quality care available. I believe this legislation is an important step in that direction. For these reasons, I am proud to cosponsor this legislation and urge my colleagues to do the same.•

SAFE ADOPTIONS AND FAMILIES ENVIRONMENTS ACT

• Mr. DODD. Mr. President, I rise today to voice my strong support for the Chafee-Rockefeller Safe Adoptions and Families Environments Act [SAFE]. What's more, I commend each of them for their tireless and bipartisan efforts on behalf of this issue.

As I come to the floor today, it is difficult for me to imagine a more outrageous and disgraceful form of violence than child abuse.

However, while national attention to the problems of abuse are increasing, regrettably, so too are incidents of child abuse and neglect.

In fact, the number of abused and neglected children nearly doubled from

1.4 million in 1986 to over 2.8 million in 1993. During that period the number of children who were seriously injured quadrupled—from about 143,000 to nearly 570,000.

In my own State of Connecticut incidents of child abuse and neglect increased 118 percent from 1984 to 1994. In fact, between 1993 and 1994 alone there was a 43-percent increase.

Unfortunately, many child welfare agencies lack the resources to effectively deal with the increase in child abuse cases or efficiently place children in safe, permanent, and loving homes.

Legislation introduced today by Senators CHAFEE and ROCKEFELLER, of which I am an original cosponsor, would do more to not only protect these abused children but also ensure that they are not returned to environments where they will be abused or neglected.

First, it would work to ensure that abused and neglected children are placed in safe and protected settings.

Second, it would more rapidly move children out of the foster system and into permanent homes.

If there is one thing that all of us can agree upon it is the importance of assuring the safety and well-being of our Nation's children. This bill would improve our child welfare system and help ensure that every child is given the opportunity to grow up in a safe and healthy home.

I urge all my colleagues to join me in a bipartisan manner, and support this critically important legislation for our children's future.●

THE NATIONAL ENTERPRISE

● Mr. FRIST. Mr. President, the extraordinary lifestyle, security and standard of living Americans have enjoyed since the end of the Second World War is one of our most notable achievements in recent history. We are wealthier, healthier, and safer than any people before us. We have built an economy whose resilience, ingenuity, and potential are truly the envy of the world. We have become the standard by which all other nations are measured. The century in which we have survived economic collapse and two world wars only to become stronger bears our name, the "American Century."

This unparalleled achievement is not a product of chance or fate, luck or serendipity, or even good timing. It is the product of an extraordinary effort on the part of the American people and the institutions we have built and strengthened. It is the product of the American spirit and work ethic which, in our first 100 years, propelled us from the periphery of a colonial empire to an independent nation a continent wide. It has allowed us, in our second century, to defeat challenges under which other nations withered.

Since the end of the Second World War, we have witnessed and enjoyed progress and growth unparalleled in our own history. That unparalleled progress is the product of a unique effort that helped us win the cold war and, among other notable achievements, put Americans on the moon. The effort is best described as a National Enterprise: a strong foundation built upon a shared responsibility and a common vision for our country's success.

The common vision that helped define our National Enterprise was shared by three basic pillars of our society: our Government, our academic institutions, and our private industries. The cementing agent is a sense of singular mission, embodied largely, but not exclusively, in the cold war effort, our love of freedom, and our free markets. Its medium and fuel are an ingenious, compassionate, optimistic, hard working, and resolute people.

The National Enterprise has now reached a crossroads, and we are facing one of the greatest but understated challenges of our history. With the advent of two historical trends, we face a challenge more daunting than any enemy: a potential loss of our own resolve.

First, growing Federal entitlements have created a fiscal crisis in the Federal Government, with 28 consecutive years of deficit spending, a $5.3 trillion debt, and shrinking discretionary spending. The money we allocate to research and development faces increasing competition from other worthwhile endeavors such as environment, education, national parks, infrastructure, and defense. All are competing for a smaller and smaller slice of the Federal spending pie.

Second, the end of the cold war era has left America with what some might call a diluted sense of mission or common interest. The National Enterprise cannot be defined in a single dimension, but for better or for worse, the cold war's unifying power and the birth of America as a superpower was the single greatest motive driving the Enterprise and the yardstick of its success.

With the launch of Sputnik in 1957, we witnessed a technologically advanced, symbolic challenge from our would-be enemy. It was the crack of the starter pistol in a race that would bear both frightening military capabilities and extraordinary peaceful dividends. For the first time, we were sobered in our celebration of post-war-era wealth and security and were challenged to push ourselves to the limit. The Sputnik era has ended, and with it has ended the series of punctuated events that presented a clear road map for our progress and cold war victory. What will be the new road map for our National Enterprise?

I was heartened to hear the President recognize the importance of the National Enterprise during his State of the Union Address. Without his leadership, any efforts in Congress, industry or education are unlikely to be successful. However, the President addressed only broad themes and small remedies for a few specific problems. In the President's budget, funding for Federal research and development remains essentially unchanged in a gradual downward trend, with the prognosis for coming years being a point of great concern. The President's emphasis on education is also a positive initiative, but his proposals seem to disproportionately favor higher education over all other levels. The President has presented a budget which seems to recognize some of the problems, but does not clearly articulate the full spectrum of challenges before us.

In addition to addressing the funding challenges that our National Enterprise faces, we must also embolden the Federal Government with a new understanding of mission and role within the Enterprise. This understanding is the critical difference between developing a strategy like the one that won the Cold War, and one that is simply a triage of federal spending programs. We must forge a sense of mission and seek a new understanding, for we may never have another Sputnik to awaken our schools, government and industries to the essence of the National Enterprise.

The challenges of the coming century will be as great or greater than those we have met thus far, but we do have the benefit of learning from our past successes. We can base our inquiry and guide our decisions on a set of simple truths we have learned from that experience. These simple truths make the link between spending and results, and highlight the need to make those links as clear, as direct, and as strong as possible.

Truth number one: research and development, science, and education bring advancements and innovation.

Truth number two: innovation has been the basis of our competitive edge—peaceful and defensive—and of our extraordinary lifestyle; it is the cornucopia of modern America and the envy of the world.

Truth number three: federal funding of research, and creating an environment that encourages private research and innovation, is the bedrock upon which the National Enterprise has been founded.

These fruits of our labor are not obscure laboratory innovations, but integral parts of our lives and economy. The Internet, computer chips, satellites, super-sonic aircraft, higher education and research universities, and strong civilian and defense-related basic research are a few compelling examples.

Therefore, the question is not whether federal research and development spending is the taproot of our innovation and economic growth—it clearly is. The questions we face are, What is the right formula for the federal government in this National Enterprise? What are the actual mechanisms by which that combination of spending and American ingenuity translate into advancements? And how do we make them as strong and as sharp as possible?

We have some initial ideas here in Congress, but I do not believe this body as a whole is prepared to answer those questions—the most important of our time. But it is my sincere hope that we have begun this necessary dialogue.

In our pursuit of these answers, we have a simple, yet profound, justification: research and development spending and strong science and technology are the essential base elements of our competitive edge, our standard of living, and our defense. To hone and preserve that edge, Congress must work closely with the traditional partners in this effort: universities, government agencies and their labs, and private industry. These partnerships have been a key to America's strength and their whole is seemingly greater than the sum of its respective parts.

Along with several representatives of the national research, development and education effort in government, universities, and industry, several Senators of both parties have begun to explore the issues and open a dialogue addressing the questions of great national importance, as illustrated by the formation of the Senate's bipartisan Science and Technology Caucus. The full Senate understands the challenges of maintaining a vibrant National Enterprise, but the gravity of the challenge has not been fully articulated, even as we face greater competition from other countries and ever greater pressure on federal and private funding of all research and development.

This venture will require understanding, sympathy, discipline and dedication. Already, the initial dialogue has realized some immediate success: it exposed common ground and initiated the critical dialogue. We have begun to identify issues and areas on which Congress can begin to pursue an agenda and strategy:

Partnerships among industry, government, and universities are the strong basis of our preeminence in science and technology and in research and development, and are the essential whet stone of our competitive edge. We must find the best ways to shorten the time it takes to bring basic research to market, clinic, the armed forces, or industry.

Education is the seed-corn of the advancements we enjoy. We must continue to cultivate human capital, for that seed-corn cannot be planted too early. To fail to provide our institutions of higher learning with qualified students will ultimately be the most damaging blow to the National Enterprise. It is a problem that cannot be corrected in a single budget or simply through new laws and higher federal spending levels. Today, nearly one-third of incoming American college students are compelled to enter remedial courses because they are ill-prepared for much of the basic curriculum. The erosion of standards and performance in our elementary and secondary school systems is an erosion of the basis of the National Enterprise itself and a threat to its very existence.

Consistent and stable commitments to funding are essential for planning. Planning, in turn, is an essential ingredient in long term strategies and the ability for individuals, companies and institutions to commit to the long term and basic research.

A commitment to basic research is the foundation upon which all other discoveries and technical advancements are dependent. Here, the federal role is particularly important. Universities and labs cannot realistically undertake such high-risk and long-term research on their own. And industries cannot necessarily commit to a venture that may not enjoy a market return during the lifetime of the company.

Do not think I'm speaking of simply a more-informed and sophisticated triage. The overall budget projections on research and development spending are a point of great concern—some say a threat to our national security, our quality of life and our sharp competitive edge.

In this delicate operation of redefining our National Enterprise, we must be extremely careful, for clean incisions are not easy, and the distinctions between excesses and successes are not always clear. We must note that in trying to solve our budget crisis, some of the issue have been muddled, where the fine distinctions between basic and applied research, and between research and development, are lost or misjudged. However, should we gain a new sense of mission and consensus of goals through dialogue, such distinctions become less and less difficult with time, and we can better focus the energies and money of the United States.

We also face the danger that any such dialogue could be characterized politically and split by misconceptions of conservative versus liberal, of big government versus streamlined government, or even command economy versus the free market. We should be clear from the outset that this discussion is none of these, and it is certainly not a Republican versus Democrat issue, as the recent bipartisan efforts illustrate.

We must be mindful that the dialogue must also focus on education and the creation of human capital to fuel and guide our National Enterprise. A National Enterprise with all financial means at its disposal is impotent and adrift without knowhow and wisdom. Our economy's resilience, ingenuity, and potential are sure to fade without an unwavering commitment to education.

On these issues we must be prepared to deliberate, to make difficult decisions, and to lead. Congress must use its experience, knowledge and authority to move dialogue, keep it from folly, and define priorities and goals in the interests of the American people—a very tall order.

We must begin to study these issues and join the effort, beginning with the appreciation that this dialogue is the extraordinary luxury of an accomplished, enterprising and open-minded people. As Chairman of the Science, Technology and Space Subcommittee, as a founding member of the Science and Technology Caucus, and as a medical scientist and physician, I will actively pursue this dialogue and seek answers to these critical questions.

The Nation's approach to these challenges must be broadened in scope and increased in level of participation. It must move away from an annual piecemeal approach, confined to specific programs' and agencies' funding within our own appropriations process. It must also gain the level of honesty and earnestness realized during the Cold War Era and in the wake of Sputnik. This nascent dialogue and recent legislative initiatives are encouraging first steps, but the challenge must expand to include more of the Congress, the Administration and the public.

Congress must answer the critical questions to determine the role of the federal government, and then see that our laws and spending reflect the correct answers and clearly define our national interests. We must set out to understand our mission and to define our goals.

America cannot afford to wait for another Sputnik to shake us from our complacency and to define our interests for us. Congress has a great challenge ahead, and we must act now to restore and preserve our competitive edge and standard of living—so much depends on the decisions Congress makes and on the sincerity, depth, and sobriety of the dialogue.•

THIRTIETH ANNIVERSARY OF THE REUNIFICATION OF JERUSALEM

• Mr. MOYNIHAN. I rise today to speak about the city of Jerusalem, a subject I have spoken about at some length and on numerous occasions during my tenure in the United States Senate. In the not too distant future, the people of Israel will celebrate the thirtieth anniversary of the reunification of their Capital. It is altogether fitting and proper that the United

States Congress should mark this anniversary with an appropriate resolution.

For 3,000 years Jerusalem has been the focal point of Jewish religious devotion. Although there had been a continuous Jewish presence in Jerusalem for three millennia—and a Jewish majority in the city since the 1840's—the once thriving Jewish population of the historic Old City of Jerusalem was driven out by force during the 1948 Arab-Israeli War. From 1948 to 1967 Jerusalem was divided by concrete, barbed wire, and cinder block. Israelis of all faiths and Jews of all nationalities were denied access to holy sites in the area controlled by Jordan.

Jerusalem was finally reunited by Israel in 1967 during the conflict known as the Six Day War. Since then, Jerusalem has been a united city in which the rights of all faiths have been respected and protected, and persons of all religious faiths have been guaranteed full access to holy sites within the city.

In 1990, I sponsored Senate Concurrent Resolution 106, which was overwhelmingly adopted by the United States Senate, while a similar resolution (H. Con. Res. 290) was adopted by the House of Representatives. These resolutions declared that Jerusalem, the capital of Israel, "must remain an undivided city" and called on the Israelis and the Palestinians to undertake negotiations to resolve their differences. The late Prime Minister Yitzhak Rabin credited S. Con. Res. 106 with "[helping] our neighbors reach the negotiating table" to produce the historic Declaration of Principles signed in Washington on September 13, 1993.

In the fall of 1995, I joined with Senator Dole to introduce "The Jerusalem Embassy Act of 1995" (Public Law 104–45) which states as a matter of United States policy that Jerusalem should remain the undivided capital of Israel. I firmly believe that Jerusalem must remain an undivided city in which the rights of every ethnic and religious group are protected, as they have been by Israel during the past thirty years.

I congratulate the people of Israel on the approaching thirtieth anniversary of the reunification of their historic capital. When the Senate reconvenes next month, I will introduce a resolution to commemorate this event, as I have done on previous anniversaries.●

THE NUCLEAR WASTE POLICY ACT OF 1997

● Mr. MURKOWSKI. Mr. President, high-level nuclear waste and highly radioactive used nuclear fuel is piling up at 80 sites in 41 States. It is stored in populated areas, near neighborhoods and schools, in the backyards of people across America.

An example is the Palisades Plant in Michigan, which is within 100 feet of Lake Michigan. Another is the Haddam Neck Plant, in Connecticut. A U.S. Senator has observed that he can see it from his house.

Without objection, I would like to place in the RECORD an editorial from today's Hartford Courant that observes that "with the closing of the Connecticut Yankee Plant at Haddam Neck, the issue of what to do with the State's high-level nuclear waste has moved from the theoretical to the here and now. . . . Experts say Connecticut Yankee's spent fuel could be stored at Haddam Neck for another 30 years if Congress fails to approve a temporary facility. Unfortunately, the hands of the clock can't be turned back to a time when nuclear waste didn't exist. In terms of its disposal, a remote desert site in Nevada is the lesser of two evils."

The waste was supposed to be taken by the Federal Government for safer, central storage by 1998. Will that happen? The answer is "no."

Even though $12 billion has been collected from Americans to pay for storage—and even though a Federal court reaffirmed the Government's legal obligation to take the waste by 1998—there is no plan for action.

By 1998, 23 reactors in 14 States will be full. By 2010, 65 reactors in 29 States will be full.

A conservative estimate is that 25 percent of our nuclear plants will not be able to build onsite storage and will be forced to shut down. That would mean the loss of over 5 percent of our Nation's total electricity generating capacity.

But Yucca Mountain won't be ready until at least 2015. Therefore, the Nation needs a temporary solution.

That solution—S. 104—passed the Energy and Natural Resources Committee with a solid, bipartisan vote (15–5). Almost half the minority members and all majority members voted in favor of the bill.

Americans have waited too long for a solution to this environmental and public safety challenge—we must not wait any longer. There is a critical need to construct a safe, central storage facility to eliminate the growing threat to the environment and to the American people.

I have worked with Members on both sides of the aisle to solve any problems they have with this bill. We accepted several amendments from the Democrat side.

We continue to meet with Democrat Members and the administration to resolve remaining concerns. We will continue to work with new Secretary Peña and his staff at the Energy Department, now that the Secretary has the portfolio to resolve this pressing problem.

Over the recess, committee staff will be available to work on proposed compromises which can be considered in April. Senator BINGAMAN has been very constructive in this regard.

Much of what he is proposing appears acceptable. However, the bottom line is the need for a predictable path to interim and permanent waste storage. We simply cannot leave trap doors that allow central storage to be delayed for decades.

We now have an opportunity for bipartisan action. Let's seize that opportunity.

It is no secret both Nevada Senators will do what they feel they need to to derail this important bill. They consider it a political necessity to oppose it.

There will be allegations that the science is bad and try to scare us with references to mobile chernobyl. They will imply that if this bill doesn't pass, nuclear waste will not be transported through this country. That is not true. The fact is that there have been 2,500 shipments of used fuel across this country in the last 20 years.

This is not just history—it is happening today. DOE is transporting spent fuel from nuclear reactors all over the world into the United States, virtually as we speak—by truck, by train, by barge, by boat.

If the Nevada Senators do not tell you about this, there's a reason. Its because these shipments have been, and will continue to be, completely uneventful. In short, these spent fuel shipments are safe, and they aren't news.

At our hearing in February, all four members of the Nevada delegation admitted there was no process and no level of scientific proof that would decrease their opposition. This is about politics, and little about science.

Senator BRYAN was once in favor of sending high-level materials to the Nevada test site. As a State legislator, he voted for A.J.R 15, which was signed by the Nevada Governor in May 1975, which asked the Federal Government to do just that.

I think he was right the first time. It is safer, smarter, and cheaper to contain these materials at one location in the remote Nevada desert.

The Nevada test site was used for decades to explode nuclear bombs. It helped win the cold war—now it can help us win the war on radioactive waste disposal. High-level nuclear waste is our legacy: Now it's our obligation to dispose of it.

It is irresponsible to let this situation continue. It is unsafe to let dangerous radioactive materials pile up at 80 sites in 41 States. It is unwise to block safe storage in a remote area when the alternative is to simply leave it in 41 States. This is a national problem that requires a national solution. We need to pass S. 104.

So far, the administration's attitude toward nuclear waste storage has been to simply ignore the problem and disregard the Governments contractual obligation to take this waste. The American people deserve better.

Safe nuclear storage should not be a political issue. It is a scientific and an environmental issue—and we need a solution now. Sadly, the administration has turned a blind eye and a deaf ear. In addition to threats to the environment and safety, 22 percent of our electric capacity is at risk—22 percent.

Starting in January 1998, taxpayers may have to pay billions of dollars in liability payments because the Government has not met its obligation to take waste. Estimates of taxpayers' liability under a recent lawsuit brought by States run as high as $80 billion. That's as much as $1,300 per American family. Here's how the damages break down:

Cost of storage of spent nuclear fuel: $19.6 billion.

Return of nuclear waste fees: $8.5 billion.

Interest on nuclear waste fees: $15 to $27.8 billion (depending on the interest rate used).

Consequential damages for shutdown of 25 percent of nuclear plants due to insufficient storage (power replacement cost): $24 billion.

Inaction is not an option. Inaction is irresponsible.

Many of the opponents claims are also irresponsible: Interim storage at the Nevada test site will not delay construction of Yucca Mountain. A viability assessment will occur before the interim site is built. The President will have a choice of interim sites after the viability assessment.

This Nation faces a major decision: either continue storing high-level radioactive materials at 80 locations in 41 States indefinitely, or more safely contain them at one, centralized facility.

The option is clear—it's safer and cheaper. The time for action is now.

The editorial follows:

[From the Hartford Courant, Mar. 20, 1997]

THE LESSER OF TWO EVILS

With the closing of the Connecticut Yankee plant at Haddam Neck, the issue of what to do with the state's high-level nuclear waste has moved from the theoretical to the here and now.

The dilemma for Connecticut—and for other states that are home to any of 109 nuclear reactors—is whether to continue to store the spent nuclear rods on site or. . . . Or What?

Or begin shipping the radioactive waste to a temporary repository in the Nevada desert, but only if Congress approves such a facility. Senate action is expected shortly.

Already, utility ratepayers have contributed $13 billion nationally, and $500 million in Connecticut, for the purpose of disposing spent nuclear fuel at a central repository. But the federal government is more than a dozen years behind in developing a permanent underground vault at Yucca Mountain, Nev., thus heightening the need for a temporary holding place.

To be sure, concerns about transporting 85,000 tons of waste in 15,000 shipments over 30 years should in no way be minimized. Any leak, accident or terrorist attack would have disastrous consequences for the 75 percent of the nation's population who live along the designated truck and rail routes.

But nuclear engineers have done everything humanly possible to ensure the integrity of the operation. The casks that contain the radioactive material have been dropped 30 feet onto hard surfaces, engulfed in 1,475-degree fires, submerged under three feet of water and crashed at 80 mph into a 700-ton concrete wall. In every test, the casks survived intact. In the seven transportation accidents that have occurred, no radioactivity was ever released.

Although the risk will never be eliminated, the alternative is unacceptable. High-level nuclear waste cannot continue to be stockpiled at the 73 existing sites. Many reactor sites either have been decommissioned or are running out of room. Experts say Connecticut Yankee's spent fuel could be stored at Haddam Heck for another 30 years if Congress fails to approve a temporary facility.

Unfortunately, the hands of the clock can't be turned back to a time when nuclear waste didn't exist. In terms of its disposal, a remote desert site in Nevada is the lesser of two evils.●

THE NUCLEAR WASTE POLICY ACT OF 1997

● Mr. CRAIG. Mr. President, I am very pleased that the Senate is now prepared to take up the Nuclear Waste Policy Act of 1997. It is time that this Congress clarify its intentions for the disposal of spent nuclear fuel and nuclear waste. It is for this reason that I introduced the Nuclear Waste Policy Act of 1996, which passed successfully in this body last year, and it is why I am a sponsor of S. 104 this year. We must resolve the problem that this Nation faces with disposing of nuclear material. Congress must recognize its responsibility to set a clear and definitive nuclear disposal policy. With the passage of this legislation in the last Congress, the Senate expressed its will that Government fulfill its responsibilities.

One major provision of this legislation directs that an interim storage facility be constructed at Area 25 at the Nevada Test Site and that the interim facility be prepared to accept materials by November 30, 1999. The first phase of this two-phase facility will be of a sufficient size to accept spent fuel from commercial reactors, shut down reactors and the Department of Energy.

As reported out of Committee, S. 104 includes a provision which I introduced. This provision clarifies Congress' intent to provide for the timely removal of spent nuclear fuel and high-level radioactive waste from the Government's national laboratories and defense programs. Under this provision, the Department of Energy is required to remove Government nuclear waste and spent nuclear fuel from our national laboratory sites in an amount equal to at least 5 percent of the total waste DOE accepts into the interim storage facility every year.

In addition to the billions of dollars that utility ratepayers have contributed to the disposal fund, taxpayers have contributed hundreds of millions of dollars to the disposal program for the removal of spent fuel and nuclear waste from the Nation's national laboratory sites. The provision I have sponsored makes good on the Government's commitment to clean up these sites and shows a return on the taxpayer money committed to this disposal program.

This provision assures that the spent fuel from the U.S. Navy reactors currently stored at the Idaho National Engineering and Environmental Laboratory will begin to be sent to the interim storage facility beginning in 1999. This is good news for both the DOE and for Idaho. Spent nuclear fuel will be moved out of Idaho well before the agreed date of 2035 called for in the agreement between Idaho Governor Batt, the DOE and the Navy. The fuel that is now temporarily stored in Idaho will be at the designated facility designed for long term disposal.

In my opinion, this legislation is important because it closes off the "escape routes" that exist in past legislation on this issue and have stymied the opening of a facility that actually accepts spent nuclear fuel and stores or disposes of it at a permanent facility. S. 104 closes these escape routes by specifying an interim facility location and a date for the opening of that facility.

Congress must own up to its responsibilities for the disposal of nuclear materials that it assumed through statute in 1982; a responsibility that 40 utilities and other organizations from 23 States are suing the Federal Government right now in the U.S. Court of Appeals to fulfill. The passage of S. 104 will take a major step in that direction and stem the Government's potential liability for failure to fulfill its contractual commitments—a potential hemorrhage of billions of dollars in judgments against the Department of Energy. By this action, spent nuclear fuel that is currently stored at nearly 100 different sites around the country—sites that were never designed for long-term storage—will be moved to one central location: A location that is specially designed for such storage.

In the course of this debate, we will hear a lot of discussion from those on both sides of this issue about transportation. Those who don't want to address the nuclear waste issue are likely to raise the specter of a "mobile Chernobyl." This scaremongering is simply not supported by the facts.

The fact is that there have been over 2,500 commercial shipments of spent fuel in the United States, and that there has not been a single death or injury from the radioactive nature of the cargo. Let me add to these statistics by noting that in my State there have been over 600 shipments of Navy fuel and over 4,000 other shipments of radioactive material. Again, there have been no injuries related to the radioactive nature of these shipments. This is an exemplary safety record—a product of the care and rigorous attention with which these materials are transported.

I know that many people would prefer not to address the problem of spent nuclear fuel disposal. But for this Congress not to address the problem would be irresponsible. As the legislative body that sets policy for the Nation, Congress cannot sit by and watch while a key component of the energy security of this Nation, and the source of 20 percent of our country's electricity, nuclear power, drowns in its own waste.

The Nuclear Waste Policy Act of 1997 will do what neither the 1982 nor the 1987 act accomplished, and that is to definitively resolve the question of what to do with spent nuclear fuel in a timely manner. I look forward to its successful passage.●

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, in accordance with Public Law 99-498, Section 1505(a)(1)(B)(ii), appoints the Senator from Colorado [Mr. CAMPBELL] to the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. SANTORUM. Mr. President, I ask unanimous consent the committees have between 10 a.m. and 2 p.m. Wednesday, April 2, to file legislative or executive reported legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING THE UNIVERSITY OF FLORIDA FOOTBALL TEAM

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 66 submitted earlier today by Senators MACK and GRAHAM.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A resolution (S. Res. 66) commending the University of Florida Football Team for winning the 1996 Division 1 Collegiate Football National Championship.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MACK. Mr. President, I rise today to introduce a resolution saluting the University of Florida football team on winning the 1996 National Football Championship.

As a proud alumnus of the University of Florida, I join with all those who have worn the Orange and Blue—both on and off the field—in honoring Coach Steve Spurrier, his staff and the football team for this outstanding accomplishment.

From its humble beginnings in 1906 to the present, the University of Florida's football program has had a rich and proud history. But 1996 will be forever known in the hearts and minds of the Gator faithful as "The Year of the Gator."

From the season opener in "The Swamp" to the national championship title game in the Sugar Bowl, the Gator faithful knew that with Steve Spurrier as their coach and Danny Wuerffel as the team's quarterback, field leader and spiritual leader, the 1996 season would indeed be one to remember.

The 1996 football team compiled a record of 12 wins and 1 loss and outscored their opponents 611 to 221 points in winning its fourth consecutive SEC championship and its first-ever national football championship.

For this achievement, the University of Florida was recognized by the Associated Press and major college football coaches as the 1996 national champions.

This season will also be remembered because for the first time in the history of the Heisman Trophy, an award which is presented annually to college football's most outstanding player, the winner played under a head coach who also had won the Heisman Trophy. Coach Steve Spurrier and Danny Wuerffel should be commended for this high honor.

It is also important to note that for the first time since the NCAA has been keeping records, two division I college football teams from the same State have played each other for college football's national championship.

I also want to take this moment to honor Coach Bobby Bowden and the Florida State University football team for their outstanding season and for reaching the national championship game. While they didn't win the game, the Seminoles and their fans should be proud of their achievements and commended for an outstanding season.

The State of Florida is indeed fortunate to be home to three of the finest college football teams in the Nation: The University of Florida, Florida State University, and the University of Miami. Together these three teams combined have won six college football national championships.

But in 1996, the national football championship was won by the University of Florida. Not only is this a special accomplishment that will long be remembered by the coaches and players, but it is also a moment to savor for Gator fans. After 90 years of ups and downs, great victories and frustration, the Fightin' Gators are finally the national champions of college football.

All the loyal sons and daughters of the University of Florida—wherever they may be—join me today in congratulating Coach Steve Spurrier, his staff, and the 1996 Fightin' Gator football team on winning the 1996 college football's national championship.

Mr. President, I ask unanimous consent to print in the RECORD the names of the Gator players, coaches, and staff along with their season record and the final polls with the Florida Gators in the top position as the national champions.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

UNIVERSITY OF FLORIDA 1996 NATIONAL FOOTBALL CHAMPIONS

Players

Tremayne Allen
Reidel Anthony
Ernie Badeaux
Tyrone Baker
James Bates
Ronnie Battle
Tim Beauchamp
Cheston Blackshear
Noah Brindise
Teako Brown
Pat Browning
Scott Bryan
Zuri Buchanan
Jayme Campbell
Cooper Carlisle
Derrick Chambers
Ed Chester
Willie Cohens
Mo Collins
Collins Cooper
Keith Council
Camerson Davis
Reggie Davis
Jason Dean
Ernie Dubose
Craig Dudley
Dwight Edge
Bart Edmiston
Jerome Evans
McDonald Ferguson
Rod Frazier
Tony George
Rod Graddy
Jacquez Green
Buck Gurley
Fred Hagberg
Mike Harris
Thomas Hewitt
Ike Hilliard
Todd Holland
Al Jackson
Denise Stevens
Tom Williams
Demetric Jackson
Terry Jackson
Doug Johnson
Ryan Kalich
Nafis Karim
Jevon Kearse
Trey Killingsworth
Erron Kinney
Sean Ladd
Demetrius Lewis
Anthone Lott
Eugene McCaslin
Xavier McCray
Reggie McGrew
Travis McGriff

Anthony Mitchell
Jeff Mitchell
Dwayne Mobley
Mike Moten
David Nabavi
Shawn Nunn
Daryl Owens
Alonza Pendergrass
Jason Perry
Mike Peterson
Zach Piller
Dock Pollard
Alan Rhine
Jamie Richardson
Larry Richart
Wyley Ritch
Willie Rodgers
Taras Ross
Johnny Rutledge
Brian Schottenheimer
Nick Schiralli
Shea Showers
Teddy Sims
Ian Skinner
Robby Stevenson
Deac Story
Fred Taylor
Matt Teague
Dwayne Thomas
Kavin Walton
Cedric Warren
Fred Weary
Elijah Williams
Scott Wise
Lawrence Wright
Danny Wuerffel
Jon Xynidis
Correy Yarbrough
Billy Young
Donnie Young
Michael Younkins
Zac Zedalis
President: Dr. John Lombardi
Director of Athletics: Jeremy Foley

Coaching Staff

Head Coach Steve Spurrier
Rod Broadway
Jim Collins
Dwayne Dixon
Carl Franks
Lawson Holland
Bob Sanders
Jimmy Ray Stephens
Bob Stoops
Barry Wilson
Steve Spurrier, Jr.
Aubrey Hill

Strength & Conditioning

Jerry Schmidt
Rob Glass
Patt Moorer
Randy Popple

Support Staff

Norm Carlson
Dr. Keith Carodine
Bud Fernandez
Dave Houts
John Humenik
Dr. Pete Indelicato
Jeff Kamis
Betty Ling
Greg McGarity
Chris Partick
Nancy Sain
Tim Sain
Dr. Dick Shaara
Danny Sheldon
Jamie Speronis
Mike Wasik

1996 SCHEDULE

August 31st	Florida	55	SW Louisiana	21
September 7th.	Florida	62	Georgia Southern	14
September 21st.	Florida	29	Tennessee	29
September 28th.	Florida	65	Kentucky	0
October 5th ..	Florida	42	Arkansas	7
October 12th	Florida	56	Louisiana State	13
October 19th	Florida	51	Auburn	10
November 2nd.	Florida	47	Georgia	7
November 9th	Florida	28	Vanderbilt	21
November 16th.	Florida	52	South Carolina	25
November 30th.	Florida	21	Florida State	24

1996 SEC CHAMPIONSHIP GAME

December 7th	Florida	45	Alabama	30

1996 NATIONAL CHAMPIONSHIP GAME

January 2nd	Florida	52	Florida State	20

1996 FINAL DIVISION 1 RANKINGS

ASSOCIATED PRESS POLL

1. University of Florida
2. Ohio State University
3. Florida State University
4. Arizona State University
5. Brigham Young University
6. University of Nebraska
7. Penn State University
8. University of Colorado
9. University of Tennessee
10. University of North Carolina
11. University of Alabama
12. Louisiana State University
13. Virginia Tech University
14. University of Miami (Fla)
15. Northwestern University
16. University of Washington
17. Kansas State University
18. University of Iowa
19. University of Notre Dame
20. University of Michigan
21. Syracuse University
22. University of Wyoming
23. University of Texas
24. Auburn University
25. U.S. Military Academy (Army)

USA TODAY/CNN COACHES POLL

1. University of Florida
2. Ohio State University
3. Florida State University
4. Arizona State University
5. Brigham Young University
6. University of Nebraska
7. Penn State University
8. University of Colorado
9. University of Tennessee
10. Univerity of North Carolina
11. University of Alabama
12. Virginia Tech University
13. Louisiana State University
14. University of Miami (Fla)
15. University of Washington
16. Northwestern University
17. Kansas State University
18. University of Iowa
19. Syracuse University
20. University of Michigan
21. University of Notre Dame
22. University of Wyoming
23. University of Texas
24. U.S. Military Academy (Army)
25. Auburn University

Mr. GRAHAM. Mr. President, I rise today with my distinguished colleague and fellow Florida Gator, Senator CONNIE MACK, to congratulate this year's national champions and one of the top football programs in the history of the Southeastern Conference, the University of Florida Gators. The Gators clinched their first national championship in football on January 2, 1997 when they defeated the Florida State University Seminoles in the Louisiana Superdome in New Orleans. This year's triumph is indeed special and came on the heels of a perfect nine win season in the Southeastern Conference, which is, as my colleagues know, one of the toughest leagues in college football.

The Gators defeated the Florida State football team by a score of 52-20 in the Sugar Bowl on January 2nd. It was truly an impressive and memorable display of leadership, dedication and teamwork by a college football team. This historic victory by the Gators not only brought with it the team's first national championship, but the Gators also set an unprecedented number of bowl records including the largest margin of victory against a No. 1 ranked team and the most points scored in a Sugar Bowl game.

I would also like to commend Florida State's Head Coach, Bobby Bowden and his fine team of football players for their magnificent season and for earning the right to play in the national championship. Although Florida State didn't win the game on January 2nd, they had a great season and they and their fans should be proud of their accomplishments.

The Gators managed to play its full complement of players during the season and devastated their opponents by averaging: 46.6 points per game, 333.9 yards passing per game and 503.9 yards total offense per game. Among their numerous record breaking achievements on the football field, the Gators' players also managed to bring home the Heisman Trophy, the Maxwell Award, the Unitas Award, the Davey O'Brien Award and the Thorpe Award to name just a few.

Under the extraordinary tutelage and superior leadership of Head Coach Steve Spurrier, the University of Florida football program rose above all others on the field in 1996. Prior to his arrival in 1990, no Florida Gator football team had captured an official Southeastern Conference championship in 56 years even though the university was a charter member of the league.

That trend changed in 1990, and Coach Spurrier's Gators have won at least nine games in each season since his arrival. The 1996 Florida Gators have the distinct honor of winning an unprecedented fourth consecutive Southeastern Conference championship and their fifth since Coach Spurrier's arrival. Over the past seven seasons, Coach Spurrier and his talented staff of assistants have posted a remarkable record of 73 wins on the football field, and in the always tough, Southeastern Conference, the Gators have achieved a remarkable record of 53 wins. During his tenure, the Gators have lost exactly two games at Ben Hill Griffin Stadium, an 80,000 seat fortress that Spurrier has dubbed "the swamp."

It is clear that the University of Florida Gators have been winners on the football field, but their winning doesn't stop there. Academically, the Gators have excelled equally as well. They have achieved a tremendous graduation rate for an NCAA Division I football program, and 16 members of this year's team were named to the Southeastern Conference's Academic Honor Roll. In addition to their awards for athletic achievement, Lawrence Wright and Danny Wuerffel both received Scholar-Athlete Awards from the College Football Association.

Their achievements don't stop on the football field, however. The Gators have also been major contributors to the greater Gainesville community where they volunteer countless hours in support of worthy causes like a literacy program, an international youth education program and support students with disabilities.

As a Gator and a graduate of the University of Florida, I am extremely proud of the 1996 Florida Gators and Head Coach Steve Spurrier for their outstanding achievements both on and off of the football field.

Mr. SANTORUM. Mr. President, I take some pride in that my brother graduated from the University of Florida. So I will join in those congratulations.

I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 66) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 66

Whereas the University of Florida can trace its beginnings to 1853 but was formally established by the State of Florida when Florida Agricultural College merged with East Florida Seminary, South Florida Military College, and St. Petersburg Normal & Industrial School in 1905

Whereas the University of Florida adopted the colors of orange and blue for its athletic team in 1905 and the alligator as the school's mascot in 1908;

Whereas the origins of intercollegiate football at the University of Florida can be traced back to 1901, when Dr. T.H. Taliaferro, president of the Florida State Agricultural College, enthusiastically endorsed the new sport of football and by that deed ensured that the University of Florida Fightin' Gator football team exists today;

Whereas the University of Florida is a founding member of the Southeastern Conference, considered by many to be the toughest conference in college football;

Whereas the students, alumni, and friends of the University of Florida are to be commended for the dedication, enthusiasm, and admiration they share for the Fightin' Gator football team;

Whereas in 1990, Stephen Orr Spurrier, the most fabled football player in the history of the University of Florida and winner of the Heisman Trophy in 1966, was hired to be the head football coach to lead the team to the ever elusive "Year of the Gator";

Whereas in 1992, Coach Spurrier and his assistant coaches recruited a group of talented athletes who went on to form the nucleus of the 1996 football team;

Whereas the 1996 Fightin' Gator football team compiled a record of 12 wins and 1 loss and outscored their opponents by a margin of 611 points to 221 points, and for this achievement the Fightin' Gator football team was recognized by the Associated Press and the Division I college football coaches as college football's 1996 Division I national champions;

Whereas the 1996 Fightin' Gators football team and coaches are to be commended for winning the school's first Division I collegiate football national championship.

Whereas the 1996 Fightin' Gator football team broke several school, Southeastern Conference, and Division I football records during the 1996 football season;

Whereas the 1996 senior class of the Fightin' Gator football team should be commended for their leadership and their "team first" approach that helped win the 1996 Division I collegiate football national championship, 4 consecutive Southeastern Conference football championships, and the most victories for a senior class in school history;

Whereas Danny Wuerffel, the team's quarterback, field leader, and spiritual leader should be commended for winning numerous awards and accolades for his performance during the 1996 football season including the Heisman Trophy, which is presented yearly to college football's most outstanding player, and the Draddy Scholarship Trophy, which is presented annually to the Nation's premier football scholar athlete;

Whereas Lawrence Wright, the team's strong safety, should be commended for winning the prestigious Jim Thorpe Award, which is presented yearly to college football's most outstanding defensive back;

Whereas Reidel Anthony, one of the team's clutch wide receivers, should be commended for being selected by both the Football writers Association and the Associated Press to their respective college football All-American teams;

Whereas Ike Hilliard, another of the team's deep threats at wide receiver, should be commended for being selected by the Walter Camp Football Foundation as a member of its college football All-American team;

Whereas all the loyal sons and daughters of the University of Florida join together in honoring Coach Spurrier and the 1996 Florida Fightin' Gators for winning the 1996 NCAA Division I football championship; and

Whereas the 1996 season will be known forever in the hearts and minds of the University of Florida faithful as the "Year of the Gator": Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Florida for winning the 1996 Division I collegiate football national championship;

(2) recognizes the achievements of all the players, coaches, and support staff who were instrumental in helping the University of Florida win the 1996 Division I collegiate football national championship and invites them to the Capitol to be honored in an appropriate manner to be determined;

(3) requests that the President recognize the accomplishments and achievements of the 1996 University of Florida Fightin' Gator football team and invite the team to Washington, D.C. for the traditional White House ceremony held for national championship teams; and

(4) directs the Secretary of the Senate to make available enrolled copies of this resolution to the University of Florida for appropriate display and to transmit an enrolled copy to each member of the 1996 University of Florida Division I collegiate national championship football team.

AUTHORIZING THE PRINTING OF THE HISTORY MANUSCRIPT OF THE REPUBLICAN AND DEMOCRATIC POLICY COMMITTEES

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 67 submitted earlier today by Senators CRAIG and REID.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 67) authorizing the printing of the history manuscript of the Republican and Democratic Policy Committees in Commemoration of their 50th Anniversaries.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. CRAIG. Mr. President, I rise to speak on "A History of the Senate Republican Policy Committee, 1947–1997."

Fifty years ago, the Senate established the Republican and Democratic policy committees. At the end of the Second World War and at the beginning of the cold war, U.S. Senators had concluded that this venerable old institution needed modernization to enable it to handle the increasingly complex foreign and domestic issues on its agenda, and to hold its own against an expanding presidential influence.

From 1945 to 1946, a joint committee chaired by Senator Robert M. LaFollette, Jr., a Republican from Wisconsin, and Representative Mike Monroney, an Oklahoma Democrat, investigated ways to reform the legislative branch. The joint committee proposed creation of professional staffs for each standing committee and allowing Senators and Representatives to appoint administrative assistants. It also recommended expansion of the Legislative Reference Service, now known as the Congressional Research Service. Those reforms were incorporated into the Legislative Reorganization Act of 1946.

One proposal that was not included in the act was the joint committee's recommendation that the Senate and House establish policy committees to assist the parties in promoting their legislative agenda. House Speaker Sam Rayburn feared that such policy committees might threaten his authority and refused to support them. Although the idea was dropped from the Legislative Reorganization Act, it was shortly thereafter incorporated in an appropriations bill but authorized policy committees for the Senate alone. Some time later the House also established policy committees.

Chief credit for the policy committees belongs to Ohio Republican Senator Robert A. Taft. As chairman of the Republican Steering Committee, from 1944 to 1946, Taft firmly believed in thorough preparation and expertise. Although Republicans were then in the minority, Taft used the Steering Committee to plan and coordinate the party's legislative program, rather that wait to react defensively against the initiatives of the President and the majority party. Under Taft the Steering Committee helped Republican Senators become better informed on pending issues. His staff ran evening meetings that some called a night school for Senators. The Republican Steering Committee became the model for the proposed policy committees. Indeed, when the policy committees were written into law, the Republican Conference simply redesignated its Steering Committee as the Republican Policy Committee. Chairman Taft and all of the other members of the Steering Committee become the first members of the Policy Committee.

The Republican Policy Committee came into existence at the beginning of the 80th Congress, just as Republicans resumed the majority in the Senate and House. The 50th anniversary finds Republicans back in the majority in both Houses of Congress. Over the years the Policy Committee's services and functions have expanded considerably. Since 1947, it has produced the very useful Record Vote Analyses. Since 1956, it has hosted working lunches each week for Republican Senators. Since 1987, it has operated an in-house bulletin-board cable information channel to keep Senators and their staffs apprised of Senate floor activities and the upcoming agenda. In 1995, the Policy Committee stood among the first Senate offices to develop a home page on the Internet's World Wide Web, to provide information inside and outside the Senate on its publications, and to share information on key Republican policies.

The Policy Committee staff prepares both brief and indepth reports on the major issues facing the Senate. The Policy Committee conducts seminars for new legislative staff members, and holds issue forums and roundtable discussions for Senators. It also hosts regular meetings for staff directors, legislative directors, and press secretaries.

During its first 50 years, the Republican Policy Committee grew into a thriving operation staffed by a variety of experts. Working directly with the Senators, and educating the journalists who report on them, the Policy Committee has assisted Republican Senators in setting policy, enacting legislation, and getting their message out. That is an accomplishment entirely consistent with the goals that Robert Taft set in founding the Republican Policy Committee. The story of how those goals were achieved is contained in the history of the Policy Committee that was prepared by the Senate Historical Office, and will now be available for Senators, staff, students, and the general public.

I understand that the Democratic Policy Committee is considering a companion publication, and I would like to take this opportunity to congratulate its chairman, Senator Tom Daschle, and cochairman, Senator Harry Reid, on our mutual 50th anniversary.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 67) was agreed to.

The resolution is as follows:

S. Res. 67

SECTION 1. PRINTING OF THE HISTORY MANUSCRIPT OF THE REPUBLICAN POLICY COMMITTEE IN COMMEMORATION OF ITS 50TH ANNIVERSARY.

(a) In General.—There shall be printed as a Senate document the book entitled, "A History of the Senate Republican Policy Committee, 1947–1997," prepared by the Senate Historical Office under the supervision of the Secretary of the Senate, with the concurrence of the U.S. Senate Republican Policy Committee.

(b) Specifications.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) Number of Copies.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 1,000 copies for use of the Senate, to be allocated as determined by the Secretary of the Senate; or

(2) a number of copies that does not have a total production and printing cost of more than $1,200.

SEC. 2. PRINTING OF THE HISTORY MANUSCRIPT OF THE DEMOCRATIC POLICY COMMITTEE IN COMMEMORATION OF ITS 50TH ANNIVERSARY.

(a) In General.—There shall be printed as a Senate document the book entitled, "A History of the Senate Democratic Policy Committee, 1947–1997," prepared by the Senate Historical Office under the supervision of the Secretary of the Senate, with the concurrence of the U.S. Senate Democratic Policy Committee.

(b) Specifications.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) Number of Copies.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 1,000 copies for use of the Senate, to be allocated as determined by the Secretary of the Senate; or

(2) a number of copies that does not have a total production and printing cost of more than $1,200.

NATIONAL FORMER PRISONER OF WAR RECOGNITION DAY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 68 submitted earlier today by Senators Specter and Akaka.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 68) designating April 9, 1997 and April 9, 1998 as "National Former Prisoner of War Recognition Day."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 68) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 68

Whereas the United States has fought in many wars;

Whereas thousands of members of the Armed Forces of the United States who served in such wars were captured by the enemy and held as prisoners of war;

Whereas many prisoners of war were subjected to brutal and inhumane treatment by their captors in violation of international codes and customs for the treatment of prisoners of war and died, or were disabled, as a result of the treatment; and

Whereas the great sacrifices of the prisoners of war and their families deserve national recognition: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 9, 1997, and April 9, 1998, as "National Former Prisoner of War Recognition Day" in honor of the members of the Armed Forces of the United States who have been held as prisoners of war; and

(2) requests that the President issue a proclamation calling on the people of the United States to commemorate this day with appropriate ceremonies and activities.

WAIVER OF D.C. RESIDENCY REQUIREMENTS

Mr. SANTORUM. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 514, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H. R. 514) to permit the waiver of D.C. residency requirements for certain employees of the Office of Inspector General of the District of Columbia.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the bill be considered read a third time, passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 514) was passed.

ESTATE TAX RELIEF FOR THE AMERICAN FAMILY ACT OF 1997

Mr. SANTORUM. Mr. President, I ask unanimous consent that the text of S. 479, the Estate Tax Relief for the American Family Act of 1997, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Estate Tax Relief for the American Family Act of 1997".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.

(a) ESTATE TAX CREDIT.—

(1) IN GENERAL.—Section 2010(a) (relating to unified credit against estate tax) is amended by striking "$192,800" and inserting "the applicable credit amount".

(2) APPLICABLE CREDIT AMOUNT.—Section 2010 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) APPLICABLE CREDIT AMOUNT.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the applicable exclusion amount determined in accordance with the following table:

"In the case of estates of decedents dying, and gifts made, during:	The applicable exclusion amount is:
1997	$700,000
1998	$800,000
1999	$850,000
2000	$900,000
2001	$950,000
2002 or thereafter	$1,000,000."

(3) CONFORMING AMENDMENTS.—

(A) Section 6018(a)(1) is amended by striking "$600,000" and inserting "the applicable exclusion amount in effect under section 2010(c) for the calendar year which includes the date of death".

(B) Section 2001(c)(2) is amended by striking "$21,040,000" and inserting "the amount at which the average tax rate under this section is 55 percent".

(C) Section 2102(c)(3)(A) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for the calendar year which includes the date of death".

(b) UNIFIED GIFT TAX CREDIT.—Section 2505(a)(1) (relating to unified credit against gift tax) is amended by striking "$192,800" and inserting "the applicable credit amount in effect under section 2010(c) for such calendar year".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

SEC. 3. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

"SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

"(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

"(2) the sum of—

"(A) $1,500,000, plus

"(B) 50 percent of the excess (if any) of the adjusted value of such interests over $1,500,000, but not over $10,000,000.

"(b) ESTATES TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to an estate if—

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

"(B) the executor elects the application of this section and files the agreement referred to in subsection (h),

"(C) the sum of—

"(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

"(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

"(D) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such interests were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

"(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are the interests which—

"(A) are included in determining the value of the gross estate (without regard to this section), and

"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

"(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

"(A) the sum of—

"(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

"(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

"(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

"(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

"(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

"(2) increased by the excess of—

"(A) the sum of—

"(i) the amount of gifts determined under subsection (b)(3), plus

"(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

"(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

"(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

"(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

"(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

"(2) the sum of—

"(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus

"(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

"(C) any indebtedness not described in subparagraph (A) or (B), to the extent such indebtedness does not exceed $10,000.

"(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest in an entity carrying on a trade or business, if—

"(i) at least—

"(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

"(II) 70 percent of such entity is so owned by members of 2 families, or

"(III) 90 percent of such entity is so owned by members of 3 families, and

"(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

"(2) LIMITATION.—Such term shall not include—

"(A) any interest in a trade or business the principal place of business of which is not located in the United States,

"(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

"(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

"(D) that portion of an interest in a trade or business that is attributable to—

"(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

"(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation').

"(3) RULES REGARDING OWNERSHIP.—

"(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

"(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

"(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

"(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

"(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

"(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

"(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

"(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

"(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

"(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

"(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

"(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

"(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

"(2) ADDITIONAL ESTATE TAX.—

"(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

"(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

"(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

"If the event described in paragraph (1) occurs in the following year of material participation:	**The applicable percentage is:**
1 through 6	100
7	80
8	60
9	40
10	20.

"(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

"(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

"(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(A) which is organized under, and governed by, the laws of the United States or a State, and

"(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(h) AGREEMENT.—The agreement referred to in this subsection is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of subsection (f) with respect to such property.

"(i) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

"(1) QUALIFIED HEIR.—The term 'qualified heir'—

"(A) has the meaning given to such term by section 2032A(e)(1), and

"(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

"(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

"(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

"(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

"(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

"(E) Section 2032A(c)(4) (relating to due date).

"(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

"(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

"(H) Paragraphs (1) and (3) of section 2032A(d) (relating to election; agreement).

"(I) Section 2032A(e)(10) (relating to community property).

"(J) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

"(K) Section 2032A(f) (relating to statute of limitations).

"(L) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

"(M) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

"(N) Section 6324B (relating to special lien for additional estate tax)."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

"Sec. 2033A. Family-owned business exclusion."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

SEC. 4. EXTENSION OF TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A TO LINEAL DESCENDANTS.

(a) GENERAL RULE.—Paragraph (7) of section 2032A(c) (relating to special rules for tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new subparagraph:

"(E) CERTAIN RENTS TREATED AS QUALIFIED USE.—For purposes of this subsection, a surviving spouse or lineal descendant of the decedent shall not be treated as failing to use qualified real property in a qualified use solely because such spouse or descendant rents such property to a member of the family of such spouse or descendant on a net cash basis. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the child of such individual by blood."

(b) CONFORMING AMENDMENT.—Section 2032A(b)(5)(A) is amended by striking out the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendment made by section 6151 of the Technical and Miscellaneous Revenue Act of 1988.

SEC. 5. INCREASE IN MAXIMUM REDUCTION IN VALUE FOR SPECIAL USE VALUATION.

(a) IN GENERAL.—Section 2032A(a)(2) (relating to limitation on aggregate reduction in fair market value) is amended by striking "$750,000" and inserting "$1,000,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 6. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 7. 20-YEAR INSTALLMENT PAYMENT WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS.

(a) IN GENERAL.—Section 6166(a) (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended by striking "10" in paragraph (1) and the heading thereof and inserting "20".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 8. NO INTEREST ON CERTAIN PORTION OF ESTATE TAX EXTENDED UNDER 6166.

(a) IN GENERAL.—Section 6601(j) (relating to 4-percent rate on certain portion of estate tax extended under section 6166) is amended—

(1) by striking the first sentence of paragraph (1) and inserting the following new sentence: "If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, no interest on the no-interest portion of such amount shall (in lieu of the annual rate provided by subsection (a)) be paid.",

(2) by striking "4-percent" each place it appears in paragraphs (2) and (3) and inserting "no-interest",

(3) by striking subparagraph (A) of paragraph (2) and inserting the following new subparagraph:

"(A) $153,000, or",

(4) by striking "4-PERCENT" in the heading of paragraph (2) and inserting "NO INTEREST", and

(5) by striking "4-PERCENT RATE" in the heading thereof and inserting "NO INTEREST".

(b) CONFORMING AMENDMENTS.—

(1) Section 6166(b)(7)(A)(iii) is amended by striking "4-percent rate of interest" and inserting "no-interest portion".

(2) Section 6166(b)(8)(A)(iii) is amended to read as follows:

"(iii) NO-INTEREST PORTION NOT TO APPLY.—Section 6601(j) (relating to no-interest portion) shall not apply."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 9. GIFTS MAY NOT BE REVALUED FOR ESTATE TAX PURPOSES AFTER EXPIRATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Section 2001 (relating to imposition and rate of estate tax) is amended by adding at the end the following new subsection:

"(f) VALUATION OF GIFTS.—If—

"(1) the time has expired within which a tax may be assessed under chapter 12 (or under corresponding provisions of prior laws) on the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)), and

"(2) the value of such gift is shown on the return for such preceding calendar period or is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such gift,

the value of such gift shall, for purposes of computing the tax under this chapter, be the value of such gift as finally determined for purposes of chapter 12."

(b) MODIFICATION OF APPLICATION OF STATUTE OF LIMITATIONS.—Paragraph (9) of section 6501(c) is amended to read as follows:

"(9) GIFT TAX ON CERTAIN GIFTS NOT SHOWN ON RETURN.—If any gift of property the value of which (or any increase in taxable gifts required under section 2701(d)) is required to be shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item which is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item. The value of any item which is so disclosed may not be redetermined by the Secretary after the expiration of the period under subsection (a)."

(c) DECLARATORY JUDGMENT PROCEDURE FOR DETERMINING VALUE OF GIFT.—

(1) IN GENERAL.—Part IV of subchapter C of chapter 76 is amended by inserting after section 7476 the following new section:

"SEC. 7477. DECLARATORY JUDGMENTS RELATING TO VALUE OF CERTAIN GIFTS.

"(a) CREATION OF REMEDY.—In a case of an actual controversy involving a determination by the Secretary of the value of any gift shown on the return of tax imposed by chapter 12 or disclosed on such return or in any statement attached to such return, upon the filing of an appropriate pleading, the Tax Court may make a declaration of the value of such gift. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section only by the donor.

"(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service.

"(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing."

(2) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by inserting after the item relating to section 7476 the following new item:

"Sec. 7477. Declaratory judgments relating to value of certain gifts."

(d) CONFORMING AMENDMENT.—Subsection (c) of section 2504 is amended by striking ", and if a tax under this chapter or under corresponding provisions of prior laws has been assessed or paid for such preceding calendar period".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to gifts made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to gifts made in calendar years ending after the date of the enactment of this Act.

SEC. 10. EXPANSION OF EXCEPTION FROM GENERATION-SKIPPING TRANSFER TAX FOR TRANSFERS TO INDIVIDUALS WITH DECEASED PARENTS.

(a) IN GENERAL.—Section 2651 (relating to generation assignment) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE FOR PERSONS WITH A DECEASED PARENT.—

"(1) IN GENERAL.—For purposes of determining whether any transfer is a generation-skipping transfer, if—

"(A) an individual is a descendant of a parent of the transferor (or the transferor's spouse or former spouse), and

"(B) such individual's parent who is a lineal descendant of the parent of the transferor (or the transferor's spouse or former spouse) is dead at the time the transfer (from which an interest of such individual is established or derived) is subject to a tax imposed by chapter 11 or 12 upon the transferor (and if there shall be more than 1 such time, then at the earliest such time),

such individual shall be treated as if such individual were a member of the generation which is 1 generation below the lower of the transferor's generation or the generation assignment of the youngest living ancestor of such individual who is also a descendant of the parent of the transferor (or the transferor's spouse or former spouse), and the generation assignment of any descendant of such individual shall be adjusted accordingly.

"(2) LIMITED APPLICATION OF SUBSECTION TO COLLATERAL HEIRS.—This subsection shall not apply with respect to a transfer to any individual who is not a lineal descendant of the transferor (or the transferor's spouse or former spouse) if, at the time of the transfer, such transferor has any living lineal descendant."

(b) CONFORMING AMENDMENTS.—

(1) Section 2612(c) (defining direct skip) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Section 2612(c)(2) (as so redesignated) is amended by striking "section 2651(e)(2)" and inserting "section 2651(f)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to terminations, distributions, and transfers occurring after December 31, 1997.

BILL READ FOR THE FIRST TIME—H.R. 1122

Mr. SANTORUM. Mr. President, I understand that H.R. 1122 has arrived from the House, and I would now ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions.

Mr. SANTORUM. I now ask for its second reading, and I will object to my own request on behalf of the other side of the aisle.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS-CONSENT AGREEMENT—S. 104

Mr. SANTORUM. Mr. President, I ask unanimous consent that at 2:15 p.m. on Tuesday, April 8, 1997, there be 15 minutes equally divided for debate prior to the cloture vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SANTORUM. Mr. President, for the information of all Senators, when the Senate reconvenes following the Easter recess, the Senate will resume the motion to proceed to the consideration of the nuclear waste legislation. On Monday, the Senate will proceed as in morning business from the hour of 12 noon until 1 p.m. with a 5-minute limitation. Senators should be aware that no rollcall votes will occur during Monday's session of the Senate. The next rollcall vote will occur on Tuesday, April 8, at 2:30 p.m. The Senate could also be asked to turn to other Legislative or Executive Calendar items that may be cleared.

ADJOURNMENT UNTIL FRIDAY, MARCH 21, 1997

Mr. SANTORUM. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the provisions of Senate Concurrent Resolution 14, unless the House fails to agree to the concurrent resolution. If the House fails to agree, the Senate would then stand in adjournment until 12 noon on Friday, March 21.

Thereupon, the Senate, at 7:28 p.m., adjourned until Friday, March 21, 1997, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 20, 1997:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

MARY LUCILLE JORDAN, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF 6 YEARS EXPIRING AUGUST 30, 2002.

THEODORE FRANCIS VERHEGGEN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING AUGUST 30, 2002.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

COLLEEN KOLLAR-KOTELLY, OF THE DISTRICT OF COLUMBIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

DEPARTMENT OF JUSTICE

ROSE OCHI, OF CALIFORNIA, TO BE DIRECTOR, COMMUNITY RELATIONS SERVICE, FOR A TERM OF 4 YEARS.

EXTENSIONS OF REMARKS

EXTEND WILDERNESS PROTECTION FOR SPANISH PEAKS AREA, COLORADO

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. SKAGGS. Mr. Speaker, today I am again introducing a bill to continue the protection of wilderness values in the Spanish Peaks area in Colorado.

The bill is cosponsored by my colleagues from Colorado, Mr. MCINNIS and Ms. DEGETTE. I greatly appreciate their assistance and support.

The mountains now usually known as the Spanish Peaks are two volcanic peaks in Las Animas and Huerfano Counties whose Native American name is Wayatoya. The eastern peak rises to 12,683 feet above sea level, while the summit of the western peak reaches 13,626 feet. The two served as landmarks not only for Native Americans but also for some of Colorado's other early settlers and for travelers along the trail between Bent's Old Fort on the Arkansas River and Taos, NM. With this history, it's not surprising that the Spanish Peaks portion of the San Isabel National Forest was included in 1977 on the National Registry of Natural Landmarks.

The Spanish Peaks area has outstanding scenic, geologic, and wilderness values, including a spectacular system of over 250 freestanding dikes and ramps of volcanic materials radiating from the peaks. The State of Colorado has designated the Spanish Peaks as a Natural Area, and they are a popular destination for hikers seeking an opportunity to enjoy an unmatched vista of southeastern Colorado's mountains and plains.

The Spanish Peaks area was considered for possible wilderness designation in the 1970's, but the Colorado Wilderness Act of 1980 provided instead for its continued management as a wilderness study area. A decade later, the Colorado Wilderness Act of 1993 included provisions for long-term management of all the other wilderness study areas in our State's national forests, but questions about the landownership pattern in the Spanish Peaks Area led to a decision to require continued management of that area as a wilderness study area for three years—until August 13, 1996. The 1993 Act also required the Forest Service to report to Congress concerning the extent of non-Federal holdings in the area and the likelihood of acquisition of those holdings by the United States with the owners' consent.

The required report was submitted in 1995. It indicated that within the approximately 20,825 acres being managed as a wilderness study area, there were about 825 acres where the United States owned neither the surface nor the mineral rights, and about 440 acres more where the United States owned the surface but not the minerals.

To date, through voluntary sales, the United States has acquired some of the non-Federal holdings in the Spanish Peaks area, and there are indications that others will or can be acquired in the same way.

I think there is every reason to believe that it will soon be possible to designate lands within the Spanish Peaks area as part of the National Wilderness Preservation System. However, last year it became clear that it wouldn't be possible to do this before the end of the 3-year period specified in the 1993 Act, so I introduced a bill to simply provide that the Forest Service will continue to manage the Spanish Peaks as a wilderness study area until Congress determines otherwise.

Because that bill was not acted on before the adjournment of the 104th Congress, I am reintroducing it today. It will remove an artificial, arbitrary deadline and will ensure that decisions about the future management of this very special area will be made deliberately, through legislation, rather than by default.

HONORING DR. RUBEN ZACARIAS FOR 31 YEARS OF DEDICATION TO THE EDUCATIONAL NEEDS OF THE STUDENT'S OF THE LOS ANGELES UNIFIED SCHOOL DISTRICT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. TORRES. Mr. Speaker, I rise today to recognize a good friend, Dr. Ruben Zacarias, deputy superintendent of schools, Los Angeles Unified School District. Dr. Zacarias has demonstrated a life long commitment to the education of our children and will be recognized at a special ceremony sponsored by the California Legislative Latino Caucus and the Mexican American Opportunity Foundation on Friday, March 21, 1997.

Dr. Zacarias began his service in education in 1966 in the elementary classroom of Breed Street School. Since 1966, he has held every major post in the Los Angeles Unified School District, including deputy superintendent, deputy superintendent of human resources and of parent and community services, associate superintendent of school operations, assistant superintendent of administrative region G, assistant superintendent of overcrowded schools, deputy area administrator, and school principal.

Dr. Zacarias also has been instrumental in promoting key educational goals, such as the superintendent's call to action and the LEARN restructuring programs. He has led the district in parent empowerment and involvement, appointed as deputy superintendent of parent and community services. During his tenure as deputy superintendent responsible for race relation and as associate coordinator of multicultural education, he demonstrated his leadership in bridging race relations.

While maintaining an active role in the district he has been an outstanding leader in the community, dedicating many hours to civic and community organizations. In 1995, Dr. Zacarias was appointed U.S. Commissioner to President Clinton's Advisory Commission on Educational Excellence for Hispanic Americans, serving as chairman of the K–12 Committee. He was appointed, in 1996, by Mayor Richard Riordon, Los Angeles city commissioner to the Commission on Children, Youth and Their Families. He also has been a tireless advocate for our children's education on the boards and committees of numerous organizations addressing issues ranging from drug and gang prevention to bilingual and adult education.

For his unparalleled commitment to educational excellence in the Los Angeles Unified School District, Dr. Zacarias has received numerous awards and recognitions. In addition to honors from the California PTA, UTLA, United Way, California Association for the Gifted, and California State University, Los Angeles, he has received formal resolutions from President Clinton, Secretary of Education Richard Riley, Governor Pete Wilson, the mayor and council of the city of Los Angeles, Los Angeles County Board of Supervisors, and the California State Legislature for outstanding service to education and the community.

Dr. Zacarias received his bachelor of arts degree from the University of Southern California, master of arts degree from the University of California, Los Angeles, and a doctorate of education degree from the University of San Francisco.

Mr. Speaker, I ask my colleagues assembled here to join me in recognizing my good friend, Dr. Ruben Zacarias, for his outstanding and invaluable service to the educational needs of all the children of the Los Angeles Unified School District and throughout the Nation.

INTRODUCTION OF LEGISLATION

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. THOMAS. Mr. Speaker, today I am introducing a bill that will allow mutual funds to invest in Publicly Traded Partnerships [PTP's].

PTP's are limited partnerships and PTP shares are traded on regulated, public securities exchanges. Because interests in PTP's are liquid and can be purchased in small increments, they can be bought today by small investors. An anomaly in the Internal Revenue Code prevents mutual funds representing

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

many small investors from making such investments.

As safe, liquid securities which generally provide a steady income, PTP's could be excellent investments for mutual funds. However, the Tax Code discourages fund managers from investing in PTP's because our tax laws require that mutual funds get 90 percent of their gross income from specific sources in order to retain their special tax treatment. Distributions from a partnership do not qualify nor do most types of partnership income which flow through to the fund. The only way a mutual fund can invest in a PTP is to be certain that the income fund will never receive more than 10 percent of its income from the partnership and other nonqualifying income sources. Faced with the consequences of failing to qualify—loss of their special tax status—most mutual funds avoid PTP investments.

The 90 percent rule makes no sense with regard to publicly traded partnerships. Traditional, small partnership interests are often illiquid and not always well regulated. PTP's are different: the companies have to file information with the Securities and Exchange Commission and the partnership interests are traded on major public exchanges just like stocks.

Mutual funds are an increasingly important part of the capital markets, and it does not make sense to deny mutual fund investors an opportunity to earn money through PTP investments. My bill would correct this situation by ensuring that any income received by or allocated to a mutual fund by a PTP, as defined in the Internal Revenue Code, would count toward the income from specified sources which mutual funds must have.

I hope my colleagues will join me in supporting this legislation.

TRIBUTE TO THE PARK MISSIONARY BAPTIST CHURCH OF BEECH ISLAND, SC

HON. LINDSEY O. GRAHAM

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. GRAHAM. Mr. Speaker, the members of the Park Missionary Baptist Church of Beech Island, SC, are planning a 125th anniversary celebration to commemorate the founding of the church on Sunday, April 14, 1872. The original location of the church was near Myers Mill on the east side of Pen Branch which is now part of the Savannah River site.

The church remained on the east side of Pen Branch until 1899. At that time it was moved and rebuilt on the west side of Pen Branch. The church thrived at that location until 1938, when it moved near Highway 28 northwest of Pen Branch.

In 1950, the U.S. Atomic Energy Commission announced that its new production plants were to be designed, built, and operated by the E.I. Dupont de Nemours Co. near the Savannah River. About 250,000 acres were required for the site, and the Park Missionary Baptist Church was located within the designated area. Consequently, it was necessary for the church to move again.

Subsequent to the announcement of the Federal Government, the church family selected a search committee to find a new location for the church. Land was purchased—23.2 acres for $1,392—on January 16, 1952, from Mr. James McElmurray, and the church was moved near Beech Island.

The church entered a new phase of its dream in November 1977, when ground was again broken for a new place of worship. On September 17, 1978, the congregation marched from the old site to the new sanctuary which was then dedicated in special services on Sunday, October 1, 1978.

The collective prayers of Park Church members were answered when on Sunday, October 20, 1990, the Reverend Alex E. Williams was called as the church's eighth pastor. Reverend Williams continues to serve Park Church today. Throughout its 125-year history, Park Missionary Baptist Church has ordained six men as ministers and has licensed two others as ministers.

On January 21, 1991, the church held its first Martin Luther King celebration. This has become an annual event along with the Youth Crusade which was initially a project of the young adult department. Along with these two annual events, the church established a board of trustees, organized an adult choir, and has a full-time program with services each Sunday. The members have enjoyed the completion of a fellowship hall and continue to grow in faith and move toward their motto, "Where All Hands Join Together."

HONORING HOPE LUTHERAN CHURCH AND COMMUNITY CHRISTIAN SCHOOL

HON. CHARLES T. CANADY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. CANADY of Florida. Mr. Speaker, I rise today to ask my colleagues to join me in commending Hope Lutheran Church on the occasion of its 40th anniversary, and Community Christian School on its first 20th anniversary. Located in Plant City, FL, Hope Lutheran Church and Community Christian School celebrated their anniversaries on February 23, as families and friends gathered to give thanks to God for His many blessings over the years.

As five families met together in February 1957, little did they know that their small congregation would one day grow to become Hope Lutheran Church. Forty years later, this church body is a thriving force in the community and a testimony to God's gracious leading along the way.

Community Christian School, celebrating its first 20 years, is the only Christian day school in Plant City. With its excellent programs and opportunities, students are receiving a solid education as well as a moral foundation for their lives. Community Christian School is preparing our young people well for the challenges they will face in the future.

As we commemorate the anniversaries of Hope Lutheran Church and Community Christian School, we recognize God's blessings on these two institutions. King David reminded us in the Psalms, "Unless the Lord build the house, they labor in vain who build it." Likewise, we understand that it is God who has made this church and school flourish. He is the reason for this celebration, and we look forward to seeing the wonderful things that He will continue to do in the future.

I want to take a few moments to recognize some of the servants of Hope Lutheran Church. Rev. Gerald Renken, who served as Hope Lutheran's first pastor back in 1962, returned to the church for the special anniversary celebration. After Reverend Renken, Rev. James Peter, and Rev. Donald Little served as the next two pastors of the church. Today Rev. Dean Pfeffer is the pastor. All of these gentlemen have served the people of Hope Lutheran in a powerful way through their instruction, encouragement, and faithful leadership.

In addition to the pastoral staff, I would like to recognize several individuals who have dedicated their lives in service to the people of Hope Lutheran Church and Community Christian School. Mrs. Christine Mansell, the church organist, has played beautiful melodies for Hope Lutheran for 25 years. Mrs. Libby Warren has taught pre-school for 18 years. Mrs. Lana Baldwin, a kindergarten teacher, and Mrs. Sandy Howell, a first grade teacher and the former principal of Community Christian School, have both worked for 15 years. Finally, Mrs. Sue Griffin has taught pre-school for 14 years. It is my pleasure to commend these individuals for their tireless dedication and excellent service.

As we remember these faithful servants and the many others who have contributed so much to Hope Lutheran Church and Community Christian School, we are filled with thanksgiving. We now look ahead with faithful expectancy to see how God will continue to use this church and school in Plant City in the coming years.

HONORING MAYOR PAUL J. MURPHY

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. WELLER. Mr. Speaker, I rise today to honor the work, and dedication of a great community leader, Mayor Paul J. Murphy who has served the community of La Salle for more than 40 years.

Mayor Murphy began his long and distinguished record of service at the age of 17 by enlisting in the U.S. Navy and serving our country from 1945 to 1949. He continued to defend America through service in the U.S. Air Force from 1950 to 1952.

Paul Murphy joined the La Salle-Peru Civil Defense in 1958 and began his political career with an appointment as a Democratic precinct committeeman in La Salle's first ward in 1959.

Mayor Murphy continued to build his record of community service as a member of the La Salle County Zoning Commission from 1967 to 1971. He won his first public elected office in 1973 as La Salle township assessor in 1973—a position he held until 1981. During this time, beginning in 1979, Mayor Murphy became an auditor for the State of Illinois Board of Education 1989.

As the La Salle community became increasingly aware of Paul Murphy's ability, his career as a local elected official flourished with his election as La Salle township supervisor in 1981; his reelection as supervisor in 1985; and, finally, his election as mayor of the city of La Salle in 1989; and his resounding reelection as mayor in 1993.

During his two terms as mayor, Paul Murphy has compiled an enviable record of accomplishment and achievement. Foremost among his accomplishments is his successful effort to extend the city of La Salle's boundaries dramatically to the east—thus opening the door of major economic opportunity and new jobs for the citizens of La Salle and the surrounding area. Mayor Murphy's innovative efforts to address the critical infrastructure problems of the city of La Salle and his vision in seeing the potential of the UnLock 14 project to rejuvenate downtown La Salle will also be long remembered and appreciated.

Mayor Paul Murphy has been a tireless public servant and community supporter. His many years of service leave a proud legacy of accomplishment and a strong foundation of achievement on which the city of La Salle can build a better future for its citizens. Given the high regard in which Paul Murphy's integrity and common sense are held by his peers and fellow citizens, I have no doubts that even after retirement, he will remain an influential and respected leader in the community he so proudly served.

Mayor Paul Murphy will preside over his last city council meeting on Monday, March 24, 1997, before retiring from local government service.

HONORING BETTY WILSON OF SANTA FE SPRINGS FOR HER LIFETIME OF PUBLIC SERVICE

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. TORRES. Mr. Speaker, I rise today to honor Santa Fe Springs City Councilwoman Betty Wilson, a good friend and distinguished public servant. On March 21, 1997, Betty's colleagues on the Santa Fe Springs City Council, family, and friends will gather to pay tribute to her on the occasion of her retirement from the city council.

Betty has devoted her entire life to public service, and her record of accomplishments is exemplary, extensive, and impressive. She was first elected to the Santa Fe Springs City Council at the city's incorporation in May 1957. She served as the city's first mayor, becoming the first woman to hold that office in any city in Los Angeles County. She went on to serve 10 more terms as mayor, completing her 11th term in 1996.

In addition to her service on the city council, Betty has been a member of several professional and community service organizations. She served as chapter president of the Santa Fe Springs Business and Professional Women's Club, as a member of the Santa Fe Springs Women's Club, and as past president of the Los Angeles County Division of the League of California Cities, where she served on the Revenue and Taxation Committee, chairperson of the Human Resources Committee, and member of the Action Plan for Local Government Task Force. She also served as a member of the Los Angeles County Children's Services Task Force, and was instrumental in the establishment of a separate Children's Services Department within the County of Los Angeles.

Betty has been involved in the Santa Fe Springs Sister City Program for many years, serving three terms as president. She is currently president emeritus of the Town Affiliation Association of the United States—Sister Cities International, and serves as council liaison to the Santa Fe Springs Sister City Committee, Community Program Committee, and Beautification Committee. She is also a member of the advisory council for the Salvation Army's Transitional Living Center in Whittier, CA.

Betty has received numerous awards for her service, including recognition in Who's Who in American Women, and in Outstanding Civic Leaders of America. She has received the U.S. Air Force's Award for Advancement of Peace Through Air Power, the Women's Club Civic Award, the California Federation of Business & Professional Women's Club Citation for outstanding service, the National Civic Committee's People to People Award, and the Boy Scouts of America Good Scout Award.

Mr. Speaker, it is with great pride that I ask my colleagues to join me in paying tribute to my friend and colleague, a distinguished woman and public servant, the Honorable Betty Wilson, on the occasion of her retirement from public office.

CONGRATULATING DALY CITY POLICE OFFICERS ON RECEIVING THE 10851 AWARD IN COMBATING AUTO THEFT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in commending five outstanding officers of the Daly City Police Department, in the 12th Congressional District of California, on their receiving today the prestigious 10851 Award for their efforts in combating auto theft. The 10851 Award is named after the California Vehicle Code section relating to auto theft and is presented to those law enforcement officers who meet the rigid criteria for vehicle theft recoveries and arrests of suspects. Officers Chris Myhra, Lee Horton, Joe Bocci, Thomas Prudden, and Gregg Oglesby are being presented the award by the California Highway Patrol and the California State Automobile Association Inter-Insurance Bureau.

While those of us who live in San Mateo County have long felt a debt of gratitude to the Daly City Police Department for exceptional work in protecting the lives and property of our friends and neighbors, we take special pride today in witnessing the presentation of this well-deserved award. Auto theft in San Mateo County is a particularly serious problem. In 1996 alone over 2,500 vehicles were stolen, costing insurance companies and policyholders nearly $13 million.

It is highly appropriate, therefore, that we recognize those police officers who, through their diligent efforts, have set the highest example. As citizens of San Mateo County, we can feel the improvement in our daily lives provided by the Daly City Police Department. This award serves to highlight their achievements and reminds us that our law enforcement officers provide us with unparalleled public service.

I invite my colleagues to join me in commending and thanking Officers Myhra, Horton, Bocci, Prudden, and Oglesby for their service and dedication to the citizens of Daly City and San Mateo County.

IN HONOR OF THE OFFICERS AND GRADUATES OF THE UNION CITY POLICE DEPARTMENT D.A.R.E. PROGRAM

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to a special group of people, the officers and graduates of the Union City Police Department Drug Abuse Resistance Education [D.A.R.E.] Program, who have chosen a path which will provide a positive alternative to one of the greatest ills of today's society, drug abuse. These selfless individuals have distinguished themselves through their commitment to the future of the young people of Union City. A commencement ceremony for this year's graduates will be held at the Park Theater in Union City on March 25 and 26 for the public schools and March 27, 1997 for the parochial schools.

This joyous occasion will be the culmination of an informative 17 week training program during which these outstanding fifth grade students will be placed on the road to becoming vital members of their communities. When they first entered the D.A.R.E. Program as fourth graders, these exceptional young people had acquired the majority of their knowledge about drugs from either television or their peers. Subsequently, the educational experience they have gained has increased their personal determination to handle any obstacle they may face.

The Union City Police Department's D.A.R.E. unit conducts a comprehensive program which reinforces the importance of self-esteem and the consequences of one's actions, and equips each participant will the skills to just say no to peer pressure when confronted with the temptation to use drugs. My hometown of Union City, located in Hudson County, NJ, has been recognized as the most densely populated city in our great Nation. The Union City D.A.R.E. Program is proud to instruct over 1,800 eager children per school year. These young people will undoubtedly become respected leaders of their community.

An undertaking as meaningful as the Union City D.A.R.E. Program is never accomplished through the efforts of one individual. This particular endeavor has been the result of the unwavering dedication of the officers in charge of administering the program. Sergeant Alfonso Mendez, and Detectives Mike Ortega, Octavio Orozco, and Mike Garcia. These exceptional gentleman have greatly contributed to the well-being of Union City's young people and their families. Their unique contributions will long be remembered by generations of residents who will take part in this highly successful program.

It is an honor to recognize the officers of the Union City Police Department's D.A.R.E. Program for 6 triumphant years of providing assistance to the children of my district. Their exceptional efforts will serve as a beacon of hope for countless young people faced with the temptation of drugs.

STATEMENT ON CRP FOR THE RECORD

HON. RICK HILL

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. HILL. Mr. Speaker, I'm increasingly concerned about the timing of USDA's signup putting cropland into the national Conservation Reserve Program. From the information I receive, Montana farmers and ranchers would like to postpone the CRP signup for 1 year.

Language in the farm bill directed USDA to issue CRP rules 3 months after enactment. The deadline was missed by several months and the lateness of the current signup has led to much uncertainty in Montana. Montana growers who want to bid land into CRP are told by USDA they will not know whether they're accepted until June or July.

Farmers need certainty. They need to know; should they prepare land for planting wheat or for establishing a cover suitable for long-term enrollment in the program. If they aren't CRP-accepted, they're caught between nature's seasons and USDA's process. We can't change nature, but we can change the rules to help not hinder our farm families.

My friends and neighbors are not the only ones confused about this delayed signup. I am informed that even local officials running the program are unclear about some of the new rules. None of this bodes well for farmers who need to make decisions about the future use of their land.

Worse still, under the new CRP rules some of the most environmentally sensitive land for CRP is likely to receive a bid so low that farmers may decide to put these lands into crops, turning the program and its purpose upside down.

Mr. Speaker, I support the CRP program and so do Montanans who currently have over 2.85 million acres in CRP. It's voluntary and incentive-based. It's a good program for keeping marginal crop land in grass to prevent soil erosion and provide wildlife habitat.

However, I do not want my farmers to agonize over doing the right thing. I applaud USDA for their hard work, but the framework for decision is too short and it occurs too late in the farm year. It is also not well understood and has led to much uncertainty.

Mr. Speaker, I call on USDA to work with Congress. Take the time and energy required to look at this situation and do the right thing. Postpone the new CRP 1 year, so farmers can make plans for next spring. We can do better and we should.

DR. ERNEST S. GRIFFITH

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. THOMAS. Mr. Speaker, I rise today to pay tribute to the late Dr. Ernest S. Griffith, who passed away at the age of 100 on January 17, 1997. Dr. Griffith served the Congress faithfully for 18 years as Director of the Legislative Reference Service, now the Congressional Research Service.

Considered by many to be the father of the Legislative Reference Service, Dr. Griffith transformed a fledgling agency into a vital source of expert information and analysis for Members of Congress and their staffs. When he came to the LRS in 1940, Dr. Griffith had a staff of 40 to handle some 25,000 requests per year. Resources within the legislative branch were scarce, and the Congress depended largely on the executive branch and special interests for its information.

By the time Dr. Griffith left the LRS in 1958, his staff had grown to 200, and the number of congressional requests received per year had tripled. The Legislative Reorganization Act of 1946 had expanded the LRS's mission and given it a permanent statutory basis for the first time in its history. Experts had been recruited from all manner of disciplines to provide the legislative branch with its own pool of knowledge and information. For the first time, the Congress had available to it a select group of experts who were both knowledgeable and nonpartisan, and who could be trusted and called on at any time for help. If ever a man left his mark, Ernest Griffith left his indelibly on the Legislative Reference Service.

Prior to 1940, Dr. Griffith's career was largely in university teaching and administration. After receiving his A.B. degree from Hamilton College, he was appointed a Rhodes scholar and received a Ph.D. from Oxford University. While at Oxford, he was the warden of Liverpool Settlement House. He taught economics at Princeton and government at Harvard, and was the undergraduate dean at Syracuse University before moving to Washington in 1935.

In 1935, Dr. Griffith served as dean of American University's graduate school, where he also taught political science. He returned to American University in 1958 as the founding dean of the School of International Service. Dr. Griffith was a Fulbright visiting professor at Oxford and a lecturer at New York, Birmingham, and Manchester Universities, Swarthmore College, the University of Oslo, and the University College of Swansea.

After retiring from American University in 1965, Dr. Griffith was visiting professor at the International Christian University and Rykko University in Japan, and lectured on American government in Turkey and Brazil. He was professor of American government at Alice Lloyd College in Kentucky in his middle eighties.

A prolific writer, Dr. Griffith authored numerous articles and books about the Congress, the Presidency, and the history of American city government. His book, "The American System of Government," was translated into more than 25 languages.

Between lectures and his duties as Director of the Legislative Reference Service, Dr. Griffith devoted himself to serving and improving the world around him. He founded the Pioneers, a forerunner of the Cub Scouts, chaired the policy board of an interuniversity training center for Peace Corps volunteers, and chaired the Council of Social Agencies, a predecessor of the United Way. He taught Sunday school, served as a delegate to the Third World Council of Churches, and was treasurer of the Wilderness Society. He was also vice president of the American Political Science Association and president of the National Academy of Economics and Political Science.

Mr. Speaker, Ernest Griffith was a man of intense passion and boundless energy, who dedicated his life to serving the public good. This is his legacy to us, and this is the legacy we honor here today. To his children, Margo, Alison, Lawrence, and Stephen, his grandchildren, and great-grandchildren, I extend our deepest sympathies.

A TRIBUTE TO ST. FRANCIS HOSPITAL

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. KLECZKA. Mr. Speaker, I rise today in tribute to the men and women of St. Francis Hospital, which this year proudly celebrates 40 years of dedicated service to the residents of Milwaukee's south side.

Nestled into a residential neighborhood, St. Francis Hospital for decades has realized that health care means more than the latest advances in medical technology. In fact, health care is about people, the people who come to the hospital for care and the professionals who provide it. Even during this day and age, a time of great change in health care, St. Francis Hospital remains committed to its founding vision: reaching out to care for those in need. And, the hospital remains true to the philosophy of their founding Felician Sisters, whose focus is a dedication to care and compassion for the whole person—body, mind, and spirit.

Residents of Milwaukee and the surrounding communities are truly fortunate that they can seek care and comfort at a leading institution such as St. Francis Hospital. Excellence shows through in the hospital's comprehensive specialty programs: orthopedics, advanced surgery, obstetrics, and cardiac care, to name a few. In addition, the Wisconsin Laser Center, the Center of Neurological Disorders and the Center for Children's Orthopedics, all located at St. Francis Hospital, are recognized as leaders in their fields, both in Wisconsin and the Midwest.

My colleagues certainly realize that fine facilities and modern equipment are essential in providing health care services today, but I truly believe it is the people of St. Francis Hospital, the Sisters, employees, medical staff, board of directors, volunteers, guild members, benefactors and friends, who have been the major force in continuing the hospital's fine tradition of Christian caring for the sick and injured over the last 40 years.

Congratulations, St. Francis Hospital on 40 outstanding years of care and compassion for Milwaukeeans, and best wishes for continuing success in the next 40 and well beyond.

KEEPING ALIVE THE HONOR OF MILITARY SERVICE: CONFEDERATE AIR FORCE DESERT SQUADRON

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. COMBEST. Mr. Speaker, in the history of this great Nation, when threatened by foreign powers, the people of the United States rally, we fight and we win. However, once we have secured the blessings of liberty—or when they are secured for us by previous generations—we are in danger of forgetting to remain vigilant against those very threats to our liberty. Often, when blessed with peace, memories fade. Sometimes forgotten are those who sacrifice to fight against the tyranny of oppression.

In Odessa, TX, the Desert Squadron of the Confederate Air Force takes to the air in the surviving military aircraft that helped win the peace in World War II. They fly in honor of those who piloted those aircraft, and in honor of those who were supported by the mighty American air cover. The fact that these aging aircraft can fly at all is at the heart of the mission and the message of the Confederate Air Force Desert Squadron: preparedness and vigilance.

For our military veterans, our men and women in uniform today, and the generations who will be entrusted to keep our country strong, keeping these aircraft flying becomes a lesson in history and a means of teaching strength, preparedness, and vigilance in the name of liberty.

IN HONOR OF EL NUEVO HUDSON: CELEBRATING 2 YEARS OF SERVICE TO HUDSON COUNTY'S HISPANIC COMMUNITY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to the El Nuevo Hudson edition of the Jersey Journal, a local Spanish language publication in my district, on its second anniversary of outstanding service to Hudson County's Hispanic community. This newspaper and its distinguished publisher, Mr. Scott Ring, will be honored during a scholarship fund benefit dinner on March 26, 1997, at Jersey City State College in Jersey City, NJ.

In the early 1960's, large numbers of Hispanic immigrants began moving into the north Hudson area. Few sources of daily news were available in the native language of these new and valued members of the area. Today, Spanish news organizations, magazines, and publications such as El Nuevo Hudson have become the backbone of the Hispanic community, addressing important informational needs and concerns as well as deepening the understanding among Hispanic-Americans from various parts of the world.

In a relatively short timeframe, El Nuevo Hudson has established itself as a social, cultural, and political watchdog for the growing Hispanic-American population in Hudson County. Ethnically focused newspapers such as El Nuevo Hudson have helped minority communities flourish in this Nation.

Since its launching, El Nuevo Hudson has proven to be a reliable and valuable medium to Hispanics throughout Hudson County. By keeping people in touch with news and services that affect them, it has contributed to the heightened awareness of the diverse Hispanic community. For this reason alone, I commend the publisher, editor-in-chief Armando Bermudez, and the talented and hard-working staff for providing a much needed service. I encourage them to maintain their exceptional work for many years to come.

I ask that my colleagues join me today in recognizing the El Nuevo Hudson edition of the Jersey Journal, a publication that provides a new voice for the Hispanic community. Through the journalistic expertise of its publisher, Scott Ring, it has won acclaim throughout the news gathering sector of our area. I look forward to the continued participation of El Nuevo Hudson as New Jersey approaches a new century.

THE INTRODUCTION OF THE CENSUS ACCURACY ACT OF 1997

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mrs. MALONEY of New York. Mr. Speaker, I rise to introduce the Census Accuracy Act of 1997. The Census Accuracy Act requires that 3 years prior to the census, the Census Bureau must submit to Congress its plans for carrying out the census. It must report what methods will be used to take the census, including direct counting methods, sampling, statistical techniques, and any other methods to ensure that the census is as accurate as possible. The Census Accuracy Act also specifies that when Congress requires the allocation of funds based on population or housing characteristics, unless otherwise specified, that data should be collected on the census at the same time as the information for apportionment is collected.

Some critics of the Census Bureau's current plans for the 2000 census argue that title 13, U.F.C., prohibits the use of sampling to derive the population counts used for apportionment. In fact, the record is clear and overwhelming that just the opposite is true. The Department of Justice under Presidents Carter, Bush, and Clinton has concluded that the use of sampling is both legal and constitutional. Similarly, when asked to rule, the courts have consistently upheld the use of sampling. Nevertheless, some observers continue to question whether section 195 of title 13, U.F.C., permits the use of sampling to derive the population counts used for apportionment, even when read in conjunction with section 141 of the same title. Therefore, the purpose of this bill is to reaffirm the interpretation of the courts and the Justice Department that the use of sampling is both appropriate and desirable in order to make the census more accurate, and ensure that sections 195 and 141 of title 13, U.F.C, are in harmony as originally intended.

In just 3 years, the 2000 census will be under way. That census is important to this body because it will determine how the seats of this House are apportioned among the States. That census is important because over the decade it will be used to allocate hundreds of billions of dollars to State and local governments. It will be used to enforce the Voting Rights Act to assure equal representation. It will be used by businesses to locate manufacturing plants where there is an adequate work force, and to provide services that are valued by the communities of which they are a part. It will be used by State governments to plan highways, and by local governments to assure adequate sewer and water facilities. We cannot afford an inaccurate census. The bill I am introducing today will assure all of us that the next census is as fair and accurate as possible.

Our understanding of the accuracy of the census increases each decade. Both Thomas Jefferson, the first census taker, and George Washington knew there were errors in the 1790 census. But it took until 1940 for census demographers to start measuring that error with sound scientific tools. Between 1940 and 1980 the net undercount decreased from 5.4 to 1.2 percent, but the differential undercount, the difference between black and nonblack undercount, went from 3.4 percent in 1940 to 4.3 percent in 1970 to 3.7 percent in 1980. In 1990, both the total net undercount and the differential went up. In fact, the differential of 4.4 percent between blacks and nonblacks in 1990 was the largest ever. In addition to increasing error in 1990, the cost per household, in constant dollars, went up. The 1990 cost was 25 percent higher than 1980 and 150 percent higher than 1970.

Because of the errors in the 1990 census, California was denied a congressional seat that was rightfully theirs. The 1990 census missed over 10 million Americans. Six million were counted more than once. It is not fair that those 10 million Americans were left out of the census, and it is not fair that those 6 million were counted twice. We would not stand for those kinds of errors in our election results, and we should not tolerate them in the census.

Is there anything that can be done about it? Absolutely. The Census Bureau has proposed a variety of changes in the 2000 census that will produce a more accurate census at a lower cost. The Census Bureau will make a greater effort to count everyone than ever before, and people will have more opportunities to respond than ever before.

Before the census form is mailed, everyone will receive a letter telling them that the census is coming. Then each household in the United States will receive a form. About a week later, they will receive a letter thanking them for returning the form, and reminding them to mail it if they have not. About a week after the reminder letter, the Census Bureau will send out a second form so that those who misplaced it will have a replacement.

In addition to the mail, the Census Bureau will use a variety of methods to make it easier for the public to be counted. Forms will be placed in super markets and community centers, post offices and government buildings, convenient stores and retail stores. Forms will be available in foreign languages, and there will be a toll-free number where people can call for help. There will also be a toll-free number where people can fill out their form over the phone. And, if privacy concerns can be addressed, it may be possible to return your form through the internet. There will be an advertising campaign to inform the public that the census is coming, and to explain why the Government is collecting this information. There will be programs for schools and civic organizations, as well as census employees whose job it is to work with community organizations to get out the count.

Even with all of these efforts we know that not everyone will send back their form. For every 1 percent of the population that does not mail in their form, or respond over the phone, it costs an additional $25 million to count them. The best estimate of the experts is that even with all of these efforts, nearly 35 percent will not be counted by mail or phone. At $25 million for each 1 percent, that's $875 million to followup with nonresponding households. And even after hiring a half a million temporary employees, and spending weeks going door to door, not everyone will be counted. No census has ever counted everyone. The difference is that we now have the technology and scientific tools to estimate how many people were missed, and to correct the census so that it is as inclusive as possible.

The 1990 census missed almost 2 percent of the population. If that were spread evenly across groups of people and across the country, not too many stakeholders would care. But the undercount is not random. Less than 1 percent of whites were missed, but over 5 percent of African-Americans were missed. On Indian reservation the census missed 12 percent.

In 1990 the census included an experimental method to correct these mistakes—to account for those who are missed and to correct for those who are counted twice. In the end, the Secretary of Commerce chose not to use those adjustments, and we have lived with those inequities for the past 7 years. Every year millions of dollars are lost by States whose population was undercounted.

The vast body of scientific evidence shows that these errors can be corrected in a way that is fair to all. Three separate panels of experts at the National Academy of Sciences have recommended that these errors be corrected. The techniques for correcting the census have been endorsed by professional organizations like the American Statistical Association and by groups like the National Association of Counties. The inspector general at the Commerce Department has endorsed correcting these errors, as has the General Accounting Office.

Well, you must be asking yourself by now, just who opposes a more accurate census. Unfortunately, some Members of this body will pay any price to get the wrong answer. They argue that we should throw more money at the old methods of doing the census, even though they will produce a count that is less accurate. Of course, the Members making this argument are not on the Appropriations Committee. The members of the Appropriations Committee have yet to fund the census at the requested level, much less, give the Census Bureau more money.

One of the objections they raise to the methods proposed for the 2000 census is that they are not allowed under current law. I disagree with their interpretation of the law. This bill makes it clear that once the Census Bureau makes a good faith effort at an enumeration, the count can be supplemented by other methods to achieve a more accurate count.

Mr. Speaker, we must all work for the most accurate census possible in 2000. If we do not, it will be the American public who loses. My bill will make a more accurate census possible, and ensure that any confusion over current law is eliminated. I urge that it be passed quickly.

TRIBUTE TO SHEILA MONTEIRO

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. DELAHUNT. Mr. Speaker, I would like to draw my colleagues' attention to a constituent of mine who has worked tirelessly to serve her community. Sheila Monteiro's work at the Community Action Committee of Cape Cod and the islands has assisted many elderly and low-income families throughout the years.

My predecessor, Congressman Gerry Studds, has the honor of representing the 10th District, working hand in hand with committed people like Sheila Monterio to make life better for her fellow residents of southeastern Massachusetts.

At the request of Mr. Studds, I would like to submit a statement he made last fall on behalf of Ms. Monteiro, recognizing her work in such to these worthy endeavors.

Over the past 24 years, I have had the honor of serving the people of Cape Cod and islands in the U.S. Congress, and throughout that period you have committed yourself to the efforts of the Community Action Committee.

Much of our efforts over these years has been inspired by the work you have done, day in and day out, under some of the most challenging of circumstances. And while you have done a great deal to make my visits to Community Action productive and enjoyable, I want you to know just how much I appreciate all you have done to dramatically help improve the lives of so many others.

Simply put: You have made enormous contributions to improve the quality of life on Cape Cod and the islands. So tonight, it is a pleasure for me to join with all your many friends in extending to you my deepest thanks and congratulations for you all your kindness and friendship.

Finally, I want you to know that when I arrive home to stay in the near future, my first request of Congressman DELAHUNT will be to ask that he place this letter into the CONGRESSIONAL RECORD.

COMMEMORATING THE 100TH ANNIVERSARY OF THE MOVING OF KATONAH, NY

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mrs. KELLY. Mr. Speaker, among the foothills and lakes which dominate the landscape 45 miles north of New York City, not far from Mt. Kisco, there is a small village by the name of Katonah. One hundred years ago the inhabitants of this marvelous town did something truly extraordinary and I would like to share this tale with the American people.

In the 1800's, with New York City's population rapidly expanding due to newly arrived immigrants, a new supply of water was necessary. North of New York City are some of the most beautiful and pristine lakes and streams anywhere in the country, so it was here that New York City turned to fulfill its water needs. One of the small villages which dotted the landscape at this time was Katonah. With about 500 residents, Katonah was a thriving hamlet of culture, art, and commerce. Luck be as it may, however, it was decided that the Cross River would be dammed and the resulting lake would completely devour the village of Katonah. This presented a unique situation to the 500 residents who had called Katonah home for many years. They could either take the money that was offered and relocate to another town or State, or they could do what they could to stick together and keep the village of Katonah alive. They chose the latter.

In a remarkable feat of human ingenuity and determination, the people of Katonah decided that they were going to move their village to higher ground and preserve the heritage and history that is Katonah, NY. And so, work began to relocate not just the spirit and culture of Katonah, but indeed many of the actual buildings which made up Katonah. The village of Katonah, NY, was literally moved ½ mile south of its former location to its present location.

I rise today to pay tribute to the special people who 100 years ago decided that they were not going to surrender their village and their heritage and culture. I rise today to pay tribute to the current residents of Katonah, whose appreciation of history, culture, and community make Katonah a special place to live. Katonah has been home to me and my family for over 40 years. I raised four children in this marvelous village and my husband owns and operates a business in town. Katonah, NY, is my hometown and I stand here today with the same pride and admiration that I am sure was felt by my town's forefathers, and mothers, 100 years ago when they banded together and preserved one of New York State's treasures, the village of Katonah.

HONORING THE NATIONAL EXCHANGE CLUB AND THE EXCHANGE CLUB OF COPPERAS COVE, TX

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. EDWARDS. Mr. Speaker, today I rise to thank and congratulate the National Exchange Club and their local chapters. The Exchange Club of Copperas Cove, TX, is celebrating its 25th anniversary.

The National Exchange Club is the largest and oldest exclusively American civic organization, as well as the first civic organization to allow women membership. It is dedicated to serving and protecting the Nation's communities through such programs as the National Exchange Foundation for the Prevention of Child Abuse.

The Copperas Cove Exchange Club distinguished itself by winning several awards at the State and national level for their superior community service. Over the past 25 years, Cove Exchangites promoted a "city built for family living" by promoting patriotism through their "giveakidaflagtowave" and "Proudly We Hail" programs and by sponsoring the Exchange Sunshine Home for senior citizens. They also recognize excellence in education by honoring teachers and providing academic scholarships to outstanding students.

I ask Members to join me in honoring the Exchange Club members in my Texas congressional district and across the country for their dedication and excellence in serving the Nation's communities.

HONORING DR. WILBUR F. DOLEZAL

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. WELLER. Mr. Speaker, I rise today to honor the work and dedication of an outstanding dentist, Dr. Wilbur F. Dolezal, after 43 successful years of practicing dentistry.

Dr. Dolezal received his bachelors degree from the University of Illinois and his dental degree from Loyola University, Chicago, IL.

Dr. Dolezal served his country in the U.S. Air Force as a dentist from 1954 to 1956. He has had a thriving practice in Morris, IL, for the past 40 years.

Dr. Dolezal has been honored by his peers for his superior knowledge as a Fellow of both the International College of Dentistry and the American College of Dentistry.

Dr. Dolezal has been active in his community as a member of the Morris Rotary Club, the Morris High School Board of Education, and as a member and president of the Grundy County Board of Health.

Dr. Dolezal is a well respected dentist and member of his community and it is with great regret, but also a bright white smile, that his patients see him retire.

IN HONOR OF THE ONE YEAR ANNIVERSARY OF THE ASIA OBSERVER

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay special tribute to the publisher and hard-working staff of the Asia Observer on their 1-year anniversary of outstanding service to the South Asian community. It is an honor to join other elected officials and organizations in lauding the achievements of a weekly publication recognized worldwide for its excellent news coverage and analysis on events and issues affecting the South Asia and South Asians.

In its first full year, the Asia Observer has distinguished itself as a valuable source of information on South Asia affairs. Additionally, it has helped bridge the gap of understanding among the growing Asian-American population in our great Nation. Since its inaugural edition 1 year ago, the Asia Observer has gained the respect and praise of many, including several of my esteemed colleagues in Congress, prominent business owners, professionals, and community leaders. With weekly coverage of socially, politically, and economically significant topics, the Asia Observer has become what many other ethnic news publications can only hope to become, a credible source of information in the United States and throughout the international community.

As the dawning of the next millennium approaches, all regions of the world are shifting ever closer toward globalization. The role of news sources like the Asia Observer will assume a greater importance in the affairs of the United States and our neighbors both home and abroad. It is through the efforts of news journals such as the Asia Observer that our lines of communication with other countries in the South Asia region, including India, Sri Lanka, Nepal, Bangladesh, and Pakistan continue to expand and grow. In just 1 year, this publication has managed to strengthen the sense of cooperation in this important region of the world by providing a useful vehicle for the exchange of information and ideas.

I ask that my colleagues join me today in acknowledging the contributions of the Asia Observer, a publication that has provided a welcome voice to the Asian-American community in issues of international and domestic importance. I firmly believe that by keeping people in touch with the issues that affect their daily lives, the Asia Observer will contribute to the growth of the South Asian region for many years to come. For this reason, I commend Mr. Surinder Zutshi and his entire staff for their efforts in providing the world a window through which it can observe the achievements of the Asian community.

NEW RETIREMENT OPTION FOR SENIORS

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. THOMAS. Mr. Speaker, I am introducing legislation today that will allow older Americans to stay in their homes while taking advantage of the exclusion of up to $125,000 in gains on sale of a principal residence. This is a badly needed option for those who wish to use the equity in their home for retirement needs without having to leave the family home.

An AARP survey shows that 86 percent of seniors prefer to stay in the family home, yet for a great number of older Americans, home equity is a major component of their savings. Seniors who need additional income in their retirement can face a troubling dilemma: they may have to give up the house to meet their needs.

The bill will aid seniors by altering our approach to the $125,000 exclusion. As currently interpreted by the IRS, the exclusion of $125,000 in gain is only available to seniors when they sell their homes and move away, literally forcing people to move to get the tax break. Their other alternatives—both of which allow them to claim the exclusion—are taking out a reverse mortgage or selling their home and leasing it back. Not all seniors will find these devices helpful. Reverse mortgages leave homeowners with the burden of maintaining the home. Sale/leaseback transactions may not provide seniors with the certainty that they will be able to continue occupying their homes.

The bill's new alternative will permit seniors to sell the "remainder interest"—the right to future ownership—in their home and keep the "life estate"—the right to use the house for the rest of their lives. Such an option does not qualify for the exclusion today.

With all the concern about retirement savings, taxpayers can only benefit through the provision of additional options. I hope my colleagues will join me in making this option available as soon as possible.

IN TRIBUTE TO THE LADY BUFFS

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. COMBEST. Mr. Speaker, I rise today with great honor to give tribute to the West Texas A&M Lady Buffs of Canyon, TX. The Lady Buffs' historic winning season ended with an unfortunate, but hard-fought loss in the quarterfinals of the Elite Eight Tournament to California-Davis.

The Lady Buffs, who are led by their coach Bob Schneider, finished the season with 29 victories and only 2 losses. This is the best season that the Lady Buffs have had since the 1990–91 team, and the first time that the Lady Buffs have been in the Elite Eight since the 1987–88 season. As an alumnus of West

Texas A&M, I am very proud of the Lady Buffs and their achievement this season.

Mr. Speaker, I congratulate the Lady Buffs on their winning season. They have brought pride and respect to not only their team and coaches, but also to West Texas and the hometowns of all of the players.

EXEMPT SCHOOL BOARDS FROM LIABILITY FOR THE GENERATION AND TRANSPORTATION OF MUNICIPAL WASTE

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to introduce two bills to make important changes to the Comprehensive Environmental Response, Compensation and Liability Act.

The first of these bills will address a problem that confronts school districts across the Nation. This legislation would amend the Comprehensive Environmental Response, Compensation and Liability Act to exempt school boards from liability for the generation and transportation of municipal waste.

Under current law, a number of school boards in New Jersey are involved in legal action as polluters under existing Superfund law. These school districts did nothing more than legally transport their sold waste—remains of school lunches, broken pencils, or students crumpled homework pages—to municipal landfills. Under the system of joint and several liability, school boards are now being mandated to pay a substantial amount of cleanup costs or defend themselves in costly lawsuits. The costs of these financial penalties have far exceeded any contributions that they have made to toxic waste problems. Furthermore, this present situation indirectly shifts money and local tax dollars away from educating our children and into the coffers of industrial polluters or the Superfund trust fund.

Unfortunately, a legislative solution to the larger issue of Superfund reform has prevented action on an explicit exemption for school boards. While I remain committed to the larger issue of reauthorizing Superfund laws, school boards simply cannot wait any longer for a legislative remedy. Their litigation costs continue to mount.

The second bill, which I sponsored in the 104th Congress and am reintroducing today, would shift contract oversight of fund financed remedial actions from the Environmental Protection Agency to the Army Corps of Engineers. Currently, the EPA has the option of using the Army Corps for contract oversight and does so in approximately 40 percent of its cleanups. My bill would mandate that all contract oversight be completed by the Army Corps.

I propose this shift because I believe that the Army Corps is better qualified for oversight of technical cleanups and management of contract oversight than is EPA. Furthermore, let me clarify that this legislation would in no way take any authority away from the EPA to design the cleanup and remedy for Superfund sites using the highest environmental standards.

Mr. Speaker, I urge passage of both these important and commonsense bills.

DISTRICT OF COLUMBIA COMMISSION FOR WOMEN

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Ms. NORTON. Mr. Speaker, the important work of the District of Columbia Commission for Women is worthy of particular attention during this month, Women's History Month. The District of Columbia Commission for Women has ably served the people of the District for the past 30 years. The commission's mandate is to identify issues and problems specifically affecting women in the Nation's Capital and to recommend solutions to the Mayor. The commission achieved permanent status in 1978 when it was adopted by the city council.

As cochair of the Congressional Caucus for Women's Issues, I applaud the exceptional work the District of Columbia Commission for Women does on behalf of the women of the District. The commission is a valuable resource and clearinghouse for women's concerns. Remarkably, the commission operates solely on a volunteer basis, with a small staff and no budget. Nonetheless, the commission carries out the responsibilities of both city and State as the District's representative to the National Association of Commissions for Women.

Recent accomplishments credited to the District of Columbia Commission for Women include establishing the District of Columbia Women's Hall of Fame, creating the Sewall-Belmont House exhibit on African-American Suffragettes and publishing self-help guides for District women. For these reasons and others, I commend the District of Columbia Commission for Women for its outstanding contribution to the women of the District.

HAPPY 100TH BIRTHDAY SIMONE M. STEINBRONER

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Ms. HARMAN. Mr. Speaker, I rise to pay tribute to Simone M. Steinbroner of Manhattan Beach, CA, who will be celebrating her 100th birthday on April 1.

Simone was born in the tiny village of Cognac, France, on April 1, 1897, the oldest of five children of Paul Jean Mounier and Jeanne Praud Mounier. She moved with her family several times as a young girl, first to Paris and then, with the outbreak of World War I to La Rochelle where her father was employed as an interpreter. At the age of 16, Simone became the youngest entrant to teachers college, graduating in 1917.

It was on her summer vacation from teaching on the small coastal island of St. Pierre d'Oleron that her mother invited two American soldiers to dinner. There Simone met her future husband, Arthur Steinbroner, a sergeant in the American Expeditionary Force, and fell in love. Arthur and Simone set their wedding for August 1, but on July 5 received the upsetting news that Arthur was to be sent back to the United States the next day. It would be 18 months before enough money could be saved for Simone's passage to America.

Simone left France on January 9, 1921, arriving in Los Angeles, then a sleepy town with fewer than 200,000 residents, on January 24. She and Arthur married on February 3, 1921, and had seven children in 9 years. Arthur passed away suddenly in 1948.

Simone has lived in Los Angeles County for 76 years and has a total of 78 living descendants; 8 children, 28 grandchildren, 38 great-grandchildren, and 4 great-great grandchildren, with 2 more expected this year. She still maintains an active pace, teaching French to private students, playing the piano, dancing, reading, and corresponding to her numerous friends and progeny. As a member of the Legion of Mary, she regularly visits local nursing homes to comfort the sick and elderly. She is an inspiration to them all, all of whom are younger than her, and, in hearing her story, she is an inspiration to me as well.

Mr. Speaker, I ask that my colleagues join me in congratulating Simone and in wishing her a happy 100th birthday.

IN HONOR OF DAVID L. COHEN, CHIEF OF STAFF TO MAYOR EDWARD G. RENDELL OF PHILADELPHIA

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. BORSKI. Mr. Speaker, I rise today to commend a good friend and servant to the city of Philadelphia, David L. Cohen.

By now almost everyone across the county knows the Philadelphia story and the accomplishments of the Rendell administration in leading what the New York Times called "one of the most stunning turnarounds in recent urban history." Today I want to recognize one of the architects of Philadelphia's remarkable renaissance: David L. Cohen, chief of staff to Philadelphia's terrific mayor, Edward G. Rendell.

While there is no doubt that Mayor Rendell has provided the vision and enthusiastic leadership that has brought the city back from the brink of disaster, it is also unquestionably true that without David Cohen's incredible work ethic, unparalleled judgment, and steady dedication to the mayor's vision of reducing the cost of government, the Philadelphia story would be a far different tale. Certainly, it would not be a story that includes four consecutive balanced budgets, and four consecutive budget surpluses, including a fiscal year 1996 surplus of $118 million, the largest in the modern history of the city.

David Cohen led Ed Rendell's cost-cutting revolution in city government. He was the mayor's primary liaison with city council, without whose cooperation the city's recovery would not have been possible; he served as the principal author of the nationally renowned 5-year financial plan, the city's blueprint for recovery; he has led or facilitated labor settlements with both public and private-sector unions on a variety of issues of importance to the city; he chaired the administration's Initiative Compliance Committee, which oversees the spending habits of every city department right down to the penny, to guard against a return to the free-spending days of Philadelphia's past; and he has served as an articulate and passionate spokesman for the critical problems that face America's cities. Through it all, David displayed a superior intelligence, a steely determination to make tough decisions in order to save money for city taxpayers, and an abiding love for Philadelphia, and indeed, for all cities.

Now, after more than 5 years of incredibly effective government service, David Cohen is returning to the private sector, where he will realize a lifelong professional dream by becoming chairman of his law firm, Ballard Spahr Andrews & Ingersoll.

Mr. Speaker, without question, Ed Rendell deserves credit and praise for his efforts to revitalize Philadelphia. But that success would not have been possible without the tireless efforts of David Cohen. This talented individual exemplifies public service: working hard, long hours with great sacrifice to himself and his family. He could have chosen a more lucrative private career path, but instead chose to dedicate many years of his life to a partnership with the mayor that led to the rebirth of a great city. Every Philadelphian is better off today for that choice.

On behalf of my fellow 1.6 million Philadelphians, I wish David Cohen and his family great success and happiness in their future endeavors. We are all deeply indebted for the outstanding dedicated public service that David provided to help restore a bright, hopeful future for the city that we all love.

IN HONOR OF VIRGIL GLADIEUX

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Ms. KAPTUR. Mr. Speaker, I rise today to honor the passing of an outstanding citizen, optimist, business leader, and family man from Toledo, OH. Virgil Gladieux died on February 27, 1997.

Beginning with a small business selling boxed lunches out of the trunk of his car, Mr. Gladieux developed a food service empire, with operations in 35 States, in airports and on airlines, in schools, colleges, factories, hotels, and turnpike restaurants nationwide. He also founded and developed the Toledo Sports Arena and the Toledo Beach Marina and North Cape Yacht Club. With a keen eye for opportunity, Virgil Gladieux came to symbolize a man of humble beginnings who rose to become a civic-minded entrepreneur.

Ever mindful of his responsibilities to others, Virgil Gladieux was very active in civic affairs and philanthropic efforts. Throughout his lifetime, he served in various capacities on over 70 area boards, committees, and clubs. Extensively honored for his service, his most recent recognition came last fall, when he was given the annual volunteer award from the Alexis de Tocqueville Society, an organization he helped to inspire in 1984 for those who have made significant contributions to the United Way.

Virgil Gladieux, a devoted family man, leaves behind a legacy of dynamism, unparalleled entrepreneurial spirit, and community service. With gratitude and admiration for his efforts, we extend our deepest sympathy to his wife of 67 years, Beatrice, his children, Therese and Timothy, his sister and sister-in-law, his nieces, nephews, grandchildren, and great-grandchildren. Our entire community shall miss his effervescence and spirited presence that made us all better for knowing him.

INTRODUCTION OF THE METHAMPHETAMINE ELIMINATION ACT OF 1997

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. LEWIS of California. Mr. Speaker, I rise today to introduce an important piece of legislation, the Methamphetamine Elimination Act. This bill will take great strides in ridding our Nation of the dangerous drug, methamphetamine.

Methamphetamine, or "meth," is truly a terrifying drug. It is highly addictive and, with repeated use, can cause extreme nervousness, paranoia, and dramatic mood swings. Unfortunately, meth use goes hand in hand with brutal child abuse and domestic violence. Often, children, the innocent bystanders, are neglected or abused by parents who are involved with meth production or use.

Methamphetamine is fast becoming the crack epidemic of the 1990's. Meth production and use is a nationwide problem, cutting across all income and racial divisions; the impact, however, is disproportionally felt in California. The Drug Enforcement Agency [DEA] has identified California as a "source country" of methamphetamine with literally hundreds of clandestine laboratories, or "clan labs," located throughout the State.

Clan labs have proliferated at such a pace that California officials now consider them major threats to the public, law enforcement and public communities, even the environment. In just 1996, the Bureau of Narcotics Enforcement [BNE] raided 835 clan labs in California, up from 465 in 1995. Just think of that 835 labs seized in California in 1 year—almost one every 10 hours. Clearly, California is on the front line in the war on methamphetamine.

As a result, California is in desperate need to help to fight this wicked drug. The Methamphetamine Elimination Act would provide $18 million to the Bureau of Narcotics Enforcement to fight meth through a 5-point strategy. Specifically, funds from this legislation will be used to hire, train, and equip 126 sworn and nonsworn law enforcement staff to do the following:

First, establish enforcement teams to target chemical sources and major traffickers/organizations.

Second, establish an intelligence component to provide strategic and tactical support to meth enforcement teams.

Third, establish a forensics component within the BNE to provide on-site laboratory services. Lab site analysis—in addition to providing for the immediate safety of law enforcement personnel—will allow BNE to bring to bear law enforcement services not currently available.

Fourth, develop clan lab training for law enforcement officers. Training involves basic classes covering the danger of the labs and chemical agents used in the manufacture of meth.

Fifth, establish a community outreach program to promote public awareness, the primary focus of which will be young people.

This strategy is designed to coincide with the National Methamphetamine Strategy, which was based upon work by Federal, State and local law enforcement officials during the National Methamphetamine Conference held in Washington, DC last year. There is widespread support for the implementation of this strategy, including the support of the California Sheriff's Association, the California Chiefs of Police Association and the District Attorneys Association.

The time has come to devote significant Federal resources to this nationwide problem. In the last Congress, we passed comprehensive legislation to address the meth problems. Now, we need to assist States like California that are on the front lines of this battle. Therefore, I strongly urge support for the Methamphetamine Elimination Act.

STOP FORCE-FEEDING THE PENTAGON

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Ms. FURSE. Mr. Speaker, it is a new era and there is now wide agreement that we must achieve a balanced budget. That means that all spending must be scrutinized and we must not be afraid to include military spending in that scrutiny.

I commend to my colleagues the following editorial from the March 24 issue of The Nation. It refers to comments by my colleague, Congressman FRANK, in which he points out that any legislator who votes for the Pentagon's budget is voting to cut domestic spending.

We are not in a zero-sum game. We no longer have the luxury of simply adding funding. We must make choices. We should not provide the Pentagon more than it asks for.

The editorial follows:

[From The Nation, Mar. 24, 1997]

PENTAGON OR BUST

There are many reasons to cut Pentagon spending. The United States alone consumes about one-third of the global military budget, spending more than five times as much as any other country. The Pentagon remains the largest source of waste, fraud and abuse in the federal government. While it issues about two-thirds of all federal paychecks and makes about two-thirds of all federal purchases of goods and services, its accounting is so haphazard it can't be audited. The General Accounting Office just reported that the Pentagon was storing $41 billion in excess inventory. Billions more are lost in undocumented payments, misplaced funds, mismanaged programs. Yet the Pentagon remains immune from both Republican efforts to dismantle government and Democratic attempts to reinvent it.

Not even our nation's security is well served by current policy. The Administration keeps extending military commitments while closing embassies, slashing aid budgets, stiffing international institutions, thus crippling the U.S. ability to lead in addressing deteriorating environmental, economic and social conditions. At home, the military remains our primary industrial policy and public works program, while investments vital to our economy—in education and training, infrastructure, nonmilitary research and development—are starved.

The United States may be rich enough to afford this folly; the military does consume a smaller portion of our gross national product than at any time since before World War II. But as Representative Barney Frank observes on page 23, the bipartisan commitment to balance the budget in five years while cutting taxes and protecting Social Security and Medicare will force brutal cuts in discretionary spending (everything other than entitlements and interest on the national debt). Choices must therefore be made.

The military, which already captures more than half of all discretionary spending, has exacted a pledge for a 40 percent increase in procurement over the next five years. The Pentagon's Quadrennial Defense Review report, due in May, is timed perfectly to reinforce its claim to the money: The brass hope to lock in their budgets and build walls around them in the bipartisan budget agreement widely expected this year.

But going soft on the military will require drastic cuts of 25 to 30 percent or more from domestic programs. The argument is no longer about cutting the military to invest at home but how much will be cut from poor schools, toxic waste cleanup, Head Start, roads and mass transit and how much from the Pentagon.

The argument for new priorities must begin with a renewed demand for investment—in children, cities, mass transit, health care and education, in clean water and clean air. As Republicans found in the last election, Americans do not favor deep cuts in education, environmental safeguards or health care.

As we make the case for reinvestment, the Pentagon can be brought back into the debate, the military-based definition of U.S. security challenged, the costs of its misplaced priorities detailed. Frank suggests a practical way to start. He calls on every group working to preserve a domestic program to educate its members about the stark reality: Any legislator who votes for the Pentagon's budget is voting to cut domestic spending. Legislators must learn there is a cost to feeding the Pentagon's bloat.

INDIAN FEDERAL RECOGNITION ADMINISTRATIVE PROCEDURES ACT OF 1997

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. FALEOMAVAEGA. Mr. Speaker, today I am introducing the Indian Federal Recognition Administrative Procedures Act of 1997, a bill to simplify and objectify the existing procedures for extending Federal recognition to Indian tribes. This bill is identical to legislation that I introduced in the 104th Congress, and is similar to legislation that the House passed in the 103d Congress.

The reason I am introducing this bill is because the process by which the Federal Government traditionally chooses to recognize Indian tribes is broken. It is broken because it is biased, it is too expensive, it is incomprehensible to all but the most trained technicians, and the BIA which makes the recognition determinations has applied its criteria in an uneven manner. In fact, in the only appeal of a negative recognition decision to be decided to date involving the Samish Tribe of Washington, the Interior Department's own board of appeals found that the BIA's recognition process "did not give [the tribe] due process" and rejected the BIA's position "as not being supported by the evidence."

But even more interestingly, a Federal court found in the same case that the attorneys for the United States who had been arguing against recognizing the Samish violated the law and the constitutional rights of the Samish Tribe. The court lambasted the actions of the Interior Department—including both the Solicitor's Office and the Assistant Secretary for Indian Affairs—because they had conspired to alter key findings of the Department relating to Samish land claims in closed-door meetings. The court found that the tribe's case had been "marred by both lengthy delays and a pattern of serious procedural due process violations."

Sadly, all of this could have been avoided—much of it at public expense—were it not for a clerical error of the Bureau of Indian Affairs which 27 years ago inadvertently left the Samish Tribe's name off the list of recognized tribes in Washington.

With a record like this, it is little wonder that many tribes have lost faith in the Government's current recognition procedures. Even the President recognizes the problem. In a letter last year to the Chinook Tribe of Washington, the President wrote, "I agree that the current Federal Acknowledgment process must be improved." He said that some progress has been made, "but much more must be done." My bill will finish the job. If we can pass my bill then the Federal recognition process will be impartial, easy to understand, open to public scrutiny, and more affordable. then finally, perhaps, we can begin doing justice to the hundreds of tribes that we wrongfully terminated, forgot about, or accidentally left off some list. I hope that Congress and the President will support my efforts to address these problems.

Let me go into some detail why the recognition process is broken and why it needs to be fixed.

First, it is too expensive for Indian tribes. Experts estimate that the cost of producing an average petition ranges from $300,000 to $500,000. Over the past 16 years, the BIA has spent more than $6 million to evaluate petitions.

Second, it takes too long. Since 1978, when the BIA recognition regulations were put into place, only 14 tribes have been acknowledged, and 15 have been denied. During the same period, the BIA has received over 160 petitions or letters of intent to petition. In 1978, there were already 40 petitions pending. Bud Shapard, the former head of the Bureau of Acknowledgment and Research and primary author of the existing regulations testified before this Committee that "the current process is impossibly slow. [The BIA's acknowledgment rate] works out statistically to be 1.3 cases a year. At that rate, it will take 110 years to complete the process."

Third, it is subjective, flawed, and has been applied in an uneven manner. The BIA's handling of the Samish case demonstrates the lack of fairness in the process. The Federal courts and the Interior Department's own board of appeals found that the BIA's recognition process "did not give [the tribe] due process" and rejected the BIA's position "as not being supported by the evidence." This was compounded by the fact that the Solicitor's Office and the BIA attempted to hide from the public the judge's findings that the BIA's tribal purity test was flawed, that the BIA's research and methods were "sloppy and unprofessional", and that the BIA had "prejudged" the Samish case in violation of due process.

Furthermore, Bud Shapard testified before Congress that,

> [b]ecause there is no clear definition of what the petitioners are attempting to prove and what the BIA is attempting to verify, the regulations require nonsensical levels of research and documentation. This results in regulations full of vague phrases requiring subjective interpretations. By my count the 1978 original regulations contained 35 phrases that required a subjective determination. The 1994 revised and streamlined regulations not only doubled the length of the regulations, they more than doubled the areas that required a subjective determination.

Fourth, it is a closed or hidden process. The current process does not allow a petitioning tribe to cross-examine evidence or the researchers, and does not allow the tribe to even review the evidence on which the determination was made until the end of the process.

Fifth, it is biased. The same Department responsible for deciding whether to recognize a tribe is also institutionally biased against recognition. An earlier House report recognized that the BIA has an "internal disincentive to recognize new tribes when it has difficulty serving existing tribes and more new tribes would increase the BIA workload."

My bill addresses these problems.

First, to eliminate any conflict of interest and institutional bias, my bill establishes an independent presidentially appointed three-member commission outside of the Department of the Interior to review tribal recognition petitions. The bill also allows the new independent commission to give research advice to petitioners, and provide financial assistance to petitioners. Tribes currently receive little, if any assistance with their applications.

Second, my bill gives petitioning tribes the opportunity for formal, on-the-record hearings. Such hearings will open the decisionmaking process giving petitioners a much better idea of what their obligations are and more confidence in the ultimate decision. Such hearings will also focus the examination of the Commission and the staff in a manner that is completely lacking in the present process. Furthermore, my bill also makes clear that the Commission itself will preside at both the preliminary and adjudicatory hearings.

Third, my bill makes clear that records relied upon by the Commission will be made available in a timely manner to petitioners. In order to facilitate proper and accurate recognition decisions, it is important that the Commission and its staff provide petitioners with the documents and other records relied upon in making preliminary decisions.

Fourth, my bill explains the precedential value of prior BIA recognition decisions and to make the records of those decisions readily available to petitioners. The BIA has stated that it views its prior decisions as providing guidance to petitioners. Tribes, however, have found it very difficult to gain access to copies of the records relating to those decisions. If those prior decisions are considered precedent, the records of those decisions should be made available to petitioners.

Fifth, my bill would make several changes to the Federal recognition criteria. The bill would eliminate the requirement of descendence from an historical tribe. Compelling petitioners to demonstrate descendence from a historic tribe violates policy established by Congress—section 5(b) of the act of May 31, 1994, Public Law 103–263. In that statute, Congress acted to remove any distinction that the Department might make between historic and nonhistoric tribes. In addition, the genealogical requirements inherent in showing descendence from a historical tribe seem to emphasize race over the political relationship that really should be at issue in deciding whether to recognize a tribe.

In addition, the bill would reconfigure the present recognition criteria to more closely follow the so-called Cohen criteria. Before 1978, the Department of the Interior made acknowledgment decisions on an ad hoc basis using the criteria roughly summarized by Assistant Solicitor Felix S. Cohen in his "Handbook of Federal Indian Law" (1942 edition) at pages 268–72. In 1978, the Department issued acknowledgment regulations in an attempt to standardize the process. Both the process and the criteria established in the regulations were different than those used before 1978. Under the Cohen criteria, a tribe needed to show at least one of the following: it had treaty relations with the United States; it had been called a tribe by Congress or Executive Order; it had communal rights in lands or resources; it had been treated ads a tribe by other Indian tribes; or it had exercised political authority over its members.

My bill would require a petitioning tribe to prove: that it and its members have been identified as Indians since 1934; that it has exercised political leadership over its members since 1934; that it has a membership roll; and that it exists as a community by showing at least one of the following: first, distinct social boundaries; second, exercise of communal rights with respect to resources or subsistence activities; third, retention of a native language or other customs; or fourth, that it is state-recognized.

Finally, my bill sets strict time limits for the Commission to act, thus eliminating delay. It requires the new Commission to publish petition in Federal Register within 30 days of receipt. It requires the Commission, within 60 days of receipt, to set a date for a preliminary hearing. It requires the Commission, within 30 days of the preliminary hearing, to decide whether to extend recognition or require a trial-type hearing. And it requires the Commission to hold the trial-type hearing within 180 days of the preliminary hearing and make a decision within 60 days after the hearing.

These are all important measures and I hope that my colleagues will support me in my endeavor to set right much of the injustices that the United States has visited upon the Indian tribes.

NOT A HEARTBREAK HOTEL

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. PETRI. Mr. Speaker, on March 6, the Christian Science Monitor printed a very perceptive and useful article on the Middle East peace process by Ralph Nurnberger, a fair-minded long-time expert in this area. For the benefit of my colleagues, I ask that it be reprinted in the RECORD at this point.

[From the Christian Science Monitor, Thursday, March 6, 1997]

NOT A HEARTBREAK HOTEL

(By Ralph Nurnberger)

The day before he left for his official visit to the United States, Yasser Arafat presided over the groundbreaking ceremony for a Marriott Hotel to be built on the beachfront in Gaza.

This project says, symbolically, that the Middle East peace process might, finally, produce tangible benefits for the people in the area, especially through direct involvement of the private sector. The construction and later operation of this hotel will provide employment for hundreds of Palestinians. It will contain a modern commercial center to enable international visitors and Palestinians to conduct business as it is done elsewhere in the world. The project will include a self-contained telecommunications center for international calls, faxes, and e-mail as well as excess telephone capacity for the local market.

This project will be the first major American private sector involvement in Gaza. The total investment will be approximately six times more than all other American investments in Gaza—combined!

While diplomatic achievements are essential, the real test of the peace process is how it affects the daily lives of Israelis and Palestinians. If substantive and visible improvements do not result, no international agreements can succeed. For the majority of Israelis, the key element is security. Israelis must feel safe riding buses, shopping in malls, and sending their children to schools. If random acts of violence occur, they must be assured that the Palestinian Authority will work with Israeli officials to find and prosecute the terrorists.

PEACE DIVIDENDS: LOWER INCOMES

Although more Israelis have been killed through terror attacks since the Sept. 13, 1993, signing than in any comparable period, it appears that the Palestinians finally understand their responsibility to work with Israelis to enhance security concerns. The test for most Palestinians is whether the peace accords will result in an improved quality of life. Developing a thriving economy that provides new employment opportunities will not only minimize hatreds and tensions, but will also bring about the promise of a new life.

Economic divergence exacerbates political and religious tensions. Since the first Rabin-Arafat signing, Israeli per capita income has increased from $13,800 to over $15,000, while Palestinian incomes have dropped by a third to under $1,200.

Delays and reallocations of internationally pledged contributions, the reluctance of foreign investors to establish projects in Gaza and the West Bank, border closures, the slow pace of diplomatic negotiations, and difficulties encountered in setting up a viable Palestinian economy have contributed to growing frustration. Public infrastructure and services, including education, health care, sanitation, water, waste water disposal, and electricity continue to be inadequate. Despite a minor building boom, a housing shortage remains.

While the Netanyahu government has eased some limits on Palestinians seeking employment in Israel, the numbers able to cross the borders are significantly below the 120,000 able to find daily work in Israel in 1992.

Rather than growing to absorb these workers, the Palestinian economy has declined over the past two years. Thus, workers have fewer opportunities to find employment within Palestinian areas. The unemployment rate in Gaza, always high, is now estimated at approximately 50 percent, with the rate in the West Bank estimated at 30 percent. Unemployment is highest among young, single men—the most likely recruits for terror-oriented groups.

BIG AID PLEDGES, LITTLE FOLLOW-THROUGH

The US hosted an international meeting on Oct. 1, 1993, at which $2.4 billion in assistance to the West Bank and Gaza was pledged. Most of these funds have not been delivered or have been diverted from long-term projects to emergency programs and costs of running the Palestinian Authority.

The United States committed $500 million, of which $75 million annually for five years is managed by the Agency for International Development (AID). The other $125 million was to come from the Overseas Private Investment Corporation (OPIC) to assist American investors through a combination of loans, loan guarantees, and political risk insurance.

AID has assisted a number of worthwhile projects, including $12 million for construction of six housing units with 192 apartments in Gaza called Al Karam Towers. AID is also helping to improve uses of scarce water resources and assisting private sector economic growth through technical assistance, training, loans to local firms, and establishment of industrial parks. But AID funds have been diverted from long-term projects to help in establishing Palestinian self-rule. For example, AID committed $2 million to support local elections in the West Bank and Gaza, and to assist Palestinians in promoting more responsible and accountable governance.

AID has minimized help for the agricultural sector, the one area where Palestinians could immediately develop profitable exports, especially under a new Free Trade Agreement with the US Allocating additional funds to farm exports would be cost efficient.

OPIC made a major effort to seek private sector projects to assist or insure. But most private investors have avoided Gaza, so OPIC funds committed to date have been modest.

Mr. Arafat would be wise to stress the solving of such economic problems as a prime way to reduce tensions, improve the quality of life, and enhance opportunities for peace. He should build on momentum from the hotel project and stress the need for private sector involvement in the Palestinian economy.

WOMEN BUSINESS OWNERS

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. PAYNE. Mr. Speaker, on Friday, March 14, 1997, the New Jersey Association of Women Business owners held A Salute to Women Leaders luncheon.

This chapter's membership has successfully encompassed the entire State of New Jersey. The statewide group of women business owners is 1,000 members strong, making it the largest chapter of the National Association of Women Business Owners in the United States. The New Jersey chapter has become a strong economic and political force at both the State and national levels.

National statistics state that woman-owned businesses are the fastest growing segment of the U.S. economy. Currently, women own more than 6 million businesses, which is one-third of all U.S. companies.

Mr. Speaker, I am sure my colleagues will join me in saluting women leaders as well as the New Jersey Association of Women Business Owners. I want to congratulate the chapter on a successful event and wish the members many more years of growth and prosperity.

OHSA: THE TIME IS NOW

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. HEFLEY. Mr. Speaker, today I am introducing legislation to reform the Occupational Safety and Health Administration [OSHA]. This legislation is exactly the same as H.R. 707, which I introduced during the 104th Congress. H.R. 707 had 19 cosponsors, including 2 full committee chairman and several subcommittee chairman.

Since 1970 OSHA has been tasked with the duty of maintaining safe and healthy workplaces. I intensely support them in this effort and I think you would be hard pressed to find a Member of Congress who didn't. However, OSHA's directive to carry out this task through mandatory standards enforced by surprise inspections and fines need to be rethought. My bill will move OSHA from a heavyhanded enforcement bureaucracy to a compliance based cooperative agency. By relieving OSHA from its "gotcha" mentality, I believe we can create even safer workplaces.

Every Member of Congress has heard about some of the OSHA's ridiculous regulations and tactics from their constituents. It's time to send a message to the agency and to employers that OSHA's sole purpose is ensuring that safety of employees through common sense regulation. What better way to do that than to bring the two sides together. The "us against them" mentality doesn't do anyone any good. My legislation puts both the enforcers and the stakeholders on an even playing field in order to protect our most valuable resource: our work force.

Please join me in this effort by cosponsoring my OSHA Reform Act of 1997.

RENEWAL ALLIANCE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. PACKARD. Mr. Speaker, I rise today to discuss my recent participation in the renewal alliance—a unique bicameral Republican group committed to promoting the work of charities, churches, small businesses, and community organizations in helping to solve some of our Nation's most intractable problems. Our renewal alliance believes that we must focus not just on the failures of Government, but also on the hope of rebuilding strong communities.

In the months ahead, our alliance will promote the many solutions already at work across the Nation, powered by nothing more than a compassionate dedication to lending a hand, spending a few hours a week, or giving charitably to efforts which help improve the lives of those around us. We will highlight legislation to create enterprise zones, tax incentives for charitable giving, educational reform, and removing bureaucratic barriers to problem solving with simple, people-based solutions.

Most importantly, we will ask our colleagues and our community leaders to look not to the Halls of Congress for innovative ideas, but to the streets of our towns, the pews of our churches, and the conversations at dinner tables for the solutions that renew our society by healing souls. Recently, I traveled with fellow Congressman J.C. WATTS and Senators RICK SANTORUM and JOHN ASHCROFT to Wilmington, DE and Philadelphia to hear about various inner-city, faith-based programs by the people who make them work and those that receive their care.

Billions of dollars and millions of broken lives and families later, America seems finally ready to accept that government can never replace the invaluable contributions of faith, family, work, and community. But Government can and should do everything possible to support these institutions and the irreplaceable benefit of their healthy existence.

IN HONOR OF FORMER REPRESENTATIVE AL BALDUS

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. KIND. Mr. Speaker, I rise this morning to recognize a distinguished public servant and former Member of the House of Representatives, Al Baldus.

After 22 years of public service on the State and National level, Al retired this year to his home in Menomonie to spend time with his wife and family.

A Merchant Marine in World War II, Al was also a veteran of the Korean conflict while serving in the Army from 1951 to 1953. From there he worked as a farmer, farm machinery salesman, stockbroker, and insurance broker before being elected to the Wisconsin State Assembly in 1966. He continued in the assembly for 8 years and then was elected to Congress in 1974 to represent the Third District. During his tenure in Congress, Al Baldus was a member of the Agriculture Committee and was chairman of the Livestock, Dairy and Poultry Subcommittee where he shepherded legislation that brought Wisconsin dairy producers 80 percent parity with other producers—the highest Government price support level ever.

While that sounds like a lifetime of service, that was just a beginning for Al Baldus.

In politics, it is not unusual to see ambitious young public servants move up through the ranks from local office to the State legislature to Congress and, when their congressional career ends, so does their career in public service. It is unusual, however, to see someone serve an entire congressional career and feel such a sense of public duty that they return to the State house to start another legislative career.

That is exactly what Al Baldus did. After leaving Congress in 1980, Al worked for 8 years in the private sector, but then decided to return to Madison as a State representative for another 8 years. In all, he served 16 years in the legislature.

Certainly, he could have chosen a less difficult path into retirement and probably could have made more money in the process. However, I think it's clear that what motivates Al is not the trappings of politic power, but the earnest desire to serve.

I am certain that Al's wife, Lolly, would have preferred to see more of him over the years as she and her husband raised their five children, but Lolly recognized Al's heart was also with the people of his community and his State. That shouldn't surprise anyone. Lolly served her community as well and developed a distinguished career herself as an administrator at the University of Wisconsin-Stout.

I thank my friend Al Baldus for a lifetime of positive contributions to Wisconsin and the Nation. And I hope you'll join me in congratulating Al and wishing him the best in his well deserved retirement.

DEMOCRACY—ABOVE AND BEYOND

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. WELDON of Pennsylvania. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct the Voice of Democracy broadcast scriptwriting contest. This year more than 109,000 secondary school students participated in the contest competing for the 54 national scholarships which were distributed among the 54 national winners. The contest theme this year was "Democracy-Above and Beyond."

I am proud to announce that Ms. Natalie Bucciarelli from my congressional district in Pennsylvania won the 1997 Voice of Democracy broadcast scriptwriting contest for Pennsylvania. Natalie, a resident of Broomall, is a senior at the Academy of Notre Dame de Manur in Villanova, PA. I extend to her my best wishes for success as she continues her education in college next year.

Natalie's script is filled with enthusiasm for the spirit and promise that democracy holds for each individual. It is encouraging to see that our young people continue to cherish the gift of democracy. That is essential, because once we take democracy for granted—or begin referring to it as simply a "slogan"—then democracy will truly become endangered.

Mr. Speaker, I would like to share Natalie's award winning script with my colleagues in the Congress.

"DEMOCRACY-ABOVE AND BEYOND"—1996–97 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM

(By Natalie Bucciarelli)

Mikhail Gorbachev, former General Secretary of the Soviet Union, not too long ago proclaimed that democracy is just a slogan—only a slogan. And he believed then that democracy, like other slogans, was empty and hollow and worthless. He, like other communist leaders before him, believed that our American democracy would eventually and inevitably fall; it would succumb to tensions within our country—tensions: white against black, women against men, rich against poor.

But Mikhail Gorbachev misread the real meaning of democracy—the meaning above and beyond. He only looked at the imperfections of democracy—and it is true that democracy, like all political systems, is less than perfect. But Mr. Gorbachev wrongly believed that our democracy would become thin and faded and soon crack and crumble like a rotting wall. But democracy is not a wall. Walls, by their nature, keep people out. As Mikhail Gorbachev learned, such walls do come down.

The spirit of our democracy is not about walls, not about barriers. There are no real walls in a democracy—not real walls. Yes, artificial barriers do from time to time appear—Rosa Parks being forced to the back of a Birmingham bus and store front windows reading "No Irish or Italian need apply". But such events have been only temporary periods—temporary obstacles to the real positive force and direction of our democracy. Our system of government has, above and beyond all others, served to include all people without regard to race, creed, gender, or ethnic background. Democracy has no equal in promoting the free exchange of ideas and in safeguarding the civil liberties of minorities. Democracy is, above and beyond all else, about "all men (and women) are created equal" and about those inalienable rights granted to each of us by our creator.

This is the spirit—this is the promise and the hope of democracy. Democracy promises to provide hope and opportunity. Democracy does not exclude, it includes. Democracy does not seek to destroy, it seeks to build. Our system of government tolerates and respects the free exchange of ideas. You can dare to dream in a democracy and if you believe in your dreams and work hard to achieve them you will probably succeed.

Democracy is not me against you and you against me but each of us in support of the other. There is room for everybody. No walls—Christian against Jew, black against white, young against old, female against male. Democracy is about the promise it holds for everybody—all of us—each one—together working and learning and building and helping each other. This is the fundamental hope of democracy—perhaps the only true flicker of hope in a world too full of brutal despotism and senseless terrorism and violence.

No, democracy is not just a slogan. Mikhail Gorbachev may have been sincere when he said it, but he was dead wrong. You know that brave men and women have fought and died for the spirit and the hope and the promise of democracy. They did not sacrifice for some hollow, empty slogan. They sacrificed for you and for me—people like us—and all the generations that will come after us. For we are the spirit and the hope and the promise of democracy. Within our democratic spirit can be found the true meaning to their sacrifices. And so we owe them something—something above and beyond a debt of gratitude. We owe it to them to keep the promise and the flame of democracy alive. And so, in the end, where democracy is concerned, let us remember not the words of Mikhail Gorbachev, but rather the words of Abraham Lincoln: that government of the people, by the people, and for the people shall not perish from the earth.

MRS. FLAHERTY GOES TO WASHINGTON

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. HYDE. Mr. Speaker, I would like to bring to the House's attention a stirring anecdote about the triumph of the little gal, and of Congress' ability to improve substantially the lives of constituents. This story should be characterized as "Mrs. Flaherty goes to Washington." Mrs. Flaherty discovered a flaw in the law governing VA employees' ability to earn money at a second job, and with the help of Representative JIM SENSENBRENNER, this little lady made a difference.

CIVICS 101: MAKING A DIFFERENCE

(By Mary Flaherty, RN)

During last year's presidential campaign, much of the debate focused on the role the federal government should play in the lives of the average citizen. Many believe there is nothing we can do individually to change things. I confess I once shared that view, but something happened to me that disabused me of that notion. Indeed, it has convinced me that one truly can make a difference.

Several years ago, as a senior professional nurse at the VA Hospital in Milwaukee County, I sought permission from my superiors to work after hours in a private nursing facility. My family's economic situation dictated the need for such a "moonlighting" job. However, my VA bosses denied my request, noting that type of work was prohibited by law. Incredibly, I learned this same statute allowed professional nurses to "moonlight," but not in their chosen profession. Yet, in a remarkable demonstration of inconsistency, other VA personnel—pharmacists, speech pathologists and licensed practical nurses—enjoyed exemptions from this restriction.

Initially, after my request was rejected, I felt frustrated and embittered. But then I began to contemplate what courses of action could be taken to amend this obviously unfair and discriminatory law.

Among other things, I sought the advice of an old Washington friend, wise in the ways of Congress. Surprisingly, I got a positive reaction. I was told the merits of my case were unassailable. What you must do, he said, is make Congress aware of the law's inequitable and unreasonable restrictions. Reminded of former House Speaker Tip O'Neill's famous adage that "all politics are local," I was urged to contact the Congressmen representing districts in the metropolitan Milwaukee area.

With that advice, I attended a town meeting hosted by Representative James Sensenbrenner and, at the appropriate time, I seized the microphone and the moment. The Congressman listened sympathetically as I explained my problem. He then asked me to furnish him with additional details, and promised to do whatever he could to help me upon his return to the nation's capital.

Not long thereafter, Congressman Sensenbrenner was able to persuade his colleagues in the House of Representatives to adopt legislation that would permit me and all other VA nurses to engage in "after hours nursing." Many months later, the Senate approved the same measure, and with the President's signature, it became law.

This very personal triumph exemplifies what one person can do, even when the odds for success appear insurmountable. The lesson here is: Don't get mad or give up, but instead get involved in the political process and pursue your objective with bull-doggish tenacity. My own experience graphically illustrates that the so-called little guy or gal can make a big difference when properly motivated.

In short, the next time you feel moved to change the world, give it a go. You may be astounded at what you accomplish.

THE IMPORTANCE OF MUSIC EDUCATION

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. CLEMENT. Mr. Speaker, I rise today to bring attention to the Members of the House the significant findings of a study that was published in the February 1997 issue of Neurological Research. The study explored the link between music education and intelligence in children. The results of the study demonstrated that music training—specifically piano/keyboard instruction—is far superior to computer instruction in enhancing children's abstract reasoning skills necessary for learning math and science.

The experiment, a follow-up to the groundbreaking studies indicating how music can improve spatial-reasoning ability, set out to compare the effects of musical and non-musical training on intellectual development.

The experiment included three groups of preschoolers: one group received private piano/keyboard lessons; a second group received private computer lessons; and a third group received no training. Those children who received piano/keyboard training performed 34 percent higher on tests measuring spatial-temporal ability than the others. These findings indicate that music uniquely enhances higher brain functions required for mathematics, science and engineering.

What does this mean to Members of the House? It means that in this year's sweeping deliberations on education reform and appropriations bills, we should maintain music as a core academic subject and recognize, wherever possible, its dramatic and positive impact on cognitive development. The importance of school-based music training as a basic tool for maximizing our children's educational aptitude and opportunities cannot be overemphasized. It was widely accepted that music education provided our youth with cultural benefits, but it has now been scientifically documented that sequential music training also provides significant benefits and advantages in the skill areas of mathematics and science.

I urge my colleagues on the authorizing and appropriations committees to give the results of this study serious thought in your deliberations as Congress determines the scope, character, and priorities of Federal support of our education system.

TWELVE OUTSTANDING WOMEN

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Ms. GRANGER. It is with great pleasure, and even greater pride that I rise today to honor 12 outstanding women from the 12th District of Texas. On March 26, a dozen Fort Worth women will be recognized by the Fort Worth Commission on the Status of Women with the 1997 Outstanding Women awards. These awards are given annually to women who have strengthened the Fort Worth community through their local involvement and leadership.

As a lifelong resident, former major and now Congresswoman from Fort Worth, I have witnessed first hand the breadth of their activities and the inspiration of their example.

The backgrounds and activities of these women are varied and well representative of our community.

Rachel DeRusse Newman, recipient of the Commissioners' Award for Advocacy for Children, has worked hard to become a corporate officer. Her career path has been difficult but her commitment and persistence have been unmatched. Knowing her path would have been easier with a college degree, Rachel Newman is working to ensure that Forth Worth's children get the best education possible. While serving as a Forth Worth Independent School Board trustee, she has worked to restructure the bilingual program, broaden a multicultural curriculum, and establish a Hispanic Scholarship Campaign Drive.

Elaine Yoko Yamagata, recipient of the Commissioner's Award in the Arts, has been a strong leader for the arts in our community. She was responsible for bringing 80 Nagaoka citizens to participate in Sun & Star 1996, as well as coordinating meetings in Fort Worth for the Japanese American National Museum, located in Los Angeles. Yamagata is also active in Fort Worth Sister Cities International, the Van Cliburn Foundation, Forth Worth Symphony, and Fort Worth Opera and was a great help to me during my time as mayor.

Opal Roland Lee will receive the Commissioner's Pioneer Award. While working as a home-school counselor, Opal has made time to charter many organizations and still volunteer with the Historical Society, Genealogical Society, Evans Avenue Business Association, Metroplex Food Bank, Habitat for Humanity, and Citizens Concerned with Human Dignity. For years, she organized Dr. Martin Luther King, Jr. day events and continues participating on the Juneteenth Committee. Opal is also very active in her church and devoted to her family.

Betty Randels, recipient of the Commissioners' Pioneer Award, first demonstrated her pioneering spirit in the late sixties when she fought to change the local jail system which housed juvenile offenders in the same cells with hardened criminals. In 1976, Betty chaired Tarrant County Child Care '76. More recently, she has helped charter the Tarrant County Child Welfare Board and been very active in numerous volunteer organizations, including the Fort Worth Girls Club.

Dr. Jennifer Giddings-Brooks, principal of the Edward J. Brisco Elementary School and education advocate, will be recognized as cowinner of the education award. She uses her personal motto, "All Children Can Learn," to inspire excellence in teaching, creative problem solving, and social intervention. Dr. Brooks served as a Fort Worth delegate to the President's Summit on America's Future and participated in the Carnegie Foundation Task force on Learning.

Dr. Delores Simpson will be the other recipient of the education award. Dr. Simpson who maintains that you can do whatever you set your mind to, has been honored by Texas Christian University as Outstanding Educator from the School of Education. She is an inspiration to her students, her grown children, and the numerous organizations in which she volunteers, such as the Presbyterian Night Shelter Board, Metropolitan YMCA of Fort Worth Board, and the FWISD Stay in School Task Force.

As Director of the legal department for the Tarrant County Domestic Relations Office, Pamela Dunlop-Gates has argued on behalf of hundreds of children and is well deserving of the law award. She is very active among community organizations such as the Metroplex Black Chamber of Commerce and the United Negro College Fund. She is also cofounded the Tarrant County Black Women Lawyers Association's Uncontested Divorce Clinic. She has been a strong voice for our community.

Una Bailey and Rosemary Hayes will be recognized in the volunteer category. Ms. Bailey is active in the Parent-Teacher Association, Fort Worth Independent School District, Tarrant Area Food Bank, and numerous other organizations. Ms. Hayes volunteered more than 500 hours at St. Joseph Hospital, was treasurer of Patrons for the East Regional Library and is active in numerous other civic organizations. Both Una and Rosemary contribute daily to the quality of life in Fort Worth.

The award winners for outstanding women in the workplace are Donna R. Parker and Carrie Jean Tunson. Donna is executive vice president of urban development for the Fort Worth Chamber of Commerce where she manages aviation, transportation, environmental, and quality work force development. Donna has been very important to the economic development of Fort Worth. She is active in Citizens Crime Commission of Tarrant County, United Way, Metropolitan Fort Worth, United Negro College Fund, and many other groups. Ms. Tunson, dean of continuing education and economics at Tarrant County Junior College [TCJC] Southeast Campus, has worked to achieve a spirit of cooperation between TCJC and minority citizens. Ms. Tunson's community service includes Senior Citizens Services of Greater Tarrant County, Arlington Black Chamber of Commerce, Asian American Organization, and other organizations.

Norma Jean Ramsey Johnson, associated with Tarrant County's Nutrition Program for more than 25 years, has improved the lives of more than 8,000 families and is a long-time volunteer. Ms. Johnson teaches nutrition, food safety, healthful preparation, and management skills. She is the health care award winner.

Mr. Speaker, in 1857, C. Nestell Bovee said, "Next to God, we are indebted to women, first for life itself, and then for making it worth having." These 12 women have certainly contributed to making life in Forth Worth worth having.

I commend to the American people the examples of these outstanding women. They have made their friends, their family, and their Nation very proud.

HONORING RABBI ADAM D. FISHER

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. FORBES. Mr. Speaker, I rise today to pay tribute to Rabbi Adam D. Fisher, a devoted man of God and community who is celebrating his 25th year of service to the Temple Isaiah in Stony Brook, Long Island, NY.

The entire Three Village community, indeed all of Long Island, has been enriched by Rabbi Fisher's lifelong service to the spiritual growth and human needs of his fellow man. A widely renowned theologian, an accomplished poet and writer, and a tireless community activist, Rabbi Adam Fisher has earned the love and respect of all who know him and his good work.

The 375 families who comprise Temple Isaiah's reform congregation are indeed blessed to have Adam Fisher as their rabbi. During his tenure, the congregation has tripled in size, and the Temple has added a school of religion, a sanctuary, and a social hall. With Rabbi Fisher's leadership, and the faith and good work of his congregation, Temple Isaiah has grown to become the spiritual heart of the Three Village community.

Among the many good men and women of God, few enjoy Rabbi Fisher's renown as a Biblical scholar. His stellar reputation as a servant of God and man is demonstrated by the multitude of local, regional, and national organizations that he devotes himself to. The Union of American Hebrew Congregations, the Central Conference of American Rabbis, the Suffolk Board of Rabbis, and the Three Village Interfaith Association.

So devoted is Rabbi Fisher to spreading God's word, he has worked to develop his skills as a writer and poet, authoring two books of liturgy and publishing numerous short stories and articles in a variety of Jewish and literary journals. His Biblically-based children's stories, which he often weaves into his family services, inspire the youngest among us to seek the Lord's way in their life. Rabbi Fisher's heartrendering, sensitive and insightful poems have been collected in two books: "Rooms, Airy Rooms" and "Dancing Alone." His work has also been published in the Manhattan Poetry Review, Long Island Quarterly. In 1990, Rabbi Fisher garnered the Jeanne Voege Poetry Prize at the Westhampton Writers Festival.

As someone who is truly blessed to call Rabbi Adam Fisher a personal friend, I ask my colleagues in the U.S. House of Representatives to join me in honoring Rabbi Adam D. Fisher for his 25 years of devoted service to God and the Temple Isaiah. Congratulations, Rabbi Fisher. Mazel tov.

THE CHEYENNE-ARAPAHO INCIDENT

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. CAMPBELL. Mr. Speaker, this past week, I was saddened and angry to read of the White House's and Democratic National Committee's further crass attempts to sell Presidential access and perks for political gain. In this case, the administration reached new lows: pressuring political contributions from native American tribes. Specifically, it has been revealed that the Cheyenne-Arapaho Tribes of Oklahoma gave $107,000 to the Democratic National Committee in the expectation of receiving favorable treatment by the White House in a land transaction.

No one needs to be reminded of the sad and tragic history of U.S.-native American relations. The history of the Cheyenne-Arapaho Tribes is an especially tragic one, which makes the latest revelation seem all the more insensitive.

The Cheyenne people are originally from the Great Lakes area, while the Arapaho originate in present day Minnesota. By the mid-1800's, a portion of the two tribes had migrated to southern Colorado. It was there in 1864, at a place called Sand Creek, that the First Colorado Cavalry under the command of Col. John M. Chivington, slaughtered about 150 peaceful Indians, killing men, women, and children indiscriminately. Today, the massacre at Sand Creek stands as one of the most shameful acts perpetrated by the U.S. Government against its own indigenous peoples.

It's also shameful that today, tribes feel that the only way they can be heard in Washington, DC is to buy access. In addition to the $107,000 contribution, the Cheyenne and Arapaho Tribes were also allegedly told by Vice President GORE's fundraiser, Nathan Landow, that they needed to hire him to lobby their cause successfully. It's an outrage that the White House political operation thinks nothing of focusing their money-raising apparatus upon one of the most historically vulnerable minorities in our society. One hundred thousand dollars may not seem like a lot of money to big-time contributors, but for tribal leaders who are trying to seek economic and cultural self-determination, the sum could always be better spent on economic development and job training to fight unemployment which hovers around 50 percent on many Indian reservations. On the Cheyenne-Arapaho reservation, unemployment stands at 62 percent.

I don't blame the tribes for their actions. I blame the White House and Democratic National Committee for fostering a culture of greed. The Indian wars may be over, but the looting continues.

JEROME GROSSMAN ON WHO BENEFITED FROM THE MINIMUM WAGE BILL

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. FRANK of Massachusetts. Mr. Speaker, while I was pleased to vote for the minimum wage increase, I regretted that in effect this minimal act of social justice had to be purchased by tax reductions, some of which were unjustified from the standpoint of the maximum efficiency of the tax code. In the accompanying article, Jerome Grossman, a prime example of a businessman who has been both successful in private enterprise while being an active crusader for social justice, notes that the corporate sector benefited significantly more than the working poor from this legislation. I think the central point is relevant whether one supported the legislation or not because it is an example of how efforts to aid poor people are often exaggerated in their impact, while far more valuable benefits conferred on wealthier members of our society are often ignored. Mr. Grossman's article from the Wellesley Townsman is very relevant in this regard.

[From the Wellesley Townsman, Jan. 23, 1997]

WHO WILL REALLY PAY FOR MINIMUM WAGE INCREASE?

(By Jerome Grossman)

Democrats claimed their biggest victory of 1996 with the passage of a 90-cents-an-hour increase in the minimum wage. President Clinton cited this accomplishment in virtually every speech he made during his campaign for reelection. So did almost every other Democrat running for federal office seeking to prove that even though the Democratic party is in the minority, it can force through legislation.

The raise, which affected about 10 million workers, was the first increase in five years. It attained a unique moral status. Sen. Edward M. Kennedy wrote, "Because of those increases, we can be thankful today that the wolf is now farther from the door for millions of deserving American families . . . to do."

Initially, there had been fierce Republican opposition to the measure. House Majority leader Dick Armey of Texas had called the raise "a folly" and said he would "fight the minimum wage increase with every fibre of my being." Representative Bill Goodling, R-Pa., chairman of the Economic and Educational Opportunities Committee, said, "For two years, this minority (the Democrats) was in the majority and they had the White House and not one word was ever mentioned about the minimum wage." In fact, while the Clinton administration eventually backed the increase, it was virtually ignored from the time Clinton first moved into the White House in 1993 until the election year loomed in late 1995.

The AFL–CIO claims that their incessant advertising scared Republican members of Congress in working-class districts and indeed a large group of Republicans broke with the party leadership in the House on the issue. Majority Leader Robert Dole fought the measure vigorously until we left the Senate, but, surprisingly, his successor, Trent Lott of Mississippi, lifted the GOP siege and let the increase pass. Kennedy gives Lott full credit.

The key to passage was the transformation of the bill from being primarily a workers' bill to primarily a business tax-break bill. As Goodling said, "We knew that just raising the minimum wage would be devastating unless you did the other things in this package, the tax changes."

Most of the tax breaks, which were originally designed to help small business, had bipartisan support. I suppose it could be argued that small business needed special help. Moralists could just as compellingly point out that all businesses have a responsibility to pay their workers a living wage, for the health of the workers and for their greater efficiency.

But in the deep recesses of congressional committees, without public attention, tax cuts were added that will benefit some of the largest companies in the United States, including Hewlett-Packard Co., Johnson & Johnson, Microsoft Corp., and Domino's Pizza Inc.

As usual, the numbers clearly show who are the primary beneficiaries of the minimum wage bill. Ten million workers will gain 90 cents per hour; total increased wages for five years equals $6.8 billion. The tax breaks for employers in this bill will total $10.1 billion over five years. That makes a net profit to business of $3.3 billion. As recently as Dec. 1 the New York Times described the minimum wage as a Republican "surrender." A rather profitable "surrender"; the business lobbyists crying all the way to the bank.

Business cannot even take the high road and say to their workers, "We gave you a raise, we are paying you more, we did the right thing." Only we taxpayers can say that—because it is our money.

IN HONOR OF A GREAT MAN OF THE BENCH: FRED BORCHARD

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to a man of great distinction from Saginaw, MI—the Honorable Fred J. Borchard, who is celebrating 50 years in the judicial profession. Saginaw is extremely lucky to have a man like Fred Borchard serve on its bench. He has a great judicial mind, believes in the values of hard work and education, runs a disciplined and efficient courtroom, and tempers his decisions with compassion and common sense.

Fred Borchard grew up in Saginaw and put himself through the University of Michigan Law School by working at boiler and iron metal companies. Upon graduation, his law practice was put on hold almost immediately by World War II. Fred signed up with the U.S. Naval Reserve as an ensign, and then became a forward observer, where he went ashore in search of enemy gun fire and then signaled naval guns for fire power. He participated in landings at Leyte and Luzon, and then Okinawa where he was wounded by sniper fire. Fred received the Purple Heart Medal for his courage and commitment to this country.

Upon returning to Saginaw 3 years later, Fred won the seat of municipal judge, which he held for 7 years until he ran and won the position of probate judge. In 1958, 4 years later, then Gov. G. Mennen Williams appointed Fred to the Saginaw Circuit Bench, making Fred one of few to serve in all three judicial posts.

Fred's long and auspicious career ended on January 1, 1989, at which time he was the oldest judge in the State of Michigan, a distinction he still holds since he continues serving on assignment. Fred also has the honor of being considered the Lou Gehrig of the bench, as he has the longest term of service.

In addition to his professional involvement with the Saginaw County and Michigan Bar Associations, and the Michigan Judges Association, where he served as president, Fred makes it a priority to be involved in civic organizations. He served as president of the University of Michigan Club, and belonged to the Kiwanis Club of Saginaw and the Arthur Hill Letterman's Club. He has served on the board of directors of St. Luke's Hospital and on the board of directors for the Saginaw County Chamber of Commerce and the Alcohol Information Center. He also involves himself with Big Brothers of America, the Lutheran Children's Friend Society, and numerous veterans organizations.

Fred Borchard is a credit to the legal profession and to the community. I am extremely proud to know him and to say that we have both represented the people in Saginaw.

ACHIEVEMENT AGAINST THE ODDS AWARD RECIPIENTS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. GINGRICH. Mr. Speaker, I recently had the opportunity to host in my office eight true American heroes. They are the recipients of the Achievement Against the Odds Award and were recognized at a dinner in their honor this March 10. The awards program, developed by Robert Woodson's National Center for Neighborhood Enterprise, seeks to identify everyday citizens who have overcome significant personal, physical, and or/economic challenges to improve their lives and the communities in which they reside. Among this year's winners are a former youth gang leader now dedicated to stopping violence and a man and wife who have overcome long-time substance addiction and gone on to revitalize their crime-ridden neighborhood.

It is vitally important that we recognize the everyday heroes all around us and shine the light on them for all to see. What a benefit to all of society to see how individuals can truly transform their own lives and that of their communities.

I enter into the CONGRESSIONAL RECORD the inspiring life stories of these courageous individuals.

ACHIEVEMENT AGAINST THE ODDS RECIPIENTS

(Perry Brawley, Chicago, IL)

At the age of six, living in the notorious Cabrini Green public housing project of Chicago, Perry Brawley had been accustomed to an environment permeated with violence, drug trafficking and gang shoot-outs. But he had been excited about the prospects of joining the Jesse White Tumblers, an athletic performing group founded by a committed legislator to help at-risk youths resist the lures of gangs and drugs. Hope of one day becoming a Tumbler helped Perry to resist the temptations that surrounded him. He followed that dream and was one of the many young children in Cabrini who spent their days practicing flips and jumps off discarded mattresses that littered the project's yard.

Perry's dream come true and Perry became a tumbler, channeling his youthful energy into constructive activity. 34 and a responsible husband, father, and community leader, he traces his success to his membership in the Tumblers, his coach and relatives who provided consistent examples and firm guidelines.

Today, Perry recounts that saying "no" to gang membership was not a simple decision but a continual process that demanded personal strength and external support. He explains, "The gangs attack a community or a kid like a cancer attacks a physical body, at any point of weakness. You have to be 100% strong in your commitment to stay out of the gang. If you waver or have a moment of weakness, they'll swallow you up."

The father of a ten-year-old son, Perry continues to live and work in the Cabrini neighborhood, reaching out of youth in the community and providing the opportunities, counseling, and mentorship they need if they are to make responsible life choices. Perry's service includes countless volunteer hours in the church, school and the Tumblers which has proved itself to be a life-salvaging oasis in the housing development. Perry now serves as the assistant coach and his son, Dejon, is also a Tumbler.

The young athletes have performed during half-time for numerous NBA and CBA games and recently appeared in the presidential inaugural parade. Yet, in spite of the celebrity the group has achieved. Perry continually reminds his young proteges that "Tumbling is a phase, but education is the key to your future." All of the youths are required to present their report cards to the coaches, and all Tumblers are required to maintain passing grades, and to stay out of gangs and away from drugs and alcohol. Perry explains, "For many of these kids, this is the first incentive they have ever had to follow the rules and to accomplish goals. Before the Tumblers, many of the kids felt that they had nothing to lose so they would try anything. But now there was something they wanted. They wanted to travel and be with their friends, to feel that they are valuable. The Tumblers fill a desire to belong and to have a 'family.' And the kids are willing to toe the line to have that."

LUCY ESQUIBEL, LOS ANGELES, CA

Lucy Esquibel grew up in the William Mead public housing development and was influenced by the drug trafficking, gang activity and crime she saw everyday. As a teenager she became heavily involved with a gang and rose quickly as a leader.

But as Lucy grew older, she came to understand that gang activity would ultimately be a destructive force in her life. Eventually, she became the mother of eight children and, more than ever, she felt a sense of responsibility and a desire to provide her children a stable, secure environment and prospects for the future. Rather than planning an escape from the housing development, Lucy committed herself to transforming William Mead to the kind of environment she wanted for her children and her neighbor's children.

For more than twenty years, Lucy's leadership skills, which were once used to promulgate gang activity, have been used to stimulate revitalization and development in her community. From personal experience, Lucy knows that it is not enough to tell young people to say no to gangs and drugs, and that it is necessary to show them that opportunity and positive alternatives exist for them and their families.

Lucy has worked through William Mead's Resident Advisory Council to establish links with outside resources to provide services ranging from job training and placement, to youth activities, to medical care. Largely due to her efforts, the Boys & Girls Club and 4-H club now have offices in the neighborhood, and a computer lab offers its youth new realms of knowledge and information.

Through a parent-support initiative, Lucy also provides counsel and advice to single moms who are facing the challenges of raising young children and teenagers. Living within the community she serves, Lucy has firsthand experience of the challenges that its residents face, but she is also firmly convinced that resources exists so that everyone who has the vision and desire to succeed can pursue their dreams. Constantly seeking new avenues of opportunity, Lucy has developed plans for several community businesses, including a laundromat, a food co-op, and baby sitting that residents entering the workforce will need. A humble achiever, Lucy, explains, "I think everyone deserves a chance.

I am what I am because someone gave me a chance and I want to offer that opportunity to others."

PETE JACKSON

Pete is the Deputy Warden of Programs for the D.C. Department of Corrections. His duties include supervising case managers, religious programs, recreation, academic and vocational training. He began his career at the D.C. Dept. of Corrections in 1988 as a Correctional Treatment Specialist. He also acted in various positions thus demonstrating exemplary ideas.

Pete's first introduction to the criminal justice system was as an inmate in the Lorton Youth Facility charged with Armed Robbery. Pete attained a barbery license while there. He was well known and liked by his peers and clientele.

Upon release, he attended Clinton Jr. College and Federal City College where he attained his Bachelors degree in sociology, minoring in psychology.

Pete has always been a community worker and humanitarian. Pete is the President and a founder for The Alliance of Concerned Men an organization that has obtained nation wide attention with community based program, this program has been featured in The Washington Post, The Washington Times, The Washington Afro and Fox News. The Alliance Concerned Men were also the official representative for the District of Columbia at the Gang Conference in Kansas City, April 24, 1993.

Pete has implemented and maintained great programs such as the Beliefs, Value, Image and Fear (BVIF) Programs, which teaches youth health attitudes and socially accepted value systems, this programs works with hundreds of kids within the DC community, shelter and group homes. Another program is the Lorton Abridging Program, which teaches incarcerated fathers that their parental responsibility is not relinquished because they are imprisoned they are taught to stay in contact, be a father and part of their community in a positive light.

A new program which is being implemented is the "Prison Adopt-A-Block Program" in the District of Columbia, AMC's goal is to adopt high crime blocks throughout Washington, D.C., by "matching" a high crime neighborhood with respected elements of the inmate population who have earned the recognition of the prison population, received the allegiance from the residents in the community and of those criminals controlling high crime areas and who are able to call a "truce".

OMAR JAHWAR, DALLAS, TEXAS

Through the consistent example and committed outreach of Omar Jahwar, hundreds of young men have turned away from lives of violence, crime, and substance abuse and are now living productive lives with prospects for successful and fulfilling futures. Omar's outreach, entitled "Our Vision/Regeneration, Inc." combines spiritual awareness, internal transformation, and practical opportunities and includes the following projects:

Operation Hope, which provides food, fills immediate critical needs, and functions as a resource network for low-income residents of South Dallas.

The Bond Program, for youths aged 6–12, which links young people to mentors who expand their horizons and their sense of self through various cultural and educational activities, and,

"Regeneration" a 12-week gang-intervention program for youths aged 13 to 17, in which OGs (Old Gangsters) who have won respect and trust of the younger members serve as counselors.

Perhaps the most powerful portrait of Omar and the impact of his dedicated outreach is given in a firsthand account by one youth whose life he transformed, Eric Reavis, who nominated him for a 1997 Achievement Against the Odds Award. In Eric's words:

"Omar had always been a leader, but before he changed, that leadership was charged with hatred—hatred for other gangs or another race. After he met a mentor who helped him turn his life around, Mar's leadership skills and intelligence were used towards positive goals, helping other youths to make the change. Omar is incredibly powerful in reaching young people—because he is young himself (only 23), because he has personal charisma, and because he has remarkable strength of spirit. He is honest and sincerely committed and we recognize that right away.

"Omar helped us to understand how we could go beyond boundaries of racial hatred, and he always urged us to 'surpass our normal abilities' and to 'refuse to be mediocre.' He introduced us to all sorts of reading and philosophies and taught us that we could learn from everyone.

"Omar was continually there, believing in me, recognizing the skills and talents I had, and he never gave up, even when I slid back to old ways. Because of his commitment, I was able to undergo my own transformation."

JAMIE KELLY, TAMPA, FLORIDA

The daughter of a drug-addicted mother, Jamie grew up in a environment plagued with violence and substance abuse. At the age of 14, she left home for life in the streets where she too fell into a lifestyle of drug addiction and the crime that was necessary to feed that addiction. While in her teens, Jamie became the mother of two children and when she became pregnant with a third while addicted to cocaine, the state authorities intervened and put her older children in the custody of relatives. A family member adopted the new baby. Believing she had nothing to lose, Jamie fell further into a devastating downward spiral and was sent to prison for dealing in stolen merchandise. While she was incarcerated, Jamie underwent a transformation of heart and determined that her children would have a better future. Upon her release, Jamie enrolled in a technical school and graduated with a 4.0 average. She quickly found employment and, pregnant with her fourth child, doubled her efforts to provide a decent life for her family.

In 1995, Jamie met and married Lee Earl Kelly, Jr., and took a new job with the Corporation to Develop Communities (CDC) of Tampa, a nonprofit organization dedicated to bettering the lives of East Tampa residents. She also began 500 hours of sweat equity service with Habitat for Humanity, helping with construction on various homes every Saturday for a year as a "down payment" on a new four-bedroom home for her family.

Jamie is now enrolled as half-time student at a local community college and works full-time at the CDC as a Data Specialist in the organization's Job & Education Placement Center. Many of the individuals served through this center have been referred by the local drug rehab facility, the Department of Corrections and public housing, and with a firsthand knowledge of the challenges they face, Jamie has been exceptionally successful in inspiring them to pursue the path to self sufficiency and employment.

FLORENCE PONZIANO, AUSTIN, TX

When Florence Ponziano first moved to the Montopolis area three years ago, she decided to help beautify the community and began single-handedly cleaning the local graveyard. Her loving personality began attracting children who would help her and come visit her house after school and on weekends, where they would read together, she would cook them meals, and give them guidance. One day she and the children decided to name her home the Comfort House, as it served as a safe "home away from home." Many of the children who frequent the Comfort House come from crack houses, families with a parent who is not involved or at home due to drugs or alcohol abuse, single parent families where a parent has to work numerous jobs to make ends meet, and families where a parent has AIDS and is physically unable to handle constant care of the children. Florence cooks for the children after school and on weekends—a time when many of them would otherwise not eat. She washes their clothes so they are not traumatized by going to school dirty, reads with them, helps them with their homework, and serves as a positive role model. She uses a large portion of the $430 a month she receives on food and laundry detergent for the children's needs. Due to her financial situation, Florence does not have a washer and dryer in her home and does not own a car, so she puts all their clothes in the back of a little red wagon and off they go to the laundromat.

One thing about Florence's work with the children which especially touched me, besides her unconditional love for them, is her goal to teach them to give back to the community and instill in them a sense of responsibility for bettering themselves and improving the lives of others in the community. She and the children help paint houses, clean yards, and even cook for the elderly and disabled in the area, all free of charge. Many times she takes them on an outing to pick up trash on the neighborhood lots. This spreads her volunteerism and impacts and improves the entire Montopolis community.

Florence also allows children to stay at her home anytime they need to. She often watches children for teen mothers who are attending school or work and will not ask them for or accept money from them. Florence's goal is to give the children, youth and teen mothers a chance at a better life. She emphasizes the importance of education, telling the children "reading and school are a joy." She also dedicates her time and works with students at Allison Elementary School.

In the three short years she has lived in the community, Florence through her determination and dedication has developed a network of businesses who often donate items to help her. She touches the lives of those she meets so much, they are inspired to act. They can visibly see how she is making a positive difference in the lives of the children, youth, elderly, and the community in general. Within the last year, many private individuals and businesses have donated playground equipment, toys, food and money to help her with the Comfort House.

In addition to businesses and individuals, Florence also works with the city and county officials to help elderly and disabled community members get necessary repairs to their homes completed. She even works with them to get the paint donated which she and the children use to paint their homes.

SENATE—*Friday, March 21, 1997*

The Senate met at 11:59 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord of creation, You have written Your signature in the bursting beauty of this magnificent spring morning in our Nation's Capital. The breathtaking splendor of the cherry blossoms are about to blanket the city with fairyland wonder. The daffodils and crocuses have opened to express Your glory. Now Lord, tune our hearts to join with all of nature in singing Your praise.

We thank You for the rebirth of hope that comes with this season of renewal and resurrection. You remind us, "Behold I make all things new." As the seeds and bulbs have germinated in the earth, so You have prepared us to burst forth in newness of life. We forget the former things and claim Your new beginnings for us. Help us to accept Your forgiveness and become giving and forgiving people. Clean out the hurting memories of our hearts so that we may be open channels for Your vibrant, creative spirit as we tackle problems and grasp the possibilities of this day.

Lord, we want to live this day in the flow of Your grace. We put You and truth first, our Nation and its future second, and our party third. Help us not to reverse the order. For the sake of the future of our beloved Nation and by Your power, through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

Mr. LOTT. I thank the Chair.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I ask unanimous consent that the routine requests through the morning hour be granted.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period of morning business.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

H.R. 1122. An act to amend title 18, United States Code, to ban partial-birth abortions.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KYL:

S. 512. A bill to amend chapter 47 of title 18, United States Code, relating to identity fraud, and for other purposes; to the Committee on the Judiciary.

By Mr. MACK (for himself, Mr. D'AMATO, Mr. BOND, and Mr. BENNETT):

S. 513. A bill to reform the multifamily rental assisted housing programs of the Federal Government, maintain the affordability and availability of low-income housing, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL:

S. 512. A bill to amend chapter 47 of title 18, United States Code, relating to identity fraud, and for other purposes.

THE IDENTITY THEFT AND ASSUMPTION DETERRENCE ACT OF 1997

Mr. KYL. Mr. President, with increasing frequency, criminals are using the Social Security numbers and other personal information of law-abiding citizens to assume their identity and take their money. Identity fraud can be more serious than a criminal picking someone's pocket and lifting cash or a credit card. Identity theft involves criminals—who may have ties with international criminal syndicates—obtaining enough information on another person that they can open up new credit card accounts in the law-abiding person's name. Some call identity theft high-technology bank robbery. But law-enforcement officials say committing identity fraud is easier than robbing a bank.

Identity fraud is one of the fastest growing financial crimes. An alarming 2,000 cases occur each week. Credit-card fraud losses—the major financial loss in personal-identity thefts—may amount to as much as $2 billion a year.

The statistics don't reveal the hardship these crimes can cause. Imagine the anxiety of knowing that a criminal has been able to gain hold of your most personal identification information to open credit cards or apply for loans in your name. Even when fraudulent charges are cleared from a victim's financial records, he or she cannot be sure that the perpetrator of the crime won't strike again. Moreover, thousands can be spent to repair a tarnished credit rating. As the victim attempts to untangle the mess caused by an identity thief, phone service may be disconnected or a victim may face difficulty in securing a mortgage.

I would like to discuss the case of a constituent, Bob Hartle, who has spent many hours working with my staff on the identity-theft proposal. Mr. Hartle served as the inspiration for an Arizona State law which, like the bill I am introducing, makes it a felony to steal another person's identity. I thank Mr. Hartle for all of his help.

Bob Hartle's experience with an identity thief illustrates the seriousness of these crimes. The man who victimized Mr. Hartle was sentenced to 17 months in Federal prison for using false names—not Mr. Hartle's; the criminal had misappropriated other law-abiding citizens' names—in order to buy a gun and open up a credit card account. The criminal possessed enough information to have a driver's license and credit cards issued in Mr. Hartle's name. With these credit cards, the criminal made purchases under Mr. Hartle's name that exceeded $100,000. While trashing Mr. Hartle's credit, and carrying a license as Mr. Hartle in his wallet, the identity thief was busy committing serious crimes. Mr. Hartle has spent over $10,000 trying to clear his good name and credit. He did not receive a restitution payment. The assistant U.S. attorney who prosecuted the case was quoted in a 1995 news story as saying that, "Hartle may never get his full share from the courts. * * * All we can do is prosecute this under the powers given to us by law."

Restitution was not available to him because, although many of the actions attendant upon identity theft do violate Federal law—that is, credit card fraud, using false names—the actual assumption of another's identity does not. Consequently, individual victims of these offenses are not entitled to restitution.

The criminal who ripped off Mr. Hartle's identity committed several such crimes throughout the United States before he was finally apprehended. Acting alone, he caused great damage and hardship. But a new breed of identity-fraud criminal has emerged that poses an even greater threat to citizens. Sophisticated international criminal syndicates, some of which have penetrated the Social Security Administration and other agencies or companies with access to private personal information, are engaging in identity-fraud scams of a magnitude unimaginable a few years ago.

For example, the New York Post reported on December 29 that "A brazen city-based ring of con artists has been lifting personal information about hundreds of New Yorkers and using it to get credit cards and run up huge bills." This ring of Nigerian nationals applies for credit cards with banks "after snatching identifying data about unsuspecting victims." Identity-fraud syndicates such as these obtain Social Security numbers and other personal information to perpetrate their scams in myriad ways: stealing mail; collecting credit-card receipts; running license plates through DMV records; posing as a loan officer and ordering a credit report; purchasing information from corrupt governmental and private employees with access to personal information.

One of the reasons I elected to chair the Senate Judiciary Committee's Subcommittee on Technology, Terrorism, and Government Information was to ensure that the law keep pace with technology. The Secret Service, which is responsible for investigating financial fraud crimes, believes Federal fraud laws could be improved, to better protect people like Mr. Hartle, and I thank the agency for all of its help in drafting the bill. Rather than amend the Federal fraud laws, my proposal creates a separate statute for identity-fraud offenses, which I am told will make this crime easier to investigate and prosecute. When the fraud laws were drafted, the law-enforcement community was contending with counterfeiters who manufactured, distributed, and used ID's that were pieces of paper. Identity-fraud schemes were not nearly as prevalent in that pre-electronic era as they are today.

As mentioned above, individual victims of fraud offenses—who, like Mr. Hartle, are generally not eligible for restitution under current law—could receive restitution under my proposal. Additionally, the act allows law enforcement to seize equipment—contraband—used to produce false documents. Penalties are scaled to reflect the number of victims, not just the dollar amount of the fraud.

Moreover, the proposal requires the Secret Service to collect statistics on identity fraud offenses. Statistics on identity fraud are rough; we need to know more about the extent of the problem.

And finally, the bill directs the Secretary of the Treasury and the Chairman of the Federal Trade Commission to conduct a comprehensive study of: the nature, extent, and causes of identity fraud; the threat posed by identity fraud to financial institutions and payment systems; and the threat to consumer safety and privacy. The results of the study will be submitted to Congress with specific recommendations for legislation to address the problem of identity theft. This study is very important. Access to confidential information facilitates credit-card identity assumption scams. With identity fraud rising, we must continually reevaluate statutes regulating consumer privacy.

This is the other side of the coin when it comes to deterring this kind of fraud. We need to go after criminal activity when it occurs, but we also must prevent the careless circulation of personal information to begin with.

In fact, action has already been taken by Congress to better protect private identity information. In September, the Driver's Privacy Protection Act of 1994 goes into effect to restrict release and use of certain personal information from State motor vehicle records. Other efforts are underway. In August, the FTC—responding to suggestions that Social Security numbers were easily available on the Internet—held a staff meeting to exchange information on consumer identity fraud, and following the meeting suggested that Congress consider legislation to tighten restrictions on the release of private identity information.

The bill I am introducing today is targeted at the criminals: those who perpetrate identity theft crimes. Congress will need to consider other measures seeking the assistance of the custodians of personal identity information to make identity theft crimes more difficult to commit. I believe that my bill represents a solid first effort to combat identity theft, and I request that my colleagues support the Identity Theft and Assumption Deterrence Act.

By Mr. MACK (for himself, Mr. D'AMATO, Mr. BOND, and Mr. BENNETT):

S. 513. A bill to reform the multifamily rental assisted housing programs of the Federal Government, maintain the affordability and availability of low-income housing, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE MULTIFAMILY ASSISTED HOUSING REFORM AND AFFORDABILITY ACT OF 1997

Mr. MACK. Mr. President, I am pleased to introduce, on behalf of Senators D'AMATO, BOND, and BENNETT, the Multifamily Assisted Housing Reform and Affordability Act of 1997. This bill is a serious effort to reform the Nation's assisted and insured multifamily housing portfolio in a responsible manner that balances both fiscal and public policy goals. This legislation will save scarce Federal subsidy dollars while preserving the affordability and availability of decent and safe rental housing for lower income households.

About 20 years ago, the Federal Government encouraged private developers to construct affordable rental housing by providing mortgage insurance through the Federal Housing Administration [FHA] and rental housing assistance through the Department of Housing and Urban Development's [HUD] project-based section 8 program. In addition, tax incentives for the development of low-income housing were provided through the Tax Code until 1986.

This combination of financial incentives resulted in the creation of thousands of decent, safe, and affordable housing properties. However, flaws in the section 8 rental assistance program allowed owners to receive more Federal dollars in rental subsidy than were necessary to maintain the properties as decent and affordable rental housing, and we are beginning to pay the price for excessive rental subsidies. A recent HUD study found that almost two-thirds of assisted properties have comparable rents greater than comparable market rents, in some cases almost 200 percent of area market rents.

In addition, like the severely distressed public housing stock, some of these section 8 projects have become targets and havens for crime and drug activities. Thus, in some cases, taxpayers are paying costly subsidies for inferior housing. We believe that a policy that pays excessive rental subsidies for housing is not fair to the American taxpayer, nor can it be sustained in the current budget climate.

It is widely understood that there is a funding crisis in the renewal of HUD's expiring section 8 rental assistance contracts. Indeed, HUD Secretary Cuomo has called the section 8 contract renewal problem "the greatest crisis HUD has ever faced." The contract renewal problem involves all of HUD's section 8 inventory, both project-based and tenant-based—in all more than 3 million units of low-income housing. The new budget authority needed to renew expiring contracts at current levels will grow from $3.6 billion in the current fiscal year to almost $10 billion in fiscal year 1998 to an estimated $18 billion in fiscal year 2002.

Over the next several years, a majority of the section 8 contracts on the 8,500 FHA-insured properties will expire. If contracts continue to be renewed at existing levels, the cost of renewing these contracts will grow from about $2 billion in fiscal year 1998 to $5.2 billion in fiscal year 2002 and more than $7.7 billion 10 years from now. Thus, the project-based section 8 inventory, which is addressed in this legislation, is a significant part of the overall section 8 renewal problem.

The implications of not renewing project-based section 8 contracts are potentially devastating. Without renewals, most of the FHA-insured and section 8-assisted multifamily mortgages—with an unpaid principal balance of $18 billion—will default and result in claims on the FHA insurance funds. This could lead to more severe actions, such as foreclosure, which will adversely affect residents and communities.

Federally assisted and insured housing serves almost 1.6 million families with an average annual income of $7,000. About half of the households are elderly or contain persons with disabilities. Many of these developments are located in rural areas where no other rental housing exists. Some of these properties serve as anchors of neighborhoods where the economic stability of the neighborhood is dependent on the vitality of these properties.

The Multifamily Assisted Housing Reform and Affordability Act addresses the problem of expiring section 8 project-based assistance contracts through a new, comprehensive structure that provides a wide variety of tools to address the spiraling costs of section 8 assistance without harming residents or communities. The bill will reduce the long-term ongoing costs of Federal subsidies by reducing rents to a level that more closely approximates market area rents and restructuring the underlying debt insured by the FHA. The bill also contains a provision that will minimize the potential adverse tax consequences to owners that result from debt restructuring.

The bill also recognizes that HUD lacks the staffing capacity and expertise to oversee effectively its portfolio of multifamily housing properties or to administer a debt restructuring program. Indeed, one of the principal problems with developing a portfolio restructuring proposal has been the lack of good information on the characteristics or the condition of the properties in FHA's multifamily mortgage portfolio. Accordingly, the bill would transfer the functions and responsibilities of the restructuring program to capable State and local housing finance agencies, who would act as participating administrative entities in managing this program.

The bill provides incentives to administering entities to ensure that the American taxpayer is paying the least amount of money required to provide decent, safe, and affordable housing. Any amount of incentives provided to State and local entities would only be used for low-income housing purposes.

Owners who clearly violate housing quality standards would no longer be tolerated. The bill screens out bad owners and managers and nonviable projects from the inventory and provides tougher and more effective enforcement tools that will minimize fraud and abuse of FHA insurance and assisted housing programs.

Last, the bill provides tools to recapitalize the assisted stock that suffers from deferred maintenance. It provides the opportunity for tenants, local governments, and the community in which the project is located to participate in the restructuring process in a meaningful way. Residents would also be empowered through opportunities to purchase properties.

Mr. President, I would like to emphasize how important it is to address this issue this year. Delays will only harm the assisted housing stock, its residents and communities, and the financial stability of the FHA insurance funds. I would add that, as we face an explosion in the cost of section 8 contract renewals, we cannot afford to pay more than is reasonable to renew expiring contracts. There is strong support on both sides of the aisle to renew all expiring section 8 contracts next year. But to an extent, the future credibility of the section 8 program, which is so important to 3 million families, depends on our ability to control costs today.

This legislation will protect the Federal Government's investment in assisted housing and ensure that participating administrative entities are held accountable for their activities. It is also our goal that this process will ensure the long-term viability of these projects with minimal Federal involvement. It is a sincere effort to reduce the cost to the Federal Government while recognizing the needs of low-income families and communities throughout the Nation.

In closing, I also want to express my hope that the administration will begin to play an active and constructive role in dealing with this section 8 issue. For the last 2 years, we have waited for a concrete administration proposal for portfolio restructuring, but we have received nothing but a series of concept papers and statements of principles. We cannot wait much longer for the administration to come to the table with a serious proposal to deal with a critical budget problem that could affect all of HUD's programs.

Mr. President, I ask unanimous consent that the text of the bill and summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 513

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Multifamily Assisted Housing Reform and Affordability Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FHA-INSURED MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING

Sec. 101. Findings and purposes.
Sec. 102. Definitions.
Sec. 103. Authority of participating administrative entities.
Sec. 104. Mortgage restructuring and rental assistance sufficiency plan.
Sec. 105. Section 8 renewals and long-term affordability commitment by owner of project.
Sec. 106. Prohibition on restructuring.
Sec. 107. Restructuring tools.
Sec. 108. Shared savings incentive.
Sec. 109. Management standards.
Sec. 110. Monitoring of compliance.
Sec. 111. Review.
Sec. 112. GAO audit and review.
Sec. 113. Regulations.
Sec. 114. Technical and conforming amendments.
Sec. 115. Termination of authority.

TITLE II—ENFORCEMENT PROVISIONS

Sec. 201. Implementation.

Subtitle A—FHA Single Family and Multifamily Housing

Sec. 211. Authorization to immediately suspend mortgagees.
Sec. 212. Extension of equity skimming to other single family and multifamily housing programs.
Sec. 213. Civil money penalties against mortgagees, lenders, and other participants in FHA programs.

Subtitle B—FHA Multifamily

Sec. 220. Civil money penalties against general partners, officers, directors, and certain managing agents of multifamily projects.
Sec. 221. Civil money penalties for noncompliance with section 8 HAP contracts.
Sec. 222. Extension of double damages remedy.
Sec. 223. Obstruction of Federal audits.

TITLE I—FHA-INSURED MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

(2) as of the date of enactment of this Act, it is estimated that—

(A) the insured multifamily housing portfolio of the Federal Housing Administration consists of 14,000 rental properties, with an aggregate unpaid principal mortgage balance of $38,000,000,000; and

(B) approximately 10,000 of these properties contain housing units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

(3) FHA-insured multifamily rental properties are a major Federal investment, providing affordable rental housing to an estimated 2,000,000 low- and very low-income families;

(4) approximately 1,600,000 of these families live in dwelling units that are assisted with project-based rental assistance under section 8 of the United States Housing Act of 1937;

(5) a substantial number of housing units receiving project-based assistance have rents

that are higher than the rents of comparable, unassisted rental units in the same housing rental market;

(6) many of the contracts for project-based assistance will expire during the several years following the date of enactment of this Act;

(7) it is estimated that—

(A) if no changes in the terms and conditions of the contracts for project-based assistance are made before fiscal year 2000, the cost of renewing all expiring rental assistance contracts under section 8 of the United States Housing Act of 1937 for both project-based and tenant-based rental assistance will increase from approximately $3,600,000,000 in fiscal year 1997 to over $14,300,000,000 by fiscal year 2000 and some $22,400,000,000 in fiscal year 2006;

(B) of those renewal amounts, the cost of renewing project-based assistance will increase from $1,200,000,000 in fiscal year 1997 to almost $7,400,000,000 by fiscal year 2006; and

(C) without changes in the manner in which project-based rental assistance is provided, renewals of expiring contracts for project-based rental assistance will require an increasingly larger portion of the discretionary budget authority of the Department of Housing and Urban Development in each subsequent fiscal year for the foreseeable future;

(8) absent new budget authority for the renewal of expiring rental contracts for project-based assistance, many of the FHA-insured multifamily housing projects that are assisted with project-based assistance will likely default on their FHA-insured mortgage payments, resulting in substantial claims to the FHA General Insurance Fund and Special Risk Insurance Funds;

(9) more than 15 percent of federally assisted multifamily housing projects are physically or financially distressed, including a number which suffer from mismanagement;

(10) due to Federal budget constraints, the downsizing of the Department of Housing and Urban Development, and diminished administrative capacity, the Department lacks the ability to ensure the continued economic and physical well-being of the stock of federally insured and assisted multifamily housing projects; and

(11) the economic, physical, and management problems facing the stock of federally insured and assisted multifamily housing projects will be best served by reforms that—

(A) reduce the cost of Federal rental assistance, including project-based assistance, to these projects by reducing the debt service and operating costs of these projects while retaining the low-income affordability and availability of this housing;

(B) address physical and economic distress of this housing and the failure of some project managers and owners of projects to comply with management and ownership rules and requirements; and

(C) transfer and share many of the loan and contract administration functions and responsibilities of the Secretary with capable State, local, and other entities.

(b) PURPOSES.—The purposes of this title are—

(1) to preserve low-income rental housing affordability and availability while reducing the long-term costs of project-based assistance;

(2) to reform the design and operation of Federal rental housing assistance programs, administered by the Secretary, to promote greater multifamily housing project operating and cost efficiencies;

(3) to encourage owners of eligible multifamily housing projects to restructure their FHA-insured mortgages and project-based assistance contracts in a manner which is consistent with this title before the year in which the contract expires;

(4) to streamline and improve federally insured and assisted multifamily housing project oversight and administration;

(5) to resolve the problems affecting financially and physically troubled federally insured and assisted multifamily housing projects through cooperation with residents, owners, State and local governments, and other interested entities and individuals; and

(6) to grant additional enforcement tools to use against those who violate agreements and program requirements, in order to ensure that the public interest is safeguarded and that Federal multifamily housing programs serve their intended purposes.

SEC. 102. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) COMPARABLE PROPERTIES.—The term "comparable properties" means properties that are—

(A) similar to the eligible multifamily housing project in neighborhood (including risk of crime), location, access, street appeal, age, property size, apartment mix, physical configuration, property and unit amenities, and utilities;

(B) unregulated by contractual encumbrances or local rent-control laws; and

(C) occupied predominantly by renters who receive no rent supplements or rental assistance.

(2) ELIGIBLE MULTIFAMILY HOUSING PROJECT.—The term "eligible multifamily housing project" means a property consisting of more than 4 dwelling units—

(A) with rents which, on an average per unit or per room basis, exceed the rent of comparable properties in the same market area, as determined by the Secretary;

(B) that is covered in whole or in part by a contract for project-based assistance under—

(i) the new construction and substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

(ii) the property disposition program under section 8(b) of the United States Housing Act of 1937;

(iii) the moderate rehabilitation program under section 8(e)(2) of the United States Housing Act of 1937;

(iv) the project-based certificate program under section 8 of the United States Housing Act of 1937;

(v) section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975);

(vi) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

(vii) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

(C) financed by a mortgage insured under the National Housing Act.

(3) EXPIRING CONTRACT.—The term "expiring contract" means a project-based assistance contract attached to an eligible multifamily housing project which, under the terms of the contract, will expire.

(4) EXPIRATION DATE.—The term "expiration date" means the date on which an expiring contract expires.

(5) FAIR MARKET RENT.—The term "fair market rent" means the fair market rental established under section 8(c) of the United States Housing Act of 1937.

(6) KNOWING OR KNOWINGLY.—The term "knowing" or "knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard.

(7) LOW-INCOME FAMILIES.—The term "low-income families" has the same meaning as provided under section 3(b)(2) of the United States Housing Act of 1937.

(8) PORTFOLIO RESTRUCTURING AGREEMENT.—The term "Portfolio restructuring agreement" means the agreement entered into between the Secretary and a participating administrative entity, as provided under section 103 of the title.

(9) PARTICIPATING ADMINISTRATIVE ENTITY.—The term "participating administrative entity" means a public agency, including a State housing finance agency or local housing agency, which meets the requirements under section 103(b).

(10) PROJECT-BASED ASSISTANCE.—The term "project-based assistance" means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project.

(11) RENEWAL.—The term "renewal" means the replacement of an expiring Federal rental contract with a new contract under section 8 of the United States Housing Act of 1937, consistent with the requirements of this title.

(12) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(13) STATE.—The term "State" has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

(14) TENANT-BASED ASSISTANCE.—The term "tenant-based assistance" has the same meaning as in section 8(f) of the United States Housing Act of 1937.

(15) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" has the same meaning as in section 104 of the Cranston-Gonzalez National Affordable Housing Act.

(16) VERY LOW-INCOME FAMILY.—The term "very low-income family" has the same meaning as in section 3(b) of the United States Housing Act of 1937.

SEC. 103. AUTHORITY OF PARTICIPATING ADMINISTRATIVE ENTITIES.

(a) PARTICIPATING ADMINISTRATIVE ENTITIES.—

(1) IN GENERAL.—The Secretary shall enter into portfolio restructuring agreements with participating administrative entities for the implementation of mortgage restructuring and rental assistance sufficiency plans to restructure FHA-insured multifamily housing mortgages, in order to—

(A) reduce the costs of current and expiring contracts for assistance under section 8 of the United States Housing Act of 1937;

(B) address financially and physically troubled projects; and

(C) correct management and ownership deficiencies.

(2) PORTFOLIO RESTRUCTURING AGREEMENTS.—Each portfolio restructuring agreement entered into under this subsection shall—

(A) be a cooperative agreement to establish the obligations and requirements between the Secretary and the participating administrative entity;

(B) identify the eligible multifamily housing projects or groups of projects for which the participating administrative entity is responsible for assisting in developing and implementing approved mortgage restructuring and rental assistance sufficiency plans under section 104;

(C) require the participating administrative entity to review and certify to the accuracy and completeness of a comprehensive needs assessment submitted by the owner of an eligible multifamily housing project, in accordance with the information and data requirements of section 403 of the Housing and Community Development Act of 1992, including such other data, information, and requirements as the Secretary may require to be included as part of the comprehensive needs assessment;

(D) identify the responsibilities of both the participating administrative entity and the Secretary in implementing a mortgage restructuring and rental assistance sufficiency plan, including any actions proposed to be taken under section 106 or 107;

(E) require each mortgage restructuring and rental assistance sufficiency plan to be prepared in accordance with the requirements of section 104 for each eligible multifamily housing project;

(F) indemnify the participating administrative entity against lawsuits and penalties for actions taken pursuant to the agreement, excluding actions involving gross negligence or willful misconduct; and

(G) include compensation for all reasonable expenses incurred by the participating administrative entity necessary to perform its duties under this Act, including such incentives as may be authorized under section 108.

(b) SELECTION OF PARTICIPATING ADMINISTRATIVE ENTITY.—

(1) SELECTION CRITERIA.—The Secretary shall select a participating administrative entity based on the following criteria—

(A) is located in the State or local jurisdiction in which the eligible multifamily housing project or projects are located;

(B) has demonstrated expertise in the development or management of low-income affordable rental housing;

(C) has a history of stable, financially sound, and responsible administrative performance;

(D) has demonstrated financial strength in terms of asset quality, capital adequacy, and liquidity; and

(E) is otherwise qualified, as determined by the Secretary, to carry out the requirements of this title.

(2) SELECTION OF MORTGAGE RISK-SHARING ENTITIES.—Any State housing finance agency or local housing agency which is designated as a qualified participating entity under section 542 of the Housing and Community Development Act of 1992 shall automatically qualify as a participating administrative entity under this section.

(3) ALTERNATIVE ADMINISTRATORS.—With respect to any eligible multifamily housing project that is located in a State or local jurisdiction in which the Secretary determines that a participating administrative entity is not located, is unavailable, or does not qualify, the Secretary shall either—

(A) carry out the requirements of this title with respect to that eligible multifamily housing project; or

(B) contract with other qualified entities that meet the requirements of subsection (b), with the exception of subsection (b)(1)(A), the authority to carry out all or a portion of the requirements of this title with respect to that eligible multifamily housing project.

(4) PREFERENCE FOR STATE HOUSING FINANCE AGENCIES AS PARTICIPATING ADMINISTRATIVE ENTITIES.—For each State in which eligible multifamily housing projects are located, the Secretary shall give preference to the housing finance agency of that State or, if a State housing finance agency is unqualified or has declined to participate, a local housing agency to act as the participating administrative entity for that State or for the jurisdiction in which the agency located.

(5) STATE PORTFOLIO REQUIREMENTS.—

(A) IN GENERAL.—If the housing finance agency of a State is selected as the participating administrative entity, that agency shall be responsible for all eligible multifamily housing projects in that State, except that a local housing agency selected as a participating administrative entity shall be responsible for all eligible multifamily housing projects in the jurisdiction of the agency.

(B) DELEGATION.—A participating administrative entity may delegate or transfer responsibilities and functions under this title to one or more interested and qualified public entities.

(C) WAIVER.—A State housing finance agency or local housing agency may request a waiver from the Secretary from the requirements of this paragraph for good cause.

SEC. 104. MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.

(a) IN GENERAL.—

(1) DEVELOPMENT OF PROCEDURES AND REQUIREMENTS.—The Secretary shall develop procedures and requirements for the submission of a mortgage restructuring and rental assistance sufficiency plan for each eligible multifamily housing project with an expiring contract.

(2) TERMS AND CONDITIONS.—Each mortgage restructuring and rental assistance sufficiency plan submitted under this subsection shall be developed at the initiative of an owner of an eligible multifamily housing project with a participating administrative entity, under such terms and conditions as the Secretary shall require.

(3) CONSOLIDATION.—Mortgage restructuring and rental assistance sufficiency plans submitted under this subsection may be consolidated as part of an overall strategy for more than one property.

(b) NOTICE REQUIREMENTS.—The Secretary shall establish notice procedures and hearing requirements for tenants and owners concerning the dates for the expiration of project-based assistance contracts for any eligible multifamily housing project.

(c) EXTENSION OF CONTRACT TERM.—Subject to agreement by a project owner, the Secretary may extend the term of any expiring contract or provide a section 8 contract with rent levels set in accordance with subsection (g) for a period sufficient to facilitate the implementation of a mortgage restructuring and rental assistance sufficiency plan, as determined by the Secretary.

(d) TENANT RENT PROTECTION.—If the owner of a project with an expiring Federal rental assistance contract does not agree to extend the contract, the Secretary shall make tenant-based assistance available to tenants residing in units assisted under the expiring contract at the time of expiration.

(e) MORTGAGE RESTRUCTURING AND RENTAL ASSISTANCE SUFFICIENCY PLAN.—Each mortgage restructuring and rental assistance sufficiency plan shall—

(1) except as otherwise provided, restructure the project-based assistance rents for the eligible multifamily housing project in a manner consistent with subsection (g);

(2) require the owner or purchaser of an eligible multifamily housing project with an expiring contract to submit to the participating administrative entity a comprehensive needs assessment, in accordance with the information and data requirements of section 403 of the Housing and Community Development Act of 1992, including such other data, information, and requirements as the Secretary may require to be included as part of the comprehensive needs assessment;

(3) require the owner or purchaser of the project to provide or contract for competent management of the project;

(4) require the owner or purchaser of the project to take such actions as may be necessary to rehabilitate, maintain adequate reserves, and to maintain the project in decent and safe condition, based on housing quality standards established by—

(A) the Secretary; or

(B) local housing codes or codes adopted by public housing agencies that—

(i) meet or exceed housing quality standards established by the Secretary; and

(ii) do not severely restrict housing choice;

(5) require the owner or purchaser of the project to maintain affordability and use restrictions for 20 years, as the participating administrative entity determines to be appropriate, which restrictions shall be consistent with the long-term physical and financial viability character of the project as affordable housing;

(6) meet subsidy layering requirements under guidelines established by the Secretary; and

(7) require the owner or purchaser of the project to meet such other requirements as the Secretary determines to be appropriate.

(f) TENANT AND COMMUNITY PARTICIPATION AND CAPACITY BUILDING.—

(1) PROCEDURES.—

(A) IN GENERAL.—The Secretary shall establish procedures to provide an opportunity for tenants of the project and other affected parties, including local government and the community in which the project is located, to participate effectively in the restructuring process established by this title.

(B) CRITERIA.—These procedures shall include—

(i) the rights to timely and adequate written notice of the proposed decisions of the owner or the Secretary or participating administrative entity;

(ii) timely access to all relevant information (except for information determined to be proprietary under standards established by the Secretary);

(iii) an adequate period to analyze this information and provide comments to the Secretary or participating administrative entity (which comments shall be taken into consideration by the participating administrative entity); and

(iv) if requested, a meeting with a representative of the participating administrative entity and other affected parties.

(2) PROCEDURES REQUIRED.—The procedures established under paragraph (1) shall permit tenant, local government, and community participation in at least the following decisions or plans specified in this title:

(A) The Portfolio Restructuring Agreement.

(B) Any proposed expiration of the section 8 contract.

(C) The project's eligibility for restructuring pursuant to section 106 and the mortgage restructuring and rental assistance sufficiency plan pursuant to section 104.

(D) Physical inspections.

(E) Capital needs and management assessments, whether before or after restructuring.

(F) Any proposed transfer of the project.

(3) FUNDING.—

(A) IN GENERAL.—The Secretary may provide not more than $10,000,000 annually in funding to tenant groups, nonprofit organizations, and public entities for building the capacity of tenant organizations, for technical assistance in furthering any of the purposes of this title (including transfer of developments to new owners) and for tenant services, from those amounts made available under appropriations Acts for implementing this title.

(B) ALLOCATION.—The Secretary may allocate any funds made available under subparagraph (A) through existing technical assistance programs and procedures developed pursuant to any other Federal law, including the Low-Income Housing Preservation and Resident Homeownership Act of 1990 and the Multifamily Property Disposition Reform Act of 1994.

(C) PROHIBITION.—None of the funds made available under subparagraph (A) may be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by the Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation.

(g) RENT LEVELS.—

(1) IN GENERAL.—Except as provided in paragraph (2), each mortgage restructuring and rental assistance sufficiency plan pursuant to the terms, conditions, and requirements of this title shall establish for units assisted with project-based assistance in eligible multifamily housing projects adjusted rent levels that—

(A) are equivalent to rents derived from comparable properties, if—

(i) the participating administrative entity makes the rent determination not later than 120 days after the owner submits a mortgage restructuring and rental assistance sufficiency plan; and

(ii) the market rent determination is based on not less than 2 comparable properties; or

(B) if those rents cannot be determined, are equal to 90 percent of the fair market rents for the relevant market area.

(2) EXCEPTIONS.—

(A) IN GENERAL.—A contract under this section may include rent levels that exceed the rent level described in paragraph (1) at rent levels that do not exceed 120 percent of the local fair market rent if the participating administrative entity—

(i) determines, that the housing needs of the tenants and the community cannot be adequately addressed through implementation of the rent limitation required to be established through a mortgage restructuring and rental assistance sufficiency plan under paragraph (1); and

(ii) follows the procedures under paragraph (3).

(B) EXCEPTION RENTS.—In any fiscal year, a participating administrative entity may approve exception rents on not more than 20 percent of all units in the geographic jurisdiction of the entity with expiring contracts in that fiscal year, except that the Secretary may waive this ceiling upon a finding of special need in the geographic area served by the participating administrative entity.

(3) RENT LEVELS FOR EXCEPTION PROJECTS.—For purposes of this section, a project eligible for an exception rent shall receive a rent calculation on the actual and projected costs of operating the project, at a level that provides income sufficient to support a budget-based rent that consists of—

(A) the debt service of the project;

(B) the operating expenses of the project, as determined by the participating administrative entity, including—

(i) contributions to adequate reserves;

(ii) the costs of maintenance and necessary rehabilitation; and

(iii) other eligible costs permitted under section 8 of the United States Housing Act of 1937;

(C) an adequate allowance for potential operating losses due to vacancies and failure to collect rents, as determined by the participating administrative entity;

(D) an allowance for a reasonable rate of return to the owner or purchaser of the project, as determined by the participating administrative entity, which may be established to provide incentives for owners or purchasers to meet benchmarks of quality for management and housing quality; and

(E) other expenses determined by the participating administrative entity to be necessary for the operation of the project.

(h) EXEMPTIONS FROM RESTRUCTURING.—Subject to section 106, the Secretary shall renew project-based assistance sufficiency contracts at existing rents if—

(1) the project was financed through obligations such that the implementation of a mortgage restructuring and rental assistance sufficiency plan under this section is inconsistent with applicable law or agreements governing such financing;

(2) in the determination of the Secretary or the participating administrative entity, the restructuring would not result in significant savings to the Secretary; or

(3) the project has an expiring contract under section 8 of the United States Housing Act of 1937 but does not qualify as an eligible multifamily housing project pursuant to section 102(2) of this title.

SEC. 105. SECTION 8 RENEWALS AND LONG-TERM AFFORDABILITY COMMITMENT BY OWNER OF PROJECT.

(a) SECTION 8 RENEWALS OF RESTRUCTURED PROJECTS.—Subject to the availability of amounts provided in advance in appropriations Acts, the Secretary shall enter into contracts with participating administrative entities pursuant to which the participating administrative entity shall offer to renew or extend an expiring section 8 contract on an eligible multifamily housing project, and the owner of the project shall accept the offer, provided the initial renewal is in accordance with the terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan.

(b) REQUIRED COMMITMENT.—After the initial renewal of a section 8 contract pursuant to this section, the owner shall accept each offer made pursuant to subsection (a) to renew the contract, for a period of 20 years from the date of the initial renewal, if the offer to renew is on terms and conditions specified in the mortgage restructuring and rental assistance sufficiency plan.

SEC. 106. PROHIBITION ON RESTRUCTURING.

(a) PROHIBITION ON RESTRUCTURING.—The Secretary shall not consider any mortgage restructuring and rental assistance sufficiency plan or request for contract renewal if the participating administrative entity determines that—

(1) the owner or purchaser of the project has engaged in material adverse financial or managerial actions or omissions with regard to this project (or with regard to other similar projects if the Secretary determines that those actions or omissions constitute a pattern of mismanagement that would warrant suspension or debarment by the Secretary), including—

(A) knowingly and materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project;

(B) knowingly and materially breaching a contract for assistance under section 8 of the United States Housing Act of 1937;

(C) knowingly and materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity;

(D) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

(E) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

(F) committing any actions or omissions that would warrant suspension or debarment by the Secretary;

(2) the owner or purchaser of the property materially failed to follow the procedures and requirements of this title, after receipt of notice and an opportunity to cure; or

(3) the poor condition of the project cannot be remedied in a cost effective manner, as determined by the participating administrative entity.

(b) OPPORTUNITY TO DISPUTE FINDINGS.—

(1) IN GENERAL.—During the 30-day period beginning on the date on which the owner or purchaser of an eligible multifamily housing project receives notice of a rejection under subsection (a) or of a mortgage restructuring and rental assistance sufficiency plan under section 104, the Secretary or participating administrative entity shall provide that owner or purchaser with an opportunity to dispute the basis for the rejection and an opportunity to cure.

(2) AFFIRMATION, MODIFICATION, OR REVERSAL.—

(A) IN GENERAL.—After providing an opportunity to dispute under paragraph (1), the Secretary or the participating administrative entity may affirm, modify, or reverse any rejection under subsection (a) or rejection of a mortgage restructuring and rental assistance sufficiency plan under section 104.

(B) REASONS FOR DECISION.—The Secretary or the participating administrative entity, as applicable, shall identify the reasons for any final decision under this paragraph.

(C) REVIEW PROCESS.—The Secretary shall establish an administrative review process to appeal any final decision under this paragraph.

(c) FINAL DETERMINATION.—Any final determination under this section shall not be subject to judicial review.

(d) DISPLACED TENANTS.—Subject to the availability of amounts provided in advance in appropriations Acts, for any low-income tenant that is residing in a project or receiving assistance under section 8 of the United States Housing Act of 1937 at the time of rejection under this section, that tenant shall be provided with tenant-based assistance and reasonable moving expenses, as determined by the Secretary.

(e) TRANSFER OF PROPERTY.—For properties disqualified from the consideration of a mortgage restructuring and rental assistance sufficiency plan under this section because of actions by an owner or purchaser in accordance with paragraph (1) or (2) of subsection (a), the Secretary shall establish procedures to facilitate the voluntary sale or transfer of a property as part of a mortgage restructuring and rental assistance sufficiency plan, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary.

SEC. 107. RESTRUCTURING TOOLS.

(a) RESTRUCTURING TOOLS.—For purposes of this title, and to the extent these actions are consistent with this section, an approved mortgage restructuring and rental assistance sufficiency plan may include one or more of the following:

(1) FULL OR PARTIAL PAYMENT OF CLAIM.—Making a full payment of claim or partial payment of claim under section 541(b) of the National Housing Act. Any payment under this paragraph shall not require the approval of a mortgage.

(2) REFINANCING OF DEBT.—Refinancing of all or part of the debt on a project, if the refinancing would result in significant subsidy savings under section 8 of the United States Housing Act of 1937.

(3) MORTGAGE INSURANCE.—Providing FHA multifamily mortgage insurance, reinsurance or other credit enhancement alternatives, including multifamily risk-sharing mortgage programs, as provided under section 542 of the Housing and Community Development Act of 1992. Any limitations on the number of units available for mortgage insurance under section 542 shall not apply to eligible multifamily housing projects. Any credit subsidy costs of providing mortgage insurance shall be paid from the General Insurance Fund and the Special Risk Insurance Fund.

(4) CREDIT ENHANCEMENT.—Any additional State or local mortgage credit enhancements and risk-sharing arrangements may be established with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, to a modified first mortgage.

(5) COMPENSATION OF THIRD PARTIES.—Entering into agreements, incurring costs, or making payments, as may be reasonably necessary, to compensate the participation of participating administrative entities and other parties in undertaking actions authorized by this title. Upon request, participating administrative entities shall be considered to be contract administrators under section 8 of the United States Housing Act of 1937 for purposes of any contracts entered into as part of an approved mortgage restructuring and rental assistance sufficiency plan.

(6) RESIDUAL RECEIPTS.—Applying any acquired residual receipts to maintain the long-term affordability and physical condition of the property. The participating administrative entity may expedite the acquisition of residual receipts by entering into agreements with owners of housing covered by an expiring contract to provide an owner with a share of the receipts, not to exceed 10 percent.

(7) REHABILITATION NEEDS.—Assisting in addressing the necessary rehabilitation needs of the project, except that assistance under this paragraph shall not exceed the equivalent of $5,000 per unit for those units covered with project-based assistance. Rehabilitation may be paid from the provision of grants from residual receipts or, as provided in appropriations Acts, from budget authority provided for increases in the budget authority for assistance contracts under section 8 of the United States Housing Act of 1937, or through the debt restructuring transaction. Each owner that receives rehabilitation assistance shall contribute not less than 25 percent of the amount of rehabilitation assistance received.

(8) MORTGAGE RESTRUCTURING.—Restructuring mortgages to provide a structured first mortgage to cover rents at levels that are established in section 104(g) and a second mortgage equal to the difference between the restructured first mortgage and the mortgage balance of the eligible multifamily housing project at the time of restructuring. The second mortgage shall bear interest at a rate not to exceed the applicable Federal rate for a term not to exceed 50 years. If the first mortgage remains outstanding, payments of interest and principal on the second mortgage shall be made from all excess project income only after the payment of all reasonable and necessary operating expenses (including deposits in a reserve for replacement), debt service on the first mortgage, and such other expenditures as may be approved by the Secretary. During the period in which the first mortgage remains outstanding, no payments of interest or principal shall be required on the second mortgage. The second mortgage shall be assumable by any subsequent purchaser of any multifamily housing project, pursuant to guidelines established by the Secretary. The principal and accrued interest due under the second mortgage shall be fully payable upon disposition of the property, unless the mortgage is assumed under the preceding sentence. The owner shall begin repayment of the second mortgage upon full payment of the first mortgage in equal monthly installments in an amount equal to the monthly principal and interest payments formerly paid under the first mortgage. The principal and interest of a second mortgage shall be immediately due and payable upon a finding by the Secretary that an owner has failed to materially comply with this title or any requirements of the United States Housing Act of 1937 as those requirements apply to the applicable project, after receipt of notice of such failure and a reasonable opportunity to cure such failure. The second mortgage may be a direct obligation of the Secretary or a loan financed through a lender, other than the Secretary. Any credit subsidy costs of providing a second mortgage shall be paid from the General Insurance Fund and the Special Risk Insurance Fund.

(b) ROLE OF FNMA AND FHLMC.—Section 1335 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4565) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) paragraph (4), by striking the period at the end and inserting "; and";

(3) by striking "To meet" and inserting the following:

"(a) IN GENERAL.—To meet"; and

(4) by adding at the end the following:

"(5) assist in maintaining the affordability of assisted units in eligible multifamily housing projects with expiring contracts, as defined under the Multifamily Assisted Housing Reform and Affordability Act of 1996.

"(b) AFFORDABLE HOUSING GOALS.—Actions taken under subsection (a)(5) shall constitute part of the contribution of each entity in meeting their affordable housing goals under sections 1332, 1333, and 1334 for any fiscal year, as determined by the Secretary.".

(c) PROHIBITION ON EQUITY SHARING BY THE SECRETARY.—The Secretary is prohibited from participating in any equity agreement or profit-sharing agreement in conjunction with any eligible multifamily housing project.

SEC. 108. SHARED SAVINGS INCENTIVE.

(a) IN GENERAL.—At the time a participating administrative entity is designated, the Secretary shall negotiate an incentive agreement with the participating administrative entity, which agreement may provide such entity with a share of savings from any restructured mortgage and reduced subsidies resulting from actions under section 107. The Secretary shall negotiate with participating administrative entities a savings incentive formula that provides for periodic payments over a 5-year period, which is allocated as incentives to participating administrative entities.

(b) USE OF SAVINGS.—Notwithstanding any other provision of law, the incentive agreement under subsection (a) shall require any savings provided to a participating administrative entity under that agreement to be used only for providing decent, safe, and affordable housing for very low-income families and persons with a priority for eligible multifamily housing projects.

SEC. 109. MANAGEMENT STANDARDS.

Each participating administrative entity shall establish and implement management standards, including requirements governing conflicts of interest between owners, managers, contractors with an identity of interest, pursuant to guidelines established by the Secretary and consistent with industry standards.

SEC. 110. MONITORING OF COMPLIANCE.

(a) COMPLIANCE AGREEMENTS.—Pursuant to regulations issued by the Secretary after public notice and comment, each participating administrative entity, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this title. Each agreements shall, at a minimum, provide for—

(1) enforcement of the provisions of this title; and

(2) remedies for the breach of those provisions.

(b) PERIODIC MONITORING.—

(1) IN GENERAL.—Not less than annually, each participating administrative entity shall review the status of all multifamily housing projects for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

(2) INSPECTIONS.—Each review under this subsection shall include onsite inspection to determine compliance with housing codes and other requirements as provided in this title and the portfolio restructuring agreements.

(c) AUDIT BY THE SECRETARY.—The Comptroller General of the United States, the Secretary, and the Inspector General of the Department of Housing and Urban Development may conduct an audit at any time of any multifamily housing project for which a mortgage restructuring and rental assistance sufficiency plan has been implemented.

SEC. 111. REVIEW.

(a) ANNUAL REVIEW.—In order to ensure compliance with this title, the Secretary shall conduct an annual review and report to the Congress on actions taken under this title and the status of eligible multifamily housing projects.

(b) SUBSIDY LAYERING REVIEW.—The participating administrative entity shall certify, pursuant to guidelines issued by the Secretary, that the requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 are satisfied so that the combination of assistance provided in connection with a property for which a mortgage is to be restructured shall not be any greater than is necessary to provide affordable housing.

SEC. 112. GAO AUDIT AND REVIEW.

(a) Initial Audit.—Not later than 18 months after the effective date of interim or final regulations promulgated under this title, the Comptroller General of the United States shall conduct an audit to evaluate a representative sample of all eligible multifamily housing projects and the implementation of all mortgage restructuring and rental assistance sufficiency plans.

(b) Report.—

(1) In general.—Not later than 18 months after the audit conducted under subsection (a), the Comptroller General of the United States shall submit to the Congress a report on the status of all eligible multifamily housing projects and the implementation of all mortgage restructuring and rental assistance sufficiency plans.

(2) Contents.—The report submitted under paragraph (1) shall include—

(A) a description of the initial audit conducted under subsection (a); and

(B) recommendations for any legislative action to increase the financial savings to the Federal Government of the restructuring of eligible multifamily housing projects balanced with the continued availability of the maximum number of affordable low-income housing units.

SEC. 113. REGULATIONS.

(a) Rulemaking and Implementation.—The Secretary shall issue interim regulations necessary to implement this title not later than the expiration of the 6-month period beginning on the date of enactment of this Act. Not later than 1 year after the date of enactment of this Act, in accordance with the negotiated rulemaking procedures set forth in subchapter III of chapter 5 of title 5, United States Code, the Secretary shall implement final regulations implementing this title.

(b) Repeal of FHA Multifamily Housing Demonstration Authority.—

(1) In general.—Beginning upon the expiration of the 6-month period beginning on the date of enactment of this Act, the Secretary may not exercise any authority or take any action under section 210 of the Balanced Budget Down Payment Act, II.

(2) Unused budget authority.—Any unused budget authority under section 210(f) of the Balanced Budget Down Payment Act, II, shall be available for taking actions under the requirements established through regulations issued under subsection (a).

SEC. 114. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Calculation of Limit on Project-Based Assistance.—Section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) is amended by adding at the end the following new paragraph:

"(5) Calculation of limit.—Any contract entered into under section 104 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 shall be excluded in computing the limit on project-based assistance under this subsection.".

(b) Partial Payment of Claims on Multifamily Housing Projects.—Section 541 of the National Housing Act (12 U.S.C. 1735f-19) is amended—

(1) in subsection (a), in the subsection heading, by striking "AUTHORITY" and inserting "DEFAULTED MORTGAGES";

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection:

"(b) Existing Mortgages.—Notwithstanding any other provision of law, the Secretary, in connection with a mortgage restructuring under section 104 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, may make a one time, nondefault partial payment of the claim under the mortgage insurance contract, which shall include a determination by the Secretary or the participating administrative entity, in accordance with the Multifamily Assisted Housing Reform and Affordability Act of 1997, of the market value of the project and a restructuring of the mortgage, under such terms and conditions as the Secretary may establish.".

SEC. 115. TERMINATION OF AUTHORITY.

(a) In General.—Except as provided in subsection (b), this title is repealed effective October 1, 2002.

(b) Exception.—The repeal under this section does not apply with respect to projects and programs for which binding commitments have been entered into before October 1, 2002.

TITLE II—ENFORCEMENT PROVISIONS

SEC. 201. IMPLEMENTATION.

(a) Issuance of Necessary Regulations.—Notwithstanding section 7(o) of the Department of Housing and Urban Development Act or part 10 of title 24, Code of Federal Regulations (as in existence on the date of enactment of this Act), the Secretary shall issue such regulations as the Secretary determines to be necessary to implement this title and the amendments made by this title in accordance with section 552 or 553 of title 5, United States Code, as determined by the Secretary.

(b) Use of Existing Regulations.—In implementing any provision of this title, the Secretary may, in the discretion of the Secretary, provide for the use of existing regulations to the extent appropriate, without rulemaking.

Subtitle A—FHA Single Family and Multifamily Housing

SEC. 211. AUTHORIZATION TO IMMEDIATELY SUSPEND MORTGAGEES.

Section 202(c)(3)(C) of the National Housing Act (12 U.S.C. 1708(c)(3)(C)) is amended by inserting after the first sentence the following new sentence: "Notwithstanding paragraph (4)(A), a suspension shall be effective upon issuance by the Board if the Board determines that there exists adequate evidence that immediate action is required to protect the financial interests of the Department or the public.".

SEC. 212. EXTENSION OF EQUITY SKIMMING TO OTHER SINGLE FAMILY AND MULTIFAMILY HOUSING PROGRAMS.

Section 254 of the National Housing Act (12 U.S.C. 1715z-19) is amended to read as follows:

"SEC. 254. EQUITY SKIMMING PENALTY.

"(a) In General.—Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of a multifamily project or a 1- to 4-family residence that is security for a mortgage note that is described in subsection (b), willfully uses or authorizes the use of any part of the rents, assets, proceeds, income, or other funds derived from property covered by that mortgage note for any purpose other than to meet reasonable and necessary expenses that include expenses approved by the Secretary if such approval is required, in a period during which the mortgage note is in default or the project is in a nonsurplus cash position, as defined by the regulatory agreement covering the property, or the mortgagor has failed to comply with the provisions of such other form of regulatory control imposed by the Secretary, shall be fined not more than $500,000, imprisoned not more than 5 years, or both.

"(b) Mortgage Notes Described.—For purposes of subsection (a), a mortgage note is described in this subsection if it—

"(1) is insured, acquired, or held by the Secretary pursuant to this Act;

"(2) is made pursuant to section 202 of the Housing Act of 1959 (including property still subject to section 202 program requirements that existed before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act); or

"(3) is insured or held pursuant to section 542 of the Housing and Community Development Act of 1992, but is not reinsured under section 542 of the Housing and Community Development Act of 1992.".

SEC. 213. CIVIL MONEY PENALTIES AGAINST MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.

(a) Change to Section Title.—Section 536 of the National Housing Act (12 U.S.C. 1735f-14) is amended by striking the section heading and the section designation and inserting the following:

"SEC. 536. CIVIL MONEY PENALTIES AGAINST MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.".

(b) Expansion of Persons Eligible for Penalty.—Section 536(a) of the National Housing Act (12 U.S.C. 1735f-14(a)) is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: "If a mortgagee approved under the Act, a lender holding a contract of insurance under title I of this Act, or a principal, officer, or employee of such mortgagee or lender, or other person or entity participating in either an insured mortgage or title I loan transaction under this Act or providing assistance to the borrower in connection with any such loan, including sellers of the real estate involved, borrowers, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents and dealers, knowingly and materially violates any applicable provision of subsection (b), the Secretary may impose a civil money penalty on the mortgagee or lender, or such other person or entity, in accordance with this section. The penalty under this paragraph shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions."; and

(2) in paragraph (2)—

(A) in the first sentence, by inserting "or such other person or entity" after "lender"; and

(B) in the second sentence, by striking "provision" and inserting "the provisions".

(c) Additional Violations for Mortgagees, Lenders, and Other Participants in FHA Programs.—Section 536(b) of the National Housing Act (12 U.S.C. 1735f-14(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph:

"(2) The Secretary may impose a civil money penalty under subsection (a) for any knowing and material violation by a principal, officer, or employee of a mortgagee or lender, or other participants in either an insured mortgage or title I loan transaction under this Act or provision of assistance to the borrower in connection with any such loan, including sellers of the real estate involved, borrowers, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents, and dealers for—

"(A) submission to the Secretary of information that was false, in connection with any mortgage insured under this Act, or any loan that is covered by a contract of insurance under title I of this Act;

"(B) falsely certifying to the Secretary or submitting to the Secretary a false certification by another person or entity; or

"(C) failure by a loan correspondent or dealer to submit to the Secretary information which is required by regulations or directives in connection with any loan that is covered by a contract of insurance under title I of this Act."; and

(3) in paragraph (3), as redesignated, by striking "or paragraph (1)(F)" and inserting "or (F), or paragraph (2)(A), (B), or (C)".

(d) Conforming and Technical Amendments.—Section 536 of the National Housing Act (12 U.S.C. 1735f-14) is amended—

(1) in subsection (c)(1)(B), by inserting after "lender" the following: "or such other person or entity";

(2) in subsection (d)(1)—

(A) by inserting "or such other person or entity" after "lender"; and

(B) by striking "part 25" and inserting "parts 24 and 25"; and

(3) in subsection (e), by inserting "or such other person or entity" after "lender" each place that term appears.

Subtitle B—FHA Multifamily

SEC. 220. CIVIL MONEY PENALTIES AGAINST GENERAL PARTNERS, OFFICERS, DIRECTORS, AND CERTAIN MANAGING AGENTS OF MULTIFAMILY PROJECTS.

(a) Civil Money Penalties Against Multifamily Mortgagors.—Section 537 of the National Housing Act (12 U.S.C. 1735f-15) is amended—

(1) in subsection (b)(1), by striking "on that mortgagor" and inserting the following: "on that mortgagor, on a general partner of a partnership mortgagor, or on any officer or director of a corporate mortgagor";

(2) in subsection (c)—

(A) by striking the subsection heading and inserting the following:

"(c) Other Violations.—"; and

(B) in paragraph (1)—

(i) by striking "Violations.—The Secretary may" and all that follows through the colon and inserting the following:

"(A) Liable parties.—The Secretary may also impose a civil money penalty under this section on—

"(i) any mortgagor of a property that includes five or more living units and that has a mortgage insured, coinsured, or held pursuant to this Act;

"(ii) any general partner of a partnership mortgagor of such property;

"(iii) any officer or director of a corporate mortgagor;

"(iv) any agent employed to manage the property that has an identity of interest with the mortgagor, with the general partner of a partnership mortgagor, or with any officer or director of a corporate mortgagor of such property; or

"(v) any member of a limited liability company that is the mortgagor of such property or is the general partner of a limited partnership mortgagor or is a partner of a general partnership mortgagor.

"(B) Violations.—A penalty may be imposed under this section upon any liable party under subparagraph (A) that knowingly and materially takes any of the following actions:";

(ii) in subparagraph (B), as designated by clause (i), by redesignating the subparagraph designations (A) through (L) as clauses (i) through (xii), respectively;

(iii) by adding after clause (xii), as redesignated by clause (ii), the following new clauses:

"(xiii) Failure to maintain the premises, accommodations, any living unit in the project, and the grounds and equipment appurtenant thereto in good repair and condition in accordance with regulations and requirements of the Secretary, except that nothing in this clause shall have the effect of altering the provisions of an existing regulatory agreement or federally insured mortgage on the property.

"(xiv) Failure, by a mortgagor, a general partner of a partnership mortgagor, or an officer or director of a corporate mortgagor, to provide management for the project that is acceptable to the Secretary pursuant to regulations and requirements of the Secretary."; and

(iv) in the last sentence, by deleting "of such agreement" and inserting "of this subsection";

(3) in subsection (d)—

(A) in paragraph (1)(B), by inserting after "mortgagor" the following: ", general partner of a partnership mortgagor, officer or director of a corporate mortgagor, or identity of interest agent employed to manage the property"; and

(B) by adding at the end the following new paragraph:

"(5) Payment of penalty.—No payment of a civil money penalty levied under this section shall be payable out of project income.";

(4) in subsection (e)(1), by deleting "a mortgagor" and inserting "an entity or person";

(5) in subsection (f), by inserting after "mortgagor" each place such term appears the following: ", general partner of a partnership mortgagor, officer or director of a corporate mortgagor, or identity of interest agent employed to manage the property";

(6) by striking the heading of subsection (f) and inserting the following: "Civil Money Penalties Against Multifamily Mortgagors, General Partners of Partnership Mortgagors, Officers and Directors of Corporate Mortgagors, and Certain Managing Agents"; and

(7) by adding at the end the following new subsection:

"(k) Identity of Interest Managing Agent.—For purposes of this section, the terms 'agent employed to manage the property that has an identity of interest' and 'identity of interest agent' mean an entity—

"(1) that has management responsibility for a project;

"(2) in which the ownership entity, including its general partner or partners (if applicable) and its officers or directors (if applicable), has an ownership interest; and

"(3) over which the ownership entity exerts effective control.".

(b) Implementation.—

(1) Public comment.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment. The notice shall seek comments primarily as to the definitions of the terms "ownership interest in" and "effective control", as those terms are used in the definition of the terms "agent employed to manage the property that has an identity of interest" and "identity of interest agent".

(2) Timing.—A proposed rule implementing the amendments made by this section shall be published not later than one year after the date of enactment of this Act.

(c) Applicability of Amendments.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of the final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after that date.

SEC. 221. CIVIL MONEY PENALTIES FOR NONCOMPLIANCE WITH SECTION 8 HAP CONTRACTS.

(a) Basic Authority.—Title I of the United States Housing Act of 1937 is amended by adding at the end the following new section:

"SEC. 27. CIVIL MONEY PENALTIES AGAINST SECTION 8 OWNERS.

"(a) In General.—

"(1) Effect on other remedies.—The penalties set forth in this section shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed regardless of whether the Secretary imposes other administrative sanctions.

"(2) Failure of secretary.—The Secretary may not impose penalties under this section for a violation, if a material cause of the violation is the failure of the Secretary, an agent of the Secretary, or a public housing agency to comply with an existing agreement.

"(b) Violations of Housing Assistance Payment Contracts for Which Penalty May Be Imposed.—

"(1) Liable parties.—The Secretary may impose a civil money penalty under this section on—

"(A) any owner of a property receiving project-based assistance under section 8;

"(B) any general partner of a partnership owner of that property; and

"(C) any agent employed to manage the property that has an identity of interest with the owner or the general partner of a partnership owner of the property.

"(2) Violations.—A penalty may be imposed under this section for a knowing and material breach of a housing assistance payments contract, including the following—

"(A) failure to provide decent, safe, and sanitary housing pursuant to section 8; or

"(B) knowing or willful submission of false, fictitious, or fraudulent statements or requests for housing assistance payments to the Secretary or to any department or agency of the United States.

"(3) Amount of penalty.—The amount of a penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000 per violation.

"(c) Agency Procedures.—

"(1) Establishment.—The Secretary shall issue regulations establishing standards and procedures governing the imposition of civil money penalties under subsection (b). These standards and procedures—

"(A) shall provide for the Secretary or other department official to make the determination to impose the penalty;

"(B) shall provide for the imposition of a penalty only after the liable party has received notice and the opportunity for a hearing on the record; and

"(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing and judicial review, as provided under subsection (d).

"(2) FINAL ORDERS.—

"(A) IN GENERAL.—If a hearing is not requested before the expiration of the 15-day period beginning on the date on which the notice of opportunity for hearing is received, the imposition of a penalty under subsection (b) shall constitute a final and unappealable determination.

"(B) EFFECT OF REVIEW.—If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order.

"(C) FAILURE TO REVIEW.—If the Secretary does not review that determination or order before the expiration of the 90-day period beginning on the date on which the determination or order is issued, the determination or order shall be final.

"(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (b), the Secretary shall take into consideration—

"(A) the gravity of the offense;

"(B) any history of prior offenses by the violator (including offenses occurring before the enactment of this section);

"(C) the ability of the violator to pay the penalty;

"(D) any injury to tenants;

"(E) any injury to the public;

"(F) any benefits received by the violator as a result of the violation;

"(G) deterrence of future violations; and

"(H) such other factors as the Secretary may establish by regulation.

"(4) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.

"(d) JUDICIAL REVIEW OF AGENCY DETERMINATION.—Judicial review of determinations made under this section shall be carried out in accordance with section 537(e) of the National Housing Act.

"(e) REMEDIES FOR NONCOMPLIANCE.—

"(1) JUDICIAL INTERVENTION.—

"(A) IN GENERAL.—If a person or entity fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (b), after the determination or order is no longer subject to review as provided by subsections (c) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against that person or entity and such other relief as may be available.

"(B) FEES AND EXPENSES.—Any monetary judgment awarded in an action brought under this paragraph may, in the discretion of the court, include the attorney's fees and other expenses incurred by the United States in connection with the action.

"(2) NONREVIEWABILITY OF DETERMINATION OR ORDER.—In an action under this subsection, the validity and appropriateness of the determination or order of the Secretary imposing the penalty shall not be subject to review.

"(f) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

"(g) DEPOSIT OF PENALTIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is insured or formerly insured by the Secretary, the Secretary shall apply all civil money penalties collected under this section to the appropriate insurance fund or funds established under this Act, as determined by the Secretary.

"(2) EXCEPTION.—Notwithstanding any other provision of law, if the mortgage covering the property receiving assistance under section 8 is neither insured nor formerly insured by the Secretary, the Secretary shall make all civil money penalties collected under this section available for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary.

"(h) DEFINITIONS.—For the purposes of this section—

"(1) the term 'agent employed to manage the property that has an identity of interest' means an entity—

"(A) that has management responsibility for a project;

"(B) in which the ownership entity, including its general partner or partners (if applicable), has an ownership interest; and

"(C) over which such ownership entity exerts effective control; and

"(2) the term 'knowing' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of final regulations implementing the amendments made by this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation that occurs on or after such date.

(c) IMPLEMENTATION.—

(1) REGULATIONS.—

(A) IN GENERAL.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment.

(B) COMMENTS SOUGHT.—The notice under subparagraph (A) shall seek comments as to the definitions of the terms "ownership interest in" and "effective control", as such terms are used in the definition of the term "agent employed to manage such property that has an identity of interest".

(2) TIMING.—A proposed rule implementing the amendments made by this section shall be published not later than one year after the date of enactment of this Act.

SEC. 222. EXTENSION OF DOUBLE DAMAGES REMEDY.

Section 421 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715z–4a) is amended—

(1) in subsection (a)(1)—

(A) in the first sentence, by striking "Act; or (B)" and inserting the following: "Act; (B) a regulatory agreement that applies to a multifamily project whose mortgage is insured or held by the Secretary under section 202 of the Housing Act of 1959 (including property subject to section 202 of such Act as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990); (C) a regulatory agreement or such other form of regulatory control as may be imposed by the Secretary that applies to mortgages insured or held by the Secretary under section 542 of the Housing and Community Development Act of 1992, but not reinsured under section 542 of the Housing and Community Development Act of 1992; or (D)"; and

(B) in the second sentence, by inserting after "agreement" the following: ", or such other form of regulatory control as may be imposed by the Secretary,";

(2) in subsection (a)(2), by inserting after "Act," the following: "under section 202 of the Housing Act of 1959 (including section 202 of such Act as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990) and under section 542 of the Housing and Community Development Act of 1992,";

(3) in subsection (b), by inserting after "agreement" the following: ", or such other form of regulatory control as may be imposed by the Secretary,";

(4) in subsection (c)—

(A) in the first sentence, by inserting after "agreement" the following: ", or such other form of regulatory control as may be imposed by the Secretary,"; and

(B) in the second sentence, by inserting before the period the following: "or under the Housing Act of 1959, as appropriate"; and

(5) in subsection (d), by inserting after "agreement" the following: ", or such other form of regulatory control as may be imposed by the Secretary,".

SEC. 223. OBSTRUCTION OF FEDERAL AUDITS.

Section 1516(a) of title 18, United States Code, is amended by inserting after "under a contract or subcontract," the following: "or relating to any property that is security for a mortgage note that is insured, guaranteed, acquired, or held by the Secretary of Housing and Urban Development pursuant to any Act administered by the Secretary,".

SUMMARY OF THE MULTIFAMILY ASSISTED HOUSING REFORM AND AFFORDABILITY ACT OF 1997

PURPOSE

To preserve the affordability and availability of existing FHA-insured multifamily rental housing that is assisted with project-based Section 8 rental assistance, while reducing the long-term costs of the project-based assistance through restructuring of mortgages and project-based contracts.

BASIC PROVISIONS

Participating Administrative Entities (PAEs). Public intermediaries that have demonstrated expertise in affordable housing and responsible asset management would be selected to restructure the assisted projects through mortgage restructuring and rental assistance sufficiency plans. State housing finance agencies (or local housing finance agencies) would be given a priority to act as PAEs, assuming they have the appropriate expertise and are stable and financially sound.

Incentives would be negotiated by HUD with the PAEs to provide the PAE, in periodic payments, with a share of savings from the restructured mortgage and reduced subsidies resulting from the restructuring. Savings are to be used for providing decent, safe and affordable housing for very low-income people.

Mortgage restructuring and rental assistance plan. The plan is to be developed at the initiative of the owner and in conjunction with a PAE. If agreed upon by the owner, HUD may extend the contract term or provide section 8 contracts with rent levels set in accordance with the bill. If the owner does not agree to extend the contract, tenant-based assistance will be made available to tenants.

Each mortgage restructuring and rental assistance sufficiency plan is intended to: (1) restructure project-based rents; (2) require the owner to submit a housing needs assessment; (3) require the owner to provide or contract for competent management of the property; (4) require the owner to rehabilitate, maintain adequate reserves and to maintain the project in decent and safe condition; (5) require the owner to maintain project affordability for 20 years; and (6) meet subsidy layering guidelines established by HUD.

Rent levels. Projects with subsidy contract rents above fair market rent would be restructured in a manner that would reduce the rents by restructuring the underlying debt. Rents would be "marked" to comparable market rents where comparable properties exist or at least 90 percent of fair market rents (FMR) if comparable properties do not exist.

In some cases (such as properties that provide special services to elderly and disabled households or because of local market rent conditions), even if the debt is restructured, setting rent levels at 90 percent of FMR or comparable market levels may be inadequate to cover the costs of operation. In such cases, rent levels can be set at up to 120 percent of FMR. In any fiscal year, a PAE may approve exception rents on not more than 20 percent of all units in its geographic jurisdiction. The 20 percent level may be increased, subject to a waiver from HUD.

Restructuring tools. An approved mortgage restructuring and sufficiency plan may include one or more of the following: (1) full or partial payment of claim; (2) refinancing on all or part of the debt on a project; (3) mortgage insurance (FHA insurance, reinsurance or other credit enhancement alternatives); (4) credit enhancement; (5) compensation of PAEs; (6) residual receipts; (7) rehabilitation requirements; and (8) mortgage restructuring.

Tax issues. Debt restructuring results in an event that reduces the outstanding mortgage that is owed by owners and investors. This reduction in the mortgage amount will result in a tax liability referred to as "cancellation of indebtedness," or COD. COD is generally treated as ordinary taxable income under the Internal Revenue Code. The bill addresses this problem by bifurcating the existing mortgage into two obligations. The first piece would be determined on the amount of the mortgage that could be supported by the rental income stream. Payment on the second piece—the difference between the first mortgage and the mortgage balance—would be deferred until the second mortgage is paid off.

Rehabilitation. Up to $5,000 in rehabilitation costs for each project-based unit can be included within the restructuring. The owner must contribute a minimum of 25 percent of the amount of rehabilitation assistance received.

Troubled properties and noncompliant owners. Nonviable housing projects and owners not meeting basic program requirements would be ineligible to participate in the renewal and debt restructuring process. Potential alternatives in such instances could include demolition or change of ownership to other entities, including nonprofits or residents. Alternative housing would be provided to affected residents in the case of demolition.

Tenant and community participation and capacity building. Procedures will be established by HUD to provide opportunity for tenants, local governments and community in which the project is located to participate in the restructuring process. Such participation can include timely access to relevant information and the opportunity to analyze such information and provide comments to the PAE or to HUD on all aspects of the portfolio restructuring agreement. In addition, HUD is authorized, subject to appropriations, to provide up to $10 million annually to fund tenant groups, nonprofits and public entities for capacity building and technical assistance.

Enforcement Authority. The bill will minimize the incidence of fraud and abuse of Federally assisted programs through: (1) expanding HUD's ability to impose sanctions on lenders; (2) expanding equity-skimming prohibitions; and (3) broadening the use of civil money penalties.

Regulations. Interim regulations are to be developed within six months of passage of this Act: final regulations are to be developed within one year of enactment.

Mr. BOND. Mr. President, I stand in strong support of the Multifamily Assisted Housing Reform and Affordability Act of 1997. This bill is virtually identical to S. 2042, which was introduced in the last Congress and goes a long way toward developing a constructive and comprehensive section 8 mark-to-market contract renewal program for reducing the costs of expiring project-based section 8 contracts, limiting the financial exposure of the FHA multifamily housing insurance fund for FHA-insured section 8 projects, and preserving, to the maximum extent possible, the section 8 project-based housing stock for very low- and low-income families. This legislation builds on a demonstration enacted as part of the VA/HUD Fiscal Year 1997 appropriations bill which provided HUD with flexible authority to address the costs and the housing issues posed by this stock.

I congratulate Senators D'AMATO, MACK, and BENNETT for their contribution and commitment to this comprehensive legislation, as well as their commitment to finding a bipartisan approach to the many difficult issues associated with the renewal of oversubsidized section 8 project-based contracts. This legislation is a meaningful step in developing a reasonable policy toward the concerns raised by these expiring section 8 project-based contracts.

Over the last 25 years, a number of HUD programs were established for the construction of affordable, low-income housing by providing FHA mortgage insurance while financing the cost of the housing through section 8 project-based housing assistance. Currently, there are some 8,500 projects with almost 1 million units that are both FHA-insured and whose debt service is almost totally dependent on rental assistance payments made under section 8 project-based contracts. Most of these projects serve very low-income families, with almost 50 percent of the stock serving elderly and disabled families.

The crisis facing this housing stock is that the section 8 project-based housing assistance was initially budgeted and appropriated through 15- and 20-year section 8 project-based contracts that are now expiring and for which contract renewal is prohibitively expensive. For example, at least 75 percent of this housing stock have rents that exceed the fair market rent of the local area.

Since current law generally prohibits HUD from renewing these section 8 contracts at rents above 120 percent of the fair market rent, in many cases, the failure to renew expiring section 8 project-based contracts at existing rents will leave owners without the financial ability to pay the mortgage debt on these projects. This means that owners likely will default on their FHA-insured mortgage liabilities, resulting in FHA mortgage insurance claims totaling some $18 billion and foreclosures. HUD would then own and be responsible for managing these low-income multifamily housing projects. This bill is intended to avoid this potential crisis through a fiscally responsible and housing sensitive strategy.

In addition, the cost of the section 8 contracts on these projects reemphasizes the difficult budget and appropriation issues facing the Congress. In particular, according to HUD estimates, the cost of all section 8 contract renewals, both tenant-based and project-based, will require appropriations of about $3.6 billion in Fiscal Year 1997, $10.2 billion in Fiscal Year 1998, and over $16 billion in Fiscal Year 2002. In addition, the cost of renewing the section 8 project-based contracts will grow from $1.2 billion in Fiscal Year 1997 to almost $4 billion in Fiscal Year 2000, and to some $8 billion in 10 years.

Since the HUD appropriations account cannot sustain these exploding costs, this legislation is intended to be a comprehensive response which will reduce the financial cost and exposure to the Federal Government and preserve this valuable housing resource. The Senate bill would generally preserve this low-income housing by using various tools to restructure these multifamily housing mortgages to the market value of the housing with resulting reductions in section 8 costs.

I also am troubled by some of the other section 8 mark-to-market proposals being promoted, including the position which has been taken by HUD in the past which, in general, opposes preserving this housing as FHA-insured or as assisted through section 8 project-based assistance, including the elderly assisted housing, in favor of vouchers. This position is very questionable, and I emphasize that it is widely opposed by the housing industry and tenant groups and advocates. I emphasize that we want to work with HUD on these issues, and that in appropriate circumstances vouchers may be the right decision if we can balance this decision by ensuring that by restructuring a mortgage to the market level that we also can require long-term affordablility of this housing for very low- and low-income families. This could mean more choice for low-income families and the availability of more affordable, low-income housing. I believe that a number of creative and positive approaches will need to be reviewed as this legislation is considered.

I highlight the underlying principles of the bill which would authorize the establishing of participating administrative entities [PAEs] which would generally be a public agency, with a first preference that a PAE be a State housing finance agency or, second, a local housing agency. These entities would be contracted by HUD to develop work-out plans in conjunction with owners of FHA-insured projects with expiring, oversubsidized section 8 contracts. Each PAE would develop mortgage restructuring and rental assistance sufficiency plans as work-out instruments to reduce the section 8 subsidy needs of projects through mortgage restructuring.

The basic tool provided in the draft bill, and the likely key to any successful strategy to preserve this housing, is to authorize the restructuring of the mortgage debt on these oversubsidized section 8 multifamily housing projects. In particular, the bill would allow the restructuring of these high-cost mortgages with a new first mortgage reflecting, generally, the market value of a project, and a soft second mortgage held by HUD or financed by the private sector, with interest at the applicable Federal rate, covering the remainder of the original mortgage debt and payable upon disposition or upon full payment of the first mortgage. This provision will reduce the cost of section 8 assistance and minimize any loss to the FHA multifamily insurance fund. In addition, this approach ensures that there is no taxable event by virtue of the mortgage restructuring.

I also think it would be beneficial to look at some kind of exit tax relief to encourage owners, especially limited partners, to divest their interest in these properties, to encourage new investment in and the revitalization of these properties. I am hopeful that the administration will help craft some form of tax relief that balances the need of the Government to preserve this housing for low-income use at an affordable and reasonable cost to both the Government and low-income families.

Finally, I emphasize that the time to act is now. I sponsored a section 8 mark-to-market demonstration which was included in the VA/HUD Fiscal Year 1997 appropriations bill which is similar to this legislation and represents an interim approach to the section 8 mark-to-market contract renewal issue. I am disappointed that HUD has failed to implement this demonstration because we need the information to continue to make informed policy decisions with regard to this issue. Nevertheless, the appropriation language indicates my strong belief that we can no longer afford, as a matter of housing policy and fiscal responsibility, to renew expiring section 8 project-based contracts at the existing, over-market rents. I strongly believe that section 8 reform legislation should be acted on by the authorizing committees before the end of the fiscal year, with the full benefit of hearings and discussion on these very difficult policy issues.

I look forward to working with my colleagues on the legislation and hope that the Housing Subcommittee and Banking Committee can act in an expeditious manner on this measure. I emphasize the need to work together and I look forward to moving this legislation through Congress and onto the desk of the President.

Mr. D'AMATO. Mr. President, I rise today to cosponsor the Multifamily Assisted Housing Reform and Affordability Act of 1997. This important piece of legislation will address a serious affordable housing crisis by restructuring the Department of Housing and Urban Development's [HUD] Federal Housing Administration [FHA] insured and section 8 assisted multifamily housing portfolio.

I wish to thank my friend and colleague Senator CONNIE MACK, chairman of the Banking Committee's Subcommittee on Housing and Community Opportunity, for his extraordinary leadership in crafting this measured and thoughtful legislative initiative which deals with a vexing and complicated issue—the approaching crisis in HUD section 8 contract renewals.

I would also like to recognize Senator KIT BOND, the chairman of the VA-HUD Appropriations Subcommittee, who has also played a critical role in the development of this bill. I commend him for the significant contributions he has made in addressing this crisis. In addition, I would like to express my appreciation to Senator ROBERT BENNETT for his diligence in confronting this complex issue.

The legislation we are introducing today is very similar to S. 2042, introduced by Senators MACK, BOND, BENNETT, and myself in August 1996. This bill constitutes a major step toward reducing the costs of the Section 8 Program, and will allow for existing residents to be fully protected and for contracts to be renewed.

HUD Secretary Andrew Cuomo, in recent testimony before the House Government Reform and Oversight Committee's Human Resources Subcommittee, described the increasing costs of renewing expiring section 8 contracts as, "the greatest crisis HUD has ever faced." I must concur with Mr. Cuomo. Let me briefly describe some of the growing costs associated with this program. In fiscal year 1997, Congress appropriated $3.6 billion for the renewal of expiring section 8 contracts. Large numbers of long-term section 8 contracts, which were written as long as 5 to 20 years ago, will expire this year.

According to the Congressional Budget Office's latest estimates, the budget authority required to renew these contracts will increase to $10.2 billion in fiscal year 1998. Within the next 5 years, renewal needs will increase further until they consume nearly all of HUD's current budget of approximately $19.5 billion. These cost increases will occur without the adoption of a single new unit of section 8 housing. In addition, many of these expiring contracts cover units which are subsidized at rates significantly above the surrounding local market rents. Also, many contracts affect units which have serious repair and rehabilitation needs.

These escalating costs, in budget authority and outlays, must be reduced in order to avoid resident displacement and reduced funding of important and needed housing and community development programs.

Mr. President, millions of needy Americans depend on section 8 housing to provide them with affordable shelter. The average income of persons assisted with section 8 is similar to that of persons living in Federal public housing—approximately 17 percent of the local area median income. In addition, over 35 percent of these persons are elderly. Many more are disabled and single parents with limited work experience or education. It is imperative that we protect our needy and vulnerable residents.

Importantly, this bill will protect existing residents through the renewal of project-based contracts. The legislation will allow the mortgages of the affected projects to be refinanced and restructured, thereby reducing debt service costs. As a result, the projects will be able to continue to operate with correspondingly reduced rent levels without experiencing significant hardship. This restructuring will protect the FHA insurance fund from increased risk of default which would occur if section 8 payments were reduced without any corresponding reduction in debt service payments.

Mr. President, our legislation will also maintain the existing stock of decent, safe, and affordable housing because it provides for the renewal of section 8 contracts as project-based assistance. Our legislation recognizes the enormous investment we have made in this portfolio and reaffirms our commitment to maintaining it as a stock of affordable housing which will be available for people of modest means for years to come. It also fulfills our obligation to the American taxpayer to ensure that our Federal expenditures serve vital public interests in a cost-effective manner.

In addition, the bill contains important new enforcement tools for HUD to employ to crack down on fraud, waste, and abuse within the program by unscrupulous landlords. Other provisions within the bill will help recapitalize projects with deferred maintenance needs. The bill also recognizes that there is a portion of this portfolio which is seriously distressed and has deteriorated to such a point that it is no longer financially possible to continue as project-based housing. In this relatively small number of cases, residents would be protected with section 8 vouchers to enable them to continue to live in affordable housing.

While the bill will refocus HUD's efforts on enforcing rules against fraud and waste, it also recognizes HUD's admitted lack of capacity. Therefore, while HUD's staff management will be refocused on enforcement, the bill will place primary responsibility for conducting mortgage workouts with State and local housing finance agencies [HFA's]. A preference would be provided to qualified HFA's to oversee mortgage workouts.

By encouraging the involvement of the HFA's, the bill will build on the existing financial and housing management expertise which already exists at the State and local level. The HFA's are already accountable to the public interest and have extensive experience in working with this portfolio.

Also, residents of affected properties would be provided with an opportunity for input in a communitywide consultation process, and will be provided adequate notice, access to information, and an adequate time period for analysis and comment.

Mr. President, during the 104th Congress, the Banking Committee held a number of hearings and discussions with all interested parties on this issue. This legislation represents the culmination of that important effort. A general consensus of support has developed behind the committee's legislative framework.

As the committee continues its deliberations on this bill, there will be a continuing opportunity for input from residents, owners, housing and finance experts, State and local governments, and HUD. I thank all members of the Banking Committee for their efforts on behalf of affordable housing and look forward to continuing our bipartisan commitment to resolving the HUD section 8 crisis.

ADDITIONAL COSPONSORS

S. 311

At the request of Mr. GRAHAM, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 311, a bill to amend title XVIII of the Social Security Act to improve preventive benefits under the medicare program.

S. 389

At the request of Mr. ABRAHAM, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 494

At the request of Mr. KYL, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 494, a bill to combat the overutilization of prison health care services and control rising prisoner health care costs.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

ADDITIONAL STATEMENTS

NCAA DIVISION III MEN'S INDOOR TRACK AND FIELD CHAMPIONS

• Mr. KOHL. Mr. President, I recognize today an outstanding achievement in Wisconsin collegiate athletics. Over the weekend of March 7–8, 1997, the University of Wisconsin, La Crosse, captured the NCAA Division III Men's Indoor Track and Field Championship. A perennial powerhouse in men's track and field, the Eagles amassed 44 points to claim their 7th NCAA Division III men's indoor title and the 6th title under men's head coach, Mark Guthrie.

Paced by junior All-American David Whiteis' first place finish in the 400 meter dash, the Eagles demonstrated their team balance in both field and track events by placing finalists in the 1500 and 5000 meter runs; the 4 by 400 meter relay; the pole vault; the triple jump; and the 35-pound weight throw.

I have great respect for student-athletes, Mr. President, and in particular those student athletes who compete within the guidelines of the NCAA's Division III status. These student-athletes do not compete with the benefit of a scholarship; their only prize is pride and victory. It is with this spirit of competition that I salute head coach Mark Guthrie and the University of Wisconsin, La Crosse, Eagles Men's Track Team for their outstanding effort and dedication. Congratulations on a job well done.•

GOP TAX BREAKS HURT THE MIDDLE CLASS

• Mr. LAUTENBERG. Mr. President, yesterday, the Budget Committee walked through an analysis of the President's budget prepared by the Republican committee staff. And in anticipation of that meeting, I asked the Democratic staff of the committee to prepare an analysis of the Republicans' budget, or at least what we know of the Republican budget.

So far, we know that the Senate Republican leadership has proposed as their first two bills—S. 1 and S. 2—legislation that would provide $200 billion worth of tax breaks over the next five years.

Some Republicans have raised the possibility that those tax breaks might be deferred until after an initial budget agreement.

But Senator LOTT, Speaker GINGRICH, Senator ROTH, Congressman ARMEY, and others all seem very committed to large tax breaks.

And that means that sooner or later—perhaps as part of an initial agreement, or perhaps later—they would have to pay for those tax breaks.

The analysis prepared by the Democratic staff of the Budget Committee simply explains in a very straightforward, objective way what that would mean.

And, not surprisingly, it's devastating.

In the year 2002, 300,000 children would be denied participation in Head Start; because of cutbacks at the Justice Department, 11,000 additional criminals would be left free on the streets; a college education would be less attainable for as many as half a million students; 3.5 million children could be denied reading and math assistance; 2.75 million households would find themselves without heating assistance; 50 of the most hazardous toxic waste sites wouldn't get cleaned up; 250 VA medical and counseling centers could close; and 2,400 border patrol agents could be laid off.

The list goes on and on. And it really makes the case against large tax breaks for the rich.

Now, let me be clear that I remain very hopeful that we can move toward a bipartisan agreement to balance the budget.

But I hope that when the information included in this report becomes known, many of my Republican colleagues will rethink their tax breaks for the rich.

I ask that the text of the special report by the Senate Democratic Budget Committee staff be printed in the RECORD at this point.

The report follows:

MARAUDING THE MIDDLE CLASS—REPUBLICAN TAX BREAKS FOR THE RICH

AN ANALYSIS OF THE GOP TAX SCHEME AND ITS IMPACT ON NATIONAL PRIORITIES

(A Special Report of the U.S. Senate Budget Committee Democratic Staff, Mar. 19, 1997)

INTRODUCTION

In January, the Senate Republican leadership introduced two bills that provide massive new tax breaks, primarily for higher-income Americans. The leadership made enactment of S. 1 and S. 2 top priorities for the 105th Congress.

In the first five years, the tax breaks in these measures cost $200 billion. Over the next five years, costs rise by 60 percent for a ten-year total of $525 billion. In the subsequent ten-year period, the revenue loss increases dramatically, to more than $760 billion.

Not a single dime of these Republican tax breaks is paid for in the bills themselves, or in an overall budget plan for 1998. As a result, the Republican tax scheme would dramatically increase the budget deficit. If the Republican tax bills were enacted, deficits would rise from $121 billion in 1997 to $251 billion in 2002.

Since Republicans assert that they support balancing the budget by fiscal year 2002, providing tax breaks of this magnitude would require extreme cuts in programs that are critical to middle class Americans. These cuts would be far deeper than those proposed by the President in his balanced budget plan. Until now, however, there has been no discussion of these potential cuts. The Republican leadership has failed to offer a budget or to explain the reductions they intend to use to pay for their tax breaks. The American people have been kept in the dark about what the GOP tax scheme would mean for them.

In stark contrast, President Clinton has proposed a budget that balances in 2002, based on estimates by the Congressional Budget Office. The President's budget includes several tax cuts targeted to the middle class. However, by rejecting the Republicans' massive tax breaks for the wealthy, the President is able to protect important national priorities in education, environment, Medicare and Medicaid.

This analysis explains the depth of the cuts that would be required to pay for the Republican tax breaks and examines their impact on ordinary Americans. The report explores the kind of spending cuts Republicans are likely to make to pay for these massive tax breaks and still balance the budget in 2002. Under this scenario, the Republican tax breaks would result in cuts of up to one-third in areas such as education, environmental protection, crime prevention, transportation, and health care research. These cuts would dramatically reduce economic and other opportunities for ordinary Americans, and reduce the quality of life for the middle class.

In the coming months, the American people will have the opportunity to choose between the President's budget and the Republican proposal. We hope that this report will help Congress and the public make informed judgments about these competing approaches.

METHODOLOGY

This report calculates the impact of the Republican tax breaks using the approach proposed by Senator Robert Dole during his presidential campaign in 1996. Senator Dole advocated the enactment of extensive tax breaks paid for nearly exclusively through cuts in nondefense discretionary programs. Under Senator Dole's plan, nondefense discretionary programs would have been cut by nearly 40 percent.

This report evaluates the additional cuts that would be required in nondefense discretionary programs to offset the costs of the tax breaks included in the GOP tax scheme. Our focus is on the final year of a five-year budget agreement, in which the budget will be balanced.

To arrive at the appropriate figures, we have started with the baseline produced by the Congressional Budget Office (CBO), which anticipates the amount of spending that would be expected if current policies are continued. Using that baseline, outlays for nondefense discretionary programs are expected to total $321 billion in fiscal year 2002.

To achieve balance in 2002, President Clinton has proposed cuts in nondefense discretionary spending totaling $26 billion. This would represent an 8 percent reduction from the amounts required to maintain current policies. However, the President's budget provides a set of additional policies to ensure that the budget actually balances in that year, should economic or other conditions vary from the President's projections. The President does not believe that these "fail safe" policies will be needed, and recent economic data support that conclusion. However, if CBO's estimates prove correct, nondefense discretionary spending would be reduced by an additional $10 billion in 2002, for a total cut of $36 billion. This would amount to a reduction of 11 percent.

A comparison of the Republican tax breaks and the President's own revenue proposals shows that the additional tax breaks would lead to a deficit $67 billion larger than under the President's plan. The $67 billion figure is based on estimates by the Joint Committee on Taxation. Assuming that these additional costs would be offset through cuts in nondefense discretionary programs, as Senator Dole proposed, the total cuts in these programs would amount to $103 billion in 2002. This represents a cut from current policy of 32 percent. These cuts are far deeper than a freeze or even last year's Republican budget. These cuts are 24 percent deeper than those made by the President in his alternative budget. These nondefense discretionary paths are shown in the table below.

This report explains what a 32 percent cut would mean for a range of domestic programs of importance to ordinary Americans. The 32 percent figure represents an average of the cuts that would be needed. Of course, Congress could propose higher levels for particular programs; however, any such increases would have to be offset by even deeper cuts in other programs.

NONDEFENSE DISCRETIONARY SPENDING IN FISCAL YEAR 2002

[Dollars in billions]

	Spending level	Real reduction)[1] (percent)
CBO uncapped baseline	$321	0
President's budget	294	−8
President's alternative	285	−11
Freeze at 1997 level	272	−15
Last year's Republican budget	245	−24
Republican plan	217	−32

[1])Reductions from CBO's uncapped baseline of March 1997, which represents the 1997 enacted level adjusted for inflation in each subsequent year.

IMPACT OF A 32 PERCENT CUT ON DOMESTIC PRIORITIES

Nondefense discretionary spending includes programs that rely on funding through annual appropriations. These include programs for education and training, environmental protection, law enforcement, transportation, and health research, among others.

In 1996, nondefense spending totaled $267 billion, or about 17 percent of total Federal spending. Measured as a share of the economy, nondefense spending has fallen from 5.2 percent in 1980 to its current low level of 3.5 percent. A reduction of 32 percent would reduce this component of the budget to 2.2 percent of GDP, the lowest level since at least 1940.

A reduction of this magnitude would require a dramatic reduction in public investments that promote economic growth. These investments are primarily in the nondefense discretionary part of the budget, and include expenditures for major capital investment, research and development, and education and training programs. Deep cuts in these programs could harm our Nation's economy in the future.

State and local governments are also likely to be hit hard by these reductions. Some discretionary programs viewed as "essential Federal functions" will be spared deep cuts. These include funds for operating Social Security and veterans programs. To the extent that these programs are cut less than 32 percent, other programs will have to be cut more deeply. State and local grants are likely to bear a larger share of the cuts since they are not tied to the central role of the Federal government. These cuts—on top of those in last year's welfare reform bill and perhaps further cuts in Medicaid—would be difficult for States and localities to handle without reductions in crucial public services, or tax increases.

Federal grants help State and local governments finance programs covering most areas of domestic public spending. Federal grant outlays were $228 billion in 1996, or 15 percent of total Federal outlays, and are estimated to increase to $291 billion by 2002. Reducing the Federal commitment by a third would make it more difficult for States and localities to provide critical domestic services, such as public education, law enforcement, roads, water supply, and sewage treatment.

DENYING EDUCATIONAL OPPORTUNITIES

Head Start. A 32 percent cut ($1.4 billion) in Head Start in 2002 would deny about 300,000 children aged 3–5 the opportunity to benefit from this effective pre-school program, which provides comprehensive child development, education and nutrition services.

Education of the Disadvantaged. A 32 percent cut for the Title I program would eliminate reading and math assistance to about 3.5 million poor children. This is likely to lead to reduced academic performance and fewer economic opportunities for many of these children.

Children with Disabilities. A 32 percent cut in the Special Education program would reduce critical educational services that are now provided to 6 million children with disabilities. It also would make it impossible for the Federal government to meet its statutory goal of sharing 40 percent of the costs of special education. Today, the Federal government is providing only 8 percent of these costs, a level Senate Republicans have sharply criticized as irresponsible. But under a 32 percent discretionary cut, the Federal share would be reduced even further—to 6 percent or less by 2002.

Pell Grants. A 32 percent cut in the Pell Grant program could make a college education less attainable for as many as a half a million students by substantially reducing the value of the grants.

Job Corps. A 32 percent reduction in the successful Job Corps program could lead to the closure of about 40 job centers, thus denying job training opportunities to an estimated 20,000 disadvantaged youths. Nearly 64,000 people are currently enrolled at 115 centers. This type of cut could mean that there would be fewer Job Corps centers in 2002 than there were in the late 1970s.

THE REPUBLICAN TAX BREAKS

The Republican tax plan, as embodied in S.1 and S.2, would increase the deficit by $200 billion over the next five years. In contrast to the President's budget, the Republican plan includes no proposals to offset any of these costs.

The Republican tax breaks greatly increase the deficit in the first five years and then the costs explode in future years. In fact, these tax breaks will swell to $325 billion from 2003 to 2007, a 60 percent increase.

The Republican tax package will cost more than the tax breaks contained in the final version of the Contract with America budget that President Clinton vetoed in the last Congress.

A large component of the Republican tax plan is geared toward the very wealthy. The capital gains tax break would provide a windfall to persons with large holdings. In addition, the estate tax break would benefit those who inherit estates from the top 1 percent of wealthy individuals. This tax break would provide a windfall for people inheriting estates up to $21 million. The IRA tax break included in the Republican proposals is similar to the President's proposal, but is more geared to those with higher incomes.

WEAKENING ENVIRONMENTAL PROTECTIONS

Toxic waste clean up. A 32 percent cut in the Superfund program would postpone new cleanup activities at more than 50 of the most hazardous toxic waste sites and delay the completion of cleanups at more than 20 additional sites in 2002. These delays would subject communities to additional health risks, and impede economic development that could create many jobs.

Clean water. A 32 percent cut in Clean Water programs could eliminate more than 250 loans to municipalities across the country to ensure that our lakes, streams and rivers are clean and safe. The likely would be dirtier water, and perhaps additional health hazards.

Inspection activities. A 32 percent cut in environmental enforcement could result in a reduction of more than 13,000 enforcement actions. This could prevent EPA from halting unlawful pollution, lead to worsening environmental conditions, and let many wrongdoers off the hook. Activities that could be affected: asbestos inspections in public/commercial buildings, compliance with Clean Air Act standards, and the monitoring of the Nation's drinking water.

National Parks and Refuges. A 32 percent cut in the NPS could eliminate maintenance at 90 national parks, while the U.S. Fish and Wildlife Service could eliminate funding for more than 100 wildlife refuges. This cut could also lead to increased entrance and activity fees.

CUTTING LAW ENFORCEMENT

Prosecuting Criminals. A 32 percent reduction in funding for the U.S. Attorneys' office would mean that at least 19,000 fewer persons accused of violent crime, drug smuggling, and organized crime activity would be prosecuted and 11,000 criminals who otherwise would be serving prison sentences would instead be free citizens.

Prisons. A 32 percent cut in prison funding could reduce by 42,000 the number of prison cells available to hold serious offenders. This would mean that thousands of criminals would be left on the streets. By contrast, the President's budget provides full funding for the Federal prison system by the year 2002.

Controlling Illegal Immigration and Drug Trafficking. A 32 percent cut in the Immigration and Naturalization Service would require the dismissing of 2,400 Border Patrol Agents. Since the preponderance of these Agents are deployed along the Southwest Border, it is likely that illegal immigration along the California, Arizona, New Mexico and Texas perimeter would rise.

Byrne Grants. A 32 percent reduction could mean that 1,500 fewer formula grants would be made by states from the Edward Byrne Memorial State and Local Law Enforcement Assistance program. These grants give states broad assistance with the functioning of their criminal justice systems—with emphasis on violent crime and serious offenders—and with the enforcement of Federal drug laws.

REDUCING INVESTMENT IN TRANSPORTATION

Federal-aid Highways. A 32 percent cut in this program would eliminate $6.7 billion in federal assistance to the states for highway projects and improvements in 2002. In addition, to achieve a 32 percent cut in outlays in 2002, tight caps on obligations would have to be set by the Congress in the preceding years. Already, all levels of government are spending approximately $15 billion less than the level necessary to maintain our highway system at its current level of performance. In addition, since the U.S. Department of Transportation estimates that each $1 billion spent on transportation creates 40,000–50,000 jobs, a cut of this magnitude could result in the loss of approximately 300,000 jobs in 2002 alone.

Federal Transit Administration. A 32 percent cut in FTA funding would reduce the amount available for key mass transit programs by about $1.5 billion. This could adversely affect many of our nation's public transportation systems, particularly the smaller and medium-sized systems that depend more heavily on federal assistance and have fewer resources at their disposal. Transit agencies would have to either raise fares or reduce service, or both, to try to deal with reduced federal assistance. In addition, funding for the purchase of buses and rail vehicles would decline significantly, and transit new starts would be delayed or abandoned. Congestion and air pollution in major urban areas would increase because, as transit service is reduced, commuters would revert to automobiles.

FAA operations. A 32 percent cut would severely harm FAA's ability to maintain safe skies. Airline traffic is expected to increase over the next few years, so FAA's increased workload will require more federal funding, not less. A cut of more than $1 billion could result in a staff reduction of 10,000 employees, including many safety personnel (controllers, technicians, and inspectors). Efforts to modernize the air traffic control system could be harmed. The result could be much less frequent and less comprehensive inspections of aircraft and an insufficient number of controllers to handle current and projected volumes of air traffic.

CUTTING SCIENCE AND ENERGY RESEARCH

National Science Foundation. A 32 percent cut in NSF would be $1.2 billion in 2002, and would result in the elimination of more than 6,000 research and education grants in science and engineering to universities and other research institutions.

Department of Energy. A 32 percent cut in the DOE would mean that civilian research-related activities performed at more than 20 Department of Energy's labs located throughout the country would be but by more than $900 million.

HARMING OTHER DOMESTIC PRIORITIES

National Institutes of Health. A 32 percent cut in NIH in 2002 would mean a $4.5 billion reduction in funds for medical research from a projected level of $14.6 billion. This would be $2.8 billion below the Fiscal Year 1997 appropriated level. The $4.5 billion cut is equivalent to the entire budget of the National Cancer Institute.

Veterans Medical Care. A 32 percent cut in the Veterans Administration could result in closing more than 250 VA medical facilities and counseling centers, could deprive more than 800,000 veterans access to VA medical care and could add more than 3 weeks to the waiting time for a service-connected compensation benefit claim.

Housing. The Section 8 program provides basic housing assistance for America's poor, disabled, and elderly. A 32 percent cut in this program translates into more than 800,000 fewer housing units. That means approximately 2.2 million people would lose housing assistance, including approximately 760,000 elderly and disabled Americans.

CDBG. Community Development Block Grants are used by cities to help finance housing rehabilitation, economic development, and large-scale physical development projects. On average, every dollar spent for CDBG leverages $2.31 in private and other investment. A 32 percent CDBG cut would bring funding down to $3.5 billion in 2002, 27 percent less than 1997. For many communities, that would be a substantial cut.

Drug Elimination Grants. A 32 percent cut would mean that these grants, which are used to fight drugs and crime in public housing, would be reduced by $107 million to $224 million in 2002.

Special Supplemental Feeding Program for Women, Infants and Children (WIC). WIC would be cut by $1.4 billion under this scenario. Nearly 2.5 million fewer women, infants and children would receive benefits. WIC provides supplemental coupons for specialized foods to low-income families as well as nutritional, educational and health care referrals. Studies show that the WIC program improves birth outcomes and has reduced the incidence of childhood anemia.

Low Income Housing Energy Assistance Program. A 32 percent cut in LIHEAP could mean that about 2.75 million households could find themselves without heating assistance. The LIHEAP program serves low income families and senior citizens who otherwise might not be able to afford heating in winter.

ALTERNATIVE WAYS TO PAY FOR REPUBLICAN TAX BREAKS

As explained above, this study has calculated the effect of the Republican tax breaks using the approach adopted by Senator Robert Dole in last year's presidential campaign. Senator Dole offset most of the costs of his proposed tax breaks by cutting nondefense discretionary spending. This approach seems likely to be adopted again, especially given strong public opposition to past Republican proposals for cuts in Medicare, Medicaid and other mandatory programs. However, considering their record in the past, it remains possible that the Republicans would choose other methods to pay for their large tax breaks.

To help explain an alternative scenario for offsetting GOP tax breaks, the table below shows the relative contribution of different categories of spending to the spending cuts in last year's budget resolution.

DISTRIBUTION OF SPENDING CUTS IN REPUBLICAN BUDGET: 1996

[Dollars in billions]

	Last Year's GOP Budget	
	Amount	Percent
Discretionary	−$233	34
Medicare	−158	24
Medicaid	−72	11
Other mandatory	−195	30
Total	−657	100

If Republicans chose to distribute the additional cuts to these programs, in addition to nondefense discretionary, both Medicare and Medicaid cuts would increase dramatically from the levels proposed by the President. Medicare would receive nearly one-quarter of any additional cuts, and Medicaid cuts would increase by 14 percent. The table below shows how dramatically the cuts in the President's budget for Medicare would rise under this scenario, over a five- six- and seven-year period.

DISTRIBUTION OF ADDITIONAL SPENDING CUTS TO MEDICARE AND MEDICAID, BASED ON PREVIOUS REPUBLICAN BUDGET

[In billions of dollars]

Medicare:	
President's budget	−88
President's plus Republican cuts:	
5-year ($200)	−138
6-year ($256)	−181
7-year ($290)	−239

Note: President's budget cuts assume alternative policies that achieve a balanced budget under CBO assumptions.

With the additional cuts, the cumulative reductions in Medicare would grow from the $88 billion in the President's balanced budget to $138 billion over five years. Over six years, cuts would increase to $181 billion and the seven-year total would reach $239 billion.•

REV. DR. EDGAR L. VANN, JR.

• Mr. LEVIN. Mr. President, I have the honor of paying tribute to a great civic and religious leader and a dear friend, Rev. Dr. Edgar Leo Vann, Jr. On April 13, 1997, Reverend Vann will be celebrating his 20th anniversary as pastor of the Second Ebeneezer Baptist Church in Detroit, MI.

Reverend Vann has been a longtime champion of civil rights and social justice. He serves on the executive boards of numerous Michigan civic organizations, including the Michigan Civil Rights Commission, the Detroit Empowerment Zone Corp., the Michigan Commission of Human Rights, and the Detroit Urban League.

As a member of the National Baptist Convention USA and the President of the Council of Baptist Pastors of Detroit and Vicinity, Reverend Vann is widely recognized as a religious leader. He currently ministers to more than 2,000 people at two consecutive Sunday services. Under his leadership, the Second Ebeneezer Baptist Church maintains more than 50 active ministries.

One of Reverend Vann's most noted achievements in recent years was the purchase of a new home for his congregation. The new sanctuary was purchased in 1993 and, after extensive renovations, held its grand opening less than one year later.

A religious and civic leader, Rev. Dr. Edgar L. Vann, Jr. has been an integral part of the Detroit community for many years and will continue to play an important role in the years ahead. I hope my colleagues will join me in congratulating Reverend Vann on his 20 years as pastor of the Second Ebeneezer Baptist Church, and in wishing him well as he continues at the helm of this important Detroit institution.•

TRIBUTE TO JOAN K. STEVENS

• Mr. ROBB. Mr. President, I rise today in order to commend and acknowledge Ms. Joan K. Stevens, who is retiring from the White House Military Office after more than 25 years of dedicated service to her country. Ms. Stevens has loyally assisted six Presidents as a liaison to the military and has had the kind of impact on peoples' lives that demands respect and compels our sincerest appreciation. She has facilitated over 500,000 military inquiries from the public and it is because of individuals such as Ms. Stevens that a healthy communication endures between the Commander in Chief and our troops out in the field.

Ms. Stevens first began working in the Special Counsel's Office of the White House in July of 1972. She later spent time in the First Lady's Office in February of 1973. In November of 1974, however, Ms. Stevens found her calling and the WHMO, in turn, discovered an invaluable and faithful staffer. She has been there ever since, working diligently to perpetuate the idea that the men and women of our Armed Forces are indeed important and have a discernible voice in our government that must be heard.

Also noteworthy is the fact that Ms. Stevens has, for more than two decades, been the single point of contact for the thousands of Presidential condolence letters to the next-of-kin of active duty personnel who have tragically died in military related accidents. Paying tribute to America's fallen warriors is an obligation that begins with the leadership of this country. It is hard to imagine the responsibility and burden Ms. Stevens' has ultimately shouldered on behalf of a grateful nation.

In recognition of her efforts and devotion, Ms. Stevens was recently awarded the Secretary of Defense Public Service Medal. It is clear Ms. Joan Stevens will be missed dearly. Still, as a fellow Virginian, the State Ms. Stevens has called home for over 26 years, I am truly honored to have the opportunity today to congratulate her on a remarkable career and salute her commitment to the President, the Armed Forces of the United States, and most importantly, to the American people. Mr. President, I ask that you join me, our colleagues both here and in the White House, and the family and friends of Ms. Joan K. Stevens, in expressing our heartfelt gratitude to this exemplary public servant.•

TRIBUTE TO MS. ARLENE DESEMONE

• Mr. REED. Mr. President, I pay tribute to a proud member of the Rhode Island community, Ms. Arlene DeSemone, who, sadly, passed away on March 11, 1997.

A leader in the insurance industry, Ms. DeSemone served as president of the Rhode Island Life Underwriters Association in 1992. She was president of the National Association of Insurance Women of Rhode Island from 1988 to 1990 and was named professional woman of the year by this organization in 1994. Ms. DeSemone received the R. Kelly Sheridan Award in 1996, as the outstanding life insurance professional of the year. In addition, Ms. DeSemone received the Lloyd Saunders Award for professional dedication to her clients and the industry, and served on numerous committees, including the first Rhode Island Department of Business Regulation Continuing Education Advisory Board.

Perhaps the greatest of Ms. DeSemone's contributions was her work in the fight against breast cancer. Despite her own personal struggle with the disease, Ms. DeSemone led the way in encouraging research efforts to find a cure for breast cancer. Ms. DeSemone cofounded the Rhode Island Breast Cancer Coalition in 1993, an organization whose initiatives received national praise and were recognized by President Clinton and the First Lady. The coalition continues to benefit from her efforts to raise consciousness about breast cancer.

Mr. President, I ask my colleagues to join me in remembering Ms. Arlene DeSemone for her many contributions to Rhode Island and selfless dedication to helping others. Certainly, Ms. DeSemone embodied the strength and determination we all seek to find in ourselves.•

RETIREMENT OF BILL BREW

• Mr. AKAKA. Mr. President, I rise today to note the impending retirement of Mr. William E. Brew, who currently serves as the minority general counsel of the Senate Veterans' Affairs Committee. As of April 4, his retirement date, Bill will have served 19 years and 1 day as a loyal and dedicated staff member of the U.S. Senate.

A veteran of the Vietnam war, Bill has held increasingly important positions of responsibility on the staff of the Senate Veterans' Affairs Committee. Since he was hired by Senator Alan Cranston in 1978, Bill has served as associate counsel, associate general counsel, minority counsel, deputy general counsel, general counsel, and most recently, minority general counsel to the committee.

Through the many political changeovers in the administration and Congress in his nearly two decades on Capitol Hill, Bill provided institutional continuity, serving as a source of reliable information and wise advice on legislation, policy, and procedure for Members of both parties.

Bill was closely involved in developing all of the major veterans initiatives that were enacted by Congress during this period. Among his major accomplishments are legislation relating to agent orange compensation, establishment of judicial review of veterans claims, establishment of the U.S. Court of Veterans Appeals, and creation of programs relating to the readjustment needs of Vietnam and post-Vietnam veterans.

In addition to these special accomplishments, Bill worked hard to become the Senate's foremost authority on veterans health care matters. He served as an invaluable resource to members of the committee on the medical needs of the diverse, 27 million-strong veterans population as well as on the legal, administrative, and structural nuances of the hundreds of Department of Veterans Affairs' hospitals, outpatient clinics, nursing homes, and domiciliaries.

Bill is well known for his logical, analytical, and deliberative mind. His patience and fairness are legendary, and few have been as adept at working in the heated, give-and-take atmosphere of the legislative process. His adherence to the very highest personal and professional standards has been a credit to the U.S. Senate. In short, Bill has been the veteran's veteran, that special individual whom Senators, professional staffers, administration officials, and veterans advocates have trusted to render an objective assessment on any particular veterans issue or to undertake any worthy cause in behalf of those who served.

Mr. President, I believe that I have a special insight into the qualities of this outstanding individual. In the days and months immediately following my appointment to the U.S. Senate in 1990, Bill Brew was one of the experienced hands who helped indoctrinate me in the complexities of veterans policy and the doings of the Veterans' Affairs Committee. Since then, I and my staff have relied on him for advice on issues major and minor. Whatever success I have had in the way of veterans legislation is in great measure due to his assistance.

Indeed, no one worked longer or harder to improve the condition of Hawaii's 120,000 veterans than Bill Brew. It was his experience and energy that fueled a series of committee investigations revealing VA's historical neglect of the Aloha State's veterans. As a consequence of these inquiries, VA established four new primary care clinics and readjustment counseling centers in Hawaii; tripled the size of the Honolulu outpatient clinic; began preparations to construct a VA medical center on Oahu; and, established a unique residential treatment center for Pacific-area veterans suffering from post-traumatic stress disorder.

So, Mr. President, it is with great reluctance that I extend Bill a fond farewell. I offer him my deep gratitude for the service he has rendered me and other members of this body over the last two decades. No one has worked harder to advance the public interest than this stellar public servant. I wish him well in all his future endeavors.•

RULES OF THE JOINT COMMITTEE ON PRINTING

• Mr. WARNER. Mr. President, pursuant to paragraph 2 of rule XXVI of the Standing Rules of the Senate, I submit the Joint Committee on Printing's Rules of Procedure, as unanimously adopted by the Joint Committee on March 13, 1997, to printed in the RECORD.

The rules follow:

JOINT COMMITTEE ON PRINTING

RULE 1—COMMITTEE RULES

(a) The rules of the Senate and House insofar as they are applicable, shall govern the Committee.

(b) The Committee's rules shall be published in the CONGRESSIONAL RECORD as soon as possible following the Committee's organizational meeting in each odd-numbered year.

(c) Where these rules require a vote of the members of the Committee, polling of members either in writing or by telephone shall not be permitted to substitute for a vote taken at a Committee meeting, unless the ranking minority member assents to waiver of this requirement.

(d) Proposals for amending Committee rules shall be sent to all members at least one week before final action is taken thereon, unless the amendment is made by unanimous consent.

RULE 2—REGULAR COMMITTEE MEETINGS

(a) The regular meeting date of the Committee shall be the second Wednesday of every month when the House and Senate are in session. A regularly scheduled meeting need not be held if there is no business to be considered and after appropriate notification is made to the ranking minority member. Additional meetings may be called by the chairman as he may deem necessary or at the request of the majority of the members of the Committee.

(b) If the chairman of the Committee is not present at any meeting of the Committee, the vice-chairman or ranking member of the majority party on the Committee who is present shall preside at the meeting.

RULE 3—QUORUM

(a) Five members of the Committee shall constitute a quorum which is required for the purpose of closing meetings, promulgating Committee orders or changing the rules of the Committee.

(b) Three members shall constitute a quorum for purposes of taking testimony and receiving evidence.

RULE 4—PROXIES

(a) Written or telegraphic proxies of Committee members will be received and recorded on any vote taken by the Committee, except at the organization meeting at the beginning of each Congress or for the purpose of creating a quorum.

(b) Proxies will be allowed on any such votes for the purpose of recording a member's position on a question only when the absentee Committee member has been informed of the question and has affirmatively requested that he be recorded.

RULE 5—OPEN AND CLOSED MEETINGS

(a) Each meeting for the transaction of business of the Committee shall be open to the public except when the Committee, in open session and with a quorum present, determines by roll call vote that all or part of the remainder of the meeting on that day shall be closed to the public. No such vote shall be required to close a meeting that relates solely to internal budget or personnel matters.

(b) No person other than members of the Committee, and such Congressional staff and other representatives as they may authorize, shall be present in any business session which has been closed to the public.

RULE 6—ALTERNATING CHAIRMANSHIP AND VICE CHAIRMANSHIP BY CONGRESSES

(a) The chairmanship and vice chairmanship of the Committee shall alternate between the House and the Senate by Congresses. The senior member of the minority party in the House of Congress opposite of that of the chairman shall be the ranking minority member of the Committee.

(b) In the event the House and Senate are under different party control, the chairman and vice chairman shall represent the majority party in their respective Houses. When the chairman and vice chairman represent different parties, the vice chairman shall also fulfill the responsibilities of the ranking minority member as prescribed by these rules.

RULE 7—PARLIAMENTARY QUESTIONS

Questions as to the order of business and the procedures of the Committee shall in the first instance be decided by the chairman, subject always to an appeal to the Committee.

RULE 8—HEARINGS: PUBLIC ANNOUNCEMENTS AND WITNESSES

(a) The chairman, in the case of hearings to be conducted by the Committee, shall make public announcement of the date, place and subject matter of any hearing to be conducted on any measure or matter at least one week before the commencement of that hearing unless the Committee determines that there is good cause to begin such hearing at an earlier date. In the latter event, the chairman shall make such public announcement at the earliest possible date. The staff director of the Committee shall promptly notify the Daily Digest of the Congressional Record as soon as possible after such public announcement is made.

(b) So far as practicable, all witnesses appearing before the Committee shall file advance written statements of their proposed testimony at least 48 hours in advance of their appearance and their oral testimony shall be limited to brief summaries. Limited insertions or additional germane material will be received for the record, subject to the approval of the chairman.

RULE 9—OFFICIAL HEARING RECORD

(a) An accurate stenographic record shall be kept of all Committee proceedings and actions. Brief supplemental materials when required to clarify the transcript may be inserted in the record subject to the approval of the chairman.

(b) Each member of the Committee shall be provided with a copy of the hearings transcript for the purpose of correcting errors of transcription and grammar, and clarifying questions or remarks. If any other person is authorized by a Committee member to make his corrections, the staff director shall be so notified.

(c) Members who have received unanimous consent to submit written questions to witnesses shall be allowed two days within which to submit these to the staff director for transmission to the witnesses. The record may be held open for a period not to exceed two weeks awaiting the responses by witnesses.

(d) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Committee. Testimony received in closed hearings shall not be released or included in any report without the approval of the Committee.

RULE 10—WITNESSES FOR COMMITTEE HEARINGS

(a) Selection of witnesses for Committee hearings shall be made by the Committee staff under the direction of the Chairman. A list of proposed witnesses shall be submitted to the members of the Committee for review sufficiently in advance of the hearings to permit suggestions by the Committee members to receive appropriate consideration.

(b) The Chairman shall provide adequate time for questioning of witnesses by all members, including minority members, and the rule of germaneness shall be enforced in all hearings.

(c) Whenever a hearing is conducted by the Committee upon any measure or matter, the minority on the Committee shall be entitled, upon unanimous request to the Chairman before the completion of such hearings, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.

RULE 11—CONFIDENTIAL INFORMATION FURNISHED TO THE COMMITTEE

The information contained in any books, papers or documents furnished to the Committee by any individual, partnership, corporation or other legal entity shall, upon the request of the individual, partnership, corporation or entity furnishing the same, be maintained in strict confidence by the members and staff of the Committee, except that any such information may be released outside of executive session of the Committee if the release thereof is effected in a manner which will not reveal the identity of such individual, partnership, corporation or entity in connection with any pending hearing or as a part of a duly authorized report of the Committee if such release is deemed essential to the performance of the functions of the Committee and is in the public interest.

RULE 12—BROADCASTING OF COMMITTEE HEARINGS

The rule for broadcasting of Committee hearings shall be the same as Rule XI, clause 3, of the Rules of the House of Representatives.

RULE 13—COMMITTEE REPORTS

(a) No Committee report shall be made public or transmitted to the Congress without the approval of a majority of the Committee except when Congress has adjourned; Provided, that any member of the Committee may make a report supplementary to or dissenting from the majority report. Such supplementary or dissenting reports should be as brief as possible.

(b) Factual reports by the Committee staff may be printed for distribution to Committee members and the public only upon authorization of the chairman either with the approval of a majority of the Committee or with the consent of the ranking minority member.

RULE 14—CONFIDENTIALITY OF COMMITTEE REPORTS

No summary of a Committee report, prediction of the contents of a report, or statement of conclusions concerning any investigation shall be made by a member of the Committee or by any staff member of the Committee prior to the issuance of a report of the Committee.

RULE 15—COMMITTEE STAFF

(a) The Committee shall have a professional and clerical staff under the supervision of a staff director. Staff operating procedures shall be determined by the staff director, with the approval of the chairman of the Committee, and after notification to the ranking minority member with respect to basic revisions of existing procedures. The staff director, under the general supervision of the chairman, is authorized to deal directly with agencies of the Government and with non-Government groups and individuals on behalf of the Committee.

(b) The chairman and vice chairman, on behalf of their respective bodies of Congress, shall be entitled to designate two senior staff members each. During any Congress in which both Houses are under the control of the same party, the ranking minority member, on behalf of his party, shall be entitled to designate two senior staff members.

(c) All other staff members shall be selected on the basis of their training, experience and attainments, without regard to race, religion, sex, color, age, national origin or political affiliations, and shall serve all members of the Committee in an objective, non-partisan manner.

RULE 16—COMMITTEE CHAIRMAN

The chairman of the Committee may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the Committee. Specifically, the chairman is authorized, during the interim periods between meetings of the Committee, to act on all requests submitted by any executive department, independent agency, temporary or permanent commissions and committees of the Federal Government, the Government Printing Office and any other Federal entity, pursuant to the requirements of applicable Federal law and regulations.●

MEASURE PLACED ON CALENDAR—H.R. 1122

Mr. LOTT. Mr. President, I understand that there is a bill that is due for its second reading this morning.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions.

Mr. LOTT. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDENT pro tempore. The bill will go to the calendar.

ADJOURNMENT UNTIL MONDAY, APRIL 7, 1997

Mr. LOTT. Under the order from last night, the Senate convened today because the House has not yet passed the adjournment resolution. They are in session now and in fact have been having a vote just in the last few minutes. So I expect that they will complete work before too long this afternoon. I understand that in fact the House will pass Senate Concurrent Resolution 14 at approximately 1:30 or 2 p.m. today.

I now ask unanimous consent that the Senate stand in adjournment until the hour of 12 noon on Monday, March 24, unless the House adopts the adjournment resolution, in which case the Senate will then automatically stand in adjournment under the provisions of Senate Concurrent Resolution 14 until the hour of 12 noon on Monday, April 7.

There being no objection, the Senate, at 12:02 p.m., adjourned until Monday April 7, 1997, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate March 21, 1997:

DEPARTMENT OF STATE

STUART E. EIZENSTAT, OF MARYLAND, TO BE AN UNDER SECRETARY OF STATE, VICE JOAN E. SPERO, RESIGNED.

DEPARTMENT OF TRANSPORTATION

KENNETH M. MEAD, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF TRANSPORTATION, VICE MARY STERLING, RESIGNED.

DEPARTMENT OF STATE

THOMAS R. PICKERING, OF NEW JERSEY, TO BE AN UNDER SECRETARY OF STATE, VICE PETER TARNOFF, RESIGNED.

THE JUDICIARY

ANABELLE RODRIGUEZ, OF PUERTO RICO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF PUERTO RICO, VICE RAYMOND L. ACOSTA, RETIRED.

MICHAEL D. SCHATTMAN, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF TEXAS, VICE HAROLD BAREFOOT SANDERS, JR., RETIRED.

HILDA G. TAGLE, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS, VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

IN THE COAST GUARD

VICE ADM. ROGER T. RUFE, U.S. COAST GUARD, TO BE COMMANDER, ATLANTIC AREA, U.S. COAST GUARD, WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING.

REAR ADM. JAMES C. CARD, U.S. COAST GUARD, TO BE COMMANDER, PACIFIC AREA, U.S. COAST GUARD, WITH THE GRADE OF VICE ADMIRAL WHILE SO SERVING.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. CLAUDIA J. KENNEDY, 0477

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS JUDGE ADVOCATE GENERAL OF THE U.S. NAVY AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 5148:

To be rear admiral

CAPT. JOHN D. HUTSON, 9946

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be rear admiral

REAR ADM. (1H) JOAN M. ENGEL, 2153
REAR ADM. (1H) JERRY K. JOHNSON, 6030

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be rear admiral

REAR ADM. (1H) THOMAS J. HILL, 0703
REAR ADM. (1H) DOUGLAS L. JOHNSON, 9514
REAR ADM. (1H) JAN H. NYBOER, 8579
REAR ADM. (1H) PAUL V. QUINN, 8574

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE U.S. AIR FORCE UNDER TITLE 10, UNITED STATES CODE, SECTION 531:

To be colonel

CHRISTOPHER R. KLEINSMITH, 3524
DAVID G. SCHALL, 7015

THOMAS E. SCOTT, 7958
TAKUO SONODA, 4307

To be lieutenant colonel

RICHARD E. BACHMANN, JR., 0257
RICHARD E. KARULF, 6764
JOHN C. LEIST, III, 5993
CARL M. LINDQUIST, 5787
MARK F. MATHEWS, 6862
JEFFREY L. MIKUTIS, 1537
LILLIAN E. PEREZ, 7042
STEPHEN G. WALLER, 8353

To be major

STEVEN L. BARTEL, 7364
ANN E. FARASH, 5214
KYLE C. NUNLEY, 2697

To be captain

STEVEN L. KLYN, 0254

IN THE ARMY

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10 UNITED STATES CODE, SECTIONS 12203 AND 12211:

To be colonel

HARRY L. BRYAN, JR., 7766
ROBERT F. DARAGAN, 2283
JAMES R. DAVIES, 1725
JAMES A. DI GIOVANNA, 7408
DAVID R. HAM, 0604
MARCUS R. HINES, 7101
ARLYN R. IRION, 7791
ROBERT L. JACKSON, 9312
RONALD D. JOHNSON, 6340
WARREN L. JOHNSON, JR., 5352
CHARLES T. KNOWLES, 6457
JAMES J. PARENTE, 1473
ORLAN L. PETERSON, JR., 6529
LAWRENCE W. PRIEBE, 2037
TERRY L. ROBINSON, 1805
THOMAS R. SPIVEY, 4725
ANDRE J. TROTTIER, 0421
WILLIAM L. WITHAM, JR., 9623

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624, 628, 531, AND 1552:

To be major

*PHUONG T. PIERSON, 3840

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE U.S. AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 531:

To be colonel

MARILYN S. ABUGHUSSON, 8801
HELEN M. ALVERSON, 6853
JILL V. BAKER, 2686
KATHLEEN M. BARR, 0349
MARGARET A. BROWN, 1518
PATRICIA A. BUCK, 8696
ANNETTE J. COCKBURN, 1276
JANICE C. COLLINGS, 9646
QUANNETTA T. EDWARDS, 4844
LINDA N. FOOTE, 8477
COLLEEN L. GUTIERREZ, 9998
JACQUELINE D. HALE, 8502
FARLEY J. HOWELL, 6650
GWENDA A. MCCLURE, 0678
MARY E. MORAN, 9798
ERIC C. MURDOCK, 1679
ALAN G. PYSHER, 9025
PAMELA J. REIDY, 2252
LLOYD A. REINKE, 6306
SHIRLEY A. ROGERS, 9099
MARGARET J. WILLIAMS, 7945
SARAH E. WREN, 2937
SARAH A. WRIGHT, 9822

To be lieutenant colonel

RICHARD L. ABNEY, JR., 5300
JOHN C. ADKINS, 0683
JOYCE A. ADKINS, 3715
MATT ADKINS, JR., 6610
MARK L. ALLEN, 8465
DOUGLAS E. ANDERSON, 1013
HENDRIK J. ANTONISSE, 7969
DOUGLAS A. APSEY, 4043
MARY S. ARMOUR, 8763
RICHARD A. ASHWORTH, 2872
PAUL N. AUSTIN, 8007
JEFFREY M. BATEMAN, 9067
LEONOR P. BEAM, 0899
STEVEN D. BENTLEY, 7567
GARY M. BLAMIRE, 0748
PAULETTA D. BLUEITT, 5451
RANDY B. BORG, 7428
ROGER E. BOUSUM, 6118
SUSAN BROWN, 6226
ANNE S. BUTCHER, 9133
MIRIAM L. CAHILLYEATON, 5021
MARIEJOCELYNE CHARLES, 1720
AWILDA CIURO, 4874
KIT R. CLARK, 5196
ALAN R. CONSTANTIAN, 1294
GARY B. COPLEY, 2191
PATRICIA D. CORBIN, 1931
VALERIE P. COUNSMAN, 0842
CATHERINE M. DALBERTIS, 6155
LYNNETTE D. DAVIS, 4983
SCOTT M. DAWSON, 6222
KERRY M. DEXTER, 7752
DANIEL P. DICKINSON, 6977
*ALAN L. DOERMAN, 9652
MANUEL A. DOMENECH, 1175
DAVID L. DOTY, 5755
STEPHEN DRINAN, 6058
MARK D. DUBAZ, 1489
ROCHELLE M. DUCHARME, 2383
SANDRA J. EVANS, 6977
MICHAEL P. FITCH, 6321
STEVEN H. FLOWERS, 9255
DELORES G. FORREST, 1786
KENNETH L. FRANKLIN, 5044
SYLVIA C. FRIEDMAN, 1829
WILLIAM J. GAYNOR, 1340
YOLANDA A. GEDDIE, 1640
CAROLYN K. GOOCH, 3038
ROBERTA L. GOTT, 8016
MARJORIE A. GRAZIANO, 5884
DENNIS R. HADEEN, 1347
ROBERT U. HAMILTON, 5931
BRUCE D. HANNAN, 5411
DAWN M. HARL, 6219
ALICE J. HARVEY, 4217
PAMELA A. HATCH, 8976
HOWARD T. HAYES, 8463
DEBORAH H. HEAD, 9106
BARBARA J. HEILLER, 1787
CAROL F. HOFFMAN, 8330
LELA M. HOLDEN, 6855
MICHAEL P. HOLWAY, 4820
PHILIP L. HOPPER, 2244
MICHAEL J. HUGHES, 6054
MICHAEL W. HUTTON, 6006
DIANNE R. INUNGARAY, 8578
KENNETH C. JACOBS, 8085
BARBARA J. JOHNSTON, 9665
CYNTHIA R. JONES, 1536
CRAIG E. JORDAN, 8343
DENNIS W. JORDAN, 6257
RANI A. KOKATNUR, 4817
DONNA M. LAKE, 8439
KATHLEEN K. LARKIN, 3528
LAWRA A. LEE, 9340
ROBERT C. LENAHAN, 6913
SHARON R. LEYLAND, 3141
CYNTHIA R. LIGHTNER, 3864
SAMUEL J.P. LIVINGSTONE, 3677
ELIZABETH A. LOIKA, 0315
ELLEN K. LOSCHROWE, 9035
REBECCA A. MATTA, 8344
KIRK C. MAYNARD, 9243
MARGARET J. MCARTHUR, 8363
GAIL MCCAIN, 8146
THOMAS G. MCCAULEY, 1956
CHARLES S. MCDONALD, 0951
BRENDA J. MCELENEY, 2645
TIMOTHY R. MCGEE, 4257
PAUL D. MCGOUGH, 2038
JAMES F. MEYERS II, 7784
DAVID J. MIETZNER, 6997
*MICHAEL W. MILLER, 8647
*BRIAN D. MORR, 7856
KAY M. MURPHY, 4388
ELAINE B. MYERS, 5222
MARLON K. NAILLING, 3094
ANDREA R. NEUERBURG, 9867
MICHAEL K. O'CONNOR, 2860
ANTHONY F. OKOREN, JR., 8769
THOMAS M. OLIVE, 6360
KATHERINE M. O'ROURKE, 7519
*KELLY J. ORR, 4477
GREGORY L. PARISH, 1938
RONALD H. PEARSON, 7780
VIVIAN PEREZ, 4931
STEPHEN E. PRIZER, 7550
TODD M. RANDALL, 6846
CAROL L. RANDELL, 5789
SUSAN M. REYNOLDS, 2601
ALLAN L. RHOADS, 7611
THOMAS M. RICE, 9136
*RUSSELL S. ROGERS, 3197
JANICE B. RYCKELEY, 3823
DONALD W. SAMPSON, 4813
VENITA I. SAMPSON, 9350
SEAN P. SCULLY, 5045
DANNY G. SEANGER, 9696
KATHY E. SEARS, 6775
TRACY A. SHUE, 3501
WILLIAM C. SIMON, 5446
PAMELA L. SMITH, 5924
SARA A. SMITH, 8375
GEORGE R. SNYDER, JR., 7090
NORMAN B. SPECTOR, 0434
TERESA P. TAYLOR, 8441
TONI M. TUCKER, 9825
JODI A. TULLMAN, 2270
WANDA VELEZBUSTOS, 4491
JOHN J. VINACCO, JR., 0818
CHRISTINE WAGENERHULME, 0619
VIRGINIA L. WERESZYNSKI, 7549
MARGARET A. WESBECHER, 6792
JOHN M. WEST, 6151
MARY Z. WHITFIELD, 0294
DONNIE R. WIDEMAN, 2926
STEVEN E. WILLIAMS, 7513
STEVEN A. WILSON, 5442
SANDRA J. WITTHAUER, 5077
CHARLES K. WOLAK, 4282
JENNIFER S. WOODRUFF, 0144
LINDA C. WRIGHT, 9784
SHARON B. WRIGHT, 6405
KEVIN E. ZIMMER, 9089
DON R. ZISS, 1867

To be major

RONALD A. ASCHER, JR., 6035
*MICHAEL BAHLATZIS, 3521
JOSEPH J. BALAS, 4712
*DEBRA A. BANKS, 3535
CLARK F. BEAN, 7388
MARILYN A. BEATTY, 3808
KATHI O. BECKMAN, 0839
JOHN M. BEERY, 9806
MICKEY C. BELLEMIN, 7530
PETER BENNIE, JR., 3818
RANDALL E. BLAKE, 2339
CHARLES H. BLAKESLEE, JR., 7200
LINDA L. BONNEL, 3723
MONROE A. BRADLEY, 0136
SCOTT W. BROOKS, 8923
KEVIN D. BROUSSARD, 4413
CYNTHIA E. BROWN, 5482
STANLEY D. BRUNTZ, 9158
RUSSELL L. BYRD, 2858
*STEVEN J. BYRNES, 8372
JOSEPH D. CALLISTER, 4460
SHELLEY D. CAMERON, 0365
*IDA E. CAMPBELL, 8092
DAVID T. CAREY, 8945
CHARLES R. CARLTON, JR., 4064
WILLIAM L. CARNES, JR., 1907
RANDALL A. CARPENTER, 4794
BRIDGET K. CARR, 1308
JOSEPH M. CARRAHER, JR., 8217
MICHAEL L. CARTER, 5458
MICHAEL W. CASEY, 5995
LINNES L. CHESTER, JR., 9900
JOHN L. CHITWOOD, 9613
*CRAIG J. CHRISTENSON, 6009
MICHAEL E. CHULICK, 2209
JEFFREY A. CIGRANG, 6769
JOHN H. COLEMAN III, 9393
RANDALL S. COLLINS, 2026
*TERRANCE K. COLLISON, 5455
TAMMY J. COOK, 8908
PETER K. COUTURE, 2003
DEBORAH A. CRENSHAW, 5752
RALPH K. CROW, 9142
JOHN M. DATENA, 1982
*BARBARA E. DAVIS, 0415
CHARLOTTE Y. DAVIS, 4863
THOMAS P. DEVENOGE, 5599
*TRACY G. DILLINGER, 2975
LESLIE L. DIXON, 7550
JUDY A. DOWELL, 6070
JAMES S. DUNNE, 3911
JACALYN K. EAGAN, 4276
*RICHARD G. EDDINGTON, 6903
MARK A. ELLIS, 5644
ELLEN C. ENGLAND, 0073
NANCY K. FAGAN, 0311
STEPHEN D. FAIRCHILD, 0745
DAVID M. FARRELL, 6196
DENNIS W. FAY, 1139
DENISE Y. FISHER, 6111
JERRI L. FLETCHER, 0044
DANIEL G. FLYNN, 4198
JOHN L. FLYNN, 2879
*KAREN L. FOUST, 0424
STEPHEN J. FRIEDRICH, 0587
RICARDO GARCIA III, 4270
GALEN G. GEARHEART, 1381
MARGARET A. GERNER, 3370
KARIN R. GETSCHOW, 5726
JOSEPH L. GIGLIO, 8243
LYNANNE GILMER, 0153
KEVIN W. GLASZ, 4502
ANDREW M. GLAVES, 8826
DONOVAN Q. GONZALES, 6384
WILLIAM J. GOODEN, 5911
MARY K. GRAVES, 3746
DENISE T. GREEN, 4080
JOHN R. GREEN, 0433
JOHN C. GRIFFITH, 9633
KEITH M. GROTH, 8978
BETSAIDA H. GUZMAN, 5372
THOMAS S. HAINES, JR., 0170
SAMUEL D. HALL III, 0288
MICKRA K. HAMILTON, 4347
JAMES T. HARCARIK, 4865
MARYANNE H. HAVARD, 3140
MARGARET C. HAWKINS, 1857
ALVIS W. HEADEN III, 7449
ANNE P. HEINLY, 9678
SANDRA J. HESTER, 3472
ANETTE HIKIDA, 0445
STEVEN R. HINTEN, 0165
WILLIAM V. HOAK, 8939
VALERIA S. HUDSPATH, 5987
MARIA D. IONESCU, 2170
HARRY B. JEFFRIES, JR., 7042
JOHN E. JEMISON, 8796
HAROLD T. JOHNSON, 4039
JOHN J. JOHNSON, 9011

MONNIE J. JOHNSON, 4703
REGINA M. JULIAN, 7417
EMERY L. KELLY, 7990
STACY A. KELLY, 5444
STEPHEN D. KETTE, 7975
*RONALD M. KICHURA, 9551
GREGORY F. KING, 3576
WITT LISA KLIEBERT, 9131
*THERESA D. KLOSE, 6951
SANDRA A. KNUTSON, 9808
MARK A. KOPPEN, 6523
LINEHAN KRISTINE M. KRUMINS, 7208
RONALD L. LAHTI, 8295
PETER T. LAPUMA, 9936
CYNTHIA L. LEEZIEGLER, 7829
VERNON T. LEW, 6411
*JAMES C. LINN, 9436
JOHN M. LOPARDI, 4501
LINDA S. MACCONNELL, 7033
CAROLYN M. MACOLA, 8893
BAILEY H. MAPP, 6398
KIMBERLY J. MARKLAND, 4492
*VALERIE E. MARTINDALE, 7836
MICHAEL L. MATTESON, 5265
ANTOINETTE C. MATTOCH, 1468
THOMAS D. MC CORMICK, 5326
FRANKIE D. MC DANIEL, 9215
*MARGARET MEADOWS, 7224
SUSAN E. MERRICK, 3814
*JOY M. MILLER, 8776
DAVID G. MISTRETTA, 6383
*EUGENE S. MONTANO, 7025
ROBIN S. MORRIS, 2568
ALLEN R. NAUGLE, 1697
LESLIE K. NES, 2605
GHITIANA M. OATIS, 5251
MARCOS OTERO, 5252
FRANK W. PALMISANO, 1925
CHERYL S. PARIDEE, 0737
RAYMOND J. PARIS, 1258
CRAIG A. PASCOE, 2921
JOHN M. PATELLA, 4110
LESLIE L. PAULEY, 2390
BRUCE D. PETERS, 2765
RICHARD M. PETERSON, 0542
RICHARD A. PHINNEY, 6099
KEVIN F. PILLOUD, 3047
*GARY L. POLAND, 6846
*MICHAEL R. POWELL, 8470
KEVIN S. PURVIS, 5498
JANE L. QUITTMEYER, 2398
JENNY H. RAINWATER, 8094
SARA M. RAMIREZ, 8885
KATHERINE S. REARDEN, 9138
DANIEL E. REISER, 3599
MELVIN F. RICHARDS, 0683
MELANIE F. RICHARDSON, 1025
BRIAN L. RIGGS, 6043
RONALD T. RIPPETOE, 6013
PAUL R. RIVEST, 5489
WILLIAM P. ROACH, 5583
BETTY L. ROBERTS, 5397
DUSTIN K. ROBERTS, 4871
DAWN L. ROCKETT, 5050
ALEXANDER ROMEYN, 1368
LAURA J. ROSAMOND, 5435
VICTOR J. ROSENBAUM, 8700
*BENJAMIN A. RUBIO, 4839
KENNETH R. RUSSELL, JR., 3092
REBECCA L. SALASGROVES, 2215
CONRADO C. SAMPANG, 1289
SCOTT E. SANZOTTA, 4245
LEONARD W. SCHUBRING, 9651
REBECCA B. SCHULTZ, 8812
ERIC A. SHALITA, 1181
SCOTT M. SHIELDS, 6729
JANIS A. SILVERI, 3516
*GARY R. SMALL, 3072
MARK E. SMALLWOOD, 6123
DETLEV H. SMALTZ, 0426
JEANNE K. SMITH, 1871
LISA SMITH, 2800
ROGER G. SPONDIKE, 6706
BRIAN K. STANTON, 6550
*JAMES C. STIGERS, 0862
RICKY A. STOCKTON, 7253
HELEN ANN STRACK, 3299
ROGER D. STULL, 4218
CHARLES F. SURMAN, 8875
THOMAS L. TEAGLE, JR., 8351
MARK S. WHITE, 1357
ANDREW P. WIDGER, 4509
ROBERT W. WISHTISCHIN, 5884
WILLIAM D. WOODCOX, 1354
RICKY D. YOUNG, 6375
JON W. YOW, 9009
JESUS E. ZARATE, 3971

HOUSE OF REPRESENTATIVES—*Friday, March 21, 1997*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. LATOURETTE].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 21, 1997.

I hereby designate the Honorable STEVEN C. LATOURETTE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David FORD, D.D., offered the following prayer:

Breathe into our spirits, Oh God, the breath of this new season and nurture us as we seek to grow and learn more about the gifts of love. As the winds of spring waft about us and the rain brings growth and new life to nature, may we be so inspired that our thoughts are raised, our minds enriched, and our hearts open to Your grace. With gratefulness for this new season and for all the blessings of the day, we offer this prayer of thanksgiving and praise. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. HASTERT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTERT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 328, nays 49, answered "present" 1, not voting 54, as follows:

[Roll No. 68]

YEAS—328

Ackerman
Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Coble
Coburn
Combest
Condit
Cook
Cooksey
Costello
Coyne
Cramer
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Foglietta
Fowler
Fox
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefner
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Kanjorski
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
Kingston
Klink
Knollenberg
Kolbe
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Livingston
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McIntyre
McKeon
McKinney
McNulty
Meek
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Packard
Pallone
Pappas
Parker
Pastor
Paul
Paxon
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Reyes
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Schumer
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith, Adam
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stenholm
Stokes
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thurman
Tiahrt
Tierney
Traficant
Turner
Upton
Walsh
Waters
Watkins
Waxman
Weldon (FL)
Weldon (PA)
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—49

Abercrombie
Borski
Brown (CA)
Brown (OH)
Clay
DeFazio
Dickey
English
Ensign
Fawell
Fazio
Filner
Furse
Gutknecht
Hefley
Hilliard
Hinchey
Hooley
Jackson-Lee (TX)
Johnson, E. B.
Jones
King (NY)
Kucinich
LaFalce
LoBiondo
Maloney (NY)
McDermott
Menendez
Miller (CA)
Neal
Oberstar
Pickett
Ramstad
Rush
Sabo
Skaggs
Slaughter
Strickland
Taylor (MS)
Thompson
Thune
Vento
Visclosky
Wamp
Watt (NC)
Watts (OK)
Weller
Wicker
Yates

ANSWERED "PRESENT"—1

Bilbray

NOT VOTING—54

Andrews
Becerra
Berman
Blumenauer
Boucher
Brown (FL)
Buyer
Clyburn
Collins
Conyers
Cox
Crane
Cummings
Dixon
Engel
Flake
Foley
Forbes
Ford
Frank (MA)
Franks (NJ)
Gonzalez
Gordon
Green
Gutierrez
Hastings (FL)
Herger
Kaptur
Kasich
Kleczka
Klug
Lipinski
McInnis
McIntosh
Meehan
Nadler
Owens
Oxley
Pascrell
Pelosi
Riggs
Rothman
Scott
Sensenbrenner
Smith (NJ)
Smith (TX)
Smith, Linda
Stark
Stearns
Thornberry
Torres
Towns
Velázquez
Wexler

☐ 1019

Mr. DICKEY changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PERSONAL EXPLANATION

Mr. FOLEY. Mr. Speaker, on rollcall No. 68, I was inadvertently detained. Had I been present, I would have voted "yea."

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. LATOURETTE). Will the gentleman from South Dakota [Mr. THUNE] come forward and lead the House in the Pledge of Allegiance.

Mr. THUNE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 514. An Act to permit the waiver of District of Columbia residency requirements for certain employees of the Office of the Inspector General of the District of Columbia.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 58. Joint resolution disapproving the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997.

The message also announced that in accordance with section 1505(a)(1)(B)(ii) of Public Law 99-498, the Chair, on behalf of the President pro tempore, appoints the Senator from Colorado [Mr. CAMPBELL] to the board of trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minutes at the end of legislative business.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1062

Mr. DREIER. Mr. Speaker, I ask unanimous consent that the name of the gentleman from California [Mr. BILBRAY] be removed as a cosponsor of H.R. 1062.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING AMOUNTS FOR THE EXPENSES OF CERTAIN COMMITTEES OF THE HOUSE OF REPRESENTATIVES IN THE 105TH CONGRESS

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 105 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 105

Resolved, That immediately upon the adoption of this resolution the House shall consider without the intervention of any point of order the resolution (H. Res. 91) providing amounts for the expenses of certain committees of the House of Representatives in the One Hundred Fifth Congress. The resolution shall be considered as read for amendment. An amendment in the nature of a substitute consisting of the text of House Resolution 102 shall be considered as adopted. The previous question shall be considered as ordered on the resolution, as amended, to final adoption without intervening motion or demand for division of the question except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on House Oversight; and (2) one motion to recommit.

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this rule once again makes in order House Resolution 91 authorizing funding for all but one of the committees of the House of Representatives for the 105th Congress, but this time under a closed rule providing 1 hour of debate divided equally between the chairman and ranking minority of the Committee on House Oversight.

The rule provides for consideration in the House without intervention of any point of order, it provides that the amendment in the nature of a substitute consisting of the text of House Resolution 102 shall be considered as adopted. It further provides for one motion to recommit.

Mr. Speaker, the new funding resolution that is made in order by this rule is a reasonable compromise. I applaud the work of Chairman THOMAS and others who helped put this compromise together.

It will allow our committees to continue operating until May 2 while freezing funding levels for all committees covered by the resolution except the Committee on Government Reform and Oversight at the 104th Congress levels. This will also allow us to maintain our commitment to take the lead in downsizing and streamlining Government.

More important, Mr. Speaker, it will allow the Government Reform and Oversight Committees's investigation into campaign fundraising abuses by the Clinton administration to proceed despite the best efforts of our colleagues in the minority to cover up those abuses and undermine our constitutional responsibility to investigate wrongdoing in the executive branch.

The resolution also maintains a $7.9 million authorization for a reserve fund for unanticipated expenses of the committees of the 105th Congress because it makes sense. As my colleagues know, at the beginning of the 104th Congress, three annual funding sources for committees consolidated into one biennial calendar year funding resolution to make our committees fully accountable for what they spend. So a small reserve fund fully accounted for and open to public scrutiny to cover unexpected funding emergencies in the second session makes sound business sense.

Virtually every well-managed business in America has a reserve fund for unanticipated contingencies. We can benefit from implementing sound business practices in the House of Representatives. Mr. Speaker, failure to pass this rule and the funding resolution it makes in order would leave our committees without funds to operate after March 31. That is the reason I suspect many of our colleagues in the minority oppose this resolution, but it is an irresponsible position and it damages the integrity of the whole institution, not just the majority or minority.

I urge my colleagues to do the responsible thing. We are trying to move along as expeditiously as possible because we know many Members want to leave town. I will assure my friends on the other side of the aisle that we hope that we will not consume the entire amount of time here. I hope they will do the same.

Mr. Speaker, I reserve the balance of my time.

□ 1030

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. HINOJOSA] for the purposes of a unanimous-consent request.

(Mr. HINOJOSA asked and was given permission to speak out of order.)

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 1

Mr. HINOJOSA. Mr. Speaker, I ask unanimous consent to remove my name as cosponsor of House Joint Resolution 1.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MOAKLEY. Mr. Speaker, this is take two. I thank my dear friend, DAVID DREIER, the gentleman from California, for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, I rise in very strong opposition to this rule, and I must say that I am very disappointed in my Republican colleagues for bringing this matter up again. Yesterday's rule was defeated for three reasons: My Democratic colleagues and I were opposed to the ridiculously large investigative budget for the Committee on Government Reform and Oversight. The budget will be only used to investigate Democrats, despite the many Republican campaign problems reported in the papers.

And we, like most American citizens, could not believe that our Congress was proposing creating a brand new $7.9 million slush fund for itself. As I understand it, my Republican colleagues, along with my Democratic colleagues, objected to the large increase in overall spending contained in this resolution because, Mr. Speaker, Members who talk about cutting Medicare, Members who talk about cutting school lunches in order to give tax breaks to the rich will have a very difficult time explaining a vote to spend millions of dollars of taxpayers' money for Congress to dip in whenever it wants.

None of this should have been news to the Republican leadership. For days the gentleman from Missouri [Mr. GEPHARDT], and the gentleman from Michigan [Mr. BONIOR], have been trying to work with their Republican counterparts to work out a way to temporarily fund committees so that negotiations could begin on the size, the scope and the expense of the investigation by the Committee on Government Reform and Oversight. But, Mr. Speaker, their overtures were ignored, and this is very unfortunate.

Furthermore, after the rule was defeated yesterday, the gentleman from Texas [Mr. ARMEY], said on the floor of this House that he was going to talk to the Democratic leadership about the situation. We waited, we waited, we waited, and nobody came. Instead, Republicans retreated to their conference and came up with a solution that I imagine will only get Republican votes.

Mr. Speaker, I am not one to begrudge the majority party the right to run this House as it sees fit, but this latest episode makes me question the sincerity of the Republican leadership's commitment to bipartisanship on the part of the House, especially on the heels of the retreat at Hershey.

First, the bill will increase the amount of overall funding that Congress gives itself. Second, unlike the Senate investigation, the House Committee on Government Reform and Oversight is only going to look at allegations of Democratic campaign problems, despite the many Republican campaign issues surfacing these days. Third, Mr. Speaker, we objected to the $7.9 million slush fund that my Republican colleagues are creating for undisclosed purposes.

Given these problems and the subsequent defeat of the rule, I would have expected my Republican colleagues to have gone back to the drawing board and fixed their mistakes. But late last night, Mr. Speaker, after waiting for that call that never came, we learned that they are only going to make the mistakes worse.

Today's resolution cuts only $500,000 from yesterday's $22 million; $22 million increase, rather. It fully funds that partisan witch hunt in the Committee on Government Reform and Oversight and it does not change the scope of the investigation one iota. It does not say, OK, we will look into our own garbage while we are looking into everybody else's, and it fully funds that $7.9 million Republican slush fund.

Mr. Speaker, when I first saw this resolution last night in the Committee on Rules, I really thought it was a joke somebody was playing on me. This resolution spends a total of $6 million on all the House committees except one, and that one is the Committee on Government Reform and Oversight.

That committee, the committee that decided it wants to spend its time and taxpayer money digging up dirt on Democrats, gets $20 million. Let me repeat that, Mr. Speaker. One committee gets $20 million and all the other committees, totaled together, get $6 million. Even the Republican slush fund gets more money than all the other committees in the House combined.

Mr. Speaker, I was in the House Chamber during every minute of yesterday's debate on this resolution and I did not hear one single person complain about the money the committees of the House received except the Committee on Government Reform and Oversight. So in response to that, my Republican colleagues increased the amount of money the committee gets and cut the amount that the rest get. Does not make any sense to me.

Yesterday my colleagues complained long and loud about the $7.9 million slush fund but they did not make a peep about the other committees. But this resolution cuts all the other committees instead of the committee that everybody complained about.

Mr. Speaker, I cannot imagine why my colleagues on the other side of the aisle who opposed the rule yesterday because the bill spent $22 million over last year's level would vote for a resolution that saves only $500,000 while it still increases the spending of hard-earned taxpayers' dollars by over $20 million.

Unfortunately, Mr. Speaker, it looks like the Republican leadership is not interested in a bipartisan solution. If they were, they would have called to talk and they would have asked us for our input on committee funding and they would have tried to work together. Instead, they are giving us a proposal that ignores the concerns expressed by our side and puts into stark relief the Republican leadership's priorities: pure, partisan politics.

The only thing kept whole in this resolution is the one-sided, politically motivated, partisan investigation at the Committee on Government Reform and Oversight. And to ensure the Committee on Government Reform and Oversight has enough money, as I said before, $7.9 million set aside in a slush fund just in case.

Mr. Speaker, in the Republican Committee on Government Reform and Oversight, the new star-chamber of campaign finance issues, there has been no input from the Democratic Members on the size and scope of this investigation; no input from Democratic Members on the issuing of subpoenas; no input from Democratic Members on how documents are to be handled in the committee; and, Mr. Speaker, it is not because the gentleman from California [Mr. WAXMAN], has not tried.

The Senate was able to handle this issue in a bipartisan fashion. It is a shame their Republican counterparts in the House have not followed their example.

Mr. Speaker, the American people are sick and tired of the mud-slinging and the cynical partisanship that is being carried on by the Republicans in this one-sided investigation. I call on my Republican colleagues to put an end to it. Everybody knows there are many better ways for this House to vote and spend millions of taxpayers' dollars that would make our constituents proud, Mr. Speaker. This is not one of them.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from Grand Rapids, MI [Mr. EHLERS], a member of the committee.

Mr. EHLERS. Mr. Speaker, I thank the gentleman from California for yielding me this time.

The previous speaker, the gentleman from Massachusetts, has so totally mischaracterized the issue before us that it is necessary for me to run through it once again and outline precisely what this resolution will do.

First of all, it will establish funding for all committees, other than the Committee on Government Reform and Oversight, until May 2, 1997. This interim funding is to permit the committees to operate during the next month while we resolve some of the questions which were raised yesterday.

Furthermore, it establishes for the entire 2-year cycle the funding for the Committee on Government Reform and Oversight at a 2-year funding level of $20 million, including $3.8 million for investigative purposes in 1997 alone. Furthermore, it authorizes a reserve fund of $7.9 million for the entire 105th Congress.

I also have to respond to the characterization of the gentleman from Massachusetts that this is a slush fund. I am from Michigan. I know what slush is. It is dirty, it is messy and it gets splashed all over. That may accurately characterize the way the Members on the other side of the aisle handled the money under the jurisdiction of the Committee on House Administration during their tenure, but this reserve fund is not a slush fund.

This is going to be a tightly controlled reserve fund. It will be under the control of the Committee on House Oversight and it will be parceled out only when necessary and for appropriate purposes. That is certainly not a slush fund. It is out in the open. All decisions will be in the open, widely publicized, and not a slush fund of the type that we are familiar with from Congresses prior to the 104th.

This resolution also provides that any increase in spending in the 105th Congress, as compared to the 104th Congress, must be offset by spending decreases in other legislative branch activities. In other words, this is a zero sum in terms of funding. It is a very important provision, and that helps us fulfill our commitment to balancing the budget.

Under this resolution, committee staff levels remain at one-third of the levels of the 103d Congress, continuing to fulfill the promise we made in the Contract With America more than 2 years ago.

It is a good resolution. It freezes the current committee funding at its current level, which is also the level we had in the 104th Congress, and which is substantially below the level of the 103d Congress when the gentleman across the aisle was in charge.

Mr. Speaker, I urge we adopt this resolution. It is fair, it is proper, and it will get us on the track to better government in this House and in this Nation.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume to say that if that $7.9 million is not a slush fund, I do not know what it is. It will be used for undisclosed purposes. It will be a fund that Members of this House will not be able to vote on. I note the Democrats never pocketed money away like that in this kind of legislation.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New York, the chairman of the Committee on Rules, if he can deny that charge.

Mr. SOLOMON. Mr. Speaker, I say to the gentleman from Massachusetts that if he looks at the National Taxpayers' Union ratings, he is listed as one of the biggest spenders in the Congress. And the same people are arguing this point?

Mr. MOAKLEY. Mr. Speaker, reclaiming my time, evidently, the gentleman just showed he has no answer.

Mr. Speaker, I yield 5 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I would have thought there would have been additional funds in this bill for medical needs of Members on the majority side who had their arms twisted yesterday. I have not been able to find that.

They have done a fine job of it, I understand. They marched them in, they had them explain why they voted against it yesterday, and then they brought them back here all united. But let us make sure that the other side understands what they are united on.

This is not a freeze. What this is is an increase over last year's spending. They can be for it or against it, but they cannot call it a freeze.

□ 1045

You increase spending on Mr. BURTON's committee by $4.8 million, you increase with a slush fund of $7.9 million, and you have increased funding for the other committees in this bill before us today of $5.8 million. So what you have here is an increase in funding. You can bring them home to your caucuses and tell them they have got to stay with the party line. You can tell them not to talk to the Democrats and try to work anything out, but you cannot call it a freeze.

Now, you may be able to argue for the other committees in this Congress that they need those funds. I do not have a problem with that. Where we do have a problem is on a rogue operation that is being put together here to spend at least $4.8 million and possibly another $7.9 million without dealing with the issues that the gentleman from California [Mr. WAXMAN] has raised.

So let us get straight where we are today. You are going to vote for the same thing you voted for yesterday, minus half a million, because what it does is it continues the funding for the next several months, and if you follow that pattern you are not freezing spending.

Now, if you want to be for an increase, vote for an increase. If you want to be for a slush fund, stand up and admit that you think you need a slush fund. But do not fool yourselves. This is not a freeze. What you are doing is you are taking yesterday's bill, you are moving the numbers around, and at the end of the day you are increasing spending over last year.

Ask your own guys before you come up to vote. If you follow through the numbers that are in this program, if you continue what you have set up between now and May 2, will you spend the same amount of money as last year or will you spend more money than last year? And the answer is, you are spending more money than last year.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Maryland.

Mr. HOYER. I thank the gentleman for yielding.

Mr. Speaker, for the new Members on both sides of the aisle, I am not one that demagogs this institution. As a matter of fact, I am very definitely opposed to demagoging this institution, on either side. Unfortunately, in the past we have seen that. It has denigrated the image of this institution with the American public.

I will tell my colleagues on either side of the aisle that all of us, every one of us, is adversely impacted by that kind of debate, but we ought to be honest in the debate. And I want to say to my friends on your side of the aisle, particularly as you attacked or raised in pointed terms how we were not accurately funding the committees, and say to my friend from Michigan who says this is a freeze. It is not. There is $8,170,000 that under the Contract With America would have to have been included in this budget, because you said that what Democrats were doing were taking detailees from the Department of Energy, the Department of Defense and having them on committees and not accurately reflecting the expenditures of the committee.

I will tell my friends, particularly those of you who voted "no" yesterday and who are for honesty in budgeting and putting before the American public what the expenses of the committee are. We have changed that policy just 22 months after it was so proudly adopted, where the committee last Congress said that committees would have to fund their detailees. We have now included back detailees off budget, so your committees that you are going to fund in this bill can spend $8,170,000 beyond what is in this budget.

If that is what you meant by reform, if that is what you meant by the Contract With America, I think some of us were deceived, and frankly I think some of you were deceived. For that reason this is clearly not a freeze.

Mr. GEJDENSON. Mr. Speaker, reclaiming my time and closing on that point, you are spending $18.5 million more than last year.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from Winter Park, FL [Mr. MICA], the chairman of the Subcommittee on Civil Service.

Mr. MICA. I thank the gentleman for yielding me this time.

Mr. Speaker, the other side would have you believe that we are being unfair in this process as far as funding. I serve on the Committee on Government Reform and Oversight. I came to the floor back in 1993 and 1994 and asked for fairness. We were given initially 5 investigative staff, and this is when they controlled the White House, the House and the other body, 5 investigative staff to their 55 staffers. It was finally brought up to 12. But let me tell my colleagues that we provide for 25 percent staffing for the minority under our proposal. Is that fair? I just ask, are we being unfair?

They would also have my colleagues believe that the reason for last night's delay was that some of us were opposed to the investigation or that we caused these problems by investigating. Nothing could be further from the truth. This is the responsibility of the House and this House Investigations and Oversight Committee to do this task. It has been that task since the early 1800's, when the predecessor of this committee was formed.

Let me read you this morning's paper about why we need these funds and what these funds will be used for. And this is not what I say. This is what is in the paper this morning:

> The Clintons and their administration are submerged in what one Democrat activist has called a scandal of unprecedented proportions: China-gate, Lippo-gate, Campaign-gate, File-gate, Travel-gate, Whitewater-gate, the illegal naturalization of alien criminals in order to swell Democratic voter rolls, IRS-political-auditing-gate, Waco, Ruby Ridge, Reno-gate, Espy-gate, Ron Brown-gate, Paula Jones-gate, Lincoln-bedroom-gate, an FBI director who admits he lied to Congress, special prosecutors, congressional investigations, disgrace Presidential appointees, and innumerable first couple utterances of "I don't recall" swirl in such profusion around the Presidency that only rocket scientists can keep up with it all.

That is why we need these funds. To accuse us of creating a slush fund, when I saved over $200,000 in my first 2 years and it went into a fund that we never saw again, not to mention the banking scandal, the post office scandal, I mean this other side of the aisle created the term "slush funds" with their actions.

Mr. Speaker, that is what we are here for.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

I would like to ask my colleague from Florida what paper he is quoting.

Mr. MICA. If the gentleman will yield, I am quoting columnist Paul Craig Roberts.

Mr. MOAKLEY. What paper?

Mr. MICA. I do not have the title of the paper. It was just given to me.

Mr. MOAKLEY. The Washington Times. A very liberal newspaper, very well read, well accepted.

Mr. SOLOMON. It happens to be a very good newspaper, too, my friend.

Mr. MICA. At least someone tells the truth.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. I thank the gentleman for yielding me this time.

Mr. Speaker, what we have seen the last 2 days unfortunately seems to be a metaphor for what this term in Congress is going to be like. You have a small group on the extreme right of the Republican Party dictating policy to everybody else. We had a proposal last night. Eleven people, twelve people said, do it our way or no way, and you succumbed.

Now, what is it that united this party? Well, if you take the rhetoric of this budget, what you are saying, and the gentleman from Florida corroborates it, you do not want to legislate, you do not want to get things done, you do not want to come to the center and try and deal with the problems of America. All you want to do is investigate.

When a party is divided, when you cannot come to any substantive agreements on virtually any issue, haul out a whole bunch of investigative committees. That is what you have done. That is the only thing that can bring the votes here. We are going to see that, my colleagues, again and again and again. And then even worst of all, it is hypocritical, because you know you cannot budget with a freeze. You know you cannot do the job. So you tell those Members it is a freeze, but it really is not, as has been pointed out before.

I am afraid we are in for 2 rough years of sledding. I am afraid, seeing what I have seen here, that we are going to have an extremist small group dictate policy on the floor of the House, that there will be no interest in coming to the center and legislating and that to cover up the fractured differences of the other party, we are going to spend a lot of time doing a lot of dances about investigation, investigation, investigation when we all know the Congress is the worst place to investigate these kinds of things because partisan clouds hang over every investigation.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Falls Church, VA [Mr. DAVIS].

Mr. DAVIS of Virginia. If Congress is not the one to be investigating this, maybe some of my colleagues would join with us in calling for a special prosecutor on some of these areas, that we clear that up instead of Congress having to do the work. But let me make a couple of points.

The Committee on Government Reform and Oversight, which I think has been greatly maligned this morning. Under the 103d Congress, when we were still in a minority, it then comprised one committee. In the 104th Congress we combined it into three committees from the old Congress, the Post Office and Civil Service and the District of Columbia Committee. Under the funding currently proposed, we are at 75 percent for the committees of what the funding was in the 103d Congress, even with all of the additional money that is being given for investigations; on a trail, I might add, that leads to China, to Cuba, to Guam, to Hawaii, to Hong Kong, to Indonesia, to Paraguay, to South Korea, to Taiwan, to Thailand, to the Ukraine and Vietnam, very extensive investigation, multilanguages involved. Still even with these and the combining, 75 percent of the level that was funded in the 103d Congress.

Mr. Speaker, I am happy to speak in favor of the rule.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to my very good friend, the gentleman from Poland, OH [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I voted with the Democrats yesterday and most Republicans toed the line and we are seeing party discipline, but we are not seeing the Congress governing. $7.9 million, I do not know if it is a slush fund or an investment. But let me remind Congress as we speak that China got a sweetheart deal in Long Beach, CA; China is getting a United States guaranteed, Government backed loan of $138 million in Alabama; a Chinese company was just awarded a $250 million contract even though they have been convicted of smuggling AK-47's into America; and as we speak, a company with ties to China will operate both ports on each end of the Panama Canal that United States taxpayers built. Personally, I think both parties are debating a fly on their face while a Communist dragon is eating our assets here.

Mr. Speaker, I am going to vote for the rule today. I am going to vote for the bill.

Mr. Speaker, $7.9 million is nothing compared to a $20 billion trade deficit last month in manufactured goods and products. China in the last 2 months has amassed $10 billion in trade surpluses. Enough is enough. Look at the impact in our State alone. Two thousand five hundred workers are being laid off by Ford Motor Co. in Lorain, OH. They have cited imports.

□ 1100

Goodyear Tire Co., Akron, OH, cutting 150 workers and moving their plant to Chile. Enough is enough.

And the Department of Labor, they tell us, "Don't worry; there's high tech jobs there."

Look at the Department of Labor manual for new jobs:

Handkerchief folder;

Corncob pipe assembler;

Hooker inspector; and

Pantyhose crotch closer.

And if they get a degree, they could become a pantyhose crotch closer supervisor.

Enough is enough.

Let me say this to both parties: I think there are more Americans that are tired of the Democrat-Republican business. They want us to vote for what they think is best for the country. What I think is best for the country is to give a bull dog, rather than demean him, a bull dog like the gentleman from Indiana [Mr. BURTON], the opportunity to get to the bottom of this Chinese mess, regardless who is in the White House, Democrat or Republican.

Now that may not make friends, but I appreciate the time.

Mr. MOAKLEY. Mr. Speaker, I ask the gentleman from California [Mr. DREIER] if he has any speakers.

Mr. DREIER. Mr. Speaker, we are looking for speakers to counter all the speakers that the gentleman has. There are Members who are anxious to talk only if they are.

Mr. MOAKLEY. I think we could have saved a lot of time, Mr. Speaker, if the Democrats were allowed into the Republican caucus yesterday because that convincing argument that changed those 11 Members may have changed all of us.

I yield 3 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, I say to my colleagues, "If you want peace, seek justice. The wisdom of that ancient maxim seems to have been completely lost on the Republican leadership of this House. They want peace, they want smiling Democrats at peace on this floor as accomplices to most any injustice that they want to promote. They wanted peace on the opening day of this Congress when instead of adopting a democratic proposal to ask the committee to come back on April 7 with a proposal to reform the campaign finance system, they rejected that, and indeed that committee will not even begin its work by April 7 on doing something about the money chase. They wanted peace on the opening day of this session when they demanded that their own Members elect the Speaker who was himself a "pioneer" in tax free campaign finance. And of course they wanted peace, indeed they want a pat on the back, . . .

Yes, this Republican leadership tells us today——

Mr. BARR of Georgia. Mr. Speaker, I would ask that the Member's words be taken down.

The SPEAKER pro tempore. [Mr. LATOURETTE]. A point of order has been raised. The gentleman from Texas [Mr. DOGGETT] will please resume his seat, and the Clerk will report the words objected to.

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Mr. DOGGETT. Mr. Speaker, I am advised by the Parliamentarian that there can be no reference . . . and so I withdraw that part of my remarks.

The SPEAKER pro tempore [Mr. LATOURETTE]. Is there objection to the request?

There was no objection.

The gentleman from Texas may proceed in order and he has 1 minute remaining on the time yielded to him.

Mr. DOGGETT. Mr. Speaker, it is against this background of false peace that today we are asked to focus entirely on alleged wrongdoing at the White House. For myself, I want a thorough and complete investigation of that alleged wrongdoing at the White House. In fact, we can investigate until our heart's content, so long as we apply the same level of scrutiny to this House that we apply to the White House.

Indeed, I suggest to all of my colleagues that they remember the injunction that is found in chapter 6 of Luke when it was said, "How canst thou say to thy brother, 'Brother, let me pull out the mote that is in thine eye,' when thou thyself beholdest not the beam that is in thy own eye. Thou hypocrite, cast out first the beam out of thine own eye and then shall thy see clearly to pull out the mote that is in thy brother's eye."

The problem today is that there seems to be a little bit more interest in pulling out "motes" than in focusing on the "beams" that are a little closer to home. Instead of building on the legitimate public concern on what happened on both sides of the political process in the recent election, that election and that public concern is being used to block and prevent any real reform. That is what this investigation is all about.

Do not legislate reform, investigate and point fingers at the other side. We need thorough scrutiny, but it needs to be scrutiny aimed at peace and justice. In the words of Dr. Martin Luther King, true peace is not merely the absence of tension, it is the presence of justice, and until we get justice, there will be tension.

Mr. DREIER. Mr. Speaker, may I inquire of the Chair how much time is remaining on both sides?

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] controls 17¾ minutes; the gentleman from Massachusetts [Mr. MOAKLEY] has 10¼ minutes.

Mr. DREIER. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Georgia [Mr. BARR].

Mr. BARR of Georgia. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise just to see if I got this straight. Yesterday we heard some very interesting arguments about interpreting the rules of this House so broadly that the potential scope of the jurisdiction of the Committee on Government Reform and Oversight, according to folks on the other side, knows no bounds whatsoever and that the committee should, indeed can and indeed should, as they say on the other side, investigate all sorts of things. We have heard additional ones this morning perhaps that they want the committee to go into.

I think I have that right on their side, and I think also I have right their position on the other side that the modest increase in funds that we are proposing in funds on this resolution to the Committee on Government Reform and Oversight is too much money. So on the one hand, they want the most expansive reading of the jurisdiction of this committee, and on the other hand, they do not want the funds to do it. Something is not right here, Mr. Speaker.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Georgia [Mr. BARR] did not really have it right. We were not concerned that the Committee on Government Reform and Oversight should not investigate everything, but the excuse was being made that the reason they did not go to certain areas is because they did not have jurisdiction. I just wanted to point out in the law that they did have investigative jurisdiction to where they were asked to look. That is all.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, to my distinguished member of the Committee on Rules, I think what we are trying to do here on the Democratic side is just to provide a little light and a little education on what my colleagues may have gleaned from their meeting yesterday. I wish, as the gentleman from Massachusetts [Mr. MOAKLEY] had said, we might have been flies in the room possibly to understand why this overall change of mind.

I have several points to make. One, I believe the gentleman who talked about creating jobs in America, that is an important issue, and I will simply ask my colleagues to think about the kind of money that they are giving the chairman to investigate the President of the United States and the abuses that they say have occurred, and yet not putting on the floor of the House real campaign finance reform.

If they take the $15 million that they are now spending, and I might say, I thought my colleagues on the other side would come back and at least bring that number down, but that is $1 per 15 million people in the United States of America. If they take 30 million people in the United States of America, they have to pay 50 cents for this one-sided investigation.

Then we find out that the Senate spent only $1.8 million for White House, $5 million was spent on the House and Senate Iran-Contra investigations, and $6.9 million was spent on the Senate Watergate investigation.

I cannot understand why we have an investigation where there is no due process, where the chairman can unilaterally issue subpoenas, where the chairman can unilaterally secure documents and then issue the documents publicly. There is no protection, there is no committee oversight, there is no combined effort, and we are giving $15 million, $15 million. United States citizens must pay $1; 30 million citizens must pay 50 cents in order to create this slush fund.

Mr. Speaker, I simply say we can solve all of the problems, create jobs, by bringing real campaign finance reform to the House, investigating all of us, and making sure that the abuses against the American people are not rendered by one person, subpoena power unilateral, document issuers unilateral.

Where is the due process in this whole process? Where are the American people in this process? Real campaign finance reform is the real issue.

Mr. Speaker, I rise in opposition to House Resolution 91, the committee funding resolution, because it is fatally flawed and grossly biased in four fundamental areas: First, the chairman's authority to issue subpoenas without a committee vote; second, the chairman's authority to release privileged and confidential documents; third, the scope of the investigation; and fourth, the budget allocation of the committee.

On the chairman's authority to issue subpoenas: Never before in the history of the Government of the United States of America, neither in the Senate, nor in the House, has a chairman of a standing committee, or any other committee, ad hoc or otherwise, exercised the power to unilaterally issue subpoenas, without a vote of the committee or the approval of the ranking member.

The power to issue a subpoena is one that should be held by the entire committee, not just the chairman. There is a reason that several members from both sides serve on a committee. The purpose is to allow for a balanced, fair representation of issues and views.

Mr. Speaker, the model for our system of Government is that of a democracy, not a monarchy. Democratic principles should be reflected in every aspect of our governmental systems and should be reflected in the way in which Congress does the business of the American people. Thus, the decision to issue a subpoena should be reserved for the several members of the committee, not just the chairman.

The potential for abuse of this increasing power is enormous. No less than 30 subpoenas have already been unilaterally issued by the chairman. There are no safeguards in place to check the abuse of this roaming power. The unilateral issuing of these 30 unnecessary subpoenas clearly shows that there is no doubt that the chairman will abuse this unfounded privilege.

No established rules of congressional precedents have been followed in the issuing of upward of 30 subpoenas. We must not allow a chairman to randomly issue subpoenas.

The nature of the subpoenas issued is most troubling. They seek to compel the production of extraordinarily sensitive national security and foreign policy documents that have absolutely no bearing on the substance of the committee's work and oversight.

This is a gross abuse of power. This is a witch hunt in the making with no end in sight. Chairman BURTON has issued subpoenas for all phone records from Air Force One and Air Force Two, which include phone calls made by the President and his national security team to heads of state on sensitive foreign policy negotiations.

Additionally, the chairman has issued subpoenas for all records of visitors to the White House residence for the past 4 years. This is a gross invasion of privacy which makes no exception for Chelsea Clinton's friends, relatives of the first family, or visits by doctors or clergy.

The chairman has issued subpoenas for the production of documents from the Democratic National Committee. This shows the pure partisan motives of the chairman and amounts to nothing more than an abuse of power. The chairman has requested the production of documents that have no place within the scope of the committee's scope of investigation.

If we allow the chairman of a committee to issue subpoenas solely on his own authority, then it will amount to nothing more than a witch hunt and a gross waste of time for the Congress and the people of the United States.

No one would be safe. There is no doubt that it would return us to the infamous days of the Red scare McCarthy hearings. The entire country was held hostage by misplaced power. But even then, it was not the chairman who acted alone in acting, it was a committee. How much more would the lives of hard-working Americans be violently disrupted by a power hungry, overzealous chairman of a committee who has the power to drag Americans before a committee.

On authority to unilaterally release documents: The chairman wants the power to unilaterally release these documents once he gets them. This is, without question, an abuse of power and a violation of the longstanding customs of the House. No committee chairman has ever been given the power that Chairman BURTON seeks.

This will allow the chairman to release documents, without anyone else's consent, that are submitted to the committee. This includes confidential financial records and trade secrets, medical histories and other personal records of individuals.

If given the inordinant power that the chairman seeks, he will be allowed to release the names of confidential FBI informants and other confidential law enforcement information, as well as privileged attorney-client communications.

Neither in Whitewater, nor in Iran-Contra investigations did a chairman have this type of unilateral authority. The sensitive nature of privileged documents demands that they be kept secret.

On the proposed budget for the investigation: One of the most ridiculous aspects of this resolution is the proposed budget for the Committee on Government Reform, which is over $20 million. This is nearly a 50-percent increase of $6.5 million from the budget in the 104th Congress.

Mr. Speaker, at the beginning of this legislative session, the word bipartisanship was promoted by both Democrats and Republicans alike.

Eighteen standing committees of the House and the Permanent Select Committee on Intelligence each depends upon this resolution for its funding authorization.

The Government Reform and Oversight Committee's reserve funds will weigh in at between $12 to $15 million for one purpose and one purpose alone—to waste the taxpayer money and time on bogus hearings on Democratic fundraising activities for last year's election. These hearings will be nothing more than Gestapo tactics and Red scare threats to try and hang all of the problems of campaign fundraising on the backs of hard-working Democrats.

The Government Reform Committee proposes that it will only use $3.8 million for the investigation of Democratic fundraising. It does not make a difference if it is $15, $3, or $1 million. It is still a gross waste of taxpayer money.

In comparison to other investigations, the $12 to $15 million available to the Government Reform Committee for the campaign finance investigation also far exceeds the $1.8 million spent on the Senate Whitewater investigation, the $5 million spent on the House and Senate Iran-Contra investigations, and the $6.9 million spent on the Senate Watergate investigation, after adjusting for investigation.

The official policy of the House Oversight Committee is that "all committees should allocate at least one-third of the resources to the minority." This particular allocation is not being met in the Government Reform Committee.

To add insult to injury, the rules of the Government Reform Committee require that the committee budget be prepared in consultation with the minority. However, despite repeated requests, the majority did not consult with the minority in preparing the proposed committee budget. In fact, the minority was not provided a copy of the budget until 2 weeks after its submission to the House Oversight Committee.

Scope of the Investigations: If we are to hold the executive branch to a standard of conduct then we should hold this Congress to the same standard of conduct. This includes both parties—not just the Democrats.

The limited scope of the investigation proposed by this resolution prevents any scrutiny of campaign finance abuses in Congress. Under this approach the committee would be precluded from investigating illegal or improper fundraising activities such as: The use of congressional buildings or telephones for nonprofit organizations to circumvent "hard money" limits, the solicitation of illegal "hard money" corporate contributions, the use of congressional campaign committees to transfer improper campaign contributions, and improper foreign contributions to Members of Congress, among others. There are grounds for investigating this area of the House.

House Resolution 91 states that the scope of the investigation will be limited to fundraising improprieties and possible violations of law by executive branch officials and the Government agencies in the 1996 Presidential campaign.

In stark contrast, the Senate voted 99 to 0 in favor of an investigation of illegal or improper activities in connection with 1996 Federal election campaigns. Unlike the proposed House investigation, the Senate investigation is not limited to alleged abuses by the executive branch, but will also examine abuses in congressional campaigns. Also real campaign finance reform can be done by passing bipartisan campaign finance reform legislation this year.

In opposing House Resolution 91—this is our opportunity to do what the American people sent us here to do—act in their best interest and make laws that improve the lives of Americans. To do otherwise, is to levy a gross injustice on the backs of the American people.

I urge my colleagues to vote "no" on the passage of this resolution and protect the American people. House Resolution 91 violates the spirit of bipartisanship and fairness that the Republicans were so fond of promoting just a few weeks ago; it is a divisive partisan effort that will only result in gridlock; and because it is a gross waste of taxpayer money that could readily be spent on the children or the disenfranchised in America.

Mr. DREIER. Mr. Speaker, I yield 2½ minutes to my very good friend, the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, I would submit that campaign finance reform is not the issue. One of the previous speakers said, if we want peace, seek justice. Justice is exactly what we intend to seek.

The question is, why is the Democrat leadership trying to turn the investigation away from the Clinton administration? Here is what they are trying to divert our attention away from.

The President held 103 fund-raising coffees and 58 receptions and dinners at the White House. Here are a few of the disreputable individuals they invited:

Wang Jun, the director of a Chinese arms trading company under investigation for illegally shipping 2,000 fully automatic, Chinese-made AK-47's to the United States, a guest at the White House.

Jorge Gordito Cabrera, a convicted felon currently serving 19 years in prison for conspiring to smuggle 6,000 pounds of cocaine into the United States, another guest of the President and Mrs. Clinton at the White House.

Eric Wynn, another convicted felon whose company, Wireless Advantage, gave $25,000 to the Democratic National Committee 2 days before Wynn had coffee at the White House. Wynn, who had already served 2 years in prison for a scheme that may have benefited the Bonanno crime family, is reported to have been seeking a pardon from the President. He was at the White House.

Gregori Loutchansky, chairman of NORDEX, an Austria-based company, "associated with Russian criminal activity," according to former CIA director, John Deutch, who refused to further discuss the company in an open hearing. He was at the White House.

Mr. Speaker, everybody was not doing this. Let us not get distracted from where the real scandal is. Mr. Speaker, we ought to vote to fund the investigation led by a valiant, honorable, courageous, fearless man, Chairman DAN BURTON, who will get to the bottom of this. I fully support this rules resolution, and the resolution to come after it.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I understand that everybody is racing to get out of here, but I have to think that this is going to be one of the most fateful votes that we are going to cast today; I have a feeling that in years to come, there are many in this Chamber that are going to rue the day that this vote was cast.

Mr. Speaker, I have been a Member of this body and the Committee on Government Reform and Oversight for 14 years. I am proud of that, and I am proud of the bipartisanship that has always characterized the investigations of that committee.

However, with this resolution what happens is, as I understand it, all committees but one come back in 30 days and the Congress acts on their resolution again. There is only one that gets clear sailing, gets its amount, and that is the Committee on Government Reform and Oversight.

No one disagrees with the need of the Committee on Government Reform and Oversight, which is an investigative committee, to do the investigation that needs to be done, whether it be the White House, the DNC, or Congress. Well, no, we all agree that there needs to be an investigation; whom it covers is something else.

I am sad for another reason, because when this resolution passes, Mr. Speaker, there is given to the Committee on Government Reform and Oversight unbridled authority, authority that I have never seen, never seen exercised. Certainly in 14 years I have never seen the unilateral issuance of subpoenas, not even the consultation of the minority, much less a vote of the full committee. I have never seen the kind of trickling out in release of documents at the authority of the Chair of the Committee on Government Reform and Oversight. I have never seen a committee so eager to investigate one group of alleged abuses, those at the DNC and White House, perhaps, but yet at the same time refuse to investigate other alleged areas.

Make no mistake about it. In the flood of allegations of campaign improprieties, the waters do not stop at the White House porch. They are also lapping at the steps of Congress, and yet this committee, the Committee on Government Reform and Oversight, will be given the authority to do one and not the other.

Yes, I have heard about how it does not have the authority. It has the investigative authority to conduct a full investigation. And even if it does not in some people's minds, will somebody tell me what the schedule for investigations into congressional improprieties is? There is no other committee that intends to get into that.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ARCHER].

(Mr. ARCHER asked and was given permission to speak out of order.)

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1055

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1055. By clerical error in my office, my name was unfortunately added to that bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MOAKLEY. Mr. Speaker, can the Speaker notify the gentleman from California [Mr. DREIER] and myself of the remaining time?

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] has 14¼ minutes, and the gentleman from Massachusetts [Mr. MOAKLEY] has 6 minutes remaining.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I heard my colleague from California [Mr. DOOLITTLE] say that campaign finance reform is not the issue here. I think the issue is campaign finance reform. What is happening here with this funding resolution is essentially that the Republican leadership is coming up with a great diversionary tactic where they will spend a year or perhaps 2 years at great expense to the taxpayers, essentially to do a probe of the White House, but at the same time they are not willing to open up this investigation to Democrats and Republicans in Congress.

There is no question in my mind about why this is happening. For one, we have the chairman of the committee, the chairman of the Committee on Government Reform and Oversight, who should be stepping aside. Many of the newspapers, the Washington Post: "Mr. Burton Should Step Aside." But he does not want to open it up to a full investigation that would look at congressional campaign practices, because the first person they would have to investigate is himself.

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So do not tell me that campaign finance reform is not the issue. They do not want to bring up the issue of campaign finance reform.

Day after day on the floor of this House, Democrats, including myself, have asked the Republican leadership to bring up campaign finance reform, to have a debate on campaign finance reform, and so far there has not even been a hearing in this House on campaign finance reform. But we can spend the next year or two looking and investigating the White House in a blatant partisan way at tremendous cost to the American taxpayer.

I just want to say, many of the Republicans who will vote for this resolution today came to Congress promising to shake up the institution and change the way this House does business. How can they vote for this resolution that throws up to $11 million to an investigation that no one can claim is credible, due to the fact that the chairman of the Committee on Government Reform and Oversight now has his own fundraising controversy that needs to be investigated?

If Members vote yes on this resolution, they are voting to waste millions in taxpayer dollars. They are voting to support the chairman of the Committee on Government Reform and Oversight, who all but admitted to appealing to the Ambassador of Pakistan for campaign contributions. They are voting for business as usual.

If Members vote for this resolution, I would say to my colleagues, congratulations, because they become part of the problem.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Del Mar, California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would think that my colleagues on the other side of the aisle would like to at least take a look at this in the committee of the gentleman from Indiana [Mr. BURTON]. Maybe we can do it a different way.

In my State, Cosco, a Chinese-owned and operated shipping company, has just been awarded to take over the Long Beach Naval Shipyard. Cosco is the same company that just took out the pier in New Orleans. It is the same company. I would say to the gentleman from New York [Mr. SCHUMER], who passionately believes against assault weapons, and that we have too many weapons in this country, which we do; it is the same company that smuggled in the AK-47's, 2,000 of them, the same kinds of fully automatic weapon that was used in the Los Angeles bank robbery 2 weeks ago.

We have M-2's and grenade launchers that are going down to Mexico City out of Long Beach and could affect, in the next 90 days, the elections to put an anti-United States legislature within the Mexican Government and destroy anything, or the gains we have made.

The Coast Guard has violated Cosco six times this year and designated them unsafe. Yet both the arms dealer and Cosco gave money to the DNC, the President went along with Long Beach to go ahead and certify them, and at the same time this is the same company that is going to occupy, as of last week, both ends of the Panama Canal.

Remember last year when the Chinese went after Taiwan and shot missiles? They made this statement: Do you prefer Los Angeles or Taiwan? I think that is a national security interest that my friends would want to look into. That is why we are asking to take a look at this, because we feel it is a very important national security issue, not even a campaign issue.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, so much for Hershey. The wisdom of the Constitution has been the division of powers between judicial, legislative, and executive branches of Government into separate and distinct parts. Congress has always had broad investigative powers, but these powers have been tempered by the hard-earned lessons of the judicial branch enshrined in the traditions of the grand jury.

A grand jury looks at an event, the evidence, and facts surrounding it. It has no presumptions. It is impartial. Releasing information presented to a grand jury is a felony. No special prosecutor, no attorney, no local prosecutor has the authority to issue subpoenas, investigate individuals, and then release this information without bringing criminal charges. The gentleman from Indiana [Mr. BURTON] should not have that power either.

Mr. Speaker, this resolution provides for millions of taxpayers' dollars to invoke powers and authority not even sought by Joseph McCarthy of Wisconsin, who has not brought credit to this institution by his investigative practices. The concentration of such power and authority is unwise and impairs the ability to judge fairly. It is an abuse of power.

Mr. Speaker, this resolution exceeds anything that the Founding Fathers contemplated as far as the appropriate investigative role of the Congress. We do not allow prosecutors to destroy individual rights of privacy, to publicize sensitive information. We certainly should not give millions of dollars to a congressional committee to do so. If Members are going to give such expansive powers, why are they so afraid of including themselves in such an investigative oversight?

Republicans do not seek justice in this process, as we have heard, they seek retribution. This is not about prosecution, this is about persecution. A government of the people and by the people must have certain controls. Let us not make this investigation into one in which the integrity of the House is at stake.

Mr. DREIER. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Stephensburg, Kentucky [Mr. LEWIS].

Mr. LEWIS of Kentucky. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to just say to my colleagues across the aisle that in defense of their party, they remind me of the fox coming out of the chickenhouse with chickens all under his arms and getting caught, and saying: We have to do something about that lock. But in the meantime, we have to investigate the farmer, because he has been getting chickens out of that henhouse, also.

Mr. Speaker, that is the way it is. Get real. There are problems that stink to high heaven in the DNC and in the White House, and we need to get to the bottom of it. When there are problems like that on this side, let us know and we will try to do something about it, also.

Mr. MOAKLEY. Mr. Speaker, I yield the balance of my time to the gentleman from Virginia [Mr. MORAN].

The SPEAKER pro tempore [Mr. LATOURETTE]. The gentleman from Virginia (Mr. MORAN) is recognized for 2 minutes.

Mr. MORAN of Virginia. Mr. Speaker, it is wrong for the House to give the gentleman from Indiana, Mr. BURTON, twice as much to conduct a partisan investigation of one branch of Government as the Senate has provided Senator THOMPSON to look at both branches of Government in a bipartisan manner. That is our objection.

Mr. Speaker, I served with my friend and colleague, the gentleman from Indiana [Mr. BURTON] 5 years ago when he was the ranking Republican on the Committee on Government Reform and Oversight. We were looking into the fact that the Bush White House had spent millions of dollars on Air Force One and staff to do partisan fundraising around the country.

The American taxpayers were supposed to be reimbursed. They were not. We had one trip down to Florida that cost the taxpayers hundreds of thousands of dollars to campaign for Republican candidates. The Republican National Committee reimbursed the taxpayers $316. We had another one up and down the west coast, for Republican Senate candidates that cost nearly $1 million. The RNC reimbursed about $600 to the taxpayer.

We asked for the official travel logs to do an adequate investigation. The gentleman from Indiana said no, he did not want the White House to release any such information. At the time, he said, "If you suggest that the White House has done anything wrong, you should bring charges, not hold partisan hearings." That is the quote from my friend, the gentleman from Indiana [Mr. BURTON]. He also said later on when we exposed even worse abuses on the part of the Bush White House, that the Congress should investigate its own problems before launching a fishing expedition on the executive branch.

I would suggest the gentleman from Indiana should take that statement to heart, to investigate the serious improprieties that were alleged in the Washington Post this week, where a current committee chairman, Mr. BURTON, shook down a lobbyist for campaign money and retaliated against that person when he did not raise enough. We have allegations that the Republican leadership is making a friends and enemies list of lobbyists they will and will not talk to.

Roll Call reports that the House Republican leadership is retaliating against groups and individuals who contribute to Democrats. We have a systematic process by which the Republican leadership has intimidated and retaliated against people and organizations who don't contribute enough to them.

To put a stop to such abuses this committee need not look down the mall at the President, but at themselves in the mirror.

We have a chance to forever change the system and enact campaign finance reform. Instead, this resolution will perpetuate the poisonous atmosphere that only contributes to our own demise and the cynicism of the voters.

We must vote this resolution down and place our priorities where they belong—in legislation and working to improve the lives of our constituents rather than finger pointing and partisan warfare.

Mr. Speaker, this is not fair. It is not right. Reject this resolution.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have come to what I think is a very fair and balanced compromise on this issue. We have tried not to consume our entire amount of time because we know both Democrats and Republicans are anxious to get moving, since we have already gone beyond the target adjournment date of yesterday.

Mr. Speaker, to close our debate, but not to use the entire amount of time, because I know he will not do that, I am very pleased to yield such time as he may consume to my dear friend, the gentleman from Bakersfield, CA [Mr. THOMAS], chairman of the Committee on House Oversight.

Mr. THOMAS. Mr. Speaker, where was I? Yes, I remember, I was talking about democracy and majority rule. As a matter of fact, that is the way we make decisions in our constitutional Republic.

I did not realize how prophetic the introduction of my friend, the gentleman from California, yesterday was in talking about the opportunity to explain the Connecticut Compromise, that great compromise that allowed this Government to actually begin to function. The ability to create a more perfect union was based upon compromise.

To differ is human, but the genius of American politics is that we have created a system that allows us to resolve those differences. It is compromise. Yesterday we tried and we failed. Trying and failing is not failure. Failing to try is failure.

Mr. Speaker, the other side used some relatively harsh words today. We know the system that they created in trying to fund and run this institution, in which half of the money for funding committees was never looked at in a public hearing so that the American people knew what was going on. We are offering a more perfect system. The reserve fund is that.

But they have used harsh words today: "Slush fund," "hypocrisy," "extremist." I could go on. My friends say they want to work together, but their choice of words really makes it harder to do so. But as they say, tomorrow is another day, and we look forward to working with them tomorrow or the day after tomorrow.

Finally, Mr. Speaker, for those colleagues on my side of the aisle who, as individuals, reminded us that we all have to work together to be a majority, I thank the gentlemen for reminding us that we do have to include individuals. This system was created on the basis of individuals, and a majority comes together as a collection of individuals. I want to thank them for allowing the American system to work.

Mr. Speaker, I will ask for the support of the previous question and a "yes" on the rule. The majority is working. The Republic is safe.

Mr. DREIER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 218, nays 179, not voting 35, as follows:

[Roll No. 69]

YEAS—218

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Fox
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—179

Abercrombie
Ackerman
Allen
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berry
Blagojevich
Bonior
Borski
Boswell
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Condit
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Hall (OH)
Hall (TX)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink

Moakley
Mollohan
Moran (VA)
Murtha
Neal
Oberstar
Obey
Olver
Ortiz
Pallone
Pastor
Payne
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Towns
Turner
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—35

Andrews
Berman
Bishop
Blumenauer
Boucher
Buyer
Clyburn
Conyers
Flake
Forbes
Frank (MA)
Franks (NJ)
Green
Gutierrez
Hastings (FL)
Kaptur
Kasich
Lipinski
Meehan
Nadler
Owens
Oxley
Pascrell
Pelosi
Pickett
Rothman
Scott
Sensenbrenner
Smith (TX)
Smith, Linda
Stark
Thornberry
Torres
Velázquez
Wexler

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Mr. BROWN of California and Mr. POMEROY changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to House Resolution 105, the House will now consider the resolution (House Resolution 91) providing amounts for the expenses of certain committees of the House of Representatives in the 105th Congress.

The Clerk read the title of the resolution.

The text of House Resolution 91 is as follows:

H. RES. 91

Resolved,

SECTION 1. COMMITTEE EXPENSES FOR THE ONE HUNDRED FIFTH CONGRESS.

(a) IN GENERAL.—With respect to the One Hundred Fifth Congress, there shall be paid out of the applicable accounts of the House of Representatives, in accordance with this primary expense resolution, not more than the amount specified in subsection (b) for the expenses (including the expenses of all staff salaries) of each committee named in that subsection.

(b) COMMITTEES AND AMOUNTS.—The committees and amounts referred to in subsection (a) are: Committee on Agriculture, $7,792,162.00; Committee on Banking and Financial Services, $9,414,784.53; Committee on the Budget, $9,940,000; Committee on Commerce, $14,671,538; Committee on Education and the Workforce, $10,569,157; Committee on Government Reform and Oversight, $20,020,572; Committee on House Oversight, $6,160,946; Permanent Select Committee on Intelligence, $4,939,526.00; Committee on International Relations, $11,150,892; Committee on the Judiciary, $12,037,046; Committee on National Security, $10,668,640; Committee on Resources, $10,418,537; Committee on Rules, $4,649,102; Committee on Science, $9,128,727.44; Committee on Small Business, $4,099,817; Committee on Standards of Official Conduct, $2,439,300; Committee on Transportation and Infrastructure, $14,096,282; Committee on Veterans' Affairs, $5,744,757; and Committee on Ways and Means, $11,163,529.

SEC. 2. FIRST SESSION LIMITATIONS.

(a) IN GENERAL.—Of the amount provided for in section 1 for each committee named in subsection (b), not more than the amount specified in such subsection shall be available for expenses incurred during the period beginning at noon on January 3, 1997, and ending immediately before noon on January 3, 1998.

(b) COMMITTEES AND AMOUNTS.—The committees and amounts referred to in subsection (a) are: Committee on Agriculture, $3,851,039.00; Committee on Banking and Financial Services, $4,568,817.48; Committee on the Budget, $4,970,000; Committee on Commerce, $7,179,440; Committee on Education and the Workforce, $5,227,342; Committee on Government Reform and Oversight, $11,702,573; Committee on House Oversight, $3,133,200; Permanent Select Committee on Intelligence, $2,420,040.00; Committee on International Relations, $5,433,555; Committee on the Judiciary, $5,732,403; Committee on National Security, $5,145,928; Committee on Resources, $5,058,524; Committee on Rules, $2,306,407; Committee on Science, $4,519,172.00; Committee on Small Business, $2,014,818; Committee on Standards of Official Conduct, $1,237,300; Committee on Transportation and Infrastructure, $7,042,725; Committee on Veterans' Affairs, $2,744,855; and Committee on Ways and Means, $5,472,622.

SEC. 3. SECOND SESSION LIMITATIONS.

(a) IN GENERAL.—Of the amount provided for in section 1 for each committee named in subsection (b), not more than the amount specified in such subsection shall be available for expenses incurred during the period beginning at noon on January 3, 1998, and ending immediately before noon on January 3, 1999.

(b) COMMITTEES AND AMOUNTS.—The committees and amounts referred to in subsection (a) are: Committee on Agriculture, $3,941,123.00; Committee on Banking and Financial Services, $4,845,967.05; Committee on the Budget, $4,970,000; Committee on Commerce, $7,492,098; Committee on Education and the Workforce, $5,341,815; Committee on Government Reform and Oversight, $8,317,999; Committee on House Oversight, $3,027,746; Permanent Select Committee on Intelligence, $2,519,486.00; Committee on International Relations, $5,717,337; Committee on the Judiciary, $6,304,643; Committee on National Security, $5,522,712; Committee on Resources, $5,360,013; Committee on Rules, $2,342,695; Committee on Science, $4,609,555.44; Committee on Small Business, $2,084,999; Committee on Standards of Official Conduct, $1,202,000; Committee on Transportation and Infrastructure, $7,053,557; Committee on Veterans' Affairs, $2,999,902; and Committee on Ways and Means, $5,690,907.

SEC. 4. VOUCHERS.

Payments under this resolution shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, and approved in the manner directed by the Committee on House Oversight.

SEC. 5. REGULATIONS.

Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Oversight.

SEC. 6. RESERVE FUND FOR UNANTICIPATED EXPENSES.

There is hereby established a reserve fund for unanticipated expenses of committees for the One Hundred Fifth Congress. Amounts in the fund shall be paid to a committee pursuant to an allocation approved by the Committee on House Oversight.

The SPEAKER pro tempore. Pursuant to House Resolution 105, the gentleman from California [Mr. THOMAS] and the gentleman from Connecticut [Mr. GEJDENSON] each will control 30 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a continued discussion about the way the House should be run. If you will recall in our discussions yesterday and today on the rule, the last time the Democrats controlled the House, the funds for the committee total were about $223 million. Notwithstanding the more than $220 million, the resources available to the minority and the total number of staff were always an argumentative point.

One of the concerns that a number of us in the minority had was Congress after Congress, when the ranking member would appear before the then-Committee on House Administration, the chairman of the committee would say: Well, I would like to give my friend on the other side of the aisle what he is asking for, but of course it cannot come out of our resources. The only way the Members of the minority would be able to get the one additional staffer which would then raise the number that the minority would have from five to six, would be to increase the committee budget so that they could pay for that staffer.

What happened over a number of Congresses was that the staff on the committees grew. Ostensibly to provide the minority with some assistance, but for some reason, Congress after Congress, with the exception of just a couple of committees, notably Transportation, Agriculture, and several committees, Armed Services historically, in which it was a pooled staff rather than a majority-minority staff, the resources available to the minority crept, if at all, very, very slowly up the ladder.

I told Members yesterday that the Committee on the Judiciary in the 103d Congress provided the munificent percentage of 11 percent to the minority. Then House Committee on House Oversight provided 15 percent, on and on and on of percentage of the staff in the teens. But the staff continued to grow.

Now, Members need to know that of a committee budget, 85 to 90 percent of the funds of the committee are invested in the staff. And so no one wants to hold their staff at no increase. So you ask for a cost of living. A cost of living was voted by the committee. But then that was used to hire more staff, so you increased your base and you came back the next year and asked for more money. You increased the base. What happened was, we had a bloated staff structure on the committee but an enormously inequitable distribution of the staff. We asked the Democrats, would they please begin to address it.

In 1990, the Democratic Caucus met, discussed, and in their caucus, without any Republicans to discuss how much we would like to make a change, the Democrats, on their own, behind closed doors voted that the ceiling, the ceiling for Republicans on investigative staff would be 20 percent.

□ 1200

And yet there was committee after committee that never even came close to the 20 percent.

So when we became the majority in the historic 104th Congress, we said we would do at least two things: First, cut the committee staffs. We believed we could do the job, and I think we proved it in the 104th with the unprecedented pieces of legislation that were moved through the committees and our continued ability to do the committee work with significantly reduced staffs.

What we see on this chart, portrayed graphically, is what we did. We went from more than 1,600 staff down to less than 1,100. More than 600 staff, in one day, lopped off of the committee structure. We reduced committee staff by one-third.

Mindful of when we were in the minority, however, and our desire to have a sufficient number of staff to do the job in a fair way, we said notwithstanding this red line, being the Democratic caucus' agreement to have a ceiling on Republican investigative staff at 20 percent, and notwithstanding this line, which was the historic percentage of the Republicans' share of that bloated staff, we said we are going to cut the staff by one-third.

But we wanted to commit ourselves to a goal of sharing not just the staff but the total resources of the committees. So, once again in the 104th Congress, we said we wanted to set a goal of one-third of the resources of the committees that would be provided to the minority.

We wanted to accomplish in a relatively short period of time what we wanted them to provide us when we were in the minority, and so in 1 day the resources to the minority, as a share of the committee funding, went from here to there. It is fairly easy to see that that is 29 percent. It is not one-third.

There were some committees that made it very easy to achieve one-third. The Democratic chairman moved over to the ranking member and the ranking member became the chairman. The Committee on Agriculture became a good example. It was one-third before and it is one-third now. But those committees that provided resources to the minorities of 11 percent, of 12 percent, of 14 percent, we have to grow that amount.

We have provided unprecedented percentages. In the committee that we were discussing, the Committee on Government Reform and Oversight, prior to the Republican majority it was 15 percent. Today it is 25.

They are complaining, of course, that 25 is not 33⅓. Had, in previous Congresses, the chairmen of those committees provided the minority with one-third, they would have one-third today. Our crime is not making every committee, at the same time, one-third.

Can my colleagues imagine the kinds of comments we would hear on this side of the aisle in terms of increasing the funds to do that? We are committed to it. We are moving every Congress in that direction. We are growing the minority's share, and we will continue to grow it until it is one-third for every committee of all the resources.

Let me spend just a minute, because the gentleman from Virginia [Mr. DAVIS], used this, and I want to make sure my colleagues understand what it represents, because it is a classic example on the part of my friends on the other side of the aisle of bait-and-switch.

In the 103d Congress we had the Committee on Government Operations, the Committee on Post Office and Civil Service, and the Committee on the District of Columbia. Those were three separate committees with bloated staff. When we added up the budgets of those committees, it equaled $26.6 million.

When we, as the new majority, collapsed committees and shrank the staff, these three committees became one, the Committee on Government Reform and Oversight, and it was funded at $13.5 million. Fifty percent of the previous Congress.

My good friend from Pennsylvania, our former colleague, Bill Clinger, became chairman, and he said, "I just do not have enough resources. I have to deal with all these jurisdictional areas and I just do not have enough helping hands." We listened. We watched. We believed that to be the case. So what we decided to do in this Congress was to increase the amount that the committee was to receive. That is the $2.7 million.

We said we will go up to 61 percent of what the committee used to have. Not even three-quarters of what the committee had, not even two-thirds of what it had, but only 60 percent of what it had. Then, not at our doing, not at our doing, we began to discover what had been going on during last year's election; at the White House, in the Democratic National Committee, and in other areas.

There was a clear call for an investigation. There was even an editorial in Roll Call last January, which said although they are hearing cries of campaign finance reform, it is probably a good idea to investigate first to find out what happened so that, with knowledge, we have the ability to legislate.

So we said, all right. We do not know how long this will go on. We will take $3.8 million for 1997 alone and provide it to the committee with the jurisdiction overseeing the executive branch, which is the Committee on Government Reform and Oversight.

So, my friends, the complaints on this side of the aisle are that we are taking three committees who would have shared that jurisdiction, which in the 103d Congress was provided with $26.6 million, and we are in the 105th Congress providing that collapsed new committee with $20 million. That is still only 75 percent of the resources, when they have been asked to take on this much larger job, than was available in the 103d Congress.

My colleagues are complaining that we are increasing a committee. Yes, we are increasing a committee over the 104th because we underfunded it. We are new to this job. We will admit we are going to make mistakes occasionally. I will tell my colleagues what we have pledged. When we make mistakes, we will admit it, and when we correct it, we will correct it in public. Then we will go on, and if we make mistakes again, we will admit them and then we will correct them.

What we are admitting is that we underfunded this committee. We are going to put a little more money in it and we are going to make sure they have minimum dollars to go ahead and carry out an investigation with which they have been charged.

What we have before us today is a funding resolution that makes this change; that, as I said, instead of putting moneys into committees to have staff, it creates a reserve fund, so that if we have a job that was not anticipated at the beginning of the Congress and we did not fund for it, that money could be moved to that committee to do the job.

When the job is finished, they will not get to keep the staff, they will not get to grow their bloated committees, and that money comes back to the reserve fund so it can be spent somewhere else when needed. And if not needed, it is not spent.

Now, that is a more perfect system, so that we do not let the committees grow themselves but that we do have enough money to meet the needs of a Congress over a 2-year period. That is what we are voting on today.

The other 18 committees that we have as standing committees now are going to be retained at their previous funding level. We will come back in 30 days and we will examine how we fund those for the rest of the 105th.

Mr. Speaker, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume, before yielding to the gentleman from California, [Mr. MILLER], to say that we will give our colleagues on the other side an opportunity to vote for a real freeze that freezes spending at last year's budget without any games. A straight simple freeze. That will be our motion to them, and they will have a chance to choose between about a $20 million increase and a freeze.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding me this time and I appreciate the explanation of the budget of all of the committees of Congress, but what I would prefer to hear is a discussion about how we are going to deal with campaign finance reform. >

We have tried on the floor of the House now for many months to get the majority party to tell us when they are going to bring a campaign finance reform bill to the floor. Their suggestion is that they have to investigate first and the investigation takes the place of campaign finance reform; that they only want to deal with those matters that are illegal.

The question I ask is: Is it legal and does the system condone the majority whip to let lobbyists sit in his office and write legislation and offer amendments?

Is it legal and does the system now allow for the Republicans to threaten lobbyists if they do not direct more of their contributions to Republican Members of the House?

Is it legal for the Republican leadership, including their party leadership, to berate 20 top executives from the Business Roundtable, telling them that they will have no access to the Republican Party, to the Republican leadership in this House, if they do not give more of their campaign contributions to Republicans?

Is it legal for the majority leader of the Senate to offer contributors access to the offices of the Senate?

Is it legal to start drafting up lists of trustworthy friends, those who can donate more to Republicans than to Democrats?

Is it legal for Members of this House to berate lobbyists because they have not come through with enough money, to tell them that they will be persona non grata; to call their boss and tell them that these people are done, as far as he is concerned, and they are going to tell their friends?

If that is legal, my colleagues, that is a system that must be changed. That is a system that cries out for change. That is a system that says money equals access. The American people can sit in the galleries but they cannot get access to the office of the majority leadership because they did not bring the money. They did not bring the money in the proper proportion. They did not bring the money in a sufficient amount.

That is what we are listening to day in and day out, day in and day out, are threats and intimidation against business leaders, against organizations and community activists; that if they do not bring the money they cannot have the access.

Now we have increased the budgets of the committees of jurisdiction, but no discussion of campaign finance reform, no discussion about how to give this institution back to the people of this country, no discussion about providing equal access for all the people of this country, no discussion about how decisions are made around here.

It is a money chase, it is a money chase that is corrupting the democratic principles upon which this institution was built. It is corrupting of the process and it is corrupting of how we make decisions. It must be changed, and I want to hear from the majority when will they bring a campaign finance bill to the floor.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. [Mr. LATOURETTE]. The Chair would advise all Members that the rules of the House require Members to refrain from personal references to Members of the Senate.

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, this is the body constitutionally that is closest to the people. We are the only Federal officials that have to be elected by the people. Therefore, we have the responsibility to conduct the oversight for the people more than any other body of the Federal Government.

I would like to point out that the resolution before us today is to give some additional assets for oversight, not just the Committee on Government Reform and Oversight but some of the other committees.

I am the chairman of the Subcommittee on Oversight and Investigations for the Committee on Commerce, and I would point out that in the last Congress, in a bipartisan way, we did oversight over the Food and Drug Administration, the Department of Energy, and other Federal agencies that resulted in significant cost savings; that resulted in significant policy changes.

Let me give my colleagues an example. One of the leading causes of death among American women is breast cancer. The FDA has had under consideration for 10 years, for 10 years, a sensor pad device that a woman can use in the privacy of her home to see or give increased sensitivity to determine if there is a lump in her breast. FDA refused to approve that for over-the-counter dissemination. Because of investigations and oversight in the last Congress, in a bipartisan way, we were at least able to get the FDA to approve that for use by a physician; by a physician.

There is much more that needs to be done. This is not just a debate about one specific committee. It is a debate of whether the House of Representatives is going to use its constitutional authority to represent the American people across the breadth and scope of the oversight responsibilities. I would hope we will vote for this bill so we can move forward.

Mr. GEJDENSON. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I want to address my remarks to my Republican colleagues. What we are considering today is raw and ugly but, as Dizzy Dean said, "It ain't bragging if you can do it."

But why do we want to do it? Let us be clear on the situation here. For the last 3 months House Democrats have repeatedly supported a broad, aggressive investigation and the immediate consideration of campaign finance reform legislation.

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This is not a case where the minority is trying to hamstring a majority investigation. We have been ready to step up to the plate and investigate no matter what the consequences. Yet today the Republican leadership brings to the floor a bill that funds the Committee on Government Reform and Oversight and the Burton investigation at a record level with no amendments permitted.

This is an investigation where the chairman is insisting on a blatantly partisan scope, a scope limited exclusively to Democratic fund-raising practices, an investigation where the normal procedures are suspended because the chairman insists on issuing subpoenas and releasing confidential information without committee debate or vote, an investigation where the most the minority will receive is 25 percent of the committee budget.

That is what your leadership is bringing to the floor today. They are asking you to approve a record $12 million budget for an investigation limited to Democratic practices and led by a chairman who insists on wielding unprecedented powers. No matter how hard you work at it, you could not make this more partisan or less fair.

Have we lost all perspective? The 1997 Committee on Government Reform and Oversight budget virtually matches the combined budgets of the Committees on Commerce and Ways and Means.

There was a different way for past investigations. In Watergate the majority and minority jointly hired staff. In

Iran-Contra the House majority and minority staff worked in the same offices together, and yet here we have a blatantly partisan scope, procedures and funding allocation.

Before it is too late, you might want to rethink what your leadership thought was a good idea last night. When the Senate faced this issue last week, Republican Senators at least had the good sense to say wait a minute before approving the investigation. Here we are rushing to a vote despite the fact that the committee has never even voted on the investigation's scope or procedures. The committee has never met on this issue. Think how this is going to look. You are jamming a funding bill through without debate or votes on the investigation's most basic foundations.

Yesterday the Washington Post, which wants an investigation, an aggressive one, warned that if we do not postpone this vote, the investigation runs the risk of becoming its own cartoon, a joke and a deserved embarrassment.

The only thing that I would add is that it would be a joke that cost over 6 million taxpayer dollars, and that is a high price for partisanship. What the Senate did should be our model. They set forth fair rules, and yet the House leadership asks you to vote for more money than the Senate on a narrower scope that is focused just on Democrats and extraordinary power in one Member.

Mr. Speaker, there is an alternative. Vote against this bill, bring to the floor a simple extension for all committees and when we return, we can at least vote on the scope and procedures before setting the funding. If you care about campaign finance reform, if you care about an aggressive, comprehensive and fair investigation, if you care about our credibility as an institution, then you will vote against this bill.

Ms. KILPATRICK. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, as a new Member of the Committee on Government Reform and Oversight, I accepted my responsibility with great enthusiasm as our leader appointed me to this committee. Now that I have sat in those committee meetings for the last two or three times now, I am wondering why I am there.

I come from a legislative body in Michigan, of serving 18 years there. I understand power in politics and when you are in charge and have the majority, you rule. What I do not understand, Mr. Speaker, is how we cannot allow those of us who have been elected by the people who sent us here to be involved in the process.

It is amazing to me, and I served on the Committee on the Budget in that House for 14 years, and I understand budgets. The committees of this House deserve adequate budgets. I would be the first to say that. But I am troubled by a committee that would need $15 million over and above, or should I say $7.9 million over and above their committee allocation, with no parameters, where they investigate just the President, not the entire Congress.

I am in favor of the investigation, but I want it for the President, for the Congress, for Democrats and Republicans. I think the American people deserve that. The last election said the American people want campaign finance reform. I do not think they said they want $15 million in a slush fund, as someone said earlier. For 15 million Americans, that would be $1 an American; for 30 million Americans, they would pay 50 cents an American, to go after the President. Let us investigate the entire Congress, Republicans and Democrats.

I take my assignment on the House Committee on Government Reform and Oversight very seriously. I want us to get down to the business of the people, which is good jobs, a clean environment, health care, Medicaid, and pensions. That is what the American citizens want, and that is what I hope this Congress will get to.

Mr. GEJDENSON. Mr. Speaker, I yield 2½ minutes to the gentleman from Maryland [Mr. CUMMINGS].

Mr. CUMMINGS. I thank the gentleman for yielding me this time.

Mr. Speaker, as I travel throughout my home district of Baltimore, MD, I am often asked by my constituents what are some of the greatest challenges we face as Members of Congress. There is one issue they seem to approach me about now more than ever, the absolute lack of a bipartisanship spirit in this Congress.

I must say, Mr. Speaker, that I agree wholeheartedly with my constituents. Today we are considering a measure to fund the standing committees of the House for the 105th Congress, and the ugly specter of partisanship has once again raised its head. We are poised to approve a budget for the committee on which I serve, the Committee on Government Reform and Oversight, that is larger than any other committee's budget, and all in the name of a highly partisan investigation of the executive branch. By contrast, the Senate is appropriately looking at all abuses, both by Republicans and Democrats.

The greatest travesty of all is the waste of taxpayers' dollars. Last night this House said no to increases in funding for House committees, and I commend my colleagues on the other side of this aisle who voted against this resolution.

This morning we are considering a compromise that the majority crafted late last night. But I am puzzled. How can my colleagues on the other side of the aisle who joined us in voting against the resolution last night vote to freeze committee levels for 1 month and grant the Committee on Government Reform and Oversight the entire extraordinary budget that they desire and still contain an $8 million slush fund.

If there have been fund-raising abuses, let us explore the charges in a bipartisan fashion. We need a balanced, fair investigation that will produce answers rather than more controversy. I do believe I am not overstating the matter when I say that the integrity of this House is at stake. If we are to be taken seriously, we need to conduct and set budget parameters that reflect the bipartisan effort.

Mr. Speaker, the American people are the real losers in this process. I urge my colleagues to vote against this resolution and call for a budget that is fair and just and results in a meaningful bipartisan investigation.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are committed to offering with our motion to recommit a real motion of a freeze, and that is what we are going to do here. Hopefully, as soon as we get through these speakers, we can do that.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. LAMPSON].

Mr. LAMPSON. Mr. Speaker, I thank the gentleman for yielding me this time.

I would like to say good afternoon, Mr. Speaker, and good afternoon to my colleagues assembled here today. At this very moment I am supposed to be addressing a group of eighth graders in my district and after last night's debate and subsequent floor maneuvering, I cannot help but wonder if they would be a more mature audience.

I returned from the retreat in Hershey optimistic that the rhetoric of bipartisanship would become a reality. Well, this afternoon I ascribe that optimism to my naivete as a freshman Member of the House.

The majority is determined to spend an exorbitant amount of money through the House Committee on Government Reform and Oversight to investigate alleged fund-raising improprieties by the White House last year. My question, Mr. Speaker, is, Why do we not investigate alleged improprieties that occurred in campaigns in this body?

In late October 1996, vicious television advertisements attacking me personally were purchased by a group calling itself Citizens for the Republican Education Fund. Similar ads appeared in the final days of my December runoff election as well. This group, along with Citizens for Reform and Coalition for Our Children's Future, purchased advertisements attacking Democratic congressional candidates across this land. These front groups were used to dump anonymous, unregulated money into these races on behalf of Republican candidates.

On the board of directors of Citizens for the Republican Education Fund is former Reagan White House aide Lyn Nofziger, a man indicted and convicted of influence peddling.

We all know that too much money was spent on campaign 1996. It is ridiculous that I personally raised and spent $1.6 million to win my election. If we are going to spend millions of taxpayer dollars investigating campaign finance improprieties, then let us investigate everyone. Let us be comprehensive. Let us be bipartisan, and let us bring campaign finance reform to the floor of this House.

Mr. GEJDENSON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in opposition to this resolution for three important reasons. First, the funds requested by the majority are three times the amount authorized by the other body. We could match the other body's authorization and still provide 4,500 kids in this country with health care insurance next year with the funding that this resolution would provide.

Second, the scope of this investigation makes it clear that this committee plans to conduct a blatantly partisan probe. My colleagues on the other side of the aisle have refused to let this investigation examine any Republican fundraising practices. Again, I advocate that we follow the example of the other body and vote to look into improper fundraising activities by Members of both political partiesse. No one is challenging the right to investigate.

Finally, the chairman of this investigation has requested unprecedented unilateral power to issue subpoenas without the consultation of any other member of the committee. No Member should be granted such unilateral authority, much less a Member who has himself engaged in very questionable fundraising practices.

Spending taxpayer money on blatant partisan politics and partisan probes will further erode the reputation of this body with the American people. Vote against this resolution.

(By unanimous consent, Mr. RYUN was allowed to speak out of order.)

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 586

Mr. RYUN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 586.

The SPEAKER pro tempore [Mr. LATOURETTE]. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think we only have a couple of speakers and try to keep people on their schedule. I would just say that we are going to offer a motion to recommit. We are going to give both Democrats and Republicans an opportunity to vote for a freeze at last year's levels, to get rid of the slush fund. If you really want to have a freeze, which is what a lot of your people thought they were voting on when they came here today, we are going to give you a real freeze. That is going to be our motion to recommit.

□ 1230

We can come back here and work on ground rules for real, a proper investigation, but as far as the funding, our proposal will be a real freeze. Instead of going out and borrowing $8 million and putting it aside for a slush fund, we are going to get rid of that, we are going to have a real freeze, and give the people of this country a chance to see a House work together to come up with a process by which we can have an investigation that Mr. MILLER indicated will hopefully lead to real campaign finance reform.

With that, Mr. Speaker, I believe I only have one additional speaker. The gentleman has two, I believe, and he gets to close. Would he like to take one of them?

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I believe there are two issues here. The first issue is the amount of money that will be spent on committees, including the investigation in this proposal.

The amount we are proposing is still, even with the investigation, even with the reserve fund, at least $45 million less than our Democratic colleagues spent for committees in the 103d Congress when they were the majority, and I think those Members who have been saying money should be spent elsewhere than on committees should come up here and explain what they did with $223 million in the 103d Congress.

Second, the allegation has been made that this is an investigation of Democrats only. No, it is not. It is an investigation of illegal activity involving campaign fundraising in executive branch agencies, because our committee, the Government Reform and Oversight Committee and its predecessor, the Committee on Government Operations, of which I was a member for 6 years under our Democratic colleagues' majority, only investigated executive branch agencies. I do not remember any investigation of the Congress for any purpose.

Now there is room, first of all, to look at Republicans, if there is an area where the committee believes any agency under the Clinton administration or any individual has engaged in illegal activity, if that individual agency says, well, the Reagan or Bush administrations did the same. I think that is a fair inquiry for the Committee on Government Reform and Oversight in this investigation.

Second of all, if there is any allegation, any serious allegation, that any Member of Congress, Democrat or Republican, has committed illegal acts in terms of fundraising, I believe that that can be and will be and should be investigated through the appropriate committee of the House of Representatives.

But given the fact, given the fact that we have individuals taking the fifth amendment, which is their privilege, about executive branch fundraising, that apparently we have individuals fleeing the country, that we have questions about the FBI advising the White House of certain matters that the White House denies, that we have possible compromise of the Central Intelligence Agency, I submit it is time to get on with this investigation.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume because our final speaker is not here, and I guess I will just close at this stage and say that again my colleagues are going to have a choice in the motion to recommit whether they want to spend an additional $18.5 million this year or do they want a real freeze. That is going to be the choice in the motion to recommit. We could not get any amendments; debate here has been limited by the rule. We are going to give the people of this institution an opportunity to really freeze spending.

My colleagues can talk about what happened in history, but what we are offering is a freeze from last year's levels. Save the taxpayers $18½ million when it is offered; vote for the motion to recommit.

Mr. Speaker, I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say that there has been some discussion on this side of the aisle, and if my colleague from Connecticut is willing to amend that to include a hard freeze across all Government spending, I might have trouble holding my troops over here. But since it is directed only at this particular area, we may not.

Mr. Speaker, we understand the issue, and, with that, I would ask for an "aye" vote on House Resolution 91.

Mrs. ROUKEMA. Mr. Speaker, I rise in opposition to House Resolution 91, a resolution which funds the operations of the committees of the House through May 2.

Clearly, we must provide the moneys necessary to allow this House to do the people's work. I support that section of this funding resolution. My objections are to the size of the funding being presented to the Government Reform and Oversight Committee and the scope of its pending investigations.

The reports of campaign fundraising irregularities and scandals coming from the White House are serious and must be investigated fully. In fact, Congress has a constitutional imperative to do so.

However, since we are not establishing a joint House-Senate investigative committee, we should be taking the lesson of the Senate and widening the scope of this oversight work to include illegal and improper activities in congressional campaigns as well.

Yet, this resolution provides the Government Oversight Committee twice the moneys that the Senate has given to its committee for an investigation of wider scope—a probe that will look at improper activity at the White House and congressional campaigns. Is this not a violation of prudent fiscal practice?

Also, in my opinion, the chairman has been exercising unprecedented and imprudent authority in issuing subpoenas.

Mr. Speaker, as a fiscal conservative, I cannot vote to throw money at any investigationary committee. As a government reformer, I cannot vote to limit the scope of this investigation when I know improper activity stretched beyond the White House.

This whole episode is proof positive of the need for genuine, comprehensive campaign finance reform. Without it, the foundations of our democracy will continue to be eroded.

Mr. GILMAN. Mr. Speaker, I rise in support of House Resolution 91 to authorize temporary funding for the basic operations of 18 House committees and funding for the Government Reform and Oversight Committee's investigation into possible illegal campaign fundraising.

As Congress continues to wrestle with the important issue of campaign finance reform it is imperative that we provide constructive contributions to this debate. The investigation proposed by Chairman Burton will accomplish this endeavor by focusing on possible abuses of the White House and executive branch agencies and resources for political gains.

As chairman of the International Relations Committee it is, I believe, appropriate for Congress to determine how sensitive foreign policy matters may have been impacted by the unusual access of campaign contributions to executive branch officials and resources.

Moreover, as a senior member of the Government Reform Committee, I am confident that the findings of our committee's investigation will lead to a more positive and constructive approach to campaign finance reform.

As Chairman Burton has made clear time and time again, any and all information obtained during our investigation will be shared with other committees of jurisdiction over campaign finance reform and ethics matter.

Accordingly, I urge all of our colleagues to support this important resolution.

Mr. FOGLIETTA. Mr. Speaker, why are we wasting time and resources on this duplicative, one-sided investigation? Fred Thompson and John Glenn are conducting a broad investigation in the Senate, but, for purely political purposes, we are insisting on this off-off-Broadway show.

Let's think about the important things this Congress and members of the Government Reform Committee could be doing, instead of this rerun, retread sideshow.

Our distinguished ranking member, Henry Waxman, a respected expert on health care, could be helping us devise ways to make Medicare more effective and cost efficient and how to provide health care for the kids who don't have it.

Chris Shays could be concentrating on the issue of genuine campaign finance reform.

We could be focusing on our consensus agreement that we must balance our budget and provide a balance of Federal aid to help the most vulnerable people in America.

We could be taking up President Clinton's challenge to all of us that we make America's schools the very best they can be as we head in the next century.

But instead we'll be wasting precious resources of time, money, and congressional expertise on this partisan, one-side investigation that won't look at Members of Congress who aggressively exact contributions from lobbyists and raise money using the rooms of this Capitol.

Let's do what the people sent us here to do. Let's stop fighting one another and fight for them.

Mr. THOMAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LaTourette). All time for debate has expired.

Pursuant to House Resolution 105, the resolution is considered read for amendment, and the amendment in the nature of a substitute printed as House Resolution 102 is adopted.

The text of the amendment in the nature of a substitute is as follows:

Strike out all after the enacting clause and insert:

SECTION 1. CONTINUING EXPENSES OF STANDING AND SELECT COMMITTEES.

There shall be available from the applicable accounts of the House of Representatives such amounts as may be necessary for continuing expenses of standing and select committees of the House (other than the Committee on Government Reform and Oversight) for the period beginning on April 1, 1997, and ending on May 2, 1997, on the same terms and conditions as amounts were available to such committees for the period beginning at noon on January 3, 1997, and ending at midnight on March 31, 1997, pursuant to clause 5(f) of rule XI of the Rules of the House of Representatives.

SEC. 2. EXPENSES OF COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FOR ONE HUNDRED FIFTH CONGRESS.

(a) In General.—With respect to the One Hundred Fifth Congress, there shall be paid out of the applicable accounts of the House of Representatives, in accordance with this section, not more than $20,020,572 for the expenses (including the expenses of all staff salaries) of the Committee on Government Reform and Oversight.

(b) First Session Limitation.—Of the amount provided for in subsection (a), not more than $11,702,573 shall be available for expenses incurred during the period beginning at noon on January 3, 1997, and ending immediately before noon on January 3, 1998.

(c) Second Session Limitation.—Of the amount provided for in subsection (a), not more than $8,317,999 shall be available for expenses incurred during the period beginning at noon on January 3, 1998, and ending immediately before noon on January 3, 1999.

SEC. 3. VOUCHERS.

Payments under this resolution shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, and approved in the manner directed by the Committee on House Oversight.

SEC. 4. REGULATIONS.

Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Oversight.

SEC. 5. RESERVE FUND FOR UNANTICIPATED EXPENSES.

There is hereby established a reserve fund of $7,900,000 for unanticipated expenses of committees for the One Hundred Fifth Congress. Amounts in the fund shall be paid to a committee pursuant to an allocation approved by the Committee on House Oversight.

SEC. 6. ADJUSTMENT AUTHORITY.

The Committee on House Oversight shall have authority to make adjustments in amounts under section 2, if necessary to comply with an order of the President issued under section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 or to conform to any reduction in appropriations for the purposes of such section 1.

SEC. 7. OFFSET OF INCREASE IN COMMITTEE EXPENSES.

Any net increase in the aggregate amount of expenses of committees for the One Hundred Fifth Congress over the aggregate amount of funds appropriated for the expenses of committees for the One Hundred Fourth Congress shall be offset by reductions in expenses for other legislative branch activities.

Pursuant to House Resolution 105, the previous question is ordered on the resolution, as amended.

MOTION TO RECOMMIT OFFERED BY MR. GEJDENSON

Mr. GEJDENSON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GEJDENSON. Yes, I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Gejdenson moves to recommit the resolution to the Committee on House Oversight with instructions to report a resolution promptly back to the House which: Freezes the funding for each House Committee at 1996 levels; and does not include a "Reserve Fund for Unanticipated Expenses"; except as may be subsequently ordered by the House.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GEJDENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 176, nays 214, not voting 42, as follows:

[Roll No. 70]

YEAS—176

Abercrombie
Ackerman
Allen
Baesler
Baldacci
Barrett (WI)
Becerra
Bentsen
Berry
Blagojevich
Bonior
Borski
Boswell
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Condit
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Hall (OH)
Hall (TX)
Hamilton
Harman
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Ortiz
Pallone
Pastor
Payne
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Serrano
Sherman
Sisisky
Skaggs
Skelton
Smith, Adam
Snyder
Stabenow
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Towns
Turner
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weygand
Wise
Woolsey
Wynn
Yates

NAYS—214

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Fox
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Nussle
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—42

Andrews
Barcia
Berman
Bishop
Blumenauer
Boucher
Bunning
Buyer
Clyburn
Conyers
Deutsch
Flake
Forbes
Frank (MA)
Franks (NJ)
Green
Gutierrez
Hastings (FL)
Hefner
Kaptur
Kasich
Lipinski
Meehan
Norwood
Owens
Oxley
Pascrell
Pelosi
Pickett
Riggs
Rothman
Scott
Sensenbrenner
Slaughter
Smith (TX)
Smith, Linda
Spratt
Stark
Thornberry
Torres
Velázquez
Wexler

□ 1251

Messrs. QUINN, BONO, and GREENWOOD, and Ms. MOLINARI changed their vote from "yea" to "nay."

Messrs. DELAHUNT, HOYER, and DINGELL changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PESONAL EXPLANATION

Mr. RIGGS. Mr. Speaker, on rollcall No. 70, recommital motion, I was unavoidably detained and missed the vote. Had I been present, I would have voted "no."

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on agreeing to the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. KILPATRICK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 213, noes 179, not voting 40, as follows:

[Roll No. 71]

AYES—213

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Ewing
Fawell
Foley
Fowler
Fox
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Nussle
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—179

Abercrombie
Ackerman
Allen
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berry
Blagojevich
Bonior
Borski
Boswell
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Condit

Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Hall (OH)
Hall (TX)
Hamilton
Harman
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Ortiz
Pallone
Pastor
Payne
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roemer
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Stabenow
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Towns
Turner
Vento
Visclosky
Watt (NC)
Waxman
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—40

Andrews
Berman
Bishop
Blumenauer
Boucher
Bunning
Buyer
Clyburn
Conyers
Deutsch
Everett
Flake
Forbes
Frank (MA)
Franks (NJ)
Green
Gutierrez
Hastings (FL)
Kaptur
Kasich
Lipinski
Meehan
Norwood
Owens
Oxley
Pascrell
Pelosi
Pickett
Rothman
Scott
Sensenbrenner
Smith (TX)
Smith, Linda
Spratt
Stark
Thornberry
Torres
Velázquez
Waters
Wexler

☐ 1301

The Clerk announced the following pairs:

On this vote:

Mr. Bunning for, with Ms. Kaptur against.

Mr. Oxley for, with Mr. Deutsch against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HASTINGS of Florida. Mr. Speaker, on Friday, March 21, 1997, I was unable to vote due to personal reasons. Thank you for taking notice of this matter.

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Resolution 91.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR CONDITIONAL ADJOURNMENT OR RECESS OF SENATE AND HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore (Mr. LATOURETTE) laid before the House the following privileged Senate concurrent resolution (S. Con. Res. 14) providing for a conditional adjournment or recess of the Senate and the House of Representatives.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 14

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, March 20, 1997, Friday, March 21, 1997, or Saturday, March 22, 1997, pursuant to a motion made by the Majority Leader or his designee in accordance with this resolution, it stand recessed or adjourned until noon on Monday, April 7, 1997, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, March 20, 1997, Friday, March 21, 1997, or Saturday, March 22, 1997, it stand adjourned until 12:30 p.m. on Tuesday, April 8, 1997, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the members of the Senate and House, respectively, to reassemble whenever, in their opinion the public interest shall warrant it.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1062

Mr. BILBRAY. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1062.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMITTING USE OF CAPITOL ROTUNDA FOR CEREMONY AS PART OF COMMEMORATION OF DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight be discharged from further consideration of the concurrent resolution (H. Con. Res. 11) permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. YATES. Reserving the right to object, Mr. Speaker, and I shall not object because this is my bill, I ask the gentleman from California [Mr. THOMAS] to explain the bill.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from California.

Mr. THOMAS. I thank my colleague for yielding to me, Mr. Speaker.

Mr. Speaker, yes, this is something that the gentleman from Illinois [Mr. YATES] has had his name attached to. It is important and significant, because on May 8 of this year, from 8 a.m. until 3 p.m. in the Capitol rotunda, we will celebrate, once again, the days of remembrance of the victims of the Holocaust.

Mr. Speaker, as we all know, and look around the world at man's inhumanity to man, it is important that we do not forget. I think probably emblazoned in our minds more than anything else during this day of remembrance is that we as Americans can be proud of our efforts to liberate those who suffered and survived in oppressive Nazi concentration camps, and it helps us to remember that prejudice and hatred still exists.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. YATES. Further reserving the right to object, I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I want to commend the gentleman from Illinois [Mr. YATES] and the gentleman from California [Mr. THOMAS] for bringing this measure to the floor at this time. The commemoration of the Holocaust is so important, and the fact that we do it here in the Capitol Building, in the rotunda, is an extremely important reminder to the entire world of the importance of the Holocaust.

Mr. Speaker, I am pleased to support House Concurrent Resolution 11, to authorize the use of the Capitol rotunda for a ceremony commemorating the victims of the Holocaust. This important ceremony will take place in the Capitol on May 8, 1997, from 8 a.m. to 3 p.m.

The passage of this resolution and the subsequent ceremony of the Days of Remembrance, will provide the centerpiece of similar Holocaust remembrance ceremonies that take place throughout the United States. This day of remembrance will be a day of speeches, reading, and musical presentation and will provide the American people and those throughout the world an important day to study and remember those who suffered and survived.

Mr. Speaker, it is important that we keep the memory of the Holocaust alive as a part of our living history.

As Americans, we can be proud of our efforts to liberate those who suffered and survived in the oppressive Nazi concentration camps that we will never forget the harm that prejudice, oppression, and hatred can cause.

I urge all of our colleagues to take the time to participate in our Nation's Capitol in this important day of remembrance.

Mr. YATES. Mr. Speaker, I want to associate myself with the excellent remarks of the distinguished chairman of the committee, the gentleman from California.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 11

Resolved by the House of Representatives (the Senate concurring), That the rotunda of the Capitol is authorized to be used from 8 o'clock ante meridiem until 3 o'clock post meridiem on May 8, 1997, for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

RESIGNATION AS MEMBER OF COMMITTEE ON SMALL BUSINESS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Small Business:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 13, 1997.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, U.S. Capitol, Washington, DC.

DEAR MR. SPEAKER: I hereby resign from the Committee on Small Business.

Sincerely,

BILL LUTHER,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 993

Mr. TIAHRT. Mr. Speaker, I ask unanimous consent to remove the name of the gentleman from California, Mr. Buck MCKEON, as a cosponsor of H.R. 993.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON INTERNATIONAL RELATIONS

Mr. FILNER. On behalf of the Democratic Caucus, Mr. Speaker, I offer a privileged resolution (H. Res. 106) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

HOUSE RESOLUTION 106

Resolved, That the following named Member be, and is hereby, elected to the following standing committee of the House of Representatives: To the Committee on International Relations:

William Luther of Minnesota.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS, NOTWITHSTANDING ADJOURNMENT

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Tuesday, April 8, 1997, the Speaker, majority leader, and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, APRIL 19, 1997

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, April 19, 1997.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO REVISE AND EXTEND REMARKS AND TO INCLUDE EXTRANEOUS MATERIAL IN CONGRESSIONAL RECORD FOR TODAY

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that for today all Members be permitted to extend their remarks and to include extraneous material in that section of the RECORD entitled "Extension of Remarks."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DESIGNATION OF HON. CONSTANCE MORELLA OR HON. FRANK WOLF TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH TUESDAY, APRIL 8, 1997

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC.
March 21, 1997.

I hereby designate the Honorable CONSTANCE A. MORELLA or, if not available to perform this duty, the Honorable FRANK R. WOLF to act as Speaker pro tempore to sign enrolled bills and joint resolutions through Tuesday, April 8, 1997.

NEWT GINGRICH,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is accepted.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TAXES, BUDGETS, AND SAVING MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, I want to take just a few minutes of my colleagues' time to talk about taxes, budgets, and saving Medicare, because this week I seem to make a great deal of news saying something that I thought actually was rather commonsensical and exactly fitting where the Republican Party has been.

I began on Monday by being on this floor for the first time in a long time laying out a Republican agenda which I believe in deeply, which had as one of its items balancing the budget, one of its items cutting taxes so Americans have more take-home pay and more economic growth, and one of its items saving Medicare.

☐ 1315

When I came off the floor I chatted with several reporters and said, I think what is vital is that this year we balance the budget, we save Medicare, and we cut taxes so people have more take home pay, so parents have more money, so we have more economic growth, but that the precise way we do it is less important than getting it done, that the important thing, whether it is all done in one big bundle or whether it is done in a series of steps, is that we get it done. In that conversation I said, we should clearly vote on tax cuts before the end of the year.

Now, let me make clear my position. I began running in the 1970's. I was one of the early cosponsors of the Kemp-Roth bill. I believe in cutting taxes, increasing incentives. I would like to eliminate the capital gains tax so we have the maximum savings and the maximum investment to create the best jobs to have Americans have the best incomes in the world. I would like to eliminate the death taxes because I think they are wrong. I think it is wrong to punish a family financially when they are already in pain. And I think if you have already earned the money and paid taxes on the money, the Government should not revisit it and you should not have to sell your family farm, you should not to have to sell your small business just to pay the IRS. I believe the IRS is too big. I have gone everywhere in America and made a speech that said, when there are 110,000 Internal Revenue agents and there are 5,500 Border Patrol and there are 7,400 Drug Enforcement Administration agents so there are 10 IRS agents for every person guarding the border so we cannot protect you from illegal drugs and we cannot stop illegal immigrants but we can audit every small business in America, there is something wrong. We ought to end the IRS as we know it.

So I am deeply committed to lowering taxes. I favor a big debate between Steve Forbes and Majority Leader DICK ARMEY, who want a flat tax to replace the income tax, and Chairman BILL ARCHER and DICK LUGAR and others who want a sales tax to completely eliminate the income tax. I think the Republican Party should be committed to a 2- or 3-year effort to educate the Nation, have the Nation decide, how do you want to replace the current code, which way do you want to do it. How do we dramatically shrink the IRS.

I led the effort to say that I thought that the Internal Revenue Service proved, when their $4 billion computer program did not work, that maybe the problem is the Internal Revenue Code is so complicated that if the government cannot understand it for $4 billion, you should not expect the average citizen to understand it.

The only question I raised was this. We saw in the last 2 years some people use Medicare as a political tool. It was wrong. We saw some people deliberately scare senior citizens and it was wrong. We saw people say, well, Republicans want to cut taxes and they want to save Medicare and there was promptly, let us link them together.

So my position is simple. I think the best, safest thing we could do for America and for our senior citizens is let us get to an agreement on Medicare. Let us get it done and let us get it off the table so there is no question we did it to save Medicare. We did it to save our parents and grandparents. We did it to save our children and grandchildren so we have a stable, honest, reformed Medicare system that is solid, period.

Then I wanted to challenge the liberals. Do not tell me about tax cuts. Tell me about the size of Government. I am for smaller Government in Washington, fewer bureaucrats, less redtape. I want to return power back home. Now, let us debate the size of Government. I do not think liberals can win that debate.

Now, when we are done doing those two, let us make sure that we get correct, historically accurate scoring of a capital gains cut which means, by the way, it will raise revenue. Under the budget act, if you honestly scored capital gains, it will increase revenue. So you do not score it as a cut. It is an increase. So it is magic. You lower taxes, more Americans save, more Americans invest, more Americans go to work, and historically every time we have done it, you have raised revenue. Only in Washington is an increase counted as a decrease. Only the technicians here who have never created a job could get away with it.

We need to have a debate and insist that it be scored historically accurately. At that point we have enough money. We can cut taxes. I want a straightforward debate. I believe we ought to have a cut in the capital gains tax to create jobs, we ought to lower the death taxes to save family farms and small businesses, we ought to have a $500-per-child tax credit so that parents decide how to spend their money. If our liberal friends want to talk about targeted, which always means the Government targets, I think the American people ought to target. But that is the great debate over taxes.

My only point Monday was, here are three goals for 1997, the goal of saving Medicare because it deserves to be saved on its own. Let us get it done, Mr. President, and get it off the table and not use it for politics. The goal of balancing the budget with a smaller Government in Washington and more power back home. And the goal of reducing taxes so Americans save more, invest more, have more time off with their kids and more money to take care of their families.

I thought that is what I said on Monday. I wanted to come here and make very clear, I hope all my colleagues will go back and read what I said on the floor on Monday. I hope the reporters who had a field day all week reexplaining what I did not say in terms of making them feel better will now listen carefully to what I actually said.

I yield to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding. I also commend him for even beginning this great national debate on whether or not we ought to replace an income tax in America with a fairer, flatter, more reasonable proposal for the country.

I want to let him know that on April 15 a great many Democrats and Republicans are going to be together in Boston Harbor. We are going to have an historic reenactment of the Boston Tea Party. We are going to dump the United States Tax Code into the harbor in a symbolic gesture to begin this debate.

It starts with recognizing we have a code out of control, 4,000 changes since 1986 alone. Maybe it is time for us to really debate whether a better system is right for the country, not Democrat or Republican but a better system for America.

Mr. GINGRICH. Let me say to the gentleman, as you know also on April 15, we are going to hold the vote until you get back from Boston, and we are then going to vote on an amendment that would require a supermajority to raise taxes because more and more States, particularly out West, now require that you get two-thirds of the vote or three-fifths of the vote even to raise taxes because they have learned that politicians all too often will take money from the people to pay off the special interests. So April 15 is going to be a great date for the American taxpayer.

But my point to all of my colleagues is straightforward. It should not be hard to figure out what the agenda of the House Republican Party is. It should not be hard to figure out where the Republican Party is going. We want lower taxes for economic growth, stronger families, more take home pay, and greater volunteerism.

We want a stable, balanced budget so our children do not have to pay off our bills. In peacetime we should not borrow the money. We want the lower interests rates and the lower taxes that come from a balanced budget. We want less Government in Washington and more freedom back home, and we believe that saving Medicare should be done on its own terms for Americans by Americans.

It is wrong. It is wrong. It is wrong to use Medicare as a political blackmail to try to stop us from getting an agreement. Let us save Medicare now. Get it done in April. Get it over with. Make sure it is done. Take care of our senior citizens. Get it off the table. Cut out all the fear mongering, all the demagoguery. Then let us talk about how to cut taxes and balance the budget and get economic growth and strengthen families.

I hope that for anybody who is curious among our Members, among activists in the press corps, they now get the clear message. Lower taxes, balanced budget, less power in Washington, more freedom back home, save Medicare on its own terms because America's senior citizens deserve to see Medicare put above politics and done.

I think that is a pretty darn good agenda to start the next few weeks on.

A NATIONAL HOLIDAY FOR CESAR CHAVEZ

The SPEAKER pro tempore (Mr. HAYWORTH). Under a previous order of the House, the gentleman from California [Mr. FILNER] is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, I rise today to honor and remember a great American leader and hero, Cesar Chavez. He was a husband, father, grandfather, labor organizer, community leader, and symbol of the ongoing struggle for equal rights and equal opportunity. March 31, the birthday of Cesar Chavez, has already been declared a State holiday in California. Today I ask my colleagues to join me in making March 31 a Federal holiday so that our entire Nation can honor Cesar Chavez for his many contributions.

Cesar Chavez, the son of migrant farmworkers, dedicated his life to fighting for the human rights and dignity of those farmworkers. He was born on March 31, 1927, on a small farm near Yuma, AZ, and died nearly 4 years ago, on April 23, 1993. Over the course of his 66 years, Cesar Chavez' work inspired millions and made him a major force in American history.

In 1962, Cesar Chavez and his family founded the National Farm Workers Association, which organized thousands of farmworkers to confront one of the most powerful industries in the country. He inspired them to join together and nonviolently demand safe and fair working conditions.

Through the use of a grape boycott, he was able to secure the first union contracts for farmworkers in the United States. These contracts provided farmworkers with the basic services that most workers take for granted, services such as clean drinking water and sanitary facilities. Because of Cesar Chavez' fight to enforce child labor laws, farmworkers could also be certain that their children would not be working side by side with them and would instead attend the migrant schools he helped establish. In addition, Cesar Chavez made the world aware of the exposure to dangerous chemicals that farmworkers and all consumers face every day.

As a labor leader, he earned great support from unions and elected officials across the Nation. The movement he began continues today as the United Farm Workers of America.

Cesar Chavez' influence extended far beyond agriculture. He was instrumental in forming the Community Service Organization, one of the first civic action groups in the Mexican-American communities of California and Arizona.

He worked in urban areas, organized voter registration drives, brought complaints against mistreatment by Government agencies. He taught community members how to deal with Government, school, and financial institutions and empowered many to seek further advancement in education and politics. There are countless stories of judges, engineers, lawyers, teachers, church leaders, organizers, and other hard-working professionals who credit Cesar Chavez as the inspiring force in their lives.

During a time of great social upheaval, he was sought out by groups from all walks of life and religions to bring calm with his nonviolent practices. In his fight for peace, justice, respect, and self-determination, he gained the admiration and respect of millions of Americans, including this Congressman.

Cesar Chavez will be remembered for his tireless commitment to improve the plight of farmworkers, children, and the poor throughout the United States, and for the inspiration his heroic efforts gave to so many Americans. We in Congress must make certain that the movement Cesar Chavez began and the timeless lessons of justice and fairness he taught be preserved and honored in our national conscience. To make sure these fundamental principles are never forgotten, I urge my colleagues to support legislation to declare March 31 a Federal holiday in honor of Cesar Chavez. In his words and in the words of the United Farm Workers, "Si, se puede," yes, it can be done.

UTAH AND H.R. 1500

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah [Mr. CANNON] is recognized for 5 minutes.

Mr. CANNON. Mr. Speaker, I represent Utah's Third Congressional District. Most Americans know a little bit about my district. Last fall, on September 18, President Clinton stood across the State line in Arizona, on the other side of the Grand Canyon, and with a few quick words and the stroke of a pen created the Grand Staircase-Escalante National Monument.

The fully understand the scale of this new monument, you must understand how big the average U.S. monument is currently. The average is 30,500 acres. The new southern Utah monument at 1.7 million acres is more than 55 times larger. It is bigger than both Delaware and Rhode Island combined.

The monument is extremely rugged, and parts are truly beautiful. The issue is really not that the land should be protected. The issue is process. That is why Utahns are angry. If this had been done through an open and thoughtful process, I think Utahns could have embraced something in the area.

But that is not what happened. Instead this monument was done without discussion, without consultation and without consideration.

The first time anyone in Utah, including my Democratic predecessor, ever heard about the possibility of a monument was in the pages of the Washington Post, a mere 7 days before the actual creation of the monument.

During the week before September 18, Utah's congressional delegation and Governor were told repeatedly that nothing was imminent. Of course, something was.

On the day of the President's proclamation, I was in southern Utah in the town of Kanab, which is on the west edge of the monument. Kanab is a small pioneer town. The residents are solid people, ranchers, farmers and the people who make their living by supporting those who work on the land.

On that day they held a rally at Kanab High School. The entire town closed down and everyone gathered to express their frustration at a President who in another State on the other side of the Grand Canyon was making a decision that would greatly affect their lives. The people were hurt and, yes, justifiably angry. They asked over and over again why their government would do such a thing to them in such a manner.

I can remember standing outside the high school and watching as dozens of black balloons were released as a symbol of what had happened to southern Utah.

□ 1330

Given this history, is it any wonder that the citizens of Utah today feel bruised and battered on the public land issues? I think my colleagues can understand why I say that Utahns are suspicious of anyone from outside the State who would try to impose additional restrictions on Utah's public lands.

And that brings me to H.R. 1500, a bill that will be shortly introduced into Congress. This is a bill sponsored by one of my colleagues from New York. It would designate a staggering 5.7 million acres of BLM land in Utah as wilderness. This is an area three times the size of this enormous monument.

Utahns are still reeling from the blow by President Clinton's monument proclamation, and H.R. 1500 amounts to rubbing salt in still-open wounds. To have outsiders introduce this bill at this time is not only highly inappropriate but offensive to the dignity of the people of Utah.

Now, Utah has a lot of beautiful land. Some of it should be designated wilderness. But additional wilderness is terribly, terribly divisive as an issue in

Utah. Utahns are split and deeply divided over how much of any acres of BLM land in Utah should be designated as wilderness. There is absolutely no consensus on this issue.

That is why I went and met with the sponsor of H.R. 1500, the gentleman from New York, a few days ago and asked him for a cooling-off period on this issue of wilderness in Utah. I told him if he introduced his bill it would be hurtful rather than helpful because of the anger over the monument. Any bill right now would have the effect of pitting Utah's political leaders, environmentalists, rural residents, and public land users against each other. It would dramatically and directly hurt the cause of bringing Utahns together over the issue of wilderness.

I proposed a 2-year period during which no one in the Congress would propose Utah wilderness legislation. Utahns could then use the time to deal with the monument and seek consensus on the issue of wilderness.

Despite my appeal, my colleague from New York told me he is compelled to move forward. Frankly, I found this pretty offensive. My colleague from New York has a district some 2,200 miles away from mine. His district has no Federal lands, none at all. Surely he has more pressing environmental concerns in his own district.

Remember that H.R. 1500 is not about protecting public lands in Utah, it is about showing disregard for the people of Utah and the Utah congressional delegation. I ask my colleagues, as a matter of courtesy, please do not cosponsor H.R. 1500.

TERRORISM THREATENS MIDEAST PEACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. ENGEL] is recognized for 5 minutes.

Mr. ENGEL. Mr. Speaker, the suicide bombing today in a Tel Aviv cafe, which killed at least 4 Israelis and injured dozens of people, was a cowardly act. This cowardly act represents a knife in the heart of the peace process. Terror is not an arrow in the quiver of those who strive for peace.

What bothers me, Mr. Speaker, is that while Yasir Arafat condemned the bombing, he once again is speaking out of 16 sides of his mouth. What disturbs me is the Palestinian negotiators or the Palestinian authorities have been using the threat of terror for a while now, saying that if the Israelis went ahead and built the Har Homa housing that there would become suicide bombings, there would be terror, and that they could not be responsible for what might happen.

I say such rhetoric, such language is to give an indirect green light to those people who would use terror to maim and kill innocent civilians.

We will not and cannot allow terror to destroy the peace process. When Yasir Arafat releases Hamas terrorists from prison and then predicts that violence will happen in Israel as a result of the housing, he is giving a green light to terrorist attacks.

He cannot speak out of 10 or 20 or 30 sides of his mouth. He cannot oppose Hamas when it is expedient and then wink and turn the other way and say, "Oh, I condemn this terror," when in essence we know that by predicting it and looking the other way, it becomes a self-fulfilling prophecy. When Arafat signed the peace accords, he committed himself to the peace process, and committing himself to the peace process means no side deals with Hamas terrorists.

The Hamas terrorists ought to know that Jerusalem is the undivided capital of Israel and will remain so. When Israel decides it wants to build housing or do whatever else it deems necessary in its own capital, Israel has the right to do that. Terrorism should not be used and cannot be accepted as a vehicle with which one side in a peace process makes threats and says if you do not give us what we want we are going to have terrorist attacks and we will not be able to do anything about it.

The conference, which condemned Israel, that was held just last weekend, in which the United States participated, sadly, was such a conference where the rhetoric got out of hand and encourages Palestinian and terrorists to attack Israel.

Mr. Speaker, all of us who favor peace in the Middle East must condemn this cowardly act. We must not stand for terror and we must put the blame where it belongs, on the rhetoric of Yasir Arafat and his people who say one thing and do another.

Mr. Speaker, I yield the balance of my time to my good friend and cochairman of the peace accord monitoring group with me, the gentleman from New Jersey, Congressman SAXTON. I yield 1½ minutes to him, and then I yield 1½ minutes to my friend, the gentleman from New York, the distinguished chairman of the Committee on International Relations Mr. GILMAN.

The SPEAKER pro tempore (Mr. HAYWORTH). The Chair would instruct the gentleman he does not have 3 minutes remaining. However, he can yield the balance of the time, and accordingly the gentleman from New Jersey [Mr. SAXTON], is recognized for the balance of the time.

Mr. SAXTON. Mr. Speaker, I would join with my friend, the gentleman from New York [Mr. ENGEL], and the chairman of the Committee on International Relations in condemning this.

Frankly, I have 5 minutes of my own time set aside here a little bit later, so I will curtail my remarks at this time so that Mr. GILMAN may be able to make his. But I just think this is a very, very serious situation, one that is overlooked all too often by us in this country, and I will withhold the rest of my remarks for a few minutes until I get to my time.

Mr. GILMAN. Mr. Speaker, I want to thank the gentleman from New Jersey [Mr. SAXTON] for yielding his time and the gentleman from New York [Mr. ENGEL] for arranging this moment to be able to commemorate what is happening in Israel.

The Hamas bombing of a Tel Aviv cafe today, killing three people and wounding scores of others, including a 6-month-old child, was possible because of the climate of acceptance of terrorism against Israel which still prevails among the Palestinians.

Yasir Arafat can utter all the words of condemnation he wants to but, more important, he must actively root out the infrastructure of terrorism in territories under his control and make it absolutely clear to the Palestinian people that terrorism will no longer be tolerated if we are to see an end to these despicable acts.

Regrettably, Arafat's recent meeting with Hamas leaders only sends the wrong signal. Whether or not continuing to tolerate violence gives Arafat an occasional short-term victory, in the end it will cost him, and his people, the peace that the vast majority of both Israelis and Palestinians so desperately want and need.

DEDICATION OF UTAH NATIONAL MONUMENT BACKFIRES ON PRESIDENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah [Mr. HANSEN] is recognized for 5 minutes.

Mr. HANSEN. Mr. Speaker, a thought occurred to me as my colleague from the Third Congressional District of Utah got up to speak about something. He talked about President William Jefferson Clinton going to the south rim of the Grand Canyon on September 18, 1996, and in a few short words he declared that 1.7 million acres of Utah would be a monument. He said he did the same thing that Teddy Roosevelt did using the antiquities laws when Teddy Roosevelt created the Grand Canyon.

History tells us a different story. Teddy Roosevelt planned this out for years. He talked to the Governors, legislators, interested people. Teddy Roosevelt went all over the Grand Canyon. He hunted in the Grand Canyon. He hiked in the Grand Canyon. He floated the Colorado River. He knew it inside and out. He was a historian and a man who understood it. Then he made the Grand Canyon, and bless his heart for doing it, into a beautiful area.

William Jefferson Clinton, if he was asked to put his hand on this new monument, would probably miss it by

500 miles. He did not even know it was there. So the question comes up, why did he do it? I guess a lot of environmental folks said, gee, this will be a wonderful thing for you to do, Mr. President. We will all think it is a great thing if you make this monument and set it aside.

Who benefits from this? Anybody benefit? The schoolchildren of Utah had a little piece in there, just 40 acres, of low sulfur coal that would accrue to their benefit and their education, so much so it is the only coal that I am aware of in this hemisphere that is acceptable with low sulfur and high Btu.

The President cut that out, just like that. How much money would that mean to the kids in Utah? How about $5 billion that they are not going to have for their education at this time.

Who benefited from this? There is a coal industry in Indonesia owned by Red China, and they now have a monopoly on all of the coal of the world that is acceptable coal because this occurred. Of course, the Red Chinese seem to have some affiliation with this administration, but I will not get into that.

We have another problem as we look at regarding who benefited from this. Did the environmental community benefit from this at all? Oh, yeah. Wow, we are going to get all this wilderness in this area.

Guess what? That wilderness was extinguished by the President. In 1964, Congress passed a law that said only Congress could create wilderness, and in this area there are three big WSA's, wilderness study areas. Nowhere can a monument have wilderness.

So instead of a pristine area set aside for people to enjoy, now what is it going to be? Hotels, airports, everything going through there. And there should be wilderness in that area. No, nobody benefited from this. Nobody. Absolutely nobody.

That is why my friend from the Third District, our Senators and others, are introducing right now, yesterday as a matter of fact, the Fairness Antiquity Law, which means the President of the United States cannot willy-nilly go around declaring places all over this country. He will be subjected to 5,000 acres. If he goes over 5,000 acres, he will have to have the concurrence of the Governor, the legislature, and it will have to pass this Congress. I personally think that is the right thing to do.

Mr. Speaker, I am really disappointed that the President would do this for a few measly votes with a few people, and then it flies right in his face. It did not work at all. In fact, it has hurt people all over America. But it has helped the Chinese. I hope they enjoy it.

BAD NEWS ON TRADE DEFICITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, here we go again. The Department of Commerce released yesterday more bad news on trade figures and more bad news for American workers.

Trade figures show that this past month we had a trade deficit of $12.7 billion; setting records, again breaking records, bad news records month after month after month after month.

Again, Mr. Speaker, with the countries that we have had the most problems with in terms of our trade numbers, in terms of loss of jobs, the countries where most of our trade policy has been directed, Mexico and China were where the worst news came from.

The trade deficit with Mexico went up 50 percent from 12 months ago this month, with those trade figures costing, again, thousands of American jobs that have gone south. The trade figures with China, the trade deficit has gone up a billion dollars over 1 year ago in the same month.

Mr. Speaker, we are continuing to go down the path of free trade with larger and larger trade deficits, with a situation that is clearly costing us thousands and thousands of American jobs. At the same time, we are seeing a push from the administration and from Republican leadership in this House asking for fast track for Chile so that we can negotiate another trade agreement, another trade agreement that will not work, another trade agreement that will cost us jobs.

We are seeing the administration push for negotiating for Chinese admittance to the World Trade Organization. Again, a step that clearly will cost more American jobs.

Our trade deficit with China has grown to the point that within a year or so it will overtake our trade deficit with Japan, yet we continue to give most favored nation status recognition to China and continue to give China more trading privileges, as China continues to violate international trading norms, international human rights norms, international norms for all kinds of behavior in the world community.

Just to take a few examples, Mr. Speaker. As we talk about entry into the World Trade Organization, and as we talk later about China getting more trade advantages from this country, as we have unfortunately done year after year, China is a nation that when threatened by free elections in neighboring Taiwan, sent missiles into the straits of Taiwan, shooting in the water near the country of Taiwan, sending them a message about free elections.

China is a country where a relative of the prime minister smuggled some 2,000 AK-47's into San Francisco, in obvious direct violation of American law.

China is a country that sold nuclear technology to rogue nations in south Asia, again in violation of international norms.

China is a country that has violated all kinds of human rights with slave labor, with child labor; a country where 12-year-old children in slave labor camps make toys for 12-year-old children to play with on America's playgrounds.

□ 1345

It is clear that this is not a country we should reward with continued most-favored-nation status, with continued trade advantages. This is not a country we should allow into the World Trade Organization until they improve their policies on human rights, until they improve their policies on the CD roms that they have stolen, intellectual property rights that they have violated across the board.

Indeed, these last numbers from the Commerce Department show clearly again the tens of thousands, the hundreds of thousands of jobs that our policy with China has cost American workers. It is a nation that has violated all kinds of human rights, ignored international norms, has violated all kinds of standards around the world, yet we continue to offer them most-favored-nation status and the administration continues to negotiate with them on admittance to the World Trade Organization.

Congressman GEPHARDT, the minority leader, has introduced legislation with several others of us that Congress should be part of this negotiation, that Congress should have to vote on admittance of China to the World Trade Organization. I would hope that the Speaker and the leaders of this House would see fit that we should, as this body, have input into this decision whether China, whose trade deficit with us continues to mushroom and who continues to violate all kinds of world standards, that we get the opportunity to vote on whether China is admitted into the World Trade Organization.

I ask the Members of this body, particularly on the other side of the aisle, on the Republican side of the aisle, to push their leaders into bringing this to a vote so we in this body can have some input and help make that decision whether we admit China into the World Trade Organization.

CONGRATULATING GREATER ANTIOCH BAPTIST CHURCH'S 125TH ANNIVERSARY

The SPEAKER pro tempore (Mr. HAYWORTH). Under a previous order of the House, the gentleman from Georgia [Mr. CHAMBLISS] is recognized for 5 minutes.

Mr. CHAMBLISS. Mr. Speaker, I rise today to recognize and to congratulate the Reverend Nehemiah Collins and the members of his congregation at the Antioch Baptist Church in Macon, GA as this weekend they celebrate the 125th anniversary of their church. Antioch Baptist Church was founded in 1872 in a place in Bloomfield, which is a portion of Macon, then called Forks Creek. The church was later moved to the present location on Antioch Road.

This church has been a beacon light of hope throughout the community in striving to influence others to accept Christ as their personal saviour and to live an exemplary life as we walk among others who have already confessed Him as their saviour.

Antioch Baptist Church has made great strides during these 125 years in the spreading of the good news to mankind. One thing that is extremely unusual about Antioch Baptist Church is that though it has been in existence for 125 years, it has only had 5 pastors.

The current pastor, the Reverend Nehemiah Collins, is entering his 26th year as pastor of that church. However, he is not the longest serving pastor of Antioch Baptist Church, for the Reverend E.W. Hoyt, the third pastor of this great church, served his congregation for a total of 52 years.

Mr. Speaker, I wish to recognize not only Reverend Collins but Deacons Joe Heggs, Sorrell Acree, B.T. Reid, James Wimberly, Harold Murphy, and all the members of the congregation of this fine religious organization on the 125th anniversary.

I will be very pleased on Sunday afternoon to participate in the service at Antioch Baptist Church, and I want to enter into the RECORD a proclamation that I will be delivering Sunday afternoon. This is addressed to the Reverend Collins.

> It is indeed an honor for me to personally deliver greetings to the Greater Antioch Baptist Church congregation on this most historic day, the church's 125th anniversary.
>
> Since its founding in 1872 at Forks Creek in the Bloomfield area of Macon, Greater Antioch Baptist Church has served as a beacon light of hope throughout the community in striving to influence others to accept Christ as their personal saviour.
>
> The church has made great strides during its 125 years. The accomplishments you and the 4 previous pastors have made to the church and the Macon/Bibb County community are far too extensive to recount here, but rest assured that they are widely known and universally appreciated.
>
> My wife Julianne and my entire family join me in extending to the entire Greater Antioch Baptist Church community our very warmest congratulations and best wishes.

TEEN PREGNANCY PREVENTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, 30 percent of all out-of-wedlock births are to teenagers below the age of 20. That astonishing reality should be alarming to Congress and to the citizens of our country. More importantly, the recently implemented welfare reform has accelerated the need to address the issue of out-of-wedlock teen births.

As we consider solutions to this issue, we must keep in mind that no other industrialized nation with a standard of living comparable to the United States has a problem of this dimension. On the problem of teenage pregnancy, we have the dubious distinction of leading the world. It is critical that our Nation take a clear stand against teen pregnancy and that this position be widely publicized.

We must encourage and then be engaged in a national discussion about how religious culture and public values influence both teenage pregnancy and the way our society responds to this dilemma. We must encourage and stimulate innovative solutions through local schools, churches, and civic groups, as well as local and State officials.

We must foster community involvement where each community will determine what would be appropriate and acceptable based on the community's standards and values. I think you will agree that these decisions must be made at the community level, by the individuals who care the most and who have the greatest influence with these young people. The parents, families, churches, teachers, scout leaders, and community members who know these teenagers best will determine what kinds of programs their community should use to help their young people avoid becoming teen parents prematurely.

As we consider how and where to reduce spending, we must also not forget that teen pregnancy costs a heavy burden on the Federal budget. If we want to balance the budget, let us begin by working to bring some balance to the lives of thousands and thousands of our teenagers involved in premature childbearing.

Once a teenager becomes pregnant, there is no good solution. There is pain in adoption, there is pain in abortion, there is pain and suffering giving birth and parenting a child prematurely. The best solution is to prevent the pregnancy. Young people who believe that they have a real future to risk have real incentives to delay parenting. This is why when we demand responsible behavior, we have a reciprocal obligation to offer a real future beyond early parenting and poverty.

Reducing teen childbearing is likely to require more than eliminating or manipulating welfare programs. Experience tells us that threats and punishment are not the best way to get teens to behave in a way that is good for them and their future.

The most successful approach to reducing teen childbearing is to design policies and procedures that are targeted to encourage positive developmental behavior through beneficial adult role models and job connections.

We must implement pregnancy prevention programs that educate and support school age youths between the ages of 10 and 21 in high risk situations and their family members through comprehensive social and health services, with an emphasis on pregnancy prevention. Devoting more resources to preventing teen pregnancy will not only save us money in the long run but will improve the lives, health, education, economic opportunities, and the well-being of these young people and their families. Moreover, they will give hope for this Nation and they will have an opportunity to make a positive contribution.

Mr. Speaker, we must be engaged in this effort.

SUICIDE BOMBING IN TEL AVIV

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SAXTON] is recognized for 5 minutes.

Mr. SAXTON. Mr. Speaker, recall with me for just a moment where you were and where all of our friends were on the day the World Trade Center was bombed and think back for a minute about how that made us feel. It is within that kind of a context that I viewed an occurrence earlier today when I heard that a bomb had been exploded in Tel Aviv by a suicide bomber. I immediately picked up the telephone and called a friend that lives in Tel Aviv with her husband, an elderly, older couple, and she described to me over the telephone what a friend of hers, an eyewitness to this bombing, saw.

It seems that it was lunchtime and the waiter, who was the one who described this, saw a man who looked like he did not belong there enter the streetside cafe with two bags. As the waiter approached the individual to find out why he was there, he simply sat a bag on the chair, which caused the bag to explode. Forty-seven people were wounded and 3 were killed by this fanatic who caused this to happen.

The Associated Press writes an account of what it was like. The Associated Press writes:

> The blast scattered chairs, tables and umbrellas on a tree-lined boulevard just yards away from City Hall. Smoke rose from the charred wood and cloth umbrellas, and napkins and half-eaten plates of food were strewn about.
>
> Among the injured was a 6-month-old girl in a red and blue clown costume. Her head was matted with blood as she was carried away screaming.
>
> There was a powerful boom, glass flying everywhere, and there was a lot of blood, said the cafe's shift manager who gave his name as Roi. He sobbed hysterically, sitting back on the sidewalk holding his head.

This happened today. This happened in a cafe that I have visited. This happened within 2 blocks of my friends' home, and it causes us as Americans to wonder why.

Well, one does not have to look far to find out why, because, as the Speaker knows, during Desert Shield and Desert Storm the West proved to those countries that would sponsor these kinds of acts that in order for them to carry out their desired, or to attain their desired goals, they are going to have to find some way to do it other than through conventional military means, and terror is one of the tools they use. What I described is terror. What is in this AP article is something that we as Americans find hard to believe and can only imagine. And yet in that part of the world, this is an all too often occurrence.

As we look to see why the same AP article quotes some individuals who may have had something to do with this. If I can quote an Hamas leader, Ibrahim Maqadmeh, "Jerusalem will not be restored by negotiations, but only with holy war, whatever the sacrifices," he said today, he told a crowd of 50,000 cheering people in Khan Unis in the Gaza Strip.

In the West Bank town of Nablus, a different Hamas leader told the crowd of 10,000 supporters this afternoon, today, "I have good news for you," he said. "There is a suicide operation in Tel Aviv" today.

The crowd clapped and cheered. God is great. This is the only language that the occupiers, meaning the Israelis, the occupiers, this is the only language the occupiers understand, the language of martyrdom, said the Hamas leader Hamed Bitawi.

□ 1400

These are difficult situations to talk about and, for me, quite impossible to understand, and I hope, Mr. Speaker, that the American people and particularly the administration will take note of this event.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FORBES (at the request of Mr. ARMEY), for today, on account of family illness.

Mr. OXLEY (at the request of Mr. ARMEY), for today, on account of a death in the family.

Mr. UNDERWOOD (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. PASCRELL (at the request of Mr. GEPHARDT), for today, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FILNER) to revise and extend their remarks and include extraneous material:)

Mr. FILNER, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

(The following Members (at the request of Mr. CHAMBLISS) and to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 5 minutes, today.

Mr. CANNON, for 5 minutes, today.

Mr. HANSEN, for 5 minutes, today.

Mr. CHRISTENSEN, for 5 minutes, today.

Mr. CHAMBLISS, for 5 minutes, today.

Mr. SAXTON, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BROWN of Ohio.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 514. An act to permit the waiver of District of Columbia residency requirements for certain employees of the Office of the Inspector General of the District of Columbia.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following date present to the President, for his approval, a bill of the House of the following title:

On March 19, 1997:

H.R. 924. An act to amend title 18, United States Code, to give further assurance to the right of victims of crime to attend and observe the trials of those accused of the crime.

ADJOURNMENT

Mr. SAXTON. Mr. Speaker, pursuant to Senate Concurrent Resolution 14, 105th Congress, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. HAYWORTH). Pursuant to the provisions of Senate Concurrent Resolution 14, 105th Congress, the House stands adjourned until 12:30 p.m. on Tuesday, April 8, 1997, for morning hour debates.

Thereupon (at 2 o'clock and 1 minute p.m.), pursuant to Senate Concurrent Resolution 14, the House adjourned until Tuesday, April 8, 1997, at 12:30 p.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2466. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Popcorn Promotion, Research, and Consumer Information Order; Referendum Procedures [FV-96-709FR] received March 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2467. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Viruses, Serums, Toxins, and Analogous Products; Biologics Establishment Licenses and Biological Product Licenses and Permits [Docket No. 96–055–2] received March 21, 1997, pursuant to 5 U.S.C. 801 (a) (1) (A); to the Committee on Agriculture.

2468. A letter from the Acting Administrator, Agency for Health Care Policy and Research, transmitting the Agency's final rule—Health Services Research, Evaluation, Demonstration, and Dissemination Projects; Peer Review of Grants and Contracts (RIN: 0919–AA00) received March 18, 1997, pursuant to 5 U.S.C. 801 (a) (1) (A); to the Committee on Commerce.

2469. A letter from the Inspector General, Department of Health and Human Services, transmitting a report on Superfund financial activities at the National Institute of Environmental Health Sciences for fiscal year 1995; pursuant to 31 U.S.C. 7501 note; to the Committee on Commerce.

2470. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Designation of Areas for Air Quality Planning Purposes; Correction of Designation of Nonclassified Ozone Nonattainment Areas; States of Maine and New Hampshire [ME048–1–6997a; FRL–5802–3] received March 21, 1997, pursuant to 5 U.S.C. 801 (a) (1) (A); to the Committee on Commerce.

2471. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Agreement Between the United States Nuclear Regulatory Commission and the Commonwealth of Massachusetts for the Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the Commonwealth Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended—received March 21, 1997, pursuant to 5 U.S.C. 801 (a) (1) (A); to the Committee on Commerce.

2472. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Policy and Procedure for Enforcement Actions; Policy Statement [NUREG–1600] received March 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2473. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calender year 1996, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2474. A letter from the Acting General Counsel, Department of Energy, transmitting the Department's final rule—Financial Assistance Letter (Guidance on Implementing Section 18 of the Lobbying Disclosure Act of 1995) [Letter No. 97–02] received March 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

2475. A letter from the Acting General Counsel, Department of Energy, transmitting the Department's final rule—Unfunded

Mandates Reform Act; Intergovernmental Consultation—received March 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

2476. A letter from the Director, Office of Science and Technology Policy, Executive Office of the President, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

2477. A letter from the Director, Institute of Museum Services, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2478. A letter from the Chairman, Merit Systems Protection Board, transmitting the 18th annual report on the activities of the board during fiscal year 1996, pursuant to 5 U.S.C. 1206; to the Committee on Government Reform and Oversight.

2479. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996; pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

2480. A letter from the Acting Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Ohio Abandoned Mine Land Reclamation Plan (OH–236–FOR] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2481. A letter from the Acting Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Maryland Regulatory Program [MD–040–FOR] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2482. A letter from the Acting Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Texas Regulatory Program [SPATS No. TX–017–FOR] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2483. A letter from the Secretary of Commerce, transmitting the grant-in-aid for fisheries 1995–96 program report, pursuant to 16 U.S.C. 757(a)–757(f) and 16 U.S.C. 4107 et seq.; to the Committee on Resources.

2484. A letter from the Director, Federal Bureau of Prisons, Department of Justice, transmitting the Department's final rule—Transfer of Inmates to State Agents for Production on State Writs (Bureau of Prisons) [BOP–1058–F] (RIN: 1120–AA53) received March 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2485. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize appropriations for fiscal years 1998 and 1999 for the U.S. Coast Guard, and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Transportation and Infrastructure.

2486. A letter from the Secretary of Health and Human Services, transmitting the Department's report entitled "Child Support Enforcement Incentive Funding," pursuant to Public Law 104–193, section 341(a) (110 Stat. 2231); to the Committee on Ways and Means.

2487. A letter from the Acting Commissioner of Social Security, Social Security Administration, transmitting a report on the implementation of the childhood disability provisions in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, pursuant to Public Law 104–193, section 211(d)(3) (110 Stat. 2191); to the Committee on Ways and Means.

2488. A letter from the Assistant Attorney General of the United States, transmitting a draft of proposed legislation to include American Samoa in the act of October 5, 1984 (90 Stat. 1732, 48 U.S.C. 1662a), dealing with territories of the United States, and for other purposes; jointly, to the Committees on Resources and the Judiciary.

2489. A letter from the Secretaries of Education and the Treasury, transmitting a draft of proposed legislation entitled the "Hope and Opportunity for Postsecondary Education Act of 1997"; jointly, to the Committees on Ways and Means and Education and the Workforce.

2490. A letter from the Secretary of Defense, transmitting the annual report for the National Security Education Program, pursuant to 50 U.S.C. 1906; jointly, to the Committees on Intelligence (Permanent Select) and Education and the Workforce.

2491. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a draft of proposed legislation to authorize appropriations for the Department of State to carry out its authorities and responsibilities in the conduct of foreign affairs during the fiscal years 1998 and 1999, and for other purposes, pursuant to 31 U.S.C. 1110; jointly, to the Committees on International Relations, the Judiciary, and Government Reform and Oversight.

2492. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting a study of the long-term alternatives for the District of Columbia Department of Corrections [D.C. DOC] correctional complex in Lorton, VA, pursuant to Pubic Law 104–134, section 151(b)(3) (110 Stat. 1321–102); jointly, to the Committees on the Judiciary, Government Reform and Oversight, and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 752. A bill to amend the Endangered Species Act of 1973 to ensure that persons that suffer or are threatened with injury resulting from a violation of the act or a failure of the Secretary to act in accordance with the act have standing to commence a civil suit on their own behalf; with an amendment (Rept. 105–42). Referred to the Committee of the Whole House on the State of the Union.

CORRECTED PRINT ON H.R. 1048, INTRODUCED MARCH 12, 1997

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. SHAW (for himself and Mr. LEVIN):

H.R. 1048. A bill to make technical amendments relating to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. THUNE:

H.R. 1212. A bill to authorize the construction of the Fall River Waters Users District rural water system and authorize the appropriation of Federal dollars to assist the Fall River Water Users District, a nonprofit corporation, in the planning and construction of the water supply system; to the Committee on Resources.

H.R. 1213. A bill to authorize the construction of the Perkins County rural water system and authorize the appropriation of Federal dollars to assist the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system; to the Committee on Resources.

By Mr. BUNNING of Kentucky (by request):

H.R. 1214. A bill to suspend temporarily the duty on the chemical P-Toluenesulfonamide; to the Committee on Ways and Means.

By Mr. FILNER:

H.R. 1215. A bill to amend the chapters 83 and 84 of title 5, United States Code, to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers, to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the U.S. Customs Service, and revenue officers of the Internal Revenue Service; to the Committee on Government Reform and Oversight.

By Mr. KUCINICH:

H.R. 1216. A bill to amend the Communications Act of 1934 to prevent splitting of local communities into multiple telephone area codes; to the Committee on Commerce.

By Mr. METCALF:

H.R. 1217. A bill to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes; to the committee on Commerce.

By Mr. PALLONE (for himself, Mr. FOX of Pennsylvania, Mr. LIPINSKI, Mr. DELLUMS, and Ms. BROWN of Florida):

H.R. 1218. A bill to amend title XVIII of the Social Security Act to provide for coverage of pharmaceutical care services under part B of the Medicare Program; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. PELOSI (for herself, Mrs. Morella, Mr. Abercrombie, Mr. Ackerman, Mr. Barrett of Wisconsin, Mr. Becerra, Mr. Bentsen, Mr. Berman, Mr. Boehlert, Mr. Bonior, Mr. Borski, Mr. Brown of Ohio, Mr. Brown of California, Mr. Capps, Mr. Cardin, Mrs. Carson, Ms. Christian-Green, Mr. Clay, Mr. Conyers, Mr. Cummings, Mr. DeFazio, Mr. Delahunt, Ms. DeLauro, Mr. Dellums, Mr. Dixon, Mr. Engel, Ms. Eshoo, Mr. Evans, Mr. Farr of California, Mr. Fawell, Mr. Fazio of California, Mr. Filner, Mr. Foglietta, Mr. Ford, Mr. Frank of Massachusetts, Mr. Frost, Ms. Furse, Mr. Gejdenson, Mr. Gilchrest, Mr. Gilman, Mr. Gonzalez, Mr. Gutierrez, Ms. Harman, Mr. Hinchey, Mr. Hinojosa, Mr. Hobson, Mr. Horn, Mr. Hoyer, Mr. Jackson, Ms. Jackson-Lee, Mrs. Johnson of Connecticut, Ms. Eddie Bernice Johnson of Texas, Mrs. Kelly, Mr. Kennedy of Massachusetts, Mrs. Kennelly of Connecticut, Mr. Kind of Wisconsin, Mr. Lantos, Mr. Levin, Mr. Lewis of Georgia, Mrs. Lowey, Ms. McCarthy of Missouri, Mr. McDermott, Mr. McGovern, Ms. McKinney, Mrs. Maloney of New York, Mr. Markey, Mr. Matsui, Mr. Meehan, Mrs. Meek of Florida, Ms. Millender-McDonald, Mr. Miller of California, Mrs. Mink of Hawaii, Mr. Moran of Virginia, Mr. Nadler, Ms. Norton, Mr. Olver, Mr. Pallone, Mr. Payne, Mr. Rangel, Mr. Regula, Ms. Rivers, Mr. Romero-Barcelo, Ms. Roybal-Allard, Mr. Sabo, Ms. Sanchez, Mr. Sanders, Mr. Sawyer, Mr. Schumer, Mr. Shays, Mr. Serrano, Mr. Skaggs, Ms. Slaughter, Mr. Stark, Mr. Stokes, Mrs. Tauscher, Mr. Torres, Mr. Towns, Ms. Velázquez, Ms. Waters, Mr. Watt of North Carolina, Mr. Waxman, Ms. Woolsey, Mr. Wynn, Mr. Yates, Mr. Tierney, Mr. Deutsch, and Mr. Faleomavaega):

H.R. 1219. A bill to amend the Public Health Service Act to promote activities for the prevention of additional cases of infection with the virus commonly known as HIV; to the Committee on Commerce.

By Mr. PETRI:

H.R. 1220. A bill to amend title 13, United States Code, to make clear that no sampling or other statistical procedure may be used in determining the total population by States for purposes of the apportionment of Representatives in Congress; to the Committee on Government Reform and Oversight.

By Mr. PICKETT:

H.R. 1221. A bill to amend title 37, United States Code, to prohibit a reduction in the overseas locality allowance for a member of the uniformed services on duty outside of the United States or in Hawaii or Alaska during the course of the member's tour of duty; to the Committee on National Security.

By Mrs. ROUKEMA:

H.R. 1222. A bill to amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to require managed care group health plans and managed care health insurance coverage to meet certain consumer protection requirements; to the Committee on Education and the Workforce, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAYS:

H.R. 1223. A bill to amend the Immigration and Nationality Act to modify the requirements, with respect to understanding the English language, history, principles, and form of government of the United States, applicable to the naturalization of certain older individuals; to the Committee on the Judiciary.

By Mr. WOLF:

H.R. 1224. A bill to amend the Internal Revenue Code of 1986 to provide that the Commissioner of Internal Revenue shall be nominated from individuals recommended by a selection panel and to provide a 6-year term for such Commissioner; to the Committee on Ways and Means.

By Mr. PALLONE:

H. Con. Res. 54. Concurrent resolution recognizing the anniversary of the proclamation of independence of the Republic of Belarus, expressing concern over the Belarusan Government's infringement on freedom of the press in direct violation of the Helsinki Accords and the Constitution of Belarus, and expressing concern about the proposed union between Russia and Belarus; to the Committee on International Relations.

By Mr. RADANOVICH (for himself and Mr. Bonior):

H. Con. Res. 55. Concurrent resolution honoring the memory of the victims of the Armenian Genocide; to the Committee on International Relations.

By Mr. ROHRABACHER (for himself, Mr. Solomon, Mr. Cox of California, Mr. Royce, Mr. Ackerman, Mr. Hinchey, and Mr. Lantos):

H. Con. Res. 56. Concurrent resolution favoring strong support by the United States Government for the accession of Taiwan to the World Trade Organization prior to the admission of the People's Republic of China to that Organization; to the Committee on Ways and Means.

By Mr. FILNER:

H.J. Res. 106. Resolution designating minority membership on certain standing committees of the House; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4: Mr. Owens, Mr. Canady of Florida, Ms. Ros-Lehtinen, Mr. Shaw, Mr. Crane, Mr. Sawyer, and Mr. Towns.

H.R. 5: Mr. Latham and Mr. McGovern.

H.R. 18: Ms. Kaptur, Ms. Slaughter, Mr. Fattah, Mr. Owens, Ms. Brown of Florida, and Mr. Ganske.

H.R. 54: Mr. Clyburn, Mr. Capps, and Mr. Tauscher.

H.R. 58: Ms. Brown of Florida, Mr. Tierney, and Mr. Thompson.

H.R. 96: Mr. Fox of Pennsylvania.

H.R. 158: Mr. Bob Schaffer and Mr. Boehner.

H.R. 161: Mr. Sununu and Mr. Lewis of Georgia.

H.R. 180: Mr. Young of Florida and Mr. Diaz-Balart.

H.R. 198: Mr. Wicker.

H.R. 203: Mr. Ehrlich.

H.R. 218: Mr. Royce, Mr. Doolittle, and Mr. Holden.

H.R. 264: Mr. Luther and Ms. DeLauro.

H.R. 277: Mr. Frank of Massachusetts.

H.R. 279: Mr. Neal of Massachusetts, Mr. LaHood, Mr. Horn, Mr. Forbes, Mr. Franks of New Jersey, Mr. McNulty, Mr. Snyder, Mr. Armey, Mr. Berman, Mr. Boehner, Mr. Buyer, Mr. Cox of California, Mr. Duncan, Ms. Dunn, Mr. Ehrlich, Mr. Gingrich, Mr. Goodlatte, Mr. Hastings of Washington, Mr. Hayworth, Mr. Hunter, Mr. Jones, Mr. Leach, Mr. McKeon, Mrs. Morella, Mr. Packard, Mr. Parker, Mr. Paxon, Mr. Portman, Mr. Radanovich, Mr. Saxton, Mr. Scarborough, Mr. Solomon, Mr. Spence, Mr. Stearns, Mr. Tauzin, Mr. Thomas, Mr. Wamp, Mr. Young of Florida, Mr. McDermott, Mr. Bentsen, Mr. Sununu, Mr. Mollohan, Mr. Dicks, Mrs. Cubin, Ms. Furse, Mr. Brown of California, Mr. Oberstar, Mr. Edwards, Ms. Brown of Florida, Mr. Hall of Ohio, Mr. Lampson, Ms. Kilpatrick, Mr. Deutsch, Mr. Sawyer, Mr. Clement, Mr. Rahall, and Mr. Reyes.

H.R. 282: Mr. Ackerman, Mr. Boehlert, Mr. Flake, Mr. Hinchey, Mrs. Kelly, Mr. King of New York, Mr. LaFalce, Mrs. Lowey, Mrs. Maloney of New York, Mr. Manton, Mr. McNulty, Ms. Molinari, Mr. Nadler, Mr. Owens, Mr. Quinn, Mr. Schumer, Ms. Slaughter, Mr. Towns, and Mr. Walsh.

H.R. 339: Mr. Everett.

H.R. 342: Mr. Davis of Illinois.

H.R. 345: Mrs. Fowler.

H.R. 409: Mr. English of Pennsylvania, Mr. Fox of Pennsylvania, Mr. Traficant, Mr. Luther, Mr. Condit, Mr. Manzullo, Mr. Tiahrt, and Mr. Peterson of Minnesota.

H.R. 411: Mr. Waxman.

H.R. 457: Mr. Gilchrest and Mr. Boehlert.

H.R. 464: Mr. Peterson of Pennsylvania and Mr. Adam Smith of Washington.

H.R. 465: Mrs. Lowey.

H.R. 479: Mr. Hefley, Mr. McKeon, Mr. Packard, and Mr. Rahall.

H.R. 484: Mr. Peterson of Pennsylvania.

H.R. 500: Mr. Ney.

H.R. 521: Mr. Faleomavaega.

H.R. 530: Mr. Peterson of Minnesota, Mr. Cunningham, Mr. Poshard, Mr. Buyer, Mr. Hastert, Mrs. Emerson, Mr. Holden, Mr. Packard, Mr. Barrett of Wisconsin, Mr. Stump, and Mr. Hefley.

H.R. 553: Mr. Ackerman and Mr. Thompson.

H.R. 586: Mr. Cunningham, Mr. Etheridge, Mr. Lampson, Mr. Parker, Mr. Pickering, and Mr. Sununu.

H.R. 667: Mrs. Meek of Florida, Mr. Engel, Mr. Flake, Mr. Torres, and Mr. Dellums.

H.R. 695: Mr. Watkins and Mr. Franks of New Jersey.

H.R. 699: Mr. Metcalf.

H.R. 751: Mr. Davis of Illinois.

H.R. 753: Mr. Fattah and Mr. Kind of Wisconsin.

H.R. 756: Mr. Gingrich and Mrs. Lowey.

H.R. 768: Mr. McIntyre, Mr. McKeon, Mr. Bachus, Mr. Bunning of Kentucky, and Mr. Paul.

H.R. 789: Mr. Clyburn.

H.R. 815: Mr. Ney and Mr. Faleomavaega.

H.R. 816: Mr. Miller of Florida and Mr. Ney.

H.R. 826: Mr. Doolittle, Mr. Evans, and Mr. Royce.

H.R. 832: Mr. Davis of Illinois.

H.R. 840: Mr. Peterson of Pennsylvania.

H.R. 841: Mr. Torres and Mr. McDermott.

H.R. 842: Mr. Watkins.

H.R. 843: Mr. Kucinich.

H.R. 867: Mr. Roemer and Mr. Dellums.

H.R. 879: Mr. Rangel.

H.R. 895: Mr. Vento, Ms. Christian-Green, and Ms. Rivers.

H.R. 931: Mr. Dooley of California, Mr. Vento, and Mr. Farr of California.

H.R. 937: Mr. PETERSON of Pennsylvania.

H.R. 939: Mr. STEARNS, Mr. DAVIS of Illinois, Mr. WATTS of Oklahoma, and Mr. WICKER.

H.R. 949: Mr. KENNEDY of Rhode Island.

H.R. 983: Mr. DAVIS of Illinois.

H.R. 995: Mr. MILLER of Florida, Mr. MCINTOSH, Mr. KLUG, Mr. GOODLATTE, Mr. ENGLISH of Pennsylvania, Mr. ROHRABACHER, and Mr. STEARNS.

H.R. 1018: Ms. KAPTUR and Mr. BOUCHER.

H.R. 1023: Mr. DAVIS of Illinois, Mr. CLYBURN, Mr. MENENDEZ, Mr. WEXLER, Ms. CHRISTIAN-GREEN, Mr. JACKSON, Mrs. EMERSON, Mr. CARDIN, Mr. MARKEY, and Mr. YOUNG of Florida.

H.R. 1092: Mr. SMITH of New Jersey, Mr. KENNEDY of Massachusetts, Mr. BILIRAKIS, Mr. FILNER, Mr. SPENCE, Mr. GUTIERREZ, Mr. EVERETT, Mr. CLYBURN, Mr. BUYER, Ms. BROWN of Florida, Mr. QUINN, Mr. DOYLE, Mr. BACHUS, Mr. MASCARA, Mr. STEARNS, Mr. PETERSON of Minnesota, Mr. DAN SCHAEFER of Colorado, Mrs. CARSON, Mr. MORAN of Kansas, Mr. REYES, Mr. COOKSEY, Mr. SNYDER, Mr. HUTCHINSON, Mr. HAYWORTH, Mrs. CHENOWETH, Mr. LAHOOD, and Mr. FOX of Pennsylvania.

H.R. 1104: Mr. GEJDENSON, Mr. STARK, Mr. OLVER, and Mr. LAFALCE.

H.R. 1114: Mr. RAHALL, Mrs. MINK of Hawaii, Mr. WAXMAN, and Mr. ABERCROMBIE.

H.R. 1126: Mr. TORRES, Mr. DOYLE, Mr. CUNNINGHAM, and Mr. MILLER of California.

H.R. 1129: Mr. MCNULTY, Mr. MILLER of California, Mr. LEWIS of Georgia, Mr. SABO, and Ms. FURSE.

H.R. 1138: Mr. BARR of Georgia.

H.R. 1140: Mr. OWENS.

H.R. 1150: Mr. BUNNING of Kentucky.

H.R. 1153: Mr. BARTLETT of Maryland.

H.R. 1159: Mr. BROWN of Ohio, Mr. FARR of California, Mr. STRICKLAND, Mr. SERRANO, Mr. LEWIS of Georgia, Ms. WATERS, Mr. JACKSON, Mr. CUMMINGS, Mr. FROST, and Mr. BLAGOJEVICH.

H.R. 1161: Ms. SANCHEZ.

H.R. 1189: Mr. SMITH of Oregon, Mr. COMBEST, Mr. CONDIT, Mr. BISHOP, Mr. DELAHUNT, Mr. HULSHOF, and Mr. JOHN.

H.R. 1203: Mr. KING of New York, Mr. SOLOMON, Mr. DOOLITTLE, Mr. PAUL, Mr. HILLEARY, Mr. CALLAHAN, Mr. LEWIS of Kentucky, Mr. TAYLOR of Mississippi, Mr. TAUZIN, Mr. CHAMBLISS, Mr. COMBEST, Mrs. EMERSON, Mr. BUNNING of Kentucky, Mr. PARKER, Mr. WAMP, Mr. DREIER, Mr. HAYWORTH, Mr. DUNCAN, Mr. BUYER, Ms. PRYCE of Ohio, Mr. HALL of Texas, Mr. EVERETT, Mr. COLLINS, Mr. COBLE, Mr. HEFLEY, Mr. SPENCE, Mr. HERGER, Mr. SAM JOHNSON, Mr. HANSEN, Mr. COOK, Mr. BARTLETT of Maryland, Mr. BATEMAN, Mr. SALMON, Mr. HOSTETTLER, Mr. ROGAN, Mr. SKEEN, Mr. DAN SCHAEFER of Colorado, Mr. BILIRAKIS, Mr. YOUNG of Alaska, Mr. RADANOVICH, Mr. MCDADE, Mr. HASTINGS of Washington, Mr. NORWOOD, Mr. WICKER, Mr. ROGERS, Mr. REGULA, Mrs. CUBIN, Mrs. CHENOWETH, Mr. NEY, Mr. GOSS, Mr. MICA, Mr. THOMAS, Mr. MCCRERY, Mr. CONDIT, Mr. BARTON of Texas, Mr. CRANE, Mr. BAKER, Mr. HYDE, Mr. LAHOOD, Mr. SAXTON, Mr. PACKARD, Mr. HUNTER, Mr. PICKETT, Mr. THORNBERRY, Mr. BRYANT, Mr. WATKINS, Ms. DUNN of Washington, Mr. MCINNIS, Mr. PORTER, Mr. BURTON of Indiana, Mr. BLUNT, Mr. COOKSEY, Mr. BOB SCHAFFER, Mr. HUTCHINSON, Mr. DICKEY, Mr. BILBRAY, Mr. PICKERING, Mr. GIBBONS, Mr. SCARBOROUGH, Mr. POMBO, Mr. MCKEON, Mr. CHRISTENSEN, Mr. ENSIGN, Mr. TIAHRT, Mr. BACHUS, Mr. RILEY, Mr. UPTON, Mr. SMITH of New Jersey, Mr. SHADEGG, Mr. BLILEY, Mr. TAYLOR of North Carolina, Mr. TALENT, Mr. BALLENGER, Mr. JONES, Mr. DELAY, Mr. MILLER of Florida, Mr. DEAL of Georgia, Mr. LIVINGSTON, Mr. MANZULLO, Mr. HASTERT, Mr. KNOLLENBERG, Mrs. FOWLER, Mr. BARR of Georgia, Mr. WELDON of Florida, Mr. WATTS of Oklahoma, Mr. SCHIFF, Mr. BOEHNER, Mr. SHAW, Mr. HOBSON, Mr. CUNNINGHAM, Mr. ARCHER, Mr. COX of California, Mr. HORN, Mr. LARGENT, Mr. PETERSON of Pennsylvania, Mr. LUCAS of Oklahoma, Ms. MOLINARI, and Mr. CAMP.

H.J. Res. 55: Mr. NEY.

H. Con. Res. 13: Ms. DELAURO, Mr. PETRI, Mr. OLVER, AND Ms. HARMAN.

H. Con. Res. 32: Mr. MCGOVERN.

H. Con. Res. 47: Mr. COYNE, Mr. ACKERMAN, Mr. QUINN, Ms. STABENOW, Mr. BARRETT of Wisconsin, Mr. MATSUI, Mr. TAYLOR of Mississippi, and Mr. WALSH.

H. Con. Res. 52: Mr. KING of New York.

H. Res. 22: Mr. BEREUTER.

H. Res. 23: Mr. PETERSON of Pennsylvania.

H. Res. 38: Mr. KIND of Wisconsin, Mr. HASTINGS of Florida, Ms. SLAUGHTER, Mr. BOUCHER, Mr. FOGLIETTA, Ms. PELOSI, Mr. PRICE of North Carolina, Mr. BROWN of California, Mr. ADAM SMITH of Washington, Mr. TIERNEY, Mr. FLAKE, Mr. FILNER, and Mr. OLVER.

H. Res. 48: Mr. FALEOMAVAEGA.

H. Res. 98: Mr. METCALF.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 586: Mr. RYUN.

H.R. 993: Mr. MCKEON.

H.R. 1055: Mr. ARCHER.

H.R. 1062: Mr. BILBRAY.

H.J. Res. 1: Mr. HINOJOSA.

EXTENSIONS OF REMARKS

NATIONAL INSTITUTE FOR ELECTROMEDICAL EDUCATION CELEBRATES 13TH ANNIVERSARY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents of the Fifth Congressional District in extending a most welcome congratulations to the members of the National Institute for Electromedical Education [NIEE] in celebrating its 13th anniversary. Founded in 1984, by Stanley H. Kornhauser, Ph.D., the NIEE has diligently serviced the Borough of Queens as an advocate and educator of electromedicine and has been most effective as a medium for the exchange of information on advances in new diagnostic and therapeutic devices in all areas of medicine.

Since its founding, the NIEE has been an active source of informational distribution to the field of medicine and has emerged as a major facilitator in establishing training and seminar programs in electromedical education. Its impact has been guided and nurtured by the organization's advisory board. The board's strong interdisciplinary members have distinguished themselves in diverse fields of medical and scientific research significantly impacting on the field of health care.

Therefore, Mr. Speaker, I ask my colleagues to rise in recognizing the National Institute of Electromedical Education, its founder, Stanley H. Kornhauser, Ph.D., its advisory board and membership as leaders in enhancing the level of understanding and knowledge regarding electromedical education, electromedical technology development, and the effective use of electromedical technology throughout our Nation.

ON THE OCCASION OF THE NATIONAL DAY OF GREECE

SPEECH OF

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1997

Mr. MCNULTY. Mr. Speaker, in the 1820's, when the Greeks fought for their independence—after 400 years of domination by the Ottoman Empire—they were inspired by the American Revolution.

In an 1821 appeal to the American people, a Greek Commander—Petros Mavromichalis—declared:

> Having formed the resolution to live or die for freedom, we are drawn toward you by a just sympathy since it is in your land that liberty has fixed her abode, and by you that she is prized as by our fathers. Hence, honoring her name, we invoke yours at the same time, trusting that in imitating you, we shall imitate our ancestors and be thought worthy of them if we succeed in resembling you . . . it is for you, citizens of America, to crown this glory.

Greek intellectuals translated our Declaration of Independence and adopted it as their own. And many Americans sailed to Greece to join in the Greek fight for independence.

However, in reality, it is we, the American people, who are indebted to Greece for their great contributions to American democracy.

Thomas Jefferson acknowledged this when he stated:

> To the ancient Greeks . . . we are all indebted for the light which led ourselves [American colonists] out of gothic darkness.

American democracy was born in Greece. Two thousand years ago, Pericles declared:

> Our Constitution is called a democracy because power is in the hands not of a minority but of the whole people. When it is a question of settling private disputes, everyone is equal before the law . . . And when it is a question of putting one person before another in positions of public responsibility, what counts is not a membership of a particular class, but the actual ability an individual possesses.

It was to preserve our mutual way of life that Greece stood shoulder to shoulder with the United States in every major international conflict in the 20th century.

We owe so much to Helenic civilization, to the people of Greece and to the Greek American community for their contributions to virtually all aspects of American life.

In a broad sense, as the English poet Percy Bysshe Shelley put it:

> We are all Greeks! Our laws, our literature, our religion, our art, have their roots in Greece.

To the people of Greece and to the Greek American Community, I extend heartiest congratulations on the national birthday of this great nation.

PUTTING AMTRAK BACK ON TRACK

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. WOLF. Mr. Speaker, in 1971, the National Railroad Passenger Corporation—Amtrak—began operations, taking over intercity passenger rail service from freight railroads. The freight railroads were eager to get out of the passenger rail service which had been unprofitable for many years. So eager in fact, that these freight railroads even donated equipment and provided financial assistance to help launch Amtrak. The Federal Government agreed to assist Amtrak in starting intercity passenger rail service and provide financial help.

Amtrak currently provides almost 20 million intercity rail passenger trips per year in 45 States. While this sounds like an impressive number, these trips constitute less than 1 percent of all intercity travel in the United States. Automobiles account for the bulk of intercity travel, about 80 percent. Another 17 percent of travel between cities is on commercial or private aircraft. Even intercity buses provide more service—and have quadruple the ridership—than Amtrak.

How much assistance has the Federal Government provided to Amtrak for its 1 percent market share? Since 1971 and through fiscal year 1997, the Federal Government has provided over $19 billion for Amtrak operating and capital expenses. That's $19 billion to help this fledgling corporation take over intercity passenger rail service from the freight railroads and provide less than 1 percent of all intercity travel. What have we gotten for our money? Far too little, I'm afraid.

Despite this massive infusion of Federal dollars, Amtrak route miles have increased a mere 1,000 miles since 1971. Moreover, Amtrak has had an operating loss each and every year since it began in 1971, before paying to buy or maintain equipment. None, not a single one, of Amtrak's routes are profitable when equipment costs are included. And the outlook for the future is equally bleak.

The fiscal year 1996 budget resolution approved by Congress assumes a phaseout of Amtrak operating assistance by the year 2002. However, Amtrak is ill-prepared to operate without Federal assistance. In fact, according to the General Accounting Office, Amtrak needs increased operating assistance—above current levels—rather than decreased funding. In addition, $4 billion is needed to replace worn out equipment. On top of the needed operating assistance, on top of the needed equipment assistance, Federal dollars will be needed to repair deteriorating track and signal equipment along the Northeast corridor.

As I mentioned previously, none of Amtrak's routes are profitable, when equipment costs are included. Amtrak's Northeast corridor—the 450 mile route between Boston and Washington, DC—which accounts for about half of the 20 million intercity trips, covers only about 65 percent of its operating and equipment costs. Other routes cover much less, on average, just about 50 percent of the operating and equipment costs.

In 1994, the GAO set off alarm bells about Amtrak's future. In its testimony to Congress, GAO warned that Amtrak's financial condition had deteriorated so significantly, that its projected future costs made recovery difficult. Since then, GAO has continued to warn of Amtrak's precarious financial position. Despite these dire predictions, over the past 2 years,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Congress and the administration have indicated that if Amtrak is going to survive, it cannot be dependent upon Federal operating subsidies beyond the turn of the century.

How can we reconcile Amtrak's enormous Federal assistance needs with the congressional mandate to eliminate its operating subsidies? How do we respond to the growing demands for capital assistance in the face of budgetary constraints.

Quite honestly, I don't know. Amtrak remains heavily dependent on Federal support for both its operating and capital needs. Amtrak developed a strategic business plan in 1995 designed to increase revenues, control costs, and eliminate its need for Federal operating subsidies by the year 2002. This plan has been revised several times, each time to reflect updated realities of its inability to raise additional revenues and/or control costs. According to GAO, in fiscal year 1996, Amtrak's net loss was $764 million, and the gap between its operating deficit and Federal operating support was $82 million. Clearly, Amtrak is ill-prepared to operate without massive help.

There is another important point to make. Amtrak has borrowed heavily since 1993. From fiscal year 1993 to fiscal year 1996, Amtrak's debt and capital lease obligations rose from $527 million to $987 million—nearly doubling in a 3 year period. Not only that, this debt does not include an additional $1 billion Amtrak expects to incur beginning in 1999 to finance high-speed train sets and maintenance facilities for the Northeast corridor and the acquisition of new locomotives.

How has Amtrak been paying off its enormous debt obligations? By using Federal operating support. Over the last 4 years, GAO estimates that Amtrak's interest expenses have tripled—from a fiscal year 1993 level of $20.6 million to fiscal year 1996 level of $60.2 million. In fiscal year 1993, 6 percent of Amtrak's operating assistance was used to make interest payments on its debts but by fiscal year 1996, that percentage rose to an astounding 21 percent. Slightly less than a quarter of all of Amtrak's operating assistance is now going to pay for interest on its debt rather than covering costs associated with day-to-day running of the railroad. As interest payments on its debt consume an ever increasing portion of operating assistance, Amtrak has less and less subsidy agreement for current operating expenses.

What needs to be done to increase Amtrak's profitability? Amtrak will tell you that it has been trying very hard to survive in a competitive marketplace. Yet as a result of declining passenger revenues coupled with price competition from airlines and intercity buses, Amtrak passenger revenues have declined 14 percent in real terms since 1990, further exacerbating a bad financial situation.

Over the past 2 years, Amtrak has been able to restructure the company and route system, thereby making some productivity improvements and reducing annual costs by approximately $400 million. However, restructuring has not always worked as Amtrak planned.

For example, in August 1996, Amtrak announced that it planned to eliminate five routes by November 10, 1996. Many States affected by these route terminations approached Congress, asking that we continue the routes until the State legislatures had an opportunity to meet and discuss whether they could fund these routes from alternative sources. Congress agreed and provided $22.5 million to continue these routes for an additional 6 months.

However, because Amtrak did not correctly calculate the cost to run these routes, the railroad is predicting that it will lose $13.5 million on these routes, even after the Federal subsidy. As a result, Amtrak may need to cut additional routes in order to make up for these losses. And while Congress provided money to give the affected States time to develop alternate funding to continue these routes, I understand that none of the States has taken action to continue these routes. Since I became chairman of the Transportation Appropriations Subcommittee 2 years ago, Amtrak has cut routes four times. It appears that this trend may continue.

Furthermore, for Amtrak to become a competitive railroad, it must complete upgrading and installation of high speed rail service along the Northeast corridor. After a 2-year delay on this program, Amtrak awarded a high speed rail contract and a new electrification contract in 1996. Once the corridor begins providing high speed rail service from Washington, DC to Boston, Amtrak estimates that it will receive an additional $150 million in revenue per year. However, to electrify the corridor and modernize its fleet, Amtrak plans to invest $5.5 billion by the year 2001—$3.2 billion of which is expected to come from Federal capital grants.

I believe this expectation is far-fetched. In a time of declining Federal resources, it is simply unrealistic to assume that the Federal Government will be able to provide $751 million per year in capital grants to Amtrak, when the most recent annual appropriations have been under $400 million—$345 million in fiscal year 1996 and $398.45 million in fiscal year 1997.

What else can Amtrak do to improve its financial picture? Can it reduce its operating expenses by renegotiating labor agreements? Not so far. Amtrak recently renegotiated these agreements, but rather than getting some concessions from labor that would enable it to improve its financial position, Amtrak's labor costs are on the rise.

Amtrak has repeatedly asked Congress to provide it with statutory relief from the most onerous labor provisions which could hold some of its labor costs in check. However, Congress has refused to provide this relief. What is the relief Amtrak seeks? Relief from current law which requires Amtrak to pay unemployment for up to 6 years to any employee whose route has been terminated or reduced to less than three times per week. Of course, other rail providers have similar requirements and they also have sought relief without success. Would it be fair to allow Amtrak to reduce the employment benefits it provides its workers while other transit companies can not? This is an issue Congress must address.

Amtrak—and others—believe that to be free of Federal operating subsidies by the year 2002, it will need a dedicated source of capital funding. Amtrak has proposed receiving a half cent from the Federal gas tax, which would provide Amtrak up to $750 million per year.

If these funds are drawn down from the current gasoline tax, not from the Federal portion allocated to deficit reduction, it will have a significant impact on whether the Federal Government can meet its current full funding grant agreements and other transit commitments, as well as its commitments for highway projects.

Beyond this, if Amtrak receives this half cent, will Congress reduce the Federal subsidy provided to Amtrak, even after the railroad ceases collecting operating assistance? In fiscal year 1996, Congress appropriated $635 million for Amtrak grants and Northeast corridor development. This amount is less than what would be provided to the railroad by the gas tax. In fiscal year 1997, Congress appropriated $763 million, not including a one-time charge for a maintenance facility. This amount is roughly equal to what Amtrak would collect under the half cent proposal.

What does all this mean? It appears that the half cent proposal is really a proposal addressing where Amtrak's money comes from rather than a proposal to wean Amtrak off Federal subsidies.

So, what do we do? Our approach to Amtrak is somewhat like applying a band-aid when surgery is required. The band-aid may provide a temporary fix, but the fix—no matter how many band-aids are used—never addresses the underlying problem. Amtrak needs more than an annual financial band-aid. It is crying out for critical attention.

Where do we go?

Are we committed to Amtrak?

If so, we must address Amtrak's needs in a comprehensive way in an effort to secure its financial footing and future viability. Amtrak is in a fragile state and cannot be expected to survive a piecemeal approach to addressing its problems and needs.

But Congress and the American taxpayers can no longer be asked to throw good money after bad. Instead, if we are committed to Amtrak, we must be prepared to do what is necessary.

I want Amtrak to survive. I believe America needs a national railroad passenger system as a vital part of a balanced transportation network for our nation. But we cannot continue the status quo with Amtrak. We must work to put Amtrak on sound financial footing and make it a viable mass transportation alternative for years to come.

In the 104th Congress I introduced legislation to revitalize Amtrak and today, along with my colleagues, Mr. PACKARD and Mr. DELAY, I am reintroducing the "Amtrak Route Closure and Realignment Act of 1997, a measure which I believe can work to help save intercity passenger rail service in our Nation.

Despite its efforts, restructuring has not always worked as Amtrak planned. Some of Amtrak's unprofitable routes have been mandated by Congress and this has stymied its efforts to operate in a business-like manner. I believe it is imperative that we enable Amtrak to better operate in accordance with business principles. Let's get out of the way and allow Amtrak to operate like a business—a profitable one at that.

My legislation would de-politicize Amtrak decision-making processes by removing from the political realm, painful route closure and realignment decisions, and placing them instead in the hands of an independent commission modeled after BRAC, the Base Realignment and Closure Commission.

This Amtrak Commission—called TRAC or Total Realignment of Amtrak Commission—would conduct an independent, economic analysis of the entire Amtrak system and then make recommendations on route closings and realignments urgently needed for the survival of a passenger rail system in the United States. TRAC would hold public hearings around the country to ensure that the public and other stakeholders were given the opportunity to be heard and in this way make the realignment process as fair as possible.

In addition to economic data, TRAC would also review nonmonetary data such as the contributions made by certain routes toward alleviation of airport congestion, pollution abatement, and energy conservation. TRAC would also examine alternative modes of transportation in rural areas, as well as look at uses communities could make of abandoned rail lines.

Under my proposal, no segment of the Amtrak system would be exempt from review. All routes would be carefully scrutinized. TRAC would also examine ridership forecasts and other assumptions underlying the Northeast corridor, especially in light of on-going electrification efforts. This electrification project currently has a price tag of about $3.2 billion, with nearly $1.2 billion already appropriated.

There is, however, an important factor which I mentioned earlier that I must reiterate which affects Amtrak's costs and efforts to achieve profitable operations. The Rail Labor Protection Act mandates payment of 6 years of full benefits to any rail worker who loses his or her job due to a route closure. As a result, many of the most unprofitable routes would actually cost even more to close than to keep going, albeit limping along at a loss. In fact, under the "30-mile" rule—also part of current law—an Amtrak employee is entitled to demand the full 6 year severance package if he or she is merely relocated 30 miles or more. No union workers in the private sector are afforded such generous severance compensation, and these astronomical costs are one of the reasons that every trip on Amtrak costs American taxpayers $25.

After conducting a thorough, system-wide economic review, TRAC would make its recommendations to Congress. These recommendations would then be considered by Congress under an expedited procedure—an accelerated time frame for consideration, with no amendments permitted, and an up-or-down vote.

TRAC would be comprised of 11 members. The President would appoint three members including the Secretary of the Department of Transportation, one representative of a rail labor union and one member of rail management. The majority leadership in the House and Senate would each appoint four members, in consultation with the minority leadership in both bodies. Members serving on this commission would offer expertise in rail finance, economic analysis, legal issues, and other relevant areas.

Saving passenger rail service requires objective analysis and urgent remedies. If Amtrak is to survive, and I want to emphasize my support for its survival, we must get out of the way and allow it to be run in a manner consistent with sound business practices. We must allow objective, business principles to govern Amtrak operations rather than outside considerations or constraints. Finally, we must be able to justify to taxpayers, whatever decisions we make regarding Amtrak and this is best accomplished based on sound assessments and recommendations.

I believe the TRAC legislation can help move Amtrak into the next century as a viable part of the Nation's transportation system and I urge my colleagues to support this legislation.

THE MEDICARE MEDICATION EVALUATION AND DISPENSING ACT OF 1997

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. STARK. Mr. Speaker, today, I am reintroducing a bill that could dramatically improve the quality of medical care received by our Nation's elderly. This legislation calls for implementation of an online prescription drug information management program for Medicare beneficiaries. This system, referred to as the Medicare Medication Evaluation and Dispensing System [MMEDS], would provide beneficiaries and their health care providers with tools and information that are necessary to reduce instances of adverse drug interactions, over-medication, prescription drug fraud, and other problems that plague the elderly related to prescription drug use.

BACKGROUND

The inappropriate use of prescription drugs is a health problem that is particularly acute for the elderly. The elderly not only use more prescription drugs than any other age group, but are more likely to be taking several drugs at once—thereby increasing the probability of adverse drug reactions.

In July 1995, the General Accounting Office reported that 17.5 percent of almost 30 million noninstitutionalized Medicare recipients 65 or older used at least one drug identified as generally unsuitable for elderly patients. In a study published by the Journal of the American Medical Association [JAMA], researchers concluded that nearly one in four noninstitutionalized elderly patients take prescription drugs that experts regard as generally unsuitable for their age group. Accounting for other scenarios, such as incorrect dosage levels, the number of Medicare patients affected by the inappropriate use of prescription drugs would far exceed 25 percent.

Several studies featured in the January 1997, issue of JAMA demonstrate the consequences of adverse drug reactions and errors in medication prescribing. One study found that adverse drug events [ADE's] lead to longer lengths of hospital stay, increased costs of hospitalization, and an almost twofold increase in the risk of death.

Inappropriate use of prescription drugs has been proven expensive as well as dangerous to the health of the elderly. The Food and Drug Administration estimates that 6.4 percent of all hospital admissions are caused by inappropriate drug therapy—imposing costs of $20 billion; others estimate costs to be as high as $77 billion. JAMA also recently reported that drug-related morbidity and mortality have been estimated to cost more than $136 billion per year in the United States. Researchers found that a major component of these costs was ADE's which may account for up to 140,000 deaths annually. The study analyzed one hospital in Salt Lake City and found that a total of 567 ADE's caused direct hospital costs of over $1 million in 1992 alone.

Moreover, another JAMA study concluded that the costs of ADE's are underestimated since they exclude malpractice as well as injuries to patients. The researchers concluded that the high cost of ADE's economically justify investment in preventive efforts. Therefore, the researchers recommended a solution similar to MMEDS—reduction of system complexity, improved education, expanded use of the expertise of pharmacists, and computerization and standardization of the drug prescribing process.

MEDICAID MEDICATION EVALUATION SYSTEM

The concept of using computer-based systems to improve patient care and identify potential problems is not new. Advanced online computer technology that permits prescriptions to be screened before they are filled is available. Thirty States currently operate automated drug utilization review information systems for their Medicaid populations.

In response to widespread knowledge of the high costs of adverse medical reactions, Congress required States to establish prospective prescription review for the Medicaid program. This MMEDS-like system reviews prescriptions before they are dispensed. In June 1996, the General Accounting Office studied five States using an automated prospective drug utilization review [PRODUR] system. Medicaid's online system screens the prescription against the patient's known medical and prescription history and sends the pharmacy a message stating whether any potential drug-therapy problems exist. Over a 12-month period, the automated systems for five States alerted pharmacists to over 6.3 million prescriptions that had a potential to cause ADE's—including drug-drug interaction, preventing overutilization, and pregnancy conflict; over 650,000 (10 percent) of these prescriptions were subsequently canceled.

COST EFFECTIVENESS

The 1996 GAO study found that automated prospective drug utilization review, like that called for in MMEDS, is cost-effective to implement and to operate. The GAO concluded that in addition to increasing patient safety, PRODUR's reduced Medicaid program costs by over $30 million over the course of 1 year. Savings were from rejecting early refills (preventing overutilization), cancellation of potentially wasteful prescriptions, and denials due to ineligibility; yet, a majority of savings were a result of using low-cost technology to avoid hospitalization due to drug reactions. Overall, the GAO found that program savings can more than offset the costs of relatively inexpensive online systems.

Moreover, in 1995, in the State of Tennessee, the GAO observed a reduction of over $4 million in Medicaid drug costs in just a 6-month period, representing 3.9 percent of the total cost of claims processed. In Maryland, over 7,000 prescription doses considered excessive for elderly Medicaid patients were modified, resulting in $385,252 in savings in just 10 months, and a total of $6.7 million in claims were reversed as a result of their online system, accounting for 7.1 percent of the cost of Medicaid claims processed overall.

The GAO recommends implementation of an automated drug utilization review system on a nationwide basis. There is no doubt that if Congress acts to approve this bill, the taxpayer's investment will be saved and Medicare beneficiaries will be healthier as a result.

PRESCRIPTION DRUG FRAUD

The August 18, 1996, edition of the Los Angeles Times featured an article on the massive amount of prescription drug fraud in the United States and the deaths and illnesses that are the result. The abuse of prescription drugs is believed to rival the estimated use of cocaine and crack. Hundreds of millions of prescription pills reportedly enter our Nation's illicit drug market each year. The abuse involves physicians who illegally prescribe drugs, patients who illegally obtain prescriptions, and a double standard of leniency toward doctors and the wealthy who may overuse prescription drugs.

Medicaid's PRODUR system can alert for early refills and therapeutic duplication—providing tools needed to detect potential fraud and to prevent abuse before it occurs. When the GAO analyzed data from five States over the course of a 15-month period, over 2,200 Medicaid recipients were each found to have obtained a 20-months' supply or greater of controlled substances in the same therapeutic drug class. By employing a drug management monitoring program, the MMEDS program would help end prescription drug market abuse, save lives, and avoid billions of dollars in medical injuries and expense.

GOALS

The goal of this legislation is to provide a comprehensive outpatient prescription drug information system available to all Medicare beneficiaries which educates physicians, patients, and pharmacists concerning: instances or patterns of unnecessary or inappropriate prescribing and dispensing practices; instances or patterns of substandard care with respect to such drugs; potential adverse reactions and interactions; and appropriate use of generic products.

MMEDS PROGRAM

The Medicare Medication Evaluation and Dispensing System will build on the existing Medicaid infrastructure. MMEDS will give all Medicare beneficiaries and their health care providers the medication management tools needed to identify the direct threats posed by inappropriate medication. In the process, hospital and other medical costs otherwise absorbed by Medicare as a result of these adverse reactions will be reduced.

The program would provide online, real-time prospective review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under Medicare, as well as retrospective review. The review by a pharmacist would include screening for potential drug therapy problems due to therapeutic duplication, drug-drug interactions, and incorrect drug dosage or duration of drug treatment.

ASSURING APPROPRIATE PRESCRIBING AND DISPENSING PRACTICES

While the MMEDS system will be operated under contract with private entities, the Secretary of DHHS would be responsible for overseeing the development of the program to assure appropriate prescribing and dispensing practices for Medicare beneficiaries. The program would provide for prospective review of prescriptions, retrospective review of filled prescriptions, and standards for counseling individuals receiving prescription drugs. The program would include any elements of the State drug use review programs required under section 1927 of the Social Security Act that the Secretary determines to be appropriate.

As part of the prospective drug use review, any participating pharmacy that dispenses a prescription drug to a Medicare beneficiary would be required to offer to discuss with each individual receiving benefits, or the caregiver of such individual—in person, whenever practical, or through access to a toll-free telephone service—information regarding the appropriate use of a drug, potential interactions between the drug and other drugs dispensed to the individual, and other matters established by the Secretary.

The Secretary would be required to study the feasibility and desirability of requiring patient diagnosis codes on prescriptions, and the feasibility of expanding prospective drug utilization review to include the identification of drug-disease contraindications, interactions with over-the-counter drugs, identification of drugs subject to misuse or inappropriate use, and drug-allergy interactions.

The Secretary, directly or through subcontract, would provide for an educational outreach program to educate physicians and pharmacists on common drug therapy problems. The Secretary would provide written, oral or face-to-face communication which furnishes information and suggested changes in prescribing and dispensing practices.

In addition, the Secretary is instructed to, directly or through contract, disseminate a consumer guide to assist beneficiaries in reducing their expenditures for outpatient drugs and to assist providers in determining the cost-effectiveness of such drugs.

PHARMACY PARTICIPATION

Participation by pharmacies would be on a voluntary basis. Participants would be required to meet standards including, but no limited to, maintenance of patient records, information submission at point-of-sale, patient counseling, and performance of required drug utilization review activities. Participating pharmacies would be required to obtain supplier numbers from the Secretary. Supplier numbers would only be provided to pharmacies that meet requirements specified by the Secretary. Beneficiaries would be notified of which pharmacies are designated Medicare participating pharmacies.

PAYMENT OF SERVICES

Within a 2-year period after the initial operations of the MMEDS system, the Secretary would be required to submit to Congress an analysis of the effect of MMEDS on expenditures under the Medicare Program and recommend, in consultation with actively practicing pharmacists, a payment methodology for professional services provided to Medicare beneficiaries. The payment methodology would be designed in a manner that generates no net additional costs to the Medicare Program, after accounting for the savings to Medicare as a result of demonstrable reductions in the appropriate use of outpatient prescription services. The Secretary would submit a report to Congress regarding such recommendations as the Secretary determines appropriate.

PRIVACY OF PRESCRIPTION INFORMATION

Standards would be established to maintain the privacy of protected health information. Protected health information means any information collected in any form under this provision that identifies an individual and is related to the physical or mental health of the individual, or is related to payment for the provision of health care to the individual.

CONCLUSION

As the number of elderly in our society increases, the number and proportion of drugs used by these older Americans will also grow. It is true that drugs, when used appropriately, can reduce or eliminate the need for surgical and hospital care, prevent premature deaths, and improve quality of life. Unfortunately, a good deal of drug use among older persons is inappropriate, and often results in hospitalization. While some drug-related hospital admissions are unavoidable, many can be attributed to errors in prescribing. Utilizing an online prescription drug management program to reduce the cases of adverse drug reactions is clearly cost effective. Although the primary goal of MMEDS is safety, dollar savings are also a result. Most importantly, by implementing the Medicare Medication Evaluation and Dispensing System Act, we stand to greatly improve the quality of medical care received by our Nation's elderly.

THE AMERICAN HEALTH SECURITY ACT OF 1997

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. McDERMOTT. Mr. Speaker, I rise today to once again introduce the American Health Security Act. The single payer plan I propose is the only plan before Congress that will guarantee health care universality, affordability, security and choice.

While this Congress lacks the political will to enact comprehensive health reform, the underlying needs for reform remain prevalent: health care costs are more unaffordable to more people and the number of people without health insurance continuous to rise. These problems are compounded by increasing loss of health care choice and autonomy for those people who have insurance leading to disruptions in care and in relationships with providers.

The American Health Security Act I am introducing today embodies the characteristics of a truly American bill. It will give to all Americans the peace of mind—the security—to which all citizens should be entitled. It creates a system of health care delivered by physicians chosen by the patient. No one will have to leave their existing relationships with their doctors or hospitals or other providers. It is federally financed but administered at the state level, so the system is highly decentralized. And it provides new mechanisms to improve the quality of care every American receives.

The American Health Security Act (the bill) provides universal health insurance coverage for all Americans as of January 1, 1999. It severs the link between employment and insurance. The Federal Government defines the standard benefit package, collects the premium, and distributes the premium funds to the states. The States, through negotiating panels comprised of representatives from business, labor, consumers and the state government, negotiate fees with the providers and the government controls the rate of price increases. The result is health care coverage that never changes when your personal situation does, never requires you to change the way you seek health care, and never causes disruptions in your relationships with your providers.

The bill provides the coverage under a mechanism of global budgets to achieve controllable and measurable cost containment that will yield scorable savings over the next five years. Unlike other single-payer proposals of the past, it provides for almost exclusive State administration provided the States meet federal budget, benefit package, guarantee of free choice of provider, and quality assurance standards. This bill explicitly preserves free choice of provider by providing a mechanism for fee-for-service delivery to compete effectively with HMO's. It will not force Americans into HMO models.

The insurance mechanism of the American Health Security Act is easy to use and understand. Quite simply, a patient visits the doctor or other provider. The provider then bills the State for the services provided under the standard benefit package and the State pays the bill on the patient's behalf, just as insurance companies pay medical bills on the patient's behalf now. The difference is that complicated and expensive formulas for patient copayments, coinsurance, and deductibles in addition to premium costs are eliminated.

The standard benefit package is in fact extremely generous. It covers all inpatient and outpatient medical services without limits on duration or intensity except as delineated by outcomes research and practice guidelines based on quality standards. It provides for coverage of comprehensive long-term care, dental services, mental health services and prescription drugs. Cosmetic procedures and other "frill" benefits such as private rooms and comfort items are not covered.

The extent of State discretion is substantial. The Federal budget is divided into quality assurance, administrative, operating, and medical education components. The system is financed 86% by the Federal Government and 14% by the States. That Federal pie is then apportioned among the States. For example, States with large elderly populations can be expected to require a larger volume of higher intensity services and will receive a larger Federal contribution. However, the States are free to determine how that money is allocated among types of providers and to negotiate those allocations according to the State's individual needs, provided Federal standards are met. The ability of HMO's to operate and compete on a capitated basis is preserved.

The States must demonstrate the efficacy of their methodologies or Federal models will be imposed. However, States are not required to seek waivers in advance. While the Federal Government will not make separate allocations to states for capital and operating budgets, the states are free to allocate capital separately to assure adequate distribution of resources throughout the State and to develop their own mechanisms for doing so.

The financing package reflects the CBO scoring of this bill's predecessor, H.R. 1200, in the 103d Congress. The numbers were provided by the Joint Committee on Taxation [JCT] on the basis of the CBO scoring. Accordingly, the Bill is fully financed. In fact, JCT estimates that the American Health Security Act will lead to deficit reduction approximating $100 billion per year by the year 2004.

Everyone will contribute to the health insurance system, except the very poor. Employers will pay 8.7 percent of payroll and individuals will pay 2.2 percent of their taxable income. A tobacco tax equal to $0.45 per cigarette pack is also imposed. These payroll deductions are lower than current insurance costs for most businesses and individuals, even while providing universal coverage and a more generous benefit package than exists in the private market today. The key is that the money necessary to provide coverage to people who cannot afford it comes from the administrative savings achieved through the elimination of the insurance company middle man. Americans are freed from the hassle of obtaining and keeping their insurance and have a federal guarantee that their health care costs will be paid for, regardless of who their employer is, where they move, or how their personal or family situation changes.

In addition to providing realistic and affordable financing, the Bill provides quality assurance mechanisms that enhance systemwide quality and truly protect the consumer. It attempts to end the interference between doctor and patient. It establishes a system of profiling practice patterns to identify outliers on a systematic basis. Pre-certification of procedures and hospitalization—getting permission from insurers before your doctor can treat you—is prohibited except for case management of catastrophic cases.

Practice guidelines and outcomes research are emphasized as the main quality and utilization control mechanisms which gives physicians latitude to deviate from cookbook medicine where required for individual cases without going through intermediaries. Only if practitioners consistently deviate are they subject to review to ascertain the basis for the pattern of practice. This system includes mechanisms for education and sanctions including case-by-case monitoring when the review indicates serious quality problems with a specific provider.

The need for a 1:1 ratio of primary care physicians to specialists is explicitly set forth. Federal funding to graduate medical education is tied to achieving this ratio. Funding to the National Health Service is also provided to achieve this goal.

Special grants are provided to meet the needs of underserved areas through enhanced funding to the community health centers, both rural and urban, to enable outreach and other social support mechanisms. In addition, states have discretion to make special payment arrangements to such facilities to improve local access to care. It is anticipated that the revenue streams established for the public health service, community health centers, and education of primary care providers will double the primary care capacity of rural and other underserved areas in this country.

In summary, the American Health Security Act will provide all the citizens with the health care they need at a price both they and their country can afford. It is clear that we cannot afford the price of doing nothing.

WILLIAM J. "BUD" FLANAGAN ADMIRAL, U.S. NAVY, RETIRED

HON. OWEN B. PICKETT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. PICKETT. Mr. Speaker, I rise today to recognize and applaud the career of Adm. William J. "Bud" Flanagan, Jr. Admiral Flanagan retired on February 1, 1997, after 29 years of service, having successfully served in several of the Navy's most demanding jobs and concluding that service as the Commander in Chief of the U.S. Atlantic Fleet. "Bud Flanagan", the private citizen, has moved on to new and exciting challenges. "Admiral Flanagan", Naval career officer, left a legacy of unique accomplishments and an impact on the Atlantic Fleet, Southeastern Virginia, and the Navy at large that invites our praise and deserves our applause.

I first came to know Admiral Flanagan in 1987, when he served as Navy's Deputy Chief of Legislative Affairs to the House of Representatives. He worked tirelessly to represent the U.S. Navy and facilitate the Department's liaison with the Congress. After successfully meeting his responsibilities as Commander of Destroyer Squadron Five, he returned to Washington and served from 1988 to 1991 as the Department of the Navy's Chief of Legislative Affairs. Following that tour, in 1992 Bud was assigned command of the U.S. Second Fleet. In 1994, he was nominated to the rank of Admiral and assigned Commander in Chief of the U.S. Atlantic Fleet.

I have had the pleasure of working with and knowing some of this nation's finest military officers in all branches of the armed forces, and I include Bud Flanagan in that honored company. He is a noted operational strategist, an "operator's operator", who brought a distinctive combination of vision, strength and humanity to the various responsibilities he carried out, in and out of Washington. I worked with him on many issues impacting the second district of Virginia and the Tidewater region. Bud was unfailing in his genuine concern for the welfare of the communities where he commanded and the Navy he led and loved. Admiral Flanagan developed innovative solutions to community needs, most especially for the Tidewater region, as our community moved to address the changing demands of the next millennium. Admiral Flanagan's initiatives, all of which were innovative, ranged from working intermodal transportation issues; housing initiatives for sailors and marines that would facilitate home ownership, public/private ventures to facilitate local economic development and modernization of Naval Base Norfolk, and the application of business practices in the management of the fleet. Bud's innovative ideas saved taxpayers and the Department of the Navy millions of dollars. These were just the latest in a series of contributions that have been the hallmark of Admiral Flanagan's career.

Today I say congratulations to an outstanding career that made a real difference in the lives of many Americans. I extend my sincerest best wishes to the Admiral and his family in the next phase of their life's journey. I know whatever Bud Flanagan decides to accomplish, he will be successful. Fortunately, despite retirement, the Admiral remains a true Virginian, maintaining a home in Eastville, VA. Fair winds, following seas and Happy Birthday.

MIDDLE EAST PEACE DEPENDS ON ECONOMIC DEVELOPMENT

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. MORAN of Virginia. Mr. Speaker, I rise to express my support for more projects like the new Marriott Hotel to be built on the beachfront in Gaza. I offer the recent essay by my constituent, Mr. Ralph Nurnberger, from the Christian Science Monitor (3/6/97), as an excellent recognition of the need for more targeted economic aid to the West Bank and Gaza. As Mr. Nurnberger states, ". . . the real test of the peace process is how it affects the daily lives of Israelis and Palestinians. If substantive and visible improvements do not result, no international agreements can succeed." He is absolutely right. Only the development of a strong economic infrastructure will ensure that progress and peace will succeed.

[From the Christian Science Monitor, Mar. 6. 1997]

NOT A HEARTBREAK HOTEL

(By Ralph Nurnberger)

The day before he left for his official visit to the United States, Yasser Arafat presided over the groundbreaking ceremony for a Marriott Hotel to be built on the beachfront in Gaza.

This project says, symbolically, that the Middle East peace process might, finally, produce tangible benefits for the people in the area, especially through direct involvement of the private sector. The construction and later operation of this hotel will provide employment for hundreds of Palestinians. It will contain a modern commercial center to enable international visitors and Palestinians to conduct business as it is done elsewhere in the world. The project will include a self-contained telecommunications center-for international calls, faxes, and e-mail as well as excess telephone capacity for the local market.

This project will be the first major American private sector involvement in Gaza. The total investment will be approximately six times more than all other American investments in Gaza—combined!

While diplomatic achievements are essential, the real test of the peace process is how it affects the daily lives of Israelis and Palestinians. If substantive and visible improvements do not result, no international agreements can succeed. For the majority of Israelis, the key element is security. Israelis must feel safe riding buses, shopping in malls, and sending their children to schools. If random acts of violence occur, they must be assured that the Palestinian Authority will work with Israeli officials to find and prosecute the terrorists.

PEACE DIVIDEND: LOWER INCOMES

Although more Israelis have been killed through terror attacks since the Sept. 13, 1993, signing than in any comparable period, it appears that the Palestinians finally understand their responsibility to work with Israelis to enhance security concerns. The test for most Palestinians is whether the peace accords will result in an improved quality of life. Developing a thriving economy that provides new employment opportunities will not only minimize hatreds and tensions, but will also bring about the promise of a new life.

Rather than growing to absorb these workers, the Palestinian economy has declined over the past two years. Thus, workers have fewer opportunities to find employment within Palestinian areas. The unemployment rate in Gaza, always high, is now estimated at approximately 50 percent, with the rate in the West Bank estimated at 30 percent. Unemployment is highest among young, single men—the most likely recruits for terror-oriented groups.

BIG AID PLEDGES, LITTLE FOLLOW-THROUGH

The US hosted an international meeting on Oct. 1, 1993, at which $2.4 billion in assistance to the West Bank and Gaza was pledged. Most of these funds have not been delivered or have been diverted from long-term projects to emergency programs and costs of running the Palestinian Authority.

The United States committed $500 million, of which $75 million annually for five years is managed by the Agency for International Development (AID). The other $125 million was to come from the Overseas Private Investment Corporation (OPIC) to assist American investors through a combination of loans, loan guarantees, and political risk insurance.

AID has assisted a number of worthwhile projects, including $12 million for construction of six housing units with 192 apartments in Gaza called Al Karam Towers. AID is also helping to improve uses of scarce water resources and assisting private sector economic growth through technical assistance, training, loans to local firms, and establishment of industrial parks. But AID funds have been diverted from long-term projects to help in establishing Palestinian self-rule. For example, AID committed $2 million to support local elections in the West Bank and Gaza, and to assist Palestinians in promoting more responsible and accountable governance.

AID has minimized help for the agricultural sector, the one area where Palestinians could immediately develop profitable exports, especially under a new Free Trade Agreement with the US. Allocating additional funds to farm exports would be cost efficient.

OPIC made a major effort to seek private sector projects to assist or insure. But most private investors have avoided Gaza, so OPIC funds committed to date have been modest.

Mr. Arafat would be wise to stress the solving of such economic problems as a prime way to reduce tensions, improve the quality of life, and enhance opportunities for peace. He should build on momentum from the hotel project and stress the need for private sector involvement in the Palestinian economy.

THE IMPORTANCE OF ORPHAN DRUG RESEARCH

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mrs. JOHNSON of Connecticut. Mr. Speaker, I am pleased to introduce today, along with my distinguished senior colleague from the Ways and Means Committee, ROBERT MATSUI, the orphan drug tax credit of 1997, legislation to extend this credit permanently. Similar legislation was recently introduced in the Senate by Senators ORRIN HATCH and MAX BAUCUS.

In 1983, the Congress enacted legislation that granted a 50-percent tax credit to biomedical research companies for the clinical testing of drugs used to treat rare diseases with limited commercial potential, commonly referred to as orphan drugs. Because the process of research, development, and approval for new pharmaceuticals is so costly, the small market for a drug discourages drug companies from undertaking it. Often, drugs designated as orphan drugs are for conditions that affect as few as 1,000 persons in the United States. This means that without some incentive there is simply no possibility for a firm to profit from its decisions to develop drugs that treat these diseases.

This legislation, in conjunction with orphan drug market exclusivity, has been successful in encouraging the type of narrow research critical to finding answers to the many questions posed by rare diseases. Currently, there are approximately 600 drugs that have received orphan drug designation and more than 100 of those have been approved for marketing. Because of the orphan drug legislation, we now have drugs to treat such diseases as cystic fibrosis, hepatitis B, multiple sclerosis, renal cell carcinoma, and pituitary dwarfism.

The bill we are introducing today would make the orphan drug tax credit, which is set to expire May 31, 1997, permanent. Uncertainty over the future of the tax credit has caused a significant decline in the investment of capital in the biotechnology industry. The bill would also maintain a change made to the credit in last year's legislation to allow companies to carry the tax credit back or forward pursuant to section 39 of the Internal Revenue Code. Most of the companies engaged in research or orphan drugs do not qualify for the tax credit. Under current law, a company can only claim a credit against their current year tax liability. Since most companies involved in orphan drug research are biotechnology firms that are still developing and have yet to market a product, they have no tax liability against which to claim the tax credit. This structural change would allow a developing company, such as a biotechnology firm, to use the tax credit at such time that it had a tax liability.

I am pleased to note that this bill is endorsed by leading patient groups and national organizations including; the Biotechnology Industry Organization, the National Organization for Rare Disorders, Inc. [NORD], the National Multiple Sclerosis Society, and the Leukemia Society of America.

I urge my colleagues to support this important legislation and I look forward to its prompt approval by the Congress.

FRANCHISE BILL OF RIGHTS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. ACKERMAN. Mr. Speaker, I am calling to the attention of the Congress today legislation that I have introduced which would ensure that franchisees be guaranteed their fair and equitable rights for the franchises that they have developed through extraordinary work and sacrifice. Our main streets through out America are populated by a wide variety of franchises today. They are a significant component of businesses for working families and in middle-income communities. These businesses are also threatened due to the inequitable balance of power between the franchisee and franchisor.

Franchisors should not be allowed to simply pull the rug out from under franchisees who have been working diligently and successfully in promoting the parent company's product. Some value must be assigned to the years of hard work, expertise, and equipment that has been invested in the franchise business. Current law, both at the State and Federal level, does not sufficiently address this problem.

The current crisis facing the Canada Dry and Coors distributors in the New York metropolitan area is a very clear illustration of this problem and over 300 jobs could be lost for our region if the rights of franchisees are not protected. After building up distribution routes for Canada Dry and Coors over many years, and investing up to $250,000 per distribution route to buy the equity rights to their franchises, these distributors now face the termination of their livelihoods. The parent companies in New York have now taken the position that the distributors own nothing, despite their prior commitment to the distributors that they had equity ownership. The distributors deserve much of the credit for making these routes more profitable. This legislation would make it unlawful for franchise companies to sell franchises and distributorships, and then take back those franchises without fair compensation.

Franchises employ more than 8 million people nationwide, and account for more than 35 percent of U.S. retail sales. Current trends suggest this explosion will continue, providing a certain urgency to our cause to correct inequities and unfair trade practices sooner, rather than later.

Many issues deserve exploration such as proper disclosure by franchisors and parent companies. Our basic goal, however, should be to prevent unfair practices that do not properly recognize or compensate for the equity ownership rights that many franchisees and distributors have in their franchises, and ultimately devalue franchising as a successful way of conducting business.

TRIBUTE TO DR. O.C. SMITH

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. DIXON. Mr. Speaker, on Saturday, April 19, the men's club of the City of Angeles Church will sponsor a roast of church pastor, Dr. O.C. Smith. Dr. Smith, better known to many as the multiple Grammy nominee and singer of the million seller standard, "Little Green Apples," is the founder of the City of Angeles Church of Religious Science. In recognition of his numerous contributions to the church and to the Los Angeles community, and in appreciation of his lasting contributions to the music industry, I am pleased to have this opportunity to recognize Dr. Smith today.

Prior to embarking on his legendary musical career, O.C. attended and graduated from Southern University in Baton Rouge, LA, earning a degree in psychology. Following graduation, he entered the U.S. Air Force and Special Services, where as an entertainer he toured bases all over the world. Looking to break into the music business after his tour with the Air Force had ended, O.C. settled in New York City. During the winter months, he made the rounds in many of the small clubs in the city, giving nightly performances. In the summer months, he would travel to the renowned "Borsch Belt" hotels in the Catskills, where he entertained audiences with some of his most soulful hits.

O.C.'s big break occurred when he learned that the great Count Basie was looking for a replacement for the legendary Joe Williams. O.C. was selected and for the next 3 years, he toured with the "Count" developing a huge, loyal following throughout the United States. He left Basie's orchestra to pursue a solo career and struck gold with his memorable hits of "Little Green Apples," "Hickory Holler's Tramp," and "Daddy's Little Man." He sang the theme song from the motion pictures, "The Learning Tree," and "Shaft's Big Score." Other well known hits of his include "Help Me Make It Through the Night," "For the Good Times," "That's Life," "Don't Misunderstand," "Dreams Come True," and "What 'Cha Gonna Do."

Several years into his highly successful musical career, Dr. Smith opted to redirect his career focus to the ministry. He felt a great need to assist humanity and with his background in psychology, determined that the ministry would be the perfect place to impact the lives of his fellow brothers and sisters. After years of studying the ministry, he emerged to found the City of Angeles Church of Religious Science in 1985. Shortly thereafter, he founded the Children's Charities and Scholarship Foundation, thereby fulfilling a lifetime commitment to creating a viable organization dedicated to helping children. In the ensuing years, the church and its foundation have made innumerable contributions to the Los Angeles community.

Dr. O.C., as he is affectionately known by his congregation, continues to give concert performances and ministers to people throughout the world. Because of his commitment to humankind, he serves as a perfect role model for individuals—both young and old. I am proud to have this opportunity to commend him for his distinguished contributions to our society, and on behalf of the citizens of the 32d Congressional District, I salute him and wish him many more years of sweet, soulful music and fellowship as he continues to provide outstanding leadership as the spiritual head of the City of Angeles Church of Religious Science.

COMPREHENSIVE HIV PREVENTION ACT OF 1997

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mrs. MORELLA. Mr. Speaker, today I am introducing legislation, along with Congresswoman NANCY PELOSI and more than 100 of our colleagues, to provide a comprehensive approach to HIV prevention.

Our country faces 40,000 new HIV infections each year. The HIV epidemic is leaving no population untouched, and it is spreading particularly rapidly among our young people, women, and people of color. Women are the fastest growing group of people with HIV; AIDS is the third leading cause of death in women ages 25 to 44. Low-income women and women of color are being hit the hardest by this epidemic. African-American and Latina women represent 75 percent of all U.S. women diagnosed with AIDS.

Our bill authorizes funding for family planning providers, community health centers, substance abuse treatment programs, and other providers who already serve low-income women, to provide community-based HIV programs. These provisions were part of my women and AIDS prevention bill from the last Congress. Our bill also creates a new program to address concerns about HIV for rape victims.

The legislation also authorizes programs to build on the HIV Prevention Community Planning Process implemented by the Centers for Disease Control and Prevention in 1994. Similar provisions were included in previous legislation introduced by Congresswoman PELOSI, who worked to reform the CDC prevention programs and to develop the community planning process. This process has ensured that States and local health departments, in partnership with community planning groups, make the decisions on how best to target their prevention dollars. The epidemic varies from State to State, and from locality to locality. What works best to prevent HIV infections in San Francisco may not be what is most effective in Baltimore. This local approach is consistent with efforts to place decisionmaking in the hands of states and localities, rather than pursuing a one-size-fits-all solution.

In my work focusing on the needs of women in the HIV epidemic, the effectiveness of community-based prevention programs has been demonstrated time and time again. Providers with a history of service to women's communities understand that prevention efforts must acknowledge and respond to the issues of low self-esteem, economic dependency, fear of domestic violence, and other factors which are barriers to empowering women.

Our bill is a comprehensive approach to HIV prevention. I urge my colleagues to join us as cosponsors of this important legislation.

HONORING JOSIE POITIER FOR 39 YEARS OF OUTSTANDING AND CONTINUED SERVICE TO THE COMMUNITIES WITHIN DADE COUNTY

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mrs. MEEK of Florida. Mr. Speaker, it is my pleasure to recognize Josie Poitier, from Liberty City, who has contributed greatly to the communities of my district. For 39 years, Ms. Poitier has volunteered her time, effort, and hard work creating many programs that have helped unite the community. She is an outstanding individual who has generated respect, helped shape community pride, and manifested hope that was once lost.

The Miami Herald recognized Josie Poitier in an article titled "Building Bridges Between Communities," published January 20, 1997, which commemorated her honorable civic service. I would like to submit a portion of this inspiring article for the RECORD.

> "Every morning," says Josie Poitier, "I go outside to pick up my paper and I look up at the sky and pray, 'Lord, let me help somebody today.'"
>
> For the last 39 years, Poitier has found plenty of people to help—from senior citizens who had never been on an airplane until she took them to the Bahamas, to the people from a myriad of heritages she invites to her now famous Good Friday/Passover brunch to share in a spirit of community.
>
> And that's only two of the projects of her page-long list that includes: coordinating a holiday turkey meal for the elderly at St. Mary's Towers, pulling together an anti-drug workshop for 18 inner city schools, making sure her neighborhood's lights are all working properly and promoting scholarships and a college education for black youth.
>
> Ask her why she does it, why she runs so hard, and Poitier will tell you it's because the elderly are lonely and their children are too busy to visit, and because, in South Florida, there's a need to build "a bridge between people."
>
> "This opened a lot of avenues," she says of the brunch that started at her Liberty City home 11 years ago and has grown to 200 people who gather at Holy Redeemer Catholic Church. "Everyone comes together as one, like a family."
>
> Poitier, 52, a volunteer specialist with the Miami Police Department, plunged into activism when she was 12 and the Youth Club was formed in Overtown to keep kids busy and off the streets. She became a member and as a result, Poitier says, she developed "respect" and a commitment to help the police department improve relations with the community.
>
> Throughout the years, Poitier has served on several city boards and today is president of her neighborhood Crime Watch. Beyond that, friends say, it's the small things Poitier does for other people that make a big difference, like remembering the loss of someone's loved one when she is leading a prayer
>
> "It's my business to remember," Poitier simply says.
>
> Her goodwill doesn't stop at home.
>
> She helps her daughter Vandetta, who is working on a master's degree in business, and son-in-law Harold Scott care for their twins, Harold and Vaniecia. "My Josie," the children call her. Whenever she can, Poitier takes the children to her volunteer work.
>
> "And they help," she said. "I make sure they know what I do. It enriches them."

Josie Poitier has demonstrated her commitment to strengthening and linking the communities in Dade County. Her enthusiasm and exceptional service to the community are special qualities. By any standard, she is a remarkable individual who is greatly appreciated by so many. Mr. Speaker, on behalf of our entire community, I offer Josie Poitier my deepest thanks for her outstanding service and our best wishes for her continued success.

TRIBUTE TO PENINSULA HIGH

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Ms. HARMAN. Mr. Speaker, I rise to pay tribute to the Palos Verdes Peninsula High School's Academic Decathlon team, which took fourth place statewide and first place in its division during last weekend's California Academic Decathlon held in Pomona, CA.

This nine-member team earned 44,540 points in events designed to test academic knowledge in areas ranging from economics to science. They came away with 29 gold, silver, and bronze medals for various events and overall performance. In addition, one of the team members, Chris Luhrs, scored the most points of any student in Peninsula's division.

I am proud to represent these intelligent and talented students, and I ask my colleagues to join me in congratulating them and their families for their achievements.

HONORING MARK NICHOLS

HON. DALE E. KILDEE

OF MICHIGAN

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. KILDEE. Mr. Speaker, it gives my colleague, Mr. TORRES, and me great pleasure to pay tribute to Mr. Mark Richard Nichols of the Cabazon Band of Mission Indians, who will be recognized on April 12, 1997, as man of the year by the East Valley Jewish Community Center of Palm Desert, CA.

Mr. Speaker, it is truly fitting that Mark Nichols is being honored for all of his work as a tireless advocate in his community. For almost two decades, Mark Nichols has worked for the Cabazon Band of Mission Indians, helping the tribe become self-sufficient and maintain a strong cultural heritage. Since 1989, Mark has served as the chief executive officer of the tribe, where he had earned a national reputation as an outspoken advocate on behalf of Native American sovereign rights.

It is the work of people like Mark Nichols that reminds us of the importance of being involved in one's community. Mark understands that an investment in education of a person, is an investment in the future of our country. In his service on the University of California chancellor's executive roundtable, Mark has worked to make sure education is accessible and affordable for every person that desires to learn. Mark has also dedicated himself to helping those who are the most vulnerable in our society. He is the president of the Desert Chapter of the American Diabetes Association, he volunteers at Martha's Kitchen/Food and Shelter for the homeless, and he serves as the telethon sponsor for the Arthritis Foundation.

What Mark Nichols has accomplished, and what this award represents, is the recognition of the difference one individual can make if they put their mind to it. It is the devotion, dedication, and spirit of Mark Nichols that makes him such a unique person. We are proud to call him our friend.

Mr. Speaker, we respectfully request that the Members of the U.S. House of Representatives join us in honoring the work and life of Mr. Mark Nichols. The community of Palm Desert, CA, is truly fortunate to have a person like Mark Nichols as a community leader. His commitment and dedication has improved the quality of life for so many people in our country.

LEGACY OF LEADERSHIP REMEMBERED

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to a member of my community who passed away this week after a long bout with cancer. Judge Thomas M. Burns will leave a great void, not only to his family who mourns this loss, but to the City of Saginaw, the State of Michigan and our Nation.

Thomas Burns was a unique spirit in many respects. His dedication and deep commitment to public service distinguished his career. He graduated fro St. Stephen's High School in 1932, attended Bay City Junior College and graduated from the Detroit College of Law in 1939. From the beginning of his long career, he dedicated his life to the community.

Almost 60 years ago, Thomas Burns started his career as an assistant prosecuting attorney in Saginaw, MI. He served in that capacity from 1939 to 1952. His civilian service, as with so many of our citizens, was interrupted by World War II. From 1942 to 1946 he exchanged the front lines of prosecution for the battlelines of war.

As Captain in the Armored Infantry Battalion, 14th Armored Division under General Patton, he served his country admirably. Mr. Burns was recognized for his valor not once, but several times. He was awarded many honors including the Combat Infantryman Badge, the Bronze Star, three Battle Stars and earned the Purple Heart for wounds sustained in battle. When the war was over, he put his legal background to work as a special prosecutor in the Nuremberg Trials.

Six years after his military service, Thomas Burns became interested in polities. He was elected to the Michigan State House of Representatives and served honorably from 1952 to 1956. Following his term, he was appointed to the Michigan Public Service Commission and eventually became its chairman in 1962.

In 1962, Mr. Burns found his final calling. This time when he ran for office it was for the Michigan Court of Appeals. Elected appellate judge in 1968, Judge Burns served honorably in that capacity for the next 18 years. In 1981, he was elected Judge of the Year by the Michigan Trial Lawyers Association. He was a member of the Society of Irish American Lawyers and the Michigan Supreme Court Historical Society.

Thomas M. Burns was predeceased by his son Thomas, who, as a lawyer and brewmaster, founded one of the first micro breweries in Michigan. Judge Burns is survived by his wife, Alice, and his daughters, Bridgett Spence and Mary Neer.

Mr. Speaker, from his distinguished background it is easy, even for those who never had the pleasure of knowing Judge Burns, to envision his leadership. His résumé pays only partial tribute to his distinction as a man and as a public servant. Judge Burns was not distinguished solely by the titles he held, but by the manner in which he fulfilled his responsibilities.

Drawing from his vast experience, Judge Burns served as a vanguard of civil rights. His opinion always focused on the welfare of his community. One lawyer in my community remembered that Judge Burns "was able to simplify things, so much so that most complicated issues could be explained in layman's terms." And he did so without ever failing to lose his sense of humor.

Mr. Speaker, my community, and our Nation, would benefit if there were more outstanding individuals like Thomas M. Burns. He is an outstanding role model and a shining example of positive community leadership in our complicated and often cynical world. In all of his various roles as prosecutor, legislator, judge and father, Judge Burns instilled in others a devotion to life and service that was deeply evident in his words and deeds.

Judge Thomas M. Burns enriched our lives, bettered our community and showed the rest of us, by example, what public service is all about. I urge my colleagues to join me in paying tribute to an outstanding individual who will be missed by his family and all those whose lives he has touched.

DR. MARGUERITE HUNG: A LIFETIME COMMITMENT TO A HEALTHY COMMUNITY

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. FILNER. Mr. Speaker and colleagues, I rise today to honor the outstanding contributions of Dr. Marguerite Hung to the community of San Diego and to the acupuncture community of California and the Nation.

Dr. Hung was born in Taiwan, graduated from the Doctor Tsao Acupuncture Institute, and taught at the Taipei Acupuncture and Moxibustion Clinic until 1978. She then joined the staff of the Tri Service General Hospital in Taipei as an Acupuncture Practitioner—treating Army, Navy and Air Force personnel and their families. She was also a research member of the Research and Training Center for Acupuncture Science.

In 1979, Dr. Hung moved to California. As a private practitioner, she has been an active member of the acupuncture profession, giving generously of her time and experience. She has served as vice president of the American Association of Acupuncture and Oriental Medicine and was chosen by this group as Acupuncturist of the Year in 1994.

In 1992, she was appointed by the Governor of California to the Medical Board of California, Acupuncture Committee. She represented this board at the International Acupuncture Conference held in Italy and hosted by the World Health Organization.

Dr. Hung helped to found the Acupuncture Institute for Addiction-Free Life, a statewide, non-profit corporation organized to make a difference in our communities in the area of drug and alcohol abuse. She continues to serve as the president of this organization. She is a volunteer for the Holistic AIDS Response Program [HARP] in San Diego County. She also volunteers at the University of California, San Diego Medical Center.

She has traveled to Washington, DC to successfully persuade the Food and Drug Administration on behalf of acupuncture issues.

Her active role in the community and her lifetime contribution to Chinese medicine is being recognized at the 68th Annual Chinese Medicine Day celebration on Sunday, March 23, 1997. Chinese Medicine Day is historically a day of celebration of the unique place that traditional Chinese medicine has in the health care system and the benefits it bestows on the health and quality of life of our citizens.

It is truly fitting that the House of Representatives join in this recognition of Dr. Marguerite Hung. I appreciate this opportunity to call attention to the lifelong work of Dr. Hung toward making this world a better and healthier place.

CONGRATULATIONS TO PAT COLLINS FROM A SOUTH BAY FRIEND

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Ms. HARMAN. Mr. Speaker, I rise today to honor Pat Collins, a long-time activist, community leader, and champion of family planning in the 36th District. She is being recognized on Sunday, April 6, by the South Bay Friends of Planned Parenthood Los Angeles which she successfully cofounded in 1989.

Pat has worked tirelessly for the combination of education, advocacy, and clinical services that define Planned Parenthood Los Angeles' mission. South Bay Friends has complemented this mission by establishing a speakers bureau for high schools, attending health fairs, planning fundraising efforts, and monitoring public policy concerning reproductive issues.

Furthermore, Pat's enthusiasm and dedication were strong forces in expanding clinical services through the opening of the Planned Parenthood Los Angeles South Bay Center in 1993 which provided family planning services to 5,200 clients last year.

Applying her "big picture" approach, her work in 1995 became international in scope. While serving on the board of the Population Communication Committee, Pat attended a collaborative meeting at the United Nations preceding the Cairo Conference on World Population.

It is said that, "If you want something done, ask a busy person"—and that certainly applies to Pat Collins.

In addition to her exceptional work with South Bay Friends and issues of population control, Pat has raised three daughters with her husband Richard, served as PTA President, church school director, Girl Scout leader, and vice president of the South Bay Law Wives. She directed 100 teachers aides in the schools, developed a peer counseling program at Miraleste High School, earned two masters degrees, and had a private practice as a marriage, family, and child counselor for several years.

Mr. Speaker, I wish to join South Bay Friends of Planned Parenthood in honoring Pat Collins whose tireless contributions have enriched our community. She will be moving from Rancho Palos Verdes to northern California and our loss will be their gain.

CALIFORNIA FLOODS EMERGENCY REPAIR ACT OF 1997

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. FAZIO of California. Mr. Speaker, today I have introduced the California Floods Emergency Repair Act of 1997.

California experienced a major flood catastrophe during December and January which resulted in nine deaths and an estimated 2 billion dollars' worth of damages to homes, businesses, and property. Agricultural losses are estimated to exceed $150 million, and losses to our national forests exceed $100 million.

Eight national parks in California were damaged including $176 million in damage to one of the National Park System's crown jewels—Yosemite National Park.

More than 100,000 Californians were evacuated from their homes.

Fortunately, the President, at the urging of the California delegation, has submitted a dire emergency supplemental appropriation request to assist the many emergency agencies who have been working night and day both during the catastrophe and during the recovery period. We owe a great debt to the Federal Emergency Management Agency, the Corps of Engineers, the Bureau of Reclamation, and the Department of Agriculture among many agencies who have provided skilled and timely assistance to many Californians.

During January, flood-fights were a common occurrence in California as the Corps of Engineers worked with State and local officials to repair breached levees, strengthen weak spots, and ensure that further lives and property would not be lost.

The Fish and Wildlife Service announced on January 23 that emergency natural disaster provisions of the Endangered Species Act of 1973 [ESA] are in effect for 42 California counties and will remain in effect throughout the 1997 flood season. Interior Secretary Babbitt has reiterated this pledge to suspend the ESA during this year's flood season.

The purpose of my bill is to give this decision the force of law and to make it crystal clear to those involved in maintenance and repair of our flood control system that Congress stands behind this pledge.

Emergency repair work should go forward without normal ESA consultation and without the specter of costly mitigation once the repairs are made and the Sun is shining.

The bill makes it clear that any work performed by FEMA, the Corps of Engineers, the Bureau of Reclamation, or the National Resources Conservation Service under their emergency authorities, are exempt from provisions of ESA.

My bill also goes one step further. The Corps of Engineers has been directed to do a complete assessment of the flood control system throughout California in order to identify short-term and long-term plans for strengthening the existing system. Such a study may point out the need for maintenance or repairs to damaged facilities that are necessary to bring the facilities to substantially the same condition that existed prior to the floods.

My bill would ensure that the exemption to ESA covers such necessary repairs as well, even if the repairs are pushed past this year's flood season.

Unfortunately, some have seen the catastrophe of the California floods as an opportunity to allow sweeping changes in the Endangered Species Act that would alter it dramatically. Although I believe that some refinements in the ESA may be in order based on our experience base in California and elsewhere, our catastrophe is not the time to consider a major policy overhaul. My bill is a simple exemption linked to the emergency, a concept already given credence by the actions of Interior Secretary Bruce Babbitt and the Fish and Wildlife Service.

I urge my colleagues on the Appropriations Committee and in the House to move the President's request forward with all deliberate speed. California is not the only State affected by winter disasters, and Americans in many parts of the country need this assistance immediately. It is my intention to offer this bill as an amendment to the dire emergency supplemental appropriations bill to put the authority of Congress behind these important considerations.

In short, California faces a significant challenge in assessing and repairing our flood control system, and in restoring the level of confidence of our citizens as the same time we restore our system. While lives and property remain at risk, our normal procedures under the Endangered Species Act must, temporarily, stand aside.

The California Floods Emergency Repair Act of 1997 will ensure that the lives and property of our people will continue to be paramount.

RECOGNIZING THE INTERCOMMUNITY CHILD GUIDANCE CENTER ON THE OCCASION OF ITS 40TH ANNIVERSARY

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. TORRES. Mr. Speaker, I rise today to recognize the Intercommunity Child Guidance Center of Whittier, CA, which will celebrate its 40th anniversary on April 10, 1997. I ask my colleagues to join me in congratulating the staff and volunteers who have worked diligently to provide counseling and treatment to the children and families of greater Los Angeles County.

The Intercommunity Child Guidance Center is a nonprofit agency, founded in 1957 by members of the Whittier Coordinating Council to provide low-cost quality mental health services for children, adolescents, and families who could not afford care elsewhere. Any family in need of services, regardless of income, is eligible if they reside within the County of Los Angeles.

Services provided include individual, family, and group treatment to children and adolescents with serious emotional problems. In 1994, a crisis intervention program was implemented to address the needs of children and families who have experienced recent crises, which includes follow up care to help alleviate serious emotional trauma. Also offered are parenting classes, which are provided free to the community, in both Spanish and English. These classes have become an essential part of client treatment plans in many cases. Psychological testing is available, when necessary, to assist in the treatment of a client, and medications are prescribed when needed.

The Intercommunity Child Guidance Center is a model public-private partnership committed to serving the mental health care needs of area families. Funded in part by the Los Angeles County Department of Mental Health, the State Short-Doyle Program, and the United Way, the center also receives support from the communities it serves.

Mr. Speaker, I ask my colleagues to join me in recognizing the staff and volunteers at the Intercommunity Child Guidance Center as they gather to celebrate 40 years of providing mental health services to the greater Los Angeles County.

HONORING BOB BROWN

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. HINCHEY. Mr. Speaker, I wanted to take a moment tonight to recognize the accomplishments of Robert T. Brown who will soon be retiring after 23 years as president of the Ulster County Community College. Bob Brown embodies a rare combination of qualities: visionary and doer; philosopher and achiever.

As Ulster County Community College's leader, he has planned for and overseen important campus expansions during times of growth and developed innovative and bold programs and partnerships to respond to economic downturns. He is an educator who has never lost his commitment to putting students first.

Bob has been recognized locally, regionally, and nationally for his strong advocacy on behalf of 2-year colleges and the importance of their academic and community-based missions. He has been honored to receive the Northern Arizona University Distinguished Alumni Award, the Americanism Award from the Anti-Defamation League of B'nai B'rith, and the University of Texas at Austin's Outstanding Community College President Award, among many others.

Mr. Speaker, tomorrow night I will be with Bob Brown and his family and his many friends to celebrate his life and his achievements, and most of all to thank him for being there for me and for our community. He is someone who has truly made a difference.

IN HONOR OF A GREAT MAN OF THE BENCH: FRED BORCHARD

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to a man of great distinction from Saginaw, MI—the Honorable Fred J. Borchard, who is celebrating 50 years in the judicial profession. Saginaw is extremely lucky to have a man like Fred Borchard serve on its bench. He has a great judicial mind, believes in the values of hard work and education, runs a disciplined and efficient courtroom, and tempers his decisions with compassion and common sense.

Fred Borchard grew up in Saginaw and put himself through the University of Michigan Law School by working at boiler and iron metal companies. Upon graduation, his law practice was put on hold almost immediately by World War II. Fred signed up with the U.S. Naval Reserve as an ensign, and then became a forward observer, where he went ashore in search of enemy gunfire and then signaled naval guns for fire power. He participated in landings at Leyte and Luzon, and then Okinawa where he was wounded by sniper fire. Fred received the Purple Heart Medal for his courage and commitment to this country.

Upon returning to Saginaw 3 years later, Fred won the seat of municipal judge, which he held for 7 years until he ran and won the position of probate judge. In 1958, 4 years later, then Governor G. Mennen Williams appointed Fred to the Saginaw circuit bench, making Fred one of few to serve in all three judicial posts.

Fred's long and auspicious career ended on January 1, 1989 at which time he was the oldest judge in the State of Michigan, a distinction he still holds since he continues serving on assignment. Fred also has the honor of being considered the Lou Gehrig of the bench, as he has the longest term of service.

In addition to his professional involvement with the Saginaw County and Michigan Bar Associations, and the Michigan Judges Association, where he served as president, Fred makes it a priority to be involved in civil organizations. He served as president of the University of Michigan Club, and belonged to the Kiwanis Club of Saginaw and the Arthur Hill Letterman's Club. He has served on the board of directors of St. Luke's Hospital and on the board of directors for the Saginaw County Chamber of Commerce and the Alcohol Information Center. He also involves himself with Big Brothers of America, the Lutheran Children's Friend Society, and numerous veterans organizations.

Fred Borchard is a credit to the legal profession and to the community. I am extremely proud to know him and to say that we have both represented the people in Saginaw.

A SPECIAL SALUTE TO JOSEPH S. KREINBERG

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. STOKES. Mr. Speaker, I am honored to salute today a very distinguished individual who resides in my congressional district. On April 22, 1997, Mr. Joseph S. Kreinberg will be celebrating his 95th birthday. Mr. Kreinberg has devoted much of his life to improving the quality of life for citizens in Cuyahoga County. Today, I rise to pay tribute to this outstanding American. I also want to share with my colleagues and the Nation some of the many achievements made by this remarkable citizen.

Joseph S. Kreinberg obtained his undergraduate and law degrees from the Ohio State University. He began the practice of law in Cleveland in the late 1920's with his brother, Herman. After World War II, Joseph began practicing law with A.E. Bernstein, whom, according to Joe, had a major impact on his legal career and served as Joe's professional mentor.

Mr. Kreinberg's distinguished career has enabled him to interact with prominent politicians such as Robert Taft and William Saxbe. Mr. Kreinberg was also afforded the opportunity to work with former U.S. Supreme Court Justice Harold Burton when Justice Burton served as mayor of Cleveland. As mayor, Mr. Burton appointed Mr. Kreinberg to the Cleveland Board of Zoning where he diligently served for 39 years. Mr. Kreinberg has also worked with public servants such as the late Senator Bricker, mayor and U.S. Senator Thomas Burke, and Mayor Frank Lausche. Mr. Kreinberg also had the privilege of working under my brother, the late Carl B. Stokes, former mayor of Cleveland, on many important issues. This extraordinary gentleman remains one of the most respected and vital members of the Cleveland community.

Certainly, Mr. Kreinberg's long and productive tenure as a public servant will forever remain in the hearts and minds of many citizens in Cleveland. However, for one to truly understand and appreciate the impact that Mr. Kreinberg has made in the city of Cleveland, they need only to talk to a few citizens in my congressional district. Mr. Kreinberg's peers describe him as a highly ethical and moral man. Mr. Kreinberg's character and integrity serves as a portrait of what a public servant should be. To celebrate Mr. Kreinberg's birthday and many contributions to his community, his family has graciously created an endowed scholarship at the Levin College of Urban Affairs at Cleveland State University to assist students who desire a career in public service and urban development.

Mr. Speaker, I take a tremendous amount of pride and honor in saluting Joseph Kreinberg, whose entire life stands as a picture of achievement. Today, I along with his family, friends, and colleagues, would like to take this opportunity to applaud Mr. Kreinberg's strong leadership and desire to improve his community and our Nation.

PERSONAL EXPLANATION

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. OXLEY. Mr. Speaker, I will be unavoidably absent from the House Chamber during today's proceedings. If I were present, I would vote "yea" on both H.R. 1122, the Partial-Birth Abortion Ban Act of 1997, and House Resolution 91, a resolution providing amounts for the expenses of certain committees of the House of Representatives in the Congress.

SALUTING THE SANTA MONICA MOUNTAINS PLAN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. BERMAN. Mr. Speaker, 20 years ago this month the Santa Monica Mountains Planning Commission produced its comprehensive plan. There are few dates more important in the history of the environmental movement in southern California.

The plan that commission produced had many valuable components, including calling for the establishment of a Santa Monica Mountains Conservancy. As a member of the California Assembly, I carried the bill that implemented the plan and established the conservancy. In the past two decades the performance of the conservancy has exceeded even my high expectations. Anyone who cares about the environment and the need to maintain the natural beauty of southern California is in the organization's debt.

While I do not necessarily subscribe to the "Great Man" theory of history, it seems evident that the conservancy would not have come this far without the superb leadership of Executive Director Joe Edmiston. I have known Joe a long time, and count him as one of my close friends. Putting aside friendship, however, I can say without bias that Joe knows how to get things done and get them done right. His utter commitment, his boundless energy, his no-nonsense style and his clear sense of direction have provided guidance to the conservancy and are responsible in large measure for its success.

Indeed, the conservancy has many accomplishments in which its friends and supporters can take pride. For example, the organization administers programs designed to serve minority and disadvantaged groups and those who otherwise can never get to southern California's mountains. The quiet, cool and serene setting is a welcome contrast to the often grim realities of urban living. The conservancy has also acquired over 21,000 acres of parkland in 20 years, which has increased the opportunities for people of any background to enjoy nature.

The work of the conservancy to preserve the environment, especially in an area growing with the speed of southern California, is of monumental importance. I ask my colleagues to join me today in saluting the 20th anniversary of the Santa Monica Mountain comprehensive plan, which has proven to be a most effective weapon in the arsenal of environmentalists. I applaud the conservancy's efforts, and wish it the best of luck for all the decades to come.

HONORING ROCK GROUP LOS LOBOS FOR THEIR CONTRIBUTIONS TO OUR YOUTH

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. TORRES. Mr. Speaker, I rise today to honor the internationally acclaimed rock group, "Los Lobos", for their commitment to the youth of our community. On April 11, 1997, Los Lobos will donate their time and talent to raise funds for the Broadoaks Children's School of Whittier College in Whittier, CA.

Los Lobos has received numerous distinctions for their innovative style of music, including two Grammy Awards, seven additional Grammy Award nominations, and was designated as having released the "Album of the Year" in 1992 by the Los Angeles Times, the Chicago Tribune, the Chicago Sun Times, and the Nashville Banner. Since 1978, Los Lobos has released over 48 film, television and commercial works. Their broad appeal has allowed them to perform for royalty in England, and for audience at Carnegie Hall.

What makes Los Lobos bandmembers truly exceptional, however, is their commitment to the education of our community's youth. In the last 4 years, Los Lobos has performed for three sold-out benefit concerts, each in the name of education. Proceeds from April's concert will enable Broadoaks to expand its services to children, families, teacher preparation, and professional development programs throughout the greater Los Angeles area.

To acknowledge the band's commitment and dedication to this endeavor, Broadoaks has named a building in the group's honor.

The "Los Lobos Learning Center" includes two classrooms for fourth through sixth grade students, many of whom require special educational services. All students in the Los Lobos Learning Center are required to participate in volunteer service projects to instill the value of giving something back to our community. Los Lobos' generosity enables these young children to attend a school where volunteerism is part of the curriculum.

Mr. Speaker, it is with great pride that I ask my colleagues to join me in honoring Los Lobos bandmembers, Cesar Rosas, Louie Perez, David Hidalgo, Conrad Lozano, and Steven Berlin, for their generous spirit and contributions to our community. These truly exceptional musicians have become lifelong friends of our community through their commitment to promoting the welfare and education of our children.

IN MEMORY OF E.M. KNIGHT OF HOUSTON, TX

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. BENTSEN. Mr. Speaker, I rise to honor the memory of a valuable member of the Houston community, E.M. Knight, who passed away on Saturday, March 8, 1997.

E.M. Knight was among Houston's most prominent community leaders, acting as a beacon for social justice and equality. He was a man of great character and great action, who gave Houston his all. Whether as a local chapter president of the NAACP or as Sunday school superintendent, precinct judge, or deacon at East Macedonia BC, E.M. Knight made a difference in so many lives. His legacy of service to the Houston community will be felt far beyond his passing. He was truly one of a kind who will be greatly missed.

E.M. Knight treated everyone in Houston as if they were family, and now that family mourns his passing. I ask unanimous consent to insert in the RECORD at this point an article and obituary which appeared in the Houston Chronicle on March 13, 1997.

E.M. KNIGHT

Ellis M. Knight (E.M.) departed this life on March 8. 1997, at the age of 84 years, 9 months and 5 days. He was born in Odenburg, Louisiana to Mary Smoot and Ellis M. Knight Sr. The family moved to Houston after devastating floods. He was preceded in death by his parents, 14 brothers and sisters, and his wife Elease. He leaves to mourn his passing his wife Janet, sons Ellis III, Ronald and Alan Wayne Knight, sisters Mary Harris and Loys Davis Gatterson, daughter-in-law Edna, grandchildren Sharmane Stewart, Andre and Terrion Knight, great-grandson, Quentin Ellis Stewart, 4 stepdaughters, 9 stepgrandchildren, brother-in-law Cleve Gatterson, 6 sisters-in-law, a host of cousins, nieces and nephews and many, many friends.

He served in the United States Army. He retired from Southern Pacific Railroad after 37½ years of service, and since has been actively involved in community service, church activities and the political arena.

During his lifetime he served in many capacities: as NAACP local chapter president, president of HCCO, founding and life member of NCNW Elease J. Knight section, chair of Gulf Coast Community Services Board of Directors, coordinator for Operation Big Vote, chair of Martin Luther King Health Center Council and chair of the Council-at-Large (HCHD), PTA president and VIPS at Fairchild Elementary, chairperson of the Keenage Klub, Sunday School Supt. and deacon at East Macedonia BC, and chair of deacon board, benevolence and building committees at South Park Baptist Church.

In spite of serious health problems, he remained active as Precinct Judge in Pct. 0240, a position he held faithfully since 1966; deacon at South Park BC, director for the Houston Food Bank Pantry at South Park BC, and chair of Community Services for the church. He was a Mission Service Corps Volunteer under the Home Mission Board of the Southern Baptist Church. He was a member of Magnolia Lodge #3. He was a mover and a shaker who wanted to see things accomplished for his country, state, city, community and church.

His motto was Matthew 25:34 "For I was hungry and you fed me." His will be "hard shoes to fill" and he will be missed by many. Visitation at the funeral home on Thursday from 8 to 10 p.m. Body will lie in state at South Park Baptist Church, 5830 Van Fleet, 10–11 a.m. Friday followed by the funeral at 11:00 a.m. with Rev. Marvin C. DeLaney officiating. He will join his beloved Elease at Houston National Cemetery.

INTRODUCING THE 21ST CENTURY CLASSROOMS ACT FOR PRIVATE TECHNOLOGY INVESTMENT

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. CUNNINGHAM. Mr. Speaker, today, I introduce the 21st Century Classrooms Act for Private Technology Investment.

Our children and our country's future depend upon the investment we make today in their classrooms. We know that advanced technology has improved America's economic competitiveness, transformed commerce and communications, and improved the quality of life for millions of Americans. By the year 2000, some 60 percent of American jobs will require technological skills.

Unfortunately, the revolution in technology has not yet transformed the education of our children. Our classrooms lack the technology our children need to succeed. More big Government is not the answer; I believe that only by harnessing the power and ingenuity of private enterprise will we bring our classrooms into the 21st century.

We can hasten that work through my new proposal: The 21st Century Classrooms Act for Private Technology Investment. It provides new, expanded incentives for businesses to invest equipment and cash to prepare 21st century classrooms. By taking advantage of employers' constant need to update computer systems, schools, and certain nonprofits can vastly multiply the technology available to our young people.

First, it encourages employers to donate computer technology, equipment and software for K–12 education. It does this by expanding the incentive that encourages donations to scientific research institutions to also include donations to schools and nonprofits involved in K–12 education.

Second, it provides employers a 110-percent tax credit for cash contributions to K–12 education to purchase computer technology, equipment and software. Every dollar contributed for this purpose reduces the employer's taxable income by $1.10, up to the usual limits.

And third, and most importantly, these new incentives will increase private involvement in our local schools. That's something everybody agrees we need more of.

Members of the House have already received a packet of information and the text of the 21st Century Classrooms Act. It is also available on my Internet website, http://www.house.gov/cunningham, on my "What's New" link.

America is confronted with three possible solutions to the gap in technological literacy. First, we can do nothing, which has a huge cost in terms of our future competitiveness, our well-being as a nation, and the lives of our young people. Second, we can create more Federal programs and increase Government spending. Or third, we can harness the power and energy of private enterprise to create true 21st century classrooms, which is the motivation behind my 21st Century Classrooms Act.

As a former teacher and coach, as one who once trained the Navy's Top Gun fighter pilots, and most of all as a father, I am tremendously excited by the potential of this initiative. I welcome Members' support.

SECTION-BY-SECTION ANALYSIS 21ST CENTURY CLASSROOMS ACT

(By Representative Randy "Duke" Cunningham, R–CA)

SECTION 1: SHORT TITLE

"21st Century Classrooms Act for Private Technology Investment."

SECTION 2: FINDINGS AND PURPOSE

The purpose of the legislation is "to direct the innovation and energy of private enterprise to the education of our young people, expand technological literacy, and bring the education of our young people into the 21st Century."

SECTION 3: CONTRIBUTIONS FOR COMPUTER TECHNOLOGY AND EQUIPMENT FOR ELEMENTARY OR SECONDARY SCHOOL PURPOSES

This section establishes tax incentives for corporations to donate equipment or cash to help being classrooms into the 21st Century.

(a) Section 170(e) of the Internal Revenue Code of 1986 is amended by creating a new special rule (6) for contributions of computer technology and equipment for elementary or secondary school purposes.

(A) When a corporation contributes computer technology or equipment to a qualified recipient, it may deduct from its taxable income an amount to one-half the market value of the donated material, not to exceed twice the cost of producing it.

(B) A qualified contribution is a charitable contribution of computer technology or equipment by a corporation that is:

(i) Made to a public or private elementary or secondary school, or to a non-profit 501(c)(3) organization that is "organized primarily for purposes of supporting elementary and secondary education;"

(ii) Made within two years after the property to be donated was either acquired or produced;

(iii) To benefit K—12 education;

(iv) Donated free of charge, except for shipping and installation;

(v) Productive to the recipient's education plan;

(vi) Beneficial to K—12 educational and donated free (except for shipping and installation), in the case of a recipient that is a nonprofit that is not a school.

(C) A corporation's contribution of computer technology or equipment to its own private foundation, particularly if the foundation is not "organized primarily for purposes of elementary and secondary education," is eligible for the tax deduction in (A) if:

(i) The contribution is made within two years after the property to be donated was either acquired or produced, and donated free of charge, except for shipping and installation;

(ii) The recipient foundation forwards the contribution to an eligible school or nonprofit within 30 days, and notifies the corporate donor.

(D) Applies a technical definition relating to the determination of contributors' stake in the donated property.

(E) Applies current law definitions of computer technology and corporations into the Act.

(b) Amends Section 170(a) of the Internal Revenue Code so that corporate contributions of cash for schools and qualified nonprofits to purchase computer technology and equipment are provided a 110 percent credit against the corporation's taxable income.

(c) The Act takes effect at the beginning of the taxable year following enactment.

A TRIBUTE TO CHARLES E. YOUNG

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and far-reaching accomplishments of Charles E. Young who is retiring on June 30, 1997 after 29 years as chancellor of UCLA. The country's longest serving university chief executive, he has been a powerful force in UNCLA's ascent to the ranks of the nation's most comprehensive and distinguished universities. Three-quarters of the diplomas held by UCLA's 285,000 living alumni bear his signature. Chancellor Young's leadership is reflected in innumerable contributions to the UCLA campus, to the broader community, and to higher education.

Dr. Young's association with the University of California dates to 1953 when he enrolled as a transfer student at UC Riverside. After graduating with honors in 1955, he pursued doctoral studies in political science at UCLA, earning his M.A. in 1957 and Ph.D. in 1960. He participated in the creation of the master plan for higher education in California while working on the staff of UC President Clark in 1959. Dr. Young returned to UCLA in 1960 to serve in a series of executive posts in the administration of Chancellor Franklin D. Murphy. Following Chancellor Murphy's resignation, Dr. Young was named his successor by the UC Regents on July 12, 1968.

Under Chancellor Young's leadership, UCLA has become an internationally renowned center of scholarship and discovery. Building a university for the future, he has guided UCLA to dramatic advances in every facet of its enterprise: recruitment of outstanding students and award-winning faculty, acclaimed programs in the visual and performing arts, development of a world class medical enterprise, a doubling of library holdings and of campus facilities, and an unparalleled tradition in intercollegiate athletics.

Chancellor Young is respected throughout academe as a passionate spokesman for educational opportunity, inclusiveness, and the intellectual richness born of diverse perspectives. Unwavering in his commitment to academic freedom, he has cultivated at UCLA an open and stimulating environment in which the pursuit of knowledge thrives without limits or boundaries. His advocacy resonates in the classroom, in the laboratory, and every corner of the campus where a theory can be tested, a point of view expressed, an idea challenged, or a concept debated.

In the belief that its home city is UCLA's foremost partner and greatest resource, Chancellor Young has engaged the university in myriad ventures and partnerships with the surrounding community. Furthermore, just as Los Angeles has emerged as a world city, UCLA, too, has become a world university and a magnet to students and scholars from around the globe under the leadership of Chancellor Young.

As he prepares to retire, Chancellor Young deserves recognition for shepherding UCLA toward academic greatness, founded on the cornerstone of intellectual freedom. On this occasion we salute Charles "Chuck" Young, his wife, Sue, and his two children and seven grandchildren in celebration of a splendid legacy to American higher education.

INTRODUCTION OF LEGISLATION TO RESTRICT FLIGHTS OVER CERTAIN AREAS OF HAWAII'S NATIONAL PARK SYSTEM

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mrs. MINK of Hawaii. Mr. Speaker, I rise to introduce legislation limiting adverse impacts of commercial air tour operations on national park units in the State of Hawaii. Natural quiet is as much an experience in our parks as enjoying the beauty of treasures the parks were established to protect and preserve.

A decade ago, Congress recognized that noise problems within our parks nationwide created by overflights had reached a point critical enough for congressional intervention, by passing the National Parks Overflights Act of 1987.

Not much happened since then to solve the problem until President Clinton on Earth Day 1996 called upon the Transportation and Interior Departments to issue regulations to restore quiet to our parks. As a result of this action, new regulations were released in January of this year for Grand Canyon National Park. To take effect May 1, these regulations would double the current flight-free area, limit the number of tour aircraft that may overfly the park, ban flights from sunset to sunrise, and develop rules requiring quiet aircraft technology.

The National Park Service and Federal Aviation Administration are currently constructing regulations for overflights above Hawaii's parks. However, I understand these could be years in coming and, in the meantime, air tours are operating under voluntary agreements that have not been effective in controlling overflight noise. I continue to receive complaints from hikers and visitors to Hawaii's parks, as well as residents living next to the parks. My bill is necessary to enforce noise controls on these operations.

Main provisions of my bill include prohibitions of flights over Kaloko Honokohau, Pu'u honua o Honaunau, Pu'u kohola Heiau, and Kalaupapa National Historical Parks, as well as sections of Haleakala and Hawaii Volcanoes National Parks. A minimum 1,500-foot altitude restriction is enforced for all other parts of Haleakala and Hawaii Volcanoes National Parks.

The need for restrictions on Hawaii's commercial air tour industry for safety reasons was made clear in July 1994 with two helicopter tour crashes near the Island of Kauai and on the Island of Molokai, the former resulting in three fatalities. In response, the FAA put in place SFAR 71 emergency regulations applying to Hawaii's commercial air tour operators. As a byproduct, these regulations worked to partially alleviate noise problems in Hawaii's parks. However, the SFAR 71 will expire in October. My legislation is necessary to continue controls on Hawaii's air tour industry.

I strongly urge my colleagues' support of my legislation.

FOR THE RELIEF OF GLOBAL EXPLORATION AND DEVELOPMENT CORP., KERR-McGEE CORP., AND KERR-McGEE CHEMICAL CORP.

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. McCOLLUM. Mr. Speaker, today I am introducing legislation to right a longstanding wrong involving the Federal Government and Global Exploration and Development Corp. and Kerr-McGee Corp. Global and Kerr-McGee became embroiled in an ongoing dispute with the Department of the Interior more than 20 years ago. In January 1991, I introduced legislation for the relief of Global and Kerr-McGee for any damages incurred due to wrongful governmental actions. That bill was successfully referred to the U.S. Court of Federal Claims in July 1992.

The U.S. Court of Federal Claims ruled in September 1994 that the Government had, in fact, committed a wrongful act against Global and Kerr-McGee and that they would be entitled to equitable relief once damages were proven. After an evidentiary hearing, but before the court reached a decision, the parties reached a settlement, the terms of which are embodied in this legislation.

Mr. Speaker, I am hopeful that successful passage of this legislation will bring long-awaited, and long-overdue, relief for the parties involved. If we are truly to be a government of the people, we must be ever vigilant in protecting private rights and rectifying public wrongs. I urge all my colleagues to support this legislation.

STATEMENT OF THE HONORABLE STENY H. HOYER COMMENDING THE DEPARTMENT OF THE TREASURY FOR THEIR PARTNERSHIP WITH THE D.C. PUBLIC SCHOOLS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. HOYER. Mr. Speaker, I want to commend the Department of the Treasury and Secretary Rubin for their efforts to support students of the District of Columbia Public Schools.

We have all read about the significant challenges the students in our Nation's Capital face daily, including substandard buildings and less than adequate education. I am pleased that, with the support of Treasury and it's employees, some students are benefiting.

In 1995, Treasury established a Partnership in Education program with two high schools in the District, Eastern and Woodrow Wilson. They initially offered internships for students after school, providing many of them their first exposure to a professional office setting. During the summer of 1996, they employed more than 100 students.

Based on that successful experience, they decided to institutionalize the program, and in addition to internships have added workshops in career planning, resume writing, college admissions standards, and related topics. These workshops are conducted by local university professionals from Georgetown, Howard, American, and George Washington University.

Treasury's mission is a commendable one—to fill those gaps in education that can help students acquire the necessary tools and skills to go on to college or a profession after high school graduation.

In addition to this work, Treasury also manages the Academy of Law, Justice and Security, a program with 200 students at Anacostia High School. I want to note that the Department of Justice and the Department of Defense also support this effort to prepare students for careers in law and law enforcement.

In addition, Treasury bureaus, like the Internal Revenue Service, the Bureau of Engraving and Printing, the Comptroller of the Currency, the Bureau of Alcohol, Tobacco, and Firearms, and the Secret Service are supporting D.C. students and teachers with activities including tutoring, mentoring, equipment, and employment.

Overall, 150 employee volunteers are involved in these activities. This is a great effort and I look forward to Treasury expanding it to include schools in Maryland and in my district.

I commend the work of Secretary Rubin and his staff and encourage other Federal agencies to become more involved in supporting their local school districts.

TRIBUTE TO BENJAMIN REZNIK

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. SHERMAN. Mr. Speaker, I am honored today to rise in tribute to Benjamin Reznik. Today Mr. Reznik is being recognized by the San Fernando Valley Interfaith Council for his outstanding work and enhancement of human relations within the San Fernanado Valley.

Ben's parents were natives of Poland forced to leave their homeland under Nazi occupation. They were fortunate to escape to Israel, where Ben was born. As a 9-year-old boy his family overcame great obstacles and immigrated to America in search of a better life. As a young man Ben excelled in the public school system, and completed his undergraduate studies at UCLA. The culmination of his formal education came with his graduation from USC School of Law. Throughout his academic career Ben had to hold down jobs and take out loans to make ends meet. He has since served as a role model to those having to struggle through similar circumstances.

In 1976, upon graduation, Ben obtained a small loan from a local bank and opened his own law office. Six years later his wife, Janice, joined him in the firm and they established their professional partnership of Reznik & Reznik. The firm has grown steadily since and today is one of the city's most respected law firms.

When not working in the firm, Ben gives freely of his time and resources to those less fortunate than himself. It is well known throughout the community that Ben constantly lends a hand to others facing adversity. His altruistic nature manifests itself in the very personal responsibility he feels to our community.

His service ranges from his current position as president of the Valley Job Recovery Corp., a nonprofit economic development corporation assisting our community in job creation and retention, to his past chairmanship of the Economic Alliance, a nonprofit group developing an economic strategic plan for the San Fernando Valley. His expertise and hard work were noted by Mayor Richard Riordan, when he appointed Ben to serve on the development reform committee which recommended ways of streamlining the development process. Ben was also asked by the mayor to oversee implementation of a Federal grant aimed at producing an economic development strategy for the changing economy of Los Angeles. Beyond work and various philanthropic pursuits, Ben and Janice are dedicated parents to their three wonderful children.

Ben is held in the highest esteem within our community, and is frequently looked to for his sage advice. Ben Reznik's life is truly a remarkable story, he is living proof that dedication and hard work are still the formula for success.

HOME-BASED BUSINESS FAIRNESS ACT

HON. LINDA SMITH

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mrs. SMITH of Washington. Mr. Speaker, I am pleased to join my colleagues, Representative TALENT from Missouri, and Representative PORTMAN from Ohio, in introducing the Home-Based Business Fairness Act. I also wish to compliment Representative TALENT for his unfailing commitment to relieving the tax and regulatory burdens affecting small businesses as chairman of the House Committee on Small Business.

With tax season upon us, most Americans are focused on one overwhelming problem: Our antiquated and complex Tax Code. There is growing consensus on the need to change and simplify our tax system. It penalizes hard-working, responsible Americans, and inhibits their ability to save for themselves and for their children and grandchildren. The time is ripe, Mr. Speaker, for a commonsense approach to providing tax relief to individuals and to small and women entrepreneurs. Home-based businesses, in particular, need our attention and commitment.

One of the most exciting trends in small business today is the burgeoning of home businesses. The majority of them are created and operated by women. There are now more than 9 million home-business owners, and, according to the Small Business Administration, an estimated 300,000 women in this country are starting home-based businesses each year. The entrepreneurial spirit of these men and women is breaking through existing barriers to work, and driving economic growth and jobs. These jobs give parents greater freedom and flexibility to balance and meet their families' needs, including those of their children, grandchildren, and aging parents.

While the technology explosion in our world is facilitating this new phenomenon, our Tax Code is hindering it. We must treat women-owned and home-based businesses more fairly. The Home-Based Business Fairness Act is a strong, commonsense approach to providing tax relief for this dynamic and vital sector of America's working families. It would allow small entrepreneurs to deduct their health insurance costs and the expenses of their home offices. It would give them the freedom to use independent contractors to grow and expand their operations without the fear of onerous back taxes, penalties, and interest small entrepreneurs too often face because of subjective and inconsistent reclassifications of independent contractors as employees by the IRS.

With this bill, Representative TALENT and I have tried to address the three problems which we believe are critical to helping self-employed men and women succeed in home business. I look forward to working with my colleagues in the House on this important legislation.

COMMITMENT TO EDUCATION

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. STUMP. Mr. Speaker, in this very Chamber, during his State of the Union Speech, the President spoke to us of his commitment to education and his desire to increase its Federal funding. Many Americans support any effort that would improve our Nation's schools and our students' ability to meet the challenges of the future.

Mr. Speaker, many Americans also want to be certain that the educational bureaucracy does not waste the money that we seek to invest in our Nation's children. Too often when Members of Congress question the effectiveness of some of these costly Federal programs and mandates, we are accused of being against education. Frankly, that accusation is not true.

In fiscal year 1997, Congress appropriated $14 billion for elementary and secondary education. What was the result? In one case, it was motivation for the Oakland, CA, school board to declare Ebonics as a language worthy of Federal bilingual education funding. While Oakland claimed it would not seek new Federal funds for this program, the school system is using Chapter I education funds for Ebonics classes.

There is a larger point to be made here, Mr. Speaker. When the American people hear that the Government will spend more money on education, they believe the money will be spent for needed items such as textbooks, computers, and new desks. Unfortunately, we squander the taxpayers' hard earned money on bureaucracy and social engineering schemes.

We have seen this done for 30 years in our bilingual education programs. We were told such programs would teach immigrant children English. Thirty years later, we are told that the research is still inadequate to determine whether these programs are successful. Meanwhile, the children and parents relying on us to help students learn English are cheated of a proper education. Now, through Ebonics programs, education bureaucrats want to rob African-American children of an appropriate education. They want to create what is effectively a program of bilingual education for English-speaking African-American children by declaring Ebonics their native language.

Supporters of Ebonics instruction claim that the children already speak Ebonics and that they are merely teaching the children the particulars of their chosen language. Evidently, they do not equate teaching Ebonics with teaching about Ebonics. Rather than learning the grammar of Ebonics, these children deserve to be learning math, science, and English. The parents of the children involved agree.

That is why I am introducing legislation that will get Washington out of the vernacular English instruction business for good. My bill assures the taxpayers that we will not waste their money and our students' time teaching regional dialects that are not recognized foreign languages. Every child deserves a challenging curriculum that prepares them for the 21st century rather than a feel-good program designed to enhance self-esteem. This legislation is simply common sense and merits all Members' support.

THE DEFENSE OF THE ENVIRONMENT ACT OF 1997

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. WAXMAN. Mr. Speaker, 2 years ago Congress adopted procedural steps that ensured that unfunded mandates and tax increases could not be enacted unless specifically considered and approved by the House. Today I am introducing the Defense of the Environment Act of 1997 with Representative GEPHARDT and Representative MILLER of California. This legislation would extend this same protection to environmental policies.

The Defense of the Environment Act is a commonsense safeguard that could dramatically improve the consideration of environmental legislation at virtually no cost. Nothing in the Act would prevent Congress from weakening or eliminating any existing environmental protection, even though a December 1996 Roper poll indicates that only 19 percent of our constituents favor rolling back environmental policies. Instead, the Act only takes the modest step of requiring a brief time for debate and a vote on any weakening legislation.

This is a practical measure which will simply ensure that environmental legislation receives adequate consideration before becoming law. I encourage my colleagues to consider the Defense of the Environment Act. I believe it is one environmental bill that we can all agree on.

REITSA FLOOR STATEMENT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. SHAW. Mr. Speaker, today I am introducing H.R. 1150, the Real Estate Investment Trust Simplification Act of 1997 ["REITSA"], a bill to amend portions of the Internal Revenue Code dealing with real estate investment trusts, or REIT's. The legislation responds to the need for simplification in the regulation of the day-to-day operation of REIT's. REITSA is cosponsored by Mr. MATSUI, Mr. CRANE, Mr. THOMAS, Mrs. JOHNSON, Mr. HOUGHTON, Mr. HERGER, Mr. MCCRERY, Mr. CAMP, Mr. JOHNSON, Ms. DUNN, Mr. COLLINS, Mr. ENGLISH, Mr. ENSIGN, Mr. WELLER, Mr. STARK, Mr. LEVIN, and Mr. CARDIN. The Joint Committee on Taxation has determined that REITSA has a negligible effect on Federal fiscal year budget receipts.

In 1960, Congress created REIT's to function as the real estate equivalent of the regulated investment company, or mutual fund. As such, they permit small investors to participate in real estate projects that the investors could not undertake individually and with the assistance of experienced management. Over time, the REIT industry has matured into its intended role with the greatest strides made in this decade.

This development of the REIT industry is a result of a number of factors. As important as any other were the changes Congress enacted in 1986 to the REIT rules themselves and the tax landscape in general. With respect to the general provisions, throughout the 1980's limited partnerships used the offer of multiple dollars of tax paper losses for each invested dollar to attract investors away from solid investments like REIT's, which seek to provide investors with consistent distributions from economically feasible real estate investments but provide no opportunity to receive a pass-through of tax motivated losses. Accordingly, the elimination of those tax loss loopholes led investors to look for income-producing investment opportunities.

Also included in the 1986 tax legislation were important modifications to the REIT provisions of the Code. Among the changes made as part of that modernization of the REIT tax laws (the first in a decade and the most recent comprehensive revision of the REIT laws), the most significant was the change allowing REIT's to directly provide to tenants those services customary in the leasing of real estate as had been permitted to pension plans and other tax-exempt entities engaged in the leasing of real property. Prior to that change, a REIT was required to use an independent contractor to provide those services.

These legislative changes and the lack of credit to recapitalize America's real estate produced a suitable environment for the substantial growth in the REIT industry and the fulfillment of Congress' original hopes for the REIT vehicle.

From 1990 to present, the industry has grown from a market capitalization of approximately $9 billion to nearly $100 billion. Fueling that growth has been the introduction of some of America's leading real estate companies to the family of long existing, viable REITs. As a result, the majority of today's REIT's are owners of quality, income-producing real estate. Thus, hundreds of thousands of individuals that own REIT shares through direct investment (plus the many more who are interest holders in the growing number of mutual funds or pension funds investing in REIT's) have become participants in the recapitalization of tens of billions of dollars of America's best real estate investments. Likewise, investors in mortgage REIT's have the opportunity to participate in the ever growing market for securitized mortgages, further contributing to the recapitalizaton of quality real estate.

The benefits of the growth in the REIT industry were addressed in a 1995 Urban Land Institute White Paper title The REIT Renaissance. That White Paper concluded that "[f]rom an overall economic standpoint, the real estate industry and the economy should be well served by the expansion of the REIT industry—the broadening of participation in real estate ownership, the investment in market information and research that the public market will bring, and the more timely responsiveness to market signals that will result from better information and market analysis."

To assist the continued growth of this important industry, H.R. 1150 was developed to address areas in the existing tax regime that present significant, yet unnecessary, barriers to the use of the REIT vehicle. The proposals represent a modernization of the most complex parts of the regulatory structure under which REIT's operate, while leaving intact the basic underlying ownership, income, asset, and distribution tests introduced in the original REIT legislation. The proposals are supported by the National Association of Real Estate Investment Trusts, the National Realty Committee, the International Council of Shopping Centers, the National Multi-Housing Council, the Building Owners and Managers Association International, the National Association of Industrial & Office Properties, and other national organizations.

SUMMARY OF KEY PROVISIONS OF H.R. 1150

A. Title I contains three proposals to remove unnecessary "traps for the unwary." These proposals would address current requirements that are not necessary to satisfy Congressional objectives, that carry a disproportionate penalty for even unintentional oversights, or that are impracticable in today's environment. Title I's overriding intention is not to penalize a REIT's many small investors by stripping the REIT of its tax status as a result of an act that does not violate Congress' underlying intent in creating the REIT vehicle.

Section 101. Shareholder Demand Letter. The potential disqualification for a REIT's failure to send shareholder demand letters should be replaced with a reporting penalty. Under present law, regulations require that a REIT send letters to certain shareholders within 30 days of the close of the REIT's taxable year. The letters demand from its shareholders of record, a written statement identifying the "actual owner" of the stock. A REIT's failure to comply with the notification requirement may result in a loss of REIT status.

The failure to send so-called demand letters may result in the disqualification of a REIT with thousands of shareholders that easily satisfies the substantive test because of a purely technical violation. As a result of disqualification, a REIT would be compelled to pay taxes for all open years, thereby depriving their shareholders of income generated in compliance with all of the REIT rules. Fortunately, the Internal Revenue Service has not enforced any such technical disqualifications and instead has entered into closing agreements with several REITs. The proposal would alleviate the need to enter into such closing agreements on a prospective basis.

H.R. 1150 provides that a REIT's failure to comply with the demand letter regulations would not, by itself, disqualify a REIT if it otherwise establishes that it satisfies the substantive "five or fewer" ownership rules. But under these circumstances, a $25,000 penalty ($50,000 for intentional violations) would be imposed for any year in which the REIT did not comply with the shareholder demand regulations and the REIT would be required, when requested by the IRS, to send curative demand letters or face an additional penalty equal to the amounts related above. In addition, to protect a REIT that meets the regulations, but is otherwise unable to discover the actual ownership of its shares, the bill provides that a REIT would be deemed to satisfy the "five or fewer" share ownership rules if it complies with the demand letter regulations and does not know, or have reason to know, of an actual violation of the ownership rules.

Section 102. De Minimus Rule for Tenant Services Income. The uncertainty related to qualifying services for a REIT should be addressed by a reasonable de minimus test. In 1986, Congress modernized the REIT's independent contractor rules to allow them to directly furnish to tenants those services customary in the management of rental property. However, certain problems persist. Under existing law, a REIT's receipt of any amount of revenue as a result of providing an impermissible service to tenants with respect to a property may disqualify all rents received with respect to that property. For example, if a REIT's employee assists a tenant in moving in or out of an apartment complex (a potentially impermissible service), technically the IRS could contend that all the income from the apartment complex is disqualified, even though the REIT received no direct revenue for the provided service. The disqualification of a large property's rent could seriously threaten, or even terminate, the REIT's qualified status.

Interestingly, at the same time a REIT could be severely punished for providing services to tenants or their visitors, the REIT rules properly provide that up to 5% of a REIT's gross income may come from providing services to non-tenants. Thus, under present law a REIT is better off providing services to nontenants than providing the same services to tenants.

In addition to the potential disqualification of rents, the absence of a de minimus rule requires the REIT to spend significant time and energy in monitoring every action of its employees, and significant dollars in attorney fees to determine whether each potential action is an impermissible service. The uncertainty regarding the permissibility of services also requires the IRS to expend considerable resources in responding to private ruling requests.

To lessen the burden of monitoring each REIT employee's every action and to eliminate unnecessary disqualification of tenant rents, H.R. 1150 provides for a de minimus exception. The exception would treat small amounts of revenue resulting from an impermissible service in a manner similar to revenue received from providing services to non-tenants, and protect the classification of rents from the affected property as qualifying REIT income. The de minimus exception is equal to 1% of the gross income from the affected property. The de minimus exception is based on gross income to be consistent with the REIT's income tests, and is set at 1% to reflect an amount large enough to provide the requisite safe harbor (note that it is 1% of the income from an affected property, regardless how small, and not all properties owned by the REIT), yet small enough not to encourage disregard of the independent contractor rule. Because many of the services in question would not result in a direct receipt of gross income, the bill provides a mechanism for establishing the gross income received relative to an impermissible service. The gross income would be deemed at least equal to the direct costs of the service (i.e., labor, cost of goods) multiplied by 150%.

For example, if the IRS determined that a REIT's providing wheelchairs at a mall is an impermissible service, the cost of the wheelchairs would be multiplied by 150% to achieve the gross income realized from the impermissible service. If that and any other gross income related to impermissible services provided to tenants of that mall does not exceed 1% of the malls gross income for the year, the impermissible service income would be classified as non-qualifying income. However, rents received from tenants of the mall would not be disqualified.

A REIT's actions are still policed under this change. First, if a REIT's gross income from impermissible services exceeds 1% of the gross income from the affected property, that income and the rents from that property would be disqualified as under current law. Second, as previously noted, a REIT's gross income from non-qualifying source is limited to 5% of total gross income. Accordingly, gross income from impermissible sources that does not exceed the 1% threshold would be included in that small basket, thereby placing a second check on the REIT's activities.

Section 103. Attribution Rules Applicable To Tenant Ownership. Unintended double attribution under section 318 should be minimized, while preserving the intended purpose of the attribution rule. The attribution rules of section 318 are interjected to ensure that a REIT does not receive rents from a 10% or more related party, in which case the rents are deemed disqualified income for the REIT gross income tests. While the intention of that rule is proper, a quirk in the application of section 318 to REITs as called for under section 856(d)(2) may result in the disqualification of a REIT's rents when no actual direct or indirect relationship exists between the REIT and tenant.

Under section 318(a)(3)(A), stock owned directly or indirectly, by a partner is considered owned by the partnership. In addition, under section 318(a)(3)(C), a corporation is considered as owning stock that is owned, directly or indirectly, by or for a person who also owns more than 10% (in the case of REITs) of the stock in such corporation. Those attribution rules may create an unintended result when several persons who collectively own 10% of a REIT's tenant, also own collectively 10% of the REIT. So long as those persons are unrelated, because their individual interests in both the REIT and tenant do not equal 10% the REIT is not deemed to own 10% of the tenant. However, if those persons obtain interests, regardless of how small, in the same partnership the REIT will be deemed to own 10% of the tenant. This results from the partnership's deemed ownership of the partners' stock in both tenant and the REIT. Further, because the partnership becomes a deemed 10% owner of the REIT under section 318(a)(3)(A), REIT is deemed the 10% owner of tenant under section 318(a)(3)(C).

In essence, the REIT becomes the deemed 10% owner of its tenant as a result of a variation of the partner-to-partner attribution that section 318(a)(5)(C) specifically was enacted to prevent. It is only through the combination of the partners' various interests in the REIT and tenant that a disqualification of the rents occurs. This is true regardless of the purpose for the partnership's existence. The partners may have no knowledge of the other's existence and may be partners in a huge limited partnership completely unrelated to the REIT.

H.R. 1150 addresses this problem by modifying the application of section 318(a)(3)(A) (attribution to the partnership) only for purposes of section 856(d)(2), so that attribution would occur only when a partner holds a 25% or greater interest in the partnership. This threshold presumes that such a partner would have knowledge of the other persons holding interests in the partnership, and would have an opportunity to determine if those persons hold an interest in the REIT. By not suspending the double attribution entirely, the bill prevents the potentially abusive practice of placing a "dummy" partnership between the REIT and those persons holding interests in the tenant.

B. Title II of REITSA contains two proposals that would assist in carrying out Congress' original intent to create a real estate vehicle analogous to regulated investment companies ("RICs").

Section 201. Credit For Tax Paid By REIT On Retained Capital Gains. Current law taxes a REIT that retains capital gains, and imposes a second level of tax on the REIT shareholders when later they receive the capital gain distribution. H.R. 1150 provides for the REIT rules to be modified to correspond with the mutual fund rules governing the taxation of retained capital gains by passing through a credit to shareholders for capital gains taxes paid at the corporate (REIT) level. This modification is necessary to prevent the unintended depletion of a REIT's capital base when it sells property at a taxable gain. Accordingly, the REIT could acquire a replacement property without incurring costly charges associated with a stock offering or debt.

Section 202. Reduction in the 95% Distribution Requirement. H.R. 1150 calls for reducing the REIT distribution requirement of taxable ordinary income from 95% to 90%. RICs have a similar distribution requirement, which is set at 90%. The REIT distribution requirement was 90% from 1960 until 1976. As part of the Tax Reform Act of 1976, REITs were granted a special "deficiency dividend procedure" designed to protect their status in the face of a redetermination of distributable income pursuant to an IRS audit. In exchange for this decreased risk of inadvertent disqualification, REITs were asked to distribute a higher percentage of their income. However, when the deficiency dividend procedure was extended to RICs in 1978, no corresponding change was made to the RIC distribution requirement. Accordingly, H.R. 1150 calls for a reduction in the REIT distribution requirement to restore conformity between REITs and RICs.

C. Title III of REITSA would simplify several technical problems that REITs face in their organization and day-to-day operations. Many of these proposals would build on simplifications that Congress has adopted over the years.

Section 301. Modification Of Earnings And Profits Rules For Determining Whether REIT Has Earnings and Profits From Non-REIT Year. Only for purposes of the requirement that a REIT distribution all pre-REIT earnings and profits ("E&P") within its first taxable year as a REIT, a REIT's distribution should be deemed to carry out all pre-REIT earnings before shareholders are considered to be receiving REIT E&P. Under existing law, a REIT must not only distribute 95% of its REIT taxable income to shareholders, but it must in its first year distribute all pre-REIT year E&P. If the company mistakenly underestimates the amount of E&P generated while operating as a REIT it may fail to satisfy those requirements because the ordering rules controlling the distribution of E&P currently provide that distributions first carry out the most recently accumulated E&P. Thus, if a REIT distributes the pre-REIT E&P and the expected REIT E&P in its first REIT taxable year, the year-end receipt of any unanticipated income would result in the reclassification of a portion of the distribution intended to pass out the pre-REIT E&P.

While REITs have methods available to make distributions after the close of their taxable year that relate back to assure satisfaction of the 95% income distribution requirement (to be changed to 90% under REITSA), those methods can not be used to cure a failure to distribute pre-REIT E&P after the close of the REIT's taxable year. Accordingly, by allowing the REIT's distributions to first carry out the pre-REIT E&P, the REIT could satisfy both distribution requirements by using one of the deferred distribution methods to distribute the unanticipated income discussed in the example.

Section 302. Treatment of Foreclosure Property. Rules related to foreclosure property should be modernized. For property acquired through foreclosure on a loan or default on a lease, under present law a REIT can elect foreclosure property treatment. That election provides the REIT with 3 special conditions to assist it in taking over the property and seeking its re-leasing or sale. First, a REIT is permitted to conduct a trade or business using property acquired through foreclosure for 90 days after it acquires such property, provided the REIT makes a foreclosure property election. After the 90-day period, the REIT must use an independent contractor to conduct the trade or business (a party from whom the REIT does not receive income). Second, a REIT may hold foreclosure property for resale to customers without being subject to the 100% prohibited transaction tax (although subject to the highest corporate taxes). Third, non-qualifying income from foreclosure property (from activities conducted by the REIT or independent contractor after 90 days) is not considered for purposes of the REIT gross income test, but generally is subject to the highest corporate tax rate. The foreclosure property election is valid for 2 years, but may be extended for 2 additional terms (a total of 6 years) with IRS consent.

Under H.R. 1150, the election procedure would be modified in the following ways: (1) the initial election and one renewal period would last for 3 years; (2) the initial election would remain effective until the last day of the third taxable year following the election (instead of exactly two years from the date of election); and (3) a one-time election out of foreclosure property status would be made available to accommodate situations when a REIT desires to discontinue foreclosure property status.

In addition, the independent contractor rule under the election would be modernized so that it worked in the same manner as the general independent contractor rule. Currently, a REIT may provide to tenants of non-foreclosure property services customary in the leasing of real property. However, this previous modernization of the independent contractor rule was not made to the rules governing the required use of independent contractors for foreclosure property.

Section 303. Special Foreclosure Rules For Health Care Properties. In the case of health care REITs, H.R. 1150 provides that a REIT would not violate the independent contractor requirement if the REIT receives rents from a lease to that independent contractor as a tenant at a second health care facility. This change recognizes the limited number of health care providers available to serve as an independent contractor on a property acquired by the REIT in foreclosure, and the REIT's likely inability to simply close the facility due to the nature of the facility's inhabitants.

In addition, the health care rules would extend the foreclosure property rules to expirations or terminations of health care REIT leases, since similar issues concerning a limited number of operators arise in those circumstances. However, foreclosure property treatment in these cases would be limited to a two-year period, unless the Secretary grants one or two possible two-year extensions.

Section 304. Payments Under Hedging Instruments. H.R. 1150 would extend the REIT variable interest hedging rule to permit a REIT to treat as qualifying any income from the hedge of any REIT liability secured by real property or used to acquire or improve real property. For example, this provision would apply to hedging a REIT's unsecured corporate debenture or the currency risk of a debt offering denominated in a foreign currency.

Section 305. Excess Noncash Income. H.R. 1150 would expand the use of the excess noncash income exclusion currently provided under the REIT distribution rules. The bill would (1) extend the exclusion to include most forms of phantom income and (2) make the exclusion available to accrual basis REITs. Under the exclusion, listed forms of phantom income would be excluded from the REIT 90% distribution requirement. However, the income would be taxed at the REIT level if the REIT did not make sufficient distributions.

Section 306. Prohibited Transaction Safe Harbor. H.R. 1150 would correct a problem in the wording of Congress' past liberalization of the safe harbor from the 100% excise tax on prohibited transactions, *i.e.*, sales of property in the ordinary course of business. Involuntary conversions of property no longer would count against the permitted 7 sales of property under the safe harbor.

Section 307. Shared Appreciation Mortgages ("SAM"). In general, section 856(j) provides that a REIT may receive income based on a borrower's sale of the underlying property. However, the character of that income is determined by the borrower's actions. The SAM provision would be modified and clarified so that a REIT lender would not be penalized by a borrower's bankruptcy (an event beyond its control) and would clarify that a SAM could be based on appreciation in value as well as gain.

Section 308. Wholly Owned Subsidiaries. In 1986, Congress realized the usefulness of a REIT holding properties in subsidiaries to limit its liability exposure. H.R. 1150 would codify an IRS private letter ruling position providing that a REIT may treat a wholly-owned subsidiary as a qualified REIT subsidiary even if the subsidiary previously had been owned by a non-REIT entity. H.R. 1150 would allow a REIT to treat a corporation as a qualified REIT subsidiary when it acquires for cash and/or stock all the stock of a non-REIT C or S corporation.

The effective date would be for taxable years beginning after the date of enactment.

CONNECTICUT PAYS TRIBUTE TO SECRETARY RON BROWN

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Ms. DELAURO. Mr. Speaker, on Monday, March 24, 1997 Connecticut will become the first State to participate in a State to State Day for the Ronald H. Brown Foundation. I am very pleased to rise today to pay tribute to the life and work of Ronald Brown and his family's efforts to continue his work through the Ronald H. Brown Foundation.

Secretary Brown spent a lifetime working to improve and expand opportunities for Americans. He spent 12 years working for the National Urban League as Deputy Executive Director, General Counsel and vice president for its Washington organization. He will always be remembered for his tremendously successful tenure as chairman of the Democratic National Committee when he was instrumental in President Clinton's election. The President referred to Ron as "a strong and independent leader and a forceful advocate" when he nominated him to be the 30th United States Secretary of Commerce.

Dynamic and persuasive, Ron Brown used his position in the Commerce Department to be a tireless crusader for economic policies which build a partnership between the public and private sectors. While Secretary of Commerce, Ron made working with small business and minority entrepreneurs one of his priorities. However, Ron Brown's focus did not stop at the United States borders. He realized that America had to retain the lead in international commerce to continue to grow and provide economic opportunity for all of its citizens. To this end, he traveled the world to promote trade and the export of United States goods and services. Indeed, he will long be remembered for his far-reaching vision and unique style.

Ron Brown believed that economic opportunity would come from the integration of education, political development and international commerce. His legacy to us is the challenge of making his goals a reality. His family has taken on that challenge and founded the Ronald H. Brown Foundation to ensure that Ron Brown's lifetime of work will be carried on. The Foundation will focus on three areas: policy development, global commerce, and education.

I am proud that Connecticut is the first State to participate in the State to State effort to get the Ronald H. Brown Foundation on its way. I thank Ron Brown's wife Alma and his children, Michael and Tracy, for allowing me to be a part of this exciting new venture. We all have great hopes for the Foundation and I know that Ron Brown would be pleased to see that the vision he dedicated his life to is now closer to reality. My congratulations to everyone involved in this extraordinary project.

TRIBUTE TO RICHARD KATZ

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Richard Katz for his years of service to the people of California, especially to the residents of the San Fernando Valley. This week Mr. Katz is being recognized by the San Fernando Valley Interfaith Council with the "Spirit of the Valley" award which is the highest honor the Council bestows on former public officials, recognizing Mr. Katz's enormous contributions to our area and our State.

During his 16 years in the State government he served as chairman of the Transportation Committee and later as the Democratic Leader of the Assembly. His career is a record of distinguished service, as Mr. Katz was on the forefront of a number of issues important to Californians. The impact of his work varied widely from supporting the Mountain Lion Protection Act which banned the sport hunting of mountain lions and restored lost habitat, to aiding the victims of the Northridge Earthquake in the form of immediate tax relief.

Transportation improvements is the area in which Richard perhaps left his most enduring legacy. He authored Proposition 111, which raised more money for mass transit and highways than any effort in the history of California and created the Congestion Management Program which required cities to measure the impact of land use decisions on their roadways. He helped initiate California's Smog Check Program, which is still the strongest anti-smog program in the Nation. Finally, he worked to retire unsafe school buses with newer fuel efficient replacements, which benefits both the kids that depend upon them and the local environment.

It has been said that, the politician thinks of the next election, the statesman thinks of the next generation. Richard Katz's work in helping the children of California certainly classifies him as a statesman. He played a leading role in the Gang Risk Intervention Program which targets at-risk youth before they get involved with gangs. He recognized early on the importance of educating our children on computer use, as he developed and galvanized support for computer education programs in our public schools.

During his 16 years in the California legislature, Mr. Katz was known as a hard working and effective legislator. The effects of his leadership will be felt in areas ranging from crime prevention, environmental and consumer protection, transportation improvements and family issues. Throughout his career he maintained a relaxed and informal demeanor making him very approachable to Valley residents. Indeed the people of the San Fernando Valley are fortunate to have had Richard Katz as their representative. The area will reap the benefits of his work for generations to come.

TRIBUTE TO ROBERT W. WALSH

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mrs. MALONEY. Mr. Speaker, I rise today to pay tribute to Robert W. Walsh, the executive director of the 14th Street, Union Square Business Improvement District [BID/LDC], and the man responsible for the renaissance of a New York neighborhood desperately in need of amelioration. Robert will be leaving New York for Charlotte, NC, where he has been named president of the Charlotte, NC, Uptown Development Corp.

During his 8 year tenure at BID/LDC. Robert initiated and oversaw a revitalization of the Union Square community that has transformed the neighborhood into one that is immeasurably better for residents, businesses, and visitors. In fact, improvement in the neighborhood has been so vast, Mayor Rudolph Guliani recently singled out the 14th Street, Union Square organizations as models for community development.

Robert has been responsible for many notable projects in the community, including the rezoning of the East 14th Street corridor which has stimulated recent developments such as an NYU student residence, many new retailers, restaurants, and other businesses; and the establishment of an award winning public/private partnership with Washington Irving High School. One of Robert's most indelible marks on the neighborhood is the completion of the Genesis apartments, a 94-unit building for formerly homeless families.

During Mr. Walsh's tenure, the 14th Street, Union Square neighborhood has become one of the most attractive and exciting areas of New York City.

Mr. Speaker, it is my pleasure today to rise in honor of Robert Walsh, a man who has served the New York community throughout his career at a variety of city agencies—the New York City Departments of General Services, Personnel, Parks and Recreation, Transportation, and the major's Office of Operations. I ask my colleagues to join with me today in this well-deserved tribute to Mr. Walsh for his commitment to New York City and to the outstanding work he has done for the 14th Street, Union Square community.

TRIBUTE TO VENA G. EDWARDS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. SKELTON. Mr. Speaker, after 32 years of civilian service in the Department of the Army, Vena G. Edwards is being honored by her friends and peers.

Vena began her long and distinguished career in 1965 in the Officer Personnel Management Directorate at the U.S. Army Personnel Command, then known as the Military Personnel Command. Once she had established herself through other assignments, she advanced to the office of the assistant deputy chief of staff for Personnel in February 1977. A professional in every sense of the word, she was the mainstay and guiding force for the entire agency. She has trained many other agency members and has successfully managed the careers of the many general officers for whom she worked.

She always took a genuine interest in people and often went out of her way to help. You could say that she was truly one of those people who always walked the extra mile. She has been a lifesaver for many a general officer and hapless newcomer who found out they could always depend on Vena for the right answer or the right place. As the institutional memory for the organization, she will be sorely missed as it will take all of us much longer to look up what she already knows.

A master of efficiency, she has worked tirelessly to ensure the agency goals are met and that a quality of life is maintained for all members of the U.S. Army.

Vena has earned the admiration and respect from those in the highest levels of the Army, of the Department of Defense, Congress, and for the genuine caring for the well being of those who make soldiering their career.

Mr. Speaker, I would like to take this opportunity to extend our heartfelt congratulations upon the retirement of Vena Edwards. I know Vena will be just as successful in her future endeavors as she was at the Department of the Army.

BART EXTENSION OF THE SAN FRANCISCO INTERNATIONAL AIRPORT IS ESSENTIAL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. LANTOS. Mr. Speaker, I rise today in strong support of the reauthorization of the Intermodal Surface Transportation Efficiency Act [ISTEA]. Bipartisan passage of ISTEA in 1991 unveiled a new era in transportation funding by establishing a critical balance between meeting national policy objectives and providing flexibility to States and local governments. ISTEA works well and major changes to this important law are not necessary.

Mr. Speaker, last week, I testified before the House Subcommittee on Surface Transportation in support of ISTEA reauthorization. ISTEA must maintain its focus on national priorities, intermodalism, local and public involvement, and consideration of environmental concerns. It must also be adequately funded.

Mr. Speaker, I would like to share my thoughts with my colleagues here in the House of Representatives on the effectiveness of ISTEA programs in my region and in support of the reauthorization of the BART Extension to San Francisco International Airport. I respectfully request that my statement be included in the RECORD.

STATEMENT OF CONGRESSMAN TOM LANTOS BEFORE THE HOUSE SUBCOMMITTEE ON SURFACE TRANSPORTATION

Good afternoon, Mr. Chairman and members of the Subcommittee. Thank you for giving me the opportunity to testify on what is one of the most significant issues before the 105th Congress: the reauthorization of the Intermodal Surface Transportation Efficiency Act (ISTEA). Passage of ISTEA by a large bipartisan majority of the Congress in 1991 was a watershed event for federal transportation policy. As you know, the new law was designed to make federal programs in the post-interstate era better, not bigger, by emphasizing system preservation, the efficient operation of existing networks, improved intermodal integration, and increased state and local control over investment decisions. ISTEA has been a visionary document, fostering a more diversified and strengthened transportation infrastructure to enable Americans to meet future challenges and opportunities.

A key ISTEA provision for the San Francisco Bay Area is the Section 3 New Rail Starts authorization for the BART Extension to the San Francisco International Airport. As you know, the BART Extension was authorized in the last authorization of ISTEA and I strongly urge its reauthorization. The project, which is located in my Congressional district, will dramatically improve mobility and alleviate traffic congestion by creating a state-of-the-art connection between the 81-mile BART system and the bustling San Francisco International Airport (SFO). The SFO Extension enjoys the unanimous support of the entire Bay Area Congressional delegation and I am wholeheartedly committed to ensuring that we build this long-awaited, national-significant transit project. In a few minutes, BART Board Director Dan Richard will elaborate on the region's reauthorization request for the SFO Extension.

In the San Francisco Bay Area, I am happy to report, that the overall implementation of ISTEA has had a profound and decidedly beneficial impact on transportation planning and project selection. Thanks to the superb guidance and leadership of our nine-county Metropolitan Transportation Commission (MTC), which has overseen implementation of the program, our region has been able to seize upon the new opportunities provided by ISTEA and immediately put our federal dollars to work.

Barely one month after the passage of ISTEA, MTC formed the Bay Area Partnership—a consortium of local, state and federal agencies—to collaborate on the optimum use of ISTEA dollars. The Partnership quickly initiated a process to screen and rank project proposals based on ISTEA goals for efficiency, equity and multi-modalism. Working by consensus engendered strong local support, which enabled the Bay Area to obligate nearly 200 of its first round of Surface Transportation Program (STP) and Congestion Mitigation and Air Quality (CMAQ) Improvement Program projects years ahead of official obligation deadlines.

In terms of the MTC region, ISTEA's flexible funding provisions have been pivotal to the program's success. ISTEA has literally revolutionized the way transportation priorities are set and how projects are selected for funding in the Bay Area. Instead of the rigid funding categories of the past, Bay Area communities have the latitude to invest in smaller, more cost-effective projects that deliver more immediate results.

Local flexibility has also enabled many worthy projects to advance—everything from a joint intermodal terminal at the Port of Oakland to BART rail rehabilitations to expansion of MIC's popular roving Freeway Service Patrol tow trucks and various highway and local street improvements throughout the region. In all, MTC, with the Partnership's help, has approved 432 projects worth more than $460 million in STP and CMAQ funds. Along the way, the process continues to be refined and improved to elevate only the most efficient, effective transportation projects for funding. The success of each of these transportation projects is an extraordinary testament to the value of local decision-making coupled with the inherent flexibility of ISTEA.

Mr. Chairman, as your Subcommittee prepares to mark up a surface transportation reauthorization measure, I urge you to retain ISTEA's basic program structure, which has proven so successful in the San Francisco Bay Area and in other parts of the country. I also encourage you to oppose efforts to repeal or reduce the federal gas tax. These ill-advised policies would wreak havoc on the federal Treasury, weaken our economic competitiveness, and could undermine national security interests. Finally, I urge members of the Subcommittee to consider the financial burdens that transit operators must bear in meeting the paratransit requirements of the Americans with Disabilities Act. Transit operators are already reeling from steep reductions in Section 9 operating assistance and can ill-afford to absorb these new costs without federal assistance.

Mr. Chairman, at this time I would like to introduce Dan Richard, a member of the BART Board of Directors, who is here to address the BART Extension to the San Francisco International Airport, our region's number one priority for federal New Rail Starts. I look forward to the day in the not too distant future when BART initiates service to the airport. With your Subcommittee's continued support, Mr. Chairman, I am confident that we will reach that goal, and when we do, it will be a proud achievement for all Americans.

Again, thank you for the opportunity to testify. I look forward to continuing to work with you and in supporting your efforts to enact a strong surface transportation bill which will meet our nation's transportation infrastructure needs in the next century.

IN SUPPORT OF THE CREDIT UNION MEMBERSHIP ACCESS ACT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. BROWN of California. Mr. Speaker, I rise today to join with my distinguished colleagues on the House Banking Committee, Mr. LATOURETTE and Mr. KANJORSKI, and 15 other bipartisan colleagues, in introducing the Credit Union Membership Access Act. The bill will preserve the rights of millions of Americans to join and continue their access to credit unions.

In a ruling against the AT&T Family Federal Credit Union, the U.S. Circuit Court of Appeals for the District of Columbia, ruled on July 30, 1996, that a credit union cannot have among its members more than one group having a common bond of occupation. That appeals court decision, as a result of a full court lobbying by large banks, casts in doubt the ability of a credit union to serve multiple groups of employees by overturning 15 years of established National Credit Union Administration [NCUA] policy as it relates to who is eligible to join a credit union.

If fast action is not taken, millions of Americans will be forced to give up their access to the financial services they otherwise would receive through a credit union. The Credit Union Membership Access Act is a bipartisan effort to bring a legislative remedy as quickly as possible to the common bond issue. The bill would preserve the longstanding policy of the NCUA with regard to field of membership in Federal credit unions. It would also clarify that it is the intent of Congress that the NCUA has authority to determine occupational, associational, and community charters for Federal credit unions.

The measure, which I had been helping develop for the past several months, was carefully drafted in close consultation with local and national leaders of the credit union community. As a longtime supporter of the credit union movement in the United States, I am honored to be part of this effort and to be included on the ground floor of the bipartisan congressional group submitting this important measure to the House of Representatives. To reaffirm my continued support for our Nation's credit unions, I urge my colleagues from both sides of the aisle to support the passage of the Credit Union Membership Access Act.

TRIBUTE TO HELEN HORRAL

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. OBERSTAR. Mr. Speaker, I rise today to pay tribute to Helen Horral of Duluth, MN.

Helen Horral has rendered long and distinguished, dedicated service to the people and city of Duluth. She served on the Housing Redevelopment Authority [HRA] from 1985–1995, acting as president of the authority for 1 year. The HRA sets policy for Duluth's low-income housing and creates solutions to the city's low-income housing needs.

Helen has also served on the Single Room Occupancy Commission [SRO]. The SRO advises the city of Duluth on homelessness and the use of shelters and food banks, and it oversees grants and loans to SRO building owners to improve living standards and make housing more affordable. While serving on the SRO, Helen was a staunch advocate for the residents, making sure that the tenants were treated with respect. She was known as the resident caretaker of the SRO Commission.

The motivation for Helen's laudable efforts on behalf of the HRA and SRO is that she wants to help people less fortunate than herself. Many years ago, she saw that numerous Duluthians, especially senior citizens, had financial difficulties and could not afford decent housing. Helen decided to attack the problem head-on and take an active role in finding solutions. As a result of Helen's hard work, there has been real improvement in Duluth's low-income housing; there are now more low-income, high-quality units in Duluth, and low-income senior citizens can live in dignity. Even though she is now 82 years old, Helen continues to help others by planning meals and serving as a volunteer cook at senior citizens' centers around the city, which she has done for many years.

In addition to actively helping senior citizens, Helen has been involved in politics in Duluth for more than 25 years. She works as a volunteer for candidates in Minnesota during election years and is involved in grassroots politics all year long. Helen also provides transportation to seniors who do not drive, and she hosts political dinners and meetings on numerous occasions each year.

The 1996 election provided a good example of Helen's devotion to the political process. At one point near the end of the election, Helen worked at a campaign office in Duluth for 24 hours in a 2-day period. She did this not because she was asked to, but because she wanted to help. On many cold Minnesota winter days, when the next election may be more than a year away, Helen is still the first person at political meetings. And she rarely shows up for meetings or at the campaign headquarters alone—she is the best volunteer recruiter in the district and frequently encourages senior citizens to become involved in the political process.

Helen says, with very simple, honest modesty that she has been blessed in her life and wants to share that blessing by working to assist those less fortunate. Helen truly understands the value of life and the worth of helping others. I am proud and honored to share with my colleagues this brief, but deserved tribute to Helen Horral, who has given so much of herself to enrich the lives of others and to serve her community. She is both a role model and an inspiration.

STATE REPRESENTATIVE ANGELO "SKIP" SAVIANO HONORED AS MAROONS SOCCER CLUB "MAN OF THE YEAR"

HON. ROD R. BLAGOJEVICH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. BLAGOJEVICH. Mr. Speaker, this weekend in Elmwood Park, IL, the Maroons Soccer Club, organizer of the first Italo-American soccer team in Chicago, will hold its 68th annual banquet. The Maroons are the proud sponsors of both soccer teams for the young and soccer teams for the "ageless" of the Chicagoland area. The purpose of the banquet is to honor two individuals who have actively contributed to the club in the same spirit that the club actively contributes to the community as whole. We join the Maroons in proudly honoring their Man and Lady of the Year for 1996–1997, Mr. Angelo "Skip" Saviano and Ann Mele. This is such a great honor. I am greatful to have the opportunity to recognize them in this way.

But I would like to take this special opportunity today to rise in the U.S. House of Representatives and publicly congratulate my long-time friend and colleague in the Illinois State House of Delegates, Skip Saviano.

Skip has been involved with youth soccer in our district for many years. He actively contributes to the well-being of our children and our community in many ways. In the most traditional sense, Skip Saviano is a role model. He is a strong legislator, and a champion of communities throughout Chicago and its suburbs. And his accomplishments are a direct result of his success as a community leader and as a good citizen.

I hope that my distinguished colleagues will join me in recognizing Skip Saviano for this much deserved honor. Further, I hope that they will join me in applauding his continued dedication to our communities and to the lives of the young people growing up in Chicago.

INTRODUCTION OF THE QUALITY HEALTH CARE AND CONSUMER PROTECTION ACT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mrs. ROUKEMA. Mr. Speaker, I rise today to introduce the Quality Health Care and Consumer Protection Act of 1997.

The past several years have seen an increasing and disturbing trend of the health insurance industry putting bottom-line medicine ahead of quality medical care. The evidence is everywhere.

First were the documented reports that women were being discharged from hospitals 24 hours—even 12 hours—after giving birth. Then came reports of women being shown the door after having outpatient mastectomies. In addition, physicians are barred from telling a patient about a lifesaving or life-improving treatment option or specialized care if it is more expensive than the insurer is willing to pay. Doctors were literally being gagged, in violation of their professional oaths. Men and women are not allowed to call for an ambulance without receiving prior approval from their managed care plan. Enrollee records are not kept confidential.

These practices, and others, spell an alarming trend in managed care. It would appear that managed care has allowed—or even forced—insurance companies to place company profits ahead of patient care. To many of us, this smacked of third world medicine. Are we to abandon our historical position as the world's leader in medical care?

As a result, many individual States have started to mandate the coverage that insurers must provide. While I understand the States' desire to protect the quality of care, I am not sure this commonsense regulation is best executed at the State level.

Congress should go beyond taking these issues on a piecemeal basis and take broad comprehensive action. Consequently, I am introducing the Quality Health Care and Consumer Protection Act. Based on a series of proposals from Women in Government, a bipartisan group of State legislators from across the country, my bill represents a consensus on steps to ensure that managed-care networks provide high-quality, efficient care, not just low-cost care that boosts profits.

I am aware that there are other health reform plans pending in Congress. My bill, however, goes further because it also includes the millions of American workers whose health plans are regulated under ERISA. ERISA is the Federal law that regulates large corporations that self-insure and these companies would be exempt from the other legislation pending before this House. We must provide the same high standard of quality of medical care for all Americans, not just some.

This legislation would protect consumers without denying managed care's potential for legitimate innovation and cost control. This measure would return the power over medical decisions to those with the medical training and expertise—the doctors and the nurses.

Better Access to Personnel and Facilities—Ensures that enrollees are given meaningful choice of available physicians and specialists, which includes reasonable access to acute care hospital services, primary care practitioners, registered nurses, specialists and specialty medical services such as physical therapy and rehabilitative services.

Continuity of Care—Requires that enrollees are provided continued coverage with the established primary care practitioners for 60 days, when the health care professional's contract is terminated without cause.

Emergency Service Coverage—Ensures that the health plan reimburse expenses for treatment of an emergency medical condition, when prior authorization was not obtained, if a prudent layperson would reasonably assume that the condition required immediate medical treatment.

Adequate Choice of Health Care Professionals—Ensures that the health plan permit enrollees to choose their own primary care practitioner from a diverse list of qualified professionals who are accepting new enrollees. In addition, when the enrollee's medical conditions warrant it, the enrollee shall be permitted to use a medical specialist primary care practitioner.

Point of Service Option—Ensures that the plan have an option for an enrollee to receive benefits by a nonparticipating health care professional for an additional reasonable premium.

Prohibition of Gag Rules—Ensures that there is open communication between health care professionals and enrollees.

Coverage of Drugs and Devices—Requires that a health plan that provides benefits with respect to drugs and medical devices shall provide coverage for all drugs and medical devices approved by the Food and Drug Administration so long as the primary care practitioner or other medical specialist determines the drug or device is medically necessary and appropriate.

Coverage of Experimental Treatment—If a health plan limits coverage for services, then the plan shall define the limitation and disclose the limits in any agreement of coverage. When a plan denies coverage for an experimental treatment, then the plan shall provide a letter explaining the denial, along with a description of alternative treatment covered by the plan.

Quality Assurance Program—Requires that the health plan develop comprehensive quality assurance standards which are adequate to identify, evaluate and remedy problems relating to access, continuity and quality care.

Data Systems and Confidentiality—Ensures that the health plan provide information on the plan's structure, decision making process, health care benefits and exclusions, cost and cost-sharing requirements, list of participating providers as well as grievance and appeal procedures to all enrollees, the Secretary of Labor, and the Secretary of Health and Human Services.

Reporting of Data—Requires that the health plan report annually to the Secretary of Labor and the Secretary of Health and Human Services data including the number and types of enrollee grievances or complaints during the year, the status of decisions, and the average time required to reach a decision. In addition, the health plan must report the number, amount, and disposition of malpractice claims resolved during the year.

Medical Records and Confidentiality—Requires that the health plans establish policies and procedures for keeping enrollee information confidential.

Disclosure about Financial Arrangements—Requires that the health plan inform enrollees of the financial arrangements between the plan or issuer and participating providers and professionals.

Grievance Procedures—Provides a grievance procedure that all health plans must follow, while also requiring that the plan provide written notification to enrollees regarding the right to file a grievance concerning denials or limitations of coverage under the plan. In addition, the plan shall report to the Secretary of Labor and the Secretary of Health and Human Services the number of grievances and appeals received by the plan.

Mr. Speaker, managed care has a legitimate role to play in today's health care system. However, no health care system should be allowed to sacrifice patient care on the altar of corporate profits. The Quality Health Care and Consumer Protection Act makes significant steps toward returning medical decisions to doctors and other health care professionals and away from gatekeeper bureaucrats in HMO offices.

Medical professionals for generations have worked long and hard to give the United States the highest standard of medical care in the entire world. Our physicians, nurses, and medical researchers have performed miracles in combating dreaded disease, repairing ghastly injuries, and correcting infirmities. We cannot allow green-eyeshadded bean counters in insurance company accounting departments to throw that progress away. With a health care system that is the envy of the world, we must not allow the United States of America to slip to third world standards of medicine.

HONORING REV. RAPHAEL ZBIN, MONK OF THE YEAR, THE BENEDICTINE ORDER OF CLEVELAND

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor Rev. Raphael Zbin, pastor of St. Andrew's Parish in Cleveland, OH. He is celebrating his 50th ordination jubilee and was honored as "Monk of the Year" at a ceremony on March 16, 1997, in Lakewood, OH.

The following tribute was contained in the St. Clair & Suburban News, February 1997 Edition:

> He was ordained a priest in 1947 and then began teaching biology at Benedictine High School and served on Cleveland Diocese School Board for many years. In 1976, he was appointed pastor of St. Andrews.
>
> There is no greater tribute to a Benedictine education than to dedicate one's life to the service of the Benedictine Order and its values in education. And that summarizes the life-long efforts of Fr. Zbin.

TRIBUTE TO COLLEEN SMITH

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Ms. KAPTUR. Mr. Speaker, I rise today to recognize Colleen Smith of Bowling Green, OH, who has retired as the city's administrator. Throughout her distinguished tenure, she was a model of a dedicated public servant.

Colleen began working for the city of Bowling Green in 1967 as a bookkeeper, monitoring maintenance costs of city vehicles. Working her way up through the municipal structure, she became the city's municipal administrator in 1989. As a testament to her talent and commitment to fiscal responsibility, the city's books held no operating debt upon her retirement.

In addition to leaving Bowling Green on sound financial grounds, Colleen may take pride in her retirement in knowing she played a key leadership role in the development and promotion of her community. As assistant municipal administrator and later as municipal administrator, she helped revitalize the downtown area and aggressively assisted in economic development. She was involved in recruiting commercial and industrial business and in negotiating an enterprise zone agreement between business, industry, and government. Ever mindful that a community is more than simply a collection of business enterprises, Colleen worked to ensure Bowling Green remained the warm and pleasant place to live and visit it has always been. Her efforts have grown trees, parks, and playgrounds which people have enjoyed and will for generations to come. She helped make Bowling Green a true slice of Middle America.

More than a municipal employee, Colleen expanded the boundaries of public servant by committing her time and talent to various volunteer groups and charities: the American Cancer Society, Muscular Dystrophy Association, and Arthritis Foundation to name a few. For her selfless efforts, Colleen was honored and recognized by many civic and community organizations. The recognition culminated in 1996, when she received an honorary alumnus degree from Bowling Green State University for a lifetime of achievement and civicmindedness.

The English poet/philosopher John Donne wrote that "no man is an island, entire of itself" by which he meant that every person touches every other living being. Colleen Smith is an example of this sentiment. Although retiring from public service, I am certain she will carry on in the ideal of Donne's philosophy for many years to come. I know my colleagues join me in thanking Colleen Smith for 30 years of dedicated service, and wish her an enriching retirement.

CONGRATULATIONS TO THE LADY EAGLES BASKETBALL TEAM OF WEST VALLEY HIGH SCHOOL

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mr. NETHERCUTT. Mr. Speaker, today I want to congratulate the girls basketball team of West Valley High School. On March 15, the Lady Eagles won the Washington State AA High School basketball championship, handily defeating the Prosser High School girls squad 61 to 44. The Lady Eagles won 18 of their 22 games in the regular season, defeating many tough teams.

Under the leadership of Coach Mark Kuipers and assistant coaches Steve Lawler, Shelli Totten, Robyn Schumacher, and Renee Nilles, the girls squad demonstrated athletic skill, teamwork, and persistence, qualities which helped them play good basketball and win the State championship.

Players for the State championship team are Abby Monasmith, Angela Kaltas, Sherry Shollenberger, Cindy Simpson, Gabby McClintock, Chantelle Frost, Dawn Salfer, Kiesha Sowers, Stacey Roberts, Danna Vermeers, Heather Huffman, and Alisha Pedey. Jill Nihoul, Heather Sweet, and Megan Lawk served as the team's managers.

Principal Cleve Penberthy, Athletic Director Wayne McKnight, and residents of the West Valley district should be proud of the Lady Eagles' success. I join them in saluting the players, managers, and coaches for their accomplishment.

I hope the Lady Eagles' success will encourage others to pursue their goals, recognizing that to succeed, players need to practice and work together as a team. While necessary to their triumph, athletic skill alone was not enough. I hope that my neighbors in eastern Washington—and Americans across the Nation—will learn from their success, that they will not let the odds discourage them, they will remain confident in their abilities and work together to reach their goals.

Skill, teamwork, and persistence allowed the Lady Eagles to triumph on the basketball court. And these qualities will enable students across the country to succeed, whether in an athletic arena or in any other endeavor they would like to pursue.

IN HONOR OF NOMAN M. COLE, JR.

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mr. DAVIS of Virginia. Mr. Speaker, it is with deep sadness that I rise today to announce the passing of Mr. Noman M. Cole, Jr., whose contributions to the northern Virginia area, are beyond measure. Noman died suddenly in a skiing accident on February 2, 1997, and it is hard for me, and the entire Fairfax community to believe that such a vibrant and dynamic citizen is gone.

I would like to take this opportunity to inform others of what an outstanding activist and advisor Noman was. As past chairman of the Fairfax County Board of Supervisors, I had the opportunity to work with Noman and I viewed him as one of the fathers of modern Fairfax. He served on my commission to study the county's budget in 1992 and his insight helped the county to achieve a balance without a tax increase. He was a visionary who saw the big picture in the way government operates, and he was able to put together the coalitions to get things done. Noman was former chairman of Virginia's State Water Control Board and an activist who frequently spoke out in defense of measures to protect northern Virginia's water supply. While chairman, Noman initiated the State standards for treating sewage before it was released into the Potomac River.

No one had more to do with protecting the Potomac River and shaping the region's water supply. Many of Norman's other brilliant ideas have been adopted by the Virginia General Assembly. Noman also served as a member of the Occoquan Sewage Authority and most recently was involved in assessing Dominion's semiconductor's plans to build a $1.7 billion computer chip plant in northern Virginia. He also was a fighter for such causes as conserving energy and decreasing government spending.

Noman will be missed by all the residents of northern Virginia that were among the lucky to know him, and my deepest condolences goes to his wife, Janet, and his family. Noman will be a friend I will never forget, and he will be missed by the community he served. A recent editorial in the Washington Post clearly defines Mr. Cole's contributions to the region.

IN HONOR OF NORMAN M. COLE, JR.

[From the Washington Post, Feb. 9, 1997]

The Potomac River is far cleaner today than it was 30 years ago, and the credit for this transformation goes to one man whose expertise, persistence and political skills forced the issue on officialdom until he got results. Norman Cole Jr., who died in a skiing accident last weekend at the age of 63, was the undisputed champion of efforts to achieve what presidents and other elected leaders all talked about but never seemed ready to do: rid the Potomac of serious pollution. Poll anyone who ever got involved in the revival of the river and they point to Mr. Cole, the caring man who knew more than anyone else about water quality.

Mr. Cole served in a variety of state and local assignments pertinent to the longtime health of the region. He did stints as technical and policy adviser to Govs. John Dalton and Linwood Holton on energy and water pollution abatement. The government of Fairfax County leaned on Mr. Cole constantly for guidance, and civic groups sought him out for help, which he generously provided. Mr. Cole also was principal author of the 1971 Occoquan Watershed Policy, which prompted creation of a sewage authority there as well as of a world-class treatment plant.

Mr. Cole's expertise extended to global issues. He was a nuclear engineer who was a leader in the inspection and rectification of problems involving the reactor after the Three Mile Island accident in Pennsylvania. He served on the Ukrainian international jury reviewing proposals to stabilize Chernobyl Unit No. 4 after the disaster there. Mr. Cole assisted the Russian government in defueling its nuclear-powered submarines.

Mr. Cole was the man who was always testing the waters—literally as well as in his elaborate charts brightened by his famous multicolored underliners. When the Potomac started passing his tests, he would organize group swims. When the attention spans of government officials got short, he would nag and educate them until they at least listened some more. He did what he did out of a deep concern for the safety and pleasure of his own children and out of a love of the outdoor life and a special affection for the Potomac. His legacy is a unique treasure.

IN MEMORY OF A GREAT POLKA BAND LEADER

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor the memory of Joe Toriskie, a Garfield Heights resident who played his special brand of Cleveland-style polka music to countless fans of his band, "The Casuals."

Born in Cleveland, Mr. Toriskie started his first band while a student at South High School. He spread the joyous message of polka for the rest of his life. Over the past 30 years, Mr. Toriskie led his band, the Casuals, to the peaks of the polka music profession. He was nominated as Musician of the Year by the Cleveland Style Polka Hall of Fame last year. The Casuals were also nominated as Band of the Year in 1995 and 1996.

Mr. Toriskie had a distinctive style. He liked to mingle with his audience during breaks. He exuded the good, happy, honest life. His friends knew him as a genuine person and a truly nice man.

He is survived by his wife, Dolores, daughters, Christine Mackerty and Nancy Adams; and grandchildren, Michael and Katie Mackerty.

He will be deeply missed.

IRS COMMISSIONER LEGISLATION

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mr. WOLF. Mr. Speaker, today I am introducing legislation to ensure that the job of Internal Revenue Service Commissioner is filled by a person well qualified for this important, sensitive position who is insulated from political vagaries and undue influence.

Are certain nonprofit groups the targets of IRS audits? Is the IRS motivated by politics in determining which individuals or groups are audited? Shortly after the White House Travel Office employees were fired in 1993, IRS auditors began auditing UltraAir, a charter air company which had done business with the Travel Office and which was the subject of unfounded rumors about securing Travel Office work using kickbacks. Two years later, and after untold costs to the Government and the airline, UltraAir was cleared of any wrongdoing. Was this audit one of political retribution or an attempt to justify Travel Office firings?

Are IRS functions governed by objective interpretation and application of the tax code or are they directed by other interests? Almost daily, news reports are filled with allegations that the IRS is actually being run by politicians rather than career professionals, mindful of the fact that a well-placed, well-timed audit could have significant political rewards.

Far too many believe the IRS is an agency manipulated by powerful people with political motives. Far too many believe that the IRS is used as a political tool of the presidency—perhaps used to distract the opposition—perhaps an audit will work to divert the opposition's time, attention, and resources toward tax compliance matters rather than in pursuing their ideological goals. Can we call in the IRS and neutralize the opposition?

Ask your constituents what they fear most from the Federal Government and nearly all will say that one of their greatest fears is learning that they are being audited by the IRS. Not only does the IRS audit raise great concern, but for many who find themselves the focus of an audit, those concerns are compounded by the strongly held view that the agency may be politically motivated.

When the IRS Commissioner serves at the pleasure of the President, the perception is that the Commissioner may be swayed to operate the IRS in a manner that pleases the White House and may even agree to pursue audits as directed or do other things to be assured continued employment. Is this perception reality? Stories abound of misuse or abuse of IRS power for political purposes—in this administration and in previous administrations throughout history.

This is wrong. The IRS must be above partisan politics. Taxpayers—individuals and organizations alike—must be assured that one of the most important agencies in the Federal Government is run in a fair, nonpartisan manner. Americans deserve to rest easy knowing that the IRS is working in an objective, even-handed way to assess and collect taxes owed to the Federal Government. Americans deserve this.

That is why I am today introducing legislation which bolsters the integrity of the Internal Revenue Service by ensuring that the IRS is managed by an independent Commissioner, judged by his or her peers to be well-qualified to run the agency. My bill does two important things. First, the legislation establishes a new objective selection process for the IRS commissioner. Second, the legislation establishes a set 6-year term for the Commissioner, and thereby provides an important degree of independence from the President.

Under the provisions of this legislation, 150 days prior to the expiration of the Commissioner's term, or when a vacancy occurs, a special selection commission is established to consider potential candidates for commissioner. This commission will be comprised of peers qualified to assess the qualifications of potential candidates.

Specifically, the commission will consist of five individuals having professional contacts with the IRS, appointed by the following organizations: First, a representative from the American Institute of Certified Public Accountants who is a certified public accountant; second, a representative from the American Bar Association who is a member of the Tax Division; third, a scientist from the National Academy of Scientists; fourth, an engineer from the Institute for Electronic and Electrical Engineers; and fifth, an economist from the American Economics Association.

No later than 60 days after the commission is established, the commission submits to the President a slate of qualified candidates. The President then selects his nominee from that slate. Once approved by the Senate and sworn in, the new IRS commissioner then serves for a 6-year term.

This selection process is similar to the process used to select the comptroller of the General Accounting Office. In that instance, a special commission—comprised of members of the House and Senate—is established to consider potential candidates for the position and to present to the President a slate of qualified candidates for his consideration. This process has worked well for many years and has resulted in well-qualified persons serving as comptroller. I am convinced that the position of IRS Commissioner would benefit from a similar commission comprised of qualified individuals routinely doing business with the IRS. Let us follow the model provided and establish a selection commission for the IRS Commissioner.

My legislation ensures that strong, qualified candidates are selected for IRS Commissioner and further ensures that the Commissioner is afforded necessary insulation and distance from attempts to make the IRS a tool for the party in power in the White House. We must give taxpayers renewed confidence in the IRS and in its ability to fulfill its mission in an unbiased, even-handed manner. My bill will do just that and I urge its support.

PAYING TRIBUTE TO THE FORWARD

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mr. FORBES. Mr. Speaker, I rise today to ask my colleagues in the U.S. House of Representatives to join me in paying tribute to the Forward, the king of New York's ethnic newspapers that has given voice to this city's Jewish community since 1897.

For 100 years, Forverts has brought the news to New York's Jewish immigrant community in their native tongue, Yiddish. Considered by many as the exemplar of ethnic newspapers in a metropolis that supports more than 100 of these, the Forward has been hailed by no less than legendary New York newspaperman Pete Hamill as the model for all newspapers.

The story of the Forward begins with one of the landmark developments of this Nation's history, the great European immigration that began during the latter part of the 19th century. The forward, and thousands of journals like it, was published for the 2½ million Jews from Eastern Europe who poured through great immigrant ports like Ellis Island between 1881 and 1925. Its first great editor was Abraham Cahan, a literary genius and acclaimed author who created a daily that was best described as a kind of running Talmudic text for the secular cultural life of the Yiddish-speaking masses. Its mix of sensationalism and seriousness was supplemented by the fictions, essays and poetry of the great names of Yiddish literature. Though he won a Nobel Prize for literature in 1978, Isaac Bashevis Singer first published his fictional work in the Forward.

In the 1920's when the Forward wielded more influence than many of New York's English-language newspapers, this Yiddish daily boasted a circulation of more than a quarter million. In 1947, the paper's 50th anniversary party was so large it was staged in Madison Square Garden. It has even been said that the Forward's influence was so great, that it helped elect Meyer London to the U.S. House of Representatives in 1914.

May 25, 1990, was a historic day in the life of the Forward. After 93 years of publishing solely in Yiddish, the Forward produced its first English-language edition. Not an English translation, but a new entity that shares only a Manhattan office and the rich heritage of the original Forward. Led by president and editor Seth Lipsky, formerly an editor of the Wall Street Journal, the English-language edition has quickly staked its claim as the leading secular newspaper covering the Jewish-American community. Today, the Forward also publishes a Russian-language edition.

Though the Forward has always had a select readership, the issues and events found on its news pages are as diverse as the city it class home and the world that it covers. From politics to the arts, editorial cartoons to commentary, the Forward covers the entire range of the Jewish diaspora.

In its early years, the Yiddish Forward helped generations of European Jews absorb the American way of life, and today this legendary newspaper is still the paper of record covering the Jewish community. That is why I ask my colleagues in the U.S. House of Representatives to join me in saluting the Forward on its 100th anniversary.

TRIBUTE TO BRENDA AND ROY TANZMAN

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mr. PALLONE. Mr. Speaker, on Thursday, April 10, 1997, the first annual Chaver Award will be presented by the Highland Park Conservative Temple of Highland Park, NJ, at its donor dinner dance to Brenda and Roy Tanzman of South Brunswick, NJ, for extraordinary community service.

The Chaver Award was inspired by President Clinton's eulogy to Prime Minister Yitzhak Rabin—"Shalom, Chaver—Peace, Friend." The award will be given to those community leaders whose commitment involves an emotional and personal feeling for the value of continued giving of themselves for the greater good of all—in short, those who are true friends of the community.

Mr. Speaker, it is a great honor and pleasure for me to join the Highland Park Conservative temple in paying tribute to Roy and Brenda Tanzman. The Tanzmans have been community leaders in many ways, having served on numerous civic and religious boards, given assistance to a wide range of projects, and led missions to Israel. They and their entire family have been excellent role models for the entire community. The list of organizations that they have led, supported, or been involved with is a long one.

Roy Tanzman serves as first vice president of the Highland Park Temple. He is the president-elect of the Jewish Federation of Greater Middlesex County, chairman of AIPAC of Middlesex County and chairman of the Middlesex County Israel Bond Organization. Among other activities and associations, Mr. Tanzman has served with the National Conference of Christians and Jews, the New Brunswick Cultural Arts Committee, the Woodbridge Township School District, the South Brunswick Democratic Committee, and as a coach for youth soccer, basketball and baseball in South Brunswick. A partner with the law firm of Wilentz, Goldman and Spitzer, Mr. Tanzman serves on the Middlesex County Bar Association, the New Jersey Bar Association, the New York Bar Association and the Middlesex County Board of Realtors.

Brenda Tanzman is a former board member of the Highland Park Temple, and has chaired many temple projects, including being dinner dance co-chairwoman. She has served as chairperson of the children's holiday projects of the sisterhood of the temple. She is a former vice president and board member of National Council of Jewish Women. She is also a member of the Auxiliary of Central New Jersey Home of the Aged. A life member of Hadassah, she has been an active volunteer in the South Brunswick school system for the past 14 years, where she has served as cultural arts chairperson, and also worked on the Anne Frank exhibit.

The Tanzmans reside in South Brunswick with their two children, Jill and Brett.

The gala will be held at the Excelsior in Manalapan, NJ. I would also like to pay tribute to the chairperson for the event. Al and Lynn Rappaport, and Elliot and Jackie Brooks, and Ad Journal chairpersons Stuart Mitnick, Walter Rogers, Justin and Gittel Footerman and Bernie Sadof, for all their hard work in putting together what will be, I am sure, a tremendously successful event.

TRIBUTE TO SIDNEY A. THOMPSON

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mr. DIXON. Mr. Speaker, on Sunday, May 18, 1997, the Los Angeles Unified School District [LAUSD] family will gather at the Ritz-Carlton Hotel in Marina Del Rey to pay homage to their leader Superintendent Sidney A. Thompson. Sid, as he is affectionately known by his colleagues, family, and many friends, is retiring from the school district after a distinguished and exemplary career spanning more than 40 years. An educator's educator, I am privileged to count him as my friend, and am pleased to share this brief retrospective of this extraordinary individual with my colleagues.

Born in Los Angeles, CA, on May 9, 1932, Sid attended Dayton Heights Elementary School, Virgil Junior High School, and graduated at the age of 16 from Belmont High School.

After graduation, Sid was faced with genuine conflict concerning his career choices. Imbued with a deep love of the sea, yet keenly aware of the necessity and importance of a college education, he arrived at the perfect solution to combine both dreams. He successfully passed the entrance exam for the U.S. Merchant Marine Academy, located in Kings Point, NY, but was forced to sit out the year since he was not yet 17.

Sid graduated from the academy in 1952 with a bachelor of science degree and soon thereafter enlisted in the U.S. Navy, rising to the rank of lieutenant. He was stationed aboard the U.S.S. *Rochester* during the Korean war.

Following his tour of duty, he returned to Los Angeles. In 1956 he joined the faculty of Pacoima Junior High School where he taught mathematics, rising to department Chair. While at Pacoima, he entered California State University, Los Angeles, earning a master's degree in school administration in 1960. His assent to greater heights and responsibilities was just beginning.

In 1965, Sid was named Assistant Principal at Maclay Junior High School. Four years later, he became Principal of Markham Junior High School and from 1971–1976, served as Principal of Crenshaw High School. His impressive administrative and managerial skills led to his promotion in 1976 to the post of Deputy Area Administrator for area 2. This position was followed in fairly rapid succession by a series of increasingly responsible positions within the school district's administrative offices.

On October 5, 1992, Sid became the 42d Superintendent and the first African-American to lead the Nation's second largest school district. His appointment catapulted him into the limelight as he confronted the mammoth challenge of overhauling and restructuring the school district—a move directed at concentrating greater decisionmaking authority at the local school level.

An affable and forthright individual, Sid has worked diligently with community groups and with local, State, and Federal officials in pursuit of his goals. He has been a strong, forceful, and effective advocate on behalf of children and viable educational policies designed to enhance their potential for future academic success.

Mr. Speaker, as the 19th century English essayist John Ruskin once noted, "The first duty of government is to see that people have food, fuel, and clothes. The second, that they have means of moral and intellectual education." I would submit that by his exemplary career and example, Sid Thompson embodies this principle. Largely because of his dedication, his love of education, and his leadership, the children of Los Angeles are better prepared to face the challenges of the future.

I am, therefore, proud to have this opportunity to congratulate him on his outstanding contributions to the citizens of Los Angeles. He has been a true champion of quality education for all children, and his presence at the helm of the Los Angeles Unified School District will be sorely missed.

As Sid prepares to embark on what I trust will be a long, prosperous, and healthy retirement, I wish him and his lovely wife, Julia, calm seas and cloudless skies as they sail aboard their beloved sailboat "Havarim." Thank you Sid. Well done, my friend.

IN MEMORY OF A FIGHTING IRISHMAN

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor the memory of Martin Patrick Cooney, Sr., a native of the west side of Cleveland who was dedicated to the Irish community.

Because of his tireless efforts on behalf of the Irish community, in 1994 he was chosen Man of the Year by the very Irish Heritage Club he helped to found. He was once host to the Archbishop of Dublin and a member of Irish Parliament.

Mr. Cooney, a member of Pipefitters Local 120, retired after 30 years as a pipefitter for the city of Cleveland.

Mr. Cooney was a gifted Irish tenor. And throughout his 76 years of vibrant life and more than 20 trips to Ireland, he accumulated a wealth of knowledge on his heritage as well as the lineage of several Irish families in Cleveland.

He is survived by three daughters, a son, and seven grandchildren; as well as a sister and brother, and dear friends.

We will miss him terribly.

HONOR OUR POW/MIA'S

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Ms. HARMAN. Mr. Speaker, yesterday, I introduced legislation that requires the flying of the POW/MIA flag, a symbol of the Nation's commitment to service men and women held prisoner or missing, at Federal facilities, including U.S. post offices. The bipartisan bill, H.R. 1161, is in response to a recent incident where South Bay veterans were barred from flying the flag at U.S. post offices in Lomita and Rolling Hills Estates.

There is no doubt that we need to secure a full accounting of the men and women who fought for our Nation's flag and who were captured by the enemy or listed as missing. Having the POW/MIA flag flown at Federal offices and facilities will help us remember the work still to be done for these courageous individuals and their families. One of the individuals leading the effort to have the POW/MIA flag flown prominently around the Nation is David Albert, a councilman in the city of Lomita.

Mr. Speaker, I drafted the bill in response to complaints from Councilman Dave Albert and veterans' groups who were recently denied permission to fly the distinctive black and white flag at a POW/MIA memorial at the Lomita Post Office. A short time later, a POW/MIA flag flying over the post office in Palos Verdes was ordered removed by postal authorities.

The apparent intent of the Postal Services' regulation was to insulate local postmasters from requests to fly flags other than the U.S. flag. When recently asked, Postmaster General Marvin Runyon responded that he saw no need to change the regulations. I'm disappointed by his answer. Postmasters are members of local communities and should be permitted to accommodate requests to fly flags, particularly one like the POW/MIA flag, which Congress has officially recognized as the symbol of our Nation's commitment to those still missing and unaccounted for.

Currently, the POW/MIA flag is required to be flown only at national cemeteries on at most 3 days a year. H.R. 1161, supported by the National League of Families of American Prisoners and Missing in Southeast Asia, expands the number of Federal sites where the flag will be flown. It also requires that the flag be flown on several specific national holidays associated with patriotism: Armed Forces Day, Memorial Day, Flag Day, Independence Day, Veterans Day, and National POW/MIA Recognition Day.

I thank International Relations Committee Chairman BEN GILMAN, Rules Committee Chairman GERALD SOLOMON, STEVE HORN, JIM RAMSTAD, PETER KING, MIKE MCNULTY and TIM HOLDEN for joining me as original cosponsors of this bipartisan bill.

I invite my other colleagues to join as well and I am pleased to share the text of the bill with them.

H.R. 1161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the United States has fought in many wars, and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action;

(2) many of these Americans are still missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer tragic and continuing hardships;

(3) as a symbol of the Nation's concern and commitment to accounting as fully as possible for all Americans still prisoner, missing, or unaccounted for, Congress has officially recognized the National League of Families POW/MIA flag and seeks further to honor those Americans who in future wars may be captured, or listed as missing or unaccounted for; and

(4) the American people observe and honor with appropriate ceremony and activity the third Friday of September each year as National POW/MIA Recognition Day.

SEC. 2. DISPLAY.

The POW/MIA flag shall be displayed on Armed Forces Day, Memorial Day, Flag Day, Independence Day, Veterans Day, National POW/MIA Recognition Day, and on the last business day before each of the preceding holidays, on the grounds or in the public lobbies of—

(1) major military installations as designated by the Secretary of Defense;

(2) Federal national cemeteries;

(3) the national Korean War Veterans Memorial;

(4) the national Vietnam Veterans Memorial;

(5) the White House;

(6) the official office of the—

(A) Secretary of State;

(B) Secretary of Defense;

(C) Secretary of Veterans Affairs; and

(D) Director of the Selective Service System; and

(7) United States Postal Service post offices.

SEC. 3. REPEAL.

Public Law 102–190 (36 U.S.C. 189 note), relating to display of the POW/MIA flag, is repealed.

SEC. 4. REGULATIONS AND DEFINITION.

(a) REGULATIONS.—Within 180 days after the date of enactment of this Act, the agencies or departments responsible for the locations listed in section 2 shall prescribe such regulations as necessary to carry out the provisions of this Act.

(b) DEFINITION.—As used in this section, the term "POW/MIA flag" means the National League of Families POW/MIA flag recognized officially and designated by section 2 of Public Law 101–355.

INTRODUCTION OF LEGISLATION

HON. JOHN R. THUNE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mr. THUNE. Mr. Speaker, the need for water development throughout South Dakota is great. Nothing is more important to the health of ranchers and farmers, and people living in rural areas and small towns than safe drinking water. Access to a quality water supply is absolutely essential. As we approach the 21st century, we should do whatever it takes to guarantee that need is met.

While considerable progress has been made in providing clean and safe drinking water to residents of my State, much work remains to be done. Fall River County and Perkins County are examples of areas that urgently need to develop new sources of potable water. That is why I am introducing bills today to authorize the construction of the Fall River Water Users District Rural Water System and the Perkins County Rural Water System.

The communities that would be served by both systems are comprised of farmers and ranchers who have had to endure substandard, and at times remote, sources of drinking water. The drinking water available in Fall River County, SD, like the water in much of the rest of the State, is contaminated with high levels of nitrates, sulfates, and dissolved solids. Wells have been known to run dry, due to the high frequency of droughts in the region. Many people currently must haul water, sometimes as much as 60 miles round-trip. Similar problems exist in Perkins County, where much of the drinking water fails to meet minimum public health standards, thereby posing a long-term health risk to the citizens of that region.

My first bill would authorize the construction of a system to bring clean water to the residents of Fall River County. I am absolutely committed to continuing to work with the Fall River County Water Users District, the State and the Federal Government to bring a high quality water supply to Fall River County.

Under the second bill I am introducing today, the Perkins County Rural Water System will obtain Missouri River water through the southwest pipeline, which is part of the Garrison Diversion Unit in North Dakota. This is an efficient and cost-effective approach that takes advantage of existing water management infrastructure. Clean, safe drinking water will be provided to about 2,500 people who reside in the towns of Lemmon and Bison, and the surrounding areas.

In my experience as director of the South Dakota Municipal League, I realize the critical role water plays in a community's development. Without a safe and affordable water supply, cities and towns are at a severe disadvantage. Current and future residents need the assurance that this basic, but vital resource will be there. Farm and ranch operators, small businesses, and manufacturers alike depend upon this resource.

The people of Perkins County and Fall River County have gone great lengths to provide for themselves. They do, however, need some assistance in building the infrastructure necessary to supply water. These two bills will supplement those efforts and ensure growth and sustainability for these areas of South Dakota.

It is my hope that my colleagues will join with me in supporting these two pieces of legislation, which will provide safe, clean drinking water to deserving South Dakota families.

INTRODUCTION OF LEGISLATION TO END THE USE OF STEEL JAW LEGHOLD TRAPS IN THE UNITED STATES

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mrs. LOWEY. Mr. Speaker, yesterday I introduced, along with my colleague from Connecticut, CHRISTOPHER SHAYS, legislation to end the use of steel jaw leghold traps in the United States. The majority of Americans believe this measure is long overdue. I hope this House will debate and pass it as soon as possible.

Steel jaw leghold traps slam with bone-crushing force upon their victims. These devices are completely nonselective. They threaten small children, cherished pets, and endangered species. Less cruel trapping alternatives exist for the 2,100 Americans that earn their living by hunting or trapping.

A recent survey demonstrated that three out of four Americans believe the trap should be prohibited. This past November, Colorado and Massachusetts joined New Jersey, Florida, and Rhode Island in outlawing the use of these traps; several other States are considering similar laws. The American people want the traps outlawed now. The best way to accomplish that is by passing my legislation.

Let me add, Mr. Speaker, that it's not just the American people that oppose the use of these traps. Eighty-eight nations have already banned the use of these inhumane traps. The belief in this ban is so strong in Europe that the European Parliament adopted a law prohibiting the importation of furs from nations that continue to use these devices. When this law is implemented, the United States will no longer be able to export furs to Europe—unless we pass this bill.

Mr. Speaker, in the 104th Congress, more than 90 Members cosponsored H.R. 1404, which is nearly identical to the bill Congressman SHAYS and I are introducing today. As news of this legislation spreads, I expect we will gain even more congressional support.

I hope we can hold hearings on the issue quickly, and then bring this bill to the floor. I invite all of my colleagues to join me in pushing for the elimination of these cruel and unnecessary traps once and for all.

REPORT FROM INDIANA—IMPACT YOUTH CENTER

HON. DAVID M. McINTOSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mr. McINTOSH. Mr. Speaker, I rise today to give my Report From Indiana. All across Indiana, my wife Ruthie and I have met so many wonderful, kind and caring people. These are people who strive day and night to make a difference. In my book, these individuals are Hoosier Heros. Heros in every sense of the word, because of their commitment to others.

I would like to share with you a story from Edinburgh, IN, a little town in Johnson County, about true commitment driven by faith. A young couple, whose devotion to God and the community, have inspired them to open a place for young people to come develop a better relationship with Christ. Mike and Tammy Tetrick started the IMPACT youth program, which stands for Informing Many People About Christ.

Their mission began 2 years ago where they held their first meeting in their living room with 20 children. As the meetings progressed so did the number of young people who came to the Tetrick's door in hope of finding their faith. They knew that they could no longer hold everyone and had to find a place where they could fit all those who were eager about getting to know Christ. So, with the help of the community, the Tetricks were able to purchase a local church and converted it into the IMPACT Youth Center.

Today, over 150 young people join Mike and Tammy in celebration. The IMPACT center has had a tremendous response. At their meetings, local pastors like pastor Larry McCormick, of the First Assembly of God Church, come to teach these young men and women. Afterward, the center provides a place where young people can come together. Some join together for further prayer. Others enjoy the video games. Games donated by Dwayne Mottia of Mottia Amusements.

The youth center provides a positive outlet for these youngsters. The IMPACT youth center has affected these young people in an extraordinary way. Since the center has opened the enthusiasm of the community has grown. Just last week, the young men and women took the initiative to rid themselves of cigarettes, pornographic magazines, and CD's with explicit language. These young Hoosiers had decided they had grasped onto something more meaningful in their life.

Today I recognize those involved with the IMPACT youth center for their celestial effect on the community. The IMPACT center has also strived at helping local organizations. The young members raised money to purchase gifts for those in the Franklin Juvenile Center. They are currently in the process of collecting a 1,000 pounds of food for the victims of the floods in southern Indiana. This type of commitment is not only commendable but truly amazing.

These are the lessons we must all strive to teach our young people, so that they will have the values necessary to become good citizens and tomorrow's leaders.

The IMPACT youth center also organized a band consisting of Mike Tetrick, Gobel Brockman, James Burton, Allen Burton, Tim Burton, Tammy Tetrick, and Jim and Tracy Burton. This band enthusiastically plays at drug centers, missions and juvenile centers throughout the surrounding community. Their faith and effort give others hope. It gives us all hope.

So today I commend each and everyone involved with the IMPACT youth center and encourage them to continue with their mission. They truly are Hoosier Hero's.

Mr. Speaker, that concludes my report from the Second District of Indiana.

Names to be entered into the RECORD: Pastor Jamie Vance, Pastor Mike Whited, Pastor Tim Dillingham, Youth Pastor Nick Whited, Youth Pastor Rodney Burton, Pastor Byron Fritz, Youth Pastor Ron Strieval, and Youth Pastor Tim Barrett.

H.R. 1143

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mr. VENTO. Mr. Speaker, yesterday I introduced a private bill on behalf of Ms. Mary Mertz, a constituent and employee of the U.S. State Department. In 1988, Ms. Mertz received a reimbursement check for moving expenses, as she had just transferred to a new foreign post. Ms. Mertz endorsed the check for deposit only and enclosed it in a diplomatic pouch for deposit in her credit union in the United States.

In nearly any other circumstance, this would be the end of the story. In this case, the diplomatic pouch arrived at its destination in the United States, but Ms. Mertz's check was no longer in the pouch. It remains unknown to this day how the pouch was tampered with, or how the check was removed. Ms. Mertz rightfully expected the pouch to be a safe means of depositing her payment to her bank.

After some time the check was traced, for if it had been merely lost it could have been canceled and replaced. It turns out the check was falsely deposited in a foreign bank, and by the time this was discovered the bank had gone out of business with no successor named for its debt. There was no recourse against this foreign institution, no recourse against the State Department for losing the check, no recourse against the Treasury which had paid once, albeit incorrectly, on that check. After years of research and contact with her representatives in Congress, it is clear there is no recourse under current law for Ms. Mertz. It is equally clear that the last known location of the check was in U.S. Government possession, and no explanation has been offered as to how this check ended up in the hands of the criminals who illegally deposited it in a foreign institution.

Since all other avenues of recourse have been attempted and my constituent has not recovered her funds, I introduced this legislation for relief to address these issues and allow Ms. Mertz to receive the reimbursement she is due.

TRIBUTE TO ANDREW STEVENS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mr. LANTOS. Mr. Speaker, I rise today to pay tribute to Mr. Andrew Stevens, a dear friend, a fellow Californian, and a prominent businessman and civic leader. Andrew was presented the Golden Cross of the Order of Merit of the Republic of Hungary by the Hungarian Consul General in Los Angeles, Mr. Imre Helyes, at a recent ceremony in Los Angeles.

In his letter informing me that Andrew Stevens would be honored, Mr. Helyes explained why the decision was made to grant this award. In particular, the Hungarian Government wanted to recognize Andrew's courageous actions during the Holocaust:

> In spite of his youth, Mr. Stevens' courage and bravery drove him enthusiastically to become a "rebel with a cause." He took part in a number of broad-ranging, life-saving activities in Budapest under the masterful guidance of the famous and heroic Swedish Diplomat, Raoul Wallenberg. Without concern for his own safety, Mr. Stevens rescued a large number of our persecuted countrymen from almost certain death towards the last period of the Second World War. Fortunately, some of these individuals are still alive and attested to the dangerous feats undertaken by Mr. Stevens.

Mr. Speaker, I most enthusiastically welcome the presentation of this well-deserved honor to Andrew. It is an appropriate tribute for his remarkable efforts during those harrowing and darkest of days in Budapest during 1944. Andrew repeatedly risked his own life to save the lives of others. He was motivated not simply by the instinct to survive and to preserve himself, but by the drive and the passion and the commitment to help others, and that is what makes Andrew unique.

For all of these reasons, Mr. Speaker, it is most appropriate and meaningful that Andrew Stevens has been honored by President Goncz of Hungary and by the people of Hungary in presenting to him this high honor. It is also a tribute to the Government and people of the newly democratic Hungary that they have chosen to honor Andrew Stevens.

Mr. Speaker, the people of the United States are fortunate to have as an honored citizen of our Nation a man of integrity, compassion, and commitment such as Andrew Stevens. America is richer for his life and for the contributions he has made to his adopted country.

It is my sincere hope, Mr. Speaker, that the awarding of this honor to Andrew will strengthen the ties of mutual friendship between the United States and Hungary. I invite my colleagues in the Congress to join me in paying tribute to Andrew Stevens.

WORKING FAMILIES FLEXIBILITY ACT OF 1997

SPEECH OF

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1) to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector:

Mr. POMEROY. Mr. Chairman, I wish to express my opposition to the so-called Working Families Flexibility Act, H.R. 1. While skillfully titled, this legislation will not, in fact, help today's working families cope with the struggles they face. Instead, this legislation will make life harder for those who toil each week to provide for their families. Perhaps it is unintentional, but unfortunately this bill represents yet another proposal put forth by the majority which will increase the strain on working families and jeopardize our Nation's basic workplace protections. The Democratic substitute that I support, on the other hand, offers employees the work schedule flexibility they desire while ensuring that the choice for compensatory time off rather than overtime pay is truly voluntary.

H.R. 1 attempts to offer workers a choice between overtime pay and compensatory time off when they work more than 40 hours per week, a goal which many of us would agree is reasonable. However, the bill does not assure that the employer-employee agreements on this subject will be truly voluntary. Under the bill, employers who wish to offer compensatory time rather than overtime retain authority to impose this choice on their employees. Today's workers, who face a climate of reduced job security and corporate downsizing, will find it difficult to reject their employers stated preference for time off rather than overtime pay. For example, employers could screen job applicants or assign overtime to employees according to their willingness to accept comptime.

Another flaw with H.R. 1 is that it gives employers too much authority over when an employee could take the comptime he or she has earned. Employers would have the power to deny an employee's request for comptime on the grounds that it unduly disrupts their business operations, or they could deny the request for the day requested and instead offer another day which suits the employer's schedule. With employees thus having insufficient say over when their earned comptime can be used, the goal of providing flexibility for workers to attend to family matters has not been achieved.

By reducing opportunities for overtime pay, H.R. 1 is particularly damaging to the many workers in today's economy who depend on overtime to maintain a decent standard of living for themselves and their families. Fully two-thirds of the workers who earned overtime in 1994 had a total family income of less than $40,000. For these many workers at the low end of the wage scale, the extra dollars earned from overtime can mean the difference between family self-sufficiency and government dependence. At a time when we are rightly demanding that people move from welfare to work, we must not remove a basic safeguard—overtime pay for hours worked in excess of 40 per week—that has allowed low-wage workers to stand on their own.

Unlike the majority's bill, the Democratic substitute ensures that the choice for comptime will be exclusively the employee's so that those who depend on overtime pay to make ends meet will not be forced to abandon this important source of income. In addition to requiring that it be the employee who requests comptime, the Democratic substitute also requires employers to offer comptime to all employees who are similarly situated. The majority's bill, on the other hand, would allow employers to pick and choose which employees will be offered comptime. The Democratic substitute also exempts from the comptime provisions certain segments of the work force that are particularly dependent on overtime wages, including part-time, temporary, and seasonal workers, and those in the garment, construction, and agriculture trades.

Mr. Chairman, the overtime provisions of the Fair Labor Standards Act have served this Nation well. They protect workers from demands for excessive work, reward—in a financially meaningful way—those who put in extra time for their employer, and—by requiring premium pay for overtime—provide an incentive for businesses to create additional jobs. Thus, we must proceed carefully when enacting legislation which makes changes to our overtime laws, even for the laudable goal of giving employees greater flexibility with respect to their work schedules. Unfortunately, H.R. 1 does not demonstrate the requisite legislative caution. It weakens the Fair Labor Standards Act's overtime provisions while giving employers additional authority over the work schedules of their employees. This is not the way to help today's working families. Instead, we should pursue the course laid out in the Democratic substitute—offer flexibility to employees while protecting absolutely their ability to choose overtime rather than comptime.

IN HONOR OF THE PARISHIONERS OF THE CHURCH OF ST. LEO THE GREAT ON THEIR 25TH ANNIVERSARY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor the dedication and achievement of the parishioners of the Church of St. Leo the Great of Cleveland, OH, on their 25th anniversary.

Approximately 120 members have assisted the pastor and associates with a multitude of volunteer work. They have performed the important functions of acolytes, readers, and eucharistic ministers. They have contributed a portion of their earnings to the Vincent De Paul Society, which looks after the poor of the parish. They have visited the sick and aged at hospitals and nursing homes. They have sung in the choir and they have helped families in their times of mourning.

St. Leo's volunteers give of themselves, and in doing that, they make Cleveland a better place.

BOB DORNAN'S DAY

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mr. GEKAS. Mr. Speaker, if Bob Dornan had appeared in the well during the recent St. Patrick's period, he would have recited the following, which he described as coming from an Irish voice.

We appreciated Bob Dornan's wonderful flights of history and rhetoric and we do this in his stead and in his honor.

The article follows:

I arise today
Through a mighty strength, the invocation of the Trinity,
Through belief in the threeness,
Through confession of the oneness
Of the Creator of Creation.
I arise today
Through the strength of Christ's birth with his baptism,
Through the strength of his crucifixion with his burial,
Through the strength of his resurrection with his ascension,
Through the strength of his descent for the judgment of Doom.
I arise today
Through the strength of the love of Cherubim,
In obedience of angels,
In the service of archangels,
In hope of resurrection to meet with reward,
In prayers of patriarchs,
In predictions of prophets,
In preaching of apostles,
In faith of confessors,
In innocence of holy virgins,
In deeds of righteous men.
I arise today
Through the strength of heaven,
Light of sun,
Radiance of moon,
Splendor of fire.

Speed of lightning,
Swiftness of wind,
Depth of sea,
Stability of earth,
Firmness of rock.
I arise today
Through God's strength to pilot me,
God's might to uphold me,
God's wisdom to guide me,
God's eye to look before me,
God's ear to hear me,
God's word to speak for me,
God's hand to guard me,
God's way to lie before me,
God's shield to protect me,
God's host to save me,
From snares of devils,
From temptations of vices,
From everyone who shall wish me ill,
Afar and anear,
Alone and in multitude.
I summon today all these powers between me and those evils,
Against every cruel merciless power that may oppose my body and soul,
Against incantations of false prophets,
Against black laws of pagandom,
Against false laws of heretics,
Against craft of idolatry,
Against spells of witches and smiths and wizards,
Against every knowledge that corrupts man's body and soul.
Christ to shield me today,
Against poison, against burning,
Against drowning, against wounding,
So that there may come to me abundance of reward,
Christ with me, Christ before me, Christ behind me,
Christ in me, Christ beneath me, Christ above me,
Christ on my right, Christ on my left,
Christ when I lie down, Christ when I sit down, Christ when I rise,
Christ in the heart of every man who thinks of me,
Christ in the mouth of everyone who speaks of me,
Christ in every eye that sees me,
Christ in every ear that hears me.
I arise today
Through a mighty strength, the invocation of the Trinity,
Through belief in the threeness,
Through confession of the oneness,
Of the Creator of Creation.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this morning to voice my opposition to H.R. 1122. H.R. 1122 as it is written now presents us with a moral issue, a religious issue and, as Members of Congress who have sworn to uphold the U.S. Constitution, a constitutional issue.

Partial-birth abortions are performed because a physician, with the benefit of his expertise and experience, determines that, given a woman's particular circumstances, this procedure is the safest available to her; that this is the procedure most likely to preserve her health and her future fertility. Only a doctor can make this determination. We, in Congress, should not interfere with the close relationship that exists between a doctor and patient; but more importantly her spiritual leader and her God.

It is a tragic fact that sometimes a mother's health is threatened by the abnormalities of the fetus that she is carrying. When this occurs the mother is faced with a terrible decision whether to carry a fetus suffering from fatal anomalies to term and in so doing jeopardize her own health and future fertility or whether to abort the fetus and preserve her chances of bringing a later healthy life into the world.

When a woman is faced with this type of painful circumstance, it is one that she should face free from Government interference. This is too intimate, too personal, and too fragile a decision to be a choice made by the Government. We should protect the sanctity of the woman's right to privacy and of the home by letting this choice remain in her hands. Families and their physicians, not politicians, should make these difficult decisions. It is a decision that should be between a woman, her spiritual leader, and her God.

I am reminded of the story of King Solomon. In that story Solomon is faced with deciding between two women who claim that a certain male child is their own. The power and authority to determine to whom that child belongs rests only with King Solomon, but in his wisdom this man gave those mothers the power to choose the child's fate. In his wisdom, King Solomon realized that the relationship between a mother and child is one with which the State should not interfere.

I believe that anti-abortion activists are truly committed to preserving the sanctity of life. However, those Members in their wisdom, should accept a compromise that would protect the health and life of the mother. With such an exception this legislation would have been made law last year and many of these procedures could have been averted.

In addition, we can not ignore the fact that H.R. 1122 is unconstitutional. We, in Congress, should not attempt to undercut the law of the land as set forth by the U.S. Supreme Court in Roe versus Wade. In Roe the Supreme Court held that women had a privacy interest in electing to have an abortion. This right is qualified, however, and so must be balanced against the State's interest in protecting prenatal life. The Roe Court determined that post-viability the State has a compelling interest in protecting prenatal life and may ban abortion, except when necessary to preserve the woman's life or health. In line with this decision, 41 States have already passed bans on late term abortions, except where the life or health of the mother is involved.

In Planned Parenthood versus Casey, the Court held that the States may not limit a woman's right to an abortion prior to viability when it places an "undue burden" on that right. An undue burden is one that has "the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus." Let's not try to overturn the law of the land.

H.R. 1122 in its current form interferes with a woman's access to the abortion procedure that her doctor has determined to be safest for her, and so unduly burdens her right to choose. It is therefore inconsistent with the principles outlined in Roe and Casey, which have been reaffirmed by every subsequent Supreme Court decision on this issue, and so is unconstitutional.

I ask my colleagues to vote against H.R. 1122 and in so doing signal their commitment to preserving the health and future fertility of American women and to upholding the U.S. Constitution.

TRAGEDIES ARE EYE-OPENING

HON. SCOTTY BAESLER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 21, 1997

Mr. BAESLER. Mr. Speaker, tragedies are eye-opening. They reveal a great deal about the human spirit. They teach us about the value of things we often take for granted in our fast-paced workaday world. Natural disasters have a way of changing our smug assumptions about being self-made people who can live to ourselves and by ourselves.

Nevertheless, after nights of rain and ruin, floodwaters and frustration, storm damage and damaged nerves, mud and swamped homes and businesses, we are ready to learn a little more about the human spirit and the need for community.

The recent weather threw Kentucky a curve ball. Streets became canals and roadways became rivers. Cars and trucks competed with boats and rafts for the right of way. Floodwaters transformed neighborhood parks into tributaries as nature ran amok.

Yet during those dreary days, something remarkable occurred. The human spirit also underwent a transformation. Not too long ago the practice of bashing the Federal Government was the number one spectator sport. Not anymore in Kentucky.

Homeowners and residents were, to say the least, grateful for the role played by officials with the Federal Emergency Management Agency (FEMA). Not only was the agency Johnny-on-the-spot in responding to the emergency, it also brought comfort to worried residents who saw their homes and hopes swallowed by floodwaters.

From the Governor and other State officials on down the line to local leaders, our public servants became just that: the servants of the people in need. They were at the top of their forms too.

Emergency crews worked around the clock to ensure that Kentuckians would have the resources not only to combat and cope with the flooding, but also to provide the means of recovering from its toll. The spirit of cooperation came alive in the floodwaters and storm damage. County officials worked across county lines to make sure that residents had bottled water, dry clothing, and temporary ports in the storm. The business community pitched in. They hauled fresh water supplies by rail to weather-weary residents. They donated large sums of money to help victims recover.

The disaster transformed ordinary citizens into local heroes. They pulled people from rooftop refuges and snatched weary drivers from cars stalled in high water. The rescuers battled swift currents in rowboats, crossed streams transformed overnight into raging rivers and battled mudslides to help residents from their inundated homes.

Centuries ago someone asked the question, "who is my neighbor?" Although the word comes from an old English word meaning "near dweller," the proximity of people does not define neighborliness.

It is the proximity of the human heart during the crisis moment that defines it. In a crisis even a stranger can become a neighbor. The fellowman becomes the object of our fellow feeling, which can best be defined as the sympathetic awareness of others.

Good Samaritans appeared overnight. Neighbors pitched in to help each other and in so doing, fortified themselves as important cogs in the art of survival. Neighbors not only got to know each other, they got to help each other, creating bonds that will last a lifetime.

It started as an act of God. At least that is what insurance companies call it. Yet it developed into a drama of human beings acting on behalf of others. Everyone pitched in to help each other cope with one of the worst natural disasters to hit Kentucky in a generation.

In this one moment in time, the State really became a commonwealth: common men and women who summoned up the riches of the human spirit to help others.

As we said, tragedies are eyeopening.

SENATE—*Monday, April 7, 1997*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, Almighty Sovereign of our beloved Nation, and loving Lord of our lives, our hearts overflow with gratitude. Thank You for the privilege of living in this land You have blessed so bountifully. You have called this Nation to be a demonstration of the freedom and opportunity, righteousness and justice You desire for all nations. Help us to be faithful to our destiny. May our response be spelled out in dedicated service.

Dear God, empower the men and women of this Senate as they seek Your vision and wisdom for the problems we face as a nation. Proverbs reminds us that "When the righteous are in power, the people rejoice." We rejoice in the Senators who seek to be right with You so they will know what is right for our Nation. You have told us, "Righteousness exalts a Nation." Proverbs 29:2.

Lord, we live in times that challenge faith in You. As a nation, secularity often replaces spirituality and humanistic materialism substitutes for humble mindedness. Bless the Senators as they give dynamic leadership. Grant them wisdom, grant them courage, for the facing of this hour. I pray this in the name of Jesus Christ. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. LOTT. Mr. President, it is a pleasure to be back on this spring day and to hear the Chaplain's prayer and to see the distinguished Senator from South Carolina here ready for business. I know we are going to have a productive season as we go into April and May.

This afternoon there will be a period for morning business until the hour of 1 p.m. Following morning business, the Senate will resume consideration of the motion to proceed to S. 104, the Nuclear Policy Act.

As I announced prior to the recess, no rollcall votes will occur during today's session of the Senate. Under the order, a cloture vote on the motion to proceed to S. 104 will occur on Tuesday.

I had planned to ask unanimous consent that the vote on the motion to invoke cloture occur at 5:15 on Tuesday, with the time between 2:15 and 5:15 to be equally divided between the proponents and opponents. I understand that the Democratic leader may have a little bit of a conflict, where we may try to move that toward 5:30, although we have other Senators who have conflicts at that time. So we will get a definite unanimous consent request here shortly. The vote will be sometime between 5 and 5:30, I presume, and I believe we can get that worked out just as long as we have a minute more to confer with our colleagues on the other side of the aisle.

All Members should be aware that the next rollcall vote will occur, then, on tomorrow at either 5:15 or 5:30, something like that. It is my hope the Senate will invoke cloture tomorrow, which will enable us to begin consideration of this very important legislation, which is the nuclear waste legislation. I think there is no more important environmental issue pending in America than to make the decision of what we are going to do with nuclear waste that is sitting in sites across this country, from South Carolina to Vermont, from the banks of the Mississippi to the shores of the Pacific. We cannot ignore this. We cannot wait another 15 years for studies to be completed. We have spent billions of dollars. We have been working on this for years. It is time for action.

The Senate voted by a wide margin last year to make a decision on this issue, to pass this nuclear waste repository legislation. The House did not act. I have been assured this year the House will act, this matter will go to the President, and we hope that it will go to him in such a way that he recognizes that Senators and Congressmen and the American people all across this country feel that this decision must be made.

So, I am looking forward to our beginning the debate. If cloture is invoked, Senators can anticipate debate and rollcall votes during every day of the session this week so we may complete action on S. 104 as soon as possible. I remind my colleagues that this will be a busy period legislatively prior to the Memorial Day recess.

I think all Senators should be aware that bills are beginning to be reported out of committees. We have had 3 months to have the hearings to mark up legislation. We have a number of bills that have now been reported, including the TEAM Act and the Comptime and Flextime Act, which can be very helpful to families and working mothers who need time to be with their children. That legislation is ready. Sometime late this month or early next month we will, as I have said, have a vote on the partial-birth abortion ban legislation. So we are beginning now to enter a period where we will have a lot of legislation.

Obviously, we need to have a vote on the budget. I had hoped we could come to a grand agreement that would be in the best interests of all Americans with the President. So far, that has been fruitless. I have committed basically 3 months, along with the chairman of the Budget Committee, the time and the meetings, to try to see that something happened in this budget area, but we have not been successful with that. I had asked the President not to oppose the balanced budget constitutional amendment. He did. In fact, he and the leadership on the other side of the aisle twisted arms, and two Senators switched their positions, and we lost that by one vote. But every Republican and 11 Democrats had the courage of their convictions and voted for it.

Then I asked the President and his people to send us a real budget, a budget that showed courage, showed leadership, that would have some restraints in the entitlements area, that would preserve and protect Medicare, that would give some tax relief to working Americans, that would have some restraint and controls on the rate of increase on nondefense discretionary spending and would do what needs to be done in the defense area; show some leadership. They did not. They sent a political document.

Since that time, we have tried to encourage some movement with the suggestion that we have a commission to decide on the accurate, honest number of the Consumer Price Index. The President indicated preliminarily he thought maybe we could get a commission on that. To his credit, the Democratic leader indicated he thought that was a move in the right direction. But then they backed away from it. Other suggestions have been made by the Republican leadership, but there has been no reciprocation, no action.

The President needs to lead in this area. If he does not, we are moving on. We are moving on. We have to do this budget. We will do a budget in the Senate in the next few days. I think we have to get action in the Budget Committee here in the next couple of weeks. We have to get some decision made so the Appropriations Committee can begin to move forward. We hope it will be a bipartisan agreement. We would like to have the President's help, but the time is over for waiting. We must move forward. I will be talking later today to the chairman of the Budget Committee and interested Republicans and Democrats to see how we can proceed. We still would like to have the President's involvement and help, but he does not seem, so far, to be ready to do that.

Our staffs were meeting during the past 2 weeks. They were supposed to be making progress. From what I understand, they had a grand time meeting and saying how wonderful it was they were meeting—but that is about all. It was my understanding, from what the President said, that he would meet with the leadership of Congress when we returned from the Easter recess period to discuss, hopefully, the final decisions on the budget—this week. But I understand now, that meeting is not going to occur this week. It is next week. Yet, as we wait for leadership from the White House, we see some people saying, why doesn't the Congress act? We have been trying to confirm the President's Cabinet. We have been trying to work with the administration and to work off of his budget agreement so we could move to a final agreement. It has taken time. But that time is gone. We have to go ahead and do our job. And it will be our intent to do so.

So, I thank all Senators in advance for their cooperation as we begin what I hope will be a productive couple of months. We have a lot of good legislation we can take up, we will take up, and I think when we go out for the Memorial Day period we will have several bills that we can point to with pride that we have voted on.

UNANIMOUS-CONSENT AGREEMENT—S. 104

Mr. LOTT. Mr. President, I ask unanimous consent that at 1 p.m. today the Senate resume consideration of the motion to proceed to S. 104.

The PRESIDING OFFICER (Mr. Enzi). Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for morning business.

Mr. LOTT. Mr. President, seeing no Senator seeking recognition at this point, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that, for purposes of introducing a bill and making remarks in relation thereto, that I be granted permission to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. I thank the Chair.

(The remarks of Mr. Ashcroft pertaining to the introduction of S. 514 are located in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ASHCROFT. Mr. President, I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

FDA REFORM AND PDUFA REAUTHORIZATION

Mr. JEFFORDS. Mr. President, we are here today to talk about the need for us to reauthorize the Prescription Drug User Fee Act and pass legislation to modernize the Food and Drug Administration.

I will just remind everyone as to what happened last year. The Senate Labor Committee passed an FDA reform bill out of committee with a strong, bipartisan vote of 12–4.

So we are here today to alert the body that we intend to move forward expeditiously this year in order to ensure that we improve the FDA review process for new products as well as reauthorize the Prescription Drug User Fee Act. And we are going to do so in a bipartisan manner.

Let me state that I intend that these issues will move together. It is my goal, as chairman of the authorizing committee, to have a bill ready for the full Senate's consideration before midyear. During the last Congress, my predecessor, Senator Kassebaum, led our committee in reporting out legislation which emphasizes the FDA has a role in bringing needed products to the public in a timely fashion as well as a role of protecting the public from harm.

This year, I look forward to continuing that work. The objective of modernizing the FDA is to make more information and better products available to the public in an expeditious way, to foster and improve a new product review process, and require that the agency be as efficient and effective as possible in carrying out its statutorily defined duties.

As chairman of the Labor and Human Resources Committee, my approach will be to identify problem areas in the FDA regulatory system for drugs, devices, and other products which can be improved with legislation and gives the FDA the tools it needs to address other problems administratively.

Specifically, we will target areas that have the effect of needlessly delaying patient access to safe new therapies and products. In addition, we must not squander scarce FDA resources on bureaucratic procedures which confer no demonstrated public health benefit. We must also reauthorize the successful Prescription Drug User Fee Act, also known as PDUFA.

In 1992, the pharmaceutical and biotechnological industries were so concerned about the length of time taken by FDA to approve new drugs that they were willing to adopt FDA's proposal that they pay user fees in exchange for faster reviews. FDA has been able to reduce mean approval times for new drugs to which user fees were paid from almost 30 months in 1992 to 15.5 months in 1996. We need to continue this effort.

Notwithstanding the success in reducing the review time for new drug applications, the period of time it takes pharmaceutical and biotechnological groups to work with FDA on the drug development phase before an application is even submitted has lengthened. It is my hope that we can introduce new performance measures for the FDA in addressing the drug development phase and further enhancing the drug review and approval phases as part of the reauthorization of PDUFA.

It is essential to note that these user fees are contingent on the Appropriations Committee's making available to the FDA the pre-1992 level of appropriated funds to the Agency updated for inflation. This provides the assurance that user fees do not become a substitute for funds appropriated from general revenues.

The administration's budget puts this important principle at risk with an 8-percent cut in the funding for the FDA. I know of Chairman Stevens' interest in the FDA and its approval process. I look forward to working with him, the other Appropriations Committee, and the majority leader to make sure that the FDA has the full level of funding it needs to perform its vital functions across each of the centers.

Mr. President, the Labor and Human Resources Committee will move expeditiously to have the reauthorization of PDUFA and legislation to modernize the FDA ready for the consideration of the Senate.

Mr. President, I know the Senator from Maryland is here and also wants to join myself and the majority leader in making sure that the Senate does what it must do in order to make the improvements necessary to bring the FDA up to what it can be and should be.

Mr. President, I yield the floor.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland.

Ms. MIKULSKI. Mr. President, I want to state very clearly that I agree with the distinguished majority leader, the Republican leader, and the respected chairman of the Labor and

Education Committee, Mr. JEFFORDS, in reauthorizing the Prescription Drug User Fee Act this year. And I also support strong bipartisan agreement on FDA reform. The time has come. The time is now. It is a window of opportunity to just do it.

I am so pleased that we are proceeding on this, and not only in a bipartisan fashion, but a nonpartisan fashion. I had the pleasure of working with the former chairman, Senator Nancy Kassebaum of Kansas, who retired, on fashioning a bipartisan framework on FDA reform.

I am so pleased that her successor, Senator JEFFORDS, has picked up the same framework as a working document for us to be able to proceed because this is what the American people want us to do—to work together to be able to have a Federal agency that oversees the approval of our pharmaceuticals, biotechnology, and biomedical devices to ensure their safety and efficacy, but also to make sure they move out into clinical practice in a timely way. This is what we need to do because it will save lives and generate jobs in the United States of America.

So I look forward to working with the distinguished chairman in fashioning the bill in committee and with the Republican leader in moving it to the Senate floor, because it is time to bring a smokestack regulatory framework into the computer age. FDA needs to adopt a new culture and move into the 21st century. That is why FDA reform is so important. We need a new regulatory framework that will make sure that we bring exciting new biomedical technology devices to not only millions of Americans in a timely fashion but this is a global field that will enable us to export around the world.

Our country has been often known for exporting smart weapons of war but this will enable us to export smart new technology in the war against disease. This will be absolutely crucial.

Reform is of great interest in my State of Maryland. Maryland is home to many biotechnology companies and medical device manufacturers and they are creating new scientific products which will save lives.

In the 104th Congress, under the able leadership of now retired Senator Kassebaum, we reached that bipartisan consensus on effective and responsible FDA reform. Then I was pleased to join several of my Democratic colleagues in supporting the Kassebaum bill. And I am committed to achieving meaningful bipartisan reform this year.

Coupled with FDA reform though, this is the year that we must reauthorize something called PDUFA. As has been outlined very ably by the chairman of the committee, this Prescription Drug User Fee Act has shown that it will significantly reduce drug approval time because it generated fees that have been used to hire more staff. It enabled the FDA to move more expeditiously in moving new drugs to patients more quickly. For example, new AIDS drugs are being approved now in a matter of months rather than a matter of years.

FDA itself is located in my own State. They work under very difficult situations. They work out of modular buildings, many of which are spread over 27 different sites. They often are short-staffed. And they need to make sure we pass PDUFA so that they have the adequate resources they need to do the job while we help them fashion an adequate legislative and regulatory framework.

We can build on this great track record. With the extension of PDUFA for another 5 years, we can have the opportunity to make further improvements. What can be done with some new drugs should be done for the benefit of many other patients.

Mr. President, we are talking about the need to provide all the help we can to a Government agency that has an enormous impact on the day-to-day lives of Americans. The FDA is involved with everything from the drugs we take to the food we eat. Let us move on PDUFA and FDA reform in a sensible, responsible bipartisan manner. And as this is done, we must focus on the values of safety and efficacy while we will also streamline our process.

I know also in the Chamber is the distinguished Senator from Oregon [Mr. WYDEN], who when we worked on the original PDUFA was in the House. He brings a great deal of knowledge to that. And we know he will be part of our bipartisan effort. So we thank you, I say to the Senator, and look forward to working with you.

In conclusion, I would like to also thank the chairman of the committee, Mr. JEFFORDS. He established a committee now called Public Health and Safety. It is the first time I believe in the committee's history that we have had a committee devoted strictly to focusing on the public health needs of the American people. The Centers for Disease Control and NIOSH and others will be so absolutely crucial. And being the gentleman that he is, he yielded that plum to another member of the committee, and enabled Dr. BILL FRIST to chair that committee, who brings to the committee the experience as a physician of a hands-on clinical practice as well as the know-how and what it really takes to be able to save lives.

This is what we need to be doing—the right committee structure, the right attitude within the committee so that we can all work together so that at the end of the term, we might not have solved every budget problem, we might not have balanced every line item, but at the end of this term people will be safer, their food, their pharmaceuticals, and so on, will be able to move quicker, faster, cheaper, maintaining safety and efficacy because of what this committee has done. I look forward to cooperating with that.

Mr. President, I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. JEFFORDS. We are awaiting the arrival of the majority leader. I know the Senator from Oregon has somewhat of a lengthy statement. I wonder if he would be willing to be interrupted by the majority leader should he arrive and that we also would place his statement preceding mine such that it would appear in the order originally intended.

Mr. WYDEN. I thank the gentleman for his courtesy. Perhaps we might wait a few more minutes for the leader.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

Mr. LOTT. Mr. President, this Congress has an opportunity to build on the progress made in the 104th Congress to assist the Food and Drug Administration in meeting the needs of millions of Americans who are awaiting the advancement of new medicines.

Over the years, I have known individuals who have needed medicines and medical procedures that they could not get because the FDA had not done whatever was necessary, in their opinion, to approve these procedures. I have known of examples of people going to Mexico for medicine or to England for a medical procedure because they could not get that procedure in America. Yet 20 years later, one of the procedures that Americans had to go to England to get now is so common it is almost done as an outpatient procedure. That is ridiculous, and it is time we make some progress in advancing these new medicines in a more expeditious manner.

We also have an urgent need to act to extend the highly successful law that will expire later this year unless it is renewed in a timely fashion.

Let me review last year's legislation that would enable the FDA to meet the demands of the rapidly approaching 21st century.

This past year, we had wide bipartisan agreement on essential elements of FDA reform in both Houses of Congress. In the Senate, the Labor and Human Resources Committee approved S. 1477, the Food and Drug Administration Performance and Accountability

Act, by a 12-to-4 bipartisan margin. In the House, H.R. 3199, the Drug and Biological Products Reform Act was cosponsored by more than 200 Members of both parties.

It was unfortunate, Mr. President, that despite the best efforts of then Labor and Human Resources Chair Nancy Kassebaum, as well as my colleagues Senator DAN COATS and Senator CHRIS DODD, we ran out of time last year before S. 1477 could be brought to the Senate floor. I wanted to do it. They wanted to do it. A bipartisan group wanted to do it. In the face of a threatened filibuster by some Senators, we were not able to bring it to the floor with that threat hanging over the legislation.

However, as the urgency of this legislation becomes more and more apparent, I am confident that the Labor and Human Resources Committee under the able leadership of the distinguished Senator from Vermont [Mr. JEFFORDS], will undertake this worthy effort without delay.

Congress must also consider another important law this year, the 1992 Prescription Drug User Fee Act which is scheduled to expire on September 30, 1997.

The user fee law was the result of a historic agreement between Congress, the Food and Drug Administration, and the pharmaceutical and biotechnology industries. Industry agreed to pay $347 million in user fees during the 1993–97 period, which enabled the FDA to speed up the approval process by employing an additional 600 reviewers. Unless this vital law is renewed, the advances made by the FDA will be interrupted and the progress will be damaged.

As majority leader, I plan to do everything I can to ensure that PDUFA, the legislation I just referred to, is reauthorized for another 5 years, thus ensuring that our sickest patients will have fast access to life-saving products.

Mr. President, Congress must meet these two challenges. We must act now for the patients all across America. I certainly commend Senator JEFFORDS for his efforts in this area, his leadership, and my good friend, the Senator from Maryland, Senator MIKULSKI. She has been a leader in getting this colloquy and getting these statements printed in the RECORD today. I commend her and urge my colleagues on the appropriate committee and on both sides of the aisle to support these two very important pieces of legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for 30 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE

Mr. WYDEN. Mr. President, the process of making public policy, like much of life, is about opportunity, risk, and reward. That proposition is clearly demonstrated when the Senate looks at the critical issue of Medicare reform.

I take the floor today, as I plan to do every day this week, to talk about a tremendous opportunity that the Senate has before it, the opportunity to finally remake Medicare for the 21st century in a bipartisan way. The Senate ought to seize this opportunity to act now and act boldly so that Medicare can be preserved for future generations of Americans.

As Senators return from visiting their respective States today, we begin a legislative period that I believe can be a critical few months in Medicare's history. There is an opportunity to engage this issue as serious debate begins on the fiscal year 1998 budget. I believe that there is now a unique window of opportunity for reforming Medicare that would come along in only rare instances.

Three factors combine to make this a special opportunity to try to set Medicare on track for the next century. The first is that the Federal deficit is less than was anticipated for this year, just over $108 billion. Second, we have a fairly benign economy. Surely, there are too many folks still hurting, there are too many folks falling between the cracks, but overall the economy has been strong. Third, it is very clear that our country will face a demographic earthquake in the next century with so many more older people, and we have a window of opportunity now to act before those demographic trends are set in place.

My view is that Medicare does not need to be reformed because it has failed but because it has been such a great success that it cannot be allowed to deteriorate. I argue that only enemies of this program would want it to stay exactly as it is, because the status quo, the Medicare status quo that encourages waste and discourages user-friendly innovation, in my view, consigns Medicare to very difficult times.

The General Accounting Office, for example, has estimated that the gap between expected revenues for the program and the enormous service demands is going to produce a gap of almost a half trillion dollars at the end of the next decade. This program, which is a lifeline to 38 million senior citizens, faces very serious, if not calamitous, financial circumstances by the end of the decade. There are a variety of reasons for this, as I am going to outline this week.

In much of the United States, Medicare is engaging in wasteful practices that the private sector consigned to the attic years and years ago. In much of the country, Medicare is inefficient, volume-driven, clunky health care, and it is one of the first things that needs to be changed.

I believe that there are substantial opportunities for this Senate to move on Medicare reform, and I think there are some special areas that we should be careful to avoid. I say, Mr. President, and colleagues, that I think it would be a great mistake to appoint yet another bipartisan commission to study Medicare. A number of our colleagues have proposed that. I have great respect for them, but if there is another bipartisan committee that studies this issue, I believe we will see bipartisan inertia for Medicare for years and years to come. The first question a bipartisan commission would face is should they report before the 1998 election. Then there would be a question about whether they would report before the year 2000 election.

I do not think that a commission can create a forum for avoiding the tough choices. That is why I come to the floor today, as I will this week, to outline first why it is so important to act and why I believe that finally, after a substantial period of sharp and acrimonious debate on Medicare, it ought to be possible to act in a bipartisan way.

I have had a number of private conversations with my colleagues on this issue over the last few months. I believe that despite some of the political backbiting that has gone on on this issue, every Senator understands that this program has to be reformed. In some measure, the U.S. Senate and the Congress have become like a bunch of reluctant seventh graders at a junior high school sock hop, standing on the gym sidelines, all waiting for the first brave soul to hit the dance floor.

In an effort to try to move the process forward, to jump-start the debate, I recently introduced S. 386, the Medicare Modernization and Patient Protection Act.

I offered this legislation not as a be-all and end-all solution to all of the financial challenges we face with Medicare, but rather as a direction to build on some of the progress that has been made in areas of the country like my own in Oregon. Much of Oregon is already operating 21st century Medicare services, operating Medicare in a way that is good for seniors and good for taxpayers. So when people tell me it's not possible to get this program on track, I invite them to come to my own State, because in my own State we have been able to do it.

Mr. President, I would like to outline briefly a few of the specific items in my Medicare legislation that I will go into further detail on throughout this week.

The first initiative in any responsible Medicare reform effort has got to be to bring more choices and more competition to the program. We have to see Medicare reform in comparison to what the private sector has done. Members of the U.S. Senate should not have too much difficulty grasping this concept because a model, the Federal employee health benefits plan, exists. Members are part of it, and surely it can be a central plank for any bipartisan Medicare reform to look to the model of the Federal employees health benefits plan to produce more choices and more options.

The second plank of any Medicare reform effort should be to eliminate the rewards that the program has for waste and eliminate the way it penalizes the frugal. As incredible as it sounds, that's exactly what happens in the Medicare Program as it relates to health plans. If a plan holds down their costs, they end up getting penalized, and very often it is tough for providers, particularly in rural areas, to make a go of it. If a plan or part of the country sits on its hands and does not make an effort to hold down costs, they get bigger reimbursement checks. That's not right. The private sector consigned that kind of approach to the attic years ago in eliminating the rewards for waste and penalties. Efficiency should be a central component of any Medicare reform.

Third, Mr. President, it seems critical, in my view, to protect the rights of patients. I believe that when there is a modernized Medicare Program, there will be more managed care available under the program across this country. Many of our citizens, seniors and others, have had legitimate questions about managed care, and I believe it is important to put in place strong patient protections to safeguard the rights of older people. This would include provisions such as a ban on these gag clauses that keep older people from knowing their rights in managed care plans. It would include stronger appeals procedures, grievance procedures, and also the right of patients in managed care plans to get data through report cards about how their plan stacks up on key issues. I believe that part of the effort to reform Medicare ought to be to protect patients' rights, and this should be a central component of Medicare reform as the effort to promote more competition goes forward.

Fourth, Mr. President, I would change the reimbursement system that is used in Medicare, known as the average adjusted per capita cost. This is a sleep-inducing, eye-glazing concept by any calculus, but it is the guts of Medicare reform. To reform this system, we ought to gradually increase the reimbursement levels for low-cost areas, many of them in rural areas, and we ought to inject more competition in high-cost areas. There have been a number of recent analyses indicating that some managed care plans have been overpaid, many of them in the high-cost areas. Introducing more competition in those high-cost areas through changes in this Medicare reimbursement formula is a sensible way to enact bipartisan reform.

Then, Mr. President, it is critical that the Senate tighten up efforts to fight fraud in Medicare. The General Accounting Office recently indicated that about 10 percent of all of the costs of Medicare are lost due to fraud. In a $200 billion program, $20 billion lost to fraud and abuse has plagued the program. Stronger penalties ought to be imposed for defrauding Medicare. If someone engages in a flagrant, reprehensible fraud, they ought to be kicked out of the Medicare Program for all time, not just some sort of slap on the wrist in a revolving door situation. For flagrant frauds, there ought to be lifetime debarment.

Next, Mr. President, in my legislation we would expand the role of alternative health care providers. Nurses, physician assistants, pharmacists, and chiropractors, among others, have shown an ability across this country to deliver good quality, affordable health care to older people. They ought to be allowed to play an expanded role in the Medicare of the 21st century, both because these alternative professions will help us to hold costs down through more competition and also because they offer good quality care.

Next, Mr. President, I would unleash the power of new telecommunications technologies in the health care field. A number of Senators on both sides of the aisle have sought to expand the role of telemedicine, which is already delivering good quality, low-cost care, particularly in the preventive area. It is time for Medicare managers to employ these tools. But as we see in so many parts of Medicare, the Federal Government program, which is relied on by millions of seniors and their families, lags behind the private sector. The Federal Government hasn't even taken baby steps in terms of trying to set out a policy to utilize telemedicine. So my legislation tries to ensure that Internet access, which at least will help our rural communities, is available. And, Mr. President, Senators on both sides of the aisle have done good work that could be incorporated into a Medicare reform bill.

Finally, Mr. President, I propose in my legislation to clear away the regulatory underbrush that needlessly and expensively fragments our system of care for the older folks who are eligible for both Medicare and Medicaid. These are folks on a low, fixed income. They are the so-called dual eligibles. Right now, they are a big factor in major cost increases in both Medicare and Medicaid. It is time for some more creative approaches for dealing with those older people who are eligible for both Medicare and Medicaid. My legislation proposes that, and I intend to outline that further in the week.

Mr. President, the legislation that I have introduced can save about $100 billion in hard savings over the next 5 years to provide short-term financial stability for the program. I submit that our challenge now is to lay the foundation for the next century. My legislation doesn't, in any way, deal with all of the tough questions that the Senate is going to face on Medicare. Medicare is not just an important part of the Federal budget; Medicare is likely to be the Federal budget for the next 15 to 20 years. When we look at the technological explosion and the extraordinary technologies that are available, when we look at the demographic tsunami that is coming in the next century with so many older people, the challenge now is to lay a bipartisan foundation to build on in the years ahead. The program that I have described and the legislation I have introduced takes from the efforts of both political parties over the last few years on Medicare.

For example, my legislation protects defined, secure, guaranteed benefits for older people under Medicare. A number of Senators, led by Senator KENNEDY, have made this their priority, and I am of the view that they are absolutely right. I think it would be a great mistake to say that the future of Medicare ought to be to just involve handing a check to an older person and say, "Well, ma'am, buy health care until your money runs out. If the cost of your care is greater than your check, well, so be it." I think it is important to have guaranteed, secure, defined benefits. Many Senators have stood for this principle. It is at the heart of my legislation.

Let me also say that I believe that many Senators on the other side of the aisle have been absolutely right in saying that it is time to bring more competition and more choice to the Medicare Program. Many Senators on the other side of the aisle have made the case that competitive models—be it the Federal employee health plan or be it the private sector—ought to be the kind of approach that we look to for 21st century Medicare. I believe they are right. I believe, in addition, that it is now possible to forge a bipartisan coalition on Medicare between the two parties, where those who have advocated for guaranteeing secure, defined benefits can work with those who have called for more competition and more choice and the kinds of changes that have come to the private sector.

What it comes down to, Mr. President, is, will the Senate have the political will to do it? Will the Senate have the vision to see beyond the next electoral ridge? I believe that there is an extraordinary opportunity now to set out a foundation for the next century. We know that in the next century we are going to have to be dealing with the question of whether, hypothetically, Lee Iaccoca ought to be paying more for his Medicare than should a woman who is 75 years old and on a low income who suffers from Alzheimer's. I didn't address it in my legislation, but I happen to think that ought to be done. Senators will have different views on that issue.

Mr. President, I am not convinced that's the issue that has to be tackled right now. The issue that has to be tackled by the Senate right now is to come up with $100 billion of hard savings to deal with the budget resolution and the short-term financial challenge of Medicare and then to lay the foundation for the next century. The foundation for the next century can build on some very good work being done by Senators of both political parties. I have been meeting with those Senators privately.

I will have more to say during this week, Mr. President, for I intend to go into further detail on my comprehensive Medicare reform legislation every day this week. I will close with one last point. This issue is so important to our country and so important to the Senate that I believe in the next century—2010, 2020, 2030—people are going to ask everyone in public life today: What did you do to try to get Medicare on track?

I believe the legislation I have introduced opens up the opportunity for bipartisan discussions toward Medicare reform. I have had a number of those already with Chairman DOMENICI, Chairman GRAMM on the other side of the aisle, and have been very gracious in that regard. I have had a chance to talk to the minority leader, Senator DASCHLE, and Senator KENNEDY, who have done so much good work.

Mr. President, I close by saying that my concern is to make sure that the Senate, after years of bitter and acrimonious discussions on Medicare, now tries to approach it in a different way, in a bipartisan way, in a way that will allow us to tap the revolution of private sector health care, in a way that is good for patients, and in a way that is good for seniors and for taxpayers.

Mr. President, I yield the floor.

HONORING THE MAPLES ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of till death us do part seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Richard and Beatrice Maple of Sedalia, MO, who on April 19 will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Maples' commitment to the principles and values of their marriage deserves to be saluted and recognized.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NUCLEAR WASTE POLICY ACT AMENDMENTS—MOTION TO PROCEED

The PRESIDING OFFICER. The question is on the motion to proceed.

The Senate resumed consideration of the motion to proceed.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture on Senate bill 104, the Nuclear Waste Act, occur at 5:15 on Tuesday, with the time between 2:15 and 5:15 equally divided between the proponents and opponents.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I thank the Chair. I wish the occupant of the chair a good afternoon.

The Senate proceeded to consider the motion to proceed.

Mr. MURKOWSKI. Mr. President, I am going to be speaking this afternoon at some length on Senate bill 104. This is a bill that provides a comprehensive plan for the Federal Government to meet its obligations to provide a safe place to store spent nuclear fuel and nuclear waste.

Mr. President, I think it is important to reflect on some of the background associated with nuclear waste and the status of our continued dependence on nuclear energy.

First of all, let me refer to an article by Bertram Wolfe. Mr. Wolfe is a consultant at Monte Sereno, CA, and a former president of the American Nuclear Society. He suggests that by midcentury, the Third World population on this Earth will double from 4 billion to 8 billion people while the population of the industrial world will grow by about 20 percent, to 1.2 billion. He further suggests that unless we expect to see the majority of the world's people living indefinitely in dire poverty, we should be prepared for per capita energy use to rise rapidly with economic progress. Even if the Third World per capita energy use rises to only one-third of the United States level, that increase, in combination with the expected population growth, will result in a threefold increase in world energy use by the year 2050.

He further suggests that if fossil fuels are used to supply these increased energy needs, we can expect serious deterioration of air quality and possibly environmental disaster from global climate change due to the greenhouse effect. In addition, increased demand for fossil fuels, combined with the dwindling supply, undoubtedly will lead to higher prices, slower economic growth, and the likelihood of energy-related global conflicts.

I wonder if anyone in this Chamber would doubt that Kuwait's oil resources were a major factor in the United States willingness to take military action against Iraq. Unfortunately, alternatives to this scenario are few. Perhaps the future world energy use can be stabilized at a level much less than a third of present U.S. per capita use. Of course, that demand could be much higher. Perhaps solar or wind power will become practical on a larger scale. Perhaps fusion, or even cold fusion, will be developed. But as we enter the world's energy needs in the 21st century, we have to focus on one area that currently provides us with nearly 21 percent of our electricity in the United States, and that is nuclear power. Even conventional nuclear powerplants will face fuel supply problems in the next century if their use expands significantly, which is why we ought to consider the use of the advanced liquid metal reactor which can produce more than 100 times as much energy per pound of uranium as conventional reactors.

The United States, as we know, has been a leader in the development of nuclear power technology and in the adoption of stringent safety standards. It is important to note that not a single member of the public has been harmed by the operation of any of the world's nuclear plants that meet U.S. standards. The Chernobyl reactor, which lacked a containment structure, did not meet U.S. standards.

But the future of nuclear energy in the United States is now very much in question. Since 1973, all nuclear energy plant orders have subsequently been canceled. In 1993, U.S. utilities shut down three nuclear energy plants rather than invest in needed repairs. Of the 110 presently operating U.S. nuclear energy plants, 45 will reach the end of their planned 40-year lifetime in the next two decades.

Mr. President, this is the wrong time for the Nation, and for the world, for that matter, to ignore nuclear power. Demand for energy will grow. Our options are limited. Ironically, environmentalists who have opposed nuclear power since the 1970's should have the strongest rationale for promoting nuclear energy. Like all large endeavors, nuclear power has its problems and it has its risks. But the problems of nuclear power do not look so bad when compared with air pollution, global warming, and the supply limitations associated with fossil fuels. Besides, the major drawbacks of nuclear power from cost to waste disposal are due more to institutional impediments than to technological difficulties. Considering the growth in energy demand and the risks associated with other energy sources, the benefit-risk ratio for nuclear power is very attractive.

We recall that peaceful nuclear power development started slowly in the 1950's. But by the mid to late 1960's, commercial nuclear powerplant orders began to take off. And by the 1970's, 30 to 40 nuclear plants were being ordered each year. This outlook resulted from several factors. The first was that electric use was growing at a rate of about 7 percent per year, leading to a need for doubling of electric capacity every 10 years.

Responding to some very negative public reactions to his company and the company's announcement that it would be starting up a new coal-fired plant in 1961, McChesney Martin, chairman of Florida Power and Light, promised never to build another coal plant. Shortly thereafter, Florida Power and Light submitted a plan to build a nuclear station in the mid-1960's.

Mr. President, the Sierra Club became the major supporter of the Diablo Canyon nuclear plant in California. This period of rapid nuclear expansion and environmental support of nuclear power ended in 1973 after the Arab oil embargo and the boycott. As a consequence of that, the rate of growth fell dramatically. As the years went by and the costs of crude oil continued to increase, we found a change in attitude. The surplus of oil distorted the Nation's perspective on energy in general and nuclear energy in particular.

A number of environmental organizations, such as Greenpeace and the Sierra Club, insisted that the Nation should hold out for ideal or risk-free sources, such as energy conservation, solar power, and wind energy. No one suffered from a shortage of electricity as the construction time for nuclear powerplants expanded a full 6 years—to 10 or 15 years, or even longer. These extended construction times have been ascribed to an even more complicated and inefficient regulatory system, and court delays resulting from suits brought by those opposed to nuclear power. In Japan and France, for example, where demand for electric energy continued to grow rapidly, new nuclear energy plants of U.S. design are today still being licensed and built in 4 to 6 years.

First, I personally would question whether Congress would have tolerated the delays if the new electricity were truly needed. One of the results of the delays, however, was that the cost of building a nuclear plant in the United States increased dramatically, making nuclear power uncompetitive and unattractive to many investors. But let's look at the benefits.

Although the rate of growth of electricity use declined after 1973, demand increased, as the economy expanded, to U.S. electric use, increasing 70 percent between 1973 and 1994. Coal generation doubled between 1973 and 1994, and today coal provides over 50 percent of U.S. electricity. The 74 nuclear energy plants that came on line in this period increased the nuclear share of electric generation from 4 percent in 1973 to more than 20 percent today, second only to coal.

The other sources, for the benefit of the Members, are natural gas at 4 percent, hydropower at 9 percent, wood, wind, and solar 3 percent, and oil 3 percent.

The added nuclear capacity allowed for the shutdown of oil-fired plants and permitted the utilities to reduce oil imports by some 100 million barrels per year. The substitution of nuclear or fossil fuel plants has reduced the present CO_2 atmospheric emissions by 140 million metric tons of carbon per year—roughly 10 percent of the total U.S. CO_2 production. Nevertheless, the United States still needs to reduce carbon production by an additional 10 percent to reach its goal of returning to the 1990 production level. In addition, replacement of fossil fuel plants with nuclear power has reduced nitric oxide emissions to the air by over 2 million tons annually, meeting the goal set by the Clean Air Act for the year 2000, and has reduced sulfur dioxide emissions by almost 5 million tons per year, half the goal for the year 2000.

The dilemma that we are in is a real one, because we are not able to store our waste that has accumulated as a consequence of our nuclear powerplants. As a consequence of that, we have not been able to move from a temporary storage to a safe, permanent storage. We have the temporary storage in the areas, in the pools, next to our reactors. But, as a consequence of that, we seem to face the situation where environmental Neros fiddle while Rome burns. The current generation of U.S. nuclear powerplants has performed remarkably well and an even better generation of new designs is ready. General Electric, in a partnership with Hitachi and Toshiba, has developed the advanced boiling water reactor. Construction of this reactor began in Japan in 1991, and the plant is already operating at full power. The ability to build and begin operation of a new design in less than 5 years is a testament to the quality of the firms that stand behind this.

Experience with the U.S. licensing and court review procedures suggest that today it can take 2 to 4 times as long to construct a nuclear plant in the United States as it does abroad, with the exorbitant cost increases.

Mr. President, this brings me to the point in the debate where I think it is appropriate to reflect on history. I am referring to an article that appeared in Scientific American in July 1976.

Mr. President, let me just read an excerpt from that particular article, because I think it reflects on something that has been overlooked. That is the natural element of nuclear fission as we know it today.

Mr. REID. Mr. President, will my friend yield for a unanimous-consent request that will just take a second? I just want to get staff in here, is all.

Mr. MURKOWSKI. Sure.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Bob Perret, a professional fellow, be granted the privilege of the floor during the pendency of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I think it will be of interest for my colleagues to note that a high level radioactive waste experiment occurred some 1.8 million years ago in west Africa, in what is now the nation of Gabon, at a place called Oklo. The French were prospecting in their former colony for uranium for their developing nuclear program. Some 2 billion years ago, all the uranium on Earth contained some 3 to 4 percent uranium 235, and the rest is the normal level of uranium 238. But, because of natural radiation decay, all U–238 today contains only about 0.7 percent of U–235. U–235 is fissionable, and at about 3 percent enrichment can sustain a chain reaction. That means it can undergo fission. That is just what happened to the uranium in Oklo, approximately 1.8 million years ago. Some water seeped into the vein and began a slow chain reaction which continued for some several hundred thousand years, generating some 10 tons of radioactive waste, including almost a ton of plutonium. The reactor became dormant and scientists have now measured all the minerals at that site and they have shown that all the plutonium created at the site has decayed and that all the original radiation decay products of fission were recovered, close to the original natural fission reactor. This, altogether, released only a few feet from the surface.

It is interesting to note the plutonium did not migrate away, even though there were no engineered barriers to prevent transport of the waste product. This natural experiment shows that it is difficult, if not impossible, for such waste to enter the biosphere. It clearly demonstrates that geological repositories can successfully isolate radioactive waste from the biosphere. There is nothing unique about the geology of Oklo. That occurred, as I have indicated, some 1.8 million years ago.

As we enter the debate on a comprehensive plan for the Federal Government to meet its obligation to provide a safe place to store spent nuclear waste and nuclear fuel, I think it is important to refer to the historical natural occurrence that took place in Africa some 1.8 million years ago because it represents a phenomenon, if you will, that shows, indeed, a natural experimentation that resulted in no unfavorable outfall associated with the process.

Getting back to where we are today, our Government entered into a contractual commitment to take the waste generated from our nuclear powerplants and provide a safe storage and disposition of that waste. That was some years ago. That contract is now due, for the Government to initiate performance, in 1998. As a consequence of the recognition of the inability of the Government to take that waste, on March 13 my committee on Energy and Natural Resources reported Senate bill S. 104 on a bipartisan vote of 15 to 5.

As you will recall, last year a similar bill passed the Senate by a bipartisan vote of 63 to 37. The bill would provide one safe, central, temporary storage site at the Nevada test site or, if the Nevada test site is found to be inadequate, another chosen by the President. At the same time, S. 104 reaffirms our Nation's commitment to development of a permanent repository for nuclear waste. Why the Nevada site? We have been conducting nuclear detonations related to the weapons testing program in the Nevada desert for some 50 years. One can fairly conclude that the area has radioactivity. The area has been, time and time again, subject to underground explosions of various types. The area is well established with an adequate security capability and an experienced work force.

Furthermore, when we get right down to this issue, we have to come to the conclusion that nobody wants the waste—not one of the 50 States. But clearly the experience in Nevada at the test site suggests that it is the best site that has been examined so far, and as a consequence we are committed to proceed with the effort to establish a permanent repository there.

What S. 104 further attempts to do is to reaffirm our Nation's commitment to development of a permanent repository for nuclear waste, which is our ongoing objective. Over the past several weeks I have worked with many of my colleagues, notably Senator BINGAMAN from New Mexico, to address concerns that he has with the bill and other concerns. As a result of these discussions, I am prepared to offer an amendment that makes significant changes to S. 104.

Let me comment a little further on this bill, because while this bill was resolved with a tremendous amount of work by the staff, what it really is is an effort to meet our obligation to take our nuclear waste in a timely manner and reduce the associated liability that is going to come from suits brought to the Federal Government for nonperformance of the contract. If someone has a better idea for this bill, or a better proposal to address the problem now, why, this Senator is certainly willing to listen and very likely accommodate it.

But let me explain the amendment. The amendment, first of all, extends the schedule for siting and licensing an interim facility, specifically siting and licensing an interim facility. This means we can start the process that we have had underway for a long, long time. Further, this allows even more time for the progress at Yucca Mountain to be taken into account in siting the interim facility. It would provide that the interim facility will be licensed by existing NRC regulations with no exceptions. It shortens the licensing term of the interim facility to 40 years, so it puts a limit on how long it can be used, and provides that its capacity will only be that needed to fulfill the Government's obligation until a permanent repository is available. And it preempts only State laws that are inconsistent with the provisions of the act. This language is virtually identical to that in the Hazardous Waste Materials Transportation Act.

These changes are significant, but do not harm the ability to reach the ultimate goal. The ultimate goal is safe, central storage; safe, central storage of our Nation's spent nuclear fuels and waste. High level nuclear waste and highly radioactive used nuclear fuel is, today, continuing to pile up. It is piling up in 41 States at some 80 sites, and it is stored in areas that are populated: near neighborhoods, areas where schools are not too far away—you might say in the back yards of people across America. One example that comes to mind is the Palisades plant in Michigan, which is within 100 feet of Lake Michigan. Another is the Haddam Neck plant in Connecticut. My colleague from that State has observed that he can see the plant from his home.

I refer to an editorial from the Hartford Courant that observes, "With the closing of the Connecticut Yankee plant at Haddam Neck, the issue of what to do with the State's high level nuclear waste has moved from the theoretical to the here and now. Experts say that Connecticut Yankee spent fuel could be stored at Haddam Neck for another 30 years, "another 30 years, Mr. President" if Congress fails to approve a temporary facility. Unfortunately, the hands of the clock cannot be turned back to a time when nuclear waste didn't exist. In terms of its disposal, a remote desert site in Nevada is simply the lesser of two evils."

(Mr. ENZI assumed the chair.)

Mr. MURKOWSKI. Mr. President, the waste was supposed to have been taken by the Federal Government for safe, central storage by, as I said earlier, 1998. Will that happen, Mr. President? The answer is clearly no. No, because we have not addressed the problem; we simply put it off.

Even though this $12 billion collection from American ratepayers to pay for this storage has gone into the Federal coffers, and even though a Federal court has reaffirmed that the Government has a legal obligation to take the waste by 1998, still, today, there is no plan for action.

By 1998, 23 reactors in 14 States are going to be full. What are we going to do then? Are we going to shift over to some other power? We are going to have to do something.

By the year 2010, 65 reactors in 29 States will be full. What are we going to do then?

The conservative estimate is that 25 percent of our nuclear plants will not be able to build onsite storage and will be forced to shut down. That would mean the loss of over 5 percent of our Nation's electric generating capacity. When is Yucca Mountain going to be ready for a permanent repository? Not until at least the year 2015. What do we do in the meantime? Simply leave it there? Let the litigation mount up for our inability to honor a contractual commitment? How good is a Government contract if the Government can simply ignore it? Therefore, in the mind of this Senator, what this Nation needs and what S. 104 is all about is a temporary solution.

When S. 104 passed the Energy and Natural Resources Committee, it passed with a solid bipartisan vote of 15 to 5. Almost half of the members and all majority members voted in favor of the bill. Americans have waited too long for a solution to this environmental and public safety challenge, and there is absolutely no purpose to be served by waiting any longer.

I am, of course, sensitive to the concerns of my colleagues from Nevada, but this is a legacy of our generation, and we have an obligation to address that legacy. To put it off to somebody else's watch, another Presidential administration, simply puts off a responsibility and an obligation that we have. We have an obligation to act, and to act in a timely manner, because we are going to be in breach of our contract next year. So there is a critical need to construct a safe, central storage facility to eliminate the growing threat to the environment and to the American people.

As I said earlier, I worked with Members on both sides of the aisle to attempt to solve the problems that they have with this bill. In the markup, we accepted several amendments from the Democratic side, and I am ready to work with other Senators on amendments they may have to improve the bill, because our goal is a responsible one. It is safe, central storage as soon as reasonably possible after 1998. We have offered, time and time again, to work with the new Secretary of Energy, Secretary Pena, and the staff at the Energy Department. During his confirmation, we pressed the White House to ensure that the Secretary has the portfolio to respond to this pressing problem, and they indicated that he did have that portfolio.

Over the recess, the committee staff has worked on a proposed compromise. Senator BINGAMAN's staff has been very constructive in this regard. Much of what Senator BINGAMAN has proposed appears acceptable. However, the bottom line is the need for a predictable path, with certainty, to interim and permanent waste storage. We simply cannot leave trap doors that allow central storage to be delayed for decades.

I want to refer to a chart to identify just what we are talking about relative to spent fuel and radioactive waste that is destined for geologic disposal. This chart on my right shows the United States, and for some reason or another they left Hawaii and Alaska off, but that is not uncommon around here. The brown areas show commercial reactors, and they are primarily in the Midwest—Illinois, Minnesota—and on the eastern seaboard. Those are some 80 sites where we are generating nuclear power at the present time.

One of the things we have to keep in mind is, unless we find a way to take care of this waste—we are still going to have reactors, some of which have already shut down and have spent fuel in onsite storage—we will simply be storing spent fuel in shutdown reactors. Currently, we have, designated by the blue little pyramids, a number of shutdown reactors in Oregon, California, and a few in the Midwest.

The next little block we have are the commercial spent nuclear fuel storage facilities. We have fewer of those. We have a couple of them in the Midwest. We have non-Department of Energy research reactors scattered all throughout the country, in blue. We have naval reactor fuel in Idaho, Washington, New Mexico, Georgia, and we have the Department of Energy spent fuel and high-level radioactive waste. I could go on and on with a description of this chart.

One can quickly recognize that we have nuclear waste all over the country, and I am sure those in opposition to this bill will suggest that the best thing we can do is simply leave it there. I do not know, Mr. President, if that makes sense to you. It does not to me. Do we want this scattered all over the country when it simply makes sense to put it in one area where we have had testing for some 50 years, where we have an experienced work force, a security capability and the knowledge that we are proceeding with a permanent repository in that area of Yucca Mountain in Nevada?

The fact is, as we proceed with Yucca Mountain in Nevada and the realization that might be completed by the year 2015, or thereabouts, the question is, why not move it, move it now, transport it now to a interim repository adjacent to the permanent site?

Then one might say, "What happens if the permanent site does not become suitable?" Let me tell you a couple things about that permanent site, Mr. President. We have expended some $6 billion so far. It is estimated to cost some $30 billion by the time it is completed. So we are well on our way, assuming it is licensable and assuming that it receives the certification necessary.

So you are going to hear the argument, if you move it out there and it is not suitable, then what are you going to do? Then you obviously are going to have to find someplace else to take it, and that is not going to be easy. By the same token, it has to go somewhere. There are 48 States on that map. It has to go somewhere.

We have another chart that I want to bring up which shows what S. 104 is all about. If we look over at the lower left-hand corner, we find that in 1998, if we accept the status quo, we have 81 sites in 40 States. If we look over at the red arrow and find that Yucca Mountain is viable for a permanent repository, then we have achieved our objective, we have one safe, central storage site.

What are we going to do if Yucca Mountain is not viable for a permanent repository? We are going to address our obligation. We are going to take that blue arrow right up to the top, and if Yucca Mountain is not a viable site for a permanent repository, then it requires the President to pick an alternate site. If the President refuses, we are not going to let the President off the hook. The President still has an obligation. If the President does not select an alternate site, the site defaults back to the Nevada test site. If the President picks an alternate site and Congress ratifies the site, then we have one safe, central storage site.

The point of this chart is to show where we are trying to go with this bill, which is to address our responsibility and resolve this situation. This Senator, the chairman of this committee, is not going to accept amendments that penetrate the objective of this legislation, which is to address it and resolve it and do it now. So we have alternatives framed in this debate.

The alternatives are a little more complicated, but we have the status quo, 81 sites in 40 States. That is a given. The red line says Yucca Mountain is viable for a permanent repository. If that is fine, we have one safe, central storage site. If the license application for Yucca Mountain is not filed, then we go back, if you will, and take the blue line—Yucca Mountain is not viable for a permanent repository—the Secretary picks an alternative storage site. If no site is chosen, it goes back to one central storage site.

So what we have attempted to do here is address concerns of Members and still get the job done, because if we do not get the job done, we are going to waste several hours in debate and find ourselves not addressing the obligation we have to take this waste under the contractual commitment that we have.

I am willing to be flexible in the shape of either one of these boxes, but the result must always be the same. We now have an opportunity for bipartisan action, and I think that we must seize that opportunity. I know that my friends from Nevada will object to the bill. They consider it probably a political necessity to oppose it. I can understand that. If it were not for Nevada, I am sure it might be Vermont where they have a lot of marble, or it might be Montana, where they have a lot of rock. The point is it has to go somewhere.

There are going to be allegations that there is some bad science here. There are going to be efforts to try to scare us with references to "mobile Chernobyl." That is an irresponsible statement, Mr. President. Everybody who has looked at Chernobyl knows it was not poor reactor design and human error that resulted in the accident. There was no containment building. The design was flawed, and not to United States or western standards. The technicians bypassed the safety systems, the reactor went critical, and we had a terrible accident.

But to suggest that our bill is mobile Chernobyl is just simply irresponsible. What we are trying to do is accept an obligation, a legacy of our generation, and that is to properly dispose of this waste, and properly disposing of it does not suggest leaving it where it is. Those nuclear reactors and those pools that are being filled now were not designed for extended storage. They are reaching their capacity.

Many in the environmental community see this as an opportunity to shut down a portion of the industry because any additional storage, once the storage is filled, will require additional licensing. Some of that licensing is going to be controlled by States. The States will attempt to block it by using various concerns, little of which have any scientific foundation. But nevertheless, they see this as a way to substantially reduce the contribution of nuclear energy to generate power in this country.

Some will imply if this bill does not pass, nuclear waste will not be transported through this country. Well, let us take a little look at that.

I have another chart here, because if one looks at the record, there have been 2,500 shipments of used fuel across this country in the last 20 years. It is just not history, Mr. President, it is happening today. The Department of Energy is transporting spent fuel from nuclear reactors all over the world into the United States virtually as we speak, by truck, by train, by barge, by boat.

If you do not hear about this from the other side, there is probably a reason. And that reason is because these shipments have been and continue to be completely uneventful. They are shipped in casks that have been designed to address the emergencies forecast. In short, these spent fuel shipments, history shows, are safe. As a consequence, Mr. President, they are not news anymore.

At our hearing in February, all four members of the Nevada delegation acknowledged there was no process and no level of scientific proof that would decrease their opposition. I understand that, Mr. President. I appreciate that. I know where they are coming from. They are coming from the reality that regardless of what State we are talking about, there would be an objection. But we have a responsibility, Mr. President. The objections are based on politics, not science.

One of the Nevada Senators was in favor of sending high-level materials to the Nevada test site as a State legislator. He voted for A.J.R. 15 which was signed by the Nevada Governor in May 1975, which asked, in my opinion, the Federal Government to simply do just that. I think he was right the first time. It is safer, smarter, and cheaper to contain these materials at one location in the remote Nevada desert.

The Nevada test site was used, as stated, for decades to explore testing of nuclear bombs and it helped win the cold war. And now it can help us win the war on radioactive waste disposal.

High-level nuclear waste, as I have stated time and time again, Mr. President, is our legacy, and it is our obligation to dispose of it. It is irresponsible to let this situation continue. It is unsafe to let dangerous radioactive materials pile up. Pile up where, Mr. President? Back in the 80 sites in 41 States. It is unwise to block safe storage in a remote area when the alternative is to simply leave it in the 41 States.

Mr. President, this is a national problem. It requires a national solution. We need to pass Senate bill 104.

I should comment briefly on the administration's attitude toward nuclear waste storage because it has been a rather interesting one. They have been content to simply ignore the problem as though they did not have one, as though there was no obligation to take the waste, and simply disregard the Government's contractual obligations. The American people, I think, deserve better.

Safe nuclear storage should not be a political issue. It is a scientific and legitimately environmental issue. We need a solution now. And why I do not know, but the administration has again turned a blind eye and a deaf ear.

In addition to threats in the environment and safety, 22 percent of our electric capacity is at risk now by not taking decisive action on what to do with the waste generated by our nuclear powerplants.

Mr. President, starting in January 1998, taxpayers throughout the Nation, whether you use nuclear power or not, are going to be subjected to claims of billions of dollars in liability payments because our Government has not met its obligation to take that waste.

There is a contractual commitment outstanding, Mr. President. The estimate of taxpayers' liability under a recent lawsuit blocked by States are estimated to run as high as $80 billion. How much is that per family, Mr. President? That is about $1,300 per family. You may say, what do you mean? Why are we subjected to liability if the Government does not take the waste?

There was a contractual commitment, Mr. President, to take the waste beginning in 1998. The Government is not going to be able to take that waste, so there are going to be claims filed and there is going to be interest accrued. If they have to relocate it or expand facilities, there are additional costs. The last estimate I saw was about $59.9 billion. The estimate, as I indicated, could run as high as $80 billion.

The cost of storage of spent nuclear fuel: That is about $19 to $20 billion. Return of nuclear waste fees: About $8.5 billion. Interest on nuclear waste fees: $15 to $27 billion. Of course, depending on the interest rate used. Remember the interest rate in December 1980? The prime rate was 20.5 percent. A lot of people have forgotten that, Mr. President. Consequential damages for shutdown of 25 percent of the nuclear plants due to insufficient storage, power replacement costs: Some $24 billion. I do not know what it is, but it is going to be full employment for all the lawyers certainly.

Inaction is not an option. Inaction is simply irresponsible. That is why we have attempted to craft this legislation to address a reality that we are not going to be able to take the waste in a permanent repository until the year 2015. So this allows a temporary action to move the waste out so it is retrievable for disposition when a permanent repository is constructed.

Mr. President, many of the opponents' claims, I think, have little foundation. If we look back, interim storage at the Nevada test site will not delay construction at Yucca Mountain. The type of construction we anticipate would be a concrete pad with a cask designed to hold the waste until a permanent repository is at hand. There will be a viability assessment that will occur before the interim site is built. The President will have a choice of interim sites after the viability assessment.

This Nation faces a major decision, Mr. President: Either continue storing high-level radioactive waste materials at these 80 locations in 41 States indefinitely, for the next administration, for the next Congress, or the next Congress, and pay the claims and subject the taxpayers to more litigation, or more safely contain them in one centralized facility.

I am indeed sorry that facility has to be in one State, but it simply has to be. So the option is clear and safer. It is safer and cheaper. And the time for action is now.

Mr. President, I would like to refer to another chart relative to a misnomer that has been brought up time and time again. And it is a legitimate concern but it escapes a reality, and that is the issue of transportation.

There has been 2,500 shipments of used nuclear fuel over the past 20 years. There has been no fatality, no injury, or no recorded environmental damage that has ever occurred because of radioactive cargo. I have a map here behind me that shows the routes for transferring used fuel. And this took place from 1979 to 1995, the routes used for 2,400 shipments.

They cover from Washington down through Oregon, close to California, Montana, Idaho, Salt Lake, Nevada, Arizona, New Mexico, Colorado, Wyoming, North Dakota, Nebraska, Kansas, Oklahoma, Texas, up and down the entire east coast seaboard, Minneapolis, and Milwaukee. I could go on and on but, Mr. President, I am sure that you will agree it is a pretty impressive transportation route. The map shows roads, rail lines.

Some would say that they did not know these shipments took place. Maybe that is why they have become uneventful. There has been an accident with a truck carrying a cask, but the cask that contained the nuclear materials performed as designed. They have not broken open. They were designed for an accident of that nature.

We currently have about 30,000 metric tons of spent fuel in the United States. The French alone have shipped that amount of spent fuel all over Europe, all over the world. The Japanese are moving spent fuel from Japan to France for reprocessing until they build their own reprocessing plant.

This is not history, Mr. President. This is happening today all over our country and all over the world. There seems to be somewhat of a double standard why the Department of Energy claims it cannot possibly fulfill its obligation to the U.S. electric ratepayers and the obligation to take spent nuclear fuel. The Department of Energy is doing exactly that for foreign countries.

Let me show you another map. Here are foreign research reactors throughout the world—Canada, South America, Africa, Europe, Asia, Australia.

They may ask why American taxpayers are paying for the Department of Energy to transport, store nuclear waste from foreign countries while

American ratepayers are subjected to a Government that refuses to honor its contractual commitments, refuses to take the waste.

All the countries in color ship fuel to the United States for storage at the Department of Energy facilities. It seems to be a mystery. There are a lot of mysteries around here. If they support taking fuel waste from overseas, then you wonder if the issue of safety is really an issue.

How can it be safe for the Department of Energy to ship spent fuel halfway across the world but not across some of our States? Well, let us take a little closer look because this is going to be the crux of a lot of the arguments. Let us look at what the Department of Energy does to transport nuclear waste across the United States.

This map, Mr. President, shows America's research reactors. They are all over the place—all the red lines. Idaho National Engineering Lab in Idaho; University of Missouri, Missouri; University of Missouri, Columbia; Iowa State University; Purdue University; the University of Michigan; Ohio State University; Massachusetts, MIT; University of Lowell, Maine; Rhode Island Nuclear Science Center; Brookhaven National Labs; University of Virginia; University of Florida; Georgia Institute of Technology; Oak Ridge; Sandia National Laboratory; Los Alamos, and on and on and on, Mr. President. They are scattered all across the country. They move all over the country.

What we have here is a double standard. Why does the Department of Energy pay to transport and store nuclear waste from foreign countries but will not do its duty for U.S. power reactors that have paid for the service? They do it for research reactors. The Department of Energy says they may take foreign fuel to help with nonproliferation. That perhaps is all well and good, but spent nuclear fuel is spent nuclear fuel wherever it is. If transportation storage is safe for some, why should it not be safe for all?

I think this proves my point that I mentioned earlier. The obstacles to moving our Nation's spent nuclear fuel are political; they are not technical. Senate bill 104 provides the authority to coordinate a systematic, safe transportation network that requires the Department of Energy to use NRC-certified transportation containers to transport fuel along special routes. That transportation cannot occur until the Department of Energy has provided specific technical assistance to funding, to States, and to Indian tribes for emergency response planning across the transportation routes. The language builds on what is already a set system for spent fuel in the country.

It is further interesting to note with this volume of traffic, some 2,400 shipments, the problem has never been exposure to radiation from spent fuel cargo, even in the fuel accidents between 1971 and 1989. The Department of Transportation tells us that only seven accidents occurred involving trucks carrying nuclear waste. There was no radioactivity released in any of these accidents. Why? Because transportation containers were designed to maintain their integrity. At one time they were designing transportation casks, and the objective was to have it so they would withstand a free fall from 40,000 feet, assuming there was an accident, and they were anticipating moving it by airplane, and the engineers claimed they could do that.

Mr. President, we will have an extended debate on this issue in the coming days. As a manager of the bill, I will be sharing time with my colleagues on various statements, accommodating amendments and pursuing the debate with my colleagues from the other side. I think it is important as we reflect on reality that there is no excuse for continuing to delay this obligation any further.

I have gone over the liability of the taxpayers. I have gone over the transportation that is in existence where we have moved nuclear waste around this country safely. And to suggest that we are somehow going to gain some significant benefit by putting off the decision is not supported by any logic or rationalization that would convince this Senator that there is any other action than moving forward on Senate bill 104, accommodating Members' amendments, with the idea of getting the job done.

Getting the job done now is a responsibility for all of us for the future of nuclear energy in this country and the world. We simply cannot move forward in this regard, we cannot address our concerns over greenhouse gasses, which are increasing, without looking toward relief. Nuclear energy offers us that relief. We have the technology. We are seeing that technology move over to France and Japan. The bottom line is, unless we address the issue of a repository for waste that has been generated by the nuclear powerplants, we simply are going to be unable to meet our responsibility in this body relative to that contractual commitment that we made several years ago. This bill provides a responsible alternative. The time to do it clearly is now.

Mr. President, I ask unanimous consent the Senator from Nebraska [Mr. HAGEL] and the Senator from Michigan [Mr. LEVIN] be added as cosponsors on Senate bill 104, to amend the Nuclear Waste Policy Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. BRYAN. I thank the Chair.

Let me say as we begin this debate in this Congress, it reminds me that we are talking about old wine in a new bottle. These arguments have been advanced for decades now, and the prime mover is the nuclear utility industry.

The fatal flaw in S. 104 is that it is unnecessary, unneeded, and bad policy. That is not just the Senator from Nevada making that statement. Let me review for the record some of the statements made by various boards and commissions created by the Congress in terms of their response.

We have the 1989 MRS Commission review. The commission report found no safety advantage to centralizing the storage of spent fuel. In 1996, the Nuclear Waste Technical Review Board analyzed the issue of interim storage and concluded that there is no urgent technical need for centralized storage of commercial spent fuel—no need, no compelling necessity, no safety advantage to be achieved. That was 1996. Now, the Nuclear Waste Technical Review Board underwent a change in the composition of the chairmanship, so in effect there was an opportunity for essentially a new board composed of new members to review whether or not they would agree with the position taken by their predecessors in 1996. In testimony offered on February 5, 1997, by Dr. Jared L. Cohen, the chairman of the Nuclear Waste Technical Review Board, Dr. Cohen simply reaffirmed the position taken by his predecessors, that there is no need, either for technical or safety reasons, to move spent fuel to a centralized storage facility for the next few years. He further maintains that to maintain the credibility of the site collection process, any decision with respect to interim storage should be deferred until a technologically defensible site-suitability determination can be made at Yucca Mountain.

Mr. President, that is what the scientists, the people who the Congress, through a series of legislative enactments, have asked to take a look at that, that is what they say—no need, no safety reasons, no compelling necessity, bad policy. That is what the scientific community says.

I said at the beginning this is old wine in new bottles. Indeed, Mr. President, it is very, very old wine. The driving policy here is not science; it is the nuclear utilities. It is not a new car. If one looks back nearly two decades ago, on July 28, 1980, this issue was before the Congress. This Senator was not a Member of the body at the time, but the CONGRESSIONAL RECORD reflects debate on a proposed away-from-reactor concept, which is akin, if you will, to this interim nuclear waste proposal.

At that time, the distinguished Senator from Louisiana, Mr. Johnston, addressed himself to the issue, referring again to this need to move this nuclear waste away from the reactor sites—the same issue, identical to what is being debated today. This is what the Senator from Louisiana said nearly 17 years ago: "Mr. President, this bill deals comprehensively with the problem of civilian nuclear waste. It is an urgent problem." Sound familiar? Urgent problem. Urgent problem. "Mr. President, for this Nation, it is urgent, first, because we are running out of reactor space at reactors for the storage of the fuel, and if we do not build what we call away-from-reactor storage and begin that soon, we could begin shutting down civilian nuclear reactors in this country as soon as 1983." That was 14 years ago. Not a single nuclear reactor in America has been closed or been forced to close because of this issue. Some have closed because of overriding safety concerns about their operation and maintenance. That, Mr. President, is a separate issue.

So here again we have the nuclear utility industry sounding the drumbeat, issuing a clarion call, generating hysteria, that indeed there will be brownouts across the country and reactors will have to close unless we pass S. 104, the modern day equivalent to the legislation that was before the Senate of the United States some 17 years ago. The answer today is the same as the answer then. There is no compelling necessity, no need, no rational policy to do so, and no safety issue that makes that a compelling issue.

So we come back to a policy that is driven by the nuclear utilities and their desire, insatiable as it may be, to move the reactor storage from site, somewhere, anywhere, but in this particular piece of legislation to a place at the Nevada Test Site or so-called interim storage.

I want to take just a few minutes, Mr. President, and we will have an opportunity to debate this at some length, as the distinguished chairman indicated, but let me review the bill, because it is flawed not only in its premise, it is flawed in its content. I want to talk first of all about the National Environmental Policy Act. The National Environmental Policy Act was enacted in 1969, enacted by bipartisan actions of this Congress, signed by a Republican President, and it was designed to do many things. But it was designed, first, to have an environmental impact addressed before, not after, the decisions are made.

Now, what this legislation does—and I must give the nuclear utilities credit—their handsomely paid lawyers, legislative advocates, have been skillful, if somewhat deceptive, in terms of what they have crafted here. They say the National Environmental Policy Act, yes, it is applicable. But the Secretary—referring to the Secretary of Energy—shall not prepare an environmental impact statement under this section before conducting the activities that are authorized and commanded by the bill. Yes, the act exists, but you may take no action on it at this earlier phase. And then it goes on to say that the impact statement of the commission, in terms of what it may not address, shall not consider the need for interim storage.

Mr. President, this is the total antithesis of the underlying predicate of an environmental impact statement. In effect, this ties one hand behind the back of those who would conduct such an environmental impact statement and, on the other hand, writes the script as to its conclusion before any study is undertaken.

So the first thing they cannot do—Heaven forbid that they should examine the need for interim storage. They can't do that. No, they can't examine the time of the initial availability. They may not, Heaven forbid, consider any alternatives to the storage of spent nuclear fuel and high-level radioactive waste in an interim storage. Heaven forbid that they would be able to consider any alternatives to the site of the facility, or any alternatives to the design criteria, or the environmental impacts of storage of spent nuclear fuel at a high-level radioactive waste at the interim storage beyond the initial term of the license.

Now, this is very good lawyering, but disastrous public policy, because the initial application calls for a licensure period of 20 years. But when you look at the fine print, that can be extended for another 100 years and can be renewed for 100 years thereafter. So any environmental impact evaluation would be limited to the initial term of the license, 20 years. Why is that particularly significant? Mr. President, what we are dealing with is high-level nuclear waste. It is deadly, not for 20 years, 100 years, or 1,000 years, but for more than 10,000 years. The National Academy of Sciences and other distinguished groups that have looked at this have indicated that indeed the impacts must be considered, and they must be considered even beyond the 10,000 years, they argue. This would say limit it to the first period of the initial term of the license, which is 10 years. And, oh, yes, we don't want to have the courts review what may happen. No, that would certainly be contrary to our tradition, our history, our society, and our culture to have any kind of a timely judicial review. This limits judicial review only to the time of licensing. So the impacts, such as they may be, must be considered only at the time that the commission makes a decision on licensing. "No court shall have jurisdiction"—we are talking about Federal court, not a State court. "No court shall have jurisdiction to enjoin the construction or operation of the interim storage facility prior to its final decision on review of the commission's licensing action."

It makes a mockery of the National Environmental Policy Act, an absolute mockery. So, indeed, that is the first thing it does that would destroy a carefully framed set of legislative policies enacted by members of both political parties and a Republican President in 1969.

Now, let me also talk for a moment about a preemption section. This was a subject of considerable debate in the last session of Congress when this virtually identical bill—now, the chairman made some reference to this fact—and I have not seen the language—that there may be some changes in this section. But because we don't have them, let me indicate that the bill as processed by the committee, in section 501, reads as follows: "If the requirements of any Federal, State, or local law, including a requirement imposed by regulation, or by any other means under such a law, are inconsistent with or duplicative of the requirements of the Atomic Energy Act or of this act"—this specific legislation—"the Secretary shall comply only with the requirements of this act and the Atomic Energy Act."

Mr. President, make no mistake as to what that means. That wipes out virtually every environmental law passed in the last 25 years by this Congress—clean air, safe drinking water—it wipes them all out. That was the posture of the bill when it was presented and acted upon in the last Congress—preemption. That language remains in the committee draft. If there are changes in that, we will comment at a later time.

Let me talk also about the standards. One may agree or disagree that nuclear energy is good or bad national policy. That is something that is reasonable to debate. But I want to speak specifically here to the standards that are referenced in the act. Now, why are the standards—and the distinguished occupant of the chair is very much aware of the fact that our States are Western States with vast expanses of land, but we are as concerned about the health and safety of our citizens as those of our urban brethren who live along the eastern seaboard. So let us talk about what this legislation does with respect to the standards issue.

The first thing that it does is it seeks to impose a limitation on the Environmental Protection Agency. Surely, one would agree that if we are to have a facility to store nuclear waste, we ought to have a safe standard. Can there be any fundamental disagreement with that? Well, the answer might appear to be yes. But, clearly, the legislative wordsmiths who have crafted this piece of legislation, much as they did in the last legislative session, have sought to handcuff and limit the Environmental Protection Agency's ability to establish standards. It is cleverly done. Give a gold star for that. But here is what it says: "Such standards shall be consistent with the overall system performance established by this subsection, unless the Administrator determines by rule that the overall system performance standard would constitute an unreasonable risk to health and safety." Clearly, it shifts the burden of proof. It mandates a legislative standard, greatly diminished, unless the Environmental Protection Agency can prove to the contrary, that it would constitute an unreasonable risk to health and safety.

Now, why would it be unreasonable to say, look, if you are going to establish this unnecessary, costly and, in my judgment, foolhardy venture, at least provide health and safety standards for the people who are going to have to live with that for 10,000 years. It doesn't mean that that is unreasonable. It is not narrow or parochial. One would think that every Member of this institution would feel that way. But not here. Let me just say that that has been debated before in the context of the WIPP facility and with respect to the WIPP facility, the two able Senators from New Mexico took the floor and, at great length, advocated very effectively that the standard for health and safety should be the toughest standard possible. That occurred in debate in this very Chamber in June 1996. The distinguished senior Senator, Mr. DOMENICI, said, "What is most important to us and what is most important to the people of New Mexico is that, as this underground facility * * *"—they were talking about the WIPP facility—"proceeds to the point where it may be opened, that it be subject to the Environmental Protection Agency's most strict requirements with reference to health and safety. As a matter of fact, they must certify it before it can be opened."

I applaud the senior Senator from New Mexico for his concern for his constituents. I agree with him. I hope my colleague from Nevada and I will be provided the same benefit that would be afforded to the New Mexico Senators, as they expressed it. Mr. BINGAMAN expressed himself eloquently to the issue on that same day, the foremost concern that I have. What the junior Senator from New Mexico said is, "Our concern from the beginning is whether or not we are adequately protecting the health and safety of our citizens."

Mr. President, we may not agree on everything in terms of public policy. There is certainly ample room for policy debate on a whole host of issues. I acknowledge that. But believe me, it seems to me that we ought to be able to agree that health and safety is the most important thing that we ought to be about.

I want to return to the subject of additional standards, because what this legislation does is quite manipulative. It limits the ability of those that we have vested with the responsibility of protecting our health and safety, in my view, in a very, very sinister way. First of all, it establishes, by legislative fiat, a 100 millirem standard. We are talking about radioactive emission exposure. I freely acknowledge, Mr. President, that I could not define a millirem with any degree of specificity. But I do know that it is the scientific unit that is accepted as the standard by which emissions are to be measured. I invite the attention of the body to the fact that for safe drinking water, it is a four millirem standard. We have other standards that are set, such as the WIPP standards, which the distinguished Senators from New Mexico addressed so eloquently last year as they were concerned about the health and safety of New Mexicans, just as Senator REID and I are concerned about the health and safety of Nevadans.

Let me suggest—it's perhaps wildly idealistic—shouldn't we all be concerned about the health and safety of Americans? We are one country, one nation. As I will point out in a minute, this is not just a Nevada issue. This affects tens of millions of people who would be affected by the policy implications of this bill. Let me go on and say that if you are from the Nordic countries, it is 10 millirems. The upper range Yucca Mountain study is 30 millirems. I cite this because it is so blatant. 100 millirems. That is a standard that is fixed not by science—oh, no, the utility lawyers put that one in there for us to contend with.

Now, the National Academy of Sciences is a highly respected body. What they have indicated would be appropriate is a risk-based standard. It seems reasonable to me. I hasten to emphasize, Mr. President, there are no Nevadans that are on the National Academy of Sciences. They were not selected by the Nevada delegation, Nevada's Governor, or the Nevada Legislature. They were created by an act of Congress—the National Academy of Sciences. That is what they have recommended. Who is to be protected? This gets a little technical. Under S. 104, the standard of protection is greatly reduced. It is done in almost an arcane expression, but, in effect, a person whose physiology, age, general health, agricultural practices, eating habits, and social behavior represent the average for persons living in the vicinity of the site—the "vicinity of the site"; we do not know what that means—extremes in social behavior, eating habits, or other relevant practices or characteristics, shall not be considered.

Has the National Academy of Sciences agreed with that standard? They have not. They believe that it ought to be a critical group, a small, relatively homogeneous group whose location and habits are representative of those expected to receive the highest doses. Those expected to receive the highest doses makes sense to me.

One of the other provisions in here is the application. In other words, for what period of time must health and safety be considered? We are talking about an interim facility that could, under the terms of this legislation, last for thousands and thousands and thousands of years. There is a limitation again because the utilities don't want a scientific standard. They want something that they can lobby through the Congress and get what they want.

So this legislation tells us that the commission shall issue the license—referring to the license to operate the interim facility—if it feels or finds reasonable assurance that for the first 1,000 years following the commencement of the repository operations—1,000 years; the recommendation by the National Academy of Sciences is that the repository should be required to meet a standard during a period of greatest risk and that there is no scientific basis for limiting the time period to 10,000 years, or any other value. I hasten to note that they believe that the standard should be considered even beyond the 10,000 years.

There is another provision in here that again is arcane but particularly significant. That is that the commission is mandated to assume no human intrusion—that is to say, in the next 10,000 years—if no human intrusion would be possible. The National Academy of Sciences conclude that there is no scientific basis for assuming there would be no human intrusion.

> The performance of the repository * * * should be assessed using the same analytical methods and assumptions, including those by the biosphere, the critical groups used in the assessment of the performance for the undisturbed case.

The National Academy of Sciences also recommends another very important provision. That is, that because these involve important policy issues, opportunities for rulemaking necessitates wide-ranging inputs from all interested parties.

That simply means giving people an opportunity to be heard, to express themselves, to offer their own insights, and to allow those with the technical background to offer the technical analyses. That should be a matter of record before a decision. But not S. 104; these are set by statute with no public comment period allowed.

So, Mr. President, we have something that is fatally flawed because it is not needed. It makes no sense. We have something that currently preempts the environmental laws of this country, emasculates the National Environmental Policy Act of 1969, and establishes standards which are arbitrary and not predicated upon science.

We will hear, as we have heard in previous debates, that this is all about science, to let science prevail. This legislation makes a mockery of the scientific process. It seeks to impose by legislative fiat a policy and a parameter limitation that is inconsistent with science.

So let no one take the floor and argue that this is science that is speaking. This is nuclear utility politics speaking. That is the only thing that is being responded to.

We have all agreed—the White House, the Congress, Democrats and Republicans—that we are going to balance the budget in the next 5 years. I want to specifically reference some of the language as it relates to the funding.

The General Accounting Office has indicated in a report that the current fiscal condition of the nuclear waste fund will experience a shortfall of some $4 to $8 billion. That is to say that under its current construction, without the changes that this legislation makes, there would be a shortfall of $4 billion to $8 billion. I think many of my colleagues are aware that the nuclear waste trust fund is funded by a mill tax, a mill tax that is assessed on each kilowatt-hour that is generated. If we are currently underfunded, as the General Accounting Office has indicated, let me show you that the real significance of this legislation from a financial point of view is to shield the nuclear utilities from the liabilities that they agreed to undertake at the time the Nuclear Waste Policy Act was entered into and the agreements were signed and to shift their responsibility in the financial sense to the American taxpayer.

This legislation provides that until the year 2002 the current 1 mill per kilowatt-hour will get capped. That is the maximum that can be collected from the utilities. That is a cap, contrary to the existing law which presents no such cap.

In addition, this legislation provides that from the year 2003 the aggregate amount of fees—I will read the specific language. Although it is written in bill-drafting legalese, I think it will be clear to all. "The aggregate amount of fees collected during each fiscal year, or thereafter, shall be no greater than the annual level of appropriations for expenditures on those activities."

If we put that in the context of what is being spent this year, it would be roughly one-third of the mill, which would be the most that could be assessed.

Why is that significant? That is significant because the last reactor license will expire sometime around the year 2033, and the responsibility for maintaining a repository would go on, in an active sense, for at least, say, roughly another 40 years. So that means that that kind of funded liability will be shifted from the nuclear utilities to the American taxpayer.

I say to my friends—and I was supportive of a constitutional amendment to balance the budget, and I think that makes sense—that I believe one of the great legacies this Congress could leave to the American people is to get our fiscal house in order, to do some responsible things for the budget, and to reach that balanced budget goal by the year 2002. But, Mr. President, there is no way that you can give the utilities a bailout, a subsidy, if you will, a new corporate entitlement, to elevate corporate welfare to a high art form as this piece of legislation does. It caps their liability and says we will take care of the rest contrary to existing law. Existing law does not contemplate that that be true.

Moreover, this legislation, S. 104, contemplates that that would be an interim storage. That would still fund the site characterization and the study activities of the permanent repository. But the estimate for funding interim storage, as this bill constitutes—and that comes from the Congressional Budget Office—in the first 5 years is $2.3 billion. If you add that to the cost of what we are currently expending, an amount of about $380 million a year—that is the total we are spending right now—in the next couple of years you are going to have to have $1 billion by the fiscal year 1999—that is $1 billion—to fund the current operation of an interim storage facility and the high-level nuclear waste repository proposed at Yucca Mountain.

It is pretty clear what this is all about. This is an interim storage. This is a thinly disguised attempt to establish a permanent high-level dump without any of the safeguards that are provided in the current legislation form for a permanent repository.

Mr. President, my colleague from Nevada has joined me. If I might inquire of him, I know that he might care to speak extensively on the transportation issue. I am prepared to do so if he cares to address another aspect of that. But I will invite his response.

Mr. REID. I say to my friend from Nevada that I appreciate that. I have a few things to say. But I will not speak at length about the transportation aspect. If my friend would allow me to speak for a few minutes at a time which he feels appropriate.

Mr. BRYAN. I yield to the senior Senator from Nevada.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Nevada.

Mr. REID. Mr. President, we need to understand what this debate is all about, and that is how powerful the nuclear lobby is. We acknowledge that it is pretty strong. They have gotten more out of a worthless piece of legislation than I could ever imagine. They continually are allowed to bring this up and continually talk about it.

Mr. President, my friend, the junior Senator from Alaska, said that nuclear waste is all over, that we need to put it in one spot. Nuclear waste is all over, and it will stay all over for years to come no matter what happens with this legislation; no matter what happens with the legislation as it relates to the permanent repository, where my friend is absolutely wrong. Nuclear waste is not in some States. Commercial nuclear waste is not in Nevada. We don't manufacture nuclear waste. It is not in the Dakotas. It is not in Montana and a number of other States. So the statement was a little wrong.

Mr. President, this legislation, I repeat, is being driven by the nuclear lobby. As shown in the chart that the junior Senator from Alaska had, there are a number of nuclear generating plants around the country; a little over 100 generating facilities. The average lifespan of those facilities is about 15 years. Some will last 25 years. Some will be out of business in 5 years.

The point is that nuclear waste manufactured by power companies generating electricity is in our lifetime going to be a thing of the past. It is not going to happen in the future. Generating electricity by nuclear power is no longer going to happen. It has been determined that the environmental concerns are too much and the American public simply won't stand for another nuclear power facility being built in this country at any time.

The powerful nuclear lobby recognizes that they are going to be out of the business of generating electricity by nuclear power. So they want to wash their hands of the mess they have created and shift the responsibility to the Federal Government now. They don't want to wait, as the law now indicates, until someday a permanent repository is constructed. They want to short-circuit the system. They want to change the law, which now says you can't have a permanent repository and a temporary repository in the same State. They want to eliminate that. They want to also do an end run around all environmental law.

Mr. President, my friend, the junior Senator from Alaska, said that they were working on amendments with the junior Senator from New Mexico. Well, I would just alert everyone. Be very careful about the amendments because, as we learned last year, amendments in name are not amendments in fact. The fact is that they cannot make changes in this legislation to any standard that will allow them to go forward with this legislation. They are talking about changes in this legislation by amendments just like they did last year. But when the facts come down, you will find that their amendments mean virtually nothing. You had better read the amendments very carefully.

Mr. President, I think it is important to note that from 1982 to today, the scientific community has been working on methods of transportation, as indicated on the chart that my friend, the Senator from Nevada had, showing the transportation routes around the country—they, the scientists, have been working on a way to transport nuclear waste. They have been working on it, now, for 15-plus years. Interestingly enough, they have not found a way to safely transport nuclear waste. The best they have been able to come up with is something called a dry-cask storage container, which is a canister, and in it would be placed spent fuel assemblies.

What they have come up with to this point is a dry-cask storage container that is safe unless it is immersed in a fire that burns at more than 1,400 degrees. Diesel fuel burns at 1,800 degrees. So these dry-cask storage containers are not safe because, of course, fires that are going to occur on a train or a truck are going to be of diesel fuel. These casks cannot withstand the intense heat of a diesel fire.

Second, the dry-cask storage containers have been made safe only to transport nuclear waste if an accident occurs at less than 30 miles an hour. Trains and trucks in this modern day and age rarely travel less than 30 miles an hour. So a dry-cask storage container is basically worthless for transporting nuclear waste around this country. Remember, most of the nuclear waste is produced in the eastern and southern parts of the United States. It would have to be hauled, sometimes, more than 3,000 miles to an interim site at the Nevada test site. You cannot carry it safely because the dry-cask storage containment does not allow it; because accidents occur at more than 30 miles an hour and fires occur at more than 1,400 degrees. In effect, that is why a number of entities, including entities in the State of Colorado, have said we want no part of nuclear waste. And that is why the senior Senator from Colorado has spoken out in committee on our behalf, saying interim storage is not important and not necessary at this stage.

Yucca Mountain is being evaluated—it will be determined if that is a site that can safely store nuclear waste for up to 10,000 years—remember, they are digging a hole inside that mountain. The cavern they are digging is more than 25 feet in diameter. It is a huge hole. You can take a train through it easily. But I think it is interesting, and that the taxpayers should know, that hole, piercing that mountain, is costing $60,000 a foot. The cost now is approaching $2 billion. What this legislation would do is say we will forget about that, the billions of dollars spent there. We want to short circuit the system, pour a big cement pad out there and dump the waste on top of the ground.

Anyone who thinks that is temporary is temporarily insane. The purpose of that is to store it permanently at the so-called interim site.

My friend, the junior Senator from Alaska said, and I was surprised to hear him say this, it is so absolutely true—he said this legislation is little about science and a lot about politics. I could not say it better myself. I agree with the junior Senator from Alaska. This legislation deals totally with politics, nuclear politics. The powerful nuclear lobby is driving this legislation. They want to wash their hands of this. It appears that we are about to repeat last year's wasteful mistake. They tried all last year to get S. 1936 passed. What was learned at that time was that the President was going to veto that. We had enough votes at that time to sustain the President's veto. We still have the same votes. Everyone knows that. This is a gesture in nuclear politics, to show the nuclear power lobby: "We are doing everything we can to satisfy you. Please, accept our offering, that is the taxpayers' time, energy and money, in this Senate Chamber. Do not be upset with us, utilities. We are doing the best we can, even though we all recognize this legislation is going down to defeat."

Nothing has changed from last year that would make S. 104 any more attractive than S. 1936 was at the conclusion of the 104th Congress. In fact, we have another year of progress toward understanding the suitability of Yucca Mountain. Hundreds of millions of dollars have been spent in this past year in Nevada, characterizing Yucca Mountain. I have been there within the past 2 months. I took a ride through that huge hole that is being dug. They are trying—in fact, within weeks they should be able to cut through the side of the mountain a tunnel 5 miles long, $60,000 dollars, and after they do that they will start running shafts, adits and cross-cuts and drifts from that, for purposes of determining the suitability of this site.

We need to find out if Yucca Mountain is suitable. The interim storage would vitiate all the time, energy, effort and money spent on that facility. The President and this administration remain committed to the present law that prohibits siting an interim storage facility at a site undergoing evaluation for permanent disposal of nuclear fuel or other high-level nuclear waste. This commitment is not political posturing, it is good government. And mostly, good science. It is only proper and responsible, given the importance and difficulty of managing the most dangerous substance known to man, plutonium and nuclear waste in general.

As I have indicated, this Nation has already spent billions of dollars—I said $2 billion, it is approaching $3 billion—on the Yucca Mountain evaluation. We have dug a very large tunnel through the mountain, as I have indicated. It is huge. It is more than 2 stories high. It is not easy or cheap to do these things, because something like this has never been done before. Yet the proponents of this legislation are saying we want to do it the easy way. We want to do it the cheap way. We want to pour a cement pad out in the middle of the desert and dump this stuff on top of the ground. That's it.

We all know, no matter what verbiage the junior Senator from Alaska uses—"we are going to limit the time to 40 years"—it doesn't matter if you limit the time to 20 years or 80 years, this interim site will be the permanent site. That is why they want to change the law to say you can have a permanent repository and a temporary repository in the same place.

Time is what the proponents of S. 104 would take away from the science. The scientists have said we are doing the best we can to make a scientific determination as to whether geological burial at Yucca Mountain is appropriate. Much of the money necessary to resolve critical uncertainties would be spent unnecessarily on interim storage at Yucca Mountain and the money spent on the permanent repository would be wasted, totally wasted.

We have heard talk here, by everyone, last year and this year, about the Nuclear Waste Technical Review Board. They are a group of scientists chosen because they are scientists, first of all. The chairman of the board is a dean from Yale University. I do not think we can quibble with his qualifications. But his expertise is only one of the qualifications these scientists have. These are some of the most brilliant scientists in the world, on the Nuclear Waste Technical Review Board.

They have told us a number of things. No. 1, what they told us is "Don't have an interim storage site." They have also said that:

> The civilian radioactive waste management program will have to sustain the support of the general public and the scientific and technical community for generations. Such support may be more difficult to maintain if the determination of site suitability, perhaps the most critical step in the entire process of developing a repository, is not viewed as a technically objective evaluation by a very broad segment of the population.

The Nuclear Waste Technical Review Board opposes this S. 104. It is wrong. And for the reason, among others that I have just read, that it is not viewed as technically objective.

The board chairman went on to say, at a hearing on S. 104, Professor Cohen:

> Predicting the performance of a repository for thousands of years involves inherently large uncertainties. The Board believes that scientists and regulators can evaluate those uncertainties. Ultimately, however, the public and its representatives must have confidence that technical analyses count; if the analyses are viewed as facades serving only to justify foregone conclusions, public confidence cannot be achieved.
>
> A premature decision to store spent nuclear fuel near the Yucca Mountain site could contribute to the perception that the suitability of the site for development as a repository has been prejudged and that the

> reviews by scientists and regulators are meaningless.

I say to my friend, the junior Senator from Nevada, that Nuclear Waste Technical Review Board—would you acknowledge that they are some of the greatest scientists we have in America today?

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Nevada.

Mr. BRYAN. They are. They are not motivated by any political, geographic, sectional, or partisan bias. They are chosen because they have the preeminent qualifications. I believe the senior Senator was off the floor when I made the observation, we have had two successive technical review boards—the one that made its report in 1996, which the Senator will recall was part of our debate. But a new board, constituted under the distinguished chairmanship of the dean, as you just referenced, they have looked at the issue and have reached the same conclusion.

So, here you have a board of preeminent scientists examining the issue in 1996 and they reached the conclusion which you have just declared, namely that it is unnecessary, there is no advantage to it, indeed it is bad public policy. And, now the 1997 board, essentially consisting of new members, but equally eminent and distinguished scientists, has reached the same conclusion.

Mr. REID. I would also say to my friend, and ask his response to this—would you agree with the board, the technical review board, that one of the most important things to do, as it relates to nuclear waste, is have public confidence?

Mr. BRYAN. I think that is absolutely essential. And that is one thing that has beleaguered this legislation, dating back to the 1982 Act.

As the Senator from Nevada knows, because of the nuclear utilities' constant driving, pushing, insisting upon unrealistic deadlines, trying to shortcut science, this act has faced a considerable series of failures. And, as the board has pointed out from time to time, this is not something that you can rush. Indeed, it is something that needs to be very carefully reviewed. And because there is this constant pressure by the nuclear lobby to constrict the timelines, to shorten all of the opportunities for public comment, this legislation, and S. 104, would certainly fit within the same category—is not going to enjoy public confidence.

Indeed, the very point that the Senator has made on many occasions on the floor is true, that the 1998 timeframe, which has been invoked by the proponents of S. 104 as if it were a date carved in stone, attested to by all of the deities, is, in fact, a deadline which the scientific community urged not to be placed in the legislation for the very reason the Senator inquired of the junior Senator from Nevada, the timeline was unrealistic.

So, now, in effect they are using their argument of 1998 to, in effect, bootstrap their argument that 1998 will come and there will be no permanent resolution to it, and, therefore, we need this ill-conceived proposal that is before us.

Mr. REID. I ask my friend another question. Eminent scientists have said S. 104 is bad. You agree?

Mr. BRYAN. Absolutely true.

Mr. REID. Can you think of a single environmental organization in the world—well, let us limit it to the United States. Can you think of a single environmental organization, for-profit or nonprofit, that supports this legislation?

Mr. BRYAN. I cannot, and, in point of fact, every nationally recognized environmental group that I can think of has indicated its strong opposition to this legislation as being unsound environmental policy. I think the point that the Senator from Nevada makes is a good point. Frequently, in what I would refer to most respectfully and charitably as convoluted logic, I have heard S. 104 characterized as an important piece of environmental legislation. That would give new meaning to environmental legislation. No environmental organization, as the senior Senator points out, supports this legislation and, again, for the basic reason that it is unnecessary and it is bad policy. It simply is not good policy.

Mr. REID. If we change our course now, Madam President, there is no doubt in my mind that a permanent repository will never be built and all the effort and all the money will just go down the drain as misguided nuclear politics.

The work done at Yucca Mountain is an essential part of the program that was promised to guarantee public health and safety at any site selected for a permanent repository. This guarantee was done in 1982 by Chairman Udall and others who were prominent in pushing this legislation through, the 1982 Nuclear Waste Policy Act.

Without their assurance, the Congress would never have supported the policy amendment, would never have supported the underlying legislation and the policy amendment that designated Yucca Mountain in 1987 as the only site to be characterized. The arguments then were, "We'll do such a grand job of scientific study and evaluation that there will be no question about Yucca Mountain suitability, reliability; we will never compromise on safety, not where the American public is concerned; we will do everything necessary to identify and resolve any concerns that Yucca Mountain might not be a suitable repository site; we guarantee Yucca Mountain will not become a storage site before all concerns have been satisfied."

Madam President, that was then, and this is now. Then was a time for promises that they hope everybody has forgotten. Now is a time for political expediency and smoothing the ruffled feathers of the powerful nuclear power-generating lobby. Now is the time for pushing the waste into Nevada before anything is ready, even without a repository site, even though the scientific community says no, even though the environmental community says no. Never mind repository reliability and permanent isolation from the environment. If anything happens, it will happen on someone else's watch, in someone else's backyard. That, Madam President, is bait and switch if I ever saw it. It is a well known, but not a highly respected way of doing business, and it should not be done here.

I have talked about the independent reviews by competent Government-chartered experts. We have talked about the Nuclear Waste Technical Review Board. Here is a direct quote that you will hear from the two Senators from Nevada of what the chairman of the Nuclear Waste Technical Review Board said:

> . . . because there are no compelling technical or safety reasons to move spent fuel to a centralized storage facility for the next few years, siting a centralized facility near Yucca Mountain can be deferred until a technically defensible site-suitability determination is made. . . . Deferring the siting of a storage facility until that time will help maintain the credibility of the site-suitability decision.

Madam President, I hear people and I know my friend from Nevada has heard the same thing, "Well, what are you going to do with the waste?"

If I can call upon my friend from Nevada again for a question, he will recall last year in the debate there were dire urgings that if something did not happen last year, powerplants would close down last year. Do you recall in the early eighties statements similar to this being made?

Mr. BRYAN. I do, indeed. It was made in 1980. Neither the senior Senator from Nevada nor the junior Senator from Nevada were Members of this body or of the other one at that time. But then, as now, the nuclear utilities were urging the Congress to adopt interim storage, they then were called away from reactor storage. The statements were made during the floor debate that if this were, in fact, not done, that within the next 3 years, by 1983, nuclear utilities would have to close down and there would be brownouts.

As the senior Senator from Nevada knows, that was 1980. In a sense, if you took the date off that legislation and inserted the words "interim storage" for "AFR," it would be identical to the context of the debate.

If the senior Senator from Nevada will indulge me for a moment, this is what was said by the then chairman of the Energy Committee, Mr. Johnston, the distinguished Senator from Louisiana:

> Mr. President, this bill—

Referring to the AFR legislation—

> deals comprehensively with the problem of civilian nuclear waste. It is an urgent problem—

Sounds somewhat familiar, does it not?

> Mr. President, for this Nation. It is urgent, first, because we are running out of reactor space at reactors for the storage of the fuel, and if we do not build what we call away-from-reactor storage and begin that soon, we could begin shutting down civilian nuclear reactors in this country as soon as 1983. . . .

I say to my friend from Nevada, that is, in essence, the debate that we heard in 1996. Just substitute a date and put it 3 or 4 years into the future. Those are the opening comments made by the chairman of the Energy Committee that we just heard. This is the nuclear utility refrain. It has become kind of a mantra, their Holy Grail, and, in point of fact, as the senior Senator from Nevada well knows, that is simply not the case. That is scare tactics; that is hysteria.

Mr. REID. I say also to my friend from Nevada, we established with the dry cask storage containers I spoke of earlier that if they burn from diesel fuel, that is bad. If you are in an accident because of going fast, that is bad. I say to my friend from Nevada, we acknowledged what some of the scientists are saying: Leave it where it is. Put these spent-fuel rods in dry cask storage containers in onsite storage. It would be safe, you would not have a diesel fire or accident from going fast. It would be safe and cheap. It would cost hardly anything to do that. There are utilities doing that right now, is that not true?

Mr. BRYAN. That is absolutely correct. There are a number of utilities that do it. One is just about 40 miles from the Nation's Capital. It is authorized by the Nuclear Regulatory Commission. So this is not a proposal that originates from those of us in this body, it is a scientifically accepted alternative that is available onsite storage which provides a 100-year storage option without, as the senior Senator from Nevada correctly points out, the risk involved in transportation and handling.

I might just add parenthetically, with all the talk about the casks that are going to be used to be shipped across the country, those casks have not yet been designed and licensed.

Mr. REID. Even if they were, with the standards they have now been able to establish, it would be unsafe to transport them.

Mr. BRYAN. Absolutely.

Mr. REID. "Deferring the siting of a storage facility until that time will help to maintain the credibility of the site-suitability decision."

That is what was said by the chairman of the Nuclear Waste Technical Review Board, among other things.

These same reviews have cited the steady and productive progress toward the objective—and I underline and underscore "objective"—of determining Yucca Mountain's suitability for siting the Nation's repository for spent nuclear fuel and high-level radioactive waste.

The powerful, aggressive, obsessive nuclear power lobby is not willing to wait. They are not willing to wait. They do not care about the credibility of the site-suitability decision. They are only interested in getting it out of their pockets, out of their backyards and putting it someplace else. Their arguments, I say, are mindless and reckless. Their arguments are specious.

As we have indicated, spent fuel is safe right where it is. My friend, the senior Senator from Colorado, stated during the committee hearing that if the waste is safe enough to ship, it is safe enough to leave in place. That says it all.

The arguments for consolidation are without substance because an interim storage facility at Yucca Mountain will not reduce the number of storage sites. On the contrary, it will increase their number. This is fact, it is not supposition, it is not presumptive, it is not vulnerable to contradiction. Continuing operations will require onsite storage of spent fuel in cooling ponds or in an onsite interim facility for transportation staging.

Nuclear waste will always be stored temporarily at operating nuclear power-generating sites. For those generating sites that either have terminated operations or will terminate operations, preparation for transportation will take far more time than is required for the 1998 viability decision for Yucca Mountain. They know that. Preparations to ship this waste material across the country have hardly begun, and that is an understatement.

In his arguments against S. 104, the chairman of the Nuclear Waste Technical Review Board pointed out:

> The country currently has a capacity to transport only a few hundred metric tons of spent fuel a year.

And, I might say as an aside, some people would agree we cannot even haul that much. He went on to say:

> Developing a transportation infrastructure necessary to move significant amounts of waste, including the transportation of casks and enhanced safety capabilities along the routes, will take a few years longer than will be needed to develop the simple centralized storage facility currently envisioned by DOE. A site-suitability decision could be made beginning the interim storage facility with no lost time.

If transportation performance is not improved, there will be at least 50 accidents involving spent fuel or high-level radioactive waste on our railroads and highways here. That is what the average would be under the present statistics—50 accidents involving spent fuel or high-level nuclear waste. That is a lot of accidents, I must say.

Madam President, I want to close this part of my statement by reminding everyone why we are here. We are here because of the nuclear power lobby. There is no other reason. The President has said he is going to veto this legislation. The legislation will be vetoed. The President's veto will be sustained. There is no reason that we are doing this other than because of the nuclear power lobby, and some are trying to satisfy this lobby. We would be better off by dealing with the budget, which, I say to my friend from Nevada, as I understand the law, were we not to have completed a budget before the April break when we went home for Easter? Isn't that the law?

Mr. BRYAN. That is my understanding, that we are obligated to do so, but we have not yet done so.

Mr. REID. I will also state that if we do not have a budget, we cannot deal with the 13 appropriations bills. I am a member of the Appropriations Committee, and we have done nothing, basically, on our appropriations legislation because we have not gotten our marks from the Budget Committee. Thirteen appropriations bills and not a single one has been marked up.

We are absolutely going nowhere. But what are we doing here? We are spending a week on legislation that the President said he is going to veto, which failed last year because of that. If there were ever a colossal waste of legislative time, which means taxpayers' time, this is it. I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Madam President, the junior Senator from Nevada has been criticized and taken to task somewhat because he has referred to this legislation as a "mobile Chernobyl." In that criticism, it has been said, "Look, what happened at Chernobyl is a different situation entirely. There you had a reactor explode. This is not going to explode." I concede that there are differences in terms of causation, but the results are equally devastating.

We are talking about the shipment of 85,000 metric tons of nuclear waste. That would involve, as has been estimated, about 15,638 shipments—6,217 by truck, roughly 9,421 by rail. So we are looking at about 15,638 to roughly 17,000 shipments.

Each of those truck casks would weigh 25 tons. Each rail cask would weigh 125 tons. One rail cask—one rail cask—carries the long-lived radiological equivalent of 200 Hiroshima bombs—200.

So when I use the "mobile Chernobyl" analogy, the risk to Nevadans, the risk to Americans, if indeed a rail cask ruptured as a result of an accident and radiation was released, it would be a mobile Chernobyl because the spread of radioactivity and the resultant contamination that results as a consequence could be widespread.

I would simply point out to those who are so sanguine about transportation that we are daily reminded that human error—the chairman of the Energy Committee pointed out that Chernobyl was a product of human error. Indeed, Madam President, I suspect that a great many of our accidents, maybe even a majority of them, are a product of human error. We see that every time there is a major rail collision or a train that is derailed as a consequence of some neglect in trackage. We have certainly seen it in the context of terrorist activities of late.

But the National Environmental Law Center provides that EPA data analysis shows that 7,959 accidents occurred during the transportation of toxic chemicals from 1988 to 1992. The American Petroleum Institute tells us that heavy truck accidents occur approximately six times for each million miles traveled with thousands of truck shipments. This means that at least 15 such accidents could be expected each year.

So the risks are considerable in terms of this transportation, all of which are unnecessary. It is not necessary or advisable or prudent or sound policy to do so.

This is frequently characterized as a Nevada battle. But let me just say, fairly recently there has been a proposal to move the nuclear waste from a port in Oakland through Nevada and into Idaho. It has generated a considerable amount of controversy, not only in my own State, but in California. I believe that those who are watching across the Nation should be aware of the fact that Nevadans are not the only ones who are placed at risk by this ill-conceived proposal.

The shipment routes involve 43 different States, and 51 million Americans live within 1 mile of either the rail or highway corridor routes.

On this chart that we are exhibiting, the highway corridors are depicted in red, the rail routes are depicted in blue. With the kinds of massive shipments we are talking about—125 tons by rail, 25 tons by each truck cask—you could only use the major corridor routes. You would not use some back road or unimproved surface. You would need a full-scale transportation route.

With all the potential for accident, with all the potential for some serious, unintended, unavoidable consequence, we risk the lives of 51 million Americans to satisfy the request of a single industry in America—the nuclear utility industry. They are the only ones that bring us to the floor to debate this issue today. As my senior colleague pointed out, they were the ones in 1980 that brought it to the floor. They were the ones that brought it to the floor in 1996. And if we are successful, as I believe that we will be in 1997 in preventing this legislation from being enacted into law, based upon a carefully considered Presidential position that he will veto such legislation, I would predict that they will be back here in 1998, 1999, and the year 2000 because this is something that they covet and that is a priority for them.

So the transportation issue, of which we will comment more during the course of the debate tomorrow, is a consideration that affects 51 million Americans in 43 different States. As they say, you cannot get there from here. You have to take that lethal waste across the heart of America. Most of this waste—most of this waste—being east of the Mississippi River will involve transportation over literally thousands of rail or highway miles.

Let me briefly comment on a couple of other points. The chairman of the Energy Committee pointed out that there is a lawsuit that was filed. He said, as others have said, that it requires that the Department of Energy must take possession of nuclear waste that is stored throughout the reactor sites by 1998 and, if we do not do so, that all kinds of horrendous consequences will occur.

First, let me point out that the lawsuit was decided last year prior to the vote that we took on S. 1936, which is the predecessor to S. 104 and essentially in the significant aspects is virtually identical. So this is not a new development.

But I think it is important to comment because the utilities have sought to obfuscate the issue and have given the impression that, indeed, in 1998 there will be a series of Department of Energy trucks or vans or rail cars that must back up to every reactor site in America and begin to load those on board and that, lo and behold, if they do not have an interim storage facility, these vehicles will be traveling endlessly for all time and in perpetuity.

Nonsense. The lawsuit did conclude that the Department of Energy has an obligation, a legal responsibility. And you look to what the remedy is in the contracts.

In 1982, the Nuclear Waste Policy Act was enacted by the Congress, signed into law by President Reagan. In that Act it required utilities to enter into contracts with the Department of Energy. And all the utilities that are part of this debate have done so.

When you look at the contract, there are two provisions, two provisions that specifically deal with this issue.

I again remind my friends that 1998 was not a date sanctified by the scientific community. That was a date the utilities insisted upon. The Department of Energy and others argued that that date was unrealistic. "We're not going to be able to reach that date," they said. But the utilities said, "No. 1998, we want that." That is what the law reflected.

But in the contract that was required to be entered into with each of the utilities with the Department of Energy, there were two provisions. Both of these provisions are contained in article 9.

What it said is this: In anticipation that the 1998 date may not be fulfilled, it indicated that if the delays were unavoidable by the Department of Energy, that is, if the delays were beyond their control, that there was no culpability. Then the remedy that was provided was simply to reschedule the delivery dates. It makes some sense.

The other provision that is applicable—and I am sure the utilities will urge this point of view—is, indeed, there is culpability on the part of the Department of Energy. As a result of their culpability, it would be classified under the provisions of the contract as an "avoidable" delay. That, too, is part of article 9, section B.

The contract remedy is, in the event of any delay in the delivery, acceptance or transport caused by circumstances within the reasonable control of the Department of Energy or their respective contractors or suppliers, the charges and schedules specified by this contract will be equitably adjusted to reflect any estimated additional cost. That strikes me as being reasonable.

I had occasion in many years past to practice law, not nuclear utility law or environmental law, but what this says is that, look, if the Department of Energy is found to have been negligent in moving the process forward, the utility is entitled to an adjustment of what they are paying into the nuclear waste trust fund based upon additional costs that are being incurred. Indeed, that is not a novel concept.

When this Senator first came to the Senate in 1989, and in each session thereafter, joined by my senior colleague from Nevada, we have offered legislation that does indeed provide that the utilities would be entitled to an offset or compensation for the additional expense that they may incur as a result of this 1998 deadline being unattainable.

So there is no great mystery about the lawsuit. It changes nothing in the debate that we have, nothing whatsoever, and should not be used as a basis for supporting the legislation that is currently before us.

Finally, let me make just one additional comment that the senior Senator from Nevada addressed. That is that this legislation is not going to become law.

The President of the United States, as he did in 1996, indicated that this is bad policy, and following the advice and counsel of the scientific community—the Nuclear Waste Technical Review Board concluded that it was unnecessary, unwise, and indeed there is no necessity for this, no safety is to be gained by this massive shipment of 85,000 metric tons of waste. This is a scientific body that concluded that in 1996, and although the board is newly constituted with a new chairman and many new members, it reached the same conclusion in 1997, this very year, in testimony that verified that interim storage is not necessary. So the President, following the wise counsel of those who have examined this from a scientific and objective point of view, has indicated, as shown in testimony before the Senate Energy Committee, that this legislation will be vetoed if indeed it should reach his desk.

We will have much more to say about this issue as we debate it during the course of the next week or so. We will point out with greater particularity a number of the issues that we have touched upon lightly today. I just hope, for my colleagues who are watching and their staffs, that we not be misled. This is legislation that is a carbon copy of the legislation that was debated in S. 1936 in the last session of the Congress.

I yield the floor.

Madam President, I see no one else is on the floor seeking recognition. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Madam President, I ask unanimous consent to speak as in morning business for a period of about 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. I thank the Presiding Officer.

Madam President, let me begin by complimenting my distinguished colleagues for their statements on the floor this afternoon. My intention is not necessarily to speak on that issue, but as I have in the past, I am supportive of their efforts and commend them once more for their concerted effort to bring some fairness to the issue that they have addressed. This is a matter of great import to the State of Nevada. No one has been more articulate, more aggressively persuasive on the issue than have the two distinguished colleagues from Nevada. I commend them and urge our colleagues to listen carefully to their counsel and support their efforts as we proceed for the remainder of this week on this very important issue.

CRITICAL ISSUES TO ADDRESS

Mr. DASCHLE. Madam President, we have 7 weeks between now and the next legislative recess, a period within which a great deal of work must be done. This has not been our most productive Congress so far. There are a lot of reasons why we have not been as productive as we would like it to be. I hope now as we get into the very critical months of April and May that we spend as much effort as we can to bring about the consensus we must have on a series of issues that this Congress must address. Some of them have deadlines. Some of them do not. But all of them are of extraordinary importance to this body and to the American people.

There are two with deadlines that I hope we can begin work on in earnest this week. First and foremost, the Chemical Weapons Convention. There is no doubt we are facing the prospect that the United States could miss its opportunity to become a full-fledged member of the international convention responsible for bringing about the elimination of chemical weapons. If we fail to ratify the convention by the 29th of April, we will miss the opportunity to commit ourselves fully to the obligations of that convention and to the international community. We are told that enrollment of the convention requires at least 10 days, which means we only have until the 19th. In other words, we have fewer than 14 days within which all of the ramifications of that important convention can be addressed here on the Senate floor.

This has been the subject of extraordinary debate, countless deliberations, numerous hearings, and efforts on both sides of the aisle to resolve the differences that still exist.

It is my understanding that we are not that much closer today than we have been for several weeks. If that understanding is inaccurate, then I hope someone will come to clarify the current set of circumstances.

Madam President, we simply cannot wait. We must deal with this convention. Time is running out. We are not inclined to support any other legislation or the movement of any other bill until such time as we have some appreciation of where we are with regard to this convention and when we can expect it to come to the Senate floor. I give great credit to the majority leader for his efforts in attempting to do that. He has been patient and diligent, but, so far, I think it is fair to say that none of us have been successful. So while our approach has always been to try to work through this and to give everyone the benefit of the doubt in the hopes that, ultimately, we can come to a resolution, the bottom line is that time is quickly running out. When time has run out, the last laugh may be on us.

Madam President, the stakes are too high, the issue is too important, and the consequences are too severe for us to ignore this important deadline. We must confront it and we must recognize that this must occur this week. Hopefully, tomorrow must be the day we finally come to the conclusion about when it is this important treaty will come to the U.S. Senate for ratification. Anticipating failure, I don't think we have any other choice but to do all that we can to hold off on taking any action on any other piece of legislation until such time as we can anticipate success.

So, Madam President, I am very hopeful that tomorrow we can resolve whatever remaining procedural questions there may be in an effort to deal with this issue directly.

Second, let me just say that we are also running up against another deadline, and that deadline involves the budget. We already missed April 1. That was the deadline that the Budget Committee was supposed to have reported out its budget resolution. Now we have the important deadline of April 15. That is the deadline under the law for the Senate to pass a budget resolution.

I didn't hear the distinguished majority leader this morning, but I am told that he had indicated that they are waiting for the White House to take additional steps and to make an additional effort. I must say, Madam President, I have heard that excuse now for too long. The fact is that the President has taken the action that is required of him under the law. He has presented a budget on time. He has presented a budget, by the way, that balances by the year 2002, using CBO figures. So, Madam President, as far as I am concerned, the President has done what he is required to do. The question now is, can we? And will our Republican colleagues take the leadership that comes with being in the majority and meet the April 15 deadline?

I hope that we will no longer rely on excuses. I hope that we can come together, Republicans and Democrats, in the Budget Committee, first, and, second, on the floor, and meet the obligations proposed by law, with no more excuses about who has acted under what circumstances. While the negotiations are not going well enough, the time has come to act now, and the time has come for us to come together, to work in the regular order under the budget process, through the Budget Committee, and get the job done.

So there is an array of pressing issues, Madam President. As I indicated, some have deadlines—the Chemical Weapons Convention and the budget. Time is running out. Excuses are getting old. Let's get on with the work and get the job done.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Idaho.

Mr. CRAIG. Mr. President, I assumed the minority leader was speaking on his own time.

Mr. DASCHLE. That is correct.

Mr. CRAIG. Apart from the debate on the nuclear waste bill.

Mr. DASCHLE. Yes.

The PRESIDING OFFICER. The pending question is the motion to proceed on the bill.

The Senator from Idaho.

Mr. CRAIG. Mr. President, before I speak in relation to the motion to proceed on S. 104, let me only say to the minority leader of the Senate, with due respect to him—and I do respect Senator DASCHLE—the Senate and the leadership of the Senate and the House, for well over a month and a half, deferred to the President and the responsibility of the President in submitting a budget to Congress. I sat on the floor of the U.S. House of Representatives and listened to our President refer to the submitting of a balanced budget; 12 times in the State of the Union Address our President spoke of a balanced budget. We received that budget. No one chose, in their own good form, to criticize it. In fact, we sent it off to be analyzed by the Congressional Budget Office. And it came back.

I must report to the minority leader that it was not a balanced budget, and we all know that now. It was well out of balance by nearly $100 billion for the 4 years of this President, with the inclusion of a major tax increase and some tax cuts. And then, of course, the year after this President leaves office, the tax cuts go away, the tax increases stay, and a major cut in programs or a major increase in revenue. That is why we haven't dealt with the budget, because we were willing to give this President the benefit of the doubt. Certainly, the Senator knows that, and it was a fair willingness on our part.

Now that that day has passed, the Senate is beginning to work its will on the budget. We first wanted the President to have a fair and uncriticized opportunity, and that is exactly what he got. But in all fairness, the public now knows that this President's budget includes major spending increases and major new Federal programs and no real commitment to balance, not in the context of the political reality that certainly the minority leader operates in and that we operate in. No Congress has made those kinds of dramatic cuts, nor, frankly, have they raised that much revenue as the President is proposing, because while he appears to give on one hand, he rapidly takes away on the other.

In all instances, his program spending wraps up a major increase in 1 year of $25 billion of new domestic spending in this country. That is what we are wrestling with. Certainly, this Senate is going to deal with the budget, and they are going to deal with it in a very timely manner. What I hope we can do is something that I know the minority leader will appreciate and that is to deal with it in a bipartisan way. That we can accomplish and we should accomplish. Already, moderate and conservative Democrats are speaking up and saying they can't deal with the President's budget, not in the context of our commitment. Our commitment was that if we would not support a balanced budget amendment to the Constitution, we could produce a balanced budget without it.

Now, the Senator knows how disappointed I was that he worked so hard to destroy the vote on a balanced budget amendment to our Constitution, because I worked a long time to get that because I think that without it we won't get a balanced budget. But all the while he was working to change that vote and worked with the administration to do so, there was a constant drumbeat of promise to get us to a balanced budget by the year 2002.

I know that the Senator was sincere in that commitment. We are committed to that commitment. But we cannot get there with the President's schedule of new spending, and we cannot get there with the President's new tax increases, and we cannot get there with doing all of the cuts and all of the changes in the fifth year after this President has left office. It must start now. It must ramp its way toward the year 2002. Let it be said—and I think it is important that it be said—that for the last 2 weeks, with the President's commitment and with the leadership's commitment, meetings have gone on. I think the only problem is that everybody has been sitting around at those meetings talking about how delightful it is that they are meeting, instead of time lines and commitments to the American people meeting what we have said to the American people we would give them, and that is, of course, a balanced budget by 2002.

We need to start this year, not 4 years out. We don't need major tax increases to get there, and we can do so with reasonable responses to our domestic spending, not major new programs, but reprogramming, giving the priorities where it ought to be. Many of those is where the President knows he wants them, and we are willing to participate in that. So the budget process is now well underway. But it took a month's detour, with the commitment that it would allow the time for the President's budget to play out. That has now played out. We now need to get on to the real budgeting that is the responsibility of the Congress.

I would be happy to let the minority leader comment, if he wishes, before I go on with my discussion on the nuclear waste bill.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. I thank my colleague from Idaho for his comments. I appreciate very much having the opportunity to hear them just now.

Let me respond with four specific points. First of all, I don't know of a time when the Congress required the President to submit a budget that we were in total agreement with. That isn't what we do here. We are not waiting for the perfect document to come from the White House. That isn't what we did in past Congresses. It isn't what we did with Republican or Democratic Presidents.

The President submits a vehicle, the President submits a budget, and we either accept it as the vehicle and mark up the vehicle and provide a budget that will allow the consensus to work its will, Republicans and Democrats, or we present an alternative. My argument this year is that, so far, the Republicans have done neither. They have said we don't like the Democratic budget, but they have not proposed one either.

As I said in my comments a moment ago, time is running out. April 15 is soon to be here. We don't have many more days, legally, for the Republicans and the Democrats to do what my friend suggests we do—work together to come up with some resolution. That is No. 1.

No. 2, June O'Neill, the Director of the Congressional Budget Office, sent a letter directly, I think, to all members of the Senate Budget Committee reaffirming CBO's analysis of the President's budget, that indeed it does reach balance by the year 2002. Now, the Senator may not subscribe to the triggers used by the President to assure that we reach CBO figures and balance the budget by the year 2002, but there is no doubt whatsoever that the President did what he said he was going to do—present a balanced budget—and he uses a mechanism that will allow us to do that, which has been embraced wholeheartedly by Republicans and Democrats in past budgets, including the Republican budget in the last Congress.

No. 3, there will always be differences between Republicans and Democrats on priorities. We have no doubt that, ultimately, whether or not we get a resolution, our differences may or may not be bridgeable. We feel very strongly about the need to commit resources to education beyond that which was committed in the past. We feel that if we lose the opportunity to educate the next generation, we lose the kind of freedom and greatness this country aspires to.

So, Mr. President, there will be differences, and we will have our debates about those. But that is really what the debates ought to be all about, those fundamental differences on our priorities. I will argue for whatever length of time we have that investments in education, health care, housing, and investments in the people of this country in ways that will make them stronger and less relying upon Federal programs are in our long-term best interest regardless of what form they may take.

Mr. President, No. 4, I believe that all too often in this country we get hung up on whether or not a given budget is going to achieve everything that we had hoped it would. You know, the funny thing is that we never find out, because the Congress, in all of its wisdom, oftentimes never gets to that point where we can pass a budget agreement that allows us to move on through the process of reconciliation and appropriation and the whole process here.

I want to say that I think there are Republicans and Democrats who have come to a point of asking whether or not an annual budget resolution makes a lot of sense. That is a debate for another day. Someday I hope that we can have a good debate about whether annual budget resolutions make sense. My personal preference is to have a biannual budget resolution because I think it would allow us a lot more opportunities to cope with all of the circumstances involving the $1.5 trillion budget that we have to consider on an annual budget today. But that is the law right now, which takes me back to the first point. The law says that regardless of how we may feel about biannual budgets in the future the law requires an annual budget today. The President has fulfilled his obligations under that law. Now it is time to fulfill ours, working together to meet that April 15th deadline to do exactly what the President proposed that we do—balance the budget by the year 2002.

Mr. REID. Will my friend yield for a question?

Mr. DASCHLE. I do not have the floor. The Senator from Idaho yielded to me.

Mr. CRAIG. I would be happy to yield briefly to the Senator from Nevada.

Mr. REID. I ask the Democratic leader, is it not true that last year was the fourth year in a row in which we had a declining deficit, and the first time in a row since before the Civil War?

Mr. DASCHLE. Mr. President, in response to the Senator from Nevada, the answer to that is yes. We have made great progress to reduce the deficit by 60 percent. OMB and the Congressional Budget Office fought aggressively over past budget projections. But OMB has been more accurate than the Congressional Budget Office in the last 4 years. That has brought about economic strength that we didn't anticipate as we wrote this budget. So we have exceeded our target. We ought to continue to do that. We are prepared to use the Congressional Budget Office figures even though OMB is more accurate because the Congressional Budget Office tends to be more conservative, and that is fine when it comes to economic projections. But the bottom line is that we have come more than halfway already. Now it is time for us to complete the job.

Mr. REID. Mr. President, I also ask my friend, the Democratic leader, is it not true that inflation and unemployment have been at a 40-year low, and economic growth is at a 40-year high, and we have 300,000 fewer Federal employees than we had 4 years ago?

Mr. DASCHLE. That is correct. I thank the Senator.

Mr. REID. Have they led to a general surge in economic viability of this country?

Mr. DASCHLE. There is no question about it.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, regaining my time, we are certainly going to have ample time to debate the budget and budget issues. But I did think it was important to respond to the minority leader as it relates to his overall statement today and what we have done here in the last month that I think was an effort to accommodate this President. Now it is the job of the Congress to get on with their business, and they will, and those priorities will be well spelled out, and we will continue our efforts toward a balanced budget and a reduced deficit which the President did not honor in his commitment of his new budget, although what the Senator from Nevada has said certainly is a valid statement. The Congress has participated jointly in that.

NUCLEAR WASTE POLICY ACT AMENDMENTS—MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

Mr. CRAIG. Mr. President, when it comes to establishing national priorities—and I know what our President is doing in the area that I am about to discuss now—it is a great frustration to many States across our Nation because this President refuses—I repeat, refuses—to take a firm position and establish as a national priority in this country the appropriate handling of spent nuclear fuel and high-level nuclear waste in a way that is acceptable to the American people and commensurate with the public law.

So what I am about to speak to is a piece of Senate legislation that I and the chairman of the Energy and Natural Resources Committee introduced on this floor last year, and that we passed last year in the U.S. Senate with 63 votes—63 bipartisan voices that said that this administration was wrong with their policy, and wrong with their priorities when it came to honoring public law and the 42 States that felt it necessary that this President honor public law. I am talking about the expeditious and timely management of high-level nuclear waste and spent nuclear fuel.

For all the right reasons, our Nation has spent a long time generating radioactive materials—nearly five decades. Most of this material is the byproduct of two principal activities: National defense operations, and commercial nuclear power plants. While it was our national policy for well over five decades that the Federal Government have oversight and primacy in the area of management and control of nuclear materials, it is no longer, tragically enough, a high-level policy of this country that is discernible by administrative position and by the clearness of administrative leadership. That is why we are here today on the floor of the U.S. Senate debating a timely action that this country must take to be responsible for the five decades of activity in the generation of high-level radioactive waste.

What I am talking about clearly is a national concern. To ignore this responsibility would be unwise, irresponsible, and in some instances, with regard to taking timely action, unsafe.

I am pleased now to rise in support of Senate bill 104, the Nuclear Waste Policy Act of 1997. As I mentioned, last year I and the Senator from Alaska were here on the floor with the Senators from Nevada debating a similar bill, although this year we have changed the bill some by actions in the committee itself and by possible amendments that will be made here on the floor during the course of the debate and the final vote on this legislation.

What we are talking about is the timely storage and disposal of spent nuclear fuel and high-level nuclear waste from our Nation's defense program and from, of course, the commercial nuclear power plants. Senate bill 104 creates an integrated system that will ensure construction of an interim storage facility and permanent repository to manage spent fuel and high-level waste that is currently stored in over 80 sites in 41 States across this country.

I have in the backdrop a map of our country that demonstrates the locations of reactors and storage sites, 80 sites in 41 States. Yet our administration basically has had no policy for nearly two decades on this issue.

We spoke as a Congress and we spoke as a people in 1982: That there needed to be a national policy and a national program. The legislation that we have before us, in my opinion, demonstrates that kind of critical need, and the need also to operate and respond in a timely fashion.

Transferring nuclear waste from the many defense and commercial nuclear sites to a single Federal facility beginning in 1998 was the intent of the Congress and the President of the United States when the Nuclear Waste Policy Act passed in 1982.

It became law. It was signed by the President. It was a national commitment. It was this Nation speaking to the need to handle the kind of waste that I am talking about and to do so in a safe and responsible fashion.

Unbelievably, we are less than one year away—just 9 months—from the date when the Department of Energy is obligated by the law that was passed in 1982 and is obligated under contract, in response to the law signed and honored by our Government, to accept the waste. Now we have to come to the floor in the 11th hour and plead with this administration to come with us in the shaping of national policy to deal with this issue. Just last year the U.S. Court of Appeals reaffirmed the Federal obligation.

The Nevada test site was selected in the early 1970's as one of the sites under consideration for a geologic repository. This site has been under study for now over two decades by scientists and engineers. Here is a photograph of the Nevada test site where the interim storage facility would be located. Scientists and engineers at Yucca Mountain near this site where a permanent geologic repository for these high-level wastes would be placed have conducted the most thorough and comprehensive geological survey ever undertaken on any piece of property on the face of the Earth.

Let me repeat that claim because I believe it to be valid. The site that we are looking at, the Yucca Mountain deep geologic repository, has been studied more thoroughly, more comprehensively, both from a geologic point of view, from a seismic point of view, and from the overall need to meet the certification process for it to be a permanent, safe, high-level waste repository—that site has been more comprehensively studied than any piece of real estate on the face of the Earth. During all of this time and all of the studies, nothing has been discovered which would indicate that this site is unsuitable for use as a repository.

Because of the endless bureaucratic delays that have plagued the program, the Federal Government now says it will not have a repository operating until the year 2010 at the earliest. Remember, this was a Federal Government that in 1982 signed the Nuclear Waste Policy Act committing by contract to take the waste by 1998, 9 months from now. Yet this administration and their representatives at the Department of Energy shrugged their shoulders and said, "Well, gee, the year 2010 will have to do because we just can't get there." Yet the courts last year said "Wrong. Foul ball. Go back to home plate. You have to abide by the law." And the Department of Energy said, "Yes. You are right. We do have to do that. We recognized that."

This is 12 years after the Federal Government is contractually obligated to take title to and remove spent fuel from civilian power plants. Electric consumers and taxpayers have committed approximately $12 billion solely to study, test and build a radioactive waste management system. So when the Federal Government made its obligation in 1982 to the taxpayer, but most importantly the ratepayer of the utilities that were generating electricity through nuclear power, and the Government owed this commitment by paying out money to build the facility, to do the siting, to do the studies, to do all of the test work and to have a facility ready to operate and receive by 1998. That was a $12 billion commitment and $4.5 billion of that money has already been spent. This chart will give you an idea of where the moneys come from.

So, in other words, these were the folks that made the commitments. These were the folks that signed the contracts. These were the folks that believed that the Federal Government was an honorable agent that would honor those contracts. And the courts just this past year said, "You are right. The Federal Government has to do it." And the administration says, "Well, we can't do it. In fact, we probably won't be able to do it until 2010, or sometime beyond."

We enjoy the benefits of having the world's most reliable and powerful electricity supplies to drive our economy. In supplying more than 20 percent of the Nation's electricity, nuclear energy is part of the foundation of our Nation's high standard of living and economic growth. Twenty percent of the lights in our country, of the industry in our country, of the economy of our country, is fueled by nuclear power plants.

Mr. President, here is the thing that frustrates me most. I am going to quote from the President of the United States, this President. This is the President who doesn't have any idea how he will honor the commitment that the courts said just this last year he has to honor. This is the President who, in my opinion, has established the most antinuclear policy and attitude of any President since Harry Truman. Yet, this President this year in his fiscal 1998 budget request for the Department of Energy includes the following statement.

He says, or the Department of Energy says, this President's Department of Energy:

> [Nuclear power] plants represent a $200 billion investment by electric ratepayers and provide reliable baseload power without emitting harmful pollutants such as those associated with global climate change.

In other words, it is this President who recognizes that nuclear power or electrical power generated by nuclear energy is the safest, the cleanest, and provides a huge investment of $200 billion. Yet, this is the President who shrugs his shoulders and says, "But we don't know what to do with the waste. We do not have a policy. We cannot react."

I agree with the statement that I just quoted from the Department of Energy's fiscal year 1998 budget. Nuclear power is a major generator. Nuclear power is safe. Nuclear power is clean. Responsible management and disposal of spent fuel from these plants is a vital component of the energy security of this country and is, in my opinion, the No. 1 environmental issue that we face. Managing the waste stream safely and soundly is the No. 1 environmental issue in 41 States at 81 sites across this country.

S. 104 authorizes construction of an interim storage facility on the Nevada test site near Yucca Mountain. This facility will be constructed in full compliance with the regulations of, and will be licensed by, the Nuclear Regulatory Commission. It is an interesting drawing we have up here on this chart that shows how simple the technology to store this fuel is, but what is important to understand is that you do it by the rules and you do it by the science, the technology, and the engineering of the day.

The interim storage capacity provided for in the legislation would stem the Government's looming financial liability in its current lawsuit with utilities. In other words, I have just entered into a new dimension in this battle that we now have going over—how to be responsible and where to be responsible and when to be responsible as it relates to the appropriate management of spent fuel and high-level nuclear waste.

On January 31 of this year, 46 State agencies and 36 utility companies filed suit against the Department of Energy in Federal court. The lawsuit asks the court to order immediate action by the Department of Energy to comply with the Nuclear Waste Policy Act of 1982 by beginning to remove spent nuclear fuel from reactor sites by January 31, 1998, as specified under the Act. The Department of Energy not only has failed to take any steps to fulfill this obligation, as I have spoken to earlier, but, rather, it has acknowledged it will not begin waste acceptance in 1998 and has solicited suggestions on what it might do in light of this failure.

Let me repeat. Here is the Department of Energy that has basically said: We cannot do it, so tell us how to do it. Give us some ideas of how we, as Government, can honor the commitment that we have made under the law.

Let me suggest to our Secretary of Energy and to the President that the way you honor the commitment is S. 104. Don't fight the Congress. Don't fight a majority bipartisan effort here. Come with us, work with us in solving this problem as S. 104 provides. Not only does it recognize the commitment by law, but it recognizes the need to respond in a timely fashion.

Just last week our new Secretary of Energy, Federico Peña, met with nuclear energy executives. Despite the potential for billions of dollars of liability judgments against his Department, Secretary Peña and the administration again failed to offer any concrete solution to this issue. Why did they fail to offer it? Because they do not want to recognize the need for S. 104. They do not want to recognize the commitment they have made, or at least are responsible for under the law.

In the course of this debate, you will hear and you have already heard the two Senators from the State of Nevada talk about the issue of transportation. Our opponents will raise the specter of a mobile Chernobyl. This fearmongering is simply not supported by facts.

Let me digress here to talk about the safety of transportation for a moment. In doing so, let me make this statement. I have had the privilege over the course of my time in service in the U.S. Congress from the State of Idaho to deal with a lot of issues, all of them or most all of them were political, but 99 percent of them are not just political. Some of them deal with economics. Some of them had differing opinions as to the engineering or the science or the technology involved in a given issue. But never have I dealt with an issue that, in my opinion, is exclusively political—not scientific, not engineering, not mechanical in any way. Because when it comes to the management of nuclear waste, none of those charges have any base to them. The only dynamics in this debate is politics. Where do you want to put the waste? Because, once that decision is made, our science, our engineering, and our technology knows without question that it can be effectively and responsibly stored and safely stored in an environmentally sound way.

Those decisions were made—that it be a deep geologic repository. So, when it comes to the movement of that waste to that repository, the same argument holds true. The fact is, there have been over 2,500 commercial shipments of spent fuel in the United States in the timeframe that I have talked about; the same timeframe we have dealt with the management and the handling of nuclear waste. There has not been a single death or injury from the radioactive nature of the cargo.

Let me repeat. There has never been a single death or injury from the radioactive nature of the cargo.

What am I saying when I say that? I am saying that the integrity of the shipment vessel in which high-level nuclear waste or nuclear fuel was transported was never breached, even though there were some accidents. There is no other product or waste material transportation in our country today that can make that claim—none, except nuclear waste. It has been transported more safely with no escape of radioactivity, and therefore no human injury resulting from it, and transported more safely than any other waste, toxic substance, or human-harming substance in the United States. That is a unique claim.

The reason that claim can be made was the understanding at the front end of the need to transport this waste in a safe manner and the importance of the vessel in which it was transported in accomplishing this.

Let me add to these national statistics by describing the experience of my State, because my State receives high-level nuclear waste shipments. There have been over 600 shipments of Navy fuel and over 4,000 other shipments of radioactive material to my State. I will say that while some Idahoans resist and speak out about these shipments, none of them have been harmed. There has never been a spill. There has never been an accident that resulted in the radioactivity of the cargo being released. There have never been—let me repeat once more, for the record—injuries related to the radioactive nature of shipments.

Why? Why the great record? Well, largely because of what I just said, because there was rigorous attention paid in the very early days, recognizing the need for safe transportation of these materials. In fact, according to the Nuclear Regulatory Commission, "The safety record for spent fuel shipments in the United States and in other industrialized nations is enviable. Of the thousands of shipments completed over the last 30 years, none have resulted in an identifiable injury through a release of radioactive material."

An example of this care and handling is the testing sequence to which spent fuel packages must be subjected. Once again, we have talked about the routes. You have seen the picture. Here are some examples of the kind of testing that has gone on to create the integrity of the shipping vessel that allows me to make the claims on the floor of the U.S. Senate that I have just made. For a spent fuel package design to receive a license from the Nuclear Regulatory Commission, it must be demonstrated that the cask can survive the following tests, in sequence: A 30-foot drop onto an unyielding surface. In other words, I am talking about a concrete slab; then, a shorter drop onto a vertical steel punch bar. In other words, dropping a vessel onto a steel spike, if you will, of the size that could fully penetrate the vessel; that it be engulfed in fire for 30 minutes; finally, submerged in 3 feet of water; and separately, that the cask must not leak for 1 hour under 200 meters of water. That is the rigorousness of the testing and that is why, of course, I can make the claims I made, that no spills have resulted.

To further ensure that this care and caution be continued, we have supported an amendment offered in the committee by our colleague from Oregon, Senator WYDEN. All shipments pursuant to S. 104 will be conducted in full compliance with all relevant Nuclear Regulatory Commission and Department of Transportation regulations, in addition to complying with the Department of Energy's requirements for advance notification and emergency response.

My colleagues from Nevada have been very vocal on this issue of transportation. I would like to quote from a letter dated March 11, 1997, sent by the Western Governors' Association, of which Nevada is a member. This letter went to Senator WYDEN, giving the Western Governors' Association response to Senator WYDEN's transportation amendment that our committee accepted, that is now within S. 104. The letter reads:

> [Y]our transportation amendments to S. 104, dated March 11, are generally consistent with the WGA's adopted policies for the safe and uneventful transport of radioactive waste through western States.

We feel that the committee action has strengthened the already substantial transportation safeguards of S. 104, as introduced.

The point of this whole comment was that not only had we made significant strides to ensure questions about transportation, because the vessel itself is not of issue, in my opinion, nor are there scientists or engineers that would argue it.

The other question happens to deal with the general nature of exposure, and what is 100 millirems. We are going to talk about this in the debate. Already the Senators from Nevada have had this issue on the charts before us. I think it is important that we set radiation exposure levels in context, so that we can compare them to exposures that we assume routinely in our day-to-day living.

Mr. President, it is something that not all of us recognize or understand, but the fact is that we receive radiation by just being alive under natural environments, whether it is your relationship in altitude and exposure to the Sun or whether it is the fact that you are encased in granite or marble. For example, we receive 80 millirems dosage on an annual basis by merely serving in the U.S. Senate. Why? Because of the general radioactive nature of granite and marble. That is the way our world is made up.

In your State of Colorado, and in your city of Denver, residents receive approximately a 53-millirem annual dose because you live in a mile-high city where the air is thinner and your exposure to solar radiation is simply higher. It is the character of the environment we live in.

When I hear suggestions that we set exposure levels at 4 millirems for groundwater or setting a level of 15 millirems, I am reminded of the quote

I heard when this debate occurred earlier. It talked about the differences of exposure in, again, Denver—and I do not know why they like to use Denver, CO, as an example—the difference between 4 millirems exposure for groundwater and setting it at 15 millirems is a difference of standing up or sitting down in Denver, CO, as it relates to your relative exposure to radiation and the Sun. I doubt that anybody in the State of Colorado, or in the city of Denver, thinks that they are more exposed standing or less exposed seated, to the natural environmental radiation that occurs there and has always occurred there because of the altitude and the atmosphere.

What I am trying to make here is a point that if you want to stand on the floor of the U.S. Senate and debate millirems in the 15 or the 4 context, you do not have a point. It cannot be made. It does not make sense, because you receive them in the natural environment of Denver or you receive them in the natural environment by being encased in a building of sandstone and marble and granite right here in the U.S. Senate. That is the reality of what we have. That is the situation that we face.

Support of S. 104 is coming from all quarters, including State and local government officials, public utility commissioners, newspapers, editorial boards, labor unions, chambers of commerce, national trade associations, the electric utilities, just to name a few. A similar measure, as I have mentioned, S. 1936, passed this body last year with strong bipartisan support.

I know that many people would prefer not to address the problem of spent nuclear fuel disposal. For this Congress not to address this problem, in my opinion, would just be irresponsible. We cannot let the source of 20 percent of our country's electricity drown in waste, nor can we allow our Government to default on contractual obligations that it has made. This Government's default would leave the taxpayers of this country vulnerable to a financial liability as high as $80 billion.

As I close, let me use these examples. The minority leader and I were just discussing budgets and who is on first and who is on second and who proposed and who has not proposed. The bottom line is we are all concerned about the budget and, most importantly, we are all concerned about getting it to balance in a responsible fashion and not doing so with major tax increases.

Yet, if this Government walks away from its commitment under the law, it may well be placing itself in a liability environment that could equal upwards of $80 billion. How does that translate? That translates to an additional $1,300 per family in the United States. On the dollar and cents costs, let me relate them to you as I understand them.

If we do not assume the responsibility and deal in a timely fashion, the cost of storage of spent fuel, because the courts have said to the Federal Government, "You will take charge of it. It will become your obligation," it will start costing the taxpayers money. That cost could go as high as $19.6 billion. Return of nuclear waste fees could be $8.5 billion. Interest on nuclear waste fees, $15 to $27.8 billion, depending on the interest rates used, and consequential damage for shutdown of potential nuclear powerplants that would lose their storage capability and would not be allowed to license new storage capability could be upwards of $24 billion.

When the bipartisan leadership of the House and Senate met with the President and the Vice President some weeks ago, our leader, TRENT LOTT, said to the President, "It is our priority to deal with the nuclear waste issue." The President deferred to AL GORE and said, "It is not ours," and the Vice President largely said, "Leave it where it is until the year 2010."

Eighty billion dollars and 2010? Mr. President, Mr. Vice President, wake up. Not only will the taxpayers not allow that, but the politics of this country will not tolerate that. We must deal with this issue, and S. 104 is clearly a way of dealing with it.

The United States has benefited from the many uses of nuclear materials which have deterred a global conflict. Our nuclear fuels now generate electricity in a clean, non-air-polluting way. Our generation now must take the responsibility that it has to properly manage spent nuclear fuels for the defense program of our country and for the 110 commercial powerplants that it obligated itself to do so in 1982.

The Nuclear Waste Policy Act of 1997, the legislation that we are now asking for the right to proceed with on the floor and deal with in a timely fashion, S. 104, is the proper way to move. It allows our citizens the comfort of knowing that our Government has acted responsibly to assure environmentally safe long-term storage and disposal of spent nuclear fuel and high-level radioactive material. I hope that tomorrow evening, when we vote cloture that would give the Senate the right to proceed to debate on the legislation, that we can have the kind of overwhelming, bipartisan support of the type that we have received in the past.

Mr. President, I believe we will get that support. I believe it because it is now time to deal with this issue. I hope that during the course of the debate on the floor of the Senate and action that will follow in the House, that somehow and in some way we can catch the attention of this administration, to do what they are legally and contractually obligated to do, so that we can stand bipartisan, shoulder to shoulder, in a national policy that deals with this issue in a way that we can all be proud of. Then we can say to our fellow citizens, "Yes, when the Government makes a commitment, when the Government signs a contract, when the Government obligates resources and taxes it citizenry for a dedicated cause, that cause can be responded to in a timely fashion." S. 104 allows us to do so, and I hope that by tomorrow evening we will have the support to vote cloture. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, if I can ask the Chair, after we finish debate on this matter today, it is my understanding that, again, this matter will be taken up at 2:30 tomorrow afternoon.

The PRESIDING OFFICER. That is correct.

Mr. REID. And there will be a vote at 5:30 or 5:15?

The PRESIDING OFFICER. I believe it is scheduled for 5:15.

Mr. REID. And the debate between 2:30 and 5:15 is equally divided between the——

The PRESIDING OFFICER. It is equally divided between 2:15 and 5:15.

Mr. REID. I recognize that my friend from Minnesota has been on the floor, and I will just take a few minutes because there are many things we can talk about during the time tomorrow. I will just say, so I do not have to answer today everything that my friend from Idaho propounded, that the $80 billion figure that my friend has brought up is, I suggest, maybe not modern math. It simply does not make sense. If in fact we are talking about saving money, the thing to do would be to leave it where it is. We would save not only the cost of the site of construction at Yucca Mountain and the proposed interim storage site of billions of dollars, maybe as much as $10 billion, but we would also not have the American public frightened and concerned about the transportation of nuclear waste. We will talk about that more tomorrow.

I will also say, tomorrow we will discuss in some detail the argument that because there has been nuclear testing there, we should also have nuclear waste; we will establish that is a clearly erroneous and fallacious reason.

Also, we will spend time tomorrow indicating how this legislation would wipe out environmental laws in this country, and that is the reason all environmental organizations in this country vehemently oppose this legislation.

Mr. President, there is a lot that we need to talk about with this legislation. As indicated, however, my friend from Minnesota has been waiting all afternoon. My friend from Idaho, my friend from Alaska and the two Senators from Nevada will discuss this in more detail tomorrow.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. We are not under controlled time.

Mr. GRAMS. Before I begin, I yield a few moments to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

PRIVILEGE OF THE FLOOR

Mr. CRAIG. Mr. President, I ask unanimous consent that Kristine Svinicki, a legislative fellow who works with my office, be granted the privilege of the floor for the duration of the debate on S. 104.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota.

Mr. GRAMS. Mr. President, I rise today in strong support of S. 104, the Nuclear Waste Policy Act of 1997. This much-needed legislation, as has been outlined today, will help resolve our Nation's nuclear waste storage crisis, help restore the commitments to our Nation's ratepayers, and ultimately to save taxpayer dollars from the Department of Energy's failed policies of the past.

Again, I applaud the majority leader and Energy and Natural Resources Chairman MURKOWSKI and Senator CRAIG of Idaho, for their leadership in moving this bill.

Again, bottom line, our Nation cannot afford further delay, and the time to act on this commonsense legislation is now. But for the Senate to fully appreciate the gravity of the situation, I believe a brief summary of its history is in order. Since 1982, utility ratepayers have been required to pay the Federal Government nearly $13 billion of their hard-earned money in exchange for the promise that the Department of Energy would transport and store commercially generated nuclear waste in a centralized facility by January 31, 1998. However, with this deadline less than a year away and with over $6 billion already spent by the Department of Energy, there has been little progress toward keeping this 15-year-old promise of establishing a centralized Federal storage facility. In fact, though there has been measurable progress at the Yucca Mountain, NV, facility, a permanent repository will not be completed until well into the next century. As of today, nuclear waste is piling up at more than 80 sites due to the DOE's failure to live up to is commitment.

Clearly, if the DOE is to meet the January 31, 1998 deadline, it must begin accepting nuclear waste at an interim storage facility—that, however, has not yet happened. In fact, the DOE recently notified States and utilities that it would not accept their commercial nuclear waste despite the law and the Federal court's effort to enforce it. Meanwhile, utility ratepayers are still being required to pay for a mismanaged program. In fact, over $630 million from the ratepayers go into the nuclear waste fund each year—without any tangible benefits or results to show for them.

Our Nation's utility consumers and their pocketbooks aren't just hit once, either. Because of the DOE's failure to act, ratepayers are currently being forced to pay their hard-earned dollars to store waste on-site at commercial utility plants—a burden that would not be necessary had the Energy Department lived up to its legal obligation. Take, for example, the situation facing ratepayers in my home State of Minnesota. Since 1982, Minnesota's nuclear energy consumers have paid over $250 million into the nuclear waste fund believing that the Federal Government would fulfill its obligation to transport nuclear waste out of Minnesota. But as time went on and the DOE continued to ignore their responsibilities, utilities in Minnesota and around the country were forced to temporarily store their waste within the confines of their own facilities. When it became clear to many utilities that storage space was running out and the Department of Energy would not accept waste by the established deadline, utilities then had to go to their States to ask for additional on-site storage or, else be forced to shutdown their operations.

For example, ratepayers in Minnesota, North Dakota, South Dakota, and Wisconsin were forced to pay for on-site storage in cooling pools at Prairie Island in southeastern Minnesota. In 1994, with storage space running out, the Minnesota Legislature—after a bruising battle—voted to allow for limited on-site dry-cask storage until the year 2004.

Mr. President, the cost associated with this on-site storage is staggering. Ratepayers in the Midwestern service area alone have paid over $25 million in storage costs and will pay an estimated $100 million more by the year 2015, and that is in addition to the required payments to the Federal Government.

To make matters even worse, storage space will run out at Prairie Island just after the turn of the century, forcing the plant to close unless the State legislature once again makes up for the DOE's inaction. This will threaten over 30 percent of Minnesota's overall energy resources and will likely lead to even higher costs for Minnesota's ratepayers.

In fact, the Minnesota Department of Public Service estimates that the increase in costs could reach as high as 17 percent, forcing ratepayers to eventually pay three times: once to the nuclear waste fund, again for onsite storage, and yet again for increased energy costs.

And Minnesota is not alone in facing this unacceptable situation. Thirty-six other States across the Nation are facing similar circumstances of either shutting down and losing their energy-generating capacity or continuing to bail out the Federal Government for its failure to act.

Ratepayers are not the only ones who face serious consequences because of inaction by the DOE. The taxpayers are threatened too. Last year, the Federal courts ruled that the DOE will be liable for damages if it does not accept commercial nuclear waste by January 31, 1998.

Under current law, no one at the DOE will be held personally liable for any assessed damages; the bill will go to the American taxpayers at an estimated cost between $40 to $80 billion. Such a tremendous liability burden on taxpayers would make the public bailout of the savings and loan collapse seem small in comparison.

What is worse is that while our States, our utility ratepayers, and the taxpayers are being unfairly punished by the Department of Energy's inaction, the Federal Government has been active in meeting the interim nuclear waste storage needs of foreign countries.

Under the Atoms for Peace Program, the DOE has resumed collecting spent nuclear fuel from a total of 41 countries. Last year, the DOE completed urgent relief shipments of 252 spent nuclear fuel assemblies from European nations to the agency's facility at Savannah River. It has also accepted nuclear spent fuel from Latin American countries.

Ultimately, as I learned during a recent trip to the Savannah River site, which is down in South Carolina, up to 890 foreign research reactor cores will be accepted by the DOE over a 13-year period. Again, up to 890 foreign research reactor cores will be accepted by the DOE over a 13-year period.

In addition, our Government is actively helping other countries reduce their nuclear waste stockpiles. With the Department of Defense spending up to $400 million on designing and constructing an interim nuclear waste storage facility in Russia to help dismantle the cold war threat, the world will certainly be a safer place, if that happens.

But, again, our Defense Department is spending $400 million to help Russia design, construct, and facilitate an interim waste storage facility, but yet cannot do it in this country.

Now, Mr. President, as a Senator who is concerned about our national security needs, I understand the rationale behind reducing our international nuclear dangers. But what I and many others cannot comprehend is how our Government has made it a priority to help foreign countries with their nuclear waste problems while simultaneously ignoring the concerns right here in our own country.

It seems clear to me that while States, utilities, and ratepayers have kept their end of the bargain, the DOE has not done its part. That sends the wrong message to the American people about trusting the promises of the Federal Government. Maybe that is why the National Association of Regulatory Utility Commissioners, 48 State agencies and 36 utilities have now all joined together in a lawsuit to stop ratepayers' payments into the nuclear waste fund and to escrow $600 million that will soon go into that fund this year. Because too long, our States, utilities, and ratepayers have acted in good faith and relied upon the Federal Government to live up to its obligations. Evidently, they have had enough of the DOE's excuses for inaction and have proposed their own recourse.

This issue has created strange bedfellows as well. In a recent interview, former DOE Secretary Hazel O'Leary agreed that action on an interim site is needed as soon as possible. It is unfortunate that Secretary O'Leary waited until she was free from the administration to openly support interim storage, but I think her comments are important to remember as we attempt to protect our Nation's ratepayers and taxpayers.

In addition, Mr. President, the former head of the Office of Civilian Radioactive Waste Management under the Clinton administration, Daniel Dreyfus, also said that he believes the DOE must move to meet the January 31, 1998, deadline. Key labor unions have even joined the fight to restore the DOE's promises. J.J. Barry, president of the International Brotherhood of Electrical Workers, recently wrote me, and he said, "I am calling on you and your colleagues to put partisan politics aside for the good of our Nation and America's workers and their families. We must address this problem now or else face serious economic and environmental consequences later." He went on to say, "Please support passage of S. 104."

Despite this widespread support, the DOE has failed to offer an alternative to our legislation.

Although the Department's new Secretary now admits that a Federal solution is needed to resolve our interim storage problems, he recently indicted in a meeting with nuclear utility executives that the DOE is still unwilling to move commercial spent fuel. Instead, the DOE offered a proposal to compensate utilities for onsite storage.

Unfortunately, this proposed compensation scheme does little but needlessly spend the taxpayers' money while continuing the failed status quo. It signals to the ratepayers that the Federal Government has no intention of moving commercial nuclear waste in the near future, despite a Federal court mandate that it does.

So again, who will pay for this? It will not be the new Secretary, Mr. Peña. It will not be the Department of Energy or out of its budget. It will gladly pay the fines, but it will come out of the ratepayers' and the taxpayers' pockets in order to do this. So they are playing fast and loose with the taxpayers' money once again.

Moreover, continuing the policy of noncentralized storage facilities may lead to the premature shutdown of one nuclear plant in Minnesota—compromising 30 percent of the State's energy needs and increasing ratepayer costs.

So again, clearly, leadership is needed to restore the promises made to the American people. If such leadership will not come from the Clinton-Gore administration, then it will have to come from Congress. Senate Energy and Natural Resources Committee Chairman FRANK MURKOWSKI, Senator LARRY CRAIG, and I crafted a bipartisan proposal, again, S. 104, identical to legislation supported last year by 63 Senators.

We have put this proposal forward as a good-faith effort to help resolve this situation for the sake of protecting the legitimate interests of our ratepayers and taxpayers, as well as protecting national security and protecting the environment. Last month, the Energy and Natural Resources Committee passed this bipartisan legislation on a 15 to 5 vote.

Mr. President, Congress has an obligation to protect the American public also from the estimated $40 to $80 billion that they face in liability expenses, because the DOE has refused to act.

Our bill will reform our current civilian nuclear waste program to avoid the squandering of billions of dollars of ratepayers' and taxpayers' money. It will eliminate the current need for onsite storage at our Nation's nuclear plants and keep plants from shutting down prematurely due to the lack of storage space. And it will also help to maintain stable energy prices.

Our legislation also assures that transportation of nuclear waste will continue to be conducted in a safe manner.

For the interests of my colleagues, there have already been 2,400 shipments of high-level nuclear waste in our Nation, including numerous shipments of naval spent fuel and foreign research reactor fuel.

In fact, in these pictures behind me it illustrates the means by which shipments of foreign-generated fuel are being transported to the Department of Energy's Savannah River facility. The safety record of these shipments speaks for itself.

They come into the Port of Charleston, SC. They are loaded off the ships and on to rail cars, and then transported to Savannah River. That is 2,400 shipments. And they have all been completed safely. And I think, again, the safety record of these shipments speaks for itself.

Again, this is spent fuel that is already being shipped across the United States, so it is no longer a question of technology but becomes one of politics.

Even so, modifications have been made to this legislation to further ensure that all spent fuel will be transported safely.

Mr. President, for too long our States, our ratepayers and taxpayers, have been threatened by a policy, again, one of inaction. As passed out of the Energy and Natural Resources Committee, this legislation sets up a reasonable deadline for the DOE to finally live up to its promises. We cannot, in good conscience, delay that deadline any further. It is unreasonable to ask the taxpayers to sacrifice any further for a department that has failed—a department that has failed—to do its job.

So I am here today also to urge my colleagues to take a giant step forward in moving this legislation closer to Senate passage by voting for cloture and allowing the bill to be debated.

Again, this is not a question of science. It is not a question of technology. And I do not believe it is a question of safety in transportation. But it has become a plain question of politics. Will the political decisions be made to allow this bill and the solving of this problem to go forward? I think this bill is the first step in that direction. As I said, I urge my colleagues to support this.

I want to thank you, Mr. President, very much.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. BRYAN. Mr. President, I ask unanimous consent during the duration of the consideration of S. 104 that floor privileges be extended to two more members of my staff, Jean Neal and Andy Vermilye.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. NICKLES. Mr. President, I send a second cloture motion to the desk on the pending motion to proceed.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. 104, a bill to amend the Nuclear Waste Policy Act of 1982.

Trent Lott, Larry Craig, John Ashcroft, Dan Coats, Tim Hutchinson, Sam Brownback, Mitch McConnell, Conrad Burns, Frank H. Murkowski, Jon Kyl, Connie Mack, Spencer Abraham, Chuck Hagel, John McCain, Don Nickles, Gordon Smith.

Mr. NICKLES. Mr. President, it is my understanding that under rule XXII this cloture vote would occur on Wednesday morning. It is my hope cloture will be invoked on Tuesday and therefore this vote would not be necessary. However, if cloture is not invoked tomorrow, I will notify all Members as to when the second cloture vote can be expected.

Mr. President, I now ask unanimous consent that the mandatory live quorum be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. NICKLES. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TARTAN DAY

Mr. LOTT. Mr. President, as a result of the recent recess of the U.S. Senate, I did not get the opportunity to come to the Senate floor and recognize Sunday, April 6, 1997, as Tartan Day. This day is set aside to honor the millions of Scottish-Americans who have made outstanding contributions to our great country.

This date has a special significance for all those of Scottish heritage. It is the 677th anniversary of the Declaration of Arbroath—the Scottish Declaration of Independence which was signed on April 6, 1320.

This declaration of independence includes these inspirational lines: "* * * we fight not for glory, nor riches, nor honors, but for freedom alone, which no good man gives up, except with his life."

Mr. President, Scottish-Americans have left their mark as pioneers and innovators in the fields of science, technology, medicine, government, politics, economics, architecture, literature, the media, and the visual and performing arts. Their contributions to the history and development of the United States are invaluable.

Some of these great past and present Scottish-Americans include: Neil Armstrong, Alexander Graham Bell, Andrew Carnegie, Julia Child, Hugh Downs, Thomas Alva Edison, Malcom S. Forbes, Katherine Hepburn, Billy Graham, Brit Hume, Washington Irving, Robert MacNeil, William Holmes McGuffey, Andrew Mellon, Samuel B. Morse, Grandma Moses, James Naismith, Edgar Allen Poe, Willard Scott, Robert Louis Stevenson, Gilbert Stuart, Elizabeth Taylor, and James McNeil Whistler just to mention a few.

Mr. President, almost 11 percent of all the Nobel Prizes awarded have gone to people of Scottish ancestry.

Mr. President, a Tartan provides an instant recognition of a family and its kinship.

By recognizing Tartan Day we are commemorating all that is best in Scottish heritage. I believe it is important for the Senate to pause, even if it is belated, and to recognize Tartan Day. I firmly believe it will further emphasize the many Scottish contributions to the growth and development of the United States.

Mr. President, as I look around the Senate Chamber I see many who can claim Scottish ancestry. I see my colleague and friend, JOHN MCCAIN. His family ancestry and my mother's actually goes back to four Scottish families who migrated to Carroll County, MS, back in the 1830's. I see others in this Chamber—JUDD GREGG and KAY BAILEY HUTCHISON, and there are many more. Every day the Scottish in this Chamber live by the words in the Declaration of Arbroath that I quoted—they are here to advance freedom.

Mr. President, when our Nation was founded, almost half of the signers of America's Declaration of Independence were of Scottish descent. Throughout the history of our country three-fourths of our Presidents have been of Scottish ancestry. This tells me that despite the fact they are few in number, Scots tend to take seriously the word from the Declaration of Arbroath.

Many organizations were involved in making the observance of Tartan Day on April 6 a success. There are clan societies, clubs, and fraternal associations and individual Scots-Americans representing literally millions of Americans nationwide that participated. They include the Scots' Charitable Society (the oldest charitable society in the United States), the St. Andrew's Society of the City of Charleston, SC (the first St. Andrew's Society in the United States), the Saint Andrew's Society of New York (the second oldest society in the United States); Scottish Society of Martha's Vineyard, MA; the American-Scottish Foundation, Inc.; the Association of Scottish Games and Festivals; the Caledonian Foundation, Inc.; the Clans of Scotland, U.S.A.; Council of Scottish Clans and Associations; Scottish Heritage USA, Inc.; the Illinois St. Andrew's Society; the Tartan Education and Cultural Association, Inc.; Highland Light Scottish Society, Massachusetts; Scottish Historic and Research Society of the Delaware Valley, PA, and numerous individual Scottish Americans including those from my own State of Mississippi.

Mr. President, I am proud to declare my Scottish-American ancestry and it is an honor to recognize the 677th anniversary of the Declaration of Arbroath. Tartan Day is indeed a significant day for all Americans.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, April 4, 1997, the Federal debt stood at $5,384,750,396,046.34.

One year ago, April 4, 1996, the Federal debt stood at $5,137,761,000,000.

Twenty-five years ago, April 4, 1972, the Federal debt stood at $428,814,000,000, which reflects a debt increase of nearly $5 trillion ($4,955,936,396,046.34) during the past 25 years.

HONORING THE REINSCHS ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Clarence and Helen Reinsch of Argyle, MO, who on April 9 will celebrate their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. The Reinschs' commitment to the principles and values of their marriage deserves to be saluted and recognized.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on March 21, 1997, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House has agreed to the following concurrent resolution, with amendment:

S. Con. Res. 14. Concurrent resolution providing for a conditional adjournment or recess of the Senate and the House of Representatives.

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on March 21, 1997, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 514. An act to permit the waiver of the District of Columbia residency requirements for certain employees of the Office of the Inspector General of the District of Columbia.

S. 410. An act to extend the effective date of the Investment Advisers Supervision Coordination Act; to the Committee on Banking, Housing, and Urban Affairs.

Under the authority of the order of the Senate of January 7, 1997, the enrolled bills were signed on March 21, 1997, during the adjournment of the Senate by the President pro tempore [Mr. THURMOND].

MEASURE PLACED ON THE CALENDAR

The following measure was read the first and second time and ordered placed on the calendar:

S. 515. A bill to provide uniform standards for the awarding of compensatory and punitive damages in a civil action against a volunteer or volunteer service organization, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on March 20, 1997, he had presented to the President of the United States the following enrolled bill:

S. 410. An act to extend the effective date of the Investment Advisers Supervision Coordination Act.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of March 27, 1997, the following reports of committees were submitted on April 2, 1997:

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, with an amendment:

S. 4: A bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes (Rept. No. 105–11).

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, without amendment:

S. 295: A bill to amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes (Rept. No. 105–12).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ASHCROFT:

S. 514. A bill to provide uniform standards for the awarding of compensatory and punitive damages in a civil action against a volunteer or volunteer service organization, and for other purposes; to the Committee on the Judiciary.

S. 515. A bill to provide uniform standards for the awarding of compensatory and punitive damages in a civil action against a volunteer or volunteer service organization, and for other purposes; read twice.

By Mr. KENNEDY (for himself, Mr. LEAHY, Mr. DODD, Mr. AKAKA, Mr. INOUYE, Mr. ROBB, Mr. LAUTENBERG, Mr. MOYNIHAN, Mrs. BOXER, Mr. WELLSTONE, Ms. MOSELEY-BRAUN, Mr. HARKIN, Mr. FEINGOLD, and Ms. MIKULSKI):

S. 516. A bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

S. 517. A bill to provide relief to agricultural producers who granted easements to, or owned or operated land condemned by, the Secretary of the Army for flooding losses caused by water retention at the dam site at Lake Redrock, Iowa, to the extent that the actual losses exceed the estimates of the Secretary; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ASHCROFT:

S. 514. A bill to provide uniform standards for the awarding of compensatory and punitive damages in a civil action against a volunteer or volunteer service organization, and for other purposes; to the Committee on the Judiciary.

THE LIABILITY REFORM FOR VOLUNTEER SERVICES ACT

Mr. ASHCROFT. Mr. President, in his "Democracy in America," Alexis de Tocqueville observed "Americans of all ages, all stations in life * * * are forever forming associations." Be it to repair a public thoroughfare or to promote temperance, de Tocqueville noted volunteer associations were Americans' best response to community needs and to cultural pathologies.

This observation, made over 150 years ago, certainly has been the case until a little over a decade ago. Volunteers have nurtured the elderly, they have coached generations of children, they have cleaned up our communities, they have supported and counseled those in need throughout American history.

I look back at my time as Governor of the State of Missouri when we started the Clean the Highways Program using volunteers. We had 5,000 groups of volunteers—5,000 groups, not 5,000 volunteers—who accepted responsibility. It is a sort of fulfillment of de Tocqueville's observation about America, that Americans of all ages, of all stations in life are forming associations to do good things.

These groups have been catalysts that interact with all elements of our culture. It is to volunteers that we owe a great deal of gratitude for our social cohesion—our sense of community in America. When things are done from the perspective of government, people view them as entitlements. When things are done by individuals because they volunteer, people know that we love one another. Basically, it is in our care and regard for each other—expressed when we do things on a voluntary basis—that is the real glue that binds us together as communities and holds us together as a culture.

It was in 1982 that the first warning signs went out that our intricate system of volunteers fulfilling social work was under attack. In Runnemede, NJ, a Little League coach volunteer was sued because he repositioned his Little League shortstop to the outfield, and in the outfield the Little League shortstop then misjudged a flyball and sustained an eye injury. A suit was filed on the allegation that the 10-year-old youngster was a born shortstop, but not an outfielder, and the courts found the volunteer coach negligent.

Over the next 5 years, liability rates for Little League baseball shot up from $75 to $795 forcing many leagues to stop playing.

In another example, a boy in a Scouting unit with the Boy Scouts of the Cascade Pacific Council suffered a paralyzing injury in a game of touch football. Several adults volunteered to supervise the trip. The youth filed a personal injury suit alleging that the Boy Scouts and the volunteers were negligent for failing to supervise him adequately.

I remember playing aggressive games as a Boy Scout. I remember playing a game we called fox over the hill. One group was supposed to run from one line to the other line without getting tackled, pummeled, and roughed up. That is the way boys operate. That is part of boyhood. But the jury found that the volunteers were personally liable for some $7 million. Oregon law caused the judgment to be reduced to around $4 million, but few Boy Scout volunteers can afford that kind of a judgment.

The jury held the volunteers to a heightened standard of care, charging them with a meticulous constant supervision level of care in their supervision over activities that routinely have been permitted without oversight. Such a standard is impossible to uphold. Anyone who has been a Boy Scout or certainly tried to supervise Boy Scouts knows that such a standard would be very difficult, and such an impossible standard has basically caused a marked drop off in voluntarism across the country.

In fact, the Gallup organization studied voluntarism and, in a study titled the "Liability Crisis and the Use of Volunteers of Nonprofit Associations," the Gallup organization found that approximately 1 in 10 nonprofit organizations has experienced the resignation of a volunteer due to liability concerns and that 1 in 6 volunteers reported withholding services due to a fear of exposure to liability suits.

What we have basically done in the last two decades is to send a signal to people: If you volunteer to be helpful, you could jeopardize the well-being of your own family; you could make it very difficult to maintain the home and lifestyle to which you have become accustomed; in trying to help others, you might, as a matter of fact, hurt yourself. I think that is sad because it has reduced this good impulse of Americans.

The study also found that 1 of 7 nonprofit agencies had eliminated one or more of their valuable programs because of exposure to lawsuits. So, instead of having more programs to help more people, we have narrowed that because of the threat of lawsuits and the potential of liability. Sixteen percent of volunteer board members surveyed reported withholding their services to an organization out of fear of liability—16 percent. That is almost 1 out of every 6 volunteer board members said, "No, I'm going to think carefully about whether I'm going to be on the board, because I don't want to get sued, and I don't want to ruin the chances of my family to live properly just because some mistake is made somewhere.

The average reported increase for insurance premiums for nonprofits over the previous 3 years, from 1985 to 1988, was 155 percent. That was over the years prior to the study, a 155 percent increase in insurance. And one in eight organizations reported an increase of over 300 percent. So, nonprofits found an increase in their insurance premiums. These numbers demonstrate rather clearly that the cost of lawsuits and the excessive unpredictable and often arbitrary nature of damage awards have a direct and a chilling effect on the spirit of voluntarism and on the nature of our communities.

I do not want to wring from the fabric of American society that healthy component that lubricates our social exchanges, the component of caring and loving and dealing with and helping each other, but if our legal system makes it dangerous to help each other and dangerous to care and dangerous to volunteer, we will have done this great country a tremendous disservice. Voluntarism is one of these defining characteristics of American culture. The understanding that people have been historically willing to help one another is a mainstay of who we are as Americans.

The hyperlitigious nature of the civil justice system is creating a barrier between the desire of Americans to help others and their ability to do so. So, Mr. President, today I rise to introduce a bill that will offer a new level of protection to volunteers who give selflessly of themselves to help others. The Liability Reform for Volunteer Services Act will reinstate reason, it will reinstate rationality, it will reinstate certainly and fairness to a judicial system with regard to voluntarism.

The Liability Reform for Volunteer Services Act covers volunteer services organizations which are defined as nonprofit organizations that are organized for the public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes. Health care providers, however, specifically are excluded from coverage. Many of them fly under the banner or nonprofit, but we all know that they are anything but volunteer organizations, and they are not, in many respects, charitable. Persons volunteering for service organizations or governmental entities are covered by the bill if they are acting in good faith, within the scope of their official duties, and not being compensated for their services. This really is an effort to say to that person that volunteers, "We are going to give you a fair situation in which to volunteer, and if you are not being compensated, we are still going to hold you to the standard which requires you to have good behavior, but we are not going to expose you to tremendous liability."

The bill establishes a standard for awarding punitive damages. It is a rather high standard for awarding punitive damages which is designed to punish defendants or defer others from engaging in the same activity against the volunteer services organization or the volunteer. An injured party would be required to establish by "clear and convincing evidence" that a volunteer organization or its volunteers acted with a "conscious and flagrant indifference" to the rights or safety of others and this conduct caused the harm for which the volunteer is being sued.

The clear and convincing standard is greater than the standard for most civil cases, which is merely the preponderance of the evidence, but it is less than the criminal standard which is beyond a reasonable doubt. The clear and convincing standard is a higher standard than the more-likely-than-not or preponderance of the evidence standard, but, obviously, it is less than the criminal standard of beyond a reasonable doubt.

Punitive damages would be capped so that punitive damages could not exceed $250,000, or twice the economic and noneconomic losses. So, actual damages would not be affected here. If there were real damages, they would be recoverable, but punitive damages would be capped. In other words, if there were to be punitive damages, not only would they be capped at a maximum of $250,000, or twice the economic damages, you would have to be able to provide that there was clear and convincing evidence that there was a conscious and flagrant indifference to the rights or safety of others.

Given either party the right to separate any court's proceeding covered by the act into two parts, the first would determine whether the volunteer or service organization is liable to the injured party, and the second would be to determine whether punitive damages should be awarded.

A volunteer services organization or volunteer would only be responsible in proportion to its degree of fault. That would mean that there would not be the kind of joint liability. If the Salvation Army were 10 percent responsible and some other organization 90 percent responsible, and the organization that was 90 percent responsible did not cover all of their 90 percent in the case, the Salvation Army would not be asked to pick up the tab for the other organization. It would only be responsible for that damage that it had been found to have caused.

I do not single out one of the most virtuous organizations in America, suggesting that they might ever be liable, but if there were a case against a charitable organization like that, that would be the framework for adjudicating and awarding damages. A volunteer services organization or volunteer only would be responsible for damages in proportion to the degree of fault that was found on their part.

The protections provided for in this Bill would not apply if the activity for which damages were awarded constitutes a crime of violence or terrorism. If the volunteer commits a hate crime or is convicted of a civil rights violation these protections would not apply. If a volunteer is convicted of a sexual offense under State law, these protections would not apply. In addition, if a volunteer is found to have been under the influence of alcohol or drugs when the incident giving rise to the litigation occurs and that influence caused the harm, these protections would not apply. This is not a bill designed to authorize people to be high on drugs or alcohol or to commit crimes when they are volunteering. In those instances, the sky would be the limit. We would be under the old system.

Let me just say that volunteers do play an integral part in America, in community service. They should not have to fear litigation. They should not have to withdraw from giving themselves to those in need. The Gallup study shows we have had a withdrawal of talent from the volunteer pool. This is the time when we need more Americans being involved in community in a sense of helping each other, not less.

In conclusion, let me just make the following observations. The basis for the American community and culture is, in large measure, the result of voluntarism. Alexis de Tocqueville said this is what makes America "America." America is great because America is benevolent—this goodness is the impetus within us to help each other.

We have had a development of a legal system which has made that very difficult and costly for volunteers. In a very focused and balanced way, we are trying to say to people that their liability for acts in the volunteer community should be limited only to economic damages unless there is a very flagrant disregard for the rights of others and, in those events, punitive damages should be limited.

I believe that this measure will help restore to the American people the capacity to be caring and giving people, to live with each other in a sense of community—bound together by the glue of mutual concern—in service to one another in valuable and selfless ways.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 514

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Liability Reform for Volunteer Services Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the increasingly litigious nature of the legal profession in the United States has created an unnecessary and ultimately harmful barrier between the traditional desire of individuals to help other individuals and their ability to act on those desires;

(2) the cost of lawsuits, excessive, unpredictable, and often arbitrary damage awards, and unfair allocations of liability have a direct and chilling effect on the spirit of volunteerism and the provision of charitable service in the United States;

(3) arbitrary and capricious damage awards against volunteers and charitable institutions have contributed considerably to the high cost of liability insurance, making it difficult and often impossible for volunteers and volunteer service organizations to be protected from liability as those volunteers and many volunteer service organizations serve the public without regard to receiving any personal or institutional economic benefits from that service;

(4) as a result, volunteer service organizations throughout the United States have been adversely affected and often debilitated as volunteers have refused to help because of a fear of frivolous lawsuits;

(5) without a resurgence in volunteerism, the essential services that volunteer service organizations provide, including crisis counseling, volunteer rescue services, coaches and referees for sports activities of children, and support for the elderly, will continue to diminish;

(6) clarifying and limiting the personal liability risks assumed by individuals and institutions who volunteer to help others without benefit to themselves is an appropriate subject for Federal legislation because—

(A) of the national scope of the problems created by the legitimate fears of volunteers about frivolous, arbitrary, or capricious lawsuits; and

(B) the citizens of the United States depend on, and the Federal Government expends funds on, numerous social programs that depend on the services of volunteers; and

(C) it is in the interest of the Federal Government to encourage the continued operation of volunteer service organizations and contributions of volunteers because the Federal Government lacks the capacity to carry out all of the services provided by such organizations and volunteers; and

(7) liability reform for volunteer service organizations will promote the free flow of goods and services, lessen burdens on interstate commerce and uphold constitutionally protected due process rights and that liability reform is thus an appropriate use of the powers contained in Article I, Section 8, Clause 3 of the United States Constitution, and the Fourteenth Amendment to the United States Constitution.

(b) PURPOSES.—The purposes of this Act are to provide protection from personal financial liability for volunteers and volunteer service organizations that provide volunteer services that are conducted in good faith—

(1) to promote the interests of social service program beneficiaries and taxpayers; and

(2) to sustain the availability of programs, volunteer service organizations, and governmental entities that depend on volunteer contributions and services; and

(3) to provide the protection by—

(A) placing reasonable limits on punitive damages;

(B) ensuring the fair allocation of liability in certain civil actions; and

(C) establishing greater fairness, rationality, and predictability in the civil justice system of the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who asserts a claim for damages in an action covered by this Act and any person on whose behalf such a claim is asserted.

(B) CLAIMANTS FOR CERTAIN CLAIMS.—If a claim described in subparagraph (A) is asserted through or on behalf of—

(i) an estate, the term includes the claimant's decedent; or

(ii) a minor or incompetent, the term includes the claimant's legal guardian.

(2) CLEAR AND CONVINCING EVIDENCE.—

(A) IN GENERAL.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established.

(B) DEGREE OF PROOF.—The degree of proof required to satisfy the standard of clear and convincing evidence shall be—

(i) greater than the degree of proof required to meet the standard of preponderance of the evidence; and

(ii) less than the degree of proof required to meet the standard of proof beyond a reasonable doubt.

(3) COMPENSATORY DAMAGES.—The term "compensatory damages" means damages awarded for economic and noneconomic loss.

(4) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(5) HARM.—The term "harm" means—

(A) any physical injury, illness, disease, or death;

(B) damage to property; or

(C) economic loss, including any direct or consequential economic loss.

(6) HEALTH CARE PROVIDER.—The term "health care provider" means any person, organization, or institution that—

(A) is engaged in the delivery of health care services in a State; and

(B) is required by the applicable laws (including regulations) of a State to be licensed, registered, or certified by the State to engage in the delivery of health care services in the State.

(7) NONECONOMIC LOSS.—The term "noneconomic loss" means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation.

(8) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(9) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded against any person to punish or deter that person or any other person, from engaging in similar behavior in the future.

(10) STATE.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States or any political subdivision of any of the foregoing.

(11) VOLUNTEER SERVICE ORGANIZATION.—The term "volunteer service organization" means a not-for-profit organization (other than a health care provider) organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(12) VOLUNTEER SERVICES.—The term "volunteer services" means services provided, in

good faith, without compensation or other pecuniary benefit (other than reimbursement of expenses incurred in providing such services) inuring to the benefit of the service provider or any other person (other than the recipient of the volunteer service), and within the scope of the official functions and duties of the service provider with a volunteer service organization or governmental entity.

SEC. 4. APPLICABILITY.

(a) In General.—

(1) Covered claims.—Subject to paragraph (2), this Act governs any claim for damages in any civil action brought in any State or Federal court in any case in which the claim relates to—

(A) volunteer services performed by the defendant for a governmental entity or a volunteer service organization; or

(B) activities or services performed by a volunteer service organization.

(2) Actions excluded.—The limitations on damages contained in this Act shall not apply in any action described in subparagraph (A) or (B) of paragraph (1) in any case in which—

(A) the misconduct for which damages are awarded —

(i) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or an act of international terrorism (as that term is defined in section 2331(1) of title 18, United States Code) for which the defendant has been convicted in any court;

(ii) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note)) for which the defendant has been convicted in any court;

(iii) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court; or

(iv) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law for which the defendant has been convicted in any court; or

(B) the defendant was found to be under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug, at the time of the misconduct for which damages are awarded and (such influence) was a proximate cause of the harm that is the subject of the action.

(b) Relationship to State Law.—This Act supersedes State law only to the extent that State law applies to an issue covered by this Act. Any issue (including any standard of liability) that is not governed by this Act shall be governed by otherwise applicable State or Federal law.

(c) Effect on Other Law.—Nothing in this Act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede or alter any other Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

SEC. 5. UNIFORM STANDARD FOR AWARD OF PUNITIVE DAMAGES.

Punitive damages may, to the extent permitted by applicable State or Federal law, be awarded against a defendant if the claimant establishes by clear and convincing evidence that conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action in any civil action for a claim described in subparagraph (A) or (B) of section 4(a)(1).

SEC. 6. LIMITATION ON THE AMOUNT OF PUNITIVE DAMAGES.

The amount of punitive damages that may be awarded in an action described in section 5 shall not exceed the lesser of—

(1) twice the sum of the amounts awarded to the claimant for economic loss and noneconomic loss; or

(2) $250,000.

SEC. 7. PREEMPTION.

(a) In General.—This Act does not—

(1) create a cause of action for punitive or compensatory damages; or

(2) preempt or supersede any State or Federal law to the extent that such law further limits the amount of an award of punitive or compensatory damages.

(b) Remittitur.—Nothing in this section shall modify or reduce the ability of courts to grant a remittitur.

SEC. 8. APPLICATION BY COURT.

The application of the limitation imposed by section 6 may not be disclosed to a jury by a court. Nothing in this section authorizes the court to enter an award of punitive damages in excess of the initial award of punitive damages awarded by a jury.

SEC. 9. BIFURCATION AT REQUEST OF ANY PARTY.

(a) In General.—At the request of any party the trier of fact, in any action for punitive damages that is subject to this Act, shall consider in a separate proceeding, held subsequent to the determination of the amount of compensatory damages, whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(b) Inadmissibility of Evidence Relevant Only to a Claim of Punitive Damages in a Proceeding Concerning Compensatory Damages.—If any party requests a separate proceeding under subsection (a), in a proceeding to determine whether the claimant may be awarded compensatory damages, any evidence, argument, or contention that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

SEC. 10. LIABILITY FOR COMPENSATORY DAMAGES.

(a) General Rule.—In any action described in subparagraph (A) or (B) of section 4(a)(1) brought against more than one defendant, the liability of each defendant for compensatory damages shall be determined in accordance with this section.

(b) Amount of Liability for Compensatory Damages.—

(1) In general.—Each defendant shall be liable only for the amount of compensatory damages allocated by the trier of fact to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is found to be liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) Percentage of responsibility.—For purposes of determining the amount of compensatory damages allocated to a defendant under this section, the trier of fact in an action described in subsection (a) shall determine the percentage of responsibility of each person responsible for the harm to the claimant, without regard to whether that person is party to the action.

By Mr. KENNEDY (for himself, Mr. Leahy, Mr. Dodd, Mr. Akaka, Mr. Inouye, Mr. Robb, Mr. Lautenberg, Mr. Moynihan, Mrs. Boxer, Mr. Wellstone, Ms. Moseley-Braun, Mr. Harkin, Mr. Feingold, and Ms. Mikulski):

S. 516. A bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

THE EQUAL REMEDIES ACT OF 1997

Mr. KENNEDY. Mr. President, I am proud to introduce the Equal Remedies Act of 1997, for myself and 13 other sponsors. The purpose of our legislation is to end a glaring inequality in the current Federal antidiscrimination laws.

The Civil Rights Act of 1991 gave women, religious minorities, and disabled persons the right to recover compensatory and punitive damages for intentional employment discrimination, but only up to specified monetary limits. By contrast, victims of such discrimination on the basis of race or national origin can recover damages without such limitations.

The Equal Remedies Act of 1997 will end this double standard by removing the caps on damages for victims of intentional job discrimination on the basis of sex, religion, or disability. No one should be subject to second-class remedies under our civil rights laws. Victims of discrimination who suffer injuries deserve a full remedy for those injuries, without arbitrary limits.

The caps serve no justifiable purpose. The standard of proof and the definition of intentional discrimination are identical under the Civil Rights Act of 1991 and the longstanding race discrimination statute. There is no reason to expect significantly more litigation, or significantly larger jury awards if the caps are removed.

For the vast majority of victims of intentional discrimination, the caps do not affect the amount of damages. But, for others—victims with the most serious injuries from intentional discrimination—the caps are an unfair barrier to recovering full damages for their injuries. Employers who have committed the most outrageous acts of discrimination will no longer be shielded from full responsibility.

The double standard in current law protects the worst lawbreakers and denies relief to those who have been harmed the most. By enacting the Equal Remedies Act of 1997, Congress will be affirming the basic principle of equal justice for all Americans.

Mr. President, I ask unanimous consent that the text of the legislation may be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 516

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Equal Remedies Act of 1997".

SEC. 2. EQUALIZATION OF REMEDIES.

Section 1977A of the Revised Statutes (42 U.S.C. 1981a) is amended—

(1) in subsection (b)—

(A) by striking paragraph (3); and

(B) by redesignating paragraph (4) as paragraph (3); and

(2) in subsection (c), by striking "section—" and all that follows through the period and inserting "section, any party may demand a jury trial.".

ADDITIONAL COSPONSORS

S. 71

At the request of Mr. DASCHLE, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of S. 71, a bill to amend the Fair Labor Standards Act of 1938 and the Civil Rights Act of 1964 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 104

At the request of Mr. MURKOWSKI, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from Nebraska [Mr. HAGEL] were added as cosponsors of S. 104, a bill to amend the Nuclear Waste Policy Act of 1982.

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 104, supra.

S. 184

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 184, a bill to provide for adherence with the MacBride Principles of Economic Justice by United States persons doing business in Northern Ireland, and for other purposes.

S. 197

At the request of Mr. ROTH, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 197, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 220

At the request of Mr. GRASSLEY, the names of the Senator from Virginia [Mr. ROBB], the Senator from South Dakota [Mr. JOHNSON], the Senator from North Dakota [Mr. CONRAD], and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 220, a bill to require the U.S. Trade Representative to determine whether the European Union has failed to implement satisfactorily its obligations under certain trade agreements relating to U.S. meat and pork exporting facilities, and for other purposes.

S. 269

At the request of Mr. ABRAHAM, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 269, a bill to provide that the Secretary of the Senate and the Clerk of the House of Representatives shall include an estimate of Federal retirement benefits for each Member of Congress in their semiannual reports, and for other purposes.

S. 311

At the request of Mr. GRAHAM, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 311, a bill to amend title XVIII of the Social Security Act to improve preventive benefits under the Medicare Program.

S. 348

At the request of Mr. MCCONNELL, the name of the Senator from Georgia [Mr. CLELAND] was added as a cosponsor of S. 348, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a Law Enforcement Officers' Bill of Rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes.

S. 351

At the request of Mrs. MURRAY, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 351, a bill to provide for teacher technology training.

S. 352

At the request of Mr. BIDEN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 352, a bill to require the U.S. Sentencing Commission to amend the Federal sentencing guidelines to provide an enhanced penalty for follow-on bombings.

S. 356

At the request of Mr. GRAHAM, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the titles XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the Medicare and Medicaid Programs.

S. 370

At the request of Mr. GRASSLEY, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 370, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners and clinical nurse specialists to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 380

At the request of Mr. DURBIN, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 380, a bill to prohibit foreign nationals admitted to the United States under a nonimmigrant visa from possessing a firearm.

S. 385

At the request of Mr. CONRAD, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 385, a bill to provide reimbursement under the Medicare Program for telehealth services, and for other purposes.

S. 387

At the request of Mr. HATCH, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software.

S. 400

At the request of Mr. GRASSLEY, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 400, a bill to amend rule 11 of the Federal Rules of Civil Procedure, relating to representations in court and sanctions for violating such rule, and for other purposes.

S. 413

At the request of Mrs. HUTCHISON, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 413, a bill to amend the Food Stamp Act of 1977 to require States to verify that prisoners are not receiving food stamps.

S. 419

At the request of Mr. BOND, the name of the Senator from Kentucky [Mr. FORD] was added as a consponsor of S. 419, a bill to provide surveillance, research, and services aimed at prevention of birth defects, and for other purposes.

S. 460

At the request of Mr. BOND, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from Maine [Ms. COLLINS] were added as cosponsors of S. 460, a bill to amend the

Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals, to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home, to clarify the standards used for determining that certain individuals are not employees, and for other purposes.

S. 466

At the request of Mr. LAUTENBERG, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 466, a bill to reduce gun trafficking by prohibiting bulk purchases of handguns.

S. 502

At the request of Mr. GRASSLEY, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 502, a bill to amend title XIX of the Social Security Act to provide post-eligibility treatment of certain payments received under a Department of Veterans Affairs pension or compensation program.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the names of the Senator from Ohio [Mr. DEWINE], the Senator from Georgia [Mr. COVERDELL], the Senator from Virginia [Mr. WARNER], the Senator from Colorado [Mr. ALLARD], the Senator from Idaho [Mr. CRAIG], and the Senator from Iowa [Mr. GRASSLEY], were added as cosponsors of Senator Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE JOINT RESOLUTION 9

At the request of Mr. KYL, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of Senate Joint Resolution 9, a joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for increasing taxes.

SENATE JOINT RESOLUTION 24

At the request of Mr. SARBANES, his name was added as a cosponsor of Senate Joint Resolution 24, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

SENATE CONCURRENT RESOLUTION 11

At the request of Mr. GREGG, the names of the Senator from Kentucky [Mr. MCCONNELL], the Senator from Indiana [Mr. COATS], and the Senator from Louisiana [Mr. BREAUX], were added as cosponsors of Senate Concurrent Resolution 11, a concurrent resolution recognizing the 25th anniversary of the establishment of the first nutrition program for the elderly under the Older Americans Act of 1965.

SENATE RESOLUTION 64

At the request of Mr. ROBB, the names of the Senator from Michigan [Mr. ABRAHAM], the Senator from North Dakota [Mr. CONRAD], the Senator from New York [Mr. D'AMATO], the Senator from New Mexico [Mr. DOMENICI], the Senator from North Dakota [Mr. DORGAN], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from California [Mrs. FEINSTEIN], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from North Carolina [Mr. HELMS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Wisconsin [Mr. KOHL], the Senator from Michigan [Mr. LEVIN], the Senator from New Hampshire [Mr. SMITH], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Resolution 64, a resolution to designate the week of May 4, 1997, as "National Correctional Officers and Employees Week."

NOTICE OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Tuesday, April 8, 1997, at 9:30 a.m. in room 485, Russell Senate Building to conduct an oversight hearing on issues of juvenile justice in Indian country.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing on April 10, 1997, entitled "S. 208, the HUBZone Act of 1997." The hearing will begin at 9:30 a.m. in room 428A of the Russell Senate Office Building.

For further information, please contact Paul Cooksey at 224-5175.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on the nominations of Velma Ann Jorgensen of Garrison, IA, to be a member of the Farm Credit Administration Board of Directors, and Lowell Lee Junkins, of Waukee, IA, to be a member of the Federal Agricultural Mortgage Corporation Board of Directors on Thursday, April 10, 1997 at 2:30 p.m. in SR-328A.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a markup on April 16, 1997, to mark up legislation pending before the committee. The markup will begin at 10 a.m. in room 428A of the Russell Senate Office Building.

For further information, please contact Paul Cooksey at 224-5175.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Thursday, April 17, 1997, at 9 a.m. in SR-328A. The purpose of the hearing will be to receive testimony regarding crop and revenue insurance.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. NICKLES. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Monday, April 7, at 2 p.m. for a nomination hearing on James B. King, to be Director, Office of Personnel Management.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HAROLD E. STASSEN CELEBRATES HIS 90TH BIRTHDAY

• Mr. WELLSTONE. Mr. President, I rise to pay tribute to Harold Edward Stassen who will be celebrating his 90th birthday on April 13, 1997. Harold Stassen has an outstanding record of public and military service to America. There is no question that his unique contributions have left a lasting impression on not only the history of his home State and his country, but at an international level as well.

In 1938, at the age of 31, Harold Stassen was elected Governor of Minnesota and remained our Nation's youngest Governor until 1943. He then resigned to accept a commission in the U.S. Navy where he attained the rank of captain during World War II. He also won the Legion of Merit, three other decorations, and was awarded six major battle stars. Moreover, he was personally responsible for freeing thousands of American prisoners of war in Japan shortly before that country's surrender.

Although Mr. Stassen also served as a key adviser in a variety of influential posts throughout the Eisenhower administration, he will be best remembered for his service under President Franklin D. Roosevelt. At the President's personal request, Harold Stassen served on the American delegation to the 1945 San Francisco Conference that founded the United Nations. Indeed, he is now the only living American who drafted, negotiated, and signed the original U.N. Charter. Moreover, Mr. Stassen has maintained a dedicated, passionate interest in the United Nations since its founding—educating the American public about the United Nations, and striving to make the organization more effective.

Harold Stassen is celebrating his 90th birthday just 2 years after we celebrated the 50th anniversary of the United Nations. On April 13, numerous national and State officials, including former Vice President and United States Ambassador to Japan Walter Mondale, will come to St. Paul, MN, to honor Mr. Stassen.

As Harold Stassen commemorates this significant milestone it is indeed an honor for me to join with his family, friends, and colleagues in conveying my warmest birthday wishes to this remarkable American and fellow Minnesotan who has such a proud and exceptional record of distinguished public service.●

TRIBUTE TO GEORGE R. ROORBACH

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to George Roorbach of Franconia, NH, former president of Crown Worsted Mills, for his outstanding service as a volunteer executive in Krasnodar, Russia.

George worked on a volunteer mission with the International Executive Service Corps, a nonprofit organization which sends retired Americans to assist businesses and private enterprises in the developing countries and the new emerging democracies of Central and Eastern Europe and the former Soviet Union.

George helped provide managerial and technical assistance to improve the lives of people in Krasnodar, Russia. He assisted Kubantex, a wool fabric manufacturer, to set up a business, marketing and financial plan. George was Ambassador for our country and has represented our democratic believes and methods of a free market economy.

His outstanding patriotic engagement provides active assistance for people in need and helps build strong ties of trust and respect between Russia and America. George's mission aids to end the cycle of dependency on foreign assistance.

I commend George for his dedicated service and I am proud to represent him in the U.S. Senate.●

TRIBUTE TO ROLLAND LOWE, M.D.

● Mrs. BOXER. Mr. President, I rise today to pay tribute to Rolland Lowe, M.D., who was installed on March 24 as the 132d president of the California Medical Association, the largest State medical association. He is the first Asian-American president in its history and has earned my admiration on both a personal and professional level.

Dr. Lowe has built an extraordinary list of achievements throughout his career. He has served as the chief of surgery and chief of staff at the Chinese Hospital in San Francisco, working to ensure high-quality health care for low-income immigrants. He currently holds a position as a member on the board of trustees for the hospital and is the former chair.

Dr. Lowe has served as president of the San Francisco Medical Society in addition to serving on the California Medical Association's board of trustees since 1987.

In addition to distinguishing himself in his career, Dr. Lowe has been a role model for the community through his philanthropic work and community activism. He serves on dozens of the boards of organizations. He also has founded and currently is the chair of the Lawrence Choy Lowe Memorial Fund in Chinatown.

I ask my colleagues to join me in recognizing Dr. Lowe for his commitment to the people of San Francisco and congratulating him on this achievement.●

TRIBUTE TO JAMES D. BOND

● Mr. INOUYE. Mr. President, today, it is with great pleasure and appreciation, mixed with a certain measure of sadness, that I rise to recognize and pay tribute to Mr. James D. Bond on the occasion of his retirement from a long and distinguished career on the staff of the Senate Committee on Appropriations.

For the past 20 years, Mr. Bond has served the Senate on the staff of the Subcommittee on Foreign Operations, Export Financing, and Related Agencies as either the clerk or the minority staff director. Throughout this time, his expertise and leadership have proven invaluable to the committee's work on appropriations and oversight of the economic and military assistance programs of the United States. Senators on both sides of the aisle are indebted to him for his sage advice, honest counsel, and tireless effort. His contributions to legislation on American foreign policy have been numerous, including his original drafts of laws ranging from Israeli loan guarantees to the creation of the Development Fund for Africa. On foreign operations matters, Jim Bond has been the key liaison with Members of the House of Representatives; officials within the Department of State, the Agency for International Development, the Export-Import Bank, the Overseas Private Investment Corporation, the Trade and Development Agency, and other agencies of the U.S. Government; as well as international organizations, including multilateral development banks and U.N. agencies; and public interest groups. Mr. President, the breadth of his grasp and the depth of his understanding of the process and the issues is unparalleled; he will be sorely missed.

Prior to his service with the Subcommittee on Foreign Operations, Mr. Bond worked as the minority staff director for the Subcommittee on HUD and Space Science, Subcommittee on Agriculture, Subcommittee on Public Works, and the Subcommittee on the Interior. He also served on the staff of our former colleague, Milton Young, as a legislative assistant. After 25 years of work in the Senate, I know that he is highly respected by staff and Senators alike. I and many of my colleagues are proud to call him our friend. Mr. President, a man who is called friend by PAT LEAHY and Jake Garn, by MITCH MCCONNELL and Mac Mathias, by TED STEVENS and Howard Metzenbaum—such a man is remarkable indeed.

Mr. Bond's public service is not limited to his work with the Senate. For several years, he has been an adjunct professor at Georgetown University, teaching a course on the appropriations process in the Graduate Public Policy Program, as well as lecturing at Marquette University's Les Aspin center and the American University's Washington Semester. Through his teaching, Mr. Bond shares his knowledge and experience with America's future leaders.

Jim Bond began his service to our country during the Vietnam war, when he served in the infantry with the 101st Airborne Division, 327th Infantry Battalion. For his service and heroism, he was awarded the Bronze Star and Combat Infantryman's Badge.

Mr. President, Jim Bond has served this institution with honor and conviction. He has served the citizens for whom we all work in an exemplary fashion. Our work has been enhanced by his contributions. I am confident that Mr. Bond will continue his commitment to American government and will utilize his knowledge and experience toward the betterment of our foreign policy and trade relations. I am sure he will continue his humanitarian work for the poor of the world. I know he will continue his efforts to sustain American prosperity in an era of increased competition.

Mr. President, I wish Jim Bond well as he leaves the Senate. I know our paths will cross again and I will welcome him. I ask my colleagues to join me in honoring Mr. Bond for his service and congratulating him on his retirement from the staff of the U.S. Senate.

Aloha Jim.●

TRIBUTE TO THE 16 DEDICATED NEW HAMPSHIRE VOLUNTEERS OF THE DOMINICAN REPUBLIC MEDICAL MISSION TEAM

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to 16 dedicated volunteers from New Hampshire who willingly devoted countless hours and tremendous energy to provide free medical and dental care to the people of the Dominican Republic. Last month, the volunteers of the Medical Mission Team traveled to the Dominican Republic where they operated free medical and dental clinics for a week and treated numerous people who normally cannot afford medical care. I commend all 16 volunteers for their genuine concern and true commitment to such an honorable cause. I am very proud of their unending support for the needy people of the Dominican Republic.

Months of careful planning and preparation allowed the Medical Mission Team to venture into different areas of the Dominican Republic to treat a variety of patients. The team members included: Dr. Mark McDonald; his wife, Ruth; and daughter, Jill; Jack Meibaum; his wife, Joanne Parkington; and son, David Parkington; Dr. Marianne Hopkins; and her husband, Dr. Andrew Hopkins; Werner Muller; and David Gabrielli, all from Concord; Claire Roberge, of Epsom; Don Gagne, of Penacook; Doug Tabor, of Boscawen; Gordon Barrett, of West Swanzey; and Lisa Ann Wiener and George Rogers, both from Bow.

Prior to the February mission trip, the volunteers met regularly in the evenings to learn minor medical care, repair pieces of dental equipment, build specially designed dental units, and plan the details of the clinics. Jack Meibaum, a contractor; Dr. Mark McDonald, a Concord dentist; and others salvaged old dental equipment and spent many hours in their basements updating and improving the equipment for the medical work they would perform.

After discussing the trip with New Hampshire businesses and organizations, and several pharmaceutical companies, Jack and Mark solicited critical donations for the trip. The Bow Rotary Club donated funds for a dental equipment compressor, A & B Lumber in Concord sold the compressor to the team at cost, and the Concord Tire Co. generously gave donated money for medical and dental supplies. Siemens X-ray Co. also donated a portable dental x-ray machine and numerous national pharmaceutical companies provided free or discounted medical and dental supplies. In the end, the team had so many supplies that they even had difficulty getting the large, overstuffed suitcases of supplies through customs with the local officials at the Puerta Plata Airport in the Dominican Republic.

Five of the volunteers—Mark, Jack, Doug Tabor, Don Gagne, and Claire Roberge—made up the first team to arrive. During their first 3 days, the team made daily trips to a small church in Moca where they worked tirelessly unpacking bulky dental equipment that had been shipped separately in a crate from New Hampshire. I was honored to have helped get this crate shipped to the Dominican Republic after the team asked for my assistance.

In addition to numerous other tasks, Jack and Mark set up the portable dental units making certain the air and water pumps worked on the dental units while Don, Claire, and Doug constructed a stand for the indispensable dental light. Doug's construction expertise was very helpful. Jack and Mark demonstrated their engineering brilliance in building equipment, and Claire and Don were energetic and happy to do even the most mundane tasks. All five volunteers worked until they were exhausted to ensure the equipment would run efficiently when used for the clinics the following week.

The remaining team members arrived on Friday, February 21, bringing more medical supplies, and helped make the final preparations for the long-awaited clinics.

For an entire week, the medical and dental teams treated the needs of numerous Dominican patients. Jack cleaned teeth for hours, Mark and Don filled cavities, and Jill, Lisa, and David sterilized dental equipment and developed dental x rays. At the medical clinic locations, Marianne, a pediatrician, and her husband, Andrew, who is also a doctor, treated endless lines of needy patients rarely taking a break even for lunch. Mothers came in with babies that had parasites, an elderly man complained of arthritis, a young boy's cut and infected feet were cleaned, two little girls were treated for asthma, and other sick Dominicans asked for assistance. Joanne, Claire, Werner, and George worked quickly to compile each patient's medical history and check their temperature and blood pressure. The medical team had prepared so thoroughly that they even brought preprinted medical charts. Lisa, Jill, David, and Ruth performed a puppet show for the waiting children and Gordon, a professional photographer, documented everyone's efforts. The demand for dental and medical care was truly overwhelming. The team worked long hours each day to ease the pain and anxiety of so many people.

On the first day of the medical clinic, a young woman came in with her very sick 2-year-old boy. According to his mother, the little boy had cut his head while playing in one of the typically filthy ditches that carried trash and sewage. He was sick from an infection. Twice during the next 2 days, Marianne treated the little boy for the terrible infection that had spread through his body. The medical team was very concerned that he would not be able to fight off the infection until Tuesday morning when Marianne could hook him up to an IV. They had witnessed their worst fear—a dying child.

Just 2 days later in the morning, as the medical team had just set up a second clinic in Moca, the little boy made an appearance. He walked into the clinic with his mother following behind. Upon seeing the phenomenal progress the little boy had made, the entire medical team began clapping exuberantly. Soon the clapping changed to cheers and words of relief that echoed their greatest feeling of accomplishment—saving a life. I was very impressed with this story, relayed to me by one of my staffers, Anna Matz, who volunteered her time to participate in the mission.

For a over a week, these New Hampshire volunteers poured endless energy into helping the many Dominicans that ventured into the clinics. Their work was exhausting but very fulfilling. Toward the end of the week, the dental and medical clinics became mobile and operated in neighborhoods where children and families were the most sick. At one point, the medical team went into a barrio, a very poor neighborhood, and knocked on each door asking if any family members needed medical care.

While the 16 New Hampshire volunteers worked day after day, several American missionaries and a few native Dominicans provided support and assistance. Paul and Eileen Allyn, American missionaries in Santa Domingo, oversaw the teams' every need with Marge and John Gudmunsun, other missionaries. Denny, Rafael, and Vladimir, young Dominican men, accompanied the team as translators and provided an occasional laugh.

Many Dominicans, for whom pain is a way of life, got a little relief last month as these dedicated New Hampshire citizens gave their time, devotion and compassion to the needy people of this Caribbean island. I am proud of their work and congratulate them on a job well done. They truly embody the real spirit of voluntarism, and I am proud and honored to represent them in the U.S. Senate.•

TRIBUTE TO BERNARD NEVILLE

• Mr. DODD. Mr. President, I rise today to pay tribute to a true public servant and a dear friend, Bernard Neville of Cromwell, CT.

Bernie was honored this past Saturday as the Democrat of the Year by the Cromwell Democratic Town Committee, for his nearly 25 years of service as Cromwell's town clerk and treasurer. I join all the residents of Cromwell in congratulating and honoring Bernie on his impressive record of achievement.

Over the past 30 years, Bernie has also been a loyal and faithful Democrat. He's not only served as chairman of the town committee, but several times worked as cocoordinator of Congresswoman BARBARA KENNELLY's election campaign. Most of all, he's been an invaluable asset in energizing and registering Democratic voters.

The fact is, public servants like Bernard Neville serve as the backbone of our democracy. They don't receive much attention, but they are truly an essential element of our representative government.

You don't often see them on Sunday talk shows or on the front page of the New York Times, Washington Post, or Hartford Courant. They're not much interested in partisanship or political maneuvering. But, on a local level they ensure that public services are provided and local tax dollars are spent wisely.

For the past 25 years, Bernie ensured that town elections ran smoothly, citizen petitions and lawsuits were filed correctly, local funds were shrewdly invested and Cromwell's government was working for the benefit of its citizens. In that time, he's done his job with professionalism, integrity, and a strong commitment to serving the people of Cromwell.

I congratulate and thank him for his efforts.

I am also pleased to note that even at 83 years young, he plans to continue working toward his degree at Trinity College, where he is majoring in history. I wish Bernie the best of luck in all his future endeavors and congratulate him again on this wonderful honor.●

TRIBUTE TO GERALDINE DEFANT

● Mr. LEVIN. Mr. President, I rise today to honor my good friend Geraldine DeFant, a visionary leader, who recently passed away. In her 79 years, she worked tirelessly to help others, especially her fellow citizens of Michigan's Upper Peninsula. Her accomplishments have established her as a legend among Upper Peninsula labor, political, and social leaders. She came to Marquette County in 1949 to organize the employees of the H.W. Gossard factory in Ishpeming for the International Ladies Garment Workers Union. She guided the women employees of the factory through a landmark strike that energized the local labor movement and was the first strike in the Upper Peninsula at a plant with primarily women workers. The organization of this plant had wage implications for union plants throughout the Nation. In addition to organizing the union at this plant, she established a kitchen and strike fund for them and classes on labor history. This was only the beginning of her efforts to improve the lives of workers and their families in the area.

Geri was also a longtime activist in the Democratic party, serving as district chair, and coordinating campaigns from the local to the national levels. One of her proudest achievements was serving as Upper Peninsula Representative for U.S. Senator Phil Hart, who was renowned as the "conscience of the Senate." She continued her service in Senator Don Riegle's U.P. office. From 1982 to 1991 she served on the Marquette County Board of Commissioners where she fought for economic development, mental health and services for seniors. She served on the Michigan Women's Commission for 6 years, during which time she pioneered legislation that allowed the Friend of the Court's office to garnish wages for child support. Most of our Nation now has similar legislation.

Geri was a founder and longtime board member of the Marquette Women's Center. She continued her interest in and support of labor issues and was inducted into the U.P. Labor Hall of Fame this past September for her many efforts. She was deeply committed to equality and justice. Geri was also a friend, mentor, and role-model to countless people over the years.

Geri's family was always very important to her and a source of joy and pride. She was married to Probate Judge Michael DeFant from 1952 until his death. They had three children, David, Dan, and Miriam, who survive her. Her warmth, humor, and dedication will be greatly missed by those of us who had the privilege to know Geri. I know my Senate colleagues join me in honoring this exceptional woman.●

"DISECTING THE JONES ACT"

● Mr. INOUYE. Mr. President, I rise today to call the attention of my colleagues to an excellent article by Warren Dean that appeared in the March 11, 1997 edition of the Journal of Commerce, which so eloquently states the reasons why it would be foolish to weaken or repeal the Jones Act.

I am a longstanding supporter of the Jones Act and of the American-flag Merchant Marine. But it is important for those Members who are less familiar with the Merchant Marine to consider Mr. Dean's article. Mr. Dean is a senior partner in a Washington law firm, and an adjunct professor of transportation law at Georgetown University Law Center.

In his column, Mr. Dean spells out clearly and succinctly the reasons America stands to lose if foreign-flag ships and foreign crews are allowed to take over our domestic waterborne commerce, and why it would be unfair not only to America's maritime industry but also to our trucking, rail, and pipeline industries as well. If the Jones Act is eliminated, all these industries would have to abide by U.S. laws and regulations, and pay U.S. taxes, while their foreign competitors in our Nation's domestic market would not. Those who claim they want to deregulate domestic shipping and reform the Jones Act would do well to read this article. It explains just how poorly thought out and unfair such actions would be.

Mr. President, I request that the full text of the article be printed in the RECORD.

The article follows:

DISSECTING THE JONES ACT

(By Warren L. Dean)

Congress is facing an old and tired issue this year—the Jones Act Reform Coalition's clamor to "deregulate" domestic deep-water transportation services by repealing the Jones Act. This putative controversy speaks volumes about how poorly Washington understands what it is doing.

The Jones Act reserves for qualified U.S. corporations the right to carry domestic waterborne cargoes of the United States. The coalition wants to allow foreign-flag vessels to carry cargoes between points in the United States, such as New York and Miami. Those vessels, however, do not operate subject to U.S. law—and would not, under the coalition's proposals.

In an effort to keep the Jones Act Reform Coalition from wasting its members' money, and to help the U.S. government understand the difference between trade in goods and trade in services, I will offer a few thoughts.

First, the Jones Act regulates domestic transportation services. Companies in those industries pay U.S. income and excise taxes, employ workers who pay taxes, comply with fair labor standards and other employment laws, meet environmental and safety requirements and face tort and other liabilities.

Foreign companies that get involved in U.S. markets usually do so through U.S. affiliates established for that purpose. What the reform coalition is pushing, however, is permission for foreign flag-of-convenience operators to participate in domestic interstate commerce, while taking a pass on as many of the laws applicable to domestic commerce as possible.

Just repealing the Jones Act won't do the job, however. What the Jones Act reform coalition is really advocating is a repeal of a variety of U.S. tax and labor laws that are at the heart of the U.S. economy.

Under international law, the applicable law on a vessel is that of the ship's registry. So, for example, to allow foreign seamen working for foreign-flag operators to work in U.S. interstate transportation, we would have to waive our tax, immigration, minimum wage, collective bargaining, workplace safety and unemployment laws, among others. We would have to pre-empt state laws in these areas as well.

Admittedly, some laws—particularly in the environmental area—currently apply to both U.S. and foreign-flag vessels, and would continue to do so under the coalition's proposal. But what's really going on here is that the coalition is out to create a whole new list of economic preferences—in effect, subsidies—for foreign-flag vessels to "compete" in our domestic commerce.

The only reason that other domestic transportation industries have not yet objected to this nonsense is that they aren't persuaded that anyone in Washington is that stupid.

Their confidence may be misplaced. There actually is a federal agency that spent taxpayer's money to publish a report in 1993 proving that it doesn't have the foggiest idea where its money comes from. It's the U.S. International Trade Commission, which investigates allegations of damage to U.S. industries caused by trade.

The ITC report estimated that "the economy-wide effect of removing the Jones Act is an economic welfare gain to the economy of approximately $3.1 billion." The ITC's main source for this conclusion was its own 1991 study that found the 1989 cost to the economy of the Jones Act ranged from $3.6 billion to $9.8 billion.

> The ITC staff developed these estimates by figuring the difference between U.S. and world shipping rates, and saying the higher U.S. costs are a sort of "tariff" charged to shippers using Jones Act vessels.
>
> But the flaw in the ITC's analysis is that it took the rates charged by foreign-flag operators using "flag of convenience" registry in countries such as Panama, Liberia or the Bahamas. Those nations have either nonexistent or very low rates of taxation and regulation.
>
> The ITC then concluded that shippers could obtain world-rate savings in the waterborne domestic commerce of the United States by allowing in competitors who are free of the burdens of U.S. taxation and regulation, and who could compete with land and air modes of transportation that are subject to U.S. regulation and taxation. That premise is, of course, fatally flawed as a matter of law and policy.
>
> The ITC doesn't understand the difference between importing shoes and importing transportation services. With shoes, the producer's costs, including associated tax and regulatory burdens, are incurred in the exporting state.
>
> With most services, the producer's costs, including associated tax and regulatory burdens, are incurred in the importing state. But the reform coalition wants to change that with respect to domestic maritime transportation, and preserve the law of the flag of registry.
>
> The reason is simple: If U.S. tax and regulatory costs were extended to all competitors in domestic trades, whether U.S. or foreign flag, then the savings to shippers from repealing the Jones Act would range from $0 to nearly $0—setting aside the separate cost of building vessels in U.S. yards.
>
> There's not much fuel for reform there.●

TRIBUTE TO RICHARD MORGAN ON BEING NAMED THE CENTER OSSIPEE CITIZEN OF THE YEAR

● Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Richard Morgan, chief of police of Ossipee, NH, on being named the Center Ossipee's Citizen of the Year. I commend his outstanding community involvement, and congratulate him on this well-deserved honor.

Richard's commitment to his community is outstanding. He volunteers as a community member of the Domestic Violence Committee, as a moderator for the Central Ossipee's Fire Precinct, and as a community member on the board for Lakeview Neurorehabilitation Center. Richard also volunteered to chair the annual Ossipee Old Home Week. He is a Carroll County representative to executive board of New Hampshire Association Chiefs of Police, and president of the Carroll County Chiefs of Police.

Many know Richard as always willing to take responsibility, whether to chair the Ossipee Rescue Advisory Board, help organize and run the first annual winter carnival, or organize the annual fishing derby, and Safe Haven Homes for kids in town. Whatever he commits to, he always does the job well.

Richard has dedicated his time, talent, and energy to serving the residents of Ossipee in an exemplary way.

As a fellow Carroll County resident, I am proud to honor Richard Morgan's outstanding community commitment which is so important to the future and prosperity of Center Ossipee. We are indeed indebted to him for his efforts. Congratulations to Richard on this distinguished recognition. I am honored to represent him in the U.S. Senate.●

JACK THOMPSON

● Mr. LEVIN. Mr. President, I rise today to pay tribute to a constituent, a friend, a leader, and a great American. Jack Thompson recently retired from the Monroe Auto Equipment Co. in Michigan after a long and legendary career that is the embodiment of the American dream.

Jack started working at Ford Motor Co. in 1957. He later rose from the factory floor to lead a billion-dollar automotive supply company. Along the way, Jack demonstrated what it is to be not only a great leader, but a great human being. Jack's respect for the people working the floor drove his manufacturing philosophy throughout his career. His experiences gave him a lifelong respect and admiration for these workers, who are the keystone of success for any company.

Jack never measured success by a better title, a bigger office, or higher profits. Jack's success was measured by the success of his workers, whom he continuously cheered on and challenged. He has always been his workers biggest champion. A telling example of Jack's leadership qualities came in 1986 when Jack received the Monroe Management Club's first Manager of the Year Award. Voted by Jack's subordinates, peers, and superiors, the award recognized his excellence in not only what he accomplished, but also how he accomplished it.

Twenty years ago, Jack put together a 10-point operating philosophy that he used and taught others. The first point on that list says a lot about how Jack approached business and life. It simply said, "be completely honest." That's just one of the qualities that have made Jack a shining example to his workers, friends, and neighbors.

I know my Senate colleagues join me in honoring Jack Thompson on his outstanding career.●

MUSEUM OF AFRICAN AMERICAN HISTORY

● Mr. LEVIN. Mr President, I would like to make my colleagues aware of an important event taking place in my home city of Detroit, MI—the opening of the new Museum of African-American History. The museum is unique in its size, scope and mission.

Located in Detroit's Cultural Center, the 120,000 square foot Museum of African-American History is the largest museum in the Nation dedicated to documenting and celebrating the African-American experience. It is led by Kimberley Camp, who was the first African-American gallery director in the history of the Smithsonian Institute. Under Dr. Camp's leadership, the museum is poised to become a destination for tourists and researchers from around the country. The Detroit News recently reported that, "Camp wants every visitor's experience to be personal. Some may be moved by the reality of slave sleeping quarters and pieces of a slave ship. Others may be enchanted by an exhibit on quilting, an African-American tradition. Still others may appreciate an Africa exhibit that opens in June, exploring the continent's diversity."

The museum was designed by prominent Detroit architects Howard Sims and Harold Varner, of Sims-Varner and Associates, Inc. Using contemporary building materials, Mr. Sims and Mr. Varner created a building thoroughly American in design, but with significant accents which evoke African culture and traditions. Two Detroit artists, Richard Bennett and Hubert Massey, created the most striking of these accents. Mr. Bennett's massive African-style masks adorn the facade above the bronze front doors, which he also created. Mr. Massey's terrazzo tile mosaic, "Genealogy," is interwoven with the floor in the rotunda. Crowning the rotunda is a glass and steel dome, the largest dome in southeastern Michigan.

The central display in the museum will be the core exhibition, "Of the people: An African-American experience." This exhibition will use historical artifacts, audio recordings, documents, and three-dimensional displays to take visitors through the totality of the African-American experience, from the first slave ships through the present day. Displays will also put into context the importance of African traditions in historical and modern American culture. Two additional galleries will be used for new and changing exhibits.

The men and women of the new Museum of African-American History are committed to creating an institution which is truly a partner in the community. To that end, the museum will offer a lecture series, after-school programs for Detroit children, weekend workshops for children and adults and theatrical arts programs.

The museum never would have been built without the leadership of two remarkable mayors, Coleman Young and Dennis Archer, and without the financial support of the residents of Detroit and the corporate community. All of them came together and pledged their support for what will be the finest institution of its kind in the country.

At the museum's grand opening on April 12, the U.S. Postal Service will unveil the winning design for the first stamp celebrating Kwanzaa. The Kwanzaa stamp, which has been designed by the internationally acclaimed artist Synthia Saint James, will highlight the importance of African traditions in the lives of so many Americans. Ms. Saint James is an accomplished author, poet, and award-winning illustrator of books for children and adults. She has previously been commissioned to create works of art for organizations like UNICEF, Dance Africa and the Girl Scouts of America.

Mr. President, it is important that we recognize the incredible contributions African-Americans have made to our nation's cultural heritage. People of all races will learn and be touched by their experience at Detroit's Museum of African-American History. On the occasion of the museum's grand opening, I know my colleagues join me in congratulating the men and women who helped make this remarkable institution a reality.●

ARLYNE BOCHNEK

● Mr. LEVIN. Mr. President, I rise today to recognize the achievements of Arlyne Bochnek, who is retiring from her position as regional director of the central region United Synagogue Youth. In her 9-year career with central region USY, Mrs. Bochnek has provided leadership and guidance to numerous young people in Michigan, Indiana, Ohio, Kentucky, West Virginia, and western Pennsylvania.

Mrs. Bochnek has been deeply devoted to her organization and the teenagers who make up its membership. She planned activities that encouraged young people to put their religious faith into action by giving back to their communities. Under her direction, teenagers throughout the Midwest have painted inner-city churches, volunteered at schools for the blind and homes for the elderly, and spent days cleaning up the environment. In addition, central region USY raises money to support charities in the United States, Europe, and Israel. This year, with Mrs. Bochnek's guidance, the teenagers of central region USY expect to raise $17,000.

Arlyne Bochnek has been a powerful, positive influence in the lives of so many young people over the past 9 years. Her commitment to improving our communities and helping young people recognize the importance of voluntarism should serve as an inspiration to us all. I know my colleagues join me in expressing my appreciation and gratitude to Arlyne Bochnek on the occasion of her retirement from central region United Synagogue Youth.●

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE OF S. 104

● Mr. MURKOWSKI. Mr. President, in compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources has obtained a letter from the Congressional Budget Office containing an estimate of the costs of S. 104, the Energy Policy and Conservation Amendment Act, as reported from the committee. In addition, pursuant to Public Law 104-4, the letter contains the opinion of the Congressional Budget Office regarding whether S. 104 contains intergovernmental mandates as defined in that act. I respectfully request that the opinion of the Congressional Budget Office be printed in the RECORD.

The opinion follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 21, 1997.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 104, the Nuclear Waste Policy Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Kim Cawley.

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 104—Nuclear Waste Policy Act of 1997

Summary: S. 104 would amend the Nuclear Waste Policy Act by directing the Department of Energy (DOE) to begin storing spent nuclear fuel and high-level nuclear waste at an interim facility in Nevada no later than November 30, 1999. The bill would direct DOE to continue site characterization activities at the proposed permanent repository site at Yucca Mountain, also in Nevada. Title IV would modify how the nuclear waste program is funded after 2002.

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 104 would cost about $4 billion over the 1997-2002 period. (The increase in 1997 spending only would be about $15 million.) In addition, enacting the bill would affect direct spending—but not until 2002. Because S. 104 would not affect direct spending or receipts in either 1997 or 1998, pay-as-you-go procedures would not apply.

The state of Nevada and localities in the state would incur some additional costs as a result of this bill, but CBO is unsure whether the provisions causing those costs would be considered intergovernmental mandates, as defined in the Unfunded Mandates Reform Act of 1995 (UMRA). We estimate that the costs incurred by state and local governments would total significantly less than the threshold established in the law. (UMRA set a threshold of $50 million for 1996, adjusted annually for inflation).

CBO estimates that S. 104 contains private-sector mandates that exceed the $100 million threshold identified in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 104 over the next five years is shown in the table below. CBO estimates that building and operating an interim storage facility and continuing the study of the Yucca Mountain site as authorized by the bill would require appropriations of about $4 billion over the 1998-2002 period, resulting in outlays of about $3.8 billion over that period. In addition, section 401 would result in an increase in offsetting receipts in 2002 because it would require certain utilities to make a one-time payment of nuclear waste fees to the government of about $2.7 billion before the end of fiscal year 2002. Under current law, this payment is not expected to be made until 2010 or later.

S. 104 also would affect direct spending in later years by ending the current mandatory nuclear waste fee. Lost receipts would total about $630 million annually beginning in 2004.

	By fiscal years, in millions of dollars					
	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law:						
Budget authority)[1]	382	0	0	0	0	0
Estimated outlays	375	38	0	0	0	0
Proposed Changes:						
Authorization level	0	555	1,000	940	855	640
Estimated outlays	15	490	782	894	917	751
Spending Under S. 104:						
Authorization Level)[1]	382	555	1,000	940	855	640
Estimated Outlays	390	528	782	894	917	751
CHANGES IN DIRECT SPENDING						
Estimated budget authority	0	0	0	0	0	−2,700
Estimated outlays	0	0	0	0	0	−2,700

[1] The 1997 level is the amount appropriated for that year.

The costs of this legislation fall within budget functions 050 (defense) and 270 (energy).

Basis of estimate: This estimate is based on DOE's program plan issued on May 6, 1996, and on information from the department concerning the costs of an interim storage facility. For purposes of the estimate, CBO assumes that S. 104 will be enacted by July 1, 1997, and that the department will proceed to develop an interim storage facility in Nevada to accept waste beginning in fiscal year 2000, as authorized by the bill. We assume that following the assessment of the viability of the Yucca Mountain site as a permanent waste repository, DOE would apply for a license from the Nuclear Regulatory Commission (NRC) to construct a permanent nuclear waste repository there in 2002, as detailed in the May 6, 1996, nuclear waste program plan.

Spending subject to appropriation

Yucca Mountain. S. 104 would direct DOE to proceed with its Civilian Radioactive Waste Management Program Plan of May 1996. This plan calls for continuing with the evaluation of the Yucca Mountain, Nevada site as a permanent repository for nuclear waste, and applying for a license from the NRC to construct a repository in 2002, if the site appears to be viable for this use. Based on information from DOE, we estimate this effort would cost about $330 million annually over the 1998-2002 period.

Interim Storage Facility. The bill would require DOE to design and develop an interim nuclear waste storage facility at the Nevada test site. Based on information from DOE, we estimate the total costs of building, operating, and transporting nuclear waste to the Nevada facility would be about $2.3 billion over the 1997-2002 period, including $85 million appropriated in 1996. Spending from the existing $85 million appropriation was made contingent upon enactment of an authorization of an interim nuclear waste repository, such as S. 104.

The facility would be built in two phases and designed to accept 55,000 metric tons of uranium (MTU). Initially, the facility would be designed to accept nuclear waste in special storage canisters; later it would accept fuel without canisters. If DOE does not apply for a license to construct a permanent repository in 2002, or if DOE does not begin to operate a permanent repository in 2010, the capacity could be increased to 75,000 MTU. Based on information from DOE, CBO estimates that the interim storage facility would initially cost about $940 million to design, construct, and operate over the 1997–2002 period. This amount includes annual payments to Lincoln County, Nevada, of $2.5 million before the first shipment of waste, and $5 million after waste shipments begin, as authorized by section 201.

The federal government would be responsible for all transportation costs for shipping nuclear waste from nuclear reactors to the interim storage facility by rail and heavy-haul trucks. Procurement of special shipping casts and waste storage canisters would account for most of the initial transportation costs. Based on information from DOE, we estimate that waste transportation costs would total $1.4 billion over the 1997–2002 period. This amount includes $10 million annually over the 1997–1999 period for grants to state, local, and tribal governments for emergency transportation planning and training of public safety personnel along routes used to ship waste to the Nevada facility.

Other Authorizations. Section 506 would direct the NRC to establish regulatory guidance for the training and qualifications of nuclear powerplant personnel. This authorization could result in an increase in the NRC workload, but would not result in a net cost to the government because the NRC recovers all costs of regulating the nuclear industry through user fees.

Section 508 would authorize DOE to compensate the Dairyland Power Cooperative for any cost related to the storage of nuclear waste at the cooperative's La Crosse reactor site, until this waste is removed for temporary storage or disposal. Based on information from DOE, CBO estimates that these storage costs would be $1 million to $2 million annually over the 1998–2002 period.

Section 509 would authorize such sums as are necessary to establish a decommissioning pilot program to decommission and decontaminate a sodium-cooled fast breeder experimental test-site reactor acquired by the University of Arkansas in 1976. Based on information from the university, this activity could cost $20 million and take about four years to complete, assuming that all fuel has already been removed from the facility.

Section 602 would authorize continuation of the oversight activities of the Nuclear Waste Technical Review Board. Based on the board's ongoing work, CBO estimates this agency would spend about $3 million annually over the 1998–2002 period, assuming appropriation of the necessary amounts.

Direct Spending

Section 401(a)(3) would result in an earlier payment by utilities to the government of about $2.7 billion in one-time nuclear waste disposal fees. The bill would require these fees to be paid no later than the end of fiscal year 2002. Utilities that fail to make these payments in 2002 would have their nuclear operating permits suspended by the Nuclear Regulatory Commission. Under current law, these one-time fee payments, along with accrued interest, are due prior to the delivery of nuclear waste to a government storage or disposal facility. Currently, DOE does not expect such a facility to be available until 2010 or later. Thus, the bill would accelerate the payment of these one-time fees by at least 8 years. While this change would result in budgetary savings in 2002, the government would derive no significant benefit over the long run because it would otherwise receive the same amount later, with interest.

Starting in fiscal year 2004, section 401(a)(2) would limit the aggregate fees the government charges each year to electric utilities for disposal of nuclear waste to no more than the amount appropriated from the nuclear waste fund that year. CBO estimates that, under current law, income from these fees would total $630 million annually over the 2004–2007 period and would decline in subsequent years as nuclear power plants are decommissioned. Because S. 104 would make annual fees dependent on future appropriations action after 2003, CBO cannot assume their collection for the purpose of estimating the budgetary impact of the bill. Therefore, we estimate that the bill would cause a loss of offsetting receipts (that is, an increase in direct spending) of $630 million a year from 2004 to 2007 and of smaller amount in subsequent years.

In sum, CBO estimates that enacting the bill would decrease direct spending by $2.7 billion in 2002, but would increase direct spending by $2.5 billion over the following five years.

Pay-as-you-go considerations: None.

Estimated impact on state, local, and tribal governments: *Mandates*. CBO is unsure whether the bill contains intergovernmental mandates, as defined in UMRA, but we estimate that costs incurred by state, local, and tribal governments as a result of the bill would total significantly less than the threshold established in the law. (UMRA established a threshold of $50 million for 1996, adjusted annually for inflation.)

While S. 104 would, by itself, establish no new enforceable duties on state, local, or tribal governments, constructing and operating an interim storage facility, as required by the bill, probably would increase the cost to the state of Nevada of complying with existing federal requirements. CBO cannot determine whether these costs would be considered the direct costs of a mandate as defined by UMRA.

Based on information provided by state officials, CBO expects that state spending would increase by as much as $30 million per year until shipments to the facility begin (assuming that they begin in fiscal year 2000) and $5 million per year between that time and the time that the permanent facility at Yucca Mountain begins operations. This additional spending would support a number of activities, including emergency response planning and training, escort of waste shipment, and environmental monitoring. In addition, spending by Nevada counties for similar activities would probably increase, but by much smaller amounts. Not all of this spending would be for the purpose of complying with federal requirements.

These costs are similar to those that the state would eventually incur under current law as a result of the permanent repository planned for Yucca Mountain. DOE currently does not expect to begin receiving material at a permanent repository until at least 2010, while S. 104 would require that it begin to receive material at an interim facility in fiscal year 2000. As a result, the state would have to respond to the shipment and storage of waste at least ten years sooner than under current law. Further, the state's costs would increase because it would have to plan for two facilities.

Other impacts

Federal Payments to State and Local Governments. S. 104 would authorize payments to Lincoln County, Nevada, of $2.5 million in each year before waste is shipped to the interim facility and $5 million annual after shipments begin. In addition, the bill identifies several parcels of land that would be conveyed to Lincoln County and Nye County, Nevada by the federal government.

The state of Nevada might lose payments from the federal government if S. 104 is enacted, while Indian tribes might receive payments. The bill would amend section 116 of the Nuclear Waste Policy Act, which authorizes payments to the state of Nevada and to local governments within the state. Section 116 currently authorizes DOE to make grants to these governments to enable them to participate in evaluating and developing a site for a permanent repository and to offset any negative impacts of such a site. S. 104 would authorize such payments only to affected local governments and Indian tribes, not to the state.

In recent years, Congress has appropriated amounts ranging from $12 million to $15 million per year under this section for Nevada and for local governments in the state. For the current fiscal year, however, the Energy and Water Development Appropriations Act, 1997 (Public Law 104–206) prohibits DOE from making any such payments to the state or to local governments.

Transportation. S. 104 would also amend the provision in current law that directs DOE to provide technical assistance and funds for training of public safety officials to state and local governments and Indian tribes through whose jurisdictions radioactive material would be transported. This bill would specifically authorize planning grants of $150,000 for each such state and Indian tribe as well as annual implementation grants. CBO estimates that these grants would total about $10 million per year over the 1997–1999 period. Further, the bill would prohibit shipments through the jurisdiction of any state or tribe that has not received technical assistance and funds for at least two years.

The state of Nevada could incur substantial additional costs relating to road construction and maintenance as a result of the shipment of waste by heavy-haul truck from the transfer facility in Caliente to the interim storage facility. Based on information provided by DOE, however, CBO expects that the federal government would pay most of these costs.

Estimated impact on the private sector: CBO has identified private-sector mandates in the bill that would accelerate the payment of certain fees by private nuclear utilities and impose new training standards and requirements on workers. CBO estimates that the direct costs of these private-sector mandates would exceed the statutory threshold established in UMRA ($100 million in 1996, adjusted annually for inflation) in 2002. Because the bill would direct the federal government to begin storing nuclear waste at an earlier date than is now anticipated, the direct costs of these new mandates could be at least partially offset by savings to private nuclear utilities that would no longer have to pay for this storage.

Fourteen nuclear utilities have chosen the option, available to them under current law, to delay payment of certain one-time disposal fees and to pay the federal government the required additional interest. S. 104 would require nuclear utilities to accelerate payment of those fees to the government. CBO assumes that nuclear utilities would make the required payment of about $2.7 billion to the government in 2002, which would be considered the direct cost of a private-sector mandate, as defined in UMRA. Under current law, such payments would be paid in 2010 or later, when DOE opens a permanent storage facility to accept nuclear waste.

Acceleration of these payments would likely result in a real economic loss to the utilities over the long run because interest on the payments is accruing at the rate paid on Treasury bills, which is lower than the market rate of interest. The industry does, however, expect to experience significant savings under S. 104 if interim storage facilities begin to accept nuclear waste in fiscal year 2000. Currently, spent nuclear fuel is stored at nuclear reactor sites around the country. Thus, nuclear utilities would save storage costs upon transfer of the nuclear waste to a federal facility.

S. 104 would also impose a mandate by requiring that the Secretary of Transportation establish training standards applicable to workers directly involved in the removal, transportation, interim storage, and permanent disposal of spent nuclear fuel and high-level radioactive waste. These workers, under current law, are already required to undertake extensive training. Based on information provided by industry experts, CBO estimates that the added costs of this mandate would be minimal. In addition, these costs could be partially offset by appropriated funds designated to cover training costs. Section 203(c) would direct the Secretary of Energy to provide technical assistance and funds for training directly to nonprofit employee organizations and joint labor-management organizations that implement safety and training requirements under this bill.

Estimate prepared by: Federal Cost: Kim Cawley. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Lesley Frymier.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.●

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–4

Mr. NICKLES. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on April 7, 1997, by the President of the United States: International Grains Agreement, 1995, Treaty Document No. 105–4.

I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Grains Trade Convention and Food Aid Convention constituting the International Grains Agreement, 1995, open for signature at the United Nations Headquarters, New York, from May 1 through June 30, 1995. The Conventions were signed by the United States on June 26, 1995. I transmit also for the information of the Senate, the report of the Department of State with respect to the Conventions.

The Grains Trade Convention, 1995, replaces the Wheat Trade Convention, 1986, and maintains the framework for international cooperation in grains trade matters. It also continues the existence of the International Grains Council.

The Food Aid Convention, 1995, replaces the Food Aid Convention, 1986, and renews commitments of donor member states to provide minimum annual quantities of food aid to developing countries.

The International Grains Council and the Food Aid Committee granted the United States (and other countries) a 1-year extension of time in which to deposit its instruments of ratification, and have permitted the United States in the meantime to continue to participate in the organizations.

It is my hope that the Senate will give prompt and favorable consideration to the two Conventions, and give its advice and consent to ratification so that ratification by the United States can be effected and instruments of ratification deposited at the earliest possible date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 7, 1997.*

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 105–5

Mr. NICKLES. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on April 7, 1997, by the President of the United States: The Flank Document Agreement to the CFE Treaty, Treaty Document No. 105–5.

I further ask unanimous consent that the treaty be considered as having been read for the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate, the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990, which was adopted at Vienna on May 31, 1996 ("the Flank Document"). The Flank Document is Annex A of the Final Document of the first CFE Review Conference.

I transmit also, for the information of the Senate, the report of the Department of State on the Flank Document, together with a section-by-section analysis of the Flank Document and three documents associated with it that are relevant to the Senate's consideration: the Understanding on Details of the Flank Document of 31 May 1996 in Order to Facilitate its Implementation; the Exchange of Letters between the U.S. Chief Delegate to the CFE Joint Consultative Group and the Head of the Delegation of the Russian Federation to the Joint Consultative Group, dated 25 July 1996; and the Extension of Provisional Application of the Document until May 15, 1997. I take this step as a matter of accommodation to the desires of the Senate and without prejudice to the allocation of rights and duties under the Constitution.

In transmitting the original CFE Treaty to the Senate in 1991, President Bush said that the CFE Treaty was "the most ambitious arms control agreement ever concluded." This landmark treaty has been a source of stability, predictability, and confidence during a period of historic change in Europe. In the years since the CFE Treaty was signed, the Soviet Union has dissolved, the Warsaw Pact has disappeared, and the North Atlantic Alliance has been transformed. The Treaty has not been unaffected by these changes—for example, there are 30 CFE States Parties now, not 22—but the dedication of all Treaty partners to achieving its full promise is undiminished.

The CFE Treaty has resulted in the verified reduction of more than 50,000 pieces of heavy military equipment, including tanks, armored combat vehicles, artillery pieces, combat aircraft, and attack helicopters. By the end of 1996, CFE states had accepted and conducted more than 2,700 intrusive, on-site inspections. Contacts between the military organizations charged with implementing CFE are cooperative and extensive. The CFE Treaty has helped to transform a world of two armed camps into a Europe where dividing lines no longer hold.

The Flank Document is part of that process. It is the culmination of over 2 years of negotiations and months of intensive discussions with the Russian Federation, Ukraine, our NATO Allies, and our other CFE Treaty partners. The Flank Document resolves in a cooperative way the most difficult problem that arose during the Treaty's first 5 years of implementation: Russian and

Ukrainian concerns about the impact of the Treaty's equipment limits in the flank zone on their security and military flexibility. The other Treaty states—including all NATO Allies—agreed that some of those concerns were reasonable and ought to be addressed.

The Flank Document is the result of a painstaking multilateral diplomatic effort that had as its main goal the preservation of the integrity of the CFE Treaty and achievement of the goals of its mandate. It is a crucial step in adaptation of the CFE Treaty to the dramatic political changes that have occurred in Europe since the Treaty was signed. The Flank Document confirms the importance of subregional constraints on heavy military equipment. More specifically, it revalidates the idea, unique to CFE, of limits on the amount of equipment particular nations in the Treaty area can locate on certain portions of their own national territory. Timely entry into force of the Flank Document will ensure that these key principles are not a matter of debate in the negotiations we have just begun in Vienna to adapt the CFE Treaty to new political realities, including the prospect of the enlarged NATO.

I believe that entry into force of the CFE Flank Document is in the best interests of the United States and will contribute to our broader efforts to establish a new European security order based on cooperation and shared goals. By maintaining the integrity of the CFE flank regime, we take a key step toward our goal of ensuring that the CFE Treaty continues to play a key role in enhancing military stability into the 21st century. Therefore, I urge the Senate to give early and favorable consideration to the Flank Document and to give advice and consent prior to May 15, 1997.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 7, 1997.*

ORDERS FOR TUESDAY, APRIL 8, 1997

Mr. NICKLES. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10:30 a.m., Tuesday, April 8. I further ask unanimous consent that on Tuesday, April 8, immediately following the prayer, the routine requests through the morning hour be granted and there then be a period of morning business until the hour of 12:30, with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator THOMAS for 30 minutes; Senator LOTT or his designee, 30 minutes; Senator BOXER, 15 minutes; Senator LAUTENBERG, 10 minutes; Senator DASCHLE or his designee, 15 minutes; and Senator WYDEN for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I further ask unanimous consent that the Senate stand in recess between the hours of 12:30 and 2:15 p.m. for the weekly party caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. NICKLES. Mr. President, for the information of all Senators, tomorrow, following the party conferences, the Senate will resume consideration of the motion to proceed to S. 104, the Nuclear Policy Act. By previous consent, a cloture vote on the motion to proceed to S. 104 will occur at 5:15 p.m., Tuesday afternoon. In addition, the time between 2:15 and 5:15 has been set aside for debate on the motion, with time equally divided between the proponents and opponents of the legislation.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. NICKLES. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:40 p.m., adjourned until Tuesday, April 8, 1997, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 7, 1997:

OFFICE OF PERSONNEL MANAGEMENT

JAMES B. KING, OF MASSACHUSETTS, TO BE DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT FOR A TERM OF 4 YEARS (REAPPOINTMENT), TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. TAD J. OELSTROM, 3287

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601.

To be lieutenant general

MAJ. GEN. TOMMY R. FRANKS, 0864

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. LEE F. GUNN, 4664

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENTS TO THE GRADES INDICATED IN THE U.S. AIR FORCE UNDER TITLE 10, UNITED STATES CODE, SECTIONS 618, 624, AND 628:

To be lieutenant colonel

JOHN M. BARKER, JR., 6675
STEPHEN C. BARRON, 9919
ROBERT A. DEIVERT, 1516
STEPHEN L. HOERNLEIN, 3432
SCOTT M. KAPES, 0992
RALPH E. MCDONALD, 0639
VICENTE E. SANCHEZ-CASTRO, 1566

To be major

MICHAEL R. FIEDLER, 0559
RANDY A. KEE, 1956
JOHN H. SCHUMACHER, 9127
JESSICA R. YBANEZ-MORANO, 5652

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

To be colonel

TODD H. GRIFFIS, 2756

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be colonel

GILDA A. JACKSON, 2155

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. NAVY UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be lieutenant commander

JAMEL B. WEATHERSPOON, 0008

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be lieutenant colonel

ROBERT J. ABBLITT, 0110
RICHARD C. ADAMS, 2698
KATHRYN A. ALLEN, 6671
TRAVIS M. ALLEN, 0770
GEORGE S. AMLAND, 3849
DONALD J. ANDERSON, 7943
TRUMAN D. ANDERSON, JR., 2682
PHILLIP J. ANTONINO, 3335
WALTER H. AUGUSTIN, 3145
BRUCE A. AVERITT, 6641
LISA M. BACHILLER, 4560
RONALD F. BACZKOWSKI, 4806
KURT A. BADEN, 8966
THOMAS M. BANE, 1799
HOWARD F. BARKER, 8739
ROBERT H. BARROW, JR., 3349
WILLIAM L. BARTELS II, 4224
MAUREEN A. BASHAM, 5106
GREGORY A. BASS, 7400
MARK H. BEAN, 9541
ROBERT K. BEAUCHAMP, 6167
DAVID R. BECKER, 1747
PAUL D. BENNETT, 6547
WILLIAM S. BENNETT, 2071
DAVID W. BERKMAN, 5066
KENNETH D. BEST, 2429
STUART C. BETTS, 8017
KEITH A. BIRKHOLZ, 8924
CHRISTOPHER E. BLANCHARD, 1356
JOSHUA J. BOCCHINO, 7163
JEFFREY W. BOLANDER, 4603
MICHAEL S. BONEM, 1533
GREGORY A. BOYLE, 9979
DARLENE A. BRABANT, 5705
BROOKS R. BREWINGTON, 0784
MARK A. BRILAKIS, 6167
MICHAEL M. BROGAN, 2241
MICHAEL F. BROOKER, 2493
JEROME W. BROWN, JR., 3329
LORRIN K. BROWN, 4413
MARLON F. BROWN, 6986
STEPHEN E. BROWN, 7094
JAMES F. BROWNLOWE, 8525
JOHN J. BRYANT, 9119
DONALD M. BURLINGHAM, 7897
STEVEN W. BUSBY, 8401
SCOTT R. CAMPBELL, 1100
SCOTT T. CAMPBELL, 7251
ERIC H. CARLSON, 8672
DON D. CLINE, 2806
ROBERT D. CLINTON, 6194
DAVID D. COBERT, 0858
PATRICK COFFEY, 9910
JOSEPH M. COLE, 4232
JOHN T. COLLINS, 0709
DANIEL J. CONN, 4179
KEVIN E. CONYERS, 9200
CHARLES J. COOGAN, 2545
WILLIAM C. COOK, 9276
STEPHEN B. COOPERIDER, 0780
BRADFORD T. COPPOCK, 2626
GREGORY V. CORBETT, 6763
BRIAN T. COSTELLO, 6430
ROBERT A. COTTERELL, 1673
RICHARD E. COYLE, JR., 6147
PETER B. COZ, 6336
LYLE M. CROSS, 9942
STEPHEN W. CROWELL, 2859
DANIEL F. CROWL, 9279

FRANCIS X. COBILLO, 5335
JOSEPH H. DAAS, 8925
JAMES R. DALEY, 2596
CHARLES A. DALLACHIE, 7822
DAVID F. DAMBRA, 0143
RAYMOND C. DAMM, JR., 4021
PAUL S. DAUGHTRIDGE, 7555
CLAUDE H. DAVIS III, 7997
JON M. DAVIS, 8884
KELVIN M. DAVIS, 5408
STEPHEN W. DAVIS, 8618
JAMES A. DAY, 5669
MICHAEL J. DEAN, 9284
JEAN C. DERESCHUK, 8294
GILBERT DESROCHES, 0715
KEVIN M. DEVORE, 3590
JOHN K. DODGE, 4878
JAMES J. DOLL, 0194
JOHN D. DOWNEY, 5019
JAMES C. DUNCAN, 0182
EDWARD T. DUNLAP, 9763
DAVID C. DURHAM, 9399
ANDREW P. DWYER, 1041
BASCOM D. EAKER, 3704
JOHN K. ELDER, 4021
KARL S. ELEBASH III, 9562
THOMAS D. ELLIS, 1895
JAMES J. EMERSON, 3438
DAVID W. ESTRIDGE, 3144
JOHN F. FELTHAM, 0330
WILLIAM L. FISER, 3138
ROBERT A. FITZGERALD JR, 9531
JOHN D. FOLDBERT, 7777
JOHN A. FORQUER, 8351
KEVIN B. FOSSETT, 3906
GARY D. FRALEY, 5805
STEVN L. FRANKLIN, 1249
KEVIN F. FREDERICK, 1055
DAVID G. FRITZ, 1676
DAVID C. FUQUEA, 5233
LEE P. FUTCH, 3246
THOMAS B. GALVIN, 8653
MARK E. GANDER, 2313
STEPHEN T. GANYARD, 5967
MICHAEL A. GARRISON, 9873
JOHN C. GAUTHIER, 7766
STEPHEN L. GEIGER, 5412
THOMPSON A. GERKE, 4314
STEPHEN V. GIUSTO, 5090
WILLIAM W. GO, 2672
PATRICK J. GOUGH, 0623
GLEN C. GRAHAM, 5597
JUDY A. GRETCH, 2602
FREDERICK R. GRIGGS III, 5580
GREGORY W. GROVE, 2951
DAVID H. GURNEY, 4617
ELLEN K. HADDOCK, 1837
ANDREW S. HAEUPTLE, 6317
JOHN W. HALINSKI, 6994
JAMES E. HALL, 8134
WILLIAM E. HARRIS, 5056
CALVIN E. HASTINGS, 0725
MANTFORD C. HAWKINS II, 7610
MICHAEL G. HAWKINS, 1039
STEPHEN D. HAWKINS, 1162
ERIC HEIDHAUSEN, 8150
JOSEPH A. HEINS, 3522
HUGH A. HENRY, 9834
STEVEN HICKEY, 7020
PAUL K. HILTON, 7893
CHAD W. HOCKING, 6503
STEVEN D. HOGG, 1587
RICHARD G. HOUCK, 5011
RAYMOND W. HOWER, 4985
CHARLES L. HUDSON, 9985
CARL F. HUENEFELD, 4695
NORA S. HUETE, 2866
PAUL D. HUGHES, 2247
DONALD M. INGRAM, 9832
KENNETH E. JACOBSEN, 7723
JAMES F. JAMISON, 8106
RONN C. JOHNSON, 9856
RUSSELL I. JONES, 5664
JAMES C. JUMPER, JR., 3258
DANIEL P. KAEPERNIK, 3557
JOEL P. KANE, 2697
MARK M. KAUZLARICH, 4305
CHRISTIAN J. KAZMIERCZAK, 7882
PATRICK A. KELLEHER, 7288
DAVID A. KELLEY, JR., 9737
JOSEPH L. KELLEY, 1237
ROBERT G. KELLY, 5401
BRUCE G. KESSELRING, 8835
JAMES A. KESSLER, 4042
MARK A. KING, 6903
ROBERT F. KLUBA, JR., 5560
RALPH H. KOHLMANN, 5559
ROGER L. KRAFT, JR., 3416
JOHN T. KRAUSE, 7321
DONNA J. KRUEGER, 0882
DAVID W. KUEHN, 9209
ODIN F. LEBERMAN, JR., 8160
GEORGES E. LEBLANC III, 6424
WILLIAM P. LEEK, 9194
WILLIAM J. LEITHEISER, JR., 8599
CLARKE R. LETHIN, 3846
DOARIN R. LEWIS, 6802
CARL A. LEWKE, 6363
MICHAEL A. LHEUREUX, 7132
FREDERIC W. LICKTEIG, 7530
THOMAS J. LINDBLAD, 3311
STEPHEN L. LITTLE, 6898
SCOT D. LLOYD, 8065
JOHN P. LOPEZ, 5135
EDWARD W. LOUGHRAN, 8238
JUERGEN M. LUKAS, 1165
JAMES W. LUKEMAN, 2472
JEROME M. LYNES, 4480
DAVID A. MAHONEY, 3746
JAMES C. MALLON, 6838
RICHARD V. MANCINI, 9578
BRIAN MANTHE, 8633
MARK E. MAREK, 6253
JOEL A. MARQUARDT, 8638
KENNETH B. MARTIN, 3654
ALEXANDER V. MARTYNENKO, 8058
DEAN H. MARVIN, 0932
TIMOTHY P. MASSEY, 1063
DANIEL C. MCCARRON, 8592
PETER G. MC CARTHY, 7397
JAMES E. MC COWN III, 3934
WILLIAM F. MC EVOY, 4625
MARK D. MCMANNIS, 0910
JOHN D. MCMASTER, 7710
CHRIS D. MCMENOMY, 2137
JAMES F. MCNEIVE, 1815
TIMOTHY L. MECOMBER, 8871
DANNY L. MELTON, 2907
JAMES E. MEYEN, 7435
DWAIN A. MEYER, 2198
STEPHEN N. MIKOLASKI, 3768
PAMELA D. MILLER, 0856
RALPH F. MILLER, 0046
RICHARD A. MINOR, 4073
GREGORY K. MISLICK, 5315
WILLIAM R. MITCHELL, 6024
MARK E. MONROE, 0088
TERRY M. MOORES, 4899
MICHAEL F. MORGAN, 1071
JOSEPH A. MORTENSEN, 3235
MATHEW D. MULHERN, 1501
WILLIAM L. MUNCK, 4661
DWIGHT A. MUNDY, 5272
JAMES T. MURTHA, 9633
KEVEN J. NALLY, 8934
DAVID A. NEESEN, 5714
RONALD G. NEILSON, 7971
LAWRENCE D. NICHOLSON, 1342
DONALD A. NIESEN, 9221
CARLOS I. NORIEGA, 8348
GORDON P. OBERMUELLER, 7134
PATRICK W. O'BRYAN, 3834
CHRISTOPHER L. O'CONNOR, 9295
ANDREW W. O'DONNELL, JR., 5504
JAMES G. O'HAGAN, 8652
JOHN C. O'KEEFE, 6194
GARY R. OLES, 4062
MARK T. OLSEN, 7417
REUBEN A. PADILLA, 5316
PAUL E. PAQUETTE, 9215
RICHARD L. PARK, 8570
CHARLES A. PETERSON, 4733
CURTIS J. POWELL, 4216
THOMAS A. PROGAR, 2226
LOUIS N. RACHAL, 4591
CHARLES H. RADERSTORF, 1247
CARL K. RADFORD, 5226
HENRY G. RAUM, 8480
DANNY D. RAY, 2150
DENNIS W. RAY, 1451
JACKY E. RAY, 0397
RICHARD M. RAYFIELD, 0737
MATTHEW D. REDFERN, 9580
JAMES A. REISTRUP, 6923
GREGORY J. RHODES, 5153
DAVID M. RICHTSMEIER, 7738
DAVID A. RIEDEL, 9103
JAMES E. RILEY, JR., 4253
JAMES S. ROBERTSON, 7751
NORMAN J. ROBISON, 6845
JOSEPH C. RODGERS, JR., 2963
CRAIG D. ROSS, 9879
JAMES G. ROUSE, 9651
JOSE D. ROVIRA, 2955
ROBERT R. RUARK, 2417
MICHAEL E. RUDOLPH, 6277
BEVERLY J. RUNOLFSON, 2554
JOSEF E. RYBERG, 9320
DONALD W. SAPP, 1321
CLARKE J. SCHIFFER, 4505
SUE I. SCHULER, 9905
KEVIN M. SCOTT, 6891
MICHAEL W. SCOTT, 6757
JEFFREY M. SENG, 7533
SCOTT E. SHAW, 9703
ROBERT E. SHELOR, 7318
CARLYLE E. SHELTON, 6905
KEITH C. SHULTIS, 9184
MICHAEL P. SLATER, 0261
RICHARD S. SLATER, 6491
GEORGE S. SLEY, JR., 1986
DALE M. SMITH, 5954
DAVID E. SMITH, 5691
RICHARD E. SMITH, 7408
ROBERT G. SOKOLOSKI, 8756
STEPHEN L. SPEHN, 3233
JAMES L. STALNAKER, 3336
TERRY D. STEELE, 6460
THOMAS G. STEIN, 5515
DOUGLAS M. STILWELL, 7918
PETER J. STRENG, 6940
MARK H. STROMAN, 2214
JOHN M. SULLIVAN, JR., 9407
JOSEPH L. SULLIVAN, 4654
KEITH M. SWEANEY, 4238
ROLAND C. SWENSEN, 6948
TERRENCE S. TAKENAKA, 2678
MARK H. TANZLER, 6944
WILLIAM H. THOMAS, 5659
CHARLES T. THOMPSON, 7906
KENNETH J. THOMPSON, JR., 6803
JEFFREY P. TOMCZAK, 8539
MARK H. TRIPLETT, 9804
CRAIG A. TUCKER, 2958
DAVID K. UNDELAND, 3196
ERIC J. VANCAMP, 9536
MARK W. VANOUS, 8095
EDWARD E. VAUGHT, 2651
PETER S. VERCRUYSSE, 5456
ANTHONY J. VERDUCCI, 7785
JEREMIAH J. WALSH, 5225
TROY A. WARD, 9605
STANLEY H. WATKINS, 7884
TIMOTHY C. WELLS, 6393
FRED WENGER III, 2439
RICHARD B. WERNER, 1312
MARK E. WHEELER, 9055
FREDERICK J. WHITTLE, 1749
ROBERT A. WIEDOWER, 0299
JOHN R. WILKERSON, 6188
KEITH R. WILKES, 2196
DAN B. WILLIS, 6914
MARY P. WILLIS, 6091
MARK F. WOOD, 8208
WALTER T. ZABICKI, 4891
ROBERT S. ZAK, 2405
ROBERT M. ZEISLER, 1679

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S. MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be major

ROY P. ACKLEY, JR., 6656
CURTIS R. ADAIR, 6565
ROBERT A. AKIN, 2689
JULIAN D. ALFORD, 4324
JAMES S. ALLEY, 5936
RICHARD E. ANDERS, 6604
DALE E. ANDERSON, 1141
BRYAN E. AREMAN, 4604
FRANK S. ARNOLD, 8816
BRIAN M. BAGGOTT, 7763
JAMES M. BAKER, 0079
GRANT C. BAKLEY, 9310
EDWARD L. BARBOUR III, 5549
BRETT D. BARKEY, 2741
MICHAEL W. BARNES, 7527
VINCENT A. BARR, 5134
BRETT M. BARTHOLOMAUS, 6977
BRIANT T. BECHWITH, 7840
CHARLES A. BELL, 6952
STEVEN F. BELSER, 7143
ALLEN L. BENNETT, 6356
PHILIP J. BETZ, JR., 0617
ANDREW D. BIANCA, 8416
JAMES W. BIERMAN, JR., 9091
DOUGLAS H. BIGGS, 4740
CARLYLE P. BINNS, 8546
ROBERT A. BISHOP, 7885
JEFFREY L. BLAU, 2450
ENOCH J. BLAZIS, 7604
SEAN C. BLOCHBERGER, 1471
GARY G. BLOESL, 6448
PATRICK S. BLUBAUGH, 9259
PHILLIP W. BOGGS, 4659
KELLY R. BOLE, 1502
COREY K. BONNELL, 5855
PAUL A. BOURGEOIS, 3749
ANTHONY W. BOWMAN, 2062
BRUCE K. BRAHE III, 4739
KARL D. BRANDT, 7818
ROBERT M. BRASSAW, 0633
GREGORY T. BREAZILE, 5252
JAMES M. BREITINGER, 2244
MARK C. BREWSTER, 3004
JAMES M. BRIGHT, 8702
DONALD W. BROOKINS, 8123
BILLY B. BROWN, JR., 6142
BRADLEY W. BROWN, 6844
GERALD R. BROWN, 2925
RAPHAEL P. BROWN, 3350
KURT J. BRUBAKER, 1496
MICHAEL A. BRUNO, 0444
PETER D. BUCK, 6911
BRIAN K. BUCKLES, 2110
STEVEN L. BUCKLEY, 6590
WILLIAM S. BUDD, 4841
TODD R. BUECHS, 3767
MICHAEL J. BURKE, 6869
TERRANCE L. BURNS, 7182
CRAIG M. BURRIS, 2486
TIMOTHY G. CALLAHAN, 5712
WILLIAM E. CALLAHAN, 3751
SCOTT D. CAMPBELL, 5125
SCOTT K. CAMPBELL, 8323
CURT A. CAREY, 7726
LARRY G. CARMON, 3576
TIMOTHY J. CARROLL, 1182
WINFIELD S. CARSON, JR., 2827
MITCHELL E. CASSELL, 9135
CHRISTOPHER W. CASTELLI, 9961
CURTIS E. CATENCAMP, 0847
MIGUEL CHABOLLA, 4253
DAVID G. CHANDLER, 5692

IRA M. CHEATHAM, 3013
GREGORY L. CHESTERTON, 1490
KENT A. CHURCHILL, 0206
MARK D. CICALI, 0549
EDWIN S. CLARKE, 7326
STEPHEN A. CLARKE, 3236
THOMAS M. CLASEN, 0719
BIAGIO COLANDREO, JR., 0500
AUTHUR COLLINS III, 5936
JOSEPH W. COLLINS, JR., 1273
JAMES W. COLMAN, JR., 7410
JEFFREY P. COLWELL, 2001
WILLIAM J. CONLEY, JR., 0129
SHAWN P. CONLON, 4174
JEFFERY T. CONNER, 6032
JONATHAN P. COOK, 7504
MARK E. COSTELLO, 5046
VERNON S. COUCH, 4438
ROBERT A. COUSER, 9057
PATRICK F. COX, 1978
DENNIS CRALL, 5579
SCOTT A. CRESSMAN, 0895
VINCENT S. CRUM, 7845
GLENN A. CUNNINGHAM, 2866
JOHN M. CURATOLA, 4718
PAUL G. CURRAN, 8782
PETER W. CUSHING, 2295
BRUCE A. DANIEL, 0177
SHARON A. DANJOU, 8612
MICHAEL G. DANZER, 1774
ROBERT J. DARLING, 5976
GLENN M. DAVIDSON, 0327
JEFFREY P. DAVIS, 1781
JAMES P. DAY, 4972
GREGORY P. DEEB, 8267
MARK C. DELUNA, 8354
DAVID A. DEMORAT, 8341
MARSHALL DENNEY III, 0537
DOUGLAS B. DENNIS, 9794
TIMOTHY E. DESALVO, 0613
RAYMOND R. DESCHENEAUX, 4793
HENRY J. DOMINGUE, JR., 5726
CHARLES W. DOUGHERTY, 0572
THOMAS A. DOUGHERTY III, 1777
JONATHAN F. DOUGLAS, 3820
TERRY M. DRESBACH, 2480
JEFFREY W. DUKES, 6641
FLOYD W. DUNSTAN, JR., 2338
ROBERT L. DYSON, 5786
CHRISTOPHER B. EDWARDS, 5378
DANIEL Q. EGGE, 4179
EMILY J. ELDER, 1423
NORMAN R. ELIASEN, 7613
RUSSELL W. EMONS, JR., 8108
TERRI E. ERDAG, 6755
SCOTT E. ERDELATZ, 5851
DANIEL P. ERMER, 2171
JORGE A. ESPARZA, 4421
JOHN A. ESQUIVEL, 0380
SCOTT J. FAZEKAS, 7454
JAMES P. FEENEY, 1392
FRANCIS S. FERRARO, 9655
WALTER F. FISCHER, JR., 1135
CLAYTON J. FISHER, 9060
JOHN M. FITTS, 5814
TIMOTHY J. FLANAGAN, 7178
MARK S. FLANNERY, 7941
DAVID S. FLORES, 8176
TIMOTHY A. FLORIAN, 9056
JOHN J. FOLEY, 2698
DAVID R. FOLSOM, 0420
ANDREW W. FORTUNATO, 5271
MICHAEL V. FRANZAK, 9588
CHRISTOPHER L. FRENCH, 7320
STEPHEN M. FRENCH, 3186
RICHARD W. FULLERTON, 0830
JOHN D. FULP, 9341
JEFFREY W. FULTZ, 2381
RODNEY A. FUNK, 2157
DAVID J. FURNESS, 4147
MARK C. GAMBESCIA, 2624
EDWARD C. GARDINER, 0909
JOSEPH E. GEORGE, 3984
GREGORY A. GEPHARDT, 2538
JAMES P. GFRERER, 1217
CHARLES J. GIBSON, JR., 3859
ANDREW J. GILLAN, 0953
FRANCIS B. GILLIGAN, 1731
JOHN C. GISCARD, 1887
CHRISTOPHER W. GOEDEKE, 2449
ROBERT S. GORDON, 9510
PAUL G. GOSNELL, 6226
PATRICK A. GRAMUGLIA, 8929
PHILIP E. GRATHWOL, 5478
PAUL D. GREATSINGER, 7176
ALAN S. GREENE, 0368
RICHARD L. GRIMM, 1560
GREGORY J. GRINAKER, 0515
BROOKS S. GRUBER, 4476
DONALD K. HANSEN, 8084
DREW A. HANSEN, 1949
ERNEST A. HARPER, 0303
WILLIAM D. HARROP III, 5246
JAY L. HATTON, 8951
DREXEL D. HEARD, 6200
SCOTT M. HECKERT, 5871
BRIAN F. HENRY, 8503
JAMES H. HERRERA, 2796
HARRY J. HEWSON III, 4963
CLINTON M. HIGGINBOTHAM, JR., 1610
ANNMARIE HIGGINS, 2387
MICHAEL C. HITCHCOCK, 9013
JEFFREY L. HOING, 4619
JONATHAN B. HOLMBERG, 2380
JEFFREY Q. HOOKS, 9391
MATTHEW C. HOWARD, 2089
DAVID S. HOWE, 9058
MATTHEW P. HOWELL, 1246
KYLE J. HOWLIN, 7823
STEPHEN M. HOYLE, 6270
SCOTT A. HUELSE, 9636
DONALD E. HUMPERT, 2891
KIMBERLY A. HUNTER, 5113
JAMES H. HUTCHINS, 9188
PAUL E. HUXHOLD, 4486
ALEXANDER G. IHDE, 2908
WILLIAM M. IVORY, 0410
TAL H. JACKSON, 0047
BRIAN P. JIMENEZ, 5069
CHARLES H. JOHNSON III, 8638
MARK D. JOHNSON, 8992
DAVID R. JONESE, 4703
ANDREW R. KENNEDY, 6265
JEFFREY J. KENNEY, 7737
MICHAEL W. KETNER, 0866
DENIS J. KIELY III, 4684
KEVIN J. KILLEA, 3340
SEAN C. KILLEEN, 8164
RONALD S. KIMBROUGH, 8194
CARL M. KIME, 9088
STEVEN W. KIRTLEY, 1642
JOHN D. KLEMM, JR., 5016
BRIAN T. KLINE, 6239
THEODORE S. KLINE, 4040
GARY A. KLING, 8974
JOSEPH H. KNAPP, 1644
EDONNA L. KOON, 1308
ROBERT R. KOSID, 7181
BRIAN L. KU, 6223
ROBERT C. KUCKUK, 0686
TED J. KUHN, 4671
DAVID S. KUNZMAN, 0173
THOMAS L. LANGLOIS, 8403
JEFFREY W. LARK, 8244
DAVID K. LAYNE, 9238
MICHAEL J. LEE, 6561
MICHAEL A. LESAVAGE, 5719
JOSEPH A. LETOILE, 4740
DEAN F. LEVI, 5699
JASON G. LINDSTROM, 2019
THOMAS A. LOGAN II, 3766
JEREMY B. LOVELL, 0384
CULLIN L. LUMPKINS, 0507
WALTER E. LUNDIN, 1276
EDWARD D. LUNDSTROM, 9874
MARK E. LYON, 1178
RALPH A. LYONS, 5473
JON CHESTEA MACCARTNEY, 0833
ROBERT S. MACFARLAND, JR., 8186
PAUL G. MACK, 4227
MICHAEL J. MACLANE, 2383
KEVIN W. MADDOX, 2668
EDWARD O. MAGEE, JR., 0174
MICHAEL P. MAHANEY, 1747
CHRISTOPHER J. MAHONEY, 5501
THOMAS P. MAINS III, 6121
KATHY J. MALONEY, 6628
ANDREW G. MANCHIGIAH, 9435
CHRISTOPHER S. MANIS, 4523
TOMMY J. MARIS, 3433
THOMAS P. MARTIN, 0057
GREGORY L. MASIELLO, 2820
DOUGLAS E. MASON, 2723
TIMOTHY L. MATHEWS, 6558
WILLIAM H. MAXWELL, 5590
CHRISTOPHER T. MAYETTE, 4847
KEITH E. MAYO, 8225
EDWARD J. MAYS, 9836
DAVID S. MAZENKO, 2583
MITCHELL J. MCCARTHY, 4966
DARIN J. MCCLOY, 6933
BRIAN K. MCCRARY, 6859
JON E. MCELYEA, 9598
JAMES G. MCGARRAHAN, 3434
DAVID B. MCGILLIS, 0689
DANIEL J. MCGOUGH, 5134
JACKSON L. MCGRADY, 4199
SCOTT L. MCLENNAN, 5449
BRAD J. MCNAMARA, 2152
DAVID G. MCRITCHIE, JR., 2110
STEPHEN C. MEIZOSO, 0195
ERIC M. MELLINGER, 3265
MARK P. MELZAR, 3621
PAUL C. MERRITT, 6512
ROBERT C. MICHAUD, 9863
AUBREY L. MIHALCOE, JR., 0920
SCOTT G. MILES, 7235
DUNCAN S. MILNE, 3613
JAMES J. MINICK, 3095
JOSEPH T. MINICUCCI, 3919
DENNY A. MIRELES, 0309
FRANK G. MITTAG, 0224
JOHN L. MOHS, 7507
GREGORY B. MONK, 4061
JACK P. MONROE IV, 4584
PHILLIP D. MOORE, JR., 4011
RUSSELL A. MOORE II, 5913
MICHAEL T. MORAN, 4617
KEVIN J. MORONEY, 1552
JOHN C. MORTON, 0796
FRANK R. MOTLEY, JR., 4899
KRISTIN L. MOXLEY, 3328
ROBERT J. MUISE, 4002
STUART K. MULADORE, 0983
STEVEN J. MULLEN, 2995
TIMOTHY S. MUNDY, 7500
ANDREW J. MURRAY, 8586
JAMES E. MYERS, 4927
DAVID D. MYERSON, 6340
MARK G. MYKLEBY, 0887
SAMUEL C. NELSON III, 6844
JOHN M. NEUMANN, 2414
RANDALL P. NEWMAN, 8572
PATRICK ODONNELL, 6098
ROBERT C. OMEARA, 8741
ALLAN C. ORR, JR., 4888
DAVID A. OTTIGNON, 4443
ROBERT F. PADILLA, JR., 1481
RICHARD W. PALERMO, 9264
CHARLES A. PANTEN, 6951
JAMES R. PARRINGTON, 5547
WILLIAM G. PEREZ, 5339
KEN A. PERMANN, 3728
CURTIS M. PERMITO, 9565
MICHAEL W. PERRY, 5595
DANNY G. PETERS, 7981
ROBERT R. PIATT, 4136
CHARLES D. PINNEY, 2448
ROBERT N. PLANTZ, 6679
DONALD J. PLOWMAN, 6295
JEFFREY M. POHLMANN, 3698
PAUL A. POND, 9924
ANTHONY W. PRATO, 0548
CHARLES E. PROTZMANN, 6287
NEAL F. PUGLIESE, 3819
FRANK D. QUATTROCCHI, 9568
THOMAS M. QUIGLEY, 5107
KENT S. RALSTON, 6800
DAVID L. REEVES, 1554
JOHN C. REIMBER, 1321
MARY H. REINWALD, 6895
EDWARD L. REYELTS, 5791
STEPHEN E. REYNOLDS, 5941
MARK W. RICHTER, 9552
JOSEPH R. RIZZO, 5516
STEVEN T. ROBERTSON, 0717
DAVID A. ROBINSON, 0405
EUGENE H. ROBINSON, JR., 2442
FREDERICK C. RODY, 6675
STEVE M. ROEPKE, 1842
GREGORY T. ROPER, 1791
HOKE M. ROSE, 2587
DAVID L. ROSS, 2558
ROBERT L. ROUSE, 0230
MICHAEL J. ROVENSTINE, 3330
JOCEPHAS ROZIER, 1187
JAMES L. RUBINO, JR., 4362
CHARLES B. RUMSEY, JR., 6762
GARY P. RUSSELL, 9335
JOSEPH J. RUSSELL, 0056
JOHN A. RUTHERFORD, 4349
JOSEPH RUTLEDGE, 6741
MARGARET A. RYAN, 2998
JON E. SACHRISON, 8154
BRYAN F. SALAS, 4588
MICHAEL S. SALEH, 6034
MATTHEW T. SAMPSON, 1741
TERRENCE J. SAUBER, 4014
JAMES B. SCHAFER, 3274
TY A. SCHIEBER, 8683
MICHAEL M. SCHMIDT, 2883
DAVID G. SCHNORENBERG, 3216
LEE F. SCHRAM, 5786
DAVID S. SCHULZ, 3549
JOHN G. SCOTT, 6378
MARC A. SEHRT, 2989
MICHAEL T. SHEERIN, 1581
MICHAEL T. SHIRING, 6553
JOSEPH F. SHRADER, 9948
ANNE M. SHUFFORD, 8394
KEVIN J. SHUSKO, 9460
PAUL G. SICHENZIA, 3079
CHRISTOPHER J. SILL, 4868
PHILIP C. SKUTA, 6640
JEFFREY S. SMALL, 3274
ANDREW H. SMITH, 5993
ANTONIO B. SMITH, 4224
ERIC M. SMITH, 9379
RUSSELL E. SMITH, 9304
TRACY R. SMITH, 3000
WILLIAM C. SMITH III, 7664
JAMES D. SNELLGROVE, 5287
DANIEL J. SNYDER, 4424
JOSEPH SPAIR, 6539
SCOTT R. SPEELMAN, 2184
NANCY A. SPRINGER, 6658
KEITH E. SPURLOCK, 9865
JOHN B. STARNES, 5190
WAYNE R. STEELE, 4873
PATRICK G. STEININGER, 9211
JOHN C. STEVE, 0671
ALAN R. STOCKS, 7576
KIRBY A. STOKES, 8600
LYNN A. STOVER, 3629
MICHAEL R. STROBL, 2634
THOMAS K. STRUCKMEYER, 8010
BRIAN J. SULLIVAN, 4596
VINCENT J. SUMANG, 0872
EUGENE L. SUMMERS, 3162
FRANK J. SVET, 3570
STUART M. SWAN, 4513
JOHN J. SWEENEY, 2603
STEPHEN P. SWEENEY, 9239
MICHAEL E. SWEITZER, 8324
THOMAS L. TALOVICH, 3579
TROY D. TAYLOR, 1604

JOSEPH W. TENNEY, 3557
STEPHEN R. TERRELL, 7335
GREGORY K. TESCH, 3090
DONALD J. THIEME II, 1906
JOHN M. TILL, 6996
HUGH V. TILLMAN, 1819
PAUL TIMONEY, 2743
CHRISTOPHER A. TJARKS, 8689
WILLIAM A. TOSICK II, 1490
TROY A. TOTH, 0691
VAN K. TRAN, 1197
WILLIAM T. TREUTING, 6146
DAVID L. TURNER, 9756
WINBON J. TWIFORD III, 1281
MICHAEL J. UTKE, 0384
DAVID J. VAIL, 7844
KRISTI L. VAN GORDER, 6341
PETER L. VENIOT, 5094
DAVID A. VICKERS, 0642
COLBY C. VOKEY, 0110
NICHOLAS M. VUCKOVICH, 3566
ANDREW J. VUILLEMOT, 4100
CLINTON D. WADSWORTH, 4111
MARIANNE S. WALDROP, 9294
CODY W. WALL, 8146
KEVIN J. WALL, 5484
JOHN M. WALLS, 5809
THOMAS C. WALSH, JR., 7858
ALBERT C. WANG, 8599
JAMES R. WARIS, 4901
JOHN W. WASEK, 7975
WILLIAM H. WEBER IV, 5696
JOHN S. WEDEMEYER, 7686
DAVID L. WEGNER, 5649
THOMAS D. WEIDLEY, 3900
JAMES L. WELLING, 9416
JON M. WELLS, 9985
STEPHEN A. WENRICH, 4906
JAMES W. WESTERN, 8105
BRIAN D. WHETSTONE, 5365
MARK A. WHITSON, 5869
DAVID A. WILBUR, 6182
PARTICK R. WILKS, 8241
KIRK C. WILLE, 3494
ALAN F. WILLIAMS, 8556
BRIAN A. WILLIAMS, 7108
EUSEEKERS WILLIAMS, JR., 1942
GEORGE S. WILLIAMS, 1169
RICHARD E. WILLIAMS, 4736
ROBERT WILLIAMS, 0361
WENDELL C. WILLIAMS, 6102
BRENT S. WILLSON, 8488
JAMES G. WILSON, 1411
JUSTIN M. WISDOM, 8234
MARK R. WITZEL, 6592
THORI E. WOLFE, 5129
RONALD F. WOODAMAN, 2696
CHRISTOPHER I. WOODBRIDGE, 1799
CHRISTOPHER P. WOODBURN, 8883
MICHAEL E. WOOTEN, 1683
HUGH A. WORDEN, 0542
KENNETH E. WYNN, 9556
RICHARD G. YAKUBOWSKI, 9210
MARK E. YAPP, 6180
PETER E. YEAGER, 1546
TODD M. YEATTS, 4284
JEFFREY V. YOUNG, 9040
MICHAEL W. YOUNG, 6430
ROBERT C. ZAORSKI, JR., 3986
JOSEPH S. ZIMMERMAN, 2909
PHILIP J. ZIMMERMAN, 4930

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, April 8, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 9

9:30 a.m.

Banking, Housing, and Urban Affairs

Housing Opportunity and Community Development Subcommittee

To hold hearings on S. 462, to reform and consolidate the public and assisted housing programs of the United States, and to redirect primary responsibility for these programs from the Federal Government to States and localities.

SD-562

Commerce, Science, and Transportation

To hold hearings on the nomination of Kenneth M. Mead, of Virginia, to be Inspector General, Department of Transportation.

SR-253

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for Navy and Marine Corps programs.

SD-192

Armed Services

Airland Forces Subcommittee

To hold hearings on S. 450, authorizing funds for fiscal years 1998 and 1999 for military activities of the Department of Defense, and to prescribe military personnel strengths for fiscal years 1998 and 1999, focusing on Unmanned Aerial Vehicle programs and operations and modernization efforts.

SR-222

Commerce, Science, and Transportation

To hold hearings to examine the investigations and responses to aviation accidents.

SR-253

Finance

To hold hearings to examine Medicare payment policies for post-acute care.

SD-215

Foreign Relations

International Economic Policy, Export and Trade Promotion Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1998 for the Multilateral Development Bank.

SD-419

1:30 p.m.

Governmental Affairs

Oversight of Government Management, Restructuring and the District of Columbia Subcommittee

To hold hearings to examine the role of the Department of Commerce in Federal statistical gathering analysis and dissemination, and proposals for reform and consolidation.

SD-342

2:00 p.m.

Foreign Relations

To continue hearings on the Chemical Weapons Convention.

SD-419

2:30 p.m.

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

APRIL 10

9:00 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Bureau of Indian Affairs of the Department of the Interior and Indian gaming activities.

SD-124

Special on Aging

To hold hearings to examine how access to information about Medicare managed care plans can affect consumer decision making.

SD-562

9:30 a.m.

Armed Services

Readiness Subcommittee

To hold hearings on S. 450, the National Defense Act for Fiscal Years 1998 and 1999, focusing on Department of Defense depot maintenance privitization initiatives.

SR-222

Small Business

To resume hearings on S. 208, to provide Federal contracting opportunities for small business concerns located in historically underutilized business zones.

SR-428A

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for Russia and the Newly Independent States.

SD-138

Appropriations

Commerce, Justice, State, and the Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Immigration and Naturalization Service, Federal Bureau of Investigation, and the Drug Enforcement Administration.

S-146, Capitol

Appropriations

Transportation Subcommittee

To hold hearings on the Administration's proposed "National Economic Crossroads Transportation Efficiency Act" (NEXTEA).

SD-192

Armed Services

Acquisition and Technology Subcommittee

To hold hearings on S. 450, the National Defense Authorization Act for Fiscal Years 1998 and 1999, focusing on science and technology research.

SR-232A

Finance

To hold hearings on estate and gift taxation proposals.

SD-215

Foreign Relations

To hold hearings on U.S. law enforcement interests in Hong Kong.

SD-419

Governmental Affairs

To hold hearings on the Internal Revenue Service, focusing on risks of taxpayers.

SD-342

10:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine issues relating to video competition.

SR-253

Rules and Administration

To hold hearings concerning petitions filed in connection with a contested U.S. Senate election held in Louisiana in November 1996.

SR-301

2:00 p.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on the Earthquake Hazard Reduction program.

SR-253

Foreign Relations

To hold hearings to examine the outlook for Hong Kong.

SD-419

Governmental Affairs

International Security, Proliferation and Federal Services Subcommittee

To hold hearings to examine proliferation issues, focusing on Chinese case studies.

SD-342

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

APRIL 11

9:30 a.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings to examine the increase in personal bankruptcies and the crisis in consumer credit.
SD–226

10:00 a.m.
Labor and Human Resources
To resume hearings on proposals to reform the performance, efficiency, and use of resources of the Food and Drug Administration.
SD–430

APRIL 15

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Housing and Urban Development.
SD–138

Labor and Human Resources
Employment and Training Subcommittee
To hold hearings to examine innovations in adult training.
SD–430

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Rural Utilities Service, the Rural Housing Service, the Rural Business-Cooperative Service, and the Alternative Agricultural Research and Commercialization Center, all of the Department of Agriculture.
SD–124

Judiciary
Immigration Subcommittee
To hold hearings to examine issues affecting immigrant entrepreneurs.
SD–226

2:00 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on counter-terrorism issues.
S–146, Capitol

Armed Services
Readiness Subcommittee
To hold hearings on S. 450, the National Defense Authorization Act for Fiscal Years 1998 and 1999, and S. 451, the Military Construction Authorization Act for Fiscal Year 1998, focusing on environmental and military construction issues.
SR–222

APRIL 16

9:30 a.m.
Labor and Human Resources
To resume hearings on proposed legislation authorizing funds for programs of the Higher Education Act.
SD–430

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of the Army.
SD–192

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Transportation.
SD–124

Governmental Affairs
To hold hearings on the Census in the year 2000.
SD–342

Judiciary
To hold hearings on S.J. Res. 6, proposing an amendment to the Constitution of the United States to protect the rights of crime victims.
SD–226

2:00 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Federal Communications Commission.
S–146, Capitol

Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine the Federal Government's role in television programming.
SD–342

Judiciary
Youth Violence Subcommittee
To hold hearings to examine the need for more juvenile bedspace and juvenile record-sharing.
SD–226

APRIL 17

9:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Forest Service of the Department of Agriculture.
SD–192

9:15 a.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine opportunities for improvement in the public schools of the District of Columbia.
SD–342

9:30 a.m.
Labor and Human Resources
Employment and Training Subcommittee
To hold hearings to examine innovations in youth training.
SD–430

Veterans' Affairs
To hold hearings to examine Persian Gulf War issues.
SH–216

1:30 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Supreme Court of the United States and the Judiciary.
S–146, Capitol

APRIL 18

9:30 a.m.
Labor and Human Resources
To hold hearings to examine proposals to improve the health status of children.
SD–430

APRIL 22

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the National Science Foundation and the Office of Science and Technology Policy.
SD–192

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Environmental Management Program of the Department of Energy.
SD–124

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Agricultural Research Service, the Cooperative State Research, Education, and Extension Service, the Economic Research Service, and the National Agricultural Statistics Service, all of the Department of Agriculture.
SD–138

APRIL 23

9:30 a.m.
Labor and Human Resources
To resume hearings on proposed legislation authorizing funds for programs of the Higher Education Act.
SD–430

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on medical programs.
SD–192

Armed Services
To hold hearings on the Administration's proposal on NATO enlargement.
SH–216

APRIL 24

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the National Endowment for the Arts/National Endowment for the Humanities.
SD–192

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Corps of Engineers and the Bureau of Reclamation, Department of the Interior.
SD–124

10:00 a.m.
Labor and Human Resources
To hold hearings to examine issues relating to vocational education.
SD–430

APRIL 29

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Veterans Affairs.
SD-138

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Commodity Futures Trading Commission, and the Food and Drug Administration, Department of Health and Human Resources.
SD-124

Labor and Human Resources
To hold hearings on proposed legislation authorizing funds for programs of the National Endowment for the Arts and the Humanities.
SD-430

APRIL 30

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on the structure and modernization of the National Guard.
SD-192

MAY 1

9:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of the Interior.
SD-192

9:30 a.m.
Labor and Human Resources
Public Health and Safety Subcommittee
To hold hearings to examine biomedical research priorities.
SD-430

MAY 6

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the National Aeronautics and Space Administration.
SD-138

MAY 7

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD-192

MAY 14

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on environmental programs.
SD-192

MAY 21

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on Air Force programs.
SD-192

JUNE 4

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD-192

JUNE 11

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD-192

POSTPONEMENTS

APRIL 9

11:15 a.m.
Veterans' Affairs
To hold hearings to examine alleged sexual harassment in the Department of Veterans Affairs.
SH-216

SENATE—*Tuesday, April 8, 1997*

The Senate met at 10:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].i

The PRESIDENT pro tempore. Today's prayer will be offered by Rabbi Yechiel Eckstein, president of the International Fellowship of Christians and Jews.

We are pleased to have you with us.

PRAYER

Our Father in Heaven, we come before You this day and every day in awe, gratitude, praise, humility, and prayer. This, indeed, is the day the Lord has made, let us rejoice and be glad in it.

O Lord, instill in our hearts a love for You and for all Your creation. May we be ever mindful that it is from You that we derive our strength, our wisdom, our hope, and our conviction.

May we be inspired by Your Word and reminded of Micah's admonition to act justly, love mercy, and walk humbly with the Lord our God. May we never avert our eyes from the pain and suffering of others.

O Lord, on this and every day, we seek Your guidance and direction. Watch over us and our leaders—indeed, the men and women in this room.

We pray for the peace of Jerusalem as Psalms 122:6 urges us to do, and indeed for peace among all people of all nations. So that, instead of finding swords and weapons we will find only plowshares and pruning forks. We, the people, look to You, O God and to you, our leaders, to bring that day of peace about.

May we be inspired to transcend our diversities and differences and be blessed from on high with the fulfillment of the ancient Biblical promise of Psalm 133, "How good and how pleasant it is for brethren to dwell together in unity." God bless you and always be with you. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

WELCOME TO RABBI YECHIEL ECKSTEIN

Mr. THOMAS. Mr. President, first, on behalf of the Senate, I say welcome to Rabbi Yechiel Eckstein, president of the International Fellowship of Christians and Jews, to the Senate. Thank you so much for your prayer this morning. Rabbi Eckstein is an outstanding spiritual leader, author, lecturer, and radio and television communicator. Chaplain Ogilvie has invited Rabbi Eckstein to lead a seder dinner for Senators and their spouses this next Tuesday evening, April 15, 1997, which should be a great opportunity. My wife and I attended last year and, as Methodists, we enjoyed it a great deal. We intend to be there again this year.

Rabbi, we thank you for your message and sharing with us some of the feelings of the heritage we share as Jews and Christians.

SCHEDULE

Mr. THOMAS. Mr. President, I would like to announce today's schedule on behalf of the majority leader. Today there will be a period of morning business until the hour of 12:30 this afternoon. At 12:30, the Senate will recess until the hour of 2:15 to allow for the weekly policy conferences to be held. When the Senate reconvenes at 2:15, we will resume debate on the motion to proceed on S. 104, the Nuclear Waste Policy Act legislation. Under the order, the time between 2:15 and 5:15 will be equally divided, with a vote occurring at 5:15 on invoking cloture on the motion to proceed to S. 104.

If cloture is invoked, the majority leader hopes that the Senate will be allowed to proceed to the consideration of the bill in a reasonable time period. If cloture is not invoked, I remind all Senators that a second cloture motion was filed last night and therefore a second cloture vote would occur tomorrow. If that vote becomes necessary, all Members will be notified later today as to when they can expect that vote on Wednesday.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. ROBERTS). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30, with Senators permitted to speak therein for up to 5 minutes each.

Who seeks time?

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

TAXES

Mr. THOMAS. Mr. President, several of us have asked this morning for a half hour to talk about an item that is of particular interest now, and that is taxes. It is of particular interest because we are now close to April 15, when taxes are more real to us all than they are at some other times. We want to talk about taxes because they are part of the Republican agenda. We have talked, over the years, about the idea of allowing families to spend more of their own money, allowing businesses to be able to invest and create jobs in the private sector. I think it is appropriate to talk about taxes because it has been an area of controversy—the idea of whether or not we ought to have an effort at tax relief at the same time we seek to balance the budget.

Mr. President, I am here to tell you that having been in my home district in Wyoming over the past week, as most of us have, and having a series of town meetings, the issue that came up most often is: What are you going to do about taxes? What are you going to do about the capital gains tax? What are you going to do about estate taxes or some tax relief for families to be able to help take care of their own children?

So I feel very strongly about it. Let me just say that too often when we talk about taxes and the budget, I think it seems that we are talking about arithmetic and bookkeeping when we talk about budgets. It just seems to me that when we talk about budgets, we are really talking about something quite broader than that, and that is the direction of this Government and whether or not we want to have more central Government, or whether we want to have less, whether we want to move more of our activities back closer to people at the State and local governments, or whether we want to continue to build up more and more at the central Federal Government level.

With that concept, the philosophical direction that is inherent in those decisions is also a decision about taxes and, I suspect, if possible, although we haven't done it for 30 years, to balance the budget and to continue to spend at the same time. You do that by raising taxes. That is the way you do that. That is what the President did several years ago, to move toward a balanced budget by continuing to spend but to raise taxes.

There is a philosophical difference of view. There are those who believe that we ought to have more Government, who believe that the Government actually spends money to a better advantage than people themselves do, who believe that we ought to have more and more functions carried on at the Federal level in the central Government. That is a legitimate point of view. I don't happen to share it.

I think, Mr. President, that quite often when we talk about the details of issues, really at the center of it is that

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

issue of whether you want more Government or whether you want less. It is a pretty basic philosophical issue. That is what we are talking about here. It does seem to me that—No. 1, when you have a tax burden on the American citizens that averages between 38 and 40 percent in taxes for families, that is a heavy burden. That is a very heavy burden.

It seems to me, of course, that there are lots of ways in which we can reduce the size of the Federal Government. We can contract, we can have more things done in the private sector, and we can move more of it to the State government. There are a lot of the things out of the $1.7 trillion budget we don't have to do. Many of those things have been there forever and they just go on because they go on. I guess I am suggesting that we ought to take a long look at that budget. In my view, one of the priorities for this Congress and for this Senate ought to be to balance the budget and provide tax relief for American citizens. That is what it is all about, I believe, so we want to talk about that.

There is a different view. There are those who, I think legitimately from a strategic point of view, say, "Let us balance the budget first." That is OK, I guess, if you are committed then to doing the tax relief. However, I believe we ought to deal with them at the same time. I am one who signed a letter—there were 16 of us, I believe—to the leader saying that we ought to deal with the whole concept of the size of the budget, how we balance the budget and how we give tax relief to American families and to business. That seems to be what we ought to do.

What did I hear about at home? I heard about capital gains taxes. I heard an awful lot about the idea that people would like to be able to invest in businesses if they could make some profit over time, even if it is nothing more than inflation over time, and about paying taxes on the investments for the inflation they have made. That discourages them. We have a lot of small businesses in my State, as is true everywhere. Small business is the backbone of this economy. We have a lot of farmers and ranchers and families who have spent their whole lives putting together an estate in their ranch or farm. Now we find, quite often, because those are not really cash-flow cows—there is a great deal of asset value there, but not much cash—you have to dispose of that property in order to pay the taxes. You can't pass it on to your family. There is a lot of concern about that.

Well, Mr. President, I have been joined by several of my associates to talk for a little bit about taxes this morning. So I yield to my friend, the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HUTCHINSON. Thank you, Mr. President, and I thank the Senator from Wyoming for yielding time and for organizing this time to talk about the desperate need for tax relief for American families and businesses. I rise today in very strong support for meaningful and permanent tax relief for American families and businesses. This is, I believe, no time for us as conservatives, no time for us as Republicans, no time for us as Americans to retreat or backtrack or to equivocate on our commitment to the American people that we will fight for them and fight for tax relief.

One of the problems—and there are many—with the President's budget is that he matches temporary, very narrowly targeted tax cuts with permanent tax hikes. So while the minimal targeted tax cuts would be sunsetted, the American people will be obliged to continue to pay and pay and pay the tax increases. Not too long ago, Mr. Greenspan, Chairman of the Federal Reserve, testifying before the Senate Banking Committee, said, "Ultimately, you cannot solve the long-term deficits from the receipt side. It's got to be from the expenditure side."

Put very plainly, it seems to me that Mr. Greenspan is saying that the problem we have in our chronic deficits is not that the Federal Government does not have enough money, it is not that our National Government does not have enough revenues; it is that we are, in fact, addicted to spending. So the question is—and the debate continues to exist—Can we balance the budget and provide tax relief simultaneously? I think the answer to that is an emphatic, yes. The problem is not that we don't have enough revenues or that we need to increase taxes. The problem has been and continues to be that we spend too much and that we cannot get a control on our spending habit and that we are unwilling to deal with the very real problem of entitlement spending that consumes more and more of the budget pie.

So I suggest that we can cut taxes and that we must cut taxes for the American people. There are three areas, I think, particularly that we need to emphasize. First, as the Senator from Wyoming emphasized, was family tax relief. Families today, working families, hard-working families, are being squeezed more and more by an ever larger tax bite—almost 40 percent for the average family—at the Federal, State, and local level, which is more than they are spending for housing, for education for their children, for health care, more than they are spending for recreation, all combined together, they are spending to the tax collector. That is too much. That is unfair.

I also was listening to my constituents over the recess. We had 12 town meetings in Arkansas. In Fayetteville, AR, after making a speech and taking questions for more than an hour, a gentleman came up to me and said, "Senator, something is wrong in America." He said, "I was raised in a family of eight of us. There were eight children. Mom stayed home, dad worked. Dad, as a single breadwinner in a single-income family, he could provide for the eight of us. We had a pretty good life. My dad had a high school education. Now I have a college degree, two children. My wife and I both work, and we can barely keep things together. Something is wrong." While there may be many, many answers to that question, what is wrong and what has happened—a big part of it—is that Government has gotten larger, and as Government has gotten larger, its demand on the family has increased and the amount that it confiscates from the American family of higher taxes has grown to the point that the American family has a very difficult time paying it.

We need family tax relief. We need estate tax relief. There are fewer things I heard more about during my town meetings than the need for estate tax relief. There are fewer taxes in this country I believe that are more un-American than the estate tax. There are fewer taxes that are more of a killer and a destroyer of the American dream than the estate tax.

We used to say that part of the American dream is if you work hard, save your money, and if you invest well, that you not only will have a better life, but you will be able to pass that on to your children and grandchildren so that they will have greater opportunities than we have. But today, if you work hard and if you have done well, we will take 55 percent of it in estate taxes. It is killing that American dream, or a big part of that American dream. I think that is wrong.

There are five bills in the Senate to reform or to eliminate the estate tax. I am on all of them. I think we need to at least raise the exclusion. But better yet, we need to eliminate it. It is a very ineffective way to fund the Federal Government anyway. We are 65 cents short in collections for every dollar that we receive from the estate tax. It is a very ineffective way of funding Federal programs.

Then, finally, I want to mention that we desperately need immediate capital gains tax relief. I heard a great deal about this. This is what they say. They say, yes, the Republicans are for capital gains tax relief, that it is a tax break for the wealthy. Well, we know that the vast majority of tax filers will at some time in their life file capital gains on their tax returns, most of those being middle-income earners. It is not a tax break for the wealthy.

Let me tell you how it plays out in Arkansas. A young couple started 30 years ago building a poultry farm in the Ozark Hills. They spent their life paying off that mortgage. They are getting up in age. They are not wealthy. But they have worked their whole lives to pay off that farm. Maybe they can no longer tend that big farm, or maybe they want to move into town close to the hospital, or maybe they need to get in close to the grandchildren. They go to sell that farm. They discover that the capital gains taxes would be so high that they can't afford to sell the farm they worked a lifetime to pay for. They are not wealthy. But that is what we have done with the capital gains tax.

I will give you one other example. My chief of staff is from Stone County, AR. Stone County has one of the largest per capita incomes in the State of Arkansas. His parents own a little cafe called Cody's Cafe in Fifty-Six, AR, next to the State park. It is a good restaurant. It has good food. I recommend it. I eat there when I am in Fifty-Six, AR. But Todd's parents wanted to sell that little restaurant. It is a mom-and-pop operation. They don't have many employees. It is a very small cafe. They wanted to sell it and put it into another business, in another restaurant in another part of Arkansas. They had a buyer, somebody who was going to buy that cafe-restaurant. Those buyers undoubtedly were going to expand, and they were going to hire additional employees as well. Todd told his parents, "Before you make that deal, before you sign that contract, be sure to check with your accountant. Find out what the capital gains taxes will be."

When they checked they found they couldn't afford to make that sale. So they hung onto it. They continued to operate it.

But I want you to think with me, my colleagues. What would have been the impact had they been able to make that sale, had we not had the exorbitant capital gains tax we impose? We would have had a new business started with new employees. The economy would have been stimulated with more taxes being paid to the Federal Treasury. We would have had new business owners there in Stone County with the desire to expand that restaurant operation, hire additional employees and, therefore, not only stimulate the economy in Stone County, but pay more taxes to the Federal Treasury.

You take that little example from Stone County, AR, and multiply that thousands of times across the United States, and you begin to get the picture of what we could do in stimulating the American economy, and therefore making it easier for us to balance the Federal budget if we would simply cut drastically and dramatically the capital gains tax rate. I believe we need to do that.

So I know there are others who are here to speak. I just want to conclude by saying this is no time for us to retreat on our promise made to the American people that we are going to work for tax relief. I believe it is the moral equivalent of what President Bush did in 1990. I admire and love President Bush, but I think he made a terrible mistake when he told the American people "no new taxes," and then violated that pledge in reaching a budget deal. We must not, in our desire to reach some mythical budget deal, forsake, abandon, or equivocate on the promise and the pledge we made to the American people that we have come up here to lessen that ever-increasing tax burden under which they labor.

So I, for one, will continue to work for a budget that is going to have family tax relief, estate tax relief, and capital gains tax relief for the American people.

I yield the floor, Mr. President.

Mr. THOMAS. I want to ask the Senator if there is a Fifty-Six, AR.

Mr. HUTCHINSON. There is a Fifty-Six, AR, and Cody Cafe is the place to eat.

Mr. THOMAS. Mr. President, I yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

THE SINKING OF THE "TITANIC", TAX DAY, AND OTHER MANMADE DISASTERS

Mr. GRAMS. Mr. President, 1 week from today, we will mark the anniversary of two infamous, manmade disasters. One may slip by unnoticed. I am certain the other will not.

The first disaster we will commemorate next Tuesday is the 85th anniversary of the sinking of the *Titanic*, an event made all the more tragic because it could have been prevented. The story of the *Titanic* is a sad story of excess, of man's ongoing reach for something bigger, something more powerful.

The second manmade disaster is the arrival of tax day. Now, I do not mean to draw a direct comparison between the loss of life in the *Titanic* incident and the plight of America's working men and women. But for many Americans, April 15 is another potent symbol of man's ongoing reach for something bigger and more powerful. The bigger and more powerful entity in this case is not the world's largest ship, but the largest government the world has ever known. And Washington's constant need to expand its reach has imprisoned working families in a disastrous cycle of taxation.

Look what our outrageous tax burden has done to families over the past 40 years. Taxes today dominate the family budget. The annual tax bill for a typical family now averages $21,365—significantly more than they spend on food, clothing, and shelter every year.

Factor in State and local taxes and the hidden taxes that result from the high cost of government regulations, and a family today gives up more than 50 percent of its annual income to the government. We pay an especially high price in my home State of Minnesota—a study released last year by Harvard University revealed that Minnesota taxpayers pay the seventh highest taxes in the Nation.

Taxes are not merely an inconvenient fact of life. They are the 1990's version of highway robbery.

Who has borne the brunt of these ever-increasing taxes since the 1940's? Working families with children. No wonder these Americans shake their heads in dismay each April.

Mr. President, when my colleagues and I in the sophomore class were elected in 1994, we were sent here by our constituents on a promise that we would balance the budget and cut taxes. That same promise was made by the Members of the new freshman class. And we do not intend to let 1 more year pass without delivering on those promises. Tax relief and deficit reduction can and must go hand in hand. Any budget presented in this Chamber that favors deficit reduction at the expense of lower taxes—what Washington's big spenders like to call the save-the-dessert-for-after-dinner approach—is nothing more than an exercise in futility. Until the opponents of tax relief recognize that what they call dessert is what most taxpayers consider their salary, we will never reach agreement on a budget.

I would like to also add that I received a letter today from a mayor back home who opposed tax relief. He didn't call it dessert, but he called it political goodies that we would like to disperse to our constituents. Allowing working men and women to keep more of their money is what he calls political goodies.

This is the mindset of many who are serving in government today, whether they be local, State, or Federal officials. Somehow the people's money is somehow government's claim, and if we want to make sure that they can keep some of it, it is somehow political goodies.

But it was later in his letter that I found what was really his real concern. In the letter I think he felt that lower taxes could mean fewer dollars to be sent from Washington to his town. So his concern wasn't the political goodies, but it could mean fewer dollars if we reduce the size and scope of the Federal Government. That is money that would be allowed to be spent, or really the pork from Washington—not political goodies but pork. Let the Federal Government raise the taxes rather than having the local taxes support the programs for pork that they want. So, in other words, provide for their residents. It is really great that we can stand here and get credit for spending their money—the taxpayers' money—for programs, for what really is pork that the Government thinks that they should have, or that they need. It is great that we have this great ability to figure out for the local citizens what is best for them.

The American people have spoken very clearly on this point. A USA Today-CNN-Gallup Poll released just last week confirms what many of us have been saying all along: Tax cuts must be part of any budget agreement we enact this year. When asked if they think the Republicans should drop their attempts to include tax cuts in their overall plan to reduce the budget deficit, or should they keep the tax cuts in their plan, fully 70 percent of the respondents said the tax cuts should stay. Seven out of ten Americans are calling on us to keep our tax-cutting pledge. And a majority agreed that tax cuts and deficit reduction can be accomplished at the same time.

Mr. President, if Congress intends to make the strongest possible statement in support of working Americans, we will not do it by building a bigger Federal Government that demands more taxpayer dollars. We will do it by cutting taxes and leaving families a little more of their own money at the end of the day.

Earlier this year, I was proud to join my colleagues, Senator HUTCHINSON and Senator COATS, in reintroducing this desperately needed tax relief in the form of the $500 per-child tax credit.

The $500-per-child tax credit takes power away from Washington and puts it back with families, where it can do the most good. Once we leave that money in the family bank account, taxpayers are empowered to use it meeting the needs of their families, whether that is clothing, medical and dental expenses, insurance, or even groceries, or education.

Mr. President, there is no action Congress can take today that will make next Tuesday, April 15, any easier for America's working families. But we have before us unlimited opportunities to profoundly change every other tax day, far into the future. Washington created the mess we are in, and the taxpayers are now demanding that Washington get us out of it. Thank you very much. I yield the floor.

Mr. THOMAS. Mr. President, I yield to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Thank you, Mr. President. I thank my colleague from Wyoming for putting this order together at this propitious time to discuss tax policy in the country with April 15 looming on the horizon and Americans all over the country concerned about the amount of money we pay to the Federal Government in Federal income taxes.

Mr. President, I have an important announcement to make. I have been authorized to announce that on tax day, April 15, the U.S. Senate will have a historic opportunity to vote on a resolution which will express the sense of the Senate that we support a requirement that Congress, the House and the Senate, be required to raise taxes with a supermajority. In other words, that we could not raise taxes with a bare majority, that it would require a two-thirds vote for a tax increase to go in effect, much like the requirement in States throughout the United States, and a very successful requirement, I might add. The full House is actually going to vote on tax day on the actual constitutional amendment. Our resolution will be a sense of the Senate in support of that same concept. Obviously, we are not prepared yet to actually vote on the constitutional amendment.

The reason for this, Mr. President, is that the average family of four back in 1948 paid about 5 percent of its income in Federal taxes. But today that burden is about 24 percent. And, as our colleague from Minnesota just noted, if you add the State and local taxes to the mix, we are paying about 40 percent of our income in taxes to government.

The last tax increase to pass in the Congress in 1993 was the largest in history. And, yet, it failed to even achieve a majority in the U.S. Senate. There was a tie of 50–50. President Clinton's largest tax increase in history only passed because Vice President GORE came to the Chamber and cast the deciding vote. We believe that it ought to be at least as difficult to raise taxes as it is to cut them. It is now easier, sadly, to raise taxes than it is to cut them.

Consider this irony. This two-thirds majority would fix this problem, by the way. When we passed the balanced budget amendment of 1995, the President vetoed it. It included big tax cuts. The President vetoed it. We had to have a two-thirds majority to overcome the veto, and we couldn't do that. So it would have required a two-thirds vote for us to reduce taxes. But, as I pointed out, the biggest tax increase in the history of the country in 1993 passed without even a majority vote.

As I said, Mr. President, we think it ought to be at least as hard to raise taxes as it is to cut them. That is why we are going to be voting on April 15 to support the principle that there should be a supermajority for Congress to raise taxes.

The Kemp commission, appointed by the Speaker of the House and the previous majority leader of the Senate, came to this conclusion about this requirement. I am quoting: "The commission believes that a two-thirds supermajority vote of Congress will earn Americans' confidence in the longevity, predictability, and stability of any new tax system."

They made that point in recommending this two-thirds supermajority of both Houses of Congress to raise taxes as a key component of our tax policy. As I said, there are 14 States that currently have some form of tax limitation in effect. There was an interesting study in 1994 by the Cato Institute which found that a family of four in States with tax and expenditure limits faces estate and tax burdens that are $650 lower on average 5 years after the implementation than it would have been if the State tax growth had not been slowed. In other words, the people who live in States that have these supermajority requirements are better off, pay less in taxes than those States which do not have such a requirement.

It also matters, Mr. President, how we raise or lower taxes. Or I should say, put it another way, how we increase revenues to the Treasury matters because you can increase revenue to the Treasury not by raising tax rates but actually by lowering certain tax rates.

We all agree that lower tax rates stimulate the economy, which results in more taxable income and transactions and more revenue to the Treasury as a result. In fact, the tax cuts out of the early 1980's make this point. They spawned the longest peacetime economic expansion in our Nation's history.

Revenues to the Treasury, the Federal Treasury, increased as a result from $599 billion in fiscal year 1981 to $990 billion in fiscal year 1989, up about 65 percent.

On the other hand, higher tax rates discourage work and production and savings and investment so there is ultimately less economic activity to tax. That is exactly what Martin Feldstein, the former Chairman of the President's Council on Economic Advisers, found when he looked at the effect of President Clinton's 1993 tax increase. He found that taxpayers responded to the sharply higher marginal tax rates imposed by the Clinton tax bill by reducing their taxable incomes by nearly $25 billion. They did that by saving less, investing less, and creating fewer jobs, and the economy eventually paid the price in terms of slower growth.

In other words, as I said, how Congress raises taxes is more important than how much it can tax. The key is whether tax policy fosters economic growth and opportunity. And that is why we believe, as I said before, that it ought to be more difficult to raise tax rates. It ought to be just as easy to cut taxes. We should raise tax rates only if there is enough consensus on that to provide a two-thirds majority of both Houses of Congress.

So on April 15, tax day, all of us in the Senate will have the opportunity to go on record to tell our constituents where we stand. Do we believe that it ought to be just as difficult to raise taxes as it is to cut them? We will have the opportunity to vote on the principle of requiring a supermajority in

Congress to raise taxes. And I certainly hope that my colleagues will support us in that vote.

I thank the Senator from Wyoming for this time.

Mr. THOMAS. Mr. President, I am pleased now to yield to my friend, the Senator from Oklahoma, who has actually been chairman of our 1994 group. The Senator from Oklahoma.

Mr. INHOFE. I thank the Senator from Wyoming for having this time devoted to such a significant issue.

Mr. President, I ask unanimous consent that the time which has been allotted to Senator THOMAS be extended until the hour of 11:15.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Without objection, it is so ordered.

Mr. INHOFE. I think something that is very significant that has not yet been said was touched upon by the distinguished Senator from Arizona [Mr. KYL], when he approached the economics of this issue. Unfortunately, when we talk about tax reductions, there is a mindset that if you reduce taxes, you reduce revenues. History has shown us very clearly that is not the case.

In fact, it was a Democrat who first came up with the idea that you could actually increase revenues by reducing taxes, and that was President Kennedy back in the early 1970's when he said we have a problem in this country; we have to increase revenues, but we also are overtaxed, so the best way to increase revenues is to reduce the tax rates.

Now, today, the Democrats do not think that way. The liberals in Congress think that it is a static situation, and that if you raise taxes nothing else happens.

That, of course, is not true. I remind my colleagues that in 1980, the total amount of money used to run Government was $570 billion, the total revenue that came in in 1980. In 1990, the total revenue that came in to run Government was $1 trillion 30 billion. That is almost exactly double what it was in 1980.

Well, what happened during that decade? During that decade, we had the largest tax reductions we have ever had in this country's history. So the same thing that happened back during the Kennedy administration when he had the wisdom to say we have to increase revenues and the best way to do this is to reduce taxes happened again in the 1980's. Unfortunately, we have an administration in the White House that does not understand this.

In fact, I was amazed early in this administration when Laura Tyson, who is the chief economic adviser to the President of the United States, President Clinton, back in 1992 said—and this is nearly a direct quote—there is no relationship between the level of taxes a nation pays and the amount of economic productivity of that nation.

That is saying they believe if you tax everybody 100 percent, they are going to work as hard as if you taxed them 10 percent. This is what Senator KYL was getting to, that there is a relationship between the level of taxation and the productivity of a nation. In fact, to be specific, for each 1-percent increase in economic activity of a country it increases new revenue $24 billion.

So those of us who are conservative, those of us who believe that what history has taught us is very factual are standing here saying we want to lower taxes, we want to do as Senator KYL suggested and make it more difficult for people to raise taxes. I suggest, if you go back and look at the votes that took place to raise taxes, at least in the 10 years I have been here, it has always passed by maybe 1 or 2 percent. If you put a supermajority on that, I believe we can accomplish a lot.

And so as the speakers before me have indicated, there are a lot of advantages here to get this machine working and to become more productive, and if for no other reason than the distinguished Senator from Minnesota said—we who are elected to the Senate, that is, those of us in the Chamber right now, in 1994 committed and promised that we would vote for a balanced budget and reduce taxes, and we are going to do that.

I yield the floor.

Mr. THOMAS. Mr. President, let me just sort of wind up on our tax thing and say that if you are like me—a weekend from now it will be April 15 and all of us I hope are beginning to think about preparing our tax returns. It is a headache, of course, and so we tend to procrastinate. We are taxed too high, I am sure. And I am sure also that people out there look at Washington and wonder if all that talk about tax relief is just talk.

We are here to say that it is not. Tax relief for families in America, for small business, is alive and well and one of the good ideas that is coming out of Washington, I hope soon. By next year, it is our hope that as we begin to think about compiling tax returns we will have accomplished what Americans deserve and expect from Washington as a matter of fact—reforms that let families keep more of their money. Republicans want to lower the tax burden and provide some common sense to the tax system.

Currently, according to the Census Bureau, a typical family of four spends more than 3 hours of every 8-hour day working for dollars that are dedicated to Federal, State and local taxes. That is an average of almost 40 percent of income—40 percent of our income to continue to grow a central government. You get big government and you get a bloated bureaucracy. Instead, we ought to be able to use those dollars to increase our businesses, to feed our kids, to send them to school. So we need reform, smart reform, smart tax reform. That has a nice ring to it, doesn't it?

I hear also in town meetings more and more about the IRS. Let me tell you that at least to some extent you cannot do much about the IRS until you change the system and make it simpler. Which taxes to reform? Where should we start? The inheritance tax for one. We have already talked about that. Here is one that makes no sense at all. We spend more time avoiding inheritance taxes than we do paying them. People who have spent time in business and farms cannot pass it on to their own families. The current tax penalizes the development of wealth and business. That is wrong. It is really a matter of freedom. Citizens own their property and families should not be compelled to sell it if the head of the household passes away. In the West it is an environmental problem. The view of the West, the mountains will be subdivided unless we act.

How about capital gains reduction? Entrepreneurs and small business investors take substantial risks when they open or invest in businesses. Cutting capital gains will increase economic growth. Add to that tax credits for our families with children. Grant a $500-per-child tax credit and give families the opportunity to do some things.

When it is all wrapped up, tax reform should have to pass a simple commonsense test. Does it impose the lowest possible compliance and enforcement? Does it encourage growth? Does it work to help strengthen families? By anyone's measure, our current system does not pass this test. So we deserve a Saturday in April with our family instead of sitting with a stack of receipts and the Tax Code. We want tax simplicity. We want tax relief.

The President's proposed budget, according to the Joint Committee on Taxation, the President's fiscal year 1998 budget contains a net tax increase of $23 billion over 10 years. That is not tax relief. That is more burden. That is not what we need in the future. The President needs to come to the snubbing post and join with us on taxes and reform in balancing the budget. We can do that, and our opportunity is now.

Mr. President, I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I would like to yield myself time that is allocated to the minority leader.

The PRESIDING OFFICER. The Senator is recognized for 15 minutes.

DISASTER IN THE DAKOTAS

Mr. DORGAN. Mr. President, I came to the floor to visit about a very important issue, the issue of the chemical weapons treaty and the requirement the Senate vote on that treaty. But before I do that, I want to tell my colleagues of a circumstance that exists in our part of the country that they have no doubt seen and heard on the television and radio and that is the worst blizzard we have seen in some 50 years in North Dakota on top of a flooding condition that was already existing that looks to be a 100-year flood.

Last evening, I and my colleagues from North and South Dakota went to see President Clinton in the White House along with the head of the Federal Emergency Management Agency to discuss the emergency that exists in our part of the country.

The President has made a disaster declaration. He has signed it. There is now a team of people from FEMA in the Dakotas beginning to work, beginning to marshal equipment from around the country—generators, snow removal equipment, and a whole range of things that will be necessary to deal with this crisis.

I want to tell my colleagues of the kind of crisis that exists. Again, we had a blizzard that in many parts of North Dakota gave us 15, 18, and 20 inches of snowfall on top of a circumstance that already existed that would have provided us and will provide us with a flood that is a 100-year event. So this is an enormously difficult time for North Dakotans. We have had the spectacle of people actually sandbagging in the middle of a blizzard, which is a very unusual event. Normally you fight a flood or normally you fight to survive a blizzard, but we have had the confluence of two events that is enormously difficult. We have substantial livestock death. We have reports of people missing entire livestock herds. The stories of people helping one another in coping this past weekend are compelling and gripping, of courage, neighbor helping neighbor. It is a very tough time in the Dakotas.

My colleagues and I will likely be going back out—we just came back—with the senior team which the President will send. He intends James Lee Witt and I believe at least one other Cabinet Secretary and some others as part of a senior team from the administration to go out and to survey the damage and to begin the active work of supervising the people who are already on the ground.

This is as tough a time as anything I have ever seen in the Dakotas. Most North Dakotans tell me it is the toughest winter they have ever seen. The blizzard this weekend, as I indicated, is the toughest we have had in 50 years in North Dakota, and it came on top of five or six successive blizzards in North Dakota that essentially shut down our State on five or six occasions previously. As of Saturday evening, this past Saturday evening, in North Dakota traffic was stopped in virtually every direction on every road. It was a very difficult time and remains a very difficult time with thousands of North Dakotans still without electricity after many days. This is a crisis which will continue to exist because of the flooding which has not yet crested in many parts, especially of the Red River.

I thank President Clinton; I thank James Lee Witt, the head of FEMA; I thank our colleagues, Republicans and Democrats, who join together in times like this to extend a helping hand to people who need help and who are fighting their way through a crisis that is very difficult to deal with.

THE BUDGET

Mr. DORGAN. Mr. President, I would like to mention two additional items very quickly. One is an issue that has just been discussed at some length on the floor about a budget and tax relief. My hope is that we will find a way to have a bipartisan compromise on a budget. The law requires that by April 15 a budget be enacted by this Congress. It is clear now that the Congress will miss that date. But the date is less important than the result. The result ought to be a budget that achieves balance so we are not spending our children's money, often on things we do not need.

We ought to decide that there is as much energy in this Chamber to balance the budget as there was to change the Constitution of the United States. I said during the debate on the constitutional provision that was offered here that you could change the Constitution now, and 2 minutes from now you would not have altered the deficit by one penny. What will alter the budget deficit and eventually eliminate the budget deficit will be individual spending and taxing decisions inside the budget by Members of the U.S. Senate and U.S. House. I think it is past the time in which the President and Members of Congress, Republicans and Democrats, join together to say here is where we ought to head and here is the road map by which we get there, to establish balance.

I have cast hard votes and tough votes. In 1993 I cast an awfully tough vote. We have reduced the budget deficit by 60 percent in the last 4 years. If we continue down that road, we can eliminate the Federal budget deficit, and we should. I am willing to cast more tough votes, and I hope very much we can decide this is not a partisan issue but rather a shared issue for Republicans and Democrats who decide that there is merit and virtue in balancing this Federal budget and not charging what we are now spending to our kids and grandkids.

CHEMICAL WEAPONS TREATY

Mr. DORGAN. Mr. President, I came to the floor to speak about another issue that is very important this week as well. This week the Senate comes back from a 2-week break and turns to the question of nuclear waste. That is an important issue and one I hope this Congress and the President will address seriously and solve. But there is another issue that is very important that has a deadline that we must address, and that is the issue of the chemical weapons treaty.

We now have a circumstance in which this country, with 160 other countries, has signed a convention in which a chemical weapons treaty to the Geneva Disarmament Conference in 1994 was negotiated and completed. It was initiated by President Bush, supported by President Reagan, it was continued under President Clinton and submitted to the U.S. Senate for ratification.

The chemical weapons treaty will restrain the proliferation and will reduce the threat of the use of chemical weapons in our lifetime. It is the first ever treaty to try to ban an entire class of weapons of mass destruction. Never again should men and women in our lifetime face a weapon of mass destruction called a chemical weapon or poison gas. We have a treaty that has now been signed by 70 nations, more than the 65 that is needed to ratify the treaty, so it will go into effect on April 29 of this year. This country has not yet ratified it. Our key allies, Australia, Britain, Canada, France, Germany, Italy, and others, have already ratified this treaty, and we need to do so and we need to do so by April 29.

There are opponents of this who say, "No, this is not a perfect treaty." it is not. Opponents say, "If we adopt this treaty, Saddam Hussein is not going to adopt the treaty, so what are we doing here?" Because some will commit murder, do we not want to make murder a crime in America? We understand there are some who may not want to abide by this treaty. This country has already made a decision, in the mid-1980's, that we are going to destroy our stockpile of chemical weapons. We have already made that decision. We made a decision under President Bush and continued it under President Clinton to negotiate a chemical weapons treaty. That treaty was negotiated. Seventy nations have now ratified it, and we have not yet done so, and we should. Ratifying it will strengthen this country, not weaken this country. Those who allege that ratifying the chemical weapons treaty will somehow weaken this country's hand, in my judgment, are wrong. I respect their opinion, but they are wrong. It is urgent and necessary that we, by April 29, ratify this treaty. We are able, with our allies, to provide leadership to destroy an entire class of weapons of mass destruction in our society. If we do not take this opportunity to do it, we will have made a very grave mistake.

I was not here when we were testing nuclear weapons in massive quantity, but I know when it was proposed that we cease testing nuclear weapons and have a test ban on nuclear weapons, there were some who stood up and said we cannot do that because it will weaken our country. Yet we had a ban on testing nuclear weapons, and it was the right thing to do. History tells us it was the right thing to do.

This is the right thing to do as well. It is very important that we understand this must be part of the Senate's business this month. If we do not take the opportunity to provide leadership in banning the use of chemical weapons, a weapon of mass destruction in our society, if we do not take the opportunity to establish that leadership, we will have made a very grave error.

This is not a case of one side of a debate being soft headed and fuzzy and the other side being the real prodefense folks. The people who support this—former National Security Adviser Brent Scowcroft, former Secretaries of State James Baker, Larry Eagleburger, former Arms Control and Disarmament Agency head Ron Lehman—all urge the Senate to ratify the chemical weapons treaty, none of whom can be alleged to have been soft on defense issues. These are people very prodefense, people who are very concerned about making certain that we do not lose advantage, that we are a strong country, that we can defend ourselves. But these are people who also believe, as did President Bush, that this treaty makes sense for our country, to provide leadership on the abolition of chemical weapons. Leadership on the abolition of poison gas as a weapon in war makes great sense for our country and great sense for humanity.

The reason I raise the question today is this. We have a limited time, and a deadline of April 29, to ratify this treaty in order for us to be part of the regime that begins to develop the methods by which this treaty is enforced. Yet, we have no agreement even to bring the treaty to the floor of the Senate for a vote or discussion. Some of us believe very strongly that, with the exception of the emergency supplemental appropriations bill, for example, or with the exception, perhaps, of a budget bill to balance the Federal budget—which we should do—with the exception of those things we ought to make sure this is first in line. Until we have assurance this is first in line, we ought not be doing other business. This ought to be brought to the floor of the Senate, and we ought to have agreement to do that soon.

I hope we will have an aggressive and significant discussion about this treaty. My understanding is the distinguished Senator from Oklahoma may intend to speak some about this treaty and some of his concerns about it. But my hope is, perhaps this afternoon—I intend to come back to the floor—some of us can have a discussion back and forth. I have great respect for people who take an opposite view on this and on other issues. We do not have to call each other names because we disagree with each other. Debate ought to be to evaluate what are the merits of a position, what are the facts, and what conclusions can one develop from those facts.

My position is to say I think we ought to do this. It is an easier position, I must say, to oppose it. It is an easier position. That is not to say opposing it is necessarily wrong, and there are cases where the opposition might be the right position on some issues. But Mark Twain once said, when he was asked to debate, "Of course, but I need to take the opposing side." They said, "But we have not even told you what the topic is." He said, "That doesn't mean anything to me. That doesn't matter. I only need to take the opposing side because that doesn't require any preparation."

The point he was making is it is always easier to take the opposing side. I say to my friend from Oklahoma, that doesn't mean the opposing side in every debate is wrong. But in this case, the need to ratify the chemical weapons treaty, the affirmative side is the right side for this country. It is urgent and has a time deadline, and we ought to do it. I hope this afternoon, perhaps, we can have some thoughtful discussion about what are the merits of this, why do we have such a large group of Republicans and Democrats from the Bush administration and the Clinton administration and many others who believe this is a priority for this country and believe it is something that this country ought to take a lead on.

My hope is that at end of the day today, or this week, we will have an agreement by which we can at least bring this to the floor, even though some might want to vote against it. I think those who want to do that should give us the opportunity to have a debate and a vote on the chemical weapons treaty. We very much owe that to this country. If and when we get to the decision to give us a debate and a vote on the chemical weapons treaty, I will be happy with that. We have to make our best case and we have to make an affirmative case for this treaty. We have that responsibility. But we cannot do that if we are prevented from seeing it brought to the floor of the Senate for a debate and a vote.

Mr. President, with that I yield the floor.

Does the Senator from Oklahoma intend to speak?

Mr. INHOFE. Yes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that I may speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHEMICAL WEAPONS CONVENTION

Mr. INHOFE. Mr. President, I have the utmost respect for my distinguished colleague from North Dakota, Senator DORGAN. I have to admit, however, I seem to disagree with him more than agree with him. Let me just cover a couple of things that he said that I feel quite strongly—I am sure he believes them, but they are certainly not true.

First of all, as far as the deadline is concerned, it seems like every time you want to get something done you impose a deadline and say we have to do it by—in this case, the 29th of April. There is no deadline on this. Once this thing goes, the vote takes place, we can become a part of it if we want to wait until June or July or August. There is no deadline.

I am reminded a little bit of the deadline they had when we had, I believe it was, the GATT Treaty. We had a special session of the U.S. Senate that was held in November, before the new Senate came in—this was in 1994—that would allow those individuals who were defeated or who retired to vote on something and not the new person who was elected. My daddy taught me a long time ago if the train is coming fast, slow it down. That is what we need to do with the Chemical Weapons Convention. We had a debate on this last fall. I think the debate was a very fruitful one, and a lot of things came out. So let us not talk about a deadline of the 29th. I look forward to debating this and discussing this with the Senator from North Dakota this afternoon.

The next thing that he said that I take issue with is the idea that it is easier to oppose than to support the Chemical Weapons Convention. He is saying it is easier. Maybe it was easier for Mark Twain. This is not easier, because I will tell you I have been very outspoken in opposition to this Chemical Weapons Convention, and all I hear from people is, "You mean you are for chemical weapons?" That is not the issue at all. It is a lot easier to demagog this thing and say, "Let's sign this and do away with chemical weapons." We are not going to do away with chemical weapons, and we all know that.

As far as this is not a matter, as he stated, between the fuzzies and those in favor of a strong national defense, let us wait until the vote takes place and make that determination. I will wager that when the vote takes place, we will find out that those individuals with the highest American security ratings would be the ones who will oppose the Chemical Weapons Convention. That is a very easy thing to do. Just take the ratings and look and see how the vote comes out. Those individuals who consistently vote against such things as the National Missile Defense System, Theater Missile Defense System, vote for all of these disarmaments. A lot of the motive there is to put that money into social programs. I think we all know that.

Let me just cover a couple of things in this brief period of time. First of all, this is not global. The Senator from North Dakota talked about Spain and about France and about all these countries. We don't have a problem with these countries. Let us look and see who is not a part of this. Iraq is not a part of this.

North Korea is not a part of this. Libya is not a part of this. Syria is not a part of this. If you ask any "in" person, in a logical manner, "Who do you think would be the greatest threat to the United States," and you name the top 15, those countries would be there. It is not global. Those countries that involve themselves in terrorist activities are countries that are not a part of this. Of course, I think we all understand it does not cover terrorist activities anyway.

Let's look at the countries that are a part. Iran is now a signatory here, and yet Iran, if anyone here believes that they will keep their word in destroying all of their chemical arsenal, then I have a bridge I would like to sell them, because that is not going to happen. We know it is not verifiable, and there is no better evidence of that than after the Persian Gulf war when the United Nations was given incredible power to go out and examine and inspect and try to determine whether or not Iraq, who we had just defeated, had chemical weapons, then we find out through our intelligence community, that even with those very stringent inspection abilities that the United Nations had, that Iraq, still, was developing various weapons of mass destruction, including chemical weapons.

I think it is important to show that it is not effective, that it will not banish poison gas or shield our soldiers, as Clinton claims. Jane's Defense Weekly came out last week and reported that Russia has developed three new nerve agents without using any of the precursor chemicals banned by the Chemical Weapons Convention. What does that mean, Mr. President? It means that they are already out there trying to figure out and trying to develop chemical weapons that can be used that are not using the precursor chemicals that would be banned. In other words, let's assume everybody is honest and everybody is complying, it is all verifiable, and all the countries belong to it. When it gets down to it, the bottom line is, you can still come out with chemicals that do not use these precursor chemicals. So, it would not be effective in that respect.

I think we should also look at the constitutionality of this. I know a lot of times things are passed around here over the fact that it is a violation of the Constitution. I happen to be the chairman of the Clean Air and Private Property and Wetlands Subcommittee of the Environment and Public Works Committee. It is almost a daily thing that the Government takes land away from people without due compensation. So we know that there are things happening that violate constitutional rights. But in this case, it would permit searches and seizures without warrants or probable cause. I think this is a very serious thing.

And as far as trade secrets, we would be giving up something here. We all hear we are going to all destroy our chemical weapons. We have not stopped to realize what we are giving up in order to have this utopia that we seem to think is going to appear. One is, we have to open up and allow countries, like Iran, to inspect our chemical companies and our fertilizer companies and our cosmetic companies to see if there is anything in there that they are using and they would be able to get a lot of technology from this. This is something with which we have to be concerned.

Then we have more regulations on American business. This is something that we deal with. I have often said there are three reasons we are not globally competitive in this country. One is we are overtaxed; the other is our tort laws; and the other is we are overregulated. How can we compete with other countries when we are overregulated? This is one more regulation, one more set of forms that all these companies—cosmetic companies and others—will have to fill out.

Then, of course, we have the thing that is talked about quite often, and that is, this is going to make us much more comfortable in terms of our defense against any type of chemical weapons.

I have an editorial, that I will be asking in a minute to be printed in the RECORD at the conclusion of my remarks, from the Wall Street Journal. I hope my friend from North Dakota, the distinguished Senator who spoke before me, will listen to this. I will read the last couple of sentences in this editorial from the Wall Street Journal, which is dated February 19, 1997:

> The biggest danger of ratification is that it would similarly lull the U.S. and other responsible nations into the false belief that they are taking effective action against the threat of chemical weapons. The case for this treaty strains belief too far.

Lastly, let me suggest that a lot of the people, who are very fine people, who have signed on and said, "Yes, we want the United States to be a part of the Chemical Weapons Convention," have not really taken the time to study and see what we are giving up. I will share with you just a couple of things that came from a meeting of February 27, 1997, when General Schwarzkopf, who is supportive of ratification of the Chemical Weapons Convention, was before our Senate Armed Services Committee, and I asked him a few questions.

I asked him questions concerning how it would affect terrorists. Of course, he agreed it would not have any effect.

Then I said:

> Do you think it wise to share with countries like Iran our most advanced chemical defensive equipment and technologies?
>
> General SCHWARZKOPF. Our defensive capabilities?
>
> Senator INHOFE. Yes.
>
> General SCHWARZKOPF. Absolutely not.
>
> Senator INHOFE. Well, I'm talking about sharing our advanced chemical defensive equipment and technologies, which I believe under Article X [they] would be allow[ed] . . . Do you disagree?

Then he said:

> I'm not familiar with all the details * * *.

One of the problems we have is, so many people who are supporting the ratification of this Chemical Weapons Convention have not read all the details, have not read what we are giving up, I say to the distinguished Senator from North Dakota, and we are giving up many things that would normally be considered private.

Lastly, I will say, in conclusion, that there are a lot of people who are opposed to this. They are very prominent in the defense community. Certainly, four of our past Secretaries of Defense are opposed to the ratification of the Chemical Weapons Convention. Rumsfeld, Schlesinger, who, incidentally was in a Democrat administration, Weinberger, and Dick Cheney have all taken positions and said this is not in the best interest of the United States.

So, I hope we will have a lengthy debate on this, and I am hoping, quite frankly, that we are not going to be able to bring this up until we have had a chance for a thorough debate.

Mr. President, I ask unanimous consent that the testimony from the Senate Armed Services Committee hearing of February 27, 1997, be printed in the RECORD, and immediately following that, the Wall Street Journal editorial dated February 19, 1997, be printed in the RECORD, in that order.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT FROM THE SENATE ARMED SERVICES COMMITTEE HEARING, FEBRUARY 27, 1997

Senator INHOFE. If the Chemical Weapons Convention were in effect, would we still face a danger of chemical attack from such places as Iraq [which has not signed the CWC]—or Iran [which] actually signed onto it?

General SCHWARZKOPF. Senator, I think that the answer is probably yes. But, I think the chances of that happening could be diminished by the treaty only because it would then be these people clearly standing up and thumbing their noses at international law—and it would also help us build coalitions against them if that were to happen.

Senator INHOFE. Aren't they still thumbing their noses right now in Iraq?

General SCHWARZKOPF. There's no question about it, Senator—I mean the fact that they used it in the first place against their own people but, I still feel—we have renounced the use of them and I am very uncomfortable placing ourselves in the company with Iraq and Libya and countries such as North Korea that have refused to sign that Convention. The problem with those kinds of things is that verification is very difficult and enforcement is very difficult. . . .

Senator INHOFE. General Shali[kashvili] I think in August of 1994 said that "even one ton of chemical agent may have a military impact." I would ask the question: Do you believe that an intrusive, on-site inspection—as would be allowed by the Chemical Weapons convention—would be able to detect a single ton or could tell us conclusively that there isn't a single ton?

General SCHWARZKOPF. No, no as I said earlier, we can't possibly know what's happening on every single inch of every single territory out there where this would apply.

Senator INHOFE. And as far as terrorists are concerned, they would not be under this?

General SCHWARZKOPF. Of course not.

Senator INHOFE. Like any treaty, we have to give some things up, and in this case, of course we do and there are a couple of things that I'd like to [explore]—the interpretation from the White House changed—they said that if the Chemical Weapons Convention were agreed to, that it would affect such things as riot control agents like tear gas in search-and-rescue operations and circumstances like we faced on Somalia—where they were using women and children at that time as shields. Do you agree that we should be restricted from using such things as tear gas?

General SCHWARZKOPF. I don't believe that is the case but I will confess to you that I have not read every single detail of that Convention so, therefore, I really can't give you an expert opinion. I think you could get a better opinion here.

Secretary WHITE. I am going to hesitate to give a definitive answer because there has been, in the administration, a very precise and careful discussion about what exactly, and in what situations, this would apply and when this wouldn't apply. . . .

Senator INHOFE. Do you think it wise to share with countries like Iran our most advanced chemical defensive equipment and technologies?

General SCHWARZKOPF. Our defensive capabilities?

Senator INHOFE. Yes.

General SCHWARZKOPF. Absolutely not.

Senator INHOFE. Well, I'm talking about sharing our advanced chemical defensive equipment and technologies, which I believe under Article X [they] would be allow[ed] to [get]. Do you disagree?

General SCHWARZKOPF. As I said Senator, I'm not familiar with all the details—I—you know, a country, particularly like Iran, I think we should share as little as possible with them in the way of our military capabilities.

[From the Wall Street Journal, Feb. 19, 1997]

A DANGEROUS TREATY

Among the many good reasons why the Senate should not ratify the Chemical Weapons Convetion is a substance known as A–232. This highly lethal nerve agent was concocted by a Russian scientific team precisely for the purpose of circumventing the terms of the CWC, which both the U.S. and Russia have signed but not yet ratified. A–232 would escape scrutiny under the treaty because it is made from agricultural and industrial chemicals that aren't deadly until they are mixed and therefore don't appear on the CWC's schedule of banned chemicals.

The world has known about A–232 since the May 1994 publication on this page of an article by a Russian scientist, who warned how his colleagues were attempting to camouflage their true mission. It is now the subject of a classified Pentagon paper, reported in the Washington Times earlier this month, on the eve of what is shaping up to be an escalation of the battle joined in September over ratification of the Chemical Weapons Convention.

The Administration was forced to sound the retreat then, pulling the treaty from consideration when it became clear that the Senate was preparing to vote it down. Now it's trying again, this time in full cry about the urgency for U.S. ratification before April 29, the date it goes into effect. For now, Senator Jesse Helms has kept the treaty tied up in the Foreign Relations Committee, making the sensible argument that the new Senate ought first to focus on matters of higher priority then ramroding through a controversial treaty that merits careful deliberation.

The Administration, meanwhile, is mounting a full-court press, with the President offering a plea for ratification in his State of the Union address "so that at last we can begin to outlaw poison gas from the earth." This is an admirable sentiment—who isn't against marking the world safe from the horrors of poison gas?—but it's far from the reality. In fact, ratification would more likely bring the opposite results.

Article XI is one of the key danger areas. It would obligate U.S. companies to provide fellow signatories with full access to their latest chemical technologies, notwithstanding American trade or foreign policy. One country delighted at the prospect of upgrading its chemical industry is China, which, upon signing the CWC, issued a declaration saying, "All export controls inconsistent with the Convention should be abolished." No doubt Cuba and Iran, to name two other signatories, share the same sentiment. That Russian team that came up with A–232 no doubt could accomplish much more with the help of the most up-to-date technology from the U.S.

Verification is an insurmountable problem, and no one—not even the treaty's most ardent supporters—will promise that the treaty can be enforced. In the Administration's obfuscating phrase, the CWC can be "effectively verified." Yet if chemical weapons are easy to hide, as A–232 proves, they are also easy to make. The sarin used in the poison-gas attack on the Tokyo subway was created not in a fancy lab but in a small, ordinary room used by Aum Shinri Kyo's amateur chemists. The treaty provides for snap inspections of companies that make chemicals, not of religious cults that decide to cook up some sarin in the back office. The CWC wouldn't make a whit of difference.

Those snap inspections, by the way, could turn into a huge burden on American businesses, which would have to fork out millions of dollars in compliance costs (through the biggest companies no doubt would watch the heaviest burden fall on their smaller competitors).

More than 65 countries have already ratified the CWC, including most U.S. allies. But somehow we don't think the world is more secure with Australia and Hungary committed to ridding the world of chemical weapons when such real threats as Libya, Iraq, Syria and North Korea won't have anything to do with the CWC. How can a treaty that professes to address the problem of chemical weapons be credible unless it addresses the threat from the very countries, such as Syria and Iraq, that have actually deployed these weapons?

With or without the CWC, the U.S. is already committed to destroying its chemical weapons by 2004. That doesn't mean the rest of the world shares any such commitment; what possible peaceful purpose does Russia have in the clandestine production of A–232? Instead of pushing a treaty that can't accomplish its impossible goals, the Administration would be better advised to use its clout, rather than that of some planned U.N.-style bureaucracy, in getting the Russians to stop making nerve gas.

It's hard to find a wholehearted advocate of the treaty. The gist of the messages from most of its so-called champions is that it's a poor deal, but it's the best on offer. But their cases have acknowledged so many caveats that it's hard to see how they've reached such optimistic conclusions. The biggest danger of ratification is that it would similarly lull the U.S. and other responsible nations into the false belief that they are taking effective action against the threat of chemical weapons. The case for this treaty strains belief too far.

Mr. INHOFE. I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHEMICAL WEAPONS CONVENTION

Mr. BINGAMAN. Mr. President, I want to add my voice to the statement that the Senator from North Dakota made a little earlier in the proceedings about the importance of us getting on to a vote on the Chemical Weapons Convention. I believe very firmly that this is an issue which has been hanging around the Senate for too long. We have had many—in fact, years of consideration. We have had, I believe, 14 hearings now on the Chemical Weapons Convention.

The convention was supported, of course, by the previous administration. President Bush signed the agreement. We need now in this administration, the second Clinton administration, to go ahead and ratify it. There is an important date coming up which is the 29th of April, which is the date by which we need to take action. Let me address that issue first, because I know the Senator from Oklahoma did speak to the fact that, in his opinion, April 29 was not a date of any consequence and it did not matter whether we did anything this month or not on the treaty. This is sort of a recent argument that has been made and one I think needs to be responded to.

A failure to ratify by April 29 will have significant adverse consequences for our security and for U.S. businesses as well. Our ability to oversee the first critical days and months of implementation of the treaty will be lost. We now have Americans who are heading up the various divisions that monitor the treaty's budget and security measures and industry inspections, and those individuals, those Americans who now are involved in that will be replaced by individuals from countries that have ratified the treaty if we do not take action by the 29th of April.

Moreover, Americans will not be able to be hired as inspectors with these international teams if we do not ratify the treaty. Hundreds of millions of dollars in sales of American chemical companies and many jobs in many of our States will be at risk as a result of mandatory trade restrictions which were originally designed to pressure rogue states to join in the treaty. Those will be applied to us, Mr. President, if we do not go ahead and vote and ratify this treaty.

Failure to ratify, of course, relegates us to the so-called international pariahs that we give a lot of speeches about here on the Senate floor, countries like Libya and North Korea. We would be squandering U.S. international leadership in the fight against chemical weapons and other weapons of mass destruction.

There have been many speeches given on the floor and by our President about how the United States, at this particular point in history, is the indispensable Nation. We are the one remaining superpower in the world, both militarily and economically and, as such, we have a particular responsibility to lead. Our failure to take action on this treaty on the Senate floor is an abrogation or default of that responsibility and one I think that I do not want to be any party to.

Another issue that has been raised, which I think needs to be addressed, is this issue which involves the question of whether or not the Chemical Weapons Convention could be interpreted as providing rogue states with the ability to acquire advanced U.S. technologies if we enter into this treaty. The issue was raised at the Armed Services Committee hearing that we had a couple of weeks ago. In fact, the Senator from Oklahoma was there and requested that we get some kind of statement from our Department of Defense in writing about their view of this.

Mr. President, I ask unanimous consent that a letter dated April 2 to Senator ROBERT SMITH and signed by Franklin Miller, who is the Acting Assistant Secretary of Defense for International Security Policy be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ASSISTANT SECRETARY OF DEFENSE,
DEFENSE PENTAGON,
Washington, DC, April 2, 1997.

Hon. ROBERT C. SMITH,
Senate Dirken Office Building,
Washington, DC.

DEAR SENATOR SMITH: During my 5 March 1997 testimony before the Subcommittee on Strategic Forces of the Senate Armed Services Committee, several questions were raised regarding the impact of the Chemical Weapons Convention on the ability of rogue nations to acquire advanced U.S. technologies and the impact of the Convention on U.S. industry. I am pleased to provide the Administration's official response on these matters.

Article X: Assistance and Protection Against Chemical Weapons. One concern expressed during the hearing was whether Article X of the CWC might force us to share with nations like Iran our most advanced chemical defense technologies and equipment. I am pleased to reconfirm that Article X, which establishes procedures for State Party requests and possible responses to requests for assistance against chemical weapons, does not require the U.S. to share its advanced chemical weapons defenses and defensive technologies with countries such as Iran. Assistance is defined in the treaty as including items ranging from protective equipment to medical antidotes and treatments.

States Parties obligations under Article X may be met in one of three ways—by contributing to the voluntary fund (managed by the Organization); by concluding agreements with the Organization concerning the procurement, on demand, of specific types of assistance; or by declaring (within 180 days after the CWC's entry-into-force) the kind of assistance it might provide in response to an appeal by the Organization. To meet its obligations under Article X therefore, the U.S. can choose from a variety of options and forms of assistance none of which require sharing our most advanced chemical defense or equipment.

Senator Inhofe raised a particular concern regarding Paragraph 3 of Article X. This paragraph states that "Each Party undertakes to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material and scientific and technological information concerning the means of protection against chemical weapons." The inclusion of the words "facilitate" and "possible" underscores that no specific exchange is required and that any exchange which does occur is limited to that which we determine would be appropriate and permitted under the Convention.

A specific concern also was raised regarding whether paragraph 5 of Article X would require the release of advanced and classified information about defensive capabilities and technologies. Paragraph 5 requires the international Technical Secretariat that administers the Convention to establish and maintain "for the use of any requesting State Party, a data bank containing freely available information concerning various means of protection against chemical weapons as well as such information as may be provided by States Parties." As stated in the Article-by-Article Analysis submitted to the Senate on November 23, 1993, "freely available" means "from open public sources." Further, the CWC imposes no obligation on states parties to contribute to this database. Hence, the provision will not require the release of classified or otherwise sensitive information about U.S. chemical defenses.

Article XI: Economic and Technological Development. A second area of concern raised in the hearing was whether Article XI of the CWC, which relates to cooperation in the field of chemical activities for purposes not prohibited by the CWC, might force our industry to share dual-use technologies and manufacturing secrets with other nations. Article XI does not require private businesses to release such proprietary or otherwise confidential business information, nor does it require the U.S. Government to force private businesses to undertake such actions.

Access to Information During Inspections. A final area of concern raised during the hearing was whether the CWC might permit nations, such as Iran, to have access to some of our most critical technologies and manufacturing secrets during inspections. In this context, a question was raised as to whether the CWC required modification to preclude rogue nations from getting access to our technologies during inspections.

The CWC will not provide nations, such as Iran, with access to our most critical technologies and manufacturing secrets. The CWC, which was written with the help of U.S. chemical industry representatives, already contains important protections for industry, including provisions relating to routine and challenge inspections that were designed to protect against the loss of confidential business information.

The Convention stipulates that States Parties have the right to prohibit inspectors of any nationality from conducting inspections within their territory or any other place under their jurisdiction or control. Additionally, in the case of challenge inspections, the Convention stipulates that the inspected State Party has the right to reject inclusion on the inspection team of an observer from the country requesting the challenge. The Convention stipulates that these teams are composed of international civil servants "who meet the highest standards of efficiency, competence and integrity." If they violate their obligations to hold all information confidential they will be subject to severe penalties, including the possible loss of immunity from prosecution by the inspected State Party.

The Confidentiality Annex to the Convention provides further protection for confidential information at facilities undergoing inspections. Paragraph 13, for example, specifies that "States Parties may take such measures as they deem necessary to protect confidentiality, provided they fulfill their obligations to demonstrate compliance. . . ." Paragraph 16 requires "due regard . . . to the requirement of protecting confidential information," while paragraph 17 limits the information in the international inspectorate reports to "only . . . facts relevant to compliance."

With regard to the question of access, in neither routine inspections nor challenge inspections does the Convention require any facility to allow inspectors unlimited access. For routine inspections, the United States has the right to negotiate a facility agreement for each facility, which will define the degree of access that inspectors would have, including "specific and detailed arrangements with regard to the determination of those areas of the facility to which inspectors are granted access" (Paragraph 16 of Confidentiality Annex). This facility agreement would provide the facility with the opportunity to protect sensitive information. Moreover, since advance notice would be given for routine inspections, the facility

> would have ample time to prepare for the inspection.
>
> In the case of challenge inspections, the CWC also provides for "managed access" that will be conducted in accordance with constitutional obligations with regard to proprietary rights or searches and seizures. Moreover, the facility that is challenged will participate in the negotiations on the degree of permissible access. While the U.S. and the facility shall make every reasonable effort to provide the inspection team an alternative means to satisfy the stated concerns about the facility's compliance, the facility is not obligated to allow inspectors to have unfettered access within the facility.
>
> I hope this information clarifies the matters that were raised during the 5 March 1997 hearing. As I stated in my opening remarks, the Department of Defense firmly believes that the Chemical Weapons Convention is in the national security interests of the United States. We strongly support its prompt ratification by the United States and approval of its accompanying implementing legislation. If I may be of further assistance to you and to the members of your Subcommittee, please do not hesitate to contact me.
>
> Sincerely,
> FRANKLIN C. MILLER (ACTING).

Mr. BINGAMAN. Mr. President, this letter goes into great detail about why there is no provision in the treaty and there is nothing in the treaty that our Department of Defense would interpret as putting an obligation on us to provide sensitive technologies to rogue states:

> Senator Inhofe raised a particular concern regarding Paragraph 3 of Article X. This paragraph states that "Each Party undertakes to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material and scientific and technological information concerning the means of protection against chemical weapons."

The letter goes on to say:

> The inclusion of the words "facilitate" and "possible" underscores that no specific exchange is required and that any exchange which does occur is limited to that which we determine would be appropriate and permitted under the Convention.

I think it is clear from this analysis that our own Department of Defense feels very comfortable with the provisions of this Chemical Weapons Convention. The overriding context that this convention is presented to us in has to be considered, Mr. President, whenever you are debating the chemical weapons treaty or the Chemical Weapons Convention.

Sometime over a decade ago, the United States made a decision to terminate the use of chemical weapons and, in fact, to destroy our stockpile of chemical weapons. President Reagan signed the law to do just that. In accordance with that, President Bush came along, after President Reagan, and went ahead and carried out that policy and entered into the Chemical Weapons Convention on behalf of the country and sent the treaty to the Senate for consideration. It has been languishing here ever since President Bush sent it here for consideration.

I think that we would have a very different debate and you would have a very different lineup of people on different sides of this issue—and, frankly, you would have many more people in opposition to this treaty—if, in fact, we had not made a decision and put in our own law a provision to renounce the use of chemical weapons. But we did. We made that decision. President Reagan signed that law.

And now for people to come to the floor and say, no, no, we are going to be putting ourselves at some kind of disadvantage if we enter into a treaty with 161 other countries which would subject them to the same kind of policy decision which we already made some decade ago, just has no logic to it.

Clearly, there are problems in verifying this treaty. There are problems in verifying any treaty. They are probably complicated when it comes to verifying a treaty to ban chemical weapons because it takes such a small amount of technology and such a small amount of space to produce chemical weapons. But that does not mean that we should just give up on any and all efforts to verify and any and all efforts to inspect.

I think Madeleine Albright, our Secretary of State, made the point very well in a statement she made yesterday where she said, just because there may be people—and there are people—who will continue to murder and pillage and sell drugs, does not mean we should not pass laws to prohibit that. We should pass those laws. We should do our very best to enforce those laws and implement them. That is true with chemical weapons as well.

There may be people—and there undoubtedly will be—some rogue states and some individual groups, terrorist groups, that try to violate this treaty. All I can say is, we need to redouble our efforts to enforce the treaty once we ratify it. We need to work with other countries to gain their assistance in doing that enforcement.

Clearly, it is in the best interest of the people of this country that we take every action we possibly can to reduce the likelihood that chemical weapons will ever be used against Americans in future conflicts or in a nonconflict situation. Perhaps the biggest threat that we face is not in the use of chemical weapons in a conflict. The biggest threat may be the kind of an incident that occurred in Japan in a subway where a terrorist group decides that for some perverted reason they are going to engage in the use of chemical weapons. This treaty will help us to ferret out those kinds of incidents, those kinds of risks and to deal with them ahead of time. I think it is clearly in our best interest to do so.

Mr. President, let me just say that I have confidence that the Senate, if allowed to vote on this issue, will vote by the necessary supermajority to go ahead and pass the treaty and ratify the treaty. What we are up against now is an inability to get the treaty to the floor for a vote. And that, I think, is a very sad procedural circumstance that we have. We have a committee chair who has announced that he may or may not allow this issue to be reported from the committee so that the full Senate can express its will on the subject.

Mr. President, I hope very much that my colleagues will join me in seeing to it that we do get this issue to the floor, and that we go ahead and vote on the treaty. If a Senator wants to vote against the Chemical Weapons Convention and go home and explain to his or her constituents why they voted against the Chemical Weapons Convention, then fine. That is the way the system is supposed to work.

But for us to deny Members the right to vote is really indefensible, in my view, on an issue of this importance. This is tremendously important. I have urged, as several Members know, the Democratic leader, and indicated to the majority leader that I thought it was irresponsible for the Senate to continue doing business as usual while this issue continues to languish in committee.

The deadline is approaching. This is time sensitive. We need to go ahead and get the issue to the floor and allow a good debate, allow amendments, and allow a vote on the Chemical Weapons Convention.

I think that needs to be our top priority this April. And we are still early enough in the month that we can bring this to the floor, debate it, vote on it, and let the Senate do its will. The American people have a right to expect that from us. And clearly we need to go ahead and follow that course of action.

I think for us to continue with discussions about: Well, it does not really matter whether we sign up now or sign up in June or maybe July or maybe this fall some time, that is not accurate, Mr. President. It does matter. And we will be giving up a leadership role that we should have on arms control issues. We will be giving up a leadership role we should have on the banning of chemical weapons. Clearly, I think that is contrary to the best interests of the people I represent and contrary to the best interests of the American people generally.

Mr. President, I urge the majority leader and my colleagues on both sides of the aisle to put aside other business, and bring this issue to the floor. Let us vote on it. Let us have a debate. Anyone who wants to offer an amendment should be able to do that. Anyone who wants to offer implementing legislation should be able to do that. The Senate should vote on it, and then get about other business. So I hope that is the course we follow.

Mr. President, I know there will be additional chances this afternoon and later on to debate this issue in more depth. I look forward to those. I believe very firmly that this is one of the most important issues this Congress, this 105th Congress, will address. I hope very much that we will clear the other procedural matters and the other substantive matters that are on the agenda and get on to a vote on the Chemical Weapons Convention.

Mr. President, with that I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ASHCROFT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE REFORM

Mr. WYDEN. Mr. President, as I indicated yesterday, I intend to come to the Senate floor each day this week as part of an effort to build bipartisan support in the Senate for Medicare reform. It is very clear to me that there is a rare window of opportunity now for the Senate to act on this issue, a window, an opportunity I think would be a serious mistake to not exploit.

We know that the Federal deficit is a bit lower than was anticipated this year, in the vicinity of $108 billion. We are seeing that there is a fairly benign economic environment. Certainly, there are still folks hurting in our country, but, overall, the economy has been positive. We know that we are a few years away from what I believe is sure to be a demographic earthquake, with many more older people in our country, and older people who need and deserve good quality health care.

Yesterday, I tried to outline what I thought were the central principles of comprehensive Medicare reform. Beginning today, Mr. President, I intend to try to outline some of the specific aspects of what Medicare reform ought to consist of and how to get this program on track for the 21st century so that it operates in a fashion that is good for both older people and for taxpayers.

Right now, in much of the United States, the Medicare Program is a 30-year-old, "Tin Lizzy"-style operation that rewards waste and penalizes frugality. This is particularly unfortunate since the end result is that in communities like my own in Portland, OR, that hold down costs, the end result for all the heavy lifting is simply a smaller reimbursement check. I believe what we have today under the Medicare Program is a situation where because of the reimbursement of formula, a sleep-inducing, eye-glazing concept known as the average adjusted per capita cost, you have a situation where in much of the United States there are few, if any, choices for older people under Medicare because health plans are reluctant to come to those markets, or you have a situation where it is almost impossible for an older person to navigate the system simply because they cannot obtain understandable, coherent information about their Medicare choices.

Mr. President, it would be impossible for you to be able to see this chart, but I intend in the days ahead to blow this up because it makes my point with respect to how Medicare has made it difficult to have true competition like the competition that exists in the private sector for health care. This chart, which obviously is going to be difficult for you, Mr. President, and those who may be watching to see, involves a wall that has been set up in Los Angeles with all of the information that an older person has to go through in Los Angeles to make choices about choosing a health plan. It clearly illustrates, in my view, what we have seen with the Medicare Program over the last few years.

Because the reimbursement formula encourages waste and penalizes frugality, we will have, in many areas, few choices for Medicare, discouraging competition, or, . as I have shown through this chart and picture developed by the General Accounting Office, you will have just a blizzard of information that older people find it very difficult to navigate and make sense out of, thereby making it hard for them to have real choice in their health system.

The irony, of course, is that every Member of the U.S. Senate knows what a competitive health system could look like, and a competitive health system that avoids the kind of problems I have just demonstrated with this chart from the General Accounting Office. Mr. President, 21st century Medicare could really be modeled around the very program that Members of the U.S. Senate participate in, known as the Federal employee health benefits plan. The Federal employee health benefits plan offers enrollees a portfolio of plans, each one with somewhat different service offerings. Consumers are helped to make appropriate, independent choices because the managers of the Federal employee plan pay attention to the details, including the way plans develop written explanations presenting what individual policies will or will not do.

So for Members of the U.S. Senate, it is possible to get understandable, coherent information about what is available for Senators and their families. But if you are an older person who wants to compare and shop for health care, you have to try to figure out how to make sense of this incomprehensible picture that I just showed, demonstrated by the General Accounting Office.

In addition, in the Federal employee health system, policies are inspected and reviewed on performance, and Federal employee plan participants are then given what amounts to report card grades on many of the important care provisions so that average consumers can sit down at their kitchen table and make plan-against-plan comparisons when they choose their coverage.

Again, the difference between what is available to older people in many parts of the United States for Medicare and what is available to those Federal employees and Members of the U.S. Senate is striking in its contrast. Members of the Senate and Federal employees are going to be in a position where they can make plan-against-plan comparisons so as to inject some competition in the system. Again, the General Accounting Office tells us that no such features exist in much of Medicare.

Finally, the Federal employee benefits managers look for high-quality service at competitive rates for employees. They work on a competitive basis to upgrade the quality and prices for the plan, while keeping premium rates at the lowest possible level. At the same time, these managers work to diminish risk selection by the plans, so that the older individuals who are part of the Federal employee plan, or persons with disabilities or chronic conditions, will not be eliminated from coverage when they want to enroll.

Again, we see an effort to deal with the central questions that face health care reform in America, making sure that people are in a position to compare their plans so that there is real competition, and to make sure that nobody is left behind just because they are older or they suffer from a chronic condition.

So, in addition to these very positive features, in recent years, average Federal employee health plan premium increases have stayed below 3 percent per year per enrollee, while the Medicare Program has seen average annual increases of almost 9 percent during the same period.

So, Mr. President, what we are seeing is that well-structured competition, like in the system that Members of the Senate belong to, can work. It can work for patients and consumers in making sure they have good quality care. It can work for taxpayers in that it holds costs down, and it, for all practical purposes, is very similar to the system that we have in my hometown of Portland, OR.

In my hometown, Portland, we have the highest percentage of older people in the Nation now participating in managed care. It is about 60 percent. Certainly, while not perfect, it avoids much of the set of problems that we have seen in other parts of the country. You don't see the gag clauses, for example, in our plan. And, hopefully, the

U.S. Senate will pass the legislation this session that Senators KYL, KENNEDY and myself have introduced to make sure that, as we go to the 21st century, all patients understand their options and all of them know about the various services that are available. But we don't have those gag clauses in Portland, and we do have high-quality managed care, and we are able to do it for substantially less than much of the rest of the Medicare system. The per capita rate in my hometown, the per person rate for Medicare participants, is still $60 to $80 below the national average for Medicare.

One of the things that I hope the Senate will do, on a bipartisan basis, is lift these penalties against towns like my home community that have done the heavy lifting and have ended up being penalized for it. I think, on a bipartisan basis, the U.S. Senate should make changes in Medicare to lift the reimbursement for low-cost counties, particularly in rural communities, and by doing so, benefit both seniors and taxpayers. Seniors will benefit from having the opportunity to get good-quality health plans in their areas, and it will also bring real choice and real competition for the first time to those areas. The fact of the matter is, many of those communities haven't been able to unleash entrepreneurial and competitive forces into their health systems such as we have in the private sector, because Medicare isn't paying those low-cost communities a fair rate. I have made changes in that discriminatory reimbursement proposal in my Medicare reform plan, and I hope the U.S. Senate will accept that in this session.

I was pleased to see that, in the last week or so, the head of the Health Care Financing Administration, Dr. Vladeck, has indicated that there is a significant backlog of needed changes required to bring Medicare up to date. I hope that we will see more discussion of that in the days ahead. I felt that it was positive news to see those comments from the head of the Health Care Financing Administration.

Mr. President, finally, let me say that I think, in addition to promoting competition, using the model of the Federal employee health plan, it's time for Medicare to look to the Federal employee health plan and the private sector for ways to improve quality in our health system. Again, there is nothing partisan about the agenda to improve health care quality, but this is an area where Medicare has also lagged, both in relation to Federal employees and the private sector. In other parts of our health system, it's possible, for example, to get good statistics on disenrollment, people leaving because they are not satisfied with the plan. It is possible to get information about providers who leave a system because they, too, feel it doesn't adequately address the needs of patients in providing good-quality health care.

In other parts of the health system, there are grievance procedures, and we know, for example, how long it takes people to get through a grievance procedure, or how long it takes to get a referral, or what happens when you are denied benefits. In each of these areas so central to providing quality health care in America, Medicare is lagging behind the Federal employee health system, and Medicare is lagging behind much of the private sector. In my legislation, we would change that. We would require that these critical measures of quality be made available through report cards and other measures. I emphasize that today, Mr. President, because I think that, as we look to the 21st century of Medicare, we have an opportunity over the next few years to redesign the system and try to get it on track for the next century when we will have many more older people depending on Medicare.

So the alternative is very clear: A bipartisan effort to bring competition and choice and a new focus on quality in the Medicare Program, or to continue business as usual and face what the General Accounting Office has told us will be a program that has simply run out of money when we hit the next century. I believe that, after years of bickering and partisanship on this issue, there is an opportunity now to address Medicare reform in a bipartisan way. Democrats have been right in the Senate to call on making sure that benefits are defined, that older people have guaranteed, secure benefits. Republicans have been correct, in my view, in calling for more competition and more choice in the system. Today, I have tried to talk about how that competition and choice exists in the program that Members of the Senate belong to and is also available in much of the private sector.

Mr. President, this issue is so important that in the next century I believe that the public is going to ask every Member of the U.S. Senate, "What were you doing to try to get Medicare on track?" This program isn't just an important part of the Federal budget. It is going to be the Federal budget for the next 15 or 20 years. So now is the time to act to get the program on track. I believe that this can be done in a bipartisan way.

Mr. WYDEN. Mr. President, as I have said, I intend to come to the Senate floor each day this week part of an effort to help build bipartisan support in this body for Medicare reform.

Not via an independent commission. Not in the next Congress. But now, and by us, the Members of the 105th Congress.

I think we have an historic opportunity to transform Medicare from a 30-year-old, tin-Lizzie style social welfare program into a 21st century, comprehensive seniors health care system that is humane, cost-efficient and sustainable.

The reformed Medicare Program I envision, and which I think is within our grasp, is a health plan that is about choice, quality and access, and also about the efficiencies that characterize much of the Nation's private health care marketplace.

But changing Medicare will require tough decisions, tough votes and, as in turning a battleship in mid-ocean, a good deal of time and patience on the part of beneficiaries and health care providers.

We must start by making the right moves, the right changes, today, before some 75 million baby boom generation retirees begin swamping the Medicare Program in 2013.

In my private conversations with colleagues, I've been arguing that this is the classic pay-me-now, or pay-me-later situation. Structural changes enacted in the next year or two will not be easy. But in the face of what Congress would have to overcome beginning early in the next century, these changes will seem like child's play.

Medicare's problems are a snowball rolling down hill, picking up speed and mass on almost a daily basis. Now is the time to slow-down that snowball, if not stop it because in a few more years the program will be crushed by its weight.

Each year without structural reform makes the task that much harder, and the risk to balanced Federal budgets that much more significant.

And assigning the task to a bipartisan commission without first doing our best to solve Medicare's problems is a retreat not just from our responsibility, but from opportunity as well. I think there's a fervent desire among my colleagues to try to fix Medicare in the current Congress.

I think we gain little by assigning that job in the first instance to a bipartisan committee, only to have to try to make tough votes on their recommendations in 1998, an election year for those who need to be reminded.

The path to reform is not easy. Fortunately, however, there are sign posts and trail markers along the way, offering meaningful models for changes and reform.

I think we see these possibilities for a 21st century Medicare program in systems as diverse as the Federal Employee Health Benefits Program, which serves many Members of this body, to the Medicaid Program which now operates in my home state of Oregon under a special Federal waiver.

The Federal Employees Health Benefits Program offers its enrollees a portfolio of plans, each one with somewhat different services offerings. Consumers are helped to make appropriate, independent choices because the managers of FEHBP pay attention to the details.

including the way plans develop written explanations presenting what individual policies will or won't do.

Further, those policies are then inspected and reviewed on performance, and FEHBP beneficiaries are then given what amounts to report card grades on many of the important care provisions so that average consumers can sit down at their kitchen tables and make plan-against-plan comparisons when they choose their coverage.

Finally, FEHBP smart-shopper managers negotiate high-quality service at competitive rates for enrollees. These government managers work with their plans on a continuous basis to upgrade the quality and range of services offered by the plans while keeping premium rates at lowest possible levels. At the same time, these managers work to diminish risk selection by the plans, so that older FEHBP members, or persons with disabilities or chronic conditions aren't eliminated from coverage when they want to enroll.

In recent years, average FEHBP plan premium increases have stayed below 3 percent per year, per enrollee, while the Medicare Program has ballooned to average annual increases of almost 9 percent during the same period.

Oregon's ground-breaking Medicaid plan also helps mark our way toward an improved national Medicare system.

In Oregon, we've expanded the traditional Medicaid Program to cover not only the federally qualified participants but also tens of thousands of working poor Oregonians who can't afford private insurance, but whose incomes would disqualify them for traditional Medicaid.

The result has been a tremendous reduction across the State in unreimbursed hospital charity care, more preventative medicine for youngsters and young mothers, and a per capita Medicaid cost rate that is 10 percent below the national average.

More care.

Less cost.

Efficient, preventative services that keep children and adults out of the hospital.

Managed care has played a dominant role in this success story, as it has in Oregon's Medicare experience.

Oregon's Medicare-qualified seniors have the highest penetration rate in the Nation in coordinated care. In Portland, nearly 60 percent of the Medicare beneficiaries are in managed care.

And in this, the State's highest reimbursed city for Medicare beneficiaries, the per capita rate is still 60 to 80 dollars below the national average for Medicare.

I suggest that we may be doing some things right, out West and in the FEHBP program. And sad to say, these good things we see happening in Medicaid and Medicare are almost in spite of a Federal regulatory structure that hamstrings Medicare and Medicaid in terms of increasing both efficiency and quality, and expanding enrollment to the uninsured and under-insured.

This is a problem that is recognized even within the bowels of the Medicare management structure.

Mr. President, I was heartened to see the comments of my good friend Dr. Bruce Vladeck in the trade press last week. Specifically, Bruce acknowledged that there is a tremendous backlog of needed statutory changes required to bring Medicare up-to-date.

Gail Wilensky of Project Hope, puts it even more succinctly:

> In sum, the present structure of Medicare hardly makes it surprising that it is facing financial problems. The elderly have limited options in the health care plans available to them. Medicare pays most of the costs for services it covers and almost all of the elderly have coverage that is supplemental to Medicare, either privately purchased Medigap or Medicaid.
>
> That means there is little reason for an elderly person to seek out cost-effective physicians or hospitals, or to use lower cost durable medical equipment, laboratories or outpatient hospitals.

Dr. Wilensky goes on to say that there is little reason for practitioners to provide cost effective care "if there is any medical gain to be had from providing services and some reason to fear legal repercussions if they do less than they might have done and the patient has an adverse outcome.":

And because payments to capitated plans now follow payments for local fee-for-service Medicare, Medicare HMO's in many high-cost counties are extravagantly over-paid, while in low-pay counties plans and HMO enrollment languish because of under-reimbursement.

We throw money at fat health plans in big counties, while we starve the system of both choice and access—and I would argue quite probably quality as well—in counties where the payments are below the national average.

This current state-of-affairs is precisely antagonistic to our goal.

Let me postulate that it is nuts to reimburse Medicare HMO's in high-cost counties at the same level, more or less, of the highest-cost fee-for-service practitioners in those counties. That fact alone is one of the big reasons why, quite rightly, the administration has argued that we have a general HMO over-payment problem.

But the administration's argument that every HMO should be cut, however, to cure that problem is like saying amputation is an appropriate treatment for bunions.

Holy Dr. Kildare. In any other economic model or sector, a proposition like our current average adjusted per capita cost [AAPCC] formula would seem nuts. But that's the way it works in our creaking, inefficient and decidedly consumer unfriendly Medicare system.

Clearly, we must provide incentives for beneficiaries to choose just the cost-effective health care they need, and to demand that physicians, hospitals and other providers limit practice to cost-effective medicine.

This can be done while preserving the Medicare guarantee of a basic, good quality package of health services to every eligible senior, no matter what their health status or income level.

Here are components of a new Medicare system that provides both choice and quality, with cost efficiency:

First, radically reform the formula by which we determine how Medicare managed care programs are paid so that reimbursements are geared to the actual costs of managed care among elderly populations in a particular county, or region, rather than the local cost of fee-for-service medicine.

At the same time, scale-back payment increases in our high-reimbursement counties, and accelerate payments in the low-reimbursement counties where, because payments have been too thin, beneficiaries have only fee-for-service Medicare to choose from.

In other words, give millions of disenfranchised Medicare beneficiaries a real choice.

Second, require Medicare managers organize open bidding between plans in high-pay counties where profit margins are exorbitantly high.

Make the plans that are currently, hugely over-paid bid against one another, on price, for Medicare beneficiaries in those counties.

I believe such competitions should take place in every county where the average adjusted per capita cost—the AAPCC—is 120 percent of the national average.

In sum, make adjustments in the HMO payment formula that decrease reimbursements in counties that we know are substantially over-compensated; increase payments in counties that are so under-compensated as to discourage HMO entry and competition; and resist proposals to reduce all county payments, alike, from 95 percent to 90 percent of the local AAPCC rate—a crude tool that will hurt the cost-efficient counties much more than the "fat" counties.

Mr. President, I believe that accelerating the growth of good quality managed care, such as we have in Oregon, can be a major factor in curing Medicare's financial ills. Changing this AAPCC formula in a way that makes sense—in a fashion that does not kill our efforts to bring Medicare into vast areas of this country where no choice but fee-for-service medicine exists for beneficiaries—must be a high priority piece of the solution.

Third, put our two fastest growing portions of Medicare—home health care and skilled nursing facility care—on a financial management diet.

That regimen is called prospective payment, and it means that in much the same way we control hospital costs we would create a schedule of daily maximum service costs for different aspects of care in each of these important areas.

In my bill, S. 386, the Medicare Modernization and Patient Protection Act, prospective payment provisions for home health and skilled nursing facilities would, together, save approximately $20 billion over 5 years, according to the Congressional Budget Office.

Eventually, but quickly, I think we ought to impose these kinds of financial management tools on other aspects of fee-for-service Medicare.

I see no reason why, as a matter of global budgeting, that practitioners in this field ought not be held to the same kind of case management that HMO's require as part of their plans.

One method might be to require all Medicare fee-for-service practitioners to join a Medicare-sponsored provider network, which has at its core a case management system that ensures all participating beneficiaries get the care and quality they need, but that practitioners and other providers don't overbill or overprescribe.

This kind of PPO management would bring case gate-keeping into fee-for-service Medicare, ultimately producing reasonable price and cost controls in the system.

Fourth, require competitive bidding for durable medical equipment purchases and eliminate what Dr. Vladeck has termed the "current silly inherent reasonableness" process.

I know many of my colleagues may not have looked hard at this bit of Medicare arcana. But let me say that this is all about getting medical equipment paid for by the program at the lowest possible cost as determined by the market.

At the same time, we need to know more about what procedures and services work, and which don't, so that we can save money for the program and ensure that beneficiaries are getting optimum care.

The Health Care Financing Administration must be required to collect, analyze, and act on more of the available data, in this regard, and that admonition needs to be part of comprehensive Medicare reform.

Fifth, require HCFA to do local service-provider report cards for beneficiaries. This sort of qualitative analysis should extend both to HMO's and their practitioners, and to local fee-for-service doctors and other providers.

This needed reform would include authorizing the program to demand and collect all relevant data from Medicare participants.

Sixth, the program must move much more aggressively in establishing special plans and services for the sickest, frailest enrollees; these are the Medicare beneficiaries who are usually qualified for both health and income reasons to receive benefits from Medicaid as well.

These enrollees are the fastest growing group of Medicare beneficiaries, and the most expensive with costs to both programs amounting to about $100 billion per year.

Lack of systems to deal with the huge comprehensive care problems these folks face has resulted in the worst possible scenario; much money is wasted while many folks don't receive the type or quality of care they need.

Fortunately, there are a number of highly specialized programs called social HMO's or PACE programs, that provide coordinated care—using both Medicare and Medicaid bucks—for populations of these beneficiaries in less than two dozen communities. One of those programs, ElderCare at Providence Hospital in Portland, is up and running in my hometown, and it is serving these frail elderly at well below the national average cost for the so-called dual-eligibles.

Why don't we have more? HCFA currently requires each of these programs to apply on a waiver basis every time an individual community wants to start a social HMO or PACE program. This is expensive and time consuming, and it limits the reach of a very good, cost-effective system.

And again, something that takes about 5 minutes to start up in the private sector, takes about 5 years through the Federal Government.

For this group we must create greater access for highly specialized, dual-eligible programs by giving organizers clear and certain and uniform rules of entry through the Medicare Program; eliminate the so-called 50-50 rule, requiring 50 percent non-Medicare enrollment for any HMO serving Medicare beneficiaries, based on enhanced performance and quality standards; develop tougher restrictions on adverse risk selection making it harder for plans to deny enrollment to sicker, frailer beneficiaries; and set up a so-called outlier fund within Medicare, a special pool of cash fueled by reimbursement withholds from overpaid HMO's, to appropriately compensate plans that demonstrate they are serving sicker, more costly beneficiaries.

Seventh, reform our Medicare supplemental insurance laws—the Medigap regulations—to guarantee that every Medicare beneficiary can enroll in a Medigap program at any time. I believe this change is crucial to encouraging more seniors to try HMO's, knowing that if they decide they must return to fee-for-service medicine they will be able to get back into Medigap coverage.

About a dozen States, including my home State of Oregon, already require guaranteed-issue. The Medigap market has not been destroyed in those States. There must be a universal Federal standard protecting beneficiaries.

Eighth, ensure better treatment and more appropriate treatment for Medicare beneficiaries by capturing the service and efficiency offered by telecommunications technology.

An important aspect of this is expanding the terms and conditions under which Medicare will pay for services via the fiber-optic lifeline, and working with both the Federal Government and the States to knock down anticompetitive licensure practices and restrictions that hamper the ability of physicians and other practitioners to practice via this new technology.

I can tell my colleagues that Oregon, like much of the west, is looking hard at telemedicine as a way of getting better quality medicine to folks who live way out in the country; and there are lots of places falling under that definition, west of the Mississippi.

Medicare needs to help in that effort, not build walls against 21st-century medicine.

Ninth, Medicare must unleash the quality and efficiency promised by a rapidly growing cadre of alternative health care providers.

The program can save money and deliver to beneficiaries better, more targeted services by identifying and incorporating appropriate assignments for nurse practitioners, PA's, druggists, chiropractors, and other licensed professionals within the health care network.

Mr. President, these nine items are not the whole solution to modernizing Medicare. But I do believe that together, they represent an appropriate jumping off position for real Medicare reform that can be accomplished in this Congress.

I know colleagues from both sides of the aisle will be talking about their own ideas in the weeks and months to come. I urge them, I urge all of us, to move these issues through the congressional process beginning this year rather than expect a bipartisan commission to cure Medicare's problems for us.

Mr. President, tomorrow, I will go on to talk about other fundamental principles of Medicare reform.

I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

DISASTER SUPPLEMENTAL, THE BUDGET, AND THE CHEMICAL WEAPONS TREATY

Mr. CONRAD. Mr. President, my State has been hit by a massive disaster over this last weekend. North Dakota has been hit with the strongest storm in over 50 years. This is a storm of staggering proportions. Mr. President, North Dakota this last weekend got hit by a combination of an ice storm and blizzard that is unprecedented in the last 50 years.

In North Dakota, we are used to harsh winters, but, frankly, we have never seen anything quite like this one. This most recent storm not only involved ice, it involved 70-mile-an-hour winds. That combination has knocked down power poles all across the eastern part of our State. As of yesterday, we had 80,000 people still without power in the State of North Dakota, many of them with no power since Saturday morning. The temperatures have been 40 degrees below zero wind chill since the heat went out.

Mr. President, we have story after story of people who are huddled in homes around stoves trying to keep warm. My scheduling director, who is from the small town of Warsaw, ND, has talked to her mother, who is over 80 years old. She has had no heat since Saturday.

Mr. President, this is a disaster of truly staggering proportions. In this storm, there were whiteout conditions for 10 hours straight—10 hours straight—where the snow was so heavy and the wind so strong, you literally could not see 5 inches in front of your vehicle. As I have indicated, all of this led to, first of all, a massive snowfall. In some parts of our State, it was as much as 24 inches. In much of the State, it was 17 and 18 inches. That is on top of record snowfall that we had already received. This is a headline from before this most recent disaster: "106 Inches of Snow and Rising." This is the Fargo Forum newspaper, the biggest newspaper in the State of North Dakota, and this was before the most recent disaster. Now we can put another 17 inches on top of that in the Fargo area. This was a record at 106 inches.

Mr. President, we have extreme hardship now across the State of North Dakota—no power, extremely cold temperatures, and facing us is the worst flooding in 150 years. The National Weather Service has now told us that we can anticipate the worst flooding in 150 years. That is on the heels of the most powerful winter storm in 50 years. It makes you wonder precisely what is happening with these weather patterns.

We have had an entire community ask to be moved to an emergency shelter—1,500 people. In one of the small towns in North Dakota, they asked to have the whole town put in an emergency shelter because there is no heat and has not been any heat since Saturday. We had a local rancher call in to the radio station, and he said, "My entire herd is out because the fences went down with this incredible ice storm and these extraordinary winds." He asked people who were listening to the radio, "If you see my herd roaming around, give me a call." I had another rancher call in from a town out in the western part of North Dakota, and he had a hundred cows and he had a calve crop coming in. Understand, this is the part of the season when you are calving. The calves are being born and being born in these disastrous conditions. They had a hundred cows, and they had a calve crop coming in, and they believe all of them are dead. They brought 10 into their own home—10 calves into their home to try to save them. All of them died. What was happening was, as the calves were being born, the wind is so strong, the snow is being forced up into their nostrils and the cows were suffocating. Now, if they didn't suffocate, they froze to death. Now, that is the extraordinarily brutal conditions that we are facing.

Mr. President, we had a disaster supplemental sent up by the White House before we had this 2-week break. I hope very much that the first order of business here will be that disaster supplemental. We ought to move that legislation and move it now. There is assistance in that legislation for some areas that have already been hard hit. There is further assistance for those that have been hard hit since that disaster bill was sent up here.

So I would ask respectfully of the leadership to get that disaster supplemental to the floor as quickly as possible. These are situations that cannot wait. These people need help. They need it now. North Dakota has been first in line to help out others when they faced disasters, and we have been happy to do so.

Mr. President, we are now faced with a staggering disaster and we need help. We are asking for it now.

Mr. President, I see there are other Senators wishing to speak. Will we be able to continue?

The PRESIDING OFFICER. The Senator's time has expired, and it would take unanimous consent for the Senate to continue.

Mr. CONRAD. Mr. President, I ask for 1 minute more.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, in addition to the disaster supplemental, I think we should also ask, "Where is the budget?" Because the budget contains items that are going to be critically important to dealing with these disasters as well. The budget was supposed to have come out of the Budget Committee by April 1. That deadline has been missed. The full Senate is supposed to act by April 15. I hope we don't miss that deadline as well, because this Congress is developing a reputation of failing to act.

Mr. President, finally, there is a third matter. That is the chemical weapons treaty. We have a deadline of April 29. That is when it goes into effect. Where is that piece of legislation?

Mr. President, I say to my colleagues that there are three pieces of business that we ought to do and do quickly.

The disaster supplemental ought to be first in line.

Second, the budget: We have a deadline of April 15.

Third, the chemical weapons treaty: We have a deadline of April 29.

All three of those ought to be taken up, taken up quickly, and passed so the people of this country know that this Congress is doing its business.

I thank the Chair. I yield the floor.

Mr. JOHNSON addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. JOHNSON. Thank you, Mr. President.

The PRESIDING OFFICER. If the Chair could interrupt the Senator, the Senator has an order to go into recess at 12:30. It would take unanimous consent for the Senate to extend that.

Mr. JOHNSON. I ask unanimous consent to extend morning business, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DEVASTATION IN SOUTH DAKOTA

Mr. JOHNSON. Mr. President, I come to the Senate floor today to commend and recognize the strength and tenacity of the residents of my State of South Dakota, and also to further emphasize the importance of this body in expediting the President's request for supplemental appropriations for disasters occurring in the Great Plains and other parts of our country.

I returned to Washington yesterday after spending 6 days touring the devastation occurring in virtually every corner of my State. South Dakotans are a hearty stock and during my years serving the citizens of South Dakota I have repeatedly witnessed South Dakotans' ability to overcome any obstacle Mother Nature has given us. However, I don't believe I have ever seen South Dakotans rise to the occasion in quite the manner they are doing right now under extraordinary circumstances.

I traveled to South Dakota last week expecting to see widespread residual damage from the severe winter weather the State experienced over the past several months and subsequent high water from the ongoing snowpack melt. Relentless sub-zero temperatures and continual snowfall in January forced South Dakota Governor William Janklow to request a major disaster declaration from President Clinton to ensure roads could remain clear for emergency services and basic travel and access to livestock. President Clinton responded positively to the Governor's request and granted the declaration which gave the State additional tools to help meet its basic transportation needs.

Farmers and ranchers began facing hard times last fall with normally available grazing and unharvested row crops being buried with snow. The subsequent extreme cold increased the nutritional requirements of livestock and depleted winter feed supplies. This already tough situation became a crisis when the early January blizzards literally killed livestock and put most producers' livestock at risk because of access to feed being cut off. No one yet knows how many livestock were killed, but estimates top at least 100,000. In addition, many livestock suffered frostbite and were significantly weakened.

During this time, ordinary activities became extremely and increasingly difficult because of the excess snow. Wintertime expenses likely tripled as just getting livestock feed became a Herculean task. The continued stress on livestock, especially cattle, meant that the most important time of the year for ranchers—calving season—was approached with trepidation if not outright fear. Nutritional stress during late gestation makes for weak and dead calves.

I toured the State during this winter storm disaster and was struck by the dramatic impact, particularly in the northeastern region of the State, of the winter weather. Snowdrifts as high as buildings, roads with only one lane cleared with snow piled high on either side, homes without heat for days in the bitter cold, tens of thousands of dead livestock, schools closed for a week at a time, and the depletion of our indigenous wildlife populations were commonplace. I vividly remember watching a cow climb to the top of a snowdrift as high as the roof of the barn so that he could eat the shingles from the roof. And, I also remember the positive, stubborn attitude of the residents of South Dakota in the face of this disaster. South Dakotans knew that what they were facing was tough, but they also knew that they were tougher.

As if surviving the severe winter cold of December, January, and February was not challenge enough, residents and State and local officials knew they could not rest from fighting the forces of Mother Nature. Once all of the roads were cleared, emergency services were no longer threatened, and it appeared that the worst of the winter weather was over, focus turned to the next challenge: potential flooding problems the State could experience once the snowpack began to melt.

Governor William Janklow provided exceptional leadership with his comprehensive and aggressive efforts to get every community as ready as it could possibly be for the impending floods. Governor Janklow set up a State task force to monitor the flows of the rivers and to work with local governments in their preparations. State and local governments worked with the Corps of Engineers and the National Weather Service to predict precipitation and runoff levels, identify areas where additional flood protection measures should be undertaken, and design and implement additional flood control measures. The efforts made by communities were considerable. For example:

In Sioux Falls, the largest city in South Dakota, the Big Sioux River flood protection system was temporarily bolstered to hold up to 41,000 cubic feet of water per second. It was designed in the 1950's and 1960's to hold 24,000 cubic feet—5,600 in the main river channel in western Sioux Falls and 18,400 in the diversion channel in the northeast corner of the city. Sioux Falls also aggressively sandbagged and used over 60,000 sandbags in its efforts.

The small community of Davis filled and placed over 8,000 sandbags. Residents of the town of Hecla, population 400, built two dikes at the west and north ends of town to hold back the James River. In Aberdeen, the city built a levee about 2 feet high around the northern edge of the city in just 6 days.

These are just a few examples of the mitigation efforts undertaken by communities all over South Dakota. Because of these efforts, from all reports, South Dakota communities could not have been better prepared for the anticipated flooding. I traveled to South Dakota early last week expecting to see high water fairly well controlled by these mitigation efforts with some areas faring worse than others.

Unfortunately, the situation was worse than I anticipated because Mother Nature, as only she can do, had changed the rules of the game and given the residents of the State of South Dakota more water than initially anticipated and additional severe winter weather. The devastation I witnessed and subsequent destruction in the short time since my touring ended is heart-rending in its thoroughness and in its indiscriminate taking of property and possessions.

Let me give just a few examples of the ways in which our communities have pulled together:

In a relatively small community near Huron, 150 students, volunteers, and State inmates joined together to save the James Valley Christian School from the waters of the James River. Their efforts were absolutely inspiring. These individuals labored for days to stem the rushing James River with a sandbagged dike and sandbags all over the area to protect the school. Unfortunately, the James Valley Christian School lost its fight just days after I toured it. It now sits in 6 feet of water.

I visited the farm of Gary and Diane Foster near Bruce, SD, where 30 head of cattle were calving on a small island surrounded by flood water. I will not soon forget this tragic sight.

It was evident that our farmers will once again face a financially devastating problem in regard to springtime planting. Flooded fields prevent any field preparation, let alone planting. And there probably is not enough time for drying before it will simply become too late to plant this years' crops. In 1995, another very wet year, less than 40 percent of my State's crops were planted on time.

The current flooding means that we probably will not even match 1995's slow performance. This is going to deal a tough blow to the agricultural economy of my State—and, in the end, it will deal a blow to consumers and businesses on Main Street.

I was amazed by the reality that many South Dakotans who normally travel 10–15 miles to work, now have to drive 50–90 miles to work to avoid washed out or water covered roads, which often times are our major highways. The Sioux Falls Argus Leader reported that Janice Mellema, a nurse who lives west of Platte but works at the Gregory County Hospital, is forced to leave her home at 3:30 in the morning to arrive at work by 6. She now has a 90-mile commute.

Some 100 people in north central South Dakota have already spent 30 days in a motel after they were evacuated from their homes because of rising water. This last weekend 5,000 people in Watertown, SD, have had to leave their homes.

Essential services in many communities such as wastewater treatment plants are threatened. Many communities' systems have been overwhelmed and have been forced to release untreated water.

Vital infrastructure has been dramatically impacted. During my tour, we drove on roads covered with water and saw many, many county roads completely washed away by a deluge of water. In McCook County every road that goes into the county from both the east to the west and from the north to the south are closed at some point.

Just as South Dakotans were accepting and successfully fighting the increased flows of water, Mother Nature hit the State with yet another blizzard over the weekend. Some areas received 34 inches of snow accompanied by 60-mile-per-hour winds. This winter storm resulted in sub-zero wind chill temperatures and zero visibility in much of the State for an extended period of time. A 100-mile stretch of Interstate 90 was closed and many communities were forced to prohibit all travel. I was stranded in Wall, SD for over 24 hours because of this winter storm.

This winter storm would have been a lot to handle as an isolated incident but coupled with the flooding already experienced all over the State, the impact of the winter weather has been unprecedented. The added precipitation and severe weather has led to unparalleled devastation.

Last weekend's blizzard is truly salt in the wound for producers in my

State. Our producers are in the middle of calving season now and trying to prepare for springtime field preparations. The blast of cold and more snow on top of already treacherous conditions will surely mean that the number of dead livestock will continue to rise. This may well put many producers over the edge financially—after all, they only get one chance per year to successfully complete calving season.

This storm severely impacted the city of Watertown, causing the situation to escalate from a 100-year flood event to a 500-year flood event. Earlier this week, Mayor Brenda Barger, who I must commend for her effective leadership during this crisis, poignantly observed that, "It's a humbling thing when you see people out sandbagging in 60-mile-per-hour winds, in a blizzard, knee-deep in water." I think her statement sums up a lot of what everyone has felt over the last few weeks and, in particular, the last few days. Everyone banded together to save and minimize damage to both public and private property regardless of the weather conditions.

In a State that covers 80,000 square miles, it is both rare and unfortunate to have a situation where regions across the entire State are so disastrously affected by severe weather. The widespread nature of this disaster has devastated the agribusiness economy of our entire State and assistance in the coming months is absolutely critical to ensuring the future existence of many small businesses in South Dakota. The combined impact of the weather disasters over the last 5 months on agriculture is the gravest threat South Dakota farmers and ranchers have faced from nature in probably 100 years. Additionally, the damage done by the prolonged flooding has jeopardized the long-term viability of parts of South Dakota's infrastructure. Prior to the extensive damage done from this year's severe weather to South Dakota's roads, the State of South Dakota had an excess of $500 million in backlog needs on its State Highway System alone. And, the damage to personal property is as yet uncalculated in monetary or sentimental value.

Our State has been fortunate enough to receive an outstanding response from President Clinton and FEMA in the past. I am grateful that, once again, the President has responded expeditiously with much needed assistance for South Dakota. Yesterday, the President made a major disaster declaration for the entire State which will supplement the efforts of the State and local governments during this difficult time.

As I mentioned previously, the spirit of South Dakotans, even in this incredibly difficult time, never ceases to amaze me and this weekend's trip reemphasized that impression in my mind. I am committed to doing everything I can do to assist the State and communities as much as possible to ensure South Dakotans can get back to living their normal lives at the earliest possible time. I look forward to continuing to work with Senator DASCHLE, Representative THUNE, Governor Janklow, and local communities in the coming weeks and months as we clean up from this disaster. After all South Dakotans have endured over the past few months, they need all we can give. We need expeditious action on this floor on the supplemental appropriations requests.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent morning business be extended long enough for me to give my statement, which I believe will be less than 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. LAUTENBERG. Mr. President, I also ask unanimous consent that the privilege of the floor be accorded to Mr. Dan Katz from my staff, who should be admitted to the floor because he worked so hard.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey is recognized.

Mr. LAUTENBERG. I thank the Chair.

(The remarks of Mr. LAUTENBERG pertaining to the introduction of S. 527 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RECESS

The PRESIDING OFFICER. The Senate will stand in recess until 2:15 today.

Thereupon, at 12:54 p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. COATS].

NUCLEAR WASTE POLICY ACT AMENDMENTS—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the time between 2:15 p.m. and 5:15 p.m. shall be for debate equally divided on the motion to proceed to the consideration of S. 104, which the clerk will now report.

The legislative clerk read as follows:

> A motion to proceed to the bill (S. 104) to amend the Nuclear Policy Act of 1982.

The Senate resumed consideration of the motion to proceed.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have been requested by Senator KENNEDY—and it is my understanding Mr. HATCH has requested of Senator MURKOWSKI—to give 15 minutes of our time to Senator KENNEDY and Senator MURKOWSKI will give 15 minutes to Senator HATCH. I ask unanimous consent for that at this stage.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would like to express appreciation to Senator MURKOWSKI and Senator REID for their willingness to give Senator HATCH and myself an opportunity to introduce our children's health bill. I see my colleague, Senator HATCH, on the floor now. So, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank the Chair.

(The remarks of Mr. HATCH, Mr. KENNEDY, Mr. DODD, and Mr. KERRY pertaining to the introduction of S. 525 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Nevada.

Mr. REID. Would the Chair report the matter that is now on the floor?

The PRESIDING OFFICER. The matter pending before the Senate is a motion to proceed on S. 104, the Nuclear Waste Policy Act.

Mr. MURKOWSKI. Mr. President, if I could make an inquiry relative to the time we will have on the bill this afternoon.

Mr. REID. It is my understanding that the proponents and opponents have an hour and 15 minutes each, and I say to the chairman of the committee, I was going to speak for about 20 minutes.

The PRESIDING OFFICER. The Chair announces that under the previous agreement, an hour and a half is divided. However, 15 minutes from each side has been allocated to the previous speaker, so there is an hour and 15 minutes remaining for each side.

Mr. REID. We both understand that.

Mr. MURKOWSKI. I thank the Chair.

Mr. REID. If the chairman of the committee desires to go first, I have no problem.

Mr. MURKOWSKI. The Senator from Nevada should proceed. I went first yesterday. I suspect we will be taking turns.

Mr. REID. I yield myself 20 minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, as we indicated yesterday, this matter is on the floor for one reason and one reason only. That is the nuclear power industry. That is the reason we are here. There is no other reason. The fact of the matter is that the situation here is the same as it was last year.

What I indicated, Mr. President, yesterday, and it was confirmed by the chairman of the committee, we are not here because of science. We are here because of politics. We underline and we underscore that.

What I said I would do yesterday I want to do today. That is, indicate to the Members of the U.S. Senate that there are approximately 200—I repeat, 200—environmental groups opposed to this legislation. I am not going to read the names of the environmental groups, but I ask unanimous consent the entire number and names of the environmental groups be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Environmental and Citizens Groups Against the Bills That Would Replace the Current Act

Nuclear Information and Resource Service, Greenpeace, League of Conservation Voters, Public Citizen, U.S. Public Interest Research Group, Physicians for Social Responsibility, Sierra Club, Military Production Network, Natural Resources Defense Council, Office for Church in Society, United Church of Christ, Project on Government Oversight, League of Women Voters of the United States, Union of American Hebrew Congregations, United Methodist General Board of Church and Society, Nuclear Free America, National Ministries of the Presbyterian Church (USA), Nuclear Waste Citizens' Coalition, Safe Energy Communication Council, Friends of the Earth, Citizens Awareness Network, Missouri Coalition for the Environment, 20/20 Vision, Prairie Island Coalition, Environmental Action.

Native Youth Alliance, Nuclear Control Institute, Clearwater, Citizens for Alternatives to Chemical Contamination, Rocky Mountain Peace Center, Snake River Alliance, Citizen Alert, Redwood Alliance, National Environmental Coalition of Native Americans, Campaign for Nevada's Future, Southwest Research and Information Center, Clean Water Action, Free the Planet, Blue Ridge Environmental Defense League, Kansas Sierra Club, Envirovideo, Kansas Natural Resources Council, Greens/Green Party USA, Fellowship of Reconciliation, Good Money, Inc., Wyoming Outdoor Council, Nuclear Resister, Three Mile Island Alert, Western North Carolina Alliance, GE Stockholders Alliance, The Peace Farm, Tennessee Valley Energy Reform Coalition, C–10 Research and Education Foundation, Northwest Environmental Advocates, Oyster Creek Nuclear Watch, Green Party of Ohio, Grass Roots Environmental Organization, Physicians for Social Responsibility, Los Angeles, Alliance to Close Indian Point, Sierra Club Legal Defense Fund, Louisiana, Toledo Coalition for Safe Energy, Wilmington College Peace Resource Center, Grandmothers for Peace, Student Environmental Action Coalition, U. of Wisconsin, Milwaukee, Orange County Greens, U. of Florida Environmental Action Group, Eco-Action, Penn State U., Austin Greens, Student Environmental Action Coalition, U. of Northern Iowa, Los Gatos Unitarian Fellowship.

Alliance for Survival, Nuclear Democracy Network, Stop the Organizations Raping Mankind, Pennsylvania Environmental Network, Heart of America Northwest, Desert Citizens Against Pollution, Eco Sense, American U, California Communities Against Toxics, Nuclear Energy Information Service, Nuclear Age Peace Foundation, People's Action for Clean Energy, Iowans for Nuclear Safety, New England Coalition on Nuclear Pollution, Physicians for Social Responsibility, Kansas, Student Environmental Action Coalition, U. of Delaware, St. Joseph Valley Greens, Economists Allied for Arms Reduction, Kwanitewk Native Resource Network, Physicians for Social Responsibility, Atlanta, Los Alamos Study Group, Abalone Alliance, Fernald Residents for Environment, Safety & Health, Womens Action for New Directions, STAND, Center for Energy Research, Humans Against Nuclear Waste Dumps, Mescalero, Physicians for Social Responsibility, Colorado, American Friends Service Committee, Denver, North American Water Office, Students for Social Responsibility, CalPoly, War & Peace Foundation, North Carolina Waste Awareness & Reduction Network, Ohio Sierra Club Nuclear Issues Committee, Downwinders, Women's Environment & Development Organization, Mississippi River Basin Alliance, Ygdrasil Institute, Nukewatch, WESPAC (Westchester People's Action Coalition), Oregon Peace Works, San Luis Obispo Mothers for Peace, International Institute of Concern for Public Health, Save Ward Valley, GRACE Public Fund (Global Resource Action Center for the Environment), Environmental Defense Institute, Citizens Regulatory Commission, The ZHABA Collective, Northweast Ohio Greens, Arizona Safe Energy Coalition, Indian Point Project, No Escape, Citizens at Risk: Cape Cod, E–3, Wesleyan University, Wolf Creek Citizens Watchdog Group, Indigenous Environmental Network, Pax Christi USA, University of Maine Student Government.

The cities of Los Angeles, Denver, St. Louis, Philadelphia, Decatur, GA, Mt. Rainier, Takoma Park & Greenbelt, MD, Beacon NY, Falls Township, PA, Amherst, MA, Wadesboro, NC and Ventura, San Luis Obispo, Santa Barbara (CA), Marshall, Anson (NC), and Bucks (PA) counties.

And, according to a December 1995 poll, 70% of the American people.

These bills override environmental laws, pre-empts state environmental laws and regulations, weakens radiation protection standards, makes taxpayers liable for nuclear waste accidents, and threatens 50 million Americans with a Mobile Chernobyl.

It's a disaster for the environment.

Mr. REID. Among those that are opposing this legislation are the Physicians for Social Responsibility, Clean Water Action, the Students Environmental Action Coalition of the University of Northern Iowa, Eco-Action of Penn State University, Southwest Research and Information Center, Snake River Alliance, Alliance for Survival, San Luis Obispo Mothers for Peace, Los Alamos Study Group, Desert Citizens Against Pollution. These are only a few, Mr. President, of the organizations that oppose this legislation. There is not a single environmental group in the United States of America that supports this legislation.

We heard yesterday and we have heard time and time again, Mr. President, that the State of Nevada had nuclear testing, therefore, why do we not have open-armed acceptance of storage of nuclear waste? I say, Mr. President, some have said that since the Nevada desert has already been degraded from nuclear weapons testing, it is a logical place to store nuclear waste.

Somehow, this logic seems to contradict the old saying that two wrongs do not make a right. The suggestion assumes that these two activities have something in common. The only thing they have in common is posing danger to Nevada citizens and its environment.

We have just recently finished 50 years of the most dangerous period in America's history. During this period of time, the Soviet Union and the United States had tens of thousands of nuclear warheads pointed against each other.

Mr. President, as I said, just a few years ago, tens of thousands of nuclear warheads were pointed toward the Soviet Union and toward the United States. This dangerous era was ended successfully, I believe, Mr. President, in large part, because of what was done at the Nevada test site. That is, we tested the new weapons, the safety and reliability of those that were in existence. This, Mr. President, was a time of national crisis. All were called upon to do what they must in order to protect our country's security. The urgency of this national mission required things to be done in ways that, under less stressing conditions, would never have been permitted.

Well, just like the promises made by advocates for waste storage in Nevada, that was then and this is now. Then was a period of national crisis and danger. Now is one of peace and prosperity. Now is a time when we can surely do things right. There is no danger presently that would drive us to endanger our environment or our public by reckless and ill-conceived actions.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, with respect to disposal of high-level nuclear waste, this Nation is today at a crossroads. The job and the responsibility of addressing the disposal of spent nuclear fuel from our Nation's powerplants—is an obligation of this body. The time for fixing the problem is now.

There has been a lot of progress made. We have selected a permanent repository at Yucca Mountain. That is already done. It is underway. We have expended about $6 billion, and that 5-mile exploratory tunnel will soon be completed. This is a positive commitment by the Congress to proceed with a permanent repository. We can build on this process.

This bill, Senate bill 104, continues the site characterization activities for a permanent repository. Make no mistake about it. But this is an ongoing process. In the meantime, we have an obligation to take this waste next year, in 1998. Well, this Senator from Alaska and the majority of my committee are of the opinion that a contract is a binding commitment.

The Federal Government, 16 years ago, entered into a contract with the nuclear industry to take this waste in 1998. We have no place to put this waste because Yucca Mountain isn't completed. We face penalties; we face litigation. It is estimated that the damages associated with the inability to fulfill the contractual commitment will run somewhere between $40 billion and $80 billion. That is an additional load on the taxpayers of this country. We need a temporary storage facility or we will continue to be storing this waste across the Nation for decades to come.

Where is the waste? Well, let's look at this chart. We have commercial reactors represented on the chart. We have shut down reactors with spent fuel on sites represented on the chart. We have 110 of the commercial reactors, 110 reactors in about 41 States. We have 10 shut down reactors, represented on the chart. We have one existing site for spent commercial nuclear fuel storage on the chart, is in the State of Illinois. Non-DOE research reactors—we have 38 shown on the chart. We have naval reactor fuel up in Idaho, up in Washington, and in Georgia. There are 10 of those sites. Department of Energy-owned spent nuclear fuel sites, about 12, are indicated on the chart.

So there is where we are. We have this stuff scattered all over the United States. We can choose now whether the Nation needs these 80 sites, or just 1—1 in the arid remote Nevada test site, where we exploded a series of nuclear bombs during the cold war, a site that has been determined to be safe. It is a remote location. It has been well monitored by an experienced work force and a security force as well.

Now, if Yucca is licensed for a permanent repository, it will simply be a very easy task to move the spent fuel to the permanent repository from the interim facility this bill would authorize. Now, the problem is that Yucca isn't going to be ready until the year 2015. Some suggest, well, what happens if Yucca is not licensed or is found to be unsuitable? Will we need a centralized interim site anyway so that we will be way ahead of the game? The answer is, yes, regardless of what happens at Yucca, this is a step we should take and take now.

Critics have claimed that we can't store waste safely, that we don't have the technology. Nature itself suggests that a geologic repository, which this bill supports, is the best long-term answer. Let me refer again to a natural geological nuclear waste repository that has been in existence for a long time. Such a repository is in Gabon, in Africa. There, approximately 1.8 billion years ago, at a place called Oklo, scientists have proven that naturally occurring, highly enriched uranium began a spontaneous nuclear reaction producing almost a ton of plutonium, as well as all of the other fission byproducts that occur in spent fuel from modern nuclear power plants. That is the history. That is a fact. It actually happened, under the watch of Mother Nature. Now, Mr. President, when it happened, it happened just a few feet beneath the surface. No geologists studied the site before the waste was "stored" there. There was no engineering barriers around the so-called spent fuel. However, scientists have proven that the plutonium and the other fission products did not migrate away from that site. There is nothing unique, Mr. President, about the geology of Oklo. This "experiment" shows that radioactive waste can be successfully contained within a geologic repository. Mother Nature did it 1.8 billion years ago. Now we are talking about the science, the technology, and the application of mankind in the process. Well, it certainly seems to be taking equally as long.

When I said that we had designated Yucca as a permanent repository and that we spent some $6 billion in the process, and will probably expend as much as $30 billion, it is important to recognize what comes next. First, it has to be deemed viable. That means the scientific information gathered by 1998 will show that nothing is there that would disqualify Yucca Mountain for a permanent repository. That is done next year, in 1998. What are the odds on that? They tell us about 90 percent.

The second factor is the suitability. Yucca Mountain must be suitable. It must be a suitable site for a permanent repository under the guidelines issued by the Department of Energy. When is that supposed to be completed? In the year 2001. What are the odds on that? They tell us about 80 percent. Then, of course, it has to be licensed, licensed by the NRC, who issues the license for a permanent repository. Well, for the date of that we can only rely on the former Secretary of Energy O'Leary, who indicated that would be about the year 2015.

Talking about this waste brings us to the reality that we are going to have to transport it. You simply can't leave it at these sites. So let's talk a little bit about the transportation issue, because this is on the minds of many Members. This map accurately shows, from 1979 to 1995, the movement and transportation routes of 2,400 individual shipments of waste around the country. The interesting thing, Mr. President, is that they go through every single State of the 48, with the exception of South Dakota and Florida. All the States are represented here. That is the harsh reality. We have been moving this waste for 16 years. Why hasn't it been on the front pages of the papers? Because it has been a nonevent. It has moved safely. It has moved from reactors. It has moved from Navy facilities and from Army facilities, and it has been on railroads and on highways, and it has been under the auspices of the Department of Energy, and it has been safe.

We have heard in this debate, primarily from my good friends from Nevada, that somehow this waste is a new threat that America has never faced before. That is just poppycock. Emotional statements have been made time and time again, suggesting that somehow the health and safety of 50 million Americans will be threatened. And there have been references to the unfortunate Chernobyl accident. That accident, as everybody knows, involved a graphite reactor without a containment building. Electricians were in there doing an operation they weren't supposed to be doing. They didn't have the training. They bypassed the safety procedures, took the reactor critical, and the results were very unfortunate. But it was human error, Mr. President. The graphite reactors are not the type that we have in the United States. Yet, this effort to try to address an obligation to our Nation's waste has been referred to as a "mobile Chernobyl."

Here is what we have been moving, Mr. President. Again, do we want to move it to one site in the Nevada desert now, as we wait for the development of our permanent repository? Or do we want to leave it for another 15, 16, or 17 years, actually, in the 80 sites in 41 States? No fatality, injury, or environmental damage has ever occurred in the United States because of radioactive cargo movement. That is just a fact. We have taken steps to ensure that the risk is as negligible as possible.

Some of our friends would imply that if this bill doesn't pass, then nuclear waste won't be shipped on our Nation's roads. Well, that is simply not true, Mr. President. Let's take a look at the routes used—the routes used for 15 years, again, for the thousands of fuel shipments. Some say they didn't know the fuel shipments took place. Again, as I have said, that is because they are uneventful. Trucks carrying the casks have been in accidents, but the casks that contain the nuclear material have performed as designed. They have not broken open. The nuclear disasters that the Senators from Nevada have referred to, Mr. President, simply haven't happened.

Now, we have heard claims that the number of shipments that would occur under Senate bill 104 is an unprecedented amount. Well, that is simply not true. We have our storage in our reactors in the cells adjacent to the reactors and the pools, and those are filling up. We need to relieve that congestion, and that is the whole purpose of the interim retrievable storage. We currently have about 30,000 metric tons of spent fuel in this country. But the French alone have shipped that amount of spent fuel all over Europe—for that matter, all over the world. This is not just history. It is happening today. It is happening all over the world.

The Department of Energy, as a matter of fact, is transporting spent nuclear fuel all over the country and all over the world as we speak. Here it is in the country. Let's take a look at a chart of the world. Here we have it, Mr. President. There seems to be a double standard here when the Department of Energy claims that it cannot possibly fulfill its obligation to the U.S. electric ratepayers to take spent fuel. Why is it doing so in foreign countries? Well, here they are. In Europe, there is Austria, Belgium, Denmark, Turkey, Iran, Pakistan, Australia, throughout South America, and Peru and Canada. We are taking this now under agreements that have been made. Where is it going? It is going to the Savannah River in South Carolina. This chart shows the actual times of delivery from 1996 to 2009. These are the countries to which we have committed taking their waste. So it is a double standard, Mr. President. Why are we doing it for foreign countries? We are not doing it for our own nuclear industry.

You may ask why the taxpayers are paying for the Department of Energy to transport and store nuclear waste in foreign countries while American ratepayers are left out. All the countries in color on this chart ship fuel to the United States for storage at the Department of Energy facilities. It doesn't seem to be a mystery to some. But it is a mystery to me. Another mystery is why many of the same groups that most actively oppose resolving our domestic fuel storage problems were most supportive of taking nuclear waste from foreign countries. Think about it. We are taking waste from Russia—military waste—because we deem that lessens the proliferation threat. If they support taking nuclear waste from overseas, can the safety of transportation be an issue? One wonders why it is now. How can it be safe for the Department of Energy to ship spent fuel halfway across the world but not across a few States? They don't explain that very well, do they?

Actually, if you look closer, you see that the Department of Energy transports nuclear waste across the United States. Let's take a look at a map of the United States. It goes into Hanford. It goes into Savannah; Hanford in the State of Washington. This shows the American research reactors at our universities. They ship fuel for storage at DOE facilities. They are scattered all across the country. The various universities are Ohio State, MIT, the University of Virginia, and Oak Ridge. We could go on and on. They are all across the country. That is why I contend that we have a double standard.

Why does the Department of Energy pay to transport and store nuclear waste from foreign countries but won't do its own duty to the U.S. power reactors that have paid for the service? They have paid for the service. The ratepayers that depend on nuclear energy paid $13 billion to the Federal Government. Where is the money? It has gone into the general fund. It is not an escrow account. But there is a contract signed for next year. The Department of Energy will say that they take foreign fuel to help with the nonproliferation. That is all well and good. But spent nuclear fuel is spent nuclear fuel regardless of where it is. If transportation and storage is safe for some, why isn't it safe for all?

I think this just proves the point that the obstacles to moving our Nation's spent fuel are political. They are not technical. We have moved it. We move it from our research reactors all over the country. We move it from other countries in the world and bring it to the United States to Savannah, and have been doing it for some time.

My bill, and the committee bill, S. 104 of Senator CRAIG and others, provides the authority to coordinate a systematic safe transportation network to move spent fuel to a storage facility under Senate bill 104. The Department of Energy is required to use—"required"; it is not optional—to use NRC-certified transportation containers to transport fuel along special routes chosen by DOT radioactivity transport regulations and considerations set out in the bill.

Let's take a look at how that is shipped because I think it is important to recognize the care that goes into this. This is a truck that is moving over the highways of the Nation probably today; moving some kind of fuel in a cask probably to the Savannah River site in South Carolina. It is moving safely. It is moving in a special container. These are probably spent fuel rods. They are radioactive. But by the same token, care and engineering technology has gone into this. I find it surprising to note that—and the comment was made in the debate that the environmental groups don't support this legislation. I find it further perplexing that these groups on the one hand are opposed as we all are to the increase in greenhouse gases yet the only current technology available to reduce it dramatically is nuclear energy. Our use of nuclear energy reduces more than 140 million metric tons of carbon dioxide emissions each year, not to mention sulfur dioxide and various other pollutants. This is the contribution that nuclear energy contributes to air quality in this country. Some suggest that the opposition by the environmental groups is simply to shut down the reactors because they do not believe in or don't approve of nuclear energy or nuclear power.

But they don't want to recognize that about 22 percent of our Nation's power is generated by nuclear reactors, and, if you reduce or eliminate the nuclear power industry in this country, you will have to replace it with something. It will probably be replaced with carbon fuels. And there is an emission concern there.

So I say to those that are opposed to this legislation that they have an obligation to come up with something that answers the question of what we do with our spent fuel. I think that is what this bill does.

Further safeguards have been taken in this legislation to provide that transportation cannot occur until the Department of Energy has provided specific technical assistance and funding to States affected by the transportation route, Indian tribes, and for emergency response planning along the transportation routes. That isn't what is done now. But that is what is required in the bill to make it that much safer. The language builds on what is an already safe system for transporting spent fuel in this country. As I have said before, the public has never been exposed to radiation from spent fuel cargo even in accidents. Between 1971 and 1989 the Department of Transportation tells us that there were seven minor accidents involving trucks carrying waste: Flat tires, and various other things. But no radioactivity was released in any of the accidents. That is because transportation canisters are designed to maintain their integrity during severe accidents. They have been used for thousands of safe shipments over the years. As a matter of fact, they were designing casks at one time when they contemplated flying the fuel. It was suggested that the technology existed for casks to be designed for a 30,000-foot free fall. And I am told that they could design it.

Nevertheless, the canisters that are depicted here in the picture, the design approved by the NRC for spent fuel transport have demonstrated a remarkable ability to withstand falls of 30-foot drops. And these are tests that were made into a national unyielding surface. There was no penetration from a drop of 40 inches onto a steel spike; no penetration being engulfed in 1,475-degree temperature fire for 30 minutes; no penetration, submerged under 3 feet of water for 8 hours; no penetration.

So, despite what you may hear, engineers at the national labs tell us that the test conditions that these casks are subjected to are much more rigorous than any that they would face in real, live accidents.

These casks have been tested in some more rigorous ways. Probably it would be interesting to watch because they have been run into by locomotives, and crashed into walls at 70 miles an hour. If any of the Senators or the staff want to see the video of these tests we would be happy to provide them with the tapes to view and to keep.

So I suggest that we face facts. The history of the nuclear waste shipments is that they are moving almost as we speak, continue to move, and will move tomorrow but they are not going to be carrying the waste that they were contracted for. They will be carrying other wastes from other countries from research reactors from our universities. And it fails me to know why we are excluding the waste that we contracted for 16–17 years ago to take next year, and we have no provision to take that waste. That is what this bill is all about. S. 104 provides safe transportation with a perfect record, and I think it makes it even safer.

So as a consequence, that tells the story of the transportation system.

Let's look very briefly at what we are proposing. This is the location for the waste storage at the Nevada test sites that we have used for the previous 800 nuclear weapons tests. That is what it looks like. It is a pretty barren area. You see some roads for access, and mounds where 800 nuclear weapons tests were made. Why was this area picked? Probably there are a lot of reasons. It is remote. That is certainly one. The weather is pretty stable out there. You can observe the testing very well. They had a trained work force. To some extent I suppose there was some economic reasons. But it is not my State, and it is not appropriate that I evaluate the rationale that went into it. But that is the site.

When we look at all other factors and recognize that nobody wants to store waste, the fact that we have it in 40 to 41 States, and the fact that we are going to have to move it regardless of whether it is being moved to a temporary repository or eventually to a permanent one, the transportation factor is a given.

So I hope that those that are concerned about transportation recognize a couple of things: One, they may have waste in their State already. It may be military waste. It may be naval waste. It may be waste from some other activity associated with their university, or they may have nuclear power. If you want it to stay there indefinitely with no action, then that is the status quo. And that is where we have been. But if you want to move it out of your State, you have to move it someplace. The question is where do you move it?

We have determined that this is the permanent site for a nuclear repository. When that was chosen, it was chosen over potential sites in the 50 States. Why was it chosen? Because it was deemed to be, of all the sites that were evaluated, the best site with the highest likelihood of this being named the permanent repository when we get through with the process now underway. That is the process of viability, suitability, and licensing. Then it goes in there permanently under our policy. But the idea of moving now to accept this area for a temporary repository until we can complete Yucca Mountain is what this legislation is all about because it suggests that it would move in those casks by transportation routes, either surface railroad or highway, in these casks out to a pad, out in the desert where it would be monitored. And those casks would be held there so we can fulfill our contractual agreement as we recognized that the storage at our nuclear power generator sites are filled up. They would be moved out to this pad and be monitored until such time as the permanent repository is completed.

On the chance that the permanent repository is not licensed and it doesn't get through this viability, suitability, or licensing, this bill provides that we still have an obligation to address a resolve. That would require the President then to find another site. We have gone through all the 50 States. If this one is not suitable for a permanent repository, it requires the President to find one. If he doesn't find one, he comes back and designates that this be the site.

Now, some suggest there should be some other consideration. Maybe we should do something like the base closing procedure, where we name a group of qualified people to determine a site. The problem we have with this legislation is nobody wants to face the reality of making the decision now. They want to put it off. The administration does not want to have it happen on their watch. They would just as soon have it happen on another's watch. We could easily put this off to another Congress, but we are cheating the taxpayers because the liability for nonperformance of the contract is going to face us next year. The longer we keep that waste in violation of the contractual terms, the greater the liability to the taxpayer for nonperformance, because Government simply passes that liability on to you and me, and we pay for it.

As I said, we have spent $6 billion here at Yucca. We are going to be spending about $30 billion by the time it is completed. We have been transporting waste fuel around this country for 16 years. We sit, today, with 80 sites in 41 States and we are even having some Members suggest that all they want from this legislation is the assurance that it will not be put in their State. I suppose we could go back to a 6th grade mentality—and pursue a series of amendments from virtually everybody, in all the 50 States with the exception of one. I would hope that would not happen. I would hope we can recognize our obligation as parliamentarians and address this with a resolve that suggests the way to move on this thing, and move now, is as proposed under this legislation, which would provide, after the viability is determined on Yucca Mountain as being a permanent site, which is anticipated sometime next year, to then allow a temporary repository to occur in the Nevada desert at the Nevada test site.

If somebody else has a better suggestion for a response to the obligation we have now, why, I am certainly willing to consider amendments to the pending legislation.

Mr. President, recognizing the time element that we have, I ask how much time remains on the side of the proponents?

The PRESIDING OFFICER. The Senator from Alaska controls 40 minutes and 50 seconds.

Mr. MURKOWSKI. I thank the Chair. Mr. President, I yield to my colleague at this time.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. Mr. President, I yield myself 20 minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I want to return to what I think is the fundamental flaw in this legislation, and that is that it is unneeded, unwise, and unsafe. When you ask who wants this legislation, the only one that is really pushing it, the driving force, is the nuclear utilities. That is where this all comes from. Every environmental organization in the country has expressed its opposition. The scientific community—the Congress established the Nuclear Waste Technical Review Board. I will repeat for the benefit of my colleagues, in 1989 a commission was part of the review process. They said there was no safety advantage to interim storage. In 1996, we have a report from the Nuclear Waste Technical Review Board that said there is no urgent technical need for centralized storage of commercial spent fuel. There is no safety factor to consider. And the same technical review board, constituted with new members in 1997, has offered testimony to the effect that it would be a very unwise decision because it would interfere with the permanent siting process.

That was testimony that was given on February 5. So, if we are asking about science and the scientific community, they have expressed themselves. They said this is not a good idea. If you are asking about the environmental community, where they are coming from, they are saying it is not a good idea.

Yesterday, I spent a few moments talking about the specifics of the bill.

Let me just very briefly retrace some of those issues for us. In effect, what this legislation does is to gut a process that was a bipartisan piece of legislation, the National Environmental Policy Act of 1969. If you look at page 47, and you go through a number of the specific provisions there—and we will debate this, I suspect, at greater length during the course of the week—but the act virtually emasculates the provisions of the National Environmental Policy Act. It says, yes, there will be an environmental impact statement, but the statement may not consider the need for interim storage, the time of initial availability, any alternatives to spent fuel storage, any alternatives to the site of the facility, any alternatives to the design, the environmental impact of the storage beyond the initial term of the license, which is 20 years. This makes an absolute mockery of any kind of profession that this follows NEPA, the National Environmental Policy Act, of 1969.

There are other provisions as well that refer to the preemption of all Federal environmental laws. That is section 501. We have talked about that extensively during the course of the debate. There are standards which are compromised in this provision. For example, there is a statutory provision that occurs on page 56 that indicates, rather than the Environmental Protection Agency having the ability, independent and unfettered, to make a judgment as to what the correct standard would be in terms of radioactive emission exposure, it sets a 100 millirem standard by statute and requires the EPA to affirmatively prove that the overall system performance standard would constitute an unreasonable risk to health and safety.

We did not do that anyplace else in terms of the WIPP facility which was debated last year. The two able Senators from New Mexico made forceful statements that they believed, because the WIPP facility was going to be operational in their State, they had the expectation that EPA would establish the highest possible standards to protect the health and safety of New Mexicans. Who among us could disagree with that? But that is not the standard for us here in Nevada. The EPA is constrained and limited, in terms of what it can do, and here is an example of 100 millirems of radiation, S. 104. There is safe drinking water, other low-level-waste facilities—the WIPP facility, which I just mentioned, has a standard of 15 millirems during the course of a year. So this thing is absolutely so phony in terms of any kind of protection for health and safety, it ought to be something of concern to any legislator, irrespective of where the final destination may be.

Let me say, the National Academy of Sciences—these are scientists, not people selected by the Governor of Nevada or the Nevada congressional delegation—go through a whole list of things they recommend. They recommend a risk-based standard rather than a 100 millirem standard. They have recommended the protective standard be defined by a critical group: a small, relatively homogeneous group be representative of those expected to receive the highest doses. That is not included.

They maintain that, in terms of the length of time, because nuclear waste is lethal for thousands and thousands of years, there should be no cutoff period of time, that there must be an ability to protect for thousands of years. What does S. 104 provide? That you can only consider the first 1,000 years. I suppose, whether you are an advocate for term limits or not, we would all agree that 1,000 years is not going to affect anybody in this Chamber. But, I mean for something that is deadly for 10,000 years and beyond, that is simply irresponsible to put those kinds of handcuffs on.

Human intrusion—all of the scientific community acknowledges there is no scientific basis for assuming there would be no human intrusion during these thousands and thousands of years. The statute we are dealing with, S. 104, directs just the contrary, to make an assumption that there is to be no human intrusion.

The National Academy of Sciences said that these raise complicated policy issues. There ought to be opportunity for wide-ranging input from all interested parties. These are set by statute, under S. 104—no public comment.

So, I must say that in terms of science, in terms of fairness, in terms of health and public safety, this piece of legislation is a disaster not only for my State but for America.

I want to speak for just a moment about the transportation issue and some of the film footage that has appeared. First, I think it is important for us to understand that, although Nevada, under this legislation, is the ultimate repository on an interim basis, there are some 43 States, 51 million Americans who live within a mile of each of these major corridors. The red depicts the highways, the blue depicts the rail.

You are going to have, wherever you may be looking on this map here, you are going to have roughly 16,000 shipments that would pass along these corridors—16,000. It has been suggested that the Department of Energy is experienced, but I think to put this in some context, Mr. Dreyfus, who was the head of the Radioactive Waste Management Office, an individual well known to my colleagues, having testified before the Energy Committee on a number of times, says this: "Material like this," referring to nuclear waste, "has been moving around for a long time. So that is not a technical challenge," he says. "But compared to the kind of campaign what we are talking about, what the industry has been doing up to now is trivial. We are talking about a magnitude of many times greater. We are talking about 16,000 shipments."

Since 1975, the Nuclear Regulatory Commission reported shipments that are sent by rail or by truck averaged approximately 900 miles or less. We are talking about thousands of miles. As the occupant of the Chair knows, our States are in the West and far removed from most of these reactor sites. So, I think it is important to make that point.

Let me add a couple of other things, if I may here. First of all, the casks that have been shown have no relevance to this debate—none. The casks that would be used for shipping have not been designed. They are not in existence. The casks that are used in the film prepared by the Nuclear Energy Institute refer to a previous generation of smaller casks. Those are not what is contemplated. Those are not what is contemplated. We are talking about a new generation of casks, casks that do not meet standards which we believe every such cask should meet.

For example, it requires a 30-minute exposure to a fire at 1,475 degrees. However, diesel fuel burns at an average of 1,800 degrees and can reach 3,200 degrees. So the 30-minute proposed standard for these yet-to-be-designed and produced casks does not address real world accidents, where train wrecks can burn for hours, if not for days. None of the tests would require that kind of protection.

The NRC has estimated that 6 out of every 1,000 rail accidents could cause fundamental damage that will cause the cask to fail. Given the 16,000 shipments that are contemplated, that comes to 96 accidents where the NRC-approved standard would fail. I submit that is not great comfort to those millions of Americans who are going to be along the route.

The NRC claims the cask design will prevent radioactive leakage in severe accidents. But the cask design has never—repeat, never—been tested in lifelike situations. In one computer simulation, the NRC chose four real-life severe transportation accidents and applied these conditions to a cask meeting NRC specs.

In one of those real-life accidents, which involved a 1982 train derailment and fire in Livingston, LA—this was an accident that occurred and a fire that resulted—the NRC publicly acknowledged that the high temperatures would cause an NRC-approved cask to fail. In their words, "the radiological hazard would exceed compliance values by up to a factor of four."

This is not some theoretical accident, a hypothetical. This is an accident that occurred in Livingston, LA, in 1982, and the NRC said the standards they propose would not have protected a cask under their proposed design from releasing radioactivity. That is not much comfort, that is not much assurance for those who are going to be along the highways and railways.

Let me address an issue that I think has not received the kind of attention that it should, and that is, this bill is a bailout for the nuclear power industry. Dating back to the time of the inception of the Nuclear Waste Policy Act, it was always agreed that the utilities themselves should pay for the storage and ultimate disposition of high-level nuclear waste, and the mechanism established was to establish a nuclear waste trust fund in which ratepayers would pay at the rate of 1 mill for each kilowatt hour generated into this trust fund. That is the current way.

Here is what this bill does. Rather than have the ratepayers pay for the ultimate cost, this bill very cleverly transfers the liability and responsibility to the American taxpayer. The year 2033 is the last year, under currently licensed nuclear reactors, that there will be reactors in operation. Currently, under General Accounting Office actuarial projections, the fund is from $4 billion to $8 billion underfunded in terms of what will be required, because as each reactor goes off line, it no longer contributes to the fund. The last reactor goes off line in the year 2033, and it is required that the expenditures, in terms of dealing with that waste, continue until the year 2071. So years after the last mill is deposited into the nuclear waste trust fund, expenses will continue. As I have indicated, right now the General Accounting Office says this fund is $4 billion to $8 billion underfunded.

It is contended that the ratepayers have not gotten what they bargained for. That is certainly not true now, and the surplus that is in the account is designed to take care of those years from 2033 to 2071, where nothing will come into the fund by way of a mill-tax levy because there will be no power generated from those reactors.

Here is a very, very clever way of shifting the liability to the American taxpayer. This bill, in its present form, caps the amount of contribution, even though the current fund is underfunded by $4 billion to $8 billion at 1 mill per kilowatt hour, and after the year 2003, it says that the only mill tax that can be collected would be the amount necessary to pay for the appropriation from the fund that year, providing no revenue for the outyears.

So this is corporate welfare, this is corporate pork, this is a new entitlement program which will cost the American taxpayers literally billions and billions of dollars in the outyears.

Everybody acknowledges that the 1998 deadline that was put into the act in 1982 cannot be met. I would say parenthetically, that was not a scientific date that was put in. Indeed, there was resistance in 1982 because it was felt that that time line was too short. This was a deadline that was pushed by our friends, once again, from the nuclear utilities. So it is unfair to blame the Department of Energy and the scientific community for 1998. This was a deadline pushed by the utilities.

I believe that there is equity and fairness to be provided to the ratepayers, because after 1998, they will not have permanent storage available. In each of the Congresses in which I have served, we have offered legislation that would entitle the utilities to an offset; that is, to the extent that the storage would not be available in 1998 and they would incur additional expense, as they will, that should be an offset or a reduction in the contribution that they pay into the nuclear waste fund so that the utility ratepayers do not pay twice. I think that is fair. I think there is a reasonable argument to be made there, and the administration believes that.

As recently as this past month, there were discussions to provide compensation to the utilities because permanent storage will not be available after 1998, and it was rejected by the utilities. They do not care a wit about that. That is not what they are interested in. They are interested in getting the taxpayer to bail them out for the money that will take beyond the year 2033, to the year 2071, to, in effect, take care of the expenses of the nuclear waste that they generated—that they generated—that they have made profits on over all these many years. So there is not an argument of equity we are addressing here, because not a single provision in S. 104 addresses the question of equity.

We have a piece of legislation which we have introduced, again, this Congress which we have previously introduced, which says, "Look, after 1998, yes, you don't get the permanent storage that was contemplated, we understand that." There is no conceivable way that could occur. If this bill was passed tomorrow and signed into law, the 1998 deadline could not be met for at least probably to the year 2001.

The administration has offered to provide compensation to reimburse utilities for the additional costs incurred, and our legislation would specifically do so. So this has not one thing to do with ratepayers being charged twice. They are given an opportunity for relief, if they want it, in the legislation that my senior colleague from Nevada and I have introduced. So let's put that to rest.

The lawsuit. The lawsuit changes nothing. The lawsuit was finalized last year before we concluded our date on 1936, the predecessor to S. 104, and the lawsuit simply provides that there is a legal obligation on the part of the Department to take the waste at some point down the line. There is a legal obligation. It in no way suggests that the waste would be physically removed by 1998, and it could not.

So when you look at the contract, each of the utilities under the 1982 act entered into a contract with the Department of Energy, and that contract simply says that in case there is an avoidable delay, the utility is entitled to an offset in terms of what is being paid into the nuclear waste fund by the amount of additional expense they incur. That is the remedy, that is fair, that is the law.

The distinguished Presiding Officer is suggesting that my time has about run out. I reserve the remainder of the time and yield the floor.

The PRESIDING OFFICER. Who yields time?

VISIT TO THE SENATE BY FRENCH PARLIAMENTARY DELEGATION

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes in order to allow the Senate to greet a French parliamentary delegation that is visiting us.

RECESS

There being no objection, the Senate, at 3:54 p.m., recessed until 4:01 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KEMPTHORNE).

NUCLEAR WASTE POLICY ACT AMENDMENTS—MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, I yield myself 25 minutes.

The PRESIDING OFFICER. The Senator may proceed.

Mr. REID. Mr. President, first of all, let me respond to a number of things brought up by my friend, the manager of this bill.

First of all, he is right about nuclear power. It produces a lot of electricity in the United States. But everyone recognizes those days are numbered. The average life expectancy of nuclear power in the United States is 15 years. After that it is going to be gone.

As I indicated yesterday, it might be 25 years with one of the reactors and it may 5 years with another. But nuclear power is all through in this country. It simply is too dangerous, and everyone knows that.

I will also speak to the question of what to do with spent fuel. That question has been raised. Senator BRYAN and I continually answer the question. It is very easy. We should leave it where it is—capsulated in the spent fuel rods kept in dry cask containers.

As Senator BRYAN mentioned today and I mentioned yesterday, there would be no fire that would damage the dry cask storage containers as would happen in a diesel truck or train. There would be no accident that would occur driving at speeds that would rupture the casks. It is safe and it is cheap. That is what should be done with nuclear waste for the foreseeable future.

I will also state, Mr. President, that the question still has never been answered: What about the environmental groups? Hundreds of them oppose this legislation—not two or three, not 20 or a couple score, but hundreds that are now a part of the record.

No question has ever been answered as to why these environmental groups oppose the legislation. They oppose the legislation because it is dangerous for the environment. It would be different if there was an equal balance, half of them supported it and half of them did not. Every one of them—it is exclusive—all environmental groups oppose this legislation.

Let me also say, Mr. President, one of the things being lost in this debate is the fact that as we speak hundreds of millions of dollars are being spent in characterizing the repository at Yucca Mountain to determine if in fact that site is going to be scientifically safe for storage of nuclear waste. I repeat, this past year hundreds of millions of dollars have been spent. Next year the same—hundreds of millions of dollars will be spent characterizing that site.

Let us not lose sight of the fact that this legislation is a way to avoid the permanent repository. The very powerful, greedy nuclear industry that is promulgated by the utilities, basically what they want to do is short-circuit the present system. They do not want to take their chances at Yucca Mountain in having a safe, scientifically characterized site. They want to circumvent the system. They want to do away with environmental laws. They want to void the present law that says you cannot have temporary storage in the same State where a permanent site is being considered.

Why have we not heard anything about Yucca Mountain? That used to be the big debate. Because the nuclear industry wants to avoid Yucca Mountain. They want to do it the cheap way.

We have heard raised continually the fact that Nevada used to be a place where they set off bombs, atmospheric tests and underground tests, and more than 900, almost 1,000 of those tests have been detonated.

As I stated, the State of Nevada has sacrificed significantly for that. We did it because there were hundreds, thousands, tens of thousands of nuclear warheads pointed at the State of Nevada and the United States. Conversely, the United States of America pointed their weapons at the Soviet Union. The cold war has terminated. I repeat, this ended a dangerous era. It was a time of national crisis. We were all called upon to do what was necessary to protect this country. The State of Nevada did its share. We did what was right at a time of crisis.

The time has come now, though, to understand that that was then and this is now. There is presently no danger that would drive us to endanger our environment or public by reckless and ill-conceived actions. That is what this legislation is.

There is no nuclear waste crisis that any objective and competent study has been able to uncover. The Nuclear Waste Technical Review Board has testified to the lack of urgency and crisis with respect to moving spent nuclear fuel from its generation sites. The chairman of the board, under the direction of this Congress, testified last year, and now the new chairman this year, that "There is no urgent, technical or safety reason to move spent fuel to a centralized storage facility." So there is no emergency.

Moreover, existing contamination from early nuclear tests is not at all comparable to the potential contamination from premature and reckless storage of spent nuclear fuel in Nevada.

Mr. President, one transportation container of spent nuclear fuel contains about the same amount of radioactive waste as 200 nuclear tests. One transportation container that will travel through the State of Colorado and many other States in this country contains the same amount of radioactive waste as from 200 nuclear tests.

We are contemplating more than 15,000 shipments of spent nuclear fuel. Some of these shipments will have two containers. So more than 3,000 times the amount of contamination from the nuclear testing program—3,000 times as much would be stored in the repository.

Measured another way, each nuclear explosion generates 125 pounds of radioactive material per megaton of yield. The average yield of tests conducted in Nevada is much less than the maximum yield permitted under the limited test ban treaty. Assuming the average yield to be about 85 kilotons, the total testing program in Nevada would have generated only about 5 tons of radioactive waste.

They are trying to move, with this cheap legislation, 70,000 tons of nuclear waste to Nevada. So anyone who compares the nuclear tests in Nevada, which build up 5 tons of radioactive waste, are either exaggerating, deceiving the American public, or do not know what they are talking about.

And anyone who wants can make their choice of the three. The fact is, scientifically, we have 5 tons of radioactive waste compared to 70,000 tons that they are going to try to haul along the railways and highways of this Nation.

Is it any wonder, Mr. President, that entities—cities, municipalities, counties—throughout this country have passed resolutions saying: Do not bring it through our cities.

Complete and enduring isolation of this highly radioactive material is necessary if we are to avoid many times the danger and damage caused by the nuclear testing program.

Mr. President, there has also been a lot of debate on this floor about onsite storage of spent nuclear fuel: It is going to break the country. It is going to break the power generating companies.

Well, let me just say this. This is, for lack of a better description, a scare tactic. It has no foundation in fact. Those who are propounding this have dismissed any thought of risk to the environment or to public health and safety, and any mention of such risk is waved away as scare tactics.

The Nuclear Waste Technical Review Board—remember we keep referring to this because it is a scientific body that we have deemed legislatively to tell us what to do with nuclear waste—the Nuclear Waste Technical Review Board agrees that new transportation containers deserve full-scale testing to assure that these are as durable as those designed, tested, and procured many, many years ago.

That has not been done. The Technical Review Board agrees that we are not ready to undertake this massive program of nuclear waste shipments. That is why they have said, do not ship them. The scientific body, I repeat, this Congress has designated to tell us how to deal with nuclear waste, has told us, do not ship it.

The board agrees that a lot of planning is necessary and that it is crucial for emergency response teams all along the planned routes to be provided with equipment and training for managing the accidents that will happen, even with the best of planning.

The Nuclear Waste Technical Review Board goes further. They agree with the Senators from Nevada that it is absolutely critical that the promise of objective characterization that we have been given in years gone by be completed before any nuclear waste is shipped to Nevada. The board agrees that the 105th Congress should honor those promises made in earlier legislation.

The board agrees that serious uncertainties remain with respect to Yucca Mountain's suitability. The board's chairman testified to these concerns during the S. 104 hearings.

But let us go forward with Yucca Mountain. Let us not short circuit the system and have this legislation which is being promulgated and propounded and pushed by the very powerful nuclear utilities in this country.

The board agrees about these uncertainties. The board agrees that this process must proceed objectively without a hint of prejudice of even the appearance of a premature decision. Without this promise of high quality, objective assessment, the American people will never believe that permanent disposal of spent nuclear fuel can be done safely.

So, Mr. President, we are not using scare tactics. We are merely standing up for the public health and safety of our country's environment and for protecting the public confidence in the final disposition of spent nuclear fuel.

Instead of doing their job, the nuclear power industry, this powerful, disingenuous industry, and its lobby are busy using scare tactics to try to saddle the American taxpayer with the costs of managing the consequences of all of its profits.

These profits are, for lack of a better description, Mr. President, obscene. The nuclear power industry is required to report its costs and revenues annually. All utilities must do this because they represent a virtual monopoly. The so-called retained earnings of power utilities, with at least 20-percent nuclear generation, average about 17 percent of total revenue.

Mr. President, this chart which I have here—these are in thousands of dollars, so this is a billion. Commonwealth Edison, $1.083 billion net profit. This is not gross profits; net profit, 17.25 percent. Not bad.

You can pick any one of them you want. Virginia Electrical, $731 million net profit, 17.54 percent.

Look at it. 20.5 percent, 18.9 percent. The average, Mr. President, as I have indicated, have profits of more than 17 percent.

I handled a case once. I sued Safeway Stores. The jury said I was entitled to punitive damages. I can remember going back trying to get discovery, getting information from Safeway Stores. I was astounded. Safeway Stores, with the tremendous volume they had, had made less than 2-percent profit. It was 1 percent-plus.

Our utilities who are crying, "We're starving to death," are making revenues of $1 billion, 17.25 percent profit, an average of over 17 percent. Safeway Stores are making less than 2 percent, but our utilities, struggling as they are, are averaging 17 percent. These are only the nuclear utilities, because they are doing better than the rest.

So the so-called retained earnings of power utilities with at least 20 percent of the power they generate by nuclear energy averages about 17 percent. The simple interpretation of these numbers is that once the industry pays its operating costs and its capital mortgage obligations its profit is about 17 percent from all the revenues collected from the customers. Not bad.

A reduction of this obscene profit by just 1 percentage point, reducing the average profit from 17 to 16 percent, would completely cover the ratepayers' fees that are collected to pay for managing the waste, that was generated to the benefit of both the ratepayers and the industry.

So, Mr. President, these pious complaints from the nuclear industry and from the sponsors of S. 104 that the ratepayers are being gouged, are actually accurate. The problem is the gouger is the industry, not the Government. They, the industry, are the gouger. They are the gougers.

So for their next scare, their next fright, S. 104 advocates in the industry have developed their own views on how much more the storage costs of the nuclear waste would be until this permanent repository is operational. This is a dandy. Here is what they come up with here. They are saying that they will have to pay $80 billion, that is what it will cost the taxpayer. They might as well pick a figure of $400 billion. It has as much relevance. They could have picked $80 dollars with as much relevance. They do not know what they are talking about. It is ridiculous.

Sponsors of S. 104 have argued that only passage of this bill will relieve every American family of a $1,300 bill, payable to the nuclear power industry. If that is not scare tactics, I do not know what is. The actual incremental cost, until a permanent repository is operational, is clearly not that much, it is not even close. The cost is negligible compared to their profits.

The Department of Energy has done a study that predicts $8 million as the average fixed cost for onsite storage facility. They estimated the operational costs of onsite storage to be about $750,000 per year for operating reactors, and as much as $3 million for shutdown reactors.

Here is a monopoly that is gouging an obscene profit from customers at a 17-percent rate, claiming it should be awarded damages of $80 billion when the actual costs are less than $2 billion. How is that? The industry and their congressional supporters want the taxpayer to add to the industry's already obscene profits by awarding them billions of dollars that they did not earn, do not deserve, and did not spend. I am here to tell everyone within the sound of my voice that the nuclear industry will not get away with this nuclear extortion. That is what it is.

I wish words could describe my appreciation for the President of the United States saying he will veto this legislation. Mr. President, the Constitution of this country was not drafted to protect the majority. The Constitution of the United States was drawn to protect the minority. There is no better example of that, there is no better example of how this Constitution works than this legislation. Last year, 37 brave Democrats and Republicans said, "We think this is bad legislation." They were following the constitutional dictates that said if there are enough votes to sustain a veto, that legislation is history. It was history last year. It will be this year. We are wasting the taxpayers' time because the Constitution protects the minority. That is what we are doing here.

Now, there has already been a day in court which affirmed that the contract between DOE and the generators of this waste calls for DOE to deal with this spent nuclear fuel beginning in 1998. The court specifically avoided discussion of a remedy, should DOE not honor the terms of the contract, since a deadline has not been reached. Moreover, the standard contract clearly contains language for remedies for failures to meet its terms. They are conditional. It is likely, should a court get involved in determining the remedies—which will probably never happen—the case will focus on conditions leading to the breach. They are very clear if it is the fault of DOE, they pick up the cost. We know that. But the deadline has not been passed yet. It is unlikely any court will rule on breach of contract remedy prior to contract violation.

DOE has made a good-faith effort to involve the industry in developing the solution to the real problems that no repository exists prior to 1998. That good-faith gesture has been rejected and rejected and rejected by the industry and the sponsors of S. 104 to justify their efforts to rip off the taxpayers, to justify their threats to seek billions of dollars in compensation for a $2 billion incremental cost.

The industry does not want a resolution of this permanent repository dilemma. If one were found, they would not be able to unload all future costs to the taxpayer. Remember, Mr. President, this boils down to the fact that you can store nuclear waste onsite, as I indicated, for $750,000 at an operational site. So the costs are negligible, but they are not willing to do that.

They would be pleased to see S. 104 succeed since they know an interim storage facility in Nevada would become the permanent resting spot for all the waste. In this instance, "interim," by the dictionary of those pushing S. 104, means forever. That needs to stop.

Again, I congratulate publicly the President of the United States for standing by something that is right. We know politically there are big utilities that are telling the President, Oh, do not do this. The President is standing for principle, and the people of this country should admire and respect that because this is going to prevent nuclear garbage from being hauled through the streets, highways, and railways of this country. I hope the President gets his due deserve for doing the right thing.

I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent the cloture vote scheduled for 5:15 this afternoon, subject to the clearance from the ranking member of the Energy Committee, be contemplated to be vitiated, and further Senate action begin on Senate bill 104 for consideration at 1 o'clock on Wednesday, April 9.

I ask the Chair to withhold because I am just advised that there is one clarification needed.

Mr. CRAIG. If you are waiting for a clarification, I am more than happy to go ahead and speak and allow interruption at anytime necessary to clarify.

Mr. MURKOWSKI. I am happy to withdraw, if there is no objection, the unanimous-consent request.

Mr. BRYAN. I think the essence of what the chairman has proposed is agreeable to the Senators from Nevada, and I think implicit in what the chairman said is we will actually go on the bill at 1 o'clock tomorrow.

Mr. MURKOWSKI. That is the intent of the unanimous-consent agreement.

Mr. BRYAN. I just wanted to clarify. I thank the chairman.

Mr. MURKOWSKI. Mr. President, I will withhold the unanimous consent pending a clarification from the ranking member of the Energy and Natural Resources Committee.

I yield to my friend from Idaho, the cosponsor of the bill.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, thank you. I thank my chairman for yielding, and I am pleased to hear the news that we can move to this bill without cloture, starting tomorrow. It appears that agreement is very close at hand.

In fact, I understand it is fine now, so I yield back to the chairman.

UNANIMOUS-CONSENT AGREEMENT

Mr. MURKOWSKI. Mr. President, I renew my request at this time. I ask unanimous consent the cloture vote scheduled at 5:15 today be vitiated, and further the Senate begin consideration of Senate bill 104 at 1 p.m. on Wednesday, April 9.

The leader advises me, for the information of all Senators, there will be no rollcall votes during the balance of today's session of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I yield back to my colleague.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the unanimous consent that our chairman has just put before the Senate and has been accepted is good news. It is good news that we can move immediately to consideration of S. 104 starting tomorrow afternoon.

I think it also portends what we all know here, that S. 104 has a substantial majority support in this Senate and the Senators from Nevada recognize, and we appreciate their recognition of the fact, that this is an issue that is of national scope. While I understand and appreciate their strong defense of Nevada, I also can recognize the need to speak nationally about a national problem and the responsiveness of States, like yours and like mine, who wish to find safe, sound, environmentally recognized storage locations for both high-level waste and nuclear spent fuel, to seek that location in the Yucca Mountain facility that is currently under investigation.

What I wish to do this afternoon is address several points that have been raised by my colleagues from Nevada, some of them yesterday, and some of them today. Before I do that, however, I want to turn briefly to the subject of underground nuclear weapons testing. Yesterday, I addressed this body and discussed in general terms the Nevada test site. I referred to a photo which I have here again behind me which is the Nevada test site. I asked my assembled colleagues to consider whether an interim storage site for spent nuclear fuel and waste could really have a detrimental impact on this land. Every one of the pockmarks in the landscape is a product of underground explosions of nuclear devices. This is the most exploded area on the face of the Earth, maybe other than where the late Soviet Union once did its underground testing, once it had stopped its atmospheric testing.

What I am suggesting is that this is not a pristine environment. It is a place where it is reasonable and responsible, if the kinds of geologic testing that are now going on confirm the fact that we can build an underground deep geologic repository near this location, then we can put an interim storage facility here it would ultimately serve as a receiving and conditioning facility for transferring the waste to the deep underground geologic storage.

Weapons explosions have gone on here for decades. As I listened to my colleague, the senior Senator from Nevada yesterday, I got the sense that he is dead set against any nuclear materials in his State of Nevada. All I have to do is remind the Senators of Nevada, this is Nevada. This is where, for decades, our nuclear testing has gone on, on Federal properties, in that State. Is it not reasonable to assume that the Senate ought to have the right to look at and make consideration of this facility as an interim site?

I recall, however, that last year my colleague from Nevada did support the restart of underground nuclear testing at this very site. Now, Mr. President, I do not mention this to be critical to any Member who supported the testing program—the kind of program which is vital to both States and to our national interests. Defense missions are important, and we have to recognize and balance the issues. When I say that, of course, I defend the right of my colleagues to defend their interest. But it is time we look at national interests in the context and in the balance. Let us talk about what underground nuclear tests involve.

These pockmarks, as you see here, represent the drilling of a deep hole and the exploding of a nuclear device within that. These explosions leave all of these same nuclear components—the same ones that we talked about as being contained in the spent fuel and the high-level waste that we want to dispose of in an underground storage facility near the test site. I suggest, Mr. President, the kind of storage we are talking about is going to be quantum safer, quantum safer, than the kind of explosive activities that went on this terrain during the past decades. Nuclear testing was allowed at this site for decades. To our knowledge it has not caused serious concerns for the water table, or the types of standards we are requiring for a geologic repository at Yucca Mountain.

Now, I ask my colleagues to consider this. I want to quote from my former colleague, the Senator from Louisiana, Bennett Johnston, when we debated this matter last session. This is Senator Bennett Johnston speaking. "If it is safe to conduct hundreds of nuclear tests, it is much more safe to store * * * nuclear waste under Yucca Mountain in containers which themselves pose quite a barrier to any contamination."

Now, I wish to address several comments that I heard yesterday, because I believe some clarification, or even correction, is necessary. We heard from our Nevada colleagues that the Nuclear Waste Technical Review Board has said that an interim storage facility is simply not needed. For the benefit of my colleagues who were not present at the committee hearing on February 5, I am compelled to quote directly from the Chairman of the Nuclear Waste Technical Review Board, Dr. Cohon, in his testimony before the Energy and Natural Resources Committee. Under the heading of "Key Conclusions," Dr. Cohon said: "A centralized storage facility will be needed."

Let me repeat that. Dr. Cohon, Chairman of the Nuclear Waste Technical Review Board, said: "A centralized storage facility will be needed. Planning for it should begin immediately."

However, he did go on to state: "There are no compelling technical or safety reasons to move spent fuel to a centralized storage facility for the next few years."

"Technical or safety reasons * * *."

Mr. President, you will notice that Dr. Cohon is silent on the other reasons—contractual obligations, lawsuits, failure to implement the 1998 deadline of the current waste act, financial liabilities.

Furthermore, as we all know and the DOE has acknowledged, it will take more than a few years to license and construct an interim storage facility. Even if we were to begin today, right now, immediately, it is still going to take time to make it happen and to make it happen through all of the Federal laws and with an environmentally safe, sound, and acceptable design.

Dr. Cohon testified that steps leading to centralized storage "should begin immediately." That is exactly what Dr. Cohon was speaking of. S. 104 directs that the steps leading to that interim storage be initiated.

Let me quote from the board's second key conclusion on the interim storage: "Significant advantages can be derived from siting a storage facility adjacent to the repository."

That is what the board has said. That is exactly what S. 104 does. For some reason, it is very difficult, if not absolutely incorrect, to portray that S. 104 is somewhere out of step with the current Nuclear Waste Policy Act or with the board's finding—this board of technical and professional people who had been brought together for the purpose of establishing the findings necessary to build a permanent repository.

Dr. Cohon goes on to recommend that an interim storage facility be located at the Nevada Test Site only after site viability is determined.

Mr. President, let me dismiss another allegation from our opponents—that S. 104 short-circuits the viability process. It flat doesn't happen, and the bill doesn't proceed in that manner. S. 104 sites an interim storage facility at the Nevada Test Site after site viability is complete—not before viability, not instead of viability, but after viability. That is what the language of the proposed law says.

I am growing weary of a variety of charges that relate to S. 104 short-circuiting the science of the waste program. That is the argument that has been placed by my opponents, that somehow the scientific progress gets short-circuited. That is unfounded. It is done to create fear among those who have not studied the issue thoroughly. It is always important on issues like nuclear waste and high-level nuclear radioactive materials that science be a major player. Therefore, it is always easy to wave the flag of "no science" and say it is an unsafe action or we should not be doing that. That simply is not the case here; it has never been the case. The scientists have been at the forefront of all of these actions, and they have led the development of the whole process to the point of where we are.

This brings me to another area that has been the subject of misinformation. My guess is that it is just going to be the subject of misinformation throughout the debate—the issue of transportation. During my remarks yesterday, I went through, in some detail, the tests that are required to be performed before the Nuclear Regulatory Commission will license the containers that are used to transport spent nuclear fuel over highways or railways. What I would like to do is repeat that this has never been an issue, and it isn't an issue now. That isn't to say it isn't a political issue; it is a political issue, but it cannot be argued on scientific grounds, on engineering grounds and, most important, after the 2,500 loads of nuclear material that have traveled across this country over the last several decades, it cannot even be argued after the fact that somehow there was an accident that resulted in human injury as a result of radiation. There were accidents, but the containers and the material were totally safe.

We did hear an allegation yesterday that it is so dangerous to transport these materials that we have never successfully licensed a shipping vessel for transportation of spent fuel. The fact is, not only have spent fuel shipping containers been successfully tested and licensed, the Nuclear Regulatory Commission currently has over 20 different types of shipping containers—not 20 different containers, but 20 different types of shipping containers—that it has successfully licensed. Let me repeat that. It has successfully licensed them for use over highways or railways. These are containers that have passed all of the tremendously rigorous tests that I outlined for you yesterday, such as the drop test, the puncture test, the fire test, the water immersion test; all of them have been licensed under those standards.

This brings me to another erroneous charge that I wish to dismiss. It is the charge that these testing requirements are not adequate to meet real-life accidents. Oh, my goodness. I can't imagine that even could be suggested. You don't drop a metal container 50 feet onto a hard, immovable concrete slab and have that container bounce and stay whole time after time and even suggest that the test itself wasn't real life. It is extraordinary. It is well beyond the norm.

We have heard that the fire test requires a temperature of only 1,475 degrees Fahrenheit and that gasoline fires can burn hotter than this. Well, we need to look at all of the parameters of the fire test to see if it is tough enough for real-life accident conditions.

In response to the gasoline concern, Lawrence Livermore National Laboratory was asked to investigate if the fire temperature required for testing was hot enough. They concluded that when you look at all of the fire parameters, not just temperature, but duration, insulation, how the container is positioned in the flame, look at all of these factors in combination, actual fires would not exceed in overall severity the fire test that the shipping containers must go through. Now, this is one of the best scientific labs in the world. This is the best test that you can create anywhere to check the integrity of the container. After doing so, they said that the container was adequate to meet the standards and the risks involved.

The overall point is that these issues and allegations have been investigated, tested, studied, and, in every case, they have been ultimately debunked. Again, my argument, my premise is that this debate has nothing to do with science, nothing to do with geology, to date, nothing to do with engineering facts. Those have all been established for decades. Those facts are unrefutable. It has everything to do with politics.

There are enough studies and papers on these issues to fill technical libraries at every national laboratory across the country, including the Idaho National Laboratory. It is time to move beyond the hyperbole and scare tactics.

S. 104, the Nuclear Waste Policy Act of 1997, will allow the Government to fulfill the contractual obligation it assumed, under the law passed by this body in 1982. The deadline for action on this obligation is just 9 months away.

S. 104 will resolve the question of what to do with spent nuclear fuel and high-level radioactive waste in a timely manner.

So I urge my colleagues, as we begin this debate tomorrow on S. 104, to recognize that there are facts and there are fictions, and, most important, as is quite typical on this floor, there are politics. The politics of this issue is, you don't want it to happen in your backyard, even if it's now in your backyard. You don't want it to be moved across the country, although we have moved it for years with no human risk from radiation ever having happened. We have the greatest record in the world for transportation. We have built the best science that national engineering can allow. So what is the problem?

Well, the problem is if you can argue the issue long enough and if you can drag your feet long enough, you can bring an industry that provides 20 percent of the electrical power of this country to its knees, because it is the logic of those who substantially oppose the nuclear industry that if you don't responsibly deal with the waste created by that industry, ultimately the American public will no longer tolerate the generation of that waste and the industry itself has to be shut down.

What we are trying to do now is not deal with what I have just said, but deal with the waste we have already created. We have, for four decades in this country, created waste, whether it be defense waste, Government waste, or whether it is commercial spent fuel coming from commercial reactors that generate 20 percent of the electrical output of this country. It is only responsible that we deal with the waste we have, making sure, as other Congresses have concluded, that it is in a single, safe, deep geologic repository where we can rest assured of the kinds of environmental integrity and safety the American public expects.

That is really what S. 104 is all about—Federal obligation, Federal responsibility, liability to taxpayers, sound environmental activity, and wanting to find that single safe repository to which all of the waste from 41 States and over 80 locations can go.

I think it is important that we move ahead in a timely fashion. I am pleased we can move to the debate tomorrow. I hope that we can deal with the necessary amendments that would come up and that by the end of the week, we can move to final passage on this important legislation.

I yield the floor.

Mr. ALLARD. Mr. President, I rise in support of the cloture vote on S. 104. The Nuclear Waste Policy Act of 1997 is a crucial piece of legislation that deserves the support of both sides of Capitol Hill and the administration. It is responsible legislation, necessary legislation, and legislation that when enacted will provide the utmost safety for our constituents.

S. 104 provides for the safe transport of nuclear waste from numerous sites around the Nation to one safe, central location in Yucca Mountain. The Department of Energy must, by November 30, 1998, be accepting waste on an interim basis at the facility. By December 31, 2002, the DOE would be required to apply for authorization to construct a permanent repository at the site.

To put this in context we should examine the alternative to this legislation. Absent this legislation, or action by the courts, costs will continue to be accrued on our constituents. For example, storage of used nuclear fuel at an operating nuclear reactor can cost $34 to $50 million. More importantly from Colorado's perspective it is estimated that keeping spent fuel on site where the reactor has shut down can cost $46 to $64 million. While Colorado currently has no operating nuclear reactors, they do have one commercial facility that has a shut down nuclear reactor, Ft. St. Vrain. Currently, the costs of storage at Ft. St. Vrain are being paid by DOE, if DOE is forced to pick up similar costs around the Nation, it will be a hefty bill that I'm not sure they can afford. Colorado also is home to Rocky Flats, a facility that formerly made nuclear triggers. That facility also has waste that will ultimately end up at Yucca Mountain.

What other alternatives are there? If the court is forced to decide the issue and they require the Federal Government to pay the cost of onsite storage, American taxpayers would pay $7.7 billion over the cost of one central temporary storage facility. Furthermore, additional costs from inaction could range from $40 to $80 billion. Where would this money come from?

Additionally, if this legislation isn't passed, the next opportunity Coloradans will have for removal of this material will be in 2015. I find this unacceptable currently, Colorado has waste stored near millions of people on the Front Range. It is a hazard that we should fix, and this legislation is part of fixing that problem.

Both of these sites have waste that will ultimately be shipped to Yucca Mountain. From Ft. St. Vrain there is about 16 metric tons of spent nuclear fuel and from Rocky Flats there is contaminated plutonium that, once it is vitrified, will be sent to Yucca Mountain. My State needs this legislation, and has paid for this legislation, since the inception of the waste fee Colorado has paid roughly $300,000 to the Nuclear Waste Management Program. We expect the Federal Government to honor its commitment.

Congress has the obligation to support this legislation with or without support from the administration. We have an obligation to act responsibly, even if the administration won't. Once again I thank Mr. CRAIG and Mr. MURKOWSKI for their leadership.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada [Mr. BRYAN] is recognized.

Mr. BRYAN. Mr. President, debate is winding down today. I know we will have an opportunity to debate this issue throughout the next few days. I thought it might be helpful to clarify a statement made by the Senator from Idaho with respect to the canister issue.

The Senator from Nevada has not said that there are not canisters that have been approved, licensed, and used. There are indeed such canisters. The difference is the kind of canisters that are contemplated in the shipments that will be involved in sending some 75,000 metric tons of nuclear waste to a site in Nevada that have not yet been designed and have not yet been produced. So all of the film footage that the Nuclear Energy Institute and its supporters have used is footage with respect to canisters that would not be used in the kind of massive shipments that are contemplated here.

What is contemplated here is a canister by rail that would accommodate 20 to 24 fuel assemblies. That would be the equivalent weight of about 125 tons; it is a rail cask. And each truck cask would weigh at least 25 tons. So the standards are out there, but they have not yet been designed and built.

There was a reference, at least lately, that the concerns expressed by the Senators from Nevada with respect to the standards that have been proposed for the new enlarged canister are standards that are more than adequate to meet the task, and, indeed, that there may be some scare tactics on our part in referencing those.

Let me just simply indicate that the Livingston, LA, fire—I want to be very clear on this—involved a 1982 train derailment. That is a fact. The circumstances of that accident are not theoretical or hypothetical. They are real. The Nuclear Regulation Commission itself—not a group of Nevada legislators or the scientists that have been engaged by Nevada to argue the case here but the Nuclear Regulatory Commission itself—applied the conditions in the aftermath of the Livingston, LA, fire to the standards that are to be used in this new enlarged cask configuration and acknowledged that the high temperatures in that fire—not a theoretical fire—would cause an NRC-approved cask to fail. In their words, "The radiological hazard would exceed compliance values by up to a factor of four." But the thing that needs to be emphasized—this is not some theoretical, unrealistic, utterly fantastic, farfetched, bizarre set of circumstances that have been conjured up. This relates to a real-life accident in 1982. In that accident, with the fire temperatures that were engendered as a consequence of that derailment applied to the standards which the NRC is proposing for this new canister configuration that would accommodate 20 to 24 fuel assemblies, it would fail. A radiological hazard would be created. That is a statement not by the Senator from Nevada but a statement by the NRC.

Let me make one additional point, if I may, with respect to the transportation issue. As an indication that we are not yet even ready to transport this volume of waste, I think the proponents of S. 104 would have us believe that if through some, in my judgment, irresponsible, reckless act on the part of the Congress to enact this legislation, if this were enacted today, indeed, if the storage facility were opened today, then immediately a mass migration of nuclear waste would occur from the repository sites currently; namely, at the nuclear reactors where they are located and where this flow of shipments began.

I think it is important to try to give some balance because this is not a panacea even if you buy into this corporate welfare program that the nuclear power utilities would have us embrace. I think the words of Dr. Jared Cohon, who is the chairman of the Nuclear Waste Technical Review Board—again, a body created by this Congress, not by some Nevada oversight group—points out:

> Developing a storage facility requires more than a siting decision. It also requires the development of a transportation system and

> developing a transportation infrastructure, including the transportation cap, and enhanced safety capabilities along the routes necessary to move significant amounts of waste will likely take years longer than would be needed to develop a centralized storage facility.

I need to make that point again. I mean, the thrust of this debate—and you will hear much more from our colleagues who are saying that somehow it is a panacea of S. 104, if enacted and signed into law, that immediately the waste will be removed from the reactor sites. That is simply not true. Even if theoretically a site could be opened in the next year or 18 months—and absolutely no one believes that—siting interim storage would require at least 3 or 4 years.

But assume for the sake of argument that the site was available, what Dr. Cohon is telling us is that because we do not have the casks currently in existence—the standards, yes, but not the casks—that it would take us a while to develop the transportation system that would be required; that it will require a few years to get that done.

So all of this talk about the casks that have been depicted on film and all of the discussion about the casks being dropped from 30 feet, 50 feet, 60 feet, or 100 feet, are totally irrelevant. We are talking about casks that will not be used for this purpose. We are talking about a new configuration cask that has not yet been developed, and I think that point needs to be emphasized.

Let me make one other point, if I may, with respect to the notion that somehow because Nevada, responding to a patriotic call during the height of the cold war in 1951, agreed to allow nuclear testing at the Nevada test site—I was in the eighth grade the year the nuclear testing began in Nevada. I have to tell you that it was a different age and a different time than it is today. We were all pretty naive about what that was about. Were we excited? Yes. We all thought it was a great thing. We were on the cutting edge in technology. In those days the nuclear power lobby convinced America that everything would be nuclear, that we would have little reactors in our back yards and planes would be powered by nuclear fuel; locomotives; and, indeed, as was often said, the nuclear power will be so cheap that it can't be measured. That goes back 46 years ago.

In my hometown of Las Vegas, businesses changed their names to atomic groceries, atomic this and that. There was an atomic hairdoo. Yes. Nevadans sensed that they were being asked to respond to a patriotic call of the Federal Government to respond to a confrontation that we had with a superpower, the Soviet Union. That frightened all of us. I hope that my friends would not suggest that because we responded to that, that there is somehow implicit a duty to accept civilian reactor wastes generated on site, a decision made by local utilities and local customers, and that that somehow be sent to us in Nevada.

I might just say parenthetically with respect to that rather naive world in which we lived in 1951, today every American pays as part of his or her tax dollars to the people who are downwind from those nuclear detonations that we were assured at the time that they were absolutely safe—"Don't worry about it. It is the most exciting thing in the world." We invited members of the fourth estate, the Department of Energy. Then it was called the Atomic Energy Commission. There was a little place. They built bleachers for them called News Nob. Come on up and see for yourselves. This is science. This is exciting stuff, folks.

We sent thousands of our military personnel to a place called Camp Desert Rock, and we dug trenches out there and showed them what the exposure would be like to atmospheric radiation.

Mr. President, if any responsible scientist suggested that that was absolutely safe today, I mean he or she would be hounded out of any kind of scientific academy that exists. We all know now that is dangerous stuff. It is very hazardous, and a lot of people downwind paid with their lives, and paid through genetic damage which they have experienced and suffered from cancers. As a consequence, each of us as taxpayers in America today compensate those victims.

Let me make a distinction, if I may. It has been suggested that somehow because the test sites were used for this purpose, it is an absolutely logical, inescapable conclusion that it should be the repository for this interim site. That is fallacious reasoning.

First of all, we are talking about two entirely different kinds of radioactivity. Remember what we are talking about here with high-level nuclear waste—stuff that by its very definition is deadly for thousands and thousands of years. Nobody quarrels with that in the debate—thousands and thousands of years. We all recall that in the aftermath of dropping two atomic bombs on Japan at the end of World War II—one at Hiroshima and one at Nagasaki—that those two cities did not remain isolated for decades or even a score of years. They were rebuilt immediately. The reason is that it is a different type of radiation. There is no question that there is a radiation hazard in the blinding seconds of the detonation. We have all seen that. But it is not the kind of residual radiation that requires isolation and protection for thousands of years.

Let me make a couple of points. I know the distinguished chairman of the Energy Committee has taken the floor. I can assure him I will be just a couple of minutes.

Here is the difference. Trinity was the first successful atomic detonation in the history of the world at Alamogordo in the New Mexico desert on July 16, 1945. That is the first one. That is when we knew we had a bomb that would work. In order to equate the radioactive equivalent of what is referred to as the fission product inventory that would be stored in Nevada as a result of all of these 75,000 to 85,000 metric tons, it would require the equivalent of 2.3 million nuclear detonations—let me repeat that again: 2.3 million detonations—of the Trinity-sized atomic bomb to create the equivalent of what is proposed to be stored at the Nevada test site.

Placed in another context, because Nevada did agree to host the testing programs, based upon the average yearly testing rate during the period that the Nuclear Weapons Program was operational at the Nevada test site that was approximately 20 nuclear weapons detonations per year, in order to equate to the fission product equivalent of what is being proposed to be shipped here, it required that rate of testing, namely 20 nuclear weapons tests a year, for a period of from 10,000 to 100,000 years. So we are not talking about some finite distinction. We are talking about something that is of a totally different magnitude, a totally different character.

I say to my friends who tried to equate the nuclear testing program during the days of the cold war with storage of high-level nuclear waste from civilian reactors, you are talking about apples and oranges in a literal sense. So we are not talking about the same thing. We are talking about waste that by its very nature is deadly for thousands and thousands of years. No one disagrees with that. We are talking about nuclear detonations which have a totally different type of radioactive footprint and which would require the equivalent of 2.3 million Trinity detonations to get the same equivalency being discussed, or a testing protocol that would call for 20 nuclear detonations a year that would have to last from between 10,000 and 100,000 years to equal what is being proposed to be sent to Nevada.

I just think those two points need to be made.

Mr. President, I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, the parliamentary procedure relative to time on this, in view of the fact that the vote has been vitiated, suggests that we are still bound by our time agreement.

The PRESIDING OFFICER. The Senator may consume as much time as he wishes.

Mr. BRYAN. If the distinguished Senator would yield for a question, I do not intend to offer any more comments today. I don't know of anybody on our side of the aisle who will.

I withhold the comment. I am informed that Senator BUMPERS may take the floor at 5 o'clock. I am not sure whether he will be speaking on this issue, or not. He may very well be. But as long as we can accommodate him, I say to the distinguished chairman that it is not my purpose to hold either the chairman or any other person to a time limit this evening.

Mr. MURKOWSKI. Mr. President, as I understand it, we will be on the bill beginning at 1 o'clock tomorrow. So I assume any Member can come over and speak on this or as if in morning business. With that interpretation, I am going to proceed for a few minutes more. Then that will be my conclusion, at least for today, relative to the topic at hand.

Mr. President, I am very pleased that we have reached an agreement to proceed to the bill, and, as a consequence, starting tomorrow at 1 o'clock, we will have to continue our debate. Many Members on our side have indicated an interest in coming over and being heard.

There are a couple of points I want to make at this time that I think bear a little examination. The other side has indicated that his legislation, S. 104, is unneeded, that it is unwise, that it is unsafe. I just cannot accept that.

First of all, to suggest it is unneeded disregards the obligation we have in a contractual commitment to take this waste in 1998. What good is a Government contract, for Heaven's sakes, if there is no intention, no desire to fulfill that contract?

Mr. President, 16 years have passed. It is clear that the waste will not be taken in 1998 as promised. Yet, the Federal Government has taken from the ratepayers some $13 billion. And who has it been paid to? It has been paid to the Federal Government. And what has the Federal Government done with it? They have not held it in escrow. They have not held it in abeyance out there, ready to meet their obligation to take the waste in 1998. They put it in the general fund. Under the crazy bookkeeping procedures we have around here, it is going to take a significant appropriation to address this obligation. So, when the other side suggests that it is unneeded, I think we have to look a little bit deeper at the significance of a contractual commitment.

(Mr. HUTCHINSON assumed the chair.)

Mr. MURKOWSKI. There has been a lot of criticism of the nuclear industry out there. What has the nuclear industry done? They provided a reliable source of power. They are the second largest supplier of power generation next to coal, 22 percent of our Nation's power. They are a dedicated group, highly technical people for the most part, dedicated to providing a reliable, safe source of energy for this country, for 22 percent of our dependents. They entered into a contractual agreement back in 1982. And where have we been since 1982? We have been here. We have been talking about it. We have been discussing, Yes, we have an obligation, but it is not due. It is due now, Mr. President. It is due next year. And we are not ready.

So what are they supposed to do? The other side would suggest, do not do anything now. Put it off. Wait until some time in the future when we have a permanent repository. How much time do we have to wait? Where is the future? The Secretary of Energy says this repository is not going to be ready, a permanent one at Yucca Mountain, until the year 2015. What, do we have to wait another 18 years? That is what the other side would have you believe.

What are the damages associated with the inability of the Government to fulfill its contractual commitment? There is full exposure, full employment for the lawyers. What we have around here is too much speculation. What we need are some facts. And the facts are that we have this stuff all over the country. The chart here shows where it is. We have the stuff spread in 41 States at 80 sites. We are proposing to address it and put it in one safe site. Where is that site? It is where we have held nuclear tests, out in the desert, for 50 years. So, when they say it is unneeded, I have to dispute that. First of all, it is needed because we are in violation of a contractual commitment that the Federal Government entered into in good faith.

What did the court say about it? The court said the Government is liable. They said that last year. The Federal Government is liable to take that waste. If we do not take it, there are going to be damages. How much are the damages? Full employment for the lawyers, it is estimated at $59 billion.

Nevada is where we propose to put it. We are going to put it in temporary casks, on the surface, until such time as Yucca Mountain's permanent repository is done. We are going to remove it from all these sites around the country and put it in one place. If that is irresponsible, and America's environmental community is opposed to it, then they must be for this.

The other side makes an issue that no environmental group supports this legislation. What do they support? You and I know what they support. They support doing away with the nuclear industry in this country. That is their objective. And what do they propose, to make up that 21, 22 percent of our power generation? They do not want to address that. They say, "Wind power." Fine, I am for wind power. Solar? Fine, I am for solar. You just cannot generate sufficient amounts with the technology we have. How about hydrogen? Let us go that route? Great. But you have to be in the real world. They want air conditioning, they want the lights to go on. And the nuclear power industry is contributing to this, almost 25 percent of our total energy.

So, when they say it is unneeded, they are absolutely wrong. Do we want to shut down those nuclear plants because they are running out of storage space? They were licensed for so much space. You have seen pictures of those pools. You have seen the spent rods being stored there. That was not permanent storage. It was not designed for permanent storage. Everybody knows that. It was temporary, until such time as the Government could fulfill its contract.

Did the environmental community and the folks who are down at the White House who are opposed to this legislation, who, I might add, have no position on this issue, do they want us to have blackouts on hot summer days? What do they propose in the future, if we do not address this problem of adequate storage on hand when our storage is filled in those pools? Do we want to default on our Federal obligation? I have already talked about that. And, remember, the courts have upheld the obligation of the Federal Government.

What kind of precedent are we setting in this country for those who observe the way Government does business, to ignore the commitment to the ratepayers who have contributed with the expectation that the waste would be taken?

The comment was made by the other side that interim storage in Nevada was unneeded and unsafe. Is it safe to continue to store this waste in the pools that were designed to hold that waste for a temporary timeframe?

One of the Senators from Nevada says that the 100 millirem standard is unsafe. Let us talk about that, because those kinds of speculative arguments excite a lot of people. Again, it is speculation.

The current EPA radiation protection guidance is 500 millirem, 500. EPA is considering making it 100 millirem, to even be more protective. So, the current EPA radiation protection guidance says 500, but we have it at 100 in our bill. Additionally, we provide EPA with the authority to proscribe a stricter standard if needed. As a consequence, to suggest our bill is unsafe defies reality. We are promoting the public health and safety with a higher standard, if indeed it is needed.

We have heard it said that transportation is unsafe. We have shown that nuclear fuel was safely transported across the country every single day of the year, year in and year out, 2,400 shipments for 16 years, from 1979 to 1995, through every State in the Nation except South Dakota and Florida. It has been moving. Why has it been moving? It has been moving from all these different sites. It has been moving from universities that have test reactors, research reactors. It has been moving from military sites, from Navy sites. It has been moving, moving, moving, and we have not had any accidents.

We talk about what kind of container is going to be involved. Obviously, it is going to be a safe container, the same kind that has moved this material in 2,400 shipments. So that is a bogus argument, to say it is unsafe. We have shown that casks cannot be breached with real world accidents. We have shown there has never been an accident involving the release of radiation. Of course, in Europe, in Asia, they move this stuff all over, all over the world. So, if you want to buy fear tactics, this is probably a good environment to buy them in because there are lots of them around here.

A further statement was made relative to our bill being unwise. I have trouble with that. If it was wise enough, sometime ago, for us to decide that it made sense to develop a permanent repository in Nevada, at a cost of some $30 billion, which is not a sure thing, then why is it unwise to spend between $1.5 to $2 billion to build an interim that can handle the problem until the permanent is ready. If Yucca is not determined to be suitable, then we will have a place for the waste until another site is selected if we pass this bill. Either way, we will need an interim site. So this is a very wise, thoughtful approach.

Much has been made in this debate about the Nuclear Waste Technical Review Board, and what they have said. What the board has told us is that central storage is needed if Yucca comes on line, and that central storage is needed if it does not come on line. There may be disagreements about timing, but the end result is the same. We need interim storage, regardless of what happens with Yucca Mountain. We need it either way, Mr. President. Is it unwise to leave waste? Where are we going to leave the waste, with the status quo? That is what the other side proposes.

Is it wise to leave waste at 80 sites in 41 States in pools that were not designed for long-term storage and to leave it there? How long? Until Yucca's done, 2015 or longer. One State, Connecticut, has guards and fences around the pools of nuclear waste in one of our Senator's neighborhoods, a Senator in this body.

So when they say it is unneeded, unwise, unsafe, I suggest they look at reality and recognize there is, indeed, every reason to believe that it is safe to take it out of 80 sites in 41 States that we have safely transported across this country for over 16 years, and it is certainly needed because the pools are full and many of these reactors will not be able to be relicensed for additional storage, because they do not have any. They will have to shut down.

So I encourage the administration and the environmental community, if you do not like this bill, then come up with an answer. I encourage the environmental community to recognize that as they address the legitimate concerns we all have over greenhouse gases, increased carbon emissions, where do we look for relief?

We just had a significant portion of the French Parliament here. They were acknowledged. We had a 2-minute recess. They told me in the back they wished us well with our effort to bury our waste. In France, they do not allow you to bury your waste because it is valuable, because they have embarked on a technology called reprocessing where, through a MAX fuel process, they recover the waste associated with those rods that are stored in the pools and they recover the energy in a plutonium form and put it back in the reactor with enriched uranium. Who is addressing the proliferation threat? They are burning theirs. We are proposing to put ours underground. In the meantime we are like ostriches running around saying, "We can't do this, we can't do that."

What are the Japanese doing? The Japanese have taken the French technology which, incidentally, we developed initially when we had proposed to reprocess. We cannot reprocess because we have a policy against reprocessing. But the Japanese have expanded on an effort to be totally independent of imported energy in Japan. What does that do to their industrial economy? It makes it pretty secure. They are going to depend on nuclear energy. If there is any country that has had an experience with nuclear energy that is more sensitive, I do not know what it could be other than Japan.

The Japanese are committed to a $20 billion to $24 billion project. I was up there last December. They are building a refueling, reprocessing, state-of-the-art facility. Do you know what they are doing now? They are sending their waste from their nuclear reactors over to France, the French are reprocessing, and the waste goes back vitrified. But they are going to do it themselves in Japan. They are going to recover the plutonium, put it back in the reactors and reduce the proliferation threat, because plutonium has value.

I am not here arguing the case for that. I am simply stating what is happening in the real world with state of the art. France is 70 percent dependent on nuclear power. We cannot even figure out what to do with our waste. The last nuclear plant was built in this country in 1979, 1980. That is where we are. Nobody in his right mind would try and build one today, because the permitting process would simply make it unfeasible, if there is such a word, certainly noneconomic from the standpoint of generating a return.

I can stand here on the floor of the Senate and predict that within 10 years, we will be going to Japan and we will be going to France for the advanced technology associated with disposal of high-level waste. What this administration has done is to allow in nuclear waste from other countries, but it will not address its obligation to the nuclear power industry to take its waste that it has collected the money for the last 16 years, $13 billion.

So I hope some of the folks down at the White House reflect a little bit on the obligations that we have made commitments and the reality that we have not performed. It is easy to criticize the nuclear industry with regard to nuclear waste, but let's be realistic and let's recognize, again, that they have performed their obligation. Now they are asking the Federal Government to perform theirs.

I want to conclude my debate today with a little reference on a portion of the statement that was made regarding the Nuclear Waste Technical Review Board and the points made in that debate on the other side.

My distinguished friends and colleagues from Nevada have in their statements, I think, misinterpreted or perhaps misunderstood some of the conclusions associated with the Nuclear Waste Technical Review Board. There has been an assertion that the Nuclear Waste Technical Review Board—which, as has been stated, is a panel of scientists appointed to review the Department of Energy's nuclear waste program—opposes the construction of an interim storage facility. The suggestion is they oppose it. This simply is not true, Mr. President.

Following a February hearing on S. 104, I asked the chairman of the board the following question, and this is from the record:

> Those who oppose S. 104 have used the board's report as evidence that "technical and scientific experts" believe that a centralized temporary storage facility will not be needed. Is this the conclusion the board intended people to draw?

The chairman responded:

> On the contrary, the board believes that a centralized storage facility will be needed——

Will be needed, Mr. President——

> and the generic planning should begin immediately. Significant advantages can be derived from siting a storage facility adjacent to a repository.

OK, adjacent to Yucca Mountain is what S. 104 proposes. The board did state, however:

> However, there are no compelling technical or safety reasons to move spent fuel to a centralized facility for the next few years.

I think we have here some questions of timing. "The next few years," the last time I checked, few meant two. In order to be able to move spent fuel in a few years—well, we started this process, and we have been, what, 16 to 17 years now trying to move this process along. We entered into a contract with the nuclear power industry to take it 16 years ago. Here we are today, 1 year away from a mandatory obligation to perform under a contract in 1998, and when is this one going to be ready? 2015. So we have 17, 18 years.

The other side said we should not start now, or they interpret the board's interpretation to mean there is no compelling or safety reason to move spent fuel to a centralized storage facility in the next few years. If we started today in this process, which is what I hope we will do as soon as the Senate supports passage of this bill, we will not be able to start on this facility until we are into the year 2000. We all know that. So it is a question of timing.

It is only natural that the board begin this process. This is a technical body. They probably have no concept of the lead time legislation must have before it can become law and can result in planned action. Again, 17 years on this process already.

So as we move to the bill, I am willing to offer an amendment that would provide a new schedule for siting construction of the interim facility, recognizing 2 years is not going to do it. This is to take into account the passage of time since introduction of the original legislation. Mr. President, even before this amendment, in response to written questions, the chairman stated something else:

> The difference in timing between the board's recommendations and the approach set forth in S. 104 are not substantial.

I think it is fair to say that my friends from Nevada have placed a good deal of faith in the board's judgment, but I would like to point out some of the board's statements that they won't tell you about. At the February hearing, Chairman Cohon stated that:

> The board believes that the risks associated with transporting spent fuel are very low—

Very low——

> and are likely to remain very low even when the number of shipments increases.

I hope that satisfies my friends from Nevada.

While my colleagues have asserted that nuclear waste can stay just where it is, and that is the position they have taken, the board has stated:

> The board believes that one or more centralized spent fuel storage facilities will be needed somewhere if Yucca Mountain proves to be unsuitable for development as a repository.

Where is somewhere, Mr. President? Somewhere is out here at the Nevada site that was used previously for more than 800 nuclear weapons tests over 50 years. That is somewhere. It has to go somewhere. Nobody wants it. This is someplace, contrary to the claims we heard today that the Nuclear Waste Technical Review Board does believe that temporarily centralized storage of nuclear waste is needed and transportation of spent fuel is safe.

The last issue I would like to refute is a question of, well, why not wait until 1998? The administration says it objects to siting a temporary storage facility before 1998 when the viability assessment for Yucca Mountain will be completed. There have been those who asked, "Why can't we just wait for 1998 and pass the legislation then?" I think I have addressed that, but to anybody who has watched this process, the obvious answer is, it is going to take a few years, more than a few years. It has taken over 2 years since the first introduction of this legislation, and we are still debating on the Senate floor.

S. 104 takes into account the viability assessment. It provides a procedure for choosing an alternative site if it is negative, and S. 104 gives the Department of Energy the authority it needs to begin the year or so of nonsite-specific work necessary to build an interim storage facility. Anyone who believes that the viability assessment will make passing legislation easier is out of touch with reality. The reality is that no one wants nuclear waste stored in their State, whether it be Arkansas or Alaska or Nevada. But we have to put it somewhere.

And this was good enough for 800 nuclear weapons tests over 50 years out in the Nevada desert where they have an experienced work force. They have security. They have the know-how. And it was selected as the best site for a permanent repository. We have expended $6 billion in a process that ultimately is going to take an expenditure probably of $30 billion to finish it.

At the committee hearing on Senate bill 104 in February, all four members of the Nevada delegation stated that no level of scientific proof would basically lessen their opposition to this project. I commend them for that; they are doing what they have to do for their State. If it was not Nevada, it would be some other State here.

But we have an obligation to put it somewhere. And that is the bottom line of this whole debate. When we go round and round and round, nobody wants it. We will not reprocess it like Japan, like France, and take advantage of advanced technology to counter proliferation threats. We cannot get the environmental community to responsively address reprocessing. So we are hell-bent to bury it—as long as we do not bury it anywhere.

The ultimate reality is that the Federal Government has an obligation to start taking this waste next year. The obligation is to move nuclear waste, not to start thinking about how you might take waste in the future.

So, again, I would urge my colleagues to recognize that we have reached a crossroads. The job of fixing this program is ours. The time for fixing it is now. We have it at 80 sites in 41 States, and no one can convince me that is the best procedure to just leave it there.

We have made progress at Yucca. The 5-mile exploratory tunnel is soon going to be complete. And we can build on this progress. This bill continues the site characterization activities for that permanent repository. And do not believe anything else. But we cannot put all our eggs in the Yucca basket. We need this storage facility, this temporary facility now. Otherwise, Mr. President, what we are going to be doing—make no mistake about it; I want every Member to so note—we are going to be leaving it right where it is: in your State. If you are one of the 41 States, leave it right where it is for another generation to come along and debate it, talk about it.

In the meantime, we are leaving it in storage that was not designed for long-term storage. We can choose whether the Nation needs 80 interim storage sites or just one at the Nevada site where we exploded nuclear bombs during the cold war. It is safe. It is remote. It is monitored.

If Yucca is licensed, which I think it will be, it will be an easy task to move the material to the repository. And if Yucca is not licensed or found to be unsuitable, we will need a centralized interim site anyway. So we will be ahead of the game regardless of what happens at Yucca.

Mr. President, this is a step we should take. The time is now. And any attempt to escape this obligation would be unwise. It would be unsafe to fail to address the problem. And what is unneeded is further delay.

Mr. President, I thank you for the courtesy of recognizing me and wish you a good day and yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I came to the U.S. Senate in 1975. At that time, the nuclear debate was raging full blast. "Shall we or shall we not build more nuclear-electrical-generating plants?" I just finished 4 years as Governor of my State. And we had built two nuclear plants up on the Arkansas River. I believe the total cost of both of those plants was $400 million. It was represented to me at the time, as Governor, that that would be by far the cheapest power we would ever know anything about.

But after I came to the Senate and began to investigate the feasibility and the advisability of taking this country down the nuclear path, I quickly came to the conclusion that I would resist any additional nuclear plants. There was another highlight on the front burner called the Clinch River breeder reactor to be built on the Clinch River down in Tennessee.

I remember in 1981, the Republicans took over this place, and Howard Baker, the Senator from Tennessee, and one of the finest men ever to serve in this body, became majority leader. I was trying to keep any additional nuclear plants from being licensed—and it was not a tough chore. A lot of people had made up their minds at that point that the nuclear option was not a good one. I fought for about 4 years to kill the Clinch River breeder.

But I was up against the majority leader. And as everybody here knows, as the old revenuer said, when they announced United States versus Jones, he turned to his lawyer and said, "Them don't sound like very fair odds to me." And it was not very fair odds to go up against the majority leader on the Clinch River breeder, which was going to be built in his beloved Tennessee.

Howard Baker could always just pull out that one extra vote he needed. The vote was always close, but when you are majority leader, you know, you can just call somebody over and say, "I need your vote," and you usually get it.

Finally, one year I was ahead by about six or seven votes as the votes were being cast, and I think Senator Baker decided that he was done for, and he turned everybody loose that had committed to him who did not really like the idea of the Clinch River breeder reactor and were only voting for it to accommodate him. He turned them loose, and I think we won that day by about 70 to 30. Happily, that was the end of the Clinch River breeder.

I had a group of people from France in my office this afternoon, some politicians and some deeply involved in the electrical industry. They wanted to talk about the new concept of restructuring the electricity industry in this country to go to retail competition. They are doing this in France. They are doing it in Germany and doing it all over Western Europe. And they wanted to talk to me about my bill.

One of them said, "Senator, we understand that you are the Senator who killed the breeder reactor."

"Mais oui."

He said, "If you had it to do over again, would you do it again?"

"You bet."

France is heavily dependent on breeder reactors. But they are also in the business of reprocessing and using MOX to generate power, and so on. I guess I am digressing a little bit to say about the breeder reactor, it is dead, dead; and I am glad it is dead.

The reason I did not like the breeder reactor is the same reason I did not like nuclear power, period. It is wonderful. It is the cleanest power you can have. You see that nice, clear white smoke coming out of those smokestacks in Russellville, AR. And you know there is nothing polluting about that plant.

But if you look inside, if you look inside the plant and you see those fuel rods, you have to ask yourself, since these things are going to be radioactive for thousands of years, how do you dispose of them? That is the reason I turned against nuclear power. I could not figure out a way on Earth that we were going to environmentally, acceptably dispose of those fuel rods.

So now, Mr. President, we are here today debating that very proposition and 35,000 tons of spent nuclear fuel created by the electrical generating companies of this country and thousands of tons more by the Pentagon. It has to be disposed of. And we have been laboring with the question of how we are going to do it. As we lawyers say, "Since the memory of man runneth not." We are doing our very best to keep faith with the people of this country and dispose of it in a way that they will be able to sleep at night.

Let me tell you one other thing. If we dispose of it the way the Senator from Alaska proposes right now, we may be transporting that stuff all over the country two or three times. And, you know, I live in a little town of 2,500 people, Charleston, AR. You are being addressed right now almost entirely by the South Franklin County Bar Association. I was about the only lawyer in town—it is so little. But if I were a lawyer in Charleston, I would be very apprehensive about all that nuclear power coming from Russellville, AR, right up Highway 22. And the Presiding Officer knows exactly the location I am talking about. Coming right up Highway 22 through Charleston, AR, headed for Yucca Mountain.

So, what did we do? In 1982, we passed a bill called the Nuclear Waste Policy Act. A good bill. We said to the electrical industry in this country, the nuclear electrical industry, that you pay a fee to the U.S. Government every year. We will use your money to find and develop a permanent repository for this nuclear fuel.

We passed the bill. The deal was cut. We started collecting the fees. Both sides operating in ultimate good faith. No shenanigans. You pay us a fee every year and we will use it to find a site. We found a site called Yucca Mountain in the home State of my good friend, the junior Senator from Nevada.

I am on the same side of the Senator from Nevada. And if it were Arkansas instead of Nevada that they were putting it in, I would be like him sitting in my seat on this floor 24 hours a day trying to keep faith with my constituents and saying, what have we done to deserve 35,000 tons of nuclear waste dumped in our backyard? And I am sad about that. It is one of those things. Somebody has to do it.

So we find Yucca Mountain and everybody says this is the best possible site—not the perfect site, may not be the site ultimately chosen—but it is the site we are choosing to start spending this fee the utilities are paying us.

So, what have we done since 1982? We have dug a 5-mile hole, a tunnel in Yucca Mountain in anticipation of it ultimately being decided that it is by far the best place to locate this spent fuel. We have spent $4.8 billion on that 5-mile hole. And we are going to spend a lot more before it is perfected.

But, Mr. President, the reason we stand here today debating this bill is this. We said to the utility industry, we will take your fuel—we being the U.S. Government, the Energy Department—we will take this 35,000 tons of spent fuel and we will start taking it in about January 1998. That is coming up. It will be here before you know it.

Now, the utilities have been operating in good faith, too. They have been paying their fees in anticipation of getting rid of this stuff which they are storing onsite at their nuclear plants.

Again, the Presiding Officer, I know, has been to those two nuclear sites in Arkansas.

Some of it is lying out in dry casks. Some of it is in water. But it is stored on site. We have 110 nuclear generating plants in this country and 76 storage sites. For example, we only have one storage site in Russellville, but two generators. That is not uncommon in this country.

So we have the 110 nuclear generating plants generating more and more spent fuel and storing it at a considerable cost to them. There is no denying this is very expensive to the utilities. So they say: A deal is a deal. In 1982 we said we would start paying you, and you said January 1998 you would start taking the fuel off our hands and we could quit building all the facilities and storing it.

It is kind of ominous. Most Senators, I suppose, have been to the nuclear plants and looked at those things. You look at the pool of water, it has a very strange color, and the nuclear rods are in that water. I have never seen a real dry cask they put it in. My legislative director has a small mock-up model of a cask they put it in. What they will be doing, if all goes through according to S. 104, they will take that fuel out of water and put in the steel casks. The casks are big, they are expensive. They will put those fuel rods inside those casks, those that are not already there, and they will start transporting them from all over the United States to Nevada. You lucky dog. They will be transporting them to Nevada in those casks.

What the Senator from Alaska says, "We will pour a gigantic concrete slab and we will carry that stuff out there to Yucca Mountain." Not inside the mountain. This is somewhere around Yucca Mountain. I do not know where. We have the 5-mile tunnel built. We have a little more boring to do. But we will pour the concrete slab, transport the fuel out there, and just leave it out there in the open.

Now, this sounds simple, but it is a pretty expensive undertaking. What it means is if S. 104 passes and the President vetoes it and we override his veto, it will cost about $4 billion over the next 5 years instead of the $2 billion we are planning to spend on the permanent repository.

Mr. President, I tell you something interesting that has nothing to do with the debate. If, in August of next year—bear in mind there will be a determination made next August on whether or not Yucca Mountain is suitable. Incidentally, the reason we are here today is because the dates are at cross purposes. We have to start taking the fuel in January, but we do not know whether Yucca Mountain will be determined to be suitable until August of next year. So we are required to start taking the stuff 8 months before we know whether Yucca Mountain will be the ultimate repository. Now, if it is, if next August we find it suitable, there are still a lot of licensing procedures to go through, but basically we are in fat city. Everybody will be happy because Yucca Mountain has been determined to be suitable, and we will take all this waste that S. 104 wants to take out and put on a concrete slab. In the year 2010 we will start taking it and putting it in that hole, that tunnel in the mountain, and we will seal that sucker up. You think about it. We will put 84,000 tons of spent nuclear fuel in this tunnel in Yucca Mountain and seal that thing. No guards and no monitors walking up and down hallways, putting a Geiger counter on it and see what the radiation is that is coming out of it. We will seal it up forever.

Now, before I get to the end of this tale, let me go back a moment and say this stuff is going to be in Yucca Mountain for thousands and thousands of years. And you know why? Because that is how long it is radioactive. You know what we are debating here today? Ten years. We are saying we cannot wait 10 years to make sensible decisions that affect the lives of every man, woman, and child in America. We have to do it right now because the utility industry is unhappy. They want us to take it now and transport it to Yucca Mountain and get it out of their back door. If they would have listened to me 20 years ago, they would not have a problem because they would not have all that waste. I was not that powerful then. I am not that powerful now either.

But think about this: We are talking about planting 84,000 tons of spent nuclear fuel in Yucca Mountain, to be reposed for thousands and thousands of years, and S. 104 says we cannot wait 10 years to find out. We cannot wait until August of next year to determine whether or not Yucca Mountain is a suitable repository. This is a monumental decision. We are not talking about the Kentucky Derby. We are talking about thousands of tons of lethal spent fuel and how we will dispose of it safely so the American people can sleep at night.

I share the concern of the Senator from Alaska about disposing of this stuff. I am not trying to drag my feet. Everybody knows we have to dispose of this stuff. We are talking about what is the best way to do it. What is in the national interest? What is sensible? What is the safest way to do it?

It is tragic that the Energy Department has to renege on its agreement, but it cannot help it. It was not their fault. It really was not anybody's fault that we did not get this all done by 1998. But the Energy Department says certainly if it is found suitable, we believe we can start taking this stuff by the year 2010 and doing it properly and in a way that everybody will find to be suitable and satisfying.

So what happens under this bill? If Yucca Mountain is found to be unsuitable next August, you have to go ahead and build this thing anyway, this interim storage site, unless the President of the United States finds an alternative site and Congress approves that alternative site all within 2 years. If anybody believes you can do that, hold up your hand. That is an absolutely impossible condition in S. 104. The President cannot find another site and get Congress to approve that site within 2 years. We have been working on Yucca Mountain forever, and now we are in a posture of finally concluding a happy end to this situation. But even if Yucca Mountain is found to be unsuitable, S. 104 of the Senator from Alaska will still require that every pound of nuclear waste in this country be transported to Yucca Mountain, even though that is not going to be the permanent repository site.

So what happens then? We find another permanent repository site. We will load it all up and bring it back through Charleston, AR, once again. That will make the citizens happy. They already had the daylights scared out of them bringing the fuel through their hometowns once. Now they will get it again. So why take it in the first place? Why not at least give the administration and the utility industry an opportunity to work out some kind of an arrangement whereby we will pay them—they are suing us now, and frankly they have a good lawsuit. I do not deny that. They have a good lawsuit. We agreed to take it in 1998, and we cannot do it. So we will have to pay.

So my question is why not pay them to leave it where it is for a few months until we can make a decision about the suitability of Yucca Mountain and proceed the way we have been proceeding?

Now, Mr. President, let me just close by making something of a confession. It is tempting to me to support this proposition. I would not vote for S. 104 under any circumstances, but the concept set out in S. 104 makes it very appealing and very attractive. As I say, I would not vote for an interim storage site right now because we are coming up on the time when we will know with some degree of certainty whether or not Yucca Mountain will be the place. Can we not wait? America, this is the central question. Can we not wait 10 years to determine that this is the safest place in the world and the best place in the world to store this stuff for thousands of years? What is 10 years in the scheme of the thousands of years that this stuff will be stored there?

The options are not good either way. I do not blame the utilities for wanting to get rid of the stuff, but I do not blame us for not wanting to take it. It is folly in the extreme for us to take that stuff out there and spend an extra $2 billion to put in a concrete slab when we know, or will know next August almost to a reasonable degree of certainty, a year from now we will know whether or not we will be able to use Yucca Mountain, and if we are, would it not be infinitely better to transport that fuel one time—not twice, not three times—one time, to put it in a site in which we will all feel comfortable?

Mr. President, I know there are plenty of votes in this place to pass this bill. I know the President will veto it when it is presented to him. We will see what happens after that. I am trying to call for a degree of sanity and reasonableness and saying I would like to get rid of it, too. Nobody has any stronger desire to get rid of this nuclear waste than I have.

The Senator from Nevada and I will probably be on opposite sides next time. If Yucca Mountain is found to be suitable, you can bet I will vote to put it there. I have not supported the Senators from Nevada because I like them, because they are friends; I supported them because I thought they were right. I have supported the Energy Department and the administration's position on this because I think they are right.

I am asking my colleagues, I know they are getting a lot of pressure on them both from the industry and the party and different people, but I tell you something, when you start playing politics with this issue, I plead for my colleagues to remember, people may disagree with you, but they like people who stand up for what they believe, even when it is not popular. People sometimes say to me, why do you guys not screw up your nerve and do something right, something courageous for a change? I hear that all the time. Do you know what they mean by courageous? Unpopular. If it is popular, it is not courageous.

Here is a bill that is very complicated, and the American people are not homed in on it. The people here know what they are doing. I am asking, for Pete's sake, listen to this debate and do what they think is sensible, in the best interests of the country.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, April 7, 1997, the Federal debt stood at $5,385,190,477,419.92.

Five years ago, April 7, 1992, the Federal debt stood at $3,891,976,000,000.

Ten years ago, April 7, 1987, the Federal debt stood at $2,288,906,000,000.

Fifteen years ago, April 7, 1982, the Federal debt stood at $1,060,872,000,000.

Twenty-five years ago, April 7, 1972, the Federal debt stood at $429,202,000,000 which reflects a debt increase of nearly $5 trillion ($4,955,988,477,419.92) during the past 25 years.

THE GREAT FALLS OPTIMIST CLUB

Mr. BAUCUS. Mr. President, as a newly inducted member of the downtown Optimist Club of Great Falls, MT, I take great pride in telling my colleagues about the new Optimist International Child Safety Awareness Program.

In recent months, there have been numerous reports of serious and even fatal injuries to children as a result of incorrect positioning or improper restraint in vehicles. Often these injuries are preventable.

The Optimist International Child Safety Awareness Program operates under the premise that adults must assume the responsibility to see that their kids are safe while driving in a motor vehicle. The Optimist Club seeks to increase adult awareness of the hazards of incorrectly positioned children. I am very excited about this plan because I think we can make a real difference.

The Optimists have always been strong advocates for children's safety. I encourage all of my colleagues in Congress to become familiar with the Optimists program and give it their full support. Our children are depending on it.

Mr. President, I yield the floor.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE ANNUAL REPORT OF THE DEPARTMENT OF TRANSPORTATION—MESSAGE FROM THE PRESIDENT—PM 25

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

As required by section 308 of Public Law 97–449 (49 U.S.C. 308(a)), I transmit herewith the Annual Report of the Department of Transportation, which covers fiscal year 1995.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 8, 1997.*

REPORT CONCERNING THE ANNUAL REPORT OF THE NATIONAL ENDOWMENT FOR DEMOCRACY—MESSAGE FROM THE PRESIDENT—PM 26

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

Pursuant to the provisions of section 504(h) of Public Law 98–164, as amended (22 U.S.C. 4413(i)), I transmit herewith the 13th Annual Report of the National Endowment for Democracy, which covers fiscal year 1996.

The report demonstrates the National Endowment for Democracy's unique contribution to the task of promoting democracy worldwide. The Endowment has helped consolidate emerging democracies—from South Africa to the former Soviet Union—and has lent its hand to grass-roots activists in repressive countries—such as Cuba, Burma, or Nigeria. In each instance, it has been able to act in ways that government agencies could not.

Through its everyday efforts, the Endowment provides evidence of the universality of the democratic ideal and of the benefits to our Nation of our continued international engagement. The Endowment has received and should continue to receive strong bipartisan support.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 8, 1997.*

REPORT CONCERNING THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 27

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

In accordance with section 540 of the Federal Food, Drug, and Cosmetic (FDC) Act (21 U.S.C. 360qq) (previously section 360D of the Public Health Service Act), I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act of 1968 during calendar year 1995.

The report recommends the repeal of section 540 of the FDC Act, which requires the completion of this annual report. All the information found in this report is available to the Congress on a more immediate basis through the Center for Devices and Radiological Health technical reports, the Center's Home Page Internet Site, and other publicly available sources. Agency resources devoted to the preparation of this report should be put to other, better uses.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 8, 1997.*

MESSAGES FROM THE HOUSE

At 11:38 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 11. Concurrent resolution permitting the use of the rotunda of the Capitol for ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

MEASURE REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

S. 468. A bill to continue the successful Federal role in developing a national intermodal surface transportation system, through programs that ensure the safe and efficient movement of people and goods, improve economic productivity, preserve the environment, and strengthen partnerships among all levels of the government and the private sector, and for the other purposes; ordered referred jointly to the Committee on Finance and Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ABRAHAM:

S. 518. A bill to control crime by requiring mandatory victim restitution; to the Committee on the Judiciary.

By Mr. ALLARD:

S. 519. A bill to terminate the authorities of the Overseas Private Investment Corporation; to the Committee on Foreign Relations.

By Mr. FEINGOLD:

S. 520. A bill to terminate the F/A-18 E/F aircraft program; to the Committee on Armed Services.

By Mr. COVERDELL (for himself, Mr. Inhofe, Mr. Hutchinson, Mr. Hagel, and Mr. Shelby):

S. 521. A bill to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes; to the Committee on Finance.

S. 522. A bill to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes; read the first time.

By Mr. GLENN:

S. 523. A bill to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information; to the Committee on Finance.

By Mr. DASCHLE (for himself and Mr. Dorgan):

S. 524. A bill to amend title XVIII of the Social Security Act to remove the requirement of an X-ray as a condition of coverage of chiropractic services under the Medicare program; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. Kennedy, Ms. Snowe, Mr. Kerry, Mr. Jeffords, Mr. Dodd, Mr. Stevens, Mr. Rockefeller, Mr. Bennett, Mr. Daschle, Ms. Collins, Mr. Wellstone, Mr. Smith of Oregon, Mr. Bingaman, Mr. Campbell, Mrs. Murray, Mr. Reed, Mrs. Boxer, Mr. Lautenberg, Mr. Durbin, and Mr. Reid):

S. 525. A bill to amend the Public Health Service Act to provide access to health care insurance coverage for children; to the Committee on Labor and Human Resources.

By Mr. HATCH (for himself, Mr. Kennedy, Mr. Bennett, Mr. Bingaman, Mrs. Boxer, Mr. Dodd, Mr. Durbin, Mr. Jeffords, Mr. Kerry, Mr. Lautenberg, Mrs. Murray, Mr. Reed, Mr. Reid, Mr. Rockefeller, Ms. Snowe, and Mr. Wellstone):

S. 526. A bill to amend the Internal Revenue Code of 1986 to increase the excise taxes on tobacco products for the purpose of offsetting the Federal budgetary costs associated with the Child Health Insurance and Lower Deficit Act; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. Durbin, Mr. Harkin, Mr. Wellstone, and Mr. Kennedy):

S. 527. A bill to prescribe labels for packages and advertising for tobacco products, to provide for the disclosure of certain information relating to tobacco products, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ABRAHAM:

S. 518. A bill to control crime by requiring mandatory victim restitution; to the Committee on the Judiciary.

THE VICTIM RESTITUTION ENFORCEMENT ACT

Mr. ABRAHAM. Mr. President, I rise today to introduce the Victim Restitution Enforcement Act of 1997. I have long supported restitution for crime victims, and have long been convinced that justice requires us to devise effective mechanisms through which victims can enforce restitution orders and make criminals pay for their crimes.

I was very pleased when we enacted mandatory victim restitution legislation last Congress as part of the Antiterrorism and Effective Death Penalty Act of 1996. I supported that legislation and very much appreciated the efforts of my colleagues, particularly Senators Hatch, Biden, Nickles, Grassley, and McCain, to ensure that victim restitution provisions were included in the antiterrorism legislation.

Those victim restitution provisions—brought together as the Mandatory Victims Restitution Act of 1996—will significantly advance the cause of justice for victims in Federal criminal cases. The act requires Federal courts, when sentencing criminal defendants, to order these defendants to pay restitution to the victims of their crimes. It also establishes a single set of procedures for the issuance of restitution orders in Federal criminal cases to provide uniformity in the Federal system. Inclusion of mandatory victim restitution provisions in the Federal criminal code was long overdue, and I am pleased that Congress was able to accomplish that last year.

However, much more remains to be done to ensure that victims can actually collect those restitution payments and to provide victims with effective means to pursue whatever restitution payments are owed to them. Even if a defendant may not have the resources to pay off a restitution order fully, victims should still be entitled to go after whatever resources a defendant does have and to collect whatever they can. We should not effectively tell victims that it is not worth going after whatever payments they might get. That is what could happen under the current system, in which victims have to rely on Government attorneys—who may be busy with many other matters—to pursue restitution payments. Instead, we should give victims themselves the tools they need so that they can get what is rightfully theirs.

The victim restitution provisions enacted last Congress consolidated the procedures for the collection of unpaid restitution with existing procedures for the collection of unpaid fines. Unless more steps are taken to make enforcement of restitution orders more effective for victims, we risk allowing mandatory restitution to be mandatory in name only, with criminals able to evade ever paying their restitution and victims left without the ability to take action to enforce restitution orders.

Last Congress, I introduced the Victim Restitution Enforcement Act of 1995. Many components of my legislation were also included in the victim restitution legislation enacted as part of the Antiterrorism and Effective Death Penalty Act. The legislation I introduce today is similar to the legislation I introduced last Congress as Senate bill 1504, and is designed to build on what are now current provisions of law. All in all, I hope to ensure that restitution payments from criminals to victims become a reality, and that victims have a greater degree of control in going after criminals to obtain restitution payments.

Under my legislation, restitution orders would be enforceable as a civil debt, payable immediately. Most restitution is now collected entirely through the criminal justice system. It is frequently paid as directed by the probation officer, which means restitution payments cannot begin until the prisoner is released. This bill makes restitution orders payable immediately, as a civil debt, speeding recovery and impeding attempts by criminals to avoid repayment. This provision will not impose criminal penalties on those unable to pay, but will simply allow civil collection against those who have assets.

This will provide victims with new means of collecting restitution payments. If the debt is payable immediately, all normal civil collection procedures, including the Federal Debt Collection Act, can be used to collect the debt. The bill explicitly gives victims access to other civil procedures already in place for the collection of debts. This lightens the burden of collecting debt on our Federal courts and prosecutors.

My bill further provides that Federal courts will continue to have jurisdiction over criminal restitution judgments for 5 years, not including time that the defendant is incarcerated. The court is presently permitted to resentence or take several other actions against a criminal who willfully refuses to make restitution payments; the court may do so until the termination of the term of parole. Courts should have the ability to do more over a longer period of time, and to select those means that are more likely to prove successful. Under my bill, during the extended period, Federal courts will be permitted, where the defendant knowingly fails to make restitution payments, to modify the terms or conditions of a defendant's parole, extend the defendant's probation or supervised release, hold the defendant in contempt, increase the defendant's original sentence, or revoke probation or supervised release.

My legislation will also give the courts power to impose presentence restraints on defendants' uses of their assets in appropriate cases. This will prevent well-heeled defendants from dissipating assets prior to sentencing. Without such provisions, mandatory victim restitution provisions may well be useless in many cases. Even in those rare cases in which a defendant has the means to pay full restitution at once, if the court has no capacity to prevent the defendant from spending ill-gotten gains or other assets prior to the sentencing phase, there may be nothing left for the victim by the time the restitution order is entered.

The provisions permitting presentence restraints are similar to other provisions that already exist in the law for private civil actions and asset forfeiture cases, and they provide adequate protections for defendants. They require a court hearing, for example, and place the burden on the Government to show by a preponderance of the evidence that presentence restraints are warranted.

In short, I want to make criminals pay and to give victims the tools with which to make them pay. In enacting mandatory victim restitution legislation last Congress, we demonstrated our willingness to make some crimes subject to this process. I believe we must take additional steps to make those mandatorily issued orders easily enforceable.

This legislation is supported by the National Victim Center and by the Michigan Coalition Against Domestic and Sexual Violence. I ask unanimous consent to have placed in the RECORD letters of support from those victims' rights organizations.

I urge my colleagues to support my legislation, which will empower victims to collect on the debts that they are owed by criminals and which will improve the enforceability of restitution orders.

I also ask unanimous consent that the text of the bill be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Victim Restitution Enforcement Act".

SEC. 2. PROCEDURE FOR ISSUANCE AND ENFORCEMENT OF RESTITUTION ORDER.

Section 3664 of title 18, United States Code, is amended to read as follows:

"§3664. Procedure for issuance and enforcement of order of restitution

"(a) IN GENERAL.—

"(1) RELIANCE ON INFORMATION IN PRESENTENCE REPORT.—With respect to each order of restitution under this title, the court shall order the probation service of the court to obtain and include in its presentence report, or in a separate report, as the court directs, information sufficient for the court to exercise its discretion in fashioning a restitution order.

"(2) CONTENTS OF REPORT.—Each report described in paragraph (1) shall include, to the extent practicable, a complete accounting of the losses to each victim, any restitution owed pursuant to a plea agreement, and information relating to the economic circumstances of each defendant. If the number or identity of victims cannot be reasonably ascertained, or other circumstances exist that make this requirement clearly impracticable, the probation service shall so inform the court.

"(b) DISCLOSURES.—The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a).

"(c) APPLICABILITY OF OTHER LAW.—This chapter, chapter 227, and Rule 32(c) of the Federal Rules of Criminal Procedure are the only laws and rules applicable to proceedings under this section.

"(d) ENSURING AVAILABILITY OF PROPERTY OR ASSETS.—

"(1) IN GENERAL.—

"(A) RESTRAINING ORDER, INJUNCTION, EXECUTION OF PERFORMANCE BOND.—Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property or assets necessary to satisfy a criminal restitution order under this subchapter. An order under this subparagraph may be entered in the following circumstances:

"(i) Prior to the filing of an indictment or information charging an offense that may result in a criminal restitution order, and upon the United States showing that—

"(I) there is a substantial probability that the United States will obtain a criminal restitution order;

"(II) the defendant has or is likely to take action to dissipate or hide the property or assets of the defendant; and

"(III) the need to preserve the availability of the property or assets through the requested order outweighs the hardship of any party against whom the order is entered.

"(ii) Upon the filing of an indictment or information charging an offense that may result in a criminal restitution order, and upon the United States showing that the defendant has or is likely to take action to dissipate or hide the property or assets of the defendant.

"(iii) Upon the conviction, or entry of a guilty plea, to an indictment or information charging an offense that may result in a criminal restitution order, and upon the United States showing that the defendant may take action to dissipate or hide the property or assets of the defendant or that an order is necessary to marshal and determine the property or assets of the defendant.

"(B) PERIOD OF EFFECTIVENESS.—An order entered under subparagraph (A) shall be effective for not more than 90 days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A)(ii) has been filed.

"(2) NOTICE OF ORDER.—

"(A) IN GENERAL.—Except as provided in paragraph (3), an order entered under this subsection shall be after notice to persons appearing to have an interest in the property and opportunity for a hearing, and upon the United States carrying the burden of proof by a preponderance of the evidence.

"(B) ADMISSIBLE EVIDENCE.—The court may receive and consider, at a hearing held under this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

"(3) TEMPORARY RESTRAINING ORDER.—

"(A) IN GENERAL.—A temporary restraining order may be entered without notice or opportunity for a hearing if the United States demonstrates that—

"(i) there is probable cause to believe that the property or assets with respect to which the order is sought would be subject to execution upon the entry of a criminal restitution order;

"(ii) there is a substantial probability that the United States will obtain a criminal restitution order; and

"(iii) the provision of notice would jeopardize the availability of the property or assets for execution.

"(B) EXPIRATION OF ORDER.—A temporary order under this paragraph shall expire not later than 10 days after the date on which it is entered, unless—

"(i) the court grants an extension for good cause shown; or

"(ii) the party against whom the order is entered consents to an extension for a longer period.

"(C) HEARING.—A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time, and prior to the expiration of the temporary order.

"(4) DISCLOSURE OF CERTAIN INFORMATION.—

"(A) IN GENERAL.—Information concerning the net worth, financial affairs, transactions or interests of the defendant presented to the grand jury may be disclosed to an attorney for the Government assisting in the enforcement of criminal restitution orders, for use in the performance of the duties of that attorney.

"(B) USE OF CONSUMER CREDIT REPORTS.—

"(i) IN GENERAL.—An attorney for the Government responsible for the prosecution of criminal offenses, or responsible for the enforcement of criminal restitution orders, may obtain and use consumer credit reports to—

"(I) obtain an order under this section;

"(II) determine the amount of restitution that is appropriate; or

"(III) enforce a criminal restitution order.

"(ii) GRAND JURY SUBPOENA.—This subparagraph does not limit the availability of grand jury subpoenas to obtain a consumer credit report.

"(iii) PROBATION SERVICE.—Upon conviction, a consumer credit report used under this subparagraph may be furnished to the United States Probation Service.

"(e) INFORMATION TO PROBATION SERVICE.—

"(1) IN GENERAL.—

"(A) PROVISION OF INFORMATION BY GOVERNMENT.—Not later than 60 days after conviction, and in any event not later than 10 days prior to sentencing, the attorney for the Government after consulting with all victims (when practicable), shall promptly provide the probation service of the court all information readily available to the attorney, including matters occurring before the grand jury relating to the identity of the victim or victims, the amount of losses, and financial matters relating to the defendant.

"(B) Provision of information by defendants.—Each defendant shall prepare and file with the probation officer an affidavit fully describing the financial resources of the defendant, including a complete listing of all assets owned or controlled by the defendant as of the date on which the defendant was arrested, the financial needs and earning ability of the defendant and the defendant's dependents, and any other information that the court requires relating to such other factors as the court determines to be appropriate.

"(C) Notice to victims.—The attorney for the Government shall, to the maximum extent practicable and as soon as practicable after the provision of information by the Government to the probation service under subparagraph (A), provide notice to all victims. The notice shall inform the victims of—

"(i) the offenses for which the defendant was convicted;

"(ii) the amounts subject to restitution and any other information that is relevant to restitution submitted to the probation service;

"(iii) the right of the victim to submit information to the probation service concerning the amount of the losses of the victim;

"(iv) the scheduled date, time, and place of the sentencing hearing;

"(v) the availability of a lien in favor of the victim under subsection (n)(1)(D); and

"(vi) the opportunity of the victim to file a separate affidavit with the court under subparagraph (E).

"(D) Limitations on information.—Upon ex parte application to the court, and a showing that the requirements of subparagraph (A) may cause harm to any victim, or jeopardize an ongoing investigation, the court may limit the information to be provided to or sought by the probation service of the court.

"(E) Affidavit of objection.—If any victim objects to any of the information provided to the probation service by the attorney for the Government under this paragraph, the victim may file a separate affidavit with the court.

"(2) Additional documentation or testimony.—After reviewing the report of the probation service of the court, the court may require additional documentation or hear testimony. The privacy of any records filed, or testimony heard, under this section shall be maintained to the greatest extent possible and those records may be filed or testimony heard in camera.

"(3) Additional time for determination of losses.—If the losses to the victim are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or a designee of the United States Attorney) shall so inform the court, and the court shall set a date for the final determination of the losses of the victim, not to exceed 90 days after sentencing. If the losses to the victim cannot reasonably be ascertained, the court shall determine an appropriate amount of restitution based on the available information. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses during which to petition the court for an amended restitution order. The order may be granted only upon a showing of good cause for the failure to include those losses in the initial claim for restitutionary relief.

"(4) Referral to magistrate or special master.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(5) Insurance of victim not considered.—In no case shall the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source be considered in determining the amount of restitution.

"(f) Evidentiary Standard.—Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and the dependents of the defendant shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

"(g) Factors for Consideration.—

"(1) In general.—

"(A) Economic circumstances of victim not considered.—In each order of restitution, the court shall order restitution to each victim in the full amount of the losses of each victim as determined by the court and without consideration of the economic circumstances of the defendant.

"(B) Award of reasonably ascertainable losses.—The court shall order restitution in the amount of the total loss that is reasonably ascertainable, if—

"(i) the number of victims is too great;

"(ii) the actual identity of the victims cannot be ascertained; and

"(iii) or the full amount of the losses of each victim cannot be reasonably ascertained;

"(2) Amount and timing of restitution.—The restitution order shall be for a sum certain and payable immediately.

"(3) Nominal periodic payments.—If the court finds from facts on the record that the economic circumstances of the defendant do not allow and are not likely to allow the defendant to make more than nominal payments under the restitution order, the court shall direct the defendant to make nominal periodic payments in the amount the defendant can reasonably be expected to pay by making a diligent and bona fide effort toward the restitution order entered under paragraph (1). Nothing in the paragraph shall impair the obligation of the defendant to make full restitution under this subsection.

"(4) Status of debt.—Notwithstanding any payment schedule entered by the court under paragraph (2), each order of restitution shall be a civil debt, payable immediately, and subject to the enforcement procedures provided in subsection (n). In no event shall a defendant incur any criminal penalty for failure to make a restitution payment under the restitution order because of the indigency of the defendant.

"(h) Victim Rights.—

"(1) No participation required.—No victim shall be required to participate in any phase of a restitution order. If a victim declines to receive restitution made mandatory by this title, the court shall order that the share of the victim of any restitution owed be deposited in the Crime Victims Fund in the Treasury.

"(2) Assignment of interest.—A victim may at any time assign the interest of the victim in restitution payments to the Crime Victims Fund in the Treasury without in any way impairing the obligation of the defendant to make those payments.

"(3) Victims not identified or located.—If the victim cannot be located or identified, the court shall direct that the restitution payments be made to the Crime Victims Fund of the Treasury. This paragraph shall not be construed to impair the obligation of the defendant to make those payments.

"(i) Joint and Several Liability of Multiple Defendants.—If the court finds that more than 1 defendant has contributed to the loss of a victim, the court may make each defendant jointly and severally liable for payment of the full amount of restitution or may apportion liability among the defendants to reflect the level of contribution to the loss of the victim and economic circumstances of each defendant.

"(j) Priority of Payments.—If the court finds that more than 1 victim has sustained a loss requiring restitution by a defendant, the court may issue an order of priority for restitution payments based on the type and amount of the loss of the victim accounting for the economic circumstances of each victim. In any case in which the United States is a victim, the court shall ensure that all individual victims receive full restitution before the United States receives any restitution.

"(k) Insurance.—

"(1) In general.—If a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution shall be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to any such provider of compensation.

"(2) Reduction of amount.—Any amount paid to a victim under an order of restitution shall be reduced by any amount later recovered as compensatory damages for the same loss by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(3) Other resources.—If a person obligated to provide restitution receives substantial resources from any source, including inheritance, settlement, or other judgment, that person shall be required to apply the value of those resources to any restitution still owed.

"(l) Material Changes in Economic Status of Defendant.—The defendant shall notify the court and the Attorney General of any material change in the economic circumstances of the defendant that might affect the ability of the defendant to pay restitution. Upon receipt of the notification, the court may, on its own motion, or the motion of any party, including the victim, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.

"(m) Jurisdiction of Court.—

"(1) In general.—The court shall retain jurisdiction over any criminal restitution judgment or amended criminal restitution judgment for a period of 5 years from the date the sentence was imposed. This limitation shall be tolled during any period of time that the defendant—

"(A) was incarcerated;

"(B) was a fugitive; or

"(C) was granted a stay that prevented the enforcement of the restitution order.

"(2) FAILURE TO PAY.—While within the jurisdiction of the court, if the defendant knowingly fails to make a bona fide effort to pay whatever amount of restitution is ordered by the court, or knowingly and willfully refuses to pay restitution, the court may—

"(A) modify the terms or conditions of the probation or supervised release of the defendant;

"(B) extend the probation or supervised release of the defendant until a date not later than 10 years from the date the sentence was imposed;

"(C) revoke the probation or supervised release of the defendant;

"(D) hold the defendant in contempt; or

"(E) increase the sentence of the defendant to any sentence that might originally have been imposed under the applicable statute, without regard to the sentencing guidelines.

"(n) ENFORCEMENT OF ORDER OF RESTITUTION.—

"(1) IN GENERAL.—An order of restitution may be enforced—

"(A) through civil or administrative methods during the period that the restitution lien provided for in section 3613 of title 18, United States Code, is enforceable;

"(B) by the United States in the manner provided for in subchapter C of chapter 227 and subchapter B of chapter 229;

"(C) by the United States regardless of whether for the benefit of the United States, in accordance with the procedures of chapter 176 of part VI of title 28, or in accordance with any other administrative or civil enforcement means available to the United States to enforce a debt due the United States; or

"(D) by any victim named in the restitution order as a lien under section 1962 of title 28.

"(2) ESTOPPEL.—A conviction of a defendant for an offense giving rise to restitution under this section shall estop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding, regardless of any State law precluding estoppel for a lack of mutuality. The victim, in the subsequent proceeding, shall not be precluded from establishing a loss that is greater than the loss determined by the court in the earlier criminal proceeding.".

SEC. 3. CIVIL REMEDIES.

Section 3613 of title 18, United States Code, is amended—

(1) in the section heading, by inserting "or restitution" after "fine"; and

(2) in subsection (a)—

(A) by striking "The United States" and inserting the following:

"(1) FINES.—The United States";

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and indenting accordingly; and

(C) by adding at the end the following:

"(2) RESTITUTION.—

"(A) IN GENERAL.—

"(i) LIEN.—An order of restitution shall operate as a lien in favor of the United States for its benefit or for the benefit of any non-Federal victims against all property belonging to the defendant or defendants.

"(ii) TIMING.—The lien shall arise at the time of the entry of judgment or order and shall continue until the liability is satisfied, remitted, or set aside, or until it becomes otherwise unenforceable.

"(iii) PERSONS AGAINST WHOM LIEN APPLIES.—The lien shall apply against all property and property interests—

"(I) owned by the defendant or defendants at the time of arrest; and

"(II) subsequently acquired by the defendant or defendants.

"(B) ENTRY OF LIEN.—The lien shall be entered in the name of the United States on behalf of all ascertained victims, unascertained victims, victims entitled to restitution who choose not to participate in the restitution program and victims entitled to restitution who cannot assert their interests in the lien for any reason.

"(3) JOINTLY HELD PROPERTY.—

"(A) IN GENERAL.—

"(i) DIVISION AND SALE OF PROPERTY.—If the court enforcing an order of restitution under this section determines that the defendant has an interest in property with another, and that the defendant cannot satisfy the restitution order from his or her separate property or income, the court may, after considering all of the equities, order that jointly owned property be divided and sold, upon such conditions as the court deems just, notwithstanding any Federal or State law to the contrary.

"(ii) PROTECTION OF INNOCENT PARTIES.—The court shall take care to protect the reasonable and legitimate interests of the innocent spouse and minor children of the defendant, especially real property used as the actual home of that innocent spouse and minor children, except to the extent that the court determines that the interest of that innocent spouse and children is the product of the criminal activity of which the defendant has been convicted, or is the result of a fraudulent transfer.

"(B) FRAUDULENT TRANSFERS.—In determining whether there was a fraudulent transfer, the court shall consider whether the debtor made the transfer—

"(i) with actual intent to hinder, delay, or defraud the United States or other victim; or

"(ii) without receiving a reasonably equivalent value in exchange for the transfer.

"(C) CONSIDERATIONS FOR PROTECTION OF INNOCENT PARTIES.—In determining what portion of the jointly owned property shall be set aside for the innocent spouse or children of the defendant, or whether to have sold or divided the jointly held property, the court shall consider—

"(i) the contributions of the other joint owner to the value of the property;

"(ii) the reasonable expectation of the other joint owner to be able to enjoy the continued use of the property; and

"(iii) the economic circumstances and needs of the defendant and dependents of the defendant and the economic circumstances and needs of the victim and the dependents of the victim.".

SEC. 4. FINES.

Section 3572(b) of title 18, United States Code, is amended to read as follows:

"(b) PAYMENTS; EFFECT OF INDIGENCY.—Any fine, special assessment, restitution, or cost shall be for a sum certain and shall be payable immediately. In no event shall a defendant incur any criminal penalty for failure to make a payment on a fine, special assessment, restitution, or cost as a result of the indigency of the defendant.".

SEC. 5. RESENTENCING.

Section 3614(a) of title 18, United States Code, is amended by inserting before the period at the end the following: "or may increase the sentence of the defendant to any sentence that might originally have been imposed under the applicable statute".

NATIONAL VICTIM CENTER,
March 18, 1997.

Hon. SPENCER ABRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR ABRAHAM: The National Victim Center would like to express it strong support for your bill, the Victims Restitution Enforcement Act of 1997. Restitution is one of the most direct manifestations of justice that our criminal justice system can provide: requiring the convicted offender to pay for the harm caused by his criminal conduct. No other aspect of our system has a greater impact on the lives of crime victims, or on their satisfaction with the criminal justice process.

The provisions of this bill would greatly facilitate the ordering and collection of restitution for victims' of federal offenses, and would serve as a mode for state legislatures who are searching for a means to enhance their own restitution efforts. Adoption of this bill would fully implement the spirit of the Mandatory Victims' Restitution Act of 1996 (P.L. 104–132, §201 et seq.). It would provide courts the information necessary to issue meaningful restitution orders, would create a raft of mechanisms to enhance the enforcement of those orders.

Passage of the Victims Restitution Enforcement Act of 1997 would send a strong signal to the American people that the federal government will do everything in its power to provide justice to our nation's crime victims. We urge your fellow congress members to join in supporting this important legislation.

Yours truly,

DAVID BEATTY,
Acting Executive Director.

MICHIGAN COALITION,
April 8, 1997.

Hon. SPENCER ABRAHAM,
U.S. Senator,
Washington, DC.

DEAR SENATOR ABRAHAM: The Michigan Coalition Against Domestic and Sexual Violence (MCADSV) fully supports the Victim Restitution Enforcement Act that you introduce today. Perpetrators of domestic violence and sexual assault exact a devastating emotional toll on their victims, a price that many survivors pay for a lifetime. Additionally, there are often substantial financial costs borne by the victim. Obvious expenses are those for property damage and medical care. Often overlooked are the costs of counseling, lost work time, child care, and expenses related to preparing for and attending the trial.

While there is no legislative or other remedy to erase the pain and terror experienced as a result of violent crime, we can take greater measures to ensure that victims are not forced to pay, out of their own pockets, for the actions of criminals. This legislation is necessary both to empower victims and require more perpetrators to pay for the financial consequences of their crimes.

MCADSV greatly appreciates your advocacy efforts on behalf of crime victims by sponsoring this important initiative.

Sincerely yours,

KATHLEEN HAGENIAN,
Director,
Public Policy and Program Services.

By Mr. FEINGOLD:

S. 520. A bill to terminate the F/A–18 E/F aircraft program; to the Committee on Armed Services.

TERMINATING THE F/A–18 E/F SUPER HORNET LEGISLATION

Mr. FEINGOLD. Mr. President, I rise today to introduce legislation to terminate the U.S. Navy's F/A–18 E/F Super Hornet Program.

The basis for this legislation is contained in a 1996 General Accounting Office report entitled "Navy Aviation: F/A–18 E/F Will Provide Marginal Operational Improvement at High Cost." In this report, GAO studied the rationale and need for the F/A–18 E/F in order to determine whether continued development of the aircraft is the most cost-effective approach to modernizing the Navy's tactical aircraft fleet. GAO concluded that the marginal improvements of the F/A–18 E/F are far outweighed by the high cost of the program.

Mr. President, in our current fiscal climate, I have serious concerns about authorizing funding for such a costly program, which according to GAO will deliver only marginal improvements over the current C/D version of the F/A–18.

As GAO noted in its report, at a projected total program cost of $89.15 billion, the F/A–18 E/F Program is one of the most costly aviation programs in the Department of Defense. The total program cost is comprised of $5.833 billion in development costs and $83.35 billion in procurement costs for 1,000 aircraft.

Mr. President, before I begin to describe GAO's findings in detail, I would first like to discuss briefly the role of the F/A–18 aircraft in our Nation's overall naval aviation force structure. The Navy performs its carrier-based missions with a mix of fighter (air-to-air combat), strike (air-to-ground combat), and strike/fighter (multicombat role) aircraft. Currently, carrier based F–14 fighter aircraft perform air-to-air missions; A6E's perform air-to-ground missions; and F/A–18's perform both air-to-air and air-to-ground missions. The F/A–18 E/F Super Hornet is the latest version of the Navy's carrier-based F/A–18 strike/fighter plane.

Mr. President, the F/A–18 E/F is just one of three costly new fighter programs the Department of Defense has on the drawing boards right now.

In addition to the F/A–18 E/F, there is the Air Force's F–22, which is intended to replace the A–10 and the venerable F–16 Falcon. The F–22 is also intended to either supplant or augment the Air Force's top fighter, the F–15. It will have stealth capabilities and will be able to survive in dense air-defense environments.

And of course, there is the Joint Strike Fighter, which I will discuss in greater detail in a few moments. The JSF is intended to perform virtually every type of mission that fighter aircraft perform in today's force structure, and is to be employed by the Navy, the Air Force, and Marine Corps in unprecedented fashion.

There are few who seriously believe that the Pentagon can afford to maintain all three tactical fighter programs. The General Accounting Office, the Congressional Budget Office and many others have maintained that the likelihood that all three programs can be fully funded with the planned number of aircraft buys is virtually nil. In fact, many view the JSF as the only modernization program that should be continued. Given our fiscal constraints and Federal budget deficit, can we afford to finance three separate fighter programs with the caliber and costs of the F/A–18 E/F, the F–22, and the JSF?

The answer is unequivocally no. And that is why I am introducing legislation to terminate any further development or procurement of the program that appears to be most questionable, the E/F upgrade.

The Navy has based the need for development and procurement of the F/A–18 E/F on existing or projected operational deficiencies of the F/A–18C/D in the following key areas: strike range, carrier recovery payload and survivability. In addition, the Navy notes limitations of current C/D's with respect to avionics growth space and payload capacity. In its report, GAO concludes that the operational deficiencies in the C/D that the Navy cited in justifying the E/F either have not materialized as projected or such deficiencies can be corrected with nonstructural changes to the current C/D and additional upgrades made which would further improve its capabilities.

One of the primary reasons the Navy cites in justifying the E/F is the need for increased range and the C/D's inability to perform long-range unrefueled missions against high-value targets. However, GAO concludes that the Navy's F/A–18 strike range requirements can be met by either the F/A–18 E/F or F/A–18 C/D. Furthermore, it concludes that the increased range of the E/F is achieved at the expense of its aerial combat performance, and that even with increased range, both aircraft will still require aerial refueling for low-altitude missions.

The F/A–18 E/F specification requirements call for the aircraft to have a flight range of 390 nautical miles (nm) while performing low-altitude bombing missions. The F/A–18 E/F will achieve a strike range of 465 nm while performing low-altitude missions by carrying 2 external 480 gallon fuel tanks. While current C/D's achieve a flight range of 325 nm with 2–330 gallon fuel tanks while performing low-altitude missions—65 nm below the specification requirement of the E/F—when they are equipped with the 2–480 gallon external fuel tanks that are planned to be used on the E/F, the C/D can achieve a strike range of 393 nm on low-altitude missions.

Recent Navy range predictions show that the F/A–18 E/F is expected to have a 683 nm strike range when flying a more fuel-efficient, survivable, and lethal high-altitude mission profile rather than the specified low-altitude profile. Similarly, although F/A–18 E/F range will be greater than the F/A–18 C/D, the C/D could achieve strike ranges (566 nm with 3–330 gallon fuel tanks or 600 nm with 2–480 gallon tanks and 1–330 gallon tank) far greater than the target distances stipulated in the E/F's system specifications by flying the same high-altitude missions as the E/F. Additionally, according to GAO, the E/F's increased strike range is achieved at the expense of the aircraft's aerial combat performance as evidenced by its sustained turn rate, maneuvering, and acceleration which impact its ability to maneuver in either offensive or defensive modes.

One claim the Navy has made in response to the GAO report is that the C/D cannot be outfitted with 480-gallon external fuel tanks. GAO disputes this, citing contractor studies that concluded 480-gallon tanks can be carried on the C/D's inboard stations. GAO also points out that the Canadians have flown the F/A–18 C with the larger external fuel tanks.

Mr. President, another significant reason the Navy cites in support of the continued development of the E/F is an anticipated deficiency in F/A–18C carrier recovery payload—the amount of fuel, weapons and external equipment that an aircraft can carry when returning from a mission and landing on a carrier.

However, the deficiency in carrier recovery payload which the Navy anticipated of the F/A–18C simply has not materialized. When initially procured, F/A–18C's had a total carrier recovery payload of 6,300 pounds. Because of the Navy's decision to increase the F/A–18C's maximum allowable carrier landing weight and a lower aircraft operating weight resulting from technological improvements, the F/A–18C now has a carrier recovery payload of 7,113 pounds.

F/A–18C's operating in support of Bosnian operations are now routinely returning to carriers with operational loads of 7,166 pounds, which exceeds the Navy's stated carrier recovery payload capacity. This recovery payload is substantially greater than the Navy projected it would be and is even greater than when the F/A–18C was first introduced in 1988. In addition, GAO notes that while it is not necessary, upgrading F/A–18C's with stronger landing gear could allow them to recover carrier payloads of more than 10,000 pounds—greater than that sought for the F/A–18 E/F (9,000 pounds).

While the Navy also cites a need to improve combat survivability in justifying the development of the F/A–18 E/

F, the aircraft was not developed to counter a particular military threat that could not be met with existing or improved F/A-18 C/D's. Additional improvements have subsequently been made or are planned for the F/A-18 C/D to enhance its survivability including improvements to reduce its radar detectability, while survivability improvements of the F/A-18 E/F are questionable. For example, because the F/A-18 E/F will be carrying weapons and fuel externally, the radar signature reduction improvements derived from the structural design of the aircraft will be diminished and will only help the aircraft penetrate slightly deeper than the F/A-18 C/D into an integrated defensive system before being detected.

Mr. President, as we discuss survivability, it is relevant to highlight the outstanding performance of the F/A-18 C/D in the gulf war just a few short years ago. By the Navy's own account, the C/D performed extraordinarily well, dropping 18 million pounds of ordinance, recording all Navy MiG kills, and, in the Navy's own words, experiencing "unprecedented survivability."

In addition to noting the operational capability improvements in justifying the development of the F/A-18 E/F, the Navy also notes limitations of current C/D's with respect to avionics growth space and payload capacity. The Navy predicted that by the mid-1990's the F/A-18 C/D would not have growth space to accommodate additional new weapons and systems under development. Specifically, the Navy predicted that by fiscal year 1996 C/D's would only have 0.2 cubic feet of space available for future avionics growth; however, 5.3 cubic feet of available space have been identified for future system growth. Furthermore, technological advancements such as miniaturization, modularity and consolidation may result in additional growth space for future avionics.

The Navy also stated that the F/A-18 E/F will provide increased payload capacity as a result of two new outboard weapons stations; however, unless current problems concerning weapons release are resolved—air flow problems around the fuselage and weapons stations—the types and amounts of weapons the E/F can carry will be restricted and the possible payload increase may be negated. Also, while the E/F will provide a marginal increase in air-to-air capability by carrying two extra missiles, it will not increase its ability to carry the heavier, precision-guided, air-to-ground weapons that are capable of hitting fixed and mobile hard targets and the heavier stand-off weapons that will be used to increase aircraft survivability.

Understanding that the F/A-18 E/F may not deliver as significant operational capability improvements as originally expected, I would now like to focus on the cost of the F/A-18 E/F Program and possible alternatives to it. As previously mentioned, the total program cost of the F/A-18 E/F is projected to be $89.15 billion. These program costs are based on the procurement assumption of 1,000 aircraft—660 by the Navy and 340 by the Marine Corps—at an annual production rate of 72 aircraft per year. Mr. President, as the GAO report points out, these figures are overstated. According to Marine Corps officials and the Marine Corps Aviation Master Plan, the Marine Corps does not intend to buy any F/A-18 E/F's and, therefore, the projected 1,000 aircraft buy is overstated by 340 aircraft.

Although the Pentagon contends that the Navy had intended to purchase 1,000 aircraft all along, extensive documentation and testimony demonstrates this not to be the case and the 1,000 figure was the original complete buy.

I would also note the importance of the Marine Corps opting out of the E/F Program. Although the E/F was originally developed to service two branches with differing needs and requirements, the Marine Corps has chosen instead to invest in the Joint Strike Fighter program and use those aircraft to replace their AV-8B Harriers and F/A-18 C/D's.

Furthermore, the Congress has stated that an annual production rate of 72 E/F aircraft is probably not feasible due to funding limitations and directed the Navy to calculate costs based on more realistic production rates as 18, 36, and 54 aircraft per year. In fact, according to the Congressional Research Service: "* * * no naval aircraft have been bought in such quantities in recent years, and it is unlikely that such annual buys will be funded in the 1990's, given expected force reductions and lower inventory requirements and the absence of consensus about future military threats."

Using the Navy's overstated assumptions about the total number of planes procured and an estimated annual production rate of 72 aircraft per year, the Navy calculates the unit recurring flyaway cost of the F/A-18 E/F—costs related to the production of the basic aircraft—at $44 million. However, using GAO's more realistic assumptions of the procurement of 660 aircraft by the Navy, at a production rate of 36 aircraft per year, the unit recurring flyaway cost of the E/F balloons to $53 million. This is compared to the $28 million unit recurring flyaway cost of the F/A-18 C/D based on a production rate of 36 aircraft per year. Thus, GAO estimates that this cost difference in unit recurring flyaway would result in a savings of almost $17 billion if the Navy were to procure the F/A-18 C/D's rather than the E/F's.

Mr. President, this is certainly a significant amount of savings. Now I know that some of my colleagues will say that by halting production of the F/A-18 E/F and instead relying on the F/A-18 C/D, we will be mortgaging the future of our Naval aviation fleet. However, Mr. President, there is a far less costly program already being developed which may yield more significant returns in operational capability. This program is the Joint Strike Fighter or JSF Program.

The JSF Program office is currently developing technology for a family of affordable next generation multirole strike fighter aircraft for the Air Force, Marine Corps, and Navy. The JSF is expected to be a stealthy strike aircraft built on a single production line with a high degree of parts and cost commonality. The driving focus of the JSF is affordability achieved by triservice commonality. The Navy plans to procure 300 JSF's with a projected initial operational capability around 2007.

Contractor concept exploration and demonstration studies indicate that the JSF will have superior or comparable capabilities in all Navy tactical aircraft mission areas, especially range and survivability, at far less cost than the F/A-18 E/F. The JSF is expected to be a stand alone, stealthy, first-day-of-the-war, survivable aircraft. Overall, the JSF is expected to be more survivable and capable than any existing or planned tactical aircraft in strike and air-to-air missions, with the possible exception of the F-22 in air-to-air missions. The Navy's JSF variant is also expected to have longer ranges than the F/A-18 E/F to attack high-value targets without using external tanks or tanking. Unlike the F/A-18 E/F which would carry all of its weapons externally, the Navy's JSF will carry at least four weapons for both air-to-air and air-to-ground combat internally, thereby maximizing its stealthiness and increasing its survivability. Finally, the JSF would not require jamming support from EA-6B aircraft as does the F/A-18 E/F in carrying out its mission in the face of integrated air defense systems.

While the JSF is expected to have superior operational capabilities, it is expected to be developed and procured at far less expense than the F/A-18 E/F. In fact, the unit recurring flyaway cost of the Navy's JSF is estimated to range from $31-38 million depending on which contractor design is chosen for the aircraft, as compared to GAO's $53 million estimate for the F/A-18 E/F. Additional cost benefits of the JSF would result from having common aircraft spare parts, simplified technical specifications, and reduced support equipment variations, as well as reductions in aircrew and maintenance training requirements.

Mr. President, given the enormous cost and marginal improvement in operational capabilities the F/A-18 E/F would provide, it seems that the justification for the E/F is not as evident as once thought. Operational deficiencies in the C/D aircraft either have not materialized or can be corrected with nonstructural changes to the plane. As a result, proceeding with the E/F program may not be the most cost-effective approach to modernizing the Navy's tactical aircraft fleet. In the short term, the Navy can continue to procure the F/A–18 C/D aircraft, while upgrading it to improve further its operational capabilities. For the long term, the Navy can look toward the next generation strike fighter, the JSF, which will provide more operational capability at far less cost than the E/F.

Mr. President, succinctly put, the Navy needs an aircraft that will bridge between the current force and the new, superior JSF which will be operational around 2007. The question is whether the F/A–18 C/D can serve that function, as it has demonstrated its ability to exceed predicted capacity or whether we should proceed with an expensive, new plane for a marginal level of improvement. The $17 billion difference in projected costs does not appear to provide a significant return on our investment. In times of severe fiscal constraints and a need to look at all areas of the budget to identify more cost-effective approaches, the F/A–18 E/F is a project in need of reevaluation.

Last year, I offered an amendment to the fiscal year 1997 authorization bill for the Department of Defense that required the Pentagon to conduct a cost-benefit analysis of the F/A–18 E/F Program, and to report their findings to the Congress by March 30, 1997. This study was to include a review of the E/F program, an analysis and estimate of the production costs of the program for the total number of aircraft expected to be procured at several different production rates and a comparison of the costs and benefits of this program with the costs and benefits of the C/D Program. That analysis has not been forwarded to the Congress as of this date.

In addition to this report, the Quadrennial Defense Review [QDR], responsible for evaluating all weapon system programs, is also scheduled to be completed in the near future.

Unfortunately, I was enormously disappointed when the Secretary of Defense, rather than waiting for these reports to be completed and publicly released, announced on March 28 his decision to move forward with the E/F Program and procure 62 new F/A–18 E/F fighter planes at an initial cost of $48 million each.

I would have hoped that the Secretary, who I have tremendous respect and admiration for, would have waited until the mandated reports had been provided to Congress and until the results of the QDR—which could have a significant impact on the Pentagon's tactical aircraft modernization plans—had been made public. Instead, this perplexing decision to proceed with the procurement of 62 of these expensive planes precludes the Congress from offering any input on the Department's policy based on a review of the required reports. I am puzzled as to why the new Secretary did not await these reports before announcing this decision.

The 1996 GAO report concluded that we could achieve almost $17 billion in cost savings if the Navy elected to procure additional C/D versions of the F/A–18 rather than the costlier E/F model. Mr. President, by all accounts the F/A–18 C/D is a top quality aircraft that has served the Navy well over the last decade, and could be modified to meet every capacity the E/F is intended to fulfill over the course of the next decade at a substantially lower cost.

Therefore, considering the Department of Defense has clearly overextended itself in terms of supporting three major multirole fighter programs, and given that the most promising tactical aviation program appears to be the triservice joint strike fighter which will likely outperform the F/A–18 E/F at a substantially lower cost, it is clear that we must discontinue the E/F Program before the American taxpayer is asked to fund yet another multibillion dollar duplicative program.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 520

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TERMINATION OF THE F/A–18E/F AIRCRAFT PROGRAM.

(a) TERMINATION OF PROGRAM.—The Secretary of Defense shall terminate the F/A–18E/F aircraft program.

(b) PAYMENT OF TERMINATION COSTS.—Funds available for procurement and for research, development, test, and evaluation that are available on or after the date of the enactment of this Act for obligation for the F/A–18E/F aircraft program may be obligated for that program only for payment of the costs associated with the termination of the program.

By Mr. COVERDELL (for himself, Mr. INHOFE, Mr. HUTCHINSON, Mr. HAGEL, and Mr. SHELBY):

S. 521. A bill to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes; to the Committee on Finance.

THE COVERDELL TAXPAYER PRIVACY PROTECTION ACT

Mr. COVERDELL. Mr. President, today I rise to offer legislation that will end one of the most pernicious offenses forced upon honest taxpayers. I am talking about file snooping. Others may call it browsing or scanning. Whatever the name, it is just plain wrong, and it ought to be stopped. That is why today I am introducing the Taxpayer Privacy Protection Act.

Too often, the Internal Revenue Service acts as a bully, enforcing the Tax Code through fear and intimidation. Even worse, legal loopholes have allowed certain IRS employees to violate the privacy of innocent citizens without punishment. Some of the most troubling abuses committed by employees of the IRS against innocent Americans include the practices of file snooping.

Recently in the Wall Street Journal, we learned of the case of Mr. Richard W. Czubinski of Boston, MA. He is a member of the Ku Klux Klan who used his IRS job to search the tax returns of political opponents and people he suspected of being Government informers. He was prosecuted and convicted by a jury, but his conviction was overturned in the Federal Court of Appeals. In making its decision, the appellate panel found Mr. Czubinski's browsing to be reprehensible, but also found no crime had been committed because prosecutors could not prove he had used the information or disclosed it.

In addition, a few years back, I was shocked to learn that in my home city of Atlanta, nearly 370 employees of the local IRS office were caught accessing the tax returns and return information of friends, neighbors, and celebrities without proper authorization.

Mr. President, the Taxpayer Privacy Protection Act would make it a crime to engage in file snooping, punishable by a fine of up to $1,000 and/or 1 year imprisonment. Further, a convicted offender would have to reimburse all costs of prosecution and face dismissal.

My legislation also requires notification of taxpayers who suffer this abuse. Unfortunately, what should seem to be a simple matter of decency must be required of the IRS. In response to suggestions taxpayers be notified when their privacy has been invaded by file snoopers, IRS Commissioner Margaret Richardson stated, "I'm not sure there would be serious value to that in terms of protecting the taxpayers' rights." With all respect, such sentiment is typical of a Washington status quo mentality that is out-of-touch with the rest of America.

Finally, my proposal would provide taxpayers who have been victims of file snooping with the option of seeking civil action. Quite simply, it is the decent thing to do.

Taxpayer privacy is one of the most sacred trusts we place in the IRS. Unfortunately, this agency has not lived up to this trust. With passage of the

Taxpayer Privacy Protection Act, honest, hardworking taxpayers can be assured their full privacy will be protected every April 15. They deserve no less.

By Mr. GLENN:

S. 523. A bill to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information; to the Committee on Finance.

IRS SYSTEMS SECURITY LEGISLATION

Mr. GLENN. Mr. President, the date of April 15 is indelibly etched in the minds of most Americans. For it is on or by that day that honest, hard-working citizens voluntarily share their most personal and sensitive financial information with their Government.

All Americans should have unbridled faith that their tax returns will remain absolutely confidential and zealously safeguarded. That is the foundation of our taxpaying system. If this trust is breached, then the bonds that tie citizens with their Government may break, with disastrous consequences for us all.

In 1993 and 1994, as chairman of the Governmental Affairs Committee, I held hearings which first exposed that vulnerability. We found out that hundreds of IRS employees had been investigated for what I term "computer voyeurism", where they call up returns of friends, enemies, celebrities, relatives, or neighbors just to snoop and satisfy their own prurient interests. Even worse, in some cases, IRS employees either altered their own returns to get refunds, or conspired with other taxpayer friends to change their returns and get a kickback from those refunds.

My investigation revealed serious flaws in the IRS' ability to monitor, prevent, and detect browsing.

In response, the IRS Commissioner pledged a zero tolerance policy to protect taxpayer privacy and vigorously discipline those who abuse this trust. The Commissioner also implemented a new system called EARL—Electronic Audit Research Log—to help identify inappropriate and unauthorized access to taxpayer information stored in the IRS' main computer system.

That primary system, IDRS—Integrated Data Retrieval System—handles more than 100 million transactions per month and is used by over 55,000 IRS employees. At least one-third of those employees are authorized to input adjustments to tax account records.

I had asked the General Accounting Office [GAO] to review the progress made by the IRS in reducing computer security risks and in curbing browsing. Earlier this year, GAO produced that report. However, because some of the specific details could jeopardize IRS security, that report was designated for "Limited Official Use" with restricted access.

Due to my involvement in this important issue, and because I believe the public has a right to know, I requested that GAO issue a redacted version of the report suitable for public release. I would like to thank GAO for their hard work in this matter and also the IRS for their cooperation in making this possible.

The findings of GAO's report are disturbing. Even more important, their findings are reaffirmed by the IRS in a comprehensive internal report of their own compiled last fall.

Before I get to the specifics, I just want to say a couple of things.

Point One. The vast majority of IRS employees are dedicated and committed to their jobs, and labor in extremely difficult conditions with very outmoded systems. Unfortunately, in this day and age, they must also fear for their own personal safety.

Some 99.9 percent of them would never engage in such snooping or fraud. It is not as if every American has reason to believe that his or her privacy and tax return information has been compromised. But even just a single incidence of this behavior is one too many and cannot be tolerated.

Just last year, in Tennessee, a jury acquitted a former IRS employee who had been charged with 70 counts of improperly peeking at the tax returns of celebrities such as Elizabeth Taylor, Dolly Parton, Wynonna Judd, Michael Jordan, Lucille Ball, Tom Cruise, President Clinton, and Elvis Presley.

More recently, just a few weeks ago, a Federal appeals court in Boston reversed the conviction of a former employee who had been found guilty of several counts of wire and computer fraud by improperly accessing the IRS taxpayer database. It was reported that he had browsed through several files, including those of a local politician who had beaten him in an election, and a woman he once had dated. The Government had alleged this worker was a member of a white-supremacist group and was collecting data on people he thought could be Government informers.

In both of these cases, because of a loophole in the law, no criminal penalties could be meted out. The reason? No disclosures had been made to third parties.

I doubt these kinds of decisions give great comfort to honest, law-abiding citizens. That is why today I am reintroducing my legislation—the Taxpayer Privacy Protection Act—to close this gap and ensure that any unauthorized access or inspection of return information, in whatever form, is punishable as a criminal offense and that employees so convicted are fired immediately.

I know that the chairman of the House Ways and Means Committee is interested in passing such a bill as are several of my Senate colleagues including Senator COVERDELL. I commend everyone for their interest and looking forward to making this bill—finally—a reality.

Let's pass this by April 15 and send a signal across the land that those who violate the privacy of tax paying Americans will be fined, will be fired, and will be jailed. The public rightfully expects no less.

Point Two. The IRS has recognized this serious issue and has undertaken some responsive actions. Warnings of possible prosecution for unauthorized use of the system appear whenever employees log onto the taxpayer account database. They have installed automated detection programs in some of their systems to monitor employee use and alert managers to possible misuse. And, the IRS has just created a new Office of Systems Standards and Evaluations to centralize and enforce IRS standards and policies for all major security programs. I have confidence that this Office, if given the proper resources, will be a positive force in this effort.

The problem, however, is that these efforts, while well-intentioned, have come too late and fall far short of the commitment, management, and determination sorely needed to confront this matter head-on.

The sad fact is that with 1 week to go until tax returns are due, one thing is clear: the IRS has flunked its own audit and has let down the American people.

The agency promised zero tolerance for browsing. Today's information suggests that they have failed to live up to that pledge—1,515 new cases of browsing have been identified since our last report. Of those only 27 have resulted in employees being fired. I don't know what kind of new math they may be using, but that doesn't sound like zero tolerance to me.

GAO even found that the 1,515 figure may drastically underestimate actual incidents because—and I quote—the agency's "ability to detect browsing is limited".

Overall, GAO found that IRS' approach to computer security is not effective. Serious weaknesses persist in security controls intended to safeguard IRS computer systems, data, and facilities and expose tax processing operations to the risk of disruption and taxpayer data to the risk of unauthorized use, modification, and destruction. Further, although IRS has taken some action to detect and prevent browsing, the fact remains that the IRS has no effective means for measuring the extent of the browsing problem, the damage being done by browsing, or the progress being made to deter browsing.

This finding is candidly confirmed in IRS' own internal report:

> progress in developing efficient prevention and detection programs has been painfully slow. The program has suffered from a lack

of overall consistent, strong leadership and oversight.

Quite distressing to me is the finding, as stated in the IRS' own report, that employees, when confronted, indicate that they browsed because they do not believe it is wrong and that there will be little or no consequence to them if they are caught.

Before summarizing the major findings, I also want to point out another facet of this report. That is, the effectiveness of controls used to safeguard IRS systems, facilities, and taxpayer data. GAO found serious weaknesses in these efforts, especially in the areas of physical and logical security.

For example, the facilities visited by GAO could not account for about 6,400 units of magnetic storage media, such as tapes and cartridges, which might contain taxpayer data. Further, they found that printouts containing taxpayer data were left unprotected and unattended in open areas of two facilities where they could be compromised.

I really don't want to say much more on this portion of the report than I have already. Except that these matters, and the others referred to by GAO, must be dealt with swiftly and effectively.

I have summarized GAO's findings in a handout. Where appropriate, I have also included references from IRS' own recent internal report on their browsing deterrence and detection program. As I mentioned earlier, that report—[Electronic Audit Research Log (EARL) Executive Steering Committee Report, Sept. 30, 1996]—and I commend the IRS for its candid and frank evaluations in it—affirms most of GAO's findings, conclusions, and recommendations.

I will briefly highlight the major findings in these attachments:

THE IRS SYSTEM DESIGNED TO DETECT BROWSING [EARL] IS LIMITED

GAO found that the system used to monitor and detect browsing is ineffective because it can't distinguish between legitimate work activity and illegal browsing.

Moreover, EARL only monitors the main taxpayer database. There are several other systems used by employees to create, access, or modify data which, apparently, go unsupervised. This is something I have asked the GAO to look into further.

According to GAO:

> because IRS does not monitor the activities of all employees authorized to access taxpayer data . . . IRS has no assurance that these employees are not browsing taxpayer data and no analytical basis on which to estimate the extent of the browsing problem or any damage being done.

In fact, according to the IRS' EARL report:

> The current system of reports does not provide accurate and meaningful data about what the abuse detection programs are producing, the quality of the outputs, the efficiency of our abuse detection research efforts, or the level of functional management follow through and discipline. This impedes our ability to respond to critics and congressional oversight inquiries about our abuse detection efforts.

IRS PROGRESS IN REDUCING AND DISCIPLINING BROWSING CASES IS UNCLEAR

The systems used by the IRS cannot report on the total number of unauthorized browsing incidents. Nor do they contain sufficient information to determine, for each case investigated, how many taxpayer accounts were inappropriately accessed or how many times each account was accessed.

Consequently, for known incidents of browsing, IRS cannot efficiently determine how many and how often taxpayers' accounts were inappropriately accessed. Without such information, IRS cannot measure whether it is making progress from year to year in reducing browsing.

Internal IRS figures show a fluctuation in the number of browsing cases closed in the last few years: 521 cases in fiscal year 1991; 787 in fiscal year 1992; 522 in fiscal year 1993; 646 in fiscal year 1994, and; 869 in fiscal year 1995.

More distressing, however, is the fact that in spite of the Commissioner's announced zero tolerance policy, the percentages of cases resulting in discipline has remained constant from year to year, averaging 29 percent.

IRS itself reported that almost one-third of the cases detected were situations where an employee accessed their own account, which, according to the report, is "generally attributable to trainee error".

Their answer creates simply more questions, however. Why are employees accessing their own accounts? Is this a wise policy?

PENALTIES FOR BROWSING ARE INCONSISTENT ACROSS IRS

Despite IRS policy to ensure that browsing penalties are handled consistently across the agency, it appears that there are disparities in how similar cases are decided among different offices.

For instance, the number of browsing cases resulting in employees being terminated in the last year surveyed ranged from 0 percent at one facility to a high of only 7 percent at another.

The percentage of browsing cases resulting in employee counseling ranged from 0 percent at one facility to 77 percent at another.

Even more incredible to me—and quite distressing—is the extremely low percentage of employees caught browsing each year who are fired for their offense, according to the IRS' own figures. Would you believe that, for all of the browsing cases detected and closed each year, the highest number of employees fired in 1 year has been 12. Between fiscal year 1991 and fiscal year 1995, only 43 employees were fired after browsing investigations. That is generally 1 percent of the total number of cases brought each year. Even if you include the category of resignation and retirement, the highest percentage of employees terminated through separation or resignation/retirement in any 1 year has been 6 percent.

I could go on and on, but I think you get the idea.

Taxpayer privacy is being jeapordized and the IRS is not doing enough to address it.

A new law to make browsing a crime will be an important tool and I have worked with the IRS and the Justice Department in crafting my legislation.

I will also be looking forward to Thursday's hearing of the Senate Governmental Affairs Committee when the IRS will be testifying and this issue is likely to come up.

In closing, I do not want to be standing up here again next year talking about browsing. Although the computer age makes guarding taxpayer privacy more difficult and complex, the fact remains: the IRS can and must do better. The American people expect and demand nothing less.

By Mr. DASCHLE (for himself and Mr. DORGAN):

S. 524. A bill to amend title XVIII of the Social Security Act to remove the requirement of an x ray as a condition of coverage of chiropractic services under the Medicare Program; to the Committee on Finance.

MEDICARE LEGISLATION

Mr. DASCHLE. Mr. President, today I am introducing legislation that makes a commonsense change to Medicare's outdated policy regarding chiropractic care. Specifically, my bill would eliminate the requirement that beneficiaries get an x ray before they are authorized to be reimbursed for chiropractic services under Medicare. This legislation accomplishes two important goals. First, it removes outdated vestiges of still pronounced discrimination against chiropractic practitioners in the Medicare Program. Second, this bill makes chiropractic services more accessible and affordable for beneficiaries. I encourage my colleagues to join me in supporting this measure, which is the Senate companion to legislation introduced in the House of Representatives on March 4, 1997 by Representative PHIL CRANE.

Existing Medicare law strictly limits reimbursement for chiropractic services to manual manipulation of the spine and only to correct a subluxation. However, before beneficiaries can be reimbursed for chiropractic care, Medicare requires that the patient get an x ray to confirm the need for these services. Beneficiaries must either pay for the x ray out of their own pockets, a cost that many cannot afford, or pass through the "gateway" controlled by other medical providers, whose x rays, typically far more expensive, are reimbursable under the program.

While x rays are often a useful diagnostic tool to verify a medical condition, most medical professionals and health analysts agree that there is no clinical justification for a blanket requirement that Medicare beneficiaries verify the need for chiropactic care through an x ray. Medicare's statutory x ray requirement results in unnecessary patient exposure to x rays and simply cannot be justified as an across-the-board requirement.

Representatives of the Health Care Financing Administration [HCFA] who have closely studied this issue reached the same conclusion that I did and recommended to the President that this provision be included in his Medicare reform plan. I am pleased that the President did include in his fiscal year 1998 balanced budget proposal a provision calling for the elimination of the x ray requirement for chiropractic care. I am cautiously optimistic that bipartisan support from within the Congress and the administration will help facilitate passage of this modest, but important, measure.

I grew up in a community where chiropractors perform a valuable service by providing an alternative to allopathic medicine. The nearly 200 chiropractors in South Dakota serve the State well. In rural States like mine, chiropractors are often an essential source of health care delivery. Sometimes they are the only health providers in the community. In rural States across the country, the chiropractic profession plays an integral role in the health care system.

But the issue is even larger than one of correcting inequities in the law and recognizing the contributions of chiropractors alone. We are constantly searching for ways to give more Americans greater access to quality health care, and to facilitate that availability of care in the most cost-effective manner. One proven way to make progress toward those goals is to exploit the talent and dedication represented in the diversity of practitioners increasingly involved in the delivery of health care services in the United States. Competition among different kinds of providers and access to less expensive forms of care have to be emphasized if we are to control escalating health care costs. Yet this competition is virtually impossible when programs like Medicare put up barriers to beneficiaries receiving care from a group of licensed professionals like chiropractors.

As health care cost increases continue to threaten both the quality and economic stability of our national health care delivery system, the cost savings potential of chiropractic care should be fully explored. The bill I am introducing today will help provide access to quality care at a reasonable cost. I urge my colleagues in the Senate to support this measure to ensure Medicare patients have appropriate access to the benefits of chiropractic care.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF REQUIREMENT FOR X-RAY AS A CONDITION OF COVERAGE OF CHIROPRACTIC SERVICES UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Section 1861(r)(5) of the Social Security Act (42 U.S.C. 1395x(r)(5)) is amended by striking "demonstrated by X-ray to exist".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1998.

By Mr. HATCH (for himself, Mr. KENNEDY, Ms. SNOWE, Mr. KERRY, Mr. JEFFORDS, Mr. DODD, Mr. STEVENS, Mr. ROCKEFELLER, Mr. BENNETT, Mr. DASCHLE, Ms. COLLINS, Mr. WELLSTONE, Mr. SMITH of Oregon, Mr. BINGAMAN, Mr. CAMPBELL, Mrs. MURRAY, Mr. REED, Mrs. BOXER, Mr. LAUTENBERG, Mr. DURBIN, and Mr. REID):

S. 525. A bill to amend the Public Health Service Act to provide access to health care insurance coverage for children; to the Committee on Labor and Human Resources.

CHILD HEALTH INSURANCE AND LOWER DEFICIT ACT

Mr. HATCH. Mr. President, today, Senator KENNEDY, I, and a number of others, are introducing the Hatch-Kennedy child health insurance and lower deficit bill, or the CHILD Act, S. 525. We will also introduce a companion measure, S. 526, which contains a tobacco excise tax increase to pay for the program established in the CHILD bill.

The CHILD bill has been negotiated over a long period of time in intensive and sometimes heated negotiations. As anybody can understand, it is difficult to get the two sides together on matters like this. So we have worked very, very hard to try and bring both sides together.

It is no secret that Senator KENNEDY and I have worked together in the past. And, we have fought each other in the past. But today is a time of unity, for I believe we have written a bill that really makes sense, a bill that will work and that will help one of the most vulnerable segments of our society, children without health insurance.

Of the 40 million people who are uninsured in this country, 10 million of them are children. Of those 10 million, about 3 million do qualify for Medicaid, but are not enrolled.

While it has its problems, Medicaid is an excellent program overall, a program that does assist the poorest of the poor children and families. But those above the Medicaid eligibility poverty levels, comprise about 7 million children, most of whom are often called the near poor, or the working poor.

Mr. President, as a recent study has made abundantly clear, about one out of three children in this country lacks health insurance. It is a pathetic situation.

As my colleagues are aware, Senator KENNEDY and Senator KERRY introduced a bill last year which addressed the child health insurance problem from a considerably different perspective than the bill we are finally going to introduce today.

I think it is important to point out the differences for the edification of my colleagues.

The bill we will file today is a bill that is a straight block grant to the States. The States have flexibility to determine their own eligibility standards with minimal Federal requirements.

The proposal is not an entitlement program. It is a fully funded program. It is a 5-year authorization.

The mechanism for funding the CHILD program authorization is an increase in the tobacco excise tax, amounting to 43 cents per package for cigarettes and proportionate increases on other tobacco products. Some have analogized this to a user fee on those who use tobacco products.

We think this excise tax is justified. In 1955, a package of cigarettes cost about 23 cents. Of that amount, 8 cents consisted of a Federal excise tax on the cigarettes.

Today, a package of cigarettes costs almost $2, at least $1.82 in most States, but we have only a 24-cent Federal excise tax on the utilization of those cigarettes.

We think this provision is also justified from a public health perspective.

Smoking is the largest preventable cause of premature death in the United States.

Thirty percent of all cancer patients develop their diseases from smoking. Almost all lung cancer comes from smoking. And much of the cardiovascular disease that we have in our society comes from smoking—including passive smoking as well.

It should be no secret to my colleagues that it was a difficult decision for me to submit a bill which will increase taxes, but after considerable study I concluded in this case it is a just and a right thing to do.

And if we increase the cigarette tax by 43 cents, we will still be below the percentage the excise tax was back in 1955 when a package of cigarettes cost 23 cents and the excise tax was 8 cents of that.

It is important to note that two-thirds of the revenue raised from this bill over the next 5 years will be used for the new child health insurance. The States will be able to negotiate with private health insurance companies to provide coverage, and they will be able to utilize the community health centers which are giving low-cost but high-quality health care in America today.

I am one of the strongest advocate for community health centers, and, I must say, they have done a superlative job of delivering health care in general in our society.

In Utah, we have what is known as the Caring Foundation. For every dollar we raise in charity, Blue Cross/Blue Shield matches that dollar with $1, making $2 for child health insurance. I believe that can be duplicated across this country in the best interest of children and families.

When someone inquires about why I am sponsoring the CHILD Act, my thoughts turn to scores of constituents who have brought their concerns about the cost and availability of health insurance to my attention.

It is heart rending to me when I have uninsured families come into my office—many of whom are young and who have children. These families are frantic; they don't know where to turn when a child gets sick.

Two young women from Provo in my home State came in to visit me recently. Both had six children. They both work part time. Their husbands work full time, but neither family makes more than $20,000 a year. They are hard-working people. They are the working people of our society who are the poorest of the poor not on Medicaid, who cannot afford health insurance and, frankly, who do not know where to turn.

I think that it behooves us to solve this problem for them, and the best way to do it is with a straight block grant to the States.

The grant approach has a lot of benefits. There should be minimal new bureaucracy, because the IRS already collects excise taxes on cigarettes. There should be minimal bureaucracy because HHS will distribute the funds based on a simple formula reflecting the number of uninsured in a State.

We provide a safeguard so there is no incentive for businesses to drop the lower paid people off their health insurance. In this bill, if a company wishes to drop any employee from the company health plan, then they will have to drop all their employees, from the top executives on down.

We are trying to help those who cannot help themselves, which I think is the most conservative thing we can do in this society. We are not trying to help those who can help themselves but refuse to. People who can help themselves ought to help themselves.

What I am saying, Mr. President, is that it is time. It is time for this Congress to get down to business.

Mr. President, it is time.

It is time for us to get down to business.

It is time for the Congress to focus on how to make a great country greater on how to set aside partisan differences and help the people we were elected to help.

It is time to focus on what truly needs to be done in this country not on deadlock or gridlock or shutdown.

It is time to wake up and realize that—in this great land of incredible riches and abundance—in the greatest country of the world—there are still children being left behind.

Who cannot be disturbed, even frightened, by the statistics?

Drug use among our young people is dramatically on the rise. In its ninth annual survey of students in grades 6–12, the National Parents' Resource Institute for Drug Education [PRIDE] reported that annual use of most drugs was at the highest level since the survey began 10 years ago. Record use was reported for cigarettes, marijuana, cocaine, uppers, downers, inhalants, and hallucinogens.

Serious questions have been raised about our children's ability to learn. Our children rank pitifully behind other countries in educational scores. One survey of international test scores for math and science, found Americans to rank dead last and South Koreans ranking the best. And, who could not be disturbed by this? A 1991 National Assessment of Education Progress survey, revealed that only 5 percent of high school seniors demonstrated enough understanding of geometry and algebra to be prepared for college-level math.

Violence is rapidly becoming a way of life for today's children. Over the past decade, the rate of homicide committed by teenagers aged 14–17 has more than doubled, increasing 172 percent from 1985 to 1994. In fact, 35 percent of all violent crime is committed by offenders less than 20 years of age.

And here's another astounding fact. Two years ago, a survey of 1,000 teachers showed that 11 percent had been assaulted in school. Teachers have been robbed, vandalized, slashed by razors, physically assaulted, shot, and set on fire in the schools. What kind of learning environment is that for our children?

And, let's look at child health. How many Senators are aware that almost one out of three children have no health insurance?

Ten million children have no health insurance at all. That is more children than the entire populations of Maine, Rhode Island, Alaska, Delaware, Georgia, Hawaii, Montana, Nebraska, South Dakota, and Vermont—10 States—combined.

Did anyone know this? Over 500,000 American infants are uninsured, infants who need such critical services as immunizations to grow up healthy.

Mr. President, these are astounding statistics. Terrifying predictors of our world as we head into the 21st century.

And I, for one, am going to put my foot down. I will do everything I can to reverse this trend.

I challenge each Senator in this body to work with me on what must be the top agenda item for the 105th Congress: Making this world a better place for our children.

I will make this a top priority in the Judiciary Committee.

We will look at such issues as the Federal Gang Violence Act, violence in the schools, and, importantly, a strong national antidrug abuse strategy.

Already the committee has approved—only to suffer the most narrow of defeats on the floor—the Balanced Budget Act, passage of which is perhaps the most important legacy we can leave for our children, each of whom is born saddled with $20,000 in debt.

And I hope other committees will be working as well.

For no effort to improve this world for our children can be complete without measures to improve their ability to grow up healthy.

That is why I have united with my good friend and sometimes adversary, Senator KENNEDY, to draft the bill we are introducing today: the Child Health Insurance and Lower Deficit Act. We call it the CHILD bill. The CHILD bill will be accompanied by additional legislation we also introduce today which provides the funding offset for the CHILD Program through an increase in the tobacco excise tax.

Introduction today of S. 525, and the companion bill to increase the tobacco excise tax, completes 3 months of intense negotiations between myself and Senator KENNEDY.

Our discussions were sometimes heated, sometimes acrimonious, but always well intentioned. They have resulted in a bill, the adoption of which I think will make this country a better place.

And so, today, Senator KENNEDY and I have found a solid center—we have compromised from the left and from the right. We are doing this to help the 10 million children in the United States who are without health insurance. We are doing it because it is the right thing to do.

The child health insurance and services bill Senator KENNEDY and I will introduce today is targeted to the near poor, primarily working families, who are not covered by existing Government programs. Two-thirds of the uninsured children come from low-income working families with annual incomes of $25,000 or less; 86 percent are from families where at least one parent is employed.

I think any honest examination of this would show that these statistics are deplorable. Children are our most precious natural resource. If we had a vote on that today, it would pass 100 to 0. And if you agree on that, the next step is simple. I can't think of a more appropriate role for the Federal Government than helping the most vulnerable in our society. It has become a cliche, but children are our future.

Already I have taken criticism for this bill and for uniting with a Democrat to sponsor the CHILD Act. It is true that Senator KENNEDY and I represent the most divergent philosophies in the U.S. Congress. It is for that very reason we are proposing S. 525 today. United, we can provide the basis for a consensus position we hope all our colleagues will endorse.

It is true that Senator KENNEDY and I do not often agree on public policy. I can't even count the number of times I have stood on this floor to oppose—even filibuster—legislation he has sponsored. But with respect to health care—when it comes to helping people—we both have a strong commitment to doing the right thing regardless of politics. And this legislation is the right thing to do.

Joining Senator KENNEDY and me today in cosponsorship of the CHILD bill, S. 525, are 19 Senators, for a total of 21. Those Senators are: SNOWE, KERRY, JEFFORDS, DODD, STEVENS, ROCKEFELLER, BENNETT, DASCHLE, COLLINS, WELLSTONE, SMITH (OR), BINGAMAN, CAMPBELL, MURRAY, REED, BOXER, LAUTENBERG, DURBIN, and REID.

Joining us in cosponsorship of the tobacco tax bill, S. 525, are Senators BENNETT, BINGAMAN, BOXER, DODD, DURBIN, JEFFORDS, KERRY, LAUTENBERG, MURRAY, REED, REID, ROCKEFELLER, SNOWE, and WELLSTONE.

What are the major features of the CHILD bill?

Our proposal sets up a voluntary State grant program—I repeat, voluntary State grant program. The funds will be used by States to subsidize the cost, or part of the cost, of private health insurance for needy children. States will also be able to use Community and Migrant Health Centers to provide services directly to children.

We hope our program will be a catalyst to improve health care for kids. It is a Federal/State/private partnership. Any State that wishes to participate must contribute to the program. States may require individuals or their employers to contribute as well.

We have designed an approach which we believe is fiscally responsible. The bill authorizes program expenditures for each of 5 years, and it is fully financed with a 43-cent increase in tobacco excise taxes. Two-thirds of the revenues will be used for program services, and one-third for deficit reduction.

In drafting S. 525, we have worked very hard to make certain that no large, new bureaucracy will be needed to implement the CHILD Program. The idea of a huge new Federal involvement in health care frightens most Americans, as was so amply evidenced by the resounding defeat of the Clinton health care bill in 1994.

I was one of the loudest objectors to that legislation as a member of both the Finance and Labor Committees at the time it was considered. I want to assure my colleagues that we are not replicating that exercise here today.

HHS will disburse the grant money according to existing Medicaid formulas and the number of uninsured children in the State. The Treasury Department already collects an excise tax.

The States will set eligibility levels, which presumably they could do very easily based on their experiences with Medicaid and other State programs to help the poor and near poor. The States will use their current Medicaid benefits packages to negotiate contracts for insurance coverage. These are not complex calculations. They should be easily achievable.

We also worked very hard to allay any concerns that we were establishing a new entitlement program.

We are not.

The bill does not establish any individual entitlement to benefits. It is a 5-year authorization which is fully funded. It is not like Medicare where we guarantee we will pay for the services of every eligible beneficiary. It is not like Medicaid where we pay an open-ended amount, which is appropriated annually.

What we are really talking about doing with this bill is finding cost-effective ways to get quality health care services to children. Our bill recognizes and strengthens the important role that community, migrant and homeless centers play in caring for the Nation's uninsured children and their families. Community and rural health centers already exist. We are not creating them or remaking them in this bill.

They are located in medically underserved communities where many uninsured children live. Over 940 health centers in every State serve one out of six low-income American children, over 4.5 million children. They are currently the family doctor for one out of seven uninsured children, totaling 1.3 million children. Last year, health center professionals delivered one of every 10 babies born in the United States, and one out of every five low income babies. They are experts in providing quality, comprehensive primary and preventive care to uninsured children—the very type of care we are trying to get to children with this bill.

Our bill permits these children to continue to choose health centers as their primary care provider and to make the choice of a health center available to other uninsured children. In each area currently served by a health center, a direct service option will be available to children who are served by a health center. Families choosing the direct service option will get the same comprehensive Medicaid package of services as do those who opt for a children's policy. Under the direct service option, children will receive their primary and preventive care at the health center they select and will receive specialty and inpatient care through networks of providers certified by the State or through a wrap-around insurance policy.

We believe that the direct service option will be as cost effective as an insurance policy and may even be less expensive. Several studies which compared the total annual cost of health care for Medicaid patients served by health centers—including primary and specialty care and inpatient care—to the total annual cost of care for Medicaid patients served by other types of providers—including health maintenance organizations and private physicians—found that health center care was the least expensive.

The reason? Health centers prevent illness because of the primary and preventive care they provide. Based on these studies, the cost of all care—primary, specialty, and inpatient—under the direct service option is expected to be lower than the cost for a child cared for by another type of provider.

As the chief sponsor of the balanced budget amendment, I could not support the creation of any new entitlement program.

Indeed, I believe this proposal is fully consistent with the BBA. First, our bill is fully financed by the proposed tobacco products tax. Second, for every $2 of program cost the Hatch-Kennedy bill dedicates $1 to deficit reduction.

When all is said and done, this bill would help to bring the budget in balance—which I believe will be nearly as essential to children in the long-run as necessary health care is in the short-run.

Let me underscore that the net cost to the Federal Government of the CHILD Act is zero, because it is fully funded. In fact, the bill literally saves money, because it provides at least $10 billion in funds for deficit reduction over the next 5 years.

We cap Federal expenditures at $20 billion over 5 years for services, with $10 billion for deficit reduction. Over the 5-year period, the ratio of services to deficit reduction will be 2 to 1.

For services, we will provide the following amounts: 1998: $3 billion, 1999: $3 billion, 2000: $4 billion, 2001: $5 billion, 2002: $5 billion.

For deficit reduction, we provide the following amounts: 1998: $3 billion, 1999: $3 billion, 2000: $2 billion, 2001: $1 billion, and 2002: $1 billion.

Let me make perfectly clear that the size of this program is capped each year. In fact, if not enough revenue is generated, then the size of the program will be lowered accordingly.

Let me take a moment to address other potential concerns about this bill.

Many have asked why we need a new program. Indeed, we have the Medicaid Program, which helps the poorest of the poor. Even so, there are 10 million children without coverage. In fact, 3 million uninsured children are eligible for Medicaid, but are not enrolled.

There is no program for the remaining 7 million children, most of whom come from near poor families. Those families are faced with two very unattractive options: a choice between dropping out of the labor force in order to get Medicaid eligibility, or keeping their jobs with no health care coverage at all.

It might be logical to assume that Medicaid would provide the basis for a program to increase child health coverage. And we did examine that idea. But, Medicaid is an open-ended entitlement—and an expensive one at that. Both the States and the Federal Government are seriously concerned about the runaway costs of Medicaid.

In contrast, our capped program is not an entitlement. It is a targeted approach which allows States considerable flexibility in design and administration.

Others have suggested that we use a tax-based approach. I would be willing to consider a tax credit approach, if we could design one that really works. But I foresee two problems in developing such an approach.

The first is that a tax credit could really amount to an open-ended entitlement, whereas the size of our program is capped each year. The second is that poor and near-poor families, who we are trying to help with this bill, simply cannot afford to buy insurance coverage during the year, and wait until the next April to get the money back.

For the benefit of my colleagues, I want to respond to two other concerns.

First, I must emphasize that S. 525 is not the Kerry-Kennedy bill from last year, S. 2186. It is a new proposal that Senator KENNEDY and I wrote together. Senator KENNEDY and I have both moved considerable distances to write this compromise legislation.

This bill is not an open-ended, permanent entitlement; it is a capped 5-year program, run by the States and, as such, is very similar to a proposal former House Republican Leader Bob Michel authored in 1995.

Second is the assertion that this bill is part of the Clinton agenda on health care. If helping the needy is crime, then I plead guilty. But I hope I have convinced those here today that there is a big difference between Clintoncare and the Hatch-Kennedy bill.

Indeed, I am aware that some believe there is a hidden Clinton agenda to enact health care reform piece by piece, starting with kids care.

I think that is a red herring. This argument suggests to me that we should never do anything worthwhile because of the possibility that it may evolve into something bad. I agree that we do not want the huge Clinton health care mandate proposed and debated during the 103d Congress. But, this bill is not that bill—it is not even a look-alike bill.

I have tried to design a Reaganesque block grant tailored to meet a specific problem with a wide degree of flexibility for the States. Unlike the Clinton program, the CHILD Act is focused. It is fully financed; it does not establish a new Federal bureaucracy; and it does not create any new entitlements. There are no price controls and no regional alliances and no global budgets.

Another difference is that we are trying to make this a bipartisan approach right from the beginning. We have the wisdom of that national debate 2 years ago and are far wiser for it.

Let me next turn to the issue of the tobacco tax as a source of revenue for the Children's Health Insurance and Lower Deficit Act. There can be no doubt that smoking and tobacco use is a major public health problem. By any measure, it is also costly.

Smoking is our Nation's No. 1 preventable health threat. There are about 48 million Americans who smoke. About 2 million Americans use other tobacco products like chewing tobacco.

Consider these facts.

Tobacco kills an estimated 419,000 Americans each year.

An additional 2.5 million more people throughout the world die from smoking each year.

Smoking accounts for about 1 in 5 deaths in the United States.

Tobacco accounts for more deaths than homicide, car and airplane accidents, alcohol, heroin, crack, and AIDS—combined. In fact, cigarettes are also a major cause of fire fatalities in the United States. In 1990, cigarettes were responsible for about one-quarter of all deaths associated with residential fires; this represented over 1,000 deaths.

Each day nearly 3,000 young Americans become regular smokers. Eventually, 1,000 will die early from tobacco-related diseases.

Unfortunately, cigarette smoking is on the rise among the young: According to the Centers for Disease Control and Prevention [CDC], the number of high school students reporting that they smoked in the last month rose about one-third between 1991 and 1995, from 27.5 percent in 1991 to 34.8 percent in 1995.

Among black high school age males the jump in smoking was even more alarming, doubling from 14 percent in 1991 to 28 in 1995.

About 8 in 10 smokers begin to use tobacco before age 18 and about one-half of all smokers started at age 14 or earlier.

In 1964, Surgeon General Luther Terry reported that smoking causes lung cancer in men.

In 1988, the Surgeon General C. Everett Koop reported that smoking was an addictive behavior—the same as for heroin or cocaine.

Each year, the estimated 1 million youngsters who become smokers add about $9 to $10 billion to the Nation's health care costs over their lifetimes.

According to a 1994 CDC report, tobacco cost an estimated $50 billion in direct health care costs in 1993. Of this total, CDC estimated that $26.9 billion went for hospital expenditures, $15.5 billion for physician expenditures, $4.9 billion for nursing home expenditures, $1.8 billion for prescription drugs, and $900 million for home health care expenditures.

The 1994 CDC report notes: "The findings in this report indicate that cigarette smoking accounts for a substantial and preventable portion of all medical-care costs in the United States."

According to CDC projections, in 1993 approximately 24 billion packages of cigarettes were sold in the United States and for each of these packages about $2.06 was spent on medical care attributable to smoking. Of this $2.06 per pack estimated societal medical care cost, CDC estimated that $0.89 was paid through public sources.

The CDC study estimated that there was a twofold increase in estimated direct medical care costs attributable to smoking between 1987 and 1993.

Extrapolating the 1987 survey data reported by CDC, it can be estimated that, in 1993, about $10 billion in Medicare costs and $5 billion in Medicaid costs were attributable to smoking.

It has been estimated that smoking cost $4.75 billion to other Federal health care programs, $1.6 billion to other State health programs, and over $16.7 billion in higher premiums paid to private health insurance companies.

In addition to the direct cost of about $50 billion annually, experts agree that a similar amount of costs are borne by society through lost productivity—that is, the foregone earnings of those dying prematurely.

Researchers at the University of California at San Francisco, Drs. Wendy Max and Dorothy Rice, estimate that the 1993 mortality costs due to smoking were $47 billion.

Overall, smoking costs society over $100 billion annually. This is simply too high a price to pay.

It is estimated by the Joint Tax Committee that a 43 cent per pack increase in the cigarette tax, coupled with proportionate tax increases for other tobacco products, would yield about $6 billion in new revenues.

Another point that I want to make today is that the tobacco tax simply has not kept up with inflation. As a matter of fact, the relative component of the price of cigarettes devoted toward taxes has slipped over the last three decades and, even with the increase we propose today, will actually be lower proportionately once this bill is enacted than it was in 1964 when Surgeon General Luther Terry reported that smoking causes cancer.

In 1964, the average total price of a pack of cigarettes was about 30.5 cents per pack. Of this total, 8 cents went to pay the Federal tax and another 8.5 cents per pack were levied in State cigarette and sales tax. In sum, in 1964, about 50.5 percent of the cost of a pack of cigarettes went to taxes.

Currently, the average price per pack of cigarettes is about $1.94. Of this total, 24 cents represents the Federal tax and an additional 31.7 cents per pack is levied by the States together with an additional 9.3 cents per pack in sales taxes. All in all, the share of the per pack price of cigarettes devoted to taxes has dropped to about 33.5 percent today from the 1964 level of 50.5 percent.

If the CHILD Act were signed into law and the new 43 cents per pack tax were added, and if this new tax were passed on directly to the consumer to increase the per pack price to $2.37 per pack, the share of the total price devoted to taxes—45.6 percent—would still be lower than it was in 1964.

Even when this new tax is factored in, the United States would still have a relatively modest tax component built into the price of cigarettes compared with other industrialized countries. For example, in Canada 64 percent of the price of cigarettes is devoted to taxes. In Great Britain, the comparable figure is 82 percent.

As a conservative, I am generally opposed to tax increases. I firmly believe that the Federal Government should spend less, and the American people should keep more of the money that is earned in our economy.

As a conservative, I believe in a balanced budget. That is why I spent the better part of February managing the floor debate for the balanced-budget amendment. That is why I worked hard to convince Senator KENNEDY to earmark one-third of the revenues raised by the proposed increase in the cigarette tax for deficit reduction.

Yet, the statistics about tobacco use and cost that I cited above, I believe, make the case that tobacco products are imposing external costs onto society that are not adequately reflected in the price of these inherently dangerous products. Simply stated, the producers and consumers of tobacco products are not paying the full costs of this product.

When I balance the opportunity that we have in terms of helping to provide health insurance and services to children, coupled with a significant deficit reduction component, against my natural aversion to raising taxes, I come down in favor of this financing mechanism with this tobacco tax—or, as I call it, a user fee. I believe that both the public health and economics reasons are unique and compelling.

I believe that when my colleagues in Congress have the opportunity to fully consider these issues that they will agree with the cosponsors of this legislation and support the CHILD Act.

In closing, Mr. President, let me state my intention to work with all interested parties to improve this bill as it moves through the legislative process.

Indeed, as I have stated, there are some provisions contained within this bill that I believe could be improved through a thorough public discussion.

In particular, I would like to hear from the Governors about how this bill meets their needs with respect to the uninsured population.

I am aware that they may have a few concerns about the bill, such as using the Medicaid benefits package as the model for the private insurance contracts.

Senator KENNEDY and I inserted that provision in the bill for two reasons. We knew that the Governors would be familiar with it and, most importantly, it would obviate the need at either the Federal or State levels to undertake the onerous task of creating a benefits package.

Our Utah Governor, Mike Leavitt, has stated on more than one occasion that he believes the Medicaid benefit package is too "rich;" in other words, a more efficient package would be less costly and still provide needed care. I look forward to working with him and the leaders of other States to address this issue.

Another issue of critical concern is the interrelationship of this program with the employer community. We were very careful to design a program that would complement existing employer efforts to insure their employees without a costly Federal mandate. On the other hand, though, we wanted to make sure that there was no incentive for employers to "dump" employees into the new program in order to relieve themselves of a benefit cost.

That is why we inserted a provision that states that any employer who makes health insurance contributions for an employee cannot vary such contributions based on an individual's eligibility under the CHILD Act. The only way an employer could put a currently insured employee into the CHILD program would be to eliminate coverage for all employees in the company plan. We think this is highly unlikely to happen.

Again, let me state that we were very sensitive to the concerns about a mandate on employers, and we look forward to a very careful examination of this issue as the legislation progresses.

Let me also discuss for a moment the issue that Senator LOTT has already mentioned, that of making certain that the 3 million children who are currently eligible for Medicaid, but not participating, become enrolled. While our bill does not address that issue, it is something we need to do. I hope to work with Senator JEFFORDS and Senator DEWINE who have indicated an interest to me in working to make certain that those who are eligible for Medicaid can participate.

But let me hasten to add that only 3 million out of the 10 million uninsured children are eligible for Medicaid. So, Senator LOTT's idea—which is a good one—would still leave 70 percent of the problem untouched.

Mr. President, in closing I want to reiterate my commitment to working with Senator KENNEDY and all 98 of my other colleagues to enact a bill this year which will improve child health insurance coverage in the United States.

It is time, and I hope the majority of this body will agree.

The PRESIDING OFFICER. Under the previous unanimous-consent request, the 15 minutes allocated to the Senator from Utah has expired.

Mr. HATCH. Will my friend yield me 30 seconds?

Mr. KENNEDY. Sure.

Mr. HATCH. I want to compliment my friend for the remaining 30 seconds. I wish I could spend more time.

Development of these bills has not been an easy thing for him to do, or for me. But I am convinced we have drafted a program that will work.

I have to suggest that if Senator KENNEDY and Senator HATCH—who have such widespread differences of philosophy—can unite to propose a program like this, then anybody can get together. Despite our philosophical differences, which are wide, we both have a great deal of friendship and caring for each other. We are working as hard as we can to do what is right here.

I want to thank my colleague for his great work in this effort.

I yield the floor.

Mr. KENNEDY. Mr. President, I want to thank Senator HATCH for his leadership on this important issue affecting our Nation's children.

Those of us in the Senate have noted that Senator HATCH was instrumental a number of years ago, working with Senator DODD and myself, on the child care block grant program, which still is in existence. It has been evaluated as an extremely effective program for providing child care for the working poor.

A number of years ago we also worked closely together in the summer jobs initiative that included continuing education programs.

In the area of children, I think Senator HATCH and I as well as many others understand that this is neither a Democratic issue nor a Republican issue. Nor is it a North or South issue. It is an American family issue.

For every American family children come first, as well they should. They are our greatest asset and they represent our Nation's future. When we invest in our children, we are investing in America's future. That is why this effort is of such importance and why Senator HATCH and I are now working closely together to make sure that this legislation becomes law.

Mr. President, it is reasonable to ask, why now? Why children?

The fact of the matter is 3,000 children every single day lose their health insurance. Nine out of ten of those who are losing their health insurance in this country are children.

The number of uninsured children is growing. It will rise to 5 million by the year 2000, making it increasingly urgent that we address the fact that more and more children are becoming uninsured.

We are talking about the sons and daughters of working families—families that are working 52 weeks of the year, 40 hours a week, trying to make ends meet and play by the rules. One of the things they are unable to do is provide health care coverage for their children.

Their children require this coverage, which is why Senator HATCH and I and many others want to make health insurance accessible and affordable for all of America's children. We know the number of children who have ear infections and never see a primary care doctor. We know the number of children who are in school at this very hour and have difficulty seeing the blackboard or reading a book and are humiliated in their classroom because they have not had their eyes tested.

This crisis is occurring all over the country. It is happening in urban areas and in rural communities. But we can do something about it, and that is why the legislation is of such importance.

Ten million children are uninsured. Their parents are working hard trying to make ends meet, and the one thing they cannot afford are the premiums to provide health care coverage for their children.

As Senator HATCH has pointed out, our legislation will build on existing programs in the States, and the States by and large are overwhelmingly using the voucher system. I know there are those who favor a tax credit program, but it has been tried and did not work in the past.

We are also building on the private sector because the insurance that will be provided and distributed is going to be as a result of competition in the States.

Finally, we are paying for the program with a 43-cents-per-pack increase in the Federal tobacco tax.

Some say, isn't this unfair and unjustified? We say that tobacco costs the Nation $50 billion a year in direct medical costs—$50 billion a year. By adding 43 cents on a pack of cigarettes, we will have even less than the proportion of tax—Federal, State, and sales tax—for a pack of cigarettes than we had in the early 1960's.

When we look at where we are in comparison to where other countries around the world—our cigarette taxes are well below every other industrial country in the world. With our 43-cents-per-pack increase in the Federal cigarette tax, it will still be among the lowest of all industrial nations.

Mr. President, we strongly support this increase in the cigarette tax because it can do more to stop children from smoking than any other action we could possibly undertake. This will have a dramatic impact on reducing addiction among teenagers, who have less income than adults to spend on cigarettes. That is when the smoking really starts and where the child becomes addicted.

We say that not only because that has been the history of pricing over the period of the last 30 years, but it is there in the documents and statements of the tobacco companies as we have seen in the Liggett story recently.

Mr. President, this is legislation which the American people support. It makes sense from a health point of view. It makes sense from their family point of view. It makes sense for the future in terms of having children who are going to have good quality health care. It makes sense because it will save the lives of over 800,000 children who would otherwise have died from a smoking-caused illness. And it will also provide a modest reduction in terms of the deficit.

This is a win-win-win for the American people. It should be a bipartisan effort. I want to commend Senator HATCH for his leadership and I thank all of our Democratic colleagues for joining in our efforts.

I am honored to join Senator HATCH in introducing the Child Health Insurance and Lower Deficit Act of 1997, which will be a major step toward making health insurance accessible and affordable for all of America's children. I am hopeful that the legislation we are introducing today will be approved by this Congress, and signed by President Clinton. It shows that Democrats and Republicans can work together to solve this national problem.

One of the most urgent needs of children is health insurance coverage. Insurance is the best possible ticket to adequate health care—and every child deserves such care.

Today, however, more than 10 million children have no health insurance—1 child in every 7—and the number has been increasing in recent years. Every day, 3,000 more children lose their private health insurance. If the total continues to rise at the current rate, 13 million children will have no insurance coverage by the year 2000.

Almost 90 percent of these uninsured children are members of working families. Two-thirds are in two-parent families. Most of these families have incomes above the Medicaid eligibility line, but well below the income level it takes to afford private health insurance today.

The children's health care crisis begins at the beginning—with inadequate prenatal care. Some 17 industrial countries have lower infant mortality rates than the United States. Every day, 636 infants are born to mothers in this country who did not have proper prenatal care; 56 die before they are 1 month old. And 110 die before the age of 1. Many more grow up with permanent disabilities that could have been avoided with prenatal care. Uninsured pregnant mothers have sicker babies, and these babies are at greater risk—low birth weight, miscarriage, and infant mortality.

Too many young children are not receiving the preventive medical care they need. Uninsured children are twice as likely to go without medical care for conditions such as asthma, sore throats, ear infections, and injuries. One child in four is not receiving basic childhood vaccines on a timely basis. Periodic physical examinations are out of reach for millions of children, even though such exams can identify and correct conditions before they cause a lifetime of pain and disability.

Preventive care is the key to a healthy childhood, and it also is a cost-effective investment for society. Every dollar invested in childhood immunizations saves $10 in later hospital and other treatment costs.

Some say there is no health care crisis for children. But I reply, tell that to the hard-working parents who cannot afford coverage for their families or whose employers won't provide it.

Tell it to the hospital emergency room physicians who are often the only family doctor these children know, and who have to treat them for heartbreaking conditions that could have been prevented or easily cured with timely care.

Tell it to school teachers struggling to teach children too sick to learn. Tell it to children's advocates across the country, who see children every day with health care needs neglected for too long. Between 30 and 40 percent of children in the child protective system suffer from significant health problems.

For all these reasons and many more—10 million more—the children's health care crisis is real, and the time to address it is now. Every child deserves a healthy start in life. No family should have to fear that the loss of a job, or an employer's decision to drop coverage or hike the insurance premium will leave their children without health care.

The current neglect is all the more unconscionable, because children and adolescents are so inexpensive to cover. That is why we can and must cover them this year—in this Congress. The cost is affordable—and the benefits for children are undeniable.

The legislation that Senator HATCH and I are introducing will make health insurance coverage more affordable for every working family with uninsured children. It does so without imposing new Government mandates. It encourages family responsibility, by offering parents the help they need to purchase affordable health insurance for their children.

Under our plan, $20 billion over the next 5 years will be available to expand health insurance coverage for children, and $10 billion will be available for deficit reduction. I share Senator HATCH's commitment to balancing the Federal budget by the year 2002. As our plan today suggests, we believe we can do it, and do it fairly.

When fully phased in, our legislation will provide direct financial assistance to approximately 5 million children annually. Every family with an uninsured child will have access to more affordable coverage. Combined with efforts to enroll more eligible children in Medicaid, this plan is a giant step toward the day when every American child has health insurance coverage. This bill is the most important single step the Congress can take this year to provide a better life for every American child.

States choosing to participate in the program will contract with private insurers to provide child-only private coverage. These subsidies will be available to help eligible families purchase coverage for their children, or participate in employment-based health plans. Coverage will be available for every child, including children in families not eligible for financial assistance. The program also allows States to allocate up to 5 percent of total program costs to provide preventive care and primary care to pregnant women. Participating States must contribute to the cost of the program, and must maintain their current levels of Medicaid coverage for children.

The basic principles of this proposal are neither novel nor untested. Fourteen States already have similar programs for children. In Massachusetts, an existing program was expanded last year, so that families up to 400 percent of the poverty level are now eligible for financial assistance to buy insurance. In 17 additional States, Blue Cross/Blue Shield offers children's-only coverage, with subsidies for low-income families. These State initiatives provide a solid base on which to build an effective Federal-State-private partnership to get the job done for all children.

Senator HATCH and I propose to pay for this program of children's health insurance and deficit reduction with an increase of 43 cents a pack in the Federal cigarette tax, from its current level of 24 cents. It makes sense to finance the coverage this way, because of the higher costs for health care and premature deaths caused by smoking.

Smoking is the leading preventable cause of death in the United States. It kills more than 400,000 Americans a year. It costs the Nation $50 billion a year in direct health costs, and another $50 billion in lost productivity. A cigarette pack sold for $1.80 costs the Nation $3.90 cents in smoking-related expenses.

Even with our proposed increase, cigarette taxes as a percent of the product price will still be lower than they were in 1965 and will be far below the levels in almost every other industrialized country.

A higher cigarette tax will have the added benefit of reducing smoking among teenagers. If we do nothing to reduce such smoking, 5 million deaths from smoking-related diseases will occur over the lifetime of the current generation of children.

Raising tobacco taxes to finance health insurance for children has the support of an overwhelming 73 percent of the public. If the tobacco tax is raised, an even higher 87 percent support using the revenue to expand health services for children.

I look forward to early action by Congress on this issue. Every day we delay means more children fail to get the healthy start in life they need. When we fail our children, we also fail our country and its future.

I yield the remaining time to the Senator from Connecticut, Senator DODD.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me thank my colleague from Massachusetts for yielding.

Let me begin these brief remarks by commending him and, of course, our good friend and colleague from Utah, Senator HATCH, who is the lead sponsor of this legislation, for his efforts here, along with our colleague from Massachusetts who historically, of course, has taken the leadership role over the last number of decades on health-care-related issues.

Our colleague from Utah and I have had the pleasure and privilege of working together on major legislation. When he says, if you have a bill with ORRIN HATCH's name on it, there is a good chance it is going to become law, I can testify to that, having worked with him on the act for better child care. Today millions of people have accidental health care and decent child care because of his efforts. So I commend, Mr. President, both of our colleagues.

I offered the first child health care package almost 4 years ago to deal with children's health. As both of our colleagues have pointed out, Mr. President, we have about 10 to 10.5 million children in the country who do not have any health care at all. In my State of Connecticut, about 110,000 children are without any health care coverage at all.

What makes this so ironic in many ways, Mr. President—as we have gone through a debate on welfare reform fairly recently—is that 88 percent of the parents of these children without health care are working. The assumption I think a lot of people must have is that children without health care are the children of parents who are living on public assistance. Nothing could be further from the truth. If you are on public assistance, you get health care, you get Medicaid. If you are out of work on welfare, you get Medicaid. If you are in jail, you get health care in this country. But God help you if you are a working family out there working at the lower income levels trying to provide for your family when we have a seen a dramatic increase in the reduction of private health care coverage.

Mr. President, I asked for a General Accounting Office study a number of months ago, the results of which came back about a few weeks ago on what has happened to private health insurance for working families. We have seen about a 4.5 to 5 percent increase nationwide in the number of families who have dropped or been dropped from private health insurance. In 1993, 29 million families lost their health care coverage in this country. And the premium costs went up. Small employers decided to drop it altogether.

So we have watched a tremendous increase in the number of families, working families, with children without any kind of health care coverage at all.

Many of our State laws, Mr. President, require, under law, that you insure your automobile. Many of our State laws, if not all of them, require that if you have a home mortgage, there be insurance on your house. All that we are suggesting here today is that if you have a child, there ought to be health care coverage or insurance for that child.

If it is mandatory that your home be insured, if it is mandatory your car be insured, if you are out of work and on public assistance you get health care, if you are in prison you get health care, what our colleagues from Massachusetts and Utah, and those of us who are supporting them, are suggesting, is that if you are a working family in this country, your children—your children—also ought to have a safety net for health care. So this proposal does just that.

Mr. President, I will just conclude with a story. We had a press conference announcing this GAO study a few days ago. I brought with me a woman from

Connecticut. Both she and her husband work. Her husband is in construction. She works for a nonprofit organization in the State of Connecticut. They have two children. Their oldest boy has a serious mental health problem. It is a serious mental health illness with a cost of over $1,000 a month, on average, for medication. They have run out of support from the State program. There is not going to be any more. They were left with this choice—until someone stepped in and made an exception in their case—but left with this choice: Either they could quit their jobs and go on public assistance and get health care for that child, that is one option, or the other was to take their child and turn him over to the State, give up custody and let him become a ward of the State, so that then the child could get health care coverage.

We hear people talking of family values and families staying together all the time. But somehow, in this situation, this family wants desperately to keep custody of their child, and they keep working and they get no help whatever. There is something fundamentally erroneous about the situation that presently exists that if you work and want to keep your children, you run the risk of losing the health care, whereas if you go on public assistance or give up the custody of your child, you can get health care coverage.

Mr. President, the suggestion of both of our colleagues is to fill in this gap that exists for these 10½ million children today that are without any health care coverage. The numbers are growing, by the way. This is not a number that is declining, but is a number that is growing.

They have come up with a funding scheme that I think most people will support in this country. It is controversial. Obviously, some will object to how this is paid for. I think it is a very sound idea to come up with this funding scheme and also to allocate some of the resources for deficit reduction.

Again, Mr. President, if we can insure our cars by law, our homes by law, if you are on welfare or in prison and you get health care coverage, at the very least, we ought to do the same for America's children. This legislation allows us to do that. I commend both of our colleagues and look forward to adoption of the law.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KERRY. Mr. President, I am delighted to join with my colleague, Senator KENNEDY, with Senator HATCH, and others, in introducing today legislation to provide health care to the 10 million children in the United States who today do not have that care.

Last year, Senator KENNEDY and I joined together with other Senators to introduce legislation to similarly provide health care to these children. Since the time that we introduced legislation a year ago, over 750,000 children under the age of 18 have lost health insurance. One child loses health insurance every 35 seconds in the United States. We are the only industrial country on the face of this planet that does not insure our children, or that does not insure, even, many of our adults.

What is extraordinary about this situation is that we are not talking about the poorest of our poor in America. The poorest of the poor get help. They have health insurance. They get Medicaid. The fact is that we are talking about 10 million children who are the children of working Americans, fully three-fifths of whom work full-time jobs, and 90 percent of whom are working at some job or another.

I visited recently at the Children's Hospital in Boston and I listened to the story of two parents who are working, both of whom are just not earning enough money in their full-time jobs to be able to pay the premiums for the expensive insurance that their sick child needs.

The fact is that over one-half of all the children in the United States who have asthma never see a doctor. One-third of all the children in the United States who have an ear problem never see a doctor. Similarly, for eye problems: As we have learned from medical experts, those problems, often undiagnosed, become chronic ailments and many times become lifetime impairments. We then pick up the cost of those impairments with special education needs, and at the back end of often substance abuse or other kinds of highly intensive, labor-intensive interventions which we could have avoided early on.

Just take the case of neonatal/prenatal care. It costs $1,000 for a year of covering a pregnant woman with early nutrition, early intervention, for pregnancy. But if a child is born underweight as a consequence of the lack of that kind of intervention, it costs $1,100 a day.

I have talked to teachers in schools who have told me the stories of young students who come into the school; they are in the classroom and they are disruptive, not because they want to be disruptive, but because they have a problem. In one particular case, a teacher told me of a child who chronically disrupted the entire class. They could not figure it out. They finally got the child to a clinic because the child had not been examined by a doctor, and they found the child had a chronic earache problem as a consequence of an infection. Antibiotics were given, the infection was cleared up, and the child became a full participant in the classroom.

Mr. President, there are countless stories like these. I want to congratulate Senator KENNEDY and Senator HATCH for working together in helping to come up with a scheme to fund this, that clearly addresses other health needs of the country. When we consider the costs of our various wings of hospitals that are dedicated to pulmonary disease, to emphysema, to cancer as a consequence of smoking, we are spending billions upon billions of dollars, far in excess of the cost of this kind of program, to provide preventive care at the early outset.

So this is really an investment, not an expenditure. This will repay itself many times over. We know that the health care expenditure in early prevention will save anywhere from $3.40 to $16 by virtue of $1 invested.

Mr. President, it is time in America for us for catch up to the rest of the industrialized world and provide insurance to the young children of this Nation who desperately need it.

By Mr. LAUTENBERG (for himself, Mr. DURBIN, Mr. HARKIN, Mr. WELLSTONE and Mr. KENNEDY):

S. 527. A bill to prescribe labels for packages and advertising for tobacco products, to provide for the disclosure of certain information relating to tobacco products, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TOBACCO DISCLOSURE AND WARNING ACT OF 1997

Mr. LAUTENBERG. Mr. President, I rise today to introduce a bill we are calling the Tobacco Disclosure and Warning Act of 1997. Frankly, I hope we are going to be able to look back at this day and say this was a great day for America's children, that this was a great day for the future well-being of coming generations.

I am joined by my Senate colleague from Illinois, Senator DICK DURBIN, who worked with me in the past on establishing a ban on smoking in airplanes, he was a Member of the House before, and Senator HARKIN from Iowa, and Senator WELLSTONE from Minnesota. They joined me this morning in declaring that we are interested this day in the health of our children. We want to warn them that a habit that they could be induced—if I may use the term more crudely, seduced—into, if they join in the tobacco addiction group, that they may be jeopardizing their health very seriously.

Our bill will force tobacco companies to tell the truth, finally, to the American people. As witnessed by the Liggett & Myers' settlement, which wiped away the secrecy and deception perpetrated by the industry, truth is one of the few items in short supply in the tobacco industry. This bill will require tobacco manufacturers to disclose the ingredients of their product to the public.

Actually, it is a modest step. Of the hundreds of products on sale in America that go into the human body, tobacco products are the only ones—the only ones—for which manufacturers do not have to disclose the ingredients. Take a company like Coca-Cola, one of the world's great companies. They have a proud tradition of keeping their formula secret. They have to list Coke's ingredients on every can.

There is a major difference, of course, between Coca-Cola and cigarettes. Coca-Cola does not kill anybody and cigarettes kill 400,000 people a year—more than 400,000. That is one out of every three new users that the industry is trying to recruit. That is according to the Centers for Disease Control.

Manufacturers of every food product and every over-the-counter drug disclose their contents. Cigarette manufacturers do not. Can we wonder why? Yet, of any consumable product for sale in the United States, it is by far among the most deadly.

When you think about the materials that are in cigarettes, carcinogens—43. Should not America know that when you inhale you are going to get some arsenic, going to get some benzine, materials that are very dangerous to health?

Lead, we fight all over the place to take lead out of gasoline, take lead out of paint. But we sell it to the kids. That is what the tobacco industry wants to do. Cadmium, nickel—you would not let your child go near these things, yet everyday this industry, these companies, get tax deductions to advertise their addictive, health-damaging product—maybe lethal.

Our bill also is going to replace the warnings. We ask, A, they list the ingredients. B, we ask also that health warnings on the side of a cigarette-package be significant, with larger warnings on the front and back that are simple and direct, saying: "Cigarettes kill. Smoking can kill you. Cigarettes are addictive. Cigarettes cause heart attacks and stroke."

It is pretty simple. But maybe, just maybe, then we will be able to stop the industry from targeting its recruits for the day. Mr. President, 3,000 children, young people, a day, are attracted and start smoking. And then they cannot quit.

These kinds of warnings exist all around the world. Cigarettes kill one out of every three, again, I repeat, of its users. Over 400,000 Americans every year die from smoking and lots more get sick: Emphysema, heart attacks, cannot conduct their normal activity, cannot associate with their families, cannot show the kids how to hit a ball, run a base or go skating or skiing. We should disclose information on the ingredients of cigarettes to the public and provide it with realistic warnings about the health risks that cigarettes cause. It may seem that most smokers know a single cigarette may have hundreds of dangerous ingredients, but I doubt it. When a smoker lights a cigarette, some of these ingredients burn to create other chemicals, and some of these are carcinogenic.

A Surgeon General's report in 1989 reported that cigarettes contain 43 carcinogens. The list is here, over 43. I did not know it until recently. But the public certainly has a right to know. Do most smokers realize that one of these chemicals is arsenic? I do not think so. Our bill would disclose that, as well as the other chemical carcinogens in cigarettes.

With all these known dangers about smoking, we should not hide health warning labels in small type on the side of a cigarette pack. Other countries, countries like Canada, Australia, Thailand, put large labels on the front of each pack and they put it, of course, in their native language. The United States should provide equal protection to consumers. The warnings should be stark, brutal if necessary, and easily seen. When cigarettes get in the hands of kids, and 3,000 of them take up smoking every day, they ought to be looking at something that says: Smoking can kill you. Smoking is addictive. Smoking harms athletic performance.

That is a lot more graphic and descriptive than the small print that appears today. We should have no beating around the bush because this bush kills you. With large and honest warnings, more children will get the message and perhaps some will put down that pack rather than lighting it up.

Mr. President, the 105th Congress should enact this legislation. It should not be a partisan issue. In the coming weeks I expect this bill will attract cosponsors from both sides of the aisle. The public has a right to know. They have a right to know the truth. Unless Congress forces the industry's hand, it will never fully disclose to customers what it puts in its product, what it puts in their products.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 527

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tobacco Disclosure and Warning Act of 1997".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Tobacco products are the largest preventable cause of illness and premature death, responsible for one of every 5 deaths in the United States.

(2) Tobacco is a uniquely harmful product in that it is the only product which kills when used as intended.

(3) Cigarettes and spit tobacco products are powerfully addictive because they contain nicotine which is a poisonous, addictive drug.

(4) Tobacco-related addiction is a pediatric disease. The vast majority of new smokers are teenagers or younger and children are beginning to smoke today at a younger age than ever before.

(5) The United States health care system spends an estimated $50 billion a year to treat diseases caused by tobacco use. In addition, the United States economy loses $50 billion a year from lost productivity due to tobacco-related illnesses and premature death.

(6) The nicotine in tobacco products is responsible for the addiction of up to one half of all children who experiment with tobacco.

(7) More than 3,000 children begin smoking each day. An estimated 1,000 of them will die from a tobacco-related illness.

(8) Tobacco manufacturers manipulate the levels and presence of the drug nicotine in their products with the intent to cause and sustain addiction in consumers.

(9) In 1997 the tobacco industry will spend over $5 billion on advertising and promotion to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

(10) The Federal Government has a substantial interest in ensuring that those who do not use tobacco products are not encouraged to use them and those who use tobacco products are discouraged from continuing their use.

(11) A failure to provide adequate and complete health warnings and labeling information to fully inform consumers about the risks and dangers of tobacco use is misleading.

(12) Health warnings on cigarette packages have not been updated since 1984 and do not fully reflect current scientific knowledge on the adverse health effects of tobacco use.

(13) The display format of tobacco health warnings can be more effective as a vehicle for promoting public knowledge of the health risks.

(14) Health warnings are most effective when directed at those people who are tempted to try smoking, who are experimenting with smoking, or who are considering a decision to quit smoking.

(15) Health warnings will be most effective when they are present each time the opportunity to use a tobacco product occurs and each time tobacco products are promoted and advertised.

(16) Changes in warning format and revisions in the text of health warnings further the Federal government's commitment to reduce tobacco-related disease and are a low cost means of enhancing the effectiveness of other tobacco reduction programs.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "advertisement" means—

(A) all newspapers and magazine advertisements and advertising inserts, billboards, posters, signs, decals, banners, matchbook advertising, point-of-purchase display material and all other written or other material used for promoting the sale or consumption of tobacco products to consumers,

(B) advertising at an internet site,

(C) advertising promotion allowances,

(D) the appearance on any item (other than cigarettes or other tobacco products) of the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or other tobacco products,

(E) any other means used to promote the identification or purchase of tobacco products.

(2) The term "brand" means a variety of tobacco products distinguished by the tobacco used, tar and nicotine content, flavoring used, size of the tobacco product, filtration, or packaging.

(3) The term "cigarette" means—

(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco which is to be burned,

(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling is likely to be offered to, or purchased by consumers as a cigarette described in subparagraph (A),

(C) little cigars which are any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subparagraph (A)) and as to which one thousand units weigh not more than 3 pounds, and

(D) loose rolling tobacco and papers or tubes used to contain such tobacco.

(4) The term "constituent" means any element of tobacco or cigarette mainstream or sidestream smoke, including tar, the components of the tar, nicotine, and carbon monoxide or any other component designated by the Secretary.

(5) The term "distributor" does not include a retailer and the term "distribute" does not include retail distribution.

(6) The term "ingredient" means any substance the use of which results, or may reasonably be expected to result, directly or indirectly, in its becoming a component of any tobacco product, including any component of the paper or filter of such product.

(7) The term "package" means a pack, box, carton, or other container of any kind in which cigarettes or other tobacco products are offered for sale, sold, or otherwise distributed to customers.

(8) The term "Secretary" means the Secretary of Health and Human Services.

(9) The term "spit tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

(10) The term "tar" means the particulate matter from tobacco smoke minus water and nicotine.

(11) The term "tobacco product" means—

(A) cigarettes,

(B) little cigars,

(C) cigars as defined in section 5702 of the Internal Revenue Code of 1954,

(D) pipe tobacco,

(E) loose rolling tobacco and papers used to contain such tobacco,

(F) products referred to as spit tobacco, and

(G) any other form of tobacco intended for human consumption.

(12) The term "trademark" means any word, name, symbol, logo, or device or any combination thereof used by a person to identify or distinguish such person's goods from those manufactured or sold by another person and to indicate the source of the goods.

(13) The term "United States" includes the States and installations of the Armed Forces of the United States located outside a State.

(14) The term "State" includes, in addition to the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

SEC. 4. PRODUCT PACKAGE LABELING.

(a) IN GENERAL.—

(1) CIGARETTES.—

(A) WARNINGS.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any cigarettes unless the cigarette package bears, in accordance with the requirements of this section, one of the following warning labels:

WARNING: Cigarettes Kill

WARNING: Cigarettes Cause Lung Cancer and Emphysema

WARNING: Cigarettes Cause Infant Death

WARNING: Cigarettes Cause Heart Attacks and Stroke

WARNING: Cigarettes Are Addictive

WARNING: Nicotine Is An Addictive Drug

WARNING: Cigarette Smoking Harms Athletic Performance

WARNING: Smoking During Pregnancy Can Harm Your Baby

WARNING: Cigarette Smoke Is Harmful to Children

WARNING: Smoke From * Cigarettes Can Cause Cancer in Nonsmokers.

For purposes of the last warning in the preceding sentence, * denotes the name of the brand of cigarettes required to bear such label.

(B) INGREDIENTS AND CONSTITUENTS.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any cigarettes unless the cigarette package contains a package insert, in accordance with the requirements of this section, the ingredients and constituents of the cigarettes which were reported to the Secretary under section 7 and which the Secretary determines should be made public.

(C) PACKAGE INSERT.—

(i) IN GENERAL.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any cigarettes unless the cigarette package includes a package insert, prepared in accordance with guidelines established by the Secretary by regulation, on the carcinogens and other substances posing a risk to human health contained in the ingredients and constituents of the cigarettes in such package.

(ii) REGULATIONS.—The Secretary shall issue regulations requiring the package insert required by clause (i) to provide the information required by such clause (including carcinogens and other dangerous substances) in a prominent, clear fashion and a detailed list of the ingredients and constituents.

(2) SPIT TOBACCO PRODUCT.—

(A) WARNINGS.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any spit tobacco product unless the product package bears, in accordance with the requirements of this section, one of the following warning labels:

WARNING: Spit Tobacco Causes Mouth Cancer

WARNING: Spit Tobacco Is Not a Safe Alternative to Cigarettes

WARNING: Spit Tobacco Is Addictive

WARNING: Nicotine Is An Addictive Drug

WARNING: Use of * Spit Tobacco Can Cause Gum Disease

WARNING: Use of * Spit Tobacco Can Cause Tooth Loss

For purposes of the last warning in the preceding sentence, * denotes the name of the brand of spit tobacco required to bear such label.

(B) INGREDIENTS AND CONSTITUENTS.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any spit tobacco unless the spit tobacco package bears, in accordance with the requirements of this section, the ingredients and constituents of the spit tobacco which were reported to the Secretary under section 7 and which the Secretary determines should be made public.

(3) OTHER TOBACCO PRODUCTS.—

(A) WARNINGS.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any tobacco product, other than cigarettes or spit tobacco, unless the product package bears, in accordance with the requirements of this section, one of the following warning labels:

WARNING: Tobacco Kills

WARNING: Tobacco Causes Lung Cancer and Emphysema

WARNING: Tobacco Causes Infant Death

WARNING: Tobacco Causes Heart Attacks and Stroke

WARNING: Tobacco Is Addictive

WARNING: Nicotine Is An Addictive Drug

WARNING: Tobacco Harms Athletic Performance

WARNING: Tobacco Use During Pregnancy Can Harm Your Baby

WARNING: Tobacco Smoke Is Harmful to Children

WARNING: Tobacco Smoke Can Cause Cancer in Nonsmokers

(B) INGREDIENTS AND CONSTITUENTS.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any tobacco product subject to subparagraph (A) unless the tobacco product package bears, in accordance with the requirements of this section, the ingredients and constituents of the tobacco product which were reported to the Secretary under section 7 and which the Secretary determines should be made public.

(b) LABEL FORMAT.—

(1) IN GENERAL.—The warning labels required by paragraphs (1)(A), (2), and (3) of subsection (a) shall—

(A) appear on the top of the 2 most prominent sides of the product package on which the label is required and 1 label shall be in Spanish,

(B) be in a size which is not less than 33 percent of the side on which the label is placed,

(C) appear in white letters on black backing or in black letters on white backing, whichever is more conspicuous and prominent in contrast to the color of the package, except that the words "WARNING" shall appear in bright red letters and if the package does not have any color, the words "WARNING" shall be in black or white as prescribed by this subparagraph and shall be boldly underlined with a black or white underlining,

(D) be in a rectangular shape enclosed in a border of color contrasting to the color of the backing prescribed by subparagraph (C) and to the predominant color of the package, and

(E) include letters in a height, thickness, and type face which assures that the letters in the space provided for the statement will be no less legible, prominent, and conspicuous than the most legible, prominent, and conspicuous typeface, typography, and size of other matter printed on the side of the package on which the label statement appears.

(2) FORMAT FOR OTHER CIGARETTE LABELS.—The label required by paragraph (1)(B) of subsection (a) shall appear on the package in such style and format as the Secretary may by regulation prescribe.

(c) ROTATION.—The warning labels required by paragraphs (1)(A) and (2) of subsection (a) shall be rotated by each manufacturer of cigarettes and spit tobacco products on each brand of cigarettes and spit tobacco products in accordance with a plan approved for the manufacturer by the Secretary. Each such plan shall provide for an approximately even distribution of the labels among the packages of a brand of the cigarettes and spit tobacco products of each manufacturer each year.

SEC. 5. LABELING IN ADVERTISING.

(a) IN GENERAL.—

(1) CIGARETTE ADVERTISING.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any brand of cigarettes unless the advertising for such brand bears the warning label required for cigarettes by section 4(a)(1)(A).

(2) SPIT TOBACCO.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any spit tobacco product unless the advertising for such product bears the warning label required for spit tobacco products by section 4(a)(2)).

(3) OTHER TOBACCO PRODUCTS.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any tobacco product, other than cigarettes or spit tobacco, unless the advertising for such product bears the warning label required for such product by section 4(a)(3)).

(b) FORMAT.—

(1) WARNING LABELS.—The warning label required by subsection (a) for advertising shall—

(A) appear in white letters on black backing or in black letters on white backing, whichever is most prominent relative to the color of the advertisement, except that the word "WARNING" shall appear in bright red letters and in a advertisement without color "WARNING" shall be in black or white as prescribed by this subparagraph and shall be boldly underlined with a black or white underlining,

(B) be in a rectangular shape which occupies 33 percent of the space of each advertisement and which is located at the top of the advertisement and enclosed in a border of color contrasting to the color of the backing prescribed by subparagraph (A) and to the predominant color of the advertisement of the tobacco product being advertised,

(C) include letters in a type face and size which, within the space limitation prescribed by subparagraph (B), assure that the letters in the statement will be no less legible, prominent, or conspicuous than the most legible, prominent, and conspicuous typeface, typography, and size of other matter printed on the advertisement, and

(D) be in the same language as the text of the advertising in which it appears.

(2) BILLBOARDS WITH LIGHTING.—The warning label on billboards which use artificial lighting shall be no less visible than other printed matter on the billboard when the lighting is in use.

(c) ROTATION.—

(1) NON-BILLBOARD ADVERTISING.—Warning labels on advertising (other than billboard advertising) shall be rotated quarterly in alternating sequence for each brand of cigarettes or spit tobacco product manufactured by the manufacturer or imported by the importer in accordance with a plan submitted by the manufacturer or importer and approved by the Secretary.

(2) BILLBOARDS.—Warning labels on advertising displayed on billboards shall be rotated annually or whenever the advertisement is changed, whichever occurs first.

SEC. 6. AUTHORITY TO REVISE HEALTH WARNINGS.

The Secretary may by regulation revise any health warning required by section 4(a)(1)(A), 4(a)(2), or 4(a)(3) and the format for the display of such warning if the Secretary finds that such revision would promote greater understanding of the risks of tobacco.

SEC. 7. TOBACCO PRODUCT INGREDIENTS AND CONSTITUENTS.

(a) GENERAL RULE.—Each person which manufactures, packages, or imports into the United States any tobacco product shall annually report, in a form and at a time specified by the Secretary by regulation—

(1) the identity of any added constituent of the tobacco product other than tobacco, water, or reconstituted tobacco sheet made wholly from tobacco, and

(2) the nicotine, tar, and carbon monoxide yield ratings which shall accurately predict the nicotine, tar, and carbon monoxide intake from such tobacco product for average consumers based on standards established by the Secretary by regulation,

if such information is not information which the Secretary determines to be trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code, and section 1905 of title 18, United States Code. The constituents identified under paragraph (1) shall be listed in descending order according to weight, measure, or numerical count. If any of such constituents is carcinogenic or otherwise poses a risk to human health, as determined by the Secretary, such information shall be included in the report.

(b) PUBLIC DISSEMINATION.—The Secretary shall review the information contained in each report submitted under subsection (a) and if the Secretary determines that such information directly affects the public health, the Secretary shall require that such information be included in a label under sections 4(a)(1)(B), 4(a)(2)(B), and 4(a)(3)(B).

(c) OTHER SOURCES OF INFORMATION.—The Secretary shall establish a toll-free telephone number and a site on the Internet which shall make available additional information on the ingredients of tobacco products, except information which the Secretary determines to be trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code, and section 1905 of title 18, United States Code.

SEC. 8. ENFORCEMENT.

(a) IN GENERAL.—

(1) The Secretary shall carry out the Secretary's duties under this Act through the Commissioner of Food and Drugs.

(2) The Secretary shall issue such regulations as may be appropriate for the implementation of this Act. The Secretary shall issue proposed regulations for such implementation within 180 days of the date of the enactment of this Act. Not later than 180 days after the date of the publication of such proposed regulations, the Secretary shall issue final regulations for such implementation. If the Secretary does not issue such final regulations before the expiration of such 180 days, the proposed regulations shall become final and the Secretary shall publish a notice in the Federal Register about the new status of the proposed regulations.

(3) In carrying out the Secretary's duties under this Act, the Secretary shall, as appropriate, consult with such experts as may have appropriate training and experience in the matters subject to such duties.

(4) The Secretary shall monitor compliance with the requirements of this Act.

(5) The Secretary shall recommend to the Attorney General such enforcement actions as may be appropriate.

(b) INJUNCTION.—

(1) The district courts of the United States shall have jurisdiction over civil actions brought to restrain violations of sections 4 and 5. Such a civil action may be brought in the United States district court for the judicial district in which any substantial portion of the violation occurred or in which the defendant is found or transacts business. In such a civil action, process may be served on a defendant in any judicial district in which the defendant resides or may be found and subpoenas requiring attendance of witnesses in any such action may be served in any judicial district.

(2) Any interested organization may bring a civil action described in paragraph (1). If such an organization substantially prevails in such an action, the court may award it reasonable attorney's fees and expenses. For purposes of this paragraph, the term "interested organization" means any nonprofit organization one of whose purposes, and a substantial part of its activities, include the promotion of public health through reduction in the use of tobacco products.

(c) CIVIL PENALTY.—Any person who manufactures, packages, distributes, or advertises a tobacco product in violation of section 4 or 5 shall be subject to a civil penalty of not more than **$100,000** for each violation per day.

SEC. 9. LIABILITY.

Compliance with any requirement of this Act, the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331 et seq.), or the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4401 et seq.) shall not relieve any person from liability to any other person at common law or under State statutory law.

SEC. 10. EFFECTIVE DATES AND CONFORMING AMENDMENTS.

(a) EFFECTIVE DATES.—This Act shall take effect on the date of the enactment of this Act, except that

(1) sections 4, 5, and 7 shall take effect one year after the date of the enactment of this Act,

(2) section 6 shall take effect 3 years after the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS.—Effective one year from the date of the enactment of this Act, the Federal Cigarette Labeling and Advertising Act (other than sections 6, 9, 10, and 11) (15 U.S.C. 1331 et seq.) and the Comprehensive Smokeless Tobacco Health Education Act of 1986 (other than sections 1, 2, 3(f), and 8) (15 U.S.C. 4401 et seq.) are repealed.

ADDITIONAL COSPONSORS

S. 18

At the request of Mr. LAUTENBERG, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 18, a bill to assist the States and local governments in assessing and remediating brownfield sites and encouraging environmental cleanup programs, and for other purposes.

S. 28

At the request of Mr. THURMOND, the names of the Senator from New Mexico [Mr. DOMENICI] and the Senator from Arkansas [Mr. HUTCHINSON] were added as cosponsors of S. 28, a bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes.

S. 91

At the request of Ms. SNOWE, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 91, a bill to establish an Office on Women's Health within the Department of Health and Human Services.

S. 102

At the request of Mr. BREAUX, the names of the Senator from Kansas [Mr. BROWNBACK] and the Senator from South Dakota [Mr. JOHNSON] were added as cosponsors of S. 102, a bill to amend title XVIII of the Social Security Act to improve Medicare treatment and education for beneficiaries with diabetes by providing coverage of diabetes outpatient self-management training services and uniform coverage of blood-testing strips for individuals with diabetes.

S. 207

At the request of Mr. MCCAIN, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 207, a bill to review, reform, and terminate unnecessary and inequitable Federal subsidies.

S. 224

At the request of Mr. WARNER, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 224, a bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employees Health Benefits program, and for other purposes.

S. 228

At the request of Mr. MCCAIN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 228, a bill to amend title 31, United States Code, to provide for continuing appropriations in the absence of regular appropriations.

S. 304

At the request of Mr. DORGAN, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 304, a bill to clarify Federal law with respect to assisted suicide, and for other purposes.

S. 351

At the request of Mrs. MURRAY, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 351, a bill to provide for teacher technology training.

S. 365

At the request of Mr. COVERDELL, the names of the Senator from Arkansas [Mr. HUTCHINSON] and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 365, a bill to amend the Internal Revenue Code of 1986 to provide for increased accountability by Internal Revenue Service agents and other Federal Government officials in tax collection practices and procedures, and for other purposes.

S. 370

At the request of Mr. GRASSLEY, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 370, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners and clinical nurse specialists to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 371

At the request of Mr. GRASSLEY, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 371, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 389

At the request of Mr. ABRAHAM, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 419

At the request of Mr. BOND, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 419, a bill to provide surveillance, research, and services aimed at prevention of birth defects, and for other purposes.

S. 492

At the request of Mr. SARBANES, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 492, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

S. 511

At the request of Mr. CHAFEE, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 511, a bill to require that the health and safety of a child be considered in any foster care or adoption placement, to eliminate barriers to the termination of parental rights in appropriate cases, to promote the adoption of children with special needs, and for other purposes.

SENATE CONCURRENT RESOLUTION 11

At the request of Mr. GREGG, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of Senate Concurrent Resolution 11, a concurrent resolution recognizing the 25th anniversary of the establishment of the first nutrition program for the elderly under the Older Americans Act of 1965.

SENATE RESOLUTION 63

At the request of Mr. DOMENICI, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Kentucky [Mr. FORD], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Montana [Mr. BAUCUS], the Senator from Virginia [Mr. WARNER], the Senator from Wisconsin [Mr. KOHL], and the Senator from Arkansas [Mr. HUTCHINSON] were added as cosponsors of Senate Resolution 63, a resolution proclaiming the week of October 19 through October 25, 1997, as "National Character Counts Week."

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Thursday, April 10, 1997, at 10:30 a.m. to receive testimony from outside counsel concerning petitions filed in connection with a contested U.S. Senate election held in Louisiana in November 1996.

For further information concerning this hearing, please contact Bruce Kasold of the Rules Committee staff at 224–3448.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 8, 1997, at 10 a.m. and at 3:30 p.m. to hold hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Tuesday, April 8, 1997, at 9:30 a.m. in room 485 of the Russell Senate Building to conduct an oversight hearing on juvenile justice issues in Indian country.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 8, 1997, at 2 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet on Tuesday, April 8, 1997, at 10 a.m. in open session, to receive testimony on active and reserve military and civilian personnel programs and the Defense Health Program in review of S. 450, the National Defense Authorization Act for fiscal years 1998 and 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet at 2:30 p.m. on Tuesday, April 8, 1997, in open session, to receive testimony regarding submarine development and procurement programs and global submarine threat in review of S. 450, the national defense authorization bill for fiscal years 1998 and 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

UNIVERSITY OF KENTUCKY'S BASKETBALL PROGRAM

• Mr. McCONNELL. Mr. President, the University of Kentucky's basketball program has a rich and storied legacy; more wins than any team in college basketball history, six NCAA titles, more appearances in the NCAA tournament than any other program, and 38 Southeastern Conference titles. But, those statistics only begin to tell the tale. Even with all these successes, the 1996–97 edition of the Wildcats will carry a special place in the hearts of Kentucky fans. For the real story behind the UK basketball team is the love affair the fans have with the Big Blue's program.

It was not so long ago, Mr. President, that even one loss was enough to launch some in the Commonwealth into a fit of pique. So accustomed to winning, some Wildcat fanatics had grown unable to accept an occasional setback. Even worse, many had forgotten how to enjoy the hard-earned victories that talented Kentucky teams continually produced.

Today there is a new attitude in the bluegrass, Mr. President. An attitude which exults in victories and championships without believing the end of the world is near if their beloved Cats happen to come up short. An attitude derived from the players and coaches themselves. An attitude borne of hard work and the satisfaction brought by the unparalleled success that hard work has produced.

Never has this been more true than with this year's Kentucky squad. With the odds stacked against the team all year long, the fans were able to revel in a 35–5 season, a Southeastern Conference tournament title and a national runnerup trophy. Not bad for a squad that lost four players to the NBA draft, two starters to injury and returned only one starter from the previous year's national championship team. At times this year, many would agree that the MVP of the team was trainer "Fast" Eddie Jamiel.

These young men, Coach Rick Pitino, and Athletic Director C.M. Newton deserve special recognition for reminding us all that how you play the game is as important as the final result. Not once during a roller-coaster season did any player or coach complain about the difficulty of the challenges at hand. Excuses are for losers, and there are no losers associated with this Wildcat team of overachievers.

The Fabulous Five, the Fiddlin' Five, Rupp's Runts, the Unforgettables, the Untouchables, and now the Unbelievables. Other Kentucky teams had more talent but never has a Wildcat group worked as hard. This team had tremendous pride due to the fact that "KENTUCKY" was stitched in bold blue letters across their chests. They took that pride and used it to achieve more than any fan or so-called expert could have hoped for. I join Wildcat faithful across the Nation in saluting this year s gallant effort.•

THE CHEMICAL WEAPONS CONVENTION

• Mr. DURBIN. Mr President, one of this Nation's most pressing national security concerns is the ratification of the Chemical Weapons Convention. The case for this treaty is compelling. The CWC treaty was negotiated by Presidents Reagan and Bush, two Republican administrations. It is now being moved to ratification by a Democratic administration. CWC is supported whole heartedly and overwhelmingly by the American people. According to a poll, 84 percent of all Americans support this convention. It also has the unconditional support of the U.S. chemical industry and the U.S. military as represented by Gen. Norman Schwarzkopf, General Shalikashvili, and Admiral Zumwalt among others. It is endorsed by veterans groups; religious organizations; the intelligence community; peace groups; societies for physicians, scientists, and engineers; and military organizations. It has already been ratified by 68 countries around the world including China, India, Japan, many of the former Soviet Republics and Warsaw Pact countries as well as our major West European allies. The fact of the matter is, the treaty is both effective and reasonable. It makes sense militarily and economically.

Despite this unprecedented support from such diverse groups, the Convention has been languishing, awaiting a Senate vote since 1993. Very simply put, and to quote from an editorial in the Chicago Tribune: "This Treaty Ought To Be Ratified." This Tribune editorial goes on to state, "In the annals of 20th century warfare, hardly a weapon short of nuclear explosives has produced such loathing and terror as those classified as chemical weapons." When you are considering outlawing the development, production, transfer, acquisition, and use of chemical weapons, partisanship and obstructionism should not be an issue.

There are many misstatements and much propaganda against the CWC. The truth is that there is a heavy price to pay if we are not an original signatory: The United States will have no place on the executive council; Americans won't be able to serve as inspectors; American chemical companies will lose significant business to overseas competitors because of mandatory trade sanctions; and U.S. credibility and influence will be undermined. We'll be in the same category as other non-signatories such as Libya, Iran, and Syria.

On the other hand, the ratification of CWC will make it less likely that our troops will ever again encounter chemical weapons in the battlefield; less likely that chemical weapons will fall into the hands of terrorists; and less likely that rogue states will have access to chemical weapons. Unfortunately, CWC is not the panacea to remove all threat of chemical weapons, but it is a first important step.

I urge my Senate colleagues to take up the debate on the Chemical Weapons Convention on the Senate floor so that this treaty can be ratified. I also ask that three editorials from Illinois newspapers supporting CWC be printed in the RECORD.

The editorials follow:

[From the Chicago Tribune, Sept. 27, 1995]

THE HELMS CHOKE-HOLD ON DIPLOMACY

That the president of these United States must seek the advice and win the consent of the Senate in making treaties and appointing ambassadors is so integral to the American system of checks and balances that it is written into the Constitution.

The framers of that document certainly were no strangers to the baser side of domestic politics, so a certain amount of horse-trading in the conduct of foreign policy—which is the province of the president—was to be tolerated and even encouraged. Today, however, the pugnacious senator from North Carolina, Jesse Helms, has turned advice and consent into stonewalling and deadlock.

As Senate Foreign Relations chairman, a post he assumed with the Republican sweep of Congress, Helms has laid down his gavel and refuses to convene business meetings of that powerful committee.

Frozen by his fit of pique are ratification of a dozen treaties and international agreements, including two landmark pacts; Start 2, the treaty slashing U.S. and Russian nuclear arsenals that was signed by former President George Bush, a Republican; and the Chemical Weapons Convention, which outlaws the manufacture and use of chemical weapons.

Among the 400 State Department appointments locked up by Helms are 30 ambassadorial positions. Thus, the United States is left without chief envoys to 15 percent of its embassies, including those in several nations critically important to American national security and a peaceful world order—China, Lebanon, Pakistan, Panama, South Africa and Zaire.

What is Helms after? He wants to reorganize the State Department by eliminating the independent agencies that handle foreign aid, arms control and public information. Helms says $3 billion can be saved over four years by letting the State Department swallow up the Agency for International Development (AID), the Arms Control and Disarmament Agency (ACDA) and the U.S. Information Agency (USIA).

The majority of Helms' Senate colleagues, however, disagree. As recently as last week, the Senate refused to approve Helm's controversial reorganization plan, which was attached to the foreign aid bill.

President Clinton concedes there's fat to be trimmed from the State Department budget but points out, for example, that the AID budget has been trimmed by 20 percent since he took office, part of a downward trend that has seen the overall funding of foreign affairs drop by 47 percent since 1985.

This stonewalling by Helms is ill-considered, and extends far beyond Congress' power of the purse. Helms should let the treaties and appointments be voted in committee. Then, the Senate as a whole and not just one senator—should be allowed to consider what advice to give Clinton and whether to give its consent on these important foreign policy matters.

[From the State Journal-Register, Feb. 11, 1997]

OBSTRUCTIONISM BLOCKING CHEMICAL WEAPONS ACCORD

The Senate's delay in bringing the chemical weapons treaty to a ratifying vote is inimical to national interests. This treaty is strongly supported by every major national constituency.

The treaty is an American brainchild, negotiated under Presidents Reagan and Bush. President Clinton sent it to the Senate for ratification in 1993. It has bipartisan Senate support and is enthusiastically backed by the U.S. military, which is destroying its chemical weapons stockpiles and wants to see other nations do the same.

The problem is summed up in two words: Jesse Helms. This relic from North Carolina who, through seniority, not ability, has become chairman of the Foreign Relations Committee, has persuaded Majority Leader Trent Lott to withhold the treaty from a vote on the floor, where it would easily pass.

In playing this power game, Helms serves neither nation, Senate nor party.

He serves his own ego.

The practical effect of Helms' obstructionism is to damage the U.S. chemical industry, a strong treaty supporter.

After the treaty takes effect April 29, participating nations (160 have endorsed it so far) and prohibited from dealing with nonparticipants in any of the chemicals banned by the treaty, many of which have commercial as well as military uses.

The U.S. chemical industry puts the cost to it of this provision at $600 million in exports annually.

But Helms does more serious damage to America's reputation. This is our treaty. Since the United States renounced chemical weapons 15 years ago and began destroying stockpiles, it has been persuading other nations to do the same.

The Chemical Weapons Convention is the first treaty calling not just for the reduction of a type of weaponry, but its entire elimination.

The United States has had success convincing others to follow our lead, but now it is the Senate's turn to act. Instead, Helms has blocked a ratifying resolution introduced by Sen. Richard Lugar, R-Ind., the man Helms ousted as committee chairman four years ago in a particularly egregious use of the seniority principle.

If Helms wants to thwart the Clinton administration and does not care about the chemical industry, perhaps he should listen to what the military is saying.

Gen. John Shalikashvili, chairman of the Joint Chiefs of Staff, is supported by former military leaders Colin Powell, Brent Scowcroft, Elmo Zumwalt and others in urging quick ratification.

Disputing Helms' claim that the treaty somehow weakens the United States, Zumwalt, former chief of naval operations, says it "is entirely about eliminating other people's weapons, weapons that may someday be used against Americans.

That kind of sober warning should be enough to persuade Helms to end his ego trip and let the treaty go forward.

[From the Chicago Tribune, Feb. 19, 1997]

THIS TREATY OUGHT TO BE RATIFIED

In the annals of 20th Century warfare, hardly a weapon short of nuclear explosives has produced such loathing and terror as those classified as chemical weapons, more commonly known as poison gas.

Considered the poor-man's A-bomb because of their ease of manufacture and battlefield delivery, the use of chemicals was considered so inhumane that even the Nazis declined their deployment on the battlefield—if not in the extermination camps.

So horrible was the thought of Iraq using chemical artillery against U.S. forces in the Gulf War that Baghdad had the clear impression that to do so might bring quick nuclear retaliation.

Who besides the leaders of renegade nations would oppose a treaty that would ban and destroy such heinous weapons of war? How about a handful of senators who oppose the U.S. ratification of the 1993 Chemical Weapons Convention.

Jesse Helms, the powerful head of the Senate Committee on Foreign Relations, and a few others oppose the treaty, claiming that it cannot be effectively enforced nor can violations of its provisions be verified. Proponents dispute such claims. Helms has asked that instead of chemical arms, Senate priorities first be focused upon other aims, like legislation ensuring a comprehensive reform of the "antiquated" Department of State and the United Nations.

In this there is a problem: if the Senate does not ratify the pact by April 29, the day the convention becomes international law, the sole remaining superpower will lose out on the right to join teams to monitor suspect chemical plants and guarantee the destruction of chemical arms stockpiles. Another detriment would be denial to the U.S. of access to information gathered by those chemical teams.

So far 161 countries have signed the Chemical Weapons Convention, and the legislatures of 68 countries—including those of our major allies—have ratified the pact. Russia, which has yet to ratify, is nevertheless committed to destroy its chemical stockpile by the year 2005 and the United States its own by 2004.

The list of those backing the treaty contains names hardly associated with a soft line on national defense. On that list are military giants like Colin Powell, Norman Schwarzkopf, Brent Scowcroft and Adm. Elmo Zumwalt Jr., and civilians like George Bush, Lawrence Eagleburger and James A. Baker III.

Our confidence on this issue is in them, not Jesse Helms. The Senate should move quickly to ratify the treaty and join the 21st Century.●

TRIBUTE TO THE MIDDLEBURY COLLEGE HOCKEY TEAM

● Mr. JEFFORDS. Mr. President, I rise today to pay tribute to the 1996–97 Middlebury College Hockey Team. The Panthers recently clinched their third consecutive NCAA Division III title. Not only did the team win a championship, but was also able to remain undefeated throughout the season. Their impressive performance is testimony to months of hard work and dedication.

Vermonters take their hockey seriously and the success of Middlebury College's hockey team is not only a victory for the school, but the entire community as well. The players and coaches have represented themselves as well as Vermont admirably. I know that everyone associated with the team is proud of their achievements and we all look forward to another successful season next year under the continued tutelage of Coach Beaney.

Once again, I would like to extend my best wishes and congratulations to the Middlebury College Hockey Team: Coach Bill Beaney, Assistant Coach Wes McKee, Francois Bourbeau, Jeff Anastasio, Erik Zink, Mathieu Bilodeau, Ryan Goldman, Sebastien Bilodeau, Emil Jattne, Mike Anastasio, Ben Barnett, Cam Petke, Nickolai Bobrov, Mark Spence, Francois Gravel, David Bracken, Peter Schneider, Curt Goldman, Brady Priest, Ross Sealfon, Mike Bay, Ray Turner, Jason Cawley, Chris Farion, Tim Fox, Jim Walsh, and John Giannacopoulos.●

TRIBUTE TO LT. COL. ARCHIBALD GALLOWAY II

● Mr. LUGAR. Mr. President, it is with great pleasure that I rise today to pay tribute to Lt. Col. Archie Galloway for his dedicated military service to our country.

Colonel Galloway is retiring on May 31, 1997 from active service in the U.S. Army after serving for nearly 29 years as an infantry officer and soldier. I came to know Colonel Galloway personally during his last 3½ years of military service as a staff officer in the

Army's Senate liaison office, as he arranged for and accompanied me on a number of key trips around the globe on critical national issues of defense and foreign affairs.

Colonel Galloway was born in Baltimore, MD, on April 12, 1947. He enlisted in the Army in 1967 as a private and was later commissioned as a second lieutenant in 1969 from Infantry Officer Candidate School at Fort Benning, GA. Throughout his military career, he consistently distinguished himself during times of peace and war, in both command and staff positions. He volunteered for duty in Vietnam as a Vietnamese ranger adviser and was decorated with the Vietnamese Cross of Gallantry with Silver Star and the Bronze Star Medal. During Operation Just Cause, he served as the chief of current operations in the joint task force and earned at the end of his tour in the 7th Infantry Division the Legion of Merit. His other notable military awards include the Combat Infantryman's Badge, Meritorious Service Medal with four Oak Leaf Clusters, Army Commendation Medal, Army General Staff Identification Badge, Ranger, Airborne, and Air Assault Badges.

Colonel Galloway's professionalism and leadership as a military officer have earned him the respect and admiration of his soldiers, fellow officers, and Members of the U.S. Congress. He is known for his integrity, compassion, and ability to inspire men and women from all walks of life. It is these qualities that will assure his success as a new legislative assistant for Senator JEFF SESSIONS.

I salute Arch Galloway for his distinguished military record and wish him and his wonderful wife and great baker, the former Nancy Carol Brendel, many years of happiness and good health in his retirement.•

SALUTE TO HAROLD HAZELIP

• Mr. FRIST. Mr. President, I rise today to commend Harold Hazelip for an outstanding career. Hazelip has served as president of Lipscomb University since 1986 with dedication and a proactive sense of leadership. This spring he will retire, and the students, faculty and staff at Lipscomb University will miss him greatly. But as they look back on his years of service, they will find that the legacy he leaves behind is a strong foundation for education and the community.

Since 1986, Lipscomb University has seen many changes. Enrollment has reached record highs at the university and at David Lipscomb Campus School for kindergarten through high school. Fundraising efforts are more productive than at any time in the university's 104-year history and alumni are giving more back to their school.

When Harold Hazelip took the helm, Lipscomb University was called David Lipscomb College. Through hard work and a clear vision Hazelip helped the school implement a masters degree program to become accredited as a university by the Southern Association of Colleges. In addition to a variety of new programs, Hazelip has also been able to recruit some of the best professors from across the country. Today, 83 percent of Lipscomb's faculty hold terminal degrees in their field, an increase from 63 percent when Hazelip started.

During Hazelip's tenure, admissions standards were strengthened and the diversity of the student body increased. The campus grew, too, with the addition of a new library, a recreational gymnasium, and a campuswide fiberoptic network. Hazelip has eagerly combined technological innovation, student diversity, advanced education programs, and new instructional facilities to steer Lipscomb University toward a bright future.

The most exciting legacy that Hazelip leaves behind is the growth and continued interest in mission work and youth ministry at Lipscomb University. This aspect of campus life is a true reflection of the dedication that Hazelip has for the university as well as his community. Harold Hazelip truly encompasses the ideals of community involvement and leadership. In today's tumultuous world, it is reassuring to see these ideals passed along.

Mr. President, Harold Hazelip is not simply a university president, he is also a writer, a minister, a Chamber of Commerce member, and a leader in education. His commitment to each of these titles is reflected in the successes he has helped the people around him achieve. Hazelip's retirement from Lipscomb University challenges the university community to uphold the standards that he set and to move beyond those criterion to reach higher goals for the institution. Like any good teacher, Hazelip has given Lipscomb University the foundation to achieve success. It is now up to the university to build upon that foundation. Harold Hazelip has set Lipscomb University on the fast track to success, and I am confident that Lipscomb's future is very bright as a result. I thank Harold Hazelip for his dedication to education and his community, and I wish him well as he enters retirement.•

MR. SPRINGFIELD, JOHN Q. HAMMONS

• Mr. BOND. Mr. President, on Sunday, April 13, 1997, the city of Springfield, MO will dedicate a statue of John Q. Hammons in recognition of his lifelong devotion to his city, his State, and his country.

When Thoreau observed that, "Philanthropy is almost the only virtue which is sufficiently appreciated by mankind," he could not have imagined how impossible it has become for Springfield to show sufficiently its appreciation for the generosity of John. He has donated, built, benefactored, patroned, and supported all facets and levels of life in Springfield. When visiting the city, you are aware immediately of John Q. Hammons landmarks which grace and enrich the community.

In raising this statue and in knowing they can never adequately express their admiration, respect, and affection, fellow Springfieldians enthusiastically embrace the opportunity to say thank you. Sunday will be a great occasion for the people of Springfield and I join them in paying tribute to John Q. Hammons.•

TRIBUTE TO THE UND WOMEN'S BASKETBALL TEAM

• Mr. DORGAN. Mr. President, my home State of North Dakota has been making the national news lately because of the recordbreaking snowfalls and flooding we have been suffering. This will surely be a winter that North Dakotans will remember for a long time to come. However, we North Dakotans will also be able to look back on this winter with fond memories because of the two national championships captured by the University of North Dakota in women's basketball and men's hockey.

First of all, I want to pay special tribute to the 1997 National Collegiate Athletic Association's Division II women's national basketball champions, the University of North Dakota Fighting Sioux. This championship is made more special because it is the first ever for women's basketball at UND, and it keeps the national championship trophy in North Dakota for the fifth straight year.

I am sure that this championship is made even sweeter for Head Coach Gene Roebuck and his team because it comes after playing in the shadow of North Dakota State University's women's basketball team for the last several years. The fact is that two of the best division II basketball teams in the country year in and year out play right in the Red River Valley of North Dakota, and it was just a matter of time before the UND women would get their share of the limelight.

To win the national championship, the UND women handily defeated the Southern Indiana Lady Screaming Eagles 94–78 after closing out the game on a 20–4 run. Winning the national championship was truly a team effort with six players scoring in double figures. The Fighting Sioux finished the season 28–4, which ties the school record for most wins in a season.

The outstanding team accomplishments were aided by some notable individual accomplishments. Freshman point guard Jaime Pudenz was named the most outstanding player of the tournament. Jaime was joined on the Elite Eight All-Tournament team by senior Kelli Britz and sophomore Jenny Crouse. Kelli also has the additional distinction of finishing her career at UND as the school's leader in the 3-point fieldgoals made and attempted and second all time in total points scored. Tiffany Pudenz led the Fighting Sioux in scoring in the championship game with 23 points.

But a basketball team needs hard work and contributions from all of its players if it is to reach the pinnacle of a national championship. The Fighting Sioux certainly got that from senior Allison Derck, junior Elisha Kabanuk, sophomores Casey Carroll and Kami Winger, and freshmen Anna Feit, Pernilla Jonsson, Elisabeth Melin, and Katie Richards.

Finally, I want to honor the coaches who have turned the Fighting Sioux into one of the dominant forces in the North Central Conference and all of division II women's basketball. Coach Roebuck is one of the most successful active coaches in basketball with a record of 246–50 over the last 10 seasons. He is assisted on the bench by Darcy Deutsch, Chris Gardner, and Doug Reiten.

I've always known that North Dakota has some of the best people you can find, and I'm told that the visitors to Grand Forks for the national championship came away with the same impression. Now all of America can understand that some of the finest people and finest women's basketball both come from the Red River Valley.•

TRIBUTE TO THE UND ICE HOCKEY TEAM

• Mr. DORGAN. Mr. President, my home State of North Dakota has been making the national news lately because of the record-breaking snowfalls and flooding we have been suffering. This will surely be a winter that North Dakotans will remember for a long time to come. However, we North Dakotans will also be able to look back on this winter with fond memories because of the two national championships captured by the University of North Dakota in women's basketball and men's hockey.

I want to pay special tribute to the 1997 National Collegiate Athletic Association's Division I national hockey champions, the University of North Dakota Fighting Sioux. This is the sixth national championship in the long and storied 50-year history of the UND hockey team. In fact, only one other college, Michigan, has more national hockey titles to its credit than UND.

But perhaps this championship is among the most meaningful because of its improbability. Consistently throughout this season, the hockey program has defied the odds-makers with win after win. This team was predicted to finish no better than fifth in the Western Collegiate Hockey Association at the beginning of the season, but I guess someone forgot to tell that to the team and its coaches for not only did they win the WCHA but also the national championship. They closed out the season with a 31–10–2 record, becoming just the sixth team in UND history to win at least 30 games.

To win the national championship, the Fighting Sioux fought back from a 2 to 0 deficit after the first period to score five goals in the second period against Boston University. In the third period, the Sioux's smothering defense took over and the Sioux won by a final score of 6 to 4.

The team's outstanding team accomplishments throughout the year were aided by some notable individual accomplishments. Junior wing player Matt Henderson was named the tournament's most outstanding player. He was joined on the all-tournament team by freshman goalie Aaron Schweitzer, junior defenseman Curtis Murphy, and the team's leading scorer, sophomore wing David Hoogsteen. Sophomore Jason Blake was 1 of 10 finalists for college hockey's top individual player award, the Hobey Baker Award.

But a team needs.hard work and contributions from all of its players if it is to reach the pinnacle of a national championship. The Fighting Sioux certainly got that from seniors Kevin Hoogsteen, Toby Kvalevog, Dane Litke, and Mark Pivetz, junior Mitch Vig, sophomores Jesse Bull, Adam Calder, Ian Kallay, Jay Panzer, Tom Philion, Tyler Rice, Jeff Ulmer, Aaron Vickar, and Brad Williamson, and freshmen Peter Armbrust, Joe Blake, Brad DeFauw, Tim O'Connell, and Jason Ulmer.

Finally, I want to honor the coaches who have led the Fighting Sioux to these levels. Head Coach Dean Blais was named "WCHA Coach of the Year." He is assisted by Scott Sandelin and Mark Osiecki.

Since 13 of the team's 20 members are freshmen or sophomores this year, I am sure we can all look forward to another excellent season. But for now it is more than enough for North Dakotans to bask in the glow of winning yet another national championship in a 10-day period. And hopefully some of the warm feelings will help to melt the snow and dry up the floods.•

ONE HUNDRED TWENTY FIVE YEARS OF COLORADO SPRINGS GAZETTE

• Mr. ALLARD. Mr. President, one of Colorado's most prominent newspapers, the Colorado Springs Gazette, celebrated 125 years of service to the Pikes Peak region on March 23, 1997.

Although known as the Colorado Springs Gazette-Telegraph since 1947, the newspaper used its 125th birthday as an opportunity to return to its earlier roots as the Colorado Springs Gazette.

Colorado Springs is one of Colorado's most vibrant communities having experienced tremendous growth in recent decades. It is home to some of our Nation's most important military facilities such as Fort Carson Army Base, Falcon Air Force Base, the U.S. Air Force Academy and NORAD, U.S. Space Command, and the Air Force Space Command at Peterson Air Force Base. Most recently, several prominent family values advocacy organizations have located in Colorado Springs.

The founder of the newspaper, Gen. William Jackson Palmer, also is regarded as the founder of Colorado Springs. In fact, as the 125th anniversary edition of the Gazette pointed out, the city and the newspaper literally grew up together.

The colorful history of Colorado Springs has been chronicled for 125 years in the pages of the Colorado Springs Gazette and I join the State of Colorado in wishing its publisher, N. Christian Anderson III and the entire Gazette staff, congratulations.•

TRIBUTE TO THE BARRE-MONTPELIER TIMES ARGUS

• Mr. JEFFORDS. Mr. President, I rise today to pay tribute to the Barre-Montpelier Times Argus on it's 100 years of service to its community. From its indepth statewide political reporting, to its commitment to local news, to its independent editorial page, the "T. A." has played a significant role in central Vermont's history.

I salute the Times Argus for not only reaching this important milestone, but for inviting the entire central Vermont community to participate in its 100th anniversary celebration. The paper has scheduled an open house and guided tour of its facility and is sponsoring numerous theatrical and sports events this summer. In addition, later this year the Times Argus will be printing a centennial edition and is soliciting contributions from its readers about the history and personal impact of the newspaper and the community it covers. I know that I plan to take part in that endeavor.

While much in the newspaper industry has changed since the Times Argus was formed on March 16, 1897, the one constant has been the newspaper's commitment to its readers and community. Again I congratulate the Times Argus on 100 wonderful years of service and wish another 100 years of continued success.•

THE DEATH OF CORRECTIONAL OFFICER SCOTT WILLIAMS

• Mrs. BOXER. Mr. President, I rise today in real sadness to report to my colleagues about the senseless murder last Thursday of Scott Williams, a decorated correctional officer at the Lompoc Federal Penitentiary.

Scott was just 29 years old when he was attacked savagely by an inmate with a makeshift knife. The stabbing occurred during a time of day when inmates walk freely through Lompoc's corridors. He is the only officer killed in the line of duty in the prison's history. My heart goes out to the family Scott Williams leaves behind—to his wife, Kristy, and their two young daughters, Kaitlin and Kallie.

Scott was a model officer, much admired by his colleagues at Lompoc, where he had been employed for only 4 years. But in those 4 years this young man had been promoted once and had received six awards for outstanding service. Scott Williams was as admired for his professionalism and commitment to duty as he was for his kind manner.

Sadly, Scott's training and commitment were not enough to sustain him in the terrifying and deadly moments of the attack, for he was unarmed. Four other officers—Mark Stephenson, Marcos Marquez, Scott Ledham, and Scot Elliott—were injured as they rushed to his side and finally subdued the attacker.

This tragic episode highlights the very real dangers that confront correctional officers across the country. And such incidents are on the rise throughout the Federal prison system. Nowhere is the record for attacks on guards worse than at Lompoc.

Few of us can appreciate the perils faced daily by our correctional officers. The job is fraught with danger, and it takes a special person to come through each day with one's spirit and confidence intact. But Scott Williams was such a man, and now his family and friends must go on without him.

I grieve for the family: for the husband and wife who can no longer dream of growing old together, for the young daughters denied a lifetime of their father's love and affection. I grieve for the people of Lompoc, and Los Alamos—Scott's hometown, still stunned and shocked by this murder in their midst.

I intend to explore ways to prevent such acts of senseless savagery from happening in the future. As a proper testament to the life of Officer Scott Williams, it is incumbent upon us to do no less.●

TELEMARKETING FRAUD PREVENTION ACT

● Mr. KYL. Mr. President, I rise to comment on the Telemarketing Fraud Prevention Act of 1997. I am pleased to sponsor this bill, which directs the U.S. Sentencing Commission to increase penalties for those who purposefully defraud vulnerable members of our society and those who cross international borders to evade prosecution. I thank Senator REID for his sponsorship of this bill; and his leadership in combating telemarketing fraud.

Current penalties for this crime are not tough enough to deter the problem and they leave the victims without restitution. Penalties for bank, wire, radio, and television fraud are at least two-thirds higher than the penalty for telemarketing fraud. Too often, telemarketing fraud felons receive a sentence of fewer than 5 years in prison. The toughest penalty to date is 10 years. These are small penalties considering that many telemarketing fraud criminals have stolen the life savings of retired senior citizens.

Mr. President, thousands of Americans lose billions of dollars a year from telemarketing fraud. According to Maryland Attorney General J. Joseph Curran, Jr., telemarketing fraud is probably the fastest growing illegal activity in this country. An Associated Press story reported that top prosecutors in Arizona and 9 other States filed lawsuits or took other legal action against more than 70 telemarketers nationwide 2 years ago in an attempt to crack down on fraud that costs consumers more than $40 billion a year.

Senior citizens appear to be the most vulnerable to chicanery of this kind. Fred Schulte, an investigating editor for the Fort Lauderdale Sun-Sentinel and an expert on telemarketing fraud, has pointed out that senior citizens are often too polite or too lonely not to listen to the voice on the other end of the line. The risk of being taken advantage of, I believe, increases with age. According to Attorney General Reno, it is not uncommon for senior citizens to receive as many as five or more high-pressure phone calls a day.

As one telemarketing con man who has worked all over the country put it: "people are so lonely, so tired of life, they can't wait for the phone to ring. It's worth the $300 to $400 to them to think that they got a friend. That's what you play on." Mr. President, malicious criminal activity like this must be punished appropriately.

These criminals prey on the vulnerable of our society. In one case, Nevada authorities arrested a Las Vegas telemarketer on a charge of attempted theft. The telemarketer was accused of trying to persuade a 92-year-old Kansas man who had been fraudulently declared the winner of $100,000 to send $1,900 by Western Union in advance to collect his prize. Another example: a Maine company showed real telemarketing creativity. For $250, the so-called Consumer Advocate Group offered to help consumers recover money lost to fraudulent telemarketers—but it provided no services, according to Wisconsin Attorney General James Doyle, who sued the Maine firm plus four other telemarketers.

Mr. President, the Association of Attorneys General has supported similar consumer protection efforts in the past. As Minnesota Attorney General Hubert H. Humphrey III put it last year: "In the hands of a con artist, a phone is an assault weapon."

I would, at this time, like to highlight one specific provision of the bill. Section 2 requires that an offender forfeit any real or personal property derived from proceeds obtained as a result of the offense. The proceeds shall be used, as determined by the Attorney General, for the national information hotline established under the Violent Crime Control and Law Enforcement Act of 1994. The proceeds of the fraud will be returned to help the victims. I believe that it is important to pay attention to victims' rights in this area.

Last year, more than 400 individuals were arrested by law-enforcement officials working on Operation Senior Sentinel. Retired law-enforcement officers and volunteers, recruited by AARP, went undercover to record sales pitches from dishonest telemarketers. Volunteers from the 2-year-long Operation Senior Sentinel discovered various telemarketing schemes. Some people were victimized by phony charities or investment schemes. Others were taken in by so-called premium promotions in which people were guaranteed one of four or five valuable prizes but were induced to buy an overpriced product in exchange for a cheap prize. One of the most vicious scams preyed on those who had already lost money. Some telemarketers charged a substantial fee to recover money for those who had been victimized previously—and proceeded to renege on the promised assistance. By the time the dust settled, it took the Justice Department, the FBI, the FTC, a dozen U.S. attorneys and State attorneys general, the Postal Service, the IRS, and the Secret Service to arrest over 400 telemarketers in five States, including my home State of Arizona.

Clearly telemarketing fraud is on the rise. It is estimated that 8 out of 10 households are targets for telemarketing scams that bilk us of up to $40 billion annually. The telemarketing industry rakes in more than $600 billion in annual sales. There are many seniors in my State and across the country who must be protected against this type of fraudulent activity. That is why I have sponsored this bill. The House of Representatives passed a bill similar to mine in the 104th Congress, which has been reintroduced during this Congress by Representative GOODLATTE. It already has 47 cosponsors and the support of the 60 Plus Association and the National Consumers League. I urge my colleagues to join us and cosponsor the Telemarketing Fraud Prevention Act.●

MEASURE READ FOR THE FIRST TIME—S. 522

Mr. MURKOWSKI. Mr. President, under rule XIV, I understand Senate bill 522, which was introduced today by Senator COVERDELL, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

> A bill to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes.

Mr. MURKOWSKI. Mr. President, I ask for its second reading and object to my own request on behalf of Senators on the Democratic side of the aisle.

The PRESIDING OFFICER. Objection is heard.

OROVILLE-TONASKET CLAIMS SETTLEMENT AND CONVEYANCE ACT

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 412, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 412) to approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GORTON. Mr. President, today, the Senate will take up and pass H.R. 412, legislation authorizes a settlement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District in Washington State. Senator MURRAY and I introduced identical legislation on this subject earlier this month.

The reason for the speedy passage of this legislation is directly related to the settlement entered into between the Bureau of Reclamation and the irrigation district. This legislation will authorize a carefully negotiated settlement between the BOR and the Oroville-Tonasket Irrigation District. When enacted, this legislation will save the BOR, and therefore the Nation's taxpayers, money that would otherwise be spent fighting with the irrigation district in court. The administration supports the legislation.

The reason for quick action on this legislation is the fact that the settlement between the irrigation district and the BOR requires enactment of the legislation by April 15, 1997. If the legislation is not enacted by that date, the irrigation district would have to refile its claim against the Government, and we'd be right back where we started—in court. As a result, Chairman MURKOWSKI, and Senators BUMPERS and KYL have carefully considered my request for quick action and have noted the unique circumstances surrounding this legislation. I would like to thank Senators MURKOWSKI, BUMPER, and KYL for working with me to get this legislation passed quickly. This is truly a unique situation, which calls for quick action.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection. It is so ordered.

The bill (H.R. 412) was passed.

MEASURE JOINTLY REFERRED—S. 468

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that Senate bill 468, which was introduced on March 18, be jointly referred to the Committee on Finance and the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECORD TO REMAIN OPEN UNTIL 7 P.M.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the RECORD remain open until 7 p.m. for the introduction of bills and statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, APRIL 9, 1997

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10:30 a.m., Wednesday, April 9. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and that there be a period of morning business until the hour of 1 p.m. with Senators to speak therein for up to 5 minutes each, with the following exceptions: Senator THOMAS, 30 minutes; Senator GRASSLEY, 30 minutes; Senator WYDEN, 20 minutes; Senator DASCHLE or his designee, 10 minutes; Senator CAMPBELL, 10 minutes; Senator LAUTENBERG, 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MURKOWSKI. Mr. President, for the information of all Senators, tomorrow, following morning business, at 1 p.m. the Senate will begin consideration of S. 104, the Nuclear Waste Policy Act. It is our hope that the Senate will be able to make substantial progress on S. 104 during Wednesday's session of the Senate. All Members can, therefore, anticipate rollcall votes throughout tomorrow's session and into the evening, if necessary.

ORDER FOR ADJOURNMENT

Mr. MURKOWSKI. Mr. President, if there is no further business to come before the Senate, I ask that following the statement of the Senator from Illinois, the Senate stand in adjournment under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

SCHOOL FUNDING

Ms. MOSELEY-BRAUN. Mr. President, a recent gathering of millionaires and billionaires at an economic conference in Switzerland underscored the importance of education in the global economy of the new millennium. In this information age, they concluded, the distinction between the haves and have nots will be the distinction between the knows and know nots. As it is with individuals, so it is with nations.

We have documented the difference that education credentials make in the average earnings of American workers. High school graduates make 46 percent more every year than those who do not graduate. College graduates earn 155 percent more every year than those who do not complete high school. Over the course of a lifetime, the most educated Americans will earn five times as much as the least educated.

Access to quality public education has been the cornerstone of the American meritocracy, providing people with more talent than means with the opportunity for economic success in most fields of endeavor. The rungs on the ladder of opportunity are crafted in the classroom.

To focus solely on the individual advantage of educational opportunity, however, is to miss the point of its importance to society as a whole. Education is a public good, not just a private benefit, and its relevance to the community transcends its importance to the person. It directly correlates to almost every indicia of societal well-being. Health status, support for the arts and cultural activities, and participation in our democratic institutions increase with educational attainment; while social instability, pathologies, and demand for transfer payments increase in its absence. We all have a direct and personal stake in the availability of educational opportunity for every child.

The conference in Switzerland, however, touched on yet another aspect of the public value of education—its role in the development of a work force prepared for the external changes technology has created. It has been argued the United States was able to beat the global competition in the industrial age because of the high quality of our work force. It is an open question whether we will continue to enjoy such advantage in the information age. In this international competition, older industrial societies will find themselves in direct competition with the second-, third-, and even fourth-world societies that may have skipped industrialization altogether. We can choose either to compete with cheap labor worldwide and guarantee a decline in living standards here, or we can ensure that our work force has the high-skill, sophisticated productivity that will command a living wage in this global economy. It was very interesting to me that during the recent debate about immigration, some of the most influential voices against restricting legal immigration came from Silicon Valley and the high-technology business community: They argued there was a shortage of American workers trained for their work, and they would be unable to maintain their competitive position if limited in the option of importing talent, so the need to educate our work force, as a society and a country, has never been more important.

And so we are faced with a challenge of more monumental proportions than ever before. President Clinton recently referred to education as central to our national security. Yet, we still approach education generally, and education funding in particular, with the perspective of an age long past. Schools are still paid for primarily through the local property tax. Elementary and secondary education has long been almost the exclusive preserve of State and local government, and there has traditionally been a resistance to the National Government having anything to do with the circumstances in which Johnny learns to read.

Such a view misses the changes that have transformed the world and brought us closer together. We have, now more than ever, a community interest that calls for cooperation among and between all of the instruments of our collective will. National, State, and local governments all have a role to play in funding education. All must do so if we are to respond to the imperative of educational opportunity and excellence in our own enlightened self interest.

Jonathan Kozol, in his important work "Savage Inequalities," spoke to the effects of tying educational opportunity to property wealth. Disparities are created that fly in the face of America's promise of equality of opportunity. Moreover, the local property tax is a poor basis for educational funding: It is inelastic; it is not progressive; it has no relation to the function being supported; and it ties the fate of Johnny's schools to Grandma's fixed income. State governments have not corrected this funding anomaly. A recent report by the U.S. General Accounting Office [GAO] quantifies the inequities of the current mix of State and local tax support of schools and found not only the disparity based on wealth that Kozol exposed, but an even further perversity: Those communities which had the least in terms of property wealth tried the hardest to support their schools by devoting a greater portion of their income to education.

When one considers, in addition, that there is—again, according to the GAO—at least $112 billion in deferred maintenance on the school buildings alone, the magnitude of our education funding challenge becomes clear. That $112 billion for infrastructure will simply address our crumbling school problem; it does not put the new technologies into the classroom or train teachers to use them or pay for the increased phone bills for computer use.

What should be clear is that the answer is not either/or, but all. There are appropriate roles for all of our governments, at the national, State, and local levels. We should emphasize cooperation and collaboration between them, with each taking the responsibility most appropriate to resources and capacity. I have suggested the National Government take up the rebuilding of our crumbling schools, not only because the price tag is so huge, and the problem widespread and pervasive in city, suburban, and rural communities across the Nation, but because it is something the National Government can do without interfering with local decision making, such as which part of the school to fix first.

In the meantime, we should all welcome the debate occurring at the State houses and city councils and boards of education all over America. We should be proud that our President made education the cornerstone of his State of the Union Address. We should be optimistic that our generation has the capacity to address and resolve the challenges of our time, and that we can translate all of the tension and concern about this issue into reality-based solutions.

We must start, however, as the Earth Day slogan advises, by "Thinking Globally and Acting Locally." The answers will be plain and the balance apparent when we consider the implications of this challenge for our Nation's future. The chairman of the OECD, Jean-Claude Paye, once said: "Leaders worried about their economies need to focus on society's fraying fabric."

Our attention to education funding reform is a first step in grasping the challenge of our time, and as we restore our Nation's schools, the permanence of the American dream will become more secure.

I thank the Chair. I yield the floor.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

The PRESIDING OFFICER. The Senate stands in adjournment.

Thereupon, the Senate, at 6:16 p.m., adjourned until 10:30 a.m. on Wednesday, April 9, 1997.

NOMINATIONS

Executive nominations received by the Senate April 8, 1997:

DEPARTMENT OF JUSTICE

JAMES WILLIAM BLAGG, OF TEXAS, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS VICE RONALD F. EDERER, RESIGNED.

CALVIN D. BUCHANAN, OF MISSISSIPPI, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF MISSISSIPPI FOR THE TERM OF 4 YEARS VICE ROBERT Q. WHITWELL, RESIGNED.

JAMES ALLAN HURD, JR., OF THE VIRGIN ISLANDS, TO BE U.S. ATTORNEY FOR THE DISTRICT OF THE VIRGIN ISLANDS FOR THE TERM OF 4 YEARS VICE JAMES W. DIEHM, RESIGNED.

JOHN D. TRASVINA, OF CALIFORNIA, TO BE SPECIAL COUNSEL FOR IMMIGRATION-RELATED UNFAIR EMPLOYMENT PRACTICES FOR A TERM OF 4 YEARS, VICE WILLIAM HO-GONZALEZ, TERM EXPIRED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

RUTH Y. TAMURA, OF HAWAII, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2001. (REAPPOINTMENT)

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

KENNETH P. MOOREFIELD, OF MARYLAND

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

JONATHAN M. BENSKY, OF WASHINGTON
JOHN PETERS, OF FLORIDA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

THOMAS LEE BOAM, OF UTAH
STEPHEN K. CRAVEN, OF FLORIDA
LAWRENCE I. EISENBERG, OF FLORIDA
EDGAR D. FULTON, OF VIRGINIA
SAMUEL H. KIDDER, OF WASHINGTON
BOBETTE K. ORR, OF ARIZONA
JAMES WILSON, OF PENNSYLVANIA

HOUSE OF REPRESENTATIVES—*Tuesday, April 8, 1997*

The House met at 12:30 p.m.

MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY] for 5 minutes.

UNFAIR TREATMENT OF U.S. AGRICULTURAL PRODUCERS

Mr. CANADY of Florida. Mr. Speaker, I rise today to bring to the House's attention a very serious matter faced by fruit and vegetable growers not only in my district, but also throughout the country.

When NAFTA was enacted 3 years ago, its leading proponents promised the new golden age of expanding trade opportunities with vast new markets for U.S. businesses to tap into, creating new jobs and capital and investment in our economy. When I and many other members of the Florida congressional delegation raised concerns with the administration regarding the potentially adverse impact that NAFTA would have on our State's fruit and winter vegetable growers, we were told not to worry, our farmers would be protected.

Here are two examples of the protection promised to our farmers during the debate over NAFTA's enactment: First, Mexican tomato imports were placed under a tariff rate quota, which would be phased out 10 years after enactment. Under this provision, if imports exceeded a certain amount during a fixed period of time, a tariff of 25 cents per 25-pound container would be imposed.

Unfortunately, Mr. Speaker, thanks to the drastic devaluation of the peso this tariff has been rendered entirely useless. Given the devaluation of the peso, Mexican growers have enormous incentive to sell as much of their product in America as they possibly can, and the so-called safeguard tariff provisions have done absolutely nothing to stop the flood of Mexican produce into the United States market.

Second, protection for U.S. growers was promised through a clause placed in the NAFTA implementation bill which allowed U.S. vegetable growers to seek provisional relief from suspected dumping actions through adjudication from the International Trade Commission. Unfortunately, as we all know, the ITC not only refused to consider Florida growers' concerns, but it also failed to conduct the monitoring of trade conditions that it was mandated to do.

Once again the promise of a mechanism to ensure equitable treatment of U.S. growers proved to be nothing but an illusion. This unfair treatment of U.S. agricultural producers is very troubling, but the problems with NAFTA go beyond the injustices done to America's farmers.

The problems with NAFTA pose a direct threat to the health and well-being of Americans who consume products imported from Mexico. Mexican agricultural products are grown in circumstances that fall far below the standards that American growers are required to meet under Federal and State laws. The production and harvesting of much Mexican produce takes place under conditions that can only be described as unsanitary and unsafe.

Last week the news was filled with stories about the schoolchildren around the country who apparently contracted hepatitis A because they consumed strawberries grown in Mexico. Given the disgustingly filthy conditions on many Mexican farms, this sort of incident should come as no surprise to anyone. Daily, thousands of trucks enter our country from Mexico and our customs agents, border guards, and Food and Drug Administration officials make only token efforts to inspect the produce flooding in from Mexico.

So under NAFTA as it is now being implemented, American consumers are being exposed to unsafe produce and American farmers are denied the protection against unfair competition they were promised.

To add insult to injury, the Mexican Government has been blocking the importation of American agricultural products into Mexico. Presently, the Mexican Government has in place so-called sanitary and phytosanitary restrictions on the importation of our fruits and vegetables. It has taken 3 years for the cherry producers in Oregon and northern California to get these restrictions lifted on their crop, but despite our best efforts we have seen no movement on Florida fruit and vegetable imports into Mexico.

Why can Mexican agricultural products enter the United States with great ease while citrus produced in Florida cannot be sold in Mexico? It makes no sense. It cannot be justified, and it is time for it to end.

Mr. Speaker, the deal we are getting under NAFTA is not the deal that we were promised in 1993. This is not a level playing field. NAFTA must be made to work for everyone, for all of our industries, not just a select few, and in this fight we need the support of Congress and the administration. As Congress begins the debate over fast-track negotiations and the accession of Chile to NAFTA, we must ensure that the interest of all Americans are protected.

RECENT FEDERAL RESERVE OPEN MARKET COMMITTEE DECISIONS RAISE SERIOUS QUESTIONS

The SPEAKER pro tempore (Mr. THORNBERRY). Under the Speaker's announced policy of January 21, 1997, the gentleman from Massachusetts [Mr. FRANK] is recognized during morning hour debates for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, the recent decision by the Federal Reserve Open Market Committee to raise interest rates in itself raises two very serious questions, one substantive and one procedural. The substantive question is will America be permitted to grow economically at a rate sufficient to overcome some of our most pressing social problems or will the Federal Reserve be allowed to snuff out that growth? And that is also the procedural question, because we have a nonelected body consisting of seven members who were at least appointed by the President and confirmed by the Senate and four others, regional bank presidents who are officers of private corporations in effect, the Federal regional banks, making the single most important economic judgment that will be made in America this year, and that simply cannot be allowed to go forward.

Alan Greenspan is a man of good will, and he is doing what he thinks is right. But what he thinks right strikes many of us as profoundly wrong. When Mr. Greenspan testified before the House Committee on Banking and Financial Services we asked him, several of us, whether there was any evidence of inflation given the growth that we have seen in recent years. His answer candidly was no. I asked him if he did not agree that he had in fact himself been

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

too pessimistic in his analysis of the ability of the economy to grow without generating inflation. He admitted that he had been too pessimistic, he has been wrong over these past years.

We reached a level of unemployment far lower than what Mr. Greenspan and others of the Federal Reserve thought we could reach without triggering inflation; the inflation did not come. Mr. Greenspan decided nevertheless, with the support of the others on that committee, to raise interest rates to slow down growth. In other words, Mr. Greenspan has told us we are creating too many jobs in America. Many of us of course feel that our problem has been that we have not created enough jobs.

We made a decision last year; I did not agree with it, but the country made it, to make drastic changes in the welfare system. Everyone agrees that that will work only if the people who have been on welfare are able to be absorbed into the work force. Mr. Greenspan and his colleagues have just taken a step which will make it very much more difficult. Obviously, the people on welfare are among the last to be hired. They are people with skill deficiencies and other problems. An economy which is not growing rapidly simply will not assimilate them.

We just heard a previous speaker complain about NAFTA. Trade is a very controversial issue in this country. There are many who believe that we ought to be increasing international trade, but increasing international trade creates both winners and losers in America. An economy which is growing, an economy in which new jobs are being created is better able to deal with the transitions of international trade. By clamping down on growth, by announcing that America simply will not be allowed to grow as rapidly as it has been growing because of his fear of an inflation which he acknowledges he cannot yet point to, Mr. Greenspan not only cuts out the benefit of that growth but exacerbates other problems.

We have a dispute over how deeply we have to cut important programs to reach a balanced budget. Those disputes turn in part on differing estimates between the Congressional Budget Office and the Office of Management and Budget about the rate of growth. Again Mr. Greenspan has just said to us there will be less growth, there will therefore be less revenue and the painful decisions involved in getting the deficit to zero by 2002 will become more painful.

There is a legitimate question for this country as to what risks we want. Many of us believe that a combination of trends have made it possible for us to grow more rapidly than in the past without inflation. Mr. Greenspan and some of his colleagues in the central bank apparatus believe that the risks of inflation are so great that they do not want to find out whether or not that is true. They have decided we will not continue to see how long we can grow without inflation actually arising. He did what he said was a preemptive strike, but which looked to many of us like a self-fulfilling prophecy. Not only is that wrong it seems to be substantively, but from the standpoint of democracy that is not a decision that a handful of appointed officials and private bank officials ought to make.

So I will be working with many of my colleagues to ask this body through its Committee on Banking and Financial Services, through other committees and through the floor itself to address this issue: the question of what degree of growth we will strive for. The question of when we will choke off growth because of an anticipation of inflation that has not yet appeared must not be left to a handful of bankers or a handful of any other appointed officials. It must be done through the democratic process.

The possibility that America can increase the rate of growth that is noninflationary, which has appeared to many of us to be more and more likely over the past few years, cannot be snuffed out this easily, and I hope, through a variety of means, that we will be allowed to bring to the floor of this House, before the Federal Open Market Committee meets again, this issue so it can be debated as it ought to be in a democratic society.

THE SAFE ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from Maryland [Mrs. MORELLA] is recognized during morning hour debates for 2 minutes.

Mrs. MORELLA. Mr. Speaker, I am pleased to be joining my colleagues, the gentleman from New York [Mr. ACKERMAN] and the gentlewoman from New York [Mrs. MCCARTHY], in introducing the Stop Arming Felons Act today. Today we will introduce it.

Current law bans convicted felons from owning firearms. However, felons may upon release from prison petition the Bureau of Alcohol, Tobacco and Firearms to restore their gun ownership rights.

Congress acted in 1992 to rein in this program by denying it funds. Therefore, no funds have been appropriated since then. However, the appeals procedure itself has been maintained in law. Consequently, convicted felons are bypassing the ATF by going directly to the courts for relief.

The Stop Arming Felons Act, or we can call it the SAFE Act, using the acronym, will help to put a stop to this abuse of the court system and the evasion of the will of Congress and the people. The SAFE Act will permanently prohibit felons convicted of violent crimes from applying for restoration of gun rights, making clear to the courts that their appeals may not be considered.

So I urge my colleagues to join me in supporting this SAFE Act.

NEED FOR APPOINTMENT OF INDEPENDENT COUNSEL

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Indiana [Mr. BUYER] is recognized during morning hour debates for 5 minutes.

Mr. BUYER. Mr. Speaker, I come to the House floor; I do not come here often, but I come with very deep concern. A majority of the majority party Members of the U.S. House of Representatives Committee on the Judiciary sent a letter to the U.S. Attorney General Janet Reno. The letter that we sent was pursuant to section 592(g) of title 28, United States Code, that she apply for the appointment of an independent counsel to investigate the following matters:

☐ 1245

The illegal contributions to the Democratic National Committee in connection with the 1996 elections.

No. 2, the attempted influence of the 1996 elections by foreign countries, foreign corporations, or persons representing such entities; and, No. 3, the improper fundraising conduct or practices by administration officials, the Democratic National Committee, or individuals working on behalf of the committee in connection with the 1996 elections.

We believe that section 591(c) of the Independent Counsel Act necessitates that Attorney General Janet Reno seek the appointment of independent counsel in reference to the matters which I just listed. Accordingly, per section 591(c), the Attorney General has been authorized to initiate the preliminary investigation which is defined by the act and is distinct from the Department's current investigations into the matters.

We also believe that it is very clear that the matters referred to are an obvious political conflict of interest for the Attorney General and other political appointees within the Department of Justice.

I am well aware that she has held at bay those of us who have been asking for the appointment of special counsel by saying that there is not sufficient credible evidence. I am not so certain how much more credible evidence she needs.

Often the Washington Post it seems gets cited here on the House floor, not by Republicans but by Democrats on the House floor, and here we have now Bob Woodward, who gained national attention with regard to President Nixon some years ago, is now talking about allegations that the White House supplied top secret intelligence information to the Democratic National Committee to keep a Latvian businessman with alleged ties to organized crime, international crime, from attending a $25,000 fundraiser with President Clinton.

Mr. Speaker, I do not believe anyone in this country has a problem with the National Security Agency advising the President with regard to an individual, whether they should or should not be at a Presidential dinner. It is part of their job. What is distressing, though, is when the National Security Agency leaks top secret, classified information to political operatives, that being that our intelligence architecture was monitoring the international calls of this alleged organized crime individual and syndicate, and the fact that that intelligence was leaked to someone who did not have a right to know, who did not have a security clearance, is a breach of our security at the highest levels within the White House.

Why was that done? It was information that was leaked and it was done under this guise, under the pressures of political fundraising. As a matter of fact, to quote out of this article, I guess quoting whomever Bob Woodward is using for his intelligence to write this article, he quotes a White House senior official that the information that was leaked was top secret and it further demonstrates the total politicalization of all intelligence and White House operations, anything and everything was done in the name of fundraising at the White House.

Mr. Speaker, the reason that the Committee on the Judiciary had asked for the special counsel deals with the outright admissions by the Vice President, AL GORE, and Ms. Margaret Williams having admitted engaging in fundraising activities, the propriety of which is being questioned by many within the White House itself. I have heard in their defense even the Vice President would say, well, there is no controlling legal authority, some kind of a lawyerly type of language that only lawyers can understand. But when you pull out Title XVIII of the U.S. Code it is very clear, and it being very clear for people that anywhere can understand in America, that fundraising activity is not permitted in Federal buildings.

So whether it is out of my congressional office, whether it is out of a senatorial office, whether it is a Cabinet member or the President of the United States, it is wrong, and Janet Reno as the Attorney General of the United States, we seek your appointment with due speed.

CLINTON ADMINISTRATION SHOULD COME FORWARD WITH ANSWERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Ohio [Mr. BOEHNER] is recognized during morning hour debates for 5 minutes.

Mr. BOEHNER. Mr. Speaker and my colleagues, a week ago I did not think the allegations about the Clinton administration's ethics could sink any lower. I thought the stories about top administration officials arranging hundreds of thousands of dollars worth of no-show jobs for Webster Hubbell in an effort to buy his silence about Whitewater was the worst we could ever hear about an administration, much less this one.

However, with this bunch, if we want to be stung by new news of sleazy ethics, all we have to do is wait another day. Sure enough, now Bob Woodward of Watergate fame is writing in today's Washington Post about the Clinton administration's use of top secret information from the CIA for political purposes.

According to this morning's Washington Post, Bob Woodward said that the White House supplied top secret information to the Democratic National Committee to block a Latvian businessman with alleged ties to organized crime from attending a $25,000-per-person fundraising dinner with President Clinton, according to Government officials and other sources.

Now, let me say this about top secret information. There is a reason that it is top secret. Maybe it is the risk of blowing the cover of agents who risk their lives getting valuable information for our Government. Maybe it is to keep the bad guys, like international drug dealers and terrorists, from finding out about how we learn about them. But good people die to protect secret information, and if the Clinton administration truly disregarded all this just to avoid a bad headline in the next morning's paper, it is even worse than anything that we have heard yet.

But I think the bigger question is, when will it end? Every day, every week there is something new. When will this administration level with the American people? When will the President of the United States stand before the American people and tell them the truth about what has happened in his administration over the last 4-plus years?

When will the President stand before the American people and tell them the truth about the travel office firings of seven civil service employees at the White House? When will the President stand before the American people and tell them the truth about Whitewater? When will he tell them the truth about how 900 FBI files found their way into the White House, and more importantly, what was done with that information?

Why will the President not stand up and tell us about Webster Hubbell and the $400,000-plus that was paid to him after he resigned his administration position with disgrace, and before he went to jail and were hired by friends of the President? Why will the President not tell us about the orchestrated effort to subvert American laws about campaign finance and bring foreign money into our campaign system? How about White House coffees that were used for fundraising purposes, phone calls by the President and others from the White House to raise money to systematically try to buy the last election?

The American people have a right to know what happens in their Government. They have a right to know what happens in their White House. I think the American people want to have confidence that the person they selected as President of the United States is willing to stand before them and tell them the truth about what has happened in his administration.

Mr. Speaker and my colleagues, I think the American people are getting impatient. They want to know the truth and they want to know it now.

NEUTRAL MATERIALS FOR MEDICAL DEVICES SHOULD BE ABSOLVED FROM LIABILITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997 the gentleman from Pennsylvania [Mr. GEKAS] is recognized during morning hour debates for 5 minutes.

Mr. GEKAS. Mr. Speaker and Members of the House, there are some 7.5 million fellow Americans who at this very moment are alive or are living a little better because in their bodies there is implanted a medical device that has helped to cure a particular malady that is suffered by that individual. We are talking about brain shunts, heart valves, pacemakers, artificial hearts, knee implants, hip; we know the whole list of new and wondrous devices that have been developed over the last several years and which now become almost routine in the lifesaving capacity in which they find themselves.

Mr. Speaker, we have run into a serious problem which we have tried to address both in the last Congress, and now we are going to attempt again to do so. We came across a situation which is very serious. A supplier of materials to a company, let us say, that makes brain shunts, the supplier sends a little piece of wood, sells a little piece of wood to this brain shunt company. I am just doing a hypothetical. The brain shunt company takes this little piece of wood that is innocuous and neutral in its application and uses it as a component part of the brain shunt.

Now, something once in a while may go wrong with the brain shunt and the person who is hurt by it, if it happens that way, will sue not just the doctor, not just the hospital, not just the device-maker, not just the scientist who developed this brain shunt, but also the supplier way back here in the chain of events who supplied a little piece of material that had nothing to do with whether or not the medical device worked. In other words, this company was supplying this wood to thousands of different companies for thousands of different things; it is just that innocuous, neutral item of material.

So now what do we have? We have this scenario whereby a multimillion dollar suit is launched against this supplier back here of the wood particle, the little bitty part that went into this medical device. What has that caused? These companies have to defend these suits and they spend millions of dollars defending them, and in every single case they have been absolved from liability because all they supplied was a neutral piece of material.

However, Mr. Speaker, the cost of doing business with these medical devices, the cost of litigation, lawyers' fees, court fees and costs and so forth, has caused these companies to make a policy decision not to deliver, not to sell these materials any longer to these people who develop these medical devices. That is a tragedy. That means that new medical devices and the continued use of the ones that have been so miraculous thus far, like the brain shunt and the pacemaker and all of those things, are running short of the capacity to meet the demand and the need of the American people.

So last term I introduced a bill, the counterpart is over in the Senate, and we have done so again this year, to allow the material suppliers out here in the world, suppliers that have nothing to do with the ultimate injury if any occurs, to be absolved in the early part of a suit from the possibility of multimillion dollar lawsuits, and thus give them incentive to continue to supply these materials to the medical device companies.

What happened last year, we passed such a bill, we passed a products liability bill that contained some other features of the same type, and the President vetoed it. We were stunned because we had received signals from the White House that indeed he was going to sign this bill, that he is in favor of those kinds of concepts, yet he vetoed it. We were not able to muster enough votes then to override the veto, so we have to try again this session.

What startled me about the veto, Mr. Speaker and Members, was this: that when the President signed the welfare bill, he said there is a lot wrong with it, and he went on to outline how many things were wrong with the welfare bill, but he said there are enough good things in it that I am going to sign it and we will fix it later, or words to that effect. But on this lifesaving measure that we presented, which if he found flaws in it he could easily have said, I will sign it and we will take care of what I think is wrong with it later, but he failed to do that and vetoed the whole concept.

We are going to try again to convince the President with massive public opinion and understanding of this issue, and we hope to prevail.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the House stands in recess until 2 p.m.

Accordingly (at 12 o'clock and 59 minutes p.m.), the House stood in recess until 2 p.m.)

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. GOODLATTE] at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May Your mighty hand, O gracious God, protect us all the day long and may Your providence lead us in the way of justice and peace. We place before you, O God, all the concerns of our hearts and all the petitions that move our souls, asking that You would bless us when we need blessing, that You would forgive us when we need forgiving, that You would strengthen us when we are weak and that You would open our eyes to the wonders of life and love. With gratefulness we accept the tasks of this day, and earnestly pray that we will be good custodians of the responsibilities that are before us. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REQUEST FOR PERMISSION FOR SPEAKER TO ENTERTAIN MOTIONS TO SUSPEND THE RULES ON WEDNESDAY, APRIL 9, 1997

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that on tomorrow, Wednesday, April 9, 1997, the Speaker be authorized to entertain motions to suspend the rules and agree to the following bills:

H.R. 240, the Veterans Employment Opportunities Act of 1997; and H.R. 757, the American Samoa Development Act of 1997.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. MILLER of California. Reserving the right to object, Mr. Speaker, I reserve the right to object because I think that the schedule that once again the House is witnessing this week, in light of some very important problems that are pressing for the Nation and for this institution, first and foremost being campaign finance reform and, second, obviously for the people we represent, the health care coverage for children, I object to that request.

Mr. SOLOMON. Mr. Speaker, would the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just point out that we have on the schedule this week of a very, very important bill that deals with the Federal funding of assisted suicides, of which I am unalterably opposed to any kind of Federal funds being spent for that purpose. This bill has dual jurisdiction with the Committee on Ways and Means. The Committee on Ways and Means had understood that this bill would be coming up on the suspension calendar and not under a special rule that we would bring to the House. Consequently, we have been negotiating with the minority, with Minority Leader Gephardt, about bringing the bill up on suspension. We wanted to do that on Thursday. That is the reason for this request today to take up this very important measure.

But if the gentleman insists on objecting, so be it.

Mr. MILLER of California. Mr. Speaker, I insist on my objection.

The SPEAKER pro tempore. Objection is heard.

ANNOUNCEMENT OF EMERGENCY MEETING OF THE COMMITTEE ON RULES

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, because of the recent objection it is very important that we take up the prohibition against Federal funds being used for assisted suicides this week, and therefore I would announce that there is going to be a special emergency meeting of the Committee on Rules this afternoon at 5 o'clock and would urge Committee on Rules members to attend, and I will be attempting to contact the gentleman from Massachusetts [Mr. MOAKLEY], the ranking minority member, to pass along this information.

THE 21ST CENTURY PATENT SYSTEM IMPROVEMENT ACT

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, I rise in support of H.R. 400, which will effectively end the practice of submarine patenting. A patent submariner resorts to dilatory tactics that inhibit the ability of the Patent and Trademark Office to review the application in an expedited manner.

Submariners do not invest in the economy, nor do they hire workers and they do not invent anything. They sue innocent third parties who independently develop technology, invest in the economy and do in fact hire workers.

How do we stop submariners and still guarantee 17 years of term? H.R. 400 requires an 18-month publication. The innocent third party will be served with notice that a patent is pending and be able to move on to another invention. The rights of the patent applicant are in no way compromised, since he would receive protection at the time of publication, which means longer protection than inventors currently receive.

Mr. Speaker, good patent policy concerns itself with more than the rights of the inventor. H.R. 400 improves our existing system by protecting the interests of all. I urge support of H.R. 400.

AN IMPORTANT ALLIANCE ON AN ISSUE OF GREAT CONCERN: HEALTH CARE FOR OUR CHILDREN

(Mr. McGOVERN asked and was given permission to address the House for 1 minute.)

Mr. McGOVERN. Mr. Speaker, last week a remarkable thing happened. Two senior Members of the other body, representing the States of Massachusetts and Utah, forged an important alliance on an issue of great concern to the American people, health care for our children.

What makes this partnership so remarkable is not simply that these two Members represent different regions and different political parties, but that one is a respected leading liberal and the other is a respected leading conservative. And yet both men discovered something more important than regional differences, more important than partisanship and more important than political ideology.

They understand that a nation as wealthy and powerful as ours simply cannot allow 10 million of its children to go without basic health care. So they came together and they are leading an effort to do what is right for our children.

I am inspired by the bipartisan cooperation that led to the Kennedy-Hatch health care bill, and I have renewed hope that this body, the U.S. House of Representatives, can come together in a bipartisan way to guarantee that every child in America has the health coverage they need and deserve, and, Mr. Speaker, let us do it today.

ARIZONA WILDCATS BASKETBALL TEAM, 1997 NATIONAL CHAMPIONSHIP

(Mr. KOLBE asked and was given permission to address the House for 1 minute.)

Mr. KOLBE. Mr. Speaker, I feel a little bit like a proud parent today as I rise to congratulate Coach Lute Olsen and the University of Arizona Wildcats on winning the NCAA national basketball championship.

This marvelous achievement really was unprecedented. Never before has a collegiate basketball team defeated three No. 1 seeds in an NCAA tournament, in fact the three most successful basketball programs in the country. Pundits said it was impossible. To be victorious Arizona had to find a way to win six games in a row, something this team had not done all season. In fact, during the regular season the Wildcats lost nearly as many games as Kansas, North Carolina, and Kentucky combined. But throughout the season the Arizona Wildcats exhibited a strength of character that was truly inspiring. They prove that a good team can benefit as much, if not more, from losing as from winning.

As Mike Bibby, Arizona sensational freshman point guard, told reporters, "I like playing against All Americans because it helps me learn," or as forward Michael Dickerson said, "We don't feel we're anybody's underdogs. We have players who can match up with anybody. We did it by believing in each other."

Indeed, at one point during the tournament Mike Bibby found himself at the free throw stripe with the game on the line. Yet after making the shots that sealed the victory, Bibby was quick to credit his teammate and freshman reserve Josh Pastner with helping him perfect his free throwing technique. Bibby wanted the world to know that although Josh Pastner did not log a minute of playing time during the tournament, the Arizona Wildcats could not have won the championship without him.

So congratulations, University of Arizona. Go, Wildcats.

HONORING CORRECTIONS OFFICER SCOTT WILLIAMS

(Mr. CAPPS asked and was given permission to address the House for 1 minute.)

Mr. CAPPS. Mr. Speaker, I rise today to pay tribute to Corrections Officer Scott Williams who was killed in the line of duty last Thursday at the U.S. Penitentiary in Lompoc, CA.

Courage was nothing new to Scott Williams. During his tenure at Lompoc, he was promoted from officer to senior officer specialist. A former Marine of the Year, he served with distinction and saved lives in Desert Storm. Officer Williams received no fewer than six awards for outstanding service. He was also a beloved family man who is survived by his wife Kristy and their two young daughters, Kallee and Kaitlin. His selfless dedication is a lesson to us all.

Today we also pay tribute to injured Corrections Officer Scot Elliot and Warden Dave Rardin and all those who came to the aid of a fellow officer.

Mr. Speaker, I know I speak for the entire House when I extend my condolences to the family and friends of this brave fallen soldier.

VICE PRESIDENT GORE TOASTS THE TYRANTS

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, the character of the Clinton administration was on display for the entire world to see when Vice President GORE recently clinked champagne glasses with Li Peng, the mastermind of the Tiananmen Square massacre. Fortunately, the tough and thoughtful comments made by the Speaker of this House served as a welcome contrast.

The Vice President cited that relationship between two great nations and civilizations in his tribute to the Communist dictatorship in Beijing. Well, he was half right. The United States of America is indeed a great Nation, but then our Government does not imprison priests and monks and other religious people. Our Government does not force women to have abortions against their will or sanction torture or throw in jail those who express opinions that do not reflect the official government line.

Mr. Speaker, the Vice President's remarks sent the wrong message to China, but as the Cincinnati Post editorialized last week, it was refreshing to see the Speaker actually say face to face to the Chinese what is frequently discussed in the United States: Human rights do matter, and the truth needs to be told.

JOBS FOR OTHER COUNTRIES; ROTTEN ILLEGAL BERRIES FOR AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, schoolchildren in Michigan got sick eating strawberries that were tainted with the hepatitis A virus. Now if that is not enough to sour your shortcake, check this out.

The strawberries were illegally imported from Mexico and sold to the school lunch program in violation of buy America laws. Unbelievable, huh? It never stops, and no one seems to care. Military boots from China, cars from Japan, beef from Australia, telephones from Singapore.

Mr. Speaker, it is all called the New World order, and here is how it works: Jobs for China, jobs for Australia, jobs for Japan, jobs for Mexico, and berries for America, rotten, illegal berries for America.

Beam me up, Mr. Speaker. It is time to put a few straw bosses in jail and mandate country of origin labels on all food products.

Mr. Speaker, I yield back the balance of any further disease.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would admonish the members of the gallery to please refrain from any showing of spontaneous response to any of the speeches.

COMPROMISING NATIONAL SECURITY FOR POLITICAL GAIN

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, I agree with the audience. I am outraged though.

Today, every day, it is a new story about this President using taxpayer dollars, using the White House and now using classified national security information to raise money for his own reelection campaign. Today's Washington Post reveals that the White House actually gave top secret information to the Democrat National Committee.

When I was in the military, if someone failed to safeguard classified information, they were relieved from duty and court-martialed. Maybe it is time to relieve this President from his duties and court-martial him.

□ 1415

The White House has put the lives of CIA officers in jeopardy and endangered every American by compromising our national security for Clinton's own political gain. America wants, needs, and deserves to have a leader who protects this Nation instead of exploiting it.

POSTAL SERVICE SHOULD ACT AS RESPONSIBLE MEMBER OF COMMUNITY

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Mr. Speaker, for many the Postal Service indeed represents the Federal Government. Post offices are the heart and soul of many small towns across America, and they are part of the heritage of every community. Yet, in many instances, people feel victimized by the Postal Service because the post office sometimes ignores local zoning laws and building codes in making decisions about their facilities.

Additionally, citizens often feel shut out of the decision-making process, despite the massive impacts that post office closings and relocations have on our communities.

Today I am introducing legislation to change this. My bill would outline minimum citizen involvement requirements that would apply to the renovation, relocation, closing, or consolidation of post offices and require the post office to comply with any local zoning or building codes which the State and local governments themselves must comply with.

My bill is fair and does not place unnecessary burdens on the Postal Service. Instead, for the first time, the Postal Service would be treated as a responsible member of the community and not be above the local laws.

TAX RELIEF FOR AVERAGE CITIZENS

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, while I was home in Arkansas I often asked my constituents, "Any message for Washington?" One of the most common responses I received is "Yes, cut my taxes." I have heard this response so many times that I can assure my colleagues this: I got the message.

Mr. Speaker, we all know that the special interests and the powerful lobbying groups have their tax loopholes. We all know that upper income people have the means to employ tax attorneys and accountants at tax time. But what about the forgotten little guy, the ordinary taxpayer who works for a living? What about giving the little guy a break for a change?

Mr. Speaker, it is the little guy who is at the mercy of a Federal tax system that somehow manages to increase the tax burden year after year after year. The liberal press is always asking, "Can we afford a tax cut?" I want to know the last time anyone asked, "Can the little guy afford a tax increase?"

Mr. Speaker, the truth is, he cannot. I think it is high time somebody in Washington started looking after the little guy. We need tax relief now.

OPPORTUNITIES TO BOLSTER OUR COMMITMENT TO VETERANS

(Mr. REYES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REYES. Mr. Speaker, as a Vietnam veteran and a member of the Committee on Veterans' Affairs, I rise today to talk about veterans along the border and opportunities that we have to bolster our commitment to our veterans.

This is the 105th Congress's first piece of veterans' legislation, and I am here to rise in support of this bill, because in this era of downsizing, it provides increased job opportunities and security. Let us send a strong message to our veterans by overwhelmingly passing this bill.

Furthermore, while back in the district, I invited local veterans to participate in my veterans' advisory panel, a panel that will meet regularly to advise me on ways to improve the lives of our veterans. I am proud to say that we have an overwhelming response. Already, they have expressed their concerns about our Persian Gulf war veterans and the need for continued research.

Mr. Speaker, I urge my colleagues to seek similar ways to stay informed, and with tomorrow's vote, take a first step in this Congress for our veterans.

INCREASING TAXES WILL NOT HELP OUR CHILDREN

(Mr. SCARBOROUGH asked and was given permission to address the House for 1 minute.)

Mr. SCARBOROUGH. Mr. Speaker, for 40 years tax-and-spend liberals have come to Washington, DC and run up a $5.6 trillion debt that is going to be passed on to our children. For 40 years, tax-and-spend liberals have increased taxes to a point that the average American is now paying 50.2 percent of every dollar they make to Washington and State levels, and yet these same tax-and-spend liberals come up talking about how they want to help children. But guess what? The way they want to help children is to increase taxes. The way they say we help children is increase spending through another Federal bureaucracy.

Mr. Speaker, if we are going to help children, we have got to make sure that taxes are reduced and Federal spending is reduced, because a bipartisan commission headed by Senator KERREY projected a few years ago that my boys are going to be paying 89 percent of every dollar they make in 30 years to the Federal Government in Washington. It is wrong, and it is immoral, and it is demagogic to suggest that we can help the children of America by raising their taxes and increasing a new layer of bureaucracy in Washington.

AMERICA NEEDS CAMPAIGN FINANCE REFORM

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker and Members of the House, a few minutes ago I objected to agreeing to taking up the Suspension Calendar for tomorrow. The reason I did so is not because I object to the bills that were on the Suspension Calendar; I did so because I object to business as usual in this House, especially when business as usual means that week after week this House comes back to little or no business that is important to the American public.

We come back not for the budget, we come back not for children's health care, and most importantly, we come back not to deal with campaign finance reform. Yet every day the American public have new revelations given to them about the White House, about Congress, about the Senate, about the House of Representatives, about people with enough money getting access that no other American can possibly conceive of having, with powerful Members of the House and powerful Members of the Senate offering access for money, offering the ability to sit on inside councils for money, offering the ability to talk to Cabinet officials for money. It has got to stop.

Today we see in The New York Times an overwhelming majority of Americans want the corrosive, corrupting campaign finance system changed, but they do not believe that Congress is serious about it. We are going to continue to object to this kind of do-nothing agenda and an agenda that fails to respond to the needs of the public on campaign finance reform.

PASS "SAFE" FOR A SAFER AMERICA

(Mr. ACKERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ACKERMAN. Mr. Speaker, it seems inconceivable that convicted felons, including those who have committed violent crimes using guns, could get out of prison and could, under the law, buy guns yet again. I raise the question, who is being protected by this law, convicted felons, or law abiding citizens?

Each year since fiscal year 1993 we in Congress have stopped funding this guns for convicted felons program. However, this is insufficient, because as the law is still on the books, even unfunded, felons can go to court and regain their firearm privileges.

To stop this from happening, we should eliminate the guns for convicted felons program outright.

Today, along with the gentlewoman from Maryland [Mrs. MORELLA] and the gentlewoman from New York [Mrs. MCCARTHY], I am introducing the Stop Arming Felons Act, or the SAFE Act. The Ackerman-Morella-McCarthy legislation will eliminate guns for convicted felons altogether. It sends a clear message that we should make it harder, not easier, for criminals to have access to weapons.

The Stop Arming Felons Act is bipartisan and has 32 original cosponsors, and I urge all of my colleagues to act in the interest of this country and let us stop arming convicted felons.

CORRECTIONS CALENDAR

The SPEAKER pro tempore (Mr. GOODLATTE). This is the day for the call of the Corrections Calendar.

The Clerk will call the bill on the Corrections Calendar.

CORRECTION TO NURSE AIDE TRAINING

The Clerk called the bill (H.R. 968) to amend title XVIII and XIX of the Social Security Act to permit a waiver of the prohibition of offering nurse aide training and competency evaluation programs in certain nursing facilities.

The Clerk read the bill, as follows:

H.R. 968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMITTING WAIVER OF PROHIBITION OF OFFERING NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS IN CERTAIN FACILITIES

Section 1819(f)(2) of the Social Security Act (42 U.S.C. 1395i–3(f)(2)) and section 1919(f)(2) of such Act (42 U.S.C. 1396r(f)(2)) are each amended—

(1) in subparagraph (B)(iii), by inserting "subject to subparagraph (C)," after "(iii)"; and

(2) by adding at the end the following new subparagraph:

"(C) WAIVER AUTOHRIZED.—Clause (iii) of subparagraph (B) shall not apply to a program offered in (but not by) a nursing facility in a State if the State—

"(i) determines that there is no other such program offered within a reasonable distance of the facility,

"(ii) assures, through an oversight effort, that an adequate environment exists for operating the program in the facility, and

"(iii) provides notice of such determination and assurances to the State long-term care ombudsman.".

The SPEAKER pro tempore. Pursuant to the rule, the bill is considered read for amendment.

COMMITTEE AMENDMENTS

The SPEAKER pro tempore. The Clerk will report the amendments recommended by the Committee on Ways and Means.

The Clerk read as follows:

Committee amendments:

Page 2, line 12, strike "(iii)" and insert "(iii)(I)."

Page 2, line 14, insert "(or skilled nursing facility for purposes of title XVIII)" after "nursing facility."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. CAMP] and the gentleman from Wisconsin [Mr. KLECZKA] will each control 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 968, a bill introduced by the gentleman from Maryland [Mr. EHRLICH]. The gentleman's legislation would amend the Social Security Act to permit a waiver of the prohibition of offering nurse aide training and competency evaluation programs in certain facilities.

As chairman of the Speaker's Advisory Group, it was my pleasure to work with Congressman EHRLICH and the minority ranking member, the gentleman from California, Mr. WAXMAN, and the rest of the minority members and majority members of the committee to expedite consideration of this Corrections Day legislation.

This bill was favorably reviewed by the Speaker's Advisory Group and is fully supported by my colleagues on the other side of the aisle. The advisory group was able to work with the Speaker and the committees of jurisdiction to bring this bill to the floor today.

Mr. Speaker, this bill is particularly well suited to be considered here under the Corrections Day procedure as we are doing today. Despite the good intentions of the nurse aide training legislation of the 1980's, certain aspects have created significant problems with its implementation.

The 1987 reconciliation bill instituted training standards for nurse aides working in long-term care facilities. Under existing law, nursing facilities which are subject to an extended survey are prohibited from offering facility-based nurse aide training and competency evaluation for a period of up to 2 years.

As an unintended consequence, a nursing home that is subject to a review is not allowed to have a nurse aide training program at their facility, even if the care provided by the nurse aide is unrelated to the review itself.

This bill would waive the prohibition on nurse aide training programs if the

State determines there is no other training program within a reasonable distance of the facility. The State must also assure that an adequate environment exists for operating a program.

Nurse aide training programs are vital to health care delivery. Our current law, however, is particularly burdensome in rural areas which face difficulties recruiting nurse aides. It does not make sense that these very nurse aide training programs are improving patient care as rural providers find it increasingly difficult to recruit nurse aides.

This legislation is technical in nature, has strong bipartisan support, and was scored by the Congressional Budget Office as having no budgetary impact.

Mr. Speaker, this is a straightforward, bipartisan bill that corrects an inefficient and burdensome law. This targeted bill will lead to improved health care in rural areas like the Fourth District of Michigan which I represent. I urge my colleagues to support H.R. 968.

Mr. Speaker, I reserve the balance of my time.

Mr. KLECZKA. Mr. Speaker, first, let me say that the gentleman from Michigan [Mr. CAMP] has adequately explained the bill. This is a correction bill.

Back in 1987, we passed the legislation on nurse aide training. I think in this one area we went too far. This bill provides States with the flexibility to continue needed nursing aide training, even though the home itself might be under some type of a review. I would ask all of my colleagues to join the gentleman from Michigan [Mr. CAMP] and myself in supporting this needed legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. CAMP. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. BURR].

Mr. BURR. Mr. Speaker, as a member of the Committee on Commerce which also has jurisdiction on this bill and as a cosponsor of the bill, I am pleased to speak in support of this very important legislation.

H.R. 968 would permit the continuation of nurse aide training and the competency evaluation programs in certain nursing facilities. Under existing Federal law, a nursing facility may lose its ability to offer facility-based nurse aide training and competency evaluations for reasons that are unrelated to the quality of the program itself.

This unintended consequence of the current law arises when a facility has unrelated operational deficiencies which are being corrected by the facility. As a result, nursing facilities, particularly those in rural communities, are prevented from conducting the training and evaluation that is an integral part in providing quality nursing care and preventing staff shortages.

□ 1430

This legislation would revise the current law. The bill would permit the continuation of nurse aide training and competency evaluation programs in affected facilities under certain circumstances. In order for a facility to continue its training and evaluation programs, the State would have to, one, make a determination that no similar program is in existence within a reasonable distance of the facility; two, conduct oversight activities to ensure that an adequate environment exists for operating the program in the facility; and three, provide notice of such determination to the State long-term-care ombudsman.

This noncontroversial measure was recently reported by the Committee on Commerce on March 12 by voice vote. In addition, the Committee on Ways and Means reported the legislation by voice vote on March 13. I am pleased to say that the bill also has the support of the administration and will have no budgetary impact on the Federal Government.

Mr. Speaker, the legislation sends an important message to the American people that Congress is listening, listening to their concerns about burdensome Federal regulations and taking action to address their concerns. H.R. 968 achieves this objective by eliminating unnecessary and burdensome regulations, a goal that Members on both sides of the aisle have endorsed.

Again, I appreciate the opportunity to speak on this important piece of legislation. I urge my colleagues to support H.R. 968.

Mr. KLECZKA. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, I rise in support of H.R. 968. The Committee on Commerce has acted on this bill twice, first in September 1996, and then in March 1997. This legislation is also supported by the administration and was proposed by the President and Vice President through the reinventing government initiative in 1995.

Nurse aide training programs play an important role, not only by preparing students to care for patients, but also by helping to meet the patient's needs in staffing health care facilities. The failure to make these changes for training programs could have dire consequences in terms of a nursing facility's ability to provide quality care for its patients. This bill will allow certain facilities to continue nurse aide training programs, particularly in rural and other areas which lack training alternatives.

Mr. Speaker, I recommend we pass this bill today.

Mr. CAMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. EHRLICH].

Mr. EHRLICH. Mr. Speaker, I rise as chief sponsor of the bill. I want to thank a number of people for their support and cooperation; the gentleman from California [Mr. WAXMAN] has been wonderful to work with in respect to this piece of legislation. I also congratulate the gentleman from Michigan [Mr. CAMP], the chairman of the corrections day committee, a very important committee. I am sure we will be bringing a lot of pieces of legislation to the floor in the 105th Congress, and I thank my friend and colleague, the gentleman from North Carolina [Mr. BURR] from the Committee on Commerce.

Mr. Speaker, I will be brief. H.R. 968 prevents the termination of certain training programs where the reason for the termination is an operational deficiency unrelated to the quality of the program, and where no alternative training program exists within a reasonable distance.

In this regard it is vitally important for rural America that the nursing home provisions of the Reconciliation Act of 1987 instituted training standards for long-term facility nurse aides, requiring a minimum of 75 hours of training for these aides. These requirements, among others, must be met in order for nursing facilities to be eligible for payment by Medicare and Medicaid.

However, these current Federal nursing facility laws often deprive nursing facilities of the ability to provide in-house training. The law allows approval of these training programs to be denied due to problems in the facility unrelated to the training program, and in this regard makes no sense.

Once a program is terminated, the facility becomes ineligible as a training site for 2 years, even after the facility has corrected its alleged deficiencies. The current restriction makes it difficult to recruit nurse aides, especially in rural and other areas which lack training alternatives.

Mr. Speaker, many nursing homes rely on their own nurse aide training programs to certify nurse aides with basic nursing skills and personal care skills. Because long-term care providers are funded primarily by Medicare and Medicaid, they are at an economic disadvantage in competing for labor. On-site training programs serve as an excellent recruitment tool by providing nursing career opportunities for entry level personnel.

Finally, the presence of these nurse aides to a nursing home staff ensures that the residents receive high-quality personal care and also allows the nursing staff to focus more on the delivery of quality medical care. To compromise this ability to provide the highest level of care possible brings about the very result Congress intended to avoid: a threat to the quality of long-term care provided to our Nation's senior citizens.

Mr. Speaker, I thank everyone associated with this bill.

Mr. KLECZKA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CAMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GOODLATTE). Pursuant to the rule, the previous question is ordered on the amendments recommended by the Committee on Ways and Means and on the bill.

The question is on the committee amendments.

The committee amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and (three-fifths having voted in favor thereof) the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CAMP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 968, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 5 p.m. today.

RURAL MULTIFAMILY RENTAL HOUSING LOAN GUARANTEE EXTENSION ACT OF 1997

Mr. LAZIO of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 28) to amend the Housing Act of 1949 to extend the loan guarantee program for multifamily rental housing in rural areas.

The Clerk read as follows:

H.R. 28

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Multifamily Rental Housing Loan Guarantee Extentions Act of 1997".

SEC. 2. LOAN GUARANTEES FOR MULTIFAMILY RENTAL HOUSING IN RURAL AREAS.

Section 538 of the Housing Act of 1949 (42 U.S.C. 1490p-2) is amended—

(1) in subsection (q), by striking paragraph (2) and inserting the following new paragraph:

"(2) ANNUAL LIMITATION ON AMOUNT OF LOAN GUARANTEE.—In each fiscal year, the Secretary may enter into commitments to guarantee loans under this section only to the extent that the costs of the guarantees entered into in such fiscal year do not exceed such amount as may be provided in appropriation Acts for such fiscal year.";

(2) by striking subsection (t) and inserting the following new subsection:

"(t) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year for costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of loan guarantees made under this section such sums as may be necessary for such fiscal year."; and

(3) by striking subsection (u).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. LAZIO] and the gentleman from Massachusetts [Mr. KENNEDY] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. LAZIO].

Mr. LAZIO of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in support of H.R. 28, the Rural Multifamily Rental Housing Loan Guarantee Extension Act of 1997, a mouthful, but a very important program which was introduced by the gentleman from Nebraska, Mr. DOUG BEREUTER. I want to say at the outset, without the leadership of DOUG BEREUTER we would likely not be here today. This was largely his concept, a concept that he has fought hard for, and it also is a reflection of the fact that poverty does not end at the boundaries of our urban areas or even our suburban areas; that in fact poverty and substandard housing is also very much a rural issue.

I also want to thank the chairman of the full committee, the gentleman from Iowa [Mr. LEACH], who happens to be with us also here today, and the ranking member of the subcommittee, the gentleman from Massachusetts [Mr. KENNEDY], for their extraordinary help and assistance to bring this bill to where we are right now.

Mr. Speaker, H.R. 28 will permanently authorize a rural housing multifamily program that leverages private sector dollars with Federal loan guarantees in order to provide low-income housing in rural areas in an efficient manner. The Rural Loan Guaranty Program originated in the 103d Congress where the House passed fiscal year 1995 authorization language and appropriated $1 million in budget authority. Although the authorization bill was not enacted, the Agriculture Appropriations Act for fiscal year 1995 left the program with appropriations or budget authority without a program authorization.

During the last Congress, Mr. Speaker, Congress passed and the President signed the Housing Opportunity Program Act of 1996 which provided the fiscal year 1996 authorization of appropriations. For this year we are in a similar quandary, and in fiscal year 1997 appropriations should result in $1.2 million in budget authority, leveraging approximately $20 million in loan guarantees, with no authorization for this year unless this bill moves.

During the first year of this program, there was significant industry and public enthusiasm and support for the concept of guaranteed rental housing loans. For example, during the 30-day fiscal year 1996 open application season, there were 49 applications from 24 different States requesting a total of approximately $62.5 million in guarantees to help fund about $85 million in multifamily housing development. The need is out there, Mr. Speaker.

The Rural Housing Service approved 9 requests for about $14 million in guarantees on almost $20 million of new construction, resulting in 370 new apartment units.

Furthermore, as compared to the rural multifamily direct loan program where the Government subsidy costs are extraordinarily higher, we are getting good value. This indirect program is only a fraction of the cost. The variety of developments indicates that the program has widespread applicability and that it is flexible enough to meet the differing financing needs of eligible private and private-sector lenders and low-income housing providers.

This program is an example of the type of partnership that should exist between the Federal Government and the private sector, and is necessary to provide and expand low-income housing.

Finally, again, I want to congratulate and commend my colleague, the gentleman from Nebraska [Mr. BEREUTER] for his tireless work on this issue to ensure an effective tool and an integral part of our assisted housing mission for rural Americans.

I urge my colleagues to enthusiastically support passage of H.R. 28.

Mr. Speaker, I reserve the balance of my time.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I want to thank my good friend and the chairman of the Subcommittee on Housing and Community Opportunity of the Committee on Banking and Financial Services, as well as the chairman of the full committee, and I think the gentleman from Nebraska [Mr. BEREUTER] has been working on this issue since I first got on the committee over 10 years ago, trying to reform some of the concerns about rural housing and how the Government provides the subsidies in this country.

While I rise today in support of H.R. 28, the Rural Multifamily Rental Housing Loan Guarantee Extension Act of 1997, and I want to extend my thanks to my colleagues for their efforts to deal with this issue. I do want to explain to the Members of the House just how critical the issue of providing housing programs for rural America are.

We have a situation today in this country where we have tended to focus on the issue of urban poverty, but anyone who has taken the time to visit some of the more rural parts of America knows there are parts of this country that have terrible, terrible poverty that is in many cases swept under the rug, is not seen, because we do not have the slums and the ghettoes of urban America that are so painfully easy to view by anyone who drives through particular neighborhoods.

In rural America, much of the poverty is much more hidden. We do not see it, yet it exists. It is terrible, it is terrifying for the poor, and it is an issue that I think this act, I believe, begins to pull back the covers on to some degree.

Mr. Speaker, I would like to point out that the basic fundamental program which serves the poorest of the poor, the section 515 program, has had enormous cutbacks associated with it over the course of the last couple of years in the Congress.

While there are the needs for some improvements in the 515 program, we should make no mistake by suggesting for a second that while the 538 program, which is the guaranteed loan program that we are acting on today, the need for the program, the 515 program, which provides the credit subsidy, is I think something that is of critical importance to the poorest of the poor. We have to make certain that we do not turn our backs continuously on the very, very poor people of this country.

While we want to provide an innovative demonstration program with the authorization that it requires in order that our appropriators can now provide the funds for this program, which is technically what all this bill is doing today, we should recognize that this is a program that will end up funding people that are slightly above the poorest of the poor.

While this is a commendable program in and of itself, we ought to be, I think, forthright with the American people that at the same time, we are really cutting significantly the amount of money that goes into the basic fundamental 515 program.

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I would just like to read one brief statistic. According to the State of Rural Housing in 1966, a publication of the Housing Assistance Council, of the 9.1 million rural centers, 1.2 million families had severe housing cost burdens, paying more than 50 percent of their income for rent; 1.6 million renters had moderate cost burdens, paying between 30 and 50 percent of their income for rent. I do not think anybody in this Congress pays anything close to 50 percent of their income for rent. The amount of burden that that places on all the other costs in one's life is very, very significant.

With those severe cost burdens, they were concentrated amongst the poorest rural residents. The credit enhancement of the guarantee will at least make rental housing more affordable to low- and moderate-income families, if not the very low-income families. I am encouraged that the Rural Housing Service is making every effort to make this program work for rural America. I urge my colleagues to support H.R. 28. Again, I want to thank the gentleman from Nebraska [Mr. BEREUTER], the gentleman from Iowa [Mr. LEACH], and the gentleman from New York [Mr. LAZIO] for their efforts.

Mr. Speaker, I reserve the balance of my time.

Mr. LAZIO of New York. Mr. Speaker, I yield 5 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I want to first begin by thanking the chairman of the Subcommittee on Housing and Community Development, the distinguished gentleman from New York [Mr. LAZIO], for his support and assistance, and that of the gentleman from Iowa [Mr. LEACH], chairman of the full committee, for his assistance in bringing this legislation to the floor. Mr. LAZIO has certainly given us the history of this legislation as it has evolved. I also appreciate his kind remarks.

I also appreciate the kind remarks of the gentleman from Massachusetts, and I would say that his description of the poverty problems and the housing problem in rural America, including our Indian reservations, is directly on the mark.

This gentleman has never contended either that this housing program, which has come to be known as the 538 program, is a replacement for reform of the 515 program. We need to proceed with reforms of that legislation which is also aimed at multiunit housing.

Mr. Speaker, I want to recognize a distinguished former Member of the Congress who is on the floor today, Mr. de la Garza, former chairman and then ranking member of the Committee on Agriculture. It is our responsibility on the Committee on Banking and Financial Services to work with the Committee on Agriculture on USDA housing programs. We have worked with this gentleman in the past on housing legislation for rural America and for small cities across the country. The gentleman from Texas is seated by our current distinguished Agriculture Committee chairman, the gentleman from Oregon [Mr. SMITH]. I am sure they are working on housing right now.

But Mr. Speaker, I do rise in support of this legislation and ask my colleagues for support of it. This legislation does permanently reauthorize the loan guarantee program for multifamily rental housing in nonmetropolitan areas made under section 538 of the Housing Act of 1949. Originally enacted as a demonstration program under the section 515 rural housing program during the 103d Congress, this loan guarantee program has been well received in nonmetropolitan America.

Unfortunately, the authorization for the program expired at the end of the last fiscal year, and this authorization is urgently needed to ensure the smooth operation of this important new program. Anyone familiar with America's smaller cities and communities knows that the supply of affordable rental housing is much needed but in short supply. This lack of affordable housing is one of the reasons why many small cities in nonmetropolitan areas are having a difficult time keeping their young people, and thus their future, from migrating to metropolitan areas.

Historically, it often has been difficult to entice adequate private investment into these areas. Direct Federal lending programs which have proven costly to taxpayers often have been the only source of financing in these areas. Because of the problems which plagued and still plague the section 515 direct loan program and knowing that Federal funds are likely to become increasingly scarce, this Member saw the need for a new approach that would cost taxpayers less but still provide equal or greater housing opportunities in our Nation's smaller cities.

I had good support from our chairman, the gentleman from Iowa [Mr. LEACH], and the gentleman from New York [Mr. LAZIO] and our colleagues on the Democratic side of the aisle. The alternative which emerged is the section 538 loan guarantee program. It does provide affordable housing at least in part in nonmetropolitan areas for individuals with incomes ranging from low to low-moderate to moderate levels; in other words, those Americans whose incomes do not exceed 115 percent of the area median income.

Eligible lenders, which include multifamily lenders approved by HUD and Fannie Mae and Freddie Mac, provide financing for projects of at least five housing units, five in a unit, developed by nonprofits, State governments or for-profit private entities. Nonprofits and State agencies are required to make a modest initial investment of 3 percent of the development costs while private for-profit entities must contribute an appropriate 10 percent of the development cost.

In return for a fee of up to 1 percent of the loan amount, the U.S. Department of Agriculture guarantees repayment of the loan. Thus projects which in the past required a dollar-for-dollar investment by the Federal Government are now financed for pennies on the dollar by the private sector.

Finally I wanted to quote from a letter received on March 18 of this year from Jan Shadburn, Acting Administrator of the Rural Housing Service of USDA.

She says as follows: "We are very excited about the program and we believe that, once reauthorized by Congress, it will continue to grow and will prove to be an effective tool and an integral part of our assisted housing mission for rural Americans."

Mr. Speaker, this Member again asks his colleagues to support this important alternative, a supplement to direct Federal lending in order to ensure smooth operation of a program which is working in nonmetropolitan America.

Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, as a member of the Committee on Agriculture, I want to rise in support of this initiative for rural housing and associate myself with the remarks and comments congratulating all of the persons who have been involved in bringing this to fruition.

I want to acknowledge, as has been acknowledged by the gentleman from Massachusetts [Mr. KENNEDY], that this is not a substitute for 515, which is so critically needed for the poorest of the poor. Those of us who live in rural areas know how persistent and how pervasive the poverty is and how difficult it is to bring resources and to make a difference. So this is to stretch the resources, to give more resources to rural areas so that we cannot only continue 515 in an improved way but to introduce now what we call 538, the rural rental housing guarantee program, which will allow the private sector to be partners with the Government in guaranteeing more homes. I want to say this is an addition that we welcome, but we also want to encourage further reform and the expansion of 515 because we know it is so difficult for the poorest of the poor to have housing and to say come to North Carolina, if you want to see the poorest of the poor.

However, I am pleased to note that part of the demonstration program North Carolina will have is in Clayton, NC, not my district but nevertheless it is worthy of noting. It just happened to be Clayton, and it happened to be North Carolina. And 56 persons will have apartments that they would not have unless this program was available.

Mr. LAZIO of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. LEACH], chairman of the Committee on Banking and Financial Services, who is also a tireless advocate on behalf of our Nation's poor and those who have substandard housing.

Mr. LEACH. Mr. Speaker, I thank the gentleman for yielding me the time. Let me say, I also rise in support of this modest but very significant program and would commend the gentleman from Nebraska [Mr. BEREUTER] for introducing the original legislation, the gentleman from New York [Mr. LAZIO], who leads housing efforts on behalf of all Americans at this time in the House of Representatives, and the gentleman from Massachusetts [Mr. KENNEDY] who has always spoken so eloquently on housing issues.

I would only make two points, one that was underscored by Mr. BEREUTER; that is, this approach is a guarantee loan program. Therefore, it involves small sums of money, leveraging quite a bit larger sums of money. In addition, it is based upon a USDA model and, in fact, is USDA administered and that model has found that there is only a 3-percent default rate, which is a rather impressive number in relationship to almost every Federal program. But what is impressive in addition is 3 percent default does not mean 3 percent losses. It means that the loan went sour but there are still recoverable parts. So the total losses to the taxpayer end up being a small percentage of 3 percent.

This is, in short, one of the most extraordinary ways of leveraging housing programs in rural America. It is targeted precisely to rural America and obviously, as a representative of a rural State with a high percentage of nonurban housing stock, I am appreciative of its import.

But I would also stress that this program is intended as a tie-in to other housing programs and that in the near future significant housing reform will be the subject of a full Committee on Banking and Financial Services review. We look forward, those of us from rural areas, to working closely with the distinguished chairman of the subcommittee on the endeavors that he is leading at this time.

I simply want to stress again the innovation of this program, the leadership of my colleagues.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

I would just like to end by pointing out that this program, as I understand, the 515 Program, I would just like to point out, used to be funded at about $690 million a year. The current 515 Program is down to $150 million a year. This program is about $1.2 million, just so Members will keep in perspective what we have done in terms of our rural housing programs.

Rural poverty is growing. We have significant numbers of very, very poor people living in rural America that have great, great housing needs. I just hope that the Congress keeps in mind the need for us to continue to support housing programs in general. We are going to have major housing problems for America's poor in the coming year as a result of some peculiarities in the budgeting process. I think that we need to continue to bring home at every possible opportunity, to recognize the significant problems that very poor people in this country have in terms of attaining reasonable shelter. I hope to work with the chairman of the full committee and the chairman of the housing committee in resolving those issues in the future.

Mr. Speaker, I yield back the balance of my time.

Mr. LAZIO of New York. Mr. Speaker, I yield myself such time as I may consume.

Let me again urge my colleagues to support this important piece of legislation. It is a complement, not a substitute, for our other tools that are available to combat poverty and substandard housing in rural America. I want to emphasize once again, because so often the illustrations that we see on the news, the shows that we see on television, the things that we talk about tend to focus on what happens in urban America, and the need is great in urban America. And the fact is that we have extraordinary needs in terms of housing and community development in both suburban and urban America. But poverty does not end at the city boundary. Nor does it end at the suburban boundary. It is a fact of life all too often in our rural areas.

In this case, we are doing what I think is an extraordinarily efficient thing, which is to leverage our dollars, making our dollars work as hard as possible. In this case, $1.2 million will leverage $20 million in construction, bringing housing to scores of Americans that would otherwise potentially be homeless or, at least, be in terribly substandard housing. As I say, it is a complement and not a substitute.

Let me also point out, in relation to the 515 Program, which has been under considerable criticism by, among other people, a former Member of this body and now a Member of the other body, Mr. DURBIN, for the fact that there have been numerous allegations of fraud, that in the 515 Program, which also has brought hope to many Americans, the Federal Government subsidy costs are approximately 49 cents for each dollar appropriated. The loan guarantee program subsidy today that we are talking about is only, the cost is only about 6.8 cents for every dollar appropriated. So again 6.8 cents for this program relative to 49 cents for every dollar appropriated in the 515 Program.

It is, in fact, a reality that we need as many tools as possible to combat poverty and substandard housing throughout America. I want also to compliment the Rural Housing Service of USDA for working with us, with the Members on the other side of the aisle, in particular the gentleman from Massachusetts [Mr. Kennedy], for his support of our efforts to bring relief to rural areas; the support of other associations, like the National Association of Home Builders; again, the appropriators, the gentleman from New Mexico [Mr. Skeen], the gentleman from Louisiana [Mr. Livingston] for their support through the appropriations process. But most importantly, I would suggest that the credit largely goes to the chairman of the full committee, the Committee on Banking and Financial Services, the gentleman from Iowa [Mr. Leach], and, of course, the gentleman from Nebraska [Mr. Bereuter] for their vision and for their commitment to this very important program that is truly bringing hope for many, many Americans throughout the Nation.

Mr. Speaker, I include for the Record the following section-by-section analysis:

H.R. 28—Rural Multifamily Rental Housing Loan Guarantee Extension Act of 1997

SECTION BY SECTION ANALYSIS

Section 1. Short Title.—The title is cited as the "Rural Multifamily Rental Housing Loan Guarantee Extension Act of 1997."

Sec. 2. Loan Guarantees For Multifamily Rental Housing in Rural Areas.—This section amends Section 538 of the Housing Act of 1949 to provide a permanent authorization of appropriations and permanent authority to the [US Department of Agriculture] Secretary to guarantee rural housing multifamily loans.

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Mr. LAZIO of New York. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Miller of Florida). The question is on the motion offered by the gentleman from New York [Mr. Lazio] that the House suspend the rules and pass the bill, H.R. 28.

The question was taken.

Mr. LAZIO of New York. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. LAZIO of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 28.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PREVENTING PRISONERS FROM BEING CONSIDERED PART OF HOUSEHOLD UNDER FOOD STAMP ACT OF 1977

Mr. SMITH of Oregon. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1000) to require States to establish a system to prevent prisoners from being considered part of any household for purposes of determining eligibility of the household for food stamp benefits and the amount of food stamp benefits to be provided to the household under the Food Stamp Act of 1977.

The Clerk read as follows:

H.R. 1000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STATES REQUIRED TO ESTABLISH SYSTEM TO PREVENT PRISONERS FROM BEING CONSIDERED PART OF ANY HOUSEHOLD UNDER THE FOOD STAMP ACT OF 1977.

(a) In General.—Section 11(e)(20) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(20)) is amended to read as follows:

"(20) that the State agency shall establish a system and take action on a periodic basis—

"(A) to verify and otherwise assure that an individual does not receive coupons in more than one jurisdiction within the State; and

"(B) to verify and otherwise assure that an individual who is officially detained in a correctional, detention, or penal facility administered under Federal or State law is not considered to be part of any household participating in the food stamp program, except to the extent that the Secretary determines that extraordinary circumstances have made it impracticable for the State agency to obtain the information necessary to do so.".

(b) Penalty.—Section 11(g) of the Food Stamp Act of 1977 shall apply, in accordance with its terms, to any failure of a State agency to comply with section 11(e)(20)(B) of such Act.

(c) Conforming Amendment.—Section 11(e)(8)(E) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)(E)) is amended by inserting "or (20)(B)" after "(16)".

(d) Application of Amendments.—The amendments made by this section shall not apply with respect to certification periods beginning before the end of the 1-year period that begins with the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oregon [Mr. Smith] and the gentlewoman from North Carolina [Mrs. Clayton] each will control 20 minutes.

The Chair recognizes the gentleman from Oregon [Mr. Smith].

Mr. SMITH of Oregon. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1000, a bill that requires States to establish a system to verify that individuals detained in Federal, State, or county penal facilities are not counted as household members for the purposes of determining eligibility of the level of benefits in the Food Stamp Program.

On March 10, 1997, the General Accounting Office released a report entitled, "Food Stamps: Substantial Overpayments Result From Prisoners Counted as Household Members." As a result, the General Accounting Office estimates that $3.5 million in food stamp benefit overpayments were made in the year 1995.

The Congressional Budget Office has analyzed H.R. 1000 and has concluded requiring a verification system will reduce food stamp benefit overpayments and save an estimated $6 million by fiscal year 2003. Although States and the Federal Government will incur a slight cost to establish the verification system in fiscal year 1998, that cost will be more than offset in subsequent years.

Based on the findings and conclusions of the General Accounting Office, I believe that the verification system requirement of H.R. 1000 is a cost effective method of preventing prisoners from being counted as members of food stamp households with a minimum burden or inconvenience on food stamp recipients and States. Additionally, requiring this verification will identify and reduce program fraud and increase the collection of benefit overpayments. I urge my colleagues to support H.R. 1000.

Mr. Speaker, I reserve the balance of my time.

Mrs. CLAYTON. Mr. Speaker, I have been a tireless advocate along with many of my colleagues in fighting hunger in the United States. The bill before us today is aimed at helping to ensure that the funds allocated by the Federal Government for the food stamp program actually go to feed those who are hungry.

In fiscal year 1995, USDA issued over $22 billion in benefits. Some 26 million Americans were helped by these funds. Congress passed legislation last year to cut the food stamp program by $23 million through the year 2002. So the total appropriation for fiscal year 1997 is $23.3 billion, $1 billion less than they were in fiscal year 1996, which was $24.3 billion.

This bill, H.R. 1000, is designed to ensure that we concentrate those declining resources to make sure that those who are in actual need get that help.

Although the Food Stamp Act automatically disqualifies people who were institutionalized from inclusion in participating households because they receive meals during their sentences, oftentimes the food stamp administrative agency is not notified that a member of a household has been incarcerated.

A GAO audit recently published a report which found out of four States studied for calendar 1995, California, Florida, New York, and Texas, 12,138 inmates were included in household food stamp benefits, resulting in an estimated $3.5 million that was not directed to needy families.

H.R. 1000 will help prevent this from happening in the future as it requires States to establish a system to verify that individuals detained in Federal, State, and county penal institutions are not counted as household members for the purpose specified by the Food Stamp Program.

In fact, a database already exists for States to check. The Social Security Administration maintains such a database, as it too is required to check for inmates participation.

In addition, this legislation takes into account the needs of the various States and permits them some flexibility. Mr. Speaker, I urge every Member of this body to support this legislation as we consider it under suspension of the rules, so that limited funds that we do have allocated to the Food Stamp Program go actually to those who are eligible and to those who are hungry.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Oregon. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. GOODLATTE], the chief sponsor of this legislation.

Mr. GOODLATTE. Mr. Speaker, I thank the chairman of the committee for yielding me this time as well as for his strong support for this legislation.

Mr. Speaker, I rise in support of H.R. 1000, a bill I introduced to require States to establish a system to verify that individuals detained in Federal, State, city, or county penal facilities are not counted as household members for purposes of determining eligibility or the level of benefits in the Food Stamp Program.

The General Accounting Office recently released a report on its review of prisoners counted as household members in the Food Stamp Program. Currently, prisoners are not permitted to be included in food stamp households or receive food stamp benefits, nor should they be. Despite this prohibition, GAO's limited review discovered over 12,000 prison inmates who were included in food stamp households resulting in $3.5 million in food stamp overpayments. The bill before the House today requires States to set up a system to enforce the current prohibition in the Food Stamp Act.

I believe that the GAO report identified a problem which is a significant concern. I believe that public confidence and support of the Food Stamp Program are undermined when a household receives a higher level of food stamp benefits than an identically situated household simply because the household receiving more food stamp benefits is illegally counting an incarcerated individual as a member, who is, after all, receiving three squares a day in the slammer.

This concern is furthered by GAO's conclusion that a cost effective matching technique can be used to prevent this problem, but that many States have not done so.

H.R. 1000 requires States to establish a system to verify that individuals detained in Federal, State, or county penal facilities are not counted as household members for purposes of determining eligibility or the level of benefits in the Food Stamp Program.

H.R. 1000 allows States to avoid establishing a verification system if the Secretary of Agriculture determines that extraordinary circumstance have made it impractical for the State agency to obtain the information necessary to establish such a system. I believe that this exception should be invoked by the Secretary in rare and truly extraordinary circumstances. An extraordinary circumstance would include when a State does not have computerized records of its State or county inmate population. Under such circumstances, the State could have great difficulty establishing a verification system and the Secretary may be justified in granting an exception. I would expect, however, that in such circumstances the exception to be narrowly tailored to address the specific situation.

If a State fails to comply with the requirements of this bill, the penalty provisions of section 16(g) of the Food Stamp Act apply. This provision provides the Secretary notify the State that it is in noncompliance. If a State continues to fail to establish a verification system, the Secretary may withhold a portion of the State's administrative funds.

Under the Food Stamp Program, one-half of the State's administrative costs are paid by the Federal Government. Additionally, the Secretary may request the Attorney General to seek an injunction ordering a State to establish a verification system.

The Food Stamp Act requires that States attempt to collect overpayments made to food stamp households. As an incentive to States, each State retains a portion of the overpayments its collects. States retain 35 percent of overpayment collections resulting from intentional program violations and 20 percent of overpayment collections resulting from recipient error. By identifying overpayments that have previously gone undetected, the verification system required by H.R. 1000 will enhance each State's abilities to identify and collect overpayments. Because States retain a portion of these collections, any increase results in additional funds for the States, clearly making this not an unfunded mandate.

Finally, H.R. 1000 provides States with 1 year from the date of enactment to comply with the provisions of this bill without risk of penalty.

Mr. Speaker, I urge my colleagues to support H.R. 1000. It is an important bill that deserves their attention and full support.

Mr. STENHOLM. Mr. Speaker, food stamp rules make quite clear that residents of most institutions are not eligible to participate in the Food Stamp Program. Yet, according to GAO, thousands of prisoners are being counted as members of food stamp households, resulting in those households receiving more food stamps than they should. GAO has recommended that the Food and Consumer Service encourage States to implement periodic computer matches of data on State and local prison inmates with data on food stamp participants.

H.R. 1000 goes several steps further than this recommendation. It requires States to perform such periodic verifications and also requires that the matches be not only of State and local prison inmates but of Federal inmates as well. It includes a provision allowing the Secretary of Agriculture to exempt from this requirement any State having circumstances making it impractical to perform the matches, such as a lack of a central computerized data base for its prison population. States will have 1 year from the date of enactment to comply with the new requirement.

Several States, such as Texas, already conduct such matches. Other States have plans to begin conducting these matches in the future. This bill will provide the impetus for most States to perform periodic matches, thereby saving the taxpayers at least $1 million a year. It is a good bill, and I urge your support of it.

Mrs. CLAYTON. Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of Oregon. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon [Mr. SMITH] that the House suspend the rules and pass the bill, H.R. 1000.

The question was taken.

Mr. SMITH of Oregon. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SMITH of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

RELEASE OF REVERSIONARY INTEREST REGARDING CERTAIN PROPERTY IN IOSCO COUNTY, MICHIGAN

Mr. SMITH of Oregon. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 394) to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, MI.

The Clerk read as follows:

H.R. 394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF REVERSIONARY INTEREST REGARDING CERTAIN PROPERTY IN IOSCO COUNTY, MICHIGAN.

(a) RELEASE REQUIRED.—The Secretary of Agriculture shall release the reversionary interest of the United States in the parcel of real property described in subsection (b), which was retained by the United States when the property was conveyed to the County of Iosco, Michigan, in 1960 pursuant to a deed recorded at Liber 144, beginning page 58, in the land records of the County.

(b) DESCRIPTION OF PROPERTY.—The parcel of real property referred to in subsection (a) consists of 1.92 acres in the County of Iosco, Michigan, and is described as follows:

That part of the N.W. ¼ of the S.E. ¼ of Section 11, T. 22 N.R. 8 East., Baldwin Township, Iosco County, Michigan described as follows: Commencing at the Center of said Section 11, thence South 89 degrees, 15 41" East, along the East-West ¼ Line of said Section 11, 102.0 feet, thence South 00 degrees 08 07" East, along an existing fence line, 972.56 feet, thence North 89 degrees 0713" W. 69.70 feet to a point in the North-South ¼ Line, thence North 02 degrees 02 12" West, along said North-South ¼ Line, 973.42 feet to the Point of Beginning.

(c) ADDITIONAL TERMS.—The Secretary may require such terms or conditions in connection with the release under this section as the Secretary considers appropriate to protect the interests of the United States.

(d) INSTRUMENT OF RELEASE.—The Secretary shall execute and file in the appropriate office or offices a deed of release, amended deed, or other appropriate instrument effectuating the release of the reversionary interest under this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oregon [Mr. SMITH] and the gentlewoman from North Carolina [Mrs. CLAYTON] each will control 20 minutes.

The Chair recognizes the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, H.R. 394, provides for the release of a reversionary interest held by the United States in 1.92 acres in real property in Iosco County, MI. The release will facilitate a land exchange under the Small Tracts Act of 1983 between Iosco County and a private party.

Mr. Speaker, Iosco County acquired property from the United States for an airport in 1960, but the Federal Government retained a reversionary interest in the event that the property should be used for a purpose other than an airport. Because of a survey error, part of the land, 1.92 acres, granted by the United States to Iosco County for the airport, has been in private use. A release of the reversionary interest held by the United States will provide the private party clear title to the 1.92 acres.

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In exchange, the private party will provide an equal parcel of land to Iosco County. The U.S. Department of Agriculture has no objection to the enactment of this bill as introduced, and I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CLAYTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 394 which provides for the release of a Forest Service reversionary interest in 1.92 acres of land that was conveyed to the county of Iosco, MI, in 1960. The release of this reversionary interest will clear the way for an exchange by Iosco County and a private landowner. In exchange, the private landowner will provide a parcel of land of equal value. This legislation will correct a surveyor's error. It is necessary to complete this transfer. I support this legislation and urge its passage by this House.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. BARCIA], the original sponsor of this bill.

Mr. BARCIA. Mr. Speaker, I rise in support of H.R. 394, and I want to offer a heartfelt thank-you to the chairman and the ranking minority member for their assistance in bringing this bill to the floor so quickly.

This legislation, which will allow for a like exchange of property in Iosco County, MI, in my district, in the Fifth District of Michigan, to clear title on land that was erroneously surveyed as private land, is identical to the bill that we passed in the 104th Congress, H.R. 2670. It is supported by the county, the landowner, and the Department of Agriculture. It should not be a matter of controversy with anyone. I urge its adoption.

Mr. Speaker, I rise in support of H.R. 394, a bill I sponsored, to provide for the release of reversionary interests held by the United States in certain property located in Iosco County, MI. This bill is identical to H.R. 2670 which was approved by the House in the 104th Congress.

I want to thank the chairman of the Resource Conservation, Research and Forestry Subcommittee, chaired by the gentleman from Texas [Mr. COMBEST] and the gentleman from California, the ranking minority member [Mr. DOOLEY], for their willingness to help move this issue toward resolution.

In 1960 land was provided to Iosco County for the construction of an airport. This land was provided through the Secretary of Agriculture under the authority of section 16 of the Federal Airport Act of 1946, and in conformity with Executive Order 10536 of June 9, 1954.

Using survey lines that had been drawn at the time, one of my constituents, Mr. Otto Peppel, constructed a cabin on land that based upon the old survey he believed to be his own. A conflict in the lines of occupation with the legal boundary lines was discovered in a 1976 survey performed for airport expansion, showing that 1.9 acres that Mr. Peppel believed to be his were in fact the airport's. Efforts to eliminate the title conflict have been going on since that time, culminating in the request to me to introduce legislation to allow for the dismissal of the reverter clause in this property.

Local authorities and Mr. Peppel have agreed to exchange a like amount of property so that the title can be cleared. However, given that the land was given to the county by the Secretary of Agriculture for public purposes, a reverter clause exists that must be quieted in order to clear the title.

In consultation with local staff of the U.S. Forest Service, this bill was drafted to allow for the clearance of this title. In further consultation with the Department of Agriculture and the House Agriculture Committee, the bill was amended last year with the agreement of all parties to provide that the reversionary interest of the United States is not lost, but rather is restored on another piece of property of equal value. The bill before us today is identical to the one we passed last year.

Given the support for the land swap from the property owners, local officials, and the Forest Service, this matter should be noncontroversial. I urge its adoption.

Mrs. CLAYTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of Oregon. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MILLER of Florida). The question is on the motion offered by the gentleman from Oregon [Mr. SMITH] that the House suspend the rules and pass the bill, H.R. 394.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

J. PHIL CAMPBELL, SENIOR, NATURAL RESOURCE CONSERVATION CENTER

Mr. SMITH of Oregon. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 785) to designate the J. Phil Campbell, Senior, Natural Resource Conservation Center.

The Clerk read as follows:

H.R. 785

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF J. PHIL CAMPBELL, SENIOR, NATURAL RESOURCE CONSERVATION CENTER.

The Southern Piedmont Conservation Research Center located at 1420 Experimental Station Road in Watkinsville, Georgia, shall be known and designated as the "J. Phil Campbell, Senior, Natural Resource Conservation Center".

SEC. 2. REFERENCE.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "J. Phil Campbell, Senior, Natural Resources Conservation Center".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oregon [Mr. SMITH] and the gentlewoman from North Carolina [Mrs. CLAYTON] each will control 20 minutes.

The Chair recognizes the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. NORWOOD], the chief sponsor, who will explain the bill.

Mr. NORWOOD. Mr. Speaker, I rise today in support of H.R. 785, to designate the Southern Piedmont Conservation Resource Center in Watkinsville, GA, as the J. Phil Campbell, Senior, Natural Resource Conservation Center.

H.R. 785 recognizes a true visionary in American agriculture, J. Phil Campbell, Senior. Mr. Campbell's passion for educating and training Georgia farmers, his development of some of the first agriculture extension services, and his service in President Franklin Roosevelt's Department of Agriculture are a testimony to his commitment to promoting agriculture throughout the Nation.

Mr. Speaker, I introduced this legislation last year as H.R. 3387 which passed the House by unanimous consent. This year H.R. 785 passed the Committee on Agriculture and the subcommittee unanimously on a voice vote in March. In comment on H.R. 3387, the USDA has no objection to redesignating the Watkinsville facility and, according to the CBO, H.R. 785 will have no significant impact on the Federal budget, contains no intergovernmental or private sector mandates, and has no budgetary impact on State or local governments.

Mr. Speaker, I would like to take this opportunity to thank Chairmen SMITH and POMBO for their help and willingness to move this legislation. I also would like to thank my eight colleagues who cosponsored this legislation, and Mr. COVERDELL and Mr. CLELAND for their help in the Senate.

I would encourage my colleagues to support H.R. 785 and help commemorate a man who dedicated his life to help farmers and farming communities throughout Georgia and the Nation.

Mr. Speaker, I rise in support of H.R. 785 to rename the Southern Piedmont Conservation Research Center in Watkinsville, GA after a great pioneer in Georgia agriculture, J. Phil Campbell, senior.

James Philander Campbell was born in Dallas, GA on March 2, 1878. He grew up on a farm and, at the age of 17, began teaching school. At a young age, J. Phil Campbell, senior fought for and helped to secure legislation to authorize agriculture instruction in Georgia's rural schools. In 1907, he spent 6 months traveling throughout the State, advocating for the creation of district agriculture schools and a State college of agriculture. All of this was done before he turned 30.

Between 1908 and 1910, Mr. Campbell served as the first farm extension supervisor to the Southeast region. This was done before passage of the Smith-Lever Act in 1915, which created the Federal extension service.

In 1910, he began a career as the Georgia State agent for the U.S. Department of Agriculture. He also served on the staff of Georgia State University's College of Agriculture. During his tenure, he organized nearly 13,000 Georgia children in corn and canning clubs and 5,000 Georgia farmers into farming demonstration work. These efforts were done under the supervision of Dr. Seaman Knapp at the U.S. Department of Agriculture.

During this time, Mr. Campbell also served as the Director of Extension Work in Agriculture and Home Economics. In 1933, he took a leave of absence to assist the agriculture adjustment administration in its cotton belt crop replenishment division. After 1935, he was elevated to a Federal position in the Roosevelt administration as Assistant Chief of the Soil Conservation Service in the USDA. He served in that capacity until he died in December 1944.

In addition to his clear record of accomplishment in education, Mr. Campbell was also extremely interested in agriculture research and maintained close ties with the agriculture experiment stations in Georgia. He was integral in the creation of the Southern Piedmont Conservation Research Center and in choosing its site just outside of Athens and the University of Georgia. When funding for the center was threatened in its first year, Phil Campbell fought to keep the center open and secure its line of funding. It exists to this day on Experimental Station Road in Watkinsville.

Mr. Speaker, given the great contribution Mr. Campbell made to Georgia and the Nation, I urge my colleagues to support H.R. 785.

Mrs. CLAYTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 785. I want to thank my colleagues from Georgia for their work in this effort. Mr. CAMPBELL was certainly a driving force in the agriculture community in their home State of Georgia, by the way it is also my home State, as well as on the national level.

With his work in extension and research activities as well as his distinguished service at the Soil Conservation Service during the Roosevelt administration, it is appropriate that this facility in Watkinsville be renamed in his honor.

Again I thank the gentleman from Georgia [Mr. NORWOOD] for his bipartisanship and his effort in bringing forth this legislation, and I urge its passage by this House.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of Oregon. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon [Mr. SMITH] that the House suspend the rules and pass the bill, H.R. 785.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

ANNUAL REPORT OF DEPARTMENT OF TRANSPORTATION, FISCAL YEAR 1995—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Transportation and Infrastructure:

To the Congress of the United States:

As required by section 308 of Public Law 97–449 (49 U.S.C. 308(a)), I transmit herewith the Annual Report of the Department of Transportation, which covers fiscal year 1995.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 8, 1997.*

REPORT OF DEPARTMENT OF HEALTH AND HUMAN SERVICES REGARDING RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Commerce:

To the Congress of the United States:

In accordance with section 540 of the Federal Food, Drug, and Cosmetic (FDC) Act (21 U.S.C. 360qq) (previously section 360D of the Public Health Service Act), I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act of 1968 during calendar year 1995.

The report recommends the repeal of section 540 of the FDC Act, which requires the completion of this annual report. All the information found in this report is available to the Congress on a more immediate basis through the Center for Devices and Radiological Health technical reports, the Center's Home Page Internet Site, and other publicly available sources. Agency resources devoted to the preparation of this report should be put to other, better uses.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 8, 1997.*

ANNUAL REPORT OF NATIONAL ENDOWMENT FOR DEMOCRACY, FISCAL YEAR 1996—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

To the Congress of the United States:

Pursuant to the provisions of section 504(h) of Public Law 98-164, as amended (22 U.S.C. 4413(i)), I transmit herewith the 13th Annual Report of the National Endowment for Democracy, which covers fiscal year 1996.

The report demonstrates the National Endowment for Democracy's unique contribution to the task of promoting democracy worldwide. The Endowment has helped consolidate emerging democracies—from South Africa to the former Soviet Union—and has lent its hand to grass-roots activists in repressive countries—such as Cuba, Burma, or Nigeria. In each instance, it has been able to act in ways that government agencies could not.

Through its everyday efforts, the Endowment provides evidence of the universality of the democratic ideal and of the benefits to our Nation of our continued international engagement. The Endowment has received and should continue to receive strong bipartisan support.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 8, 1997.*

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 5:15 p.m.

Accordingly (at 3 o'clock and 24 minutes p.m.), the House stood in recess until approximately 5:15 p.m.

□ 1715

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. GUTKNECHT] at 5 o'clock and 16 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GUTKNECHT). Debate has concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 28, by the yeas and the nays;

H.R. 1000, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

RURAL MULTIFAMILY RENTAL HOUSING LOAN GUARANTEE EXTENSION ACT OF 1997

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 28.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. LAZIO] that the House suspend the rules and pass the bill, H.R. 28, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were— yeas 397, nays 14, not voting 21, as follows:

[Roll No. 72]

YEAS—397

Abercrombie
Ackerman
Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Poshard
Price (NC)
Pryce (OH)

Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Traficant
Turner
Upton
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—14

Coburn
Hoekstra
Hostettler
Manzullo
Neumann
Paul
Rohrabacher
Royce
Salmon
Sanford
Scarborough
Sensenbrenner
Souder
Stump

NOT VOTING—21

Andrews
Ballenger
Bryant
Carson
Etheridge
Filner
Gutierrez
Hall (OH)
Hefner
Hinchey
Istook
Kaptur
Kilpatrick
McCarthy (NY)
Pomeroy
Schiff
Stark
Torres
Towns
Velázquez
Watts (OK)

□ 1736

Messrs. HOEKSTRA, SCARBOROUGH, SALMON, and ROYCE changed their vote from "yea" to "nay."

Mr. NETHERCUTT changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GUTKNECHT). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

PREVENTING PRISONERS FROM BEING CONSIDERED PART OF HOUSEHOLD UNDER FOOD STAMP ACT OF 1977

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1000.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon [Mr. SMITH] that the House suspend the rules and pass the bill, H.R. 1000, on which the yeas and nays are ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 23, as follows:

[Roll No. 73]

YEAS—409

Abercrombie
Ackerman
Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Upton
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—23

Andrews
Ballenger
Berman
Bryant
Carson
Ehlers
Etheridge
Filner
Gutierrez
Hall (OH)
Hefner
Hinchey
Istook
Kaptur
Kilpatrick
McCarthy (NY)
Mollohan
Pomeroy
Schiff
Stark
Towns
Velázquez
Watts (OK)

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105-45) on the resolution (H. Res. 107) providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HOBSON). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CONGRATULATING HANNIBAL, MO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. HULSHOF] is recognized for 5 minutes.

Mr. HULSHOF. Mr. Speaker, I would like to congratulate a vibrant city in the Ninth Congressional District of Missouri, Hannibal, MO, for its selection to the semifinals of the National Trust for Historic Preservation 1997 Great American Main Street Awards.

The Great American Main Street Awards recognize exceptional accomplishments in revitalizing America's historic and traditional downtowns and neighborhood commercial districts.

Hannibal, MO, has demonstrated a very active public and private participation in this revitalization process. It enjoys broad-based community support, success in boosting the economy and, more importantly, preservation of the uniquely historic buildings.

Mr. Speaker, the goal of the Hannibal Main Street Program is a revitalized program area. The Hannibal Main Street Program has continued to promote economic development within the context of historic preservation. It has established a strong partnership with others in the community to create a wide range of support. The Hannibal Main Street Program has a contract with the city for professional services. In addition, both the public and private schools provide a volunteer work force for downtown cleanup days. Service clubs donate time and supplies, sponsor festivals and parades as well as providing volunteers. A number of local financial institutions participate in low-interest loan programs. This truly is, Mr. Speaker, a community that comes together.

In just 6 years, Hannibal Main Street has had a significant, positive economic impact. It has experienced a net gain of 103 new businesses as well as 414 new jobs created. Building sales have skyrocketed and the number of vacancies has plummeted just in the last couple of years.

Mr. Speaker, many of us in this Chamber might recognize Hannibal as the home of the American Classics author, Mark Twain. To some, Mark Twain and Hannibal, MO, are inseparable. To the lovers of Mark Twain, Hannibal has become a shrine. Thanks to Hannibal Main Street, all families across America will be able to continue to experience Mark Twain and his history through Hannibal's historic preservation and economic revitalization.

I am here today, Mr. Speaker, to salute the residents of Hannibal, MO. It is cities like Hannibal that represent the best that America has to offer.

Congratulations, Mr. Speaker, and to Hannibal, MO, on a job well done.

TRIBUTE TO DR. DEBRA PHILLIPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. SHIMKUS] is recognized for 5 minutes.

Mr. SHIMKUS. Mr. Speaker, I rise today to pay tribute to Dr. Debra Phillips of Golden, IL. Last month, Dr. Phillips was named the Illinois Rural Health Practitioner of the year by the Illinois Rural Health Association. Dr. Phillips received this award in recognition of her outstanding care, involvement in the community and her lasting contribution to the rural health care system in Illinois.

Raised in rural southeast Iowa, Dr. Phillips knows the benefit of rural health care providers. After finishing her undergraduate and medical education at the University of Iowa, Dr. Phillips did her residency in family practice. In the late-1980's, Dr. Phillips developed a model practice for a rural area. Working with Southern Illinois University and Blessing Hospital in Quincy, IL, which I visited last week, she helped to create the East Adams County Rural Health Clinic in May 1991. Today this clinic serves a rural population of 7,200 people. Since the nearest hospital is 30 miles away, this rural clinic is vital to the health and well-being of many people. I am very happy to report that Dr. Phillips still spends half her time caring for patients at this facility. In addition, she is the Associate Professor of Clinical Family Practice at the SIU School of Medicine, where she is also the Associate Director of the Quincy Family Practice Center residency program.

There are 15 current physicians in this residency program. Dr. Phillips also spends a considerable amount of time teaching resident physicians and medical students in the area of rural health care. She has been influential in helping to promote rural health and encouraging physicians to practice in rural areas. Additionally, Dr. Phillips is a medical director of three nursing homes in rural Adams County and even practices medicine out of her farmhouse after hours.

□ 1800

As if that was not enough, Dr. Phillips is married to Duane Phillips, and the mother of two children, 9-year-old Katherine and 6-year-old Jacob.

I would like to take this special opportunity to recognize Dr. Phillips for her tireless work and congratulate her for receiving this award. I look forward to her advice and counsel as we move forward in addressing rural health care issues. But most of all, I would like to thank Dr. Phillips for her dedication to the rural residents of Illinois.

TRIBUTE TO WEST WINDSOR TOWNSHIP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PAPPAS] is recognized for 5 minutes.

Mr. PAPPAS. Mr. Speaker, today I join with the people of West Windsor Township, NJ, in celebrating the township's bicentennial. It was on this day 200 years ago the New Jersey State legislature divided the township of Windsor, which was once a part of the William Penn land grant, into East and West Windsor.

At the time West Windsor was part of Middlesex County, but in the 1830's West Windsor was again divided, taking about 8 square miles away to form a part of what is now Princeton Township. After the Revolutionary War, the township became part of Mercer County, which was named in recognition of General Mercer, a Revolutionary War hero.

As we look back on the past 200 years, we discover that West Windsor has been home to some significant occurrences in our Nation's military history. The turning point in the Revolutionary War, the Battle of Princeton, which became the Battle of Trenton, was fought in West Windsor Township. Years later during World Wars I and II, it was the agricultural products of the township, its fruits and vegetables, that were sent to Fort Dix to feed our troops.

A great deal has changed in West Windsor over the past 200 years. The dreams and spirit that once fought a war are helping to lead the township into the new century. Today the township of 27 square miles is home to many high-tech businesses.

West Windsor continues to grow and thrive as a community of new residents and businesses and industry. Just recently Raytheon chose West Windsor as the location for its engineering division. Raytheon will join NycoMed, Berlitz, LogicWorks, and Bristol Myers Squibb as companies that have chosen the township as their place of business. These businesses, like its people, continue to be on the cutting edge.

But even as West Windsor continues to move toward the future and corporations continue to choose it as their home, the township remains committed to preserving its past. While many communities in America struggle between the desire to entice businesses and a willingness to preserve open space, West Windsor has certainly found a balance.

The town has worked hard to maintain the quality of life and the environment of the community. Forty percent of all the land in the township is designated as nonbuildable open space. I am told that Mayor Tom Frascella's goal is to increase the percentage of open space to 50 percent. It is the people of West Windsor over the years, its service organizations and elected officials, that have been responsible for the current growth and prosperity that the township enjoys.

It is not surprising that in all that has happened in the past, and in recognition of the positive direction that they are headed for in the future, New Jersey Monthly Magazine recognized West Windsor as one of the 15 best communities in New Jersey, and Philadelphia Magazine also recognized the township as one of the 15 best communities in suburban Philadelphia.

Over the coming months West Windsor has a number of events planned to celebrate its bicentennial. Shows, festivals, concerts, and parades will run throughout the year. I applaud the efforts of the dedicated volunteers, elected officials such as Mayor Frascella, and the local business owners that are committed to sharing the past and preserving the future of this town. Their pride and optimism for the future is what sets West Windsor apart.

I am proud to represent this community in the U.S. Congress. If the next 200 years are anything like the first 200 years, we can expect to continue to see great things from this Mercer County community. Congratulations to the people of West Windsor Township.

RAISING TAXES WILL NOT HELP AMERICA'S CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 5 minutes.

Mr. SCARBOROUGH. Mr. Speaker, earlier this morning I heard many floor speeches from people on the other side of the aisle talking about how much they love children and how they want to create a new layer of bureaucracy and raise more taxes on the American people to help children.

I found this to be very interesting, to say the least, considering that these same people that have been so interested in helping children across this country have over the past 40 years accumulated a $5.6 trillion debt. In the name of helping children and helping farms and helping businesses, actually what they have done is, they have put us in a position where our children's future has been mortgaged at a $5.6 trillion price tag.

A lot of people ask, in my town hall meetings, what does this really mean? How much is $5.6 trillion? And this Easter, as I was going across the district, I decided to give them this example:

If you made a million dollars every day, from the day that Jesus Christ was born 2,000 years ago, a million dollars every day for 2,000 years, you would not make enough money to pay off our Federal debt. If you made a million dollars every day for the first 2,000 years and then made a million dollars every day from today until the year 4000 A.D. and added all that up, you still would not have enough money to pay off our Federal debt. In fact, you would still be $1.6 trillion short.

Now, that is the debt that we are passing on to my 9-year-old boy, my 6-year-old boy, and to future generations, and yet we still have more liberals saying we need to tax more, we need to spend more, we need to create bureaucracies to help the children. The fact is that we are actually stealing money from their pockets.

Their argument comes down to this. They love children so much that they are going to steal more money from children to help children. I just do not follow that.

Now, what will it mean to our children 20, 30 years from now if we continue to tax and spend just at the level that we are taxing and spending at now? Forget about new programs that they are proposing, but what if we just stay on the path that we are on right now?

Well, Senator BOB KERREY, who had a great Commission on Entitlements, ended up recognizing that our children 30 years from now would be paying a tax rate of 89 percent. Eighty-nine percent. What that means is that for every dollar my boys make 20 years from now, they are going to have to pay 89 cents of it to Washington, DC; 89 cents out of every dollar they earn will go to Washington, DC, in Federal taxes.

And yet these same people who are supposedly defenders of children are saying they are going to pay for this kiddie care, this new program, by raising taxes more. I guess the past is prologue. Tax and spend, tax and spend, tax and spend, tax and spend. It is all they know. It is all they have ever known. It is all they will ever know.

They can wear children's ties, they can come on the floor and talk about how much they love kids, they can talk about how much they love my boys and your children and your grandchildren by starting these new programs, but the one thing they cannot do is, they cannot erase the fact that they have already bankrupted future generations, and they want to come back for more and more and more and more.

We are $5.6 trillion in debt. That is an unmistakable fact. Nobody can shake their heads on that and say it is not so, because it is. We are $5.6 trillion in debt. Democratic Senator BOB KERREY tells us our children are going to be paying 89 percent in taxes 20 years from now.

We either take care of the problem today or we selfishly leave our children with an America where it is impossible to pursue the same American dream that my parents and my grandparents left for me. My late grandfather worked through the Depression to keep his family afloat. He served in World War II, the Korean War, and gave his life so I could pursue the American dream. That is the least that I can do for my children.

STATE OF SOUTH DAKOTA IS DECLARED A MAJOR DISASTER AREA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota [Mr. THUNE] is recognized for 5 minutes.

Mr. THUNE. Mr. Speaker, the State of South Dakota has endured floods, we have endured blizzards, we have endured high winds, ice storms and power outages, and right now we are enduring all of the above simultaneously. It is one of the most savage and bizarre examples of bad weather that our State has ever seen, and yesterday the President declared South Dakota a disaster area.

I think everybody at home would agree with that declaration. In fact, it makes official what we in South Dakota have known for a good long time, and that is that we are facing an enormous disaster.

Now our State is eligible for individual assistance; 44 of the 66 counties are eligible for public assistance, as well. Through all this, the people in our great State of South Dakota have shown themselves to be loyal, hardy, generous, and courageous. I think it speaks well to the pioneer stock from which we come, the spirit that they have shown, neighbor helping neighbor.

I have been in my State and had the opportunity to see firsthand the devastation that has been wreaked by these storms. The city of Watertown, 50,000 people evacuated. Many homes will not receive power. The power has been shut off and the utilities have been shut off. They may not receive water for 6 weeks time.

Little town of Leola, SD, power went out on Sunday. They have been without heat and water for 2 days and they have had to rely upon each other. Each morning they wake up praying for heat while they face another day of cold.

We have seen repeated examples, countless examples throughout our State. The little town of Lemmon, which received 24 inches of snow, and with the snow and the winds, 60-mile-an-hour winds on Saturday, lost all their power and the only way they could get around was with 4-wheel-drives.

We have seen the damage to the infrastructure in our State, the road system. Nineteen State Highways are underwater. U.S. Highway 281 in the Redfield area is under 12 feet of water.

So we have some enormous challenges when it comes to repairing the damage that has been done to our infrastructure, our agricultural producers, who have already received and experienced unprecedented damages to their livestock herds. The question of spring planting is in serious doubt. Our ranchers who have gone through the blizzards of winter, now as calving season comes around have to deal with the spring weather and trying to get their calf crop to come through in spite of the conditions that surround them.

These are the types of things that have been happening in my State. In the last 2 weeks I have had the opportunity to view it firsthand, and I want to credit the administration, the President, for recognizing the needs, for declaring South Dakota, the Dakotas, a disaster area. I would hope that as we can make our way through all this, that as we look to each other, and we have seen countless examples of the Dakota experience, it has been no aberration.

I recall my father telling me as he grew up in the Depression-era days of the 1930's what it was like to have to undergo extreme weather circumstances that strike at the very heart of our livelihood. So in this particular year we hope that we can get through it. We appreciate very much those from around our country who have recognized the need, have been there to help.

I have invited the Secretary of Transportation to come out to look at our roads and our bridges, our infrastructure, and to see the destruction firsthand. The severity of the problem cannot be contained, and we have asked the rest of the Nation to recognize the need that is in my State of South Dakota, in North Dakota, surrounding States, and to help us find the resources that we need to get through this.

As we do that, I am certainly hopeful that as we go through the process of balancing the budget, and frankly, Mr. Speaker, if we were able to balance our budget, we would have about $245 billion more in interest payments that we make that we could dedicate to this important cause. So we recognize the need for fiscal responsibility in this country but also the need to help those who cannot help themselves.

We are very grateful that our Nation has banded together and has recognized the extreme circumstances and weather conditions we are having in South Dakota, and I want to credit my people, the folks in my home State who have weathered this storm, continuing to show the incredible spirit, the incredible fortitude for which we are known and for which we continue to survive.

Mr. Speaker, the great State of South Dakota has endured floods, we've endured blizzards, we're endured high winds, ice storms, and power outages. But right now we're enduring all of the above simultaneously. It's one of the most savage and bizarre example of bad weather seen in South Dakota in the last 500 years.

Yesterday, the President declared the State a major disaster. Everyone at home agrees wholeheartedly with that assessment and I would like to thank the President at this time for recognizing the scope and severity of our problem. South Dakota is now eligible for individual assistance. The President has also made 44 of 66 counties immediately eligible for public assistance, all of which is greatly needed.

I'd like to take the next few minutes to explain why. I'd also like to take this opportunity to show the Nation the kind of people I'm here to represent.

Throughout this disaster the people of South Dakota have shown themselves to be loyal, hardy, generous, and courageous. They've shown the mettle of the pioneers stock we spring from. They've shown that it takes more than blinding snow, rising water, snapped power poles, and freezing temperature to keep neighbors from helping neighbors. So for the next few minutes, I'd like to show you all the devastation Mother Nature is creating in my State, and the courage South Dakotans are using to face her.

Places I've been and people I have seen—Mr. Speaker, on the recent 2-week break I had an opportunity to witness firsthand the efforts South Dakotans were making in anticipation of the flood. Thanks to the spirit and fortitude of our State's leaders, important efforts to prevent serious damage were initiated weeks in advance of the terrible recent events. The Governor has done an excellent job of coordinating State, Federal, and local efforts to control flooding. Unfortunately, some of these efforts failed.

James River Valley—including dikes built in the Aberdeen area; Huron; Mitchell; Yankton. In Mitchell, I visited with Shawn and Darcie Winthers who run Sioxland Camp. And their father Don McLean. High winds had blown the roof off of a dormitory there. In Pierre, I met with city officials and with the Southeast Pierre Homeowners Association. Approximately 200 homes have experienced flooding conditions. The city has worked with the Army Corps of Engineers to build a dyke to help divert an overflow of water out of this neighborhood. Watertown—spoke with Mayor Brenda Barger today where at one point 5,000 people were forced to evacuate their homes and take up temporary residence with friends, in hotels, and in even in a public exposition building.

PEOPLE PERSEVERING

Leola—The power went out Sunday at 1:00 a.m. They lost water Sunday night at 8:30 p.m. They've been without heat and water for 2 days. They wear stocking caps, mittens, and winter jackets to bed as they try to fall asleep under the bulk of six or seven blankets. The temperature fell to 15 below last night. Every morning they wake up, praying for heat while they face another day of cold.

During the day, people gather at the local fire hall where a generator provides the communities only heat. They're pumping water from the fire truck to take care of basic needs. The local cafe is staying open during this disaster so people can eat. The cafe has a propane grill and it's the only place in town where you can get a warm meal and a hot cup of coffee.

Watertown—5,000 people were forced to evacuate their homes in the midst of a raging blizzard. It will be days or even weeks before people are able to get into their homes, look at the damage, dry things out, make repairs, and move back in. In the meantime, they're living with friends, relatives, in hotels, and in shelters set up in the local county ag building.

Lemmon—In Lemmon, SD, they got 24 inches of snow and had 60-mile-an-hour winds on Saturday. That's also the day they lost their power. Volunteers used snowmobiles, pay loaders, and four wheel drive vehicles to move the snow and move people trapped in freezing homes.

The mayor told me they came to the home of an 89-year-old woman. They asked her if she could ride a snowmobile. She said sure she could ride a snowmobile, though it would be the first time she'd ever done it. People were taken to the nursing home and the local fire hall where a generator created heat. Others were taken to private homes with wood-burning stoves. Neighbors took in neighbors to make sure everyone had shelter from the storm.

TRANSPORTATION QUICK FACTS

Yesterday, I invited USDOT Secretary Rodney Slater to survey damage to the State's transportation infrastructure. He has yet to get a response from Slater, but is hopeful that the Secretary will take him up on the invitation.

Highways—As of this morning, 19 sections of State and U.S. highways were deemed impassable and closed to traffic. Several other roads have water flowing over their surface. One stretch of U.S. 281 just south of Redfield near Tulare was under 12 feet of water.

SDDOT expects to give notice of intent to apply for Emergency Relief [ER] funds this week. Inspections by FHWA, SDDOT officials will get an assessment of damages to roads and bridges. Those surveys will be turned in to FHWA to determine the level of assistance. ER funds can be used for Federal aid highways and bridges. FEMA funds can be used for local roads and bridges that receive no Federal funds.

In Redfield, flooding has restricted access from many directions. A portion of U.S. 281 south of the town is under 12 feet of water.

The winter blizzards escalated fiscal year 1997 highway maintenance costs to $25.7 million. The State budgeted $5.2 million. FEMA thus far has provided $3 million to the State. The proposed temporary increase to the State gas tax would have generated between $15 and $16 million.

Rail, Air and Transit—DM&E and several areas of the State-owned line have been washed out by flooding. In Sioux City, State-owned line used by BNSF, 900 feet of track was buried by 20 feet of soil that slid off of a bluff. In 1993, $1.6 million was provided for rail assistance as a result of flooding. Figures for this year are not yet available. Several small airports may need assistance as a result of flooding and excessively cold temperatures.

AGRICULTURE

Ranchers are braced to take some heavy livestock losses, especially among newborn calves. This latest blizzard hit right at calving time.

Longtime rancher, Bud Jones from Caputa, SD, said he has lost an undetermined number of new calves when winds—estimated at 50 to 70 mph from Wyoming across western South Dakota—chilled calves already soaked by rain that turned to heavy wet snow.

On top of that, more than 20 yearlings died trapped in a deep snow drift along South Dakota Highway 44. That's just what shows sticking out of the snow. It could be a week or more before the drift melts and reveals what lies buried underneath.

Bitter winds have compelled some cattle to quit good shelter and drift into water holes to stand in deep slush and suffer hypothermia.

It is too early to estimate the effects this will have on spring planting, but it is safe to say our spring crops are in jeopardy—it is too wet to plant anything.

ELECTRICITY

This disaster is a giant disaster made up of many smaller catastrophes.

The storm started with rain on April 4. Late on the 5th that rain started to freeze. Then the wind started gusting to over 60 miles per hour. Mother Nature whipped the frozen lines until they swayed and snapped and poles broke in half and toppled.

To make matters worse, a blizzard blew in after the rain. It wasn't safe to stay home because there was no heat. It wasn't safe to go out because of zero visibility on every road and highway. Then the flood waters started to rise.

Given all these problems it's impossible to say when power may be restored again.

Dedication and perseverance are the only tools that work under the circumstances. The downed lines are mired in snow, mud, and water. Only four wheel drive vehicles can navigate the mud.

Some people may be waiting in the cold until this weekend before temperatures are restored. Thousand of people are waiting by their grandparents old kerosene lamps for the return of heat and light. Approximately 1,500 people lost power in the community of Wakpala; 25 South Dakotans lost electricity in the city of Cam-Wal; and 700 people were without power in the town of Long Lake.

These are just South Dakota rural electric customers. All across the State, South Dakotans are making do, waiting for the power to be restored.

CLOSING

Although flood waters continue to saturate our State with misery, our citizens are holding together. The Dakota spirit is no aberration. Though frigid and soaked to the bone it is unmistakably clear during these trying times. Every day neighbor helping neighbor endure hardship—neither knowing which needs help the most.

I think of the stories I've been told about the Dirty Thirties—about the devastation the drought unleashed upon the Midwest. People who had lost all hope found that it was faith that would get them through. Many South Dakotans find themselves in similar situations today. They are finding their faith provides the only solid foundation to be found.

I have witnessed the destruction first hand. I have observed children and grandparents working side-by-side attempting to restrain the forces of nature. They are doing everything they can, but those efforts haven't always been enough. The severity of the problem cannot be contained. That is why South Dakota and our neighbors must come to the rest of the Nation—to ask them to do for us, that which we cannot do for ourselves. It is our job here in Washington to look at our resources and find a way to meet those most urgent needs.

The Federal Government has limited resources. I am convinced we can find the means to address our most urgent spending priorities.

FEDERAL GOVERNMENT NEEDS TO BALANCE ITS BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, yesterday I drove over to Cousin Artie and Rebecca's house to pick up my daughter Anne, who had walked to their house after ballet. Anne's first cousin and best friend is Arabella Hadwin. And Arabella came out; she was wearing an Indian costume. Kind of leather. Actually, fake leather with frills on it. It had Pocahontas's picture on it.

So I said to 6-year-old Arabella, "Arabella, do you know today is Pocahontas's wedding day?"

□ 1815

She looked at me, and I could tell in that little 6-year-old mind she was thinking, and she said, "She's dead." And I said, "Well, you're right, Pocahontas is dead, but this is the day that she got married on a long, long time ago, many years ago." Then Arabella said, "Oh, you mean she got married on Monday?" And I said, "Well, no, she really got married on April 7."

But it is funny how kids interpret things when we talk to them. You never quite know when they are listening or how they are listening and so forth. But I enjoy talking to children, I enjoy talking to small kids and to seniors in high school and college kids and so forth. One of the things I often ask small kids in schools, "How many of you have an allowance?" Inevitably half the class has an allowance. "What do you make?" Two or three dollars a week. Some of them make $5. Some of them are well-heeled, I guess, they make $10 a week. I said, "Let me ask you this. You make $10 a week, how much do you spend?" And they always kind of giggle, "Well, I spend a little bit of it but my dad and mom like me to save some so I don't spend all of it."

"Let me ask you this. You make $2 a week; do you ever spend $2.10?" They look at me like I am crazy. "Do you ever spend $2.25?" "No." "Do you ever spend $2.50?" At this point they know I am crazy, and they are wondering what the heck is this guy talking about. I say, I am your Member of the U.S. Congress. Did you know that the U.S. Congress also has an allowance? We call it tax revenue, and we get a certain amount a year; sometimes it is about $1.3 trillion. But do you know what we do? We grownups, we professional men and women who are paid to represent you and spend your money, we spend more of that allowance than we make. You send us $1.3 trillion and we spend $1.5 trillion. It seems to be the case, Democrats or Republicans, we overspend.

These kids cannot believe it. These kids, who have such innocent faces and such belief in mom and dad and the United States of America look at me in disbelief. Why would you spend more money than you bring in? Why would you spend more than your allowance? How can you spend that? And then we talk about the national debt and it is a very real problem. It is not something that, well, this is an amusing story to talk about my niece Arabella. This is truth. This is reality. When Members of Congress go out and they try to be the big mom or dad spending all the money, expanding social programs, talking about we need this for the United States of America, they are not spending their own money, they are spending little children's money. I see today in the gallery some children. Guess whose tab they will be picking up in the future?

Our debt, Mr. Speaker, right now is $5.1 trillion. Let me give the definition of $1 trillion. Shaq, the famous basketball player, Shaquille O'Neal, makes $30 million a year. Do you know how many years he would have to play to make $1 trillion? Thirty-three thousand years, just to make $1 trillion.

Another definition. If you have a boxcar full of thousands of dollar bills crammed to the top, you have $65 million in the boxcar. Do you know how long the train would have to be, Mr. Speaker, to get to $1 trillion? The train, with boxcars of $65 million each, would have to be 240 miles long to get to $1 trillion. And we, the big spenders in Congress, have left a debt, are looking at a debt right now of $5.1 trillion. Yet the sad thing is we still have deficit spending. We still are spending more of our allowance money than we bring in. The children of America will be picking up this money. It will take years and years to pay down this debt.

But the first step is to balance the budget. We have not had a balanced budget since 1969, which, as you remember, was when Woodstock was the big thing and everybody wanted to get out of Vietnam and Richard Nixon was President and the "Mod Squad" was on TV. That is how long it has been, Mr.

Speaker. The time is now to stop this. This Congress, this year, let us pass a balanced budget and get on to save the United States of America for our children.

TAX EQUITY FOR INDIVIDUALS AND CORPORATIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, today is April 8. We are just 1 week away from April 15, the tax day that is dreaded by most Americans. In the past, my colleagues on the other side have talked about taxes and the need to lower taxes for American families. I am one Democrat on this side of the aisle that agrees with those who want to lower taxes for American families. I agree with any of my colleagues, whether they are Republicans or Democrats, if they want to lower taxes for families and for individuals. We need to lower taxes for families and individuals in the United States. At the same time, we need to have a fair taxation policy which balances off our revenue-gathering operation by raising the taxes on corporations that have had their taxes lowered a great deal.

The problem is that we are taxing families and individuals too harshly. Families and individuals are paying too much because corporations are paying too little. We need to maintain certain services. We need to maintain certain functions of Government. I am all in favor of downsizing Government, I am in favor of Government getting smaller, but there are certain basics that must be paid for and we must tax in order to do that. So let us not oversimplify and determine that we can lower taxes all over the place We need to balance off our revenue-gathering operation by guaranteeing that corporations pay their fair share.

For example, in 1943, and I have said this before, corporations were paying almost 40 percent of the total income tax burden in this country, in 1943. Twenty-seven percent of the total income tax burden in 1943 was paid by individuals and families. That is quite a difference. Corporations, as we see, were paying the greater amount. In 1983, however, the amount of taxes being paid by corporations under Ronald Reagan's administration fell to as low as 6 percent, from 1943's high of 40 percent to 6 percent in 1983. That is what happened to corporations in terms of their share of the income tax. At the same time that corporations fell, went down from this 40 to 6 percent, individual and family taxes rose from 27 to 48 percent. There was a swindle there somewhere that the American people really were not aware of. Corporations went as low as 6 percent. Today corporations are still paying only 11 percent of the total tax burden.

Individuals went as high as 48 percent in 1983. Individuals and family taxes are still up there at 45 percent. We have a gross inequity. The share of taxes paid by corporations is only 11 percent while the share paid by individuals and families is over four times that amount, 45 percent.

U.S. tax policy must be reset. Corporations must pay their fair share. And the special interest tax loopholes must be closed. In America, the richest country in the world, it is unspeakable that our families are forced to bear the brunt of the burden of taxation.

What we need to take a close look at is how corporations got from 40 percent of the income tax burden down to 6 percent, and now are at 8 percent. What happened? Public policy made by Members of Congress. The Members of Congress did that to individuals and to families. They raised the taxes on individuals and families while they were lowering the taxes on corporations.

Some people, of course, will contend that corporations should not pay any taxes or that rich people should not pay taxes greater than poor people or corporations or entities which generate profits for rich people; therefore, we are only persecuting the rich. Well, I am not going to get into all the theories of taxation, but I think that those who have the most benefit the most from Government, those that have the most gain the most from our military, our Army, our Navy, our Marines. It is all there to defend what we have, and those that have the most to defend certainly ought not be reluctant to pay a greater share of the tax burden: Those who own the most, those who have most at stake.

If our society were to collapse, let us say we are not facing any threat from any outside force, we do not need the Army, the Navy, and the Air Force to protect us, the danger is not there. The danger may come from somewhere within. If the society structure collapsed, if there were no law and order, no rules and regulations, then who would lose the most? The people who are the greatest beneficiaries of law and order, of Government, of codes, of laws, they are the ones who are the richest, they would lose the most. This is not a far-fetched example or not a far-fetched statement. Take a look at the Soviet Union if you want to see a failed society. In modern times you had a society totally collapse, not as a result of any outside force. The Soviet Union was not conquered by an outside power. The Soviet Union collapsed from within. And the total of that society, the great majority of the people were losers as a result of a collapse of what they had and the failure to rebuild anything else even until today.

One of the big problems in the Soviet Union right now is that they cannot collect taxes. The big problem right now is that the Government makes a budget, the Government makes policies, and the Government cannot pay the pensions of the people who deserve pensions, the old folks who I guess they would be receiving it in the Soviet Union, it is not the Soviet Union now, it is Russia; in Russia they will be receiving the equivalent of Social Security. They do not make the Social Security payments on time. In fact, they are 3 and 4 months behind on making Social Security payments and pensions to workers and other equivalents of Social Security payments. The amounts are very small, so you have people literally starve as a result of not being able to receive their money that is due them from the government because the government is collapsed.

Despite the fact that they have a semblance of a government, one of the big things they have not been able to do is to collect taxes. The reason they cannot pay workers who have government jobs on time, they cannot pay the army, even their military is paid late, they cannot pay the people who are due their pensions, they cannot maintain their public facilities like hospitals, because in the collapse of the society, they have not been able to get back to the point where they can generate enough revenue to pay for the cost of running the society. It would be a terrible thing if in America we suddenly could not collect taxes, if people just decided they are not going to pay their taxes, the government cannot go and collect taxes. That would be a terrible thing, I think we would all agree.

I suppose that most of the people listening to me think that is an absurd notion. How could that ever happen? Americans are obedient people who care about their government and they care about the law. We do not care about the IRS. Nobody likes to pay taxes, nobody is going to pretend that they enjoy paying taxes, but by and large Americans pay their taxes, especially middle-class Americans, especially low-income Americans. I would suggest to anybody who wants to see who the IRS works with most, go to any tax office in the area where people have been summoned down, summoned down to negotiate or discuss or to be told about the need for them to pay some more taxes, something was wrong or something is being challenged. I have been to those offices a few times and I am always surprised that they are filled up with people who are obviously poor. The poorest people are always in the Internal Revenue offices waiting to have something ajusted, waiting to have the summons explained to them, and they usually end up having to find some way to pay the small amount of taxes that they owe, relatively speaking, sometimes quite small in terms of our global economy, in terms of the income made by middle-class people, but it is a large amount for a poor person to have to pay; but they are there, and they comply with the law. The middle class complies with the law.

I do not know which President said it, whether it was Nixon or Reagan, but there was a memo issued by one of the Presidents at the time when the Internal Revenue was having some problems with the staff and they wanted to show that they did not need more staff. I think, they said that Internal Revenue should not waste so much time with corporations and the very rich.

□ 1830

They required a lot of time. You have to negotiate with them. You have to chase them down. You have to figure out very complex sets of books and records.

They said, "Go after the middle class. You ought to improve tax collection, going to bring the money in. Go after the middle class. They are obedient, they are compliant, they are patriotic."

So the middle class pays its taxes, and I am sure that the same thing applies to poor people.

You know, my father very seldom had to pay taxes. He always filed the form though. My father never worked on the job where he earned more than minimum wage, and he had eight children. So eight children and the deductions for that plus minimum wage, and often he was laid off during the year. It was a very difficult life, I assure you. Minimum wage at that time was quite low and still is relatively speaking. So we never had to pay taxes. We had to file a form. He was always terrified to make certain that the form got filed on time.

The law impresses poor people, uneducated people, a great deal. They do not want to disobey the law no matter what the stereotypes might lead you to believe. The people who have most respect for the law, and there is fear involved in respect too, you know, are the poorest people. So they never disobey. If you go to one of those tax offices where people are sitting waiting to deal with their tax problems, you will see not the wretched of the Earth, but the anxious of the Earth. Some of the most anxious people in our society will be there and they are not middle-class professionals and they are not rich people, but they are poor people.

So it is a serious matter. April 15, a serious matter in 80 percent of the American households, taken very seriously.

I am sure that any American citizen would be appalled at the notion that there are certain people who blatantly refuse to pay their taxes, certain powerful people in powerful places in powerful institutions who just refuse to pay their taxes. They disobey the Internal Revenue Code. I think most Americans would be appalled if I said that they do it and nobody challenges them. IRS, that pursues some of my poor constituents for a few hundred dollars, has not bothered to pursue certain corporations that blatantly refuse to obey the Tax Code.

What am I talking about? Well, I was here a few weeks ago to introduce a letter that I had written to the Internal Revenue Commissioner. I wrote this letter and I circulated it and I talked to my colleagues about it, and I think we have about 30 Members of Congress who have signed this letter to the Internal Revenue Commissioner, the Honorable Margaret Milner Richardson.

Now I heard Ms. Richardson is leaving after the tax season is over. She is resigning, but she is still there. So we addressed the letter to Commissioner Richardson.

Now that was February 12, 1997. You know March 12 has come and gone. That is a month. Now April 12 is approaching. That will be 2 months, and the Commissioner of Internal Revenue Service has not bothered to answer 30 Members of Congress. We sent her a letter which reads as follows, and I will just tell you what it is about. It is about sections 531 to 537 of the Internal Revenue Code. We want to know from the Commissioner of Internal Revenue, who will not let most Americans get away with more than a single dime out there—they will chase down people who owe taxes, and that is the way it should be. I mean we got a law, obey the law. It generates the revenue that runs the country. Nobody wants to be in a position where we contribute to the collapse of our country by disobeying the laws and having widespread disobedience that leads to the failure to collect the revenue we need to run the country.

So why does Commissioner Richardson allow certain corporations to disobey the law? Section 531 to 537, Internal Revenue Code, says simply that corporations in America are not allowed to buy back their own stock except for certain stipulated purposes. If they do not use it for reinvestment, to give stock options and certain things, they just buy back their stock and store it away, hoard it. It is illegal. The corporations are supposed to distribute the dividends of their profits and not use their profits to buy their own stock.

Now, they say that this originated because there were certain closely held corporations, family corporations, and they were avoiding the payment of taxes by buying back their own stock. That was where the idea originated, and for that reason the notion has been generated that this only applies to family corporations, closely held corporations, but it does not.

Congress made that clear in 1984. In 1984 Congress wrote in a statement in the Internal Revenue Code which says that this provision applies to all corporations. This provision applies to all corporations. Section 531 and 537 of the Internal Revenue Code applies to all corporations. It is very interesting that Congress said you cannot do this, it is against the law. But they did not say anybody would be put in jail. After all, you are dealing with America's powerful corporations, I guess, and they are not like the little guy out there who can go to jail for not paying his taxes. Corporations will not be put in jail; there is no penalty written into law. The law says they will be penalized though; the penalty will be a stiff one: 39.6 percent of the amount that you illegally buy back you must pay to the Government. That is a pretty stiff penalty; 39.6 percent is the penalty for buying back your own stock illegally.

Have they invoked that penalty? It could be that they have and we know nothing about it because the negotiations and the workings of the Internal Revenue Service are secret. They are confidential. So there may be corporations that have violated this law and been penalized and we do not know about it.

But we find a pattern, a pattern in corporate America, which says to us that they are not being penalized because many, many large corporations are buying back their own stock illegally instead of distributing them as dividends to the shareholders. They are buying back their own stock. The pattern is such that we know they are not being penalized. Why would they ask for a 39.6-percent penalty?

So we asked the Commissioner of Internal Revenue to tell us what is happening with section 531, 537.

Dear Commissioner Richardson: My colleagues in Congress who have joined me in signing this letter are very much concerned about a major loss of Federal tax revenues resulting from the failure of the Internal Revenue Service to apply against giant corporations the unreasonable accumulation of surplus provisions of sections 531 to 537 of the Internal Revenue Code. We believe that the IRS could and should immediately assess section 531 penalties on the more than $275 billion that America's largest corporations have spent to buy their own stock in 1994, 1995, and 1996. These penalties at 39.6 percent would total over $100 billion. Total buybacks by corporations are reported to have risen from $20 to $35 billion per year in 1990 to 1993 to $70 billion a year in 1994, just under $100 billion in 1995, and probably over $110 billion in 1996.

Stock buybacks by America's largest public corporations are all the rage these days according to the financial media. These enormous buybacks demonstrate that America's largest corporations are accumulating profits and earned surplus far beyond the reasonable needs of their businesses and in virtually every case they are paying dividends that are a small fraction of their earnings, often less than 20 percent.

For example, in the 2 years, 1955 to 1956, IBM earned about $9 billion or $21 plus per share. Now this amount is paid out in common dividends of only $1.4 billion, which is $2.80 per share instead of $21 per share. All of the rest of what IBM profited and then some went to buy its own stock back. In 1995, $5.5 billion was bought back, $4.6 billion common, and $870 million for preferred stock, and $2.3 billion in the first half of 1996, with a 2-year total probably of $10 to $11 billion. And it is true IBM has a multibillion dollar capital spending program, but this is much more than amply covered by its huge additional cash-flow of $10 to $12 billion for that same 2 years from sale of capital assets and from items that are deducted on the earnings statement but do not involve cash outlays, principal depreciation, amortization, and deferral of income taxes.

Now if you are getting bored then I can understand that, but we are talking to the Commissioner of Internal Revenue, and these are statements that are simplified about as much as you can simplify it in order to explain what we are talking about, and we also at the same time have to make the Commissioner of Internal Revenue understand we are serious, we have done our home work, we have done the research. This is part of a larger program of the Progressive Caucus and the Congressional Black Caucus of trying to pinpoint corporate welfare.

We have a lot of talk about welfare for poor children and welfare for poor mothers, and we have been outraged at the pennies that they might have misspent and we have done something about that. A lot of people feel happy about it. A lot of people out there are suffering needlessly because we recklessly wiped out the entitlement for needy children in the process, and I will not go into that in great detail. Let us just talk about what corporations are getting away with, what corporate welfare is all about, and this is just one piece in the corporate welfare setup.

This is the most outrageous piece because this is a situation where you do not need any new laws. Congress does not have to go back and close some loopholes that it made. No, the law already says they have to pay a penalty if they violate the law, but they are not doing that.

So we asked the Internal Revenue Commissioner, getting back to the letter, and I quote the letter:

We ask you this: Is there not here and in dozens of similar cases a clear-cut case for immediate assessment of the 39.6-percent penalty on all amounts used for stock buybacks? Is there any need to get into an elaborate discussion of reasonable needs of businesses as envisioned by sections 533 and 537? To be specific, these corporations are paying very small dividends amounting to a small fraction of their earnings. Their capital spending and other cash requirements are amply covered by their nonearnings cash flow. They are spending a substantial part of their earnings, in some cases all or more than all, to buy back their own stock. Therefore, since prima facie, the surplus they have used to buy their own stock has been accumulated beyond the reasonable needs of the business, the 39.6-percent penalty should be assessed. Our study of earnings statements, cash-flow statements and balance sheets leads us to conclude that in many cases the 39.6-percent penalty might reasonably be applied to even larger amounts than the stock buyback amounts, but that would trigger an extended discussion of needs of business and other considerations.

It seems to us that our suggestion has the virtue of elegant simplicity. You spend a billion dollars on stock buybacks, your penalty is 39.6 percent or $396 million. It is that simple. We expect the Commissioner could do this in a 1-page notice or a 2-page notice. It is up to the businesses to prove that they have not violated sections 531 to 537. We suggest penalties for 1994 to 1996 because it was during this period that public company stock buybacks exploded to 12 figure totals. You know, in 1984 the law was amended and made clear that you cannot do this. So we had a long period where corporations—I am sure they have the best legal advice in the world—when they looked at the law and then decided we better not touch this—and that is true now of many, many corporations. Many of the Fortune 500 are not buying back their stock, and many corporations are not buying back their stock.

The question is, If it is such a lucrative, desirable venture for some, why have they not all done it and why are they not all doing it? My speculated answer is that their legal advisers tell them it is against the law, you are going to be penalized, and they are watching to see over the years as they go by whether any of their fellow corporations, and some cases they are competitors, are going to be penalized. There is a great, great benefit to the corporation in accumulating vast hordes of cash.

□ 1845

One of the things they do, that may also be illegal, because in the process of buying back their own stock, one could argue that they are manipulating the market. One could argue that when you buy back your own stock, you are raising the price, keeping the price artificially high, and therefore you are manipulating the market, but I will not get into that. I will leave that for others.

Mr. Speaker, to get back to the letter to the Commissioner, a letter to the Commissioner of the Internal Revenue Service, we suggest penalties for 1994 to 1996, because it was during this period that public company stock buybacks exploded to 12-figure totals. In addition, we are not clear as to whether the statute of limitations would bar these penalties for 1993 and earlier years. Even if it does, we suspect that many 1993 and earlier corporate returns are still open while other issues are being discussed and negotiated. In this connection we ask that you take note of the fact that while the dramatic surge in stock buy-backs began in late 1994, some very large amounts were spent many years earlier.

Several giant corporations have been buying back their stocks for 10 years or more, over the last 10 years or more. As you know, the unreasonable accumulation of service penalties provisions have been in the income tax law since it was adopted in 1913. It was first put into law in 1913. Despite the fact that the statute as originally enacted, and reenacted a couple of dozen times in successive revenue acts, made absolutely no distinction between publicly owned and private companies, the practice and the general understanding was otherwise.

As Mr. Justice Harlan put it in 1969, paraphrasing Bittker and Eustice, and I quote from the decision, in practice, the provisions are applied only to closely held corporations controlled by relatively few shareholders. This was a decision that was rendered by a regional court way back in 1969, which noted that in practice that is what happened. However, this de facto moratorium, and that decision was never challenged in the Supreme Court, by the way, but it is of no consequence now because this de facto moratorium on applications to public companies ended abruptly in 1985.

Congress, in the Revenue Act of 1984, amended the statute by adding section 532(c), and I quote section 532(c), which was added in 1984 by this body. Quote, the application of this part to a corporation shall be determined without regard to the number of shareholders of such corporation, end of quote.

Please understand, Commissioner, that this is a simple request from elected representatives of the American people that your office immediately take steps to enforce the law. We look forward to an early response from the Internal Revenue Service. And it is signed by 30 Members of Congress.

Now, if the Internal Revenue Service Commissioner feels she can do nothing to enforce the law, the least she can do is respond to the Members of Congress and say, "I cannot do anything to enforce the law."

We have gotten absolutely no response, 30 Members of Congress, in 2 months. We have gotten absolutely no response. We want to put the Commissioner on notice that we will not accept that, and I want to submit this letter again in its entirety for the RECORD:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 1997.

Hon. MARGARET MILNER RICHARDSON,
Commissioner,
Internal Revenue Service,
Washington, DC.

DEAR COMMISSIONER RICHARDSON: My colleagues in Congress who have joined me in signing this letter are very much concerned about a major loss of federal tax revenue resulting from the failure of the Internal Revenue Service to apply against giant corporations the unreasonable-accumulation-of-surplus provisions of sections 531–537 of the Internal Revenue Code.

We believe that the IRS could—and should—immediately assess section 531 penalties on the more than $275 billion that America's largest corporations have spent to buy their own stock in 1994, 1995, and 1996. These penalties at 39.6% would total over 100 billion dollars. Stock buybacks by America's great public corporations are all the rage these days, according to the financial media. Total buybacks by corporations are reported to have risen from $20–35 billion per year in 1990–93 to $70 billion in 1994, just under $100 billion in 1995 and probably over $110 billion in 1996.

These enormous buybacks demonstrate clearly that America's largest corporations are accumulating profits and earned surplus far beyond the reasonable needs of their businesses, and in virtually every case they are paying dividends that are a very small fraction of their earnings, often less than 20%. For example, in the two years 1955–56, IBM earned about $9 billion, or $21.00 plus per share. Of this amount, it paid out common dividends of only about $1.4 billion (2.80 per share). All of the rest—and then some—went to buy its own stock, $5.5 billion in 1995 ($4.6 billion common and $870 million Preferred) and $2.3 billion in the first half of 1996, with the two-year total probably $10–11 billion. (True, IBM has a multi-billion dollar capital spending program, but this is much more than amply covered by its huge additional cash flow of $10–12 billion for the two years, from sale of capital assets and from items that are deducted on the earnings statement but do not involve cash outlays, principally depreciation, amortization and deferral of income taxes.)

We ask you this. Is there not here, and in dozens of similar cases, a clear cut case for immediate assessment of the 39.6% penalty on all amounts used for stock buybacks? Is there any need to get into an elaborate discussion of reasonable needs of the business as envisioned by sections 533 and 537?

To be specific: (1) These corporations are paying very small dividends, amounting to a small fraction of their earnings. (2) Their capital spending and other cash requirements are amply covered by their non-earnings cash flow. (3) They are spending a substantial part of their earnings (in some cases, all, or more than all) to buy their own stock.

Therefore, since prima facie the surplus they have used to buy their own stock has been accumulated beyond the reasonable needs of the business, the 39.6% penalty should be assessed. Our study of earnings statements, cash flow statements, and balance sheets leads us to conclude that in many cases the 39.6% penalty might reasonably be applied to even larger amounts than the stock buyback amounts. But that would trigger an extended discussion of needs of the business and other considerations.

It seems to us that our suggestion has the virtue of elegant simplicity: "You spent a billion dollars on stock buybacks. Your penalty is 39.6% or $396 million." We suspect that the Commissioner could do this in a one-page notice—or two pages at most.

We suggest penalties for 1994–96 because it was during this period that public company stock buybacks exploded to 12-figure totals. In addition, we are not clear as to whether the statute of limitations would bar these penalties for 1993 and earlier years. Even if it does, we suspect that many 1993-and-earlier corporate returns are still open while other issues are being discussed and negotiated. In this connection, we ask you to take note of the fact that, while the dramatic surge in stock buybacks began in late 1994, some very large amounts were spent many years earlier.

Several giant corporations have been buying back their stock for ten years or more.

As you know, the unreasonable-accumulation-of-surplus penalty provisions have been in the income tax law since it was adopted in 1913. Despite the fact that the statute as originally enacted (and re-enacted a couple of dozen times in successive revenue acts) made absolutely no distinction between publicly-owned and private companies, the practice and the general understanding was otherwise. As Mr. Justice Harlan put it in 1969, quoting (or paraphrasing) Bittker and Eustice, "In practice, the provisions are applied only to closely-held corporations, controlled by relatively few shareholders." (U.S. v Donruss, 393 U.S. 297).

However, this de facto moratorium on application to public companies ended abruptly in 1985. Congress in the Revenue Act of 1984 amended the statute by adding section 532(c), "The application of this part to a corporation shall be determined without regard to the number of shareholders of such corporation."

Please understand, Commissioner, that this is a simple request from elected representatives of the American people that your office immediately take steps to enforce the law.

We look forward to an early response from the Internal Revenue Service.

Sincerely Yours,

MAJOR R. OWENS,
Member of Congress.

And the following additional Members of Congress:

George E. Brown, Bernie Sanders, Donald Payne, Peter A. DeFazio, Maurice Hinchey, Matthew g. Martinez, Sheila Jackson-Lee, Juanita Millender McDonald, Lynn C. Woolsey, Eleanor Holmes Norton, Maxine Waters, Corrine Brown, Dennis J. Kucinich, Carrie R. Meek, Cynthia McKinney, John Lewis, John Conyers, Jr., Lane Evans, James E. Clyburn, Melvin Watt, Ronald V. Dellums, Bennie Thompson, Patsy T. Mink, Alcee L. Hastings, Earl F. Hilliard, Elijah Cummings, Danny K. Davis, Chaka Fattah, Louis Stokes, Eni Faleomavaega.

Mr. Speaker, I want to go a little further today, however, than just what we did before. We submitted this letter; we submitted a "Dear Colleague" letter before; we also submitted a statement which gives all the legal background for our contention that section 531 to 537 is not being enforced. All that has gone before. Now I want to go one step further and submit for the RECORD a list of corporations that are in violation of section 531 to 537:

MANY CORPORATIONS ARE USING ACCUMULATED PROFITS TO BUY BACK STOCK RATHER THAN TO PAY DIVIDENDS TO STOCKHOLDERS

Hundreds of American corporations are using their accumulated profits, which apparently are not needed in their businesses, to buy back their shares rather than to pay dividends. It is estimated that buybacks in three years 1994, 1995 and 1996 may have totalled $300 billion or more.

Many of these corporations have issued statements indicating that the purpose of the buybacks was and is to have shares available for issuance under employee stock purchase plans, executive stock options, stockholder dividend reinvestment plans and for conversion of convertible securities. This is an appropriate and valid reason for stock buybacks, but many corporations have bought back two times, or three times, or five times as many shares as they needed for these purposes. (In one case, 16 times.)

We have not been able to find an authoritative and accurate tabulation of stock buyback activity, which is being conducted by hundreds of publicly-owned American corporations. Reports in the financial media indicate that buybacks may have totalled $300 billion or more for the three years 1994–1996.

When the total buyback amount is reduced by subtracting issuance of shares under option and other programs, it would appear that net buybacks totalled $150 billion to $250 billion in the three years 1994–96.

If the Internal Revenue Service assessed the 39.6% penalty (on accumulation of corporate profits beyond the reasonable needs of the business, as mandated by Sections 531–537 of the Internal Revenue Code) on this $150–250 billion of net buybacks, it could produce $60 billion to $100 billion of additional Federal tax revenue in 1997.

The table that follows shows buyback activity by 40 large corporations, but note that these are not the 40 largest U.S. corporations. At the top of the Fortune 500 as published in April, 1996 are a number that have apparently not bought stock back yet: Exxon (#3) AT & T (#5), Mobil (#8), Texaco (#14), and Sears (#15) for example. Ford (#2) is expected to start this year according to Wall Street rumor.

These figures were generally obtained from each corporation's published annual and quarterly earnings reports covering 1994, 1995 and 1996. Figures marked "EST." were estimated by taking the actual reported figures for 1994, 1995 and the first half or three quarters of 1996 and adding an estimate for the rest of 1996. The figures are net buybacks; that is, the dollar amount of total buybacks has been reduced by the dollar amount of shares issued in the same year under option and similar programs.

STOCK BUYBACKS BY 40 LARGE CORPORATIONS IN 3 YEARS 1994–96

	Net buybacks	IRS penalties @ 39.6 percent
General Motors [1]—initiated buybacks in 1997.		
IBM	$9.0–9.5 billion est	$3.6–3.8 billion est.
duPont	5.408 billion	2.141 billion.

STOCK BUYBACKS BY 40 LARGE CORPORATIONS IN 3 YEARS 1994–96—Continued

	Net buybacks	IRS penalties @ 39.6 percent
General Electric[2]	5.193 billion	2.056 billion.
Philip Morris	5.0–5.4 billion est	2.0–2.16 billion est.
Coca Cola[3]	3.8–4.0 billion est and an additional $6.0 billion est in 1984–93.	1.5–1.6 billion est.
Wells Fargo Bank	3.1–3.3 billion est	1.2–1.3 billion est.
BankAmerica	3.0 billion est	1.2 billion est.
Chrysler[4]	2.930 billion	1.16 million est.
Dow Chemical	2.8–3.0 billion est	1.1–1.2 billion est.
Citicorp	2.0–2.4 billion est	800–960 million est.
Intel	1.856 billion	735 million.
Merrill Lynch	2.0–2.4 billion est	800–960 million est.
Pepsico	1.4–1.7 billion est	560–680 million est.
Anheuser Busch	1.5–1.6 billion est	600–640 million est.
Merck	1.2–1.6 billion est	480–640 million est.
Disney	1.0–1.5 billion est	400–600 million est.
Microsoft[5]	1,162 billion	460 million.
Hewlett Packard	1,076 billion	426 million.
Kellogg	1.1–1.3 billion est	440–520 million est.
J.P. Morgan	1.0–1.2 billion est	400–480 million est.
3M	1.0–1.1 billion est	400–440 million est.
Reebok	1.0–1.1 billion est	400–440 million est.
American Express[6]	1.0–1.1 billion est	400–440 million est.
Amoco	800–950 million est	320–360 million est.
Bank of New York	800–900 million est	320–360 million est.
Norfolk Southern	800–900 million est	320–360 million est.
Eastman Kodak	800–900 million est	320–360 million est.
Caterpillar	700–900 million est	280–360 million est.
McDonalds	600–800 million est	240–320 million est.
Hershey	400–500 million est	160–200 million est.
Keycorp	400–500 million est	160–200 million est.
Coca Cola Enterprises	400–450 million est	160–180 million est.
Campbell Soup	296 million	117 million.
Kimberly Clark	200–300 million est	80–120 million est.
Weyerhauser	200–300 million est	80–120 million est.
Xerox	200–300 million est	80–120 million est.
Wal-Mart	200 million + est	80 million + est.
General Mills	187 million	74 million.

[1] General Motors, which had severe financial problems in the early 1990s, has recently seen some improvement. On January 27, 1997, the GM board authorized a buyback totalling $2.5 billion.

"Some analysts had expected a bigger buyback, but Mr. J. Michael Losh, [executive vice president and chief financial officer] argued that GM wanted to carry out its buyback program quickly, and that $2.5 billion was the biggest buyback it thought it could complete in 12 months or less." (Wall Street Journal, 1/29/97.)

On March 13, 1997, the Wall Street Journal reported, ". . . Mr. Losh told analysts that GM was halfway through at $2.5 billion stock repurchase program. . . . The rapid pace of the stock buyback left some speculating that GM might announce an additional buyback by the end of the year."

According to the New York Times of January 28, 1997, "While GM occasionally purchased slightly more shares in the late 1980s than it reissued, today marks the first time that GM has announced a program to buy back stock so as to reduce the number of outstanding shares, said James J. Finn, a GM spokesman. Back in the 1950s and 1960s, when GM held half the American auto market and was strongly profitable, the company chose to share the proceeds with shareholders through special dividends rather than repurchase shares.

[2] GE said, in its 1996 annual report, "Record cash flow allowed us to return more than $6 billion to shareowners. $3.1 billion dividends and $3.3 billion in the repurchase of GE stock."

[3] This company is separate from the Coca Cola Company; although Coca Cola owns 44% of its stock. This company is a major Coke bottler accounting for just over 50% of all Coke product sales in the U.S.

[4] Chrysler said, in its 1995 annual report, "We're even prouder of what we've been doing to increase the long-term value of your investment in Chrysler. After all, as one of our shareholders told us recently, 'We didn't give you our money to have you simply turn around and give it back to us.'"

[5] William H. Gates owns about 24% of Microsoft. The corporation projected future capital expenditures, as of June 30, 1996, of $293 million. Its net income was $2.2 billion in fiscal 1996 ending June 30, and $1.36 billion in the six months ending December 30, 1996. Its cash and equivalents increased from $4.75 billion on June 30, 1995 to $6.94 billion on June 30, 1996 and $9.16 billion on December 31, 1996. The last figure amounted to 71.6% of assets.

Although it did not need capital, the corporation raised $980 million in late 1996 through the sale of convertible preferred stock, and it said that "proceeds from the offering are expected to be used to repurchase common shares." Wall Street analysts expressed the view that the real purpose of the offering was to provide a dividend-paying security for some investors who want dividends, since Microsoft paid no common dividend.

[6] In its 1995 annual report, American Express said, "Some shareholders have asked why we are repurchasing shares rather than increasing our dividend as we did in years past. We believe that most shareholders prefer gains in stock price to receiving dividends because those payments are taxable annually.

We are coming close to April 15 when all Americans have to pay their taxes. It is time to take a look at which Americans, which institutions, which organizations are so powerful that they thumb their nose at the tax law. Where will this take us if other organizations and other entities decide they are just not going to obey some provision in the Tax Code?

There are those who disagree with me, of course. They have the obvious course of action, asking Congress to change the Tax Code. The Committee on Ways and Means could go to work and change the Tax Code tomorrow, next week. If the Tax Code does not make sense, that item in there which has been in there since 1913, which was revised and made clear in 1984, it does not make sense, take it out.

Do not ask the American people, 80 percent who are not part of the corporate elite, to pay their taxes, obey the Code, suffer all kinds of harassments, in their opinion, and have to deal with living up to the letter of the law, because if you have an Internal Revenue audit, they will tell you, the guy sitting there will tell you, "It is my job to enforce the law. I do not have any discretion. You can weep if you wish, but I have to enforce the law. You have to go out and get a third job? But I have to enforce the law. You cannot pay your mortgage? I am sorry, I have to enforce the law."

So what we are talking about here as we approach April 15, tax day, is a situation where there are several sets of corporations that in finite, dollar and cents terms, are not obeying the law, are not obeying the law.

IBM is a major offender. IBM is a major offender. Most of the figures I am going to quote cover 3 years, 1996, 1995, and 1994. The IBM figures that we have cover only 2 years because IBM in one year just decided they would not do it any more. They would not do it, they skipped a year, so there are no 1995 buy-backs. They resumed in 1996.

So the figures for IBM are 2-year figures. These are net figures. When I say net figures, I mean a corporation can buy back its stock for certain purposes. They can distribute stock options. There are certain things they can do. When we take away those purposes, they have an amount left that just goes into the treasury of the corporation. It is hoarded. It is hoarded money that was not distributed to the shareholders.

I also want to point out, some might have surmised that in our economy, we talk about the engine of our economy are small businesses, the engine of our economy are consumers. If the corporations distributed all of their different dividends as they should to the shareholders, you would have a much more prosperous economy. You would have more dynamism in the economy. All of those people out there who did not get back their dividends would have their dividends, and they would either reinvest them themselves or invest them in some other business or go and spend it.

Our economy is driven by consumer spending, so let us not look down our noses at consumer spending, but we suspect that people who have large amounts of dividend returns coming will then reinvest it in some way, but they will reinvest it in their own way. A monolithic corporation should not sit there and hold the money, hoard it, hold it in their treasury chest.

So IBM is a major offender. More than $9 billion, close to $10 billion, $9.9 billion in a 2-year period. That is what their net is. After you take away the legitimate buy-backs, you have almost $10 billion which yields, in terms of penalties, $3.8 billion, almost $4 billion. The penalties, when you are assessing penalties at the rate of 36.9 percent, that means a lot of money. If the law was enforced, IBM would owe $3.8 billion or more to the Government, to the taxpayers, back to the coffers.

Mr. Speaker, think of all of the things we could do in terms of building schools, putting people to work, building roads, meeting the needs of our medical community, getting a health care plan that covers everybody. Think of all of the money, if we collect the total that is presented here which totals about, conservatively, $70 billion. The conservative total here is $70 billion. If we let our imaginations go in terms of corporations that we do not have records on, we are talking about $100 billion, collecting over a 3-year period, which means if you collected them all in 1 year or 2 years you would have a windfall revenue.

We would have, according to our coffers, an unexpected amount of revenue that could be used for capital expenditures, one-time expenditures. We could take half of $70 billion and give it over to the reduction of the deficit. The deficit could be reduced by $35 billion. We take the other half and put it in projects which relate to education. Let us have a one-shot deal where we spend a capital budget expenditure that does not recur to modernize all of the schools that need to be modernized, to get rid of the lead poisoning, to get rid of the asbestos, to build new schools so that in a place like New York City and other inner-city communities you do not have crowding to the point where 90,000 children last fall had no desks, no place to sit in New York City schools, 91,000. Ninety-one thousand children had no place to sit.

This is even after we improvise and we have hallway classes and we have classes in closets, and we get rid of the library and make it a classroom, and we have classes in the cafeteria, and we have some classes, a few classes, in the bathrooms. New York City had 91,000 children that did not have places for them. Now, they got embarrassed by that, and as we ask questions and time goes on, they claimed well, that was a statistical mistake or some aberration. They have all kinds of explanations.

So I have had some colleagues of mine, members of the central Brooklyn Martin Luther King Commission, which is an organization dedicated to improving education in central Brooklyn, to go out to the central Brooklyn schools where my district is located and actually go around to the schools and check on overcrowding, and they found some interesting things. The overcrowding is definitely there, but the principals have been brainwashed into believing it is not there.

They will tell you the school is not overcrowded. Then you ask a question: "When this school was built, what was the capacity?" And they will give you a figure that is one-half of the number of enrollment. A school built for 900 youngsters has 2,000, and they say there is no overcrowding. Well, what kind of arithmetic is that?

They say there is no overcrowding, but if you ask them, "How many lunch periods do you have?" they will tell you they have three lunch periods. In many New York City schools, elementary schools, children start to eat lunch at 10:30. They just had breakfast, but they have to eat lunch at 10:30. Why? Because the lunch rooms are too small for the large numbers of children and they have to have three lunch periods. The lunch period begins at 10:30 for one crew and does not end until 2:30, so the last crew eats too late and the first crew eats too early. The last crew, I am sure the children are really quite hungry, and I am sure something is being done to their metabolism and their nutrition and their bodies. This condition exists because there is rampant overcrowding.

So we need to build new schools. We need to put laboratories in schools. We need to do a lot of things that you can do with $70 billion.

IBM could cough up $3.8 billion. DuPont, buy-backs, the net buy-backs, $5.4 billion. Penalties would equal $2.1 billion. General Electric, $5.1 billion, personalities would equal $5 billion. General Electric said in its 1996 annual report, "record cash-flow allowed us to return more than $6 billion to shareholders, $3.1 billion in dividends and $3.3 billion in the repurchase of GE stocks." They are saying that the repurchase of stocks is returning the money to shareholders, so they are aware of the fact that they are doing something wrong and they need to sort of explain something. Philip Morris, $5 billion. The penalties would be more than $2 billion.

□ 1900

Coca-Cola, $3.8 to $4 billion, the penalties would be $1.5 to $1.6 billion.

Wells Fargo Bank, $3.1 to $3.3 billion, the penalties would be $1.2 to $1.3 billion.

BankAmerica, $3 billion, the penalties would be $1.2 billion.

Chrysler, $2.9 billion, the penalties would be $1.1 billion.

Chrysler had a quote in its 1995 annual report. Chrysler said, "We're even prouder of what we've been doing to increase the long-term value of your investment in Chrysler. After all, as one of our shareholders told us recently, 'We didn't give you our money to have you simply turn around and give it back to us.'" That is an interesting shareholder that does not want the money back. They do not want a return on their investment.

Dow Chemical, $2.8 to $3 billion in buybacks, $1.1 to $1.2 billion would be the penalties.

Citicorp, $2 to $2.4. billion, $800 to $960 million would be the penalty.

Intel, $1.856 billion, the penalty would be $735 million.

Merrill Lynch, $2 billion, the penalty would be $800 million.

Pepsico, $1.4 to $1.7 billion, the penalty would be $560 to $680 million.

Anheuser-Busch, $1.5 to $1.6 billion, the penalty would be $600 to $640 million.

Merck, $1.2 to $1.6 billion, the penalty would be $480 to $640 million.

Disney, $1 billion to $1.5 billion, the penalty would be $400 to $600 million.

Microsoft, $1.1 billion, the penalty would be $460 million.

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Although it did not need capital, Microsoft raised $980 million in late 1996 through the sale of convertible preferred stock. It said that proceeds from the offering were expected to be used to repurchase common shares. They raised the capital to repurchase common shares. Wall Street analysts expressed the view that the real purpose of the offering was to provide a dividend-paying security for some investors who want dividends, since Microsoft had paid no common dividend.

Let us move on to Hewlett Packard, $1 billion, $426 million would be the penalty.

Kellogg, $1.1 billion to $1.3 billion, the penalty would be $440 to $520 million.

J.P. Morgan, $1 billion to $1.2 billion, the penalty would be $400 to $480 million.

I am reading the figures of how much was spent to illegally buy back stock. They legally bought back stock, but these are the nets, the illegal amounts that I am quoting.

J.P. Morgan, and 3M, $1 billion to $1.1 billion, the penalty would be $400 to $440 million.

Reebok, $1 billion to $1.1 billion, the penalty would be $400 to $440 million.

American Express, $1 billion to $1.1 billion, the penalty would be $400 to $440 million.

In its 1995 annual report, American Express said and I quote: "Some shareholders have asked why we are repurchasing shares rather than increasing our dividends, as we did in years past. We believe that most shareholders prefer gains in stock price to receiving dividends because those payments are taxable annually."

That is an interesting quote, because that is exactly what Congress said they did not want to do. They put the provision in there to prevent people from avoiding the payment of taxes. Here it is in the statement, they have said we are doing this so you do not have to pay taxes on the amount we give back to you.

Amoco, $800 to $950 million, estimated, and $320 million would be the estimated penalty.

The Bank of New York, $800 to $900 million, $320 to $360 million would be the penalty they would pay.

Norfolk Southern, $800 to $900 million, $320 to $360 million would be what they would have to pay.

Eastman Kodak, $800 to $900 million, $320 to $360 million would be the penalty.

Caterpillar, $700 to $900 million, estimated, $280 to $360 million.

McDonalds, $600 to $800 million, buybacks, and $240 to $320 million would be the amount of penalty they would pay.

Hershey, $400 to $500 million, they would pay $160 to $200 million.

Keycorp, $400 to $500 million, they would pay $160 to $200 million.

Coca-Cola Enterprises, different from the other Coca-Cola, $400 to $450 million, they would have to pay $160 to $180 million as a penalty.

This company is separate from the Coca-Cola Co., although Coca-Cola owns 44 percent of the stock. It is a major Coke bottler, accounting for just over 50 percent of all Coke product sales in the United States.

Campbell Soup, $296 million in buybacks, they would have to pay a penalty of $117 million.

Kimberly Clark, $200 to $300 million, they would have to pay $80 to $120 million.

Weyerhauser, $200 to $300 million, they would have to pay $80 to $120 million.

Xerox, $200 to $300 million, $80 to $120 million.

Wal-Mart, $200 million, they would pay $80 million in penalties.

General Mills, $187 million, they would have to pay $74 million in penalties.

Why am I bothering to read this list? Because the Internal Revenue Commission has ignored us. Thirty Members of Congress wrote and they asked, why are you not enforcing the Code? I would like for other Americans to hear how the Internal Revenue Code is being blatantly disobeyed, ignored, and I would like you to know that we cannot get a response when we ask the Commissioner of Internal Revenue why.

Thirty Members of Congress cannot get a response. Maybe we are stupid. Maybe we do not understand the technicalities. Maybe we need to bring our brothers and sisters on the Committee on Ways and Means to a session and they will explain all this to us, and we will not have a Member of Congress stand here making a fool of himself about an issue that is moot, of no consequence.

Maybe there is not a great injustice being done here, and all those people out there who anxiously are sitting in the offices of the Internal Revenue Service to deal with their taxes, all those people who are being forced to go to extraordinary means to pay up what they owe, according to the law, all of them need not feel that they are being singled out unjustly. No taxpayer in America should feel that we live in a society where there is unequal treatment of taxpayers.

We can debate as much as we want the question of whether corporations should pay any taxes, and that is an esoteric argument among economists and Members of Congress, but the law is there at this point. It says you cannot buy back your own stock. If you do this, you have to pay a penalty of 39.6 percent. The reasoning of the law is that when people, when corporations buy back their own stock, they are avoiding taxes. They are helping individuals who get the dividends, who would receive the income, avoid paying taxes.

I suppose many of those individuals are grateful, but if I was in their shoes, if I was a shareholder, I would want to have the choice of give me back my dividends, I might choose to buy back, buy some of your stock. They rob the shareholders of the choice. They avoid the payment of taxes in the process.

There is a danger that they are also manipulating the stock market. This is a form of manipulation, in the final analysis. You keep the prices artificially high when large amounts of profit from the corporation are used to buy back the stock. But that is for the lawyers to take a look at.

I hope you are not bored. I hope that you understand that I am not on the Committee on Ways and Means. I am just a lowly Member of Congress, a member of the Progressive Caucus, a member of the Congressional Black Caucus. Last year, I developed an alternative budget. The year before that, I developed an alternative budget for the Progressive and the Congressional Black Caucus.

In the process of doing research for our budget, our aim was to meet a requirement that was made by the Speaker, the gentleman from Georgia [Mr. GINGRICH], and the Republican majority. Speaker GINGRICH and the Republican majority said to the members of the Black Caucus and the members of the Progressive Caucus, you cannot bring a budget to the floor unless you show a balanced budget by the year 2002. That is a requirement. You must balance the budget by the year 2002.

I think they assumed that we would go away and stop being a nuisance by bringing an alternative budget to the floor, because we could never balance the budget by the year 2002 and at the same time maintain the level of expenditures for programs that are most important to the poorest people in America, and a lot of the not-too-poor people, education programs, environmental programs. They thought we could not do it.

In the process of doing our research, we found that we had the option in preparing an alternative budget of raising taxes. If you can show a credible way to increase the taxes, it is acceptable in the budgeting process. We used only the figures that the Congressional Budget Office had already certified. We looked at the corporate loopholes. We said, if you take away this loophole, that loophole, you will raise money. If you bring corporations up to a level from 11 percent of the total tax burden, income tax burden, to 16 percent, they would still be way below the individual tax burden, which is 44 percent.

We learned a great deal. It was a very informative experience, because liberals and progressives, people who belong to what I call the caring majority, who care about America and who care about all the people in America, people who want to see our great wealth and riches divided in some way which benefits every sector of society, the people who want to see the best schools in the world, who want world-class hospitals and who want to see our children grow up in a world where everybody has a reasonable opportunity to fully develop themselves, all those people out there we think have ignored studying the revenue side of the budget.

For years we have let the Committee on Ways and Means dominate the discussion. For years we have let the lobbyists who line up when the Committee on Ways and Means meets, there are long lines of people out there to get in and the Committee on Ways and Means has a major bill revising the Tax Code.

I remember they revised it under Ronald Reagan and they did some later correction. In the time that I have been here, 14 years, there have been two major corrections and revisions of the Internal Revenue. I watched the PAC contributions of every member on the Committee on Ways and Means. I sat and heard them talk about how the money was flowing in. I heard a few say, let us keep the suspense on longer, more will come in.

This is not to in any way put down my colleagues, but it is a phenomenon which is in motion and we know it. We have to be naive not to believe there is a correlation between the fact that this sector of society has gotten the biggest tax breaks since 1943. They were paying 40 percent of the tax burden in 1943. Now they are paying 11 percent, so the biggest tax breaks have gone to corporate America.

There is a correlation between the tax breaks corporate America has received and the kind of money they contribute. I do not want to get into a long discussion of the present campaign contribution scandal. There is enough being said on television, radio, cable television, all across the board, there is a lot of discussion about the great scandal of 1996 where more money was raised and spent on political campaigns than ever before in the history of the Nation. Very interesting. More money was raised, but we only had 49 percent, less than 49 percent of the people who came out and voted. It was a record low vote, despite the fact that large amounts of money were raised.

Mr. Speaker, I assure you, people who were contributing the money, they all came out and voted. Their friends voted. There is a correlation between wealth in America and voting. The richest people in America always vote. Always. Come down the line, the middle class, they hesitate sometimes. They do not come out large enough. When you get to the very bottom, they are the ones who do not vote at all. The people who need government most do not vote. Those who need government are willing to pay. The Center for Responsive Politics has a chart here in a report they issued on the PAC, Political Action Committee, expenditures for the Clinton-Dole campaign and the soft money.

Where did the contributions come from? It is very informative. If you want to know why one sector of our society feels that they do not have to, they pay less taxes now than they used to pay, and they do not have to obey a certain part of the Internal Revenue Code. They are so powerful, they are going to be taken care of. They have gotten the green light from somebody, but they do not have to obey the law.

Yeltsin has a problem with the Mafia in Russia. They go to collect taxes, they are just maybe gunned down. The Mafia has killed members of the legislature, they have threatened high-ranking officials. Things are totally out of hand in Russia, so they do not try to collect the taxes with too much zeal. The people who really have the money also have the muscle.

That is very crude, that is very savage. That is a failed society. We are not a failed society. If we allow this to go on, however, if they get away with disobeying the Code in this case, they will do it somewhere else. We will have a pattern that will lead other people at lower levels to say, we are not going to obey the law also.

□ 1915

We had a savings and loan swindle. They called it the savings and loan swindle, but it was the banking industrial complex of America swindle because the amounts of money that regular banks that were not savings and loans banks lost was pretty great also. The savings and loans swindle, it is estimated, will cost American taxpayers $500 billion before it is all over.

There was a Stanford University report that I read some time ago. I do not have the documentation here. But it said that, when you get through paying back the money through the Federal Deposit Insurance Corporation and the money that was appropriated directly by Congress to make up for what had been stolen and you get through with the administrative costs of all the various bodies we set up to recover the money, the American taxpayers are going to be out $500 billion.

They got away with that basically. The number of people who went to jail, the number of people who spent any reasonable time in prison is minuscule. The amount of money recovered is a tiny amount, a very tiny amount compared to the amount that was stolen. The biggest thief who was actually pinpointed and convicted, he became a personification for the rest, Charles Keating. Charles Keating in California was recently released on a technicality. They said, we made a mistake. Yes, you did cost the taxpayers $2 billion. Your Lincoln Savings Bank, your bank, your operation did cost us $2 billion. That we can document. But on some technicality, rich Mr. Keating is out. He claims he is penniless, but none of us were born yesterday. We are certain that a multimillionaire did not go to jail penniless and he did not come out penniless, but he is out. Charles Keating is out. And he was the most celebrated, the most highly publicized.

If he is out, then you know all those other folks that we did not even know about, they are out, too. Some high placed officials and their relatives, they were involved. So the savings and loan swindle was the biggest swindle in the history of mankind of its kind. And large amounts of people got away with it, became rich, stayed rich.

So you had a precedent there. Do not allow too many of these precedents to develop, Americans; you are on the road to a collapsed society. It is possible, if you keep doing this, to have no faith in law and order, certainly no faith in the regulations of our financial institutions.

Banks were closely regulated by the Government. They could not have done this without collusion from public officials, the savings and loan swindle.

In this chart, the financial sector, they have different sectors here. For the school children of America, you need to know that our laws are made by various complexes, industrial complexes. Do not believe what you read. The simple thing about the House of Representatives and the Senate and they get together. The most important thing is not discussed. The various complexes, the defense industrial, military industrial complex we all know about. President Eisenhower, when he left office, shook us and woke us up and said be aware. There is a military industrial complex which will drain large amounts of money away from the American taxpayers, and it has.

It has a record that keeps going on and on, the war is over, the excuse for it. The evil empire is defeated but the military industrial complex is still effective. They do not make the biggest contributions anymore. It is the financial industrial complex that makes the largest contributions. Close to $40 million for the Clinton-Dole soft money campaigns and the regular campaigns, close to $40 million went to the Republicans. Half that amount went to the Democrats from the financial sector.

In every other category, except labor, about twice as much was spent for the party in power in Congress, majority party, than for the Democrats or for the Republican candidate because these great industrial complexes, the financial industrial complex, the agricultural industrial complex, there is the construction industrial complex, the defense industrial complex, energy industrial complex, the health industrial complex, the transportation industrial complex.

Only organized labor, which is considered not a business complex, but it is listed here because it gave large amounts of money, only organized labor contributed more money to Democrats than to Republicans. That is interesting. And then of course there are others. The pattern is pretty clear that the buying of a point of view, the people advocating cutting corporations even further, they wanted capital gains cuts, people are advocating a huge tax cut for the richest Americans, the people who are advocating that we cut only those programs that go to the poorest people, the people who turned their back on the welfare, the corporate welfare, those are the people who get the largest amount of money from the various complexes and the financial complex where the corporations and the brokers and the whole set of people who make the most money, they give the most.

In conclusion, Mr. Speaker, we will hear more about corporate welfare. The gentleman from Ohio [Mr. KASICH] and the Republicans are also interested in cutting corporate welfare. But here is a piece all we need to do is tell the Internal Revenue to enforce the law. You could realize a large amount of money, take some of the burden off other taxpayers and have the result of making every American institution as well as individual pay their taxes. April 15 is coming. We should all pay for taxes.

SOCIAL SECURITY AND BALANCING THE BUDGET

The SPEAKER pro tempore (Mr. MANZULLO). Under the Speaker's announced policy of January 7, 1997, the gentleman from Wisconsin [Mr. NEUMANN] is recognized for 60 minutes as the designee of the majority leader.

Mr. NEUMANN. Mr. Speaker, in the interest of bipartisanship, I yield to the gentleman from Minnesota [Mr. MINGE].

FLOODING IN MINNESOTA

Mr. MINGE. Mr. Speaker, I would like to first thank the gentleman from Wisconsin for yielding to me and indicate that I dearly appreciate the strong and cordial bipartisan working relationship that we are trying to establish in the House. Almost 200 of us went to Hershey, PA, the sweetest place on Earth for a bipartisan retreat to work on building civility and strong, positive working relationships in this Chamber on both sides of the aisle. This is a task I think that all of us need to continue to address.

Mr. Speaker, this evening I wish to address the House with respect to a matter of great concern and interest to me. The Minnesota River, the Red River of the North and several other streams and rivers in the upper Midwest are experiencing flooding problems on a scale that has never before occurred in the recorded history of this region of the country.

The impact that this is having on dozens of communities is overwhelming. However, through a coordinated effort of State, local, and Federal officials, what appeared to be the impossible is being achieved in many of these communities. I have lived just outside the city of Montevideo, MN, for the last 20 years.

I have members of my family in a community downstream called Granite Falls, MN. Never before have these communities received national attention. But now in April 1997, they have been the initial stories on network news, evening after evening. And why? It is because of the harrowing battle that is being waged. The U.S. Army Corps of Engineers has come in and helped build dikes on streets and highways. Hundreds of volunteers have come from as many as 150 miles away with trucks and strong backs to load and place sandbags to fight the river.

The river is like a raging bull. It is coursing down a narrow channel in one of these communities, and you look at that raging stream and you wonder, is that going to jump the banks. How can we control it. Thanks only to the strength of these levees that have been constructed by the Corps and the force of gravity is this river as a threat contained.

Local residents of these communities have been working, toiling for as much as 20 hours a day constructing these dikes and levees and protecting property. In some cases residents have been forced to evacuate their homes with as little as 5 minutes notice. Yet they are succeeding.

I am also pleased to report that the Federal Emergency Management Agency, working with the Governor of our State and the President, has already released the report that these communities and these areas have been designated as Presidential disaster areas and that FEMA will be quickly moving into the region along with other agencies to provide the type of assistance that is necessary to enable them to both clean up and recover.

This is not a handout. These are programs that we have established over many decades. They are programs which the Federal Emergency Management Agency has earned a reputation, a well-deserved reputation in the last 5 years, of very capably administering. I think that we can all be proud as Americans of what this agency is doing and what it is contributing to the well-being of small communities who have been afflicted by these natural disasters.

Mr. Speaker, I would like again to express the appreciation that all of us in Congress have for the volunteerism, for the hard work and the sacrifice and the community spirit that is alive and well in America and what this is doing to renew the faith of people in our ability to respond to the challenges that face us in pulling together and pulling ahead.

SOCIAL SECURITY AND BALANCING THE BUDGET

Mr. NEUMANN. Mr. Speaker, I yield to the gentleman from Minnesota [Mr. GUTKNECHT]. May I say it was a pleasure to visit Winona at Winona State and have the privilege of joining you at a town hall meeting.

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman. It was our privilege to host the gentleman in Winona.

If I could just say that we want to do a special order tonight and talk about Social Security and balancing the budget. And my colleague from Minnesota and our fellow Committee on the Budget member [Mr. MINGE] recently just alluded to the unbelievable problems being faced, especially in western Minnesota and the Dakotas. I would just like to say that on behalf of all Members of Congress, particularly this one from Minnesota, I want to make certain that we here at the Federal level are doing all that we possibly can for those people.

It is really hard for some of us to imagine what it must have been like to wake up and find that much water on your streets and in your neighborhoods and then have 40- to 50-degree-below wind chill factors blowing ice and water and then on top of that many of the homes being without electrical power. So we really cannot imagine how tough it has been on some of the people in those communities. The only thing I guess we can say to them is that we are going to do everything we can here at the Federal level to make certain that we get things right.

I might also mention though that when we talk about floods, what we want to talk about tonight is this flood of red ink which threatens not only to drown us but, worse than that, to drown our children. And I am going to yield back to the gentleman so we can have a discussion about really the size, dimensions, and ultimately what the implications are of this debt and of the deficit spending that has been going on in this body and in this Congress for most of the last 40 years.

Mr. NEUMANN. Mr. Speaker, I also want to talk about the budget process and that debt that is drowning us as a nation.

Before I get into that this evening I would like to recognize a very special group of people that are out here in Washington this week. We talk so much about education and we hear so many cases where education is not working the way it should be working. But I would like to just recognize a good friend of mine, John Eyster, a teacher from Janesville Parker High School who is out here with a group of students illustrating just how education does work and setting an example for young people all across America, showing us how education can and does work in Janesville, WI. He brought these students out here. I had the chance to spend about an hour with them today. And I have got to say, they are some of the best educated students that I have ever talked to.

John consistently brings his class out here every year and it is just a privilege to meet and talk with these folks and to see how far along they are in the educational process and, in all fairness, how well versed they are on the issues facing this great Nation of ours.

□ 1930

With that, I will start into why I came to Washington and what I think the budget process needs to get back to. I start by referring to this chart I brought with me because it is about the best chart I have ever seen in terms of talking about that debt that we are all drowning in as a nation.

What it shows is the growth of the Federal debt facing this Nation and it shows, starting in 1960 all the way to the year 2000, where we are at in this growth in debt. It is important to note that from 1960 to 1980 we have a relatively flat line. There has been very little growth in debt. But in 1980, from there forward, this thing has grown and grown and grown.

And you know, what really bothers me about this is when I hear all of the Democrats in America say that was the year Ronald Reagan took office and all the Republicans say, well, that was the year the Democrats in Congress could not control spending. But the bottom line is if we are really going to solve this problem we will have to accept and recognize it as an American problem and that we as the American people have to solve it, not as Democrats and Republicans but as Americans.

I want to point out that as we look from here forward we are no longer in a position where we can fight about Democrats and Republicans. We are all the way up here on this chart right now. And when we think about what that is doing to our Nation, we need to understand that it is not just about this chart, it is about the fact that the government goes into the private sector and borrows that money out.

Because that is what is happening with this, this is what the deficit spending leads to. When the government goes into the private sector and borrows the money out to pay for its deficit spending, that makes for a tighter money supply. Government borrowing out of the private sector tightens the money supply and raises interest rates. And when you raise interest rates it hits home quickly, because it means many Americans cannot afford to buy houses or cars.

And that is really a problem in this Nation. That is why in the past years, here, as the deficit has come down until this year, for the first time in 4 years, as the deficit has been coming down, the interest rates have held steady and we have literally been in a position where the economy has boomed. And it has boomed because of the fact if interest rates are steady, the government is not confiscating as much of the private people's money out of the private sector, there is more money available and lower interest rates, which keeps the home building business going strong, the auto industry going strong, and a lot of people able to borrow money to buy things.

And of course when people buy houses and cars, that means other people go to work to build the houses and cars and that really, folks, is what this budget battle is all about, about getting the government to stop borrowing the money out of the private sector so it stays out there and the interest rates stay down and people can afford to buy houses and cars.

I have a son, currently a sophomore in college, and my good friend from Minnesota, I believe he is going to school in his district, as a matter of fact, and I think about the young people like Andy and all the others like him across this country as he graduates from college, takes his first job, starts his own family, starts thinking about buying a house and a car, and I think about how important the interest rate is to him in terms of being able to afford that house and car.

There is another issue that most people do not relate to the young people in this country and that is Social Security. Most people think the Social Security discussion is about just the senior citizens. It is not. It is about the people in their 40's and 50's hoping to get Social Security, and it is about the young people who are paying $15 out of every $100 they earn into the Social Security System with literally no hope of getting any of that money back.

So I want to talk about Social Security as it relates to the overall budget process. And I have noticed, and the gentleman from Minnesota, [Mr. GUTKNECHT], I think maybe he has too this week, that as we look at the budget proposals currently in Washington, none of them deal with the fact that Washington is currently spending the Social Security Trust Fund's money.

The Social Security System is taking money out of every paycheck in America today. As a matter of fact, if you look at all the money being collected by the Social Security Trust Fund today, they are collecting $418 billion. This is pretty straightforward. They are writing checks back out to our senior citizens in the amount of $353 billion. Well, it is much like a checkbook. If you take $418 in and spend $353 out, you are in pretty good shape, and that is good news for the Social Security System today.

But that $65 billion is supposed to be set aside in a savings account. The idea is this. Everybody sees the baby boom generation headed toward retirement. So the idea was to collect extra money now, put it into a savings account, and when these two numbers turn around, they are no longer collecting enough to make good on the Social Security checks, at that point in time they would go into the savings account, get the money out, and fulfill our commitment and make good on the Social Security checks.

The problem we have is that is not what Washington is doing with the money. When Washington saw this $65 billion sitting there, Washington did the Washington thing and they spent it. As a matter of fact, that $65 billion today is going directly into the big government checkbook. It is called the General Fund. But you can think about it like the big government checkbook. When they are done writing out checks in this government, of course, the checkbook is overdrawn and that is what we call the deficit. So they are taking the $65 billion, they are putting it in the big government checkbook, and when they are all done writing checks out of the big government checkbook there is no money left. So they put an IOU in the trust fund. They do not count that IOU toward the deficit.

This is a huge problem as we move forward. We have proposed legislation in our office, and I am happy to say we have bipartisan support for this legislation at this point in time. The legislation is very straightforward. It simply says that the $65 billion it has collected from the Social Security Trust Fund should simply be put down in the Social Security Trust Fund.

It is straightforward, the legislation, and I am happy to say we have bipartisan support for it and we now have 60 cosponsors on the Social Security Preservation Act.

This week we are out here talking about budgeting. It is real important to understand how this Social Security System issue affects the overall budgeting process. This picture really kind of says it all. When the Federal Government, when Washington, talks about the deficit, they talk about this blue area. They talk about how much they have overdrawn their checkbook and they forget to tell you in addition to the amount they overdrew their checkbook they have also taken that $65 billion out of the Social Security trust fund.

So the deficit, when they talk about it being $107 billion, the reality is the deficit is in fact $107 plus 65, or $172 billion overall.

I think it is real important to look at how that affects the overall budget process and what we are talking about when we say we are going to balance the budget by the year 2002. When we talk about balancing the budget by the year 2002, virtually every budget plan out here, President Clinton, the Republican plans in some cases, they all talk about getting rid of this blue area. But what they actually mean when they say they are going to balance the budget in the year 2002, what they mean is they are going to go into the Social Security trust fund, pull out $104 billion, put it in their checkbook and say their checkbook is balanced.

So when the people in Washington talk about balancing the budget, they are not telling you that when they say they are going to balance the budget they are still going to be going into that Social Security trust fund taking the money out, putting it in their checkbook and saying my checkbook is now balanced. That is ridiculous, and if it was done in the private sector they would be arrested for it. It is that simple; that cut and dried.

The answer is the Social Security Preservation Act needs to be passed. And to my colleagues who might be watching this evening, the important thing is when we pass a budget plan this year, we must address the fact that balance means balance without using the Social Security trust fund's money. When we say we are going to balance the budget to the American people, we should go about balancing the budget, not balancing the budget by stealing the money out of the Social Security trust fund.

What does this mean to the people of this Nation? Well, if we do not fix this problem, by the year 2005, 2006, maybe 2012, if we are very, very lucky, when there is not enough money coming into the Social Security trust fund, we will have to either tell our senior citizens they cannot have the benefits they have been promised, and the likelihood of that happening in Washington, DC, is near zero, or we will have to go to young people, like my Andy in college in your district, or my Tricia, a high school senior, or my younger son, who will then be in the work force, and all the other kids like them, we will have to go to them when they are just beginning to form their families, and say to them we could not do this right in 1997 when we were in Congress. We just could not get the job done. We could not put the Social Security trust fund's money aside, so now we have a shortfall in Social Security and we only have one choice, young people, we are coming into your paychecks to take more money out to make good on our promises to our seniors.

That is a sad situation and not right for the future of our country. We need to pass the Social Security Preservation Act as soon as possible.

We have expanded what has been talked about in the budget process, and I think this is real important, because even if we do get to a balance, and even if we do not spend the Social Security trust fund's money by the year 2002, we still have a $6.5 trillion debt hanging over our heads, a debt that is costing our children and young people, a family of five in America, $600 a month to do nothing but pay the interest on the Federal debt.

In the budget plan that we have put together we go a step further. I want to expand the vision of this Congress and expand the vision for America over what we can actually do. I want to show very simply how we can pay off the Federal debt, restore the Social Security trust fund money and, most important of all, pass this Nation on to our children debt free instead of under the burden of a debt that costs our families $600 a month to do nothing but pay the interest on the Federal debt.

Our plan is really pretty straightforward and simple. After we get to balance in the year 2002, we take a look at how much revenues are going out to the Federal Government. Now, revenues to the Federal Government go up for two reasons: They go up because of inflation and because of real growth in the economy. Now, currently we have an inflation rate of roughly 3 percent and real growth of roughly 2 percent. That means we would expect revenues to go up by 5 percent total next year.

Our plan is very simple. It says that if revenues are going to go up by 5 percent, we only let spending go up by 4 percent. So spending is allowed to go up at a rate 1 percent slower than the rate of revenue growth to the Federal Government.

I might add, and much to the chagrin of some of the folks listening this evening, that is still faster than the rate of inflation. So spending at the Federal Government level going up faster than the rate of inflation, but 1 percent slower than the rate of revenue growth puts us in a position where we could literally pay off the Federal debt by the year 2023.

This is important for a whole bunch of reasons. No. 1, it frees our young people to raise their families without this tax burden. No. 2, and equally important, is it restores the money that is supposed to be in the Social Security trust fund. So instead of the Social Security trust fund being out of the money in the year 2005, 2006 maybe 2012, it extends the Social Security trust fund to the year 2029 so our senior citizens can count on their money. And our people in their forties and fifties can count on getting their money out of the Social Security System also because the trust fund has been restored.

This is a plan that we need to embrace in this Congress. I understand the Speaker has started talking about this. NEWT GINGRICH has started presenting some of these ideas in some of his speeches, and it is an idea we need to embrace, to expand our horizons beyond just balancing the budget, beyond 2002, and into the years 2010, 2020 so we can give this Nation to our children debt free.

I see my good friend, the gentleman from Michigan, has joined us, Mr. HOEKSTRA.

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague for yielding. I am encouraged by the work my colleague has done and that he has completed on working toward, not a balanced budget but actually working toward a surplus budget as soon as possible, and actually developing a plan to pay off the national debt so that our children can look to a much brighter future.

I would like to just refer my colleagues to an article that was in USA Today on Monday, April 7. It talked about what we in the Committee on the Budget have discussed as a vision, where a one-income family is where we want to get to, where a one-income family can derive enough income to support a family and support government, and where a two-income family becomes an option.

It is kind of interesting. In USA Today yesterday they cited that the number of two-parent working families in 1995 has increased to 64 percent of the population. They then took a look at what we get with 64 percent of our families having two incomes. The second wage earner basically ends up working, as our majority leader would say, we have one person working for the government and one person working to support the family.

Mr. NEUMANN. If the gentleman would yield, I would point out that if we were to enact this and we were to actually carry this plan out, if the people in Washington were to do what is right for the future of America, we would be looking at $600 a month that would not have to be collected from a family of five. That goes a long ways toward that second wage earner's income.

Mr. HOEKSTRA. That is right and provides them with either the opportunity to take the income to improve the quality of life for their family or to take that time away from working and invest it in the family.

I would yield to my colleague from Minnesota.

Mr. GUTKNECHT. You gentlemen are right on the money. I want to point out a couple of things, and I want to congratulate both of you. I do not know of any members of the Committee on the Budget who have worked harder to try to preserve the American dream and guaranteeing that we pass on to our kids a legacy of hope and opportunity rather than a legacy of debt and dependency.

I want to point out something that I think is important, that Mr. NEUMANN suggested earlier. There was a famous architect from Chicago, and he once said "Make no small plans." I think the beauty and the simplicity of what we are talking about tonight is that if we have the discipline as a Congress to embrace a plan which actually will allow Federal spending to increase at greater than what we project the inflation rate to be but less than what we think the total growth in revenues will be, if we have the courage to do that, say, all right, we will let government grow, slightly, but not as fast, not nearly as fast as it has grown over the last 40 years, we can literally create a system that will guarantee that our seniors are protected, that will guarantee stronger economic growth for people our age, but more important than that, we can give our kids a debt free future.

□ 1945

I cannot think of anything more compelling, a bigger vision, something that is worth fighting for than what I call a generational fairness plan, that protects the seniors, that protects working people today, and protects our children's future. I think those are the kinds of things that, if we can work together and if we have the discipline here in Congress, it can clearly happen.

Mr. Speaker, if I could just make one additional point. Sometimes when we start talking about the budget, we throw around terms and there are all kinds of CBO and OMB and a lot of things that I think most Americans really have a hard time staying with. I think we sometimes have to get back to the big picture. Ultimately in the end I think we have to say to ourselves and to the American people that balancing the budget and stopping this deficit spending really are moral issues, because I think we all know down in our bones that it is morally wrong to continue to borrow against our kids and our grandkids. And so I think we have got to stop that.

We are making progress but, as you suggested, we are still using that Social Security trust fund to sort of mask the size of the deficit. I think in this process we have got to expose that, we have got to deal with that. Clearly the time to deal with it is now, before it turns around, before we have a situation where Social Security is actually paying out more than it is taking in.

Mr. HOEKSTRA. Mr. Speaker, I think the gentleman is absolutely right, it is a moral issue. Saddling our kids with $100 billion, $200 billion of additional debt each and every year is the wrong thing to do. The other thing, I came out of the business world, as I know my colleague from Wisconsin did, and I am not sure, you were in the legislature and before that maybe had a real job.

Mr. NEUMANN. Auctioneer.

Mr. HOEKSTRA. Auctioneer. The other thing we look at in business is the value you get for your dollar, and the problems we were trying to solve for our customers in the business world. We have to take a look as we go through this process and take a look at some of the things that taxpayers are sending money to Washington for and asking, is that really the best place to solve these problems.

Every day when we cross the street, we come over a street that is called Independence Avenue. Me and my staff, we have talked about it, we kind of think that maybe we could rename the street into Dependence Avenue because that street is littered with bureaucracies that we have moved responsibilities from families, from local and State government, from churches and nonprofit institutions and said we really do not think that you are the most effective place to handle these issues and we are going to have bureaucrats in Washington address these problems.

I think my colleague will remember the discussion that we had last year during welfare reform where we said, just send the money to Wisconsin and let the people in Wisconsin decide how best to help those on welfare in Wisconsin and how to escape the welfare trap because there are probably people in Washington here who, I think, were we not talking about that my colleague had a bunch of waivers from Wisconsin that he could not get approved?

Mr. NEUMANN. Mr. Speaker, we were simply requesting that the people in Wisconsin who had already passed a welfare reform bill, passed the State assembly and the Senate by a wide majority including both Democrats and Republicans, but after we debated this bill for 18 months in Wisconsin, reflected welfare the way the people of

Wisconsin wanted to do it with both Democrats and Republicans agreeing, we had to come down here to Washington and ask for permission from a bunch of bureaucrats out here, 900 miles from Wisconsin, ask for their permission to implement what the people of Wisconsin already wanted. What in the world is there that would make us think that the people sitting out here in an office know better than the people in Wisconsin what is right for them? It just does not make sense.

Mr. HOEKSTRA. Mr. Speaker, we are going to have to go through that process. I think that is an exciting debate and discussion to have. I know that one of the things that we are spending a tremendous amount of time on is an oversight subcommittee that I chair and we absolutely agree with the President. The President in March 1996 said, "We cannot ask the American people to spend more on education until we do a better job with the money we've got now." What was he referring to? He was referring to the bureaucracy of education that we currently have, which is 760 programs in 39 different agencies spending $120 billion per year.

Mr. NEUMANN. I would just like to point out that during the past week in my district back in Wisconsin, they have started running a new commercial from our friends at the AFL–CIO, attacking me, and demanding that we implement program No. 761. I would just like to warn the chairman of the Education Subcommittee that they are going to be getting some requests from some folks that think we should have another Washington program and another Washington bureaucracy to tell our people back in Wisconsin how they should educate their own children.

Mr. HOEKSTRA. When this President gets done, if he gets this approved, he will be building our schools, he will be teaching our teachers, certifying our teachers, putting in the technology, feeding them lunch, feeding them breakfast.

Mr. NEUMANN. And doing it with our money.

Mr. HOEKSTRA. Teaching them about sex education, giving them national tests, doing after-school programs, maybe even midnight basketball and a couple of other things. Other than that, it is your local school.

Now, the President has moved away from this. He has now proposed a whole new set of programs spending $55 billion more. What we are doing in our committees, we are urging this Congress to say before we spend another dollar, because we think when we spend a dollar in education today, only 65 cents gets to the classroom, gets to your children in Wisconsin, gets to my kids in Michigan. Thirty-five cents gets eaten up by the bureaucracy.

Mr. Speaker, before we spend more on education and ask the American taxpayers to send more to Washington, we ought to be taking a look at what we are doing with that dollar. Instead of saying, let us spend $1.10, we ought to be saying instead of 65 cents getting to the classroom, let us see if we cannot get it up to 85, 90, 95 cents of every dollar, because for bureaucrats to take 10, 15, 35 cents of every dollar before it gets to our kids, that might be another moral issue.

Mr. NEUMANN. I would like to point out it is not only education where we are looking at this problem. Our President has looked at this growing debt, and he has looked at us near the top of this debt chart. Here is what he has concluded in his budget plan because I took it apart myself personally and I found out what is in his budget plan. In Medicaid alone we are proposing $4 billion in new spending in 1 year alone. It is a total of roughly $15 billion over 5 years. In Medicare spending, we are proposing $5 billion in 2002 alone, a total of roughly $15 billion more.

Mr. Speaker, these are not like: We have got this in the Medicare Program and how are we going to pay the bills of the current Medicare Program. These are: Hey, I have got a new idea, and we do not have enough Washington programs already, so the President says we need some more new Washington spending programs.

That is where the Social Security trust fund money is going. They are taking that money out of the trust fund and spending it on these new Washington programs. It is not just education.

Let me go on one more.

Mr. HOEKSTRA. Mr. Speaker, if the gentleman will just yield for a second, I have to take leave. I appreciate the gentleman for sharing his time and the gentleman from Minnesota for sharing his time. I am sure we will be back at this, and I am confident we will present a budget that we can be proud of.

Mr. GUTKNECHT. I think just once more for our colleagues who may be watching on C–SPAN in their offices, what was the total number of dollars being spent currently on education programs and how many various Federal programs are we currently operating?

Mr. HOEKSTRA. We are operating at least 760 programs through 39 different agencies. They are not all in the Department of Education. They are in 39 different, distinct agencies, and they spend $120 billion per year.

Mr. NEUMANN. Mr. Speaker, how much of that gets to the students?

Mr. HOEKSTRA. We estimate that for the dollar that goes for K through 12, about 65 cents gets to the children, gets to the classroom. Thirty-five cents gets eaten up in the bureaucracy and the paperwork. Those are not impressive numbers. We can do significantly better than that.

Mr. NEUMANN. So what my colleague is really telling me is, out of the $122 billion we are currently spending on education, only $79 billion is actually getting out there to help the students; and the other $45 billion roughly is going to bureaucracy?

Mr. HOEKSTRA. We know that in the K through 12, which is a portion of that $120 billion, that is what we are seeing. In some of those other programs, it may be better, it may be worse, but it is not a pretty picture.

Mr. Speaker, I thank the gentlemen for allowing me to participate.

Mr. NEUMANN. To get back a little more on the debt discussion, I held 20 town hall meetings in addition to the one over in Winona with my colleague. At one of the meetings a gentleman, George Wundsam of Salem, WI, handed me this thing, and I think it really hits the nail on the head as we are talking here this evening. Here is what it says. He handed me this quotation:

> I place economy among the first and most important virtues, and public debt as the greatest of dangers to be feared. To preserve our independence, we must not let our rulers load us with perpetual debt. If we run into such debts, we must be taxed in our meat and drink, in our necessities and in our comforts, in our labor and in our amusements. If we can prevent our government from wasting the labor of the people, under the pretense of caring for them, they will be happy.

Would you like to take a shot at who said that?

Mr. GUTKNECHT. I think I know who said that, and I think he served in the Continental Congress, and I think he helped draft our Declaration of Independence. That was the ethic in those particular days. I believe his name was Thomas Jefferson.

Mr. NEUMANN. Thomas Jefferson said that. That is not today. Can you imagine if Thomas Jefferson, one of our Founding Fathers, was standing here with us today and we were showing him this debt chart, $5.3 trillion facing the American people, $20,000 for every man, woman, and child in the United States of America, $100,000 that our Federal Government has borrowed on behalf of a family of five like mine? Each month $600 to do nothing but pay the interest on the Federal debt. Can we imagine what our Founding Fathers would say? This is what they thought. They recognized that the debt was a huge burden.

Mr. GUTKNECHT. It is interesting that some of our colleagues, who like to quote our Founding Fathers when it fits their purposes, tend to forget that when Jefferson said that, he did not just mean it for those people in those times. He meant it for all people and for all times. I think he understood the corrosive effect that the debt would have. I think your chart is instructive. The unfortunate thing is, particularly when we add in what is going to happen with the demographic change, and I have told people this story. I was born in 1951. When I graduated from college, the speaker at our commencement address was the Director of the U.S. Census. Most people do not remember their college commencement addresses and I do not remember all of it, either, but I do remember some of the points that were made that day. He said that there were more kids born in 1951 than any other single year. I represent the peak of the baby boomers. What is going to happen when we start to retire makes that chart look like a day at the park, because as the baby boomers start to retire, all of a sudden Medicare expenses go up dramatically, Social Security goes from a significant surplus to huge deficits, and what it is saying, this should be a siren song for all of us, that we have got to do something now. If we take modest action now, if we take responsible action now, we can save the budget, we can save our children, we can save Social Security, we can save Medicare, and yet unfortunately there are people in this town who would prefer to put their head in the sand and pretend that it is not real, that those numbers are not real and that somehow there is a tooth fairy out there that is going to save us. The only thing that will save us is responsible action. Jefferson was correct. This is a moral issue, and the public debt is the greatest of evils to be feared.

What we are trying to do is awaken some of our colleagues here and awaken the American people to say, this has got to stop. All it takes is some moral courage to say this is wrong. And we are going to have to say no.

I was so delighted that the gentleman from Michigan [Mr. HOEKSTRA] was with us and talked a little about the Education Department, but as the gentleman from Wisconsin has indicated, it is not just education, it is all programs.

In some of my town meetings, I use this little story. If I could, I would like to share it. What I ask people to do sometimes is to close their eyes and pretend for a minute that they go home from work or they go home from school and they open their mailbox and there is a letter there from a law office from far away and they open up the letter and all of a sudden they realize that they have been named an heir to an enormous fortune, from somebody they did not even know was related to them and they have left them this enormous fortune. And so I ask them to think about that and what it would be like and then think about the fact that this is a windfall, and you would like to do something to help children or you would like to do something to help your fellow human beings and you would like to give a significant portion of this windfall to help your fellow human beings or to help children. Think about that, envision that. Think about this happening to you. And then think about where you would give that money. And after you have thought a minute, I ask the people, now, how many of you honestly, liberals, conservatives, Republicans, Democrats, independents, whatever, how many of you, the first thing that you thought of was, I know, I'll give the money to the Federal Government? The answer to that in every town meeting is laughter. No one would give the money to the Federal Government. Why? Because I think we all instinctively know what the gentleman from Michigan [Mr. HOEKSTRA] told us a few minutes ago, that the Federal Government is a poor bargain and that the Government is one of the most inefficient ways to spend money or to help people.

In fact when we had this great welfare debate over the last year and a half, and it is still going on, as you indicated Wisconsin has been far ahead of the pack in terms of reforming welfare. What I have said, I said then, I say now, the real debate was not about saving money. In the end it was really about saving people, saving families, saving children from one more generation of dependency and despair.

What we are really saying is, let us break that cycle, let us slow the rate of growth in Government and let us preserve Social Security and let us pay down and pay off ultimately that national debt so that we can leave our kids a debt-free future. That is what Thomas Jefferson believed in. I think that is what most Americans believe in, and hopefully we can get more of the Members of Congress to believe in that as well.

□ 2000

Mr. NEUMANN. You know, if the gentleman would yield back, we have been talking about these things and why we need to do these things. We have talked about the fact that Social Security is bringing in more money than what that is paying out to our seniors in benefits and that that extra money coming in, that $65 billion this year is supposed to be set aside in a savings account, but that actually instead of putting it aside in a savings account so it is there when the baby boom generation gets to retirements, so it is there to make good on Social Security commitments, that we are spending it in Washington in other Washington programs, and we have looked at this chart where we understand that Washington reports a deficit that is simply their overdrawn checkbook, and in fact in addition to overdrawing their checkbook they are taking that money out of Social Security trust fund.

They do not even count that toward the deficit when they report the deficit to the American people, and we have talked about the fact that in the year 2002, when Washington says they are going to balance the budget, what they mean is they are going to go into the Social Security trust fund, take out $104 billion, put it in their checkbook and call their checkbook balanced. We talked about the fact that in Washington a balanced checkbook means taking $104 billion out of the Social Security trust fund. That money should not be taken folks. That money should not be spent in other Government programs.

But where is Congress at? And, Congressman, we have gone through now 100 days of the 105th Congress, and I thought we maybe should just address a little bit what is going out and maybe, maybe if nothing else just to help us get back on track. During the first 100 days some very unique things have happened for the Republican led Congress and things that I do not think it is why I came to Washington in the first place, and I am anxious to see those things turned around.

We have seen the deficit go up for the first time in 4 years. We are seeing a higher deficit. And that is real, folks, that not only affects the people here in Washington, it affects the whole country because when the deficit goes up that means Washington is going into the private sector, borrowing more money, creating a tighter money supply and with the tighter money supply we see exactly what happened last week Tuesday, which is higher interest rates. Higher interest rates mean people cannot afford to buy houses and cars. When they do not buy houses and cars, that means there are not as many job opportunities, and that is a problem in this Nation. That is why we need to stay on track to a balanced budget.

So the first thing I point out that this Congress has seen in the first 100 days, for in the first time in 4 years is a deficit that has gone back up again. I might add that I voted against the bill last October, $22 billion that led to this deficit increase this year.

Second thing we saw when we first got out here, the Republican Party should stand for letting the American people keep more of their own money. We have had one tax vote in this Congress that was for a tax increase. Seventy-three of us voted against that bill. It is time we not have 73 but all 227 Republicans get back on track with the idea that we do not stand for raising taxes on the American people, we stand for letting the American people keep more of their own money. It is not like Washington gets this money and it is theirs. It is not Washington's money, it is the people's money. So when we have tax votes in the future, our second vote is a vote on taxes, it was a tax increase. You may remember the airline ticket tax increase. We need to stop doing that and get back on track.

The third vote I would like to talk about during the 100 days: We took $340 million out of the pockets of the American citizens and we sent it overseas to foreign aid for purposes of family planning. So we took $340 million out of the pockets of American citizens, sent it overseas for purposes of family planning, including abortions. That is not why I came to Washington. So that is another vote that went the wrong direction. Of course we voted against it; many of us did.

But the bottom line is as a party we need to get back on track. No more tax increase votes. As a matter of fact, we want to vote to let the American people keep more of their own money. No new spending bills that are going to allow the deficit to go up. That is not what this party is about. This party is about controlling spending.

The last vote I talk about during the 105th Congress, first 100 days, was the last vote we took before the Easter recess. It was a vote to raise Washington committee staff spending by 14½ percent. So our first real spending vote of the 105th Congress was for a 14½-percent spending increase. I am happy to say that bill did go down to defeat and it was reworked, and we got closer to a freeze; maybe not what I would like to see exactly but did get closer to a freeze. But I think that bill represents for the first time the Republicans once again standing for what Republicans stand for, and that is less Washington, less bureaucracy, and I think maybe this flow in the wrong direction has been stopped and once again we will become the party that stands for letting the American people keep more of their own money and doing that by reducing the size and scope of Washington. We do not need more Washington committee staff, we need the American people keeping more of their own money, deciding how to spend their own money.

Now if Washington is going to take more money from the American people, if Washington is going to go into your paycheck and collect more taxes, of course they need more people to figure out how to spend that money. My suggestion is instead we just let the American people keep more of their own money. Then we will not need the additional Washington staff.

Does that mean we have problems in Social Security? No way. Social Security, if we just do the right thing, leave our Washington hands off of the Social Security money, Social Security is safe and solvent. If we keep spending the trust fund, we are in serious trouble, but if we keep our hands off that money in Washington, Social Security is fine.

How about Medicare? Well, the reality is we had a Medicare battle about 70 cents for every $100 of spending. We do not need to fight about Medicare, and I hear about all these cuts in Medicare spending. I have in front of me perhaps the most conservative budget being proposed in Washington. Medicare spending has gone from $211 billion in 1997 all the way up to $285 billion in the year 2002. So Medicare spending can still go up under this budget plan.

We can balance the budget, we can let the American people keep more of their own money, and we can still have Medicare and Social Security and the programs that are most important.

You know, I always enjoy these discussions in Washington because in Washington people start wringing their hands and saying, "Oh, we can't do this and we can't do this; we have got to have more of the American people's money." We sometimes forget that we are already collecting $6,500 on behalf of every man, woman, and child in the United States of America.

Just think about this. The Federal Government today spends $6,500 on behalf of every man, woman, and child in the United States, and, Congressman, you know at our townhall meetings we talked about how much spending was being cut, that draconian cut in Washington, and do you remember the reaction we got from our folks at the townhall meetings when I read those draconian spending cuts that are going on in Washington? You remember when I read the numbers of actual spending, that spending was being cut from $1,568 billion all the way down to $1,629 next year and it was further being draconianly cut to $1,657 billion the next year, and do you remember what the people did——

Mr. GUTKNECHT. They could not believe it.

Mr. NEUMANN. They could not believe it. Spending is not going down under these budget plans, spending is going up each and every year. From the year 1996 to the year 2002 spending is not going down, spending has gone up from $1,568 billion to $1,810 billion. I sometimes think that the American people forget that this Government, Washington, DC is collecting $6,500 out of their pocket. You know some of them go, "Well, I don't have to worry, I don't pay that much out of my paycheck." But every time a person walks into a store and buys something as simple as a loaf of bread the store owner makes a small profit on that loaf of bread, and when the store owner makes a profit on that loaf of bread part of that profit gets sent down here to Washington because of course they are paying taxes on their profit.

Mr. GUTKNECHT. If the gentleman would yield, another point you made and I think it may have slipped by some of our colleagues, how much interest on the debt each family is required to pay every year. Now they may not pay it directly, they may not pay it in direct taxes, but they pay it one way or the other. They pay it in the price they pay for a loaf of bread, when they want to buy a car, when they want to buy something else for the family, when they want to take a vacation. Those taxes are there and they have to be paid.

And I wonder if you can tell us—I know you do not have your chart on that, but that is an added burden on every family, and I want to come back to the burden on the family and what it means.

Mr. NEUMANN. It means $600 every month from an average family of 5 to do nothing but pay the interest on the Federal debt, 600 bucks a month. And you know when you think of a young family starting out in life or they maybe had a couple kids and you start thinking about them having to pay $600 a month to do nothing but pay the interest and then you think about this city where they start describing what it is they have to have the money to spend it on.

I think the worst example I have seen out here is the Russian monkeys being sent into space and you and I have had this conversation: I find it very frustrating because we brought an amendment last year to the floor of the House to prevent this from happening, but the fact is there was a Senator who wanted it so it got put back in. We sent $35 million of the American people's money to Russia so Russia could launch monkeys into space to do research on the monkeys. Now we killed that here in the House, but when it got over in the Senate they put the money back in.

And I think that is the point. Is it really fair to go to our families and ask them to send more money to Washington so that Washington can continue these programs, and you know it is a very important time out here. We have gone through those first 100 days; they are over and behind us. Are we going to get back on track to control Washington spending or are we going to keep going as we have been for the first 100 days?

I personally look forward to NEWT GINGRICH and the leadership of the Republican Party getting us back on track of what Republicans stand for: Less Washington, smaller Government, still the things necessary for our society, a strong defense, take care of the people who are not able to take care of themselves and by that I mean the handicapped and the disabled, but let us not keep going into our families' pocket and taking more and more money out here for all kinds of unimaginable things that we keep spending on. It is just a ludicrous thing.

We are in some very, very difficult times out here because the establishment believes that we have to keep spending more money. I heard today, for example, that in order to pass the bills what we actually have to do is spend another $20 billion.

Now remember we spent 22 billion extra last year and that 22 billion led to the first deficit increase, and 6 months almost to the day after that vote, 6 months almost to the day after that vote to increase the deficit, we saw the interest rates take a hike, and now I am hearing that we have got to spend another $20 billion just to get the bills to a passable form. I personally find it offensive that we would even consider such a thing.

And you know I look at this chart with the Social Security and think about the fact that it is new Washington spending that has taken that money from the Social Security Trust Fund and blown it in, that has taken that money from our children's future and spent it. It has just got to be stopped.

Mr. GUTKNECHT. If the gentleman would yield, the story of the Russian monkeys going into space, the real sad part of that story if you really boil it all down is that we had to borrow that money from our kids and every dollar we spend now in new programs or new items in the budget, we have got to borrow that money.

The first time I came out here as a candidate for Congress I wore a little pin and it said carpe diem: seize the day. And the one message that came through loudly and clearly at most of my townhall meetings that I had when we were home for the Easter break was that the American people, the people of my district want us to regain the initiative, they want us to seize the day. They understand that good habits are hard to get a hold of, bad habits are easy to fall into, and they want us to get back in those good habits of forcing fiscal discipline, and I was proud to be a part of the 104th Congress in spite of some of the back sliding we did toward the end. I think we made some real progress, but there is a real fear that you have and that I have that it is easy to fall back into those old habits of saying yes to all the various special interest groups who come out here to Washington and want more of our children's money.

If I could just say this too, and I want to say you know we do not want to paint too dark a picture because good things are happening. We have gone a long way in terms of reforming our entitlement system. The welfare system is a long way down the road to becoming much more what Wisconsin wants, what Minnesota wants, what the States want and encouraging personal responsibility and encouraging families to stay together.

We are making progress on Medicare. The President's budget and our numbers now are not far a part. He has proposed a hundred billion dollars' worth of savings, and we think that is good. On Medicaid the President has recommended 32 billion dollars' worth of savings.

But the real issue before us I think in this Congress, and I think as you said we can work with the welfare numbers, we can work with the Medicare numbers, we can work with the Medicaid numbers, we can work with the defense numbers, but the real problem is the discretionary spending.

Mr. NEUMANN. And new——

Mr. GUTKNECHT. New discretionary spending.

Mr. NEUMANN. On new programs.

Mr. GUTKNECHT. On new Washington spending programs. And once you start a new program you create a new constituency and that is one thing that if we have the courage to stand up and say no to any new programs, if the President wants new programs then he is going to have to find other programs that he is going to have to eliminate, and we all know there is wasteful, duplicative programs that are not working.

Mr. NEUMANN. If the gentleman would yield, I think that is the point. If Washington finds a genuine need and it is legitimate and they actually need to spend money on something that is legitimate, they need to find other programs that are not legitimate or not working and cancel those programs that are not working so we can afford to do a program that may be needed. Let me give you an example of how this might work.

We just found out that women in their forties should have mammograms and we found out that it is a genuine need. We have welfare reform where able-bodied welfare recipients are now required to be in the work force. So we potentially have a woman in her forties who has gone into the work force, taken her first job, is earning someplace between $6 and $8 an hour or maybe even minimum wage, so she is at the bottom end of the pay scale. So Medicaid is going to have to cover—generally eligible for Medicaid, Medicaid would have to cover those mammograms. You cannot just say we are going to cover all the mammograms because the money has to come from somewhere.

So let me give you an example how this might work. Suppose for example we said we are not going to send Russian monkeys into space with American tax dollars and instead what we are going to do is pay for mammograms for women in their forties who have just left the welfare roll and are in their first job and could not afford to have them otherwise.

□ 2015

That is how this thing could work when we find out that there is a legitimate need for doing something.

If I can just speak on one more point here, we were talking about the tax increases before, and we both campaigned during the same year when we first came here. I remember distinctly campaigning extensively against the 1993 tax increase.

If my colleagues recall, that vote passed this institution, the House, by one vote, and it passed over in the Senate by one vote. It raised the gasoline tax by 4.3 cents a gallon, and the people in Wisconsin were very upset about it. They were especially upset about it because they were taking another 4.3 cents a gallon in gasoline tax, but they were not using it to construct roads in Wisconsin or Minnesota or anywhere else. They were simply pouring on more Washington spending programs.

We came here campaigning against those tax increases and against that 1993 tax increase that passed here by one vote, of course passed over in the Senate by one vote, and the President then signed. But the bottom line is, I think our colleagues and I think the American people have the right and should know that many of us have not forgotten why we came here, and that even though these things seem to be adrift, we have not forgotten what we came here to do so our children will have opportunities in this great Nation of ours.

We came here to make sure that Social Security is solvent for our parents and for the senior citizens that rely on it. We came here to make sure Medicare does not go bankrupt. We came here to fix a broken system that was spending too much of our children's money. We have not forgotten what we came here to do. We came here to make sure that our families, that the American people that go to work every morning, get to keep more of their own money.

Many of us have not forgotten what we came here to do, and I think our colleagues and I think the American people should understand that there is a large number of us that, even if the rest seem adrift, we have not forgotten what the Republican Party stands for and why it was that we were elected as Republicans and sent to Washington.

Mr. GUTKNECHT. Mr. Speaker, we will continue to stand with the working families of middle America.

I would close with just one reminder, because our time has about expired here. When I was growing up, when my colleague was growing up, most of us grew up in families where only one person had to work, and that was because the tax rate was something like 4 to 5 percent of my folks' gross income. Today, the average family spends more for taxes than they do for food, clothing, and shelter combined. If tax increases had been the answer to these growing deficits, we would have had a balanced budget years ago.

The truth of the matter is, the real answer is we have to control our appetite for more spending. If we are willing to do that, if we are willing to face up to the special interest groups, if we are willing to say that if we want new programs we have to eliminate some of the old programs that are not working, if we are willing to do that, we can solve this budget problem, we can save Social Security without touching the CPI adjustment. We can do all of these things, but we have to have the courage and we have to seize the day.

Mr. NEUMANN. Mr. Speaker, I think that is a good way to wrap it up. I think it is important to wrap it up by reiterating that we can in fact balance the budget by the year 2002, while we let the American people keep more of their own money and at the same time save the Social Security system. If we go past 2002 and we talk about how we pay off the debt, as we pay that debt off we are restoring those funds in IOU's and the Social Security trust fund now, we can do these things if we just control new Washington spending programs.

This is not even about going into programs that currently exist and somehow destroying them or attacking them, because the revenues are so much higher than what anybody anticipated, the economy is doing so well, that this is no longer about the things that were talked about 2 years ago. This is now just about controlling our desire in Washington, DC to spend and spend and spend in new Washington programs to satisfy some constituency.

We need to regain that initiative. We need to regain what we came here to do: Balance the budget so our children have hope and opportunities in this great Nation we live in; preserve Social Security and Medicare for our senior citizens; and for goodness sakes, let the American people keep more of their own money. It is their money, not Washington's money. That is how we preserve this Nation for the next generation, and that is what I hope our service to this country is all about.

SOUNDING THE ALARM FOR AMERICA'S PATENT SYSTEM

The SPEAKER pro tempore (Mr. MANZULLO). Under the Speaker's announced policy of January 7, 1997, the gentleman from California [Mr. ROHRABACHER] is recognized for 60 minutes.

Mr. ROHRABACHER. Mr. Speaker, next Thursday, April 17, the House of Representatives will make a crucial decision, and this decision has yet to be covered by the mainstream news media of the United States. Thus, the American people are for the most part unaware of this oncoming threat to our country and to the well-being of our citizens.

So let me sound the alarm bell, and that is what I am hoping to do tonight, sound the alarm bell. In the next few minutes I will be exposing a maneuver which, if successful, will do incredible long-term harm to the United States of America. Yet, at this moment, this legislation is being quietly maneuvered through the process and is likely to pass a vote in the House of Representatives and be made into law.

What I am referring to is dramatic and fundamental changes that are being proposed to be made to America's patent system, a system of rights and government institutions that have ensured that the United States has been, since the founding of our country, a technological leader in the world; that our fellow Americans, basically, were the inventors of the reaper, the inventors of the telegraph, the inventors of the telephone, the inventors of the television and of the electric light and the airplane and the microprocessor, and the MRI and other marvelous health technologies that we enjoy today, that have made our life a quality life compared to what it was just a few short years ago. Those Americans were the ones who invented these fabulous technologies that changed the way of life for the people of this world and uplifted the standard of living of the American people. That was no mistake.

We had patent laws and a patent system that protected the individual and made it profitable for investors to finance the development of new technologies. Written into our Constitution is the establishment of the patent office. Now, most people do not even understand that. They have no idea that we are any different than any other country of the world when it comes to technologies and inventions. They have no idea.

They know that we are different than other countries in the world in that we have freedom of speech, that we have freedom of press, we have freedom of religion, and that we respect the rights of the individual, and that was the purpose of our Founding Fathers, to establish a government that would protect people's rights. Yes, people know that about the United States, but they do not know one of the major factors that have given them the standard of living, given our people the standard of living that they enjoy, that has meant that they have reasonable and decent lives, was the fact that there were other protections in our Constitution, protections for the rights of people who invented and created things, things that would improve our lives.

From the earliest days of our Republic we had these protections and we had a patent office, actually part of our Federal Government since the time our Constitution was written. In fact, up until 2 years ago we had, as protected by law, by the United States law, all the way from our country's founding until 2 years ago, we had something that was called the guaranteed patent term.

Now, what is that all about, a guaranteed patent term? Well, what a guaranteed patent term has been in the United States of America is something that has ensured that we have been the ones who invented all of these wonderful things. The guaranteed patent term, from the time of our Constitution until two years ago, was that when someone had invented something, when they went to apply for a patent, that inventor, once that inventor applied for the patent, no matter how long it took the patent to be issued, the inventor was guaranteed a certain patent, legal patent term. At first it was 14 years and then it was expanded over 100 years ago to be 17 years, so we have had a guaranteed patent term of 17 years.

Now, what difference does that make, people will ask. Well, they did not have this in other countries. Inventors had their ideas stolen from them by very powerful people, and in fact, in other systems, it would be so mixed up in the bureaucracy, a person would never be granted a patent until 10 and 20 years after they applied. But in our country they knew that no matter how long it took a patent to be issued, they would have 17 years to recoup their investment.

This meant that people invested in our country, the private sector invested in new inventions and new ideas, which made all of the difference in our standard of living. We did not have to rely on the government to invest in new technology development because we had people in the private sector who would seek out inventors and creative people and give them money voluntarily to try to provide them the resources they needed to invent the telephone.

How different would our lives be today if the telephone had not been invented? How different would our lives be if these inventions that created the bountiful harvest of food in our country had not been invented? But private inventors sponsored by private investors did the job because they were guaranteed 17 years of protection.

Well, 3 years ago, and I am sorry to inform those of you who are reading this for the first time or listening to this for the first time, 3 years ago our right to a guaranteed patent term, a right Americans have enjoyed since the founding of our country, was taken from us and taken from us in a very stealthy manner, so most of the American people have no idea that this right has been taken away and what the implications of that right are.

The fact is that that right was taken away by a provision that was snuck into the GATT implementation legislation. That GATT implementation legislation of over 2 years ago now, 3 years ago actually, basically replaced the 17-year guaranteed patent term with an uncertain patent term. In fact, just a look at this issue from a distance, some people actually thought the patent term was being expanded and made longer.

Instead, what happened was, 17 years of a guaranteed patent term was exchanged for a patent term which is called 20 years from filing, and it sounds like there would be even more protection. Nope, no. In fact, what this did was take a situation where you were guaranteed, you knew how much time you would have in a patent and you were guaranteed that as a right, and instead, because the clock was ticking against the bureaucracy and this deterred people from trying to interfere with the process, now we have replaced it with 20 years from filing.

What that means is, once someone files for a patent, the clock is ticking against that person. The clock is ticking against the inventor, against the investor, and whatever time it takes is taken away from their time of protection, away from their property rights.

This will be a dramatic decrease in the amount of money that is spent in the United States to develop new technologies, the technologies that will keep us the No. 1 leader in the world economically. These new technologies are the only things that permit us to out-compete the slave labor and the cheap labor overseas. It is the good technology that has permitted the American people to increase their standard of living. But no, now that has been taken away, or it was in the GATT implementation legislation which eliminated the guaranteed patent term.

By the way, if someone's patent takes 15 years to issue, as many of our breakthrough technologies do, unimportant technologies issue very quickly, but things that make a difference, I mean billions of dollars of new wealth, that takes 10 years, 15 years sometimes, that means that for those 15 years foreign multinational corporations do not have to pay royalties into the pockets of our inventors.

□ 2030

That is 10 to 15 years that the money is going to be in their coffers instead of in the pockets of American inventors, instead of in the bank accounts of American citizens.

I consider this act of sneaking this into the GATT implementation legislation to be a total betrayal of the people of the United States. I voted for fast track. Fast track, which is what permitted them to sneak this provision into the bill, basically permitted them to change the patent law.

Let me explain how that worked. Fast track means that we as Members of Congress vote to give the right to the administration to negotiate a trade agreement with potential trading partners. The administration, in exchange for that agreement, that they can basically negotiate the agreement and bring it to Congress and put it before Congress, and we were only permitted up and down votes, that is what that fast track means, that we would only be permitted an up-or-down vote on this legislation that had been negotiated with our foreign trade partners.

But in exchange for fast track, the administration had to agree to two things. No. 1, there would not be anything included in the implementation legislation brought to Congress. There would not be anything in that legislation except that which was required by GATT itself. No. 2, we would have ample time, 50 days, to look over the GATT agreement in order to make our decision.

The administration waited until the last possible moment to put the GATT implementation legislation before Congress, just a few days before Congress was to adjourn, and they expected us, in I think it was 10 days, to work on this and to basically approve it without having a chance to read it and look it over.

One of the reasons we want to look it over is to find out what is in the GATT implementation legislation. Sure enough, there was a provision in that legislation that dramatically changed our patent rights. However, that provision was never required by the GATT agreement itself. In other words, that was not something that they had to put into the bill in order to be consistent with the GATT agreement they had made with our trading partners. Someone had snuck it into the bill.

When I say snuck into the bill, I mean snuck into the bill. I got wind there was some change going to be made in our patent laws, so I began calling the Trade Representative and others in the administration, asking whether or not there was actually going to be a provision in the GATT implementation legislation that changed American patent law. I was told that I did not have a right to know.

I, an elected representative of the people of the United States, as are the rest of my colleagues, and the administration told me I had no right to know what was going to be in a piece of legislation that was to be presented to the Congress of the United States? That is not only a betrayal, but an arrogant betrayal of the American people.

Basically, Mr. Speaker, we ended up in a situation where the Members of Congress were forced to vote in favor of the GATT implementation legislation that included a major change, a fundamental change, in the protection of American technological rights. We were forced to vote on that as one package. In other words, we either accepted this drastic change, this drastic change in American patent law protection, or we had to vote against the entire world trading system. We had to isolate the United States from the entire world trading system.

That was a betrayal, and I will never again vote for fast track authority going to this administration, under any circumstances. They lied that time, and I say lied, and that is exactly what this was, was a lie when they presented it to this body with a provision that was not mandated by the agreement itself. They lied when they said they would give us ample time to discuss the issue.

During my efforts to basically return to the guaranteed patent term and to try to stop it from going through in the GATT process, I learned of an ongoing plan that was aimed at, and I hesitate to use these words but they are accurate, aimed at destroying, that is right, I said destroying, the American patent system.

The American patent system, which has been the gem of our society, which has permitted us to develop technologies that will actually change our way of life and make our lives better as compared to other people around the world, the gem that has improved the life of the average person in our country as compared to the life of people in other countries, this gem is being destroyed.

The patent system that gives us the technological edge is being destroyed in a very hushed and quiet manner, and it will come to a vote, the next step in this process, it will come to a vote on the floor.

Mr. Speaker, here we are facing a very quiet maneuver, something that has been kept out of the mass media, something that the regular media, the news media in this country has not covered, that is going to make a dramatic change in America's fundamental technology and a dramatic change in our rights and a dramatic change in our standard of living. It will be something that over a long period of time will have a greater impact on our standard of living than our natural resources and the other great things that have made America such a wonderful country.

When did this all start? It is going to come to a head on April 17 when the Steal American Technologies Act, H.R. 400, comes to a vote on the floor of this House. About half of the Members of this House have no idea this bill is coming to a vote and have no idea what this bill is all about.

Four years ago Bruce Lehman, the head of our Patent Office, went to Japan where he signed an agreement with the head of the Japanese Patent Office to harmonize America's patent laws with those of Japan. To put this in perspective, America's patent laws over the history of our country have been the strongest and most protective laws in the world. That is what gave America the edge. Yet Bruce Lehman, head of the American Patent Office, went there 4 years ago, signed an agreement, a hushed agreement I might add, which I did not find out about until years later, to harmonize our law.

He was not signing the agreement to harmonize our law to bring Japanese protection up to the level of protection that is enjoyed and has been enjoyed by the people of the United States. Instead, what Mr. Lehman supposedly, representing the interests of the United States, signed was an agreement to make our system, our patent system, a carbon copy, a mirror image, of the Japanese system.

Let us make sure this is understood. The changes that were agreed to by our representative were to make our strong protection a weak protection like they have in Japan. In Japan, Japanese economic shoguns beat their competition down ruthlessly. If you are not in the "in" clique, you have no rights. The Japanese economic shoguns who rule that society know they have leverage on people because the laws do not protect the individual in Japan. They are aimed at the collective good in Japan, and the individual rights that have been so much part of our system, they do not even think that way.

That has permitted these powerful interests in Japan to keep an iron grip on that society. That is why it has been so difficult to open their markets to American goods, because we were not dealing with their consumers who would want American products, we were dealing with Japanese powerful businessmen who know what power is all about and had used it in their own country.

Now we are changing our laws, our patent laws, to harmonize with them so they can do to the American inventor and the American people over here what they have been doing to their own people for 100 years.

What is worming its way through Congress is legislation that is implementing phase 2 of this notorious harmonization agreement. Phase 1 of the agreement was, guess what; what do you think phase 1 was? Phase 1 was the elimination of the guaranteed patent term, and the replacing of it with a system based on 20 years from filing, an uncertain term, which is the Japanese system. That was phase 1. That was what we got.

Immediately they tried to implement this agreement with Japan by sneaking it into the GATT implementation legislation, and forcing Congress to either vote against the entire world trading system or ratifying this secret and hushed agreement with the Japanese.

Phase 2 of that agreement with the Japanese is coming to the floor in one week, H.R. 400. How do I know? I know because H.R. 400 includes a provision that would destroy a vital protection of our law, our patent law, and replace it with a provision that comes directly from the Japanese code.

The Japanese code said, you know, it is 20 years from filing instead of a guaranteed patent term of 17 years. We change it to that. What else does the Japanese code say? What is this provision? Hang onto your hats. If H.R. 400 passes, we, like the Japanese, will have a system, a legal system, that mandates that when our inventors invent something and go to apply for a patent, after 18 months, whether or not that patent has been issued, it is going to be published for the entire world to see.

So if we have a system where breakthrough technologies, like the microprocessor or the MRI or the laser system, which took 20 years to get a patent, or polypropylene plastic which was a major breakthrough in the way we packaged things around the world, it took 20 years to get that patent issued, what is going to happen is after 18 months, whether or not the patent has been issued, every one of our technological secrets are going to be published for the entire world to see.

What does that mean? That means our technological secrets will be used by our enemies to destroy us economically. People who hate America, people who want to destroy our way of life, people who want to bring down the standard of living of the American people will have our technological secrets. This is the elimination of a right that we have had as well.

We had a right, from the founding of our Constitution, to a guaranteed patent term. That was eliminated by this sneaky maneuver in the GATT implementation legislation.

Now H.R. 400 goes the second step and it eliminates what right? From the founding of our country until this bill, if it passes, we have had a right of confidentiality. When an inventor goes with his patent application to the Patent Office, he has had a right that none of that information will ever be published, will ever be published, until his patent is issued. Because once it is issued, he then has protection. He has legal rights, then, that will protect him, and he knows that his adversaries, economic adversaries, cannot steal from him and use his own ideas against him. This was a right our people had.

Members have heard of industrial espionage. That espionage is that we do not want our adversaries to have our technological secrets. H.R. 400 will come to the floor of the House of Representatives a week from Thursday, and it will, if passed, mandate that every one of our technological secrets will be published for our enemies to use against us. It will eliminate the right of confidentiality.

If it does any good, I guess you can say they could probably use this as advocacy, it is certainly going to eliminate industrial espionage. Some laugh. This will be the first step in the destruction of America's ability to compete with other nations where they have cheap labor and slave labor. This will be the first step on the escalator down for the standard of living of the American people, and billions of dollars into the pockets of our worst enemies and competitors.

□ 2045

H.R. 400, I call it the Steal American Technologies Act, there are Members who are advocating this with a straight face and they are saying, if we published this, this will show our enemies what not to steal. Bruce Lehman, head of our patent office, last year was stopped short and believe me, it took all of our effort to do it, in his efforts to do what? What was his plan? He wanted to send the entire database of the patent office to China, the disk. He wanted to send our computer disk with the entire database of our patent office to China.

That is like sending the worst thief in the world the combination of your safe and saying, we are just sending it to you so you will know what not to steal. By the way, that was what he said was the purpose of sending the database, so they would know what not to steal. Something is haywire here; something is haywire here. The news media in the United States is not covering it. The American people do not know about it. And H.R. 400 is being supported by an army of lobbyists from multinational and foreign corporations that are going to meet each and every Member of Congress to try to get them to vote for this heinous piece of legislation. Disclosing all of our secrets? Disclosing all of our technology?

When this bill was first introduced, it had a different name. The name of the bill, now H.R. 400, is guess what? It is the 21st Century Patent Law Reform Act. Boy, does that sound positive. The 21st Century Patent Law Reform Act. What was this bill called when it was first introduced as 1733, which was 2 years ago? This bill, which was introduced by Carlos Moorhead and Pat Schroeder, was first called the Patent Publication Act. They were trying to sneak this through and they had no idea anybody was going to be on to it. That is what happened.

It was called the Patent Publication Act, but it got too hot, because that is the real purpose of this bill. The real purpose of the bill is to force our system to harmonize with the Japanese system so you publicize this. You publicize this after 18 months, you publicize the patent application, but they say, that is all right, we are including in H.R. 400 the right of people to sue, to sue.

If someone, when you have applied for a patent and your patent is published and some Japanese huge corporation or Chinese, like the Chinese army has these big companies now that steal our stuff over in China, if they start using your technology, then you can sue them once your patent is issued. That is what right they have given us. So sue me.

Can you imagine small American inventors trying to go up against these corporate giants, these corporate gangsters in these dictatorships like China or Vietnam or these corporate goons over in Japan?

So now these people who are trying to push this bill through, who have hired lobbyists to come and see your Member of Congress, my Member of Congress, everybody's Member of Congress being visited by these lobbyists, they are doing everything they can to pass the bill. And when you ask them, why are you supporting this bill, people call up their offices, after they have heard about how horrible it is. Every inventor in the United States is desperate to stop this bill. They are desperate. They know what this will mean.

So when people call up their Congressman and they say, why are you supporting this bill, I notice that you are supporting this H.R. 400, the Steal American Technologies Act, and the Member of Congress says, oh, just like the authors of the bill, they have been told that this is what they say, they talk about some really nice reforms in the bill.

There are a few here that are pretty good things in H.R. 400. They talk about, for example, ensuring that patent fees are retained in the patent office to make the patent office better and allowing the patent office to hire new employees, for example, and to protect inventors against fraud from phony advertising, sort of a truth in labeling type provision. That is all in H.R. 400. By the way, I support those reforms. Those are very good reforms. But those are minor changes compared to what the real intent of the legislation is. They are figleafs. They are covers. They are a facade for something evil that is about to go on in this body.

It is like giving someone a bouquet of beautiful flowers. You have handed someone a bouquet of beautiful flowers. Then the proponents of the legislation hand the bouquet of beautiful flowers, and you are very happy. I have this bouquet of beautiful flowers. But then you happen to notice there are snakes in the bouquet. This bouquet is crawling with snakes as well as flowers. Well, you say, well, by the way, are these snakes poisonous?

They say, let me talk about the flowers, see how beautiful the flowers are here in this bouquet. No, I want to know if the snakes are poisonous because I do not want to hold on to it. Look at that beautiful rose in the bouquet. Why are you talking about snakes when you can look at the rose?

I do not want to take this home to my family. These snakes are poisonous. They will kill my children.

Do not think about that. Look at the beautiful flowers. Let me tell you about all the flowers.

That is what is going on with H.R. 400. They are talking about beautiful flowers, when the bouquet is filled with poisonous snakes. One of the snakes is mandating publication so that everybody in the world can steal it, steal our technology, steal our ideas and use them against us. That is a snake.

I had an industrialist in my office, a guy who ran a small solar energy company. And when this piece of legislation went through committee, and it has already gone through committee, he said, Congressman, if they mandate that I publish all of my patent applications; what is going to happen is they are going to use my patent applications, then will use all of the things that I have spent money for, millions of dollars to develop. They are going to go into production in Japan with my ideas, and all the money that they make from producing my technology they will use against me to defeat me in court and to steal my technology from me in court. They will be using my ideas and my innovation and my development to destroy me. That is a real snake. That is a real poisonous snake. That is what is going to be happening if H.R. 400 passes. That is a threat to our future.

H.R. 400 is the Steal American Technologies Act. But by the way, that snake that I just described, that is about new patents. If that was not bad enough, let me mention another snake that we have found hidden in the bouquet of flowers. I did not find this until recently when we had legal minds go over this bill with a fine-tooth comb, with a microscope.

What did we find? Another snake hidden among the flowers. That is that current patent owners, you see, the one I was just talking about where you have to publish your patent application, that only dealt with future technology. Current patent owners in the United States of America are going to find that there are provisions in this bill that opens them up to challenge by these huge corporate interests and by foreign and multinational corporations. In other words, once their patent has already been issued to Americans, we are going to find these huge corporate entities overseas coming in and filing court cases and challenging American patents that have already been issued.

Today it is very limited, very limited scope as to what you can challenge someone who owns a patent. They do not want it brought up again and again and again. What H.R. 400 does is open it up to a panoply of issues that you can bring before a court. Every one of our patent owners is going to be put in jeopardy. All of our current technology will be put in jeopardy. Not just the future, not just publication but current technology.

It is going to be challenged by the big boys of the world, both foreign and domestic.

There is a snake. There is a snake for you. How about another snake that we found in the bouquet of H.R. 400. Another snake is the snake that would permit these very same interests to interfere with a patent applicant as the process is moving. Once they find out, once they find out what he is up to because it has been published, they could actually go into the process and interfere with the process. That is what we found out. Can you imagine that. We are opening up, our own people are going to be cut off by the biggest people in the world. They will probably make a little change in the patent and then go in and try to interfere with the process. That is a real snake. That is a snake to everybody.

What about publication, what happens? By the way, one thing you have to understand, if the patent is not issued and you have then published it after 18 months, what happens if the patent is never issued. That means our American inventors are putting their heart and soul and investment in something and it does not pan out and the patent is not issued, what happens is everybody in the world knows all of their work. And if the patent is never issued, they have no rights whatsoever to sue anybody who is using their information.

Mr. Speaker, all of this was confidential before. It only became public up until this bill, if it passes, for since the founding of our country this has all been confidential information.

By the way, there is one big snake in this H.R. 400 Steal American Technologies Act, one big snake in the bouquet that I have not mentioned. It is probably the biggest snake of all. And it is so easy to see that proponents of the bill have had to go a long way to try to disguise it. Basically for the first 200 years of our country, since our Constitution, the Patent Office has been part of the U.S. Government. We have had patent examiners. Patent examiners make quasi-judicial decisions that determine who owns technology that represents billions of dollars, tens of billions of dollars. These people, they have had to be cleaner than judges because they determine ownership of technology, of property, of what will become money, of wealth.

These stalwart public employees at the Patent Office, these patent examiners, have been shielded from outside influences because they have been Government employees. Do my colleagues know what? In 200 years of this country's history, there has never been a scandal, never been a scandal with these patent examiners. The patent examiners have never been through scandals that have gone through many other different parts of our Government, because they have been shielded. They have been protected from outside influences.

And what does H.R. 400 do to the Patent Office that has been part of the U.S. Government since our country's founding? It obliterates it. It destroys it. It eliminates it. That is it. It takes the Patent Office and turns it into a corporate entity, a corporate entity. Maybe something like the Post Office. They do this in the name of privatization.

I am here to say that I am a Ronald Reagan conservative, I look at privatization as a very good thing. But there are core functions of government, the court system, our military, core functions of government, institutions that are set up to protect our individual rights, and you do not leave that in the hands of a corporate elite. You do not corporatize that. That is a legitimate function of government.

Mr. Speaker, they want to take the Patent Office and turn it into a corporate structure with a private board of directors made up of, and it is mandated in H.R. 400, to be made up of people with a business and financial background, meaning corporate leaders of this country will appoint who is the head of the Patent Office and oversee the policies of the Patent Office. And what effect will this corporatization have on this, on the honesty and the protection of our patent examiners from outside influences?

All I can say is that part of H.R. 400 is a provision that permits this new entity, this corporate entity, the Patent Office becomes a corporatized entity, permits that entity to accept corporate gifts, private and corporate gifts from foreign companies, from domestic companies. It permits this entity which will determine who owns what technology to accept gifts from the people who it is having to decide on who owns what. This is beyond belief, taking our patent examiners and subjecting them to who knows what outside influences by who knows who.

More than that, the new corporate entity will be able to float bonds so that they can build huge palaces. This is one of the things that Bruce Lehman would like to do. He wants to build a huge new patent building. And by the way, if the new Patent Office corporatization does not have the money for some reason, well, the taxpayers are the ones who have to meet the obligation if those bonds that are floated by this corporate entity are not repaid.

H.R. 400 is the Steal American Technologies Act. It has already gone through subcommittee, passed I think by voice vote, went through committee. I think it passed by either voice vote or a close-to-unanimous vote.

□ 2100

It has already passed through these committees and there is an army of lobbyists in the Nation's Capital, hired by multinational and foreign corporations as well as some of our own domestic corporations, who are here trying to basically do what they have a right to do, which is influence the vote of Members of Congress.

The administration is behind this piece of legislation. They are backing it. Of course, this is the same administration which has been compromised by receiving campaign donations from Chinese interests, from Communist Chinese interests, I might add, by some of the same people we could expect to steal the American technology as soon as it was published. But the administration is backing it.

So we have these forces at play. These forces are working right now and this bill will pass unless the American people personally get involved. This is the way it has always been when there has been a threat to our well-being. Unless the American people get involved, the Government can go in the wrong direction. Unless people actually call their Member of Congress and say, for goodness sakes, oppose H.R. 400, the Steal American Technologies Act, and please support the bill, H.R. 811, Congressman ROHRABACHER's bill, and H.R. 812, a bill which will reaffirm, it is called the Patent Term Restoration Act, reaffirm and strengthen patent protection in America. It is diametrically opposed to H.R. 400.

What we have now are my bill, which would strengthen the patent office, and H.R. 812. H.R. 811, my bill, which would strengthen the American patent protection, over here, versus a piece of legislation, H.R. 400, that would destroy our patent protection as we know it and destroy the patent office.

They are coming to a head on the floor of the House a week from Thursday. What will happen is my vote will come as a substitute motion, which means it will be a vote either for H.R. 811 and 812 or for H.R. 400. If H.R. 400 passes, gets the higher number of votes, it will be passed into law, and I believe it will pass through the U.S. Senate.

As I say, it will have dramatic repercussions. It will be, and I honestly believe, be a Pearl Harbor in slow motion. Our standard of living, our way of life will be attacked and 20 years from now people will never know, will never know what hit them.

It was just 100 years ago when two young Americans decided that they would set out to discover the secrets of manned flight. Two young Americans, Orville and Wilbur Wright. They did not have a lot of education, but they had freedom and they were Americans and they had a dream. They owned this bicycle shop in Ohio and they read everything they could get their hands on.

Perhaps more than any other Americans, these two young men represented the spirit of what our country was and hopefully always will be all about. Orville and Wilbur there in their bicycle shop, reading and writing letters to people all over the world, struggling to find, to discover that secret, the secret that would permit all of mankind to soar, to soar into the heavens like birds, like meteors.

They worked hard. They had very little money. They had investors. They did have investors, and their investors knew if they discovered this, there would be a time period when their secret would become profitable. They would discover the secret and they would be able to make some return on their money. That is why people invested in them. Orville and Wilbur knew they would have a 17-year guaranteed patent term and they also knew their secrets, what they discovered would be kept secret until their patent was issued.

These two young Americans did what the crown heads of Europe and the huge empires around the world could not do. The Kaiser could not do it. The French, the English crown could not discover the secret, the technology that would permit man to soar like the birds, to fly into the heavens. All they had was their enthusiasm and their freedom.

I visited Kitty Hawk, NC, last year, and it is one of the most inspiring sites that I can imagine. I would recommend that to anyone who is listening or reading this in the CONGRESSIONAL RECORD. Kitty Hawk talks about the indomitable spirit of the American people. They had an indomitable spirit because they lived in a society that protected creators. It protected investors. It protected innovators.

It protected the likes of Orville and Wilbur Wright, normal, common, everyday Americans, rather than a legal system that protected the elite like they have had in Japan, or the elite in Europe and the other countries from which our forefathers and mothers fled to the new world to live a new life and to live in freedom.

So the people like Orville and Wilbur were able to dream great dreams, and one day, and after years of failure and trying again and trying again, they did it. They discovered the secret, and the secret for them was the shape of the wing. It was the shape of the wing that they had not seen before that permitted them to understand lift; that managed to take mankind off of the ground on the windy shores of Kitty Hawk, NC, and catapulted mankind into a new era.

Here we are, less than 100 years later, less than 100 years after that first flight, and look how this has changed our way of life. Look what their discovery has meant for the United States of America. Their discovery has meant that we have built a tremendous aerospace industry that not only took man to the moon but has facilitated jet air travel throughout this planet, and has uplifted the standard of living not only of the people who work for the aerospace industry, who have good paying jobs, but everybody else who is able to enjoy the goods and services and visits that we have learned to expect as Americans, as part of our way of life and our freedom to travel.

What would have happened if Orville and Wilbur Wright would have had to publish their secret before that patent was issued? Would there have been a Mitsubishi Corp. who would take their invention and create an aerospace industry in Japan, while at the same time using their money and resources to destroy Orville and Wilbur Wright and destroy them in our own court system?

If H.R. 400 would have been in place, what would have happened was that the Japanese would have had all their secrets, and before that patent was issued the Mitsubishi Corp. could actually have come and interfered with their right to get the patent. It could put a challenge on if the patent had already been issued. It could have tied up these little guys from Ohio and tied them in knots, and they could have used the resources from the Wright brothers' own discovery, the wealth that was created by this new knowledge, to destroy the Wright brothers.

Now, that is only one example. That is only one example of how technology and the protection of technology will directly affect our standard of living. Hundreds of thousands of people work in the aerospace industry in the United States today. Good high-paying jobs. That is because it was started with Orville and Wilbur Wright. It was because our creators and innovators have had that protection. And now we are trying to harmonize our system with the Japanese law. We cannot stand by as free people and let this happen. We cannot let it happen.

We cannot let our own huge corporate interests, who are pushing this bill, and they are all of the big companies now thinking that we have to pass this bill. Because of what? They call it globalism. They say that we are entering in this new era of global harmony. Well, Lord protect us from those people who would perfect all of the people of the world. Because usually these idealists who want to create a perfect world end up causing great damage to the people of the United States of America, to our rights and to our liberty and to our way of life.

Globalism, this thought that has captured the imagination of our corporate leadership, now is being used as an excuse to do things that will hurt the standard of living of the American people and will reduce the protections and the legal rights of our people.

This patent maneuver is just one example of that. It is maybe the first easily defined and easily described example of that. We cannot permit the corporate interests, who basically have the right to live here and enjoy the protection that the American people have given them, and they use their investments to go overseas to countries like China and create factories, perhaps even based on the technology they have stolen from their fellow Americans, we cannot permit this to happen so that our wealth and our technology and our ideas are used against the United States of America in the name of some global concepts.

It is not globalism they want. They are putting that money in their own pocket. They know that and they are justifying that sellout of the American people by talking about globalism.

I have not met any corporate leaders who come into my office and told me about the big meetings they have had with their Chinese leaders on the mainland of China about human rights. They always talk about how most-favored-nation status and trading with the Chinese is going to bring about more liberalization on the mainland of China and more respect for human rights, and yet they have never spoken to the red Chinese bosses themselves about human rights. I guess they think it is osmosis that will create these ideal flows.

Well, I know those people who were sitting in my office trying to get me to vote for most-favored-nation status were really interested in a 20-percent return on their investment rather than investing in the United States of America and getting only a 5- to 10-percent return. I know that is what it is all about. That is fine. If I can vote against it, I will, but I understand where they are coming from.

What is happening with H.R. 400, they have convinced themselves, the corporate leaders have convinced themselves that they are creating this new global economy, and that they can basically bring down the level of protection for American citizens and it will not bother them at all because they are creating this new global economy which will be better for everybody.

No. Their real purpose is to put more money in their pocket and to excuse every dastardly act that they need to do to make that money, even if they are making deals with the worst butchers in the world. The people of Tibet could be totally incinerated tomorrow, millions of them, and our corporate elite would still want to have most-favored-nation status with China.

Where does this all fit in with, of course, the campaign donations made to this administration? Where does it fit in with the subject of patents? It is the Red Chinese as well as the Japanese and other copycats around the world who are going to use our technology. They are going to have the benefits, these monster regimes will have the benefits of all the innovations and creative ideas before our own people are even issued the patent.

That is what H.R. 400 is trying to do. H.R. 400, the Steal American Technologies Act, will give them all that even before the patents are issued. We cannot let that happen. And we can stop it. The lobbyists can be defeated if people let their Member of Congress know that they are opposed to H.R. 400, the Steal American Technologies Act, and want their representatives to vote for the Rohrabacher alternative, H.R. 811 and 812. They can be stopped.

Whether it is Orville or Wilbur or whether it is Tom Edison, or whether we are talking about the people that have come up with the ideas and fought the wars, the people who have built the churches, the people who teach in our schools, the people who make this country what it is, a great and wonderful country, and have defended this country, these are ordinary American people. These are people who have come here from every part of the world to live in freedom, and not to have our laws harmonized downward with the laws that they came here to escape. They came here because this was going to be a better place, where individual rights of all citizens would be protected. The ordinary people of the United States of America. People who are not rich.

Both of my parents were raised on farms. Homesteads. My dad was a marine who fought in World War II. I spent 10 years as a journalist before I got involved in politics, and I did not make much money. It is ordinary people that will save our Republic. It is ordinary people that have saved and preserved our freedom, and this is one of those occasions when the ordinary people of the United States have got to make their will felt or we will see our freedom diminished and we will pay a price in the long run.

I am confident that a week from Thursday when this vote comes, that good will triumph and American freedom will be preserved because the people will speak and they will not let down the Orville and Wilbur Wrights of the past. They will not let down the patriots of bygone eras, and they will not let, in the name of some global concept, our rights as Americans to be diminished and to be frittered away by an elite that seems to have lost their patriotism and their direction and their moral values.

Mr. Speaker, I yield back the balance of my time.

□ 2115

THE STRUGGLE FOR FREEDOM IN BURMA AND AFGHANISTAN

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute.)

Mr. ROHRABACHER. Mr. Speaker, I have been involved with many various groups of people who are struggling for their freedom in different parts of the world. Tonight, I would like to mention two of them. One is the people of Burma. The people of Burma are still under the heels of a despotic regime. Let me note that those people in Burma are led by a nobel laureate named Aung San Suu Kyi. Aung San Suu Kyi is one of the true heroes of our day. I would hope that as the American people hear about the issue of patents, which I just described, that they will realize that there are some people, no matter how brutal a regime, that are still willing to trade and do business with countries and governments like that in Burma. That government and the Burmese people are separated by a wide difference in the sense that one is the oppressed and one is the oppressor.

We set our policies, and as Americans we should always be identifying with the people who are the oppressed people and not those people who are the oppressors. This is important for our trade policies as well as our personal and political policies.

The other country I would like to mention is Afghanistan, where the Taliban movement is in control of three-quarters of the country. There is a king of Afghanistan in exile in Italy today who could and offers a positive alternative to the chaos and somewhat repressive nature of those individuals or other individuals seeking power in Afghanistan. I would hope that the people of Afghanistan can someday free themselves from the tyranny of chaos that has gripped them since the Russians invaded their country back in 1979–80.

So tonight, as part of my message, I would hope that people in Burma and the people of Afghanistan who have struggled so long and hard for their liberty understand that while we are here on the House floor debating issues like the patent law and other laws that really impact us greatly in the United States of America, that we also understand that America is a shining light of hope for the people of the world, whether they are oppressed people in Burma or in Afghanistan or elsewhere, and that in Afghanistan, where there is a chance for the king to bring about a new era, that the United States Government backs him and helps to end the cold war which was put to an end by the strength and freedom of the Afghan people.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SCHIFF (at the request of Mr. ARMEY), for today, on account of medical reasons.

Ms. KAPTUR (at the request of Mr. GEPHARDT), for today, on account of personal business.

Mr. POMEROY (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. FILNER (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of official business.

Mrs. MCCARTHY of New York (at the request of Mr. GEPHARDT), for today, on account of illness.

Ms. CARSON (at the request of Mr. GEPHARDT), for today, on account of illness.

Ms. KILPATRICK (at the request of Mr. GEPHARDT), for today, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. SHERMAN) to revise and extend her remarks and include extraneous material:)

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. TIAHRT) to revise and extend their remarks and include extraneous material:)

Mr. HULSHOF, for 5 minutes, today.

Mr. GIBBONS, for 5 minutes, on April 9.

Mr. CHRISTENSEN, for 5 minutes each day, on April 9 and 10.

Mr. SHIMKUS, for 5 minutes each day, on today and April 9.

Mr. PAPPAS, for 5 minutes, today.

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. GEKAS, for 5 minutes, today.

Mr. BONO, for 5 minutes, today.

Mr. THUNE, for 5 minutes, today.

Mr. RIGGS, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SHERMAN) to revise and extend their remarks and include extraneous material:)

Mr. ANDREWS.
Mr. STARK.
Mr. PASCRELL.
Mrs. MALONEY of New York in two instances.
Mr. WEYGAND.
Ms. WOOLSEY.
Mr. UNDERWOOD.
Mr. TRAFICANT.
Mr. KLECZKA.
Mr. KUCINICH.
Mr. STOKES.
Mr. HOLDEN.
Mr. THOMPSON.
Mr. MORAN of Virginia.
Mr. DIXON.
Mr. VISCLOSKY.
Mr. ORTIZ.
Ms. HARMAN.
Mr. ACKERMAN.
Mr. MARTINEZ.
Mr. COYNE.
Mr. BERRY.
Mr. BROWN of California.

(The following Members (at the request of Mr. TIAHRT) to revise and extend their remarks and include extraneous material:)

Mr. GIBBONS.
Mr. BLUNT.
Ms. ROS-LEHTINEN.
Mr. GINGRICH.
Mr. SENSENBRENNER.
Mr. GILMAN in three instances.
Mr. GALLEGLY.
Mr. GEKAS in two instances.
Mr. MCCOLLUM.
Mr. DAVIS of Virginia in two instances.
Mrs. ROUKEMA.
Mr. PORTMAN.
Mr. SHUSTER.
Mr. FRANKS of New Jersey.

(The following Members (at the request of Mr. ROHRABACHER) to revise and extend their remarks and include extraneous material:)

Mr. DUNCAN.
Mr. CLAY.
Mr. DEUTSCH.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight reported that that committee did on the following date present to the President, for his approval, a bill of the House of the following title:

On March 21, 1997:

H.R. 514. An act to permit the waiver of District of Columbia residency requirements for certain employees of the Office of the Inspector General of the District of Columbia.

ADJOURNMENT

Mr. ROHRABACHER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 20 minutes p.m.), the House adjourned until tomorrow, Wednesday, April 9, 1997, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2493. A letter from the General Sales Manager and Vice President, Commodity Credit Corporation, transmitting the annual report on monetization programs for U.S. fiscal years 1993, 1994, and 1995, pursuant to 7 U.S.C. 1431(b)(9)(B); to the Committee on Agriculture.

2494. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Revisions of part 46, Regulations Under the Perishable Agricultural Commodities Act (PACA) (FV96–351) received March 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2495. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches (FV–96–916–3 Interim Final Rule) received April 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2496. A letter from the Under Secretary for Rural Development, Department of Agriculture, transmitting the the Department's final rule—Community Facilities Grant Program (Rural Housing Service (RHS)) (RIN: 0575–AC10) received April 1, 1997, pursuant to

5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2497. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Propamocarb Hydrochloride; Pesticide Tolerance for Emergency Exemptions [OPP–300464; FRL–5597–2] (RIN: 2070–AC78) received March 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2498. A letter from the Chairman and CEO, Farm Credit Administration, transmitting the Administration's final rule—Disclosure to Shareholders; Disclosure to Investors in Systemwide and Consolidated Bank Debt Obligations of the Farm Credit System; Quarterly Report (RIN: 3052-AB62) received March 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2499. A letter from the Administrator, Farm Service Agency, transmitting the Agency's final rule—Interim Rule: Special Combinations for Flue-Cured Tobacco Allotments and Quotas (RIN: 0560–AF14) received March 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2500. A letter from the Administrator, Farm Service Agency, transmitting the Agency's final rule—Farm Credit—Title VI of the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act) (RIN: 0560–AE87) received March 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2501. A communication from the President of the United States, transmitting his requests for a fiscal year 1997 supplemental and a fiscal year 1998 budget amendment for the Federal Election Commission [FEC], pursuant to 31 U.S.C. 1107 (H. Doc. No. 105–61); to the Committee on Appropriations and ordered to be printed.

2502. A letter from the Secretary of Defense, transmitting the annual report of the Reserve Forces Policy Board for fiscal year 1996, pursuant to 10 U.S.C. 113 (c) and (e); to the Committee on National Security.

2503. A letter from the Under Secretary of Defense, transmitting the Secretary's selected acquisition reports [SARS] for the quarter ending December 31, 1996, pursuant to 10 U.S.C. 2432; to the Committee on National Security.

2504. A letter from the Director, Office of Administration and Management, Department of Defense, transmitting the Department's final rule—Air Force Privacy Act Program [Air Force Reg. 12–35] received March 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

2505. A letter from the Assistant Secretary of Defense for Force Management Policy, Department of Defense, transmitting an interim response to the requirement of section 1256 of the National Defense Authorization Act for fiscal year 1997 for a report on Parity of Pay for Active and Reserve Component members; to the Committee on National Security.

2506. A letter from the Director, Office of Administration and Management, Department of Defense, transmitting a report on printing and duplicating services procured in-house or from external sources during fiscal year 1996, pursuant to Public Law 104–201, section 351(c) (110 Stat. 2490); to the Committee on National Security.

2507. A letter from the Secretary, Panama Canal Commission, transmitting the Commission's final rule—Panama Canal Commission Acquisition Regulation; Debarment, Suspension, and Ineligibility [48 CFR Part 3509] (RIN: 3207–AA30) received March 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

2508. A letter from the Secretary of Defense, transmitting the Department's report entitled "Military Capabilities of the People's Republic of China"; to the Committee on National Security.

2509. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to various countries, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

2510. A letter from the Chairman, Federal Financial Institutions Examination Council, transmitting the Council's 1996 annual report to Congress, pursuant to 12 U.S.C. 3305; to the Committee on Banking and Financial Services.

2511. A letter from the Assistant to the Board, Federal Reserve System, transmitting the Reserve's final rule—Regulation M, Consumer Leasing Act [Docket No. R–0952] received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

2512. A letter from the Chairman, National Credit Union Administration, transmitting the 1996 annual report of the National Credit Union Administration, pursuant to 12 U.S.C. 1752a(d); to the Committee on Banking and Financial Services.

2513. A letter from the Federal Register Liaison Officer, Office of Thrift Supervision, transmitting the Office's final rule—Economic Growth and Regulatory Paperwork Reduction Regulatory Amendments (RIN: 1550–AB05) received March 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

2514. A letter from the Acting Assistant Secretary for Educational Research and Improvement, Department of Education, transmitting notice of Final Priority—Educational Research and Development Centers Program—received March 25, 1997, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

2515. A letter from the Acting Secretary of Labor, transmitting the 1996 reports of the Department of Labor's Advisory Council for Employee Welfare and Pension Benefit Plans; to the Committee on Education and the Workforce.

2516. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's report on the Educational Research and Development Centers Program, pursuant to 5 U.S.C. 801(a)(1)(B); to the Committee on Education and the Workforce.

2517. A letter from the Chairperson, National Council on Disability, transmitting the Council's annual report for fiscal year 1996, pursuant to 29 U.S.C. 781(a)(9); to the Committee on Education and the Workforce.

2518. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California—Ozone [FR #CA126–0030; FRL–5804–5] received March 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2519. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for Utah; Visibility Protection [UT–001–0001a; FRL–5802–2] received March 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2520. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plan; Minnesota; Enhanced Monitoring [MN40–01–6988a; FRL–5694–4] received March 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2521. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plan; Indiana [IN–53–1a; FRL–5710–1] received March 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2522. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval of Section 112(1) Program of Delegation; Indiana [IN74–1(a); FRL–5687–8] received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2523. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—National Priorities for Uncontrolled Hazardous Waste Sites [FRL–5805–2] received April 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2524. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Vermont; Reasonably Available Control Technology for Major Stationary Sources of Nitrogen Oxides and Volatile Organic Compounds Not Covered By Other Category-Specific Regulations [A–1–FRL–5801–9] received April 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2525. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Microbial Products of Biotechnology; Final Regulation Under the Toxic Substances Control Act [OPPTS–00049C; FRL–5577–2] (RIN: 2070–AB61) received April 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2526. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Control of Air Pollution; Amendment to Emission Requirements Applicable to New Gasoline Spark-Ignition Marine Engines [FRL–5805–7] received March 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2527. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval of Section 112(1) Program of Delegation; Wisconsin [WI73–01–7302(b); FRL–5691–7] received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2528. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—State of Florida: Final Authorization of State Hazardous Waste Management Program Revisions (FRL 5802–9) received March 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2529. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Revision of Part 2 of the Commission's Rules Relating to the Marketing and Authorization of Radio Frequency Devices [ET Docket No. 94-45, RM-8125] received March 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2530. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Telephone Number Portability [CC Docket No. 95-116, RM-8535] received March 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2531. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of the Commission's Rules to Relocate the Digital Electronic Message Service From the 18 GHz Band to the 24 GHz Band and to Allocate the 24 GHz Band for Fixed Service [ET Docket No. 97-99] received March 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2532. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rules—Amendment of Part 90 of the Commission's Rules To Provide for the use of the 220-222 MHz Band by the Private Land Mobile Radio Service [PR Docket No. 89-552 RM-8506]; Implementation of Sections 3(n) and 332 of the Communications Act [GN Docket No. 93-252]; Regulatory Treatment of Mobile Services; and Implementation of Section 309(j) of the Communications Act—Competitive Bidding [PP Docket No. 93-253] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2533. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Part 1 of the Commission's Rule—Competitive Bidding Proceeding [WT Docket No. 97-82] received March 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2534. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Notice and Request for Comment Regarding Compliance Assistance and Civil Penalty Leniency Policies for Small Entities—received April 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2535. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Listing of Color Additives for Coloring Contact Lenses; 1.4-Bis [(2-hydroxyethyl) amino] -9, 10-anthracenedione bis (2-propenoic) ester copolymers; Confirmation of Effective Date [Docket No. 91C-0189] received March 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2536. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Consolidation of Drug Regulations [Docket No. 96N-0183] (RIN: 0910-AA53) received March 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2537. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Investigational Device Exemptions; Disqualification of Clinical Investigators [Docket No. 92N-0308] received March 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2538. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Medical Devices; Medical Device Reporting; Annual Certification [Docket No. 91N-0295] (RIN: 0910-AA09) received March 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2539. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Electronic Records; Electronic Signatures [Docket No. 92N-0251] (RIN: 0910-AA29) received March 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2540. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food and Drugs; Technical Amendments [21 CFR Parts 101 and 102] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2541. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Tamper-Indicating Seals for the Protection and Control of Special Nuclear Material (Regulatory Guide 5.15) received April 1, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2542. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—NRC Generic Letter 97-01: Degradation of Control Rod Drive Mechanism Nozzle and Other Vessel Closure Head Penetrations [GL 97-01] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2543. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Monitoring the Effectiveness of Maintenance at Nuclear Power Plants (Regulatory Guide 1.160, Revision 2) received March 24, 1997, pursuant to 5 U.S.C. 801(a) (1) (A); to the Committee on Commerce.

2544. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Nuclear Power Plant Instrumentation for Earthquakes [Regulatory Guide 1.12] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2545. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Identification and Characterization of Seismic Sources and Determination of Safe Shutdown Earthquake Ground Motion [Regulatory Guide 1.165] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2546. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Pre-Earthquake Planning and Immediate Nuclear Power Plant Operator Postearthquake Actions [Regulatory Guide 1.166] received April 1, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2547. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Restart of a Nuclear Power Plant Shut Down by a Seismic Event [Regulatory Guide 1.167] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2548. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Standard Review Plan; Basic Geologic and Seismic Information [Section 2.5.1 of NUREG-0800] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2549. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Standard Review Plan; Vibratory Ground Motion [Section 2.5.2 of NUREG-0800] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2550. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Standard Review Plan; Surface Faulting [Section 2.5.3 of NUREG-0800] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2551. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Reactor Siting Criteria (Regulatory Analysis) [10 CFR Part 50 and 100] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2552. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Status of Investment Advisory Programs under the Investment Company Act of 1940 [Release No. IC-22579; IA-1623; S7-24-95] (RIN: 3235-AG07) received March 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2553. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Informal Guidance Program for Small Entities (17 CFR Part 202) received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2554. A letter from the Secretary, Securities and Exchange Commission, transmitting the Commission's final rule—Penalty-Reduction Policy for Small Entities (17 CFR Part 202) received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2555. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Israel for defense articles and services (Transmittal No. 97-12), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2556. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 03-97 for the relocatable over-the-horizon radars [ROTHR] project arrangement [PA], pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

2557. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Brazil (Transmittal No. 09-97), pursuant to 22 U.S.C. 2796(a); to the Committee on International Relations.

2558. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

2559. A letter from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Overflight Payments to

North Korea (Office of Foreign Assets Control, Treasury) (CFR Part 500) received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

2560. A communication from the President of the United States, transmitting a report to the Congress detailing payments made to Cuba by any United States person as a result of the provision of telecommunications services, pursuant to Public Law 104–114, section 102(g) (H. Doc. No. 105–62); to the Committee on International Relations and ordered to be printed.

2561. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–524, "Department of Insurance and Securities Regulation Establishment Act of 1996" received March 21, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2562. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–458, "Initiative 51 Real Property Assessment and Tax Initiative of 1996" received April 4, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2563. A letter from the Acting Comptroller General of the United States, transmitting a list of all reports issued or released in February 1997, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

2564. A letter from the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, transmitting the Committee's final rule—Additions to the Procurement List—received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

2565. A letter from the Chief Executive Officer, Corporation for National Service, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552; to the Committee on Government Reform and Oversight.

2566. A letter from the Executive Director, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting the official resolution disapproving the Mayor's response and revised fiscal year 1998 financial plan and budget submitted to the Authority on March 18, 1997, pursuant to section 202(d) of Public Law 104–8; to the Committee on Government Reform and Oversight.

2567. A letter from the Chairman, Farm Credit System Insurance Corporation, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C 552(e); to the Committee on Government Reform and Oversight.

2568. A letter from the Chairman, Federal Election Commission, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

2569. A letter from the General Counsel, Federal Retirement Thrift Investment Board, transmitting the Board's final rule—Death Benefits (5 CFR Part 1651) received March 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

2570. A letter from the Acting Secretary, Federal Trade Commission, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

2571. A letter from the Acting Administrator, General Services Administration, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

2572. A letter from the Executive Director Neighborhood Reinvestment Corporation, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1996, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2573. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Cost-of-Living Allowances (Nonforeign Areas) [5 CFR Part 591] (RIN: 3206–AH07) received March 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

2574. A letter from the Director, Peace Corps, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2575. A letter from the Railroad Retirement Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1996, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2576. A letter from the Acting Commissioner, Social Security Administration, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2577. A letter from the Executive Director, United States Artic Research Commission, transmitting the Commission's consolidated semiannual report under the Inspector General Act, and the annual report under the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2578. A letter from the Under Secretary for Oceans and Atmosphere, Department of Commerce, transmitting the annual report of the coastal zone management fund for the National Oceanic and Atmospheric Administration for fiscal year 1996, pursuant to Public Law 101–508, section 6209 (104 Stat. 1388–309); to the Committee on Resources.

2579. A letter from the Acting Director, Fish and Wildlife Service, transmitting the Services final rule—Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Three Plants and Threatened Status for Five Plants from Vernal Pools in the Central Valley of California [50 CFR Part 17] (RIN: 1018–AC00) received March 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2580. A letter from the National Marine Fisheries Services, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands [Docket No. 961107312–7021–02; I.D. 032097A] (50 CFR Part 679) received March 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2581. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Offshore Component Pollock in the Aleutian Islands Subarea [Docket No. 961107312–7021–02; I.D. 022697A] received March 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2582. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands [Docket No. 961107312–7021–02; I.D. 031497C] received March 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2583. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 961126334–7025–02; I.D. 031497D] received March 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2584. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Central Regulatory Area of the Gulf of Alaska [Docket No. 961126334–7012–02; I.D. 031097A] received March 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2585. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Western Regulatory Area of the Gulf of Alaska [Docket No. 961126334–7025–02; I.D. 031097B] received March 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2586. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Bering Sea and Aleutian Islands Area; Prohibited Species Catch Limits for Tanner Crab [Docket No. 961217360–7052–02; I.D. 112596C] received March 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2587. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Consolidation of the Fishery Management Plan for the Atlantic Bluefish Fishery [Docket No. 970303042–7042–01; I.D. 021097C] (RIN: 0648–AJ78) received March 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2588. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Season Opening [I.D. 031497A] received March 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2589. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Commercial Red Snapper Component [Docket No.

960807218-6244-02; I.D. 032097F] received March 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2590. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Pacific Halibut Fisheries; Catch Sharing Plans [Docket No. 961217359-7050-02; I.D. 121196B] (RIN: 0648-AJ11) received March 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2591. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Offshore Component Pollock in the Aleutian Islands Subarea [Docket No. 961107312-7021-02; I.D. 031997A] received March 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2592. A letter from the Acting Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Technical Amendment [Docket No. 960612172-7054-02; I.D. 011697A] (RIN: 0648-AI21) received March 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2593. A letter from the Acting Assisting Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 14 [Docket No. 961108316-7051-02; I.D. 101796C] (RIN: 0648-AI47) received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2594. A letter from the Acting Deputy Assistant Administrator, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Hawaiian Islands Humpback Whale National Marine Sanctuary [Docket No. 950427120-7006-02] (RIN: 0648-AH99) received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2595. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 23 [Docket No. 970324064-7064-01; I.D. 021997B] (RIN: 0648-AJ32) received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2596. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 20 [Docket No. 970318056-7056-01; I.D. 021397B] (RIN: 0648-AJ43) received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2597. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska, Pollock in the Eastern Regulatory Area of the Gulf of Alaska [Docket No. 961126334-7025-02; I.D. 032897B] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2598. A letter from the National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Aleutian District of the Bering Sea and Aleutian Islands [Docket No. 961107312-7021-02; I.D. 032497A] (50 CFR Part 679) received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2599. A letter from the National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fishery; District 16 of Registration Area D [Docket No. 960502124-6190-02; I.D. 022097B] (50 CFR Part 679) received March 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2600. A letter from the Acting Director, Office of Surface Mining, transmitting the Office's final rule—Iowa Regulatory Program [SPATS No. IA-009-FOR] received April 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2601. A letter from the Acting Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Hopi Tribe Abandoned Mine Land Reclamation Plan [HO-004-FOR] received March 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2602. A letter from the Acting Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Alaska Regulatory Program [AK-005-FOR, Amendment No. V] received March 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2603. A letter from the Secretary of Commerce, transmitting the biennial report regarding the activities of the National Oceanic and Atmospheric Administration's [NOAA] National Marine Fisheries Service's Chesapeake Bay Office to protect and restore the living resources of the Chesapeake Bay, pursuant to section 307(b)(7) of the NOAA Authorization Act of 1992; to the Committee on Resources.

2604. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Civil Monetary Penalties Inflation Adjustments (U.S. Coast Guard) [CGD 96-052] (RIN: 2105-AC63) received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2605. A letter from the Director, Federal Bureau of Investigation, transmitting the Bureau's final rule—Implementation of Section 109 of the Communications Assistance for Law Enforcement Act (RIN: 1105-AA39) received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2606. A letter from the Director, Federal Bureau of Prisons, transmitting the Bureau's final rule—Literacy Program [BOP-1036-I] (RIN: 1120-AA33) received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2607. A letter from the Chairman, Federal Trade Commission, transmitting the Commission's 18th annual report to Congress pursuant to section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, pursuant to 15 U.S.C. 18a(j); to the Committee on the Judiciary.

2608. A letter from the Director, Office of Government Ethics, transmitting the Office's final rule—Post-Employment Conflict of Interest Restrictions; Exemption of Positions and Revision of Departmental component Designations (RIN: 3209-AA07) received March 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2609. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Robinson Helicopter Company Model R44 Helicopters (Federal Aviation Administration) [Docket No. 96-SW-15-AD; Amdt. 39-9900; AD 97-02-15] (RIN: 2120-AA64) received March 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2610. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company (formerly Beech Aircraft Corporation) Model 1900D Airplanes (Federal Aviation Administration) [Docket No. 96-CE-43-AD; Amdt. 39-9907; AD 97-03-01] (RIN: 2120-AA64) received March 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2611. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Battle Mountain, NV (Federal Aviation Administration) [Airspace Docket No. 96-AWP-32] (RIN: 2120-AA66) received March 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2612. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Aircraft Flight Simulator Use in Pilot Training, Testing, and Checking at Training Centers: Editorial and Other Changes (Federal Aviation Administration) [Docket No. 26933; Amdt. Nos. 61-101, 121-263, 135-67, 142-1] (RIN: 2120-AA83) received March 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2613. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operating Regulation; Bonafouca Bayou, LA (U.S. Coast Guard) [CGD8-95-026] (RIN: 2115-AE47) received March 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2614. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations; Government Cut, Miami, FL (U.S. Coast Guard) [COTP Miami-97-009] (RIN: 2115-AA97) received March 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2615. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Regulated Navigation Area Regulations; Lower Mississippi River (U.S. Coast Guard) [CGD08-97-008] (RIN: 2115-AE84) received March 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2616. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Temporary Speed Limits for the St. Mary's River (U.S. Coast Guard) [CGD09-97-005] (RIN: 2115-AE84) received March 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2617. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Performance-Oriented Packaging Standards; Final Transitional Provisions; Revisions and Response to Petitions for Reconsideration (Research and Special Programs Administration) [Docket No. HM-181H; Amdt. Nos. 172-150, 173-255, 178-117] (RIN: 2137-AC80) received March 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2618. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Aircraft Engines CT7 Series Turboprop Engines (Federal Aviation Administration) [Docket No. 96–ANE–34; Amdt. 39-9956; AD 97–05–12] (RIN: 2120–AA64) received March 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2619. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes (Federal Aviation Administration) [Docket No. 97–NM–22–AD; Amdt. 39–9974; AD 97–07–01] (RIN: 2120–AA64) received March 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2620. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 Series Airplanes (Federal Aviation Administration) [Docket No. 96–NM–107–AD; Amdt. 39–9975; AD 97–07–02] (RIN: 2120–AA64) received March 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2621. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Selawik, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–28] (RIN: 2120–AA66) received March 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2622. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Nuiqsut, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–27] (RIN: 2120–AA66) received March 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2623. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Kake, AK (Federal Aviation Administration) [Airspace Docket No. 96–AAL–26] (RIN: 2120–AA66) received March 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2624. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Pilot, Flight Instructor, Ground Instructor, and Pilot School Certification Rules (Federal Aviation Administration) [Docket No. 25910; Amendment Nos. 1–47, 61–102, 141–8, 143–6] (RIN: 2120–AE71) received March 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2625. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Clinton, OK (Federal Aviation Administration) [Airspace Docket No. 96–ASW–12] received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2626. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Panhandle, TX (Federal Aviation Administration) [Airspace Docket No. 96–ASW–06] received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2627. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class D Airspace; McKinney, TX (Federal Aviation Administration) [Airspace Docket No. 96–ASW–15] received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2628. A letter from the General Counsel, Department of Transportation, transmitting the Agency's final rule—Adding Controlling Agency to Restricted Areas: R–2530 Sierra Army Depot, CA; R–4802 Lone Rock, NV; and R–4811 Hawthorne, NV (Federal Aviation Administration) [Airspace Docket No. 97–AWP–4] (RIN: 2120–AA66) received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2629. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Pauls Valley, OK (Federal Aviation Administration) [Airspace Docket No. 96–ASW–09] received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2630. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Russellville, AR (Federal Aviation Administration) [Airspace Docket No. 96–ASW–13] received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2631. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Company CF34 Series Turbofan Engines (Federal Aviation Administration) [Docket No. 95–ANE–41; Amdt. 39–9972; AD 97–06–15] (RIN: 2120–AA64) received March 27, 1997, pursuant to Public Law 103–337, section 342(b) (108 Stat. 2721); to the Committee on Transportation and Infrastructure.

2632. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Company CF34 Series Turbofan Engines (Federal Aviation Administration) [Docket No. 95–ANE–19; Amdt. 39–9971; AD 97–06–14] (RIN: 2120–AA64) received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2633. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28839; Amdt. No. 1788] (RIN: 2120–AA65) received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2634. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28838; Amdt. No. 1787] (RIN: 2120–AA65) received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2635. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Corsicana, TX (Federal Aviation Administration) [Airspace Docket No. 96–ASW–18] received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2636. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulations: Pelican Passage Dauphin Island, AL (U.S. Coast Guard) [COTP Mobile, AL 97–005] (RIN: 2115–AA97) received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2637. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Tank Level or Pressure Monitoring Devices (U.S. Coast Guard) [CGD–071] (RIN: 2115–AD69) received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2638. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Regulated Navigation Area Regulations; Lower Mississippi River (U.S. Coast Guard) [CGD08–97–008] (RIN: 2115–AE84) received March 27, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2639. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Technical Amendments to Former Interstate Commerce Commission Regulations in Accordance with the ICC Termination Act of 1995 (Federal Highway Administration) (RIN: 2125–AE12) received March 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2640. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Design Standards for Highways; Geometric Design of Highways and Streets (Federal Highway Administration) [FHWA Docket No. 95–12] (RIN: 2125–AD38] received March 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2641. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Light Truck Average Fuel Economy Standard, Model Year 1999 (Federal Highway Traffic Safety Administration) [Docket No. 97–15; Notice 1] (RIN: 2127–AG64) received April 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2642. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Minimum Levels of Financial Responsibility for Motor Carriers; Hours of Service of Drivers; Technical Amendments (Federal Highway Administration) (RIN: 2125–AE07) received April 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2643. A letter from the Chairman, Surface Transportation Board, transmitting the Board's final rule—Railroad Consolidation Procedures—Modification of Fee Policy (STB Ex Parte No. 556) received April 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2644. A letter from the Senior Vice President, Communications, Tennessee Valley Authority, transmitting a copy of the Authority's statistical summaries as part of their annual report for the fiscal year beginning October 1, 1995, and ending September

30, 1996, pursuant to 16 U.S.C. 831h(a); to the Committee on Transportation and Infrastructure.

2645. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Upgraded Discharges (RIN: 2900-AI40) received March 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

2646. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Veterans Education: Increase in Rates Payable Under the Montgomery GI Bill—Active Duty (RIN: 2900-AI55) received March 26, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

2647. A letter from the Chief, U.S. Customs Service Regulations Branch, Department of the Treasury, transmitting the Department's final rule—Duty-Free Stores (U.S. Customs Service) [T.D. 97-19] (RIN: 1515-AB86) received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2648. A letter from the Assistant Commissioner (Examination), Internal Revenue Service, transmitting the Service's final rule—Maquiladora Industry Coordinated Issue [I.R.C. 168(g)(1)(A) received March 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2649. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property [Rev. Rul. 97-17] received March 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2650. A letter from the Assistant Commissioner (Examination), Internal Revenue Service, transmitting the Service's final rule—Coordinated Issue Construction/Real Estate Industry Percentage of Completion Method Timing of Cost Recognition—received March 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2651. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Differential Earnings Rate for Mutual Life Insurance Companies [Notice 97-17] received March 24, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2652. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Substantiation of Business Expenses for Travel, Entertainment, Gifts, and Listed Property [TD 8715] (RIN: 1545-AT98) received March 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2653. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Certain Trust Arrangements [Notice 97-24] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2654. A letter from the Commissioner (Examination), Internal Revenue Service, transmitting the Service's final rule—Petroleum and Retail Industries Coordinated Issue: Convenience Stores—received April 2, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2655. A letter from the Acting Secretary, Department of State, transmitting a report assessing the voting practices of the governments of U.N. member states in the General Assembly and Security Council for 1996, and evaluating the actions and responsiveness of those governments to U.S. policy on issues of special importance to the United States, pursuant to Public Law 101-167, section 527(a) (103 Stat. 1222); Public Law 101-246, section 406(a) (104 Stat. 66); jointly, to the Committees on International Relations and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[The following action occurred on March 31, 1997]

Mr. BURTON: Committee on House Oversight. Oversight plans for all House committees (Rept. 105-44). Referred to the Committee of the Whole House on the State of the Union.

[Submitted April 8, 1997]

Mr. SMITH of Oregon: Committee on Agriculture. H.R. 1000. A bill to require States to establish a system to prevent prisoners from being considered part of any household for purposes of determining eligibility of the household for food stamp benefits and the amount of food stamp benefits to be provided to the household under the Food Stamp Act of 1977 (Rept. 105-43). Referred to the Committee of the Whole House on the State of the Union.

Mr. DREIER: Committee on Rules. House Resolution 107. Resolution providing for consideration of motion to suspend the rules (Rept. 105-45). Referred to the House Calendar.

Mr. BLILEY: Committee on Commerce. H.R. 1003. A bill to clarify Federal law with respect to restricting the use of Federal funds in support of assisted suicide; with amendments (Rept. 105-46 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

TIME LIMITIATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the speaker:

H.R. 1003. Referral to the Committees on Ways and Means, the Judiciary, Education and the Workforce, Government Reform and Oversight, Resources, and International Relations extended for a period ending not later than April 8, 1997.

DISCHARGE OF COMMITTEE

[The following action occurred on April 8, 1997]

Pursuant to clause 5 of rule X the Committees on Ways and Means, the Judiciary, Education and the Workforce, Government Reform and Oversight, Resources, and International Relations discharged from further consideration. H.R. 1003 referred to the Committee of the Whole House on the State of the Union.

[The following action occurred on April 4, 1997]

Pursuant to clause 5 of rule X the Committees on House Oversight, the Judiciary, and Transportation and Infrastructure discharged from further consideration. H.R. 240 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HYDE (for himself, Mr. Conyers, Mr. McCollum, Mr. Schumer, Mr. Canady of Florida, Mr. Wexler, Mr. Mica, and Mr. McNulty):

H.R. 1225. A bill to make a technical correction to title 28, United States Code, relating to jurisdiction for lawsuits against terrorist states; to the Committee on the Judiciary.

By Mr. ARCHER (for himself, Ms. Dunn of Washington, Mr. Rangel, Mrs. Johnson of Connecticut, Mr. Coyne, Mr. Thomas, Mr. Herger, Mr. Camp, Mr. Ensign, Mr. Hayworth, Mr. Weller, Mrs. Kennelly of Connecticut, Mr. Levin, Mr. Kleczka, Mr. Lewis of Georgia, Mr. Neal of Massachusetts, Mr. Jefferson, Mr. Tanner, Mrs. Thurman, and Mr. Portman):

H.R. 1226. A bill to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information; to the Committee on Ways and Means.

By Ms. DUNN of Washington (for herself, Mr. Gingrich, Mr. Watts of Oklahoma, Ms. Granger, Mr. Christensen, Mr. Sam Johnson, Mr. Snowbarger, Mr. Metcalf, Mr. Gibbons, Mr. English of Pennsylvania, Mr. Shimkus, Mrs. Emerson, Mr. Franks of New Jersey, Mr. Gutknecht, Mr. Hayworth, Mr. Herger, Mr. Hastings of Washington, Mr. Barr of Georgia, Mr. Paul, Mr. Deal of Georgia, Mr. Camp, Mr. Cook, and Mr. Weller):

H.R. 1227. A bill to amend the Internal Revenue Code of 1986 to provide for increased accountability by Internal Revenue Service agents and other Federal Government officials in tax collection practices and procedures, and for other purposes; to the Committee on Ways and Means.

By Mr. ACKERMAN (for himself, Mrs. Morella, Mrs. McCarthy of New York, Mr. Barrett of Wisconsin, Mr. Boehlert, Mr. Brown of California, Ms. Christian-Green, Mr. Evans, Mr. Farr of California, Mr. Foglietta, Mr. Frank of Massachusetts, Ms. Furse, Ms. Jackson-Lee, Mr. Jefferson, Mr. Kennedy of Massachusetts, Mr. Lewis of Georgia, Mr. Lipinski, Mr. McDermott, Mrs. Maloney of New York, Mr. Manton, Mr. Markey, Mr. Nadler, Ms. Norton, Mr. Porter, Mr. Rangel, Mr. Romero-Barceló, Mr. Schumer, Mr. Stark, Mr. Underwood, Mr. Yates, Ms. Lofgren, Mr. Blumenauer, and Mr. Rothman):

H.R. 1228. A bill to amend title 18, United States Code, to permanently prohibit the possession of firearms by persons who have been convicted of a felony, and for other purposes; to the Committee on the Judiciary.

By Mr. ACKERMAN:

H.R. 1229. A bill to amend the Public Health Service Act to ensure that affordable, comprehensive, high quality health care coverage is available through the establishment of State-based programs for children and for all uninsured pregnant women, and to facilitate access to health services, strengthen public health functions, enhance health-related research, and support other activities that improve the health of mothers and children, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DELAY:

H.R. 1230. A bill to give all American electricity consumers the right to choose among competitive providers of electricity in order to secure lower electricity rates, higher quality services, and a more robust U.S. economy, and for other purposes; to the Committee on Commerce.

By Mr. BLUMENAUER (for himself, Mr. FROST, and Mr. FOGLIETTA):

H.R. 1231. A bill to amend title 39, United States Code, to establish guidelines for renovation, relocation, closing, or consolidation of post offices, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. BONO (for himself, Mr. TRAFICANT, Mrs. THURMAN, Mr. CALVERT, Mr. WELDON of Florida, Mr. NEY, Mr. RIGGS, Mr. MICA, Mr. STEARNS, Mr. HUNTER, Mrs. MEEK of Florida, Mr. WATTS of Oklahoma, Mr. WEXLER, Mr. KING of New York, Mr. HASTINGS of Florida, Mr. DIAZ-BALART, Mr. GOSS, Mr. CONDIT, Mr. MILLER of Florida, Mr. BARR of Georgia, Mr. BISHOP, and Ms. KAPTUR):

H.R. 1232. A bill to require country of origin labeling of perishable agricultural commodities imported into the United States and to establish penalties for violations of such labeling requirements; to the Committee on Agriculture.

By Mr. CLAY (for himself and Mr. RANGEL):

H.R. 1233. A bill to amend the Internal Revenue Code of 1986 to provide tax relief to middle income families who are struggling to pay for college, to amend the Higher Education Act of 1965 to provide significantly increased financial aid for needy students, provide universal access to post-secondary education, reduce student loan costs while improving student loan benefits, to streamline the Federal Family Education Loan Program, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FATTAH:

H.R. 1234. A bill to require States to equalize funding for education throughout the State; to the Committee on Education and the Workforce.

By Mr. DICKEY:

H.R. 1235. A bill to establish a Corporate Welfare Reduction Commission, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DREIER:

H.R. 1236. A bill to provide for an annual report to Congress concerning diplomatic immunity; to the Committee on International Relations.

By Mr. FRANK of Massachusetts:

H.R. 1237. A bill to provide retrospective application of an amendment made by the Violent Crime Control and Law Enforcement Act of 1994 pertaining to the applicability of mandatory minimum penalties in certain cases; to the Committee on the Judiciary.

H.R. 1238. A bill to amend the Immigration and Nationality Act to reduce the period during which a court has exclusive authority to administer the oath of allegiance to an applicant for naturalization from 45 days to 5 days; to the Committee on the Judiciary.

H.R. 1239. A bill to amend the Immigration and Nationality Act to permit the Attorney General to waive the requirement that an applicant for naturalization take an oath of renunciation and allegiance in cases where the applicant is unable to understand its meaning because of a disability or mental impairment; to the Committee on the Judiciary.

By Mr. GEKAS (for himself and Mr. GILMAN):

H.R. 1240. A bill to amend certain provisions of title 5, United States Code, relating to pay for administrative law judges; to the Committee on Government Reform and Oversight.

By Mr. KLECZKA (for himself, Mr. HERGER, Mr. GONZALEZ, Mr. FAZIO of California, Ms. JACKSON-LEE, Mr. FROST, Mr. RAHALL, Mr. FILNER, Ms. PELOSI, Mr. BARRETT of Wisconsin, Mr. SENSENBRENNER, Ms. FURSE, Mr. DEFAZIO, Mr. HAYWORTH, Mr. MATSUI, Mr. NEY, and Mr. CUNNINGHAM):

H.R. 1241. A bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes; to the Committee on Ways and Means.

By Mr. LIVINGSTON:

H.R. 1242. A bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of school bus owner-operators shall be allowable in computing adjusted gross income; to the Committee on Ways and Means.

By Mr. MCCOLLUM (for himself, Mr. MICA, and Ms. BROWN of Florida):

H.R. 1243. A bill to amend the base closure laws to reform the process by which property at military installations being closed or realigned is made available for economic redevelopment and to improve the ability of the Secretary of Defense to contract for protective services at installations being closed; to the Committee on National Security.

By Mr. MEEHAN (for himself, Mr. HANSEN, Mr. RIGGS, Mr. WAXMAN, Mr. SERRANO, and Mr. VISCLOSKY):

H.R. 1244. A bill to prescribe labels for packages and advertising for tobacco products, to provide for the disclosure of certain information relating to tobacco products, and for other purposes; to the Committee on Commerce.

By Mrs. MINK of Hawaii:

H.R. 1245. A bill to amend the Public Health Service Act with respect to research on cognitive disorders arising from traumatic brain injury; to the Committee on Commerce.

H.R. 1246. A bill to prescribe alternative payment mechanisms for the payment of annual enrollment fees for the TRICARE program of the military health care system; to the Committee on National Security.

By Mrs. MYRICK (for herself, Ms. DUNN of Washington, Mr. MCINTOSH, Mr. GINGRICH, Mr. HASTERT, Mr. STUMP, Mr. SAM JOHNSON, Mr. LIVINGSTON, Mr. BLILEY, Ms. MOLINARI, Mr. SOLOMON, Mr. ARMEY, Mr. PAXON, Mr. COX of California, Mr. LINDER, and Mr. DELAY):

H.R. 1247. A bill to prohibit the Secretary of the Treasury from changing the treatment of partnership distributions to limited partners; to the Committee on Ways and Means.

By Mr. NEY (for himself, Mr. WICKER, Mr. HOSTETTLER, Mr. NORWOOD, Mr. DICKEY, Mr. RAHALL, Mr. MCHUGH, Mr. STUPAK, Mr. ROEMER, Mr. WISE, Mr. SOLOMON, Mr. THOMPSON, Mr. FALEOMAVAEGA, Mr. CLYBURN, Mr. SPRATT, Mr. BARRETT of Nebraska, Mr. INGLIS of South Carolina, and Mr. ENGLISH of Pennsylvania):

H.R. 1248. A bill to amend title XVIII of the Social Security Act to permit classification of certain hospitals as rural referral centers, to permit reclassification of certain hospitals for disproportionate share payments, and to permit sole community hospitals to rebase Medicare payments based upon fiscal year 1994 and 1995 costs; to the Committee on Ways and Means.

By Mr. PEASE:

H.R. 1249. A bill to redesignate the Federal building located at 107 Federal Building, in Terre Haute, IN, as the "John T. Myers Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. SCHUMER (for himself and Mrs. MCCARTHY of New York):

H.R. 1250. A bill to amend title 18, United States Code, to regulate the manufacture, importation, and sale of ammunition capable of piercing police body armor; to the Committee on the Judiciary.

By Mr. SHAW (for himself, Mr. BOYD, Ms. BROWN of Florida, Mr. CANADY of Florida, Mr. DEUTSCH, Mr. DIAZ-BALART, Mr. GOSS, Mr. FOLEY, Mr. MCCOLLUM, Mrs. MEEK of Florida, Ms. ROS-LEHTINEN, Mr. SCARBOROUGH, Mr. STEARNS, Mrs. THURMAN, Mr. WEXLER, Mr. YOUNG of Florida, and Mr. WATTS of Oklahoma):

H.R. 1251. A bill making emergency supplemental appropriations for salaries and expenses of the National Weather Service, including the National Centers for Environmental Prediction, for the fiscal year ending September 30, 1997; to the Committee on Appropriations.

By Mr. MURTHA:

H.J. Res. 68. Joint resolution proposing an amendment to the Constitution of the United States relating to school prayer; to the Committee on the Judiciary.

By Mr. CONYERS:

H. Con. Res. 57. Concurrent resolution expressing the sense of Congress respecting the designation of jazz as a rare and valuable national treasure; to the Committee on Education and the Workforce.

By Mr. BROWN of California:

H. Con. Res. 58. Concurrent resolution establishing the congressional budget for the U.S. Government for fiscal year 1998 and setting forth appropriate budgetary levels for fiscal years 1999, 2000, 2001, and 2002; to the Committee on the Budget.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

28. By the SPEAKER: Memorial of the House of Representatives of the State of Idaho, relative to improving patient access to quality health care; to the Committee on Commerce.

29. Also, memorial of the House of Representatives of the State of Idaho, relative to the implementation of the new national ambient air quality PM2.5 and ozone standards; to the Committee on Commerce.

30. Also, memorial of the House of Representatives of the State of Idaho, relative to the Bitterroot Grizzly Bear Environmental Impact Statement; to the Committee on Resources.

31. Also, memorial of the House of Representatives of the State of Idaho, relative to the Snake River in the Hells Canyon National Recreation Area; to the Committee on Resources.

32. Also, memorial of the House of Representatives of the State of Idaho, relative to proposed regulations governing Bureau of Land Management criminal law enforcement; to the Committee on Resources.

33. Also, memorial of the House of Representatives of the State of Idaho, relative to the introduction of Canadian wolves in the State of Idaho; to the Committee on Resources.

34. Also, memorial of the House of Representatives of the State of Idaho, relative to a balanced budget amendment to the Constitution of the United States; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 18: Mr. PRICE of North Carolina, Mr. BACHUS, and Mr. SOLOMON.

H.R. 27: Mr. PAPPAS, Mrs. CUBIN, Mr. ENSIGN, and Mr. SANDLIN.

H.R. 34: Mr. BARRETT of Nebraska.

H.R. 44: Mrs. KELLY, Mr. TRAFICANT, and Mr. CUNNINGHAM.

H.R. 65: Mr. BRYANT, Mr. TRAFICANT, Mrs. ROUKEMA, Mr. CUNNINGHAM, and Mr. CAPPS.

H.R. 71: Mr. SKEEN and Mr. WOLF.

H.R. 76: Mr. MASCARA, Mr. MCINTYRE, Mr. MCCOLLUM, Mrs. MINK of Hawaii, Mr. SANDLIN, Mr. BALDACCI, Mr. DEFAZIO, Mr. DOOLITTLE, Mr. MATSUI, Mr. SCOTT, Mr. HANSEN, Ms. DEGETTE, Mr. ADAM SMITH of Washington, and Mr. LUCAS of Oklahoma.

H.R. 93: Mr. LUCAS of Oklahoma.

H.R. 96: Mr. HOLDEN, Mr. MICA, Mr. COOKSEY, Mr. ENGEL, Mr. CLEMENT, Mr. WALSH, Mr. CRAPO, Mr. FROST, Mrs. CLAYTON, Mr. BENTSEN, Mrs. MYRICK, Mr. BARR of Georgia, Mr. KING of New York, and Mr. BOEHLERT.

H.R. 107: Mr. GORDON, Mr. POMEROY, Mr. COMBEST, Ms. ROS-LEHTINEN, and Mr. MARTINEZ.

H.R. 108: Ms. FURSE.

H.R. 123: Mrs. JOHNSON of Connecticut, Mr. FOX of Pennsylvania, and Mr. LATOURETTE.

H.R. 125: Mr. BARRETT of Nebraska, Mr. HASTERT, Mr. EWING, Mr. WELLER, Mr. LAHOOD, and Mr. FAWELL.

H.R. 127: Mr. FOX of Pennsylvania, Mr. WOLF, Mr. BOEHLERT, Mr. ACKERMAN, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. QUINN.

H.R. 130: Mr. SOLOMON.

H.R. 136: Ms. ROS-LEHTINEN, Mr. DAVIS of Florida, Mr. WEXLER, and Mr. MILLER of Florida.

H.R. 141: Mr. MCDERMOTT, Ms. PELOSI, Mr. FORD, and Mr. STRICKLAND.

H.R. 164: Mr. GRAHAM, Ms. NORTON, Mr. MILLER of California, Mr. QUINN, Mrs. TAUSCHER, Mrs. CARSON, Ms. LOFGREN, Mr. LEWIS of Georgia, Mr. FALEOMAVAEGA, Mrs. MALONEY of New York, Mr. RUSH, Mr. DELAHUNT, Mr. GEJDENSON, Mr. HINCHEY, Mr. TRAFICANT, Mr. BONIOR, Mr. FAZIO of California, Mr. YATES, Mr. EVANS, Ms. PELOSI, Mr. WAXMAN, Ms. JACKSON-LEE, Mr. OBERSTAR, Ms. SANCHEZ, Mr. ROTHMAN, Mr. DELLUMS, Mr. ACKERMAN, Mr. FOX of Pennsylvania, Mr. GORDON, Mr. MENENDEZ, Mr. STUPAK, Mr. MATSUI, Mr. KILDEE, Mr. COYNE, and Mr. MCINTOSH.

H.R. 165: Mr. NORWOOD.

H.R. 178: Mr. ROTHMAN.

H.R. 180: Mr. DAVIS of Florida, Mr. BOYD, and Mr. MICA.

H.R. 192: Ms. GRANGER, Mr. COSTELLO, Mr. COLLINS, Mr. ORTIZ, Mr. ROHRABACHER, Mr. FRANK of Massachusetts, Mr. HUTCHINSON, Mr. LINDER, Mr. ANDREWS, Mr. HANSEN, Ms. MOLINARI, Mr. BACHUS, Mr. CAPPS, and Mr. GORDON.

H.R. 195: Mr. BLILEY, Mr. LAFALCE, Mr. MCHUGH, Mrs. KELLY, Mr. MCCRERY, Mr. SENSENBRENNER, Mr. ENGLISH of Pennsylvania, Mr. BATEMAN, Mr. CASTLE, Mr. MATSUI, Mr. KLUG, Mr. WELDON of Pennsylvania, Mr. GOODLATTE, Mr. HINCHEY, Mr. GEKAS, Mr. MCINTYRE, Mr. NEAL of Massachusetts, Mr. HINOJOSA, Mr. MCINNIS, Mr. LEWIS of Georgia, Mr. JEFFERSON, and Mr. WELLER.

H.R. 202: Ms. DELAURO.

H.R. 216: Mr. DELLUMS, Mr. WATT of North Carolina, and Mr. MARTINEZ.

H.R. 218: Mr. BONILLA, Mr. ANDREWS, Mr. SMITH of New Jersey, Mr. GOODE, Ms. DANNER, Mr. LINDER, Mr. QUINN, and Mr. WATTS of Oklahoma.

H.R. 222: Mr. BONO, Mr. MICA, Ms. BROWN of Florida, Mr. SHAW, Mr. CANADY of Florida, Mr. BILIRAKIS, Ms. ROS-LEHTINEN, and Mr. HOLDEN.

H.R. 225: Mr. CANADY of Florida and Mr. FARR of California.

H.R. 228: Mr. DEAL of Georgia and Mr. SENSENBRENNER.

H.R. 230: Ms. WOOLSEY, Mr. PICKETT, and Mr. FROST.

H.R. 279: Mr. CUMMINGS, Ms. HARMAN, Mr. PRICE of North Carolina, Mr. SHERMAN, Mr. MCINTYRE, and Mr. TIERNEY.

H.R. 292: Mr. HUTCHINSON and Mr. MCKEON.

H.R. 297: Mr. BOUCHER.

H.R. 301: Mr. BOUCHER.

H.R. 303: Mr. TRAFICANT, Mr. CUNNINGHAM, Mr. DICKEY, Mr. ANDREWS, and Mr. BARTLETT of Maryland.

H.R. 304: Mr. DELLUMS.

H.R. 306: Mr. LOBIONDO, Mrs. MCCARTHY of New York, Mr. BERMAN, Mr. FRANK of Massachusetts, and Mr. NEAL of Massachusetts.

H.R. 335: Mr. GORDON, Mr. SAXTON, and Mr. HALL of Texas.

H.R. 339: Mr. NEY and Mr. HILLIARD.

H.R. 367: Mr. HASTERT and Mr. BACHUS.

H.R. 383: Mr. SKEEN and Mr. HORN.

H.R. 407: Mr. BILBRAY, Mrs. KENNELLY of Connecticut, and Mr. WEXLER..

H.R. 408: Mr. DINGELL, Mr. EHRLICH, and Mr. FOLEY.

H.R. 414: Ms. GRANGER, Mr. LAHOOD, Mr. COLLINS, Mr. COSTELLO, Mr. PAXON, Ms. DANNER, Mr. DOOLITTLE, Mr. HANSEN, Mr. ANDREWS, Mr. LINDER, Mr. HUTCHINSON, Mr. ROHRABACHER, Mr. ORTIZ, Mr. CAPPS, and Mr. GORDON.

H.R. 418: Mr. WYNN, Mr. HORN, and Mr. KIND of Wisconsin.

H.R. 426: Mr. GOODE, Mr. OBERSTAR, Mr. CUNNINGHAM, Mr. BARCIA of Michigan, Mr. TOWNS, Mr. INGLIS of South Carolina, and Mrs. NORTHUP.

H.R. 437: Mr. CALLAHAN, Mr. BALDACCI, Mr. HILLIARD, Mr. INGLIS of South Carolina, Mr. EVANS, Mr. FILNER, Mr. WEXLER, Mr. CUNNINGHAM, Mr. PETERSON of Pennsylvania, Mr. DINGELL, Mr. BROWN of California, Mr. OBERSTAR, Ms. DELAURO, and Mr. LOBIONDO.

H.R. 446: Mr. CLEMENT, Mr. SOLOMON, and Mr. PITTS.

H.R. 475: Ms. RIVERS, Mr. LIPINSKI, and Mr. FOX of Pennsylvania.

H.R. 491: Mrs. TAUSCHER, Mr. HUTCHINSON, Mr. HORN, Mr. METCALF, Mr. DELLUMS, Mr. GUTIERREZ, and Mr. BARRETT of Nebraska.

H.R. 493: Mr. PRICE of North Carolina, Mr. MARKEY, and Mr. DELLUMS.

H.R. 500: Mr. MANTON and Mr. ROTHMAN.

H.R. 501: Mr. DAVIS of Illinois and Mr. DELLUMS.

H.R. 505: Mr. BENTSEN and Ms. DELAURO.

H.R. 521: Mr. HILLIARD, Mr. SABO, Mrs. JOHNSON of Connecticut, and Mr. HEFNER.

H.R. 533: Mr. CLYBURN.

H.R. 536: Mr. FLAKE and Mr. MARTINEZ.

H.R. 563: Mr. LEWIS of Georgia, Mr. DELLUMS, Mr. COBURN, Mr. KUCINICH, Mr. MCGOVERN, and Mr. BEREUTER.

H.R. 564: Mr. PAUL.

H.R. 570: Mr. FALEOMAVAEGA.

H.R. 574: Mr. CLYBURN.

H.R. 577: Ms. WATERS.

H.R. 586: Mr. ALLEN, Mr. PAPPAS, Mr. RILEY, Mr. ROEMER, Mr. SENSENBRENNER, Mr. SHAW, Mr. STRICKLAND, Mr. VISCLOSKY, and Mr. WYNN.

H.R. 587: Mr. SENSENBRENNER and Mr. ENGLISH of Pennsylvania.

H.R. 603: Mr. ROTHMAN and Mr. FRANK of Massachusetts.

H.R. 604: Mr. SMITH of Texas and Mr. FAZIO of California.

H.R. 630: Mrs. TAUSCHER.

H.R. 635: Mr. MARTINEZ.

H.R. 659: Ms. DANNER, Mr. HEFNER, Mr. STENHOLM, Mr. PASTOR, and Mr. SOUDER.

H.R. 664: Mr. DELLUMS.

H.R. 667: Ms. MOLINARI, Mrs. JOHNSON of Connecticut, Mr. FARR of California, Mr. FALEOMAVAEGA, Mr. KING of New York, and Mr. MARTINEZ.

H.R. 674: Mr. LIVINGSTON, Mr. WEXLER, and Mr. BOYD.

H.R. 676: Mr. MANTON, Mr. MARTINEZ, Mr. KUCINICH, Mr. FATTAH, Mr. VENTO, Mr. FOX of Pennsylvania, and Mr. MCINTYRE.

H.R. 680: Mr. HILLIARD.

H.R. 683: Mrs. FOWLER, Mr. JONES, Mr. GOODLATTE, Mr. PAPPAS, Mr. SUNUNU, Mr. TIAHRT, and Mr. WEXLER.

H.R. 684: Mr. FILNER.

H.R. 687: Mr. GUTIERREZ and Mr. DELAHUNT.

H.R. 688: Mr. COMBEST, Mr. HOLDEN, Mr. STENHOLM, and Mr. WICKER.

H.R. 689: Mr. PRICE of North Carolina and Mr. FROST.

H.R. 714: Mr. SHUSTER.

H.R. 739: Mr. ENGLISH of Pennyslvania.

H.R. 753: Mr. PAUL, Ms. STABENOW, Ms. WATERS, Ms. DEGETTE, Mrs. MALONEY of New York, Mr. ALLEN, Mr. FAZIO of California, and Mr. GONZALEZ.

H.R. 766: Ms. STABENOW and Mr. DELLUMS.

H.R. 777: Mr. MARTINEZ, Mr. FROST, Mr. CONYERS, Ms. FURSE, Mrs. CLAYTON, Mr. VENTO, Mr. OBERSTAR, Mr. FILNER, Ms. NORTON, Ms. LOFGREN, Mr. DAVIS of Illinois, Mrs. MINK of Hawaii, Mr. SHAYS, Mr. FORD, Mr. MEEHAN, Ms. SANCHEZ, Mr. SCOTT, Ms. WOOLSEY, Mr. ANDREWS, Mrs. MALONEY of New York, Mr. EVANS, Mr. BONIOR, Mr. STARK, Mr. MCGOVERN, Mr. OWENS, Mr. KUCINICH, Mr. ROMERO-BARCELO, Mr. HINOJOSA, Mr. PASTOR, Mr. PAYNE, Mr. MILLER of California, Mr. TIERNEY, Ms. DEGETTE, Mrs. MCCARTHY of New York, and Ms. WATERS.

H.R. 789: Mr. SNOWBARGER, Mr. MORAN of Kansas, Mr. SOUDER, Mr. VISCLOSKY, Mr. RUSH, Mr. SUNUNU, Mr. NEY, Mr. NEUMANN, and Mr. BALLENGER.

H.R. 793: Mr. DELLUMS and Mr. LIPINSKI.

H.R. 802: Mr. DEAL of Georgia.

H.R. 805: Mr. CAMPBELL.

H.R. 813: Mr. DUNCAN.

H.R. 815: Mr. BARRETT of Wisconsin, Mr. FLAKE, Mr. THOMPSON, Mr. WYNN, Mr. MILLER of California, Ms. PELOSI, Mr. ENGLISH of Pennsylvania, Mr. TIAHRT, Mr. HORN, Ms. CHRISTIAN-GREEN, Mr. KIND of Wisconsin, Ms. LOFGREN, Mr. MARTINEZ, Mr. BOUCHER, Mr. MATSUI, Mrs. CLAYTON, Mr. KUCINICH, Mr. HEFNER, Mr. HOBSON, and Ms. FURSE.

H.R. 816: Mr. STUMP, Mr. CANADY of Florida, Mr. COOKSEY, Mr. SENSENBRENNER, and Mr. NETHERCUTT.

H.R. 831: Mr. CAMPBELL.

H.R. 832: Mr. ACKERMAN.

H.R. 875: Mrs. JOHNSON of Connecticut, Mr. McDADE, Mr. SMITH of Texas, Mr. MEEHAN, Mr. PICKETT, Ms. BROWN of Florida, Mr. McCRERY, and Mr. DELAHUNT.

H.R. 895: Ms. FURSE.

H.R. 897: Mr. NEY and Ms. FURSE.

H.R. 906: Mr. PAPPAS, Mr. GOODE, and Mr. SAM JOHNSON.

H.R. 907: Mr. McINTYRE.

H.R. 916: Mr. McCRERY, Mr. BUNNING of Kentucky, Mr. CHRISTENSEN, Mr. WATKINS, Mrs. THURMAN, Mr. KLUG, Mr. WHITFIELD, Mr. STUMP, Mr. OXLEY, Mr. VENTO, Mr. CRAMER, Mr. FILNER, Mr. ROHRABACHER, Mr. CLYBURN, Mr. SMITH of Michigan, Mr. LATHAM, Mr. OBERSTAR, Mr. RAHALL, Mr. LaHOOD, Mr. CANADY of Florida, Mr. COSTELLO, Mr. HALL of Ohio, Mr. WISE, Mr. STEARNS, Mr. MORAN of Virginia, Mr. McHALE, Mr. SPENCE, Mr. FALEOMAVAEGA, Mr. FROST, Mr. BENTSEN, Mr. KUCINICH, and Mr. BOEHNER.

H.R. 918: Mr. KILDEE.

H.R. 928: Mr. WATTS of Oklahoma, Mr. SAM JOHNSON, Mr. PETERSON of Pennsylvania, Mr. HAYWORTH, Mr. WICKER, Mr. ROHRABACHER, Mr. LATHAM, Mr. LIVINGSTON, Mr. GOODLATTE, Mr. McINTOSH, Mr. SKEEN, Mr. KNOLLENBERG, and Mr. COLLINS.

H.R. 934: Mr. NEY, Mr. YOUNG of Alaska, and Mr. HALL of Texas.

H.R. 947: Mr. ALLEN.

H.R. 949: Mr. LIPINSKI, Ms. BROWN of Florida, Mr. STARK, Ms. NORTON, Mr. VENTO, Mrs. MALONEY of New York, Mr. BLUMENAUER, Ms. FURSE, Mr. THOMPSON, and Mr. DAVIS of Virginia.

H.R. 955: Mr. SAXTON, Ms. HARMAN, Mr. DOOLITTLE, Mr. SENSENBRENNER, Mr. SHAYS, and Mr. CHABOT.

H.R. 956: Mr. FALEOMAVAEGA, Mr. MICA, Mr. FATTAH, Mr. OXLEY, Mr. NETHERCUTT, Mr. DAVIS of Virginia, Mr. BOEHNER, and Mr. GILMAN.

H.R. 965: Mr. SNOWBARGER, Mr. TAYLOR of North Carolina, Mr. HEFLEY, Mr. SPENCE, and Mr. SHADEGG.

H.R. 972: Mr. NEUMANN.

H.R. 979: Mr. ALLEN, Mrs. CLAYTON, Mr. CALLAHAN, Mr. FATTAH, Mr. CONDIT, Mr. FAZIO of California, Mr. FOX of Pennsylvania, Mr. WELLER, Mr. HORN, Mr. SANDERS, Mr. BERMAN, and Mr. FALEOMAVAEGA.

H.R. 980: Mr. LEWIS of California, Mr. SKEEN, Mr. SOLOMON, and Mr. SPENCE.

H.R. 981: Mr. OBERSTAR, Mr. MARTINEZ, Mrs. MINK of Hawaii, and Mr. FALEOMAVAEGA.

H.R. 983: Mr. MILLER of California.

H.R. 991: Mr. FOX of Pennsylvania and Mr. McGOVERN.

H.R. 1000: Mr. BERRY, Mr. KINGSTON, Mr. SMITH of Michigan, Mr. SMITH of New Jersey, Ms. DANNER, and Mr. SESSIONS.

H.R. 1009: Mr. DICKEY, Mr. HASTINGS of Washington, Mr. HILL, and Mr. STUMP.

H.R. 1010: Mr. STEARNS, Mr. McINTOSH, Mr. BALLENGER, and Mr. GOODE.

H.R. 1014: Mr. EVANS, Ms. FURSE, Mr. DELLUMS, Mr. SANDERS, and Ms. WATERS.

H.R. 1016: Ms. BROWN of Florida.

H.R. 1023: Ms. DeGETTE, Mr. HILLIARD, Mr. JEFFERSON, Mr. RANGEL, Mr. TRAFICANT, Mrs. LOWEY, Mr. DIXON, Mr. RAMSTAD, Ms. STABENOW, Mr. ALLEN, Mr. McNULTY, Mr. COSTELLO, Mr. GILMAN, Mr. LUCAS of Oklahoma, Mr. SANDERS, Mr. SHADEGG, Mr. LEVIN, Mr. HOEKSTRA, and Mr. GIBBONS.

H.R. 1049: Mr. DELLUMS.

H.R. 1050: Mr. RANGEL, Mr. JACKSON, Mr. TIERNEY, Mr. WATT of North Carolina, and Mr. SERRANO.

H.R. 1060: Mr. ARCHER, Mr. CLEMENT, Mr. BLUNT, Mr. HORN, Mr. GOODE, Mr. LEWIS of Kentucky, Mr. BUNNING of Kentucky, Mr. LaFALCE, Mr. SPENCE, Mr. DUNCAN, Mr. BALDACCI, and Mr. PALLONE.

H.R. 1071: Mr. CONYERS, Mrs. MALONEY of New York, Mr. PAYNE, Mr. HILLIARD, Mr. SANDERS, Mr. FILNER, Mrs. MORELLA, Mr. DELLUMS, Mr. FROST, Mr. FALEOMAVAEGA, and Mrs. MEEK of Florida.

H.R. 1089: Ms. DeLAURO.

H.R. 1090: Mr. LUTHER, Mr. SCOTT, Mr. BARRETT of Wisconsin, Ms. WATERS, and Mr. WEXLER.

H.R. 1126: Mr. KILDEE, Mr. GUTIERREZ, Mr. NADLER, and Mr. FRANK of Massachusetts.

H.R. 1129: Mrs. MEEK of Florida, Mr. WATT of North Carolina, Mrs. KELLY, Mr. METCALF, Ms. ESHOO, Mr. PORTER, Ms. DeGETTE, Mrs. CARSON, Mr. KENNEDY of Rhode Island, Ms. NORTON, Mr. WAXMAN, Mr. KUCINICH, and Mr. CAPPS.

H.R. 1130: Mr. ABERCROMBIE, Mrs. THURMAN, Mr. DELLUMS, Ms. NORTON, Mr. FOGLIETTA, Mr. RUSH, Ms. SLAUGHTER, Ms. DeGETTE, Mr. JEFFERSON, Mr. FLAKE, Mr. FAZIO of California, Mr. MARTINEZ, Ms. MILLENDER-McDONALD, Mr. CAPPS, Ms. CHRISTIAN-GREEN, and Mr. HILLIARD.

H.R. 1134: Mr. TRAFICANT, Mr. DAVIS of Virginia, Mr. OLVER, Mr. KENNEDY of Rhode Island, Mr. DEAL of Georgia, Mr. LIVINGSTON, Mr. DELLUMS, Mr. FATTAH, Mrs. LOWEY, Mr. GEPHARDT, Mr. SANDERS, and Mr. HINCHEY.

H.R. 1138: Ms. DANNER, Mr. HALL of Texas, Mr. HANSEN, Mr. HAYWORTH, Mr. NEY, Mr. STUMP, and Mr. DUNCAN.

H.R. 1140: Mr. GREEN, Mr. LEWIS of Georgia, and Ms. WOOLSEY.

H.R. 1151: Mr. KILDEE, Mr. CONYERS, Mr. BARCIA of Michigan, Mr. KLINK, Mrs. JOHNSON of Connecticut, Mr. WALSH, Mr. KUCINICH, Mr. FILNER, Mr. HILLIARD, Mr. GEJDENSON, Mr. LANTOS, Mr. SHERMAN, Mr. DIXON, Mr. MARKEY, and Mr. THOMPSON.

H.R. 1153: Mr. HOUGHTON, Mr. SKEEN, Mr. WATTS of Oklahoma, Mr. SENSENBRENNER, and Mr. HAYWORTH.

H.R. 1156: Mr. PALLONE and Mr. MANZULLO.

H.R. 1161: Mr. FROST, Mr. WOLF, Mr. FOX of Pennsylvania, Mr. HUNTER, Mr. DAVIS of Virginia, Mr. BILBRAY, and Mr. TAYLOR of Mississippi.

H.R. 1169: Mrs. MYRICK, Mrs. LOWEY, Mr. PALLONE, Mr. SHAYS, Mr. TRAFICANT, Mr. SHERMAN, Mr. SAWYER, Ms. DeLAURO, Mr. SANDERS, Mr. ETHERIDGE, Mr. ALLEN, and Mr. MARTINEZ.

H.R. 1204: Mr. FILNER and Mr. GALLEGLY.

H.R. 1205: Mr. ENGLISH of Pennsylvania and Mr. McKEON.

H.J. Res. 47: Mr. TIERNEY.

H.J. Res. 54: Mrs. CLAYTON, Mr. DELAHUNT, Mr. GOODLING, Mr. HILLIARD, Mr. HOBSON, Mr. PEASE, and Mr. SHAW.

H.J. Res. 59: Mr. PAUL and Mr. CHAMBLISS.

H. Con. Res. 6: Ms. KAPTUR.

H. Con. Res. 8: Ms. DeGETTE, Mr. DICKS, Mr. DELLUMS, and Mr. MANTON.

H. Con. Res. 14: Mr. WEXLER.

H. Con. Res. 27: Mr. FORD, Ms. RIVERS, Mr. WATT of North Carolina, Mr. CLAY, Mr. McNULTY, Mr. QUINN, Mrs. CLAYTON, Mr. BARRETT of Wisconsin, Mr. MASCARA, and Mr. FLAKE.

H. Con. Res. 40: Mrs. MALONEY of New York, Mr. UNDERWOOD, Mr. FILNER, Mr. DELLUMS, Mr. McGOVERN, Mrs. TAUSCHER, Mr. DAVIS of Illinois, Mr. OLVER, Mr. LEWIS of Georgia, and Ms. SLAUGHTER.

H. Con. Res. 43: Ms. SLAUGHTER and Mr. WELLER.

H. Con. Res. 50: Ms. ROS-LEHTINEN, Mrs. MALONEY of New York, Mr. FRANKS of New Jersey, Mr. HASTINGS of Florida, Ms. NORTON, Mrs. KELLY, Mr. MANTON, Mr. McGOVERN, Mrs. MEEK of Florida, Mr. ENGEL, Mr. WATTS of Oklahoma, Mr. KING of New York, Mr. WEXLER, Ms. DUNN of Washington, and Mrs. MORELLA.

H. Con. Res. 55: Mr. FOLEY, Mrs. MALONEY of New York, and Mr. CUNNINGHAM.

H. Res. 26: Mr. McDERMOTT, Mr. BROWN of California, Mrs. MORELLA, Mr. WATT of North Carolina, Ms. NORTON, Ms. RIVERS, Mr. GREEN, and Mr. BONIOR.

H. Res. 98: Mr. ADERHOLT and Mr. SESSIONS.

PETITIONS, ETC.

Under clause 1 of rule XXII.

9. The SPEAKER presented a petition of the Republican Party of San Mateo County, CA, relative to the American Land Sovereignty Protection Act; which was referred to the Committee on Resources.

EXTENSIONS OF REMARKS

TRIBUTE TO DAVID D. CLEMENT

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. SENSENBRENNER. Mr. Speaker, I rise today to bring to your attention the retirement of Mr. David D. Clement, a key staff member on the Committee on Science. On March 21, 1997, Mr. Clement retired after 35 years of Government service.

Mr. Clement, a native of Vallejo, CA, began his career in the House of Representatives in June 1965 while still attending George Washington University. His early service on Capitol Hill included duty with the U.S. Capitol Police and the Clerk of the House. While serving as administrative assistant to the late Lawrence G. Williams, he was a congressional alternate member of the American Revolution Bicentennial Commission. He also served on the Republican staff of the Committee on Appropriations before joining the Science Committee in the spring of 1977. He was appointed as chief of staff and chief counsel by Congressman Robert S. Walker in January 1989.

Before coming to Washington, Clement served in the U.S. Marine Corps with the 1st Marine Division. He retired from the Naval Reserve in 1995.

He is a graduate of the George Washington University with a B.B.A. in 1969 and a M.S. in 1972. He also graduated from the George Mason University School of Law in 1980 and is a member of the bars of the U.S. Supreme Court, the U.S. Court of Military Appeals, the Commonwealth of Virginia, and the District of Columbia.

Mr. Speaker, I ask that you join me, our colleagues, and Mr. Clement's many friends, in thanking Mr. Clement for his many years of service to the United States of America.

A TRIBUTE TO JOAN AND DAN SILNA

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. PASCRELL. Mr. Speaker, I would like to bring to your attention Joan and Dan Silna, of Saddle River, NJ. Joan and Dan are being honored by Temple Emanuel of Woodcliff Lake, NJ in celebration of the temple's expansion, Temple 2000.

As members of Temple Emanuel for more than 20 years, Joan and Dan have always looked to the future of their congregation. They were instrumental in the temple's relocation from Westwood to its present location in Woodcliff Lake and have been leaders within the congregation ever since. Dan serves as a trustee on the temple board and Joan has served on numerous committees including, most recently, the catering committee. Dan also served the temple as the Capital Campaign Chairman, spearheading successful fund-raising efforts for the Temple 2000 expansion, a tremendous time-consuming undertaking which Dan performed with great skill and dignity.

Faithful to the Jewish community, Dan combines business know-how with a concern for the continuity and perpetuation of Jewish culture. He works diligently not only for Temple Emanuel's members, but for the larger Jewish community as well through his commitment as a board member of the UJC of Bergen County and the YM–YMHA of Bergen County.

Joan's contributions have been likewise numerous and significant. Through the use of her artistic talents, she helped bring the very successful handworks fair to Temple Emanuel and continues to dedicate herself to the improvement of the synagogue.

Mr. Speaker, I ask that you join me, our colleagues, Joan and Dan's children, Tracy and Amy, their family and friends, Temple Emanuel, and the Jewish community of northern New Jersey, in recognizing Joan and Dan Silna's admirable warmth and generosity to the community and for their embodiment of the highest ideals of Jewish giving.

TRIBUTE TO GEORGE J. COLLINS

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. MORAN. Mr. Speaker, I would like to call my colleagues' attention to the passing of a dedicated public servant, Mr. George J. Collins. Mr. Collins served in the Marine Corps and in the private sector before beginning his career with the Government Printing Office in 1962. Mr. Collins served his Government and country with distinction. His commitment to public service serves as a model for all who knew him.

Mr. Collins was a devoted husband, father of 5 daughters, and grandfather of 14 grandchildren. He was a beloved constituent and an outstanding public servant. Please join with me in honoring his memory.

GEORGE J. COLLINS

MANAGER, QUALITY CONTROL AND TECHNICAL DEPARTMENT, GOVERNMENT PRINTING OFFICE

George J. Collins, Manager of the Quality Control and Technical Department of the Government Printing Office (GPO), died March 23, 1997. Mr. Collins had a distinguished career of public service at the GPO, and at the time of his death he had general responsibility for the development of product standards and quality attributes, testing, and inspection, as well as the supply of inks, adhesives, and other materials used in Government printing.

A native of Springfield, OH, Mr. Collins served in the United States Marine Corps. He received his bachelor of arts degree from Wittenberg College and pursued additional studies at the University of Cincinnati, Pennsylvania State University, North Dakota State College, the National Cash Register (NRC) Company, and with international correspondence schools. He earned certification in a variety of technical specialties, including high polymers, paint technology, water and waste treatment, industrial chemistry, and statistical methods.

Before entering Government service, Mr. Collins worked at NCR as senior research chemist in charge of their polymer group. Earlier experiences included service as a research chemist with the Commonwealth Engineering Company of Ohio, the Chadaloid Corporation, and New Wrinkle, Incorporated. He also worked for the City of Springfield, Ohio, and the Oliver Corporation as a laboratory technician.

Mr. Collins began his career at the GPO in 1962 as supervisory chemist in the Ink and Reprography Division of the Quality Control and Technical Department. He was promoted to Deputy Manager of the Department in December 1974 and to Manager in 1982. During his service with the GPO, Mr. Collins contributed to the development of plastic printing rollers, automated bank checks, and U.S. mail processing based on tagged inks. He chaired the interagency task group that developed the Federal Information Processing (FIPS) Standard for optical character recognition (OCR) form design, which proved to be the most popular FIPS standard ever published.

Mr. Collins initiated the GPO's environmental testing and control program. He established the organization that promulgated the GPO's Quality Assurance Through Attributes (QATAP) Program. The QATAP program was a singular achievement that resulted in the use of quantifiable attributes for measuring qualify in Government printing, and it is central to the GPO's program of procuring more than 75 percent of all printing annually from the private sector.

Mr. Collins served on the Joint Committee on Printing's Advisory Council on Paper Specifications, which establishes standards for the acquisition of printing and writing papers for government use, including recycled paper. In 1994 he assisted the enactment of legislation requiring that all Federal lithographic printing be performed utilizing vegetable oil-based inks. Today, the *Congressional Record* and other congressional information products are produced on recycled paper with vegetable-based inks, products that Mr. Collins was instrumental in helping to introduce for Government use. He also worked on increasing the use of permanent papers for the production of records with enduring educational and research value.

Mr. Collins was a member of numerous professional and industry groups, and he represented the GPO on several advisory boards and committees. He was affiliated with the Franklin Technical Society of Washington, DC, the National Association of Litho Clubs

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

(NALC), the Technical Association of the Graphic Arts (TAGA), the Technical Association of the Pulp and Paper Industry (TAPPI), the American Chemical Society (ACS), Toastmasters International, and the Committee for Graphic Arts Technologies and Standards (CGATS). He was the recipient of various awards for his professional activities, including the Award of Excellence from the Printing Institute of America's Executive Development Institute, and several GPO awards.

Mr. Collins was a devoted husband to his wife Eleanor, father to five daughters, and grandfather to fourteen grandchildren.

Throughout his career, Mr. Collins exemplified skill in his profession and dedication to public service, and his contributions have made Government printing more cost-effective, efficient, and environmentally sound.

CONGRATULATIONS TO THE NAVY RECRUITING PROCESSING STATION, GUAM—THE 1996 TOP RECRUITING STATION IN THE NATION

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. UNDERWOOD. Mr. Speaker, it is my honor and pleasure to commend the Navy Recruiting Processing Station [NRPS], Guam, for being named the Nation's top recruiting station for 1996. The Guam station, better known as "Team Guam," is led by NCC(NAC) Dwight K. Keola, the Recruiter-in-Charge. The other members of the team include PN1 Eusebio D. DeLuna, Jr., who is the chief administrator and classification and processing supervisor, as well as production recruiters EMC(SW) Wilfredo C. Pizarro, NC1 Todd E. Hubbard, and AT1(AW) David C. Jubilado.

Under the guidance and leadership of NCC(NAC) Keola, the Guam team beat out other Navy recruiting teams throughout the country and the world to earn this distinction. This was the first time that an overseas station was awarded. In addition to the Team Award, EMC(SW) Wilfredo C. Pizarro was named the 1996 Enlisted Recruiter of the Year, the first time that an overseas officer was selected as the Nation's top recruiter.

For fiscal year 1996, NRPS Guam enlisted 126 applicants, 217 percent of the requirement. NRPS Guam covers the Commonwealth of the Northern Marianas Islands, the citizens of the Federated States of Micronesia, the Republic of Palau, the Republic of the Marshall Islands, and United States citizens and resident aliens residing in Japan, Korea, Singapore, and the Philippines.

The majority of the applicants were guaranteed medical and aviation technical schools and training. Some were guaranteed training in naval engineering, construction, electrical and electronics, computers, nuclear engineering, administrative and logistics, and different mechanical operations. Several applicants were also guaranteed $30,000 in Navy college funds.

NRPS Guam is the only recruiting station in the Nation which is not physically supported by a Military Processing Station [MEPS]. The MEPS was disestablished on Guam in 1990 and its functions were distributed between the recruiters, the recruiting support personnel, and some Navy commands. Despite this disadvantage, the NRPS Guam was able to accomplish their mission and exceed their goals. My congratulations to the team and to their families.

HONORING JULIA AND BUDDY FARRELL ON THEIR 50TH WEDDING ANNIVERSARY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. ACKERMAN. Mr. Speaker, I rise today to honor a wonderful couple as they mark a milestone in their lives, 50 years of marriage. Born and raised in Brooklyn, NY, Julia and Buddy Farrell were married at the church they had both grown up attending, Nativity Church, on June 7, 1947. On this Saturday, April 12, over 125 of their friends and family will honor them at a surprise party to celebrate their anniversary.

Before marrying Julia, Buddy proudly served his country in the U.S. Marines. Shortly after their marriage, they moved to Queens, NY, where they raised their five children, Terri, Joan, Kathy, John, and Timmy. In 1964, their niece, Noreen, from County Kerry, Ireland, joined their family here in America.

Julia and Buddy were very active in St. Nicholas of Tolentine parish. Julia headed the "milk mothers," organized the majorettes, helped with the sports association, and volunteered in the gym. Buddy, who worked as a police officer with the New York City Police Department, also was involved in the Holy Name Society and the homeless shelter. Julia and Buddy are known to everyone for their giving natures and always reaching out to help their friends and family.

After working very hard and raising a wonderful family, they are living the good life in retirement in the condo in Leisure Village in Ridge, NY. Julia and Buddy are very proud of their children and adore their 12 grandchildren, Tricia, Maryellen, Danny, Kevin, John, Bridget, Casey, Erin, Matthew, Colin, Elizabeth, and Christopher, who range in age from 4 months to 25 years old. Julia and Buddy enjoy the company of many friends, playing golf, and swimming. In the winter, they go south to Florida, and in the summer, they spend time in Brant Lake, NY.

Mr. Speaker, I ask my colleagues to rise with me today in honoring Julia and Buddy Farrell on 50 years of marriage, and in wishing them many more years of happiness together.

NATIONAL UNITY COALITION FOR ISRAEL RESOLUTION OF SUPPORT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. GILMAN. Mr. Speaker, yesterday I had the opportunity to address a coalition of Jewish and Christian groups who convened a national unity conference in support of Israel. Prime Minister Netanyahu was the keynote speaker at this important event. The National Unity Coalition consists of more than 200 American Christian and Jewish organizations which collectively represent more than 40 million citizens. Attendance at this event was filled to beyond capacity. Two ballrooms at an area hotel were needed to accommodate all the attendees.

At the conference a resolution of solidarity with Israel was unanimously adopted. Mr. Speaker, I wish to take this opportunity to share with my colleagues the text of this excellent resolution, and to thank those in attendance of their ongoing and dedicated commitment to the people of Israel. We wish the National Unity Conference for Israel much success in their future endeavors on behalf of a strong United States-Israel relationship, and look forward to working with them in the months and years to come.

RESOLUTION OF SOLIDARITY—NATIONAL UNITY CONFERENCE FOR ISRAEL

We, the members and friends of the National Unity Coalition for Israel, give unanimous congratulations and commendation to the people of the State of Israel in their tenacious struggle to survive and flourish in their God-given homeland, Eretz Israel.

We are firmly committed to Jerusalem as the legitimate, undivided capital of the Jewish state. The 3000 year union between the Jewish people and their holy city is a relationship unique in human history. We commend the U.S. Congress for passage of the Jerusalem Embassy Act of 1995 and urge immediate implementation of the move of the U.S. Embassy from Tel Aviv to Jerusalem.

While respecting the legitimate rights of all people in the region to live in peace, we call on responsible parties, particularly Israel and the United States, to halt further negotiations with the Palestinian Authority until Chairman Arafat and the Palestinian Authority take concrete steps to implement basic promises made but thus far blatantly disregarded.

Namely:

1. Amend the PLO charter, which calls for the annihilation of Israel.
2. Close illegal offices in Jerusalem operated in violation of previous agreements.
3. Effectively stop terrorist violence and cease giving the "green light" to violence when contentious issues arise between Israel and the Palestinian Authority.
4. Reduce the Palestinian "Police Force" to the size agreed to in the interim agreement.
5. Comply with legal obligations, including transfer of terrorist suspects.
6. Confiscate illegal arms.
7. Demonstrate a commitment to peace as opposed to continual threats to foment a state of war against Israel among Arab states.

We strongly urge that any funding for the Palestinian Authority, planned or in process, be withheld until compliance is guaranteed.

With due respect and regard for the rights of the Palestinian people and legitimate Arab states in the region, we insist that the basic issue affecting affairs in the Middle East is the survival of the modern State of Israel. Since its rebirth as a nation in 1948, Israel has never posed a threat to any neighbor nation. Israel has only responded to aggressors. It has contributed enormously to the social and economic welfare of the residents of the region. Israel stands as the single bastion of democracy in the Middle East and therefore remains an invaluable ally to the United States and democracies the world over. Israel holds the key to the future prosperity and social development of the region.

Beyond these obvious indispensible benefits, no people in the history of humanity has a more legitimate right to a place in the ancient land of their fathers. We hold that Israel's biblical, historical, and moral right to the land is inviolable, and, as a body representing more than 200 organizations of Zionist Christians and Jews, we stand unanimously with the people of Israel and their right, in the words of "Hatikvah," to live freedom in the land of Zion and Jerusalem.

TRIBUTE TO MING PAO DAILY NEWS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mrs. MALONEY of New York. Mr. Speaker, I rise today to pay tribute to the Ming Pao Daily News, an esteemed newspaper serving the Chinese communities in Hong Kong and Canada. Today they celebrate the debut of their New York edition, the first Ming Pao publication in the United States.

The Ming Pao Daily News began publication in Hong Kong in 1959 and is now the third largest newspaper in Hong Kong in terms of advertising revenue and circulation. Highly regarded for its editorial integrity, Ming Pao has received many awards. In 1995, for the fourth consecutive year, the paper won 7 out of 10 annual awards presented by the Newspaper Society of Hong Kong. In 1996, according to a Hong Kong Chinese university survey, Ming Pao was ranked No. 1 in reader confidence and authoritativeness.

The Ming Pao Daily News currently publishes two Canadian papers which play an integral role in helping the Canadian Chinese communities acculturate to their new societies.

In these editions, Ming Pao has placed great emphasis on reporting Canadian news, local lifestyle, political and social events, and sports and entertainment. In New York, Ming Pao is determined to provide the Chinese speaking population with informative local, national and international news.

Ming Pao intends to continue its service to the Chinese speaking populations in the United States when it expands its publication to include San Francisco and Los Angeles in the near future.

Mr. Speaker, I am proud to honor the Ming Pao Daily News, a paper which takes great pride in its service to the North American Chinese population. I ask my colleagues to join me today in this well-deserved tribute to the Ming Pao Daily News as they launch their first edition in the United States. I wish them the greatest success.

HISPANICS HONORED FOR THEIR NOTABLE CONTRIBUTIONS TO NORTHWEST INDIANA

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. VISCLOSKY. Mr. Speaker, on Saturday, April 12, 1997, numerous outstanding Hispanics from Indiana's First Congressional District will be honored for their notable contributions to northwest Indiana. Student recognition certificates, a President's Award, a Cesar Chavez Community Service Award, and an Outstanding Family Award will be presented by the Northwest Indiana Hispanic Coordinating Council during a banquet held at the American Legion Post No. 369 in East Chicago, IN.

Hispanic students representing northwest Indiana and northeast Illinois high schools will be recognized for academic and athletic achievement. The students who will receive awards for outstanding academic achievement include: Christina Sanchez and Neil Sharp, Andrean High School; Christine Mendoza, Calumet High School; Christine Siordia, Chesterton High School; Heather Vela, Donald E. Gavit High School; Sandra Martinez, East Chicago Central High School; Michael Soto, George Rogers Clark High School; Deanna Westerfield, Griffith High School; Diana Nevarez, Hammond High School; Christopher Calderon, Highland High School; Eric Chavez, Lake Central High School; Michelle Perez, Merrillville High School; Bethany Diaz, Morton High School; Jeanette Hernandez, Portage High School; Jesse Cisneros, River Forest High School; Elisa Maria Paramo, TF South High School; Kristina Vega, Thomas A. Edison Junior/Senior High School; Mike Cortez, Thornton Fractional North High School; Meghan Dougherty, Valparaiso High School; Antoinette Cardenas, West Side High School; Heather Trojnar, Whiting High School; and Jesse Flores, William A. Wirt High School.

Students who will recieve awards for outstanding athletic achievement include: Nick Botts, Calumet High School; Brian Osan, Chesterton High School; Marco Lecea, Donald E. Gavit High School; Joel Rodriguez, East Chicago Central High School; Francisco Rodriguez, George Rogers Clark High School; Daniel Guerrero, Griffith High School; Christopher Moore, Hammond High School; Tony Elder, Highland High School; Vincent Sess, Lake Central High School; Jessica Vargas, Merrillville High School; Jason Mendoza, Morton High School; Leroy Vega, Portage High School; Michael Cortez, River Forest High School; Joe Yanez, Thomas A. Edison Junior/Senior High School; Antonio Diaz, Thomton Fractional North High School; and Jorge Del Real, Whiting High School.

The council will also present the Outstanding Family Award to the Rosillo family. This distinguished family was carefully selected from many qualified families on the basis of their unity and dedication to one another's successes. In addition, Benjamin T. Luna will be presented with the President's Award. This honor is given to an individual exhibiting extraordinary leadership skills by means of guiding and mentoring the Hispanic community at large. Also, Medi-MEX, Inc., a nonprofit organization which provides medical services to the poor in Mexico, will receive the Cesar Chavez Community Service Award. The Cesar Chavez award is presented to an agency or group of individuals which have made noticeable contributions to the Hispanic community.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in applauding all of the award recipients chosen by the Northwest Indiana Hispanic Coordinating Council. All of these individuals are most deserving of the honors bestowed upon them. Moreover, I would like to commend the Northwest Indiana Hispanic Coordinating Council, its president, Socorro M. Roman, and all of the council members for committing themselves to the preservation of their culture. It is my privilege to recognize them for their outstanding achievements.

THE 50TH WEDDING ANNIVERSARY OF STEPHEN AND JANE SCILLIERI

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. PASCRELL. Mr. Speaker, I would like to bring to your attention the momentous occasion of the 50th wedding anniversary of Stephen and Jane Scillieri of Paterson, NJ. Stephen and Jane celebrated their anniversary on February 16, 1997.

Born and raised in Paterson, Stephen and Jane are active members of the community, especially through their involvement with Blessed Sacrament Church, where they are parishioners.

Stephen is the proud owner and president of Scillieri Funeral Home of Paterson and Hawthorne. He has served as former president of both the State Board of Mortuary Science and the Passaic County Funeral Directors Association.

Jane is retired from the Prudential Insurance Co.

The loving couple are proud parents of two children, Stephen Anthony and JoEllen Cox. In addition to being proud parents, the two are also proud grandparents of four grandchildren.

Mr. Speaker, I ask that you join me, our colleagues, Stephen and Jane's family and friends, Blessed Sacrament Church, and the city of Paterson in recognizing the momentous occasion of Stephen and Jane Scillieri's 50th wedding anniversary.

TRIBUTE TO DONALD E. MUIR

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. MILLER of California. Mr. Speaker, I rise to inform the House of the passing of one of the most effective and respected political leaders in modern California political history, and a very dear friend throughout my adult life, Donald E. Muir of San Francisco. A heavily-attended memorial service this past weekend in San Francisco brought together an enormous assortment of public officials, former officeholders, colleagues, friends—all testimony to the active role Don played in the life of California politics and the Democratic Party over the past 30 years.

Don had been a colleague on the staff of State Senator George Moscone in the 1970's in Sacramento, and since that time was a trusted adviser to many of the leading Democratic officeholders in California at the State and Federal levels.

Don Muir was a political realist, and for him, politics was in part a business. No one performed the business side of politics more expertly or tirelessly. Don was a pro who could read politicians better than anyone, sometimes better than themselves.

But politics was more than business for Don Muir, too. It was very personal.

He was cynical without being a cynic; his easy going style—open-necked shirts and cowboy boots—belied an intensity and a competitiveness that were renowned.

For all his partisanship and fascination with insider intrigue, Don's real love was for our democratic institutions. He understood as well as anyone the practical pressures confronted by elected officials confronting difficult choices, but he always figured Franklin D. Roosevelt—one of his heroes—had it about right: political leaders should challenge their constituents and their Nation, and shouldn't sacrifice principle and the public good to fleeting whims or political expediency.

At a time when many ran and hid from the stigmatized notion of being a "liberal," Don remained an unabashed and unapologetic believer that government should help the poor and the disenfranchised. He wasn't in the least starry-eyed, utopian, or naive. But he was unwilling to abandon his deep faith in people and our constitutional system because of what was popular or saleable at any particular time.

Don was an adviser, a fundraiser, a strategist, and kibbitzer. He loved the campaign fights and he loved the corridors of the legislatures—state and national—but he also loved sitting for hours in some San Francisco restaurant, a glass of good California wine in his hand, speculating about political developments and digesting political gossip.

Don was born in Roseville, CA, the son of railroad workers, and held degrees from Sierra College, California State University at Sacramento, and San Francisco State. He taught government and English in Roseville until he was sucked into the world of elections and politics during the 1960 Presidential campaign of Senator John F. Kennedy. He subsequently worked in the 1962 reelection campaign in which Pat Brown defeated Richard Nixon, and then in the 1964 Presidential campaign for President Lyndon B. Johnson.

After working in Brown's 1966 campaign, he became the Governor's travel secretary, and began a career in fundraising that continued through every succeeding Presidential campaign, and countless campaigns for State and Federal candidates.

But for all the fun he had and the substantive contributions he made to our political process, I often think that Don's first choice would have been to return to academia, finish up that elusive doctorate, and teach what he had learned about our political system to another generation of Americans.

He did return to teach at San Francisco State, and he would have made a great career professor, just as I am sure he was an inspiring teacher earlier in his career and in his last several years as well. He was knowledgeable, he was passionate, and he was deeply committed. In the end, leukemia would overtake his powerful spirit.

Don leaves a wonderful family, his wife Linda, with whom he built a successful business and raised three accomplished children, Stacey, Maggie and Mike. To them and to the rest of his family, all of us who profited by this man's faith and friendship offer our deep condolences and prayers.

Don's legacy lives on not only in his children and grandchild, but in the scores of people influenced and inspired by him to dedicate themselves to lives of public service for the improvement of our society.

TRIBUTE TO STEVEN BENTLEY

HON. ROBERT A. WEYGAND

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. WEYGAND. Mr. Speaker, it gives me great pleasure to pay tribute to an exceptional young man, Mr. Steven Bentley, who has devoted much hard-earned effort to achieving the Boy Scout's highest rank of Eagle Scout. This award reflects great initiative, determination, and hard work.

Steven received his Eagle Scout badge by completing sorely needed renovations to Old St. Mary's Church hall, one of the oldest Roman Catholic churches in Rhode Island.

Steven is an example of the best of America's youth, those dedicated to improving life in their community and who strive to reach their highest potential.

The 16-year-old son of Bruce and Patricia Bentley, Steven resides in West Warwick, RI, where he is a student at West Warwick High School. I am sure his parents are extremely proud of their son's achievement. I have confidence that the Boy Scouts have prepared him to face life's challenges with great determination and character. On behalf of the people of Rhode Island, I would like to thank Steven for his service to the community and wish him great success in the future.

RADIO VISION'S 17TH ANNUAL VOLUNTEER RECOGNITION DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. GILMAN. Mr. Speaker, on April 12, 1997, Radio Vision, a service organization in the 20th District of New York will be celebrating it's 17th annual Volunteer Recognition Day.

Radio Vision is a closed-circuit radio broadcasting service that provides news and information for the blind and sight impaired throughout five counties in the Hudson Valley region of New York. Radio Vision, which is staffed completely by volunteers, gives the opportunity for hundreds of sight-impaired persons to learn more of what is occurring around them.

A sight impaired person's access to the media is limited to listening to radio and television broadcasts that only briefly outline national and international news. For a person that has difficulty holding or reading a newspaper, local news and happenings—such as which stores have sales, where new facilities have opened in the vicinity, and what our neighbors are accomplishing—is difficult to obtain.

Radio Vision provides a free-closed-circuit radio to people who require help in getting news. The 105 dedicated volunteers read local news, topical literature, shopping hints and other vital information to more than 400 blind, sight impaired or otherwise disabled Hudson Valley residents who subscribe to the Radio Vision service.

Their voluntary hard work has enriched the lives of many of our constituents, and I am proud to note their good works to my colleagues.

REMEMBERING LARRY BIENSTOCK

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mrs. MALONEY of New York. Mr. Speaker, I would like to take a moment to honor a courageous man and to try to shed some light on the tragic disease which he courageously fought. Larry Bienstock was my constituent and lived on the Upper East Side of Manhattan. He attended Columbia University and received his law degree from New York University. Everyone who knew him, even in passing, was amazed at his searing intelligence, his fierce independence, and, above all, his unwavering commitment to the cause of dystonia. Unfortunately, Larry knew dystonia well.

Generalized dystonia symptoms began when he was a boy and progressed in adulthood to the point of confining him to a wheelchair. Yet despite the cruel nature of this debilitating disease, Larry's spirit never dampened. During the many years that I knew and worked with Larry, I learned directly from him about his battle with dystonia.

Dystonia is a neurological disorder characterized by severe involuntary muscle contractions and sustained postures. There are several different types of dystonia, such as: generalized dystonia which afflicts many parts of the body and usually begins in childhood; focal dystonias affecting one specific part of the body such as the eyelids, vocal cords, neck, arms, hands or feet; and secondary dystonia which is secondary to injury or other brain illness.

There is no definitive test for dystonia and many primary care doctors have never seen a case of it. These facts coupled with its varied presentations make it difficult to correctly diagnose. It is estimated that 85% of those suffering from dystonia are not diagnosed or have been misdiagnosed. Because of the complications with diagnosing the disease, it is difficult to determine the number of people who are affected by it. The Dystonia Medical Research Foundation estimates that approximately 300,000 individuals in North America alone suffer from some form of dystonia.

Unembarrassed by his condition, Larry and his wheelchair went traveling often—to lobby for funding in the halls of the Capitol, to the boulevards of Paris, to symposia and social events related to dystonia. Throughout his life, Larry was always a fighter for research into the cause and treatment of dystonia.

Larry was active in politics, volunteering on political campaigns and with the local Democratic party. He felt that government belonged to the people and he always took advantage of opportunities to speak out on issues he felt strongly about. He spread his word via the Internet and created a web page for the Dystonia Medical Research Foundation, which can be found at: http://www.ziplink.net/users/dystonia/.

Larry saw e-mail and his web page as powerful tools for bringing together people concerned about dystonia and for establishing a strong collective voice for advocacy. Larry Bienstock provided a model of courage, perseverance, and independence.

When he passed away recently, Larry Bienstock left a legacy of activism and advocacy. He taught me about dystonia, and more importantly, about the undying human spirit.

TRIBUTE TO THEODORE HOWARTH, JR.

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. ANDREWS. Mr. Speaker, I rise today to honor an individual who has given of himself to make his borough a better place to live. I am speaking of Chief Theodore J. Howarth, Jr., the newly elected State Commander of the American Legion Department of New Jersey. Out State is fortunate to have a leader like Chief Howarth in this important position.

Chief Theodore Howarth's dedication to New Jersey and his fellow citizens is exemplary. Chief Howarth is a lifelong resident of Gloucester City. He served in the Navy for two tours in Vietnam, earning the Navy Commendation Ribbon, the Republic of Vietnam Campaign Medal, the National Defense Medal, and the Vietnam Service Medal. In January 1972, Chief Howarth joined the Gloucester City Police Department, where he steadily rose through the ranks. On December 7, 1988, Theodore Howarth became the chief of police of Gloucester City, a position at which he continues to excel. During his memorable 24-year career in Gloucester City, Chief Howarth has accomplished much. He has established a pathbreaking Juvenile Adjudication Program, established numerous community programs in concert with the school system, and community service organizations, promoted a policy of Community Oriented Policing, and has pursued consistent professionalism in a police organization.

In addition to his impressive police career, Chief Howarth has shown an deep commitment to bettering himself and his community. While serving in the Gloucester City Police Department, Chief Howarth completed his bachelor of science degree in law and justice. He has served the Policemen's Benevolent Association in all elected and appointed positions. Chief Howarth currently serves as vice president of the Camden County Police Chief's Association, and is active on the State and national levels as well. Chief Howarth has also served the people of Gloucester City through such community organizations as the Jaycees, the Carmen Palmiero (Youth) Basketball League, the Police Athletic League, the Gloucester City Municipal Youth Services Commission, the Gloucester City Celebrations Committee, and the Gloucester City Chamber of Commerce, rising to president of each of these organizations. In addition, Chief Howarth is active in Little League baseball, and serves as vice president of the Gloucester City Lions Club. Through his vigorous community involvement, Chief Howarth has been honored many times, received such awards as Outstanding Citizenship Awards from the Jaycees, Sportsman's A.C., and V.F.W. Post #3620, as well as the New Jersey Law Enforcement Officer of the Year Award from both the American Legion Department of New Jersey and the Veterans of Foreign Wars Department of New Jersey.

In addition to his active career and dedication to community service, Chief Theodore Howarth has remained an active participant in the American Legion. He has risen through the ranks, and was elected State Commander of the American Legion Department of New Jersey in 1997.

All who know Chief Theodore Howarth are honored by his service to the people of Gloucester City and of New Jersey. I know that Chief Howarth's wife, Candy, and son, Sean, are as proud of his accomplishments as we all are. Chief Howarth's service has been remarkable, and I congratulate and thank him on behalf of all the citizens of New Jersey.

HELP MAKE THE AMERICAN DREAM POSSIBLE FOR THOSE WHO SERVED

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. KLECZKA. Mr. Speaker, thousands of former servicemen and servicewomen in a number of States are currently prohibited from receiving State-financed home mortgages. That is why Representative HERGER and I are reintroducing the Veterans American Dream Homeownership Assistance Act.

Under a little-known provision of the 1984 tax bill, veterans in certain States who served in the Armed Forces beginning any time after 1976 are all but prohibited from receiving a State-financed veterans home mortgage. In my State of Wisconsin, this means that most of our fighting men and women in uniform who served in Panama, Grenada, and the gulf war cannot get veterans home mortgages from their own State government, even if the State government would like to grant them. Are those who began serving their country after 1976 any less deserving than those who went before?

Why does this cutoff exist? This cutoff was created to raise additional revenue for the 1984 tax bill by limiting the use of tax-exempt bonds to finance State veterans mortgage programs. When this provision was passed, post-1976 vets were a small percentage of all veterans, without much voice to protest this discriminatory change. But 13 years later, there are thousands who have served our country honorably in that period. The five affected State veterans affairs departments believe that if this bill becomes law, they can help a great number of these post-1976 vets purchase their own home. The States that are currently permitted to use this Federal tax-exempt State bond financing are Wisconsin, California, Texas, Oregon, and Alaska.

This legislation would simply eliminate the cutoff that exists under current law. Under our proposal, former servicemen and servicewomen in the five States who served our country beginning in 1977 or any years after that could be eligible to qualify for a home mortgage loan provided by their States. Our proposal does not increase Federal discretionary spending 1 cent but simply allows the permitted States who so choose to help all their veterans regardless of when they served.

Why should we continue to exclude from State assistance certain vets who have served our country, just because they served recently? We believe that at the Federal level we should at least allow our own States to help those who served our Nation honorably. Please help those veterans of Grenada, Panama, and the gulf war in the affected States who want to own their own home. Please join Representative HERGER and I and the 60 bipartisan cosponsors from the 104th Congress I cosponsoring the Veterans American Dream Homeownership Assistance Act.

IN HONOR OF LEO WENE

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor the memory and works of a great public citizen, Leo Wene.

Mr. Wene, a retired college physics professor, was actively engaged in his community's most pressing social and economic issues. He headed efforts to establish a municipal electric power distribution system for Chardon, OH, after seeing the value municipal power has provided Cleveland. He criticized foolhardy attempts at unsafely storing nuclear waste and upbraided proponents of the plan.

Mr. Wene was an active participant in the political process and, through his example, showed to many the value of activism. He served as chairman of the Committee for Fair

Utility Rates and of the Tri-County Environment and Consumer Advocate Council. He encouraged fellow citizens to become involved in the process and to let their representatives know where they stood.

Mr. Wene was educated at Ohio State University and the University of Idaho, where he received his master's degree.

During World War II, he served with the Army's 83d Infantry Division in Europe. He participated in four major campaigns and was wounded at the Battle of the Bulge. Mr. Wene was awarded the Silver Star for gallantry.

Mr. Wene is survived by his wife of 57 years, Cleo; daughter Jennifer of Westerville, OH; sons, Kenneth of Bethel, CT; Daryl of North Royalton, OH, and Peter of Waldorf, MD; as well as five grandchildren and four great-grandchildren.

Ohio will miss him terribly.

CONGRATULATIONS TO THE LITHUANIAN AMERICAN COUNCIL OF LAKE COUNTY, IN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to congratulate the Lithuanian American Council of Lake County, IN, and the Lithuanian community on the 79th anniversary of Lithuanian independence.

The Lithuanian American Council celebrated Lithuanian independence from the Soviet Union, which occurred in 1918, on Sunday, February 16, 1997, at St. Casimir's Church in Gary, IN. Following tradition, the anniversary ceremony began with a church service starting at 11:30 a.m. After the church service, the Lithuanian American Council held a flag raising ceremony outside of the church to honor those Lithuanians who pledged their allegiance to independence for their people. The event concluded with a dinner in the church hall.

I would like to take this opportunity to commend the Lithuanian American Council of Lake County and its officers, including: Vincent J. Gumulauskis, who has been president for 5 years; Pete D. Auksel and Casimir Balt, both of whom are vice-presidents; Birute Vilutis, secretary; and Walter Ruzga, treasurer. Allow me to also commend the board of directors, whose members include the Reverend Ignatius Urbonas, Aleksas Degutis, Alex Navardauskas, Dan Pauls, Frank Petrites, Brone Tampauskas, and Izidorius Tavaras. Finally, I would like to commend every member of the Lithuanian American Council for the loyalty and enthusiasm they have displayed.

The Lithuanian American Council of Lake County, IN, is a branch of the Lithuanian American Council, Inc. It was founded in 1940 and originated in large cities such as Boston, Chicago, and New York. The organization in Lake County was initially headquartered at St. Francis Church in East Chicago, IN, until recently when the building was demolished. The organization was then moved to St. Casimir where its home is today.

It is my sincere hope that 1997 will bring renewed prosperity for all members of the Lithuanian community and their families. May this 79th anniversary year prove to be a most joyous one.

TRIBUTE TO DELMA CUCCINELLO

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. PASCRELL. Mr. Speaker, I would like to bring to your attention Delma Cuccinello of Haledon.

Delma is retiring from her position of administrative clerk in the office of the Superintendent of Elections, Passaic County, NJ, after 31 years of public service.

During her 31 years, Delma has worked under five superintendents of election, and has touched the lives of many.

A native of Paterson, Delma now resides in Haledon with her husband, Lou, and the couple celebrated their 50th wedding anniversary last year. Delma and Lou are the proud parents of two daughters, and the proud grandparents of two grandsons.

Although a resident of Haledon, Delma remains very active in the Riverside Veterans Organization of Paterson, and is an integral part of the community.

Mr. Speaker, I ask that you join me, our colleagues, Delma's family and friends, and the county of Passaic in recognizing the outstanding and invaluable service to the community of Delma Cuccinello.

"LAND FOR A LIAR'S PROMISES"

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. GILMAN. Mr. Speaker, one of the issues that Israel's Prime Minister Netanyahu highlighted during his visit to Washington this week focused on the lopsided and inaccurate reporting about Israel's role in the Middle East peace process. At two events I attended where the Prime Minister spoke, he made forceful and convincing arguments that it is Israel which is in compliance with its commitments. However, most of the media have fallen prey to the international propaganda espoused by PLO Chairman Yasser Arafat and others which blames Israel for every problem that is encountered along the negotiating path, he concluded.

Thankfully, though, there are some individuals, like columnist George Will, whose ability to cut through the obfuscation remains intact. His recent article, which appeared in numerous newspapers around the country, sheds light on the true reality of the current situation. Accordingly, Mr. Speaker, I wish to share the text of this piece with my colleagues, many of whom have reiterated their concerns to me about Yasser Arafat's true intentions.

[From the Washington Post, Mar. 27, 1997]

LAND FOR A LIAR'S PROMISES

(By George F. Will)

Israel's critics, who are legion and live in safe neighborhoods, says Israel is being provocative. Actually, Israel's being is provocative.

On one day, Palestinian violence is said to have been provoked by the opening of a tunnel. One another day, the provocation is said to be the beginning of construction of apartments. But the real reasons for the violence are: Violence has always been part of the warp and woof of Yasser Arafat's politics (remember, he once wore a pistol to the U.N. podium), and there is no penalty for it. Indeed, in the eyes of the "international community," Palestinian violence is self-legitimating: It is proof of Israeli provocation.

No Israeli government could allow Arafat to veto the construction of apartments on unoccupied land in East Jerusalem owned by the Israeli state. To allow that would be to make a de facto territorial concession, conceding that Jerusalem is redivided, with Arafat sovereign in part of it.

Arafat released terrorists. Israeli intelligence says that he authorized attacks and that the head of Palestinian Preventative Security organized the Hebron riots. Last Friday, at a rally of 10,000 in Nablus, a speaker announced the "good news" of the terrorist's suicide attack in Tel Aviv, and the crowd cried, "God is great." An Arafat aide said, "The terror of bulldozers led to the terror of explosives." What kind of peace can be made with people who talk like that?

Arafat's recurring resort to violence refutes the premise of the Oslo accords, which was that land was being traded for peace. Something tangible—territory—has indeed been traded for something intangible—promises, a liar's promises. Everything about Arafat's repertoire—the violence, the rhetoric to Arabic-speaking audiences about "combat" and "jihad" and capturing all of Jerusalem, the refusal to fulfill the obligation to remove from the Palestine Charter references to the illegitimacy and destruction of Israel—is consistent with the strategy adopted in 1974. That is the "phased" strategy of founding a Palestinian state from which will be launched the final attack on a diminished Israel.

American diplomats who soothingly refer to Arafat as Israel's "partner in the peace process" visit Arafat's Ramallah office with its wall map of Palestine with Israel's borders erased. Such maps are frequent ornaments of political and cultural programming on Palestinian Authority television. Such maps are used in Palestinian commercial advertising and as jewelry. On the main Bethehem-Hebron road stands a monument to the Palestinian "martyrs of the Intifada" in the shape of a map of Palestine, including all the land of Israel. The diplomats probably wonder about the "real" meaning of such maps, just as diplomats wondered what Nazis "really" meant when they spoke of the "destruction" of European Jewry.

Israel lives in a bad neighborhood. One reason it is bad is that the Palestine people have had a long run of execrable leaders: leaders who supported Hitler in World War II, the Soviet Union during the Cold War and Saddam Hussein in the Gulf War. Perhaps things will get better. Perhaps when a full-fledged Palestinian state exists on the West Bank, that 22nd Arab state will be the first Arab democracy. But would those who are asking Israel to bet its life on that be willing to bet theirs?

Former prime minister Shimon Peres, when asked if Israel could safety consent to be again, as before 1967, 10 miles wide at the waist, blandly said that Israel would still be, in effect, 40 miles deep strategically because "all the land we give back must be demilitarized." But although this Palestinian state does not yet fully exist, it already is militarized with at least 30,000 well-armed soldier-policemen. Will the fully emerged state accept restrictions on its sovereignty that no other nation accepts?

And who would enforce such restrictions? The "international community" that dithered during genocide in Bosnia and is inexhaustibly "understanding" about Palestinian violence? Should Israel rely on a U.S. commitment? As Golda Meir said to President Nixon when he suggested something similar, "By the time you get here, we won't be here."

It is said that people hope vaguely but dread precisely. Modern history has provided Israelis a dread that is the premise of their statecraft: No calamity is impossible. So while the "international community" will continue to criticize Israel for the provocations inherent in its existence, Israel's riposte will be Golda Meir's words: Jews are used to collective eulogies, but Israel will not die so that the world will speak well of it.

TRIBUTE TO THE HONORABLE REX SATER

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Ms. WOOLSEY. Mr. Speaker, I rise today to honor a dedicated and caring public servant, the Honorable Judge Rex Sater. Judge Sater is to be commended for 21 years of outstanding service as a judge on the Sonoma County supreme court in Santa Rosa, CA.

Judge Sater earned great respect and admiration for his handling of family law cases. His rule that disputing parties must talk matters over before involving the judge is now a common practice used throughout California known as meet and confer. His respect for juries and the justice system was clear. In fact, Judge Sater was one of the first to start the practice of having participants and spectators rise each time the jury came in and out of the courtroom.

In addition to his exemplary service as a judge, he was involved in the community as an advocate for native American causes and was a founder of the Sonoma County chapter of the ACLU.

Mr. Speaker, it is my great pleasure to pay tribute to the Honorable Judge Rex Sater. Sonoma County was very fortunate to have had such a dedicated judge. We thank him for the fair and compassionate manner he always conducted his court. I extend my congratulations and best wishes on his semiretirement to he, his wife, Kate, and their family. He will be missed by all.

TRIBUTE TO JAMES D. DOUGHERTY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mrs. MALONEY of New York. Mr. Speaker, I rise today to pay tribute to James D. Dougherty, who is stepping down as president of the Gramercy Neighborhood Associates [GNA]. Mr. Dougherty has served as GNA's president since 1990.

Over the past 7 years, as a result of Mr. Dougherty's leadership and vision, GNA has helped improve the Gramercy Park neighborhood in many ways. Among the GNA initiatives undertaken during his tenure, there are two I would like to note. GNA worked to replace 24 cobra lampposts with the more attractive and historically appropriate Bishop's Crook lampposts. Additionally, GNA published the award-winning book, "Gramercy: Its Architectural Surroundings," which is playing a pivotal role in the drive to expand the Gramercy Park Historic District.

Mr. Dougherty first moved to the Gramercy area in 1960 when he was attending Columbia Law School. After 8 years of practicing law on Wall Street, Mr. Dougherty joined Pathmark Supermarkets, Inc., as a lawyer. In 1987, he was appointed president of Pathmark.

Mr. Dougherty's volunteer work does not stop with GNA. Since his retirement from Pathmark in 1990, Mr. Dougherty has also taken an active role in the environment. He served as the chairman of the Nature Conservancy chapter on the east end of Long Island and as a director of the New York League of Conservation Voters.

Mr. Dougherty has also applied his retail experience to several State Department volunteer assignments. He spent a month in Latvia in 1992, during the first winter of its independence from the Soviet Union, helping to establish new distribution channels for scarce food and medical supplies. In 1996, he spent 2 months in Siberia advising a Russian retail chain in the design and opening of its first supermarket.

Mr. Speaker, I am proud to honor James Dougherty, a man who has used his expertise and leadership to serve his own community and the communities of others around the world. I ask my colleagues to join me today in this well deserved tribute to Mr. James Dougherty.

HONORING JOHN Q. HAMMONS

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. BLUNT. Mr. Speaker, I rise to commend John Q. Hammons, who is well known in the Ozarks and beyond for accomplishments that have affected the lives of many in countless ways. Mr. Hammons has deep roots in southwest Missouri. He was born in Newton County and after finishing high school Mr. Hammons attended Monett Junior College and Southwest Missouri State University where he completed his bachelor's degree. His adult road to success began at Cassville High as a teacher and coach, and then as a cost engineer for the Alaska Highway. He served his country in World War II as a lieutenant (jg) on Navy troop transports in both the Atlantic and the Pacific.

Living in southwest Missouri it is difficult to not be aware of the many real estate developments his vision has produced. Some outstanding projects include the Glen Isle Center, Southern Hills, Village Garden Apartments, Kimberling City, University Plaza Hotel, the Springfield Trade and Convention Center, Highland Springs Country Club, and the Hammons Towers. His most recent and highly recognized development is the Chateau on the Lake Hotel and Convention Center near Table Rock Dam, a resort likely to receive national renown. His business ventures have provided a multitude of jobs and opportunities. John Q. demonstrated his commitment to community improvements by donating the land and the supporting architectural services for the recently built headquarters for the Springfield Area Chamber of Commerce.

John Q. is well known to many outside the business community through his contributions to education, the arts, athletics, and medicine. In the field of education Mr. Hammons has generously given back to Southwest Missouri State University including the Hammons House dormitory and the Hammons Student Center, where 9,000 watch Bears basketball. At Drury College he helped to initiate the support and the ensuing construction of the Hammons School of Architecture. He was one of the founders of the Springfield Public Schools Foundation Challenge Grants to increase their computer technology and provide for the distribution of the Springfield News Leader and USA Today in the classroom.

John and his wife, Juanita, recognized the need to continue the development of the arts and gave major contributions to help build the Juanita K. Hammons Hall for the Performing Arts at Southwest Missouri State University. For those individuals who enjoy public television the Hammons provided the founder's gift to establish the Ozarks Public Television station and they have continued their support with Challenge Grants.

For the sports enthusiast, he donated the land and five million dollars to build the Missouri Sports Hall of Fame to help recognize those in Missouri who have excelled athletically. Those individuals in need of medical assistance have been especially thankful to Mr. Hammons for his donations to the St. Johns Regional Health Center which have included the Hammons Life Line emergency helicopter, a heart wing and the Hammons Heart Institute.

It would be easy to mention many other notable accomplishments but perhaps it is enough to remember that he has reached each of these goals one day at a time with persistence and hard work. We thank John Q. Hammons for his contributions and his examples.

A BUDGET THAT INVESTS IN AMERICA'S FUTURE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. BROWN of California. Mr. Speaker, for the last 2 months, we have seen a great deal of rhetoric on the budget, but there has been no action. Next week marks the deadline for passage of a budget resolution, but there is no chance that we will meet that goal. We are in a stalemate and seem incapable of moving ahead on the budget or any of the rest of the issues that confront the Congress.

I will be the first to admit that crafting a sensible budget resolution is no easy task. It requires taking public positions that may be uncomfortable, setting spending goals and priorities that may bring questions and criticism, and being willing to take risks in order to gain some progress. I know all of this because I have struggled to develop a comprehensive budget over the last few months.

Today, I am introducing a concurrent resolution on the budget aimed at achieving three major goals. First it will establish moderate budgetary growth and sustained investments in capital expenditures that are associated with future productivity. Second, it will incorporate a new structure to the budget process that more clearly identifies these investments and enforces the budgetary goals we set for these in the future. This approach has come to be called the investment budget and it is my hope that Congress will consider it a first step in reversing the dramatic decline in investments that we have witnessed over the past decade. Third, this investment budget reaches balance by the year 2002.

The 104th Congress was a crucial turning point in addressing the Federal deficit. The White House, the Republican majority, and the Democratic minority have all committed to achieving a fully balanced budget by the year 2002. While this will remain a political imperative, there is not yet a coherent or unifying policy to guide this process. Past proposals Congress has considered range from artful accounting exercises to ideological social blueprints. None have fully addressed the underlying imperative to create an economy that can sustain growth after the year 2002.

The 105th Congress is now struggling to reach a consensus over a wide variety of budgetary issues including tax cuts, adjustments to the Consumer Price Index, defense spending, and entitlement reform. There is a rare opportunity at this time to offer a unifying goal to this discussion. The fundamental challenge Congress faces is the need to shift public spending away from consumption toward investment. My concern over our seeming inability to distinguish investment from consumption has led me to propose this bill today.

In accomplishing these objectives, the investment budget will also eliminate the deficit by the year 2002 by proposing certain changes in entitlement programs, and curbing the growth of other noninvestment discretionary programs. Finally, the investment budget will postpone any proposed tax cuts until the budget is balanced.

As I said before, I am not an expert on the budget and this concurrent resolution borrows heavily from those more familiar with this process than I am. I have drawn inspiration from my friends in the Conservative Coalition, the so-called Blue Dogs, by adopting some of their entitlement reforms. I have drawn inspiration from the President by adopting his education and worker training programs. I have drawn inspiration from my friends on the Transportation and Infrastructure Committee who have been articulately advocating enhanced physical infrastructure expenditures. And, of course, I have listened to colleagues on both sides of the aisle who demand that we lay out a course for Federal policy that will lead to a balanced budget by the year 2002.

The case for investments rests on the long recognized strong relationship between public investments and economic growth. Growth in the gross domestic product is generally due to the growth in the labor force, which is entirely dependent on demographics, and growth in the productivity index, the output produced per unit of input. This later is strongly influenced by investments in technology, capital infrastructure, and human resources. That is, productivity depends directly on the availability of private capital stock, work force skill and training, and the rate at which technology is improved and applied in the workplace.

The corollary to this is that economic growth and economic opportunity are complementary. Economic growth will make resources broadly available to widen opportunity and increase employment. The slowdown in productivity beginning in the 1970's was accompanied both by slower growing family real incomes and by a widening of the income gap.

In order to renew and sustain productivity increases over the next decade, the emerging consensus among economists is that policies should be pursued that increase higher national savings, encourage more open and efficient markets, and shift public spending away from consumption and towards productive investment. It is this later policy goal that is the focus of the investment budget. It should be emphasized, however, that a budget resolution alone cannot address the full scope of the productivity problem. Additional public policies will be called for over the coming decade that complement this in other areas such as overall fiscal control, international trade, and incentives for private capital formation.

The proposed investment budget sets specific targets for growth in investments, such as research and development, physical infrastructure, and education and training. The overall goal for research and development spending is aimed at keeping pace with the growth in the gross domestic product and reversing the declining trend evident in other budget proposals.

The goal for physical infrastructure funding is to achieve productivity gains over the near term by improving surface, water, and air transportation systems and enhancing their efficiency. This is accomplished by increasing discretionary spending to a level that can be efficiently sustained by the existing trust fund revenues.

The third critical element relates to human resources. Aggressive education and training programs will ensure that all Americans can participate in and benefit from these productivity gains. The goal is to narrow the income gap and to enable a workforce that can be integrated into the overall growth in the economy that technology and transportation investments will bring.

In the aggregate, the investment budget identifies $910 billion in public investments over the 5-year period ending in 2002. This exceeds the President's request for these investments by over $70 billion. In the President's fiscal year 1998 budget request, the funding level for Federal investment represents 2.7 percent of the GDP. This is the lowest level of funding for Federal investment since definitional records have been kept. Although the investment budget falls far short of reestablishing the level of investment the Nation made in the past, it does begin to reverse the precipitous decline.

In order to fully address this problem, however, it is not enough to simply propose higher spending levels in the future. It is also necessary to fix the budget process in a manner that more clearly distinguishes capital investments and consumption and enforces any target we set during the appropriations process. This would provide a remedy to a long-recognized irrationality in the budget process that treats investment and consumption as equivalent expenditures whose only uniqueness lies in their outlay rates rather than their functional effect on the economy. There are several factors that account for this state of affairs. First, the President's budget does not specifically identify investments in a manner that can be addressed in the congressional budget process.

Second, the present structure of the congressional budget process for allocating discretionary resources is strongly influenced by the cold war concern for maintaining a strong defense. Thus, Congress has acted to construct a budgetary firewall between defense and nondefense discretionary expenditures. The decisionmaking process then takes place in two separate vacuums. Funding to continue combat-ready reserve units is pitted against weapons modernization, funding to advance new cutting-edge technologies is pitted against new prisons, the space program is pitted against veterans, and so on.

The investment budget, on the other hand, is aimed at restructuring the budget process to directly distinguish between investments and consumption in the decisionmaking process. This will provide a more meaningful contemporary context to the decisionmaking process that will be needed in the coming decades. The firewall that previously existed between defense and nondefense will be transformed into a division between investments and noninvestments. Under this process, specific multiyear targets for investments will be set that can sustain and enhance productivity. The allocation process made under section 602 of the Budget Act will be oriented around investments and noninvestments rather than defense and nondefense.

We are undergoing a number of political, economic, and social changes in this Nation, yet we will be unable to fully debate these issues until we fix the budget problem and move beyond the current congressional stalemate. This investment budget seeks to break the stalemate by suggesting a new approach that allows sensible growth through investment while balancing the budget. This budget also begins to show a way of taking advantage of the changes occurring around us, by investing in a base of knowledge and physical infrastructure that provides us with a wider range of options.

Mr. Speaker, I am enclosing a brief summary of the resolution and a list of assumptions we have made in developing it. I hope that my colleagues join me in supporting this approach when we consider the budget later this month.

SUMMARY OF CONCURRENT RESOLUTION INTRODUCED BY MR. BROWN

The Investment Budget is aimed at maintaining strong Federal investment in areas such as research and development, capital infrastructure, and education and training within an overall balanced budget. The Investment Budget recognizes that in the post-Cold War era, the critical balance should be struck between investments and consumption rather than defense and non-defense. The legislation establishes a process which protects investments from excessive growth in consumption programs.

The following assumptions were used in developing the Investment Budget:

The bill assumes enactment of Title VII of H.R. 2530 introduced in the 104th Congress, adjusted as necessary for current enactment dates. This provides for certain reforms for the Medicaid program and was developed by the House Conservative Coalition.

The bill assumes enactment of Title VIII of H.R. 2530 introduced in the 104th Congress, adjusted as necessary for current enactment dates. This provides for certain reforms for the Medicare program and was developed by the House Conservative Coalition.

The bill assumes a uniform adjustment to the CPI of .5%.

The bill assumes enactment of the Presidents proposals contained in Table S–7 of the Budget entitled "Eliminate unwarranted benefits and adopt other revenue measures" and "Other provisions that affect receipts".

Key aspects of the Investment Budget are as follows:

Balanced Budget.—The Investment Budget complies with the F.Y. 1998 discretionary spending cap and eliminates the deficit by the year 2002 using CBO assumptions.

Investments.—The legislation identifies $910 Billion ion public investments over the 5 year period. This exceeds the President's request for these programs by over $70 billion.

Offsets.—In addition to eliminating the Federal deficit, this proposal fully offsets all increases for investments in the bill. A summary of offsets and savings relative to the CBO 5 year baseline is as follows:

Limit Defense spending—$116 B.
Medicaid Reform—$25 B.
Medical Reform—$121 B.
.5% CPI Adjustment—$64 B.
Eliminate Unwarranted Benefits—$76 B.

Permanent Savings.—The Investment Budget is fiscally responsible and includes no one-time budget balancing gimmickry. It does not utilize asset sales such as spectrum auctioning as a revenue enhancement to balance the budget. Instead, the Investment Budget proposes to deposit all proceeds from spectrum auctioning in a trust fund in order to meet future public investment needs.

No Tax Cuts.—The legislation assumes no tax cuts before the budget is balanced.

Public investments targeted by the legislation include the following:

All civil R&D programs including NIH, NSF, NIST, DOE, NASA, and Department of Agriculture have been provided an annual growth rate of 5% per year fully offset within a budget that balances by the year 2002. In sum, this bill contains $409 billion over 5 years for all civil R&D, an increase of $31 Billion over the President's request. These budgetary targets will allow R&D to keep pace with the overall growth in the economy.

Defense R&D has been increased by $4.5 billion above the President's request over the 5 year period, primarily in the post 1999 time frame in order to support modernization needs.

Stable funding for all EPA environmental regulatory, research and enforcement programs including the Superfund program. In sum this bill contains over $24 billion, an increase of $2 billion over the President's request.

Stable funding for all rural development and economic development assistance programs. This bill contains $6.4 billion over 5 years, an increase of $500 million above the Administration's request.

A total of $218 billion for ground, air and water transportation programs, an increase of $37 billion over the President's request. This increase will optimize discretionary spending relative to the trust funds for these programs.

A total of $196 billion for elementary, secondary, vocational education, and higher education programs. This reflects the President's F.Y. 1998 request.

$34 billion for Social Service programs including the National Service Initiative, and Children and Family Services programs. This reflects the President's F.Y. 1998 request.

$21 billion for the Special Supplemental Food Program for Women, Infants and Children (WIC)—President's request.

A TRIBUTE TO EDWARD R. FARMER

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. PASCRELL. Mr. Speaker, I would like to bring to your attention a truly dedicated public servant in Edward R. Farmer, of Paterson, NJ, as he completes his tenure of public service to the residents of Passaic and Essex Counties.

A highly respected and distinguished individual, Ed has faithfully served as an integral member of my congressional and general assembly staffs, and as the foundation of former Congressman Herb Klein's congressional staff. Through his efforts, Ed has loyally served the people of New Jersey for many years with true distinction.

His extensive record of community and civic involvement includes outstanding service as president of the Passaic County Young Democrats, an organization which, under his dedicated leadership and guidance, has infused the Democratic Party of Passaic County with a plethora of spirited and talented young people.

Within all spheres of life, Ed has set an example in community leadership and responsible citizenship toward which others might strive, and his professional and volunteer public service has been equaled only by his dedication to his family and friends.

The strength and success of the State of New Jersey as well as the United States of America, and the continuation of our American society, depend in large part on the dedication of highly talented and educated individuals like Ed Farmer who have dedicated themselves to the service of others.

Mr. Speaker, I ask that you join me, our colleagues, Ed's wife, Patti, his family and friends, and the State of New Jersey in honoring Ed Farmer for his outstanding and invaluable service to the communities of New Jersey as he seeks a new beginning with his wife, Patti, and their two cats, Dog and Gunther, in Lexington, KY. For his many years of dedicated service, it is only appropriate that the House recognizes Edward R. Farmer today.

HONORING SAUL RUMAN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. VISCLOSKY. Mr. Speaker, it is my honor to commend Saul Ruman, an outstanding citizen of Indiana's First Congressional District. On Thursday, April 3, 1997, Saul was presented with the 1997 Lifetime Achievement Award by the Indiana Trial Lawyers Association. He received this award during a luncheon at the Embassy Suites Hotel in Indianapolis, IN.

Saul, a resident of Munster, founded the firm Ruman, Clements, Tobin S. Holub shortly after his graduation from the Indiana University School of Law in 1952. From the time of its inception, the firm has concentrated in the areas of personal injury and wrongful death litigation and, over the years, has successfully attracted clients from across the United States. During his distinguished career, Saul has been counsel in over 100 Federal and State appellate cases. He represented Senator Robert Kennedy during his candidacy for President of the United States, several justices on the Indiana Supreme Court, and has litigated numerous cases of significant importance and public interest during his years of trial and appellate practice.

Not only has Saul excelled in his professional life, but he has been a great asset to the Indiana legal community as well. Saul has impacted the judicial process in the State of Indiana through his appointments to the Indiana Supreme Court Character and Fitness Committee on the Board of Law Examiners, the Indiana Judicial Nominating Commission, and the Indiana Supreme Court Committee on Rules. In addition, Saul has secured membership in a variety of professional organizations, including the American Board of Trial Advocates, the International Academy of Trial Lawyers, the National Institute for Trial Advocacy, the Indiana Trial Lawyers Association, and the Trial Lawyers Section of the Indiana State Bar Association. Saul has also devoted much of his time as a member of the board of visitors to the Indiana University School of Law.

Along with being bestowed the ninth annual Lifetime Achievement Award, Saul has earned recognition in the publication "Best Lawyers in America" in 1993 and 1997. Those listed in this publication are selected by their peers on the basis of professional performance and ability.

Mr. Speaker, I ask you and my other esteemed colleague to join me in congratulating Saul on his receipt of the Indiana Trial Lawyers Associations' Lifetime Achievement Award. His wife, Beverlee, and their children, Loral, Melissa, and Elizabeth, can be proud of Saul's exceptional accomplishments. His endeavors within the legal profession are certainly admirable and his outstanding dedication and leadership are a model and inspiration to each and every one of us.

ON BRIAN BLANKENBURG'S ATTAINMENT OF EAGLE SCOUT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor Brian Blankenburg of North Olmstead, OH, who will be honored this month for his recent attainment of Eagle Scout.

The attainment of Eagle Scout is a high and rare honor requiring years of dedication to self-improvement, hard work, and the community. Each Eagle Scout must earn 21 merit badges, 12 of which are required, including badges in: lifesaving; first aid; citizenship in the community; citizenship in the Nation; citizenship in the world; personal management of time and money; family life; environmental science; and camping.

In addition to acquiring and proving proficiency in those and other skills, an Eagle Scout must hold leadership positions within the troop where he learns to earn the respect and hear the criticism of those he leads.

The Eagle Scout must live by the scouting law, which holds that he must be: trustworthy, loyal, brave, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, clean, and reverent.

And the Eagle Scout must complete an Eagle project, which he must plan, finance, and evaluate on his own. It is no wonder that only 2 percent of all boys entering scouting achieve this rank.

Brian's Eagle project was the repair, refurbishing, and repainting of ticket booths and parking lot lights at North Olmstead High School.

My fellow colleagues, let us join Boy Scouts of America Troop 53 in recognizing and praising Brian for his achievement.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997

SPEECH OF

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. UNDERWOOD. Mr. Speaker, I rise in strong support of the partial-birth abortion ban legislation which would outlaw gruesome abortion procedures. I sponsored this legislation because it would protect the sanctity of life and prevent the cruel and inhumane killing of unborn children. A living fetus is viable and we should respect its humanity.

We know all too well the arguments on both sides of this important issue. Some present legal or constitutional issues. Some cite the lack of money or adequate resources to support the child. Some women may cite social or psychological problems which hinder their ability to go to full term on their pregnancy. But no matter what the arguments or reasons cited, the partial-birth abortion procedure is brutal and senseless and should never be allowed.

As a nation, we have the fortitude to find humane ways to deal with whatever difficulties or burdens which cause women to resort to partial-birth abortions. But we should not, as a nation, sanction this procedure in any way, shape, or form.

For me personally, and for the people of Guam whom I represent, the worth of children in our culture is a cornerstone in sustaining family values. For us, abortions is never an option; we oppose abortion because it devalues life and destroys our concept of family preservation. For us, the issues are that we continue to protect our children, stop the assault against the innocent unborn, and continue to believe that life is a precious gift from God.

When we stand up for the unborn, we help to fortify our culture, our heritage, and our society. I join my colleagues in supporting this very important legislation.

HONORING THE NATIONAL INSTITUTE FOR ELECTROMEDICAL INFORMATION

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents of the Fifth Congressional District in extending most welcome congratulations to the members of the National Institute for Electromedical Information [NIEI] in celebrating its 13th anniversary. Founded in 1984, by Stanley H. Kornhauser, Ph.D., the NIEI has diligently serviced the borough of Queens as an advocate and educator of electromedicine and has been most effective as a medium for the exchange of information on advances in new electrodiagnostic and electrotherapeutic devices in all areas of medicine.

Since its founding, the NIEI has been an active source of informational distribution to the field of medicine and has emerged as a major facilitator in establishing training and seminar programs in electromedical education. Its impact has been guided and nurtured by the organization's advisory board. The board's strong interdisciplinary members have distinguished themselves in diverse fields of medical and scientific research significantly impacting on the field of health care.

Therefore, Mr. Speaker, I ask my colleagues to rise in recognizing the National Institute of Electromedical Information, its founder and president, Stanley H. Knornhauser, Ph.D., its advisory board and membership as leaders in enhancing the level of understanding and knowledge regarding electromedical education, electromedical technology development, and the effective use of electromedical technology throughout our Nation.

UNIVERSITY OF MIAMI'S OTTO G. RICHTER LIBRARY'S CUBAN COLLECTION HELPS KEEP ALIVE CUBAN HISTORY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Ms. ROS-LEHTINEN. Mr. Speaker, two of the many freedoms suppressed by the Castro dictatorship over its 37 years of totalitarian rule have been academic and intellectual freedom that once were a source of great pride in a democratic Cuba. All books that the Castro regime considered against its interests were systematically banned, all individuals who supported ideas other than the ones the dictatorship favored were exiled, harassed, incarcerated, or murdered.

Fortunately, many of the great books of Cuban history and publications of Cuban writers and intellectuals are now being preserved in the United States at the Cuban Collection of the University of Miami's Otto G. Richter Library. The Cuban Collection at the University of Miami is the largest collection of its kind outside of Cuba, superseding even the collection at the Library of Congress.

The awesome collection contains materials from all periods of Cuba's history and attracts thousands of researchers every year from all parts of the world. Some of its unique holdings include an 1895 photograph of Cuban Mambises who fought for Cuba's independence from Spain, miniature letters from Cuban political prisoners, and copies dating from 1832 of Diario de la Marina, the oldest newspaper in Cuba and the Americas until its operation was forcefully shut down by the Castro dictatorship.

South Florida is proud to have among its many assets this outstanding collection that helps keep alive Cuba's history through this dark period of repression that has engulfed the island.

TRIBUTE TO THE ST. STANISLAUS CATHOLIC WAR VETERANS POST 1222

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. TRAFICANT. Mr. Speaker, I rise today to honor one of the many distinguished organizations of my district: St. Stanislaus Catholic War Veterans Post 1222. This organization has given many years of dedicated service to the community.

The Reverend John Grabowski, pastor of St. Stanislaus Church, gathered some 45 individuals and proposed forming a veteran's organization in the community. These men had just returned home after years of service and sacrifice in our Armed Forces during World War II. Father Grabowski knew these men would be willing to extend themselves in service to their church and their community. On February 10, 1947, Post 1222 was granted a charter from the Catholic War Veterans of the United States.

The post's initial efforts were extended to the young people at St. Stanislaus Church and parochial elementary and secondary schools. Keeping the memory of the fallen comrades sacred was uppermost at the time, so on November 7, 1948, the post dedicated a memorial bronze plaque inscribed with the names of the 19 men of St. Stanislaus parish who gave their lives for our freedom.

For over 50 years the post maintained the respect and admiration of the community. The post participates annually in many fundraising events including the Red Cross, United Way, and the March of Dimes campaigns. The members also host events for Catholic High School drives and St. Elizabeth's Hospital. Each member and officer participates in order to maintain the post's high ideals.

Many of post's members were awarded honors from our upper echelons of the organization. Henry Jagielski and Dennis Wilde served as State commanders of the Department of Ohio C.W.V. Both John J. Bury and Thomas C. Rudnickei were recipients of the prestigious John J. Martin Award from the Department of Ohio C.W.V. Over the years, the membership roster at Post 1222 has included mayors, judges, councilmen, and other civic leaders over the years.

Post 1222's first meetings were held in St. Stanislaus Church's basement. The Quonset Hut at 1207 South Avenue served as the home of the post. In 1958, the post undertook construction of a permanent home at a cost of over $90,000. The mortgage was burned in 1970. This was a remarkable achievement led by the senior trustees: Ed Rudnicki, Jim Gaca, Henry Jagielski, and Henry Kost.

For the past 50 years, Post 1222 has marched in every Memorial Day and Veteran's Day Parade in Youngstown. Rain or shine the post's color guard has answered the call. There is also a special mass offered for all the veterans and deceased members of the post.

Post 1222 sponsors Catholic action programs. These events address issues of the local community such as, education, crime, and serving the poor. The programs also focus on service in the Catholic Church. Post members assist in parish duties including ushers, alter services, and parish council.

The post believes in Catholic education. Thus the organization grants scholarships to help young people attending parochial high school. Bernard Lakovich left part of his estate to the organization for education scholarships. Each year many parochial schools participate in essay and art contests, sponsored by the post and producing many State and national winners.

All veterans' organizations must have a ladies auxiliary. Post 1222 Ladies Auxiliary is tireless in their efforts of assisting the various events the post sponsors.

By sharing with one another, many members of Post 1222 have achieved personal satisfaction. The members are unselfish in their undertakings. They all have toiled so that their children, by active dedication to a cause, will be instilled in the freedoms and benefits that these United States can offer. Patriotism is noble and dignified. Post 1222 has expressed its patriotism by making great contributions to the church and community. Many thanks to the members of St. Stanislaus Post 1222, who over the past 50 years contributed their time and energy to St. Stanislaus Post 1222 Catholic War Veterans.

Current officers of Post 1222 include: Joseph M. Magielski, John Bury, Paul Stopnick, James Mislay, Thomas Rudnicki, Pauline Tybor, Ted Seidler, Sam Naples, Frank Gerchak, George Zakrzewski, Walter Glowacki, John Savaet, Marilyn L. Carroll, and Father Edward J. Neroda.

TRIBUTE TO DOROTHY C. ROWE

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. PASCRELL. Mr. Speaker, I would like to bring to your attention Dorothy C. Rowe of Paterson, NJ, an educator who strives for and encourages excellence.

A native of Wilmington, DE, Dorothy moved to Paterson more than 20 years ago, and has since become a prominent resident of the community. Upon settling in Paterson, Dorothy soon became affiliated with the Calvary Baptist Church, where her husband-to-be, the Reverend Dr. Albert P. Rowe, is the pastor. As a member of the congregation, she became involved in numerous church programs and activities including developing the church's day care program, organizing the Golden Keys and Women Fellowship, and organizing the Dorcas Missionary Society.

In addition to her organizing church activities, Dorothy also serves the church as director of the board of Christian Education, director of the Vacation Bible School, director and writer for the Calvary Players, program chairman of the Calvary Building Council for Church Construction, and chairman of the Calvary Stewardship Program for Family Life Center.

Aside from her church activities, Dorothy is also involved with the community through her work as principal of Paterson's School No. 26 where she has served since 1985. Formerly, she has served as principal of the Dale Avenue School, vice-principal of School No. 10, and teacher of history at Kennedy High School, all of the city of Paterson.

Dorothy has always prioritized education. From her own in the public schools of Wilmington, to her undergraduate work in history at Howard University, where she received her bachelor of arts degree, and ultimately her work as a graduate student in social studies at Montclair State College, where she received her master of arts degree. She exemplifies the importance of education. Dorothy is also a member of numerous professional educational organizations, most notably the National Education Association, the Paterson Principals Association, and the National Council of Social Studies.

Her membership in organizations also extends to many civic groups, the most noteworthy of which are the YWCA, where she was a former board member, and the NAACP, where she serves as an elected member of the board of directors and chairperson of the program committee for the Paterson branch. Dorothy is also a volunteer at Barnert Hospital.

She has been recognized for her outstanding work and achievements by being bestowed upon with numerous awards and citations including the Calvary Baptist Christian Education Award, the Paterson Arts Council's Salute to Black Women Award, the NAACP Youth Citation, and the NAACP Outstanding Teacher Award.

Dorothy is happily married to the Reverend Dr. Albert P. Rowe, pastor of Calvary Baptist Church

Mr. Speaker, I ask that you join me, our colleagues, Dorothy's husband, Reverend Rowe, their family and friends, Calvary Baptist Church, and the city of Paterson, in recognizing the outstanding and invaluable service to the community of Dorothy C. Rowe.

CONFLICT OR COOPERATION WITH ASIA

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. SHUSTER. Mr. Speaker. Napoleon said, "when China awakens it will shake the Earth" and as we approach the 21st century, not only China, but the entire Pacific rim is emerging to become the world's next economic superpower region. Whether we engage this coming colossus to help build a better world, or confront it as a dangerous adversary will depend in large measure on the wisdom of our policies in facing the realities of a complex and sometimes contradictory challenge.

China with 1.2 billion people, nearly a quarter of the world's population—and increasing to 1.6 billion people in the next 20 years—is booming economically. By moving toward a market economy, promoting both domestic and international private sector competition, it has achieved a sustained 10 percent annual growth rate which is raising the standard of living for most Chinese and creating extraordinary opportunities for American businesses, which means jobs for Americans. A few examples:

A McDonnell Douglas aircraft plan in Shanghai created 1,000 Chinese jobs, but also created 4,000 Americans jobs providing the aircraft parts for assembly in China;

A new General Motors assembly plant will use $1.15 billion in American manufactured parts;

China's recent $800 million aircraft order to Boeing means hundreds of American jobs. A high-ranking Chinese official publicly coined the phrase "If it ain't Boeing, I ain't going";

Over 100 McDonalds restaurants are sprouting up in Beijing, using products from America and around the world;

Shanghai has 20,000 major construction projects underway, employing 6 million people, including several United States firms, with 17 percent of the world's construction cranes busily clogging up the skyline, while 600,000 cellular phones are in use by the city's 17 million people.

Five major airports are under construction in China and the $25 billion Three Gorges Dam project will become one of the wonders of our modern world. While requiring the relocation of

1.3 million people and eliminating 116 square miles of farmland, Three Gorges, now under construction, will harness the mighty flow of central China's Yangtze River, whose floods have already killed 500,000 Chinese in this century. Creating a 360-mile-long lake, it will be the largest hydroelectric power dam in the world, generating 15 percent of China's electricity—over 18,000 megawatts of power, the equivalent of 15 Hoover Dams. The locks and flow control will open up the Yangtze to ocean-going vessels, increasing water transportation by 40 million tons annually and reducing transportation costs on the Yangtze by 30 percent.

China's human rights violations—from the killing of hundreds of students in Tiananeman Square in 1989 to present day curbs on freedom of speech—are to be deplored. But turning our back on China will not make life in China better. By pressing for reforms, within the context of a continuing relationship, we stand a better chance of moving China toward political freedom to match their recently established economic freedoms. Moreover, strategically we need a friendly China to be part of the balance of power in Asia, and especially as a check on the unstable and irrational dictatorship in North Korea.

While China emerges as the economic colossus of the next century, a technologically advanced Japan continues to grow. Investing over $30 billion in a single international airport at Kansai, 200 miles southwest of Tokyo, while trying to lock out United States competition in the Asian market, Japan continues as a ferocious competitor seeking dominance in global markets.

When the British flag is lowered on June 30 in Hong Kong and China takes control, the world will watch to see if China keeps its promise to let the Hong Kong miracle survive. Unimpeded, Hong Kong will continue as a gateway to the Orient. With the largest privately owned container port in the world, efficiently moving 2½ times the container cargo of the ports of Long Beach and Los Angeles combined, Hong Kong next year will open the largest multimodal airport complex in the world. Costing $21 billion, it will handle 35 million passengers with 288 check-in counters and 3 million tons of air cargo annually, including the world's largest combined highway-rail suspension bridge.

These multibillion-dollar infrastructure investments being made throughout the Orient clearly show that Asia will be a formidable global competitor in the coming century.

While in America we reduce our investment in infrastructure, potholes on our highways proliferate, water pipes rust, bridges crumble, antiquated computers control the landings in our crowded airports, passenger rail service teeters near bankruptcy, and several of our ocean ports become clogged with silt, Asia is busy building for the future.

If we do not wake up and begin increasing our investment in infrastructure, the shaking Earth that Napoleon predicted will be caused by an oriental bulldozer, burying us beneath its global path.

THOMAS LEWIS RETIRES

HON. TIM HOLDEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. HOLDEN. Mr. Speaker, I rise today to ask my colleagues to join me in paying tribute to a constituent of mine, Thomas L. Lewis. Mr. Lewis is retiring this week after nearly 41 years as an employee of American Home Foods and as a leader in the United Food and Commercial Workers, local 38 in Milton, PA.

Thomas Lewis began his career at American Home Foods on September 24, 1956, and was initiated into the local 38 leadership as a union steward. He became the secretary-treasurer of the union local in 1965. In 1970 Mr. Lewis began to serve as chief committee person, first shift, and continued in that position as well as secretary-treasurer until 1985 when he was elected to serve as president of the local 38 for the term beginning 1986. He was re-elected to serve as president for three consecutive terms.

Thomas Lewis has also served on the Pennsylvania AFL/CIO legislative and political committees as well as its fan committee, safety committee, and its job committee. He also served as the Pennsylvania AFL/CIO vice president.

Mr. Lewis has also served as the vice president of the Central Labor Council and has been an active participant in contract negotiations for American Home Foods and has also been instrumental in IUD coordinated bargaining for health and welfare benefits for AFH union members.

When Thomas Lewis became a union member, the union was known as the Amalgamated Meat Cutters. They later merged with the Retail Clerks and changed the name of the union to what we now know as the United Food and Commercial Workers.

Mr. Speaker, Thomas Lewis is a fine example for all Americans because of his hard work and commitment. I would like to congratulate him on all his accomplishments and wish him great success in all his future endeavors.

TAXPAYER BILL OF RIGHTS II

HON. JENNIFER DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Ms. DUNN. Mr. Speaker, throughout my tenure in Congress, I've heard from thousands of constituents who have described to me numerous problems they see with our system of taxation. A common theme has been the intrusive nature of the Internal Revenue Service [IRS]. Last year, the Congress enacted legislation I cosponsored, called the Taxpayer Bill of Rights II, to help taxpayers in their dealings with the IRS. While I believe those necessary reforms were a good start, I believe we need to do more.

That's why I am introducing the IRS Accountability Act in the U.S. House of Representatives. This bill, whose companion has been introduced by Senator PAUL COVERDELL—my counterpart on the Senate leadership team—in the U.S. Senate, is designed to provide citizens greater tax fairness and protections from IRS abuses.

The IRS Accountability Act is wide-ranging and deals with a number of faults within the IRS that have recurred through discussions with constituents, through testimony at hearings from everyday Americans, and through my tenure as a member of the tax-cutting Ways and Means Committee. Wherever I travel in the State or country, consistently concerns are raised about the IRS. This Agency operates too much on the belief that most taxpayers are intending to cheat the Government.

Granted, our Nation suffers under an unfair and incomprehensible Tax Code that takes too much of what we earn. Even worse, some rogue members of the organization responsible for enforcement of the Tax Code—the IRS—have a record of seeking to intimidate and frighten honest, hard-working taxpayers. They also sully the reputation of honest people working at the Agency. We must not tolerate a Tax Code that punishes families and we should not tolerate IRS agents eager to bully and harass taxpayers.

Let me outline my proposal. The IRS Accountability Act:

Criminalizes extortion tactics by an IRS agent. The Act criminalizes the actions of employees of the Internal Revenue Service [IRS] who abuse their authority by maliciously and willfully disregarding the statutory procedures established for collecting a tax.

Makes IRS agents accountable for their actions. Current law shields IRS employees from holding personal liability for their actions, even if their actions result in civil damages against the United States. Under this section:

In cases where the judgment is against the United States, a Federal judge will have the authority to assign a portion of the damages awarded and court costs incurred to the IRS employee whose actions prompted the suit; and

An IRS employee involved in such a court proceeding may be represented by the United States. However, these costs must be reimbursed fully if the employee is found personally liable.

Protects the privacy of taxpayers. Current law makes it a crime to release tax returns or return information without proper authority. Further, such actions may result in the personal liability of the Federal employee responsible. Under this section:

It will be a crime to willfully access without proper authority a taxpayer's return or return information. This has been called file snooping;

Willfully accessing, without proper authority, a taxpayer's return or return information can result in personal liability; and

The taxpayer will be notified upon discovery that his return or return information has been improperly accessed.

Limits on audits. Current law allows the IRS to audit an entity—taxpaying or tax exempt—for any reason, even if randomly selected. This section requires that all audits be justified. Under this section:

Random audits are prohibited. Proof of reasonable justification for the audit will be available to the taxpayer upon demand;

Reauditing a return or return issue is prohibited unless approved by court order in the course of investigating criminal activity; and

The IRS will be limited to 3 years from the time a return is filed in which to conduct an audit unless approved by court order in the course of investigating criminal activity.

Extension of time to pay tax without penalty. All too often, the IRS itself is the most significant hurdle honest taxpayers must meet when trying to resolve their tax bill. According to the Taxpayer Advocate for the IRS, one of the most common complaints against the IRS is its failure to acknowledge taxpayer correspondence.

Delays, misinformation, and snafus by the IRS all contribute to higher and higher penalties for taxpayers. Extending the period to 90 days before penalties may be applied will give honest taxpayers some welcome relief.

Preserving the integrity of judicial decisions against the IRS. Often, the IRS will choose to nonacquiesce to a court's decision in which it loses. As a result, it will pursue a subsequent case against a different taxpayer under identical or similar circumstances.

This section grants a Federal court the authority to dismiss a case of controversy involving the IRS if it can be shown that a similar or identical case already has been decided within the court's jurisdiction or circuit. The petitioner must previously have exhausted remedies available within the IRS before seeking such court relief.

Limitations on asset seizures and levies. this section requires court approval to proceed with any asset seizure and/or levy.

Limits accrual of interest. This section prevents interest from accruing on the penalty added to a tax owed.

Equal interest rates charged. Current law gives the IRS an advantage over taxpayers by allowing it to charge a more favorable interest rate. Under this section, the interest rate charged by the IRS will be the same as the interest rate charged against the IRS in all cases.

Fairness for mathematical and clerical errors. For mathematical and clerical errors, a.k.a. honest mistakes, the IRS is not required to follow the procedures of notification and collection provided for cases in which a tax is underpaid. Further, penalties and interest may be added to the tax underpaid in cases involving honest mistakes.

Under this section, the taxpayer would have 60 days to either pay the tax or file an abatement request without incurring a penalty or interest accruing. However, should the 60-day period elapse without the taxpayer taking either option, penalties and interest would be owed in full.

The honest American family works too hard and too long to have to deal with unfair and oftentimes overly intrusive IRS agents who trample their rights. The IRS deserves closer scrutiny when it goes beyond acceptable enforcement procedures and commits outright intimidation, or when it is unable to use "common sense" as a yardstick. This bill is part of a continuing effort to ensure that an overzealous Agency will no longer trample the rights of well-intentioned and law-abiding taxpayers.

CHANG-LIN TIEN: PROMOTER OF CULTURE AND EDUCATION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. STARK. Mr. Speaker, I rise today to recognize Chancellor Chang-Lin Tien of the University of California, Berkeley, who is being honored this month by the Oakland Chinese Community Council for his leadership and contributions to the Oakland Asian community.

Chancellor Tien was born in China. He came to this country in 1956 and became a naturalized citizen of the United States. Since coming to America, he has tirelessly worked to broaden the democratic reach of education to all groups of the community.

After becoming the first Asian-American to head a major research university, Tien earned a reputation for being openminded, sensitive, and accessible. Determined to stay in touch with the needs of the campus population, Tien frequently lectures to freshman classes and continues to supervise graduate student research. Chancellor Tien's reputation as an educator and a scientist is remarkable. He is internationally recognized for his research in heat transfer technology and has received many awards including the Max Jakob Memorial Award, the highest international honor in the field of heat transfer.

Tien has been a member of the National Academy of Engineering since 1976 and is a fellow of the American Academy of Arts and Sciences. In the Oakland community, Chancellor Tien pushed for education reform programs for both primary and secondary schools. As an active member of the Pacific Council on International Policy and the U.S. Committee for Economic Development, he traveled the globe to promote the American values of democracy and freedom and to pursue greater communication between the East and the West.

After 7 years as chancellor, and over 38 years of service to the University of California, Chancellor Tien will relinquish his position by June 30, 1997. The service of this accomplished educator and dedicated community leader clearly sets an example for our entire community.

I join the Oakland Chinese Community Council in commending him on his decades of outstanding service to Oakland.

IN MEMORY OF ANN HARRIS

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. MORAN of Virginia. Mr. Speaker, I rise today to commemorate a young and vital member of the northern Virginia community whose life was tragically cut short by gun violence. Ann Harris' life was filled with promise. She came from a wonderful, devoted family; she was a varsity tennis and soccer player at Mount Vernon High School; a member of the National Honor Society; and, she had just been accepted in the early admissions program at Purdue University. Ann's natural vibrance and exuberance for life made her a very popular and outgoing young woman. A former intern of mine, Jennifer Reiley, who was one of Ann's best friends and soccer teammates described Ann as someone who always looked on the bright side and helped others see the best in themselves. She said Ann was a natural leader, who knew when to listen and when to lead.

While on vacation in Washington State visiting a friend and former student at Mount Vernon High School, Ann, just 17 years old, was fatally shot in a drive-by shooting. The unprovoked attack has shocked northern Virginians and Tacoma, WA, residents, who can't believe such a senseless act of violence could happen in such a peaceful community. Ann's parents, Coleman and Jean Harris, have been actively involved in every aspect of Ann's life: Coleman Harris is currently president of the Parent-Teacher Association and Jean Harris is president of the Choral Boosters. Yet, for all of their involvement, they could not prevent the senseless act of violence that stripped them of their talented young daughter.

Mr. Speaker, the violence must stop. Congress must act to ensure that guns are taken off the streets and out of the hands of reckless criminals who have no respect for human life. Our efforts together can help prevent such needless tragedy in the future. As our community mourns Ann's all too brief life and tragic end, we must work to ensure that our children can feel safe and that no other parents will have to endure the kind of suffering that Coleman and Jean Harris now endure.

LA PROGRESIVA PRESBYTERIAN SCHOOL 25TH YEAR ANNIVERSARY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize La Progresiva Presbyterian School for its 25th school year anniversary.

The Presbyterian school, La Progresiva, was founded in Cardenas, Cuba, by a North American missionary named Dr. Robert L. Wharton on the 11th of November, 1900. On that day, La Progresiva opened its doors with only 14 students and with the reading of the first book of Corinthians chapter.

The school developed into one of the finest educational establishments of Cuba, expanding its facilities to accommodate the increasing enrollment of students. Its growing reputation as a fine center of learning, however, was put to a stop in 1961 with the arrival of communism in the island.

Communism was able to put an end to the material aspect of La Progresiva in Cardenas, but it could never destroy the spirit and ideals which still remained alive. So in September 1971, with the help of the First Spanish Presbyterian Church of Miami and the alumni of the old La Progresiva, the new Progresiva opened its doors. It started with humble beginnings in much the same way it predecessor had.

Like the old school, this new one grew in popularity and as a result of the increasing demand for enrollment, La Progresiva added another wing to its main building in 1978. The school continued its expansion adding more classrooms to accommodate the demand for admittance into the school. Along with growing in educational capacity, La Progresiva also bettered itself in the athletic department, improving over the years in its sports and, presently, plans are being discussed for a gymnasium.

The Progresiva spirit has prevailed through the years to produce a center of learning which will stand long into the future and one which makes all Progresivistas proud.

On this, La Progresivas' 25th school year anniversary, the school's motto is stronger than ever: "Una Vez de La Progresiva, Siempre de La Progresiva."

HONORING THE PRINCE WILLIAM COUNTY VALOR AWARD WINNERS

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to pay tribute to the 1996 Prince William Regional Chamber of Commerce and the Prince William County Greater Manassas Chamber of Commerce Valor Award winners. The Valor Awards honor public service officers who have demonstrated extreme self-sacrifice, personal bravery, and ingenuity in the performance of their duty. Significantly, this year marks the 11th anniversary of the event honoring members of law enforcement and fire and rescue agencies historically servicing Prince William County, Dumfries, Haymarket, Manassas, Manassas Park, Occoquan, and Quantico. There are five categories: The Gold Medal of Valor, the Silver Medal of Valor, the Bronze Medal of Valor, the Certificate of Valor, and the Lifesaving Award.

The Silver Medal of Valor is the second highest award for bravery and heroism. Awarded in situations when a public safety official knowingly exposes himself/herself to great personal risk in the performance of an official act.

The Silver Medal of Valor Award winners for 1996 are: Technician Anthony J. Adamo, Officer Mark J. Harman, and Officer Craig S. Lawhead.

The Bronze Medal of Valor is awarded in situations where during the course of an emergency, a public safety official demonstrates judgment, ingenuity, or performance at a level that clearly exceeds that required and expected in the performance of his/her duties. May include the saving of a life that is threatened by medical or physical reasons.

The Bronze Medal of Valor Award winner for 1996 is firefighter Brian Morton.

The Certificate of Valor is awarded for acts that involve personal risk and/or demonstration of judgment, zeal, or ingenuity above what is normally expected in the performance of duties.

The Certificate of Valor Award winners for 1996 are: Officer Gene W. Baughan, Officer Robert S. Berkebile, Sgt. Ronald M. Campione, Officer Randall L. Eagal, Lance Cpl. Joe L. Norman, and Officer Brian Walker.

The Lifesaving Award is awarded in recognition of acts taken in a life-threatening situation where an individual's life is in jeopardy, either medically or physically.

The Lifesaving Award winners for 1996 are: technician Scott Boggs, Officer Janet E. Clayton, Lt. Raymond T. Colgan, Sgt. Robert E. Forker, Jr., Officer Steve Hargrave, technician Vincent Kern, technician Tracey LaBass, Lt. Mike Lawson, technician Bryan Ross, emergency communications specialist Catherine M. Tremul, and S. Sgt. Michael S. Wesolowski.

Mr. Speaker, in conclusion, I would like to send my sincere gratitude and heartfelt appreciation to these distinguished public servants, who put their lives on the line every day on behalf of their fellow Virginians.

"COMP TIME" BILL

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. BERRY. Mr. Speaker, I am a strong supporter of working men and women, but not an advocate of intrusive Government regulations. When possible, I work toward finding a cooperative solution rather than a regulatory one. It was on this basis that I voted against the so-called comp time bill, H.R. 1.

Although I support the concept of comptime, as I learned more and more about the ways this bill would meddle in the daily operation of businesses and would add another layer of bureaucracy in the workplace, the less I liked it. At first, the President's proposal was an option I considered, because I wanted to be sure that workers could feel confident in their ability to receive overtime pay. But as I said, this employee protection came with a price—more Government involvement in people's lives. More contentious labor relations is not conducive to productivity. Sometimes Government leaders need to have some faith in people to work out solutions for themselves. We cannot be expected to, nor should we, mandate every aspect of life.

When it came down to making a decision, it was suddenly clear. This bill was bound to be a mess down the road. The National Labor Relations Board does not need any more work, and this bill was going to give it to them. So I cast my vote against H.R. 1, and I hope that both employers and employees will see that I did it because I thought it was not in their best interests.

I am hopeful that as this bill moves through the legislative process, it will be changed to strike a more sensible balance between the needs of employees and employers—without creating an unnecessary regulatory burden.

ADA CATANIA'S 90TH BIRTHDAY CELEBRATION

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. PASCRELL. Mr. Speaker, I would like to bring to your attention the momentous occasion of the 90th birthday of Ada Catania, of Fair Lawn, NJ.

Ada was born on April 28, 1907, in Zurich, Switzerland to Cesare and Bartolo Guidi. The second of four children, Ada's family included her brother, Domenic, and two sisters, Louise and Elvitia. In October 1913, her family emigrated from Switzerland to the United States, coming first to Paterson, NJ, before finally settling in Fair Lawn in 1918. Even today, Ada lives in the house her father built in 1918.

On June 28, 1925, Ada married Frank Catania in Blessed Sacrament Roman Catholic Church, Paterson. She worked in the Silk City textile industry of Paterson and was a proud union member of the ILGWU. Hardworking, Ada, along with Frank, still found the necessary time to happily raise a family of four children, Philomena, Jean, Eugene, and Frank. Today, she can proudly boast of an extended family including 9 grandchildren and 12 great-grandchildren.

Mr. Speaker, I ask that you join me, our colleagues, Ada's family and friends, the borough of Fair Lawn, and the city of Paterson, in recognizing the momentous occasion of Ada Catania's 90th birthday.

NEVADA'S WINNING 1997 VFW ESSAY

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. GIBBONS. Mr. Speaker I would like to submit as an extension of my remarks, for inclusion in the CONGRESSIONAL RECORD, the following. This represents Nevada's winning audio-essay in the Veterans of Foreign Wars' 1997 Voice of Democracy Program Scholarship competition. As you can see below, this year's theme, "Democracy—Above and Beyond" is very well portrayed in Karianne Bodenstein's entry. Karianne is deserving of this honor and recognition for her efforts. It is with pride that on behalf of my constituents, we wish her continued success in her pursuit of a career in physical therapy and teaching.

"DEMOCRACY—ABOVE AND BEYOND"

The year is 1967. If they could just be someplace else, anyplace else. If they could just rest. If only the rain would stop and they could go home. They lie in the wet ground and they fight. No longer are they in the spring time of their lives with their baseball caps, paper routes, spending their summers playing tag and swimming in the pond. They are American soldiers. They move forward, inch by bloody inch and despite all their longing for safety, comfort and relief they advance and fight some more.

Why would our soldiers sacrifice their lives to die on foreign ground, away from family and friends? Could it be their devotion to a democracy that is truly above and beyond all other forms of government. A form of government that instills in its citizens a commitment so strong that no sacrifice is too great.

Every year American mothers and fathers struggle to care for their children. Everyday pressures press in and it seems that there is never enough time, never enough money, never enough resources to get ahead. Hard work and sacrifice are their companion.

This year America's farmers have endured catastrophic floods, drought and economic uncertainty to fill the country's breadbasket. Head bare, face burned, hands throbbing with fatigue they fought to defeat the rising waters, to nourish the earth and to keep the faith.

The nurse nurses the contagious, the handicapped, the incurable, while the teacher teaches tolerance, forbearance and imparts knowledge. The truck driver drives his rig through the cities and towns of America. These committed Americans are caring for, educating and providing for America. These Americans know that the democracy they safeguard is above and beyond all other forms of government.

I'm one of America's youth and sometimes our country's problems seem almost insurmountable. I know that I cannot harvest from the past at a greater pace than I help replenish for the future. I know that I must give and not just take and so I embrace the commitment of the soldier, the parent, the farmer, the teacher, all those who have invested in my future and make their diligence, determination and commitment my standard.

The year is 1996. There is a couple in the winter of their lives following the path to the silent, black granite wall. They stop at panel twenty-two and he lifts his hand. He runs his fingers over the name etched in the cold stone. Their son's name. She kneels and places a worn-out baseball cap on the ground. All around them are old soldiers dressed in dull fatigues, business suits, on crutches, canes and in wheel chairs. These are Americans who have sacrificed to protect our democratic form of government.

As I look to the future, I have no doubt that our democratic form of government will survive and prosper and go on. You show me another country standing so tall, being so proud and having such imagination. Show me another country whose people, whose beating, pounding heart is so caring and so willing to examine its own wounds. And when I hear those voices saying that America is in its eleventh hour, I say no. All I have to do is look to the sacrifices of my parents, to the sacrifice of the soldier, the farmer, the shopkeeper and be willing, as they have, to safeguard this democracy, the best form of government in the world.

ALBERT C.M. WONG: IT'S BETTER TO GIVE THAN RECEIVE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. STARK. Mr. Speaker, today I rise to pay tribute to Albert C.M. Wong, a giving and selfless servant of the Asian community of Oakland, CA. This year, the Oakland Chinese Community Council will honor Mr. Wong as a keynote speaker at its 29th Annual Fundraising dinner.

The OCCC is a multiservice agency which has provided services to the Oakland Asian community since 1968. Over the years, OCCC has done much to help new immigrants reach their goals, and is best known for its outstanding employment services, training programs, career referral programs, English instruction classes, and voter registration programs. Mr. Wong has had a history of outstanding dedication, generosity, and devotion to these programs and the Asian community in general.

Albert C.M. Wong was born in Hong Kong, and lived in China for 5 years. At the age of 14 he moved to the United States and became a citizen. After working his way through the public school system and Laney College at U.C. Berkeley, he successfully completed a chemistry degree from the University of California, San Francisco.

Mr. Wong's giving acts are testimony to his generosity. He has selflessly donated his time and services to the Oakland Asian Library and the Asian Health Services. Mr. Wong also volunteers as a pharmacy consultant for the Hong Fook Adult Day Health Care Program, sponsored by the OCCC, and was instrumental in coordinating the annual senior luncheon where he helped to serve a nutritional meal to more than 600 seniors. As vice president of the Lion's Club, he helped establish the Lion's Club Annual Health Fair in Chinatown. He is also looking forward to playing an active role in the Mayor's Toy Drive for underprivileged children during the holidays.

Albert Wong is a premier example of the American spirit. Not only is Mr. Wong a great citizen, but in giving back to the people of his community, he helps to fulfill dreams and make the realization of goals possible. We should honor and take note of Mr. Wong's special role in the accomplishments of the Oakland Asian community.

STATEMENT TO HONOR DR. SHIH-I PAI

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. FRANKS of New Jersey. Mr. Speaker, I rise today to pay tribute to the memory of an outstanding individual, Dr. Shih-I Pai, the father of a dear friend of mine from the seventh district of New Jersey, Mrs. Sue Pai Yang.

For 45 years, Dr. Pai was a dedicated professor at the University of Maryland. He was a pioneer in the field of aeronautical engineering, and one of the most distinguished and acclaimed educators in the university's history. His numerous scholarly achievements have been recognized the world over. These include 14 technical books and over 130 papers, honorary degrees from preeminent universities throughout Europe and Asia, and a rating in the highest category of achievement by "Who's Who." His prolific mind perpetually broke new ground in the field of fluid dynamics and gas dynamics even while he was in his eighties.

Dr. Pai made one of his most notable contributions to science and to society when he was in his late seventies. As a world expert in biphase fluid flows, Dr. Pai played a major role in developing technology used to extinguish the oil well fires that blazed in Kuwait during the Persian Gulf war. His contributions were critical in helping reduce the environmental damage from these fires.

Three years ago, Dr. Pai's children established the Shih-I Pai Lectureship at the University of Maryland. Today, April 8, 1997, marks the day of the third annual lecture. It is the first lecture since his passing, and will be the first delivered in his memory. I would therefore like to join Dr. Pai's colleagues, students, friends, and family in honoring his memory on this day. Let us acknowledge and celebrate the contributions of a man who was so unselfishly dedicated to helping humankind.

HONORING THE BEST OF RESTON AWARD WINNERS FOR 1997

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. DAVIS of Virginia. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to the individuals and businesses who are this years winners of the Best of Reston Awards. The Best of Reston Community Service Award was created to recognize companies, organizations and individuals who have made outstanding contributions to community service, and/or who have improved the lives of people in need in Reston, VA.

Blooms Flowershop for continuous and generous support to the community including sponsoring the "Random Act of Kindness" day where thousands of roses were distributed throughout the community. Blooms also provides arrangements to the elderly and to nonprofit groups for events. Owners Karen Weinberg and Gail Dobberfuhl will receive the award on behalf of the business.

Lawrence Cohn owner of Lakeside Pharmacy, who for 25 years, has reached out to those in need. Typical of an old-fashioned pharmacy, Cohn provides a friendly ear, advice, and encouragement to his customers. Rising above the call of duty, Cohn has administered eye drops to those unable to do so for themselves, delivered medicine, supplied groceries at the pharmacy, provided jobs for teenagers, and given prescriptions to those at the Embry Rucker Shelter.

Grant Hill of the Detroit Pistons basketball team. Hill is a role model to young Restonians on and off the court. He is involved in several projects benefiting others. These projects include the Medical Care for Children Partnership, the Grant Hill Basketball Tournament and the Grant Hill chocolate bars. The basketball tournament benefits children's hospitals nationally while the chocolate bars benefit the Technology 2000 Program at South Lakes high School.

INOVA Health System is named for its diversity of programs involving the community including the mall walkers, "Sneakers and Speakers" program, community health screenings, partnership with Reston Interfaith, "Life with Cancer" program, and support of the Special Olympics. More than 200 INOVA employees have volunteered their time for programs including Christmas in April, Volunteerfest, Safe Kids coalition, food drives, Fairfax Fair, the International Children's Festival, the Reston Festival and the Northern Virginia Fine Arts Festival sponsored by GRACE. INOVA's president is Knox Singleton.

Carolyn Lavallee a chemistry teacher at South Lakes, was chosen for her commitment to education and public service. Her involvement covers a range of activities from leading Girl Scouts, advising youth and coordinating the wetlands project in conjunction with Reston Association.

The Samway Family for their commitment to cancer research. The family created the Kathryn Fox Samway Outback Steakhouse Memorial Golf Tournament which, in the past 4 years, has raised close to $1 million donated to Fairfax Hospital, National Cancer Institute, and the Dana-Farber Cancer Institute.

Thomas Wilkins for being a "man of all seasons" having served as the president of the Reston Association [RA], active in Meals-On-Wheels, offering services as a tutor in public schools, served on the Stonegate Advisory Board, assisted children attending college, and served as a founding board member for the Medical Care for Children Partnership.

Constance L. Pettinger is awarded the Distinguished Community Service Award for 15 years at Reston Interfaith.

Mr. Speaker, I know my colleagues join me in honoring the Best of Reston Award winners for all of their hard work in making their community a better place to live.

ANASTASIA'S STORY: A SPECIAL TRIBUTE TO ANASTASIA D. KAPTUR

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. STOKES. Mr. Speaker, on March 20, 1997, our colleague from Ohio, Congresswoman Marcy Kaptur, suffered the loss of her mother, Anastasia D. Kaptur. Many of us realize that the loss of a mother can be extremely heartbreaking. Our thoughts and prayers go out to Marcy and members of her family as they move through this difficult period of mourning.

On March 24, 1997, Marcy and her family gathered at St. Theresa of the Little Flower Parish for a celebration of life memorial mass in honor of her mother. Friends joined the Kaptur family in reflecting upon the life of Anastasia Kaptur, who was a courageous human being and a very remarkable woman. To celebrate their mother's life, Marcy and her brother, Steve, prepared a special tribute entitled, "Anastasia's Story." This moving tribute is a testament to Anastasia D. Kaptur, who is called A Woman for all Seasons.

Mr. Speaker, I take pride in submitting "Anastasia's Story" for inclusion in the Congressional Record. I ask my colleagues to join me in expressing our deepest condolences to Marcy and members of her family.

ANASTASIA'S STORY

Celebration of Life Memorial Mass, Little Flower Parish, March 24, 1997

Anastasia "Cherie" Delores Mary Rogowska Kaptur

Welcome to St. Theresa of the Little Flower Parish where our family has attended for 52 years.

On behalf of my mother's son and my brother, Steve, and the Kaptur and Rogowski families, especially our loving father Stephen "Kappy" who was laid to rest 28 years ago, as well as mother's mother and father, Teofila and John, and her sister, Anna, her brothers Anthony and Stanley, all of whom preceded her in death; her sister-in-law Esther Kalinska Rogowski; her niece and goddaughter Rose Ann Rogowska Koperski and her nephew John Rogowski; her cousins Theresa and Joe Kaptur, and John and Rita Kaptur, and their children and grandchildren; and her treasured friends, Mrs. Blanche Zalipski, Mrs. Esther Dutkiewicz, Mrs. Sally Zawierucha, and Mrs. Connie (Corrie) Dutched—all of us wish to extend deepest gratitude to you, our friends, for your compassion and for making the effort to celebrate the life of our most beloved mother Anastasia "Cherie" Delores Mary Rogowska Kaptur. We wish also to express the sincerest thanks to the doctors, nurses, and support staff at every level at St. Vincent's Medical Center, especially Dr. Ward Taylor, Drs. A. Zacharias and Thomas Schwann, and Drs. Phillip Horowitz and Allen Markowicz. Our family is also indebted to Mr. H. Ross Perot and the gifted doctors at the Southwestern Medical Center in Dallas, Dr. Gene Frenkel who made the longest house call in the world, and Dr. A. Harold Urschell. Finally, we cannot express our appreciation adequately to the saintly nurses of Hospice of Northwest Ohio who treated our mother with the tenderest and most humane care.

For us, her children, mother's loss is profound, beyond measure. We know God has blessed our family by affording us the privilege and honor to know and love this heroic woman for half a century. We admire her totally. Our love and respect for her has grown more with each passing day. We shall never know a more loving, unselfish, nor courageous human being. Somehow it is mystical that this service is being held at a time when seasons are converging, as spring dawns in this season of new life. Within the last week, we have experienced freezing rain, bright sunlight with blue skies, winter snowfalls, blustery winds, and spring rains. The geese and birds are returning, and there is a new moon. We believe this is nature's way of welcoming our mother.

My brother and I also must beg our mother's forgiveness. Because, you see, she chose to be a very private person—a woman of deepest humility. She sought no fanfare nor acknowledgement. She would have been quite uncomfortable with the attention being directed her way today. But we couldn't fathom how to avoid this occasion of the celebration of her life.

We would wish for each of you to have in your life the gift of Anastasia—love constantly and freely bestowed, as she has given us for five decades. She has been our life-long partner in all adventures, large and small, and our most ardent supporter—whether it was working with my brother on his latest patented invention or on his race car—literally, she sat behind the wheel revving the engine while he tinkered under the hood. She acted as my chief political confidante, inspiring me always, as well as touching citizens across this district and nation. Her love for her children could not be contained.

Make no mistake about her resolve. She was a rugged individualist. In an age of materialism, she countered the tide. She coveted no bauble. She preferred "making" to "buying." In an age of television, she remained a literary woman of the written word, known for her independent thought and resistance to commercialized brain washing. In an age of mega mergers and faceless bureaucracies, she supported the small family businesses—Bayer's Hardware, Wolfert and Sofo's Markets, Brodbeck's Greenhouse. We can still see her each spring in that greenhouse, negotiating down all the aisles, appreciating the vast display of acres of flowers under glass, and leaving with carloads of petunias and other sundry selections, along with trunkloads of potting soil. In an age of shallow commitments, her word and her life remain as true as the North Star. For us, she remains ageless, a woman for all seasons.

Our mother's life symbolizes triumph over adversity, the story of a woman from the working classes who never yielded. Let us tell you Anastasia's story . . .

Mother was born in Toledo to Polish peasant immigrant parents who had journeyed to America in 1912 before World War I from a tiny village in Burtyn, Ukraine, at the nexus of the Polish and Ukrainian borders. Her father was a forester and her mother a peasant girl of 17 years. They suffered the abuse of making the month long journey to America in steerage class in the bottom of a ship that left from Rotterdam and disembarked at Ellis Island in New York. They sought to improve their lot by working to earn enough money to buy farmland in their native country where they had been forced off the land as land was collectivized and they could no longer graze their cows. But the Russian Revolution intervened, then World War I, and mother's parents were cut off from their relatives, never able to return home.

Our mother was the second-born of their four children—Anna, Anastasia, Anthony, and Stanley. She was nicknamed "Cherie" in a childhood game they invented in which they renamed one another—Al, Cherie, Fritz, and Skip.

Mother grew up during the Depression utterly poor from a financial standpoint. That searing memory of bitter poverty would remain with her throughout her life. This was a time in America before our social safety net laws were in place. In her early years, the family moved at least eight times—always renters, never owners—from Belmont Avenue, to Avondale, to Vance, to Pulaski, to Lucas, to Montrose, to Blum, to Pinewood. And with those moves, she was forced to change elementary schools and disrupt those tender learning years—from Indiana School, to Pickett, to St. Teresa where she made her Communion and Confirmation, to Hoag School. At age 13, mom was already working to support her family. She would rise at 4:30 a.m., take two buses across town in Toledo to babysit and also clean houses for her teachers, as well as wealthier people in Toledo. She herself later would write: "Being a child of depression, making $5 a week, my father out of work for years, my sister dying, no money at all. No hope at all. My two children know the history."

Though highly gifted academically and an all-A student in the 7th and 8th grades, she was forced to drop out of Libbey High School to work as a waitress to bring home a few dollars a week to help the struggling family that also took in boarders to make extra cash. Her father, always the last hired and the first fired, could not keep steady work so her mother cooked, washed clothes, did ironing—anything—to earn cash, and also labored at Miller's Greenhouse picking tomatoes, then in the kitchen at the Commodore Perry, then at Kuhlmann's Potato Chips, and at Industrial Belt company on Summit—but like her husband always at the bottom of the seniority list. Her treasured and only sister, Anna, one year older than mom, died tragically at age 17 of leakage of the heart, an event that remained deeply poignant to our mother throughout her years. Mom became the oldest surviving child. At age 16, she hired on at Dean's Confectionery across from St. Anthony's school for $5.00 per week. Many times that was all her family had to live on. At 18, she worked at Liberty Lunch for $8 a week, and then at Broadway Bar-B-Que for $11.75 a week. The minimum wage law was passed at that time, but her boss made her sign her check, then he cashed it, and she was still paid only $8 a week. One day a lady came in looking for people to work at Kresge's downtown, where mom became employed, earning $14.50 a week.

When she was in her early 20's, she landed a job at the Champion Spark Plug Company in Toledo where she had applied at the employment office every day for one year. She never missed a day of work between any of her jobs. Here, her weekly wage rose to $40 a week. She worked the production line at plug tamping where she was paid based on her output and she always did the maximum number each day. It was at Champion that she was elected to the Charter Committee of the Local 12 United Auto Workers Trade Union that was forming. She summarized for her children why she helped form the union—"primarily to assure seniority rights of employment so you couldn't be fired because the supervisor brought family member to replace you. A bidding system was established so any open job was put up on the board so the one with the most seniority got the job if qualified. Discrimination was outlawed so the foreman could no longer put his pets or relatives on the best job. The right to ask for a pay raise was assured through negotiation and the right to strike granted to employees. Leaves for illness were granted so people wouldn't be fired if a doctor's certification was provided. Bathroom privileges were allowed for personal contingencies. Three months leave was allowed for pregnancy. Layoffs would occur according to seniority. And a grievance procedure was established to curb harassment by mean foremen."

Elected union Secretary, Mom gained respect by both company and union members for her knowledge of the bidding system, her ability to handle grievances, and her detailed grasp of the labor contract.

On November 26, 1938, at 9:00 A.M. at St. Teresa's Church, she married our happy go-lucky, wonderful father Stephen or "Kappy"—a produce man and truck driver. He came from an even larger family where his mother had 16 children, though many did not survive the illnesses of that period. They lived with mom's family for awhile but then, together in 1945, they bought a small home in Reynolds Corners in Adams Township, totally retrofitted it, landscaped the property, waterproofed the outside walls, handstripped the woodwork. While they were at it, they gave birth to two children, their daughter Marcia Carolyn in 1946, and their son Stephen Jacob in 1952. Mom left her job at Champion when Steve was born.

In 1952, mom and dad opened their own family meat market and grocery called Supreme Market in Rossford, Ohio on Dixie Highway across from the Libbey Glass Plant. Cherie's homemade pies were sold there, along with dad's fresh and smoked Polish sausage, veal loaf, pickled herring, and lots more. But due to her husband's illness, the family was forced to sell the store at decade's end, and dad went to work at Kaiser Jeep to assure the family income and health benefits. He retired from there in 1968. Mom worked at a number of part-time jobs to supplement the family income, with their daughter in college and their son in high school—Daso Bakery, Mareks' Supermarket, cleaning physicians' offices, and even pet-sitting.

She continued working after she was widowed in 1969.

During the 1970's, with her children grown, and after receiving her first Social Security check, Anastasia pursued the life-long dream she had placed on hold while she helped everyone else—completing her high school education and advancing her own formal education. She received her high school certification of graduation from the State of Ohio in 1975, and passed with flying colors. She also enrolled in Russian courses at the University of Toledo, took painting courses at the Toledo Museum of Art, polished her knowledge of the Polish language from books and letter-writing, honing those skills for decades by writing relatives in Poland and the Ukraine. She became the best "Friend of the Library," faithfully checking out 10–20 books each month. And the reading list was not light—Halberstam, Updike, McCollough, Grisham, Elements of Style, Raven's Wing, The Recycled Citizen, The Reckoning, Brand Fires on the Ridge. History. Travel. Adventure. Geography. Fiction. Mysteries. Mom often used the expression "thirst for knowledge." And, she certainly possessed it. She was self-taught in so many facets, cultivated a stellar vocabulary on a daily basis, and was a life-long learner.

She began to travel extensively with her children—throughout the United States, and the world. Her deep interest in geography enlivened at every turn. Niagara Falls, British Columbia, New Orleans, Miami, Montreal, Vermont, Maine, Pennsylvania, Indiana, Chicago, New York, California, Oregon, the Upper and Lower Peninsulas in Michigan, Germany, France, Czechoslovakia, Hungary, Poland, the Ukraine, even when the Iron Curtain made travel difficult . . . Mexico, Toronto . . . Her most memorable trip involved discovering the village of her mother and father, hidden inside the western Ukraine, placing flowers on the graves of her grandmothers, and learning of their fates—one starved to death during Lenin's drive to squelch peasant rebellion in the countryside, and the other shot together with her grandchildren for refusing to divulge the whereabouts of a grandson being sought for conscription into the Russian army. While there, mom discovered a grove of full grown trees at the opening to the village, planted by her mother before she departed for America. While there, she also found her mother's brother, Casimer, the sole surviving son who had been placed in Siberian concentration camps for 20 years by Joseph Stalin. It was an unforgettable journey as the blanks of 63 years of family history were filled in.

Mother is most at home in the outdoors with nature, and in her gardens. She advised "everything in life must have a center, just like the universe, or a flower, or a family." She could grow anything—certainly children. But also animals—dogs, ducks, rabbits, birds, squirrels, crescendos of plants and flowers, roses by the thousands, flowers of all varieties—the usual ones like marigolds and sweet peas. But more often the unusual and rare ones—moon flowers, balloon flowers, lupines, tulips, foxglove, columbine. Her own potatoes, planted lovingly each year, were harvested for a special meal. And her evergreens and spruces, grown from shoots or small seeds, all came to have symbolic value in our yard like the large blue spruce on our front lawn, planted the first year she had both a son and a daughter. If by a loving act of nature, that tree over the years has sprouted two tops.

Always, she was beautiful, so delicate and tiny physically, with the clearest blue eyes my brother and I had ever seen, and flawless skin, rarely wearing makeup. Natural. She wore her hair like no other person we ever met. Distinctive. She wore hats and clothing she crafted herself. She loved to dance, especially polkas in both clockwise and counterclockwise directions. She had a flair, whether it was the way she held a napkin, or planted a garden, or signed her name.

She was always usefully occupied and her project list never ended. She built furniture, designed and sewed clothing, painted oil sketches, landscaped, wrote newsy personal letters, baked, did masonry. She enjoyed people, one at a time, and took a personal interest in each person's story. When she finished a conversation, it was likely the person had told her much more about him or herself than they ever knew about mom. The first day she was admitted to the hospital for tests, a nurse came up to her and said she was going to take extra good care of her because when the nurse's husband was a little boy, he was mom's paper boy and mom always invited him in and fed him cookies.

She would refer to people she truly admired as the "salt of the earth." Indeed, that epitomizes her. And she would remind us the "strongest steel goes through the hottest fire." And she has. She always prayed for others' physical, mental, moral, and spiritual strength. But, she possessed them all. She walked toward physical death with full knowledge, her shoulders straight, trying to bolster us, with her eyes fixed on the horizon. She never flinched once. She never complained. She accepted. And, her spirit triumphed. I only wish we could reveal to you the depths of her courage. She taught us how to live, and she showed us how to die.

We are grateful to God for granting us the time to say goodbye. Never have we known a person of such goodness. She would caution us "Never give anything with the idea of getting something in return." She was completely selfless. In knowing her, we came to know the full meaning of the words—love, truth, beauty, unselfishness, humility, wisdom, generosity, grace, refinement, ingenuity, perseverance, serenity, and courage. For those of you who wonder why she didn't confide in you these last several months, please know she was protecting you, not wanting you to worry. She was always thinking of the other person.

If you ever looked into her sparkling eyes, or shook her hand, you knew you met someone of substantial character and abiding virtue. In the heavens, some stars emanate a pure light, so full, constant and strong, they quietly draw the gaze of earthly creatures, large and small, to their wondrous, serene lustre. They usher in the night and the day. In their light, sojourners never lose their way, never fall, never tire, and are never alone.

In her memory, our family will establish "The Anastasia Fund" (to be formally incorporated as the Anastasia Swiecicki Rogowska Kaptur Fund) for the adoption, education, and medical care of children from the newly democratizing nations of Eastern and Central Europe, beginning with Burtyn, Ukraine, the ancestral home of her parents. Mother would say, "goodness never dies." May this fund honor her memory, that of her mother and father, and their mothers and fathers as we move to a 21st century that offers hope in the most forgotten places.

There is no way to say thank you sufficiently, mother. We love you beyond life and time itself. May eternal rest be granted unto you and may perpetual light shine upon you.

Your profoundly grateful son and daughter,

STEVE AND MARCY.

To be established in Memory of our Mother's Life: "The Anastasia Fund" (to be formally incorporated as the Anastasia Swiecicki Rogowska Kaptur Fund) dedicated for the adoption, education and medical care of children from the newly democratizing nations of Eastern and Central Europe beginning with Burtyn, Ukraine, the ancestral home of her parents.

Contributions may be forwarded to: "The Anastasia Fund", c/o Toledo Community Foundation, 608 Madison Avenue, Suite 1540, Toledo, Ohio 43604–1151.

HAITI—AN UPDATE

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. GALLEGLY. Mr. Speaker, as chairman of the Western Hemisphere Subcommittee I directed my subcommittee staff director to travel to Haiti during the recent district work period to observe first hand the political, economic, and social situation in that country.

As the House knows, the United States, in partnership with the international community, is trying to help that nation recover from years of dictatorial rule, domestic intimidation, murders and political harassment, human rights abuses, and economic chaos.

For a little over a year now, the government of President Preval has been trying to make progress on many fronts from democratization to the restoration of law and order to economic development and open markets. His efforts are daunting. And while well intentioned and pointed in the right direction, his initiatives have not progressed very far and in many instances are being opposed by forces within that country who do not want him to succeed.

The United States has committed to help Haiti in this reconstruction effort. We all knew this would not be easy and would not happen over night. The staff's observations bear that fact out. I am submitting a summary of their observations for the RECORD. A more detailed report has been submitted to the International Relations Committee and is available from the Western Hemisphere Subcommittee for the Members.

MEMORANDUM—APRIL 7, 1997

To: Chairman, Western Hemisphere Subcommittee; and Ranking Member, Western Hemisphere Subcommittee

From: Vince Morelli, Subcommittee Staff Director; David Adams, Subcommittee Democratic Professional Staff; and Denis McDonough, Full Committee Democratic Professional Staff

Re: Report of STAFFDEL to Haiti

During the period March 24 through March 26 we visited the Republic of Haiti as part of the Committee's oversight responsibilities for the Hemisphere. The purpose of the STAFFDEL was to gain a first-hand account of the political and socio-economic situation in country and the progress to date on the reconstruction of the nation. The STAFFDEL was hosted by U.S. Embassy, Port Au Prince, which is headed by Ambassador William Swing.

During our visit, which included meetings with Haitian government, U.S. State, A.I.D., and Department of Justice representatives, Haitian business sector and the international donor community, STAFFDEL had the extraordinary opportunity to spend one hour with Haitian President Rene Preval to discuss the state of affairs in his country.

GENERAL OBSERVATIONS

Although our time-in-country was limited, it became obvious to STAFFDEL that the challenges facing the Government of Haiti (GOH) are enormous. Progress to date on some fronts has, at best, been steady if slow and almost negligible on others. The reconstruction of Haiti into a viable democracy with strong institutions and a commitment to the rule of law is progressing and can be achieved within the next few years, but a vibrant, self-sustaining economy may not be achievable in the short-term, even with the privatization goals under discussion at this time.

In any event, the ability of the GOH to achieve even a modest amount of success in the short-term will largely be dependent on continued political stability, a steady pace of reform by the government and a continued commitment of financial and technical assistance from the international community, including the United States.

STAFFDEL was encouraged by President Preval's continued commitment to rebuild Haiti in accordance with the economic plan he presented upon his inauguration despite the many challenges he has had to confront, including on-going political unrest, the occasional outburst of crime and lawlessness, differing levels of commitment among some of his own Ministers, the lack of adequately trained human resources and the March 26 attempt to force a vote of no-confidence against his Prime Minister, Mr. Rosny Smarth.

STAFFDEL would also make the following specific observations.

DEMOCRACY AND CIVIC PARTICIPATION

Although not fully understood or appreciated by many Haitians, the democratization of the country, while still fragile, seems to be taking hold. Over the past two years, Haitians have gone to the polls five times and will vote again on April 6. In general, Haitians equate democracy with the freedom to speak on any subject and to openly criticize the government, a new found experience which many have taken full advantage of. Events such as the March 26 debate in the Parliament over the state of affairs in Haiti, in reaction to a call for a vote of "no confidence" against the Prime Minister, was unprecedented.

However, many in the country blame the democratization process for the rise in crime and violence and the inability of the government to create jobs. And, the government does not appear to be doing an adequate job educating the general population as to how they can effectively participate in the process. Civic education is very low and the lack of political participation, overshadowed by other concerns, is reflected in things such as low voter turnout and politicians with little political base.

While STAFFDEL was in Haiti, final preparations were being made for the Senatorial (9 seats) and local assembly elections. These elections were scheduled for April 6. Representatives from the International Republican Institute (IRI) and the National Democratic Institute (NDI) who are monitoring the elections believed that these elections would be competitive only in a limited way since some parties were boycotting them and because many voters were simply disinterested in yet another election which they saw as meaning little for their current situation. However, observers were concerned about the low level of interest in the elections and, particularly, that these would be the first elections where security would not be provided by the international community. As a result there were no security arrangements in place as of our visit. Interlocutors noted that while there had been no outright political violence they described "gun play" and "burning tires" as intimidating events and feared that the lack of security would simply cause people to stay home.

Addendum: the April 6 elections were held, apparently without serious incident, or voter participation. It would appear that on average only about 15% of the voting population went to the polls. This was disappointing but not totally unexpected.

GOVERNMENT

The government, as defined through the personality of President Preval still seems to enjoy the support of the majority of Haitians. The President seems sincerely committed to rebuilding Haiti through tough economic reform programs, including privatization, civil service reform, and law and order. Other parts of the government, however, seem to function at various levels of commitment and competence. While some Ministers are considered supporters of former President Aristide and do not entirely subscribe to the current government's direction, others are doing their best with little resources and a dearth of experienced technical managers. This has resulted in little progress in areas such as civil service downsizing and infrastructure development.

Parliament on the other hand seems to get mixed reviews primarily because the concept of a deliberative legislative body, sharing the decision-making power of governing, is so new. The legislators we met seemed to be committed to the task of rebuilding the country and enthusiastic about their role, even if they seemed somewhat unsure of their actual level of authority. However, divisions within the Lavalas political organization, namely between the pro-Preval and pro-Aristide wings which dominate the Parliament, has resulted in a period of legislative paralysis especially with respect to key issues such as passing a budget which is seven months overdue and reconciling two different versions of civil service reform. The April 6 elections could be good news for former President Aristide and bad news for President Preval. Senators elected under the Lavalas Family banner could well control the legislature and could prevent serious reforms from taking place.

LAW AND ORDER

Violence remains a serious and recurring problem. However, most of this seems perpetrated largely by rival gangs seeking dominance in an area or as a result of political infighting largely among the various factions of the Lavalas political movement.

Despite the occasional acts of violence, the establishment of public security seems to be on the right track. This growing sense of law and order has been due in large part to the slowly emerging professionalism of the Haitian National Police (HNP). Just over one year old, the HNP has been getting better at its job of policing despite the fact that their training is minimal and that they lack adequate equipment such as armament, communications and transportation. Weaknesses still exist in the area of mid-level management and investigative techniques. Overall, however, the commitment of Secretary of State for State Security, Robert Manuel and HNP Director General, Pierre Denize, to build a truly professional policy force was encouraging.

Complicating the law and order process is the simple fact that a professional and capable justice system simply does not exist. What there is is inefficient and often corrupt. Training programs for judges, lawyers, and courts are underway supported by the U.S. Department of Justice. But a smooth running, competent system is years away. Until then, the efforts of the police to investigate crimes and put criminals away will be severely undermined.

An even bigger test of the security system could come as early as July when the United Nations mandate expires. If the U.N. security force, which today numbers 1,300 uniformed troops, is withdrawn, the HNP could be strained to its limits. In our discussions with various officials, it became clear that the U.N. security presence should be retained in Haiti until at least the end of July, if not longer, in order to give the HNP more time to prepare.

ECONOMY

In general, the Haitian economy is in a state of shambles. On the positive side, the economy is showing some progress in that inflation is being brought under control, the local currency, the gourde, is being stabilized and budget expenditures are being tightened. On the other hand, jobs are not being created and important infrastructure improvements in roads, electricity and the port are at a standstill. In some cases, such as in the privatization of the major utilities and the seaport, political opposition by the anti-economic reformers and the anticipated job loss among the civil service, provide the major impediment. In cases such as road construction and improvement, the lack of qualified government contract managers and skilled contractors, not money, is the problem. With few exceptions, the Haitian private sector has been reluctant to invest within the country because of their uncertainty over the long-term political stability of the government and its commitment to reform. The international investment community is waiting to see the results of the first wave of privatization as well as the commitment of the Haitian private sector. The international lending community is prepared to provide some $1.5 billion in assistance if the Haitian government continues to initiate political and economic reforms in a timely manner.

While STAFFDEL agreed that privatization was an important barometer of the GOH commitment to economic reform, the importance of this process and the timetable for its accomplishment may be over emphasized. Privatizing closed facilities such as the flour mill and cement factory, while important symbolically, at best would create only a few jobs. The more important facilities such as the telephone and electric companies will take much longer to accomplish for a whole variety of reasons including the fear of foreign ownership of Haiti's important assets since the Haitian private sector is not likely to be able to raise the necessary capital to buy these operations. While this process must be encouraged to proceed as expeditiously as possible, it will not solve Haiti's economic problems and cannot be done overnight as some have suggested. Even the goal of March 1998 for the privatization of all nine public enterprises, given where they are now, seems ambitious. In the interim, there are some more visible reforms which could be achieved which would reaffirm the government's commitment and which would bring revenues into the treasury. Most important of these would be reforms at the port, and especially of the customs department. Loss of revenue among imports of basic staples such as rice and cooking oil are well known. Smuggling of these commodities is growing, representing a significant loss of revenue for the GOH. It would not take must effort to address this problem through measures ranging from "shiprider" agreements with the U.S. Coast Guard to more strict enforcement of cargo reporting and accounting, to a more effective, corruption-free, collection of duties.

OUTLOOK

Despite the recent spate of unrest and violence, which appears to be somewhat over dramatized in the press, it was STAFFDEL's assessment that Haiti was heading in the right direction, if slowly. Although Ambassador Swing likes to say that "everything in Haiti is broken", the most severe problem facing President Preval, and the most difficult to address is the inability of the economy to create jobs. This alone is the issue which creates the climate of unrest. To do this, however, the domestic private sector and the international investment community have to be convinced that they can turn a profitable business while operating in a safe environment. The law and order issue is being addressed as fast as it can by producing a professional police force. However, not every crime will be solved on a timely basis nor will every criminal be put in jail until enough well trained policemen are put on the beat and until a more responsive judicial system comes on line.

Civil service reform legislation has been passed but not yet enacted so the government's plan to downsize will continue slowly. But until economic reforms take hold, as symbolized by the privatization effort, large private sector jobs programs will not be forthcoming. Privatization of the flour mill, cement factory and airport could be accomplished by the end of the summer but none of these will produce large numbers of new jobs. And even though government officials like to point out that the majority of the Haitian people would not care who owned or operated these companies as long as they had electricity and could make a phone call anytime, there is enough political opposition, opposition which President Preval seems unable or unwilling to overcome, to make this a slow process.

Finally, there is the "Aristide" factor. Although the former President has not come out forcefully in opposition to the current direction of the government being promoted by President Preval, Aristide's former Prime Minister, there is speculation that Aristide is working behind the scenes to sabotage the more ambitious plans of the government. It is known that Aristide is contemplating a political comeback by running for President in five years when Preval's term expires. So as not to lose public support as Haiti moves forward toward reconstruction, many believe that Aristide is encouraging the gang violence in the urban centers, especially in the Cite Soleil section where a strong base of his support is located. Many also believe he is orchestrating the political violence among the factions of the Lavalas political movement and it is well known that he is opposed to privatization and has advised his followers in the government, now stronger as a result of the recent elections, to deliberately drag their feet on these reforms.

The question of Aristide's influence and the kinds of force he can bring to bear on the direction of the country is still a matter of debate. But the fact that President Preval, knowing who among his own Ministers oppose his policies, is moving slowly with respect to their removal and replacement, is an acknowledgment that Aristide's power is respected. Similarly, certain members of the Parliament, unsure of the future political landscape, display a reluctance to be more aggressive toward reform.

STAFFDEL concluded that President Preval has chartered the right course for Haiti even if, at times, he seems to be somewhat reluctant to make all the necessary moves to traverse that course with all speed. The rebuilding of Haiti into a viable democracy with a strong rule of law and a vibrant economy will not be easy and certainly will take time. However, if the economy does not show signs of expanding, political unrest will rise. This slow pace could lead to a new wave of violence designed to undermine confidence in the Preval government and its policies. Any major law and order problem will have negative consequences for Haiti's stability and could throw Haiti back into a period of paralysis, upheaval and possible anarchy.

Lastly, we would be remiss if we failed to acknowledge the hospitality, hard work and cooperation of the U.S. Embassy in Port-au-Prince. Ambassador Swing and his team were confident that Haiti's chances for success were good despite the difficulties. Ambassador Swing's commitment and dedication were manifest in his willingness to give us as much time out his busy schedule as we needed. And his efforts to have us meet with U.N. Special Representative, Ambassador Ter Horst, Haitian Parliamentarians, and especially President Preval, were more than we expected. Ambassador Swing has been in Haiti longer than a normal posting but his presence, his expertise, his dedication and his relationship with the Haitian leadership are invaluable during these critical times. We also want to acknowledge Political Counselor Sue Ford Patrick for all the work she did in getting us to all of our meetings and for providing valuable insights to conditions in the country.

And finally, we wish to commend Colonel Stull, Commander of the U.S. Support Group, and his troops for the fine work they are doing in Haiti. The dedicated men and women of our Marine, Navy and Army contingents there are providing important humanitarian and civic assistance projects in addition to their normal security mission. Their mission in Haiti is often overlooked, and sometimes even questioned, but their presence is invaluable and a credit to their respective services.

KEY INDIVIDUALS STAFFDEL MET WITH WHILE IN HAITI

Government of Haiti: Mr. Rene Preval, President; Mr. Leslie Delatour, Central Bank Governor; Mr. Robert Manuel, Secretary of State for State Security; Mr. Pierre Denize, Director General, Haitian National Police; and Mr. Jean August Brutus, HNP Commissaire.

Legislative branch: Mr. Macdonald Jean, Senator; Mr. Jean Robert Sabalat, Senator; Mr. Alix Fils-Aime, Deputy; and Mr. St. Juste Momprevil, Deputy.

Representatives of the Council on Modernization of Public Enterprises (CMEP).

Representatives of the Haitian Private Sector.

United Nations: Ambassador Enrique Ter Horst, Special Representative to the Secretary General; and General Pierre Daigle, Commander, U.N. Support Mission on Haiti.

Representatives of the International Donor Group including the World Bank, International Monetary Fund, and the Inter-American Development Bank.

Representatives of other Organizations in Haiti including: Adventist Relief and Development Agency; International Republican Institute; National Democratic Institute; and Inter-American Foundation.

United States Support Group: Colonel Stull, Commander.

WORKING FAMILIES FLEXIBILITY ACT OF 1997

SPEECH OF

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1) to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector:

Mr. MARTINEZ. Mr. Chairman, I rise in support of the Miller substitute.

Mr. MILLER has worked to meet the Republicans halfway in this effort to provide flexibility for working families.

I contend that H.R. 1 does not provide the flexibility that its sponsors claim it does.

Members on the other side of the aisle, trying to appeal to working mothers, claim that under H.R. 1, workers would work overtime and then take comptime whenever they need it—to take a child on a class trip, to tend to a sick parent, to volunteer time at their child's school. However, H.R. 1 also provides that an employer can deny comptime if taking that time would unduly disrupt that business. What good does it do to accrue comptime if your employer can prevent you from taking it when you want it?

Say Mrs. Smith wants to volunteer to be a chaperon for her daughter's class trip to the natural history museum next Tuesday. The employer says that taking leave Tuesday will unduly disrupt the business, but Mrs. Smith can take the time next Friday. What good does that do Mrs. Smith? Is that really choice?

Members on the other side of the aisle will claim that the bill does state that the employee has a choice, and that there are steps he or she can take if the employer wrongfully denies comptime. But if we are talking about the majority of workers today—who make less than 2½ times the minimum wage—we cannot truly state that these individuals have the resources to challenge their employer in court. Many need these jobs and would never consider threatening them even if they were in the right. Others who are bold enough to consider filing suit against their employer do not have the resources to hire an attorney and go to court.

Proponents of H.R. 1 point to the public sector, stating that comptime works well there. Let me tell you, I know of some Federal employees who opt for paid overtime, because they know they'll never get the opportunity to use their comptime when they want to. The public sector is not a business. We offer comptime there because it saves taxpayer dollars. The only reason private businesses will even consider offering comptime is that it saves money and will give employers the opportunity to have employees work longer hours.

Comptime is really a no-interest loan that employees give to their employers. Employees work the overtime, and then get paid later in comptime—if they get a chance to use it at all. Mandated overtime pay has been the law to penalize employers who make their employees work longer than the 40-hour workweek. That is why overtime is paid in time-and-a-half. This also provides a benefit to employees who choose to work longer hours for more pay. But employees get their compensation as overtime pay in the next paycheck—not a week later or a month later, when it is convenient for the employer.

During the markup, it greatly concerned me that Members on the other side of the aisle referred to comptime as a benefit. Comptime is compensation for time that the employee has worked. The employee has a right to that compensation—it is not something that the employer should have the power to delay or to alter.

Many workers in my district need that overtime pay—they count on it being in every paycheck. Comptime will not help them keep a roof over their heads, food on the table, or clothes on their backs. I don't hear the small businesses in the 31st District clamoring for the option of comptime—many cannot afford to have employees on leave at irregular times. So the only protection to ensure that employees are paid for the time they work is to have overtime pay protections.

Nevertheless, I support Mr. MILLER's substitute so that those businesses and those employees who want comptime can fairly participate in such a program. The substitute ensures that comptime is truly flexible, and that employees have true choice.

Mr. MILLER's substitute puts teeth into the penalties for employers who coerce their employees into taking comptime and who wrongly deny an employee's right to take comptime when he or she wishes.

This measure also prohibits employers from discriminating among employees when offering comptime. It mandates that when an employer chooses to implement a comptime program, he or she must offer that comptime to all similarly situated employees. Therefore, if an employer offers comptime to a particular employee, he or she must also offer it to all the other employees who are doing the same work, on the same schedule, at the same site.

Another very important provision in this substitute is that it allows the Secretary of Labor to require employers to post a bond to assure funds to pay for unused comptime. Thus, employees would be guaranteed to receive their comptime if an employer declared bankruptcy.

I urge my colleagues to reject H.R. 1 and adopt the Miller substitute.

INTRODUCTION OF LEGISLATION

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. GEKAS. Mr. Speaker, today I with my colleague Representative BEN GILMAN, introduced a bipartisan bill to correct a fundamental unfairness to all Federal administrative law judges. The Administrative Law Judge Cost of Living Adjustment [COLA] Reform Act. Since 1992 administrative law judges have not received a cost-of-living adjustment like other Federal employees in the General Schedule and Senior Executive Service. Enactment of the legislation introduced today will remedy this unfair situation.

This legislation amends section 5372 of title 5, U.S. Code, and provides that the cost of living adjustment for administrative law judges will be adjusted by the same percentage and on the same date as the rates of pay for the General Schedule.

Through no fault of their own, ALJ salaries were included as a percentage of the Executive Schedule, which includes Members of Congress and Cabinet Secretaries. Since 1992 Members of Congress have prohibited themselves from receiving COLA's by appropriations bill riders that cover the whole Executive Schedules, including ALJ's. ALJ's in salary structure are more like other Federal employees hired at $75,000 a year and their average salary is about $89,000 a year, much less than Members of Congress or Cabinet Secretaries included in the Executive Schedule. The cost of the legislation is not significant, not even raising the $5 million point of order threshold under the Budget Act. In fact we estimate that the cost of the legislation is under $4 million.

As a matter of fairness, these Federal employees should receive pay adjustments at the same rate as other Government employees. The salaries of the younger administrative law judges are well below the pay level of Members of Congress. Many of the younger administrative law judges have fallen behind the rates of pay of their former Government colleagues. Senior Government attorneys paid under the General Schedule and the Senior Executive Service have received pay adjustments during the same period which has caused their rates of pay to exceed that of administrative law judges. The administrative law judiciary has traditionally recruited these senior attorneys as administrative law judges. The ability to recruit senior Government attorneys, experienced private practice attorneys, and to retain experienced administrative law judges is being impaired because of the disparity between the current pay of administrative law judges as compared with the pay of senior Government attorneys.

We believe that it is important to keep the Federal administrative judge corps competitive with other senior Government attorney positions. The Federal administrative judiciary must be able to recruit from the most able and experienced legal practitioners in both the private and public sectors, able to adjudicate complex and contested legal disputes. Adjudication of citizens' administrative claims by the Government is often the first contact the public has with the justice system. We want to ensure by passage of this bill, that the public has the quality and standard of service that justice deserves.

CONGRATULATING THE CANCER INSTITUTE OF NEW JERSEY

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate the Cancer Institute of New Jersey on being designated as a clinical cancer center by the National Cancer Institute's Cancer Centers Program. This long-sought designation is a well-deserved honor and will mean much not only to the Cancer Institute of New Jersey but cancer patients throughout the State as well.

This designation, a tremendous advancement in health care for New Jerseyans, will allow clinical trials of new cancer therapies sponsored by the U.S. Food and Drug Administration to take place in New Jersey for the first time. This is a major milestone for the 6-year-old center, which is part of the University of Medicine and Dentistry of New Jersey's Robert Wood Johnson Medical School. The medical school will receive an $800,000 Federal grant to help support the center's operations. The designation places the Cancer Institute of New Jersey among the highest regarded cancer centers in the world.

The people of the State of New Jersey deserve the research and care provided by the Cancer Institute of New Jersey. They need to have convenient access to the newest advances in the prevention, diagnosis, and experimental treatment of cancer. Prior to the creation of the institute, New Jersey cancer patients seeking innovative care were forced to travel to either New York or Philadelphia. This was a particular burden for residents of the central portion of the State, which is an hour or more from either city. Such long travel distances are more than inconvenient—with frequent, repeated treatment sometimes needed, they can cause serious disruptions and hardships for the families involved. The opening of the institute has proven a major step forward for New Jersey cancer patients and its new designation as a cancer center brings New Jersey cancer treatment to the state-of-the-art.

The need for the institute is great. New Jersey has nearly 8 million citizens and cancer statistics ranking it as the third highest State in the Nation for estimated cancer deaths and the eighth highest for new cancer cases.

With 120 investigators, the Cancer Institute's clinical care and basic research programs include bone, bone marrow transplantation, gastrointestinal, genitourinary, gynecological, head and neck, leukemia/lymphoma, melanoma/sarcoma, and pediatrics.

The institute becomes one of more than 50 cancer centers designated across the country that engage in multidisciplinary research efforts to reduce cancer incidence, morbidity, and mortality.

The Cancer Institute of New Jersey is a partnership of UMDNJ, Hackensack University Medical Center, New Brunswick Affiliated Hospitals, St. Peter's Medical Center, and Atlantic Health System.

I know personally the tragedy of cancer: My husband, Richard W. Roukema, M.D., and I lost our son, Todd, to leukemia in 1976 at the age of 17. At that time, bone marrow transplants and other techniques that offered hope were only in their experimental stages. Since then, many advances have been made that have spared thousands of other parents the heartbreak we faced. It is thanks to the brilliant researchers and physicians at institutions such as the Cancer Institute of New Jersey that hope can be maintained.

Today, we are within grasp of a cure for many forms of cancer but much research remains to be done. I thank God for those who are willing to labor toward this goal and pray that with their help a cure can be found and that no child will ever again have to suffer from this terrible disease.

SALUTE TO THE CINCINNATI BURNS INSTITUTE

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. PORTMAN. Mr. Speaker, I rise today to recognize the Shriners Hospitals for Children and the Cincinnati Burns Institute for their continuing commitment to the treatment and care of burn-injured children in the Cincinnati area, and to congratulate the Shriners on their 75th anniversary. We thank them for the vision and service that they have so generously given to the Greater Cincinnati community.

The Shriners Hospitals for Children is a network of 22 hospitals, 19 orthopedic units, and 3 burns institutes, offering specialized medical care to children up to the age of 18. The Cincinnati Burns Institute is one of the Shriners Hospitals specializing in acute and rehabilitative care of children suffering from burn injuries. As a regional referral hospital, the Cincinnati unit serves children who live within a 1,000-mile radius of Greater Cincinnati.

The mission of the Shriners is to minimize the devastation of burn injuries and enhance the patient's potential and quality of life. The Shriners provide family-centered and holistic pediatric burn care of the highest quality. And, by providing all medical care to patients at no cost to them or their parents or a third party, the Shriners Hospitals and Burns Institutes not only care emotionally for their patients, but financially as well. Through public education and prevention efforts, the Cincinnati Burns Institute, along with the Shriners, has been instrumental in raising public awareness in the management of pediatric burns.

The leadership of these truly dedicated organizations is an asset to our community and to our Nation. All of us in Cincinnati congratulate the Shriners Hospitals for Children on their 75th anniversary. We are grateful for all they have given to Greater Cincinnati.

AMERICA'S FEDERAL CREDIT UNIONS

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. THOMPSON. Mr. Speaker, I would like to express my support for America's Federal credit unions on behalf of at least 35,000 people residing in the Second Congressional District who depend on them to receive financial services. As you may know, the original legislation that created Federal credit unions in the 1930's required that their members share a "common bond of occupation or association." Over the years, this statute has been interpreted in a fashion that allows employees from many different companies to join the same credit union. However, in the 1994 Federal District Court case of National Credit Union Administration versus First National Bank & Trust and its subsequent appeals, it was ruled that credit unions must have a "single common bond of occupation." In other words, all the members of the credit union must work for the same employer.

Although the Supreme Court has decided to hear this case, credit unions all across the Nation have been forced to cease accepting new members from employers outside of those who already belong while they wait for the final ruling. In addition to this disruption in the industry, if this case stands, credit unions may be forced to exclude all employers with the exception of the single original employer that the credit union received its charter to serve.

Mr. Speaker, credit unions are the last source of financial services for millions of Americans who do not have the credit background to receive help from traditional banking institutions. If this case is allowed to stand, as many as 10 million current credit union members could be expelled from their credit unions, and services could be interrupted for all 70 million American credit union members. Many critics of credit unions feel that they have become a threat to the banking industry. However, according to the Credit Union National Association, the average credit union has less than $28 million in assets—less than one-sixteenth the size of the average bank. In fact, Chase and Citibank, the two largest U.S. banks, combined have more assets than the aggregate holdings of all 12,047 credit unions. I do believe that banks play an important role in America's economy, but I believe that a balance can be found between their needs and those of the credit union industry. Banks are likely to remain America's chief source of financial services, but there is no reason that a thriving credit union industry cannot survive and continue to serve those people who cannot be helped by banks. Mr. Speaker, it could take many months before the Supreme Court makes its final decision on this case. The credit union industry can not hang in limbo while it waits for the Supreme Court to act. Representative LATOURETTE has introduced a bill to this Congress in order to clarify this issue. The Credit Union Membership Access Act of 1997, of which I am a cosponsor, will protect the status quo by allowing employees from more than one company to become members of the same credit union. I support this legislation wholeheartedly, and I urge this Congress to act to prevent a disaster for America's credit union industry.

HELP COMMUNITIES AFFECTED BY BASE CLOSURE

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. McCOLLUM. Mr. Speaker, today, I am introducing legislation that will facilitate the swift transfer of closed military bases to local communities. This action is necessary because current law hinders the large and complex transfer of military base property with economic redevelopment in mind.

Many of the laws governing the reuse of military bases are antiquated and filled with confusing terms and conditions. One major existing hindrance is a clause prohibiting the obtainment of profit by local communities. This is a problem because it prevents local communities from generating profits through subleasing for the purpose of reinvestment to maintain and improve landscaping, maintenance, and infrastructure. The remedy for this situation is to replace the clause with legislation embodying the provisions of the base closure laws and amendments of the 1990's.

The interim lease provisions have not been as successful as planned because many of the terms and conditions act as disincentives to economic development conveyance. For example, there is no commitment for final ownership by Federal agencies upon assumption of control or occupancy of transfered property. Commercial firms are willing to enter into leases, but are refusing this option because of the lack of commitment for final ownership. In addition, the new occupants of closed base property are unable to conduct major renovations unless they agree to restore the property to its original condition. Many of the facilities require major alterations from their original condition just to bring them to local code standards. Why are we requiring restoration of undesired conditions? This makes no sense and ultimately results in taxpayer waste.

Prior to 1996, departure of Federal agencies reverted property to the Federal Government for disposal by GSA. A leaseback provision was established in the National Defense Authorization Act for fiscal year 1996 to protect communities from a Federal agency revolving door. Under this law, property approved for Federal usage would be transferred to the local redevelopment agency, then leased to a Federal agency at no cost for up to 50 years. The reasoning behind this is to ensure transfer of property to local communities in the event of departure by Federal agencies. The lack of a mandatory requirement for leaseback acceptance allows for circumvention of the legislative intent. In Orlando, FL, the Veterans Administration has requested Orlando Naval Training Center property through the Federal screen process. VA has refused to enter into a long-term lease which would allow enaction of a leaseback provision. This creates major problems for community redevelopment authorities as it limits their ability to finalize reuse plans. My legislation guarantees an option for communities to obtain reuse property after the departure from the property by the first Federal agency lessee.

We must allow common sense to prevail in this base reuse process. There are some instances where it makes sense to lease to organizations affiliated with the branch of service that previously occupied the base property. This is currently prohibited, yet doesn't it make sense to relocate recruiting stations, reserve centers, and military processing centers onto closed base property? This type of action will allow these units to function in a military environment while reducing taxpayer burden generated by lease of civilian property.

The four branches of the U.S. Armed Services are currently able to contract with local governments for fire and police services for 6 months prior to the closure of a base. Families remaining on closed bases need these services, yet there is no provision for bases being closed in phases as the services do not define phased closures as operational. In simpler terms, local communities bear the burden for fire and police services because the service branches are unable to contract for services.

Mr. Speaker, the bill I'm introducing today will make major strides in reforming the base closure reuse process. We must enact this legislation to protect our local communities. I urge my colleagues' support.

HONORING DAVID ALLEX

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. ORTIZ. Mr. Speaker, I rise today to commend David Allex of Harlingen, TX, and to commend his life's work of improving the economic conditions of south Texas.

David is a legend in south Texas. He has served as the president of the Harlingen Industrial Foundation, Inc. [HIFI] since its inception in 1968. That is an incredible tenure, but David Allex is quite the economic pioneer. Few people have had the effect that David has had on the economic fortunes of the south Texas business and professional community. David is leaving HIFI, and his presence will be sorely missed.

During David's tenure, his efforts attracted a host of industries to the south Texas area. He was actively involved in bringing the following companies to the Rio Grande Valley: Tex Steel, Fruit of the Loom, Anderson, Greenwood and Co., Valley International Cold Storage, Atlantic-Durant Technology, Inc., Tadim, Levi Strauss, William Carter Co., Velcon Filters, and Aloccorp.

The high unemployment rate in the valley has always been my paramount concern since coming to Congress. These companies would not have relocated to south Texas if not for David's assertiveness and commitment to the economic development of our area. His vision, innovation, and ideas have made the valley a force in our Nation's new economy.

I ask my colleagues to join me today in recognizing the quality, loyalty, integrity, and accomplishments of David's service to the economy of south Texas. I offer David my personal thanks and best wishes.

TRIBUTE TO MARCIA STEIN

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. DIXON. Mr. Speaker, this morning I rise to pay a well earned tribute to Marcia Stein, who retired from this body on January 20, 1997. For 15 years, Marcia provided exemplary service as one of the Official Reporters of the House. She and her husband, Robert P. (Bob) Stein, an oceanographer with the National Oceanic and Atmospheric Administration, are present this morning, and I am pleased to have this opportunity to commend Marcia for her outstanding service to this institution.

A native of Abilene, KS, Marcia attended Phillips University in Enid, OK, before relocating to the Washington, DC, area. After working for a number of years at Andrews Air Force Base, she attended Strayer College and graduated as a court reporter in 1975. She worked several years as a freelance reporter before joining the staff of the Official Reporters of the House on November 12, 1981. Marcia especially enjoyed specializing in hearings on national security and intelligence; 10 of her 15 years were spent as a reporter for the Appropriations Subcommittee on National Security. Some of the highlights of her Hill career included reporting the Iran-Contra hearings and traveling to Bonn, Germany, and other parts of the globe to report field hearings.

Now that Marcia has retired, she is able to devote more time to pursuing her favorite pastimes of golf, she carries an 18 handicap, and duplicate bridge. She has been a life master in duplicate bridge since 1968. She also enjoys reading and snorkeling. Marcia and Bob are the proud parents of 4 children: Danise, David, Adam, and Jason; and 2 grandchildren, Allison and Jacob.

Marcia has enjoyed observing history in the making, and she feels privileged to have been assigned to report some of the most interesting events taking place in this august body. Those of us who have had the pleasure of working with her during her distinguished career, also feel privileged to have had the opportunity to work with an individual of such outstanding ability and professionalism.

Thank you Marcia for your service to your country and to the House of Representatives. I wish you and Bob a long, healthy, and prosperous retirement.

SALUTING WILSON A. ROGERS OF CLEVELAND, OH

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. STOKES. Mr. Speaker, I rise today to recognize the dedication and hard work of a constituent who has been honored recently for his distinguished service to his field and his community. Wilson A. Rogers of Cleveland, an owner and operator of McDonald's restaurants, was recently bestowed the prestigious Ronald McDonald Award. This award is the highest award given to an owner/operator and covers 40 regions. Mr. Wilson earned this award through his outstanding work in his local community and for outstanding management.

Wilson Rogers has been a part of the McDonald's team for more than 22 years. His interest in becoming a restauranteur was sparked by reading about the opportunities of owning a McDonald's franchise in the newspaper. He had learned the lessons of success through hard work on his family's farm in South Point, OH, but what he has given back to his community comes straight from his heart.

Mr. Rogers has a rich history of involvement with the future of the youth of our community. His passion for academic achievement brought about the creation of the McDonald's Martin Luther King Scholarship and Exhibition at Cuyahoga Community College. This project made a 5-year $50,000 contribution to the Tri-C/MLK scholarship program and created an exhibit for the college to honor the late civil rights leader. He has also aided many disadvantaged students who might not otherwise attend college through the United Negro College Fund. He has chaired and cochaired the UNCF Telethon and Golf Tournament and now sits on their advisory committee.

Mr. Speaker, among other efforts to help children get ahead, Wilson Rogers was instrumental in helping the Achievement Center for Children secure a grant from Ronald McDonald Children's Charities. Mr. Rogers also helps feed the hungry and homeless, and is a past board member of the Harvard Community Center. His dedication to the Greater Cleveland area and improving the lives of others speaks volumes about his character. This devoted husband and father, businessman, and philanthropist has brought much to those around him and those he may never meet. I ask my colleagues to join me today in recognizing the admirable personal and professional accomplishments of Mr. Wilson Rogers.

A TRIBUTE TO BOB GRIFFITTS

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. DUNCAN. Mr. Speaker, I want to pay tribute to a great American, my friend, Bob Griffitts. Bob turns 50 today, and in some ways, I am sure that he does not want a lot of attention called toward this occasion.

Bob has never been one to seek attention or publicity or credit at any time. But this should be a special day in his life, and he deserves a lot more credit and praise than he ever receives.

Bob Griffitts is my district director and longtime closest personal friend. He spends his days quietly helping the constituents of the second district and over the last 8½ years has helped thousands in ways big and small. He works nights, weekends, and holidays and never really leaves the job behind. People would be shocked if they followed him around for a few weeks and saw how many hours he puts in.

Bob serves the people of east Tennessee at a personal financial sacrifice. Before taking his present job, he was a very successful realtor and appraiser.

He handled many commercial real estate deals for groups of doctors and other investors. He had many leading companies as clients of his appraisal business.

Throughout his career, both in business and politics, he has always inspired a great feeling of trust and confidence in all those with whom he has dealt.

There is not a dishonest or unethical bone in Bob Griffitts' body.

Always giving of himself to others, Bob has almost never asked anything for himself.

He has served this Nation well, through our great free enterprise system, in government, and through two other very important ways as well.

First, while he almost never mentions it and no, very few people know it, Bob is a veteran of the frontlines of some of the toughest fighting which went on in Vietnam.

He was and is a courageous, patriotic man who deeply loves this country.

Hardened in numerous wartime battles, he is the kind of man you want beside you when times get tough.

He would be embarrassed to be described in this manner, but to me he is a true American hero.

Secondly, and most important of all, he is a devoted family man.

He has had a long and happy marriage to his wife, Barbara, and his loyalty and friendship to me is without question a distant second to his love for and devotion to her.

There is, though another woman in Bob's life, and no man has ever loved a daughter more than Bob loves his Deena.

Deena has grown into a beautiful young woman, a recent graduate of the University of Tennessee and now getting off to a great start in a career with one of Knoxville's most respected insurance firms.

Deena has never let her dad down and has made him a proud and happy father for many years.

To sum up, Mr. Speaker, Bob Griffitts is the kind of man who has made this country great. He is not rich or famous, but he is well-known and greatly respected in his beloved east Tennessee.

He deserves very much to be considered as one of our Nation's finest citizens.

On this special milestone in his life, I would like say happy birthday and best wishes for many, many more.

I could never repay Bob for all he has done for me, or thank him nearly enough. But I will close by saying that I am very proud to call him my friend.

THE TAXPAYER BROWSING PROTECTION ACT

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. COYNE. Mr. Speaker, I am pleased to cosponsor, along with my Democratic and Republican colleagues, a bill titled the "Taxpayer Browsing Protection Act." As the ranking member of the Ways and Means Committee Oversight Subcommittee, I have worked with the IRS Commissioner and the other subcommittee members in support of the legislation being introduced today.

Most recently, the IRS Commissioner wrote me and renewed her request that legislation be introduced to clarify the criminal sanctions for unauthorized access to or inspection of tax information, referred to as browsing, by IRS employees. A copy of the Commissioner's March 10, 1997, letter follows my statement and is included in the RECORD.

Importantly, this bill would prohibit unauthorized review of tax information, retained by the IRS in both paper and electronic form. Violators would be subject to significant criminal sanctions, including monetary fines and imprisonment, and dismissal from IRS employment.

This legislation will significantly enhance the IRS's current zero tolerance policy for illegal browsing of tax information. The public will benefit from this legislation knowing that their tax records are only inspected by IRS employees who need the information as part of their job responsibility. Also, all the hardworking and committed IRS employees nationwide will benefit from this legislation knowing that a bad apple hired by the IRS will be quickly removed from the agency and punished under the law.

I look forward to working with the members of the Committee on Ways and Means, on a bipartisan basis, to approve this legislation and to bring the bill to the House floor in a timely manner.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, March 10, 1997.

Hon. WILLIAM J. COYNE,
Subcommittee on Oversight, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. COYNE: I wanted to let you know about a case that was recently decided by the United States Court of Appeals for the First Circuit, *United States* v. *Czubinski*, No. 96–1317, 1997 U.S. App. LEXIS 3077 (1st Cir. February 21, 1977) and to request your support for legislation to clarify the criminal sanctions in the Internal Revenue Code for the unauthorized access of taxpayers' accounts by Internal Revenue Service employees.

Since becoming Commissioner, I have repeatedly stated that the IRS will not tolerate violations by employees of the rules against unauthorized access. The Service's zero tolerance policy prohibits any employee access to (and use of) tax information, except to the extent necessary for an employee to perform assigned duties.

In the *Czubinski* case, the First Circuit reversed the conviction of a former IRS employee for improperly accessing taxpayer information in the IRS database. That person had been indicted and convicted of several counts of violating 18 USC §§1343 and 1346 (wire fraud) and 18 USC §1030(a)(4) (computer fraud). In reversing the conviction, the court stated that "unauthorized browsing of taxpayer files, although certainly inappropriate conduct, cannot, without more, sustain [a] federal felony conviction [under 18 USC §§1343, 1346 and 1030(a)(4)]."

This decision and a 1996 acquittal, by a Memphis, Tennessee jury of another former IRS employee who had been indicted for improper access of taxpayer accounts under 26 USC §7213 (Unlawful Disclosure of Tax Return Information), *United States* v. *Patterson*, Cr. No. 96-20002 (W.D. Tenn. April 10, 1996), are very troubling and make it more difficult for the Service to appropriately discipline employees who violate our policy against unauthorized access.

In the past several years, the IRS has taken a number of steps to ensure that unauthorized access of taxpayer information by IRS employees does not occur. For example, each time an employee logs onto the taxpayer account database, a statement warns of possible prosecution for unauthorized use of the system. All new users receive training on privacy and security of tax information before they are entitled to access the Integrated Data Retrieval System (IDRS). The Service has also installed automated detection programs that monitor employees' actions and accesses to taxpayers' accounts, identify patterns of use, and alert managers to potential misuse. Employees are disciplined according to a Guide for Penalty Determinations that includes dismissal. In the *Czubinski* opinion, the court noted that "the IRS rules plainly stated that employees with passwords and access codes were not permitted to access files on IDRS [the database] outside of the course of their official duties."

In addition to the internal actions, the IRS has recommended and supported legislative efforts to amend the Internal Revenue Code and Title 18 to clarify the criminal sanctions for unauthorized computer access to taxpayer information. A recent amendment to 18 USC §1030(a)(2)(B) by the Economic Espionage Act of 1996, Pub. L. No. 104-294, 110 Stat. 3488 (1996), provides criminal misdemeanor penalties for anyone who intentionally accesses a computer without authorization or who exceeds authorized access and thereby obtains information, including tax information, from any department or agency of the United States. I have been advised by counsel that had this amendment been in effect and applicable to the *Czubinski* and *Patterson* cases, the government very likely would not have lost those cases.

Although the recent amendment to 18 USC §1030(a)(2)(B) will hopefully serve as a significant deterrent to unauthorized computer access of taxpayer information, this statute only applies to unauthorized access of computer records. It does not apply to unauthorized access or inspection of paper tax returns and related tax information. Legislation such as S. 670, introduced in the 104th Congress, would achieve that result. By clarifying the criminal sanctions for unauthorized access or inspection of tax information in section 7213 of the Internal Revenue Code, whether that information is in computer or paper format, the entire confidentiality scheme respecting tax information and related enforcement mechanisms would be appropriately found in the Internal Revenue Code.

An amendment to section 7213 such as was proposed in the 104th Congress would serve important tax administration objectives. (Of course, as is currently the case under section 7213 for convictions resulting from the disclosure of tax information to unauthorized third parties, a conviction of federal officers and employees for the unauthorized access or inspection of tax information would, in addition to imprisonment and fine, continue to result in dismissal from office or discharge from employment.)

We would like to work with you and your staff to assure that improper access can be dealt with appropriately.

Sincerely,

MARGARET MILNER RICHARDSON.

JERRY PACHT, IN MEMORIAM

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Ms. HARMAN. Mr. Speaker, every Member here has a story about the beginning of his or her interest in politics. Mine begins with an extraordinary pixie of a man named Jerry Pacht, who died last week in Los Angeles at age 75.

Before embarking on a distinguished career on the Los Angeles Municipal Court followed by decades on the L.A. County Superior Court, Jerry ran for Congress, twice. His campaigns were high principle and low budget, and he recruited and excited a large band of volunteers.

I was a high school student in 1960, the first year Jerry ran, and led what he called the kiddie brigade. Our colleague, HOWARD BERMAN, then president of the UCLA Young Democrats, played a far more senior role in the campaign.

I learned a lot. My role was confined in substantial part to stuffing envelopes and mimeographing materials, but I saw how valuable those tasks were. In the days before television ads, communication of Jerry's message and his passion depended on people like me. Even in these slicker and more cynical times, the hub of campaigns still is centered on volunteers. Without them, candidates don't win.

Of course it matters what the message is, and whether the messenger is credible. Though Jerry's runs for office may not have persuaded a majority of the voters, the qualities in him that excited me and others were on full display during his long and successful judicial career that followed.

Son of a judge, Jerry's interest in a judicial career became known to Gov. Pat Brown who appointed him to the local bench in 1965 and promoted him a year later.

He was a beloved figure—always insisting that the law be fairly applied, even if the cause it benefited was unpopular. No one ever accused Judge Pacht of any motive other than serving the public. In a press interview, he once said: "I am not into making money. I always wanted to make some kind of mark, to change my society, do something to make it run better * * *." He surely achieved his goal.

In his obituary in the Los Angeles Times, I learned that Jerry had visions of becoming a singer, and was delighted to be asked to sing the national anthem at a Dodger game. Jerry, I heard your song. I still do. I always will. My interest in politics goes back to my early experience on your campaign. It goes forward with your melody in my head.

Godspeed.

TRIBUTE TO MARJORY STONEMAN DOUGLAS

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. DEUTSCH. Mr. Speaker, I rise to recognize the contributions of Marjory Stoneman Douglas—an American hero who turned 107 years old yesterday. Mrs. Douglas is one of the mightiest protagonists of the Florida Everglades who led the first efforts to raise public awareness of Florida's River of Grass.

In 1947, Mrs. Douglas wrote her landmark book on Florida's largest wetlands ecosystem "The Everglades: River of Grass." This pioneering work was the first to highlight the plight of the everglades and ultimately served to awaken public interest in restoring its health. Still going strong in her 107th year, Mrs. Douglas has dedicated her life to the defense of the Everglades through her extraordinary personal effort and by inspiring countless others to take action. Recognizing these accomplishments, President Clinton awarded her the Medal of Freedom in 1994, the Nation's highest civilian award.

Mr. Speaker, I have introduced legislation which honors Mrs. Douglas' legacy by creating the Marjory Stoneman Douglas Wilderness in Everglades National Park. The Marjory Stoneman Douglas Wilderness will serve as a permanent and natural monument to the American hero who helped save North America's greatest wetland ecosystem. This year, as we commemorate the 50th anniversary of the park and the first publishing of "The Everglades: River of Grass," I believe it is fitting that we permanently honor Mrs. Douglas' legacy through this legislation.

THE HOPE AND OPPORTUNITY ACT OF 1997

HON. WILLIAM CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 8, 1997

Mr. CLAY. Mr. Speaker, I am pleased to introduce the Hope and Opportunity Act of 1997 proposed by President Clinton. The bill creates a Hope scholarship tax credit of up to $1,500 per student for tuition and fees in the student's first year, and another $1,500 in the second year if the student earns at least a B average. The credit will help 4.2 million students next year and will save families $18.6 billion over 5 years. The HOPE scholarship is designed to make the first 2 years of college as universal as a high school degree.

The act includes a tax deduction up to $10,000—$5,000 maximum in 1997 and 1998—for tuition and fees paid for undergraduate and graduate education, or job training or retraining. The deduction would be "above the line" so it is available even if the taxpayer does not itemize. Some 8 million Americans would benefit from this deduction next year, and it will save families $17.5 billion over 5 years.

The act increases the maximum Pell grant from $2,700 to $3,000, which would be the largest increase in Pell grants in 20 years. Also, some 218,000 older students would become newly eligible for Pell grants by increasing the Pell grant living allowance.

I commend President Clinton for including a Pell grant increase in the bill; however, I think it is critical to demonstrate an even greater commitment to helping low-income families obtain educational opportunities. I propose that Pell grants spending be made mandatory for the next 5 years, with a commitment to restore the maximum Pell grant to its full value by 2002 and will introduce my own bill to do that shortly.

The President's bill cuts student fees in half for 4 million low- and middle-income students, saving them $2.6 billion over 5 years. It also reduces the in-school interest rate for 2 million students, saving them an additional $1 billion.

The bill extends section 127 of the Internal Revenue Code through December 31, 2000, and reinstates the application of that section to graduate students. The provision, scheduled to expire this year, excludes employer paid educational assistance from an employee's gross income and wages. The bill also creates a tax credit for employer provided educational assistance, and provides income exclusion for student loan forgiveness.

The act proposes a number of measures that will level the playing field between the Direct Lending and Federal Family Education Loan [FFEL] programs so they can fairly compete and operate efficiently. It recalls $2.5 billion of Federal moneys currently held in reserve by student loan guaranty agencies by clarifying that the Department of Education is the ultimate insurer of all FFEL guarantees. The bill also standardizes repayment plans for the Department of Education loan programs, and increases the percentage lenders and guaranty agencies must bear for student loan defaults.

Unlike proposals made by Republicans who want to give tax breaks to the wealthy, the Hope and Opportunity Act of 1997 gives tax relief to middle-class families struggling to pay for college. It is critical to ensure that middle- and low-income students not face insurmountable barriers to higher education. I believe we should move the President's higher education plan to the top of our legislative agenda.

HOUSE OF REPRESENTATIVES—*Wednesday, April 9, 1997*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. GUTKNECHT].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

> WASHINGTON, DC,
> *April 9, 1997.*
>
> I hereby designate the Honorable GIL GUTKNECHT to act as Speaker pro tempore on this day.
>
> NEWT GINGRICH,
> *Speaker of the House of Representatives.*

PRAYER

The Reverend Dr. Jerry L. Spencer, Ridgecrest Baptist Church, Dothan, AL, offered the following prayer:

Our kind and all powerful God, Thou Who are art sovereign over Thine own created universe, we thank You for being available to us and to every person in the vast human family.

We greet You this morning with great anticipation for Thy brilliant presence. In humility and awe we come before You with confidence in Your love for us and Your never-ending desire to meet us at the point of our daily needs. We pray specifically for each Representative, their family, and their staff.

Great God, because we are always learning and becoming, would You please convict us when we fail ethically or morally or spiritually. Grant us repentance, and give us wisdom and discernment and courage.

We thank You for the challenges and the opportunities of this new day. We receive this day as a personal gift from You. You not only made this day for us but You made us for this day. This is the first day of the rest of our life. It could be the last day of our life. So, God, make it the best day of our life. Hallelujah, the Lord God omnipotent reigneth. Let us rejoice and be glad as we assume our responsibilities and diligently discharge our duties.

Praise the Messiah, Thy beloved Son, the Lord Jesus Christ. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from North Carolina [Mr. JONES] come forward and lead the House in the Pledge of Allegiance.

Mr. JONES led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. McDevitt, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

> H.R. 412. An act to approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District.

THE REVEREND DR. JERRY L. SPENCER

(Mr. EVERETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVERETT. Mr. Speaker, I rise this morning to welcome to this body a good friend and distinguished clergyman from my congressional district. Dr. Jerry Spencer, pastor of Ridgecrest Baptist Church of Dothan, AL, is well known throughout the South for his dedication to God and for his active evangelism, which has taken him to such farflung places as Russia and India.

A native of Tennessee, a graduate of the University of Tennessee and the world's largest seminary, the Southwestern Baptist Theological Seminary in Fort Worth, TX, Dr. Spencer has pastored for the past 40 years while ministering in over 30 countries.

Dr. Spencer has recorded four albums, authored numerous books, and has penned articles appearing in many popular Christian periodicals. Furthermore, he is the past president of the National Conference of Southern Baptists and a current member of the executive board of the Southern Baptist Convention.

Since 1988, he has made Dothan, AL, his home, where he is a senior pastor of the nearly 3,000-member Ridgecrest Baptist Church, one of the South's fastest growing churches.

Mr. Speaker, it is my great honor to welcome my friend, Jerry Spencer, to the U.S. House of Representatives, and I join the entire House in thanking him for offering this morning's prayer for this esteemed body.

DO SOMETHING, CONGRESS

(Mr. MCGOVERN asked and was given permission to address the House for 1 minute.)

Mr. MCGOVERN. Mr. Speaker, at the beginning of this Congress we pledged to work together on issues that matter most to the American people. The Republican majority promised to work in a bipartisan way to improve the quality of life for working families everywhere.

Well, it is nearly 100 days later and what have the Republicans put forward? Have they tried to make college education more affordable? No, they have done nothing. Have they moved to guarantee health care for all children? No, they have done nothing. Have they tried to make pensions more portable and more secure? No, they have done nothing. Have they offered a plan for real campaign finance reform? No, Mr. Speaker, they have done nothing.

Democrats have a real agenda, and we have a message for the Republican leadership: Either lead, follow, or get out of the way.

Mr. Speaker, the 105th Congress does not have to be a do nothing Congress. Let us move forward on education and health care and pension security and real campaign finance reform. We can be the do something Congress, but we have got to start actually doing something, and we have got to start doing something today.

WE NEED A TAX SYSTEM WHICH IS FAIR AND SIMPLE

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, I have a problem, and my problem is I cannot decide which foolish, counterproductive, unfair tax I hate the most. I do not like the capital gains tax because it hurts economic growth and it kills job creation. I do not like the death tax because it takes one's life work, the fruit of a lifetime of labor and tells the grieving, "Pay up now, and if you can't afford to, I'm closing

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

up the family business." I do not like business taxes because it takes the taxes twice, and like the capital gains tax, it means fewer jobs for the people who need them most.

But perhaps the most odious, offensive and outrageously unfair part of the Tax Code is the personal income tax. The burden is too heavy, the loopholes are too pervasive, and the complexity is simply overwhelming.

When we look at the set of volumes that compromise the Federal Tax Code, 36,000 pages at last count, we cannot help but think who designed this thing? It is time to get a grip, junk the Tax Code, start all over, cut tax rates and pass a tax system which is both simple and fair.

HOW DUMB CAN WE BE?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, America's building a new war machine that promises to be the mother of all mayhem, an awesome Air Force and Navy and the greatest land army ever in world history. And America is bankrolling this Goliath in China. That is right, in China, despite the fact that China is a brutal dictatorship that has already threatened to nuke their neighbors.

Now, Mr. Speaker, I say to the Congress, "If that's not enough to freeze dry your stir fry, check this out."

While China now sells Barbie and GI Joe to our kids, General Cho is stocking our assets.

Beam me up, Mr. Speaker. Hard-earned dollars by American workers building the next national security threat to the United States of America; how dumb can we be? How dumb?

The bottom line: Chinese toys today, but maybe just maybe a Chinese missile tomorrow. Think about it.

SUPPORT H.R. 15, THE MEDICARE PREVENTIVE BENEFITS IMPROVEMENT ACT

(Mr. BILIRAKIS asked and was given permission to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, I rise today to urge my colleagues to support H.R. 15, the Medicare Preventive Benefits Improvement Act. This legislation will ensure that important, sometimes even lifesaving, preventive benefits will be covered by the Medicare program.

The debate over the future of health care is one of the most critical issues we face as we approach the next century. H.R. 15 helps to address this important matter by providing preventive health benefits to seniors. It guarantees Medicare coverage for some of the most critical preventive screening tests available. These tests include mammographies for women 50 and over, pap smears, colon cancer screening, prostate screening and diabetes self-management supplies.

As we move forward with budget negotiations we need to realize that there are issues that have bipartisan support. Many are included in H.R. 15, which currently has 79 cosponsors both Democrat and Republican.

Mr. Speaker, we must act now and pass this preventive health bill. It is good legislative policy and, most importantly, it will save lives.

CONGRESS IN PERMANENT STALL

(Ms. HOOLEY of Oregon asked and was given permission to revise and extend her remarks.)

Ms. HOOLEY of Oregon. Mr. Speaker, we are very frustrated by the slow start of this Congress. Even though we are about to pass the 100-day marker, this Congress is still stuck at the starting gate. To date we have only taken 60 votes compared to 2 years ago where we took 302 votes.

I would like to think that this Congress is sort of like an old car that is just taking a little while to get warmed up, but the troubling thing about this session is we seem to be in a permanent stall. We are not working on issues that matter to American families now, and there is no plan to work on them in the future.

The real tragedy is that these are issues both Democrats, Republicans and the Americans would like to work on, issues like reforming campaign finance, balancing our budget and improving our schools. We are not just working on them now, but they are not scheduled for the future.

Mr. Speaker, it is time for this Congress to abandon the "who cares" legislative agenda that has dominated the first 100 days of this Congress and get to work on the issues that really matter to the American people.

JUDGES ABUSING THEIR POWER

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, there has been a lot of talk lately about Federal judges abusing their power. Federal judges have been ignoring the will of the people by overturning elections and legislating from the bench.

Judge Thelton Henderson did just that last year when he disregarded the will of 5 million California voters. He issued an injunction prohibiting the enactment of California's Proposition 209, which passed with 54 percent of the vote in November of 1994. Yesterday a 3-judge appeals panel voted 3–0 to overturn Henderson's ruling and allow the enactment of Proposition 209.

The panel said, and I quote, "A system which permits one judge to block with the stroke of a pen what over four million State residents voted to enact as law tests the integrity of our constitutional democracy."

I agree and applaud an all-America panel, 3-judge panel, for having the integrity to remind colleagues that they are there to interpret the law and not create it.

WHERE IS THE LEADERSHIP?

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, 4 years ago the Democrats were doing the heavy lifting to help hard-working families. The Family and Medical Leave Act, to help working parents, was law by February. The Motor-Voter Act, to bring more Americans into the democratic process, was law by May.

But now what are we doing? Nothing. We are not meeting, we are not working, we are not voting.

There is no excuse. There is work to be done. Too many of our young people cannot afford a college education. Too many children are dropping out of school. Ten million kids have no health insurance. In fact, while this Congress has done nothing, more than 300,000 children lost their health insurance.

Mr. Speaker, show us a bill on education, show us a bill on children health, show us a bill on campaign finance.

Where is the leadership? Where is the action? Where is the vision? Where is the beef? It is time to act, it is time to lead.

CAMPAIGN FINANCING

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, if my colleagues think the last campaign was too long, too costly and too negative, they ought to be mad. The AFL-CIO started negative political ads in Wichita, KS, last week, 19 months before the next election. Misleading false messages in the form of TV commercials are corrosive to our system of self government.

□ 1115

Here in America, the people govern. But how can they make good decisions when the information they get on television is false and misleading.

Most Americans believe that we ought to have time to govern, to represent the people, but when false campaign ads start 5 months after the last election, so does the next campaign. It is time for campaign reform, it is time for the AFL–CIO to be restricted to separate voluntary contributions, not the taking of dues without the consent of their Members.

PUT FACES ON DIVERSITY AND CHILDREN'S HEALTH CARE

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is important this morning to put the face on several things that have occurred in this country that I think give us both a negative image and reputation, the face on Hopwood and the overturning of the very appropriate decision by the district court was to find 40 to 50 percent decline in minority students going to our institutions of higher learning across this Nation. The district court was right, the circuit court is wrong. We need opportunity and diversity in this country.

Then on the health care issue dealing with our children, let us put a face on health care for our children. Ten million children uninsured, an 11-year-old with asthma not being able to get health insurance. Seventy percent of those are working families making less than $500 a week, making $17,000 to $29,000 a year, working hard every day and not being able to insure their children, not being able to let children play in Little League or cheerleaders because they are fearful that they will get some sort of deadly illness that the working parent cannot pay for.

This is a crime and a crisis. Put the faces on diversity, put the faces on children's health insurance. Let us do something positive in this Congress. Let us applaud and affirm diversity and let us make sure our children are insured.

IT IS TIME TO CUT TAXES

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, on February 13, 1913, a day that will live in infamy, the 16th amendment to the Constitution was ratified.

Twelve words, Mr. Speaker, just 12 words was all it took to give the politicians in Washington a permanent hand in the pocket of every working person in America. "The Congress shall have the power to lay and collect taxes on incomes." The rest, Mr. Speaker, is history.

Who could have guessed that those 12 words would lead to our present state of affairs where the average family pays more in taxes than it pays for clothing, housing, and food combined.

Mr. Speaker, that is not right. This is about fairness. It is not fair that the family living from paycheck to paycheck struggles to make ends meet. It is not fair that taxpayers should have to send over one-third of their income to the politicians in Washington.

Mr. Speaker, taxes are too high. It is time to cut taxes for the American people.

WASHINGTON TO WORK

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, as an advocate of the Welfare To Work initiative last year, I come forward to propose a sequel this year: Washington To Work. How about it? How about this House getting to work the way they said they wanted the welfare folks to go to work last year. Mr. Speaker, the work ethic seems to be in full blown retreat here in Washington.

I spent some time preparing this comprehensive list of all of the accomplishments of this Gingrich Congress. Here they are, and there is room for a little more on this blank chart, because there are millions of children who have no health insurance; there are millions of young people who want the chance to pursue a college education.

There are those of us who want the budget balanced with true balance, who want to reform the campaign finance system, and yet in this leaderless, aimless Gingrich House, this is the comprehensive list of accomplishments. It is time to apply the same work ethic to this House that our Republican colleagues and some of us on the Democratic side sought to apply to the welfare system last year.

COSTLY EPA REGULATIONS WILL HARM AMERICAN PEOPLE

(Mr. NEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEY. Mr. Speaker, I will tell my colleagues somebody that is working in overdrive is the head of the U.S. EPA. Unfortunately, it is not working for us. She is making a policy decision that will directly affect the lives of millions of working families, all without basing them on sound science and in-depth research into the effects of these regulations on working people in our country. We cannot let this happen.

Therefore, I am hosting a statewide conference in Columbus, OH, on Monday, April 14. The purpose is to fight the new irrational air proposals by the U.S. EPA. I will be joined by the Governor of the State; the head of the Ohio EPA, Don Schregardus; George Wolff, who is head of the U.S. EPA's Clean Air Scientific Advisory Committee; and members of the Ohio legislature. The purpose: To tell the truth about these costly environmental regulations that will do great harm to America's working families, without any health care benefits.

This is a bipartisan conference supported by Republicans and Democrats all over Ohio who are concerned about the punitive, callous, mean-spirited actions of EPA Administrator Carol Browner directed at the people least able to pay, our working families; we have to stop this now.

LET US WORK IN THE 105TH CONGRESS

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, the first 100 days are supposed to set the standard for the session ahead. I hope this is not the case with this Congress, which has been plagued with delays on everything, not the least of which is the budget.

The Republican leadership has pushed back deadlines for voting for budget proposals, and now we hear it will be the summertime before we can expect to discuss the budget.

While the President submitted a budget more than 2 months ago, we still have yet to see an alternative budget from the Republicans. While we have fielded criticism on the President's budget, we cannot fight fire with fire because we have nothing to add to the numbers to compare the President's budget to what we have, which is nothing, so we have to move.

Similarly, we continue to waste time by not addressing the health care crisis for America's children. At the end of March a Families USA study told us that 2 million people were uninsured for at least 1 month in 1995 and 1996; 10 million children were uninsured for the entire year of 1995. We need to address this issue and other issues that affect our country.

Senators KENNEDY and HATCH have worked together in a bipartisan manner on a children's health care plan. Maybe we need to follow their lead and do something for children's health care in this House. Lead, follow, or get out of the way.

WE MUST CUT TAXES

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute.)

Mr. HUTCHINSON. Mr. Speaker, I speak out today to express the frustration that millions of hard-working Americans feel about a government that promises tax cuts but fails to deliver.

I remember the promises made time and time again during campaigns about tax breaks for middle-income Americans. We have promises that we must keep. Is it any wonder that so many Americans feel alienated from a government that takes almost one-third, and sometimes more, of taxes from the average family's earnings.

Mr. Speaker, who will speak for the common man? The person who does not belong to any special interest, who is not part of a PAC or a powerful lobby, who speaks for him? Mr. Speaker, who will speak for that single mother who works a second job at night to make ends meet or on weekends just to pay the taxes that are owed to Uncle Sam. Who speaks for her? We must cut taxes, Mr. Speaker. We have promises to keep. Those who feel they have no voice deserve to have their taxes cut.

CONGRESS MUST ATTEND TO PRIVACY ISSUES OF OUR CITIZENS

(Mr. KANJORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KANJORSKI. Mr. Speaker, the newspapers are replete this week with IRS browsing of confidential information of American taxpayers' earnings. Recently, we read that Social Security is trying to outdo the IRS by putting on the Internet individual Americans' total lifetime earning records and making it easily accessible. Putting lifetime earning records of American citizens on the Internet is not user friendly, but abuser friendly.

Mr. Speaker, I am preparing to introduce on April 15 a piece of legislation that will inhibit the Social Security Administration from carrying on this process and establish a commission to study what confidential information should be put on the records held by the Government, so that abusers cannot invade the privacy of American citizens.

Imagine, anyone today can put a name, a Social Security number, a date of birth of that individual, the place of birth of that individual, and the mother's maiden name of that individual and get the information of lifetime earning records of that individual. That is abusive. This Congress must attend to the work of the privacy of American citizens. I urge my colleagues to join me in this legislation.

A SALUTE TO NICK ACKERMAN

(Mr. GANSKE asked and was given permission to address the House for 1 minute.)

Mr. GANSKE. Mr. Speaker, Nick Ackerman, of Colfax-Mingo, IA, lost to Clint Jones, of Bondurant-Farrar to place sixth during the recent Iowa State high school wrestling tournament. What is remarkable about this is that Nick's lower legs were amputated just below the knees when he was 1½ years old in order to stem an infection threatening his life.

Nick has always thought that he was normal: "I used to break the legs off my GI Joes to make them look like me." Years ago Nick corrected a school nurse who was explaining to his friends that Nick had a disability by telling her that he had a special ability. "I can take my legs off and nobody else in school can." As Vince Lombardi said, "it is not whether you get knocked down, it is whether you get up."

Nick may not have won a State championship in wrestling, but for those of us who watched him compete from his knees, he is a real winner. I and my colleagues in the U.S. House of Representatives salute his spirit.

THE 105TH CONGRESS SHOULD MOVE FORWARD

(Mr. WEYGAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEYGAND. Mr. Speaker, I bring to my colleagues today greetings from the Republican molasses of the 105th Congress. The last 2 weeks we have been on recess, but I understand both the CBO and OMB in Washington have been working to analyze the difference between this jar of molasses and the rate by which this Congress has been working. I am here to report that even though CBO scored it a little bit more conservatively,. both CBO and OMB agree: molasses beat out the 105th Congress in terms of the work they are doing for American families.

It is critical for us to understand that if we are to move forward on the issues of education for our kids, health care for the low and middle income, protecting our seniors, working for jobs and reducing taxes, we have to move forward. Quite frankly, Mr. Speaker, we have not been. We are like the jar of molasses moving ever so slowly, never seeming to accomplish anything.

I urge my colleagues, particularly the Republican leadership, to let us put the agenda on the table. We as Democrats recognize we do not have the majority, but at least let us vote on the issues and move forward with America's agenda.

BIG GOVERNMENT IS NOT THE ANSWER

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, I am really disturbed about these Democrats. Apparently they are taking their paychecks and they are not working. What is it with my colleagues? My friends on the other side of the aisle all should be out having town meetings, visiting with constituents, visiting plants, talking to people, doing casework. If my colleagues are ashamed of the fact that they are not working, do not blame it on NEWT GINGRICH, go home and resign.

There is lots to be done. I realize that there is frustration that we are not up here passing more laws, more power, more for bureaucracy, more control over small businesses. I know what it is my colleagues on the other side of the aisle consider great fun, and that is growing the size of government. Mr. Speaker, the folks back home think it is a good day's work when government does not get bigger and bigger every single day, every single year.

Mr. Speaker, the IRS, just take them alone. The IRS right now is up to 111,000 employees. Americans spend over $1.8 billion man-hours a year just filling out their IRS income tax forms. Businesses spend $3.6 billion complying with their paperwork. That is too much government, too much bureaucracy.

Mr. Speaker, passing more laws and increasing the size of government is not the key to utopia, much to the disappointment of some of our colleagues on the other side of the aisle.

□ 1130

THE REPUBLICAN MAJORITY DO-NOTHING CONGRESS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, I just want to let the gentleman know that it costs the Federal Government $288,000 a week to cart Members back from their districts, across this country, to bring us here to do nothing because the Republican majority of this House has no agenda; Mr. Speaker, $288,000 a week. Think about what working middle-class families in this country would be able to reap the benefit of if they had that kind of money.

Earlier this week, the Washington Post labeled this Gingrich Congress the do-nothing Congress. It is true. This Congress has spent the last 3 months doing a whole lot of nothing. My colleagues on the other side of the aisle have refused to produce a budget, refused to hold hearings on campaign finance reform, refused to schedule action on kids' health care, and refused to schedule a vote on any of the Democratic education initiatives: how to get kids to school and have working families be able to afford that.

The Republican majority would like to continue to do nothing. So be it. But get out of the way so others can talk about an agenda that helps working families in this country.

THE AMERICAN PEOPLE WANT LOWER TAXES AND LESS INTRUSION FROM WASHINGTON

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, I have discovered something very upsetting in the information; upsetting, that is, to the media and the elite who want to run our lives. Mr. Speaker, it turns out that the American people do want tax relief. The latest USA Today CNN Gallup poll shows that 70 percent of Americans want a tax cut in any budget agreement this year. Seventy percent. Furthermore, a majority, 52 percent, say tax cuts and deficit reduction can be accomplished at the same time.

Maybe the White House will find a way to spin these facts to mean the opposite of what they say. Maybe they think the American people are just kidding. Maybe they think the American people did not actually mean to elect a Republican Congress that ran on a promise of tax cuts and tax reforms.

On the other hand, maybe they should just accept the truth: The American people support lower taxes, smaller government, and less intrusion from Washington.

URGING COSPONSORSHIP OF H.R. 14, THE CAPITAL GAINS TAX CUT MEASURE

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I am very happy to inform the House that we now have over 114 cosponsors on the most important family tax cut measure that we could possibly consider. What is that family tax cut measure? It is the bill, H.R. 14, to take the top rate on capital gains from 28 percent to 14 percent.

I call it the most important family tax cut measure, Mr. Speaker, because this will in fact, based on two studies that have been conducted, increase the take-home wages of the average American family by $1,500.

The argument we have heard in years past is that a capital gains tax rate reduction is nothing but a tax cut for the rich. Nothing could be further from the truth. We need to bring this about. It not only will increase take-home wages, it will help us in our effort to decrease the deficit and deal with our national debt problem.

Mr. Speaker, I urge my colleagues if they have not already joined in the cosponsorship of my measure, which includes my colleague, the gentlewoman from Missouri, KAREN MCCARTHY, the gentleman from Virginia, Mr. MORAN, the gentleman from Florida, and several other people who are involved in this in a bipartisan way, I urge Members to cosponsor it.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES ON WEDNESDAY, APRIL 9, 1997, OR THURSDAY, APRIL 10, 1997

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 107 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 107

Resolved, That it shall be in order at any time on Wednesday, April 9, 1997, or on Thursday, April 10, 1997, for the Speaker to entertain motions that the House suspend the rules. The Speaker or his designee shall consult with the minority leader or his designee on the designation of any matter for consideration pursuant to this resolution.

The SPEAKER pro tempore (Mr. GUTKNECHT). The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my very good friend, the gentlewoman from Fairport, NY [Ms. SLAUGHTER] and pending that, I yield myself such time as I may consume. All time that I am yielding is for debate purposes only.

Mr. Speaker, this rule makes in order at any time on Wednesday, April 9, 1997, or on Thursday, April 10, 1997, today and tomorrow, for the Speaker to entertain motions that the House suspend the rules. The rule further requires the Speaker or his designee to consult with the minority leader or his designee on the designation of any matter for consideration pursuant to the rule.

Mr. Speaker, as my colleagues are aware, clause 1 of House rule 27 allows the Speaker to entertain motions to suspend the rules on Mondays and Tuesdays. The majority attempted to work with the minority to reach a unanimous-consent agreement to allow suspensions today and tomorrow. However, there was, unfortunately, an objection to that request. Absent a unanimous-consent agreement, a rule is necessary to allow suspensions on these days.

Mr. Speaker, this is a totally noncontroversial rule. As many Members on both sides of the aisle have said over the 1-minute period this morning, they want to see us begin moving ahead with our work. We want to do that. We want to take up these measures that could be considered under suspension of the rules.

Mr. Speaker, this rule itself is noncontroversial. It requires consultation with the minority, so I hope very much that we can move as expeditiously as possible to pass this.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge my colleagues to defeat this rule and the previous question. The rule under consideration serves no purpose, other than to allow the majority to require the Members of the body to return to the floor of this House day after day, all week long, to vote on measures which are noncontroversial and undeserving of an entire week's debate, particularly when so many more valuable and worthwhile bills languish unattended.

I can understand why the majority needs this rule, because it is a fig leaf. They are hoping if it passes they will have coverage they need to conceal the utter lack of any legislative agenda so they can drag out the consideration of a few minor bills and make this look like a work week. This rule is downright disrespectful, not just to the time of the honorable Members of the body, but to the voters we represent and their tax dollars.

It costs the taxpayers of this country $288,000 to bring all of us back to Washington this week, and for what? In the 105th Congress, we have worked less than 4 weeks' work, that is about a week a month, we are 4 months into this session, and that, considering the work week of the average American, is pretty disrespectful to them.

I am only one Member of this body, and a member of the minority at that, but I have a better agenda myself than the leadership of the House does. For example, one of the top priorities of the American people is campaign finance reform. Where is the leadership on this issue? They do not have a bill, but I do.

Last week the Federal Communications Commission voted out a rule that gives the new digital spectrum licenses available to broadcast stations. It has been widely suggested by such leaders as Senators MCCAIN and FEINGOLD, journalists like Walter Cronkite and David Broder, industry leaders like Rupert Murdoch and Barry Diller, and none other than President Clinton, that in exchange for the new spectrum rights the broadcasters should be required to provide free television time to political candidates.

Coincidentally, I have a bill, the Fairness in Political Advertising Act, that would condition station licensing on making available free broadcast time for political advertising.

My bill also includes a requirement that candidates who accept free time must use that time themselves speaking directly into the camera, and I believe it makes them directly accountable for the statements that are made in their campaigns. I hope it will cut down on the negative campaigning that has become the norm.

I challenge any of my colleagues to tell me why my bill continues to languish in the committee while we have no business on the floor and we could be considering legislation. The fundraising scandals currently splashed across the Nation's newspapers have forced campaign finance reform to the top of the political agenda, but we have no action here. It is a shame that we are missing this opportunity to enact worthwhile and viable reform, particularly on such an important and timely issue.

On another front, we are fast approaching the anniversary of the Oklahoma City bombing, but 2 years later domestic terrorism thrives. Criminal bombings have doubled since 1988. We have a duty in Congress to keep explosive materials out of the wrong hands. I have a bill that would do just that. It would require Federal permits for all explosive purchases, mandate a nationwide background check for these permits. It would increase penalties for those who violate the Federal explosive law. We cannot afford not to pass this legislation as we approach this tragic anniversary, but it languishes out there somewhere while we do nothing.

Another pressing issue that Congress should be considering is making sure our laws keep pace with the astounding pace of scientific discovery in genetics. Time and again my constituents tell me they are worried about losing their health insurance. They are particularly worried that new technologies, like genetic testing, will open up new avenues for discrimination in health insurance and enable insurers to determine who is predisposed to a particular disorder and use that information to deny or raise the rates on their health insurance.

I have sponsored legislation that would prevent that being used against the person. It simply prevents the companies from using the information to cancel, deny, refuse to renew, change the premiums, terms or conditions of health insurance. This is so important to people in America now. We are concerned that people do not want to know the information vital to their lives because of the fear they have of losing their health insurance. Indeed, it might even bring a stop to research. If we do not pass legislation to protect Americans against this kind of discrimination, there will be dire consequences.

There are other considerations as well. Our constituents are asking what has gone wrong with our judicial system that allows repeat sexual offenders to revolve in and out of prison. Sexual predators and serial rapists continue to drift through our communities, circumventing local penal codes that vary widely by State.

Congress has a responsibility to address the issue by passing a bill that would put an end to the cycle of violence. The Sexual Predators Act is a measure I wrote that would do just that. It allows for the Federal prosecution of rapes and serial sexual assaults committed by repeat offenders, requires that repeat offenders automatically be sentenced to life in prison without parole.

I authored this bill to give local law enforcement the option of pursuing Federal prosecution to ensure that these predators, who often cross State lines, remain in jail, since many States have far less punishment available under their own laws. Instead of letting sexual predators out on the street to prey again, tough and certain punishment is required at the national level. No man, woman, or child in America should have to live in fear of a serial rapist or habitual child molester.

Enacting legislation is our business here. I know one of the previous speakers this morning had said better we should all be home having town meetings. But my people in my district, the 28th District of New York, expect me to be down here working for my paycheck. They are aware of the fact that it costs $288,000 to bring us back to Congress every week because I have told them that. They wonder where in the world the legislation is.

The things that are on their mind are what are we going to do, how are we going to keep our health insurance? What is happening to health care? What about my child? Is it going to have the child care it needs? What are you doing down there to make sure education stays strong?

Mr. Speaker, if the previous question is defeated today, and I hope it is, and I certainly urge my colleagues to vote for its defeat, if it is defeated, I will offer an amendment that would require the House to consider campaign finance reform before Memorial Day recess, May 31, so a final campaign finance reform bill can be sent to President Clinton before July 4. I think that is the least we can do.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me first say to my friend, the gentlewoman from New York, that I very much appreciate her enlightening the House on her legislative agenda for the year, and to say there are many very interesting proposals that she offers. Frankly, there are some solutions that I think are worthy of consideration as we move through the committee process.

Let me say, as far as where we are today, I believe that we need to recognize that there are measures that we hope to bring up under suspension of the rules that deal with the veterans of this country. There is a great interest in a bipartisan way to see us move ahead with the Veterans Employment Opportunities Act of 1997, and the other suspension which we are hoping to bring up today, if we can move ahead with this rule, is the American Samoan Development Act of 1997.

I know committees are working, and they are trying to deal with many of the very important issues that my friend raised. It is my hope we will be able to just as quickly as possible get to those items, as well as campaign finance reform.

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I have introduced my own campaign finance reform bill, which I think is very worthy of consideration. Actually, I have not introduced it yet. I am crafting it now and will be introducing it in the not too distant future. I hope we will be able to consider it. But we should look at a wide range of areas.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding to me.

I do not think anyone on our side wants to denigrate the importance of the veterans bill or the Samoan development bill. My question is, why did we not do them yesterday? We are not objecting to doing those bills, but Monday and Tuesday are the regular suspension days. We hardly worked ourselves into a lather yesterday.

Our question is, given these important bills, why did we not do them on the regular suspension day rather than have to do an extraordinary procedure to take them up today?

Mr. DREIER. Mr. Speaker, as my friend knows, we have just returned from the Easter work period, and we usually have a travel day there following.

Mr. FRANK of Massachusetts. Mr. Speaker, yesterday we were voting.

Mr. DREIER. After 5, it was after 5 so the Members could travel on Tuesday. That was the reason that we proceeded with the suspensions.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman will continue to yield, we had two debates on substantive issues. We did have one very substantive bill yesterday, but some people in the industry affected complained, the private mortgage insurance bill, so that got pulled lest their feelings be hurt, much less their profits. We were through voting by about 20 after 5. Another two votes would have added 10 minutes.

I understand we had 2 weeks off. Is there some implicit notion that we have to have a decompression chamber, that after 2 weeks off the Members will get the legislative bends if they have to deal with three or four bills in 1 day?

Mr. DREIER. Mr. Speaker, I do not feel that way. Frankly, everyone cannot handle it quite as well as my friend from Massachusetts.

Mr. Speaker, I yield such time as he may consume to gentleman from Glens Falls, NY [Mr. SOLOMON], chairman of the Committee on Rules.

Mr. SOLOMON. Well, as Ronald Reagan used to say, let me just say to my good friend from Claremont, CA, one would think he is the State Department, he is being so diplomatic. Unfortunately, I do not have that kind of attribute myself, so I will be a little more blunt. I really am concerned about people standing up here and talking about campaign finance reform. When I go home and I go to a hockey game and there are 6,000 people in the stands, not once over this winter has anybody mentioned campaign finance reform.

What they did mention is that we ought to be enforcing the laws down there and what are all these illegal contributions that are coming in from the Chinese and from other places. I hear a lot about that.

I also hear a lot about people that are concerned about their jobs, and some of them are former members of the armed services. They are veterans now. They are concerned about a bill we have got on the calendar right here today. It happens to be a heck of a lot more important than campaign finance reform. This bill is H.R. 240. It is the Veterans Employment Opportunities Act of 1997 that we have been trying to get through this House now for a number of years.

While I am talking about that, let me also refer to an article by the gentleman from South Carolina [Mr. FLOYD SPENCE]. It is called the National Security Report, U.S. Defense Budget, Walking the Tightrope Without a Net.

Attached to it is a story that was in the Washington Post on April 9. I do not even know what day that is. I have lost track of the time. But this one says: Military forces are near breaking point, GOP report charges.

Let me tell my colleagues I just got back from a place called Bosnia, and I can say that we have some serious problems in this country today. We have got a problem with maintaining the commissioned officers in our military today. We have a problem in maintaining the noncommissioned officers in this military today because they are afraid there is no more opportunity out there for an honorable career in the military. Why not?

I see the gentleman from Florida [Mr. YOUNG] sitting back there, one of the finest Members of this body. He can stand up here and tell us the same thing, we are letting our military budget go back to what it was back in the 1970's, when we were losing all of our military personnel, because they could not afford to stay in the military because their families were on welfare. Their families were on food stamps. These are the kinds of things we ought to be debating. I will include these articles for the RECORD.

Let me get back to the bill that this rule makes in order. Again, it is the Veterans Employment Opportunities Act. Mr. Speaker, I am going to tell my colleagues there are some disturbing trends in this country and in this very Government of ours with regard to veterans employment. It is hard for me to believe and impossible to understand, but American veterans are actually discriminated against when it comes to finding jobs in this country but especially in our Government. If my colleagues do not believe it, just go out and ask any number of them like I do at the hockey games I was just referring to.

That is why this bill is so terribly important, in order to impress upon the private sector the importance of hiring our Nation's service men and women. It is critical that we start with this very Federal Government and our own House, that means the employees of this Congress. This bill does that by putting some real teeth to the veterans preference laws already on the books so that when it comes to hiring, promotions and reductions in force, managers and supervisors are going to think twice before they try to get rid of the veterans, the few that we have.

That is because this bill makes failure to comply with veterans preference laws a prohibited personnel practice. These managers will be putting their own jobs at risk. What about our own House and the Congress? Well, this bill finally expands veterans preferences to nonpolitical jobs in the Congress. But not only that, it expands it to the nonpolitical jobs at the White House and to certain jobs in the judiciary branch as well.

More and more so, this Government has been suffering without the invaluable experience and background of American veterans and what they have to offer. This bill will put an end to that by giving our men and women in uniform a fighting chance when it comes to finding a Federal job. Can you imagine that? They do not even have a fighting chance today.

That is necessary because every time a young person enlists in the military, they are doing a service for the country that places them at a disadvantage on the pay scale relative to their peers. For instance, if a young 18-year-old boy or girl enlists in the military, and he goes on to serve 3 or 4 years and then his peer goes to college and serves, and finishes the same 3 or 4 years getting a degree, that young man or woman who served in the military is always 4 years behind on the success scale of opportunity, of the ability to be promoted.

When they leave the military, it is critical that we follow through our guarantees like veterans preferences in order to ensure that we continue to attract the best all-voluntary military in the world. I emphasize all-voluntary military. For the last 15 years or so, we do not have a draft. We depend on an all-voluntary military, attracting young men and women from all across the spectrum to serve in our military.

Take our young men and women in Bosnia whom I just mentioned a few minutes ago whom I had the privilege of visiting last Thursday and witnessing the very tremendous job that they are doing under very, very difficult circumstances today. They have committed themselves to serving their country overseas, many of them reservists who put their civilian lives on hold. This bill includes my own personal bill, H.R. 665, that makes all of those service men and women in Bosnia eligible for veterans preferences when it comes to finding Government jobs. When they come back out of Bosnia, they are going to be full qualified veterans having served in a combat situation and therefore they get veterans preferences.

Mr. Speaker, I want to commend the good work of the gentleman from Florida [Mr. MICA], the chairman, who will be here in a few minutes in moving this bill to the floor today and urge all the Members to support it. Let us send an overwhelming message to the Senate, the American people and, most importantly, our military personnel that we treasure what they do and we take very seriously the commitments we have made to them when they return from civilian life.

Mr. Speaker, I thank the gentleman for the time. I include for the RECORD the articles to which I referred:

[From the National Security Report, April 1997]

U.S. DEFENSE BUDGET: WALKING THE TIGHTROPE WITHOUT A NET

The Clinton administration's defense budget request of $265.3 billion for Fiscal Year (FY) 1998 represents a 2 percent real decrease from current (FY 1997) spending. As such, it continues a 13-year-long trend of real defense spending decline and it marks a 38 percent real reduction in spending from defense budgets in the mid-1980s.

The FY 1998 defense budget request represents 3.1 percent of the nation's gross domestic product, down more than 50 percent from the 1985 level of 6.4 percent. The FY 1998 defense budget request, when measured in constant dollars, represents the smallest defense budget since 1950.

Indeed, cuts from the defense budget have provided a substantial contribution to reductions in the federal deficit in the 1990s. In fact, defense cuts account for the vast majority of deficit reduction to date that is attributable to the discretionary budget. Based on the president's FY 1998 budget, between FY 1990–2000, entitlements and domestic discretionary outlays will increase substantially, while outlays for defense will decrease 32 percent. So the trend continues.

From the standpoint of military capability, the administration's FY 1998 defense budget request perpetuates the mismatch between defense strategy and resources—the widening gap between the forces and budgets required by the national military strategy and the forces actually paid for by the defense budget. In January 1997, the Congressional Budget Office (CBO) estimated the president's defense budget to be underfunded by approximately $55 billion over the course of the next five years. However, many independent analyses, including that of the General Accounting Office, assess the shortfall to be much greater.

The FY 1998 defense budget request also reflects the administration's continued pattern of cutting long-term investment funding necessary for the modernization of aging equipment in order to pay for near-term readiness shortfalls. The FY 1998 procurement request of $42.6 billion is actually less than current (FY 1997) procurement spending levels and approximately 30 percent below the procurement spending level identified by the Joint Chiefs of Staff as necessary to modernize even the smaller military of the 1990s. Since 1995, the administration has vowed to end the "procurement holiday," but its plan to increase modernization spending is skewed heavily toward the later years of the five-year defense program, with the bulk of the proposed increases projected to occur beyond the end of the President's second term in office.

The inability to field new systems is highlighted by the administration's lack of funding for missile defenses. Six years after the Gulf War, which demonstrated both the strategic and military importance of effective ballistic missile defenses, the administration continues to shortchange spending for such programs, cutting the national missile defense program to protect the American people from the threat of ballistic missile attack by over $300 million from current (FY 1997) spending levels.

One of the primary reasons modernization spending continues to be reduced and used as a "billpayer" for shortfalls elsewhere in the defense budget is the administration's persistent underestimation of readiness and operational requirements. The FY 1998 defense budget request includes $2.9 billion less for procurement and $5.2 billion more for operations and maintenance (O&M) spending than was projected for FY 1998 by the administration just last year. This miscalculation results from the Pentagon's underestimation of its own infrastructure and overhead costs as well as from the continuing high and costly pace of manpower-intensive peacekeeping and humanitarian operations.

The diversion of troops, equipment, and resources from necessary day-to-day training in order to support these ongoing operations means that even those O&M funds being requested are not purchasing the kind of readiness central to the execution of the national military strategy.

Although the administration contends that the post-Cold War defense drawdown—a drawdown that has cut the nation's military by one-third since 1990—is nearly complete, the FY 1998 defense budget request reduces both the Navy and Air Force below the personnel levels mandated by law and below the levels called for by the national military strategy. While military forces are shrinking to dangerously low levels, the pace and duration of contingency operations are increasing. These conflicting trends are hurting military readiness, are eroding quality of life, and are certainly not conductive to maintaining a high quality, all-volunteer force in the long run.

[From the Washington Post, Apr. 9, 1997]

MILITARY FORCES ARE NEAR "BREAKING POINT," GOP REPORT CHARGES

(By Bradley Graham)

Increased demands on a reduced U.S. military to engage in peace operations and other noncombat missions have stretched units to "the breaking point," according to a House Republican report on the condition of American forces to be released today.

While congressional warnings about a growing military readiness problem have sounded for several years, the new study provides the most extensive anecdotal evidence so far about the toll on American forces of frequent post-Cold War deployments, long tours away from home, personnel shortages, and inadequate pay and living conditions.

"Indicators of a long-term systemic readiness problem are far more prevalent today than they were in 1994," said the report issued by Rep. Floyd Spence (R-S.C.), chairman of the House National Security Committee, after a seven-month study by his staff. "Declining defense budgets, a smaller force structure, fewer personnel and aging equipment, all in the context of an increase in the pace of operations, are stretching U.S. military forces to the breaking point."

Pentagon leaders, citing official readiness indicators, have insisted that U.S. forces remain as prepared for battle as ever.

For several years, the Clinton administration has listed readiness as its top priority in apportioning the defense budget, setting a historical high in operational and maintenance spending per soldier.

Some defense experts have accused Republican legislators of fanning talk of a readiness crisis for political ends—to justify increases in defense spending, forestall more troop reductions and embarrass the Clinton administration. They contend that any strains in the force could be relieved simply by more selective and efficient management of deployments.

But the House report, which was drafted without the participation of committee Democrats, describes a pervasive erosion of operational conditions and combat training. It says the quality of military life is deteriorating "to the point where a growing number of talented and dedicated military personnel and their families are questioning the desirability of a life in uniform." And it says military equipment is aging prematurely due to extended use and reduced maintenance.

The report faults the Pentagon's system for tracking readiness as flawed and incomplete.

The system, which is being revised by Defense Department officials, has focused mostly on whether units possess the required resources and training for wartime missions and includes little provision for measuring such factors as morale or deployment rates.

The official view of how troops are faring, the report asserts, contrasts markedly with what committee staff members found in visits to more than two dozen installations and over 50 units in the United States and Europe.

"Doing more with less may be the military's new motto," says the report, "but it is certainly not a sustainable strategy, nor is it conducive to ensuring the long-term viability of an all-volunteer force."

With the Pentagon in a middle of a major review of U.S. defense needs, the report cautions that any attempt to shrink the force further will "surely exacerbate the readiness problems that are identified in this report."

Since the waning days of the Cold War, American forces have dropped from 2.1 million to 1.45 million service members, while the number of deployments to such places as Bosnia, Haiti and Somalia has risen sharply.

Although only a small percentage of all U.S. military forces is involved in these missions at any given time, the extended duration and frequency of the deployments have magnified their impact.

The combination of lower troop numbers and more numerous deployments has led to shortages particularly of mid-grade, noncommissioned officers, the report says. To cover gaps, service members often are assigned to jobs for which they lack the requisite training and experience, the report adds.

Moreover, deployment times too often exceed the 120-days-per-year maximum set by the services, the report says. To make ends meet, those units that do deploy frequently scavenge parts and people from other units, creating "troughs of unreadiness' in the force that are "deeper and of longer duration" than before, the report adds.

Particularly, troubling, the report says, is an evident drop in the amount and quality of training, caused by funding shortages and reduced opportunities to train because units are on deployment or covering for units that are.

"The widespread belief of trainers interviewed at the services' premier high-intensity training sites—the National Training Center at Fort Irwin, the Marine Corps' Air Ground Combat Center at Twentynine Palms and the Air Force's Air Warfare Center at Nellis Air Force Base—is that units are arriving less prepared than they used to and are not as proficient when they complete their training as in the past," the report states.

Although military retention rates remain relatively high, the report says these official statistics cloud the fact that the "best of the best" are getting out. According to an internal Army survey quoted in the report: "Job satisfaction is down and about two-thirds of leaders say organizations are working longer hours . . . The force is tired and concerned about the uncertainty of the future . . . Morale is low at both the individual and unit level."

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I thank my colleague from New York for yielding me the time.

Once again today Democrats are standing up for campaign finance reform. We will vote in a short while to defeat the previous question on this rule in order to bring up before this body campaign finance reform so we can have it on the floor of the House by Memorial Day. This will be the third vote we are taking on campaign finance reform in this Congress. There was a vote on opening day of the Congress and another on March 13.

I might add that not a single Member from the other side of the aisle has voted for reform yet. But I am hopeful that through this process of raising this issue on the previous question on rules, we will slowly see Members of the other side decide that we need to have a public debate on this most important issue.

Our way of financing political campaigns in this country today is broken. I think the American people know it. Although some have proposed spending even more on campaigns, the American people, I think, just think the opposite. More than 9 out of 10 believe too much money is being spent on political campaigns.

So we need to fix the system and we need to limit the amount of money in these campaigns. We need to stop the negative advertising. We need to get Americans voting again and believing in the system. The vote today is not about a particular bill. There are many different vehicles out there, some of them very good, or a solution. It is about setting up a process to debate campaign finance reform, to make sure it moves beyond the closed room, the back rooms, the locked doors, and out into the open where the American people can understand and learn and participate in one of the great debates that I think we are engaged in this year.

What we are really talking about is reinvigorating the political process. Right now Americans do not think their vote counts. They are sick and tired of what they see, what they see going on, and they feel a powerlessness to do anything about it.

We need to change that. We need to make democracy in this country mean something once again, and we need to give people hope that they can make a difference, that they can be a player, that they can feel that their Government is working for them. There are a lot of good ideas out there, and we are simply asking a chance to debate them.

For 4 months we have done nothing in this Congress. Oh, we have named a few buildings after people. We have commended the Nicaraguans on their election. We have expressed our respect for the Ten Commandments. But we have done nothing to improve the lives of American working families on health care, on education, on jobs. Real campaign finance reform will make a difference. It is another one of the issues that the public wants us to address.

So I urge my colleagues, Mr. Speaker, to vote no on the previous question in order to bring up campaign finance reform to the floor before the Memorial Day recess.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume to simply say that it is very interesting to listen to the hue and cry over campaign finance reform that comes from my friends on the other side of the aisle. I stated that I have a measure that I am going to be introducing in the not too distant future which would actually encourage greater voter participation, an opportunity for them to participate with campaign contributions.

The thing that troubles me, Mr. Speaker, is the fact that we are in a position today where we do not have compliance with existing law, and we as Republicans are very proud to stand up for enforcement of the laws which have been flagrantly violated based on reports that we have had in the media. That is what we as Republicans are doing from this side of the aisle. I hope very much that we will be able to get to the bottom of these tremendous abuses of present campaign finance law.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, let me just say that I intend to support veterans preferences. Four hundred and thirty-five Members of this body, all of the Members who are here today, are going to vote for this bill. That is not the issue. This is a noncontroversial item. It is under a suspension calendar. We will vote without any bit of controversy. Suspensions are usually noncontroversial. They are considered on Mondays and Tuesdays in the House, so in fact we could have considered this vote yesterday when we adjourned at something like 10 after 5 or 5:15. We could have done this yesterday.

We are going to try to defeat the previous question this morning in an effort to be able to use our time in order to talk about campaign finance reform legislation so that we can vote on what is a pressing issue before the Memorial Day district work period.

It is hard to open a paper these days without reading about the lack of accomplishments of this Congress, in fact the do-nothing Congress. But the worst of it is that the Congress is doing nothing when the issue of campaign finance reform cries out for action and early action at that.

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Yes, let us continue on with the investigations, but what we in fact do know is that the system is broken and that it needs to be fixed. Let us have that discussion.

The 1996 elections broke all records for campaign spending: $2.7 billion. The Washington Post shows that 8 in 10 Americans agree that money has, quote, too much influence on who wins elections. The amount of money in politics disenchants the American people and tells citizens, ordinary citizens in this country, that their votes are not as important as fundraising dollars.

The record amounts spent in 1996 are a powerful argument for meaningful limits on campaign spending. We need less money in politics, not more. And if we are to achieve limits on campaign spending, we need to act immediately, because every delay takes us closer to the next election.

I doubt the American people want more money spent the way that the Speaker would. Let us have the debate on campaign finance reform, and let us just stop fooling around.

Ms. SLAUGHTER. Mr. Speaker, I yield 2½ minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I rise to call upon my colleagues to defeat the previous question and to bring an amendment to this floor allowing a debate on the important issue of campaign finance reform.

Every person in America realizes the importance and necessity to address our broken system of financing the election, and yet my colleagues on the other side, the Republican majority, are planning no hearings on this issue, no debate on this floor, and no votes to change the way elections are paid for. It is a shame, and it is a disgrace.

There is too much money in the political process. We need to recognize that there is too much money in the political process. Members of Congress are forced to spend too much time chasing campaign funds. Special interests and the wealthy interests have too much influence. These are the problems that need to be addressed.

Mr. Speaker, there is a fundamental difference between Democrats and Republicans on campaign finance. Democrats believe there is too much money in the political process. Republicans believe there is too little. Let us have a debate on the floor of the House of Representatives.

Let the American people decide whether we need more or less money in politics. We should put our votes on the board, let the American people see, rather than bring us back to Washington week after week to vote on do-nothing legislation.

Let us address the real problems confronting our Nation. Let us fix our broken campaign finance laws. Defeat the previous question and let the real and serious debate begin.

Maybe, just maybe, we should adjourn or recess the Congress and go home for the next few days and visit our citizens, the people that sent us here, like I did last week. Why come back here and vote on do-nothing legislation? Now is the time to act. Defeat the previous question.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, at the outset of this Congress I was 1 of more than 100 Members of this House to ask that action occur during the first 100 days of this Congress on the issue of campaign finance reform.

Well, that period will expire next week. And what has happened during those first 100 days on the issue of campaign finance reform? The same thing that has happened on the hopes of reform for more health insurance for children across this country, the same thing that has happened with regard to the aspirations and needs of young people across this country to get access to a college education.

What has happened on campaign finance reform during the first 100 days of this Congress is zero, zip, nada. Not a thing has occurred on that or most of the other important issues that face America today.

Now, my distinguished colleague from California [Mr. DREIER], says they have another approach. When it comes to campaign finance, they do not want to legislate right now, they want to investigate. Well, I agree that some investigations are in order. The only problem with Mr. DREIER's approach is, they want to investigate everybody except this House. They want to look at somebody else's house down the street.

They do not want to look here at the issues of the peddling of campaign finance checks that have occurred on this floor and issues that have arisen in connection with the raising of hundreds of millions of dollars in funding this Congress, of special interest money that dominates the elections in this Congress on both sides of the aisle. No; they want to investigate someone else, get indignant, get upset, make some speeches, but not do a thing about it.

This rule sets priorities, and I would say our veterans, who will have 435 votes in favor of their bill in a few minutes, have as big a stake as anybody else in seeing this system cleaned up.

It is time for this Congress to act. We waited in the last Gingrich Congress 1½ years out of that 2 years before we ever even got a chance to vote on the issue of campaign finance reform. That is why we are going to keep raising this issue day after day, because we cannot wait another 1½ years for action, and at that time it was some convoluted position that even the Republicans could not support. It is time for action and action by voting down this rule.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume to say that it is very interesting to listen to this debate as it proceeds on campaign finance reform. We are actually offering a rule here that would allow us to consider suspensions today and tomorrow to deal with veterans, American Samoa, assisted suicide, and yet the campaign debate here, the debate has proceeded on the issue of campaign finance reform.

Since that has happened, I want to take a moment before I yield to my friend from Texas, the majority whip, to talk about legislation I mentioned during the 1-minute period that I hope we will be able to have considered here. If we could get the President on board on it, it would be very helpful, and, frankly, it is much more important to the people whom I am honored to represent here and others from around the country than campaign finance reform.

It happens to be the single most important family tax cut that we could offer, and that is a reduction of the top rate on capital gains from 28 percent to 14 percent. As of right now, we have 118 cosponsors. Democrats and Republicans have joined, cosponsoring this.

I call it the most important family tax cut because it clearly will increase the take-home wages of working Americans, on average, by $1,500. Unlike many of the family tax cuts, which are temporary, some of those that the President has proposed, this capital gains tax rate reduction would be permanent, creating that boost for working Americans. I hope very much that we are going to be able to proceed with that measure, which also is critically important to our quest of a balanced budget.

We want to bring about a reduction in the national debt and get us on that glidepath toward a balanced budget. We know that unleashing the 7 to 8 trillion dollars that is locked in today, people who do not want to sell their family farm, their small business, their home or other appreciated asset because of the fact that that capital gains tax rate is so high, that capital would be unleashed, if we could reduce that rate from 28 to 14 percent, and would go a long way toward increasing the flow of revenues to the Treasury, as it has done every single time throughout this century.

Every shred of empirical evidence we have is that it will increase the flow of revenues to the Treasury, going all the way back to President Warren G. Harding, who, in 1921, under his Treasury Secretary, Andrew Mellon, cut the top rate on capital. The flow of revenues to the Treasury increased.

In 1961, when President Kennedy did it, the same thing happened; and then when Ronald Reagan did it with the Economic Recovery Tax Act of 1981, we saw that increase.

Unfortunately, when we increase the tax on capital, we decrease the flow of revenues to the Treasury. In 1978, when the capital gains tax rate was reduced, we saw, from 1979 to 1987, a 500-percent increase in the flow of revenues to the Treasury from $9 billion to $50 billion, and it began to drop after the 1986 Tax Reform Act went in place.

So it seems to me we have a very important issue that I hope we can address here.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DELAY], my dear friend.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding me this time. And he is so right about the real important things that we intend to do in this 105th Congress, rather than play these games that are being played around here.

It is amazing to me, the lack of shame that is expressed on this floor, that the minority party, that used to be the grand majority party for so many years, particularly since the last major campaign finance reform was passed back in the late 1970's, I think 1976 or so, had the majority of this House and the majority of the Senate and yet did not bring any bills down. In fact, if they just passed this bill, they could probably bring their campaign finance reform to the floor under suspension.

Oh, I forgot; they do not have a campaign finance reform bill. They are crying for campaign finance reform to come to the floor, but they do not even have a bill.

What is happening here is something that is really serious, because we want to hold hearings to look into what is serious. We have the potential of having had in the last campaign our national security compromised by foreign money being pushed into this country and trying to manipulate our campaigns, and they are trying to change the subject so that the American people will not focus on what is really happening and what really happened in the campaign last year by this President and by the Democratic National Committee. That is what is going on here.

I just came back from 2 weeks in my district and holding town meetings and meeting with my people. I did not travel anywhere. I worked my district during the district work period, and I had one person ask one question on campaign finance reform.

Now, the American people out there know exactly what is going on here on the floor of the House, and, frankly, they are ashamed as to what is going on on the floor of this House, trying to cover up what could be potentially a national security problem brought on by breaking the campaign finance laws that were reformed by this majority, by the majority Democrat party back in the 1970's, and trying to cover it up by talking about campaign finance reform here, and they do not even have their own bill.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I am delighted to yield to the distinguished gentleman from California.

Mr. DREIER. I thank my friend.

The gentleman makes a very important point, that being, we are simply calling for compliance with the present law that exists. And those on the other side of the aisle are saying, well, let us change the law, let us reform campaign finances, and that will address this hue and cry that we are hearing out there from the American people; all they want us to do is, the American people want us to comply with the laws that exist today.

Mr. DELAY. Mr. Speaker, reclaiming my time, I would also say that they want us to do it before we look at whether laws have actually been broken. And we all know the reason for that; it is strictly politics, to cover up the fact that the national security of this country may have been compromised.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. GUTKNECHT). The Chair would remind all Members the matter before the House is House Resolution Number 107.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume to just comment on the majority whip's remarks about campaign finance reform and lack of action on the Democrat majority's part when we were in charge, and remind him that we passed it twice out of the House.

The first time, it was passed again through the Senate, vetoed by a Republican President; the second time, it was filibustered to death in the Senate. And, by the way, I think I did mention, I do have a campaign finance reform bill.

Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, not only will the Republicans not bring campaign finance reform to the floor, but their rhetoric today tells us how far away they are from what is happening in America.

They want to suggest that the existing system is just fine, that it is a transgression simply of the White House that we should only be concerned about. And we should be very concerned about those.

They would argue that it is OK, as they did under the existing system, to have Haley Barbour say that he can set up meetings for anybody who gives $100,000 to any Republican chairman of the House, and he has never been turned down.

They would say it is fine to have a person who is accused of shaking down a lobbyist and threatening them that if they do not contribute to him, they will never have access to his office again. Under a current FBI investigation, it is just fine to have him investigate the President.

□ 1215

They would suggest that it is fine that a committee Chair, Republican committee Chair, get $200,000 from the very people he meets with about matters before his committee and the money comes right after the meetings. That is all apparently allowed under the existing system, and they do not think it should be investigated. They do not think it should be investigated; that there is nothing wrong with the system; that at the Republican gala, top donors, if you give $250,000 you can get to a lunch with the Republican majority leader, the Speaker, the whip, and others and committee Chairs. If you give $10,000, you can have a meeting.

You know what you get, ladies and gentlemen, you get seats in the gallery. You the public get seats in the gallery. You know what big donors get? They get access to leadership power and decisions. That is under the existing system, and that is why we are saying it has to be reformed. Two years ago we watched as top lobbyists sat in the majority whip's office and drafted legislation to the Clean Water Act.

Mr. DELAY. Mr. Speaker, I demand that the gentleman's words be taken down.

The SPEAKER pro tempore. (Mr. GUTKNECHT). The gentleman will suspend.

The gentleman from California will be seated.

The SPEAKER pro tempore. The Clerk will report the words.

The Clerk read as follows:

> If you give $10,000, you can have a meeting. You know what you get, ladies and gentlemen? You get seats in the gallery. You the public get seats in the gallery. You know what big donors get? They get access to leadership power and decisions. That is under the existing system, and that is why we are saying it has to be reformed. Two years ago we watched as top lobbyists sat in the majority whip's office and drafted legislation to the Clean Water Act.

The SPEAKER pro tempore. Does the gentleman from Texas seek recognition?

Mr. DELAY. No. Mr. Speaker. I ask that the Chair rule.

The SPEAKER pro tempore. The Chair is prepared to rule.

In the opinion of the Chair, there was no direct reference to a Member specifically performing a quid pro quo. Therefore, the Chair will rule that the words are not unparliamentary.

The Chair would, however, admonish all Members that it is a violation of the House rules to address the people in the galleries. It is also a violation both of the rule and the spirit of the rules to challenge or question other Members' personal motives.

PARLIAMENTARY INQUIRY

Mr. DELAY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DELAY. Mr. Speaker, if I understand your ruling correctly, the gentleman from California has made statements about another Member of this House that are incorrect. Is it the ruling of the Chair that a Member can make incorrect statements about another Member on the floor and not have his words taken down?

The SPEAKER pro tempore. The Chair is not in a position to rule on the truthfulness or veracity of a statement made by a Member on the floor of the House. That is a subject for debate.

Mr. DELAY. I thank the Chair.

The SPEAKER pro tempore. The gentleman from California may proceed in order.

Mr. MILLER of California. Mr. Speaker, the point is this. The point is that the American public is treated on a daily basis to account after account after account where money buys you privilege in the House of Representatives among the leadership and it buys you access. That has got to stop because it simply is not fair to the American people. Money is distorting how decisions are being made in this House, the people's House. Money is distorting outcomes in the people's House. Money is distorting the schedule in the people's House. That has got to stop.

And that is what is happening under the existing system. That is happening under the existing system, and that is why we objected yesterday so we could get time today to speak out against the status quo. The status quo is corroding this institution, it is corroding the decisionmaking process, it is corroding the outcome. The people of this country deserve better. That is why we need campaign finance reform. We need it for this institution. We need it for the integrity of the Democratic institution, the House of Representatives, the U.S. Senate. We need it to bring back the faith of the people we represent.

This is not about our campaigns. This is not about whether we get elected or not elected. This is about whether or not it is on the level in this place, whether or not every person has the right to the same access; not access based upon merit, not on the size of your wallet, not on the size of your contribution. That is what this argument is over.

But they will not let us have this debate on the floor of the House of Representatives. We have to go through parliamentary maneuver after parliamentary maneuver to have this said. Why? Because it is very embarrassing. It is very embarrassing on the bipartisan basis. But we have got to clear the air. We owe it to the American public. We have got to clear the air at that end of Pennsylvania Avenue and we have got to clear the air at this end of Pennsylvania Avenue. We owe the public no less.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Sugarland, TX [Mr. DELAY].

Mr. DELAY. I appreciate the gentleman yielding me this time.

Mr. Speaker, the gentleman from California has repeatedly brought up this incident, including in the media, and has been quoted in the media about an incident where there were lobbyists in the majority whip's office writing legislation.

I will be glad to yield to the gentleman to give me the names in the RECORD of those lobbyists that were in my office writing legislation, and the incident and the time and the date. The least he could do when he makes a statement that is totally incorrect, that he could provide that information to the House, or at least if that is the case and it violates the rules of the House or violates a law, would bring charges against this Member.

Mr. Speaker, I am glad to yield to the gentleman from California.

□ 1230

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, as the gentleman knows, unfortunately I can either make the contribution or I am a lobbyist. I was not privy to the meeting, but the meeting was widely reported, and I am not seeing the denial of the meeting taking place.

Mr. DELAY. Mr. Speaker, reclaiming my time, obviously the gentleman cannot substantiate his charges, obviously he cannot name names.

Mr. MILLER of California. Does the gentleman deny that these meetings took place?

Mr. DELAY. This gentleman, Mr. Speaker, denies categorically that it ever happened, that there are lobbyists in the majority whip's office writing legislation, unlike in the gentleman's office where environmental groups write legislation.

Mr. MILLER of California. Mr. Speaker, the gentleman wanted to take down words for inaccurate statements. I guess we can understand why the ruling does not exist right now.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Maine [Mr. ALLEN].

Mr. ALLEN. Mr. Speaker, bring this down to a different level.

I rise to urge Members of this body to vote in opposition to the motion for the previous question and I do so because I want to raise the issue of campaign finance reform. I think it is time for us to deal with it, and I want to mention a couple of points.

First, according to a recent poll, 85 percent of Americans think that there is a crisis or a problem with the way candidates raise and spend campaign funds, and according to another recent poll, 85 percent of the people think that special interest groups have more influence than voters.

Now, when I was back in my district over the last 2 weeks, people did raise the issue of campaign finance reform, and do my colleagues know what a couple of them said? They said, "Why are you spending millions of dollars on investigations and doing nothing to help us? Why are you spending millions of dollars on investigations and doing nothing to help us?"

I believe that from my experience if we cannot find people who care about campaign finance reform we are not looking very hard. It may not deal with their jobs, it may not deal with their education, it may not be Social Security or Medicare. They are things that matter to their personal lives, but they care about our democracy and they care about this system of campaign funding. It is important because the relationship between those who elect us and those who sit in elective offices is critically important. It is a matter of trust. If our citizens continue to believe, as they do now, that money has more influence than votes, then we are diminished, they are diminished, and this democracy is diminished.

There is too much money in politics, and we need to do something about it.

I am a cochair of a freshman task force, a bipartisan group, six Republicans and six Democrats, and we want to work on this issue through this Congress, and what I ask all the Members here is to make sure that the year 2000 is not a repeat of the year 1996 and we deal with campaign finance reform now.

Mr. DREIER. I reserve the balance of my time, Mr. Speaker.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I just wanted to follow up on my colleagues from Maine and from California, particularly the gentleman from California, who said that we have an obligation to bring up the issue of campaign finance reform, and the main reason for that, I believe, is what I experienced in the last 2 weeks in my district during our district work period.

Again, as the gentleman from Maine said, so many of my constituents would come up to me and say, "What is going on in Washington? The Congress isn't doing anything. The only thing that they're doing is doing investigations of campaigns and frankly we're not interested. We don't want the money, the millions of dollars that is going to be spent on this. Sure, you can do a little investigation if you want, you can look into it, but the main thing is you have to do something about the issue of too much money in campaigns. You've got to address it."

And believe me, the American people feel very strongly that this is not happening right now, and the fault lies squarely with the Republican leadership of this House of Representatives. The Speaker, the Speaker has repeatedly said on many occasions there is not enough money in campaigns. Just the opposite is certainly true, and we have been here, many of us on the Democratic side of the aisle, many times over the last 3 or 4 months, including myself, saying we want this issue brought up, we are not in the majority, we cannot control the agenda.

That is why we have to go to the floor in these procedural ways and ask to defeat the previous question because the Republican leadership refuses to bring it up, and do not tell me that when the Democrats were in the majority that we did not bring it up. In fact we did. It passed. I remember. I voted for it on the House floor here. But it went over to the other body, and the Senators, the Republican Senators on the other side filibustered and killed it.

So there is no question the Democrats are in favor of campaign finance reform, Democrats are in favor of debate, Democrats want a bill to pass. We have said that we would like to have it happen by Memorial Day; I think the President mentioned July 4. Certainly the sooner the better, but so far no hearings on the other side, the Republicans. The Republicans have not had a hearing, they do not bring it up, they have no bill, they have no plan, they do not want to talk about it, which is why they get mad when we do. But I am telling my colleagues right now that the public will not stand for it. They want action.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Georgia [Mr. LINDER].

Mr. LINDER. Mr. Speaker, I think it is fascinating to watch the hue and cry for campaign finance reform from the Democrats when they controlled the House, the Senate, and the White House 4 years ago and chose not to bring it up.

The fact of the matter is we have two kinds of campaign financing systems in America; one is congressional. We could only take $1,000 from an individual or $5,000 from a PAC, we must report everything we receive and everything we spend, and that system did not break down, and no one is accusing it of having broken down.

There is another system for Presidential campaigns. If they accept $75 million of taxpayer money, they may not spend a penny more. That is precisely what Bob Dole did; that is not what President Clinton did. He accepted the $75 million, and he spent $40 million more than that. He admitted to doing that, but he said it was necessary to break the law because "we would have lost."

Now, I do not want to see America pay for the congressional races, with ceilings on them like they did for the White House, and have that system so easily abused as it was by President Clinton. Let us move on with this bill which allows bringing up the bill for veterans' benefits, let us pass this rule and get on with the business of the House.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent to place into the RECORD an article from the Washington Post, March 12, 1995: "Forging an Alliance of Deregulation, Representative DELAY Makes Companies Full Partners in the Movement."

The SPEAKER pro tempore (Mr. GUTKNECHT). Is there objection to the request of the gentleman from California?

Mr. DELAY. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

Ms. SLAUGHTER. Mr. Speaker, I yield 20 seconds to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I appreciate the objection.

The point is on March 12, 1995, the Washington Post sets forth the series of meetings taking place wherein lobbyists and campaign contributors are provided a full partnership, are provided a full partnership, and I will yield in 1 second, in the drafting of legislation that was dealing at that time with deregulation.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. The time of the gentleman from California (Mr. MILLER) has expired.

Mr. DELAY. As usual, the gentleman's time is always expiring while he is trying to accuse another Member of the House.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. I just got to say, Mr. Speaker, in that article there is no—there are no names, there are no time periods that this meeting happened, there is absolutely no—regular order, Mr. Speaker. I know the gentleman does not like the rules——

The SPEAKER pro tempore. The gentleman from Wisconsin is out of order.

Mr. DELAY. I know the gentleman does not like to follow the rules, Mr. Speaker, but I am asking for regular order.

The SPEAKER pro tempore. The gentleman from Texas (Mr. DELAY) controls the time.

Mr. DELAY. Mr. Speaker, I appreciate the courtesy from the gentleman.

Mr. OBEY. Mr. Speaker, I prefer truth over courtesy any time.

Mr. DELAY. Regular order, Mr. Speaker, or have the gentlemen removed from the floor.

The SPEAKER pro tempore. We will have regular order.

The gentleman from Texas is recognized.

Mr. DELAY. How much time do I have remaining, Mr. Speaker?

The SPEAKER pro tempore. The gentleman has 45 seconds remaining.

Mr. DELAY. Mr. Speaker, it seems that it is OK to take something out of the newspaper that is not true and bring it down to the floor of the House and attack other Members of this House with something that is not true, written by a reporter in the Washington Post, and using it as if it were true, and I think it is really, Mr. Speaker—it shows the lack of shame in this House about what is going on in this House when we are trying to pass a rule to bring bills up, consentual bills up, under suspension when the minority does not even have a campaign finance reform bill that they could bring to the floor even if we gave them the time to bring it to the floor.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I was in my office when I saw the incident that just occurred on the House floor involving the meeting that was discussed by the gentleman from California which he indicated had taken place in the majority whip's office. The majority whip has said that the newspaper article to which the gentleman from California referred contained no names of lobbyists. I have in my hand, as the Senator from my own State used to say, a copy of the article in question, and if my colleagues examine the text, there are the names of seven lobbyists listed.

Mr. DELAY. Mr. Speaker, would the gentleman yield and read those names?

Mr. OBEY. I would be happy to allow the gentleman to read the names. I am not going to mention the name of any person on the floor who is not here to defend himself.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. OBEY. Mr. Speaker, I will not yield further, not at this time. The gentleman can come here and read the names.

I would ask unanimous consent again to be allowed to place this in the RECORD so that the names can be in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. DELAY. I object.

Mr. OBEY. I thought the gentleman would.

The SPEAKER pro tempore. Objection is heard.

Mr. OBEY. I thought the gentleman would.

I find it interesting that the truth is being suppressed on the floor of the House in the name of the rules of the House.

Mr. DREIER. Mr. Speaker, once again I yield 1 minute to my friend, the gentleman from Sugarland, TX [Mr. DELAY], the majority whip.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding this time to me, and since the gentleman from Wisconsin would not yield to me, especially when I asked him to read the names, he does not want to read the names because he will not enter into a dialog with me about the fact that one newspaper article misrepresented what happens in my office and that the fact that there has never been lobbyists sitting in my office or any office of the leadership sitting down writing bills.

We all know that the legislative counsel does that, and we all know that we talk to people about the bills, and he will not read the names. Read the names so that I may respond to the incident. But they do not want to read the names because once again they are trying to smear another Member of this House.

Mr. Speaker, I think we just consider the source of the issue, and if the gentleman does not yield to me, I am not going to yield to him.

Mr. OBEY. I yielded to the gentleman.

□ 1345

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind all Members the matter before the House is House Resolution No. 107.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the gentlewoman for yielding this time to me, and as my colleagues know, the reason we have had such a tizzy in the last half hour is very simple. Everybody in this Chamber knows the system is rotten to the core. They may quibble about a detail, this or that.

Mr. Speaker, regular order.

□ 1245

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GUTKNECHT). The Chair would require all Members to be respectful of each other anywhere on the floor. Hershey was only 3 weeks ago.

The gentleman from New York [Mr. SCHUMER] is recognized. The gentleman has 32 seconds remaining.

Mr. SCHUMER. Mr. Speaker, I would simply say that I have seen these articles, they have names in them. One of the articles refers to a lobbyist being the chief draftsman of the bill.

Now, the gentleman from Texas [Mr. DELAY] says it is not true. The Washington Post reporter obviously thought it was true.

There is one point to all of this. The reason that the gentleman from Texas is so inflamed about this is because we all know the system is rotten to the core, and we deserve a lot of blame on this side that when we had the majority, we did not reform it.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Glenwood Springs, CO [Mr. MCINNIS], a very able member of the Committee on Rules, as we continue this debate on this very important rule that will allow us to debate suspensions today and tomorrow.

Mr. MCINNIS. Mr. Speaker, I thank the gentleman from California for yielding me this time.

Let me say I am not sure what offends me most, the lack of civility that we have just seen in the last few minutes or a colleague of mine standing up in front of the American people and saying that this system is rotten to the core. Come on, wake up. This system is not rotten to the core.

Sure, we have a few bad apples. I would ask the gentleman to show me 535 people anywhere in this country where we do not have some of those individuals that misbehave. But frankly, as a whole, most of the people within this Congress are hardworking individuals on both sides of the aisle. We have good people on both sides of the aisle. Both sides of the aisle have individuals who work very hard.

Take a look at the current system that we have on campaigns. Do not listen to the rhetoric that we have heard. The problems that we have seen in the last year, it is not the system. The system is not the problem. It is people who are violating the system. It is people who are violating the law.

Name one administration that my colleague can think of in the history of this country that discloses, gives top secret information to the national political committee. Just take a look at incident after incident after incident.

The system does not allow that. It is against the law. We ought to investigate that and we ought to have repercussions for disobeying the law. But it is wrong because somebody goes out and violates a law, it is wrong because somebody goes out and violates the intent of the law, it is wrong because there are a few bad apples in the system that the gentleman from New York [Mr. SCHUMER] comes out and says that this system is rotten to the core.

Let me tell my colleagues, we live in the greatest country in the world. We have a system that is the best system in the world. It allows this kind of debate on this House floor. We can stand up here and talk about any issue that we want without facing repercussions from the military, for example, as we see in other countries.

It is wrong for any one of us in these chambers to stand up and speak in such derogatory terms as to paint a blanket paintbrush over every individual in here that some system is rotten to the core. I apologize for the statement on behalf of the individual that made it.

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I do not apologize to anyone for saying that the system of campaign finance in this country is rotten to the core.

There are good people here, and even they are turned in a bad direction by the way we finance campaigns, and the sooner the gentleman from Colorado and every Member of this body, Democrat and Republican, face that, the sooner we will be able to clean it up and restore people's faith.

Mr. Speaker, I love this country as much as the gentleman from Colorado [Mr. MCINNIS] does. I ask my colleagues to go ask the American people. The system of the way we finance campaigns is rotten to the core.

Mr. DREIER. Mr. Speaker, I yield 15 seconds to my friend from Colorado [Mr. MCINNIS].

Mr. MCINNIS. Mr. Speaker, a very simple question to the gentleman: How much money do you have in your bank account?

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, the gentleman from Texas [Mr. DELAY] has asked why I do not want to read the names of the lobbyists in the article. It is very simple. They are not Members of the House and they cannot defend themselves. He can, and he ought to. I would suggest that if he wants to discuss these names, I am happy to discuss them with him publicly or privately any time.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, this has been perhaps the most revealing debate of this entire session of Congress.

I might say, to use an old phrase, when push comes to shove, we get down to the heart of a critical issue to the American people and we see why it is that our Republican colleagues are so fearful of giving us even 10 minutes to debate this issue on the floor of the U.S. Congress; why they are so hypersensitive when the issue is not influence peddling down the street, but influence peddling right here in this building: Peddling out checks from tobacco companies; having meetings, not just one isolated meeting that has been discussed here. At the committee that I served on last year, they turned over the taxpayer financed computers to the lobbyists to write the legislation, and then they had them sit there and whisper in the ear of the committee counsel how to answer the questions about the legislation that the lobbyists had written.

It is that connection between special interest campaign finance and between the writing of legislation to benefit those same special interests that ought to be devoted a week, not an hour, a week, on the floor to debate how to fix it, and they are afraid to do it.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I urge a "no" vote on the previous question. If the previous question is defeated, I shall offer an amendment which will require that comprehensive campaign finance reform legislation be considered by this House by the end of the month.

Mr. Speaker, I ask unanimous consent to include the text of the proposed amendment at this point in the RECORD along with a brief explanation of what the vote on the previous question really means and to include extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The material referred to is as follows:

At the end of the resolution add the following new section:

Section 2. No later than May 31, 1997, the House shall consider comprehensive campaign finance reform legislation under an open amendment process.

Mr. Speaker, this vote on whether or not to order the previous question is not merely a procedural vote. It is a vote against the Republican majority's failure to develop and carry out an agenda that is meaningful to the American people. It is one of the few tools we have as the minority to offer an alternative plan for what the House should spend its time debating. We believe that should be comprehensive campaign finance reform. If the previous question is defeated, we will have the opportunity to amend the rule to require consideration of a campaign finance bill by the end of next month. The previous question is the way we can, by vote of the House, tell this Republican leadership to do what the American people really sent us here to do.

I urge my colleagues to vote against the previous question. Vote for comprehensive campaign reform.

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's "Precedents of the House of Representatives," (VI, 308–311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House is being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership "Manual on the Legislative Process in the United States House of Representatives," (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: "Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment.

Deschler's "Procedure in the U.S. House of Representatives," the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: "Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

The vote on the previous question on a rule does have substantive policy implications. It is the one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

[From the Washington Post, Mar. 12, 1995]

FORGING AN ALLIANCE FOR DEREGULATION

(By Michael Weisskopf and David Maraniss)

REP. DELAY MAKES COMPANIES FULL PARTNERS IN THE MOVEMENT

The day before the Republicans formally took control of Congress, Rep. Tom DeLay strolled to a meeting in the rear conference room of his spacious new leadership suite on the first floor of the Capitol. The dapper Texas Congressman, soon to be sworn in as House majority whip, saw before him a group of lobbyists representing some of the biggest companies in America, assembled on mismatched chairs amid packing boxes, a huge, unplugged copying machine and constantly ringing telephones.

He could not wait to start on what he considered the central mission of his political career: the demise of the modern era of government regulation.

Since his arrival in Washington a decade earlier, DeLay, a former exterminator who had made a living killing fire ants and termites on Houston's wealthy west side, had been seeking to eradicate federal safety and environmental rules that he felt placed excessive burdens on American businesses.

During his rise to power in Congress, he had befriended many industry lobbyists who shared his fervor. Some of them were gathered in his office that January morning at the dawn of the Republican revolution, energized by a sense that their time was finally at hand.

The session inaugurated an unambiguous collaboration of political and commercial interests, certainly not uncommon in Washington but remarkable this time for the ease and eagerness with which these allies combined. Republicans have championed their legislative agenda as an answer to popular dissatisfaction with Congress and the federal government. But the agenda also represents a triumph for business interests, who after years of playing a primarily defensive role in Democratic-controlled Congresses now find themselves a full partner of the Republican leadership in shaping congressional priorities.

The campaign launched in DeLay's office that day was quick and successful. It resulted last month in a lopsided vote by the House for what once seemed improbable: a 13-month halt to the sorts of government directives that Democrats had viewed as vital to ensuring a safe and clean society, but that many businesses often considered oppressive and counterproductive. A similar bill is under consideration in the Senate, where its chances of approval are not as certain.

Although several provisions of the "Contract With America" adopted by Republican House candidates last fall take specific aim at rolling back federal regulations, the moratorium was not part of that. In fact, as outlined that day in DeLay's office by Gordon Gooch, an oversized, folksy lobbyist for energy and petrochemical interests who served as the congressman's initial legislative ghost writer, the first draft of the bill called for a limited, 100-day moratorium on rulemaking while the House pushed through the more comprehensive antiregulatory plank in the Contract.

But his fellow lobbyists in the inner circle argued that was too timid, according to participants in the meeting. Over the next few days, several drafts were exchanged by the corporate agents. Each new version sharpened and expanded the moratorium bill, often with the interests of clients in mind—one provision favoring California motor fleets, another protecting industrial consumers of natural gas, and a third keeping alive Union Carbide Corp.'s hopes for altering a Labor Department requirement.

As the measure progressed, the roles of legislator and lobbyist blurred. DeLay and his assistants guided industry supporters in an ad hoc group whose name, Project Relief, sounded more like a Third World humanitarian aid effort than a corporate alliance with a half-million-dollar communications budget. On key amendments, the coalition provided the draftsman. And once the bill and the debate moved to the House floor, lobbyists hovered nearby, tapping out talking points on a laptop computer for delivery to Republican floor leaders.

Many of Project Relief's 350 industry members had spent the past few decades angling for a place of power in Democratic governing circles and had made lavish contributions to Democratic campaigns, often as much out of pragmatism as ideology. But now they were in the position of being courted and consulted by newly empowered Republicans dedicated to cutting government regulation and eager to share the job.

No congressman has been more openly solicitous in that respect than DeLay, the 47-year-old congressional veteran regarded by many lawmakers and lobbyists as the sharpest political dealer among the ruling House triad that includes fellow Texan Richard K. Armey, the majority leader, and Speaker Newt Gingrich of Georgia.

DeLay described his partnership with Project Relief as a model for effective Republican lawmaking, a fair fight against Democratic alliances with labor unions and environmentalists. "Our supporters are no different than theirs," DeLay said of the Democrats. "But somehow they have this Christ-like attitude what they are doing [is] protecting the world when they're tearing it apart." Turning to business lobbyists to draft legislation makes sense, according to DeLay, because "they have the expertise."

But the alliance with business and industry demonstrated in the push for a moratorium is not without peril for Republicans, many GOP strategists acknowledge. The more the new Republican leaders follow business prescriptions for limited government in the months ahead, the greater the risk that they will appear to be serving the corporate elite and lose the populist appeal that they carried with them into power in last November's elections.

William Kristol, a key Republican analyst whose frequent strategy memos help shape the conservative agenda, said the way congressional leaders deal with that apparent conflict could determine their prospects for consolidating congressional power. "If they legislate for special interests," he said, "it's going to be hard to show the Republican Party has fundamentally changed the way business is done in Washington."

THE EXTERMINATOR

After graduating from the University of Houston with a biology degree in 1970, Tom DeLay, the son of an oil drilling contractor, found himself managing a pesticide formula company. Four years later he was the owner of Albo Pest Control, a little outfit whose name he hated but kept anyway because a marketing study noted it reminded consumers of a well-known brand of dog food.

By his account, DeLay transformed Albo into "the Cadillac" of Houston exterminators, serving only the finest homes. But his frustrations with government rules increased in tandem with his financial success. He disparaged federal worker safety rules, including one that required his termite men to wear hard hats when they tunneled under houses. And the Environmental Protection Agency's pesticide regulations, he said, "drove me crazy." The agency had banned Mirex, a chemical effective in killing fire ants but at first considered a dangerous carcinogen by federal bureaucrats. By the time they changed their assessment a few years later, it was too late; Mirex makers had gone out of business.

The cost and complexity of regulations, DeLay said, got in the way of profits and drove him into politics. "I found out government was a cost of doing business," he said, "and I better get involved in it."

He arrived in the Texas legislature in 1978 with a nickname that defined his mission: "Mr. DeReg." Seven years later he moved his crusade to Washington as the congressman from Houston's conservative southwest suburbs. He sought to publicize his cause by handing out Red Tape Awards for what he considered the most frivolous regulations.

But it was a lonely, quixotic enterprise, hardly noticed in the Democrat-dominated House, where systematic regulation of industry was seen as necessary to keep the business community from putting profit over the public interest and to guarantee a safe, clean and fair society. The greater public good, Democratic leaders and their allies in labor and environmental groups argued, had been well served by government regulation. Countless highway deaths had been prevented by mandatory safety procedures in cars. Bald eagles were flying because of the ban on DDT. Rivers were saved by federal mandates on sewerage.

DeLay nonetheless was gaining notice in the world of commerce. Businessmen would complain about the cost of regulation, which the government says amounts to $430 billion a year passed along to consumers. They would cite what they thought were silly rules, such as the naming of dishwashing liquid on a list of hazardous materials in the workplace. They pushed for regulatory relief, and they saw DeLay as their point man.

The two-way benefits of that relationship were most evident last year when DeLay ran for Republican whip. He knew the best way to build up chits was to raise campaign funds for other candidates. The large number of open congressional seats and collection of strong Republican challengers offered him an unusual opportunity. He turned to his network of business friends and lobbyists. "I sometimes overly prevailed on these allies," DeLay said.

In the 1994 elections, he was the second-leading fund-raiser for House Republican candidates, behind only Gingrich. In adding up contributions he had solicited for others, DeLay said, he lost count at about $2 million. His persuasive powers were evident in the case of the National-American Wholesale Grocers Association PAC, which already had contributed $120,000 to candidates by the time DeLay addressed the group last September. After listening to his speech on what could be accomplished by a pro-business Congress, they contributed another $80,000 to Republicans and consulted DeLay, among others, on its distribution.

The chief lobbyist for the grocers, Bruce Gates, would be recruited later by DeLay to chair his anitregulatory Project Relief. Several other business lobbyists played crucial roles in DeLay's 1994 fund-raising and also followed Gates's path into the antiregulatory effort. Among the most active were David Rehr of the National Beer Wholesalers Association, Dan Mattoon of BellSouth Corporation, Robert Rusbuldt of Independent Insurance Agents of America and Elaine Graham of the National Restaurant Association.

At the center of the campaign network was Mildred Webber, a political consultant who had been hired by DeLay to run his race for whip. She stayed in regular contact with both the lobbyists and more than 80 GOP congressional challengers, drafting talking points for the neophyte candidates and calling the lobbyist bank when they needed money. Contributions came in from various business PACs, which Webber bundled together with a good-luck note from DeLay.

"We'd rustle up checks for the guy and make sure Tom got the credit," said Rehr, the beer lobbyist. "So when new members voted for majority whip, they'd say, 'I wouldn't be here if it wasn't for Tom DeLay.'"

For his part, DeLay hosted fundraisers in the districts and brought challengers to Washington for introduction to the PAC community. One event was thrown for David M. McIntosh, an Indiana candidate who ran the regulation-cutting Council on Competitiveness in the Bush administration under fellow Hoosier Dan Quayle. McIntosh won and was named chairman of the House regulatory affairs subcommittee. He hired Webber as staff director.

It was with the lopsided support of such Republican freshmen as McIntosh that DeLay swamped two rivals and became the majority whip of the 104th Congress. Before the vote, he had received final commitments from 52 of the 73 newcomers.

THE FREEZE

The idea for Project Relief first surfaced before the November elections that brought Republicans to power in the House for the first time in 40 years. Several weeks after the election, it had grown into one of the most diverse business groups ever formed for specific legislative action. Leaders of the project, at their first post-election meeting, discussed the need for an immediate move to place a moratorium on federal rules. More than 4,000 regulations were due to come out in the coming months, before the Republican House could deal with comprehensive antiregulatory legislation.

DeLay agreed with the business lobbyists that a regulatory "timeout" was needed. He wrote a letter to the Clinton administration Dec. 12 asking for a 100-day freeze on federal rule-making. The request was rejected two days later by a mid-level official who described the moratorium concept as a "blunderbuss." DeLay then turned to Gooch to write legislation that would do what the administration would not.

At the Jan. 3 meeting in DeLay's office, Paul C. Smith, lobbyist for some of the nation's largest motor fleets, criticized Gooch's draft because it excluded court-imposed regulations. He volunteered to do the next draft and came back with a version that addressed the concerns of his clients. Under court order, the EPA was about to impose an air pollution plan in California that might require some of Smith's clients—United Parcel Service and auto leasing companies—to run vehicles on ultraclean fuels, requiring the replacement of their fleets.

Smith removed the threat with a stroke of his pen, extending the moratorium to cover court deadlines. He also helped Webber add wording in a later amendment that extended the moratorium from eight to 13 months.

Peter Molinaro, a mustachioed lobbyist for Union Carbide, had a different concern: He wanted to make sure the moratorium would not affect new federal rules if their intention was to soften or streamline other federal rules. The Labor Department, for example, was reviewing a proposal to narrow a rule that employers keep records of off-duty injuries to workers. Union Carbide, Molinaro noted in an interview, had been fined $50,000 for violating that rule and was eager for it to be changed.

For his part, Gooch wanted to make sure that the routine, day-to-day workings of regulatory agencies would not be interrupted by a moratorium. His petrochemical clients rely on the Federal Energy Regulatory Commission to make sure natural gas and oil, used in their production processes, flow consistently and at reasonable rates.

Gooch said he had "no specific mission" other than helping DeLay. "I'm not claiming to be a Boy Scout," he added. "No question I thought what I was doing was in the best interests of my clients."

THE WAR ROOM

On the first day of February, 50 Project Relief lobbyists met in a House committee room to map out their vote-getting strategy for the moratorium bill. Their keynote speaker was DeLay, who laid out his basic objective: making it a veto-proof bill by lining up a sufficient number of Democratic cosponsors. They went to work on it then and there.

Kim McKernan of the National Federation of Independent Business read down a list of 72 House Democrats who had just voted for the GOP balanced budget amendment, rating the likelihood of their joining the antiregulatory effort. The Democrats were placed in Tier One for gettable and Tier Two for questionable.

Every Democrat, according to participants, was assigned to a Project Relief lobbyist, often one who had an angle to play.

The nonprescription drug industry chose legislators with Johnson & Johnson plants in their districts, such as Ralph M. Hall of Texas and Frank Pallone Jr. of New Jersey. David Thompson, a construction industry official whose firm is based in Greenville, S.C., targeted South Carolina congressman John M. Spratt, Jr.

Federal Express, with its Memphis hub, took Tennessee's John S. Tanner. Southwestern Bell Corp., a past campaign contributor to Blanche Lambert Lincoln of Arkansas, agreed to contact her. Retail farm suppliers picked rural lawmakers, including Charles W. Stenholm of Texas.

As the moratorium bill reached the House floor, the business coalition proved equally potent. Twenty major corporate groups advised lawmakers on the eve of debate Feb. 23 that this was a key vote, one that would be considered in future campaign contributions.

McIntosh, who served as DeLay's deputy for deregulation, assembled a war room in a small office just off the House floor to respond to challenges from Democratic opponents. His rapid response team included Smith, the motor fleet lobbyist, to answer environmental questions; James H. Burnley IV, an airline lobbyist who had served as transportation secretary in the Reagan administration, to advise on transportation rules; and UPS lobbyist Dorothy Strunk, a former director of the Occupational Health and Safety Administration, to tackle workplace issues. Project Relief chairman Gates and lobbyists for small business and trucking companies also participated.

When Republican leaders were caught off guard by a Democratic amendment or alerted to a last-minute problem by one of their allies, Smith would bang out responses on his laptop computer and hand the disk to a McIntosh aide who had them printed and delivered to the House floor.

The final vote for the moratorium was 276 to 146, with 51 Democrats joining DeLay's side. Still 14 votes short of the two-thirds needed to override a veto, the support exceeded the original hopes of Project Relief leaders.

One week later, DeLay appeared before a gathering of a few hundred lobbyists, lawmakers and reporters in the Caucus Room of the Cannon House Office Building to celebrate the House's success in voting to freeze government regulations and, in a pair of companion bills, curtail them. He stood next to a five-foot replica of the Statue of Liberty, wrapped from neck to toe in bright red tape, pulled out a pair of scissors, and jubilantly snipped away.

Standing next to him, brandishing scissors of his own, was the chairman of Project Relief.

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time.

In conclusion, let me remind my colleagues that defeating the previous question is an exercise in futility, because the minority wants to offer an amendment that will be ruled out of order as nongermane to this rule. So the vote is without substance, and in fact we do not have a campaign finance reform bill that has even been introduced that would be offered if this were to be ruled germane.

The previous question vote itself is nothing more than a procedural motion to close debate on this rule and proceed to the very important vote that we will have allowing us to consider the veterans bill, the American Samoan bill, these suspensions. The vote has no substantive or policy implications whatsoever, that being the previous question vote.

Mr. Speaker, at this point I ask unanimous consent to insert in the RECORD an explanation of the previous question issue from our House Committee on Rules.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The material referred to is as follows:

THE PREVIOUS QUESTION VOTE: WHAT IT MEANS

House Rule XVII ("Previous Question") provides in part that:

> There shall be a motion for the previous question, which, being ordered by a majority of the Members voting, if a quorum is present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked or ordered.

In the case of a special rule or order of business resolution reported from the House Rules Committee, providing for the consideration of a specified legislative measure, the previous question is moved following the one hour of debate allowed for under House Rules.

The vote on the previous question is simply a procedural vote on whether to proceed to an immediate vote on adopting the resolution that sets the ground rules for debate and amendments on the legislation it would make in order. Therefore, the vote on the previous question has no substantive legislative or policy implications whatsoever.

Mr. Speaker, in conclusion I would say that this has been the most interesting debate that we possibly could have had over a measure that will simply allow us to consider two additional days of suspension.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair announces that he may reduce to not less than 5 minutes the time within which a vote by electronic device, if ordered, may be taken on agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 213, nays 196, not voting 23, as follows:

[Roll No. 74]

YEAS—213

Aderholt
Archer
Armey
Bachus
Baker
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)

NAYS—196

Abercrombie
Ackerman
Allen
Baesler
Baldacci
Barcia
Barrett (WI)
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—23

Andrews
Ballenger
Barr
Barton
Becerra
Bishop
Boyd
Carson
Chambliss
Doolittle
Fawell
Filner
Granger
Hefner
Istook
McCarthy (NY)
Peterson (MN)
Porter
Ryun
Schiff
Stark
Watts (OK)
Young (AK)

□ 1315

Ms. RIVERS changed her vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GUTKNECHT). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall vote, if postponed, will be taken on Thursday, April 10, 1997.

VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1997

Mr. MICA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 240) to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes, as amended.

The Clerk read as follows:

H. 240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Employment Opportunities Act of 1997".

SEC. 2. EQUAL ACCESS FOR VETERANS.

(a) COMPETITIVE SERVICE.—Section 3304 of title 5, United States Code, is amended by adding at the end the following:

"(f)(1) No preference eligible, and no individual (other than a preference eligible) who has been separated from the armed forces under honorable conditions after 3 or more years of active service, shall be denied the opportunity to compete for an announced vacant position within an agency, in the competitive service or the excepted service, by reason of—

"(A) not having acquired competitive status; or

"(B) not being an employee of such agency.

"(2) Nothing in this subsection shall prevent an agency from filling a vacant position (whether by appointment or otherwise) solely from individuals on a priority placement list consisting of individuals who have been separated from the agency due to a reduction in force and surplus employees (as defined under regulations prescribed by the Office).".

(b) CIVIL SERVICE EMPLOYMENT INFORMATION.—

(1) VACANT POSITIONS.—Section 3327(b) of title 5, United States Code, is amended by striking "and" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

"(2) each vacant position in the agency for which competition is restricted to individuals having competitive status or employees of such agency, excluding any position under paragraph (1), and".

(2) ADDITIONAL INFORMATION.—Section 3327 of title 5, United States Code, is amended by adding at the end the following:

"(c) Any notification provided under this section shall, for all positions under subsection (b)(1) as to which section 3304(f) applies and for all positions under subsection (b)(2), include a notation as to the applicability of section 3304(f) with respect thereto.

"(d) In consultation with the Secretary of Labor, the Office shall submit to Congress and the President, no less frequently than every 2 years, a report detailing, with respect to the period covered by such report—

"(1) the number of positions listed under this section during such period;

"(2) the number of preference eligibles and other individuals described in section 3304(f)(1) referred to such positions during such period; and

"(3) the number of preference eligibles and other individuals described in section 3304(f)(1) appointed to such positions during such period.".

(c) GOVERNMENTWIDE LISTS.—

(1) VACANT POSITIONS.—Section 3330(b) of title 5, United States Code, is amended to read as follows:

"(b) The Office of Personnel Management shall cause to be established and kept current—

"(1) a comprehensive list of all announcements of vacant positions (in the competitive service and the excepted service, respectively) within each agency that are to be filled by appointment for more than 1 year and for which applications are being or will soon be accepted from outside the agency's work force; and

"(2) a comprehensive list of all announcements of vacant positions within each agency for which applications are being or will soon be accepted and for which competition is restricted to individuals having competitive status or employees of such agency, excluding any position required to be listed under paragraph (1).".

(2) ADDITIONAL INFORMATION.—Section 3330(c) of title 5, United States Code, is amended by striking "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following:

"(3) for all positions under subsection (b)(1) as to which section 3304(f) applies and for all positions under subsection (b)(2), a notation as to the applicability of section 3304(f) with respect thereto; and".

(3) CONFORMING AMENDMENT.—Section 3330(d) of title 5, United States Code, is amended by striking "The list" and inserting "Each list under subsection (b)".

(d) PROVISIONS RELATING TO THE UNITED STATES POSTAL SERVICE.—

(1) IN GENERAL.—Subsection (a) of section 1005 of title 39, United States Code, is amended by adding at the end the following:

"(5)(A) The provisions of section 3304(f) of title 5 shall apply with respect to the Postal Service in the same manner and under the same conditions as if the Postal Service were an agency within the meaning of such provisions.

"(B) Nothing in this subsection shall be considered to require the application of section 3304(f) of title 5 in the case of any individual who is not an employee of the Postal Service if—

"(i) the vacant position involved is to be filled pursuant to a collective-bargaining agreement;

"(ii) the collective-bargaining agreement restricts competition for such position to individuals employed in a bargaining unit or installation within the Postal Service in which the position is located;

"(iii) the collective-bargaining agreement provides that the successful applicant shall be selected on the basis of seniority or qualifications; and

"(iv) the position to be filled is within a bargaining unit.

"(C) The provisions of this paragraph shall not be modified by any program developed under section 1004 of this title or any collective-bargaining agreement entered into under chapter 12 of this title.".

(2) CONFORMING AMENDMENT.—The first sentence of section 1005(a)(2) of title 39, United States Code, is amended by striking "title." and inserting "title, subject to paragraph (5) of this subsection.".

SEC. 3. SPECIAL PROTECTIONS FOR PREFERENCE ELIGIBLES IN REDUCTIONS IN FORCE.

(a) IN GENERAL.—Section 3502 of title 5, United States Code, as amended by section 1034 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 430), is amended by adding at the end the following:

"(g)(1) A position occupied by a preference eligible shall not be placed in a single-position competitive level if the preference eligible is qualified to perform the essential functions of any other position at the same grade (or occupational level) in the competitive area. In such cases, the preference eligible shall be entitled to be placed in another competitive level for which such preference eligible is qualified. If the preference eligible is qualified for more than one competitive level, such preference eligible shall be placed in the competitive level containing the most positions.

"(2) For purposes of paragraph (1)—

"(A) a preference eligible shall be considered qualified to perform the essential functions of a position if, by reason of experience, training, or education (and, in the case of a disabled veteran, with reasonable accommodation), a reasonable person could conclude that the preference eligible would be able to perform those functions successfully within a period of 150 days; and

"(B) a preference eligible shall not be considered unqualified solely because such preference eligible does not meet the minimum qualification requirements relating to previous experience in a specified grade (or occupational level), if any, that are established for such position by the Office of Personnel Management or the agency.

"(h) In connection with any reduction in force, a preference eligible whose current or most recent performance rating is at least fully successful (or the equivalent) shall have, in addition to such assignment rights as are prescribed by regulation, the right, in lieu of separation, to be assigned to any position within the agency conducting the reduction in force—

"(1) for which such preference eligible is qualified under subsection (g)(2)—

"(A) that is within the preference eligible's commuting area and at the same grade (or occupational level) as the position from which the preference eligible was released, and that is then occupied by an individual, other than another preference eligible, who was placed in such position (whether by appointment or otherwise) within 6 months before the reduction in force if, within 12 months prior to the date on which such individual was so placed in such position, such individual had been employed in the same competitive area as the preference eligible; or

"(B) that is within the preference eligible's competitive area and that is then occupied by an individual, other than another preference eligible, who was placed in such position (whether by appointment or otherwise) within 6 months before the reduction in force; or

"(2) for which such preference eligible is qualified that is within the preference eligible's competitive area and that is not more than 3 grades (or pay levels) below that of the position from which the preference eligible was released, except that, in the case of a preference eligible with a compensable service-connected disability of 30 percent or more, this paragraph shall be applied by substituting '5 grades' for '3 grades'. In the event that a preference eligible is entitled to assignment to more than 1 position under this subsection, the agency shall assign the preference eligible to any such position requiring no reduction (or, if there is no such position, the least reduction) in basic pay. A position shall not, with respect to a preference eligible, be considered to satisfy the requirements of paragraph (1) or (2), as applicable, if it does not last for at least 12 months following the date on which such preference eligible is assigned to such position under this subsection.

"(i) A preference eligible may challenge the classification of any position to which the preference eligible asserts assignment rights (as provided by, or prescribed by regulations described in, subsection (h)) in an action before the Merit Systems Protection Board.

"(j)(1) Not later than 90 days after the date of the enactment of the Veterans Employment Opportunities Act of 1997, each Executive agency shall establish an agencywide priority placement program to facilitate employment placement for employees who—

"(A)(i) are scheduled to be separated from service due to a reduction in force under—

"(I) regulations prescribed under this section; or

"(II) procedures established under section 3595; or

"(ii) are separated from service due to such a reduction in force; and

"(B)(i) have received a rating of at least fully successful (or the equivalent) as the last performance rating of record used for retention purposes; or

"(ii) occupy positions excluded from a performance appraisal system by law, regulation, or administrative action taken by the Office of Personnel Management.

"(2)(A) Each agencywide priority placement program under this subsection shall include provisions under which a vacant position shall not (except as provided in this paragraph or any other statute providing the right of reemployment to any individual) be filled by the appointment or transfer of any individual from outside

of that agency (other than an individual described in subparagraph (B)) if—

“(i) there is then available any individual described in subparagraph (B) who is qualified for the position; and

“(ii) the position—

“(I) is at the same grade or pay level (or the equivalent) or not more than 3 grades (or grade intervals) below that of the position last held by such individual before placement in the new position;

“(II) is within the same commuting area as the individual's last-held position (as referred to in subclause (I)) or residence; and

“(III) has the same type of work schedule (whether full-time, part-time, or intermittent) as the position last held by the individual.

“(B) For purposes of an agencywide priority placement program, an individual shall be considered to be described in this subparagraph if such individual—

“(i)(I) is an employee of such agency who is scheduled to be separated, as described in paragraph (1)(A)(i); or

“(II) is an individual who became a former employee of such agency as a result of a separation, as described in paragraph (1)(A)(ii), excluding any individual who separated voluntarily under subsection (f); and

“(ii) satisfies clause (i) or (ii) of paragraph (1)(B).

“(3)(A) If after a reduction in force the agency has no positions of any type within the local commuting areas specified in this subsection, the individual may designate a different local commuting area where the agency has continuing positions in order to exercise reemployment rights under this subsection. An agency may determine that such designations are not in the interest of the Government for the purpose of paying relocation expenses under subchapter II of chapter 57.

“(B) At its option, an agency may administratively extend reemployment rights under this subsection to include other local commuting areas.

“(4)(A) In selecting employees for positions under this subsection, the agency shall place qualified present and former employees in retention order by veterans' preference subgroup and tenure group.

“(B) An agency may not pass over a qualified present or former employee to select an individual in a lower veterans' preference subgroup within the tenure group, or in a lower tenure group.

“(C) Within a subgroup, the agency may select a qualified present or former employee without regard to the individual's total creditable service.

“(5) An individual is eligible for reemployment priority under this subsection for 2 years from the effective date of the reduction in force from which the individual will be, or has been, separated under this section or section 3595, as the case may be.

“(6) An individual loses eligibility for reemployment priority under this subsection when the individual—

“(A) requests removal in writing;

“(B) accepts or declines a bona fide offer under this subsection or fails to accept such an offer within the period of time allowed for such acceptance, or

“(C) separates from the agency before being separated under this section or section 3595, as the case may be.

A present or former employee who declines a position with a representative rate (or equivalent) that is less than the rate of the position from which the individual was separated under this section retains eligibility for positions with a higher representative rate up to the rate of the individual's last position.

“(7) Whenever more than one individual is qualified for a position under this subsection, the agency shall select the most highly qualified individual, subject to paragraph (4).

“(8) The Office of Personnel Management shall issue regulations to implement this subsection.”.

(b) APPLICABILITY.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this section shall apply with respect to—

(A) reductions in force taking effect after the end of the 90-day period beginning on the date of the enactment of this Act; or

(B) in the case of the Department of Defense, reductions in force taking effect after the end of the 1-year period beginning on the date of the enactment of this Act.

(2) ONGOING REDUCTIONS IN FORCE.—If an agency has given written notice of a reduction in force to any of its employees within a competitive area, in accordance with section 3502(d)(1)(A) of title 5, United States Code, before the effective date under subparagraph (A) or (B) of paragraph (1), as applicable, then, for purposes of determining the rights of any employee within such area in connection with such reduction in force, the amendments made by this section shall be treated as if they had never been enacted. Nothing in the preceding sentence shall affect any rights under a priority placement program under section 3502(j) of title 5, United States Code, as amended by this section.

SEC. 4. IMPROVED REDRESS FOR VETERANS.

(a) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

“§ 3330a. Administrative redress

“(a)(1) Any preference eligible or other individual described in section 3304(f)(1) who alleges that an agency has violated such individual's rights under any statute or regulation relating to veterans' preference, or any right afforded such individual by section 3304(f), may file a complaint with the Secretary of Labor.

“(2) A complaint under this subsection must be filed within 60 days after the date of the alleged violation, and the Secretary shall process such complaint in accordance with sections 4322 (a) through (e)(1) and 4326 of title 38.

“(b)(1) If the Secretary of Labor is unable to resolve the complaint within 60 days after the date on which it is filed, the complainant may elect to appeal the alleged violation to the Merit Systems Protection Board in accordance with such procedures as the Merit Systems Protection Board shall prescribe, except that in no event may any such appeal be brought—

“(A) before the 61st day after the date on which the complaint is filed under subsection (a); or

“(B) later than 15 days after the date on which the complainant receives notification from the Secretary of Labor under section 4322(e)(1) of title 38.

“(2) An appeal under this subsection may not be brought unless—

“(A) the complainant first provides written notification to the Secretary of Labor of such complainant's intention to bring such appeal; and

“(B) appropriate evidence of compliance with subparagraph (A) is included (in such form and manner as the Merit Systems Protection Board may prescribe) with the notice of appeal under this subsection.

“(3) Upon receiving notification under paragraph (2)(A), the Secretary of Labor shall not continue to investigate or further attempt to resolve the complaint to which such notification relates.

“(c) This section shall not be construed to prohibit a preference eligible from appealing directly to the Merit Systems Protection Board from any action which is appealable to the Board under any other law, rule, or regulation, in lieu of administrative redress under this section.

“§ 3330b. Judicial redress

“(a) In lieu of continuing the administrative redress procedure provided under section 3330a(b), a preference eligible or other individual described in section 3304(f)(1) may elect, in accordance with this section, to terminate those administrative proceedings and file an action with the appropriate United States district court not later than 60 days after the date of the election.

“(b) An election under this section may not be made—

“(1) before the 121st day after the date on which the appeal is filed with the Merit Systems Protection Board under section 3330a(b); or

“(2) after the Merit Systems Protection Board has issued a judicially reviewable decision on the merits of the appeal.

“(c) An election under this section shall be made, in writing, in such form and manner as the Merit Systems Protection Board shall by regulation prescribe. The election shall be effective as of the date on which it is received, and the administrative proceeding to which it relates shall terminate immediately upon the receipt of such election.

“§ 3330c. Remedy

“(a) If the Merit Systems Protection Board (in a proceeding under section 3330a) or a court (in a proceeding under section 3330b) determines that an agency has violated a right described in section 3330a, the Board or court (as the case may be) shall order the agency to comply with such provisions and award compensation for any loss of wages or benefits suffered by the individual by reason of the violation involved. If the Board or court determines that such violation was willful, it shall award an amount equal to backpay as liquidated damages.

“(b) A preference eligible or other individual described in section 3304(f)(1) who prevails in an action under section 3330a or 3330b shall be awarded reasonable attorney fees, expert witness fees, and other litigation expenses.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 33 of title 5, United States Code, is amended by adding after the item relating to section 3330 the following:

“3330a. Administrative redress.
“3330b. Judicial redress.
“3330c. Remedy.”.

SEC. 5. EXTENSION OF VETERANS' PREFERENCE.

(a) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Paragraph (3) of section 2108 of title 5, United States Code, is amended by striking “the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, or the General Accounting Office;” and inserting “or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;”.

(b) AMENDMENTS TO TITLE 3, UNITED STATES CODE.—

(1) IN GENERAL.—Chapter 2 of title 3, United States Code, is amended by adding at the end the following:

“§ 115. Veterans' preference

“(a) Subject to subsection (b), appointments under sections 105, 106, and 107 shall be made in accordance with section 2108, and sections 3309 through 3312, of title 5.

“(b) Subsection (a) shall not apply to any appointment to a position the rate of basic pay for which is at least equal to the minimum rate established for positions in the Senior Executive Service under section 5382 of title 5 and the duties of which are comparable to those described in section 3132(a)(2) of such title or to any other position if, with respect to such position, the President makes certification—

"(1) that such position is—

"(A) a confidential or policy-making position; or

"(B) a position for which political affiliation or political philosophy is otherwise an important qualification; and

"(2) that any individual selected for such position is expected to vacate the position at or before the end of the President's term (or terms) of office.

Each individual appointed to a position described in the preceding sentence as to which the expectation described in paragraph (2) applies shall be notified as to such expectation, in writing, at the time of appointment to such position.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 3, United States Code, is amended by adding at the end the following:

"115. Veterans' preference.".

(c) LEGISLATIVE BRANCH APPOINTMENTS.—

(1) DEFINITIONS.—For the purposes of this subsection, the terms "employing office", "covered employee", and "Board" shall each have the meaning given such term by section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301).

(2) RIGHTS AND PROTECTIONS.—The rights and protections established under section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code, shall apply to covered employees.

(3) REMEDIES.—

(A) IN GENERAL.—The remedy for a violation of paragraph (2) shall be such remedy as would be appropriate if awarded under applicable provisions of title 5, United States Code, in the case of a violation of the relevant corresponding provision (referred to in paragraph (2)) of such title.

(B) PROCEDURE.—The procedure for consideration of alleged violations of paragraph (2) shall be the same as apply under section 401 of the Congressional Accountability Act of 1995 (and the provisions of law referred to therein) in the case of an alleged violation of part A of title II of such Act.

(4) REGULATIONS TO IMPLEMENT SUBSECTION.—

(A) IN GENERAL.—The Board shall, pursuant to section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), issue regulations to implement this subsection.

(B) AGENCY REGULATIONS.—The regulations issued under subparagraph (A) shall be the same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this subsection.

(C) COORDINATION.—The regulations issued under subparagraph (A) shall be consistent with section 225 of the Congressional Accountability Act of 1995 (2 U.S.C. 1361).

(5) APPLICABILITY.—Notwithstanding any other provision of this subsection, the term "covered employee" shall not, for purposes of this subsection, include an employee—

(A) whose appointment is made by the President with the advice and consent of the Senate;

(B) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or

(C) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

(6) EFFECTIVE DATE.—Paragraphs (2) and (3) shall be effective as of the effective date of the regulations under paragraph (4).

(d) JUDICIAL BRANCH APPOINTMENTS.—

(1) IN GENERAL.—Subject to paragraphs (2) through (4), the Judicial Conference of the United States shall prescribe regulations to provide for—

(A) veterans' preference in the consideration of applicants for employment, and in the conduct of any reductions in force, within the judicial branch; and

(B) redress procedures for alleged violations of any rights provided for under subparagraph (A).

(2) REGULATIONS TO BE BASED ON EXISTING PROVISIONS.—Under the regulations—

(A) a preference eligible (as defined by section 2108 of title 5, United States Code) shall be afforded preferences similar to those under sections 3309 through 3312, and subchapter I of chapter 35, of such title 5; and

(B) the redress procedures provided for shall be similar to those under the amendments made by section 4.

(3) EXCLUSIONS.—Nothing in the regulations shall apply with respect to—

(A) an appointment made by the President, with the advice and consent of the Senate;

(B) an appointment as a judicial officer;

(C) an appointment as a law clerk or secretary to a justice or judge of the United States; or

(D) an appointment to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

(4) CONSULTATION.—The regulations under this subsection shall be prescribed by the Judicial Conference of the United States, in consultation with—

(A) the largest congressionally chartered veterans' service organization;

(B) 2 congressionally chartered veterans' service organizations that represent former noncommissioned officers;

(C) a congressionally chartered veterans' service organization that represents veterans who have fought in foreign wars;

(D) a congressionally chartered veterans' service organization that represents veterans with service-connected disabilities;

(E) a congressionally chartered veterans' service organization that represents veterans of the Vietnam era; and

(F) a congressionally chartered veterans' service organization that represents veterans of World War II, the Korean conflict, the Vietnam era, and the Persian Gulf War.

(5) DEFINITIONS.—For purposes of this subsection—

(A) the term "judicial officer" means a justice, judge, or magistrate judge listed in subparagraph (A), (B), (F), or (G) of section 376(a)(1) of title 28, United States Code; and

(B) the term "justice or judge of the United States" has the meaning given such term by section 451 of such title 28.

(6) SUBMISSION TO CONGRESS; EFFECTIVE DATE.—

(A) SUBMISSION TO CONGRESS.—Within 5 months after the date of the enactment of this Act, the Judicial Conference of the United States shall submit a copy of the regulations prescribed under this subsection to the Committee on Government Reform and Oversight and the Committee on the Judiciary of the House of Representatives and the Committee on Governmental Affairs and the Committee on the Judiciary of the Senate.

(B) EFFECTIVE DATE.—The regulations prescribed under this subsection shall take effect 6 months after the date of the enactment of this Act.

SEC. 6. VETERANS' PREFERENCE REQUIRED FOR REDUCTIONS IN FORCE IN THE FEDERAL AVIATION ADMINISTRATION.

Section 347(b) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (109 Stat. 460) is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and", and by adding at the end the following:

"(8) sections 3501–3504, as such sections relate to veterans' preference.".

SEC. 7. DEFINITIONAL AMENDMENT.

Subparagraph (A) of section 2108(1) of title 5, United States Code, is amended by inserting "during a military operation in a qualified hazardous duty area (within the meaning of the first 2 sentences of section 1(b) of Public Law 104–117) and in accordance with requirements that may be prescribed in regulations of the Secretary of Defense," after "for which a campaign badge has been authorized,".

SEC. 8. FAILURE TO COMPLY WITH VETERANS' PREFERENCE REQUIREMENTS TO BE TREATED AS A PROHIBITED PERSONNEL PRACTICE FOR CERTAIN PURPOSES.

(a) IN GENERAL.—Subsection (b) of section 2302 of title 5, United States Code, is amended—

(1) by striking "or" at the end of paragraph (10);

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting after paragraph (10) the following:

"(11)(A) knowingly take, recommend, or approve any personnel action if the taking of such action would violate a veterans' preference requirement; or

"(B) knowingly fail to take, recommend, or approve any personnel action if the failure to take such action would violate a veterans' preference requirement; or".

(b) DEFINITION; LIMITATION.—Section 2302 of title 5, United States Code, is amended by adding at the end the following:

"(e)(1) For the purpose of this section, the term 'veterans' preference requirement' means any of the following provisions of law:

"(A) Sections 2108, 3305(b), 3309, 3310, 3311, 3312, 3313, 3314, 3315, 3316, 3317(b), 3318, 3320, 3351, 3352, 3363, 3501, 3502(b), 3504, and 4303(e) and (with respect to a preference eligible referred to in section 7511(a)(1)(B)) subchapter II of chapter 75 and section 7701.

"(B) Sections 943(c)(2) and 1784(c) of title 10.

"(C) Section 1308(b) of the Alaska National Interest Lands Conservation Act.

"(D) Section 301(c) of the Foreign Service Act of 1980.

"(E) Sections 106(f), 7281(e), and 7802(5) of title 38.

"(F) Section 1005(a) of title 39.

"(G) Any other provision of law that the Director of the Office of Personnel Management designates in regulations as being a veterans' preference requirement for the purposes of this subsection.

"(H) Any regulation prescribed under subsection (b) or (c) of section 1302 and any other regulation that implements a provision of law referred to in any of the preceding subparagraphs.

"(2) Notwithstanding any other provision of this title, no authority to order corrective action shall be available in connection with a prohibited personnel practice described in subsection (b)(11). Nothing in this paragraph shall be considered to affect any authority under section 1215 (relating to disciplinary action).".

(c) REPEALS.—

(1) PROVISIONS OF TITLE 10, UNITED STATES CODE.—Section 1599c of title 10, United States Code, and the item relating to such section in the table of sections at the beginning of chapter 81 of such title are repealed.

(2) SECTION 2302(a)(1) OF TITLE 5, UNITED STATES CODE.—Subsection (a)(1) of section 2302 of title 5, United States Code, is amended to read as follows:

"(a)(1) For the purpose of this title, 'prohibited personnel practice' means any action described in subsection (b).".

(d) SAVINGS PROVISION.—This section shall be treated as if it had never been enacted for purposes of any personnel action (within the meaning of section 2302 of title 5, United States Code) preceding the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. MICA] and the gentleman from Pennsylvania [Mr. HOLDEN] each will control 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to come to the floor this afternoon to present H.R. 240, the Veterans' Employment Opportunity Act of 1997, as reported.

This legislation contains many vital features of importance to our Nation's veterans. This bill is the product of hard work by a number of Members on both sides of the aisle, Mr. Speaker.

I want to take just a moment to pay particular thanks to several individuals who have helped make this historic legislation possible. First, the gentleman from Arizona [Mr. STUMP], who chairs the Committee on Veterans' Affairs, the gentleman from Indiana [Mr. BUYER], who is chair of one of the subcommittees and last year worked with us on a nonstop basis. Both of those gentlemen deserve great credit.

In addition, of course, the chairman of the Committee on Rules, who has been an untiring advocate on behalf of our veterans interests, the gentleman from New York [Mr. SOLOMON], also the gentleman from Indiana [Mr. BURTON], chair of our committee, and the gentleman from New Jersey [Mr. FRELINGHUYSEN].

I also want to pay a particular debt of gratitude to the new ranking member of our subcommittee, the Civil Service Subcommittee, which I chair and which produced this legislation, to the gentleman from Pennsylvania [Mr. HOLDEN], again, the current ranking member of our subcommittee, and also to the gentleman for Virginia [Mr. MORAN], who was the ranking member of the subcommittee last year, and his untiring efforts helped make this legislation possible, and also to the many Members who served and acted as cosponsors of this legislation.

Mr. Speaker, last year the House passed a very similar bill, H.R. 3586, with overwhelming support. However, the other body failed to act on this legislation before we adjourned. In order to strengthen that proposal that we had last year, that bill, and in order to facilitate its consideration as it moves through the Congress, we have consulted with the major veterans service organizations, Federal employee organizations, and other interested parties before bringing the legislation back to the House. I want to thank each of these organizations also for their assistance.

Mr. Speaker, there are two important differences that I would like to explain between the bill before the House today and the bill we passed last year. First, H.R. 240 makes the knowing violation of veterans preference a prohibited personnel practice.

Second, as a result of our consultations, we made it clear that the bill would not interfere with job bidding and assignment under selective bargaining agreements in the Postal Service.

Mr. Speaker, I will not attempt to detail here all of the benefits in this bill for our veterans, but I would like to emphasize what I believe are the three most important provisions of this legislation:

First, H.R. 240 establishes for the first time an effective user-friendly redress mechanism for our veterans whose rights have been violated. The second major provisions of H.R. 240 protects veterans against reductions in force using techniques that we have seen such as single person competition that in fact undermine veterans preference.

The third major provisions in the equal access section of the bill. Mr. Speaker, this provision has been included to ensure fair treatment for the men and women we employ in the Armed Forces. Just because these Federal employees have worn uniforms should not bar them from competing for Federal jobs. Yet that is the practice in the Federal civilian work force that we see today.

This bill tears down those artificial barriers for those who have served honorably in the Armed Forces for 3 years. We have made clear, however, that the equal access provisions do not interfere with certain transfers, promotions and assignments of employees under collective bargaining agreements between the Postal Service and its unions. The language in the bill has been carefully crafted.

Mr. Speaker, this bill does not interfere with the reassignment or transfer of rights of postal employees, and it does not diminish the rights of injured postal employees to what is called limited or light duty positions.

Finally, the bill has also been revised to permit the Judicial Conference to develop its own program for implementing veterans preference in our judicial branch. We recognize that personnel practices in the judicial branch may differ and do differ markedly in many instances from civil service processes in the executive branch.

Finally, Mr. Speaker, we have honored the request of the Office of Personnel Management that in fact when there are changes in reduction in force procedures, that we do not disrupt ongoing RIF's and that at least 90 days will be allowed in which to implement those changes.

Mr. Speaker, I reserve the balance of my time.

Mr. HOLDEN. Mr. Speaker, I yield 30 seconds to the gentleman from Virginia [Mr. MORAN], who was the subcommittee ranking member in the last Congress and worked very hard on this legislation.

Mr. MORAN. Mr. Speaker, I thank my friend and colleague from Pennsylvania for yielding me the time.

Let me just congratulate the gentleman from Florida [Mr. MICA], the chairman, and staff director, Mr. Nesterczuk, for bringing this bill forward and my good friend and colleague, the gentleman from Pennsylvania [Mr. HOLDEN], the ranking Democrat on the subcommittee, and his ace staff Cedric did such a great job last year. I know what a great job he did this year as well. I know it is a good bill and will be overwhelmingly approved. They did a good job.

Mr. HOLDEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to express my strong support for H.R. 240, the Veterans' Employment Opportunity Act. I would first like to congratulate the Civil Service Subcommittee chairman, the gentleman from Florida [Mr. MICA], for his leadership and bipartisan efforts on behalf of America's veterans to strengthen the veterans preference policies and programs.

The spirit of cooperation on both sides of the aisle has been critical in bringing forward this important legislation. Last year Chairman MICA and the gentleman from Virginia [Mr. MORAN], the ranking member, did a great job working on this issue, a great deal of work on this issue. H.R. 240 continues our efforts to strengthen veterans preference. It builds on the progress made by last year's bill by improving the ability of veterans to compete during the Federal hiring process, providing adequate protection for preference eligibles and reductions in force, extending veterans preference to all branches of the Federal Government and providing veterans preference for service in Bosnia, Croatia, and the former Yugoslav Republic of Macedonia.

The bill also makes knowing violations of veterans preference laws a prohibited personnel practice. Finally, it makes improvements in the system for investigating and redressing violations whenever they occur.

Testimony in previous Civil Service Subcommittee hearings has revealed that veterans preference in the Federal work force is often ignored or circumvented and that its continued viability in the workplace is threatened on several fronts.

This legislation addresses these problems by making it more difficult for agencies to place preference eligibles in single-position competitive levels. Under this bill, preference eligibles cannot be placed in such a competitive level if by reason of their education, training or experience, a reasonable person could conclude that they would be able to successfully perform another job at the same grade and in the same competitive level within 150 days. In such cases, the preference eligible is to be placed in another competitive level for which he or she qualifies.

We have always agreed that our veterans deserve special consideration in employment decisions because of their special contributions to our country, and this bill continues that tradition.

Our veterans answered their call to duty and were always there for our country in times of need. This legislation honors our obligation to our veterans, who make up 28 percent of the Federal Government employees, and protects their rights in the Federal work force.

H.R. 240 is a good bipartisan framework for strengthening veterans preference. I know that some concerns remain about specific provisions of the bill, and I look forward to working with the chairman and all interested parties to address these concerns.

With the leadership of the Civil Service Subcommittee in the House and the cooperation of the Senate, we have an opportunity with H.R. 240 to pass an effective bill which will give our veterans help in obtaining and retaining civilian employment within the Federal Government based upon their military service.

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I urge all my colleagues to support this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MICA. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PAPPAS] the vice chairman of the Subcommittee on Civil Service.

Mr. PAPPAS. Mr. Speaker, I rise today to support our veterans by calling for the passage of the Veterans Employment Opportunities Act, introduced by the distinguished gentleman from Florida [Mr. MICA].

For too long many of our Nation's veterans have been neglected by our own Government when it comes to obtaining Federal employment. Our Nation's veterans, who served so selflessly and risked their lives, face unnecessary restrictions that preclude them from employment. All they simply desire is the opportunity to continue serving their Nation.

As a result of this legislation, veterans can apply for Federal jobs on a more competitive basis at a time when their employment within the Federal work force is declining and approaching a historically low level.

This is a bipartisan bill that reflects the interests of the people who served our country so courageously. I commend Mr. MICA for his work and urge my colleagues to support it.

Mr. HOLDEN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. EVANS] who is the ranking member of the Committee on Veterans' Affairs.

Mr. EVANS. Mr. Speaker, I thank the gentleman for yielding this time to me.

I rise in strong support of the Veterans Employment Opportunities Act. For the first time, wartime veterans and service-connected-disabled veterans will have access to an effective appellate process if they believe their rights under veterans' preference laws have been violated. Additionally, the bill will provide meaningful protection during a reduction in force for all preference eligibles.

I want to thank the gentleman from Florida [Mr. MICA], the gentleman from Virginia, [Mr. MORAN], and the gentleman from New York [Mr. HOUGHTON] for their bipartisan efforts on behalf of our Nation's veterans.

I also want to mention the good advice and hard work the representatives of the veterans' service organizations have contributed to the development of this legislation. Their assistance and cooperation was invaluable.

H.R. 240 is an excellent bill, and I urge my colleagues to support this measure.

Mr. MICA. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey [Mr. FRELINGHUYSEN] who is the very distinguished Member who has been a very strong advocate on behalf of our veterans.

Mr. FRELINGHUYSEN. Mr. Speaker, I thank the gentleman for yielding me this time, and let me salute the gentleman from Florida, Chairman MICA, and the ranking member for their hard work and effort on this piece of legislation.

As a veteran, I am proud to support the Veterans Employment Opportunities Act, which addresses some very serious concerns I have regarding personnel decisions being made at Federal facilities in my congressional district and around the Nation. Those men and women who have sacrificed years of their lives securing the blessings of liberty for all Americans deserve to be credited for that service in the Federal workplace.

My chief concern is that veterans' preference is being circumvented by many Federal agencies while they are downsizing through what is known as the designer reduction in force, or designer RIF. Many RIF's are carried out by Federal agencies artificially tailoring job categories to make them uncompetitive, thereby negating the employment of veterans' preference in the first place.

The bill Mr. MICA has brought to the floor today would make it more difficult for agencies to use these types of RIF's and provide veterans who are RIF'd with enhanced rights to other jobs. More importantly, this legislation would finally give veterans who believe their rights have been violated a user-friendly redress system, while also making violation of veterans' preference a prohibited personnel practice to be enforced with disciplinary action.

Finally, Mr. Speaker, I would be remiss if I did not thank the chairman, Mr. MICA, and his staff for inviting me to help in crafting this bill to strengthen and expand veterans' preference. The chairman and his staff have done a wonderful job, and I am very proud to join with them.

Mr. MICA. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. FOX] for the purpose of a colloquy.

The gentleman from Pennsylvania [Mr. FOX] has worked with the subcommittee both last year and this year. He has some very specific concerns about the application of this legislation, and we were not able to meet all of the requirements he would like in this legislation, but he is going to state in his colloquy his goal.

Mr. FOX of Pennsylvania. Mr. Speaker. I want to thank the distinguished chairman of the Subcommittee on Civil Service, Mr. MICA, for bringing this important issue before the House today. I would like to commend him for his leadership on this important matter of veterans' employment opportunities. I also want to indicate my support for H.R. 240 that is before us today.

I believe there is another related issue that needs to be addressed as well, Mr. Speaker. Reservists from all branches that were called to active duty during Desert Storm and Desert Shield but did not serve in the actual theater of combat were not awarded veterans' preference points. I would like to point out that these fine men and women were an integral part of supporting these important operations by making them so successful.

There is precedent from the Vietnam era for giving preference points to reservists who were not in the theater of operation but still called to active duty. In this case, many of them went overseas as well but not to the theater.

I have introduced H.R. 1006, which would correct this injustice. It is a related bill and seems to go hand in hand with this bill brought by Congressman MICA. I would very much like to work together with Mr. MICA, as the chairman, and other representatives of the House and Senate to see both these important measures pass the Chambers and are signed into law in this Congress and in this session.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume to tell the gentleman from Pennsylvania that it is my intention to work with the gentleman on the matters he has raised, and the gentleman has my commitment to do so.

Mr. Speaker, I reserve the balance of my time.

Mr. HOLDEN. Mr. Speaker, I yield myself such time as I may consume for the purpose of entering into a colloquy with the subcommittee chairman, Mr. MICA.

Mr. Speaker, as I indicated during my earlier statement, I am aware there are still some groups with concerns about certain provisions of this bill. Though we expect to pass this bill in the House today, I would like the gentleman's commitment to continue working with me, our colleagues in the Senate, and all interested parties to address these concerns and further improve the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MICA. Mr. Speaker, might I inquire as to how much time we have left on each side?

The SPEAKER pro tempore (Mr. GUTKNECHT). The gentleman from Florida [Mr. MICA] has 10 minutes remaining; the gentleman from Pennsylvania [Mr. HOLDEN] has 15 minutes remaining.

Mr. MICA. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. SESSIONS] another distinguished member of our subcommittee.

Mr. SESSIONS. Mr. Speaker, I thank the gentleman for yielding me this time.

It is a privilege to come before the American people in support of this bill, and it is never inappropriate, I believe, to stand up for the rights of veterans, men and women of this country who have fought for us not only in peacetime but also in war. It is easy to take for granted the freedom that we experience every day, but we must not and cannot ever forget the contributions that the men and women of this country of our Armed Forces have made for America.

The Veterans Employment Opportunities Act of 1997 gives to those who have served our country needed appeals and avenues in cases where they may have been denied the opportunity to work in a position for which they were qualified. When veterans are not given the chance to prove their ability, I believe justice must prevail.

H.R. 240 strengthens the veterans' preference in place today and increases economic and employment opportunity for veterans. This bill would create for the first time an effective, user-friendly redress system for veterans who believe that their rights may have been violated. It would make any violation of veterans' preferences a prohibited personnel practice and provide severe disciplinary actions for those who violate those preferences.

Perhaps the most important element of this legislation is the fact that it will remove artificial barriers that often bar service men and women from competing for Federal jobs. These individuals should be able to compete for jobs for which they are qualified just like other Federal employees.

Government downsizing has not been good for veterans of this country. In 1984, veterans accounted for 38 percent of the Federal work force. Today, sadly, that number hovers at just 28 percent.

James King, Director of the Office of Personnel Management, testified before the chairman's subcommittee that as recently as 1992 the percentage of veterans among Federal civilian full-time permanent new hires averaged just 18.5 percent. This is a crisis. The talent and drive that our veterans possess could be just the thing that could turn our bloated bureaucracy around.

One element of this legislation that was particularly important to me was the fact that it ensures that only the most qualified candidates could receive employment under a veteran's preference. Some say that this legislation will place unqualified people in positions of importance, but as my good friend, the gentleman from Florida [Mr. MICA] assures me, this artful bill makes certain that those veterans with the most experience and the greater qualifications get a fair treatment when they are applying for a Federal job.

Mr. Speaker, I urge enactment of this bill and, thus, I stand for the good people, men and women, who have represented America in peacetime and in war.

Mr. HOLDEN. Mr. Speaker, I yield myself such time as I may consume.

In following up to my prior inquiry, Mr. Speaker, I want to have a commitment from the gentleman from Florida [Mr. MICA] that I received privately, off the record, that we would continue to work with interested parties who have some concerns about the bill and do our best to address those concerns as we move forward with the process.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume to assure the gentleman from Pennsylvania and the distinguished ranking member that he has my commitment to work with him and the subcommittee in working out any further details or problems with this legislation as it moves through both the House and the other body.

Mr. HOLDEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MICA. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, when the Veterans Preference Act was passed in 1944, veterans had a reasonable expectation that service to our Nation would be recognized and rewarded. Veterans, many of whom risked their lives and livelihood, could expect, with all other factors being equal, to be given a preference when seeking Federal employment.

As our country has moved from the threat of international conflict, rewarding those who in fact have served our military has become more an illusion than a reality, unfortunately. While hiring preferences for others, for various reasons, has actively been encouraged, veterans' preference in securing Federal employment has, unfortunately, withered on the vine.

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Lacking any enforcement or redress capability, veterans have watched the value of their so-called preference decline as others usurp their rightful place at the front of the Federal employment line. How ironic it is that those whose Federal service often put them at the most peril in an armed conflict now become more often the last hired and the first fired in a time of downsizing.

In closing, Mr. Speaker, I believe that the Veterans Employment Opportunities Act of 1997 provides much-needed protection to our veterans. It provides an effective redress system, and it expands job opportunities for those who in fact have served our Nation honorably in its armed forces.

Mr. Speaker, this bill is strongly supported by 19 major veterans service organizations representing 12 million veterans. I urge my colleagues to support and pass this bill.

Mr. BURTON of Indiana. Mr. Speaker, I rise in strong support of H.R. 240, the Veterans Employment Opportunities Act of 1997. As chairman of the Government Reform and Oversight Committee, I am pleased that one of the committee's first bills on the floor in the 105th Congress is one which will help our Nation's veterans. Chairman JOHN MICA is to be commended for his hard work on this issue and for introducing this bipartisan measure and bringing it to the floor. Last year the House passed similar legislation not once, but twice. Unfortunately, the other body failed to act on this legislation. I was an original cosponsor of H.R. 3586, which Congressman MICA introduced last year, and as chairman of the full committee I have worked very hard for passage of H.R. 240 this year.

Mr. Speaker, Congress intended for veterans' preference rules to help veterans compete for jobs in the Federal Government and to protect veterans' rights during reductions-in-force, or RIF's. Unfortunately, the Civil Service Subcommittee has found that the benefits of the original veterans' preference laws have been eroded. Agencies often ignore or find ways to circumvent veterans' preference directives. One way that agencies do this to conduct special RIF's that are narrowly targeted to specific individuals, leaving those individuals with no opportunity to benefit from the veterans' preference or other rules that would enable them to compete to keep their jobs. This is not right.

I served on the Veterans' Affairs Committee before joining the Committee on Government Reform and Oversight. Many of our Nation's veterans have made tremendous sacrifices for the peace and freedom that all Americans enjoy today. I think it is only fair that Congress take steps to help them compete for Federal jobs for which they are qualified and to protect their rights during RIF's. All veterans have earned those rights.

Clearly, veterans' preference laws need to be strengthened in order for them to remain effective. H.R. 240 would do this by establishing an effective, straightforward redress system for veterans. Federal officials who knowingly violate veterans' rights could be brought before the Merit Systems Protection Board and fined $1,000, suspended, or fired. Federal agencies would be prevented from conducting designer RIFs which unfairly remove veterans' rights. Agencies will be required to establish priority placement programs for veterans who are affected by RIF's, and agencies must give veterans a preference when they rehire employees.

Anyone who is eligible for veterans' preference or has served in the Armed Forces honorably for 3 years would be eligible to compete for Federal jobs which agencies currently restrict to their own work forces or to current Federal employees. The bill specifies that members of our Armed Forces who are serving in Bosnia, Croatia, and Macedonia also will qualify for veterans' preference.

The honorable treatment of our veterans through such legislation is the least we can do to show our appreciation for the tremendous sacrifices so many veterans have made to protect the liberties of this great democracy for all American citizens.

I urge my colleagues to support H.R. 240.

Mr. QUINN. Mr. Speaker, I rise in strong support for H.R. 240 because it is the biggest improvement to veterans' preference in many years.

To me, the most important aspect is that veterans, for the first time, will be able to seek justice through the courts when they feel their preference rights have been violated—that is a landmark in veterans' preference law.

H.R. 240 prevents agencies from building artificial barriers to hiring veterans. Veterans will now be able to compete for jobs currently restricted to people with civil service status or employed by the agency. Eligible veterans will be able to have priority placement if they lose their jobs in a reduction-in-force. To discourage agencies from designing elaborate processes to avoid hiring veterans, the bill makes violation of veterans' preference a prohibited personnel practice and authorizes damages if the violation was deemed willful. Also, for the first time, veterans' preference will apply to nonpolitical jobs in the legislative branch, the White House, and certain jobs in the judicial branch. The bill will also apply veterans' preference in any reduction-in-force at the Federal Aviation Administration and make those serving in Bosnia, Croatia, and Macedonia eligible for veterans' preference.

H.R. 240 will actually improve the employment opportunities for women and minority veterans. Women now comprise about 12 percent of the Active Duty Force and minority members now make up nearly 20 percent. These groups will now have a small advantage over similar nonveterans and that is the way it should be.

Mr. Speaker, I congratulate Chairman JOHN MICA and Ranking Member TIM HOLDEN for their persistence and the way they have developed this legislation. Because they have listened to, and worked with the major unions on this bill, the unions have expressed their support. OPM, in testimony before the Civil Service Subcommittee has expressed its support. The Veterans Service Organizations enthusiastically support the bill. I thank all the groups who have helped build this landmark legislation for their efforts.

Mr. Speaker, this bill is a winner for veterans, women, and minorities and I urge my colleagues to vote in favor of H.R. 240.

Mr. STUMP. Mr. Speaker, today I rise to voice my strong support for H.R. 240, the Veterans Employment Act of 1997. This is the most important improvement to veterans' preference laws in decades and I congratulate Civil Service Subcommittee Chairman JOHN MICA and his ranking member TIM HOLDEN for the excellent work they have done on this bill. H.R. 240 is a testament to Chairman MICA's persistence on this issue and I commend him.

Mr. Speaker, I believe it is important that Members understand the significance of this bill and how it affects veterans' preference. As you know veterans' preference was first passed in 1944. Through veterans' preference, wartime and disabled veterans got a small advantage competing for Federal jobs, and in promotion and retention. As a result, veterans comprise 27.6 percent of the Federal work force. But a law does not mean automatic compliance, and there are those who resent the small advantage given to wartime and disabled veterans.

Over the years, some Federal agencies have become very inventive when trying to avoid veterans' preference laws and regulations. Recently, with the pressure to downsize, agencies and hiring managers have found new ways to circumvent veterans' preference. A major reason agencies and hiring managers have felt free to pursue such tactics is that there was no real consequence for their illegal actions.

Today, the House has an opportunity to demonstrate to America's 26 million veterans that veterans' preference for Federal jobs is an important way to share the sacrifices of war. General Omar Bradley once said, "Veterans benefits are one means by which society attempts to ameliorate the tragedy of war and distribute its burdens." I concur in that assessment.

H.R. 240 has several important provisions. First, under current law, Federal agencies are able to shut veterans out by restricting hiring to those with civil service status or those already employed by the agency. With downsizing, it is routine to shut out many otherwise qualified veterans through these restrictions. H.R. 240 would change that by opening those vacancies to preference-eligible veterans and those with 3 years of honorable service.

The bill will also make it more difficult for agencies to design reductions in force, or RIF's to circumvent veterans' preference. Section two of the bill will make it more difficult to design RIF's in this way and will improve a veterans' right to transfer to another position through priority placement within the downsizing agency or at another Federal organization.

The most important provision, in my opinion, is the creation of a redress mechanism for those who feel their rights under veterans' preference have been violated. The bill provides that a veteran may file a complaint with the Secretary of Labor within 60 days of the alleged violation. The Department of Labor's Veterans Employment and Training Service [VETS] will have the responsibility to investigate the complaint within 60 days. If VETS is unable to resolve the complaint or has not completed action within 60 days, the veteran may file a complaint with the Merit Systems Protection Board [MSPB]. The Board has 120 days to complete its work. At any time after that, the veteran may file a complaint in Federal district court.

Equally important, the veteran may seek "make whole" relief for back pay and liquidated damages equal to back pay if the violation is found to be willful. The bill also makes violation of veterans' preference a "prohibited personnel practice" and makes any individual guilty of such violations subject to disciplinary action.

For many years, large parts of the Federal Government have been exempt from veterans' preference. The bill will extend this preference to nonpolitical and non-senior executive service jobs at the White House, Congress, and much of the judicial branch. It is long past the time when Congress, the White House, and the judiciary do their part in hiring veterans.

Next, the bill will require the Federal Aviation Administration [FAA] to implement veterans' preference in any RIF. Currently, the FAA is only required to follow veterans' preference in hiring.

Finally, the bill extends veterans' preference to the troops serving in Bosnia, Croatia, and Macedonia. These fine young American men and women are on the front line in a very dangerous area and they deserve the advantages of veterans' preference.

Mr. Speaker, this bill is the most significant improvement in veterans' preference in my memory and it deserves the strong support of this House. I urge my colleagues to support H.R. 240.

Mr. BUYER. Mr. Speaker, I want to thank my colleague from Florida for working as hard as he has on this legislation. I also appreciate the cooperation we've had from our colleagues on the other side of the aisle on H.R. 240.

Veterans' preference and its implementation in the Federal work force are issues that cause me great concern. We need effective and comprehensive enforcement of preference laws and regulations.

Federal agencies have long abused veterans preference in hiring, promotion, and retention. I view the entrenched bureaucracy as the main source of the problem. There are many hiring managers that would like to see veterans go away.

They resent a veteran's presence in an organization for any number of reasons. Maybe it's because these managers didn't serve and are embarrassed by the presence of those who did. Maybe it's because they have other diversity goals which they believe take precedence over veterans.

Our career civil servants must be made to follow the law, and their political bosses should be educated to watch closely for these unacceptable personnel practices.

The American people understand the nature of the sacrifices made for them by their veterans, and understand why veterans deserve preference—especially those disabled in the performance of their duties.

The Nation has a history of helping veterans returning to the work force and working successfully to place them in jobs, dating back to at least the post-Revolutionary War era when land grants were given in return for military service.

Veterans' preference must remain the cornerstone in hiring, promotion, and retention. Veterans' status is blind as to race, gender, age, religion, and other differences that make this Nation a melting pot. We are not arguing against diversity, but we do believe that veterans' preference must remain first among the priorities of Federal managers.

There is no excuse for hiring managers to develop ways around the hiring or retention of veterans in their employ.

Currently, there is no effective means by which a veteran may air a preference grievance, especially if the veteran is not hired. How then, are we to hold managers accountable for the provisions of law giving preference to qualified veterans?

The redress issue is at the core of the Veterans Employment Opportunity Act of 1997 and will help our veterans without harming other Federal workers.

As long as we continue to have conscientious lawmakers willing to address veterans' preference, we remain confident that we can take the corrective actions necessary to ensure its future health as a viable program for veterans who have faithfully served. I urge my colleagues to support the measure.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Florida [Mr. MICA] that the House suspend the rules and pass the bill, H.R. 240, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 240.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Mr. MICA. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 108) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 108

Resolved, That the following named Member be, and he is hereby, elected to the following standing committee of the House of Representatives:

Committee on Government Reform and Oversight: Mr. Portman.

The resolution was agreed to.

A motion to reconsider was laid on the table.

BIENNIAL REPORT ON SCIENCE AND TECHNOLOGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science:

To the Congress of the United States:

A passion for discovery and a sense of adventure have always driven this Nation forward. These deeply rooted American qualities spur our determination to explore new scientific frontiers and spark our can-do spirit of technological innovation. Continued American leadership depends on our enduring commitment to science, to technology, to learning, to research.

Science and technology are transforming our world, providing an age of possibility and a time of change as profound as we have seen in a century. We are well-prepared to shape this change and seize the opportunities so as to enable every American to make the most of their God-given promise. One of the most important ways to realize this vision is through thoughtful investments in science and technology. Such investments drive economic growth, generate new knowledge, create new jobs, build new industries, ensure our national security, protect the environment, and improve the health and quality of life of our people.

This biennial report to the Congress brings together numerous elements of our integrated investment agenda to promote scientific research, catalyze technological innovation, sustain a sound business environment for research and development, strengthen national security, build global stability, and advance educational quality and equality from grade school to graduate school. Many achievements are presented in the report, together with scientific and technological opportunities deserving greater emphasis in the coming years.

Most of the Federal research and education investment portfolio enjoyed bipartisan support during my first Administration. With the start of a new Administration, I hope to extend this partnership with the Congress across the entire science and technology portfolio. Such a partnership to stimulate scientific discovery and new technologies will take America into the new century well-equipped for the challenges and opportunities that lie ahead.

The future, it is often said, has no constituency. But the truth is, we must all be the constituency of the future. We have a duty—to ourselves, to our children, to future generations—to make these farsighted investments in science and technology to help us master this moment of change and to build a better America for the 21st century.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 9, 1997.*

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

LEGISLATIVE POWERS AND THE EXECUTIVE BRANCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nevada [Mr. GIBBONS] is recognized for 5 minutes.

Mr. GIBBONS. Mr. Speaker, today I want to discuss something so powerful and hurtful that it cripples the economy, puts a stranglehold on businesses and farms, destroys livelihoods and families, and yet seems unstoppable. This monster that I am discussing is the power that was once granted to Congress in article 1, section 1 of the United States Constitution, which reads: "All legislative powers herein granted shall be vested in a Congress." Today, however, the executive branch of this very Government has taken control of this reserved privilege and holds it captive at the expense of American citizens.

The regulatory authority now used by these Government agencies to legislate, to create rule after rule, regulation after regulation, has begun to put a stranglehold on the western part of this country to the extent that they may never again breathe.

To illustrate my point, I would like to discuss the police powers Secretary of the Interior Babbitt and the Bureau of Land Management allegedly assume to possess. On November 7, 1996, the BLM posted in the Federal Register new law enforcement regulations. Although the BLM claims that these regulations are merely a recodification of the current regulations and do not result in the creation of "new authority," this is simply not the case. The proposed law enforcement regulations are an attempt to vastly, and in most cases unlawfully, expand the BLM's law enforcement authority by increasing the number and types of actions which may result in the violation of the law enforcement regulations and substantially increase the penalties for violation of such regulations.

The Constitution of the United States guarantees proper notice describing those actions which law enforcement agencies may subject its citizens to criminal punishment. However, in this case, BLM has criminalized thousands of minor violations of Federal, State and local rules that previously were not criminal, without explaining the specific acts which are now criminal. The proposed regulations' vague references to "any law or ordinance" are not constitutionally sufficient, thus making the proposed regulations unconstitutional.

For example, proposed regulation section 9263.1 makes any citizen a criminal who is on Federal lands and who does not comply with all "State and local laws, regulations and ordinances relating to the use, standards, registrations, operation and inspection of motorized vehicles and trailers." The average citizen, and probably many employees of the BLM, are not familiar with the thousands of regulations that have just been elevated to criminal status. Without a specific list of the acts or omissions which would be criminal, the BLM's proposed regulations are again illegal.

The egregiousness of these actions does not stop there. The United States Constitution states that a citizen may not be placed in jeopardy twice for the same offense. These proposed regulations state that an individual who is in charge or charged with a violation by the Environmental Protection Agency can also be charged by the BLM with a violation of the Federal Land Policy Management Act. This is clearly an attempt to submit citizens to double jeopardy and thus circumvent the Constitution.

Furthermore, the eighth amendment of the Constitution states "Excessive bills shall not be required nor excessive fines imposed nor cruel and unusual punishment inflicted." The possibility that one may be fined $100,000 for driving 1 mile an hour over a 30-mile-an-hour speed limit is certainly an excessive fine. The possibility of spending 12 months in jail for the same offense is also cruel and unusual punishment and again unconstitutional.

Yet, as we all know, Mr. Speaker, the Secretary of the Interior on March 11, 1997, released a press statement titled, "Secretary Babbitt Directs BLM to Halt Action, Go Back to the Drawing Board with Law Enforcement Regulations." However, the press release goes on to further quote Mr. Babbitt directly and states

> This action does not diminish the legal authority of the BLM law enforcement officers on public land. But it is very clear that we have not done a good job of clarifying regulations and communicating BLM's legal authority under existing Federal statutes to protect health, safety and environmental resources on America's public lands.

Let me explain further, Mr. Speaker, and tell my colleagues exactly what powers the BLM is commandeering:

On July 24, 1994, a New Mexico family was on a family outing at the Santa Cruz Lake area in the northern part of that State. After fishing and picnicking for 2 hours, the family loaded up their car and were leaving the area when they were stopped by a BLM Ranger. According to a complaint filed by the family's attorney, the BLM Ranger approached the vehicle carrying a shotgun and ordered everyone out of the car using threats of bodily harm laced with profanity. The BLM Ranger fired his shotgun at the car to show that he meant business.

The complaint continues:

Three men got out of the car and asked why they were being stopped. They asked if it was for fishing without licenses, but they were never asked for their fishing licenses. When one man and the women and children tried to leave, the BLM Ranger then maced the driver and handcuffed him. The driver's mother tried to help her son but was knocked to the ground by the Ranger who then stomped on her leg before handcuffing her.

Mr. Speaker, no longer are Americans free, but they are chained to the dictatorship. I oppose this unusual and unlawful assumption of regulatory powers.

After handcuffing the mother the BLM Ranger went back to the driver and sprayed him again in the face with mace. All this time the children were crying and the Ranger yelled at them to shut up. According to the complaint the BLM Ranger said he was going to blow their—expletive deleted—heads off.

It gets worse. When one of the men picked up one of the children to comfort him, the BLM Ranger put his shotgun to the child's head and ordered the man to put the child down. Two other BLM Rangers allegedly arrived and began waving their weapons around as well. The BLM Rangers refused to say why they had stopped the family in the first place. The adults were incarcerated and the BLM Ranger did not notify the Attorney General as they are required to do. Although records at the Santa Fe Jail indicate six adults were arrested on charges of assault and hindering a Federal employee, a U.S. magistrate released all those jailed because the BLM did not produce a written complaint and no formal charges were made. To this day the family still has no idea why they were arrested.

Remember these are Federal public land management employees, who are commiting these atrocious acts. It is not the Federal Bureau of Investigation, nor the Bureau of Alcohol Tobacco and Firearms, or any other law enforcement agency.

It becomes very evident that these power-hungry bureaucracies have designated themselves unconstitutional police powers, without having proper authority or training. The agents are turning into bullies with little respect for public safety or property.

Mr. Speaker, no longer are Americans free, but they are chained to the dictatorship of bureaucratic monsters. It is time for Congress to stand up for its constitutional rights and the protection of the American people.

EPA OFFERS MORE REGULATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. SHIMKUS] is recognized for 5 minutes.

Mr. SHIMKUS. Mr. Speaker, according to the Environmental Protection Agency, the air in this Nation is getting cleaner. Major metropolitan areas are experiencing fewer and fewer days of dirty air, and it is time to thank the EPA for a job well done. In fact, according to the EPA, in almost every major city in America, air pollution levels have been dropping. Nationally since the EPA was established, the combined total of all causes of dirty air have decreased by 29 percent. This reduction occurred even as the Nation's population has grown by 28 percent, people drove more than twice as many miles, and the economy doubled in size.

Our Nation is on the right track to cleaner air. But if you talk to the EPA, you would think the sky was falling. This agency has proposed tightening the standards for ozone and particulate matter even more. This new standard, which may take effect without congressional approval, will not clean the air faster. In fact, it will cost the American economy jobs, erode local tax bases and provide nominal positive health effects. Our Nation does not need new regulations which may force people to car pool to work and increase regulations on our Nation's industries and family farms.

Our Nation needs regulations that are based on sound science, not emotionally driven, feel-good politics. Indeed the scientific community is not unified in its support of these new regulations. While the EPA has a study that claims it can save thousands of lives with these new rules, the National Institute of Environment Health Sciences, another government agency, came to the conclusion that high rates of pollution do not increase rates of asthma. This information directly contradicts the fundamental basis for the new regulation.

In addition, the EPA's own scientific advisory board, which is made up of industry, academic and medical experts, told the EPA that its new standard for particulate matter, "does not provide a scientifically adequate basis for making regulatory decisions for the setting of National Ambient Air Quality Standards and related control of particulate matter in the Clean Air Act."

We must also ask ourselves why, when the air is getting cleaner in America, the number of people being admitted to hospitals with respiratory complications are increasing? Why is a good thing having a bad effect?

Our Nation needs regulations that do not needlessly destroy jobs. Five of the 19 counties which I represent rely on coal as a substantial part of their economies. The coal industry has been hit hard by the EPA and stands to be eliminated in southern Illinois if stricter standards are implemented.

Unemployment levels in some of my counties would climb even higher than the current 7, 8 to 9 percent that they are now. Not only would these new regulations mean more jobs lost in areas already suffering, but prices on consumer goods will go up as well. Conservative estimates on the direct cost of this regulation on Americans will be around $10 billion every year in higher costs for cars, farm equipment, electricity, and countless products that Americans rely on every day for their well-being.

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Mr. Speaker, as a newly elected Member of Congress, I can say that I am truly amazed and disappointed that the EPA would impose such high costs on the American people without little benefit. Our Nation's air is getting cleaner, the economy is growing, and the unemployment averages on the national level are at an all time low. Controversy surrounds the EPA studies, and all they can do is offer more regulations.

Mr. Speaker, it seems that the EPA is more interested in political agendas and self-preservation than in creating good national policy.

GOVERNMENT IS TOO BIG AND COSTS TOO MUCH

The SPEAKER pro tempore (Mr. LaHood). Under a previous order of the House, the gentleman from Texas [Mr. Brady] is recognized for 5 minutes.

Mr. BRADY. Mr. Speaker, working Americans often ask today, "Why can't we make ends meet like our parents did? Why does it take a two-income family to provide even a basic quality of life for our families?"

President Ronald Reagan had a clear answer. Government is too big and costs too much. I would add that today we also have a government that regulates too much. Excessive regulation is a hidden tax on families and on our businesses. Compliance costs are estimated to be $6,000 for each American household, $6,000 in costs in regulation for American households.

If you couple taxes, if you add to it regulations, the average American worker is working until July 9 to pay all the costs associated with government. Excessive regulation crushes small business, the engine of our job creation, and today one of the most pervasive fears among America's small businessmen is that they will fail to comply with some obscure government regulation and be forced to shut down.

In 1995, President Clinton convened a conference on small business, asked them to meet in our capital. More than 1,600 attended. The No. 1 concern that they registered, they were overregulated and had too much government paperwork to comply with.

According to our Small Business Administration, the cost of regulation, of paperwork and of tax law compliance is about $5,000 per worker. It is even greater for smaller firms. Regulation puts a brake on our small business job creation, it puts a brake on the entrepreneurial spirit which is the promise of America.

An example of unnecessary regulation, as Congressman Shimkus just described, are the new proposed EPA air quality regulations that Carol Browner recently announced. They deal with ozone and particulate matter, and if adopted, these stricter standards mean that many communities that meet existing standards will be redesignated as nonattainment areas. Other communities who spent millions to control these types of pollution will be told they must now do it another way. It has no scientific basis, it has questionable benefits. The regulations though will have a dramatic impact on our families in Texas, where I live, and across America.

This new regulatory burden is an unproven, untested science experiment based on the premise that if an apple a day is good for you, then a bushel a day must be better.

Regulations have good intent, everyone supports clean air and clean water. Everything looks good on paper, but it is how it works in real life that affects you and I. The answer is to move the Federal Government closer to the customers they have served to initiate a cost-benefit analysis so we know what this costs, ensure that regulatory actions are based on sound science that we agree upon, that we have a budget within regulation that puts a ceiling on the cost of regulation to the American economy, and we have to initiate sunset review. That means put an expiration date on every regulation, on every program, on every agency, commission, and council, where they go out of existence unless they can prove their value and their worth to us today.

The bottom line is that American families and American businesses need a break from our Federal Government. We should restore common sense to our Government and remove the barriers to free enterprise and job creation. We have that opportunity in this session, and we need to take advantage of it.

IMPORTED PRODUCE LABELING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. Bono] is recognized for 5 minutes.

Mr. BONO. Mr. Speaker, I sometimes get upset to a point to where I feel that I have to at least speak out, especially when I cannot do anything about it.

The situation with Mexico and NAFTA and California is basically a disaster for California, and it is abusive. It is extremely abusive, and I was raised not to take abuse, and if somebody dished out abuse, I would always give it back, and that worked out well.

So now being here in Congress and seeing abuses inflicted on us by a country who has total disregard for our lifestyle and what we require and what we do, it rather infuriates me. But we have a treaty, a NAFTA treaty, and the way we must go about that legally to handle that is one story which I am very active on, but I consider it one of many abuses we get from Mexico.

However, today I rise for one specific, to speak on behalf of my bill to protect American consumers and produce farmers, H.R. 1232, the Imported Produce bill. This does not necessarily totally relate to Mexico, by the way, the Labeling Act of 1997. Consumers need to know the country of origin labeling. Almost every product is clearly labeled "made in China" or "made in Mexico" except the produce we eat. Every other type of food is labeled. Why not the produce?

Consumers want to know where the produce they eat is grown. Does the country of origin allow pesticides banned in the United States? Are they working under the conditions that are sanitary? Recent news stories of children being infected with hepatitis due to Mexican strawberries are a prime example of the risk imported produce can pose. Before that it was bacteria in raspberries from Guatemala. What is next?

But this is why this is not only a health issue. It is an economic issue. Since NAFTA, the total economic loss in the production of fresh winter vegetables has been nearly $700 million. 200 farms have closed due to huge numbers of tomatoes imported from Mexico.

Without labeling, how can the consumer choose American produce over Japanese produce; how can they choose American produce over imported produce?

Anyway, I hate to read these things.

Anyway, my point is that our agriculture industry cannot compete now with Mexico because Mexico is not required to live up to the regulations that we must live up to. So therefore their product can come into our country, appear to be our product, undersell our product and cannot only be dangerous but also put industry out of business. This is another abuse that we must correct.

Most importantly, it seemed like last year I was hearing about school lunches from children that was considered the biggest travesty in the world, but now we are actually killing children with hepatitis from produce and that is sort of breezing by. I have a bill that calls for the labeling of produce. I ask that all of my colleagues support my bill when it comes to the floor.

OUR SOARING TRADE DEFICIT CANNOT BE IGNORED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PAUL] is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, the business cycle has not yet been repealed, but if we did the right thing in the Congress, I believe we could do a lot to alleviate the great harm done by the business cycle.

Mr. Speaker, artificially low interest rates are the culprit in the Government created boom bust cycle. Federal regulated low rates cause bad business decisions, confuse consumers and encourage debt. These distortions prompt market corrections which bring on our slumps.

In recent years the artificially low interest rates that banks pay on savings have served to reduce savings. In the 1970's savings were low because it was perceived that the money was rapidly losing its purchasing power. It was better to spend than to save. As money leaves savings accounts it frequently goes into stocks and bonds adding fuel to the financial bubble which has been developing now for over 15 years. Domestic and foreign central bank purchases of our treasury debt further serves to distort and drive interest rates below the market level.

Our soaring trade deficit is something that cannot be ignored. In January there was a negative trade deficit in goods of more than $19 billion, the highest in our history. Our deficit has now been running over $100 billion for several years, and the artificially strong dollar has encouraged this imbalance. Temporarily a negative trade balance is a benefit to American consumers by holding down price inflation here at home and allowing foreigners to finance our extravagance. These trends will end once confidence is shattered and the dollar starts to lose value on the international exchange markets.

The tragedy is that there are very few in Congress interested in this issue. Even on the Committee on Banking and Financial Services I hear very little concern expressed about the long term weakness of the dollar, yet economic law dictates that persistent negative trade imbalances eventually have to be corrected; it is only a matter of time.

I suspect in the next several years Congress will be truly challenged. The high level of frustration in this body comes from the fact that the large majority are not yet willing to give up the principles upon which the welfare state exists. Eventually an economic crisis will force all Americans, including Congress, to face up to the serious problems that we have generated for ourselves over the past 50 years.

I expect deficits to explode and not come down. I suspect the economy is much weaker than is currently claimed. In the not too distant future we will be in a serious recession. Under these circumstances the demand for spending will override all other concerns. In spite of current dollar euphoria, dollar weakness will become the economic event of the late 1990's. Consumers and entitlement recipients will face the problem of stagflation, probably worse than we saw in the 1970's. I expect very few in Congress to see the monetary side of this problem.

The welfare state will be threatened, and yet the consensus will remain that what is needed is more revenues to help alleviate the suffering, more Federal Reserve monetary stimulus to the economy, more price controls, which we already have in medicine, higher taxes and protectionism.

Soon it will be realized that NAFTA and GATT were not free trade treaties, but only an international effort at trade management for the benefit of special interests. Ask any home builder how protectionist sentiment adds several thousands of dollars to the cost of a home by keeping out cheaper Canadian lumber in spite of NAFTA's pretense at free trade.

The solution to this mess is not complex. It is however politically difficult to overcome the status quo and the conventional wisdom of our intellectual leaders and the media. What we need is a limited government designed for the protection of liberty. We need minimal control over our Nation's wealth, not the more than 50-percent of government control that we currently have. Regulatory control in minutia, as we have today, must end. Voluntary contracts need to be honored once again. None of this will work unless we have a currency that cannot be debased and a tax system that does not tax income, savings, capital gains estates or success.

Although it will be difficult to go from one form of government to another, there will be much less suffering if we go rapidly in the direction of more freedom rather than a protracted effort to save the welfare state. Perestroika and glasnost did not save communism. Block grants, a line item veto and a balanced budget amendment will not save the welfare state.

THE ISSUE OF CAPITAL GAINS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, I rise to expand on a couple of remarks made by my friend from Houston, Dr. PAUL, and to talk about an issue which I actually have raised twice here on the floor today, once during the 1-minutes, and then I discussed it during the time that I was managing the noncontroversial rule that we had for consideration of the suspensions, and that is the issue of capital gains.

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My friend from Texas, Mr. PAUL, said that we should have no capital gains tax, and I happen to agree with that. But frankly, we need to begin moving in the direction of no tax on capital, and I am very pleased to have introduced, with the company sponsorship of many Members, my friend in Huntington Beach, Mr. ROHRABACHER, and many others, a bill, H.R. 14. It is called H.R. 14 because it takes the top rate on capital gains from 28 percent to 14 percent. I believe that this measure will go a long way toward increasing the take-home pay of working Americans.

Many people used to say that the capital gains tax cut was nothing but a tax cut for the rich, when in fact, we knew all along that by unleashing capital we could create jobs, increase the flow of revenues to the Treasury, but recent studies have shown that we not only can do those things, but on average, the take-home pay of working Americans will increase if we reduce that top rate on capital.

One of the things that people have also said who historically have talked about the capital gains tax cut as being nothing but a tax cut for the rich, there has been a realization that average Americans are saving a little more, and they are investing in some things, and we have found that there are 63 million American families that actually own mutual funds of the 90 million some odd families. So there is clearly a broad-based appeal and potential support for reducing the top rate on capital.

I say it is broad-based because on the opening day of this Congress, I was pleased that I was joined with Democrats and Republicans to introduce this. In fact, as initial sponsors on our side of the aisle, my colleague who serves on the Committee on Ways and Means, the gentleman from Pennsylvania [Mr. ENGLISH] joined me and we had actually three Democrats who joined. The gentlewoman from Kansas City, MO [Ms. MCCARTHY]; we had the gentleman from Texas [Mr. HALL]; and the gentleman from Virginia [Mr. MORAN], three Democrats and two Republicans on the opening day were the prime sponsors of this legislation to reduce the top rate on capital.

It is not targeted; it does not have the Government going in and selecting whose investment is taxed at a lower rate than someone else's, it simply reduces across the board, cutting in half that top rate.

What will this bring about? Well, we have today probably approaching $8 trillion of capital that is locked in because there are widows who are concerned about the prospect of selling their home or other investment because it has appreciated in value.

There are family farmers who are concerned about selling, because the capital gains tax rate is so high. There are small business men and women who very much want to sell, but they feel that they should not because that tax is so high.

It seems to me that a capital gains tax rate reduction is something that we could put into place to help ensure that we do not slip into recession. I see it as one of the best insurance policies to prevent us from going into recession.

Then as I alluded to a moment ago, the increase in the flow of revenues to the Federal Treasury which has happened every single time it has been done, reducing the top rate on capital gains in this century, would obviously, based on this empirical evidence, follow our reducing the top rate on capital.

Back in 1993 we found that if we had a 15-percent rate on capital gains, we could, over a 7-year period, increase the gross domestic product by $1.3 trillion, create a million new jobs and generate $220 billion in revenues to the Treasury. That comes about because we unleash that $7 trillion to $8 trillion that is locked in.

So a capital gains tax rate reduction is critically important in our quest towards a balanced budget, towards trying to deal with the national debt. And unlike the so-called family tax cuts that we continue to hear about, this would be permanent in that it would increase, as I said earlier, the take-home wages by $1,500 for the average American family.

Mr. Speaker, we are up to, as of this afternoon, 118 cosponsors for this very important measure, and I would like to encourage the Speaker and my colleagues on both sides of the aisle to join as cosponsors of this very important measure.

SUPPORT FOR OUR NATION'S SPACE STATION EFFORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, I rise to speak out in support of our Nation's space station effort. As most Americans are aware, we have been bending metal here in the United States and we are getting very close to putting aloft the first critical elements for the initial assembly of our space station; and as well, our international partners such as the Europeans, the Canadians, and the Japanese have invested billions of dollars in constructing their elements, and scientists all over the world, as well as school children all over the world, are looking forward to the first phases of this program.

Unfortunately, however, in the space station redesign conducted by the administration in 1993, the Russian government was placed in the critical pathway, what we call the critical pathway for space station construction and assembly. They were put responsible with Russian tax dollars for the construction of the service module, an element that has contained in it the life support, attitude control and propulsion capabilities.

Unfortunately, the Russians have not been paying for their part of the space station. They have demonstrated to the international community that they are an unreliable partner. Indeed, they have told us five times over the past year-and-a-half, I believe now six times over the past year-and-a-half that they will be putting the money into this program and they have failed to do so. As we all know here in this body, the Russians have very, very serious internal financial problems that have been created by their transition to a market economy, and they just do not have the rubles to pay their people to build their components to the space station.

Now, the reason I rise today is to call on the administration, and in particular, I call on the Vice President, AL GORE, to rise to the occasion and demonstrate to the American people that he has the kind of leadership ability that we expect to see in a national leader like him, and to step up to the plate and explain to us how he is going to redefine the Russian involvement in this program.

I do not believe this situation calls for another redesign of the space station. We have a good design as it is, and we need to stay on schedule and we need to make sure that this program is a success. But clearly, the Russians are not going to be able to be a full participant in the way that was originally defined. The time is ripe, the time is now, for the administration to come forward and, specifically for the Vice President, who has been tasked by the President to lead our Nation's space policy, it is time for the Vice President to step forward and explain to us how we are going to keep this program on track and to make it a success.

Now, let me just make very clear that I would like to see the Russians somehow involved, but they have to be removed from the critical pathway. We cannot have this program dependent on them anymore. We need to do what we can to keep them involved. They have a lot to bring to the table in their knowledge of space flight and their engineering, but we do not want them to be in the critical flow where our space station, the international space station is dependent upon them, because they clearly do not have the money to do that.

Now, there has been a proposal brought forward to take funds out of the space shuttle program and divert it into efforts to try to come up with a new interim control module that will serve as a fail-safe effort to make sure that this program is a success. I have very, very serious reservations about taking more money out of our space shuttle program. The space shuttle program has been cut drastically over the years. The space shuttle program has laid off hundreds, thousands of people in my congressional district, and that includes Kennedy Space Center, the home to our Nation's space shuttle, and I think it would be unwise for us to cut additional dollars out of the space shuttle program at this time.

I believe that there are other areas within the NASA budget, such as the Mission of Planet Earth Program that I believe last year had over $1 billion of unexpended resources, and the year before that, $600 million of unexpended resources, a program that does not have critical safety issues associated with it.

Specifically, we are not talking about human space flight here, we are talking about unmanned vehicles, unmanned satellites, studying the environment. A worthwhile program; nonetheless, a program that has clearly shown that it has extra money in it and a place where we could get the funds that we need to keep this program a success.

So again, I call on the Vice President to rise to the occasion and do the right thing and preserve our Nation's space station program.

AMERICA'S TECHNOLOGICAL EDGE IS IN DANGER

The SPEAKER pro tempore (Mr. LAHOOD). Under the Speaker's announced policy of January 7, 1997, the gentleman from California [Mr. ROHRABACHER] is recognized for 60 minutes as the designee of the majority leader.

Mr. ROHRABACHER. Mr. Speaker, on Thursday of next week on this floor will be a debate which will actually end in a decisive vote for the future of the United States of America. Unfortunately, the vast majority of all Americans have no idea that there is even a piece of legislation like that which will be debated in one week on this floor even working its way through the system.

There has been a blanket, overall coverup on this issue in what would be called the traditional media of the United States of America. The networks and the major newspapers have not touched this issue because they do not want the American people to know that a major decision affecting their way of life, the standard of living of their children, America's competitiveness, and the economic well-being and the national security of our country will be at stake with one vote. That is because this issue is relatively hard to understand, yet it is so vital that if the vote goes the other way, I believe this will be the first step on an escalator down for the people of the United States of America, because it will be ending and eliminating the greatest advantage that we have had as a country, and that is our technological edge over our competitors.

The American people enjoy a high standard of living, not because we work harder than other people. People all over the world, many of them work longer hours; they are hard-working people, but yet they live in poverty. They have standards of living that we would never accept in the United States of America for even our poorest person.

What gives us as Americans the edge? What ensures us the fact that we have wealth that is created in our country that can uplift the standard of the average person? It has been the technology that our citizens have developed and produced and invented over the history of our country.

America has been a nation of yes, hard-working people, but there are hard-working people everywhere. Most importantly, we have been a nation of technology which has permitted our people to increase their standard of living, to live high and above the rest of the people of the world. Even at a time when there is international competition with countries where the people earn far less wages, we can out-compete them and we can look forward to a bright future, if we have the technological edge.

But what is happening here next Thursday is a vote on the fundamental protections of law for American innovators, for American inventors, and for the owners and developers of new technology.

We have had basically the same law in the United States of America for 200 years. Again, most people do not fully comprehend that this has been a protection granted to Americans that is different in other countries that has enabled our country to produce this higher standard of living and this great opportunity for the average person. They do not recognize that because it is little known that written into our Constitution by our Founding Fathers is a patent office and protection for inventors. That is why the inventors were in the United States of America. That is why the great creators of that technology that produced all of the wealth that enabled us to live better, that is why they were Americans.

People came here from all over the world. Americans do not have any special trait. We just have freedom and opportunity and a legal system set down by our Founding Fathers that understood the necessity of individual freedom and individual rights being respected in order for the whole of the American people to progress.

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And now we are changing the fundamental law in a very hushed manner so very few people know about it, the fundamental law that directs and protects the development of technology in the United States of America.

Next Thursday, on this floor, on April 17, will be a vote in which two bills will come head to head, one bill H.R. 400 and the other H.R. 811. It is a combination of H.R. 811 and H.R. 812.

H.R. 400, which I call the Steal American Technologies Act, will, if passed, open up the United States to the greatest theft of our intellectual property and our technological achievements in the history of our Republic.

It will be the equivalent of sending a message to everyone in the world to come and get our technological secrets and use them against the American people. It is as bad as that. That is H.R. 400.

That bill, what does it do? No. 1, and hold on to your seats for those of my colleagues who do not understand what is going to happen on this floor in 1 week, this is a bill that will mandate that every inventor in the United States who applies for a patent will have his or her patent published for the world to see after 18 months even if that patent has not been issued.

Now, what does this mean? From the history of our country, from the very beginning of our history, when someone has applied for a patent, when an American has applied for a patent, he or she has had the right of confidentiality, knowing that none of that information would be disclosed unless that patent was issued; and when the patent is issued, that means that person, that individual owns that technology. That has been a right for every American.

And what is happening now? Next Thursday we will vote to discard that right, that no longer, after 225 years of American history, that right, which has been a force for good in our society, will be discarded by a vote here on the floor of the House of Representatives because H.R. 400 mandates the publication of all of our secrets.

There will be no more industrial espionage. You heard about that. You have heard about people coming into the United States in order to steal our secrets. There will be no more industrial espionage because after 18 months, every bit of secret information about the development of our new technology will be sent to our worst enemies, people who want to destroy our country, people who want to destroy the American way of life, people who care not one iota for the standard of living for our people but want to pull those millions and billions of dollars of wealth into their pockets rather than see the American people enjoy the fruits of our free society.

This is almost unbelievable. It is almost beyond belief, until you hear people stand up and argue this case as if, oh, this is going to be good because everybody will know what is being developed and then we can all work together. All work together.

There are people in this world who are intent on not working together and they will be very happy to steal everything that America develops.

The second provision on H.R. 400, which will be on this floor in a week, is called reexamination. The publication angle of H.R. 400 is enough, is enough for us to say get rid of this terrible threat to the American people. But that is a future threat, I might add. Publication only affects the future technologies.

What we have discovered when looking into H.R. 400, and I did not know this until several weeks ago, there are small provisions in this bill which open up the door to reexamination, which is the No. 2 provision, reexamination.

What does reexamination mean? That means now, today, and all through our country's history, when you are issued your patent, it is your patent and there is almost nothing someone can do to challenge your right because it is your property. It has been decided upon and perhaps only one other criteria can be used to fight against it in court.

Instead, H.R. 400 opens up a panoply of options for not only our big corporations but foreign corporations and multinational corporations to go at and challenge every one of our existing patents, not only are future patents going to be published before they are even issued, so that thieves can take away our future technology, the current technology that we have that gives us billions of dollars in royalties that comes to the United States every year. These foreign corporations that are paying royalties now will have the option, instead of paying royalties, to file suit and to interfere and to act and to call for reexamination of current patents.

Finally, the last and perhaps another just as equally important provision of H.R. 400, the Steal American Technologies Act, which will be voted on in this body on the floor of the House in 1 week, is that it, again, hold on to your seats, it will obliterate the Patent Office.

That is right. The Patent Office is written into the U.S. Constitution, and it eliminates it as a Government entity and resurrects it. Resurrects it as what? A corporatized entity. Corporatized.

What does that mean? That means there will be some entity that used to be the Patent Office and now it will be corporatized, something like the Post Office, Government but not Government.

This bill mandates, for example, that this new corporate structure will have business leaders on its board of directors. Now, what does that mean? I thought the business leaders were the ones who were going to be dealing with the patents. We are going to put the people who actually make money dealing with patents on the commanding board of directors of this company?

The board is also enabled to borrow money and the taxpayers are still on the hook. Patent examiners have been shielded for 200 years from outside influences. Patent examiners have never had a scandal. These hardworking public servants, like judges, have such power in their hands to determine who owns billions of dollars of wealth, but they have been shielded up until now from outside influences. Will they be shielded? Will they be shielded from this new corporate entity?

Let me add, there is one other thing I forgot to mention; the new corporate entity, according to H.R. 400, will be permitted to accept gifts. Accept gifts from corporations? Accept gifts from foreign companies? Accept gifts when they are making determinations about who owns what wealth in the future? What kind of effect will this have on the decisionmaking at this new corporatized Patent Office?

Mr. Speaker, this is a formula for catastrophe. This is a formula for the destruction of the American way of life, and I cannot stress it too strongly here, it is going to be voted on and the American people do not know about it. It is coming next week. There has been a lid placed on coverage in the mass media. We do not have shows on the network or in our major newspapers. They are not doing stories about this threat to each and every one of us. It is not there.

I have a piece of legislation, and the gentleman from California, DUNCAN HUNTER has a companion piece of legislation, H.R. 811 and 812, that go in exactly the opposite direction from the bill, from H.R. 400, the one I just described.

H.R. 811 is the Patent Term Restoration Act, which I have authored. Basically it restores a guaranteed patent term to the American people. If no one understands why we have to restore a guaranteed patent term, I hate to inform them, but we have already lost our right that has been with us since the founding of our country.

Our people have always had a right when they apply for a patent, no matter how long it takes for that patent to be issued, that there is still a guaranteed time period, 17 years, when someone would reap the benefit from that invention, either the investor or inventor, whoever owns that patent. That was taken away. That was eliminated by a provision that was snuck, and I repeat, snuck, into the GATT implementation legislation.

GATT 3 years ago did not require us to change our patent laws, but someone put that provision into GATT, and thus the Congress was faced with voting against the entire world trading system or agreeing to this fundamental change in patent law. This was a betrayal of the American people in the worst way. My bill restores the guaranteed patent term. So no matter how long it takes to issue your patent, no matter who is against you, once that patent is issued the American has a right to a guaranteed patent term of 17 years.

By the way, it was replaced with something that sounds pretty innocuous, like many of the things in these bills sound innocuous. The provision that replaced our patent term guarantee was a provision that said you are going to have patent protection from 20 years from the date that you filed. However, however, 20 years, all it really means is the clock is ticking against the inventor. If it takes 10 to 15 years to get an invention patented, for the patent to issue, that patent applicant basically has lost all of that time. All of that time.

No, we do not need the clock ticking against the inventor, we need a guaranteed patent term, which has been our right. That is what my bill does. The companion bill, H.R. 812, bolsters and strengthens and makes more productive and reforms the Patent Office and strengthens our Patent Office, instead of obliterating it .like they do and corporatizing it, in H.R. 400.

These bills will come to a direct head-on-head vote. My bill will be offered as a substitute. H.R. 811, strengthening the patent system, will come right up against it and there will be one vote.

Right now there is an army of lobbyists going through this town contacting Members of Congress because they are interested in how they are going to vote. Unless the American people, unless the American people contact their representative, the major influence on how this vote will turn out will be lobbyists that are paid for by huge multinational corporations, foreign corporations, and yes, even some, many, of our major domestic corporations who are in league with these multinationals.

Mr. Speaker, we can turn this around if the American people do contact their elected representatives. That will make the difference.

By the way, interestingly enough, how do we communicate if we cannot get the news media to cover the story? I have tried everything. I give these speeches. I even have a web site, www.house.gov/rohrabacher/. That is www.house.gov/rohrabacher/. I had to go to the web site. I have gone to talk radio. Thank goodness we have democracy on the air. Thank goodness we have Rush Limbaugh and Michael Reagan and others, because the regular media will not cover this story that is so vital to the future of our country.

What coverage we have been able to get through these speeches on the floor, we have received letters, I have received letters and Members of Congress have received letters from all over the United States, from small inventors, people who are afraid.

The two most recent letters my office received, one was from a gentleman who is conducting research into breast cancer. He has made some breakthroughs but he is afraid to try to patent his discoveries. He is afraid of that because with the new H.R. 400, that would mean it would be published for the whole world to see, and he would reap no benefit from it. He is afraid, whether he should disclose what he has invented.

Another person who wrote my office is a person who has developed a new system of killing bugs. That may sound rather minimal to people, killing bugs. It is not minimal. We are pouring tons of pesticides into our environment every year, and this man has invented a new process that requires no chemicals, a new method of dealing with infestations of bugs in homes and in fields that would prevent us from being poisoned.

But he is worried. He has spent a lot of money in trying to develop this new process. He does not know if he wants to make it public through the patent system, because if he applies for the patent they will disclose this, if H.R. 400 is passed, even before he gets his patent and people will steal his process.

These are the letters coming to me: Breast cancer, things dealing with insecticides into our system. How is this going to affect our way of life? Can the Members not see just by those two examples? Who would have thought of those two examples before I said them? There are thousands of people all over this country who are inventing ways of making things better.

□ 1445

That is what Americans are all about. We are tinkerers. We are people who use our ingenuity. That is what Americans are all about. We are changing the fundamental law, and we are pulling the rug out from under them. We will make sure that the giant corporations in Japan and China and even our own giant corporations can steal from them. And when we do that, the American light of ingenuity will be put out. It will not go on. We have fostered, we have nurtured this creative genius among our people. If we change the rules in protecting their rights as individuals, that light will be put out and our standard of living will suffer.

Colleges and universities are getting the word. Throughout the United States of America we have been receiving letters from colleges and university people. People who are involved with research programs all over our country are writing and saying: You mean everything that I have been working for will be disclosed to America's enemies if we file for a patent?

Small inventors, small inventors throughout the country have joined together to try to fight this but they are an unorganized group of people, the most unorganizable group of people I have ever seen. That is what they are, they are individualists, men and women who come up with new ideas who are hard to organize. Thus the major corporations want to steal the profit of their genius. I will have more to say on this floor a week from now.

Mr. Speaker, we have seen venture capitalists, people who put money into the inventors. All of the great inventions happen here in the United States of America: the light bulb, the telephone, the reaper, the telegraph, the airplane. We have had the great inventors. We have had the great inventors because investors have known that they would have 17 years of a guaranteed patent term to reap the reward.

The Government did not finance the research into most of these great inventions. It was done by individual investors and individual inventors, and these were the people who made the great breakthroughs. But if we pull the rug out from under them and we make their inventions public even before the patent is issued, then what is going to happen? If we take away the guaranteed patent term, there will not be investment capital. They will come to people and say we have to tax you some more. We have to have a Government program to have research for our country because you cannot rely on the private sector. You cannot rely on the private sector because they change the rules of the game.

Do we really want the Government picking out who is going to get all the research money? They are going to pick their friends. Politics and bureaucracy are going to come into play, as it was not part of the process over these last 200 years. We will become what the Soviet Union was. Do we know what that is? We will have changed the rules of the game. We will become a society aimed at collectivism versus protecting individual rights. This has been recognized.

For example, the Long Island Association of Industries is a group of 1,000 industries on Long Island who got wind of what was going on, read the legislation and they are outraged. They are outraged that the big guys are setting up the little guys, and some of the big guys happen to be multinational and foreign corporations. Amgen, a biotech corporation out in California, large biotech corporation, has put billions of dollars into research. And then this is going to be made public before the patent is issued so that all over the world they could just take what has been discovered and use it?

A solar energy company was in my office when this was breezing through the committee. Yes, H.R. 400 has already gone through committee. The solar energy company executive said to me: "Mr. Congressman, if they pass this legislation and they publish my patent applications before I get issued the patent, my Japanese competitors will be in production of the things that I have invested in and spent millions of dollars to produce and develop and discover. And the Japanese will be producing it. And they will be selling it on the market. And they will use the profit from selling my technology to defeat me in court, these huge corporations."

Mr. Speaker, it makes no sense. H.R. 400 says, how are we going to protect these American inventors? You ask them, if you are going to publish it, their information, before they get the patent, how are they protected? And do you know what the answer is? Well, once the patent is issued, if someone is using their idea, they can sue them in court. We can imagine the Wright Brothers trying to sue Mitsubishi Corporation. So sue me. You can go over to Japan to try to sue some huge corporation or China or some of these other countries. Impossible. This is a formula for the theft of America's technology and the decline of our standard of living.

A pharmaceutical company, Allergan, pharmaceutical companies spend millions of dollars trying to develop new drugs in our country. What happens, it takes years to get through the process. If their patent is made public, they will not spend that money. No one will spend any money to develop new drugs anymore that will cure diseases for our people because they will all say why should you spend the money to develop it.

This bill, I compared it yesterday to a bouquet of flowers. When you ask these people who are supporting this bill, who are pushing this bill through the system, why they could ever support, how could you ever support a piece of legislation that would be so destructive to America's interests, that would open us up to theft internationally, do you know what their answer is? Their answer is, there are a lot of good things in this bill.

Then they will go through a list of nice little things that keeps the money in the patent office. It helps facilitate hiring new patent employees, and they will go through a list. This is very similar to being handed a bouquet of flowers. If you are handed a bouquet of flowers and somebody says look at the flowers and then you realize the bouquet that he has handed you has a bunch of snakes in the bouquet, poisonous snakes. And you ask them, are these snakes poisonous? And if that person only wants to talk about the flowers but refuses to talk about the snakes, he does not like you. He is not giving you that bouquet because he thinks a lot about you. He wants to destroy you.

What is happening is that a bouquet of flowers has been handed to the American people. There are some nice little reforms in H.R. 400. They can talk about them all day, but we do not want to talk about the bouquet of flowers. We want to talk about the poisonous snakes that will destroy our country and poison our system and kill our families. That is what we want to talk about. But they will talk about how nice the rose looks. I want to talk about why we are publishing our information for everybody to steal. But look how nice the flower is. How about talking about the daisies. How beautiful. What about this idea that now you can have all of our patents attacked, the ones that are issued. Do not talk about that.

The bottom line is, the flowers are not what is important if the bouquet is filled with deadly snakes. H.R. 400 is filled with deadly snakes and we need to talk about it. Why would anyone want a bill like this? Why? Well, Bruce Lehman, head of our Patent Office, went to Japan 4 years ago. He signed an agreement with the Japanese, the counterpart of the Japanese head of the Japanese Patent Office. He signed an agreement to harmonize, harmonize America's patent law with Japan.

Mr. Speaker, I will tell my colleagues, I believe in foreign trade and international trade. Harmonizing our laws is a good thing. As long as we are bringing the standards of America, maintaining those standards and bringing other people up to our standards, that is a good thing. Instead, their form of harmonization, Mr. Bruce Lehman, head of our Patent Office, agreed to make our system like Japan's. This is enough to shake anybody up.

Our Patent Office agreed to change our strong patent system, the strongest in the world, to make it exactly like the Japanese system. This is horrendous. This is incredible. This is something most Americans cannot believe is happening. There will be a vote on this issue. All the things I described in H.R. 400 are part of this agreement to harmonize our law. It is bringing down the level of protection in America to the level they have had in Japan. This 18-month publication, this no guaranteed patent term, this uncertain patent term, that is part of their system. And in Japan they do not invent anything. Their people are under the domination of a group of economic shoguns who beat individuals and beat the average person into submission if that person threatens the power elite in any way.

If we change our laws to be like Japan's, those economic shoguns, those economic gangsters that run that economy will be right here in the United States of America doing to our people what they do to their own people.

This law will pass, this harmonization will happen next week in a vote unless the people of this country call their Representative and say: H.R. 400, the Steal American Technologies Act, is horrible, vote against it. If the American people do not contact their Representative, these huge corporate interests internationally have hired lobbyists to contact your Representative.

Mr. Lehman, by the way, not only agreed to harmonize our law, but he was the same guy, head of our Patent Office, who not too long ago wanted to send our entire data base for our Patent Office, the whole data base, the home computer database, every bit of information he wanted to send it in disk form to the Red Chinese. That was his plan. Some of us went crazy and we stopped him. But what he said was he wanted to do it so they will know what not to steal, they will know what not to steal.

Unbelievable. Incredible. It is sending the worst thieves in the world the combination to your safe and saying this is so you will know what safes not to try to crack. I mean, after all, they will not have to be thieves anymore, they can come in any time they want. This is what is going on. This is the threat to our way of life.

Basically we have had a group of patent examiners who are now facing a major change in their way of life. They are going to see it right away. They are all opposed to this bill. All the small inventors, people and researchers in our colleges and universities across America, Amgen, the biotech company and Allergan, the pharmaceutical company. These are people who understand what is going on. The small inventors of course, they all oppose H.R. 400; but they cannot get the word out. They are looking for allies among the American people who understand the importance of the issue that we will be deciding.

There are an army of lobbyists and they are working this issue. But the American people can win. We have won these fights before. But it takes all of us to step forward and be active.

Mr. Speaker, I believe that next week we have got a good chance of winning but we also have a good chance of losing. It can go either way, but it will be a vote. It will be one of those crucial votes that go by that no one will ever understand exactly what happened to them 20 or 30 years down the road if we go the wrong way. This is Pearl Harbor in slow motion.

This is our Government giving away our seed corn to foreigners. This is a situation where, if the Wright Brothers would have had their discovery stolen from them by Mitsubishi Corp. because our Government publicized all of their secrets, the aerospace industry would have been developed in Japan and not the United States. And all of the Americans now who have quality high-paying jobs in that industry, they would be going, they would not have those jobs. They would say, gee, did not America used to be the No. 1 leader? The American people a generation from now will never know what hit them if we go the wrong way next Thursday.

So I would hope that my colleagues will join with me in defeating H.R. 400, the Steal American Technologies Act. Join with me in voting for the Rohrabacher substitute, which is H.R. 811 and 812.

THE BUDGET

The SPEAKER pro tempore (Mr. LAHOOD). Under the Speaker's announced policy of January 7, 1997, the gentleman from Oklahoma [Mr. COBURN] is recognized for the remainder of the hour as the designee of the majority leader.

Mr. COBURN. Mr. Speaker, I do agree with the position of the gentleman from California [Mr. ROHRABACHER] and will be supporting his position on the House floor.

I wanted to take a minute to address those in our country who are interested in our budget. If in fact they do not believe that a balanced budget is important, then they should not pay attention to anything that I am about to say. But if in fact they think we ought to live within our means, then I think consideration of some of the information that I am about to relate to them they will find interesting.

In 1972, our entire budget was $241 billion. This year we will spend $17 billion more than that on interest on the national debt alone. So what we are really faced with in our country is a threat. The threat is not very popular to talk about. The threat is not easy to focus on.

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But, nevertheless, the threat is great, and the threat is this: If the people who work and vote in this body fail to recognize the importance of not balancing the budget, what in fact they have done is ruined the future for our children and our grandchildren.

To the seniors who would be listening who suffered through the Great Depression, who were the valiant men and women who allowed us to win World War II, they are the ones who hold this debate in their hands, the fate of a balanced budget.

For what will really happen to our children as they pay out the $200,000 each that they now owe, both in terms of debt and interest, which does not begin to recognize the internal debt that we owe the Social Security System, from which we borrowed, actually stole, $69 billion last year to run the Government, their living standard will be nowhere close to what we experience today. Their opportunity to have an education, to own a home, will vanish in the midst of our irresponsibility.

How big is the threat? The threat is the largest threat we have faced since the end of World War II. It is a very subtle threat. It is one that is hard for people to get excited about, yet it will undermine the essence and the greatness of the American dream.

What do we have to do to win this battle? The first thing we have to do is recognize that career politicians from both parties are not necessarily interested in doing the right thing. Martin Luther King said in his last speech, his last major speech before he was assassinated, that cowardice asks the question: Is it expedient? And vanity asks the question: Is it popular? But conscience asks the question: Is it right? Washington has a way of avoiding the last question and running to the first two: Is it expedient? Is it popular?

It will not be popular to balance the budget. It will not be expedient to balance the budget. But it is right to balance the budget.

What is the psychology of the rationalization that we have in our country today that says we will balance the budget sometime in the future? How did we get to the psychology of saying we do not have enough money to pay our bills and it is fine to jeopardize and mortgage the future of our children because we do not have the courage to make the hard decisions that are required to eliminate that threat for our children?

What I would ask my fellow Americans to do is to think, as a grandparent or a parent, what are the most important things in their lives, and usually we will answer, our children or our grandchildren. I have an 18-month-old grandchild, and as I look at her, I look to see what possible future can she have if we fail to do the right thing, the thing that our conscience would dictate, which is not taking away their future for us now.

We hear from organizations like AARP that we should dare not touch the cost of living index, the CPI, regardless of the fact that most economists would agree that it overstates the incremental increase in the cost of living. The idea of selfishness has now displaced the concern for our children and our grandchildren.

The same thing for special interests that get funded by the Federal Government every year. There is going to be a debate in not too long on the National Endowment for the Arts. Regardless of what our feeling is on that, how can we spend money in that area when we know that our children will pay back that $90 million three or four times what it cost because we do not have the money to pay for it?

How in the world do we justify and rationalize our ability to not do what is right? We cannot. We cannot face our problem; we cannot stand up and do the hard thing. And, unfortunately, the reason that we will not is, many people in this body are more interested in getting reelected, and their careers and their decisions about coming back to a place of power have become more important than their children and their grandchildren. So we see greed and selfishness for ourselves is starting to displace the very unique qualities that made America great.

Alex de Tocqueville said of the American people that America is great because America is good. When America ceases to be good, America will cease to be great. I would put forth to the American public today that the way we measure our goodness, the way we measure our compassion, is by doing the right thing and doing the right thing now.

We will hear a lot of people scream and say we cannot cut certain programs, that we cannot balance the budget, that we cannot do it today. But I would put forward the belief that if we faced an external threat in this country, not an internal one but an external threat to this country, that we as Americans would rally around, we would come together and say: What do we have to do to defeat this threat? And if it required sacrifice of us all, we would make that sacrifice, we would pull together, we would demand that every aspect of our Government become much more efficient, that they would accomplish the same task with less cost and more efficiency.

The fact is, we have a subtle threat. We are not willing to address this threat, and so, consequently, we are not about to do that.

I do not hold much hope for a balanced budget because I do not hold much hope that people will make a decision based on the right things, their conscience. And I do, unfortunately, feel that too many of the Members of this body will make a decision based on cowardice and vanity, much as Martin Luther King talked about.

The only way we balance the budget is if the people of this country say we must balance the budget. So those that hear what I am saying today have to become an active part, a participant in this process. They have to demand that those that represent them make the hard choices, the difficult choices, the choices that are morally right.

It is immoral to steal from our grandchildren and our unborn grandchildren. The only way we solve this problem is for the American public, the citizens of this Nation, to demand the courage and the proper representation of their Members of Congress to accomplish this task.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized for 30 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, the spirit of Hershey does live on, and I would say to the gentleman that I enjoyed the time that I spent at the conference on a bipartisan basis.

My concern today, however, and I suppose in a sense this is sort of a reaching out to the other side of the aisle, is that we need to address the issue of campaign finance reform. I say this not in the spirit of trying to attack anyone or to suggest that anyone has a solution to the problem or that the problem necessarily can be decided on either side of the aisle, but the bottom line is that the Republicans are in the majority in the House of Representatives, and the Democrats increasingly, including myself, have been frustrated by the fact that we have been unable to get the Republican majority to bring up the issue of campaign finance reform either in committee, with hearings or markups, or on the floor of this House.

Many of my colleagues know that in the President's State of the Union Address he called upon the House of Representatives, both Republicans and Democrats, on a bipartisan basis, to address the issue of campaign finance reform.

Democrats have increasingly, over the last few months, requested that the House Republican leadership address the issue, again have hearings on legislation, bring the legislation up in committee, and set a deadline on when campaign finance reform reaches the floor of the House of Representatives so we could have a debate and be able to vote on a bill that most of us could agree on.

Unfortunately, that has not happened, and, as a result, the Democrats have been forced to use procedural motions, as we did this afternoon on one of the suspension bills, to raise the debate and to allow us the opportunity to discuss campaign finance reform.

Mr. Speaker, on several occasions during special orders over the last couple of months, myself and other Democratic colleagues have come to the floor to both speak out on the issue and also to talk about some of the proposals that have been put forward, many of which have been introduced, many of the bills, on a bipartisan basis. But, unfortunately, we still see no action.

I think the issue is important for a number of reasons. First of all, as I mentioned earlier today, when I returned to my district for the 2-week break that we had, the 2-week district work period, it was repeatedly mentioned to me by my constituents at every location, a supermarket, a coffee shop, wherever I happened to be, many people came up to me and said: What is the Congress doing? It does not appear to be doing anything.

The term has already been coined by the Washington Post, which on this last Monday did an editorial, calling the Congress the do-nothing Congress. I think this editorial has already been read into the RECORD, and I will not repeat it again, but the bottom line is that we have taken up almost nothing of substance in the first 3 or 4 months of this Congress.

When I talk to my constituents, they say, well, it seems the only thing Congress does is to call upon investigations of the White House or investigations of campaign financing, but, at the same time that they are spending money on these investigations and doing subpoenas and calling for hearings about investigating finances or campaign finances out of the last November campaign, no one in the majority, no one on the Republican side in the leadership, is proposing that we move forward on campaign finance reform.

I would maintain, just based on talking with my own constituents in the last 2 weeks, that that is not acceptable. The public is really tired of hearing about all the investigations and all the problems with the campaign finance system. We all know there are problems. We know there is too much money in the system. We know that Representatives, Senators, the President and the Vice President, and everyone who is a Federal officeholder has to spend too much time raising money, which takes away from the time for them to do substantive business.

So the system cries out for change. It just cries out for change. Whether it is public financing or it is a cap on spending or it is the various proposals that have been put forward, the bottom line is that we have to address the issue. It is time for action. It is time to stop worrying about all the myriad of investigations and all the myriad charges and to simply do something legislatively to make the system work. That means campaign finance reform.

Just to throw out an example, in New Jersey we are now in the midst of a gubernatorial race, and for a number of years in my home State of New Jersey we have had a system in place where there is a cap on the amount of money one can spend, and if a candidate raises a certain amount of money through individual as well as political action committee contributions, they get public funds to match it, with the understanding that there is a cap on the amount of money that they spend on the campaign.

Now, I do not have to get into all the details of the New Jersey system, but the bottom line is, it is essentially a way of trying to reduce the amount of money spent on a campaign, trying to provide some sort of private funding either through political action committees or individuals at a certain amount, which is also capped, and then to match it with public funds. As a consequence, our gubernatorial races in New Jersey are reducing the amount of money that has to be spent.

If we look at how much is spent on a gubernatorial race in New Jersey statewide as opposed to how much is spent on a senatorial race where there is no public system of financing or no restrictions in the way that we have in spending on the State level, there is a big difference.

Really, at this point in New Jersey, it is not that difficult to run for Governor, raise the money to do so, if an individual wants to. On the other hand, it is very difficult to run for Senator because of all the money that one has to raise without any matching requirements.

So I do not want to get into the details of the specific proposals today, although I think some of my colleagues may decide they would like to, and that is fine, but the bottom line is, we are calling for action on campaign finance reform by the Republicans. They are in the majority; they have the obligation to bring up the bill, to have the hearings, to mark it up and bring it to the floor.

We suggested that that be done by Memorial Day. The President suggested it be done by July 4. In either case, it needs to be done and we need action.

Mr. Speaker, I know I have some of my colleagues joining me today, and I would like to yield at this point to the gentleman from Massachusetts [Mr. TIERNEY].

Mr. TIERNEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to address the lack of direction and the absence of any agenda addressing issues of importance to the people of my district as well as the people of this country.

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Frankly this body has been behaving as an institution so gripped by political tensions and acrimony that any action claimed as nonpolitical appears only to be a pretense. Most Americans can remember when the distinguished Congressman O'Neill from my home State of Massachusetts was the Speaker and members of both parties conversed, they met, they socialized, they civilly debated issues and they deliberated all the proposed bills and amendments and finally they voted moving an agenda forward.

What has changed, Mr. Speaker? Who has changed to make this different so that the majority now proposes bills designed not for debate, not for contemplation or improvement, not even for amendment, but only for votes along party lines that are phrased in such political terms that are so stark that they are not even faintly disguised as other than campaign hype for the next election. Again, who has changed and what has changed, Mr. Speaker, so that this is the way things are today?

People expect us to debate here. They expect us to deliberate and they want an exchange of ideas and votes on the issues of importance to them. They want us to be dealing with campaign finance reform, with education, with health care, with Social Security and Medicare, the budget and economic growth. Our colleagues across the aisle complained when they were in the minority. Well, they are in the majority now, Mr. Speaker. Show us the leadership. Show us the fairness. Show us the good faith. Show us the nonpartisan governance. It is simply not happening. Some assert that they are not extremists on that side of the aisle, and that may be so, but check out the party-line votes and those assertions seem to lack merit. The protestations of moderation are contradicted by their party-line behavior, and their votes support the extremism and the politicization. Perhaps the greatest example, Mr. Speaker, is the committee funding. We are not here today debating campaign finance reform, as we should be, or the economy or health or education. We are not addressing campaign finance reform because we are busy dealing with the budgets for committees like the Committee on Government Reform and Oversight, where the committee chairman appears bent on orchestrating an investigation that will be without credibility. Why will it be without credibility, Mr. Speaker? Because, unlike the Senate committee dealing with the same subjects, it is going to be partisan. It is going to be more about the next election than about oversight. It is going to be limited. It is not going to be about the entire House and people running for the House or the entire Senate and people campaigning for the Senate. It is not going to be about Republicans and Democrats running for President, or the Republican as well as the Democratic party. Unlike the Senate, it is going to be focused only in a partisan manner. It is a committee that is seeking some $16.2 million, Mr. Speaker, using $3.2 million to investigate, using as much as $3.8 million of the base budget to supplement that investigation, and reserving some $7.9 million in a slush fund in case it needs more to go about its partisan limited attacks. That is $14.9 million, Mr. Speaker, potentially for that limited partisan political investigation that will be totally without credibility and will be a partial duplication of what the Senate is doing. That Senate, Mr. Speaker, will be doing a broader, bipartisan, more objective and I suggest more credible job for $4.35 million.

Are the majority afraid, Mr. Speaker, to investigate Republicans and Democrats who ran for the House and the way they did it? Or Republicans and Democrats who ran for the Senate and the way they did it? Or both parties? We need to know what the past practices were. We need a thorough, inclusive investigation. We are 100 days into this session, Mr. Speaker, and there has been no campaign reform debate. We need a credible, valuable investigation that will cover all practices of all parties and all candidates. The purpose of the oversight portion of that committee, Mr. Speaker, should be to learn from the errors and the problems of the past. The goal, Mr. Speaker, should be to use that information as we deliberate proposals for campaign finance reform. We should be dealing with that business now, Mr. Speaker, so we can then address the budget, the economy, health care, economic growth and other issues in such a way that the public will not have the perception that special interests are taking charge but rather will have the confidence that we are doing the people's business.

Mr. PALLONE. I want to thank the gentleman, and I think, Mr. Speaker, we increasingly see the sense of frustration that many of those on the Democratic side of the aisle fear right now over the fact that there has been no progress in terms of the Republican leadership bringing up the issue of campaign finance reform. We are just going to continue to speak out every day until they take some action on this issue.

I yield to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Speaker, there is an important reason why the House of Representatives and the Congress ought to investigate campaign finance abuses. Such an investigation is perfectly legitimate. But the one that is about to be conducted in the House is not legitimate. That investigation by the Government Reform and Oversight Committee is now on a path to a very partisan investigation. I believe if we are going to look at campaign finance abuses, we ought to look at the whole spectrum of how this system supposedly works. We ought to find out what has been going on at the White House but we also ought to understand what has been going on here in the Congress. The scope of the investigation ought to be to look at all of these matters, because the only legitimate purpose of an investigation is to lead to campaign finance reform.

It is this system that is driving Members of Congress and candidates for President to go out and raise money. They are constantly out raising money and not doing the job of representing the people. We need to understand how this system has brought us to the point where we are today.

When we meet tomorrow on the Committee on Government Reform and Oversight, we are going to, for the very first time, discuss our committee's investigation. We have never had a meeting to discuss it. We are going to have a vote on the scope of that investigation. The chairman, Congressman DAN

BURTON, has suggested that the scope be only limited to President Clinton.

Can anyone believe that that is not a blueprint for a partisan investigation, a partisan witch-hunt? There is no reason for the Congress of the United States to use millions of dollars of taxpayers' money to pursue a partisan agenda. The only legitimate investigation, in my view, is to try to lead to reform and to understand how to accomplish that reform.

We have another important issue that is going to be coming up in our committee tomorrow, and that is the question of issuing subpoenas and disclosing confidential information. There has never been a committee of the Congress, to my knowledge, that has ever let one person, even the chairman, unilaterally issue subpoenas. Subpoenas have always been issued either by concurrence with the minority or a vote of the committee. The investigation is not the chairman's. The investigation is the committee's.

For that reason, we are proposing that the rules under which our committee operates protect the interests and the accountability of the Members for this investigation. If we do not issue the subpoenas in that committee and it is simply the chairman, how do we answer for it? And if the chairman is issuing them alone, how do we know it is not just his staff issuing subpoenas? This is important, because when a subpoena is issued to someone, they have to go out and hire an attorney. They are facing possible criminal sanctions for violation of that subpoena. They have got to worry that they are not going to comply in a precise way. I cannot tell you how many people have told me if they are the subject of a lawsuit, they get a little knot in their stomach of anxiety.

Can you imagine what it means for an ordinary citizen to be issued a subpoena by a committee of the Congress on a highly charged political investigation as we are now seeing conducted? In the Senate of the United States, there is a similar investigation on campaign finance in the committee chaired by Senator THOMPSON. In that committee, he is operating under a scope that will look at all campaign finance issues, and he is conducting himself under the traditional rules of all committees where the chairman issues subpoenas only with the concurrence of the minority or a vote of the committee. He is taking the same view when it comes to releasing confidential information. Yet Congressman DAN BURTON, the chairman of our committee, thinks he alone should be able to release confidential information whenever he sees fit.

We are talking about releasing, unilaterally, virtually all documents given to the committee. These documents were given to the committee, not to one member but to the committee itself. And we are talking about confidential financial records, trade secrets, medical histories, the identity of FBI informants, and privileged attorney-client communications. There may be times when such information should be released, but that decision should not be in the hands of one person alone, even if he is the chairman of the committee.

I am using this occasion to alert the Members to the fact that a very crucial decision is going to be made by the Committee on Government Reform and Oversight tomorrow. If we accept the protocol the chairman is setting out for us, we are going to be on a path of a partisan investigation which serves no legitimate purpose.

Why do we need to change the rules and let the chairman have this power? No one has explained to me why that is the case. By tomorrow, the chairman will have unilaterally issued around 100 subpoenas. Members of our committee are here today, and they are going to speak on this issue, but they are members of the committee and they have never been consulted about issuing these subpoenas. People have called me, and maybe them, asking how such a subpoena could have been issued. We do not know. And we do not think it is right. No one person should have that kind of power. Power concentrated in that way is an invitation for abuse, and I do not think we ought to give Chairman BURTON that option which may be too attractive to him and to his staff for them to abuse.

So when we meet tomorrow, we are going to propose a bipartisan investigation. Why should this be partisan? It ought to be something done both with the Democrats and the Republicans working together, just as in the Senate they are working together under rules that they have agreed to on a bipartisan basis to conduct this investigation that they are conducting.

From my point of view, I do not see any reason why there ought to be two separate investigations. I do not know why there is a Senate investigation and a House investigation and other committees are conducting parallel investigations on parts of the campaign finance issues. Can you imagine the amount of money that is being spent, in fact wasted, when the House is paying for a separate investigation than what the Senate is doing?

We had joint House-Senate investigations in the past. I think it makes a lot of sense for us to do one now. But not only is the taxpayers' money being wasted in the funding of these investigations, but when an agency gets a subpoena from the House and the Senate and different other committees, they have got to stop everything they are doing and devote staff time and resources to comply with the requests for information, and they are wasting money by the multiplicity of committees that are asking them to comply.

Mr. Speaker, I alert my colleagues that now is the time, if we are going to have a fair and bipartisan investigation, to get the ground rules straight. I hope tomorrow the members of the committee will go along with the suggestions that were adopted 99 to 0 in the Senate and ought to be the blueprint for our investigation in the House.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from California.

Mr. MILLER of California. I want to commend the gentleman for the position that he and a number of his members on the Democratic side of the committee have taken. I only wish it would be taken by the entire committee, by the chairman, and by the leadership of the House.

One of the things that is becoming very clear, as we watch your investigations and others get under way with respect to the White House and the whole question of campaign finance reform and what happened in the last election and the incredible amounts of money, is that we do not have a lot of credibility with the public on this issue.

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They really do believe that in some cases the fox is guarding the hen house here. The only way that we can start to reestablish that credibility is with a complete, comprehensive, and a bipartisan investigation.

One of the finest hours in terms of the public's understanding of the Congress and appreciation for the Congress was in the Watergate investigations, which were done, in fact, on a bipartisan basis because what was at stake was, in fact, the very institution of the Presidency, of the separation of powers, and of our democratic institutions.

I would suggest to the gentleman from California, and I would suggest to Chairman BURTON, and I would suggest to the Republican leadership that no less is at stake here. No less is at stake here because what we have seen is, in this last campaign in action, by the White House, by the Republican National Committee, by the Dole committee, by the Democratic National Committee, by Members of Congress, what we have seen is that we have essentially lost the confidence of the American people. That becomes very clear in any sampling done of the American public.

There is no substitute for a bipartisan, comprehensive investigation into irregularities with respect to this, into the legalities of various activities, into the ethics of these activities. If we fail to do that, whether or not you can pin somebody's hide to the wall or not will not resonate with the public in terms of whether they believe we have done the kind of investigation, whether we have really cleansed this system of what I believe is such a corrosive level of special interest money that it is now distorting the processes by which this institution arrives at conclusions and I think is undermining our democratic institutions.

I would hope that when the gentleman starts his hearings tomorrow and the committee deliberates this, that there would be some fundamental understanding by the Republicans that this is larger than their party or our party, this is about the survivability of this institution in terms of the confidence of the American public, and that is very important.

That is very important because when this is all said and done, we have a lot of other issues where, if we do not have some level of confidence with the American public, the decisions about tax relief or the balanced budget or Medicare or Social Security were made without the corrosive influence of special interest money, then we are going to have a lot of trouble in terms of the future of this country and the future of this institution being able to make those difficult and tough decisions that are so necessary to our future.

And I just want to commend my colleague from California for his tenacity in this argument. I can appreciate that it appears that, this is simply prepared to overwhelm you, they are prepared to go on with business, as they view, as usual. And I want to thank the gentleman on behalf of one that serves in this institution and one who tries to represent to his constituents the democratic process in this institution for your efforts to try to balance out this investigation so that when we are all done, we can be clear with the public that we have done our very best, that we have been the fairest we can possibly be, that we have been bipartisan and we have arrived at some support and conclusion.

I want to thank the gentleman for his efforts.

Mr. WAXMAN. I thank the gentleman for his kind words.

This investigation is too important to play petty politics with. I think that the American public is thoroughly cynical about the role of special interest money and the way the candidates run after that money. We have got to reform the system.

This is an opportunity for us to understand the system, where it has been abused, where illegal actions have taken place, if any. But there are a lot of legal actions, as we all know, within the campaign finance area now, particularly with the opening of loopholes for soft money and independent expenditures, that are perfectly legal. Some of the most scandalous activities, I think, are some of the most legal activities in the campaign finance area.

The Speaker of the House, NEWT GINGRICH, spoke to a group the other day, and he said that he wants a thorough investigation about whether a foreign government is trying to influence American elections. How can you have an investigation about whether foreign governments may be trying to interfere in our elections but only for the Presidency, not for the Congress? If that is an important issue, let us put it all on the table. There are other members of my committee.

Mr. PALLONE. Mr. Speaker, I know the gentleman wants to be kind, but I have to say that, you know, the ultimate irony in this whole idea of foreign governments is that, and one of the reasons that I believe that the chairman of your committee, the gentleman from Indiana [Mr. BURTON], is not willing to open this up to include the House, both Democrat and Republican, and the Senate, is because he himself has been under investigation.

There have been allegations, as you know, that he in fact——

Mr. WAXMAN. Let me reclaim my time and just tell the gentleman, I hope he is incorrect, and I want us to work on our committee in a bipartisan basis and to go forward together legitimately to understand the system, find abuses, hold them out to public scrutiny, learn how to reform the system that no one, I think, can defend.

I know that there are members of my committee here that have taken out this opportunity for Special Orders.

Mr. TIERNEY. Will the gentleman yield?

Mr. WAXMAN. I am not going to yield to the gentleman. I will yield back my time to the gentleman from New Jersey and hope that he will yield to the other members of the committee that are here and others on our side of the aisle who want to express their views.

But I thank the gentleman for taking this opportunity on the House floor so that we can alert the public as to what is going on.

Mr. PALLONE. What I would like to do, with the indulgence of my colleagues, Mr. Speaker, is if I could yield back my time with the understanding that the Chair will grant that time to the gentleman from Massachusetts [Mr. TIERNEY].

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Massachusetts [Mr. TIERNEY] is recognized for the remainder of the hour.

Mr. TIERNEY. Mr. Speaker, I would like to yield at this time to the gentleman from Illinois [Mr. DAVIS].

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman from Massachusetts for yielding.

Our Founding Fathers, the authors of our Constitution, created something that the world had never seen, a representative government based on the popular election of the legislative and executive branches. It was a powerful idea whose time had indeed come.

Based on the study of the most advanced ideas of that date, it has taken us now more than 200 years to extend those basic ideas to include all of the people in this country, black, white, Hispanic, Asian, Native American, men and women; and I would like to add rich and poor to the list.

But, unfortunately, our democratic system has been attacked by a virus of virulence that our Founding Fathers could never have imagined, money. By some estimates, our last national elections cost $2 billion. And according to a study by the Center for Responsive Politics, 9 out of 10 U.S. House races were won by candidates who outspent their opponents in the election, and in nearly 40 percent of the House races the winner outspent the loser by a factor of 10 to 1 or more.

In competitive races, House candidates are spending 50 percent more in real terms on TV and radio advertising than they did 20 years ago at the time of Buckley versus Valeo. Thirty years ago, the average sound bite on the TV news was 42 seconds. By 1992, that bite was trimmed to less than 10 seconds. Literally, money talks, and because money talks, and when it talks it drowns out almost all other political discourse, money has distorted, corrupted, and perverted our political system.

It is time to get back to the basic democracy of Benjamin Franklin, Elizabeth Stanton, Frederick Douglass, Susan Anthony, and Martin Luther King. We are past the time for halfway and halfhearted patches on the system. Belief that this closure alone will remedy the problem is akin to belief in the tooth fairy. Solving the problem by just regulating soft money is about as likely as expecting pigs to fly.

I believe that the basic principles of campaign reform, at a very minimum, should be these:

First, take money out of the equation; finance all Federal campaigns through voluntary full public funding; amend the Constitution to prohibit Federal candidates from using private funds; provide voters with enough unfiltered information to make informed choices; open up television, radio, and other media for a discussion of the issues by the candidates; shorten the election cycle; create a truly independent regulatory agency to monitor and make public the spending of public campaign moneys; require paid lobbyists to publicly report who and when they lobby; create universal voter registration; encourage experimentation with mail and electronic ballots and multiple day elections; require full disclosure of all independent expenditures.

The fact that most Americans indicate that they have lost confidence in the functioning of our democratic elections and that most do not vote should be both a warning and a summons to action. The time to act is now, before the American public continues to erode its faith in our democratic process.

Mr. TIERNEY. Mr. Speaker, I reclaim my time. I want to thank my colleague from Illinois and state, as a member of the Committee on Reform and Oversight, I would much rather be joining my colleagues debating and deliberating the issues you address than going down the avenue we are taking or seemingly going to take tomorrow.

At this time, Mr. Speaker, I yield to my colleague from New York, Congresswoman MALONEY.

Mrs. MALONEY of New York. Mr. Speaker, the Committee on Government Reform and Oversight will soon vote on whether to hold a serious campaign finance investigation or to hold a narrowly focused, partisan, wasteful charade. The chairman of that committee has begun a blatantly partisan investigation of the White House to embarrass the President. He proposes, he has an unprecedented proposal, and that is to limit the scope very narrowly only to the actions of the executive branch officials and only to the Presidential election. Doing so, limiting it only to the 1996 Presidential campaign and the executive branch, means it will focus only on the Clinton campaign and executive branch officials, means it will be only democratic violations that will be looked at.

At the very least, if the chairman was serious about studying campaign finance violations, they would look at both campaigns; they would look at both the Democratic and the Republican campaigns. There have been published abuses in the Dole campaign and the Clinton campaign. We should study both campaigns if we are serious about finding solutions.

Likewise, it should be expanded to cover the Congress, both branches, in the Senate campaigns and the House campaigns, if you are really looking at finding what is wrong with the system and trying to change it and make it better.

The chairman plans to use $15 million for his investigation. That is three times more money investigating the President than the Senate is spending to investigate both the President and the Congress. That makes absolutely no sense, and it is wasteful.

Mr. Speaker, the chairman has significantly broadened his own powers. He has issued more than 100 subpoenas without the committee's approval. Furthermore, the chairman is seeking unilateral authority to release the documents that he obtains by subpoena. The Senate, on the other hand, the Republican Senate, on the other hand, has voted unanimously and endorsed a bipartisan investigation of both Presidential and congressional campaigns regardless of party. They are looking at issues, not at politics.

Led by Senator FRED THOMPSON and the Republican leadership, the Senate is charged with an investigation of both illegal and improper campaign finance practices during the past election. The scope is well defined and entirely appropriate to serve the public interest and to understand the full range of abuse. However, the House investigation which the chairman is proposing is not. The chairman's blanket authority to unilaterally issue subpoenas and release documents is without precedent.

I want to state, Mr. Speaker, that this is the view that has been taken by all the good government groups. They are all criticizing the proposals that the Republican chairman has before the committee tomorrow: Public Citizen, the League of Women Voters, Common Cause, NYPIRG; they have all come out in opposition to this.

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The Perot party has come out in opposition to this. This is not partisan opposition; this is good government, commonsense opposition.

Mr. Speaker, I would like to quote from Common Cause: "This issuance of a formal subpoena is a serious matter subject to great potential abuse."

They go on, and I quote, "It is inappropriate for a committee chairman to have the unchecked authority to unilaterally issue a subpoena which could be intended to harass, to embarrass, or oppress the other party."

Deans of this House on both sides, and the gentleman from Pennsylvania, Mr. Clinger, I served with him, a Republican who was the chairman of this committee, he would never, never do anything like this. I heard both Mr. Clinger and the gentleman from Michigan [Mr. DINGELL] on our side of the aisle say that the best legislation is legislation that is bipartisan, that is thoughtful, that is intended to help public policy.

The proposal that the Republican chairman is putting forth before the committee, according to Common Cause, Public Citizen, the League of Women Voters is unprecedented, wrong, anti-Republican, anti-Democrat, anti-good government, anti-common sense, wasteful, and should not be done.

I would like to caution all Members of this body on both sides of the aisle that everyone should think very carefully before they would vote for a proposal that absolutely the entire country seems to be opposed to except the chairman of this particular committee. I hope everyone will read the documents he is putting forward and read the statements of the groups that have come forward in opposition.

Mr. Speaker, I am entering into the RECORD the statements of Common Cause, Public Citizen, NYPIRG, the League of Women Voters, and other government groups that have uniformly and with great force come out in opposition to the proposal that the chairman, Republican chairman, is putting forth.

STATEMENT BY TOM ANDREWS, NATIONAL PROGRAM DIRECTOR, CITIZEN ACTION—NEWS CONFERENCE, APRIL 7, 1997

When it comes to the way political campaigns are financed in this country, Americans have two fundamental beliefs: 1) they are disgusted with the way things are and 2) they are highly cynical about the prospects of politicians cleaning it up.

Incredibly, it is possible that the House Committee on Government Reform and Oversight may exclude from its investigation into campaign fundraising practices illegal or improper campaign fundraising by members of Congress. Apparently Chairman Burton would like to restrict the scope of his Committee's work to only one party by probing only into the White House and the Democratic National Committee. Apparently we are to believe that there is nothing to worry about when it comes to any other politician's fundraising practices—certainly not the U.S. Congress.

In light of how disgusted Americans are with politics as usual, Chairman Burton's move needs to be entered into Ripley's Believe it Or Not. It is unbelievable that a House Committee would actually vote to begin an investigation of the campaign fundraising practices of politicians by systematically excluding the U.S. Congress. I know how out of touch some politicians can become from real people but you would have had to have traveled to Mars for the Congressional recess not to know how angry people are with big money in politics and how disgusted they will be with any investigation that attempts to sweep the truth under the rug before it even begins.

The issue here is clear. The Senate voted unanimously to open up their investigation to the entire campaign fundraising problem as it relates to all Washington politicians. To do anything else on the House side will render their investigation at best incomplete and, at worse, a partisan hatchet job that exhibits what Americans have come to hate most about politics.

The vote on this issue will become a marker for members of the Committee. Those who vote against a complete and fair investigation that includes Congress as well as the White House, will clearly identify themselves as a major part of the problem. Because every politician has learned to talk a good game on this issue, this vote will be very useful for citizens to know which side their member of Congress is really on when it comes to cleaning up our political system.

Every member of the committee needs to know that you can run but you cannot hide on this issue. Your vote will be counted and you will be held accountable. There is no excuse for anything less than a full and fair investigation of the mess and the scandal of the role of big money in our political system. Any member who votes against such a full investigation can expect to be asked by their constituents at home: "What do you have to hide?"

People are tired of the excuses, the inaction and the partisan manipulation. They want and deserve to have a democracy taken back from the monied special interests that bankroll candidates and returned it to it's rightful owners—the American people.

Statement by Becky Cain, President, League of Women Voters of the U.S.—April 8, 1997

CALLING ON THE HOUSE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT TO BROADEN THE SCOPE OF ITS CAMPAIGN FINANCE INVESTIGATION

Good afternoon. I'm Becky Cain, President of the League of Women Voters.

We are here today to call upon the House Government Reform and Oversight Committee to conduct a fair and comprehensive investigation into campaign finance practices. We are deeply concerned that the committee is poised to head in the wrong direction, to conduct an investigation that will not have the confidence of the American people.

Last month the Senate voted to expand the scope of its probe into campaign finance to include presidential and congressional fundraising practices, both illegal and improper. That vote was unanimous. Senators understood that if their investigation was to have any credibility, it had to include congressional as well as presidential fundraising practices. They understood that the investigation had to be conducted with fair procedures.

Here on the House side, however, we face a very different situation. The chairman of the House Committee on Government Reform and Oversight has insisted on excluding Congress from the House investigation. This simply is unacceptable.

On Thursday, the full committee will vote on a "protocol" to guide the House investigation. We call upon the committee to vote for an investigation that explicitly includes Congress in its scope. We call upon the committee to vote for procedures that ensure fairness.

Simply leaving the scope undefined is not an acceptable option. The chairman has made abundantly clear his desire to strictly limit the scope, so the committee must make explicitly clear that the Congress is included.

If the House investigation is to have a dime's worth of credibility, members must send the chairman a simple message: expand the probe to include Congress, and adopt fair procedures. The Senate investigation provides a good model.

Under the chairman's proposal, members of the committee will be voting to exempt their own fundraising practices from investigation. Members of the committee who do not demand and vote for an expanded inquiry will be putting themselves beyond the reach of the probe. Congress must not exempt itself from investigation. Congress isn't supposed to be above the law. How can members of Congress exempt their own campaign fundraising from investigation? The American people won't buy it.

Anyone who believes that campaign finance abuses are limited to one branch of government simply isn't reading the papers these days. The system is a mess and needs to be examined from top to bottom.

An investigation focusing solely on presidential fundraising activities will be seen for what it is, just one more political game. Instead, Congress must be included in the House investigation.

Members who think that this vote will slide under the radar, think again. The New York Times reported today that nearly nine out of ten Americans said that hearings should investigate the fundraising activities of both parties. In voting to exclude Congress, the committee acts in defiance of the public's clear desire for a fair, bi-partisan investigation.

The decision lies in the hands of Republican moderates on this committee. Their votes will decide whether the House will conduct an investigation that is credible and fair. Their votes will decide whether the investigation goes after wrongdoing wherever it can be found. By voting for the chairman's proposal, these moderates would guarantee a continuation of the partisan games that have characterized the debate on campaign finance for too long.

We are relying on moderates like Chris Shays, Connie Morella, Steve Horn and Tom Davis to do the right thing.

Local Leagues are taking action and calling on their members who serve on this committee to stand up for a fair investigation.

The Senate faced this same question and voted for a comprehensive investigation that looks into illegal or improper activities in connection with 1996 federal election campaigns, congressional as well as presidential. There is no good reason for the House not to do the same. We believe that members of this committee understand the importance of voting to broaden the scope of the House investigation. We trust they have the will to vote with their convictions.

Thank you.

Statement of Ann McBride, President of Common Cause, Regarding the Upcoming Committee Vote on the House Government Reform and Oversight Committee's Investigation Into Campaign Finance Abuses in the 1996 Elections

On Thursday, members of the House Government Reform and Oversight Committee are scheduled to decide whether they will spend the almost $4 million in taxpayer funds the Committee has been allocated to conduct a partisan sideshow or a thorough, complete investigation of the campaign finance mess in Washington. The campaign finance abuses and violations in the 1996 elections represent far too serious a crisis of American democracy for this Committee's investigation to be used for partisan game playing.

The American public simply will not trust an investigation that gives one party a free ride. A New York Times/CBS poll published today found that 9 out of 10 Americans want these hearings to investigate the fund-raising activities of both parties.

Any congressional investigation of campaign finance practices to be conducted by the House Government Reform and Oversight Committee must be comprehensive, fair and bipartisan. Only an investigation which is comprehensive, fair and bipartisan will have public credibility.

To be comprehensive and bipartisan, the Committee must look at fundraising improprieties and possible violations of law by both the presidential and congressional campaigns as well as by executive branch officials. Excluding congressional campaign finance practices, as Chairman Burton proposes, means the Committee will see only a partial picture of the abuses with the existing campaign finance system. Among the activities missed will be the growing soft money fundraising and spending practices of the party congressional campaign committees, the influence and access provided to special interests and their lobbyists for campaign money, the use of non-profits for partisan political activities and the misuse of so-called independent expenditures by party committees in congressional campaigns. Any credible campaign finance investigation must include these and similar very serious practices.

Further, should the Committee narrow its scope to wrongdoing by only executive branch officials, and not by both 1996 presidential campaigns, it will fail to consider possible serious violations by the Dole campaign. Common Cause laid out last October in a letter to the Justice Department how both the Clinton and Dole campaigns also violated the applicable spending limit and misused soft money. In order to be bipartisan, the investigation must examine both campaigns.

The Committee hearings also must be scrupulously fair. Fairness will be insured only if the Committee follows congressional precedents for investigative procedures, and gives minority members a voice in the investigation. Chairman Burton has proposed giving himself apparently extraordinary powers including unilateral authority to issue subpoenas and make public disclosures of investigative documents without prior consent of, or even notification to, the ranking minority member.

The issuance of a formal subpoena is a serious matter, subject to great potential abuse. While a ranking minority member should not be allowed to block a subpoena in order to obstruct an investigation of abuses by his party, it is also dead wrong for a committee chairman to have unchecked authority to unilaterally issue a subpoena.

If the Committee does not conduct its investigation in a manner that is—and that appears to be—comprehensive, fair and bipartisan, then not only will the House have squandered an important opportunity to understand the nature of this crisis in order to correct it, but the House majority will be seen by the American people as attempting to gain short term partisan profit at the expense of acting responsibly to address and solve these very serious problems.

The American people will be watching what happens in the Government Reform Committee on Thursday. Each member who serves on the Committee bears personal responsibility to stand up and be counted: To vote to ensure that both presidential campaigns as well as congressional campaigns are covered, and that the Committee's procedures are bipartisan and fair.

U.S. PIRG Urges House Committee To Broaden Campaign Investigation

The U.S. Public Interest Research Group (PIRG) today joined other reform organizations in calling on the House Government Reform and Oversight Committee to broaden the scope of its investigation into campaign finance reform practices. PIRG urged the Committee to include both Congressional and Executive Branch fundraising, as well as both improper and illegal activities, in its investigation. The Committee, chaired by Rep. Dan Burton (R–IN), has to date not decided to hold a broad investigation that includes congressional fundraising practices, in sharp contrast to the investigation of the Senate Governmental Affairs Committee, chaired by Sen. Fred Thompson (R–TN). The House committee will vote on the protocol for its investigation this Thursday, April 10th.

"Limiting this investigation is like wearing dark glasses to look in the shadowy corners of a dark house. Unless they turn on the lights, the committee will miss a huge part of the problem: fundraising practices in Congress itself," said Bill Wood, democracy advocate with U.S. PIRG. "We urge the House Committee to, at a minimum, rise to the level of the Senate investigation, and use their authority to illuminate all kinds of problems in our current political fundraising system," he continued.

Repudiate Representative Burton's One-Sided Investigation Into Campaign Financing Consumer Group Asks House Members

Washington.—Citizen Action, the nation's largest independent consumer watchdog organization, today called on the House Government Reform and Oversight Committee to vote for a full investigation of all illegal and improper campaign fundraising activities by both political parties, by the White House and Congress.

Citizen Action blasted the effort by Rep. Dan Burton (R–IN) to conduct a narrow investigation that only includes the White House and Democratic National Committee, but excludes fundraising activities by Members of Congress.

Joining with the League of Women Voters and other organizations supporting campaign finance reform at a press conference this afternoon, former Congressman Tom Andrews, Citizen Action National Program Director, declared, "In light of how disgusted Americans are with politics as usual, Chairman Burton's move needs to be entered into 'Ripley's Believe it Or Not'. It is unbelievable that a House Committee would actually vote to begin an investigation of the campaign fundraising practices of politicians by systematically excluding the U.S. Congress," continued Andrews.

"It seems that Chairman Burton would like to restrict the scope of his Committee's work to only one party by probing only into the White House and the Democratic National Committee. Apparently we are to believe that there is nothing to worry about when it comes to any other politician's fundraising practices—certainly not the U.S. Congress.

"I know how out of touch some politicians can become from real people but you would have had to have traveled to Mars for the Congressional recess not to know how angry people are with big money in politics and how disgusted they will be with any investigation that attempts to sweep the truth under the rug before it even begins.

"The issue here is clear. The Senate voted unanimously to open up their investigation to the entire campaign fundraising problem as it relates to all Washington politicians. To do anything else on the House side will render their investigation at best incomplete and, at worst, a partisan hatchet job that exhibits what Americans have come to hate most about politics.

"The vote on this issue will become a marker for Members of the Committee. Those who vote against a complete and fair investigation that includes Congress as well as the White House, will clearly identify themselves as a major part of the problem. Because every politician has learned to talk a good game on this issue, this vote will be very useful for citizens to know which side their member of Congress is really on when it comes to cleaning up our political system.

"Every member of the Committee needs to know that you can run but you cannot hide on this issue. Your vote will be counted and you will be held accountable. There is no excuse for anything less than a full and fair investigation of the scandal that is the role of big money in our political system. Any Member who votes against such a full investigation can expect to be asked by their constituents at home: What do you have to hide? And there will be no excuse for anything less than action that will take our political system away from the monied special interests and returning it to its rightful owners—the American people," concluded Andrews.

Reform Party Defends Public's Right to Know—Joins Coalition Urging Broad Brush in Campaign Finance Investigation

"Citizens will not look kindly on an investigation that is artificially restricted to prevent political damage," states a letter mailed today to members of Congress. The letter represents the interests of millions of Americans in getting to the bottom of campaign finance abuses, once for all.

The Reform Party has joined five citizen action organizations, urging the Government Reform and Oversight Committee of the U.S. House of Representatives to approve a protocol for their investigation of campaign finance abuses that is fair and bi-partisan in its scope. The other organizations include the League of Women Voters, U.S. Public Interest Research Group, United We Stand America, Public Campaign and Public Citizen.

Addressing the members of the Government Reform and Oversight Committee of the Congress, the letter urges them, as they vote on the protocol establishing the scope and procedures for their investigation, to ". . .broaden the scope of the investigation to include the fundraising practices of both parties' presidential and congressional campaigns." The Senate has set a precedent for such a move by voting to broaden the scope of their own investigation to look at presidential and congressional fundraising, both improper and illegal.

"The notion that the Committee's investigation should exclude congressional fundraising practices smacks of a self-serving disregard for the public's right to know," the letter states. "In addition, it is imperative that the investigation be conducted in a fair and non-partisan manner. Procedural rules that put one party or the other at a distinct disadvantage will cast doubt on the integrity of the investigation. Scope and procedures that are anything less than comprehensive and fair will completely undermine the credibility of the House investigation from the outset."

Reform Party Chairman Russell Verney says, "Every day, the public trust is further eroded by more news of possible improprieties and even illegal acts in both presidential and congressional fundraising, from the selling of access in exchange for big campaign contributions to the use of federal property for fundraising. We're looking to the Congress to do the people's business and conduct the fair, nonpartisan investigation the situation demands one that digs deep and lays out the truth, no matter what it is or who it touches. The people will settle for nothing less."

For more information on campaign finance reform or about the Reform Party, call the national Reform Party office at (972) 450–8800, or contact your state Reform Party headquarters.

Statement of Joan Claybrook, President, Public Citizen, House Investigation of Campaign Fundraising Abuses

Public trust in our system of government is dangerously low. Political gamesmanship and partisan sniping are destroying voters' confidence in their lawmakers. So is the corrupting spiral of legalized bribery better known as special interest money.

Attempts to limit the scope of the House investigation are a transparent attempt to cover up the misuse of special interest money swamping Congressional races and the methods used to raise such sums.

Congressional candidates poured $743 million into their 1996 campaigns. The disease of special interest corruption is not confined to the executive branch of our government, so why should the Government Reform and Oversight Committee's investigation be confined only to the executive branch?

The voters are demanding to know the full story behind the litany of fundraising abuses in both the Administration and Congress and by Democrats and Republicans alike.

The Government Reform and Oversight Committee investigation must not close its eyes to suspect activities like the Republican donor access programs, where those who gave $50,000 were guaranteed at least three private meetings with GOP senators.

The Committee must not close its eyes to the Republican fundraising letter of 1995 promising that corporate contributions of $25,000 or more would go "directly to fund House races"—an activity that would have been illegal.

And it cannot close its eyes to public demands for action. Today's poll in the New York Times shows almost nine of ten people wanting fundamental changes or even a complete overhaul of the political fundraising system, and nearly nine of ten people wanting the Congressional investigations to cover fundraising abuses by both parties.

Chairman Burton must not be allowed to turn this investigation into a partisan vendetta against the White House that sweeps Congressional fundraising abuses under the carpet. Giving him the power to control this investigation is like appointing Pete Rose Commissioner of Baseball. Dan Burton must not be allowed to seize unilateral power of subpoena, and he must not be allowed to destroy the credibility of the House of Representatives by confining its investigation to one corner of a very huge problem.

The Committee as a whole, not its chair must decide what subpoenas are issued, or the power will become a partisan weapon. The Committee as a whole should also control what documents are released to the public. The Committee's probe is far too important for it to be controlled by one individual whose own activities are being investigated by the Justice Department for abuses but who wants to decide which abuses will be investigated and which will be ignored.

Representatives must choose between a wide-ranging, principled and fair investigation, or one that is conducted for narrow partisan purposes that shields the indefensible Congressional campaign finance system from scrutiny.

Last month, because a handful of Republican senators stood tall, the Senate voted unanimously to expand the scope of its probe into campaign finance practices to include Presidential and Congressional activities, both illegal and improper.

Today, the question is whether the House—and the Government Reform and Oversight Committee—also has the courage to listen to the American people and investigate the whole story.

Mr. TIERNEY. Mr. Speaker, at this point in time I would like to yield to my friend, the gentleman from Illinois [Mr. Blagojevich].

Mr. BLAGOJEVICH. Mr. Speaker, let me say that as a freshman this is my maiden voyage, this is the first time that I have addressed the House with regard to a question of an issue relating to procedure and an issue that relates to a committee.

Let me say that as long as we are talking about investigations, I must confess, Mr. Speaker, that I have to plead guilty. I have to plead guilty to naivete.

When I ran for Congress this last fall, I ran with the notion that Members of both political parties were going to try to work together to improve our country on the issues that are important to people in our respective communities. We were going to work to try to improve the quality of education; we were together to try to improve and repair our schools; we were going to try to fight crime and balance the Federal budget.

I thought Congress was going to operate under the rule of law. I believe then, and I still believe, that Members of both parties want to act in good faith together to solve these problems and many other problems that face our communities. I must confess, however, that I was somewhat naive, and I must confess to being somewhat demoralized by the fact that as a freshman member of the Committee on Government Reform and Oversight what I have seen thus far has been nothing but a political witch-hunt designed to embarrass the President of the United States and designed to embarrass one particular political party.

The American people, Mr. Speaker, recognize, rightfully so, that there is something wrong with the way our financing of campaigns is being presently operated in the United States. The American people, I believe, rightfully so, want us to reform the campaign financing laws.

This Congress must, in my judgment, act now to address these problems, and in doing so, we have to do it in a bipartisan manner, not only to look at transgressions of Members of both parties; not only to see where Members of Congress, Members who are Democrats and Republicans, as well as candidates for the Presidency, have failed and transgressed in laws. We have to make sure that we reform the financing system.

So as we investigate the transgressions, I urge this Congress, and in particular, the committee of which I am a member, the Committee on Government Reform and Oversight, to make sure that when we investigate fundraising transgressions, we do so by addressing not only the White House, but also Members of Congress and Members of both political parties.

In the final analysis, Mr. Speaker, I firmly believe that Democrats and Republicans alike, Members of Congress, Members of the U.S. Senate, fundamentally love our country, love the democracy that we have the opportunity to serve. The fundamental integrity of this process is being called into question when our committee is not addressing these investigations in a fair-minded manner and does not seek to investigate all transgressions, and is merely looking to focus on one particular party, and in particular, the President of the United States.

Mr. Speaker, I hope that tomorrow when the Committee on Government Reform and Oversight meets we determine to hold a fair investigation and a nonpartisan investigation.

Mr. TIERNEY. Mr. Speaker, at this time I would like to yield to my colleague from Michigan, [Ms. KILPATRICK].

Ms. KILPATRICK. Mr. Speaker, with nearly 100 days now into the 105th Congress, I am puzzled and baffled that we have not yet begun to take care of the business of the people. Quality education, good-paying jobs, a clean environment, medical care for the people of this great country, all have not yet been addressed.

I want to give you an example of what can happen when a legislature works together in a bipartisan way. In 1993, President Clinton initiated and passed the Empowerment Zone Act. Since that time, there have been established 15 empowerment zones across America and 25 enterprise communities where jobs are created, where people are trained, where the displaced worker is put back to work.

I contend that this 105th Congress must get back on track. One hundred days and still no real issues, no real opportunity for children, for people. We have got to get back on track.

I am happy to report that Detroit, the city that I represent, among six other cities, was the No. 1 application put in and won that rightful first place empowerment zone designation. We have 2 billion dollar's worth of private investment; we have over 100,000 jobs committed and we are in the process of rejuvenating that.

I am happy to report that beginning next Monday, Tuesday, and Wednesday, the White House will sponsor and hold in Detroit the first annual meeting of the empowerment zones and the enterprising communities. This will be the first time that the enterprising communities and the empowerment zones will come together to see what is working, how many they have employed, how many they have retrained, what has happened in terms of assistance to schools and education.

I am happy that Detroit is being selected, I am happy that President Clinton had the foresight to establish the empowerment zones, and what I want to see this 105th Congress do is to expand that opportunity. Let us put Americans back to work. Let us provide educational opportunities for our children. Let us have pensions and security for seniors who have worked so hard for this country.

We are now almost 100 days into the 105th Congress. How long will it be before we get back to work? I am asking our Republican leadership, let us deal with the issues of America. Let us put Americans back to work. Let us provide security for our children so that they too can have wonderful, exciting lives that we have all been blessed by.

One hundred days. Is it not time that this Congress, the 105th Congress under Republican leadership deal with the real issues? Enterprise zones, working Americans, sending children to school, providing health care, securing pensions, that is what the American people want to talk about.

I would hope that we begin the work of the people of this great Nation, that as we move to a new millennium we talk about those real issues, and let us get to work, Congress. We are 435 of the most powerful people in the world. People sent us to this Congress to do their work. Let us get started on it.

Mr. TIERNEY. Mr. Speaker, at this time I would like to yield to the gentleman from Ohio [Mr. KUCINICH].

Mr. KUCINICH. Mr. Speaker, I rise to address an issue in which the credibility of Congress is at stake and the credibility of a congressional committee is at stake.

Our Government was set up, the Government of the United States was set up to provide for a separation of powers, and that separation of powers was to prevent the abuse of power, a system of checks and balances to prevent the abuse of power, a House and a Senate to prevent the abuse of legislative power, a district, appellate, and Supreme Court to prevent the abuse of judicial power.

Democracy is the greatest form of government known to the world, and it works, as long as we do not abuse power. The American people are very aware of this. That is why they favor a system which distributes the power throughout the Government.

We have a situation on our committee, the Committee on Government Reform and Oversight, which lends itself to the great concern of the American people as to whether or not power is being abused, because we have a condition set up which permits the chairman of that committee to be a policeman, a prosecutor, a judge, and a jury over matters relating to the investigation of campaign finance.

The American people have a right to know what is going on with respect to campaign finance, but they also have a right to make sure that it is done in an even-handed way, where power is not abused, so that there is credibility to any investigation.

Mr. Speaker and Members of the House of Representatives, we need to go very slowly on our efforts to investigate campaign finance if it is not being done in a bipartisan manner and if it refuses to recognize the demand and the requirements which the American people have for checks and balances and for the prevention of the abuse of power.

I implore the chairman of the committee to consider our requests so that we will have the committee make the decisions as a whole for the calling of witnesses, for the subpoena of documents, and for any other matters which come before our committee. I would ask the gentleman from Indiana [Mr. BURTON] as a gentleman and as a Member of this House to consider the grave responsibility he has to protect this democratic process in this moment of great concern of the people.

Mr. TIERNEY. Mr. Speaker, at this time I would like to yield to my distinguished colleague from Connecticut [Ms. DELAURO].

☐ 1600

Ms. DELAURO. Mr. Speaker, I want to thank my colleague for yielding to me. Also, I want to commend my colleagues for coming down this afternoon to talk about the issue of this investigation.

I wanted to be here as well to join in the commentary in order to support the efforts of my colleagues in calling for an open and a fair investigation of campaign finance issues, campaign finance reform, and of what our administration practice is. But I also believe that we ought to take a look at the Congress as well and what has happened, and look at what may be potentially there to have an open and fair investigation.

However, I would just say to my colleagues that I think that there are clear motives on the part of the Republican majority to have a one-sided investigation, and the reason is what they do not want to do is to look into the practice that they were heavily engaged in in the last session of this Congress and during the election, of lobbyists writing the legislation in this body in exchange for campaign contributions.

Today on the floor of this House, the majority whip gave us his own revisionist history lesson on campaign finance reform. The majority whip, the gentleman from Texas, was widely criticized during the last Congress for allowing lobbyists to write legislation in his office. Article after article documented meetings where GOP donors were invited to draft bills on issues of concern to their special interests.

One such article from the Washington Post on March 12, 1995, and these are the words of the article and I am not making this up, this is documentation, documents an organization called "Project Relief" that included 350 industry members and lobbyists. Instead of just proposing legislation, the majority whip let them draft the laws directly. In other words, he would let paid lobbyists do what House Members, Members who are duly elected by the 500,000 or 600,000 people they represent in their districts to come here to carry the interests of those folks to this body, to craft that legislation in terms of good and meaningful public policy in the lives of American taxpayers, he would let the lobbyists do what House Members are elected to do.

The gentleman even admitted the practice, saying that the lobbyists have, and this is a quote, "They have the expertise." Today the gentleman from Texas claimed it never happened. Once again Republicans do not want an open investigation.

I will tell the Members the other items they do not want to look into. The tobacco industry gave the [RNC] Republican National Committee, $7.4 million. They passed a product liability that would have saved the tobacco company millions of dollars. The NRA gave $2 million. The GOP worked to try to kill the assault weapons ban in the last session of the Congress.

The GOP Congress let big business help write a workplace safety bill. In January of 1995 big business lobbyists wrote up a 30-item wish list for limiting certain workplace safety regulations. When the bill was finished in early June, virtually every single item on that wish list had been incorporated into the final version of the bill. Business lobbyists even worked closely in drafting the legislation.

There were other areas in terms of other non-legislative outrages. I am just going to hold up this book. This is the National Republican Campaign Committee, this is the tactical PAC project, PAC being Political Action Committees. These were folks who were given a friendly or unfriendly notation by their name. This was circulated to the GOP representatives based on how much money these folks gave to Republicans or Democrats.

The majority whip, who was nicknamed "the Hammer," and is very proud of this appellation here, for his fund raising techniques, has been known to greet lobbyists with this book, thumbing through it, and saying, see, you are in the book, one way or the other.

The long and short of it, I think what we ought to do is to continue with a lot of this information, to get it out. The public ought to know this. We ought to try to get it out, so that the public has both sides. This needs to be a fair and open investigation.

No one is saying that we should not investigate. We should, because wrongdoing, wherever it occurs, ought to be stopped. Let us do the right thing by the American people. Let us open this investigation and make sure that both sides are heard. I thank my colleague for having this special order today and for allowing me some time to speak.

Mr. TIERNEY. I thank my colleague for taking the time to point out in the remaining 2 minutes that I have, Mr. Speaker, just to continue to point out some of the issues that the gentlewoman brought to light, and being that what we are really discussing here is the fact that this is a proposal by a committee and a committee chairperson to run a totally extraordinary and unusual type of campaign investigation that focuses only on one party, one office, instead of doing what the other body, the Senate, did in terms of broadening it out.

The fact of the matter is, as our minority leader, the gentleman from California [Mr. WAXMAN], pointed out, the fact of the matter is that we can do better. We need not have two separate investigations, particularly when one of them is really compromised the way the one in the House pretends to be.

We ought to do what they have done over in the Senate side, or let them do it if we cannot work jointly with them, save the American taxpayer some $14 million, and deal with both parties, all offices, and have a credible investigation, and not one where we have one individual unilaterally, without any constraints, issuing subpoenas.

In every other investigation that has been done by these bodies of any notoriety, the gentlewoman will note that there was never a case of the unilateral issuance of subpoenas by the chairperson, whether it be Watergate, Iran-Contra, the House Ethics Committee, or the proposed Senate investigation, nor have there been unilateral releases of privileged and confidential documents in any of those.

Yet our chairperson in the House purports to do both of them, but he purports to do it by silently not stating specifically the context of his investigation and the protocol, so those Members of his committees who profess to be moderate or profess that they would be embarrassed by such a venture can hide behind that lack of specificity.

I want to thank all of my colleagues who came to the floor today to highlight this matter, and urge, Mr. Speaker, that we see some leadership on the other side of the aisle here, that we do something that will have credibility, that we move forward so the American people will know that this Congress is working for them.

ANNOUNCEMENT REGARDING THE PASSING OF THE HONORABLE CHARLES G. HAYES, FORMER MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentleman from Illinois [Mr. RUSH] is recognized for 5 minutes.

Mr. RUSH. Mr. Speaker, I am saddened this afternoon, as I have the responsibility to announce to the Members of this body, to the Nation, and to the residents of the First Congressional District that on last evening our friend, our colleague, former Representative Charles G. Hayes, died last night.

Charlie Hayes, Mr. Speaker, as we know, was a man who was at the forefront of the struggle of poor people, minorities, women, trade unionists. He dedicated his entire life, Mr. Speaker, to promoting the interests of the disadvantaged, the downtrodden, the poor, the oppressed.

Mr. Speaker, those of us who served with Charlie Hayes during his tenure, beginning in the 90th Congress, recall affectionately and vividly his loud voice at the rear of the room when things got unruly here. He would call out "Regular order, regular order," in a distinctive manner, and everyone would be brought to attention because of his commanding voice.

Mr. Speaker, his commanding voice called "Regular order," indeed, in the affairs of this Nation, certainly as he saw injustices throughout the land, as he saw injustices in the union, trade union movement, as he saw injustices occurring in the city of Chicago and throughout the Nation.

Charlie Hayes was one of the giants of this Nation. America could not have produced a more sincere, a more dedicated, a more courageous leader than Charlie Hayes.

I knew Charlie Hayes on a lot of personal levels. I can recall moments when our community felt as though we were not being represented in the city of Chicago in a fair way, and Charlie Hayes was at the forefront, the leader of an organization, a committee, called the Committee to Elect a Black Mayor in the City of Chicago. The culmination of that committee's work was to elect Harold Washington mayor of the city of Chicago.

Charlie Hayes was a man who reached out to all races, to all elements in this society. All that you required in order to get Charlie Hayes' commitment to you was that you be discriminated against, that you be disadvantaged. If in fact you had those requirements, those prerequisites, then Charlie Hayes was indeed your champion and your leader.

Charlie Hayes served gallantly in this Congress. He was the first trade union leader to become a Member of Congress. He served gallantly on behalf of the people who reside in the First Congressional District. He was indeed a man whose every step was on behalf of the poor and the downtrodden, whose every act as a Member of this body, whose every act as a member of the trade union leadership movement, whose every act as an adult individual, his every act was characterized by his commitment to humanity, to the upliftment of humanity.

Mr. Speaker, I am very, very saddened as I stand before this body to deliver these few words of announcement that my friend, your friend, your colleague, Charlie Hayes, has passed on.

Mr. Speaker, as I sit back and I reflect for a moment on what Charlie is doing now in the assembly of God, in the heaven, I too know that he is looking here among us, and he is seeing and observing some of the things that are occurring here. I know that he is particularly saddened by that. I can just vividly imagine hearing his voice from the heaven calling down upon this body, addressing us all and saying, "Friends, colleagues, regular order."

SUPPORTING COUNTRY-OF-ORIGIN LABELING LEGISLATION ON IMPORTED FRUITS AND VEGETABLES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, at a later point I will have something to say about our distinguished colleague, Mr. Hayes of Illinois, with whom I had the great pleasure of serving for many years.

Mr. Speaker, I wanted to inquire of families in America that if they this past week bought strawberries in the grocery store and then one of their children became ill from eating those berries, would they be able to find out, as a U.S. consumer, where those berries had been produced and who had processed them? The answer is no, they would not be able to find that information out, when in fact consumers in our country have a right to know where their food is coming from.

Mr. Speaker, I rise today in support of a country-of-origin labeling bill on imported fresh fruits and vegetables. I also rise in support of labeling for frozen fruits and vegetables. Our distinguished colleague, the gentleman from California, Mr. SONNY BONO, has introduced the Imported Produce Labeling Act of 1997. I am pleased to join him as an original sponsor on that bill, to require all fresh fruits and vegetables to be clearly identified as to their country of origin. With all the pesticides used in other places and the difficulties with border inspection, this is the least we can do for our people.

Also, we have written this week to the Secretary of the Treasury, Mr. Rubin. The Treasury Department has been dragging its feet for well over a year on the labeling of imported frozen items, which of course these particular strawberries, on which hundreds of our people have become ill, were imported berries that were processed and frozen. There is absolutely no reason that as we approach the year 2000 we cannot take better care of the American people.

A recent poll showed that nearly 70 percent of our people want to know and favor country-of-origin labeling for both fresh and frozen commodities.

Mr. Speaker, I thank my distinguished colleague, the gentleman from Michigan [Mr. SMITH] for giving me the opportunity to place this on the Record.

Mr. Speaker, I rise today in support of country of origin labeling on imported fruits and vegetables—both frozen and fresh.

Nearly every consumer product has origin labeling except the produce we eat.

Consumers have a right to know where their food is coming from.

The use of pesticides in other countries and border inspection practices raise even more questions in the minds of consumers about the quality and health risks of imported fruits and vegetables.

I am pleased to be a sponsor of the Imported Produce Labeling Act introduced by our colleague from across the aisle, Representative SONNY BONO. This bill strengthens existing law to require all fresh fruits and vegetables to be clearly identified as to their country of origin.

This bill simply closes existing loopholes that allow fresh fruits and vegetables to be exempt from country of origin labeling requirements, by requiring that the products themselves—or the bins, display cases or containers holding the commodity—be labeled at the retail level with their country of origin.

It is critical that we clearly define the country of origin on all fruits and vegetables coming in this country so that we can effectively trace back bad lots.

The press has been full of reports about frozen strawberries with misleading country of origin information which were associated with an outbreak of hepatitis among school children participating in the National School Lunch Program. Commodities purchased for the lunch and breakfast programs are required by statute to be grown in America, unless no domestic product is available. Based on news reports, it appears that the processor may have falsified documentation to make Mexican strawberries appear to be American produce. As a result of this deception, thousands of children are threatened with disease.

On April 3, I wrote the Treasury Secretary Robert Rubin to urge him to proceed with the enactment of a final Customs Service Regulation which would clarify the requirements for country of origin labeling for frozen imported produce.

Last July, Customs published a proposed regulation clarifying that frozen imported produce be clearly labeled as to country of origin on the front panel of packages, in permanent ink. In its Federal Register notice regarding the proposal, Customs declared that the clarification in policy was necessary because current standards allow variations in labeling which could create confusion or be misleading.

Current law requires imported frozen produce to be clearly labeled as to country of origin. But it appears to be a common occurrence for frozen produce that is brought into the United States to be repackaged without the required labeling. In other instances in which packages are labeled, the size of type, or poor quality of ink, make it impossible for consumers or Customs inspectors to verify compliance with the law. Customs has warned that their responsibility in verifying that all packages sold in this country comply with the law is made extremely difficult in the absence of clear standards for where the country of origin label is to be displayed.

Despite the importance of this issue and the right of all Americans to be informed about where the produce they buy for their families is from, Customs' proposed regulation received little public attention and few public comments during the comment period last summer. In fact, only about 50 individual comments were received: the majority of these were from food growers and processors in other countries.

However, American consumers and American food growers and processors appear to feel strongly about this issue. In fact, a recent national poll conducted after the comment period closed found that nearly 70 percent of American consumers would favor a Government regulation requiring country of origin labeling, and 73 percent stated that they would most likely notice the label if it appeared on the front panel of package. Perhaps most importantly, the survey found that 83 percent of consumers had never noticed a country of origin label on a package of frozen vegetables. These facts would seem to make the case for enactment of the Customs proposal crystal clear.

The recent news reports of thousands of American school children put at risk of hepatitis from frozen strawberries, imported from Mexico but misidentified as being product of the United States, serves as a dramatic reminder of how important it is for all American consumers to know where the food they eat comes from. The Customs Service must enactment country of origin labeling on frozen fruits and vegetables immediately.

☐ 1615

SOCIAL SECURITY

The SPEAKER pro tempore (Mr. JENKINS). Under the Speaker's announced policy of January 7, 1997, the gentleman from Michigan [Mr. SMITH] is recognized for 60 minutes.

Mr. SMITH of Michigan. Mr. Speaker, for everybody's information, I will be taking slightly less than 20 minutes for this presentation. I think this is the time of year when every American, Mr. Speaker, should be looking at their income tax returns and seeing how much they pay in taxes. They should be looking at their payroll check, if they have payroll deductions, to see how much is deducted from that check for taxes for Government.

Right now if you are an average working American, Government taxes 41 cents out of every dollar you make. Government, in their thinking that they can make decisions of how to spend the money you earn better than you can, have simply decided to keep increasing the size of Government, doing more things, making more promises.

Mr. Speaker, I wanted to talk for a few minutes today on one of those promises, which is Social Security. Now, politicians have promised more than they can deliver on Social Security. The official estimate of the Social Security Administration is that Social Security is going bankrupt. This first chart that I have shows that there is going to be a slight surplus of money coming into Social Security until approximately 2011. After that, the taxes coming in that pay for the benefits going out are going to not be enough to adequately supply the existing benefit grant level. So the red part of this graph shows how much deficits are going to increase if we are going to keep our commitment under the existing Social Security benefit plan.

We have a serious problem in Social Security. It was decided in 1935 to have, if you will, a Ponzi game, a pay-as-you-go system where existing workers pay in their taxes and those taxes are immediately paid out to existing retirees, a pay-as-you-go program. That is the way it is today. That is the way it has always been since it was devised in 1935. Not a very good way when we consider the fact that we have a declining number of people working to pay in those taxes and we have an increased number of retirees, because they are living longer, for one thing, to receive those benefits.

Mr. Speaker, this chart shows that in 1950 there were 17 people working paying in the Social Security tax for every 1 retiree. Today there are three people working paying in their Social Security tax of 12.4 percent to supply each retiree that is on Social Security. By 2029, the estimate is that there will be only two people working to pay in those taxes. Of course what we have done is simply increased the taxes that the fewer and fewer number of workers pay in, not fair to the young people of today.

We need to start having something like generational accounting, how much are we taking away from our young people in terms of the taxes, in terms of the borrowing that we are doing today that we are, in effect, using the money they have not even earned yet because somehow we have decided our problems today are important enough that we are going to take the money that they have not even earned yet and make them pay back the debt that we are now imposing on them.

Mr. Speaker, this chart shows what is happening in terms of the cost of Social Security. It is hard to conceive $350 billion. So what I did is I broke this down to how much does Social Security cost per minute. This year Social Security is costing $700,000 a minute. Last year it cost $660,000 a minute. But look what is going to happen by the year 2030. It is going to cost $5,700,000 per minute. That is because more people are living longer, plus we have got the baby boomers that are going to start retiring in the year 2011, 2012, 2013.

The baby boomers of course was the huge increase in the birthrate that happened after World War II. Everybody thought the economy is great, we are coming out of this war as national heroes, we are going to have children because we can take care of them.

This shows the chart, the graph of the life expectancy of senior citizens. When Social Security started in 1935, the average age of death was 61 years old. The retirement age was 65. Of course what that means is most Americans never lived long enough to earn any of the Social Security benefits, so it was easy to balance the system in those days when most people were dying off before they even became eligible for Social Security. The estimates are now that, when you are born, on the average you are going to live to be 74 years old. But if you reach 65, the current age for total full eligibility for Social Security benefits, if you reach the age 65, now on the average you will continue living until age 84.

Some estimates are as high as, by the year 2030, one-third of the population will be living to be 100 years old. Of course what that does is mean more Social Security recipients depending on those workers, if we continue the existing system, to pay in their taxes, to pay for the existing benefits.

Here are just two charts. It shows between now and the year 2040 seniors will increase at 108 percent, coming to 71 million, where workers will increase only 23 percent of the population. That means fewer workers like we showed on the chart supporting with their taxes for more and more retirees.

So the question is, should we yet again increase taxes on those workers? This chart shows how we have increased taxes over the years. So every time there was a little money needed in Social Security, we increased the tax on workers. Of course when it started out, it started out at 2 percent on the first $3,500 of earnings. Now it is 12.4 percent on the first $62,000 of earnings. And that base of $62,000 is automatically indexed to go up every year.

Listen to this. Mr. Speaker, we have increased taxes on workers 36 times since 1971, more often than just once a year. We cannot increase that tax on workers anymore. It is not fair. Taxes are already getting too high. What this next chart shows, if the next chart is in order, and it is not quite in order, is how long it took to get everything back that you and your employer paid in Social Security taxes.

If you happened to retire back here in 1940, of course, it only took 2 months to get everything back you put in. Taxes were very low and the program was just starting. If you retired in 1960, it took 2 years to get back every tax dollar that you put in, that your employer put in, plus compounded interest. By 1980, it took 4 years after retirement. Look at 2 years ago. In 1995, you have to live 16 years after you retire to get the money back that you and your employer put in. Not a very good investment.

Some people say, look, if you go to a private investment, it is risky. Nothing is more risky than the existing system because you are going to be very, very lucky if you get back what you put into the system in taxes.

In 2005, which is 8 years from now, you are going to have to live 23 years after retirement. By 2015, you will have to live 26 years after retirement to get back just what you and your employer put in in taxes.

Today 78 percent of American workers pay more in the Social Security tax, the 12.4 percent Social Security tax, than they pay in the income tax. That tax is high enough.

Mr. Speaker, I want to spend a little time with this last chart. This last chart is a pie representing how the Federal Government spends its money. Last year we spent a little over $1.5 trillion. Look at the large piece of this pie, how much Social Security took out of the total spending of Federal Government, 22 percent.

If we go around, we are looking at Medicare. Medicare is an amendment to the Social Security Act that was amended in 1965 to say, let us expand the Social Security Program to cover health care for senior citizens. Medicare is growing at almost the rate of 10 percent a year, and pretty soon Medicare is going to be a larger, huger problem than Social Security.

We have got to somehow take our heads out of the sand and start dealing with some of these tough issues. I know for politicians it is easy to put those decisions off. Maybe you say, look, I am only going to be in office another 2 years or 4 years, let the people after me deal with these tough issues. They are tough. How are we going to solve the problem?

I want to point out that interest on the public debt of the $5.2 trillion that we have overspent, annually we overspend, and that is called the deficit. You add all those deficits up and now it comes to $5.2 trillion. It takes 15 percent of the total budget just to pay the interest on that debt nobody down here in Washington is thinking about anyway or any possibility of paying that debt back. We are leaving it up to the young people to say, somehow you solve this problem later on.

We have got to quit this kind of Ponzi game like we have in Social Security. We have got to start having generational accounting. We have got to have the kind of decisions in Washington that do not take the chances away from our kids and our grandkids to have the same kind of opportunity, to have the same kind of standard of living that we have had.

I have introduced a Social Security bill. It makes a lot of modest changes. It does not increase the tax. It does not affect existing retirees. In fact, it does not affect anybody over 57 years old. But it gradually slows down the increase in benefits for the higher income recipients. It adds one more year to the time that you would be eligible for Social Security benefits.

It makes a couple other small changes. I say, and it has been scored to keep Social Security solvent forever; I say, let us run this proposal up the flag pole. Let us start looking at ways we can improve it, but let us not any longer pretend that the problems, that the problem does not exist. I say, if we have any regard for our kids, we are going to do two things: We are going to give them a good education and a good opportunity. We cannot give them a good opportunity if we continue to go deeper and deeper in debt and expect them to pay for it. We cannot give them the opportunity if we continue to increase taxes, thinking that Government can spend a worker's money better than they can.

Mr. Speaker, I yield back the balance of my time.

ON TAXES

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute.)

Mr. SMITH of Michigan. Mr. Speaker, I want to say some last words on taxes.

In 1947, the Federal budget represented 12 percent of the total economy in the United States. In other words, the Federal budget was 12 percent of GDP. We have expanded that. As politicians find that they are more likely to get elected and reelected if they make a bunch of promises to people, we have had too many promises, because what it takes to keep those promises is increasing taxes and increasing borrowing.

Though young people today should be up in arms about what Congress is doing to their future, everybody should be looking at what they are paying in taxes at the local, State and national level.

Look at payroll deductions. If we did not have automatic deductions on paychecks, the people of America would not stand for the kind of taxes they are paying to let somebody else decide how to spend their money when they could make a much better decision to help their family.

□ 1630

H.R. 864, THE MARIAN ANDERSON CENTENNIAL COMMEMORATIVE COIN ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from California [Mr. BROWN] is recognized for 60 minutes.

Mr. BROWN of California. Mr. Speaker, I thank the distinguished gentleman in the well, Mr. SMITH of Michigan, for his eloquence in maintaining the floor for such a period of time to protect me and my interest in getting here.

GENERAL LEAVE

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include therein extraneous material on the subject of my special order this afternoon.

The SPEAKER pro tempore (Mr. JENKINS). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Speaker, I rise today to pay tribute to the centennial of the birth of Marian Anderson, one of the world's greatest singers, a champion for civil rights, and a leader in the advancement of global peace.

One hundred years ago, on February 27, 1897, Marian Anderson was born to a poor family in Philadelphia, PA. She died at the age of 96, on April 8, 1993. She was a master of repertoire across operatic recital and American traditional genres.

When one of her music teachers first heard her sing, the richness of her talent moved him to tears. One of the greatest conductors of opera and symphonic music who ever lived, Arturo Toscanini of Italy, claimed Marian Anderson had a voice that came along only once in a hundred years. But because of her race, her prospects as a concert singer in the United States seemed limited.

However, the magnitude of her talent eventually won her broad recognition all over the world. She became the first black singer to perform at the Metropolitan Opera in 1955. By the time she retired in the mid 1960s, Marian Anderson was recognized as a national treasure.

No one could have foreseen such a destiny for this girl born of a poor family in Philadelphia. Her father, an ice and coal salesman, died when she was a child. When her mother could not find a job as a teacher, Marian Anderson became a cleaning lady. She scrubbed people's steps to earn enough money to buy a violin. There was no money for piano lessons, so she and her sisters taught themselves to play piano by reading about how to do it.

Marian Anderson received her first musical training in the choirs at the Union Baptist Church in Philadelphia. The members of her church raised the money she needed to study with good music teachers. By saving money and getting a scholarship, she was able to study in Europe.

A century after her birth, Marian Anderson remains a model for all citizens of the world and one of the greatest treasures of our country. However, we should not forget that she had to fight hard to win her place in history. Although she won a first prize in a voice contest in New York in 1925 and made an appearance that year with the New York Philharmonic, she was still unable to find operatic engagements and within a few years her career came to a standstill.

It was only after she toured Europe to great acclaim in the early 1930's that the American public began to pay attention to her. Even after her artistry was recognized, in her home country she faced racial prejudice on a more mundane level. Well into her career, she was turned away at restaurants and hotels. America's opera houses continued to remain closed to her for a long time.

Yes, it was Marian Anderson who first broke the color barrier for Western classical musicians of African descent. There had, of course, been distinguished black musical artists before her, but it was she who accomplished what no one else had. With the gifts of her talent and determination, she established beyond dispute that African-American musical performers could be more than adequate to the task of excelling in the most demanding concert and operatic venues.

Marian Anderson not only played a vital role in the acceptance of African-American musicians in the classical music world but also made a valuable contribution to the advancement of the arts, the status of women, civil rights, and global peace.

In 1939, the Daughters of the American Revolution, DAR, refused to allow Marian Anderson to sing at Constitution Hall because of her race. As a result of the ensuing public outcry, Eleanor Roosevelt resigned from the DAR and helped to arrange a concert at the Lincoln Memorial that drew an audience of 75,000, an audience far larger than Constitution Hall could ever have accommodated.

Mr. Speaker, I have brought this Special Order to the House floor this afternoon because 58 years ago today, on Easter Sunday, April 9, 1939, Marian Anderson gave that concert on the steps of the Lincoln Memorial. No other occasion could be best suited for us to pay a tribute to the centennial of the birth of this great American.

In my opinion, the one event for which Marian Anderson is most remembered in the public mind is her 1939 concert at the Lincoln Memorial, which became a landmark in the fight for civil rights. At 5 o'clock in the afternoon on that day, a crowd of 75,000 people assembled at the feet of the Great Emancipator while radio microphones waited to carry her voice to millions across the land. As the sun suddenly broke through clouds that shadowed the scene all day, Marian Anderson began singing "America the Beautiful."

The concert has been likened in impact to Dr. Martin Luther King, Jr.'s "I Have a Dream" speech delivered on the same site 24 years later, and I might add parenthetically that I had the honor to be present at that speech, an event at which Anderson also sang.

The 1939 recital certainly set a precedent for the 1963 march, not only in that it was a watershed in the ongoing battle for civil rights, but in the manner through which this particular victory was won by the central person quietly but firmly avoiding strife and taking, instead, a moral high road that all people, regardless of race, have to admire.

But while Marian Anderson is most remembered for this concert, it was only one event in a long life of breaking barriers and setting precedents. In 1955, she became the first black singer to perform at the Metropolitan Opera in New York, as I have already mentioned. In 1957, the U.S. State Department sponsored a 10-week tour of Asia, in which she sang 24 concerts in 14 countries. She also sang at President Dwight D. Eisenhower's Inauguration in 1957 and at President John F. Kennedy's in 1961.

Late in her life, she was frequently honored. She was awarded 24 honorary degrees by institutions of higher learning. In 1963, she became the first recipient of the Presidential Medal of Freedom. Congress passed a resolution in 1974 to have a special gold medal minted in her name. Marian Anderson was a delegate to the United Nations, where she received the U.N. Peace Prize in 1977. In 1984, she became the first recipient of the Eleanor Roosevelt Human Rights Award of the city of New York. She was also awarded the National Arts Medal in 1986.

It is clear that something must be done as a Nation to honor the centennial of the birth of this great American. Mr. Speaker, in closing my statement, I would like to take this opportunity to urge my colleagues from both sides of the aisle to support the passage of H.R. 864, the Marian Anderson Centennial Commemorative Coin Act, a bipartisan bill to honor the centennial of the birth of Marian Anderson.

The surcharges from the sale of coins will be distributed to the Smithsonian Institution and the Corporation for Public Broadcasting for the endowment of exhibits and educational programs related to African-American art, history, and culture. The bill has a provision that ensures that minting and issuing coins will not result in any net cost to the U.S. Government.

Marian Anderson's life is a model for all of us. I consider it a privilege to have introduced this legislation to pass on our memory of this great humanitarian to future generations in the form of her commemorative coins. I am honored to join with my colleagues today to pay tribute to the centennial of the birth of Marian Anderson.

Mr. FATTAH. Mr. Speaker, it is fitting that Congress remembers Marian Anderson on this day which marks the 58th anniversary of her Easter concert on the steps of the Lincoln Memorial. For she is no stranger to Washington.

This year also marks the 100th birthday celebration of Ms. Anderson. A native Philadelphian, born on February 27, 1897, Anderson became an internationally renowned contralto and an aspiring symbol to all who strive to achieve against tremendous odds. Anderson began her career like so many African-Americans, by singing in her church choir where funds were raised to help pay for her voice lessons. Anderson traveled the world singing arias and ending each concert with spirituals, for she was a spiritually centered individual.

She was affectionately referred to as the "Lady from Philadelphia". In 1930, she toured Europe, winning from Toscanini the tribute "the voice that comes once in a 100 years". She became an accepted citizen of the world long before she was accepted as an equal citizen in her own country.

The story of the Easter Sunday concert has been told many times in many ways. The announcement that Anderson was to be awarded the Spingarn Medal—the highest medal given by the NAACP—brought her national attention. Prominence of a different order came a few months later. Within weeks of the NAACP's announcement, Charles C. Cohen, chairman of Howard University's concert series, acting for Sol Hurok, Ms. Anderson's manager, requested the use of Washington, DC's Constitution Hall from the Daughters of the American Revolution [DAR]. The DAR refused to allow Ms. Anderson the use of the hall, admitting finally that no Negro would be allowed to perform there. This was a restriction, in fact, that had been in place for a number of years. Everyone from Eleanor Roosevelt to actor Frederic March rose their voices in pointed outrage.

As a result of this public snub of Ms. Anderson, First Lady Eleanor Roosevelt resigned her membership from the DAR. Furious with the shameful and bigoted action of the DAR, Lulu Childers, the director of music at Howard University, vowed that "she'll sing here even if we have to build a tent for her." The solution that gradually emerged became one of the early defining moments in the history of peaceful protest against racial inequality in this country. Walter White and other NAACP officials, in discussions with Hurok, decided that Anderson should sing at the Lincoln Memorial, in the open air, where no barriers could be erected. White took his plan to the Department of the Interior, from whence it went to President Roosevelt, who gave his enthusiastic approval. So on Easter Sunday, April 9 1939, Ms. Anderson sang in front of a crowd of 75,000 instead of the 4,000 that would have filled Constitution Hall. The crowd stretched down both sides of the Reflecting Pool, to the base of the Washington Monument.

Many of her own people in attendance would never have heard her sing because of the disabling Jim Crow laws that governed much of the country. These same laws forced Ms. Anderson to travel in the colored section of trains traveling South, stay at black-owned hotels or stay at friends and friends of family members during her tours, and enter concert halls from the back entrances to the very halls in which she was to perform.

Easter Sunday Ms. Anderson was introduced by the Secretary of Interior, Harold L. Ickes. Secretary Ickes said, "In this great auditorium under the sky, all of us are free. When God gave us this wonderful outdoors and the sun, the moon, and the stars, he made no distinction of race creed or color. . . . Genius, like justice, is blind . . . Genius draws no color line and has endowed Marian Anderson with such a voice as lifts any individual above his fellows."

In later years Anderson spoke infrequently and always reluctantly about the DAR affair. She was uncomfortable with controversy. The quite dignity with which she bore those now historic events, her refusal to speak any harsh words of blame or to be diverted from a belief that people will one day act more honorably, only served to enhance her reputation as a woman of great dignity and hopefulness. In her 1956 autobiography, she wrote, "I said yes, but the yes did not come easy. In principal, the idea was sound but it could not be comfortable to me as an individual. I could see that my significance as an individual was small in the affair. I had become, whether I liked it or not, a symbol representing my people. I had to appear."

Some people felt that she should have spoken up more often regarding racism and how she was treated however, she felt that your actions spoke volumes. She is quoted as having said, "Remember, wherever you are and whatever you do, someone always sees you." Regarding racism she says, "Sometimes, its like a hair across your cheek. You can't see it, you can't find it with your fingers, but you keep brushing at it because the feel of it is irritating."

Quote from her nephew, Maestro James DePreist, conductor of the Oregon Symphony: "For those who loved her singing, there was a uniqueness to the quality of that voice that was able to touch people profoundly. For those who have viewed her as a symbol against prejudice, her life was an example of the dignity of the person versus the absurdity of discrimination."

Mr. WATTS of Oklahoma. Mr. Speaker, I would like to commend the gentleman from California, Mr. BROWN, for arranging this important tribute to Marian Anderson.

Today we honor the centennial anniversary of the birth of Ms. Marian Anderson, a woman renowned throughout the world for her extraordinary contralto voice, but more importantly for being one of our country's greatest shining, guiding stars herself. She was an eloquent and effective speaker who chose to fight prejudice through a dignity and grace admired world over.

Marian Anderson led an amazing life attaining success and making history through her exceptional diligence. She was born in Philadelphia to a poor family, but they lived in a neighborhood rich in support. It was in this community that Marian Anderson got her start by performing in the Union Baptist Church choir, where her talent was noticed, so the community chipped in to raise money for her to begin voice lessons and expand on her talent. From here Marian Anderson began performing and winning numerous contests including the New York Philharmonic competition. Marian Anderson also performed in Carnegie Hall and then began her first professional tour that took her across the European Continent. She was well received, especially for her African-American spirituals.

It is hard to imagine that Ms. Anderson was more accepted in Europe than in America where she was prevented from performing at Constitution Hall due to segregation rules. But this ignorance could not equal the strength that Marian Anderson had, nor the power held by a dismayed Eleanor Roosevelt, who instead arranged for Marian Anderson to share her talent with an even larger audience. So in 1939, she gave a brilliant performance at the Lincoln Memorial on Easter Sunday, also broadcast over national radio. Later that year, she received more attention and was awarded the Spingarn Award for the highest and noblest achievement by a black American.

This recognition was just the beginning of Marian Anderson's honors. In 1955, she broke the musical color barrier with her overdue debut at the Metropolitan Opera. Then in 1958, she was named by President Dwight D. Eisenhower to delegate status at the General Assembly of the United Nations. Over the course of her life she received 24 honorary degrees by college institutions; and she received medals from a list of countries. She also sang at President John F. Kennedy's inauguration in 1961, and President Johnson gave her the American Medal of Honor. On her 75th birthday in 1974, the U.S. Congress passed a resolution to have a special gold medal minted in her name.

It is obvious to see that Marian Anderson was one of America's most accomplished musical talents, but she is also so much more. Marian Anderson was a humanitarian who had the heart to make a difference in the world as well as open the doors of American concert halls for other African-American musicians who had been denied their place for far too long. Marian Anderson challenged the concepts of prejudice and won the world to her side through her talent, dignity and virtuosity.

Mr. Speaker, Marian Anderson was and still is a true national treasure. She took brave steps in eliminating segregation through the power of song and spirituals that transcended race and cultures. I am honored to recognize such a heroic lady on the date which marks the 58th anniversary of her concert at the Lincoln Memorial. I am also proud to be a cosponsor of the Marian Anderson Centennial Commemorative Coin Act and would urge my colleagues to do the same and join me in giving one last honor to the legacy of a lady, a musician, a civil rights champion, and a promoter of world peace.

Mr. MALONEY of Connecticut. Mr. Speaker, today marks the 58th anniversary of Marian Anderson's historic concert at the Lincoln Memorial. In addition, this year is the centennial anniversary of her birth. In honor of these significant events, it's appropriate that we take a moment to pay tribute to this very special woman and a long time resident of my hometown, who is not only acclaimed for her glorious God-given voice, but for the historic contributions she made on behalf of all African-Americans.

Marian Anderson, of Danbury, CT, the first African-American singer to perform with the Metropolitan Opera, stands out as a leading example of African-American pride and achievement.

As a young woman developing her singing career, Miss Anderson faced many obstacles, and was often the victim of racism. Probably the most widely known incident occurred in 1939, when, after triumphant appearances throughout Europe and the Soviet Union, she was prevented from performing at Washington's Constitution Hall by its owners. To apologize for that mistreatment, First Lady Eleanor Roosevelt invited Miss Anderson to perform at the Lincoln Memorial on Easter Sunday, 1939.

Miss Anderson proudly sang to an audience of 75,000 people, while millions more listened over national radio. Her inspirational performance that April day is considered by historians as the first crucial victory of the modern civil rights movement.

Even after her artistry was recognized in the United States, Miss Anderson still faced racial prejudice on a daily basis. Well into her career, she was turned away at restaurants and hotels. Even America's opera houses remained closed to her until Rudolf Bing invited her to sing at the Metropolitan Opera.

Throughout all of her trials and struggles, Miss Anderson did not give up. Her undaunted spirit fought on and her determination opened doors for future black artists that had been firmly bolted shut.

The soprano Lenotyne Price, one of the earliest artists to profit from Miss Anderson's efforts, once said, "Her example of professionalism, uncompromising standards, overcoming obstacles, persistence, resiliency and undaunted spirit inspired me to believe that I could achieve goals that otherwise would have been unthought of."

Soprano Jessye Norman said, "At age 10 I heard, for the first time, the singing of Marian Anderson on a recording. I listened, thinking, this can't be just a voice, so rich and beautiful. It was a revelation. And I wept."

Later in life, Miss Anderson was named a delegate to the United Nations by President Dwight D. Eisenhower and was the recipient of the Presidential Medal of Freedom from President Carter. She died in 1993, but her successful fight to give every individual an opportunity to achieve their own greatness, helped our country become a stronger nation. Her contributions will live on forever.

I'm proud to join my colleagues for this Special Order and I'm honored to be a cosponsor of the Marian Anderson Centennial Commemorative Coin Act. Each of us must learn from the example set by Marion Anderson to eliminate hate and violence, and create a stronger, more tolerant America. Thank you Mr. Speaker.

EASING TAX BURDEN FOR ALL AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. STEARNS] is recognized for 5 minutes.

Mr. STEARNS. Mr. Speaker, I rise today to introduce legislation that would ease the tax burden for all Americans and assist all of us in pursuit of the American dream.

This legislation contains three simple provisions affecting the Tax Code:

Indexation of the capital gains tax, establishment of the American dream savings accounts, and repeal of the 1993 increase in taxes on Social Security benefits.

Quite simply, this bill is designed to right several wrong things that I think presently exist in the Tax Code. And I would point out, Mr. Speaker, these three things are offset by reductions in the Department of Commerce and the Department of Energy. Surely the Department of Commerce would appreciate the fact that we are reducing taxes, and so would the Department of Energy. So the important thing about this bill is it is budget neutral.

The legislation addresses capital gains taxation. This type of tax arises when an asset is sold and the difference between the base and the sales price is taxed. The appreciation in value can reflect real or perhaps it can reflect inflationary gain. Because of the uniqueness of this tax, what happens is, people hold an asset for a long period of time, they are taxed, and basically much of that tax is due to inflation.

Put simply, gains should be indexed to account for this inflation, and that is what this bill does. I can give some statistics, which I will make part of the RECORD, Mr. Speaker, but basically, in real terms, fixing this simple capital gains indexation will increase investments by $75 billion, raise gross domestic product by $120 billion, and reduce the cost of capital by 12 percent, creating an average of 233 additional new jobs.

Best of all, a capital gains tax reduction affects nearly everyone in this country. In fact, nearly 50 percent of those Americans who claim capital gains have incomes of less than $40,000, and 60 percent of those who claim capital gains have incomes of less than $50,000.

The second part of this legislation establishes dream savings accounts to encourage personal responsibility and, frankly, savings. In short, America needs a system that encourages and betters retirement and big-event purchasing savings and does so through these dream savings accounts.

The current system does not provide any incentive at all for Americans to save for their first home or for their children's college education, nor does the current system afford American taxpayers the opportunity to use their retirement savings for catastrophic events. In fact, it can easily be argued that the current system penalizes Americans. We must change that.

The third part of my bill would repeal the tax increases on the Social Security benefits that were enacted in President Clinton's 1993 budget reconciliation bill. Prior to 1993, individuals with income in excess of a certain threshold could be taxed only at half of their Social Security benefits. Recipients with incomes below the threshold were not at all taxed on their Social Security income.

However, after President Clinton's 1993 Omnibus Budget Reconciliation Act had been implemented, higher income thresholds were achieved. Now, individuals earning above these thresholds can be taxed at 85 percent of their Social Security benefits.

□ 1645

Unfortunately this bill also includes dividends on earnings. Thereby even tax-exempt dividends count as income when calculating Social Security taxation. Simply put, the tax increase in the President's bill is unfair and wrong. It is punitive and hurtful toward our Nation's seniors and should be repealed. The last Congress sent to the President legislation to repeal the Social Security provisions, but the President stood by his original plan and it did not pass. Nevertheless, this issue is not resolved as far as I am concerned. We must address this issue, which is why I have introduced the language in this legislation to repeal the onerous 1993 tax increase on our seniors. This bill is very simple. It does these three things. It is common sense and fair. Simply altering a few necessary portions of our Tax Code, it would help all Americans and give a fair and level playing field. Best of all, every penny in reduced revenue is offset by reductions in the funds available to the Department of Commerce and the Department of Energy. This is a small but important step forward in the debate over our Nation's future. This is legislation we cannot afford to live without.

Mr. Speaker, I urge my colleagues to support this bill. It is imperative for our country's present and future generations that we address these issues today.

RECOGNIZING MARIAN ANDERSON ON CENTENNIAL OF HER BIRTH

The SPEAKER pro tempore (Mr. JENKINS). Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me first of all thank my friend and colleague and ranking member of the Science Committee for the diversity of his portfolio, and, that is, to come to the floor to celebrate a very famous but eloquent and certainly musical American, and that is in the name of Marian Anderson.

I thank the gentleman from California [Mr. BROWN] for allowing to join him in a tribute on a very special day here in Washington. Certainly as I was coming to the floor, I took advantage of the beautiful sunshine, albeit quite chilly here in Washington DC, and it caused me to be reminded of that famous day some years ago, April 9, when the first lady of music, contralto Marian Anderson, ascended the steps of the Lincoln Memorial and began to sing not to the 75,000 that were present but to the world and to the Nation. Her dignity and her ability to communicate in song clearly is worth giving tribute to, and I appreciate this opportunity to do so.

As I look over her history and we were able to acknowledge today at the Congressional Black Caucus meeting this day and this effort, we looked at her history. Certainly she came from a very proud family. She graduated from high school. You might consider her, as W.E.B. Du Bois described many in the early days of this century, the talented tenth. She was certainly someone whose family, albeit she was born an African-American in this Nation, had great hopes and aspirations for her. They had great dreams for her as an American, as a talented young woman.

Sadly, of course, she grew up in the shadow of Jim Crow. But her spirit was undaunted by the atmosphere of what she lived, and the God-given talent that she had was one that she wanted to share with all to hear. She was initially, of course, extended an invitation to speak in a facility that later became known as white-only, that she could not sing. But good Americans, well-thinking Americans who recognized the value of diversity and the importance of a talent in an eloquent woman as Marian Anderson should be heard.

And so this tribute that I give is as well to Marian for her talent but for the good Americans who rallied around the excitement that she had to be able to convey to America that we all stand as one.

Mr. Speaker, my tribute today, as I bring it to a close, is to congratulate the life and legacy of Marian Anderson. I wish that I could conclude this by a musical salute that all could hear, but I was moved by the moment and moved by the history of that moment, having not been there or been around to have heard it, but certainly all those who have been able to tell me of it pay great tribute to how she brought the country together, recognizing the value of our great history, of African-Americans but as well the history of all the good people who allowed her to so sing.

Let me conclude by sharing some of my time with the gentleman from California [Mr. BROWN] for him to bring some final remarks and say that on this day that the proposition 209 was again reaffirmed. I would ask that we look to the good people of America to recognize that diversity is legal and that Marian Anderson represented that diversity some many years ago.

Mr. Speaker, I yield to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. I thank the gentlewoman for yielding. I want to thank her very much for coming to the floor and adding her contribution to this tribute to Marian Anderson.

In closing this special order this afternoon, I would just like to say how honored I am to join with all of my colleagues honoring the centennial of the birth of Marian Anderson. During the long journey of her life, as has been mentioned and despite her unique achievements, Marian Anderson nevertheless encountered bigotry throughout her career. She met it all with unparalleled dignity, quietly refusing to back down from her rights, to forsake her own standard of politeness or to hold any grudges.

One can lose a lot of time hating people, she succinctly explained. As you remember, President Clinton urged in his State of the Union Address this year that Americans must continuously fight bigotry and intolerance. To follow the example set by Marian Anderson, I would like to close this special order this afternoon by quoting what she saw was the mission of her life, and I quote: "To leave behind me the kind of impression that will make it easier for those who follow."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON (at the request of Mr. GEPHARDT), for today, on account of illness.

Mr. WATTS of Oklahoma (at the request of Mr. ARMEY), for yesterday and today, on account of family illness.

Mr. SCHIFF (at the request of Mr. ARMEY), for today and the balance of the week, on account of medical reasons.

Mr. PORTER (at the request of Mr. ARMEY), for today, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SHIMKUS) to revise and extend their remarks and include extraneous material:)

Mr. BRADY, for 5 minutes, today.

Mr. GOSS, for 5 minutes each day, today and on April 10.

Mr. BONO, for 5 minutes, today.

Mr. JONES, for 5 minutes each day, on April 15 and 16.

Mr. PAUL, for 5 minutes, today.

Mr. WELDON of Florida, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. DREIER, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. STEARNS, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. RUSH, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. KUCINICH.
Mr. MCGOVERN.
Mr. HAMILTON.
Mr. PICKETT.
Mrs. MALONEY of New York.
Mr. STARK.
Ms. FURSE.
Ms. KAPTUR.
Mrs. MEEK of Florida.
Mr. POMEROY.
Mr. LIPINSKI.

(The following Members (at the request of Mr. SHIMKUS) to revise and extend their remarks and include extraneous material:)

Mr. NORWOOD.
Mr. HYDE.
Mr. YOUNG of Alaska.
Mr. RILEY.
Mr. EVERETT.
Mr. HUNTER.
Mr. FORBES.

(The following Members (at the request of Mr. SMITH of Michigan) and to include extraneous matter:)

Mr. GINGRICH.
Mr. WALSH in two instances.
Mrs. ROUKEMA.
Mr. HAMILTON.
Mr. PITTS.
Mr. SOLOMON in two instances.
Mr. GILMAN.
Mr. HOYER.
Mr. SMITH of New Jersey.
Mr. GALLEGLY.

(The following Members (at the request of Ms. JACKSON-LEE of Texas) and to include extraneous matter:)

Mr. KING.
Mr. UPTON.

ADJOURNMENT

Ms. JACKSON-LEE of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 53 minutes p.m.), the House adjourned until tomorrow, Thursday, April 10, 1997, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2656. A letter from the Executive Director, Defense Environmental Response Task Force, Department of Defense, transmitting the report on the actions of the Defense Environmental Response Task Force for fiscal year 1995, pursuant to Public Law 101-510, section 2923(c)(1) (104 Stat. 1821); to the Committee on National Security.

2657. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Streamlined Research and Development Clause Lists [DFARS Case 96–D028] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

2658. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation entitled "Retirement of Regular Commissioned Officers at Age 62, Exception for Deputy Chief and Chief of Chaplains"; to the Committee on National Security.

2659. A letter from the Assistant Secretary for Health Affairs, Department of Defense, transmitting notification that the final report for the plan ensuring the provision of medical care to any natural child of a member of the Armed Forces will be available no later than June, 1997; to the Committee on National Security.

2660. A letter from the Secretary of Housing and Urban Development, transmitting a report entitled "Moving Toward a Lead-Safe America: A Report to the Congress of the United States", pursuant to Public Law 102–550, section 1061(b) (106 Stat. 3927); to the Committee on Banking and Financial Services.

2661. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting a report on whether organizations make sensitive consumer identification information available to the public, and whether such activities create undue potential for fraud and risk of loss to insured depository institutions, pursuant to Public Law 104–208 section 2422(c) (100 Stat. 3009); to the Committee on Banking and Financial Services.

2662. A letter from the Clerk, U.S. Court of Appeals for the District of Columbia Circuit, transmitting an opinion of the U.S. Court of Appeals for the District of Columbia Circuit (No. 96–7030—*Carole Kolstad* v. *American Dental Association* (March 21, 1997)); to the Committee on Education and the Workforce.

2663. A letter from the Acting Secretary of Energy, transmitting a report entitled "District Heating, Cooling, and Cogeneration: Benefits, Constraints, and Recommendations," pursuant to section 172(b) of the Energy Policy Act of 1992; to the Committee on Commerce.

2664. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the Administration's report entitled "Annual Report to Congress—Progress on Superfund Implementation in Fiscal Year 1996," pursuant to 45 U.S.C. 9651; to the Committee on Commerce.

2665. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 97–A, which relates to the Department of the Navy's proposed enhancements or upgrades from the level of sensitivity of technology or capability of defense article(s) previously sold to the Coordination Council for North American Affairs [CCNAA], currently identified as the Taipei Economic and Cultural Representative Office [TECRO] in the United States, pursuant to 22 U.S.C. 2776(b)(5)(C); to the Committee on International Relations.

2666. A letter from the Chairman of the Board, African Development Foundation, transmitting a draft of proposed legislation to authorize appropriations for the African Development Foundation, pursuant to 31 U.S.C. 1110; to the Committee on International Relations.

2667. A letter from the President, Inter-American Foundation, transmitting a draft of proposed legislation to authorize appropriations for fiscal years 1998 and 1999 for the Inter-American Foundation, pursuant to 31 U.S.C. 1110; to the Committee on International Relations.

2668. A letter from the president and CEO, Overseas Private Investment Corporation, transmitting a draft of proposed legislation entitled the "Overseas Private Investment Corporation Amendments Act of 1997"; to the Committee on International Relations.

2669. A communication from the President of the United States, transmitting a letter notifying Congress that on March 25, 1997, a standby evacuation force of the U.S. military personnel from the United States European Command and the United States deployed to Congo and Gabon to provide enhanced security for the more than 300 American private citizens, government employees, and selected third country nationals in Kinshasa, Zaire, should their evacuation become necessary (H. Doc. No. 105–63); to the Committee on International Relations and ordered to be printed.

2670. A letter from the Director, Office of Personnel Management, transmitting notification that OPM has approved proposals for five personnel management demonstration projects for the Department of the Army, submitted by the Department of Defense, pursuant to Public Law 103–337, section 342(b) (108 Stat. 2721); to the Committee on Government Reform and Oversight.

2671. A letter from the Assistant Attorney General of the United States, transmitting a draft of proposed legislation entitled the "Radiation Exposure Compensation Act Amendments of 1997"; to the Committee on the Judiciary.

2672. A letter from the Assistant Attorney General, Department of Justice, transmitting a copy of the Bureau of Justice Assistance report entitled, "Fiscal Year 1995 Annual Report to Congress," pursuant to 42 U.S.C. 3789e; to the Committee on the Judiciary.

2673. A letter from the Clerk, U.S. Court of Appeals for the District of Columbia Circuit, transmitting an opinion of the U.S. Court of Appeals for the District of Columbia Circuit (No. 95–7164—*Rafic Saadeh* v. *Fawaz Farouki* (March 4, 1997)); to the Committee on the Judiciary.

2674. A letter from the Clerk, U.S. Court of Appeals for the District of Columbia Circuit, transmitting an opinion of the U.S. Court of Appeals for the District of Columbia Circuit (No. 96–5148—*United States of America* v. *Consumer Health Services of America, Inc. and Roger Schlossberg, Trustee* (March 18, 1997)); to the Committee on the Judiciary.

2675. A letter from the Clerk, U.S. Court of Appeals for the District of Columbia Circuit, transmitting an opinion of the U.S. Court of Appeals for the District of Columbia Circuit (No. 96–3060—*United States of America* v. *Leo Darryl Harrington* (March 25, 1997)); to the Committee on the Judiciary.

2676. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's report entitled "The Superfund Innovative Technology Evaluation Program, Annual Report to Congress FY 1995," pursuant to 42 U.S.C. 9604; to the Committee on Science.

2677. A letter from the Director, National Science Foundation, transmitting a draft of proposed legislation entitled the "National Science Foundation Authorization Act for Fiscal Years 1998 and 1999," pursuant to 31 U.S.C. 1110; to the Committee on Science.

2678. A letter from the Chairman, Prospective Payment Assessment Commission, transmitting the annual report on the Prospective Payment Assessment Commission, pursuant to 42 U.S.C. 1395ww(e)(6)(G)(i); to the Committee on Ways and Means.

2679. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation entitled the "Maritime Administration Authorization Act for Fiscal Years 1998 and 1999," pursuant to 31 U.S.C. 1110; jointly, to the Committees on National Security and Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STUMP: Committee on Veterans' Affairs. H.R. 1092. A bill to amend title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to enter into enhanced-use leases for Department of Veterans Affairs property, to rename the U.S. Court of Veterans Appeals and the National Cemetery System, and for other purposes (Rept. 105–47). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HYDE (for himself, Mr. COBLE, Mr. CANADY of Florida, Mr. BONO, Mr. BRYANT, and Mr. GOODLATTE):

H.R. 1252. A bill to modify the procedures of the Federal courts in certain matters, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH of New Jersey:

H.R. 1253. A bill to authorize appropriations for the Department of State and related agencies for the fiscal years 1998 and 1999, and for other purposes; to the Committee on International Relations.

By Mr. BLUNT (for himself, Mr. CLAY, Ms. DANNER, Mrs. EMERSON, Mr. GEPHARDT, Mr. HULSHOF, Ms. MCCARTHY of Missouri, Mr. SKELTON, and Mr. TALENT):

H.R. 1254. A bill to designate the U.S. post office building located at Bennett and Kansas Avenue in Springfield, MO, as the "John N. Griesemer Post Office Building"; to the Committee on Government Reform and Oversight.

By Ms. ESHOO (for herself, Mr. FROST, Ms. PELOSI, Mr. FARR of California, Mrs. MALONEY of New York, Mr. MILLER of California, Mr. MCGOVERN, and Ms. SLAUGHTER):

H.R. 1255. A bill to amend the Rehabilitation Act of 1973 to establish certain additional requirements relating to electronic and information technology accessibility guidelines for individuals with disabilities, and for other purposes; to the Committee on Education and the Workforce.

By Mr. FORBES:

H.R. 1256. A bill to authorize the exchange of National Park Service land in the Fire Island National Seashore in the State of New York for land in the Village of Patchogue, Suffolk County, NY; to the Committee on Resources.

H.R. 1257. A bill to amend the Internal Revenue Code of 1986 to establish, and provide a checkoff for, a biomedical research fund, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRANKS of New Jersey (for himself, Mr. BILBRAY, Mr. GALLEGLY, Mr. HORN, Mr. KIM, Ms. MOLINARI, and Mr. ROHRABACHER):

H.R. 1258. A bill to require the Attorney General to conduct a pilot program under which the Attorney General will notify a State of potential employment opportunities for welfare recipients in the State created by the removal of unauthorized aliens from work sites, and to reward pilot program States with a high rate of success in placing such recipients in such employment positions; to the Committee on Ways and Means, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MILLER of California (for himself, Mr. FALEOMAVAEGA, Mr. ABERCROMBIE, Mr. OLVER, Mr. PALLONE, Mr. FARR of California, Mr. SMITH of New Jersey, Mr. STARK, Ms. PELOSI, Mr. DEFAZIO, Mr. YATES, Mr. KENNEDY of Rhode Island, Mr. BROWN of California, Mr. EVANS, Mr. LANTOS, Mr. DELLUMS, Mr. DELAHUNT, Ms. WOOLSEY, and Mr. TOWNS):

H.R. 1259. A bill to amend the Marine Mammal Protection Act of 1972 to lift the trade embargoes on dolphin-safe tuna harvested in the eastern tropical Pacific Ocean, and for other purposes; to the Committee on Resources.

By Mr. UPTON (for himself, Mr. Waxman, Mr. Murtha, Mr. Abercrombie, Mr. Allen, Mr. Ackerman, Mr. Baldacci, Mr. Barrett of Wisconsin, Mr. Bereuter, Mr. Berman, Mr. Blagojevich, Mr. Blumenauer, Mr. Borski, Mr. Boucher, Mr. Brown of California, Mr. Campbell, Mr. Capps, Mr. Cardin, Ms. Carson, Mr. Chambliss, Mrs. Clayton, Mr. Condit, Mr. Coyne, Mr. Davis of Virginia, Mr. Deal of Georgia, Mr. DeFazio, Mr. Dellums, Mr. Dingell, Mr. English of Pennsylvania, Ms. Eshoo, Mr. Evans, Mr. Faleomavaega, Mr. Fazio of California, Mr. Filner, Mr. Flake, Mr. Foglietta, Mr. Foley, Mr. Forbes, Mr. Frank of Massachusetts, Mr. Franks of New Jersey, Mr. Frelinghuysen, Mr. Frost, Mr. Fox of Pennsylvania, Mr. Gallegly, Mr. Gilman, Mr. Gonzalez, Mr. Gutierrez, Mr. Hastings of Florida, Mr. Hefner, Mr. Hilliard, Mr. Hinchey, Mr. Horn, Mr. Jackson, Ms. Eddie Bernice Johnson of Texas, Mr. Kennedy of Rhode Island, Mrs. Kennelly of Connecticut, Mr. Klug, Mr. Kolbe, Mr. Lampson, Mr. Lewis of Georgia, Ms. Lofgren, Mrs. Lowey, Mrs. Maloney of New York, Mr. Martinez, Mr. Mascara, Mrs. McCarthy of New York, Mr. McDade, Ms. McKinney, Mrs. Meek of Florida, Mr. Menendez, Mr. Miller of California, Mrs. Mink of Hawaii, Ms. Molinari, Mrs. Morella, Mr. Neal of Massachusetts, Ms. Norton, Mr. Oberstar, Mr. Olver, Mr. Owens, Mr. Pallone, Mr. Pascrell, Mr. Pastor, Mr. Payne, Ms. Pelosi, Mr. Price of North Carolina, Ms. Pryce of Ohio, Mr. Quinn, Mr. Ramstad, Mr. Rothman, Mr. Sabo, Ms. Sanchez, Mr. Sanders, Mr. Schiff, Mr. Serrano, Mr. Shadegg, Mr. Shays, Mr. Skaggs, Mr. Skeen, Mrs. Tauscher, Mr. Thompson, Mrs. Thurman, Mr. Towns, Mr. Traficant, Mr. Underwood, Mr. Vento, Mr. Wise, Mr. Yates, Mr. Bonior, Mr. Hefley, and Ms. Woolsey):

H.R. 1260. A bill to amend the Public Health Service Act to provide for the establishment of a program for research and training with respect to Parkinson's disease; to the Committee on Commerce.

By Mr. NUSSLE (for himself and Mr. Minge):

H.R. 1261. A bill to amend the Internal Revenue Code of 1986 to exclude certain farm rental income from net earnings from self-employment if the taxpayer enters into a lease agreement relating to such income; to the Committee on Ways and Means.

By Mr. OXLEY (for himself, Mr. Bliley, Mr. Manton, Mr. Dingell, and Mr. Markey):

H.R. 1262. A bill to authorize appropriations for the Securities and Exchange Commission for fiscal years 1998 and 1999, and for other purposes; to the Committee on Commerce.

By Mr. PALLONE (for himself, Mrs. Roukema, Ms. Eshoo, Ms. Pelosi, and Mr. McDermott):

H.R. 1263. A bill to amend the Public Health Service Act to provide access to health care insurance coverage for children and to amend the Internal Revenue Code of 1986 to increase the excise taxes on tobacco products for the purpose of offsetting the Federal budgetary costs associated such insurance coverage; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHUMER:

H.R. 1264. A bill to amend title 18, United States Code, to prohibit gunrunning, and provide mandatory minimum penalties for crimes related to gunrunning; to the Committee on the Judiciary, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOLOMON:

H.R. 1265. A bill to assure appropriate disincentives to the illegal use of marijuana in those States where there is an exception for medicinal purposes to the prohibition against the use of marijuana by denying Federal benefits to persons convicted of certain drug offenses; to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS:

H.R. 1266. A bill to amend the Internal Revenue Code of 1986 to index the basis of certain assets for purposes of determining gain, to provide for the establishment of American Dream Savings Accounts, and to repeal the increase enacted in 1993 in taxes on Social Security benefits; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 1267. A bill to amend the Internal Revenue Code of 1986 to allow a charitable contribution deduction for certain expenses incurred by whaling captains in support of Native Alaskan subsistence whaling; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey (for himself, Mr. Porter, Mr. Wolf, Mr. Salmon, Mr. Christensen, Mr. Hoyer, Mr. Markey, and Mr. Cardin):

H. Con. Res. 59. Concurrent resolution concerning the return of or compensation for wrongly confiscated foreign properties in formerly Communist countries and by certain foreign financial institutions; to the Committee on International Relations.

By Mr. MICA:

H.J. Res. 108. Resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. PITTS (for himself, Mr. Sam Johnson, Mrs. Kelly, Mr. Doolittle, Mr. Paul, Mr. Herger, Mr. Sessions, Mr. Shadegg, and Mr. Quinn):

H.J. Res. 109. Resolution expressing the sense of the House of Representatives that American families deserve tax relief; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 14: Mr. Deal of Georgia, Mr. Pappas, Mr. Christensen, Mr. Wexler, Mr. Frelinghuysen, Mr. Nethercutt, Mr. Royce, Mr. Leach, Mr. Thornberry, Mr. Barcia of Michigan, Mr. McHugh, Mr. Dickey, Mr. Paul, Mr. Baker, Mr. Camp, Mr. LaTourette, and Mr. Paxon.

H.R. 45: Mr. Bonior.

H.R. 58: Mr. Canady of Florida, Mr. Pappas, Mrs. Johnson of Connecticut, Mr. Shimkus, Mr. Foglietta, Mr. Snowbarger, Mr. Kennedy of Rhode Island, Mr. Bentsen, Mr. Capps, Mr. Gutknecht, and Mr. Gallegly.

H.R. 96: Mr. Gallegly, Mr. Castle, Ms. Norton, Mrs. Thurman, and Mrs. Northup.

H.R. 123: Mrs. Fowler.

H.R. 145: Mr. Sanders, Mr. Kennedy of Rhode Island, Mr. Davis of Illinois, Mr. Kucinich, Mr. McGovern, Mr. Adam Smith of Washington, Mr. Foglietta, Mr. Hefner, Mrs. Mink of Hawaii, Mr. Kildee, Mrs. Meek of Florida, Mr. Gordon, and Mr. Ford.

H.R. 148: Mr. Fattah.

H.R. 165: Mr. Gonzalez.

H.R. 168: Mr. Talent.

H.R. 210: Mr. Lewis of Georgia.

H.R. 218: Mr. Forbes and Mrs. Thurman.

H.R. 324: Mr. Blagojevich.

H.R. 335: Mr. English of Pennsylvania, Mr. McNulty, and Mr. Davis of Virginia.

H.R. 338: Mr. Frelinghuysen.

H.R. 339: Mr. Riley.

H.R. 345: Mr. Hutchinson.

H.R. 453: Mr. Martinez, Mr. Lewis of Georgia, Mr. Borski, Mrs. Morella, Ms. Pelosi, and Mr. Goss.

H.R. 455: Mr. Rush.

H.R. 456: Mr. Martinez and Mr. Rush.

H.R. 471: Mr. Shays and Mr. Campbell.

H.R. 475: Mr. Graham, Mr. McHugh, and Mr. Gilman.

H.R. 476: Mr. Kind of Wisconsin, Ms. Kilpatrick, Mr. Waxman, Mr. Martinez, and Mr. Watt of North Carolina.

H.R. 538: Mr. Capps and Mr. Faleomavaega.

H.R. 551: Mrs. Lowey.

H.R. 552: Mr. Conyers and Mr. Shays.

H.R. 600: Mr. Moakley.

H.R. 622: Mr. Duncan.

H.R. 623: Mr. English of Pennsylvania, Mr. Walsh, Mr. Mascara, Mr. Wise, and Mrs. Maloney of New York.

H.R. 633: Mr. Kanjorski.

H.R. 638: Mr. Pitts.

H.R. 640: Mr. Paul.

H.R. 641: Mr. Hostettler.

H.R. 650: Mr. Crane, Mr. Lipinski, Ms. Kaptur, Mr. Hastert, and Mr. Gonzalez.

H.R. 690: Mr. Paul.

H.R. 722: Mr. Duncan, Mr. Bonilla, Mr. Brown of Ohio, Mr. Peterson of Pennsylvania, Mr. Bryant, Mr. Ehrlich, Mr. Bass, Mr. Hall of Texas, and Mr. Lucas of Oklahoma.

H.R. 723: Mr. Bonilla, Mr. Cramer, Mr. Hinojosa, Mr. Minge, Mr. Pomeroy, and Mr. Tiahrt.

H.R. 774: Mrs. Morella, Mr. DeFazio, Mr. Clyburn, Mr. Jefferson, Mr. Dellums, and Mr. Faleomavaega.

H.R. 810: Mr. Martinez, Mr. Farr of California, Mr. Meehan, and Ms. Sanchez.

H.R. 811: Mr. Coburn, Mr. Sanders, and Mr. Snowbarger.

H.R. 849: Mr. Pappas and Mr. Hastert.

H.R. 879: Mr. Payne, Ms. Furse, Mr. Dellums, Mr. Martinez, and Mrs. Mink of Hawaii.

H.R. 880: Mr. McHugh, Mr. Buyer, Mr. Clement, Mr. Ney, Mr. Deal of Georgia, Mr. Hamilton, Mr. Snowbarger, Mr. Christensen, Mr. Istook, Mr. Skelton, and Mr. Frost.

H.R. 885: Mr. Wynn and Mr. Rahall.

H.R. 886: Mr. Wynn and Mr. Rahall.

H.R. 887: Mr. Wynn and Mr. Rahall.

H.R. 888: Mr. WYNN and Mr. RAHALL.

H.R. 901: Mr. COOK, Mr. LIVINGSTON, Mr. HYDE, Mr. EVERETT, Mr. THORNBERRY, Mr. COOKSEY, Mr. MICA, Mr. BISHOP, and Mrs. NORTHUP.

H.R. 902: Mr. GREENWOOD, Mr. EVERETT, Mr. LEWIS of California, Mr. RADANOVICH, Mr. SHIMKUS, Mrs. FOWLER, and Mr. MICA.

H.R. 911: Mr. STEARNS, Mr. DAN SCHAEFER of Colorado, Ms. GRANGER, Mr. SKAGGS, Mr. HULSHOF, and Mr. COMBEST.

H.R. 920: Ms. STABENOW.

H.R. 956: Mr. SOLOMON and Mr. BARTON of Texas.

H.R. 964: Mr. ENGLISH of Pennsylvania, Mr. COOK, Ms. KILPATRICK, Mr. TAYLOR of North Carolina, Mrs. KELLY, Mr. SESSIONS, Mrs. NORTHUP, Mrs. MYRICK, Mr. COBURN, Mr. BARTON of Texas, Mr. BOEHNER, and Mr. EHRLICH.

H.R. 965: Mr. CRANE, Mr. SOLOMON, and Mr. CANNON.

H.R. 972: Mr. PAUL.

H.R. 978: Mr. MICA, Mr. YOUNG of Alaska, Mr. STRICKLAND, Mr. KENNEDY of Rhode Island, Mr. CRAMER, Mr. JACKSON, Mr. ENSIGN, Mr. NEY, Mr. COBURN, Mr. BLAGOJEVICH, Mr. BALDACCI, and Mr. DEAL of Georgia.

H.R. 991: Mr. MENENDEZ and Mr. LOBIONDO.

H.R. 1002: Mr. KLECZKA, Mr. COYNE, Mrs. THURMAN, Mrs. MINK of Hawaii, Mr. MATSUI, and Mrs. ROUKEMA.

H.R. 1026: Mr. MALONEY of Connecticut, Mrs. JOHNSON of Connecticut, Mr. CANADY of Florida, Mr. ENGLISH of Pennsylvania, Mr. CALLAHAN, Mr. BLILEY, and Mr. GRAHAM.

H.R. 1054: Mr. MATSUI, Mr. OXLEY, Mr. GOODLATTE, Mr. CAPPS, Mr. HULSHOF, and Mr. BOUCHER.

H.R. 1077: Mr. MANZULLO, Mr. FRANK of Massachusetts, Mr. PETERSON of Pennsylvania, and Mr. WELDON of Pennsylvania.

H.R. 1080: Mr. FRANKS of New Jersey and Mr. ROTHMAN.

H.R. 1090: Mrs. ROUKEMA.

H.R. 1092: Mrs. THURMAN.

H.R. 1117: Mr. PRICE of North Carolina, Mrs. MALONEY of New York, and Mr. RAMSTAD.

H.R. 1126: Mr. REYES.

H.R. 1130: Mr. FALEOMAVAEGA.

H.R. 1153: Mr. GRAHAM.

H.R. 1159: Mr. PAYNE, Mr. THOMPSON, Mr. REYES, and Mrs. MCCARTHY of New York.

H.R. 1203: Mr. SNOWBARGER, Mr. KINGSTON, Mr. MCCOLLUM, and Mr. STEARNS.

H.R. 1226: Mr. BUNNING of Kentucky and Mrs. LINDA SMITH of Washington.

H.R. 1241: Mr. BENTSEN.

H.J. Res. 26: Mr. SHAYS and Mr. COLLINS.

H.J. Res. 54: Mr. MICA.

H. Con. Res. 10: Mrs. JOHNSON of Connecticut, Mr. SHAYS, Mr. RUSH, Mr. CAMP, Ms. SLAUGHTER, and Mr. BEREUTER.

H. Con. Res. 12: Mrs. LOWEY and Mr. LOBIONDO.

H. Con. Res. 13: Mr. WICKER, Mr. YATES, Ms. STABENOW, Mr. BROWN of Ohio, Mr. FORBES, Mr. PALLONE, Mr. STUMP, Mr. DIXON, Mr. BARR of Georgia, Mr. PASCRELL, Mr. COMBEST, Mr. BOYD, Mr. SNYDER, Mr. GIBBONS, Mr. DAVIS of Florida, Mr. ROTHMAN, Mr. SHAW, and Mr. LATOURETTE.

H. Con. Res. 44: Mr. LANTOS, Mrs. MALONEY of New York, Mr. EHLERS, and Mr. ABERCROMBIE.

H. Con. Res. 52: Mr. PETERSON of Minnesota, Mrs. CARSON, Mr. SCHIFF, Mr. MASCARA, Mr. LEACH, Mr. HAMILTON, Mr. FRANK of Massachusetts, Mr. BEREUTER, Ms. KAPTUR, and Mr. FOX of Pennsylvania.

H. Con. Res. 53: Mr. GORDON, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. ORTIZ.

H. Res. 21: Mr. BACHUS.

H. Res. 22: Mr. BORSKI, Mr. WEXLER, Mr. MANZULLO, Mr. ACKERMAN, Mr. LUTHER, Mr. GEJDENSON, Mr. BOUCHER, and Ms. DUNN of Washington.

H. Res. 83: Mr. LEACH and Mr. FATTAH.

SENATE—*Wednesday, April 9, 1997*

The Senate met at 10:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, thank You for this time of prayer in which we can wake up to reality, see things as they really are, and be totally honest with You. Grant us a healthy blend of realism and vision. We tire of the fake and the false. We become fatigued fighting pretense that polishes problems and evades your judgment. The spin runs thin; the damage control delays exposure of truth. Distinctions between the real and the illusion become blurred.

Lord, it is in this kind of world that You have called us to serve and give leadership. Bless the Senators as they seek and then speak Your truth. May the quality of the life of this Senate be distinguished by an integrity in which words are used to motivate and not manipulate, where debate is an arena for communication and not competition. You are Sovereign of this land, and we accept our accountability to You for how we relate to one another in the relationships we share as we work together. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. CAMPBELL. Mr. President, on behalf of the leader, today the Senate will be in a period of morning business until the hour of 1 p.m. to accommodate a number of Senators who have requested time to speak. By consent, at 1 p.m. the Senate will begin consideration of S. 104, the Nuclear Policy Act. The leader hopes the Senate will be able to make substantial progress on this important legislation during today's session. Rollcall votes are therefore possible throughout the day, and the Senate may be in session into the evening if necessary. As always, all Senators will be notified as to when any votes are scheduled. He also reminds all Members that we are now beginning a lengthy period of legislative session prior to the next scheduled recess, and he also asks for the cooperation of all of our colleagues as we attempt to move forward and complete action on a number of important issues during this period.

Mr. President, I also ask for about 10 minutes for a statement on a bill I am introducing, if I may.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. CAMPBELL pertaining to the introduction of S. 528 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. ROBERTS). Who seeks time?

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

MEASURE PLACED ON CALENDAR

Mr. THOMAS. Mr. President, a little housekeeping. First, I understand that there is a bill due for its second reading.

The PRESIDING OFFICER. The Senator is correct. The clerk will report.

The legislative clerk read as follows:

> A bill (S. 522) to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes.

Mr. THOMAS. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The measure will be placed on the calendar under rule XIV.

Mr. THOMAS. I thank the Chair.

(The remarks of Mr. THOMAS and Mr. KEMPTHORNE pertaining to the introduction of S. 532 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KEMPTHORNE. Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY and Mr. GRAMS pertaining to the introduction of S. 529 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

(The remarks of Mr. GRASSLEY pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRASSLEY. Mr. President, I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the Senator from Minnesota.

Mr. GRAMS. Mr. President, I ask unanimous consent to speak for up to 20 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO GEORGE DURENBERGER

Mr. GRAMS. Mr. President, on March 20, my dear friend and former colleague, Senator Dave Durenberger, lost his father, George Durenberger, at the age of 90.

But, because the Senate was just beginning its recess at that time, I did not have the opportunity to pay respect to my friend and the much-celebrated life of his father. It is for this purpose that I rise today.

It has been said that, "the worst sin against our fellow creatures is not to hate them, but to be indifferent to them; that is the essence of inhumanity." George Durenberger, the parent, the teacher, the coach, must have been acutely aware of this because there was not indifference in him. He saw worth in every person he met and rewarded them with a first chance, a second, and a third.

In short, George Durenberger never gave up on anyone. Beyond all his other contributions, George Durenberger will be most remembered for his abiding faith in people.

According to newspaper accounts, George Durenberger was one of the "best known and most well-liked men in Central Minnesota." By the same accounts, "Big George" as he was often called, was "a legend."

Coming to St. John's Abbey and University in Collegeville, MN in 1924 as a student, George Durenberger obtained hero status as the star offensive center on the football team, the first three time All-Minnesota Intercollegiate Athletic Conference award winner, and also the captain of not only the football team but the basketball team as well.

Upon graduation in 1928, Durenberger became a professor and coach at St. John's and, over the course of 44 years, served as head coach of the football, basketball, and baseball teams—and sometimes all at once.

Durenberger served as athletic director for both St. John's University and St. John's preparatory school athletics for all but 2 of his 44 years at St. John's.

Many Minnesotans still recall that it was George Durenberger who started the round robin system of intercollegiate competition in the Minnesota Intercollegiate Athletic Conference. And, some still remember the national recognition he gained through his ace athletic program to condition the 87th Airborne Detachment for World War II.

Perhaps, these accomplishments figured into St. John's decision to name the college's athletic field complex, the "George Durenberger Field." But, I believe that what contributed most to his Herculean stature can be best expressed in George Durenberger's own words:

> A coach should be judged not only on his ability to produce winning teams, but also on whether or not he has made a positive contribution to the moral, mental, social and emotional growth of his students.

George Durenberger was the epitome of a teacher. He knew and loved people. He saw the good in them—even when they could not see it in themselves.

"The young men who came to St. John's in the early forties from the small towns of Minnesota and North Dakota were very much in need of a role model," recalls former Minnesota Supreme Court Justice John Simonett. "Then we met 'Big George'. And we looked up to him—both literally and figuratively."

George Durenberger lifted spirits, recalled another St. John's alumnus, "I always left George feeling better about myself." George Durenberger "was the first person I met as a student at St. John's in 1924," remembered Fred Hughes, a St. Cloud attorney and former University of Minnesota Regent, "and to this day, he remains the best."

And, consider what the Hill newspaper's Al Eisele, who attended St. John's, had to say. Mr. Eisele said, "George Durenberger was as much a part of the modern history of St. John's University as the Benedictine monks who founded it 150 years ago."

Durenberger, "a physically imposing man with a booming voice and outgoing personality," as described by Eisele, "helped shape the lives of thousands of young men." As athletic director, Durenberger was such a forceful man, noted Eisele, that he even got the monks to exercise.

In closing, Eisele remarked that Durenberger and his wife Isabelle were "surrogate parents to many * * * and an inspiration to all."

George Durenberger never left St. John's until he died. He loved the institution and all the people and memories that came with it. However, this love was not connected to stubborn consistency but to confection. George Durenberger, said one friend, "was driven by a vision of a 'better city'," something akin to the city referred to in the book of Hebrews.

Another book in Scriptures, Proverbs, states, "Train up a child in the way he should go: and when he is old, he will not depart from it." According to George Durenberger's eldest son, my friend and former colleague, "All my desire for public service and for making the world a better place than I found it, came from him." That was Dave Durenberger.

In this way, and in so many others, George Durenberger made a very profound and lasting contribution to the world. All he withheld from the world was indifference.

Mr. President, I offer George Durenberger's wife, Isabelle; his daughters, Constance and Mary; his sons, George Mark and Thomas; his nine grandchildren and two great grandchildren; and most especially I offer his eldest son, my dear friend, David Durenberger, my most heartfelt sympathy.

Thank you very much, Mr. President.

I yield back the remaining part of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE REFORM

Mr. WYDEN. Mr. President, I have come to the floor each day this week to talk about what I think is the critical need for the Senate to develop a bipartisan plan to reform Medicare. Medicare is a lifeline for millions and millions of American families, and I think it is understood by every Member of this body that this is a program that faces financial crisis as we look to the next century.

Today, as part of the effort to build support for a bipartisan Medicare reform effort I will look specifically at the Medicare reimbursement formula. I think it is important to take this subject up because I believe today's Medicare reimbursement system in many instances overcharges taxpayers on costs and shortchanges older people who need and deserve good quality care.

Now, Mr. President, as we all know, there are essentially two major types of health care in America. There is traditional health care, what is known as fee-for-service. It means just what it sounds like. Providers get paid on the basis of the number of services that they render. This, unfortunately, can encourage waste. If, for example, an older person in traditional health care receives 10 medical tests and 4 would have been sufficient, under traditional health care the provider gets paid for 10. The other type of health care is what is known as managed care or health maintenance organizations. This is essentially a prepaid kind of arrangement. It creates incentives to hold down costs. But as we know, in some instances, tragically, it has also been used as a tool to hold back on needed health care that older people depend on.

The Federal Government, looking to the great demographic changes, the demographic earthquake that our country will face in the next century, has sought to try to change this system of reimbursement and, in particular, try to encourage the availability of good quality—I want to emphasize that, good quality—managed care or health maintenance organizations.

They set up a plan for reimbursing these organizations known as the average adjusted per capita cost, or AAPCC. Now, I am the first to admit that discussion of this topic is pretty much a sleep-inducing, eye-glazing issue, but certainly for folks in rural Wyoming, rural Oregon and across this country, the low-cost areas, it has great implications, but also it has great implications for the system as a whole.

I believe that the Federal Government has botched the job of handling this reimbursement system, and it is time to make some fundamental changes. Under this reimbursement system, Medicare pays health maintenance organizations 95 percent of the estimated cost of treating a patient under fee-for-service plans in a particular county. What this very often means is that in an area where there has not been an effort to inject competition, where there has not been an effort to drive out waste, you have wasteful, inefficient fee-for-service health care being offered, and it is being used, essentially, as a path to guide reimbursement for the HMO's, the health maintenance organizations.

I brought a couple of charts to the floor today. The first is one that shows that many, many of our counties across this country that have tried to hold down costs are reimbursed for health maintenance organizations, or the competitive part of the Medicare system, in a way that is below the national average. Certainly, Mr. President, you and others like myself who represent rural areas see how critical this issue is because our providers have difficulty providing the defined benefits under Medicare, let alone some of the extras such as reduced drugs, eyeglasses and hearing aids that are available in many of the high-cost areas.

For example, as my next chart illustrates, in 1997, one of the very high-cost reimbursement areas was in Florida, in Dade City, FL, with $748 a month received there, whereas in Arthur, NE, they receive $221 per month. So the question, essentially, is to our colleagues, again, on a bipartisan basis, our colleagues from Nebraska, Senator KERREY and Senator HAGEL: Is it true that a typical 72-year-old Nebraskan is that much healthier than a typical New Yorker of the same age? Well, Medicare thinks so. That is how the Federal Government does business. The Federal Government conducts its affairs that way. I think it is wrong. It is that way not just for folks in Nebraska but many other parts of the country like ours that, again, we share on a bipartisan basis, and as a result our seniors get a much thinner Medicare benefit package than they would if they were in an area that was much more costly.

For example, in my home community of Portland, OR, we have the highest concentration of HMO's in the country, the highest level of penetration of HMO's in the United States, just about 60 percent, and we are reimbursed at a level significantly below the national average of $467. We get reimbursed at a $387-per-month level. What happens is a senior who lives in Dade City, FL, or in southern California or parts of New York State calls seniors I represent in Oregon and asks them how Medicare is going, and seniors in the high-cost areas say, "It's going great because we can get prescription drugs, eye glasses and hearing aids all at essentially little or no cost," and seniors in Oregon get none of those things, and, in fact, many of their providers in rural parts of our State have difficulty providing basic services.

So the question then becomes, what are some of the fundamental ways in which to change this system which so often rewards waste, penalizes the frugal and, in effect, creates an incentive for various parts of the country to do business as usual, even though the General Accounting Office and other bodies are saying that business as usual will be bad news for both seniors and for taxpayers. Several practical suggestions are at hand, Mr. President, and suggestions that I believe ought to be adopted on a bipartisan basis. I think for the long term, it is time to separate out, to literally cut off the link between HMO's, the managed care, and fee-for-service, because I think what we are having today is a situation that literally creates incentives for wasteful health care.

Second, it seems to me there ought to be a new minimum payment floor that brings up all the counties that have been low cost, and especially those in rural areas, and certainly the President of the Senate, just as I see in rural Oregon, understands the importance of that.

Third, it seems to me that the Senate, on a bipartisan basis, ought to begin a gradual effort to move to a national reimbursement level, a blended kind of level, and do it gradually so that areas that have been more inefficient are not going to face all of the changes overnight, but are going to understand very clearly that with an effort to move to a blended or national reimbursement rate, Congress is not going to tolerate what we have today, which is a system that rewards waste.

Finally, Mr. President, it seems to me that the Federal Government should be trying to promote competition, serious competition, as the private sector does, in areas of high-cost managed care or significant penetration of health maintenance organizations. There is no question in my mind that some HMO's are overpaid. We do need to produce competition in those areas. I believe that that can be carefully targeted. That, in my view, is the guts of reimbursement reform, Mr. President.

I would like to conclude my remarks today by saying that going to the next level of Medicare reform after we take care of the reimbursement issue is a logical step because it flows from what needs to be done with the reimbursement formula. By getting good data and more logical data about the various counties, the Health Care Financing Administration will be in a position to make information available to older people and their families across this country about how to make better choices with respect to their health care. Today, what we have is a situation where many older people get no choices at all. We see that in many rural parts of our country because of the reimbursement formula. The reimbursement formula is so low that many plans won't come in, so seniors in those areas get few choices. In the high-cost areas, the Federal Government has put out a mishmash of information which makes it impossible to choose between the various services that are available to them, and that is absolutely key because in those high-cost areas we have exactly the places where it is most important to get competition.

Yesterday, I brought to the floor—I am going to blow it up in the days ahead so that it's possible for the Senate to see it in more detail—an example of what it is like for an older person in Los Angeles to try to navigate through the various health choices available to her. In fact, it takes one full wall, in a picture that the General Accounting Office took, just to put the various pieces of information that that senior would have to wade through. So I want to see us now have the Federal Government look to what the private sector is doing to empower seniors and their families to get understandable, clear information about Medicare so that they can make appropriate choices. This involves details on the way different Medicare choices and plans work, data on the experience of seniors with similar health and income backgrounds, the methods and the decision steps used by plans to pay participating practitioners and health care facilities and providers. And, Mr. President, certainly, Members of this body should understand that this is doable because this is largely the kind of information that is available to Members of the Senate and other Federal employees who participate in the Federal employee health plan.

So in ensuring that seniors can receive a full list of plans available to them, enrollment fairs are an approach that has been looked at in the past, and there may be other ways to do that, such as publishing appropriate performance data on plans. These kinds of steps are approaches that the Federal Government has pursued and have related to Senators and members of the Federal service. It seems to me that there is no reason to further delay making this kind of information available to those who depend on Medicare. Older people ought to be in a position to enroll and disenroll from a plan at any time.

Certainly, this kind of approach will encourage competition. Perhaps at some point there ought to be incentives to try to keep people in plans that are cost effective, and I think that the Federal Government can look to this kind of approach. But, certainly, significant rights of older people to enroll and disenroll in plans is critical.

So these kinds of rights, like appeal rights when you have been denied benefits, a good grievance procedure—in effect, a patients' bill of rights—is what is fundamental to making sure that older people are in a position to get the kind of information they need in order to make choices about their health care and, at the same time, inject competition into this system.

We have made many of these decisions already as it relates to Federal employees and Senators. We have made them as it relates to the private sector and, in fact, we have even made them in areas that have parallels to this program—for example, in the Medigap Program. I and others were involved in this to try to make sure that seniors who purchased supplemental coverage would be in a position to make sure they could get full value and have a place to turn to for their questions. We can take a lesson from the Medigap Program, and the Federal Government ought to make available troubleshooters to answer questions from older people as we move to competition.

So, Mr. President, let me conclude by saying that I think every Member of this body understands that business as usual with respect to Medicare is unacceptable. I will tell you, if you don't like the program, if you really dislike Medicare, keep it the way it is, because the way it is is going to be a path that will cause, in my view, great calamity for families and seniors. If you believe Medicare is a program that has made an enormous difference in the lives of older people, I think that is the best argument for a bipartisan Medicare reform effort, a bipartisan Medicare reform effort that would ensure that seniors got guaranteed, secure benefits, not some check or some sort of voucher that just said, well, maybe this will be enough for your care and maybe it won't.

Seniors deserve guaranteed, secure benefits. Many of my colleagues on the other side of the aisle have been absolutely right in saying that much of Medicare across this country is an outdated tin lizzy kind of program, a program that the private sector consigned to the attic years ago. So let us try to bring the parties together around the proposition that there ought to be defined, secure, guaranteed benefits, around the proposition that it is time to bring the revolution in the private sector to Medicare, and do it in a way that protects patients' rights—no gag clauses or limitations on what older people can know about plans, grievance procedures, appeal rights. Those are the kinds of issues I think that both parties can agree on.

I intend to come to the floor day after day to bring the issues of Medicare reform to the attention of the Senate and to the attention of the public, because I believe this is going to be the issue that is going to dominate the debate about our priorities, particularly our domestic priorities, for the next 15 to 20 years.

I believe that every Member of this body in the next century is going to be asked: What did you do in 1997 to get Medicare on track?

I believe there are opportunities now, as we move to the budget, as we move to efforts to have a bipartisan balanced budget, to start the changes that will put Medicare on track for older people and taxpayers.

Mr. President, to reiterate, the heart of the Medicare Program is the 38 million beneficiaries now dependent on this health care system as an essential social lifeline.

Any changes we make to Medicare must, first and foremost, consider the likely effects those reforms will have on these beneficiaries, many of whom are frail, infirm, and low-income.

As I've said every day on the floor of the Senate this week, I'm going to be talking today about the choices and access those beneficiaries ought to have, but who in too many parts of the country have no choices and poor access to health care.

I'm also going to be talking about the window of opportunity we have in this Congress to enact significant changes in the program to cure the half-trillion-dollar shortfall we can expect in this program by the end of the coming decade, and to bring new choices, new access and new efficiencies necessary to save Medicare for not just the next 5 years, but into 2010, 2020, and 2030.

As I said yesterday, Medicare is a 1965-model tin-Lizzy health care program showing little resemblance to the rest of American health care. Various out-dated, out-moded and bureaucratic features of Medicare practically encourage practitioners in the greater part of the Medicare system to drive up unnecessary care and resulting overbilling—actions which over-charge the Government on costs, but short-change beneficiaries on good health care.

Beginning in the last decade, the Government's partial solution to this was to institute coordinated care in Medicare. We encouraged health insurers to begin offering plans that managed service Medicare beneficiaries received, and we offered encouragement to beneficiaries to participate in the form of lower out-of-pocket costs and, we anticipated, a broader package of goods and services.

And we would determine how each plan, in each city, would be paid for each beneficiary in the plan according to an arcane formula called the average adjusted per capita cost—or the AAPCC.

Now, before your eyes glaze over, let me give you a very simplistic idea of how the local AAPCC payment rate is determined, and how this formulation really penalizes beneficiaries living in places where medical costs are relatively low.

The AAPCC is any given county is formulated on the cost of providing medicine, per beneficiary, in the most costly portion of Medicare—the traditional sector known as fee-for-service. This is the portion of the program where beneficiary can elect to see just about any doctor they want, whenever they want, and the individual care providers in those situations can be reimbursed for just about any services they deem necessary for that beneficiary.

No questions asked. No oversight.

This may sound like a pretty good deal for the beneficiaries. But it doesn't always mean they get the care they need or require. For example, there's nothing to stop an individual provider in fee-for-service for ordering up 10 or 12 tests for a beneficiary, when only 3 or 4 really are required.

This is one of the reasons why fee-for-service Medicare is growing at a much more rapid rate than the rest of the program—and it's one of the reasons we find ourselves in such a deep financial hole.

It is also clear that the rapid growth of fee-for-service Medicare seems endemic to certain large metropolitan regions of the county.

As my colleagues may be able to see, the areas in blue and white represent portions of the country where the AAPCC rate is below the national average.

The areas in red and orange represents areas where the payments are above the average.

And just for the record, the variation is huge. The 1997 high-reimbursement county is Richmond County, up in New York, at $767 per month, per beneficiary, while the lowest paid county was over here in Arthur County, Nebraska, at $221 per month.

Now, I'd ask my colleagues BOB KERREY and CHUCK HAGEL whether they think a typical 72-year-old Nebraskan is that much healthier than a typical New Yorker of the same age?

Medicare seems to think so, and I think they're wrong.

And unfortunately for folks in Nebraska and other low pay States—my home State of Oregon is certainly one of them—the difference is that they get a much thinner Medicare benefit package in coordinated care plans, if they have access to such plans at all because their monthly reimbursement rate is so abysmally low.

Let's talk about some examples of how this hurts beneficiaries in cost-efficient counties where the reimbursement rate is particularly screwy.

In Mankato, MN, where the average payment is $300 per month, beneficiaries in coordinated plans get their basic managed care coverage under Medicare rules—but nothing else. No discounts on prescription drug purchases, no additional preventative care, no hearing aid discounts, no coverage for eyeglasses.

In Portland, OR, my home town, the rate is a little better at $387 per month, but that's still well below the $467 national average. That means the best additional benefit received by these folks, who have the highest managed care penetration rate in the country at about 60 percent, is a 30 percent discount on prescriptions up to a $50 maximum.

Now, let's go up to the high end of this wacky AAPCC payment system. In Miami, FL, where the payment rate is all the way up to $748 per month, seniors in these programs get unlimited prescription drug reimbursements, a $700 credit for hearing aids, and dental coverage—all add-ons that are virtually unheard of in most of the rest of the country.

Mr. President, I wish I could say that this is the kind of cost-accounting that's going to add stability and integrity to the Medicare Program into the next century. Unfortunately, all this payment formula accomplishes is: First, huge overpayments in some counties, with resulting extravagant profits to insurance companies, and second, payments to other counties which are obviously too low, and which result in either no coordinated care offerings to beneficiaries in those communities or bare-bones plans that for millions of beneficiaries to incur higher out-of-pocket costs purely as a matter of geographic accident.

I believe we can transform Medicare from an aging dinosaur insurance program into a comprehensive seniors health care system while maintaining our historic commitment to a basic package of benefits for every beneficiary, no matter their health or income status.

But that transformation necessarily will involve providing seniors with many more choices with regard to their health plan selection.

The current formula used for paying Medicare in rural counties and in other places where communities have worked hard to reduce general health care costs is precisely antagonistic to that purpose.

This system denies folks choice because it necessarily results in poor quality health plans, high out-of-pockets expenses, or no managed care choices—or a combination of all three—for vast numbers of beneficiaries.

And again, an accident of geography seems to be the deciding factor in the current state of affairs.

I believe Medicare reform has to include remedies for these problems.

This is not just a matter of increasing the benefit package for folks in low pay counties. More fundamentally, this is an issue of providing more choices, to encouraging the entry of more plans, into large areas of this country where the current AAPCC formula creates reimbursement rates which are so low—which are so nonsensical—as to completely discourage anything but fee-for-service Medicare in those communities.

I believe reimbursement reform include several important features:

A new minimum payment floor that brings all counties up to 80 percent of the national average, immediately.

A new annualized reimbursement increase formula that shifts adjustments away from localized fee-for-service medicine costs, and toward actual cost increases in coordinated care.

A systematic imposition of financial controls reimbursement growth in high-reimbursement counties in order to squeeze out what have to be monumental over-payments to plans in those communities, and huge losses to the Medicare Program.

Mr. President, reforming Medicare isn't just about reforming payment systems, however.

It's also about helping beneficiaries to become smarter shoppers in a new Medicare environment that we hope will offer many of them many more choices and options for care.

Therefore, it is critical that we change the program in way that will empower seniors to make the appropriate choices.

At the bottom, this means developing and executing a much better system of informing beneficiaries about their rights in managed care, and about the most important provisions of the health plans available to them. This information must be given to seniors as "news they can use"—data that is in clear and accurate layman's language, and which conforms to standardized reporting practices so that consumers can compare one plan against another in a traditional kitchen-table-assessment.

Indeed, these tools if we had them would be useful, today, with 80,000 beneficiaries per month choosing to leave fee-for-service Medicare for Medicare managed care organizations.

According to Stanley Jones, chairman of the National Institute of Medicine's committee on choice and managed care:

> Many elderly are making these new choices without enough information to judge which option is best for them, what the plan they choose will actually cover, or how the plan will operate.

Jones said that many seniors misunderstand the basic structure of HMO payment and care practices. He criticized Medicare managers for providing information to beneficiaries about differences in available health plans that "appears primitive" compared with what's available from private purchasers.

Mr. President, last year I asked the General Accounting Office to look into this problem, and the GAO auditors came to similar conclusions:

> Though Medicare is the nation's largest purchaser of managed care services, it lags other large purchasers in helping beneficiaries choose among plans. The Health Care Financing Administration (HCFA) has responsibility for protecting beneficiaries' rights and obtaining and disseminating information from Medicare HMOs to beneficiaries. HCFA has not yet, however, provided information to beneficiaries on individual HMOs. It has announced several efforts to develop HMO health care quality indicators. HCFA has, however, the capability to provide Medicare beneficiaries useful, comparative information now, using the administrative data it already collects.

The kind of data HCFA collects, now, of use to beneficiaries includes performance indicators such as: First, annual disenrollment rates, second, cancellation rates, third, so-called rapid disenrollment rates—the percentage of enrollees who disenroll within 12 months of signing up, fourth, rate of return to fee-for-service Medicare from the plan, and fifth, disenrollments tied specifically to sales agent abuses involving, among other things, marketers who mislead enrollees about what a plan may cover.

I think we can go beyond these quality indicators. The Federal Employees Health Benefits Program [FEHBP], for example, includes a graded system of reports on the quality of key services in federal employee health plans. There is no reason why Medicare beneficiaries, who must make these decisions on their own without benefit of employers or corporate benefit managers, shouldn't have at least the kind of qualitative analysis available to members of Congress who are covered by FEHBP plans.

Mr. President, I am heartened by the announcement earlier this year by HCFA Administrator Bruce Vladeck that the program would begin offering beneficiaries some qualitative information on managed care plans through the Internet. I think that's great for seniors that use the Internet in their homes or have access to that technology somewhere else.

I think it's clear, however, that we need to step up efforts going beyond the limited information that eventually would be made available at a HCFA website.

Here's the bare minimum of information that seniors need in a revamped Medicare program which empowers them to make appropriate choices:

Details on the way different Medicare choices and plans work.

Data on the experience of seniors of similar health and income background in those plans.

The methods and the decision steps used by plans to pay participating practitioners and health care facilities and service providers.

And here are the steps we need to take to insure seniors receive that information and the other tools they need to prevail in an increasingly more complex and choice-intensive Medicare marketplace:

First, Medicare managers must ensure that every senior, in every county, receive a full list of plans available to him, with a detailed description of what each plan offers. These submissions must be written in a way that allows a consumer to make easy comparisons between plans.

HCFA should require annual "enrollment fairs," giving seniors a chance to review all plan materials at least once a year in order to determine if alternative Medicare offerings might be more suitable to the individual enrollee.

Second, Medicare must collect, evaluate and publish appropriate performance data on every plan. Using independent quality review organizations like the National Council of Quality Assessment, Medicare must devise and publish qualitative analysis—consumer report cards—on each Medicare plan, further enabling seniors to make appropriate choices among offerings.

Third, consumers must be allowed to enroll and disenroll from plans at any time during their first 12 months in a plan. After the first year of enrollment, disenrollment with guaranteed enrollment in a new plan would be limited to a first opportunity after six months in the second year.

We would make it somewhat tougher to disenroll after the first year because we would expect plans to make investments of preventative health services for new enrollees in the initial few months of their enrollment.

Fourth, health plan enrollees need a patient bill of rights that by Federal statute protects certain baseline issues fundamental to their good health. At the top of this list would be a Federal statute absolutely protecting the free and unfettered communication between patient and doctor on that enrollee's health condition and any appropriate services and procedures necessary to treat the patient.

Fifth, give Medicare beneficiaries a certain and sure grievance and appeals process, and the information they need to use it. Medicare must streamline the current process, allowing beneficiaries to by-pass certain bureaucratic roadblocks in the present system—most especially those that force time-delaying procedural exercises when the outcomes already are known. On an initial enrollment, and at any time a beneficiary changes plans, an explanation of new or amended appeals procedures must be part of the enrollment exercise.

And as with Medigap insurance, HCFA should hire and train ombudsmen and trouble-shooters tell help beneficiaries both understand provisions in plans, generally, and appeals and grievance procedures specifically.

Sixth, every Medicare risk provider should offer at least one plan in his portfolio that includes a point-of-service provision, so that those seniors who would try plans if they could keep going to a particular practitioner would be allowed to do so.

Mr. ,President, I have spent quite a number of years talking with seniors about their health care. Before I was elected to the House of Representatives in 1980, I was cochairman of the Oregon Gray Panthers. I know that seniors are deeply suspicious of any changes to Medicare, in particular, and many of them view the current debate over the shape and direction of the program with a good deal of alarm.

But many more who I've talked to recognize the need for changes and, indeed, want to see this debate begin.

And on the basis of those conversations I am convinced that seniors will feel a lot better about anything we do if we give them more decision-making power to fashion the health care they receive through the program.

Fundamental to that is making sure they have the information and tools to make the right decision, at the front end, and to protect themselves in the case of disputed decisions while they are enrolled in plans. These changes would go a long way toward providing seniors with that kind of empowerment, and in the long run strengthening and improving Medicare as a critical government program.

Mr. President, I yield the floor.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina [Mr. FAIRCLOTH] is recognized.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent to be recognized for 10 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PITIFUL STATE OF OUR LEGAL SYSTEM

Mr. FAIRCLOTH. Mr. President, I take the floor today to discuss an issue that is serious and becoming more serious every year, and that is the pitiful state of our legal system. It is becoming harder and harder and harder to convict anybody of anything. You can catch them on tape, film them committing the crime, and then you will probably lose it; they will be found not guilty. No amount of evidence seems to be sufficient anymore. I think we have reached this sorry and pitiful state because we have basically let the system be controlled by lawyers. When you control the legal system by lawyers, you are simply asking a thermostat to set itself. Defense lawyers are twisting and bending common sense to let the guilty go free, and they are aided by judges—in many cases, hand-picked by the trial lawyers. The lawyers pick the judges.

At every turn, you have lawyers controlling a system that makes no common sense, except to serve one purpose, which is for their benefit.

The most recent example I can think of is the glaring stupidity involving the Oklahoma bombing case. First, it has taken 2 years to bring it to court when the man was caught the day after he did it. Now, many taxpayers are appalled by the very fact that they are paying for McVeigh's defense—they are paying for it. They think that is reprehensible. But they don't realize how much they are paying. If they did, they would rise up and revolt. It is not just the defense of McVeigh; it is gold-plated from one end to the other. He has 14—14—expensive lawyers defending him that the working people of this country are paying for—14 of them. His chief lawyer, Mr. Jones, says that it will cost $50 million to defend him. That is his estimate. Now, anybody that has ever had a lawyer knows they never come in with a low estimate. They are estimating $50 million to defend him. This is absolutely offensive to every taxpayer in this country, and it should be. But this is a typical example of a legal system that is out of control.

Now, to defend Mr. McVeigh because he blew up the building in Oklahoma City, his lawyers have traveled literally all over the world. They have been from Kansas, where he rented the truck, to Jericho. I don't know why he would have been there. They have been to the Philippines. These lawyers are traveling at taxpayers' expense. They have been all over Italy. They have covered every country in Europe and gone to the West Bank. Nobody knows what they are searching for—maybe for the real killer, or maybe just enjoying travel at taxpayers' expense. While they have the killer, they are always looking for another one. The taxpayers have paid for a TV and VCR for Mr. McVeigh so he can review the evidence.

Mr. President, to add insult to injury and outrage to outrage, they moved the trial. So now we, the working people of this country, are paying $50,000 a week—$50,000 a week—for the living expenses of his lawyers. When you start talking about the working people, $50,000 every week for the living expenses of his lawyers—they spent $0.5 million to remodel the courtroom in Denver for his trial. They couldn't try him at home. They had to move it to Denver and we spent $0.5 million getting the courtroom ready for him.

The victims of his crime have had to travel hundreds of miles from Oklahoma to Denver in hopes that they see that he gets justice. They are paying for the defense of the man that killed their children. They are also having to pay for their own room, board and lodging in Denver. Plus they are paying $50,000 for his lawyers' lodging and board in Denver. There is no end to it.

How many times do the victims of this crime, or any crime, have to be made victims again by the very judicial system that they are paying for? We will be paying for McVeigh's trial long from now in the form of interest on the debt and the money we borrow to give him $50 million for his lawyers.

It would be my thought that if McVeigh didn't have the money for his gold-plated defense, he should not have blown up the building in the first place.

Mr. President, I suggest that there are a number of things we could do, and we need to start fixing a system that is broke. And it is broken bad. We need to change the law that allows criminals to get the best defense that taxpayers can pay for. That is exactly what they are getting. I am going to propose legislation putting a cap on the Federal Defender Program.

I would like to cap what McVeigh is getting right now. But that will be appealed for years and years. As long as we pay the lawyers, they will keep appealing for Mr. McVeigh. So he will be out there far into the future with the people's money. The $50 million figure will run into $75 million before we get through hearing about him. We need a comprehensive overhaul of the legal system, and it needs to be done by nonlawyers. We need to overhaul the legal system and not let a single lawyer be involved in the overhaul. We need a national commission composed of nonlawyers to review the judicial system and provide some commonsense solutions to the problem, and it needs to be made up of homemakers, regular people, business people, truck drivers, and people who would bring some practicality to it and not lawyers who would continue to feather their own nest.

I think we need a victim's rights amendment to our Constitution. Over the last 40 years liberal judges have turned our Constitution into the "Criminal Protection Act." The purpose of the last 40 years is to make sure that every criminal is coddled, pampered, and looked after in a very proper manner. It is time for it to stop, and the Constitution has to protect victims as well.

Mr. President, I know that many Senators share what I am talking about and are frustrated by what we see. I think we need to start on legal reform, and I think we do need to do it soon.

The first thing that will be said is, "If you start it, the President will veto it." Well, let him veto it. I think the American people need to know where the President stands. So if he wants to veto it, let him do it. If the President says that the regular people of this country—or if he chooses sides with Ivy League lawyers that never got a murder case that they couldn't appeal, it is time to bring the practicality and the common sense of the American people into the legal system and take it out of the hands of the lawyers. The very idea of $50 million to defend McVeigh—$50 million, 14 lawyers. Anybody who would tell me that that isn't an absolutely out-of-control system simply has lost all common sense themselves.

It is time we put an end to it. I intend to introduce legislation that will do so.

Mr. President, I thank you. I yield the floor.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I would like to start by using my own 5 minutes and at the end of that time go into leader time. If the Presiding Officer will indicate to me when I have consumed the 5 minutes, I will be grateful for that.

The PRESIDING OFFICER. The Chair will notify the Senator.

Mr. CONRAD. I thank the Chair.

THE DISASTER IN NORTH DAKOTA

Mr. CONRAD. Mr. President, I rise again today to report to my colleagues on the developing disaster in the State of North Dakota. As I reported to my colleagues yesterday, we were hit last weekend with the most powerful winter storm in over 50 years. We are a State that is accustomed to tough storms. But, frankly, we have never seen one quite like this. Mr. President, this storm came on top of the worst flooding threat in 150 years. So we have a double whammy of a powerful winter storm, dumping record amounts of snowfall, in addition to an underlying threat of massive flooding, because before this storm hit North Dakota, we were faced with a record snowfall in the State of North Dakota, over 100 inches of snow, before we got dumped on with another anywhere from 17 to 24 inches in the eastern part of our State.

As the paper of my hometown reported, "A Doozy of a Record"—record snowfall they are talking about. It is maybe hard to see on the chart here. But what they are showing is a major shopping center. These are cars, or I guess more accurately they are the tops of cars. That is how deep the snow was in my hometown.

That is not the only place that has been hit. It is across the State of North Dakota. This is from the largest city in our State, Fargo, ND. The headline there is "The Worst of Two Seasons." They are talking about the blizzard on top of the flood.

Mr. President, this is a truly staggering set of circumstances that the people of my State are having to cope with. Just this morning I was called by the head of the Corps of Engineers for our district, who informed me that although all of the predictions were dire, they have now become even worse.

As of this morning the National Weather Service is telling us that the forecasted crest, instead of being 37½ feet in the city of Fargo, our major town in North Dakota, it has now been raised to 39 to 39½. Already we are faced with the worst flood in 150 years. We were told this morning that this is the 500-year flood level. Of course, the dikes were built to accommodate the earlier projections at 37½ feet. So the dikes were built to 39½ feet. Now we are told the forecasted crest is 39 to 39½ feet.

Mr. President, this could be a calamitous situation. They are telling us that the crest will be reached late tomorrow or perhaps early Friday.

I have talked to the Corps of Engineers. They are working feverishly to add to the dikes that have already been constructed not only in Fargo but right up the Red River Valley—in Harwood and Grand Forks, ND—to try in a race against the clock to build these dikes high enough to protect the people and the property that is around this river.

Mr. President, this is the most heavily populated part of my State. The disaster that is unfolding is truly staggering in proportion.

Early Saturday 80,000 people were without power, with wind chills of 40 below zero. Can you imagine being an elderly person in a home being faced with the most powerful winter storm in 50 years without heat? That is what is happening in my State. Although great progress is being made because of a really heroic effort by people to respond, still today 20,000 people are without power and without heat, most of them since Saturday.

Today temperatures outside are hovering near zero in North Dakota, and even more threatening, temperatures inside these homes that are without heat ranging between 30 and 40 degrees. Not only is the human condition being put under great stress but also livestock has been put under grave stress in our State. Thousands of cattle are dead.

I was told yesterday of a ranching family that brought 10 of their calves into their home to try to give them protection, and allow them to live. All 10 of them died. The cattle were dying because the wind was so ferocious that it blew the snow up into their nostrils and they suffocated. They can't get to many cattle to feed them because of the snowdrifts that are everywhere.

Mr. President, I thought I would share with my colleagues just some of the individual stories that tell the depths of this tragedy.

A young man froze to death in his pickup when it became stranded only 1 mile from the small town of Lankin, ND.

One family that is stranded in its farmhouse due to overland flooding is burning its fence posts to keep warm. The water around their house was iced over, so neither emergency vehicles nor boats were able to rescue them. Another family was forced to snag logs that drifted by in flood waters to heat their home.

The Turtle Mountain band of Chippewas has snowdrifts of up to 15 feet. Can you imagine a snowdrift of 15 feet that is blocking transportation? In fact, emergency crews needed 4 hours to get to a man who had a heart attack.

A man from Wilton, ND, went on the radio in search of hip-length waders so that he could wade out to rescue 120 sheep that are caught up in the flood waters.

An elderly couple was trapped inside their home due to a 6-inch layer of ice that had formed over their doors and windows; trapped in their own home because ice had formed around the doors and windows and they could not get out. An emergency rescue team was sent in to rescue them.

The PRESIDING OFFICER. The Senator's 5 minutes are up.

Mr. CONRAD. I thank the Chair for informing me. If we could now go on with leader time, I would appreciate that.

The PRESIDING OFFICER. The Senator has 10 minutes.

Mr. CONRAD. Mr. President, a family in northeastern North Dakota—two parents and their 7-year-old—has been without power since Saturday with snowdrifts trapping them in their home. They had to sleep huddled in the hallway to keep warm.

Seventy-five people have been stuck in the basement of the Hebron city hall because their cars were pulled off of the major highway going by as that road became impassable. Those 75 people have been stuck there since Saturday.

Officials in Cass County, the most populous county of our State, are having difficulty responding to emergency calls because the water surrounding many homes is frozen. So they can't get there by wheel vehicles and they can't get there by boat. There is no way to get to people in order to extricate them.

Mr. President, there has been a tremendous response, not only by volunteers in our State but also by the agencies attempting to cope with this disaster.

I want today to thank the President for responding so quickly in declaring our State a Presidentially declared disaster. This is our second Presidentially declared disaster of this year. We are only in the fourth month of this year. We already had a Presidentially declared disaster because of the record amounts of snowfall. Now on top of that we are anticipating a record flood.

These are truly difficult times for our State. Many homes are still without power. We need generators and fuel to heat homes, make certain that essential services are up and operating. My State needs special heavy equipment to clear snow and ice from roads to allow for emergency access.

This is a snowfall that is unlike any we have seen because it happened with a freezing rain and then snowfall, and so the snowpack that is there is like concrete. That is what the people who are out there trying to fight this mess are telling us. They have never seen a snowpack like this. We had rain on top of snow, it froze, and it is like concrete trying to break through these incredible snowdrifts.

I also want to recognize FEMA and the capable administrator there, James Lee Witt, who is coming to my State tomorrow. FEMA has responded marvelously to the needs in North Dakota. I also wish to thank the Corps of Engineers that is involved in a really heroic effort. Some of these people have been working around the clock with no sleep for days attempting to build these dikes higher as the flood crest forecasts keep increasing.

I just want to say on behalf of the people of my State how much we appreciate the extraordinary response of the Corps of Engineers and of the Federal Emergency Management Agency.

I would also like to thank the president of Manitoba Hydro, Bob Brennan. We were alerted by the Governor; they were having trouble getting people across our border. We got the Immigration and Naturalization Service to provide an immediate 2-week waiver on all of their requirements at the border. We talked to Manitoba Hydro and they committed to sending 100 people to our State to help rebuild the transmission facilities. Now, that is real neighborliness, and we appreciate very much that our neighbor to the north has responded in this most generous way of sending 100 people to help us rebuild the transmission facilities in our State.

I would also like to thank the Internal Revenue Service. This is something we rarely do. They have indicated that they would practice forbearance on our individual income tax payers in the State of North Dakota by allowing them to file by May 30 without late payment penalties. They will be asked to pay interest on the money during the period that they would have paid, but they are being given until May 30. If they file and if they pay by that date, they will not be hit by any late-payment penalties. I am told that they are applying this same standard to every State and every county that receives a Presidentially declared disaster in the face of what is happening in many parts of the country.

We struggle to find good news in all of this, hopeful news. But I can tell you there is good news and there is hopeful news, and that is the spirit of the people. In North Dakota, we say we have a yes, we can attitude, and that is exactly what we have seen in coping with these disasters. As one emergency official said to me, Senator, I have seen blizzards; I have seen floods; I have seen power outages, but I have never seen all three together at the same time.

That is what we are coping with in North Dakota. I must say that can-do spirit has served us well. Not only do North Dakotans show that spirit, but I must say these Federal agencies that have come to help are also showing that spirit, and we deeply appreciate it.

I thank the Chair and yield back the remainder of my time.

I yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair.

DISASTER RELIEF FOR MINNESOTA

Mr. WELLSTONE. Mr. President, the President has now declared a major disaster in my home State, Minnesota, and ordered Federal aid to supplement State and local recovery efforts in areas hard hit by severe flooding, severe winter storms, snow melt, high winds, rain and ice. And this all continues. The declaration will make funds available for grants, disaster housing and low-interest loans to cover uninsured damaged property and other aid to help residents, businesses and local governments cope with ongoing storm and flood damage.

I am pleased by the swift action taken by the emergency management division of the Department of Public Safety in Minnesota. Jim Franklin and his hard-working staff, very hard-working staff are to be commended for their efforts. I am very pleased with the action taken by the Federal Government as well.

I think James Lee Witt is one of the greatest employments ever made by any President. He has been so responsive to all of us in this country when citizens in our States are faced with these very difficult and painful crises. I do not think crisis is an exaggeration.

I am also really pleased with the way in which SBA, the Small Business Administration, has been so responsive.

Today, I will be requesting $50 million in additional energy assistance, the LIHEAP program, to help families who will soon be returning to their homes only to find their heating systems have been damaged. These are individuals with low income, many of them elderly, many of them families with children, who, because of the severe cold we have had all winter, have already had a very difficult time paying their heating bills. This aid is desperately needed. Many waterways in our State are already at record water levels. The Minnesota River is threatening to totally overrun many cities along its border. Record flood conditions are being predicted along the Red River, which is expected to crest within the next few days.

Along the Red River there are still ice and snowpacks which will be melting in the coming days and weeks, further threatening communities already under siege in northwestern Minnesota, and flood conditions continue to build along the Mississippi River as well, cresting any day now.

Some communities have already been hit and are under water and ice. In the town of Ada, nearly all the 1,000 residents have been forced to evacuate, including residents of a nursing home who had to be rescued by the National Guard. And, thank you, National Guard, for all of your fine work. Many of these people had little or no time to pack their belongings before fleeing. And when they return, little will likely be salvageable.

In Appleton, ice floe broke through the levee, and the river now has surged 21.5 feet in one-half hour, forcing a massive volunteer effort to halt the flow of surging water and further prevent housing damage. The Pomme de Terre River—let me repeat that—has surged 21.5 feet in just one-half hour.

The record flooding and cold temperatures have had a major impact on Minnesota. There have been widespread power outages throughout parts of the State, and with the flooding and the cold, emergency repair crews are unable to get to the affected areas. Many farmers are having trouble farming, and it is going to be a very, very difficult spring planting season.

I am very pleased, again, that FEMA Director James Lee Witt has done so much and will be coming to Minnesota to see firsthand the devastation. I believe he will be coming to South Dakota and North Dakota as well. As a Senator from Minnesota, I express my sympathy to Senators from the Dakotas. Of course, we will all work together.

I have been touched by the sense of community among many people in Minnesota. Many folks do not care who they are working next to as long as they are working for their communities. People are working tirelessly, around the clock, to hold back the river. Neighbors are standing shoulder to shoulder, sandbagging. Volunteers are tirelessly serving sandwiches and hot coffee at fire stations.

When I was in Montevideo last week, it was just amazing. People who live on the high ground, they don't ever have to worry about the flood; they are out there, I mean really working to the point of exhaustion, sandbagging for others. High school students, I say to the pages, have volunteered their time, and they are doing a great job. That is the good news. The good news is the goodness of people in Minnesota. The good news is all the ways in which people are working together—I might add, to my colleagues, Democrats, Republicans, and others. The good news is the voluntarism of young people. The bad news is that in all too many communities, it really looks like a war zone.

The weeks and months ahead will include many more hours of hard work, cleanup, removal of sandbags, restoration of buildings, and ensuring that water supplies are not contaminated. People need not only the support of their neighbors, they need the support that only the Federal Government can provide.

It is interesting. Colleagues, Republicans and Democrats from other States, during the years I have been here in the Senate, have come to the floor and spoken about what citizens in their States have been confronted with. I think all of us are sympathetic and all of us try to provide the support.

I thank President Clinton for his very prompt response. I thank my colleagues in advance for the support I know they will give. I thank colleagues who have come up to me in the last couple of days and have asked me, how are people doing? What can we do to help? I am really proud—it is not a politician speaking—I am just really proud of people in Minnesota. I wish people did not have to go through this. I am emotional about it. I am really emotional about it. I just wish this was not happening, but it is, and it is so important that all of us at the Federal level try to provide assistance to people in communities not just in Minnesota but around the country when they are faced with these kinds of disasters. This really is a disaster.

I look forward to getting back home as soon as possible this weekend. I look forward to James Lee Witt and others coming to visit Minnesota, North and South Dakota, and other States that are going to need the help. People really need the help. People really need the help, and we have to make sure we provide it.

I yield the floor. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FTC CASE AGAINST JOE CAMEL

Mr. LAUTENBERG. Mr. President, yesterday I introduced the Tobacco Disclosure and Warning Act. This bill will require tobacco companies to disclose the ingredients, including the carcinogens, that exist in cigarettes. Cigarettes are the only consumable product in America today, the only one, whose ingredients are not disclosed. All kinds of food products list all of the ingredients very specifically. I think it is wrong. The public should know what is in the cigarettes. We work hard and invest a lot of resources to stop our kids from doing things like eating lead-based paint or drinking water with lead. We should not let them smoke it.

This bill would also require large, blunt and centrally placed health warnings on cigarette packs of the types used in other countries. I look at this one, which is done in Canada. Very clearly, on the black portion here, it says, "Smoking can kill you." It is also printed in French to make sure that people understand the threat to their health when they take up smoking.

I want to particularly focus on the issue, now, of tobacco advertising and direct it toward the industry's use of Joe Camel. As you know, the Federal Trade Commission has jurisdiction over the fairness and truthfulness of advertising. Today, I am sending a letter to the Chairman of the FTC, Robert Pitofsky, encouraging the Commission to bring a case against R.J. Reynolds for unfair advertising because of its portrayal of Joe Camel in its advertising campaign. I am joined by Senators DURBIN, KENNEDY, HARKIN, WELLSTONE, WYDEN and MURRAY.

I ask unanimous consent the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 9, 1997.

Hon. ROBERT PITOFSKY,
Chairman, Federal Trade Commission,
Washington, DC.

DEAR CHAIRMAN PITOFSKY: We are writing to you today to encourage you to reopen an unfair advertising case against the R.J. Reynolds Tobacco Company for marketing cigarettes to children. The company's Joe Camel campaign is an outrageous attempt to attract children to their product—a product that is illegal for children to purchase.

Numerous new facts have been uncovered about the tobacco industry's marketing efforts since the Commission's 1994 decision not to bring such a case against R.J. Reynolds. The most recent development was the Liggett Group's admission that the tobacco industry does in fact target children in its marketing efforts.

In addition, the Food and Drug Administration has collected R.J. Reynolds documents that evidence a company policy to appeal to "presmokers" and "learners" ages 14 to 18. A 1993 company study indicated that 86% of children age 10 to 17 recognized the image of Joe Camel, and 95% of those children knew that Joe Camel sold cigarettes. Since Joe Camel was introduced, Camel brand's youth market share has jumped from less than 3 percent to as high as 16 percent.

For these reasons, we believe it is time for the FTC to step in to protect our nation's children from a product that kills one-third of its users. While tobacco companies have a right to advertise their product to adults, the peddling of illegal drugs to children cannot be tolerated.

Sincerely,

FRANK R. LAUTENBERG.
RICHARD J. DURBIN.
PAUL WELLSTONE.
EDWARD M. KENNEDY.
RON WYDEN.
TOM HARKIN.
PATTY MURRAY.

Mr. LAUTENBERG. Mr. President, the letter simply asks the Chairman of the FTC to revisit this case, because we believe that R.J. Reynolds is intentionally advertising a product to children which is illegal to sell to them. In 1994, the FTC voted 3 to 2 against bringing such a case against R.J. Reynolds. At that time, the Commission cited a lack of evidence. But since then, dramatic new evidence, new material has become public. Last year, 67 Members of the House wrote a letter asking the FTC to reopen the investigation. The FTC staff has recommended that the Chairman do just that, and he will be making a decision over the coming weeks.

Mr. President, Joe Camel is a prime example of advertising that ought to be stopped. If Joe Camel were real and smoked as much as he does in his ads, he would be a dead camel. He would have bit the dust from emphysema, lung cancer, and heart disease.

The R.J. Reynolds company promotes the line of cigarettes with a cartoon character that is named "Joe Camel." This character is seen in the advertisements promoting a "cool" and "smooth" image. He is often seen holding a cigarette out to the viewer of the ad. A picture I noticed most recently is he is in a beach chair someplace where the sand is nice and white and fresh, and he is sitting there.

Why would a tobacco company use a cartoon character to market its product? It does not seem like a cartoon is the best way to appeal to adult smokers. R.J. Reynolds claims it is marketing to adults with Joe Camel. It is hard to believe.

An article published in the Journal of the American Medical Association revealed that 6-year-olds—6-year-olds—were as familiar with Joe Camel as they were with Mickey Mouse. The Disney company has spent decades and a great deal of effort promoting Mickey Mouse, and if R.J. Reynolds is not marketing to kids, then it has pulled off perhaps the most successful accidental promotional job in mass media history.

I want to be clear, I do not think that children are being drawn to Joe Camel by accident. The truth is that R.J. Reynolds is marketing its deadly product to children.

In preparation for its rule designed to decrease teenage smoking, the Food and Drug Administration collected documents that show that R.J. Reynolds targeted what it calls presmokers, identified as children as young as 14. A 1993 R.J. Reynolds document boasted that 86 percent of children age 10 to 17 recognize the image of Joe Camel and 95 percent of them knew Joe Camel sold cigarettes.

The most telling statistic is that since Joe Camel was introduced, Camel's share of the youth cigarette market has jumped from 3 percent to as high as 16 percent. Despite this criticism, R.J. Reynolds recently decided to engage in even more egregious behavior. It is now targeting kids based not only on age but race as well.

Mr. President, despite the rising rates of teenage smoking overall, African-American children have bucked the trend. How has the tobacco industry responded? It seems that R.J. Reynolds has decided that since its current marketing tactics are not working, it ought to target specific groups of children, particularly African-American children. Not only have they targeted those children, but it is promoting a line of camels even more deadly than its standard cigarettes.

Recently, R.J. Reynolds introduced a product called Camel Menthols. Menthols are a particularly dangerous type of cigarette. The menthol cools the smoke so that it can be ingested deeper into the lungs. Unfortunately, menthols are very popular in the African-American adult community. Critics are now charging that this line of Camel Menthols is designed specifically to appeal to African-American teens. In fact, it has been shown that R.J. Reynolds has revamped the Joe Camel image for Camel Menthols ads to make the character more appealing to African-American teenagers.

I consider R.J. Reynolds' corporate behavior inappropriate, and I hope that the FTC will take steps to end this advertising aimed at our kids, or any advertising aimed at our kids, because no parent, no guardian in good conscience could say to a child, "Listen, here's some lead, here's some benzene, here's some arsenic, here's some chromium. If you feel like having a little bit of it, take it." Your conscience would never permit it, and the law would probably incarcerate you for endangering the health of a child. But here we have this advertising of a product that carries all of these elements in them.

I have asked in this bill that was introduced yesterday to make sure all 43 carcinogens that are used in tobacco products are clearly identified and that people are conscious of the fact that smoking may taste good, but once they try it, they live with it for as short a period as their life will be.

THE LIFE OF TIM HAGAN

Mr. BOND. Mr. President, today in my hometown of Mexico, MO, a very dear lifelong friend, Tim Hagan, will be buried. Lowell Lambert "Tim" Hagan, III, owner of Hagan Clothing Co., died Sunday after a long battle with cancer, and will be sadly missed by his family and all of us who were privileged to be counted among his friends.

Tim was a tremendous businessman and community leader. Born and raised in Mexico, MO, Tim developed a lifelong reputation as "doer". He successfully ran the family clothing business, and was involved in numerous community organizations, including the Rotary Club, the Mexico Chamber of Commerce, and the Mexico Country Club. Out of compassion for those less fortunate, he was the former president of the Audrain County Cerebral Palsy Society, and for 6 years was chairman of the Missouri National Multiple Sclerosis Hope Chest Campaign.

Because of his understanding of the daily challenges small business owners face, Tim was chosen to be part of the Missouri delegation for the White House Conference on Small Business in 1995. That conference was one of the most successful in history, in that some of the ideas generated by Tim and others to create small business jobs and opportunities have been acted on by Congress and many others are now being discussed.

Tim also felt that the education of our children and youth was particularly important to securing a good future, and was instrumental in bringing the Technical College to Mexico. That contribution will benefit the youth of Audrain County for years to come. His presence and spirit in the community will also continue to be felt for many years in that his own son, John, will continue to run the fourth generation family business.

Tim shared with his friends a love of his Irish ancestry, though his love was more frequently and forcefully expressed as a lifelong Democrat. Even in the last days of his illness, he and I engaged in many spirited, but good natured political debates.

Our culture is quick to glorify the here and now, the "flash in the pan" celebrities, the "cause" of the day. By that measure, Tim Hagan stood apart. While he was known in the community as a "feisty Irishman" with unfailing energy, he was also a builder. He spent his entire life making life better for his family, his employees, his church, and his community. His love for others knew no racial or social boundaries. We will miss him terribly.

I ask unanimous consent that an editorial by Joe A. May in yesterday's Mexico Ledger be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Mexico Ledger, Apr. 8, 1997]

Memories of a Courageous Man

One measure of a man's life is how much he's missed once he is gone. The death of Tim Hagan Sunday has left a void in this community as immense as the spirit with which he moved through this world.

Tim excelled as a husband, father and businessman, but somehow that was expected. Those who had the pleasure of his acquaintance knew he was incapable of offering anything less than the best.

Through his work and volunteerism Tim touched many lives and those of us who knew him will always treasure our favorite memories.

Some may remember the third-generation clothier's innate touch of class.

Some will remember the Mexico native's dedication to civic projects that have improved our city.

Some will remember the gregarious Irishman and his unflagging enthusiasm for the sports teams of his alma mater, Notre Dame.

Some will remember the dedicated golfer and his exploits on the greens or his stories of the game that time and blarney could always improve.

As for me, I will remember Tim's friendship, his humor, his generosity, his gift for lightening the burdens of others.

But all of us can share the memory of Tim's determination. He had battled cancer since 1990. The faith, conviction and love for family he demonstrated during that fight should serve as an inspiration. Even on the most trying of days, his attitude remained positive, his smile present.

His courage to the end provided the best testimony to the man, his spirit and the life he spent among us.

He died as he lived—a feisty Irishman.

Goodbye, my friend. I will miss you.

RETIREMENT OF DR. JOHN B. BEGLEY

Mr. FORD. Mr. President, I come to the Senate floor today to pay tribute to a man who simply could not have worked any harder on behalf of the Kentucky college he has represented for the past 20 years.

A native of Harrodsburg, KY, Dr. John Begley returned to Kentucky in 1977 as head of Lindsey Wilson College in Columbia. It's hard to believe that the school John leaves today is the same one he came to 20 years ago.

Back then, Lindsey was just another struggling junior college. Today, it's the fastest growing liberal arts college in Kentucky. Back then, enrollment hovered around 222 students. Today, 1,372 students look to Lindsey for the tools to shape their futures. Back then, the school operated on a $600,000 a year budget and took in no more than $50,000 a year in donations. Today, Lindsey has a $14 million budget, pulls in $1.3 million annually in donations and raised $18 million in a 5-year capital campaign.

But perhaps most remarkable is that under John's leadership, the college has in no way sacrificed quality. Instead, they have strived for, and by all accounts achieved excellence.

In addition to 15 baccalaureate majors, the college instituted a masters in counseling and human development. Within just 2 years, the accrediting arm of the American Counseling Association ranked the masters program as one of the top 12 counseling programs in the Nation.

In an area of the State struggling for economic advancement, John made sure the college met the unique needs of Appalachian families. That meant making sure the college was readily accessible to area residents looking for the resources they needed to better their lives. With eight satellite branches, south central Kentuckians of all ages and from all walks of life can take advantage of the educational and job training opportunities at Lindsey.

In addition to academic excellence and steady financial growth, John always looked toward improving the quality of student life. One way he did that was through athletics. With 14 athletic teams and a men's soccer team that has won back to back NAIA national championships—the first Kentucky college to do so in 45 years—the college has struck an important balance between excellence in academics and student life.

Clearly, John's successes came with the help of hundreds of hard working colleagues, a community receptive to the college's needs, and a student body that took pride in their college's successes. But there can be no doubt that John's leadership pulled those forces together and created something really wonderful—something all Kentuckians can look on with pride.

Mr. President, I know I am not alone in wanting to thank John for leaving the college not only with a firm foundation from which to keep building, but a standard of excellence that will serve generations of students and faculty for years to come.

THE MINNESOTA FLOODS OF 1997

Mr. GRAMS. Mr. President, I just want to take a few minutes today to discuss the devastating floods that are paralyzing much of my home State of Minnesota. Most of the Nation knows we are experiencing some of the worst flooding in our history this week, and due to the severe snowfall of this past winter, damage is expected to surpass that of the disastrous 1993 floods.

Not only are Minnesotans fighting against the rising floodwaters, but they are doing it in the wake of a blizzard that brought snow, ice, and bitterly cold temperatures to our State this weekend, as well. It has truly been an ordeal—my heart goes out to those who are working desperately to save their homes and land, and my thanks go to the thousands of Minnesotans who have stepped forward this week to help their friends, families, and neighbors. It is reassuring to know that our communities share a collective heart, and can be counted upon to come together during tough times.

Now that President Clinton has approved our request that Minnesota be declared a disaster area, Federal money for flood victims is available in 21 Minnesota counties. That will enable cleanup efforts to get underway, and help families and individuals whose homes and property have been damaged or destroyed.

As of this past Monday, Minnesota Governor, Arne Carlson, had activated more than 1,000 of the state's 11,000 National Guard troops to assist with sandbagging, emergency evacuation, and other flood-related duties. The Guard has been tireless in their desire to help and we thank them for that as well.

The disastrous floods have severely disrupted the lives of many, many Minnesotans, whose primary concern now is to ensure that their families and communities are safe, with adequate food and shelter. That being the case, I have requested that Commissioner Richardson of the Internal Revenue Service extend the tax filing deadline for those taxpayers living within the disaster area. Considering the many challenges Minnesotans will face in the next few weeks, cleaning up and rebuilding their lives and communities, extending the April 15 deadline is crucial. I hope Commissioner Richardson will act immediately to grant the extension.

Mr. President, we are used to harsh winters in Minnesota, but even we Minnesotans have never seen anything like this. Earlier this winter, heavy snows resulted in a Presidential disaster declaration for snow removal in 55 Minnesota counties. That rapidly melting snow has now caused extensive flooding on virtually every river and tributary in the State. This past weekend, the situation was compounded when Minnesota was hit by a combination ice storm and blizzard. Freezing rain and snow downed countless utility lines in northwestern Minnesota, leaving more than 50,000 residents without power. Some power has been restored, but it is estimated that other areas may be without power for another 7 days before repairs can be completed. The weekend storm, along with the severe snows of this past winter, will make flooding this spring some of the worst in our history.

For communities along the Minnesota and Mississippi Rivers east and south of Montevideo and south of Anoka, which includes the Twin Cities metro area, the worst flooding is on the way and record and near-record crests are expected there. The same is true along the north-flowing Red River along the Minnesota-North Dakota border. In Ada, in the State's northwestern corner, three-quarters of the town's 1,700 residents have been evacuated from their homes.

The flooding has been an exhausting nightmare for those who are in it, and agonizing for the rest of the Nation to watch. Yet, we have been inspired once again by the people of Minnesota, who have rallied together for their communities as they always do when tragedy strikes.

Young and old are working side by side to save their communities, filling and hauling sandbags, feeding those who have lost their homes and finding them shelter, and making sure the volunteers are well cared for. I read the comments of Marvin Patten of Granite Falls, who does not have flood insurance and whose living room is flooded under 18 inches of water. He said, "At first I sat and cried, but after a few days you realize that we will manage."

Shortly after the mayor of Granite Falls pleaded for sandbagging volunteers, he told a reporter that "everybody in town showed up. Just like that. Amazing. I am stupefied." Now, as I read comments like those and speak with Minnesotans who live in the flooded areas, I cannot help but think it is during critical times such as these that we finally understand the importance of community, of neighbor helping neighbor. Those are the qualities that make us Minnesotans.

I want to take this opportunity to thank God for the mercy he has granted and the blessings he has bestowed upon our families and communities. It is within His strength that we find our own.

Mr. President, I heard the remarks of my colleague from Minnesota earlier this afternoon, and I appreciate his words and his efforts on behalf of the people of our State.

We stand together with our colleagues from North and South Dakota, who are facing devastation in their States equal to our own. When disaster strikes, we are not Republicans or Democrats. We are representatives of the people, and we will do whatever we must to protect our citizens when their lives, homes, and property are threatened.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, April 8, 1997, the Federal debt stood at $5,384,125,088,631.94. (Five trillion, three hundred eighty-four billion, one hundred twenty-five million, eighty-eight thousand, six hundred thirty-one dollars and ninety-four cents)

One year ago, April 8, 1996, the Federal debt stood at $5,134,564,000,000. (Five trillion, one hundred thirty-four billion, five hundred sixty-four million)

Five years ago, April 8, 1992, the Federal debt stood at $3,893,440,000,000. (Three trillion, eight hundred ninety-three billion, four hundred forty million)

Ten years ago, April 8, 1987, the Federal debt stood at $2,288,725,000,000. (Two trillion, two hundred eighty-eight billion, seven hundred twenty-five million)

Fifteen years ago, April 8, 1982, the Federal debt stood at $1,061,093,000,000 (One trillion, sixty-one billion, ninety-three million) which reflects a debt increase of more than $4 trillion ($4,323,032,088,631.94) (Four trillion, three hundred twenty-three billion, thirty-two million, eighty-eight thousand, six hundred thirty-one dollars and ninety-four cents) during the past 15 years.

COMMENDING THE UNIVERSITY OF TENNESSEE WOMEN'S BASKETBALL TEAM

Mr. THOMPSON. Mr. President, today I want to recognize the achievement and success of the University of Tennessee's Women's Basketball Team in winning the 1997 NCAA Division I Women's Basketball Championship.

Under the outstanding leadership of coach Pat Summitt, the Lady Volunteers have taken home the championship trophy 2 years in a row. These are the first back-to-back championships in 13 years, and we couldn't be any prouder back home in Tennessee.

Throughout the season, the Lady Volunteers had their share both of tough games and exciting wins. But they proved their talent and skill in the end with their victory in the NCAA tournament.

Women's basketball has become a tradition in Tennessee, and those of us who are fans have grown accustomed to great performances on the court. Over the years, the University of Tennessee's Women's Basketball program has attracted some of the most outstanding scholar-athletes in the nation, and in doing so it provides one of the most notable examples of sports excellence and academic superiority to be found anywhere.

Coach Pat Summitt and her tremendous staff deserve special credit. With this victory, Pat takes the fifth NCAA title of her career, placing her behind only the great coach John Wooden in the championship tally. Pat has achieved a real milestone in winning 5 trophies in just 11 seasons. She's been in charge of the team for 22 years now, starting when she was a graduate student, and only 1 year older than some of her players. Today, the program she worked to build and maintain has helped set the standard for many other successful athletic efforts in other universities, and women's college basketball is a national phenomenon.

In a word, Pat is a trailblazer. She has helped raise the profile of the exciting sport of women's college basketball, and she's created a lot of new fans.

This championship season at UT will be remembered for a lot of things, but most notably I believe we'll look back at the heart and the determination that led these women through to victory. The people of Tennessee, fans and UT alumni who live across the country and around the world are proud of this exceptional achievement.

When the UT Women cut down the nets in Cincinnati, they took home the memory of a hard-fought victory across a dramatic 5-month season. In a team loaded up with talent, the members came together for the effort it took to bring home the trophy. With a record of 29 wins and 10 losses, the Tennessee Lady Vols came through in the clinch. They surprised those who counted them out. In the end, they won the final game 68–59, leading for the entire first half in the game against Old Dominion and keeping up the pressure in the second half.

All the loyal fans of the University of Tennessee and all those who enjoy women's basketball have had the privilege of enjoying this fantastic season in a string of fantastic seasons. And with the young team and the new recruits, there's sure to be more excitement on the way in the coming years. What a great achievement this is by an outstanding group of athletes and coaches. Congratulations to the University of Tennessee Lady Vols—the 1997 NCAA champions.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. ALLARD. Mr. President, I also ask unanimous consent that morning business be extended for an additional 30 minutes.

The PRESIDING OFFICER. Is there objection?

Hearing none, without objection, it is so ordered.

Mr. DORGAN. May I ask, Mr. President, the Senator from Colorado if I could ask unanimous consent to follow his presentation with 15 minutes? My understanding is he is going to speak for 15 minutes, so that I be allowed to take the 15 minutes following his 15 minutes.

Mr. ALLARD. That is fine. I requested 30 minutes, so that 15 minutes would be allocated to myself and 15 minutes allocated to the Senator from North Dakota.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I thank the Senator.

THE OPIC ELIMINATION ACT

Mr. ALLARD. Mr. President, during my campaign for the U.S. Senate, I expressed the themes of balancing the budget, congressional reform, making Government smaller, and moving the power out of Washington and to the States and localities. This is why I am proud to introduce Senate bill 519, the Overseas Private Investment Corporation Termination Act, better known as the OPIC Termination Act.

As a Member of the other body during the 104th Congress, I voted to reform the welfare system of this country. I voted to end the subsidies for farmers. And now I believe it is time to end this form of corporate welfare for large companies.

I have never believed in give-away programs. Whether you are a farmer or a large corporate owner, you should play by the rules of the free market system. "Less Government" should be the motto of this Congress.

OPIC is a Government agency which was established in 1969 and is now active in 144 countries. It finances investments for American Fortune 500 companies through direct loans, subsidized loan programs, and insures them against political risk, expropriation and political violence. It entices companies to enter into risky transactions from which private lenders shy away.

This private activity may seem to have a good end goal, but the problem is not the end but the means. Basically, this is an insurance program run by the Federal Government for corporations who want to invest in risky political situations. In short, we are running an insurance program for major corporations.

What makes this even more problematic is that OPIC does not back this investment with their own finances, but with the full faith and credit of the U.S. Government—in its simplest terms, the U.S. taxpayer. Every loan and loan guarantee that OPIC finances puts the U.S. taxpayer at risk. Today, nearly $25 billion is being risked in the name of the taxpayers of these corporate OPIC loans.

Compounding the situation is that these loans and loan guarantees are not safe investments. The Congressional Budget Office supplied a list of the quality of the portfolio at the end of the year, 1995. OPIC has consistently taken risks in operations that are defined with the D-minus credit rating and even an F-double-negative credit rating.

As a member of the Banking Committee, I can assure you that if the U.S. taxpayer goes into a bank to get a loan to buy a house and they have an F-double-negative credit rating, the bank will ask you to please leave the building. But the Overseas Private Investment Corporation does it every year, and with the hard-working taxpayers' money, dollars backing these loans. So the same taxpayer who can never have a chance to secure a loan with this rating is securing loans for projects with the same kind of credit rating.

The simple fact is subsidies have shown that this portfolio is so risky you cannot even privatize OPIC because no buyer could risk losing billions of dollars if these loans go bad. Proponents of OPIC state that no loan or loan guarantee has gone bad and this is not risky.

If this scenario sounds familiar, it is because we have seen it before. In the late 1980's, the same claims were made by the Federal Savings and Loan Insurance Corporation, at least until the crisis hit. One decade and $180 billion in taxpayer bailout dollars later, we found this was not the case. It has been said that if we do not learn from the past, we will ultimately repeat it. If we do repeat history, it will again be the farmer in Sterling, the technician in Denver, and the accountant in Grand Junction who picks up the bill. I have learned from the past, and I do not want my children and grandchildren to suffer through another corporate bailout.

Who gets these loans? Coca-Cola, DuPont, Union Carbide, McDonald's, and even two banks, Chase Manhattan and Citicorp. These, and many other large companies with OPIC loans, are not cash-starved companies, but companies with strong bottom lines. I do not believe the Federal Government should be in the business of business, and I do believe these companies can stay strong and survive without OPIC. As in life, if the risk is too high, then maybe you should look elsewhere.

What do OPIC loans buy? We, the taxpayers, have developed a soft drink bottling company in Poland and Ghana, a travel agency in Armenia, a magazine in Russia, a lumber mill in Lithuania, an art gallery in Haiti, cable television in Argentina, a hamburger bun bakery and phone book directories in Brazil.

Now, there may be some worthwhile projects and successes funded by OPIC, but, again, I do not believe that we need to be risking hard-working taxpayer money on these ventures. Plus, this is a subsidy that does not get built into the cost of a product which may compete against American products that are not subsidized.

Also, proponents of OPIC believe that if OPIC does not provide this insurance, then companies will not enter these risky markets. There are certainly private alternatives to OPIC's activities and one is starting investment funds for developing countries. Today, there are hundreds of private developing country investment funds. Portfolio money is flowing into all parts of the developing world. If interested, they are listed on the New York Stock Exchange. Even the proponents cannot deny the existence of those private alternatives or that they may be available at lower cost. However, it seems they know a good deal when they see one. With OPIC selling the full faith and credit of the U.S. taxpayer, foreign governments would be less likely to stick them with the bill.

Again, here lies the problem. These subsidized loans to promote trade and investment abroad distort the flow of capital and resources away from the most efficient uses, thus distorting trade and investment abroad. OPIC's impact on U.S. capital and resource markets may be negative due to these distortionary effects of subsidized loans. In layman's terms, OPIC distorts the marketplace, pushing out private investment, and does not allow it to grow.

This leads to the question, "Is this the appropriate role for Government?" What we are doing with OPIC is investing money in countries involving risky business deals. We are trying to help other countries' government-run corporations make the transition to the private sector. To do that, we run a Government corporation. Thus, we are trying to end other countries' government subsidies by running Government subsidies right here in Washington. This is not moving the power away from Washington, but right into the heart of D.C.

I am not the only one saying that it is time for OPIC to go. In the other body, Representatives ANDREWS, KASICH, SANDERS, ROYCE, CONDIT, DEFAZIO, KLUG, PETERSON, SHADEGG, JACKSON, PASCRELL, and DICKEY have introduced H.R. 387 eliminating OPIC.

Also, the National Taxpayers Union says few other Federal programs combine such undesirable elements as corporate welfare, wasteful spending, unnecessary foreign aid, mismanagement and risk to the American taxpayers as the Overseas Private Investment Corporation.

Milton Friedman, one of the leading experts of economics from the Chicago School of Economics, said he does not see any redeeming aspects in the existence of OPIC. It is special interest legislation of the worst kind.

This leads me to another important reason why OPIC should be eliminated.

It seems to me that OPIC may be used as a political slush fund. Whether this is a perception or truth, I believe it is time to end this perception of impropriety.

Mr. President, I ask unanimous consent to have printed in the RECORD a story from the Boston Globe dated Sunday, March 30, 1997.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Mar. 30, 1997]

TRADE TRIP FIRMS NETTED $5.5B IN AID DONATED $2.3M TO DEMOCRATS

(By Bob Hohler)

WASHINGTON.—Businesses that gave Democratic Party committees more than $2.3 million and won coveted seats on US trade missions during President Clinton's first term secured nearly $5.5 billion to support their foreign business operations from a federal investment agency.

In all, 27 corporations that sent executives on trade trips with the late Commerce Secretary Ronald H. Brown obtained part of a multibillion-dollar commitment in federally guaranteed assistance from the Overseas Private Investment Corp., according to a Globe analysis of fund-raising records, trip manifests, and OPIC documents.

All but three of the 27 OPIC recipients donated to Democratic Party committees, and most of them gave between $50,000 and $358,000 during Clinton's first term.

While the Globe reported last month that Brown's trade trips were a fund-raising bonanza for the Democratic Party, what has previously gone unnoticed is the massive amount of OPIC support given to companies that traveled with Brown and donated money to the Democrats.

OPIC provides financing and political risk insurance that many US businesses consider essential to expanding into unstable or developing democracies. The Clinton administration, with Brown coordinating much of the effort, relied heavily on the federally funded corporation to boost US exports and to create jobs through private investment abroad.

No one has alleged that government officials arranged the OPIC support in exchange for political donations, which would violate federal law. But federal and congressional investigators are examining whether Democratic Party leaders pursued a reelection plan based in part on providing perks such as seats on Brown's missions to major business donors, many of whom stood to gain from government actions.

Many of the businesses that sent executives on Brown's missions gave to the Republican Party, though generally less than they donated to the Democrats. And several advocates for campaign finance reform said regardless of the Democrats' campaign strategy, the OPIC support that went to major donors on Brown's missions created the perception that corporate givers got what they wanted.

The average company contribution to Democratic committees from OPIC recipients on Brown's trips was nearly $95,000. The average support from the agency for the 27 recipients was about $200 million per company.

Bill Hogan, director of investigative projects for the Center for Public Integrity, said there were three ways to look at the Brown trips, agency assistance, and donations to Democratic committees.

"One is that it was a happy accident," Hogan said. "Another is that the donations were an unbelievable investment. And the third is that the companies would have gotten the assistance anyway, and they just made nice, spontaneous thank-you gifts to the party."

OPIC spokeswoman Allison May Rosen said agency officials "may not have known" that companies applying for assistance had contributed to Democratic committees or sent executives on missions with Brown.

Rosen said Brown and other administration officials may also have discussed particular projects with OPIC staff, including the agency's president, Ruth R. Harkin, the wife of Senator Tom Harkin, Democrat of Iowa.

During much of Clinton's first term, one of Brown's top associates, Jeffrey E. Garten, then undersecretary for international trade, served on OPIC's board of directors.

In addition, Brown attended several signing ceremonies for OPIC-supported projects, including a 1995 event with Palestinian leader Yasser Arafat for a bottled-water operation in the West Bank and Gaza involving Culligan Water Technologies Inc. of Illinois.

Rosen said OPIC awards corporate support solely on the basis of a professional review process geared to "using our limited resources in a careful and prudent manner."

Much of the OPIC support for participants on Brown's missions was granted while the agency experienced what Harkin described to a House panel last year as "an unprecedented demand for services." But even in such a competitive climate, partisan political considerations have never affected a decision on granting OPIC support, according to Rosen.

"It's not in our world," she said.

Brown, widely regarded to have been the Clinton administration's most aggressive advocate for US businesses abroad, died with 34 other people when the Air Force plane carrying them on a trade mission to Bosnia crashed into a mountainside in Croatia on April 3, 1996. Four of the victims were executives with companies that had received OPIC support: AT&T, Bechtel Corp., Foster Wheeler Corp., and Harza Engineering Co.

Commerce spokesman Jim Dessler said it was "natural that there is a correlation between Commerce trade missions, which focus on emerging markets, and OPIC financing, which deals with investments in developing markets."

But Dessler said Commerce officials exerted no influence on the OPIC staff on behalf of trade mission participants or Democratic donors. "Absolutely none," he said.

OPIC, whose federal funding is under fire from some lawmakers who consider it "corporate welfare," provides insurance and loan guarantees generally not available in the commercial market because of risks involved. Corporate recipients pay high insurance premiums and substantial loan interest, which has helped OPIC turn a profit every year since it was founded in 1971.

The agency received $104 million in federal funds last year and returned $209 million to the Treasury.

Companies that went on Brown's trade missions received nearly 14 percent of OPIC's total financial commitment of $40.6 billion from 1993 to 1996, which included $34.5 billion in political risk insurance and $6.1 billion in financing.

The businesses on Brown's missions received about $3.5 billion in risk insurance and $2 billion in financing.

Among the companies that traveled with Brown, OPIC supported projects ranging from Pepsi Cola bottling in Poland to rocket engine development in Russia to cellular phone systems in Argentina, Hungary, India, and Nicaragua.

The only Massachusetts company among the OPIC recipients was State Street Bank and Trust Co., which sent an executive to a trade summit with Brown in Amman, Jordan, in 1995. State Street gave $20.500 to the Democratic Senatorial Campaign Committee in 1995 and 1996, and $10,000 to the Democratic National Committee in 1996.

OPIC, in fiscal 1996, provided State Street a $54 million insurance policy on the company's investment in a Brazil manufacturing project.

Kari Murphy, a spokeswoman for State Street, said the company has complied with its policy of taking "an active role in the governmental process as a good corporate citizen." She said that includes obeying "the letter and spirit of all campaign finance and contribution laws."

As for the Brown mission, which preceded State Street's OPIC assistance, Murphy said, "Neither then nor later did State Street or any of our officers seek favorable treatment from public officials or government agencies or make any political contributions in connection with the trip."

Of the other companies represented on Brown's missions, OPIC gave the bulk of its support—$1.62 billion—to Citicorp of New York and its subsidiaries. Citicorp received financing or political risk insurance for projects in 23 countries during Clinton's first term.

Citicorp was among 15 of the 27 OPIC recipients on Brown's trips that had received support from the agency before Clinton took office. And not all were major Democratic supporters.

Among them was Anderman/Smith Overseas Inc., a Denver-based oil company that received $40 million in political risk insurance from OPIC in 1992 to develop a giant oil field in Russia's western Siberia.

In 1994, when an Anderman/Smith executive joined Brown on a prized trade mission to Russia, OPIC also provided the company with a $40 million loan guarantee.

Yet Anderman/Smith was a small player in Democratic fund-raising, with total contributions of $5.250 coming from an executive's family. "We wanted to succeed on our own merits," said James Webb, the company's chief financial officer.

Webb praised OPIC as competent and professional, saying the agency "looked into every nook and cranny" of his company's finances. "We certainly didn't get any special treatment," Webb said.

The biggest giver to the Democrats among the companies on Brown's missions was Entergy Power Development Co. of New Orleans. After donating only $20.000 to Democratic national committees in 1991 and 1992, Entergy's giving soared to $337.613 during Clinton's first term.

Entergy's chairman, Edwin Lupberger, traveled with Brown to China in 1994 to close a deal to build a $1 billion power plant there with the Lippo Group of Indonesia. Lippo's ties to former members of the Clinton administration are under investigation by the FBI.

The Entergy-Lippo deal fell through. OPIC, which does not do business in China, was not involved in the project.

However, Entergy received $165 million of insurance coverage from OPIC in 1996 for a hydroelectric power project in Peru.

An Entergy spokesman did not return a phone call.

Several other federal agencies, including the Export-Import Bank, the US Agency for International Development, and the US Trade and Development Agency, also provided assistance to businesses that gave to the Democratic Party and sent executives on trade missions.

Administration officials said politics played no role in any funding decision. But campaign reform advocates were skeptical.

"In too many cases," said Ellen Miller of the advocacy group Public Campaign, "it looks as if those who had the opportunity to reap those kinds of rewards were those who invested first in the Democratic Party."

FOREIGN TRADE, US AID

Twenty-seven companies that obtained coveted slots on trade missions with the late Commerce Secretary Ronald H. Brown during President Clinton's first term received support for foreign projects from the Overseas Private Investment Corp., a federal agency. All but three of the companies donated to the Democratic Party in the same period.

Company	Donations to Democratic Party		OPIC aid 1993–96	
	Brown trip	1993–96	Amount	Country
Entergy Power Development	China	$337,613	$165m	Peru.
AT&T	G–7 Summit—China; Middle East; Russia	351,400	100m	India.
US West	India; Russia	243,500	20m	India.
Do	do		11m	Poland.
Do	do		24.5m	Brazil.
Do	do		50m	Indonesia.
Do	do		75m	Russia.
Do	do		25m	Hungary.
Do	do		45m	Hungary.
Do	do		135m	Russia.
Bechtel Group	Middle East	189,650	54.5m	Algeria
General Electric	Middle East, Mexico	186,275	45.2m	Costa Rica.
Fluor Corp.	China	147,500	200m	Indonesia.
Do	do		200m	Indonesia.
Enron Corp.	India	142,400	200m	India.
Do	Middle East		10m	Turkey.
Do	Kuwait		200m	Turkey.

Company	Donations to Democratic Party		OPIC aid 1993–96	
	Brown trip	1993–96	Amount	Country
Do	do		100m	Colombia.
Do	do		300m	India.
Do	do		69.2m	Philippines.
Edison Mission Energy	China	91,700	50m	Thailand.
Do	do		200m	Indonesia.
Do	do		80m	Turkey.
Do	do		200m	Indonesia.
Akin Gump	Middle East	91,300	65,250	Bolivia.
Tenneco	Middle East	75,450	20.8m	Indonesia.
Do	Spain; India; Latin America		70m	Romania.
Pratt & Whitney	Russia; South Africa; Saudi Arabia	75,000	50m	Russia.
Phibro Energy Production Inc.	Russia	70,450	20m	Russia.
General Motors	Spain; Middle East	61,500	5.8m	Argentina.
Citicorp/Citibank	Middle East; Spain	57,277	200m	Hungary.
Do	do		200m	Trinidad.
Do	do		200m	Brazil.
Do	do		149.6m	Argentina.
Do	do		100m	Russia.
Do	do		70m	Brazil.
Do	do		49.8m	Poland.
Do	do		38.6m	Peru.
Do	do		34.1m	Peru.
Do	do		32.7m	Argentina.
Do	do		32.5m	Peru.
Do	do		31.8m	Jamaica.
Do	do		31.4m	Brazil.
Do	do		30m	India.
Do	do		27.4m	Argentina.
Do	do		27m	Thailand.
Do	do		26.3m	Turkey.
Do	do		26.1m	Brazil.
Do	do		25m	Haiti.
Do	do		25m	Russia.
Do	do		23.4m	Brazil.
Do	do		20.1m	Philippines.
Do	do		18.7m	Peru.
Do	do		17.7m	El Salvador.
Do	do		17.1m	South Africa.
Do	do		17m	Slovakia.
Do	do		15m	Colombia.
Do	do		14m	Czech Rep.
Do	do		13m	Brazil.
Do	do		12.8m	Bolivia.
Do	do		12.8m	Bolivia.
Do	do		12.4m	Jamaica.
Do	do		11.5m	Russia.
Do	do		11.5m	Colombia.
Do	do		10m	Indonesia.
Do	do		9.5m	Jamaica.
Do	do		8.6m	Costa Rica.
Do	do		6m	Tanzania.
Do	do		5.9m	Honduras.
Do	do		2.3m	Peru.
Do	do		2.1m	Philippines.
Do	do		1m	Lebanon.
Do	do		800,000	Jamaica.
Lockheed Martin	Middle East	50,950	33.5m	Russia.
Pepsi Cola	Middle East	35,000	80m	Poland.
State Street Bank & Trust	Middle East	30,500	54m	Brazil.
Du Pont de Nemours	Middle East	30,000	200m	Russia.
Harza Engineering	Middle East	21,500	47.8m	Nepal.
Motorola	Russia; India	11,700	42.2m	Russia.
Do	do		36.3m	Lithuania.
Do	do		43.7m	Brazil.
Do	do		46.7m	Brazil.
Do	do		36.7m	India.
Do	do		600,000	India.
Anderman Smith	Russia	5,250	40m	Russia.
Foster Wheeler	Spain; Middle East; Poland; China	3,000	25.8m	Venezuela.
Turner International	Middle East	2,000	3.7m	Kuwait.
GTE Corp.	Argentina	502m	175m	Argentina.
Do	do		200m	Argentina.
Duracell	Russia		12.7m	South Africa.
Cullingan Water Technologies	Jordan; Israel		1.6m	West Banks.
K&M Engineering	Middle East		87,256	Tunisia.
Total		2,338,917	5,458,952,506	

Source: Commerce Department, Federal Election Commission, Overseas Private Investment Corp., Campaign Study Group, Center for Responsive Politics, Globe staff.

Former Commerce Secretry Ron Brown's trade mission: Saudi Arabia—5/2/93–5/6/93; Mexico—12/7/93–12/9/93; South Africa—11/26/93–12/2/93; Israel—1/14/94–1/21/94; Russia—3/27/94–4/2/94; Poland—5/4/94–5/7/94; Latin America—6/25/94–7/2/94; China—8/26/94–9/3/94; India—1/13/95–1/20/95; Middle East—2/4/95–2/11/95; G-7 Summit (Belgium, Spain)—2/23/95–2/28/95; China—10/15/95–10/19/95; Spain—11/9/95–11/12/95; Middle East—10/27/95–10/31/95—Source: Commerce Department.

Mr. ALLARD. The headline from above the fold says, "Trade-trip firms netted $5.5 billion in aid, Donated $2.3 million to Democrats." It goes on to state that 27 corporations that sent executives on trade trips with late Commerce Secretary Ron Brown received part of a multibillion-dollar commitment in OPIC loans and guarantees. All but 3 of the 27 OPIC recipients donated to Democratic Party committees, and most of them gave $50,000 to $385,000 during the President's first term.

As mentioned in the story, it is very difficult to ascertain whether the OPIC loan influenced giving to the party, or if the donation influenced who received the OPIC assistance, or if there was any impropriety at all.

To me, it does not matter. Since the awarding of OPIC assistance is entirely discretionary by the administration in power, it invites and welcomes possible abuse as described in the Boston Globe. OPIC should not exist in the first place, and even the perception that it could be used as a slush fund, whether Republican or Democrats, makes its elimination even more important.

With this bill, some proponents of OPIC will describe me as antibusiness or antitrade. I guess to them, getting the Government out of the business of business is antibusiness. I must say that I believe this is a probusiness, anti big Government proposal.

I am a free trader. I am a supporter of the GATT and NAFTA, and believe that free trade is the best way to raise the living standards for all Americans. We need to support policies that reduce trade barriers. OPIC does not reduce trade barriers for all companies to compete in the marketplace. It is an income transfer program from U.S. taxpayers to a selected group of businesses, who may have donated or will feel obligated to give to a political party. These subsidies may increase exports for a few selected companies that have the political influence to secure these loans, but it does little to expand the overall economic growth of this country. OPIC loans protect inefficiency and reduce total economic activity, shifting economic resources from taxpayers and unsubsidized businesses to politically connected businesses. Free trade is about getting the Government out of the private sector. The Federal Government can advocate U.S. business and trade without supporting politically connected businesses. Let us push for open markets, not for open political purses.

Last, as we are attempting to balance the budget by the year 2002 and reduce Government spending, we must begin to eliminate giveaway programs and corporate welfare. Eliminating OPIC will save $107 million this year and $296 million over the next 5 years. This does not include the money saved if any of OPIC loans or guarantees go bad and have to be bailed out by the taxpayers. We must get all spending under control and all parts of the budget must sacrifice. Balancing our budget will do more to increase economic and job growth than any OPIC loan can offer.

Mr. President, this effort is supported by individuals on both the left and the right of the political spectrum. With all the talk by liberals and conservatives about eliminating corporate welfare, I believe it is time we begin to do what we say and it ought to start here with OPIC. OPIC should not exist under a Republican or Democrat President or Congress.

I thank you for this time and I ask all my colleagues to support S. 519 and this effort to eliminate the Overseas Private Investment Corporation.

The PRESIDING OFFICER. The Senator from North Dakota.

TRAGIC WEATHER CONDITIONS

Mr. DORGAN. Mr. President, a couple of my colleagues this morning have spoken, as I did yesterday, about the devastating blizzards and floods that have confronted people in North and South Dakota and the Minnesota region in recent days. I suppose only those who have been there can fully understand the dimension of the tragedy. It is, indeed, a tragedy.

North Dakota has had the toughest winter that it has ever had, with five and six major blizzards, closing down virtually all roads, including the interstate highways, causing serious problems. On top of that, with the expected floods that would come as a result of the record amount of snowfall from these previous blizzards, last week something called the grandfather of all blizzards came to North Dakota.

Leon Osborne, who works at the University of North Dakota and is someone who runs a weather service that I think is tops in our region, described this blizzard as the worst in 50 years in our State. This blizzard came on top of all of the other blizzards and on top of the flooding that was already beginning in our State. The snowfall last weekend ranged anywhere from 12 inches to over 20 inches of snowfall with winds 40 and 50 miles an hour in some parts of North Dakota. The picture of North Dakotans trying to fill sandbags in the middle of a snow blizzard is quite extraordinary.

The Dakotans have had a very, very difficult time coping with these problems. Last Tuesday we had a meeting with President Clinton and the head of FEMA, the Federal Emergency Management Agency, and the President signed a disaster declaration for North and South Dakota.

My understanding is that he probably signed a disaster declaration for some of the Minnesota counties today. There are teams of folks from FEMA now on the ground in our region, and there will be a visit to North Dakota by the head of FEMA and by the Secretary of Transportation and other senior officials. My understanding is that the Vice President will also visit North and South Dakota and Minnesota the day after tomorrow.

I intend to travel with the senior officials as they go to North Dakota, as do my colleagues, and we will be a part of a group that attempts to make certain that all of the resources of the Federal Government are made available at this time when it is needed in North Dakota and in our region to help people who are trying to dig out from this blizzard and trying to cope with massive flooding.

The newspaper headlines tell it better than I can. This one describes it pretty well: "Down, But Not Out." North Dakotans are a tough people. They have suffered through a good many weather-related events in years past, but this was about as tough as it gets. "State Paralyzed by Blizzard." The newspaper headlines describe all of the myriad events that have occurred. "Area Residents Hang Tough Despite Flooding." "Search for Heat and Power Endangers Lives: With Power Lines Down, Crews Struggle To Restore Power to Thousands of Homes." It has been a very, very tough time.

The stories of the folks who have had to endure this are really quite remarkable. We have men and women who are trying to restore power to a State in which up to 100,000 citizens were without power. Some are still without power. Men and women, linemen and others working for utility companies, electric co-ops and others are out in tough circumstances trying to restore power to North Dakota. They are doing an extraordinary job for our State.

Livestock losses are going to be very substantial in North Dakota. The threat to human life has been substantial. Fortunately, we have not had many deaths in North Dakota, but it has been a very challenging time. We are told that in some areas, one half of the young calves being born—and this is calving season for ranchers—one half of the calves are dying as they are born.

They are being found on the ground in circumstances where the ranchers simply could not save them. One rancher, I believe, brought five or seven of his calves into the home to try to save their lives. All of them died. Also, 300 milk cows were killed when a dairy barn collapsed under the weight of the snow. There are stories about cows and calves with a full 1-inch thick coat of ice on them as a result of the blizzard, rain, and the snow.

Farmers and ranchers have attempted, especially for the young and the vulnerable calves, to use air dryers to try to remove that ice from the coats of those calves. Then the power fails, so you cannot use air dryers, and the calves die. Those are just some of the stories of people who have been confronted with this challenge.

There was a story, in fact, yesterday about two fellows who were leaving a North Dakota community and were caught by this blizzard with whiteout conditions and they became stuck, could not move, could not see. They saw a building just faintly, just a few yards away, so they went to the building, which turned out to be a small bar on the edge of this town. So they broke into the bar and then used the telephone to call the wife of one of the two men who had broken into the bar and had the wife call the bar owner.

Remember, this is a whiteout blizzard, with no traffic available to move, and they are stuck and caught. The bar owner called the bar where the two fellows had broken in to seek shelter and said, "Well, help yourself to whatever is there. There is frozen chili in the freezer." The folks were stuck there, I guess for a day and a half in the place. I suppose there are worse places to be stuck if you are in the middle of a blizzard, but it is a story that is replicated all across our State of neighbors helping neighbors, especially now confronting digging out from a blizzard and confronting the raging flood that will come.

The flood is going to be a very significant problem. Part of it has already hit. I want to tell my colleagues about the Red River—which, incidentally, is the only river in America that runs north, I believe. Because it runs north, it is running into an area up north that has not yet thawed, and the result is the water cannot flow easily because it is flowing toward ice. So it starts down south in our State and floods there first and then the flood exacerbates as it goes north.

In Wahpeton, flood stage is 10 feet, the current height of the river is 16 feet and is predicted to go to 18½ feet. In Fargo, ND, the flood stage on the Red River is 17 feet, the river is at 33 feet and expected to go to 37½ feet. In Grand Forks, flood stage is 28 feet, and it is expected to crest at 49 feet. That is the Red River. The Sheyenne River is the same story. At West Fargo, the Sheyenne flood stage is 16 feet, and the current height is 23 feet. In Abercrombie, the Wild Rice River flood stage is 10 feet and the current height is 24 feet.

So we face enormous challenges now as we confront digging out from a blizzard that represented the worst blizzard in 50 years and as we anticipate the continuation of a flood. This will be the worst flood that we will have had in a century.

Now, Mr. President, today is Wednesday, and I indicated we met with the President on Tuesday. President Clinton indicated to us that the head of FEMA, the Federal Emergency Management Agency, would come to North Dakota. He indicated he would invite a Cabinet Secretary, too, to come, and a senior team of administration officials will visit our region. I am also told that Vice President GORE will visit North Dakota, South Dakota, and Minnesota on Friday, the day after tomorrow, and I expect that the congressional delegation, myself included, will join him in that visit.

I appreciate very much the attention of the agencies and the administration in understanding the difficulty we face, understanding the gravity of the situation that yet exists in North Dakota with power lines down, with thousands of North Dakotans still without power after many, many days. I believe that we will appreciate very much in North Dakota the visit from the Vice President and from the head of FEMA and Cabinet officials who come to view firsthand what could be done on behalf of the Federal Government to make all of the resources of the Federal Government available to North Dakotans as they work together and fight together to confront these challenges.

Mr. President, my colleagues and I will be working in the coming days on the supplemental appropriations bill, which we hope will include the kind of resources that are necessary for all of the agencies to respond to this problem. Mr. President, there are not many States in our country in which interstate highways are closed or will be closed. Yet this morning Interstate 29 has one lane closed, and it is expected that Interstate 29 will be closed completely in North Dakota. In fact, a dike will be built across the interstate when it is closed, and it will be closed for some time. Interstate 94, a major artery east and west in our State, is now surrounded by lakes of water on both sides, and some predict that we will probably not escape having that interstate closed as well. But it is a very difficult circumstance, with road crews and others struggling in a crisis situation to meet the needs of people who have been confronted by this blizzard and these floods.

Many are finding that just the infrastructure things we normally take for granted are now shut off, and it makes dealing with all of this much, much more difficult. I suppose electricity is the thing that most of us almost always take for granted every day. I have talked to several North Dakotans in the last hours, and they reiterate that it is something we take for granted, but the loss of electricity, especially in the circumstance in North Dakota, with record low temperatures this morning, dating back to the 1890's, has been a very difficult circumstance for families struggling to keep warm and struggling to confront these elements.

So, Mr. President, Senator CONRAD, myself, and Senator WELLSTONE, who spoke earlier, and others, intend to go to North Dakota with the senior Federal team, either tomorrow or Friday, and do everything we possibly can to try to bring some help to some folks who are now trying to help themselves dig out and prepare for floods. We hope that when all of this is done—and it is going to be some while—that the record will show that everybody rushed to the folks in this region who have been hurt, the North Dakotans and South Dakotans and Minnesotans, and everybody did everything humanly possible to make life better, and extended a helping hand to try to get them through these challenges.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HUTCHINSON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NUCLEAR WASTE POLICY ACT AMENDMENTS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 104, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 104) to amend the Nuclear Waste Policy Act of 1982.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Nuclear Waste Policy Act of 1982 is amended to read as follows:

"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Nuclear Waste Policy Act of 1997'.

"(b) TABLE OF CONTENTS.—

"Sec. 1. Short title and table of contents.
"Sec. 2. Definitions.

"TITLE I—OBLIGATIONS

"Sec. 101. Obligations of the Secretary of Energy.

"TITLE II—INTEGRATED MANAGEMENT SYSTEM

"Sec. 201. Intermodal Transfer.
"Sec. 202. Transportation planning.
"Sec. 203. Transportation requirements.
"Sec. 204. Interim storage.
"Sec. 205. Permanent repository.
"Sec. 206. Land withdrawal.

"TITLE III—LOCAL RELATIONS

"Sec. 301. Financial Assistance.
"Sec. 302. On-Site Representative.
"Sec. 303. Acceptance of Benefits.
"Sec. 304. Restrictions on Use of Funds.
"Sec. 305. Land Conveyances.

"TITLE IV—FUNDING AND ORGANIZATION

"Sec. 401. Program Funding.
"Sec. 402. Office of Civilian Radioactive Waste Management.
"Sec. 403. Federal contribution.

"TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

"Sec. 501. Compliance with other laws.
"Sec. 502. Judicial review of agency actions.
"Sec. 503. Licensing of facility expansions and transshipments.
"Sec. 504. Siting a second repository.
"Sec. 505. Financial arrangements for low-level radioactive waste site closure.
"Sec. 506. Nuclear Regulatory Commission training authority.
"Sec. 507. Emplacement schedule.
"Sec. 508. Transfer of Title.
"Sec. 509. Decommissioning Pilot Program.
"Sec. 510. Water Rights.

"TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

"Sec. 601. Definitions.
"Sec. 602. Nuclear Waste Technical Review Board.
"Sec. 603. Functions.
"Sec. 604. Investigatory powers.
"Sec. 605. Compensation of members.
"Sec. 606. Staff.
"Sec. 607. Support services.
"Sec. 608. Report.
"Sec. 609. Authorization of appropriations.
"Sec. 610. Termination of the board.

"TITLE VII—MANAGEMENT REFORM

"Sec. 701. Management reform initiatives.
"Sec. 702. Reporting.
"Sec. 703. Effective date.

"SEC. 2. DEFINITIONS.

"For purposes of this Act:

“(1) ACCEPT, ACCEPTANCE.—The terms ‘accept’ and ‘acceptance’ mean the Secretary's act of taking possession of spent nuclear fuel or high-level radioactive waste.

“(2) AFFECTED INDIAN TRIBE.—The term ‘affected Indian tribe’ means any Indian tribe—

“(A) whose reservation is surrounded by or borders an affected unit of local government, or

“(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of an interim storage facility or a repository if the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe.

“(3) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term ‘affected unit of local government’ means the unit of local government with jurisdiction over the site of a repository or interim storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

“(4) ATOMIC ENERGY DEFENSE ACTIVITY.—The term ‘atomic energy defense activity’ means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

“(A) Naval reactors development.

“(B) Weapons activities including defense inertial confinement fusion.

“(C) Verification and control technology.

“(D) Defense nuclear materials production.

“(E) Defense nuclear waste and materials byproducts management.

“(F) Defense nuclear materials security and safeguards and security investigations.

“(G) Defense research and development.

“(5) CIVILIAN NUCLEAR POWER REACTOR.—The term ‘civilian nuclear power reactor’ means a civilian nuclear power plant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

“(6) COMMISSION.—The term ‘Commission’ means the Nuclear Regulatory Commission.

“(7) CONTRACTS.—The term ‘contracts’ means the contracts, executed prior to the date of enactment of the Nuclear Waste Policy Act of 1997, under section 302(a) of the Nuclear Waste Policy Act of 1982, by the Secretary and any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for acceptance of such waste or fuel by the Secretary and the payment of fees to offset the Secretary's expenditures, and any subsequent contracts executed by the Secretary pursuant to section 401(a) of this Act.

“(8) CONTRACT HOLDERS.—The term ‘contract holders’ means parties (other than the Secretary) to contracts.

“(9) DEPARTMENT.—The term ‘Department’ means the Department of Energy.

“(10) DISPOSAL.—The term ‘disposal’ means the emplacement in a repository of spent nuclear fuel, high-level radioactive waste, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such material for any future purpose.

“(11) DISPOSAL SYSTEM.—The term ‘disposal system’ means all natural barriers and engineered barriers, and engineered systems and components, that prevent the release of radionuclides from the repository.

“(12) EMPLACEMENT SCHEDULE.—The term ‘emplacement schedule’ means the schedule established by the Secretary in accordance with section 507(a) for emplacement of spent nuclear fuel and high-level radioactive waste at the interim storage facility.

“(13) ENGINEERED BARRIERS AND ENGINEERED SYSTEMS AND COMPONENTS.—The terms ‘engineered barriers’ and ‘engineered systems and components,’ mean man-made components of a disposal system. These terms include the spent nuclear fuel or high-level radioactive waste form, spent nuclear fuel package or high-level radioactive waste package, and other materials placed over and around such packages.

“(14) HIGH-LEVEL RADIOACTIVE WASTE.—The term ‘high-level radioactive waste’ means—

“(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

“(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation, which includes any low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

“(15) FEDERAL AGENCY.—The term ‘Federal agency’ means any Executive agency, as defined in section 105 of title 5, United States Code.

“(16) INDIAN TRIBE.—The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

“(17) INTEGRATED MANAGEMENT SYSTEM.—The term ‘integrated management system’ means the system developed by the Secretary for the acceptance, transportation, storage, and disposal of spent nuclear fuel and high-level radioactive waste under title II of this Act.

“(18) INTERIM STORAGE FACILITY.—The term ‘interim storage facility’ means a facility designed and constructed for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel and high-level radioactive waste in accordance with title II of this Act.

“(19) INTERIM STORAGE FACILITY SITE.—The term ‘interim storage facility site’ means the specific site within Area 25 of the Nevada Test Site that is designated by the Secretary and withdrawn and reserved in accordance with this Act for the location of the interim storage facility.

“(20) LOW-LEVEL RADIOACTIVE WASTE.—The term ‘low-level radioactive waste’ means radioactive material that—

“(A) is not spent nuclear fuel, high-level radioactive waste, transuranic waste, or byproduct material as defined in section 11e. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e). (2)); and

“(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

“(21) METRIC TONS URANIUM.—The terms ‘metric tons uranium’ and ‘MTU’ means the amount of uranium in the original unirradiated fuel element whether or not the spent nuclear fuel has been reprocessed.

“(22) NUCLEAR WASTE FUND.—The terms ‘Nuclear Waste Fund’ and ‘waste fund’ mean the nuclear waste fund established in the United States Treasury prior to the date of enactment of this Act under section 302(c) of the Nuclear Waste Policy Act of 1982.

“(23) OFFICE.—The term ‘Office’ means the Office of Civilian Radioactive Waste Management established within the Department prior to the date of enactment of this Act under the provisions of the Nuclear Waste Policy Act of 1982.

“(24) PROGRAM APPROACH.—The term ‘program approach’ means the Civilian Radioactive Waste Management Program Plan, dated May 6, 1996, as modified by this Act, and as amended from time to time by the Secretary in accordance with this Act.

“(25) REPOSITORY.—The term ‘repository’ means a system designed and constructed under title II of this Act for the geologic disposal of spent nuclear fuel and high-level radioactive waste, including both surface and subsurface areas at which spent nuclear fuel and high-level radioactive waste receipt, handling, possession, safeguarding, and storage are conducted.

“(26) SECRETARY.—The term ‘Secretary’ means the Secretary of Energy.

“(27) SITE CHARACTERIZATION.—The term ‘site characterization’ means activities, whether in a laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory facilities, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the licensability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

“(28) SPENT NUCLEAR FUEL.—The term ‘spent nuclear fuel’ means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

“(29) STORAGE.—The term ‘storage’ means retention of spent nuclear fuel or high-level radioactive waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

“(30) WITHDRAWAL.—The term ‘withdrawal’ has the same definition as that set forth in section 103(j) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(j)).

“(31) YUCCA MOUNTAIN SITE.—The term “Yucca Mountain site” means the area in the State of Nevada that is withdrawn and reserved in accordance with this Act for the location of a repository.

“TITLE I—OBLIGATIONS

“SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.

“(a) DISPOSAL.—The Secretary shall develop and operate an integrated management system for the storage and permanent disposal of spent nuclear fuel and high-level radioactive waste.

“(b) INTERIM STORAGE.—The Secretary shall store spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders at an interim storage facility pursuant to section 204 in accordance with the emplacement schedule, beginning not later than November 30, 1999.

“(c) TRANSPORTATION.—The Secretary shall provide for the transportation of spent nuclear fuel and high-level radioactive waste accepted by the Secretary. The Secretary shall procure all systems and components necessary to transport spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders to and among facilities comprising the Integrated Management System. Consistent with the Buy American Act (41 U.S.C. 10a–10c), unless the Secretary shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, all such systems and components procured by the Secretary shall be manufactured in the United States, with the exception of any transportable storage systems purchased by contract holders prior to the effective date of the Nuclear Waste Policy Act of 1997 and procured by the Secretary from such contract holders for use in the integrated management system.

“(d) INTEGRATED MANAGEMENT SYSTEM.—The Secretary shall expeditiously pursue the development of each component of the integrated management system, and in so doing shall seek to utilize effective private sector management and contracting practices.

“(e) PRIVATE SECTOR PARTICIPATION.—In administering the Integrated Management System, the Secretary shall, to the maximum extent possible, utilize, employ, procure and contract with, the private sector to fulfill the Secretary's obligations and requirements under this Act.

“(f) PREEXISTING RIGHTS.—Nothing in this Act is intended to or shall be construed to modify—

“(1) any right of a contract holder under section 302(a) of the Nuclear Waste Policy Act of 1982, or under a contract executed prior to the date of enactment of this Act under that section; or

“(2) obligations imposed upon the Federal Government by the United States District Court of Idaho in an order entered on October 17, 1995 in United States v. Batt (No. 91-0054-S-EJL).

“(g) LIABILITY.—Subject to subsection (f), nothing in this Act shall be construed to subject the United States to financial liability for the Secretary's failure to meet any deadline for the acceptance or emplacement of spent nuclear fuel or high-level radioactive waste for storage or disposal under this Act.

“TITLE II—INTEGRATED MANAGEMENT SYSTEM

SEC. 201. INTERMODAL TRANSFER.

“(a) ACCESS.—The Secretary shall utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from the mainline rail line at Caliente, Nevada, to the interim storage facility site.

“(b) CAPABILITY DATE.—The Secretary shall develop the capability to commence rail to truck intermodal transfer at Caliente, Nevada, no later than November 30, 1999. Intermodal transfer and related activities are incidental to the interstate transportation of spent nuclear fuel and high-level radioactive waste.

“(c) ACQUISITIONS.—The Secretary shall acquire lands and rights-of-way necessary to commence intermodal transfer at Caliente, Nevada.

“(d) REPLACEMENTS.—The Secretary shall acquire and develop on behalf of, and dedicate to, the City of Caliente, Nevada, parcels of land and right-of-way within Lincoln County, Nevada, as required to facilitate replacement of land and city wastewater disposal facilities necessary to commence intermodal transfer pursuant to this Act. Replacement of land and city wastewater disposal activities shall occur no later than November 30, 1999.

“(e) NOTICE AND MAP.—Within 6 months of the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary shall—

“(1) publish in the Federal Register a notice containing a legal description of the sites and rights-of-way to be acquired under this subsection; and

“(2) file copies of a map of such sites and rights-of-way with the Congress, the Secretary of the Interior, the State of Nevada, the Archivist of the United States, the Board of Lincoln County Commissioners, the Board of Nye County Commissioners, and the Caliente City Council.

Such map and legal description shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors and legal descriptions and make minor adjustments in the boundaries.

“(f) IMPROVEMENTS.—The Secretary shall make improvements to existing roadways selected for heavy-haul truck transport between Caliente, Nevada, and the interim storage facility site as necessary to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste.

“(g) LOCAL GOVERNMENT INVOLVEMENT.—The Commission shall enter into a Memorandum of Understanding with the City of Caliente and Lincoln County, Nevada, to provide advice to the Commission regarding intermodal transfer and to facilitate on-site representation. Reasonable expenses of such representation shall be paid by the Secretary.

“(h) BENEFITS AGREEMENT.—

“(1) IN GENERAL.—The Secretary shall offer to enter into an agreement with the City of Caliente and Lincoln County, Nevada concerning the integrated management system.

“(2) AGREEMENT CONTENT.—Any agreement shall contain such terms and conditions, including such financial and institutional arrangements, as the Secretary and agreement entity determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of the City of Caliente and Lincoln County, Nevada.

“(3) AMENDMENT.—An agreement entered into under this subsection may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with paragraph (4).

“(4) TERMINATION.—The Secretary shall terminate the agreement under this subsection if any major element of the integrated management system may not be completed.

“(5) LIMITATION.—Only 1 agreement may be in effect at any one time.

“(6) JUDICIAL REVIEW.—Decisions of the Secretary under this section are not subject to judicial review.

“(i) CONTENT OF AGREEMENT.—

“(1) SCHEDULE.—In addition to the benefits to which the City of Caliente and Lincoln County are entitled to under this title, the Secretary shall make payments under the benefits agreement in accordance with the following schedule:

BENEFITS SCHEDULE

[Amounts in millions]

Event	Payment
(A) Annual payments prior to first receipt of spent fuel	2.5
(B) Annual payments beginning upon first spent fuel receipt	5
(C) Payment upon closure of the intermodal transfer facility	5

“(2) DEFINITIONS.—For purposes of this section, the term—

“(A) 'spent fuel' means high-level radioactive waste or spent nuclear fuel; and

“(B) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

“(3) ANNUAL PAYMENTS.—Annual payments prior to first spent fuel receipt under paragraph (1)(A) shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under paragraph (1)(C) shall be made on the anniversary date of such first spent fuel receipt.

“(4) REDUCTION.—If the first spent fuel payment under paragraph (1)(B) is made within 6 months after the last annual payment prior to the receipt of spent fuel under paragraph (1)(A), such first spent fuel payment under paragraph (1)(B) shall be reduced by an amount equal to 1/12 of such annual payment under paragraph (1)(A) for each full month less than 6 that has not elapsed since the last annual payment under paragraph (1)(A).

“(5) RESTRICTIONS.—The Secretary may not restrict the purposes for which the payments under this section may be used.

“(6) DISPUTE.—In the event of a dispute concerning such agreement, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

“(7) CONSTRUCTION.—The signature of the Secretary on a valid benefits agreement under this section shall constitute a commitment by the United States to make payments in accordance with such agreement under section 401(c)(2).

“(j) INITIAL LAND CONVEYANCES.

“(1) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, all right, title and interest of the United States in the property described in paragraph (2), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Lincoln, Nevada, unless the county notifies the Secretary of Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Lincoln under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Lincoln County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

“(2) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, shall be conveyed under paragraph (1) to the County of Lincoln, Nevada:

Map 10: Lincoln County, Parcel M, Industrial Park Site

Map 11: Lincoln County, Parcel F, Mixed Use Industrial Site

Map 13: Lincoln County, Parcel J, Mixed Use, Alamo Community Expansion Area

Map 14: Lincoln County, Parcel E, Mixed Use, Pioche Community Expansion Area

Map 15: Lincoln County, Parcel B, Landfill Expansion Site.

“(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in paragraph (2) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

“(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Lincoln, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

[“SEC. 202. TRANSPORTATION PLANNING.

[“(a) TRANSPORTATION READINESS.—The Secretary shall take those actions that are necessary and appropriate to ensure that the Secretary is able to transport safely spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities, using routes that minimize, to the maximum practicable extent consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas, beginning not later than November 30, 1999, and, by that date, shall, in consultation with the Secretary of Transportation, develop and implement a comprehensive management plan that ensures that safe transportation of spent nuclear fuel and high-level radioactive waste from the sites designated by the contract holders to the interim storage facility site beginning not later than November 30, 1999.

[“(b) TRANSPORTATION PLANNING.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility no later than November 30, 1999. Among other things, such planning shall provide a schedule and process for addressing and implementing, as necessary, transportation routing plans, transportation contracting plans, transportation training in accordance with Section 203, and public education regarding transportation of spent nuclear fuel and high level radioactive waste; and transportation tracking programs.

[“SEC. 203. TRANSPORTATION REQUIREMENTS.

[“(a) PACKAGE CERTIFICATION.—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

[“(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

[“(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and funds to States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste for training for public safety officials of appropriate units of local government. The Secretary shall also provide technical assistance and funds for training directly to national nonprofit employee organizations which demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste, or emergency response or post-emergency response with respect to such transportation. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations, and shall be consistent with any training standards established by the Secretary of Transportation in accordance with subsection (g). The Secretary's duty to provide technical and financial assistance under this subsection shall be limited to amounts specified in annual appropriations.]

“SEC. 202. TRANSPORTATION PLANNING.

“(a) TRANSPORTATION READINESS.—The Secretary—

“(1) shall take such actions as are necessary and appropriate to ensure that the Secretary is able to transport safely spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities and from the mainline transportation facilities to the interim storage facility or repository, using routes that minimize, to the maximum practicable extent consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas, beginning not later than November 30, 1999; and

“(2) not later than November 30, 1999, shall, in consultation with the Secretary of Transportation and affected States and tribes, develop and implement a comprehensive management plan that ensures that safe transportation of spent nuclear fuel and high-level radioactive waste from the sites designated by the contract holders to the interim storage facility site beginning not later than that date.

“(b) TRANSPORTATION PLANNING.—

“(1) IN GENERAL.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility not later than November 30, 1999.

“(2) MATTERS TO BE ADDRESSED.—Among other things, planning under paragraph (1) shall provide a schedule and process for addressing and implementing, as necessary—

“(A) transportation routing plans;

“(B) transportation contracting plans;

“(C) transportation training in accordance with section 203;

“(D) public education regarding transportation of spent nuclear fuel and high level radioactive waste; and

“(E) transportation tracking programs.

“(c) SHIPPING CAMPAIGN TRANSPORTATION PLANS.—

“(1) IN GENERAL.—The Secretary shall develop a transportation plan for the implementation of each shipping campaign (as that term is defined by the Secretary) from each site at which high-level nuclear waste is stored, in accordance with the requirements stated in Department of Energy Order No. 460.2 and the Program Manager's Guide.

“(2) REQUIREMENTS.—A shipping campaign transportation plan shall—

“(A) be fully integrated with State, and tribal government notification, inspection, and emergency response plans along the preferred shipping route or State-designated alternative route identified under subsection (d); and

“(B) be consistent with the principles and procedures developed for the safe transportation of transuranic waste to the Waste Isolation Pilot Plant (unless the Secretary demonstrates that a specific principle or procedure is inconsistent with a provision of this Act).

“‘(d) SAFE SHIPPING ROUTES AND MODES.—

“(1) IN GENERAL.—The Secretary shall evaluate the relative safety of the proposed shipping routes and shipping modes from each shipping origin to the interim storage facility or repository compared with the safety of alternative modes and routes.

“(2) CONSIDERATIONS.—The evaluation under paragraph (1) shall be conducted in a manner consistent with regulations promulgated by the Secretary of Transportation under authority of chapter 51 of title 49, United States Code, and the Nuclear Regulatory Commission under authority of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), as applicable.

“(3) DESIGNATION OF PREFERRED SHIPPING ROUTE AND MODE.—Following the evaluation under paragraph (1), the Secretary shall designate preferred shipping routes and modes from each civilian nuclear power reactor and Department of Energy facility that stores spent nuclear fuel or other high-level defense waste.

“(4) SELECTION OF PRIMARY SHIPPING ROUTE.—If the Secretary designates more than 1 preferred route under paragraph (3), the Secretary shall select a primary route after considering, at a minimum, historical accident rates, population, significant hazards, shipping time, shipping distance, and mitigating measures such as limits on the speed of shipments.

“(5) USE OF PRIMARY SHIPPING ROUTE AND MODE.—Except in cases of emergency, for all shipments conducted under this Act, the Secretary shall cause the primary shipping route and mode or State-designated alternative route under chapter 51 of title 49, United States Code, to be used. If a route is designated as a primary route for any reactor or Department of Energy facility, the Secretary may use that route to transport spent nuclear fuel or high-level radioactive waste from any other reactor or Department of Energy facility.

“(6) TRAINING AND TECHNICAL ASSISTANCE.—Following selection of the primary shipping routes, or State-designated alternative routes, the Secretary shall focus training and technical assistance under section 203(c) on those routes.

“(7) PREFERRED RAIL ROUTES.—

“(A) REGULATION.—Not later than 1 year after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary of Transportation, pursuant to authority under other provisions of law, shall promulgate a regulation establishing procedures for the selection of preferred routes for the transportation of spent nuclear fuel and nuclear waste by rail.

“(B) INTERIM PROVISION.—During the period beginning on the date of enactment of the Nuclear Waste Policy Act of 1997 and ending on the date of issuance of a final regulation under subparagraph (A), rail transportation of spent nuclear fuel and high-level radioactive waste shall be conducted in accordance with regulatory requirements in effect on that date and with this section.

“SEC. 203. TRANSPORTATION REQUIREMENTS.

“(a) PACKAGE CERTIFICATION.—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

“(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and tribal governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

“(c) TECHNICAL ASSISTANCE.—

“(1) IN GENERAL.—

“(A) STATES AND INDIAN TRIBES.—As provided in paragraph (3), the Secretary shall provide technical assistance and funds to States and Indian tribes for training of public safety officials of appropriate units of State, local, and tribal government. A State shall allocate to local governments within the State a portion any funds that the Secretary provides to the State for technical assistance and funding.

"(B) EMPLOYEE ORGANIZATIONS.—The Secretary shall provide technical assistance and funds for training directly to nonprofit employee organizations and joint labor-management organizations that demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste, or emergency response or post-emergency response with respect to such transportation.

"(C) TRAINING.—Training under this section—

"(i) shall cover procedures required for safe routine transportation of materials and procedures for dealing with emergency response situations;

"(ii) shall be consistent with any training standards established by the Secretary of Transportation under subsection (g); and

"(iii) shall include—

"(I) a training program applicable to persons responsible for responding to emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste;

"(II) instruction of public safety officers in procedures for the command and control of the response to any incident involving the waste; and

"(III) instruction of radiological protection and emergency medical personnel in procedures for responding to an incident involving spent nuclear fuel or high-level radioactive waste being transported.

"(2) NO SHIPMENTS IF NO TRAINING.—(A) There will be no shipments of spent nuclear fuel and high-level radioactive waste through the jurisdiction of any State or the reservation lands of any Indian tribe eligible for grants under paragraph (3)(B) unless technical assistance and funds to implement procedures for safe routine transportation and for dealing with emergency response situations under paragraph (1)(A) have been available to a State or Indian tribe for at least 2 years prior to any shipment: Provided, however, That the Secretary may ship spent nuclear fuel and high-level radioactive waste if technical assistance or funds have not been made available due to (1) an emergency, including the sudden and unforeseen closure of a highway or rail line or the sudden and unforeseen need to remove spent fuel from a reactor because of an accident, or (2) the refusal to accept technical assistance by a State or Indian tribe, or (3) fraudulent actions which violate Federal law governing the expenditure of Federal funds.

"(B) In the event the Secretary is required to transport spent fuel or high level radioactive waste through a jurisdiction prior to 2 years after the provision of technical assistance or funds to such jurisdiction, the Secretary shall, prior to such shipment, hold meetings in each State and Indian reservation through which the shipping route passes in order to present initial shipment plans and receive comments. Department of Energy personnel trained in emergency response shall escort each shipment. Funds and all Department of Energy training resources shall be made available to States and Indian tribes along the shipping route no later than three months prior to the commencement of shipments: Provided, however, That in no event shall such shipments exceed 1,000 metric tons per year, And provided further, That no such shipments shall be conducted more than four years after the effective date of the Nuclear Waste Policy Act of 1997.

"(3) GRANTS.—

"(A) IN GENERAL.—To implement this section, grants shall be made under section 401(c)(2).

"(B) GRANTS FOR DEVELOPMENT OF PLANS.—

"(i) IN GENERAL.—The Secretary shall make a grant of at least $150,000 to each State through the jurisdiction of which and each federally recognized Indian tribe through the reservation lands of which a shipment of spent nuclear fuel or high-level radioactive waste will be made under this Act for the purpose of developing a plan to prepare for such shipments.

"(ii) LIMITATION.—A grant shall be made under clause (i) only to a State or a federally recognized Indian tribe that has the authority to respond to incidents involving shipments of hazardous material.

"(C) GRANTS FOR IMPLEMENTATION OF PLANS.—

"(i) IN GENERAL.—Annual implementation grants shall be made to States and Indian tribes that have developed a plan to prepare for shipments under this Act under subparagraph (B). The Secretary, in submitting annual departmental budget to Congress for funding of implementation grants under this section, shall be guided by the State and tribal plans developed under subparagraph (B). As part of the Department of Energy's annual budget request, the Secretary shall report to Congress on—

"(I) the funds requested by states and federally recognized Indian tribes to implement this subsection;

"(II) the amount requested by the President for implementation; and

"(III) the rationale for any discrepancies between the amounts requested by States and federally recognized Indian tribes and the amounts requested by the President.

"(ii) ALLOCATION.—Of funds available for grants under this subparagraph for any fiscal year—

"(I) 25 percent shall be allocated by the Secretary to ensure minimum funding and program capability levels in all States and Indian tribes based on plans developed under subparagraph (B); and

"(II) 75 percent shall be allocated to States and Indian tribes in proportion to the number of shipment miles that are projected to be made in total shipments under this Act through each jurisdiction.

"(4) AVAILABILITY OF FUNDS FOR SHIPMENTS.—Funds under paragraph (1) shall be provided for shipments to an interim storage facility or repository, regardless of whether the interim storage facility or repository is operated by a private entity or by the Department of Energy.

"(d) PUBLIC EDUCATION.—The Secretary shall conduct a program to educate the public regarding the transportation of spent nuclear fuel and high-level radioactive waste, with an emphasis upon those States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste.

"(e) COMPLIANCE WITH TRANSPORTATION REGULATIONS.—Any person that transports spent nuclear fuel or high-level radioactive waste under the Nuclear Waste Policy Act of [1986] *1997*, pursuant to a contract with the Secretary, shall comply with all requirements governing such transportation issued by the Federal, State, and local governments, and Indian tribes, in the same way and to the same extent that any person engaging in that transportation that is in or affects interstate commerce must comply with such requirements, as required by 49 U.S.C. sec. 5126.

"(f) EMPLOYEE PROTECTION.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this Act shall be subject to and comply fully with the employee protection provisions of 49 U.S.C. 20109 and 49 U.S.C. 31105.

"(g) TRAINING STANDARD.—(1) No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. The regulation shall require that the employer possess evidence of satisfaction of the applicable training standard before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

"(2) If the Secretary of Transportation determines, in promulgating the regulation required by subparagraph (1), that regulations promulgated by the Commission establish adequate training standards for workers, then the Secretary of Transportation can refrain from promulgating additional regulations with respect to worker training in such activities. The Secretary of Transportation and the Commission shall work through their Memorandum of Understanding to ensure coordination of worker training standards and to avoid duplicative regulation.

"(3) The training standards required to be promulgated under subparagraph (1) shall, among other things deemed necessary and appropriate by the Secretary of Transportation, include the following provisions—

"(A) a specified minimum number of hours of initial offsite instruction and actual field experience under the direct supervision of a trained, experienced supervisor;

"(B) a requirement that onsite managerial personnel receive the same training as workers, and a minimum number of additional hours of specialized training pertinent to their managerial responsibilities; and

"(C) a training program applicable to persons responsible for responding to and cleaning up emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste.

"(4) There is authorized to be appropriated to the Secretary of Transportation, from general revenues, such sums as may be necessary to perform his duties under this subsection.

"SEC. 204. INTERIM STORAGE.

"(a) AUTHORIZATION.—The Secretary shall design, construct, and operate a facility for the interim storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility site. The interim storage facility shall be subject to licensing pursuant to the Atomic Energy Act of 1954 in accordance with the Commission's regulations governing the licensing of independent spent fuel storage installations, which regulations shall be amended by the Commission as necessary to implement the provisions of this Act. The interim storage facility shall commence operation in phases in accordance with subsection (b).

"(b) SCHEDULE.—(1) The Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at the interim storage facility at the interim storage facility site by November 30, 1999, except that:

"(A) The Secretary shall not begin any construction activities at the interim storage facility site before December 31, 1998.

“(B) The Secretary shall cease all activities (except necessary termination activities) at the Yucca Mountain site if the President determines, in his discretion, on or before December 31, 1998, based on a preponderance of the information available at such time, that the Yucca Mountain site is unsuitable for development as a repository, including geologic and engineered barriers, because of a substantial likelihood that a repository of useful size cannot be designed, licensed, and constructed at the Yucca Mountain site.

“(C) No later than June 30, 1998, the Secretary shall provide to the President and to the Congress a viability assessment of the Yucca Mountain site. The viability assessment shall include—

“(i) the preliminary design concept for the critical elements of the repository and waste package,

“(ii) a total system performance assessment, based upon the design concept and the scientific data and analysis available by June 30, 1998, describing the probable behavior of the repository in the Yucca Mountain geologic setting relative to the overall system performance standard set forth in section 205(d) of this Act,

“(iii) a plan and cost estimate for the remaining work required to complete a license application, and

“(iv) an estimate of the costs to construct and operate the repository in accordance with the design concept.

“(D) Within 18 months of a determination by the President that the Yucca Mountain site is unsuitable for development as a repository under subparagraph (B), the President shall designate a site for the construction of an interim storage facility. *The President shall not designate the Hanford Nuclear Reservation in the State of Washington as a site for construction of an interim storage facility*. If the President does not designate a site for the construction of an interim storage facility, or the construction of an interim storage facility at the designated site is not approved by law within 24 months of the President's determination that the Yucca Mountain site is not suitable for development as a repository, the Secretary shall begin construction of an interim storage facility at the interim storage facility site as defined in section 2(19) of this Act. The interim storage facility site as defined in section 2(19) of this Act shall be deemed to be approved by law for purposes of this section.

“(2) Upon the designation of an interim storage facility site by the President under paragraph (1)(D), the Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at an interim storage facility at the designated site, except that the Secretary shall not begin any construction activities at the designated interim storage facility site before the designated interim storage facility site is approved by law.

“(c) DESIGN.—

“(1) The interim storage facility shall be designed in two phases in order to commence operations no later than November 30, 1999. The design of the interim storage facility shall provide for the use of storage technologies, licensed, approved, or certified by the Commission for use at the interim storage facility as necessary to ensure compatibility between the interim storage facility and contract holders' spent nuclear fuel and facilities, and to facilitate the Secretary's ability to meet the Secretary's obligations under this Act.

“(2) The Secretary shall consent to an amendment to the contracts to provide for reimbursement to contract holders for transportable storage systems purchased by contract holders if the Secretary determines that it is cost effective to use such transportable storage systems as part of the integrated management system, provided that the Secretary shall not be required to expend any funds to modify contract holders' storage or transport systems or to seek additional regulatory approvals in order to use such systems.

“(d) LICENSING.—

“(1) PHASES.—The interim storage facility shall be licensed by the Commission in two phases in order to commence operations no later than November 30, 1999.

“(2) FIRST PHASE.—No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary shall submit to the Commission an application for a license for the first phase of the interim storage facility. The Environmental Report and Safety Analysis Report submitted in support of such license application shall be consistent with the scope of authority requested in the license application. The license issued for the first phase of the interim storage facility shall have a term of 20 years. The interim storage facility licensed in the first phase shall have a capacity of not more than 15,000 MTU. The Commission shall issue a final decision granting or denying the application for the first phase license no later than 16 months from the date of the submittal of the application for such license.

“(3) SECOND PHASE.—No later than 30 months after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary shall submit to the Commission an application for a license for the second phase interim storage facility. The license for the second phase facility shall authorize a storage capacity of 40,000 MTU. If the Secretary does not submit the license application for construction of a respository by February 1, 2002, or does not begin full spent nuclear fuel receipt operations at a repository by January 17, 2010, the license shall authorize a storage capacity of 60,000 MTU. The license application shall be submitted such that the license can be issued to permit the second phase facility to begin full spent nuclear fuel receipt operations no later than December 31, 2002. The license for the second phase shall have an initial term of up to 100 years, and shall be renewable for additional terms upon application of the Secretary.

“(e) ADDITIONAL AUTHORITY.—

“(1) CONSTRUCTION.—For purposes of complying with this section, the Secretary may commence site preparation for the interim storage facility as soon as practicable after the date of enactment of the Nuclear Waste Policy Act of 1997 and shall commence construction of each phase of the interim storage facility subsequent to submittal of the license application for such phase except that the Commission shall issue an order suspending such construction at any time if the Commission determines that such construction poses an unreasonable risk to public health and safety or the environment. The Commission shall terminate all or part of such order upon a determination that the Secretary has taken appropriate action to eliminate such risk.

“(2) FACILITY USE.—Notwithstanding any otherwise applicable licensing requirement, the Secretary may utilize any facility owned by the Federal Government on the date of enactment of the Nuclear Waste Policy Act of 1997 within the boundaries of the interim storage facility site, in connection with an imminent and substantial endangerment to public health and safety at the interim storage facility prior to commencement of operations during the second phase.

“(3) EMPLACEMENT OF FUEL AND WASTE.—Subject to paragraph (i), [once the Secretary has achieved] *in each year in which the actual emplacement rate is greater than* the annual acceptance rate for spent nuclear fuel from civilian nuclear power reactors established pursuant to the contracts executed prior to the date of enactment of the Nuclear Waste Policy Act of 1997, as set forth in the Secretary's annual capacity report dated March 1995 (DOE/RW-0457), the Secretary shall accept, in an amount not less than 25 percent of the difference between the contractual acceptance rate and the [annual] *actual* emplacement rate for spent nuclear fuel from civilian nuclear power reactors established under section 507(a), the following radioactive materials:

“(A) spent nuclear fuel or high-level radioactive waste of domestic origin from civilian nuclear power reactors that have permanently ceased operation on or before the date of enactment of the Nuclear Waste Policy Act of 1997;

“(B) spent nuclear fuel from foreign research reactors, as necessary to promote nonproliferation objectives; and

“(C) spent nuclear fuel, including spent nuclear fuel from naval reactors, and high-level radioactive waste from atomic energy defense activities: *Provided, however, That the Secretary shall accept not less than 5 percent of the total quantity of spent fuel accepted in any one year from the categories of radioactive materials described in subparagraphs (B) and (C).*

“(f) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—

“(1) PRELIMINARY DECISIONMAKING ACTIVITIES.—The Secretary's and President's activities under this section, including, but not limited to, the selection of a site for the interim storage facility, assessments, determinations and designations made under section 204(b), the preparation and submittal of a license application and supporting documentation, the construction of a facility under paragraph (e)(1) of this section, and facility use pursuant to paragraph (e)(2) of this section shall be considered preliminary decisionmaking activities for purposes of judicial review. The Secretary shall not prepare an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of such Act before conducting these activities.

“(2) ENVIRONMENTAL IMPACT STATEMENT.—

“(A) FINAL DECISION.—A final decision by the Commission to grant or deny a license application for the first or second phase of the interim storage facility shall be accompanied by an Environmental Impact Statement prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). In preparing such Environmental Impact Statement, the Commission—

“(i) shall ensure that the scope of the Environmental Impact Statement is consistent with the scope of the licensing action; and

“(ii) shall analyze the impacts of the transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility in a generic manner.

“(B) CONSIDERATIONS.—Such Environmental Impact Statement shall not consider—

"(i) the need for the interim storage facility, including any individual component thereof;

"(ii) the time of the initial availability of the interim storage facility;

"(iii) any alternatives to the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility;

"(iv) any alternatives to the site of the facility as designated by the Secretary in accordance with subsection (a);

"(v) any alternatives to the design criteria for such facility or any individual component thereof, as specified by the Secretary in the license application; or

"(vi) the environmental impacts of the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility beyond the initial term of the license or the term of the renewal period for which a license renewal application is made.

"(g) JUDICIAL REVIEW.—Judicial review of the Commission's environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be consolidated with judicial review of the Commission's licensing decision. No court shall have jurisdiction to enjoin the construction or operation of the interim storage facility prior to its final decision on review of the Commission's licensing action.

"(h) WASTE CONFIDENCE.—The Secretary's obligation to construct and operate the interim storage facility in accordance with this section and the Secretary's obligation to develop an integrated management system in accordance with the provisions of this Act, shall provide sufficient and independent grounds for any further findings by the Commission of reasonable assurance that spent nuclear fuel and high-level radioactive waste will be disposed of safely and on a timely basis for purposes of the Commission's decision to grant or amend any license to operate any civilian nuclear power reactor under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

"(i) STORAGE OF OTHER SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE.—No later than 18 months following the date of enactment of the Nuclear Waste Policy Act of 1997, the Commission shall, by rule, establish criteria for the storage in the interim storage facility of fuel and waste listed in subsection (e)(3) (A) through (C), to the extent such criteria are not included in regulations issued by the Commission and existing on the date of enactment of the Nuclear Waste Policy Act of 1997. Following establishment of such criteria, the Secretary shall seek authority, as necessary, to store fuel and waste listed in subsection (e)(3) (A) through (C) at the interim storage facility. None of the activities carried out pursuant to this subsection shall delay, or otherwise affect, the development, construction, licensing, or operation of the interim storage facility.

"(j) SAVINGS CLAUSE.—The Commission shall, by rule, establish procedures for the licensing of any technology for the dry storage of spent nuclear fuel by rule and without, to the maximum extent possible, the need for site-specific approvals by the Commission. Nothing in this Act shall affect any such procedures, or any licenses or approvals issued pursuant to such procedures in effect on the date of enactment.

"SEC. 205. PERMANENT REPOSITORY.

"(a) REPOSITORY CHARACTERIZATION.—

"(1) GUIDELINES.—The guidelines promulgated by the Secretary and published at 10 CFR part 960 are annulled and revoked and the Secretary shall make no assumptions or conclusions about the licensability of the Yucca Mountain site as a repository by reference to such guidelines.

"(2) SITE CHARACTERIZATION ACTIVITIES.—The Secretary shall carry out appropriate site characterization activities at the Yucca Mountain site in accordance with the Secretary's program approach to site characterization. The Secretary shall modify or eliminate those site characterization activities designed only to demonstrate the suitability of the site under the guidelines referenced in paragraph (1).

"(3) SCHEDULE DATE.—Consistent with the schedule set forth in the program approach, as modified to be consistent with the Nuclear Waste Policy Act of 1997, no later than February 1, 2002, the Secretary shall apply to the Commission for authorization to construct a repository. If, at any time prior to the filing of such application, the Secretary determines that the Yucca Mountain site cannot satisfy the Commission's regulations applicable to the licensing of a geologic repository, the Secretary shall terminate site characterization activities at the site, notify Congress and the State of Nevada of the Secretary's determination and the reasons therefor, and recommend to Congress not later than 6 months after such determination furthers actions, including the enactment of legislation, that may be needed to manage the Nation's spent nuclear fuel and high-level radioactive waste.

"(4) MAXIMIZING CAPACITY.—In developing an application for authorization to construct the repository, the Secretary shall seek to maximize the capacity of the repository, in the most cost-effective manner, consistent with the need for disposal capacity.

"(b) REPOSITORY LICENSING.—Upon the completion of any licensing proceeding for the first phase of the interim storage facility, the Commission shall amend its regulations governing the disposal of spent nuclear fuel and high-level radioactive waste in geologic repositories to the extent necessary to comply with this Act. Subject to subsection (c), such regulations shall provide for the licensing of the repository according to the following procedures:

"(1) CONSTRUCTION AUTHORIZATION.—The Commission shall grant the Secretary a construction authorization for the repository upon determining that there is reasonable assurance that spent nuclear fuel and high-level radioactive waste can be disposed of in the repository—

"(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

"(B) without unreasonable risk to the health and safety of the public; and

"(C) consistent with the common defense and security.

"(2) LICENSE.—Following substantial completion of construction and the filing of any additional information needed to complete the license application, the Commission shall issue a license to dispose of spent nuclear fuel and high-level radioactive waste in the repository if the Commission determines that the repository has been constructed and will operate—

"(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

"(B) without unreasonable risk to the health and safety of the public; and

"(C) consistent with the common defense and security.

"(3) CLOSURE.—After emplacing spent nuclear fuel and high-level radioactive waste in the repository and collecting sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with the Commission's regulations applicable to the licensing of a repository, as modified in accordance with this Act, the Secretary shall apply to the Commission to amend the license to permit permanent closure of the repository. The Commission shall grant such license amendment upon finding that there is reasonable assurance that the repository can be permanently closed—

"(A) in conformity with the Secretary's application to amend the license, the provisions of this Act, and the regulations of the Commission;

"(B) without unreasonable risk to the health and safety of the public; and

"(C) consistent with the common defense and security.

"(4) POST-CLOSURE.—The Secretary shall take those actions necessary and appropriate at the Yucca Mountain site to prevent any activity at the site subsequent to repository closure that poses an unreasonable risk of—

"(A) breaching the repository's engineered or geologic barriers; or

"(B) increasing the exposure of individual members of the public to radiation beyond the release standard established in subsection (d)(1).

"(c) MODIFICATION OF REPOSITORY LICENSING PROCEDURE.—The Commission's regulations shall provide for the modification of the repository licensing procedure, as appropriate, in the event that the Secretary seeks a license to permit the emplacement in the repository, on a retrievable basis, of spent nuclear fuel or high-level radioactive waste as is necessary to provide the Secretary with sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with applicable regulations.

"(d) REPOSITORY LICENSING STANDARDS.—The Administrator of the Environmental Protection Agency shall, pursuant to authority under others provisions of law, issue generally applicable standards for the protection of the public from releases of radioactive materials or radioactivity from the repository. Such standards shall be consistent with the overall system performance standard established by this subsection unless the Administrator determines by rule that the overall system performance standard would constitute an unreasonable risk to health and safety. The Commission's repository licensing determinations for the protection of the public shall be based solely on a finding whether the repository can be operated in conformance with the overall system performance standard established in paragraph (1), applied in accordance with the provisions of paragraph (2), and the Administrator's radiation protection standards. The Commission shall amend its regulations in accordance with subsection (b) to incorporate each of the following licensing standards:

"(1) ESTABLISHMENT OF OVERALL SYSTEM PERFORMANCE STANDARD.—The standard for protection of the public from release of radioactive material or radioactivity from the repository shall prohibit releases that would expose an average member of the general population in the vicinity of the Yucca Mountain site to an annual dose in excess of 100 millirems unless the Commission determines by rule that such standard would constitute an unreasonable risk to health and safety and establishes by rule another standard which will protect health and safety. Such standard shall constitute an overall system performance standard.

“(2) Application of overall system performance standard.—The Commission shall issue the license if it finds reasonable assurance that for the first 1,000 years following the commencement of repository operations, the overall system performance standard will be met based on a probabilistic evaluation, as appropriate, of compliance with the overall system performance standard in paragraph (1).

“(3) Factors.—For purposes of making the finding in paragraph (2)—

“(A) the Commission shall not consider catastrophic events where the health consequences of individual events themselves can be reasonably assumed to exceed the health consequences due to the impact of the events on repository performance;

“(B) for the purpose of this section, an average member of the general population in the vicinity of the Yucca Mountain site means a person whose physiology, age, general health, agricultural practices, eating habits, and social behavior represent the average for persons living in the vicinity of the site. Extremes in social behavior, eating habits, or other relevant practices or characteristics shall not be considered; and

“(C) the Commission shall assume that, following repository closure, the inclusion of engineered barriers and the Secretary's post-closure actions at the Yucca Mountain site, in accordance with subsection (b)(4), shall be sufficient to—

“(i) prevent any human activity at the site that poses an unreasonable risk of breaching the repository's engineered or geologic barriers; and

“(ii) prevent any increase in the exposure of individual members of the public to radiation beyond the allowable limits specified in paragraph (1).

“(4) Additional analysis.—The Commission shall analyze the overall system performance through the use of probabilistic evaluations that use best estimate assumptions, data, and methods for the period commencing after the first 1,000 years of operation of the repository and terminating at 10,000 years after the commencement of operation of the repository.

“(e) National Environmental Policy Act.—

“(1) Submission of statement.—Construction and operation of the repository shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall submit an environmental impact statement on the construction and operation of the repository to the Commission with the license application and shall supplement such environmental impact statement as appropriate.

“(2) Considerations.—For purposes of complying with the requirements of the National Environmental Policy Act of 1969 and this section, the Secretary shall not consider in the environmental impact statement the need for the repository, or alternative sites or designs for the repository.

“(3) Adoption by commission.—The Secretary's environmental impact statement and any supplements thereto shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization under subsection (b)(1), a license under subsection (b)(2), or a license amendment under subsection (b)(3). To the extent such statement or supplement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969, and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954. In any such statement or supplement prepared with respect to the repository, the Commission shall not consider the need for a repository, or alternate sites or designs for the repository.

“(f) Judicial Review.—No court shall have jurisdiction to enjoin issuance of the Commission repository licensing regulations prior to its final decision on review of such regulations.

“SEC. 206. LAND WITHDRAWAL.

“(a) Withdrawal and Reservation.—

“(1) Withdrawal.—Subject to valid existing rights, the interim storage facility site and the Yucca Mountain site, as described in subsection (b), are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, the material sale laws, and the mining laws.

“(2) Jurisdiction.—Jurisdiction of any land within the interim storage facility site and the Yucca Mountain site managed by the Secretary of the Interior or any other Federal officer is transferred to the Secretary.

“(3) Reservation.—The interim storage facility site and the Yucca Mountain site are reserved for the use of the Secretary for the construction and operation, respectively, of the interim storage facility and the repository and activities associated with the purposes of this title.

“(b) Land Description.—

“(1) Boundaries.—The boundaries depicted on the map entitled “Interim Storage Facility Site Withdrawal Map,” dated March 13, 1996, and on file with the Secretary, are established as the boundaries of the Interim Storage Facility site.

“(2) Boundaries.—The boundaries depicted on the map entitled ‘Yucca Mountain Site Withdrawal Map,’ dated July 9, 1996, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

“(3) Notice and maps.—Within 6 months of the date of the enactment of the Nuclear Waste Policy Act of 1997, the Secretary shall—

“(A) publish in the Federal Register a notice containing a legal description of the interim storage facility site; and

“(B) file copies of the maps described in paragraph (1), and the legal description of the interim storage facility site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

“(4) Notice and maps.—Concurrent with the Secretary's application to the Commission for authority to construct the repository, the Secretary shall—

“(A) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

“(B) file copies of the maps described in paragraph (2), and the legal description of the Yucca Mountain site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

“(5) Construction.—The maps and legal descriptions of the interim storage facility site and the Yucca Mountain site referred to in this subsection shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

“TITLE III—LOCAL RELATIONS

“SEC. 301. FINANCIAL ASSISTANCE.

“(a) Grants.—The Secretary is authorized to make grants to any affected Indian tribe or affected unit of local government for purposes of enabling the affected Indian tribe or affected unit of local government—

“(1) to review activities taken with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of the integrated management system on the affected Indian tribe or the affected unit of local government and its residents;

“(2) to develop a request for impact assistance under subsection (c);

“(3) to engage in any monitoring, testing, or evaluation activities with regard to such site;

“(4) to provide information to residents regarding any activities of the Secretary, or the Commission with respect to such site; and

“(5) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken with respect to such site.

“(b) Salary and Travel Expenses.—Any salary or travel expense that would ordinarily be incurred by any affected Indian tribe or affected unit of local government may not be considered eligible for funding under this section.

“(c) Financial and Technical Assistance.—

“(1) Assistance requests.—The Secretary is authorized to offer to provide financial and technical assistance to any affected Indian tribe or affected unit of local government requesting such assistance. Such assistance shall be designed to mitigate the impact on the affected Indian tribe or affected unit of local government of the development of the integrated management system.

“(2) Report.—Any affected Indian tribe or affected unit of local government may request assistance under this section by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from activities of the integrated management system.

“(d) Other Assistance.—

“(1) Taxable amounts.—In addition to financial assistance provided under this subsection, the Secretary is authorized to grant to any affected Indian tribe or affected unit of local government an amount each fiscal year equal to the amount such affected Indian tribe or affected unit of local government, respectively, would receive if authorized to tax integrated management system activities, as such affected Indian tribe or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such affected unit of local government.

“(2) Termination.—Such grants shall continue until such time as all such activities, development, and operations are terminated at such site.

“(3) Assistance to Indian tribes and units of local government.—

“(A) Period.—Any affected Indian tribe or affected unit of local government may not receive any grant under paragraph (1) after the expiration of the 1-year period following the date on which the Secretary notifies the affected Indian tribe or affected unit of local government of the termination of the operation of the integrated management system.

"(B) Activities.—Any affected Indian tribe or affected unit of local government may not receive any further assistance under this section if the integrated management system activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

"SEC. 302. ON-SITE REPRESENTATIVE.

"The Secretary shall offer to the unit of local government within whose jurisdiction a site for an interim storage facility or repository is located under this Act an opportunity to designate a representative to conduct on-site oversight activities at such site. The Secretary is authorized to pay the reasonable expenses of such representative.

"SEC. 303. ACCEPTANCE OF BENEFITS.

"(a) Consent.—The acceptance or use of any of the benefits provided under this title by any affected Indian tribe or affected unit of local government shall not be deemed to be an expression of consent, express, or implied, either under the Constitution of the State or any law thereof, to the siting of an interim storage facility or repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

"(b) Arguments.—Neither the United States nor any other entity may assert any argument based on legal or equitable estoppel, or acquiescence, or waiver, or consensual involvement, in response to any decision by the State to oppose the siting in Nevada of an interim storage facility or repository premised upon or related to the acceptance or use of benefits under this title.

"(c) Liability.—No liability of any nature shall accrue to be asserted against any official of any governmental unit of Nevada premised solely upon the acceptance or use of benefits under this title.

"SEC. 304. RESTRICTIONS ON USE OF FUNDS.

"None of the funding provided under this title may be used—

"(1) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

"(2) for litigation purposes; and

"(3) to support multistate efforts or other coalition-building activities inconsistent with the purposes of this Act.

"SEC. 305. LAND CONVEYANCES.

"(a) Conveyances of Public Lands.—One hundred and twenty days after enactment of this Act, all rights, title and interest of the United States in the property described in subsection (b), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Nye, Nevada, unless the county notifies the Secretary of the Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Nye under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Nye County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

"(b) Special Conveyances.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, and on file with the Secretary shall be conveyed under subsection (a) to the County of Nye, Nevada:

Map 1: Proposed Pahrump Industrial Park Site

Map 2: Proposed Lathrop Wells (Gate 510) Industrial Park Site

Map 3: Pahrump Landfill Sites

Map 4: Amargosa Valley Regional Landfill Site

Map 5: Amargosa Valley Municipal Landfill Site

Map 6: Beatty Landfill/Transfer Station Site

Map 7: Round Mountain Landfill Site

Map 8: Tonopah Landfill Site

Map 9: Gabbs Landfill Site.

"(3) Construction.—The maps and legal descriptions of special conveyances referred to in subsection (b) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

"(4) Evidence of title transfer.—Upon the request of the County of Nye, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

"TITLE IV—FUNDING AND ORGANIZATION

"SEC. 401. PROGRAM FUNDING.

"(a) Contracts.—

"(1) Authority of secretary.—In the performance of the Secretary's functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such waste or spent fuel. Such contracts shall provide for payment of annual fees to the Secretary in the amounts set by the Secretary pursuant to paragraphs (2) and (3). Except as provided in paragraph (3), fees assessed pursuant to this paragraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended. Subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997, the contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act, provided that the Secretary shall consent to an amendment to such contracts as necessary to implement the provisions of this Act.

"(2) Annual fees.—

"(A) For electricity generated by civilian nuclear power reactors and sold between January 7, 1983, and September 30, [2002] *2003*, the fee under paragraph (1) shall be equal to 1.0 mill per kilowatt hour generated and sold. For electricity generated by civilian nuclear power reactors and sold on or after October 1, [2002] *2003*, the aggregate amount of fees collected during each fiscal year shall be no greater than the annual level of appropriations for expenditures on those activities consistent with subsection (d) for that fiscal year, minus—

"(i) any unobligated balance collected pursuant to this section during the previous fiscal year; and

"(ii) the percentage of such appropriation required to be funded by the Federal Government pursuant to section 403;

The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold, except that the annual fee collected under this subparagraph shall not exceed 1.0 mill per kilowatt-hour generated and sold.

"(B) Expenditures if shortfall.—If, during any fiscal year on or after October 1, 2002, the aggregate amount of fees assessed pursuant to subparagraph (A) is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

"(i) any unobligated balance collected pursuant to this section during the previous fiscal year; and

"(ii) the percentage of such appropriations required to be funded by the Federal Government pursuant to section 403;

the Secretary may make expenditures from the Nuclear Waste Fund up to the level of the fees assessed.

"(C) Rules.—The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

"(3) One-time fee.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1997 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997 pursuant to the contracts, including any interest due pursuant to such contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2002. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fee referred to in this paragraph on or before September 30, 2002, and the license shall remain suspended until the full amount of the fee referred to in this paragraph is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spent nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

"(4) Adjustments to fee.—The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3), together with the existing balance of the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1997, to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (c)(2). In the event the Secretary determines that the revenues being collected are either insufficient or excessive to recover the costs incurred by the Federal Government that are specified in subsection (c)(2), the Secretary shall propose an adjustment to the fee in subsection (c)(2) to ensure full cost recovery. The Secretary shall immediately transmit the proposal for such an adjustment to both Houses of Congress.

"(b) Advance Contracting Requirement.—

"(1) In general.—

"(A) License issuance and renewal.—The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

"(i) such person has entered into a contract under subsection (a) with the Secretary; or

"(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

"(B) Precondition.—The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of spent nuclear fuel and high-level radioactive waste that may result from the use of such license.

"(2) Disposal in repository.—Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in the repository unless the generator or owner of such spent fuel or waste has entered into a contract under subsection (a) with the Secretary by not later than the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste.

"(3) Assignment.—The rights and duties of contract holders are assignable.

"(c) Nuclear Waste Fund.—

"(1) In general.—The Nuclear Waste Fund established in the Treasury of the United States under section 302(c) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act and shall consist of—

"(A) the existing balance in the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1997; and

"(B) all receipts, proceeds, and recoveries realized under subsections (a), and (c)(3) subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997, which shall be deposited in the Nuclear Waste Fund immediately upon their realization.

"(2) Use.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to subsections (d) and (e), only for purposes of the integrated management system.

"(3) Administration of nuclear waste fund.—

"(A) In general.—The Secretary of the Treasury shall hold the Nuclear Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Nuclear Waste Fund during the preceding fiscal year.

"(B) Amounts in excess of current needs.—If the Secretary determines that the Nuclear Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

"(i) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Nuclear Waste Fund; and

"(ii) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

"(C) Exemption.—Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Nuclear Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

"(d) Budget.—The Secretary shall submit the budget for implementation of the Secretary's responsibilities under this Act to the Office of Management and Budget annually along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget shall consist of the estimates made by the Secretary of expenditures under this Act and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the budget of the United States Government.

"(e) Appropriations.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to appropriations, which shall remain available until expended.

"SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

"(a) Establishment.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) Functions of Director.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

"SEC. 403. FEDERAL CONTRIBUTION.

"(a) Allocation.—No later than 1 year from the date of enactment of the Nuclear Waste Policy Act of 1997, acting pursuant to section 553 of title 5, United States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors shall include,

"(1) an appropriate portion of the costs associated with research and development activities with respect to development of an interim storage facility and repository; and

"(2) as appropriate, interest on the principal amounts due calculated by reference to the appropriate Treasury bill rate as if the payments were made at a point in time consistent with the payment dates for spent nuclear fuel and high-level radioactive waste under the contracts.

"(b) Appropriation Request.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, as established under subsection (a).

"(c) Report.—In conjunction with the annual report submitted to Congress under section 702, the Secretary shall advise the Congress annually of the amount of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, requiring management in the integrated management system.

"(d) Authorization.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, as established under subsection (a).

"TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

"SEC. 501. COMPLIANCE WITH OTHER LAWS.

"If the requirements of any Federal, State, or local law (including a requirement imposed by regulation or by any other means under such a law) are inconsistent with or duplicative of the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or of this Act, the Secretary shall comply only with the requirements of the Atomic Energy Act of 1954 and of this Act in implementing the integrated management system.

"SEC. 502. JUDICIAL REVIEW OF AGENCY ACTIONS.

"(a) Jurisdiction of the United States Courts of Appeals.—

"(1) Original and exclusive jurisdiction.—Except for review in the Supreme Court of the United States, and except as otherwise provided in this Act, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

"(A) for review of any final decision or action of the Secretary, the President, or the Commission under this Act;

"(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this Act;

"(C) challenging the constitutionality of any decision made, or action taken, under any provision of this Act; or

"(D) for review of any environmental impact statement prepared or environmental assessment pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act or alleging a failure to prepare such statement with respect to any such action.

"(2) Venue.—The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

"(b) Deadline for Commencing Action.—A civil action for judicial review described under subsection (a)(1) may be brought no later than 180 days after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action no later than 180 days after the date such party acquired actual or constructive knowledge or such decision, action, or failure to act.

"(c) Application of Other Law.—The provisions of this section relating to any matter shall apply in lieu of the provisions of any other Act relating to the same matter.

"SEC. 503. LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS.

"(a) Oral Argument.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after January 7, 1983, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

“(b) Adjudicatory Hearing.—

“(1) Designation.—At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

“(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

“(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

“(2) Determination.—In making a determination under this subsection, the Commission—

“(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

“(B) shall not consider—

“(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor to which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

“(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless—

“(I) such issue results from any revision of siting or design criteria by the Commission following such decision; and

“(II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

“(3) Application.—The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

“(4) Construction.—The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear power plant by the Commission.

“(c) Judicial Review.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

“(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

“(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

“SEC. 504. SITING A SECOND REPOSITORY.

“(a) Congressional Action Required.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

“(b) Report.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

“SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.

“(a) Financial Arrangements.—

(1) Standards and instructions.—The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on January 7, 1983, prior to termination of such licenses.

“(2) Bonding, surety, or other financial arrangements.—If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

“(b) Title and Custody.—

“(1) Authority of secretary.—The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

“(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

“(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

“(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

“(2) Protection.—If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

“(c) Special Sites.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

“SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.

“The Commission is authorized and directed to promulgate regulations, or other appropriate regulatory guidance, for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians, and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear power plant operator licenses and for operator requalification programs; requirements governing Commission administration of requalification examinations; requirements for operating tests at civilian nuclear power plant simulators, and instructional requirements for civilian nuclear power plant licensee personnel training programs.

“SEC. 507. EMPLACEMENT SCHEDULE.

“(a) The emplacement schedule shall be implemented in accordance with the following:

“(1) Emplacement priority ranking shall be determined by the Department's annual ‘Acceptance Priority Ranking’ report.

“(2) The Secretary's spent fuel emplacement rate shall be no less than the following: 1,200 MTU in fiscal year 2000 and 1,200 MTU in fiscal year 2001; 2,000 MTU in fiscal year 2002 and 2,000 MTU in fiscal year 2003; 2,700 MTU in fiscal year 2004; and 3,000 MTU annually thereafter.

“(b) If the Secretary is unable to begin emplacement by November 30, 1999 at the rates specified in subsection (a), or if the cumulative amount emplaced in any year thereafter is less than that which would have been accepted under the emplacement rate specified in subsection (a), the Secretary shall, as a mitigation measure, adjust the emplacement schedule upward such that within 5 years of the start of emplacement by the Secretary, "(1) the total quantity accepted by the Secretary is consistent with the total quantity that the Secretary would have accepted if the Secretary had began emplacement in fiscal year 2000, and

"(2) thereafter the emplacement rate is equivalent to the rate that would be in place pursuant to paragraph (a) above if the Secretary had commenced emplacement in fiscal year 2000.

"SEC. 508. TRANSFER OF TITLE.

"(a) Acceptance by the Secretary of any spent nuclear fuel or high-level radioactive waste shall constitute a transfer of title to the Secretary.

"(b) No later than 6 months following the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary is authorized to accept all spent nuclear fuel withdrawn from Dairyland Power Cooperative's La Crosse Reactor and, upon acceptance, shall provide Dairyland Power Cooperative with evidence of the title transfer. Immediately upon the Secretary's acceptance of such spent nuclear fuel, the Secretary shall assume all responsibility and liability for the interim storage and permanent disposal thereof and is authorized to compensate Dairyland Power Cooperative for any costs related to operating and maintaining facilities necessary for such storage from the date of acceptance until the Secretary removes the spent nuclear fuel from the La Crosse Reactor site."

"SEC. 509. DECOMMISSIONING PILOT PROGRAM.

"(a) AUTHORIZATION.—The Secretary is authorized to establish a Decommissioning Pilot Program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

"(b) FUNDING.—No funds from the Nuclear Waste Fund may be used for the Decommissioning Pilot Program.

"SEC. 510. WATER RIGHTS.

"(a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising under this Act.

"(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER NEVADA LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements of the State of Nevada. Nothing in this Act shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands.

"(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER NEVADA LAWS.—Nothing in this Act shall be construed to limit the exercise of water rights as provided under Nevada State laws.

"TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

"SEC. 601. DEFINITIONS.

"For purposes of this title—

"(1) CHAIRMAN.—The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

"(2) BOARD.—The term 'Board' means the Nuclear Waste Technical Review Board continued under section 602.

"SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

"(a) CONTINUATION OF THE NUCLEAR WASTE TECHNICAL REVIEW BOARD.—The Nuclear Waste Technical Review Board, established under section 502(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of the Nuclear Waste Policy Act of 1997, shall continue in effect subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997.

"(b) MEMBERS.—

"(1) NUMBER.—The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after December 22, 1987, from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

"(2) CHAIR.—The President shall designate a member of the Board to serve as Chairman.

"(3) NATIONAL ACADEMY OF SCIENCES.—

"(A) NOMINATIONS.—The National Academy of Sciences shall, not later than 90 days after December 22, 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

"(B) VACANCIES.—The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

"(C) NOMINEES.—

"(i) Each person nominated for appointment to the Board shall be—

"(I) eminent in a field of science or engineering, including environmental sciences; and

"(II) selected solely on the basis of established records of distinguished service.

"(ii) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

"(iii) No person shall be nominated for appointment to the Board who is an employee of—

"(I) the Department of Energy;

"(II) a national laboratory under contract with the Department of Energy; or

"(III) an entity performing spent nuclear fuel or high-level radioactive waste activities under contract with the Department of Energy.

"(4) VACANCIES.—Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

"(5) TERMS.—Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after December 22, 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment, except that a member of the Board whose term has expired may continue to serve as a member of the Board until such member's successor has taken office.

"SEC. 603. FUNCTIONS.

[The Board shall limit its evaluations to the technical and scientific validity solely of the following activities undertaken directly by the Secretary after December 22, 1987—

["(1) site characterization activities; and

["(2) activities of the Secretary relating to the packaging or transportation of spent nuclear fuel or high-level radioactive waste.]

"The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after December 22, 1987, including—

"(1) site characterization activities; and

"(2) activities relating to the packaging or transportation of high-level radioactive waste or spent nuclear fuel.

"SEC. 604. INVESTIGATORY POWERS.

"(a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board. [The Secretary or the Secretary's designee or designees shall not be required to appear before the Board or any element of the Board for more than 12 working days per calendar year.]

"(b) PRODUCTION OF DOCUMENTS.—

"(1) RESPONSE TO INQUIRIES.—Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information [that is generally available to the public] as may be necessary to respond to any inquiry of the Board under this title.

["(2) EXTENT.—Subject to existing law, information obtainable under paragraph (1) may include drafts of products and documentation of work in progress.]

"(2) AVAILABILITY OF DRAFTS.—Subject to existing law, information obtainable under paragraph (1) shall not be limited to final work products of the Secretary, but shall include drafts of such products and documentation of work in progress.

"SEC. 605. COMPENSATION OF MEMBERS.

"(a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

"(b) TRAVEL EXPENSES.—Each member of the Board may receive travel expenses, including per diem in lieu of subsidence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"SEC. 606. STAFF.

"(a) CLERICAL STAFF.—

"(1) AUTHORITY OF CHAIRMAN.—Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

"(2) PROVISIONS OF TITLE 5.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 3 of such title relating to classification and General Schedule pay rates.

"(b) PROFESSIONAL STAFF.—

"(1) AUTHORITY OF CHAIRMAN.—Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

"(2) NUMBER.—Not more than 10 professional staff members may be appointed under this subsection.

"(3) TITLE 5.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

"SEC. 607. SUPPORT SERVICES.

"(a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

"(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General and the Librarian of Congress shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

"(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

"(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

"SEC. 608. REPORT.

"The Board shall report not less than two times per year to Congress and the Secretary its findings, conclusions, and recommendations.

"SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

["There are authorized to be appropriated for expenditures such sums as may be necessary to carry out the provisions of this title.]

"Notwithstanding section 401(d), and subject to section 401(e), there are authorized to be appropriated for expenditures from amounts in the Nuclear Waste Fund under section 401(c) such sums as may be necessary to carry out the provisions of this title.

"SEC. 610. TERMINATION OF THE BOARD.

"The Board shall cease to exist not later than one year after the date on which the Secretary begins disposal of spent nuclear fuel or high-level radioactive waste in the repository.

"TITLE VII—MANAGEMENT REFORM

"SEC. 701. MANAGEMENT REFORM INITIATIVES.

"(a) IN GENERAL.—The Secretary is directed to take actions as necessary to improve the management of the civilian radioactive waste management program to ensure that the program is operated, to the maximum extent practicable, in like manner as a private business.

"(b) AUDITS.—

"(1) STANDARD.—The Office of Civilian Radioactive Waste Management, its contractors, and subcontractors at all tiers, shall conduct, or have conducted, audits and examinations of their operations in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects consistent with its role in the program.

"(2) TIME.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporations engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the enactment of the Nuclear Waste Policy Act of 1997.

["(3) COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.]

["(4)] *(3)* TIME.—No audit contemplated by this subsection shall take longer than 30 days to conduct. An audit report shall be issued in final form no longer than 60 days after the audit is commenced.

["(5)] *(4)* PUBLIC DOCUMENTS.—All audit reports shall be public documents and available to any individual upon request.

"(d) VALUE ENGINEERING.—The Secretary shall create a value engineering function within the Office of Civilian Radioactive Waste Management that reports directly to the Director, which shall carry out value engineering functions in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects.

"(e) SITE CHARACTERIZATION.—The Secretary shall employ, on an on-going basis, integrated performance modeling to identify appropriate parameters for the remaining site characterization effort and to eliminate studies of parameters that are shown not to affect long-term repository performance.

"SEC. 702. REPORTING.

"(a) INITIAL REPORT.—Within 180 days of enactment of this section, the Secretary shall report to Congress on its planned actions for implementing the provisions of this Act, including the development of the Integrated Waste Management System. Such report shall include—

"(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession of, and delivery of spent nuclear fuel and high-level radioactive waste beginning no later than November 30, 1999, and in accordance with the acceptance schedule;

"(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligations under this Act and the contracts;

"(3) a detailed description of the Secretary's contingency plans in the event that the Secretary is unable to meet the planned schedule and timeline; and

"(4) an analysis by the Secretary of its funding needs for fiscal years 1997 through 2001.

"(b) ANNUAL REPORTS.—On each anniversary of the submittal of the report required by subsection (a), the Secretary shall make annual reports to the Congress for the purpose of updating the information contained in such report. The annual reports shall be brief and shall notify the Congress of:

"(1) any modifications to the Secretary's schedule and timeline for meeting its obligations under this Act;

"(2) the reasons for such modifications, and the status of the implementation of any of the Secretary's contingency plans; and

"(3) the Secretary's analysis of its funding needs for the ensuing 5 fiscal years."

"SEC. 703. EFFECTIVE DATE.

This Act shall become effective one day after enactment.".

Mr. MURKOWSKI. Mr. President, this begins our third day of debate on S. 104, the nuclear waste repository legislation, which has been introduced by myself and Senator CRAIG and a number of other cosponsors. This may not be a very exciting topic, Mr. President, but it is an important issue and it is an important responsibility for this body.

What we have is a situation where, as the charts will show, at some 80 sites in 41 States this waste has been accumulating. The Federal Government agreed in 1982 to accept this waste by 1998. Well, 1998 is next year. Now, the site that has been suggested as being the best for the waste is out in the Nevada desert at the Nevada test site.

Again, to refresh the memories of my colleagues, this is what the site looks like. It was used for over 50 years for more than 800 nuclear weapons tests. It is probably one of the more remote areas in the United States, but it is unique inasmuch as it has been a selected test site.

Now, why this site? That is a legitimate question, and I know my colleagues from Nevada are very concerned about it being designated in their State. I am sympathetic to that. But the reality is that it has to be put somewhere, Mr. President. In the debate yesterday, my colleagues from Nevada claimed that during the development of our nuclear program, it was necessary to do our patriotic duty to designate an area out in the Nevada desert, and you might say their State was used for that purpose as a contribution to the effort to fight and win the cold war.

I think it is fair to say, and the statement was made yesterday, that Congress chose that area to be studied for nuclear waste disposal for political reasons. Well, I don't know whether that is correct or not. It had to be somewhere. But Nevada is where we conducted nuclear tests, and where there is radioactivity from those tests. But in the debate yesterday, the Senators from Nevada indicated there was no rational, technical, or scientific reason for placing a spent fuel storage facility in Nevada. Well, I don't know any other place in the country where we tested 800 nuclear bombs.

Now, it's also important to note that the Department of Energy spent over a billion dollars studying other potential sites before narrowing the list to three sites, including Yucca Mountain. Congress settled on Yucca Mountain in 1987. It indicated that it had a unique geology, and it tied in the reality that the Nevada test site had been used to explode nuclear weapons for 50 years. In other words, it said that from a geological point of view, it meets our expectations. Secondly, it is an area that has been used, and, therefore, it should be sufficient for this type of permanent repository.

As we look at this test site, we should recognize that the last weapon was exploded underground there in 1991. Underground tests are still being performed with nuclear materials being exploded with conventional explosives, as I understand it, from time to time—all with the wholehearted support, I might add, of the Nevada delegation. In fact, not too long ago, one of the Nevada Senators supported storing spent fuel at the site.

I have a copy of a resolution that reappeared, from the Nevada assembly; it's joint resolution No. 15. That is a copy of the resolution, Mr. President, dated February 26, 1975. I am not going to read the whole resolution, but I think it is important to recognize this:

> Whereas, the people of southern Nevada have confidence in the safety record of the Nevada test site and in the ability of the staff to site and to maintain safety in handling of nuclear materials.

And, also:

> Whereas, nuclear waste disposal can be carried out at the Nevada test site with minimal capital investment relative to other locations.

That is from the copy of the resolution that we have on the chart behind me.

> Therefore, be it resolved by the assembly and the State of Nevada jointly that the legislature of the State of Nevada strongly urges the Energy Research and Development Administration to choose the Nevada test site for the disposal of nuclear waste.

Now, Mr. President, that was indicative of the attitude prevailing on February 26, 1975. The resolution was passed. It passed the Nevada Senate by a 12–6 vote, aided by the vote of one of our colleagues here in the Senate from Nevada, and it was signed by the Governor of Nevada, Mike O'Callaghan.

Well, I ask, Mr. President, what has changed? That test site hasn't changed. It is still there. It still has a trained work force, still has an infrastructure for dealing with nuclear materials. The geology of the site certainly hasn't changed. Obviously, at least one of the Nevada Senators thought it was the best place to store nuclear waste in 1975, or he would not have supported this resolution. In my opinion, when you are all through with going through the areas in the rest of the States, it is still the best place.

Where are we today? Well, we are still on our way—business as usual around the Senate, putting off decisions. We began this debate in the 104th Congress with the consideration of S. 1271. The Nevada Senators objected saying that the bill would gut environmental laws, allow unsafe transportation, and endanger the health and safety of Americans. We had objections from the administration saying that we were choosing Nevada as the site prior to the determination that the Yucca Mountain site would be viable as a permanent repository.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE AMENDMENTS EN BLOC

Mr. MURKOWSKI. Mr. President, I ask unanimous consent the committee amendments as presented be agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to en bloc.

AMENDMENT NO. 26

(Purpose: To provide milestones and requirements that allow thorough analysis and public participation and decisions based on sound science)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 26.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. MURKOWSKI. Mr. President, I believe that the Senator from South Carolina wishes to offer an amendment at this time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 27

(Purpose: To provide that the Savannah River Site and Barnwell County, South Carolina shall not be available for construction of an interim storage facility)

Mr. THURMOND. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from South Carolina [Mr. THURMOND], for himself and Mr. HOLLINGS, proposes an amendment numbered 27.
>
> On page 28, line 16, after "Washington" insert the following: ", and the Savannah River Site and Barnwell County in the State of South Carolina,".

Mr. HOLLINGS. Mr. President, I rise today in support of the amendment offered by myself and the senior Senator from South Carolina, Senator THURMOND.

We all know the score, the chairman of the Energy and Natural Resources Committee has outlined the state of our nuclear waste policy and we are aware of the need to move this bill forward.

Currently, DOE is contractually bound to begin receiving spent commercial nuclear fuel in 1998. Under the 1982 Nuclear Policy Act, DOE was directed to identify, construct, and operate an underground repository to dispose of the Nation's commercial nuclear fuel.

Identifying such a site proved difficult, so in 1987 Congress intervened and directed DOE to study or characterize only one site, Yucca Mountain, NV. Since 1987 DOE has been studying the Yucca Mountain site to determine if it is a suitable site for the permanent repository. This characterization was to be completed and, if the site was suitable, a permanent facility was to be constructed by 1998.

I don't need to point out how far this process has fallen behind. If it was on schedule then we would not be debating this bill today. It is now 1997, and DOE has not finished its site characterization work. In fact they tell me that, if there is no further delay and the site checks out, then the permanent repository will not be ready until 2010 at the earliest.

Obviously that causes a problem since last year a Federal court held that DOE does have an obligation to dispose of the waste by the 1998 deadline. So where does the waste go in 1998? Well, to Senator MURKOWSKI's credit, he is trying to answer that question. That solution is to construct a temporary storage facility at the Yucca Mountain if the site is suitable for the permanent repository.

The Senator from Alaska has tried to accommodate a bunch of competing interests, and, hoping to avoid a veto by the White House, he has provided a means by which the President can identify an alternative site if the Yucca Mountain site is deemed unsuitable. It is this provision, allowing the President to designate an alternative temporary storage site, that brings me here today. My friends from Oregon, Senators WYDEN and SMITH, both of whom are on the Energy Committee, offered a provision at markup to ensure that the DOE's Hanford Site be excluded as a possible alternative temporary storage site.

As many of my colleagues know, the DOE's Savannah River Site is located in my State, and I am here today to explain why, like the Hanford Site, it is not a suitable site for a temporary facility. After my colleagues hear SRS's disadvantages, they will agree. SRS is not the place for this spent fuel.

The amendment before us simply codifies that position. It simply states that the Savannah River Site and Barnwell County South Carolina, like Hanford, cannot be identified by the President as an alternative temporary storage site.

I am not going to spend time arguing why Yucca Mountain is the best site for this facility. The chairman of the

Energy Committee has done a fine job of that. What I will do is tell you why SRS is not the site.

SRS is a 198,000-acre reservation located in South Carolina and abutting Georgia. It is 12 miles southwest of Augusta, GA, and 10 miles south of Aiken, SC. This is a highly populated area which has been and continues to grow rapidly. I have heard people argue that the Savannah River Site is some rural out-of-the-way place. Well, that is just not the case. The population within a 50-mile radius of SRS numbers about 615,000. This obviously encompasses all of Aiken, SC, and Augusta, GA, whose combined population is more that 400,000 people, plus a number of smaller communities that are too numerous to mention.

What is more astounding is that the population living within a 100-mile radius of the site numbers 2.6 million people. This includes a number of larger cities including the capital of South Carolina, Columbia, Charleston, SC, Hilton Head, SC, Savannah GA, and Augusta, GA. In fact, there are private homes located on private lands located within 200 feet of the site.

To say this is a far and out-of-the-way place is just not the case. Putting additional nuclear waste in such a highly populated area is crazy.

In addition, as I understand the scientists, their most constant fear is that nuclear material is exposed to water and leaches into surface or subsurface waters and that this water carries the contamination off-site. Therefore it is critical that this nuclear material be kept dry and away from the corrosive effects of water.

Well, for anyone who has visited the Savannah River site, or, for that matter the lowcountry of South Carolina, they know that in reality it is all wetlands or as some say, a swamp. In fact, the Savannah River site is literally surrounded by water. There are extensive water resources on, under, and adjacent to the site.

The Savannah River, which marks the border of the States of South Carolina and Georgia also marks the 20-mile western boundary of the site and six major streams flow through the site and into the river.

It is this river, the Savannah, which supplies drinking water for Beaufort and Jasper Counties in South Carolina and the town of Port Wentworth, GA. In addition, it runs directly through the city of Savannah, GA, downstream and supports an active commercial and sport fishing industry.

Studies indicate that portions of the site are within the 100-year flood plain, and although this information is not available, I would not be surprised to find that the entire site is within the 500-year flood plain.

Under the surface there are several aquifer systems. The largest of which is the Cretaceous or Tuscoloosa Aquifer. It is a huge aquifer stretching all across the Southeast. In general, the groundwater on the site flows into one of the numerous streams or swamps on the site and then flows into the Savannah River which is, as I mentioned earlier, the source of drinking water for numerous cities and towns downstream.

The water not making its way to the river is absorbed into the ground and eventually makes it to the groundwater. The level of this groundwater, like its flow, varies but in some places it is literally within inches of the surface. The rate of flow for this groundwater varies with areas where it travels as fast as several hundred meters a year. So it is not hard to imagine a scenario, and we have had cases, where nuclear contaminants have reached the groundwater and quickly moved off site.

It is interesting to note, but not surprising, that virtually every county in South Carolina and Georgia has some number of households getting their drinking water directly from these subsurface aquifers. In fact, over 50 percent of the households in two counties that abut the site draw their drinking water from wells.

Obviously, with the abundant wetlands, rivers, streams, and, an abundance of precipitation, averaging over 44 inches per year, the Savannah River site is not the place for this spent fuel—if you want to keep it dry.

There are numerous other reasons to eliminate the Savannah River site from consideration. Not the least of which is that South Carolina and the Savannah River site are already doing their share to safely store nuclear waste. In fact, foreign research reactor fuel shipped from all over the world passes right by my front door as it is being shipped to Charleston and then up to the Savannah River site. In addition, the site is constantly receiving waste from the nation's nuclear defense facilities and domestic research reactors. We have all the waste we can handle.

Trust me, I have visited the site repeatedly over my career, and I am aware of the cleanup job we face down there. We have spent years getting a waste processing facility up and running, and we are just now really beginning to clean up the 33 million gallons of liquid high-level nuclear waste on site. That does not include all the other forms of waste: low-level, transuranic, and hazardous. To add more waste to a site which has its hands full cleaning up the mess caused by 40 years of nuclear weapons production is not the solution.

It is clear given the dense population of the area and its geography that it is not the best site for any waste. Our goal should be to ensure that the Savannah River site is cleaned up and that its waste is stabilized and moved off-site. The site is not suitable to receive additional waste. This amendment simply ensures that the Savannah River site is not overrun with waste and that it continues without interruption the cleanup and stabilization of its existing contamination.

I urge my colleagues to adopt the amendment. I yield the floor.

Mr. President, I urge adoption of the amendment.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Nevada.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 532 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. BINGAMAN. Madam President, I ask unanimous consent that I be allowed to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New Mexico is recognized.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 532 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Madam President, I yield the floor and suggest absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may be allowed to speak for up to 20 minutes, followed by Senator REID and Senator BRYAN for up to 10 minutes each, and further, that debate only be in order at this time.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada.

Mr. REID. Mr. President, reserving the right to object, if I understand the unanimous-consent request, the manager of the bill will speak for 20 minutes, the Senators from Nevada will speak for 10 minutes each, and there will be no further debate on this bill tonight. Is that correct?

Mr. MURKOWSKI. It wasn't my intent necessarily to eliminate debate from any other Senator who may come down. I have no objection if that is the proposal from the other side.

Mr. REID. I want no further debate tonight.

Mr. MURKOWSKI. Then I would agree. If we may withhold that for a moment, let me check with the Cloakroom. I want to make sure we don't have anyone else.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I advise my colleagues from Nevada that I agree to their alteration to the agreement which would limit debate to 20 minutes on this side and 10 minutes each, with the understanding that there be no further debate at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, we began this debate with the consideration of Senate bill 1271. The Senators from Nevada, of course, objected, saying the bill would gut environmental laws, saying it would allow unsafe transportation and endanger the health and safety of Americans.

We had objections from the administration. They opposed choosing Nevada as the interim site prior to a determination that Yucca Mountain would be viable as a permanent repository. To address these concerns and others, we have attempted to adjust our bill. We began with Senate bill 1271, then a new bill, Senate bill 1936, and again with an amendment in the form of a committee substitute to Senate bill 1936. With each new version of the bill, we attempted to strengthen the public health and environmental safeguards as well as meet the criteria of Members who were concerned about these items.

First, in an effort to address the administration's concerns, we made it clear that no construction of an interim facility would take place at the Nevada test site until Yucca Mountain was determined to be technically viable as a permanent repository. So let me make that clear. No construction would be initiated without the viability being determined.

We have extended the time period in order to accommodate the reality that nothing moves very fast when you are addressing nuclear waste.

With respect to concerns over radiation protection standards, we began with a 100-millirem standard which could not be reviewed by any Federal agency. The bill before us today allows the EPA to issue a stricter standard if it determines one is necessary. So we have tightened up on the radiation standards.

With respect to the NEPA requirements, our latest version requires the Department of Energy and the NRC to fulfill the requirements of NEPA in conjunction with the operation of both an interim storage facility and a repository. Our first bill did not contain that requirement. So, again, we tightened it up with regard to NEPA requirements.

With respect to concern about transportation safety, we have accepted transportation language offered by Senator MOSELEY-BRAUN of Illinois, Senator WYDEN, and others.

With respect to the preemption of other laws, we proposed language consistent with the preemption authority found in the existing Hazardous Material Transportation Act. Indeed, I think we have made substantial changes in the bill. What is before us today is far different than what we originally introduced as Senate bill 1271 in the 104th Congress.

Despite all of the changes we have made, the opponents of this bill continue to object to the bill as if no changes were made. We have heard it referred to as "Mobile Chernobyl," "emasculating NEPA laws" and "running roughshod over all environmental laws."

The emotional rhetoric that has been used fails to recognize the changes we have made in this bill and the charges that we have refuted.

The suggestion has been made that the transportation is unsafe. We have shown how we have safely been moving fuel around for many years. I have some charts behind me to show that. Not only have we moved fuel, but fuel has been moved overseas.

Here is a chart showing specifically fuel what is coming to the United States from other countries: Australia; it is coming from Turkey, Iran, Pakistan, and Canada. How does it get here? It moves. It is transported. And it is transported safely. The French, the Japanese, and the Swedes are moving spent nuclear fuel. Spent nuclear fuel is coming from Japan, going to France for reprocessing, being taken back to Japan, and being put back in the reactors. They have what they call reprocessing. They don't bury their waste. They put it back in the reactors and burn it. It combats proliferation. I am not here to argue the merits of that. I am simply showing that this waste does move, and it moves in transportation casks.

We have heard it argued that transportation casks are unsafe. But we have shown that the transportation casks can withstand significant exposure to crashes, and can survive fires. We have shown the casks have been tested by a locomotive hitting them at the 90 miles an hour, or crash into a brick wall at 80 miles per hour, submerged in water, and bathed in fire. These casks are safe, and they are designed to survive any type of real world accident. We have the technology to do that.

I also want to show a chart relative to the movement of waste throughout the United States, which I think is significant inasmuch as it reflects on the reality that we move a tremendous amount of waste throughout the United States.

But here we are. In the years 1979 to 1995, there were 2,400 shipments across the United States through every State except Florida and South Dakota. I don't know how we missed those. But there are the transportation routes. So we have moved them safely. We have shown that our national labs have certified that the casks can survive any real world crash.

We have heard statements that radiation protection standards are unsafe. We have shown how our standard is more protective than the current EPA guidance that allows five times as much. We allow EPA to tighten the standards further, if need be.

It has been said on the other side that the Nuclear Waste Technical Review Board says there is no compelling technical or safety reasons to move fuel through a central location.

We have shown that a more complete reading of the Technical Review Board's testimony—and their report—indicates there is a need for interim storage, and there is a need for Yucca if Yucca is determined to be a suitable site for the permanent repository.

The other side has indicated we can delay this action until August 1998, at a time when a viability determination is made with respect to Yucca.

We have shown that delay is what has gotten us into this situation in the first place.

There is a court case which has already determined that the Federal Government is liable because of its delays and its inability to accept the waste.

Eight months from now, when the Government is in breech of contract, then the courts are going to consider the damage that we face.

We as legislators have a responsibility to protect the taxpayers. With each delay, the damage is going to mount. With each delay, the liability to the taxpayer will mount. With each delay, there will be a pressure to yield to even further delays. The call for delay is really a siren's song. It is a trap. It is an excuse for no action.

Only yesterday I heard our ranking member, Senator BUMPERS, suggesting that we could wait until August 1998 to deal with this problem. Well, it might sound reasonable at first. It has been so long now. But let's give it a little more thought.

Will Congress deal with the nuclear waste issue in an election year with time running out in the 105th Congress? I think not. Will my friends from Nevada forego their rights to filibuster the bill at that time? I think not. As a practical matter, delay until August 1998 will slip to 1999. And, if we are waiting until 1999, why not allow the decision to wait for the license applications in 2001 or 2002? All the while we will be in violation of our contractual commitment. We will be increasing the damages. If we delay until 2001 or 2002, then why not delay until final licensing of a permanent repository is due in the year 2015.

Let me refer you to the picture of where we propose to put this. This waste would be put in a temporary repository located at the Nevada test site, which was used for more than 50 years and over 800 nuclear weapons tests have taken place in that area.

That is what we propose. It would be adjacent to the continuing development of a permanent site in Yucca Mountain. We have gotten nearly 5 miles of tunnel done now. The problem is that site is not going to be ready until the year 2015.

I do not expect the changes we have made in this bill, along with the others, will necessarily satisfy all my friends on the other side. All the members of the Nevada delegation have appeared before the committee, and they have said they would oppose any approach that would bring nuclear waste to Nevada, so I do not realistically expect my good friends to change their minds. They are doing what they feel they must do for their State. But I do hope my other colleagues who have not expressed support for our bill will understand just how far we have already come to make accommodations and to reject the emotional rhetoric that has been heard so often with regard to this bill.

We are starting this bill with 63 votes. That is what we had last year. It is no secret that we are seeking a higher number. So we are prepared to adopt amendments today to further address the concerns of some Members who have indicated concerns to the White House as well and to generally try to tackle all reasonable concerns that still may persist about the bill. We have developed this substitute amendment. We have worked closely with Senator BINGAMAN, and I commend him and his staff for their hard work.

Let me go over the amendments very briefly, point by point. S. 104 sets the size of the interim storage facility at 60,000 metric tons. Opponents of S. 104 have charged that the large size of this interim storage facility diverts resources away from the permanent repository at Yucca.

The Senators from Nevada have also incorrectly stated that it is our intent to make the interim repository the de facto permanent repository. Clearly, that is not the case.

Our amendment allows the Secretary to set the size of the facility based on the emplacement. Initial capacity would be 33,100 metric tons. This adequately addresses charges made by the critics of S. 104 that the repository is too large, and it makes it clear that the interim facility can never be a substitute for a permanent repository.

As we have said all along, the work at Yucca for the permanent repository will go on; it must go on. This provision in our substitute makes it clear that it has to go on.

S. 104, as reported, envisioned the initial operation of a central storage facility by December 31 in the year 2002, if Yucca Mountain is determined to be viable, and December 31, 2004, if it is determined not to be viable. Critics of S. 104 charged that this did not allow adequate time for the NEPA and the NRC licensing process to work.

Our amendment addresses these concerns by shifting those dates to June 30, 2003, and June 30, 2005.

S. 104 sets a 100-millirem dose standard that could be reviewed and changed to protect public health and safety. Critics of S. 104 argued that this was not good enough and that there should be a risk-based standard as recommended by the National Academy of Sciences.

Our amendment, therefore, mandates full EPA involvement in the setting of the risk-based radiation protection standard that is likely to result in a standard of 25 to 30 millirem. This is the approach endorsed by the Senators from Nevada I believe yesterday.

S. 104 ensured that the State and local jurisdictions could not hamstring Federal intent by allowing the Atomic Energy Act and the Hazardous Materials Transportation Act to preempt all inconsistent laws. Critics charged that this preemption authority was too broad because it allowed Federal laws to be preempted as well.

Our amendment, therefore, makes it clear that our bill would preempt State and local laws only, only where State intransigence prevents Federal purposes. We have adopted a more narrow approach that attempts to I think bring in a careful balance of State and Federal law.

We do not preempt Federal law. Therefore, let us be very clear about what we have attempted to do with our amendment here today. We have worked to address all the key objections of critics of S. 104 and still have a bill.

The statement of administration position and the recent letters sent to the majority leader by the Secretary of Energy really are not referring to the bill that incorporates the amendments we proposed here today, so their objection, if you will, is inappropriate because it does not relate to the changes we have made, and we look forward to any comments the administration might make with regard to these adjustments.

Let me go over each of the administration's criticisms and how we have addressed them. The administration's position initially stated that S. 104 would "effectively replace EPA's authority to set acceptable release standards."

Mr. President, I am going to need about 3 more minutes here with no objection from my colleagues from Nevada. I would ask that they be extended 3 more minutes as well.

Mr. REID. Whatever the Senator needs, we will extend the time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank my friend. Let me begin again.

The administration's position states that S. 104 would "effectively replace EPA's authority to set acceptable release standards." Our amendment, as I have stated earlier, places the EPA in a key role developing risk-based standards for the repository consistent with the recommendations of the National Academy of Sciences.

The administration position states that S. 104 would create loopholes in the application of the National Environmental Policy Act.

We have answered that. A full EIS is required prior to placement of any waste in temporary storage or the repository, and our amendment requires the evaluation of transportation which S. 104 excluded.

The administration also stated that S. 104 would "weaken existing environmental standards by preempting all Federal, State and local laws inconsistent with the environmental requirements of this bill and the Atomic Energy Act."

Our amendment completely changes section 501 of the bill. There will be full application of health and safety laws except where the local jurisdiction attempts to unreasonably stand in the way of the Federal mandate.

The administration's position further states that S. 104 "would undermine the ongoing work at the permanent disposal site by siphoning away resources."

That is simply not true. Our amendment establishes a user fee which was specifically added to provide sufficient funds for the construction and operation of a central storage facility and continued work at Yucca Mountain.

Finally, the administration's position states that "it would undermine the credibility of the Nation's nuclear waste disposal program by designating a site for an interim storage facility before viability has been assessed."

As I have said earlier, that is simply not true. Our bill specifically conditions the use of the Nevada test site as a site for a temporary storage until completion, until completion of a viability assessment for the repository at Yucca Mountain. We have attempted to mirror the administration's position on this issue, and I think we have.

Mr. President, we have worked very hard to satisfy legitimate concerns of the administration and all Senators. We continue to remain open to suggestions. Our willingness to consider new approaches will not stop with the Senate passage of this bill. There will be consideration in the House, and there will be a conference. This is not the last word. We will continue our quest for compromise that is not only acceptable to a bipartisan majority of Congress but hopefully the President as well.

Finally, Mr. President, I want to again advise my colleagues of my thanks to Senator BINGAMAN for the efforts made to accommodate his amendments. I think we were able to accommodate seven of the eight. I would like to conclude by simply explaining the one that we could not resolve.

As the Chair is aware, Senator BINGAMAN opposes our provision, and that specific provision is if the Yucca Mountain site fails as a permanent disposal site, if it fails in the sense of the licensing viability or suitability test, why, then the President must pick an alternative temporary site. Our position is that if we should get to this point, and it is very unlikely that it could occur, that Yucca would fail as a permanent disposal site, it would be the President's obligation to pick a temporary site. It would also bind Congress in approving the President's site. However, if Congress does not approve, or if the President fails to pick a site in 2½ years, then we go back to the Nevada test site more or less as the default position.

Senator BINGAMAN's position is a little different. He says if Yucca fails and the President picks a site, and, of course, Congress must approve, but if the Yucca site is not approved and the President does not pick, or Congress does not approve, then the waste would stay where it is, at 80 sites in 41 States, and it would stay there, well, until we developed a new nuclear waste program for the country. It could stay there basically, in his contention, for an extended period of time.

We found that irreconcilable. We feel that in order to bring this to a conclusion, we have to structure the amendments in such a way as to determine, indeed, that if Yucca Mountain is not deemed to be an adequate site and if the President finds it necessary as a consequence of Yucca not being deemed an adequate site, the responsibility is the President's, with the approval of Congress, but if all proposed to duck responsibility, then clearly it comes back to the Nevada test site in default. And the rationale for that is obvious. Without closing the loop, we have left a loophole, and we would not see a satisfactory determination by the parties who must bear the responsibility. And the Congress and the Senate certainly share in that.

So with that concluding remark, I yield and encourage the Chair to grant an equal amount of time to my good friends from Nevada.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, will the Chair advise the Senator from Nevada how much time the Senator from Alaska consumed?

The PRESIDING OFFICER. The Senator consumed 25 minutes.

Mr. REID. Will the Chair advise the Senator when he has used 11 minutes?

The PRESIDING OFFICER. Yes, sir. If you will proceed, I will be happy to do that.

Mr. REID. Mr. President, I do not mean in any way to denigrate pigs. I like pigs. As far as I am concerned, they do not look too bad. But no matter how you dress up a pig, formal clothes or dress, it still looks like a pig. And this legislation, no matter how you dress it up, still appears to be garbage. It is a bill that is not good legislation. No matter how you dress it up, it is a bad piece of legislation. Not the least reason for that, Mr. President, is the fact that now, this year, we are trying to interchange the word "viability" with "suitability." They are two totally different concepts with two totally different meanings.

As defined by the Department of Energy, viability is simply a finding that to that point in time, no disqualifying characteristic has been found. It simply says to this point we have not yet found anything wrong. It does not mean that the site will be suitable. Subsequent to viability, there is significant additional technical study to be pursued in the context of a repository design. The site could still be found unsuitable for an extended period later, while they find out if it is suitable. So an assessment of viability does not mean much.

This distinction between viability and suitability has been repeatedly pointed out to the Congress. It is a shame that in this debate, this year, we are now trying to satisfy the element of suitability by using the word "viability." The distinction was emphasized by the immediate past Director of DOE's Office of Civilian Radioactive Waste Management, who cannot be considered someone who is opposed to the nuclear industry. He simply said the finding of suitability is much different and a much higher standard than the finding of viability.

The distinction was emphasized in S. 104 testimony by the Chairman of the Nuclear Waste Technical Review Board. He said repeatedly, as did the former Chairman of the Office of Radioactive Waste Management, "Do not confuse viability with suitability. Suitability is the final step before license applications can be pursued. No centralized interim storage should be approved before that suitability decision has been made." This is very clear. So, in this debate let us not confuse suitability with viability.

There have been constant statements made on this Senate floor during the past few days that nuclear waste transportation is just fine, they do it other places. How many times have we heard statements, people saying we transport nuclear waste all over? Let me read from a letter written to my colleague, Senator RICHARD BRYAN, on March 28, 1997. This is not something that took place in ancient history. This is a brandnew letter. Let me read it:

> DEAR SENATOR BRYAN: As the Senate prepares for a vote on S. 104, I thought you might find my recent experience with real-world transportation of radioactive waste in Gorleben, Germany of interest.
>
> In early March, I was part of an international team which monitored the transport of six CASTOR casks of high-level atomic waste from southern Germany to the small northern farming community of Gorleben, a distance of about 300 miles. My experiences are chronicled in the enclosed issue of the Nuclear Monitor. But I want to add just a few points.
>
> Too often, I feel like many of your Senate colleagues believe nuclear waste transportation is just another routine industrial endeavor and that, if they vote for a bill like S. 104, this transport will just be carried out with few problems.
>
> The reality in Germany is quite different. The CASTOR shipments were met with protest every mile of the way. The shipments were front page news in every German newspaper the entire week I was in the country. Near Gorleben, a farming area and home of the "interim" waste storage facility, opposition to the transport and the "interim" facility is very nearly unanimous. In some towns nearby, I could not find a single house or farm that did not display anti-CASTOR, anti-nuclear, and anti-government signs. Farmers barricaded roads, and dug holes under them so the 100-ton CASTOR casks could not travel across them. Schoolchildren were forcibly removed from their schools, so police could use them as staging areas. The CASTOR transports had changed a quiet, conservative region of Germany into a bastion of protest and anger, causing a divisiveness in German society only now being recognized by the German Parliament, which has begun hearings on the issues.
>
> The transport of these six casks required 30,000 police and $100 million. More than 170 people were injured during demonstrations, more than 500 arrested. Even the police have called for an end to the shipments; they no more like arresting demonstrators (who

many sympathize with) than they like guarding highly radioactive waste casks. I personally measured the radiation from one of these casks: at 15 feet, it was 50 times higher than background levels—an amount no one should involuntarily be exposed to, and pregnant women and children should never be exposed to. The police, of course, stand much closer than 15 feet, and for hours at a time.

Eight casks, of 420, have been shipped to Gorleben. Total cost to the German government has been about $150 million. Each shipment the protests and anger increase, instead of dying down.

Perhaps obviously, while watching the casks lumber down the highway toward Gorleben, at about 2 miles per hour (it took them about six hours to move the final 14 miles), surrounded by police and protestors, I reflected on what this might mean to our own radioactive waste programs. We're not trying to move six casks, or eight, or even 420. Under S. 104, we could be moving as many as 70,000 casks—not six in one year, but six every day. And we wouldn't be moving them 300 miles, but many hundreds and thousands of miles at a time.

I frankly don't know if we will experience protests like those in Germany, though I suspect we will. But I do know we will experience the same type of anger expressed by the local farmers and townspeople, the same type of distrust of government and authority, and the same kinds of societal divisions. And I have to ask myself, has anyone in the Senate actually thought about what these waste shipments could mean? I fear not.

Nor, I am convinced, is the U.S. government as prepared as the German government to handle these shipments. Germany was able to place 30,000 police, brought in from all across the country, along the transport route. Medical people and the Red Cross were well in evidence. The first line of emergency responders—the police—obviously were present for every mile of the transport. And they were clearly well-trained, if sometimes visibly uncomfortable in their roles.

It will not work to simply load up a huge cask of high-level atomic waste from a nuclear utility and send it onto an American highway or railway like a truck or boxcar carrying cars or oranges or even gasoline or some other hazardous material. Radioactive waste shipments are qualitatively different and require much more thought, planning and contemplation than the U.S. Senate so far appears willing to provide.

In the end, it required establishment of a literal police state in the Wendland area of Germany, and very nearly a war zone, to complete this cask movement. I do not believe this would be a credible or accepted policy in the United States.

With only eight of 420 casks shipped, Germany's Parliament is re-evaluating the entire program. Perhaps we can learn from them, and begin our re-evaluation before the shipments start.

I would be happy to further brief you or your colleagues on my experiences at your convenience.

It is signed by Michael Mariotte.

So, Mr. President, saying you can ship these casks with no problem is just not common sense, in light of what has happened in other places of the world. In the country of Germany, a very sophisticated country, Parliament has had to stop the shipment program.

This substitute is no different from the bill as originally submitted. S. 104 and its nuclear industry advocates insist that waste will be stored in Nevada no matter what. And they do not at all consider the transportation problems, as I indicated we should. The substitute amendment says that if Yucca Mountain is determined unacceptable by the President, then a different interim storage site must be designated within 24 months. If a different interim site is not so designated within that period, then Nevada would become the default storage site.

Sponsors of S. 104 in this Senate and the nuclear industry know that no such designation is possible within 24 months. Everyone knows that. That is why this substitute is as big a sham as the original bill. As I indicated, you can dress up a pig however you want, but it is still a pig. This legislation is still garbage, no matter how they try to dress it up.

They know that there has been spent to this point over a decade trying to understand the area around Yucca Mountain well enough to approve permanent storage there. They want to void the billions of dollars spent in Yucca Mountain and sidetrack, short-circuit the system. They know that any site that receives nuclear waste will keep it forever, because a permanent repository will never be built. That is the whole game of the very powerful, greedy, devious, deceptive nuclear waste industry. They do not want to play by the rules. They want to have their own game where they set their own rules, as they are trying to do in S. 104, and they are trying to doctor it up by saying we have made the goal lines not 100 yards apart, they are only 80 yards apart. That is not true.

They know once waste is moved from its generator site to a centralized site, it will never be moved again. A suitability decision will permit designation of a site. Viability will not.

So the only possible way to proceed, the only way to overcome the overwhelming opposition to centralized interim storage, is to designate an interim storage site at a place that has already been found suitable for permanent disposal of spent nuclear fuel. That is the only way to do it.

It is this inability to see that S. 104 is putting the horse behind the cart, that is, establishing an interim site before a suitability decision—it is this blindness that compels me to believe S. 104 is really all about sabotaging this country's avowed policy to permanently dispose of nuclear waste.

The industry, with all their money and all their profits, want to change the system. They want to change the rules in the middle of the ball game. Everyone knows that Nevada is not happy with Yucca Mountain. But at least some rules have been established there, where scientists have at least some say in what is going on there. And the reason the nuclear waste industry is willing to change—wants to change the rules in the middle of the game is they know that Yucca Mountain is being, at this stage, studied, analyzed, and characterized in a fair fashion.

Think about it. S. 104 would move nuclear waste to Nevada and store it there permanently at a site that has been found unsuitable for that purpose. I repeat. Think about it. S. 104 would move nuclear waste to Nevada and store it there permanently at a site that has been found unsuitable for that purpose. What could be more outrageous than that?

Such a policy goes beyond stupidity, goes beyond unfairness. It would knowingly risk public health and safety by storing waste at a site that has been determined to be an unsafe site, and, by storing waste on an open, concrete pad, exposed——

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator has used 11 minutes.

Mr. REID. I thank the Chair.

By storing waste on an open, concrete pad, exposed to the weather and all manner of natural and accidental damage. That is wrong. Permanent storage, because that is what it would be, at a temporary site would be about the worst decision this Senate could make.

This legislation, this so-called substitute, is as bad as the original bill. I defy anyone to controvert what we have talked about here today, about the problems they had in Germany. Eight casks out of 420, moved 300 miles, not thousands of miles like we are moving them here. They had to call out 30,000 police and army personnel to allow those to proceed, at a cost of $150 million.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I thank the Chair. I yield myself such time as I may need.

Mr. President, I want to continue this discussion of my colleague. Each of us was thinking in the same frame of reference. He said no matter how much you dress up a pig it's still a pig. I learned as a youngster the old adage, you cannot make a silk purse out of a sow's ear. You cannot make a silk purse out of a sow's ear. And that is exactly what we have here.

We have not had a chance to review in detail all the asserted changes that the chairman of the committee intends, and we will have a chance to comment on that tomorrow. But central to this debate, the basic issue, the point at which all discussion begins, every thoughtful and analytical and policy frame of reference, is the question of whether or not we should place interim storage anywhere before a determination is made with respect to a permanent repository or dump. That is why the administration continues to oppose this legislation, Senator BINGAMAN opposes this legislation, why every environmental organization in America opposes this legislation. Because the basic flaw is this is unnecessary and unwise. We will have a chance to expand upon this tomorrow.

But you go back to the origin of this debate, 17 years ago, you scratch the surface and always the nuclear utility industry and its highly paid advocates have one mission and one mission only—remove the waste from the reactor site. That was the essence of the debate, as we have pointed out time and time again on the floor dating back to 1980 when then the Holy Grail of the industry was an "away-from-reactor" storage program; the same basic concept, anywhere away from here, get it out, away from reactor storage. The Congress wisely rejected in 1980 that approach, just as they have rejected that approach consistently, year after year.

I want to refer to the Nuclear Waste Technical Review Board. We have talked about that a great deal. Much has been made of its contents. But the point that needs to be made is there is no urgent technical need for interim storage of spent fuel—none. Our colleague, the ranking member of the committee, last night, the senior Senator from Arkansas [Mr. BUMPERS], went on at great length about: There is no necessity, no need to do so. Indeed, any thoughtful policy approach rejects that premise.

Again, in 1997, a reconstituted Nuclear Waste Technical Review Board reaches the same conclusion, namely that there is no necessity and no reason to move at this time.

They make a second point here that I think is important to emphasize, and that is, if the site selection process is to retain any integrity at all, here is what Dr. Cohon said in his testimony of February 5:

> However, to maintain the credibility of the site-suitability decision, siting a centralized storage near Yucca Mountain—

That is interim storage he has reference to—

> should be deferred until a technically defensible site-suitability determination can be made at Yucca Mountain.

That is the essence of the argument, that no decision should be made until a defensible site-suitability determination can be made at Yucca Mountain.

He goes on to say:

> We have estimated that such a determination could be made within about 4 years.

Those are Dr. Jared Cohon's comments.

So, Mr. President, it is clear that the nuclear utility industry is scrambling at the last moment to put together a few flourishes on the legislation that is before us, but they will not and cannot change the basic flaw in that they would propose to site interim storage at the Nevada test site before a determination is made with respect to the permanent repository.

Let me say, for those who have followed this issue over the years, the only justification for siting it at the Nevada test site—and this was debated last year on the floor, to some extent—was the assumption, the predicate that Yucca Mountain would be the permanent repository. That was the only basis. How in the world can you place interim storage until you have a determination made as to whether the permanent facility, which is the whole predicate of the interim storage licensing decision, has been determined, and that has not occurred.

So this has nothing to do with science. Frequently, science is invoked to defend the course of action that our colleagues on the other side of this issue would urge upon the body. This has absolutely nothing to do with science; it has everything to do with nuclear politics as advocated by the nuclear power industry and their legions of lobbyists who line the hallways and the corridors of this Chamber, as well as the other body.

A second point I think needs to be made here and was addressed, in part, by my senior colleague, and that is the transportation issue. If we should not be moving it at all until a decision is made, why place at risk the citizens of 43 States, 51 million people, along highway and rail corridors in America? Senator REID is quite correct that Europe is often cited: "My gosh, they have their situation handled; why can't we do it here?" Believe me, once you start moving 85,000 metric tons of high-level nuclear waste, you are going to have communities, and rightly so, exercised about the transport of those kinds of volumes.

The chairman of the committee says, "Well, we're shipping nuclear waste around now." That is true to some extent, but the difference between 2,500 shipments and 17,000 shipments in which the 2,500 shipments have traveled 900 miles or less is a vastly different proposition in terms of magnitude of risk of shipping waste over thousands of miles. Remember, most of these reactors are in the East and would be transported virtually from coast to coast, a very different proposition again.

Something else that we have tried to make understandable in this debate to our opponents is the fact that the casks that would be used have not yet been designed, nor have they been manufactured. So we are talking about a totally different reconfigured cask that will take some time.

I invite my colleagues' attention to the testimony of Dr. Jared Cohon, again, earlier this year when he indicated that it is not just a siting decision. He says:

> But developing a storage facility—

And he is referring there, again, to interim storage—

> requires more than a siting decision. It also requires the development of a transportation system, and it is likely that such transportation system will take several years to develop.

So the notion that somehow instantaneously this problem is taken care of, just pass S. 104 and all of our problems go away.

I want to respond to one other issue briefly before concluding. The notion is somehow fostered here that if an interim storage facility is located at the Nevada test site, that rather than having 109 different reactor sites around the country where nuclear waste is stored, we will have only one. Mr. President, that is not correct. We will have 110, not 109.

Many people may not be familiar with the fact that immediately after a spent fuel cell assembly is removed from the reactor because it no longer has the efficiency necessary to generate electrical power, it is stored for many, many years in a spent-fuel pond or pool for it to cool off for a period of time. We are talking about reactors that are licensed up to the period of 2033. So we are going to have nuclear waste stored at many sites around the country for many, many years, irrespective of S. 104.

So the notion that is held out of "pass this bill and we will have no nuclear waste other than at the site designated in this bill, the Nevada test site," is certainly a false premise and, indeed, once the waste is removed, the reactor itself remains and is hazardous for an extended period of time.

There are many things we will be talking about in more detail during the course of the debate over the next few days. But no matter how they try to recast this as a different piece of legislation, some chameleon-hued piece of nuclear legislation, when you get to the very essence, the core of the legislation, its fatal and unperfectable flaw is that it calls for siting interim storage before the decision is made on the permanent facility, and no one in the scientific community is arguing for that proposition.

So this is nuclear politics, and we are simply responding to the bidding of the nuclear utility industry, which, for more than a decade now, has urged the Congress, in one form or another, to remove the reactor waste, send it somewhere else, send it anywhere, but get it out from under us, and that is the objection that the policymakers, who have given this their thoughtful attention—the President of the United States and others—have said that is what is wrong with this legislation. It is what was wrong with the legislation in 1996, and that has not changed in the original form in which this bill was introduced, and based upon the discussion of the chairman of the committee, it has not changed in the substitute that is being proposed.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. LOTT. Madam President, I send a cloture motion to the desk to the pending committee substitute.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the substitute amendment to S. 104, the Nuclear Policy Act:

Trent Lott, Frank Murkowski, Lauch Faircloth, Phil Gramm, Craig Thomas, Gordon Smith, Ted Stevens, Pete Domenici, Slade Gorton, Larry Craig, William Roth, Conrad Burns, Spencer Abraham, Bob Smith, Susan Collins, and Don Nickles.

Mr. LOTT. Madam President, for the information of all Senators, this cloture vote would occur on Friday unless consent can be granted for a vote on Thursday. Also, the interested parties are in the process of negotiating a consent agreement that would call for the final passage of S. 104 by the close of business tomorrow. Needless to say, if that is agreed to, the cloture vote would not be necessary. I encourage our colleagues to continue to negotiate on this important legislation, and I hope that they will be able to reach an agreement shortly.

MORNING BUSINESS

Mr. LOTT. Madam President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT CONCERNING SCIENCE AND TECHNOLOGY POLICY—MESSAGE FROM THE PRESIDENT—PM 28

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

A passion for discovery and a sense of adventure have always driven this Nation forward. These deeply rooted American qualities spur our determination to explore new scientific frontiers and spark our can-do spirit of technological innovation. Continued American leadership depends on our enduring commitment to science, to technology, to learning, to research.

Science and technology are transforming our world, providing an age of possibility and a time of change as profound as we have seen in a century. We are well-prepared to shape this change and seize the opportunities so as to enable every American to make the most of their God-given promise. One of the most important ways to realize this vision is through thoughtful investments in science and technology. Such investments drive economic growth, generate new knowledge, create new jobs, build new industries, ensure our national security, protect the environment, and improve the health and quality of life of our people.

This biennial report to the Congress brings together numerous elements of our integrated investment agenda to promote scientific research, catalyze technological innovation, sustain a sound business environment for research and development, strengthen national security, build global stability, and advance educational quality and equality from grade school to graduate school. Many achievements are presented in the report, together with scientific and technological opportunities deserving greater emphasis in the coming years.

Most of the Federal research and education investment portfolio enjoyed bipartisan support during my first Administration. With the start of a new Administration, I hope to extend this partnership with the Congress across the entire science and technology portfolio. Such a partnership to stimulate scientific discovery and new technologies will take America into the new century well-equipped for the challenges and opportunities that lie ahead.

The future, it is often said, has no constituency. But the truth is, we must all be the constituency of the future. We have a duty—to ourselves, to our children, to future generations—to make these farsighted investments in science and technology to help us master this moment of change and to build a better America for the 21st century.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 9, 1997.*

MESSAGES FROM THE HOUSE

At 4:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 28. An act to amend the Housing Act of 1949 to extend the loan guarantee program for multifamily rental housing in rural areas.

H.R. 394. An act to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, Michigan.

H.R. 785. An act to designate the J. Phil Campbell, Senior, National Resource Conservation Center.

H.R. 968. An act to amend title XVIII and XIX of the Social Security Act to permit a waiver of the prohibition of offering nurse aide training and competency evaluation programs in certain nursing facilities.

H.R. 1000. An act to require States to establish a system to prevent prisoners from being considered part of any household for purposes of determining eligibility of the household for food stamp benefits and the amount of food stamp benefit to be provided to the household under the Food Stamp Act of 1977.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 394. An act to provide for the release of the reversionary interest held by the United States in certain property located in the County of Iosco, Michigan; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 968. An act to amend title XVIII and XIX of the Social Security Act to permit a waiver of the prohibition of offering nurse aide training and competency evaluation programs in certain nursing facilities; to the Committee on Finance.

MEASURE PLACED ON THE CALENDER

The following measure was read the second time and placed on the calendar:

S. 522. A bill to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CAMPBELL (for himself and Mr. CONRAD):

S. 528. A bill to require the display of the POW/MIA flag on various occasions and in various locations; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself and Mr. GRAMS):

S. 529. A bill to amend the Internal Revenue Code of 1986 to exclude certain farm rental income from net earnings from self-employment if the taxpayer enters into a lease agreement relating to such income; to the Committee on Finance.

By Mr. KOHL:

S. 530. A bill to amend title 11, United States Code, to limit the value of certain real and personal property that a debtor may elect to exempt under State or local law, and for other purposes; to the Committee on the Judiciary.

By Mr. ROTH (for himself, Mr. Baucus, Mr. Biden, Mrs. Boxer, Mr. Dodd, Mr. Durbin, Mr. Feingold, Mrs. Feinstein, Mr. Harkin, Mr. Kohl, Mr. Lautenberg, Mr. Leahy, Mr. Lieberman, Mrs. Murray, Mr. Torricelli, Mr. Wellstone, and Mr. Wyden):

S. 531. A bill to designate a portion of the Arctic National Wildlife Refuge as wilderness; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself, Mr. Kempthorne, Mr. Thomas, Mr. Dorgan, Mr. Conrad, Mr. Daschle, Mr. Johnson, Mr. Craig, Mr. Burns, Mr. Enzi, Mr. Harkin, Mr. Bingaman, Mr. Roberts, Mr. Kerrey, and Mr. Grassley):

S. 532. A bill to authorize funds to further the strong Federal interest in the improvement of highways and transportation, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MURKOWSKI (for himself and Mr. Stevens):

S. 533. A bill to exempt persons engaged in the fishing industry from certain Federal antitrust laws; to the Committee on the Judiciary.

By Mr. DODD:

S. 534. A bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns; to the Committee on the Judiciary.

By Mr. McCAIN (for himself, Mr. Wellstone, Mr. Glenn, Mr. Cochran, Mr. Burns, Mr. Moynihan, Mr. Harkin, Mr. Dodd, Mr. Leahy, Mr. Bond, Mr. Bingaman, Mr. Campbell, Mr. Mack, Mr. Torricelli, Mr. Grassley, Mr. Inouye, Mr. Hollings, Mr. Robb, Mr. Durbin, Mrs. Boxer, Mr. Bryan, Mr. Daschle, Mr. Ford, Mr. D'Amato, Mr. Reid, Mr. Lautenberg, Ms. Mikulski, Mr. Faircloth, Mr. Levin, Ms. Collins, Mr. Kerry, Mrs. Murray, Mr. Reed, Mr. Kennedy, Mr. Santorum, Mrs. Feinstein, and Mr. Rockefeller):

S. 535. A bill to amend the Public Health Service Act to provide for the establishment of a program for research and training with respect to Parkinson's disease; to the Committee on Labor and Human Resources.

By Mr. GRASSLEY (for himself, Mr. DeWine, Mr. Daschle, Mr. Biden, Mr. D'Amato, Mr. Shelby, Mr. Kohl, Mr. Graham, Mr. Cleland, Mr. Hatch, Mr. Harkin, Mr. Thurmond, Mr. Stevens, Mr. Durbin, Mr. Hutchinson, Mr. Abraham, Mr. Reid, Mr. Feingold, and Mrs. Murray):

S. 536. A bill to amend the National Narcotics Leadership Act of 1988 to establish a program to support and encourage local communities that first demonstrate a comprehensive, long-term commitment to reduce substance abuse among youth, and for other purposes; to the Committee on the Judiciary.

By Ms. MIKULSKI (for herself, Ms. Snowe, Mrs. Feinstein, Mrs. Hutchison, Mrs. Boxer, Ms. Moseley-Braun, Mrs. Murray, Ms. Collins, Ms. Landrieu, Mr. Harkin, Mr. Cochran, Mr. Kennedy, Mr. Biden, Mr. Faircloth, Mr. Daschle, Mr. Wyden, Mr. Inouye, Mr. Sarbanes, Mr. Bingaman, Mr. Hutchinson, Mr. Ford, Mr. Reid, Mr. Leahy, Mr. Dodd, Mr. Abraham, Mr. Bennett, Mr. Chafee, Mr. Feingold, Mr. Gregg, Mr. Reed, Mr. Mack, Mr. Robb, Mr. Jeffords, Mr. Levin, Mr. Frist, Mr. Bond, Mr. Wellstone, Mr. Specter, Mr. Burns, Mr. Glenn, Mr. Coats, Mr. Akaka, and Mr. Lieberman):

S. 537. A bill to amend title III of the Public Health Service Act to revise and extend the mammography quality standards program; to the Committee on Labor and Human Resources.

By Mr. CRAIG (for himself and Mr. Kempthorne):

S. 538. A bill to authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BROWNBACK (for himself, Mr. Lieberman, Mr. DeWine, and Mr. Kohl):

S. 539. A bill to exempt agreements relating to voluntary guidelines governing telecast material from the applicability of the antitrust laws; to the Committee on the Judiciary.

By Mr. BIDEN (for himself, Ms. Mikulski, and Mr. Torricelli):

S. 540. A bill to amend title XVIII of the Social Security Act to provide annual screening mammography and waive coinsurance for screening mammography for women age 65 or older under the medicare program; to the Committee on Finance.

By Mr. ALLARD:

S. 541. A bill to provide for an exchange of lands with the city of Greely, Colorado, and The Water Supply and Storage Company to eliminate private inholdings in wilderness areas, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. SNOWE:

S. 542. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel FAR HORIZONS; to the Committee on Commerce, Science, and Transportation.

By Mr. COVERDELL (for himself, Mr. McConnell, Mr. Abraham, Mr. Santorum, and Mr. Ashcroft):

S. 543. A bill to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers; read the first time.

S. 544. A bill to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. McCAIN (for himself, Mr. Kerry, Mr. Helms, Mr. Kerrey, Mr. Robb, Mr. Roth, and Mr. Thomas):

S. Res. 69. Resolution expressing the sense of the Senate regarding the March 30, 1997, terrorist grenade attack in Cambodia; to the Committee on Foreign Relations.

By Mr. D'AMATO (for himself, Mr. Campbell, Mr. Kempthorne, Mr. Abraham, Mr. Lautenberg, Mr. Graham, Mr. Reid, and Mr. Feingold):

S. Con. Res. 19. Concurrent resolution concerning the return of or compensation for wrongly confiscated foreign properties in formerly Communist countries and by certain foreign financial institutions; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL (for himself and Mr. Conrad):

S. 528. A bill to require the display of the POW/MIA flag on various occasions and in various locations; to the Committee on the Judiciary.

THE NATIONAL POW/MIA RECOGNITION ACT OF 1997

Mr. CAMPBELL. Mr. President, I want to begin my statement today describing a powerful and emotional sight that moves us to the core of our faith and beliefs about America and about those who served in the Armed Forces of our Nation.

Many of us have visited one or more of the military academies that train our future military leaders. These academies have varied missions and yet all of them share in the critical task of developing leaders for their particular service. On the grounds of each academy is a chapel, a spectacular place that at once identifies itself as a place of worship.

In each chapel, a place has been reserved for the prisoners of war and the missing in action from their particular service. A pew has been set aside and marked by a candle, a powerful symbol that not all have returned from battle. This hallowed place has been set aside so that all POW's and MIA's are remembered with dignity and honor. It is a moving and emotional moment to pause at this reserved pew, to be encouraged by the burning candle, to recall the valor and sacrifice of those soldiers, sailors, and pilots and to be inspired today by what they have done.

We can do more to honor the memory of the POW's and MIA's who have served in our Nation's wars.

Therefore, today I am introducing the National POW/MIA Recognition Act of 1997. This act would authorize the POW/MIA flag to be displayed over military installations, post offices, and memorials around the Nation and other appropriate places of significance on Armed Forces Day, Memorial Day, Flag Day, Independence Day, Veterans Day, National POW/MIA Recognition Day, and on the last business day before each of the preceding holidays. A companion bill has been introduced in the House of Representatives by Congresswoman Jane Harman from California.

Congress has officially recognized the National League of Families POW/MIA flag. Displaying this flag would be a powerful symbol to all Americans that we have not forgotten—and will not forget.

As you know, the United States has fought in many wars, and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action. In 20th century wars alone, more than 147,000 Americans were captured and became prisoners of war; of that number more than 15,000 died while in captivity. When we add to the number those who are still missing in action, we realize that more can be done to honor their commitment to duty, honor, and country.

The display of the POW/MIA flag would be a forceful reminder that we care not only for them, but also for their families who personally carry with them the burden on sacrifice. We want them to know that they do not stand alone, that we stand with them and beside them, as they remember the loyalty and devotion of those who served.

As a veteran who served in Korea, I personally know that the remembrance of another's sacrifice in battle is one of the highest and most noble acts we can do. Let us now demonstrate our indebtedness and gratitude for those who served that we might live in freedom.

Just as those special reserved pews in the chapels of the military academies recall the spirit and presence of our POW's and MIA's, so too will the display of their flag over military installations and other Government offices be a special reminder that we have not forgotten—and will not forget. Before this coming Memorial Day I invite my Senate colleagues to please join me in passing this bill to display the POW/MIA flag on national days of celebration.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National POW/MIA Recognition Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States has fought in many wars, and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action;

(2) many of these Americans are still missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer tragic and continuing hardships;

(3) as a symbol of the Nation's concern and commitment to accounting as fully as possible for all Americans still held prisoner, missing, or unaccounted for by reason of their service in the Armed Forces and to honor the Americans who in future wars may be captured or listed as missing or unaccounted for, Congress has officially recognized the National League of Families POW/MIA flag; and

(4) the American people observe and honor with appropriate ceremony and activity the third Friday of September each year as National POW/MIA Recognition Day.

SEC. 3. DEFINITION OF POW/MIA FLAG.

In this Act, the term "POW/MIA flag" means the National League of Families POW/MIA flag recognized and designated by section 2 of Public Law 101-355 (104 Stat. 416).

SEC. 4. DISPLAY.

The POW/MIA flag shall be displayed on Armed Forces Day, Memorial Day, Flag Day, Independence Day, Veterans Day, National POW/MIA Recognition Day, and on the last business day before each of the preceding holidays, on the grounds or in the public lobbies of—

(1) major military installations as designated by the Secretary of Defense;

(2) Federal national cemeteries;

(3) the national Korean War Veterans Memorial;

(4) the national Vietnam Veterans Memorial;

(5) the White House;

(6) the official office of the—

(A) Secretary of State;

(B) Secretary of Defense;

(C) Secretary of Veterans Affairs; and

(D) Director of the Selective Service System; and

(7) United States Postal Service post offices.

SEC. 5. REPEAL OF PROVISION RELATING TO DISPLAY OF POW/MIA FLAG.

Section 1084 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (36 U.S.C. 189 note, Public Law 102–190) is repealed.

SEC. 6. REGULATIONS.

Not later than 180 days after the date of enactment of this Act, the agency or department responsible for a location listed in section 2 shall prescribe any regulation necessary to carry out the provisions of this Act.

By Mr. GRASSLEY (for himself and Mr. GRAMS):

S. 529. A bill to amend the Internal Revenue Code of 1986 to exclude certain farm rental income from net earnings from self-employment if the taxpayer enters into a lease agreement relating to such income; to the Committee on Finance.

THE FARM INDEPENDENCE ACT OF 1997

Mr. GRASSLEY. Mr. President, I rise to introduce a bill on the Internal Revenue Code. From time to time we need to change the Internal Revenue Code, particularly when it deals with agriculture. However, there may be some people listening who do not understand agriculture. They may see these efforts as doing something special for farmers. I want to clarify today that I am a person who comes from the school of thought that every penny of legal tax that is owed the Federal Government should be paid. But I think, also, we have a responsibility, as Representatives of the people, to make sure that we balance taxpayers' compliance with taxpayers' rights.

The legislation I am introducing today is centered on a proposition that has been the law for approximately 40 years. It proscribes that most farm landlords, just like small business people and other commercial landlords, should not have to pay self-employment tax on cash rent income. For 40 years it has been that way for farm people and city people alike. But in 1995, there was an Arkansas Federal tax court case that said the IRS could take other expansive factors into consideration. As a result of that tax case, the IRS decided to issue a related technical advice memorandum. These are widely deemed to be IRS policy statements on the law. As a result, many farm landlords are now treated differently from commercial and other city landlords. Consequently, farmers and retired farmers now find themselves paying 15.3 percent self-employment tax on cash rent.

So, I say to the IRS, as I give an explanation for my legislation this morning: Don't try to game the system. The law remains what people have counted on for 40 years. Unless there is an act of Congress, you ought to respect history before you change the rules. Obviously, the test of time ought to prove the taxpayer was right and the IRS was wrong, particularly since there now is a difference between the farm sector and the city sector.

The correct rationale is simple, the self employment tax applies to income from labor or employment. Income from cash rents represents the value of ownership or equity in land, not labor or employment. Therefore, the self employment tax should not ordinarily apply to income from cash rents.

So, along with Senator GRAMS of Minnesota, I am introducing this bill so farmers and retired farmers are not going to be encroached upon by the IRS and the Tax Code as a result of this Arkansas Federal tax court case and the IRS technical advice memorandum. The IRS has thus, through this court case and broadened by its own pronouncement, introduced a new barrier to the family farmer. Our legislation would remove this new IRS barrier so that farm families and retired farmers can continue to operate.

Specifically, our legislation would clarify that when the IRS is applying the self-employment tax to the cash rent farm leases, it should limit its inquisition to the lease agreement. This is not an expansion of the law for the taxpayers. Rather, it is a narrowing of an antitaxpayer expansion initiated by the Internal Revenue Service. The tax law does not ordinarily require cash rent landlords in cities to pay the self-employment tax. Indeed, cash rent farm landlords are the only ones occasionally required to pay the tax. This is due to a 40-year-old exception that allowed the retired farmers of the late 1950's to become vested in the Social Security system.

However, the law originally imposed the tax on farm landlords only when their lease agreements with their renters required the landlord to participate in the operation of the farm and in the farming of the land.

Forty years later and we are here today, the IRS has expanded the application of the self-employment tax for farmland owners. Now the Tax Court has told the IRS that in one particular instance, the IRS could look beyond the lease agreement. On this very limited authority, the IRS has unilaterally expanded the one court case even further so it now approximates a national tax policy.

Our legislation clarifies that the IRS should examine only the lease agreement. Thus, it would preserve the pre-1996 status quo. We want to preserve the historical self-employment tax treatment of farm rental agreements, equating them with landlords in small businesses and commercial properties within the cities. The 1957 tax law was designed to benefit retired farmers of that generation so that they would qualify for Social Security.

So, obviously, those persons of the 1950's have all since passed from the scene. Their children and grandchildren are now the victims of this IRS expansion of their old rule. Congress does not intend that farm owners be treated differently from other real estate owners, other than as they have been historically. We need the clarity provided in our legislation in order to turn back an improper, unilateral, and targeted IRS expansion of old tax law. In other words, I see this legislation as removing this new IRS barrier to the family farm and the American dream.

I ask unanimous consent that the text of our bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farm Independence Act of 1997".

SEC. 2. LEASE AGREEMENT RELATING TO EXCLUSION OF CERTAIN FARM RENTAL INCOME FROM NET EARNINGS FROM SELF-EMPLOYMENT.

(a) INTERNAL REVENUE CODE.—Section 1402(a)(1)(A) of the Internal Revenue Code of 1986 (relating to net earnings from self-employment) is amended by striking "an arrangement" and inserting "a lease agreement".

(b) SOCIAL SECURITY ACT.—Section 211(a)(1)(A) of the Social Security Act is amended by striking "an arrangement" and inserting "a lease agreement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

Mr. GRAMS. Mr. President, I rise this morning in strong support of the Farm Independence Act of 1997 which my good friend, Senator GRASSLEY, and I introduce here today. This legislation is critical in protecting American farmers and ranchers from yet another IRS attack—the third this year—on the family farm.

I suspect when President Grover Cleveland remarked that, "just when you thought you were making ends meet, someone moves the ends," the former President must have been thinking about the Internal Revenue Service.

This time, the IRS has issued a decision in one of its technical advice memoranda that, if fully enforced, will result in a 15.3-percent tax increase for thousands of farmers. Let me repeat that. A recent IRS decision could result in a 15.3-percent tax increase for thousands of farmers.

Essentially, if a producer incorporates—and many Minnesota producers, both small and large, do—and then rents his land to the farm corporation, the rental income the farmer receives is not only subject to income tax but to an additional 15.3-percent self-employment tax.

The purpose of the Grassley-Grams Farm Independence Act of 1997 is simple and it is straightforward. Our bill would stop the IRS from imposing this 15.3-percent tax increase on our farmers and ranchers.

Mr. President, last Congress, we passed the most sweeping reforms in agricultural policy in 60 years and gave farmers the freedom to farm. At that time, we also promised farmers regulatory relief, improved research and risk management, free and fair trade, and—perhaps most importantly—we promised farmers tax relief.

Now, many of us in Congress have made tax relief a top priority. I do so, in part, because it is a top priority for Minnesota farmers, and toward this end, I am an original cosponsor of a bill to repeal the estate tax, and I strongly support legislation to cut capital gains taxes.

But, unfortunately, we haven't made much progress in convincing the President and some in Congress that this is not fat-cat legislation but absolutely necessary for the survival and success of the family farm.

But, even more frustrating than these obstacles to providing farmers with critical relief from the death tax and capital gains taxes are back-door attempts by the IRS to actually raise taxes on our farmers and ranchers.

First, came the alternative minimum tax which attacked cash-based accounting. Second, came a decision that income from culled cows—cows that don't milk—is income that disqualifies low-income farmers from receiving the earned income tax credit. And, now, the IRS wants to exact a 15.3-percent tax increase on thousands of American farmers and ranchers.

Mr. President, I am 100 percent committed to providing Minnesota farmers with tax relief they desperately need. I hope the President and others in Congress come around on this issue as well.

But, at a bare minimum, the President should send a signal to the IRS that these back-door attempts to raise revenues on the backs of the Nation's farmers and ranchers is totally unacceptable.

I am convinced that a second gold age of agriculture is within reach in the final days of this century and also the whole of the next if only we in Government help—rather than hinder—our farmers' and ranchers' efforts.

So, Mr. President, I urge my colleagues to support the Farm Independence Act of 1997. I also commend the Senator from Iowa for his leadership on this issue.

By Mr. KOHL:

S. 530. A bill to amend title 11, United States Code, to limit the value of certain real and personal property that a debtor may elect to exempt under State or local law, and for other purposes; to the Committee on the Judiciary.

THE BANKRUPTCY ABUSE REFORM ACT OF 1997

Mr. KOHL. Mr. President, I rise today to introduce the Bankruptcy Abuse Reform Act of 1997, legislation which addresses a serious problem that threatens Americans' confidence in our bankruptcy laws. The measure would cap at $100,000 the State homestead exemption that an individual filing for personal bankruptcy can claim. It passed the Senate last term when it was included into the Bankruptcy Technical Corrections Act (S. 1559), and I hope that we can all support this measure again this year. The goal of our measure is simple but vitally important: to make sure that our Bankruptcy Code is more than just a beachball for crooked millionaires who want to hide their assets.

Let me tell you why this legislation is critically needed. In chapter 7 Federal personal bankruptcy proceedings, the debtor is allowed to exempt certain possessions and interests from being used to satisfy his outstanding debts. One of the chief things that a debtor seeks to protect is his home, and I agree with that in principle. Few question that debtors should be able to keep the roofs over their heads. But, in practice, this homestead exemption has become a source of abuse.

Under section 522 of the Code, a debtor may opt to exempt his home according to local, State, or Federal bankruptcy provisions. The Federal exemption allows the debtor to shield up to $15,000 of value in his house. The State exemptions vary tremendously: some States do not allow the debtor to exempt any of his home's value, while eight States set no ceiling and allow an unlimited exemption. The vast majority of States have exemptions under $40,000.

My amendment under section 522 would cap State exemptions so that no debtor could ever exempt more than $100,000 of the value of his home.

Mr. President, in the last few years, the ability of debtors to use State homestead exemptions has led to flagrant abuses of the Bankruptcy Code. Multimillionaire debtors have moved to one of the eight States that have unlimited exemptions—most often Florida or Texas—bought multi-million-dollar houses, and continued to live like kings even after declaring bankruptcy. This shameless manipulation of the Bankruptcy Code cheats creditors out of compensation and rewards only those who can game the system. Oftentimes, the creditor who is robbed is the American taxpayer. In recent years, S&L swindlers, insider trading convicts, and other shady characters have managed to protect their ill-gotten gains through this loophole.

One infamous S&L banker with more than $4 billion in claims against him bought a multi-million-dollar horse ranch in Florida. Another man who pled guilty to insider trading abuses lives in a 7,000-square-foot beachfront home worth $3.25 million—all tucked away from the $2.75 billion in suits against him. We read even now about the possibility that O.J. Simpson may seek to avoid the civil suit judgment against him buying a lavish home in Florida, a State with an unlimited exemption, and declaring bankruptcy to avoid paying his multimillion-dollar obligations. These deadbeats get wealthier while legitimate creditors—including the U.S. Government—get the short end of the stick.

Simply put, the current practice is grossly unfair and contravenes the intent of our laws: People are supposed to get a fresh start, not a head start, under the Bankruptcy Code.

In addition, these unlimited homestead exemptions have made it increasingly difficult for the Federal Deposit Insurance Corporation and the Resolution Trust Corporation to go after S&L crooks. With the S&L crisis costing us billions of dollars and with a deficit that still remains unacceptably high, we owe it to the taxpayers to make it as hard as possible for those responsible for fraud to profit from their wrongs.

Mr. President, the legislation that I have introduced today is simple, effective, and straightforward. It caps the homestead exemption at $100,000, which is close to the average price of an American house. And it will protect middle class Americans while preventing the abuses that are making the American middle class question the integrity of our laws—the abuses the average American taxpayer is paying for out of pocket.

Indeed, it is even generous to debtors. Other than the eight States that have no limit to the homestead exemption, no State has a homestead exemption exceeding $100,000. In fact, 38 States have exemptions of $40,000 or less. My own home State of Wisconsin has a $40,000 exemption and that, in my opinion, is more than sufficient.

Mr. President, this proposal is an effort to make our bankruptcy laws more equitable. I urge my colleagues to support this important measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bankruptcy Abuse Reform Act of 1997".

SEC. 2. LIMITATION.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)(A), by inserting "subject to subsection (n)," before "any property"; and

(2) by adding at the end the following new subsection:

"(n) As a result of electing under subsection (b)(2)(A) to exempt property under State or local law, a debtor may not exempt an aggregate interest that exceeds $100,000 in value in—

"(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

"(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

"(3) a burial plot for the debtor or a dependent of the debtor.".

By Mr. ROTH (for himself, Mr. Baucus, Mr. Biden, Mrs. Boxer, Mr. Dodd, Mr. Durbin, Mr. Feingold, Mrs. Feinstein, Mr. Harkin, Mr. Kohl, Mr. Lautenberg, Mr. Leahy, Mr. Lieberman, Mrs. Murray, Mr. Torricelli, Mr. Wellstone, and Mr. Wyden):

S. 531. A bill to designate a portion of the Arctic National Wildlife Refuge as wilderness; to the Committee on Environment and Public Works.

ARCTIC NATIONAL WILDLIFE REFUGE LEGISLATION

Mr. ROTH. Mr. President, I read recently that "the best thing we have learned from nearly five hundred years of contact with the American wilderness is restraint," the need to stay our hand and preserve our precious environment and future resources rather than destroy them for momentary gain.

With this in mind, I offer legislation today that designates the coastal plain of Alaska as wilderness area. At the moment this area is a national wildlife refuge—one of our beautiful and last frontiers. By changing its designation, Mr. President, we can protect it forever.

And I can't stress how important this is.

The Alaskan wilderness area is not only a critical part of our Earth's ecosystem—the last remaining region where the complete spectrum of arctic and subarctic ecosystems comes together—but it is a vital part of our national consciousness. It is a place we can cherish and visit for our soul's good. It offers us a sense of well-being and promises that not all dreams have been dreamt.

The Alaskan wilderness is a place of outstanding wildlife, wilderness and recreation, a land dotted by beautiful forests, dramatic peaks and glaciers, gentle foothills and undulating tundra. It is untamed—rich with caribou, polar bear, grizzly, wolves, musk oxen, Dall sheep, moose, and hundreds of thousands of birds—snow geese, tundra swans, black brant, and more. In all, about 165 species use the coastal plain.

It is an area of intense wildlife activity. Animals give birth, nurse and feed their young, and set about the critical business of fueling up for winters of unspeakable severity.

The fact is, Mr. President, there are parts of this Earth where it is good that man can come only as a visitor. These are the pristine lands that belong to all of us. And perhaps most importantly, these are the lands that belong to our future.

Considering the many reasons why this bill is so important, I came across the words of the great Western writer, Wallace Stegner. Referring to the land we are trying to protect with this legislation, he wrote that it is "the most splendid part of the American habitat; it is also the most fragile." And we cannot enter "it carrying habits that [are] inappropriate and expectations that [are] surely excessive."

The expectations for oil exploration in this pristine region are excessive. There is only a 1-in-5 chance of finding any economically recoverable oil in the refuge. And if oil is found, the daily production of 400,000 barrels per day is less than 0.7 percent of world production—far too small to meet America's energy needs for more than a few months.

In other words, Mr. President, there is much more to lose than might ever be gained by tearing this frontier apart. Already, some 90 percent of Alaska's entire North Slope is open to oil and gas leasing and development. Let's keep this area as the jewel amid the stones.

What this bill offers—and what we need—is a brand of pragmatic environmentalism, an environmental stewardship that protects our important wilderness areas and precious resources, while carefully and judiciously weighing the short-term desires or our country against its long-term needs.

Together, we need to embrace environmental policies that are workable and pragmatic, policies based on the desire to make the world a better place for us and for future generations. I believe a strong economy, liberty, and progress are possible only when we have a healthy planet—only when resources are managed through wise stewardship—only when an environmental ethic thrives among nations—and only when people have frontiers that are untrammeled and able to host their fondest dreams.

Mr. LIEBERMAN. Mr. President, I am proud to join again with Senator Roth in this effort to designate the Arctic National Wildlife Refuge as a wilderness area.

This legislation would save the American people the huge social and environmental costs of unwise and unnecessary development of one of nature's crown jewels. The Arctic National Wildlife Refuge is the last complete Alaskan wilderness with elements of each tundra ecosystem, the biological heart of the North Slope of Alaska. It is on a par with our other great national resources, including the Grand Canyon, Yellowstone, Jackson Hole, the Badlands, Glacier Bay, and Denali. This is a unique piece of God's Earth that must be preserved for our entire Nation for centuries to come.

Make no mistake, environmental impacts to the Arctic National Refuge from oil development would be severe and irreversible. The refuge includes the calving grounds for one of the largest caribou herds in North America, the Porcupine herd—152,000 strong. Native American customs have centered around the herd's annual migration for at least 20,000 years. The refuge is a treasure chest of plants, animals, and wilderness unique to the world in terms of abundance, diversity, and value to humankind. Over 200 species of plants and animals thrive in the refuge, including muskoxen, snow geese, Arctic foxes, Arctic grayling, and Arctic char. It is the only natural area in the United States with all three species of North American bears—the black bear, the grizzly bear and the polar bear. It is one of the most natural areas in our Nation, untouched by development, and the last of its kind.

Many environmental studies demonstrate that the negative environmental effects of opening the Arctic Refuge to development will be severe. Biologists from Federal and State agencies and universities have concluded that oil development will harm the calving of the caribou herd, and reduce its long term numbers very significantly. The Office of Management and Budget has stated that "exploration and development activities would bring physical disturbances to the area, unacceptable risks of oil spills and pollution, and long-term effects that would harm wildlife for decades." Raymond Cameron, formerly of the Alaska Department of Fish and Game, documented that 19 percent fewer calves are born to caribou cows on developed lands as opposed to undeveloped lands, with a 2-percent margin of error. His study also documented that caribou cows miss yearly calving at a 36-percent rate in developed areas, versus only 19 percent in undeveloped areas. Even a small change in calving success can lead to long-term population declines. A study by the State of Alaska showed that the Arctic caribou herd at Prudhoe Bay declined from 23,400 to 18,100—23 percent—since 1992. All the population decline occurred in habitat affected by oil development, while herds in undeveloped areas grew slightly. Biologists fear that development impacts would be proportionately greater on the herd that uses the Arctic Refuge.

The amount of oil that potentially can be recovered from the Arctic Refuge is simply too small to affect our energy security, and too destructive to the environment to be worth it. A 1995 assessment of petroleum reserves by the U.S. Geological Survey reported that there is a 95-percent chance that only 148 million barrels of oil exist in the refuge. This would amount to a drop in the national oil bucket—an 8-day supply. Even if the USGS high estimate were correct, the refuge would hold at most a 290-day supply for the United States.

We can all hope for another strike like Prudhoe Bay. But the simple reality, based on the very best geological science and economics available today, is that alternative energy supplies, as well as the real energy savings from national energy conservation programs, are far more reliable, tangible, and less destructive energy sources than a wild gamble with the Alaskan wilderness.

The remaining 90 percent of the Alaskan North Slope is already open to oil and gas leasing. Is it too much to protect what little we have left? Every reliable national poll conducted on this issue shows Americans of all political persuasions are against development in the refuge by a more than three to one margin. Let's honor our history of conservation and protect the future for generations to come, by saving the Arctic National Wildlife Refuge.

By Mr. BAUCUS (for himself, Mr. Kempthorne, Mr. Thomas, Mr. Dorgan, Mr. Conrad, Mr. Daschle, Mr. Johnson, Mr. Craig, Mr. Burns, Mr. Enzi, Mr. Harkin, Mr. Bingaman, Mr. Roberts, Mr. Kerrey, and Mr. Grassley):

S. 532. A bill to authorize funds to further the strong Federal interest in the improvement of highways and transportation, and for other purposes; to the Committee on Environment and Public Works.

SURFACE TRANSPORTATION AUTHORIZATION AND REGULATORY STREAMLINING ACT

Mr. BAUCUS. Mr. President, I am pleased today to introduce the Surface Transportation Authorization and Regulatory Streamlining Act, or STARS 2000. I am joined in this effort by my colleagues on the Environment and Public Works Committee, Senators Kempthorne and Thomas. And by Senators Dorgan, Conrad, Daschle, Johnson, Burns, Craig, Enzi, Harkin, Bingaman, Roberts, and Kerrey of Nebraska.

This bill reauthorizes this Nation's surface transportation programs for the year 2000, and beyond.

As most of my colleagues know, we must act soon to renew these programs since today's law, the Intermodal Surface Transportation Efficiency Act, or ISTEA, will expire on September 30.

STARS 2000 builds on the progress already made by ISTEA. But it also makes some important improvements. Let me focus on the three most significant aspects of the bill.

FUNDING LEVELS

First, the bill increases funding for our highway programs to $27 billion annually. Transportation is a critical part of our Nation's economic growth and prosperity. The investments we make today in transportation will help keep us globally competitive well into the next century.

Furthermore, these investments directly generate hundreds of thousands of jobs—in Montana, in Idaho, in Illinois, in every State. They also indirectly help sustain businesses and millions more jobs all across the country.

The funding in STARS 2000 will support all types of transportation projects. It also will enable States and local governments to make the investment decisions that best reflect their transportation priorities.

The funding level in STARS 2000 corresponds to the amount of money estimated to be in the highway trust fund over the next 6 years.

As my colleagues know, this is money already being collected from the tax on gasoline and other fuels. My view is that we should spend it for the purpose for which it was collected.

Even with this increase, however, we will not eliminate the shortfall in meeting our transportation needs. The Department of Transportation estimates that over $50 billion would be needed each year in order to just maintain current highway and bridge conditions.

Yet, today annual spending by all levels of government is only $39 billion per year.

Our competitors know the advantage of a sound transportation system. That is why Japan invests over four times what we do in transportation as a percentage of GDP. The Europeans spend twice as much.

We cannot afford to squander this important competitive edge. While

STARS 2000 is not the complete solution, it is a big step in the right direction.

STREAMLINING

Second, STARS 2000 dramatically streamlines and simplifies today's transportation programs. It reduces administrative burdens on the States and the complexity of the programs by consolidating several funding categories and by allowing for greater flexibility in decisionmaking.

The bill has two key categories for funding. The National Highway System, which makes up 60 percent of the core program, and the Surface Transportation Program, which accounts for the remaining 40 percent.

The National Highway System carries the bulk of our recreational and commercial traffic. It consists of 160,000 miles of highways, including the entire 45,000 mile Interstate System.

These roads connect our cities and towns. Our farms to their markets. And our manufacturing facilities to our seaports. It just makes sense that the NHS should be a priority.

STARS 2000 devotes over $14 billion annually to these roads.

As with current law, the Surface Transportation Program remains the most flexible category of funds. States can shift funds among projects to best serve their transportation needs. STARS 2000 retains ISTEA's programs and project eligibilities and includes over $9 billion annually for them.

FUNDING FORMULAS

Third, STARS 2000 updates ISTEA's funding formulas. One criticism of the current formulas is that they are based on outdated and unnecessary data.

This bill rectifies that problem by using up-to-date information.

The STARS formula also reflects the transportation needs of a State. We have included such factors as lane miles, vehicle miles traveled, and freeze-thaw cycles, to better account for the cost of maintaining and improving our highway system.

ENVIRONMENT

STARS 2000 also continues the commitment to the environment that began in ISTEA. It dedicates some $380 million annually to congestion mitigation and air quality projects.

Furthermore, it requires that these funds be spent on projects in areas that have not attained our transportation-related air quality standards.

Frankly, I had hoped to include more funding for these projects in this bill. But as this legislation progresses, I intend to work with my colleagues to see if we can't be more generous here.

STARS 2000 also continues the transportation enhancement program. This is an innovative program that has given States the ability to invest in nontraditional highway projects such as bike paths, pedestrian walkways and historic preservation.

CONCLUSION

In conclusion, STARS 2000 is a good bill. But it also is one of several bills that our committee will consider in the coming weeks.

Under the leadership of our chairman, Senator CHAFEE and our subcommittee chairman, Senator WARNER, along with Senator MOYNIHAN, and others, I have no doubt that these various proposals will be brought together to produce a fair bill.

A bill that will bring this Nation and its transportation system into the next century.

Before yielding the floor, I wish to thank the primary cosponsors of this bill, Senators KEMPTHORNE and THOMAS, for their hard work in developing this legislation. I am also grateful for the help of our State transportation departments, particularly in Montana and Idaho, and their staff, in fashioning this bill.

STARS 2000 brings a new approach and some new ideas to our surface transportation policy. I commend it to my colleagues for their consideration.

Mr. President, I ask unanimous consent that a copy of the bill and a short summary of it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 532

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Surface Transportation Authorization and Regulatory Streamlining Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Policy.

TITLE I—LEVEL AND DISTRIBUTION OF FUNDS

Sec. 101. Authorization of appropriations.
Sec. 102. Effective use of additional highway account revenue.
Sec. 103. Apportionment of program funds.
Sec. 104. Apportionment adjustment program.
Sec. 105. Program administration, research, and planning funds.
Sec. 106. Recreational trails.
Sec. 107. Rules for any limitations on obligations.

TITLE II—PROGRAM STREAMLINING

Sec. 201. Planning-based expenditures on elements of transportation infrastructure.
Sec. 202. National Highway System.
Sec. 203. Interstate maintenance activities.
Sec. 204. Surface transportation program amendments.
Sec. 205. Conforming amendments to discretionary programs.
Sec. 206. Cooperative Federal Lands Transportation Program.

TITLE III—REDUCTION OF REGULATION

Sec. 301. Periodic review of agency rules.
Sec. 302. Planning and programming.
Sec. 303. Metric conversion at State option.

TITLE IV—EFFECTIVE DATE; TRANSITION RULES

Sec. 401. Effective date; transition rules.

SEC. 2. POLICY.

Section 101 of title 23, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) DECLARATION OF POLICY.—Congress finds and declares that—

"(1) investments in highways and transportation systems contribute to the Nation's economic growth, international competitiveness, and defense, and improve the personal mobility and quality of life of its citizens;

"(2) there are significant needs for increased Federal highway and transportation investment across the United States, including a need to improve and preserve Interstate System and other National Highway System routes, which are lifelines for the national economy;

"(3) the Federal Government's interest in transportation includes—

"(A) ensuring that people and goods can move efficiently over long distances between metropolitan areas and thus across rural areas;

"(B) ensuring that people and goods can move efficiently within metropolitan and rural areas;

"(C) preserving environmental quality and reducing air pollution;

"(D) promoting transportation safety; and

"(E) ensuring the effective use of intelligent transportation systems and other transportation technological innovations in both urban and rural settings;

"(4) rural States do not have the fiscal resources to support highway investments within their borders that benefit the United States as a whole by enabling the movement of people and goods between metropolitan areas and thus across rural States;

"(5) since State governments already take into account the public interest before making transportation decisions affecting citizens of the States—

"(A) the need for Federal regulation of State transportation activities is limited; and

"(B) it is appropriate for Federal transportation programs to be revised to minimize regulations and program requirements and to provide greater flexibility to State governments; and

"(6) the Federal Government should continue to allow States and local governments flexibility in the use of Federal highway funds and require transportation planning and public involvement in transportation planning.".

TITLE I—LEVEL AND DISTRIBUTION OF FUNDS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of title 23, United States Code, $14,163,000,000 for each of fiscal years 1998 through 2003.

(2) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title, $9,442,000,000 for each of fiscal years 1998 through 2003.

(3) FEDERAL LANDS HIGHWAY INVESTMENTS.—

(A) FEDERAL LANDS HIGHWAYS PROGRAM.—

(i) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title, $191,000,000 for each of fiscal years 1998 through 2003.

(ii) PUBLIC LANDS HIGHWAYS.—For public lands highways under section 204 of that title, $172,000,000 for each of fiscal years 1998 through 2003.

(iii) PARKWAYS AND PARK ROADS.—For parkways and park roads under section 204 of that title, $84,000,000 for each of fiscal years 1998 through 2003.

(B) COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.—For the Cooperative Federal Lands Transportation Program under section 206 of that title, $155,000,000 for each of fiscal years 1998 through 2003.

(4) TERRITORIES.—For the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, collectively, $35,000,000 for each of fiscal years 1998 through 2003. Such sums shall be allocated among those territories at the discretion of the Secretary of Transportation.

SEC. 102. EFFECTIVE USE OF ADDITIONAL HIGHWAY ACCOUNT REVENUE.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 162. Effective use of additional highway account revenue

"(a) DETERMINATION OF ADDITIONAL AMOUNTS TO BE APPORTIONED.—

"(1) PUBLICATION OF INFORMATION.—Not later than 90 days after the beginning of each fiscal year beginning with fiscal year 1999, the Secretary shall publish in the Federal Register the following information:

"(A) The total estimated revenue of the Highway Trust Fund (other than the Mass Transit Account) during the period consisting of that fiscal year and the 5 following fiscal years, including all interest income credited or to be credited during the period.

"(B) The amount obtained by dividing the amount determined under subparagraph (A) by 6.

"(C) The amount obtained by subtracting $27,000,000,000 from the amount determined under subparagraph (B).

"(2) APPORTIONMENT.—If the amount determined under paragraph (1)(C) is greater than zero, the Secretary shall—

"(A) multiply that amount by 0.85; and

"(B) apportion the amount determined under subparagraph (A) in accordance with subsection (b)(1).

"(b) METHOD OF APPORTIONMENT.—

"(1) IN GENERAL.—For each fiscal year, the amount determined under subsection (a)(2) shall be apportioned as follows:

"(A) 60 percent of the amount shall be added to the amount authorized to be appropriated for the fiscal year for the National Highway System under section 101(1) of the Surface Transportation Authorization and Regulatory Streamlining Act.

"(B) 40 percent of the amount shall be added to the amount authorized to be appropriated for the fiscal year for the surface transportation program under section 101(2) of that Act.

"(2) APPORTIONMENT ADJUSTMENT PROGRAM.—After making the apportionment under paragraph (1), the Secretary shall make such additional apportionments as are necessary under section 157.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section such sums as are necessary for fiscal year 1999 and each fiscal year thereafter.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"162. Effective use of additional highway user taxes.".

SEC. 103. APPORTIONMENT OF PROGRAM FUNDS.

(a) IN GENERAL.—Section 104(b) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) NATIONAL HIGHWAY SYSTEM.—

"(A) APPORTIONMENT.—For the National Highway System, as follows:

"(i) INTERSTATE LANE MILES.—20 percent in the ratio that lane miles on Interstate routes in each State bears to the total of all such lane miles in all States.

"(ii) INTERSTATE VEHICLE MILES TRAVELED.—25 percent in the ratio that vehicle miles traveled on Interstate routes in each State bears to the total of all such vehicle miles in all States.

"(iii) NATIONAL HIGHWAY SYSTEM LANE MILES.—30 percent in the ratio that lane miles on National Highway System routes in each State bears to the total of all such lane miles in all States.

"(iv) NATIONAL HIGHWAY SYSTEM VEHICLE MILES TRAVELED.—10 percent in the ratio that vehicle miles traveled on the National Highway System in each State bears to the total of all such vehicle miles in all States.

"(v) SPECIAL FUEL.—15 percent in the ratio that special fuels volume for each State bears to the total special fuels volume for all States.

"(B) USE OF DATA.—In making the calculations for this paragraph, for paragraph (3), and for section 157, the Secretary shall use the most recent calendar or fiscal year for which data are available as of the first day of the fiscal year for which the apportionment is to be made.

"(C) DEFINITIONS.—In this paragraph:

"(i) LANE MILES ON INTERSTATE ROUTES.—The term 'lane miles on Interstate routes' shall have the meaning used by the Secretary in developing Highway Statistics Table HM-60.

"(ii) LANE MILES ON NATIONAL HIGHWAY SYSTEM ROUTES.—The term 'lane miles on National Highway System routes' shall have the meaning used by the Secretary in developing Highway Statistics Table HM-48.

"(iii) SPECIAL FUELS VOLUME.—The term 'special fuels volume' shall have the meaning used by the Secretary in developing column 8 of Highway Statistics Table MF-2.

"(iv) STATE.—The term 'State' means each of the 50 States and the District of Columbia.

"(v) VEHICLE MILES TRAVELED.—The terms 'vehicle miles traveled on Interstate routes' and 'vehicle miles traveled on the National Highway System' shall have the meanings used by the Secretary in developing Highway Statistics Table VM-3.";

(2) by striking paragraph (2);

(3) by striking paragraph (3) and inserting the following:

"(3) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program, as follows:

"(A) FEDERAL-AID HIGHWAY LANE MILES.—25 percent in the ratio that lane miles on Federal-aid highways in each State bears to the total of all such lane miles in all States.

"(B) FEDERAL-AID HIGHWAY VEHICLE MILES TRAVELED.—53 percent in the ratio that vehicle miles traveled on Federal-aid highways in each State bears to the total of all such vehicle miles in all States.

"(C) BRIDGE DECK SURFACE AREA.—10 percent in the ratio that the square footage of bridge deck surface in each State, including such square footage with respect to bridges not on Federal-aid highways, bears to the total of such square footage in all States, except that, in this subparagraph, the term 'bridge' includes only structures of at least 20 feet in length.

"(D) AIR QUALITY.—4 percent in accordance with the following table:

"State	Percentage
Alabama	0.41
Alaska	0.00
Arizona	1.50
Arkansas	0.00
California	23.02
Colorado	0.00
Connecticut	2.63
Delaware	0.45
District of Columbia	0.48
Florida	3.34
Georgia	1.73
Hawaii	0.00
Idaho	0.00
Illinois	5.48
Indiana	1.26
Iowa	0.00
Kansas	0.00
Kentucky	0.82
Louisiana	0.47
Maine	0.48
Maryland	3.47
Massachusetts	4.60
Michigan	3.25
Minnesota	0.00
Mississippi	0.00
Missouri	1.11
Montana	0.00
Nebraska	0.00
Nevada	0.17
New Hampshire	0.43
New Jersey	6.45
New Mexico	0.00
New York	10.96
North Carolina	1.38
North Dakota	0.00
Ohio	4.91
Oklahoma	0.00
Oregon	0.66
Pennsylvania	6.76
Rhode Island	0.65
South Carolina	0.00
South Dakota	0.00
Tennessee	1.25
Texas	5.47
Utah	0.55
Vermont	0.00
Virginia	2.38
Washington	1.78
West Virginia	0.30
Wisconsin	1.40
Wyoming	0.00.

"(E) POPULATION IN RELATION TO LANE MILES.—2 percent, as follows: The Secretary shall (i) divide the total population of all States by the total number of lane miles on Federal-aid highways in all States; (ii) for each State divide the State's population by the number of lane miles on Federal-aid highways within its borders; (iii) for each State divide the number determined by (ii) into the number determined by (i); (iv) add together the number determined under (iii) for every State; and (v) divide the number for each State under (iii) by the number for all States determined under (iv). The Secretary shall apportion to each State, of the funds apportioned under this subparagraph, the percentage equal to the number determined under (v).

"(F) FEDERAL LANDS.—5 percent as follows: The Secretary, after consultation with the General Services Administration, the Department of the Interior, and other agencies as appropriate, shall (i) determine the percentage of the total land in each State represented by the sum of the percentage of land owned by the Federal Government in the State and the percentage of land in the State held in trust by the Federal Government; (ii) add together the individual State percentages determined under clause (i) for all States; and (iii) divide the amount for each State under clause (i) by the amount for all States under clause (ii). The 5 percent shall be apportioned among the States in accord with each State's percentage under clause (iii).

"(G) FREEZE-THAW.—1 percent, to be apportioned among the States in accordance with the table set forth in clause (i), or in accordance with clause (ii).

"(i) TABLE.—

"State	Percentage
Alabama	1.2
Alaska	2.4
Arizona	1.0
Arkansas	1.4
California	0.8
Colorado	3.3
Connecticut	2.3
Delaware	1.8
District of Columbia	1.9
Florida	0.2
Georgia	1.1
Hawaii	0.0
Idaho	2.9
Illinois	1.9
Indiana	1.9
Iowa	2.1
Kansas	2.1
Kentucky	1.9
Louisiana	0.7
Maine	2.5
Maryland	2.0
Massachusetts	2.4
Michigan	2.2
Minnesota	2.0
Mississippi	1.1
Missouri	2.0
Montana	3.0
Nebraska	2.4
Nevada	2.2
New Hampshire	2.0
New Jersey	2.6
New Mexico	2.1
New York	2.9
North Carolina	2.3
North Dakota	2.2
Ohio	2.1
Oklahoma	1.6
Oregon	1.6
Pennsylvania	2.3
Rhode Island	2.1
South Carolina	1.4
South Dakota	2.5
Tennessee	1.8
Texas	1.1
Utah	3.2
Vermont	2.0
Virginia	1.9
Washington	1.8
West Virginia	2.2
Wisconsin	2.1
Wyoming	3.5.

"(ii) ALTERNATE APPROACH.—Notwithstanding section 315, the Secretary may, through notice and comment rulemaking, adopt an approach in lieu of the table set forth in clause (i) in order to apportion funds subject to this subparagraph among the States in a manner that reflects the relative frequency of freeze-thaw cycles within the States. The Secretary may use that alternate approach to apportioning funds for a fiscal year only if a final rule, adopted after notice and comment, is in effect prior to the beginning of that fiscal year.

"(H) DEFINITIONS.—In this paragraph:

"(i) LANE MILES ON FEDERAL-AID HIGHWAYS.—The term 'lane miles on Federal-aid highways' shall have the meaning used by the Secretary in developing Highway Statistics Table HM-60.

"(ii) STATE.—The term 'State' means each of the 50 States and the District of Columbia.

"(iii) VEHICLE MILES TRAVELED ON FEDERAL-AID HIGHWAYS.—The term 'vehicle miles traveled on Federal-aid highways' shall have the meaning used by the Secretary in developing Highway Statistics Table VM-2.";

(4) in paragraph (5)—

(A) in subparagraph (A), by striking "(A) Except as provided in subparagraph (B)—"; and

(B) by striking subparagraph (B); and

(5) by striking paragraph (6).

(b) POPULATION DETERMINATIONS.—Section 104 of title 23, United States Code, is amended by adding at the end the following:

"(k) POPULATION DETERMINATIONS.—For the purposes of subsection (b)(3) and section 157, population shall be determined on the basis of the most recent estimates prepared by the Secretary of Commerce.".

(c) CONFORMING AMENDMENTS.—

(1) Section 104(b) of title 23, United States Code, is amended in the matter preceding paragraph (1) by striking "paragraph (5)(A) of this subsection" and inserting "paragraph (5)".

(2) Section 137(f)(1) of title 23, United States Code, is amended by striking "section 104(b)(5)(B) of this title" and inserting "section 104(b)(1)".

(3) Section 139 of title 23, United States Code, is amended by striking "sections 104(b)(1) and 104(b)(5)(B) of this title" each place it appears and inserting "section 104(b)(1)".

(4) Section 142(c) of title 23, United States Code, is amended by striking "section 104(b)(5)(A)" and inserting "section 104(b)(5)".

(5) Section 159(b) of title 23, United States Code, is amended—

(A) in paragraph (1)(A)—

(i) in clause (i), by striking "section 104(b)(5)(A)" and inserting "section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Surface Transportation Authorization and Regulatory Streamlining Act)"; and

(ii) in clause (ii), by striking "section 104(b)(5)(B)" and inserting "section 104(b)(5)(B) (as in effect on the day before the date of enactment of the Surface Transportation Authorization and Regulatory Streamlining Act)";

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "section 104(b)(5)(A)" and inserting "section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Surface Transportation Authorization and Regulatory Streamlining Act)";

(ii) in subparagraph (B), by striking "(5)(B)" and inserting "(5)(B) (as in effect on the day before the date of enactment of the Surface Transportation Authorization and Regulatory Streamlining Act)"; and

(iii) in the last sentence, by striking "section 104(b)(5)" and inserting "section 104(b)(5) (as in effect on the day before the date of enactment of the Surface Transportation Authorization and Regulatory Streamlining Act)"; and

(C) in paragraph (4), by striking "section 104(b)(5)" and inserting "section 104(b)(5) (as in effect on the day before the date of enactment of the Surface Transportation Authorization and Regulatory Streamlining Act)".

(6) Section 161(a) of title 23, United States Code, is amended by striking "paragraphs (1), (3), and (5)(B) of section 104(b)" each place it appears and inserting "paragraphs (1) and (3) of section 104(b)".

(7) Section 1009 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 119 note; 105 Stat. 1933) is amended by striking subsection (c).

SEC. 104. APPORTIONMENT ADJUSTMENT PROGRAM.

(a) IN GENERAL.—Section 157 of title 23, United States Code, is amended to read as follows:

"§ 157. Apportionment adjustment program

"(a) DEFINITIONS.—In this section:

"(1) LOW-DENSITY STATE.—The term 'low-density State' means a State that is listed in the table in paragraph (4) and that has an average population density of 20 individuals or fewer per square mile.

"(2) SMALL STATE.—The term 'small State' means a State that is listed in the table in paragraph (4) and that has a population of 1,500,000 individuals or fewer and a land area of 10,000 square miles or less.

"(3) STATE.—The term 'State' means each of the 50 States and the District of Columbia.

"(4) STATED PERCENTAGE.—The term 'stated percentage', with respect to a State, means the percentage listed for the State in the following table:

"State	Percentage
Alaska	1.25
Delaware	0.40
Hawaii	0.55
Idaho	0.70
Montana	0.95
Nevada	0.67
New Hampshire	0.48
New Mexico	1.05
North Dakota	0.63
Rhode Island	0.55
South Dakota	0.70
Vermont	0.43
Wyoming	0.66.

"(b) PROGRAM.—On October 1 (or as soon as possible thereafter) of each fiscal year beginning after September 30, 1997, the Secretary shall apportion among the States, in addition to amounts apportioned under paragraphs (1) and (3) of section 104(b), and section 104(f)(2), the amounts required by this section.

"(c) ADDITIONAL APPORTIONMENTS AND SEQUENCE OF CALCULATING ADDITIONAL APPORTIONMENTS.—

"(1) FIRST CALCULATION.—The Secretary shall apportion $95,000,000 to the Commonwealth of Puerto Rico.

"(2) SECOND CALCULATION.—For each low-density State and each small State, the Secretary shall calculate the total amount obtained by multiplying the stated percentage for the State by the total amount of funds apportioned to all States under paragraphs (1) and (3) of section 104(b) and section 104(f)(2) plus the amount apportioned under paragraph (1). For any low-density or small State that received, under paragraphs (1) and (3) of section 104(b) and section 104(f)(2) combined, apportionments less than the amount for the State determined pursuant to the first sentence of this paragraph, the Secretary shall apportion to the State such additional amount as is required to make up that difference.

"(3) THIRD CALCULATION.—In addition to any amount required to be apportioned by paragraph (2) for a fiscal year, the Secretary shall make additional apportionments so that no State receives an amount that is less than the amount determined by multiplying (A) the percentage that is 95 percent of the percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available by (B) the total amount of funds apportioned to all States immediately after the Secretary has made any additional apportionments required by paragraph (2).

"(4) FOURTH CALCULATION.—The Secretary shall determine for each State the percentage apportioned to that State of the total amount of funds apportioned to all States under paragraphs (1) and (3) of section 104(b). The Secretary shall calculate, for each State, the total amount obtained by multiplying (A) the percentage for that State under the first sentence of this paragraph by (B) the total amount of funds apportioned to all States after the apportionment made by paragraph (3). If the amount for a State under the calculation made under the preceding sentence, minus the total amount apportioned to that State after the apportionments made by paragraph (3), is greater than zero, the Secretary shall make an additional apportionment, equal to that amount, to that State.

"(5) FIFTH CALCULATION.—For each low-density State and each small State, the Secretary shall calculate the total amount obtained by multiplying the stated percentage for the State by the total amount of funds apportioned to all States after the apportionment made by paragraph (4). For any low-density or small State that receives, after the apportionment made by paragraph (4), total apportionments less than the amount for the State determined pursuant to the first sentence of this paragraph, the Secretary shall apportion to the State such additional amount as is required to make up that difference.

"(d) TERMS AND CONDITIONS.—Amounts apportioned in accordance with subsection (c), and amounts authorized to be appropriated under section 101(4) of the Surface Transportation Authorization and Regulatory Streamlining Act—

"(1) shall be available for obligation, when allocated, for the year authorized and the 3 following fiscal years;

"(2) shall be subject to this title; and

"(3) may be obligated for National Highway System projects under section 103, surface transportation program projects under section 133, or any other purpose authorized under this title.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section such sums as are necessary for fiscal year 1998 and each fiscal year thereafter.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 157 and inserting the following:

"157. Apportionment adjustment program.".

(c) REPEAL OF CERTAIN APPORTIONMENT ADJUSTMENT PROGRAMS.—

(1) REIMBURSEMENT FOR SEGMENTS OF THE INTERSTATE SYSTEM CONSTRUCTED WITHOUT FEDERAL ASSISTANCE.—

(A) IN GENERAL.—Section 160 of title 23, United States Code, is repealed.

(B) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 160.

(2) DONOR STATE BONUS AMOUNTS.—Section 1013 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 157 note; 105 Stat. 1940) is amended by striking subsection (c).

(3) HOLD HARMLESS APPORTIONMENT ADJUSTMENT.—Section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943) is amended by striking subsection (a).

(4) 90 PERCENT OF PAYMENTS ADJUSTMENT.—Section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1944) is amended by striking subsection (b).

SEC. 105. PROGRAM ADMINISTRATION, RESEARCH, AND PLANNING FUNDS.

(a) PROGRAM ADMINISTRATION.—Section 104 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking "an apportionment is made of the sums authorized to be appropriated for expenditure on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System" and inserting "apportionments are made pursuant to this section and section 157"; and

(ii) by striking "not to exceed 3¾ per centum of all sums so authorized" and inserting "not to exceed 2 percent of the total of the apportionments";

(B) by inserting after the first sentence the following: "For the purpose of calculating apportionments referred to in the preceding sentence, the deductions made under this subsection shall be made only after the completion of all other aspects of calculating the apportionments and from amounts calculated without taking into account the deductions."; and

(C) in the third sentence (after the amendment made by subparagraph (B)), by striking "such determination" and inserting "the determination described in the first sentence"; and

(2) in the matter preceding paragraph (1) of subsection (b), by striking ", after making the deduction" and all that follows through the colon and inserting "shall make apportionments for the fiscal year in the following manner:".

(b) METROPOLITAN PLANNING.—Section 104(f) of title 23, United States Code, is amended by striking "(f)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(f) METROPOLITAN PLANNING.—

"(1) SET ASIDE.—On October 1 of each fiscal year, the Secretary shall set aside to carry out section 134 not to exceed 1 percent of the funds authorized to be appropriated for the National Highway System under section 103 and the surface transportation program under section 133.".

(c) RESEARCH AND PLANNING.—Section 307 of title 23, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (f) the following:

"(g) FREEZE-THAW RESEARCH.—Not later than 90 days after the date of enactment of the Surface Transportation Authorization and Regulatory Streamlining Act, the Secretary shall undertake an enhanced level of research to determine means of reducing the long-term and short-term costs of constructing and maintaining asphalt pavement in areas with severe or frequent freeze-thaw cycles.

"(h) CONSIDERATION OF RURAL ISSUES IN TRANSPORTATION RESEARCH, INTELLIGENT TRANSPORTATION SYSTEMS, AND TECHNOLOGY PROGRAMS.—In selecting topics for research, allocating funds among contractors and State and local governments for research, and researching, developing, testing, and promoting intelligent transportation systems and other technological applications, the Secretary shall give careful consideration to the national interest in—

"(1) understanding transportation issues that affect rural areas;

"(2) developing a scientific and technological infrastructure in rural areas; and

"(3) permitting rural as well as metropolitan areas to benefit from the deployment of modern transportation technology.".

SEC. 106. RECREATIONAL TRAILS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out the recreational trails program under part B of title I of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261 et seq.) $30,000,000 for each of fiscal years 1998 through 2003.

(b) APPORTIONMENT FORMULA.—

(1) ADMINISTRATIVE COSTS.—Whenever an apportionment is made of the sums authorized to be appropriated to carry out section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261), the Secretary shall deduct an amount, not to exceed 3 percent of the sums authorized, to cover the cost to the Secretary for administration of and research under the recreational trails program and for administration of the National Recreational Trails Advisory Committee. The Secretary may enter into contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations, and may enter into contracts with for-profit organizations, to carry out the administration and research described in the preceding sentence.

(2) APPROPRIATION TO THE STATES.—After making the deduction authorized by paragraph (1), the Secretary shall apportion the remainder of the sums authorized to be appropriated for expenditure on the recreational trails program for each fiscal year among the States in the following manner:

(A) EQUAL AMOUNTS.—Fifty percent of that amount shall be apportioned equally among eligible States (as defined in section 1302(g)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261(g)(1))).

(B) AMOUNTS PROPORTIONATE TO NONHIGHWAY RECREATIONAL FUEL USE.—Fifty percent of that amount shall be apportioned among eligible States (as defined in section 1302(g)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261(g)(1))) in amounts proportionate to the degree of nonhighway recreational fuel use in each of those States during the preceding year.

(c) CONTRACT AUTHORITY.—Funds authorized by this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any recreational trails project shall be determined in accordance with subsection (d).

(d) FEDERAL SHARE PAYABLE.—

(1) IN GENERAL.—Except as provided in paragraphs (2), (3), (4), and (5), the Federal share payable on account of a recreational trails project shall not exceed 80 percent.

(2) FEDERAL AGENCY PROJECT SPONSOR.—Notwithstanding any other provision of law, a Federal agency sponsoring a project under this section may contribute Federal funds toward a project's cost, if the share attributable to the Secretary of Transportation does not exceed 50 percent and the share attributable to the Secretary and the Federal agency jointly does not exceed 80 percent.

(3) ALLOWABLE MATCH FROM FEDERAL GRANT PROGRAMS.—Notwithstanding any other provision of law, the following Federal grant programs may be used to contribute Federal funds toward a project's cost and may be accounted for as contributing to the non-Federal share:

(A) The State and Local Fiscal Assistance Act of 1972 (Public Law 92–512).

(B) Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(C) The Public Works Employment Act of 1976 (42 U.S.C. 6701 et seq.).

(D) The Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988 (16 U.S.C. 461 note; 102 Stat. 4552).

(E) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(F) The National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.).

(G) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193).

(4) PROGRAMMATIC NON-FEDERAL SHARE.—A State may allow adjustments of the non-Federal share of individual projects if the total Federal share payable for all projects within the State under this program for a Federal fiscal year's apportionment does not exceed 80 percent. A project funded under paragraph (2) or (3) may not be included in the calculation of the programmatic non-Federal share.

(5) STATE ADMINISTRATIVE COSTS.—The Federal share payable on account of the administrative costs of a State, incurred in administering this program and carrying out statewide trail planning, shall be determined in accordance with section 120(b) of title 23, United States Code.

SEC. 107. RULES FOR ANY LIMITATIONS ON OBLIGATIONS.

(a) NONE ESTABLISHED.—Nothing in this Act establishes a limitation on the total of all obligations for any fiscal year for Federal-aid highways and highway safety construction programs.

(b) RULES FOR OBLIGATION AUTHORITY LIMITS.—Chapter 1 of title 23, United States Code (as amended by section 102(a)), is amended by adding at the end the following:

"§163. Rules for any limitations on obligations

"(a) IN GENERAL.—Any provision of a statute enacted before or after the date of enactment of this section that establishes a limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1998, or any fiscal year thereafter, shall be in accordance with this section (as in effect on the date of enactment of this section) or stated as an amendment to this section.

"(b) PROHIBITION ON CERTAIN LIMITATIONS.—Obligations under section 125, for Federal lands highway investments, and for recreational trails under part B of title I of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261 et seq.), shall not be subject to any limitation on obligation authority.

"(c) DISTRIBUTION OF OBLIGATION LIMITATIONS.—

"(1) IN GENERAL.—If, with respect to fiscal year 1998 or any fiscal year thereafter, a provision of a statute establishes a limitation on obligations for Federal-aid highways and highway safety construction programs, paragraphs (2) through (4) shall apply.

"(2) DISTRIBUTION FORMULA.—For a fiscal year, any limitation described in paragraph (1) shall be distributed among the States by allocation in the ratio that—

"(A) the total of the amounts apportioned to each State under sections 104, 157, and 162 for the fiscal year; bears to

"(B) the total of the amounts apportioned to all States under those sections for the fiscal year.

"(3) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—

"(A) IN GENERAL.—Notwithstanding any limitation described in paragraph (1), for each fiscal year, the Secretary—

"(i) shall provide each State with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction programs that have been apportioned or allocated to the State, except in those cases in which the State indicates its intention to lapse sums apportioned to the State;

"(ii) after August 1 of the fiscal year—

"(I) shall revise a distribution of the funds made available under the limitation described in paragraph (1) for the fiscal year if a State will not obligate the amount distributed during the fiscal year; and

"(II) shall redistribute sufficient amounts to States able to obligate amounts in addition to the amounts previously distributed for the fiscal year, giving priority to those States that have unobligated balances of funds apportioned that are relatively large when compared to the amount of funds apportioned to those States under sections 104 and 157 for the fiscal year; and

"(iii) shall not distribute amounts authorized for administrative expenses.

"(B) STATE INFRASTRUCTURE BANKS.—For the purposes of subparagraph (A)(ii), funds made available and placed in a State infrastructure bank approved by the Secretary but not obligated out of the bank shall be considered to be not obligated.

"(4) ADDITIONAL OBLIGATION AUTHORITY.—

"(A) IN GENERAL.—Subject to paragraph (3), a State that after August 1 and on or before September 30 of a fiscal year obligates the amount distributed to the State for the fiscal year under paragraph (2) may obligate for Federal-aid highways and highway safety construction programs on or before September 30 of the fiscal year an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to the State under sections 104 and 157 that are not obligated on the date on which the State completes obligation of the amount so distributed.

"(B) LIMITATION ON ADDITIONAL OBLIGATION AUTHORITY.—During the period August 2 through September 30 of each fiscal year, the aggregate amount that may be obligated by all States under subparagraph (A) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States under sections 104 and 157 that would not be obligated in the fiscal year if the total amount of obligation authority provided for the fiscal year were used.

"(C) LIMITATION ON APPLICABILITY.—In the case of a fiscal year, subparagraph (A) shall not apply to any State that on or after August 1 of the fiscal year has the amount distributed to the State under a limitation for the fiscal year reduced under paragraph (3).

"(d) MAINTENANCE OF OVERALL PROGRAM BALANCE.—If a limitation on obligations is established for a fiscal year—

"(1) the Secretary shall determine the percentage by which the limitation reduces the amount of funds that otherwise would be available for obligation by each State; and

"(2) notwithstanding sections 133, 144, and 149, for the fiscal year, the amounts that are required to be made available for use in the State under paragraphs (1) and (2) of section 133(d), the amounts that the State is required to reserve under section 144, and the amounts subject to section 149, shall be reduced by the percentage determined by the Secretary under paragraph (1).".

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 102(b)), is amended by adding at the end the following:

"163. Rules for limitations on obligation authority.".

TITLE II—PROGRAM STREAMLINING

SEC. 201. PLANNING-BASED EXPENDITURES ON ELEMENTS OF TRANSPORTATION INFRASTRUCTURE.

(a) BRIDGE EXPENDITURES.—

(1) IN GENERAL.—Section 144 of title 23, United States Code, is amended—

(A) by striking subsections (a) and (b) and inserting the following:

"(a) CERTIFICATION BY THE STATE.—Not later than 180 days after the end of each fiscal year beginning with fiscal year 1998, each State shall certify to the Secretary, either that—

"(1) the State has reserved, from funds apportioned to the State for the preceding fiscal year, to carry out bridge projects eligible under section 133(b), an amount that is not less than the amount apportioned to the State under this section for fiscal year 1997; or

"(2) the amount that the State will reserve, from funds apportioned to the State for the period consisting of fiscal years 1998 through 2003, to carry out bridge projects eligible under section 133(b), will be not less than 6 times the amount apportioned to the State under this section for fiscal year 1997.

"(b) SET ASIDES.—

"(1) DISCRETIONARY BRIDGE PROGRAM.—

"(A) IN GENERAL.—On October 1 of each fiscal year beginning with fiscal year 1998, before making any apportionment under paragraph (1) or (3) of section 104(b), the Secretary shall set aside—

"(i) $36,300,000 from the amount available for apportionments under section 104(b)(1); and

"(ii) $24,200,000 from the amount available for apportionments under section 104(b)(3).

"(B) USE OF SET ASIDE.—The amounts set aside under subparagraph (A) shall be available for obligation in the same manner and to the same extent as sums apportioned under section 104(b)(3), except that the amounts shall be obligated at the discretion of the Secretary, in accordance with procedures to be established by the Secretary, for bridge projects eligible under section 133(b).";

(B) by striking subsections (c) through (f) and (h) through (p);

(C) by redesignating paragraphs (3) and (4) of subsection (g) as paragraphs (2) and (3), respectively, of subsection (b);

(D) by striking subsection (g);

(E) in subsection (q), by striking "(q) As used in" and inserting "(c) DEFINITION OF REHABILITATE.—In"; and

(F) in subsection (b) (as amended by subparagraph (C))—

(i) in paragraph (2), by striking "apportioned to each State in each of fiscal years 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, and 1997," and inserting "reserved by each State under subsection (a) for each of fiscal years 1998 through 2003"; and

(ii) in paragraph (3)—

(I) in the first sentence, by striking "apportioned to" and inserting "reserved under subsection (a) by"; and

(II) in the second sentence, by striking "a State bridge apportionment and before transferring funds to the States," and inserting "the amount to be reserved under subsection (a) for a fiscal year by a State described in the preceding sentence,".

(2) CONFORMING AMENDMENTS.—

(A) Section 104(g) of title 23, United States Code, is amended—

(i) in the first sentence—

(I) by striking "apportioned" and inserting "reserved";

(II) by striking "to each State in accordance with" and inserting "by each State for the purposes of"; and

(III) by striking "apportionment" each place it appears and inserting "amount reserved";

(ii) in the second sentence, by striking "apportionment" each place it appears and inserting "amount reserved"; and

(iii) in the third sentence, by striking "State's apportionment" and inserting "amount reserved by the State".

(B) Section 115(c) of title 23, United States Code, is amended by striking "144"".

(C) Section 120(e) of title 23, United States Code, is amended in the last sentence by striking "and in section 144 of this title".

(D) Section 140(b) of title 23, United States Code, is amended in the last sentence by striking "and the bridge program under section 144".

(E) Section 151(d) of title 23, United States Code, is amended by striking "section 104(a), section 307(a), and section 144 of this title" and inserting "sections 104(a) and 307(a)".

(F) Section 307(c)(1) of title 23, United States Code, is amended by striking "sections 104 and 144 of this title" and inserting "section 104".

(b) Safety Programs.—

(1) Surface transportation program.—Section 133(d) of title 23, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) Safety programs.—

"(A) Required set-aside.—With respect to funds apportioned for each of fiscal years 1998 through 2003—

"(i) an amount equal to 2.5 percent of the amount apportioned to a State under section 104(b)(3) for fiscal year 1997 shall be available only to carry out activities eligible under section 130;

"(ii) an amount equal to the amount described in clause (i) shall be available only to carry out activities eligible under section 152; and

"(iii) an amount equal to 5 percent of the amount apportioned to a State under section 104(b)(3) for fiscal year 1997 shall be available only to carry out activities eligible under section 130 or 152.

"(B) Waiver.—For a fiscal year, the Secretary shall waive the set-aside required under clause (i) or (ii) of subparagraph (A), and permit the amount of the set-aside to be used in accordance with subparagraph (A)(iii), upon receipt of a certification by the State that the amount that will be made available for the purpose of the waived set-aside for that fiscal year, when combined with the amount made available for that purpose for the preceding fiscal year, or the amount to be made available for that purpose for the following fiscal year, will average, per fiscal year, not less than 2.5 percent of the amount apportioned to the State under section 104(b)(3) for fiscal year 1997.".

(2) Program improvements.—Title 23, United States Code, is amended—

(A) in section 130—

(i) in subsection (e), by striking the first sentence and inserting the following: "Funds authorized for or expended under this section may be used for the installation of protective devices at railway-highway crossings."; and

(ii) in subsection (f), by striking "Apportionment" and all that follows through the first sentence and inserting "Federal Share.—"; and

(B) in section 152—

(i) in subsection (c), by striking "(other than a highway on the Interstate System)"; and

(ii) in subsection (e), by striking the first sentence.

(c) Transportation Enhancement Activities.—Section 133(d) of title 23, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) Transportation enhancement activities.—With respect to funds apportioned for each of fiscal years 1998 through 2003, an amount equal to 5 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out transportation enhancement activities.".

(d) Congestion Mitigation and Air Quality Improvement Activities.—

(1) In general.—Section 149 of title 23, United States Code, is amended—

(A) in the section heading, by striking "**program**" and inserting "**activities**";

(B) by striking subsection (a) and inserting the following:

"(a) Use of Funds.—Funds apportioned to a State under section 104(b)(3)(D) may be used only in accordance with this section.";

(C) in subsection (b), by striking "Except" and all that follows through "program only" and inserting "Funds described in subsection (a) may be used only"; and

(D) in subsection (c), by striking "section 104(b)(2)" and inserting "section 104(b)(3)(D)".

(2) Conforming amendments.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 149 and inserting the following:

"149. Congestion mitigation and air quality improvement activities.".

(B) Section 115(a) of title 23, United States Code, is amended—

(i) in the subsection heading, by striking "Congestion Mitigation and Air Quality Improvement,"; and

(ii) in paragraph (1)(A)(i), by striking "104(b)(2),".

(C) Section 146(a) of title 23, United States Code, is amended in the first sentence by striking "104(b)(2)," and inserting "104(b)(3)(D),".

(D) Section 217 of title 23, United States Code, is amended—

(i) in subsection (a)—

(I) in the subsection heading, by striking "STP and Congestion Mitigation Program" and inserting "Surface Transportation Program"; and

(II) by striking "sections 104(b)(2) and 104(b)(3) of this title" and inserting "section 104(b)(3)"; and

(ii) in subsection (d), by striking "sections 104(b)(2) and 104(b)(3) of this title" and inserting "section 104(b)(3)".

SEC. 202. NATIONAL HIGHWAY SYSTEM.

(a) Definition of National Highway System.—Section 101(a) of title 23, United States Code, is amended by striking the undesignated paragraph defining "National Highway System" and inserting the following:

"The term 'National Highway System' means the Federal-aid highway system established under section 103(b).".

(b) Program Specifications.—Section 103 of title 23, United States Code, is amended—

(1) by striking the section designation and heading and inserting the following:

"§ 103. National Highway System"

(2) by striking subsections (g) and (h); and

(3) by redesignating subsection (i) as subsection (c) and moving the subsection to appear after subsection (b).

(c) Conforming Amendment.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 103 and inserting the following:

"103. National Highway System.".

SEC. 203. INTERSTATE MAINTENANCE ACTIVITIES.

(a) Funding of Activities.—Section 119 of title 23, United States Code, is amended—

(1) in the section heading, by striking "**program**" and inserting "**activities**";

(2) in subsection (a)—

(A) in the first sentence—

(i) by striking "sections 103 and 139(c) of this title and routes on the Interstate System designated before the date of enactment of this sentence under section 139(a) and (b) of"; and

(ii) by striking "subsection (e)" and inserting "subsection (d)"; and

(B) by striking the second sentence;

(3) by striking subsections (d), (f), and (g); and

(4) by redesignating subsection (e) as subsection (d).

(b) Conforming Amendments.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 119 and inserting the following:

"119. Interstate maintenance activities."

(2) Sections 134(i)(4) and 135(f)(3) of title 23, United States Code, are amended—

(A) by striking "and pursuant to the bridge and Interstate maintenance programs" each place it appears and inserting ", pursuant to the bridge program under section 144, and as Interstate maintenance activities under section 119"; and

(B) by striking "or pursuant to the bridge and Interstate maintenance programs" each place it appears and inserting ", pursuant to the bridge program under section 144, or as Interstate maintenance activities under section 119".

SEC. 204. SURFACE TRANSPORTATION PROGRAM AMENDMENTS.

Section 133 of title 23, United States Code, is amended—

(1) in subsection (b), by adding at the end the following:

"(12) With respect to each area of a State that is a nonattainment area under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide, or for PM-10 resulting from transportation activities, or for any combination of these substances, also for any congestion mitigation and air quality improvement project or program without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard addressed by the project or program. For the purpose of this paragraph, an area that has been designated as nonattainment for carbon monoxide under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) shall be considered to be a nonattainment area regardless of whether the area has been 'classified' under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.).

"(13) Placement of funds in a State infrastructure bank approved by the Secretary.";

(2) in subsection (c), by striking "unless such roads are on a Federal-aid highway system on January 1, 1991, and";

(3) in subsection (d)(3)—

(A) by striking subparagraph (A) and inserting the following:

"(A) General rule.—

"(i) Urban areas.—Except as provided in subparagraph (C), for each fiscal year, a State shall allocate for use in each area of the State with an urbanized area population of over 200,000 individuals an amount of the funds apportioned under section 104(b)(3) for the fiscal year obtained by multiplying—

"(I)(aa) if funds were allocated for use in the area under the surface transportation program for fiscal year 1997, the amount of such funds required to be allocated for use in the area for that year; or

"(bb) if funds were not allocated for use in the area under the surface transportation program for fiscal year 1997, the amount of such funds that would have been required to be allocated for use in the area for fiscal year 1997 if the area had had an urbanized area population of 200,001 individuals as of October 1, 1996; by

"(II) the amount obtained by dividing—

"(aa) all funds apportioned or allocated to the State for Federal-aid highways and highway safety construction programs for the fiscal year; by

"(bb) all funds apportioned or allocated to the State for Federal-aid highways and highway safety construction programs for fiscal year 1997.

"(ii) OTHER AREAS.—Except as provided in subparagraph (C), for each fiscal year, a State shall allocate for use in each area of the State that is not an area described in clause (i) an amount of the funds apportioned under section 104(b)(3) for the fiscal year obtained by multiplying—

"(I) the amount of funds required to be allocated for use in the area under the surface transportation program for fiscal year 1997; by

"(II) the amount obtained by dividing—

"(aa) all funds apportioned or allocated to the State for Federal-aid highways and highway safety construction programs for the fiscal year; by

"(bb) all funds apportioned or allocated to the State for Federal-aid highways and highway safety construction programs for fiscal year 1997.";

(B) in subparagraph (B), by striking "subparagraph (A)(ii)" and inserting "this section";

(C) by striking subparagraph (C) and inserting the following:

"(C) SPECIAL RULE FOR CERTAIN STATES.—Subparagraph (A) shall not apply in the case of a State that is noncontiguous with the continental United States.";

(D) by striking subparagraph (D);

(E) by redesignating subparagraph (E) as subparagraph (D); and

(F) in subparagraph (D) (as so redesignated)—

(i) by striking "obligate" each place it appears and inserting "allocate";

(ii) by striking "(A)(i)" each place it appears and inserting "(A)"; and

(iii) by striking "obligated" and inserting "allocated";

(4) in subsection (e), by striking paragraph (2) and inserting the following:

"(2) CERTIFICATION.—Before the beginning of each fiscal year, the Governor of each State shall certify to the Secretary that the State will meet all the requirements of this section and shall notify the Secretary that the amount of obligations expected to be incurred for surface transportation program projects during the fiscal year is in accordance with the surveys, plans, specifications, and estimates for each proposed project included in the surface transportation program category in the transportation improvement program of the State developed under section 135 for the fiscal year. A State may request an adjustment to an obligation amount referred to in subparagraph (A)(ii) later in the fiscal year. Acceptance by the Secretary of the notification and certification shall be deemed to be a contractual obligation of the United States to pay the Federal share of costs incurred by the State for projects not subject to review by the Secretary under this chapter."; and

(5) in subsection (f)—

(A) by striking "6-fiscal year period 1992 through 1997" and inserting "6-fiscal-year period 1998 through 2003"; and

(B) by striking "obligate in" each place it appears and inserting "allocate to".

SEC. 205. CONFORMING AMENDMENTS TO DISCRETIONARY PROGRAMS.

(a) OPERATION LIFESAVER.—Section 104 of title 23, United States Code, is amended by striking subsection (d) and inserting the following:

"(d) OPERATION LIFESAVER.—From administrative funds deducted under subsection (a), the Secretary shall expend $500,000 for each fiscal year to carry out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings.".

(b) REPEAL OF SET-ASIDES FOR THE INTERSTATE AND NATIONAL HIGHWAY SYSTEM DISCRETIONARY PROGRAMS.—Section 118 of title 23, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

SEC. 206. COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by inserting after section 205 the following:

"SEC. 206. COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.

"(a) FINDINGS AND PURPOSE.—

"(1) FINDINGS.—Congress finds that public roads owned by States—

"(A) can provide valuable assistance to the Federal Government in ensuring adequate and safe transportation to, in, and across federally owned land and Indian reservations; and

"(B) supplement the efforts of the Federal Government in developing and maintaining roads to serve federally owned land and Indian reservations.

"(2) PURPOSE.—The purpose of this section is to further the Federal interest in State-owned or State-maintained roads that provide transportation to, in, or across federally owned land or Indian reservations by establishing the Cooperative Federal Lands Transportation Program.

"(b) PROGRAM.—There is established the Cooperative Federal Lands Transportation Program (referred to in this section as the 'program'). Funds available for the program may be used for projects, or portions of projects, on State-owned or State-maintained highways that cross, are adjacent to, or lead to federally owned land or Indian reservations, as determined by the State. Such projects shall be proposed by a State and selected by the Secretary. A project proposed by a State under this section shall be on a highway owned or maintained by the State and may be a highway construction or maintenance project eligible under this title or any project of a type described in section 204(h).

"(c) DISTRIBUTION OF FUNDS FOR PROJECTS.—

"(1) IN GENERAL.—

"(A) IN GENERAL.—The Secretary—

"(i) after consultation with the Administrator of General Services, the Secretary of the Interior, and other agencies as appropriate, shall determine the percentage of the total land in each State that is owned by the Federal Government or that is held by the Federal Government in trust;

"(ii) shall determine the sum of the percentages determined under clause (i) for States with respect to which the percentage is 4.5 or greater; and

"(iii) shall determine for each State included in the determination under clause (ii) the percentage obtained by dividing—

"(I) the percentage for the State determined under clause (i); by

"(II) the sum determined under clause (ii).

"(B) ADJUSTMENT.—The Secretary shall—

"(i) reduce any percentage determined under subparagraph (A)(iii) that is greater than 7.5 percent to 7.5 percent; and

"(ii) redistribute the percentage points equal to any reduction under clause (i) among other States included in the determination under subparagraph (A)(ii) in proportion to the percentages for those States determined under subparagraph (A)(iii).

"(2) AVAILABILITY TO STATES.—Except as provided in paragraph (3), for each fiscal year, the Secretary shall make funds available to carry out eligible projects in a State in an amount equal to the amount obtained by multiplying—

"(A) the percentage for the State, if any, determined under paragraph (1); by

"(B) the funds made available for the program for the fiscal year.

"(3) SELECTION OF PROJECTS.—The Secretary may establish deadlines for States to submit proposed projects for funding under this section, except that in the case of fiscal year 1998 the deadline may not be earlier than January 1, 1998. For each fiscal year, if a State does not have pending, by that deadline, applications for projects with an estimated cost equal to at least 3 times the amount for the State determined under paragraph (2), the Secretary may distribute, to 1 or more other States, at the Secretary's discretion,⅓ of the amount by which the estimated cost of the State's applications is less than 3 times the amount for the State determined under paragraph (2).

"(d) TRANSFERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a State and the Secretary may agree to transfer amounts made available to a State under this section for use in carrying out projects on any Federal lands highway that is located in the State.

"(2) SPECIAL RULE.—This paragraph applies to a State that contains a national park that was visited by more than 2,500,000 people in 1996 and comprises more than 3,000 square miles of land area, including surface water, that is located in the State. For such a State, 50 percent of the amount that would otherwise be made available to the State for each fiscal year under the program shall be made available only for eligible highway uses in the national park and within the borders of the State. For the purpose of making allocations under section 202(c), the Secretary may not take into account the past or future availability, for use on park roads and parkways in a national park, of funds made available for use in a national park by this paragraph.".

(b) DEFINITION OF FEDERAL LANDS HIGHWAY INVESTMENT.—Section 101(a) of title 23, United States Code, is amended—

(1) by adding at the end the following:

"The term 'Federal lands highway investment' means funds authorized for the Federal lands highways program or the Cooperative Federal Lands Transportation Program under chapter 2."; and

(2) by reordering the undesignated paragraphs so that they are in alphabetical order.

(c) Conforming Amendment.—The analysis for chapter 2 of title 23, United States Code, is amended by inserting after the item relating to section 205 the following:

"206. Cooperative Federal Lands Transportation Program.".

TITLE III—REDUCTION OF REGULATION

SEC. 301. PERIODIC REVIEW OF AGENCY RULES.

(a) In General.—The Secretary of Transportation shall carry out a periodic review of all significant rules issued by the Department of Transportation and shall determine which of the rules should be amended, rescinded, or continued without change, based on a consideration of—

(1) the continued need for each rule; and

(2) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules.

(b) Plan.—Not later than 60 days after the date of enactment of this Act, the Secretary shall develop and publish in the Federal Register a plan for the periodic review of all significant rules issued by the Department of Transportation.

SEC. 302. PLANNING AND PROGRAMMING.

Section 135 of title 23, United States Code, is amended by adding at the end the following:

"(i) Continuation of Current Review Practice.—Since plans and programs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 303. METRIC CONVERSION AT STATE OPTION.

Section 205(c)(2) of the National Highway System Designation Act of 1995 (23 U.S.C. 109 note; 109 Stat. 577) is amended by striking "Before September 30, 2000, the" and inserting "The".

TITLE IV—EFFECTIVE DATE; TRANSITION RULES.

SEC. 401. EFFECTIVE DATE; TRANSITION RULES.

(a) In General.—Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect on the date of enactment of this Act.

(b) Funds.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall apply only to funds authorized to be appropriated or made available after September 30, 1997.

(c) Unobligated Balances.—Section 118 of title 23, United States Code (as amended by section 205(b)), is amended by adding at the end the following:

"(f) Unobligated Balances as of October 1, 1997.—

"(1) In general.—Except as otherwise provided by law, unobligated balances of funds apportioned or allocated to a State before October 1, 1997, under this title, the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240), or other law concerning Federal-aid highways, shall be available for obligation in the State under the law (including regulations, policies, and procedures) relating to the obligation and expenditure of the funds in effect on September 30, 1997.

"(2) Transferability.—

"(A) Interstate construction and interstate maintenance programs.—A State may transfer unobligated balances of funds apportioned to the State before October 1, 1997, for the Interstate construction program under section 104(b)(5)(A) (as in effect on the day before the date of enactment of this subsection) or the Interstate maintenance program under section 104(b)(5)(B) (as in effect on the day before the date of enactment of this subsection), to the apportionment of the State under section 104(b)(1).

"(B) Bridge replacement and rehabilitation program.—A State may transfer unobligated balances of funds apportioned to the State before October 1, 1997, for the bridge replacement and rehabilitation program under section 144 (as in effect on the day before the date of enactment of this subsection) to the apportionment of the State under paragraph (1) or (3) of section 104(b) (or both).

"(C) Surface transportation program.—A State may transfer unobligated balances of funds apportioned to the State before October 1, 1997, for the surface transportation program under section 104(b)(3) (as in effect on the day before the date of enactment of this subsection) to the apportionment of the State under section 104(b)(3).

"(D) Other programs.—A State may transfer unobligated balances of funds apportioned or allocated to the State before October 1, 1997, under sections 157 and 160 (as in effect on the day before the date of enactment of this subsection), and sections 1013(c) and 1015(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) (as in effect on the day before the date of enactment of this subsection), to the apportionment of the State under section 104(b)(3).

"(E) Applicability of certain laws.—Funds transferred under this paragraph shall be subject to the laws (including regulations, policies, and procedures) relating to the apportionment to which the funds are transferred as the laws are in effect after the date of enactment of this subsection, except that a transfer of funds permitted under this paragraph shall not extend the time period within which the transferred funds either must be obligated or lapse.

"(F) Effect on certain determinations.—A decision by a State to transfer funds under this paragraph shall have no effect on any determination of the apportionments or obligation authority of the State.".

Summary of Key Provisions of STARS 2000

STARS 2000 is a six-year transportation reauthorization proposal.

FUNDING LEVELS

The Department of Transportation estimates that the Highway Account of the Highway Trust Fund could sustain annual funding levels of $27 billion into the next century. This figure includes annual revenue, interest accumulated from unobligated balances, and the gradual spend-down of unobligated balances.

STARS 2000 funding levels are approximately $27 billion annually.

The breakdown is as follows:

National Highway System—$14.163 billion
Surface Transportation Program—$9.442 billion
Equity programs—approximately $2.8 billion
Federal lands programs
1. Indian reservation roads—$191 million
2. Public lands highways—$172 million
3. Parks and Parkways—$84 million
Cooperative Federal Lands Transportation Program (new)—$155 million
Territories—$35 million
Recreational Trails—$30 million

FUNDING FORMULAS

STARS 2000 funding formulas are based heavily on the extent and use of a State's highway system. Interstate lane miles and vmt, NHS lane miles and vmt, federal-aid lane miles and vmt, square footage of bridges, diesel sales and 4 other formula factors consisting of air quality, federal land ownership, population in relation to lane miles and freeze/thaw cycles.

STARS 2000 also includes a 95% minimum allocation equity account.

STREAMLINED PROGRAM

Under STARS 2000, the federal program is streamlined in order to allow the program to be highly flexible. This enables different States to choose projects that meet their transportation priorities. Projects such as highway reconstruction, safety improvements, transit, bridges, enhancements, CMAQ projects or other eligible investments.

NATIONAL HIGHWAY SYSTEM

Funding for the National Highway System represents sixty percent of the core formula program under STARS 2000. Funds may be used for Interstate maintenance activities, bridge improvements and other uses eligible under today's current NHS program.

SURFACE TRANSPORTATION PROGRAM

Funding for the Surface Transportation Program (STP) represents forty percent of the core formula program under STARS 2000. Under this flexible program, funds may be used for projects eligible under today's Surface Transportation Program and projects eligible under today's Congestion Mitigation and Air Quality (CMAQ) program.

ENHANCEMENTS

STARS 2000 retains the transportation enhancement program. Today, the core of the enhancement program is a 10% set-aside of the $4 billion STP program—$400 million. STARS 2000 requires 5% of the new $9.44 billion STP program be set-aside annually—approximately $480 million. Eligibility under the enhancement program is not changed.

SAFETY PROGRAMS

Current law requires a 10% set-aside of STP funds for railway crossing elimination and hazard elimination programs.

STARS 2000 retains this set-aside (10% of what a State received under the STP category in 1997), but gives States additional flexibility in meeting this requirement. States must spend at least 2.5% of the requirement on railway-highway crossing projects, at least 2.5% of the requirement on hazard elimination projects and the remaining 5% may be used for either program at the discretion of the State.

BRIDGE PROGRAM

STARS 2000 eliminates the bridge program as a separate category. However, STARS 2000 retains the national commitment to bridges repairs by requiring every State to spend at least as much on bridges as it does today, using National Highway System or Surface Transportation Program funds.

The bridge discretionary program is also retained at FY 1997 levels—$60.5 million annually to be funded from the NHS and STP program.

CONGESTION MITIGATION AND AIR QUALITY

STARS 2000 eliminates the CMAQ program as a separate category. However, included in the Surface Transportation Program funding formula is an "air quality" factor. States that receive funds under the air quality factor—which are those States that receive CMAQ funds under today's CMAQ formula for their nonattainment areas—would be required to spend such funds in their nonattainment areas for CMAQ eligible projects. This provision translates into a $380 million air quality program.

RECREATIONAL TRAILS

STARS 2000 proposes a $30 million annual funding level for the National Recreational Trails program. Funds are to be used for both motorized and nonmotorized trails, consistent with current law. The matching requirement has been adjusted from today's 50/50 matching ratio to a new 80/20 matching ratio.

FEDERAL LANDS

STARS 2000 retains the current federal lands categories—public lands, Indian reservation roads, parks and parkways. Current funding levels are retained as well.

A new Federal lands category, the Cooperative Federal Lands Transportation Program is also proposed at $155 million annually. These funds are to be used by States to improve State-owned or maintained roads that lead to, are adjacent to or pass through Federal lands or reservations.

REGULATORY REVIEW

The Department of Transportation is required to review all significant rules it has issued. Any rules that are obsolete, overlapping, duplicative or conflict with other Federal rules shall be either amended, rescinded or continued without change after such periodic review.

Mr. THOMAS. Mr. President, I rise this morning to talk about the reauthorization of the Federal highway bill. I am very pleased to join with Senators BAUCUS and KEMPTHORNE in the introduction of the Surface Transportation Authorization and Regulatory Streamlining Act for the Next Century, STARS 2000. I am also pleased that there will be 14 original cosponsors in support of this important legislation.

This is the time for the reauthorization of the Federal highway bill, called ISTEA, that has been in place for the past 6 years and has made a very important contribution to this country and its transportation. It has made some important changes in our surface transportation policies, but as we move into the 21st century, we need to update the law and make it more flexible and more efficient in order to meet the transportation challenges of the new century. I believe STARS 2000, achieves this goal. It will create new rules of the road to help us to build the highways and bridges to the 21st century.

With respect to the gas tax, it is a user fee, of course, that each of us pay as we buy gas wherever we are in this country. American taxpayers have been shortchanged with regard to the benefits they are getting from the gas tax. Not all of the gas taxes have been used for surface transportation. We need to get back to a user-fee system where the taxes paid, in this case by the users of highways, are used then for surface transportation. STARS 2000 addresses this problem by restoring the integrity of the fee system by spending as much out of the highway fee system as it can sustain. We have been spending less than $20 billion annually. STARS 2000 raises the authorization to $27 billion. We believe those dollars ought to go into the highway system.

In addition, it provides a framework for any additional revenues such as the 4.3 cents that currently goes to deficit reduction. Should these user fees be transferred to the highway trust fund, they would be distributed according to the bill's formula. STARS 2000 will help my State and many States maintain a national system.

If you are going to go from Washington to California, you obviously have to go throughout the whole country and therefore it is key to have a Federal system. In my State, a small State in terms of population but large in terms of space, we pay more per capita than any other State, nearly $200 for every person in our State for highway gas taxes, and yet we have deteriorating bridges and roads, as do many States.

In addition, the Federal Government owns 50 percent of Wyoming. One of the principle authors of this bill and my friend, Senator KEMPTHORNE, his State of Idaho has even larger holdings. In Nevada, it is 86 percent federally owned so we have to take Federal lands into account as we talk about a Federal system.

In fact, Yellowstone Park, located in Wyoming, has a backlog of nearly $250 million in road repairs and maintenance that needs to be considered. Unfortunately, we are not meeting these needs. For example, the Clinton administration admits that this country only invests 70 percent of what needs to be invested just to maintain our transportation infrastructure. These shortfalls hurt all taxpayers, of course. The STARS 2000 coalition States are bridge States—people and goods cross these States to other destinations. A set of efficient and well maintained roads are as important to the cities that export goods across the country and around the world as they are to people in our States. These transactions contribute to the Nation's economy and its job creation. STARS 2000 will make a smooth flow of people and goods across the country a reality.

One of the keys to the highway program is that each State knows best what it should be doing with the resources it has, and its priorities are. Clearly, the highways and roads in New York City are quite different than those in Wyoming or Nevada, so we need to have the flexibility for State and local officials to make the decisions there. STARS 2000 does that by significantly increasing the surface transportation program, the STP portion, and puts the decisionmaking authority for how this money is allocated into the hands of state and local people.

Unfortunately, the administration bill, NEXTEA, is advertised as building a bridge to the 21st century. Unfortunately, it is my belief that in its present form that bridge will collapse. NEXTEA does not restore the integrity of the trust fund, so for the American taxpayer, there is no trust in the trust fund. It does not streamline the program. It does not make the kinds of changes that are needed. It hangs on to what we have done in the past. It also handcuffs local authorities in terms of making decisions. NEXTEA adds regulations. God knows, we need to move away from regulations and allow the highway program to be more efficient.

STARS 2000 emphasizes the Federal component of our program and achieves a fair and equitable method of distribution. Based on a percentage share of the Federal highway program, 37 States do better and 1 tied compared to NEXTEA; 33 States do better than under the current law; 25 States higher, 6 the same compared to STEP 21. In addition, STARS 2000 addresses the donor/donee issue by creating a 95 percent minimum allocation to all States. That means all States will get at least 95 percent of what they put into the highway trust fund.

The STARS 2000 coalition will be a significant factor in the ISTEA reauthorization debate. Without our coalition, without our States, you cannot get there from here—physically or politically. STARS 2000 is more than a marker. It is a coalition of States that are needed to make an interstate map to the 21st century.

Quite often, in my experience in the House, the highway money flows where the votes are. But that really does not work in a transportation program. You have to have one that covers the country and is, indeed, a Federal program. The funding formulas under STARS 2000 are based on the transportation needs of the country.

STARS 2000 maintains the integrity of the original ISTEA. It improves it by a smarter investment of taxpayers' money. It meets our growing infrastructure needs. It increases job and economic growth and increases flexibility and efficiency. We get more bang for the buck.

So we are emphasizing the National Highway System, allowing more decisions to be made closer to home, and I certainly would submit to my fellow Members of the Senate this is a bill that we can all support and will provide a better infrastructure for highway surface transportation.

Mr. President, I appreciate the time. I thank Senators KEMPTHORNE and BAUCUS for their hard work on this legislation and look forward to working with them in the future.

I yield the floor.

Mr. KEMPTHORNE. Mr. President, may I commend my colleague from

Wyoming, Senator THOMAS, for giving an excellent view as to the bill that we are submitting to Congress today, the Surface Transportation Authorization and Streamlining Act, or STARS 2000.

I appreciate the fact that Senator THOMAS and Senator BAUCUS of Montana and I will be able to form this partnership, with many more partners in the Senate joining our effort, including the Senator from Kansas, who will be joining us. I also want to recognize that I appreciate Senator JOHN WARNER, who is the chairman of this particular subcommittee dealing with this issue of the national highway bill, for holding a hearing in the State of Idaho, for coming to Idaho so that the western perspective could be made part of the public record. Also, Senator BAUCUS, who came to that hearing in Idaho—I appreciate my neighbor from Montana coming over and making that effort; it was an excellent hearing—and, too, acknowledging Senator CHAFEE, the chairman of the full committee, making that hearing in the West a reality. So, again, it demonstrates that all of us, while we may be coming at this from slightly different views, are working together. That is important and significant.

With STARS 2000, I believe, as Senator THOMAS has pointed out, we are going to restore the integrity of what a trust fund is: a trust fund. So the money that is gathered for that dedicated purpose ought to be used for that dedicated purpose. Doesn't that sound amazing that we would have to even say that? But it is not happening. Currently we only authorize about $18 billion that are to be used on the national highway program. The full amount that could be used, the maximum, is $27 billion. So this legislation by Senator BAUCUS and Senator THOMAS and myself would authorize the full $27 billion to be used for the highways of this country, because that is why we have been collecting this highway tax.

It provides a fair distribution throughout the United States, and it is going to address the very key issues, such as extent and usage of the highways; the lane miles that are there; the poor air quality in some regions of the country, some of the cities that are having difficulty with poor air quality; the tax-exempt Federal lands, as have been referenced. In the State of Idaho we are 67 percent federally owned. In the State of Texas—I do not believe there is any federally owned land in the State of Texas. So you can see we come at this from different perspectives. Low population density—Idaho is the 13th State, as far as ranking in landmass, yet we rank 41st in population. So you can see there are not a lot of folks. Take the District of Columbia, for example, this city right here around Capitol Hill. It has a little over one-half million people. The State of Idaho has 1 million people in the entire State, versus one-half million in just this city.

It also authorizes full funding for the National Recreational Trails Act, $30 million annually, something that had been talked about and was to have occurred years ago. It has not done so. We are going to do right by that.

We also know there is this issue of the donor/donee States. Some States put in their share, and they get more than they put in. Other States put in their share, and they get less back than they put in. We address that head on by increasing the minimum allocation program from 90 percent up to 95 percent. Under STARS 2000 formulas and proposed increased funding levels, it would result in 47 States receiving greater funding than they do under the current ISTEA program. Mr. President, 47 States will actually receive more funds.

Again, as has been pointed out, we really do provide for the streamlining, for greater flexibility, so those programs, such as the Surface Transportation Act—in essence, we double the funds in that account. We double that, and then we say to the States and the local communities: Now, with that additional funding, you make the decisions of where you think your priorities are in your State, rather than people back in Washington, DC, who may never have been to your State determining how it should be spent.

This is the national highway bill that we are talking about. I want to underscore national, because it is to apply to all 50 States. That is how we are going to have good interstate commerce. The administration says they understand the needs of rural America. If they understand the needs of rural America, I question why the administration's proposed reauthorization of the highway bill cuts funding to eight of the most rural States in the country.

What is this question of rural and urban? Let me give an example, if I may, Mr. President. Here is the State of Idaho. I would use as an example highway 95 that runs, in essence, from the Canadian border virtually down to the Nevada border, a little over 500 miles. Again, the State of Idaho, population of 1 million people. Let us take relatively the same distance, and let us go from right here, Washington, DC, and if we drive to Boston, it is 463 miles—about the same distance. So I am making it a good comparison. The difference is, here you have one million people to support systems such as this. In this area, where you actually go through seven States, not one State and the District of Columbia, you have virtually 43 million people as a tax base to support that infrastructure. It just shows you that in the less densely populated areas we do need to have assistance.

Do you know there are trucking firms that enter the State of Idaho at Eastport to go through customs? Then they immediately exit the State of Idaho and they travel the Canadian highways heading toward Seattle, for example, and then reenter the United States. Why do they do that? As one trucking company, Swift Transportation, testified at our hearing out in Idaho, they have 5,000 trucks that run throughout the United States, but they said there are so many significantly unsafe portions of, for example, highway 95, they do not allow their truck drivers to go on highway 95 because of safety considerations. They said that is the only stretch of highway that they really have that sort of restriction on anywhere in the United States.

Yet this is a national highway bill. It is not the national and Canadian highway bill. So we need to address this, and that is what this does. But it is not parochial. Certainly I am trying to look out for rural America, but I reiterate, this legislation does better for 47 States than under the current program that is in existence today.

So I believe we have something here that is good for the country. It is going to put the faith back into what a trust fund is supposed to be. It is going to give greater flexibility for those of us who believe in States rights, the 10th amendment; that folks in those 50 States can make just as good if not better decisions than we do at the Federal level. So it has so much to offer to so many.

Again, I am proud to be part of this, and I thank Senator THOMAS and Senator BAUCUS for their efforts in this partnership.

Mr. BINGAMAN. Mr. President, I rise to speak briefly about the Surface Transportation Authorization and Regulatory Streamlining Act. As I do, Mr. President, I want to emphasize my belief that the Intermodal Surface Transportation Efficiency Act [ISTEA], has in large part been a great success for our Nation. ISTEA has been a revolutionary effort to distribute transportation funding to assist States in major highway, bridge, environmental, research, and safety projects. After 6 years, however, we have learned that there are areas of ISTEA in which we can make significant improvement. STARS 2000 is the best mechanism so far by which we can do that.

I am cosponsoring STARS 2000 because it reemphasizes the national interest in a national transportation system. Mr. President, each State is a vital part of the national system; without one part the whole system fails. The highway system in New Mexico for instance, serves not just its resident and industrial traffic needs, but its highways also serve as a vital link for commerce between the Pacific coast and the eastern seaboard, and between Mexico and Canada. The system of highways crossing New Mexico is also crucial for the movement of manpower, equipment, and supplies in support of our Nation's defense. STARS 2000 offers a balanced, sensible approach so that all the States continue to play a central role to the overriding national goals.

Just as importantly, STARS 2000 effectively addresses the unique character of western, rural States and their importance to our national system of highway. New Mexico, for example, has only six-tenths of 1 percent of the total U.S. population. However, it must maintain 2 percent, 3,000 miles, of the National Highway System. Many people do not realize that road travel takes on a different meaning in the West. For instance, a trip from Farmington, NM, to Hobbs, NM, is 513 miles, and there are few options other than driving to make that tip. By contrast, that same distance would take you from Washington, DC, to Detroit, MI.

STARTS 2000 also builds on the successes of ISTEA. For instance, the Surface Transportation Program maintains Federal support for the bride replacement and rehabilitation program. STARS 2000 also maintains support for Federal lands roads, a program that is vital to States in the West where a vast majority of our Nation's Federal lands are located. Forty percent of New Mexico, for example, is Federal land. STARS 2000 eliminates the old system that penalizes a State for using Federal funds on roads located on Federal lands and Indian reservations. This is a step in the right direction and it is desperately needed in the West. I am concerned that STARS proposes only level funding for the Indian reservation road program. Although I am supporting S. 437, the American Indian Transportation Improvement Act, I will continue to try to increase funding for roads and bridges on Indian reservations.

STARS 2000 also includes a program that addresses congestion management and air quality. I am concerned, however, with the degree to which resources for this activity have been cut and the fact that it is eliminated as a separate category within STARS. CMAQ has been a significant reason cities like Albuquerque have attained and are maintaining clear air standards, and I hope we will find ways to keep this program working.

Additionally, STARS 2000 addresses the need to maintain our Nation's current system of roads and bridges. Unless the current system is sufficiently maintained, we will inevitably have to spend many more dollars to rebuild the system, something we can ill-afford. In New Mexico, like most other States, maintenance costs overwhelm the State's total highway budget. To its credit, New Mexico applies much of its highway funding to maintenance. Nevertheless, if the entire New Mexico road budget were applied to maintenance alone, only 7,500 of the State's 11,600 miles of highways could be adequately maintained. As many as 5,800 miles of New Mexico's roads have deteriorated to the point that they must be replaced at a cost of $1.15 million per mile. As a result, New Mexico, like most other States in the West, is unable to fund other critical transportation objects.

As we continue to recommit ourselves to maintaining and improving our Nation's transportation system, let me say that it is also incumbent upon the individual States to share in this ever-increasing responsibility. Clearly, there is a strong national transportation interest, but the States must recognize its own obligations. We are doing our part at the Federal level, and States must do the same.

Mr. President, I am proud to cosponsor this bill, and I commend my esteemed colleagues, Senators BAUCUS, KEMPTHORNE, and THOMAS, for working diligently to assemble this legislation. I believe that STARS is a measure that will eventually lead to a better, more efficient transportation system in our country and ultimately a stronger economy.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 533. A bill to exempt persons engaged in the fishing industry from certain Federal antitrust laws; to the Committee on the Judiciary.

THE FISHING INDUSTRY BARGAINING ACT

Mr. MURKOWSKI. Mr. President, on behalf of Senator STEVENS and myself, I am reintroducing the Fishing Industry Bargaining Act, a bill to allow antitrust immunity for certain cooperative activities involving domestic fishermen and processors.

This bill will allow collective agreement between fishermen and processors. It is patterned after legislation adopted by the Alaska State Legislature, but which requires congressional action to fully take effect.

Under existing law, fishermen are able to form associations for the purpose of collective bargaining with individual processors. This bill will allow them to work with similar associations of processors to establish first-wholesale purchase prices—that is, the prices paid to the processors for fish products, and ex-vessel prices paid to the fishermen.

This is intended to counter the fact that prices currently are all too often set by first-wholesale buyers rather than producers. As a result, processors forced to accept a price set by their buyers are in turn forced to set ex-vessel prices based on the buyers' offer, rather than prices that respond fully to other market forces.

I want to make it clear that this bill in no way would allow processors to associate solely amongst themselves to set either ex-vessel or wholesale prices. That is the kind of activity our current antitrust law is primarily designed to prevent, and this bill will leave that unchanged. Processors would continue to be prohibited from agreeing on prices unless fishermen participated in and were party to any agreement.

What the bill will accomplish is to strengthen the position of the United States seafood industry generally—fishermen and processors together. In this, it would apply to fishermen and fish processors in all parts of the country, not just in Alaska.

We look forward to a hearing which will air the views of the Alaska fishing industry and the fishing industry in other parts of the country, and urge prompt action by this Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fishing Industry Bargaining Act".

SEC. 2. EXEMPTION FROM FEDERAL ANTITRUST LAWS.

(a) The Act of June 25, 1934 (48 Stat. 1213 and 1214, chapter 742; 15 U.S.C. 521 and 522) is amended—

(1) in section 2, by striking "If the Secretary" and inserting "Subject to section 3, if the Secretary"; and

(2) by adding at the end the following new section:

"SEC. 3. PRICING.

"(a) IN GENERAL.—For purposes of section 2, a price paid pursuant to a collective agreement entered into under subsection (b) shall not constitute a monopolization or restraint of trade in interstate or foreign commerce.

"(b) COLLECTIVE AGREEMENT.—Persons described in the first undesignated paragraph of section 1, acting through one or more associations described in that section, may enter into a collective agreement with fish processors, including fish processors acting though an association of fish processors, that establishes—

"(1) the price to be paid to those persons by fish processors for an aquatic product; and

"(2) the minimum price that a fish processor may accept for the sale of an aquatic product.

"(c) RULES OF CONSTRUCTION.—

"(1) IN GENERAL.—Nothing in this section is intended to permit fish processors to collectively agree with other fish processors on a price referred to in subsection (b)(1) without entering into an agreement under subsection (b).

"(2) FEDERAL ANTITRUST LAWS.—The establishment and implementation of a collective agreement under subsection (b) shall not be construed to be a violation of any of the Federal antitrust laws, including—

"(A) the Act of July 2, 1890, commonly known as the 'Sherman Act' (26 Stat. 209 et seq., chapter 647; 15 U.S.C. 1 et seq.);

"(B) the Act of October 15, 1914, commonly known as the 'Clayton Act' (38 Stat. 730 et seq., chapter 323; 25 U.S.C. 12 et seq.);

"(C) the Federal Trade Commission Act (15 U.S.C. 41 et seq.); and

"(D) the Act of June 19, 1936, commonly known as the 'Robinson-Patman Antidiscrimination Act' (49 Stat. 1526 et seq., chapter 592; 15 U.S.C. 13, 13a, 13b, 13c, and 21a).".

By Mr. DODD:

S. 534. A bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns; to the Committee on the Judiciary.

HANDGUN SAFETY ACT OF 1997

Mr. DODD. Mr. President, I rise to speak on the need for increased attention to gun safety. Increasingly, children are gaining access to loaded and unlocked guns with fatal consequences. Recently, an 8-year-old girl in Bridgeport, CT, took a gun that was left behind a couch and shot and killed her 10-year-old sister.

These tragedies happen far too frequently. A report from the Centers for Disease Control and Prevention notes that nearly 1.2 million latch-key children have access to loaded and unlocked firearms each day. Children cause over 10,000 unintentional shootings each year in which 800 people die.

This violence is not limited to the home. The Connecticut Department of Health recently completed a survey of 12,000 Connecticut teenagers called the Voice of Connecticut Youth. More than one-third of boys in 9th and 11th grades said they either had a gun or could get one in less than a day. When you consider intentional and unintentional shootings, 16 children are killed with firearms every day in this country.

We must put an end to the tragedy of gun violence. We need to take steps to ensure that gun owners are storing their guns safely—unloaded, locked, and out of the reach of children. That is why I am cosponsoring Senator KOHL's legislation, S. 428, which requires licensed manufacturers, importers, and dealers to sell handguns with a child safety or locking device. The bill also requires a warning that the improper locking or storage of a handgun may result in civil or criminal penalties.

Today I am also introducing a separate measure that would simply add another section to Senator KOHL's bill. The section would authorize the National Institute of Justice to conduct a study on possible standards for gun locks. As we move to have greater use of gun locks, we ought to make sure that those locks are high quality.

These small steps forward could save thousands of lives. They will not affect responsible gun owners who are already doing the right thing, but they will remind careless gun owners of the need for increased safety.

My home State of Connecticut is out in front on this issue. One of our State laws requires locks on handguns, another State law requires that guns be stored away from children. But one State can only do so much. A gun bought outside our State can become an instrument of tragedy within our State. And we also need to make kids across the Nation safer. In many ways, this issue is simple—if we require safety caps on medicine to protect kids, we should clearly require safety locks on guns.

I urge my colleagues to join with me and Senator KOHL in support of these gun safety measures.

Mr. President, I ask unanimous consent that a copy of my bill, the Handgun Safety Act of 1997, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Handgun Safety Act of 1997".

SEC. 2. HANDGUN SAFETY.

(a) DEFINITION OF LOCKING DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'locking device' means—

"(A) a device that, if installed on a firearm and secured by means of a key or a mechanically-, electronically-, or electromechanically-operated combination lock, prevents the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically-, electronically-, or electromechanically-operated combination lock; or

"(B) a locking mechanism incorporated into the design of a firearm that prevents discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm.".

(b) UNLAWFUL ACTS.—Section 922 of title 18, United States Code, is amended by inserting after subsection (x) the following:

"(y) LOCKING DEVICES AND WARNINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), beginning 90 days after the date of enactment of the Handgun Safety Act of 1997, it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun—

"(A) to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the transferee is provided with a locking device for that handgun; or

"(B) to any person, unless the handgun is accompanied by the following warning, which shall appear in conspicuous and legible type in capital letters, and which shall be printed on a label affixed to the gun and on a separate sheet of paper included within the packaging enclosing the handgun:

"'THE USE OF A LOCKING DEVICE OR SAFETY LOCK IS ONLY ONE ASPECT OF RESPONSIBLE FIREARM STORAGE. FIREARMS SHOULD BE STORED UNLOADED AND LOCKED IN A LOCATION THAT IS BOTH SEPARATE FROM THEIR AMMUNITION AND INACCESSIBLE TO CHILDREN.

'FAILURE TO PROPERLY LOCK AND STORE YOUR FIREARM MAY RESULT IN CIVIL OR CRIMINAL LIABILITY UNDER STATE LAW. IN ADDITION, FEDERAL LAW PROHIBITS THE POSSESSION OF A HANDGUN BY A MINOR IN MOST CIRCUMSTANCES.'

"(2) EXCEPTIONS.—Paragraph (1) does not apply to—

"(A) the—

"(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a handgun; or

"(iii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off-duty); or

"(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off-duty).".

(c) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking "or (f)" and inserting "(f), or (p)"; and

(2) by adding at the end the following:

"(p) PENALTIES RELATING TO LOCKING DEVICES AND WARNINGS.—

"(1) IN GENERAL.—

"(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of subparagraph (A) or (B) of section 922(y)(1) by a licensee, the Secretary may, after notice and opportunity for hearing—

"(i) suspend or revoke any license issued to the licensee under this chapter; or

"(ii) subject the licensee to a civil penalty in an amount equal to not more than $10,000.

"(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided in section 923(f).

"(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.".

SEC. 3. STUDY ON STANDARDS FOR LOCKING DEVICES.

Not later than 1 year after the date of enactment of this Act, the National Institute of Justice shall—

(1) conduct a study to determine the feasibility of developing minimum quality standards for locking devices (as that term is defined in section 921(a) of title 18, United States Code (as amended by this Act)); and

(2) submit to the Attorney General of the United States and the Secretary of the Treasury a report, which shall include the results of the study under paragraph (1) and any recommendations for legislative or regulatory action.

By Mr. MCCAIN (for himself, Mr. WELLSTONE, Mr. GLENN, Mr. COCHRAN, Mr. BURNS, Mr. MOYNIHAN, Mr. HARKIN, Mr. DODD, Mr. LEAHY, Mr. BOND, Mr. BINGAMAN, Mr. CAMPBELL, Mr. MACK, Mr. TORRICELLI, Mr. GRASSLEY, Mr. INOUYE, Mr. HOLLINGS, Mr. ROBB, Mr. DURBIN, Mrs. BOXER, Mr. BRYAN, Mr. DASCHLE, Mr. FORD, Mr. D'AMATO, Mr. REID, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. FAIRCLOTH, Mr. LEVIN, Ms. COLLINS, Mr. KERRY, Mrs. MURRAY, Mr. REED, Mr. KENNEDY, Mr. SANTORUM, Mrs. FEINSTEIN, and Mr. ROCKEFELLER):

S. 535. A bill to amend the Public Health Service Act to provide for the establishment of a program for research and training with respect to Parkinson's disease; to the Committee on Labor and Human Resources.

THE MORRIS K. UDALL PARKINSON'S RESEARCH AND EDUCATION ACT OF 1997

Mr. McCAIN. Mr. President, today, I proudly reintroduce the Morris K. Udall Parkinson's Research and Education Act of 1997. This legislation addresses the importance of Parkinson's research by authorizing $1 million for Parkinson's research.

Approximately 1 million people in this country are afflicted with Parkinson's disease. Parkinson's disease is a debilitating, degenerative disease which is caused when nerve centers in an individual's brain lose their ability to regulate body movements. People afflicted by this disease experience tremors, loss of balance and repeated falls, loss of memory, confusion, and depression. Ultimately, this disease results in total incapacity for an individual including the inability to speak. This disease knows no boundaries, does not discriminate, and strikes without warning.

This important piece of legislation honors Mo Udall, a dear friend of mine who served as a dedicated Congressman from Arizona for 30 years. Mo is remembered most for his warmth, compassion, integrity, and his wit. He was a champion of civil rights, political reform, and a protector of the environment. In 1980, Congressman Mo Udall was diagnosed with Parkinson's disease and he began his valiant battle against this disastrous disease. Mo was forced to resign from Congress in 1991, his exemplary career prematurely ended by Parkinson's.

I was fortunate enough to have not only worked with Mo Udall as a Representative from Arizona, but to have Mo as a mentor and a close, personal friend. Mo's stewardship and integrity would not allow him to become involved in partisan politics. When I arrived in Washington, DC, as a freshman Congressman from Arizona, Mo reached across the aisle, took me under his wing and provided me with guidance, leadership, humor, and, most importantly, friendship. I can never begin to adequately thank Mo for all that he provided me and his profound impact on my early years as a Member of Congress. In some way, I hope that my efforts on his behalf and the millions of others with Parkinson's can be a token of appreciation for all that Mo has given me and our country.

Personally, I have witnessed the devastating effects and personal tolls which Parkinson's disease has on its victims, as I have watched this horrible disease wreck havoc on my dear friend, Mo. I have watched Mo, his family, and friends wage a daily battle against this painful disease. Every day, Mo and millions like him throughout the country face a disease which is physically crippling and financially devastating. I can truly empathize with the fear and frustration that Mo and others like him must be feeling as they become prisoners within their own bodies, clinging to the hope that a scientific breakthrough may soon be discovered and they will be liberated from their personal prison.

The Morris K. Udall Parkinson's Research and Education Act provides the hope Mo and millions like him are looking for. This bill will help us make significant scientific progress by increasing the Federal Government's financial investment in Parkinson's research for fiscal year 1998 by authorizing $1 million.

An important component of this legislation will be the establishment of up to 10 Morris K. Udall Centers for Research on Parkinson's Disease throughout the Nation. These centers will be responsible for conducting basic and clinical research in addition to delivering care to Parkinson's patients. Uniting these three areas will assure that research developments will be coordinated and the care delivered to patients will be effective, high quality services based upon the most recent research developments. The Morris K. Udall Centers will be structural in a manner which allows them to become a source for developing teaching programs for health care professionals and disseminating information for public use.

In addition, this bill will create a national Parkinson's Disease Information Clearinghouse to gather and store pertinent data on Parkinson's patients and their families. This collected data will facilitate and enhance knowledge and understanding of Parkinson's disease.

This bill will establish a Morris K. Udall Excellence Award to recognize publicly the investigators with a proven record of excellence and innovation in Parkinson's research and whose work has demonstrated significant potential for the diagnosis or treatment of the disease.

I am heartened by the tremendous progress scientists are making in Parkinson's research. There is significant scientific evidence indicating that there is very strong potential for major breakthroughs in the cause and treatment of Parkinson's in this decade. According to a wide array of experts, we are on the verge of substantial, groundbreaking scientific discoveries regarding the cause and potential cure of Parkinson's disease. We need to seize this rare opportunity to discover the cause, treatment, and a potential cure for one of the Nation's most disabling diseases. It is imperative that we give our scientific researchers the necessary funding and support to combat this and other neurological diseases, and to improve the lives of many Americans.

This is why we must enact the Morris K. Udall Parkinson's Research and Education Act of 1997. We can't allow this opportunity to make significant progress in the area of Parkinson's research slip away because of a lack of support for our Nation's scientific researchers.

Finally, I would like to thank the hundreds of individuals who have written or called my office in support of this measure. These individuals are committed to seeing this legislation enacted this year and are hopeful that Parkinson's research will finally receive a fair and justifiable investment from the Federal Government.

I ask unanimous consent that a small sampling of the many letters I have received in support of the Morris K. Udall Parkinson's bill from actual Parkinson's patients, family, and friends of Parkinson's patients, advocate groups, scientists, and physicians be included in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

PHOENIX, AZ, *April 1, 1997.*

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: My friend Richard and I first met in the lobby of St. Joseph's Hospital Barrows Neurological Institute in Phoenix Arizona. I was in my late thirties, he was in his early fifties, we had both been diagnosed with Young-Onset-Parkinsons Disease. We were both afraid.

We became friends as we vowed to fight this disease which was trying to imprison us in our own bodies. We had just learned about the "Udall Bill." We had just learned that scientists promised a cure within three to five years if they received sufficient funding. The "Udall bill" could make that happen. We saw the promise of a miracle.

We talked about it in depth. We knew we had been marked for a slow death and we shared with each other how we feared for our families. I raised my three children as a single parent, and my kids were struggling under the weight that my illness had brought us. Richards' wife had just told him that she couldn't stand living with him as he slowly became a freak to observers and she couldn't stand the strain having to care for him through the pain and slow death. So she left him. He felt it wasn't her fault.

We knew the enemy. The worst thing of this disease was it's slow tortuous progression. We preferred death rather than the years of Hell we were facing. But it was not a choice. With the Udall bill, we might make it. We still had the will to fight. We grasped at hope. We hoped that we could stand the side effects of our medication and hold out until the bill was passed. Once it did, we knew it would take three years for significant improvement in care—but we grasped at the hope. We dedicated the only functioning time we thought we might have left to getting the bill passed.

We wrote letters, we visited our representatives, we put up flyers, we scrimped and saved to mail letters to friends and to travel to other states to tell them about the bill, but Richard's disease progressed very quickly. Within a year he had to have an attendant at home to feed him, bathe him, dress him. Then he had to go to a nursing home.

He was barely able to whisper, unable to walk, unable to sit up without being tied to his chair—his head hung over and his eyes reflected his suffering—He was fully aware of what was happening every minute of his torture.

I continued my advocacy efforts, including three trips from Arizona to Washington, DC to try to help our Representatives to understand why they should pass the bill. And I would go to the nursing home and report to Richard. Last year we came very close, but we didn't make it. I told Richard and his face and neck were wet with tears as I told him to try to just 'hang in there' one more year. I had told him that the year before. We both cried. We were afraid. We were alone. Richard whispered that he knew he'd never hold his grandchildren, but he'd not go down without knowing we'd "kick Parkinsons in the ass" first. Richard died of Parkinsons Disease last month.

I'm 44 years now, I have difficulty walking short distances and my strength struggles for me to sit up. Although my medication's losing effectiveness and side effects don't cease, I'm still here. Still holding on. With your help, I will see the passage of the "Udall bill for Parkinsons".

Thank you for doing all that you are, to help us "kick Parkinsons in the ass".

MARYHELEN DAVILA.

KINGWOOD, TX, *April 8, 1997.*

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Thank you so much for your support and concern for the Parkinson's disease community. I have suffered with PD for 22 years. My hopes for a cure have been raised and dashed on several occasions. Without adequate funding PD will dash the hopes of millions of American as the baby boomer generation approaches the age when PD typically strikes.

Unless you experience if you can't know how awful this disease is. Day after day it takes away the very fiber of who you are, what you might be and what you might do for society your family and yourself. At the age of 52 I can no longer be counted on to perform even the basic duties of life for myself. Wheelchairs, walkers, hospital beds combined with hundreds of dollars of medicine each month are what I count on for mobility. While my husband and family and our support group have been my heroes through these 22 years, their resources are exhausted. The Udall bill gives us all the hope that we need to combat this lousy disease one day at a time until a cure if found.

Again, thank you for your support for this disease which has been so neglected for so long. In 1817 James Parkinson wrote his paper describing the most prevalent symptoms of this disease. This work 180 years later is still used today to describe in disease. Let 1997 be the year that we change all that. Let it be the year we raise the consciousness of all Americans about the devastation caused by PD and neurological disorders. Let this decade of the brain unravel the mysteries of neurological disorders and let our leaders in Washington pave the way for the cure.

Do it for Mo, and do it for me. Thanks for listening. This letter was typed by my husband Bob.

Original signed by,

NANCY MARTONE.

MANLIUS, NY, *April 1, 1997.*

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Thank you for your support and leadership on behalf of people with Parkinson's Disease.

At the age of forty-nine I was stricken with Parkinson's Disease. I managed to continue working till I retired last year at the age of fifty-six. I was earning about $165,000.00 per year as a trial attorney.

My disability and those with early onset of the disease place a heavy financial burden on the Government and the private sector. I am applying for Social Security Disability plus private disability plans. My medical costs are $18,000.00 plus per year and in two years my medical costs will be another burden on the Social Security trust funds. I estimate that the cost of my illness to society will exceed $1,100,000 if I live to age sixty-seven when I would normally retire.

I also notice on the internet that Parkinson's Disease is striking younger and younger people and that the mean age of diagnosis is now fifty-seven years old. If this trend continues, more people will be receiving Social Security Trust Funds at an early age and fewer people than expected making contributions.

As I attend support group meetings, I see many people drained of energy, strength and who are unable to articulate their plight. Scientists and researchers express the possibility of new medicines and a cure if more research dollars are invested as proposed by the Parkinson's Bill. Let's apply more research funds to keep people with Parkinson's Disease working longer and leading a healthier life.

For those who no longer speak for themselves and myself, I wish to thank you for your support.

Very truly yours,

A. DALE SEVERANCE.

BERKELEY, CA, *March 20, 1997.*

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I am writing to you regarding the Morris K. Udall Parkinson's Research and Education Bill which is going to be reintroduced in the Senate next month. As you remember the Udall Bill passed the Senate but stalled in the House in 1996. May I take a minute of your time to explain why the Udall Bill is so important to me?

My wife Frances, now 57, was diagnosed with Parkinson's Disease nine years ago. She is a clinical psychologist and Jungian analyst who still manages to work, but most people stricken with Parkinson's are not so lucky. Unfortunately 40% of the newly diagnosed cases are people under 60 years of age—this disease of the elderly is hitting middle aged people with disastrous results. The disease is incurable and progressive forcing doctors, lawyers, professors, business people, teachers and artists to give up productive lives. I have seen the devastation of families and careers first hand among the many Parkinson's patients I have met. And I have also seen unbelievable courage, intelligence and absolute brilliance as people try to find a way to live with the disease.

Without further research there is no hope to cure the disease. The current medications mask the symptoms and that is all. The present national research effort is a joke. There is no unified research agenda and the 30 million dollars allotted to the disease (compared 217 million dollars for Alzheimer's and one and a half billion dollars for AIDS) is not nearly enough. There is terrific research potential but no money. The Udall Parkinson's Research and Education Bill will provide the coordination, the research agenda, and the money. Please help us by cosponsoring the bill, or if you cannot cosponsor it, could you at least vote for it? We desperately need your help!

I would very much like to talk with you about the Bill if you have any questions (510-527-0966 or tobriner@uclink.berkeley.edu).

Thanks so much for your help.

STEPHEN TOBRINER,
Professor of Architectural History,
University of California, Berkeley.

ORINDA, CA, *March 29, 1996.*

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Thank you for agreeing to introduce the Morris K. Udall Parkinson's Research and Education Act to the House. I am grateful for your efforts on behalf of this bill.

My closest friend, Frances Tobriner, was diagnosed with Parkinson's Disease when she was 46 years old. She is now 57 years old and is courageously managing to work as a psychologist. I have learned that this disease is not limited to the elderly. Young, talented people are vulnerable. There is no cure for this disease and those of us who are able bodied bear helpless witness to the progressive deterioration of those we care about.

There are many research possibilities that await funding. I believe that the advances in research will help not only the many victims of Parkinson's disease, but other neurological ailments as well. To date there is no unified research agenda and the relatively small amount of money is not enough. The Udall Parkinson's Research and Education Act will help enormously.

Thank you for your efforts. Know that you have support among constituents.

Sincerely yours,

SUE N. ELKIND, *Ph.D.*

MERRIAM, KS, *April 3, 1997.*

Re Morris K. Udall Parkinson's Research, Assistance, and Education Act of 1997.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: This is to thank you and Sen. Paul Wellstone for taking the lead in reintroducing the Udall bill in the 105th Congress, as well as the many other Senators who are already supporting the bill.

A stepped-up effort in research and coordination of that research means added hope for me and my family that a possible cure may be found in time to help me. You see, I was diagnosed with Parkinson's Disease at the age of 44, nearly 13 years ago. It was only two years after my marriage to my wonderful husband, who has stood by me "in sickness" much sooner than we ever imagined. I managed to follow through on a long-term project, as President of a Kansas City group which established a 100,000-watt FM community radio station in 1988 after 11 years of effort. I kept up with the station and other community interests and part-time teaching pretty much full force until 1990, but since then I have had to cut back more and more. You can't imagine how grateful I am for access to the internet (my husband's idea) which re-established my ability to connect to the world.

My husband who is a community college teacher of 29 years has had to take on domestic duties I once did. His daughter, 4 when we married, never remembers when I was a normal, active person. And my aging parents help drive me to the doctors, as my right side is too weak most of the time to allow me to push the gas pedal.

This disease CAN go the way of polio, tuberculosis, small pox and others—GONE. Maybe not for me, but surely for the thousands of millions who don't yet know they are at risk for it.

Sincerely,

BARBARA BLAKE-KREBS.

EAST BRUNSWICK, NJ, *March 31, 1997.*

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Thank you for introducing the Morris Udall Bill for Parkinson's Disease Research. I will make a special trip to Washington on April 9, 1997 to be present at your introduction.

In 1946 my grandfather, Benjamin Miller, died of complications from bedsores and infection as a result of Parkinson's Disease. He was forced to live with uncontrollable tremors, locked rigid muscles, loss of all motor function and eventually the total incapacity to care for himself. The last 10 years of his life he was in a totally rigid state and toward the end he could only move his eyes. Contrary to our religious law, my mother agreed to allow his body to be used for research believing that the help it might provide others would more than make up for this breach of tradition. She often said that because of her decision, her father played a part in the development and refinement of L-dopa.

As fate would have it, my brother is now diagnosed with Parkinson's and while his lifestyle is somewhat better than it might have been 50 years ago, his hideous fate is sealed unless the research continues until a definitive cure has been found.

Through your foresight to introduce the Udall Bill in the 105th congress there is great potential for a breakthrough in Parkinson's disease treatment and ultimately the discovery of a cure.

Thank you again.

Sincerely,

MRS. BARBARA SCHIRLOFF.

RUSH-PRESBYTERIAN-ST. LUKE'S MEDICAL CENTER, RUSH UNIVERSITY—DEPARTMENT OF NEUROLOGICAL SCIENCES, CENTER FOR BRAIN REPAIR,
Chicago, IL, April 2, 1997.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I was very pleased to hear that you have re-introduced the Udall Bill. As a researcher of Parkinson's disease for 25 years, I can assure you that the bill is timely and that the money will be well spent if the bill is passed. I have witnessed the revolution in this field from the early years of levodopa through the discovery of the neurotoxin MPTP, the implantation of adrenal tissue and now pallidotomy and neural grafting. They have been exciting and productive times and quite frankly, it has just plain been fun doing the work and actually seeing it impact the lives of our patients.

Currently, my laboratory is working on the mechanisms responsible for the neuroprotection that appears to be occurring with the drug pramipexole. Although the drug itself appears to offer the PHD patient a new and very effective addition to the antiparkinson arsenal, the more interesting aspect of our research is that the drug appears to be turning on the production of a new trophic molecule that has the potential to reverse the neurodegenerative process. We are currently trying to isolate this protein so that it can be tested. Our lab has also recently discovered important signals that influence the development of DA neurons (which die in PD). We can now take so-called progenitor cells and convert them into DA cells from grafting. If we are successful at doing this in human cells, we would be able to provide the world with adequate tissue for grafting on demand and thereby totally bypass the abortion issue since cells from only one abortion could be expanded in the lab to serve the needs of all transplant centers. Finally, we are also trying to determine in humans the cause for levodopa induced hallucinations. We know nothing about this phenomenon except that it is the number one cause for patients being placed in nursing homes and once PD patients enter a nursing home they generally die there.

As you will hopefully recognize, my laboratory is very vested in the treatment and management of PD. Our approach to this disease is, we feel, novel and appropriate to the current status of knowledge in this field. We are not restricted by ideas. We are restricted by lack of funds. I am not at all reluctant to ask the government for money for research. Having been in this business as long as I have, I have come to recognize that we in science actually spend our research dollars in a frugal and effective manner. We have so little of it we have to make it last and work effectively. I can therefore assure you that this will not be a "pork" project but will actually result in the desired and intended effects. I therefore thank you for your efforts to increase funding for my field. Even though I don't necessarily agree with the notion of legislative earmarking for research dollars, PD is a disease where throwing adequate funding at it will have a tremendous impact and likely reduce health care costs dramatically.

If I can ever be of any help to you in your efforts to make this bill a reality or if you simply need background information, please feel free to contact me. Again, thanks for your help.

Sincerely,

PAUL M. CARVEY, Ph.D.
(Associate Professor of Neurological Sciences and Pharmacology Director, Neuropharmacology Research Laboratories).

REDWOOD CITY, CA, *April 3, 1997.*

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I am so grateful that you are sponsoring the Udall Bill. I pray that it will pass. We (I am a member of the Parkinsn (sic) Listserv) have been asked to catalog our symptoms for you, so here goes: I was diagnosed with Parkinson's 6 years ago after progressive weird symptoms which I did not realize were significant, such as loss of ability to wash my hair with my left hand, difficulty shuffling and holding cards when I play bridge, a couple of episodes of feeling like I was walking underwater, it was so hard to move; I was diagnosed immediately when seen by a neurologist and put on medication which gave me strange twisting motions of one of my feet. We lowered the dosage. The dyskinesia went away, but the medicine supposedly has a tapering off of effectiveness. So far, it works. I can once again wash my hair with my left hand thanks to the medicine. My illness is progressing, not too fast, but the changes I've had to make are accumulating: walk one mile instead of three, cut back on activities (dropped out of a bridge group, buy instead of make pies, etc., don't crochet or paint—doesn't seem worth the effort) great difficulty in doing up buttons, loss of strength, tire easily, not able to 'write' legibly, nor be heard by most people when I speak (young people can usually hear me), have difficulty standing up from chairs, usually can't taste or smell, though I can now and then which makes me impatient for THE CURE, knowing that all is apparently not lost, just somehow not available. I am terribly worried about inability to get long term care health insurance. Nobody will take me and I dread the effect on my husband if he has to spend everything to take care of me. I am blessed with a wonderful, caring husband, who never complains about my increasing dependency on him.

Bless you for what you have given your country.

Sincerely,

MRS. ELIZABETH SOUTHWOOD.

THE PARKINSON'S INSTITUTE,
Sunnyvale, CA, April 7, 1997.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC

DEAR SENATOR MCCAIN: Thank you for your unflagging support of the Udall Parkinson's Research bill. I am writing today to explain why this bill is so important to me, to my colleagues in research and clinical care, and to the patients and families who suffer from Parkinson's disease and other movement disorders.

I have been a practicing neurologist for more than 25 years and have specialized in Parkinson's disease care and research for the last 15 years. As a scientist in close touch with the international research community in the field of neurodegenerative diseases, I see tremendous potential in a dozen scientific directions for finding a cure for Parkinson's disease within the next decade. That is not a statement I make lightly, nor is it a statement that can be applied across the board to the diseases of aging. Instead, it is based on a careful assessment of the technologies that are open now and to the new technologies opening daily to the scientists who specialize in movement disorders.

As a physician who sees only patients with Parkinson's disease and related movement disorders—some of which are even more devastating—I realize that every patient I see is under a kind of death watch. Their disease is inexorably progressive; there is no cure; and even the gold standard of medications available cannot control symptoms indefinitely. I have learned, as all physicians must learn, to achieve a certain detachment from the inevitability that faces my patients, but it remains a constant trial to look at these individuals and know that my armamentarium is so limited. Part of the way to deal with this challenge, both for physician and patient, is to take comfort in the fact that there is enormous hope through the efforts of the researchers in my own laboratory and in similar institutions around the world.

What is needed to take advantage of the new technologies and the enormous pool of talented investigators waiting to use them is to make them available to a much larger number of laboratories; to increase the probability that the critical breakthroughs will occur sooner rather than later. No one laboratory can travel every possible avenue of investigation no matter how impressive their equipment and no matter how many bright young postdoctoral fellows are on staff. Rather, we must seek to multiply the approaches to the puzzling problems that still face us by utilizing the different insights, experience, and research philosophies of a variety of laboratories across the country at academic medical centers, at NIH, and in independent research institutes like our own.

Ultimately, that takes money and that is where we turn to the Congress for help directed specifically to Parkinson's disease. You know, I'm sure, of the discrepancies in research funding per patient between Parkinson's disease and other disorders. The message I want to send to you today is that research dollars for movement disorders will not be thrown into a black hole of hopelessness, but invested in a national program with tremendous hope for the future.

Sincerely,

J. WILLIAM LANGSTON, M.D.,
President.

APDA PARKINSON'S DISEASE INFORMATION & REFERRAL CENTER AT THE UNIVERSITY OF ARIZONA,
Tucson, AZ, April 7, 1997.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: We are writing to tell you how grateful we are that you have taken on the role of lead republican sponsor in the Senate for the Morris K. Udall bill for Parkinson's Research. There is tremendous support for this bill in Arizona, not only among Parkinson's patients and their family members, but among an ever-widening circle of physicians, scientists and thoughtful members of the general public. It is clear that research holds the key to improved treatments—even a cure—for Parkinson's disease. Only through research will we find a way to reduce the human suffering and economic burden of this terrible illness.

In Arizona we have taken a special interest in the Udall bill, partly because it is our state which Mo Udall served so well, partly because our state's attractiveness as a "retirement" state means we have a higher proportion of residents in the age range most at risk for PD, and partly because several of our state's medical institutions—the University of Arizona College of Medicine in Tucson, the Barrow Neurological Institute in Phoenix, and the Mayo clinic in Scottsdale—already oversee extensive Parkinson's research programs.

Members of the Arizona Chapter of the American Parkinson Disease Association (APDA) and the staff of its associated Information & Referral Center at the University of Arizona have worked hard to educate Arizona residents about Parkinson's disease and the promise of Parkinson's research. The recent *Agenda 97* symposium at the University of Arizona brought together Parkinson's researchers, advocates and government officials for a public forum. The outstanding efforts of the APDA committee *Arizona Parkinson's Advocates*, led by Bob Dolezal, have made the Mo Udall bill a popular cause throughout the State.

We applaud your efforts and support you one hundred percent. Thank you again for leading the way to passage of the Udall bill in 1997.

Sincerely,

ERWIN B. MONTGOMERY, Jr., M.D.,
Medical Director, APDA Information & Referral Center at the University of Arizona.

CYNTHIA A. HOLMES, Ph.D.,
Coordinator, APDA Information & Referral Center at the University of Arizona.

PRINCETON, NJ, *March 31, 1997.*

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Your dedication to bring about the reintroduction of the Morris K. Udall Parkinson's Disease Research and Education Act is most appreciated. The bitter sweet partial victory at the end of the 104th Congressional session was difficult to accept.

To Americans suffering from this hideous disease, the issue is so clearly defined: there are 1 to 1.5 million people struck with a disease that costs the government 6 billion dollars annually to maintain status quo; whereas an annual investment of 100 million dollars for research would yield a net savings of $124,500,000,000 in five years based on the forecast of eminent scientists who predict major advances in the treatment of or even a possible cure for Parkinson's disease.

It is with this great anticipation that I face my 17th year living with the disease. During the last number of years, managing my daily minimal activities have become more and more difficult. Since I am only 55 years old, I still have a window of opportunity to re-enter the world of participation rather than inaction. Currently my life revolves around frantically attempting to accomplish somethings during the infrequent and much too short periods of time that my medication kicks in.

I must believe that with your leadership and guidance the Udall bill will make its perileous journey through the Halls of Congress and will gain enough bi-partisan support for passage and thus insure more adequate research and development funding. For those 50,000 People with Parkinson's who received their diagnosis during this past 12 months and for my own salvation, I join you and your staff in an all-out effort to guarantee the passage of the new Udall bill.

Sincerely,

MARGARET TUCHMAN.

By Mr. GRASSLEY (for himself, Mr. DEWINE, Mr. DASCHLE, Mr. BIDEN, Mr. D'AMATO, Mr. SHELBY, Mr. KOHL, Mr. GRAHAM, Mr. CLELAND, Mr. HATCH, Mr. HARKIN, Mr. THURMOND, Mr. STEVENS, Mr. DURBIN, Mr. HUTCHINSON, Mr. ABRAHAM, Mr. REID, Mr. FEINGOLD, and Mrs. MURRAY):

S. 536. A bill to amend the National Narcotics Leadership Act of 1988 to establish a program to support and encourage local communities that first demonstrate a comprehensive, long-term commitment to reduce substance abuse among youth, and for other purposes; to the Committee on the Judiciary.

THE DRUG-FREE COMMUNITIES ACT OF 1997

Mr. GRASSLEY. Mr. President, as you know the issue of drug use by our children is very important to me. I believe that we must do whatever we can to protect our children from the harmful effects of illegal drugs. The survey by the Partnership for a Drug-Free America recently released showed that children continue to cite their parents as a reliable source of information about the dangers of drugs. This confirms a 1996 study by the Center on Addiction and Substance Abuse which showed that the extent parents shouldered responsibility for their kids resisting drugs was a key indicator of whether or not their child experimented with drugs. Not Presidents, not Federal officials, not television, but parents and others who play an integral role in a child's life make the difference.

Today, in conjunction with 13 of my fellow Senators, we are introducing the Drug Free Communities Act of 1997. This act will take funds currently being spent for less productive areas of the Federal drug control budget and route them to community coalitions with proven track records. Seeking to make the most efficient use of taxpayer dollars, Federal grants will match funding efforts from the private sector and the local community.

It will put resources in the hands of those who make a difference; of the people that our children say their opinions they respect. It puts the resources at the community level, where parents, teachers, coaches, and community leaders can use these resources to educate our children about the evils of drug use.

There are four key features to this legislation, features that make it different from existing funding opportunities. First, communities must take the initiative. In order to receive support, a community coalition must demonstrate that there is a long-term commitment to address teen-drug use by having a sustainable coalition that includes the involvement of representatives from a wide variety of community activists.

In addition, every coalition must show that it will be around for a while. Community coalitions must be in existence for at least 6 months prior to applying for funds provided for in this bill, and they are only eligible to receive support if they can match these donations dollar for dollar with non-Federal funding, up to $100,000 per coalition.

The third key feature of this legislation is an assurance that the funds for this bill will come from existing legislation. We plan on working closely with the members of the Appropriations Committee to find appropriate off-sets within the current $16 billion Federal drug control budget.

An advisory commission, consisting of local community leaders, and State and National experts in the field of substance abuse, will oversee the implementation of the program at the Office of National Drug Control Policy. They will insure the funds are directed to communities and programs that make a difference in the lives of our children.

At other times I've talked about the statistics—how drug use is up again this year among teens, and how emergency room admissions are rising after years of decline, and other depressing statistics. But the bill we introduce today is in support of organizations that are on the front lines, making a difference in the lives of our children. I urge my fellow members to join my colleagues and me in supporting this legislation for our children.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 536

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Drug-Free Communities Act of 1997”.

SEC. 2. NATIONAL DRUG CONTROL PROGRAM.

(a) IN GENERAL.—The National Narcotics Leadership Act of 1988 (21 U.S.C. 1501 et seq.) is amended—

(1) by inserting between sections 1001 and 1002 the following:

“CHAPTER 1—OFFICE OF NATIONAL DRUG CONTROL POLICY”;

and

(2) by adding at the end the following:

“CHAPTER 2—DRUG-FREE COMMUNITIES

“SEC. 1021. FINDINGS.

“Congress finds the following:

“(1) Substance abuse among youth has more than doubled in the 5-year period preceding 1996, with substantial increases in the use of marijuana, inhalants, cocaine, methamphetamine, LSD, and heroin.

“(2) The most dramatic increases in substance abuse has occurred among 13- and 14-year-olds.

“(3) Casual or periodic substance abuse by youth of 1997 will contribute to hard core or chronic substance abuse by the next generation of adults.

“(4) Substance abuse is at the core of other problems, such as rising violent teenage and violent gang crime, increasing health care costs, HIV infections, teenage pregnancy, high school dropouts, and lower economic productivity.

“(5) Increases in substance abuse among youth are due in large part to an erosion of understanding by youth of the high risks associated with substance abuse, and to the softening of peer norms against use.

“(6)(A) Substance abuse is a preventable behavior and a treatable disease; and

“(B)(i) during the 13-year period beginning with 1979, monthly use of illegal drugs among youth 12 to 17 years of age declined by over 70 percent; and

“(ii) data suggests that if parents would simply talk to their children regularly about the dangers of substance abuse, use among youth could be expected to decline by as much as 30 percent.

“(7) Community anti-drug coalitions throughout the United States are successfully developing and implementing comprehensive, long-term strategies to reduce substance abuse among youth on a sustained basis.

“(8) Intergovernmental cooperation and coordination through national, State, and local or tribal leadership and partnerships are critical to facilitate the reduction of substance abuse among youth in communities throughout the United States.

“SEC. 1022. PURPOSES.

“The purposes of this chapter are—

“(1) to reduce substance abuse among youth in communities throughout the United States, and over time, to reduce substance abuse among adults;

“(2) to strengthen collaboration among communities, the Federal Government, and State, local, and tribal governments;

“(3) to enhance intergovernmental cooperation and coordination on the issue of substance abuse among youth;

“(4) to serve as a catalyst for increased citizen participation and greater collaboration among all sectors and organizations of a community that first demonstrates a long-term commitment to reducing substance abuse among youth;

“(5) to rechannel resources from the fiscal year 1998 Federal drug control budget to provide technical assistance, guidance, and financial support to communities that demonstrate a long-term commitment in reducing substance abuse among youth;

“(6) to disseminate to communities timely information regarding the state-of-the-art practices and initiatives that have proven to be effective in reducing substance abuse among youth;

“(7) to enhance, not supplant, local community initiatives for reducing substance abuse among youth; and

“(8) to encourage the creation of and support for community anti-drug coalitions throughout the United States.

“SEC. 1023. DEFINITIONS.

“In this chapter:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator appointed by the Director under section 1031(c).

“(2) ADVISORY COMMISSION.—The term ‘Advisory Commission’ means the Advisory Commission established under section 1041.

“(3) COMMUNITY.—The term ‘community’ shall have the meaning provided that term by the Administrator, in consultation with the Advisory Commission.

“(4) DIRECTOR.—The term ‘Director’ means the Director of the Office of National Drug Control Policy.

“(5) ELIGIBLE COALITION.—The term ‘eligible coalition’ means a coalition that meets the applicable criteria under section 1032(a).

“(6) GRANT RECIPIENT.—The term ‘grant recipient’ means the recipient of a grant award under section 1032.

“(7) NONPROFIT ORGANIZATION.—The term ‘nonprofit organization’ means an organization described under section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

“(8) PROGRAM.—The term ‘Program’ means the program established under section 1031(a).

“(9) SUBSTANCE ABUSE.—The term ‘substance abuse’ means—

“(A) the illegal use or abuse of drugs, including substances listed in schedules I through V of section 112 of the Controlled Substances Act (21 U.S.C. 812);

“(B) the abuses of inhalants; and

“(C) the use of alcohol, tobacco, or other related product prohibited by State or local law.

“(10) YOUTH.—The term ‘youth’ shall have the meaning provided that term by the Administrator, in consultation with the Advisory Commission.

“SEC. 1024. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There are authorized to be appropriated to the Office of National Drug Control Policy to carry out this chapter—

“(1) $10,000,000 for fiscal year 1998;

“(2) $20,000,000 for fiscal year 1999;

“(3) $30,000,000 for fiscal year 2000;

“(4) $40,000,000 for fiscal year 2001; and

“(5) $43,500,000 for fiscal year 2002.

“(b) ADMINISTRATIVE COSTS.—Not more than the following percentages of the amounts authorized under subsection (a) may be used to pay administrative costs:

“(1) 10 percent for fiscal year 1998.

“(2) 6 percent for fiscal year 1999.

“(3) 4 percent for fiscal year 2000.

“(4) 3 percent for fiscal year 2001.

“(5) 3 percent for fiscal year 2002.

“Subchapter I—Drug-Free Communities Support Program

“SEC. 1031. ESTABLISHMENT OF DRUG-FREE COMMUNITIES SUPPORT PROGRAM.

“(a) ESTABLISHMENT.—The Director shall establish a program to support communities in the development and implementation of comprehensive, long-term plans and programs to prevent and treat substance abuse among youth.

“(b) PROGRAM.—In carrying out the Program, the Director shall—

“(1) make and track grants to grant recipients;

“(2) provide for technical assistance and training, data collection, and dissemination of information on state-of-the-art practices that the Administrator determines to be effective in reducing substance abuse; and

“(3) provide for the general administration of the Program.

“(c) ADMINISTRATION.—Not later than 30 days after receiving recommendations from the Advisory Commission under section 1042(a)(1), the Director shall appoint an Administrator to carry out the Program.

“SEC. 1032. PROGRAM AUTHORIZATION.

“(a) GRANT ELIGIBILITY.—To be eligible to receive an initial grant or a renewal grant under this subchapter, a coalition shall meet each of the following criteria:

“(1) APPLICATION.—The coalition shall submit an application to the Administrator in accordance with section 1033(a)(2).

“(2) MAJOR SECTOR INVOLVEMENT.—

“(A) IN GENERAL.—The coalition shall consist of 1 or more representatives of each of the following categories:

“(i) Youth.

“(ii) Parents.

“(iii) Businesses.

“(iv) The media.

“(v) Schools.

“(vi) Organizations serving youth.

“(vii) Law enforcement.

“(viii) Religious organizations.

“(ix) Civic and fraternal groups.

“(x) Health care professionals.

“(xi) State, local, or tribal governmental agencies with expertise in the field of substance abuse (including, if applicable, the State authority with primary authority for substance abuse).

“(xii) Other organizations involved in reducing substance abuse.

“(B) Elected officials.—If feasible, in addition to representatives from the categories listed in subparagraph (A), the coalition shall have an elected official (or a representative of an elected official) from—

“(i) the Federal Government; and

“(ii) the government of the appropriate State and political subdivision thereof or the governing body or an Indian tribe (as that term is defined in section 4(e) of the Indian Self-Determination Act (25 U.S.C. 450b(e))).

“(C) Representation.—An individual who is a member of the coalition may serve on the coalition as a representative of not more than 1 category listed under subparagraph (A).

“(3) Commitment.—The coalition shall demonstrate, to the satisfaction of the Administrator—

“(A) that the representatives of the coalition have worked together on substance abuse reduction initiatives for a period of not less than 6 months, acting through entities such as task forces, subcommittees, or community boards; and

“(B) substantial participation from volunteer leaders in the community involved (especially in cooperation with individuals involved with youth such as parents, teachers, coaches, youth workers, and members of the clergy).

“(4) Mission and strategies.—The coalition shall, with respect to the community involved—

“(A) have as its principal mission the reduction of substance abuse in a comprehensive and long-term manner, with a primary focus on youth in the community;

“(B) describe and document the nature and extent of the substance abuse problem in the community;

“(C)(i) provide a description of substance abuse prevention and treatment programs and activities in existence at the time of the grant application; and

“(ii) identify substance abuse programs and service gaps in the community;

“(D) develop a strategic plan to reduce substance abuse among youth in a comprehensive and long-term fashion; and

“(E) work to develop a consensus regarding the priorities of the community to combat substance abuse among youth.

“(5) Sustainability.—The coalition shall demonstrate that the coalition is an ongoing concern by demonstrating that the coalition—

“(A) is—

“(i)(I) a nonprofit organization; or

“(II) an entity that the Administrator, in consultation with the Advisory Commission, determines to be appropriate; or

“(ii) part of, or is associated with, an established legal entity;

“(B) receives financial support (including, in the discretion of the Administrator, in-kind contributions) from non-Federal sources; and

“(C) has a strategy to solicit substantial financial support from non-Federal sources to ensure that the coalition and the programs operated by the coalition are self-sustaining.

“(6) Accountability.—The coalition shall—

“(A) establish a system to measure and report outcomes—

“(i) consistent with common indicators and evaluation protocols established by the Administrator, in consultation with the Advisory Commission; and

“(ii) receives the approval of the Administrator;

“(B) conduct—

“(i) for an initial grant under this subchapter, an initial benchmark survey of drug use among youth (or use local surveys or performance measures available or accessible in the community at the time of the grant application); and

“(ii) biennial surveys (or incorporate local surveys in existence at the time of the evaluation) to measure the progress and effectiveness of the coalition; and

“(C) provide assurances that the entity conducting an evaluation under this paragraph, or from which the coalition receives information, has experience—

“(i) in gathering data related to substance abuse among youth; or

“(ii) in evaluating the effectiveness of community anti-drug coalitions.

“(b) Grant Amounts.—

“(1) In general.—

“(A) Grants.—

“(i) In general.—Subject to clause (iii), for a fiscal year, the Administrator may grant to an eligible coalition under this paragraph, an amount not to exceed the amount of non-Federal funds raised by the coalition, including in-kind contributions, for that fiscal year.

“(ii) Renewal grants.—Subject to clause (iii), the Administrator may award a renewal grant to a grant recipient under this subparagraph for each fiscal year following the fiscal year for which an initial grant is awarded, in an amount not to exceed the amount of non-Federal funds raised by the coalition, including in-kind contributions, for that fiscal year, during the 4-year period following the period of the initial grant.

“(iii) Limitation.—The amount of a grant award under this subparagraph may not exceed $100,000 for a fiscal year.

“(B) Coalition awards.—

“(i) In general.—Except as provided in clause (ii), the Administrator may, with respect to a community, make a grant to 1 eligible coalition that represents that community.

“(ii) Exception.—The Administrator may make a grant to more than 1 eligible coalition that represents a community if—

“(I) the population of the community exceeds 2,000,000 individuals;

“(II) the eligible coalitions demonstrate that the coalitions are collaborating with one another; and

“(III) each of the coalitions has independently met the requirements set forth in section 1032(a).

“(2) Rural coalition grants.—

“(A) In general.—

“(i) In general.—In addition to awarding grants under paragraph (1), to stimulate the development of coalitions in sparsely populated and rural areas, the Administrator, in consultation with the Advisory Commission, may award a grant in accordance with this section to a coalition that represents a county with a population that does not exceed 30,000 individuals. In awarding a grant under this paragraph, the Administrator, in consultation with the Advisory Commission, may waive any requirement under subsection (a) if the Administrator, in consultation with the Advisory Commission, considers that waiver to be appropriate.

“(ii) Matching requirement.—Subject to subparagraph (C), for a fiscal year, the Administrator may grant to an eligible coalition under this paragraph, an amount not to exceed the amount of non-Federal funds raised by the coalition, including in-kind contributions, for that fiscal year.

“(B) Renewal grants.—The Administrator may award a renewal grant to an eligible coalition that is a grant recipient under this paragraph for each fiscal year following the fiscal year for which an initial grant is awarded, in an amount not to exceed the amount of non-Federal funds raised by the coalition, including in-kind contributions, during the 4-year period following the period of the initial grant.

“(C) Limitations.—

“(i) Amount.—The amount of a grant award under this paragraph shall not exceed $50,000 for a fiscal year.

“(ii) Awards.—With respect to a county referred to in subparagraph (A), the Administrator may award a grant under this section to not more than 1 eligible coalition that represents the county.

“SEC. 1033. INFORMATION COLLECTION AND DISSEMINATION WITH RESPECT TO GRANT RECIPIENTS.

“(a) Coalition Information.—

“(1) General auditing authority.—For the purpose of audit and examination, the Administrator—

“(A) shall have access to any books, documents, papers, and records that are pertinent to any grant or grant renewal request under this chapter; and

“(B) may periodically request information from a grant recipient to ensure that the grant recipient meets the applicable criteria under section 1032(a).

“(2) Application process.—The Administrator shall issue regulations regarding, with respect to the grants awarded under section 1032, the application process, grant renewal, and suspension or withholding of renewal grants. Each application under this paragraph shall be in writing and shall be subject to review by the Administrator.

“(3) Reporting.—The Administrator shall, to the maximum extent practicable and in a manner consistent with applicable law, minimize reporting requirements by a grant recipient and expedite any application for a renewal grant made under this subchapter.

“(b) Data Collection and Dissemination.—

“(1) In general.—The Administrator may collect data from—

“(A) national substance abuse organizations that work with eligible coalitions, community anti-drug coalitions, departments or agencies of the Federal Government, or State or local governments and the governing bodies of Indian tribes; and

“(B) any other entity or organization that carries out activities that relate to the purposes of the Program.

“(2) Activities of administrator.—The Administrator may—

“(A) evaluate the utility of specific initiatives relating to the purposes of the Program;

“(B) engage in research and development activities related to the Program; and

“(C) disseminate information described in this subsection to—

“(i) eligible coalitions and other substance abuse organizations; and

“(ii) the general public.

“SEC. 1034. TECHNICAL ASSISTANCE AND TRAINING.

“(a) In General.—

“(1) Technical assistance and agreements.—With respect to any grant recipient or other organization, the Administrator may—

“(A) offer technical assistance and training; and

“(B) enter into contracts and cooperative agreements.

“(2) Coordination of programs.—The Administrator may facilitate the coordination of programs between a grant recipient and other organizations and entities.

"(b) TRAINING.—The Administrator may provide training to any representative designated by a grant recipient in—

"(1) coalition building;

"(2) task force development;

"(3) mediation and facilitation, direct service, assessment and evaluation; or

"(4) any other activity related to the purposes of the Program.

"Subchapter II—Advisory Commission

"SEC. 1041. ESTABLISHMENT OF ADVISORY COMMISSION.

"(a) ESTABLISHMENT.—There is established a commission to be known as the 'Advisory Commission on Drug-Free Communities'.

"(b) PURPOSE.—The Advisory Commission shall advise, consult with, and make recommendations to the Administrator concerning matters related to the activities carried out under the Program.

"SEC. 1042. DUTIES.

"(a) IN GENERAL.—The Advisory Commission—

"(1) shall, not later than 30 days after its first meeting, make recommendations to the Director regarding the selection of an Administrator;

"(2) may review any grant, contract, or cooperative agreement proposed to be made by the Program;

"(3) may make recommendations to the Administrator regarding the activities of the Program;

"(4) may review any policy or criteria established by the Administrator to carry out the Program;

"(5) may—

"(A) collect, by correspondence or by personal investigation, information concerning initiatives, studies, services, programs, or other activities of coalitions or organizations working in the field of substance abuse in the United States or any other country; and

"(B) with the approval of the Administrator, make the information referred to in subparagraph (A) available through appropriate publications or other methods for the benefit of eligible coalitions and the general public; and

"(6) may appoint subcommittees and convene workshops and conferences.

"(b) RECOMMENDATIONS.—If the Administrator rejects any recommendation of the Advisory Commission under subsection (a)(1), the Administrator shall notify the Advisory Commission and the Director in writing of the reasons for the rejection not later than 15 days after receiving the recommendation.

"(c) CONFLICT OF INTEREST.—A member of the Advisory Commission shall recuse himself or herself from any decision that would constitute a conflict of interest.

"SEC. 1043. MEMBERSHIP.

"(a) IN GENERAL.—The President shall appoint 15 members to the Advisory Commission as follows:

"(1) 6 members shall be appointed from the general public and shall include leaders—

"(A) in fields of youth development, public policy, law, or business; or

"(B) of nonprofit organizations or private foundations that fund substance abuse programs.

"(2) 6 members shall be appointed from the leading representatives of national substance abuse reduction organizations, of which no fewer than 4 members shall have extensive training or experience in drug prevention.

"(3) 3 members shall be appointed from the leading representatives of State substance abuse reduction organizations.

"(b) CHAIRPERSON.—The Advisory Commission shall elect a chairperson or cochairpersons from among its members.

"(c) EX OFFICIO MEMBERS.—The ex officio membership of the Advisory Commission shall consist of any 2 officers or employees of the United States that the Director determines to be necessary for the Advisory Commission to effectively carry out its functions.

"SEC. 1044. COMPENSATION.

"(a) IN GENERAL.—Members of the Advisory Commission who are officers or employees of the United States shall not receive any additional compensation for service on the Advisory Commission. The remaining members of the Advisory Commission shall receive, for each day (including travel time) that they are engaged in the performance of the functions of the Advisory Commission, compensation at rates not to exceed the daily equivalent to the annual rate of basic pay payable for grade GS–10 of the General Schedule.

"(b) TRAVEL EXPENSES.—Each member of the Advisory Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

"SEC. 1045. TERMS OF OFFICE.

"(a) IN GENERAL.—Subject to subsection (b), the term of office of a member of the Advisory Commission shall be 3 years, except that, as designated at the time of appointment—

"(1) of the initial members appointed under section 1043(a)(1), 2 shall be appointed for a term of 2 years;

"(2) of the initial members appointed under section 1043(a)(2), 2 shall be appointed for a term of 2 years; and

"(3) of the initial members appointed under section 1043(a)(3), 1 shall be appointed for a term of 1 year.

"(b) VACANCIES.—Any member appointed to fill a vacancy for an unexpired term of a member shall serve for the remainder of the unexpired term. A member of the Advisory Commission may serve after the expiration of such member's term until a successor has been appointed and taken office.

"SEC. 1046. MEETINGS.

"(a) IN GENERAL.—After its initial meeting, the Advisory Commission shall meet at the call of the Chairperson (or Cochairpersons) of the Advisory Commission or a majority of its members or upon the request of the Director or Administrator of the Program for which the Advisory Commission is established.

"(b) QUORUM.—8 members of the Advisory Commission shall constitute a quorum.

"SEC. 1047. STAFF.

"The Advisory Commission may elect an executive secretary to facilitate the conduct of business of the Advisory Commission. The Administrator shall make available to the Advisory Commission such staff, information, and other assistance permitted by law as the Advisory Commission may reasonably require to carry out the functions of the Advisory Commission.

"SEC. 1048. TERMINATION.

"The Advisory Commission shall terminate on the date that is 5 years after the date of the enactment of this chapter.".

(b) REFERENCES.—Each reference in Federal law to subtitle A of the Anti-Drug Abuse Act of 1988, with the exception of section 1001 of such subtitle, in any provision of law that is in effect on the day before the date of enactment of this Act shall be deemed to be a reference to chapter 1 of the National Narcotics Leadership Act of 1988 (as so designated by this section).

Mr. DEWINE. Mr. President, I am very proud to join the Senator from Iowa in being an original cosponsor of the drug-free communities legislation. In the last 5 years, substance abuse by America's young people has more than doubled. Even more troubling, it is taking place at younger and younger ages.

We need to turn this around. And this is a challenge that requires the involvement of the whole community—young people, their parents, schools, businesspeople, the media, law enforcement, religious organizations, civic and fraternal groups, as well as professionals in the area of drug abuse treatment.

Community-based antidrug coalitions have proven their worth in the fight against drug abuse. I'm thinking of groups like the Madison County Prevention Assistance Coalition Team—or PACT—in Madison County, OH. PACT was established in a rural area in central Ohio in 1991, and rapidly inspired over 50 local substance abuse prevention initiatives.

What PACT did was mobilize the community. Middle school students acted as mentors and role models for third graders. Teachers in Head Start taught their students about drug abuse prevention. A local church held a father-son retreat.

A research team from Miami University found that Madison County's alcohol-related crime dropped by 50 percent. And students are reporting a decline in the use and availability of alcohol and other drugs.

The key is mobilizing the community. The bill we're introducing today will help tap into this resource—by redirecting Federal funding to community coalitions that have developed comprehensive programs to educate children about the dangers of drugs. A similar bill was introduced in the House by Representatives PORTMAN, HASTERT, RANGEL, and LEVIN.

This bill will channel funds from the fiscal year 1998 drug control budget—in the form of matching grants—to community coalitions with proven track records. It will enhance programs that work, without allocating new funds.

I think this is exactly the type of legislation we need. It's a sensible and cost-effective approach to solving a major problem. And I will join my colleague from Iowa in working for its enactment.

Mr. BIDEN. Mr. President, I am pleased to join in introducing today with Senator GRASSLEY and others the Drug-Free Communities Act of 1997. This legislation will help take an important step forward toward a goal we all share—keeping kids away from drugs and drugs away from kids.

This 5 year, $140 million authorization to fund local antidrug prevention efforts could be an important catalyst to getting local groups together to plan, coordinate, and carry out the wide variety of drug prevention treatment activities we all know are necessary to reverse the rise of drug abuse among our children. By unleashing the talents and energy of local coalitions of local businesses, schools, law enforcement, religious organizations, doctors, and others we can build community-wide and community-based drug prevention efforts.

For all these reasons, I am pleased to offer my support for the concept embodied in this legislation. But, I must offer two important conditions to my support for this bill. First, as potentially valuable as antidrug coalitions can be, I do not believe it would be wise for us to "rob Peter to pay Paul" by trying to fund this drug prevention effort by cutting funding for other, worthy drug prevention efforts. It is my understanding that the other sponsors of this legislation in both the House and the Senate share this view, and I look forward to working with them to find the modest dollars necessary to fund this effort.

Second, it is also my understanding that the sponsors of this legislation are continuing to work with the Drug Director to iron out the bureaucratic details of how this effort will be undertaken at the Federal level. I am confident that none of the sponsors of this bill have any desire to establish any new layers of wasteful bureaucracy, so I look forward to working with them to pass the most efficient, effective effort possible.

This bill offers a key example of the bipartisan support for drug prevention and drug treatment efforts which exists at the grassroots level throughout our Nation. In the weeks and months ahead, I look forward to working with my colleagues in the same bipartisan fashion.

As my colleagues have heard me note on numerous occasions—our Nation stands on the edge of the "baby boomerang"—with 39 million American children under the age of 10, the greatest number since the 1960's. We must prepare for these 39 million as they enter their teen years when they will be at their greatest likelihood of falling prey to drugs and crime. If we do not, we will pay for our lack of foresight with what could be the most severe epidemic of youth drug abuse, youth violence, and youth crime our Nation has ever suffered.

Preparing each of these 39 million American children means giving them the techniques and the desire to stay away from drugs—in short, drug prevention. The Drug-Free Communities Act of 1997 is one of what must be many elements of a comprehensive, nationwide drug prevention effort. I am pleased to cosponsor this legislation and I look forward to passing it into law.

Mr. D'AMATO. Mr. President, I join my colleagues in the introduction of the Drug Free Communities Act and urge its passage. This bill responds to a distressing increase in teenage drug use by providing startup funding and technical assistance to community coalitions that work together to prevent drug use.

According to the University of Michigan's 1996 Monitoring the Future study, more than half of all high school students use illicit drugs by the time they graduate. The Office of National Drug Control Policy cited in their strategy report that nearly 1 in 4 high school seniors used marijuana on a past-month basis in 1996.

The age for which children start using drugs is declining. While the number of teenagers using marijuana increased 37 percent from 1994 to 1995, the age of first use declined from 17.8 years of age in 1987 to 16.3 years of age in 1994. There was also a drop in age for first use of cocaine from 23.3 years to 19 years old. Drug use is starting at an early age.

Drug abuse costs this country approximately $67 billion a year in social, health, and criminal costs. But the 14,000 drug-related deaths each year cannot be calculated in costs. The destruction of lives of the drug users, their families, friends, and neighbors is inevitable.

The need to correct the trend is imperative and it is communities that can do it. Community coalitions are essential for an effective prevention program. It is the community groups that see the problem first hand and know what is needed in that area to stop children from using drugs.

This bill will provide the incentive for community action groups to work together for the sole purpose of drug prevention. Groups representing youths, parents, businesses, schools, law enforcement, religious organizations, health professionals, as well as government agencies will be expected to prepare a strategy and implement it—together. But the community must be organized first, prior to receiving grant funds, in order for the coalition to prove a long-term commitment.

The grants will be distributed to organized community coalitions that have matching funds and those funds cannot be derived from the Federal Government. This requirement ensures that the coalition has support and can be sustained after the grant sunsets. This will not be another Federal program, but rather a means to support organized coalitions that devise and implement a comprehensive antidrug campaign while they get off the ground.

Several groups in my State have already endorsed this proposal including the Syracuse Police Department, the mayor of Syracuse and agencies in Onondaga County. Respected national organizations that deal with drug and alcohol abuse have also endorsed the proposal including DARE, Mothers Against Drunk Driving, Partnership for a Drug-Free America, and Empower America, among others.

This is a comprehensive strategy to a problem that is best dealt with at the local level. I urge my colleagues to closely review the merits of this bill and support its passage. Our communities need it.

Mr. GRAHAM. Mr. President, I rise today as a proud cosponsor of the Drug Free Communities Act.

The objective of this bill is to protect our greatest national resource—our children—from the deadly scourge of drug abuse. And it protects them in a way that has been proven through the centuries—by strengthening communities. This bill gives local communities the support they need to keep drugs away from their young people. And it allows them to use it in a way that has proven to be effective in their community, and not as some Washington bureaucrat dictates.

Unfortunately, recent studies of drug use in America demonstrate the need for a program such as this. The statistics on substance abuse among our Nation's children are particularly disturbing:

According to the University of Michigan's 1996 study "Monitoring the Future," half of all high school students have tried some type of illicit drug by the time they graduate. Drug use among eighth graders has risen 150 percent in the last 5 years. Overall, drug use for children between the ages of 12 and 17 has increased more than 100 percent, from 5.3 percent in 1992 to 10.9 percent in 1995.

The drug most often used by these children continues to be marijuana. More children are smoking marijuana and they are starting to do so at a younger age. According to the "Monitoring the Future" study, almost 25 percent of high school seniors had used marijuana during the previous month. Between 1994 and 1995, the rate of use among 12- to 17-year-olds increased 37 percent, from 6 percent to over 8 percent.

And the use of marijuana often leads to the use of stronger and more dangerous drugs. A study completed by Columbia University's Center on Addiction and Substance Abuse found that children who smoke marijuana are 85 times more likely to try cocaine than children who have never tried marijuana.

The use of cocaine and heroin among our children is also on the increase. Among high school seniors in 1996, over 7 percent had tried cocaine at some time. And the number of younger children experimenting with these drugs is alarming. During the last 5 years, heroin use among 8th to 12th graders and the number of 8th graders who had tried cocaine had doubled.

So what can we do to help our youth reject the temptation to use drugs? We can help families to convince kids that they must never even try illegal drugs.

That is why I am proud to be a cosponsor of the Drug-Free Communities Act of 1997, which we are here to introduce today. This bill will help communities reduce drug use among youth by providing matching grants of up to $100,000 to community coalitions for the establishment of programs designed to prevent and treat substance abuse in young people. These grants will be used to provide support to local communities who have proven their long-term commitment to reducing drug use among youth. It includes provisions for an advisory commission of substance abuse experts to oversee the program, to ensure that grants go only to those programs that have demonstrated success in keeping our children and grandchildren off drugs.

There are several reasons why every Member of Congress should support this bill:

This program helps local communities in a way that is consistent with the 1997 strategy of the Office of National Drug Control Policy. The No. 1 goal of the strategy is to encourage America's youth to reject illegal drugs by assisting community coalitions to develop programs that will accomplish this goal. The grants provided for in the Drug Free Communities Act will establish a partnership between the Federal Government and local communities.

There are safeguards to prevent abuse of the program. Only established groups that can provide matching funds will be eligible to receive funding. This ensures that only programs that have a proven track record of success in fighting drug abuse among our young people will receive funding.

I urge my colleagues to join me in supporting this important bill. Our children's future depends on keeping them free of drugs, and this legislation will help those groups who can make a difference in the lives of our youth. There is no greater service that we can provide to our country than to keep our children drug-free.

Mr. ABRAHAM. Mr. President, I am pleased to be an original cosponsor of the Drug Free Communities Act of 1997. This bill will lend a helping hand to local coalitions that are leading the fight against substance abuse.

Few would argue that substance abuse, particularly among our youth, is a growing problem in communities across our Nation. Drug use among teens has increased sharply in recent years. There is reason to believe, however, that local coalitions, reflecting a broad cross-section of the communities they serve, can do much to combat drug use among youths as well as adults.

The Drug Free Communities Act would lend important assistance to these coalitions. Specifically, the bill would authorize grants of up to $100,000 to local coalitions whose principal mission is the reduction of substance abuse. To be eligible for a grant, a coalition must include representatives from the religious, business, law enforcement, education, parental, and health care communities, as well as local government officials, in the geographic region served by the coalition. To enhance coalition accountability—and thus to direct resources to the most successful coalitions—a participating coalition would be required to conduct an initial benchmark survey of drug use in its community, followed by biennal surveys. No new funding would be needed for the bill, as grant moneys would be drawn from the existing budget of the Office of National Drug Control Policy.

In short, Mr. President, this bill recognizes that the efforts of local leaders are indispensable in the war on drugs. I am proud to support those efforts, and look forward to passage of this bill.

By Ms. MIKULSKI (for herself, Ms. SNOWE, Mrs. FEINSTEIN, Mrs. HUTCHISON, Mrs. BOXER, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Ms. COLLINS, Ms. LANDRIEU, Mr. HARKIN, Mr. COCHRAN, Mr. KENNEDY, Mr. BIDEN, Mr. FAIRCLOTH, Mr. DASCHLE, Mr. WYDEN, Mr. INOUYE, Mr. SARBANES, Mr. BINGAMAN, Mr. HUTCHINSON, Mr. FORD, Mr. REID, Mr. LEAHY, Mr. DODD, Mr. ABRAHAM, Mr. BENNETT, Mr. CHAFEE, Mr. FEINGOLD, Mr. GREGG, Mr. REED, Mr. MACK, Mr. ROBB, Mr. JEFFORDS, Mr. LEVIN, Mr. FRIST, Mr. BOND, Mr. WELLSTONE, Mr. SPECTER, Mr. BURNS, Mr. GLENN, Mr. COATS, Mr. AKAKA, and Mr. LIEBERMAN):

S. 537. A bill to amend title III of the Public Health Service Act to revise and extend the mammography quality standards program; to the Committee on Labor and Human Resources.

THE MAMMOGRAPHY QUALITY STANDARDS ACT

Ms. MIKULSKI. Mr. President, I am honored to be joined by my colleagues, both men and women from both sides of the aisle, in introducing the reauthorization of the Mammography Quality Standards Act [MQSA]. The bill I am introducing today reauthorizes the original legislation which passed in 1992 with bipartisan support.

What MQSA does is require that all facilities that provide mammograms meet key safety and quality-assurance standards in the area of personnel, equipment, and operating procedures. Before the law passed, tests were misread, women were misdiagnosed, and people died as a result of sloppy work. Since 1992, MQSA has been successful in bringing facilities into compliance with the Federal standards.

What are these national, uniform quality standards for mammography? Well, facilities are required to use equipment designed specifically for mammography. Only radiological technologists can perform mammography. Only qualified doctors can interpret the results of mammography. Facilities must establish a quality assurance and control program to ensure reliability, clarity, and accurate interpretation of mammograms. Facilities must be inspected annually by qualified inspectors. Finally, facilities must be accredited by an accrediting body approved by the Secretary of Health and Human Services.

This current reauthorization makes a few minor changes to the law to ensure the following: Patients and referring physicians must be advised of any mammography facility deficiency. Women are guaranteed the right to obtain an original of their mammogram. Finally, both State and local government agencies are permitted to have inspection authority.

I like this law because it has saved lives. The frontline against breast cancer is mammography. We know that early detection saves lives. But a mammogram is worse than useless if it produces a poor-quality image or is misinterpreted. The first rule of all medical treatment is: Above all things, do no harm. And a bad mammogram can do real harm by leading a woman and her doctor to believe that nothing is wrong when something is. The result can be unnecessary suffering or even a death that could have been prevented. That is why this legislation is so important. This law must be reauthorized so that we don't go back to the old days when women's lives were in jeopardy.

I want to make sure that women's health care needs are met comprehensively. It is expected that 180,000 new cases of breast cancer will be diagnosed and about 44,000 women will die from the disease in 1997. This makes breast cancer the most common cancer among women. And only lung cancer causes more deaths in women.

We must aggressively pursue prevention in our war on breast cancer. I pledge to fight for new attitudes and find new ways to end the needless pain and death that too many American women face. This bill is an important step in that direction. On behalf of all the women of the Senate, I invite the men of the Senate who have not already cosponsored to do so. The women of America are counting on your support.

Mr. DODD. Mr. President, I rise today to voice my strong support, as an original cosponsor of the reauthorization of the Mammography Quality Standards Act [MQSA].

I first lent my support to this effort when the MQSA was initially introduced and passed in the 102nd Congress.

For the past 5 years, this critically important legislation has provided women with safe and reliable mammography services. As the Mammography Quality Standards Act comes up for reauthorization, I urge all of my fellow colleagues to once again make a commitment to the health and well being of America's women by supporting this legislation.

Breast cancer is the most common type of cancer to affect women. In fact, almost one in nine women will develop breast cancer at some point in their lives. Mammography, while not a cure for cancer, provides the best detection system for diagnosing this dangerous and deadly disease. And, early detection of breast cancer is often the key to effective treatment and recovery.

The Mammography Quality Standards Act ensures that mammography service providers comply with Federal requirements. These quality standards guard against inaccurate or inconclusive mammography results, thereby reducing the costly procedures associated with false positive diagnoses.

Before this legislation was originally enacted, women were often at the mercy of their mammography service provider, unaware if these providers lacked the necessary equipment, or even adequately trained technicians. The MQSA is helping to effectively eliminate concerns of substandard mammography and its possibly tragic results by assuring that only the correct radiological equipment is used in mammography testing. Further, this legislation is assuring women that only physicians adequately trained in this medical area are interpreting mammograms.

New to this legislation are some additional requirements which seek to further assure women that their mammogram service produces the most accurate and timely detection of any irregularities. Mammography service providers will now be required to retain women's mammogram records so that an accurate medical history is maintained. Reauthorization of these quality standards will also ensure that patients are notified about substandard mammography facilities.

I wish to commend Senator MIKULSKI for her leadership on this crucial legislation. Again, it is my pleasure to join my colleagues in ensuring that quality mammography service is readily available, and I urge the Senate to act quickly and approve this critically important measure for American women.

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 538. A bill to authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District and for other purposes; to the Committee on Energy and Natural Resources.

THE BURLEY IRRIGATION DISTRICT TRANSFER ACT

• Mr. CRAIG. Mr. President, I am today introducing a bill to authorize the Secretary of the Interior to transfer certain facilities at the Minidoka irrigation project to the Burley Irrigation District. The introduction of this legislation results from a hearing I held in the Senate Energy Committee in the past Congress and is nearly identical to S. 1291 from that Congress. I am introducing this project-specific legislation because it is obvious to me a general transfer bill is not workable; each reclamation project has unique qualities, and projects should be addressed individually or in distinct groupings.

The Reclamation Act of 1902 was part of the history of Federal public land laws designed to transfer lands out of Federal ownership and to settle this Nation. The origins of that policy predate the Constitution and derive from the early debates that led to the Northwest Ordinance of 1787. The particular needs and circumstances of the arid and semiarid lands west of the 100th meridian led to various proposals to reclaim the lands, including the Desert Land Act and the Carey Act. In his State of the Union Message of 1901, President Theodore Roosevelt finally called for the Federal Government to intervene to develop the reservoirs and works necessary to accomplish such irrigation. The reclamation program was enormously successful. It grew from the irrigation program contemplated by one President Roosevelt to the massive works constructed four decades later by the second President Roosevelt. For those of us in the Northwest, there is a very personal meaning to a line from Woody Guthrie's song about the Columbia that goes: "your power is turning our darkness to dawn, so roll on Columbia, roll on."

If what is known now had been known then, some projects may have been constructed differently. However, that is not the question we have before us. The central question is whether and to what extent the Federal Government should seek to transfer the title and responsibility for these projects. Has the Federal mission been accomplished?

The best transfer case would be the single purpose irrigation or municipal and industrial [M&I] system that is fully repaid, operation has long since been transferred, and the water rights are held privately. That is the case with the Burley Irrigation District transfer.

The transfer of title is not a new idea. Authority to transfer title to the All American Canal is contained in section 7 of the Boulder Canyon Project Act of 1928. General authority is contained in the 1955 Distribution Systems Loan Act. Recently, Congress passed legislation dealing with Elephant Butte and Vermejo.

The Burley Irrigation District is part of the Minidoka project that was built under the authorization of the 1902. Reclamation Act. By a contract executed in 1926, the District assumed the operation and maintenance of the system.

All construction contracts and costs for the canals system, pumping plants, power house, transmission lines and other improvements have been paid in full. Contracts for storage space at Minidoka, American Falls, and Palisades reservoirs have been paid in full, along with all maintenance fees. This project is a perfect example of the Federal Government maintaining only a bare title, and that title should now be transferred to the project recipients who have paid for the facilities and the rights of the Burley Irrigation District.•

By Mr. BIDEN (for himself, Ms. MIKULSKI, and Mr. TORRICELLI):

S. 540. A bill to amend title XVIII of the Social Security Act to provide annual screening mammography and waive coinsurance for screening mammography for women age 65 or older under the Medicare Program; to the Committee on Finance.

THE MEDICARE MAMMOGRAPHY SCREENING EXPANSION ACT

• Mr. BIDEN. Mr. President, there is no doubt a lot of women in their forties who are awfully confused these days about whether they should receive a regular mammogram to test for breast cancer. Over the last several years—and especially over the last couple of months—the debate in the scientific community and the conflicting scientific studies have not painted a very clear picture for younger women.

But, what is perfectly clear—what is not in dispute—is that older women should receive regular mammograms. Mammograms save lives. And, the scientific studies confirm it. If all women over 50 received regular mammograms, breast cancer mortality could be reduced by one-third. The recommended screening guidelines reflect this, no matter what group's guidelines you read. The American Cancer Society, the American College of Obstetricians and Gynecologists, the American Medical Association, the American Academy of Family Physicians, and the American College of Physicians all recommend that women over 50 receive annual mammograms.

Now, here's the problem. Women 65 and over have Medicare as their health insurance. The guidelines tell them—and their doctors are telling them—to get a mammogram once a year. But, Medicare pays for mammograms only once every 2 years. This means that an elderly woman must pay the cost of every other mammogram herself—or go without a mammogram every other year. And, even when Medicare pays for the mammogram, the woman is still responsible for at least 20 percent of the cost.

The result, Mr. President, is that too many women are following Medicare's payment rules—and not getting tested—rather than following the scientific guidelines—and being tested.

Two years ago, a study was published in the New England Journal of Medicine. It found that only 14.4 percent of women without Medicare supplemental insurance—that is, women who do not have, on top of Medicare, private insurance that may cover mammograms on an annual basis—only 14.4 percent of those women received even a mammogram once every 2 years, let alone annually. Even among those women with supplemental insurance, less than half had a mammogram over the course of 2 years. The study concluded that a woman's inability to pay a share of the costs for mammograms "is an obstacle to the effective mass screening of older women for breast cancer." And, I would add, an obstacle to saving thousands of lives.

So, Mr. President, today I am introducing the Medicare Mammography Screening Expansion Act. This bill does two things. First, it would cover mammograms under Medicare once every year, as recommended by the guidelines, instead of once every 2 years, which is now the law. Second, it would eliminate the 20-percent copayment that is currently charged to women when they receive a mammogram, so that women are not discouraged from obtaining this important preventive measure because of the cost. I should note that eliminating the copayment is not unprecedented. Medicare already does not charge copayments for flu shots and most clinical laboratory tests.

Mr. President, we know that mammograms save lives. Yet, current Medicare policy creates barriers that are preventing women from seeking this simple, life-saving procedure. I urge my colleagues to join me in making mammography screenings more available and more affordable for American women.●

By Mr. ALLARD:

S. 541. A bill to provide for an exchange of lands with the city of Greeley, CO, and the Water Supply and Storage Co. to eliminate private inholdings in wilderness areas, and for other purposes; to the Committee on Energy and Natural Resources.

THE ROCKWELL RANCH LAND TRANSFER ACT OF 1997

Mr. ALLARD. Mr. President, today I am introducing legislation that would provide for a land exchange between the city of Greeley, the Water Supply and Storage Co., and the Forest Service. This legislation was introduced last year and was passed by the House of Representatives as part of the Presidio package. It's my hope that we can pass this legislation and have it signed into law before the session ends.

The city of Greeley and Water Supply and Storage operate eight reservoirs in the Arapaho-Roosevelt National Forest. Because of the location of the reservoirs they are operated under Forest Service supervision. This supervision has at times been controversial due to disputes concerning whether being located on Forest Service property allows them to divert water in the national forest for purposes other than the benefit of the owners. The legislation I am introducing would benefit Greeley and Water Supply and Storage by allowing them to protect these significant investments. As an additional benefit this legislation would put an end to a bitter dispute between Greeley and the Forest Service. The national forest would also greatly benefit from this legislation. It would receive 708 acres of inholdings within the forest and the wilderness area. This land has been sought by the Forest Service for some time and this exchange would finally allow them to consolidate valuable resources in Colorado.

I offered this same bill last year when I was in the House of Representatives. Unfortunately, it was caught up in election year politics, specifically, my election. This year I want to put that behind, and work toward passing this legislation as negotiated over the past several years with Greeley, and with Water Supply and Storage, and with the Forest Service.

I believe that as introduced this legislation strikes a balance between protecting the rights of my constituents in Greeley and Thornton and protecting the environment.

As currently drafted, Greeley and Thornton have not only agreed to transfer their inholdings, they have also agreed to continue to participate in negotiations with a variety of governmental organizations and environmental groups to designate habitat for the whooping crane. Furthermore, they have agreed to an improved stream flow in the Poudre River as a condition of the exchange and since many westerners would rather part with blood than water, I think they've gone the extra mile.

This legislation is win/win for all involved. We should put all the politics behind us, pass the legislation, and move on to matters that are less easily resolved.

By Mr. COVERDELL (for himself, Mr. McCONNELL, Mr. ABRAHAM, Mr. SANTORUM, and Mr. ASHCROFT):

S. 544. A bill to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers; to the Committee on the Judiciary.

THE VOLUNTEER PROTECTION ACT OF 1997

Mr. COVERDELL. Mr. President, in just a few weeks, on April 27–29, the Presidents' Summit for America's Future will assemble in Philadelphia, cochaired by President Clinton and President Bush. This is an effort to mobilize millions of citizens and thousands of organizations to ensure a bright future for our youth and make effective citizen service an integral part of the American way of life. A number of leading corporations and service organizations have made specific commitments of resources and volunteers to achieve the summit's goal.

The leaders at the summit will issue a great call to action for Americans, asking them to volunteer their time and efforts in community service. This is in the best tradition of America. The thread of helping your neighbor and taking an active part of civic life runs all through the history of our Nation. It is woven deeply into the fabric of our communities. It is a tie that binds us together as a robust and healthy society.

Yet many who would heed that call to participate in the great tradition of volunteerism will not do so. Not because they lack the desire or the ability to help, but for fear of punitive litigation. In a recent Gallup study one in six volunteers reported withholding their services for fear of being sued. About 1 in 10 nonprofit groups report the resignation of a volunteer over litigation fears.

That is why I am today introducing the Volunteer Protection Act of 1997, a bill to grant immunity from personal civil liability, under certain circumstances, to volunteers working for nonprofit organizations and governmental entities. Senators McCONNELL, ABRAHAM, SANTORUM, and ASHCROFT have joined me as original cosponsors.

This act provides that no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by the volunteer's acts or omissions on behalf of the organization. To enjoy this protection, the volunteer must be acting within the scope of his or her responsibilities in the organization and must not cause harm by willful or criminal misconduct, gross negligence, or reckless misconduct.

In other words, this act provides volunteers liability protection for simple negligence only. It does not provide immunity from suit for misconduct that includes violent crimes, hate crimes, sex crimes, or civil rights violations. It does not apply where the defendant was under the influence of drugs or alcohol.

It is intended to protect volunteers who make a simple, honest mistake. The injured party will still have the recourse of suing the organization itself to be made whole. Nonprofit organizations will continue to have the duty to properly screen, train, and supervise their volunteers. The organization's liability is not affected. But we will free the volunteers from fear of crushing lawsuits for mistakes made while trying to do a good deed.

Federalism concerns arise whenever Congress takes up tort law. Our bill gives States flexibility to impose conditions and make exceptions to the granting of liability protection. It allows States to affirmatively opt out of this law for those cases where both the plaintiff and defendant are citizens of the State.

This bill requires clear and convincing evidence of gross negligence before punitive damages may be awarded against a volunteer, nonprofit organization, or governmental entity because of a volunteer's actions. It also establishes a rule of proportionate liability rather than joint and several liability in suits based on the action of a volunteer.

Mr. President, the Volunteer Protection Act will encourage the spirit of civic involvement and volunteerism that is so crucial to a healthy civil society and stronger communities. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Volunteer Protection Act of 1997".

SEC. 2. FINDINGS AND PURPOSE.

The Congress finds and declares that—

(1) the willingness of volunteers to offer their services is deterred by the potential for liability actions against them and the organizations they serve;

(2) as a result, many nonprofit public and private organizations and governmental entities, including voluntary associations, social service agencies, educational institutions, and other civic programs, have been adversely affected by the withdrawal of volunteers from boards of directors and service in other capacities;

(3) the contribution of these programs to their communities is thereby diminished, resulting in fewer and higher cost programs than would be obtainable if volunteers were participating;

(4) because Federal funds are expended on useful and cost-effective social service programs, many of which are national in scope, depend heavily on volunteer participation, and represent some of the most successful public-private partnerships, protection of volunteerism through clarification and limitation of the personal liability risks assumed by the volunteer in connection with such participation is an appropriate subject for Federal legislation;

(5) services and goods provided by volunteers and nonprofit organizations would often otherwise be provided by private entities that operate in interstate commerce;

(6) due to high liability costs and unwarranted litigation costs, volunteers and nonprofit organizations face higher costs in purchasing insurance, through interstate insurance markets, to cover their activities; and

(7) reform efforts should respect the role of the States in the development of civil justice rules, but recognize the national Government's role.

(b) PURPOSE.—The purpose of this Act is to promote the interests of social service program beneficiaries and taxpayers and to sustain the availability of programs, nonprofit organizations, and governmental entities that depend on volunteer contributions by reforming the laws to provide certain protections from liability abuses related to volunteers serving nonprofit organizations and governmental entities.

SEC. 3. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

(a) PREEMPTION.—This Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability relating to—

(1) volunteers or to any category of volunteers in the performance of services for a nonprofit organization or governmental entity; and

(2) nonprofit organizations or governmental entities.

(b) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This Act shall not apply to any civil action in a State court against a volunteer, nonprofit organization, or governmental entity in which all parties are citizens of the State if such State enacts a statute—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this Act shall not apply to such civil action in the State; and

(3) containing no other provisions.

SEC. 4. LIMITATION ON LIABILITY FOR VOLUNTEERS.

(a) LIABILITY PROTECTION FOR VOLUNTEERS.—Except as provided in subsections (b) and (d), no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if—

(1) the volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

(2) if appropriate or required, the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity; and

(3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer.

(b) CONCERNING RESPONSIBILITY OF VOLUNTEERS TO ORGANIZATIONS AND ENTITIES.—Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(c) NO EFFECT ON LIABILITY OF ORGANIZATION OR ENTITY.—Except as provided under subsection (e), nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(d) EXCEPTIONS TO VOLUNTEER LIABILITY PROTECTION.—If the laws of a State limit volunteer liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit organization or governmental entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the volunteer was operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or vehicle owner to possess an operator's license or to maintain insurance.

(4) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(5) A State law that makes a limitation of liability applicable only if the nonprofit organization or governmental entity provides a financially secure source of recovery for individuals who suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the organization or entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

(e) LIMITATION ON PUNITIVE DAMAGES OF VOLUNTEERS, NONPROFIT ORGANIZATIONS, AND GOVERNMENTAL ENTITIES.—

(1) GENERAL RULE.—Punitive damages may not be awarded against a volunteer, nonprofit organization, or governmental entity in an action brought for harm because of the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) CONSTRUCTION.—Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any State law to the extent that such law would further limit the award of punitive damages.

(f) EXCEPTIONS TO LIMITATIONS ON LIABILITY.—The limitations on the liability of a volunteer, nonprofit organization, or governmental entity under this section shall not apply to any misconduct that—

(1) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(2) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(3) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(4) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(5) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

SEC. 5. LIABILITY FOR NONECONOMIC LOSS.

(a) GENERAL RULE.—In any civil action against a volunteer, nonprofit organization, or governmental entity based on an action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity, the liability of each defendant who is a volunteer, nonprofit organization, or governmental entity for noneconomic loss shall be determined in accordance with subsection (b).

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) HARM.—The term "harm" includes physical, nonphysical, economic, and noneconomic losses.

(3) NONECONOMIC LOSSES.—The term "noneconomic losses" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature.

(4) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means—

(A) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) any not-for-profit organization organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(5) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) VOLUNTEER.—The term "volunteer" means an individual performing services for a nonprofit organization or a governmental entity who does not receive—

(A) compensation (other than reimbursement or allowance for expenses actually incurred); or

(B) any other thing of value in lieu of compensation,

in excess of $500 per year, and such term includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect 90 days after the date of enactment of this Act.

(b) APPLICATION.—This Act applies to any claim for harm caused by an act or omission of a volunteer where that claim is filed on or after the effective date of this Act, without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.

Mr. MCCONNELL. Mr. President, volunteer service has become a high risk venture. Our "sue happy" legal culture has ensnared those selfless individuals who help worthy organizations and institutions through volunteer service. And, these lawsuits are proof that no good deed goes unpunished.

In order to relieve volunteers from this unnecessary and unfair burden of liability, I am pleased to join in the introduction of the Volunteer Protection Act.

The litigation craze is hurting the spirit of voluntarism that is an integral part of American society. From school chaperones to Girl Scout and Boy Scout troop leaders to unpaid rural doctors and nursing home aides, volunteers perform valuable services. And, these volunteers are being dragged into court and needlessly and unfairly sued. The end result? Too many people pointing fingers and too few offering a helping hand.

So, this bill creates immunity from lawsuits for those volunteers who act within the scope of their responsibilities, who are properly licensed or certified where necessary, and who do not act in a willful, criminal or grossly negligent fashion.

The bill recognizes that the States may enact their own form of volunteer protection and provides that State laws may permit the following:

A requirement that the organization or entity adhere to risk management procedures, including the training of volunteers;

A requirement that the organization or entity be accountable for the actions of its volunteers in the same way that an employer is liable for the acts of its employees;

An exemption from the liability protection in the event the volunteer is using a motor vehicle or similar instrument;

An exemption from the liability protection if the lawsuit is brought by a State or local official; and

A requirement that the liability protection applies only if the nonprofit organization or government entity provides a financially secure source of recovery, such as an insurance policy for those who suffer harm.

I look forward to the Senate's prompt consideration of this bill. Our communities are depending upon us to enact this pro-volunteer legislation. The time has come for us to help those who have given so much to all of us.

Mr. ABRAHAM. Mr. President, I am extremely pleased to rise today to join my colleagues, Senator COVERDELL and Senator MCCONNELL, in introducing the Volunteer Protection Act of 1997. I commend Senators COVERDELL and MCCONNELL for their leadership in encouraging and supporting the voluntarism that is so important to communities in Michigan and across this country.

This long overdue legislation will provide volunteers and nonprofit organizations with desperately needed relief from abusive lawsuits brought based on the activities of volunteers. Those are precisely the activities that we should be protecting and encouraging.

Last Congress, I spoke on the floor many times concerning the need for litigation reform and describing the litigation abuses that plague our small businesses, our consumers, our schools, and others. I came to Congress as a freshman Senator intending to press for lawsuit reforms, and I did. I supported the securities litigation reform legislation, which Congress successfully enacted over the President's veto, and I also supported the product liability reform bill, which the President unfortunately killed with his veto. I also introduced legislation with Senator MCCONNELL to provide broader relief in all civil cases, and offered floor amendments that would do the same.

I continue to support broader civil justice reforms and I particularly look forward to considering product liability reform legislation both in the Commerce Committee and on the floor. But I believe that our voluntary, nonprofit organizations urgently need protection from current lawsuit abuses. I encourage my colleagues to consider the problems facing our community groups and their volunteers, and to support this legislation. I hope that in this instance President Clinton will support this litigation reform bill, recognize the value of volunteers and nonprofit groups, and give them the protection they need to keep doing their good deeds.

Nonprofit organizations hold our Nation together. In them we learn to care for our neighbors. They are key to our survival as a nation and we must protect them with systemic reforms.

America has a vast interstate network of 114,000 operating nonprofit organizations, ranging from schools to hospitals to clinics to food programs.

This network's revenues totaled $388 billion in 1990. Meanwhile, revenues for the 19,000 support institutions, which raise money to fund operating organizations came to $29 billion. And total revenues for religious congregations were $48 billion. That's $465 billion worth of nonprofit activity we enjoyed in 1990 alone, Mr. President.

Nonprofit organizations rely heavily on volunteers, and Americans gladly comply. According to a 1993 report from the Independent Sector, a national coalition of 800 organizations, Americans donated 9.7 billion hours of their time to nonprofit organizations that year. This volunteer time produced the equivalent of 5.7 million full time volunteers, worth an estimated $112 billion.

Unfortunately voluntarism is declining nationwide. According to the Independent Sector report, the percentage of Americans volunteering dropped from 54 percent in 1989 to 51 percent in 1991 and 48 percent in 1993. Americans also are giving less money. The average household's charitable donation dropped from $978 in 1989 to $880 in 1993.

The decline of giving and volunteering spells danger for our voluntary organizations, for the people who depend on them, and for the social trust that is based on the spirit of association.

But why is voluntarism on the decline? Obviously there are a number of relevant factors, not least among them the need so many people today feel to work ever-harder and ever-longer to bear our growing tax burden. But one major reason for the decline is America's litigation explosion. Nonprofit organizations are forced to spend an increasing amount of time and resources preparing for, avoiding, and/or fighting lawsuits. Thus litigation has rendered our nonprofit organizations less effective at helping people, and allowed Americans to retreat more into their private lives, and away from the public, social activity that binds us together as a people.

The litigation costs facing voluntary associations are many. John Graham, on behalf of the American Society of Association Executives [ASAE], gave testimony last year arguing that liability insurance premiums for associations have increased an average 155 percent in recent years. Some of our most revered nonprofit institutions have been put at risk by increased liability costs.

Dr. Creightin Hale of Little League Baseball reports that the liability rate for a league increased from $75 to $795 in just 5 years. Many leagues cannot afford this added expense, on top of increasing costs for helmets and other equipment. These leagues operate without insurance or disband altogether, often leaving children with no organized sports in their neighborhood.

What kind of suits add to insurance costs? ASAE reports that one New Jersey umpire was forced by a court to pay a catcher $24,000. Why? Because the catcher was hit in the eye by a softball while playing without a mask. The catcher complained that the umpire should have lent him his.

Organizations that try to escape skyrocketing insurance costs must self-insure, and Andrea Marisi of the Red Cross will describe self-insurance costs only as "huge." The result? Obviously, we have fewer funds available for providing services than would otherwise be the case."

Outside insurance generally comes with significant deductibles. Charles Kolb of the United Way points out that insurance deductibles for his organization fall into the range of $25,000–30,000. When, as has been the case in recent years, the organization is subjected to three or four lawsuits per year, $100,000 or more must be diverted from charitable programs.

And there are even more costs. Mr. Kolb reports that the costs in lost time and money spent on discovery, for example going through files for hours on end to establish who did what when, can run into the thousands of dollars. Further, as the Boy Scouts' William Cople puts it: "We bear increased costs from risk management programs of many kinds—[including] those to prevent accidents. We have higher legal bills as well. But even more of a problem is the need to find pro-bono help to quell possible lawsuits. The Scouts must spend scarce time, and use up scarce human capital in preventing suits. For example, 5 years ago the General Counsel's office, a pro-bono operation, committed less than 100 hours per year on issues relating to lawsuits. Last year we devoted about 750 hours to that duty." The Boy Scouts must do less good so that they can defend themselves from lawsuits.

Frivolous lawsuits also increase costs by discouraging voluntarism. Dottie Lewis of the Southwest Officials Association, which provides officials for scholastic games, observes, "Some of our people got to the point where they were just afraid to work because of the threat of lawsuits." What makes this fear worse is the knowledge that one need do no harm in order to be liable.

Take for example Powell versus Boy Scouts of America. While on an outing with the Sea Explorers, a scouting unit in the Boy Scouts' Cascade Pacific Council, a youth suffered a tragic, paralyzing injury in a rough game of touch football. Several adults had volunteered to supervise the outing, but none observed the game. The youth filed a personal injury lawsuit against two of the adult volunteers. The jury found the volunteers liable for some $7 million, which Oregon law reduced to about $4 million—far more than the volunteers could possibly pay.

What is more, as Cople points out, "the jury seemingly held the volunteers to a standard of care requiring them constantly to supervise the youth entrusted to their charge, even for activities which under other circumstances may routinely be permitted without such meticulous oversight."

One child's tragedy led a jury to impose an unreasonable standard of care on individuals who, after all, had volunteered their time and effort for an outing, not a football game.

No one can provide the meticulous oversight demanded by the jury. Thus volunteers are left at the mercy of events, and juries, beyond their control.

Such unreasonable standards of care also penalize our nonprofit organizations. Len Krugel of the Michigan Salvation Army reports that regulations and onerous legal standards often keep his organization from giving troubled youths a second chance. Because the organization is held responsible for essentially all actions by its employees and volunteers, it can take no risks in hiring. Thus the Salvation Army can neither hire nor accept voluntary services from any individual with any drug conviction, including a 0.3 reading on a breathalyzer test for alcohol consumption. As Mr. Krugel observes, "If we can't give these kids a second chance, who can?"

Then there is the problem of joint and several liability, in which one defendant is made to pay for all damages even though responsible for only a small portion. Such findings are a severe burden on the United Way, a national organization that sponsors numerous local nonprofit groups. Although it cannot control local operations, the United Way often finds itself a defendant in suits arising from injuries caused by the local entity.

Such holdings result from juries' desire to find someone with the funds necessary to pay for an innocent party's injuries. But this search for the deep pocket leads to what Ms. Marisi calls a "chilling effect" on Red Cross relations with other nonprofits. The Red Cross is now less willing to cooperate with smaller, more innovative local agencies that might make it more effective.

Thus nonprofits forbear from doing good because they cannot afford the insurance, they cannot afford the loss of volunteers, they cannot afford the risk of frivolous lawsuits.

The Volunteer Protection Act will address the danger to our nonprofit sector, Mr. President. It will not solve all the problems facing our volunteers and nonprofits, but it will provide voluntary organizations with critical protection against improper litigation, at the same time that it recognizes the ability of the States to take additional or even alternative protections in some cases. By setting the standard for the protection of volunteers outright, this bill provides much-needed lawsuit relief immediately to volunteers and nonprofits wherever they may be. Let me briefly describe what this bill does.

The bill protects volunteers from liability unless they cause harm through action that constitutes reckless misconduct, gross negligence, willful or criminal misconduct, or is in conscious, flagrant disregard for the rights and safety of the individual harmed. This ensures that where volunteers truly exceed the bounds of appropriate conduct they will be liable. But in the many ridiculous cases I have discussed—where no real wrongdoing occurred—the volunteer will not be forced to face and defend a lawsuit.

In lawsuits based on the actions of a volunteer, the bill limits the punitive damages that can be awarded. It is unfortunate that charities and volunteers have punitive damages awarded against them in the first place, but they do—Congressman JOHN PORTER reports that in August 1990 a Chicago jury awarded $12 million to a boy who was injured in a car crash. The "negligent" party? The estate of the volunteer who gave his life attempting to save the boy.

Under this bill, punitive damages in cases involving the actions of a volunteer could be awarded against a volunteer, nonprofit organization, or government entity only upon a showing by the claimant that the volunteer's action represented willful or criminal misconduct, or showed a conscious, flagrant disregard for the rights and safety of the individual harmed.

This should ensure that punitive damages, which are intended only to punish a defendant and are not intended to compensate an injured person, will only be available in situations where punishment really is called for because of the egregious conduct of the defendant.

The bill also protects volunteers from excessive liability that they might face through joint and several liability. Under the doctrine of joint and several liability, a plaintiff can obtain full damages from a defendant who is only slightly at fault. I have spoken many times before about the unfairness that may result from the application of this legal doctrine. The injustice that results to volunteers and nonprofits is often even more acute, because they lack the resources to bear unfair judgments.

This bill strikes a balance by providing that, in cases based on the actions of a volunteer, any defendant that is a volunteer, nonprofit organization, or government entity will be jointly and severally responsible for the full share of economic damages but will only be responsible for noneconomic damages in proportion to the harm that that defendant caused. That is a fair approach.

Finally, I would like to speak for a moment about how this legislation preserves important principles of federalism and respects the role of the States. First, the bill does not preempt State legislation that provides greater protections to volunteers. In this way, it sets up outer protections from which all volunteers will benefit and permits States to do more. Second, the bill includes an opt-out provision that permits States, in cases involving only parties from that State, to affirmatively elect to opt out of the protections provided in the Volunteer Protection Act. A State can do so by enacting a statute specifically providing for that. I suspect that no States will elect to do so, but I feel that, as a matter of principle, it is important to include that provision.

In short, these reforms can help create a system in which plaintiffs sue only when they have good reason—and only those who are responsible for their damages—and in which only those who are responsible must pay. Such reforms will create an atmosphere in which our fear of one another will be lessened, and our ability to join associations in which we learn to care for one another will be significantly greater.

And that, Mr. President, will make for a better America.

I urge my colleagues on both sides of the aisle to support this important piece of legislation.

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. ASHCROFT, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Tennessee [Mr. FRIST], and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 6

At the request of Mr. SANTORUM, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 6, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 61

At the request of Mr. LOTT, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from North Dakota [Mr. CONRAD], the Senator from Maryland [Ms. MIKULSKI], the Senator from Maine [Ms. COLLINS], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 71

At the request of Mr. DASCHLE, the names of the Senator from Illinois [Mr. DURBIN] and the Senator from Louisiana [Ms. LANDRIEU] were added as cosponsors of S. 71, a bill to amend the Fair Labor Standards Act of 1938 and the Civil Rights Act of 1964 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 224

At the request of Mr. WARNER, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 224, a bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employees Health Benefits Program, and for other purposes.

S. 253

At the request of Mr. LUGAR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 253, a bill to establish the negotiating objectives and fast track procedures for future trade agreements.

S. 314

At the request of Mr. THOMAS, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 314, a bill to require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes.

S. 364

At the request of Mr. LIEBERMAN, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 364, a bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices.

S. 371

At the request of Mr. GRASSLEY, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 371, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 389

At the request of Mr. ABRAHAM, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 394

At the request of Mr. HATCH, the names of the Senator from Washington [Mr. GORTON], the Senator from Texas [Mr. GRAMM], the Senator from Hawaii [Mr. INOUYE], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 394, a bill to partially restore compensation levels to their past equivalent in terms of real income and establish the procedure for adjusting future compensation of justices and judges of the United States.

S. 404

At the request of Mr. BOND, the names of the Senator from Michigan [Mr. ABRAHAM], and the Senator from Arkansas [Mr. HUTCHINSON] were added as cosponsors of S. 404, a bill to modify the budget process to provide for separate budget treatment of the dedicated tax revenues deposited in the Highway Trust Fund.

S. 415

At the request of Mr. BAUCUS, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 415, a bill to amend the Medicare Program under title XVIII of the Social Security Act to improve rural health services, and for other purposes.

S. 428

At the request of Mr. KOHL, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 428, a bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns.

S. 436

At the request of Mr. ROTH, the names of the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 436, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of an intercity passenger rail trust fund, and for other purposes.

S. 479

At the request of Mr. GRASSLEY, the names of the Senator from Kansas [Mr. ROBERTS], the Senator from Kentucky [Mr. FORD], the Senator from Wyoming [Mr. THOMAS], and the Senator from Ohio [Mr. DEWINE] were added as cosponsors of S. 479, a bill to amend the Internal Revenue Code of 1986 to provide estate tax relief, and for other purposes.

S. 493

At the request of Mr. KYL, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 493, a bill to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia.

S. 494

At the request of Mr. KYL, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 494, a bill to combat the overutilization of prison health care services and control rising prisoner health care costs.

S. 495

At the request of Mr. KYL, the names of the Senator from Colorado [Mr. ALLARD], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Oklahoma [Mr. INHOFE], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 495, a bill to provide criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical weapon or biological weapon, and to reduce the threat of acts of terrorism or armed aggression involving the use of any such weapon against the United States, its citizens, or Armed Forces, or those of any allied country, and for other purposes.

S. 496

At the request of Mr. CHAFEE, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 496, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

SENATE JOINT RESOLUTION 24

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of Senate Joint Resolution 24, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

SENATE CONCURRENT RESOLUTION 7

At the request of Mr. SARBANES, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Arkansas [Mr. BUMPERS], the Senator from New York [Mr. D'AMATO], the Senator from Kentucky [Mr. FORD], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of Senate Concurrent Resolution 7, a concurrent resolution expressing the sense of Congress that Federal retirement cost-of-living adjustments should not be delayed.

SENATE CONCURRENT RESOLUTION 13

At the request of Mr. SESSIONS, the names of the Senator from Wyoming [Mr. ENZI], the Senator from Indiana [Mr. COATS], and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of Senate Concurrent Resolution 13, a concurrent resolution expressing the sense of Congress regarding the display of the Ten Commandments by Judge Roy S. Moore, a judge on the circuit court of the State of Alabama.

SENATE CONCURRENT RESOLUTION 19—RELATIVE TO PROPERTY CLAIMS

Mr. D'AMATO (for himself, Mr. CAMPBELL, Mr. KEMPTHORNE, Mr. ABRAHAM, Mr. LAUTENBERG, Mr. GRAHAM, Mr. REID, and Mr. FEINGOLD) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 19

Whereas Fascist and Communist dictatorships have caused immeasurable human suffering and loss, degrading not only every conceivable human right, but the human spirit itself;

Whereas the villainy of communism was dedicated, in particular, to the organized and systematic destruction of private property ownership;

Whereas the wrongful and illegal confiscation of property perpetrated by Fascist and Communist regimes was often specifically designed to victimize people because of their religion, national or social origin, or expressed opposition to the regimes which repressed them;

Whereas Fascists and Communists often obtained possession of properties confiscated from the victims of the systems they actively supported;

Whereas Jewish individuals and communities were often twice victimized, first by the Nazis and their collaborators and then by the subsequent Communist regimes;

Whereas churches, synagogues, mosques, and other religious properties were also destroyed or confiscated as a means of breaking the spiritual devotion and allegiance of religious adherents;

Whereas Fascists, Nazis, and Communists have used foreign financial institutions to launder and hold wrongfully and illegally confiscated property and convert it to their own personal use;

Whereas some foreign financial institutions violated their fiduciary duty to their customers by converting to their own use financial assets belonging to Holocaust victims while denying heirs access to these assets;

Whereas refugees from communism, in addition to being wrongly stripped of their private property, were often forced to relinquish their citizenship in order to protect themselves and their families from reprisals by the Communists who ruled their countries;

Whereas the participating states of the Organization for Security and Cooperation in Europe have agreed to give full recognition and protection to all types of property, including private property, as well as the right to prompt, just, and effective compensation in the event private property is taken for public use;

Whereas the countries of Central and Eastern Europe, as well as the Caucasus and Central Asia, have entered a post-Communist period of transition and democratic development, and many countries have begun the difficult and wrenching process of trying to right the past wrongs of previous totalitarian regimes;

Whereas restrictions which require those whose properties have been wrongly plundered by Nazi or Communist regimes to reside in or have the citizenship of the country from which they now seek restitution or compensation are arbitrary and discriminatory in violation of international law; and

Whereas the rule of law and democratic norms require that the activity of governments and their administrative agencies be exercised in accordance with the laws passed by their parliaments or legislatures and such laws themselves must be consistent with international human rights standards: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) welcomes the efforts of many post-Communist countries to address the complex and difficult question of the status of plundered properties;

(2) urges countries which have not already done so to return plundered properties to their rightful owners or, as an alternative,

pay compensation, in accordance with principles of justice and in a manner that is just, transparent, and fair;

(3) calls for the urgent return of property formerly belonging to Jewish communities as a means of redressing the particularly compelling problems of aging and destitute survivors of the Holocaust;

(4) calls on the Czech Republic, Latvia, Lithuania, Romania, Slovakia and any other country with restrictions which require those whose properties have been wrongly plundered by Nazi or Communist regimes to reside in or have the citizenship of the country from which they now seek restitution or compensation to remove such restrictions from their restitution or compensation laws;

(5) calls upon foreign financial institutions, and the states having legal authority over their operation, that possess wrongfully and illegally property confiscated from Holocaust victims, from residents of former Warsaw Pact states who were forbidden by Communist law from obtaining restitution of such property, and from states that were occupied by Nazi, Fascist, or Communist forces, to assist and to cooperate fully with efforts to restore this property to its rightful owners; and

(6) urges post-Communist countries to pass and effectively implement laws that provide for restitution of, or compensation for, plundered property.

Mr. D'AMATO. Mr. President, at the close of last Congress, I submitted a concurrent resolution addressing property claims issues in Central and Eastern Europe. Representative CHRISTOPHER H. SMITH, the cochairman of the Commission, submitted an identical resolution in the House. Today, we are resubmitting this measure, and are joined by all the members of the Helsinki Commission as original cosponsors.

Mr. President, I wish I could report to you that there has been improvement in this area since our concurrent resolution was submitted last September. Regrettably, there has not. Let me give you just two examples of the kinds of cases that moved me to submit this concurrent resolution.

In 1991, Latvia passed a restitution law after regaining its independence from the Soviet empire. This law raised the hope that those forced from their homes by the 1940 Soviet invasion, and kept out by a 50-year occupation, would finally be able to return. And this is what Eso Anton Benjamins thought, too, when in 1995 a Latvian municipal court ordered that the current occupants of the Benjamins' family home vacate the property.

Unfortunately, the current occupant is none other than the Russian Ambassador to Latvia. The Russian Government has refused to move its representative from the private property of Mr. Benjamins, notwithstanding the Latvian court's legal order to do so, and the Latvian authorities have not evicted them.

In the Czech Republic, things are not much better. Under laws adopted after the Velvet Revolution, Susan Benda is theoretically eligible for the restitution of her family property, which had been confiscated by the Nazis but which her family had been unable to reclaim at the end of World War II. Notwithstanding this eligibility under the law and the Czech Government's purported intention to restore Jewish properties that had been seized by the Nazis, the Czech Ministry of Finance has arbitrarily imposed onerous and burdensome conditions for restitution which appear to be designed to defeat the intent of the law.

So while Czech officials may tell us they have properly addressed this issue, those seeking the return of wrongfully confiscated property in Prague find that an entirely different reality awaits them.

I am also deeply troubled by recent reports that some $50 million may have been embezzled from the funds received by Ukraine from Germany for the victims of Nazi prosecution. It is imperative that the Ukrainian Government make an investigation into this matter an urgent priority. Not only must this money be found and returned to the rightful recipients, but immediate measures should be taken to ensure that this cannot happen again.

Americans who came to this country to escape persecution are discovering that, in many Central and East European countries, they are once again being penalized, this time by discriminatory laws that restrict restitution or compensation to those who currently hold the citizenship of or residency in the country in question. This is the case in the Czech Republic, Latvia, Lithuania, Romania, and Slovakia.

Mr. President, this status quo cannot continue. I know it is not possible to turn back the clock completely or erase the wrongs that have been done. I commend the many emerging democracies attempting to address this complex issue, acting on both a moral obligation to redress past wrongs and a desire to underscore the differences between their new and old systems of government. But more can and should be done—and this resolution calls for concrete steps. It deserves our support, and the victims of past wrongs in this region deserve our help.

I urge my colleagues to join with me and the other cosponsors of this concurrent resolution in pressing for a fair, just, and timely property restitution and compensation process so that the victims of the Holocaust and subsequent Communist oppression are not denied what is rightfully theirs.

SENATE RESOLUTION 69—RELATIVE TO CAMBODIA

Mr. McCAIN (for himself, Mr. KERRY, Mr. HELMS, Mr. KERREY, Mr. ROBB, Mr. ROTH, and Mr. THOMAS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 69

Whereas Cambodia continues to recover from more than three decades of recent warfare, including the genocide committed by the Khmer Rouge from 1975 to 1979;

Whereas Cambodia was the beneficiary of a massive international effort to ensure peace, democracy, and prosperity after the October 1991 Paris Agreements on a Comprehensive Political Settlement of the Cambodia Conflict;

Whereas more than 93 percent of the Cambodians eligible to vote in the 1993 elections in Cambodia did so, thereby demonstrating the commitment of the Cambodian people to democracy;

Whereas since those elections, Cambodia has made significant economic progress which has contributed to economic stability in Cambodia;

Whereas since those elections, the Cambodia Armed Forces have significantly diminished the threat posed by the Khmer Rouge to safety and stability in Cambodia;

Whereas other circumstances in Cambodia, including the recent unsolved murders of journalists and political party activists, the recent unsolved attack on party officials of the Buddhist Liberal Democratic Party in 1995, and the quality of the judicial system—described in a 1996 United Nations report as "thoroughly corrupt"—raise international concern for the state of democracy in Cambodia;

Whereas Sam Rainsy, the leader of the Khmer Nation Party, was the target of a terrorist grenade attack on March 30, 1997, during a demonstration outside the Cambodia National Assembly;

Whereas the attack killed 19 Cambodians and wounded more than 100 men, women, and children; and

Whereas among those injured was Ron Abney, a United States citizen and employee of the International Republican Institute who was assisting in the advancement of democracy in Cambodia and observing the demonstration: Now, therefore, be it

Resolved, That the Senate—

(1) extends its sincerest sympathies to the families of the persons killed, and the persons wounded, in the March 30, 1997, terrorist grenade attack outside the Cambodia National Assembly;

(2) condemns the attack as an act of terrorism detrimental to peace and the development of democracy in Cambodia;

(3) calls upon the United States Government to offer to the Cambodia Government all appropriate assistance in identifying and prosecuting those responsible for the attack; and

(4) calls upon the Cambodia Government to accept such assistance and to expeditiously identify and prosecute those responsible for the attack.

Mr. McCAIN. Mr. President, on March 30, 1997, there was a political rally outside the Cambodian National Assembly in the capital city of Phnom Penh. One of the participants in this rally was Sam Raimsy, a prominent opposition figure and leader of the Khmer Nation Party.

In the course of the demonstration, someone lobbed grenades into the crowd. Nineteen people were killed, including one of Sam Raimsy's bodyguards. More than a 100 others were injured, one of which was an American citizen, Mr. Ron Abney. Ron works for the International Republican Institute, of which I am proud to be chairman. For years, Ron has worked with all political parties to promote free and democratic institutions in Cambodia. We all hope for his prompt and complete recovery from his injuries.

Mr. President, this was a particularly cowardly and brutal act of political terrorism. Among the killed and injured were many women and children. In addition, the real target of this attack was Cambodia's efforts to build a peaceful and democratic future on the ruins of the devastation wrought by decades of war and tyranny.

Immediately after the attack, I wrote to Cambodia's two Co-Prime Ministers, Norodom Ranariddh and Hun Sen, expressing my outrage and demanding that the perpetrators of this attack be brought to justice. I have received a response from Prince Ranariddh, in which he calls the March 30 atrocity a “most heinous and savage criminal act committed on innocent and peace-loving people.” He also said that he had ordered “immediate measures to be taken to arrest, try and sentence the criminal(s) and all those involved.”

I believe, however, that it is also important for the Senate to make clear its outrage at this attack. The resolution that I have just introduced extends the Senate's sympathy to the victims of the grenade attack, condemns the bombing itself as an act of terrorism, and calls upon the governments of Cambodia and the United States to cooperate in identifying and prosecuting those individuals responsible for the attack.

I urge my colleagues to support this resolution.

AMENDMENTS SUBMITTED

THE NUCLEAR WASTE POLICY ACT OF 1997

MURKOWSKI AMENDMENT NO. 26

Mr. MURKOWSKI proposed an amendment to the bill (S. 104) to amend the Nuclear Waste Policy Act of 1982; as follows:

Beginning on page 1, strike all after the enacting clause and insert the following:

That the Nuclear Waste Policy Act of 1982 is amended to read as follows:

“SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

“(a) SHORT TITLE.—This Act may be cited as the ‘Nuclear Waste Policy Act of 1997’.

“(b) TABLE OF CONTENTS.—

“Sec. 1. Short title and table of contents.
“Sec. 2. Definitions.

“TITLE I—OBLIGATIONS

“Sec. 101. Obligations of the Secretary of Energy.

“TITLE II—INTEGRATED MANAGEMENT SYSTEM

“Sec. 201. Intermodal transfer.
“Sec. 202. Transportation planning.
“Sec. 203. Transportation requirements.
“Sec. 204. Viability assessment and Presidential determination.
“Sec. 205. Interim storage facility.
“Sec. 206. Permanent repository.
“Sec. 207. Compliance with the National Environment Policy Act.
“Sec. 208. Land withdrawal.

“TITLE III—LOCAL RELATIONS

“Sec. 301. Financial assistance.
“Sec. 302. On-site representative.
“Sec. 303. Acceptance of benefits.
“Sec. 304. Restrictions on use of funds.
“Sec. 305. Land conveyances.

“TITLE IV—FUNDING AND ORGANIZATION

“Sec. 401. Program funding.
“Sec. 402. Office of Civilian Radioactive Waste Management.
“Sec. 403. Federal contribution.

“TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

“Sec. 501. Compliance with other laws.
“Sec. 502. Judicial review of agency actions.
“Sec. 503. Licensing of facility expansions and transshipments.
“Sec. 504. Siting a second repository.
“Sec. 505. Financial arrangements for low-level radioactive waste site closure.
“Sec. 506. Nuclear Regulatory Commission training authority.
“Sec. 507. Emplacement schedule.
“Sec. 508. Transfer of title.
“Sec. 509. Decommissioning pilot program.
“Sec. 510. Water rights.

“TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

“Sec. 601. Definitions.
“Sec. 602. Nuclear Waste Technical Review Board.
“Sec. 603. Functions.
“Sec. 604. Investigatory powers.
“Sec. 605. Compensation of members.
“Sec. 606. Staff.
“Sec. 607. Support services.
“Sec. 608. Report.
“Sec. 609. Authorization of appropriations.
“Sec. 610. Termination of the board.

“TITLE VII—MANAGEMENT REFORM

“Sec. 701. Managing reform initiatives.
“Sec. 702. Reporting.

“TITLE VIII—MISCELLANEOUS

“Sec. 801. Sense of the Senate.
“Sec. 802. Effective date.

“SEC. 2. DEFINITIONS.

“For purposes of this Act:

“(1) ACCEPT, ACCEPTANCE.—The terms ‘accept’ and ‘acceptance’ mean the Secretary's act of taking possession of spent nuclear fuel or high-level radioactive waste.

“(2) AFFECTED INDIAN TRIBE.—The term ‘affected Indian tribe’ means any Indian tribe—

“(A) whose reservation is surrounded by or borders an affected unit of local government, or

“(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of an interim storage facility or a repository if the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe.

“(3) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term ‘affected unit of local government’ means the unit of local government with jurisdiction over the site of a repository or interim storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

“(4) ATOMIC ENERGY DEFENSE ACTIVITY.—The term ‘atomic energy defense activity’ means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

“(A) Naval reactors development.

“(B) Weapons activities including defense inertial confinement fusion.

“(C) Verification and control technology.

“(D) Defense nuclear materials production.

“(E) Defense nuclear waste and materials byproducts management.

“(F) Defense nuclear materials security and safeguards and security investigations.

“(G) Defense research and development.

“(5) CIVILIAN NUCLEAR POWER REACTOR.—The term ‘civilian nuclear power reactor’ means a civilian nuclear power plant required to be licensed under section 103 or 104b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

“(6) COMMISSION.—The term ‘Commission’ means the Nuclear Regulatory Commission.

“(7) CONTRACTS.—The term ‘contracts’ means the contracts, executed prior to the date of enactment of the Nuclear Waste Policy Act of 1997, under section 302(a) of the Nuclear Waste Policy Act of 1982, by the Secretary and any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for acceptance of such waste or fuel by the Secretary and the payment of fees to offset the Secretary's expenditures, and any subsequent contracts executed by the Secretary pursuant to section 401(a) of this Act.

“(8) CONTRACT HOLDERS.—The term ‘contract holders’ means parties (other than the Secretary) to contracts.

“(9) DEPARTMENT.—The term ‘Department’ means the Department of Energy.

“(10) DISPOSAL.—The term ‘disposal’ means the emplacement in a repository of spent nuclear fuel, high-level radioactive waste, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such material for any future purpose.

“(11) DISPOSAL SYSTEM.—The term ‘disposal system’ means all natural barriers and engineered barriers, and engineered systems and components, that prevent the release of radionuclides from the repository.

“(12) EMPLACEMENT SCHEDULE.—The term ‘emplacement schedule’ means the schedule established by the Secretary in accordance with section 507(a) for emplacement of spent nuclear fuel and high-level radioactive waste at the interim storage facility.

“(13) ENGINEERED BARRIERS AND ENGINEERED SYSTEMS AND COMPONENTS.—The terms ‘engineered barriers’ and ‘engineered systems and components,’ mean man-made components of a disposal system. These terms include the spent nuclear fuel or high-level radioactive waste form, spent nuclear fuel package or high-level radioactive waste package, and other materials placed over and around such packages.

“(14) HIGH-LEVEL RADIOACTIVE WASTE.—The term ‘high-level radioactive waste’ means—

“(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

“(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation, which includes any low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

"(15) FEDERAL AGENCY.—The term 'Federal agency' means any Executive agency, as defined in section 105 of title 5, United States Code.

"(16) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

"(17) INTEGRATED MANAGEMENT SYSTEM.—The term 'integrated management system' means the system developed by the Secretary for the acceptance, transportation, storage, and disposal of spent nuclear fuel and high-level radioactive waste under title II of this Act.

"(18) INTERIM STORAGE FACILITY.—The term 'interim storage facility' means a facility designed and constructed for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel and high-level radioactive waste in accordance with title II of this Act.

"(19) INTERIM STORAGE FACILITY SITE.—The term 'interim storage facility site' means the specific site within Area 25 of Nevada Test Site that is designated by the Secretary and withdrawn and reserved in accordance with this Act for the location of the interim storage facility.

"(20) LOW-LEVEL RADIOACTIVE WASTE.—The term 'low-level radioactive waste' means radioactive material that—

"(A) is not spent nuclear fuel, high-level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

"(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

"(21) METRIC TONS URANIUM.—The terms 'metric tons uranium' and 'MTU' means the amount of uranium in the original unirradiated fuel element whether or not the spent nuclear fuel has been reprocessed.

"(22) NUCLEAR WASTE FUND.—The terms 'Nuclear Waste Fund' and 'waste fund' mean the nuclear waste fund established in the United States Treasury prior to the date of enactment of this Act under section 302(c) of the Nuclear Waste Policy Act of 1982.

"(23) OFFICE.—The term 'Office' means the Office of Civilian Radioactive Waste Management established within the Department prior to the date of enactment of this Act under the provisions of the Nuclear Waste Policy Act of 1982.

"(24) PROGRAM APPROACH.—The term 'program approach' means the Civilian Radioactive Waste Management Program Plan, dated May 6, 1996, as modified by this Act, and as amended from time to time by the Secretary in accordance with this Act.

"(25) REPOSITORY.—The term 'repository' means a system designed and constructed under title II of this Act for the geologic disposal of spent nuclear fuel and high-level radioactive waste, including both surface and subsurface areas at which spent nuclear fuel and high-level radioactive waste receipt, handling, possession, safeguarding, and storage are conducted.

"(26) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

"(27) SITE CHARACTERIZATION.—The term 'site characterization' means activities, whether in a laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations of exploratory facilities, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the licensability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

"(28) SPENT NUCLEAR FUEL.—The term 'spent nuclear fuel' means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

"(29) STORAGE.—The term 'storage' means retention of spent nuclear fuel or high-level radioactive waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

"(30) WITHDRAWAL.—The term 'withdrawal' has the same definition as that set forth in section 103(j) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(j)).

"(31) YUCCA MOUNTAIN SITE.—The term 'Yucca Mountain site' means the area in the State of Nevada that is withdrawn and reserved in accordance with this Act for the location of a repository.

"(32) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(33) SUITABLE.—The term 'suitable' means that there is reasonable assurance that the site features of a repository and the engineered barriers contained therein will allow the repository, as an overall system, to provide containment and isolation of radionuclides sufficient to meet applicable standards for protection of public health and safety.

"TITLE I—OBLIGATIONS

"SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.

"(a) DISPOSAL.—The Secretary shall develop and operate an integrated management system for the storage and permanent disposal of spent nuclear fuel and high-level radioactive waste.

"(b) INTERIM STORAGE.—The Secretary shall store spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders at an interim storage facility pursuant to section 205 in accordance with the emplacement schedule, beginning no later than 18 months after issuance of a license for an interim storage facility under section 205(g).

"(c) TRANSPORTATION.—The Secretary shall provide for the transportation of spent nuclear fuel and high-level radioactive waste accepted by the Secretary. The Secretary shall procure all systems and components necessary to transport spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders to and among facilities comprising the Integrated Management System. Consistent with the Buy American Act (41 U.S.C. 10a–10c), unless the Secretary shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, all such systems and components procured by the Secretary shall be manufactured in the United States, with the exception of any transportable storage systems purchased by contract holders prior to the effective date of the Nuclear Waste Policy Act of 1997 and procured by the Secretary from such contract holders for use in the integrated management system.

"(d) INTEGRATED MANAGEMENT SYSTEM.—The Secretary shall expeditiously pursue the development of each component of the integrated management system, and in so doing shall seek to utilize effective private sector management and contracting practices.

"(e) PRIVATE SECTOR PARTICIPATION.—In administering the Integrated Management System, the Secretary shall, to the maximum extent possible, utilize, employ, procure and contract with, the private sector to fulfill the Secretary's obligations and requirements under this Act.

"(f) PRE-EXISTING RIGHTS.—Nothing in this Act is intended to or shall be construed to modify—

"(1) any right of a contract holder under section 302(a) of the Nuclear Waste Policy Act of 1982, or under a contract executed prior to the date of enactment of this Act under that section; or

"(2) obligations imposed upon the federal government by the U.S. District Court of Idaho in an order entered on October 17, 1995 in *United States* v. *Batt* (No. 91-0054-S-EJL).

"(g) LIABILITY.—Subject to subsection (f), nothing in this Act shall be construed to subject the United States to financial liability for the Secretary's failure to meet any deadline for the acceptance or emplacement of spent nuclear fuel or high-level radioactive waste for storage or disposal under this Act.

"TITLE II—INTEGRATED MANAGEMENT SYSTEM

"SEC. 201. INTERMODAL TRANSFER.

"(a) ACCESS.—The Secretary shall utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from the mainline rail line at Caliente, Nevada, to the interim storage facility site.

"(b) CAPABILITY DATE.—The Secretary shall develop the capability to commence rail to truck intermodal transfer at Caliente, Nevada, no later than 18 months after issuance of a license under section 205(g) for an interim storage facility designated under section 204(c)(1). Intermodal transfer and related activities are incidental to the interstate transportation of spent nuclear fuel and high-level radioactive waste.

"(c) ACQUISITIONS.—The Secretary shall acquire lands and rights-of-way necessary to commence intermodal transfer at Caliente, Nevada.

"(d) REPLACEMENTS.—The Secretary shall acquire and develop on behalf of, and dedicate to, the City of Caliente, Nevada, parcels of land and right-of-way within Lincoln County, Nevada, as required to facilitate replacement of land and city wastewater disposal facilities necessary to commence intermodal transfer pursuant to this Act. Replacement of land and city wastewater disposal activities shall occur no later than 2 years after the effective date of this section.

"(e) NOTICE AND MAP.—No later than 6 months after the effective date of this section, the Secretary shall—

"(1) publish in the Federal Register a notice containing a legal description of the sites and rights-of-way to be acquired under this subsection; and

"(2) file copies of a map of such sites and rights-of-way with the Congress, the Secretary of the Interior, the State of Nevada, the Archivist of the United States, the Board of Lincoln County Commissioners, the Board of Nye County Commissioners, and the Caliente City Council.

Such map and legal description shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors and legal descriptions and make minor adjustments in the boundaries.

"(f) Improvements.—The Secretary shall make improvements to existing roadways selected for heavy-haul truck transport between Caliente, Nevada, and the interim storage facility site as necessary to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste.

"(g) Local Government Involvement.—The Commission shall enter into a Memorandum of Understanding with the City of Caliente and Lincoln County, Nevada, to provide advice to the Commission regarding intermodal transfer and to facilitate on-site representation. Reasonable expenses of such representation shall be paid by the Secretary.

"(h) Benefits Agreement.—

"(1) In general.—The Secretary shall offer to enter into an agreement with the City of Caliente and Lincoln County, Nevada concerning the integrated management system.

"(2) Agreement content.—Any agreement shall contain such terms and conditions, including such financial and institutional arrangements, as the Secretary and agreement entity determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of the City of Caliente and Lincoln County, Nevada.

"(3) Amendment.—An agreement entered into under this subsection may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with paragraph (4).

"(4) , Termination.—The Secretary shall terminate the agreement under this subsection if any major element of the integrated management system may not be completed.

"(5) Limitation.—Only 1 agreement may be in effect at any one time.

"(6) Judicial review.—Decisions of the Secretary under this section are not subject to judicial review.

"(i) Content of Agreement.

"(1) Schedule.—In addition to the benefits to which the City of Caliente and Lincoln County is entitled to under this title, the Secretary shall make payments under the benefits agreement in accordance with the following schedule:

BENEFITS SCHEDULE

[amounts in millions]

Event	Payment
(A) Annual payments prior to first receipt of spent fuel	$2.5
(B) Annual payments beginning upon first spent fuel receipt	5
(C) Payment upon closure of the intermodal transfer facility	5

"(2) Definitions.—For purposes of this section, the term—

"(A) 'spent fuel' means high-level radioactive waste or spent nuclear fuel; and

"(B) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

"(3) Annual payments.—Annual payments prior to first spent fuel receipt under paragraph (1)(A) shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under paragraph (1)(C) shall be made on the anniversary date of such first spent fuel receipt.

"(4) Reduction.—If the first spent fuel payment under paragraph (1)(B) is made within 6 months after the last annual payment prior to the receipt of spent fuel under paragraph (1)(A), such first spent fuel payment under paragraph (1)(B) shall be reduced by an amount equal to$\frac{1}{12}$ of such annual payment under paragraph (1)(A) for each full month less than 6 that has not elapsed since the last annual payment under paragraph (1)(A).

"(5) Restrictions.—The Secretary may not restrict the purposes for which the payments under this section may be used.

"(6) Dispute.—In the event of a dispute concerning such agreement, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

"(7) Construction.—The signature of the Secretary on a valid benefits agreement under this section shall constitute a commitment by the United States to make payments in accordance with such agreement under section 401(c)(2).

"(j) Initial Land Conveyances.

"(1) Conveyances of public lands.—One hundred and twenty days after enactment of this Act, all right, title and interest of the United States in the property described in paragraph (2), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Lincoln, Nevada, unless the county notifies the Secretary of Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Lincoln under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Lincoln County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

"(2) Special conveyances.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, shall be conveyed under paragraph (1) to the County of Lincoln, Nevada:

Map 10: Lincoln County, Parcel M, Industrial Park Site

Map 11: Lincoln County, Parcel F, Mixed Use Industrial Site

Map 13: Lincoln County, Parcel J, Mixed Use, Alamo Community Expansion Area

Map 14: Lincoln County, Parcel E, Mixed Use, Pioche Community Expansion Area

Map 15: Lincoln County, Parcel B, Landfill Expansion Site.

"(3) Construction.—The maps and legal descriptions of special conveyances referred to in paragraph (2) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

"(4) Evidence of title transfer.—Upon the request of the County of Lincoln, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

"(k) This section shall become effective on the date on which the Secretary submits a license application under section 205 for an interim storage facility at a site designated under section 204(c)(1).

"SEC. 202. TRANSPORTATION PLANNING.

"(a) Transportation Readiness.—The Secretary—

"(1) shall take such actions as are necessary and appropriate to ensure that the Secretary is able to transport safely spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities and from the mainline transportation facilities to the interim storage facility or repository, using routes that minimize, to the maximum practicable extent consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas; and

"(2) not later than 24 months after the Secretary submits a license application under section 205 for an interim storage facility shall, in consultation with the Secretary of Transportation and affected States and tribes, and after an opportunity for public comment, develop and implement a comprehensive management plan that ensures safe transportation of spent nuclear fuel and high-level radioactive waste from the sites designated by the contract holders to the interim storage facility site.

"(b) Transportation Planning.—

"(1) In general.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility.

"(2) Matters to be addressed.—Among other things, planning under paragraph (1) shall provide a schedule and process for addressing and implementing, as necessary—

"(A) transportation routing plans;

"(B) transportation contracting plans;

"(C) transportation training in accordance with section 203;

"(D) public education regarding transportation of spent nuclear fuel and high level radioactive waste; and

"(E) transportation tracking programs.

"(c) Shipping Campaign Transportation Plans.—

"(1) In general.—The Secretary shall develop a transportation plan for the implementation of each shipping campaign (as that term is defined by the Secretary) from each site at which high-level nuclear waste is stored, consistent with the principles and procedures stated in Department of Energy Order No. 460.2 and the Program Manager's Guide.

"(2) Requirements.—A shipping campaign transportation plan shall—

"(A) be fully integrated with State and tribal government notification, inspection, and emergency response plans along the preferred shipping route or State-designated alternative route identified under subsection (d) (unless the Secretary certifies in the plan that the State or tribal government has failed to cooperate in fully integrating the shipping campaign transportation plan with the applicable State or tribal government plans); and

"(B) be consistent with the principles and procedures developed for the safe transportation of transuranic waste to the Waste Isolation Pilot Plant (unless the Secretary certifies in the plan that a specific principle or procedure is inconsistent with a provision of this Act).

"(d) Safe Shipping Routes and Modes.—

"(1) IN GENERAL.—The Secretary shall evaluate the relative safety of the proposed shipping routes and shipping modes from each shipping origin to the interim storage facility or repository compared with the safety of alternative modes and routes.

"(2) CONSIDERATIONS.—The evaluation under paragraph (1) shall be conducted in a manner consistent with regulations promulgated by the Secretary of Transportation under authority of chapter 51 of title 49, United States Code, and the Nuclear Regulatory Commission under authority of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), as applicable.

"(3) DESIGNATION OF PREFERRED SHIPPING ROUTE AND MODE.—Following the evaluation under paragraph (1), the Secretary shall designate preferred shipping routes and modes from each civilian nuclear power reactor and Department of Energy facility that stores spent nuclear fuel or other high-level defense waste.

"(4) SELECTION OF PRIMARY SHIPPING ROUTE.—If the Secretary designates more than 1 preferred route under paragraph (3), the Secretary shall select a primary route after considering, at a minimum, historical accident rates, population, significant hazards, shipping time, shipping distance, and mitigating measures such as limits on the speed of shipments.

"(5) USE OF PRIMARY SHIPPING ROUTE AND MODE.—Except in cases of emergency, for all shipments conducted under this Act, the Secretary shall cause the primary shipping route and mode or State-designated alternative route under chapter 51 of title 49, United States Code, to be used. If a route is designated as a primary route for any reactor or Department of Energy facility, the Secretary may use that route to transport spent nuclear fuel or high-level radioactive waste from any other reactor or Department of Energy facility.

"(6) TRAINING AND TECHNICAL ASSISTANCE.—Following selection of the primary shipping routes, or State-designated alternative routes, the Secretary shall focus training and technical assistance under section 203(c) on those routes.

"(7) PREFERRED RAIL ROUTES.—

"(A) REGULATION.—Not later than 1 year after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary of Transportation, pursuant to authority under other provisions of law, shall promulgate a regulation establishing procedures for the selection of preferred routes for the transportation of spent nuclear fuel and nuclear waste by rail.

"(B) INTERIM PROVISION.—During the period beginning on the date of enactment of the Nuclear Waste Policy Act of 1997 and ending on the date of issuance of a final regulation under subparagraph (A), rail transportation of spent nuclear fuel and high-level radioactive waste shall be conducted in accordance with regulatory requirements in effect on that date and with this section.

"SEC. 203. TRANSPORTATION REQUIREMENTS.

"(a) PACKAGE CERTIFICATION.—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

"(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and tribal governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

"(c) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—

"(A) STATES AND INDIAN TRIBES.—As provided in paragraph (3), the Secretary shall provide technical assistance and funds to States and Indian tribes for training of public safety officials of appropriate units of State, local, and tribal governments. A State shall allocate to local governments within the State a portion any funds that the Secretary provides to the State for technical assistance and funding.

"(B) EMPLOYEE ORGANIZATIONS.—The Secretary shall provide technical assistance and funds for training directly to nonprofit employee organizations and joint labor-management organizations that demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste, or emergency response or post-emergency response with respect to such transportation.

"(C) TRAINING.—Training under this section—

"(i) shall cover procedures required for safe routine transportation of materials and procedures for dealing with emergency response situations;

"(ii) shall be consistent with any training standards established by the Secretary of Transportation under subsection (g); and

"(iii) shall include—

"(I) a training program applicable to persons responsible for responding to emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste;

"(II) instruction of public safety officers in procedures for the command and control of the response to any incident involving the waste; and

"(III) instruction of radiological protection and emergency medical personnel in procedures for responding to an incident involving spent nuclear fuel or high-level radioactive waste being transported.

"(2) NO SHIPMENTS IF NO TRAINING.—(A) There will be no shipments of spent nuclear fuel and high-level radioactive waste through the jurisdiction of any State or the reservation lands of any Indian Tribe eligible for grants under paragraph (3)(B) unless technical assistance and funds to implement procedures for the safe routine transportation and for dealing with emergency response situations under paragraph (1)(A) have been available to a State or Indian Tribe for at least 3 years prior to any shipment: Provided, however, That the Secretary may ship spent nuclear fuel and high-level radioactive waste if technical assistance or funds have not been made available due to (1) an emergency, including the sudden and unforeseen closure of a highway or rail line or the sudden and unforeseen need to remove spent fuel from a reactor because of an accident, or (2) the refusal to accept technical assistance by a State or Indian Tribe, or (3) fraudulent actions which violate Federal law governing the expenditure of Federal funds.

"(B) In the event the Secretary is required to transport spent fuel or high level radioactive waste through a jurisdiction prior to 3 years after the provision of technical assistance or funds to such jurisdiction, the Secretary shall, prior to such shipment, hold meetings in each State and Indian reservation through which the shipping route passes in order to present initial shipment plans and receive comments. Department of Energy personnel trained in emergency response shall escort each shipment. Funds and all Department of Energy training resources shall be made available to States and Indian Tribes along the shipping route no later than three months prior to the commencement of shipments: Provided, however, That in no event shall such shipments exceed 1,000 metric tons per year, And provided further, That no such shipments shall be conducted more than four years after the effective date of the Nuclear Waste Policy Act of 1997.

"(3) GRANTS.—

"(A) IN GENERAL.—To implement this section, grants shall be made under section 401(c)(2).

"(B) GRANTS FOR DEVELOPMENT OF PLANS.—

"(i) IN GENERAL.—The Secretary shall make a grant of at least $150,000 to each State through the jurisdiction of which and each federally recognized Indian tribe through the reservation lands of which a shipment of spent nuclear fuel or high-level radioactive waste will be made under this Act for the purpose of developing a plan to prepare for such shipments.

"(ii) LIMITATION.—A grant shall be made under clause (i) only to a State or a federally recognized Indian tribe that has the authority to respond to incidents involving shipments of hazardous material.

"(C) GRANTS FOR IMPLEMENTATION OF PLANS.—

"(i) IN GENERAL.—Annual implementation grants shall be made to States and Indian tribes that have developed a plan to prepare for shipments under this Act under subparagraph (B). The Secretary, in submitting the annual department budget to Congress for funding of implementation grants under this section, shall be guided by the State and tribal plans developed under subparagraph (B). As part of the Department of Energy's annual budget request, the Secretary shall report to Congress on—

"(I) the funds requested by States and federally recognized Indian tribes to implement this subsection;

"(II) the amount requested by the President for implementation; and

"(III) the rationale for any discrepancies between the amounts requested by States and federally recognized Indian tribes and the amounts requested by the President.

"(ii) ALLOCATION.—Of funds available for grants under this subparagraph for any fiscal year—

"(I) 25 percent shall be allocated by the Secretary to ensure minimum funding and program capability levels in all States and Indian tribes based on plans developed under subparagraph (B); and

"(II) 75 percent shall be allocated to States and Indian tribes in proportion to the number of shipment miles that are projected to be made in total shipments under this Act through each jurisdiction.

"(4) AVAILABILITY OF FUNDS FOR SHIPMENTS.—Funds under paragraph (1) shall be provided for shipments to an interim storage facility or repository, regardless of whether the interim storage facility or repository is operated by a private entity or by the Department of Energy.

"(d) PUBLIC EDUCATION.—The Secretary shall conduct a program to educate the public regarding the transportation of spent nuclear fuel and high-level radioactive waste, with an emphasis upon those States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste.

"(e) Compliance With Transportation Regulations.—Any person that transports spent nuclear fuel or high-level radioactive waste under the Nuclear Waste Policy Act of 1997, pursuant to a contract with the Secretary, shall comply with all requirements governing such transportation issued by the Federal, State and local governments, and Indian tribes, in the same way and to the same extent that any person engaging in that transportation that is in or affects interstate commerce must comply with such requirements, as required by 49 U.S.C. sec. 5126.

"(f) Employee Protection.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this Act shall be subject to and comply fully with the employee protection provisions of 49 U.S.C. 20109 (in the case of employees of railroad carriers) and 49 U.S.C. 31105 (in the case of employees operating commercial motor vehicles), or the Commission (in the case of all other employees).

"(g) Training Standard.—(1) No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. The regulation shall require that the employer possess evidence of satisfaction of the applicable training standard before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

"(2) If the Secretary of Transportation determines, in promulgating the regulation required by subparagraph (1), that regulations promulgated by the Commission establish adequate training standards for workers, then the Secretary of Transportation can refrain from promulgating additional regulations with respect to worker training in such activities. The Secretary of Transportation and the Commission shall work through their Memorandum of Understanding to ensure coordination of worker training standards and to avoid duplicative regulation.

"(3) The training standards required to be promulgated under subparagraph (1) shall, among other things deemed necessary and appropriate by the Secretary of Transportation, include the following provisions—

"(A) a specified minimum number of hours of initial off site instruction and actual field experience under the direct supervision of a training, experienced supervisor;

"(B) a requirement that onsite managerial personnel receive the same training as workers, and a minimum number of additional hours of specialized training pertinent to their managerial responsibilities; and

"(C) a training program applicable to persons responsible for responding to and cleaning up emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste.

"(4) There is authorized to be appropriated to the Secretary of Transportation, from general revenues, such sums as may be necessary to perform his duties under this subsection.

"SEC. 204. VIABILITY ASSESSMENT AND PRESIDENTIAL DETERMINATION.

"(a) Viability Assessment.—No later than December 1, 1998, the Secretary shall provide to the President and to the Congress a viability assessment of the Yucca Mountain site. The viability assessment shall include—

"(1) the preliminary design concept for the critical elements of the repository and waste package;

"(2) a total system performance assessment, based upon the preliminary design concept in paragraph (1) of this subsection and the scientific data and analysis available on June 30, 1998, describing the probable behavior of the repository relative to the overall system performance standard under section 206(f) of this Act or, if the standard under section 206(f) has not been promulgated, relative to an estimate by the Secretary of an overall system performance standard that is consistent with section 206(f);

"(3) a plan and cost estimate for the remaining work required to complete the license application under section 206(c) of this Act, and

"(4) an estimate of the costs to construct and operate the repository in accordance with the preliminary design concept in paragraph (1) of this subsection.

"(b) Presidential Determination.—No later than March 1, 1999, the President, in his sole and unreviewable discretion, may make a determination disqualifying the Yucca Mountain site as a repository, based on the President's views that the preponderance of information available at such time indicates that the Yucca Mountain site is not suitable for development of a repository of useful size. If the President makes a determination under this subsection,

"(1) the Secretary shall cease all activities (except necessary termination activities) at the Yucca Mountain site and section 206 of this Act shall cease to be in effect; and

"(2) no later than 6 months after such determination, the Secretary shall report to Congress on the need for additional legislation relating to the permanent disposal of nuclear waste.

"(c) Preliminary Secretarial Designation of Interim Storage Facility Sites:—

"(1) If the President does not make a determination under subsection (b) of this section, no later than March 31, 1999, the Secretary shall make a preliminary designation of a specific site within Area 25 of the Nevada Test Site for planning and construction of an interim storage facility under section 205.

"(2) Within 18 months of a determination by the President that the Yucca Mountain site is unsuitable for development as a repository under subsection (b), the President shall designate a site for the construction of an interim storage facility. The President shall not designate the Hanford Nuclear Reservation in the State of Washington as a site for construction of an interim storage facility. If the President does not designate a site for the construction of an interim storage facility, or the construction of an interim storage facility at the designated site is not approved by law within 24 months of the President's determination that the Yucca Mountain site is not suitable for development as a repository, the interim storage facility site as defined in section 2(19) of this Act is designated as the interim storage facility site for purposes of section 205. The interim storage facility site shall be deemed to be approved by law for purposes of this paragraph.

"SEC. 205. INTERIM STORAGE FACILITY.

"(a) Non-Site-Specific Activities.—As soon as practicable after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary shall submit to the Commission a topical safety analysis report containing a generic design for an interim storage facility. If the Secretary has submitted such a report prior to such date of enactment, the report shall be deemed to have satisfied the requirement in the preceding sentence. No later than December 31, 1998, the Commission shall issue a safety evaluation report approving or disapproving the generic design submitted by the Secretary.

"(b) Site-Specific Authorization.—The Secretary shall design, construct, and operate a facility for the interim storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility site designated under section 204 and licensed by the Commission under this section. The Commission shall license the interim storage facility in accordance with the Commission's regulations governing the licensing of independent storage of spent nuclear fuel and high-level radioactive waste (10 CFR part 72). Such regulations shall be amended by the Commission as necessary to implement the provisions of this Act. The Commission may amend 10 CFR part 72 with regard to facilities not covered by this Act as deemed appropriate by the Commission.

"(c) Limitations and Conditions.—

"(1) The Secretary shall not commence construction of an interim storage facility (which shall mean taking actions within the meaning of the term "commencement of construction" contained in the Commission's regulations in section 72.3 of title 10, Code of Federal Regulations) before the Commission, or an appropriate officer or Board of the Commission, makes the finding under section 72.40(b) of title 10, Code of Federal Regulations.

"(2) After the Secretary makes the preliminary designation of an interim storage site under section 204, the Secretary may commence site data acquisition activities and design activities necessary to complete license application and environmental report under subsection (d) of this section.

"(3) Notwithstanding any other applicable licensing requirement, the Secretary may utilize facilities owned by the Federal government on the date of enactment of the Nuclear Waste Policy Act of 1997 and located within the boundaries of the interim storage site, in connection with addressing any imminent and substantial endangerment to public health and safety at the interim storage facility site, prior to receiving a license from the Commission for the interim storage facility, for purposes of fulfilling requirements for retrievability during the first five years of operation of the interim storage facility.

"(d) License Application.—No later than 30 days after the date on which the Secretary makes a preliminary designation of an interim storage facility site under section 204, the Secretary shall submit a license application and an environmental report in accordance with applicable regulations (subpart B of part 72 of title 10, Code of Federal Regulations, and subpart A of part 51 of title 10, Code of Federal Regulations, respectively). The license application—

"(1) shall be for a term of 40 years; and

(2) shall be for a quantity of spent nuclear fuel or high-level radioactive waste equal to the quantity that would be emplaced under section 507 prior to the date that the Secretary estimates, in the license application, to be the date on which the Secretary will receive and store spent nuclear fuel and high-level radioactive waste at the permanent repository.

"(e) DESIGN.—

"(1) The design for the interim storage facility shall provide for the use of storage technologies which are licensed, approved, or certified by the Commission, to ensure compatibility between the interim storage facility and contract holders' spent nuclear fuel and facilities, and to facilitate the Secretary's ability to meet the Secretary's obligations under this Act.

"(2) The Secretary shall consent to an amendment to the contracts to provide for reimbursement to contract holders for transportable storage systems purchased by contract holders if the Secretary determines that it is cost effective to use such transportable storage systems as part of the integrated management system, provided that the Secretary shall not be required to expend any funds to modify contract holders' storage or transport systems or to seek additional regulatory approvals in order to use such systems.

"(f) LICENSE AMENDMENTS.—

"(1) The Secretary may seek such amendments to the license for the interim storage facility as the Secretary may deem appropriate, including amendments to use new storage technologies licensed by the Commission or to respond to changes in Commission regulations.

"(2) After receiving a license from the Commission to receive and store spent nuclear fuel and high-level radioactive waste in the permanent repository, the Secretary shall seek such amendments to the license for the interim storage facility as will permit the optimal use of such facility as an integral part of a single system with the repository.

"(g) COMMISSION ACTIONS.—

"(1) The issuance of a license to construct and operate an interim storage facility shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Prior to issuing a license under this section, the Commission shall prepare a final environmental impact statement in accordance with the National Environmental Policy Act of 1969, the Commission's regulations, and section 207 of this Act. The Commission shall ensure that this environmental impact statement is consistent with the scope of the licensing action and shall analyze the impacts of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility in a generic manner.

"(2) The Commission shall issue a final decision granting or denying a license for an interim storage facility not later than 32 months after the date of submittal of the application for such license.

"(3) No later than 32 months following the date of enactment of the Nuclear Waste Policy Act of 1997, the Commission shall make any amendments necessary to the definition of 'spent nuclear fuel' in section 72.4 of title 10, Code of Federal Regulations, to allow an interim storage facility to accept (subject to such conditions as the Commission may require in a subsequent license)—

"(A) spent nuclear fuel from research reactors;

"(B) spent nuclear fuel from naval reactors;

"(C) high-level radioactive waste of domestic origin from civilian nuclear reactors that have permanently ceased operation before such date of enactment; and

"(D) spent nuclear fuel and high-level radioactive waste from atomic energy defense activities. Following any such amendments, the Secretary shall seek authority, as necessary, to store such fuel and waste at the interim storage facility. None of the activities carried out pursuant to this paragraph shall delay, or otherwise affect, the development, licensing, construction, or operation of the interim storage facility.

"SEC. 206. PERMANENT REPOSITORY.

"(a) REPOSITORY CHARACTERIZATION.—

"(1) CHARACTERIZATION OF THE YUCCA MOUNTAIN SITE.—The Secretary shall carry out site characterization activities at the Yucca Mountain site in accordance with the Secretary's program approach to site characterization. Such activities shall be limited to only those activities which the Secretary considers necessary to provide the data required for evaluation of the suitability of such site for an application to be submitted to the Commission for a construction authorization for a repository at such site, and for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) GUIDELINES.—The Secretary shall amend the guidelines in part 960 of title 10, Code of Federal Regulations, to base any conclusions regarding whether a repository site is suitable on, to the extent practicable, an assessment of total system performance of the repository.

"(b) ENVIRONMENTAL IMPACT STATEMENT.—

"(1) PREPARATION OF ENVIRONMENTAL IMPACT STATEMENT.—Construction and operation of the repository shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall prepare an environmental impact statement on the construction and operation of the repository and shall submit such statement to the Commission with the license application. The Secretary shall supplement such environmental impact statement as appropriate.

"(2) SCHEDULE.—

"(A) No later than September 30, 2000, the Secretary shall publish the final environmental impact statement under paragraph (1) of this subsection.

"(B) No later than October 31, 2000, the Secretary shall publish a record of decision on applying for a license to construct and operate a repository at the Yucca Mountain site.

"(c) LICENSE APPLICATION.—

"(1) SCHEDULE.—No later than October 31, 2001, the Secretary shall apply to the Commission for authorization to construct a repository at the Yucca Mountain site.

"(2) MAXIMIZING CAPACITY.—In developing an application for authorization to construct the repository, the Secretary shall seek to maximize the capacity of the repository, in the most cost-effective manner, consistent with the need for disposal capacity.

"(3) DECISION NOT TO APPLY FOR A LICENSE FOR THE YUCCA MOUNTAIN SITE.—If, at any time prior to October 31, 2001, the Secretary determines that the Yucca Mountain site is not suitable or cannot satisfy the Commission's regulations applicable to the licensing of a geological repository, the Secretary shall—

"(A) notify the Congress and the State of Nevada of the Secretary's determinations and the reasons therefor; and

"(B) promptly take the actions described in paragraphs (1) and (2) of section 204(b).

"(d) REPOSITORY LICENSING.—The Commission shall license the repository according to the following procedures:

"(1) CONSTRUCTION AUTHORIZATION.—The Commission shall grant the Secretary a construction authorization for the repository, subject to such requirements or limitations as the Commission may incorporate pursuant to its regulations, upon determining that there is reasonable assurance that spent nuclear fuel and high-level radioactive waste can be disposed of in the repository—

"(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

"(B) without unreasonable risk to the health and safety of the public; and

"(C) consistent with the common defense and security.

"(2) LICENSE.—Following the filing by the Secretary of any additional information needed by the Commission to issue a license to receive and possess source, special nuclear, or byproduct material at a geologic repository operations area the Commission shall issue a license to dispose of spent nuclear fuel and high-level radioactive waste in the repository, subject to such requirements or limitations as the Commission may incorporate pursuant to its regulations, if the Commission determines that the repository has been constructed and will operate—

"(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

"(B) without unreasonable risk to the health and safety of the public; and

"(C) consistent with the common defense and security.

"(3) CLOSURE.—After emplacing spent nuclear fuel and high-level radioactive waste in the repository and collecting sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with the Commission's regulations applicable to the licensing of a repository, as modified in accordance with this Act, the Secretary shall apply to the Commission to amend the license to permit permanent closure of the repository. The Commission shall grant such license amendment, subject to such requirements or limitations as the Commission may incorporate pursuant to its regulations, upon finding that there is reasonable assurance that the repository can be permanently closed—

"(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

"(B) without unreasonable risk to the health and safety of the public; and

"(C) consistent with the common defense and security.

"(4) POST-CLOSURE.—The Secretary shall take those actions necessary and appropriate at the Yucca Mountain site to prevent any activity at the site subsequent to repository closure that poses an unreasonable risk of—

"(A) breaching the repository's engineered or geologic barriers; or

"(B) increasing the risk of the repository beyond the standard established in subsection (f)(1).

"(5) APPLICATION OF HEALTH AND SAFETY STANDARDS.—The licensing determination of the Commission with respect to risk to the health and safety of the public under paragraphs (1), (2), or (3) of this subsection shall be based solely on a finding whether the repository can be operated in conformance with the overall performance standard in subsection (f)(1) of this section, applied in accordance with the provisions of subsection (f)(2) of this section and the standards established by the Administrator under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note).

“(e) Modification of the Commission's Repository Licensing Regulations.—The Commission shall amend its regulations governing the disposal of spent nuclear fuel and high-level radioactive waste (10 CFR part 60), as necessary, to be consistent with the provisions of this Act. The Commission's regulations shall provide for the modification of the repository licensing procedure in subsection (d) of this section, as appropriate, in the event that the Secretary seeks a license to permit the emplacement in the repository, on a retrievable basis, of spent nuclear fuel or high-level radioactive waste as is necessary to provide the Secretary with sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with applicable regulations.

“(f) Repository Licensing Standards and Additional Procedures.—In complying with the requirements of section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note), the Administrator shall achieve consistency with the findings and recommendations of the National Academy of Sciences, and the Commission shall amend its regulations with respect to licensing standards for the repository, as follows:

“(1) Establishment of overall system performance standard.—

“(A) Risk standard.—The standard for protection of the public from releases of radioactive material or radioactivity from the repository shall limit the lifetime risk, to the average member of the critical group, of premature death from cancer due to such releases to approximately, but not greater than, 1 in 1000. The comparison to this standard shall use the upper bound of the 95-percent confidence interval for the expected value of lifetime risk to the average member of the critical group.

“(B) Form of standard.—The standard promulgated by the Administrator under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note) shall be an overall system performance standard. The Administrator shall not promulgate a standard for the repository in the form of release limits or contaminant levels for individual radionuclides discharged from the repository.

“(C) Assumptions used in formulating and applying the standard.—In promulgating the standard under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note), the Administrator shall consult with the Secretary of Energy and the Commission. The Commission, after consultation with the Secretary, shall specify, by rule, values for all of the assumptions considered necessary by the Commission to apply the standard in a licensing proceeding for the repository before the Commission, including the reference biosphere and size and characteristics of the critical group.

“(D) Detention.—As used in this subsection, the term 'critical group' means a small group of people that is—

“(i) representative of individuals expected to be at highest risk of premature death from cancer as a result of discharges of radionuclides from the permanent repository;

“(ii) relatively homogeneous with respect to expected radiation dose, which shall mean that there shall be no more than a factor of ten in variation in individual dose among members of the group; and

“(iii) selected using reasonable assumptions—concerning lifestyle, occupation, diet, and eating and drinking habits, technological sophistication, or other relevant social and behavioral factors—that are based on reasonably available information, when the group is defined, on current inhabitants and conditions in the area of 50-mile radius surrounding Yucca Mountain contained within a line drawn 50 miles beyond each of the boundaries of the Yucca Mountain site.”

“(2) Application of overall system performance standard.—The Commission shall issue the construction authorization, license, or license amendment, as applicable, if it finds reasonable assurance that for the first 10,000 years following the closure of the repository, the overall system performance standard will be met based on a probabilistic evaluation, as appropriate, of compliance with the overall system performance standard in paragraph (1).

“(3) Factors.—For purposes of establishing the overall system performance standard in paragraph (1) and making the finding in paragraph (2).—

“(A) the Administrator and the Commission shall not consider climate regimes that are substantially different from those that have occurred during the previous 100,000 years at the Yucca Mountain site;

“(B) the Administrator and the Commission shall not consider catastrophic events where the health consequences of individual events themselves to the critical group can be reasonably assumed to exceed the health consequences due to impact of the events on repository performance; and

“(C) the Administrator and the Commission shall not base the standard in paragraph (1) or the finding in paragraph (2) on scenarios involving human intrusion into the repository following repository closure.

“(4) Congressional review.—

“(A) Any standard promulgated by the Administrator under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note) shall be deemed a major rule within the meaning of section 804(2) of title 5, United States Code, and shall be subject to the requirements and procedures pertaining to a major rule in chapter 8 of such title.

“(B) The effective date of the construction authorization for the repository shall be 90 days after the issuance of such authorization by the Commission, unless Congress is standing in adjournment for a period of more than one week on the date of issuance, in which case the effective date shall be 90 days after the date on which Congress is expected to reconvene after such adjournment.

“(5) Report to Congress.—At the time that the Commission issues a construction authorization for the repository, the Commission shall submit a report to Congress—

“(A) analyzing the overall system performance of the repository through the use of probabilistic evaluations that use best estimate assumptions, data, and methods for the period commencing after the first 10,000 years after repository closure and including the time after repository closure of maximum risk to the critical group of premature death from cancer due to repository releases.

“(B) analyzing the consequences of a single instance of human intrusion into the repository, during the first 1,000 years after repository closure, on the ability of the repository to perform its intended function.”

“(g) Additional Actions by the Commission.—The Commission shall take final action on the Secretary's application for construction authorization for the repository no later than 40 months after submission of the application.

“SEC. 207. COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT.

“(a) Preliminary Activities.—Each activity of the Secretary under section 203, 204, section 205(a), section 205(c), section 205(d), and section 206(a) shall be considered a preliminary decision making activity. No such activity shall be considered final agency action for purposes of judicial review. No activity of the Secretary or the President under sections 203, 204, 205, or 206(a) shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of section 102(2) of such Act (42 U.S.C. 4332(2)(E) or (F)).

“(b) Standards and Criteria.—The promulgation of standards or criteria in accordance with the provisions of this title, or under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note), shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of section 102(2) of such Act (42 U.S.C. 4332(2)(E) or (F)).

“(c) Requirements Relating to Environmental Impact Statements.—

“(1) With respect to the requirements imposed by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.),—

“(A) in any final environmental impact statement under sections 205 or 206, the Secretary or the Commission, as applicable, shall not be required to consider the need for a repository or any interim storage facility; the time of initial availability of a repository of interim storage facility; the alternatives to geological disposal or centralized interim storage; or alternative sites to the Yucca Mountain site or the interim storage facility site designated under section 204(c)(1); and

“(B) compliance with the procedures and requirements of this title shall be deemed adequate consideration of the need for centralized interim storage or a repository; the time of initial availability of centralized interim storage or the repository or centralized interim storage, and all alternatives to centralized interim storage and permanent isolation of high-level radioactive waste and spent nuclear fuel in an interim storage facility or a repository, respectively.

“(2) The final environmental impact statement for the repository prepared by the Secretary and submitted with the license application for a repository under section 206(c) shall, to the extend practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization and license for such repository. To the extent such statement is adopted by the Commission, such adoption shall be deemed to satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969 and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

“(c) Construction With Other Laws.—Nothing in this Act shall be construed to amend or otherwise detract from the licensing requirements of the Nuclear Regulatory Commission established in title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.).

“(d) Judicial Review.—Judicial review under section 502 of this Act of any environmental impact statement prepared or adopted by the Commission shall be consolidated with the judicial review of the licensing decision to which it relates.

"SEC. 208. LAND WITHDRAWAL.

"(a) WITHDRAWAL AND RESERVATION.—

"(1) WITHDRAWAL.—Subject to valid existing rights, the interim storage facility site and the Yucca Mountain site, as described in subsection (b), are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, the material sale laws, and the mining laws.

"(2) JURISDICTION.—Jurisdiction of any land within the interim storage facility site and the Yucca Mountain site managed by the Secretary of the Interior or any other Federal officer is transferred to the Secretary.

"(3) RESERVATION.—The interim storage facility site and the Yucca Mountain site are reserved for the use of the Secretary for the construction and operation, respectively, of the interim storage facility and the repository and activities associated with the purposes of this title.

"(b) LAND DESCRIPTION.—

"(1) BOUNDARIES.—The boundaries depicted on the map entitled "Interim Storage Facility Site Withdrawal Map," dated March 13, 1996, and on file with the Secretary, are established as the boundaries of the Interim Storage Facility site.

"(2) BOUNDARIES.—The boundaries depicted on the map entitled 'Yucca Mountain Site Withdrawal Map,' dated July 9, 1996, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

(3) NOTICE AND MAPS.—Concurrent with the Secretary's designation of an interim storage facility site under section 204(c)(1), the Secretary shall—

"(A) publish in the Federal Register a notice containing a legal description of the interim storage facility site; and

"(B) file copies of the maps described in paragraph (1), and the legal description of the interim storage facility site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

"(4) NOTICE AND MAPS.—Concurrent with the Secretary's application to the Commission for authority to construct the repository, the Secretary shall—

"(A) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

"(B) file copies of the maps described in paragraph (2), and the legal description of the Yucca Mountain site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

"(5) CONSTRUCTION.—The maps and legal descriptions of the interim storage facility site and the Yucca Mountain site referred to in this subsection shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

"TITLE III—LOCAL RELATIONS

"SEC. 301. FINANCIAL ASSISTANCE.

"(a) GRANTS.—The Secretary is authorized to make grants to any affected Indian tribe or affected unit of local government for purposes of enabling the affected Indian tribe or affected unit of local government—

"(1) to review activities taken with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of the integrated management system on the affected Indian tribe or the affected unit of local government and its residents;

"(2) to develop a request for impact assistance under subsection (c);

"(3) to engage in any monitoring, testing, or evaluation activities with regard to such site;

"(4) to provide information to residents regarding any activities of the Secretary, or the Commission with respect to such site; and

"(5) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken with respect to such site.

"(b) SALARY AND TRAVEL EXPENSES.—Any salary or travel expense that would ordinarily be incurred by any affected Indian tribe or affected unit of local government may not be considered eligible for funding under this section.

"(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

"(1) ASSISTANCE REQUESTS.—The Secretary is authorized to offer to provide financial and technical assistance to any affected Indian tribe or affected unit of local government requesting such assistance. Such assistance shall be designed to mitigate the impact on the affected Indian tribe or affected unit of local government of the development of the integrated management system.

"(2) REPORT.—Any affected Indian tribe or affected unit of local government may request assistance under this section by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from activities of the integrated management system.

"(d) OTHER ASSISTANCE.—

"(1) TAXABLE AMOUNTS.—In addition to financial assistance provided under this subsection, the Secretary is authorized to grant to any affected Indian tribe or affected unit of local government an amount each fiscal year equal to the amount such affected Indian tribe or affected unit of local government, respectively, would receive if authorized to tax integrated management system activities, as such affected Indian tribe or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such affected unit of local government.

"(2) TERMINATION.—Such grants shall continue until such time as all such activities, development, and operations are terminated at such site.

"(3) ASSISTANCE TO INDIAN TRIBES AND UNITS OF LOCAL GOVERNMENT.—

"(A) PERIOD.—Any affected Indian tribe or affected unit of local government may not receive any grant under paragraph (1) after the expiration of the 1-year period following the date on which the Secretary notifies the affected Indian tribe or affected unit of local government of the termination of the operation of the integrated management system.

"(B) ACTIVITIES.—Any affected Indian tribe or affected unit of local government may not receive any further assistance under this section if their integrated management system activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

"SEC. 302. ON-SITE REPRESENTATIVE.

"The Secretary shall offer to the unit of local government within whose jurisdiction a site for an interim storage facility or repository is located under this Act an opportunity to designate a representative to conduct on-site oversight activities at such site. The Secretary is authorized to pay the reasonable expenses of such representative.

"SEC. 303. ACCEPTANCE OF BENEFITS.

"(a) CONSENT.—The acceptance or use of any of the benefits provided under this title by any affected Indian tribe or affected unit of local government shall not be deemed to be an expression of consent, express, or implied, either under the Constitution of the State or any law thereof, to the siting of an interim storage facility or repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

"(b) ARGUMENTS.—Neither the United States or any other entity may assert any argument based on legal or equitable estoppel, or acquiescence, or wavier, or consensual involvement, in response to any decision by the State to oppose the siting in Nevada of an interim storage facility or repository premised upon or related to the acceptance or use of benefits under this title.

"(c) LIABILITY.—No liability of any nature shall accrue to be asserted against any official of any governmental unit of Nevada premised solely upon the acceptance or use of benefits under this title.

"SEC. 304. RESTRICTIONS ON USE OF FUNDS.

"None of the funding provided under this title may be used—

"(1) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

"(2) for litigation purposes; and

"(3) to support multistate efforts or other coalition-building activities inconsistent with the purposes of this Act.

"SEC. 305. LAND CONVEYANCES.

"(a) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after the effective date of the construction authorization issued by the Commission for the repository under section 206(g), all right, title and interest of the United States in the property described in subsection (b) and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Nye, Nevada, unless the county notifies the Secretary of Interior or the head of such other appropriate agency in writing within 60 days of such date that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Nye under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Nye County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

"(b) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, and on file with the Secretary shall be conveyed under subsection (a) to the County of Nye, Nevada:

Map 1: Proposed Pahrump Industrial Park Site

Map 2: Proposed Lathrop Wells (Gate 510) Industrial Park Site

Map 3: Pahrump Landfill Sites

Map 4: Amargosa Valley Regional Landfill Site

Map 5: Amargosa Valley Municipal Landfill Site

Map 6: Beatty Landfill/Transfer Station Site

Map 7: Round Mountain Landfill Site

Map 8: Tonopah Landfill Site

Map 9: Gabbs Landfill Site.

“(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in subsection (b) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

“(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Nye, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

“TITLE IV—FUNDING AND ORGANIZATION

“SEC. 401. PROGRAM FUNDING.

“(a) CONTRACTS.—

“(1) AUTHORITY OF THE SECRETARY.—In the performance of the Secretary's functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such waste or spent fuel. Such contracts shall provide for payment of fees to the Secretary in the amounts set under paragraphs (2), (3), and (4), sufficient to offset expenditures described in subsection (c)(2). Subsequent to the enactment of the Nuclear Waste Policy Act of 1997, the contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act, provided that the Secretary shall consent to an amendment to such contracts as necessary to implement the provisions of this Act.

“(2) NUCLEAR WASTE OFFSETTING COLLECTION.—

“(A) For electricity generated by civilian nuclear power reactors and sold during an offsetting collection period, the Secretary shall collect an aggregate amount of fees under this paragraph equal to the annual level of appropriations for expenditures on those activities consistent with subsection (d) for each fiscal year in the offsetting collection period, minus—

“(i) any unobligated balance collected pursuant to this paragraph during the previous fiscal year; and

“(ii) the percentage of such appropriation required to be funded by the Federal Government pursuant to section 403.

“(B) The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold.

“(C) For purposes of this paragraph, the term ‘offsetting collection period’ means—

“(i) the period beginning on October 1, 1999 and ending on September 30, 2003; and

“(ii) the period on and after October 1, 2006.

“(3) NUCLEAR WASTE MANDATORY FEE.—

“(A) Except as provided in subparagraph (C) of this paragraph, for electricity generated by civilian nuclear power reactors and sold on or after January 7, 1983, the fee paid to the Secretary under this paragraph shall be equal to—

“(i) 1.0 mill per kilowatt-hour generated and sold, minus

“(ii) the amount per kilowatt-hour generated and sold paid under paragraph (2);

“Provided, that if the amount under clause (ii) is greater than the amount under clause (i) the fee under this paragraph shall be equal to zero.

“(B) No later than 30 days after the beginning of each fiscal year, the Secretary shall determine whether insufficient or excess revenues are being collected under this subsection, in order to recover the costs incurred by the Federal government that are specified in subsection (c)(2). In making this determination the Secretary shall—

“(i) rely on the ‘Analysis of the Total System Life Cycle Cost of the Civilian Radioactive Waste Management Program,” dated September 1995, or on a total system lifecycle cost analysis published by the Secretary (after notice and opportunity for public comments) after the date of enactment of the Nuclear Waste Policy of 1997, in making any estimate of the costs to be incurred by the government under subsection (c)(2);

“(ii) rely on projections from the Energy Information Administration, consistent with the projection contained in the reference case in the most recent ‘Annual Energy Outlook’ published by such administration in making any estimate of future nuclear power generation; and

“(iii) take into account projected balance in, and expenditures from, the Nuclear Waste Fund.

“(C) If the Secretary determines under subparagraph (B) that either insufficient or excess revenue are being collected, the Secretary shall, at the time of the determination, transmit to Congress a proposal to adjust the amount in subparagraph (A)(i) to ensure full cost recovery. The amount in subparagraph (A)(i) shall be adjusted, by operation of law, immediately upon enactment of a joint resolution of approval under paragraph (5) of this subsection.

“(D) The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

“(4) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1997 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997 pursuant to the contracts, including any interest due pursuant to the contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2002. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fees assessed under this subsection, on or before the date on which such fees are due, and the license shall remain suspended until the full amount of the fees assessed under this subsection is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spent nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

“(4) EXPENDITURES IF SHORTFALL.—If, during any fiscal year on or after October 1, 1997, the aggregate amount of fees assessed under this subsection is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

“(A) any unobligated balance collected pursuant to this section during the previous fiscal year; and

“(B) the percentage of such appropriations required to be funded by the Federal Government pursuant to section 403—

the Secretary may make expenditures from the Nuclear Waste Fund up to the level equal to the difference between the amount appropriated and the amount of fees assessed under this subsection.

“(5) EXPEDITED PROCEDURES FOR APPROVAL OF CHANGES TO THE NUCLEAR WASTE MANDATORY FEE.—

“(A) At any time after the Secretary transmits a proposal for a fee adjustment under paragraph (3)(C) of this subsection, a joint resolution may be introduced in either House of Congress, the matter after the resolving clause of which is as follows: ‘That Congress approves the adjustment to the basis for the nuclear waste mandatory fee, submitted by the Secretary on XX.’ (The blank space being appropriately filled in with a date).

“(B) A joint resolution described in subparagraph (A) shall be referred to the committees in each House of Congress with jurisdiction.

“(C) In the Senate, if the committee to which is referred a joint resolution described in subparagraph (A) has not reported such joint resolution (or an identical joint resolution) at the end of 20 calendar days after the date on which it is introduced, such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

“(D) In the Senate, the procedure under section 802(d) of title 5, United States Code, shall apply to a joint resolution described under subparagraph (A).

“(b) ADVANCE CONTRACTING REQUIREMENT.—

“(1) IN GENERAL.—

“(A) LICENSE ISSUANCE AND RENEWAL.—The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

“(i) such person has entered into a contract under subsection (a) with the Secretary; or

“(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

“(B) PRECONDITION.—The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of spent nuclear fuel and high-level radioactive waste that may result from the use of such license.

“(2) DISPOSAL IN REPOSITORY.—Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in the repository unless the generator or owner of such spent fuel or waste has entered into a contract under subsection (a) with the Secretary by not later than the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste.

“(3) ASSIGNMENT.—The rights and duties of contract holders are assignable.

“(c) NUCLEAR WASTE FUND.—

"(1) In General.—The Nuclear Waste Fund established in the Treasury of the United States under section 302(c) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act and shall consist of—

"(A) the existing balance in the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1997; and

"(B) all receipts, proceeds, and recoveries realized under subsections (a)(3), (a)(4), and (c)(3) subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997, which shall be deposited in the Nuclear Waste Fund immediately upon their realization.

"(2) Purposes of the Nuclear Waste Fund and the Nuclear Waste Offsetting Collection—Subject to subsections (d) and (e) of this section, the Secretary may make expenditures from the Nuclear Waste Fund or the Nuclear Waste Offsetting Collection in section 401(a)(2) only for—

"(A) identification, development, design, licensing, construction, acquisition, operation, modification, replacement, decommissioning, and post-decommissioning maintenance and monitoring of the integrated management system or parts thereof;

"(B) the administrative cost of the integrated management system, including the Office of Civilian Radioactive Waste Management under section 402, the Nuclear Waste Technical Review Board under section 602, and those offices under the Commission involved in regulation of the integrated management system or parts thereof; and

"(C) the provision of assistance and benefits to States, units of general local government, nonprofit organizations, joint labor-management organizations, and Indian tribes under title II of this Act.".

"(3) Administration of Nuclear Waste Fund.—

"(A) In General.—The Secretary of the Treasury shall hold the Nuclear Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Nuclear Waste Fund during the preceding fiscal year.

"(B) Amounts in Excess of Current Needs.—If the Secretary determines that the Nuclear Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

"(i) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Nuclear Waste Fund;

"(ii) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings, and

"(ii) interest earned on these obligations shall be credited to the Nuclear Waste Fund.

"(C) Exemption.—Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Nuclear Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

"(d) Budget.—The Secretary shall submit the budget for implementation of the Secretary's responsibilities under this Act to the Office of Management and Budget annually along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget shall consist of the estimates made by the Secretary of expenditures under this Act and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the budget of the United States Government.

"(e) Appropriations.—The Secretary may make expenditures from the Nuclear Waste Fund and the Nuclear Waste Offsetting Collection, subject to appropriations, which shall remain available until expended.

"SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

"(a) Establishment.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) Functions of Director.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

"SEC. 403. FEDERAL CONTRIBUTION.

"(a) Allocation.—No later than one year from the date of enactment of the Nuclear Waste Policy Act of 1997, acting pursuant to section 553 of title 5, United States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors shall include,

"(1) an appropriate portion of the costs associated with research and development activities with respect to development of an interim storage facility and repository; and

"(2) as appropriate, interest on the principal amounts due calculated by reference to the appropriate Treasury bill rate as if the payments were made at a point in time consistent with the payment dates for spent nuclear fuel and high-level radioactive waste under the contracts.

"(b) Appropriation Request.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, as established under subsection (a).

"(c) Report.—In conjunction with the annual report submitted to Congress under Section 702, the Secretary shall advise the Congress annually of the amount of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, requiring management in the integrated management system.

"(d) Authorization.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, as established under subsection (a).

"TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

"SEC. 501. COMPLIANCE WITH OTHER LAWS.

"(a) Conflicting Requirements.—Except as provided in subsection (b) of this section, a requirement of a State, political subdivision of a State, or Indian tribe is preempted if—

"(1) complying with a requirement of the State, political subdivision, or tribe and a requirement of this Act or a regulation prescribed under this Act is not possible; or

"(2) the requirement of the State, political subdivision, or tribe, as applied or enforced, is an obstacle to accomplishing and carrying out this Act or a regulation prescribed under this Act.

"(b) Subjects Expressly Preempted.—Except as otherwise provided in this Act, a law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe about any of the following subjects, that is not substantively the same as a provision of this Act or a regulation prescribed under this Act, is preempted:

"(1) The designation, description, and classification of spent fuel or high-level radioactive waste.

"(2) The packing, repacking, handling, labeling, marketing, and placarding of spent nuclear fuel or high-level radioactive waste.

"(3) The siting, design, or licensing of—

"(A) an interim storage facility;

"(B) a repository;

"(C) the capability to conduct intermodal transfer of spent nuclear fuel under section 201.

"(4) The withdrawal or transfer of the interim storage facility site, the intermodal transfer site, or the repository site to the Secretary of Energy.

"(5) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of packaging or a container represented, marked, certified, or sold as qualified for use in transporting or storing spent nuclear fuel or high-level radioactive waste.

"SEC. 502. JUDICIAL REVIEW OF AGENCY ACTIONS.

"(a) Jurisdiction of the United States Courts of Appeals.—

"(1) Original and Executive Jurisdiction.—Except for review in the Supreme Court of the United States, and except as otherwise provided in this Act, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

"(A) for review of any final decision or action of the Secretary, the President, or the Commission under this Act;

"(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this Act;

"(C) challenging the constitutionality of any decision made, or action taken, under any provision of this Act; or

"(D) for review of any environmental impact statement prepared or environmental assessment pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act or alleging a failure to prepare such statement with respect to any such action.

"(2) Venue.—The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

“(b) Deadline for Commencing Action.—A civil action for judicial review described under subsection (a)(1) may be brought no later than 180 days after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action no later than 180 days after the date such party acquired actual or constructive knowledge or such decision, action, or failure to act.

“(c) Application of Other Law.—The provisions of this section relating to any matter shall apply in lieu of the provisions of any other Act relating to the same matter.

“SEC. 503. LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS.

“(a) Oral Argument.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after January 7, 1983, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral arguments, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

“(b) Adjudicatory Hearing.—

“(1) Designation.—At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

“(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

“(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

“(2) Determination.—In making a determination under this subsection, the Commission—

“(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

“(B) shall not consider—

“(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor to which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

“(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless

“(I) such issue results from any revision of siting or design criteria by the Commission following such decision; and

“(II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

“(3) Application.—The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

“(4) Construction.—The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear power plant by the Commission.

“(c) Judicial Review.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

“(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

“(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

“SEC. 504. SITING A SECOND REPOSITORY.

“(a) Congressional Action Required.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

“(b) Report.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

“SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.

“(a) Financial Arrangements.—

“(1) Standards and instructions.—The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on January 7, 1983, prior to termination of such licenses.

“(2) Bonding, surety, or other financial arrangements.—If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

“(b) Title and Custody.—

“(1) Authority of secretary.—The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

“(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

“(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

“(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

“(2) Protection.—If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

“(c) Special Sites.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

“SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.

“The Commission is authorized and directed to promulgate regulations, or other appropriate regulatory guidance, for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians, and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear power plant operator licenses and for operator requalification programs; requirements governing Commission administration of requalification examinations; requirements for operating tests at civilian nuclear power plant simulators, and instructional requirements for civilian nuclear power plant licensee personnel training programs.

“SEC. 507. EMPLACEMENT SCHEDULE.

``(a) The emplacement schedule shall be implemented in accordance with the following:

``(1) Emplacement priority ranking shall be determined by the Department's annual 'Acceptance Priority Ranking' report.

``(2) Subject to the conditions contained in the license for the interim storage facility, the Secretary's spent fuel and high-level radioactive waste emplacement rate shall be no less than the following: 1,200 MTU in fiscal year 2003 and 1,200 MTU in fiscal year 2004; 2,000 MTU in fiscal year 2005 and 2000 MTU in fiscal year 2006; 2,700 MTU in fiscal year 2007; and 3,000 MTU annually thereafter.

``(3) Subject to the conditions contained in the license for the interim storage facility, of the amounts provided for in paragraph (2) for each year, not less than one-sixth shall be—

``(A) spent nuclear fuel or high-level radioactive waste of domestic origin from civilian nuclear power reactors that have permanently ceased operation on or before the date of enactment of the Nuclear Waste Policy Act of 1997.

``(B) spent nuclear fuel from foreign research reactors, as necessary to promote nonproliferation activities; and

``(C) spent nuclear fuel, including spent nuclear fuel from naval reactors, and high-level radioactive waste from research or atomic energy defense activities; Provided, however, that the Secretary shall accept not less than five percent of the total quantity of fuel and high-level radioactive waste accepted in any year from the categories of radioactive materials described in subparagraphs (B) and (C).

``(b) If the Secretary is unable to begin emplacement by June 30, 2003 at the rates specified in subsection (a), or if the cumulative amount emplaced in any year thereafter is less than that which would have been accepted under the emplacement rate specified in subsection (a), the Secretary shall, as a mitigation measure, adjust the emplacement schedule upward such that within 5 years of the start of emplacement by the Secretary,

``(1) the total quantity accepted by the Secretary is consistent with the total quantity that the Secretary would have accepted if the Secretary had began emplacement in fiscal year 2003, and

``(2) thereafter the emplacement rate is equivalent to the rate that would be in place pursuant to paragraph (a) above if the Secretary had commenced emplacement in fiscal year 2003.

“SEC. 508. TRANSFER OF TITLE.

``(a) Acceptance by the Secretary of any spent nuclear fuel or high-level radioactive waste shall constitute a transfer of title to the Secretary.

``(b) No later than 6 months following the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary is authorized to accept all spent nuclear fuel withdrawn from Dairyland Power Cooperative's La Crosse Reactor and, upon acceptance, shall provide Dairyland Power Cooperative with evidence of the title transfer. Immediately upon the Secretary's acceptance of such spent nuclear fuel, the Secretary shall assume all responsibility and liability for the interim storage and permanent disposal thereof and is authorized to compensate Dairyland Power Cooperative for any costs related to operating and maintaining facilities necessary for such storage from the date of acceptance until the Secretary removes the spent nuclear fuel from the La Crosse Reactor site.''

“SEC. 509. DECOMMISSIONING PILOT PROGRAM.

``(a) AUTHORIZATION.—The Secretary is authorized to establish a Decommissioning Pilot Program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

``(b) FUNDING.—No funds from the Nuclear Waste Fund may be used for the Decommissioning Pilot Program.

“SEC. 510. WATER RIGHTS.

``(a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising under this Act.

``(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER NEVADA LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements of the State of Nevada. Nothing in this Act shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands.

``(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER NEVADA LAWS.—Nothing in this Act shall be construed to limit the exercise of water rights as provided under Nevada State laws.

“SEC. 511. DRY STORAGE TECHNOLOGY.

``The Commission is authorized to establish, by rule, procedures for the licensing of any technology for the 'dry storage of spent nuclear fuel by rule and without, to the maximum extent possible, the need for site-specific approvals by the Commission. Nothing in this Act shall affect any such procedures, or any licenses or approvals issued pursuant to such procedures in effect on the date of enactment of the Nuclear Waste Policy Act of 1997.

“TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

“SEC. 601. DEFINITIONS.

``For purposes of this title—

``(1) CHAIRMAN.—The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

``(2) BOARD.—The term 'Board' means the Nuclear Waste Technical Review Board continued under section 602.

“SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

``(a) CONTINUATION OF THE NUCLEAR WASTE TECHNICAL REVIEW BOARD.—The Nuclear Waste Technical Review Board, established under section 502(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of the Nuclear Waste Policy Act of 1997, shall continue in effect subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997.

``(b) MEMBERS.—

``(1) NUMBER.—The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after December 22, 1987, from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

``(2) CHAIR.—The President shall designate a member of the Board to serve as Chairman.

``(3) NATIONAL ACADEMY OF SCIENCES.—

``(A) NOMINATIONS.—The National Academy of Sciences shall, not later than 90 days after December 22, 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

``(B) VACANCIES.—The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

``(C) NOMINEES.—

``(i) Each person nominated for appointment to the Board shall be—

``(I) eminent in a field of science or engineering, including environmental sciences; and

``(II) selected solely on the basis of established records of distinguished service.

``(ii) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

``(iii) No person shall be nominated for appointment to the Board who is an employee of—

``(I) the Department of Energy;

``(II) a national laboratory under contract with the Department of Energy; or

``(III) an entity performing spent nuclear fuel or high-level radioactive waste activities under contract with the Department of Energy.

``(4) VACANCIES.—Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

``(5) TERMS.—Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after December 22, 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment, except that a member of the Board whose term has expired may continue to serve as a member of the Board until such member's successor has taken office.

“SEC. 603. FUNCTIONS.

``The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after December 22, 1987, including—

``(1) site characterization activities; and

``(2) activities relating to the packaging or transportation of high-level radioactive waste or spent nuclear fuel.

“SEC. 604. INVESTIGATORY POWERS.

``(a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

``(b) PRODUCTION OF DOCUMENTS.—

``(1) RESPONSE TO INQUIRIES.—Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information as may be necessary to respond to any inquiry of the Board under this title.

``(2) AVAILABILITY OF DRAFTS.—Subject to existing law, information obtainable under paragraph (1) shall not be limited to final work products of the Secretary, but shall include drafts of such products and documentation of work in progress.

“SEC. 605. COMPENSATION OF MEMBERS.

``(a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

``(b) TRAVEL EXPENSES.—Each member of the Board may receive travel expenses, including per diem in lieu of subsidence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

“SEC. 606. STAFF.

“(a) Clerical Staff.—

“(1) Authority of chairman.—Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

“(2) Provisions of title 5.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 3 of such title relating to classification and General Schedule pay rates.

“(b) Professional Staff.—

“(1) Authority of chairman.—Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

“(2) Number.—Not more than 10 professional staff members may be appointed under this subsection.

“(3) Title 5.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

“SEC. 607. SUPPORT SERVICES.

“(a) General Services.—To the extent permitted by law requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

“(b) Accounting, Research, and Technology Assessment Services.—The Comptroller General and the Librarian of Congress shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

“(c) Additional Support.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

“(d) Mails.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

“(e) Experts and Consultants.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

“SEC. 608. REPORT.

“The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations.

“SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

“Notwithstanding section 401(d), and subject to section 401(e), there are authorized to be appropriated for expenditures from amounts in the Nuclear Waste Fund under section 401(c) such sums as may be necessary to carry out the provisions of this title.

“SEC. 610. TERMINATION OF THE BOARD.

“The Board shall cease to exist not later than one year after the date on which the Secretary begins disposal of spent nuclear fuel or high-level radioactive waste in the repository.

“TITLE VII—MANAGEMENT REFORM

“SEC. 701. MANAGEMENT REFORM INITIATIVES.

“(a) In General.—The Secretary is directed to take actions as necessary to improve the management of the civilian radioactive waste management program to ensure that the program is operated, to the maximum extent practicable, in like manner as a private business.

“(b) Audits.—

“(1) Standard.—The Office of Civilian Radioactive Waste Management, its contractors, and subcontractors at all tiers, shall conduct, or have conducted, audits and examinations of their operations in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects consistent with its role in the program.

“(2) Time.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporations engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the enactment of the Nuclear Waste Policy Act of 1997.

“(3) Time.—No audit contemplated by this subsection shall take longer than 30 days to conduct. An audit report shall be issued in final form no longer than 60 days after the audit is commenced.

“(4) Public Documents.—All audit reports shall be public documents and available to any individual upon request.

“(d) Value Engineering.—The Secretary shall create a value engineering function within the Office of Civilian Radioactive Waste Management that reports directly to the Director, which shall carry out value engineering functions in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects.

“(e) Site Characterization.—The Secretary shall employ, on an on-going basis, integrated performance modeling to identify appropriate parameters for the remaining site characterization effort and to eliminate studies of parameters that are shown not to affect long-term repository performance.

“SEC. 702. REPORTING.

“(a) Initial Report.—Within 180 days of enactment of this section, the Secretary shall report to Congress on its planned actions for implementing the provisions of this Act, including the development of the Integrated Waste Management System. Such report shall include—

“(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession, of, and delivery of spent nuclear fuel and high-level radioactive waste in accordance with the emplacement schedule under section 507;

“(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligations under this Act and the contracts;

“(3) a detailed description of the Secretary's contingency plans in the event that the Secretary is unable to meet the planned schedule and timeline; and

“(4) an analysis by the Secretary of its funding needs for the five fiscal years beginning after the fiscal year in which the date of enactment of the Nuclear Waste Policy Act of 1997 occurs.

“(b) Annual Reports.—On each anniversary of the submittal of the report required by subsection (a), the Secretary shall make annual reports to the Congress for the purpose of updating the information contained in such report. The annual reports shall be brief and shall notify the Congress of:

“(1) any modifications to the Secretary's schedule and timeline for meeting its obligations under this Act;

“(2) the reasons for such modifications, and the status of the implementation of any of the Secretary's contingency plans; and

“(3) the Secretary's analysis of its funding needs for the ensuing 5 fiscal years.

“TITLE VIII—MISCELLANEOUS

“SEC. 801. SENSE OF THE SENATE.

It is the sense of the Senate that the Secretary and the petitioners in *Northern States Power (Minnesota)*, v. *Department of Energy*, pending before the United States Court of Appeals for the District of Columbia Circuit (No. 97–1064), should enter into a settlement agreement to resolve the issues pending before the court in that case prior to the date of enactment of the Nuclear Waste Policy Act of 1997.

“SEC. 802. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall become effective one day after enactment.”.

THURMOND (AND HOLLINGS) AMENDMENT NO. 27

Mr. THURMOND (for himself and Mr. Hollings) proposed an amendment to amendment No. 26 proposed by Mr. Murkowski to the bill, S. 104, supra; as follows:

On page 28, line 16, after “Washington” insert the following: “, and the Savannah River Site and Barnwell County in the State of South Carolina.”.

NOTICE OF HEARING

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Friday, April 11, 1997, 10 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is Food and Drug Administration [FDA] reform. For further information, please call the committee, 202/224–5375.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Tuesday, April 29, 1997, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony from the General Accounting Office on their evaluation of the development of the draft Tongass land management plan.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC

20510. For further information, please call Judy Brown or Mark Rey at (202) 224-6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on April 9, 1997, at 9:30 a.m. on the nomination of Kenneth Mead to be inspector general of Department of Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on April 9, 1997, at 10 a.m. on aviation accidents: investigations and responses.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. GRAMS. Mr. President, the Finance Committee requests unanimous consent for the full committee to hold a hearing on Medicare payment policies for post-acute care on Wednesday, April 9, 1997, beginning at 10 a.m. in room SD-215.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 9, 1997, at 2 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GRAMS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, April 9, 1997, at 1:30 p.m. for a hearing on the role of the Department of Commerce in the Federal statistical system, and opportunities for reform and consolidation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRAMS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 9, 1997, at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND FORCES

Mr. GRAMS. Mr. President, I ask unanimous consent that the Subcommittee on Airland Forces of the Committee on Armed Services be authorized to meet on Wednesday, April 9, 1997, at 10 a.m. in open session, to receive testimony on unmanned aerial vehicle programs, operations and modernization effort in review of S. 450, the National Defense Authorization Act for fiscal years 1998 and 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING OPPORTUNITY AND COMMUNITY DEVELOPMENT

Mr. GRAMS. Mr. President, I ask unanimous consent that the Subcommittee on Housing Opportunity and Community Development, of the Committee on Banking, Housing, and Urban Affairs, be authorized to meet during the session of the Senate on Wednesday, April 9, 1997, to conduct a hearing on S. 462, the Public Housing Reform and Responsibility Act of 1997.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mr. GRAMS. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 9, 1997, to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CONGREGATION KOL HAVERIM

• Mr. LIEBERMAN. Mr. President, I rise today to honor Congregation Kol Haverim of Glastonbury, CT, in recognition of the groundbreaking for its new synagogue building held on April 13, 1997. Through sheer determination, a singleness of purpose and spirit, as well as the considerable generosity of its members and the community at large, this congregation of 200 families is now realizing a dream that no one would have thought possible only a few short years ago.

Congregation Kol Haverim was formed only 13 years ago by a handful of Jewish families in the Glastonbury area, worshiping initially in the backroom of a local grocery store, and later purchasing a former Knights of Columbus hall that serves as its present one room home. Over the past 2 years, the congregation has raised over $1.3 million and its architects have designed a new building, to be added as an addition to the existing facility, that has been praised by local town planning and zoning officials as a model of design for new construction in the area.

In addition to attending to the spiritual needs of its members through worship services and its ever-growing religious school, Congregation Kol Haverim has always tried to attend to the needs of the local community and Greater Hartford, as well, through its various adult education, community outreach, and other programs. Whether through sponsoring a lecture or the volunteers it regularly provides to local soup kitchens or its participation in area-wide food or clothing drives, Congregation Kol Haverim, like other houses of worship in the area, has always strived to give of itself to the surrounding communities from which it draws its strength. The new building will provide a pleasant and welcoming new home for sacred study, communal worship, and social action.

I congratulate Congregation Kol Haverim, as it begins this new chapter in its existence. I thank its members for their initiative and all the good work they have done over the past 13 years, and I encourage them to continue to address all the good work that remains to be done.•

IN HONOR OF THE FALLEN AIRMEN OF THE 440TH AIRLIFT WING

• Mr. KOHL. Today, Mr. President, I would like to take a moment to remember the men and women of the 440th Airlift Wing, based at Mitchell Field in Milwaukee, who died and were injured in the course of their duty on April 1, 1997. At a treacherous airport in Honduras, far from home, three airmen made the ultimate sacrifice for their country. On a routine resupply mission, their C-130 skidded off the end of the runway while attempting to land at Tocontin International Airport in Tegucigalpa. The plane burst into flames killing Senior M. Sgt. Leland Rassmussen, S. Sgt. Vicki Clifton, and Senior Airman Samuel Keene. Also injured in the crash were T. Sgt. Joseph Martynski, Capt. Ian Kincaid, M. Sgt. Steven Hilger, T. Sgt. Danny Formanski, Capt. Michael Butler, S. Sgt. Dean Ackmann, and Capt. Robert Woodard.

The 440th flies out of my hometown, Milwaukee, WI and I am proud of their commitment to excellence. Over the years they have been called on many times to serve their country in foreign lands and dangerous circumstances. They are an example of the best the Reserve system has to offer, and I was deeply saddened to hear of their loss.

Too often we take for granted the risks members of the military run on a day-to-day basis. We assume that because the United States is at peace soldiers do not face danger. While in fact, everyday men and women in our armed services put their lives on the line. They do it quietly and without fanfare. It seems that only when tragedy strikes do we take a moment to appreciate their courage and sacrifice.

I would also like to take a moment to thank those brave Honduran citizens who risked their lives to help victims of the crash. With the wreckage burning only 100 yards from two gas stations, these good Samaritans waded into the fiery crash site to rescue complete strangers. Because of their selfless courage, lives were saved and crippling injuries avoided.

Those injured in the accident have my best wishes for a speedy and complete recovery. My heart goes out to the families of Leland, Vicki, and Samuel. Over the years these three airmen have foregone time with their families in order to serve their country, and now the Nation owes them a debt it can never fully repay. All we can offer is our deepest sympathy and highest esteem.•

CHRISTOPHER REEVE ON MEDICAL RESEARCH

• Mr. HARKIN. Mr. President, on March 13, 1997, along with Senator ARLEN SPECTER, I introduced bipartisan legislation, S. 441, the National Fund for Health Research Act. This important bill would provide additional resources for health research over and above those provided to the National Institutes of Health in the annual appropriations process. The fund will help eradicate some of the illnesses that now strike millions of Americans.

At this time I would like to submit for the RECORD a letter from Christopher Reeve endorsing the National Fund for Health Research Act. Christopher Reeve has worked tirelessly since his accident to increase funding for medical research. We all owe Christopher Reeve a debt of gratitude for bringing health care concerns to the attention of all Americans. He and I both realize that the Fund for Health Research Act could hold the key to finding successful treatments for hundreds of diseases. In his letter, Christopher Reeve states that S. 441 will give our best researchers the funds they need to stay ahead of a developing crisis. I agree wholeheartedly with his assessment and urge the Senate to move quickly on this legislation. I now ask that the text of Christopher Reeve's letter be printed in the RECORD.

The letter follows:

CHRISTOPHER REEVE,
March 20, 1997.

President CLINTON,
The White House, Washington, DC.

DEAR MR. CLINTON. I was sorry to hear about your unfortunate accident but glad to know you will make a full recovery and that your activities won't be limited in the future. The sight of you in a wheelchair was very moving but also a helpful image for all Americans particularly the disabled.

At the risk of becoming a pest, I'm taking this opportunity to ask your support for legislation introduced last week by Senators Specter and Harkin which would require insurance companies to donate 1 penny out of every dollar they receive in premiums to the NIH. It is estimated that this would provide an additional $6 billion dollars annually for research.

I feel it is an excellent proposal because it does not raise taxes, the insurance companies can afford it and they ultimately receive the additional benefit of having to pay for fewer claims. And as I am sure you're aware, recent studies have shown the cost effectiveness of research, is of course a crucial factor in the balanced budget debate. As America ages, the attendant health problems will not go away unless we give our best researchers the funds they need to stay ahead of a developing crisis.

Thank you again for all the helpful comments you have made so far about research since the convention last year. Now is the time for all of us to push into high gear.

With best wishes for a speedy recovery.

Sincerely,

CHRISTOPHER REEVE
(Signed by Michael Manganiello, Special Assistant to Christopher Reeve).•

COMMEMORATING THE CITY OF NASSAU BAY'S ASTRONAUT DAY FESTIVAL

• Mrs. HUTCHISON. Mr. President, I rise to commend the city of Nassau Bay for its efforts to celebrate the development of space exploration and the international cooperation associated with it. Nassau Bay is hosting a special day of recognition for America's astronauts and their Russian counterparts on April 12, 1997. In addition, the State of Texas has proudly honored these brave men and women by declaring April 12th "Space Explorers' Day" in Texas. I rise today to appropriately recognize this day in the U.S. Senate.

Nassau Bay is located near NASA's Lyndon B. Johnson Center. The community has been integrally involved in this Nation's space exploration activities since we began the space program a generation ago. Nassau Bay residents were among those to walk on the Moon and provide the technical and managerial support necessary for America's successful space program. Today, Nassau Bay is still critical to NASA's manned space mission. Nassau Bay rightfully celebrates the continuation of that mission by hosting "Astronaut Day" on April 12.

Astronaut Day celebrates the men and women who have expanded humankind's horizons and recognizes the technological advances resulting from their work that have been incorporated into our everyday lives. I join Nassau Bay and the State of Texas in honoring the many dedicated men and women who devote their time and talents to helping this Nation realize the cherished dream of space exploration. They have truly broadened the frontiers of knowledge and their outstanding accomplishments are worthy of special recognition.

Mr. President, I appreciate this opportunity to give Nassau Bay the recognition it deserves in the U.S. Senate. I urge my colleagues to join me, the city of Nassau Bay, and the State of Texas in reflecting on the important contributions our space pioneers and explorers have made to history, science, and the quality of our lives on this planet.•

GIRL SCOUTS AND BOY SCOUTS OF RHODE ISLAND, 1996

• Mr. CHAFEE. Mr. President, it is with great pleasure that I present to you Rhode Island's outstanding recipients of the highest honors for Girl Scouts and Boy Scouts. They have distinguished themselves as community leaders, service volunteers, and mentors for their peers.

For more than 50 years, artist Norman Rockwell captured in his paintings the spirit and sense of America and its people. A large number of these paintings portrayed Scouts and Scouting. Few other childhood activities better represent the commitment to God, country, and community that is inherent in Scouting.

Providing girls and boys with tools and leadership skills that will be useful throughout their lives, Scouting is indelibly linked with transforming youths into able, educated, well-rounded adults. Activities like camping, service projects, and weekly meetings aim to build character, encourage responsible citizenship, and develop physical, mental, and emotional fitness.

The highest honors that a Girl Scout can earn are the Gold and Silver Awards, which are presented to those girls who have shown exemplary commitments to personal excellence and unwavering public service. Likewise, the Eagle Award is the highest honor that can be earned by a Boy Scout. Recipients have displayed the highest achievable skills in outdoor activities and incomparable service records.

Behind every Girl Scout and Boy Scout troop is a group of similarly dedicated parents and leaders who guide the youths through their achievements.

It is for all these reasons that I am proud to honor the recipients of Girl Scouts' Gold and Silver Awards and the Boy Scouts' Eagle Scout Award. The outstanding achievements of these young recipients warrant our praise, admiration, and thanks. So that we all may know who they are, I ask that the complete list of awardees be printed in the RECORD.

The list follows:

GIRL SCOUT 1996 GOLD AWARD RECIPIENTS

CUMBERLAND, RI

Nicole Tetreault.

JOHNSTON, RI

Shannon Quigley, Sandra Shackford.

NARRAGANSETT, RI

Kate Hohman, Renee Johnson, Jill Raggio.

NORTH PROVIDENCE, RI

Marissa Borrelli.

SAUNDERSTOWN, RI

Angela Briggs.

SMITHFIELD, RI

Heather Harkness, Christina Riccio.

WAKEFIELD, RI

Meghan Higgins.

WOONSOCKET, RI

Melissa Brin.

GIRL SCOUT 1996 SILVER AWARD RECIPIENTS

BRISTOL, RI

Sara Belisle, Kathleen Cahill, Sandra Koch, Afiya Samuel.

CRANSTON, RI

Robin Grady, Bethany Lavigne, Kathryn Mullican, Jessica Sanchez.

CUMBERLAND, RI

Suzanne Gustafson, Elizabeth Rivard.

EAST GREENWICH, RI

Elissa Carter.

EXETER, RI

Laura Moriarty.

KENYON, RI

Tracy Williams.

LINCOLN, RI

Johanna Simpson.

LITTLE COMPTON, RI

Ruth Gordon.

MIDDLETOWN, RI

Meredity Benvenuto, Meghan Franklin, Elizabeth Mack, Heather Markman, Casey Serls.

NARRAGANSETT, RI

Lucia Marotta.

NEWPORT, RI

Mary Ann Compton, Amanda Grosvenor, Jennifer Sawyer.

NORTH KINGSTOWN, RI

Kelly Blinkhorn.

NORTH PROVIDENCE, RI

Nicole Aiello, Beth Bader, Bonnie Bryden, Sarah Cardin, Jenifer DeGrace, Laura Ann DiTommaso, Jean Ann Douglas, Valeria Ferrara, Sabra Integlia, Alison Kole, Carissa Leal, Candida Linares, Karen Linares, Summer Lockett, Pamela Ricci, Dawn Shurtleff, Stephanie Swartz.

NORTH SMITHFIELD, RI

Maureen McPherson, Laura Peach, Sarah Peach, Lisa Rowey, Heather Senecal.

PAWTUCKET, RI

Briana Fishbein, Nicole Gendron, Alyssa Nunes.

PORTSMOUTH, RI

Jennifer Lake, Carrie Miller, Elizabeth Nunes.

PROVIDENCE, RI

Arielle Ascrizzi, Mika Clark, Angela Fayerweather, Rita McCartney, Stacy Montvilo.

SAUNDERSTOWN, RI

Karena Burnham.

WARREN, RI

April Lau, Nicole Peck, Jody Valente.

WARWICK, RI

Carolyn Beagan, Sara Berman, Amanda Cadden, Becky Csizmesia, Justine Evans, Kristen Giza, Bethany Linden, Amanda Marcoccio, Kerri McLaughlin, Lauren Ramieri, Catherine Rousseau, Leah Wallick.

WEST GREENWICH, RI

Rachel Fontaine.

WEST KINGSTON, RI

Audra Criscione.

WEST WARWICK, RI

Tracyjo Jorgensen, Jennifer Malaby, Kerrin Massey.

WESTERLY, RI

Jamie Hanson, Karen McGrath, Heather Norman.

WYOMING, RI

Kelly Marie Henry.

BOY SCOUT 1996 EAGLE AWARD RECIPIENTS

BARRINGTON, RI

John Eugene McCann IV, Curtis G. Barton, Thayer Harris, Bretton R. McDonough, Benjamin A. Rasmussen, William Prescott Read, Christopher J. Ryan, Jeffrey J. Previdi, Brian Wood, Casey M. O'Donnell, Nicholas C. Seadale, Brian C. Keeney, N. Ross Kiely.

BLACKSTONE, MA

Kevin M. Boyko, Timothy P. Doyle.

BRISTOL, RI

Michael David Blank, Raymond B. Murray.

BURRIVILLE, RI

Kenneth DeBlois.

CENTRAL FALLS, RI

Daniel Joseph Malenfant.

COVENTRY, RI

Michael B. Sullivan, Jeffrey A. Taylor.

CRANSTON, RI

Zaven R. Norigian, Benjamin Mark Terry, Michael Frank Ferraro, Seth Benjamin Kahn, Michael P. Gallo, Michael W. Libby, Kevin Michael Thurber, Joshua A. Terry, David O. Ober, Matthew Brian Beltrami.

CUMBERLAND, RI

Sven John Myeberg, Adam Ryan Dau, Albert R. Greene III.

EAST GREENWICH, RI

William R. Sequino, J. David C. M. Whittingham, Derrick James Mong, Derek L. Flock, Matthew V. Cawley, Matthew Lundsten, Matthew Wolcott, Mark A. Fondi.

FOSTER, RI

Adam C. Copp, Nickolas A. Charrette.

GLOCESTER, RI

Scott Adam Carpenter, Steven Bruce Nelson.

HOPKINTON, RI

James M. Lord.

JOHNSTON, RI

Robert F. Amato, Daniel C. Ullucci, Donald J. Bressette, William J. Giblin, Jr., Steven E. Piccotte, Jr.

KINGSTON, RI

Dana Clark Seaton.

MANVILLE, RI

Christopher Scott Horton.

MIDDLETOWN, RI

Michael A. Incze.

NEWPORT, RI

Jesse Silvia, Michael A. Thomas, Jr., Robert A. Zeuge, Doug M. Nelson, Roland E. Zeuge, John Kenneth Mossey.

NORTH KINGSTOWN, RI

Andrew J. Vanasse, Donald T. Braman, Nicholas J. Veasey.

NORTH SCITUATE, RI

Mark Ullucci.

NORTH SMITHFIELD, RI

Joshua S. Mowry, Timothy M. Reilly, David R. Katz.

PAWTUCKET, RI

Jonathan A. Bray, Jupesi Gonzalez, Jessie Alan Dyer.

PORTSMOUTH, RI

Jason C. Weida, Michael David Andrews, Samuel Magrath IV, Scott R. Obara, Douglas M. Doherty, Kenneth E. Hoffman, Jr., Christopher Cardoza, Jason J. Reynolds.

PROVIDENCE, RI

Andrew P. Magyar, Peter N. Wood, Jr., Brendan R. Foley-Marsello, Jeremy S. Harkey, Matthew T. Whitman, Michael Edward Winiarski, Nicholas Q. Emlan, Damon G. Cotter, Luke C. Doyle, William David Garrahan, Richard James Marcoux, Andrew M. Good.

RIVERSIDE, RI

Michael W. Caine, Michael L. Robertson, Kevin J. Smith, Matthew Michael Hodges, Eric Olson.

SAUNDERSTOWN, RI

Joshua J. Gabriel.

SCITUATE, RI

Scott D. Bear, Jared A. Fasteson, Wayne F. Smith.

SEEKONK, MA

Matthew James Schupp, Zebulon P. Fox, Andrew L. Libby.

WARWICK, RI

Jon Thomas Selby, Marc A. Berman, Chris C. Schreib, Joseph Michael Bizon, Michael J. Narowicz, Joseph M. O'Connor, Michael A. Milner, Jason G. Naylor, Steven M. Sullivan.

WEST GREENWICH, RI

Edward C. Morgan, Geoffrey Albro.

WEST WARWICK, RI

Steven R. Bentley, John Richard Ferri, Joshua Joseph Roch, Paul Ambrose Lague, Brendon M. Warner, Jonathan Santini, Eric R. Bosworth, Dana P. Graves, Jacob James Cahalan, Charles Gardner.

WESTERLY, RI

Peter E. Cabral.●

SIXTH ANNIVERSARY OF THE RE-INDEPENDENCE OF THE REPUBLIC OF GEORGIA

● Mr. McCONNELL. Mr. President, I rise today to commemorate the sixth anniversary of the re-independence of the Republic of Georgia.

Georgia has a rich cultural heritage spanning over 2,000 years, and recent history provides a remarkable story in the struggle against communism. First annexed by Russia in 1801, Georgia experienced a brief glimpse of independence in 1918 when Georgia relinquished its ancient monarchy for a democratically elected government. In 1921, however, the iron curtain descended on this small, yet proud country, and over the next 70 years suffered terribly under the heavy hand of Soviet communism and its centrally planned economy. Through it all, the Georgian people never gave up their hope or desire for freedom and independence.

On April 9, 1989, violence erupted in the Georgian capitol of Tbilisi, as Soviet troops swarmed the city and fell on 10,000 peaceful citizens demonstrating for independence. During the ensuing violence, more than 200 people were injured and 19 killed. Some, including women and children, were tragically beaten to death with shovels. This event marked the beginning of the end of Soviet domination. Exactly 2 years later, on April 9, 1991, Georgia officially declared its independence, a day which is remembered as the anniversary on which Georgia's long fight for freedom was again realized.

Since then, under the leadership of President Eduard Shevardnadze, Georgia has made remarkable strides toward a free market economy and democratic rule of law. A constitution founded on democratic principles and values has been adopted, and free and fair presidential and parliamentary elections were held. A new generation of young, energetic democratic leaders has emerged, led by 34-year-old Zurab Zhvania, Chairman of the Parliament, who I recently met with. On the economic front, Georgia's new currency, the lari, has remained stable since its introduction in 1995. The International Monetary Fund and the U.S. Department of State have praised Georgia's economic initiatives and their significant progress in developing a free-market economy. Several U.S. corporations have already established a presence in Georgia, spurring jobs and economic growth in both nations.

Mr. President, I encourage everyone to note this historic day, and congratulate Georgia on its extraordinary progress toward democracy and free-market principles.•

RAISING ACADEMIC STANDARDS AND LOWERING COLLEGE COSTS AT WEST MESA HIGH SCHOOL, ALBUQUERQUE, NM

• Mr. BINGAMAN. Mr. President, I rise to honor the achievements of the students and educators at West Mesa High School in Albuquerque, NM, and especially its growing Advanced Placement [AP] program.

On Tuesday, April 1, I had the opportunity to visit West Mesa and speak with students and teachers participating in the school's AP program. Several State legislators and business leaders joined me in a short but invaluable group discussion and class visit.

Perhaps most impressive was the visit to one of Mr. Tomas Fernandez' AP English classes, where students explained in their own words why AP courses are so important. In this class, the students don't ask for less home work or "dumbed-down" classes; they are demanding more challenging classes and higher academic expectations for all students. While AP classes are new to many, and set a very high standard, the students had found that they could succeed.

Principal Milton Baca and a growing number of West Mesa teachers are responding to this demand by providing more and more challenging classes in the school's growing AP program. For example, West Mesa recently added an AP Calculus course in addition to its AP English course, and five teachers attended AP teacher training institutes last summer. More teachers are planning to attend AP training courses this summer so they can start an AP science course in the next school year. I applaud all of these efforts.

For college-bound students, taking AP courses and passing AP exams can translate into valuable college credits for advanced high school work. For those AP students who decide not to go to college, they and their prospective employers can be confident that they are better prepared academically and will have an advantage as they compete for jobs and enter the work force.

Because AP programs are so beneficial to both work- and college-bound students, I have been working on efforts to expand these programs, as part of the solution to our State's clear need for immediate, measurable education reform. To show the importance of strong academic skills to employers, I am working with several businesses in New Mexico to develop employment incentives for students who take and pass AP exams, especially in the core academic areas of English, math, and science. In addition, I am gratified that the State legislature increased funding for the AP New Mexico program to $200,000 next year, as I requested in testimony before the relevant committees.

Despite this important progress, West Mesa High School and New Mexico have a long way to go to more fully utilize the AP program as a way to challenge high school students, raise academic achievement to higher levels, and improve our long-term economic productivity. In New Mexico, roughly 5,000 students took AP classes in 1996—up 22 percent from 2 years ago—with a 20-percent increase in AP tests taken, but this is still below the national average. New Mexico's per-capita participation rate remains 20 percent lower than Arizona's and 40 percent below the national average.

We are facing an uphill struggle to improve our schools and students' academic performance in several areas, including making better use of the AP program. But the strides that West Mesa High School is making are compelling evidence that we can make real and lasting positive change in our schools. I congratulate West Mesa's students and teachers on their accomplishments so far, wish them well on further advancement, and offer my assistance as they continue to improve.•

UNIVERSAL SERVICE IMPLEMENTATION

• Mr. McCAIN. Mr. President, I have read the report in the Wall Street Journal that Federal Communications Commission Chairman Reed E. Hundt proposes to implement only a portion of the new universal service fund rules by the statutory deadline of May 8. Specifically, he suggests delaying the adoption of rules assuring reasonable rates for telephone subscribers in rural and high-cost areas, although he would proceed to implement a new $3 billion yearly fund to wire schools, libraries, and health care facilities through an unspecified tax on telephone company revenues.

Last January I wrote to Chairman Hundt about his apparent desire to implement these provisions prior to implementing the remainder of the universal service provisions of the statute. At that time, I stated that sound implementation of the Telecommunications Act requires that the Commission resolve all the related issues involved in universal service carefully and contemporaneously.

Apparently Chairman Hundt has not changed his view, Mr. President, but neither have I.

Implementing universal service funding in separate stages would be incompatible with the law. The Telecommunications Act of 1996 states clearly and unambiguously that the FCC "shall initiate a single proceeding to implement the recommendations from the Joint Board * * * and shall complete such proceeding" by May 8, 1997.

It would be consistent with this unequivocal statutory requirement for the FCC to adopt specific new rules on May 8 and have them take effect in the future. It would also be consistent with the statute for the FCC to adopt general outlines of new rules on May 8, and fill in specific details by subsequent order. The FCC can, and in my judgment should, avail itself of these courses of action if it finds, for whatever reason, that it cannot adopt final rules on all aspects of universal service on May 8. But one thing the FCC cannot do by law is pick and choose some statutory requirements to put into effect on May 8, and delay the rest till later.

Let me be clear. I can understand the possible problem Chairman Hundt faces: too much proposed subsidy, and not enough revenue to handle it without raising rates for telephone service. I emphatically am not suggesting that he simply proceed to adopt final universal service fund rules and thereby raise telephone rates on May 8. But if, after studying universal service as extensively as it has, the FCC has concluded that it cannot implement the universal service provisions of the statute without increasing telephone rates or incurring similar unacceptable outcomes, it must defer from implementing any universal service rules until it can satisfactorily demonstrate to both the Congress and the public that any rate increases that would result are inevitable in fact and appropriate in amount.

Unless and until the FCC can do that, the Commission should take no final action on universal service. To try and evade the issue by implementing the parts of universal service that may be politically desirable while dodging the rest because it appears politically unpalatable would be a dereliction of the Commission's duty under law.●

HONORING LARA GREEN SPECTOR

• Mr. LAUTENBERG. Mr. President, I rise to honor Lara Green Spector, the Tobacco-Free Kids East Regional Youth Advocate of the Year. Lara is a ninth grader from Montclair High School in New Jersey who truly exemplifies the old adage that one person can make a difference.

Lara was the motivating force behind Montclair's recently passed ordinance banning cigarette vending machines and self-service displays. Who knows how many Montclair teenagers and children may not take up smoking because cigarettes are now more difficult to obtain. And local public officials, school advisers and residents all agree that this ordinance would never have become a reality without Lara's initiative, leadership and tenacity.

Lara also organized a townwide program for the Great American Smokeout in November 1996. Her program included a poster contest in the local elementary schools and a quiz contest in the middle schools. She also created and distributed a fact sheet to every Montclair student. For years, tobacco companies have used youth oriented advertisements, like Joe Camel, to send a false message to young people that smoking is cool and glamorous. Education campaigns like Lara's help blow away their smoke screens and demonstrate that cigarettes are addictive and deadly.

Mr. President, for years, I have led the crusade in this Chamber against teenage and youth smoking. I am certainly happy to have an exceptional foot soldier like Lara join me in the fight.

By working to stop children and young people from smoking, Lara Green Spector is enhancing lives and saving lives. She is an outstanding student, activist, and citizen, and I have a feeling that we have not heard the last from her on Capitol Hill.●

COMMEMORATING THE 50th ANNIVERSARY OF JACKIE ROBINSON'S DEBUT IN PROFESSIONAL BASEBALL

• Mrs. FEINSTEIN. Mr. President, 50 years ago a true American hero walked onto Ebbets Field one afternoon and forever shattered the color barrier with one swing of his bat. His name was Jack Roosevelt Robinson.

On that day, 7 years before Brown versus the Board of Education allowed school children of all colors to sit in the same classroom, 16 years before Martin Luther King Jr. spoke of his dreams at the foot of the Lincoln Memorial, and 18 years before the Civil Rights Act became the law of the land, Jackie Robinson did more for the equal rights movement and the sport of baseball than had anyone before him.

Jackie Robinson on April 15, 1947, became the first professional black athlete to play America's pastime, baseball. In his Brooklyn Dodgers uniform, he not only broke the color barrier, but he also broke numerous baseball records during his 10-year professional career.

By the end of his tenure as a player, Jackie Robinson would become one of America's most celebrated and honored athletes. He became major league baseball's first Rookie of the Year—an award now named after him, the national league's Most Valuable Player, holder of the coveted batting title, a six-time member of Dodgers' World Series teams, a member of the 1955 world champion Dodgers, and a member of the Baseball Hall of Fame.

As the senior U.S. Senator representing California, I am particularly proud of the fact that Jackie Robinson was from the Golden State, raised in Pasadena, and was a star athlete at the University of California at Los Angeles. At UCLA, Robinson became the first athlete ever to win varsity letters in four sports: baseball, basketball, football, and track.

Such an amazing and talented athlete, however, was not welcomed into the arms of American baseball fans or of its players back in the spring of 1947.

Jackie Robinson fought prejudice and harassment with every base he ran, every ball he hit, and every victory he helped win for his team. Players and coaches yelled racial slurs at him, and one team even threatened to strike in protest of Robinson's presence in their city. But Robinson, remembering how his mother refused to sell their family home and move away amid protests from white neighbors, persevered.

He faced hatred and racism with courage and conviction, proving to teammates, opponents and fans alike that he had earned the right to play professional baseball through his sheer athleticism. Along the way, Robinson became the role model for future baseball icons such as Hank Aaron and Willie Mayes.

Shortly after his retirement from baseball in 1957, Jackie Robinson helped to further the rights of all African-Americans by becoming a spokesman and fundraiser for the National Association for the Advancement of Colored people [NAACP]. He traveled the country urging black communities to work together for equal rights, educating and encouraging them to participate in the new civil rights movement. He became a role model all over again, this time to millions of men and women who saw inequality and wanted to change it.

Jackie Robinson represents everything good with baseball, and everything great with America. By commemorating his achievements and his entrance onto the professional baseball fields, his legacy lives on, inspiring yet another generation of fans to realize their dreams and break new ground along the way.

Jackie Robinson once said, "A life is not important except in the impact it has on other lives." By that standard, Jackie Robinson's life was as important as America's greatest heroes throughout history, and we as a nation are all grateful and proud of his accomplishments.

Major league baseball has recognized Jackie Robinson's achievements by dedicating the 1997 season to his memory. As part of these festivities, last week's opening day games were played in all major league stadiums with a Jackie Robinson commemorative baseball. Just last weekend, the Los Angeles Dodgers paid tribute to the Hall of Famer in a pregame ceremony attended by Rachel Robinson, Jackie's widow.

The Dodgers plan many other activities throughout the year such as a Jackie Robinson poster distributed to all Los Angeles district schools, a special section devoted to Robinson on the Dodgers' official web site, a salute to Jackie Robinson scholarship winners, an historic Robinson display at Dodger Stadium and assistance with the Jackie Robinson Foundation Golf Classic. Additionally, President Clinton will honor his memory with Rachel Robinson in an April 15 ceremony at Shea Stadium during a game between the Dodgers and the New York Mets.

I salute the memory of Jackie Robinson on this, the 50th anniversary of his becoming the first black baseball player in the major leagues.●

MEASURE READ THE FIRST TIME—S. 543

Mr. LOTT. Madam President, I understand that S. 543, introduced today by Senator COVERDELL, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 543) to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers.

Mr. LOTT. I now ask for its second reading and object to my own request on behalf of Senators on the Democratic side of the aisle.

The PRESIDING OFFICER. Objection is heard.

ORDERS FOR THURSDAY, APRIL 10, 1997

Mr. LOTT. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Thursday, April 10.

I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately resume consideration of the Thurmond amendment to S. 104, the Nuclear Policy Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Madam President, for the information of all Senators, tomorrow at 9:30 a.m. the Senate will resume consideration of the Thurmond amendment to the Nuclear Policy Act. Thus far, we have made, I think, some progress on this important legislation. It is my hope that the Senate will be able to make additional progress during tomorrow's session and that we will be able to bring it to conclusion. But I do want to advise Senators that we do expect the likelihood of votes on amendments tomorrow and possibly even final passage, although that is still being discussed.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. LOTT. Madam President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:03 p.m., adjourned until Thursday, April 10, 1997, at 9:30 a.m.

EXTENSIONS OF REMARKS

COMMITTED TO REAL PEACE IN THE MIDDLE EAST REGION

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. GINGRICH. Mr. Speaker, the United States has been, and will continue to be, committed to seeing real peace in the Middle East region. All Americans need to look at the daily events in that region with as full an understanding as possible of what is happening and why. For that purpose, I enter into the CONGRESSIONAL RECORD my comments yesterday to the American-Israeli Public Affairs Committee.

REMARKS BY HOUSE SPEAKER NEWT GINGRICH TO THE AMERICAN ISRAELI PUBLIC AFFAIRS COMMITTEE

Speaker GINGRICH. Thank you very, much for that remarkable welcome. Although I must warn you that one of the dangers of Washington is you sit here and you listen to the kind of introduction that Bubba Mitchell just gave me, is that as you—as it builds, you start to get excited and you get forward to hearing from the person, and then you realize it's yourself, and there's a sort of immediate letdown. So—(laughter).

One of the nice things about working with Bubba is that you always end up looking better than you remembered as he explains whatever the role was. But it is—it's great to be here and to have a chance to be with you, and to be with Melvin. And I appreciate very much all the leadership, the team that has come together here. We work very closely with Howard Core (sp). And as I think many of you know, Arne Christenson, who is the speaker's chief of staff, has a long record. Where's Arne? He's down there. Let me also say that it's great to be back—I look out—I don't want to go through a long list of names and start forgetting people. Ed Levy, who first came to me, I think in 1978, and helped us because he saw a commercial on what was then a brand new innovation called the Superstation, and said this is a guy we want to support. Larry Weinberg, who's been a great friend, out in Los Angeles—we were with recently.

I'm told that Harriet Zimmerman, who really has been, from an Atlanta standpoint, terribly important, had a back problem and is not here. So I hope those of you—I'm going to try to give her a call, but I hope all of you—I saw Herb Schwartzman was with us a few minutes ago. And just so many friends from all over the country who have been part of the extended family. Many of you have heard me say this before, but it bears repeating, particularly for the younger, newer members. AIPAC is extraordinarily vital to all of American foreign policy. You are the—You are the only institution I know of at the grassroots level which in an effective, consistent manner supports the role of America in the entire world, helps members get to learn about the world. Congressman John Linder took a group again in January and began the process of getting them to realize the realities of power, the realities of distance, and the uniquences of Jerusalem and of the Israeli experience of democracy in the Middle Eastern context.

And so, far from the foreign aid program and American military programs somehow being burdened by our relationship with Israel, I believe it is fair to say, as a congressional leader, that without your hard work and your grassroots effort and your education programs, the entire foreign aid program would dramatically decline. And it is indeed the aid to the rest of the world which rides on the back of the work you do, and not the aid to Israel which in any way affects what we do around the world.

So what you're doing strengthens America by educating members of Congress into the importance of our international role and into the importance of leadership, and into the principles that are at the heart of the survival of freedom.

And that's what I want to talk about today, because we need a principled debate over honesty versus appeasement, over a willingness to tell the truth versus a consistent and deliberate slanting, over keeping your word versus breaking your word and then simply moving on with the new demand. And I think the debate is that simple.

There are military threats and intelligence threats, and I want to talk about them briefly. But I think there's a much deeper threat facing Israel today, and I want to spend more time on that topic. Let me talk first, though, briefly about the military threat.

We have an absolute obligation to our young men and women in uniform and to our allies around the world to provide the best defense that science and engineering can develop. And we must not allow lawyers and diplomats to cripple our missile defense by setting phony standards based on a phony deal. This is exactly what happened in the '20s and '30s in the Pacific when we signed agreements with the Japanese which they violated while we kept them. It's exactly what happened in Europe where the Allies signed agreements which the Germans broke while the Allies kept them. And I don't want to lose a city, I don't want to lose a single soldier, sailor, airman or airwoman or Marine because we relied on lawyers and diplomats when, in fact, our engineers and scientists could have gotten the job done.

I also think it is tremendously important to look at the recent Helsinki agreement and understand how dangerous it is because we don't live in a world where the most likely threat is Boris Yeltsin's government. Now, you don't have to suggest that diplomacy is an inadequate protector when you look at how shaky that government is.

But forget Russia. Assume Russia didn't exist. An agreement that says the Russians won't threaten us is irrelevant if the largest threat on the planet's from Iran. Now, I don't want some legalese by a bunch of diplomats and lawyers, with Russians, preventing us from providing over Tel Aviv or providing over an American air base, or providing over an American expeditionary force, the finest technology that science and engineering can develop. We can defeat Iranian missiles if we allow our scientists and engineers to do our job and if we work with the Arrow Program and Israel; and if we pay attention to capability, not promises.

I also believe we have to be honest about terrorism. Terrorism is not impossible to defeat, but it requires a couple of things. It requires a bigger investment in human intelligence. It requires a commitment to placing people for a very long periods of time in very dangerous areas. It requires a deep commitment to keep secrets in the United States so people don't get killed because they're risking their lives to penetrate terrorist organizations while people back here babble. It requires principles that say, "If you're a terrorist, you should not expect to live very long." It requires a commitment to preemptive strikes when we deem them appropriate, to avoid weapons of mass destruction. And it requires a willingness to focus energy and resources on weak states, like Sudan, as a warning to stronger states not to mess with the forces of democracy and freedom.

Ronald Reagan understood the power of strength to multiply itself, which is why, when the United States Navy shot down two Libyan aircraft, the United States's sense of being insecure disappeared. And across the planet, people began to back off and realized we were determined. And we have to be prepared to use our strength, not just talk about it. And we need to be prepared to say, "No state terrorism will go unpunished on this planet, and we will take on those states that use terrorism as a tool."

Look, I take the military threat seriously. And most years, I would have come and focused on that. But I really want to break some new ground here today intellectually and talk about something which, interestingly, I mentioned first at the Foreign Diplomat School in Beijing a week ago, and that's the concept of information warfare and information diplomacy as the necessary new tools of the 21st century.

Now, many of you have read or seen things about information warfare, which all too often is defined by the military too narrowly in terms of computer systems and all that stuff.

I originally began working on information warfare in the early 1980s, based on the concept that with CNN in every living room on the planet in real time, you could lose the war on television, even if you won it on the battlefield. And the great challenge we face is that Arafat and the forces of terrorism are in a coalition, engaged in an information warfare campaign against Israel, a campaign in which the American news media is serving as the witting or unwitting ally of Arafat.

And if you want to see how successful—and I think this is, frankly, the fault of the Israeli government and the American government for not recognizing with sufficient intellectual rigor the new nature of the world in the information age. And I do not mean that as an attack on either President Clinton or Prime Minister Netanyahu, but I mean it as an institutional criticism of all of us. We are now in a world where our opponents plan long campaigns, campaigns that are vicious, dishonest and that exploit our vulnerabilities. We react to each incident. So

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

something happens which they've thought through and moves the game a half-step their way, and we react only momentarily, then we forget. Then something happens and we react, and then something happens. And it's definition creep.

Consider the difference—you know, Marianne and I were in Israel weeks before the signing of the Oslo Accords. And while the secret agreement in Oslo took the world by surprise, in the weeks before it occurred there was a genuine sense of hope, a seed that something might happen.

Israel stood in a strong position in the region. Iraq had been shattered militarily by the Americans and the coalition forces. Syria, Israel's foe to the north, had lost its patron, the Soviet Union. While terrorists continued to operate out of Syria's vassal's state, Lebanon, Jordan seemed poised for a closer relationship with Israel. And the hope for progress, if not a breakthrough, with the Palestinians seemed very real.

Several weeks later, the Oslo Accords were announced to the world, and the ceremony on the White House lawn seemed to foreshadow a new era of hope and peace. I remember being in a meeting with Arafat in the Capitol and thinking maybe this truly is a breakthrough, maybe something real will happen. I stand before you today at a far more somber time. Today Israel is not enduring a cold peace. Israel is enduring war by other means. And that's what we're faced with.

And it's important to understand exactly what is happening in the Middle East. Israel's enemies in the region are attempting to achieve through terror and coordinated propaganda what their armies could not achieve in battle—the defeat of Israel. Their active accomplice in this campaign is Israel's so-called "partner" in the peace process, Yasser Arafat. What Arafat has failed to live up to is clear. More than three years after Oslo, he still has not fulfilled his promise to amend the PLO Chapter and remove its call for the destruction of Israel.

And let me emphasize this for a second. How can you have a partner, who three years after the beginning of the partnership is still calling for your destruction? How can you treat seriously, how can the American government claim any possible sense of moral equality between a genuine democracy seeking peace at the risk of lives of its citizens, and a force which after three years has refused to renounce the destruction of Israel?

Arafat's most recent excuse, in a long career of excuses, is that Israel doesn't have a written Constitution. And, of course, neither does Great Britain. But that's not the point. Presumably, Arafat knew that before he signed the Oslo Accord. The fact is, we should not tolerate his making excuses. We should demand he keep his word, which he gave in Oslo three years ago.

But far more damaging than words have been actions. It is clear that Arafat has been unwilling to control terror. In the 3½ years since Oslo, over 230 Israelis have been killed in terrorist attacks, including the recent bombing of a Tel Aviv cafe that killed four Israelis and wounded 42. And notice the total lack of symmetry. Israel builds housing on empty land. Terrorists kill Israelis. Israel is to blame. A total lack of balance, a total lack of symmetry. And Arafat's involvement and responsibility in tolerating the existence of terrorism is clear. Far from just failing to act decisively in stopping terrorism, Arafat's recent actions have amounted to a green light for those who would kill and maim innocent civilians to achieve their political aims.

On March 7th, Arafat met with representatives of Hamas and three other radical groups that reject the peace process. Now remember, the people who accept the peace process have not given up their claim to destroy Israel, but the people who don't even like the peace process while destroying Israel are the ones we're talking about. These are the harder line of the hard line. Because it's important not to kid yourselves. There is at the present time no visible evidence of any serious commitment to a true peace in which Israel lives in peace and security and freedom in the region.

But here's what Arafat did. On March 10th, having met three days earlier with leaders of Hamas, he released from prison the head of Hamas military wing—the exact opposite of what he should have been doing. The number one goal of the Palestinians should have been to end the terrorism so Israel could negotiate in security and comfort that it had a neighbor that cared about its lives, and Arafat has taken the opposite position. As tensions rose throughout March, Arafat did not use his public statements or his security forces to diminish the threat. Instead, he sinisterly raised the possibility of spontaneous outbreaks of terror that might occur if Israel did not change its policies. On March 21, a Tel Aviv cafe experienced such a spontaneous outbreak of violence. When the smoke cleared, four Israelis were dead, 42 wounded.

And what is the latest so-called "provocation" of which Israel is guilty? What has it done to make it responsible for the most recent spate of terrorism? Israel has begun the construction of a housing development on a barren hilltop in Jerusalem, situated between two existing Jewish neighborhoods. Israel is guilty of building on land owned by Jews within the boundaries of the city that every Israeli government, and the Congress of the United States, has recognized as Israel's eternal, undivided capital.

Let me be clear: Har Homa is not, as the media attempt to insist, a "settlement." It is a Jewish neighborhood in the city Israel has chosen as her capital. And let me say, I hope that no official of the American government, at any level, anywhere uses the term "settlement" to describe a legitimate housing development of the people of Israel. While Arafat ignores his commitments to change the PLO Charter and control terrorism, Israel is flogged in the international community for not making unilateral concessions beyond the demands of the Oslo Accord. As the columnist Saul Singer has said, "Israel is being asked to unilaterally abide by Oslo-Plus, while the Palestinians feel free to act as if they had signed Oslo-Minus." That is wrong, and we should reject that formulation. Every friend of Israel must recognize that her future does not rest solely on military preparedness and diplomatic toughness. It rests on how Israel and her friends combat a focused, coordinated campaign of propaganda to vilify Israel in the international community and through the worldwide media. When the American news media shows a rioting crowd and attributes the violence to Israel's decision on Har Homa, they undermine Israel's security.

When the American news media misrepresents the facts, speaking of Har Homa as a Jewish settlement in, quote, "Arab East Jerusalem," they undermine Israel's security.

And let me note that Charles Krauthammer, two weeks ago, wrote the definitive column on the falsehoods that I saw as recently as yesterday on the American television networks as they talked once again about "Arab East Jerusalem" which is false and should be opposed and complained about every single time it is used.

And frankly, when the Clinton-Gore administration treats with moral equivalence Palestinian violence and Israeli housing, they undermine Israel's security. There should be no question of any pressure on the Israeli government to make any concessions until Arafat has met the demands of 3½ years ago in Oslo, and the burden should be placed by the American government on Arafat and the Palestinian Authority to keep the word they already gave 3½ years ago before a word is said to Israel.

Let me try to formulate this as clearly as I can for a minute, because I think this—I think this is—no, there's core principle here that we have forgotten, that Ronald Reagan understood brilliantly because he had learned it from Winston Churchill. It is extraordinarily dangerous to confuse the aggressor and the victim. It is extraordinarily dangerous to confuse the terrorist and the democracy. It is extraordinarily dangerous to always impose the burden on those who are your friends because you're too timid to tell the truth to those who are your enemies.

Ever since Beirut, the press has been increasingly willing to cover Israel with a bias and on a one-sided manner. We can't afford 10 more years of systematic misinformation in which somehow the Palestinians are always innocent, they are always totally free of guilt, they're always trying hard, their weakness becomes the excuse for their failure, their inability to deliver is proof of why they need further assistance, their willingness to scream loudly is proof of why they need to be pacified, and nothing is demanded of them.

While Israel, an open society with a free political system and honest elections, is somehow gradually drug into the mud so that any legitimate domestic activity of a free people becomes attackable, while any secret, sinister terrorism of a people who live in fear becomes defendable. And that's what is happening in the world today, and this is, I believe, the most desperate moment for Israel since Yom Kipper in 1973.

I think there are three principles that we need to impose. First, never allow a wedge to be driven between the United States and Israel. (Cheers, applause.) Second, hold Yasser Arafat to his promises. And third, take an active role in combating the false images of Israel in the press. Let me—. Let me very briefly explain what I mean.

First of all, we should never allow a wedge to be driven between the two democracies. And we certainly should not allow that wedge to be driven by those who condone and sustain terrorism.

Now, I was very dissappointed—and we sent a letter expressing in advance our disappointment—that the United States would attend a conference convened by Yasser Arafat in March in Gaza, a conference that explicitly excluded Israel. I hope this administration will make clear that it will never again, ever attend a one-sided, anti-Israeli conference to the exclusion of Israel. If Israel can't be in the room, why should America walk in and teach the Arab world that they don't need to deal with Israel?

You know, last year we—last Congress we passed the legislation to move our embassy to Jerusalem. And certainly, one of the most moving moments, I think of my entire life, was the ceremony we had in the Rotunda at which Prime Minister Rabin—it was the last time I saw him—celebrated the 3000th anniversary of the founding of Jerusalem by King

David. And you had the sense there that you were touching history in the deepest and most real sense. And if you've never read his speech that day, I would really commend it to you. It made the loss of his assassination much deeper and much more painful. I think it's important that the United States simply and unequivocally, as we have in the Congress, that we recognize the undivided unity of Jerusalem as the capital of Israel, period, and end all this, I think fantasy on the part of the Palestinians that if only they make enough noise and have enough terrorism, somehow they will win diplomatically what they lost militarily. And I think we need to end any question of that and say within that framework of your accepting the existence of Israel and the unity of Jerusalem, peace can be found. But without those two steps, there can't in the long run be peace in the region.

Next week I will introduce a resolution with Dick Gephardt to recognize the 30th anniversary of the unification of Jerusalem. The message of the resolution is clear: The United States Congress believes in one Jerusalem never again divided. It is the united capital of Israel.

While remaining unified with our democratic partner, we need to hold Yasser Arafat to his promises. The United States must force Arafat to choose. He must choose honest involvement in the peace process or clear hostility with the United States of America. The United States House will do its part. Congressman Jon Fox has informed me that he is drafting a resolution calling upon Arafat to keep his commitments now with no more excuses.

Finally, I urge every one of you, and all of your friends, to become a watchdog in the information warfare that is undermining Israel. Every time you see an article that refers to "settlements," write a letter to the editor. If you know the publisher, call them. If you know the editor, call them. If you don't know the reporter, get to know them by calling them. Every time you hear—you look at "Arab East Jerusalem," pick up the phone and call. We must become militant in defeating the effort by media to defeat that which cannot be defeated militarily, and that is precisely what the Palestinians are trying to do today, is to use the military to gain—the media to gain what they could never gain on the battlefield. And it takes the vigilance of individual Americans to stand up to that kind of pressure. And I believe it would take six months or a year and you would never again see those phrases, you would never again see that kind of bias, and we would have reeducated the American news media.

You know, this is a challenging period, but it's not a hopeless period. I had the opportunity about 10 days ago to be with the young men and women of the 2nd Infantry Division of the border with North Korea. My dad served in the Korean War. He was a career infantryman; spent 27 years in the Army. It was a marvelous thing at 6:30 in the morning to be with young men and women willing to risk their lives for freedom. It was an amazing thing to realize that 20 miles away, the 13 million people of Seoul, Korea were getting up in the morning, creating wealth, living prosperous lives, with a free-press, chaotic, wide-open political system and all the values that, frankly, are what we're really about.

Similarly, all of you who have ever visited Israel, who have ever seen units of the Israeli defense forces, who have ever talked to the young men and women, or as you get as old as I am, you talk to the older men and women who tell you about when they were younger men and women. We can win the information struggle just as decisively as we have in the past won military struggles, if we will engage as civilian warriors, if you will, as information warriors. If we will be prepared to be militant and direct and clear, I believe in a year we will be in a different environment. The burden will clearly be on those it should be on: on Egypt to provide a positive, legitimate leadership role in favor of peace, instead of, frankly, the current terribly unsatisfactory role Egypt has chosen; on Arafat to have kept his word to lock up the terrorists, to police the area; on all of us who believe in decency to bring pressure to bear on Syria to get to a peaceful Lebanon and to get to a reasonable relationship. We don't have to fear. The coalition that defeated the Soviet empire, ended the Cold War and liberated a third of the planet is more than capable of sustaining democracy and freedom and achieving security. But we have to be prepared and we have to be willing to tell the truth, to insist on the truth, and to go nose-to-nose with any who by their propaganda and their disinformation would threaten the survival of our closest ally in the region and would threaten the survival of millions of decent people who ask only that they be allowed to pursue happiness, live in freedom, and have their children grow up in security.

Thank you. Good luck, and God bless you.

IN RECOGNITION OF PATRICIA A. MEAD

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor Patricia A. Mead, whose lifetime of entrepeneurialism, fine business sense, volunteer service, civic action, and nonprofit leadership has earned her the respect and admiration of her peers.

Pat started Metro Relocation Services in 1971, the first independent relocation company in the world. She eventually merged this company into Realty One, where she served as president of Corporate Relocation Services, a division with a staff of 30 that produced revenues of $275,000,000 per year.

Pat has been generous with her time and expertise, and over the years involved herself with many organizations including: Recovery Resources, American Lung Association; Cleveland Opera; Cleveland Branch of the English-Speaking Union where she chaired the Shakespeare Recitation Competition; Cleveland Rotary Club; YWCA where she was named Woman of Achievement, Federation for Community Planning; Cleveland Ad Club; Junior Achievement; Friends of the Cleveland Library; Better Business Bureau, and Cleveland Ballet. Pat also served on the board of COSE and the board of trustees and executive committee of the Greater Cleveland Growth Association, chairing their first executive network committee.

Pat is also a longtime member of the Women's City Club. She served on the board of trustees as vice president of membership and operations as well as numerous committees. She created the Executive Women's Network. Pat served as president of Cleveland Women's City Club Foundation for 2 years.

On May 23, 1997, Pat will receive the Margaret A. Ireland Award from the Cleveland Women's City Club. The award has been given each year since 1963 to local women who have achieved special stature because of their contributions in civic, social, and community service. They exemplify the leadership, commitment, and personal achievements of the award namesake.

Let us join the Cleveland Women's City Club in recognizing the talent, versatility, dedication, breadth of interest, and leadership exercised by Patricia A. Mead. Cleveland is better for her efforts.

CAMPAIGN FINANCE REFORM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, April 9, 1997, into the CONGRESSIONAL RECORD.

CAMPAIGN FINANCE REFORM

There is surprisingly little pressure from constituents on Members of Congress to act on campaign finance reform, even though we have daily revelations of egregious excesses. The growing sense in American politics today is that dollars speak louder than ideas, access is bought and sold, challengers and third parties are often drowned out, and many of the best people are discouraged from running because of the fundraising burden.

PROBLEMS WITH SYSTEM

Campaign finance reform is a constant game of catch-up, with excesses followed by reforms followed by new ways to get around the reforms. The present campaign finance laws passed two decades ago have been simply overwhelmed by a flood of money—more than $2 billion in the last election—and with every election the problem gets worse. The laws are more loophole than law, and politicians defend their practices by resorting to legal mumbo-jumbo.

Political campaigning has become distorted. Members spend large amounts of time making phone calls to raise money and attending fundraisers, which means a lot of time with people who already support them and too little time with ordinary voters who have not decided how to vote. So the system drives a wedge between the elected representatives and those they represent. When politicians become preoccupied with raising campaign money, that also crowds out other activities like writing laws and thinking about public policy.

Those who contribute money are very concerned about a "shakedown" atmosphere. They often feel they cannot get their view across unless they contribute generously to politicians they may dislike. The common feature of the great debates in Congress over the last few years—including health care reform, clean water, telecommunications, and regulatory changes—is that they were all awash with money. Members used these debates skillfully to get money from people who were interested in certain legislative outcomes.

The rising flood of money that flows into campaigns undermines public trust. Nothing is more important in our democracy today than the restoration of public confidence in the integrity of the political system. To many Americans it is money, not ideas and not principles, that reigns supreme in our political system. Many people tell me the political process is run by special interest groups, powerful organizations, and foreign donors, so they see little reason to vote. Cynicism is always the worst enemy of democracy and it has certainly been strengthened by the campaign finance system.

Getting campaign reform is terribly difficult. The blunt fact is that most Members of Congress and both political parties prefer the system under which they were elected over some untested scheme that might replace it. Moreover, it is very difficult to devise a system that will reduce the role of special interest money in politics and still not trample on constitutional rights to express political views. It is easy to be cynical and assume that nothing will happen on reform, but we really do have a chance to break the cycle of fundraising that demeans our politicians and our political system.

CURRENT SYSTEM

Some progress in campaign finance reform has been made in recent years. After the Watergate scandals, Congress instituted public financing of presidential campaigns, limits on contributions, and more disclosure of where money comes from. These were major and important changes. But it is clear the reforms did not go far enough, and means were devised to get around existing law.

The current system is plagued by: rapidly rising costs, driven largely by the growing importance and cost of television in campaigns; major reliance on special interest money; less competitive elections because of the imbalance in resources between incumbents' and challengers; and a host of loopholes through which individuals and groups seek influence. These include: "bundling", which involves the collection of checks for a specific candidate by an intermediate agent; "soft money", money that may indirectly influence federal elections but is raised and spent outside the purview of federal laws; and "independent expenditures" which allow unlimited spending by groups to communicate with voters for or against a candidate so long as there is no coordination with the candidate. To illustrate the extent of these loopholes, the amount of soft money raised by both parties in recent elections has tripled in four years from $88 million in 1992 to $263 million in 1996.

REFORMS

I believe that reform has to move forward step by step. That's why it is very important for the congressional inquiries into White House fundraising and congressional campaigns to proceed. I favor hearings with the broadest scope. Many Hoosiers tell me the real scandal is not how the law is broken but what's legal under the present system. Congressional hearings can illuminate the problems and help us enact legislation to solve them.

A principal aim of a campaign finance bill must be to create the conditions for more equal competition for more offices, and that could include easier access to television time for candidates. We should also close the loopholes in the current law on bundling, soft money, and independent expenditures. We should look at public financing for federal elections, which I personally support, and limit the role of political action committees. Certainly disclosure of spending in politics has to be broadened and speeded up, and penalties for overstepping the line should be made harsher and immediate. The Federal Election Commission must be more aggressive and vigilant in enforcing the election law.

CONCLUSION

Our failure to have effective campaign finance laws in this country represents a major failure in American public policy. We have a campaign finance system today that is gradually eroding the public's trust and confidence. It is a slow-motion crisis, but it is a crisis.

As we try to reform the system, we must not let the perfect be the enemy of good. It is not possible to enact a perfect, sweeping campaign finance reform bill today and perhaps not in the future. But the worst abuses can be dealt with one by one. We simply must keep at it and address the problems and plug the loopholes in the law as they become evident. A long journey begins with a single step.

CHIEF MASTER SERGEANT DIX RETIRES FROM AIR FORCE AFTER 24 YEARS; A DISTINGUISHED CAREER IN ACTIVE DUTY, RECRUITING, AND RESERVES

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. WALSH. Mr. Speaker, I rise today to congratulate Chief M. Sgt. Ronald W. Dix upon his retirement and to ask my colleagues to join me in thanking Chief Dix for his 24 years of service and for his symbolic representation of all that is good about our Armed Forces, and particularly those of the U.S. Air Force and Air National Guard.

Chief Dix was on active duty with the Air Force from September 5, 1961 to September 4, 1965, serving as protocol NCO at Wheelus AFB, Tripoli, Libya and at Lindsay Air Station, Weisbaden, Germany. During this time, Chief Dix was also a member of the 37th Air Defense Missile Squadron at Kinchloe AFB, Sault St. Marie, MI.

In January 1978, he joined the Air National Guard, accepting an assignment in the Base Preparedness Office. In 1981, he was reassigned to active duty as a recruiter. Chief Dix was instrumental in attracting and inspiring young men and women to join the Air Guard in serving to their country. In 1984, he was assigned as training NCO in the Civil Engineer Squadron of the 174th Fighter Wing and participated in many overseas deployments.

During his final time with the New York Air National Guard, Chief Dix served as the facilities manager for the entire Hancock Field Air National Guard Base. Some of his decorations for meritorious service include: the Air Force Good Conduct Medal, the Air Force Achievement Medal with four devices, the Air Reserves Meritorious Service Medal with five devices, the National Defense Service, the Armed Forces Expeditionary Medal, the Air Force Outstanding Unit Award, the Air Force Overseas Long and Short Tour Ribbon, the Air Force Longevity Service Award, the Small Arms Expert Marksmanship Ribbon, the New York State Commendation Medal, and the New York Conspicuous Service Cross.

Upon completion of such exemplary service to our Nation, I commend Chief Dix and wish him well in retirement.

A TRIBUTE HONORING LEO K. FARRALL, III

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. HOYER. Mr. Speaker, I rise to pay tribute today to the life and legacy of one of Charles County's finest individuals, Mr. Leo K. Farrall, III, who recently passed away on Feb. 13, 1997 after being struck with cancer.

Mr. Speaker, there are multiple ways to recognize the impact of an individual. Society often dictates one's worth by professional accomplishments, personal credentials, and how much wealth one has accumulated. Although, these are often the gauges by which we sometimes measure one another, these standards are often ephemeral compared to the commitment of family and community, and the regard peers cast on an individual. It has been noted that the true measure of an individual's success is in the number of people he or she calls "friend." In either category, L.K. Farrall was a success.

In 1979, Mr. Farrall opened the doors of the very first L.K. Farrall Realtors, Ltd. To date, his efforts and energy matured to four additional offices in the southern Maryland region, employing over 175 people. Mr. Farrall labored to build his company not only through the avenues of sales but its service to the surrounding communities. According to his close friend Delegate Van Mitchell, Mr. Farrall had a saying "You can get everything in life you want . . . if you help enough people get what they want." His selfless emphasis on others and his love for his family and community are remembered in testimonials from friends and colleagues which appear in a tribute in the April newsletter for the Charles County Chamber of Commerce.

Mr. Farrall served as a member of the Charles County Chamber of Commerce Board of Directors; he was the former chairman of the Charles County Economic Development Commission, a member of the Naval Industrial Alliance, and a generous contributor to Special Olympics, Habitat for Humanity, and to the American Cancer Society.

Mr. Speaker, it was through his giving that he gained, and through his example and his leadership that others learned to love and respect him. Charles County Commissioner William Daniel Mayer noted: "as a friend you knew L.K. would always be there for you. he was unassuming. He shunned the limelight and took as much joy in your success as if it was his own. It is a privilege to have grown up with, to have worked with, and to have shared L.K. His wry wit, unflinching loyalty, love of family and a sincere dedication to his community will be missed. We must all be grateful that we had, even for a short time, L.K."

Mr. Farrall is survived by his wife, Judy and two beautiful daughters. Although, Mr. Farrall passed away at the very young age of 51, his life and legacy will continue to serve as an example to others in southern Maryland because of his leadership and compassion for others.

I ask the Speaker and all my colleagues to join me in saluting the life of Mr. Leo K. Farrall, III and extend with me condolences to the Farrall family and the employees of his company.

TRIBUTE TO WILLIAM EDWARD GLOVER

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. EVERETT. Mr. Speaker, I offer tribute today to a tireless public servant and advocate of the elderly in southeast Alabama, Mr. William Glover.

William Glover retires this year from his post as executive director of the Southern Alabama Regional Council on Aging in Dothan. This vital organization sponsors the Area Agency on Aging and the Medicaid Waiver Program in a seven county area of the Wiregrass. Mr. Glover has been the executive director since the Alabama Regional Council on Aging's founding in 1986.

William Glover's name has become synonymous with voluntarism and compassion for the elderly in south Alabama. Through his years of service, he has been instrumental in benchmark efforts like the acquisition of 52 vans, badly needed for elderly transportation programs, and the establishment of the Older Americans' Day celebration which is now in its eighth year with some 3,000 persons in annual attendance.

Mr. Glover's interest in the welfare of the aging shows no limit as he has worked closely with private enterprise, civic and local organizations to provide services where Federal or State funds were not available. His activities range from working on an elderly housing plan with AARP, to assisting utility companies in affording vulnerable senior citizens with reduced rates.

A member of numerous area health and elderly advisory boards, William Glover was inducted into the Alabama Senior Citizens Hall of Fame in 1993. To be sure, he leaves his successor with a very large pair of shoes to fill. Knowing William, I'm convinced that his concern for our seniors and community will not end with his retirement. I congratulate him for a remarkable career of selfless generosity, and I wish him and his family the very best in the years ahead.

CHINESE SALES OF WEAPONS OF MASS DESTRUCTION THREATEN AMERICAN TROOPS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. SOLOMON. Mr. Speaker, the Chinese have exported, in violation of international law, weapons of mass destruction to terrorist states, including Iran. These actions have contributed to regional instability and pose a significant potential threat to American Armed Forces.

As we all know, it is American troops, whether as part of a U.N. force, an Allied mission, or operating independently, which are called upon to quell regional conflicts. The strong correlation between the volatility of a region, the deployment of weapons of mass destruction, and the likelihood of U.S. troop involvement may culminate in American suffering and deaths when the tension in these areas boils over. The weapons of mass destruction, which China has willfully placed in irresponsible hands, could claim the lives of tens of thousands of American troops involved in one of the world's dangerous hot spots.

The Chinese persist in selling weapons of mass destruction, including nuclear technologies to Iran. According to a recent Washington Post report, China has been selling to Iran the equipment required to convert uranium into weapons grade material. With China's technical and scientific support, Iran will be capable of deploying nuclear weapons within 5 years.

According to a March 8, 1996, Washington Post, "China is also engaged in selling massive quantities of chemicals used in the production of nerve gas and chemical weapons to Iran." The influx of Chinese technology is helping to fuel the most active chemical weapons program in the Third World. United States Government analysts say that Iran's ambitious long-term aim is to develop an indigenous capability to produce each of the chemical ingredients of powerful poison gases, as well as to construct all of its own equipment to produce the finished weapons.

The Department of Defense has already responded to this growing chemical and biological threat by approving a plan to vaccinate all U.S. Armed Forces personnel against anthrax, a germ warfare agent. Unfortunately, the chemical weapons being supplied by China to Iran involve even more dangerous chemicals and nerve agents. Relations between Iran and the U.S. remain hostile.

The Chinese also provide weapons of mass destruction to Pakistan, which, due to ongoing tensions with India, is another source of concern. If in 1995, the Director of Central Intelligence stated that "the arms race between India and Pakistan poses perhaps the most probable prospect for future use of weapons of mass destruction, including nuclear weapons. Pakistan already has enough nuclear material to make a dozen nuclear warheads, and India has a much larger nuclear arsenal."

In 1996, in an obvious violation of the Nuclear Nonproliferation Treaty and Federal law, China sold ring magnets to Pakistan. These 5,000 ring magnets are used in gas centrifuges to enrich uranium which can be used for construction of nuclear weapons. However, soon after this treaty violation, the Clinton administration determined that China would not be sanctioned stating that China had reaffirmed its commitment to nuclear nonproliferation.

Despite this promise, however, China sold a special industrial furnace to an unsafeguarded nuclear facility in Pakistan, and high level Chinese officials planned to submit false documentation related to the sale.

The practice of selling weapons of mass destruction is just one more example of China's disregard for the value of human life. The Daily Gazette, one of my hometown newspapers, captured the true nature of China in a recent editorial entitled "New China Policy Needed" when it stated, "The Chinese government persecutes political dissidents, Buddhists, Christians, pregnant women, orphan girls, labor activists and anyone else who declines to toe the party line * * * It pledges to reverse the democratization of Hong Kong, and has threatened to go to war over Taiwan. It moves no closer toward liberty and democracy, but it does get richer. Armed with nuclear weapons, it is clearly the most dangerous country in the world * * * As long as China remains totalitarian, and no matter how capitalist it becomes, it will likely remain not just an oppressor of its own people but a threat to peace." The United States can no longer continue to implicitly approve of China's weaponry sales and other abuses of international law by accepting China's routine and transparent denials of wrongdoing. It is time to revise our China policy in such a way that makes it unacceptable for China to engage in reckless activities, including those that threaten the lives of the young men and women who serve in America's Armed Forces.

ON CORY DUNN'S ATTAINMENT OF EAGLE SCOUT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor Cory Dunn of North Olmsted, OH, who will be honored this month for his recent attainment of Eagle Scout.

The attainment of Eagle Scout is a high and rare honor requiring years of dedication to self-improvement, hard work, and the community. Each Eagle Scout must earn 21 merit badges, 12 of which are required, including badges in: lifesaving; first aid; citizenship in the community; citizenship in the Nation; citizenship in the world; personal management of time and money; family life; environmental science; and camping.

In addition to acquiring and proving proficiency in those and other skills, an Eagle Scout must hold leadership positions within the troop where he learns to earn the respect and hear the criticism of those he leads.

The Eagle Scout must live by the scouting law, which holds that he must be: trustworthy, loyal, brave, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, clean, and reverent.

And the Eagle Scout must complete an Eagle project, which he must plan, finance, and evaluate on his own. It is no wonder that only 2 percent of all boys entering scouting achieve this rank.

Cory's Eagle project was the restoration of a trail and opening of an outdoor clearing suited to contemplation and peace for parishioners of John Knox Presbyterian Church, his parents' parish.

My fellow colleagues, let us join Boy Scouts of America Troop 53 in recognizing and praising Cory for his achievement.

DRUGS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, April 2, 1997, into the CONGRESSIONAL RECORD.

DRUGS IN AMERICA—A REPORT CARD

A few weeks ago, the White House unveiled the 1997 National Drug Control Strategy. The 1997 strategy is noteworthy because for the first time the federal government specifically identifies education and prevention as the most effective approaches to reducing illicit drug use. I agree with this emphasis, especially with the need to educate young Americans about the dangers posed by illegal substance abuse. I recently began meetings with community leaders in southern Indiana to discuss how we can work together toward a drug-free Indiana.

DANGERS OF OVERLOOKING THE PROBLEM

Opinion polls show that most Americans, including Hoosiers, rank problems such as the budget deficit, the future of social security, even bad roads, ahead of worries about drugs. These are all serious issues, but we downplay the drug problem at our peril.

You may remember the "just say no" campaign of a few years ago. Anti-drug messages were prominent in our government, media, and schools, and usage dropped. But starting about 1990 we stopped paying enough attention to the problem. In some ways, the drug problem is getting worse today.

GOOD NEWS

Fewer Americans are using illegal drugs today than a decade ago. In 1985, there were some 23 million regular drug users. Today, we've almost halved that number to about 13 million. The overall number of cocaine users has dropped to about 1.4 million, down from 5.7 million in 1985. Drug-related murders fell 25 percent during the same period.

REVERSAL OF PROGRESS

Since 1991, though, drug use has increased again. I am especially worried that this increase is concentrated among young people. Currently, more than 1 in 10 young people in America are regular users of illicit drugs—that's double the rate of just five years ago. Marijuana use is especially widespread. In the average class of 25 eighth graders, 5 have tried it.

The bad news is not just about marijuana. We have seen a dramatic rise in regular use of all sorts of so-called "hard" drugs, including stimulants such as cocaine and inhalants such as glue, paint, and lighter fluid. Use of LSD is at its highest recorded level. There are now about 2.7 million "hardcore" drug users in America, more than triple the number in 1991. These "hardcore" addicts are the ones most likely to commit crimes to obtain drugs.

DAMAGE CAUSED BY DRUGS

Some people say that a little experimenting with drugs can't cause any harm. They are wrong.

For example, today's marijuana is 2 to 5 times more powerful than a generation ago. Every reputable scientific study concludes that marijuana use impairs judgment and learning and hurts the heart, lungs, and other organs. Perhaps most damaging, evidence shows that marijuana can be a "gateway" to stronger drugs. A teenager who smokes marijuana is 79 times more likely to have an addictive problem later in life.

Over 25,000 people die every year in America from causes related to illegal drugs. Drugs are involved in over half of the murder and violent crime in this country. Children who use drugs are much more likely to drop out of school. One-quarter of America's trillion-dollar health bill each year is drug-related. Abuse of illegal drugs costs businesses an estimated $60 billion each year in lost productivity due to absenteeism, accidents, and medical claims.

EROSION OF ATTITUDES

Why are more people using drugs? The simple answer is: attitudes. In recent years, there has been a significant erosion of our negative attitude towards drugs.

1. Social approval

When a society sends the message that drug abuse is wrong—as we did a decade ago—drug use declines. When it fails to send this message, drug abuse rises—as it has since 1990. Leaders in Washington and throughout the country stopped speaking out enough on the dangers of drugs. The recent efforts in Arizona and California to legalize marijuana for "medicinal" purposes—which I oppose—send exactly the wrong message to our young people.

2. Perception of risk

There is another, related factor: perception of risk. Kids will not stop using drugs unless they understand the real physical dangers drug cause. Last year in Boston, Massachusetts 50,000 people attended a so-called rally supporting the legalization of marijuana. On the same day, a few blocks away, an anti-drug rally drew only 500. We are clearly failing in our duty to educate the younger generation about the dangers of drugs, and to express our disapproval of them.

SUPPLY VS. DEMAND

Some argue that we focus on education and prevention at the expense of cracking down on drug suppliers. We do need to fight the drug supply, and I have supported steps to penalize both domestic and foreign drug producers and dealers. But we should recognize that as long as Americans are willing to spend billions of dollars a year on illicit drugs, the traffickers and pushers will find ways to meet that demand.

CONCLUSION—RESOURCES SHOULD MATCH RHETORIC

I am pleased that our 1997 National Strategy emphasizes education and prevention. The old adage says "an ounce of prevention is worth a pound of cure." When it comes to drugs, for each dollar we spend on prevention, we save seven dollars in crime, health, and welfare costs. And the moral benefit of saving our young people from the scourge of drugs is incalculable.

Nevertheless, while we have increased the federal anti-drug budget to more than $15 billion for 1997, over two-thirds of this is going to international and domestic efforts to stop supply. We should allocate more resources to our top priority of demand reduction.

The real irony of the drug problem, then, is that we know what to do about it—but we're not doing it, or not doing enough of it. It is encouraging that education and prevention are the top priorities of our national strategy. We should make them our top priorities in southern Indiana, too.

SOLVAY, NEW YORK HIGH SCHOOL BAND WINS TOP HONORS IN THE NATIONAL HERITAGE MUSIC FESTIVAL

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. WALSH. Mr. Speaker, today I ask my colleagues to join me in congratulating the Solvay, New York High School band and jazz combo for their first place honors at the national American Heritage Music Festival.

This dedicated group of 76 musicians traveled to Washington on Friday, April 4 and competed against bands from all over the Nation. The jazz band and the high school band each won separate first place awards.

Solvay High School won the award for best overall performance and both bands received scores above 90, putting them in the highest category for their performances.

The event that made Solvay's performance unique came in the middle of the concert band's slow song, where the musicians put down their instruments to sing. This added theatrical touch impressed the judges, and invigorated spectators. Indeed, when this talented group arrived back in Solvay, with police cars and fire engines escorting them to the high school where they received their heroes welcome, parents and classmates cheered, still displaying the excitement of the competition.

Our central New York community is proud of the hard work and dedication displayed by the Solvay bands.

Congratulations to the 76 members of the Solvay High School concert band and jazz combo for their impressive achievement.

CELEBRATING THE 50TH ANNIVERSARY OF THIELE KAOLIN

HON. CHARLIE NORWOOD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. NORWOOD. Mr. Speaker, I rise today to recognize the 50th anniversary of the founding of one of the 10th District of Georgia's most important employers—Thiele Kaolin Co.

Thiele Kaolin was chartered on October 22, 1946, and began operations on January 1, 1947. Thiele employs more than 500 Georgians, most of whom live in the 10th District.

Thiele employs these Georgians in the mining of kaolin, which is used primarily as an additive for paper products. The glossy look and feel of the magazines you read comes from kaolin. Thiele sends kaolin to many places in America and other countries and is one of the largest exporters through the port of Savannah.

Thiele is a valuable and responsible member of the State and local community through its support of the Adopt-a-School Program, local recreation league teams for all ages, community volunteer fire departments, fine arts appreciation programs, and generous charitable contributions to churches, schools, various civic and health related organizations, and colleges and universities throughout the State.

Thiele is more than just an employer. Thiele is more than just a source of tax revenue for government. Thiele is more than just a business. Thiele is part of the community. Thiele is family. As they celebrate their 50th anniversary, I salute a community member, a family member, Thiele Kaolin Co.

QUIPS CAPTURE STATE CROWN

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. KLINK. Mr. Speaker, I rise today to salute the Pennsylvania Interscholastic Athletic Association Class AA Men's Basketball Champions, the Aliquippa High School Quips.

Located in Beaver County in the once thriving steel town of Aliquippa, the players of this team demonstrated the strength, character, and rich tradition that embodies the people of their hometown. This marks the fourth time in the school's history and the third time in eight seasons that the Quips have been crowned State champions in men's basketball. They finished the season with a record of 28–3.

Led by senior point guard and cocaptain Mike Lundy's 13 points Aliquippa defeated cross-state rival Wilkes Barre by a score of 57–50 in the championship game. In a post-game interview with the Beaver County Times, senior center Damian Crute is quoted as saying, "Climbing the ladder (to cut the nets), I felt like I was on top of the world. We climbed the mountain and we're sitting on top now." Indeed Damian, your team has climbed the mountain and the people of Aliquippa and the entire Fourth Congressional District of Pennsylvania are proud of your efforts.

Once again, congratulations to the students, faculty, and the city of Aliquippa. You have produced a champion in the finest sense of the word. And a special salute to first year coach Mike Zmijanac and his assistants Doug Beiga, Sherman McBride, Marvin Emerson, and Pete Carbone for a job well done.

And so I urge my colleagues to join me in the celebration of the Aliquippa Quips and all of the high school basketball teams in Pennsylvania for a terrific season.

THE MEDICAL MARIJUANA DETERRENCE ACT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. SOLOMON. Mr. Speaker, today I am introducing legislation in response to the actions taken by the State of California and the State of Arizona to allow for the medical use of marijuana. The bill would deny Federal benefits to any individual convicted of using, possessing or selling marijuana.

As we know, Mr. Speaker, it is a Federal offense to sell, use or possess a controlled substance, such as marijuana. Under existing law the courts have the authority, at their discretion, to deny Federal benefits to anyone convicted of using, possessing or selling a controlled substance, such as marijuana. My bill would eliminate the discretion of the courts in those States, which have approved the use of illegal drugs for medical use. In other words, anyone who violates Federal law in this matter would immediately lose any Federal benefit, license or grant for which they might otherwise be eligible.

The Federal Government, or more specifically, the Food and Drug Administration has repeatedly rejected marijuana for medical use because it adversely impacts concentration and memory, the lungs, motor coordination and the immune system.

A recent evaluation of the issue by scientists at the National Institute of Health concluded:

> After carefully examining the existing preclinical and human data, there is no evidence to suggest that smoked marijuana might be superior to currently available therapies for glaucoma, weight loss associated with AIDS, and nausea and vomiting associated with cancer chemotherapy.

There is also increasing scientific evidence that marijuana would be the last medication you would want to prescribe to persons with AIDS since smoked marijuana further compromises the immune system, increasing the risk of infections and respiratory problems.

As we know, the organizations which promoted the California and Arizona medical marijuana initiatives—NORML/Drug Policy Foundation, intentionally exploited the pain and suffering of others as part of their back door attempt to legalize marijuana.

Within the next few days I will introduce a bill to deny Federal highway funds to any State which has approved the use of medical marijuana and yet failed to enact the Solomon amendment, suspending the drivers licenses to persons convicted of using a controlled substance.

In addition, I will be introducing legislation to require DEA to revoke the Federal license of a physician to dispense medication if they recommended the use of marijuana for medical purposes. Federal law—Title 21 U.S.C. Code, section 824, provides the President authority to deny a doctor's registration to dispense controlled substances medication, if they are found to commit acts inconsistent with the public interest. In other words, the President already has the authority under existing law to end the medical marijuana fraud. All we really need is decisive action on his part. However, given the unwillingness of this President to fight the War on Drugs, Congress must act.

BUILDING ON WELFARE AND IMMIGRATION REFORMS: THE JOB OPPORTUNITY AND WELFARE REDUCTION ACT OF 1997

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. FRANKS of New Jersey. Mr. Speaker, today I am introducing the Job Opportunity and Welfare Reduction Act of 1997. It will provide States with a new tool to help move individuals off of welfare and into jobs.

My bill would require the Immigration and Naturalization Service [INS] to notify State welfare agencies of any job opportunities that become available as a result of the removal of unauthorized aliens from work sites.

Mr. Speaker, according to the INS, 4,900 work site enforcement operations were conducted last year resulting in the removal of 14,000 unauthorized workers. My bill would bring together Federal, State, and local governments in an effort to fill these vacated positions with welfare recipients who are looking for work.

Furthermore, as an added incentive, States that participate in this program will be eligible for extra Federal funding from funds already authorized in last year's welfare reform bill. I urge all of my colleagues to cosponsor this important legislation.

CLONING

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. HAMILTON. Mr. Speaker, I am inserting my Washington Report for Wednesday, March 26, 1997 into the CONGRESSIONAL RECORD:

HELLO DOLLY: THE DEBATE OVER CLONING

Recent news reports that researchers in Scotland cloned a sheep named Dolly have generated both curiosity and concern among scientists, the clergy and government leaders. Dolly is not the first animal to be cloned by her creators, but it does mark a significant advance in this area of scientific research.

Cloning animals could have a number of significant medical and agricultural applications, including developing animals whose organs can be used for human transplants, developing animal milk proteins used to treat disease, and creating improved breeds of livestock. These advances will not be seen in the near term because current cloning techniques are quite costly and inefficient. Further research is necessary to develop cost-effective and efficient laboratory cloning techniques for commercial use.

There is concern, however, about what Dolly means for the future of human cloning. Although science has not been pushed to the point where humans can be cloned, there are potential applications of specialized cell cloning and advanced gene therapies that hold tremendous medical promise. The technique used by Scottish scientists to clone Dolly may enable medical science to explore therapies, such as growing new skin for burn victims, culturing bone marrow for treating cancer patients, manipulating genes to cure sickle cell anemia, and treating human infertility. Yet, the prospect of manipulating human cells in this way raises ethical and moral questions about the sanctity of human life and the ability of scientists to create human beings.

WHAT IS CLONING

Cloning describes a process of creating exact duplicates of cells or organisms. Traditional cloning methods require manipulating an embryo, a fertilized egg, to make such copies. The creators of Dolly, however, did not use a fertilized egg, but rather an adult mammary cell and an unfertilized egg. The Scottish researchers activated all the genes in a specialized adult cell to create an embryo, and then implanted the cloned embryo in a surrogate sheep mother. That embryo grew to term resulting in the birth of a live lamb. This new cloning technique is significant because it will allow researchers to clone an exact replica of an animal. Researchers could not control the genetic make-up of clones using embryos.

Human cloning has not advanced to this stage. In 1993, private researchers announced that they were able to clone human embryos using embryos created by in vitro fertilization techniques that were not suitable for in utero implantation. The cloned embryos did not develop to a point where they could be transferred to a human surrogate. Since that time there have been no further reports of human cloning experimentation, and laws have been enacted which prohibit the use of federal funding for research involving the creation of human embryos. Dolly, however, raises the possibility of cloning human beings using unfertilized eggs.

POLICY DEBATE

The debate over cloning pits those who say government should not seek to regulate scientific inquiry against those who believe government should place limits on the scope of scientific research, particularly in the area of human cloning. This latter group argue that the cloning of Dolly suggests the possibility of scientists, at some future time, reproducing human beings by manipulating the genetic materials in unfertilized eggs. Opponents object that scientists should not be in the business of creating human life, and raise further questions regarding a clone's identity as a human.

GOVERNMENTAL RESPONSE TO DOLLY

Shortly after the announcement of Dolly's existence, President Clinton asked a national bioethics commission to begin a thorough review of the legal and ethical issues associated with the use of cloning technology. The commission is expected to report its findings to the President in late May. The President also ordered a moratorium on the use of federal funds for human cloning and urged the private sector to adopt a voluntary ban on human cloning until the commission completes its evaluation. Current law forbids the use of federal funding for human embryo research, including using human embryos for cloning, but the Administration considered the moratorium necessary because embryonic tissue was not used to clone Dolly. Congress is also reviewing the matter. Bills have been introduced to prohibit the use of federal funds for cloning or to ban human cloning outright. Committees have started to debate these proposals. The Administration is urging Congress to wait until the commission's work is completed, rather than risk passing a law which might have the unintended effect of hampering research on gene therapies for various hereditary conditions like Parkinson's disease and Alzheimer's disease. Information about the ability of a cell to turn on and off specialized capabilities will likely facilitate further advances in biomedical and agricultural research.

CONCLUSION

My strong suspicion is that if the cloning of human embryos is possible it will happen somewhere, sometime. The history of science is the history of the dominance of science and technology, and Presidents and Congresses do not have the power to defy it. I am extremely reluctant to see government poking around in the business of deciding what scientific research can go forward and what cannot, but it is also true that while we want science to be free we also want it to be responsible. Here we are dealing with matters of very grave consequence.

This new technology may be a little scary. The dilemmas and the risks of it need to be carefully evaluated. Rational debate, perhaps followed by legislation, may be necessary, but we must be very careful not to turn away from what biology and medicine can do. Scientists are telling us that some types of human suffering could be alleviated by cloning, so we must not overreact.

As I think about the potential of the post-Dolly world, I have a sense that a towering wave is about to crash over us. All of us have to try to understand the science and to reach a sensible conclusion based not on ignorance but on broad informed public debate and understanding. I think all of us have to approach this problem with humility and reverence simply because human life is sacred.

TO MERCEDES R. COTNER FOR A LIFETIME OF ACHIEVEMENT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor Mercedes R. Cotner, whose lifelong dedication to the civic body, to the Democratic Party, and to the city of Cleveland is being recognized on April 10 at the annual meeting of the Cuyahoga Women's Political Caucus.

For most of her 90 years, Mrs. Cotner has sought to involve and lead the people of the city of Cleveland to achieve a better life for themselves and their children.

Mrs. Cotner has served in public office. She was a clerk of the Cleveland Council and she served her constituents from the old ward 2 as a Cleveland councilwoman.

Mrs. Cotner also served the Democratic Party in many capacities. She was an executive committee member, precinct committee member, and vice-chair of the Cuyahoga County Democratic Party. She worked closely with her neighbors through politics, service as a booth worker on election day, and as ward leader.

Mrs. Cotner is a veteran of many contests for the heart and soul of Cleveland. She has shown her dedication to that sacred enterprise over many decades. And she reminds us of the essential value of persistence and patience. Mr. Speaker, let the Congress of the United States acknowledge today the great example Mercedes Cotner has set.

WOODIE GRANVIL TULLY'S 90TH BIRTHDAY

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. RILEY. Mr. Speaker, I rise today, April 9, 1997, to salute an esteemed citizen of Alabama, Woodie Granvil Tully, on the occasion of his 90th birthday. Mr. Tully is a life-long resident of Wilmer, AL. He is married to the former Velma Eloise Cravey, and has three children, three grandchildren, and one great-grandchild.

During the 90 years of his life, Mr. Tully has exemplified those attributes we all attempt to embrace. His outstanding characteristics include embodying the American virtues of honesty, industry, creativity, and self-sufficiency, having built several houses for himself and others. Nor has time slowed Mr. Tully down. He enjoys fishing, music, and vigorously follows current events. In addition to his daily activities, Mr. Tully has been a member of Wilmer United Methodist Church since 1918, a leader of the community, and is loved and respected by all who know him.

HONORING LEROY IVORY JONES FOR OUTSTANDING AND CONTINUED COMMUNITY SERVICE TO LIBERTY CITY OF DADE COUNTY

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mrs. MEEK of Florida. Mr. Speaker, it is my pleasure to recognize Leroy Ivory Jones of Liberty City, FL, who has contributed to this Dade County community. Mr. Jones instituted Neighbors and Neighbors Association, a coalition of black-owned businesses that stimulates community awareness about black-owned establishments. This program is unique because it brings the community together in supporting local businesses and developing pride in the neighborhood.

The Miami Herald commemorated Leroy Ivory Jones' civic service in an article titled "Building Bridges Between Communities" published January 20, 1997. I would like to submit this encouraging article for the RECORD.

LEROY IVORY JONES

When Leory Ivory Jones walks into a black-owned grocery store in Liberty City, he sees bare shelves, broken meat and vegetable coolers—and a trickle of shoppers.

Across the street is an Arab-owned market, brimming with goods and luring a herd of customers with cheap cigarettes and beer.

"We are the only group of people who don't support our own," said Jones, 34, who runs a landscaping business. "We think about everybody else but ourselves."

Jones is fed up with seeing black shop owners struggle to make a buck in their own neighborhoods. So he decided to heed the call of Neighbors and Neighbors Association, a coalition of black-owned businesses that has been challenging people to patronize black-owned markets with a monthly event called a buyout. The aim is to encourage shoppers to spend at least $25 at the featured store.

Jones, whose family has owned Missy's Grocery in Liberty City for nine years, has hosted five popular buyout events.

The first took place at L&M Market at Northwest 75th Street and 22nd Avenue. The store raked in about $5.000 on buyout day, more than black store owners make in two weeks.

People in the community say Jones' buyouts are spreading pride and hope.

Last month's buyout took place at Grady's Kitchen, a soul food restaurant at 8309 NW 22nd Ave. More than 115 people were sold dinners that day. On a good day, co-owner Lottie Grady said, she feeds about 70 people.

"He's building up the community, making us think about where we spend our money," said Jencie Davis, owner of J+G Market, 6406 NW Sixth Avenue. "We don't stick together. He's trying to change that."

Jones a father of nine who lives in North Dade, first had to change himself.

From cocaine possession to burglary, Jones knows trouble. He has lost more than two years of his life, serving three prison terms. His wake up call came six years ago when police raided a relative's house filled with drugs and machine guns. The relative took care of some of his children.

Four years ago, Jones, an Edison Senior High School dropout, found himself back in a classroom filled with Haitian immigrants. He didn't know how to read and write.

"We don't need to keep suffering," said Jones, who was recently elected to serve as a temporary member on the Martin Luther King Economic Development Board. "I'm sick of seeing young brothers standing out on the corners. I used to stand on those corners, too. But there is a better life out there. Before I leave this world, there are going to be some changes in this community."

Leroy Ivory Jones faced and overcame many obstacles in his life. He has demonstrated his commitment to strengthening and establishing black-owned businesses and pride in the Dade County community. His organization, Neighbors and Neighbors Association has contributed to increased economic growth in Liberty City. Mr. Speaker, on behalf of our entire community, I offer Leroy Ivory Jones my deepest thanks for his outstanding service to the community and our best wishes for continued success.

THE RETURN OF THE GYPSY MOTH

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Ms. KAPTUR. Mr. Speaker, it's spring, and that means the gypsy moths are back, hatching by the millions, causing severe damage to trees and our environment, and leaving much debris in their paths. Lucas County is the first urban community in our State to be affected in such a major way by these insects that all migrate down here from Michigan.

We must act expeditiously, and neighborhoods must work together to apply safe biological controls in order to protect our trees, homes, businesses, yards, and parks. A local task force has been set up to coordinate help for our region.

The gypsy moths will never be eliminated completely, but it can be controlled.

Its life cycle has four stages: egg, larva, pupa, and adult moth. The female moth lays egg masses in July and August in clusters of up to 1,000. While most eggs are laid on the bark of trees, females also will lay clusters in any sheltered location, including homes, vehicles, firewood, playground equipment, and stones. Egg masses are beige and about the size of a quarter.

Larvae (in the form of caterpillars) emerge the following April and May and begin devouring leaves. The caterpillar stage lasts for 10 to 12 weeks. Caterpillars are 1½ to 2½ inches long when full grown, with hairlike structures along their length of their body. They are grayish with five pairs of blue spots and six pairs of red spots along their backs. They also have yellow markings on their heads.

Oak trees are the favorite food of the gypsy moths, but they also feed on 500 different species of trees and shrubs. And because northwest Ohio is known for its hardwood forests, we are the targets of hungry gypsy moth larvae.

The answer is not for individuals to spray their own trees and yards with harmful toxic pesticides. In fact, toxics could do more harm then good when thousands of citizens act independently.

Call the Lucus County Agricultural Extension Office at 245–4254 or the Agriculture Business Enhancement Center at 1–800–358–4678 to learn what you can do to control these destructive insects.

You can help by getting your local Boy Scout and Girl Scout troops or other community groups to collect signatures to give the State of Ohio permission to spray affected areas with safe biological control agents. This approach can save you money. If you decide to spray your property on your own—which can be expensive—then use only licensed, certified professional firms that have been trained to handle the proper control agents safely and responsibly.

TRIBUTE TO COMDR. HENRY J. BRANTINGHAM

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. HUNTER. Mr. Speaker, today I rise to recognize the outstanding service and dedication of Comdr. Henry J. Brantingham, whose career in the U.S. Navy spanned three decades and which included over eight awards and recognitions. Commander Brantingham recently passed away and I would like to take a moment to commend this individual's exceptional service to our country.

Henry began his career with the U.S. Navy 58 years ago with his graduation from the U.S. Naval Academy with the class of 1939. Following graduation, he served on the cruiser *Minneapolis* and several destroyers, later volunteering for motor torpedo boat training. He was subsequently ordered to duty in the Philippines at the outbreak of World War II. It was here that Henry accompanied Gen. Douglas MacArthur in his historical trip from Manila to the island of Cebu and onto the United States.

After returning to the United States, Henry was assigned to P.T. boat training duties at Newport, RI, and was subsequently sent to the South Pacific for the duration of the Solomon Islands campaign where he commanded a force of 1,100 personnel. Henry was also a member of the unit sent to rescue John F. Kennedy and his crew when their P.T. boat had been cut in two by a Japanese destroyer.

Following World War II, Henry was ordered to icebreaker duties and served on five expeditions to the Arctic aboard the *Edisto* . His final sea command was aboard the icebreaker *Burton Island* , which he took to both the Arctic and the Antarctic. While in the Antarctic, Henry rescued a number of Japanese scientists whose icebreaker had become stranded and led them to open seas enabling their return to Japan. In 1964, Comdr. Henry Brantingham voluntarily retired from the U.S. Navy having earned several decorations that included two Silver Stars, a Legion of Merit with combat "V", a Presidential Unit Commendation, and four campaign ribbons for his actions in the Pacific.

Henry and his wife, Elaine, had two children, William and Nancy. William served honorably in the Vietnam war with the United States Army and was, unfortunately, fatally injured in an automobile accident after coming home. Nancy currently lives in the San Diego area with her husband David and their 6-year-old son Bill. Mrs. Brantingham lives in La Jolla, CA, where she remains active in community affairs, including the La Jolla Unit of Pro America, the La Jolla Republican Women Federation, and in assisting new citizens with their voter registration.

Mr. Speaker, in an era when the U.S. military is often not given sufficient recognition, outstanding leaders such as Commander Brantingham, exemplify the commitment our Armed Forces has to superior performance.

TRIBUTE TO JESSE AND LOIS STRANAHAN

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Ms. FURSE. Mr. Speaker, I rise today to recognize two very special people who have distinguished themselves since the 1930's as tireless advocates for our working Americans.

Jesse and Lois Stranahan have been called the standard setters for the labor movement and it is no wonder. Jesse, a member of the International Longshoremen's and Warehousemen's Union, and Lois, a 30-year member of the ILWU Auxiliary, have championed the causes that affect not only the lives of longshore families, but those of all working people. They have fought for social justice, safe working conditions, fair wage compensation, and comprehensive health care.

The dedication, determination and extraordinary hard work that Jesse and Lois have selflessly given over these many decades have shown the way for countless others. They serve as testaments to the philosophy that I have always held dear: one person can make a difference. I applaud their work, and I am privileged to have this opportunity to recognize Jesse and Lois Stranahan before this body.

THE ATTUCKS THEATRE, NORFOLK, VA

HON. OWEN B. PICKETT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. PICKETT. Mr. Speaker, I offer for inclusion into the CONGRESSIONAL RECORD this statement expressing the historical significance of the Attucks Theatre, located in Norfolk, VA, and the potential impact of the restoration of the theatre on the local culture and economy.

In an attempt to deal with the realities of a segregated society, an enterprise of black businessmen, the Twin Cities Amusement Corp., constructed the Attucks Theatre in 1919. The businessmen represented the twin cities of Norfolk and Portsmouth in Virginia. The Attucks Theatre was constructed in Norfolk on Church Street which was the focal point of commercial and social activity in the African-American community. The oldest available map of Church Street is dated 1680. Considering that the first colony in America was established in Jamestown, VA, in 1607, Church Street may well be the Nation's oldest center of activity for African-Americans.

As the only cultural center in the African-American community, the Attucks Theatre became a mecca for enterprise, education, and entertainment. Incredible stars appeared on stage at the Attucks, including Louis Armstrong, Count Basie, Nat King Cole, Duke Ellington, and a host of other famous performers of the big band era. The theatre was instrumental in nurturing the talents of many Hampton Roads natives including Tony Award winning artist Ruth Brown.

The Attucks Theatre is a rare treasure. According to documentation provided by the National Register of Historic Places, a small number of African-American theatres remain in the country today. Of this number, some were designated as movie houses and others were designated as performing arts theatres with stage rigging and other equipment unique to playhouses. The majority of these theatres were designated and/or constructed by persons of other races for African-American audiences. The Attucks Theatre is the oldest remaining playhouse in the country which was completely financed, designed, constructed and operated by African-Americans.

The renovation of the Attucks Theatre has national, regional, and local importance. Locally, the restoration will facilitate the revitalization of the Church Street corridor in Norfolk, an area which was formerly the social and economic hub of African-Americans in Hampton Roads.

Regionally, utilization of the theatre will help to alleviate the dearth of available—and affordable—performance venues for mid-sized arts organizations. It will also significantly impact the way in which African-American history is taught in the region's school systems. Educators in the Norfolk, Portsmouth, and Virginia Beach school systems look forward to developing curriculum which will be taught in the authentic historical setting of the Attucks. The Governor's Magnet School for the Arts will also have broad use of the theatre.

Nationally, the restoration will preserve a rare playhouse named in honor of Crispus Attucks, a patriot of African-American and native-American descent who was the first person martyred in the American Revolutionary War; a playhouse which served to uplift the hearts and spirits of a depressed people during the trials of segregation. The Attucks is a beacon to the talent, creativity and economic strength of the African-American culture. It is a structure meritorious of restoration.

LOCAL SOLUTIONS

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. PACKARD. Mr. Speaker, for years we have heard a lot about what is wrong with our Government's efforts to solve poverty, hunger, and abuse. Last Congress, we passed welfare reform and turned the bulk of those efforts over to the States, communities, and individuals. Today, I am here to share with this body success stories—stories from my district about communities coming together to help people one at a time.

Last week, while back in my southern California district, I was delighted to visit places like Saint Clare's Home in Escondido, CA. Sister Claire runs the program that houses and cares for battered women and their children until they can re-enter society and provide for themselves. This place offers much more than a check ever could. Counselors provide one-to-one nurturing, job counseling, and a friendly face to turn to when troubles arise.

Also, I had the opportunity to tour the food distribution center in Orange County, CA, which sorts and directs surplus foods to charities throughout the county. This center takes perfectly good surplus food and instead of it going to the dumpster it feeds the hungry.

Finally, I witnessed the therapeutic miracles of the Fran Joswick Therapeutic Riding Center in San Juan Capistrano, CA. This riding facility provides a truly unique and enjoyable alternative therapy for developmentally and physically disabled children through horse riding and grooming. Children achieve physical and mental feats they otherwise would not have.

These groups have something truly significant in common—they were not thought up by some Government bureaucrat, not powered by some Government employee, and not entirely dependent on taxpayer dollars for their existence. Instead, their success rests on the basic principle that local citizens know best what the needs of their communities are; that families, churches, and service groups will always do a better job because their passion for helping others is both genuine and infinite in nature. My colleagues and I, participating in the Renewal Alliance, will continue to highlight these and other community efforts that are rebuilding lives and restoring hope.

FAMILIES AND THE AMERICAN DREAM

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. FORBES. Mr. Speaker, I rise today to speak about families and the American Dream. Nothing drives our society and stirs our passions more than this dream, and Mr. Speaker, nothing is more fundamental to the success of our American Dream than the family.

Our families are the cornerstone of our republic, and throughout our history, the family has been the source of our Nation's strength and values. A great deal of love, compassion, understanding, and patience go into building a successful family. It also takes courage and commitment to begin one, but no one would question its value.

On April 19, 1997, at St. Patrick Roman Catholic Church in Smithtown, Long Island, two young people, whom I have the privilege to know and represent in this House, will enter into the bonds of holy matrimony. Ms. Mary Beth Fauls, only daughter of Thomas Joseph Fauls, Jr., and Judith Anne Fauls, and Theodore Vincent Peck III, only son of Theodore Vincent Peck, Jr., and Christine Helen Peck, will on that day, joined by 140 of their friends and family, express their love and lifetime commitment to each other. Once again, this celebration held throughout our history, will be reenacted in a small corner of our land, and two of our young citizens will begin their personal journey toward fulfilling the America Dream.

Few will notice beyond those attending, Mr. Speaker, but considering that so much of what we here in this Congress debate concerns the welfare and security of our families, it is wholly fitting that we should pause for a moment to honor and reflect on this small event, which is so vital to the perpetuation of our country. I urge my colleagues to join with me in extending to the happy couple best wishes for a long, healthy, and successful marriage.

CCBC WINS NJCAA NATIONAL CHAMPIONSHIP

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. KLINK. Mr. Speaker, I rise today to recognize the Community College of Beaver County men's basketball team for their terrific season culminating with the National Junior College Athletic Association Division II National Championship.

The Titans, coached by Mark Javens, finished the season with an impressive 36–1 record. Additionally, they spent 15 weeks as the Nations No. 1 ranked division II junior college basketball team. In a post game interview with the Beaver County Times, guard Juan Patterson said, "We won 36 games, we lost only 1, and we won a national championship. There aren't too many teams on any level that can do that!" The poise, professionalism, and pride which CCBC has exuberated during this most memorable season are indicative of the manner in which the students and faculty of this fine institution of higher learning conduct themselves on a daily basis.

With the help of some last second heroics provided by guard Jeff Benson, CCBC defeated Penn Valley Community College, Kansas City, MO to win the division II tournament, played at Danville Area Community College, in Danville, IL. The depth, and commitment of this team are what made this victory possible. In winning a national championship, the Titan's elevated themselves to a level that few will ever reach.

On behalf of my colleagues in the House of Representatives, I would like to congratulate the players, Al Franklin, Wayne Copeland, Larry Walker, Juan Patterson, Quincy Davidson, Jeff Benson, Ahmal Bodden, Larry Cottrill, Mark Foust, Matt Fondrk, as well as coach Javens and his assistants, Von Jeffrey Jones and Ron Rowan, trainer, Jeff Cienik and the athletic director, Michael Macon. You have made your school, your community, and the entire Fourth Congressional District proud.

REMEMBERING A PIECE OF AMERICAN HISTORY: ALABAMA'S HISTORIC BURNT CORN POST OFFICE

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. EVERETT. Mr. Speaker, today I call attention to a little known occurrence that brings to a close a 179-year-old chapter in American and Alabama history. I'm speaking of the closing of the historic Burnt Corn Post Office in rural Conecuh County, AL.

On this day, the Burnt Corn Post Office stamps its last letter. Looking like a scene from a Norman Rockwell painting, the small, single window, wood-paneled post office, tucked away in the corner of a general store in Burnt Corn has become a local landmark. But it is more than just a relic, it is a link to America's adventurous past.

Located on what was once known as the Federal Road, the Burnt Corn Post Office was first established in 1817 and served weary travelers on their way to America's growing western frontier.

According to the Conecuh Countian, Burnt Corn was first mentioned in the acts of Congress establishing post roads, authorizing a post road from "Fort Mitchell, by Fort Bainbridge, Fort Jackson, Burnt Corn Spring, Fort Claiborne and the town of Jackson to St. Stephens."

When it was created, the Burnt Corn Post Office was located along a route from Washington City, by way of Athens, GA to New Orleans in the new Louisiana Territory.

The Burnt Corn Post Office possibly served many famous persons, among them Francis Scott Key, Andrew Jackson, and Vice President Aaron Burr while on their official travels.

The Burnt Corn Post Office, once a vital communications link for frontier travelers of the 19th century, is now destined for the history books. It is a time capsule from a simpler and more adventurous past when horseback riders and stagecoaches conveyed citizens of an ambitious adolescent republic called the United States of America.

SIXTH ANNIVERSARY OF THE REPUBLIC OF GEORGIA'S RE-INDEPENDENCE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. GILMAN. Mr. Speaker, I rise today to commemorate the sixth anniversary of the Republic of Georgia's re-independence.

Georgia, one of the most ancient countries in the world, is situated in the Caucasus region, the crossroads of Europe and Asia. The country's rich culture and heritage is exemplified by its language, Georgian, which is over 2,000 years old, and which employs the unique Georgian alphabet, 1 of only 14 in use in the world today.

While Georgia was annexed by Russia in 1801, it never gave up its fight for independence. In 1918, those efforts were successful as Georgia regained its independence and relinquished its ancient monarchy for a democratically elected government. Sadly, this newfound independence was to be short-lived. In 1921, the Communist Iron Curtain descended over this small yet proud country. Georgia suffered terribly under the heavy hand of Soviet communism and its centrally planned economy. Through it all, the Georgian people never gave up their desire for independence.

On April 9, 1989, Soviet troops broke up a throng of 10,000 Georgian nationalists who were peacefully demonstrating for independence in Georgia's capital, Tbilisi. More than 200 people were injured and 19 killed, many of them women and children. Some were brutally beaten to death with shovels. This tragic event marked both the beginning of the end of Soviet domination and the rebirth of Georgia. After 70 years of Soviet domination, Georgia officially redeclared its independence on April 9, 1991. Thus, it is April 9 that is observed as both a commemoration of a tragedy and as the anniversary on which Georgia's long-fought-for independence was again regained.

Over the last few years, under the leadership of President Eduard Shevardnadze, Georgia has made remarkable strides toward a free market economy and democracy. A constitution grounded in democracy values has been adopted and free and fair Presidential and Parliamentary elections have been held. A new generation of leaders, including Zurab Zhvania, the 34-year-old Chairman of the Parliament who just last month visited us here in Washington, has begun to emerge. On the economic front, Georgia's new currency, the Lari, has remained stable since it was introduced in the fall of 1995. The International Monetary Fund has praised Georgia's economic initiatives and our own State Department has noted the significant progress Georgia has made in restructuring its economy. Several major United States corporations have already established a presence in Georgia.

Accordingly, Mr. Speaker, I rise today to commemorate the sixth anniversary of Georgian independence. I urge my colleagues to join in congratulating Georgia on its progress toward democracy and a free market economy.

ALASKA NATIVE SUBSISTENCE WHALING EXPENSE CHARITABLE TAX DEDUCTION

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. YOUNG of Alaska. Mr. Speaker, I rise to introduce a measure that would provide critically needed tax relief to a few Alaskan Native whaling captains who otherwise may not be able to continue their centuries-old tradition of subsistence whaling. In brief, this bill would provide a modest charitable deduction to those Native captains who organize and support traditional whaling hunt activities for their communities.

The Inupiat and Siberian Yupik Eskimos living in the coastal villages of northern and western Alaska have hunting the bowhead whale for thousands of years. The International Whaling Commission [IWC] has acknowledged that "whaling, more than any other activity, fundamentally underlies the total lifeway of these communities."

Today, under the regulatory eye of the IWC and the U.S. Department of Commerce, these Natives continue a sharply restricted bowhead subsistence hunt out of 10 coastal villages. Local regulation of the hunt is vested in the Alaska Eskimo Whaling Commission [AEWC] under a cooperative agreement with the Department of Commerce, National Oceanic and Atmospheric Administration.

The entire Native whaling community participates in these hunting activities. However, Native tradition requires that the whaling captains are financially and otherwise responsible for the actual conduct of the hunt; meaning they must provide the boat, fuel, gear, weapons, ammunition, food, and special clothing for their crews. Furthermore, they must store the whale meat until it is used.

Each of the approximately 35 bowhead whales landed each year provides thousands of pounds of meat and muktuk—blubber and skin—for these Native communities. Native culture dictates that a whaling captain whose crew lands a whale is responsible for feeding the community in which the captain lives. Customarily, the whale is divided and shared by all of the people in the community free of charge.

In recent years, Native whaling captains have been treating their whaling expenses as a deduction against their personal Federal income tax, because they donate the whale meat to their community and because their expenses have skyrocketed due to the increased costs in complying with Federal requirements necessary to outfit a whaling crew. The IRS has refused to allow these deductions, placing an extreme financial burden on those who use personal funds to support their Native communities' traditional activities. Currently five whaling captains have appeals of these disallowances pending before the tax court of the IRS.

The bill I am introducing today would amend section 170 of the Internal Revenue Code to provide that the investments made by this relatively small and fixed number of subsistence Native whaling captains are fully deductible as charitable contributions against their personal Federal income tax. Such an amendment should also retroactively resolve the disallowance and assessment cases now pending within the statute of limitations.

The expenses incurred by these whaling captains are for the benefit of the entire Native community. These expenses are vital contributions whose only purposes are to provide food to the community and to perpetuate the aboriginal traditions of the Native substance whaling culture.

Each Alaskan Native subsistence whaling captain spends an average of $2,500 to $5,000 in whaling equipment and expenses in a given year. A charitable deduction for these expenses would translate into a maximum revenue impact of approximately $230,000 a year.

Such a charitable deduction is justified on a number of grounds. The donations of material and provisions for the purpose of carrying out subsistence whaling, in effect, are charitable contributions to the Inupiat and Siberian Yupik communities for the purpose of support an activity that is of considerable cultural, religious, and subsistence importance to those native people. In expending the amounts claimed, a captain is donating those amounts to the community to carry out these functions.

Similarly, the expenditures can be viewed as donations to the Inupiat Community of the North Slope [ICAS], to the AEWC and to the communities' participating churches. The ICAS is a federally recognized Indian tribe under the Indian Reorganization Act of 1934 (48 Stat. 984). Under the Indian Tax Status Act, donations to such an Indian Tribe are tax deductible (28 U.S.C., 7871(a)(1)(A)). The AEWC is a 501(c)(3) organization. Both the ICAS and the AEWC are charged with the preservation of Native Alaskan whaling rights.

Also, it is important to note the North Slope Borough of Alaska, on its own and through the AEWC, spends approximately $500,000 to $700,000 annually on bowhead whale research and other Arctic marine research programs in support of the United States' efforts at the International Whaling Commission. This is money that otherwise would come from the Federal budget to support the U.S. representation at the IWC.

Given these facts and internationally and federally protected status of the Native Alaskan subsistence whale hunt, I believe expenditures for the hunt should be treated as charitable donations under section 170 of the Internal Revenue Code. I ask my fellow Members to join with me in clarifying the Federal Tax Code to make this a reality for these Native whaling captains.

THE ERISA CHILD ABUSE ACCOUNTABILITY ACT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mrs. MALONEY of New York. Mr. Speaker, I rise today in support of child abuse victims everywhere. The legislation I have introduced, the ERISA Child Abuse Accountability Act, H.R. 1142, empowers people in a system that seems to be set against them.

Abuse survivors may have moved past the physical pain, but the scars, and emotional turmoil remain. Some have turned to the judicial system to hold their abusers accountable for their crimes. They endure traumatic trials, reliving the years of torment, and dredging up suppressed memories, in order to put their pasts behind them.

But too often, a court battle is only the beginning of the struggle. Even if a court finds the abuser guilty and awards the victim compensation, the money can be elusive. The logical target might be the abuser's pension. However, although private pensions are attachable for child support or alimony settlements, current law protects private pensions from court ordered monetary awards in child abuse cases.

Under legislation authored by Representative Patricia Schroeder and passed during the 103d Congress, victims of child abuse are permitted to collect awards from Federal pensions. The ERISA Child Abuse Accountability Act is a natural extension of the original bill, to include private pensions.

Those who would commit a crime against a child must be held accountable. We cannot allow abusers to hide behind the law. I urge my colleagues to support this bill and put the law on the side of the victims.

"THERE IS HOPE FOR THE CHILDREN"

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Ms. PELOSI. Mr. Speaker, I rise to bring to the attention of my colleagues the following article, "There is Hope for the Children" by Judy Mann in the Washington Post on Friday, March 14. This article ably describes how children are helping themselves through programs funded by UNICEF and the U.S. Agency for International Development. The article also presents an excellent summary of the UNICEF report, "America's Partnership with UNICEF," written by former House Appropriations Committee staff member Terry Peel. Terry's efforts to promote child survival have given tens of thousands of children around the world a chance for a decent life. I commend this important article to your attention:

[From the Washington Post, Mar. 14, 1997]

THERE IS HOPE FOR THE CHILDREN

(By Judy Mann)

Ten years ago, less than 40 percent of the children in Uganda and Kenya were immunized. Twenty percent of them were dying of preventable diseases. Today, the immunization rate has reached 80 percent. Uganda's under-5 mortality rate has dropped from 218 per 1.000 live births in 1960 to 185 in 1995, and Kenya's has dropped from 202 to 90.

This success story is one of many included in two new reports that chronicle a decade of genuine progress in child survival led by UNICEF and the U.S. Agency for International Development. In the pictures of the children at health centers and schools, in the faces of mothers, fathers, health care workers and teachers, there is hope and a determination to beat malnourishment and disease.

The UNICEF report was written by Terry R. Peel, a former staff director of the House Foreign Operations Committee, who traveled to Latin America, Africa and Asia to find out how U.S. support for UNICEF—which has amounted to $840 million during the last decade—is being used. He found story after story of children being lifted out of appalling and hopeless situations.

In El Salvador, where more children were dying of preventable diseases than of all the war-related causes combined, warring factions stopped shooting on designated days so children could be taken safely to clinics and vaccinated. El Salvador's under-5 mortality has dropped from 210 per 1,000 births in 1960 to 40 in 1995.

In Uganda, Peel found a Catholic priest, the Rev. Steve Collins, who works with a UNICEF center that helps children whose parents are dying of AIDS complications get the technical and vocational training they'll need to sustain the families. He introduced Peel to Katherine Nambudye, 20, who lost her parents to AIDS two years ago and is raising five younger siblings. "Because of the training program, she has graduated from school and is studying to be a teacher," Peel wrote.

"Katherine also runs a chicken business, makes sure her brothers and sisters are in school and cares for her 14-year-old brother who has polio. This brother is also working through the center to get a certificate in graphics. He goes to the center daily with the help of his brothers and sisters who push him more than a mile in a wheelchair."

In India, UNICEF has promoted schools for children who otherwise would be working in factories. Peel's report includes a wonderful picture of two beautiful girls, Shabana and Sudesha, who worked in the bangle industry for years before finally being enrolled in school. Shabana hopes to be a doctor.

Jon Rohde, UNICEF's country representative in India, told Peel that the 2 million deep well water pumps used throughout the world were invented by UNICEF in India. He said the pumps, which provide safe drinking water, along with oral rehydration therapy for diarrhea, have saved millions of lives.

The Agency for International Development financed the basic research that led to oral rehydration therapy and used its marketing experience to educate parents and health workers. The therapy is widely used in Bangladesh, and experts from there took it into Rwandan refugee camps, where it helped prevent mass deaths during cholera outbreaks. In its report, AID estimates that the therapy saves 1.5 million children a year. It was critical during a cholera outbreak that began in Latin America in 1991.

AID's Lessons Without Borders program has taken practices developed to increase child immunization in Kenya to Baltimore—and the city's immunization rate has risen from 62 percent to 96 percent for school-age children. At a program marking International Women's Day at the U.S. State Department yesterday, first lady Hillary Rodham Clinton referred to the program: "We can learn from our neighbors around the world," she said. "Countless lives can be improved, and we can improve lives here at home."

Clinton, who leaves this weekend for Africa, said she hoped her trip would give "American people a renewed sense of the importance of our commitment to Africa."

"In this time of interdependence and interconnection, we all have a stake in each other," she said. "American interests are at stake. Far more importantly, America's values are at stake."

One of those values is a commitment to the welfare of children. Through AID and its support of UNICEF and other international child and family health organizations, the United States has prevented millions of child deaths and improved the quality of life for millions of children. In the last decade, AID has spent $2.4 billion for child survival. Americans can take heart from these two reports:

This is taxpayers' money well spent.

LET'S MAKE IT CLEAR THAT WE ARE UNITED IN PROVIDING TAX RELIEF FOR AMERICAN FAMILIES

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. PITTS. Mr. Speaker, today I introduced a House resolution calling upon the Congress and the President to come together to enact permanent tax relief of American families. I urge you and the rest of my colleagues to join me in a bipartisan effort to give tax relief to those who need it most; the hardworking American family.

Mr. Speaker, according to a recent study, American families pay more in taxes than they spend on food, clothing, transportation, and shelter. Further, every American will spend at least 120 days of this year to pay his or her share of taxes. Only after that point can an American begin to enjoy the rewards of a hard day's work. I think it's time to let American families keep more of what they earn.

My tax freedom resolution will send a reminder to the American taxpayer that we hear their cries for tax relief. As April 15 is around the corner, many Americans are wondering what their Federal tax pays for. Families need real, permanent tax relief, and they need a smaller Federal Government that spends less. I believe that my tax freedom resolution will unite the House of Representatives under the cause of serving the American people.

Mr. Speaker, I urge that we work on a bipartisan basis to enact real, permanent tax relief for the American family in the coming months. I look forward to working with you on this important issue, and urge that the tax freedom resolution be brought to the House floor so that Americans know that we are working for them.

CHICANO FAMILY CENTER 25TH ANNIVERSARY

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 9, 1997

Mr. GREEN. Mr. Speaker, for as long as I have been representing Houston in the Texas House and Senate and now in the U.S. House of Representatives, our community has benefited from the presence of the Chicano Family Center.

This month, the Chicano Family Center celebrates its 25th anniversary. April 17 will mark one-quarter of a century of the center's commitment to providing family counseling, intake and referral services, emergency food and clothing, substance abuse prevention and intervention programs for children and families, afterschool and summer programs, recreation and sports activities, juvenile delinquency and teen pregnancy prevention, HIV/AIDS education and English as a second language instruction.

The Chicano Family Center has left an indelible imprint on the lives of families throughout Houston through these meaningful programs. Though the center serves a predominantly Hispanic community, its doors are open to any person who asks for help or who seeks to participate in its programs. The Chicano Family Center's simultaneous empowerment of the Hispanic community and fostering of cross-cultural interaction and understanding have enriched the lives of Houston area residents from all ethnic backgrounds.

In recognizing Houston's Chicano Family Center today, I am echoing the words of praise the center has earned from the Houston Chronicle, the United Way, Governor George Bush's office and the mayor of the city of Houston Robert Lanier, among others.

Thank you, Chicano Family Center, for your 25 years of service to our community, inspiration to our citizens and promotion of the highest ideals.

[From the Houston Chronicle]

SERVING HOUSTON—THE NEED IS THERE, AND COMMUNITY SERVICE CAN MEET IT

Serve Houston, this city's chapter of the national AmeriCorps program, today will field some 1,500 citizens for a day of community service. The project combines teams of volunteers from schools, churches, neighborhoods, businesses and families with corporate support and aims to demonstrate the power of citizens to improve their communities.

The volunteers will, among other things, make repairs to schools, houses and churches, till community gardens, construct wheelchair ramps and conduct field trips for children with special needs. The project also will raise money to support the AmeriCorps interns who conduct school and after-school programs for more than 1,000 children every day.

One of Serve Houston's important community partners is the Chicano Family Center, which celebrates its 25th anniversary on Monday. Located on Avenue E on Houston's east side, the center serves a largely Hispanic neighborhood and clientele but provides help to any person who asks for it, regardless of ethnicity and with no questions asked.

The center efficiently and productively provides a broad array of social services for children, young parents and the elderly: education and literacy training; tutoring and counseling for students; an award-winning Scouting troop; family and drug abuse counseling; nutrition and sewing classes; and medical referrals. The list continues much further and covers virtually everything families need to correct problems, survive crises and learn the skills and habits necessary to live successful and fulfilling lives. In short, the Chicano Family Center serves as a model for delivery of social services to the community.

As welfare reform proceeds and welfare recipients use up their rationed benefits, community service organizations such as Serve Houston and the Chicano Family Center, which combine public and private resources, professionals and volunteers, will play an increasingly important role in providing help for those who need it.

PERSONAL EXPLANATION

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. EHLERS. Mr. Speaker, on rollcall No. 73, I was involved in other legislative business and was not able to vote in time. Had I been present, I would have voted "yes."

EXPLANATION OF ABSENCE

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. POMEROY. Mr. Speaker, yesterday I was in North Dakota participating in the emergency relief efforts that are underway to help the victims of the latest winter storm to hit the Upper Great Plains. As a result, I was absent for rollcall votes No. 72 and 73. Had I been present, I would have voted "aye" on both measures.

IN RECOGNITION OF JANET CONKLIN KIREKER AND FANNIE CALDWELL ALLEN

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mrs. ROUKEMA. Mr. Speaker, I rise today to congratulate Janet Conklin Kireker and her grandmother, the late Fannie Caldwell Allen, on their recent recognition by the Social Service Association of Ridgewood and Vicinity Inc. I would like to add my own recognition of the work they have done.

Fannie Caldwell Allen, Janet Conklin Kireker, and the Social Service Association of Ridgewood and Vicinity are the embodiment and personification of what has made America the greatest democracy on Earth and a beacon to the world.

Now I know that is easy to say. The rhetoric rolls too easily off the tongues of politicians. But this is genuine testimony to all who have been associated with the Social Service Association both today and through its 100-year history. These are the Americans—faithful to the principles of our Founding Fathers—who have been there when their neighbors turned to them for help.

Whether due to illness, disability, advanced age or economic hardship not of their making, these friends and neighbors in need have relied upon the Social Service Association. The Social Service Association has been there with the material and emotional support delivered personally and confidentially. This help has been volunteered and donated by the helping people of the community.

In honoring Fannie Caldwell Allen, we recognize that she set a very high standard as the association's longest-serving president. Born in New York City in 1871, she moved to Ridgewood as a young mother in 1903 and, with her husband, William, raised four children in their Woodside Avenue home. She joined the association in 1916, was named to the aboard in 1917, became recording secretary in 1918 and became president in 1919. She held that position until October 1937. During the aftermath of World War I, the Prohibition era and the Great Depression, she led the women of the association as they helped their neighbors deal with both the special problems of the times and the ordinary problems of everyday life.

During Mrs. Allen's tenure, the association's caseload, range of services, budget and community profile all grew tremendously. Among the highlights were the establishment of a program of local schools helping at Thanksgiving in 1924, establishment of the association's long-standing relationship with the Community Chest in 1926 and the opening of the Thrift Shop in 1930.

Upon her retirement as president in 1937, Mrs. Allen was named honorary president in recognition and appreciation of her many years of devoted leadership. She died in 1961.

Following in that heritage of dedicated altruism, Mrs. Allen's granddaughter, Janet Conklin Kireker, has been a true friend to the Social Service Association. For many years, she and her husband, Frank, have generously supported the association and its goals. In addition to the association, she has been a longstanding member of the Woman's Club of Ridgewood, where she serves as a member of the Board of Trustees; the College Club; the American Red Cross; and Valley Hospital, where she has volunteered with distinction for 25 years and is a patient representative. She and Frank raised three children in Ridgewood.

It has been with the support and generosity of caring citizens like Janet that the association has thrived and admirably served those in need. It is thanks to the longstanding commitment of volunteers like Fannie and Janet and all the other women who have worked with the Social Service Association that the association has established the outstanding, noble reputation it enjoys throughout the State of New Jersey.

Many people speak of helping others but few back up their words with deeds. The members of the Social Service Association are among those few. When a family has needed a meal, they were there. When a child needed clothing, they were there. When a handicapped person needed a wheelchair, they were there. There are many stories I could tell, many superlatives I could apply and many platitudes I could offer. In plain language, when someone needs help, the Social Security Association is there.

The women of the association are selfless, dedicated individuals who have tremendous compassion for their fellow human beings. They are examples for us all.

I also have a few words of personal testimony of what Janet has meant to me. She was always there whenever I needed her. In my early days of running for office, when nobody thought that housewife from Ridgewood could ever be elected, she was there. This housewife from Ridgewood would never have become a Congresswoman serving our Nation had it not been for her loyalty and generous support.

And America—now, as we face the millennium—is looking back to restore those values and qualities that built our great Nation. As we face a new world of technological change, a global economy, and the challenges of cultural change we must retain our commitment to the enduring values of our 200 years of history.

The tradition of neighbor helping neighbor—holding out a helping hand, generosity in donating financial resources, willingness to help those who cannot help themselves—is kept alive because of people like the women of the Social Service Association of Ridgewood.

Those are the sterling qualities we celebrate today. Those are what Janet and her grandmother have given to our community. For that we praise her.

She is a role model for the future.

Janet said at this month's award ceremony that she was certain her grandmother was smiling down from above. Today, as I write this, I am certain that Fannie Allen and many others of her generation are looking with favor upon Janet Conklin Kireker and the many others who have carried on in their tradition.

UNITED STATES MUST SUPPORT HUMAN RIGHTS AND FREEDOM FOR SIKHS OF KHALISTAN

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. KING. Mr. Speaker, I was alarmed to read of the death of Kashmir Singh, the Publicity Secretary of the Akali Dal, Amritsar, for the district of Hoshiarpur. This incident has, once again, raised serious questions about the Indian Government's policies on political dissent.

According to media reports, Kashmir Singh and his father were taken from their home by Indian police at about 1:30 a.m. on March 15. Kashmir Singh died in police custody.

Although the police declared the incident an "encounter," there is a long history of such extrajudicial killing in India's campaign of oppression against the Sikhs and other minorities in South Asia.

Even the pro-Government Indian Express called Singh's death "a cold-blooded killing." Unfortunately the death of Kashmir Singh was not an isolated incident. There is an established pattern of repression in India. Countless political critics of the regime have been unfairly imprisoned, tortured, or disappeared.

The United States must support human rights and democracy throughout the world. Our Nation is a beacon of hope for people seeking self-determination and freedom. The people of Khalistan deserve that support.

INTRODUCTION OF THE DOLPHIN-SAFE FISHING ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. MILLER of California. Mr. Speaker, we are about to enter into another round of debate on legislation to weaken one of our most popular environmental laws. Why? Because a foreign government demands it, and has threatened to kill thousands of dolphins if we don't.

During the last Congress, a small number of environmental groups secretly negotiated an agreement with Mexico and other Latin American nations to change the United States law assuring our children that the tuna they eat in their school lunches wasn't caught at the expense of dolphins. That deal was then presented to the Congress as take it or leave it, no amendments allowed—because Mexico wanted it that way, because Mexico has charged that we are flouting the rules of international free trade.

Is this where free trade principles have brought us? To a demand that we either open our markets to Mexican tuna or they'll slaughter even more dolphins?

There has to be a better way. And there is.

Today I am introducing the Dolphin-Safe Fishing Act, alternative legislation that would reward fishermen of other nations who choose not to kill dolphins by allowing their tuna to be sold in the United States under the famous "Dolphin Safe" label. Unlike other legislation on this issue, my bill would resolve the current trade dispute with Mexico without weakening United States laws.

The Dolphin-Safe Fishing Act would allow tuna to be sold in the United States by nations whose fishing fleets continue to reduce dolphin deaths beyond last year's mortality level of just over 2,700 animals. By contrast, other legislation promoted by foreign tuna interests would authorize the deaths of more than 5,000 dolphins next year.

Countries who wish to sell their tuna in our market would have to be certified by the Secretary of Commerce as not being involved in the transport of illegal drugs. The need for this provision has been established in recent articles in the Latin American and United States press and in testimony before Congress.

For example: At least 275 tons of cocaine transit the eastern tropical Pacific Ocean every year.

In July 1995, a Panamanian tuna vessel was caught off the coast of Peru with more than 12 tons of cocaine. This vessel was registered to a fishing company, Pesquera Azteca, owned by Colombian Cali Cartel drug trafficker Jose Castrillon Henao.

In August 1996, a Honduran-registered fishing ship crewed by Colombians and Ecuadoreans was seized off the Colombian coast with 2 tons of cocaine

In January 1997, a Mexican fishing vessel was intercepted off Mexico's Pacific coast carrying 3.5 tons of cocaine.

In September 1996, Manuel Rodriguez Lopez, owner of Grupo Pesquero Rodriguez, which includes tuna companies in Baja California, Mexico, was placed under house arrest on charges of money laundering. Among the assets confiscated during his arrest were six tuna fishing vessels. Rodriguez also owns four other fishing companies believed to be involved in drug trafficking and money laundering.

Given the recent vote of this body on decertification of Mexico as a partner in the war against drugs, and the ongoing press articles across the country about the ways in which free trade actually contributes to the sale of illegal drugs in the United States, we cannot allow legislation to pass this body that would further feed the Mexican drug trade.

The Dolphin-Safe Fishing Act also strengthens the meaning of the dolphin-safe label by ensuring that no tuna caught by chasing, netting, killing, or seriously injuring marine mammals can be called "dolphin safe". H.R. 408, by contrast, would allow dolphins to be chased and netted without limits—a practice prohibited by the Marine Mammal Protection Act and the Endangered Species Act—and permit that tuna to be deceptively labelled "safe" for dolphins.

The Dolphin-Safe Fishing Act specifically addresses by-catch problems in the tuna fishery by requiring that all threatened and endangered species, such as sea turtles, be released alive, and requires fishing nations to adopt a by-catch reduction program to reduce the harvest of nontarget species.

Finally, the bill expresses the Sense of the Congress that each nation participating in the tuna fishery should contribute an equitable amount to the expenses of the Commission that overseas this fishery. Currently, the United States pays more than 90 percent of the expenses, although the United States has the smallest eastern Pacific tuna fishing fleet. The United States also houses the Commission, rent-free, in a waterfront property in La Jolla, CA, which would generate approximately $500,000 annually for the Treasury.

The Dolphin-Safe Fishing Act is supported by a coalition of more than 80 environmental consumer protection, and labor organizations, including the Sierra Club, Defenders of Wildlife, Public Citizen, the National Consumers League, Humane Society of the United States, the National Family Farm Coalition, the International Brotherhood of Teamsters, the Oil Chemical and Atomic Workers International, and Clean Water Action.

The Dolphin-Safe Fishing Act is the responsible way to respond to concerns about the tuna trade, and I urge my colleagues to get the facts before they support any other legislation.

RICHARD BURSTEIN—VALLEY BETH SHALOM MAN OF THE YEAR

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. SHERMAN. Mr. Speaker, it is my honor to commend Mr. Richard Burstein, an outstanding citizen. On June 1, 1997, Richard will be named the Valley Beth Shalom in Encino, CA.

Richard, who lives in the San Fernando Valley with his wife, Irene, and their two sons, received his undergraduate degree at the University of California at Los Angeles where he graduated with a bachelor of arts degree in Political Science in June 1970, awarded magna cum laude. After graduating college, Richard enrolled in the University of California at Berkeley, Boalt Hall School of Law, graduating with a juris doctor degree in June 1973. During 1972–73, Richard served on the Moot Court Board.

Richard has been a practicing attorney in California for 24 years. Richard specializes in general civil litigation, commercial real estate, business, tort contract, and corporate matters. His practice includes matters in both State and Federal court and also issues of attorney conduct. He is a member of the California State Bar where he has served as a judge pro tem in the Hearing Department of the State Bar Court.

Not only has Richard excelled in his professional life, but he has been a great community leader as well, enhancing the lives of his fellow citizens in the community. He has devoted countless hours of service at his synagogue, Valley Beth Shalom, where he served as president from July 1994 through June 1996. During his presidency, with his collegial style he found solutions to difficult problems as he coordinated the Temple's successful efforts to complete the repairs caused by the devastating January 17, 1994 Northridge earthquake. He worked to insure that the earthquake repairs and events at the Temple were conducted in a way that was sensitive to the needs and concerns of the Temple's neighbors and the conditions established by the city of Los Angeles.

He previously served as president of the Valley Beth Shalom Day School for 3 years, and as Temple vice president of Administration and Education. As the immediate past president, Richard serves on the executive committee and the board of directors of Valley Beth Shalom. Richard's emphasis on the needs of our community has had a great impact on all our lives; his values and ethics have set an example for others to follow—that is why it is with great pleasure and esteem that I stand here today to pay tribute to a great citizen of our Nation.

Mr. Speaker, I ask you and my other esteemed colleagues to join me in congratulating Richard on being honored as Valley Beth Shalom's Man of the Year. His wife, his children, and his community can be proud of Richard's accomplishments. His unselfish dedication will be marked forever in our history.

THE BIRTHDAY OF THE SIKH NATION: A TIME TO SPEAK OUT FOR FREEDOM

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. LIPINSKI. Mr. Speaker, I rise today to take this opportunity to wish our Sikh friends a happy Vaisakhi Day. This day commemorates the anniversary of the founding of the Khalsa by Guru Gobind Singh in 1699. It is an extremely important day in the Sikh calendar.

In 1999, only 2 years from now, the Sikh Nation will celebrate its 300th anniversary. This will be a major celebration for the Sikh Nation and its friends. However, it will be diminished if the Sikhs continue to live under the kind of brutal tyranny and repression where human rights violations are committed by the occupying Indian forces.

A recent example on March 15, 1997, involved the abduction and murder of Kashmir Singh, an official of the Akali Dal or Amritsar. Kashmir Singh was picked up by the police in the middle of the night by the police and murdered. His lifeless body was then dumped at the district hospital. On September 6, 1995, the police kidnapped human rights activist Jaswant Singh Khalra, who had published a report exposing their policy of mass cremations. Last year it was reported that the police picked up and murdered a 3-year-old Sikh boy, his father, and his uncle, who were all suspected terrorists. Quite frankly, it is difficult for me to believe that a 3-year-old boy could be a terrorist. The regime has also detained and harassed Ram Narayan Kumar, a Hindu human rights activist who produced the video, "Disappearances in Punjab," which was provided to me last year by the Council of Khalistan. The list goes on and on.

All told, it is estimated that over a quarter of a million Sikhs have been persecuted for speaking out for what they believe in. In America, we call it free speech. In India, they clearly do not.

These are just a few examples of human rights violations committed by India. We must continue to press India to respect basic human rights. If India does not comply, then the United States should stop sending them millions of dollars in foreign aid. It is time to take action to end this injustice. Then we can join our Khalistani friends in celebrating their 300th anniversary.

I hope my colleagues will take a few minutes to review the following article on the murder of Kashmir Singh.

[From the Indian Express, Mar. 17, 1997]

A COLD-BLOODED KILLING?

(By Atul Sangar)

HOSHIARPUR, March 16.—Widespread resentment prevails amongst the residents of Pandori Rukmana village, located about 10 km from Hoshiarpur on the Hoshiarpiur-Jalandhar road, and several other villages, over the killing of 26-year-old Kashmira Singh, allegedly by a Tarn Taran police party on Friday night.

The body was cremated today after a post-mortem examination which showed wounds on the neck and knee caps.

Such was the anger of the people that the day the incident took place, villagers from the area collected in large numbers at Prabhat Chowk, in Hoshiarpur, demanding registration of a case by the police. However, after about six hours of dharna and blocking of traffic, it was only when Punjab minister Sarup Singh got caught in the traffic jam and was later gheraoed by the villagers, that the case was registered, said Professor Gurpal Singh, uncle of Kashmira Singh.

A gloomy atmosphere prevailed in the village when this reporter visited the family of Kashmira Singh. His father Jeet Singh said tearfully, "we were sleeping inside when suddenly 10 to 12 persons, some in plain-clothes and others in uniform, caught hold of me by the throat. On hearing my shrieks, my son also came to my room. We were told by police and others to keep quiet and were apprehensive that these persons may be bad elements. They tried to grab and drag us out of the house. Two or three rounds were fired during this scuffle and we were bundled into a four-wheeler with a blanket over our faces."

Jeet Singh, a farmer and junior employee of a semi-government undertaking, said that his son was farming and had studied up to BSC-I. He said that after being "kidnapped" they were made to travel for about 20 minutes and he was pushed out of the vehicle near a sheller at Kanani-Wala village where he asked for water from the sheller attendant. Barefoot, he later started walking back and took a lift from a taxi and reached the village.

Meanwhile, at the village, the ladies, including Kashmira's wife Harpreet Kaur, raised a hue and cry and the sarpanch, lambardar and others gathered.

According to the members of Kashmira's family, the duo were taken away around 12.30 or 1 a.m. and Jeet Singh returned around 3 or 4 p.m.

Jeet Singh's house is partially constructed and wood work is incomplete in several rooms. He left behind an eight-month old child.

Later, the villagers approached the police and rang them up from the panchayat telephone but persons turned up from the Nasrala Chowki only.

Lambardar Ajeet Singh said that Kashmira was wrongly being defamed as having terrorist links. Others told The Indian Express that Kashmira was an activist and pracharak of Akali Dal (Mann).

Mann also visited the village today. Sympathising with the villagers, he is reported to have said that the Badal government was going the way of previous governments.

A couple of empty cartridges were recovered from the courtyard of the house today.

On the other hand, the Hoshiarpur police and their counterparts in Tarn Taran have contended that Kashmira had terrorist links and was killed in an encounter with the police.

Shera, a resident of a neighbouring village, said, "we never expected this kind of treatment from the Badal government and the police.

But it seems nothing has changed.

Many in the area expressed frustration over the state of affairs."

The SSP of Hoshiarpur was not available for comments despite several attempts to contact him.

Chandigarii: Director General of Punjab Police P.C. Dogra has defended the police action resulting in the death of Kashmir Singh.

The latter, he said, was not only wanted by the police but had also made a murderous assault on the police party carrying him.

While one SPO and witnesses had been seriously injured by him with a sword, the police, he claimed, had acted in self-defence.

THE MORRIS K. UDALL PARKINSON'S RESEARCH ACT OF 1997

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. UPTON. Mr. Speaker, it is my pleasure and privilege today to join with Represenatative HENRY WAXMAN and 106 of our colleagues in introducing H.R. 1260, the Morris K. Udall Parkinson's Research Act of 1997. This legislation is designed to expand and coordinate research on Parkinson's disease to speed the discovery of a cure for this devastating disorder.

The bill authorizes $100 million in fiscal year 1998 and such sums as may be necessary in fiscal years 1999 and 2000 to expand basic and clinical research, establish up to 10 Morris K. Udall Parkinson's research centers across the country, provide for a coordinated program of research and training with respect to Parkinson's disease at the National Institutes of Health, and establish a grant awards program to support researchers who demonstrate the potential for making breakthrough discoveries in Parkinson's.

Parkinson's disease is a chronic, progressive disorder affecting 1 million Americans. In its final stages, the disease robs individuals of the ability to speak or move. Although Parkinson's disease costs society an estimated $26 billion a year in medical and lost productivity costs—costs which will escalate as the baby boom generation ages—Parkinson's research is severely underfunded. The research funding level has essentially been flat for the past 5 years, averaging about $26 million a year, or only $26 per patient in direct research funding.

I encourage my colleagues who have not already done so to cosponsor the Morris K. Udall Parkinson's Research Act and join us in the search for a cure for this devastating disease.

INTRODUCTION OF THE FEDERAL ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY COMPLIANCE ACT OF 1997

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Ms. ESHOO. Mr. Speaker, I rise today to introduce the Federal Electronic and Information Technology Accessibility Compliance Act of 1997. This legislation would strengthen current law that requires information technology purchased by Federal agencies to be accessible to their employees with disabilities: It also would continue the existing expectation that States receiving Federal funds for disability programs meet accessibility guidelines in their information technology acquisitions.

There are approximately 145,000 Federal employees with disabilities, and they comprise 7.5 percent of the Federal work force. While they are employed in a variety of agencies, most of them work in the Department of Defense, the Department of Veterans' Affairs, and the Department of Agriculture. We can be proud that the Federal Government is offering solid employment opportunities to so many people with disabilities and taking advantage of the talents, insights, and knowledge that they have to share.

Information technology has played a large role in opening jobs in the Federal Government and elsewhere to people with disabilities. For example, an estimated 43 percent of employed people who are blind or visually impaired use computers to write. However, information technology can also shut the door to employment for people with disabilities if isn't accessible to them. Web sites with heavy graphics content, for instance, may not be designed to be compatible with software commonly used by people who are blind or visually impaired to read information on computer screens.

So it is imperative to Federal employees with disabilities for Federal agencies to purchase information technology that gives them a chance to do their jobs instead of cutting them off from full participation in the work force.

Section 508 of the Rehabilitation Act was designed to achieve this goal. It calls on Federal agencies to follow guidelines established by the General Services Administration and the Department of Education to ensure that their information technology is accessible to people with disabilities. Unfortunately, section 508 contains no enforcement mechanism, and many Federal agencies are not in compliance with the guidelines.

The Federal Electronic and Information Technology Accessibility Compliance Act of 1997 would add teeth to section 508 by establishing a way to enforce agency compliance with the guidelines. It asks the Office of Management and Budget [OMB] to develop uniform procedures for Federal agencies to use each year to certify whether or not they are in compliance with section 508 guidelines. OMB also is given authority to review agency compliance statements and assist agencies in making their information technology systems accessible to their employees with disabilities.

Additionally, the legislation addresses another problem related to section 508 guidelines. The Technology-Related Assistance for Individuals with Disabilities Act Amendments of 1994 contain a mechanism to encourage States to follow section 508 guidelines as a condition for receiving Federal funding for disability related projects. However, this law is expected to expire in a few years. My legislation takes the language from the Technology Act and inserts it into the Rehabilitation Act as one of the expectations for States to meet in exchange for vocational rehabilitation funding from the Federal Government.

Mr. Speaker, this legislation will help make the Federal Government a better workplace for people with disabilities. I urge my colleagues to join me in this effort by supporting the Federal Electronic and Information Technology Accessibility Compliance Act of 1997.

CONGRESSMAN Mc GOVERN CONGRATULATES LOCAL VOLUNTEERS

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. McGOVERN. Mr. Speaker, I would like to congratulate the following citizens of Massachusetts for their outstanding work in making the St. Patrick's Day parade in Fall River, MA, such a tremendous success. As members of the Fall River St. Patrick's Day Parade Committee their hard work and commitment are keeping the city's once lost tradition of a St. Patrick's Day parade alive and well. The parade has become a multicultural event for all the residents of southeastern Massachusetts and its organizers deserve our recognition.

Chuck Gregory, Chairman, Thomas Murphy, Coordinator, Thomas Quinn, Ambassador, John O'Neil, Treasurer, Brian Burns, Treasurer, Richard O'Neil, Events Coordinator, Ron Boulay, Coordinator, Willie Brown T.V. Commentator, Butch Hyland, David Lown, Paul Donnelly, Charlie Donnelly, Sean Murphy, William Ready, Dan Morris, and Robert O'Neil.

THE INTRODUCTION OF THE JUDICIAL REFORM ACT OF 1997

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. HYDE. Mr. Speaker, I am pleased, along with many of my colleagues on the Judiciary Committee, to introduce the Judicial Reform Act of 1997. This necessary legislation addresses one of the most disturbing problems facing our constitutional system today—the infrequent but intolerable breach of the separation of powers by some members of the Federal judiciary.

The first reform contained in this bill was developed originally by a valued member of the committee, Representative BONO of California. Recognizing the unjust effect on voting rights created by injunctions issued in California by one judge against the will of the people of the State as reflected in propositions 187 and 209, this bill provides that requests for injunctions in cases challenging the constitutionality of measures passed by a State referendum must be heard by a three-judge court. Like other Federal voting rights legislation containing a provision providing for a hearing by a three-judge court, the Judicial Reform Act of 1997 is designed to protect voters in the exercise of their vote and to further protect the results of that vote. It requires that legislation voted upon and approved directly by the citizens of a State be afforded the protection of a three-judge court pursuant to 28 U.S.C. 2284 where an application for an injunction is brought in Federal court to arrest the enforcement of the referendum on the premise that the referendum is unconstitutional.

In effect, where the entire populace of a State democratically exercises a direct vote on an issue, one Federal judge will not be able to issue an injunction preventing the enforcement of the will of the people of that State. Rather, three judges, at the trial level, according to procedures already provided by statute, will hear the application for an injunction and determine whether the requested injunction should issue. An appeal is taken directly to the Supreme Court, expediting the enforcement of the referendum if the final decision is that the referendum is constitutional. Such an expedited procedure is already provided for in other voting rights cases. It should be no different in this case, since a State is redistricted for purposes of a vote on a referendum into one voting block. The Congressional Research Service estimates that these 3-judge courts would be required less than 10 times in a decade under this bill, causing a very insubstantial burden on the Federal judiciary, while substantially protecting the rights of the voters of a State.

This bill recognizes that State referenda reflect, more than any other process, the one-person-one-vote system, and seeks to protect a fundamental part of our national foundation. This bill will implement a fair and effective policy that preserves a proper balance in Federal-State relations. I applaud Mr. BONO for his efforts in extending the protection afforded to Voting Rights Act cases to direct initiatives of the people.

The second reform contained in this bill was developed by the chairman of the Subcommittee on the Constitution, Representative CANADY of Florida. It allows immediate [interlocutory] appeals of class action certifications by a Federal district judge.

When a district judge determines that an action may be maintained as a class action, the provisions contained in the Judicial Reform Act allow a party to that case to appeal that decision immediately to the proper court of appeals without delaying the progress of the underlying case. This prevents automatic certification of class actions by judges whose decisions to certify may go unchallenged because the parties have invested too many resources into the case before an appeal is allowed.

This bill will also prevent abuses by attorneys who bring class action suits when they are not warranted, and provides protection to defendants who may be forced to expend unnecessary resources at trial, only to find that a class action was improperly brought against them in the first place.

The third reform contained in this bill was developed by another valued member of the committee, Representative BRYANT of Tennessee. It requires that a complaint brought against a Federal judge be sent to a circuit other than the one in which the judge who is the object of the complaint sits for review. This will provide for a more objective review of the complaint and improve the efficacy of the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980, 28 U.S.C. 372—The 1980 Act—which established a mechanism for the filing of complaints against Federal judges.

Under those procedures, a complaint alleging that a Federal judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts may be filed with the clerk of the U.S. Court of Appeals for the circuit in which the Federal judge to be complained against sits. Under the act, a special committee will report to the judicial council of the circuit, which will decide what action, if any, should be taken.

By requiring that complaints filed under the 1980 act be transferred to a circuit other than the circuit in which the alleged wrongdoer sits, more objectivity and accountability will exist for litigants who find themselves in need of relief from a judge who is not properly performing his or her functions.

The fourth reform contained in this bill prohibits a Federal court from imposing taxes, a function reserved to legislative bodies, for the purpose of enforcing a legal decision. Mr. Speaker, seizing the power of the public purse by imposing taxes on any community is an egregious example of how some members of the judiciary have breached this Nation's founding principle of separation of powers and undermined the concept of self-rule.

In some cases, judges have designed in specific detail local school systems and public housing systems, and then ordered tax increases to finance the spending bills disguised in their judicial rulings. State and Federal laws leave budget and spending authority to legislative bodies, because only a body which represents the will of the people can decide properly how to spend the people's taxes. While rulings on due process are important to protect the rights of litigants, any remedy which would force the public to pay more in taxes must come from the House of the people and not from the authority of the bench. The judiciary is not equipped nor given the power to make such decisions. To allow otherwise is to usurp self-rule and replace it with self-appointed authority. As four Justices of the U.S. Supreme Court have stated, the imposition of taxes by courts "disregards fundamental precepts for the democratic control of public institutions. The power of taxation is one that the Federal judiciary does not possess."

This bill will restore the proper balance defined in the Constitution between the Federal branches and Federal-State relations by prohibiting courts from imposing taxes on any community. It retains accountability by legislatures to the electorate, and not to judges.

The fifth reform contained in this bill was also developed by Representative CANADY. It allows all parties on one side of a civil case brought in Federal district court to agree, after initial assignment to a judge, to bring a motion requiring that the case be reassigned to a different judge. Each side of the case may exercise this option only once.

This substitution of judge, or, as referred to in the bill, "reassignment of case as of right" provision mirrors similar State laws and allows litigants on both sides of a case to avoid being subjected to a particular Federal judge, appointed for life, in any specific case. It might be used by litigants in a community to avoid forum shopping by the other side in a case, or to avoid a judge who is known to engage in improper courtroom behavior or who regularly exceeds judicial authority.

This provision is not meant to replace appellate review of trial judges' decisions, but rather to complement appellate review by encouraging judges to fairly administer their oaths of office to uphold the Constitution. Many judges face constant reversals on appeal, but still force litigants to bear extraordinary costs before them and further bear the burden of overcoming standards of review on appeal. This provision allows litigants some freedom in ensuring that due process will be given to their case before they bear the costs associated with litigating in trial court and will encourage the judiciary to be as impartial as required by their charge.

Mr. Speaker, this bill is limited in scope. It reforms the procedures of the Federal courts to ensure fairness in the hearing of cases without stripping jurisdiction, or reclaiming any powers granted by Congress to the lower courts. It does assure that litigants in Federal courts will be entitled to fair rules of practice and procedure leading to the due process of claims.

I commend the entire Committee on the Judiciary for their work in procuring these reforms to our courts, and look forward to hearings on this bill in the middle of May by the Subcommittee on Courts and Intellectual Property, chaired by Representative HOWARD COBLE.

SALUTE TO THE DEVIL PUP PROGRAM

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. GALLEGLY. Mr. Speaker, I would like to pay tribute to the Devil Pups, an outstanding program that has served Ventura County and California for over 40 years.

The Devil Pups Program was started in 1954 with the objective of developing the qualities of good citizenship, self-control, confidence, personal discipline, teamwork, respect for family and country in young men 14 through 17 years of age. Through interaction with Marine Corps leaders and observation of Marine training, Devil Pups instill a greater sense of pride and personal accomplishment in each of the program's graduates.

As one of the first Devil Pup recruits in 1958, I can personally speak of its merits. I began the program a young boy and emerged a young man. We trained like Marines and we felt like Marines—except we occasionally had access to water while the Marines carried canteens.

Devil Pups gain insight into the principles on which our Nation was founded and thus enhance their pride of country and its flag. During their 10 days at camp, Devil Pups learn first aid, physical conditioning, attend educational lectures on the dangers of drug and alcohol abuse, and much more.

In this time of reliance on Government Expenditure, the Devil Pups are unique. The program is financed entirely by donations from charitable foundations, business corporations, and individuals. They do not accept nor solicit grants from the Federal Government. And, more importantly, there is no cost to the pup or his family.

The Devil Pups and the fine volunteers who operate the program are models for our community and our youth. I wish each of them many more successes.

PROPERTY CLAIMS IN CENTRAL AND EASTERN EUROPE

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. SMITH of New Jersey. Mr. Speaker, at the end of the last Congress, I introduced a resolution on the difficult subject of property claims arising from Fascist- and Communist-era confiscations in Central and Eastern Europe. As with the previous resolution, I am joined by my colleagues from the Helsinki Commission in introducing this resolution. Mr. PORTER, Mr. WOLF, Mr. SALMON, Mr. CHRISTENSEN, Mr. HOYER, Mr. MARKEY, and Mr. CARDIN have agreed to be original cosponsors of this resolution.

This resolution stemmed from a hearing I convened in July with Under Secretary of Commerce Stuart Eizenstat and Chairwoman of the Foreign Claims Settlement Commission Delissa Ridgway. In compelling testimony presented to the Helsinki Commission, these two individuals outlined the maze of programs and procedures which govern property claims in Central and Eastern Europe today. Chairwoman Ridgway's Commission is primarily concerned with adjudicating agreements on behalf of American claimants in those instances where agreements between the United States and foreign governments have already been reached. Under Secretary Eizenstat has sought to engage these governments in a dialog about these issues, to foster a greater acknowledgment of past wrongs, and to discern the ways in which the process of making compensation or restitution can be further advanced. I commend both of these people for the strong leadership they have shown in their work.

Mr. Speaker, the procedures that exist for compensation or restitution differ from country to country, often requiring claimants to travel a road so encumbered with conditions and qualifications that it must be a miracle for anyone to have any property returned. And that, of course, is only in those countries which have actually adopted restitution or compensation laws—many countries in this region have not even taken that step. I am particularly anxious to ensure that the survivors of Nazi persecution—people who, in many instances, were unable to receive compensation made available to their counterparts in the West or in Israel—receive the belated compensation that may enable them to live their remaining days in dignity. Moreover, I am deeply troubled that several countries in this region have adopted compensation or restitution laws that discriminate on the basis of citizenship or residency, a move that clearly and unfairly discriminates against American claimants.

I hope other Members of Congress will join me in signaling the countries of Central and Eastern Europe and, in particular, calling for the urgent return of property formerly belonging to Jewish communities as a means of redressing the especially compelling problems of aging and often destitute survivors of the Holocaust. In addition, this resolution calls for countries to remove from their books restrictions which require claimants seeking compensation or restitution to have the citizenship of, or residency in, the country from which they seek compensation or restitution.

Mr. Speaker, I would ask that the text of the resolution be printed in the RECORD at this point.

H. CON. RES.—

Whereas Fascist and Communist dictatorships have caused immeasurable human suffering and loss, degrading not only every conceivable human right, but the human spirit itself;

Whereas the villainy of communism was dedicated, in particular, to the organized and systematic destruction of private property ownership;

Whereas the wrongful and illegal confiscation of property perpetrated by Fascist and Communist regimes was often specifically designed to victimize people because of their religion, national or social origin, or expressed opposition to the regimes which repressed them;

Whereas Fascists and Communists often obtained possession of properties confiscated from the victims of the systems they actively supported;

Whereas Jewish individuals and communities were often twice victimized, first by the Nazis and their collaborators and then by the subsequent Communist regimes;

Whereas churches, synagogues, mosques, and other religious properties were also destroyed or confiscated as a means of breaking the spiritual devotion and allegiance of religious adherents;

Whereas Fascists, Nazis, and Communists have used foreign financial institutions to launder and hold wrongfully and illegally confiscated property and convert it to their own personal use;

Whereas some foreign financial institutions violated their fiduciary duty to their customers by converting to their own use financial assets belonging to Holocaust victims while denying heirs access to these assets;

Whereas refugees from communism, in addition to being wrongly stripped of their private property, were often forced to relinquish their citizenship in order to protect themselves and their families from reprisals by the Communists who ruled their countries;

Whereas the participating states of the Organization for Security and Cooperation in Europe have agreed to give full recognition and protection to all types of property, including private property, as well as the right to prompt, just, and effective compensation in the event private property is taken for public use;

Whereas the countries of Central and Eastern Europe, as well as the Caucasus and Central Asia, have entered a post-Communist period of transition and democratic development, and many countries have begun the difficult and wrenching process of trying to right the past wrongs of previous totalitarian regimes;

Whereas restrictions which require those whose properties have been wrongly plundered by Nazi or Communist regimes to reside in or have the citizenship of the country from which they now seek restitution or compensation are arbitrary and discriminatory in violation of international law; and

Whereas the rule of law and democratic norms require that the activity of governments and their administrative agencies be exercised in accordance with the laws passed by their parliaments or legislatures and such laws themselves must be consistent with international human rights standards: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring, That the Congress—

(1) welcomes the efforts of many post-Communist countries to address the complex and difficult question of the status of plundered properties;

(2) urges countries which have not already done so to return plundered properties to their rightful owners or, as an alternative, pay compensation, in accordance with principles of justice and in a manner that is just, transparent, and fair;

(3) calls for the urgent return of property formerly belonging to Jewish communities as a means of redressing the particularly compelling problems of aging and destitute survivors of the Holocaust;

(4) calls on the Czech Republic, Latvia, Lithuania, Romania, Slovakia and any other country with restrictions which require those whose properties have been wrongly plundered by Nazi or Communist regimes to reside in or have the citizenship of the country from which they now seek restitution or compensation to remove such restrictions from their restitution or compensation laws;

(5) calls upon foreign financial institutions, and the states having legal authority over their operation, that possess wrongfully and illegally property confiscated from Holocaust victims, from residents of former Warsaw Pact states who were forbidden by Communist law from obtaining restitution of such property, and from states that were occupied by Nazi, Fascist, or Communist forces, to assist and to cooperate fully with efforts to restore this property to its rightful owners; and

(6) urges post-Communist countries to pass and effectively implement laws that provide for restitution of, or compensation for, plundered property.

IN SUPPORT OF H.R. 582: THE MEDICARE HOSPITAL OUTPATIENT REFORM ACT OF 1997

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. STARK. Mr. Speaker, on February 4, Representative COYNE and myself introduced a bill to provide for an immediate correction of a serious Medicare beneficiary problem: the overcharging of seniors and the disabled by hospital outpatient departments [HOPD].

The President's budget also calls for a correction of this problem, but phases in the correction over a 10-year period.

In Medicare, the program generally pays 80 percent of part B bills and the patient pays 20 percent. But because of the way the HOPD benefit was drafted, currently beneficiaries are paying about 45 percent and Medicare 55 percent. Simply put, the problem arises because Medicare pays the hospital on the basis of reasonable cost, while the beneficiary is stuck with 20 percent of charges—and charges can be anything the hospital wants to say they are.

Recently, the American Association of Retired Persons asked its members for examples of problems they had had with HOPD billings. They received an overwhelming response, and over the coming weeks, I would like to enter some of these letters in the RECORD.

These examples are the proof of why we need to fix this problem ASAP.

The first is from Mrs. Patterson of Chico, CA, who was in the hospital 5 hours, and Medicare paid the full bill—less than 20 percent—of over $4,000, including $900 of pharmacy.

Curious to me on the hospital bill is the box at bottom right, showing expected payment of Medicare $327.52, estimated amount not paid by Medicare $3016.18. In questioning the hospital bookkeeping office, I was told that Medicare actually pays only the small amount and the hospital absorbs the rest.

Mrs. Patterson, or her medigap policy if she had one, paid $818.80 on total charges of $4094—20 percent of charges. Medicare then determined that the fair cost of the procedure was $1146.32, but since Mrs. Patterson had already paid $818.80, Medicare only paid the rest of the fair cost—or $327.52. What the bookkeeper didn't tell Mrs. Patterson was that what the hospital "absorbed" was an outrageous and unjustified charge that no one should have paid—sort of like the sticker price on an auto at a used car dealership. Yet in this case, the beneficiary paid 71.5 percent of the fair cost and Medicare 28.5 percent—a far cry from Medicare's "promise" of a 20–80 percent split.

The second letter printed below is from the Robertson family of Alhambra, CA, for cataract surgery. In this case, the total Medicare allowed cost of the procedure was $2114.80, but Medicare didn't pay 80 percent—it only paid 47 percent and the patient paid 53 percent.

The last letter is also printed below, from a man in north central California. It reflects the absolute nonsense hospitals are telling patients when they question these bills. When you examine the bills—not reprinted below—it is clear that on a bill showing charges of $2522.50, the patient paid 20 percent of the charges or $504.50. Medicare determined that the cost of the procedure was worth $933.33, but since the beneficiary had already paid $504.50, Medicare only owed another $428.83. In this case, the beneficiary paid 54 percent of the fair cost, while Medicare escaped with only paying 46 percent.

These letters are a testament to the need to pass H.R. 582.

ROBERTSON,
Alhambra, CA, September 17, 1996.

AARP, OUTPATIENT STORIES,
Dept. 601 E St. NW,
Washington, DC.

The enclosed Medicare EOMB copy is for cataract surgery services, surgeons fee not included.

Medicare paid the hospital $988.45. This payment is not disclosed on the EOMB.

As shown on the EOMB, the patient is responsible for $1,126.35.

GENTLEMEN: I am glad to see that you are concerned about the Medicare outpatient matter. At the time of my cataract surgery (see dates) I could not get anybody interested.

As you say in your article and also in the latest Medicare Handbook (Page 15 under heading "What You Pay") the patient pays 20% of the charges not of the amount that Medicare approves of, as is usually the case with part B of Medicare. It does not say that Medicare is responsible for 80% of the charges and indeed, in my case it only paid 17% of the charges (see copy of the bill) although I paid my 20%. As you can see, the remaining 63% was written off and no one paid it.

At the time, I called the hospital on the phone and the representative said that the hospital has a special contract with Medicare allowing them to pay the tiny fraction of the charges (17%). She claimed that the $1,589.17 write-off was a "loss" to the hospital.

As I said in the beginning, I am glad that someone with clout is interested in this unfairness.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 10, 1997, may be found in the Daily Digest of today's RECORD .

MEETINGS SCHEDULED

APRIL 11

9:30 a.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings to examine the increase in personal bankruptcies and the crisis in consumer credit.
SD–226

10:00 a.m.
Labor and Human Resources
To resume hearings on proposals to reform the performance, efficiency, and use of resources of the Food and Drug Administration.
SD–430

APRIL 14

1:30 p.m.
Finance
To hold hearings to review the Tax Foundation's report entitled "Tax Freedom Day 1997".
SD–215

APRIL 15

9:00 a.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings to review the U.S.-Japan bilateral relationship.
SD–419

9:30 a.m.
Labor and Human Resources
Employment and Training Subcommittee
To hold hearings to examine innovations in adult training.
SD–430

Rules and Administration
To resume hearings concerning petitions filed in connection with a contested U.S. Senate election held in Louisiana in November 1996.
SR–301

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Rural Utilities Service, the Rural Housing Service, the Rural Business-Cooperative Service, and the Alternative Agricultural Research and Commercialization Center, all of the Department of Agriculture.
SD–124

Judiciary
Immigration Subcommittee
To hold hearings to examine issues affecting immigrant entrepreneurs.
SD–226

2:00 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on counter-terrorism issues.
S–146, Capitol

Armed Services
Acquisition and Technology Subcommittee
To resume hearings on S. 450, the National Defense Authorization Act for Fiscal Years 1998 and 1999, focusing on trends in the industrial and technology base supporting national defense.
SR–232A

Armed Services
Readiness Subcommittee
To resume hearings on S. 450, the National Defense Authorization Act for Fiscal Years 1998 and 1999, and S. 451, the Military Construction Authorization Act for Fiscal Year 1998, focusing on environmental and military construction issues.
SR–222

APRIL 16

9:30 a.m.
Labor and Human Resources
To resume hearings on proposed legislation authorizing funds for programs of the Higher Education Act.
SD–430

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of the Army.
SD–192

Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Federal Communications Commission.
S–146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Transportation.
SD–124

Finance
To hold hearings to examine education tax proposals.
SD–215

Governmental Affairs
To hold hearings on the Census in the year 2000.
SD–342

Judiciary
To hold hearings on S.J. Res. 6, proposing an amendment to the Constitution of the United States to protect the rights of crime victims.
SD–226

Small Business
Business meeting, to mark up pending legislation.
SR–428A

2:00 p.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Education.
SD–124

Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine the Federal Government's role in television programming.
SD–342

Judiciary
Youth Violence Subcommittee
To hold hearings to examine the need for more juvenile bedspace and juvenile record-sharing.
SD–226

APRIL 17

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on crop and revenue insurance issues.
SR–332

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Forest Service of the Department of Agriculture.
SD–192

9:15 a.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine opportunities for improvement in the public schools of the District of Columbia.
SD–342

9:30 a.m.
Labor and Human Resources
Employment and Training Subcommittee
To hold hearings to examine innovations in youth training.
SD–430

Rules and Administration
Business meeting, to consider the committee's course of action concerning petitions filed in connection with a contested U.S. Senate election held in Louisiana in November 1996.
SR–301

Veterans' Affairs
To hold hearings to examine Persian Gulf War issues.
SH–216

10:00 a.m.
Armed Services
Readiness Subcommittee
To resume hearings on S. 450, the National Defense Authorization Act for Fiscal Years 1998 and 1999, focusing on the status of the operational readiness of the U.S. military forces.
SR–222

Finance
To hold hearings on certain revenue raising provisions of the President's proposed budget for fiscal year 1998.
SD–215

1:30 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Supreme Court of the United States and the Judiciary.
S–146, Capitol

APRIL 18

9:30 a.m.
Labor and Human Resources
To hold hearings to examine proposals to improve the health status of children.
SD–430

APRIL 22

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the National Science Foundation and the Office of Science and Technology Policy.
SD–192

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Environmental Management Program of the Department of Energy.
SD–124

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Agricultural Research Service, the Cooperative State Research, Education, and Extension Service, the Economic Research Service, and the National Agricultural Statistics Service, all of the Department of Agriculture.
SD–138

APRIL 23

9:30 a.m.
Labor and Human Resources
To resume hearings on proposed legislation authorizing funds for programs of the Higher Education Act.
SD–430

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on medical programs.
SD–192

Armed Services
To hold hearings on the Administration's proposal on NATO enlargement.
SH–216

APRIL 24

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the National Endowment for the Arts/National Endowment for the Humanities.
SD–192

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Corp of Engineers and the Bureau of Reclamation, Department of the Interior.
SD–124

10:00 a.m.
Labor and Human Resources
To hold hearings to examine issues relating to vocational education.
SD–430

APRIL 29

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Veterans Affairs.
SD–138

Energy and Natural Resources
To hold oversight hearings to review a GAO evaluation of the development of the Draft Tongass Land Management Plan.
SD–366

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Commodity Futures Trading Commission, and the Food and Drug Administration, Department of Health and Human Resources.
SD–124

Labor and Human Resources
To hold hearings on proposed legislation authorizing funds for programs of the National Endowment for the Arts and the Humanities.
SD–430

APRIL 30

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on the structure and modernization of the National Guard.
SD–192

MAY 1

9:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of the Interior.
SD–192

9:30 a.m.
Labor and Human Resources
Public Health and Safety Subcommittee
To hold hearings to examine biomedical research priorities.
SD–430

MAY 6

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the National Aeronautics and Space Administration.
SD–138

MAY 7

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD–192

MAY 14

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on environmental programs.
SD–192

MAY 21

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on Air Force programs.
SD–192

JUNE 4

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD–192

JUNE 11

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD–192

CANCELLATIONS

APRIL 10

9:30 a.m.
Armed Services
Readiness Subcommittee
To hold hearings on S. 450, the National Defense Act for Fiscal Years 1998 and 1999, focusing on Department of Defense depot maintenance privitization initiatives.
SR–222

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for Russia and the Newly Independent States.
SD–138

POSTPONEMENTS

APRIL 15

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Housing and Urban Development.
SD–138

HOUSE OF REPRESENTATIVES—*Thursday, April 10, 1997*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. SMITH of Michigan].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 10, 1997.

I hereby designate the Honorable NICK SMITH to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray. Strengthen our hearts and minds and spirits, O God, so that we will be good custodians of the responsibilities that have been given to us. As we seek to do our duties with fairness and regard for each other, remind us again of the gift of listening and understanding. May we expound our positions and solutions when we have listened and learned, when we have grasped and understood what is said to us. Let us comprehend the truth that is available to us so we speak and act and think in ways that honor Your creation and are of service to all people. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Iowa [Mr. BOSWELL] come forward and lead the House in the Pledge of Allegiance.

Mr. BOSWELL led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain ten 1-minutes on each side.

FOLLOWING THROUGH ON OUR CAMPAIGN PROMISES

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute.)

Mr. HUTCHINSON. Mr. Speaker, should a candidate's promise be taken seriously? It is funny that I should even ask that question because when I talk to my constituents in Arkansas every week I am constantly reminded that they expect me to follow through on my promises.

The Republican Party told the voters in 1994 and 1996 that we favored lowered taxes and smaller government. The voters believed we were serious about our promises and supported us in each of those years. In 1992, our present President campaigned on the theme of lowering taxes on working Americans. For some reason the people believed him and supported and put him into office.

It happens time and time again that the voters take us seriously, and yet performance does not come through. Cutting taxes is the most direct way to transfer power from Washington back to the people who earn the money in the first place.

Mr. Speaker, we must know that the voters take us seriously when we make promises, and we must fulfill our promises on tax cuts for working Americans. Let us keep our promises and cut taxes now.

SECURING LONG-TERM HEALTH CARE FOR VETERANS

(Mr. BOSWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. BOSWELL. Mr. Speaker, today I am introducing legislation which when enacted will modify the treatment of certain benefits received by veterans who reside in State veterans homes and whose health care and treatment is paid for by the Medicaid Program. It is because of my deep concern for the stability of these veterans homes and for the long-term care of my fellow veterans that I introduce this legislation.

The situation was first brought to my attention by Jack Dack, commandant of the Iowa Veteran's Home in Marshalltown, IA. I have personally toured the Marshalltown State veterans home. This facility is a source of pride to me and other Iowa veterans. The Marshalltown home provides an outstanding level of service for Iowa's veterans who have carried our Nation's flag and are in need of health services. Without this reform, and all of my colleagues should take note, the ability of 33 State veterans homes in 17 States will be placed in jeopardy.

So I submit this legislation because of my commitment to maintaining the long-term health care to our Nation's veterans, and I urge my colleagues to cosponsor this important legislation designed to maintain our commitment to quality health care for our Nation's veterans.

TEN REASONS WHY CONGRESS MUST PASS A TAX CUT

(Mr. BOB SCHAFFER of Colorado asked and was given permission to address the House for 1 minute.)

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I have an apology to make this morning. I need to apologize because I at the moment can only think of 10 good reasons why Congress must absolutely pass a tax cut.

No. 1, I promised my constituents that I would; No. 2, I am not satisfied with the current economic growth rate; No. 3, cutting taxes will take power away from Washington and put more power into the hands of workers; No. 4, fundamentally I believe that people know better how to spend their own money than do politicians in Washington; No. 5, the current tax burden is 39 percent of income for an average family, and it is way too high; No. 6, I do not think it is fair that workers should have to hand over almost one-third or more of their income to the Government that wastes it on failed social programs; No. 7, higher take-home pay means workers will not have to work as much overtime, which means that workers will have more free time; No. 8, more workers will be able to take a vacation this year; and No. 9, more Americans will be able to start paying off those credit card debts; and No. 10, it is the right thing to do.

OUR VETS DESERVE THE TRUTH

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, thousands of gulf war vets have complained about nerve gas problems to no avail, and after all this the CIA now admits they had warnings as early as 1984 that Iraq had stored nerve gas in their ammunition depots that were later blown

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

up by American troops. Unbelievable. The CIA now says they did not tell the Pentagon and it was a mistake.

Beam me up, Mr. Speaker. I do not believe the CIA, and when thousands of gulf war vets are treated like whining hypochondriacs something is very wrong. I say these vets deserve the truth and the help of Congress.

Furthermore, I say to my colleagues, if we want to balance the budget, we could save $30 billion in our intelligence budget by hiring Barney Fife, who will do a much better job and be a hell of a lot more honest.

THE POWER TO TAX IS NOT THE POWER TO DESTROY

(Mr. JONES asked and was given permission to address the House for 1 minute.

Mr. JONES. Mr. Speaker, the most distinguished jurist in American history, Oliver Wendell Holmes, understood perfectly the dangers of an oppressive tax system. In a famous 1928 case Justice Holmes wrote, and I quote, "The power to tax is not the power to destroy while this Court sits."

Mr. Speaker, how many new businesses fail because the tax man seizes too much of what little profit that business makes. How many new businesses would have succeeded if they had not been burdened by tax bills they could not afford? How many businesses decided not to expand because taxes could eat away at the profits? How many businesses decided to locate overseas to escape a tax code that punishes job creation?

Justice Holmes understood even back in 1928 that when the tax burden becomes oppressive enterprises are destroyed and jobs are lost. Sixty-nine years later it is time to learn the lesson; it is time to cut taxes on businesses and let job creation flourish.

LET US PASS THE FAIR PAY ACT

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute.)

Ms. VELÁZQUEZ. Mr. Speaker, I rise today in support of the Fair Pay Act. It is shameful that such a law is necessary, but it is. While my Republican colleagues have spent the first hundred days of this Congress on extended vacation let me assure my colleagues that the women of this Nation have been out there working hard for a lot less money.

Mr. Speaker, how it is possible that women have to work until April 11 to make what men earned the year before for the same work. How do we allow employers to continue to discriminate against women by paying them 72 cents for every dollar they pay their male employees.

The Fair Pay Act requires employers to pay equal wages for equal work. This bill would also prohibit wage discrimination based on race and national origin.

In 1992, Hispanic women earned half as much as white men for compatible work, half as much. This is a disgrace. It is time to send a message that we will no longer tolerate this. Let us pass the Fair Pay Act.

THE GREATEST GIFT THIS CONGRESS CAN GIVE OUR CHILDREN

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, about 30 years ago a distinguished Member of the other body wrote a book entitled "The Arrogance of Power," and since becoming a Member of Congress this year that title has haunted me, because nowhere has that arrogance been shown greater than in the oppressive tax system that the Congress of the United States has allowed to be developed over the last 30 or 40 years. We now have a tax system that rewards political friends at the expense of America's families.

Somebody asked me yesterday at a press conference what does it mean for America if we truly reform the Tax Code, and what it means is that every man, woman, and child in this country will no longer see an arrogance where Washington thinks they know better and they have more compassion and spending the money that is being earned by America's families.

We are going to abolish that arrogance in this Congress. We are going to reform taxes, we are going to give America back to the Americans, and we are going to restore the future of this financial security for our children. That is the greatest gift this Congress can give our children.

JOIN THE FIGHT TO CUT HEALTH CARE TO PAY FOR TAX BREAKS FOR THOSE WHO NEED IT LEAST

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, 30 years ago this country made a pact with senior citizens: Work hard all your life and you will be assured of health care coverage when you need it most.

Today the Medicare Program is one of our Nation's great success stories.

Yesterday my Republican colleague the gentleman from Ohio [Mr. KASICH] stated that billions of dollars in additional cuts were needed in the Medicare Program. Meanwhile, Speaker GINGRICH announced a new Republican effort to eliminate all taxes on capital gains. These are the tax cuts, my colleagues, that overwhelmingly benefit the wealthiest 5 percent of Americans versus 37 million seniors who have Medicare.

Looks like my colleagues on the other side of the aisle are up to their old tricks, slashing Medicare to pay for tax cuts for the rich.

Democrats in this Congress pledge today to continue to stand up for our Nation's seniors. We are going to fight these Republican efforts to cut the health care of those who need it the most to pay for tax breaks for those who need it least. They are afraid to put their budget on paper; that is why they will not produce a budget. They do not want it there.

Read between the lines. It is the same old story: Medicare cuts to pay for tax cuts.

SCARING SENIOR CITIZENS IN ORDER TO GET REELECTED

(Mr. SCARBOROUGH asked and was given permission to address the House for 1 minute.)

Mr. SCARBOROUGH. Mr. Speaker, there they go again. There they go again.

Now the Washington Post called what they are taking under here, called it medagoguery. Ted Koppel in "Nightline" talked about how the Democrats were scaring senior citizens to try to get reelected. In fact they called it Mediscare. What we are seeing are a group of people who were so afraid to save the system that the President's own Medicare advisers said was going bankrupt that they will resort to anything to get reelected.

□ 1015

It was the President's task force that said we must save Medicare. So we did something radical. We said we would allow Medicare to grow at 7.2 percent. The President said, let us let it grow at 7.4 percent, and we were told we wanted to destroy the system.

Well, I agree with the gentleman from Ohio [Mr. TRAFICANT]. Mr. Speaker, if saving Medicare is being mean to senior citizens, beam me up, because I do not understand this place anymore.

WHERE IS REPUBLICAN BUDGET?

(Mr. WISE asked and was given permission to address the House for 1 minute.)

Mr. WISE. Mr. Speaker, what the gentleman who preceded me in the well did not say was that his party does not have a budget that explains how we make these cuts, whether they be Medicare cuts or tax cuts. Indeed, this Congress just returned from what I thought was the Easter break, but hearing the Speaker's comments yesterday promising massive tax cuts made it sound more like a political Christmas.

It was only 2 years ago that Members of the Republican Party paraded into this well to say, where is the White House budget? Well, what a difference 2 years makes. Now the conservative Democrats have presented the so-called blue dog budget, the White House has presented its balanced budget. What has the reaction been? The Republican Congressional Budget Office says it is not balanced enough, but they presented no budget of their own.

Then they say the Medicare cuts are not deep enough. They presented no budget of their own. Yesterday the Speaker promised eliminating all capital gains. That is about $40 billion a year, the mass of the benefits going to the wealthiest individuals in the country, and yet no budget has been presented.

So here is my challenge to the other party. When you demand cuts, put a budget on the table before you come to the table.

HATCH AND KENNEDY ARE RIGHT

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, I rise today to urge my colleagues on both sides of the aisle to do what is right for the children of America.

Senators HATCH and KENNEDY have developed bold new legislation in the other body designed to protect the physical health of our children, and we in the House should also support this legislation. It has bipartisan support and deserves our support.

There are three major components to it: A block grant to allow the States to provide the health insurance coverage, which is paid for by a tax or a user fee on cigarettes that not only will pay for the program but also discourage youth from smoking in the first place. One-third of the revenues, and I say specifically to my Republican colleagues like myself who are fiscally conservative, one-third of those revenues will be used to reduce the budget deficit and stop mortgaging children's futures.

The health of our children is far too valuable to allow it to be threatened by a lack of adequate health insurance. There is no area where health insurance and preventive care brings more rewards. It is cost-effective as well as being humane, and it deserves the support, bipartisan support, such as Senators HATCH and KENENDY have already developed.

MORE TAX CUTS FOR THE RICH

(Mr. MENENDEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, when I woke up to today's papers, I read the latest idea of the Republican leadership's do-nothing Congress, which is to go ahead and give 1,400 of the wealthiest families in this country a $4.6 billion giveaway by eliminating all estate taxes, and that is what it amounts to, over $4 billion to only 1,400 families in this country.

This is not relief, which we want to see in estate taxes, this is a giveaway, at the same time that my colleagues say that Medicare cuts are not big enough on millions of senior citizens in this country, and with 10 million children in this country who have no health care opportunity whatsoever.

Now, to think that this is, in essence, what my Republican colleagues are headed toward in their budget describes why they do not have a budget, because there is no way to plug up those holes. Deal with the deficit, balance the budget, and take care of the needs of this Nation. Who are you for, and who are you against?

Mr. Speaker, with this policy, what my colleagues on the other side of the aisle are telling us is, they are against our seniors, against our children, and for the wealthiest people in this country who do not need that type of assistance. That is simply wrong.

AMERICANS SHOULD FIGHT FOR TAX RELIEF

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, in 1980 the Federal revenue was about $500 billion. We then had the Reagan tax cuts, and by 1990 the Federal revenue was over $1 trillion. It doubled in a decade. Mr. Speaker, if we could double our Federal revenue in the next decade, we would go from an income or revenue of $1.5 trillion to $3 trillion. We could balance the Federal budget with $3 trillion income.

However, the opponents to tax relief say you cannot cut estate taxes, which we all know as death taxes. We are taxed all of our lives, and then now we have a tax when people die. We cannot eliminate death taxes, because that is only 1,400 people. We cannot cut capital gains taxes, because that is only the wealthy. We cannot even give tax relief to families, $500 per child, because there is no revenue generated from that.

Well, this country can get tax relief. We are taxed too high, and we can do it and still see an increase in the Federal revenue. Do not believe all the demagoguery. Fight for tax relief. I urge my colleagues to vote for tax relief as soon as we can get it to the floor.

TAX CUTS FOR THE RICH, MEDICARE CUTS FOR SENIORS

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, we have been here before. Last year Speaker GINGRICH attempted to give tax breaks to the richest citizens of this country and pay for them by cutting Medicare at $250 billion. The American people stopped that.

This year, as April 15 approaches and Americans are rushing to pay their taxes, Speaker GINGRICH, who himself still owes the Federal Government $300,000 in fines, Speaker GINGRICH is back. He wants more tax breaks for the wealthiest people and more cuts for Medicare.

Yesterday Speaker GINGRICH, appealing to his wealthiest contributors in the Republican Party, advocated a huge tax break for the wealthiest 5 percent of Americans. At the same time, the Republican chairman of the Committee on the Budget yesterday said he wants more Medicare cuts.

The Gingrich team is doing it again: Tax cuts for the richest 1 percent, Medicare cuts for 37 million senior citizens. That is wrong.

AMERICANS ARE OVERTAXED

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, the previous speaker spoke about what is wrong. What is wrong is to lie to the American people and say something is a cut when it is not a cut. The Republican Medicare proposal last year increased Medicare funding $190 billion to $270 billion. That is not a cut.

Now, if my colleagues on the other side say it is a cut, either they have a huge math disorder or they are a liar, period. I certainly would hope that we have a math disorder on the other side that maybe we can reach out through one of the 706 social programs sponsored by the Department of Education and help those who failed in mathematics to understand. They are getting paid $134,000 a year to serve in the U.S. Congress. They ought to be able to know an increase from a decrease, and then they ought to have the forthrightness to be truthful about it.

Mr. Speaker, the situation is this: The American people are overtaxed; Medicare has gone broke; we have a proposal to fix it. They are separate issues. Balancing the budget is a separate issue. The Speaker offered the President a balanced budget without tax cuts. The President is the one who has rejected it, not the Speaker. We are trying to work with the other side. We are not trying to fight them.

KIDS AND GUNS DO NOT MIX

(Mr. BLAGOJEVICH asked and was given permission to address the House for 1 minute.)

Mr. BLAGOJEVICH. Mr. Speaker, permit me to gently change the subject. I would like to talk about kids and guns today.

Mr. Speaker, according to a recent study of gun deaths by the Centers for Disease Control and Prevention, children in the United States are 12 times more likely to die because of a firearm than children in other industrial countries. The United States had the highest gun-related child homicides and the highest rate of child suicides of 26 industrial nations in the study. There is not even a close second.

Between 1965, Mr. Speaker, and 1995, the percentage of murders committed by people under 21 in my hometown of Chicago went from 10 percent to nearly 40 percent. Over the same 30-year time span, the number of murders committed nationally by those under 21 increased fivefold. Today, 18- and 19-year-olds account for the largest percentage of violent crime arrests in the United States.

Mr. Speaker, these sobering facts can lead to only one conclusion: Kids and guns do not mix. I urge my colleagues to support my bill that would ban ownership of handguns for anyone under 21.

CHILDREN FIRST IN EDUCATION ACT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I rise today to ask my colleagues to support the Children First in Education Act, a bill which would direct 95 percent of our Federal education dollars to our local school classrooms. For too long we have been satisfied with the mediocre performance of sending from 50 to 80 percent of Federal funds to local communities. That means over 20 cents, at least, of every education dollar intended for local schools gets lost in the bureaucracy. This can be improved.

Mr. Speaker, in the past few weeks, I visited with students, teachers, and administrators in schools like McCaskey High School in Lancaster City. Here I witnessed a topnotch education atmosphere, yet one which could be enhanced by getting Federal funds directly into the hands of someone who knows your child's name.

Mr. Speaker, if this act is passed, out of a total of $15 billion federally, approximately $3 billion more would get directly to our kids. That is more than $70 per student per year, money which could be used for new textbooks, teachers' aides, and learning materials.

I urge my colleagues to join in sponsoring and cosponsoring the Children First in Education Act.

ARC ROAD PROGRAM BENEFITS OUR ECONOMY

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute.)

Mr. STRICKLAND. Mr. Speaker, I was dismayed by a letter I received yesterday from the chairman of the House Committee on the Budget. It seems that he considers the Appalachian Regional Commission's road-building program corporate welfare, saying that it is used to, quote, "link well-to-do urban centers with other well-to-do urban centers".

Now, perhaps that is the case with road-building programs in Columbus, OH, but I can assure my colleagues that, in my part of Ohio, ARC road funds are used to bring economic development and jobs to remote communities.

Other regions take good roads for granted while the Appalachian people do without. The ARC road program was a promise the Federal Government made to the American people of Appalachia in 1965. It is now 77 percent complete. It is not corporate welfare, it is basic infrastructure.

I am hopeful that the good chairman will reconsider his assertions about the worth of this essential program. We need to finish the job and to keep our commitment to the people. The taxpayers in my district want concrete results. We need pavement, not broken promises.

JUSTICE DEPARTMENT NEEDS TO ACT

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, last December while I was on vacation with my family, I used my wife's cell phone to talk to some of my colleagues. A few weeks later I found that the conversation was all over the newspapers, and I had found out that a couple of Democrat activists had broken the law and eavesdropped on my conversation, the equivalent of wiretapping. I saw them all over the television talking about how they had come to Washington and given this tape to Democrats in this House; yes, in this very House; and how just a day or two later transcripts of my private conversation wound up in the newspapers.

Mr. Speaker, I was mad, and so were some of my colleagues, and we demanded that the Justice Department get to the bottom of this matter.

Well, Mrs. Reno can move pretty quickly when she wants to. She got a grand jury together within days after a Republican committee chairman was accused by a Democrat activist of improper activities, but when it came to IRS agents snooping in our taxpayers' files or Democrats snooping in on private phone conversations or the Democrat National Committee accepting Chinese campaign checks, or the Vice President making telephone calls from the White House, she can drag her heels along with the best of them.

Mr. Speaker, Tapegate is so open and shut of a case that even Barney Fife could have solved it in a day. I have written her that I want an answer by tomorrow, and so far I have not heard a peep.

□ 1030

If we do not hear by tomorrow, we are going to have to hold the Democrats in this House accountable for what they did.

HAPPY APRIL FOOLS DAY

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, a few listening realize that Congress has extraordinary power. One of those powers is to change the calendar and the time of day during a legislative session. So the Republican leadership has declared today to be April Fools Day, if Members have been listening to the speeches.

If we take the top 1 percent of the people in this country, they own 40 percent of the wealth. They are telling us from that side of the aisle, if we take the top 1 percent who own 40 percent of the wealth in America and exempt them from all taxation, we will balance the budget. No inheritance taxes for the top 1 percent who own 40 percent of the wealth, no capital gains taxes for the top 1 percent who own 40 percent of the wealth, but we will balance the budget.

How is that? Because the little people will pay taxes. All the little people who work for those folks will pay taxes, and we will have a balanced budget.

Is it not a wonderful world? Is it not great? We have to love this country. If we exempt the wealthy from paying taxes, we will balance the budget. The problem today that we do not have a balanced budget is because the wealthy are paying a little bit of taxes. If they do not pay any, we will all be better off.

Ho, ho, ho, happy April Fools Day.

ASSISTED SUICIDE FUNDING RESTRICTION ACT OF 1997

Mr. BLILEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1003) to clarify Federal law with respect to restricting the use of Federal funds in support of assisted suicide, as amended.

The Clerk read as follows:

H.R. 1003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Assisted Suicide Funding Restriction Act of 1997".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Restriction on use of Federal funds under health care programs.
Sec. 4. Restriction on use of Federal funds under certain grant programs under the Developmental Disabilities Assistance and Bill of Rights Act.
Sec. 5. Restriction on use of Federal funds by advocacy programs.
Sec. 6. Restriction on use of other Federal funds.
Sec. 7. Clarification with respect to advance directives.
Sec. 8. Application to District of Columbia.
Sec. 9. Conforming amendments.
Sec. 10. Relation to other laws.
Sec. 11. Effective date.
Sec. 12. Suicide prevention (including assisted suicide).

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—Congress finds the following:

(1) The Federal Government provides financial support for the provision of and payment for health care services, as well as for advocacy activities to protect the rights of individuals.

(2) Assisted suicide, euthanasia, and mercy killing have been criminal offenses throughout the United States and, under current law, it would be unlawful to provide services in support of such illegal activities.

(3) Because of recent legal developments, it may become lawful in areas of the United States to furnish services in support of such activities.

(4) Congress is not providing Federal financial assistance in support of assisted suicide, euthanasia, and mercy killing and intends that Federal funds not be used to promote such activities.

(b) Purpose.—It is the principal purpose of this Act to continue current Federal policy by providing explicitly that Federal funds may not be used to pay for items and services (including assistance) the purpose of which is to cause (or assist in causing) the suicide, euthanasia, or mercy killing of any individual.

SEC. 3. RESTRICTION ON USE OF FEDERAL FUNDS UNDER HEALTH CARE PROGRAMS.

(a) Restriction on Federal Funding of Health Care Services.—Subject to subsection (b), no funds appropriated by Congress for the purpose of paying (directly or indirectly) for the provision of health care services may be used—

(1) to provide any health care item or service furnished for the purpose of causing, or for the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing;

(2) to pay (directly, through payment of Federal financial participation or other matching payment, or otherwise) for such an item or service, including payment of expenses relating to such an item or service; or

(3) to pay (in whole or in part) for health benefit coverage that includes any coverage of such an item or service or of any expenses relating to such an item or service.

(b) Construction and Treatment of Certain Services.—Nothing in subsection (a), or in any other provision of this Act (or in any amendment made by this Act), shall be construed to create *apply to or to affect* any limitation relating to—

(1) the withholding or withdrawing of medical treatment or medical care;

(2) the withholding or withdrawing of nutrition or hydration;

(3) abortion; or

(4) the use of an item, good, benefit, or service furnished for the purpose of alleviating pain or discomfort, even if such use may increase the risk of death, so long as such item, good, benefit, or service is not also furnished for the purpose of causing, or the purpose of assisting in causing, death, for any reason.

(c) Limitation on Federal Facilities and Employees.—Subject to subsection (b), with respect to health care items and services furnished—

(1) by or in a health care facility owned or operated by the Federal government, or

(2) by any physician or other individual employed by the Federal government to provide health care services within the scope of the physician's or individual's employment,

no such item or service may be furnished for the purpose of causing, or for the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.

(d) List of Programs to Which Restrictions Apply.—

(1) Federal health care funding programs.—Subsection (a) applies to funds appropriated under or to carry out the following:

(A) Medicare program.—Title XVIII of the Social Security Act.

(B) Medicaid program.—Title XIX of the Social Security Act.

(C) Title XX social services block grant.—Title XX of the Social Security Act.

(D) Maternal and child health block grant program.—Title V of the Social Security Act.

(E) Public health service act.—The Public Health Service Act.

(F) Indian health care improvement act.—The Indian Health Care Improvement Act.

(G) Federal employees health benefits program.—Chapter 89 of title 5, United States Code.

(H) Military health care system (including tricare and champus programs).—Chapter 55 of title 10, United States Code.

(I) Veterans medical care.—Chapter 17 of title 38, United States Code.

(J) Health services for peace corps volunteers.—Section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)).

(K) Medical services for federal prisoners.—Section 4005(a) of title 18, United States Code.

(2) Federal facilities and personnel.—The provisions of subsection (c) apply to facilities and personnel of the following:

(A) Military health care system.—The Department of Defense operating under chapter 55 of title 10, United States Code.

(B) Veterans medical care.—The Veterans Health Administration of the Department of Veterans Affairs.

(C) Public health service.—The Public Health Service.

(3) Nonexclusive list.—Nothing in this subsection shall be construed as limiting the application of subsection (a) to the programs specified in paragraph (1) or the application of subsection (c) to the facilities and personnel specified in paragraph (2).

SEC. 4. RESTRICTION ON USE OF FEDERAL FUNDS UNDER CERTAIN GRANT PROGRAMS UNDER THE DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT.

Subject to section 3(b) (relating to construction and treatment of certain services), no funds appropriated by Congress to carry out part B, D, or E of the Developmental Disabilities Assistance and Bill of Rights Act may be used to support or fund any program or service which has a purpose of assisting in procuring any item, benefit, or service furnished for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.

SEC. 5. RESTRICTION ON USE OF FEDERAL FUNDS BY ADVOCACY PROGRAMS.

(a) In General.—Subject to section 3(b) (relating to construction and treatment of certain services), no funds appropriated by Congress may be used to assist in, to support, or to fund any activity or service which has a purpose of assisting in, or to bring suit or provide any other form of legal assistance for the purpose of—

(1) securing or funding any item, benefit, program, or service furnished for the purpose of causing, or the purpose of assisting in causing, the suicide, euthanasia, or mercy killing of any individual;

(2) compelling any person, institution, governmental entity to provide or fund any item, benefit, program, or service for such purpose; or

(3) asserting or advocating a legal right to cause, or to assist in causing, the suicide, euthanasia, or mercy killing of any individual.

(b) List of Programs to Which Restrictions Apply.—

(1) In general.—Subsection (a) applies to funds appropriated under or to carry out the following:

(A) Protection and advocacy systems under the developmental disabilities assistance and bill of rights act.—Part C of the Developmental Disabilities Assistance and Bill of Rights Act.

(B) Protection and advocacy systems under the protection and advocacy for mentally ill individuals act.—The Protection and Advocacy for Mentally Ill Individuals Act of 1986.

(C) Protection and advocacy systems under the rehabilitation act of 1973.—Section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e).

(D) Ombudsman programs under the older americans act of 1965.—Ombudsman programs under the Older Americans Act of 1965.

(E) Legal assistance.—Legal assistance programs under the Legal Services Corporation Act.

(2) Nonexclusive list.—Nothing in this subsection shall be construed as limiting the application of subsection (a) to the programs specified in paragraph (1).

SEC. 6. RESTRICTION ON USE OF OTHER FEDERAL FUNDS.

(a) In General.—Subject to section 3(b) (relating to construction and treatment of certain services) and subsection (b) of this section, no funds appropriated by the Congress shall be used to provide, procure, furnish, or fund any item, good, benefit, activity, or service, furnished or performed for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual.

(b) Nonduplication.—Subsection (a) shall not apply to funds to which section 3, 4, or 5 applies, except that subsection (a), rather than section 3, shall apply to funds appropriated to carry out title 10, United States

Code (other than chapter 55), title 18, United States Code (other than section 4005(a)), and chapter 37 of title 28, United States Code.

SEC. 7. CLARIFICATION WITH RESPECT TO ADVANCE DIRECTIVES.

Subject to section 3(b) (relating to construction and treatment of certain services), sections 1866(f) and 1902(w) of the Social Security Act shall not be construed—

(1) to require any provider or organization, or any employee of such a provider or organization, to inform or counsel any individual regarding any right to obtain an item or service furnished for the purpose of causing, or the purpose of assisting in causing, the death of the individual, such as by assisted suicide, euthanasia, or mercy killing; or

(2) to apply to or to affect any requirement with respect to a portion of an advance directive that directs the purposeful causing of, or the purposeful assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.

SEC. 8. APPLICATION TO DISTRICT OF COLUMBIA.

For purposes of this Act, the term "funds appropriated by Congress" includes funds appropriated to the District of Columbia pursuant to an authorization of appropriations under title V of the District of Columbia Self-Government and Governmental Reorganization Act and the term "Federal government" includes the government of the District of Columbia.

SEC. 9. CONFORMING AMENDMENTS.

(a) Medicare Program.—

(1) Funding.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(A) by striking "or" at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting "; or"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) in the case in which funds may not be used for such items and services under the Assisted Suicide Funding Restriction Act of 1997.".

(2) Advance directives.—Section 1866(f) of such Act (42 U.S.C. 1395cc(f)) is amended by adding at the end the following new paragraph:

"(4) For construction relating to this subsection, see section 7 of the Assisted Suicide Funding Restriction Act of 1997 (relating to clarification respecting assisted suicide, euthanasia, and mercy killing).".

(b) Medicaid Program.—

(1) Funding.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended—

(A) by striking "or" at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting "; or"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) with respect to any amount expended for which funds may not be used under the Assisted Suicide Funding Restriction Act of 1997.".

(2) Advance directives.—Section 1902(w) of such Act (42 U.S.C. 1396a(w)) is amended by adding at the end the following new paragraph:

"(5) For construction relating to this subsection, see section 7 of the Assisted Suicide Funding Restriction Act of 1997 (relating to clarification respecting assisted suicide, euthanasia, and mercy killing).".

(c) Title XX Block Grant Program.—Section 2005(a) of the Social Security Act (42 U.S.C. 1397d(a)) is amended—

(1) by striking "or" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting "; or"; and

(3) by adding at the end the following:

"(10) in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1997.".

(d) Maternal and Child Health Block Grant Program.—Section 501(a) of the Social Security Act (42 U.S.C. 701(a)) is amended by adding at the end the following: "Funds appropriated under this section may only be used in a manner consistent with the Assisted Suicide Funding Restriction Act of 1997.".

(e) Public Health Service Act.—Title II of the Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 246. RESTRICTION ON USE OF FUNDS FOR ASSISTED SUICIDE, EUTHANASIA, AND MERCY KILLING.

"Appropriations for carrying out the purposes of this Act shall not be used in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1997.".

(f) Indian Health Care Improvement Act.—Title II of the Indian Health Care Improvement Act (25 U.S.C. 1621 et seq.) is amended by adding at the end the following new section:

"LIMITATION ON USE OF FUNDS

"Sec. 225. Amounts appropriated to carry out this title may not be used in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1997.".

(g) Federal Employees Health Benefit Program.—Section 8902 of title 5, United States Code, is amended by adding at the end the following:

"(o) A contract may not be made or a plan approved which includes coverage for any benefit, item, or service for which funds may not be used under the Assisted Suicide Funding Restriction Act of 1997.".

(h) Military Health Care Program.—Section 1073 of title 10, United States Code, is amended by adding at the end the following: "This chapter shall be administered consistent with the Assisted Suicide Funding Restriction Act of 1997.".

(i) Veterans' Medical Care Program.—

(1) In general.—Subchapter I of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

"§1707. Restriction on use of funds for assisted suicide, euthanasia, or mercy killing

"Funds appropriated to carry out this chapter may not be used for purposes that are inconsistent with the Assisted Suicide Funding Restriction Act of 1997.".

(2) Clerical amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1706 the following new item:

"1707. Restriction on use of funds for assisted suicide, euthanasia, or mercy killing.".

(j) Health Care Provided for Peace Corps Volunteers.—Section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)) is amended by adding at the end the following: "Health care may not be provided under this subsection in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1997.".

(k) Medical Services for Federal Prisoners.—Section 4005(a) of title 18, United States Code, is amended by inserting "and to the extent consistent with the Assisted Suicide Funding Restriction Act of 1997" after "Upon request of the Attorney General".

(l) Developmental Disabilities and Bill of Rights Act.—

(1) State plans regarding developmental disabilities councils.—Section 122(c)(5)(A) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6022(c)(5)(A)) is amended—

(A) in clause (vi), by striking "and" after the semicolon at the end;

(B) in clause (vii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following clause:

"(viii) such funds will be used consistent with the section 4 of the Assisted Suicide Funding Restriction Act of 1997.".

(2) Legal actions by protection and advocacy systems.—Section 142(h) of such Act (42 U.S.C. 6042(h)) is amended by adding at the end the following new paragraph:

"(3) Limitation.—The systems may only use assistance provided under this chapter consistent with section 5 of the Assisted Suicide Funding Restriction Act of 1997.".

(3) University affiliated programs.—Section 152(b)(5) of such Act (42 U.S.C. 6062(b)(5)) is amended by adding at the end the following: "Such grants shall not be used in a manner inconsistent with section 4 of the Assisted Suicide Funding Restriction Act of 1997.".

(4) Grants of national significance.—Section 162(c) of such Act (42 U.S.C. 6082(c)) is amended—

(A) by striking "and" at the end of paragraph (4),

(B) by striking the period at the end of paragraph (5) and inserting "; and", and

(C) by adding at the end the following new paragraph:

"(6) the applicant provides assurances that the grant will not be used in a manner inconsistent with section 4 of the Assisted Suicide Funding Restriction Act of 1997.".

(m) Protection and Advocacy for Mentally Ill Individuals Act of 1986.—Section 105(a) of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10805(a)) is amended—

(1) in paragraph (8), by striking "and" at the end;

(2) in paragraph (9), by striking the period and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(10) not use allotments provided to a system in a manner inconsistent with section 5 of the Assisted Suicide Funding Restriction Act of 1997.".

(n) Protection and Advocacy Systems Under the Rehabilitation Act of 1973.—Section 509(f) of the Rehabilitation Act of 1973 (29 U.S.C. 794e(f)) is amended—

(1) in paragraph (6), by striking "and" after the semicolon at the end;

(2) in paragraph (7), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following paragraph:

"(8) not use allotments provided under this section in a manner inconsistent with section 5 of the Assisted Suicide Funding Restriction Act of 1997.".

[(o) Older Americans Act of 1965.—Title VII of the Older Americans Act of 1965 is amended by adding at the end the following new section:

["SEC. 765. FUNDING LIMITATION.

["Funds provided under this title may not be used in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1997.".]

[(p)] *(o)* Legal Services Program.—Section 1007(b) of the Legal Services Corporation Act (42 U.S.C. 2996f(b)) is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding after paragraph (10) the following:

"(11) to provide legal assistance in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1997.".

[(q)] *(p)* CONSTRUCTION ON CONFORMING AMENDMENTS.—The fact that a law is not amended under this section shall not be construed as indicating that the provisions of this Act do not apply to such a law.

SEC. 10. RELATION TO OTHER LAWS.

The provisions of this Act supersede other Federal laws (including laws enacted after the date of the enactment of this Act) except to the extent such laws specifically supersede the provisions of this Act.

SEC. 11. EFFECTIVE DATE.

(a) IN GENERAL.— The provisions of this Act (and the amendments made by this Act) take effect upon its enactment and apply, subject to subsection (b), to Federal payments made pursuant to obligations incurred after the date of the enactment of this Act for items and services provided on or after such date.

(b) APPLICATION TO CONTRACTS.—Such provisions shall apply with respect to contracts entered into, renewed, or extended after the date of the enactment of this Act and shall also apply to a contract entered into before such date to the extent permitted under such contract.

SEC. 12. SUICIDE PREVENTION (INCLUDING ASSISTED SUICIDE).

(a) PURPOSE.—The purpose of this section is to reduce the rate of suicide (including assisted suicide) among persons with disabilities or terminal or chronic illness by furthering knowledge and practice of pain management, depression identification and treatment, and issues related to palliative care and suicide prevention.

(b) RESEARCH AND DEMONSTRATION PROJECTS.—Section 781 of the Public Health Service Act (42 U.S.C. 295) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e) RESEARCH AND DEMONSTRATION PROJECTS ON SUICIDE PREVENTION (INCLUDING ASSISTED SUICIDE).—

"(1) RESEARCH.—The Secretary may make grants to and enter into contracts with public and private entities for conducting research intended to reduce the rate of suicide (including assisted suicide) among persons with disabilities or terminal or chronic illness. The Secretary shall give preference to research that aims—

"(A) to assess the quality of care received by patients with disabilities or terminal or chronic illness by measuring and reporting specific outcomes;

"(B) to compare coordinated health care (which may include coordinated rehabilitation services, symptom control, psychological support, and community-based support services) to traditional health care delivery systems; or

"(C) to advance biomedical knowledge of pain management.

"(2) TRAINING.—The Secretary may make grants and enter into contracts to assist public and private entities, schools, academic health science centers, and hospitals in meeting the costs of projects intended to reduce the rate of suicide (including assisted suicide) among persons with disabilities or terminal or chronic illness. The Secretary shall give preference to qualified projects that will—

"(A) train health care practitioners in pain management, depression identification and treatment, and issues related to palliative care and suicide prevention;

"(B) train the faculty of health professions schools in pain management, depression identification and treatment, and issues related to palliative care and suicide prevention; or

"(C) develop and implement curricula regarding disability issues, including living with disabilities, living with chronic or terminal illness, attendant and personal care, assistive technology, and social support services.

"(3) DEMONSTRATION PROJECTS.—The Secretary may make grants to and enter into contracts with public and nonprofit private entities for the purpose of conducting demonstration projects that will—

"(A) reduce restrictions on access to hospice programs; or

"(B) fund home health care services, community living arrangements, and attendant care services.

"(4) PALLIATIVE MEDICINE.—The Secretary shall emphasize palliative medicine among its funding and research priorities.".

(c) REPORT BY GENERAL ACCOUNTING OFFICE.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report providing an assessment of programs under subsection (e) of section 781 of the Public Health Service Act (as added by subsection (b) of this section) to conduct research, provide training, and develop curricula and of the curricula offered and used by schools of medicine and osteopathic medicine in pain management, depression identification and treatment, and issues related to palliative care and suicide prevention. The purpose of the assessment shall be to determine the extent to which such programs have furthered knowledge and practice of pain management, depression identification and treatment, and issues related to palliative care and suicide prevention.

The SPEAKER pro tempore (Mr. SMITH of Michigan). Pursuant to the rule, the gentleman from Virginia [Mr. BLILEY] and the gentleman from Ohio [Mr. BROWN] will each control 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I am very pleased to bring this bill before the full House today, H.R. 1003, the Assisted Suicide Funding Restriction Act of 1997. It is an important and forward-looking piece of legislation. H.R. 1003 is our response to Dr. Jack Kevorkian, who last Friday said, "If you want to stop something," and I'm quoting, "pass a law."

Today, just 6 days later, we are doing exactly that. Too often Congress acts only in response to problems after they have already taken their toll on the American people. Today we address a serious threat to the lives of many Americans before that threat becomes a widespread reality. In the States of Oregon, Washington, New York, and Florida, lawsuits have been filed seeking to legalize physician-assisted suicide. Two of those cases are before the Supreme Court right now. If any of these actions result in the legalization of assisted suicide, Federal funds could be used to pay for it. That is right, the money we currently devote to such programs as Medicare and Medicaid, programs devoted to improving the health and extending the lives of elderly, disabled, and low-income Americans, could be used instead for health care services intended to cause death.

This is an issue with shattering implications for the Nation, for its most vulnerable patients, for individuals with disabilities, for senior citizens, and for the millions of Americans who devote their lives to improving the health of their patients.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation before us today prohibits Federal funding for assisting an individual with suicide. The bill's rhetorical nature implies the taxpayers may be paying for something to which they strongly object, and that citizens should fear some insidious incursion into their pocketbooks for a wholesale tax-funded Kevorkian-like scheme.

However, there is little basis either for this fear or for the rhetoric that drives it. Nothing in current law prohibits Federal funding of suicide, including assisted suicide. Nothing in Federal law permits Federal funding of suicide. Tax dollars are not used for this purpose today, and there is no intention to change that longstanding policy.

The Government already prohibits Federal funding of any physician-assisted suicide through Medicare, through Medicaid, through Indian Health Services, through the Veterans Administration. In short, this bill essentially prohibits nothing.

It is typical, Mr. Speaker, of the last two Republican Congresses, legislating a solution in search of a problem. In a hearing before the Subcommittee on Health and Environment of the Committee on Commerce, religious leaders, health care professionals, and patient advocates testified about the seriousness of this discussion and debate.

Their testimony made clear to all of us who heard it that what we do has profound implications for people whose lives are already nearly intolerable because they are suffering from severe disability or incapacitating illness and the psychological trauma and depression that often accompany the realization that death is near.

All of the witnesses suggested that the medical profession needed to do more to train physicians and health care providers to recognize and treat those very factors that cause suicide. The Committee on Commerce should have adopted an amendment offered during the committee's deliberation on this bill. That amendment was simple. It simply required medical school training programs in those medical schools that receive Federal grants to include training in the care of dying people. Admittedly, it would have been a small step, but it would have been effective in prompting needed changes in health provider training.

In other words, Mr. Speaker, we had an opportunity to do something real with this bill, but instead it is nothing more than a hollow exercise, probably designed to fill a massive hole in the do-nothing 105th Congress.

Mr. Speaker, I intend to vote for this bill, but then again, why not? A vote for this bill merely means that we agree with the system that has been in place for many years. Assisted suicide is not now nor has it ever been financed by the Federal Government.

Mr. Speaker, let me conclude by saying that this Congress has failed to seize that opportunity to reduce the tragic conditions that often lead to suicide in our country. People with disabilities, frail seniors, and people seriously ill and in great pain deserve quality of life at the end of their lives. We had a chance to take some small steps to make that happen. It would have been good public policy. It would have been the right thing to do. That is the way to achieve what should have been the purpose of this legislation: to prevent assisted suicide by preventing conditions that cause it. It is too bad this Congress, Mr. Speaker, has failed to do that.

Mr. Speaker, I yield 4 minutes to my colleague, the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Speaker, I rise today, of course, in support of H.R. 1003.

Mr. Speaker, I enjoyed the presentation of the gentleman from Ohio [Mr. BROWN], and I appreciate getting to work with him in the committee, both the subcommittee and in the full committee. The part of his speech that I listened to more closely than any was that he voted for this on both occasions, and he intends to vote for it today.

I am grateful for that, because we need this support. We would like to have a resounding vote and send it over to the Senate, and say to the world, to poor people, to hardworking people, we do not want to spend your tax dollars helping people commit suicide.

Mr. Speaker, I think the bill does not in any way affect the sanctity of the doctor-patient relationship or the right of the patient to receive pain medication or reject or discontinue any medical treatment. It does not do anything. It does one simple thing: It says to the people of this country, we are not going to spend tax dollars to help people kill themselves. I keep coming back to that and coming back to that. It is a simple message. This bill could have been one sentence: "There ain't going to be any tax dollars spent for assisted suicide." But in an abundance of caution we put a lot of other things on it. We listed those specific things it could not be used for.

Today's vote is very important in light of recent decisions by the Federal courts of appeal that rule that assisted suicide is a constitutional right. There is a danger here. The Court lurks over there, right today, waiting to render. They heard arguments January 8 of this year. I think there is certainly need for this legislation. It is proactive in that it would preempt the use of Federal funding, regardless of how the Court rules.

They get last guess, Mr. Speaker, as to what the law is. If they guess wrong on this, you can open up the Treasury to every Dr. Kevorkian all across the country, every crossroads in Rockwall County, TX, and all the other 254 counties of Texas would have a Dr. Kevorkian there, because it gives them a chance to get their hand into the Medicare funds that are needed, the Medicaid funds that are needed. It would say to this country that while we are trying to help people, poor people live, that we are going to spend a lot of their money helping people die. That just absolutely does not make sense.

Mr. Speaker, I think it has been said that the nobility of a culture is marked by how it treats its weakest members. That cries out to us here. There is a lesson to this. Where does it take us? Where does it lead? .

The Netherlands report presents some alarming facts. In 1990 alone, 2,300 people were killed by doctors in The Netherlands in their euthanasia program. Even more shocking, Mr. Speaker, in the same year more than 1,300 people were euthanized without their consent; 140 of these cases involved fully competent people who were never given a choice. That is a clear and present danger.

I hope the Supreme Court listens to this argument today, and I hope they listen to the argument and the speeches that the President of the United States sent to them, his brief. I hope they listen to the Wirthlin report, where 87 percent of the people said they were opposed to assisted suicide. I hope they will listen to the American people. I hope they will listen to this Congress. Mr. Speaker, I urge the Members to support this bill.

Mr. BLILEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida [Mr. STEARNS], a member of the committee.

Mr. STEARNS. Mr. Speaker, the question I hear is, Congressman, this bill is not necessary because assisted suicide is not currently funded. This is a solution in search of a problem.

Mr. Speaker, let me answer that question, because I think it is fundamental to this debate. Current Federal law uses broad and general language. For example, Medicare pays for items and services "reasonable and necessary for the diagnosis or treatment of illness or injury."

If assisted suicide is legalized by the Supreme Court, or any individual State, all it would take is one district court judge to rule that assisted suicide fits under the Medicare statutes guidelines. We need to make sure that this does not happen today by clarifying the Federal law.

This bill is also very important because it will send a clear message to States and insurance carriers. As has happened in many cases, State and private coverage is often modeled after Federal law. For example, when Congress extends Medicare or Medicaid coverage to address a particular health condition, States and private plans frequently adopt the same changes.

Mr. Speaker, by banning Federal funding for assisted suicide, we will serve as an example for States and private carriers to follow, thereby reducing the number of suicides and promoting better end-of-life care and suicide prevention.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, the bill before us states that assisted suicide, euthanasia, and mercy killing have been criminal offenses throughout the United States and under current law would be unlawful, and this, in other words, makes this bill totally unnecessary.

Mr. Speaker, Medicare does only cover medically necessary services. It does not pay for suicide. No one can bill for suicide. No matter what some State may decide to do about suicide, Medicare would not pay for it. It is not now covered and it will not be. This bill is a facade for a Congress that is doing nothing.

There are a lot of reasons people in our society are driven to suicide. This bill does not deal with those. This bill does nothing to provide mental health counseling. This bill does not require that insurers offer mental health services that could prevent suicide. It does not provide for health insurance for children to ease the fears and frustrations of parents. It does not stop managed care companies and for-profit HMO's from denying health care that can lead to death and disability. It does not stop the gag rules that cause managed care doctors to mistreat patients. The Consortium for Citizens with Disability says prohibiting people from using Federal funds to end their lives is not worth much.

Why do we not provide public and private assistance so they can live their lives? If we want to help, why do we not ensure that Americans, regardless of income, have access to quality care; have home health care so they can live in their communities rather than in institutions; ensure that untreated depression is no longer mistaken as a desire to die.

We can enhance the quality of life, Mr. Speaker. Any public policy in the area of physician-assisted suicide should include a proposal to fund mental health services and anti-pain services necessary for decent basic living. Mr. Speaker, this bill does nothing. It just addresses a problem that does not exist. It eases some pseudo-religious wackos. It does nothing to address the real problems in our society that cause people to seek suicide or assisted death.

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It is a sham. It is a shame. We are a sad, sad Congress if we pass this bill.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. PAXON], a member of the committee.

Mr. PAXON. Mr. Speaker, I rise today in support of H.R. 1003. As a cosponsor of this legislation, when I came before the Committee on Commerce, I am very pleased to see that such quick action has been taken on this important measure. I particularly commend the gentleman from Virginia [Mr. BLILEY], the chairman, for his leadership in bringing this bill to the floor in such an expeditious fashion.

Mr. Speaker, I say to my colleagues that it is imperative that this Congress send a clear signal to the Nation that all human life is valued, even those who face disabilities or disease. The overwhelming majority of Americans are strongly opposed to doctor-assisted suicide. This legislation will ensure that American taxpayers will never be forced to support this abhorrent activity.

Mr. Speaker, I urge all my colleagues to support this important legislation today on the House floor.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado [Ms. DEGETTE].

Ms. DEGETTE. Mr. Speaker, when I learned that this Congress would be considering legislation on physician-assisted suicide, I foresaw a lengthy discussion on the complex moral, legal, and ethical issues surrounding the issue because I am still examining this issue myself. But in fact, none of that has occurred because the legislation being considered does nothing.

This bill is a solution in search of a problem. Let me be clear again. Physician-assisted suicide is not legal today. No Federal dollars are being used for this purpose and, in fact, the agencies that give money to doctors and hospitals specifically prohibit the use of Federal funds for this purpose. So by simply considering a ban on moneys that are already prohibited, we are ignoring the truly sensitive ethical and cultural issues raised by physician-assisted suicide.

We are leaving unanswered the most pressing questions in this debate. Should individuals be entitled to choose for themselves how and when they may end their lives? Is there a constitutional right to privacy or equal protection which warrants such a policy? Are health care providers obligated to help mentally competent and terminally ill patients end their lives?

Today instead of exploring these tough questions and learning from providers like Hospice on the front lines of end-of-life care, we are considering an empty piece of legislation. As I said, I do not have a position on Federal regulation of physician-assisted suicide, but I think that Congress could play an important role in looking at humane and palliative end-of-life care and how do we best educate doctors.

Now, let me say, if the courts do allow physician-assisted suicide, let us look at legislation then. But in the meantime, Congress should be in the business of encouraging broad public discussion, not cutting off debate in this Chamber or, worse, wasting our time and our money enacting a solution that is in search of a problem and giving the public the false belief that we are actually doing something on this issue.

I intend to oppose this legislation. I urge my colleagues to do the same.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Speaker, I rise in strong support of the Assisted Suicide Funding Restriction Act. I want to thank the gentleman from Virginia [Mr. BLILEY] and the gentleman from Texas [Mr. HALL] for their outstanding leadership on this important issue.

As chairman of the House Judiciary Subcommittee on the Constitution, I held hearings on the subject of assisted suicide a year ago. Witnesses warned us against following the policy in the Netherlands which began as assisted suicide for the terminally ill and now includes euthanasia for mental suffering and even nonvoluntary euthanasia.

The Dutch medical association's official "Guidelines for Euthanasia" specifically require that a patient voluntarily request assisted suicide, but a study confirmed that nonvoluntary euthanasia was being widely performed. In 1990, there were more than 1,000 cases in which physicians terminated patients' lives without their consent. Fourteen percent of the patients who were killed without consent were fully competent, and 11 percent were partially competent.

The Dutch experience vividly shows how permitting of assisted suicide for the terminally ill can easily lead to the nightmare of nonconsensual termination of human life. An individual's so-called right to die, over time, can be transformed into a demand by society that certain individuals have a need to die. We should not go down this road.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, the bill before us makes a clear statement that Congress does not support the use of Federal funds to directly or indirectly support assisted suicide. We heard testimony in the Health and Environment Subcommittee in support of this view and certainly in the full committee. In fact, the bill is a restatement of present Federal policy. Not a penny of Federal dollars is spent in support of assisted suicide. I think it is very important for the American people to understand this. We are not correcting something. We are simply restating Federal policy here today.

However, in the committee we also heard clear testimony that the current state of dying and care for the dying is inadequate. Pain management is insufficient. Palliative care generally is lacking. The American Medical Association gave testimony and even announced that they have launched a new initiative to better educate their doctors on care of the terminally ill in their final days.

During the full committee consideration of the legislation, I offered an amendment to address this problem based on the testimony that we had received. It simply stated that Federal health programs should have guidelines in place for appropriate palliative and pain management care of terminally ill beneficiaries. Unfortunately, the amendment failed.

It is my hope that the vision of death described by the religious leaders that testified before our subcommittee in which we are surrounded by loved ones and at peace with God would be the case for every American. Unfortunately, it is not the case for too many today.

I am not endorsing assisted suicide. No one is. I am saying that there is much more to this debate that the Congress can bring to it. There is much more that we can do to lessen the prevalence of assisted suicide or those that wish to commit suicide because pain management is simply not addressed in America today the way it should be.

This bill before us is a small step. We could have done much more.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. KELLY].

Mrs. KELLY. Mr. Speaker, I rise today in strong support of H.R. 1003, the Assisted Suicide Funding Restriction Act.

I ardently believe that the issue of euthanasia must be taken seriously, without encroaching on patients' rights to oversee their treatment and refuse to be placed on life support. However, there is a balance to be had when dealing with the humane treatment of the terminally ill. Given physicians the legal protection of assisting suicide, in my view, tips that balance.

I would like to spend a minute to discuss what this bill does not do. It does not get in the way of a patient's wish to refuse medical treatment, nutrition, or hydration. It does not get in the way of a doctor's responsibility to relieve pain, even if doing so increases the likelihood of death. Last, this bill only applies to those programs, agencies, and organizations that receive Federal funds and limits a practice that has already been deemed a criminal offense.

I applaud my colleagues, the gentleman from Virginia [Mr. BLILEY], the chairman, and the gentleman from Texas [Mr. HALL] as well as the leadership for bringing this responsible bill to the House floor. Please join me in supporting this measure.

Mr. BLILEY. Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, I will yield to the gentleman from Virginia [Mr. BLILEY] for the purpose of engaging in a colloquy.

Is it his understanding that no provision of this legislation is intended to prohibit States or other entities from providing services or items related to physician-assisted suicide with non-Federal funds?

Mr. BLILEY. Mr. Speaker, will the gentlewoman yield?

Ms. FURSE. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Speaker, that is correct.

Ms. FURSE. Mr. Speaker, furthermore, is it the gentleman's understanding that no provision of this legislation is intended to prohibit Federal funding for health coverage that includes services or items related to physician-assisted suicide, provided the portion of the health coverage providing such services or items are paid for with State funds or other non-Federal funding?

Mr. BLILEY. Mr. Speaker, if the gentlewoman will continue to yield, that is correct.

Ms. FURSE. Mr. Speaker, I thank the gentleman. I appreciate his attention.

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas, Mr. SAM JOHNSON, a member of the Committee on Ways and Means.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I thank the gentleman from Virginia for yielding me the time.

Today we are dealing with one of the most serious matters that could come before this Congress. It is unbelievable to me that anybody would want to spend any kind of tax money on this, but it is literally an issue of life and death.

The question is whether or not Federal tax dollars should be used to pay for assisted suicide and euthanasia and whether Federal facilities like veterans hospitals, for example, are to be in the business of providing euthanasia as though it were just another type of medical treatment.

On March 18, the Committee on Ways and Means Subcommittee on Health favorably reported this bill to the full committee by voice vote. Under normal circumstances, the full committee would meet to consider the bill. However, in order to expedite consideration of this extremely important legislation, the Committee on Ways and Means agreed to send the bill straight to the floor.

This bill bars Medicare, Medicaid, military and Federal employee plans from paying doctors to help terminal ill patients to end their lives. The legislation does not affect the withholding of medical treatment or services and does not address the ethical or legal issues surrounding assisted suicide. It only bars American taxpayer dollars from funding such action.

Can Members imagine someone providing an individual with the means to commit suicide and billing Medicare for the services? This sounds farfetched but without this legislation, it sure could happen. This bill was introduced in response to a recent court ruling in favor of assisted suicide.

In 1994, a ballot initiative in Oregon made assisted suicide legal. This law could mean that Oregon's Medicaid Program as well as other Federal programs could be used to fund assisted suicide. No one can have anything but compassion and sympathy for those who are faced with health situations so difficult that they seriously consider suicide. The question is, how can we help and how should we respond to that cry for help? I firmly believe we should give help and comfort, not the financial means to end their lives.

According to a Wirthlin poll taken last election day, 87 percent of the American people say tax dollars should not be spent to pay for assisted suicide and euthanasia. Let us listen to our constituents across the country. I urge a "yes" vote on this bill.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. McDERMOTT].

Mr. McDERMOTT. Mr. Speaker, I listened to my colleagues here on the floor talk about this issue. I have the feeling that they have never put themselves in the shoes of a physician or a family dealing with a terminally ill patient. This bill has no definitions in it for what suicide is or what is assisting a suicide. Yet doctors are continually faced with the problem of a patient who wants to die for a variety of reasons.

First of all, Medicare does not give parity to the funding for psychiatric services to counsel them out of it so that is the first way in which this is a hypocritical bill. If we are really serious, we would deal with the mental health funding for Medicare.

□ 1100

But if someone wants to die and says to the doctor, "I would like you not to do anything and just give me pain medication," now, is that assisting somebody in committing suicide, if they are lying in bed and saying they do not want hydration, they do not want to have intravenous feedings, just give them some pain medication?

We all know, if we do a little study, that Demerol or morphine depresses respirations and, ultimately, the physician is depressing respirations and leading to death. Now, is that assisting someone at a time when they want to die?

Well, this bill is very unclear. The problem with this bill, it is very simpleminded. It is simply, as my colleague from Texas says, driven by a poll, when we ask people are they for physician-assisted suicide. Nobody on this floor is for physician-assisted suicide, none of us, not even me. But this is not any help in that debate.

What we should be talking about is living wills and what real definitions we want to put in here if we want to try and make it so people can actually have the assistance of the medical profession while they choose to end their life. We have to be very careful in what we write. I am going to vote against it.

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. BILIRAKIS], chairman of the Subcommittee on Health and Environment.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding me this time.

I am an original cosponsor of this bill. I strongly support it and supported it certainly when it was considered by my committee, as it was approved by the committee resoundingly.

Let me state emphatically that most Americans do not want their tax dollars to pay for assisted suicide. This legislation was written to respond to the desires of the American people, something that we should be emphasizing, because something like 85 to 90 percent of the American people are very much against assisted suicide.

The bill anticipates a troublesome issue which could result from the legal battles across the Nation on this matter. The question we should be raising is, what is the purpose of the legislation? Well, that is the purpose, because there are legal battles out there.

Currently, courts in the State of Florida and Oregon and a couple of other States are considering this issue, and, in addition, the U.S. Supreme Court is deliberating cases arising from lawsuits brought in New York and Washington State on assisted suicides. If any of these court cases result in a ruling legalizing assisted suicide, Federal funding may be used to pay for this procedure.

Federal dollars appropriated for programs such as Medicaid and Medicare could be used to promote death instead of what we should be concentrating on, preserving life. I might add also, in the State of Oregon, that their Medicaid director, I am not sure what his full title is, has indicated he feels Medicaid Federal funds are available to use for assisted suicide in Oregon. Another reason why we have to have this legislation.

The bill would address this important issue by clarifying that Federal funds cannot be used for assisted suicide. It also prohibits federally owned facilities from providing or encouraging assisted suicide.

I want to make it clear, the bill does not ban or restrict assisted suicide nor does it prevent the use of State or private dollars to pay for assisted suicide. It also does not affect a patient's right to reject or restrict assisted suicide.

Finally, the bill does not interfere in any way with the doctor-patient relationship. Instead, the bill achieves only one objective, but it is a very important objective, and that is the assurance that Federal tax dollars will not be used to assist in a suicide of any American.

During our subcommittee hearing, Mr. Speaker, a number of organizations expressed their support for this legislation. The groups included almost every organized religion in America; a wide range of provider groups, including the AMA, experts on pain management, depression, and medical ethics; and, most importantly, older Americans and those with disabilities, including chronic and terminal illnesses.

I want to commend my colleague in closing, Mr. Speaker, the gentleman from Texas, RALPH HALL, for his efforts in bringing this legislation to the House floor. It is a measure which I believe protects the interests of the American people and what the people have already said they really want, and I strongly urge my colleagues to support this bill.

Mr. BROWN of Ohio. Mr. Speaker, how much time does each side have?

The SPEAKER pro tempore (Mr. SMITH of Michigan). The gentleman from Ohio [Mr. BROWN] has 3 minutes remaining, and the gentleman from Virginia [Mr. BLILEY] has 8 minutes remaining.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself the balance of my time.

We have listened in the course of this debate to several speakers say that we must stop Federal funds from being used for assisted suicide. I would reiterate, Mr. Speaker, that nothing in current law permits Federal funding of suicide, including assisted suicide. Tax dollars are not used for this purpose. There is no intention from anyone in this body, there is no intention to change that long-standing policy.

In short, this bill prohibits absolutely nothing. Medicare, Medicaid, Veterans, Indian Health Service, in each case money to be spent for assisted suicide are prohibited.

Even in the committee report, Mr. Speaker, I would quote from it briefly: Medicare statute limits Medicare coverage to items and services that are reasonable and necessary for the diagnosis or treatment of illness or injury, or to improve the functioning of a malformed body member. Physician-assisted suicide, even if allowed under State law, does not meet these statutory criteria. As such, the program is prohibited from making payment for it under existing law.

Mr. Speaker, I am disappointed that in this rush to actually do something in this session of Congress, that Congress today has missed a golden opportunity to help very sick, terminally ill patients. We missed an opportunity to reduce the tragic conditions that often lead to suicide in this country: People that are especially ill, people that are frail, people with disabilities who are in great pain.

People who are seriously ill deserve quality of life at the end of their lives. We had a chance today, Mr. Speaker, to take steps to make that happen. We had a chance to say to medical schools in this country, "Yes, you should teach better pain management; you should teach your young medical students more about treatment of depression to help those people in those last days of their lives, in their most difficult days of their lives, so that they do not have the desire to commit suicide, to ask their doctor for some sort of assistance."

It would have been good policy; it would have been the right thing to do. That was the way, Mr. Speaker, we could have achieved the purpose of this legislation: To prevent assisted suicide by preventing the conditions that cause it.

Mr. Speaker, I ask for support of the bill. I also ask, Mr. Speaker, that we think more seriously about this issue in terms of doing the right thing, this issue in terms of making sure that our medical schools do the right thing, train their medical students in helping those people in the sickest and most painful days of their lives.

Mr. Speaker, I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield the balance of my time to the gentleman from Texas, Mr. RALPH HALL, the principal author of the bill and a member of the committee.

Mr. HALL of Texas. Mr. Speaker, first I want to thank the gentleman from Virginia [Mr. BLILEY] for his support and for bringing this bill to an early hearing, and I certainly thank the ranking minority leader, the gentleman from Ohio [Mr. BROWN] for his good words.

I think when the gentleman from Ohio says that we could have done more, perhaps he is correct. I go back to my initial statement, though: Read the bill. The bill simply says no tax dollars shall be spent for assisted suicide.

The gentleman from California [Mr. STARK] who is certainly an authority on health matters and a man I greatly admire and respect, went to great length to say what this bill does not do, and perhaps he is correct, but, once again, if he will read the bill, it simply says no tax dollars are going to be spent. No hard-earned tax dollars are going to be spent for assisted suicide.

If we listened to the gentlewoman from California, [Ms. ESHOO] she says she, of course, does not endorse assisted suicide. Of course she does not, and neither does this bill, nor does this bill preclude assisted suicide if States want to pay for it or families want to pay for it.

The gentleman from Washington, [Mr. MCDERMOTT] talks about the lack of definitions. And yes, thank goodness we are not hampered down with definitions here, because it is so simple. It simply says no tax dollars will be spent for assisted suicide.

He speaks of doctors' positions. Let me talk a moment or so about the physician's position. Where are the physicians on this? The American Medical Association, the American Nurses Association, the American Psychiatric Association, and at least 30 other professional health care givers, Mr. Speaker, these groups have filed briefs with the Supreme Court in opposition to physician-assisted suicide. They say, by their briefs, no tax dollars should be spent for assisted suicide.

Certainly the AMA believes and has stated in their testimony before our committee that physician-assisted suicide is unethical and fundamentally inconsistent with the pledge that physicians make to devote themselves to healing and to life and not to death.

I think we might also question whether or not there is a danger that Federal funds might be spent if we do nothing. Current Federal law uses broad and general language. For example, Medicare pays for items and services which are, quote, reasonable and necessary for the diagnosis or treatment of illness or injury.

If assisted suicide is legalized by the Supreme Court or in any individual State, all it would take, Mr. Speaker, is for one district court judge to rule that assisted suicide fits under the State's Medicare guidelines. We need to make sure that this does not happen by clarifying Federal law.

President Clinton often calls for Congress to spend taxpayers' dollars in a manner that reflects values. We ask the same thing. This bill does exactly that. According to a recent poll, 87 percent of Americans opposed federally funded suicide. They say what this bill says: No tax dollars shall be spent for assisted suicide.

This bill honors a value central to all of our heritage, central to our society, that all people are created equal and all people are deserving of protection and assistance. That means that no matter how ill they are, no matter how disabled they are, no matter how elderly they are, no matter how frail they are or how depressed a person is, that we will never allow Federal funds to be used to kill them. Instead, we will continue to devote our effort and our resources to improving the health and prolonging the lives of our patients.

This bill simply says, as I close, no hard-earned tax dollars shall be spent for assisted suicide.

Mr. Speaker, I yield back the balance of my time.

Mr. DOYLE. Mr. Speaker, I rise today in support of this measure, H.R. 1003, the Assisted Suicide Funding Restriction Act. This legislation simply clarifies current Federal policy and practice in this area, prohibiting the use of Federal funds for activities explicitly involved with assisted suicide.

Often when we think of protecting human life, we think of protecting the unborn. However, every life deserves that same protection. Our efforts must be refocused on helping people alleviate their suffering, not by ending their lives, but by increasing our understanding of medicine and mental health to give these individuals a better alternative than death.

While H.R. 1003 prohibits Federal support of assisted suicide, it also works to solve some of the problems associated with depression and other conditions that can move someone to consider taking their own life. The bill authorizes the Department of Health and Human Services to increase its efforts on this front. Funds for this initiative would come from existing resources within the agency and would fund activities aimed at reducing the rate of suicide, including assisted suicide, among all segments of our society. Some of the activities these funds could support include training for health care professionals in pain management techniques and identifying depression in patients as well as activities related to mental health and suicide prevention.

There are many people across the Nation suffering from medical or mental health conditions who are in need of assistance, but I do not believe that suicide assistance is the help that the Federal Government should be promoting. Once again, I reiterate my support for this legislation, which puts our Nation on a path to truly help those in need.

Mrs. EMERSON. Mr. Speaker, I rise to lend my full support to H.R. 1003, the Assisted Suicide Funding Restriction Act. I thank Mr. HALL for his sponsorship of this legislation, and I urge this body to reaffirm our Nation's commitment to the life of each and every individual.

Assisted suicide is an abominable act. Despite claims that it is a matter of mercy or dignity, an assisted suicide is nothing more than the murder of some of our most vulnerable citizens, persons who are ailing and sometimes unable to voice their will. These individuals deserve every chance at life and all the support and assistance that we can provide, not some misguided notion of a so-called honorable death. An assisted suicide must not be deemed an acceptable medical procedure, or the grave consequences will be the lives of our sick and elderly.

The first and sacred rule of medicine is to preserve the life of the patient. That is why physician-assisted suicide is opposed by the American Medical Association and numerous other doctor and nurse associations. The House has the opportunity today to reaffirm this fundamental tenet of the health profession, making the law reflect what doctors, nurses, and most Americans already know intuitively.

Mr. Speaker, America is a nation of justice and of compassion. Both justice and compassion tell us to pass H.R. 1003, and I urge my colleagues to give it their full support.

Mr. PACKARD. Mr. Speaker, American tax dollars shouldn't be used to end a patient's life. There are far more humane ways to help those stricken with a terminal illness and their families.

The Supreme Court is currently considering two cases, Washington versus Glucksberg and Vacco versus Quil, to determine the constitutionality of assisted suicide. This is a complex issue involving medical ethics, religion, and science. Regardless of what the Court decides about the constitutionality of the deed, this bill will make sure no Federal tax dollars will be spent on it.

Supporters often hold up assisted suicide as the compassionate answer to helping someone die with dignity. A society is best judged by how it treats its most vulnerable members, and killing them is not compassionate or dignified. Researchers have found that many severely and terminally ill patients share a common symptom—depression brought on by high levels of anxiety, fear, and rejection. Hastening their death does nothing to identify and treat the depression that comes along with facing death; it is not the way to resolve a terminally ill patient's concerns about becoming a burden to their family and friends; nor is it the way to comfort or ease the pain of the terminally ill.

Congress should not let a single tax dollar go to pay for this physician assisted killing—a false compassion and a perversion of mercy. Turning medical doctors into licensed killers of the sick, the handicapped, and the depressed, is not the way to empower Americans.

Mr. CANADY of Florida. Mr. Speaker, I rise in strong support for H.R. 1003, the Assisted Suicide Funding Restriction Act of 1997. This bill would prohibit the use of Federal funds to pay for assisted suicide.

The will of the American people is clear on this issue. Thirty-five States have enacted statutes prohibiting assisted suicide. An additional eight States recognize assisted suicide as a common law crime. In a May 1996 Wirthlin poll, 87 percent of those polled opposed the use of tax dollars to pay for assisted suicide. The American people recognize the value of protecting human life, and the serious threat which assisted suicide poses to the safety of vulnerable persons.

Why, then, is it necessary for this body to act on a subject which is already being addressed by the States? First, it is our responsibility to ensure that Federal spending reflects the values of the American people. Accordingly, this bill would ensure that no Federal funds would be spent on assisted suicide, a policy which most Americans have rejected.

Second, recent Federal appeals court decisions from the ninth and second circuit courts invalidated State prohibitions on assisted suicide. With no national debate, these courts are attempting to implement a broad public policy that would profoundly affect the way Americans deal with life and death and drastically alter the role of physicians in our society. These appeals courts have effectively thwarted the will of the people as expressed through their State laws. The U.S. Supreme Court is currently reviewing these cases, and more than one Supreme Court Justice has expressed reluctance to interfere in what may more properly be a matter of public policy for the legislative branch of government to decide. I am hopeful that the Court will uphold the right of the States to prevent the serious abuses that would inevitably be associated with assisted suicide. In the meantime, however, it is important for this body to go on record as opposing assisted suicide.

The House Judiciary Subcommittee on the Constitution, of which I am the chairman, held hearings on this subject a year ago. Witnesses warned Congress against following the policy in the Netherlands which began as assisted suicide and moved to active euthanasia, from euthanasia for the terminally ill to euthanasia for the chronically ill, from euthanasia for physical illness to euthanasia for mental suffering, and from voluntary to nonvoluntary euthanasia.

Last September I released a report which examines this devolution of physician-assisted suicide policy in the Netherlands. In 1986 the Dutch medical association established official "Guidelines for Euthanasia." The guidelines specifically require that a patient voluntarily request physician-assisted suicide or euthanasia, but a study confirmed that nonvoluntary euthanasia was being widely performed. In 1990 there were 2,300 cases of euthanasia at the patient's request, 400 cases of physician-assisted suicide, and more than 1,000 cases in which physicians terminated patients' lives without their consent. Fourteen percent of the patients who were killed without consent were fully competent, and 11 percent were partially competent. These were patients who could have made their own decisions about whether to live or die but were never given the opportunity to decide for themselves.

The Dutch experience vividly shows how permitting physician-assisted suicide for terminally ill patients can easily lead to the unchecked nightmare of nonconsensual termination of human life. An individual's so-called right to die, over time, can be transformed into a demand by society that certain individuals have a duty to die.

We need to maintain the integrity of the medical profession as a profession dedicated to healing. Physicians should not become facilitators of death. If we break down the barriers which prohibit assisted suicide, we will be on the path to a society where individuals are killed simply because someone else decides their lives are not worthy to be lived. We must protect those most vulnerable in our society by easing the fears and alleviating the pain of terminally ill patients, and by providing positive and realistic solutions to the problems of those who are driven to despair.

Mr. BARTON of Texas. Mr. Speaker, I would like to take this time to voice my strong support for the House to pass H.R. 1003, the Assisted Suicide Funding Restriction Act of 1997. I was an original cosponsor of this legislation when it was introduced in the 104th Congress. I was also an original cosponsor of the bill when it was reintroduced in this Congress. H.R. 1003 was marked up in the Commerce Committee, of which I am a member. It passed out of the full committee by a vote of 45 to 2. The bill has 118 cosponsors. I commend Congressman RALPH HALL for his hard work on this legislation.

The American people's support for this legislation is evident. When asked on election day in 1996, "Should tax dollars be spent to pay for the cost of assisting suicide and euthanasia?" Eighty-seven percent said no in a national poll by Wirthlin Worldwide. Our purpose to pass this legislation here today is clear: the potentially imminent legalization of assisted suicide and euthanasia could lead to the spending of Federal tax dollars to subsidize them. The U.S. Supreme Court is currently reviewing decisions of the second and ninth circuit court of appeals that have declared a new constitutional right to assisted suicide. If the Supreme Court decides this summer to uphold the decisions of the lower courts, this decision would legalize assisted suicide. This would immediately bring up the question of whether or not Federal tax funds should be used to subsidize assisted suicide. That is why we must address this issue now, by passing this bill and sending it to the Senate.

The Federal Government should not be in the business of paying for people to end their lives. But more importantly, the American people, who have indicated that they are opposed to this, should not be compelled to provide funds so that Federal health programs like Medicare or Medicaid may provide assistance to patients in efforts to end their lives.

My father passed away December 7, 1996. He suffered from diabetes, prostate cancer, and stomach ulcers. He did not go out of his way to prolong his life, yet he also did not go out of his way to artificially end his life. The fundamental belief that we should preserve life is one that people of all religious denominations can agree on. Again, I urge my colleagues to vote "yes" today on the Assisted Suicide Funding Restriction Act of 1997.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia [Mr. BLILEY] that the House suspend the rules and pass the bill, H.R. 1003, as amended.

The question was taken.

Mr. BLILEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 398, nays 16, not voting 18, as follows:

[Roll No. 75]

YEAS—398

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Molinari
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schumer
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—16

Becerra
Conyers
DeGette
Dellums
Frank (MA)
Jackson (IL)
Kilpatrick
McDermott
McKinney
Miller (CA)
Nadler
Scott
Stark
Waters
Waxman
Yates

NOT VOTING—18

Ballenger
Bono
Capps
Carson
Dickey
Doolittle
Filner
Hefner
Moakley
Mollohan
Peterson (MN)
Pomeroy
Porter
Radanovich
Scarborough
Schaffer, Bob
Schiff
Watts (OK)

□ 1137

Ms. KILPATRICK. Ms. WATERS, Mr. MILLER of California, and Mr. NADLER changed their vote from "yea" to "nay."

Mr. OLVER changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CAPPS. Mr. Speaker, today I missed rollcall vote No. 75, final passage of H.R. 1003, the Assisted Suicide Funding Restriction Act. I was in my district attending the memorial service of Scott Williams, a guard at the Federal Penitentiary in Lompoc, CA, who was killed in the line of duty last week.

Had I been present, I would have voted "aye" on H.R. 1003.

PERSONAL EXPLANATION

Mr. BONO. Mr. Speaker, I am writing to explain that on Thursday, April 10, I was unavoidably detained and missed rollcall vote No. 75. If I was present, I certainly would have voted "aye" in support of H.R. 1003, the Assisted Suicide Funding Restriction Act of 1997.

PERSONAL EXPLANATION

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, on rollcall No. 75, I was unavoidably detained and consequently missed the occasion to have my vote recorded. Had I been present, I would have voted "aye."

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days within which to revise and extend their remarks on H.R. 1003 and to insert extraneous material in the RECORD on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

REQUEST FOR LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I wish to seek guidance from my colleagues on the other side of the aisle about the schedule for the remainder of the day and next week.

Mr. Speaker, Federal law requires that Congress complete its budget by next Tuesday, and we are all waiting to understand if we are going to meet that deadline. Also, it has been an unusual week that we have had here.

We have had bills that we considered only on suspension, but one of the most important bills on the schedule was pulled, and that bill was to eliminate the mortgage insurance for many American families. That bill was approved almost unanimously in a bipartisan vote in committee. We want to know why it was pulled from the floor and why it is not on the schedule next week.

So are we going to move to the budget? Law requires that we have a 15th of April deadline. What is the problem? And second, if that is not going to happen, we want to know why this mortgage interest bill was pulled.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I will try as a member of the Committee on Banking and Financial Services, and I participated in working on that bill which passed 36 to 1 that was sponsored by a very distinguished Republican Member from Utah and, in the other body, by a Republican Senator from New York, and it was aimed at protecting consumers.

The SPEAKER pro tempore. The time of the gentleman from Michigan [Mr. BONIOR] has expired.

REQUEST FOR LEGISLATIVE PROGRAM

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute.)

Mr. FRANK of Massachusetts. Mr. Speaker, the point I would make is this:

My understanding is that the majority has pulled this bill because we voted for a States rights amendment. The gentlewoman from California offered an amendment to this bill in committee that said it would not override State protections, that the Federal protection would be in existence, the State protections, and apparently the majority does not think we should respect the rights of States in this case, and apparently this bill was pulled because we have taken a position respective of the rights of the States to set policy.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, the other point that I think should be made is this would save literally hundreds of dollars a year for people in this country.

Is there a response from Republican colleagues about why we are not going to do the budget next week or if we are going to do the budget next week? Anybody from their leadership want to participate in this discussion?

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 900

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 900.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

ADJOURNMENT TO MONDAY, APRIL 14, 1997

Mr. COBLE. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 2 p.m. on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

HOUR OF MEETING ON TUESDAY, APRIL 15, 1997

Mr. COBLE. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, April 14, 1997, it adjourn to meet at 10:30 a.m. on Tuesday, April 15, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. COBLE. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

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SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SMITH of Michigan). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

QUADRENNIAL DEFENSE REVIEW

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. HARMAN] is recognized for 5 minutes.

Ms. HARMAN. Mr. Speaker, I rise to express my concern that the Pentagon appears, once again, to be prepared to avoid tough decisions. The ongoing Quadrennial Defense Review due to Congress on May 15 is supposed to be an all-inclusive examination of our national security needs. It has been described that way by every Defense Department official who has testified this year before the National Security Committee, on which I serve.

Although Secretary Cohen's personal involvement in the QDR process is commendable, it now appears results may be a lot less than we expected. Some Department officials are apparently ready to delay critical decisions about the defense agency's infrastructure and Reserve components because, we are told, these questions require more study.

Yet, each of these areas is clearly in need of reform. Each offers the potential for substantial savings, each has already been studied in great detail over the past 2 years, and each is critical to how we structure our national security forces for the 21st century.

Mr. Speaker, the Pentagon has an opportunity now to provide more effective, less costly defense. That is right. Better defense for less money. But boldness and willingness to make tough decisions are required to do that. Delaying recommendations on the agencies, the infrastructure, and the Reserves is neither tough nor bold; it represents business as usual and is an indication that the Department will, once again, be hostage to parochial interests while the public pays more for unneeded capabilities.

Mr. Speaker, yesterday's forces will not win tomorrow's wars. And yesterday's funding may not be available either. DOD can and must do better.

THE 18-MONTH PUBLICATION PROVISIONS CONTAINED IN H.R. 400

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. COBLE] is recognized for 5 minutes.

Mr. COBLE. Mr. Speaker, the Constitution charges Congress with the responsibility of creating an incentive for inventors to share their inventions with society by granting a monopoly for a limited amount of time in which the inventor alone can prosper from the success of the invention.

Why was this incentive necessary? Because the Founding Fathers knew that our country would not achieve progress in science and the useful arts without effective disclosure of the inventions of our citizens. This straightforward point, which is integral to the understanding and promoting the beneficial patent changes set forth in H.R. 400, is regrettably lost on some of the critics of the bill.

Disclosure through publication provides many benefits. It allows other inventors to discover what inventions have already been applied for and encourages them to invest their time and efforts in other inventions which further benefit our country. It serves as a "Do Not Tread On Me" flag for the inventor who submitted the application, so that others know not to try to copy the invention or they will be found liable for infringement. It allows venture capitalists the opportunity to consider financing an invention which may lead to the financial success of the inventor, and it benefits society so that we can continue to move forward in science and technology instead of keeping cherished knowledge hidden below the surface.

What does an inventor get in exchange for publication? The inventor receives the constitutional monopoly over his or her invention granted by Congress and enforced through the courts. The entire patent system is based on bringing new inventions into the public light and avoiding secrets.

If an inventor chooses to keep his invention secret, he should not apply for a patent, because he is not willing to exchange disclosure of his invention for Federal protection. Instead, he may keep his invention as a trade secret, which is protected under the State trade secret and unfair competition laws. That is the deal. In order to get Federal patent protection, disclosure must occur. It occurs now when a patent is granted. Most are granted within 20 to 22 months.

Why disclosure at 18 months? There are several good reasons to publish patent applications in 18 months. First, with disclosure comes protection against infringement. Inventors will be protected earlier if patent applications are published at 18 months. Now, patents are published when they are granted. The term "patent pending" on an invention may serve to warn that protection will ensue when the patent for the invention is issued, but it does not provide true protection.

By publishing applications at 18 months, inventors are protected before their patent is issued and may enforce their patent rights from the publication date. Under current law, a small business or independent inventor could go bankrupt by investing everything it has in a project that another entity has claimed in an earlier, secret application.

Publishing in 18 months also prevents some applicants from gaming the current system to purposely delay their patent and keep their invention secret in violation of the constitutional exchange of disclosure for protection. These inventors want the best of both worlds. They want to keep their invention secret forever, like a trade secret, but still receive the Federal grant of a patent.

This was not the intention of the Founding Fathers and does not benefit society. These types of applicants are called submariners, and they are protected by the opponents of H.R. 400 which will be on the floor imminently, probably next week. They file submarine patents which destroy competition and stifle technological innovation.

Submariners purposely delay their applications and keep them hidden under the water until someone else, who has no way of knowing of the hidden application, invests in the research and development to produce a new consumer product only to have the submariner arise above the surface and sue them for their innovation. Submariners do not invest in the American economy, they do not hire American workers, they do not market their inventions, and they do not make money from selling their inventions.

There are more benefits as well, Mr. Speaker, to publication at 18 months. It would finally treat our patent applicants more fairly relative to foreign entities which apply for protection in the United States. Under current conditions, a U.S. inventor filing abroad has his or her application published at 18 months in the language of the host country. This means that foreign competitors may review, but not steal, the U.S. application.

Mr. Speaker, I urge all of my colleagues to examine H.R. 400 very carefully and very meticulously, and I appreciate the support of my colleagues.

One final point, Mr. Speaker. Those who oppose H.R. 400 are entitled to their convictions, misguided as they are. They are not, however, entitled to misrepresent the contents of my bill by lowering the level of discourse on this subject. Patent law is complex and arcane; it is not sexy and engaging when seriously discussed, especially on television. This would explain the current controversy surrounding the legislation. My patience has been tried in this regard, but I will resist the temptation to respond in like manner.

STATEMENT OF THE HONORABLE HOWARD COBLE, CHAIRMAN, SUBCOMMITTEE ON COURTS AND INTELLECTUAL PROPERTY, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES ON THE 18-MONTH PUBLICATION PROVISIONS CONTAINED IN H.R. 400

Article I, Section 8, clause 8 of the Constitution charges Congress with the responsibility of creating an incentive for inventors to share their inventions with society by granting a monopoly for a limited amount of time in which the inventor alone can prosper from the success of the invention. Why was this incentive necessary? Because the Founding Fathers knew that our country would not achieve progress in "Science and the Useful Arts" without effective disclosure of the inventions of our citizens.

Disclosure through publication provides many benefits. It allows other inventors to discover what inventions have already been applied for and encourages them to invest their time and efforts in other inventions which further benefit our country; it serves as a "Don't Tread On Me" flag for the inventor who submitted the application so that others know not to try to copy the invention or they will be found liable for infringement; it allows venture capitalists the opportunity to consider financing an invention which may lead to the financial success of the inventor; and it benefits society so that we can continue to move forward in science and technology instead of keeping cherished knowledge hidden below the surface.

What does an inventor get in exchange for publication? The inventor receives the Constitutional monopoly over his or her invention granted by Congress and enforced through the courts. The entire patent system is based on bringing new inventions into the public light and avoiding secrets. If an inventor chooses to keep his invention secret, he should not apply for a patent because he is not willing to exchange disclosure of his invention for federal protection. Instead, he may keep his invention as a trade secret, which is protected under state trade secret and unfair competition laws. That's the deal—in order to get federal patent protection, disclosure must occur. It occurs now when a patent is granted. Most are granted within 20–22 months.

Why disclosure at 18 months? There are several good reasons to publish patent applications at 18 months. First, with disclosure comes protection against infringement. Inventors will be protected earlier if patent applications are published at 18 months. Right now patents are published when they are granted. The term "patent pending" on an invention may serve to warn that protection will ensue when the patent for the invention is issued, but it does not provide true protection. By publishing applications at 18 months, inventors are protected before their patent is issued, and may enforce their patent rights from the publication date. Under current law, a small business or independent inventor could go bankrupt by investing everything it has in a project that another entity has claimed in an earlier secret application.

Publishing at 18 months also prevents some applicants from gaming the current system to purposely delay their patent and keep their invention secret, in violation of the Constitutional exchange of disclosure for protection. These inventors want the best of both worlds. They want to keep their inventions secret forever, like a trade secret, but still receive the federal grant of a patent. This was not the intention of our Founding Fathers and does not benefit society. These types of applicants are called "Submariners." They file "Submarine Patents" which destroy competition and stifle technological innovation. Submariners purposely delay their applications and keep them "hidden under the water" until someone else, who has no way of knowing of the hidden application, invests in the research and development to produce a new consumer product, only to have the submarine rise above the surface and sue them for their innovation. One recent suit earned a Submariner $450 million at the expense of consumers. Submariners do not invest in the American economy, they do not hire American workers, they do not market their invention and they do not make money from selling their invention. They have seemingly one purpose, and that is to make money by clogging the courts with litigation and suing those who do hire our workers and invest in our economy. They purposely file very broad applications and hope that another company or inventor will invest in technology similar to that contained in the patent application. Because there was no disclosure, the innocent company or inventor had no idea the technology was protected. Had the innocent company or investor known of the application, it could have invested elsewhere to contribute to consumers and society in a different way. When a Submariner hits "the jackpot," he sues as many parties as possible, hoping that his patent, which may have been pending secretly for years, will pay off in infringement actions. In many cases, a Submariner will sue parties he knows are not truly violating his patent in hopes of achieving a "nuisance" settlement. Unfortunately, this activity forces higher consumer costs and does not lead to American technological progress.

There are more benefits to publication at 18 months. It would finally treat our patent applicants more fairly relative to foreign entities which apply for protection in the United States. Under current conditions, a United States inventor filing abroad has his or her application published after 18 months in the language of the host country; this means that foreign competitors may review (but not steal) the U.S. application. Since our system lacks this feature, however, a foreign entity never reveals the subject of its application until the patent issues. Publication after 18 months in the United States will allow an American company to review foreign applications here in English. Under no circumstances does 18-month publication create newfound opportunity for an American or foreign competitor to steal the contents of a published application. Just as is the case when a patent is granted, any competitor who appropriates an invention after publication but before grant must pay damages to the patent applicant.

H.R. 400 provides for 18-month publication, but allows an inventor to avoid publication if it is unlikely he will receive a patent. Under the provisions of H.R. 400, any inventory who is applying for a patent exclusively in the United States has up to three months after an initial determination by the Patent and Trademark Office to decide whether or not he wishes to proceed. If the PTO determines that the applicant will not likely receive a patent, the applicant may withdraw his application and seek protection under trade secret and unfair competition laws. If the patent is likely to be issued and the applicant proceeds, it will be published and protected after 18 months.

H.R. 400 carries out Congress' special obligation under the Constitution to provide protection in exchange for disclosure and will serve to benefit America's inventors. H.R. 400 is necessary for the Progress of Science and the Useful Arts.

KASHMIRI PANDITS STRIVE TO RESUME PEACEFUL LIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise to bring to the attention of this body and the American people a terrible tragedy that recently occurred in India's State of Jammu and Kashmir. On March 21, in the village of Sangrampora, 15 unidentified terrorists rounded up eight members of the Kashmiri Pandit community and shot them outside their homes. Seven of the victims died. While the cold-blooded murder of innocent people is always shocking and horrifying, what makes this incident even more appalling is the indication that the victims were singled out simply because they were Hindus.

Mr. Speaker, for thousands of years Kashmir has been inhabited by Hindus known as Kashmiri Pandits. These original inhabitants of the Valley of Kashmir have lived peaceful lives in one of the most beautiful areas of the world. Sadly, the efforts of the Kashmiri Pandits to live their lives peacefully and constructively has been disrupted by militants armed and trained by outside forces intent on changing Kashmir from a secular, multireligious land into a fundamentalist state.

The effects of this proxy war, which the evidence strongly indicates is supported by Pakistan, have been the death of thousands of people, the devastation of the economy, and the creation of a huge refugee population. Virtually the entire population of 300,000 Kashmiri Pandits has been forced to leave their ancestral homes and property, living in refugee camps in various cities in India in subhuman conditions. Only 2,000 Kashmiri Pandits still remain in the Kashmir Valley, and they have been turned into refugees in their own country.

The current round of violence is not the first example of the victimization of the Kashmiri Pandits. For centuries, they have been subjected to the atrocities and subjugation committed by invading peoples. On October 22, 1947, 2 months after India became independent, Pakistan attacked Kashmir to annex it by force. Four days later, Maharajah Hari Singh, the ruler of Jammu and Kashmir, requested India's military assistance to save Kashmir from the Pakistani invaders and took the case to the United Nations, which called for a cease-fire, followed by complete withdrawal of Pakistani forces from the occupied area, as a precondition to a plebiscite under U.N. supervision. Sensing the anti-Pakistani mood of the Kashmiri people, Pakistan did not comply with the U.N. withdrawal condition. Instead, Pakistan made two more futile attempts in 1965 and 1971 to annex Kashmir by force.

Although Pakistan maintains that they are only providing moral and political support for the insurgency, evidence shows that Pakistan has been playing a direct role in arming and training the militants.

I have met with members of the Kashmiri-American community who have told me that Hindus and Muslims can and have lived in peace in Kashmir. The real tragedy is that outside influences are fueling religious rivalries and foreign policy agendas that pit Indian against Indian.

Mr. Speaker, as the cochairman of the Congressional Caucus on India, I believe that the United States and the international community must not allow the practice of ethnic or religious cleansing to continue. India has tried hard to help the Kashmiri Pandits. India deserves our support, both in assisting the refugees and in ending the proxy war being waged in Jammu and Kashmir.

Programs such as USAID, the Agency for International Development, could be one vehicle for the United States to provide more direct aid, humanitarian aid, I should say, for these displaced people. We should also use our considerable influence with Pakistan to urge that nation to cease support for the militants and to crack down on terrorists harbored within their borders.

I want to applaud India and Pakistan for trying to break decades of tension by having their foreign ministers meet in New Delhi recently. It has been the highest level meeting between these south Asian neighbors in 7 years. The foreign minister's meeting, Mr. Speaker, actually took place yesterday. I hope this will be a sign of the relaxation of tensions that will benefit all the people of India and Pakistan. Especially with this new climate of cooperation, I think ultimately it will help the Kashmiri Pandits go back to their ancestral homeland and resume their peaceful lives, which is really all they want to do.

SPENT NUCLEAR FUEL POLICY

The SPEAKER pro tempore (Mr. STEARNS). Under a previous order of the House, the gentleman from Minnesota [Mr. GUTKNECHT] is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, I rise today to talk about a serious environmental issue that has been developing in communities all across America. This pressing environmental issue is the Federal Government's lack of responsible spent nuclear fuel policy. Despite past promises and contracts, the administration is ignoring their responsibility to ensure the safe and timely disposal of spent nuclear fuel.

Let us talk a little bit about the background of this issue. Riding the crest of a new technology back in the 1950's, the Federal Government encouraged the Nation's utilities to use nuclear power as a generation source through the "Atoms for Peace Initiative." In return, the Federal Government promised to make use of utility spent nuclear fuel by reprocessing it for other uses.

In 1978, President Carter outlined the reprocessing of commercial spent nuclear fuel by the Federal Government due to concerns about proliferation.

□ 1200

In 1982, Congress came up with a solution for the management of commercial spent fuel by enacting the Nuclear Waste Policy Act. Utilities operating nuclear power plants entered into contracts with the Department of Energy in which the agency promised to begin accepting spent fuel by January 31, 1998. In return, the Nation's customers for nuclear power would contribute to a trust fund to contribute to the disposal of that spent nuclear fuel.

To finance this project, the Federal Government has collected over $11 billion in fees from nuclear power customers and has spent over $5 billion. Rate-paying customers from my State of Minnesota have paid more than $250 million to the Federal Government for the disposal of spent fuel. In 1987, Congress recognized that the Department of Energy was making slow progress toward a permanent repository, and amended the Nuclear Waste Policy Act to focus on studies for a single potential site.

Here we are, 15 years from the enactment of the 1982 Nuclear Waste Policy Act and 10 years after the act was amended. We are 9 months from the Department of Energy's deadline to begin accepting nuclear waste, but the Department says it will not be able to keep its promise and fulfill its responsibility.

The latest estimate by the Department of Energy is that it will not have a permanent repository available until at least the year 2010. This is not acceptable. In the meantime, nuclear waste is beginning to pile up at nuclear power plants across the Nation.

In my own district, for example the Prairie Island nuclear plant has been forced to build and operate a temporary storage facility because of the Department of Energy's failure to fulfill its responsibilities. This is a serious concern to the local communities who rely on the plant for jobs and those who count on it for electricity as well. This is an enormous concern to the Prairie Island Indian community, who share their island with the plant. The tribe is very concerned that their island, at the confluence of both the Vermillion and Mississippi Rivers, will become a de facto permanent repository if the Federal Government does not live up to its responsibility.

Similar concerns are shared by Americans all across the Nation. Seventy-three spent nuclear storage facilities will be built in 34 States unless the Department of Energy establishes a temporary facility. The Department of Energy has ignored the concerns of citizens across the country, and has continued to insist that it is unable to begin accepting and storing used nuclear fuel, as promised in the past. Even a recent ruling by the U.S. Court of Appeals that the Department of Energy is obligated by law to begin accepting spent fuel has not changed the Department's position.

While the Department of Energy has been forced by the courts to recognize their obligation, they have refused to develop any solutions. As a matter of fact, the administration is threatening to veto the solution proposed by Congress. This avoidance of responsibility is outrageous and morally wrong. America's electricity consumers have faithfully funded this program, and they are right to expect the timely, safe, and centralized storage they have paid for.

The continued refusal by the Department of Energy and the administration to keep their promises will result in unnecessary additional cost to the taxpayers. The Department of Energy has already lost one lawsuit and the damages from breaking their contract could cost the taxpayers an additional $20 to $40 billion, not to mention the loss of jobs and electricity as nuclear power plants are forced to turn out their lights. The jobs and the electricity may be lost, but the spent fuel will remain.

Despite the lack of leadership by the administration, I am pleased to announce today that our colleague, the gentleman from Michigan, FRED UPTON, has introduced a bipartisan piece of legislation which would restore the responsibility to the Federal Government's Waste Management Program. This legislation provides for a specific solution to protect our environment, protect our taxpayers, and restore the trust of electric consumers who have paid the Federal Government billions of dollars for this solution.

Mr. Speaker, I would hope that all Members would join with me and the gentleman from Michigan [Mr. UPTON] in supporting this very important legislation.

The legislation simply states that as the Department of Energy works on a permanent site, a centralized temporary facility should be located at the Nevada test site. This site is an area the size of Connecticut that since the Truman administration has been the home to atmospheric and underground nuclear test blasts as well as countless active and abandoned nuclear labs. Its remote, arid location is ideally suited to store nuclear waste. By pursuing a policy that puts nuclear waste behind one fence, in one location, we can concentrate our resources on making sure it is safe.

The Senate has under consideration a similar piece of legislation to ensure that the Department of Energy keeps its promises.

URGING MEMBERS' SUPPORT OF H.R. 1270, THE NUCLEAR WASTE POLICY ACT OF 1997

The SPEAKER pro tempore (Mr. STEARNS). Under a previous order of the House, the gentleman from Idaho [Mr. CRAPO] is recognized for 5 minutes.

Mr. CRAPO. Mr. Speaker, I too rise today in support of H.R. 1270, the Nuclear Waste Policy Act of 1997. This is very critical legislation that is being dealt with this week in the Senate, legislation that I have worked on now for 4 years with the gentleman from Michigan [Mr. UPTON], the gentleman from Illinois [Mr. HASTERT], the gentleman from Minnesota [Mr. GUTKNECHT], and many other Members of this House. It is legislation that is so important that we must deal with it this year, and deal with it this year soon.

The Federal Government has a legal responsibility to take used spent fuel in 1998. The U.S. Court of Appeals ruled in July 1996, that the DOE has a legal obligation to take spent fuel from the Nation's commercial reactors. If the Government fails to perform, the American taxpayers could be forced to cough up more than $50 billion in liabilities.

The Federal Government has not kept faith with its people on this issue. The Department of Energy has broken its promise, indeed its legal obligation, to take used nuclear fuel from commercial reactors beginning on January 31, 1998.

Despite the fact that it has had 15 years to establish a central storage facility, DOE now says it cannot accept the used fuel on time in the 1998 deadline. What is more, absent legislation forcing it to live up to these contractual commitments, DOE does not have any plans to begin taking this used fuel prior to the year 2010.

Electric ratepayers are getting ripped off. Already through their monthly electric bills, ratepayers have paid the Federal Government nearly $13 billion to finance the construction of storage facilities for spent fuel. The Government has taken the money, often spending it for other purposes, but has failed to live up to its commitment to build these storage facilities.

If nuclear power producers have to continue to provide onsite storage because the Government fails to accept and fulfill its responsibility, the ratepayers will end up paying twice. They will pay once, as they have already paid for the construction of the storage facility, and a second time for the cost of storing it onsite.

The cost to ratepayers of providing this additional onsite storage will be billions more. Investors are losing money due to Government inaction. The used fuel crisis is hurting the value of investor-owned utilities that produce nuclear power. The crisis exists not only because the Government clearly intends to violate its contractual obligation to accept the spent fuel, but also because we have military fuel that is stored in States like Idaho that needs to be addressed in similar circumstances.

The uncertainty over whether the Government will dispose of used fuel, if it does at all, is complicating the utilities' planning process. The Nuclear Waste Policy Act makes environmental and economic sense. Used nuclear fuel from commercial reactors and defense facilities is now being stored at 80 sites in 41 different States.

Common sense dictates that storage of nuclear waste in one remote, unpopulated location, where safety and cost efficiencies will be maximized, is the best policy. The legislation itself incorporates amendments to strengthen environmental safeguards.

Nuclear power plants are running out of space to store spent fuel. The Federal Government says its repository will not be ready until the year 2010, at the earliest. But by 1998, 27 of the Nation's 109 nuclear powerplants will run out of onsite storage space and by 2010, 80 nuclear plants will have no space to store the used fuel at all.

Finally, the Department of Energy and the Navy are only obligated to fulfill strict legal obligations to the State of Idaho with regard to spent fuel stored there. The State of Idaho entered into a binding contractual agreement with the Department of Energy and the Navy recently, which has been implemented by court and has become a part of a court order that requires timely deadlines to be met in the transfer of this spent fuel out of the State of Idaho into permanent storage.

The longer the Federal Government fails to proceed timely on its required obligation to accept this spent fuel, the greater the risk these obligations will not be met. This bill will provide for the much needed centralized storage of our Nation's defense high-level waste and spent fuel from our nuclear Navy. This bill goes further than the bill last Congress to address the needs of these facilities, and currently awaits needed action in this House.

Mr. Speaker, the time has come for this House to act promptly and decisively on this issue and send a message to the White House that not only should this legislation not be vetoed, this legislation should be welcomed with open arms, so a critical problem facing America today can be resolved.

ANOTHER LOST OPPORTUNITY IN HAITI?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, a wise man once said: Four things come not back: The spoken word, the sped arrow, time passed, and the neglected opportunity.

As I reviewed the observer reports from this weekend's elections in Haiti, this aphorism came to mind. We all congratulate the Haitians who worked so hard on election day, and those who came out to vote, despite the many factors that might have kept them away from the polls.

But when 20,000 American troops invaded Haiti, as opposed as some of us here were to this action, we all hoped somehow the end result would bear fruit for our troubled neighbors in Hispaniola. Sadly, that opportunity has not been fully realized.

This weekend's elections, the last in a cycle to create the institutions set forth in the 1987 Haitian Constitution, offer testimony to the disappointing reality in that country. Haitians, expressing disillusionment with democracy and certainty that the results were already determined, barely participated in their elections. Observers have placed turnout in the range of a dismal 5 percent.

Why? After five rounds of voting in the past 3 years, many of the Haitian observers spoke with those who echoed sentiments like the Haitian who said: My children cannot eat this vote. They cannot eat democracy. They need food.

Frustrated Haitians told observers I spoke with that "At least when Duvalier was here, things worked. Today nothing happens. Today the machinery sits and rusts, and the people get nothing. The money comes to Haiti but we do not know where it goes."

People will recall Duvalier was a brutal dictator. If it is worse than that now, things are not well in Haiti. Still others told observers that "Everyone here knows already the winner of these elections. These are simply reflections of the situation."

Three years after the triumphant return of President Aristide, progress on stability and jobs and good governance is as elusive as ever in Haiti. In fact, those of us who have traveled to Haiti over the years are beginning to see disturbing trends. Not only are things not getting better, in many respects they seem to actually be getting worse, despite the $3 billion of taxpayers' investment.

The disappointment goes well beyond the lack of economic growth and new investment. Anxiety about business and personal security remains a part of everyday Haitian life. Since the beginning of this year there has been a series of assassinations, brutal assassinations, aimed at the Haitian national police. As has been the case in the past 3 years, still more political figures have either gone into hiding or have just simply left the country, fearing for their lives because of the rising tide of harassment and violence they encounter. The large population center of Cite Soleil is the site of regular random shooting sprees by armed gangs, and cities like Cap Haitien are subject to regular eruptions from populist organizations.

Beyond this, if one looks at the health of democracy in general, certainly the disenfranchisement of the opposition parties from the electoral process, and likely consolidation of one sector's hold on Haitian institutions, from the local through the national level, adds to the sense that things are not going well in Haiti, and in fact, it is not a true democracy.

Maybe that is why the Pentagon announced yesterday that 200 more paratroopers from the 82d Airborne are being sent from Fort Bragg to Haiti. Frankly, today the Haitian peoples are not the only ones with questions about what is happening in the small Caribbean nations. These realities have some Americans such as myself wondering when to expect the next refugee flow, the next political killing, the next setback in the process of economic reform.

What this means is that those of us who have oversight on the questions of how the United States Government spends America's money have a responsibility to ask some tough and serious questions about what has and what has not been accomplished with the opportunity for progress that our $3 billion and 20,000 troops have provided to Haiti.

The Clinton administration owes us some answers. From there, we are obligated to ask the big question: Why should the American taxpayers continue to send more of their dollars to Haiti? Why? Because while the administration may choose to measure progress in Haiti by whether or not the elections are held, full, free, fair, democratic, and transparent or not, and they were not, Americans know that there is more to the substance of democracy than just the act of holding elections, especially elections that were impacted by armed thugs and blatant intimidation, as was reported this very morning in the Miami Herald.

We need some explanations from the White House. We need them now. We need not to spend any more good money where bad has been invested.

MEMORIES OF TAX RETURNS AND THE IRS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Washington [Mrs. SMITH] is recognized for 5 minutes.

Mrs. LINDA SMITH of Washington. Mr. Speaker, this time of the year always brings back memories to me, because for nearly 15 years I was up to my nose in tax returns and trips to IRS for clients. In my other world, I prepared tax returns and taught the changes of the law to tax preparers. It always disturbed me when I would go to Internal Revenue with the expertise of the agents, not all of them but many, but also the amount of information that they had about our private lives.

□ 1215

So you can imagine that it was more personal for me when Tuesday of this week I got a report that IRS had been snooping again. You see, several years ago there was a report that there was a lot of private snooping going on in private records of individual citizens, some celebrities, some people just like me, by Internal Revenue agents. For what purpose, I do not know. Some were convicted. Not many. But it was a pretty extensive report.

And IRS promised us at that time, whether we be citizens or people that represented citizens before IRS or preparers, that they would stop doing it, that they would rein this practice in and protect the privacy of the ordinary American citizen.

Well, this Tuesday, the document release says they are not doing it. In fact, it was so serious it showed that in 1994 and 1995 alone, there were documented 1515 cases where employees were accused of misusing computers, snooping.

Now, the sad part about this is there were not very many firings. It says in the report that they counseled most of the employees; 472 were counseled, 349 were disciplined, but it does not appear in anything other than a hand slap. Only 23 were fired.

Now, in our country the right to privacy and protection of our private lives is very, very important. That is what makes us America.

Mr. Speaker, we should not have the servants of the people, whether they be police, FBI, whatever, but especially not IRS, violating our privacy.

Next week we will have a bill on this floor that will take care of that. We are not going to put it into a study. We are not going to trust IRS to say, we will do it if you wait. We are going to tell them that they are going to do it.

But how we are going to do it is this way: We are going to say, if you snoop, you have civil penalties and criminal penalties. If you snoop and tell, which is really awful, but that has happened, you talk about the private lives of citizens, you can go to jail even if you are an IRS employee. Why should they be any different than any other citizen? They are just servants of the people.

Next week is also going to focus on something that has been the compelling issue that brought me into politics originally in the early 1980's.

In the early 1980's, it was actually a State tax increase that doubled the taxes on my small business. I never had more than 125 employees at any one time; but I faced, with regulation and a doubling of my small business tax, laying off employees.

It got my attention. And I realized that American families, whether running a small business, like me, or my employees, could be hurt by government not being able to control spending.

You see, what I saw was our State had doubled their spending percentage nearly regularly over 20 years. What that means is every 2 years the spending increase was 20 percent, 10 percent a year, while the people's ability to pay got up 3 to 5 percent a year.

And as that happened and government grew, it was so easy, you see, to raise taxes instead of control spending, that what we faced were ordinary people, like me, running a small business in Vancouver, WA, facing taxes that we were having one heck of a time paying.

So I ran for office and got mad. I ran for office and I kept changing things. I ran an initiative in our State that said we will control spending and will make it tougher to raise taxes. It always should be a little tougher to raise taxes than to tax the American people, whether it be at the State or Federal level, than to increase spending, because you cannot tell a bureaucracy no.

Mr. Speaker, we passed that as an initiative in our State. And guess what? The spending growth is now 5 percent a year for the public government, and it is more in line with the ability of the people to pay. This worked. It will work when we pass the same measure next week.

On the floor next week will be a supermajority to raise taxes. And it worked in our State. It will work in our Nation. And I encourage watching for that vote and see how Members of Congress vote.

REGARDING JUDICIAL ACTIVISM

The SPEAKER pro tempore (Mr. STEARNS). Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 5 minutes.

Mr. DELAY. Mr. Speaker, I rise today to discuss an issue that is of great concern to the American people, and that issue is judicial activism.

Earlier this week, a three-judge Federal appeals court reversed a decision made by Judge Thelton Henderson, who barred the enforcement of the California civil rights initiative.

In reversing that decision, the appellate judge wrote, and I quote, "A system which permits one judge to block with the stroke of his pen what 4,736,180 State residents voted to enact as law tests the integrity of our constitutional democracy."

That is exactly right. Judicial activism threatens the checks and balances written into our Constitution.

I want to commend the gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary, who just yesterday introduced the Judicial Reform Act. Now, his legislation takes a very important first step in reining in the judicial branch.

Over the last several weeks, I have been attacked by several different groups for suggesting that it is within the constitutional authority of the Congress to impeach judges who willfully ignore the Constitution.

By my reading of the Constitution, it is not only the right of Congress to act as a check on the judicial branch; it is our duty. The Constitution provides that judges may be impeached for conviction of treason, bribery, or other high crimes and misdemeanors.

That phrase has never been completely defined, but there is little doubt that the Founders intended impeachment to be used against judges in certain circumstances.

The first Chief Justice of the U.S. Supreme Court, John Marshall, who was not in favor of judicial impeachment, nevertheless saw it as part of the Constitution. He said, the present doctrine seems to be that a judge giving a legal opinion contrary to the opinion of the legislature is liable to impeachment.

Thomas Jefferson explained, the opinion which gives to the judge the right to decide what laws are constitutional and what not, not only for themselves in their own sphere of action, but for the legislature and executive also in their spheres, would make the judiciary a despotic branch.

Justice James Wilson acknowledged that impeachment can be confined to political characters, to political crime and misdemeanors, and to political punishments.

And even Gerald Ford explained that, when imposing the impeachment of Supreme Court Justice William O. Douglas, that an impeachable offense is whatever the majority of the House of Representatives considers it to be at any given moment in history.

Now, unfortunately, on too many occasions the Federal judiciary has strayed far beyond its proper function. In no other democracy in the world do judges who are not elected, who are unaccountable, decide so many political issues.

Mr. Speaker, I do not advocate impeaching judges just because I disagree with them politically. I advocate that Congress, using its clearly defined role within the Constitution, act as a check on the judicial branch of the Government.

The American people are frustrated when one person, one person subverts their will, expressed in a democratic election. They should be frustrated. An independent judiciary is the anchor of our democracy. A despotic judiciary may very well be the downfall of our democracy.

I urge my colleagues to consider all of the tools within our constitutional authority as we take on the very real problem of judicial despotism. One of those tools is impeachment, and, despite the barrage of criticism, I think it is a tool we should consider using.

A NATIONAL DEBATE ON THE INCOME TAX CODE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana [Mr. TAUZIN] is recognized for 5 minutes.

Mr. TAUZIN. Mr. Speaker, I am also joined today by a friend of mine, the gentleman from Colorado [Mr. DAN SCHAEFER], who will interact with me in this 5 minutes and perhaps even ask unanimous consent for his own time.

We are pleased today to announce to the House and to the American public that as tax day approaches, as April 15 bears down upon us as the date upon which the tax man cometh again into our lives, we are preparing to begin the national debate on the issue of whether or not it is time for us in America to consider ripping the income Tax Code out by its roots, repealing the U.S. income Tax Code in its entirety, along with the IRS, and replacing the entire thing with a simple, straightforward national retail consumption tax.

On April 15, the gentleman from Colorado [Mr. DAN SCHAEFER] and I will be joined by other Members of this body, not necessarily as Members of Congress but as citizens of this country, and we will be joined by many other citizens who will join with us in Boston Harbor for a symbolic reenactment of the Boston Tea Party.

We will be in that harbor on an 18th-century style ship, and we will symbolically put the U.S. income Tax Code into a beautiful box labeled "Boston tea." And we will ceremoniously dump it into that harbor. We are doing it, by the way, with the proper permitting authority, because to leave that income Tax Code in the harbor would surely be a bad example of pollution. But we are going to do this demonstration along with many other Americans to begin this debate.

Is it time to get rid of this income Tax Code that is hurting Americans and hurting American jobs and debilitating the U.S. economy and replacing it with a simple straightforward consumption tax?

The debate will begin on April 15. The ceremony we have in Boston Harbor will hopefully be the start of that debate.

What essentially is wrong with the U.S. income Tax Code? The stories of IRS agents snooping into private businesses, the stories of 4 billion dollars' worth of computers that do not work are just the beginning.

The IRS code punishes you for earning income, punishes you for saving money, punishes you for investing money, punishes you for leaving money to your children, whether you are alive or in death, through inheritance taxes, punishes you when you buy anything made in America, because everything made in America carries an IRS tax on it of about 14 to 15 percent, and rewards you only for doing one thing, for buying foreign products.

What kind of a Tax Code is that? I suggest that a Tax Code replacing the income tax that would once and for all put an end to inheritance taxes, put an end to taxes on investments and earnings and income and replace it with a simple one-time tax on consumption of both foreign and domestic products, equalizing for the first time since 1913 the taxes on foreign products with American products, is the right way to go.

We will begin this debate historically in Boston Harbor. My colleague and friend, who I am pleased to yield to at this time, DAN SCHAEFER, and I will be leading the charge.

Mr. Speaker, I yield to the gentleman from Colorado [Mr. DAN SCHAEFER].

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I thank the gentleman very much for yielding to me.

I went back into the 1913 Tax Code and, as the gentleman from Louisiana [Mr. TAUZIN] knows, we pulled that out. That was the first time that we really had an income tax where you had to file. It was three pages. One was your withholding. One was your deductions, and the other was how you paid your taxes.

Now, as people will see when we go to Boston Harbor, we have better than 8,000 pages of Tax Codes, regulations, rules, laws, et cetera, that if you take your taxes to 10 or 15 different CPA's, they will all come out with a new number on what you owe the Federal Government or what you are going to get back. I think it is time that we finally have decided that this is wrong for the American people.

One of the most intrusive taxes that we have is the inheritance tax. We are planning to get rid of inheritance taxes, capital gains taxes, gift taxes, all excise taxes, unless they are tied to a trust fund, and replace it with a very simple consumption tax.

A NATIONAL CONSUMPTION TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado, Mr. DAN SCHAEFER, is recognized for 5 minutes.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, it is very difficult to try and go through this entire subject matter over just a period of 5 minutes. I am going to yield shortly to the gentleman from Louisiana.

□ 1230

I can recall that the 1986 tax bill was first started as a flat tax. Now, a flat tax, if we adhere to it, is better than what we have but it is not the final answer.

Why do we not take away the power of taxation from the Federal Government and from Congress and give it to the American people and let them decide on how they are going to pay their taxation? I think this is the correct way to go and the right way to go.

That flat tax, started back in 1985, turned out to be a Christmas tree by 1986, in which we passed that final bill, which I was very, very proud to have voted against.

Mr. Speaker, I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding, and I think it will surprise the American public to learn that since 1986, when we adopted in this Congress tax simplification, a flatter tax base, that not only have the rates now continued to go up, we have five different rates today again, but since 1986 this Congress has made 4,000 individual changes in the Tax Code. It just does not stop. Flat taxes become fat taxes.

We are suggesting it is time to get rid of the entire income Tax Code and go to a simple retail sales tax, and we are asking sons and daughters of liberty to join us in Boston Harbor, not only Members of this Congress but citizens of this country, to come meet us in Boston Harbor on April 15 and join us in the beginning of this great national debate. I thank the gentleman for yielding.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I thank the gentleman very much, and he has been an instrumental part in this whole debate.

And as we move on, if we go to the American people and we say to them in town meetings, or any kind of a meeting, that we want to abolish the IRS, we want to take the IRS and eliminate it and to transfer over the power of taxation to them, the American people in this country, they love it. And they should love it because we are eliminating April 15. We are eliminating keeping all those records and receipts and everything else that we have to do to try to substantiate the fact that we are following the law.

Mr. TAUZIN. Mr. Speaker, if the gentleman will continue to yield, I think it is important to point out that the IRS is the only agency of the Federal Government where we are guilty until we prove our innocence. We can get a better deal in Federal Court after indictment than we can before the IRS.

It is time for us to consider whether this agency, this structure of taxation, this agency that has such power over our lives ought to be abolished in favor of a simple sales tax collection system where we decide how much taxes we pay by deciding how much we spend or how much instead that we save and invest in our society and in American jobs.

Mr. DAN SCHAEFER of Colorado. Reclaiming my time, Mr. Speaker, I would just say that the people have to understand, and the one thing that the gentleman from Louisiana and I have been doing is being on numerous talk shows, radio shows, TV shows over the last year, and the one thing I always say to the American public, to our listeners, is they should just imagine their last paycheck and think about the amount of money that the Federal Government withheld and that they can now put that in their pocket. They can save it, they can consume with it or whatever they wish. That is the key.

We are taking this power of taxation away from the Federal Government and giving it to the American people.

Mr. TAUZIN. I think our time is about up, Mr. Speaker, and I simply wanted, in the short time we have left, to again invite Americans to begin this debate. The debate will be whether to keep the current system, with all its problems, with all its costs. It costs American citizens $4 for every dollar they send to the Federal Government in taxes. Do we keep this awful system that taxes Americans twice, three times, and four times on the same money; that only taxes American products and jobs and not foreign products. Do we want to keep this system or do we want to go to a flat tax system, which is a better alternative or, better yet, pull this system out by its roots and replace it with a simple straightforward sales tax, that taxes for the first time foreign products and American products on the same basis and taxes American income only once, when you spend money, not when you earn it.

If that national debate is not worth having, then I will be greatly surprised. Join us on April 15 as we begin this debate in this historic reenactment of the Boston Tea Party, when we will dump the U.S. Tax Code into that harbor as new sons and daughters of liberty who believe that liberty and freedom is so important in this country that we ought never to surrender it to an agency where we are guilty until we prove ourselves innocent. That is so un-American. Join us in this national debate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. STEARNS). The Chair would remind all Members that they should address their remarks to the Chair.

JUDICIAL ACTIVISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 5 minutes.

Mr. SCARBOROUGH. Mr. Speaker, I want to briefly talk on the subject of judicial activism. This was talked about a few minutes ago by the majority whip.

I have to say that it personally hits home in what I have been reading lately about the threats of judicial activism. I have been teaching my 9-year-old about democracy. We have been going through the history of the Greeks and the Romans and also the British Empire and America, and I have been trying to explain to him about the concept of democracy.

It is always interesting to have a 9-year-old asking basic questions like, "Daddy, what is democracy?" I struggled with it, but in the end, I told him it is where the people decide how they are going to be governed; where the people make the decisions instead of the kings. I tried to break it down that way, as simply as possible; that it is not the kings, it is not the monarchs, it is not the elitist rulers that rule America, but that the people rule America.

I read and was comforted greatly by a decision that came down in California a couple of days ago that addressed judicial activism, where the people were actually allowed to decide how the government was going to be run instead of one elitist judge. I will give my colleagues a little background.

The California people decided that they did not want Americans to be judged on the color of their skin or whether they were a man or a woman but, instead, wanted people to be judged and hired based on the content of their character. So they passed a civil rights initiative. Five million Californians went out and voted on this measure and decided that they wanted to get rid of race-based hiring preferences.

Well, despite the fact that five million people voted in California on this issue, a single judge, with a stroke of the pen, was able to nullify the will of five million voters. Five million Californians. Five million Americans.

Now, that would be hard to explain to my son how we have a single judge making decisions for five million people instead of having the people make the decisions themselves. So I was very pleased yesterday when I saw that a three-judge panel actually overturned that single judicial activist judge and talked about how it was inherently undemocratic that the will of five million people could be erased with a single stroke of one judge's pen.

I certainly support the three-judge panel, and I just want to say to my fellow Members here, and others, Mr. Speaker, that it is important for us to start asking some very tough questions about these activist judges that believe they can thwart the will of Americans and democracy and just be a judicial activist.

What we have to do is measure their rights as judges with the rights of us to be run by the will of the people, and also look at the separation of powers to see how judicial activism is threatening democracy.

The whip said he had been attacked for discussing judicial activism, and I have read a lot of things that were said about him. They were saying that, and we heard it, that it was undemocratic for somebody to talk about judicial activism this way; that it was a threat to democracy and that it was radical.

I would just ask the question: Who is the real radical? Who is the real radical? Do we call somebody a radical for questioning why judges are running America in some areas instead of the people; or is the real radical the single judge that with a stroke of his pen eliminates the will of five million registered voters?

I would say the real radical, the person who is the real threat to democracy, is that Federal judge who does not examine what the original intent of our Framers was when talking about the separation of power; the real radical is that single judge who decides that he or she is going to ignore the overwhelming will of the American people and, instead, legislate from the bench.

It is very dangerous. It has been dangerous for 30 years. It has led us to some very disturbing decisions across the land, and it is time that we just start asking basic simple questions about what do we do to once again take a measured approach in figuring out how to protect Americans from judicial activism and how to make sure that the genius of America and the genius of democracy and the genius of the separation of powers is preserved for the next century.

PROTECT AMERICA'S PATENT SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. ROHRABACHER] is recognized for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, the last spokesman, one of our colleagues, the gentleman from Florida, [Mr. SCARBOROUGH] just mentioned protecting the genius of the United States of America. Well, next week the House, this House, the body of the House of Representatives, will vote on a bill that will determine America's basic law on technology for the 21st century.

In a quiet, almost stealth maneuver, major multinational corporations are trying to slide through this Congress legislation which will gut America's patent system. My colleagues heard me correctly. It will gut America's patent system.

America has had the strongest patent system in the world. That is why we have the strongest economy of the world and our people have enjoyed opportunities and freedom like no other people in the world. And it is now under attack. America has had this strong patent protection in place since the founding of our country. It is in our Constitution.

If this dismantling of America's patent protection proceeds, it will lead to an historic rip-off of America's technology. I say historic because it will lead to an end of America's preeminence in the arena of technology. And it has been this arena, as I say, that has secured us from foreign threats and permitted us the economic advancements that have given our people the strongest standard of living and the highest standard of living of any country of the world because our people, not just the elite, enjoy opportunity and freedom in America.

If they gut our patent system, it will destroy our ability to compete with those countries that have cheap labor because we now will be stripped of our technological advantage. It will also strip our defenders of their technological advantage.

This bill, H.R. 400, which I call the Steal American Technology Act, will be voted on in this body next week, but probably half of our Members do not even know it is coming up or know anything about it, yet they are being contacted by lobbyists. And unless the American people step forward and contact their Member of Congress and say vote against the H.R. 400, the Steal American Technologies Act, lobbyists from multinational corporations will have the say on the passage of this bill which will gut our patent system.

What does H.R. 400 do? It mandates, and hold on to your seat here, it mandates that every patent application, every inventor who applies for a patent, will have his patent published for the entire world to see even before the patent is issued. This means that every enemy of the United States, every competitor of our country, every Japanese and Chinese copycat will have every one of our technological secrets and be able to use it against us before our patents are issued to our own industries and our own inventors.

It also mandates a reexamination. It opens up the book to many different avenues that foreign corporations can challenge existing patents. Even those who own existing patents will be challenged.

Finally, it eliminates the Patent Office as part of our Government and resurrects it as a corporate entity. We have had a Patent Office as part of our Government since the founding of our country. Now they want to corporatize it, turn it into a corporation that will be able to receive gifts from other countries and other foreign and multinational corporations.

□ 1245

Our patent examiners have worked so hard. So hard. There has never been a scandal among our patent examiners. Now by corporatizing the Patent Office, we are opening them up to all kinds of who knows what influences. These are people who make decisions that are worth billions and billions of dollars. They now will be opened up to outside influences.

This bill, H.R. 400, is a catastrophe. It will have a dramatic impact on our standard of living. I call it a Pearl Harbor in slow motion. This bill will be voted on next week unless people contact their representative. Many people will come here and vote and the only contact they will have had is with the lobbyists that are paid for by multinational corporations. Luckily, the leadership has provided us an alternative. I have two pieces of legislation, H.R. 811 and 812, which will be offered on the floor as a substitute, and I would ask my colleagues to vote for my substitute which will be presented, my substitute, the Rohrabacher substitute, to H.R. 400, the Steal American Technologies Act.

If this bill passes, H.R. 400, we can imagine that American inventors will be left open to the greatest theft of our technology in the history of our country. It will impact our standard of living. I am sounding the alarm bell and I hope my colleagues and the people of the United States are listening. We can defeat it but only if Americans act together.

GETTING TOUGH ON IMMIGRATION

The SPEAKER pro tempore (Mr. STEARNS). Under a previous order of the House, the gentleman from Florida [Mr. FOLEY] is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, I rise today to step up the heat, if you will, and the pressure on this administration to work with our Immigration Department and ferret out some of the significant problems that exist in that agency. I also call upon them to increase staffing for our Border Patrol agents in the State of Florida. I am reading today in Insight magazine, "Customs Officials Eat Crow at the Border," which details a number of allegations that have been brought forward against border officials in our administration. Serious allegations.

One includes a 3-week period where one of our agents called a known convicted drug trafficker, 207 calls from an agent's home. We also have some claims made by some of our employees that a customs dog handler when attempting to search an 18-wheel tanker was prevented from doing his job. Later that tanker was found to contain nearly 4 tons of cocaine. Meanwhile at the California port of Calexico, immigration investigators, who already have arrested one customs inspector recently on corruption charges, are closing in on a customs secretary who is accused of selling intelligence to Tijuana's drug lords.

Mr. Speaker, if this country is going to be secure from both illegal immigration and the rapid importation increase of illegal drugs, we have got to be able to depend on people who enforce the law as passed by this Congress. It concerns me greatly when we read these reports and we hear allegations of corruption and bribery and people being allowed to bring numerous people into this country illegally.

So I ask this administration, the attorney general, to fully investigate these allegations, not to sweep them under the rug as alleged by several officers of the Immigration Service. In fact one says, "They're pulling punches." Inspectors at San Ysidro argue punches are being pulled and that several more serious corruption allegations against senior personnel are being buried. You read about what happens to people when they are discovered to have violated the laws of this country. They are moved to a desk assignment, they are transferred, they are offered early retirement. These are serious violations of our laws. These people should not be offered retirement. They should be shown the way to jail.

We have also got to look carefully at what NAFTA has brought us. Recently allegations of tainted strawberries in our school system originating in Mexico. Under Federal law they are not allowed to sell to the school lunch program but somehow once again they have slipped into the process and now our children are being shot for potential hepatitis virus. Tainted strawberries.

Last year we had a scare for raspberries from Guatemala. All along we have said about NAFTA that we are concerned about pesticide application, we are concerned about the quality of water that is used to irrigate the fields, we are concerned about the child labor standards. Obviously they do not have any. They would be serious violations here in this country if the same standards applied. Wage and hourly pay in Mexico. And at the same time our produce growers are going out of business in America because we have gleefully embraced NAFTA and said everything is perfect, give it a chance. At the same time, people are getting sick. If that is good progress on NAFTA, then I must have read the wrong book on protecting public safety and health.

Drug enforcement not taking place on our border, I must have read the wrong chapter about getting tough on the laws of this Nation. Clearly the unbridled attempt by others to seek entrance into this country illegally has got to stop. But it will not stop if the people charged with enforcing our laws in this country look the other way, turn a deaf ear, or line their pockets with bribes in order to turn back the problems that we face in America.

Again I urge the administration to act on my request as we have submitted with members of the Florida delegation asking for increased Border Patrol, increased immigration assistance, quicker deportation of illegals from our prison system, quicker deportation of those that have falsely claimed asylum as a reason to come to this country. Because if we again are not able and capable of protecting our Nation from invasion from those who seek to break our laws, then our Nation shall perish.

CHINA AND MFN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. WOLF] is recognized for 5 minutes.

Mr. WOLF. Mr. Speaker, we will be addressing for the next couple of months in this body whether or not to grant the most-favored-nation trading status to China. I just had a series of town meetings. This issue came up in every town meeting. Clearly the American people are opposed to the Congress granting continuation of the most favored trading status to China.

Some of the issues and why. It is important for Members of this body to know that in China, there are Catholic priests who are in jail. There are Catholic bishops who are in jail. In China there are Protestant pastors who are in jail. In China almost on a weekly basis, evangelical and house churches are raided whereby people are arrested and they are taken away.

We have seen the Chinese Government plunder Tibet and expel the Dalai Lama where the Dalai Lama can no longer return to Tibet. We have seen the persecution of many who are Buddhist, both nuns and priests. We see persecution of Moslems in the northwest part of China. There are more gulags in China than there were in the Soviet Union. We all recall Solzhenitsyn's book, Gulag Archipelago.

It is important that the American people know and that the Members of this body know that there are more gulags, slave labor camps, in China than any other country of the world and certainly many more than there were in the Soviet Union. We have seen China sell military weapons, equipment, to Iran, which is not in the best interests of this country. We have seen technology transferred to other countries with regard to nuclear technology, which again is not in the best interests of this country. As many Americans know, China sold weapons to Saddam Hussein in the Desert Storm fighting that were used against American forces during that time.

We know what took place in Tiananmen Square, whereby we watched the activity. The government called out military forces to crush the Tiananmen Square demonstration, which was totally peaceful. I had the opportunity to visit Beijing prison No. 1 shortly thereafter, whereby we saw 40 Tiananmen Square demonstrators who were working on socks for export to the West. Again, how can Americans companies and textile companies compete with something like that?

Mr. Speaker, there have been reports that in China they arrest people and those who are sentenced to death, some who have committed crimes, others who have not, whereby there was an organ donor program whereby after they shoot them, they take out their kidneys for sale, for transplantation. And there is even one report of an individual who was still alive and had both of his kidneys taken out for sale to people in the West.

There is much more that will take place, and we will document it over the next several months. However, it is clear to say that during the 1980's, during the Reagan administration, we would have never granted MFN to the Soviet Union when they were doing terrible things. I remember when the Reagan administration and President Reagan gave the speech in Orlando, the evil empire, where he talked against the activities that were taking place. We in the Congress in a bipartisan way stood in solidarity to those in the Soviet Union, the dissidents, those that wanted to leave the Soviet Union and those that were being persecuted because of their faith and whatever reasons they were being persecuted, we stood in solidarity. Even during the Reagan administration, 250,000 people came and rallied on the Mall on behalf of those people.

Every time there were visits from the Reagan administration and also the Carter administration to Russia, they may very well have met with Brezhnev and met with Gorbachev, but they also met in the American embassy in solidarity with those who were being persecuted in the Soviet Union. We stood with those people during that period of time, and we ought to stand with those people in China during this period of time.

When I talked to Natan Shcharansky, who was in Perm Camp 35 in the Soviet Union, Shcharansky was baffled that we would ever grant MFN to China because he maintained that the reason he was released from Perm Camp 35 prison during that period of time was because of our activity in regard to MFN.

Mr. Speaker, in summary, I might say that we will cover a number of these issues and urge the Members to seriously look at religious persecution, persecution of dissidents, the Catholic church, the Protestant church, the Buddhists, and many others as we make a decision whether or not we would grant MFN.

DEMOCRATIC ANSWER TO REPUBLICAN CONGRESSIONAL INACTION

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under the Speaker's announced policy of January 7, 1997, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes as the designee of the minority leader.

Mr. BONIOR. Mr. Speaker, before I begin my remarks, let me just say that I paid special attention to the gentleman from Virginia who spoke with respect to China and also to my Republican friend and colleague from Florida [Mr. FOLEY] who spoke with respect to NAFTA and its shortcomings. I cannot say how gratified I am to hear my colleagues on this side of the aisle starting to understand and recognize the limitations of some of these international agreements and treaties that we have entered into, and I am pleased that they are speaking out.

Mr. Speaker, I was disturbed to read in this week's papers that the Speaker is back at it again. For 3 months the American people have waited for the Republican party to begin to move on an agenda, to propose a budget, to address the serious problems we have with health and with education, health for our children, reforming our campaign finance system. Yet day after day we show up here for work and nothing. No budget, no bills scheduled, very few votes, and so it is not hard to see why most people feel like nothing is getting done in Washington. Yet the Speaker, who has done nothing to move an agenda for working families, has instead decided that it is time to launch attacks, to distort the facts and to demonize those who disagree with him. The same Speaker who seems to be running from his own personal responsibilities for violating rules of this House and subverting our campaign finance laws has accused others of rigging the game. So it is no wonder that the American people have grown cynical and tired of Washington's political games.

Last year the Gingrich revolution with all its excesses and missteps and extremism was exposed for what it was. It was a radical attempt to turn back the clock on progress for American families.

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But let us not forget the Gingrich revolutionaries do not just want to cut

Medicare and education to give tax breaks to the wealthy. They brag about their opposition to Medicare, they tried to eliminate the Department of Education, they tried to let polluters rewrite environmental laws. And let us also not forget that it was our efforts in this House that stopped that revolution. And let us not forget that we did not do it alone. Working men and women throughout the country stood up and said we want to protect Medicare, we want to invest in education, and we want to preserve our environment.

Now, NEWT GINGRICH has learned nothing, I think, from the experiences of the last 2 years. In fact, just yesterday in a frantic drive to recapture the fervor of his lost revolution, the Speaker proposed a set of massive tax breaks for the wealthiest people in this country. This Gingrich tax would give away to the wealthy—these tax breaks would cost over 300 billion over the next 5 years, $300 billion, and what is more than that, what could happen if this occurs is the following:

You cannot do this. You cannot have breaks in those magnitudes without breaking the budget. It cannot be done without wrecking Medicare. It cannot be done without savaging education.

At a time when we should be coming to some consensus on how to balance our budget here, the Speaker seems more concerned about coddling his wealthy donors.

The Gingrich speech comes just one day after a story in the Washington Times revealed that wealthy donors warned the GOP that if they do not get their tax breaks, the Republican Party will not get their money. It was as simple and clear as that. There is no end to the Gingrich Republicans' effort to pander to these wealthy special interests.

Now, this week we were supposed to take up a bill that would have saved middle-income homeowners hundreds of dollars a year on their mortgage insurance, and I might add that this bill received broad bipartisan support in the committee. But at the last minute the Republican leadership bowed to the pressure of the special interests and pulled the bill.

We should have passed that bill. It would have saved a middle-income family buying a $119,000 home $70 a month. That bill now has been shelved because the special interests got to their leadership. No relief for homeowners, no help for middle income families trying to balance their budgets, no balanced budgets for America. And we get from the reborn revolution, all we get from it is tax breaks for their wealthy donors.

So the American people are tired of this. They are tired of seeing their hard-earned dollars, their hopes for a secure retirement, their promise for their kids' education, threatened by a relentless Republican drive to reward the wealthy donors.

The Speaker may be right. The game in this country may be rigged. But it is not rigged by the working families who struggle every day to make ends meet. It is not rigged by the working men and women who organize and fight back when they see our rights are threatened. It is rigged by the wealthy interests that the Speaker seems so eager to please with these new tax giveaways.

This country needs a real debate on our different political philosophies, a debate about some of the most fundamental questions that we face today:

What is the role of government? What are the possibilities of limits on the free market? What is the meaning of citizenship? Of political participation itself?

So let us have that debate, and let us remember our own history when we have it. I believe that somewhere along the line our politics has gotten disconnected from the American people. People no longer see a link between their lives and politics, between their lives and the forces controlling our economy, between their lives and the real challenges that we are facing as individuals and as a Nation, and this disconnection has helped create a feeling of powerlessness, of frustration, of alienation.

Our challenge is to try to plug people back in. We need to give people a reason to believe again. We need to reestablish a connection between people and their Government and between people and our economy, and I want to talk about a group that the Speaker attacked and demonized just several days ago.

To me the labor movement is fundamental to this challenge of reconnection. Over the years more than anybody else, the labor movement has helped connect people to politics in a meaningful way. By fighting for the day-to-day needs of the American families, by representing values beyond what we could see, unions have brought dignity and depth to our democracy. They have helped put a human face on change, and we need that human face today more than ever. At stake is not just the future of our families, it is the fate of our democracy.

Today I want to talk to you about some of the ways that unions can be the missing link we so badly need in this changing world. Recently I was driving out of town, and I passed underneath a bridge, and on the bridge there was a big banner that read "Unions, the people who brought you the weekend," and I thought that was a creative reminder of the role that unions have played in America, but then you wondered how many people really understood what that means.

Now growing up, I could not help but hear that message because I grew up in a union household, and for 30 years my grandfather was a member of the Automobile Workers, and every single morning I got up with him and watched him go off to work in the old Dodge main plant at Hamtramck, Michigan. We were first generation middle class, and by that I mean we understood that the only reason we were middle class was because of the battles that working people had fought and won.

Unions were not something you really had to discuss; it was just part of us. By simple osmosis, just being there, you were brought up to believe that certain rights were fundamental, as fundamental to the idea of liberty as free speech itself, and we held these rights to be self-evident, that everyone has a right to earn their own bread, that every person is endowed with certain inalienable rights, and that among these rights are the right to organize, to collectively bargain and the right to strike, and based on those rights we were brought up to believe in certain principles, that if you help a company make money, you deserve a raise, and if you get sick, you deserve good health care, that if you put in a lifetime of loyal service day after day, week after week, month after month, year after year, you deserve a secure retirement and a pension. And if you do your job well, nobody has a right to take that job away from you.

So we understood that if we got up every morning and worked hard, we could earn a pretty good life, and through the decades of battles both big and small corporations grudgingly came to accept certain responsibilities as well, that if they paid their workers fairly and gave something back to the community they would have loyal workers and they would have loyal customers.

Now to us that was the collective bargain, that is what community was all about, and for about 30 years that basic formula helped this country build a middle class that could afford to buy the products, the Zeniths, the Chevys that people made.

And of course when I tell this story to students, they look at me as if I am an old quaint professor telling them stories about the Great Frontier, and I guess who can blame them because if you read the stories that are abundant in the papers today and you listen to the stories on radio and on television, you kind of wonder.

Disney, the all-American company that I grew up with and ran home to watch after school, they announced that they are paying one person $90 million, and what does that person do to earn $90 million? Well, he got fired. He was the President and did not do a good job, and they fired him. As a going away present, they gave him as a severance package $90 million. And of course the man who actually did the firing just signed a contract at the

Washington Post, the paper in this town said, that paid him $776 million over the next 10 years.

Yet how does Disney reward the people here at home? It moves jobs over to Haiti, where it pays Haitian workers 28 cents an hour to stitch its clothes, and yet when Disney stockholders had a chance to ban sweatshop labor, they voted against it.

And we see examples like this every day. Nike announced a 77-percent increase in its worldwide sales. The same day a new report comes out that Nike manufactures most of its product in Asian sweatshops, where it pays its people about 30 cents an hour. IBM tells 120 secretaries that for the good of the company they have to take a 10-percent pay cut. Same week, same very week, its top five executives are rewarded a bonus totaling $5.8 million.

And the most perverse part of it all is that the corporations who are trying to do the right things, who treat their people well, who reward loyalty, are often penalized for it. Our economy makes it harder for them to be competitive.

So I am here today to tell you we cannot keep moving this way as a Nation. The America of our hopes and dreams will not be if we grow complacent about the fact that the gap between the rich and the poor is at a 50-year high. It will not be if we accept the fact that Manpower Temporary Services is now America's No. 1 employer. It cannot be if we accept the fact that CEO's who made 12 times more than workers in 1960 and 35 times more in 1974 now make 200 times more than their workers today. And it certainly will not be if, God forbid, we should accept that these things are some sort of unavoidable byproduct of the modern economy.

So this just is not a question of jobs and paychecks. It is about a larger vision of our democracy and our way of life. It is about how we treat each other, it is about whether we are going to move forward together or we are going to split apart at the seams.

Now, there are some people who are trying to forge an alternative reality. In a runaway world, a world of runaway corporations and declining participation and growing income disparity and social unrest, there are some people challenging the New World Order that we live in. We see them in Las Vegas, where 4,000 people just won new rights. We see them in California, where 20,000 strawberry workers are preparing to march for justice this weekend. We see them across America, where 3,000 college students have fanned out to organize last summer. We see them in every city and every State, where people refuse to accept the way things are as a way that they have to be.

The labor movement has helped build American middle class and made the American dream for millions of families. If we want that dream to be vibrant, to be alive and to have new meaning for a new generation of America, we need to revitalize that very important component of our society. Labor has got to get back to basics, it has got to make organizing its top priority again, it has got to reach out to people it has never organized before, it has got to reach across borders to form new alliances in other countries so workers there are not being used as a hedge by our corporations to bring down our wages here, it has got to put a new face on its movement, it has got to work with religious leaders and community leaders to regain moral authority, and I am going to think about that in a second because I think that is the key missing ingredient to challenging the corporate greed and the other greed in our society. It has got to embrace a new spirit of self-criticism, and it has got to stay true to that vision that we learned all those years ago.

Today I want to talk to you about three areas where I believe these goals meet their most severe challenge. I want to talk to you about the role of unions, the reality of this new global economy and the challenge of organizing.

You know, the United Auto Workers have a saying printed right there on their web page. It says, "Before you know where you are going, you have to know where you have been," and I think the labor unions have played three fundamental roles in America, roles they are well-suited to play again.

First, unions have been a historic link between rising wages and rising productivity.

Now what do I mean? Well, this hard link, this link between how hard you work and what you earn, did not just exist in union shops. Unions helped establish a value for the whole society. When unions were at their peak from 1947 to 1973, American workers gave an almost 90 percent increase in productivity, and in return their real wages increased by 99 percent. But as union membership has fallen the past 20 years, this link has been fractured. From 1973 to 1982, workers got only half as much of an increase in real wages as they gave in productivity, and from 1982 to 1994 they only got a third as much. Today unions represent just 10 percent of the private sector, and all told since 1979 productivity has gone up 24 percent, but the real earnings for workers have gone down 12 percent.

Little wonder that most people feel like they are part of that Abbott and Costello routine where Bud Abbott says to Lou Costello, "Lou, if you got 50 bucks in one pocket and a hundred in the other, what do you got?", and Costello says, "Somebody else's pants." I mean people are being squeezed, and unions can make a difference.

In Chicago, IL, for example, grocery clerks at the Kroger Co. who are represented by the United Food and Commercial Workers, they earn $12.50 an hour, with health and pension benefits. That same employee in Kansas City working for the same company makes $8 an hour, with no benefits, because that person is not represented by a union.

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If unions can recouple the link between wages and productivity, if they can reestablish the social compact and remind people that they can demand a fair share of the profits, they will shrink income disparities, they will strengthen our middle class, and we will be laying the groundwork for renewal of our democratic institutions.

Second: Unions have helped remind us that the economy exists for people and not the other way around, and by doing so, they have articulated an alternative set of values to corporate greed. If we are going to create a sense of community and participation in society, we have got to create a sense of community in the workplace. At work, as in society, it matters for people to work together, to have rights together; it matters for people to care about each other. It is an alternative set of values that believes people will act for reasons beyond pure self-interests.

Bob Kuttner reminds us in his new book, now let me paraphrase: Even in America, not everything is for sale. People have civic and social selves.

Unions, as a form of collective egalitarian action, strengthen those values. Fundamentally, unions at their best are an example of democracy in action. So it was no accident in Poland in the 1980's that the Solidarity movement was equated with democracy, because when they argued for equal rights and worker rights, when they demanded to be treated with dignity and respect and fairness, they were not just arguing for those values in the workplace, they were arguing for those values in society. And with that larger vision came a certain moral authority. When labor was at its height, unions used to use that moral authority as a brake on runaway greed.

Now, over the past few decades, unions have lost that moral authority. They have ceded the higher ground, and they shoulder a fair amount of the blame. Too often they turned inward, they stopped organizing, they stopped focusing on the larger work force, and worked hard to protect what they had.

Then, as their membership shrank and the workplace changed, they fell further and further behind. They fought their own bureaucracy, and they made it easy for people like the Speaker to paint them as special interests. Where unions were once seen as allies of the middle class, they were now seen as the enemy. Where unions were once celebrated for raising wages, Ronald Reagan made America resent the fact that union members were earning more than anybody else, and that resentment, unfortunately, continues to this day.

But this can only go on for so long. Republicans have already overplayed their hand. The public is engaged in a backlash against the revolution of last Congress, and I think that was a harbinger of things to come. In cities and towns across the country, unions are joining together with religious leaders and respected community advocates to regain moral authority, to shame corporations into treating workers with dignity and respect.

The American people know greed is not enough, and block by block, town by town, city by city, we need to bring public pressure to bear, because it is the only way change is going to happen. That is the way it has always been. You have a force that gets out of control, that exudes greed, and you need a countervailing force to react to it. Historically that has been the pattern in this country and often the pattern in Western civilization.

Third, the union has been a part of a larger movement outside the work force that has fought for social reform. They have been the link between free markets and democratic rights. So when I hear my friend, the gentleman from Texas [Mr. ARMEY] on this side of the aisle say that the free market alone brings progress, I wonder where he studied his economics, because history has shown just the opposite.

It is in places where the free labor movement was strong, in France, in England, in the United States, where we have pensions, the 8-hour day, the 40-hour work week, overtime pay, severance pay, paid holidays, paid sick leave, paid vacation, maternity leave, seniority, and not just for union members and not just at the workplace. We also have Medicare and Social Security and student loans and, in some places, health care and child care, all brought to you, all brought to you by a coalition of progressives working to bring about change and led by the labor movement in this country.

Unions have been a part of an effort to broaden the meaning of democracy and democratic rights. There is a reason why dictators prefer to deal with individuals, because when you divide people, you conquer.

The first thing that Hitler and Mussolini and Pinochet did was to ban unions. The first thing China did after Tiananmen Square was to ban unions. In Singapore and Chile, rapid industrialization has created systems where labor rights are not fully recognized and wages are low and the environment is not fully protected. The one thing President Carlos Salinas did in Mexico, he absolutely refused to discuss during NAFTA, the one thing was unions.

So as unions get weaker in this country, it is not surprising that we see an assault on Social Security and on Medicare and on education. But as our own history has shown, with each new wave of union growth, each time labor as a movement reaches out to organize the unorganized, there is a new wave of democratic participation and social reform that has followed. I believe that we are at such an historic moment in America today. These are the historic roles unions have played and can play again.

But today we are being challenged by a whole new set of rules. The global economy has changed the rules for everybody, and I believe the labor movement has to change to meet those challenges. I think it is important to differentiate between the real threats of the global economy and the perceived threats of the global economy.

I think it is also important to understand that the global economy looks different depending upon where you are standing. In his new book, and I would encourage those of you who are interested in the topic of globalization to read it, William Greider's new book, "One World, Ready or Not," he paints a picture of the global economy as a giant farm combine that reaps as it destroys; it plows across fields and fence rows with a fierce momentum that is both exhilarating and frightening. But despite all of the skillful hands on board in Greider's vision, there are no hands at the wheel. It is a very vivid image. But I disagree; there are hands at the wheel, and they are controlled by people who run our multinational corporations.

From our perspective here today, we can talk about labor in the United States and labor in Japan and labor in China, and we can differentiate between them. We can talk about environmental standards here in the United States and environmental standards in Mexico, and we can see very clear lines of differences, but if you are looking at the global economy from the perspective of multinational corporations, you do not see clear lines of authority. Multinationals have little or no respect for state boundaries or worker rights. Whatever laws we pass from country to country, whatever rules we set down, they regard them as fence rows to be plowed over.

So the Nikes of the world run off to Vietnam, the Disneys run off to Haiti, Zenith moves to Mexico, corporation after corporation pits workers against each other and seeks out the lowest common denominator, and by doing so, it drives all of our standards down. Now, this is the reality of the global economy today. We all know these threats are very real.

Cornell University recently did a study for the Department of Labor, a study, by the way, which the Labor Department refused to release, and they found that 62 percent of the companies in America are now using countries like Mexico as a bargaining chip to drive down wages and living standards in America. We were promised during NAFTA that wages would go up from $1 an hour or higher. It is 3½ years later, and the wages have changed. They have gone down, though, to 70 cents an hour, and that pressure of their wage south of our border is giving corporations all over this country the ability to keep wages low or to drive wages down or to take benefits away from our workers.

This changing world order has brought about an ideological shift as well. Even among liberals and progressives, the old New Deal Coalition in this country was built on the fundamental notion that the free market would not automatically take care of people's needs. Goods like retirement savings, health care for the poor and the elderly, public education, and eventually environmental and safety regulations were needed to supplement the market and restrain its success. We came to understand that to advance certain rights, you need a countervailing force on the power of the large corporations and the rapacious instincts of the market.

Today, when it comes to the global marketplace, even some people in my own party seem to be abandoning the commitment when it comes to the global economy. People who would never argue that the hidden hand of the free market would provide for all social goods here at home seem to forget these lessons when you substitute the words "free trade" for "free market." They buy into the notion that there is nothing you can do to affect the global economy except race as fast as you can to compete. Of course in doing so, they are reinforcing an ideology that would leave us increasingly powerless, impoverished, and unprincipled.

Now, for more than 40 years, America fought the cold war to advance some very fundamental beliefs about human rights. We argued for freedom of speech, freedom of assembly, freedom to organize. But now that the cold war has ended, we as a nation, we have abandoned those rights. Our fundamental pursuit the past 8 years has been the protection of property rights. We tried to persuade China to observe patent and copyright laws. We forced Mexico to protect intellectual property like CD's.

In Mexico today, if a compact disc is pirated, there are trade sanctions, criminal sanctions; people can go to jail. But if a worker in Mexico tries to organize and gets fired, they get fired, or if a community is forced to bathe in rivers where toxins run, there are no sanctions, there is no enforcement, there are just consultations; all they get is talk.

Four years ago, almost 4 years ago, during the NAFTA debate, many of us came to this well and on this floor and we argued that America needs a trade policy that will work to open new markets in the same way it works to protect labor rights and environmental rights and jobs, because history has shown that if we do not address the environment and wages and working conditions directly in our trade agreements, they never get addressed at all. But of course these things were left out of the core NAFTA agreement, and America has paid a price.

I remember in debating NAFTA, we had a $2 billion trade surplus. We had a surplus. We had a surplus. We had more going out. We were producing here and sending more out than was coming into America. But today our trade deficit with Mexico has reached a record $16 billion, and workers in the maquiladores no longer make $1 an hour, as I said, they make 70 cents an hour. Along the border, the environment is still so bad that the American Medical Association recently called it a cesspool of infectious diseases.

Seventy percent of the cocaine coming into America and 25 percent of the heroin now comes in from Mexico. Why? Because NAFTA opened up the border. And down in Texas, 11,000 trucks now pass over the border every day. They call it the wave line. For every truck that gets inspected, 199 do not. They just wave them through.

In New York a few weeks ago, a policeman pulled over a truck, they opened the door, they saw bananas. Once they started to dig, they found bundles of cocaine. And it is happening every day. Drugs are coming in, jobs are going out, wages are being suppressed, benefits are being lost by our workers, and we know corporations are not going to do anything about it.

The multinational corporations are doing just fine paying people 70 cents an hour; they are doing just fine with an open border. Yet, when workers in Mexico try to organize, try to form unions, try to fight for better pay for their families, try to take away that bargaining chip, what happens? They get arrested, they get thrown in jail, and for 4 years, 4 years ago, we as a nation put our stamp of approval on all of this when we passed NAFTA.

Today, supporters of NAFTA want to expand NAFTA to new countries. Many of us believe that before we expand it, we have to fix it.

So the question we face as a nation today is simply this: Are we willing to use our political power and leverage to raise the standards of other countries to our level, or are we simply going to let ourselves get caught in the game of, how low can you go? Are we willing to argue that human rights and labor rights must be a part of any agreement?

In the fight to stop this spiral to the lowest common denominator, labor unions must play a role.

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Multinational corporations have a global strategy. The labor movement needs to have a global strategy as well. Labor needs to link arms abroad and fight for common values.

We saw what happened in Poland. Labor support for Lech Walesa helped create worldwide support for the Solidarity movement.

We saw it happen in France. Not long ago, metalworkers from Germany joined arm in arm with their Parisian counterparts to protest unfair demands of a company based in France. Together, they forced the company to back down.

To have leverage against corporations in other nations, you need to have strong countervailing forces in those nations to back them up with collective ideas that matter. That is why it is so important that organizing in other nations is vital.

I would like to see American labor do the same thing in Mexico, Indonesia, and countries throughout the Third World. American labor needs to lend their experience and expertise to help workers in Mexico organize. I would like to see union members from America and Europe work together to raise the wages in the Third World, and we should not be afraid to go after corporations who want to sell in our markets, but exploit people on our own border.

Let me give a couple examples. In Pakistan, the labor movement, working with religious leaders and community leaders, helped expose corporations who forced kids to stitch soccer balls. These kids were 6, 7, 8 years of age, working huge, long days and weeks in factories.

In India, we now have a rug mark that says "This carpet was not made with slave labor."

Of course, who could forget Kathy Lee Gifford and Wal-Mart. When labor helped expose the sweatshop conditions Wal-Mart was forcing some people to work in, it started a national crusade that shamed Wal-Mart into changing its ways.

So if we can bring public pressure to bear across international lines, it will and can have an effect. The more we can hold one corporation accountable, the more we will make others wary.

But let us also understand this: There is a difference between the real threats of the global economy and the perceived threats of the global economy. What do we mean by that? For all the very real dangers, the global economy directly affects just one-fourth of all the jobs in America today. Beth Shulman's article in last December's American Prospect points out that 77 percent of the jobs in America are out of reach of global competition.

There are more people today working in dental offices than are working in the auto industry.

There are more people working in Laundromats than are working in steel-mills.

Columbia Hospital system employs more people than Chrysler.

McDonald's employs more people than General Motors.

Yet, the model we have based our image on is the same manufacturing model we focused on 50 years ago. By doing so, not only are we skewing the reality of the global economy, we are playing into the fears that the threat of the global economy is greater than it really is. That, in turn, creates a sense of powerlessness across the entire economy.

Not long ago I heard a story about a company in Ohio that announced it was moving to Mexico. As a result, both hospital workers and McDonald's employees were all worried about losing their jobs. But the hospital and the restaurant were not going anywhere, but the very fear of moving convinced those workers not to push for salary increases.

While we need to address the very real problems about jobs going overseas, we need to be realistic about its scope. There are enough barriers to organizing unions today. The power of corporations, legal barriers, technology, a shrinking job base, are all tremendous hurdles to overcome. Labor needs new tactics to meet these challenges.

Labor needs to reach beyond its traditional constituencies, it needs to put more resources into organizing, it needs to reach out to younger people, like the thousands of college students who participated in union summer last year.

If a majority of workers are fed up and decide they want a union and they sign a union card, they should have a union. They should not be forced to jump through hoops for 8 years to carry out their constitutional rights. In Canada, they have what is called a card check. It works this way. If a majority of workers sign a card for a union, that is it; they get a union. For too long the National Labor Relations Board has been used to making it as difficult as possible to organize new members. But that cannot stop us.

Labor needs to enlist the whole community: the churches and religious leaders, community activists, responsible local businesses. Everyone needs to involve themselves and understand the link between workplace issues and community issues.

I believe labor needs to take on more struggles that help it create and recapture this moral authority that I am talking about. That is why I believe this weekend's march with the strawberry workers in California is so important.

The strawberry industry is a $650 million industry. It is run by some of the largest corporations in America, including Monsanto, where senior executives get paid million-dollar salaries. Yet, the people that are working in the fields get paid $8,000 a year, often working 12 hours a day with no job security, no pension, no health care, often no clean drinking water, no decent bathroom facilities, working every day with dangerous pesticides and dangerous toxins, and most of them have not seen a raise in 10 years.

Last year they had elections across strawberry country. Workers voted overwhelmingly to be represented by the United Farm Workers. But instead of giving workers a raise, do you know how the corporations responded? Some of them fired people, some of them skipped town, some of them even plowed under their own fields. Of course, most of them immediately brought in consultants.

But the strawberry workers of the United Farm Workers have not given up. This weekend, tens of thousands of men and women from all over the country will be traveling to California. I will be joining them. We are going to March arm in arm with the United Farm Workers, and we are not going to give up until strawberry workers have the right and dignity they deserve.

So, the more that labor can regain moral authority in places like the strawberry fields of California, the more it will help them in the steelmills of Pennsylvania and the hospital wards of Texas.

We may be living in a profound time, a time of profound insecurity, and we may be living in an age when multinational corporations are running amuck, when the gap between the rich and the poor is growing and people seem to be more disconnected every single day. But I do not think for a second that it means they are disinterested. People do not want to see hard work go unrewarded. They do not want to be treated like garbage.

They do not want to read stories about layoffs and downsizing. They do not want to see a $776 million payoff. They do not want to read stories about Asian sweatshops. They do not want to be left alone to face 5 billion other people in the world economy.

They want to believe again. They want to believe that things can get better. They want to have control over their lives. They want to be part of a community. They want to believe we have larger purposes as a nation. That is what the union movement in this country is all about.

It is not unions who have rigged the game, Mr. Speaker. It is unions who have fought for decency for working families and a greater vision of democracy. They have fought against the billions of dollars of corporate special interests that is arrayed against them every single day. They have fought against the multinational corporations that know no allegiance to any country and move jobs overseas at the drop of a hat. They have fought against runaway corporate greed and its destructive effects on our communities and our values. Always they have fought against the odds. They have organized when guns and nightsticks have tried to beat them down. They have pooled their resources to get out the truth, even as corporations have outspent them by hundreds of thousands of dollars.

Unions have shown average Americans that they have real power, that they can have a larger voice, and that working together, people can make a difference. If we have the courage to try new things, to believe in old values, and to work together to make it happen, I believe unions can lead America into the 21st century. More than that, we will reconnect people to this democracy. We will make them feel a part of something larger than themselves, and we will give them a reason to believe again. That was worth fighting for 50 years ago, and it is worth fighting for again today.

So in conclusion, I say that I look forward to engaging in this debate about unions and people coming together, banding together for decent profits, decent wages, and decent working conditions; because it was the working men and women who stood up and fought those who would perpetrate greed, who got us the 8-hour day, the 40-hour work week, wage increases, Medicare, Social Security, educational benefits, protection at the work site. That movement helped create the most powerful middle class in the history of this planet. It is that movement, again, that will be needed to counter the forces that are trying to drive peoples' wages and drive peoples' benefits and drive peoples' dignity and respect into the ground.

So let us have this debate. I am ready. My colleagues are ready. We are willing to debate the Speaker and his colleagues on the issue of working men and women and their right to collective bargaining. It is a right that was put together, culminating 30 years of prosperity unknown in the history of this planet. We believe, again, that the movement that brought us these rights is ready to take its appointed place in American society.

REPORT ON TRIP TO ASIA LED BY SPEAKER NEWT GINGRICH

The SPEAKER pro tempore [Mr. HASTINGS of Washington]. Under the Speaker's announced policy of January 7, 1997, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 60 minutes as the designee of the majority leader.

Mr. BEREUTER. Mr. Speaker, the purpose of the special order I have taken out today is to relate to the House and to the American people the details about a trip to Asia led by the Speaker, the gentleman from Georgia [Mr. GINGRICH], and 11 other Members of the House during the period of March 23 through April 2 of this year.

Accompanying Speaker GINGRICH was the senior Democrat in the House of Representatives and the senior Member of the House, the gentleman from Michigan, Mr. JOHN DINGELL, the gentleman from Louisiana, Mr. ROBERT LIVINGSTON, the gentleman from Ohio, Mr. JOHN BOEHNER, the gentleman from California, Mr. CHRIS COX, the gentlewoman from Washington, Ms. JENNIFER DUNN, the gentleman from Florida, Mr. ALCEE HASTINGS, the gentleman from California, Mr. JAY KIM, the gentleman from California, Mr. ED ROYCE, the gentleman from Louisiana, Mr. WILLIAM "JEFF" JEFFERSON, the gentleman from Florida, Mr. MARK FOLEY, and this Member. Also accompanying us on part of the trip, that part relating to China, Japan, and Taiwan, was the junior Senator from the State of Florida, CONNIE MACK.

Mr. Speaker, in this trip we visited the following cities, in this order: first to Seoul, Korea; then to Hong Kong; to Beijing; to Shanghai; to Tokyo; and to Taipei, Taiwan.

As the chairman of the Subcommittee on Asia and the Pacific of the Committee on International Relations, some 2 years ago when I took control and chairmanship of the subcommittee, I set out three guiding objectives. The first of those objectives is to maintain our military and naval strength in the Pacific region, because it is in our national interest, and because our military and naval forces there are a source of security for the entire region. I think it makes it much less likely that we will have extraordinary arms races in East or Southeast Asia, as long as a military presence is there from the United States.

Indeed, it is rather remarkable that every nation in the region, with the possible exception of North Korea, wants the United States to be there in that significant role. Constantly we are asked whether or not the United States is there and will retain its forces there in the foreseeable future.

The second guiding objective is to maintain and in fact enhance our economic presence in the region, our business presence, our export presence, our American business activity, including investments.

Third, rather than check them at the door, the guiding principle will be to take American objectives and principles to Asia and continue to push for their introduction and sustenance. They would include, of course, the rule of law, a democracy, free and fair elections, and human rights, as well as taking economic freedom to the region.

Those are the objectives that were pursued by the Speaker's CODEL to

Asia. I am very pleased that so many of my colleagues, in a bipartisan effort, made this trip. I would like to begin very briefly, until I am joined by the Speaker and other Members.

First of all, I would mention as an overview a few things about the countries that we visited.

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First, the Republic of Korea, which we know, of course, is South Korea, this is our fifth largest trading partner. Our exports to the Republic of Korea exceed $30 billion with a trade surplus of about $3.9 billion during 1996.

Our meetings in Seoul, South Korea, oriented Members regarding the problems of instability and deep economic and food problems in North Korea and the nature of North Korea's military threat to South Korea. We had top level access to South Korean Government officials, including an hour with President Kim Yong-sam, who took all of our questions and then honored our visit with a subsequent luncheon in the Blue House.

We visited the demilitarized zone, a very unusual place, I must say, on this planet and participated in military briefings by the commander of all United States forces in Korea. The Speaker also had an opportunity to visit the officers and troops of the U.S. Army 2d Division in their forward sector on the DMZ. We have about 37,000 American military personnel in Korea, most of them forward based along the DMZ. And that, of course, does not include military dependents and civilian members of the U.S. Government.

I will also briefly mention our trip to Japan before we proceed to discussion of China, even though it is out of order. In Japan we also had access to top leadership, including a breakfast and question and answer period with Prime Minister Hashimoto. He assured us that in the next few days, at that time, he would lead an effort to proceed with the extension of leases for the reconfigured United States bases in Okinawa, even if it jeopardized his government.

The trip reemphasized the fact for all of us that Japan is our most crucial military ally in East Asia. The fact that it has the second largest economy in the world by a wide margin and the fact that the state of our military and political relationship with Japan is excellent. However, we continue to have major trade difficulties with Japan, and several of us raised trade issues with the Ministry of International Trade and Industry.

Mr. Speaker, I yield to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, the gentleman from Nebraska [Mr. BEREUTER] is the chairman of the Subcommittee on Asia and the Pacific and was a tremendously important part of our trip.

It was a very important, I think, congressional delegation to Asia. We had a very strong membership of that delegation and representing both key Democrats and key Republicans here in the U.S. Congress. Overseas we had no partisanship. It was entirely one team functioning as Americans. In fact, on issues such as market widening, giving Americans more access to sales in other countries, we would have both a Democrat and a Republican making the case to make sure that people understood that we were united as one country in insisting on economic opportunity for Americans.

Let me just say for my part that I thought there were a number of lessons to be learned. First, we visited South Korea and visited the fine young men and women of the 2d Division who are protecting South Korea and who are risking their lives on the North Korean border and who are spending a year away from their families in order to defend their country and our allies.

It was very clear to me, first of all, that Seoul is now a capital of 13 million very increasingly prosperous people in an increasingly democratic society with a free press, free elections and all of the turmoil and challenges of freedom, and that that is true in large part because it stands behind the shield of American defense.

So one of the lessons I took out of this trip was that we need to make sure that our young men and women in uniform have the finest weapons that science and engineering can develop so that those weapons and that training gives those young men and women the best possible chance to survive in combat and that we who are here at home owe it to those who risk their lives and spend their courage to invest in the kinds of defense which will make it effective and save their lives.

Second, that it is very clear that we need missile defense systems, both ballistic missile defenses and cruise missile defenses, because the greatest threat to the lives of our young people and the lives of our allies come from missiles that could be launched from North Korea or elsewhere. And unless we have systems to defend against those missiles, I think we have a problem.

I will say, in terms of my recent commitments on economic growth and my discussions of eliminating the death taxes and eliminating taxes on savings and job creation, one of the things which impressed me when we were in Korea was that they were worried about growth declining to 5.8 percent a year. That was a drop to 5.8 percent a year. We went to Hong Kong, where we saw 6.5 million people, possibly the highest per-capita income in the world, an island, some peninsulas, no natural resources, no automatic reason to be successful, but the courage, the hard work, the entrepreneurship, the intelligence of the people of Hong Kong had given them a tremendously vibrant system.

And part of the reason was because they were in a situation where their tax code and their structure of government gave them the best of both low interest rates and low taxes. People in Hong Kong pay a top rate of 15 percent. Only 40 percent of the people pay that top rate of 15 percent. They have had a balanced budget for about 30 years. They have a $19 billion surplus, their rainy day fund, which is actually paying interest.

They insist that their public services be lean and effective and that they have civil servants rather than bureaucracies. And they insist, for example, that their mass transit actually pay for itself. And it is in that kind of a framework that it was very impressive to see the commitment that they had made to an economically vital future.

We saw similar vitality in China where we were in Shanghai and saw 17 percent of the world's construction cranes, according to the World Bank, literally 1 out of every 5 construction cranes in the entire world is in Shanghai and its major economic development in an area called Pudong. Interestingly, the Pudong region, which is right across the Huangpu River in Shanghai from the original city, was farmland 8 years ago.

We were able to look out. We went up a tower and looked out and saw 150 highrise buildings simultaneously under construction. The reason is simple, they have very low taxes, tremendous incentives for investment. They are committed in the Shanghai area to the world market. And this is the great dilemma I think the entire delegation found in dealing with Hong Kong and in dealing with the People's Republic of China.

On the one side there was great economic growth, increasing economic freedom, increasing commitment to the world market. On the other side there was a dictatorship in Beijing which still has many of the unfortunate repressive police-state characteristics of a classic dictatorship. And so we were faced with a challenge of encouraging the Chinese Government in Beijing to understand that Hong Kong works because of freedom. The freedom is indivisible. Economic freedom, religious freedom, and political freedom are connected together.

And when you start breaking down one of those freedoms, the other two are not far behind. And I must say that I am very disappointed today, and I understand my colleague from Florida is going to spend more time on this, but the gentleman from Florida [Mr. FOLEY] and I were just discussing the article on page 1 of the New York Times, quote, right to protest in Hong Kong to be cut back, close quote, is exactly wrong. It is exactly what this delegation urged the Chinese Government not to do. It is exactly what this delegation urged Mr. Tung not to do.

And I must say, I am very disappointed by this initial proposal and regard it as a step away from freedom and a step away from what they called two systems in one country. They did not talk about 1½ systems. They talked about two systems. The system of Beijing and the system of Hong Kong. And we kept trying to tell them, for Hong Kong to truly be a unique system, it must have freedom of speech. It must have a free news media. It must have free elections. It must have an honest, independent judiciary. It must have the rule of law. And it must have a law abiding and incorrupted Civil Service.

This is, I think, a very sad day for us to be looking at this report from Hong Kong. I hope it is wrong. I hope that Mr. Tung will withdraw these proposals, because I think they are destructive of our understanding of where Hong Kong should go.

We were quite candid about that. We hope that the reversion will work. We understand why the Chinese Government is excited. It is legitimate for China to want Hong Kong back. It is their national territory. But if they, in the process of reversion, destroy freedom, they should not be surprised to see the West react negatively. And they should not be surprised to see difficulties in Hong Kong. So I hope they will reconsider what we learned today.

Let me say also that in Japan we were very impressed with the Japanese Government and the Prime Minister. Their commitment to a continued Japanese-American military relationship I thought was very, very important. And I think that all of us left Japan with a feeling that we have a very good friendship and that that is truly the base of our policies in Asia and that the Japanese-American alliance is strong and sound and both sides understand its importance.

I must say that on the economic front, we were probably as aggressive with the Japanese as with any government we met with, in saying that now that they are the second largest economy in the world, that they have an obligation to open up their society, to have the kind of open markets that are legitimate, that for many, many years the United States has been generous to the world, for many years we have been the most open market in the world, but there is some reciprocity that is required. And I must commend the gentleman from Michigan [Mr. DINGELL] in particular, who made a very impassioned and very aggressive speech in favor of Japan being more open in its markets.

We had a very good meeting in Taiwan. Taiwan is an illustration of the changes we are trying to encourage. We met with the first democratically-elected President in the history of China. We met with the speakers of the yuan and the upper house in a democratically-elected free legislative body. There is free news coverage, and we had a press conference that certainly indicated they had a free press in Taipei. That is the situation that we faced, where we saw that freedom is possible and that we hope that the mainland Chinese will decide that Taiwan and Hong Kong are the wave of the future, not repression and dictatorship.

We indicated clearly, both in Beijing and in Taiwan, that we favor a continuation of the bipartisan one China policy.

I did say, on behalf of the House, which had voted 369 to 14 last year that we would defend Taiwan against unprovoked aggression, that the People's Republic of China has an absolute obligation to pursue the dialogue about one China with the people of Taiwan in a peaceful manner and that the United States would not accept an attempt to conquer Taiwan. We were also candid in Taiwan in emphasizing our commitment to a one China policy and that no one should engage in unilateral activity.

I want to thank my colleagues for working with us on this tremendous trip and say to the House that in three speeches, one in Hong Kong, one in Beijing and one in Tokyo, I tried to speak for the House about the centrality of freedom in understanding America, that we truly believe our Declaration of Independence, that we truly believe that these are truths that are self-evident, not propositions, not debating points, but truths that are self-evident, that we truly believe that we are endowed by our Creator with certain inalienable rights, and that means frankly that the rights Americans have and the rights that all human beings have across the planet are rights that come from God, not from politicians, not from lawyers, not from bureaucrats, not from the military or the police but from God, and that those rights, among which are life, liberty and the pursuit of happiness, mean at their heart that the right of free speech, the right of religion, the right of assembly, the right of a free news media, the right of free election, the right to the rule of law, the right to expect your government Civil Service to be honest and uncorruptible, that these are at the core of what we believe in.

We tried to say to the Chinese, yes, we understand how excited you are at getting Hong Kong back, but you have to understand that we have the same emotional excitement about freedom, that to discuss freedom is to define being an American. And to ask an American to come to China and not talk about freedom is to ask an American to not be talking about America and to not talk about the values that make us the country we are.

We also felt that while that discussion should be respectful, should be positive, should be pleasant, that plain truth, spoken honestly, was a legitimate goal of friendship, that we had an obligation to talk openly and candidly about exactly what we thought was going on and to represent the values and the beliefs that we share.

Let me close my part of this by saying two things about dedication. First, as an Army brat whose father served in the Korean war and served later in Korea during his military career, to me it was very meaningful, whether it was at airbases or with the infantry of the 2nd Division, to see these young men and women who are prepared to train every day to be on the demilitarized zone with the special units and, again, today is the day when we have heard there has been an incident involving the North Koreans, to recognize that just north of them is a country that we frankly do not know very much about. I think it is very important for my colleagues to understand this.

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Despite 44 years of studying North Korea, despite the fact that 37,000 of our young men and women and their families are at risk, the simple truth is that we do not know very much about this dictatorship, and it should remind us why it is important to be militarily prepared for capabilities and not simply diplomatically prepared for intentions, because the truth is, we do not know what Kim Chong-il's intentions are, we do not know what makes his government work, we do not know what their values or their plans are, and so we must be prepared for worst-case situations.

So I want to praise those who risk their lives and serve their country, because that dedication at the demilitarized zone and across not just South Korea but we met with young men and women also in Japan serving at air bases at Misawa and Yokota, a tremendous sense of commitment; the young men at Elmendorf living here at home in Alaska but nonetheless part of the same team; the young men and women of the Air Force team who went with us and who carried us across the region.

I also want to say a word on behalf of the Members and staff who went on this visit. This was a long, hard-working delegation. We had many, many meetings. In one day in Beijing, we had six major negotiating sessions, just in one day.

We sought to represent America. We had coordinated with the Clinton administration. We had talked with the National Security Council. I had talked with the Vice President and the President and the Secretary of State, and we saw it as one unified team to represent America. And I was very proud of my colleagues and the work they did and the way they stood up for our values, they stood up for our economic opportunities, and they made clear our commitment to peace and freedom and security in the region.

And now under the unanimous consent, as was previously agreed to, I am going to yield back control of this, if I might, to the chairman of the Subcommittee on Asia and the Pacific, the gentleman from Nebraska [Mr. BEREUTER], and ask him to recognize various Members.

Mr. BEREUTER. I thank the Speaker for that excellent summary and inspirational discussion of really what he, as leader of this delegation, and what this delegation attempted to achieve while we were on our Asia visit.

With the indulgence of my colleagues, I am going to go back to take another 4 or 5 minutes to try to set the stage as I did with respect to Korea and Japan, and then I will call on Members. I think we have sufficient time. In fact, the gentleman from Michigan [Mr. DINGELL], has a special order hour as necessary.

But let me now go briefly to Hong Kong, the PRC, and Taiwan, and discuss them as a whole. The economists refer to this today as a greater economic China.

Certainly a major focus of our trip was a cluster of issues related to Hong Kong, China, and Taiwan. We intentionally visited Hong Kong first among these elements of greater economic China because of the imminent reversion of Hong Kong from British rule on July 1, 1997, to China, where it will become a special administrative region within the People's Republic of China.

American interests in Hong Kong are huge. With more than 1,100 American businesses located there, 450 of them are regional headquarters. In fact, it is the largest American Chamber of Commerce abroad in the world. With more than $14 billion of American investments there and about $14 billion in American exports to Hong Kong last year, we actually had a surplus with Hong Kong of $4.1 billion. Therefore, the United States Government and the American people are very concerned about the Chinese keeping their promises under the Sino-British accord of 1984, which assured Hong Kong's autonomy from the PRC in all matters but defense and foreign affairs.

In short of Deng Xiaoping's policy, China has had a two-systems-in-one-country arrangement. This will be an important but very challenging task for the Chinese even though they understand the importance of Hong Kong to their economy, and especially with their trade to the outside world.

We discussed these and other important issues with Hong Kong Chief Executive Tung Chee-hwa, American and Hong Kong business interests, human rights activists, representatives of the news media, a diverse panel of religious leaders, and the critics of China on the existing legislative council. We also met with British Governor Chris Patton at considerable length and had a very candid and informative discussion.

We made it clear to all interested parties in Hong Kong and to Chinese leaders in Beijing that we want the Chinese to keep their promises of a high degree of autonomy for Hong Kong and that we wish them every success in implementing their two systems/one country concept. This will be an important precedent for the eventual peaceful, noncoercive unification of Taiwan with mainland China, an outcome that is consistent with our long-standing bipartisan, one-China policy.

In Beijing, we expressed the same interest and concerns about the Hong Kong autonomy issue. We made it clear that we would be observing their progress in keeping their promises and that the Congress of the United States in the 1992 Hong Kong Policy Act authorized the President to modify United States law with respect to Hong Kong if these promises were broken.

We indicated our willingness to assist the Chinese in understanding the importance of ensuring that second system within China for Hong Kong which preserves the rule of law, freedom of press, civil liberties, free and fair elections for the legislature, and what is thought to be the most advanced state of economic freedom in the world.

Also in Beijing, Speaker GINGRICH spoke for the entire delegation in reconfirming our support for a one-China policy. He stressed that unification with Taiwan must be by peaceful means and reiterated the formal United States House position and congressional viewpoint that the United States would defend Taiwan against an attack and that unification would only take place by peaceful means. This direct statement was delivered in a nonhostile manner by Speaker GINGRICH and actually was surprisingly well received by the Chinese leadership, including President Jiang Zemin. Rather than the usual anti-Taiwan tirade, the key leaders said only that they had no intention of attacking Taiwan, and we went on to other productive items of discussion.

We also made it clear to both sides, including the Taiwanese, that they should avoid provocative actions. In Taipei, these comments were reiterated, and in fact it was specifically mentioned that Taiwanese or Taiwanese American campaigns for United Nations membership for Taiwan are provocative and serve no useful purpose since China would veto such an initiative in the Security Council. I found it particularly interesting that President Li said to us that his government would not push for independence, they had no intention of doing so.

Speaking personally, I would say that I believe it is clear to the Chinese and to the world community that making the two systems/one country policy work in Hong Kong can be an important precedent in the reunification of Taiwan with China.

Also, I would note that this Member encouraged President Li of Taiwan to proceed energetically to make the changes necessary to come into the World Trade Organization, the WTO, as soon as possible, changes that would include reductions in tariff and market access changes. I specifically urged them to reduce the tariffs on processed foods so that American exporters can exploit this Taiwanese market, and Taiwanese consumers will benefit from lower food prices and a greater selection of goods.

Additionally, I stressed my own view that Taiwan should be allowed WTO membership before the PRC if the changes it makes satisfy WTO membership. That possibility also gives us increased leverage to succeed and to successfully demand changes from the PRC for WTO membership.

In summary then, and in conclusion of my comments, in my view, our meetings with the Chinese officials on the mainland in Beijing and Shanghai were amazingly positive and productive, particularly in view of the fact that Speaker GINGRICH and the bipartisan congressional delegation would subsequently visit Taiwan, and they knew we intended to, and thus he would be the highest-ranking official and we would be the highest-ranking delegation ever to visit Taiwan since the Taiwan Relations Act was enacted in 1978.

The Chinese Government gave us top-level access and gracious, nonbelligerent meetings, even expressing their interest in initiation of an interparliamentary exchange between the United States House and the National People's Congress.

I would now be very pleased to yield on a seniority basis to the distinguished gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the Committee on Appropriations, and I yield such time as he may consume.

Mr. LIVINGSTON. Mr. Speaker, I thank my friend for yielding and apologize to my colleagues for intruding, but since the Speaker has asked me to be at another meeting right now, I appreciate your courtesy for letting me proceed briefly at this point.

I also want to identify myself with the gentleman's comments and with the comments of Speaker GINGRICH. The fact is, Mr. Speaker, that this delegation was the highest-ranking delegation ever to appear not only in Taiwan, but it is the highest ranking one that I have ever been engaged in where the Speaker of the House, the dean of the House, Mr. DINGELL, and various committee chairmen, ranking subcommittee chairmen, and ranking members all gathered together to go to these five sovereign areas, South

Korea, Hong Kong, China, Japan, and Taiwan.

It was an extraordinary sequence of events. In each country we met with the very top leaders, and in many instances we had several separate meetings with top leaders, and in each country, under the leadership of the Speaker of the House, I think our delegation presented a cohesive, coherent, and articulate view of American policy.

I was extraordinarily proud of the way that Speaker GINGRICH and the gentleman from Michigan, Mr. DINGELL, and all the other Members conducted themselves throughout this entire process. It was exhausting. We worked all day long every day throughout the trip. No sooner had we recovered from several days of jet lag than we were engaged in more meetings. Then it was time to come home, picking up jet lag on the way home as well.

But the delegation, under the leadership of Speaker GINGRICH, spoke out on behalf of free speech, freedom of religion, the right to assemble, and a free press. We stood up for the real democratic values now embodied in Hong Kong and did everything possible in all of those countries to assert the American viewpoint that democracy should be maintained in Hong Kong after the transfer to mainland China.

We held steady with that message all the way through the trip, not only in Hong Kong but through Beijing and Shanghai and beyond. We stood fast for American presence in the Pacific, the prerogatives of America, the remaining superpower, to maintain its policy as a strong Pacific-oriented nation.

We stood strong concerning the relationship between Taiwan and mainland China, saying that if there was provocation, we are going to be there; we are going to defend our friend, Taiwan; so there should be no provocation, and that should not be misunderstood. The messages were not blurred and they were very clearly reported by the press. Regardless of whether the press was friendly, antagonistic, or cynical, invariably the reports from the trip came out positive.

And I just want to say that as a Member of this Congress for almost 20 years, I have never seen as productive a congressional delegation as this one was, nor have I seen as cohesive a delegation, between Republicans and Democrats alike, majority and minority, working together steadfastly, going to meetings and expressing what, in my view, was a united viewpoint of American policy in the Pacific.

It was a privilege to have been on the trip and a special privilege for me to watch the Speaker of the House in action. This man is tireless. He never slept for more than 5 hours a day, and yet he was constantly reading, absorbing, thinking, meeting, speaking, strategizing, synergizing, and synthesizing. He was a whirlwind of activity, and in every instance he represented our delegation and our country with remarkable agility in an articulate fashion.

So I am pleased to associate myself with the remarks of my friends and colleagues who will speak after me on the positive results of this trip. It was a significant opportunity to have been in this delegation and on this trip to these Pacific countries, and I really, really do think that it did a lot of good.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for his great comments, and I know that I speak for all of my colleagues in thanking him for his role in this delegation. And the gentleman did not mention, but the Speaker called meeting after meeting after meeting, including at 9 o'clock at night or later.

Mr. Speaker, I now yield to the gentleman from Florida [Mr. FOLEY] for any remarks he may wish to make.

Mr. FOLEY. Mr. Speaker, I thank the gentleman and would say, of course, that the gentleman from Louisiana [Mr. LIVINGSTON], spoke eloquently about the Speaker's great presentation on behalf of the United States of America, our ideals, our goals, our vision for this world we live in, but it did not hurt to have the chairman of the Subcommittee on Asia and the Pacific, the gentleman from Nebraska [Mr. BEREUTER] along; the chairman of the Committee on Appropriations, the gentleman from Louisiana [Mr. LIVINGSTON] the ranking Democratic Member of the House, the gentleman from Florida [Mr. HASTINGS]; and the chairman of the Subcommittee on Africa, the gentleman from California [Mr. ROYCE].

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What I noticed was that the leadership of all the countries took extremely seriously this visit because of the fact that the leadership of Congress had taken time out to visit them and discuss the issues that face us. One issue we raised on behalf of the environment was Taiwan has contemplated sending its nuclear waste to North Korea. North Korea is in desperate need of financial assistance, if you will, to prop up their rogue regime. Seventy million is the number that is bandied about that they will receive in order to accept nuclear waste.

What assurances do we have that that nuclear waste, once brought to North Korea, will be properly disposed of? None. President Lee, upon the notification from the Speaker that we were deeply concerned with the environmental consequences to South Korea and to our entire planet, took due note and suggested he would revisit that issue and carefully consider it, because he did not want it to be a geopolitical problem, he did not want it to be a stress on relations with the United States.

Again, I want to enter into the RECORD the fact that we raised the issue, we will continue to pursue the issue, we do not want to see Taiwan send its nuclear waste to North Korea under any circumstance.

We also had an opportunity to raise issues of trade. We were fortunate in being joined by Congressman JEFFERSON and Congresswoman DUNN, both on Ways and Means, to talk about issues that are important to Congressman HASTINGS and myself from Florida: The introduction of citrus from our State to the People's Republic of China which has currently been banned; the protection of our intellectual property rights; our copyrights; our enforcement of the things that we hold dear, the movies, the CD's, the technology, software that is being pirated and sold on the streets for 1/1,000 of its value, depriving both the owners and creators of their due payment for those rights.

So we raised those issues. But I think, more than ever, we raised the consciousness of the people that we visited. We found a people in China wanting to be free, that will propel what I believe is their own democracy, with some nudging by us, to seek free elections as they have had in Taiwan.

But I will again go back to what the Speaker urged caution on and I will obviously suggest, as many newspaper articles have suggested recently, that MFN, most-favored-nation status, is not guaranteed, is not guaranteed business-as-usual in this Congress; and that when you read in the New York Times, in a severe blow to civil liberties, the man appointed by China to run Hong Kong announced plans today to impose more stringent controls on the right of public protest and free associations, certainly is not a reflection of the meeting we attended, where he stressed it would be an open affair country, that things would be smooth, that the process of coming back into the fold in China would be orderly and observing the rule of law.

So again I would send that caution as well, that we made some valuable points. We hope that the lessons and the things that we tried to share with the Chinese Government and others is not lost, and we would sincerely urge Mr. Tung to evaluate his recent comments and ensure the democracy of this country.

I was proud, as an American, to be on the trip. As was mentioned, the Speaker, I do not think he got 5 hours of sleep. I think it was 3. One of the things that I think most impressed our hosts was his tremendous grasp of the historical occurrences that happened in Japan, in China, Taiwan, Korea. He was able without note to speak extemporaneously about events that had occurred in their country, not just in the last 10 or 20 years but the last 1,000, 2,000 years, and was able to bring that reflected history forward in analogies and examples.

I think when I watched the faces of the Presidents of those countries, saying, this man has not just come here with a printed text to give us; he understands our culture, he understands the dynamics in which we have operated, he knows that it is stressful when you change governmental policies or governmental operations; but he came with such authority and such strong presence that the mission was that much more successful because of his being there, obviously as Speaker of the House, third in line to the Presidency, but more importantly, that he was so phenomenally prepared to debate with leaders of other countries the urgent things that we feel important.

I thank the gentleman for allowing me time under the special order.

Mr. BEREUTER. I thank the gentleman from Florida especially for his mentioning the fact that we did bring up the low-level nuclear waste issue on Taiwan aggressively, firmly, clearly, and conveyed our concerns and those of the Republica of Korea.

The Speaker has asked if I would yield next to the distinguished gentleman from Michigan, and I will return then to the gentleman from California [Mr. ROYCE].

Mr. Speaker, I yield to the distinguished gentleman from Michigan [Mr. DINGELL], the dean of the House, the senior Democrat on the Speaker's codel, and the ranking minority member of the Committee on Commerce.

Mr. DINGELL. I thank my good friend for yielding. I want to commend him for having this special order. I think the product of the work of not only the delegation but also this particular special order is going to be valuable to the country. I want to commend the gentleman. I want to commend the Speaker for the work which was done. It was done in a thoroughly bipartisan fashion, and it focused on a number of issues of enormous moment to the United States and to the people of this country. More importantly, it addressed the issues of security and trade in Korea, Hong Kong, the People's Republic of China, and in Taiwan as well as in Japan.

Our interest in Hong Kong was, of course, the question of reversion to Chinese sovereignty which will take place shortly. We met with Governor Chris Patten, with Mr. Tung who will serve as Hong Kong's chief executive officer after the reversion, the financial secretary of the colony, senior legislators, human rights activists, leadership of the Hong Kong Christian Council, members of the United States and Hong Kong business communities, ordinary citizens and large numbers of others.

In China the delegation reviewed a whole broad range of issues with the entire top leadership of the People's Republic. I must say in these two, and in all of the other activities in which the delegation functioned, it functioned in a thoroughly and completely bipartisan and proper fashion.

The delegation's focus in Japan was economic, again, and security issues. We met with the Prime Minister, the Foreign and Defense Ministers, the Minister of International Trade and Industry, and the Speaker of the House of Representatives, as well as Japan's most wealthy and successful business leaders and the Chamber of Commerce there. Our discussion related to trade, unfair trading practices, opening the markets with regard to all kinds of American exports and the need for achieving a fair and more evenhanded trading relationship with that country. Similar discussions were held, of course, in Korea, which is an area of major concern, as we also discussed these matters in the People's Republic of China.

As a result of the trip, I have come home more firmly convinced than ever that the United States has enormous political, economic, and security interests in east Asia, interests which we are safeguarding and on which we are pledging our interest and determination for the maintenance of peace by having some 37,000 of our fine young men and women standing watch along the most dangerous and heavily fortified border in the world. We spent considerable time inquiring, I would observe to the gentleman as he has already observed, into not only the relationship between the United States and the countries there, but very specifically the situation with regard to North Korea, a curious closed nation which is witnessing with great distress the economic collapse of its economy, with a continued annual decline in economic activity of about 7 percent.

Again, we discussed not only the question of our security but the situation with regard to the North Korean country and what is happening in that unfortunate place and what its meanings are. Does it mean implosion, does it mean explosion, does it mean invasion to the south, does it mean democratic change or some kind of soft landing? The answer is no one knows the answers to these questions.

Mr. Speaker, I want to thank my good friend, the gentleman who has gotten this special order, for the outstanding work that he is doing and does do and for his leadership in this particular matter.

I have recently returned from a 10-day trip to Asia led by Speaker of the House NEWT GINGRICH. The bipartisan delegation, on which I served as ranking Democrat, visited South Korea, Hong Kong, China, Japan, and Taiwan.

In South Korea the delegation focused on security and trade issues. We met with President Kim Young Sam, Gen. John Tilelli, who commands United States Forces Korea, Foreign Minister Yoo Chong-Ha, Korean trade officials and senior legislators, and representatives of the United States business community in Korea.

In Hong Kong our primary interest was in Hong Kong's reversion to Chinese sovereignty, due to take place on July 1, 1997. We met with Gov. Chris Patten, C.H. Tung, who will serve as Hong Kong's chief executive after the July 1 reversion, the Hong Kong financial secretary, senior legislators, human rights activists, leaders of the Hong Kong Christian Council, and members of the U.S. and Hong Kong business communities.

In China the delegation reviewed a range of issues on the United States-China bilateral agenda, with particular emphasis on Hong Kong, Taiwan, human rights, and trade. While in Beijing we had meetings with President Jiang Zemin, Premier Li Peng, Vice-Premier Zhu Rongji, Foreign Minister Qian Qichen, and other senior Chinese officials. The delegation also spent 1 day in Shanghai, where we attended Easter morning services and met with Shanghai's mayor, the chairman of China's Association for Relations Across the Taiwan Strait, and the American Chamber of Commerce.

The delegation's focus in Japan was on economic and security issues. We met with Prime Minister Hashimoto, the Japanese foreign and defense ministers, the Minister of International Trade and Industry, the speaker of the Japanese House of Representatives, and some of Japan's wealthiest and most successful business leaders, as well as the American Chamber of Commerce in Tokyo.

The delegation's final stop was in Taiwan, where we met with President Lee Teng-hui, Vice President and Premier Lien Chan, and Foreign Minister John Chang. Relations between Taiwan and the People's Republic of China, Hong Kong's reversion, the proposed sale of Taiwanese nuclear waste to North Korea, and the WTO dominated the discussions.

As a result of this trip, I have returned to the United States more firmly convinced than ever that the United States has substantial political, economic, and security interests in East Asia, including the maintenance of peace on the Korean Peninsula, where 37,000 American troops stand watch along the most dangerous and heavily fortified border in the world. These interests can be protected only by an active American engagement in the region. The United States is a Pacific power today, and should remain so for the foreseeable future. This will require active and imaginative diplomacy, backed by the presence of approximately 100,000 American troops in the region. I had the privilege of visiting with many of these men and women who represent the United States armed services in East Asia, and I am pleased to report to you that they are an impressive lot—dedicated, serious, committed professionals whom the Nation owes a great debt of gratitude.

China and the difficult United States-Chinese relationship figured prominently in our discussions at each of our stops. We found widespread agreement among the Asian leaders with whom we met that the Clinton administration's policy of constructive engagement toward China offers the best means of safeguarding our interests and pursuing our political, security, and economic objectives in East

Asia. Our relationship with China will inevitably be a rocky one for many years, for we are divided by profound differences. But we also share important interests in common—a desire for peace and stability throughout the region, a prosperous, open global economy, a nonnuclear North Korea that does not threaten its neighbors or disrupt the strategic status quo, a successful Hong Kong reversion process—and it is very much in our interests to remain engaged with this prickly but important country.

During each of our stops, I raised difficult trade issues and preached the need to break down barriers to American products and services. In South Korea I focused on Korean restrictions that block the import of United States automobiles—the government's frugality campaign, tariffs and taxes on automobile imports, vehicle certification procedures, matters relating to financing, and politically motivated tax audits and other forms of harassment—and arranged for meetings outside the delegation's official program with South Korean trade officials and representatives from the Big Three United States automakers. If Korea persists in refusing to open its trading system, I warned, the United States would be forced to reconsider its options, which might include placing Korea on the watch list or initiating a complaint before the World Trade Organization.

In China I emphasized the need for China to accept more United States goods and to take other steps to reduce Beijing's sizable trade surplus with the United States. American support for a policy of engagement, I cautioned, will evaporate unless China treats American business fairly. Opening up China's vast markets, I told economic czar Zhu Rongji, will set up a win-win situation. Not only will such actions strengthen the bilateral relationship; they will also help both countries address their domestic economic problems.

While in Tokyo, I spent considerable time looking into why the import of U.S. autos, while slightly higher in 1996 than 1995, was still so sluggish. I was told that in addition to Japan's well-known trade barriers, the weak yen was now making foreign autos more expensive for Japanese consumers. Tokyo, I warned, must avoid the temptation to deal with its current economic difficulties by aggressively promoting exports that create an even larger trade imbalance with the United States. Japan, we repeated at every opportunity, must do more to open its markets to American goods. While we do not seek special treatment, we have a right to expect the same treatment from Japan that we afford Japanese companies doing business in the United States.

As a result of this trip I have a renewed understanding of how the prosperity and well-being of Americans, including the people of the 16th District of Michigan, is inextricably linked to an active and enlightened American presence in East Asia. Equally important, our delegation was able to spread the word that if the peoples of East Asia desire the fruits of American engagement, they will have to help us shoulder the burdens as well—politically, militarily, and not least in importance, economically.

Mr. BEREUTER. I thank the distinguished gentleman from Michigan for his comments. As my colleagues well know, when the gentleman made his contributions on our trip, it was always speaking from authority and speaking with a complete knowledge of the issue, and it will not surprise his constituents in Michigan to know that among other important economic issues and trade issues he brought up, autos and auto parts in Korea and especially before the Minister of International Trade and Industry were high on the agenda and were articulately addressed by the gentleman from Michigan, in which I joined him.

Mr. DINGELL. If my good friend would yield, with his full support, cooperation, and also with that of the Speaker and the rest of the delegation, for which I thank the gentleman, the Speaker and the other members of the delegation.

Mr. BEREUTER. I thank the gentleman from Michigan [Mr. DINGELL]. Indeed he did have the full support of the delegation in that respect and in all others.

Mr. Speaker, I am now pleased to yield to the gentleman from California [Mr. ROYCE], my colleague from the Committee on International Relations, the chairman of the Subcommittee on Africa. As Speaker GINGRICH reminded everyone on the trip, he is also the Republican who has the district which contains more Asian-Americans than any other Republican member.

Mr. ROYCE. I thank my good friend for yielding. I want to thank Speaker GINGRICH for putting together this delegation. The Congress plays a key role in making our country's foreign policy and a trip like this gives us a much better understanding of the important issues we decide each year. We worked hard, it was grueling and we made the most of our time, and the Speaker of the House deserves our thanks.

It is important to me that this was a bipartisan delegation. America stands tallest when its foreign policy is widely supported. One of the things all of the members of the delegation agree on is the importance of Asia. There is no question the security and the prosperity of the United States is on the line. We saw this in North Korea when we visited some of the 37,000 American service men and women in Korea. These are Americans who believe passionately in their mission. Their mission is maintaining peace and helping to run out the clock on one of the last vestiges of the cold war, the last Stalinist regime there in North Korea. As we talked to the young men and women of the Second Division, many of them from California, from my home State, doing the job that they do in this most difficult of conditions, it was a great honor. It was a great honor for us. We owe these Americans our strongest support, including, in my view, the best missile defense system that we can give them.

We saw the importance of Asia when we visited the American business men and women in Hong Kong who are the center of Asia's pounding economic heart there in Hong Kong. They are bringing America's economic prowess and our exports to this booming region. We saw it when we visited Taiwan, which has moved now to democracy. Asia in general has made strides toward economic prosperity and political freedom, and America is stronger and safer because of this. But I think the stakes are high. We would suffer great damage if we decided that the world's greatest Nation should disengage in the Pacific. That is no course for us to take.

Some of the lessons learned on this trip. We learned that America is viewed as the world's greatest nation. Our Government is respected the world over. Our economy has produced amazing prosperity. But there are lessons to be learned from the countries we visited, and the Speaker stated, I think yesterday, he said, "I believe our economy can do better."

Well, our economy runs at a rate of less than 3 percent growth. That is what we are stuck with a year. And here we are viewing these Asian economies, South Korea where the growth rate was 9 percent last year. Taiwan at 7 percent. These are growth rates 2 and 3 times the rate of growth in the United States.

Our delegation visited Hong Kong. Many consider Hong Kong the freest economy in the world. Hong Kong has a far lower tax rate than the United States Fifteen percent is their top tax rate. Hong Kong is free of the excessive regulation that shackles our economy. And in many ways, Hong Kong is much more encouraging of the entrepreneurial spirit our country celebrates. I think the United States needs to take notice and lower our taxes and cut our redtape.

□ 1430

I think we need to heed the words of Federal Reserve Chairman Alan Greenspan when he said that we should at the very least index capital gains for inflation taking the inflationary bite out of investments. I have a bill to do this, and having seen Hong Kong's miracle, I am more committed than ever to give American taxpayers this relief.

Other trade issues that we should discuss: You know, many of our allies in Asia need to look at Hong Kong also because Hong Kong has become an economic powerhouse because of trade, and that means they have no trade barriers. The people of Hong Kong are free to purchase goods and services from whenever they want to. They buy the best goods at the best price. It is no secret that the U.S. economy is the most competitive in the world. We are the world's biggest exporter. We are selling more and more goods to Asia. These exports support over a million jobs in my

State of California alone. But we should be selling more in Asia, and the problem is that too many Asian countries are shutting out too many U.S. goods and U.S. services.

So our delegation pressed and pressed every government that we met with to open their markets to American goods and services. I serve on the Committee on Banking and Financial Services, and in China American insurance companies are shut out, they simply cannot operate, and we raised that issue with China. The message was that we on this delegation gave, we said trade, including trade in the ever more important service sector, is a two-way street. We talked with South Korea who is shutting out California agricultural products, and we said, well, if South Korea wants to sell autos and electronics in the United States, then American companies should be allowed to sell grapes and oranges and autos and electronics in South Korea. This is right for the American worker, it is right for the Korean consumer who should, after all, have a chance to buy the best goods at the cheapest possible price. And right now in South Korea the government hassles Koreans who buy American cars. It actually sends the tax auditor after Koreans who buy American cars. That practice has to go, and we told that to the South Korean Government.

But it is more than trade. Trade is important, but it is not all the United States is about. Our delegation has focused on democracy. On this trip we focused on human rights, too. Our country has always taken its values seriously and our foreign policy. It matters to us how other governments treat their citizens. This meant confronting the Chinese leadership about its terrible treatment of its citizens. I presented the Chinese Government a list of 75 political prisoners, and locking up people because of their beliefs is intolerable.

And I hope that the White House begins to understand that when it comes to China, yes, trade matters, but so do human rights and nuclear proliferation and Taiwan. The administration would like to treat trade as being above these issues.

My view is America is a superpower, not a salesman. The administration's willingness to stand up for American values will be tested as Hong Kong falls under Beijing's control in the next 2 months. Already there are signs that China may not honor its one country, two-systems pledge. Just yesterday, as we heard, it announced that it would severely restrict fundamental political rights to publicly meet. Beijing's future ruler for Hong Kong, Mr. Teng-hui, who we met with, is touting Asian values. This is shorthand for the idea that universal democratic and civil rights norms are inappropriate for Asia, as if Taiwan and even Hong Kong itself, where these values are honored, are not in Asia.

The world will be watching Hong Kong, and the world will be watching Washington's response. Acting on human rights concerns is just; it is not idealism, it is justice. The reality is that the United States will never be fully at peace with a government that is not at peace with its own people, and to the extent that the United States encourages change by raising these concerns, especially with the Chinese people, through efforts like Radio Free Asia, we strengthen our security while honoring our values.

Again thank you, Mr. Speaker, for making this so very important trip.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman very much, and I am now very pleased to yield to another of my colleagues on the House Committee on International Relations, the gentleman from Florida [Mr. HASTINGS], who is a particularly valuable Member for this trip because of his knowledge as a lawyer and a jurist, and I am pleased to yield to him.

Mr. HASTINGS of Florida. Mr. Speaker, I thank my good friend from Nebraska for yielding, and I thank him for perpetuating this particular special order. We are all indebted to the extraordinary work that was done by the Speaker of the House of Representatives and, as one Member of the House of Representatives, I was honored and privileged to have the opportunity to travel with this delegation to the areas of Asia that we traveled. A lot has been made about this particular trip, and I was asked when we were in China why it was that I had visited China twice in 3 months. I had the good fortune of going to China in January with Congressman KOLBE from Arizona and the delegation that he led of 22 Members of the House of Representatives, and in each instance we had a variable type program that allowed for further information. I am going to come back to that, but I would like to answer the media by saying what I said, and that is that China is a happening.

Now that could be construed as China is a party. That is not the happening that I was speaking of. The happening that I was talking about is the fact that China is the vortex of the dynamism that is going on in economic development in that area of the world, and assuredly what our trip did was underscore the principles and values of this great country, and as I look about this gallery and I see children that are here on this day as this special order is being held, I cannot help but think that many of us will long have since passed, and yet we laid the groundwork for their future in the various delegations and those that have preceded us in this rather extraordinary work that Congress does in international relations.

The vortex of dynamism does not mean that China is old. We visited Korea, we visited Taiwan, we visited Japan, and of course Hong Kong and Shanghai inside China as well as Beijing. In each instance in a bipartisan fashion those things that have been said by my colleagues can be underscored with the fact that all of us supported the values and principles that are enunciated in our great democracy.

And you know the Speaker made the comment often that America is a Pacific nation, and some folks would quarrel with that, but I ask anyone that wishes to quarrel with that, ask the citizens of California or Oregon or Washington or Hawaii or Alaska, ask them where they live. And speaking of Alaska, let us just compliment the extraordinary military people that handle all of our security matters as it pertains to that area of the world in a more than admirable fashion.

Travel further into the demilitarized zone where speakers before me, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Michigan [Mr. DINGELL] and others, have pointed out the 37,000-plus troops that are in that demilitarized zone, many of whom we had an opportunity to see, all of whom are extremely sharp, well commanded, young individuals, and they have a slogan that says in front of them all it means simply that in the deteriorating posture of North Korea, if some insanity prevails and war occurs, they will be the first ones to see it. We need to support those individuals.

And what I came home with, as we get ready to talk about foreign aid authorization, and you lead us in that effort as you so ably do, and the Chair of the Africa subcommittee, my friend, the gentleman from California [Mr. ROYCE], does so with Africa, is I came home with legislation. People say these trips sometimes are useless and we are criticized for taking them.

I now know about the need for 4-way talks in Korea in a meaningful way. I know now more about nuclear proliferation in a meaningful way, in the dumping that was about to take place or still may contractually with Taiwan and North Korea, and the potential dangers not only to the environment but to the security of that area of the world. I know now about the reversion of Hong Kong in a meaningful way that I think I can stand with any American with the same background and argue forcefully why it is that we have to insist that there be no sedition provision in China's law, that they do not revoke the civil liberties and civil rights of those that for 99 years now have had that opportunity.

I know more about Taiwan, its democracy, how it has managed its economy. I know about the interrelated areas of economic and political and human rights, and all of that will lead me to three pieces of legislation that I plan to offer during the authorization process in addition to legislation that will support our military in a meaningful way, since many of them pointed out the horrors that they have visited.

And I want to say one final thing and thank you again for the time. The staff that accompanied us are unrivaled on either the Republican or the Democratic side, and they are effusively to be complimented by those of us that had the opportunity to work with them.

In addition thereto, I think it is abominable that the foreign services of the United States of America are in the critical posture that many of them are. In spite of the fact that we have these enormous financial constraints that all of us know about, it is pitiable to leave our children and our adults who work in the foreign services in circumstances where they do not have electricity, they do not have water, the embassies are run down, such as the one in Beijing, and I am not here to apologize for anybody in that regard. I take full responsibility for my remarks and say that this is an observation that I think is a mistake for us.

Those children in this gallery need to learn languages, and they will be very wise to learn the languages of Asia since Asia is going to be a coming.

As regard freedom and my final remarks, Mr. Speaker, as you well know we had an opportunity to go to church in Shanghai. That was a moving experience. Some of us went to Catholic services, others of us went to Protestant services. But the fact is that we went to services and symbolically it let China know that we are going to stand for religion as we said and were told by those persons that are in Hong Kong with whom we met that are the religious leaders of that area.

I want to say to the world, I want to say to China, I want to say to America and say to all of my colleagues that freedom marches to a steady beat. China cannot stop freedom. Freedom once tasted is sweet enough to cause individuals to rise above oppression.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Chair would remind Members to refrain from referring to occupants of the gallery in their remarks.

Mr. BEREUTER. Mr. Speaker, I want to thank the gentleman from Florida [Mr. HASTINGS] for his moving and accurate summary of what he saw there and particularly for his compliment to the staff which we had not mentioned previously.

I now have one Member and perhaps another one who may come back in time, but I am pleased now to yield to the distinguished gentleman from California [Mr. KIM], and his hometown, his former hometown where he was born, is the first place we visited. I am pleased to yield to the gentleman.

Mr. KIM. Mr. Speaker, I was a little concerned about this article this morning, and I had a good feeling when I come back from the trip from Hong Kong and China. I thought that they understood clearly where we stand on the Hong Kong issue. This morning's article says that they are going to be curtailed, certain rights, public assembly rights and public gathering rights, and that is a guarantee by the first amendment in our Constitution.

Now that is not the impression I got from the trip. Very, very concerned. Is that the signal we are getting, the more to come?

I remember, Mr. Speaker, I have to have a colloquy with you. Remember that they said that it is two system one country will succeed and not to worry about it? But very disappointed. I hope this is not the true story, this morning's article. But if it is, we should watch closely, very closely because I am deeply concerned of what is happening in Hong Kong versus what they told us. Do you not agree with that?

Mr. BEREUTER. I do agree, and as the Speaker said, it is not one system and one and a half. It is two systems, and this agreement of autonomy to Hong Kong carries with it the need to have free assembly and an opportunity to peacefully demonstrate. So I hope they reverse their actions if in fact this is their proposal.

□ 1445

Mr. KIM. Mr. Speaker, I want to talk about the North Korean situation. Remember I mentioned this particular issue several times in China.

I was concerned about China's vague position in North Korea. Remember, I asked the question. Even this morning I understand that shots have been fired, shots have been exchanged, and remember when we went to the DMZ in Korea, we were scheduled to stop on the bridge, we were scheduled to get out of the bus and walk halfway.

Mr. BEREUTER. The Bridge of No Return.

Mr. KIM. The Bridge of No Return, and we had to abruptly change our schedule because they had assembled AK-47's, all of the weapons assembled together, so we had to change at the last minute and we did not get out of the bus, we just simply made a U-turn and came back. That is disgusting, that is totally unwarranted, and I feel very offended by this hostile action.

Yet, in China, of course North Korea is totally unknown to us, and all of this hostile action. Let me give my colleague an example, that every country denounced and condemned the hostile action, except China. China has kept silent; they did not say anything. So we asked the question, why is it? Why is it that China has not said anything about this hostile action, and what is China's official position? What is the policy toward North Korea?

The answer I got was, look, I think they are trying to walk a fine line. If everybody pushed North Korea against the wall, then we are afraid they might do some irrational action. Therefore, we have to show some friendship, something like that. Mr. Speaker, I ask my colleague, is that not the answer we got, some kind of vague answer?

Mr. BEREUTER. I think so, absolutely.

Mr. KIM. We are still not sure of China's policies in terms of North Korea. I think our country should demand what their policy is. Are they with us or against us? I am very disappointed at such a timid answer.

Then when we went to Taiwan, remember I asked the question about nuclear waste dumping that is generated by the Taiwanese power company. We are talking about 270 drums of nuclear waste, dumping it into North Korea because they are going to buy it, pay $100 million or $120 million, I do not remember, buy this nuclear waste.

I remember the gentleman's summation that we are setting up a dangerous precedent, that I think countries should keep their own waste in their own country, whether they are shipping overseas, which I totally agree.

My concern is, my God, pretty soon we are going to stop buying and selling this nuclear waste all over the country and bidding on it, I mean this is really ridiculous. We have to stop this from happening.

Also, my concern is, it is not the Taiwanese, it is North Korea. North Korea has no ability to manage its nuclear waste. Besides, they refuse to invite any IAA member team to inspect the nuclear waste dumping procedure, so God knows what they are going to do with it. I do not know what they are going to do with it. Perhaps they might contaminate our groundwater system. Then what is going to happen? It is only 24 miles from Seoul.

We have 37,000 young troops out there in Korea, plus their families, plus civilians, all 120,000. They are only 24 miles away from the DMZ. I am just afraid for not only the Koreans' lives in danger, but our own troops, our own families' lives could be in danger. So we have to stop this.

Mr. BEREUTER. Mr. Speaker, I would ask of my colleague to reclaim my time and to compliment the gentleman for all of his contributions throughout this trip. Frequently the Speaker pointed out the gentleman as an example to our Asian friends of an immigrant who succeeded remarkably in this country as so many have from various parts of the world.

I wonder if the gentleman would indulge me in yielding the remaining 5 minutes to our colleague who has not had a chance to speak. If the gentleman will stand by, we may have a chance for a concluding colloquy.

Mr. Speaker, I now yield to the distinguished gentlewoman from Washington [Ms. DUNN], a member of the

Committee on Ways and Means who made invaluable contributions on this trip.

Ms. DUNN of Washington. Mr. Speaker, I must say it has been with great interest that I have listened to my colleagues' discussion about our very important trip to Asia and how proud I am to have traveled with them on this trip and to have watched in action some very powerful Members of the U.S. Congress who care a lot about our relationships with those nations over there, but who are not willing to make a trip such as this, with the rights of our constituents in our hearts, without being very, very candid in all of our conversations about some of the problems that we must deal with over in that part of the world.

My responsibility as a member of the Subcommittee on Trade of the Committee on Ways and Means dealt with trade issues in the Asian nations, and I would say that thanks to the Speaker and to other members of the delegation, I was able to inquire about specific policies that deal with our relationship with Asia. Certainly I come from a State, the State of Washington, that is very, very export-oriented.

One out of four jobs in my State are related to trade. As constituents in my State and as you know, Mr. Speaker, Boeing, the aircraft company that is the largest exporter in this Nation that does great business now with the nation of China, and we will see that nation as probably 20 percent of its future market.

There were questions about market access that we brought up over and over again. For example, in Japan, what about access, as the gentleman from Michigan [Mr. DINGELL] was interested in, in American autos? How about apples that come from our orchard, Mr. Speaker, in your part of our great State of Washington, that we are not allowed to export to Japan, the apples they want to eat, not just the Red and Golden Delicious, but the Fuji and the Gala apples, and why not provide to them the items that will be useful to the people that live in their country and also will help our export industry.

So we did not get good answers on some of those issues, Mr. Speaker, but we continued to try. In China we have serious problems having to do with intellectual property piracy, a rate that someone said is as high as 98 percent, market access to wheat for one thing in the State of Washington. We have terrible human rights violations. We have very serious problems there, but we were given a very warm welcome by the people in Beijing and Shanghai, because they want to do business with us and they want to work with us.

I believe that there is an openness there to a great degree that will allow us to expand on our trade relationships, that will allow the debate to begin on whether they should be able to accede to the WTO if they follow the road map that has already been laid out by our very effective ambassador-to-be of the USTR.

Taiwan, we had candid conversations in that nation as we did in all of the nations. It was a very effective trip. We were treated with great welcome, and I think that we were able to contribute a great deal to the work of the U.S. foreign policy, certainly reflected that, and I am very grateful, Mr. Speaker, to have been a colleague of yours on this important trip.

Mr. BEREUTER. Mr. Speaker, I thank the gentlewoman for her excellent contributions on the trip and her comments, and I thank the gentlewoman from the District of Columbia [Ms. NORTON] for allowing us this time.

TIME TO PUT PAY EQUITY FOR WOMEN BACK ON THE AMERICAN AGENDA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 50 minutes.

Ms. NORTON. Mr. Speaker, all over the country today, women are preparing for tomorrow, for they have been alerted by women's organizations and others that tomorrow is a day for commemoration, it can hardly be for celebration, because it is pay inequity day, the day on which women earn what a man earned during the previous year.

I want to devote my time this afternoon to discussing some issues which I think will astonish many. I want to acknowledge that the gentlewoman from Texas [Ms. JACKSON-LEE] wished to participate in this Special Order and was unable to do so.

Interestingly, pay equity was one of the great issues of the 1960's and 1970's. What has happened to the issue? Why do we not hear it discussed as much? Have we in fact finally remedied pay inequality between men and women?

One of the things that happened, Mr. Speaker, I think, is that women represent such a broad and diversified group that women have in fact balkanized and diversified their agenda so that in a very real sense it is very difficult to indicate what matters most to women.

This afternoon I want to bring us back to basics, because what we are certain of is that a most dramatic structural change has occurred in the United States and in the American family. The housewife has virtually disappeared from the American landscape, and I am going to say to you, Mr. Speaker, that is not because there are not millions of women who would prefer to stay at home with their children, and I think frankly would be better off staying at home with their children, as would their children be better off, but during the past couple of decades, the fact is that the American standard of living has been going down, wages have stagnated and in fact decreased, so women are out there because they have to be out there, and this quite apart from the millions of women who want to be out there in order to reach their full potential in the workplace.

It is time that we put pay equity back on the American agenda if we mean what we say about the American family. The very reason that these women have gone to work in the first place is the American family and the pressures to keep the American standard of living where it was. Even so the average tow-parent family is not where that family was in the 1950's and 1960's, even with two people working. We have not been able to keep family income at the level we experienced in the post-World War II period.

I have a special interest in this issue because I am a former chair of the Equal Employment Opportunity Commission, where I raised the issue of pay equity for the first time during the Carter administration. But, Mr. Speaker, this is not an issue for government officials and expert lawyers; it has now become a grassroots issue as American women struggle out to work every day and, working year-round, have only been able to bring themselves to the point where they are worth 72 cents for every dollar earned by a man.

In case we think that this concern of working women is confined to a small group, let me offer these figures: 40 percent of all working women have children under 18. In two-parent families, 66 percent of women work. The number of female-headed households has doubled since 1970. We are dealing with a structural change in American society. We cannot run from it, but we certainly have hidden from it.

Today I introduced a bill that begins to deal with that part of the problem that may come from discrimination.

□ 1500

I have done so because of my concern about the gap, which is closing, ironically enough. I am very pleased that the gap appears to have gradually closed. We are 72 cents on the man's dollar, but more than a decade before that we were 62 cents on the man's dollar.

But when I looked behind these figures, Mr. Speaker, I found that while there had been some progress, most of it had nothing to do with the average woman. The gap has, indeed, not closed at all for many women because the figures we are using measure women against the decline in men's wages. Therefore, we have been able to catch up to men in large part, in very significant part, because men's wages have declined so dramatically over the last couple of decades.

That is not what we had in mind when we indicated we wanted to close the gap. Indeed, the Equal Pay Act that it was my great privilege to enforce has a requirement which I think drives home the fact that decline in men's wages simply is not the way to measure progress for women.

When an employer finds in enforcement the Equal Pay Act that women and men doing the same job are not paid equally, the Congress has not left the employer the option to lower the man's wage. The employer must raise the woman's wage. This has not happened in this regard; many men are not in the work force at all, and others have found they could not make the kind of living their fathers did.

We know there are many causes for this decline in male wages, including the export of manufacturing jobs, particularly union manufacturing jobs which afforded a man in the 1950's and 1960's an income even though his educational level might have been low. Those jobs have fled offshore in very significant numbers.

Another significant reason that the gap has closed is because there are a small group of women who in fact have attained higher skills. They tend to be professional women and highly skilled women, and at least at the entry level those women earn the same wages as men. Unfortunately, as they go up the job ladder, the disparities begin to appear again.

This much is clear; that the American family can no longer afford to have the woman wage earner lose $420,000 over a lifetime because of wage inequality. This much is true; that the country cannot afford to have women lose $100 billion in wages each year because of wage discrimination.

Is there nothing we can do about this problem? We can certainly do something about the problem insofar as it results from discrimination. Let me make clear, Mr. Speaker, that not all of this problem results from discrimination, but it is surely the case that some of it does. That is why today I have introduced the Fair Pay Act, a bill which takes up where the Equal Pay Act left off.

The Equal Pay Act says if a man and woman are working side by side or are in the same workplace, you cannot pay the woman one thing and the man something more. That still goes on in America. The Equal Pay Act, the first of the great civil rights statutes of the 1960's to be passed, goes after that kind of discrimination.

The problem is that we need an Equal Pay Act for the 1990's, even as the Equal Pay Act was the great equalizer of the 1960's. The Equal Pay Act of the 1990's, I submit, would be the Fair Pay Act. It would go at what turns out to be the root problem of the disparities between men and women today. Mr. Speaker, that disparity comes from the fact that a man and a woman, doing comparable work, can be paid differently.

Some of the examples are quite astounding. Today, emergency services operators are mostly women. Fire dispatchers are mostly men. Gender and gender alone has effected the wage disparities. If you are an emergency service operator, a female-dominated occupation, you are going to make less than a fire dispatcher.

Mr. Speaker, there are far fewer fires to dispatch people to than there are emergencies. If you look at the skill, effort, and responsibility of these two jobs, it would be very difficult to make the case that emergency services operators need less in skill or in responsibility or effort than a fire dispatcher. Why are these two groups paid differently? They are paid differently because of gender, I would submit, and not because of differences in the job. These two jobs are not the very same, but they are in fact comparable. They should be paid comparably.

Let me give another example, Mr. Speaker. Two people graduate from junior college at the same time. The man and the woman in the same graduating class get married shortly after their graduation. Each now has a college degree, or at least a two-year associate degree. She goes to be a social worker, he goes to be a probation officer. Guess who gets paid the most money? Probation officers make more than social workers.

I would defy the Members, Mr. Speaker, to show me the difference between these two occupations in skill, effort, and responsibility. I submit that there is none, except that historically social workers have been women and probation officers have been men.

What would I have us do about this problem? Let me first assure the Members that I would not have us interfere with the market system. I would have us extract only the discrimination from the wage, and the way we would do that is the same way we do it under the Equal Pay Act. The Equal Pay Act is where the categories of skill, effort, and responsibility were first laid out. Even if the market allows an employer to in fact hire a woman to do the same job as a man, the Equal Pay Act says you cannot do it.

So if the reason that your cadre of women workers earns less than your cadre of men workers doing the same job is that the women are willing to work for less, the statute says you have violated the law even though the market has provided you with women who are willing to work for less, and you must raise their wage to meet the wage of the men.

Mr. Speaker, how this would work in the case of the Fair Pay Act is very similar. The burden would be on the woman, as it is under the Equal Pay Act, to show that the reason she is paid less as an emergency services operator than her employer pays fire dispatchers is discrimination based on gender, not in fact legitimate market factors. The burden is on her. If she cannot meet that burden, then she would not prevail under the Fair Pay Act.

Mr. KENNEDY of Massachusetts. Mr. Speaker, would the gentlewoman consider yielding to me?

Ms. NORTON. I am pleased to yield to the gentleman from Massachusetts.

CPI ADJUSTMENT

Mr. KENNEDY of Massachusetts. Mr. Speaker, I very much appreciate the gentlewoman yielding.

Mr. Speaker, this is an issue that is actually in a similar subject area, and I know that the gentlewoman would agree with the issue that I would like to bring up.

Mr. Speaker, I rise to address an issue of great concern to the people across the country. That is the issue of the Consumer Price Index. According to a statement today from the White House, a CPI adjustment is apparently back on the bargaining table in today's budget talks. This is of great concern to many Members like myself, and I hope to the gentlewoman from the District of Columbia [Ms. NORTON], who have written letters, filed resolutions, and spoken out against a magic CPI fix to balance the budget.

An artificial and unwarranted CPI fix would lower Social Security benefits for the poor and senior citizens on fixed incomes, many of whom are women, raise taxes on low- and middle-income Americans, and lower the wages of millions of workers whose contracts are tied to the CPI.

Now we learn that after many pronouncements from both sides that the CPI issue is dead, apparently it has come back to life in secret budget negotiations going on between the White House and the Republican leadership. Given the history of the past budget summits, I am fearful that a CPI fix will be agreed on in secret negotiations, buried in several hundred pages of budget, and brought to the floor with only a single vote on the entire package.

That is simply not right. Any provision which affects virtually everyone in this country, that is so significant, deserves a straight up-or-down standalone vote. If the CPI fix is a good idea, let it stand on its own.

Therefore, I will be circulating a letter to House leadership on both sides of the aisle demanding that any budget or legislative provision which contains a CPI adjustment be brought up under a procedure in which separate votes up-or-down will take place on the CPI provision alone. The American people deserve to know where everyone stands on this critical issue.

I welcome anyone in the Chamber or in this House who would like to join me in this effort, and I particularly want to thank the gentlewoman from the great city of Washington, DC for yielding to me.

Ms. NORTON. The gentleman is quite welcome.

Mr. Speaker, may I add that my Fair Pay Act is an amendment to the Equal Pay Act, and not a separate act. One of the things it does is to add race and national origin to the Equal Pay Act.

Mr. Speaker, I can see that there may be fewer jobs were the stereotyping about race and national origin happens to the extent that it happens to women, because low-paid jobs tend to be passed on from one ethnic group to another. But there certainly are some jobs, and those jobs should be reached under the Equal Pay Act, and they would be reached under the Fair Pay Act.

I would like to address any concern about the way the Fair Pay Act might affect the market system. Not only are the safeguards I mentioned before there, that the burden is on the woman, the plaintiff, that she must show that the cause of the disparity is in fact gender and not some legitimate cause inherent in the market.

But there is another reason to believe that comparable pay would not have a disruptive effect on our economy. A number of States, more than half a dozen, have done comparable-pay studies that affected their own State work forces, and some of them have indeed used those studies in order to raise the pay of women doing comparable jobs with men. So once again, the States have experienced and have shown that comparable pay can work. This remedy should be applied to others, as well.

Mr. Speaker, I am also associated with the Families First Fair Pay Initiative, which involves some additions that are perhaps less clear cut than my own but which I fully embrace. On Pay Inequity Day tomorrow, I think we would do well to take notice of these smaller steps, which I believe need to be taken at the earliest time.

□ 1515

One is simply better enforcement of the Equal Pay Act itself. The Equal Pay Act was transferred to the EEOC when I chaired that agency. In the beginning we brought many equal pay cases. I am concerned, as a prior chair of the agency, that during the 1980's there were very few equal pay cases brought at all and that even now there are too few relative to the amount of discrimination we know is out there.

Mr. Speaker, I call upon the Equal Employment Opportunity Commission to concentrate far more on Equal Pay Act cases, and I believe that this body needs to facilitate that effort by adding stronger penalties for violation of the Equal Pay Act.

The EEOC and the Office of Federal Contract Compliance in the Labor Department need additional resources. One of the reasons I believe that there has been less enforcement of the Equal Pay Act is because the EEOC now has very complicated additional responsibilities, including the ADA, the Americans with Disabilities Act, a very important recent addition to our law, relatively recent addition, and because of the Civil Rights Act of 1991, where we restored the strength of some of the equal opportunity laws after a Supreme Court decision. When all of this is piled onto an agency that has suffered as the EEOC has in the last several years, you may get some neglect of important statutes. There has been neglect of the Equal Pay Act. We must, in fact, at a time when the American family cannot do without the woman's wage, get our bearings and get back to basics with the Equal Pay Act.

In addition, while the Fair Pay Act is pending, there is something that employers can do right now without this body moving. As an interim and transition step, I believe that there should be voluntary employer guidelines drawn up by the Secretary of Labor so an employer can know without having to go through a process itself, whether, in fact, he is doing women a disservice by paying women less than the job should require.

An employer has a right to say, is the wage here what one might expect for the skill and effort and responsibility required in this job? The employer may not mean to discriminate. The Labor Department could do women and employers a service by, in fact, drawing voluntary guidelines, absolutely no sanctions attached to them, that would act to inform employers, that would act as an educational device so that employers who wanted to do the right thing would have some guidance as to what the right thing to do in fact was.

The Families First fair pay initiative cannot stop with women in the work force. The average woman out here is building a bad pension portfolio for herself. She is doing so in part because she is earning so little. The average woman makes less than $14,000 a year.

For a moment, by the way, Mr. Speaker, stop and think what that means for her children. What it means, if she is to have any money left over for having worked at all, is that she is probably leaving her children catch as catch can, and we certainly are doing nothing about that.

There needs to be a special order, and I will initiate one in the future, on child care. With so little money, the agony and the frustration that women face as they go to work every day is one of the great untold stories of America.

In a real sense I wonder why women are not insisting that their story be told. I have my own theory. Mr. Speaker, my theory is that women are raised to do the best that they can, to work night and day, not to respect any hours, to hustle from one part of their responsibilities to another. They think it is simply natural to get up in the morning and put your kids on the school bus and get out yourself and keep dialing home after school to make sure that your kids are there and run home and put the food on and read to the kids. They think this is natural. It is not natural, and it is not healthy for families or for women or for children. But at the very least we ought to make sure that this frustration does not come to rest in a woman's retirement years, with a pension that is too little to support her.

Mr. Speaker, most of the poor aged by far are women. They live on Social Security. One might think that, now that we have women in the work force in a more systematic fashion, perhaps that would no longer be the case. With the baby boom generation hitting us and with salaries still at such a low level, that expectation will not turn out to be the case, and there are some things we can do about that. We can expand the access of women workers to pensions and to the retirement vehicles that are out there. These include 401(k) plans and small business retirement plans and IRA's.

We can require that equitable survivor benefit options be available. So, for example, that either surviving spouse would in fact be entitled with two-thirds of the benefit received while both were alive. That is equity, Mr. Speaker. We could provide that divorcing spouses share equally in each other's pensions. Remember, both are working and they ought to share equally in each other's pensions unless a court decides that that should not be the case.

We could enact legislation that prevented one spouse's participation in a pension plan. I am sorry. We could prevent one spouse's participation in a pension plan from limiting the other spouse's ability to make deductible IRA contributions.

The pension area has received even less focus than the employment problems I spoke of because women who have too little voice as they work find that that voice grows softer and softer in its impact the older they get.

As we approach Pay Inequity Day, Mr. Speaker, we should take note of the fact that this body to its credit moved in a way that helped women in particular in the last session, the 104th Congress, even without a remedy addressed to women.

Some of our best remedies, dare I say most of our best remedies, are gender neutral. They include the Earned Income Tax Credit and the minimum wage, even though both assist women far more than men. For the minimum wage, 60 percent of the workers are women. When we passed the minimum wage last session, 300,000 people were immediately lifted out of poverty; 100,000 of them were children. We finally got over the false data that was used to show that somehow, if you increased minimum wage, you would basically help teenagers and do nothing for adults.

Only one-third of those affected by the increase were teenagers. Almost 70 percent of the minimum wage workers are 20 years or older. And, as I indicated, the majority of them are women. These are adults who go out here to earn a poverty wage every day. And this issue becomes more and more important as we look at the new welfare work force. We are still trying to figure out how these people on a minimum wage are going to be able to earn a living. Imagine what would have occurred if we had not passed the minimum wage last year.

Mr. Speaker, I want to take special note of the fact that among those in our society already excluded, particularly people of color, the minimum wage has had the most important effect. Seventeen percent of all hourly paid African-American workers are minimum wage workers, and of course most of these low wage workers are female. Now, that is 17 percent, even though African-Americans are something like 12 percent of the population.

Twenty-one percent of all hourly paid Latino workers are minimum wage workers, and 25 percent of paid Latino women earn the minimum wage.

Therefore, if our concern is with eliminating disparities among people of color and white people, we should be aware that remedies like simply raising the minimum wage in an orderly and systematic fashion is one of the most effective things we could do.

There is a lot of concern and interest in getting women to go back home and in fact not work. Let me be clear. The women's movement of which I consider myself a part does not now and never has had the position that women should go out to work. Remember when the women's movement started. That was at a time when it was considered heretical for women to work. Therefore, women stepped up to the plate and said, wait a minute, is that not a choice I should make—because that was the background and the backdrop of women's work.

There are some who claim that we do not want women to stay at home. What we want is what women did not have when we said women should be able to go to work and what they should have now. And that is the right to make the choice with or without sacrifice as to what to do with their lives, a choice to be made by them and their families.

Mr. Speaker, if we really mean that choice to be a real choice, of course, we would do what every industrialized country in the world does. And that is at least provide some aid through some sort of child care system for women who want to go out and work, but we do not do that. That has not kept women from going to work. What it has meant is women have gone to work with some sacrifice to their children.

□ 1530

There is a reason women are working. You can bet your bottom dollar that there is a reason why half of all married women with children under 3 are in the labor force, and that is not because all of them have gone to law school and decided that they want to try out their law degrees. These are the minimum-wage women I was talking about or women just above them. These are the $14,000-a-year women that have no other choice and would not leave their children if they had any other choice.

Even if they have husband, and remember that the number of women who are raising children by themselves has doubled since 1970, remember that these women are working because this work simply must be done to earn a living.

In 1970, a quarter of all women worked. Now we are up to half. I am sorry, that figure was not correct. It was a quarter of all married women were working. And now it is half of all married women.

What we, I think, have been reluctant to face, Mr. Speaker, is that women have become to the service economy what the men of the 19th and early 20th century were to the industrial economy. Like the male industrial workers, women are the low-paid workers with no benefits of the 20th century.

If you look at who does not have pensions, if you look at who does not have health insurance, it is full-time women workers, and it is the plethora of women, the majority of women, who are part time workers or the majority of part-time workers who are women; and many of the part-time workers in this country tend to be women. The temporary workers tend to be women. And I don't think I need to say to this body what their benefit and wage levels are. Indeed, increasingly we see employers breaking jobs up to make them part-time and temporary precisely to avoid paying benefits.

There is going to come a time, Mr. Speaker, when women come upon this body and the other body to rectify this matter. It is time that we moved on our own to address this tragic frustration of the American family, because remember what these women are doing.

I have spoken of low-pay jobs for women. I have spoken of minimum-wage jobs for women. What kind of jobs do I mean? I mean the fast-food jobs; I mean the health aide jobs; I mean the insurance clerk jobs; I mean the residential day-care jobs; I mean the beautician jobs; I mean the hospital worker jobs. Women predominate in these low-paid occupations, and yet they have families, they live the same kinds of lives, have the same kinds of needs that other families have.

So on tomorrow, Pay Equity Day, we need to return to the equal pay and comparable pay issues. There is a reason why our focus is scattered, but we have got to be able to walk and chew gum at the same time.

Women have many, many concerns. It is perfectly appropriate for women to reach to those many concerns. None is more important today, Mr. Speaker, than assuring that when a woman goes out to work, she at least brings home what she is worth. That is what the Fair Pay Act is trying to achieve.

The frustration of having to go to work, for many women with small children is great enough, but having to go to work and then hardly bringing home enough to pay the baby-sitter or the child care center, which may or may not be accredited, that is a frustration we should ask no American family to endure. At the very least, we should be moving to begin to rectify a problem that is going to take years to remedy.

There was a time, Mr. Speaker, when pay equity issues were classic women issues. Times have changed, Mr. Speaker. The pay equity issue has become one of the paramount family issues. This, I submit, is not only because of the growth, the alarming growth, if you will, of female-headed families; this is because in America today it takes two to tango in the workplace to bring home enough money for the family. It is wrong to send women out in order to help with family income and then not to make sure that the woman brings home what her skill effort and responsibility on the job would indicate she deserves.

Mr. Speaker, some of us have been very vocal to young women, saying to them that what they must do is to get the requisite education. I am very blunt about it to my own constituents. I have a program called D.C. Students in the Capitol so I get to talk with them every legislative day. I ask their teachers and parents to bring them in classes to the Capitol, telling them that 20 million people come to visit the Capitol or visit Washington every year, and if you are born here and raised here, surely you ought to come.

And then I ask them, as I talk with them, to give me a promise, and I ask them that each raise her hand if she or he can promise me that she will stay in school at least until they have finished high school, and invariably they raise their hands. And I am very blunt with the boys, and I am very blunt with the girls. I talk to the boys about crime, and I talk to the girls about pregnancy, and I say I am going to check up on you to make sure that you do what you promise to do.

I do not want to be put in the position of sounding like a hypocrite of saying stay in school to the young girls so that you can come out here and make whatever an employer wants to pay you. I want to be able to say stay in school so you can come out and earn what you are worth.

For that reason, I ask that on tomorrow everybody think about pay and equity, because that is the day on which, remember, we are only in April, on which women earn as much as men have earned the entire prior year. I ask my colleagues to sign on to the Fair Pay Act. We had 52 cosponsors last year. Senator HARKIN has introduced the bill in the Senate already. I have over 20 cosponsors. I invite the cosponsorship of all of my colleagues.

HOW BIG SHOULD GOVERNMENT BE?

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Michigan, [Mr. SMITH] is recognized for 60 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I think since tax filing date to pay our income taxes in the United States is next Tuesday, April 15, it is an appropriate time to talk about how big do the American people and the American workers think Government should be and how much of their money that they have earned do they think should go to pay for government.

In the last several years, I have been concerned about Republican candidates and Democrat candidates running for Congress, running for the Presidency, that suggest somehow that Government can do great things for us; that Government can increase our standard of living; that Government can give us better jobs.

I would suggest, Mr. Speaker, that Government and what it can do to increase our wages and increase our standard of living is much overbloated from the mouths of politicians. If Government could actually pass laws or do something to increase wages, increase the standard of living, would not every Government in the world pass those kind of laws?

The fact is that what we have and what we can get, and the amount we earn and the kind of community we live in, is pretty much up to our individual selves and collectively within that community, and it is dependent on whether or not we can produce a product that other people want to buy around the world and we can produce it at a competitive price. So we are looking to produce a quality product at a competitive price that other people in the world and in this country want to purchase.

Let me suggest two mistakes I think we have been making to accomplish that kind of goal in order to increase our take-home pay and have more time to spend with our families and do a better job in our competitive relation with other countries around the world. Let me give what I consider bad news over the last 10 years. The productivity; that is, the efficiency of the way we produce products, the productivity in the United States has been increasing at a slower rate than other industrialized countries around the world.

Part of the reason is that we discourage savings and investment. So at this tax time of year, I would humbly suggest that one thing we want to do is change our Tax Code not only to make it simpler and more fair, but we have to do that because the special interest lobbyists have really ruined our current Tax Code and given too much favoritism to their clients. What we want to do is encourage investment, encourage savings, reward the people that are trying, that are working instead of what we do now.

Let me give a couple of examples. Our penalty on a business that buys a new piece of equipment or new machinery to increase the efficiency and productivity in that particular job site, we penalize it in our Tax Code more than any of the other G–7 countries.

I think a lot of people do not think about it, but what we do to a business is we say, look, if you are going to buy the more efficient equipment and the more efficient machinery to increase the productivity of your workers, to increase their pay, this is how we penalize you. We say that you have to put it on a depreciation schedule and we make them depreciate it over the next 3, 5, 10, 15 years.

What happens when they buy that equipment and have to wait that long to deduct it as a business expense on their taxes is inflation eats up the value of that deduction.

So a lot of us have been trying to change that. And it seems to me on the Neutral Cost Recovery bill that I have introduced is that we simply should say to a business, look, if you are willing to go out on the limb and put better tools, better equipment, put a better facility there for the people that work in your company and you make that purchase, you can deduct it as a business expense or, at the very least, what you do not deduct as an expense in the year of purchase you can add an inflation factor to it so when you do depreciate it on that depreciation schedule it is adjusted for inflation in the time value of money.

If I were to take a vote in this auditorium, Mr. Speaker, of how much individuals thought they should pay in taxes, how many cents out of every dollar they earn they believe is reasonable to pay in taxes, my guess is most people would come up with around 25 percent of what I earn is reasonable. Well, the average in the United States is a little over 41 cents. On the average, the average worker in the United States now pays 41 cents out of every dollar they earn in taxes at the local, State, and national level.

I would just suggest that during this time of year, when we are concerned about how much taxes we are paying, everybody should look at their end of the week or end of every 2-week check and look at the deductions on that check.

□ 1545

When you fill out your 1040 and your tax forms, look at that bottom line. We do not pay much attention to it because most of us have it automatically withheld from our paychecks, and so we never see it. And so there are a lot of people that have said, "Jeez, I got a tax refund." But I think we need to remind ourselves that we are paying thousands and thousands of dollars in to run government. When you pay that money in, how do you make sure you are getting your buck's worth? How do we make sure we are getting our bang for the buck? Let me tell you a dangerous situation that I have seen happening in my last 16 years in politics, this is my 5th year in the U.S. Congress, and I am concerned because I see Members of Congress tend to increase their chances to get reelected if they promise more pork-barrel projects, if they go home and promise more social programs, if they promise to do more things for the American people and the people in their particular congressional district, or U.S. Senate district in their State. They get on television if they take home those pork-barrel projects, cutting the yellow ribbon and people say, "Boy, this guy is really good, he's bringing me something." Let me tell you something about pork-barrel projects. If you take home as a Member of Congress pork to your district, you can bet your life that you are also voting for everybody else's pork. That is one of the problems of us running deeper and deeper into debt and taxing more and spending more. Those individuals that promise to do more social programs for people. The problem is, is that you are paying for it. Jefferson said that it is one of the greatest dangers of a democracy to have people that can vote themselves more benefits. But the problem is, Government has no money. The only way we come up with money is to tax the American people and reach into their pockets, reach into what their hard-earned dollar is, to take it and to decide down here in Washington what we want to spend. Right now, the annual deficit is what we overspend, the amount that we overspend in any 1 year above and beyond the revenue coming into the Federal Government is called the deficit. If you add all those deficits up year to year, then you end up with the Federal debt. The Federal debt is now about $5.2 trillion. A lot of money. Let me tell you, though, what overpromising has done. Overpromising on Medicare, the economists, the actuaries, now estimate that the unfunded liability, the actuarial debt of Medicare is approximately $9 trillion. That means you would have to take $9 trillion and put it into the Medicare pot right now if it was going to support that program and keep it solvent for the next 75 years.

Let me talk about Social Security, and I am going to talk about Social Security a little more with the rest of my time, Mr. Speaker, because I think that is something that is really coming down very quickly, is becoming insolvent. Social Security now has an unfunded liability of approximately $7 trillion. In other words, we have promised more than we can deliver in Social Security.

Let me run through some charts. This first chart shows the pie of the expenditures of the United States. The piece of pie up in front of that chart represents Social Security. That takes 22 percent of the Federal budget. Social Security, Medicare, other entitlement programs, the welfare program, the food stamp program, the 15 percent of the budget that goes to pay the interest on the public debt and the other entitlements use up essentially all of the Federal spending budget except for the discretionary programs. The only pursestrings that Congress now controls are those discretionary spending. If you take defense out, defense uses 17 percent of the total budget. What is interesting, the hawks and the doves, the Republicans and Democrats, conservatives and liberals, almost never disagree more than a plus or minus 8 percent on what should go into defense spending. So that leaves 12 appropriation bills that this body, the U.S. House of Representatives, has control of, along with the U.S. Senate and those are the 12 appropriation bills that use up the other 17 percent of this total budget pie. That is all we have control of.

What Republicans did 2 years ago is said, look, as leverage to try to reduce the rest of this spending pie, we are going to add language on to these appropriation bills that essentially run Government, language that says, look, if we are going to ever achieve a balanced budget and live within our means and to stop spending the money that our kids have not even earned yet, that is what I call borrowing is, when the Federal Government borrows, what we are doing is spending the money that our kids and our grandkids have not even earned yet, we have no idea how we are ever going to pay it back. There is no plan by anybody on how to start paying this back so we just keep borrowing and say, "Well, let the young people worry about it in the future. Maybe their problems will be less." No. 1, I know I am getting on a long footnote here, but is it not terribly egotistical for this generation to think that the problems today are so great that it justifies borrowing this money from our kids and our grandkids, driving their debt even deeper; making their chances of success even greater by simply going in and overspending?

That is why I think it is so terribly important that every American, Mr. Speaker, when Members run for Congress, when Members run for the U.S. Senate, when people run for the Presidency, they say, "Look, candidate, what are you going to do about this overspending?" And so the candidates say, "Well, we're going to deal with it. That's important."

I think it is coming to a very serious point where we cannot allow Members of Congress to be elected that are going to continue the tax and spend and borrowing as usual.

Let me just take a few minutes looking at the problems on Social Security. The average retired couple now on Social Security has already gotten back 4 times what they and their employer put into Social Security taxes. They have gotten back 4 times what they ever put into it, plus compounded interest.

This chart shows that if you happened to retire in 1980, it took 2 years of retirement to get everything back that you put into Social Security in taxes plus what the employer put in. If you retired in 1980, it took 4 years to get everything back that you and your employer contributed in taxes to Social Security plus compounded interest from day one. However, if you retire 10, 15 years from now, it is going to take 26 years of living after you retire just to break even and get back what you and your employer put in, in taxes, in the Social Security taxes.

Social Security started out with a tax of 2 percent on the first $3,500. Every time we have gotten into problems with Social Security and having less money than was needed to pay existing benefits, we have simply raised taxes. The system today is sort of a Ponzi game. It is a pay-as-you-go program, Social Security is. We take the existing taxes and we immediately send out those taxes to the existing current retirees. That is the way it is today. That is the way it always has been since 1935. And so when you end up with a problem of fewer and fewer workers supporting a larger number of retirees, then you run into problems. The problem so far has been solved by the age-old tradition in this country of simply saying, "Let's just raise taxes again." So this chart shows how much taxes have been raised.

I am sure if you were guessing how many times we have increased taxes since 1971 on Social Security, very few people would guess 36 times. But we have increased the Social Security tax on young working families, the working men and women of this country 36 times since 1971. That is why I am suggesting that the Social Security problem, to make it solvent, does not have any tax increase.

This next chart shows what is happening in the demographics of the increased population. The increased senior population is going to grow 108 percent between now and 2040 where the working people population is only going to increase about 24 percent, is the new estimate between now and 2040. So we have more and more retirees and fewer and fewer workers. One reason for that situation is people are living longer. When Social Security started in 1935, the average age of death was 61 years old. On the average, people lived to 61 years old. And the retirement age then was still 65. That is what it was. So that meant most people never collected Social Security. They died first. And so it was easy to keep a program solvent when we said pay taxes all your life and then you are unlikely to ever collect anything. And so what happened is as people live longer, there are more senior citizens. Right now the average age of death at birth is 74 years old. However, if you reach age 65, then the experts predict for those people that reach 65 years old, the age that you can start collecting Social Security today, that on the average you are going to live to be 84 years old. Some are guessing that by the year 2040, half of the people in the United States could even live to be 100 years old. And so as you increase the number that are receiving the benefits from existing workers, it makes it tougher on those existing workers, especially if there are fewer of those existing workers.

Let me get to these workers charts here. In 1947, there were 42 people working paying in their Social Security tax for every retiree. By 1950 it got down to 17 people working paying in their Social Security tax for every retiree. Today 3 people are working paying in their Social Security tax supporting the Social Security benefits for every Social Security recipient that is now collecting benefits. The guess is that by 2029 we are going to be down to 2 workers. It is a serious problem. There are no good fixes. But I think the solution pretty much boils down to one of two things or a combination. You have either got to increase revenues or you decrease outgo, or it is a combination.

That is all there is. And so I have come up with a suggestion that says, at least for everybody over 57 years old, that you are going to continue to get the same benefits that you have expected all your life and these politicians have promised you. But for people younger than that age, we do a couple of things. We slow down the increase in benefits for the higher wage earners. In other words, if you are making lots of money, your benefit increase over the years is going to go up slower than it otherwise would. The benefits for those very lower wage people will actually go up faster than it would under existing law. I am suggesting we add a year to the retirement age. People are living longer, so I have suggested we add 1 more year to that retirement age before you are eligible for full retirement.

Here is the other exciting thing that is in my bill, though. I am suggesting that part of the money be allowed to be used for private investment. Do you know why the President's advisory commission, Mr. Speaker, every one of the three suggestions from that commission included private investment? Here is why. The Department of Treasury only pays a real interest rate return of 2.3 percent. So anybody that can invest that money anyplace else for a greater real return is going to end up being better off. And so I am suggesting that the surpluses now coming into the Social Security trust fund, because after the 1983 huge tax increases, we are ending up with a little surplus coming in every year. In other words, there is a little more tax money coming in than is required for those benefits, that goes into the Social Security trust fund, I am suggesting we keep Government from using that extra money to spend on other programs. I think that is an important first step, is that we keep that Social Security trust fund money from being used and being spent for other programs, because the problem is even though Government, quote-unquote, Government writes an IOU and says we are using this money for other programs and we intend to pay it back, there is no way for Government to pay that back without going out and borrowing more money and going out and increasing taxes to come up with the money to pay it back. So let us keep the Government's hands off that extra trust fund money to start with.

What I do in my proposal is I allow the individual workers to use that amount of money for private investments. It starts out at about 2.3 percent. Right now the Social Security tax is 12.4 percent. This says we will start out at 2.3 percent to be allowed for the private investment. That private investment, by the way, even though I increase the retirement age by 1 year, I say you can take out your private investment money as early as age 60, trying to offset the negatives of adding 1 year to the retirement.

If individuals were allowed to have private investments back in 1935 and if we simply said in the law, look, you have the option of going into the Government program or you can have your own private investments as long as you invest the same percentage, you cannot take it out until age 65, with those kind of requirements, we would have almost 10 times the return on investment as the so-called investment into Social Security taxes during those years.

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Here is what is interesting researching the records of the arguments between the House and the Senate. In 1935, when they passed the bill, the Senate insisted on two votes in the Senate, that that personal investment be an option to the Government program, and that is the way the Senate passed the bill. But in conference committee the House talked the Senate out of the provision, and it became a total Government program.

Some people say, "Well, can you trust the American people to invest their own money?" Is that not a sad state of affairs?

I say, yes, we can. I say part of the problem is we have taxed the American people so much that they have very little opportunity to invest because we take it away, all of it away from them, in taxes. But look, the American people that can go out and dicker for a car, the American family that can go out and buy a home and come up with a reasonable price for that home, a family and individuals that can invest IRA money can end up investing their own money.

I set certain parameters in my bill on where the money is invested. I start out by saying, look, individuals are going—the firms that take that money to invest it are going to have to give a quarterly report back to those individual workers because I think that is important, I think that is the trend. And if you start out at just 2.3 percent, I think you can learn very quickly to weed out the Wall Street snake oil salesmen.

But I set in the parameters also of the 401(k) program, and the thrift savings plan is what we call our sort of 401(k) for all Federal Government employees; I included that language by reference in my bill so if an individual—so Social Security Administration would go out and find reliable investors, and if the individual worker could choose what percentage of their investment they wanted in indexed stocks, how much they wanted in index bonds, how much they wanted in Treasury bills, a certain percentage in mutual funds.

Look the American people need to be able to invest their own money, and we need to start reducing taxes today to allow them to invest their own money, and we need to expand IRA's to encourage that investment, with some tax breaks to encourage savings and investment because if we are going to get back to our goals, if we are going to get back to our goals of having an America that is a better place to work and to live and to raise our families, then we are going to have to make some changes. Investments in tool and machinery, that capital investment is one thing.

And let me just finish up my comments by saying what I think the importance of the human investment is, the human investment in education. The President this year suggested we spend another $50 billion of Federal Government money on education. But you know what I think is the most important thing we can do for education? It is to have a strong family unit where those parents are encouraging those kids to get a good education.

I mean as I talked to teachers and as I talked to youth group leaders, they say the most important thing that can happen is parents that are interested in their kid's education, parents that are interested in their kid's school. So part of the solution to a sound future in this country is going to have to be policies that encourage investment in savings for capital investment on the one hand and policies that encourage the traditional family units so that we can have better educated, better motivated youth on the second hand.

Mr. Speaker, I appreciate this opportunity to talk on this subject. I think that Members of Congress, members of the administration need to take their heads out of the sand, need to start dealing with really some of the very tough issues of Medicare, of Social Security, of annual government overspending, and I would just ask an American that pays taxes to spend a few moments thinking about the absurdity of our tax code in this country.

You know we talk about immigration, we talk about the problems of illegal immigrants coming in, but you know there is about 12,000 immigration employees that the Federal Government has. I think the number is now up to 120,000 IRS employees, 120,000 checking your taxes. Our Tax Code is unfair, it is complicated, the special interests lobbyists have gotten too much favoritism for their clients. I think it is time that we had a new beginning and I think that is what we are going to do. God bless you all.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WATTS of Oklahoma (at the request of Mr. ARMEY), for today, on account of illness in the family.

Ms. CARSON (at the request of Mr. GEPHARDT), for today, on account of illness.

Mr. POMEROY (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. CAPPS (at the request of Mr. GEPHARDT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Ms. HARMAN, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. COBLE) to revise and extend their remarks and include extraneous material:)

Mr. UPTON, for 5 minutes, today.

Mr. COBLE, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, today.

Mr. CRAPO, for 5 minutes, today.

Mrs. LINDA SMITH of Washington, for 5 minutes, today.

Mr. DELAY, for 5 minutes, today.

Mr. TAUZIN, for 5 minutes, today.

Mr. BARTON of Texas, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, each day on April 15 and 16.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. FOLEY, for 5 minutes, today.

Mr. WOLF, for 5 minutes, today.

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. ROHRABACHER, for 5 minutes, today.

Mr. DAN SCHAEFER of Colorado, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. POSHARD.

Mr. ALLEN.

Mr. BECERRA.

Ms. PELOSI.

Mrs. KENNELLY of Connecticut.

Mr. SCHUMER.

Mr. BARCIA.

Mr. STUPAK.

(The following Members (at the request of Mr. COBLE) to revise and extend their remarks and include extraneous material:)

Mr. MCINTOSH.

Mrs. KELLY.

Mr. SOLOMON.

Mr. GINGRICH in three instances.

Mr. WELLER.

Mr. CRAPO.

Mr. RADANOVICH.

Mr. BARTON of Texas.

(The following Members (at the request of Mr. SMITH of Michigan) and to include extraneous matter:)

Mr. CAPPS.

Mr. BARR of Georgia in two instances.

Mr. EHLERS.

Mr. SAM JOHNSON of Texas.

Mr. KENNEDY of Rhode Island.

Mrs. MORELLA.

Mr. HOYER.

Mr. SMITH of New Jersey.

Ms. HARMAN.

Mr. COYNE.

Mr. DELLUMS.

Mr. DOYLE.

Mr. KNOLLENBERG in two instances.

Mr. YOUNG of Florida.

Mr. BRYANT.

Mr. YOUNG of Alaska.

Mrs. ROUKEMA.

Mr. KUCINICH.

Mr. LEWIS of Georgia.

Ms. NORTON.

Mr. MCCOLLUM.

Mr. MENENDEZ in two instances.

Ms. KILPATRICK.

Mr. OLVER.

Mr. ENGEL.

Mr. THOMAS.

Mr. PORTMAN.

Mr. KLINK.

Mr. GOODLING.

Mr. PORTER.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 412. An act to approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District.

ADJOURNMENT

Mr. SMITH of Michigan. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 8 minutes p.m.), under its previous order, the House adjourned until Monday, April 14, 1997, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 or rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2680. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Change in Disease Status of The Netherlands Because of BSE [APHIS Docket No. 97-034-1] received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2681. A letter from the Acting Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Commission Rules Relating to Investigations [17 CFR Part 11] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2682. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Glyphosate; Pesticide Tolerances [OPP-300469; FRL-5598-6] received April 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2683. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the Administration's final rule—Organization and Functions; Privacy Act Regulations; Organization; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; General Provision; Definitions (RIN: 3052-AB61) received April 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2684. A letter from the Under Secretary of Defense, transmitting a report of two violations of the Anti-Deficiency Act, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

2685. A letter from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting notification that the commander of Air Education and Training Command [AETC] has conducted a cost comparison to regionalize jet engine repair within AETC at Laughlin Air Force Base [AFB], TX, pursuant to 10 U.S.C. 2304 note; to the Committee on National Security.

2686. A letter from the Secretary of Housing and Urban Development, transmitting the results of the second annual comprehensive needs assessments; to the Committee on Banking and Financial Services.

2687. A letter from the Acting Assistant Secretary for Educational Research and Improvement, Department of Education, transmitting notice of Final Priority—Educational Research and Development Program, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

2688. A letter from the Assistant Secretary, Office of Special Education and Rehabilitative Services, Department of Education, transmitting Final Priority—Research in Education of Individuals with Disabilities Program, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

2689. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's report on Research in Education of Individuals with Disabilities Program, pursuant to 5 U.S.C. 801(a)(1)(B); to the Committee on Education and the Workforce.

2690. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's report on the Educational Research and Development Centers Program, pursuant to 5 U.S.C. 801(a)(1)(B); to the Committee on Education and the Workforce.

2691. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plans: Oregon [OR-14-1-5535; FRL-5807-4] received April 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2692. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation Plans; Tennessee: Approval of Revisions to the Tennessee SIP Regarding Volatile Organic Compounds [TN-176-2-9708a; FRL-5806-7] received April 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2693. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Reasonably Available Control Technology for Nitrogen Oxides for the State of New Hampshire [FRL–5801–1] received April 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2694. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Implementation of the Telecommunications Act of 1996: Telemessaging, Electronic Publishing, and Alarm Monitoring Services [CC Docket No. 96–152] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2695. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Guides for the Jewelry, Precious Metals and Pewter Industries [16 CFR Part 23] received April 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2696. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Labeling: Nutrient Content Claims, Definition of Term: Healthy [Docket Nos. 96P–0500 and 91N–348H] (RIN: 0910–AA19) received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2697. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Access to and Protection Of Classified Information (RIN: 3150–AF37) received April 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2698. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to the Taipei Economic and Cultural Representative Office in the United States [TECRO] (Transmittal No. 03–97), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

2699. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to the Philippines (Transmittal No. DTC–50–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2700. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Taiwan (Transmittal No. DTC–33–97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

2701. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Spain (Transmittal No. DTC–26–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

2702. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Spain (Transmittal No. DTC–31–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

2703. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with the United Kingdom (Transmittal No. DTC–42–97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

2704. A letter from the Secretary of Defense, transmitting notification that the Department proposes to obligate up to $301.1 million to implement the Cooperative Threat Reduction [CTR] Program under the fiscal year 1997 Defense Appropriations Act, Public Law 104–208, pursuant to 22 U.S.C. 5955; to the Committee on International Relations.

2705. A communication from the President of the United States, transmitting a report on developments since his last report of September 19, 1996, concerning the national emergency with respect to Angola that was declared in Executive Order 12865 of September 26, 1993, pursuant to 50 U.S.C. 1703(c) (H. Doc. No. 105–64); to the Committee on International Relations and ordered to be printed.

2706. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

2707. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 12–46, "Fiscal Year 1997" Budget Support Temporary Amendment Act of 1997 received April 8, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2708. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 12–45, "Mortgage Lender and Broker Act of 1996 Temporary Amendment Act of 1997" received April 8, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2709. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Audit of ANC 1B Covering the Period October 1, 1993 Through December 31, 1996," pursuant to D.C. Code, section 47–117; to the Committee on Government Reform and Oversight.

2710. A letter from the Chairman, Consumer Product Safety Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1996, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2711. A letter from the Executive Director, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting two reports that were prepared by the D.C. Financial Responsibility and Management Assistance Authority; to the Committee on Government Reform and Oversight.

2712. A letter from the Chairman, Federal Housing Finance Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1996, pursuant to 5 U.S.C. 552b; to the Committee on Government Reform and Oversight.

2713. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552; to the Committee on Government Reform and Oversight.

2714. A letter from the President and CEO, Overseas Private Investment Corporation, transmitting the corporation's annual management report, March 1997, pursuant to 31 U.S.C. 9106; to the Committee on Government Reform and Oversight.

2715. A letter from the Chairman, Board of Directors, Tennessee Valley Authority, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1996, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2716. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

2717. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

2718. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Shortraker/Rougheye Rockfish in the Aleutian Islands Subarea [Docket No. 961107312–7021–02; I.D. 040197D] received April 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2719. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Gulf of Mexico Sustainable Fisheries Program [Docket No. 960322092–7041–05; I.D. 122696A] (RIN: 0648–ZA19) received April 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2720. A letter from the Acting Director, Office of Surface Mining, transmitting the Office's final rule—Navajo Nation Abandoned Mine Land Reclamation Plan (30 CFR Part 756) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2721. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulation; Inner Harbor Navigation Canal, LA (U.S. Coast Guard) [CGD08–97–009] (RIN: 2115–AE47) received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2722. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; Charleston to Bermuda Sailboat Race, Charleston, SC (U.S. Coast Guard) [CGD07–97–005] (RIN: 2115–AE46) received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2723. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Regulated Navigation Area Regulations; Lower Mississippi River (U.S. Coast Guard) [CGD08–97–008] (RIN: 2115–AE84) received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2724. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; CFM International CFM56–5 Series Turbofan Engines [Docket No. 95–ANE–63; Amendment 39–9957; AD 97–05–13] (Federal Aviation Administration) (RIN: 2120–AA64) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2725. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 Series Airplanes (Federal Aviation Administration)

[Docket No. 96–NM–101–AD; Amendment 39–9983; AD 97–07–09] (RIN: 2120–AA64) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2726. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron, Inc. Model 412 Helicopters (Federal Aviation Administration) [Docket No. 96–SW–17–AD; Amendment 39–9980; AD 97–07–06] (RIN: 2120–AA64) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2727. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron, A Division of Textron Canada Ltd. Model 206L, L–1, L–3, and L–4 Helicopters (Federal Aviation Administration) [Docket No. 95–SW–36–AD; Amendment 39–9981; AD 97–07–07] (RIN: 2120–AA64) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2728. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Jetstream Model 4101 Airplanes (Federal Aviation Administration) [Docket No. 96–NM–131–AD; Amendment 39–9982; AD 97–07–08] (RIN: 2120–AA64) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2729. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; San Jose, CA (Federal Aviation Administration) [Docket No. 96–AWP–27] (RIN: 2120–AA64) (1997–0108) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2730. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Atwater, CA (Federal Aviation Administration) [Docket No. 96–AWP–23] (RIN: 2120–AA64) (1997–0107) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2731. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Fallbrook, CA (Federal Aviation Administration) [Docket No. 96–AWP–35] (RIN: 2120–AA64) (1997–0106) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2732. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class D and E Airspace; Redmond, Oregon (Federal Aviation Administration) [Docket No. 97–ANM–01] (RIN: 2120–AA64) (1997–0109) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2733. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Victorville, CA (Federal Aviation Administration) [Docket No. 96–AWP–30] (RIN: 2120–AA64) (1997–0126) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2734. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Thomson, GA, and Amendment of Class E Airspace; Augusta, GA (Federal Aviation Administration) [Docket No. 96–ASO–29] (RIN: 2120–AA64) (1997–0105) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2735. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Jetstream Aircraft Limited HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 Airplanes (Federal Aviation Administration) [Docket No. 95–CE–10–AD; Amendment 39–9985; AD 97–07–11] (RIN: 2120–AA64) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2736. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; AlliedSignal Inc. ALF502 and LF507 Series Turbofan Engines (Federal Aviation Administration) [Docket No. 96–ANE–36; Amendment 39–9955; AD 97–05–11] (RIN: 2120–AA64) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2737. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; CFM International CFM56–5, –5B, and –5C Series Turbofan Engines (Federal Aviation Administration) [Docket No. 96–ANE–65] Amendment 39–9958; AD 97–06–01] (RIN: 2120–AA64) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2738. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the Administration's report entitled "Summary of the NASA Crows Landing Facility (CLF) Stanislaus County, California"; to the Committee on Science.

2739. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Reduction of Debt Through the Performance of Work-Study Services [38 CFR Part 1] (RIN: 2900–AF29) received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

2740. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Vocational Rehabilitation; Miscellaneous Changes [38 CFR Part 21] (RIN: 2900–AI29) received April 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

2741. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Department's final rule—Medical: Nonsubstantive Miscellaneous Changes [38 CFR Part 17] (RIN: 2900–AI37) received April 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

2742. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Low-Income Housing Credit [Rev. Rul. 97–16] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2743. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Last-In, First-Out Inventories [Rev. Rul. 97–18] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2744. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Services's final rule—Weighted Average Interest Rate Update [Notice 97–23] received April 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2745. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and Determination Letters [Rev. Proc. 97–26] received April 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2746. A letter from the Assistant Secretary (Reserve Affairs), Department of Defense, transmitting notification that the report required by section 1251 of the fiscal year 1997 National Defense Authorization Act will be submitted by June 13, 1997; jointly, to the Committees on National Security and Ways and Means.

2747. A letter from the Deputy Secretary of Defense, transmitting the Department's report entitled "Veterans' Preference Requirements: Department of Defense Failure To Comply Treated as a Prohibited Personnel Practice," pursuant to section 1615 of the National Defense Authorization Act for fiscal year 1997; jointly, to the Committees on National Security and Government Reform and Oversight.

2748. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting a listing of Federal Deposit Insurance Corporation properties covered by the Coastal Barrier Improvement Act of 1990, as of September 30, 1996; jointly, to the Committees on Resources and Banking and Financial Services.

2749. A letter from the Secretary of Veterans Affairs, transmitting the Department's report entitled "Veterans Equitable Resource Allocation System Briefing Booklet," March 1997; jointly, to the Committees on Veterans' Affairs and Appropriations.

2750. A letter from the Secretary of Health and Human Services, transmitting for the consideration of the Congress legislative proposals necessary to carry out the health care portions of the President's fiscal year 1998 budget; jointly, to the Committees on Commerce, Ways and Means, and the Judiciary.

2751. A letter from the General Counsel, Department of Transportation, transmitting copies of the fiscal year 1998 budget requests of the Federal Aviation Administration, pursuant to 49 U.S.C. 48109; jointly, to the Committees on Transportation and Infrastructure, Science, and Appropriations.

2752. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation entitled "National Economic Crossroads Transportation Efficiency Act of 1997"; jointly, to the Committees on Transportation and Infrastructure, Ways and Means, Resources, Commerce, and Science.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HYDE: Committee on the Judiciary. H.R. 1225. A bill to make a technical correction to title 28, United States Code, relating to jurisdiction for lawsuits against terrorist states (Rept. 105–48). Referred to the Committee of the Whole House on the State of the Union.

Mr. ARCHER: Committee on Ways and Means. H.R. 1001. A bill to extend the term of appointment of certain members of the Prospective Payment Assessment Commission and the Physician Payment Review Commission (Rept. 105–49, Pt. 1). Ordered to be printed.

Mr. CANADY: Committee on the Judiciary. House Joint Resolution 62. Resolution proposing an amendment to the Constitution of the United States with respect to tax limitations; with an amendment (Rept. 105–50). Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X, the following action was taken by the Speaker:

H.R. 1001. Referral to the Committee on Commerce extended for a period ending not later than April 15, 1997.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. RAHALL) (all by request):

H.R. 1268. A bill to continue the successful Federal role in developing a national intermodal surface transportation system, through programs that ensure the safe and efficient movement of people and goods, improve economic productivity, preserve the environment, and strengthen partnerships among all levels of the Government and the private sector, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOSWELL:

H.R. 1269. A bill to amend title XIX of the Social Security Act to provide post-eligibility treatment of certain payments received under a Department of Veterans Affairs pension or compensation program; to the Committee on Commerce.

By Mr. UPTON (for himself, Mr. TOWNS, Mr. HASTERT, Mr. CRAPO, Mr. HALL of Texas, Mr. GUTKNECHT, Mr. BURR of North Carolina, Mr. BARTON of Texas, Mr. STEARNS, Mr. KLINK, Mr. RUSH, Mr. KNOLLENBERG, Mr. BONIOR, Mr. TAUZIN, Mr. NORWOOD, Mr. GRAHAM, Mr. MANZULLO, Mr. SHIMKUS, Mr. EHLERS, Mr. STUPAK, Mr. RAMSTAD, Mr. SPRATT, Mr. PICKERING, Mr. BILIRAKIS, Mr. PORTER, Mr. LIPINSKI, Mr. LAHOOD, Mr. FAWELL, Mr. GORDON, Mr. EVERETT, Mr. KILDEE, Mr. BARCIA of Michigan, Mr. BARTLETT of Maryland, Mr. SKEEN, Mr. WHITFIELD, Mr. LATHAM, Mr. MCHUGH, Mr. SNOWBARGER, Mr. CAMP, Mr. HASTINGS of Washington, Mr. BAKER, Mr. FRELINGHUYSEN, Mr. COOKSEY, Mr. LEVIN, Mr. SESSIONS, Mr. GOSS, Mr. COLLINS, Mr. MANTON, Mrs. ROUKEMA, Mr. CHAMBLISS, Mr. BORSKI, Mr. FATTAH, Mr. HOLDEN, Mr. RIGGS, Mr. CLYBURN, Mr. MORAN of Virginia, Mr. BACHUS, Mr. PACKARD, and Mr. BERRY):

H.R. 1270. A bill to amend the Nuclear Waste Policy Act of 1982; to the Committee on Commerce, and in addition to the Committees on Resources, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MORELLA:

H.R. 1271. A bill to authorize the Federal Aviation Administration's research, engineering, and development programs for fiscal years 1998 through 2000, and for other purposes; to the Committee on Science.

By Mr. SCHIFF:

H.R. 1272. A bill to authorize appropriations for fiscal years 1998 and 1999 for the U.S. Fire Administration, and for other purposes; to the Committee on Science.

H.R. 1273. A bill to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes; to the Committee on Science.

By Mrs. MORELLA:

H.R. 1274. A bill to authorize appropriations for the National Institute of Standards and Technology for fiscal years 1998 and 1999, and for other purposes; to the Committee on Science.

By Mr. ROHRABACHER:

H.R. 1275. A bill to authorize appropriations for the National Aeronautics and Space Administration for fiscal years 1998 and 1999, and for other purposes; to the Committee on Science.

By Mr. CALVERT:

H.R. 1276. A bill to authorize appropriations for fiscal years 1998 and 1999 for the research, development, and demonstration activities of the Environmental Protection Agency, and for other purposes; to the Committee on Science.

H.R. 1277. A bill to authorize appropriations for fiscal year 1998 and fiscal year 1999 for the civilian research, development, demonstration, and commercial application activities of the Department of Energy, and for other purposes; to the Committee on Science.

H.R. 1278. A bill to authorize appropriations for the activities of the National Oceanic and Atmospheric Administration for fiscal years 1998 and 1999, and for other purposes; to the Committee on Science, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CAMP (for himself, Mr. JEFFERSON, and Mr. WATKINS):

H.R. 1279. A bill to amend the Internal Revenue Code of 1986 to exclude the activity of soliciting and receiving qualified sponsorship payments from unrelated business income; to the Committee on Ways and Means.

By Mr. CHABOT (for himself, Mr. SCHUMER, Mr. COBLE, Mr. DELAY, Mr. FRANK of Massachusetts, Mr. GEKAS, Mr. DELLUMS, Mr. SCHIFF, Mr. ROTHMAN, Mr. PORTMAN, Mr. DELAHUNT, Mr. LEWIS of Kentucky, Mrs. MCCARTHY of New York, and Mr. DIXON):

H.R. 1280. A bill to allow the photographing, electronic recording, broadcasting, and televising to the public of Federal court proceedings; to the Committee on the Judiciary.

By Mr. COSTELLO (for himself, Mr. FALEOMAVAEGA, Mr. FROST, Ms. NORTON, and Mr. WALSH):

H.R. 1281. A bill to amend the Public Health Service Act and other laws to apply the health insurance portability requirements applicable to group health plans to students covered under college-sponsored health plans; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CRAPO (for himself and Mrs. CHENOWETH):

H.R. 1282. A bill to authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation district, and for other purposes; to the Committee on Resources.

By Mr. EHRLICH (for himself, Mr. NEY, Mr. FOX of Pennsylvania, Mr. LIPINSKI, Mr. BACHUS, Mr. BARR of Georgia, Mr. METCALF, Mr. BAKER, Mrs. KELLY, Mr. LATOURETTE, Mr. SNOWBARGER, Mr. KING of New York, Mr. HEFLEY, Mr. CHABOT, Mr. JONES, Mr. INGLIS of South Carolina, Mr. NEUMANN, Mr. RAMSTAD, and Mr. WELLER):

H.R. 1283. A bill to provide a moratorium on certain class action lawsuits relating to the Real Estate Settlement Procedures Act of 1974; to the Committee on Banking and Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGEL:

H.R. 1284. A bill to amend the Safe Drinking Water Act to allow public water systems to avoid filtration requirements, and for other purposes; to the Committee on Commerce.

By Mr. ENSIGN:

H.R. 1285. A bill to amend the Internal Revenue Code of 1986 to repeal the 50-percent limitation on the amount of business meal and entertainment expenses which are deductible; to the Committee on Ways and Means.

By Mr. FOX of Pennsylvania:

H.R. 1286. A bill to amend the Internal Revenue Code of 1986 to provide an exemption from tax for gain on sale of a principal residence; to the Committee on Ways and Means.

By Mr. FRANKS of New Jersey (for himself and Mr. HERGER):

H.R. 1287. A bill to regulate the use by interactive computer services of Social Security account numbers and related personally identifiable information; to the Committee on Commerce.

By Mr. HOYER (for himself, Mr. CARDIN, and Mr. STARK):

H.R. 1288. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of cost-effective, medically necessary dental procedures; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. JOHNSON of Connecticut (for herself, Ms. NORTON, Ms. SLAUGHTER, Ms. CHRISTIAN-GREEN, Mrs. KELLY, Mrs. MORELLA, Mrs. MALONEY of New York, Mrs. CLAYTON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. ROUKEMA, Ms. WATERS, Ms. ROS-LEHTINEN, Ms. DEGETTE, Ms. STABENOW, Ms. KILPATRICK, Ms. MOLINARI, Mr. DINGELL, Mrs. KENNELLY of Connecticut, and Ms. JACKSON-LEE):

H.R. 1289. A bill to amend title III of the Public Health Service Act to revise and extend the mammography quality standards program; to the Committee on Commerce.

By Mr. JONES:

H.R. 1290. A bill to promote the restoration, conservation, and enhancement of wetlands through the establishment of a responsible wetlands mitigation banking program; to the Committee on Transportation and Infrastructure.

By Mrs. KELLY (for herself, Mrs. LOWEY, Mr. QUINN, Mr. GILMAN, Mr. MCHUGH, Mr. LAFALCE, Mr. KING of New York, Mr. BOEHLERT, Mr. SOLOMON, Mr. NADLER, Mr. MANTON, Mr. HINCHEY, Mr. HOUGHTON, Mr. ENGEL, Mrs. MCCARTHY of New York, Mr. ACKERMAN, Mr. OWENS, Ms. SLAUGHTER, Mr. SERRANO, Mr. SCHUMER, and Mr. RANGEL):

H.R. 1291. A bill to amend title 38, United States Code, to revise the manner by which the Secretary of Veterans Affairs ranks applicants for grants under the State home construction grant program administered by the Secretary and to limit the number of grants any State may be awarded in a year under that program; to the Committee on Veterans' Affairs.

By Mr. KENNEDY of Massachusetts (for himself, Mr. HANSEN, Mr. HINCHEY, Mr. MORAN of Virginia, and Ms. NORTON):

H.R. 1292. A bill to amend the Communications Act of 1934 to authorize the establishment of a voluntary broadcasting code for alcohol advertising, and for other purposes; to the Committee on Commerce.

By Mr. KENNEDY of Massachusetts (for himself, Mr. DELLUMS, Mr. MILLER of California, Ms. MCKINNEY, and Ms. FURSE):

H.R. 1293. A bill to enhance international security by using the resources and expertise of the international financial institutions and the United Nations to redirect world military spending to human development; to the Committee on International Relations, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KENNEDY of Rhode Island:

H.R. 1294. A bill to amend title 10, United States Code, to require the Secretary of Defense to provide to members of the Armed Forces who receive an investigational new drug relevant information regarding the drug, including the possible side effects of the drug; to the Committee on National Security.

By Mr. KLUG (for himself, Mr. MINGE, Mr. TIAHRT, Mr. PETERSON of Minnesota, Mr. SOLOMON, Mr. LOBIONDO, Mr. FOLEY, and Mr. RAMSTAD):

H.R. 1295. A bill to establish a Commission to make recommendations for the reconfiguration, corporatization, privatization, and consolidation of Department of Energy National Energy Laboratories, and for other purposes; to the Committee on Science, and in addition to the Committees on National Security, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KNOLLENBERG:

H.R. 1296. A bill to amend the Internal Revenue Code of 1986 to exclude work study payments from income; to the Committee on Ways and Means.

By Mr. LAZIO of New York (for himself, Mr. LEACH; Mr. KENNEDY of Massachusetts; Mr. KENNEDY of Rhode Island, Mr. FOX of Pennsylvania, and Mr. PRICE of North Carolina):

H.R. 1297. A bill to amend section 255 of the National Housing Act to prevent the funding of unnecessary or excessive costs for obtaining a home equity conversion mortgage; to the Committee on Banking and Financial Services.

By Mrs. LOWEY:

H.R. 1298. A bill to record place of birth as Jerusalem, Israel, for purposes of United States passports; to the Committee on International Relations.

By Mr. MCCRERY (for himself, Ms. DUNN of Washington, Mr. HERGER, Mr. CHRISTENSEN, and Mr. CONDIT):

H.R. 1299. A bill to amend the Internal Revenue Code of 1986 to provide relief from estate and gift taxes; to the Committee on Ways and Means.

By Mr. MCCOLLUM (for himself, Mr. SAXTON, Mr. MICA, and Ms. BROWN of Florida):

H.R. 1300. A bill to amend the base closure laws to reform the process by which property at military installations being closed or realigned is made available for economic redevelopment and to improve the ability of the Secretary of Defense to contract for protective services at installations being closed; to the Committee on National Security.

By Mr. MILLER of California (for himself, Mr. BERMAN, Mr. FARR of California, Mr. EVANS, Mr. MORAN of Virginia, Mr. KENNEDY of Massachusetts, Ms. PELOSI, Mr. BONIOR, Mrs. MINK of Hawaii, Mr. FROST, Mr. SANDERS, Mr. LIPINSKI, Mr. OBEY, Mr. OLVER, Mr. DELLUMS, Mr. FILNER, Ms. KAPTUR, Ms. RIVERS, Ms. WOOLSEY, and Mr. UNDERWOOD):

H.R. 1301. A bill to inform and empower consumers in the United States through a voluntary labeling system for wearing apparel or sporting goods made without abusive and exploitative child labor, and for other purposes; to the Committee on Commerce.

By Ms. NORTON (for herself, Mr. ABERCROMBIE, Mr. BROWN of California, Ms. BROWN of Florida, Ms. CHRISTIAN-GREEN, Mr. CONYERS, Mr. DAVIS of Illinois, Mr. DELLUMS, Mr. EVANS, Mr. FILNER, Mr. FROST, Mr. GONZALEZ, Mr. HILLIARD, Mr. HINCHEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. KENNELLY of Connecticut, Mrs. MALONEY of New York, Mr. MARTINEZ, Mr. MCDERMOTT, Ms. MCKINNEY, Mrs. MINK of Hawaii, Mrs. MORELLA, Mr. NADLER, Mr. OLVER, Mr. OWENS, Mr. PAYNE, Ms. PELOSI, Mr. SABO, Mr. SANDERS, Ms. VELÁZQUEZ, Ms. WATERS, Mr. SERRANO, Mrs. LOWEY, Mr. GEJDENSON, Mr. FOGLIETTA, and Ms. WOOLSEY):

H.R. 1302. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Education and the Workforce.

By Mr. PORTMAN:

H.R. 1303. A bill to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for election for Federal office, and for other purposes; to the Committee on House Oversight, and in addition to the Committees on Education and the Workforce, Government Reform and Oversight, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RAMSTAD:

H.R. 1304. A bill to provide for the temporary suspension of duty on certain plastic web sheeting; to the Committee on Ways and Means.

By Mr. ROMERO-BARCELO:

H.R. 1305. A bill to provide for the transfer to the University of Puerto Rico of title to Federal real property and improvements used to operate a center for research on primates, and for other purposes; to the Committee on Commerce, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. ROUKEMA (for herself, Mr. LEACH, Mr. LAFALCE, Mr. BAKER, Mr. FLAKE, Mr. BACHUS, Mrs. MALONEY of New York, Mr. CASTLE, Mr. ACKERMAN, Mr. KING of New York, Mr. MALONEY of Connecticut, Mr. METCALF, Mrs. KELLY, Mr. COOK, Mr. SNOWBARGER, Mr. RYUN, Mr. HILL, Mr. SMITH of New Jersey, Mr. BLUNT, Mr. FRELINGHUYSEN, and Mr. NEY):

H.R. 1306. A bill to amend the Federal Deposit Insurance Act to clarify the applicability of host State laws to any branch in such State of an out-of-State bank; to the Committee on Banking and Financial Services.

By Mrs. ROUKEMA (for herself and Mr. GORDON):

H.R. 1307. A bill to amend the Higher Education Act of 1965 to prohibit an institution that is ineligible for participation in the Federal Stafford Loan Program because of high default rates from participating in the Pell Grant Program; to the Committee on Education and the Workforce.

By Mr. SAXTON (for himself and Mr. SMITH of New Jersey):

H.R. 1308. A bill to terminate the applicability of certain provisions of the Safe Drinking Water Act relating to exemptions, variances, and the application of cost considerations in establishing and implementing standards for safe drinking water, and for other purposes; to the Committee on Commerce.

By Mr. BOB SCHAFFER:

H.R. 1309. A bill to provide for an exchange of lands with the city of Greeley, CO, and the Water Supply and Storage Co. to eliminate private inholdings in wilderness areas, and for other purposes; to the Committee on Resources.

By Mr. SOLOMON:

H.R. 1310. A bill to amend the Controlled Substances Act to prevent recommendations of the illegal use of controlled substances by registrants under that Act; to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK (for himself, Mrs. LOWEY, and Mr. BROWN of Ohio):

H.R. 1311. A bill to amend the Federal Water Pollution Control Act to authorize an estrogenic substances screening program; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TIAHRT (for himself and Mr. Schiff (both by request), Mr. Snowbarger, Mr. Ryun, Mr. Moran of Kansas, and Mr. Skeen):

H.R. 1312. A bill to deem as timely submitted certain written notices of intent under section 8009(c)(1) of the Elementary and Secondary Education Act of 1965 for school year 1997-98; to the Committee on Education and the Workforce.

By Mr. CAMPBELL:

H.J. Res. 69. Joint resolution proposing a balanced budget amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. SAM JOHNSON (for himself, Mr. Norwood, Mr. Hostettler, Mr. Hall of Texas, Mr. Hayworth, Mr. Largent, Mr. Young of Alaska, Mr. Thomas, Mr. Bartlett of Maryland, Mr. Tauzin, Mrs. Chenoweth, Mr. Paul, Mr. Skeen, Mr. Doolittle, Mr. Knollenberg, Mr. Bonilla, Mr. Hunter, Mr. Hastert, Mr. Herger, Mr. Burton of Indiana, Mr. Spence, and Mr. Ensign):

H.J. Res. 70. Joint resolution proposing an amendment to the Constitution of the United States to abolish the Federal income tax; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself, Mr. Gilman, Mr. Gephardt, Mr. Gingrich, Mr. Yates, Mr. Engel, Mr. Deutsch, Mrs. Lowey, Mr. Ackerman, Mrs. Meek of Florida, Mr. Sabo, Mr. Nethercutt, Mr. Reyes, Mr. Pascrell, Mr. Matsui, Mrs. Maloney of New York, Mr. Sandlin, Mr. Skaggs, Mr. Gordon, Ms. Jackson-Lee, Mr. Clement, Mr. Miller of California, Mr. Lantos, Mr. Campbell, Mr. Vento, Mr. Dooley of California, Mr. Roemer, Mr. McIntosh, Mr. McHale, Mr. White, Mr. Bentsen, Mr. Barcia of Michigan, Ms. Pelosi, Ms. Sanchez, Ms. Stabenow, Mr. Doyle, Mr. Burton of Indiana, Mr. Kind of Wisconsin, Mr. Hayworth, Mr. Franks of New Jersey, Mr. Stupak, Mr. Lewis of Georgia, Mr. Young of Florida, Mr. Portman, Mr. Coyne, Mr. Manton, Mr. Lipinski, Ms. Woolsey, Mr. Allen, Mr. Berman, Mr. Forbes, Mr. Wexler, Mr. Evans, Mr. Gekas, Mr. King of New York, Ms. Harman, Mr. Archer, Mr. Bachus, Mr. Canady of Florida, Mr. Chabot, Mr. Christensen, Mr. Crapo, Mr. Cunningham, Ms. Dunn of Washington, Mr. Foley, Mr. Gutknecht, Mr. Hansen, Mr. Hill, Mr. Horn, Mr. Hostettler, Mrs. Kelly, Mr. LoBiondo, Mr. Lucas of Oklahoma, Mr. McCollum, Mr. Miller of Florida, Mr. Pappas, Mr. Regula, Mr. Salmon, Mr. Skeen, Mr. Thune, Mr. Watts of Oklahoma, and Mr. Young of Alaska):

H. Con. Res. 60. Concurrent resolution relating to the 30th anniversary of the reunification of the city of Jerusalem; to the Committee on International Relations.

By Mr. FRANKS of New Jersey (for himself, Mr. Meehan, and Ms. Eshoo):

H. Res. 110. Resolution expressing the sense of the House of Representatives that the Departments of the Treasury, Defense, Commerce, and Labor should take steps to assist in increasing the competitiveness of the U.S. electronic interconnection industry; to the Committee on Ways and Means, and in addition to the Committees on Commerce, National Security, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HEFLEY:

H. Res. 111. Resolution expressing the sense of the House of Representatives that the income tax should be eliminated and replaced with a national sales tax; to the Committee on Ways and Means, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

35. By the SPEAKER: Memorial of the Legislature of the State of Michigan, relative to House Concurrent Resolution No. 11 urging the U.S. Environmental Protection Agency to reaffirm certain standards of ozone and particulate levels; to the Committee on Commerce.

36. Also, memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 13 urging the U.S. Environmental Protection Agency to reaffirm certain standards of ozone and particulate levels; to the Committee on Commerce.

37. Also, memorial of the Senate of the State of Connecticut, relative to a Senate resolution urging Congress to address certain programmatic and budgetary shortfalls within the nuclear waste storage program; to the Committee on Commerce.

38. Also, memorial of the Senate of the Commonwealth of Virginia, relative to Senate Joint Resolution No. 314 urging Congress to enact legislation to facilitate the Food and Drug Administration's procedures for the approval of safe and effective innovative new drugs, biological products or medical devices; to the Committee on Commerce.

39. Also, memorial of the Legislature of the State of New Jersey, relative to Assembly Resolution No. 9 urging the U.S. Congress and the Federal Aviation Administration to take immediate action to increase airport security; to the Committee on Transportation and Infrastructure.

40. Also, memorial of the Senate of the Commonwealth of Virginia, relative to Senate Joint Resolution No. 225 urging Congress to reauthorize the Federal surface transportation programs by replacing outdated formulas with factors reflecting use, such as those identified in STEP 21; providing better equity in the distribution of highway funds to States; and authorizing funding for multimodal transit services and highways; to the Committee on Transportation and Infrastructure.

PRIVATE BILLS AND RESOLUTIONS

Under clause I of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN:

H.R. 1313. A bill for the relief of Nancy B. Wilson; to the Committee on the Judiciary.

By Mr. GOSS:

H.R. 1314. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Keewaydin*; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4: Mr. Engel, Mr. Wynn, Mr. Sanders, Mr. Crapo, Ms. Slaughter, Mr. Boucher, Mr. Goode, Mr. Shimkus, Mrs. Linda Smith of Washington, Mr. Martinez, Ms. McCarthy of Missouri, Mr. Barr of Georgia, Mr. Linder, Mr. Wicker, Mr. Green, Mr. Forbes, and Mr. Neumann.

H.R. 59: Mr. Wamp, Mr. Wicker, Mr. Herger, Mrs. Cubin, Mr. Smith of Texas, Mr. Archer, Mr. Shadegg, and Mr. Thornberry.

H.R. 66: Mr. Hostettler, Mr. Barrett of Wisconsin, Mr. Lewis of Kentucky, Mr. Regula, Mr. Kennedy of Rhode Island, Mr. Strickland, Mr. Spence, Mr. Boucher, and Mr. Neal of Massachusetts.

H.R. 68: Mr. Turner.

H.R. 69: Mr. Blagojevich and Mr. Davis of Illinois.

H.R. 96: Mr. Watkins and Mr. Weldon of Pennsylvania.

H.R. 139: Mr. Berman.

H.R. 192: Mr. Dellums, Mr. Hostettler, Mr. Lucas of Oklahoma, Mr. Stupak, and Mrs. Emerson.

H.R. 193: Mr. Pombo.

H.R. 203: Mr. Foglietta.

H.R. 208: Mr. Tiahrt, Mr. Ackerman, Mr. Martinez, and Mr. Walsh.

H.R. 214: Mr. Shays.

H.R. 230: Mr. Fawell.

H.R. 279: Mr. Tanner, Mr. Christensen, Mrs. Thurman, Mr. Gutknecht, Mr. Rush, Ms. Eddie Bernice Johnson of Texas, Mr. Blumenauer, and Mr. Rothman.

H.R. 282: Mr. Engel, Mr. Forbes, Mr. Gilman, and Ms. Velázquez.

H.R. 306: Mr. Pallone, Mrs. Roukema, and Mr. Gutierrez.

H.R. 339: Mr. Bachus.

H.R. 367: Mr. Sam Johnson, Mrs. Emerson, and Mr. Parker.

H.R. 411: Mr. Davis of Illinois.

H.R. 414: Mr. Dellums, Mr. Hostettler, Mr. Stupak, and Mrs. Emerson.

H.R. 446: Mr. Berry.

H.R. 450: Mr. McCrery and Mr. Shays.

H.R. 457: Mr. Stenholm and Mr. Graham.

H.R. 474: Mr. Baldacci, Mr. Sensenbrenner, Mr. Riley, Mr. Berman, and Mr. Hayworth.

H.R. 478: Mr. Condit, Mr. Sessions, Mr. Tauzin, and Mr. Packard.

H.R. 511: Mr. Barcia of Michigan and Mr. Hastings of Washington.

H.R. 519: Mr. Hoekstra.

H.R. 536: Mr. Torres.

H.R. 546: Mrs. Maloney of New York.

H.R. 548: Ms. Furse.

H.R. 553: Mr. English of Pennsylvania, Mrs. Lowey, Mr. Dellums, Mr. Brown of California, Mr. Paul, and Mr. Gephardt.

H.R. 559: Mr. Fox of Pennsylvania, Ms. Rivers, and Mrs. Kelly.

H.R. 586: Mr. Klug and Mr. Sisisky.

H.R. 611: Mrs. Kennelly of Connecticut, Mr. Pomeroy, Mr. Miller of California, Mr. Coyne, Mr. Capps, Ms. Roybal-Allard, Mr. Fattah, Ms. Carson, and Mr. Rahall.

H.R. 612: Mr. Baker, Mr. Gutierrez, Mr. Allen, Ms. Pelosi, Mrs. Thurman, Mrs.

CHENOWETH, Mr. CAPPS, and Mr. PRICE of North Carolina.

H.R. 625: Mr. WALSH.

H.R. 631: Mr. BEREUTER.

H.R. 689: Mr. FALEOMAVAEGA and Mr. HINCHEY.

H.R. 693: Mr. FOX of Pennsylvania.

H.R. 695: Mr. MARTINEZ, Mr. SHAYS, Mr. NADLER, Mr. ROTHMAN, Mr. HOSTETTLER, and Mr. FALEOMAVAEGA.

H.R. 699: Mr. RAMSTAD, Mr. RYUN, Mr. SCHIFF, Mr. HOBSON, Mr. SENSENBRENNER, Mr. GEJDENSON, Mr. DAVIS of Virginia, Mr. FALEOMAVAEGA, Mr. HASTINGS of Washington, Mr. NETHERCUTT, Mr. LUCAS of Oklahoma, Mrs. NORTHUP, and Mr. HASTERT.

H.R. 710: Mr. FATTAH.

H.R. 715: Mr. DELLUMS and Mr. WYNN.

H.R. 716: Mr. CHRISTENSEN, Mr. PAUL, and Mr. NETHERCUTT.

H.R. 741: Mr. PETERSON of Minnesota, Mrs. EMERSON, Mr. BOYD, and Mr. CHAMBLISS.

H.R. 755: Mr. BACHUS, Mr. PASTOR, Mr. JEFFERSON, Mr. MANZULLO, Mr. MCGOVERN, Mr. COSTELLO, Mr. KASICH, and Mrs. TAUSCHER.

H.R. 767: Mr. BARTLETT of Maryland.

H.R. 768: Mr. CAMP, Mr. WICKER, Mr. SMITH of Michigan, Mr. EHLERS, and Mrs. CHENOWETH.

H.R. 789: Mr. WELDON of Pennsylvania, Mr. PAPPAS, and Mr. EWING.

H.R. 792: Mr. SENSENBRENNER, Mr. GALLEGLY, Mr. HILLEARY, Mr. DOOLITTLE, Mr. ROYCE.

H.R. 793: Mr. FALEOMAVAEGA.

H.R. 811: Mr. SMITH of New Jersey.

H.R. 813: Mr. DICKEY.

H.R. 816: Mr. DEAL of Georgia.

H.R. 820: Mr. MILLER of California, Mr. STRICKLAND, and Mr. FALEOMAVAEGA.

H.R. 845: Mr. MARTINEZ.

H.R. 855: Ms. SLAUGHTER, Mr. FALEOMAVAEGA, and Mr. WATT of North Carolina.

H.R. 856: Mr. DELAHUNT, Mr. MARKEY, Mr. CLYBURN, Mr. OWENS, Mr. CLAY, Mr. FATTAH, Mr. HASTERT: Mr. ORTIZ, Mr. OBERSTAR, Mr. REYES, Mr. MARTINEZ, Mr. DICKEY, and Mr. HOYER.

H.R. 858: Mr. LEWIS of California, and Mr. CANNON.

H.R. 866: Mr. GOSS and Mr. RAMSTAD.

H.R. 867: Mr. ENGLISH of Pennsylvania, Mrs. KELLY, Mr. BARRETT of Nebraska, Mr. GORDON, and Ms. SLAUGHTER.

H.R. 873: Mr. TRAFICANT.

H.R. 877: Mr. BARRETT of Wisconsin, Ms. STABENOW, Mr. FRANK of Massachusetts, Mr. FROST, Mr. RANGEL, Mr. GUTIERREZ, and Mr. SPRATT.

H.R. 899: Mr. DELLUMS, Mr. MILLER of California, Mr. HILLIARD, and Mrs. MALONEY of New York.

H.R. 919: Mr. FILNER, Mr. ROTHMAN, Mr. DELLUMS, and Mr. ACKERMAN.

H.R. 946: Mr. SHAYS, Mr. GUTKNECHT, Mr. LARGENT, Mr. MCKEON, Ms. LOFGREN, and Mrs. MYRICK.

H.R. 952: Mr. MATSUI, Mr. SKAGGS, Mr. MCNULTY, Mr. TORRES, Ms. MCKINNEY, Mr. DEFAZIO, Mr. LANTOS, Mr. STARK, Mr. BROWN of California, Mr. SANDERS, Mr. MORAN of Virginia, Mr. LEVIN, Mr. BERMAN, Mrs. LOWEY, Ms. DEGETTE, Mr. TIERNEY, Mr. FALEOMAVAEGA, Mr. DELLUMS, and Mr. EVANS.

H.R. 958: Mr. WATTS of Oklahoma.

H.R. 971: Mrs. MALONEY of New York, Mr. ALLEN, Mr. SMITH of New Jersey, and Mr. ACKERMAN.

H.R. 972: Mr. SENSENBRENNER and Mr. SOUDER.

H.R. 978: Mrs. CHENOWETH, Mr. ROTHMAN, Mr. MARTINEZ, and Mr. KIND of Wisconsin.

H.R. 981: Mr. SHAYS, Mr. UNDERWOOD, and Mr. DAVIS of Illinois.

H.R. 993: Mr. BACHUS, Mr. PAUL, and Mr. PETERSON of Pennsylvania.

H.R. 995: Mr. SCARBOROUGH, Mr. SENSENBRENNER, and Mr. SKEEN.

H.R. 1005: Mr. PAXON and Mr. ISTOOK.

H.R. 1006: Mr. FILNER, Mrs. KELLY, Mr. SOLOMON, and Mr. KING of New York.

H.R. 1007: Mr. KENNEDY of Massachusetts and Mr. WELDON of Florida.

H.R. 1010: Mr. CHABOT and Mr. LATHAM.

H.R. 1015: Mr. OWENS, Mr. CONYERS, Mr. BECERRA, Mr. HINCHEY, Mr. TOWNS, Mr. MANTON, and Mr. CAPPS.

H.R. 1033: Mr. GRAHAM, Mr. KING of New York, and Mr. DEAL of Georgia.

H.R. 1040: Mr. HALL of Texas, Mrs. MYRICK, and Mr. CRAPO.

H.R. 1041: Mr. BONIOR, Mr. GUTIERREZ, and Mr. ACKERMAN.

H.R. 1042: Mr. GUTIERREZ, Mr. YATES, Mr. BLAGOJEVICH, Mr. PORTER, Mr. COSTELLO, Mr. EWING, and Mr. POSHARD.

H.R. 1046: Mrs. MALONEY of New York, Ms. PELOSI, Mr. DAVIS of Illinois, and Ms. BROWN of Florida.

H.R. 1049: Mr. RUSH.

H.R. 1053: Mr. BEREUTER, Mr. STEARNS, Mr. SAWYER, Mr. PALLONE, Mr. CUNNINGHAM, Mr. BROWN of Ohio, Mr. LATOURETTE, and Mr. ORTIZ.

H.R. 1059: Mr. SENSENBRENNER, Mr. DICKEY, and Mrs. CUBIN.

H.R. 1061: Mrs. THURMAN and Mr. SHAYS.

H.R. 1062: Mr. KNOLLENBERG and Mr. SNOWBARGER.

H.R. 1071: Mr. RUSH.

H.R. 1076: Ms. STABENOW, Mr. HORN, Mr. ACKERMAN, Ms. FURSE, Mr. GUTIERREZ, Mr. DELLUMS, and Mr. DAVIS of Illinois.

H.R. 1080: Mrs. ROUKEMA.

H.R. 1108: Mr. BONILLA, Mr. FRELINGHUYSEN, Mr. CUNNINGHAM, Ms. PRYCE of Ohio, Mr. STUMP, Mr. SHADEGG, Mr. LIVINGSTON, Mr. GREEN, and Mr. HEFLEY.

H.R. 1120: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1127: Mr. SHADEGG, Mr. STUMP, Mr. DAN SCHAEFER of Colorado, Mr. HEFLEY, Mr. HUNTER, Mr. CRAPO, Mr. GIBBONS, Mr. HERGER, Mrs. CHENOWETH, Mr. HASTINGS of Washington, and Ms. DUNN of Washington.

H.R. 1130: Mr. CLYBURN.

H.R. 1134: Mr. NADLER and Mr. CALVERT.

H.R. 1161: Mr. MCGOVERN.

H.R. 1166: Mr. FRANKS of New Jersey, Mr. ANDREWS, Mr. FRANK of Massachusetts, Mr. SAXTON, Mr. GOODLATTE, Mr. BILBRAY, Mr. BROWN of California, Mrs. KELLY, Mr. OLVER, Mr. RAHALL, Mr. WEXLER, Mr. KLECZKA, Mr. BISHOP, Mr. BALDACCI, Mr. MCHUGH, Ms. MCKINNEY, Mr. GONZALEZ, Mr. HALL of Ohio, Mr. POMBO, Mr. BONIOR, Mr. ABERCROMBIE, Mr. SISISKY, and Mr. WISE.

H.R. 1176: Ms. FURSE, Mr. DELLUMS, Mr. ACKERMAN, and Mr. SHAW.

H.R. 1188: Mr. BROWN of California, Mr. FILNER, Mrs. MALONEY of New York, Ms. CHRISTIAN-GREEN, and Mr. ACKERMAN.

H.R. 1189: Mr. HALL of Texas, Mr. BAKER, Mr. HOLDEN, Mr. OLVER, Mr. GRAHAM, and Mr. EVANS.

H.R. 1207: Mr. LUCAS of Oklahoma.

H.R. 1208: Mr. LUCAS of Oklahoma.

H.R. 1210: Mr. PASTOR, Mr. FATTAH, Mr. STEARNS, and Mr. KLUG.

H.R. 1226: Mrs. CUBIN, Mr. STARK, Mr. MATSUI, Mr. CARDIN, and Mr. MCDERMOTT.

H.R. 1227: Mr. MANZULLO.

H.R. 1251: Mr. DAVIS of Florida.

H.R. 1252: Mr. MANZULLO.

H.R. 1263: Mr. LEWIS of Georgia and Mr. MILLER of California.

H.J. Res. 26: Mrs. EMERSON.

H.J. Res. 54: Mr. POMBO and Ms. HARMAN.

H.J. Res. 62: Mr. BOEHNER, Mr. CALLAHAN, Mr. CONDIT, Mr. COX of California, Ms. DANNER, Mr. DICKEY, Mr. EVERETT, Mr. FOLEY, Mr. GALLEGLY, Mr. GORDON, Mr. GUTKNECHT, Mr. HASTERT, Mr. HULSHOF, Mr. HUTCHINSON, Mr. JENKINS, Mr. JOHN, Mr. KING of New York, Mr. KNOLLENBERG, Mr. LEWIS of California, Mr. LUCAS of Oklahoma, Mr. MCINNIS, Mr. MCKEON, Mr. METCALF, Mrs. MYRICK, Mr. NETHERCUTT, Mr. NEUMANN, Mr. NEY, Mrs. NORTHUP, Mr. PAPPAS, Mr. PITTS, Mr. RAMSTAD, Mr. RILEY, Mr. RYUN, Mr. SCHIFF, Mr. SHUSTER, Mr. SNOWBARGER, Mr. SOUDER, Mr. SUNUNU, Mr. THUNE, Mr. WAMP, Mr. WATKINS, Mr. WELLER, and Mr. YOUNG of Alaska.

H. Con. Res. 43: Mr. FATTAH and Mr. ACKERMAN.

H. Con. Res. 51: Mr. HINOJOSA, Mr. BARCIA of Michigan, and Mr. GONZALEZ.

H. Res. 16: Mrs. KELLY and Mr. RAMSTAD.

H. Res. 96: Mr. FILNER, Mr. MILLER of California, Mr. FROST, Mr. MEEHAN, Ms. DELAURO, Ms. RIVERS, Mr. BROWN of California, Mr. FALEOMAVAEGA, Ms. SANCHEZ, Mr. MCGOVERN, Mr. FLAKE, Mr. KIND of Wisconsin, Mr. WATT of North Carolina, Ms. SLAUGHTER, Ms. STABENOW, Ms. ESHOO, Mr. ABERCROMBIE, Mr. SKAGGS, Mrs. MALONEY of New York, Mr. LANTOS, Mr. WEXLER, Mr. CAPPS, and Mr. HILLIARD.

H. Res. 109: Mr. PICKERING, Mr. WICKER, and Mr. WATTS of Oklahoma.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 900: Ms. WOOLSEY.

SENATE—*Thursday, April 10, 1997*

The Senate met at 9:31 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Here is some really good news to start our day. From Deuteronomy 31:6:

Be strong and of good courage, do not fear nor be afraid . . .; for the Lord Your God He is the one who goes with You. He will never leave or forsake you.

Almighty God, Sovereign of our Nation and Lord of our lives, Moses' words to Joshua ring in our hearts. We claim their fear-dispelling power. You have promised to be with us today. Help us make this day one constant conversation with You. Whisper Your instructions for each challenge. We commit ourselves to be attentive. Show us Your will and way. We gratefully remember the times You helped us in the past and our hope for today and the future is renewed.

O God of courage, put steel in our spines, vision in our minds, and hope in our hearts. There are things we cannot do today without Your power and there are other things we would not even think of doing because You are present. So give us the will to say "yes" to what You clearly guide and "no" to what we know You would not bless. In the name of the Way, the Truth, and the Life. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, is recognized.

SCHEDULE

Mr. LOTT. Mr. President, I am sorry I am a minute late. I will not make a practice of that, Mr. President. We like to start right on time.

Today the Senate will resume consideration of Senator THURMOND's amendment to the substitute amendment to S. 104, the Nuclear Waste Policy Act. We are still hopeful that an agreement can be reached to enable us to complete action on this important bill in a reasonable timeframe. At any rate, we will continue to go forward on it, and we are making progress. I appreciate the cooperation of Senators on both sides of this issue for their cooperation.

A cloture motion was filed last night on the committee substitute; however, if an agreement is reached, that cloture vote will, hopefully, not be necessary, and I assume it will not be. If an agreement is not reached, the cloture vote will occur on tomorrow morning.

As a reminder, under rule XXII, Senators have until 1 p.m. today in order to file first-degree amendments to the substitute amendment. Rollcall votes are possible throughout today's session of the Senate, and into the evening if necessary. I do expect some votes today, but the most important thing is to find a way to come to an amicable agreement on how to conclude this legislation. That is our focus, and, again, we are making progress in that effort. As always, Senators will be notified as to when any votes are scheduled.

MEASURE PLACED ON THE CALENDAR—S. 543

Mr. LOTT. Mr. President, I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER (Mr. INHOFE). The clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 543) to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers.

Mr. LOTT. Mr. President, I object to further consideration of this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

Mr. LOTT. I yield the floor.

Mr. REID. Mr. President, before the able majority leader leaves the floor, would you go over once again—you said who has until 1 o'clock to file amendments?

Mr. LOTT. All Senators, under rule XXII, have until 1 o'clock to file first-degree amendments.

Mr. REID. Fine. I misunderstood.

NUCLEAR WASTE POLICY ACT AMENDMENTS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 104, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 104) to amend the Nuclear Waste Policy Act of 1982.

The Senate resumed consideration of the bill.

Pending:

Murkowski amendment No. 26, in the nature of a substitute.

Thurmond-Hollings amendment No. 27 (to amendment No. 26) to provide that the Savannah River site and Barnwell County, SC shall not be available for construction for an interim storage facility.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, on behalf of Senator WELLSTONE, I ask unanimous consent that Brian Symms, a congressional fellow on his staff, be permitted the privilege of the floor during consideration of S. 104.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, it is my understanding that Senator THURMOND has an amendment that is pending at this time, and that he would like to dispose of that amendment?

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 28 TO AMENDMENT NO. 27

Mr. REID. Mr. President, I send an amendment to the desk. This amendment is being offered on behalf of Senators REID and BRYAN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Nevada [Mr. REID], for himself and Mr. BRYAN, proposes an amendment numbered 28 to amendment No. 27.
>
> At the end of the matter proposed to be inserted, add:
>
> "Notwithstanding any other provision of this bill, transportation of spent nuclear fuel or high-level radioactive waste under the provisions of this bill to a centralized interim storage site or to a permanent repository shall not cross any state line without the express written consent of the governor of the state of entry."

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, during the last several years, in fact, during the entire time I have been in Congress, there has been an explosion of comment about returning matters to the States. This has been evidenced in a number of pieces of legislation we passed, including those in the last Congress dealing with immigration reform and especially that dealing with welfare reform.

Matters have been returned to the States. Why? Because there have been feelings of many that there was an accumulation of power here in Washington that had taken away from the basic foundation of our constitutional

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

form of Government. Too much power was being developed and too much power actually existed in Washington, DC, in the Federal level of Government.

Mr. President, as a result of that, we, most everybody in Congress, have felt that we needed to return things to the States and have the chief executive of that State have the say of what goes on within the confines of that State.

That is what this amendment deals with. If you are going to ship the most poisonous substance known to man across State lines, then, of course, you should get permission of the Governor.

Many also in the majority have proclaimed that the 105th Congress, above all other Congresses, be a States rights Congress, the mantra of those avowed supporters of States rights, grounded in the notion that Congress has no right to impose costly and burdensome laws, rules and regulations on the States. In fact, I joined with the assistant leader of the majority, Don NICKLES, in sponsoring an amendment to the regulation reform bill that came from the House last Congress, the Nickles-Reid amendment. That passed. In effect, what that amendment said is that Federal agencies are promulgating too many regulations without Congress having any authority or say as to what regulations they have promulgated.

What the Nickles-Reid amendment said is that if there is a regulation promulgated that has a certain financial impact, then it does not go into effect for 60 days. If it has less than a $100 million economic impact, it goes into effect immediately, but we have 60 days to review it. That was only one example of how we felt that Congress should have more say in returning power to the people.

Mr. President, the mantra of the States rights Congress is grounded in the notion that Congress has no right to impose these costly rules, laws and regulations on States. I respect this point of view, and that is the reason I joined with my friend, the senior Senator from Oklahoma, in sponsoring this legislation that passed without a single dissenting vote. It did not have a dissenting vote when we offered the amendment here; there was not a single dissenting vote when it came back from the House in conference.

That said, it is ironic that some who consider themselves stalwart supporters of States rights are going to support this underlying legislation. If there is ever a bill that abrogated abuse of States rights in a more terrible manner than the underlying legislation, I do not know what that would be. It seems that when it comes to issues involving the most basic of States rights, the right to be free of living with deadly nuclear waste, this Congress does not care. We, Mr. President, are directing this amendment not to the States that have to live with nuclear waste, we are directing it to the States that are concerned about their highways and railways transporting this poison.

It seems that we should care. How can anyone who considers themselves to be a supporter of States rights vote against this amendment? It is clear that States rights then, if, in fact, they do not vote for this amendment, is as hollow as the arguments that they could make on any specious legislation. The next time we hear moving oratory about the sanctity of the tenth amendment and the need to protect States rights, I will simply refer to this second-degree amendment and ask where those strong voices were on this issue involving the most fundamental of States rights.

This amendment offered by this Senator and my colleague from the State of Nevada is something that every Senate office should listen to and listen to very closely. Remember what we are saying is that if you are going to transport nuclear waste through a State, the Governor should give the signoff. Why do I say that? What we are doing is saving this country a lot of problems by saying, "Let the Governors sign off." Nuclear waste will not be transported in the United States. It does not matter how many bills we pass, it will not happen.

I was in the House of Representatives this morning talking to one of the Presiding Officer's and this Senator's former colleague when we served in the other body, and he said to me, "You know, I voted with Congress on Vucanovich," who supported this Senator's position on nuclear waste. He said, "I did it for a simple reason. If everyone says that nuclear waste can be transported safely, then, obviously, it is going to be safe where it is to begin with. Why not leave it where it is?"

The reason I say we are doing this country a favor with this amendment is that nuclear waste is not going to be transported. Look at the experiences they had in Germany recently with the transfer of almost 500 canisters of high-level nuclear waste. They wanted to haul this 300 miles to a remote place in Germany. We are talking about hauling it more than 3,000 miles.

What did it take in Germany to haul this nuclear waste 300 miles? It took 30,000 police and military personnel. The average speed was 2 miles an hour. It cost the German Government over $150 million. The German Parliament has said, "We're not going to do this anymore. We are going to review what we are doing."

As we speak, Germany's Parliament is reevaluating the entire program. They shipped 8 of 420 casks of high-level nuclear waste, and they have given up; 30,000 military and police personnel, 107 injuries, demonstrations everyplace, people dug holes in the road and put barriers over them so the trucks would fall in them when they came back. It was absolute civil disobedience at its worst. Why? Because the people of Germany are human beings, and they do not want this stuff hauled unnecessarily. That is what this amendment is all about.

The two people representing the very fine State of South Carolina were Governors of that State. Two of the most—I am trying to find the word. When the history books are written about the U.S. Senate, the two Senators from South Carolina will be talked about, the senior Senator and the junior Senator. They have made history in this institution. But they also, before they came here, were Governors. They know what the power of the Governor should be.

Shouldn't the Governor of a State, a sovereign State under our Federal system of Government, have the right and the opportunity to say, "We will let this stuff travel through, but I'm going to have to sign off on it first"? If the Governor of the State does not have that right to make sure that his citizens are safe and free of harm and that they can have enough personnel—in the instance of Germany, it took 30,000—shouldn't they have that right? That is what this amendment is all about.

I do believe, without any question, we are doing a service with this amendment. We are doing a service because if you are going to believe in this form of Government that we have, we have a central whole divided amongst self-governing parts—that is the definition of our Government under the Constitution, a central whole divided amongst self-governing parts—those self-governing parts are States, and shouldn't they have the right to determine whether or not we are going to haul this stuff willy-nilly through the States? That is what this amendment is about. It is simple and direct. It says, if you are going to haul nuclear waste, let the Governor of the State through which you are going to haul it sign off on it.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The junior Senator from Nevada.

Mr. BRYAN. I thank the Chair. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BRYAN. I thank the Chair. Mr. President, let me add, if I may, the significance I find in this piece of legislation that we are offering today. This has for too long a time been characterized strictly as a Nevada issue, and many of my colleagues have, obviously, focused less time on this than my senior colleague and I, because Nevada is targeted as the interim storage facility in this piece of legislation. But the point that we have sought to make is that there is a national impact in the transportation of 85,000 metric tons—that is the emphasis, 85,000 metric tons—of nuclear waste in an order of magnitude never before seen. There have been over the years 2,500 shipments, but we are talking about 17,000, and as the Presiding Officer may recall from our debate earlier on this, those earlier 2,500 shipments involved a relatively short distance of about 900 miles or less.

By reason of the proximity of the Nevada test site, as contrasted from the origin of the nuclear waste itself at the reactors, we are talking about thousands of miles. I think my colleagues will recall that we are talking about rail and highway corridors that go through 43 States. Forty-three States are involved. So it is not just Nevada. Forty-three States.

To give you some idea of the size of each cask, although they have not yet been designed, what is contemplated is that a rail cask would weigh 125 tons and a truck cask would weigh 25 tons. You will recall that, in terms of the level of potential radioactivity, that is the equivalent of 200 bombs the size of Hiroshima. So many may wonder why we are suggesting that we do this with respect to high-level nuclear waste shipments. It is because the order of risk is so much greater and the consequences of failing to provide for it is much, much greater.

The Presiding Officer represents the great State of Oklahoma. You will note that in Oklahoma, we have at least three different corridors that would be used. These are all rail corridors that would come through the State of the distinguished Presiding Officer. What we are simply saying is, "Look, can a Governor have a greater responsibility and obligation to the citizens of the State that he or she represents than to make sure that adequate measures are taken to protect the health and safety of the citizens of that State?"

Mr. President, as you know, I was honored by the citizens of my own State to have been elected Governor twice. I have some idea of the responsibilities that a Governor undertakes, and there can be no greater responsibility than a Governor advocating on behalf of the people he represents to make sure that any actions that are within his or her power are done for the purpose of protecting the health and safety of the citizens.

So that is what we are doing. Not only is the Presiding Officer's State involved, we have Arizona, New Mexico, Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Tennessee, Missouri, Kansas, Colorado, Utah, California, Washington, Oregon, Idaho, Wyoming, Nebraska, Iowa, Minnesota, Illinois, Wisconsin, Michigan, Indiana, Ohio, West Virginia—we can go on and on and on—Pennsylvania, New York, Massachusetts, Connecticut, to go on and on. My point is that each of these Governors should have the ability to make sure adequate safeguards are taken.

Let me just say, because this is an issue that has occurred out in the West and may not be widely publicized and it came to a boiling point during the recess, there is a series of shipments which are being received on the west coast from overseas nuclear reactors. They would come in through the Port of Oakland in California, ultimately to be located at the facility in Idaho. California's Governor complained vociferously that there had not been adequate notice, not adequate safeguards taken, and so he has filed, on behalf of the people of California, a lawsuit, or has directed the attorney general to do so, to challenge the adequacy of some of those provisions. My senior colleague, Senator REID, pointed out the problems that have occurred in Europe. So these are not theoretical or hypothetical, these are real-life circumstances, and Governors ought to have the ability to do that.

All we are saying is, look, each Governor must be satisfied that before a shipment goes through his or her State that safeguards are needed to protect the citizens of that State in literally hundreds of thousands of cities that this nuclear waste would go through. That strikes me as not being unreasonable.

We talk a lot in this Congress of returning power to the States, not assuming all wisdom resides on the banks of the Potomac. Indeed, those who work in the Federal bureaucracy are vested with no greater wisdom than those who toil on behalf of a State government at the State level. I hear that time after time in many different contexts as we debate legislation on the floor.

There is no greater opportunity that a Member can have than to say, in effect, "I am implementing a policy that provides to each of the States that which I have philosophically espoused, namely, giving the Governor, as the chief executive officer of that State, the ability to undertake the necessary protections." I think that is a reasonable approach. I think it is something that every Governor would want. It is not partisan. Democratic Governors and Republican Governors alike would certainly want to be protected in terms of the 17,000 shipments that would pass through their States, through thousands of cities in America, small communities, and that is not unreasonable. And because these routes are identified here, as we are pointing them out—there is no great mystery—so that the State Governors could be contacted long in advance of any proposed shipment to work out the necessary health and safety precautions.

I say to my colleagues that, however they come down on S. 104, this certainly is a measure that everybody ought to embrace because this is health and safety and it provides the ultimate protection for a Governor to take care of those persons in his or her State to the best of that Governor's ability.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Nevada.

Mr. REID. Mr. President, we need to make it very clear that this amendment, this second-degree amendment, is not directed toward Nevada. It is directed toward this sovereign Nation made up of 50 separate States.

For example, Governor Beasley of South Carolina, before nuclear waste moves through that State, would have to sign off saying, yes, it should travel through the State of South Carolina. Governor Hunt of North Carolina would have to sign off saying, yes, it can travel through the State. Governor O'Bannon of Indiana, Governor Romer of Colorado, Governor Voinovich of Ohio—and we would go through the list—allowing nuclear waste to travel.

I would say to people who espouse some degree of returning matters to the States, there is no better and more direct example than this. What we are saying is that the Governor of the State, the Governor of a sovereign State, one of the 50 sovereign States in this Nation, should have the right to determine if they want this stuff carried through their State. It is as simple as that.

If it is in the best public interest of that State, the Governor will allow it. It would be better, I think, that Governor Beasley, Governor Hunt, Governor Romer, Governor O'Bannon, Governor Voinovich, Governor Wilson, Governor Miller would sign off rather than some nameless, faceless bureaucrat making the decision.

So I think Members of this U.S. Senate are going to be put to a test today, a very simple test. Do they really believe in States rights or do they not?

There will, of course, be one of the very clever things that has developed, with precedent, over here—a motion to table. The managers of this bill will move to table our second-degree amendment. And they will say to their friends, "Well, you're not really voting against States rights. This is a procedural matter. You'll never be bothered at home." Well, there is no doubt in my mind that this will be something that constitutional bodies—those who believe in the constitutional form of Government, I should say, will target this as a very important States rights vote. This is it. You cannot run and hide from this. The motion to table will not do it.

So I hope that everyone will understand that this is a basic States rights issue. If you want to carry, transport or haul nuclear waste through a State, all you have to do is go to the Governor and say, "Governor, it's in the public interest to do this. It's very important that you allow nuclear waste to travel through your State. And you can weigh the good and the bad." Let the Governor decide, not somebody who works in the bowels of the Department of Energy down here on Independence Avenue.

Mr. BRYAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SESSIONS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 28, AS MODIFIED

Mr. REID. Mr. President, I ask unanimous consent that there be a substitute allowed for the second-degree amendment.

The PRESIDING OFFICER. Is there objection to modifying the second-degree amendment?

Without objection, it is so ordered. The amendment is so modified.

The amendment (No. 28), as modified, is as follows:

At the end of the matter proposed to be inserted, add:

"Notwithstanding any other provision of this Act, no transportation of high level waste or spent nuclear fuel to a facility authorized under Section 205 of this Act shall take place through a State without the prior written consent of that State's Governor."

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I wonder if the clerk would read the amendment, the substitution, to clarify where we are here.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

AMENDMENT NO. 28, AS MODIFIED

At the end of the matter proposed to be inserted, add:

"Notwithstanding any other provision of this Act, no transportation of high level waste or spent nuclear fuel to a facility authorized under Section 205 of this Act shall take place through a State without the prior written consent of that State's Governor."

Mr. MURKOWSKI. Mr. President, I thank the Chair.

Let me refer to a reality, and that reality is behind me in the chart, because all of us should recognize what is happening in the United States now.

This is where nuclear fuel is moving. It is moving through all of the 48 States with the exception of Florida and South Dakota. Now, that is just a harsh reality. In this timeframe from 1979 to 1995, there have been 2,400 movements of nuclear material. They moved safely; they moved over the transportation system of our highways, as well as our railroads, as indicated in the red.

This is a very dangerous amendment that would basically ensure that potentially no nuclear waste anywhere would move to any storage or disposal.

Let me highlight what it does in the next chart, because in the next chart we have the locations of spent nuclear fuel and radioactive waste in the United States. And in it is, Mr. President, 81 sites in 40 States. Is it safer to leave that waste in 80 sites in 40 States or move it?

This is what this amendment is all about. This is a desperate tactic on the part of my good friends from Nevada who simply do not want the waste put in their State. That is the bottom line, make no mistake about it.

But we have an obligation here. We have a problem here. We are either going to solve it by defeating the second-degree or we are going to be left with this situation that has been created over the last couple of decades.

That is the harsh reality of where we are. This amendment grants to the Governor of a State the power to preclude any specific shipments of spent fuel or nuclear waste through that State to the temporary proposed shipment site in Nevada out in the desert.

Let me show you where we propose to put this. We propose to put the temporary repository out in Nevada where we have had a series of tests for some two decades. I have the chart coming in. It is important that we grasp the significance of just what this amendment would do if they are successful in passing it. On the face of it, it may have some appeal, particularly to Senators like myself who have always been staunch supporters of States' authority to determine matters which are within their State borders.

Now here, Mr. President, is where we propose to put the temporary repository. This is an area in Nevada used previously for more than 800 nuclear weapon tests over an extended period of time. The other option, Mr. President, again, if you look at the other chart, is leave it where it is. If we take action today to support the second degree amendment, we are killing any effort to address a problem that we have put off far too long. When I say "far too long," Mr. President, we have contracted to move this waste next year from the reactors where it has been stored as it is exhausted from the nuclear powerplants, and the liability associated with this is going to be substantial. It is estimated to be somewhere between $40 and $80 billion.

The appeal, as I said, that is perhaps of some significance, regulation of transportation of any type of hazardous materials across State lines, has long been one of the primary examples of appropriate exercise of Federal jurisdiction. I question the constitutionality of prohibiting the movement on highways, but that is neither here nor there. The principles of federalism on which this country was founded recognize that the States' authority to govern matters within their borders, must give way to Federal authority when an issue is one of national scope reaching beyond any particular State borders. Interstate shipments of hazardous waste such as spent fuel and other forms of nuclear waste clearly require a uniform framework of requirements that ensure safety but also insure that the shipments can reach their destination.

Transportation of these materials is currently regulated under the Hazardous Materials Transportation Act, known as HAZ-MAT. That law is an intricate system for controlling hazardous materials and shipments across the United States. The HAZ-MAT system was adopted to uniformly regulate all materials regardless of type, and in each case regulation of these materials allows the States limited authority to conduct certain inspections and other activities related to the shipment.

Never do the HAZ-MAT regulations, however, allow a Governor to veto the shipments altogether. That is what this second-degree amendment would propose to do. If each State were allowed to impose its own set of safety requirements, it would very likely prove impossible to move any hazardous material from one place to another. So the alternative is to leave it where it is.

This amendment is even more restrictive than that. It would allow virtually a veto over any Federal shipments of nuclear spent fuel or other nuclear waste through any State whose Governor chooses to exercise the authority, even if all safety requirements are met. Again, Mr. President, I implore those that have questions about this to recognize that these Governors want to get this waste out of their State. That is what Senate bill 104 is all about, providing a place to put the waste.

Now, my friends from Nevada, if they were able to prevail, we simply could not move the waste. Is that what the States want? Is that what the Governors of these States want? No, they do not want it left in their State. They want it to be moved to a safe place that has been proposed, which is, obviously, the desert out in Nevada.

Now, this amendment would allow any single State to thwart a solution to a national problem, the very situation that was intended to be precluded by the Framers of the Constitution.

Even though the original Senate bill 104 included adequate measures to guarantee safe transportation of nuclear spent fuel, we have accepted additional provisions in the substitution regarding safety and training, to assure safe shipments.

It seems obvious that safety is not the real issue here. The real interest here and the real issue here is simply Nevadans, the Nevada Senators, do not want it in their State. I am sympathetic to that. But it has to go somewhere. This is the best place, out here in the desert, where, again, we have had more than 800 nuclear weapon tests over the last 50 years. That is the best place we have found in the United States. If we want to move it outside the United States, that is another matter. But who will take it? We do not have a place in the Atlantic to put it. People in the Pacific certainly do not want it. Scientists have said you can put it in the sea bed, perhaps, but that is not going to be a possibility. This is the possibility. This is all we are talking about. This is the crux of it. We either put it there or we leave it where it is.

That is something in this debate that my friends from Nevada have really not addressed. We have a permanent repository out here under construction. That repository is not going to be ready until the year 2015. Our pools are filling up. We face a crisis relative to the ability of our nuclear industry to continue to generate the 21 to 22 percent of power that is generated by nuclear energy in this country, when their pools are filling up with the high level of waste that the Government committed 15 years ago to take and has to start taking next year. The reality is that some of those reactors probably will have to shut down because they are out of space. Somebody says, "Well, make more space." The States have control of the licensing, and rightly so. Those pools where the high-level waste is stored were not designed for permanent storage. They were designed for temporary storage, until such time as the Federal Government would take the waste.

You might say, why is the Federal Government so generous in just taking the waste? I remind the President that $13 billion has been paid to the Federal Government by the ratepayer, collected by the nuclear power companies, paid to the Federal Government by the ratepayers, and now the Federal Government is in breach of its contract. Some people around here say, "Well, that is no big deal. If you are going to contract with the Government, that is just an incidental." I think that is a terrible precedent to take.

The Government is in breach of the contract beginning next year. There are going to be damages. The taxpayer will pick it up. How big? I do not know. Mr. President, $59 billion was the last estimate for damages. We have to get on with this. The national interest of providing safe central storage of disposal of nuclear spent fuel could never, ever, be achieved if this amendment is adopted. I submit that this is the only purpose for which its proponents have offered it.

Again, I refer to the chart. If you look where it is, it is all over. There are 80 sites in 41 States. If you don't want to leave it there, you have to move it. This second-degree amendment would prohibit you from moving it. It would keep it where it is.

So, I implore all Senators representing the States that are affected here to recognize what this amendment would mean. This amendment really does not pass the straight-face test, if we are serious about resolving the nuclear waste issue. As a consequence, I think it speaks for itself.

I am going to read for the RECORD an editorial that appeared April 8 in the Chicago Tribune. The headline is, "Honoring a Pledge on Nuclear Waste."

> From the start of commercial nuclear power, Washington decided to make the storage of high-level radioactive waste a Federal responsibility.

They are right. We did. We made it a Federal responsibility. We voted on it. We passed it.

> Fourteen years ago, Congress ordered the Federal Government to begin taking control of nuclear waste in 1998 and storing it at a permanent storage site in Nevada.

Where? In Nevada, right there, out in the desert.

> Despite spending billions and extending deadlines, Washington won't be ready to accept any waste for another 10 years or so.

As a matter of fact, it is the year 2015, according to the previous Secretary of Energy, Hazel O'Leary.

> Meantime, the stuff keeps piling up at nuclear power plants in Illinois and around the Nation.
>
> The Senate this week can begin to correct this unconscionable malfeasance. It will consider a bill to build a temporary waste storage facility in the Nevada desert, about 100 miles from Las Vegas. It passed similar legislation last year, but not by enough votes to override a threatened veto by President Clinton, who agreed to oppose it if Nevada's Democratic Governor and two Senators supported his reelection.

This is a quote from the Chicago Tribune, Mr. President.

Well, it further states:

> The election is over, but Clinton again is promising a veto. Nuclear waste, he argues, shouldn't be shipped to a temporary facility until it's known for certain whether a permanent site can be built at nearby Yucca Mountain. Temporary storage, he contends, will drain funds from Yucca and make it likely the underground facility will never be completed.
>
> The Senate should end this political gamesmanship by passing the bill by a veto-proof margin. For national security and environmental safety, it makes more sense to have the waste stored in a well-protected central location than at scattered sites near major cities or bodies of water like Lake Michigan, which are filling up rapidly. It will also keep electricity users from shelling out twice for the waste storage.
>
> If Washington continues to slough off its obligation, it will be forced to build additional above-ground storage facilities at their nuclear plants and try to pass the cost on to the consumers. For more than a decade, ratepayers have chipped in billions to a private fund created by Congress to help pay for permanent storage facility, some of which has already been spent on research and study at Yucca.

"A Federal appeals court"—this is important, Mr. President, because it is right on—"A Federal appeals court has ruled the Energy Department is contractually obligated to begin accepting the spent fuel next year. That deadline is unrealistic, but a temporary storage site should be designated so that the Government can begin receiving waste expeditiously. Someone in Washington must honor past promises and quit putting different decisions off on future generations, and the Senate can begin this week."

I think that is right on target.

Now, I understand that there are those who have concerns about transportation of spent fuel to a central facility. That is why this bill has 12 pages of language providing transportation, training, and notification provisions.

Let me read from selected portions of the bill, section (2):

> . . . not later than 24 months after the Secretary submits a licensed application under section 205 for an interim storage facility shall, in consultation with the Secretary of Transportation and affected States and tribes, and after an opportunity for public comment, develop and implement a comprehensive management plan that ensures safe transportation of spent nuclear fuel and high-level radioactive waste from the sites designated by the contract holders to the interim storage facility site.

Further, requirements:

> A shipping campaign transportation plan shall—
>
> (A) be fully integrated with State and tribal government notification, inspection, and emergency response plans along the preferred shipping route or State-designated alternative route identified under subsection (d) . . .

Further, under "Transportation requirements."

> (b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and tribal governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.
>
> (2) NO SHIPMENTS IF NO TRAINING.—(A) There will be no shipments of spent nuclear fuel and high-level radioactive waste through the jurisdiction of any State or the reservation lands of any Indian Tribe eligible for grants under paragraph (3)(B) unless technical assistance and funds to implement procedures for the safe routine transportation and for dealing with emergency response situations under paragraph (1)(A) have been available to a State or Indian Tribe for at least 3 years prior to any shipment.

In conclusion, Mr. President, this is a dangerous amendment. This is an amendment that freezes nuclear waste where it currently is, in those 41 States, 80 sites. Some of them are near neighborhoods, some are near schools. Just reflect on the significance if this second-degree passes—this stuff won't move. Of course, as I said before, my friends from Nevada simply don't want it to move to their State. That is really what this debate is all about. Nobody wants the stuff. You have to put it somewhere. Every State should accept the responsibility. In Connecticut, we build nuclear submarines, and that, I am sure, from the standpoint of the delegation from Connecticut, is very attractive from the economics associated with shipbuilding. But do they have a responsibility as a State? They generate the prosperity, but they don't have to put up with the actual disposal of the submarines when they are cut up and the reactors that are sent to Hanford in the State of Washington and go up the Columbia River.

I think every State has an interest in this. Colorado has waste out in their State. Do they want to keep that military waste there, or do they want to move it out? This second-degree amendment will ensure that it will stay in Colorado. I don't think the Governor or the Colorado delegation want that to happen. They want to move it out. The reality is, Mr. President, that nobody wants it. I don't know whether the Nevada delegation would consider some kind of a creation of this area out there in Nevada, dispense it from the State and put it under some kind of an original Federal enclave that is no longer part of the State. For all practical purposes, its structure is it's Federal land out in a State. But, clearly, the Federal Government does not have the disposition because it is still in a State. But the reality is, rather than go down that rabbit trail too long, no one of the 50 States wants to be named as either a permanent or temporary repository for the waste.

In conclusion, Mr. President, at an appropriate time, I will move to table this amendment. It is my understanding that there are other Members who intend to speak in opposition of the amendment.

I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada [Mr. BRYAN].

Mr. BRYAN. Let me respond to a couple of things that the chairman of the Energy Committee has said that I think bears correction. First of all, the amendment, as cast—

Mr. MURKOWSKI. Will my friend yield for a unanimous-consent request from the leadership?

Mr. BRYAN. Yes.

UNANIMOUS-CONSENT REQUEST

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the vote occur on or in relation to the pending Reid-Bryan second-degree amendment, No. 28, at 11 o'clock today.

Mr. BRYAN. This is the first I have heard of this.

Mr. MURKOWSKI. I thought it had been cleared.

Mr. BRYAN. It has not been. I want to assure the chairman that it is not our intent to be dilatory, but this is the first I have been made aware of that proposal.

Mr. MURKOWSKI. I certainly apologize, because I checked and asked, and they said it was. I withdraw the unanimous-consent request at this time and yield back to the Senator from Nevada.

Mr. BRYAN. I appreciate that. The Senator has been very fair, in terms of affording us the opportunity to do what is permitted under the rules. Perhaps what may have occurred is that we were asked by our staff to be given adequate time before a vote was taken, and someone said 11 o'clock would be that adequate time. That may have been misconstrued, I say to my friend. As to an agreement for a time certain for the vote, that was not my intention, and I accept what the chairman said.

Let me make a couple of points, if I may. One is that this amendment applies only to the shipment of waste to the interim facility. So we are not talking about the ultimate shipment that may go to a permanent repository if indeed that repository would be found acceptable. I know the distinguished occupant of the chair, in his own legal background, would appreciate that what we are trying to say to his State and to every other State—Alabama has a great many routes that are going to be major corridors for the transshipment of nuclear waste. Most of those appear on this map to be hideaway corridors. I confess not knowing the State as he does, but there are at least four different corridors that would be involved, as I see it, by rail. That is the blue line. Much of that would come from Florida and Georgia, it would appear. Some would come from Tennessee, perhaps, I don't know. Then there is a major highway that appears to come across the top of his State. So what it would simply say is that the Governor of Alabama, before shipments would cross his State, would say, "Look, I want to have the opportunity to review and look and see if indeed all of the safety precautions are there." Then if the Alabama Governor said he was satisfied, no problem, that's fine. We are trying to provide States with the opportunity to defend and protect themselves.

The basic premise, Mr. President, is that we ought not to be moving this stuff all over the country, back and forth. Somehow there has been this fallacious assumption that there has been a determination that the Nevada test site is preeminently qualified to serve as an interim storage facility. That simply is not true. There has never been a study that reaches such a conclusion. There are probably a thousand places in the country that would be acceptable for interim storage. The only reason the Nevada test site has been chosen is the premise that the permanent repository at Yucca Mountain will meet the test. That is what this debate is about. We will talk much more about that in a different context.

I want to, also, if I may, set the record straight. The Chicago editorial that the distinguished chairman read is absolutely replete with misinformation and errors. As the chairman read the article and indicated that 14 years ago it was determined that Nevada was the site, Mr. President, that is simply not true. Fourteen years ago, I believe the Congress attempted to pass a reasonable and balanced piece of legislation—the Nuclear Waste Policy Act of 1982—which was signed into law by then President Reagan in the early part of 1983. What it said was that we will look across the country and try to find the best sites. We will look at formations that consist of granite; we will look at the salt domes; we will look at welded tuft, which is what we have in Nevada. No region in the country will have to bear it all. There will be a balance. And, indeed, three sites would ultimately be submitted to the President of the United States after the study—three sites—and the President would select among those three sites.

Now, that made some sense, in terms of the scientific approach and, indeed, I think that most people in my own State, as well as across the country, to the extent that they followed this, said that was balanced.

Here is what happened. No sooner was the ink dry than the Presidential campaign of 1984 began to heat up and the President was telling people in the Southeast, "Don't worry, it is not going to be salt domes." Then the Department of Energy said, "Well, my gosh, locating something in the East is going to create a lot of political pressure for us, so we will abandon that site." Then, in 1987 came the ultimate rejection and repudiation of anything that purported to have any kind of scientific basis at all; it is a bill that is known in infamy in Nevada as the "screw Nevada" bill. It said, without so much as a scintilla of science, that we will only look at Nevada. That wasn't what the law said in 1984. It said we would look at three, we would look all over the country. Maybe Nevada would be the short straw. We would not like that. I am sure the occupant of the chair would not like it if it were Alabama. I understand that.

Now, somehow the editorial suggested that the President entered into a crass political quid pro quo with my distinguished colleague, the senior Senator from Nevada, with me and the

Governor, and said, "Look, if you support my reelection that had absolutely nothing to do with it." We made our argument based on merit—that is, that there should not be a shipment of interim waste to an interim storage facility until such determination of a permanent facility could actually be characterized. That was the whole scientific predicate. The President of the United States, in reaching his conclusion, followed the recommendations and conclusion of the Nuclear Waste Technical Review Board, a body constituted by this Congress, which said there is absolutely no need to have an interim storage facility at this point.

Mr. REID. Will my friend yield for a question?

Mr. BRYAN. I would be happy to yield to the Senator from Nevada.

Mr. REID. Would the Senator agree that President Clinton would be better off politically if he had gone along with the majority?

Mr. BRYAN. Absolutely. If you are looking at this in terms of the political consequences, there are four electoral votes in Nevada. Many States have many more. So if it was a political calculus made, the President's math was poor indeed. He supported the position argued by not only those of us in Nevada, but those who were following the premise of the act, the Nuclear Waste Technical Review Board, and the point made by the Senator from Arkansas the other day that we ought not to be transporting this across the country until we have the permanent site. Does it make any sense at all? I believe that was the basis.

Mr. REID. Will the Senator yield further?

Mr. BRYAN. Yes.

Mr. REID. As to the present state of the law, I ask the Senator, what does it say about whether or not you can locate a permanent repository and a temporary repository in the same State?

Mr. BRYAN. The present state of the law, enacted by the Congress, prohibits a State that is being considered for a permanent facility to be the site of an interim or temporary facility. Moreover, at the request, as I recall it, of the Tennessee delegation some years ago, it prohibits the location of an interim facility until an application for licensure is made for the permanent facility. Now, that was sound policy. No. 1, no State, frankly, should have to bear the burden of both. That was the philosophy and the remnant of what was a fair act in the beginning—to look all over the country. The interim ought not to be located before the permanent, because we know that kind of tends to be de facto permanent. That was good policy, I say in answer to my friend.

Mr. REID. Will the Senator allow me to ask another question?

Mr. BRYAN. I will.

Mr. REID. It is my understanding, belief, and knowledge that you, like the two Senators from South Carolina, have been the chief executive of the State of Nevada, the Governor.

Mr. BRYAN. Yes, we share that history together. I was elected twice as Governor of my State.

Mr. REID. Is it true that one of the philosophies that you had while you were Governor was to protect the rights of the State of Nevada?

Mr. BRYAN. It was indeed. Every Governor takes an oath of office in which he or she indicates they will indeed uphold those rights and responsibilities, and I did so, as each and every Governor has done not only in Nevada but throughout the country, I am sure.

Mr. REID. Will the Senator further respond? It is my understanding that the Senator has a law degree from the University of California Hastings College of Law, was Nevada's first public defender, and was a prosecutor and in the district attorney's office. He was also in private practice. How many times was the Senator elected attorney general of the State?

Mr. BRYAN. I was elected attorney general once.

Mr. REID. During that period of time, the Senator was the chief political officer of the State of Nevada. Is that true?

Mr. BRYAN. That is true.

Mr. REID. And the chief function was to handle the legal questions that came to the State of Nevada.

Mr. BRYAN. That is, to advise all of the State agencies that were constituted by the State legislature or established in our Constitution, and to represent, protect, and defend the people of the State. That was my obligation.

Mr. REID. Based upon the Senator's experience as Governor of the State of Nevada and as its chief legal officer, the Attorney General of the State of Nevada, and based upon other legal experiences, does the Senator from Nevada think it is an appropriate function of this Congress to adopt this amendment protecting the States rights in all 50 States?

Mr. BRYAN. It is indeed. This I would say to my friend from Nevada is a litmus test of whether we just talk the talk or walk the walk. This is all about States rights. I cannot conceive of any attorney general or any Governor in America who would not want the ability to provide for the protection of his or her State by simply saying, "Look, before we ship this 25-ton cask that someday will be provided by rail"—the 25-ton casks that are going to be mounted on some type of highway transport with the equivalency of 200 Hiroshimas in terms of its radioactive potential—I would think that any Governor, or any attorney general who has taken the same kind of oath of office that I and others have taken, would say, "Look. I would like the ability to provide that protection. I would like to see what it is that is coming."

I say in response to my friend's question about the protections that are purportedly built into this S. 104 that deals with transportation issues that it seems to me this is a logical extension of that.

Mr. REID. I say in further questioning of my friend, if in fact this substitute, this bill that we are working under now, has all of the protections that we have heard about here for the last several days—that they are going to train people and have all of these protections—based upon the Senator's experience as attorney general and Governor of the State, and as a U.S. Senator, doesn't it seem to make sense that if all of those protections are built in you could go to a Governor and reasonably explain that this is such a great piece of legislation, and say "You are protected, sign on, Governor"? Could the Senator see that happen?

Mr. BRYAN. Absolutely. Indeed, I would go further. It seems to me that it would be incumbent upon the department that wants to shift this, talking about 835,000 metric tons—we are talking about 17,000 shipments over a period of a number of decades—it would seem to me that the department would have the burden of going to Governors who have concerns, talk with them, and to say, "Look. This is what we are doing. This is how we propose to protect the shipment route to go through your State." That seems to me to be a reasonable basis.

I know that there are others who want to take the floor and will have a chance to discuss this some more. But I would like to conclude by saying that this is something that gives every Governor an opportunity to protect his or her citizens. And I say with some measure of envy that the Senator from Alaska can speak with a far greater degree I suppose of comfort level because whatever occurs or does not occur in this body, his State is thousands of miles from the field of action. I wish I were so fortunate. But it becomes my responsibility representing the people of Nevada who I represent, and who are my primary responsibility, to make sure that we provide all of the protections that can possibly be secured for their health and safety. And I will continue to do so.

This is an offer by my colleague from Nevada and I to try to provide a safe piece of legislation, if indeed this is to be enacted into law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I stand on the floor today to speak against the Reid-Bryan amendment as it relates to Governors' authority on transportation of materials through their States.

My colleague from Nevada, who is not only a U.S. Senator but a former

Governor of that State, just said something that I found fascinating in the context of this legislation or this amendment. In a dialog with his colleague, the other Senator from Nevada, he suggested that with all of the safeguards and the protections put in, couldn't you go to a Governor and logically argue with him and, therefore, convince him to just sign off, Governor?

My guess is that as a former Governor of the State of Nevada or a Governor today in Nevada, with all these safeguards, he wouldn't sign off—not because of the science, not because of the engineering, but because of the politics. Plain and simple politics is what is dictating the argument on the floor today—not science, not engineering, not the facts. So, sign off, Governor. Just sign off, and everything will be fine. And the Governor looks over his back shoulder, he looks at the polls, and he sees that the citizens of his State do not want nuclear waste stored in their State no matter how good the science, no matter how good the engineering, no matter how good the record, no matter how good the history of that record. What does he do? Is he the statesman that he should be? Not at all. He is the politician that he is. He says, "My reelection is in trouble if I do thus and so."

Why do I speak in this manner? Because Idaho went through that very experience. Idaho has a large amount of interim storage of high-level nuclear material. And a former Governor of our State got a Federal court order to stop the shipment of that waste coming into the State. But could he get the Federal court to ultimately say no waste movement to Idaho? No; what he could get, what any Governor can get, what our S. 104 provides, and what current law provides is that he could assure that the condition in which that waste would be stored both long-term or short-term would be safe, would be environmentally sound, and would not put at risk or put in danger the citizens of that State.

Why could the Governor not absolutely say, "It cannot cross my borders"? Because we are no longer a confederation of States. We almost fell apart as a nation when we were a confederation. We are now a union bound together by a Constitution that speaks very specifically to interstate commerce, and the ability of a Governor or a State to block the movement of materials or commerce across its border. But what we do say—and what we defend and what S. 104 clearly spells out—is that the Governor of the State and the State itself can condition the movement of materials across its border.

That is exactly what the State of Idaho did. My Governor over the last several years has signed agreements with the Department of Energy under a Federal court order that conditions the waste that still comes to Idaho across many borders up the rails from Norfolk, VA, to Idaho—2,500-plus miles, 600 shipments over 30 years, and never an accident—with never a human put at risk by the spill of radioactive activity.

I am not suggesting nor am I attempting to impugn the integrity of the Senators from Nevada. They will do what they must do because they have the right to do it. But let me suggest they do not have the science, and they do not have the engineering. They only have the politics.

When you look at the amendment that they proposed and at the legislation that the Senator from Alaska, I, and the committee crafted, when you talk about the intricacies of laws, when you look at the legislation that is now law, the Hazardous Materials Transportation Act, known as HAZMAT which involves the States, which assures that States and Federal transportation of hazardous materials is in concert, that humans are safe and humans are protected, but the reality is that to provide greater protection for the broader good and for the national interests sometimes State borders must be crossed. The HAZMAT system has adopted a uniform, regulated approach toward handling materials regardless of their type. Regulations of these materials allow States authority to conduct certain inspections, and we have even extended that. We have created greater authority in this legislation because several of our Senators—and rightfully so—are concerned about the movement of radioactive materials across their States. And I am concerned when States are not generators of it. My State is a partial generator but a much larger store in a temporary way of waste.

This second-degree amendment is not just some conditioning amendment. This kills S. 104. This changes the whole character and the context of what the bill itself would do. The Senator from Alaska, the chairman of the committee, has so clearly said that this gives every Governor in every State absolute authority to cancel, stop, or otherwise terminate movement across State borders. We have really never given States that authority. And we should not here. But we have continually done it. And I have argued for it on many occasions under many different examples and legislation that is now law. States have very clear rights. They have 10th amendment rights. And those rights are very strong as it relates to the ability of States to govern themselves and control themselves, and not have the Federal Government impugn that authority, or dictate that authority, or change the character of that authority. But one thing that a State cannot do is lock and block its borders.

That is, of course, the reason that 208 years ago many of what we now call our Founding Fathers joined in Philadelphia to try to figure out how to get our States back together because we were falling apart largely because States had that kind of absolute authority. The States of Maryland and Virginia were shooting at each other across the Potomac River, or at least some of their interests were. And the Confederation was falling apart. That was one of the early parts of a Constitution, to make sure that commerce could flow.

I think all of the Senators on the floor would argue that this isn't the best form of commerce, and this isn't like what we would like to think of as commerce. But we clearly recognize that in the national interest, when it comes to the rights of States, that the principles of federalism on which our country was founded recognize States' authority to govern matters within their borders but must give way to Federal authority when an issue is one of national scope reaching beyond the particular boundaries of a given State. This is an interesting combination.

This is not only an issue of national scope. This is a Federal material going to a Federal property—not a private property, not a State-owned property, but Federal land in the State of Nevada. The Senators from Nevada and I are oftentimes very perplexed because we are representatives of States that have very large Federal domains. Sometimes we wish a great amount of that land could either be public-State land, and in some instances private land, but that is not the way it is, and that is not the way our States came into the Union. As a result, we are talking about building an interim storage facility, after viability determination, facilitating a deep geologic repository, long term. And it is not true that this is just going to happen and the Nevada test site was just chosen. Certainly this argument deserves merit. I know it can have the emotion, and I certainly know it has its politics because I live with nuclear radioactive politics in my State every day because we are a repository temporarily of large volumes of high-level waste from our nuclear Navy. I also know that it has been handled safely for decades, and it is a sound place to store it on a temporary basis until such time as a permanent repository is developed.

As I have mentioned, over 600 shipments have moved across numerous State borders from as far away as from Norfolk, VA, to the deserts of Idaho. And it has been done safely, soundly, and responsibly because of our country's recognition of the risk and the liability to human safety. And we have never compromised a human, and we never will.

We cannot kill S. 104. I hope that when the Senator from Alaska places the tabling motion that our colleagues will join with us to table the second-degree amendment because there is no question about its intent. I believe it is not a constitutional amendment. But then again we don't judge the Constitution here on the floor. We only try to live with it and live under it. That is not ours to make that judgment. But I do not believe the courts of our country would allow the Governor of the State of Nevada or Idaho the privilege of absolute cancellation, or absolute border blockage. And that is, of course, in my opinion, what this amendment ultimately does. So I would ask my colleagues to join with us, those who support S. 104, in the need to recognize the importance of the building of a national deep geological repository for high-level materials and high-level nuclear spent fuel and that they would vote down the second-degree amendment and vote for the tabling motion.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Nevada.

Mr. REID. Madam President, the senior Senator from Idaho articulated the position that we have felt for several years. He did it clearly and concisely and directly when he said nuclear waste is safe. If that is the case, leave it where it is. That is what we say. If it is so safe, leave it where it is. There is no reason to change the law, to go around, to short-circuit, to sidestep the present law. Last year, $200-plus million were spent characterizing the site at Yucca Mountain. What this underlying bill does is just throw all that money away and goes and pours a cement pad on top of the ground and dumps all the spent fuel rods on the cement pad.

The amendment that is now before this body says that if you are going to transport nuclear waste through a State, the Governor must allow that to happen. We certainly, under this Constitution, this Constitution that we all live by and talk about, have the obligation, we have the right to set standards as to how the flow of commerce will take place.

The senior Senator from Idaho said that you are moving Federal property. Certainly, doesn't the Federal Government, the Congress of the United States have the ability and the right to determine how Federal property is going to be moved? That is an inherent right we have, to determine the flow of commerce over our sovereign borders.

Continually, there have been efforts to say this is only a Nevada problem, this is just a couple of Senators from Nevada carping about a provincial interest; nobody else in the world cares about this other than the Senators from Nevada.

Madam President, every environmental organization in America opposes this legislation, and I say every. I also say that we only need look around. The United Transportation Union, you would think that this union would be really enthused about hauling large cargo. No, they are not real enthused. In fact, in a letter of April 8 of this year, the national director of this union, with a copy of a letter to the international president, C.L. Little, states:

> In its present form, S. 104, the Nuclear Waste Policy Act of 1997, advocates a reckless and unsafe shipping campaign of spent nuclear fuel and high-level radioactive waste.

Madam President, the United Transportation Union, to my knowledge, does not have a local. It does not have a local union in Nevada. If it does, I do not know about it. There may be one up in the northern part of the State where the railroad goes through, but I really doubt it. This letter is not driven by Nevada interests. It is driven by the United Transportation Union that cares about its members and wants safe transportation of products. The letter goes on to say:

> The Chairman of the Nuclear Waste Technical Review Board has testified to serious deficiencies in the transportation planning and preparation that are so necessary to execute this campaign safely . . .
>
> Serious questions remain regarding containment integrity of the transportation canisters that would have to be designed, tested, evaluated, certified and procured. Presently the country has only a few shipping containers that were developed and tested a number of years ago.

I was going to say a long time ago, which is, in fact, the case.

> These have apparently proven durable under some accident environments.

And we talked about that. If the accident occurs and you are not going more than 30 miles an hour, you are in pretty good shape. If the fire isn't burning more than 1,400 degrees, you are OK. Of course, diesel burns at 1,800 degrees. They go on to say:

> The NRC certification requirements for newly manufactured containers have raised serious concerns regarding their integrity.

That is the ones that are now in existence.

> A program of design and full-scale testing is desperately needed to generate confidence that the transportation campaign could be done safely.

This is the not driven by Nevada interests. This is driven by interests of a national union that is concerned about what is shipped across the railways of this country.

Now, I know there are Baptist churches in Nevada, but I have to tell you, I do not have enough power over the Baptist churches in Nevada to have them prepare a letter from the entire Baptist ministry of this country opposing this legislation. I wish I had that ability, but I do not.

In spite of that, Madam President, just a few days ago they wrote a letter to every Senator in this body saying, among other things:

> S. 104 would require the premature transportation of nuclear waste, placing communities in some 43 States at risk. Current cask regulations fail to consider the full range of plausible accident conditions and do not require compliance testing of full-cask models.

I did not make this up. I did not write this letter. This is written from the National Ministries of the American Baptist Churches USA.

> The American Baptist Churches USA, a denomination of over one million members in all 50 States, regards the right to a secure and healthy environment, clean air, pure water and an Earth that can nurture and support present and future generations as a human right. This right is rooted in the Biblical revelation that God cares for the good of all, has delivered us from sin and intends that we express love toward our neighbors. Our concern for persons and the earth we share compels us to support efforts to transport and dispose of hazardous and radioactive waste in a safe and secure manner. S. 104 fails to meet this criteria for safety and security. For these reasons, I urge you to oppose S. 104.

The director, Curtis W. Ramsey-Lucas, National Ministries of American Baptist Churches USA.

Madam President, this is not a Nevada letter. There are Baptist churches in Nevada. I am very thankful for that. Here is a group of millions of people who are interested in this issue but only as it protects people, and this legislation does not protect people.

We have from the State of Missouri two members from the other party. They do not represent this side of the aisle, but yet the Missouri Coalition for the Environment writes a letter saying:

> Missouri would surely be one of the primary States that would suffer a high percentage of the train and truck shipments because of its central location and the relatively well-maintained conditions of its rail tracks and roads.
>
> Political leaders may seek to comfort their urban constituents by promising that these shipments would avoid highly populated areas. However, such areas are precisely where the best transit routes cover. Because industrial job centers receive the greatest number of train and truck shipments, the roads, rails and bridges are maintained better than more isolated routes.
>
> Although no one knows exactly which routes the railroad and trucking companies would choose, current computer analyses predict that all but seven States would be affected by this massive—

Listen to this word—

> fruitbasket upset.
>
> Because all irradiated nuclear power plant fuel contains plutonium—a primary component of nuclear bombs—the Nuclear Regulatory Commission requires that when shipments transit cities of over 100,000 either by rail or highway, two armed escorts—

Now, this does not say armed guards, two armed escorts—

> must accompany every shipment of the irradiated fuel in an effort to protect against terrorists.
>
> Until a permanent repository is built and in operation, we believe the wisest, safest move would be to prevent any move of America's high-level radioactive waste through our cities and towns.

Madam President, the point I am making is this is not a Nevada issue only. This is an issue that is here because it is being driven by big money. Utilities making, as we indicated, over 17 percent profits, they want to shun the responsibility that they have created with nuclear garbage and get it out of their hands.

All the talk about having to do it by next year is poppycock. The court case was very clear. If the responsibility is that of the Federal Government, and they are the reason that the repository is not ready and it is their fault, then they will have to pay the damages. What are the damages? It is the cost of storage. We have already established that the cost of storage is almost meaningless. On-site storage costs almost nothing, and it is safe, as indicated by the Missouri Coalition for the Environment, by the National Ministries of the Baptist Church.

Mr. BRYAN. Will the Senator yield for a question?

Mr. REID. And by the United Transportation Union. I would be happy to yield.

Mr. BRYAN. We have heard considerable debate in the Chamber here about the horrendous liability that may exist out there because everyone concedes that the Department would not be able to physically accept possession of the waste in 1998. I thought I understood the Senator to indicate that there is at least some measure of damages provided. We have heard all kinds of billions and billions of dollars. I wasn't sure that I heard the Senator's comments.

Mr. REID. I would answer my friend's question. We have made, since this bill came up, we have made $21 billion for the country. The figure was originally $80 billion. You heard the remarks of the proponents of this legislation. They said it is down to $59 billion. The truth is it should be down in the low millions, because to store this substance onsite costs almost nothing. The average cost per site is $5 million. Let us say we have 100 sites. We have 109 sites. We are talking about $50 million or whatever it is. Significantly less than $59 billion.

Mr. BRYAN. Am I correctly informed that each of the utilities has entered into a contract with the Department of Energy dating back to the enactment of the Nuclear Waste Policy Act? Is that the Senator's understanding?

Mr. REID. Absolutely true. It is by contract.

Mr. BRYAN. By contract. And there are provisions, if I understand it, that specifically relate to the scenario that is going to occur, namely, that nuclear waste, its physical possession cannot be accepted in 1998, and there are specific provisions in that contract, if I understand correctly.

Mr. REID. Absolutely. And the court, in making its decision, like many courts do, said let us send this back and take a look at what the contractual provisions are. And the contractual provisions are very direct and concise. This is not going to generate a lot of lawsuits.

Mr. BRYAN. And the measure of damages, as I recall, that is in that contract, it is additional cost that the utilities will incur, and that additional cost would be the provision of additional storage during that period of time, if I am correctly informed.

Mr. REID. The Senator is absolutely right. If they decided to leave it in the cooling ponds, whatever the cost of that would be during that interim period of time for the storage ponds. If they decide to do the right thing, which is probably dry cask storage containment, then it would be an average of $5 million per site.

Mr. BRYAN. And they could use that as an offset in terms of what they are paying into the Nuclear Waste trust fund right now.

Mr. REID. Absolutely right. In preparation for a permanent repository. And that is why I say to my friend from Nevada and everyone else, this is not a Nevada-only issue. We are here espousing what we feel is appropriate to protect the State of Nevada. But that is only secondary to the issues that affect this whole country and that is why the Baptist Ministries, the United Transportation Union and the people from Missouri—and I only picked a few of the letters. As you know, there are several hundred organizations that we know of—oppose this legislation, which is so unsafe for the environment and so unnecessary, and only being driven by the gluttonous utilities of this country.

Mr. BRYAN. So the argument that we have heard in the Chamber that ratepayers will pay twice is specious, because to the extent that after 1998 nuclear waste would not be taken physically from a site, it cannot be under any scenario, the ratepayers would then be protected because any additional costs that the utilities would incur would be deducted from the payments that the utilities would have to make into the nuclear waste trust fund, so there would be no double payment.

Mr. REID. I would respond to my friend, that is absolutely correct. A first-year law student not even having taken a course in contracts would read that and understand that it is one of the most simple contracts ever written, and that is why the court did not spend a lot of time on that issue.

Mr. BRYAN. It strikes me as curious, if I am hearing the Senator respond, that, indeed, the senior Senator and I have introduced for a number of years legislation that would accomplish the same provision that exists in the contract; namely, to the extent that there is not the ability to physically take possession, the utility would be entitled to a reimbursement in the form of the reduction in the payments made to the nuclear waste trust fund.

Mr. REID. I would respond to my friend, we did that prior to the court rendering its decision. Probably now the legislation is unnecessary, but we could certainly do that. And I think it would make things a little clearer. But it is really unnecessary now because the court, in effect, has ruled that way.

Mr. BRYAN. I thank the Senator from Nevada.

Mr. REID. So, Madam President, what we are saying is that this amendment simply establishes what should be the law of this land. That is, if you are going to haul, as indicated in the chart behind the manager of the bill and the chart behind my colleague from the State of Nevada, showing all these routes all over the country, what we are saying is this product, if it is going to be transported through a State, the Governor should give the OK.

We have been told here for several days now that transporting this product is going to be just as safe as carrying a quart of milk from the store to your home. If that is the case, the Governors that I have mentioned, Beasley, Hunt, Romer, O'Bannon, Voinovich, Wilson from California, Miller from Nevada—and all the other fine Governors, chief executives of the States, they should be able to sit down with their staffs, it should be explained to them how safe this is, they would sign on the dotted line, and their constituents would feel happy that the government was protecting their interests.

If we do not do this we are going to wind up with a situation that has already occurred in recent days in Europe where, to move this product in the country of Germany, 300 miles, you had to call up 30,000 police and armed guards to transport at the rate of 2 miles an hour. They had to go 2 miles an hour because people had dug huge holes under the roadways and put in, in effect, disguised covers so these vehicles would fall into them—2 miles an hour. There were 170 people injured, hundreds of people arrested. And Germany's parliament said we are not going to do this anymore. We are going to reassess our situation.

That is what we should be doing here, but we cannot reassess the situation because the utilities, with all of their money, are dictating what is going on here on the Senate floor. That is what this amendment is all about.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Madam President, I think it is appropriate that we move on to vote as soon as possible. But I would like to make a couple of points that I think are pertinent to the debate that is at hand.

First of all, I think we have to recognize the premise that nobody wants to take the waste. On the other hand, I think we also have to recognize the reality of those who have the waste. Currently, we have in the State of Washington, at Hanford, a significant abundance of spent fuel, about 2,133 metric tons over here at Hanford. I have been out there. It is right on the edge of the Columbia River. These were the first graphite reactors; and the first generation of nuclear bombs that were used in Hiroshima and Nagasaki were created there.

The State of Washington has also, at that Hanford facility, 61 million gallons of liquid, high-level waste in 177 tanks. That is just the harsh reality. Savannah River, in South Carolina, 206 metric tons of high-level spent fuel, 33 million gallons of liquid waste. There is more that comes in every day. It comes from overseas and from our research reactors. How does it come? It comes through a transportation network, 2,400 shipments from 1979 to 1995. Every State has had shipments with the exception of Florida and South Dakota.

So, when we talk about transportation, we have a transportation system. Why is it not news? Because nothing is happening. It is safe.

Mr. CRAIG. Will the Senator yield on the issue of transportation?

Mr. MURKOWSKI. I will be happy to yield to my friend from Idaho.

Mr. CRAIG. The Senator from Nevada said you and I portrayed the transportation as safe as transporting a quart of milk home from the store. I think the record ought to be corrected. The transportation system for nuclear waste is safer than transporting a quart of milk home.

Have you ever dropped a quart of milk on the floor of the supermarket or on the floor of the kitchen? I have, and I have burst the container. You can drop these containers 50 feet onto a piece of concrete and they do not burst. That is the characteristics of the container.

I think, when we also get in our car at the supermarket and drive home, we do not have a police escort in front of us and behind us, making sure that the road is perfectly clear so someone does not sideswipe us at the intersection or hit us as we are leaving.

I know what the Senator from Nevada was trying to do. But the reality is, the transportation of high-level radioactive materials in this country is, by far, much safer than transporting a quart of milk home from the supermarket. There is a lot of milk spilled between the supermarket and the kitchen of the average residence in our country. But to our knowledge not one curie of radioactivity has ever been spilled going from a reactor to a storage site, once it was containerized and in its mode of transportation.

I thank my colleague for yielding. That is an important correction. We ought not make light of our arguments here because the facts are very clear when it comes to transporting this critical material.

Mr. MURKOWSKI. Let me point out to the Senator from Idaho, this is a typical cask that has been used since 1964 for shipping by truck transport. These are designed according to a very, very technical and highly engineered requirement that would associate itself with whatever the exposure is of a wreck, dropping from a high level. They have tested these. They have tested them with a railroad car at 60 to 70 miles an hour, dropping them from various levels. So the technology is here.

These are the facts, as we look at this chart of where the waste is currently, and the position our friends from Nevada have taken, which is "Do not put it in Nevada, leave it where it is." To highlight, again, the transportation chart, the one that shows the network, you just cannot reflect reality, and that is reality, 2,400 shipments. It has been safe. We have never had an accident that resulted in any exposure of any kind. We had a couple of minor trucking accidents, but clearly the cask withstood whatever the exposure was.

Let me add one more consideration relative to where the significant areas of waste are. In addition to Savannah River and Hanford, at Oak Ridge, TN, we have 1 metric ton of spent fuel in storage and what we have there are some tailings and low-level waste as well.

The Senator said it was not my State of Alaska that was affected, and that is true. But I would like the RECORD to note that we, in Alaska, at Amchitka, had the two largest underground nuclear explosions ever initiated and we are still monitoring those areas, relative to any waste that might be depleting into the landmass.

So, the point I want to make here is that everybody shares in the concern of what we do with our nuclear waste. That is what this legislation is all about, what we do with the waste.

There has been some discussion about what the damages, relative to the inability of the Government to perform on its contract to take the waste in coming years, what that might be. The lawyers are going to make that determination. But let us be realistic and recognize what the court said. The court ruled the Department of Energy had an obligation to take the spent fuel in 1998. And they promptly rejected the DOE's attempt to file a motion to dismiss. As a consequence, the Federal Government is clearly liable.

How much are the damages likely to be? Again, that is like giving the lawyers a license to go after damages or full employment. The cost of the storage of spent fuel is estimated to be about $20 billion. That is the cost. That is the cost to the Government, when the Government fails to perform on its contractual obligation starting next year. The return of nuclear waste fees—they have to return what they collected from the ratepayers, about $8.5 billion. The interest on that for the last several years, as a consequence to it building up to $13 billion, is going to be somewhere in the area of $15 billion to $27 billion and the consequential damages associated could amount to an estimated shutdown of 25 percent of the nuclear plants due to insufficient storage—another $20 or $24 billion.

I do not think there is any point, necessarily, to try to sharpen up the figures on what the damages are. Clearly there are going to be damages as a consequence of the Government's inability to respond to its contractual agreement.

What I wanted to say, relative to the point of Nevada being the best place for this, showing the Nevada chart again, is we have had 800 nuclear weapons tests in this area for approximately 50 years. And the proposed location for the interim repository is here as well as, hopefully, the permanent repository that we spent approximately $6 billion on. We will probably spend as much as $30 billion to finally get it licensed.

I have a couple of other comments relative to points that have been made, that I think need to be cleared up. I read a copy of the editorial in the Chicago Tribune of April 8. There was a reference to a possible association with regard to support for President Clinton, who agreed to oppose the legislation if Nevada's Democratic Governor and two Senators supported his reelection. That is obviously literary jargon, but, by the same token, I noted in the debate, time and time again, a reference that none of the environmental groups support this bill. Of course, I think it is fair to say the President received almost unanimous support from America's environmental groups relative to their particular policies.

What we have here from the standpoint of the environmental groups is, many of them, their objective is to simply shut down the nuclear industry as we know it today. They do not accept the responsibility for picking up on where we would generate the offset of energy as a consequence of shutting down the nuclear industry. They do not give any credence to reducing greenhouse gases as a consequence of the contribution that nuclear energy can bring to lessening or eliminating emissions.

No consideration is given to the reality that many of the nations that we compete with internationally are going to achieve their reductions of particulates and emissions as a consequence of moving toward nuclear power. France is already 98 percent nuclear power. Japan is actively moving into the area and they are beginning to reprocess. So

I think it is fair to say as we stand still and debate on and on, endless discussions about the issue of what we are going to do with our waste, other countries are moving into advanced technology and reprocessing the waste.

This particular second-degree amendment talks about States rights, and we are all sensitive to that aspect.

However, the reality of States and the interest of States has to be addressed in the consideration of the major chart which shows where the waste is and the reality that we want to move this waste to one site. As a consequence of that, I think it is fair to note we have some inconsistencies relative to the statements that have been made by my good friends on the other side.

There has been a reference that we all have to do a certain amount of sacrifice relative to States storing nuclear waste and nuclear waste fuel, and that certainly has been done by the State of Nevada. They were chosen for reasons unknown to me, but nevertheless chosen as the ideal site for nuclear explosions over those some 50 years. But there was a reference made that suggested that the transportation of nuclear fuel was an eminent right of a State to make a determination that it was or was not in the best interest of that State. But that concept defeats the logic of what we are attempting to achieve here, and that is to get it out of the States, to move it to one central repository.

As far as the history of at least some Members of the Nevada delegation, let me again refer to action that was taken some time ago. Again, I refer to this picture of the Nevada test site, where the last underground explosion occurred in approximately 1991. Underground tests are still being performed there with nuclear materials being exploded with conventional explosives.

During this time, the Nevada delegation, we assume, has not rejected that continued activity, but it is even more interesting to note that one of the Senators during his association with public service from Nevada supported storing nuclear waste at the test site. If you are going to support it, Madam President, you are going to have to get it there. So, if you support it, the realization of how you are going to move it across this network of States gets to the very crux of where we are in the second-degree amendment.

Let me read a relative portion of the Nevada Assembly Joint Resolution No. 15, and this is a chart of the entire resolution dated February 26, 1975, and the appropriate portion:

> Whereas, the people of southern Nevada have confidence in the safety record of the Nevada test site and in the ability of the staff of the site to maintain safety in the handling of nuclear materials;
>
> Whereas, nuclear waste disposal can be carried out at the Nevada test site with minimal capital investment relative to other locations;
>
> Now, therefore, be it resolved by the Assembly of the State of Nevada jointly that the legislature of the State of Nevada strongly urges the Energy Research and Development Administration to choose Nevada test site for the disposal of nuclear waste.

This resolution passed the Nevada Senate by a 12-to-6 vote, aided by one of the Senators from Nevada, who is here today, and signed by the Governor of Nevada, Mike O'Callaghan.

I do not know what has changed. The Nevada test site out there certainly has not changed. It is the same as it was. It still has a trained work force, and it still has an infrastructure for dealing with nuclear materials. The geology of the site certainly has not changed, and, obviously, some of the Senators thought it was the best place to store nuclear waste in 1975 or they probably would not have voted for it back then.

So that is the reality relative to this issue, that nobody wants it, that it is stored in 80 sites in 41 States, and the answer is to move it to one safe site. If you do not move it, it is going to sit where it is, and that is not acceptable. As a consequence, we are at a time where it is imperative that we recognize that adoption of the second-degree amendment would simply kill the legislation, kill the bill and leave the waste where it is, and I do not think that is in the interest of the 50 States.

Madam President, I propose to move to table the Reid-Bryan amendment.

Mr. BRYAN. Will the chairman just allow a brief response?

Mr. MURKOWSKI. Sure.

Mr. BRYAN. I appreciate that.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Madam President, I appreciate that, and I will be brief. I want to respond to the comments about the resolution adopted by the Nevada Legislature in 1975. I think we have to put things in context. In 1951, we were assured that the detonation of nuclear bombs in the air 60 miles from Las Vegas was a very safe thing to do; you can rely upon us; you can trust us; we will never do anything. The scientific community embraced that, or at least we were told that at the time, and Nevadans agreed to do that. No scientist in the world would suggest to any community that to detonate a nuclear bomb within 60 miles of a metropolitan area is absolutely safe, and, in point of fact, we entered into an atmospheric nuclear test ban in 1963.

If Nevadans can be faulted, they can be faulted because they relied upon representations of their Government which they believed to be true. We were all in America less sophisticated about the risk inherent in detonating bombs in the air.

So, too, it was in 1975. If Nevadans can be faulted, we were less sophisticated. But I point out to the chairman and others that the world is dramatically different today than it was in 1975, and we know a lot more about the risks.

Prior to 1979, I am sure that it would have been asserted not a chance in the world that any of the reactors in America would ever have a problem; we have the most preeminent, highly qualified, most sophisticated people in the world. Nobody today believes that to be categorically true. Three Mile Island occurred, and our naivete about the risks of nuclear power have been irreparably shattered, and nobody accepts those representations today.

Before the worldwide devastating impact in Chernobyl, I am sure everybody was assured there was no problem with any of these reactors, there was no risk, no danger. My point is that we are all more sophisticated today, and Nevadans fully understand the risks that are involved with storage of nuclear waste, and they have rejected it both by the State legislature since that period of time, and Democrats and Republicans alike, in the most recent survey, in numbers in excess of 70 percent categorically reject that storage.

So I think it is somewhat unfair to suggest we be judged by an earlier time, less sophisticated, more naive and perhaps, if we can be faulted, more trusting.

Let me just say by way of conclusion, this is a highly technical debate. Much of it is arcane, much of it is not easy to understand, and for that reason, I am indebted to the senior Senator from Idaho, because I think he has framed the issue that all of us can understand.

If you believe that the shipment of nuclear waste, 125-ton casks by rail, 25-ton casks by truck, containing the equivalent radioactivity of 200 bombs the size dropped on Hiroshima, is as safe as the transportation of milk from the market to your home or across the country, let me just say you should vote against the Reid and Bryan amendment. But if you believe, as I believe most Americans do, that when you are shipping nuclear waste, 85,000 metric tons, 17,000 shipments, for decades to come over thousands and thousands of miles through 43 States where 51 million Americans live within a mile, then I think you might think that it is a little bit more risky than shipping milk from point A to point B. I believe that the logic of the Reid-Bryan amendment is inescapable, and I believe that you want to support us and to protect the citizens of your State. I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Madam President, I move to table the Reid-Bryan second-degree amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 28, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Minnesota [Mr. GRAMS] is necessarily absent.

Mr. FORD. I announce that the Senator from North Dakota [Mr. CONRAD], the Senator from North Dakota [Mr. DORGAN], and the Senator from Minnesota [Mr. WELLSTONE] are necessarily absent, because of the severe disaster conditions in their States.

The PRESIDING OFFICER (Mr. ENZI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 24, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—72

Abraham
Akaka
Allard
Ashcroft
Bennett
Biden
Bingaman
Bond
Brownback
Bumpers
Burns
Byrd
Chafee
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Dodd
Domenici
Enzi
Faircloth
Frist
Gorton
Graham
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kempthorne
Kennedy
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Murkowski
Murray
Nickles
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner

NAYS—24

Baucus
Boxer
Breaux
Bryan
Campbell
Cleland
Coats
Daschle
Durbin
Feingold
Feinstein
Ford
Glenn
Harkin
Inouye
Kerrey
Landrieu
Mikulski
Moynihan
Reed
Reid
Rockefeller
Sarbanes
Wyden

NOT VOTING—4

Conrad
Dorgan
Grams
Wellstone

The motion to lay on the table the amendment (No. 28, as modified) was agreed to.

Mr. MURKOWSKI. I move to reconsider the vote.

Mr. REID. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 27

The PRESIDING OFFICER. The pending question is amendment 27, offered by the Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Mr. President, I rise to ask for passage of the Thurmond-Hollings amendment to the pending Nuclear Waste Policy Act bill. The pending bill includes a prohibition against storing commercial spent nuclear fuel at the Hanford site in Washington State. This amendment would include an exemption for the Savannah River site and an adjoining site in Barnwell County, SC.

Mr. President, the purpose of the amendment is to level the playing field among all states, should the Department of Energy have to select an alternate interim storage site.

There are three sites under the jurisdiction of the Department of Energy which currently have facilities that might be capable of accepting spent nuclear fuel. They are the Hanford Nuclear Reservation in Washington, the Idaho National Environmental and Engineering Laboratory in Idaho, and the Savannah River site in South Carolina. Let me note that these facilities are near their capacity and would require many significant upgrades to take on a commercial mission.

The pending bill explicitly exempts the Hanford site from being selected for interim storage. The State of Idaho has a legally enforceable court order prohibiting importation of new wastes into the State. This leaves South Carolina as the only other State with facilities capable of accepting spent nuclear fuel.

Passage of the amendment is not intended to impact the overall success or failure of this legislation. It is only intended to ensure that if the Department finds that the Yucca Mountain facility is not suitable for spent fuel storage, that all States would then be placed on an equal footing for the siting and construction of a new state-of-the-art storage facility.

Mr. President, I urge adoption of the amendment.

Mr. MURKOWSKI. I believe both sides are ready to accept the amendment by voice vote.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 27) was agreed to.

Mr. MURKOWSKI. I move to reconsider the vote.

Mr. REID. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 26

Mr. MURKOWSKI. Mr. President, I ask for the yeas and nays on the Murkowski substitute.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MURKOWSKI. I ask unanimous consent there now be a period of morning business until the hour of 1:30, with Senators permitted to speak for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from New Mexico.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Dr. Bob Simon, who is on detail on my staff, be granted the privilege of the floor during the pendency of S. 104.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 546 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEAHY. I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL JUDICIARY VACANCIES

Mr. LEAHY. Mr. President, we are now in April and we have been in session for 4 months. We have confirmed two Federal judges in 4 months. That is half a Federal judge a month. There are almost 100 vacancies in our Federal judiciary. That means that puts a strain on our Federal justice system. Cases cannot be heard because judges are not there. Prosecutors are forced to plea bargain in cases they do not want to. If you are a private litigant in a business or just an individual and you have suits you want heard, they cannot be heard.

The Chief Justice of the United States has said it is a crisis situation. It is.

Mr. President, I urge the leadership of this body to start moving forward and get some of the vacancies filled, take the judges that have already been nominated, get them confirmed, and show respect to the independent Federal judiciary of this country.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that I may be allowed to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING THE HOLOCAUST

Mr. LIEBERMAN. Mr. President, this month we observe the 52d anniversary of the beginning of the end of World War II, and the liberation of victims of the Holocaust in Europe. Just 2 years ago, the 50th anniversary of the war's end, there were many ceremonies, memorials, books, articles, and television programs marking the events of 1945. Now, much of the world's attention seems focused on the coming millennium, and the beginning of the 21st century.

But we must not allow ourselves to forget those events of the 20th century that continue to shape our lives. And we must never allow humanity to forget the awful truth of the Holocaust, for if we do, we risk unleashing the horror of that time on the world once again. The act of remembrance becomes more difficult with each passing year, for there remain fewer and fewer eyewitnesses to history. Fewer survivors of the Holocaust remain. Fewer liberators are alive to tell what they saw with their own eyes.

And so it falls upon us, the children of the survivors and the liberators, the victims and the witnesses, to carry this burden into the new century, to tell our own children all we know about the horrors visited upon the world a little more than five decades ago, and to pray that what is our history remains history.

Mr. President, a short while ago, a distinguished American statesman, Paul Wolfowitz, said, "Our goal, as we enter the 21st century, is to make sure that it does not repeat the 20th century," which is to say the two world wars, the cold war, and all that occurred within it.

Today, I wish to speak briefly about one event in the history of the Holocaust and World War II, and that is the liberation of Dachau, the anniversary of which falls less than 3 weeks from today. And I will do so in the words of the 42d Rainbow Infantry Division's "History of World War II," written shortly after the war's end:

> That word, Dachau, is one which few men of the Rainbow will ever forget. They had heard of Nazi concentration camps and believed or half-believed the stories of the SS atrocities and brutalities conducted in them. Soon they were to see the most famous of all German horror prisons. The oldest such camp in Germany, its very name was feared. Men and women who entered those massive stone gates as prisoners never came out. Inside them was practiced systematic murder. Men who had seen friends die and witnessed all the horrors or war were to turn pale and sick at what they saw at Dachau . . .
>
> As the first American entered the prison the 33,000 inmates went wild with joy and at the same time joined in the battle against the SS, some of whom had changed into prisoners striped uniform in an attempt to escape.
>
> The first hysterical group to see the Americans rushed and were pushed into an electrified fence which surrounded the principal enclosure and several of them were killed. As the Americans entered the enclosure they rushed to them and tried to throw their arms around them. . . .
>
> The men of the Second Battalion began moving through the camp. Everywhere they saw sights which filled them with horror.
>
> Drawn up on sidings outside the camp itself they found 50 boxcars, each one filled with about 30 men who had either starved to death in these cars or had been killed by the machine guns of the guards when they tried to escape. . . .
>
> In the camp itself there were bodies everywhere. The majority of the guards had fled the night before the Rainbowmen arrived, but before they left they had roamed through the camp killing important prisoners or persons against whom they bore a grudge. . . . Then the guards decided this method was too slow and they turned their machine guns on the inmates. Before they stopped and fled they had killed more than 2,000 in an orgy of murder. Inmates of the camp had gathered these bodies into piles, stacking them up like cordwood. . . .
>
> Toward the end [of the war] . . . the Nazis had run out of coal and had no way to cremate the bodies, but still the business of murder by gas continued and hundreds of others died of starvation. These bodies the Rainbowmen found dumped into open graves or thrown into the moat until they dammed the water. The stench of the camp was nauseating and in the huts in which the inmates lived the odor was overpowering. Beaten, tortured and starved by the guards, some of these people had become little more than animals. . . .
>
> Dachau was a nightmare to all the men of the Division who saw it . . . but it was also a lesson. "Now I know why we are fighting," man after man said. "The Nazis who conceived such a place as that were madmen and those people who operated it were insane. We cannot live in the same world with them. . . ."

Mr. President, I have had the honor of meeting some of the veterans of the Rainbow Division, and they have always carried with them the terrible memory of Dachau. And yet, as heroic as their work in fighting the Nazis and liberating the victims of the Holocaust was, to a man they deny any special attention. Like so many men of their generation who did their duty, they simply say, "we had a job to do, and we did it." In so doing, they defended not only the security of the United States of America. They demonstrated that to be human was to be capable of great acts of courage and goodness, even in the face of unspeakable cowardice and evil.

Mr. President, I have had the honor of meeting several of the veterans of that Rainbow Division, and they have always carried with them terrible memories of Dachau. Yet, as heroic as their work in fighting Nazis and liberating the victims of the Holocaust was, to a man they denied any special attention. They pushed it aside like so many men in our generation who did their duty. They simply say over and over again, "We had a job to do and we did it." In so doing, they defended not only the security of the United States of America; they demonstrated that to be human was to be capable of great acts of courage and goodness, even in the face of unspeakable cowardice and evil.

Mr. President, in closing, I would like to make special mention of two people involved in this one story of the Holocaust and the liberation of Dachau. One is a constituent, Robert T. Kennedy, of Wallingford, CT, who at age 32 was drafted into the Army, in part because of his expertise in radio technology, and despite the fact he had a heart condition. Like so many others of his generation, he answered the call of duty, even though it meant leaving his wife, Beatrice, and 6-month-old son, Bobby, at home. Young Bob was nearly 3 when his dad finally returned from the war. Sergeant Kennedy was a member of the Rainbow Division, and he witnessed the horrors of Dachau. And he made sure to tell his children all about the concentration camp, even at an age when they could barely grasp its meaning. He spoke of the rage he and his fellow soldiers felt for those who made torture and murder a way of life, and he told of how the men of the Rainbow forced the civilian townspeople of Dachau to march up to the nearby camp and see for themselves what most, if not all, of them surely must have known was occurring for so many years. Sergeant Kennedy passed away in 1976, but the memory of his service lives on in the hearts of his family.

Another person who was there, in that same dark corner of the Earth at the same moment in history as Sergeant Kennedy and the men of the Rainbow Division, was Ella Wieder, an inmate first at Auschwitz, and then at Dachau-Allach, a subcamp of Dachau also liberated at the end of April 1945. Apparently, it was her work as a slave laborer that, fortunately, stood in the way of her termination long enough for her to survive the Holocaust. After the war she returned to her native Czechoslovakia, and met Rabbi Samuel

Freilich. They married, and soon thereafter gave birth to a daughter, Hadassah, who is my wife, and the mother of our child, Nana.

Mr. President, I tell this story with some feeling today particularly because for the last 17 years Sgt. Robert Kennedy's son, Jim Kennedy, has been my spokesman, my press secretary, my communications director, my muse, and, best of all, my friend.

Tomorrow, after these 17 years in the movement of life that is inevitable, Jim Kennedy, who for the first time is sitting by my side on the floor, is leaving the service of the U.S. Government, and, more particularly, work at my own office, to go on to a wonderful opportunity in the private sector in New York.

I cannot thank him enough, and I appreciate the opportunity to do so publicly, not just for the extraordinary eloquence and hard work that he has brought to our work together but to the profound sense of values carrying on the heroism of his father and his family that he has brought to his work with me, to his personal life, to his marriage, and to his fatherhood. I cannot thank him enough. I will miss him. But I wish him all of God's blessings in the years ahead.

I know that, though we will not be working together, our friendship will go on for as long as the Good Lord gives us the opportunity to be alive on this Earth.

Mr. President, life goes on, despite the efforts of the Nazis and so many others to snuff it out. With this tremendous yearning and quest to realize the rights that our Constitution and Declaration of Independence enshrines to life, liberty, and the pursuit of happiness we prevail. And with those rights, however, comes the responsibility of caring for the lives of others. That means remembering the past and its shameful secrets in a way that secures a more hopeful future. It means carrying forth the lessons of the 20th century into the 21st, and telling the stories of the heroes, like Sgt. Kennedy, and the villains of this time in hopes that future generations will never know the enormous terror that once ruled in the dismal environs of Dachau not so long ago. And it means being grateful to all those here at the Senate, like Jim Kennedy who helped people like me give service to the public, and hopefully in that service make this a freer, better country and world.

I thank you, Mr. President, and I yield the floor.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I request 10 minutes as part of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX LIMITATION AMENDMENT

Mr. SMITH of Oregon. Mr. President, I rise today to join 19 of my colleagues as a cosponsor of the tax limitation amendment, a proposed amendment to the Constitution to require a two-thirds vote of the House and Senate to raise taxes.

I stand here as an elected representative of the State of Oregon. A State that last year added a three-fifths vote of its legislatures as an amendment to its State constitution in order to raise taxes.

This requirement stipulates that when Government seeks to raise taxes, to increase what it takes out of its citizens pocketbooks, there ought to be more than a narrow agreement—and, indeed there ought to be a broad consensus.

Oregonians believe that before there is to be an increase in taxes, there has to be a firm belief by a supermajority of its elected representatives that this is necessary. That is why we amended the State constitution to require just such a supermajority in 1996. Further, a two-thirds vote requirement fits with the spirit of the Federal Constitution. Supermajority voting requirements are found throughout the Constitution. Some people say to me, "Well, you don't need a supermajority voting requirement. We rule by majority in this country." But the truth is our Founding Fathers knew there were times when it had to be otherwise. That is why in articles I, II, V, VII, VIII, IX, and XXV there are supermajority voting requirements. These are applied to things like motions to consent to a treaty, to override a Presidential veto, or to vote in the case of a Presidential disability.

Further, the 16th amendment, which provided for the Federal income tax, had to be approved by a vote of two-thirds of Congress and three-fourths of the States. It is logical that an amendment to extend this tax burden would require a supermajority vote.

Our Founding Fathers saw reason to check the simple majorities used in deciding issues in a democracy. In the Federalist Papers, Hamilton, Madison, and Jay all cautioned that simple majorities can lead to mob rule.

Indeed, our Founding Fathers were particularly sensitive to protecting our citizens from unjust taxation. Indeed, our break from Great Britain stems from a fight over unjust taxation.

Ours is a nation born out of a tax rebellion. And the spirit of that rebellion still beats in the heart of Americans.

Now some may say we don't need this amendment because the people can simply vote against lawmakers who keep increasing taxes.

In the Federalist Papers—Federalist 51—however, James Madison said: "A dependence on the people is no doubt the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions." And that's what this proposed amendment is: an auxiliary precaution against overtaxation.

I believe it is imperative, now that the balanced budget amendment has been defeated, that any action to increase taxes require a supermajority of both Houses. In my opinion, without this two-thirds rule, politicians too easily fall back on tax increases in order to balance the budget.

Really, there are just three options for balancing the budget: You can cut discretionary spending, cut entitlement spending, or you can raise taxes.

As for No. 1—there simply isn't enough discretionary funding to cut, in order to balance the budget.

As for No. 2—entitlement costs are spiraling out of control and each year the Clinton administration shows that it is unwilling even to educate the American people as to the hard choices that lie ahead.

This leaves No. 3—raising taxes—as the last option. And that option is the one I would like to see made more difficult to undertake. Yet at the moment it only takes a simple majority—50 plus 1 in the Senate—to raise taxes.

Indeed, the 1993 Clinton tax bill, the single largest tax increase in the Nation's history, passed by this slim margin of 50 Senators, plus the Vice President acting as President of the Senate.

As I have said, many States have already passed similar legislation to make it harder to take more in taxes out of the citizen's pocketbook. This legislation works on the State level. It is needed at the Federal level. And this fact is unmistakable.

In most of those States where a supermajority is required to raise taxes, taxes as a proportion of personal income have declined. In those States without the supermajority, taxes as a proportion of personal income have risen.

I think most Americans believe they are already paying too much in Federal income taxes. What some call tax day—April 15—is next week.

Let me take a moment and put things in perspective for you—how taxes have risen over the last few decades.

What we call tax freedom day—the day that the money you earn starts going into your own pocket and not the Government's, has changed. In 1950 it was April 3.

This year it will be sometime in mid-May.

In fact, today the average family pays more in taxes each year than it does in food, shelter, clothing and medical care combined.

Add up the taxes—local, State, and Federal—for most it takes half of what people make. Can't we in Government discharge our legitimate public obligations on such a percentage? I think we can. I think we should, and we must.

I want to see our Government balance its budget. But I also want to see this trend of increasing taxation come to an end. I believe that this tax limitation amendment is the surest way to do that.

And I urge my colleagues to support the tax limitation amendment.

Thank you, Mr. President. I yield the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

KICK BUTTS DAY

Mr. LAUTENBERG. Mr. President, today is the day known as Kick Butts Day. It is a day when kids all over the country will express their opposition to cigarette addiction and the dangers that it poses to health. They are resisting tobacco company efforts to target them as consumers and ensnare them in a lifetime of addiction.

That is why I want to spend a few minutes today to discuss the subject of the possible legislative settlement of claims against the tobacco industry. It has been suggested that perhaps the example set by Liggett & Myers, the company that agreed to reveal its innermost documents to tell the public at large everything that went on in the secret meetings of their company and other companies with whom they were working, has apparently been an inducement for other companies that think perhaps now that the pressure is on the tobacco industry maybe they can affect a settlement. Well, this is no time for that kind of thing.

On Tuesday of this week, I introduced the Tobacco Disclosure and Warning Act, which would require the tobacco companies to disclose the ingredients and the carcinogens in their products and place larger and clearer warning labels on their packs. These new labels would send a more effective message to kids about the dangers of smoking.

Yesterday, I spoke in the Chamber about the Joe Camel advertising campaign by R.J. Reynolds. This advertising campaign uses cartoons to market cigarettes to kids. Senators DURBIN, WELLSTONE, HARKIN, KENNEDY, MURRAY, and WYDEN have joined me in sending a letter to the chairman of the FTC asking him to bring an unfair advertising case against R.J. Reynolds for the Joe Camel ads.

In a stunning development several weeks ago, this cloak of deception that shrouded the activities of the tobacco industry was removed when the Liggett group settled 22 State lawsuits because they admitted that smoking causes cancer and other diseases, that nicotine is addictive, and that the tobacco industry targets underage smokers. It also agreed to a 25-year payment schedule to the States, to release internal documents providing evidence of the above claims, and to accept FDA regulation along with stark new warning labels on its cigarettes. This settlement that was worked out between Liggett and the State attorneys general is truly historic. It will open up the floodgates of information about tobacco. The truth is that smoking is addictive and it kills.

The documents that will become public as a result of this settlement will help expose the conspiracy of deception and intimidation tobacco giants have engaged in for years. They have used this deception to thwart claims against them in court, to derail reasonable attempts at regulation, and to curb public education programs to protect the public health.

It is rumored that the tobacco industry, or at least some firms, will now seek protection from Congress, asking for a "global settlement" of claims against them. I hope that every Senator will maintain a healthy skepticism about any proposed legislative settlement of legal claims against the tobacco companies.

The bipartisan group of attorneys general pursuing these lawsuits have shown enormous courage and tenacity in the face of tobacco industry stonewalling. We should not undercut them. Nor should we intervene to help the companies in pending litigation brought by individual Americans who suffered harm as a result of the industry's deadly and deceptive practices. We should not hinder the ability of the States and the taxpayers that they represent, or individuals, to receive just and fair compensation for the harm or expense that they suffered.

I hope Members of this body will be very analytical as they hear this appeal and resist efforts to bail out the tobacco industry in Congress.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. McCAIN. I thank the Chair.

(The remarks of Mr. McCAIN and Mrs. HUTCHISON pertaining to the introduction of S. 547 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. HUTCHISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak up to 15 minutes as part of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Thank you very much, Mr. President.

MEDICARE REFORM PRINCIPLES

Mr. WYDEN. Mr. President, as you know, I have come to the floor each day this week to talk about what I think is the critical need for the Senate to move forward with bipartisan Medicare reform. I believe there is a unique window of opportunity now for action, a window built around the proposition that our economy is moving forward in a positive way. Certainly, we are a few years away from the demographic earthquake that is coming, and I believe it is possible to fashion a bipartisan package that will also achieve real savings to advance the cause of enacting a balanced budget.

I come to the floor today to reflect for just a few moments on some of the discussion over the last few days as it relates to Medicare and the budget. It is my view that Senator DOMENICI, the chairman of the Senate Budget Committee, said it very well a number of weeks ago when the Budget Committee first began hearings on this year's budget, when Senator DOMENICI said, with respect to Medicare, policy must drive the budget numbers. Unfortunately, that has not been the case in the past, and I am concerned, based on the discussions that have gone on in the last couple of days as well, that we are moving away from the need for structural Medicare reform that is in the interests of both seniors and taxpayers.

In the last Congress, I think we did see a numbers-driven approach to Medicare. Over in the other body, there was a judgment made that spending for Medicare had to be reduced $274 billion. Others in my party proposed reducing Medicare spending by a smaller sum. In both instances, I do not think enough attention was paid to the need to come up with sensible policies that would really show how you could get to those kinds of budget savings proposed by either party in a way that was good for both seniors and for taxpayers.

If we look at the debate over the last couple of days, we see some of the discussion again moving just to the question of a budget number. I am convinced that it is possible over the next 5 years to save about $100 billion as it relates to the Medicare Program and do it in a way that protects the interests of older people and also will help to reduce the deficit.

But I think it is even more important—even more important, Mr. President—that this body understand that the big challenge is to lay the foundation for 21st century Medicare and that

that challenge goes far beyond the question that has driven discussions the last couple of days. What we have to do is start bringing choice and competition to the Medicare Program. That is what is driving progress as it relates to health care reform in the private sector, and, obviously, choice and competition is what Members of this body enjoy through the Federal employee plan.

I think it is possible to do this in a way that protects the rights of patients and makes sure that as we look to the future with more choice and more competition, that it is a future that does not involve health plans with gag clauses, does not strip seniors of their rights to appeal a denial of benefits, makes sure that their grievance procedures include what are called "report cards" so that our country can find out if people who sign up for health maintenance organizations drop out a few months later because service is unacceptable.

The Congress now, as we move to try to develop a budget resolution, I think can find an opportunity to generate real savings.

I do not want to, in any way, minimize the importance of that task in getting a budget. But we can do it in a way that will also ensure that the kind of structural changes in Medicare are made and we put this program on a solid footing. If that is not done, Mr. President, we will see a continuation of the kinds of problems that Chairman GRASSLEY demonstrated this morning at the Senate Committee on Aging.

Senator GRASSLEY held a very important hearing as it related to accountability in the Medicare Program and particularly as it related to managed care. What Senator GRASSLEY's hearing pursued was making sure that older people could have access to good information so they could make choices in their Medicare.

In this country, we have, unfortunately, because Medicare has not been modernized, a situation where older people either have no choices, which goes on in rural parts of the United States, such as the area that the Presiding Officer represents and I represent, or, as we saw this morning in Chairman GRASSLEY's hearing, places like Los Angeles where there is kind of a blizzard of information offered and it is not possible for older people to compare the policies that are offered to them in an intelligible kind of way.

I said at Mr. GRASSLEY's hearing that as we go forward with Medicare discussions let us make sure that his work, which is designed to empower consumers and is certainly not going to be a budget buster because it is largely an effort to try to force disclosure and comparability of these various plans—I urged that Chairman GRASSLEY's work be included in a final bipartisan package.

Suffice it to say, you do not hear much discussion in terms of the budget discussions about the work that Chairman GRASSLEY is doing or about the role of the Federal Employees Health Benefits Plan. And, unfortunately, there has not been enough focus on how the Medicare Program rewards waste and penalizes frugality. The private sector consigned that kind of approach to the attic years ago but that is how Medicare does business today.

Mr. President, and colleagues, I think that as these discussions go forward—and certainly yesterday they dominated the debate about the budget—we have to remember that it is critical that Medicare be part of an effort to help address the financial challenges that our Government faces. I think that that can be done in a way that is good for seniors and good for taxpayers, but that it is even more important that the bipartisan changes in Medicare focus on the structural and underlying concerns that are plaguing this program.

In much of the United States, the Medicare Program is a bureaucratic Tin Lizzie. It is clunky. It is inefficient. It is volume driven. And it is doing all the kinds of things that if another agency, such as the Pentagon, was doing, there would be a vast outcry.

But we are not making the changes that the Medicare Program needs so as to make it secure for the 21st century, so as to make it secure for both seniors and for taxpayers. And that is why I come to the floor today, to say that this debate that we have seen in the last couple of days about budget numbers is important, but it is even more important to talk about the underlying and structural changes that the program needs for the 21st century.

Mr. President, let me conclude by saying that I think that this debate about Medicare has been a bit like a high school sock hop where in effect everyone looks at the dance floor and no one really wants to go first. And I believe that now, if we put a focus on bipartisan structural changes in Medicare, a focus that says that the old debate about just trying to find a budget number for purposes of the budget resolution is not the way to proceed, but that we have a bigger challenge which is to get this program on track for the 21st century, that that kind of approach will allow us to make real progress.

I have enormous admiration for Chairman DOMENICI who has made it very clear that he wants to proceed in a way that does help to reform Medicare policy for the 21st century. I think it is very clear that the Clinton administration has in some of their Medicare proposals reforms that would also help to advance a bipartisan compromise.

I tried to take, in my legislation, the Medicare Modernization and Patient Protection Act, some of the key principles that both political parties had advanced in recent years. I believe that if the Congress does not get stuck in the old debate about just finding a budget number, regardless of the implications for the program long term, we can, in this session of Congress, get the Medicare Program ready for the 21st century.

That is what I am committed to doing, Mr. President. It is a bipartisan challenge. And I intend to come to this floor on an ongoing basis, as I have done today, to talk about the key issues with respect to Medicare reform. And the events of the last couple of days, which take us back, in my view, to just a budget question rather than making sure the policy changes are made, are exactly what we have to tackle. There is the opportunity now to get Medicare on the right course for the 21st century.

As I have said, Mr. President, I have visited the floor each day this week to talk about Medicare reform, and the brief window of opportunity I believe this Congress may have to effect strong, stabilizing, and sensible structural reforms in this program.

This should be about more than saving a targeted number of dollars in spending over the next 5 years, or adjusting the Medicare part B up or down to accommodate short term fiscal goals.

To quote my friend Senator DOMENICI, the chairman of the Budget Committee, this should not be about numbers driving policy, not for something as important as the long-term integrity of the Medicare Program.

We have the opportunity in the 105th Congress to begin turning this 30-year-old, Tin-Lizzie style program into a 21st century, comprehensive seniors health system, employing the tools and the innovations that have already marked much of the rest of American health care for the better.

The reformed Medicare Program I envision, and which I believe is within our grasp, is a health plan that is about choice, quality, and access, and also about the efficiencies that characterize much of our Nation's private health care marketplace.

Over the last few days, the conversation about Medicare reform has for the most part revolved around the negotiations between the White House and the congressional budget committees, and whether we can get close enough on a 5-year savings figure in order to proceed with marking up what we all hope will be a bipartisan budget resolution for 1998.

I hope we can.

And I commend all the parties involved in trying to hammer this out. I know it is tough. It is obvious from my limited involvement in this process that the determination of the Medicare piece may be the single most important function of putting together a

Federal budget, or failing in that effort, this year.

But I would go beyond that.

I believe that my colleagues and I will be spending years together talking about Medicare as the major piece of the Federal budget process. I say this because Medicare threatens to be the monster that devours the budget, and with it the prospect of a health and secure future for millions of future retirees.

And quite obviously, the longer we wait to put the brakes to the run away spending aspects of this program, the greater the political crunch we face in terms of dealing with the economic impact of the 75 million baby boomers—this demographic tsunami—that is set to begin hitting the program in the year 2013.

During the next 30 years, we will see a society shift from the current four taxpaying wage-earners supporting each retiree to just two workers for each retiree.

You do the math. The prospect is far from pretty.

And that picture doesn't get better by merely formulating a number for spending reductions over the next 5 years. We can and must do better.

If we focus merely on the short-term problems—and I agree that they are substantial—we risk losing the chance to change Medicare's essential structure to deal with the long-term, and much tougher problems to come.

And that is why I must say that I am disappointed in certain aspects of the President's budget—I think this Congress can do better.

Specifically, we are given in the President's Medicare reform ideas a method of adjusting rates in our payments to Medicare managed care plans which will No. 1, not focus a significant and targeted reduction in the rates of payment that we make to vastly overpaid plans in many of our large metropolitan areas, and No. 2, continues the "starve-'em, and kill-'em" approach to paying for coordinated plans—and for encouraging choice, in rural areas around the country, and in areas of high health care efficiency like my home State of Oregon.

I've said it before, earlier this week. I will say it again.

This is not the way to bring 21st century medicine to our Nation's 38 million Medicare eligible citizens.

It is not the way to begin the long-term restructuring of the Medicare necessary to establishing a humane, cost-efficient and choice-rich program that will maintain financial equilibrium well into the next century, and not for just the next half dozen years.

Mr. President, we must look to what is happening in the private health insurance market in this Nation in order to chart the new course for Medicare. Over the last decade, run away cost-growth in that market has been reduced to rises in per capita spending that are now just about steady with the increase in the consumer price index—a massive, massive change.

No employer, now, will tell you that health care is cheap. But certainly, far fewer employers are now saying that the cost of health care provided to employees is putting them out of business.

Our business is the Federal budget.

We have a fiduciary responsibility to keep the Government solvent.

I ran my election campaign on the promise that I would work my hardest—and bear my share of the heavy lifting—to balance the budget and end deficit spending.

And I know that all of us, every one of us, Democrat and Republican, realizes that balance can't be bought cheaply or painlessly.

Addressing Medicare's long-term financial problems in ways that maintain the program's long-standing commitment to a defined package of benefits, no matter how sick or poor the senior, must be at the top of our Federal budget agenda.

Mr. President, today I want to conclude my floor statements this week with a short list of basic principles which I believe must under-line Medicare's restructuring effort this year, and which I am convinced a broad, bipartisan consensus may be reached.

I am not arguing that this is the entire reform menu.

And many will note that there's a lot of spinach on the bill of fare before you get to the desert portions.

But I do believe that this is a square-meal reform agenda:

First, I believe that we have to agree in a bipartisan fashion that Medicare remains a defined benefits program, first, last, and always.

We should never turn Medicare into an exercise where elderly and frail beneficiaries, most often single women living on their own on limited fixed incomes, are given a check once a month and told, "here's your benefit, your voucher—go out and buy health care you need and if the benefit runs out I hope you can find help, elsewhere."

This would be an egregious retreat from a basic social contract with our Nation's senior citizens, and one for which I think there is little justification given the kinds of savings we can extract from the program by requiring better management, better plans and more choice.

Second, we must develop spending controls that guarantee access, but at the lowest possible cost to the program and the beneficiaries. Medicare must employ prospective payment systems, putting providers on a daily reimbursement diet, for skilled nursing facilities and for home care, and for other portions of fee-for-service Medicare as opportunities present themselves.

I have introduced a bill that would in part save approximately $20 billion over 5 years from these kinds of management systems in home care and skilled nursing facilities. Similar gatekeeping ought to be considered for other portions of Medicare that are now driven totally by volume.

Third, the current system of paying for Medicare managed care plans, based primarily on the local cost of fee-for-service Medicine, makes no sense, and we've got to fix it.

We have the strange situation where the highest-cost, volume-driven portion of the program determining how we pay, or reimburse, the part of the program designed to operate as a managed, cost-efficient model.

Our purpose is defeated by trying to marry two completely antagonistic systems. And there are very unwholesome results in the form of beneficiaries in vast numbers of counties where Medicare managed care payments are either dramatically too low, or horrendously too high.

In California alone, the U.S. General Accounting Office has estimated that this leads to over-payments to plans as high as $1 billion per year.

We have to de-couple the cost of fee-for-service medicine from the formula we use to determine payments to Medicare managed care plans.

Fourth, in a world where we hope that Medicare beneficiaries will have many more choices for health care, Medicare must work much harder to empower those consumers to make appropriate choices.

And this is about better information about the plans available to them, and tools by which consumers can make informed choices about which plan is best for them.

Mr. President, today I spent some time at a Senate Select Committee on Aging hearing that focused on this very issue. We heard testimony on the horrendous difficulty beneficiaries had in places where choice currently exists, trying to figure out what each available plan might provide. The plan brochures are confusing and filled with technicaleeze. And most importantly, it's obvious that there's no way most consumers are going to be able to sit down at a kitchen table and compare one plan against another.

That's got to change. We need a system for Medicare beneficiaries not unlike the system we have in the Federal Employees Health Benefits Program where plans are required to present themselves using conforming language so that comparisons can be drawn.

And we need qualitative analysis by HCFA regarding how well individual plans perform—report card grades, if you will, on items ranging from disenrollment, to how long doctors stay with plans, to how many grievances are filed by beneficiaries.

Fifth, beneficiaries must be reassured that improving consumer protection is still a front-burner issue.

Appeals processes on denial of services must be streamlined. Medicare supplemental insurance laws must be reformed to guarantee issue of Medigap policies to seniors.

HCFA should employ more ombudsmen to help seniors navigate through a Medicare system that will offer more choices, and necessarily will be somewhat more complicated than traditional Medicare.

Five points—a modest agenda. But one that can begin creating huge dividends for our most important social program if we begin our work, now.

There is, I know, a great deal of attraction in subcontracting the job of reforming Medicare to a bipartisan commission. I have a great deal of respect for my colleagues who have made this argument.

Indeed, the conventional wisdom is that Congress simply does not have the political will to tackle this tough question.

I have had a number of conversations with colleagues on both sides of the aisle, however, and surprising as it may seem there appears to be a hunger to attempt Medicare reform, now. I think there's a general recognition that we enjoy a window of opportunity that is characterized by rapidly falling budget deficits, strong employment and a growing economy, and that the general environment for fixing Medicare may not get much better for an awfully long time.

And finally, let me remind colleagues that the ideas offered here today are not radical, and are really not out of left field.

This model of a competitive, choice-rich Medicare that is efficient while maintaining quality has been road-tested—indeed it exists today—in Oregon, where low-cost, high-quality, coordinated care Medicare now embraces almost 60 percent of the Portland metropolitan area market, and where the highest reimbursement rates for such care are still almost 20 percent below the national average.

We have seen the future.

It works.

It is time for this Congress to begin implementing changes in Medicare that transforms the national program along the lines of what has worked for thousands of seniors in Oregon.

CHEMICAL WEAPONS

Mr. TORRICELLI. Mr. President, this morning, millions of Americans awoke to some startling revelations, news that was particularly painful to thousands of veterans of the Persian Gulf war. Yesterday the Central Intelligence Agency released a report that stated that as early as 1984 it had intelligence reports warning that chemical weapons held by the military of Iraq were stored at a previously undisclosed chemical weapons site.

Indeed, in 1986, the CIA had received even more specific reports and obtained a copy of an Iraqi chemical weapons production plan that mentioned large storage facilities and the exact location and even the types of chemicals and other weapons that were being stored at that location.

Despite each of these reports and the existence of this detailed information in the very files of the Central Intelligence Agency, the Pentagon was not informed at any level on any basis of any of this information when the ground war commenced in the Persian Gulf in January 1991.

Without this information, tragically, American ground forces entered the specific chemical weapons storage facility named within Central Intelligence Agency files in March 1991. Fully 20,000 American soldiers were in the vicinity and potentially were exposed to the residue of those chemicals when this facility was destroyed.

Two days later, after the destruction of the facility, potentially after 20,000 American soldiers were exposed to these chemical weapons, the Central Intelligence Agency informed the Pentagon of this information and a possible exposure.

Mr. President, yesterday Dr. Robert Walpole, a CIA agency official investigating this incident on behalf of the Central Intelligence Agency, issued an apology to the Nation's veterans. It is not good enough. This Nation for several years has been agonizing about the cause of unknown illnesses among our soldiers. During all of that study, during all the long nights of wonder and doubt and pain, this information was not supplied to the President, the Congress, the commission studying this information or, most importantly, those veterans whose lives may have been permanently changed and damaged. And now we are given an apology.

Mr. President, this is more than a failure in a single instant. It is another example of the fact that the American people and this Government are not being adequately served by the American intelligence community.

Dr. Walpole stated the reasons, in his judgment, for this failure. He said, first, that there was tunnel vision in the American intelligence community; second, that there had been an incomplete search of the files; and, third and perhaps most chilling to all of us who share these concerns about the role of the American intelligence community in working with our military and civilian personnel, he said there was a reluctance by some CIA officials to share some of its most sensitive information with Government officials.

It appeared that some CIA officials knowingly and consciously weighed the sources of their information with the potential of sharing that information with the U.S. military and made the wrong judgment, making victims, potentially, out of our own soldiers.

Mr. President, this is not an isolated failure of intelligence policy. It is indicative of a continuing plague of bad judgment, and it is an indication of a need for large-scale institutional reform of how the intelligence community conducts its business, makes its judgments, and shares its information with elected officials and the U.S. military.

We are experiencing again not only a failure of leadership, but an inability to share at the proper time in the proper manner with the leadership of this Government sensitive intelligence information.

The intelligence community was created in this country to ensure that elected officials had the best information to make the right security judgments for this country, so that the U.S. military would have the best possible information to both prevail in conflicts and minimize casualties. Neither can be accomplished if officials of the intelligence community do not feel a responsibility, indeed, are not driven by the need to share the best information with the leadership of the U.S. Government.

An apology has been issued to the Armed Forces of the United States and those who may have suffered as a result of this incident. It is not only inadequate, it is a disservice to every man and woman who wears the uniform of this country. The President of the United States and this Congress must respond to this latest incident by beginning institutional reform in the organization, the leadership and, indeed, the mission of the Central Intelligence Agency.

Mr. President, I yield the floor and thank you for your indulgence.

MISSISSIPPI'S ENVIRONMENTAL SCORE CARD: "LOUISIANA QUILLWORT 1 AND TIMBER INDUSTRY 1"

Mr. LOTT. Mr. President, finding a new species of plant in America brings mixed reactions. From scientists, it brings the excitement of biodiversity and more opportunities for scientific investigation. But for many Americans, an endangered plant listing often places strict controls on the use and resources of the land where the plant is found. When an endangered plant is found in a national forest, it can curtail the multiple use mission of the U.S. Forest Service. Its mere occurrence can stop the timber harvesting, which is so important to the rejuvenation of the entire forest habitat. And when trees are not cut, there are dramatic economic consequences for the community that lives near the forest and depends on it for jobs.

You can be sure that enthusiasm was not over flowing when Mr. Steve Leonard, Camp Shelby's Heritage Inventory Botanist, announced that the Louisiana quillwort was found in the

DeSoto ranger district in Perry County, MI on May 24, 1996.

Mr. President, let me tell you about Perry County. Perry County has only three towns and roughly 11,000 citizens. Perry County contains 410,000 acres, 162,000 of which—over 39 percent—are national forest lands. The employment opportunities are limited primarily to the timber industry. The harvesting and marketing of forest products in the county has created over 1,800 jobs, of which 330 are involved in timber sales in the national forest. Currently, the unemployment rate is 7 percent. This year, Perry County's payment from the U.S. Forest Service for timber sales was cut by $1.5 million. This money would have been used by Perry County's schools to offset the loss of tax revenue received because of the large land ownership by the Federal Government.

Now along comes the quillwort. This county is already absorbing the economic impacts of repeated and failed government attempts to establish habitats for the endangered red cockaded woodpeckers in the DeSoto National Forest. And let's not forget the restrictions for those gopher tortoise.

The residents of Perry County love the environment and many make their living from the environment, but the ever growing restriction on land use challenges their commitment.

The Louisiana quillwort is a very small grass-like plant with just a few strands—smaller than this ballpoint pen—whose scientific name is Isoetes Louisianensis. It was first discovered 5 years ago on private property in just two parishes of Louisiana. It was promptly listed as endangered by the U.S. Fish and Wildlife Service, but since then, there has been no monitoring of its population. To this day, there still remains huge scientific factual gaps on the known and potential threats to this plant.

There is one thing I know for sure. There is a lot of this quillwort growing on the edges of stream beds in Mississippi's DeSoto National Forest. It may be scarce in Louisiana, but Mississippi clearly has more than our fair share. This is not unlike many other aspects of the ever-continuing rivalry with our neighboring State. I say this with great respect for my friend and colleague Senator JOHN BREAUX, but maybe the name of this species should be changed.

Mr. President, today I am here to honor the dedicated efforts of the U.S. Forest Service employees who walked over 200 miles of stream beds this past winter in order to locate quillwort populations and to ensure there would be no disruptions of timber sales. This was no easy task. The heavy winter rains left boot-sucking mud everywhere.

Mr. President, at the end of my remarks I would like to submit for the record the names of all 48 U.S. Forest Service personnel involved in this effort. I want to recognize them and to thank them. And I know the citizens of Perry County want to thank them.

This was more than an effort by the U.S. Forest Service. It is the story of the individual leadership and excellence of Mr. Don Neal and Ms. Kim Kennedy, two very able U.S. Forest Service employees. They did an outstanding job of determining the environmental consequences and developing a plan of action. Thanks to their efforts, the plan minimized economic impact without compromising the required protection necessary for the quillwort's habitat.

This is also the story of two Federal agencies—each with partially conflicting missions. It took 4 years following the quillwort's initial discovery for the U.S. Fish and Wildlife Service to approve a recovery plan. Fortunately, it took the U.S. Forest Service only 2 months to issue implementing directives. This swift action occurred under the watchful eye of Mr. Robert Joslin, the regional forester in Atlanta. He is to be commended not only for his actions when faced with the quillwort, but for his many years of dedicated leadership for balanced forest management throughout the Southeast. The forests have thrived. Thank you, Bob.

The quillwort protection plan established a 165 foot buffer zone on either side of a streambed. Limiting timber harvesting within this zone maintained a heavy overhead canopy and filtered the light reaching the stream's surface. The cutting restriction also curtailed sedimentation and changes to drainage patterns. The quillwort seems to like small intermittent streams.

This protection plan created a real challenge for Don and Kim because, at that time, there were 25 active timber sales in 51 compartments of the DeSoto ranger district. Four even had loggers on site.

Due to the lack of factual knowledge about the quillwort's habitat—especially since it was now newly discovered in Mississippi—determining which drainage to survey proved difficult. The U.S. Forest Service stepped up to the plate and made the decision to survey all drainage within or immediately adjacent to cutting units. And, to err on the side of caution, the survey was 20 percent wider than the 165 foot buffer suggested in the recovery plan.

The DeSoto district established an incident command system team to organize and survey 137 miles of streams on all active timber sales and 88 miles of streams in sales planned for next fiscal year. Timber sales were prioritized for survey in the following order: those with loggers on site; sales with open payment units; sales which had not been opened; and finally next year's planned sales.

It took 34 days of slow slogging up and down streambeds—both sides.

More quillwort was found. Louisiana quillwort was found on four active timber sales, three of which required modification before being released for cutting. It was also found on seven sales planned for next year, two of which were modified before the sales were finalized. The rest of the Louisiana quillwort was located in existing set aside buffer zones.

Throughout the survey process, Ms. Kennedy maintained constant contact with the U.S. Fish and Wildlife Service offices in Jackson and Vicksburg. Her persistence ensured that the appropriate NEPA documents were amended and the timber sales were modified. Without this level of attention, the sales could easily have experienced bureaucratic disruptions.

Mr. President, this is clearly an environmental success story for all. An endangered plant was found. The habitat around identified populations was protected. Trees were still cut.

I believe a mutually successful coexistence occurred. The quillwort won. Perry County won. The U.S. Fish and Wildlife Service won. The U.S. Forest Service won. I applaud the U.S. Forest Service for protecting the quillwort's habitat with a flexible rapid response. They did not take the easy route and stop all contracts.

I'd also like to note that this process has allowed the Forest Service to significantly expand the scientific knowledge about this quillwort species. With all these new and frequently large finds, it makes me wonder just how endangered this plant really is? I hope the agency charged with monitoring the livelihood of the quillwort will not ignore this information.

Mr. President, there is another question that cannot be overlooked when talking about the DeSoto National Forest. Why has the annual forest regeneration program dwindled down to less than 1 percent of the total acreage while over 33 percent of the forest has pine trees well beyond rotation age? And why is only 35 percent of the annual growth being harvested? This only causes these pine forests to get older.

Mississippi's largest cash crop is timber. Every Mississippian has been behind a log truck on its way to a mill at some point, and every Mississippian knows a little about silviculture. We know that pine forests should be rotated and harvested to maintain their health. We also recognize that old trees are vulnerable to the pine beatle which jeopardizes healthy sections of the forest. Good silviculture prevents a pine forest from getting too old. Good silviculture encourages selective tree harvesting. Good silviculture creates healthy forests. Good silviculture creates an economically thriving community in all sectors.

I want to challenge the U.S. Forest Service to give me a credible response to this question: Why are we only harvesting a small percentage of the annual growth? I do not want my inquiry to be dismissed with the weak excuse that we just did not have enough people to prepare a sale. The quillwort drew 48 Forest Service employees. How many Forest Service employees worked on timber sales during this timeframe? Recent claims that budget reductions have curtailed the timber sale program only go so far. In Mississippi, mature pine trees are ready to be cut. And the school district, county government, and timber farmers of Perry County who depend on these revenues are anxiously awaiting that day. The citizens of Perry County deserve no less. I urge a full, honest, and equal commitment to all of the U.S. Forest Service's missions.

It is a sad fact that the U.S. Forest Service does not even live up to its existing and approved forest management plans nationwide. It repeatedly disregards programmed sales, making it impossible for counties like Perry County to plan its school budgets. I view forest plans as a contract between the Forest Service and each county. I do not expect these contracts to be broken. When these contacts are broken, the schoolchildren are the big losers.

I would like to personally invite the new head of the U.S. Forest Service to visit Mississippi's national forests to discuss his plans to honor his agency's commitments to Perry County and Mississippi.

In conclusion, Mr. President, I want to reiterate my appreciation for the extraordinary efforts of the regional forester in Atlanta and the district ranger and his employees in the Desoto district. They reflect great credit upon the proud tradition of the U.S. Forest Service. A proper balance was struck —a plant was protected and the interests of the citizens it affected were equally protected. This proves a mutually beneficial coexistence can occur.

Mr. President, I request unanimous consent to list the names of the 48 DeSoto National Forest employees who walked the streambeds in search of quillworts. I ask that my colleagues join me in recognizing their extraordinary efforts:

Kent Ainsworth, Debbie Lindsay, Eddie Bagget, Gary Lott, Jim Barner, Ed Lumpkin, Anthony Bolton, Robert Lumpkin, Hildred Bolton, Dean McCardle, Anthony Bond, Richard McCardle, Charles Broome, Wayne McCardle, Ed Bratcher, Mike McGregor, Steve Cobb, Don Neal, Robert Cooper, Gordon Pearce, Keith Coursey, Lee Prine, Jefferson Davis, Robert Reams, Frank Grady, Tony Rivers, Charles Grice, Patricia Rogers, Alicia Gruver, Joe Schonewitz, Andy Hunter, Ray Shows, Harvest Jackson, Robert Smistik, Kim Kennedy, John Stewart, Rebecca Ladnier, Wayne Stone, Gail Lassalle, Diane Tyrone, Pete Lassalle, Larry Walters, Steve Lee, David Wallace, Lisa Lewis, Donald Williams, and Mike Lick. Bruce Wilson.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, April 9, 1997, the Federal debt stood at $5,380,948,025,320.90.—Five trillion, three hundred eighty billion, nine hundred forty-eight million, twenty-five thousand, three hundred twenty and ninety cents.

One year ago, April 9, 1996, the Federal debt stood at $5,130,578,000,000—Five trillion, one hundred thirty billion, five hundred seventy-eight million.

Five years ago, April 9, 1992, the Federal debt stood at $3,894,405,000,000—Three trillion, eight hundred ninety-four billion, four hundred five million.

Ten years ago, April 9, 1987, the Federal debt stood at $2,283,040,000,000—Two trillion, two hundred eighty-three billion, forty million.

Fifteen years ago, April 9, 1982, the Federal debt stood at $1,061,116,000,000—One trillion, sixty-one billion, one hundred sixteen million—which reflects a debt increase of more than $4 trillion—$4,319,832,025,320.90—Four trillion, three hundred nineteen billion, eight hundred thirty-two million, twenty-five thousand, three hundred twenty dollars and ninety cents—during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING APRIL 4

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending April 4, the United States imported 8,330,000 barrels of oil each day, 1,534,000 barrels more than the 6,796,000 imported during the same week a year ago.

Americans relied on foreign oil for 56.5 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 8,330,000 barrels a day.

Mr. President, I yield the floor at this time.

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR WASTE POLICY ACT AMENDMENTS

The Senate continued with consideration of the bill.

Mr. MURKOWSKI. Mr. President, in the course of resolving the status of Senate bill 104 and recognizing that we have just concluded a vote and the vote was 72 to 24, and it was a tabling motion which would have, had it passed, invited every State Governor to prohibit the transfer and transportation of nuclear waste through those States, I will discuss a few States at random, Mr. President. I hope the Members in their offices will reflect on these charts because there are just a few States where the problem exists today. The point of this examination is to simply state that the alternative is to leave the waste in these States or provide an alternative.

Now, again, I want to refer to the major chart which shows where the waste lay currently. There are 80 sites in 41 States. The commercial reactors, shut down reactors, spent fuel on site, commercial spent fuel, nuclear storage facilities, it is non-DOE reactors, it is Navy reactor fuel, it is Department of Energy—all in spent nuclear fuel and high-level radioactive waste. That is where it is, Mr. President.

The question is, Do we want to leave it there or do we want to move it? Now, the next chart again will attempt to show our experience in moving waste through the country because we have done it for an extended period of time. We have had 2,400 movements all over the country. As soon as the chart comes, it will show that it has moved through all States with the exception of South Dakota and Florida.

Now, again the choice that we have relative to an alternative is leave it where it is. We have here the chart which shows the transportation routes of the waste moving across the United States, and it has not been a big deal. The reason is because there have not been any incidents. It has moved safely. It has been moving in containers subject to State and Federal law from 1979 to 1995. So to suggest that it cannot be moved safely or to suggest that we are suddenly thrust upon some kind of a crisis because we are about to move the waste to a temporary repository in Nevada—facts dictate otherwise. It is moved by rail, indicated by the red, it is moved by highway, as indicated by the blue network. Every State but Florida and South Dakota have escaped. That is the reality.

As we look at the argument here, to a large degree, the transportation argument has little validity. This would be the same type of waste that we would be moving from our reactors. Where do we propose to move it? From all the sites I showed on the previous chart, to one site out in the Nevada test site used for over 50 years for more than 800 nuclear weapons tests. I have yet to have anybody come to the floor and suggest there is a better place.

I recognize the reality that nobody wants it but we will look how this dilemma affects a few States. Take Connecticut, for example—and it is significant in Connecticut because nuclear energy makes up 70 percent of the energy that is produced in Connecticut—those ratepayers have paid $521 million over the last 12 years, or thereabouts, into a fund which the Federal Government has taken and put into a general fund for the specific purpose of taking Connecticut's waste. That was a contractual commitment. It is due next year. Connecticut should, under a contractual agreement, be relieved of its waste. The ratepayers have paid, as I said, $521 million. In Connecticut, there are four units, the Connecticut Yankee and the Millstone 1, 2 and 3. Those reactors have stored 1,505 metric tons of waste. It is stored in Connecticut. If this bill does not pass, it will stay in Connecticut. A portion of it is Department of Energy defense waste.

Now, the significant thing here, Mr. President, is that Millstone 1 would be full by 1998. Now what does that mean? It means their storage, the pools adjacent to the reactors, will be full. What will they do? Either build more storage and get new permits, because the Federal Government is not going to be able to take it, or the other alternative is to shut down the reactor. Millstone 2 and 3 will be filled up by the year 2000. What will they do then? Shut down the reactor? Haddam Neck will be filled up in the year 2001. These are factual circumstances surrounding the state of the industry in Connecticut.

Now, if I was representing Connecticut, I would want to get the waste out of there, because two things will happen. One is if this bill passes, the waste will get out. If it does not, the waste is not going to get out, and when these reactors shut down because storage is at capacity the waste is still going to be there. It will be sitting there until somebody does something with it. And to do something with it, you have to move it. Otherwise, it will stay there.

Again, we have a location. I am sure my friend is getting tired of me showing the desert of Nevada where for 50 years we have had testing.

Now, looking to another State, moving south a little bit, the State of Georgia. Now, Georgia is dependent 30 percent on nuclear power. The residents of Georgia paid $304 million into the waste fund. They paid that basically to the Government to take the waste. The Government cannot do it. We have four units, Hatch 1 and 2 and Vogtle 1 and 2. The waste stored in Georgia is 1,182 metric tons at the Savannah River site. The waste stored is 206 metric tons over on the South Carolina-Georgia border. Hatch 1 and 2 reactors will be filled by 1999, and Vogtle 1 and 2 will be filled by the year 2008. Again, we have a case where State ratepayers have paid it, and what have they gotten from the Federal Government? Nothing, other than a chance to continue to store their waste. How long? It is indefinite if this bill does not pass, because nobody can agree on where to put it. The alternative is to leave it where it is, and it will stay there after the reactors have shut down because we do not have anyplace to put it.

Moving on, Mr. President, to Illinois. This is even a bigger set of realities. The State of Illinois is 54 percent dependent on nuclear power. You say "dependent"—what does that mean? It means 54 percent of the energy comes from nuclear power. There are alternatives, sure, coal-fired, oil-fired plants. They all cost money, all take permitting time. Illinois has paid into the waste fund, the residents have paid $1.36 billion, paid to the Federal Government to take the waste next year. The Federal Government will not do it, and they have 13 units in Illinois: Braidwood 1 and 2, Byron 1 and 2, Clinton, Dresden 2 and 3, LaSalle 1 and 2, Quad Cities 1 and 2, and Zion 1 and 2. They have 5,215 metric tons of waste in Illinois. A DOE research reactor is fueled there, with an additional 40 metric tons. A State that is 54 percent dependent.

Looking at their reactors when they have to shut down, because the storage pools are filled: Dresden 3, the year 2000. Dresden 2, the year 2002. Clinton, the year 2003. Quad Cities 1 and 2, the year 2006. Zion 1 and 2, 2006. LaSalle, 1 and 2, 2013. Byron 1 and 2, 2015. Braidwood 1 and 2, 2019. That is a reality. What will Illinois do? Perhaps they will try and buy energy from other States, but that will deplete, if you will, the availability of supply. This is a crisis.

This is the reality, that somebody else before this body had another plan to relieve, if you will, these States of the storage that is licensed. They cannot just store beyond their capacity. They store to their designing capacity. They are prepared to do that but they exceed that capacity in those years. And their ability to increase, that is going to be very, very difficult because for one thing the environmental community is opposed to any nuclear power generation and is going to object. They do not give any credit for the contribution that nuclear energy brings to air quality, including lessening emissions and reducing the greenhouse effect. It is one thing to criticize, but the environmental community has an obligation to come up with alternative and, their alternative is "no nuclear." They like alternative energies, which I do, too, except they are not ready and they are not economic and are not here.

In the meantime, the residents of Illinois are entitled to and will demand energy. What will happen in Illinois is they will have to shut reactors and maybe they will not have air conditioning. Maybe they will have brownouts. This is an obligation that we have in this body to address now because if you do not move it out of there it will stay, the reactors are shut down, and they are stuck with storing high-level energy that is not producing anything, not producing power anymore, and the dilemma is, well, that is a problem for Illinois.

We have an opportunity to correct that today. That is what Senate bill 104 is all about—taking that waste. Remember, when you talk about transportation, to take it, you have to move it. We have moved it safely, and we can.

Now, in the State of Louisiana, my good friend, Senator Bennett Johnston, whom I worked with so closely over the years on the Energy and Natural Resources Committee—and I might add Senator Johnston supported this legislation the last time around because he is a realist and he recognizes we have a crisis. We have to address it. We cannot simply ignore it. The difficulty is we have to put it somewhere. That somewhere, unfortunately, is the desert in Nevada.

In the case of Louisiana, the ratepayers have paid $135 million over 12 to 13 years. There are two units, River Bend 1 and Waterford 3. How much waste? Mr. President, 567 metric tons. When do they run out of capacity? Waterford 3, in the year 2002. River Bend 1, the year 2007. The State is 24 percent dependent on nuclear energy. You can say, well, why the hurry? Remember, we have been 15 years in this process now. Yucca Mountain, when completed, will not be ready until the year 2015, so if we do not address this today, there is no answer. We are just putting it off.

Now, looking at Michigan, Mr. President. Ratepayers in Michigan have paid $510 million into the fund. There are five units: Big Rock Point, Cook 1 and 2, Fermi; 1,500 metric tons of high-level waste are stored there. This State, 26 percent, a quarter of the power, is generated from nuclear energy. Palisades goes down in 1992; Big Rock Point in 1997; Fermi 2 in 2001; Cook 1 and 2 in 2014.

If I was from Michigan, I would be very concerned about the reality of two points. One, continuing to have a source of power within my State, which means my reactors have to continue to operate, which means I have to relieve my storage capacity. I would be very concerned. I would be very concerned about losing that power base and what I am going to do without it. I would be even more concerned if I didn't get some relief and I could not move it and it just sat there after my reactors shut down. That is what is going to happen in Michigan, and in every other State that is in a crisis relative to storage. As I have indicated, there are several.

Let's look at New Jersey. The ratepayers in New Jersey have paid $382 million into the waste fund. What have they gotten for it? Absolutely nothing. The Federal Government promised in 15 years to have a sufficient repository ready by next year to take the waste. The citizens of New Jersey have acted in good faith. They paid the price. The Federal Government has not honored its commitment. They paid $382 million. They have four units: Hope Creek, Oyster Creek and Salem 1 and 2. They have 1,369 metric tons of waste sitting in New Jersey. Their only hope to get it out is to have a designated repository, designated in time to address reality. Reality is that Oyster Creek is in crisis now. That is full now. What are they going to do? Hope Creek will be full in the year 2007, Salem 1 in the year 2013, Salem 2 in 2018. New Jersey is 62 percent dependent on nuclear power. If I was from New Jersey, I would be pretty concerned about that. I would be pretty concerned about reality, pretty concerned about the Federal Government committing to its contractual agreement so that I could relieve my dependence before I have to shut down, and pretty concerned that, if I don't get it, I am going to be stuck with the waste in my reactor pools with no relief in sight and no generating capacity. I would say New Jersey is in a crisis.

Well, let's go out West, to Oregon. It is a little less out there. Ratepayers in Oregon have paid $76 million. They have one unit, Trojan. Waste stored is 424 metric tons. Across the Columbia River from Oregon, which divides the two States, we have the Hanford site. Waste stored there is 2,133 metric tons. Trojan is closed for decommissioning. What does that mean? It means the waste is still there. I don't know whether the delegation from Oregon is satisfied to just leave it there. But unless we have a place to put it, it is going to stay there. We have proved that we can transport it throughout the country. I am sure that the State of Washington would not be anxious to take it. Hanford already has over 2,000 metric tons. So here, again, is a case of another State that acted in good faith. The ratepayers have paid in. The reactor is closed for decommissioning. There is no place, Mr. President, to take the waste.

The last exhibit—and I could go on and on, but this gives you an idea of the crisis proportion we are in—the State of Wisconsin, the dairy State. Nearly a quarter dependent on nuclear power—22 percent to be exact. The residents paid $219 million into the waste fund. What do they have to show for it? Nothing. The Federal Government, when it takes this money, doesn't put it in escrow to have it ready to meet its obligation. It goes into the general fund. So what we would have to do now is appropriate funds to meet our obligation. Nevertheless, it has been paid in. There are three units: Kewaunee and Point Beach 1 and 2. About 967 metric tons are stored in Wisconsin. The status of the Point Beach 1 and 2 plants, I gather, is that they are full now. They have a crisis there right now. Kewaunee will be full in the year 2001.

I don't know what the residents of Wisconsin know or whether they understand or whether they care. But Point Beach 1 and 2 is at capacity. They had to initiate some relief by dry cask storage adjacent to the reactors. This is something new and innovative that takes licensing. Well, you could say, "let's leave it there." If you want it left in Wisconsin, then don't vote for S. 104. Kewaunee, in the year 2001. If I were from Wisconsin, I would want to move this stuff out. I would want the Federal Government to respond to the $219 million from the ratepayers. I would not want to run the risk of leaving it there. Now we are taking it out of the pools and putting it in areas adjacent to the reactor, dry cask storage. The State's electricity relative to its dependence is 22 percent.

So, there you have it, Mr. President. Those are a few reasons why it is critical that we act now, a few reasons why it is critical that these States and the Members of this body from those States recognize that this offers relief from leaving it where it is and putting it out in the desert where we have a trained work force, we have security, we have the very real likelihood that the permanent repository is going to be determined to be there. But it is not going to be ready until the year 2015. So this provides the relief that is needed now, and it provides a responsible consideration relative to the necessity of a decision being made now.

I think it is fair to say, finally, Mr. President, that to not act on this matter now is to not only disregard the responsibility we have here to minimize the risk to the taxpayers relative to the liability that is going to pile up next year when we can't take the waste, but I think it is also very important to recognize that we are doing a disservice to these States by not providing them with an alternative other than leaving the waste where it is, in 41 States at 80 locations.

I wish there were some other way that we could put it in some other area that would not raise opposition. But I can tell you, Mr. President—and you have observed the debate—the reality is that whatever State we put it in, we are going to get a similar reaction—an extended objection from representatives of that State. Let's recognize the problem for what it is.

Where, of all the places, is the best place to site a temporary repository? I will conclude by referring again to the area that has been polluted for 50 years with 800 nuclear weapons tests, an area that meets as many of the geological applications that are preferred relative to storage, both permanent and interim, of any that have been identified. So let's not wait any longer, Mr. President. I know there are a few more amendments that are pending on this legislation.

I will conclude my remarks by thanking the Chair, and I will indicate that it is my intention to proceed through the remaining amendments with the cooperation of my good friends from Nevada.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Nevada.

Mr. REID. Mr. President, I want to briefly respond to my friend, the manager of this legislation. I say that it appears that, if we continue to work the way we have today and yesterday, we should be able to work something out on a final disposition of this at a time when the leaders wish that to be done.

The one thing I want to make very clear, Mr. President, is that we have to respond to a statement of my friend from Alaska that this is a crisis that we are dealing with. The only crisis we are dealing with is the pocketbook of the utilities—not that they are going to be burdened with huge costs, but it may cut down some of their profit margin. These companies are making huge profits, as was indicated in the chart yesterday, which is now spread across the record of this Senate. The utilities are making huge amounts of money to generate electricity by virtue of nuclear power.

There is no crisis, as far as needing to undercut or circumvent the present law. The present law says that at Yucca Mountain in Nevada—they are characterizing a mountain, Yucca Mountain. In that mountain, we have a huge tunnel that is being bored by a big boring machine. The cost of that hole in the ground is $60,000 a foot. That has now gone almost 5 miles through that mountain. When I say "through the mountain," it is in a horseshoe shape almost 5 miles long.

This Government appropriated almost $200 million last year for the purposes of continuing the characterization of that mountain. The work at Yucca Mountain has been going on now for more than a decade. It seems to me rather strange that we would waste all the money, billions of dollars, to determine if in fact that site is suitable.

What this legislation does is simply say that we are going to pour a cement pad in the middle of the desert and dump this stuff on top of the ground, not protect it from the weather, the elements, or anything else.

Mr. President, I say to my colleagues, who would you rather trust, the hundreds of organizations that oppose this legislation, including the Baptist Ministry and the United Transportation Workers, who have to deal with products on a daily basis traveling across this country, and the Missouri Alliance, which I read from this morning, organizations like that, or nuclear utilities? Nuclear utilities are the only organizations pushing this legislation.

I have mentioned a number of times that one of the most important elements of policy is public confidence that the Government knows what it is doing and their interests are being accommodated. Nuclear waste disposal efforts have, time and time again, demonstrated that we, the Government, don't know what we are doing. We have rewritten policy any number of times. We have abandoned the notion of characterizing more than one site because it was too difficult to decide which sites to study. We have changed the acceptance criteria in midstream because it was too difficult to prove that Yucca Mountain would be acceptable.

I just think that this policy is bad. To think that we are now going to transport this stuff over 3,000 miles because utilities want us to do it is ridiculous. We can't transport nuclear waste. We don't have the containers to do it safely. We don't have the transportation routes to do it safely. Why are we doing this mad rush to satisfy the gluttonous utilities? I don't think there is a good reason in public policy to do so.

So I hope that my colleagues will understand that there is no emergency. There is no crisis to transport nuclear waste. As indicated by one of the sponsors of this legislation, the senior Senator from Idaho, it is safer—I am not paraphrasing it—it is safer to transport nuclear waste than it is to buy a carton of milk at the store and take it to your home. It is safer to transport nuclear waste. Well, if that is the case, then I think we should go one step further in safety and leave it where it is. If the cooling ponds are filled and there is no more room for spent fuel rods, then do what they are doing at a number of sites in this country. Reuse the dry cask storage—use the containment policy. It is cheap and extremely efficient while we await the determination as to whether or not Yucca Mountain is a suitable site.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I thank the Chair. I know this all gets pretty arcane and esoteric. But I think the presentation made by the Senator from Alaska would maybe give the impression that somehow ratepayers would be victimized under the present system. I think some clarification needs to be made. I think it is important to understand that each of the reactors that he referenced will have a period of time in which they shut down. That is because each reactor is licensed for a fixed period of time. So if one looks at all of the reactors across the country, the last reactor to shut down is in the year 2033. And between now and the year 2033 all of the reactors which have been referenced in the charts which the Senator from Alaska has called to our attention will shut down depending upon the period of their license.

So the point I seek to make is that over the next 40 years, or 36 years, each of the reactors will be licensed.

I mention that because the responsibility of the nuclear waste fund exists long after the last reactor shuts down. That is to say there will continually be a responsibility until it is estimated the year 2071 to deal with the issue of nuclear waste because as reactors close down fuel will be moved into the ponds or the pools. Then ultimately in theory they will be transported to a permanent repository.

So you can see it here. This is the mill fee presently under the law. Each utility is paying one mill for each kilowatt-hour generated by a nuclear reactor. That is the current payment schedule. That mill fee payment will decline. As you can see here, here is 1995, but you can see going out to the year 2033, or thereabouts, it will be zero. The reason for that is that the mill fees being paid into the nuclear waste trust fund are only generated by kilowatt-hours generated by nuclear reactors. So you can see here that the balance of the nuclear waste trust fund peaks up here sometime around the year 2010. So in all of this buildup referenced in the fund, that buildup is going to be necessary because of the outyears, after 2033 when not 1 cent will go into the nuclear waste trust fund because there will be no reactors generating electrical energy. You will need the money to take care of it in the outyears.

So what is occurring now was contemplated in 1982 when the Congress passed the Nuclear Waste Policy Act; namely, that there would be a mill fee payment system in which the mill fees would go into the nuclear waste trust fund, that it would build up to a substantial surplus, and that surplus would be needed in the outyears when the responsibility to handle the waste continues even though no money is going into the nuclear waste trust fund.

A ratepayer can make a legitimate complaint or a grievance in 1998, as we have all agreed on the floor. There is no permanent repository open. There is no type of storage that will be available under any scenario. Whatever ill-conceived form S. 104 could possibly be enacted in, there is no way that there will be any storage space available at any kind of an interim facility in the year 1998.

Having recognized that, this Senator has offered legislation over the years that says in effect that after 1998, when utilities may incur additional costs because they had expected that a nuclear waste repository would be opened, a nuclear utility could incur additional expense. I concede that. The additional expense may be that they have to provide some dry cask storage, and they may have to reconfigure the space where they currently have the fuel assemblies racked. There could be some additional costs. And that would be unfair to the ratepayer because the system of mill fee payments did contemplate that in 1998 there would be storage facilities open.

So the solution to any contention of inequity is to simply say that, if the legislation which I have introduced on a number of occasions is to the extent that a utility incurs any additional expense after 1998 because the permanent storage is not available, that utility should be able to offset its additional costs by reducing its payments into the nuclear waste trust fund. That is fair, Mr. President. But the notion that somehow the utilities have paid all of this money in and they are not getting what they bargained for is simply not the case. It is true that there is no permanent storage in 1998. We recognize that in the legislation which I have introduced, and we simply provide the utilities an offset.

I urge my colleagues, those who may have an interest in this, to look at the "Nuclear Waste Fund Fee Adequacy and Assessment." This is a document prepared by the U.S. Department of Energy, Office of Civilian Radioactive Waste Management. That has the full schedule of what is contemplated by way of receipts into the fund as well as the expenses that would be incurred after 2033.

Finally, let me make a point. If we are truly talking about being financially responsible, this fund, according to the General Accounting Office, is underfunded by as much as $4 billion to $8 billion. That is to say every bit of this buildup, plus an additional $4 billion to $8 billion, will be necessary in order to handle the waste out to the year 2071 when there will still be responsibilities under the time schedule.

So I think it is misleading to suggest that in some way the utility ratepayers are being dealt with unfairly. They certainly would be dealt with unfairly if they are not able to offset the expense.

I must say I am rather surprised that this legislation, S. 104, does nothing to deal with the fact that there will be additional costs incurred by the utilities after 1998. That is the legislation that has been pending before the Congress for a number of years.

I would also point out to my colleagues that as recently as this past month the newly confirmed Secretary of Energy has indicated he is willing to sit down and talk to the utilities about compensation in the form of additional expenses that they may incur. So when you look at it in that context, this has nothing to do with unfairness to the ratepayers. It has nothing to do with double payments. We can and should responsibly deal with that issue. This is again the siren's call that the industry has invoked now for two decades. "We just want to get this stuff moved. Let's get it on a train. Let's get it on a truck. Let's get it out of town today, tomorrow, and we could care less what may occur."

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I will be very brief. There are a couple of points I want to make relative to the continued debate. One is the reference to the profits of the utilities. Most utilities are heavily regulated, and as a consequence the States have a considerable influence on determining the return on investment. I am not going to argue the merits of just what that return is. I think it varies within the industry, and it varies by the producer of power, their power lot, and it has to do with incurred debt and the ability to amortize that debt. But one thing that wasn't mentioned is that these utilities have provided reliable power to the residents of the individual States since they came online—reliable power from a source that emitted no emissions, contributed nothing to greenhouse gases, and basically the cleanest source of power that we know today on a significant magnitude to maintaining air quality. So the environmental contribution by nuclear power from the standpoint of its emissions is really beyond compare.

So let's acknowledge, indeed, that the utilities have done a job. They have provided power which is reliable and clean. Without them there is no considered replacement that has been identified.

The issue of containers continues to come up. If we can ship high-level waste from Europe to the United States, military waste from Europe to the United States and to Russia—we watch the British, we watch the French, we watch the Japanese move waste from Japan to France for reprocessing and back—to suggest that we are not going to build safe containers is simply unrealistic.

The point has been made that we are in some of these reactors storing our waste on site in casks on the surface suggests just one thing. We are preparing to basically leave it where it is, leave it with 41 States at the 80 sites, and that is the answer that the other side has for relief. Leave it all over the place. If it is safe enough to leave at a reactor in a cask on the surface, certainly it is safe enough to leave it out in the desert in an area where we have had 50 years of nuclear explosions, where we have a work force that is trained, security force, and so forth.

So I just do not buy that argument. That is just an argument for leaving it where it is, and that is just not good enough. It is not good enough for the Senator from Alaska, it is not good enough for the States that are affected.

If you look at the schedule, the viability assessment is anticipated to be completed by the end of next year. I am told the odds of that being favorable are about 90 percent. This is relative to a permanent repository at Yucca being completed.

So when that viability assessment is done next year, we will begin to initiate the process of developing the EIS on the temporary repository. Then the President has to determine the viability. That is going to take place in 1999. If the Nevada test site is determined it will be determined at that date, approximately March 1999, and by April 1999 the license application will be presented to the NRC and we anticipate the EIS to be completed on the temporary repository by the year 2000. Construction can begin when the EIS is done. Construction would begin, we anticipate, when we get the license from the NRC, in roughly 2001, and we could accept the casks coming from the nuclear reactors into the temporary repository out in the Nevada desert no later than the year 2000.

So there is the schedule relative to the timeframe under which we can begin to accept spent fuel into the Nevada desert temporary repository. The alternative to that—and that is what the other side would have you suggest—is to wait until Yucca Mountain is done, and that is the year 2015.

We have a theme here that has been around for a long time and we continue, and it is here today and it is a legacy of broken promises. I think it is time that the Government start keeping its promises. It was 15 years ago that Congress passed a law that made a deal with America's electric consumers, and here was the deal. People who bought electricity from nuclear power plants would pay a small additional charge on their electric bills. In return, the Department of Energy would build storage and disposal facilities for used nuclear fuel from the nuclear power plants that supply 22 percent of our Nation's electricity—22 percent—second only to fossil fuels, coal. These facilities, as I have indicated, would be ready in 1998, at which time the Department of Energy would begin removing used fuel from the nuclear power sites.

The consumers paid their money, but as it now stands the DOE is not going to hold up its end of the bargain.

I think it is a travesty that we still are here today trying to get the Department of Energy to fulfill its responsibility to build a facility to manage this radioactive waste. In 15 years and nearly $13 billion in consumer funding for this program, it is pretty hard to see the progress that we have made. All consumers have in exchange for the billions of dollars so far is a legacy of broken promises from the Federal Government. Worse yet, the Energy Department says it cannot begin accepting fuel in the permanent repository until the year 2015, and that is if everything goes as planned.

If you will bear with me, I would like to wander through the legacy of broken promises. Let us go back to 1984. This was a clear promise. Don Hodel, then Secretary of Energy, affirmed that the Energy Department is obligated to begin accepting spent nuclear fuel from nuclear power plants in 1998 whether or not a permanent disposal facility is ready.

Nineteen eighty-seven, 3 years from 1984. Congress then designates Yucca Mountain, NV, as the only site to be evaluated—the only site to be evaluated. Congress, that is us, Mr. President. The Energy Department announces a 5-year delay in the opening date for a disposal facility, from 1998 to the year 2003. We went on from 1987 to 1989, another delay, another promise. The Department of Energy announces another major delay in the opening date for a permanent disposal facility until the year 2010 this time.

Well, moving on; 1991 comes. We have mounting concerns. And the first sign of concerns appear over the Energy Department's ability to meet its obligation under the Nuclear Waste Policy Act. So the State of Minnesota tells Energy Secretary James Watkins that it is highly probable that the Department of Energy will experience significant delay in meeting its obligation to begin taking high-level radioactive waste in 1998.

May 1992. What do we have? More promises. Secretary of Energy Watkins tells Minnesota that the DOE is committed to fulfill the mandates imposed by the Nuclear Waste Policy Act. The Department has sound, integrated program plans that should enable them to begin to receive spent fuel at an MRS—monitored retrievable storage—facility in 1998.

December 1992, yet another promise. Energy Secretary Watkins acknowledges that attempts to find a volunteer host for an MRS facility have not succeeded. Another disappointment. He promises whatever is necessary to ensure that the Energy Department is able to start removing spent fuel from nuclear power plant sites in 1998.

Well, moving on to May 1993, we get an affirmation from Secretary of Energy O'Leary that there is a moral obligation that the Department of Energy has to the electric utilities and their customers. And I quote: “If it does not have a legal obligation, then it has a moral obligation.”

Well, I do not know whether you can make soup out of that. In May 1994, notice of inquiry. The Department of Energy publishes a notice of inquiry to address the concerns of affected parties regarding the continued storage of spent nuclear fuel at reactor sites beyond 1998. The energy agency says in its preliminary view it does not have the statutory obligation to accept spent nuclear fuel in 1998 in the absence of an operational repository or suitable storage facility.

In May 1994, 14 utilities and 20 States sue the Department of Energy. A coalition of 14 utilities and public agencies in 20 States file separate but similar lawsuits seeking clarification of the Department of Energy's responsibility to accept spent nuclear fuel beginning in 1998.

April 1995. Here we go. Here is the Government's first acknowledgement of their policy. In April 1995, after starting this in 1984, 11 years, it comes out and says they have no obligation to take the fuel. Talk about a copout. They state that the Federal Government has no legal obligation to begin accepting high-level waste in 1998 if a repository is not open—according to the Department of Energy's interpretation of the Nuclear Waste Policy Act and its contracts with utilities.

Fortunately, the court took another view. In July 1996, the U.S. Court of Appeals ruled that the Department of Energy is obliged to take fuel in 1998, and it is a legal as well as a moral obligation. So we finally got some action. That came out in July.

In December 1996, the Department of Energy decides not to challenge the court ruling and admits failure and admits liability. The DOE acknowledges that it will not be able to meet its commitment to take waste in 1998.

January 1997, the DOE's liability. Well, 46 State regulatory agencies and 33 electric utilities file new action for escrow of nuclear waste fees. That means they did not want them to go into the general fund anymore. They want this to go into an escrow fund so they will be available for the Federal Government to meet its obligation and order the DOE to take spent fuel in 1998.

In March 1997, the court rejects the Department of Energy motion to dismiss before it is filed. The court tells the Department of Energy that a motion to dismiss would be inappropriate in this case and sets the case for damages and hearing of the merits.

The Energy Department must have clear direction to develop an integrated system that will fulfill its obligation to manage the Nation's commercial and defense nuclear waste. S. 104 provides that by requiring construction of a central storage facility for used nuclear fuel and continued scientific investigation of a proposed repository at Yucca Mountain. The legislation also includes appropriate safeguards for the public and the environment at every step and provides consumers with a solution for the billions of dollars they have already paid into the program.

Mr. President, I urge my colleagues to support this comprehensive solution to one of the Nation's most pressing environmental issues and end the string of broken promises.

AMENDMENT NO. 36 TO AMENDMENT NO. 26

Mr. MURKOWSKI. I send an amendment to the desk. It is an amendment to the Murkowski substitute beginning on page 49.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 36 to amendment No. 26.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on p. 49, strike line 11 and all that follows through line 21 on p. 52 and insert the following:

“(2) NUCLEAR WASTE OFFSETTING COLLECTION.—

“(A) For electricity generated by civilian nuclear power reactors and sold during an offsetting collection period, the Secretary shall collect an aggregate amount of fees under this paragraph equal to the annual level of appropriations of expenditures on those activities consistent with subsection (d) for each fiscal year in the offsetting collection period, minus—

“(i) any unobligated balance collected pursuant to this paragraph during the previous fiscal year; and

“(ii) the percentage of such appropriation required to be funded by the Federal government pursuant to section 403.

“(B) The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold.

“(C) For purposes of this paragraph, the term ‘offsetting collection period’ means—

“(i) the period beginning on October 1, 1998 and ending on September 30, 2001; and

“(ii) the period on and after October 1, 2003

“(3) NUCLEAR WASTE MANDATORY FEE.—

“(A) Except as provided in subparagraph (C) of this paragraph, for electricity generated by civilian nuclear power reactors and sold on or after January 7, 1983, the fee paid to the Secretary under this paragraph shall be equal to—

“(i) 1.0 mill per kilowattt-hour generated and sold, minus

“(ii) the amount per kilowatt-hour generated and sold paid under paragraph (2);

“Provided, that if the amount under clause (ii) is greater than the amount under clause (1) the fee under this paragraph shall be equal to zero.

“(B) No later than 30 days after the beginning of each fiscal year, the Secretary shall determine whether insufficient or excess revenues are being collected under this subsection, in order to recover the costs incurred by the Federal government that are specified in subsection (c)(2). In making this determination the Secretary shall—

“(i) rely on the ‘Analysis of the Total System Life Cycle Cost of the Civilian Radioactive Waste Management Program,’ dated September 1995, or on a total system lifecycle cost analysis published by the Secretary (after notice and opportunity for public comment) after the date of enactment of the Nuclear Waste Policy Act of 1997, in making any estimate of the costs to be incurred by the government under subsection (c)(2);

“(ii) rely on projections from the Energy Information Administration, consistent with the projections contained in the reference case in the most recent ‘Annual Energy Outlook’ published by such Administration, in making any estimate of future nuclear power generation; and

“(iii) take into account projected balances in, and expenditures from, the Nuclear Waste Fund.

“(C) If the Secretary determines under subparagraph (B) that either insufficient or excess revenues are being collected, the Secretary shall, at the time of the determination, transmit to Congress a proposal to adjust the amount in subparagraph (A)(i) to ensure full cost recovery. The amount in subparagraph (A)(i) shall be adjusted, by operation of law, immediately upon enactment of a joint resolution of approval under paragraph (5) of this subsection.

“(D) The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

“(4) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1997 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997 pursuant to the contracts, including any interest due pursuant to the contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2001. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fees assessed under this subsection, on or before the date on which such fees are due, and the license shall remain suspended until the full amount of the fees assessed under this subsection is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spent nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the junior Senator from Nevada.

Mr. BRYAN. Mr. President, the amendment being offered by the Senator from Alaska is designed to address a point of order that would lie with this bill with respect to the budget process. We have heard almost endlessly on the floor that the poor ratepayers are not getting this, they are not getting that. We have tried to respond by saying we think the ratepayers have a legitimate issue to raise after 1998, and that there should be a reduction in the payments into the fund because some additional costs are going to be incurred before a permanent repository can be made available under any scenario that one would choose to fantasize.

This is kind of another budget gimmick, and it is technical, but let me just say very briefly that what this does is it deals with nuclear waste that was accumulated prior to 1982, in which the utilities would incur an obligation to pay for that. There were several options available. A number of utilities elected not to make that payment until nuclear waste was actually being received by the permanent repository. So we are not talking about an inconsequential sum, and ratepayers may be interested to know that their utilities, or at least some of them, are going to be paying $2.7 billion before they would otherwise have been required to do so under the previous agreement to deal with the budget. This is designed, it is a budget gimmick, so it does not result in being vulnerable to a budget point of order.

It does, apparently—we are going to have this reviewed—it does, apparently, deal with the budget point of order the senior Senator from Nevada and I were about to make. But I think the point needs to be made, anybody who has this compassion and concern for ratepayers, what this does is trigger the obligation to pay that $2.7 billion before any interim repository could possibly be opened anywhere, under any scenario, before any permanent repository.

Somehow I do not see how this is a better deal for the ratepayers who originally were led to believe that they would have until after nuclear waste was initially received before this $2.7 billion obligation.

So, it looks to me like the ratepayers are on the short end of this one.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Nevada.

Mr. REID. Mr. President, if there is anyone in this body who is concerned about dollars and budgetary numbers, they should be concerned about what is taking place here. They should run from this bill. This is another reason that we should be so thankful we have a constitutional form of government and we have a President who is willing to veto bad legislation. This is bad legislation, getting worse every hour we spend on this floor.

Now the numbers are changing. We are not talking about a few dollars here and a few dollars there; we are talking about $2.7 billion that the ratepayers are going to have to cough up early. This is another example of the gluttonous nuclear utilities taking advantage of the general public. We know we do not have the numbers, as has been proven, because the utilities seem to have a lock on this bill. They are the ones marching it through this Congress. But 16 blocks away, on Pennsylvania Avenue, we have someone who is going to veto this legislation. That is all we have left, because it is very clear that the nuclear utilities have a lock on this legislation that is getting worse by the hour.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I am going to call for a voice vote, but let me very briefly explain our position with regard to the action that is pending before the Senate.

This provision requires the payment of a one-time fee due to be paid in fiscal year 2001. The one-time fee is the fee paid for fuel used before the Nuclear Waste Policy Act was enacted. Most have already paid this fee. The timing of the payment was optional: Immediately or when the fuel was taken. If paid when the fuel was taken, then interest must be paid by the utilities. Most utilities that have not paid the fee put it in escrow, and this simply requires that the fee be turned over to the Federal Government so it can be used as an offset to the user fee implemented by S. 104.

So the amendment simply corrects a technical issue with regard to the fee provision of the substitute. We had been previously advised by CBO that the provision had no Budget Act impact and, as a consequence, this action basically makes us in conformance with the Budget Act.

Mr. BRYAN. Mr. President, I certainly am not going to object to a voice vote on this, but might I ask the chairman a question on this?

I do not intend to offer an objection, but I think it would be helpful for those who have been listening to the debate, am I not correct this one-time fee, which I am told is $2.7 billion, was not due until the time at which the utilities actually had the waste removed, which would have been 10 or 15 years, whatever the case may be? This does require an accelerated payment by them in order to comply with the Budget Act; is that not correct?

Mr. MURKOWSKI. If I may, I am told that was the deadline for paying the fee. But if you paid earlier, you do not have to pay the interest.

Mr. BRYAN. But the option was whether the utilities—if I am correctly informed, and I certainly stand to be corrected—can take the option not to pay, which would mean that it would be years before that payment would be due.

Mr. MURKOWSKI. That is true, but they would have to pay the penalty of the interest.

Mr. BRYAN. They would have to pay the interest.

Mr. MURKOWSKI. So it is beneficial, since in most cases they have it in escrow, to simply pay it.

Mr. BRYAN. I simply say, not to be argumentative with the chairman, but if the utilities had elected not to make that payment—one would assume they are acting in their own self-interest—this will now compel them to make the payment before they have the benefit of the interim or permanent storage. That is the only point I sought to make.

Mr. MURKOWSKI. My understanding is, if the utilities agree to pay it, it seems to be in their own best interest to pay it and be relieved of the interest. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 36 offered by the Senator from Alaska.

The amendment (No. 36) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. For the benefit of all Senators, I should advise them it is our intention to try to work toward a time agreement with some finality relative to the pending amendments.

It is my understanding that there are two Wellstone amendments that are left, one Bingaman amendment——

Mr. REID. Would the Senator yield?

Mr. MURKOWSKI. I will be happy to.

AMENDMENTS NOS. 29 AND 30, EN BLOC

Mr. REID. I, Mr. President, pursuant to a request from Senator WELLSTONE, who is unable to be here today because of floods in his State, offer at this time, with unanimous-consent, two amendments. It is my understanding that it is part of the unanimous-consent agreement these amendments will be debated on Monday.

I send these two amendments to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. WELLSTONE, proposes, en bloc, amendments numbered 29 and 30.

Mr. REID. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 29 and 30), en bloc, are as follows:

AMENDMENT NO. 29

(Purpose: To ensure that emergency response personnel in all jurisdictions on primary and alternative shipping routes have received training and have been determined to meets standards set by the Secretary before shipments of spent nuclear fuel and high-level nuclear waste)

On page 22 of the substitute, line 5, after "(3)(B)" insert "until the Secretary has made a determination that personnel in all state, local, and tribal jurisdictions on primary and alternative shipping routes have met acceptable standards of training for emergency responses to accidents involving spent nuclear fuel and high-level nuclear waste, as established by the Secretary, and".

AMENDMENT NO. 30

(Purpose: To express the Sense of the Senate regarding Federal assistance for elderly and disabled legal immigrants)

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE REGARDING FEDERAL ASSISTANCE FOR ELDERLY AND DISABLED LEGAL IMMIGRANTS.

It is the sense of the Senate that Congress should take steps to ensure that elderly and disabled legal immigrants who are unable to work, will not be left without Federal assistance essential to their well-being.

Mr. MURKOWSKI. I wonder if we could get a short explanation.

Mr. REID. I also ask unanimous consent that the amendments be laid aside.

The amendments—one of them deals with immigration and the other deals with setting standards for training of people who deal with nuclear waste.

Mr. MURKOWSKI. I thank my friend for the explanation. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I would also say to my friend, the manager of the bill, that it appears that we are trying to work to get a finite number of these amendments, and, hopefully, after the next vote, maybe we can have an agreement—although I guess we are not going to have any votes today, so I withdraw that—maybe after completing the debate on the Thompson amendment.

Mr. MURKOWSKI. If I may interrupt to complete my understanding, for the benefit of other Senators, we have the two Wellstone amendments pending at a time to be determined by the leadership, which is intended to be debated on Monday. Is that correct?

Mr. REID. Yes. Will the Senator yield?

Mr. MURKOWSKI. Yes.

Mr. REID. The Senator from Minnesota has indicated he would be willing to accept a time agreement of 1 hour on each amendment, equally divided.

Mr. MURKOWSKI. I am sure we would accept that. And then there is the disposition of the Bingaman amendment.

Mr. REID. It is my understanding, I say to my friend from Alaska, there are two Bingaman amendments. He may not offer both of them. But he would like to reserve two. He also indicated that he would be willing on those amendments to agree to 1 hour evenly divided.

Mr. MURKOWSKI. On the two amendments?

Mr. REID. That is right.

Mr. MURKOWSKI. That would also take place Monday.

Mr. BRYAN. If the Senator would yield, I am informed that Senator BUMPERS has an amendment, the nature of which I do not know. And Senator DOMENICI has two amendments that I have just been made aware of. I did not know that until a few moments ago. This is just to inform the chairman. There are some things we are going to have to work through.

Mr. MURKOWSKI. I was distracted. Did the Senator from Nevada say Senator BUMPERS?

Mr. BRYAN. Senator BUMPERS has an amendment, and there are two amendments that may—I underscore the word "may"—be offered by the Senator from New Mexico, Mr. DOMENICI. I do not know what his intent may be with respect to them. But apparently those are among the amendments that have been filed, I would advise the chairman.

Mr. MURKOWSKI. I thank my friend.

It is my understanding, then, there will be an attempt to get a time agreement so we can conclude disposition of all amendments at a time Monday that would be determined in a time agreement and that the leadership would affix a vote on those amendments which require it; is that correct?

Mr. BRYAN. Yes.

Mr. MURKOWSKI. With that understanding, it gives the Members an idea of what we might anticipate for the balance of the day.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

AMENDMENT NO. 37 TO AMENDMENT NO. 26

(Purpose: To provide that the President shall not designate the Oak Ridge Reservation in the State of Tennessee as a site for construction of an interim storage facility)

Mr. THOMPSON. Mr. President, I send an amendment to the desk on behalf of myself and Senator FRIST and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. FRIST, for himself, and Mr. THOMPSON, proposes an amendment numbered 37 to amendment No. 26.

On page 28, line 16, after "Washington" insert "or the Oak Ridge Reservation in the State of Tennessee".

Mr. THOMPSON. Mr. President, I rise to offer this amendment today because I am concerned about that section of the bill dealing with what happens if Yucca Mountain is not deemed to be a suitable permanent repository to store spent nuclear fuel. In that event, under this bill, all work on an interim storage site in Nevada would cease and the President would have 18 months to name an alternate site for an interim storage facility.

What I am concerned about is that the bill goes on to say:

> The President shall not designate the Hanford Nuclear Reservation in the State of Washington as a site for the construction of an interim storage facility.

So the President will have one less option when he is looking for alternate sites under that scenario. My colleagues from South Carolina have offered an amendment which has subsequently been adopted that would exempt two sites in their State from consideration as well.

Our concern is that Tennessee has been selected before as a site for an interim storage facility. However, it was later soundly rejected as a storage site both by the Congress and the courts. We may be facing the possibility that Tennessee again will be selected as an interim storage site under the scenario I just outlined.

In 1986, the Department of Energy recommended three sites for the location of interim storage facility for spent fuel. All three of those sites were in Tennessee. Given that history, we may be at the top or near the top of the list again, especially if Hanford and Savannah River are taken off the table. Removing Hanford and Savannah River from consideration makes it more likely that Oak Ridge would be selected as an interim storage site.

We should make it clear again today that Tennessee is not an appropriate site to store this waste, just as Congress did in 1987. I assume we will do the same thing today. Oak Ridge itself is a population center. The city of Oak Ridge has 28,000 residents. Oak Ridge sits directly between two major population centers in our State—Knoxville, with a population of 175,000, and Chattanooga, with a metropolitan area population of approximately 424,000—and it is just 175 miles from the capital of Tennessee, Nashville.

Oak Ridge also sits at the center of three major interstate highways—I-40, I-70, and I-81. Thus, it is an extremely heavily trafficked area.

In addition, Oak Ridge is just 5 miles from the Melton Hill Dam and just 15 miles from Norris Dam. In other words, it sits in close proximity to major waterways and dam facilities.

I would like to think that my concern is not well placed, and it may not be well placed, but as this deliberation has proceeded, it has become more and more a matter of relevant concern. So out of abundance of caution, I think this Congress should make clear what a past Congress made clear—that Oak Ridge is not a suitable place as a storage facility. For this reason, I urge the adoption of the amendment. I yield the floor.

Mr. MURKOWSKI. Let me advise the Senator from Tennessee, we are prepared on this side to accept his amendment. And I am not sure what the disposition is on the other side.

Mr. BRYAN. The Senator from Nevada would not be prepared to accept it and will be asking for a rollcall vote. I would like an opportunity to respond to some of the comments the Senator from Tennessee made. If he needs a little more time, I am happy to allow him to go first, but I want to respond to some of his comments that he made on behalf of his amendment.

Mr. THOMPSON. No. I am finished at this time.

If the Senator has comments to make, please do so.

Mr. BRYAN. I thank the Senator.

Mr. President, I understand the concern that my friend from Tennessee has. It is a concern that Nevadans have had for many years. Let me say where I respectfully disagree with him is that if he is concerned about the movement of nuclear waste to an interim storage facility, the most effective protection that the State of Tennessee and all States have is the existing law—is the existing law.

There are two provisions in the existing law. One of them is specifically in reference to the Senator's concern from the State of Tennessee and, indeed, is a product of the Tennessee State delegation's actions on the floor a decade ago.

Under the present law, no interim storage anywhere in any State can be located until an application for license of a permanent repository. So his State under the current law is absolutely protected, as is every other State. And the reason why that was inserted in the legislation at that time was a policy consideration.

Our colleagues then recognized the great temptation that an interim or temporary facility might become a permanent repository de facto, a concern which the Senators from Nevada are very gravely concerned about. So every State that is concerned about it being a potential target for interim storage under the present law has no need to worry at all. That is the ultimate protection.

The law right now precludes the location of interim storage until the application for licensure for the permit. You cannot have a better protection than that. So if that is the Senator's concern from the State of Tennessee, as I know it is the Senators' from many States, that is the best protection that the State of Tennessee and others have.

Let me just explain to my colleagues what the Senator from Tennessee is asking. The Senator from Tennessee, in the amendment, is asking that his State be exempted from any consideration.

Under the provisions of S. 104, if the President finds there is a reason to reject the permanent storage at the Yucca Mountain facility, then the President is given a time to choose an alternative location for interim storage. And if he does so, that decision has to be approved by the Congress at a subsequent time.

So, in effect, the President would be required to make a choice as to another location around the country, and that decision would have to be ratified by an act of Congress, signed into law by the President.

We believe that S. 104 is unnecessary and unwise, so that our view is that we ought not to be in that position in terms of the legislation, that we ought to reject that because it is unnecessary and unwise and we ought to proceed on the present course, which is to continue the site characterization process that is occurring at Yucca Mountain.

But let me just say, again, with great respect to my friend, who I admire greatly, from Tennessee, he is asking his State to be exempted, even though in 1987 when the Department of Energy—one can assume based upon scientific considerations—had made a determination that three sites in Tennessee would be the best sites in the country for interim storage. If you look at the history of this act, that is the essence of what has gone wrong, why this act, which was originally conceived with some sense of balance and fairness, has gone so far astray.

The original law in 1982, signed into law by the President in 1983, was that we would search the entire country and look for the best site for a permanent repository.

That is pretty hard to argue in principle—nobody exempt, everybody on the board. And we look for the best site. It was also contemplated there would be some regional balance, that we would look into different types of geology—granite, salt domes, welded tuff, perhaps others as well—and that then three sites would be studied, and the President of the United States, from those three sites, would make the decision that has at least some pretension of being rational and fair and scientific.

Here is what happened: Not science, but politics. The 1984 election illuminates the year after the Nuclear Waste Policy Act is enacted into law. Immediately, the incumbent President and his supporters assured people in the Southeast, "Don't worry. We'll never choose the salt domes." It had nothing to do with science. That is all politics. That was one of the first corrupting acts that in effect destroyed any pretense of science, balance, fairness, objectivity.

And then fast forwarding, the Department of Energy began to gather data, and their internal memorandum said, look, the folks in the Northeast are going to object to this, there will be strong political opposition, and the Department of Energy unilaterally abandoned any pretense of a search for a site in a granite formation. Nothing to do with science. Absolutely nothing.

Then what remained of the act was that we would provide the President of the United States, whoever that person might be, with three choices. That was emasculated in 1987, when the "Screw Nevada" bill was enacted, having nothing to do with science. Nobody argued Yucca Mountain should be considered solely and exclusively to the exclusion of everything else except the nuclear utilities and their supporters.

I do not believe you can find a scientist worth his or her salt that will tell you that we ought to have all of our nuclear eggs in one basket. It would be better to have some options on the table to consider other locations and then let the process go forward from there. That is what has made this entire siting process so utterly devoid of any kind of credibility, because the politics has worked through it.

We need the South, so we assured them, in 1984, you will be home free. The DOE looks at political opinion and reaction in the Northeast—no, we are sure not going to look at you. And then the utilities come in and say, look, we do not like the idea of having three sites studied; let us just study the Nevada site—having absolutely nothing to do with science.

Now, fast forward to 1997. I invoke the aid of deity in praying to God we do not get S. 104 enacted into law, and I believe we will not because of the President of the United States, who is taking, in my judgment, the right policy and trying to restore some credibility to the process. However, if S. 104

were enacted into law, the President of the United States is mandated, if he finds Yucca Mountain unsuitable, to make another choice for interim storage. That would have to be submitted to the Congress for approval.

Now, what we are saying is no, we should not allow the President to make that choice.

We ought not to exempt Tennessee, as my friend from Tennessee would have us do, or this morning as our colleagues from South Carolina got their State exempted, and previously the State of Washington. That has absolutely nothing to do with science. That has everything to do with politics.

If you believe for one moment that S. 104 has any merit at all—and in my view it has none, and I oppose it strenuously on a number of grounds that we will get into at a later time during the debate—should not the President of the United States, who is being directed to make other selections with respect to interim storage, have a full range of discretion as to where he should tentatively make that choice, which is always subject to approval by the Congress. We have the right to disagree. But, in effect, what we want to do with these series of amendments that we have dealt with this morning—the Washington exemption, the South Carolina exemption, and now the exemption of my friend from Tennessee—we want to load the deck. It is a stacked deck. "You cannot look at us; we are in Tennessee." "You cannot look at us; we are in South Carolina." That does not have any policy justification at all, in my judgment.

I understand the concern of the able Senator from Tennessee about transporting all this nuclear waste through his State. It would be substantial and extensive. That is why I wish he were allied with us, because if he were, the State of Tennessee and other States would be immune and protected from the irresponsible course of conduct which S. 104 directs us to do.

It is for that reason I find myself in opposition to his amendment, No. 1, on the basis of policy; and No. 2, I believe that makes this legislation, if it is possible, even less defensible than it is in its present unamended form.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Thank you, Mr. President. I appreciate my able colleague's comments. He is eloquent in defense of his position. I respectfully disagree with him with regard to the history of this matter in some respects. It seems often when we agree with a decision, it is based on scientific evidence and when we disagree, it is based on politics.

In this particular matter, the decision not to have the Tennessee site designated as a storage facility actually was also addressed by the courts at that time, and they determined that the DOE at that time in making that decision, violated the Nuclear Waste Act in failing to consult with the State before selecting the sites in Tennessee. So before Congress even got involved in the matter, the courts had addressed the matter and enjoined the DOE from putting the facility in Tennessee.

In listening to my colleague, I am more and more concerned because he makes a case, for his belief anyway that Tennessee apparently would in fact be the logical place once you eliminate all of the other sites that have already been eliminated.

Talking about objective criteria, I think population is one. As I mentioned, the city of Oak Ridge is a city of 28,000 people, in sharp contrast to a place like the Nevada test site, which has a population density of one-half person per square mile. That is subjective criteria. This is not raw politics by any stretch of the imagination.

I am not saying that this site-by-site consideration is the best way to proceed. We simply find ourselves in a situation where we do not want the dagger pointed at the heart of the State of Tennessee, when all the dust settles and find, instead of a place where the facility ought to be, which is embodied in the body of this bill, that we find someplace that the Congress has already rejected in times past as not being meritorious.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, if the statement of the Senator from Tennessee is valid, and I am confident that it is, then the Senator should oppose this legislation, because if he believes that there is potential damage to residents of the State of Tennessee, then certainly he should understand that there is significant risk to the people of Nevada. The State of Nevada, people think of as a big wasteland. The fact of the matter is that not far from the Nevada test site are over a million people.

We have significant problems. But not only are there problems in Tennessee and in Nevada; what about the entire route of this transportation? If the Senator from Tennessee is concerned about transportation of nuclear waste within the State of Tennessee, he likewise should be concerned about the transportation of nuclear waste across this country.

We have established, Mr. President, that there are significant groups who are opposed to this legislation. We have yet to find anyone other than utilities companies who favor this legislation, and the utility companies that favor it are necessarily nuclear facilities, with some exceptions.

We have talked this morning and been given a few examples on this floor about the Baptists who oppose this legislation and the United Transportation Workers and an organization in Missouri. We could give hundreds of examples. But I thought it would be appropriate because people believe—I hope they believe—if you are going to side with the Baptists or the nuclear utilities, you should go with the Baptists. But in case someone is concerned about that, we will look at the Evangelical Lutheran Church in America. They wrote a letter to every Senator in this body on March 20 of this year, where they have said, "Don't support S. 104."

> In addition to the risks of S. 104, it is objectionable because it weakens environmental standards for nuclear waste disposal by carving loopholes in NEPA, preempting other environmental laws and limiting licensing standards for a permanent repository.

That, Mr. President, really says it all. If, on March 20, they felt that environmental standards were being weakened and loopholes were being carved into the legislation, look what this legislation now is. Every hour that goes by there is a new loophole. We raise a point of order with the Budget Act. Well, what we will do, we will make the utilities and the ratepayers pay $2.7 billion a little early. We want to carve another loophole here for Washington. We will do one for South Carolina, one for Tennessee.

The Evangelical Lutheran church in America opposes this legislation, not because of the Senators from Nevada but because of the Members of their ministry throughout this country. This is some of the worst legislation—and I have been in this Congress for going on 15 years; I know a lot about this legislation—that has ever come through this body. You talk about special-interest legislation; this is it. The Congress has been appropriating for about 15 years a couple hundred million dollars a year, sometimes more than that, examining, characterizing Yucca Mountain. This legislation just basically throws it out. That is what the Evangelical Lutheran church says. This legislation wipes out the legislation for a permanent repository, which is the only hope of having a safe place to store it if, in fact, that can happen.

If the Senator from Tennessee is concerned about safe transportation, he and the other Members of this body should revisit what has taken place in Europe. I repeat, 30,000 troops and soldiers to carry six nuclear waste canisters 300 miles in Germany—30,000 troops. There were 170 people injured. Many went to the hospital. And it cost $150 million to move it at the rate of 2 miles an hour. In addition to that—you think we have concerns about Chattanooga and Oak Ridge being close to a proposed nuclear site?—look what happened in Germany. I am reading from the letter.

> The transport of these 6 casks required 30,000 police and $150 million, more than 170 people were injured, more than 500 arrested. Even the police have called for an end of the shipments. They no more like arresting demonstrators, who many sympathize with, than

they like guarding highly radioactivity waste casks.

The writer goes on, "I measured the radiation of these casks at 15 feet."

Mr. President, that distance is from this Senator to the Presiding Officer. The radiation at 15 feet was 50 times higher than background levels, an amount no one should be voluntarily exposed to, and pregnant women and children should never be exposed to. The police, of course, stand much closer than 15 feet, and for hours at a time. No wonder the German parliament has abandoned and suspended the transportation of nuclear waste in Germany. Why? Because you cannot do it.

So, if the sponsors of this amendment are concerned about the safety of the people from Tennessee, then they should be concerned about the safety of the people of this country.

What is the answer to the nuclear waste problem? Leave it where it is in dry cask storage containment or in the cooling ponds. As the representative from the State of Oregon told me this morning in the House, that is why he sided with Representative Vucanovich. If it is safe to transport these nuclear casks, these dry casks—which it is not, we have already established—if it is so safe, leave it where it is. That is why he supported Representative Vucanovich in the past.

This amendment is special legislation, and my friend from Tennessee should be concerned, as I know he is concerned, about the people of this country in addition to the people of Tennessee. That being the case, this amendment shows how fallacious and weak and unsupportable this bill is. It is a bill that is rife with gluttonous nuclear utility industry. That is the only reason it is here and the only reason it is being pushed. This legislation is faulty. It is fake. It is insincere. I said this legislation; I did not say this amendment.

Mr. THOMPSON. Mr. President, my colleague from Tennessee, Senator FRIST, wanted to make a statement on this matter, but he is chairing the Subcommittee on Science and Technology, a subcommittee of the Commerce Committee, so if it is in order, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. REID. I ask unanimous consent this vote be set aside until sometime the two leaders agree would be appropriate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I think, again, we have to address the question of informed speculation, and the reference made a few minutes ago by my friend from Nevada to what happened in Germany mixes apples and oranges. The issue was not spent fuel leaving Germany. It was vitrified waste coming back to Germany. There is a substantial difference. What happens in the vitrifying process is that they recover the radioactive material and mix it with a glass form.

It is radioactive. There is no question about it. But to suggest, as my friend from Nevada would, that this is the same stuff as shipping spent fuel, that's the apples and oranges issue.

I think what we have seen today proves my point, which is that nobody wants this. I am not being critical of my friends from Nevada. It doesn't make any difference whether it be the State of Michigan—and Vermont has been suggested as having one of the best types of granite-based rocks, from the standpoint of stability and geology. But I am sure if that were a selected site for a permanent repository, or temporary repository, we would have the delegation from Vermont right where the delegation from Nevada is. That is the reality of this. We have had representatives from the West exempt Washington, and for reasons that Washington says they are fed up, they have had enough waste. They continue to have waste, several hundreds of tons of waste, thousands of tons of waste. They don't want any more. The reason they don't want any more is there is no way to dispose of it. They are beginning to start a vitrification process.

The same is true in South Carolina. They don't want any more. They have it there now. The reason they don't want any more is there is no way to dispose of it. They are vitrifying now. The vitrification is, for the most part, military waste. They are recovering liquid waste from the tanks. I have been out to Hanford and I have been to South Carolina. Now, we are seeing Tennessee. Tennessee has high-level nuclear waste stored there. Idaho does, too. I am kind of surprised we don't have every Senator down here exempting his or her State. That is one way to ensure that they are not going to get it. Then where are you going to put it if you can't put it in one of the 50 States? Are you going to put it on the Atlantic coast? No. Are you going to send it to Canada? They don't want it. You might be able to send it to Europe for a fee, I don't know. So you move to the Pacific. What do you have there? You have some islands. Maybe we have some Indian reservations that might be interested. But, undoubtedly, that would not be suitable to the State governments. We have Palmira off of the Hawaiian islands being mentioned from time to time. There is a group, as a matter of fact, that was promoting it—for a fee. They said they owned the island. They have islands in the South Pacific. Some of them are individual nations, and they have been interested in doing it, perhaps, for a fee. But that is a bit dangerous, Mr. President, because we are not sure what the proliferation capability might be in that kind of situation.

So what has happened today on the floor of the U.S. Senate proves my point, which is that nobody wants it. So we have seen three States exempt themselves. The unfortunate part is that we are still left with our friends from Nevada. I was here when the decision was made to put a permanent repository in Nevada. Several of the staff members were there at that time. There was a Republican Senator from Nevada, who is not here anymore, perhaps as a consequence of that decision being made by that body to put a permanent repository at Yucca Mountain. He fought valiantly, he fought hard, and he is not back here. He lost. That is just the reality of being honest with the facts. The facts are that we have to put it somewhere.

Now, the Nevadans would have you leave it where it is. Well, there is a democratic process around here. Nobody ever said it was fair. I convey that in all humility, relative to the reality of what it means. But Nevada has had an extraordinary experience with nuclear weapons over a long period of time. It has been named as a permanent repository. The reality is that when that permanent repository is done, the waste at the 80 sites in 41 States will be transported there. It is rather inconsistent that we don't hear from our colleagues in Nevada the objection about the continued expenditure that is going into Yucca Mountain; $6 billion has been expended and 4½ miles of tunnel is already done, and they continue to work on the tunnel and continue to spend money. And $30 billion is probably going to be expended before it is licensed and opened. That has some benefit. But what it really says is that the decision that was made by Congress many years ago to site the permanent site at Yucca Mountain, as it progresses, will become a reality and, indeed, Nevada will be the site of a permanent repository.

Virtually everybody is in agreement that we need a permanent repository for our waste, unless we abandon our current policy of burying our high-level nuclear waste. It is kind of interesting because we are one of the few nations that continues to pursue burying waste with plutonium in it. The French and the Japanese recover it through reprocessing. That is how you get rid of the proliferation threat. But there is a mentality and a group of environmental organizations that simply think that that would foster and expand the nuclear power industry in this country and advance nuclear development. I am not here to argue that point today, Mr. President. But that is the harsh reality. We are still talking about burying it. The rest of the world is developing a technology that says it is too valuable to bury. We don't want the proliferation threat, so we reprocess it in MOX fuel and burn it in our reactors. We even have the technology in the United States at Palos Verdes. I was out there in Arizona. That reactor was built to take MOX fuel. We could do that. If there was ever a crack in the administration's armor relative to nuclear waste, it is their reluctant acknowledgment that they must begin vitrification of military waste in this country. Whether that will lead, ultimately, to the recovery of plutonium and putting that back in the reactors, we have yet to see. So we are proceeding under the tired old argument that we have to bury it.

We are committed on that path, and we are going to spend $30 billion and we are going to put that site in Nevada when it is licensed. So we have a democratic process, we have 50 States, and we have to put it in one of them. Now, we talk about praying to the Lord and the comment that the President is likely to veto S. 104. Well, if anyone would ask the administration, as I have done—I have sent three letters to the President in response to the assertion that the administration doesn't approve of S. 104 —for what their proposal is, the truth is that they have no proposal. You have heard it. Leave it where it is. Leave it where it is until Yucca is done in the year 2015.

I have extensively gone through an explanation of how many of our reactors would have to shut down, what percentage of the 22 percent total power generated by nuclear power contributes to this country. We have reactors that are shutting down now. We have some that will shut down next year. We are going to lose power in various States. Maybe we can temporarily put that high-level waste in casks on the surface. But, remember, these areas were not designed for permanent storage. These reactors are in areas of population. They weren't designed to carry long-term high-level waste in the adjacent areas surrounding them.

This needs to be in one place, not 80 sites. Nobody has come up with a better site than the Nevada desert. So when we talk about the administration's plan, there is no plan. During the confirmation of Secretary of Energy Peña, the best we could get was a commitment that the problem of disposal of nuclear waste was "in his portfolio." Well, that is a gracious acknowledgment. Of course it's in his portfolio; he's the Secretary of Energy. We have had no input from the administration about what to do because the administration has yet to perform under the contractual agreement that is due next year. I suppose it is a stacked deck, if I could respond to my friends from Nevada. But it could be a stacked deck against West Virginia, or a stacked deck against Vermont, or a stacked deck against Alaska. But to leave it where it is, it is a stacked deck against 41 States. That simply is not an alternative, Mr. President.

That is where we are in this debate today, and that is where we have been from the beginning. We wander in and out of concerns relative to casks. Good Heavens, if American engineering can't develop casks designed to withstand whatever the threat is—if the British, the Swedes, the Germans, the Japanese and the French can do it, we can do it.

One more time, if I may, let me show you what has happened in this country. It speaks for itself. There is the transportation network, 2,400 shipments. Do you think those were shipped in rubber bands? Those were shipped, according to Federal and State law, in approved containers. To suggest that we don't have approved containers to ship out, we will get what we have to have. You are not going to build these containers and these casks until you have permission to move it. But these are moving now in approved vessels, just as they would be if they are placed in a temporary repository at Yucca Mountain; they would be placed in appropriate casks. They would either be within a cask, a transportation cask, and removed out there, or left in a double cask, or put in a semipermanent cask.

So what we have here, Mr. President, is a lot of informed speculation, which I guess this place has an abundance of, whether it be spring, winter, or fall. But let's be honest with one another. Where we are in this debate is to either leave it where it is or move it to Nevada where, clearly, my friends don't want it moved. I admire their conviction, diligence and commitment. It is almost like they are willing to lay their lives in the path of whatever movement is occurring on this side. But, unfortunately, that is just the way it is because there is no other alternative. I believe my friend from Tennessee may want to speak a bit on the pending business. Am I correct in my assumption?

Mr. FRIST. Not right now.

Mr. MURKOWSKI. I guess I am incorrect. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Is the Senator from Tennessee waiting to speak now?

Mr. FRIST. I will just take about 3 minutes in 3 or 4 minutes.

Mr. REID. While the Senator is getting ready, I would like to say a few things.

First of all, there is no question that the two Senators from Nevada are doing everything we can to protect the State of Nevada. But in the process of preparing, as we have for years, for this debate, we have also come to the conclusion that this is not a Nevada issue; this is an issue for the well-being of all the people of this country. That is why organizations throughout this country support opposition to S. 104—churches, environmental groups, and cities are passing resolutions.

The only supporters of this legislation are the very powerful nuclear industry who generate electricity. For example, there has been some talk in this debate that the facility in Connecticut, the Haddam Neck reactor fuel pool would be full by 2001 and the plant might have to close. There has been testimony before the Natural Resources Committee on February 5 that Haddam Neck permanently closed on December 4, 1996, for reasons that had nothing to do with waste disposal issues.

Mr. President, fuel fill-up dates have been exaggerated for reactors that have been examined. This is just all part of the game played by the individuals who do not have rules—the nuclear power generating companies. They change the rules. They change the rules in the very middle of the ball game. They change the rules during timeouts. It doesn't matter. Whatever meets their greedy financial interests they satisfy that by changing the rules in the middle of the game.

Right now we have 109 operating reactors in the United States. All of their waste is stored on site. In effect, S. 104 would create 110 storage sites for nuclear waste using the same technology that is already used at some reactor sites and is available to all the reactor sites.

Why in the world would we want to create another site when we are spending $200 million a year trying to determine if Yucca Mountain is suitable?

Mr. BRYAN. Mr. President, will the Senator yield for a question? I thought I heard the Senator say that if S. 104 is enacted we would have not 109 reactor sites but 110 reactor sites. I invite the Senator's attention looking at this chart. If I understand the point he is trying to make, before S. 104 would be enacted—these would be the various reactor sites—every site prior to its enactment is still there and we add one more at Yucca Mountain, or at the Nevada test site. So we have 110.

Mr. REID. That is right. Although after S. 104, not only would you have the additional site near Las Vegas, but in addition to that you would have a significant number of other temporary sites caused because of accidents, traffic jams, and protests. I mean that is what is not on the bottom chart. Not only do we have the proposed temporary repository near Las Vegas but you will have several temporary sites as a result of the chaos that will ensue with this legislation.

Mr. BRYAN. Will the Senator agree that S. 104 holds out a false promise, that somehow, if it were enacted, everything would disappear and wind up near Las Vegas?

Mr. REID. I say to my friend from Nevada, we would have to show on this chart after S. 104 massive traffic jams. Remember, to move it in Germany recently, it took 30,000 police. In addition to the 30,000 police, it required medical personnel to haul the people to the hospital. Five hundred people were arrested. The waste only went 300 miles. Think about what would happen if they were to move it 3,500 miles from the State of Maine to the State of Nevada.

So I appreciate the question. The chart is very graphic and shows the potential danger of not having 109 sites but maybe having 125 sites because of what would occur as a result of moving this.

I repeat. Mr. President, if in fact these casks are so good, leave them where they are. In fact, it has been said during the debate here today that the present technology of the casks indicate you can haul it, but in a crash of more than 30 miles an hour the container might be breached, or if you had a fire that occurred as you are hauling that and the fire burns at more than 1,400 degrees you are in big trouble. And the big trouble would occur because diesel fuel burns at 1,800 degrees. That is what propels trains and trucks.

So the question is asked all the time. What do you want to do with it? You leave it where it is until there is a determination made that we can transport it safely and there is a site to accept it.

I also am compelled to respond to a number of things said earlier today by my friend from Idaho. In fact, the description was used of picking up a quart of milk at a store and taking it home. He said no, no. Nuclear waste is safer to transport than that. Well, try to explain that to the people that have really transported nuclear waste. If you look at what has gone on in this country, you will find that Japan is actively pursuing a nuclear program based on reprocessing of nuclear fuel with the aim of becoming energy independent. We understand why. They have no natural resources. But the facts speak volumes of different language. A serious accident at the Honshu breeder reactor, the flagship of the Japanese reprocessing program, in December 1995, ended all thoughts that Japan could breed its own nuclear fuel. Honshu to this day has not been restarted and probably will never restart.

A second serious accident at the Tokyo reprocessing facility in March 1997, just a few weeks ago, ended all thoughts of reprocessing as a serious option, in Japan. In fact, Japan cannot site any new nuclear plants due to overwhelming public opposition. This fact has been acknowledged in numerous newspaper accounts. The Japanese Government is now laying aside all hopes for nuclear expansion, and with reprocessing no longer a viable option Japan now faces a problem. But to think it can be transported safely is just not true.

I would also respond to my friend from Idaho. There has been talk here by him and others that there have been several thousand shipments, a couple of thousand shipments of high-level nuclear waste made in the United States up to this date. Of course, these shipments, mostly of naval reactor fuel, were not only far smaller than any shipment contemplated under this bill but carried a radioactive inventory of thousands of curies rather than tens of millions of curies that would be carried by each cask from a commercial reactor.

These shipments typically travel far fewer miles. There were seven accidents in these 2,400 shipments. A ratio of one accident for every 343 shipments. I say to my friend from Nevada. It has been established here that there has been one nuclear accident for every 343 trips. I ask my friend. Is it not true that there is contemplated at least 17,000 shipments of nuclear garbage under this bill?

Mr. BRYAN. The Senator from Nevada is correct; 17,000 shipments of approximately 85,000 metric tons, shipments that would occur over a period of several decades. So, in effect, what we would have, wherever you live in America, nuclear waste would be streaming into your community and into your State from virtually every point on the compass, not just for a brief period of time but for decades as contemplated.

Mr. REID. I also ask my friend. Then, if it has been established that there would be 2,400 shipments and that we would have 7 accidents, a little math indicates to me that there would be about 50 accidents if the same ratio is maintained hauling these 17,000 shipments. Wouldn't that be about right?

Mr. BRYAN. I have never challenged the Senator's math. That was not the subject that I either excelled in or like. But it seems to me that the Senator is right. I remind my senior colleague that we had an accident, as I recall in 1982, in Livingston, LA. If we use a computer model to determine whether the proposed standards of these casks have no problem at all—these are casks not yet in existence but the proposed casks that would be used for this transit—that the temperatures generated in that accident—not a nuclear accident—but the temperatures were so high and so intense for such a long period of time that the cask design would fail. That indicates that there would be a release of radioactivity. That is not a theoretical, or speculative, or conjectural accident. That is one that actually occurred. If one uses a computer model in terms of the standards being proposed for these casks, those casks would have failed. That means those people in that community—I don't know the area—would have been placed at considerable risk for an extended period of time.

So, as the Senator is suggesting, multiplying the number of accidents that may occur over the course of several decades, many communities could face that kind of exposure, and that is a legitimate concern, it seems to me, for each of us as we contemplate this very dangerous situation.

Mr. REID. I ask my friend. On the maps that he has on the chart to his left, contemplate with me, if he will, where he thinks the 50 accidents will be.

Mr. BRYAN. I would say to my senior colleague, his guess is as good as mine. But we know this. We know that there are 43 States that have corridor routes. I envy our friend from Alaska with whom we have been engaged in this debate over the last few days. He is fortunate that his State is not among them. But most of the rest of us are.

So this is not just a Nevada issue. You have 43 States. You have thousands and thousands of rail and highway miles involved. I remind my colleague that we have 51 million people who live within 1 mile of these rail and highway corridor routes. These are existing routes. Nothing is going to be done new in the context of any construction, or an attempt to bypass communities. We are talking about existing rails and highway corridors.

So when the Senator asks the question of where those would be, may I say with great respect—and not trying to be flip about it—throw a dart at the map of the lower 48 States in America and his guess and my guess would be as good as any that could be conjectured.

Mr. REID. Mr. President, in short, S. 104 is bad policy. As I have indicated with this amendment, what is being done is a further attempt to worsen this bill. S. 104 is an environmental nightmare. It is a financial and public safety threat to America.

Is it any wonder that every environmental group in the United States supports the defeat of S. 104? In addition to churches as has been laid on the Record, transportation unions believe that this legislation is truly a nightmare.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise in support of the underlying legislation, with one hesitation, and that is as it regards an amendment introduced by my colleague from Tennessee on behalf of both of us about 45 minutes ago. I do not want to rehash the various points that have been made thus far, but I would like to speak to the importance of that amendment, the purpose of which was to provide that the President shall not designate the Oak Ridge Reservation in the State of Tennessee as a site for construction of an interim storage facility. The Oak Ridge Reservation is best known initially for its history in the Manhattan project during the Second World War, but its evolution since that time has truly been amazing.

I had the opportunity to be there 3 days ago with my distinguished colleague from New Mexico, Senator DOMENICI, and we really had a good examination of the ongoing projects in Oak Ridge. Oak Ridge is not simply a semi-idle nuclear site nor a remnant of cold war strategic arms mission. But it is home now to our Nation's largest civilian national lab, a functioning weapons stockpile stewardship and management facility, and a variety of other user facilities for our national research and development effort. As a physician by training, it is poised as a particular interest to me, and is really on the edge of some exciting breakthroughs in the life sciences in genetic research.

Oak Ridge simply would be an unwise location for storage of high-level waste from a purely environmental standpoint. I know earlier references were made in the debate talking about the fact that it had been recommended in the 1980's as a potential site, and that the courts struck that down. But I think it is very important to say that, even though those recommendations had been made in the 1980's, things are very different today, in addition to the fact that they were struck down.

It would simply be an unwise location from an environmental standpoint. The area lies in a geological zone typified by what is called karst topography, which is distinguished by limestone bedrock with water flowing through caverns and underground rivers very close to the surface.

The danger here is that clearly any seepage into the groundwater could potentially put into jeopardy the water supply of several States.

The reason I was not in the Chamber 30 or 40 minutes ago is that I was chairing another hearing, and Dr. Arch Johnston, professor and director of research, center for Earthquake Research and Information at the University of Memphis, testified just an hour ago to the fact that in the 1980's, because of concerns of earthquakes in that area, the Nuclear Regulatory Commission undertook seismic studies, and over the course of that year they demonstrated that through that region of east Tennessee—and it is called the southern Appalachian seismic zone—there were earthquakes noted, but they were noted 2 miles deep and not on the surface. Dr. Johnston said that this is a problem in this zone of the southern Appalachian region, which includes Oak Ridge, because you cannot study it on the surface. Only two zones exceed its level of activity, according to Dr. Johnston, with 90 percent of this is in east Tennessee.

I say all this because the purpose of this amendment, especially in light of this earlier recommendation in the 1980's, is to say that a level playing field would not be established because of the chance that people would look back to that study and put Oak Ridge back on the table, which was clearly inappropriate.

We have the geological arguments, we have the environmental arguments, and I again will not go through the debate that was made by my colleagues—we had the argument of population. Several million people today live within a relatively short distance of Oak Ridge, and although that was not clearly true in 1942 when it was an locally isolated region, it today is within a metropolitan area of nearly a million people.

Thus, in summary, my colleague from Tennessee, Senator THOMPSON, and myself have introduced this amendment, which says that the Oak Ridge reservation should not be considered as a site for the construction of an interim nuclear storage facility for environmental, geological, and population reasons.

I thank you very much. I will urge support of the underlying bill if we can ultimately have this amendment attached.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, we are somewhat optimistic that we are going to have a time agreement soon, and it is my understanding that the leaders are addressing that matter now, so I hope to have some information for Senators very soon.

Let me make a few comments relative to accidents, which, of course, are of concern as we contemplate moving nuclear waste throughout the country. But let us take a look at facts because again we have been graced with a good deal of informed speculation.

Let me refer first to the NEI fact sheet dated June 10, 1996, from the Nuclear Energy Institute, an objective evaluation on the question of accidents. The question was: Have there been accidents that exposed the public to radiation from spent fuel cargo? And the answer is on absolutely no occasion between 1971 and 1989 has any person been exposed to radioactivity or radiation from spent-fuel cargo or associated accidents.

Let us talk about the accidents, Mr. President, because this is what it is all about.

Seven accidents occurred in the movement of 2,400 shipments from 1979 to 1995 as indicated by the chart. None caused any release of radioactivity. The most severe of these, and it was severe, occurred in 1971 in Tennessee. We just heard from the Senator from Tennessee. We had a tractor trailer carrying a 25-ton spent-fuel shipping container swerve to avoid a head-on collision. It went out of control and overturned. The trailer with the container still attached broke free from the tractor and skidded into a rain-filled ditch. The container suffered minor damage but did not release any radioactive material.

Now, how many chemical spills have we had where the tank car was broken open or spilled or punctured in some way? The difference between the two exposures are obvious. These are designed to withstand accidents, and they have. So again we can reflect on the rhetoric, but if we look at reality nothing is risk free, Mr. President, nor is nuclear transportation relative to high-level waste.

A lot of people assume that if there is a penetration, there is going to be a calamity of some kind. Obviously, there would be radiation. But we have technology that addresses that radiation, just as it is addressed when the rods are taken out of the pools. You would think there is some magic here. These nuclear rods sit in the pools. What are in the pools? Water. They come out of the pools. They are exposed. They are placed in a cask. There is exposure there, but it is regulated and controlled.

We have a statement by Mr. Robert M. Jefferson. Who is Mr. Jefferson? He was manager of the Transportation Technology Center at the Sandia National Labs in the early 1970's, distinguished in his knowledge and expertise on the matter of transportation of high-level radioactive wastes.

I ask unanimous consent that his letter of July 16, 1996, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ALBUQUERQUE, NM,
July 16, 1996.

Hon. FRANK H. MURKOWSKI,
Chairman, Energy and Natural Resources Committee, U.S. Senate, Washington, DC.

DEAR SENATOR MURKOWSKI: I have been informed that the High-Level Radioactive Waste Bill (S-1936) will be considered on the floor of the Senate this week. I have also been informed that there are concerns about the resulting transportation of spent fuel through various regions of our country. based upon my work in this field over the past 35 years, this fear is unfounded. Let me offer this information for your consideration.

As Manager of the Transportation Technology Center at the Sandia National Labs in the early 70s, I was asked, and subsequently conducted an extensive testing program to both validate the computational tools for evaluating spent fuel shipping containers (casks) and to measure their performance in real world situations. Up until I retired in 1985 Sandia had conducted about 1,500 tests on shipping casks and their subsystems. Five of these tests were conducted on real casks in simulated accidents. In addition, both DOE and NRC funded studies to evaluate the historical experience and to develop risk assessment models to predict shipping cask safety.

As a result of these efforts we reached the conclusion that the transportation of spent

> nuclear fuel in casks designed to meet the NRC standards, evaluated and certified by the NRC, would never encounter a transportation accident severe enough to challenge the integrity of the container. Specific among these studies was a review of all severe transportation accidents in this country which reached the conclusion that there has never been an accident that would seriously threaten one of these casks. Coupled with the historical experience in this country and around the world I believe there is no safer transportation activity ever undertaken.
>
> Because transportation of spent fuels has been proven safe by history, analysis and test and should not be a factor in the consideration of this bill, and because of the importance of this bill to the future of our country, I implore you to pass this legislation as soon as possible.
>
> Sincerely,
>
> ROBERT M. JEFFERSON,
> *Consultant.*

Mr. MURKOWSKI. I am just going to read the reference to the question of exposure on transportation. He is responding to the questions relative to his area of responsibility in cask design and transportation, and I quote:

> As a result of these efforts we reached the conclusion——

And this is the National Sandia Laboratories——

> We reached the conclusion that transportation of spent nuclear fuel in casks designed to meet NRC standards evaluated and certified by NRC would never——

Now, this is something——

> Would never encounter a transportation accident severe enough to challenge the integrity of the container.

This is a pretty broad statement by a professional who stands behind his statement with his career.

> Would never encounter a transportation accident severe enough to challenge the integrity of the container.

Some of these accidents, I am told, involved flat tires. Well, I am not going to get into all seven accidents.

One other reference, and that is to the Japanese situation.

Yes, there was a leak in the sodium liquid coolant associated with the Honshu reactor in Japan. That reactor is currently shut down. Again, like with all mechanical devices, accidents can occur. In this particular case the accident was addressed by a professional procedure. No one was exposed to radioactivity. And to suggest Japan is somehow abandoning its commitment to nuclear power defies reality.

Outside of Matsue, Japan, is a place called Rekosha. The Japanese are committed to spend $24 billion. I went in the plant. I physically saw it. It is absolute state of the art—$24 billion to initiate a fueling, reprocessing mox fuel facility which would be the most advanced in the world. The reason the Japanese are pursuing this, they obviously have a great deal of sensitivity to nuclear radiation based on their unfortunate experience in the Second World War, but they feel nuclear power generation is appropriate for Japan. It addresses the concern they have over air quality, and it addresses an economic concern they have on dependence on oil from the Mideast. So they have made their decision, Mr. President.

It is important that we keep facts in mind as we address where we are in this debate. Again, the debate boils down to my point: Nobody wants it. We have to put it somewhere. Unfortunately, Nevada seems to be the site that has been selected for the permanent repository.

Mr. President, I am told that there is a colloquy pending which would, I believe, wind up our side's discussion for now.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. I ask unanimous consent to be recognized for 3 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. I thank the Chair.

(The remarks of Mr. INHOFE pertaining to the introduction of S. 556 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, for the benefit of all Senators, I am advised by the leadership that we can expect a vote very soon on the disposition of the Thompson amendment, followed by at least one vote on the Bingaman amendment and a vote on the Bumpers amendment yet tonight.

Mr. BRYAN. May I inquire of my friend, it is my understanding, not at the request of the Senators from Nevada, but my understanding that there was at least a tentative understanding that we would not be having rollcall votes on these pending amendments until next week. Maybe there is some change.

I emphasize for the benefit of all Senators and my colleagues, that is certainly not at the request of the Senators from Nevada, certainly not at the request of the Senator from Alaska, either. But if there has been a change, I think we need to make others aware of that.

Mr. MURKOWSKI. I certainly concur with my friend from Nevada. I was advised by our leadership that agreement has been proposed and, in effect, that is what the leader plans to do. I cannot comment relative to the position on the other side, but I think Senators should simply be aware of the possibility, knowing the way this place works, seldom does the possibility occur. In reality, just the opposite may occur. For anybody who is listening, that appears to be the intent of the leadership, at least as many as three votes yet tonight.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEMPTHORNE. Mr. President, I would like to, if I may, utilize this opportunity for a few moments to discuss this whole issue of S. 104, the ramifications and some of the particulars of S. 104, and in doing so, I would like to direct a few questions, if I may, to the chairman of the Energy Committee.

I also want to acknowledge that I think the Senator from Alaska, who is the chairman of the Energy Committee, and my colleague from Idaho, the senior Senator, Senator CRAIG, have done a tremendous job on this legislation.

Does this problem exists today? Absolutely. Are we trying to find a solution? Well, we certainly should, and I commend the Senator from Alaska and the senior Senator from Idaho bringing forward what is a solution.

With that, let me ask the chairman, is it true that in July 1996, the U.S. Court of Appeals affirmed the Department of Energy's contractual obligation to take title to the commercial spent nuclear fuel by January 31, 1998?

Mr. MURKOWSKI. The Senator from Idaho is correct, the court made that decision.

Mr. KEMPTHORNE. And is it also true then, Mr. President, that the officials at the Department of Energy decided not to appeal this decision?

Mr. MURKOWSKI. It is my understanding the Department of Energy indicated that they would not appeal the ruling of the court.

Mr. KEMPTHORNE. So we have an affirmation by the courts that title is to be taken by the Federal Government, and we have the Department of Energy that has not sought to appeal that and, in fact, I remember, the Assistant Secretary of Energy, Tom Grumbly, had indicated the Federal Government is going to take title to this.

Is it also true that the Department of Energy has informed the utilities that it will not be able to meet its contractual and legal obligation to take title to this spent nuclear fuel as called for in the court's ruling?

Mr. MURKOWSKI. That is my understanding. The Senator from Idaho, I think, has projected the position very clearly, that is correct.

Mr. KEMPTHORNE. Is it also true that ratepayers and utilities across the country have paid approximately $13 billion to the Federal Government to dispose of this waste?

Mr. MURKOWSKI. The Senator from Idaho is correct. It is a figure in excess of $13 billion at this time.

Mr. KEMPTHORNE. That has already been paid by the ratepayers.

Mr. MURKOWSKI. The Senator from Idaho is correct. It is my understanding it is going into the general fund. It does not remain in escrow. When the Federal Government takes the waste, they will probably have to appropriate it.

Mr. KEMPTHORNE. I appreciate that. Is it true that utilities currently store spent nuclear fuel in temporary—I underscore temporary—storage facilities that were never intended for long-term storage?

Mr. MURKOWSKI. There are basically two types of storage. One is in a pool adjacent to the reactor which is temporary and, in many cases, that is full. At least one power company is beginning to store their fuel in casks on the surface, they simply have run out of space, and the Senator from Idaho is correct in his assessment that those facilities were not designed to be of a permanent or long-lasting nature, they were to be of a temporary nature pending the movement of that out to a central site.

Mr. KEMPTHORNE. I further ask the Senator from Alaska, in light of the Federal Government's failure to meet its contractual obligation, numerous utilities across the country expect to run out of space, just as you have indicated, to store spent nuclear fuel in the near future. These utilities have two options, as I understand it: they can either shut down operations or they can build additional storage space on site. Are those the two options that currently exist?

Mr. MURKOWSKI. The Senator from Idaho is correct. However, it should be noted that there may be limitations placed on any further storage capacity associated with what they are currently licensed for, and that would be a combination of Federal and State licenses that must be obtained. It is theoretically possible that there may be a determination that the areas are inadequate to store additional fuel and the reactors will have to shut down.

Mr. KEMPTHORNE. To demonstrate, Mr. President, the fact this is a serious problem for many States, I ask the chairman of the Energy Committee, is it true that many States, such as Vermont, Connecticut, Maine, New Jersey, South Carolina, Illinois, New Hampshire and Virginia, generate between 80 percent to approximately 50 percent of the energy needed by their States through nuclear power?

Mr. MURKOWSKI. The Senator is correct. I think New Jersey is up around 70 or 75 percent dependent on nuclear power.

Mr. KEMPTHORNE. And if utilities in these States are forced to shut down nuclear powerplants because there is no place to put the additional spent nuclear fuel, is it true that these States will have to look to alternative sources of energy which has been part of your discussion, such as perhaps burning coal, oil and gas to meet the energy needs of these States?

Mr. MURKOWSKI. The Senator from Idaho is correct, there may be a possibility of purchasing excess energy from Canada, and some of the States adjacent to the Canadian border. Clearly, there is not an access in those areas. It would have to be created.

Mr. KEMPTHORNE. I ask the Senator from Alaska, and point out the Senator from Alaska and my friend from Idaho, Senator CRAIG, have warned the Senate, in light of the Department of Energy's admission that it will not be able to meet its legal obligation to take title to commercial fuel, the court may rule that the Federal Government is liable for the cost of storing this waste. Is it true that some estimates indicate that it may cost between $40 billion to $80 billion to store this waste?

Mr. MURKOWSKI. It is my understanding that the figure is in that range of $40 billion to $80 billion. There was a more precise figure. It was figured at about $59 million. I think it is important for the Senator from Idaho to note evidently there was a meeting recently between the Secretary of Energy and some representatives of the nuclear power industry where the Department of Energy offered to pay the nuclear power companies for storing the fuel at the sites of the reactors.

It is my understanding the industry declined to accept or pursue that proposal any further because it would simply leave the fuel in those temporary areas and would not solve the problem of getting rid of the fuel. It would simply transfer, if you will, a funding mechanism. I think it is rather ironic the administration would make that kind of a proposal when, clearly, the intent of Congress is to provide a permanent repository or, as this bill provides, a temporary repository until such time as Yucca Mountain is predetermined to be suitable.

So what they are doing is kind of, on the one hand, acknowledging their financial responsibility by offering to reimburse them, and acknowledging that they, in 1998, have to take title to the fuel but physically not wanting to take it because they have no place to put it. That is why I have been so critical of the administration's lack of any substantive suggestions on, as they opposed S. 104, what they are for, and they have yet to communicate to this Senator what they are for or what their proposal is relative to the immediacy of these reactors that are facing maximum capacity and potential shutdown.

Mr. KEMPTHORNE. I appreciate the response from the Senator from Alaska. Let me further ask, is it also true, in addition to the commercial fuel we have been discussing, S. 104 will address the national problem of naval fuel and defense high-level waste which is also currently stored in temporary facilities across the country?

Mr. MURKOWSKI. The Senator is correct.

Mr. KEMPTHORNE. Also, as I read S. 104, the Nuclear Waste Policy Act of 1997, I see it will not interrupt the scientific assessment regarding the suitability of Yucca Mountain to serve as a permanent repository for spent nuclear fuel. Indeed, is it true, I ask the Senator from Alaska, that under your bill, the Nevada test site is not designated as an interim storage site until after Yucca Mountain is determined to be suitable to serve as a permanent repository?

Mr. MURKOWSKI. The Senator from Idaho is absolutely correct. We would not anticipate accepting fuel until into the year 2001 or possibly 2002. So that verification must take place. So there would be the assurance that, indeed, Yucca Mountain would be closer to the reality of being a permanent repository.

Mr. KEMPTHORNE. In fact, is it not true that S. 104 gives the President 18 months to designate another interim storage site if Yucca Mountain is found unsuitable for a permanent repository?

Mr. MURKOWSKI. The Senator from Idaho is correct, and the reason for that is, it was felt it was necessary to either have Congress address the responsibility of a temporary repository at Yucca Mountain or the President designate it, and if the President chose not to designate it, it would be at Yucca Mountain.

What we have attempted to do by this legislation is basically close the box so we simply could not walk out of here after a week of debate without a definitive solution to putting our waste, at least in a temporary repository, until Yucca Mountain is done. And we spent a great deal of time discussing and fashioning the bill and felt it imperative that we had to conclude some solid solution as opposed to simply finding ourselves going through an extended debate and leaving it where it is at 80 sites in 41 States.

Mr. KEMPTHORNE. So just to reiterate, if it is determined that Yucca Mountain is not to be the permanent repository, then this legislation will not designate Yucca Mountain for the temporary repository, and, therefore, the transportation of the nuclear waste would not be coming to Yucca Mountain?

Mr. MURKOWSKI. The Senator is correct.

Mr. KEMPTHORNE. Is it true that Senate bill 104 contains an amendment offered by Senator CRAIG which directs that at least 5 percent of the waste shipped from storage sites shall be defense high-level waste?

Mr. MURKOWSKI. The Senator from Idaho is direct.

Mr. KEMPTHORNE. Is it true that under Senate bill 104 the interim storage facility will be licensed by the Nuclear Regulatory Commission and the Environmental Protection Agency and that they will establish the radiation standards at the interim storage facility?

Mr. MURKOWSKI. It is my understanding.

Mr. KEMPTHORNE. Regarding the Nevada test site, I referenced this as a member of the Senate Armed Services Committee. I am very familiar with the important work previously done at this site.

For example, I believe the United States has conducted 100 aboveground nuclear tests and 804 underground nuclear tests at the Nevada test site.

So I ask the chairman of the Energy Committee, is this the location proposed to serve as the interim storage facility under the Murkowski-Craig bill?

Mr. MURKOWSKI. The Senator from Idaho is correct. That is the general location.

Mr. KEMPTHORNE. Regarding the Nevada test site, in the current fiscal year, Congress provided $230 million to maintain the site for possible underground nuclear tests. The President's budget requested $226 million for the test-readiness program at the Nevada test site in fiscal year 1998.

In June of this year, the Department of Energy will conduct the first of two planned tests called the subcritical tests in the underground tunnels at the Nevada test site. Now these subcritical tests, which cost over $15 million a test, combine high explosives and plutonium to help scientists verify the safety and reliability of our aging nuclear weapons.

I will point out that we currently have the oldest weapons arsenal in our history. These subcritical plutonium tests are compatible with the comprehensive test ban and they are supported I believe by the Senators from Nevada.

I would acknowledge too that the Senator from Nevada, Senator BRYAN, had been a member of the Armed Services Committee. And I had the great pleasure of working with him in the committee, and was sorry to see he had transferred to a different committee.

But when we look at this, I would believe then, asking the Senator from Alaska, we would see the transportation, in order to carry out these tests, of plutonium shipments to Nevada to carry out these tests; would that not be correct?

Mr. MURKOWSKI. The Senator from Idaho makes a very valid point. Obviously, it is going to be shipped in. And it will be shipped in a container that obviously meets the Department of Defense criteria, environmental protection criteria, and the necessary criteria to ensure that the shipment is done in a safe manner and the interests of public health and safety are addressed, as has been the case in numerous other shipments, some 2,400 in the last 15 years.

Mr. KEMPTHORNE. Finally, if I may ask the Senator from Alaska, regarding transportation standards, because that has been a great portion of this whole debate, is it true that Senate bill 104 maintains the highest health and safety standards for the transportation of this nuclear waste to the interim storage facility?

Mr. MURKOWSKI. The Senator from Idaho is correct. It even provides for the training of personnel.

Mr. KEMPTHORNE. Again, if Yucca Mountain is determined to be the permanent repository, this material will go to Yucca Mountain.

Mr. MURKOWSKI. That is correct.

Mr. KEMPTHORNE. If it is determined that Yucca Mountain cannot be the permanent repository, then your legislation states that Yucca Mountain will not be the temporary repository?

Mr. MURKOWSKI. The President would then decide another location. And if the President chose not to decide, it would theoretically go back.

Mr. KEMPTHORNE. I wish to thank the Senator from Alaska.

I would like to say, Mr. President, that there is a problem that exists today. Clearly, this is not a debate of whether you are pronuclear or antinuclear. You have hundreds of metric tons of nuclear waste in over 40 States throughout the United States. We are looking for a solution.

The Nuclear Waste Policy Act of 1997 offers the Nation a safe and scientific verified solution to the problem of nuclear waste.

The Murkowski-Craig bill says, build a safe, central facility to store this waste at a place where our Nation has tested hundreds of nuclear weapons at the same location.

The other side says, leave the waste where it is, in facilities that were not constructed for long-term permanent storage.

One side says, deal with this national problem. The other side says, let us hope the problem goes away.

The Senate and the Nation face a clear choice, and that is to deal with this problem. I appreciate the approach that the Senators from Nevada have taken. I understand where they are coming from with regard to this issue. But I look at all of the nuclear technology, scientific research that has taken place in the State of Nevada over so many, many years. Again the 100 above-ground nuclear tests, the 804 below-ground nuclear tests, and that this is the same area that is being discussed in Senate bill 104 for the temporary storage of this nuclear waste.

I commend the Senator from Alaska, Senator MURKOWSKI, and the Senator from Idaho, Senator CRAIG, for bringing this issue forward so that we can finally deal with it so that we can finally have a solution to what do we do with spent nuclear fuel, because currently there exists no solution. And to do nothing continues that problem of no solution.

I thank the Senator from Alaska and I yield the floor.

Mr. MURKOWSKI. I thank my friend from Idaho for that excellent colloquy.

Mr. BRYAN. Would the Senator from Idaho yield for a question or two?

Mr. KEMPTHORNE. I will be happy to yield.

Mr. BRYAN. Is the Senator from Idaho aware of the fact that there has never been a contemplated interim storage facility at Yucca Mountain? I understood part of the colloquy, that the Senator was suggesting Yucca Mountain as the site for the interim storage.

And my question to my friend from Idaho is, does the Senator from Idaho understand that there has never been a contemplated interim storage facility at Yucca Mountain?

Mr. KEMPTHORNE. I understand that. I understand that Senate 104 opposes that nuclear storage.

Mr. BRYAN. That was not the case, I say with respect. What is contemplated is interim storage at the Nevada test site. The Nevada test site and Yucca Mountain are two separate geographical areas. And the Senator was asking our distinguished chairman a series of questions.

Does the Senator understand that if the President of the United States makes no finding with respect to suitability by March 31, 1999, then automatically the interim storage is designated at the Nevada test site automatically?

Mr. MURKOWSKI. That is right.

Mr. BRYAN. And if the President of the United States makes a determination that Yucca Mountain is not suitable and submits to the Congress an alternative site other than the interim storage site at the Nevada test site, that if the Congress refuses to accept the President's recommendation then automatically the interim storage comes to the Nevada test site?

I know the Senator was distracted, and I will repeat that.

My question to my friend from Idaho is, does the Senator understand that if the President of the United States makes a finding that Yucca Mountain is not suitable and then under the bill is directed to make a choice of an interim storage site, that interim storage site must be approved by an act of Congress, and if the Congress does not approve that site then automatically the Nevada test site becomes the interim storage?

Mr. KEMPTHORNE. The Senator is correct.

Mr. BRYAN. The point being is, that we do not have a site-selection process here that has any rationale.

And I guess the last question I would ask, because the Nevada test site has been an area that has been used, as the Senator correctly points out, for testing, is the Senator aware that the equivalency of 85,000 metric tons of nuclear waste which would be stored would require 2.3 million atomic tests the size of the test at Alamogordo during World War II—2.3 million tests?

Mr. KEMPTHORNE. Yes. To the Senator from Nevada, you are probably more aware of those numbers than I am, so I would not respond to that.

Mr. BRYAN. I appreciate the Senator may not have that.

But the point that I think needs to be made—if the testing schedule at the Nevada test site should continue at its historical rate, it would take between 10,000 and 100,000 years of that testing schedule to equal the radioactive comparability of the nuclear waste that is being stored in the Nevada test site. I just wanted to make that point.

Mr. KEMPTHORNE. I appreciate that point by the Senator from Nevada.

Again, based upon this very series of questions and discussion I have had with the Senator from Nevada, it demonstrates there has been a tremendous history and knowledge over dealing with the nuclear issue in the State of Nevada. The millions and billions of dollars that have been directed to the State of Nevada by the Federal Government to deal with this Federal issue is well documented. And certainly Nevada has demonstrated that it has the expertise that is there to deal with this issue and is well suited, I believe, to help solve the nuclear issue for the Nation.

I thank the Chair.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Nevada.

Mr. REID. We have been here now for several days. Every question that has been asked by the Senator from Idaho has an answer that is much different than the answer given by my friend from Alaska.

The fact of the matter is, that there are hundreds of nuclear tests at the Nevada test site. That was part of the national security of this country. Nevada did not run with open arms "bring these aboveground nuclear tests and kill all our animals, make people have cancer." We did not know at the time. But in spite of it, all of the nuclear tests described by my friend from Idaho created 5 tons of nuclear waste—5 tons. They are talking about moving 85,000 tons to Nevada.

This is not a Nevada issue. Our friends on the other side of the aisle are trying to make this a Nevada issue. It is not a Nevada issue. It is an issue that affects our country, this Nation.

Mr. MURKOWSKI. I wonder if my friend would yield for a question?

Mr. REID. Of course.

Mr. MURKOWSKI. I am the first to acknowledge the probability of some 5 tons of nuclear waste being exposed to the air, the land, moving in whatever moisture that may take place in that arid area. But that is unlike the high-level nuclear waste that would be stored there in a temporary retrievable repository. That waste would be enclosed in casks designed to omit no radioactivity outside the cask.

So I would point out to my friend that there is a significant difference when you talk about 85 tons of contained waste in many, many containers that are designed to hold it with no exposed radioactivity outside and 5 tons of nuclear waste that just went up. It is in the dust. It is in the air. And that is indeed unfortunate. I think it does express a difference.

Mr. REID. I would just say that is why, because of the aboveground tests, there was radiation which went various places because of the cloud.

The fact of the matter is we all know such explosions are very dangerous. That is why they should continue the characterization at Yucca Mountain until they find a safe place to dispose of this garbage. The transportation is a problem, a significant problem. We have established that, I think, with substantive evidence today.

Mr. President, suffice it to say we believe that the record is clear in answering every argument that has been suggested by the Senator from Idaho. I hope staff Members and Senators have had an opportunity to listen to this debate. We are where we are today because the nuclear power industry is trying to short circuit the system. There is no reason to transport nuclear waste to an interim storage site until there is a permanent repository. Even then, we have to be careful about the transportation.

I do not want to go over the same arguments we have talked about on a number of occasions. It is my understanding there is to be a vote, and after that the leaders, hopefully, will be able to propound a unanimous-consent request.

VOTE ON AMENDMENT NO. 37

Mr. MURKOWSKI. Under the previous order, having consulted with both leaders, I ask unanimous consent that the Senate now resume amendment No. 37. It is my understanding we are ready to vote on it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the question is on agreeing to amendment No. 37, offered by the Senator from Tennessee.

The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Minnesota [Mr. GRAMS] and the Senator from Arkansas [Mr. HUTCHINSON] are necessarily absent.

Mr. FORD. I announce that the Senator from North Dakota [Mr. CONRAD], the Senator from North Dakota [Mr. DORGAN], and the Senator from Minnesota [Mr. WELLSTONE] are necessarily absent due to the severe disaster in their States.

I further announce that the Senator from California [Mrs. FEINSTEIN] is absent due to illness.

I also announce that the Senator from California [Mrs. BOXER] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 33, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—60

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Bumpers
Burns
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Ford
Frist
Gorton
Graham
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hutchison
Inhofe
Jeffords
Johnson
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Murray
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wyden

NAYS—33

Akaka
Baucus
Biden
Bingaman
Breaux
Bryan
Byrd
Daschle
Dodd
Durbin
Feingold
Glenn
Harkin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli

NOT VOTING—7

Boxer
Conrad
Dorgan
Feinstein
Grams
Hutchinson
Wellstone

The amendment (No. 37) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CAMPBELL. Mr. President, today I express my concern for the Nuclear Waste Policy Act of 1997. I first want to reiterate my firm belief that a permanent geological repository represents the most responsible solution for the ultimate disposition of spent commercial nuclear reactor fuel.

Presently, this radioactive material sits in temporary storage at 70 or so sites around the country, including my State, Colorado. Colorado also has several tons of the much deadlier plutonium haunting Rocky Flats, less than 20 miles from Denver. So, I am no stranger to nuclear material, the related hazards and costs. Nor is my view different from that of any other Coloradan, or citizen of any other State—I want safe, efficient, responsible solutions to the questions presented by nuclear technology.

But S. 104 does not present a safe, responsible solution to the question of commercial spent fuel and I cannot vote for it. First, S. 104 would make Denver the crossroads of radioactive material on an almost daily basis for the next 30 years. S. 104 will send much of the spent fuel and high-level nuclear waste from eastern States traveling west through Denver on I-70, while trans-uranic waste from Idaho will travel south through Denver on I-25 to New Mexico.

Therefore, my first point of concern is that Colorado would bear the brunt of the risks of truck and train accidents and the risks of radioactive releases almost every day, for the next 30 years. This gives me great pause. Only with the utmost confidence in the transportation details—the routing plans, the casks housing the spent fuel assemblies, the emergency response preparedness—would I feel comfortable subjecting the residents of Colorado to this great burden. I do not have that confidence yet. In fact, for example, the Colorado Highway Patrol has indicated that I-70 west of Denver is simply not suitable for the safe transportation of radioactive materials. Federal preemption through S. 104, however, threatens to override the CHP's designation and force the use of the I-70 corridor anyway.

I do not mean to suggest that this is my only concern with S. 104, or that this concern in and of itself would be sufficient to cause my opposition. If the bulk of S. 104 represented a sound, responsible solution to an urgent national problem, then my analysis would be quite different. S. 104 is not such a bill, however.

Although no one can deny the growing problem of spent nuclear fuel throughout our country, the problem is currently not one of safety, but one of cost. It costs the utilities and, therefore, the ratepayers a lot of money to store this material in temporary facilities. Again, Colorado is not immune. Many Colorado ratepayers contributed to the nuclear waste fund, which was established to finance the permanent disposal of this material, and must pay to maintain storage. But, by all accounts, safety is not an urgent issue for temporary, onsite storage in Colorado or any other State. Were safety an urgent consideration at this point, again, my analysis would be quite different.

What concerns me most, however, is the chronology of disposal in S. 104. This bill requires that the Energy Department construct an interim storage site 100 miles north of Las Vegas, NV, and begin accepting spent fuel and high-level nuclear waste well before the permanent repository at nearby Yucca Mountain, NV, is licensed, or even found suitable for permanent disposal.

Consequently, there is the very real danger that, even if the permanent site is for some reason deemed unsuitable for disposal of the spent fuel, it will be used anyway simply because the waste would already be nearby at the interim site. Worst yet, there is the danger that the material would remain at the interim site indefinitely. Finally, there is the haunting specter that if Yucca Mountain is not found suitable as a permanent repository, all the spent fuel then stored at the interim site would have to be shipped back across the country—through Colorado again—to some other site.

I am sympathetic to the pressures bearing on the nuclear utilities and the ratepayers who have paid once already to have this material disposed of and who must pay again to store this waste while Yucca Mountain is prepared. I also understand that the Energy Department is contractually obligated to begin removing the spent fuel from the States by 1998.

But, the safe, responsible disposition of material that will remain deadly for many tens of thousands of years is simply not like buying a car. If it takes some years longer than anticipated, if it costs more money than we thought at first, so be it. In finding a safe place in which to keep this material for a time longer in duration than all of recorded human history, 5, 10, even 20 additional years should not deter us. In the context of radioactive waste, truly, I would rather be safe, than sorry. These words point the way to a better approach to a daunting national problem. S. 104 does not.

Mr. CRAIG. Mr. President, I address this body to express my support of S. 104, the Nuclear Waste Policy Act of 1997.

Today, I wish to address specifically provisions of the substitute amendment introduced yesterday by the chairman, my colleague from Alaska.

Before I discuss the details of our substitute amendment, however, I would like to set the backdrop for my remarks.

This week, while debating the motion to proceed, you have heard my colleague from Alaska, the able chairman of the Energy and Natural Resources Committee, invite those who say they cannot support provisions of this bill, S. 104, to suggest alternatives.

I hope all of my colleagues heard this invitation and I know some of my colleagues accepted this invitation.

The provisions of our substitute are a product of this invitation, to participate with us in solving this national problem—the problem of spent nuclear fuel and radioactive waste, and how to address this problem in a timely manner.

We have listened to those who have expressed concerns about this legislation.

In our effort to continue and enhance the strong bipartisan support for this legislation, our substitute addresses, point-by-point, the concerns expressed by the other side.

Let me discuss these changed provisions.

First, we had heard concerns that the schedule outlined in S. 104 for the development of an interim storage facility is unrealistic.

Mr. President, our substitute now extends the schedule for siting and licensing of the interim storage facility: from the original proposal of the year 1999, we now have a facility operating in 2003.

But let me talk about why we have extended the schedule.

The interim storage facility will be licensed by fully exercising all provisions of the Nuclear Regulatory Commission licensing process.

We have extended the schedule for environmental reviews.

We have extended the schedule for public involvement in this licensing process.

Let me repeat this.

We have heard allegations that S. 104 does not allow for public involvement.

Public involvement during licensing has always been part of the S. 104 process for an interim storage facility.

By extending our schedule to 2003, there will be even more time and ample opportunity for the public to participate in the licensing process.

Another provision that is changed by our substitute is that we have shortened the license duration—the operating period—of the interim storage facility from 100 years to 40 years.

We have also provided that the amount of fuel and high-level radioactive waste stored in the interim storage facility will be only that amount needed to fulfill the Government's obligations until a permanent repository is available.

Mr. President, we are not looking for a blank check on this facility.

We propose to build only what is needed to stem the Government's looming financial liability under the lawsuit and the contracts signed in 1982.

We have accommodated our critics on their concerns regarding preemption of other laws.

Our substitute now contains language virtually identical to the preemption provision of the Hazardous Materials Transportation Act.

I hope this finally puts to rest the entirely misguided allegation that this legislation will gut environmental laws.

That simply has never been the truth.

The language of our substitute on the issue of preemption requires compliance with applicable environmental laws and hopefully puts this issue to rest.

Finally, our substitute revises the approach to setting an environmental standard for the deep geologic repository.

S. 104, as introduced, set a standard of 100 millirem.

On Monday, I addressed this body and set this 100 millirem in the context of everyday risks, from day-to-day living.

I noted for my colleagues that we receive an annual radiation dose of 80 millirem simply from working day-today in the Capitol Building—a product of the granite and other building materials here.

We have listened, however, to the concerns that this legislation should allow a risk-based standard.

We have heard suggestions that this legislation should adopt the recommendations of the National Academy of Sciences.

As I have stated, in our openness to enhancing the broad, bipartisan support already enjoyed by this legislation, we have listened to these suggestions.

Therefore, our substitute now requires that the Environmental Protection Agency determine a risk-based radiation standard for the repository.

Our substitute directs that the Environmental Protection Agency set this radiation standard in accordance with the National Academy of Sciences recommendations.

Mr. President, I commend my colleague, the chairman of the Energy and Natural Resources Committee, the Senator from Alaska, in conducting a process for developing this legislation, and this substitute, that I believe to be unprecedented in its openness and its willingness to hear and respond to the concerns of our opponents.

When this substitute and the Committee amendments are considered in their totality, I can firmly state that this legislation will decisively deal with the issue of spent nuclear fuel and high-level radioactive waste, and it will deal with this issue in the most stringent, most safe, and most environmentally sound manner.

S. 104, the Nuclear Waste Policy Act of 1997, will allow the Government to fulfill the contractual obligation it assumed, under the law passed by this body in 1982.

The deadline for action on this obligation is just 9 months away.

I urge my colleagues to consider thoroughly the changes made by this substitute, to consider the basis for any concerns they may have had.

I assert that, with these changes, there simply are no possible reasons for any action other than support of final passage of S. 104.

Mr. MURKOWSKI. Mr. President, for the benefit of all Senators, it is my understanding that we very likely can dispose of three amendments in the balance of the evening. One, as I understand it, is going to be offered by Senator BUMPERS from Arkansas. I might ask how much time he will require.

Mr. BUMPERS. I suggest 20 minutes equally divided.

Mr. MURKOWSKI. I will accept that. A Bingaman amendment, we anticipate—we are not sure the Senator is on the floor at this time. We will have to wait for Senator BINGAMAN. And we have a Domenici amendment that we are prepared to take on this side. I believe there may be an objection from the other side. That could be held over until Monday. One of the Domenici amendments we are prepared to take at this time.

Mr. DOMENICI. Can we do that now?

Mr. MURKOWSKI. I will take Senator BUMPERS while he is in the mood. Senator BINGAMAN, as I understand, has agreed to 20 minutes on either side, so 40 minutes total. That gives you an idea of what to anticipate for the remainder of the evening. We anticipate two votes.

I will ask unanimous consent that the time on the Bumpers amendment No. 33—might I ask if I heard the Senator from Arkansas correctly, that he wanted 2 minutes?

Mr. BUMPERS. I said 20 minutes equally divided.

Mr. MURKOWSKI. I thought the Senator said 2 minutes. I ask unanimous consent for the following agreement: That the time on the Bumpers amendment No. 33 be limited to 20 minutes with no second-degree amendments, equally divided, and that the time on the Bingaman amendment be limited to 40 minutes——

Mr. BINGAMAN. Make that 30 minutes, and I will take a little less.

Mr. MURKOWSKI. Thirty minutes equally divided, and that no second-degree amendments be in order.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object, Mr. President, I do so only to suggest that we stack the two votes and that they be held no later than 6:45.

Mr. LOTT. Mr. President, let me make sure I understand what the chairman and the Democratic leader are working on here. We have two remaining votes here, and we would stack those at 6:45. Is the recommendation both of those votes at 6:45?

Mr. MURKOWSKI. Or earlier.

Mr. LOTT. Then that would only leave for consideration next week two amendments on Monday, and we would have stacked votes. Are we ready to enter into this agreement?

Mr. MURKOWSKI. It is my understanding that we would have the two Wellstone amendments pending on Monday, and we would have one Domenici amendment, which is still in disagreement—

Mr. BRYAN. I believe we are going to be able to resolve this in a minute or two.

Mr. LOTT. I want to pursue the details of what would be left. It is my intent that we have no more than three votes stacked on Tuesday morning. We will need to work out the final agreement. I have no objection to these two votes at 6:45.

Mr. DASCHLE. Mr. President, I think it would be helpful if, in the next 45 minutes, we worked out the final arrangement for the vote to be taken on Tuesday. I amend my request to see if we can finish the votes at 6:30. I think if you take the time both Senators require, we could accommodate the Senators and still finish by 6:30. I amend my request in that regard.

Mr. DURBIN. Will the majority leader yield for a question?

Mr. LOTT. Yes.

Mr. DURBIN. Would the majority leader respond in reference to the pending question relative to Mr. Pete Peterson's confirmation as Ambassador to Vietnam?

Mr. LOTT. Mr. President, is this under a reservation, reserving the right to object?

Before I respond to that, Mr. President, if I could direct a question to the Democratic leader, to make sure I understand again what he is saying, is that all debate will be concluded at 6:30.

Mr. DASCHLE. That is correct on the two amendments.

Mr. LOTT. That the vote begin.

Mr. DASCHLE. At 6:30.

Mr. LOTT. And, further, that all votes be concluded by a specific time?

Mr. DASCHLE. No.

Mr. LOTT. Strictly at 6:30 we would vote. That is fine. I have no objection to that.

With regard to the question, we are still working on trying to get final clearance on the Pete Peterson nomination to be ambassador. I am hoping that while we are having this final debate and getting the vote on these issues that we will be able to bring that to the floor for consideration this afternoon possibly on a voice vote. But depending on when we get done, it may require some time and a recorded vote. I believe we can get it up tonight. If we run into a snag on this agreement, it would be our intent then to try to do it during the day Tuesday, probably. I would like to do it tonight. We are working on it. We have asked the administration for some information that is critical. I believe we will have a response in the next 4 hours.

I thank the minority leader.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, if I might engage the chairman of the Energy Committee, on the two DOMENICI amendments, Senator REID and I have no objection. We are prepared to accept those.

Mr. MURKOWSKI. I advise my friend from Nevada that one of amendments is satisfactory to us. We have a second degree on the second amendment which has been worked out I believe with the Senator from New Mexico.

Is the Senator aware of the second degree?

Mr. BRYAN. I am not. No. I am not aware of a second-degree amendment.

Mr. MURKOWSKI. We would be happy to provide you with that. But in the interest of moving this now, we will move the one that there is no objection to.

AMENDMENT NO. 40 TO AMENDMENT NO. 26

(Purpose: To prevent "double counting" in the determination of the fee)

Mr. DOMENICI. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 40 to Amendment No. 26.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the pending amendment, beginning on page 49 line 11 strike all through page 53 line 11 and insert the following:

"(2) NUCLEAR WASTE OFFSETTING COLLECTION.—

"(A) For electricity generated by civilian nuclear power reactors and sold during an offsetting collection period, the Secretary shall collect an aggregate amount of fees under this paragraph equal to the annnual level of appropriations for expenditures on those activities consistent with subsection (d) for each fiscal year in the offsetting collection period, minus—

the percentage of such appropriation required to be funded by the Federal government pursuant to section 403.

"(B) The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold.

"(C) For purposes of this paragraph, the term 'offsetting collection period' means—

"(i) the period beginning on October 1, 1998 and ending on September 30, 2001; and

"(ii) the period on and after October 1, 2006.

"(3) NUCLEAR WASTE MANDATORY FEE.—

"(A) Except as provided in subparagraph (C) of this paragraph, for electricity generated by civilian nuclear power reactors and sold on or after January 7, 1983, the fee paid to the Secretary under this paragraph shall be equal to—

"(i) 1.0 mill per kilowatt-hour generated and sold, minus—

"(ii) the amount per kilowatt-hour generated and sold paid under paragraph (2);

"Provided, that if the amount under clause (ii) is greater than the amount under clause (i) the fee under this paragraph shall be equal to zero.

"(B) No later than 30 days after the beginning of each fiscal year, the Secretary shall determine whether insufficient or excess revenues are being collected under this subsection, in order to recover the costs incurred by the Federal government that are specified in subsection (c)(2). In making this determination the Secretary shall—

"(i) reply on the 'Analysis of the Total System Life Cycle Cost of the Civilian Radioactive Waste Management Program,' dated September 1995, or on a total system life-cycle cost analysis published by the Secretary (after notice and opportunity for public comment) after the date of enactment of the Nuclear Waste Policy Act of 1997, in making any estimate of the costs to be incurred by the government under subsection (c)(2);

"(ii) rely on projections from the Energy Information Administration, consistent with the projections contained in the reference case in the most recent 'Annual Energy Outlook' published by such Administration, in making any estimate of future nuclear power generation; and

"(iii) take into account projected balances in, and expenditures from, the Nuclear Waste Fund.

"(C) If the Secretary determines under subparagraph (B) that either insufficient or excess revenues are being collected, the Secretary shall, at the time of the determination, transmit to Congress a proposal to adjust the amount in subparagraph (A)(i) to ensure full cost recovery. The amount in subparagraph (A)(i) shall be adjusted, by operation of law, immediately upon enactment of a joint resolution of approval under paragraph (5) of this subsection.

"(D) The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

"(4) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1997 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997 pursuant to the contracts, including any interest due pursuant to the contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2001. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fees assessed under this subsection, on or before the date on which such fees are due, and the license shall remain suspended until the full amount of the fees assessed under this subsection is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spent nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

"(4) EXPENDITURES IF SHORTFALL.—If, during any fiscal year on or after October 1, 1997, the aggregate amount of fees assessed under this subsection is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

The percentage of such appropriations required to be funded by the Federal Government pursuant section 403—

the Secretary may make expenditures from the Nuclear Waste Fund up to the level equal to the difference between the amount appropriated and the amount of fees assessed under this subsection.

Mr. DOMENICI. Mr. President, the purpose of this amendment is to correct some double counting of budget authority that occurs when calculating the annual fee for the nuclear waste collection. I think it is agreed to on all sides.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. MURKOWSKI. Mr. President, we have no objection and urge adoption of the amendment.

Mr. BRYAN. We have no objection, Mr. President.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 40) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 33 TO AMENDMENT NO. 26

(Purpose: To clarify Congressional intent with respect to enactment of this Act in response to DOE's inability to meet the January 31, 1998 contractual deadline to start disposing of spent nuclear fuel)

Mr. BUMPERS. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 33.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 75, strike lines 4 through 8 and insert:

"It is the sense of the Senate that—

"(1) the Department of Energy has entered into contracts with utilities for the disposal of spent nuclear fuel or high-level radioactive waste, under section 302(a) of the Nuclear Waste Policy Act of 1982, based on the standard contract in subpart B of 961 of title 10, Code of Federal Regulations;

"(2) the U.S. Court of Appeals for the District of Columbia Circuit, in *Indiana Michigan Power Company* v. *DOE*, has interpreted the Nuclear Waste Policy Act of 1982 to require the Department of Energy to start disposing of the utilities' spent nuclear fuel no later than January 31, 1998;

"(3) the Department of Energy cannot begin to receive and transport significant amounts of spent nuclear fuel by January 31, 1998, because of delays arising out of causes beyond the control and without the fault or negligence of the Department of Energy, including the following acts of Government in its sovereign capacity—

"(A) the failure of Congress to appropriate funds requested by the Department in order to proceed expeditiously with—

"(i) the characterization and development of the Yucca Mountain site, and

"(ii) the design and development of associated systems required to transport spent nuclear fuel;

"(B) the enactment by Congress, since 1982, of additional environmental statutes affecting the process of designing and licensing the repository;

"(C) the failure of the Environmental Protection Agency to meet statutory deadlines in section 801 of the Energy Policy Act of 1992 for the promulgation of radiation standards for the Yucca Mountain site; and

"(D) delays on the part of the State of Nevada in issuing permits necessary for the Department to initiate exploratory activities at the Yucca Mountain site;

"(4) the enactment of this Act is intended by the Congress to address the Department's inability to meet the January 31, 1998, deadline and to provide an adequate remedy to contract holders by ensuring that the Department meets its obligations under the contracts in paragraph (1) at the earliest practicable time, consistent with the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and applicable Commission regulations; and

"(5) in any action alleging failure by the Department to perform its obligation to start disposing of spent nuclear fuel by January 31, 1998, under a contract based on the standard contract in subpart B of part 961 of title 10, Code of Federal Regulations, the court should take due account of article IX(A) of such standard contract.".

Mr. BUMPERS. Mr. President, this is fairly simple and will only take about 10 minutes.

Mr. President, last July a D.C. circuit court ruled that the Waste Policy Act of 1982 required the Department of Energy to take the utilities' nuclear waste in 1998. The utilities and the public service commissions brought two separate actions, and the court consolidated them. They argued that DOE was clearly under an obligation to take this waste in 1998. And the court ruled in their favor saying—this is good news for my adversaries on this amendment—"In conclusion, we hold that the petitioners' reading of the statute comports with the plain language of the measure. * * * Thus, we hold that section 302(a)(5)(B) creates an obligation in DOE, reciprocal to the utilities' obligation to pay, to start disposing of the [nuclear waste] no later than January 31, 1998."

You may think that the utilities have all the best of it as a result of that decision, and they may very well have. But as you know, there is a case pending now in the D.C. Circuit in which the utility companies are seeking a judgment seeking to have the fees that they are paying put in escrow. I am not sure what they get out of that. But the purpose of this amendment is very simple. The District of Columbia Circuit right now has this action of the utility companies under consideration. As I said, the utility companies are asking that the fees they are paying, which is hundreds of millions of dollars a year, be put in escrow. And in my opinion, in order for the court to rule on that, the court is going to have to again look at the contract—not the Nuclear Waste Policy Act, which they interpreted in last July's decision—bear in mind we are talking about two different lawsuits. Last summer, in July, the court was interpreting the Nuclear Waste Policy Act of 1982. This time, in my opinion, they have to look at the contract and see if the contract that was negotiated pursuant to that act requires the Department of Energy to take this waste.

So here is my amendment. It is written in the mother tongue, which is in English, so everybody here ought to be able to understand it. This is a sense-of-the-Senate amendment. It states that it is the sense of the Senate that the Department of Energy's failure to meet the January 1998 deadline was caused by Congress' failure to appropriate funds the program needed and other Government actions beyond DOE's control, and that the court should take the contract's provisions on excusable delays into consideration when it rules on the pending lawsuits.

As I said, that is the mother tongue, and it is not hard to understand. Look at the contract. See what the contract says. Is the United States, or the Department of Energy, under the terms of the contract, excused for its inability to take this waste in 1998? Bear in mind that court last summer did not find DOE liable for a breach of contract. A breach of contract is the failure without a legal excuse to perform the contract. All you brilliant lawyers here understand that. We have a contract. That is what the court is going to be construing. This is a sense of the Senate calling to the court's attention some language that was in the contract. And I have not heard this debated one minute since this debate started. The question is, was there a failure to have a permanent repository ready to take this waste in 1998? Was that their fault? I submit that it was not. But that is not what we are debating here. That is my opinion. My opinion is, and I really defy anybody to say otherwise, that the reason they didn't have it ready is because the Government didn't appropriate the money fast enough to do it.

Listen to this. Here is what the contract says. The Government will not be liable "for damages caused by a failure to perform its obligations" under the contract "if such failure arises out of causes beyond the control and without the fault or negligence" of DOE.

That is simple enough. Anybody can understand that. The contract goes on to state that "acts of the Government"—that is us, colleagues—"acts of the Government" that "cause delay in scheduled acceptance or transport" of utility waste shall be an excusable failure by the Department of Energy.

It says that DOE shall notify the utilities of such a delay and "the parties will readjust their schedules, as appropriate, to accommodate such delay."

I don't know how many lawyers there are in the U.S. Senate. But I promise you there isn't a lawyer here worth the powder of blowing you know where that hasn't had cases exactly like this. All contracts provide for excusable delays. What do you do if you have a delay that is beyond your control? What if you have a tornado blow a project away while you are right in the middle of it? Normally you would have insurance to cover that. That is normally covered by contracts. Here they simply say, if there is any justifiable reason for the DOE not being ready to take this fuel in January of 1998, that is a legitimate excuse and that includes actions by the Government, and the actions of the Government was we didn't appropriate the money to get the repository built. Now the utilities are coming in and saying, "We don't care about the language of the contract. We want you to take it, or put our money in escrow."

There have been all kinds of figures. I am not going to debate the amount of money involved here. I have heard a lot of figures thrown around about what this is going to cost the Government by not taking this spent fuel, and those figures are so exaggerated, if you look at the details of what the cost is likely to be, it is exaggerated by a magnitude of about 300 percent.

But it is not correct for Senators on the floor of the U.S. Senate to suggest—indeed, openly state, as I heard some do—that this is already a done deal and that DOE has already been found liable. That is not true. The contract is now under consideration by the U.S. Court of Appeals in Washington, DC. I submit to you that if anybody is to blame it is us. We are the ones who kept DOE from being prepared to take this.

So, Mr. President, I think it is only appropriate. After all, we are not trying to interfere with the judicial proceedings. We are simply saying it is a sense of the Senate that this language which I just read to you should be very carefully considered by the court. There not only is not nothing wrong with that, there is everything in the world right about it. And the court is going to interpret the contract, and here is the clear language of it.

I say in my sense-of-the-Senate amendment that the court should take the contract's provisions on excusable delays into consideration when it rules on the pending lawsuit.

Why wouldn't it? DOE didn't put that language in there just to make the contract a little longer. They put it in there so that they would have an out if there was an excusable delay. There has been an excusable delay. All I am saying is it is the sense of the Senate that we ought to call that to the attention of the court.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I appreciate the persuasive arguments of my friend from Arkansas who is a well-known lawyer. I happen to be a banker and not nearly as well known. But I know what a contract is. A contract is a binding commitment of performance. And the question that the Senator from Arkansas raises in his amendment is the sanctity of that contract. This is a subject of pending litigation. I think it is inappropriate to interfere in the sanctity of the Federal contracts. We have a fair administrative process. The courts are involved in this. I think it is important to look at a little history because the Department of Energy has been aware of its obligation since 1982.

My reading of the Bumpers amendment suggests that it is essentially representing a determination now by Congress that the Department of Energy is faultless in its default. I think it is the court's job to make that determination. In my opinion, the Department of Energy has followed a consistent course of delay, a consistent course of avoidance including their failure to ask Congress for any additional funds or authority needed to meet the obligation.

The Senator from Arkansas suggests that it is the responsibility of the Congress because Congress did not appropriate any money. I am not aware that the Department of Energy ever asked for any money.

Let us look at the history because I hope that my colleague from Arkansas, when he clearly listens, will agree that this legacy of broken promises is something that is reprehensible relative to a responsible department addressing its contractual commitment. I think it sets, if you will, a norm on the issue of contracts. If a contract with the Government is not binding, it sets a pretty poor example, a pretty poor example for youth and a pretty poor example of how Government meets its obligations.

Mr. FORD. Mr. President, will the Senator from Alaska yield for a question?

Mr. MURKOWSKI. I would be happy to yield for one question.

Mr. FORD. I just want to make one thing clear, and I am not a lawyer, not even a famous banker.

Mr. MURKOWSKI. That takes care of both Senators.

Mr. FORD. That takes care of both. I understand the Senator from Alaska says a contract is binding, but the content of the contract is what binds you. Therefore, if the contract says certain things, you are bound to what the contract says. I think the Senator is evading, in my judgment, the content of the agreement.

Mr. MURKOWSKI. I appreciate the views of my friend from Kentucky.

Mr. FORD. And this is from both Senators.

Mr. MURKOWSKI. I think it is the responsibility of the court to make the determination of what the contract says, not the Senator from Arkansas or the Senator from Alaska or the Senator from Kentucky. And that is what the court has done. And if the Senator will bear with me while I go through the history, I think he will agree.

Mr. FORD. But we have every obligation, because we pass the law, to be sure that the legislative language, the legislative history is understood by the courts also.

Mr. MURKOWSKI. I would certainly agree with my friend from Kentucky, and I hope he will agree after a short review of the history that that is exactly what happens.

Let me give you my version of the record because it goes back to a legacy of broken promises starting in 1984. We had a commitment, a clear promise by Don Hodel, then Secretary of Energy, affirming that the Energy Department is obligated to begin accepting spent nuclear fuel from nuclear powerplants in 1998 whether or not a permanent disposal facility is ready.

Now, we went on a few years and got into 1987, a 3-year delay. Congress then, this body, designated Yucca Mountain, NV, as the only site to be evaluated. Meanwhile, the Department of Energy announces a 5-year delay in the opening date for a disposal facility from 1998 to the year 2003. They did not ask for any money. They did not mention money. They simply announced a 5-year delay in the opening day.

In 1989, another delay, another promise. The Department of Energy announces another delay in the opening date for a permanent disposal facility until the year 2010. We are told now, of course, by the most recent Secretary of Energy, Hazel O'Leary, that that cannot be ready until the year 2015.

We went on in 1991 with mounting concerns. The first sign of concern appears over the Energy Department's ability to meet its obligations under the Nuclear Waste Policy Act. The State of Minnesota tells the Energy Secretary, James Watkins, that it is "highly probable that your department will experience significant delay in meeting its obligation to begin taking high-level radioactive waste in 1998." Nothing about money.

So we move into 1992. More promises. Secretary Watkins tells Minnesota's DOE, and I quote, "The DOE is committed to fulfill the mandates imposed by the Nuclear Waste Policy Act. The department has sound, integrated programs and plans that should enable us to begin spent fuel receipt on an MRS, a monitored retrievable, storage facility in 1998."

We move to December 1992, another promise. Energy Secretary Watkins acknowledges that attempts to find a volunteer host for an MRS facility have not succeeded. He promised to do whatever is necessary to ensure that the Energy Department is able to start removing spent fuel from nuclear power sites in 1998.

I do not know what my friend would think of the moral obligation, but it is interesting to note that Secretary O'Leary in May 1993 affirms that the Energy Department "has an obligation" to electric utilities and their customers. "If it does not have a legal obligation, then it has a moral obligation." That really does not mean much other than acknowledgement of just a moral obligation.

But in May 1994 there was a notice of inquiry. DOE published a notice of inquiry to address the concerns of affected parties regarding the continued storage of spent nuclear fuel at reactor sites beyond 1998. The energy agency says, "Preliminarily, it's our view that it does not have a statutory obligation to accept spent nuclear fuel in 1998 in the absence of an operational repository or suitable storage facility."

That is the first time they denied, if you will, that they had a statutory obligation to accept the spent fuel.

Well, then we move over to May 1994 and 14 utilities and 20 States bring suit to the Department of Energy. A coalition of 14 utilities and public agencies in 20 States file separate but similar lawsuits seeking clarification of the Energy Department's responsibility to accept spent fuel beginning back in 1998.

Then we go to April 1995. No obligation to take the fuel, the Department of Energy says. No obligation on the one hand. Previously, they said they did not have a statutory obligation. In April, they said the Federal Government has no legal obligation to begin accepting high-level waste in 1998 if a repository is not open, according to the DOE's interpretation of the Nuclear

Waste Policy Act and contracts with utilities. Still no mention about funding.

In July 1996 we have a different view, a very different view. In July 1996 the court ruled, and this is the U.S. Court of Appeals, that the Department of Energy's obligation to take the fuel in 1998 is a legal as well as a moral obligation. So there we have the dictate of the court, which I think addresses the concern of the Senator from Arkansas.

In December 1996, the Department of Energy does not challenge the court's ruling and admits failure. The DOE acknowledges that it will not be able to meet its commitments to take the waste in 1998.

In January 1997, the DOE's liability is addressed and 46 State regulatory agencies and 33 electric utilities file new action for escrow of nuclear waste funds and to order the DOE to take the spent fuel in 1998.

In March 1997, the court rejects the Department of Energy's motion to dismiss before it is filed.

So that is the last legal action. The court tells the DOE that a motion to dismiss would be "inappropriate in this case" and sets the case for damages for a hearing on the merits.

Mr. President, a deal is a deal.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator's time has expired.

The Senator from New Mexico.

AMENDMENT NO. 41 TO AMENDMENT NO. 26

(Purpose: To strike all provisions relating to special consideration of potential sites for an interim storage facility)

Mr. BINGAMAN. Mr. President, I understand it is appropriate at this point for me to send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Yes.

Mr. BINGAMAN. I do so.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 41 to Amendment No. 26.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 28, strike the second sentence of section 204(c)(2).

Mr. BINGAMAN. Mr. President, in order to describe what this amendment does, let me first just give my colleagues the context, the way this bill is structured so they understand what we are talking about here.

Under this bill, the way it is pending before us, we have the Secretary of Energy proceeding to go forward and study and analyze the appropriateness of using the Yucca Mountain site as a permanent repository and doing what is called the viability assessment to decide whether Yucca Mountain is going to be the right site, or an appropriate site.

If the Department of Energy, the Secretary of Energy, advises the President and the President determines that Yucca Mountain is not a proper site, then at that point we go to plan B, and plan B says that the President then has 18 months in which to choose another interim site for the waste except that under the bill the way it now stands after the last amendment and previous amendments that were adopted, he can choose another site with some exceptions.

The exceptions are, first, the President shall not designate the Hanford Nuclear Reservation in the State of Washington as a site for the construction of an interim storage facility. The second exception is that he shall not designate the Savannah River site and any of Barnwell County in the State of South Carolina. And, of course, we just adopted an amendment saying that he shall not designate the Oak Ridge reservation in the State of Tennessee.

Mr. President, what this amendment does that I am offering right now is say let us strike those exceptions. If in fact the President determines that Yucca Mountain is not the right site for a permanent repository, then we ought to all be in this thing together and the Secretary and the President should have full discretion to designate whatever site they want. Otherwise, Mr. President, I as a Senator from New Mexico have to answer the question from my constituents, why didn't I stand up and get some exceptions added for New Mexico.

For example, everyone in my State knows that we have a nuclear waste site being constructed in New Mexico and not too far from being opened, the WIPP site, the Waste Isolation Pilot Plan. Why didn't I stand up and offer an amendment to exclude the WIPP site? That would be a very logical thing to do.

If I were representing Colorado, I think the citizens of Colorado would have a very legitimate question that they could put to me: Why didn't you, Senator, stand up and move to exclude Rocky Flats? That is a contaminated site, just as contaminated as Hanford, just as contaminated as Savannah River. Rocky Flats certainly should be on the list of excluded sites.

If I was representing Idaho, why haven't I excluded the Idaho site? There is great concern in the State of Idaho about the possibility of nuclear waste remaining in that State. Ohio, the mound site. There has been a lot of concern about contamination of the mound site. How could a Senator representing the good people of Ohio explain to them why that site was not also excluded? What about Florida? We have the Pinellas site there which was a manufacturing site for components for nuclear weapons. Why haven't we excluded that site?

I would ask how any Senator here could stand and explain to their constituents why we have not excluded all Superfund sites. Superfund sites would be very logical sites for the President to choose as an alternative to this Nevada site if in fact the President has to make that determination.

What about shutdown military bases. Why shouldn't we exclude them? There is a real danger in many of our States—we have been fortunate in New Mexico. None of our military bases have been shut down, but there are many States in the country where military bases have been shut down. If I was representing one of those States, I would want to be sure that shutdown military bases were not on the list that the President could choose from.

So, I think I have made the point fairly clear that it is very hard for me to explain to people in my State why I am opposed to putting waste in Tennessee, I am opposed to putting waste in South Carolina, I am opposed to putting waste in Washington State, but I do not mind putting it in our State. That is a very difficult argument to make.

So my amendment would say, look, let us eliminate the exceptions. Let us recognize that there is a certain amount of risk involved in the legislation we are passing. The risk says if we determine, if the President determines, down the road that Yucca Mountain is not to be chosen, then we are all in this thing together and everyone is in the barrel. We cannot just say this State is out, that State is out, the other State is out, and the other 47 are in the barrel.

I think that is only reasonable. I know we have a lot of so-called NIMBY amendments around the Congress—"not in my backyard" is a NIMBY amendment. We have three NIMBY amendments stuck in this bill so far. I am just wondering why we do not have 47 additional ones stuck in here so we can exclude all 50 States, if we are going to exclude 3. So my amendment would say let us eliminate the three that are there. If we are going to go down this road, if we are going to adopt this bill, if we are going to give the President discretion to choose an alternative site, let us give him discretion to choose an alternative site wherever he determines or she determines it makes sense to put this waste.

That is the sum and substance of the amendment. To me it is straightforward. It is good government. It is good politics for any of us who represent States other than the three that are now excluded. I hope very much my colleagues will support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, if I may make a correction regarding what I believe is the intent of my friend from New Mexico. It does not exclude a State, but it does exclude sites. My State of Alaska has had the experience of two underground nuclear explosions, the two largest that have ever occurred. That is the limitation of our experience. I cannot speak for Senators from the State of Washington or Oregon. Senator WYDEN, as you know, felt very strongly about eliminating the Hanford site. He explained his rationale to me, that Hanford was still receiving substantial quantities of waste associated with reactors that had been cut up from the submarines, coming up the Columbia River. I hope he comes to the floor and speaks for himself, but on this matter he explained that he felt that Hanford had taken enough waste and Hanford is the largest current holder of spent nuclear fuel in inventory in tonnage, approximately 2,133 tons. Whether that satisfies the Senator from New Mexico, I do not know.

Savannah River, SC, Senator THURMOND and Senator HOLLINGS felt very strongly about the continued responsibility of the Savannah River facility to take additional waste, wastes coming in from Europe at this time, waste that is being vitrified. They have approximately 206 metric tons.

At Oak Ridge, in Tennessee, Senator FRIST and Senator THOMPSON have indicated their concern. They currently have 46 tons of spent nuclear fuel.

Whether those sites can be construed as different, I think you could probably make a case, from the situation in your State—but I cannot speak for your State and I will not. The only thing I can say is this is spent nuclear fuel. The theory, as the Senator knows, of this process of everybody coming in and eliminating his State could progress on this floor. We could go through 47, 48, 49—whether we would get them all and come full circle, I do not know. But I can express that these sites have major cleanup operations ongoing, unlike other sites. The Department of Energy is spending literally billions of dollars to attempt to stabilize these wastes. I have been out to Hanford. I have seen the efforts out there to generate the technology, to get the destabilized waste out of the tanks. Some of those tanks are believed to be unstable and leaking.

I have seen the efforts at Savannah to recover the liquid waste from the tanks. The spent fuel is in pools and corroding. I have seen that physically. They claim they have a priority. I cannot make that scientific judgment. But the Senators from those States are obviously concerned that these sites cannot handle the new job of dealing with more commercial fuel and continuing their obligation to clean up sites that have not been properly taken care of. So I think, if I can perhaps express the argument which I assume prevails among the majority of my colleagues who have spoken on this subject—I would welcome the rest of them to come down and speak for themselves. I reserve the remaining time on our side to accommodate those Members.

Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. All time is concluded at 6:30, so we have about 9 minutes left.

Mr. MURKOWSKI. It is equally divided?

The PRESIDING OFFICER. To whomever uses the time first.

Mr. MURKOWSKI. Is there any objection to splitting the remaining time?

Mr. BINGAMAN. I will be glad to split the time.

Mr. MURKOWSKI. I propose we split the time, and I reserve the remainder of my time for Members from those States.

The PRESIDING OFFICER. Without objection, it is so ordered. The time will be so divided.

Mr. BINGAMAN. Mr. President, let me respond. I certainly agree with the Chairman's point that these Senators are greatly concerned about these sites in their States. I compliment them for proposing and being able to get these amendments that they have gotten into this bill into the bill. I think they have done very good work in representing their States' interests. My point is that there are many other sites in this country which have an equal or perhaps an even greater claim to being excluded. We need to either put those sites in or take these sites out. That is the simple thrust of my amendment.

Much of the waste that is concerning people at Savannah River, Oak Ridge, and Hanford—some of that waste will wind up in my State and not on an interim basis. Under the proposal for the WIPP site, that is a permanent repository for transuranic defense-related waste. These Senators are providing that they will not have to take any additional interim waste, and the plans are that much of the waste that they are now complaining about having been put in their States will in fact travel to my State of New Mexico in the future once the WIPP site is open. So I have great difficulty agreeing with them that their States should be excluded from possible consideration as a future interim site while my State should be included.

As I say, I would feel the same way if I were representing Rocky Flats in Colorado, if I were representing Ohio, the mound site there, or if I were representing the Pinellas shutdown facility in Florida. And, of course, as all of us know, there are a great many Superfund sites around the country which have been determined to be contaminated. I think all of those sites would be at great risk of being chosen by the President and therefore they, their Senators, would want to stand up and get their States or their sites excluded as well.

Mr. President, I think this is a very difficult issue, where you put nuclear waste. But the only way I know to get from here to there, to a reasonable result, is to say we are all going to have to share the risk. That is what my amendment would try to do.

I yield the floor. I ask, is there additional time on my side?

The PRESIDING OFFICER. Less than a minute.

Mr. BINGAMAN. I reserve that time and yield the floor.

Mr. MURKOWSKI. Mr. President, it is my understanding the Senator from Oregon wants to speak. We have about 6 minutes left. I yield 2 minutes to the Senator.

Mr. WYDEN. Thank you very much, Mr. Chairman. I suspect that there are some who now think this whole discussion is sort of a question of "not in my backyard" run wild. I submit to my colleagues, that is not what is at issue. In fact, Hanford is in Washington State. It is not in the State of Oregon. But I care greatly about this because there is already more high-level nuclear waste now stored at Hanford than at any other Federal facility in the Nation. There is no place in the United States where nuclear materials are stored under worse conditions than at Hanford. So, the fact is, if there are to be tens of thousands of tons of additional nuclear waste parked at Hanford, even though it is not safely storing the waste it now has on site, there will be great problems for the Pacific Northwest. So, I tell the Senate today, and Senator SMITH also joins me in this effort, that I think this is a critical public health and safety question that when, in fact, you have high-level nuclear waste stored there already and you cannot deal with that safely, you certainly should not put additional waste there.

I thank Chairman MURKOWSKI for yielding to me. I want to say to the Senate, this is not, in my view, a question of not in my backyard run rampant, but that there are really public interest reasons for ensuring that additional problems are not foist upon the Pacific Northwest. I thank the chairman for yielding.

Mr. MURKOWSKI. Mr. President, I think my time is about up. I do not see anybody rising to speak on it. I think each Member should evaluate for himself or herself, relative to the question of whether or not there is a certain uniqueness associated with the Hanford site, the Savannah site, and the Oak Ridge site. I hope we would not have any more amendments coming up to address individual States, because I do not think they could fall under the same category.

Mr. President, I ask that we vote first on the Bumpers amendment.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is the Senator asking to vote first on the Bumpers amendment?

Mr. MURKOWSKI. First on the Bumpers amendment followed by the Bingaman amendment. I ask for the yeas and nays on both. Is there any objection to 10 minutes?

Mr. BINGAMAN. Mr. President, I have no objection. I would like to take my additional 30 seconds to conclude my debate on my amendment before we start the votes.

Mr. MURKOWSKI. I ask unanimous consent the second vote be a 10-minute rollcall vote to accommodate Senators.

Mr. BINGAMAN. Could we have a 2-minute period, equally divided, a minute each before the second vote to explain just what it is?

Mr. MURKOWSKI. I have no objection.

Mr. BINGAMAN. Could we have a ruling on the request for the yeas and nays?

The PRESIDING OFFICER. Without objection, the first vote will be on the Bumpers amendment.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I will be very brief.

The PRESIDING OFFICER. Forty-five seconds.

Mr. BINGAMAN. Forty-five seconds? I will not take any longer.

I appreciate the comments of the Senator from Oregon and his concern for the Pacific Northwest. I compliment him on getting this provision in the bill. I will only make the point that I represent the desert Southwest, not the Pacific Northwest. And just as the Pacific Northwest ought to be excluded, so should the desert Southwest. Therefore, I suggest we have a level playing field and not exclude anyone. We all ought to be in this barrel together.

When we get to my amendment, I will restate that position, because we will have 2 minutes of additional debate on it.

I also support Senator BUMPERS' amendment which we are going to vote on right now.

The PRESIDING OFFICER. All time has expired.

VOTE ON AMENDMENT NO. 33

The PRESIDING OFFICER. The question is on agreeing to the Bumpers amendment No. 33. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Minnesota [Mr. GRAMS] and the Senator from Arkansas [Mr. HUTCHINSON], are necessarily absent.

Mr. FORD. I announce that the Senator from North Dakota [Mr. CONRAD], the Senator from North Dakota [Mr. DORGAN], and the Senator from Minnesota [Mr. WELLSTONE], are necessarily absent due to severe disaster conditions in their States.

I further announce that the Senator from California [Mrs. BOXER] is necessarily absent.

I also announce that the Senator from California [Mrs. FEINSTEIN] is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 24, nays 69, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—24

Akaka
Baucus
Biden
Bingaman
Breaux
Bryan
Bumpers
Daschle
Durbin
Ford
Glenn
Harkin
Inouye
Kennedy
Kerry
Landrieu
Lautenberg
Moynihan
Murray
Reed
Reid
Rockefeller
Torricelli
Wyden

NAYS—69

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Dodd
Domenici
Enzi
Faircloth
Feingold
Frist
Gorton
Graham
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchison
Inhofe
Jeffords
Johnson
Kempthorne
Kerrey
Kohl
Kyl
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Murkowski
Nickles
Robb
Roberts
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—7

Boxer
Conrad
Dorgan
Feinstein
Grams
Hutchinson
Wellstone

The amendment (No. 33) was rejected.

Mr. MURKOWSKI. I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the senior Senator from West Virginia, Senator BYRD, be recognized for 3 minutes following the next vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

VOTE ON AMENDMENT NO. 41

Mr. MURKOWSKI. Mr. President, my understanding is that the Bingaman amendment is next; and there is 1 minute on both sides, I believe Senator BINGAMAN and then Senator WYDEN.

The PRESIDING OFFICER. By agreement there is 1 minute on each side prior to voting on the Bingaman amendment.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, this amendment is straightforward. The bill, as it now stands before us, says that the Department of Energy will go ahead and try to determine whether it can use the Yucca Mountain site in Nevada for a permanent repository.

Mr. President, the Department of Energy will go ahead and try to determine if it can use the Yucca Mountain site. If the President decides, before the deadline in here, in 1999, that Yucca Mountain is not an appropriate site, then they cannot proceed with Yucca Mountain anymore.

The President is given 18 months to find another interim site for this nuclear waste, except that the President—and this is in the bill now—it says: The President shall not designate Hanford Nuclear Reservation in the State of Washington and the Savannah River site in Barnwell County in the State of South Carolina or the Oak Ridge Reservation in the State of Tennessee as a site for construction of an interim storage facility.

Mr. President, what I am saying is, let us strike those exemptions. All of our States, all of our sites, ought to be at risk if we decide to go this route.

The PRESIDING OFFICER. The 1 minute has expired.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I hope our colleagues will oppose the Bingaman amendment. This is not a question of "not in my backyard" run rampant. In fact, Hanford is in the State of Washington. It is not in the State of Oregon.

The reason that it is important to include Hanford in this legislation is that there is no place in the United States where nuclear materials are now stored under worse conditions than at Hanford. In fact, there is already more high-level nuclear waste stored at Hanford than at any other Federal facility in the country. I offered this in the committee with Senator SMITH of Oregon.

I hope our colleagues will reject the Bingaman amendment.

Mr. MURKOWSKI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the Bingaman amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Minnesota [Mr. GRAMS] and the Senator from Arkansas [Mr. HUTCHINSON] are necessarily absent.

Mr. FORD. I announce that the Senator from North Dakota [Mr. CONRAD] the Senator from North Dakota [Mr. DORGAN] the Senator from Minnesota [Mr. WELLSTONE] are necessarily absent due to severe disaster condition in their States.

I further announce that the Senator from California [Ms. BOXER] and the Senator from Hawaii [Mr. INOUYE] are necessarily absent.

I also announce that the Senator from California [Mrs. FEINSTEIN] is absent due to illness.

The PRESIDING OFFICER (Mr. ROBERTS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 56, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—36

Akaka
Baucus
Bingaman
Breaux
Bryan
Bumpers
Byrd
Collins
Daschle
Dodd
Domenici
Durbin
Feingold
Glenn
Graham
Harkin
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Reed (RI)
Reid (NV)
Robb
Rockefeller
Santorum
Sarbanes
Snowe
Torricelli

NAYS—56

Abraham
Allard
Ashcroft
Bennett
Biden
Bond
Brownback
Burns
Campbell
Chafee
Cleland
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Enzi
Faircloth
Ford
Frist
Gorton
Gramm
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Leahy
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Murray
Nickles
Roberts
Roth
Sessions
Shelby
Smith (NH)
Smith (OR)
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wyden

NOT VOTING—8

Boxer
Conrad
Dorgan
Feinstein
Grams
Hutchinson
Inouye
Wellstone

The amendment (No. 41) was rejected.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I understand that a unanimous consent request has been entered into to allow the distinguished Senator from West Virginia to speak at this point. I have spoken to him, and with his permission, if he would allow me to proceed before that, I ask for that consent.

Mr. BYRD. I am delighted.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that the only remaining amendments in order to the committee substitute to S. 104 be the following, and I further ask unanimous consent that the Domenici and Wellstone amendment No. 30 is limited to relevant second-degree amendments; one Domenici amendment regarding points of order, amendment No. 38; two Wellstone amendments, amendments numbered 29 and 30; and one Bingaman amendment, numbered 31.

I further ask unanimous consent that following the disposition of the abovementioned amendments, the committee substitute be agreed to, and the bill be advanced to third reading.

I further ask unanimous consent that the votes occur in a stacked sequence, beginning at 9 a.m. on Tuesday, April 15, with 3 minutes of debate between each vote, and all votes following the first vote be limited to 10 minutes in length.

I further ask unanimous consent that all amendments must be offered and debated prior to the close of business on Monday, April 14, and limited to 1 hour each, to be equally divided in the usual form, and any second-degree amendments be limited to the same time restraints as the first-degree amendments.

I further ask unanimous consent that no amendments dealing with the storage of nuclear materials on Palymra Atoll, Wake Atoll or any other U.S. Pacific island be in order.

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, through you to the distinguished majority leader, the intent I am sure of the unanimous consent agreement is to have 3 minutes prior to the first vote. It did not say that, but I am sure 3 minutes prior to debate of the first vote.

Mr. LOTT. Mr. President, I amend that request to say that we would have 3 minutes prior to the first vote and between the successive votes, yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, for the information of all Senators, in light of the recent agreement and the request to bring the nuclear waste bill to a conclusion on Monday morning, I want to thank first of all, the Democratic leader for his cooperation in getting us to a point where we will get the final vote. The Senate, therefore, will not be in session on Friday this week. The Senate will convene on Monday, and following morning business the Senate will resume the pending nuclear waste bill under the previous order for debate of the remaining amendments. However, no votes will occur during Monday's session of the Senate.

The Senate will convene on Tuesday, April 15, and begin a series of back-to-back votes beginning at 9 a.m. Following those votes, which would include final passage of the nuclear waste bill, the Senate will conduct morning business to discuss the significance of April 15, which is tax filing day. It is the hope of the leadership that the Senate could consider the nomination of Alexis Herman to be Secretary of Labor on Wednesday. Therefore, a vote is expected on that nomination during the day, Wednesday, April 16, session of the Senate.

Also, we are very close, I believe, to getting an agreement with regard to the nomination of Pete Peterson to be Ambassador to Vietnam. One of the Senators has had some concerns in reviewing a fax matter at this point, and immediately after we hear from Senator BYRD, we hope to be ready to proceed on that under a time limit agreement. If we could get 30 minutes equally divided on each side unless yielded back, and perhaps a voice vote, but we will determine that during the next very few minutes.

Again, Mr. President, I thank all Senators for their cooperation. I know it has been a very hard issue for the Senators from Nevada, and they have been very tenacious, but they have been reasonable in their approach. I appreciate that and I want to thank Senator MURKOWSKI and others for their good work and thank you, Senator DASCHLE for your cooperation.

AMENDMENT NO. 42

(Purpose: To ensure that budgetary discipline will apply to fees levied under this Act)

Mr. LOTT. Mr. President, I send an amendment to the desk on behalf of Senator DOMENICI.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Mississippi [Mr. LOTT] for Mr. DOMENICI, proposes an amendment numbered 42.

At the appropriate place insert the following:

Notwithstanding any other provision of this act, no points of order, which require 60 votes in order to adopt a motion to waive such point of order, shall be considered to be waived during the consideration of a joint resolution under section 401 of this Act.

Mr. LOTT. Mr. President, I ask unanimous consent that it be in order to send a second-degree amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 43 TO AMENDMENT NO. 42

Mr. LOTT. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. MURKOWSKI, proposes an amendment numbered 43 to amendment No. 42.

amendment no. 43

In the pending amendment, on page 1, insert at the end the following:

"Notwithstanding any other provision of this Act, except as provided in paragraph (3)(c), the level of annual fee for each civilian nuclear power reactor shall not exceed 1.0 mill per kilowatt-hour of electricity generated and sold.".".

Mr. LOTT. Mr. President, I thank Senator BYRD for yielding at this time and allowing me to complete these agreements.

I yield the floor.

Mr. BYRD. Mr. President, I ask unanimous consent that following my brief remarks, the distinguished Senator from New York, Mr. MOYNIHAN, be recognized for 3 minutes, and following Mr. MOYNIHAN, I ask unanimous consent that Mr. LEVIN be recognized for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from West Virginia is recognized for 3 minutes.

COURT RULING REGARDING THE LINE-ITEM VETO ACT

Mr. BYRD. Mr. President, in March of last year, the Congress passed the Line-Item Veto Act. That law, for the first time in our Nation's history, gave the President the power to single-handedly repeal portions of appropriations or tax laws without the consent of Congress. I vigorously opposed passage of the act because of my deep concern over the effects of that act on our system of checks and balances and the separation of powers that has served this Nation so well for over 200 years.

As I have told my colleagues on many occasions, I viewed the passage of that law as one of the darkest moments in the history of the republic. On January 2 of this year, I, along with Senators MOYNIHAN and LEVIN, former Senator Hatfield, and Representatives WAXMAN and SKAGGS, filed a civil action in the U.S. District Court for the District of Columbia challenging the constitutionality of the Line-Item Veto Act.

Today, U.S. District Judge Thomas Penfield Jackson of the U.S. District Court for the District of Columbia handed down a ruling declaring the act to be unconstitutional. Among other things, Mr. President, the court held, "Where the President signs a bill but then purports to cancel parts of it, he exceeds his constitutional authority and prevents both Houses of Congress from participating in the exercise of lawmaking authority. The President's cancellation of an item unilaterally effects a repeal of statutory law, such that the bill he signed is not the law that will govern the Nation. That is precisely what the Presentment Clause was designed to prevent."

As Judge Jackson also stated, "Just as Congress could not delegate to one of its chambers the power to veto select provisions of law, it may not assign that authority to the President." For the reasons set forth in his 36-page opinion, the court adjudged and declared unconstitutional the Line-Item Veto Act.

I am very pleased with the court's decision, which I believe to be a great victory for the American people, the Constitution, and our constitutional system of checks and balances and separation of powers.

Mr. President, I express my deep appreciation to Mr. MOYNIHAN, Mr. LEVIN, Mr. WAXMAN, Mr. SKAGGS, former Senator Hatfield, for their cooperation, and to our excellent team of lawyers for their support, for their dedication, and for their active and effective participation in this case.

For the benefit of my colleagues, I ask unanimous consent that the Court's full opinion be printed in the RECORD.

Mr. President, I understand the Government Printing Office estimates that it will cost $1,916 to print this memorandum and order in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[United States District Court for the District of Columbia, Civil No. 97-0001 (TPJ)

SEN. ROBERT C. BYRD, ET AL., PLAINTIFFS *v.*
FRANKLIN D. RAINES, ET AL., DEFENDANTS

MEMORANDUM AND ORDER

This action challenges the validity of legislation entitled the Line Item Veto Act, Pub. Law No. 104–130, 110 Stat. 1200 (1996) (to be codified at 2 U.S.C. §§681 note, 691 *et seq.*) ("the Act"), which empowers the President unilaterally to "cancel" certain appropriations and tax benefits after signing them into law. The Act represents an effort by Congress to enlist presidential assistance in controlling rampant federal spending by conferring upon the President what it termed a species of "enhanced rescission" power, expanding the authority he formerly possessed under the Impoundment Control Act of 1974. Plaintiffs, four Senators and two Congressmen,[1] contend that the *mechanism* chosen by Congress to its desired end contravenes the text and purpose of Article I, section 7, clause 2, known as the "Presentment Clause" of the Constitution. Rather than making expenditures of federal funds appropriated by Congress matters of presidential discretion, the Act effectively permits the President to repeal duly enacted provisions of federal law. This he cannot do. Accordingly, the Court will grant plaintiffs' motion for summary judgment, deny defendants' motion, and declare the Act unconstitutional.

I

Operation of the Line Item Veto Act

Following years of importuning by successive Presidents and vacillation by earlier Congresses, President Clinton approved the Line Item Veto Act as passed by the 104th Congress on April 9, 1996. Immediately after it became effective on January 1, 1997, the plaintiff Senators and Congressmen filed this action to declare it void. Named defendants are the Director of the Office of Management and Budget and the Secretary of the Treasury—the officials alleged, respectively, to be responsible for executing the President's "cancellations" of spending items and limited tax benefits under the Act. The United States Senate and the Bipartisan Legal Advisory Group of the United States House of Representatives have appeared jointly as *amici curiae* to defend the constitutionality of the Act.

The Act, which sunsets on January 1, 2005, allows the President, after signing a bill into law, to "cancel in whole"—

(1) any dollar amount of discretionary budget authority;

(2) any item of new direct spending; or

(3) any limited tax benefit.

2 U.S.C. §691(a). "Dollar amounts of discretionary budget authority" include any dollar amount set forth in an appropriation law, including those to be found separately in tables, charts, or explanatory text of statements or committee reports accompanying legislation. 2 U.S.C. §691e(7). Thus the President's cancellation power applies to legislative history as well as to statutory text itself. "Items of new direct spending" generally include "entitlement" payments to individuals or to state and local governments. 2 U.S.C. §691e(8); H.R. Conf. Rep. No. 491, 104th Cong., 2d Sess. at 36 (1996). "Limited tax benefits" are those revenue-losing provisions that apply to 100 or fewer beneficiaries in any fiscal year, or tax provisions that provide temporary or permanent transitional relief for 10 or fewer beneficiaries from a change in the Internal Revenue Code. 2 U.S.C. §691e(9). The Act directs the congressional Joint Committee on Taxation to identify limited tax benefits contained in bills and joint resolutions, and provides that those bills and resolutions may include a separate section in which identified tax benefits are not subject to cancellation. 2 U.S.C. §691f(a)–(c).

The most critical definition is found in §691e(4). The term "cancel" or "cancellation" means "to rescind" any dollar amount of discretionary budget authority or to prevent items of new direct spending or limited tax benefits "from having legal force or effect." *Id.*

To exercise the cancellation power the President must first determine that it will—

(i) reduce the Federal budget deficit;

(ii) not impair any essential Government functions; and

(iii) not harm the national interest. 2 U.S.C. §691(a)(A). The President effects a cancellation by transmitting a "special message" to Congress within five calendar days (excluding Sundays) after enactment of the law containing the item(s) in question. 2 U.S.C. §691(a)(B). The Act spells out the content requirements for a special message and provides that it shall be printed in the Federal Register. 2 U.S.C. §691a.

Once an item has been canceled, no further action by Congress is required; cancellation takes effect upon Congress' receipt of the special message. 2 U.S.C. §691b(a). Congress may thereafter introduce a "disapproval bill" to reenact any canceled items within five days of receiving the special message, and must pass it within 30 days.[2] 2 U.S.C. §691d(b), (c)(1). The President can, of course,

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Footnotes at end.

exercise a conventional veto of any disapproval bill, but Congress can then reinstate the *status quo ante* by overriding that veto.

Historical background

The Act is best understood against the historical backdrop of the efforts of the President and Congress over the years to control government spending and, in more recent times, to reduce an ever-increasing federal budget deficit. It is a product of many years of inter-branch conflict and compromise over how to accomplish those goals. Since the outset of the 19th Century, American Presidents have labored to influence Congress' spending habits, and many have lobbied in particular for the authority to veto selected provisions of bills presented for their signature. *See* 12 Op. Off. Legal Counsel 128, 157–65 (1988). Congress has considered both amending the Constitution and enacting several alternative legislative measures to give the President the increased authority he has sought and Congress has intermittently resisted.

Although Presidents have uniformly acknowledged that the Constitution affords no inherent authority for a line-item veto[3]—indeed, as explained below, it clearly forbids anything but rejection of a bill *in toto*—they have managed to exert their will by "impounding"—or simply not spending—appropriated funds. In some instances, Presidents have refused to spend money on measures that conflicted with their foreign policy objectives, or that would advance an unconstitutional purpose. Most of the time, however, Presidents simply preferred not to spend the money for the purposes for which Congress had allocated it. *See e.g.*, David A. Martin, *Protecting the Fisc; Executive Impoundment and Congressional Power*, 82 Yale L.J. 1636, 1644–45 (1973). Some impoundments have been challenged successfully in federal court; others have either been judicially sanctioned or not contested at all. *See City of New Haven v. United States*, 634 F. Supp. 1449, 1454 (D.D.C. 1986), *aff'd* 809 F.2d 900 (D.C. Cir. 1987).

Although presidential impoundments throughout the 19th century occurred in a state of uncertainty as to their legality, Congress has in this century conferred a measure of legitimacy upon them and given some direction as to their use. In the Anti-Deficiency Acts of 1905 and 1906, requiring "apportionment" aimed at saving money for the end of a fiscal year, Congress also allowed the President to waive spending appropriations in the event of emergencies or unusual circumstances. Act of March 3, 1905, ch. 1484, §4, 33 Stat. 1257; Act of Feb. 27, 1906, ch. 510, §3, 34 Stat. 48. When Congress amended the Anti-Deficiency Act in 1950, it created a mechanism for the Executive Branch to recommend the rescission of any reserves not required to carry out the purposes underlying an appropriation. General Appropriation Act of 1951, ch. 896, §1211(c)(2), 64 Stat. 595 (current version at 31 U.S.C. §1512(c)(1)).

Congress has not, however, always been sanguine about Presidents' refusal to spend appropriated funds. During the Nixon administration, for example, the President's extensive resort to impoundment prompted many lawsuits. *See City of New Haven*, 634 F. Supp. at 1454 ("by 1974, impoundments had been vitiated in more than 50 cases and upheld in only four"). President Nixon's reluctance to spend appropriated funds also provoked passage of the Impoundment Control Act of 1974 (the "ICA"), Pub. L. No. 93–344, 88 Stat. 332, a statute critical to an understanding of the present Act.

The ICA recognized two types of impoundment: "deferral" and "rescission." Deferral affects the timing of expenditures, and is accomplished by "withholding or delaying the obligation or expenditure of budget authority (whether by establishing reserves or otherwise) provided for projects or activities," or any other type of Executive action or inaction accomplishing the same result. 2 U.S.C. §682(1). Deferral is permitted for contingencies, to effect savings achieved through changes or efficiency, or as specifically provided by law. 2 U.S.C. §684(b). Under the ICA, the President effects a deferral, just as he cancels an item under the Line Item Veto Act, by transmitting to Congress a special message containing statutorily required information. 2 U.S.C. §684(a). Also like cancellations under the Act, deferrals become effective upon Congress' receipt of the special message; unlike cancellations, however, they expire with the end of the fiscal year.[4] *Id.*

A rescission, under the ICA, is the cancellation of budget authority. 2 U.S.C. §682(3). In contrast to a cancellation under the Line Item Veto Act, the ICA requires the President to *propose* a rescission by transmitting a special message to Congress, which Congress may enact or not, as it chooses, within 45 days. 2 U.S.C. §683(b). The perceived deficiency of the rescission process under the ICA that inspired passage of the Line Item Veto Act was the necessity of congressional acquiescence. Whenever Congress neglected or declined to pass a bill enacting into law a proposed rescission—a most frequent occurrence—the rescission expired.

The cancellation procedure embodied in the Line Item Veto Act thus came to be known as "enhanced rescission," the enhancement consisting of elimination of the need for congressional action. Two principal alternatives to the Act considered and rejected by the 104th Congress were "expedited rescission" and "separate enrollment." The first, exemplified by S. 14 in the 104th Congress, would have preserved the recommendation process but guaranteed that Congress actually and promptly vote on the President's rescission proposals. S. Rep. No. 9, 104th Cong., 1st Sess., at 15 (1995). The second would have treated each item of spending as a separate "bill" for the President to sign or veto. Separate handling of hundreds of items appeared to present insuperable practical obstacles, however, and potential constitutional difficulties as well. *See* 141 Cong. Rec. S. 4217, S. 4224–35, S. 4244 (daily ed. Mar. 21, 1995). Both Houses of Congress also considered and rejected proposed constitutional amendments to impart line item veto authority. S.J. Res. 2, 14, 15, and 16, and H.J. Res. 4, 6, and 17, 104th Cong. (1995).

II

Before addressing the merits of the case, the Court is obliged to confront defendants' objections as to its justiciability. In a motion to dismiss the complaint defendants contend that plaintiffs lack standing to press their claim. They also assert that the case is not ripe for judicial resolution, and that the "equitable discretion" doctrine requires dismissal. None of these assertions is correct under the law of this Circuit.

Standing[5]

Defendants argue that plaintiffs fail to present a live case or controversay, first, because separation-of-powers considerations counsel against judicial intrusions into disputes between officials of the political branches and, second, because at this point no presidential cancellation has yet been attempted or threatened, and there has, thus, been no discernible injury.

The parties agree on the standard to be applied: plaintiffs must allege, as "an irreducible minimum," (1) an injury personal to them, (2) that has actually been inflicted by defendants or is certainly impending, and (3) that is redressable by judicial decree. *Valley Forge Christian College v. Americans United for Separation of Church and State*, 454 U.S. 464, 472 (1982). *See also Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992).

Defendants acknowledge that, pursuant to this well-settled standard, this Circuit has repeatedly recognized Members' standing to challenge measures that affect their constitutionally prescribed lawmaking powers. *See, e.g., Michel v. Anderson*, 14 F.3d 623, 625 (D.C. Cir. 1994) (Members had standing to challenge House Rule permitting delegates to vote in Committee of the Whole based on its alleged vote-diluting effect); *Moore v. U.S. House of Representatives*, 733 F.2d 946, 950–53 (D.C. Cir. 1984) (standing to assert violation of constitutional requirement that revenue-raising bills originate in the House), *cert. denied*, 469 U.S. 1106 (1985); *Vander Jagt v. O'Neill*, 699 F.2d 1166, 1168–71 (D.C. Cir.) (standing to challenge leadership's committee-seating assignments), *cert. denied*, 464 U.S. 823 (1983). In each case the D.C. Circuit found no separation-of-powers impediments to adjudication of the merits because, as in the present case, Members' alleged injuries arose from interference with the exercise of identifiable constitutional powers. *See Moore*, 733 F.2d at 951. Although the Supreme Court has never endorsed the Circuit's analysis of standing in such cases, for this Court's purposes these precedents are controlling.

Plaintiff's claim of injury in this case, namely, that the Act dilutes their Article I voting power, is likewise of the kind that suffices to confer standing under Article III. Previously, when a Member voted for an appropriations bill containing multiple items, he or she could be certain that any variation of the package once passed would require another vote by both chambers of Congress. Under the Act, however, as plaintiffs describe it, the Member's same vote operates only to present the President with a "menu" of items from which he can select those worthy of his approval, not a legislative *fait accompli* that he must accept or reject in whole, as in the past. As one Senator characterizes it, his vote for an "A–B–C" bill might lead to the *post hoc* creation of an "A–B" law, an "A–C" law, or a "B–C" law, depending on the President's use of his newly conferred cancellation authority, for which neither he nor his colleagues would have voted so reconfigured. Thus, plaintiffs' votes mean something different from what they meant before, for good or ill, and plaintiffs who perceive it as the latter are thus "injured" in a constitutional sense whenever an appropriations bill comes up for a vote, whatever the President ultimately does with it.

Circuit precedent has recognized only interference with the "constitutionally mandated process of enacting law" as sufficient to confer standing upon Members to maintain legal action for redress. *Moore*, 733 F.2d at 951. According to plaintiffs, their right to formulate an appropriations bill that meets with the approval of a majority of both Houses alone, ignoring presidential preferences, is mandated by the Presentment Clause itself. Under the Act the dynamic of lawmaking is fundamentally altered. Compromises and trade-offs by individual lawmakers must take into account the President's item-by-item cancellation power looming over the end product. The Court concludes that plaintiffs have standing because they allege that the Act "interferes with their 'constitutional duties to enact laws regarding federal spending' and infringes upon their lawmaking powers under Article I. Section 7." *Synar* v. *United States*, 626 F. Supp. 1374. 1382 (D.D.C. 1986), *aff'd sub nom. Browsher* v. *Synar*, 478 U.S. 714 (1986).

Ripeness

Defendants' primary justiciability contention is that plaintiffs must wait until the President cancels an item to bring this lawsuit. Their facial challenge to the Act would elicit an advisory opinion, defendants argue, because whether the President will exercise his authority at all (and whether various other consequences will follow) is entirely speculative. Indeed, courts may not exercise jurisdiction consistent with Article III where a dispute is so unformed as to fail the "case or controversy" requirement. *See Duke Power Co.* v. *Carolina Environmental Study Group, Inc.*, 438 U.S. 59, 81 (1978); *Regional Rail Reorganization Act Cases*, 419 U.S. 102, 138 (1974). And in constitutional cases, courts must be particularly careful not to render decisions that are unnecessary. *See United States* v. *National Treasury Employees Union*, 115 S. Ct. 1003, 1019 (1995). The injury that gives shape to a dispute need not have occurred, however, so long as it is "certainly impending." *Whitmore* v. *Arkansas*, 495 U.S. 149, 158 (1990).

In focusing solely on the President's actual exercise of his cancellation power, defendants overlook plaintiffs' allegation of ongoing harm that befalls them irrespective of whether the President ever cancels an item.[7] The Supreme Court considered an analogous claim ripe in *Metropolitan Wash. Airports Auth.* v. *Citizens for the Abatement of Airport Noise, Inc.*, 501 U.S. 252 (1991), where a Board of Review composed of Members of Congress possessed an as-yet unexercised power to veto decisions of MWAA's Board of Directors. "The threat of the veto hangs over the Board of Directors like the sword over Damocles, creating a 'here-and-now subservience' to the Board of Review sufficient to raise constitutional questions," the Court held. *Id.* at 265 n.13. *See also Bowsher v. Synar*, 478 U.S. 714, 727 n.5 (1986). Because plaintiffs now find themselves in a position of unanticipated and unwelcome subservience to the President before and after they vote on appropriations bills, Article III is satisfied, and this Court may accede to Congress' directive to address the constitutional cloud over the Act as swiftly as possible.[8]

Plaintiffs' declarations make clear that the budgetary process is already underway. The President presented his budget proposal in early February, and Members will consider and vote on appropriations between now and October 1, 1997, when the new fiscal year begins. Moreover, Congress is likely to vote on supplemental appropriations for this fiscal year in the next few months. To be sure, appropriations votes are inevitable, and "certainly impending," *Whitmore*, 495 U.S. at 158.

Defendants' argument that the case is not ripe because further factual development is required is also unpersuasive. The issues in this case are legal, and thus will not be clarified by further factual development. In what context and when the President cancels an appropriation item is immaterial. The Court will be no better equipped to weigh the constitutionality of the President's cancellation of an item of spending or a limited tax benefit after the fact; the central issue is plain to see right now.[9]

Finally, defendants assert that plaintiffs' claim is not ripe because the Act might be repealed, or suspended with respect to particular appropriations; a disapproval bill might subsequently vindicate a Member's vote as he intended it; or, if not, Congress could override a presidential veto of a disapproval bill. There are two answers to this argument. First, it ignores the "sword of Damocles" effect that pervades the process irrespective of whether the President ever cancels an item. Second, just because Congress *as a whole* can suspend or repeal the Act, or pass a disapproval bill, does not mean that an *individual* Member's injury is illusory. A Member cannot procure any such relief on his own. Indeed, the possibility of relief from Congress as a whole is just the sort of speculative prospect that the Court would reject if it were instead offered in *support* of standing. Just as the NTEU plaintiffs did not have standing simply because the Act made certain injuries possible, 101 F. 3d at 1429–30, the present plaintiffs' standing is not undermined by virtue of the fact that the Act makes certain remedies conceivable.

Equitable discretion

Defendants urge the Court to exercise its equitable discretion to dismiss the complaint because of separation-of-powers concerns, which apply not only in cases involving internal rules of Congress, *see Skaggs v. Carle*, 898 F. Supp. 1, 2 (D.D.C.), appeal docketed, No. 95-5323 (D.C. Cir. Sept. 25, 1995), but also in cases involving challenges to the validity of the legislation itself, *see Riegle v. Federal Open Market Comm.*, 656 F.2d 873, 881 (D.C. Cir.), *cert. denied*, 454 U.S. 1082 (1981).

In this case, however, the Court's equitable power to abstain from taking jurisdiction has been foreclosed by Congress' own determination to invite a lawsuit. *See* 2 U.S.C. §692(a)(1). There is therefore neither reason nor occasion to exercise discretion by avoiding the case. *See Synar*, 626 F. Supp. at 1382 ("Section 274 specifically provides for [declaratory] relief to [Members of Congress], thus eliminating whatever equitable discretion might exist and leaving only the limitations of Article III.").

III

The Court now turns to the issue presented, namely, whether the Act's conferral of cancellation power upon the President violates the Presentment Clause. The Act enjoys a presumption of validity, and the Court may not undertake to evaluate its wisdom. *See INS v. Chadha*, 462 U.S. 919, 944 (1983). Even if the Act were to appear salutary—or even exigent, given the intractable (and interminable) budget controversy—that fact cannot affect the Court's inquiry. *Id.* Though a court does not lightly resolve to invalidate a law of the United States, it must nevertheless vindicate the Constitution and the governmental framework it envisions. "The Framers recognized that, in the long term, structural protections against abuse of power were critical to preserving liberty." *Bowsher v. Synar*, 478 U.S. 714, 730 (1986). Accordingly, the Supreme Court has "not hesitated to invalidate provisions of law which violate [the separation of powers]," *Metropolitan Wash., Airports Auth. v. Citizens for the Abatement of Airport Noise, Inc.*, 501 U.S. 252, 273 (1991), and this Court can do no less.

This case is indisputably one of first impression. The issue it poses will undoubtedly be finally resolved by the Supreme Court, but at present such Supreme Court precedent as can be found only intimates what the result will be. It is by that jurisprudence, however, that this Court must be guided, and the lesson of those cases appears to be that not even the most beguiling of upgrades to the machinery of national government will be countenanced unless it comports with the constitutional design.

Shorn of its political and policy-laden implications, this case turns on the narrow and subtle question of whether the President's power under the Act is simply a present-day enlargement of his historically sanctioned impoundment power as it has existed from time to time, as defendants urge, or rather a radical transfer of the legislative power to repeal statutory law, as plaintiffs believe. As explained below, the Court agrees with plaintiffs that, even if Congress may sometimes delegate authority to impound funds, it may not confer the power permanently to rescind an appropriation or tax benefit that has become the law of the United States. That power is possessed by Congress alone, and, according to the Framers' careful design, may not be delegated at all.

The Presentment Clause

The Presentment Clause requires that any bill making or changing federal law must be first passed by both Houses of Congress and then presented to the President *in toto*, in which form he acts upon it, either to make it (or allow it to become) a law, or to return it to Congress for reconsideration.[10] U.S. Const. art. I, §7, cl. 2. Plaintiffs focus on the language of "approval;" the President's primary duty under the Presentment Clause, they say, is one of approval or disapproval. If he approves of the bill, *in toto*, his signature is but a ministerial formality. If he does not approve of it, *in toto*, his duty obliges him to return it with his "objections" to the House in which it originated, or at least to leave it be. If he signs it while disapproving of it—or parts of it—as the act purports to authorize him to do, then he does so, according to plaintiffs, in violation of the Presentment Clause.

For defendants, the operative words are, "he shall sign it." It is the bright-line act of signing alone that converts a bill into law. Approval is a highly subjective, and a temporal, concept. A President may "approve" of a bill for many reasons, not all of which import enthusiasm for its legislative consequences. A President may sign a bill of which he actually disapproves (as undoubtedly many Presidents have done) for political, diplomatic, or other purposes unrelated to his judgment of its merit.

The Court agrees with defendants that the act of signing a bill is the critical requirement of the Presentment Clause. The President's judgment of approval coincides with his decision to sign a bill; it has no independent operative significance. Whether a bill is or is not a law of the United States cannot depend on the President's state of mind when he affixes his signature. He may object to various appropriations and limited tax benefits—that is, he may *disapprove* of them—but nevertheless sign a bill and thereby remain in full compliance with the Presentment Clause. Likewise, no subsequent action by the President is capable of retroactively undermining the approval he registered with his signature. By that time the Article I approval process has run its course, and the bill indisputably has become a law of the United States. *See United States v. Will*, 449 U.S. 200, 224–25 & n.29 (1980); *La Abra Silver Mining Co. v. United States*, 175 U.S. 423, 454 (1899); *Burgess v. Salmon*, 97 U.S. 381, 384–85 (1878).

Yet, although the court agrees that statutes subject to cancellation will have been "approved" in accordance with the Presentment Clause, the Act is vulnerable to the additional charge that, following approval, a cancellation by the President is a legislative repeal that itself must comply with Presentment Clause procedures. The Court must resolve this issue in light of the Supreme Court's admonishment that "[t]he legislative steps outlined in Art. I are not empty formalities; they were designed to assure that both Houses of Congress and the President participate in the exercise of lawmaking authority." *Chadha*, 462 U.S. at 958 n. 22. It is insufficient, therefore, for defendants to argue that, notwithstanding the resemblance between a cancellation and a statutory repeal, the Act should stand because the same result could be accomplished through clearly constitutional means. Rather, "the purposes underlying the Presentment Clauses . . . must guide resolution of the question whether a given procedure is constitutional." *Id.* at 946.

Fundamentally, the Presentment Clause enforces "bicameralism" and circumscribes the President's ability to act unilaterally. *See Field v. Clark*, 143 U.S. 649, 692–93 (1892). It embodies "the Framers' decision that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered, procedure." *Chadha*, 462 U.S. at 951. The President's contribution to the process is his approval of (or objection to) legislation as Congress presents it to him. His is merely a qualified check on the will of the legislature. *See* 1 *The Records of the Federal Convention of 1787* at 97–105 (Max Farrand ed., 1987). The President must consider the whole of the bill presented, which, in today's world of omnibus appropriations and myriad riders, is an undeniably difficult task. Nevertheless, upon considering a bill, he must reach a final judgment: either "approve it," or "not." U.S. Const. art I, §7, cl. 2. Once he has by his signature transformed the whole bill into a law of the United States, the President's sole duty is to "take Care that the Laws be faithfully executed." U.S. Const. art. II, §3. *See also Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 587 (1952) ("[T]he President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker.").

Where the President signs a bill but then purports to cancel parts of it, he exceeds his constitutional authority and prevents both Houses of Congress from participating in the exercise of lawmaking authority. The President's cancellation of an item unilaterally effects a repeal of statutory law such that the bill he signed is not the law that will govern the Nation. That is precisely what the Presentment Clause was designed to prevent.

Delegation of spending authority vs. exercise of lawmaking power

Defendants dismiss the notion that the Act represents an abdication of Congress' Article lawmaking I power, arguing that it merely ratifies traditional impoundment authority of the President in a novel form. Defendants and *amici* both allude to a long history of presidential impoundments, many of which have been tested by courts, and as to which the issue has been confined primarily to whether Congress intended to delegate discretion to the President not to spend money it had appropriated; that is, whether its appropriations were permissive or mandatory. *See, e.g., Train* v. *City of New York*, 420 U.S. 35, 41 (1975); *City of New Haven* v. *United States*, 634 F. Supp. 1449, 1454 n.6 (D.D.C. 1986) (citing cases), *aff'd* 809 F.2d 900 (D.C. Cir. 1987). The effect of the ICA was to make all appropriations presumptively mandatory. The Line Item Veto Act merely reverses that presumption, at least for a period of five days. During that limited period, the President has the option to "cancel" any appropriation—he may not change it in any manner—after which it remains in the law as he signed it, to be faithfully executed with the remainder.[11] If he cancels it with an appropriate message to Congress, it is extinguished, as if it had never been part of the bill, unless Congress revives it with a new bill, passed like any other by both Houses of Congress and presented anew to the President. In the meantime no money can be spent for it, just as would have been the case had it been "deferred" or "rescinded" in accordance with the ICA. The Line Item Veto Act is, therefore, according to defendants, merely an advance delegation by Congress to the President of a brief period of discretion to spend or not, as his judgment dictates, subject to the broad injunctions that his decision not to spend operate to reduce the deficit, and will not impair any essential Government functions or harm the national interest. It is, they say, "evolutionary, not revolutionary," Def. Motion for Summary Judgment at 3, in the perpetual contest of will between Congress and the President in matters of the federal budget.

It has long been held that Congress may—indeed, of necessity, must—delegate vast authority to the Executive Branch of government to make and to change rules for the governance of national affairs, so long as they are in furtherance of the will of Congress. When courts have inquired into whether Congress has abdicated its legislative function in cases of allegedly overbroad delegations, their sole concern is whether Congress itself articulated "intelligible principles" by which delegated authority is to be exercised. *See Mistretta* v. *United States*, 488 U.S. 361, 372; *J.W. Hampton, Jr. & Co.* v. *United States*, 276 U.S. 394, 406, 409 (1928). Since 1935, the Supreme Court has "upheld, without exception, delegations under standards phrased in sweeping terms." *Loving* v. *United States*, 116 S. Ct. 1737, 1750 (1996). Defendants are therefore correct that, if the Act's conferral of cancellation power, at least with respect to appropriations, can be equated with a delegation of impoundment authority, their burden under the delegation standard is not "a tough one." *National Fed'n Of Fed. Employees* v. *United States*, 905 F.2d 400, 404 (D.C. Cir. 1990).[12]

But defendants are mistaken in asserting that Article I concerns disappear once the President has signed a bill into law, and, consequently, that the delegation doctrine is the only hurdle for them to surmount. Their analysis assumes that Congress conferred a delegable power. It did not; it ceded basic legislative authority. The Constitution vests "all legislative Powers" of the United States in Congress, U.S. Const. art I, §1, including the power of repeal. *Chadha*, 462 U.S. at 954. As *Chadha* made clear, there are formal aspects of the legislative process that Congress may not alter. Just as Congress could not delegate to one of its chambers the power to veto select provisions of law, it may not assign that authority to the President. Before the question of a delegation's excessiveness ever arises, then, a court must be convinced that Congress did not attempt to alienate one of its basic functions.

In no case where the Supreme Court decided that a delegation of broad authority was saved by Congress' articulation of intelligible principles was the Court faced with an equivalent of the cancellation power given to the President by the Line Item Veto Act. Cancellation under the Act is simply not the same thing as impoundment, or any other suspension of a statutory provision. Instead, cancellation is equivalent to repeal[13]—and "repeal of statutes, no less than enactment, must conform with Art. I." *Chadha*, 462 U.S. at 954. Cancellation forever renders a provision of federal law without legal force or effect, so the President who canceled an item and his successors must turn to Congress to reauthorize the foregone spending. Whereas delegated authority to impound is exercised from time to time, in light of changed circumstances or shifting executive (or legislative) priorities, cancellation occurs immediately and irreversibly in the wake of the operationalizing "approval" of the bill containing the very same measures being rescinded.

Thus the cancellation power conferred by the Act is indeed revolutionary, as plaintiffs assert. Never before has Congress attempted to give away the power to shape the content of a statute of the United States, as the Act purports to do. As expansive as its delegations of power may have been in the past, none has gone so far as to transfer the function of repealing a provision of statutory law. The power to "make" the laws of the nation is the exclusive, non-delegable power of Congress which the Line Item Veto Act purports to alienate in part for eight years. That it can be recaptured if Congress repeals the Act, or suspends it (either in general, or in particular circumstances) does not alter the fact that, until Congress does so by a separate bill which the President signs (or as to which his veto is overridden), the President has become a co-maker of the Nation's laws. The duty of the President with respect to such laws is to "take care that [they] be faithfully executed." U.S. Const. art II, §3. Canceling, *i.e.*, repealing, parts of a law cannot be considered its faithful execution.[14]

Moreover, if cancellation power could constitutionally be delegated as to appropriations and limited tax benefits, defendants have yet to show a tenable constitutional distinction between appropriation and tax laws, on the one hand, and all other laws, on the other. In fact, defendants deny any obligation to suggest such a distinction at all. At oral argument they insisted that there is virtually no limit to the express Article I powers Congress may delegate if it chooses, so long as it articulates "intelligible principles" by which its delegate is to be guided. If that is so—if Congress can delegate to the President the power to reconfigure an appropriations or tax benefit bill—why can he not also cancel provisions of an environmental protection or civil rights law he disfavors, and upon exactly the same "principles" as are to guide his exercise of cancellation authority under the Line Item Veto Act?

As authority for the proposition that it is constitutionally permissible for Congress to delegate to the President the power to render a law of the United States inoperable, defendants cite the case of *Field v. Clark*, 143 U.S. 649 (1892). Aside from the fact that the presidential action approved by the Supreme Court in *Field v. Clark* was merely the "suspension" of duly enacted tariffs, not their cancellation, the case is also distinguishable on the ground that the Supreme Court recognized the practice of "legislating in contingency;" that is, where Congress itself determines in advance when conditions yet to occur should cause the law to cease to be operate. The President is merely the instrument of its will. *Id.* at 683–92. *See also United States v. Rock Royal Co-op, Inc.*, 307 U.S. 553, 577–78 (1939); *Currin v. Wallace*, 306 U.S. 1, 15–16 (1939); *The Brig Aurora*, 11 U.S. (7 Cranch)

382, 388 (1813).[15] The Line Item Veto Act, in contrast, hands off to the President authority over fundamental legislative choices. Indeed, that is its reason for being. It spares Congress the burden of making those vexing choices of which programs to preserve and which to cut. Thus, by placing on itself the "onus" of overriding the President's cancellations, *see* H.R. Conf. Rep. No. 491, 104th Cong., 2d Sess. at 16 (1996), Congress has turned the constitional division of responsibilities for legislating on its head.

The Court therefore agrees with plaintiffs. In those Supreme Court cases which this Court finds most instructive for its purposes, most notably *Chadha*, the Supreme Court has repeatedly counseled that when the Constitution speaks to the matter, the Constitution alone controls the way in which governmental powers shall be exercised.[16] The formalities of the constitutional framework must be respected; the several estates subject to it must function within the spheres the Constitution allots to them.

IV

In passing the Act, Congress and the President addressed the significant problem of runaway spending, striving to create a more efficient process. But "the Framers ranked other values higher than efficiency." *Chadha*, 462 U.S. at 959. As the Court elaborated: "With all the obvious flaws of delay, untidiness, and potential for abuse, we have not yet found a better way to preserve freedom than by making the exercise of power subject to the carefully crafted restraints spelled out in the Constitution." *Id.* Various legislative alternatives remain available to give the President a more significant role in restraining government spending. For example, the "expedited rescission" model favored by many Members of the 104th Congress would retain the President's role as a recommender of rescissions, *see* U.S. Const. art. II, §3, and force Congress to vote on such proposals. And, of course, Congress remains free to attempt passage of a constitutional amendment if it determines that the President should have unilateral revisionary power.

For the foregoing reasons, it is, this 10th day of April, 1997,

ORDERED, that defendants' motion to dismiss the complaint and motion for summary judgment are denied; and it is

FURTHER ORDERED, that plaintiffs' motion for summary judgment is granted; and it is

FURTHER ORDERED, that the Line Item Veto Act, Pub. Law No. 104–130, 110 Stat. 1200 (1996), is adjudged and declared unconstitutional.

THOMAS PENFIELD JACKSON,
U.S. District Judge.

FOOTNOTES

[1] Senators Robert C. Byrd, Daniel Patrick Moynihan, Carl Levin, and Mark O. Hatfield, and Representatives David E. Skaggs and Henry A. Waxman. All but Senator Hatfield are currently sitting Members of the 105th Congress.

[2] The President has no authority to cancel items contained in an enacted disapproval bill; he must take it or leave it as presented to him.

[3] *See, e.g.*, 33 *Writings of George Washington* 96 (1940) ("From the nature of the Constitution, I must approve all the parts of a Bill, or reject it in toto."); William Howard Taft, *The Presidency: Its Duties, Its Powers, Its Opportunities and Its Limitations* 11 (1916) ("[The President] has no power to veto parts of the bill and allow the rest to become a law. He must accept it or reject it . . ."); 12 Op. Off. Legal Counsel 128, 157–65 (1988) (reviewing other Presidents' views and experience).

Although some commentators have argued that the Constitution does provide inherent authority for a line item veto, *see* Stephen Glazier, *Reagan Already Has Line-Item Veto*, Wall St. J., Dec. 4, 1987, at A14, col. 4; L. Gordon Crovitz, *The Line-Item Veto: The Best Response When Congress Passes One Spending "Bill" A Year*, 18 Pepp. L. Rev. 43 (1990), most scholars have concluded that the text of Article I, Sec. 7, unequivocally precludes such authority. *See, e.g.*, Bruce Fein & William Bradford Reynolds, *Wishful Thinking on a Line-Item Veto*, Legal Times, Nov. 13, 1989, at 30; Lawrence Tribe and Philip Kurland, Letter to Sen. Edward Kennedy, 135 Cong. Rec. S. 14,387 (daily ed. Oct. 31, 1989); 12 Op. Off. Legal Counsel 128 (1988); 9 Op. Off. Legal Counsel 28 (1985). Moreover, at least two courts have stated in dicta that the President possesses no inherent item veto. *See Lear Siegler, Inc. v. Lehman*, 842 F.2d 1102, 1124 (9th Cir.), *reh'g en banc ordered*, 863 F.2d 693 (9th Cir. 1988), *withdrawn on other grounds*, 893 F.2d 205 (9th Cir. 1989) (en banc); *Thirteenth Guam Legislature v. Bordallo*, 430 F. Supp. 405, 410 (D. Guam App. Div. 1977), *aff'd*, 588 F.2d 265 (9th Cir. 1978).

[4] Originally, deferrals were automatically effective but subject to a one-House legislative veto. 88 Stat. at 335. In light of *INS* v. *Chadha*, 462 U.S. 919 (1983), the legislative veto component of the ICA was invalidated, *City of New Haven* v. *Pierce*, 809 F.2d 900 (D.C. Cir. 1987), and Congress subsequently amended the ICA to eliminate the offending procedure.

[5] Only Article III standing, as opposed to prudential limitations, is at issue in light of Congress' creation of an express right of action in §692(a)(1) of the Act.

[6] Defendants rely on two concurring opinions by D.C. Circuit Judges in arguing that plaintiffs' injury is not sufficiently personal to create a justiciable controversy. *See Moore*, 733 F.2d at 957–61 (Scalia, J., concurring); *Vander Jagt*, 699 F.2d at 1179–82 (Bork, J., concurring). Yet, as the three-judge court, of which then-Judge Scalia was a member, recognized in *Synar* v. *United States*, 626 F. Supp. 1374, 1382 (D.D.C. 1986), *aff'd sub nom. Bowsher* v. *Synar*, 478 U.S. 714 (1986), this Circuit's cases unequivocally establish that Members have "a personal interest . . . in the exercise of their governmental powers." 626 F. Supp. at 1381 & n. 7.

[7] Even if an actual cancellation by the President were required to cause injury, Article III arguably would not require plaintiffs to wait for that event to invoke the Court's jurisdiction. *See Abbott Labs* v. *Gardner*, 387 U.S. 136, 140 (1967); *Buckley* v. *Valeo*, 424 U.S. 1, 117 (1976) (challenge was ripe in anticipation of "impending future ruling and determinations").

The President has expressed his intention to invoke his new powers under the Act *this year*. *See* 141 Cong. Rec. S. 8202–03 (daily ed. June 13, 1995) (containing letter from President to Speaker of the House).

[8] As in the case of standing, plaintiffs need only satisfy the Article III component of ripeness because Congress unmistakably declared the case fit for judicial review in §692(c) of the Act. Accordingly, this Circuit's conclusion in *National Treasury Employees Union* v. *United States*, 101 F.3d 1423, 1431 (D.C. Cir. 1996) ("*NTEU*"), that prudential (as well as constitutional) considerations made the union's challenge to the Act not ripe in inapposite.

[9] Moreover, fitness for review is a prudential component of the ripeness doctrine, an inquiry Congress obviated by calling for expedited judicial action. *See Thomas v. Union Carbide Agric. Prods. Co.*, 473 U.S. 568, 580–81 (1985); *NTEU*, 101 F. 3d at 1431. But even if the Court were to take into account prudential ripeness factors, they actually militate in plaintiffs' favor, because resolving the issue now will avert the cloud that would hang over any canceled item that Congress fails to disapprove.

[10] In the Framers' words: "Every Bill which shall have passed the House of Representatives and the Senate shall, before it become a Law, be presented to the President of the United States; If he approve it he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its return, in which Case it shall not become a Law."—U.S. Const. art. I, §7, cl. 2.

At the behest of James Madison, the Framers included the following clause to ensure that Congress could not evade the presentment requirement simply by passing legislation in forms other than bills: "Every Order, Resolution, or Vote to Which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives according to the Rules and Limitations prescribed in the Case of a Bill."—U.S. Const. art I, §7, cl. 3.

[11] Defendants cite no analog, as a species of impoundment or anything else, however, to the power to "cancel" limited tax benefits found in the Act.

[12] *See, e.g., Skinner v. Mid-America Pipeline Co.*, 490 U.S. 212, 219 (1989) (upholding delegation of authority to establish and collect pipeline safety fees); *Lichter v. United States*, 334 U.S. 742, 778 (1948) (upholding grant of power of recover excessive wartime profits), and *Yakus v. United States*, 321 U.S. 414, 424 (1944) (upholding broad delegation of price-fixing authority).

[13] As noted *supra*, p.4, §691e(4) of the Act defines the verb "cancel" as meaning "to rescind." *Webster's Third New International Dictionary* 1924 (G.&C. Merriam Co. 1981) defines the verb "repeal" as meaning "1: to rescind or revoke (as a sentence or law) from operation or effect."

[14] Defendants suggest that, in canceling future appropriations, the President will, in fact, be faithfully executing the Line Item Veto Act to reduce the deficit. But the Act contains no mandate to the President to reduce the deficit. It merely conditions cancellations for whatever reason upon, *inter alia*, their having a deficit-reducing effect.

[15] As the Supreme Court further explained in *J.W. Hampton, Jr. & Co. v. United States*, 276 U.S. 394, 407 (1928), 30 years later: "Congress may feel itself unable conveniently to determine exactly when its exercise of the legislative power should become effective, because dependent on future conditions, and it may leave the determination of such time to the decision of an executive, or, as often happens in matters of state legislation, it may be left to a popular vote of the residents of a district to be affected by the legislation. While in a sense one may say that such residents are exercising legislative power, it is not an exact statement, because the power has already been exercised legislatively by the body vested with that power under the Constitution, the condition of its legislation going into effect being made dependent by the legislature on the expression of the voters of a certain district."

[16] *See also Metropolitan Washington Airports Auth. v. Citizens for the Abatement of Aircraft Noise*, 501 U.S. 252 (1991); *Bowsher v. Synar*, 478 U.S. 714 (1986); *cf. U.S. Term Limits v. Thornton*, 115 S. Ct. 1842 (1995).

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I rise to state that this is a fine moment in the history of the Senate. It has come about through the leadership of Senator ROBERT C. BYRD and his devotion to the Constitution of the United States. The court today ruled in the most explicit terms. It said, "* * * the Act effectively permits the President to repeal duly enacted provisions of Federal law. This he cannot do."

Then with a grace note that I hope the Senate will appreciate, and I know our distinguished occupant of the chair will, with Senator BYRD's great attachment to the history of democratic government and theory and its glorious origins in Greece, the court referred to the sword-of-Damocles effect: Not that the President would exercise this power, but that he might do it. There is a sword still suspended in this Chamber, but soon, I cannot doubt, to be taken down as a consequence of the judgment of the Supreme Court. I might add, sir, that there are some in Congress who are concerned that the courts interfere too much with our procedures. This is a court defending the Constitution and the U.S. Congress in its responsibilities.

Finally, sir, may I state a moment of gratitude to the attorneys, our learned counselors, who, on a pro bono basis, argued this case so effectively. I ask unanimous consent that their names be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COUNCEL FOR PLAINTIFFS

Charles J. Cooper, Michael A. Carvin, David Thompson, Cooper & Carvin, 2000 K Street, N.W., Suite 401, Washington, DC 20006, (202) 822-8950.

Michael Davidson, 3753 McKinley Street, N.W., Washington, DC 20015 (202) 362-4885.

Lloyd N. Cutler, Louis R. Cohen, Lawrence A. Kasten, Wilmer, Cutler & Pickering, 2445 M Street, N.W., Washington, DC 20037 (202) 663-6000.

Alan B. Morrison, Colette G. Matzzie, Public Citizen Litigation Group, 1600 20th Street, N.W., Washington, DC 20009 (202) 588-1000.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is recognized for 3 minutes.

Mr. LOTT. Mr. President, I want to announce officially that there will be no further votes today.

Mr. LEVIN. Mr. President, I thank my friend from West Virginia. The Senator from West Virginia is the plaintiff in a historic lawsuit. This lawsuit has now taken the first step. Senator MOYNIHAN and I, Senator Hatfield, and a number of House Members are co-plaintiffs, and proudly so, with Senator BYRD. We are kind of the "et al." Robert BYRD, et al. It is a position that we are proud to be in.

This lawsuit, we should be clear, tests a particular version of the line-item veto that is in that bill. What the court held, and what our lawyers argued, and what we feel passionately is that once the President of the United States affixes his signature to a bill, that is the law of the land. Four magic words: "Law of the land." When that becomes the law of the land, it cannot be repealed unilaterally by the President or by us. It must be repealed according to the Constitution. That is the fundamental, bedrock, black letter constitutional law, which the court affirmed today. It is pleasing to us that the court did so.

I want to thank our colleagues for making it possible for us to have an expedited process in the courts. Whichever side of this dispute we were on, we agreed that we ought to resolve it promptly. The bill provided that there be an early resolution in court. I think all of our colleagues are to be thanked for making that possible.

The sword of Damocles is there, as the Senator from New York mentioned. It still hangs here until there is a final resolution, if there is going to be an appeal to the Supreme Court. We hope now that the Constitution will prevail. We think it is clear that the courts are the right people to give the final interpretation of that Constitution. Justice Marshall's vision and holding prevails today, in that a court has now ruled on the constitutionality of a law. Presumably, that will go to the Supreme Court. We hope for a prompt resolution.

We are very gratified that what we believe is so fundamental in this country has now been reaffirmed by the district court that took the first look at this law. That principle, again, is that once that moment comes when a Presidential pen is affixed to a bill, that bill binds all of us, every one of us, be it the President or any other citizen of this land, and that bill cannot be changed. The law cannot be changed by the unilateral act of either the President or the Congress, but must be repealed as laws are adopted, with the involvement of both the President and the Congress, as required by the Constitution.

Again, my thanks to Senator BYRD for the leadership he has shown in protecting the Constitution of the United States. I know Senator MOYNIHAN expressed this, and Senator Hatfield, if he were here, would say the same, that we are very, very gratified to be on the same side of a very critical lawsuit with our good friend from West Virginia.

Mr. BYRD. If the Senator will yield, I wish to thank my dear friends, Senator MOYNIHAN and Senator LEVIN, for their gracious remarks this afternoon. I also wish to thank the majority leader for his cooperation in this matter. I went to him about having a piece of legislation passed that would help to expedite this action. Although he did not agree with me in the matter itself, he was very cooperative in allowing that action by the Senate to take place. I thank him for that.

Mr. President, I join Mr. MOYNIHAN, also, in thanking counsel for their excellent services in this important matter.

EXECUTIVE SESSION

Mr. LOTT. Mr. President, in executive session, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of Executive Calendar No. 34, the nomination of Pete Peterson to be Ambassador to Vietnam. I further ask that the nomination be considered under the following time limitation: 30 minutes equally divided between the majority leader and Democratic leader or their designees. I further ask unanimous consent that immediately following the expiration or yielding back of the time, the Senate proceed to a vote on the nomination and that, immediately following the vote, the President be notified of the Senate's action and the Senate then return to legislative session.

Mr. DASCHLE. Mr. President, reserving the right to object, is it the understanding of Senators on both sides of the aisle that this would not require a rollcall vote?

Mr. LOTT. That is my understanding at this time, Mr. President.

Mr. DASCHLE. Mr. President, I ask unanimous consent that in the unlikely event that a rollcall vote is necessary, that it would take place following the final vote on the nuclear waste bill next Tuesday.

Mr. LOTT. I hope that, after all that we have done, we can get this concluded tonight. I know that would be your preference. That is my understanding as to the parties that have been interested. I think we can get it done tonight.

Mr. DASCHLE. I make that unanimous-consent request, but I don't think it will be necessary.

Mr. LOTT. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. For clarification, there was no objection to the unanimous consent request that I made, as amended by Senator DASCHLE.

Mr. DASCHLE. I had no objection.

Mr. LOTT. Mr. President, with regard to Calendar No. 34, the nomination of Pete Peterson to be the Ambassador to Vietnam, I would like to specifically thank the Senator from New Hampshire for his cooperation and for the very serious questions that he has raised, which needed to have proper attention. I believe that we have gotten some progress made in that regard. We do have now a letter that has been sent to me, in response to our questions, from the National Security Council, Mr. Berger. Senator SMITH has had a chance to review that. I personally have had very serious concerns all along about the normalization of relations with Vietnam. I think the certification has been flawed in the way it has been handled, and I think that those points needed to be made. But I also felt that Pete Peterson was an excellent choice for this assignment. And I appreciate the cooperation of Senator SMITH in the way he handled this matter, and Senator MCCAIN for his cooperation. I know he has a personal involvement and interest in the nominee. I just wanted to thank them both for their efforts.

I would like to yield the remainder of my time to the Senator from New Hampshire.

Mr. SMITH of New Hampshire. Thank you, Mr. President. I yield 3 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The nomination will be stated.

NOMINATION OF PETE PETERSON, OF FLORIDA, TO BE AMBASSADOR TO THE SOCIALIST REPUBLIC OF VIETNAM

The assistant legislative clerk read the nomination of Pete Peterson, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Republic of Vietnam.

The Senate proceeded to consider the nomination.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I thank the majority leader for all of his efforts in making this possible.

I also would like to especially thank my friend from New Hampshire who is a dogged, a determined, a zealous, and a committed advocate of attaining a complete and full accounting of those who are still missing in action in Vietnam.

The Senator from New Hampshire and I have had differences of view on this issue from time to time. But no one has ever questioned the absolute dedication of the Senator from New Hampshire to the commitment to those fellow Americans for whom we still have not been able to obtain an accounting.

Mr. President, I thank him because if it had not been for him this very important letter from the White House would not have come over to our leader signed by Sandy Berger, Assistant to the President for National Security Affairs. It lays out a very important set of priorities for further actions that need to be taken by the United States and by the Vietnamese so that we can finally put this very difficult chapter behind us.

I thank the Senator from New Hampshire for his efforts in that direction.

Finally, Mr. President, I would like to wish, since I am confident that Pete Peterson will be confirmed by the Senate, a dear friend, Godspeed. He is traveling back to a place that he found quite uncomfortable the last time he resided there, and I am very grateful that we have an American like Pete Peterson who is willing to go back and serve his country in a very vital and important manner. And perhaps one could argue that only Pete Peterson could do this job in the way that it needs to be done in this very difficult and very critical time in our relations with Vietnam and Asia.

So we all wish Pete Peterson every success, and we are grateful that we have someone like him who is willing to continue to serve his Nation.

Thank you, Mr. President. I yield the remainder of my time to Senator SMITH.

Mr. SMITH of New Hampshire. Mr. President, I thank the Senator from Arizona for his kind words, and also for his cooperation in working with me on this issue.

Mr. President, there were some concerns which I had raised, and they have been addressed thanks to the cooperation ' of Senator LOTT, Senator DASCHLE, Senator SHELBY, Senator BOB KERREY, and certainly Sandy Berger with the National Security Council of the President of the United States.

I think because of the willingness to address the concerns that I have raised we were able to resolve this matter tonight.

Let me first of all say clearly and for all the world to see and know that this issue has never been about the qualifications of Pete Peterson to be the Ambassador to Vietnam. It has been about the accounting process and how best to go about getting a fullest possible accounting for our missing.

In regard to former Congressman Pete Peterson, he was a POW in Vietnam for a number of years, suffered greatly at the hands of the Vietnamese, as did my colleague Senator MCCAIN. I am sure the accommodations as Ambassador will be a little better than he had on his last trip over there as a POW. But I have worked with him on the United States-Russian Commission. I like him. I respect him. He is an honorable and decent man, and he will be I believe a good ambassador.

My concerns have been addressed in the past on this floor in terms of the problems that I believe we have with the Vietnamese. I am hopeful now, with this clarification that we have been able to receive from the White House, and with the support of Senator MCCAIN, Senator SHELBY, and others, that Ambassador Pete Peterson will be able to seek this information and finally get this information from the Vietnamese.

It has always been my concern that rather than to say that the Vietnamese are fully cooperating and then we will send an Ambassador over there, I think it is more honest to say we don't have all of the information, the Vietnamese can provide more information, and let's send the Ambassador over there to get it. I think that is more honest. I believe that is what we have resolved here tonight.

Mr. Berger was kind enough to indicate by letter that the President commits to continue to press the Government of Vietnam to cooperate on full accounting, and that they have established the mechanisms to do it with the Vietnamese to provide information that the Vietnamese have only available to them. I interpret that to mean that there is a lot of information that the Vietnamese can unilaterally provide, as the League of Families has so often said under its leader, Andrew Griffiths, that we want the information whatever that may be that the Vietnamese can unilaterally provide. We all know, and I think this compromise indicates, that there is information still that the Vietnamese can unilaterally provide. I hope that the Ambassador will be able to encourage the Vietnamese, and finally hopefully persuade the Vietnamese to provide it.

I want to be specific in four areas that I believe are the major areas of information.

One, the Politburo records concerning U.S. POW's: These records are important. Vietnamese officials have not provided them. And we believe they can provide many of them. They may have lost some. But we think there are some they can provide. DOD analysts have testified under oath that access to these records has not been provided.

So I hope that Ambassador Peterson will pursue that avenue very directly with the Vietnamese. I have ever assurance that he will.

Second, North Vietnamese military records on U.S. POW's and MIA's from the country of Laos: As you know, North Vietnam occupied Laos during the war. We lost a lot of American fliers in Laos during the war, and the Vietnamese have not been forthcoming about a lot of the shootdown records pertaining to U.S. losses in Laos.

The so-called Group 559 shootdown record turned over in September 1993 contains only summary information, and the DOD analysts—not Senator SMITH—have concluded that "It is clear that this record was compiled after the fact from original records." So we need those original records. I hope that along the lines that the analysts have testified in their testimony last year that we would be able to get that information from the Vietnamese.

It is clear that the Vietnamese did have direct knowledge of these losses. We know that. Hopefully now they will provide it. We deserve to know the fate of these United States POW's who were shot down in Laos and captured by the Vietnamese, and in some cases killed by the Vietnamese in this instance. But in the province in Northern Laos which I personally visited, none of them really in that area have been accounted for at all from the Communist side. We know that they have information because some of these people were captured and filmed.

Third, the unilateral action by Vietnam in 461 cases unaccounted for: These are records that we believe based on our best information the Vietnamese could provide more data, and we have had testimony from again the intelligence community saying that they believe based on our information that they could get that information.

Finally, Mr. President, the prison camp records pertaining to U.S. POW's: I think we are not interested in what somebody did as a POW or didn't do as a POW in getting those documents. They can be screened and carefully taken care of by the intelligence community, should we get them. What we are interested in is what happened to some of these people who were in the prison system who were not returned, who were seen on film and on tape—sometimes used for propaganda—and have never been accounted for. So we believe that the Vietnamese would know something about those people, and certainly what happened to them. We would hope that they would provide that information.

So those are the four areas that I have focused on and on which I hope the Ambassador will focus on. I think that is what is referred to in the letter here from Mr. Berger.

I think also when the Intelligence Committee—I thank Senator SHELBY for his cooperation in this regard because basically he looked into this matter for me and we have now come to a conclusion that there is further information that the intelligence community really didn't have input into the certification process, and, therefore, they need to have that information.

If you read the testimony on the House side and some other testimony where analysts have spoken, they have talked about the fact that this access is important, and there are two documents—the so-called 735 and 1205—that come out of the Russian archives which are very controversial. And we are now pursuing those in the United States-Russian Commission where Senator JOHN KERRY of Massachusetts, myself, and others were members, and Pete Peterson was a member. We are still pursuing that information.

So I want to again conclude on a couple of points and then yield to anyone else who may wish to speak on this matter.

Pete Peterson is an outstanding public servant. He served his country well. He went through hell in Vietnam, and the fact that he now is willing to go back and pursue information on POW's, on his fellow colleagues, POW's and MIA's, fellow comrades in arms, I think is a tribute to him and the type of person that he is.

I want to say again what has been distorted, as usual in the media so many times, specifically the Boston Globe, and other places where apparently untruths were hyped by the papers, they had it all wrong. I was never opposed to Pete Peterson in any way, shape, or form being the Ambassador. My concern is with what I just addressed, which is we need to try to get the fullest possible accounting. We have not gotten the fullest possible accounting, and with the Ambassador going to Vietnam he will do that. I am all for it.

Let me just also say in regard to Mr. Hoang, who I talked with who is now out of the country and is not here. I hope and believe that should Mr. Hoang come back into the country that he ought to come before the Governmental Affairs Committee and answer any and all questions put to him regarding not only Vietnam but anything else regarding these matters in terms of how policy was developed. But at this point he is not in the country to do that.

So let me again thank everyone involved in working this decision out. One of the nicest things about the Senate, even though it is frustrating if you are on the other side of something, is that you get the opportunity to work together.

I remember the first day I was on the floor in 1991. Senator Mitchell, then the majority leader, came over to me and introduced himself. He said, "Hello," and said, "Bob, welcome. It is nice to have you. I wish we could have gotten a Democrat, but we got you. But let me just say this. We will work with you over here. It is not like the House, not because we want to but because we have to." That is OK. I mean that is the way the process works here. When you have a concern, people on the other side work with you to get it resolved. You do the best you can, and sometimes it works out. And more often than not it does work out even though you take some flak.

So I am very pleased with those on all sides of this issue who worked with me to address my concerns. Especially I am grateful to Sandy Berger who I called this morning and asked to prepare a letter. I gave him the concerns that I had. He responded before the end of the day to Senator LOTT with the concerns that I raised. I can't thank him enough.

I think the fact that the nomination will go through tonight is to a large extent due to the willingness of the administration, specifically Mr. Berger to address my concerns. I am very grateful to them for that.

I wish Ambassador Peterson the best of luck. I look forward to working with him as Ambassador to Vietnam to get more information on our missing men and a few women in Vietnam.

Mr. President, I ask unanimous consent to have relevant material printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AREAS WHERE VIETNAM IS NOT "COOPERATING IN FULL FAITH" OR PROVIDING FULL DISCLOSURE ON UNACCOUNTED FOR AMERICANS

(1) Politburo records concerning U.S. POWs.—Vietnamese officials have not provided wartime politburo documents in which the total number of captured U.S. POWs were discussed. This is critical because of the information passed to the U.S. Government in 1993 by Russian intelligence which contained reported transcripts of two secret North Vietnamese wartime speeches in which the number of captured U.S. POWs referenced was substantially higher than those who were returned by Hanoi in 1973. U.S. Deputy Assistant Secretary of Defense for POW/MIA Affairs, James Wold, confirmed in a meeting with Senator Smith and Congressman Johnson on February 4, 1997, that he has not succeeded in convincing Hanoi to cooperate on this matter—and DoD analysts have testified under oath that access to such records has not been provided.

(2) North Vietnamese military records on U.S. POW/MIAs from Laos.—Since September, 1993, Vietnam has not provided additional documentation on a North Vietnamese shootdown record pertaining to U.S. losses in Laos. (The so-called "Group 559 Shootdown Record" turned over in September, 1993, contains only summary information, and DoD analysts have concluded that "it is clear that this Record was compiled after the fact from original records" and that "it is very difficult to believe that additional Group 559 documents could not be turned over forthwith" and that "analysis of this document makes clear that the Vietnamese have additional Group 559 records that may contain information useful to POW/MIA case resolution." DoD analysts testified under oath to Congress last year that with regard to about 253 Americans captured or lost in Laos, it was not clear that the Vietnamese had direct knowledge of these losses, and "they should have known exactly what happened to the person." U.S intelligence also indicates that Vietnamese officials should have direct knowledge of the fate of U.S. POWs known to have been held by the Pathet Lao during the war in Sam Neua province in northern Laos—none of whom have ever been accounted for by the Communist side.

(3) Unilateral Action by Vietnam on 461 cases of unaccounted for men.—In January, 1996, the State Department indicated that Assistant Secretary Winston Lord had "expressed disappointment to Vietnamese officials in the level and quality of unilateral work they perform on cases." Last summer, General Wold passed to Vietnam 461 "unilateral cases" of unaccounted for men—cases where General Wold stated that "critical Vietnamese assistance" was needed. Such assistance has not been forthcoming in these cases, according to the comprehensive review of all cases conducted by DoD in response to Congressional legislation in 1995. It is not clear that this situation has dramatically improved over the last six months since General Campbell assumed command of Joint Task Force (Full Accounting.)

(4) Prison Camp Records Pertaining to U.S. POWs.—The U.S. has reportedly not received access to prison camp records detailing the fate of many POWs, including so-called "died-in-captivity" cases, and the prospects for final accountability for these men (ie: information on the location or disposition of remains). These records would also help resolve eyewitness accounts of reported American POWs in captivity which U.S. intelligence agencies have collected over the years.

U.S. SENATE,
Washington, DC, March 24, 1997.

Hon. RICHARD C. SHELBY,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR DICK: I am writing to request an inquiry by the staff of the Select Committee on Intelligence into certain documents pertaining to American POW/MIAs from the conflict in Southeast Asia.

As you know, Senator Bob Smith has raised questions about intelligence information on which President Clinton based his 1996 certifications required by law as a condition for the expansion of relations with Vietnam. He has specifically raised concerns relating to two documents acquired from the archives of the former Soviet Union. These documents came to light after the Senate Select Committee on POW/MIA Affairs was disbanded in 1993.

I would appreciate your directing a staff inquiry examining the intelligence basis for the President's certifications—specifically addressing the two documents—in as expeditious a fashion as possible. Because I hope that full Senate can consider the pending nomination of former Congressman Peterson to be Ambassador to Vietnam the week of April 7th, I would appreciate receiving the results of the inquiry prior to that time.

Thank you for your consideration of my request. With best wishes, I am

Sincerely yours,

TRENT LOTT.

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, April 8, 1997.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: In response to your March 24, 1997 letter, we are attaching the findings of a preliminary staff inquiry into the U.S. Intelligence Community input that formed the basis of the 1996 Presidential determinations regarding Vietnam's accounting for American POW/MIAs, including accelerating efforts to provide POW/MIA-related documents.

The President determined last year that, based upon information available to the U.S. Government at that time, the Socialist Republic of Vietnam was cooperating in full faith on the POW/MIA issue. These determinations were made by the President in response to Public Law conditioning the release of funds for U.S. diplomatic or consular post in the Socialist Republic of Vietnam on Presidential certification.

The staff inquiry has found:

1. That the Intelligence Community appears to have played no formal role in the determinations.

2. That regarding the so-called "735" and "1205" documents from the Russian archives:

They have not been the subject of a coordinated community-wide analysis. Elements of the Intelligence Community did contribute to a 1994 Department of Defense assessment and the State Department's Office of Intelligence and Research (INR) prepared several memoranda analyzing the documents;

The 1994 DoD assessment and the 1993 INR analysis identified numerous errors in the documents and raised questions about their accuracy, but could not dismiss them as fabrications; and,

Time constraints have not allowed the Committee staff to completely investigate all activities taken since 1994, but attempts by the Intelligence Community to gain additional information on the documents appear to have been limited.

We want to emphasize that this is not a comprehensive Committee review. We will explore whether the Committee should conduct further inquiry after consultation with all of the Committee Members.

Sincerely,

RICHARD C. SHELBY,
Chairman.
J. ROBERT KERREY,
Vice Chairman.

Attachment.

STAFF INQUIRY

Background.

A primary role of U.S. intelligence is to help American foreign policy makers make informed decisions. In general, U.S. Government's certification on foreign affairs matters is assumed to be based on a number of factors including input from the Intelligence Community. The process of collecting and analyzing sensitive and open-source information is complicated and subjective, but is the essence of the work done by the Intelligence Community. In most instances, the quality and source of information is such that it can be interpreted in more than one way and isolated reports of information may easily be misinterpreted. It is critical to take all information—including information derived from sensitive intelligence sources and methods, and information related to policy implementation—into account when judging the validity of information on which to base a certification or determination.

Findings.

1. The Intelligence Community appears to have played no formal analytical role in the determinations.[1]

a. Prior to the 1996 Presidential certifications, or in this case "determinations,"[2] the National Security Council did not request an Intelligence Community assessment on whether the Socialist Republic of Vietnam was cooperating in full faith on POW/MIA issues specified in Public Law 104-134 and Public Law 104-208, which included "accelerating efforts to provide documents that will help lead to the fullest possible accounting of POW/MIAs."

b. The U.S. Intelligence Community did not on its own provide an assessment on whether Vietnam was cooperating in full faith on the key POW/MIA issues.

c. The Defense POW/MIA Office (DPMO) and State East Asian & Pacific Affairs Office (EAP), two policy directorates (outside the oversight of the Intelligence Community) within the Offices of the Secretaries of Defense and State, were asked to provide input for a Presidential "Memorandum of Justification for Determination." DPMO and EAP officials indicated to Committee staff that their input did not include any Intelligence Community product but they did rely on in-country reporting from the State Department Embassy officers and the DoD personnel with the Joint Task Force—Full Accounting.[3] Apparently, collection requirements pertaining to the POW/MIA issue were in place during the 1980s and early 1990s, but were removed from the President's Decision Directive on the Intelligence Community's priority requirement list on the recommendation of the National Security Council in 1995.

d. The only formal POW/MIA issue assessments identified by the U.S. Intelligence Community was a 1987 Special National Intelligence Estimate (SNIE) and a 1996 critique paper. The SNIE was titled, *Hanoi and the POW/MIA Issue*.[4] Its term-of-reference and key judgment were:

"Resolution of the fate of the 2,413 American servicemen still unaccounted for in Indochina remains a priority humanitarian issue for the U.S. Government, which believes that it should be treated separately from other political and economic concerns. While Vietnam also publicly characterizes such an accounting as a humanitarian issue, Hanoi has used the POW/MIA issue as a means to influence public opinion in the United States and to achieve broader political objectives."

"There is a considerable body of evidence that the Vietnamese have detailed information on the fates of several hundred personnel. We estimate that the Vietnamese have already recovered and are warehousing between 400 and 600 remains. Thus, Hanoi could account quickly for several hundred U.S. personnel by returning warehoused remains and by providing material evidence that could aid in determining the fate of other personnel."

e. In response to Congressional requests in 1996 for declassification of the 1987 SNIE, Richard Bush, the National Intelligence Officer for East Asia, initiated an Intelligence Community Assessment challenging the SNIE. It concluded that "[s]ubsequent evidence does not support the Estimate's hypothesis that Hanoi held 400 to 600 sets of remains" since it was based on "limited direct evidence whose reliability was open to question."

2. That regarding the so-called "735" and "1205" documents from the Russian archives:

- they have not been the subject of a coordinated community-wide analysis. Elements of the Intelligence Community did contribute to a 1994 Department of Defense assessment and the State Department's Office of Intelligence and Research (INR) prepared several memorandum analyzing the documents;
- the 1994 DoD assessment and the 1993 INR analysis identified numerous errors in the documents and raised questions about their accuracy, but could not dismiss them as fabrications; and,
- time constraints have not allowed the Committee staff to completely investigate all activities taken since 1994, but attempts by the Intelligence Community to gain additional information on the documents appear to have been limited.

a. In the view of at least one senior Soviet official, the information contained in the "735" and "1205" documents was highly significant. They purport to be transcripts of secret wartime reports by North Vietnamese officials in which the number of American POWs captured and held in North Vietnam during the war was referenced. In the first document, dated 1971, a North Vietnam official states that "735" American POWs are being held. In the second document, dated 1972, another North Vietnamese official states that 1,205 American POWs are being held. Both numbers are significantly higher than the 591 American POWs who were actually released by Vietnam in 1973.

b. In 1993, the State Department, INR produced four memoranda analyzing the "735" and "1205" documents. These analyses were provided to State Department policymakers and distributed to other agencies interested in the POW-MIA issue. The State Department has provided these classified memoranda for Committee review. Because they are still classified, the Committee is unable to cite specific findings in the memoranda, but the conclusions were similar to those in the subsequent 1994 DOD assessment.

c. On January 24, 1994, the Department of Defense released a coordinated, interagency intelligence analysis titled, "Recent Reports on American POWs in Indochina: An Assessment." The analysis assessed the "1205" and the "735" and cast doubt on the accuracy of the numbers.[5] It Also included an assessment of the so-called "Dang Tan" reports, first surfaced to the public by the U.S. Government in 1971, which were based on a North Vietnamese defector who claimed Hanoi was holding approximately 800 Americans in the late 1960s. The assessment concludes in the case of:

The "735" document, that it "is too fragmentary to permit detailed analysis, but the numbers cited are inconsistent with our own accounting."

Footnotes follow at end of article.

The "1205" document, that it "is not what the Russian GRU claims it to be and the information suggesting that more than 600 additional POWs existed is not accurate. . . .we need more information to understand its origin and meaning."

The "Dang Tan" documents, that "the number was so much higher than the United States Government believed had been captured that it detracted from Tan's credibility on other points.

The concluding paragraph of the analysis stated, "[w]e believe there is more information in Russian, and particularly GRU, archives on this issue. There probably is also more information in Vietnamese party and military archives that could shed light on these documents. We continue to pursue information on these issues in both locations."

The Russians have persistently claimed that the "1205" and "735" documents were genuine Russian intelligence reports. The Vietnamese have dismissed the "735" and "1205" documents as fabrications.

Recently reviewed classified information in the hands of the U.S. Government provides additional germane information that was not factored into the above assessment. While this new data will contribute to a better understanding of the overall issue, to date it has not provided any definitive resolution to the outstanding questions of total numbers of American POW/MIAs known to the North Vietnamese in the early 1970s.

d. On June 19, 1996, during a House National Security Subcommittee hearing, Deputy Assistant Secretary of Defense for POW/MIA Affairs General James Wold was asked by Chairman Dornan, "General Wold, have you ever raised these Russian documents, "1205" and "735", with the Vietnamese . . . ?'" General Wold responded, "I have, probably 18 months ago, with the Minister of Foreign Affairs. The response was a lot of excited rebuttal. . . We have raised it. It's still a matter of interest. I still consider it [1205] a document to pursue." With a time constraint of two weeks the staff inquiry was not able to ascertain what steps, if any, have been taken by the U.S. Government since General Wold's testimony, and the 1994 analysis which concluded that Vietnam needed to be pressed for more information from its party archives to shed light on the "735" and "1205" documents. We note that personnel from the Defense POW/Missing Personnel Office have testified that Vietnam has not provided any such access to its wartime party archives. We also note that Vietnam has apparently not yet facilitated access to the "735" report's alleged author, Hoang Anh, who is reported to be living in retirement in Vietnam.

e. Although the 1994 analysis and General Wold's 1996 testimony emphasize the need to press for more information in order to better understand these documents, the analysis appears to have been used in at least one instance to justify dismissing further investigation. On March 21, 1997, Assistant Secretary of State for Legislative Affairs Barbara Larkin signed a letter in response to a Congressional request stating that the "1205" and "735" documents had not been raised with Vietnamese officials (specifically alleged "1205" author General Tran Van Quang) by the U.S. Charge d'Affaires in Vietnam because of "the interagency intelligence analysis released by the Department of Defense on January 24, 1994, in which the U.S. Government concluded that these documents were not a reliable source of information."

THE WHITE HOUSE,
Washington, April 10, 1997.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: You have requested clarification from me regarding Administration policy on POW/MIA issues with Vietnam, in view of a report recently provided to you by the Chairman and Vice-Chairman of the Senate Select Committee on Intelligence. I am happy to respond, and I realize that some Members of the Senate have linked these matters to a confirmation vote on Douglas "Pete" Peterson to be our first Ambassador to the Socialist Republic of Vietnam.

First, the President commits to continue to press the Government of Vietnam to cooperate on full accounting. We have established mechanisms through which the Vietnamese can respond to requests for information available only to them.

As you know, the President has determined that Vietnam is providing full-faith cooperation with U.S. efforts to obtain this information. We believe the President's determination is backed up by tangible assistance provided by Vietnam to the Department of Defense Joint Task Force (Full Accounting). I will direct the Intelligence Community to prepare a special National Intelligence Estimate on this matter, something that was last done in 1987. We will consult with the Chairman and Vice-Chairman of the Intelligence Committee concerning the terms of reference for this new study.

Second, we will take immediate steps to ensure that collection requirements pertaining to the POW/MIA issue remain as a high priority for the U.S. Intelligence Community, and we will stay in close contact with the Intelligence Committee on this matter.

Third, I will ask for an updated assessment from the Intelligence Community on the so-called "735" and "1205" documents from Russian archives. We will continue efforts already underway to acquire additional information on these documents from the Vietnamese Government, including access to the alleged "735" author Hoang Anh, as well as other relevant party and government archival materials.

Fourth, the President asserted when we agreed to establish diplomatic relations with Vietnam that our principal goal was to enhance the full accounting process. This issue will be Mr. Peterson's highest priority as Ambassador. This task will include pressing for additional unilateral efforts by the Government of Vietnam to provide records and remains. We, therefore, hope the full Senate will confirm Mr. Peterson at the earliest possible date.

I trust this is responsive to your concerns.

Sincerely,

SAMUEL R. BERGER,
Assistant to the President
for National Security Affairs.

Mr. SMITH of New Hampshire. At this point, Mr. President, I yield the floor to anyone else who may wish to speak on the issue.

Mr. HAGEL. Mr. President, I would like to add my thoughts regarding the nomination.

The PRESIDING OFFICER. The Chair would observe that the majority has 1 minute and 20 seconds remaining, and the minority manager, the distinguished Senator from Massachusetts, has 15 minutes.

Mr. SMITH of New Hampshire. I yield whatever time I have remaining to the Senator from Nebraska, and perhaps the Senator from Massachusetts might give him another minute.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Thank you, Mr. President. I will be very mindful of my distinguished colleagues' time. I too want to add my thoughts and thanks to my distinguished colleague from New Hampshire and fellow Vietnam veterans.

Mr. President, I join my colleagues tonight in confirming former Congressman Pete Peterson to be our Nation's Ambassador to the socialist Republic of Vietnam. Through his integrity, hard work, and bipartisan temperament, he has earned the highest possible regard of his former colleagues in Congress on both sides of the aisle, and I think that is evident tonight.

I can think of no other American better suited to be the first United States Ambassador to Vietnam, and I know, as do my colleagues, that Congressman Peterson will bring his integrity and unique personal experiences to this extraordinarily challenging job which we all wish him well with and we all will help him with.

As a Vietnam veteran, as my colleagues here in the Chamber, I know well how the issue of Vietnam has for so long divided this country, but all the Senate Vietnam veterans agree that not only is it time for the United States to have an Ambassador to Vietnam, we also agree that Congressman Peterson, soon to be Ambassador Peterson, is an outstanding choice for this difficult assignment.

A small minority of Americans continue to question whether this is appropriate, whether it is an appropriate

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[1] In response to a staff request for DCI's "input" on the President's certifications, an April 3, 1997 CIA letter to Committee staff states "[b]ecause the Defense Department's Defense POW/MIA Office (DPMO) is responsible for intelligence bearing on the POW/MIA issue, other elements of the Community were not formally involved in the certification process."

[2] In Presidential Determinations #96-28 and #97-10, the President noted his Administration's position that the related sections of Public Laws 104-134 and 104-208 are unconstitutional because they "purport to condition the execution of responsibilities—the authority to recognize, and to maintain diplomatic relations with, a foreign government—that the Constitutional commits exclusively to the President."

[3] On July 16, 1993, the Secretary of Defense consolidated four DoD offices located within the Washington, D.C. area. Each was charged with different functions of the prisoner of war/missing in action (POW/MIA) issue, but each dealt with the same mission: to obtain the fullest possible accounting for Americans missing from the nation's wars. The Intelligence Community's only POW/MIA analytical element, the Defense Intelligence Agency's Office of POW/MIAs Affairs, was transferred out of the National Foreign Intelligence Program.

[1] The 1993 Final Report of the U.S. Senate Select Committee on POW/MIA Affairs noted that the 1987 SNIE was the "only national intelligence estimate produced on this issue since the end of the war."

[5] This analysis effort and contributions from elements within the Intelligence Community, predominately from INR/State and the Defense Intelligence Agency. However, in July 1993, this 48-person Defense Intelligency Agency element was transferred in-total to the Defense POW/Missing persons Office, a policy office within the Office of the Secretary of Defense.

time in United States-Vietnam relations to have a United States Ambassador in Hanoi, and certainly those views deserve respect. Personally, however, I believe that the time for healing has, indeed, arrived, and Congressman Peterson is the one to lead us in that direction.

Congressman Peterson will bring not only his own experience to the POW Vietnam combat veteran, but he also has been a successful businessman and respected Member of Congress, the recipient of 18 military medals including the Legion of Merit, two Purple Hearts. He is a man of great personal strength and mind with something missing for too long in this business, a quiet dignity, a quiet confidence, a respect for others.

Clearly, President Clinton has chosen well with his nomination, and I am pleased to join with my colleagues in confirming Pete Peterson to be the first United States Ambassador to a united Vietnam.

On a personal note, Mr. President, I might add I bring him greetings from his family and his friends in Nebraska. The Congressman was off to a good start early on in life; he was born in Omaha, NE, and still has many relatives and friends there. And so that gives him probably an unfair advantage to be a most unusual and a most effective Ambassador for this country, and we wish him well.

Mr. President, I thank the Chair and I thank my distinguished colleague from Massachusetts and fellow Vietnam veteran for allowing me a little of his time.

I yield the floor.

Mr. KERRY. Mr. President, if I could just clarify one thing, I am not sure we did allow any of our time.

The PRESIDING OFFICER. The Senator from Massachusetts is correct. The Senator from Nebraska ended up precisely on the time that was allowed to him by the previous order. The Senator from Massachusetts is recognized and has 15 minutes.

Mr. KERRY. I thank the Chair. I ask for the similar interpretation of time on our side. I am glad to recognize the Senator from Illinois for 5 minutes.

Mr. DURBIN. I thank my colleague from Massachusetts for yielding.

What extraordinary symmetry, what exceptional justice this evening that we consider the nomination of Pete Peterson to be our first Ambassador to Vietnam.

Thirty-one years ago as an Air Force pilot, Pete Peterson was flying his 67th combat mission over Vietnam when his plane was shot down. He told me the story when we were colleagues in the House of Representatives. I will not forget that as long as I live, what he went through as that plane came crashing down and he was parachuting out, with broken bones and beaten up, run through the streets by the crowds and pushed into a prison cell, and then to spend 6½ years—6½ years—of his life as a prisoner of war, to come home finally in 1973 with all of the deserved tribute for his service to his country, to return to his home State of Florida and his family finally and then decide once again to make a commitment to this Nation and to run and serve in the House of Representatives and after three terms to be designated by the President of the United States, President Clinton, to be America's first Ambassador to Vietnam, the same country where his plane had crashed and where he had been a prisoner of war for so many years.

I say to my colleague, the Senator from Nebraska, who really said it so well, the quiet dignity of Pete Peterson will bring a lot to this job, the kind of stature which we need in those who speak for the United States.

He served this country well for 27 years in the Air Force, 6 years in the House of Representatives, and now once again we have called Pete Peterson into service for his country. To think that he will be returning to Vietnam to speak for this great Nation, to meet some of the people who may have rescued his body and thrown him in prison and today will be greeting him is an amazing turn in history. But it is appropriate.

I know what his agenda will be—not only to service this country well with honor, as he always has, but also to work diligently for a full accounting of the POWs/MIAs who were not accounted for from that conflict and also to bring some new level of understanding between our countries.

I think Pete Peterson is clearly the person for this task. We are fortunate tonight to have this bipartisan feeling about Pete Peterson and his confirmation as Ambassador to Vietnam.

I thank Senator LOTT as the majority leader, Senator DASCHLE on the minority side, Senator SMITH, particularly Senator JOHN MCCAIN of Arizona, a man who has lived this same experience, who carries those scars, and will for the rest of his life, as a prisoner of war in Vietnam, who worked diligently to bring Pete Peterson's nomination to the floor this evening. My hat is off to JOHN MCCAIN for his extraordinary efforts.

My colleagues, Senator KERRY and Senator REED, will speak as veterans of that war. I am not a veteran of that war, but I feel I am paying tribute to one of the best veterans of that war in Pete Peterson. This is his night and I want to tell him that it is time for the speeches to come to a close and for Pete Peterson's service to his country on a full-time basis to resume as our first Ambassador to Vietnam.

I yield back the remainder of my time.

Mr. DASCHLE. Mr. President, I am very pleased to speak today in support of the nomination of Congressman Pete Peterson to be our Ambassador to Vietnam. This day has been a long time coming, and I want to thank Congressman Peterson for his patience.

Mr. President, I traveled to Vietnam in 1991 as a member of the Select Committee on POW/MIA Affairs and then again in November 1996 as part of a congressional delegation. The change that has taken place in Vietnam in those 5 years is staggering. Vietnam is a dynamic country with great potential. The United States needs a full diplomatic presence in Hanoi to represent our interests in Vietnam adequately, and I am very pleased that this is about to happen.

Congressman Peterson is an excellent choice for a wide variety of reasons, not the least of which is his deep and personal understanding of our troubled history with Vietnam. He understands firsthand the toll of the war, and, while much good work has been done on the relationship between our two countries, much more remains to be done. Representative Peterson is among the best qualified to continue that work.

He is also eminently qualified to continue the work on one of our most important national priorities—achieving a full accounting of those Americans missing in action. In each of our meetings with Vietnamese Government officials during our recent trip, our congressional delegation stressed the high priority the United States places on resolving these remaining cases. The Vietnamese pledged ongoing cooperation, and I feel fully confident that Pete Peterson will see that we get it. As he pointed out in testimony before the Foreign Relations Committee, he has a personal stake in achieving the fullest possible accounting of those still missing, since many are personal friends of his.

In addition to the POW/MIA issue, I am happy that Congressman Peterson will be in Hanoi to help shepherd our developing economic and trade relations with Vietnam. Vietnam's interest in achieving full economic relations with the United States is clear. The most recent evidence was the agreement it reached last month with the United States to repay millions of dollars of debt incurred by South Vietnam for roads, power stations, and grain shipments during the Vietnam war.

Although the United States does not yet have full economic ties with Vietnam, its dynamic economy offers great trade opportunities for United States businesses. During my recent trip to Vietnam, we met with the United States Chamber of Commerce in Ho Chi Minh City. The size of that contingent was a graphic evidence of United States businesses' interest in United States economic ties with Vietnam.

There are many issues that need to be resolved in fashioning a comprehensive bilateral trade agreement with

Vietnam that is a prerequisite to full economic relations. In particular, Vietnam remains committed to a system of central planning, which conflicts with the free market economic principles it espouses. Work has begun on an agreement to resolve these issues, but much remains to be done. This is an important priority for the United States, as Congressman Peterson is well aware.

Another important issue that merits Congressman Peterson's attention is conveying to the Vietnamese the important priority the United States attaches to Vietnam's human rights practices. Despite its economic progress, Vietnam continues to impose restrictions on political and religious freedom. We must work with the Vietnamese to address these practices.

There is another issue to which I attach great importance, a fact that I stressed to each of the Vietnamese leaders I met with during my visit last November. For more than a decade, scientists in the United States and Vietnam had been working together to attempt to understand the health effects resulting from our use of agent orange during the Vietnam war. However, nearly 2 years ago, Vietnam executed a major change in policy with regard to their support of collaborative research between United States and Vietnamese scientists.

In June 1995, Vietnamese customs officers‘ seized without warning documents and specimens from a team of American scientists who had been on the first official scientific mission from the United States. All papers, even the most innocuous, such as curriculum vitaes, were confiscated. Newly collected specimens were also taken.

Though I find the seizure and subsequent refusal to return the materials or address the issue quite disturbing, I am even more concerned that this may be Vietnam's way of telling us that they no longer want to collaborate on this vitally important issue. To do so would be a shame, not only for our veterans and their families, but also for the Vietnamese. Just last February, the Wall Street Journal published an article that outlined the myriad of health problems and birth defects occurring among the Vietnamese who live in areas that were heavily sprayed. Here in the United States, many dioxin experts are now looking to research in Vietnam as the next step in fulfilling our commitment to conduct a comprehensive evaluation of the health effects of exposure to agent orange. Yet, without cooperation from Vietnam, our efforts to further understand these issues will fall short. We must press to obtain agreements for future cooperation on scientific issues of mutual importance, or we must have clear, rational explanations for why additional research is not warranted. The stonewalling is puzzling at best, and injurious at worst.

I received some positive signs from the Vietnamese during my trip, and corresponded with Do Muoi, General Secretary of the Communist Party, upon my return to secure an agreement to release the seized documents and specimens. Unfortunately, I have still not received a response to my inquiry. I have communicated to Congressman Peterson my concerns and interest in working with him in his new role to expeditiously resolve this issue. We owe it to American veterans and their families.

In conclusion, let me stress my belief that Congressman Peterson will be an important and valuable advocate of United States interests in Vietnam. I congratulate him and look forward to working with him in the coming years.

Mr. GRAHAM. Mr. President, I rise today in support of the nomination of my good friend Pete Peterson, and I urge his swift confirmation as our Ambassador to Vietnam. There is no better person for this job.

Just over 3 years ago I joined the majority of my Senate colleagues in encouraging President Clinton to lift the trade embargo against Vietnam. I did it because I was convinced that it would strengthen and expand joint United States-Vietnamese efforts to determine the fate of those POW's-MIA's still unaccounted for in Vietnam.

I was less certain about the establishment of full diplomatic relations with Vietnam. I feared that such a step would remove an important incentive to completing our efforts to determine the fate of every POW-MIA. But people like Pete Peterson and John McCain convinced me that reestablishing diplomatic relations was the best way to achieve our objectives in Vietnam—a full accounting of all POW's-MIA's; the implementation of democratic reforms and economic modernization; and respect of basic human rights and fundamental freedoms.

There is no person more qualified to achieve these noble objectives than Pete Peterson. After spending 6½ years as a prisoner of war in Vietnam—and having left so many of his friends behind—we all can take comfort in knowing that Pete will not rest until every single American POW and MIA is fully and honestly accounted for. This fact was recognized by the Veterans of Foreign Wars, who last year endorsed Pete's nomination.

Pete's qualifications as an advocate for economic freedom and U.S. business are also quite remarkable. He has served as a member of the House Small Business Committee, fighting for average Americans who are seeking the American dream by building their own businesses. Pete has demonstrated that he will be a fantastic advocate for American business in Vietnam.

Pete's experience as a prisoner of war gives him unique qualifications to speak frankly and honestly about human rights. As someone who lost every human right, every freedom, and nearly his life in Vietnamese prisons, Pete can speak from the heart on the importance of these basic human values in a way that few of us can. And I know that he will do a superb job.

And who could be more qualified to heal the wounds of the war, and to build bridges between the peoples of our two nations. Pete has often said that he "left the bitterness at the gate" when he left his prison in Vietnam. His leadership is a major reason that the United States and Vietnam are poised to begin a new era of friendly relations.

I have had the honor of working with Pete for the past 6 years. Pete represents everything that is great about our country. He is selfless—having served bravely in the Air Force, flying 67 combat missions over Vietnam, and 6½ years as a POW—Pete came home and went to work to make our country a better place. He has faced personal tragedy—losing his wife Carlotta to cancer—and moved on to make good come out of his suffering. And after 26 years in the U.S. Air Force, Pete felt compelled to continue a life of public service. Now having served for 6 years in the House of Representatives, Pete will return to Vietnam under very different circumstances than those under which he left. But he will continue his lifelong commitment to the American people, and I am honored to speak on behalf of this great American.

There is another quality that Pete possesses that I think will serve him well in his position as our Ambassador to Vietnam. That quality is patience. Pete has waited patiently for over a year for his nomination to come to the floor of the Senate. I am very pleased that Pete's long wait is about to come to an end, and I urge my colleagues to join me in voting to confirm Pete Peterson as the United States Ambassador to Vietnam.

Mr. KERRY. Mr. President, I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. I thank the Chair.

I rise with a great deal of pride to speak to the confirmation of Pete Peterson as our Ambassador to the Republic of Vietnam.

Simply stated, Pete Peterson is a great man. He was a great man before he ever put on the uniform of the U.S. Air Force because he is a man of outstanding character and a deep devotion to his family and country. As my friend and colleague, the Senator from Nebraska, pointed out, he has that rare quality of dignity and purpose, not flamboyant, but quiet and determinative.

Pete is a remarkable person. One of the great privileges I had in my life was to serve with him in the House of Representatives for 6 years. He brought all of this talent, this energy and this fierce patriotism to his work in every capacity. We all know the story. He was a young man, hailed from Nebraska, joined the U.S. Air Force, was in 1966 sent to Thailand, flew 66 missions in Vietnam and on his 67th mission he was shot down. He was captured. He spent 6½ grueling, arduous years in captivity in three different prison camps.

In all that time, not only did they not break his spirit but they could in no way touch that core of deep respect, regard for all people that he still maintains. He emerged from an experience, which would have seared and destroyed so many other people, unbroken, unbowed and without bitterness, a remarkable testimony to his character.

Pete could have returned in 1973 and said, I have done my duty as an Air Force officer, as a patriot. He returned, in fact, in 1973 to greet his wife, his beloved wife, who sadly passed away and will not see this triumph today but I am sure understands from where she is what a great day it is for Pete. He, in fact, saw for the first time a son he had never met.

Yet, despite all that, he still heard the call of his country, and he served with distinction the second district of Florida for 6 years.

There has been some controversy about this nomination, but it has not been about Pete Peterson because there is no one in this Chamber or in this country that I think ever doubted his capacity or commitment to serve as Ambassador to Vietnam. The controversy is about the issue of POW's and MIA's, which was articulated by the Senator from New Hampshire. Those are serious, important issues which cannot be neglected. Indeed, I believe Pete Peterson is the best person to address those issues.

He will go to Vietnam, a place where he has already spent one-tenth of his life, with the credibility of one who has served and with the vision of one who understands what went on there during the war and what we must do to bring our country and that country closer together. And he will not neglect the search for the unanswered questions of his comrades who are still missing and unaccounted for.

Pete has long been involved in this issue. He has, along with my distinguished colleague from Massachusetts, Senator KERRY, and the distinguished Senator from New Hampshire, been involved with the Vietnam working group. He has been involved with the U.S.-Russian joint commission on POW-MIA affairs. These gentlemen have committed themselves to search for the answers, and that type of commitment I know will resolve the question.

We have a great responsibility to develop a relationship, a mutually supportive relationship between the United States and the Republic of Vietnam. Pete Peterson can do that. He is not only a warrior but he is also a businessman. He understands that one of our challenges is to bring economic prosperity to both our countries, and he will be a leader in that regard also.

I believe the President has made the wisest choice possible with this nomination. We will vindicate and recognize that choice this evening, and we will send a strong message, a message of reconciliation and of progress, a message that wars will end and peace will be begun, and a message also that a life of service to your country, selfless service to your country, will be rewarded by further responsibilities commensurate with that service.

I, too, thank the majority leader and the Democratic leader, the Senator from New Hampshire, and particularly the Senator from Arizona for all his efforts to bring this nomination to the floor and, like Pete Peterson, also a heroic veteran of the war in Vietnam. As someone who served in the military for 12 years at that time but not in Vietnam, I recognize all of the tremendous contributions of the veterans of that war in this Chamber, in the other body and throughout our society. Pete Peterson will make us all proud but particularly those brave men and women who served in Vietnam.

I thank the Senator. I yield back the remainder of my time.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I yield myself such of the remaining time as I may use.

I thank the majority leader for his efforts to bring this nomination to the floor this week so that the Senate may act on it rapidly. It is a nomination that has been overdue, and it is important that we proceed.

I think it is safe to say that with this nomination and with the approval of the Senate, which I expect, we really begin the process in earnest of ceasing to treat Vietnam as a war and beginning in earnest to treat it like a country. That is an enormous transition for this country, and we have traveled a difficult journey through these years.

As a friend and one who has worked closely with Pete Peterson on the POW-MIA issue, I really cannot think of a better person to be our Ambassador to Vietnam. Pete Peterson, Senator MCCAIN, Senator SMITH, myself, and others have spent an enormous amount of time, energy, and a great deal of the taxpayers' money of this country trying to ensure that the families of American servicemen missing from the war in Vietnam get answers.

There is absolutely no doubt, Mr. President, that many families have gotten those answers in the last years as a result of the accounting process that we now have in place. But I recognize that for some whose loved ones were lost in that wrenching war questions remain. I am convinced personally that having an ambassador in the country, having an American flag again flying in Hanoi and elsewhere in the country will provide us with the opportunity to be able to leverage those answers. Having a man who himself served, as both of my colleagues so eloquently stated, 6½ years of his life as a prisoner of war in Vietnam will enhance our credibility and greatly facilitate our ability to be able to find those answers.

As a fighter pilot, as a POW, Pete Peterson has served this Nation with enormous distinction and courage. When he returned from the war, as we know, he became a successful businessman and served in Congress. During that period he served as chairman of the Vietnam working group of the United States-Russia Joint Commission On POWs. He returned to Vietnam twice already in order to meet with Vietnamese officials and travel throughout the countryside, both to find answers as well as to understand what Vietnam is like today. It is entirely appropriate that Congressman Peterson should therefore return to Vietnam as our first ambassador since the war and literally help to bridge the gap that remains between our two countries. He went once in war, and as our ambassador he would now go in peace. I cannot think of greater poetic symmetry.

I know he has the ability as well as, if not better than, anyone to understand and explain to the Vietnamese, and to others, the full breadth of the emotions that the Vietnam war has generated among us in this country for 30 years or more. His experience as a prisoner gives him the extraordinary standing and importance to represent our country in all of the ramifications of the war. No one in Vietnam could doubt his word or his intentions, because he has gone through his own personal process of resolution, and he has emerged from that process prepared to return to Vietnam and build a normal relationship between that country and the United States. No one in this country could or should doubt his desire and determination to complete the process of POW-MIA accounting or his commitment to the principles of our country, which he fought for, which are still at issue with respect to our relationship with Vietnam.

So, as Ambassador, Congressman Peterson will confront those issues that are personal, and he will confront a set of issues that are critically important to the regional and bilateral interests of the United States: Vietnam's relationships with its neighbors, particularly China; legal and political reform within Vietnam; human rights; trade. I have every confidence in his ability to deal with these issues effectively. He has publicly expressed his willingness and enthusiasm to take on the job, and he comes in with a deep belief in our ability to build a viable and important relationship with Vietnam.

I had the privilege of traveling in Vietnam on one of those trips with Pete Peterson. I have witnessed myself his personal journey of rediscovery and his determination to keep faith with his fellow veterans. I know he will represent us extraordinarily well as the first ambassador since the war. And I say to all those who have legitimately expressed concerns—Senator SMITH has been as dogged and as determined as any person in the U.S. Senate to get these answers, and I admire that. I would say to him and to anyone else who might fear that sending an ambassador to Vietnam would lessen our ability to get answers, I say look at the record of the last few years and look at Pete Peterson. He and that record show that by having him there, I think families can rest assured that they will have the greatest connection to their past, to his past, and to our past, and to our future. That future will be a future that will sustain this POW-MIA accounting effort and also sustain the principles for which their loved ones, and Pete Peterson, fought.

So I look forward to the Senate finally accepting this moment. I thank the Senator from New Hampshire and others who have helped to bring us to this important point.

Mr. SMITH of New Hampshire. I ask unanimous consent to have three letters printed in the RECORD.

Mr. President, I ask unanimous consent that a letter to Senator LOTT from the executive director of the National League of Families, Ann Mills Griffiths, a letter from the Disabled American Veterans to Senator LOTT, and a letter from The American Legion to Senator LOTT be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL LEAGUE OF FAMILIES OF
AMERICAN PRISONERS AND MISSING
IN SOUTHEAST ASIA,
Washington, DC, April 9, 1997.
Hon. TRENT LOTT,
Senate Majority Leader, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LOTT: It is our understanding that an interim report on intelligence regarding the issue of our missing relatives will soon be forwarded from the Senate Select Committee on Intelligence. We further understand that this report is linked to the confirmation vote on Congressman Pete Peterson as our new US Ambassador to Vietnam.

For many years, the National League of Families has supported a policy of reciprocity; that is still our policy. Unfortunately, the Clinton Administration has not provided incentives in advance, but inaccurately justified each step on the basis of POW/MIA cooperation to include the President's certification to Congress that Vietnam is "cooperating in full faith." Official information on which we have always relied does not support this certification. We are confident that an objective oversight effort will confirm what we know.

On May 7th, a League Delegation will again travel to Laos, Vietnam and Cambodia to hold discussions with the leadership of each country. Our last such trip was in 1994. It is our sincere hope that whatever the outcome of current Senate deliberations, a clear signal will be sent to Vietnam and the Clinton Administration that further unilateral actions on the POW/MIA issue by the government of Vietnam are expected and will be a continuous subject of Senate oversight. This signal is overdue and will help not only our delegation, but reinforce Congressman Peterson when he undertakes his difficult mission.

We are grateful for the concern shown by the Senate and look forward to providing you the results of our upcoming trip.

Respectfully,
ANN MILLS GRIFFITHS,
Executive Director.

DISABLED AMERICAN VETERANS, NATIONAL SERVICE AND LEGISLATIVE HEADQUARTERS,
Washington, DC, April 7, 1997.
Hon. TRENT LOTT,
Senate Majority Leader, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LOTT: The Disabled American Veterans is deeply concerned for the thousands of American servicemen still unaccounted for in the aftermath of the Vietnam War. Since the end of that war, numerous efforts by high level American delegations, including members of Congress, have visited Southeast Asia in continuing efforts to resolve the fate of these brave men without success.

Although the Socialist Republic of Vietnam has committed to renew and increase their unilateral, as well as joint efforts, to account for America's POW/MIAs, we have seen no meaningful efforts taken by Vietnam to account for our missing service personnel.

This is particularly true with regards to the unilateral actions which Vietnam should be able to undertake to account for a large number of our POW/MIAs based on the case assessments prepared by our government last year. These case assessments showed that the Vietnamese should be able to provide information on at least 400 POW/MIAs. To date, the Vietnamese have failed to come forth with information on these individuals to any significant extent.

As a result of Vietnam's failure to provide the fullest possible accounting of our POW/MIAs, the delegates at our last National Convention in New Orleans, Louisiana, July 28–August 1, 1996, passed a resolution expressing our opposition to further economic and political relations between the United States and the Socialist Republic of Vietnam. Accordingly, it is our firm belief that the confirmation of a U.S. Ambassador to Vietnam should be postponed until there is tangible evidence of Vietnam's commitment to provide the fullest possible accounting of our POW/MIAs. Our position does not mean that the DAV is opposed in any way to the individual nominated by President Clinton.

I would appreciate learning of your views on this matter.

Sincerely,
DAVID W. GORMAN,
Executive Director, Washington Headquarters.

THE AMERICAN LEGION,
WASHINGTON OFFICE,
Washington, DC, April 3, 1997.
Hon. TRENT LOTT,
Senate Majority Leader, U.S. Senate,
Russell Senate Office Bldg., Washington, DC.

DEAR SENATOR LOTT: The American Legion urges you in the strongest possible terms not to proceed with Senate confirmation of a United States Ambassador to Vietnam. While the Legion does not question the personal fitness of the nominee himself, we believe it is premature to approve any nomination for an Ambassador to Vietnam at this time.

We know that many others share The American Legion's concern that Vietnam has failed to take the necessary actions to achieve the fullest possible accounting of missing Americans from the war in Southeast Asia.

This is particularly true with regard to the unilateral actions Vietnam should be able to immediately undertake to repatriate remains, which would dramatically increase accountability. In fact, the purpose of last year's Presidential Delegation to Vietnam, Laos and Cambodia, on which The American Legion was represented, was to gain commitments from the Vietnamese government to take just such unilateral actions.

However, despite the pledges by Vietnamese officials with whom the Delegation met, Vietnam has not been forthcoming to any appreciable extent. Enclosed is a copy of a letter to President Clinton expressing The American Legion's concerns about the trip report from last year's Presidential Delegation to Vietnam. This report was a basis for the President's decision to certify Vietnam's cooperation on the POW/MIA issue.

Vietnam also promised to turn over military archival and documentary evidence as well as other records which would lead to additional accountability. However, such disclosures have not been forthcoming to any significant extent.

Finally, recent reports of illegal campaign financing by Indonesian businessman Mr. Mochtar Riady of the Lippo Group (who advocated normalizing U.S. relations with Vietnam) have raised serious concerns about possible improper influence of official U.S. policy. These are disturbing reports which The American Legion takes very seriously. We firmly believe that Senate action on the confirmation of a U.S. Ambassador to Vietnam should be delayed until Congressional Hearings into these matters have concluded.

The American Legion does not support or oppose any nomination put forth by the President for any office of government. However, with respect to the process, we are adamantly opposed to moving forward with the confirmation of an Ambassador to the Socialist Republic of Vietnam until such time that Hanoi is fully forthcoming in an effort to honestly resolve the remaining cases of our missing American servicemen.

Sincerely,
JOSEPH J. FRANK,
National Commander.

Mr. BIDEN. Mr. President, I am pleased to support the nomination of former Congressman Pete Peterson for the Post of Ambassador to Vietnam. At this critical juncture in our relations with Vietnam and Southeast Asia there are many important United States interests that can be advanced only with the presence of an able Ambassador in Hanoi.

The most important of these interests is the continued accounting for our POW/MIA's. A Vietnam veteran and former prisoner of war, Pete Peterson has both a professional and profoundly personal stake in ensuring the fullest possible accounting of his comrades-in-arms. As ambassador, he has pledged to make achieving that goal his highest priority.

In addition to enhancing cooperation on the POW/MIA issue, Peterson will be charged more broadly with encouraging and facilitating Hanoi's entry as a peaceful, cooperative member of the community of nations. Vietnam has begun working with us in the important area of counternarcotics, and this cooperation should be expanded to curtail the flow of heroin and other deadly drugs from Southeast Asia to our shores. We have also begun a dialogue on human rights which must be buttressed by expanded cultural ties and educational opportunities.

The advocacy of a strong United States Ambassador coupled with the collective efforts of the American people and numerous nongovernmental organizations can do much to foster greater Vietnamese respect for international norms in the areas of human rights, democracy, and religious freedom.

Finally, approving the nomination of Congressman Peterson as Ambassador to Hanoi will greatly assist efforts already underway to advance United States economic interests in Vietnam and throughout Southeast Asia. Vietnam has made significant progress toward transforming its inefficient centrally planned economy to a market-based economy, and it is actively seeking foreign participation in its economic development. Vietnam's efforts to rebuild its infrastructure and modernize its economy present great opportunities for United States businesses in the areas of energy, telecommunications, health, education, tourism, and environmental protection. But for United States firms to compete successfully with the numerous foreign companies already doing business in Vietnam, the administration must negotiate and Congress must approve a comprehensive bilateral trade agreement. As Ambassador, Peterson will play a central role in expediting negotiations on an agreement which will safeguard U.S. commercial interests in the fastest growing region of the world.

There are some who have speculated about the administration's motives for normalizing relations with Vietnam at this time, questioning whether officials from the Lippo Group or other United States businesses with prospective commercial interests in east Asia sought to influence the decision in exchange for their campaign contributions to the Democratic National Committee.

As our colleague, Senator MCCAIN—like Congressman Peterson a former POW—noted at Congressman Peterson's confirmation hearing, "This rumor is entirely unsubstantiated by fact." President Bush and Secretary Baker put the United States firmly on the path toward normalization in 1989 when they drafted a "road map" whose goal was the establishment of full diplomatic relations.

The pace of normalization has actually slowed during the Clinton administration. As Senator MCCAIN stated during the Foreign Relations Committee hearing, the Clinton administration was worried about the political ramifications for the President in making a decision to normalize—with the veterans organizations and others—and was not possessed with concern about helping business interests, whether domestic or foreign.

In short, we have reached the point of preparing to exchange ambassadors because of the bipartisan conviction that normalizing relations is in our best interests. It had nothing to do with foreign lobbyists or contributions to any Presidential campaign.

Peterson traveled first to Vietnam 30 years ago as an Air force fighter pilot. He served his country nobly, receiving two Silver Stars, several Bronze Stars, and two Purple Hearts. he flew 66 combat missions over Vietnam before his aircraft was downed near Hanoi on September 10, 1966. He then endured almost 7 years of unimaginable hardship as a prisoner of war, before finally returning home in March 1973.

Now he seeks to return to Vietnam, not as a warrior, but as an ambassador of peace, helping to heal old wounds and bring Vietnam into the world community after 30 years of isolation. It is a testament to Congressman Peterson's commitment to public service that he is willing to take on this difficult mission. I wish him God's speed.

The PRESIDING OFFICER. The question is on the confirmation of the nomination.

Without objection, the nomination is confirmed.

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

MORNING BUSINESS

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent the Senate now go to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kentucky is recognized.

MESSAGES FROM THE HOUSE

At 12 noon, a message from the House of Representatives, delivered by Ms. Geotz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 240. An act to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

ENROLLED BILL SIGNED

At 12:11 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 412. An act to approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District.

The enrolled bill was signed subsequently by the President pro tempore [Mr. THURMOND].

At 2:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1003. An act to clarify Federal law with respect to restricting the use of Federal funds in support of assisted suicide.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 240. An act to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes; to the Committee on Veterans' Affairs.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

S. 543. A bill to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1490. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on the military capabilities of the People's Republic of China; to the Committee on Armed Services.

EC-1491. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 95-12; to the Committee on Appropriations.

EC-1492. A communication from the Assistant Secretary of the Interior for Indian Affairs, transmitting, pursuant to law, a rule entitled "Indian Country Law Enforcement"

(RIN1076-AD56) received on April 4, 1997; to the Committee on Indian Affairs.

EC-1493. A communication from the Acting Director of the Office of Surface Mining (Reclamation and Enforcement), Department of the Interior, transmitting, pursuant to law, three rules including a rule entitled "The Iowa Regulatory Program" (IA-009-FOR, HO-004-FOR, AK-005-FOR); to the Committee on Energy and Natural Resources.

EC-1494. A communication from the Assistant Secretary of the Interior for Policy, Management and Budget, transmitting, pursuant to law, an acquisition regulation (RIN1090-AA60) received on April 8, 1997; to the Committee on Energy and Natural Resources.

EC-1495. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues and where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-1496. A communication from the Assistant Attorney General, transmitting, a draft of proposed legislation to include American Samoa in the Act of October 5, 1984; to the Committee on Energy and Natural Resources.

EC-1497. A communication from the Chair of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on Energy and Natural Resources.

EC-1498. A communication from the Acting General Counsel of the Department of Energy, transmitting, pursuant to law, a rule entitled "Final Power Allocations of the Post-2000 Resources Pool" received on April 7, 1997; to the Committee on Energy and Natural Resources.

EC-1499. A communication from the Acting Secretary of Energy, transmitting, pursuant to law, a report entitled "District Heating, Cooling, and Cogeneration: Benefits, Constraints, and Recommendations"; to the Committee on Energy and Natural Resources.

EC-1500. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCAIN (for himself, Mr. Domenici, Mr. Dorgan, and Mr. Thomas):

S. 545. A bill to provide for the reorganization of the Bureau of Indian Affairs, and for other purposes; to the Committee on Indian Affairs.

By Mr. LEAHY (for himself, Mr. Gregg, Mr. Jeffords, Ms. Snowe, Ms. Collins, Mr. Smith, Mr. Moynihan, Mr. Kerry, Mr. Kennedy, Mr. Reed, and Mr. D'Amato):

S. 546. A bill to implement the recommendations of the Northern Forest Lands Council; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. McCAIN (for himself, Mrs. Hutchison, Mr. Lott, Mr. Stevens, Mr. Nickles, Mr. Craig, Mr. Ashcroft, and Mr. Warner):

S. 547. A bill to provide for continuing appropriations in the absence of regular appropriations for fiscal year 1998; to the Committee on Appropriations.

By Mr. ROBERTS:

S. 548. A bill to expand the availability and affordability of quality child care through the offering of incentives to businesses to support child care activities; to the Committee on Finance.

By Mr. LUGAR:

S. 549. A bill to amend the Internal Revenue Code of 1986 to provide that certain cash rentals of farmland will not cause recapture of special estate tax valuation; to the Committee on Finance.

S. 550. A bill to amend the Internal Revenue Code of 1986 to increase the gift tax exclusion to $25,000; to the Committee on Finance.

By Mr. GREGG:

S. 551. A bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions; to the Committee on Labor and Human Resources.

By Mr. GREGG (for himself, Mr. Leahy, Mr. Jeffords, Ms. Collins, Ms. Snowe, and Mr. Smith):

S. 552. A bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes; to the Committee on Finance.

By Mr. KERRY:

S. 553. A bill to regulate ammunition, and for other purposes; to the Committee on the Judiciary.

By Mr. HARKIN:

S. 554. A bill to inform and empower consumers in the United States through a voluntary labeling system for wearing apparel or sporting goods made without abusive and exploitative child labor, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ALLARD:

S. 555. A bill to amend the Solid Waste Disposal Act to require that at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund be distributed to States to carry out cooperative agreements for undertaking corrective action and for enforcement of subtitle I of that Act; to the Committee on Environment and Public Works.

By Mr. INHOFE (for himself, Mr. Hutchinson, Mr. Helms, Mr. Cochran, Mr. Nickles, and Mr. Sessions):

S. 556. A bill to provide for the allocation of funds from the Mass Transit Account of the Highway Trust Fund, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. McCONNELL (for himself and Mr. Inhofe):

S. 557. A bill to amend the Clean Air Act to exclude beverage alcohol compounds emitted from aging warehouses from the definition of volatile organic compounds; to the Committee on Environment and Public Works.

By Mr. BIDEN (for himself and Mr. Grassley):

S. 558. A bill to provide for a study and report regarding the potential recruitment, hiring, or retention of qualified former officers of the Royal Hong Kong Police by Federal law enforcement agencies; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself and Mr. Kennedy) (by request):

S. 559. A bill to amend the Internal Revenue Code of 1986 to provide tax relief to middle income families who are struggling to pay for college, to amend the Higher Education Act of 1965 to provide significantly increased financial aid for needy students, provide universal access to postsecondary education, reduce student loan costs while improving student loan benefits, to streamline the Federal Family Education Loan Program, and for other purposes; to the Committee on Finance.

S. 560. A bill to amend the Higher Education Act of 1965 to provide significantly increased financial aid for needy students, provide universal access to postsecondary education, reduce student loan costs while improving student loan benefits, to streamline the Federal Family Education Loan Program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SHELBY:

S. 561. A bill to require States receiving prison construction grants to implement requirements for inmates to perform work and engage in educational activities, to eliminate certain sentencing inequities for drug-offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mr. Faircloth, Mr. Bennett, Mr. Sarbanes, Mr. Dodd, Mr. Kerry, Mr. Bryan, Mrs. Boxer, Ms. Moseley-Braun, Mr. Johnson, and Mr. Reed):

S. 562. A bill to amend section 255 of the National Housing Act to prevent the funding of unnecessary or excessive costs for obtaining a home equity conversion mortgage; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. COCHRAN (for himself, Mr. Hutchinson, Mr. Nickles, and Mr. Shelby):

S.J. Res. 25. A joint resolution disapproving the rule of the Occupational Safety and Health Administration relating to occupational exposure to methylene chloride; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself, Mr. Leahy, Mrs. Murray, Mr. Reid, Mr. Harkin, Ms. Landrieu, Ms. Mikulski, Mr. Durbin, Ms. Moseley-Braun, Mr. Kennedy, and Mr. Kerry):

S. Res. 70. A resolution expressing the sense of the Senate regarding equal pay for equal work; to the Committee on Labor and Human Resources.

By Mr. BROWNBACK (for himself, Mr. Robb, Mr. Helms, and Mr. Biden):

S. Con. Res. 20. A concurrent resolution expressing the sense of Congress regarding the status of the investigation of the bombing of the Israeli Embassy in Buenos Aires in 1992; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCain (for himself, Mr. Domenici, Mr. Dorgan and Mr. Thomas):

S. 545. A bill to provide for the reorganization of the Bureau of Indian Affairs, and for other purposes; to the Committee on Indian Affairs.

THE BUREAU OF INDIAN AFFAIRS REORGANIZATION ACT

Mr. McCain. Mr. President, I am pleased to introduce legislation to reorganize and restructure the Bureau of Indian Affairs. I am joined by Senators Domenici, Dorgan, and Thomas as original cosponsors of this legislation.

This legislation is virtually identical to the bill that was approved by the Indian Affairs Committee and reported to the Senate on January 26, 1996. Unfortunately, the Congress did not complete action on that bill prior to the end of the 104th Congress. This legislation is intended to build on the agreements contained in last year's bill and stimulate further discussions in Congress and among the tribes about the many problems in the management and operation of the Bureau of Indian Affairs.

I will not take the time of the Senate to reiterate the long history of efforts to reform the Bureau of Indian Affairs. Suffice it to say, after more than 150 years of proposals, reports, hearings, and other efforts, the Bureau of Indian Affairs remains a hindrance, not a help, to our Native American population.

Since 1824, the Bureau of Indian Affairs has been the principal agency of the Federal Government which is responsible for meeting this Nation's trust responsibility to American Indians and Alaska Natives. Yet, based on the health, social, and economic conditions on Indian reservations, the Bureau has failed miserably in carrying out its responsibilities.

Just take a brief look at the statistics on native American quality of life.

Nearly one of every three native Americans in this Nation lives in poverty, including half of the families and half of the children under the age of 6 living on Indian reservations.

Unemployment on Indian reservations exceeds 25 percent, and the per capita income for an Indian living on the reservation is $4,478.

Approximately 90,000 Indian families are homeless or underhoused, with nearly one in five Indian families living on the reservation classified as severely overcrowded. One of every five Indian homes lacks complete plumbing facilities.

It is long past time to change the way this Nation deals with American Indians. It is time to break down the barriers to true tribal self-governance and self-determination by providing Indian tribes the authority to design both the structure and function of their trustee, the Bureau of Indian Affairs.

This bill I am introducing today will enable the Congress, the tribes, and the administration to work together to enact the basic reforms in the management and organization of the Bureau of Indian Affairs that are necessary to improve the quality of life of native Americans today. This bill will provide an opportunity for Indian tribes to participate in the reshaping and redefining of the trust relationship with the Federal Government.

For a detailed explanation of the provisions of this bill, I refer my colleagues to the text of the bill which follows, and to Senate Report 104–227 accompanying the legislation reported from the Indian Affairs Committee last year, which is the basis for this legislation.

Mr. President, the reintroduction of this bill marks only the first step in achieving meaningful reform of the Bureau of Indian Affairs. I remain committed to working with the new chairman of the Indian Affairs Committee, Senator Campbell, my colleagues in both Houses of Congress, the administration, and most importantly, the Indian tribes to ensure that this legislation meets the goal of real and necessary change in the Bureau. I look forward to our discussions, and I urge my colleagues to join in sponsoring this bill to ensure prompt enactment of this important and much-needed legislation to reorganize the Bureau of Indian Affairs.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, PURPOSES, TABLE OF CONTENTS, AND DEFINITIONS.

(a) Short Title.—This Act may be cited as the "Bureau of Indian Affairs Reorganization Act of 1997".

(b) Purposes.—The purposes of this Act are—

(1) to ensure the meaningful involvement of Indian tribes as full negotiation partners with the United States in all efforts to reorganize and restructure the Bureau of Indian Affairs; and

(2) to ensure the active participation by Indian tribes in the development of the budget requests for the Bureau of Indian Affairs and the Indian Health Services which are submitted to the President by the Secretary of the Interior and the Secretary of Health and Human Services for inclusion in the annual budget request submitted by the President to the Congress pursuant to section 1108 of title 31, United States Code.

(c) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title, purposes, table of contents, and definitions.

TITLE I—REORGANIZATION COMPACTS

Sec. 101. Reorganization of area offices.
Sec. 102. Reorganization of agency offices.
Sec. 103. Reorganization of central office.
Sec. 104. Authority to spend funds.
Sec. 105. Savings provisions.
Sec. 106. Additional conforming amendments.
Sec. 107. Authorization of appropriations.
Sec. 108. Effective date.
Sec. 109. Separability.
Sec. 110. Suspension of certain administrative actions.
Sec. 111. Statutory construction.
Sec. 112. Tribal authority recognized.
Sec. 113. Renegotiation authority.
Sec. 114. Disclosure of information.

TITLE II—AMENDMENT TO THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

Sec. 201. Budget development.

TITLE III—REFORM OF THE REGULATIONS OF THE BUREAU OF INDIAN AFFAIRS

Sec. 301. BIA Manual.
Sec. 302. Task force.
Sec. 303. Authorization of appropriations.

(d) Definitions.—For purposes of this Act, the following definitions shall apply:

(1) Area office.—The term "area office" means 1 of the 12 area offices of the Bureau of Indian Affairs in existence on the date of enactment of this Act.

(2) Area office plan.—The term "area office plan" means a plan for the reorganization of an area office negotiated by the Secretary and Indian tribes pursuant to section 101.

(3) Agency office.—The term "agency office" means an agency office of the Bureau of Indian Affairs in existence on the date of enactment of this Act.

(4) Agency office plan.—The term "agency office plan" means a plan for the reorganization of an agency office negotiated by the Secretary and Indian tribes pursuant to section 102.

(5) BIA manual.—The term "BIA Manual" means the most recent edition of the Bureau of Indian Affairs Manual issued by the Department of the Interior.

(6) Bureau.—The term "Bureau" means the Bureau of Indian Affairs.

(7) Central office.—The term "central office" means the Central Office of the Bureau, and includes the offices of the Central Office that are housed in Washington, D.C. and Albuquerque, New Mexico.

(8) Central office plan.—The term "central office plan" means the plan for the reorganization of the central office negotiated by the Secretary and Indian tribes pursuant to section 103.

(9) Department.—The term "Department" means the Department of the Interior.

(10) Director.—The term "Director" means, with respect to an area office, the Director of the area office.

(11) Function.—The term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(12) Indian tribe.—The term "Indian tribe" has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(13) Secretary.—The term "Secretary" means the Secretary of the Interior.

(14) Superintendent.—The term "Superintendent" means the Superintendent of an agency office.

(15) Tribal priority allocation account.—The term "tribal priority allocation account" means an account so designated by the Bureau, with respect to which program priorities and funding levels are established by individual Indian tribes.

(16) Tribal recurring base funding.—The term "tribal recurring base funding" means recurring base funding (as defined and determined by the Secretary) for the tribal priority allocation accounts of an Indian tribe allocated to a tribe by the Bureau.

TITLE I—REORGANIZATION COMPACTS

SEC. 101. REORGANIZATION OF AREA OFFICES.

(a) In General.—Notwithstanding any other provision of law—

(1) not later than 30 days after the date of enactment of this Act, the Secretary shall notify in writing each Indian tribe served by an area office of the time and place of the initial prenegotiation meeting to establish a schedule for negotiations under this subsection; and

(2) not later than 150 days after the date of enactment of this Act, the Secretary shall conclude negotiations with the Indian tribes served by each area office on a reorganization plan for the area office.

(b) Contents of Area Office Plans.—

(1) In general.—Each area office plan that is prepared pursuant to this subsection shall provide for the organization of the area office covered under the plan. To the extent that a majority of the Indian tribes served by the area office do not exercise the option to maintain current organizational structures, functions, or funding priorities pursuant to paragraph (3), the reorganization plan shall provide, with respect to the area office covered under the plan, for—

(A) the reorganization of the administrative structure of the area office;

(B) the reallocation of personnel (including determinations of office size and functions);

(C) the delegation of authority of the Secretary to the Director, Superintendents, or Indian tribes;

(D) transfers of functions;

(E) the specification of functions—

(i) retained by the Bureau; or

(ii) transferred to Indian tribes served by the area office;

(F) the issuance of waivers or other authorities by the Secretary so that functions and other responsibilities of the Secretary may be carried out by the area office or transferred to Indian tribes;

(G) the promulgation of revised regulations relating to the functions of the area office that are performed by the area office or transferred to Indian tribes;

(H) the reordering of funding priorities; and

(I) a formula for the transfer, to the tribal recurring base funding for each Indian tribe served by the area office, of unexpended balances of appropriations and other Federal funds made available to the area office in connection with any function transferred to Indian tribes pursuant to subparagraph (E)(ii).

(2) Share of funding.—An area office plan shall include, for each Indian tribe served by the area office, a negotiated determination of the share of the funds used by the area office on an annual basis that is used to support functions and services of the Indian tribe (in this subsection referred to as the "tribal share").

(3) Option of maintenance of current status.—At the option of a majority of the Indian tribes served by an area office, a reorganization plan may provide for the continuation of organizational structures, functions, or funding priorities of the area office that are substantially similar to those in effect at the time of the negotiation of the area office plan.

(4) Approval of area office plan by Indian tribes.—

(A) In general.—On the date on which the negotiation of an area office plan is concluded, the Secretary shall submit the plan to the Indian tribes served by the area office for approval.

(B) Effect of failure of Indian tribe to approve plan.—If an Indian tribe served by an area office fails to approve an area office plan by the date that is 60 days after the Secretary submits the plan pursuant to subparagraph (A) to the Indian tribes served by that office, the plan shall be considered to have been disapproved by that Indian tribe.

(C) Reorganization compact.—If, by the date specified in subparagraph (B), a majority of the Indian tribes approve the area office plan by tribal resolution or other official act of the governing body of each Indian tribe involved, the Secretary shall enter into a reorganization compact pursuant to subsection (c).

(5) Single tribe area office.—Not later than 30 days after the date of enactment of this Act, the Secretary shall notify in writing an Indian tribe that is served by an area office that serves only that Indian tribe of the time and place of the initial prenegotiation meeting to establish a schedule for negotiations for an area office plan. If, by not later than 60 days after the date of enactment of this Act, an Indian tribe that is served by an area office that serves only that Indian tribe notifies the Secretary in writing that the Indian tribe elects to enter into negotiations with the Secretary to prepare a reorganization plan for the area office—

(A) not later than 150 days after the date of enactment of this Act, the Secretary shall conclude such negotiations; and

(B) if, by the date that is 60 days after the date specified in subparagraph (A), the Indian tribe approves the area office plan by tribal resolution or other official act of the governing body of the Indian tribe, the Secretary shall enter into a reorganization compact with the Indian tribe to carry out the area office plan.

(6) Option to take tribal share.—

(A) In general.—If—

(i) by the date specified in paragraph (4)(B), a majority of the Indian tribes served by an area office fail to approve an area office plan, an Indian tribe may, not later than 60 days after the date specified in paragraph (4)(B), notify the Secretary in writing that the Indian tribe elects to receive directly the tribal share of the Indian tribe; or

(ii) by the date specified in paragraph (5)(B), the Indian tribe served by an area office fails to approve an area office plan, the Indian tribe may, not later than 60 days after the date specified in paragraph (5)(B), notify the Secretary in writing that the Indian tribe elects to receive directly the tribal share of the Indian tribe.

(B) Agreement.—Not later than 30 days after the date on which the Secretary receives a notice under subparagraph (A), the Secretary shall enter into an agreement with the Indian tribe for the immediate and direct transfer to the Indian tribe of an amount equal to the tribal share (after taking into account any residual amount determined under clause (i)), or if the agreement covers a period of less than 12 months, a prorated amount of the tribal share (after taking into account any residual amount determined under clause (i)). The agreement shall include—

(i) a negotiated determination of the amount, if any, of residual Federal funds to be retained by the Secretary for the area office that are minimally necessary to carry out trustee and other functions of the Federal Government that are not delegable to the Indian tribes served by the area office; and

(ii) a negotiated description of the responsibilities to be carried out by—

(I) the area office; and

(II) the Indian tribe.

(7) Self-determination and self-governance authorities not affected.—If an Indian tribe exercises the option to receive a tribal share of funds in accordance with paragraph (6), the exercise of that option may not be construed to limit or restrict any right of that tribe or any other tribe to receive funds under title I or IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), and funds received under that Act may be included as part of the tribal share identified in paragraph (6).

(8) Secretarial authority.—If, by the date specified in subsection (c), a majority of the Indian tribes served by an area office fail to approve the plan pursuant to paragraph (4), the organizational structure, functions, and funding priorities of the area office in effect at the time of the negotiation of the area office plan shall be determined by the Secretary, in consultation with the Indian tribes served by that area office, and in a manner consistent with the exercise by any Indian tribe of the option to receive directly the tribal share of the Indian tribe under paragraph (6).

(c) Area Office Reorganization Compacts.—

(1) In general.—Not later than 30 days after the date on which a majority of the Indian tribes served by the area office that is the subject of a reorganization plan have approved the plan pursuant to subsection (b)(4), the Secretary shall enter into an area office reorganization compact with the Indian tribes that have approved the plan to carry out that plan (in this subsection referred to as the "area office reorganization compact").

(2) Prohibition against certain limitations.—With respect to an Indian tribe that is not a party to an area office reorganization compact entered into by the Secretary under this subsection, nothing in this section may limit or reduce the level of any service or funding that the Indian tribe would otherwise receive pursuant to applicable Federal law (including title I or IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)).

SEC. 102. REORGANIZATION OF AGENCY OFFICES.

(a) In General.—Notwithstanding any other provision of law—

(1) not later than 30 days after the date of enactment of this Act, the Secretary shall notify each Indian tribe in writing of the time and place of the initial prenegotiation meeting to establish a schedule for negotiations under this subsection; and

(2) not later than 150 days after the date of enactment of this Act, the Secretary, acting through the Superintendent (or a designee of the Superintendent) of each agency office, shall conclude negotiations with the Indian tribes served by each agency office on an agency office plan for each agency office.

(b) Contents of Agency Office Plans.—

(1) In general.—Each agency office plan that is prepared by the Secretary pursuant to this subsection shall provide for the organization of the agency office covered under the plan. To the extent that a majority of the Indian tribes served by the agency office do not exercise the option to maintain current organizational structures, functions, or funding priorities pursuant to paragraph (3), the agency office plan shall provide, with respect to the agency office covered under the agency office plan, for—

(A) the reorganization of the administrative structure of the agency office;

(B) the reallocation of personnel (including determinations of office size and functions);

(C) the delegation of authority of the Secretary to the Superintendent or Indian tribes;

(D) transfers of functions;

(E) the specification of functions—

(i) retained by the Bureau; or

(ii) transferred to Indian tribes served by the agency office;

(F) the issuance of waivers or other authorities by the Secretary so that functions and other responsibilities of the Secretary may be carried out by the agency office or transferred to Indian tribes;

(G) the promulgation of revised regulations relating to the functions of the agency office that are carried by the agency office or transferred to Indian tribes;

(H) the reordering of funding priorities; and

(I) a formula for the transfer, to the tribal recurring base funding for each Indian tribe served by the agency office, of unexpended balances of appropriations and other Federal funds made available to the agency office in connection with any function transferred to Indian tribes pursuant to subparagraph (E)(ii).

(2) SHARE OF FUNDING.—An agency office plan shall include, for each Indian tribe served by the agency office, a negotiated determination of the share of the Indian tribe of the funds used by the agency office on an annual basis that is used to support functions and services of the Indian tribe (in this subsection referred to as the "tribal share").

(3) OPTION OF MAINTENANCE OF CURRENT STATUS.—At the option of a majority of the Indian tribes served by an agency office, an agency office plan may provide for the continuation of organizational structures, functions, or funding priorities of the agency office that are substantially similar to those in effect at the time of the development of the agency office plan.

(4) APPROVAL OF AGENCY OFFICE PLAN BY INDIAN TRIBES.—

(A) IN GENERAL.—On the date on which the negotiation of an agency office plan is concluded, the Secretary shall submit the agency office plan to the Indian tribes served by the agency office for approval.

(B) EFFECT OF FAILURE OF INDIAN TRIBE TO APPROVE PLAN.—If an Indian tribe served by an agency office fails to approve an agency office plan by the date that is 60 days after the Secretary submits the plan pursuant to subparagraph (A) to the Indian tribes served by that office, the plan shall be considered to have been disapproved by that Indian tribe.

(C) REORGANIZATION COMPACT.—If, by the date specified in subparagraph (B), a majority of the Indian tribes approve the agency office plan by a tribal resolution or other official act of the governing body of each Indian tribe involved, the Secretary shall enter into a reorganization compact pursuant to subsection (c).

(5) SINGLE TRIBE AGENCY OFFICE.—Not later than 30 days after the date of enactment of this Act, the Secretary shall notify in writing an Indian tribe that is served by an agency office that serves only that Indian tribe of the time and place of the initial prenegotiation meeting to establish a schedule for negotiations for an agency office plan. If, by not later than 60 days after the date of enactment of this Act, an Indian tribe that is served by an agency office that serves only that Indian tribe notifies the Secretary in writing that the Indian tribe elects to enter into negotiations with the Secretary to prepare a reorganization plan for the agency office—

(A) not later than 150 days after the date of enactment of this Act, the Secretary shall conclude such negotiations; and

(B) if, by the date that is 60 days after the date specified in subparagraph (A), the Indian tribe approves the agency office plan by tribal resolution or other official act of the governing body of the Indian tribe, the Secretary shall enter into a reorganization compact with the Indian tribe to carry out the area office plan.

(6) OPTION TO TAKE TRIBAL SHARE.—

(A) IN GENERAL.—If—

(i) by the date specified in paragraph (4)(B), a majority of the Indian tribes served by an agency office fail to approve an agency office plan, an Indian tribe may, not later than 60 days after the date specified in paragraph (4)(B), notify the Secretary in writing that the Indian tribe elects to receive directly the tribal share of the Indian tribe; or

(ii) by the date specified in paragraph (5)(B), the Indian tribe served by an agency office fails to approve an agency office plan, the Indian tribe may, not later than 60 days after the date specified in paragraph (5)(B), notify the Secretary in writing that the Indian tribe elects to receive directly the tribal share of the Indian tribe.

(B) AGREEMENT.—Not later than 30 days after the date on which the Secretary receives a notice under subparagraph (A), the Secretary shall enter into an agreement with the Indian tribe for the immediate and direct transfer to the Indian tribe of an amount equal to the tribal share (after taking into account any residual amount under clause (i)), or if the agreement covers a period of less than 12 months, a prorated amount of the tribal share (after taking into account any residual amount under clause (i)). The agreement shall include—

(i) a negotiated determination of the amount, if any, of residual Federal funds to be retained by the Secretary for the agency office that are minimally necessary to carry out trustee and other functions of the Federal Government that are not delegable to the Indian tribes served by the agency office; and

(ii) a negotiated description of the responsibilities to be carried out by—

(I) the agency office; and

(II) the Indian tribe.

(7) SELF-DETERMINATION AND SELF-GOVERNANCE AUTHORITIES NOT AFFECTED.—If an Indian tribe exercises the option to receive a tribal share of funds in accordance with paragraph (6), the exercise of that option may not be construed to limit or restrict any right of that tribe or any other tribe to receive funds under title I or IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), and funds received under that Act may be included as part of the tribal share identified in paragraph (6).

(8) SECRETARIAL AUTHORITY.—If, by the date specified in subsection (c), a majority of the Indian tribes served by an agency office fail to approve the plan pursuant to paragraph (4), the organizational structure, functions, and funding priorities of the agency office in effect at the time of the negotiation of the agency office plan shall be determined by the Secretary, in consultation with the Indian tribes served by that agency office, and in a manner consistent with the exercise by any Indian tribe of the option to receive directly the tribal share of the Indian tribe under paragraph (6).

(c) AGENCY OFFICE REORGANIZATION COMPACTS.—

(1) IN GENERAL.—Not later than 30 days after the date on which a majority of the Indian tribes served by an agency office that is the subject of an agency office plan have approved that plan pursuant to subsection (b)(4), the Secretary shall enter into a reorganization compact with the Indian tribes to carry out the agency office plan (in this subsection referred to as the "agency office reorganization compact").

(2) PROHIBITION AGAINST CERTAIN LIMITATIONS.—With respect to an Indian tribe that is not a party to an agency office reorganization compact entered into under this subsection, nothing in this section may limit or reduce the level of any service or funding that the Indian tribe would otherwise receive pursuant to applicable Federal law (including title I or IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)).

SEC. 103. REORGANIZATION OF CENTRAL OFFICE.

(a) IN GENERAL.—Notwithstanding any other provision of law—

(1) not later than 30 days after the date of enactment of this Act, the Secretary shall notify in writing each Indian tribe of the time and place of the initial prenegotiation meeting to establish a schedule for negotiations under this subsection; and

(2) not later than 150 days after the date of enactment of this Act, the Secretary shall conclude negotiations with Indian tribes on a reorganization plan for the central office. The Secretary shall negotiate on an area-by-area basis with a representative from each of the Indian tribes in each area, to determine the appropriate allocation of personnel and funding made available to the central office to serve the area and agency offices and Indian tribes in each area office.

(b) CONTENT OF CENTRAL OFFICE PLAN.—

(1) IN GENERAL.—The central office plan shall provide for determinations on the basis of the negotiations described in subsection (a) concerning—

(A) which portion of the funds made available to the Secretary for the central office shall—

(i) be used to support the area and agency offices in each area; or

(ii) be considered funds that may be transferred directly to Indian tribes in each area pursuant to a formula developed pursuant to paragraph (2)(J); and

(B) the allocation of the personnel of the central office to provide support to the area and agency offices.

(2) REALLOCATION OF FUNDS AND PERSONNEL.—In developing the central office plan, to the extent that the Secretary and the Indian tribes do not exercise the option to maintain current organizational structures, functions, or funding priorities, the central office plan shall provide, to the extent necessary to accommodate the determinations made under paragraph (1), for—

(A) the reorganization of the administrative structure of the central office;

(B) the reallocation of personnel (including determinations of office size and functions);

(C) the delegation of authority of the Secretary carried out through the central office to the Directors, Superintendents, or Indian tribes;

(D) transfers of functions;

(E) the specification of functions—

(i) retained by the central office; or

(ii) transferred to area offices, agency offices or Indian tribes;

(F) the issuance of waivers or other authorities by the Secretary so that functions and other responsibilities of the Secretary may be carried out by the central office or transferred to area offices, agency offices, or Indian tribes;

(G) the promulgation of revised regulations relating to the functions of the central office that are carried by the central office or transferred to area offices, agency offices, or Indian tribes;

(H) the reordering of funding priorities;

(I) allocation formulas to provide for the remaining services to be provided to the area and agency offices and Indian tribes by the central office; and

(J) with respect to the transfer of funds to the area and agency offices and Indian tribes in each area, a formula, negotiated with the tribal representatives identified in subsection (a), for the transfer to the Indian tribes of all or a portion of the funds described in paragraph (1)(A)(ii).

(3) SHARE OF FUNDING.—The central office plan shall include, for each Indian tribe, a negotiated determination of the share of the Indian tribe (in this subsection referred to as the "tribal share") of the funds used by the central office on an annual basis (after any funds identified in paragraph (1)(A)(ii) have been allocated directly to Indian tribes) to support functions and services of the Indian tribe and to provide the personnel and services identified in subsection (a) to serve the Indian tribe.

(4) OPTION TO TAKE TRIBAL SHARE.—

(A) IN GENERAL.—An Indian tribe may, not later than 60 days after the date specified in subsection (c), notify the Secretary in writing that the Indian tribe elects to receive directly the tribal share for that Indian tribe determined under paragraph (3) if that Indian tribe—

(i) receives a tribal share of an area office under section 101(b) and also receives a tribal share of an agency office under section 102(b); or

(ii) receives a share pursuant to title I or IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(B) AGREEMENT.—Not later than 30 days after the date on which an Indian tribe provides written notification to the Secretary under subparagraph (A), the Secretary shall enter into an agreement with the Indian tribe for the immediate and direct transfer to the Indian tribe of an amount equal to the tribal share (taking into account any residual amount determined under clause (i)), or if the period covered by the agreement is less than 12 months, a prorated amount of the tribal share (taking into account any residual amount determined under clause (i)). The agreement shall include—

(i) a negotiated determination of the amount of residual Federal funds to be retained by the Secretary for the central office that are minimally necessary to carry out trustee and other functions of the Federal Government that are not delegable to the Indian tribes served by the central office; and

(ii) a negotiated description of the responsibilities to be carried out by—

(I) the central office; and

(II) the Indian tribe.

(5) SELF-DETERMINATION AND SELF-GOVERNANCE AUTHORITIES NOT AFFECTED.—If an Indian tribe exercises the option to receive a tribal share of funds in accordance with paragraph (4), the exercise of that option may not be construed to limit or restrict any right of that tribe or any other tribe to receive funds under title I or IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), and funds received under that Act may be included as part of the tribal share identified in paragraph (4).

(c) CENTRAL OFFICE REORGANIZATION COMPACTS.—

(1) IN GENERAL.—Not later than 90 days after the Secretary has concluded a negotiation of a central office plan pursuant to subsection (a), the Secretary shall, for each area office, enter into a central office reorganization compact with the Indian tribes in that area to implement the central office plan (in this subsection referred to as the "central office reorganization compact"). The Secretary may not implement the component of a central office plan relating to an area until such time as a majority of the Indian tribes in that area have entered into a central office reorganization compact. If a majority of the Indian tribes in an area do not enter into a central office reorganization compact with the Secretary pursuant to this paragraph, the organizational structure, functions, and funding priorities of the central office relating to the area and agency offices and Indian tribes in that area and in effect at the time of the negotiation of the central office plan shall be determined by the Secretary, in consultation with the Indian tribes served by each area office, and in a manner that is consistent with the exercise by any Indian tribe of the option to receive directly the tribal share of the Indian tribe under subsection (b)(4).

(2) COORDINATION WITH AREA AND AGENCY OFFICE PLANS.—Each central office reorganization compact entered into by the Secretary under this subsection shall specify that in the event the Secretary determines that a central office reorganization compact is inconsistent with a related area office reorganization compact entered into under section 101(c) or a related agency office reorganization compact entered into under section 102(c), the Secretary, in negotiation with the Indian tribes that are parties to the central office reorganization compact, shall amend the compact to make such modifications as are necessary to ensure consistency with the applicable area or agency office plan.

SEC. 104. AUTHORITY TO SPEND FUNDS.

Each Indian tribe that receives funds under this title shall administer and expend those funds in a manner consistent with the authorities provided to Indian tribes under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

SEC. 105. SAVINGS PROVISIONS.

(a) IN GENERAL.—Notwithstanding any other provision of this title, all orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of any function that is transferred to Indian tribes pursuant to a reorganization compact that the Secretary enters into pursuant to section 101, 102, or 103; and

(2) that are in effect on the effective date of the reorganization compact, or were final before the effective date of the reorganization compact and are to become effective on or after such date;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—

(1) IN GENERAL.—The provisions of a reorganization compact that the Secretary enters into pursuant to section 101, 102, or 103 shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Bureau at the time the reorganization compact takes effect, with respect to the functions transferred by the reorganization compact.

(2) CONTINUATION OF PROCEEDINGS.—The proceedings and applications referred to in paragraph (1) shall be continued. Orders shall be issued in such proceedings, appeals shall be taken from such orders, and payments shall be made pursuant to such orders, as if the compact had not been entered into, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Bureau or by or against any individual in the official capacity of such individual as an officer of the Bureau shall abate by reason of the enactment of this title.

SEC. 106. ADDITIONAL CONFORMING AMENDMENTS.

(a) RECOMMENDED LEGISLATION.—After consultation with Indian tribes and the appropriate committees of the Congress, the Secretary shall prepare and submit to the Congress appropriate recommendations for legislation containing technical and conforming amendments to reflect the changes made pursuant to this title.

(b) SUBMISSION TO THE CONGRESS.—Not later than 120 days after the effective date of this title, the Secretary shall submit to the Congress the recommended legislation referred to in subsection (a).

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 108. EFFECTIVE DATE.

This title shall take effect on the date of enactment of this Act.

SEC. 109. SEPARABILITY.

If a provision of this title or its application to any person or circumstance is held invalid, neither the remainder of this title nor the application of the provision to other persons or circumstances shall be affected.

SEC. 110. SUSPENSION OF CERTAIN ADMINISTRATIVE ACTIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, during the 2-year period beginning on the date of enactment of this Act, the Secretary shall suspend the implementation of all administrative activities that affect the Bureau associated with reinventing government, national performance review, or other down sizing initiatives of the executive branch of the Federal Government.

(b) CONSIDERATION OF COMPACTS.—During the period specified in subsection (a), the reorganization compacts entered into under this title shall be deemed to satisfy the goals of the initiatives referred to in subsection (a).

SEC. 111. STATUTORY CONSTRUCTION.

Nothing in this title may be construed to alter or diminish the Federal trust responsibility to Indian tribes, individual Indians, or Indians with trust allotments.

SEC. 112. TRIBAL AUTHORITY RECOGNIZED.

Nothing in this title may be construed to prohibit or limit the capacity of 2 or more Indian tribes to authorize, by tribal resolution or other official act of the governing body of each Indian tribe involved, a group of Indian tribes to exercise any authority granted to an Indian tribe under this title, except that the approval of an area office or agency office reorganization plan under sections 101(b)(4) and 102(b)(4), and the entering into a central office reorganization compact under section 103(c)(1), shall be authorized by the separate tribal resolution or other official act of the governing body of each Indian tribe involved.

SEC. 113. RENEGOTIATION AUTHORITY.

The Indian tribes served by an agency or area office may annually exercise any authorities that the Indian tribes are authorized to exercise under this title during any calendar year that begins after the date of enactment of this Act, including authorities relating to the negotiation of reorganization plans and the election to receive tribal shares. In any case in which an Indian tribe exercises an authority pursuant to the preceding sentence, the timeframes set forth in this title shall be calculated from the annual anniversary date of the date of enactment of this Act.

SEC. 114. DISCLOSURE OF INFORMATION.

(a) In General.—Upon entering into negotiations required under sections 101, 102, and 103, and in a timely manner throughout that negotiation process, the Secretary shall provide to Indian tribes the budgetary, structural, administrative, and legal information that is necessary for the negotiated reorganization of the agency offices, area offices, and central office.

(b) Technical Assistance.—Upon the request of an Indian tribe, the Secretary shall provide such technical assistance as may be required to interpret the information provided under subsection (a).

TITLE II—AMENDMENT TO THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

SEC. 201. BUDGET DEVELOPMENT.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended by adding at the end the following new title:

"TITLE V—BUDGET DEVELOPMENT

"SEC. 501. PARTICIPATION OF INDIAN TRIBES IN THE DEVELOPMENT OF BUDGET REQUESTS.

"(a) Budget Requests for the Bureau of Indian Affairs.—Notwithstanding any other provision of law, not later than 120 days after the date of enactment of this title, the Secretary of the Interior shall establish a program—

"(1) to provide information to Indian tribes concerning the development of budget requests for the Bureau of Indian Affairs that are submitted to the President by the Secretary of the Interior for inclusion in the annual budget of the President submitted to the Congress pursuant to section 1108 of title 31, United States Code; and

"(2) to ensure, to the maximum extent practicable, the participation by each Indian tribe in the development of the budget requests referred to in paragraph (1).

"(b) Budget Requests for the Indian Health Service.—Notwithstanding any other provision of law, not later than 120 days after the date of enactment of this title, the Secretary of Health and Human Services shall establish a program—

"(1) to provide information to Indian tribes concerning the development of budget requests by the Secretary of Health and Human Services for the Indian Health Service that are submitted to the President by the Secretary of Health and Human Services for inclusion in the annual budget referred to in subsection (a)(1); and

"(2) to ensure, to the maximum extent practicable, the participation by each Indian tribe in the development of the budget requests referred to in paragraph (1).

"(c) Requirements for Programs.—

"(1) In general.—Each program established under this section shall, to the maximum extent practicable—

"(A) provide for the estimation of—

"(i) the funds authorized to be appropriated on an annual basis for the benefit of Indian tribes; and

"(ii) for each Indian tribe, the portion of the funds described in clause (i) that will be provided for the benefit of the Indian tribe;

"(B) provide, for each Indian tribe—

"(i) the opportunity to establish priorities for using the estimated funds described in subparagraph (A)(ii); and

"(ii) the authority and flexibility to design tribal and Federal programs that receive Federal funds to best meet the needs of the community served by the Indian tribe; and

"(C) provide for the collection and dissemination of information that is necessary for effective planning, evaluation, and reporting by the Secretary of the Interior or the Secretary of Health and Human Services and Indian tribes concerning the comparative social and public health conditions of Indian communities (as defined and determined by the Secretary of the Interior and the Secretary of Health and Human Services) at local, regional, and national levels.

"(2) Duties of the secretaries.—In carrying out the programs established under this section, the Secretary of the Interior and the Secretary of Health and Human Services shall—

"(A) use any information provided by Indian tribes concerning the priorities referred to in paragraph (1)(B);

"(B) support the creation of stable recurring base funding (as defined and determined by each such Secretary) for each Indian tribe;

"(C) seek to maintain stability in the planning and allocation of the amounts provided for in the budget of the Bureau of Indian Affairs and the Indian Health Service for Indian tribes; and

"(D) assess the Federal programs or assistance provided to each Indian tribe to determine—

"(i) the relative need for providing Federal funds to carry out each such program; and

"(ii) the amount of recurring base funding available to each Indian tribe to carry out each such program.

"(3) Contracts, grants, and annual funding agreements.—To provide, to the maximum extent practicable, for the full participation by the governing bodies of Indian tribes on an effective government-to-government basis in carrying out the collection and sharing of information under this section, the Secretary of the Interior or the Secretary of Health and Human Services may—

"(A) enter into a self-determination contract with an Indian tribe or make a grant to an Indian tribe pursuant to section 102 or 103;

"(B) with respect to the Secretary of Health and Human Services, enter into a funding agreement with a participating Indian tribe pursuant to title III; and

"(C) with respect to the Secretary of the Interior, enter into a funding agreement with a participating Indian tribe pursuant to title IV.

"SEC. 502. ASSESSMENT METHODOLOGY.

"(a) In General.—Not later than 180 days after the date of enactment of this title, the Secretary shall, in cooperation with Indian tribes, and in accordance with the negotiated rulemaking procedures under subchapter III of chapter 5 of title 5, United States Code (as in effect on the date of enactment of this title), promulgate standardized assessment methodologies to be used in carrying out any budget determination for the Bureau concerning the levels of funding that are necessary to fund each program area (as defined and determined by the Secretary) of the Bureau.

"(b) Participation by Indian Tribes.—In carrying out subsection (a), the Secretary shall take such action as may be necessary to ensure, to the maximum extent practicable, the direct and active participation of Indian tribes at the local, regional, and national levels in the negotiated rulemaking process specified in subchapter III of chapter 5 of title 5, United States Code.

"(c) Committee.—

"(1) Composition.—The negotiated rulemaking committee established pursuant to the requirements of section 565 of title 5, United States Code (as in effect on the date of enactment of this title), to carry out subsection (a) shall only be comprised of—

"(A) individuals who represent the Federal Government; and

"(B) individuals who represent Indian tribes.

"(2) Representation by Indian tribes.—A majority of the members of the committee referred to in paragraph (1) shall be individuals who represent Indian tribes.

"(d) Adaptation of Procedures.—The Secretary shall adapt the negotiated rulemaking procedures carried out under this section in the same manner as the Secretary adapts, in accordance with section 407(c), the procedures carried out pursuant to section 407.

"SEC. 503. REPORTS TO THE CONGRESS.

"At the earliest practicable date after the date of promulgation of the regulations under section 502 on which the Secretary of the Interior submits a budget request to the President for inclusion in the annual budget of the President submitted to the Congress pursuant to section 1108 of title 31, United States Code, and annually thereafter, the Secretary shall prepare and submit to the President for inclusion in the annual budget submitted to the Congress, a report that—

"(1) describes the standardized methodologies that are the subject of the regulations promulgated pursuant to section 502; and

"(2) includes—

"(A) for each program area of the Bureau of Indian Affairs, an assessment of the level of funding that is necessary to fund the program area; and

"(B) for each Indian tribe served by a program area referred to in paragraph (2)—

"(i) an assessment of the level of funding that is necessary for each Indian tribe served by the program area;

"(ii) the total amount of funding necessary to cover all program areas with respect to which the tribe receives services (as determined by taking the aggregate of the applicable amounts determined under paragraph (3)); and

"(iii) a breakdown, for each program area with respect to which the Indian tribe receives service, of the amount determined under clause (ii).

"SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this title.".

TITLE III—REFORM OF THE REGULATIONS OF THE BUREAU OF INDIAN AFFAIRS

SEC. 301. BIA MANUAL.

(a) In General.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(1) conduct a review of all provisions of the BIA Manual;

(2) promulgate as proposed regulations those provisions of the BIA Manual that the Secretary deems necessary for the efficient implementation of the Federal functions retained by the Bureau under the reorganization compacts authorized by this Act; and

(3) revoke all provisions of the BIA Manual that are not promulgated as proposed regulations under paragraph (2).

(b) Consultation With Indian Tribes.—In carrying out subsection (a), the Secretary shall, to the maximum extent practicable, consult with Indian tribes in such manner as to provide for the full participation of Indian tribes.

SEC. 302. TASK FORCE.

(a) Establishment of Task Force.—

(1) In general.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a task force on regulatory reform (hereafter in this section referred to as the "task force").

(2) Duties.—The task force shall—

(A) review the regulations under title 25, Code of Federal Regulations; and

(B) make recommendations concerning the revision of the regulations.

(3) Membership.—The task force shall be composed of 16 members, appointed by the Secretary, including 12 members who are representatives of Indian tribes from each of the 12 areas served by area offices.

(4) Initial meeting.—Not later than 60 days after the date on which all members of the task force have been appointed, the task force shall hold its first meeting.

(5) Meetings.—The task force shall meet at the call of the Chairperson.

(6) Quorum.—A majority of the members of the task force shall constitute a quorum, but a lesser number of members may hold hearings.

(7) Chairperson.—The task force shall select a Chairperson from among its members.

(b) Reports.—

(1) Reports to secretary.—The task force shall submit to the Secretary such reports as the Secretary determines to be appropriate.

(2) Report to the congress and to indian tribes.—In addition to submitting the reports described in paragraph (1), not later than 120 days after its initial meeting, the task force shall prepare, and submit to the Congress and to the governing body of each Indian tribe, a report that includes—

(A) the findings of the task force concerning the review conducted pursuant to subsection (a)(2)(A); and

(B) the recommendations described in subsection (a)(2)(B).

(c) Powers of the Task Force.—

(1) Hearings.—The task force may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the task force considers advisable to carry out the duties of the task force specified in subsection (a)(2).

(2) Information from federal agencies.—The task force may secure directly from any Federal department or agency such information as the task force considers necessary to carry out the duties of the task force specified in subsection (a)(2).

(3) Postal services.—The task force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) Gifts.—The task force may accept, use, and dispose of gifts or donations of services or property.

(d) Task Force Personnel Matters.—

(1) Compensation of members.—Members of the task force who are not officers or employees of the Federal Government shall serve without compensation, except for travel expenses, as provided under paragraph (2). Members of the task force who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) Travel expenses.—The members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the task force.

(3) Staff.—

(A) In general.—The Chairperson of the task force may, without regard to the civil service laws, appoint and terminate such personnel as may be necessary to enable the task force to perform its duties.

(B) Procurement of temporary and intermittent services.—The Chairperson of the task force may procure temporary and intermittent service under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed under GS–13 of the General Schedule established under section 5332 of title 5, United States Code.

(e) Termination of Task Force.—The task force shall terminate 30 days after the date on which the task force submits its reports to the Congress and to Indian tribes under subsection (b)(2).

(f) Exemption From Federal Advisory Committee Act.—All of the activities of the task force conducted under this title shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

(g) Prohibition.—Beginning on the date of enactment of this Act, no provision of any internal manual or handbook or other written procedure purporting to govern the conduct of the Department in relation to Indian tribes shall be binding upon any Indian tribe unless that provision has been promulgated as a final regulation in accordance with applicable Federal law.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

By Mr. LEAHY (for himself, Mr. Gregg, Mr. Jeffords, Ms. Snowe, Ms. Collins, Mr. Smith of New Hampshire, Mr. Moynihan, Mr. Kerry, and Mr. Kennedy):

S. 546. A bill to implement the recommendations of the Northern Forest Lands Council; to the Committee on Agriculture, Nutrition, and Forestry.

THE NORTHERN FOREST STEWARDSHIP ACT

Mr. LEAHY. Mr. President, today I am pleased to join my colleague Senator Gregg and Senators Jeffords, Snowe, Collins, Moynihan, and Smith in introducing the Northern Forest Stewardship Act of 1997 and the Family Forestland Preservation Tax Act. I am proud that this legislation has the entire support of the Senate delegations from the Northern Forest States of Vermont, New Hampshire, Maine, as well as Senators from other parts of the region.

Today's legislation is about empowering communities within the 26-million-acre Northern Forest—the largest contiguous forest east of the Mississippi River. This great natural resource criss crosses New York, Vermont, New Hampshire, and Maine. But as we near the end of the 20th century, growth pressures on the Northern Forest have increased. The thousands of people who live in this region have wrestled with how to maintain economies that provide jobs while preserving the environment that makes the region such a special place.

Recognizing the challenge facing these communities, Senator Warren Rudman and I sponsored the Northern Forest Lands Study in 1990. Thousands of people who live in the Northern Forest participated in the study which lasted 4 years. Upon the conclusion of the study, the Northern Forest Lands Council was established to develop specific recommendations to address the issues identified in the study.

As one might expect, the majority of these recommendations focused on local and State issues. However, some of the ideas proposed by the Northern Forest Lands Council requested changes in Federal law. Today, we are here to move forward the council recommendations that need these modifications.

Here is an example of what Congress can achieve when it heeds the public's voice. It is founded on extensive research, open discussion, consensus decisions, and visionary problem solving by the people who have a stake in the future of the forest. Legislation rarely embodies such a thorough effort by so diverse a constituency.

This legislation will reaffirm the council's vision of the Northern Forest as a working landscape of interlocking parts and pieces, reinforcing each other: small and rural communities, industrial forest land, family and individual ownerships, small woodlots, recreation land, public and private conservation land.

These bills focus on three key goals of the council: fostering stewardship of private land, building knowledge and information on forest resources, and increasing funds available for land conservation. These are goals shared by the people and representatives of the Northern Forest region and provide the foundation for the bipartisan support of this legislation in the House and the Senate.

This legislation also recognizes the extraordinary resources the 26-million-acre Northern Forest region provides to local communities and visitors alike. The forests within the region are rich in natural resources and values cherished by residents and visitors: timber, fiber, and wood for forest products and energy supporting successful businesses and providing stable jobs for residents; lakes, ponds, rivers, and streams unspoiled by pollution or crowding human development; viable tracts of land for wildlife habitat and recreational use, and protected areas to help preserve the biological integrity of the region.

Given the nature of the council's recommendations, one piece of legislation to implement all the recommendations was not feasible, therefore we are introducing this package of bills. It is our hope that these bills will both be taken up in the appropriate committees of this Congress and will move through Congress as complementary legislation.

Passing this legislation is a priority for me personally and for Vermont. It will highlight the importance of the forest resources to our region and to the Nation. It will help State, local, and community groups draw upon Federal assistance to work toward the goals of the council. And, it will reaffirm these goals and the shared commitment to protect the environmental and economic heritage of the region.

Mr. President, I ask unanimous consent that the bill on the part of myself, and Senators GREGG, JEFFORDS, SNOWE, COLLINS, SMITH of New Hampshire, MOYNIHAN, KERRY of Massachusetts, and Mr. KENNEDY be introduced and appropriately referred.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. JEFFORDS. Mr. President, I am pleased to be an original cosponsor of the Family Forest Land Preservation Tax Act and the Northern Forest Stewardship Act and commend both Senator LEAHY and Senator GREGG for their leadership in these bills. Both bills include recommendations from the Northern Forest Lands Council that address the general consensus of the residents in the Northern Forest region.

Since the Northern Forest Lands Council's creation in 1990, hundreds of citizens have been seeking ways for Maine, New Hampshire, New York, and Vermont to maintain the traditional patterns of land ownership and use of the Northern Forest. For over 4 years the council conducted indepth research, assessed data, consulted with experts, held public meetings, and listened to thousands of people who live and work in the region. The recommendations that are incorporated in both the Stewardship Act and the Preservation Tax Act, represent the thoughtful work of many individuals who live and work in the Northern Forest region and hundreds of hours of forums and public meetings.

Mr. President, I am grateful and appreciate the dedication and vision of the members of the Northern Forest Lands Council and the thousands of people who participated in the process. I am grateful, because the 26-million-acre forest that stretches from eastern Maine through New Hampshire and Vermont and across New York provides important and valuable resources. This forest region is home to 1 million residents. The people that work and live in this region have a bond to the land. Hunting, fishing, trapping, walking, and hiking in the woods have been a way of life for generations.

Nearly 85 percent of the Northern Forest is privately owned. For years, these lands have provided a diversity of environmental and economic benefits. Families and individuals have taken care of their forests for generations providing economic viability to communities and overall economic health to the region as well as maintaining opportunities for recreation, natural beauty, and wildlife. The traditional values within the forest regions are also cherished by those who live outside the region. Seventy million people live within a day's drive of the Northern Forest. They too, realize the importance of the Northern Forest for its source of clean water, clean air, and vast diversity.

Mr. President, the Preservation Tax Act and the Stewardship Act are needed to protect and maintain the traditional and valuable uses of the Northern Forest. Complex social and economic forces, some originating outside the region, have led to competing and conflicting uses of the Northern Forest. These two bills will help keep the Northern Forest productive and protected.

The Family Forest Land Preservation Tax Act will help encourage private forest land owners to conserve their productive forests. Since well managed productive forests are such an essential element to the traditional values of the Northern Forest region, the Preservation Tax Act is vital to maintaining sound forest management. Although this bill was based on recommendation from citizens in the Northern Forest region, it will benefit forest lands in all States. It's important because it allows for post-mortem donations of conservation easements for estate tax purposes, creates an estate tax alternative for heirs who choose to maintain the property as forest land for 25 years, provides a partial inflation adjustment for timber, creates an incentive for the sale of conservation easements to public agencies, and eliminates the 100-hour passive loss rule for forest land income.

Mr. President, the Preservation Tax Act and the Stewardship Act are needed to relieve the pressure on forest land owners and provide incentives to maintain and protect the forests that so many work and enjoy. Both bills support the Northern Forest Council recommendations by promoting a sound foundation for a diversified economy and stable communities, opportunities for quality recreation, and long-term protection of the diversity of plant and animal species in the region. These bills are important steps in addressing the many interests in the Northern Forest region. Several years of participation and involvement from interested parties throughout the region have helped develop useful recommendations that recognize the diversified opportunities of one of the regions most important resources.

It is my hope that both bills will move swiftly through the Senate and House and become law. I urge my colleagues to support these bills.

By Mr. McCAIN (for himself, Mrs. HUTCHISON, Mr. LOTT, Mr. STEVENS, Mr. NICKLES, Mr. CRAIG, Mr. ASHCROFT, and Mr. WARNER):

S. 547. A bill to provide for continuing appropriations in the absence of regular appropriations for fiscal year 1998; to the Committee on Appropriations.

THE GOVERNMENT SHUTDOWN PREVENTION ACT

Mr. McCAIN. Mr. President, today I and Senator HUTCHISON and Senator LOTT and Senator NICKLES, Senator STEVENS, and Senator CRAIG are introducing the Government Shutdown Prevention Act. This bill creates a statutory continuing resolution as sort of a safety net. CR, which would trigger only if the appropriation acts do not become law or if there is no governing continuing resolution in place.

I want to emphasize here, after a long series of negotiations with the House, with the advice and consent and leadership of the majority leader, Senator LOTT, and the active participation and leadership of Senator STEVENS especially, the chairman of the Appropriations Committee, negotiations with the Speaker, the Appropriations Committee chairman, Mr. LIVINGSTON, in the House, and also Majority Leader ARMEY, we have come up with this legislation.

Mr. President, this legislation is important. It must be done soon. I believe the lesson of the last 2 years is that we cannot allow the Government to be shut down again. Nor can we allow the threat of a Government shutdown to be so impactful that we fiscal conservatives are somehow forced to appropriate billions—in the case of last year around $8 billion—additional because of the threat of a Government shutdown. So, this is very important legislation. It is not something that I am idly throwing into the hopper.

I thank Senator HUTCHISON for her efforts and participation on this bill. What this legislation does is ensures that the Government will not shut down and that Government shutdowns cannot be used for political games. This safety net continuing resolution basically would set spending for fiscal year 1998 at 98 percent of 1997 fiscal year levels.

In other words, the way this would work is if we could not get agreement on the appropriations bills, rather than the threat of a shutdown of Government or parts of Government because of failure to appropriate funding for their continued effort, this would be funded at 98 percent of the previous year's level. That would ensure, if any kind of standoff between the Congress and the White House occurs, that vital Government functions will continue and Government employees will continue to serve the public.

It is our intention to move this bill quickly. It is very important we act before the appropriations season begins in earnest. Therefore, it is the intent of Senator HUTCHISON and myself to move this bill as soon as possible, specifically on the emergency supplemental appropriations bill that will be before this body probably within a month or so.

We all saw the effects of gridlock in the past. No one wins when the Government shuts down. Shutdowns only confirm the American people's suspicions that we are more interested in political gain than doing the Nation's business. The American people are tired of gridlock. They want the Government to work for them, not against them. The budget process in the last Congress, in my view, was a fiasco and, more important, in the view of the American people.

Our Founding Fathers would have been ashamed of our inability to execute the power of the purse in a responsible fashion. I am sure they would have been quite shocked by the 27 days that the Government was shut down, 13 continuing resolutions, and almost $6 billion in blackmail money that was given the administration to ensure that the Government did not shut down a third time.

Although Republicans shouldered the blame for the Government shutdown, President Clinton and his colleagues were equally at fault for using it for their political gain. Republicans were outmaneuvered by President Clinton because we were not prepared for him to use the budget process for his own political purposes. We thought that by doing the right thing—passing the first balanced budget in a generation, and fiscally sound appropriations bills—that we would eventually prevail. What we did not realize was that the President was more interested in playing politics with the budget than actually balancing it. This year we have to be prepared for these games and launch a preemptive strike to ensure that basic Government operations will not be put at risk during the next budget battle.

This legislation does not erode the power of the appropriators and gives them ample opportunity to do their job. It is only if the appropriations process is not completed by the beginning of the fiscal year, as was the case in the last Congress, that the safety net continuing resolution will go into effect.

In addition, I emphasize that entitlements are fully protected in this legislation. The bill specifically states that entitlements such as Social Security—as obligated by law—will be paid regardless of what appropriations bills are passed or not passed.

According to President Clinton, the combined cost of last year's Government shutdown was $1.5 billion. However, this figure does not begin to account for the millions of dollars lost by small businesses who depend on the Government being open. In my State of Arizona, during the Government shutdown the Grand Canyon was closed for the first time in 76 years. I heard from people who work close to the Grand Canyon. These were not Government employees. These were independent small business men and women. They told me that the shutdown cost them thousands of dollars because people could not go to the park. According to a CRS report, local communities near national parks alone lost an estimated $14.2 million per day in tourism revenues as a direct result of the Government shutdown, for a total of nearly $400 million over the course of the shutdown.

The cost of the Government shutdown cannot be measured in just dollars and cents. During the shutdown millions of Americans could not get crucial social services. For example, 10,000 new Medicare applications, 212,000 Social Security card requests, 360,000 individual office visits and 800,000 toll-free calls for information and assistance were turned away each day. There were even more delays in services for some of the most vulnerable in our society, including 13 million recipients of AFDC, 273,000 foster care children, over 100,000 children receiving adoption assistance services and over 100,000 Head Start children—not to mention the new patients that were not accepted into clinical research centers, the 7 million visitors who could not attend national parks, or the 2 million visitors turned away at museums and monuments. And the list goes on and on.

In addition, our Federal employees were left in fear wondering whether they would be paid, would they have to go to work, would they be able to pay their bills on time. In my State of Arizona, for example, of the 40,383 Federal employees, over 15,000 of them were furloughed in the last Government shutdown. I do not want to put these workers at risk ever again.

A 1991 GAO report confirmed that permanent funding lapse legislation is a necessity. In their report they stated, "Shutting down the Government during temporary funding gaps is an inappropriate way to encourage compromise on the budget."

Neither party can afford another break of faith with the American people. Our constituents are tired of constantly being disappointed by the actions of Congress and the President. They are tired of our not being prepared for what appears to be the inevitable. That is why this legislation is so important. We want the American people to know that there are some of us in Congress who are thinking ahead and who do not want a replay of the last Congress.

I want to especially note the support of our good friend, Senator STEVENS, the distinguished Senator from Alaska and chairman of the Appropriations Committee. His support of this bill is crucial, and I thank him for it. I wish him well in overseeing the appropriations process.

While I am sure we will all have our differences, I am confident he will be able to do his best to ensure that the Senate enacts the appropriations bills in an efficient and expeditious manner. Let us show the American people that we have learned our lessons from the last Congress. Passing this preventive measure will go a long way to restore America's faith that politics or stalled negotiations will not stop Government operations. It will prove to our constituents that we will never again allow a Government shutdown or threat of Government shutdown to be used for political gain. I hope the Senate will act quickly on this important matter.

I thank the Senator from Texas, Senator HUTCHISON, who is on the floor, for her continued efforts on behalf of this legislation. The State of Texas is a very large State. It was very heavily impacted, as was my State. As I say, we fully intend to move this legislation onto the supplemental appropriations bill, which should be before the body either this month or sometime next month.

I want to say that this is not an idea that Senator HUTCHISON and I came up with. It was an idea that is supported throughout the Congress. We engaged in serious and sincere negotiations with the leader, Senator LOTT, whose leadership was vital in this endeavor.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Arizona because he and I talked about this when we saw the debacle of the closing of the Government 2 years ago. We thought this is not the way to run a railroad or a government.

We have talked about this for a long time, but it was Senator McCAIN who said we are going to fix this and we are going to fix it in a responsible way. The Senator from Arizona has provided great leadership, and with the Senator from Arizona, we have gotten the other leaders of our Congress—we certainly have Senator STEVENS, the chairman of the Appropriations Committee, who deserves a lot of credit for helping on this; the majority leader, Senator LOTT; the majority whip, Senator NICKLES; Senator CRAIG; Senator ASHCROFT, and many Members have been talking about what we can do to run this Government in a responsible way. So the Senator from Arizona and I are introducing this bill together to try to provide for a good, solid, easy way to make sure that things keep going if we get bogged down in tough negotiations.

This may seem like a kind of small, inside-the-beltway-process issue. People might say, "A continuing resolution, so what, big deal, why are you doing that?" This small thing will have huge ramifications if any parts of our Government are not funded on September 30, because what happens is that when you get into the heat of negotiations, threat of Government shutdowns become a leverage point for one or the other side. It can work either way.

But the issue is the American people, the people who were mentioned by Senator MCCAIN, the Federal employees and their families not knowing for sure that they are going to get paychecks, people who have planned their family vacations for over a year and they go to the Grand Canyon and it is closed or they come to Washington, DC, to visit this Capitol and it is closed or they cannot get into the Smithsonian or the National Gallery of Art; people who are planning their vacations or business travel and they find their passport has expired and they cannot get a new passport, so their dreams go up in smoke—these are people who are affected by a shutdown of Government.

This very small process issue becomes a real quality-of-life issue for everyone in our country who is in need of regular Government service. That is why we are acting now. We are trying to provide for a smooth transition if we bog down in negotiations, hitting against the end of the fiscal year, September 30 of this year. We want to make sure that if we in Congress cannot agree with the President that we are still able to negotiate in good faith for what is right, rather than bumping up against a deadline and fearing that Government is going to shut down and cause a disruption in the lives of so many families in our country.

We wanted to do it right now. As Senator MCCAIN said, we are intending to put this bill on the supplemental resolution that will be coming before Congress probably by the end of this month. We want to do it now before the heat of battle so that we will know that this is not going to be a tool used by either side.

Some people have said, "Does this cut for Republicans or does it cut for Democrats?" It cuts for the American people. It might go either way. It might hurt Republicans, it might hurt Democrats, but who will not get hurt if we pass this are the people of America, and that is who we are here to represent.

I want to talk for a minute about the 98 percent that we are going to fund in the continuing resolution. People may say, "Well, why not 100 percent, why not 90 percent?" We wanted 98 percent because in our original budget resolution, when Congress decided to get serious about balancing the budget of this country, we set a trajectory starting at fiscal year 1995, actually and going to the year 2002 that would have a cut of about 2 percent each year in the growth rate of spending, because we felt that that was a responsible approach.

Ninety-eight percent is a 2-percent cut in the 1997 budget that we are in right now. A 2-percent cut makes sure that we are not going to go over our budget projections and hurt our ability to balance the budget if, in fact, we go into this continuing resolution. But it also funds at 98 percent, which I think is virtually full funding, programs that are ongoing and necessary.

If there is any agency in Government that cannot do with 98 percent of its present budget, then I would like to introduce them to the real people in America who have had to balance budgets and cut budgets every day of their lives. I think 98 percent is certainly something that the Government can live with, because we know that families and businesses in this country have cut much more than 2 percent in any fiscal year in their own lives. We think 98 percent covers expenses responsibly, but it keeps within our budget projections so that we have the ability to slow the rate of growth of spending, and so the Congress still has some leeway to make the decisions going into the next fiscal year of what actually needs to be cut without running, if we did go 2 or 3 months, into having to cut more because we were overspending in some areas. So that is how we came up with the number of 98 percent.

Mr. President, I think we are taking a very responsible action today. I hope that we will have 100 percent vote in the Senate. I have not really talked to anyone who is against this bill, but I think it is something if we can agree on in a bipartisan way, we will clearly make the people of America sure that we are not going to have some kind of disruption in their lives, whether it is their family vacation or business travel or going into a museum or a national park they would like to go into or, if you are a Federal employee or a veteran, we do not want you to worry that your pay or your benefits are going to be there.

This will provide for that smooth transition, and I hope Congress will take this responsible action, do this now before we even know what the issues are so that the smooth transition is there and we can negotiate on the budget in a way that is responsible, that does meet the needs of our country, but also makes sure that in the end, we are going to continue to march toward the year 2002 with a balanced budget for the United States of America.

I am very pleased to be able to cosponsor with Senator MCCAIN the McCain-Hutchison Government Shutdown Prevention Act. We are joined in the cosponsorship by Senators STEVENS, NICKLES, CRAIG, ASHCROFT, our majority leader, Senator LOTT, and I ask unanimous consent that Senator WARNER be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Those are the original cosponsors. I hope that we have 100 cosponsors by the time this bill comes to the floor. I would like for it to go on a voice vote. That may be a pipe dream, but, nevertheless, I think it would be responsible Government, and I think it would be right for the American people.

Mr. CRAIG. Mr. President, I rise to join Senators HUTCHISON of Texas and MCCAIN, Chairman STEVENS, our majority leader, Senator LOTT, and others, as an original cosponsor of the Government Shutdown Prevention Act.

Under this bill, if fiscal year 1998 starts before any of the 13 regular appropriations bills become law, no part of the Government would shut down because of the delay.

Funding would automatically continue at 98 percent of fiscal year 1997 levels.

Some of us feel 98 percent is too high. And automatic continuing appropriations may not be the perfect way to fund programs.

But this process would meet two important tests, best described by two old, familiar rules of thumb:

> There is an old saying: "When you find yourself in a hole, stop digging."
>
> And we all know the First Rule of Medicine: "Do no harm."

These two rules of thumb explain why we need the Government Shutdown Prevention Act.

This is not a long-term, structural change in the budget process. It's not a plan to balance the budget. But it is a very much-needed stopgap reform, in case of another budget impasse. Indeed, it may prevent such an impasse.

It will help us work toward a balanced budget, without disrupting the lives and work of millions of innocent bystanders, both inside and outside the Federal Government.

The first step toward balancing the budget is, stop digging.

For 36 of the last 37 years, the government has overspent. Every year, no matter what the process, no matter what the negotiations, spending goes up.

Many times—not just last year—liberals have threatened to shut down the government if they didn't get their spending hikes.

This bill says, "No More!" to that upward spiral. If there's gridlock, at least spending will not go up as a result. It will go down, just slightly.

We also need to remind the budget doctors: Do no harm.

In the last two Government shutdowns, in Idaho—We had a VA hospital wonder if it would have critical medicines on hand from week to week; we had small businesses wonder if they should deliver goods that Government offices had ordered—and if they would ever get paid; and we had Government workers first worry about feeding their families and making their house payments, and then outraged that they were ordered not to do the jobs they and other taxpayers were paying for.

This bill says, "We will not allow these innocent Americans to be taken hostage again, by either side in a budget dispute."

Keeping the Government open at 98 percent of current spending is a responsible, fair, even generous formula. And it is consistent with the reasonable fiscal restraint that we have begun, with the last Congress, to work for.

The time to pass this reform is now. Once the appropriations process begins in earnest, too many parties are going to look at any reform like this in terms of whether they win or lose, compared with what's in their appropriations bill, or what they might get if their allies threaten another Government shutdown.

Now is the time we are most likely to see this reform judged on it own merits, for what it is: Shutdown prevention, a level playing field, legislation for the public good.

I urge my colleagues to join as cosponsors of this bill, and to support every effort to enact this reform into law as quickly as possible.

By Mr. LUGAR:

S. 549. A bill to amend the Internal Revenue Code of 1986 to provide that certain cash rentals of farmland will not cause recapture of special estate tax valuation; to the Committee on Finance.

S. 550. A bill to amend the Internal Revenue Code of 1986 to increase the gift tax exclusion to $25,000; to the Committee on Finance.

ESTATE AND GIFT TAX LEGISLATION

Mr. LUGAR. Mr. President, I introduce two pieces of legislation aimed at minimizing the burden of the estate and gift tax on Americans. The first would provide Americans with a powerful estate tax planning tool by raising the tax-free gift limit to $25,0000 from the current $10,000. The second bill would correct a longstanding agricultural problem that effectively limits the ability of farmers to rent farmland that they have inherited to other family members.

The Senate Agriculture Committee held hearings at the end of February to study the impact of estate and gift taxes on farmers. As a farmer and chairman of the Agriculture Committee, I understand the far-reaching effect that the inheritance tax has on rural America. Testimony revealed that farmers are six times more likely to pay estate taxes than other Americans due to the capital-intensive nature of the farm business. Commercial farms, those core farms that produce 85 percent of the Nation's agricultural products, may be 15 times more likely to pay inheritance taxes than other individuals. As the average age of farmers approaches 60 years, a quarter of all farmers could confront the inheritance tax over the next 20 years.

I have already introduced three comprehensive bills on this subject—the first bill would eliminate the inheritance tax entirely; the second phases it out gradually; and the third raises the unified credit exemption to $5 million from the current $600,000 level. By raising the level of exempted property to this amount, the Federal Government would relieve 96 percent of the Americans who currently file estate tax returns from this burden.

Although repeal of this tax ultimately is the best course of action, I understand that sufficient momentum may not exist to achieve this end. In the mean time, Congress should provide Americans with estate planning alternatives that help facilitate the passing of their estates to the next generation. These two bills further this goal.

The first bill would simply raise the yearly nontaxable gift amount from the current $10,000 to $25,000. Congress unified the estate and gift titles of the Tax Code in 1976, subjecting a decedent's lifetime taxable gifts and taxable estate to one rate structure. Under current law, the first $10,000 of gifts made by a donor during a calendar year to any individual are not included in the donor's taxable gift amount for that year. Nor does this $10,000 gift lower the decedent's unified credit exemption, which allows each individual to pass on $600,000 of assets without incurring estate and gift taxes. Over the years, inflation has eroded this $10,000 amount, which has not been increased since 1982. Under my proposal, individuals could give $25,000 each year without estate and gift tax consequence. Through the current practice known as "gift splitting," a couple could give up to $50,000 tax free each year. Raising the gift exemption amount would be a positive first step for Congress to take in helping with the transfer of family businesses and farms to the next generation.

My second bill would correct a longstanding agricultural problem in the Tax Code that disqualifies farm heirs from receiving special use valuation for estate tax purposes because they cash leased the farm property to another member of the family. Section 2032A of the Tax Code provides heirs the option of valuing qualified farm property at its current use rather than valuing the property at its highest and most developed use. If the heir who inherited the property ceases to use it in its qualified use within 10 years, an additional recapture tax is imposed to regain the benefit of the special use valuation. Some tax courts have held that the cash leasing of the property to members of the decedent's family is not a qualified use, thus triggering the recapture tax provision. Congress partially fixed this problem in 1988 in regard to spouses, but other qualified heirs remain unable to cash lease the property to members of the family. My legislation would correct this wrinkle in the law by allowing qualified heirs to cash lease the inherited special use property to members of the decedent's family or members of the spouse's family without triggering the recapture tax. This bill is retroactive to December 31, 1976, when section 2032A was enacted into law.

Congress intended to grant family businesses and farms some level of protection from the estate and gift tax through section 2032A, and farmers have relied on this provision for estate planning purposes over the years. During the Senate Agriculture hearings on estate taxes, the U.S. Department of Agriculture testified that the special use valuation reduced the number of taxable estates and the total Federal estate and gift taxes for all farm estates by about one-third. The American Farmland Trust gave witness to the fact that more than half of farm production in the United States occurs in counties that are metropolitan or adjacent to metropolitan areas. Without special use valuation for estate tax purposes, much of our Nation's agricultural land would be valued as strip malls or housing developments, rather than as farmland. Lessening the gross estate through section 2032A allows the next generation of farmers to maintain this land in agricultural production and helps slow urban sprawl. My legislation would make this good provision better.

Mr. President, I am hopeful that my Senate colleagues will join me in supporting these two estate and gift tax initiatives that provide Americans with means for protecting their lifetime of savings and hard work. I ask unanimous consent that both bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 549

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN CASH RENTALS OF FARMLAND NOT TO CAUSE RECAPTURE OF SPECIAL ESTATE TAX VALUATIONS.

(a) In General.—Subsection (c) of section 2032A of the Internal Revenue Code of 1986 (relating to tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new paragraph:

"(8) Certain cash rental not to cause recapture.—For purposes of this subsection, a qualified heir shall not be treated as failing to use property in a qualified use solely because such heir rents such property on a net cash basis to a member of the decedent's family or a member of the decedent's spouse's family, but only if, during the period of the lease, such member uses such property in a qualified use."

(b) Conforming Amendment.—Section 2032A(b)(5)(A) of such Code is amended by striking the last sentence.

(c) Effective Date; Waiver.—

(1) Effective date.—The amendments made by this section shall apply with respect to rentals occurring after December 31, 1976.

(2) Waiver of statute of limitation.—If on the date of enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of the amendments made by this section is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of enactment of this Act.

S. 550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN GIFT TAX EXCLUSION

(a) In General.—Section 2503(b) of the Internal Revenue Code of 1986 (relating to exclusions from gifts) is amended by striking "$10,000" and inserting "$25,000".

(b) Effective Date.—The amendment made by this section shall apply to gifts made after December 31, 1997.

By Mr. GREGG:

S. 551. A bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions; to the Committee on Labor and Human Resources.

THE OSHA MODERNIZATION ACT

Mr. GREGG. Mr. President, I rise in introducing the Occupational Safety and Health Modernization Act. Let me say at the outset that in proposing and considering OSHA reform, worker safety was my first concern. I am firmly committed to ensuring a safe and healthy workplace and will not support legislation which puts that in jeopardy. I believe in this bill that I have accomplished a true modernization of OSHA without compromising the safety of our workers in any way.

Throughout my career in public office, I have worked to make government more efficient and more user and consumer friendly. Federal Government agencies have grown so large and become so bureaucratic that they are often not providing the kinds of personal services and proper oversight that was originally intended when they were created. Too often Government carries a heavy stick, but no carrot, when it interacts with individual citizens and businesses throughout our country.

I believe that it is high time we take a close look at how we can improve the way Government works and, at the same time, provide incentives for the private sector to act more responsibly. Americans will be better served in a climate where people in government, and in business, can work together to solve problems in a spirit of cooperation, rather than in an atmosphere strictly of threats, intimidation, and punitive measures.

When OSHA was enacted, its intended purpose was to make the workplace free from "recognized hazards that are causing, or likely to cause death or serious physical harm to * * * employees." As is the case with many programs established by Congress over the years, OSHA has developed a well-earned reputation for over-regulation. OSHA has moved from its original purpose of protecting workers to hindering businesses with excessive mandates.

While I feel that much of the problem within OSHA is of a cultural nature, the bill we are introducing today will concentrate on relieving OSHA's oppressive and burdensome regulations, thereby removing a feeling among American employers and employees that OSHA is the "bad cop." My legislation puts in place partnerships for assuring safety and health in the workplace.

This balanced approach will include a consultation program, voluntary compliance and third party certification, employee involvement, warnings in lieu of citations for nonserious violations, and reduced penalties for nonserious violations. This legislation will use incentives, rather than penalties, to enhance workplace safety. It will allow companies with clean safety records to implement their own health and safety programs.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) Short Title.—This Act may be cited as the "OSHA Modernization Act of 1997".

(b) Reference.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

SEC. 2. EMPLOYEE PARTICIPATION.

Section 4 (29 U.S.C. 653) is amended by adding at the end the following:

"(c) In order to carry out the purpose of this Act to encourage employers and employees in their efforts to reduce the number of occupational safety and health hazards, an employee participation program—

"(1) in which employees participate;

"(2) which exists for the purpose, in whole or in part, of dealing with employees concerning safe and healthful working conditions; and

"(3) which does not have, claim, or seek authority to negotiate or enter into collective bargaining agreements with the employer or to amend existing collective bargaining agreements between the employer and any labor organization,

shall not constitute a labor organization for purposes of section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)) or a representative for purposes of sections 1 and 2 of the Railway Labor Act (45 U.S.C. 151 and 151a). Nothing in this section shall be construed to affect employer obligations under section 8(a)(5) of the National Labor Relations Act (29 U.S.C. 158(a)(5)) to deal with a certified or recognized employee representative with respect to health and safety matters to the extent otherwise required by law.".

SEC. 3. INSPECTIONS.

(a) Training and Authority of Secretary.—Section 8 (29 U.S.C. 657) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g)(1) Except as provided in paragraph (2), the Secretary shall not conduct routine inspections of, or enforce any standard, rule, regulation, or order under this Act with respect to—

"(A) any person who is engaged in a farming operation that does not maintain a temporary labor camp and that employs 10 or fewer employees; or

"(B) any employer of not more than 10 employees if the employer is included within a category of employers having an occupational injury or a lost workday case rate (determined under the Standard Industrial Classification Code for which such data are published) that is less than the national average rate as most recently published by the Secretary acting through the Bureau of Labor Statistics under section 24.

"(2) In the case of persons who are not engaged in farming operations, paragraph (1) shall not be construed to prohibit the Secretary from—

"(A) providing consultations, technical assistance, and educational and training services and conducting surveys and studies under this Act;

"(B) conducting inspections or investigations in response to complaints of employees, issuing citations for violations of this Act found during the inspections, and assessing a penalty for the violations that are not corrected within a reasonable abatement period;

"(C) taking any action authorized by this Act with respect to imminent dangers;

"(D) taking any action authorized by this Act with respect to a report of an employment accident that is fatal to at least 1 employee or that results in the hospitalization of at least 3 employees, and taking any action pursuant to an investigation conducted with respect to the report; and

“(E) taking any action authorized by this Act with respect to complaints of discrimination against employees for exercising the rights of the employees under this Act.”.

(b) Inspections Based on Employee Complaints.—Section 8(f) (29 U.S.C. 657(f)) is amended to read as follows:

“(f)(1)(A) An employee or a representative of an employee who believes that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by providing notice of the violation or danger to the Secretary or an authorized representative of the Secretary.

“(B) The notice under subparagraph (A) shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall state whether the alleged violation or danger described in subparagraph (A) has been brought to the attention of the employer and if so, whether the employer has refused to take any action to correct the alleged violation or danger.

“(C)(i) The notice under subparagraph (A) shall be signed by the employee or the representative of the employee and a copy shall be provided to the employer or the agent of the employer not later than the time of arrival of an occupational safety and health agency inspector to conduct the inspection.

“(ii) Upon the request of the person providing the notice under subparagraph (A), the name of the person and the names of individual employees referred to in the notice shall not appear in the copy of the notice or on any record published, released, or made available pursuant to subsection (i).

“(D)(i) If, upon receipt of the notice under subparagraph (A), the Secretary determines that there are reasonable grounds to believe the violation or danger described in subparagraph (A) exists, the Secretary may conduct an inspection in accordance with this subsection as soon as practicable. Except as provided in clause (ii), the inspection shall be conducted for the limited purpose of determining whether the violation or danger exists.

“(ii) During an inspection described in clause (i), the Secretary may take appropriate actions with respect to health and safety violations that are not within the scope of the inspection and that are observed by the Secretary or an authorized representative of the Secretary during the inspection.

“(2) If the Secretary determines either before, or as a result of, an inspection conducted under this subsection that there are not reasonable grounds to believe a violation or danger described in paragraph (1)(A) exists, the Secretary shall notify the complaining employee or employee representative of the determination and, upon request by the employee or employee representative, shall provide a written statement of the reasons for the determination of the Secretary.

“(3) The Secretary or an authorized representative of the Secretary may, as a method of investigating an alleged violation or danger under this subsection, attempt, if feasible, to contact an employer by telephone, facsimile, or other appropriate methods to determine whether—

“(A) the employer has taken corrective actions with respect to the alleged violation or danger; or

“(B) there are reasonable grounds to believe that a hazard exists.

“(4) The Secretary is not required to conduct an inspection under this subsection if the Secretary determines that a request for an inspection was made for reasons other than the safety and health of the employees of an employer or that the employees of an employer are not at risk.”.

SEC. 4. WORKSITE-BASED INITIATIVES.

(a) Program.—The Act (29 U.S.C. 651 et seq.) is amended by inserting after section 8 the following:

“SEC. 8A. HEALTH AND SAFETY MODERNIZATION INITIATIVES.

“(a) In General.—The Secretary shall establish a program to encourage voluntary employer and employee efforts to provide safe and healthful working conditions.

“(b) Exemption.—In establishing a program under subsection (a), the Secretary shall, in accordance with subsection (c), provide an exemption from all safety and health inspections and investigations for a place of employment maintained by an employer participating in the program, except that this subsection shall not apply to inspections and investigations conducted for the purpose of—

“(1) determining the cause of a workplace accident that resulted in the death of 1 or more employees or the hospitalization of 3 or more employees; or

“(2) responding to a request for an inspection pursuant to section 8(f)(1).

“(c) Exemption Requirements.—To qualify for an exemption under subsection (b), an employer shall provide to the Secretary evidence that, with respect to the employer—

“(1) during the preceding year, the place of employment or conditions of employment have been reviewed or inspected under—

“(A) a consultation program provided by recipients of grants under section 7(c)(1) or 23(g);

“(B) a certification or consultation program provided by an insurance carrier or other private business entity pursuant to a State program, law, or regulation; or

“(C) a workplace consultation program provided by a qualified person certified by the Secretary, for purposes of providing workplace consultations,

that includes a means of ensuring that serious hazards identified in a consultation are corrected within an appropriate time and that, where applicable, permits an employee (of the employer) who is a representative of a health and safety employee participation program to accompany a consultant during a workplace inspection; or

“(2) the place of employment has an exemplary safety and health record and the employer maintains a safety and health program for the workplace that includes—

“(A) procedures for assessing hazards to the employees of the employer that are inherent to the operations or business of the employer;

“(B) procedures for correcting or controlling the hazards in a timely manner based upon the severity of the hazards; and

“(C) an employee participation program that, at a minimum—

“(i) includes regular consultation between the employer and the nonsupervisory employees of the employer regarding safety and health issues;

“(ii) includes the opportunity for the nonsupervisory employees of the employer to make recommendations regarding hazards in the workplace and to receive responses or to implement improvements in response to the recommendations; and

“(iii) ensures that the participating nonsupervisory employees of the employer have training or expertise on safety and health issues consistent with the responsibilities of the employees.

“A person that conducts a review or inspection under paragraph (1)(B) shall meet standards established by the Secretary and shall be certified by the Secretary.

“(d) Model Program.—The Secretary shall publish and make available to employers a model safety and health program that if completed by the employer shall be considered to meet the requirements for an exemption under this section.

“(e) Certification.—The Secretary may require that, to claim the exemption under subsection (b), an employer provides certification to the Secretary and notice to the employees of the employer of the eligibility of the employer for the exemption. The Secretary may conduct random audits of the records of employers to ensure against falsification of the records by the employers.

“(f) Records.—Records of a safety and health inspection, audit, or review that is conducted by an employer and that is not conducted under a program described in subsection (a) shall not be required to be disclosed to the Secretary unless—

“(1) the Secretary is conducting an investigation involving a fatality or a serious injury of an employee of the employer; or

“(2) the employer has not taken measures to address serious hazards in the workplace of the employer identified during the inspection, audit, or review.”.

(b) Definition.—Section 3 (29 U.S.C. 652) is amended by adding at the end the following:

“(15) The term ‘exemplary safety and health record’ means a record that the Secretary shall establish annually for each industry that identifies the employers in the industry that provide safe and healthful working conditions for the employees of the employers. The record shall include employers that have had, in the most recent reporting period, no employee death caused by occupational injury and fewer lost workdays due to occupational injury and illness than the average for the industry of which the employer is a part.”.

SEC. 5. EMPLOYER DEFENSES.

Section 9 (29 U.S.C. 658) is amended by adding at the end the following:

“(d) No citation may be issued under subsection (a) to an employer unless the employer knew, or with the exercise of reasonable diligence, would have known, of the presence of an alleged violation. No citation shall be issued under subsection (a) to an employer for an alleged violation of section 5, any standard, rule, or order promulgated pursuant to section 6, any other regulation promulgated under this Act, or any other occupational safety and health standard, if the employer demonstrates that—

“(1) the employees of the employer have been provided with the proper training and equipment to prevent such a violation;

“(2) work rules designed to prevent such a violation have been established and adequately communicated to the employees by the employer and the employer has taken reasonable measures to discipline employees when violations of the work rules have been discovered;

“(3) the failure of employees to observe work rules led to the violation; and

“(4) reasonable measures have been taken by the employer to discover any such violation.

“(e) A citation issued under subsection (a) to an employer who violates the requirements of section 5, of any standard, rule, or order promulgated pursuant to section 6, or any other regulation promulgated under this Act shall be vacated if the employer demonstrates that employees of the employer were protected by alternative methods that were equally or more protective of the safety and health of the employees than the methods required by the standard, rule, order, or regulation in the factual circumstances underlying the citation.

"(f) Subsections (d) and (e) shall not be construed to eliminate or modify other defenses that may exist to any citation.".

SEC. 6. INSPECTION QUOTAS.

Section 9 (29 U.S.C. 658), as amended by section 5, is further amended by adding at the end the following:

"(g) The Secretary shall not establish any quota for any subordinate within the Occupational Safety and Health Administration (including any regional director, area director, supervisor, or inspector) with respect to the number of inspections conducted, citations issued, or penalties collected.".

SEC. 7. WARNINGS IN LIEU OF CITATIONS.

Subsection (a) of section 9 (29 U.S.C. 658(a)) is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), if, upon an inspection or investigation, the Secretary or an authorized representative of the Secretary believes that an employer has violated a requirement of section 5, of any regulation, rule, or order promulgated pursuant to section 6, or of any regulations prescribed pursuant to this Act, the Secretary may with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of an violation, including a reference to the provision of the Act, regulation, rule, or order alleged to have been violated. The citation shall fix a reasonable time for the abatement of the violation.

"(2) The Secretary or the authorized representative of the Secretary—

"(A) may issue a warning in lieu of a citation with respect to a violation that has no significant relationship to employee safety or health; and

"(B) may issue a warning in lieu of a citation in cases in which an employer in good faith acts promptly to abate a violation if the violation is not a willful or repeated violation.

"(3) Nothing in this Act shall be construed as prohibiting the Secretary or the authorized representative of the Secretary from providing technical or compliance assistance to an employer in correcting a violation discovered during an inspection or investigation under this Act without issuing a citation.".

SEC. 8. REDUCED PENALTIES FOR NONSERIOUS VIOLATIONS AND MITIGATING CIRCUMSTANCES.

Section 17 (29 U.S.C. 666) is amended—

(1) in subsection (c), by striking "up to $7,000" and inserting "not more than $100";

(2) by striking subsection (i) and inserting the following:

"(i) Any employer who violates any of the posting or paperwork requirements, other than serious or fraudulent reporting requirement deficiencies, prescribed under this Act shall not be assessed a civil penalty for such a violation unless the Secretary determines that the employer has violated subsection (a) or (d) with respect to the posting or paperwork requirements."; and

(3) by striking subsection (j) and inserting the following:

"(j)(1) The Commission shall have authority to assess all civil penalties under this section. In assessing a penalty under this section for a violation, the Commission shall give due consideration to the appropriateness of the penalty with respect to—

"(A) the size of an employer;

"(B) the number of employees exposed to the violation;

"(C) the likely severity of any injuries directly resulting from the violation;

"(D) the probability that the violation could result in injury or illness;

"(E) the good faith of the employer in correcting the violation after the violation has been identified;

"(F) the extent to which employee misconduct was responsible for the violation;

"(G) the effect of the penalty on the ability of an employer to stay in business;

"(H) the history of previous violations by an employer; and

"(I) whether the violation is the sole result of the failure of an employer to meet a requirement under this Act, or prescribed by regulation, with respect to the posting of notices, the preparation or maintenance of occupational safety and health records, or the preparation, maintenance, or submission of any written information.

"(2)(A) A penalty assessed under this section shall be reduced by not less than 25 percent in any case in which the employer—

"(i) maintains a safety and health program described in section 8A(a) for the worksite where the violation, for which the penalty was assessed, occurred; or

"(ii) demonstrates that the worksite where the violation, for which the penalty was assessed, occurred has an exemplary safety and health record.

If the employer maintains a program described in clause (i) and has the record described in clause (ii), the penalty shall be reduced by not less than 50 percent.

"(B) A penalty assessed against an employer for a violation other than a violation that—

"(i) has been previously cited by the Secretary;

"(ii) creates an imminent danger;

"(iii) has caused death; or

"(iv) has caused a serious incident,

shall be reduced by not less than 75 percent if the worksite where the violation occurred has been reviewed or inspected under a program described in section 8A(c)(1) during the 1-year period before the date of the citation for the violation, and the employer has complied with recommendations by the Secretary to bring the employer into compliance within a reasonable period of time.".

SEC. 9. CONSULTATION SERVICES.

Section 21(c) (29 U.S.C. 670(c)) is amended—

(1) by striking "(c) The" and inserting "(c)(1) The"; and

(2) by adding at the end the following:

"(2)(A) The Secretary shall, through the authority granted under section 7(c) and paragraph (1), enter into cooperative agreements with States for the provision of consultation services by such States to employers concerning the provision of safe and healthful working conditions. A State that has a plan approved under section 18 shall be eligible to enter into a cooperative agreement under this paragraph only if the plan does not include provisions for federally funded consultation to employers.

"(B)(i) Except as provided in clause (ii), the Secretary shall reimburse a State that enters into a cooperative agreement under subparagraph (A) in an amount that equals 90 percent of the costs incurred by the State for the provision of consultation services under such agreement.

"(ii) A State shall be fully reimbursed by the Secretary for—

"(I) training approved by the Secretary for State staff operating under a cooperative agreement; and

"(II) specified out-of-State travel expenses incurred by the staff.

"(iii) A reimbursement paid to a State under this subparagraph shall be limited to costs incurred by such State for the provision of consultation services under this paragraph and the costs described in clause (ii).

"(C) Notwithstanding any other provision of law, not less than 15 percent of the total amount of funds appropriated for the Occupational Safety and Health Administration for a fiscal year shall be used for education, consultation, and outreach efforts.".

SEC. 10. VOLUNTARY PROTECTION PROGRAMS.

(a) Cooperative Agreements.—The Secretary of Labor shall establish cooperative agreements with employers to encourage the establishment of comprehensive safety and health management systems that include—

(1) requirements for systematic assessment of hazards in the workplace;

(2) comprehensive hazard prevention, mitigation, and control programs;

(3) active and meaningful management and employee participation in the voluntary program described in subsection (b); and

(4) employee safety and health training.

(b) Voluntary Protection Program.—The Secretary of Labor shall establish a voluntary protection program to encourage the achievement of excellence in both the technical and managerial protection of employees from occupational hazards as follows:

(1) Application.—Volunteers for the program shall be required to submit an application to the Secretary of Labor demonstrating that the worksite with respect to which the application is made meets such qualifications as the Secretary of Labor may prescribe for participation in the program.

(2) Onsite evaluations.—The representatives of the Secretary of Labor shall conduct onsite evaluations of the worksite of the participants in the program to ensure a high level of protection of employees of the participants. The onsite evaluations shall not result in enforcement citations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), unless representatives of the Secretary of Labor observe hazards for which no agreement can be made to abate the hazards within a reasonable time period.

(3) Information.—Volunteers who are approved by the Secretary of Labor for participation in the program shall assure the Secretary of Labor that information about the safety and health program of the volunteers shall be made readily available to the Secretary of Labor to share with employers.

(4) Reevaluations.—Periodic reevaluations by the Secretary of Labor of the volunteers shall be required for continued participation in the program.

(5) Exemptions.—A site with respect to which a program has been approved shall, during participation of a volunteer in the program, be exempt from inspections and certain paperwork requirements to be determined by the Secretary of Labor, except that this paragraph shall not apply to inspections arising from employee complaints, fatalities, catastrophes, or significant toxic releases.

(c) Annual Fee.—The Secretary of Labor may charge an annual fee to participants in a voluntary protection program described in subsection (b). The fee shall be in an amount determined by the Secretary of Labor, and amounts collected shall be deposited in the general treasury of the United States.

By Mr. GREGG (for himself, Mr. Leahy, Mr. Jeffords, Ms. Collins, Ms. Snowe and Mr. Smith of New Hampshire):

S. 552. A bill to amend the Internal Revenue Code of 1986 to preserve family held forest lands, and for other purposes; to the Committee on Finance.

THE FAMILY FORESTLAND PRESERVATION TAX ACT OF 1997

Mr. GREGG. Mr. President, I introduce the Family Forestland Preservation Tax Act of 1997 on behalf of myself, Mr. Leahy, Mr. Jeffords, Mr. D'Amato, Ms. Collins, Ms. Snowe, and Mr. Smith of New Hampshire. This bill amends several key tax provisions to help landowners keep their lands in long-term private forest ownership and management. Without these changes, many landowners will continue to be forced to sell or change the use of their land.

This bill derives from four years of work by the Northern Forest Lands Council [NFLC]. The NFLC was created in 1990 to seek ways for Maine, New Hampshire, Vermont, and New York to maintain the traditional patterns of land ownership and use in the forest that covers this Nation's Northeast. The Northern Forest is a 26-million-acre stretch of land, home to 1 million residents and within a 2-hour drive of 70 million people. Nearly 85 percent of the forest is privately owned. Times have changed, however, and social and economic forces have begun to affect the traditional patterns of land use with more and more land being marketed for development.

This bill will help maintain traditional patterns and, thus, preserve the forest by adjusting several estate tax provisions. This bill would allow heirs to make postmortem donations of conservation easements on undeveloped estate land and allow the valuation of undeveloped land at current use value for estate tax purposes if the owner or heir agrees to maintain the land in its current use for a period of 25 years. This bill also would establish a partial inflation adjustment for timber sales by allowing a tax credit not to exceed 50 percent. This will encourage landowners to maintain their timberland for long-term stewardship, which is both economically and environmentally desirable. Also, the bill would eliminate the requirement that landowners generally must work 100-hours-per-year in forest management on their forest properties to be allowed to deduct normal management expenses from timber activities against nonpassive income. Currently, landowners are required to capitalize these losses until timber is harvested. This legislation, though prompted by the NFLC's work, will benefit not only the four states that make up the Northern Forest, but also all States with forest land and all who enjoy the multiple uses of forest land. I urge my colleagues to support this bill, which will not only protect the historic current use patterns, but also allow the rustic beauty of our forests to be enjoyed by all.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 552

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) Short Title.—This Act may be cited as the "Family Forestland Preservation Tax Act of 1997".

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—ESTATE TAX PROVISIONS

SEC. 101. ESTATE TAX TREATMENT OF QUALIFIED CONSERVATION EASEMENT.

(a) In General.—Section 2031 (relating to the definition of gross estate) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Exclusion of Conservation Easement.—

"(1) In general.—If an executor elects the application of this subsection, with respect to any real property included in the gross estate, there shall be excluded from the gross estate the value of a qualified conservation contribution (as defined in section 170(h)(1)) of a qualified real property interest described in section 170(h)(2)(C) in such real property made by the decedent or a member of the decedent's family within 9 months after the date of the decedent's death.

"(2) Certain contributions not included.—For purposes of paragraph (1), section 170(h)(4)(A) shall be applied without regard to clause (iv) thereof in determining whether there is a qualified conservation contribution.

"(3) Family member.—For purposes of paragraph (1), the term 'member of the decedent's family' has the same meaning given such term by section 2032A(e)(2).

"(4) Election.—An election under paragraph (1) shall be made on the return of tax imposed by section 2001. Such an election, once made, shall be irrevocable."

(b) Carryover Basis.—Section 1014(a) (relating to basis of property acquired from a decedent) is amended by striking the period at the end of paragraph (3) and inserting ", or", and by inserting at the end the following new paragraph:

"(4) in the case of property subject to a qualified conservation easement excluded from the gross estate of the decedent under section 2031(c), the basis of the property in the hands of the decedent."

(c) Effective Date.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1997, which include land subject to qualified conservation easements granted after December 31, 1997.

SEC. 102. SPECIAL ESTATE TAX VALUATION OF FOREST LANDS.

(a) In General.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2032A the following new section:

"SEC. 2032B. VALUATION OF CERTAIN FORESTLAND.

"(a) Value Based on Use of Property as Forestland.—

"(1) General rule.—If—

"(A) the decedent was (at the time of his death) a citizen or resident of the United States, and

"(B) the executor elects the application of this section and files the agreement referred to in subsection (d)(2),

then, for purposes of this chapter, the value of qualified forestland shall be its value for use as a timber operation, under subsection (b), as qualified forestland.

"(2) Limitation on aggregate reduction in fair market value.—The aggregate decrease in the value of qualified forestland taken into account for purposes of this chapter which results from the application of paragraph (1) with respect to any decedent shall not exceed $1,000,000.

"(b) Qualified Forestland.—

"(1) In general.—For purposes of this section, the term 'qualified forestland' means real property located in the United States which was acquired from or passed from the decedent to a qualified devisee or qualified heir and which, on the date of the decedent's death, was being used for a qualified forest use by the decedent or a member of the decedent's family, but only if—

"(A) 25 percent or more of the adjusted value of the gross estate consists of the adjusted value of real property which meets the requirements of this paragraph,

"(B) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which the real property was used for a qualified forest use, and

"(C) such real property is designated in the agreement referred to in subsection (d)(2).

"(2) Qualified forest use.—For purposes of this section, the term 'qualified forest use' means the devotion of the property to use in timber operations.

"(c) Tax Treatment of Dispositions and Failures To Use as Qualified Forest Use.—

"(1) Imposition of additional estate tax (recapture).—

"(A) In general.—If, within 25 years after the decedent's death and before the death of the qualified devisee or qualified heir—

"(i) the qualified devisee or qualified heir disposes of any interest in qualified forestland,

"(ii) the qualified devisee or qualified heir ceases to use for the qualified forest use the qualified forestland which was acquired (or passed) from the decedent for an aggregated period of 3 years out of any 8-year period, or

"(iii) any depreciable improvements are made to the property, other than those relating to a qualified forest use,

then there is hereby imposed an additional estate tax.

"(B) Exceptions.—Subparagraph (A) shall not apply to—

"(i) a testamentary disposition that itself qualifies for special valuation under this section,

"(ii) a disposition by a qualified heir to any other person who agrees to continue devoting the heir's interest to a qualified forest use and signs the agreement in subsection (d)(2) (such person shall thereafter be treated as a qualified devisee with respect to such interest),

"(iii) a disposition by a qualified devisee to a qualified heir of such devisee who agrees to continue devoting the devisee's interest to a qualified forest use and signs the agreement in subsection (d)(2) (such heir shall thereafter be treated as a qualified devisee with respect to such interest),

"(iv) a disposition of timber used in a timber operation; and "(v) a disposition (other than by sale) of a qualified conservation contribution (as defined in section 170(h)).

"(2) AMOUNT OF ADDITIONAL TAX.—The amount of the additional tax imposed by paragraph (1)(A) with respect to any interest shall be the amount equal to the lesser of—

"(A) the adjusted tax difference with respect to the estate (within the meaning of section 2032A(c)(2)(C), or

"(B) the amount realized from the disposition of the interest.

"(3) ONLY ONE ADDITIONAL TAX IMPOSED WITH RESPECT TO ANY ONE PORTION.—In the case of an interest acquired from (or passing from) any decedent, if a particular clause of paragraph (1)(A) applies to any portion of an interest, no other clause of such paragraph shall apply with respect to the same portion of such interest.

"(d) ELECTION; AGREEMENT.—

"(1) ELECTION.—The election under this section shall be made on the return of the tax imposed by section 2001. Such election shall be made in such manner as the Secretary shall by regulations prescribe. Such an election, once made, shall be irrevocable.

"(2) AGREEMENT.—The agreement referred to in this paragraph is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of subsection (c) with respect to such property.

"(e) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED DEVISEE.—The term 'qualified devisee' means, with respect to any property, a person who acquired such property (or to whom such property passed) from the decedent and who is not a qualified heir of the decedent.

"(2) PERSON.—The term 'person' means an individual, partnership, corporation, or governmental entity.

"(3) CERTAIN REAL PROPERTY INCLUDED.—In the case of real property which meets the requirements of subparagraph (B) of subsection (b)(1), any depreciable improvements, including roads, which are related to the qualified forest use shall be treated as real property devoted to that use.

"(4) QUALIFIED FORESTLAND.—The term 'qualified forestland' means any real property which—

"(A) qualifies for a differential use value assessment program for forestland in the State in which the property is located; or

"(B) if a State has no differential use value assessment program—

"(i) is forestland,

"(ii) is a minimum of 10 acres, exclusive of a dwelling unit or other non-forest related structure and its curtilage; and

"(iii) is subject to a forest management plan.

"(5) TIMBER OPERATIONS.—The term 'timber operations' means the planting, cultivating, caring for, or harvesting of trees in the process of using and conserving renewable forest resources.

"(6) METHOD OF VALUING FORESTLAND.—The value of forestland shall be determined according to whichever of the following methods results in the least value:

"(A) Assessed land values in a State which provides a differential or use value assessment for forestland.

"(B) Comparable sales of other forestland in the same geographical area far enough removed from a metropolitan or resort area so that nonforest use is not a significant factor in the sales price.

"(C) The capitalization of income which the property can be expected to yield for timber operations over a reasonable period of time under prudent management; using traditional forest management for the area, and taking into account soil capacity, terrain configuration, and similar factors.

"(D) Any other factor which fairly values the timber value of the property.

"(7) APPLICABLE DEFINITIONS AND RULES OF SECTION 2032A.—

"(A) DEFINITIONS.—Except as otherwise provided in this section, any term used in this section which is also used in section 2032A shall have the meaning given such term by section 2032A.

"(B) RULES.—The rules in the following provisions of section 2032A shall apply to this section, by substituting 'qualified forestland' for 'qualified real property' and 'qualified forest use' for 'qualified use', and shall apply to qualified devisees as well as qualified heirs:

"(i) Paragraphs (2)(D) (by substituting 'paragraph (2)(B)' for 'subparagraph (A)(ii)' in clause (i) thereof), (4), (5), and (7)(A) (by substituting '25 years' for '10 years') of subsection (c).

"(ii) Subsection (d)(3).

"(iii) Paragraphs (9), (10), (11), and (14) (by substituting 'active management' for 'material participation') of subsection (e).

"(iv) Subsections (f) and (g).

"(f) SPECIAL RULES FOR INVOLUNTARY CONVERSIONS OF QUALIFIED FORESTLAND.—

"(1) TREATMENT OF CONVERTED PROPERTY.—

"(A) IN GENERAL.—If there is an involuntary conversion of an interest in qualified forestland—

"(i) no tax shall be imposed by subsection (c) on such conversion if the cost of the qualified replacement property equals or exceeds the amount realized on such conversion; or

"(ii) if clause (i) does not apply, the amount of the tax imposed by subsection (c) on such conversion shall be the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX WHERE THERE IS NOT COMPLETE REINVESTMENT.—The amount determined under this subparagraph with respect to any involuntary conversion is the amount of tax which (but for this subsection) would have been imposed on such conversion reduced by an amount which—

"(i) bears the same ratio to such tax, as

"(ii) the cost of the qualified replacement property bears to the amount realized on the conversion.

"(2) TREATMENT OF REPLACEMENT PROPERTY.—For purposes of subsection (c)—

"(A) any qualified replacement property shall be treated in the same manner as if it were a portion of the interest in qualified forestland which was involuntarily converted; except that with respect to such qualified replacement property the 25-year period under paragraph (1) of subsection (c) shall be extended by any period, beyond the 2-year period referred to in section 1033(a)(2)(B)(i), during which the qualified devisee or qualified heir was allowed to replace the qualified forestland;

"(B) any tax imposed by subsection (c) on the involuntary conversion shall be treated as a tax imposed on a partial disposition, and

"(C) subparagraph (A)(ii) of subsection (c)(1) shall be applied by not taking into account periods after the involuntary conversion and before the acquisition of the qualified replacement property.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) INVOLUNTARY CONVERSION.—The term 'involuntary conversion' means a compulsory or involuntary conversion within the meaning of section 1033.

"(B) QUALIFIED REPLACEMENT PROPERTY.—The term 'qualified replacement property' means—

"(i) in the case of an involuntary conversion described in section 1033(a)(1), any real property into which the qualified forestland is converted, or

"(ii) in the case of an involuntary conversion described in section 1033(a)(2), any real property purchased by the qualified devisee or qualified heir during the period specified in section 1033(a)(2)(B) for purposes of replacing the qualified forestland.

Such term only includes property which is to be used for the qualified forest use set forth in subsection (b)(2) under which the qualified forestland qualified under subsection (a).

"(4) CERTAIN RULES MADE APPLICABLE.—The rules of the last sentence of section 1033(a)(2)(A) shall apply for purposes of paragraph (3)(B)(ii).

"(g) EXCHANGES OF QUALIFIED FORESTLAND.—

"(1) TREATMENT OF PROPERTY EXCHANGED.—

"(A) EXCHANGES SOLELY FOR QUALIFIED EXCHANGE PROPERTY.—If an interest in qualified forestland is exchanged solely for an interest in qualified exchange property in a transaction which qualifies under section 1031, no tax shall be imposed by subsection (c) by reason of such exchange.

"(B) EXCHANGES WHERE OTHER PROPERTY RECEIVED.—If an interest in qualified forestland is exchanged for an interest in qualified exchange property and other property in a transaction which qualifies under section 1031, the amount of the tax imposed by subsection (c) by reason of such exchange shall be the amount of tax which (but for this subparagraph) would have been imposed on such exchange under subsection (c)(1), reduced by an amount which—

"(i) bears the same ratio to such tax, as

"(ii) the value of the qualified exchange property bears to the value of the qualified forestland exchanged.

For purposes of clause (ii) of the preceding sentence, value shall be determined according to subsection (e)(6).

"(2) TREATMENT OF QUALIFIED EXCHANGE PROPERTY.—For purposes of subsection (c)—

"(A) any interest in qualified exchange property shall be treated in the same manner as if it were a portion of the interest in qualified forestland which was exchanged; and

"(B) any tax imposed by subsection (c) by reason of the exchange shall be treated as a tax imposed on a partial disposition.

"(3) QUALIFIED EXCHANGE PROPERTY.—For purposes of this subsection, the term 'qualified exchange property' means real property which is to be used for a qualified forest use set forth in subsection (b)(2) under which the real property exchanged therefor originally qualified under subsection (a)."

(b) CONFORMING AMENDMENTS.—

(1) Section 1014(a)(3), as amended by section 101(b), is amended by inserting "or 2032B" after "2032A".

(2) Section 1016(c) is amended—

(A) by inserting "or 2032B(c)(1)" after "2032A(c)(1)" in paragraphs (1), (3), (4), and (5)(B),

(B) by inserting "or qualified devisee" after "qualified heir" in paragraph (1),

(C) by inserting "or 2032B(f)(3)(B)" after "2032A(h)(3)(B)" in paragraph (4), and

(D) by inserting "or 2032B(g)(3)" after "2032A(i)(3)" in paragraph (4).

(3) Section 1040 is amended—

(A) by inserting "or qualified devisee (within the meaning of section 2032B(e)(1))" before "any property" in subsection (a), and

(B) by inserting "or 2032B" after "2032A" in subsections (a) and (b).

(4) Section 1223(12)(C) is amended by inserting "or qualified devisee (within the meaning of section 2032B(e)(1))" before "with respect".

(5) Section 2013 is amended—

(A) by inserting "or 2032B" after "2032A" each place it appears in subsection (f) and the heading thereof, and

(B) by inserting "or 2032B(c)" after "2032A(c)" both places it appears in subsection (f).

(6) Section 2035(d)(3)(B) is amended by inserting "or section 2032B (relating to special valuation of certain forestland)" after "real property)".

(7) Section 2056A(b)(10)(A) is amended by inserting "2032B," after "2032A,".

(8) Section 2624(b) is amended by striking "sections 2032 and 2032A" and inserting "sections 2032, 2032A, and 2032B".

(9) Section 2663(1) is amended by striking "section 2032A(c)" and inserting "sections 2032A(c) and 2032B(c)".

(10) Section 6324B is amended—

(A) by striking subsection (a) and inserting the following new subsection:

"(a) General Rules.—

"(1) Section 2032A.—In the case of any interest in qualified real property (within the meaning of section 2032A(b)), an amount equal to the adjusted tax difference attributable to such interest (within the meaning of section 2032A(c)(2)(B)) shall be a lien in favor of the United States on property in which such interest exists.

"(2) Section 2032B.—In the case of any interest in qualified forestland (within the meaning of section 2032B(b)), an amount equal to the adjusted tax difference with respect to the estate (within the meaning of section 2032A(c)(2)(C)) shall be a lien in favor of the United States on property in which such interest exists.",

(B) by inserting "or 2032B" after "2032A" both places it appears in subsection (b),

(C) by inserting "or 2032B(c)" after "2032A(c)" in subsection (b)(2), and

(D) by adding at the end of subsection (c) the following new paragraph:

"(3) Qualified forestland.—For purposes of this section, the term 'qualified forestland' includes qualified replacement property (within the meaning of section 2032B(f)(3)(B)) and qualified exchange property (within the meaning of section 2032B(g)(3))."

(c) Clerical Amendment.—The table of sections for part III of subchapter A of chapter 11 is amended by adding at the end the following new item:

"Sec. 2032B. Valuation of certain forestland."

(d) Effective Date.—The amendment made by this section shall apply to estates of decedents dying after December 31, 1997.

TITLE II—INCOME TAX TREATMENT

SEC. 201. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

(a) In General.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end the following new section:

"SEC. 1203. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

"(a) In General.—At the election of any taxpayer who has qualified timber gain for any taxable year, there shall be allowed as a deduction from gross income an amount equal to the qualified percentage of such gain.

"(b) Qualified Timber Gain.—For purposes of this section, the term 'qualified timber gain' means the lesser of—

"(1) the net capital gain for the taxable year, or

"(2) the net capital gain for the taxable year determined by taking into account only gains and losses from timber.

"(c) Qualified Percentage.—For purposes of this section, the term 'qualified percentage' means the percentage (not exceeding 50 percent) determined by multiplying—

"(1) 3 percent, by

"(2) the number of years in the holding period of the taxpayer with respect to the timber.

"(d) Estates and Trusts.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets."

(b) Coordination With Existing Limitations.—

(1) Subsection (h) of section 1 (relating to maximum capital gains rate) is amended by inserting after "net capital gain" each place it appears the following: "(other than qualified timber gain with respect to which an election is made under section 1203)".

(2) Subsection (a) of section 1201 (relating to alternative tax for corporations) is amended by inserting after "net capital gain" each place it appears the following: "(other than qualified timber gain with respect to which an election is made under section 1203)".

(c) Allowance of Deduction in Computing Adjusted Gross Income.—Subsection (a) of section 62 (relating to definition of adjusted gross income) is amended by adding after paragraph (16) the following new paragraph:

"(17) Partial inflation adjustment for timber.—The deduction allowed by section 1203."

(d) Clerical Amendment.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end the following new item:

"Sec. 1203. Partial inflation adjustment for timber."

(e) Effective Date.—The amendments made by this section shall apply to sales or exchanges after December 31, 1997.

SEC. 202. EXCLUSION OF GAIN FROM SALE OF INTERESTS IN FOREST LANDS.

(a) In General.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 138 as section 139 and by inserting after section 137 the following new section:

"SEC. 138. SALES OF INTERESTS IN CERTAIN FOREST LANDS.

"(a) Exclusion.—

"(1) In general.—Gross income shall not include the applicable percentage of any qualified timber gain.

"(2) Applicable percentage.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) 35 percent, or

"(B) in the case of qualified timber gain from the sale of a qualified real property interest described in section 170(h)(2)(C), 100 percent.

"(b) Limitation.—The total amount of gain which may be excluded from gross income under subsection (a) for any taxable year shall not exceed the sum of—

"(1) the amount of qualified timber gain described in subsection (a)(2)(B), plus

"(2) $800,000.

"(c) Qualified Timber Gain.—For purposes of this section—

"(1) In general.—The term 'qualified timber gain' means gain from the sale or exchange of a qualified real property interest in real property which is used in timber operations to a governmental unit described in section 170(c)(1) for conservation purposes.

"(2) Qualified real property interest.—The term 'qualified real property interest' has the meaning given such term by section 170(h)(2).

"(3) Timber operations.—The term 'timber operations' has the meaning given such term by section 2032B(e)(5).

"(4) Conservation purposes.—The term 'conservation purposes' has the meaning given such term by section 170(h)(4)(A) (without regard to clause (iv) thereof).

"(d) Special Rule for Sales to Non-governmental Entities.—

"(1) In general.—Subsection (a) shall apply to the sale or exchange to a qualified organization described in section 170(h)(3) if such interest is transferred during the 2-year period beginning on the date of the sale or exchange to a governmental unit described in section 170(c)(1).

"(2) Time for exclusion.—If the transfer to which paragraph (1) applies occurs in a taxable year after the taxable year in which the sale or exchange occurred—

"(A) no exclusion shall be allowed under subsection (a) for the taxable year of the sale or exchange, but

"(B) the taxpayer's tax for the taxable year of the transfer shall be reduced by the amount of the reduction in the taxpayer's tax for the taxable year of the sale or exchange which would have occurred if subparagraph (A) had not applied."

(b) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 138 and by inserting the following new items after the item relating to section 137:

"Sec. 138. Sales of interests in certain forest lands.

"Sec. 139. Cross references to other Acts."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 203. APPLICATION OF PASSIVE LOSS LIMITATIONS TO TIMBER ACTIVITIES.

(a) In General.—Treasury regulations sections 1.469–5T(b)(2) (ii) and (iii) shall not apply to any closely held timber activity if the nature of such activity is such that the aggregate hours devoted to management of the activity for any year is generally less than 100 hours.

(b) Definitions.—For purposes of subsection (a)—

(1) Closely held activity.—An activity shall be treated as closely held if at least 80 percent of the ownership interests in the activity is held—

(A) by 5 or fewer individuals, or

(B) by individuals who are members of the same family (within the meaning of section 2032A(e)(2) of the Internal Revenue Code of 1986).

An interest in a limited partnership shall in no event be treated as a closely held activity for purposes of this section.

(2) Timber activity.—The term "timber activity" means the planting, cultivating, caring, cutting, or preparation (other than milling) for market, of trees.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

By Mr. KERRY:

S. 553. A bill to regulate ammunition, and for other purposes; to the Committee on the Judiciary.

THE AMMUNITION SAFETY ACT OF 1997

Mr. KERRY. Mr. President, no gun works without a bullet. Yet for no good reason, Congress in the early 1980's—which were marked by terribly troubling increases in gun-caused fatalities and injuries—repealed laws that regulate ammunition. And while a background check is required to stop felons from purchasing guns, no such background check is required to stop them from buying ammunition for guns they already may have. In the meantime, bullets are getting meaner and more deadly. Law enforcement officers know all too well the danger they face each and every time a gun is pointed at them.

Advances in technology only promise to make matters worse. When a large percentage of gun-related deaths involve handguns, and a larger percentage of gun-related deaths is accidental, it is not sensible to allow unrestricted manufacture, sale, and use of new, more destructive bullets. In 1994, 157 police officers and State troopers were killed in this country. Five lost their lives in my home State of Massachusetts. Additionally, more than 200 people die from the accidental use of handguns every year. In 1992 alone, 233 accidental deaths occurred because of handguns. This included 6 babies, 36 children under the age of 14, and 8 senior citizens, 2 of whom were over the age of 80.

In light of these sad and disturbing facts, there is no good reason to permit ever more dangerous bullets to come on the market. And there is every good reason to keep off our streets and out of our homes bullets that supply handguns with the approximate destructive power of assault weapons.

That is why I am today reintroducing the Ammunition Safety Act that I introduced previously in the 104th Congress. The Ammunition Safety Act of 1997 does two things: it reestablishes reasonable regulations for the sale of handgun ammunition, and it outlaws all exceedingly destructive handgun ammunition by expanding and updating the ban on armor-piercing handgun ammunition. This bill would provide a weapon for law enforcement to crack down on crime and would make ordinary people safer from handgun violence and accidental shootings. The bill accomplishes these goals in three steps.

First, the bill reinstates and strengthens ammunition control language that Congress repealed during the Reagan era. The bill would require dealers of handgun ammunition to be licensed by the Federal Government and would restrict interstate sale and transportation of handgun ammunition to licenced dealers. The bill also would double the maximum penalties for sale of handgun ammunition to and possession of such ammunition by felons and persons under age 21.

Second, the bill would apply Brady Bill provisions to handgun ammunition. To prevent the sale of handgun ammunition to felons, every purchaser of ammunition would have to pass a background check before ammunition could be sold to him or her. These regulations would be a vital tool for law enforcement to use in investigating crime, and would provide equity to a system that currently monitors and restricts the flow of guns, but, inexplicably, not of ammunition.

Third, the bill expands the definition of illegal armor-piercing handgun ammunition to include any new conceivable kind of armor-piercing bullet. The bill establishes a new method to accomplish this goal. To date, no law has been able to effectively ban all armor-piercing bullets. It is impossible to ban what cannot be defined because vague laws are constitutionally void—and definitions to date have failed to cover all armor-piercing bullets. All that existing law does is ban bullets based on the materials of which they are made. Consequently, bullets made of hard metal are illegal in the hope that this definition will cover most armor-piercing bullets. But the existing composition-based definitions fail to prevent the sale of certain bullets that pierce armor like large lead bullets that are not intended for handguns but can be used in them.

This bill calls on the Treasury Department to define major armor-piercing bullets. Fulfilling this new responsibility would entail four steps:

First, within 1 year, the Treasury Department is charged to determine a standard test to ascertain the destructive capacity of any and all bullets. This will probably result in something along the lines of a system that has been employed for some testing purposes that calculates the width times the depth of the hole a projectile bores in a block of gelatin when it is shot with no extra powder from a standard handgun at a distance of 10 feet.

Second, utilizing this destructive capabilities rating test, the Treasury Department would then test and determine the destructive rating of every bullet available on the market.

Third, all manufacturers of bullets for sale in the United States would be required to cover the costs incurred by the Treasury Department in this testing.

Fourth, the bill would make it illegal to manufacture, sell, import, use, or possess any bullet—existing or newly invented—that has a destructive rating equal to or higher than the armor-piercing threshold. This would be in addition to the existing composition-based definition.

This bill contains reasonable exemptions. Those bullets exclusively manufactured for law enforcement would be exempt; so would be those bullets designed for sporting purpose that Congress specifically exempts by law; and so would be those bullets that are proven by their manufacturer at its expense to have a destructive rating below the armor-piercing threshold.

By setting the legal standard at the armor-piercing threshold, all armor-piercing bullets would be illegal. And there is an additional advantage to setting a legal threshold in this fashion: The threshold would ban more than armor-piercing bullets. It would ban any bullet invented in the future that explodes on impact, that turns to shrapnel, that does things today's technology cannot yet fathom, or that by any other means is exceptionally destructive.

Setting a legal standard this way draws a hard and fast line between those bullets currently on the market and future bullets that do more damage that we can image today. This bill says that America is satisfied that the bullets of today are dangerous enough, and America will tolerate no greater likelihood of accidental death as a result of new bullets.

This bill recognizes the fact that regulating only guns is naive. Those who want to kill or injure others will always be able to find guns, but they must purchase ammunition. When they do this, this bill will be there to stop them.

Mr. President, I recognize that there is a limit to what the Government can do to stop gun violence and accidental death. But today, our Government is shirking its responsibility. This bill is a vital step toward ensuring that our Government does what is necessary to save lives.

The law enforcement community and the public will never again have to react to advertisements like the one for the famous Rhino bullet. This ad states: "The Rhino inflicts a wound of 8 inches in diameter. Each of these fragments becomes lethal shrapnel and is hurled into vital organs, lungs, circulatory system components, the heart and other tissues. The wound channel is catastrophic. Death is nearly instantaneous."

If this bill is enacted, opportunistic manufacturers like the one who created the Rhino bullet will have nothing to gain from advertising the dramatic innovations of their bullets. If an advertisement claims that a new bullet is unusually destructive, the public will know that the advertisement is either an outright lie or that the product is illegal. Either way, the public will know in advance that no such bullet will ever hit the street, and the public will have no cause for alarm.

When this bill becomes law, no new bullets that are more dangerous than those of today will make it to market. When this bill becomes law, bullets now available for purchase end up in the wrong hands.

This bill is a solid step toward returning sanity and safety to our Nation's streets and households. The Government has no greater responsibility than to work toward this goal. I welcome the support of colleagues who share my concerns, as many do. I urge them to join me in sponsoring this legislation.

Mr. President, I ask unanimous consent that the full text of the legislation appear in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ammunition Safety Act of 1997".

SEC. 2. DEALERS OF AMMUNITION.

(a) Definition.—Section 921(a)(11)(A) of title 18, United States Code, is amended by inserting "or ammunition" after "firearms".

(b) Licensing.—Section 923(a) of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking "or importing or manufacturing ammunition" and inserting "or importing, manufacturing, or dealing in ammunition"; and

(2) in paragraph (3)—

(A) in subparagraph (A), by striking "or" the last place it appears;

(B) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(C) by inserting the following new subparagraph:

"(C) in ammunition other than ammunition for destructive devices, $10 per year.".

(c) Unlawful Acts.—Section 922(a)(1)(A) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by inserting "or ammunition" after "firearms"; and

(ii) by inserting "or ammunition" after "firearm"; and

(B) in subparagraph (B), by striking "or licensed manufacturer" and inserting "licensed manufacturer, or licensed dealer";

(2) in paragraph (2), in the matter preceding subparagraph (A), by inserting "or ammunition" after "firearm";

(3) in paragraph (3), by inserting "or ammunition" after "firearm" the first place it appears;

(4) in paragraph (5), by inserting "or ammunition" after "firearm" the first place it appears; and

(5) in paragraph (9), by inserting "or ammunition" after "firearms".

(d) Penalties.—Section 924 of title 18, United States Code, is amended—

(1) in paragraph (5)—

(A) in subparagraph (A)(i), by striking "1 year" and inserting "2 years"; and

(B) in subparagraph (B)—

(i) in clause (i), by striking "1 year" and inserting "2 years"; and

(ii) in clause (ii), by striking "10 years" and inserting "20 years"; and

(2) by adding at the end the following new subsection:

"(o) Except to the extent a greater minimum sentence is otherwise provided, any person at least 18 years of age who violates section 922(g) shall be subject to—

"(1) twice the maximum punishment authorized by this subsection; and

"(2) at least twice any term of supervised release.".

(e) Application of Brady Handgun Violence Prevention Act to Transfer of Ammunition.—Section 922(t) of title 18, United States Code, is amended by inserting "or ammunition" after "firearm" each place it appears.

SEC. 3. REGULATION OF ARMOR PIERCING AND NEW TYPES OF DESTRUCTIVE AMMUNITION.

(a) Testing of Ammunition.—Section 921(a)(17) of title 18, United States Code, is amended—

(1) by redesignating subparagraph (D), as added by section 2(e)(2), as subparagraph (E); and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D)(i) Notwithstanding subchapter II of chapter 5 of title 5, United States Code, not later than 1 year after the date of enactment of this subparagraph, the Secretary shall—

"(I) establish uniform standards for testing and rating the destructive capacity of projectiles capable of being used in handguns;

"(II) utilizing the standards established pursuant to subclause (I), establish performance-based standards to define the rating of 'armor piercing ammunition' based on the rating at which the projectiles pierce armor; and

"(III) at the expense of the ammunition manufacturer seeking to sell a particular type of ammunition, test and rate the destructive capacity of the ammunition utilizing the testing, rating, and performance-based standards established under subclauses (I) and (II).

"(ii) The term 'armor piercing ammunition' shall include any projectile determined to have a destructive capacity rating higher than the rating threshold established under subclause (II), in addition to the composition-based determination of subparagraph (B).

"(iii) The Congress may exempt specific ammunition designed for sporting purposes from the definition of 'armor piercing ammunition'.".

(b) Prohibition.—Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7)—

(A) by striking "or import" and inserting ", import, possess, or use";

(B) in subparagraph (B), by striking "and";

(C) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(D) the manufacture, importation, or use of any projectile that has been proven, by testing performed at the expense of the manufacturer of the projectile, to have a lower rating threshold than armor piercing ammunition."; and

(2) in paragraph (8)—

(A) in subparagraph (B), by striking "and";

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) the manufacture, importation, or use of any projectile that has been proven, by testing performed at the expense of the manufacturer of the projectile, to have a lower rating threshold than armor piercing ammunition.".

By Mr. HARKIN:

S. 554. A bill to inform and empower consumers in the United States through a voluntary labeling system for wearing apparel or sporting goods made without abusive and exploitative child labor, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE CHILD LABOR FREE CONSUMER INFORMATION ACT OF 1997

Mr. HARKIN. Mr. President, I rise to introduce legislation that will inform and empower consumers in the United States through a voluntary labeling system for wearing apparel and sporting goods made without the use of abusive and exploitative child labor. Congressman George Miller is introducing companion legislation in the other body.

This is the second time I have come to the floor of the Senate to introduce this bill, and I will continue to introduce it until it becomes law.

I'd like to ask my colleagues to take a moment to look around. Maybe it's the shirt you have on right now. Or the silk tie or blouse. Or the soccer ball you kick around with your kids in the backyard. Or the tennis shoes you wear on weekends.

Chances are that you have purchased something—perhaps many things—made with abusive and exploitative child labor. And chances are you were completely unaware that was the case. You will find a label that tells you what size it is, how to take care for it and what it costs. But it doesn't tell you about the person who made it.

Mr. President, recently, the International Labor Organization [ILO] released a very grim report about the number of children who toil away in abhorrent conditions. The ILO estimates that over 250 million children worldwide under the age of 15 are working instead of receiving a basic education. Many of these children begin working in factories at the age of 6 or 7, some even younger. They are poor, malnourished, and often forced to work 60-hour weeks for little or no pay.

Now when I speak about child labor, I am not talking about 17-year-olds helping out on the family farm or running errands after school. I am speaking about children, often under 12 years old, who are forced to work long hours in hazardous and dangerous conditions, many as slaves, instead of going to school.

On September 23, 1993, the Senate appropriately put itself on record as expressing its principled opposition to the abhorrent practice of exploiting children for commercial gain and asserting that it should be the policy of the United States to prohibit the importation of products made through the use of abusive and exploitative child labor by passing a sense of the Senate Resolution I introduced. In my view, this was the first step toward ending child labor.

Mr. President, never has the issue of child labor in the garment industry been more prominent than today. Last year, talk show host Kathie Lee Gifford learned that some of the garments with her name on them were being produced by children. She did not bury her head in the sand. Instead, she reacted quickly and decisively to heighten awareness about the issue of abusive and exploitative child labor.

Americans in Des Moines or Dallas or Detroit may say, "What does this have to do with us?" It is quite simple. By protecting the rights of workers everywhere, we will be protecting jobs and opportunities here at home. A U.S. worker cannot compete with a 12-year-old working 12 hours a day for 12 cents.

Last year, the United States imported almost 50 percent of the wearing apparel sold in this country and the garment industry netted $34 billion. According to the Department of Commerce, last year, the United States imported 494.1 million pairs of athletic footwear and produced only 65.3 million here at home. That means that we imported enough shoes to encircle the earth five and a half times.

As I have traveled around the country and spoken with people about the issue of abusive and exploitative child labor, I have found that consumers—ordinary Americans—want to get involved. They want information. They want to know if the products they are buying are made by children.

According to a survey sponsored by Marymount University, more than three out of four Americans said they would avoid shopping at stores if they were aware that the goods sold there were made by exploitative and abusive child labor. They also said that they would be willing to pay an extra $1 on a $20 garment if it were guaranteed to be made under legitimate circumstances. I ask unanimous consent to enter this study into the RECORD.

Mr. President, it is obvious that consumers don't want to reward companies with their hard-earned dollars by buying products made with abusive and exploitative child labor.

This issue demands our attention. My legislation, the Child Labor Free Consumer Information Act 1997, will inform and empower consumers in the United States through a voluntary labeling system for wearing apparel and sporting goods made without abusive and exploitative child labor. In my view, a system of voluntary labeling holds the best promise of giving consumers the information they want—and giving the companies that manufacture these products the recognition they deserve.

The crux of this legislation is to provide the framework for members of the wearing apparel and sporting goods industry, labor organizations, consumer advocacy and human rights groups along with the Secretaries of Commerce, Treasury, and Labor to establish the labeling standard and develop a system to assure compliance that items were not made with abusive and exploitative child labor. Thus, ensuring consumers that the garment or pair of tennis shoes they purchase was made without abusive and exploitative child labor.

In my view, Congress can't do it alone through legislation. The Department of Labor can't do it alone through enforcement. It takes all of us from the private sector to labor and human rights groups to take responsibility, to come together to end abusive and exploitative child labor. And I am pleased to say there has recently been promising action to that end.

Yesterday, an article in the New York Times appeared announcing a tentative agreement between human rights and labor leaders and some members of the apparel industry to adopt a code of conduct and a promise to form an association to provide consumers with information on the items they purchase. This is a praise worthy initiative and I am glad that my discussions with President Clinton on the issue of child labor have helped lead to this development. Now, we must take the logical next step to inform and assure consumers that the goods they purchase are not made with abusive and exploitative child labor. My bill has provisions for a labeling system that will inform consumers that the wearing apparel and sporting goods they purchase are not made by the sweat and toil of children, as well as enforcement provisions to assure consumers that the label has integrity. Until an effective and reliable labeling and monitoring system is in place, consumers can never truly be sure that the goods they purchase were not made by an exploited child. I look forward to continuing my work with my colleagues and the White House on strengthening this initiative to inform and empower consumers. That is what the American consumer demands and deserves.

Mr. President, when the private sector decides to take speak up—it certainly can make a difference. Recently, in Bangladesh, the Bangladesh Garment Manufacturers and Exporters Association has agreed to work with the International Labor Organization to take children out of the garment factories and put them into school—where they belong. As of July 1996, more than 110 schools for former child workers have opened, serving nearly 2,000 children. So, if we can do it in Bangladesh, then we can do it elsewhere.

Mr. President, let me be clear, companies can choose to use the label or not to. This bill is not about the big government telling the private sector what to do. This bill is centered around this fundamental principle: Let the Buyer Be Aware. This "Truth in Labeling" initiative is based on the principle that a fully informed American consumer will make the right, and moral, choice and vote against abusive and exploitative child labor with their pocketbook.

We have seen such an approach work effectively with the Rugmark label for hand-knotted carpets from India. It is operating in some European countries. Consumers who want to buy child labor-free carpets can just look for the Rugmark label. I visited the Rugmark headquarters in New Delhi, India last week. Mr. President, this initiative is working. It has succeeded in taking children out of the factories and putting them into schools while providing consumers with the information they need.

By the end of April, half a million carpets will have received the Rugmark label and been shipped to stores in Germany. Rugmark licenses already provide 30 percent of German carpet imports from India. And I am pleased to say that there are two wholesalers in New York that offer carpets with the Rugmark label. I am hopeful that by the end of the year there will be at least 20 importers in the United States.

Mr. President, the progress that has been made on eradicating abusive and exploitative child labor is irreversible. Therefore we must continue to move forward. And I believe my bill allows us to do just that. It allows the consumer to know more about the products they buy and give companies that use the label the recognition they deserve.

Our Nation began this century by working to end abusive and exploitative child labor in America, let us close this century by ending child labor around the world. I urge my colleagues to support my bill.

I hope that we will be able to vote on this piece of legislation in the near future so that we can give consumers the information they deserve to make informed decisions.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 554

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Labor Free Consumer Information Act of 1997".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Secretary of Labor has conducted 3 detailed studies that document the fact that abusive and exploitative child labor exists worldwide;

(2) the Secretary of Labor has also determined, through the studies referred to in paragraph (1), that child laborers are often forced to work beyond their physical capacities, under conditions that threaten their

health, safety, and development, and are denied basic educational opportunities;

(3) in most instances, countries that have abusive and exploitative child labor also experience a high adult unemployment rate;

(4) the International Labor Organization (commonly known as the "ILO") estimates that—

(A) approximately 250,000,000 children between the ages of 5 and 14 are working in developing countries; and

(B) many of those children manufacture wearing apparel or sporting goods that are offered for sale in the United States;

(5) consumers in the United States spend billions of dollars each year on wearing apparel and sporting goods;

(6) consumers in the United States have the right to information on whether the articles of wearing apparel (including any section of that wearing apparel) or sporting goods that they purchase are made without abusive and exploitative child labor;

(7) the rugmark labeling and monitoring system is a successful model for eliminating abusive and exploitative child labor in the rug industry;

(8) the labeling of wearing apparel or sporting goods would provide the information referred to in paragraph (6) to consumers; and

(9) it is important to recognize United States businesses that have effective programs to ensure that products sold in the United States are not made with abusive and exploitative child labor.

TITLE I—CHILD LABOR FREE LABELING STANDARDS

SEC. 101. CHILD LABOR FREE LABELING STANDARDS.

(a) Establishment of Labeling Standards.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor, in consultation with the Child Labor Free Commission established under section 201, shall issue regulations to ensure that a label using the terms "Not Made With Child Labor", "Child Labor Free", or any other term or symbol referring to child labor does not make a false statement or suggestion that the article or section of wearing apparel or sporting good was not made with child labor. The regulations developed under this section shall encourage the use of an easily identifiable symbol or term indicating that the article or section of wearing apparel or sporting good was not made with child labor.

(2) Notification on use.—

(A) In general.—A producer, importer, exporter, distributor, or other person intending to use any label referred to in paragraph (1) shall submit a notification to the Commission for review under subparagraph (C).

(B) Notification.—The notification referred to in subparagraph (A) shall include information concerning the source of the article or section of wearing apparel or sporting good to which the label will be affixed, including—

(i) the country in which the article or section of wearing apparel or sporting good is manufactured;

(ii) the name and location of the manufacturer; and

(iii) information concerning any outsourcing by the manufacturer in the manufacture of the article or section of wearing apparel or sporting good.

(C) Review of notification.—Upon receipt of the notification, the Commission shall review the notification and inform the Secretary of Labor concerning the findings of the review. The permission of the Secretary of Labor shall be required for the use of the label. The Secretary of Labor, in consultation with the Commission, shall establish procedures for granting permission to use a label under this subparagraph.

(3) Fee.—The Secretary of Labor is authorized to charge a fee to cover the expenses of the Commission in reviewing a notification under paragraph (2). The level of fees charged under this subparagraph shall not exceed the administrative costs incurred in reviewing a notification. Fees collected under this paragraph shall be available to the Secretary of Labor for expenses incurred in the review and response of the Commission under this subsection.

(4) Applicability.—The regulations issued under paragraph (1) shall apply to any label contained in—

(A) an article or section of wearing apparel or sporting good that is exported from or offered for sale in the United States;

(B) any packaging thereof; or

(C) any advertising for an article or section of wearing apparel or sporting good referred to in subparagraph (A).

(5) Effective date.—The regulations issued under paragraph (1) shall take effect on the date that is 180 days after the date of publication as final regulations.

(b) Violation of Section 5 of the Federal Trade Commission Act.—It is a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) for any producer, importer, exporter, distributor, or seller of any article or section of wearing apparel or sporting good that is exported from or offered for sale in the United States—

(1) to falsely indicate on the label of that article or section of wearing apparel or sporting good, the packaging of the article or section of wearing apparel or sporting good, or any advertising for the article or section of wearing apparel or sporting good that the article or section of wearing apparel or sporting good was not made with child labor; or

(2) to otherwise falsely claim or suggest that the article (or section of that article of wearing apparel) or sporting good was not made with child labor.

(c) Amendment to the Federal Trade Commission Act.—Section 5(m)(1) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1)) is amended—

(1) in subparagraph (A), by striking "The Commission" and inserting "Except as provided in subparagraph (D), the Commission";

(2) in subparagraph (B), by striking "If the Commission" and inserting "Except as provided in subparagraph (D), if the Commission"; and

(3) by adding at the end the following new subparagraph:

"(D)(i)(I) In lieu of the applicable civil penalty under subparagraph (A) or (B), in any case in which the Commission commences a civil action for a violation of section 101 of the Child Labor Free Consumer Information Act of 1997 under subparagraph (A), under subparagraph (B) for an unfair or deceptive practice that is considered to be a violation of this section by reason of section 101(b) of such Act, or under subparagraph (C) for a continuing failure that is considered to be a violation of this section by reason of section 101(b) of such Act, if that violation—

"(aa) is a knowing or willful violation, the amount of a civil penalty for the violation shall be determined under clause (ii); or

"(bb) is not a knowing or willful violation, no penalty shall be assessed against the person, partnership, or corporation that committed the violation.

"(II) For purposes of this subparagraph, if in an action referred to in subclause (I), if the Commission asserts that a violation is a knowing and willful violation, the defendant shall bear the burden of proving otherwise.

"(ii) The amount of a civil penalty for a violation under clause (i)(I)(aa) that is committed shall be—

"(I) for an initial violation, an amount equal to the greater of—

"(aa) 2 times the retail value of the articles of wearing apparel or sporting goods mislabeled; or

"(bb) $200,000; and

"(II) for any subsequent violation, an amount equal to the greater of—

"(aa) 4 times the retail value of the articles of wearing apparel or sporting goods mislabeled; or

"(bb) $400,000.".

(d) Special Fund To Assist Children.—

(1) Creation of fund.—There is established in the United States Treasury a special fund to be known as the "Free the Children Fund".

(2) Deposits into fund.—An amount equal to the amount of penalties collected under this section shall be deposited into the special fund. The Secretary of the Treasury shall, upon request of the Secretary of Labor, make the amounts deposited into the special fund available to the Secretary of Labor for use by the Secretary of Labor for educational and other programs described in paragraph (3).

(3) Authorization.—Amounts deposited into the special fund are authorized to be appropriated annually for educational and other programs with the goal of eliminating child labor.

(e) Other Industries.—The Commission may, as appropriate, develop labeling standards similar to the labeling standards developed under this section for any industry that is not otherwise covered under this Act and recommend to the Secretary of Labor that those standards be promulgated. If the standards are promulgated by the Secretary of Labor—

(1) the provisions of this Act and the amendments made by this Act shall apply to the labeling covered by those standards in the same manner as they apply to any other standards promulgated by the Secretary of Labor under this section; and

(2) it shall be a violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) for any producer, importer, exporter, distributor, or seller of any good that is covered under the labeling standards and that is exported from or offered for sale in the United States—

(A) to falsely indicate on the label of that good, the packaging thereof, or any related advertising that the good was not made with child labor; or

(B) to otherwise falsely claim or suggest that the good was not made with child labor.

SEC. 102. REVIEW OF PETITIONS BY THE CHILD LABOR FREE COMMISSION.

(a) In General.—In addition to the procedures established under section 5 of the Federal Trade Commission Act (15 U.S.C. 45), the Child Labor Free Commission established under section 201 shall assist the Federal Trade Commission by reviewing petitions under this section.

(b) Contents of Petitions.—A petition under this section shall—

(1) be submitted in such form and in such manner as the Federal Trade Commission, in consultation with the Secretary of Labor and the Child Labor Free Commission, shall prescribe;

(2) contain the name of the—

(A) petitioner; and

(B) person or entity involved in the alleged violation of the labeling standards under section 101; and

(3) provide a detailed explanation of the alleged violation, including all available evidence.

(c) Review by Commission.—

(1) In general.—The Commission shall, to the maximum extent practicable, not later than 90 days after receiving a petition, review the petition to determine whether there appears to have been a violation of the labeling standards.

(2) Action by the Federal Trade Commission.—

(A) In general.—Upon completion of a review conducted under paragraph (1), the Commission shall forward the petition to the Secretary of Labor, together with a report by the Commission containing a determination by the Commission concerning the merits of the petition, including whether a violation of the labeling standards occurred and whether there appears to have been a knowing and willful (within the meaning of section 5(m)(1)(D)(i) of the Federal Trade Commission Act, as added by section 101(c) of this Act) or repeated violation of those standards.

(B) Duties of the Secretary of Labor.—Upon receipt of the petition and report, the Secretary of Labor shall—

(i) forward a copy of the petition and report to the Federal Trade Commission for review by the Federal Trade Commission; and

(ii) review the petition and report.

(3) Temporary withdrawal of permission; order to cease and desist.—

(A) Temporary withdrawal of permission.—If the Secretary of Labor determines, on the basis of the report referred to in paragraph (2), that there is a substantial likelihood that a violation of the labeling standards promulgated under section 101 has occurred, the Secretary of Labor may temporarily withdraw the permission granted under section 101(a)(2)(C) and inform the Federal Trade Commission of the action and the reason for the action.

(B) Order to cease and desist.—If the Federal Trade Commission concurs with a determination of the Child Labor Free Commission in the report referred to in subparagraph (A) that a violation of the labeling standards has occurred, the Federal Trade Commission shall take such action as may be necessary under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) to cause the person or entity in violation of the labeling standards under section 101 to cease and desist from violating those standards immediately upon that concurrence.

TITLE II—CHILD LABOR FREE COMMISSION

SEC. 201. ESTABLISHMENT OF COMMISSION.

(a) Establishment.—There is established a commission to be known as the "Child Labor Free Commission".

(b) Membership.—

(1) Composition.—The Commission shall be composed of 17 members, of whom—

(A) 1 shall be the Secretary of Commerce or a designee of the Secretary of Commerce;

(B) 1 shall be the Secretary of the Treasury or a designee of the Secretary of the Treasury;

(C) 1 shall be the United States Trade Representative or a designee of the United States Trade Representative;

(D) 1 shall be the Secretary of Labor or a designee of the Secretary of Labor, who shall serve as the Chairperson of the Commission;

(E) 3 shall be representatives of nongovernmental organizations that work toward the eradication of abusive and exploitative child labor and in the promotion of human rights, appointed by the Secretary of Labor;

(F) 3 shall be representatives of labor organizations, appointed by the Secretary of Labor;

(G) 3 shall be representatives of the wearing apparel industry, appointed by the Secretary of Labor;

(H) 3 shall be representatives of the sporting goods industry, appointed by the Secretary of Labor; and

(I) 1 additional member shall be appointed by the Secretary of Labor.

(2) Date.—The appointments of the members of the Commission shall be made not later than 60 days after the date of enactment of this Act.

(c) Period of Appointment; Vacancies.—

(1) Period of appointment.—Each member of the Commission shall serve for a term of 4 years, except that in appointing the initial members of the Commission, the Secretary of Labor shall stagger the terms of the non-Federal members.

(2) Vacancies.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) Initial Meeting.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) Meetings.—The Commission shall meet at the call of the Chairperson or at the request of a majority of the members.

(f) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings or other meetings.

SEC. 202. DUTIES OF THE COMMISSION.

The Commission shall—

(1) assist the Secretary of Labor in developing labeling standards under section 101; and

(2) assist the Secretary of Labor in developing and implementing a system to ensure compliance with the labeling standards established under section 101, including—

(A) receiving, reviewing, and making recommendations for the resolution of petitions received under section 102 that allege noncompliance with the labeling standards under section 101;

(B) making recommendations to the Secretary of Labor for the removal of labels subject to the standards under section 101 that are found to be in violation of those standards;

(C) assisting the Secretary of Labor in developing and implementing a system to promote the increased use of the labeling standards under section 101;

(D) publishing, not less frequently than annually, a list of persons and entities that have notified the Commission of their intent to use a label under section 101(a)(2); and

(E) publishing, not less frequently than annually, a list of persons and entities found to be in violation of any provision of this Act; and

(3) not later than 1 year after the date of the establishment of the Commission, commence a study into the feasibility of developing an easily identifiable labeling standard that the Secretary of Labor may issue to encourage the use of voluntary labels that ensure consumers that an article of wearing apparel or sporting good was made without the use of sweatshop or exploited adult labor.

SEC. 203. POWERS OF THE COMMISSION.

(a) Hearings.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the duties of the Commission under this title.

(b) Information From Federal Agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the duties of the Commission under this title. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 204. COMMISSION PERSONNEL MATTERS.

(a) Non-Federal Members.—Each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation.

(b) Federal Members.—Each member of the Commission who is an officer or employee of the United States shall serve without compensation in addition to that received for that member's services as an officer or employee of the United States.

SEC. 205. ADMINISTRATIVE AND SUPPORT SERVICES.

The Secretary of Labor shall, to the extent permitted by law, provide the Commission with such administrative services, funds, facilities, staff, and other support services as may be necessary for the performance of its functions.

TITLE III—RECOGNITION OF EXEMPLARY CORPORATE EFFORTS

SEC. 301. ANNUAL REPORT.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Labor shall issue a report concerning companies that are making exemplary progress in ensuring that products made, sold, or distributed by those companies are not made with abusive and exploitative child labor.

SEC. 302. ADDITIONAL METHODS.

In addition to the reports made under section 301, the Secretary of Labor in consultation with the Commission shall develop and implement other methods of providing recognition for exemplary programs carried out by companies to ensure that products made, sold, or distributed by those companies are not made with abusive and exploitative child labor.

TITLE IV—DEFINITIONS

SEC. 401. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) Child.—The term "child" means—

(A) an individual who has not attained the age of 15 years, as measured by the Julian calendar; or

(B) an individual who has not attained the age of 14 years, as measured by the Julian calendar, in the case of an individual who resides in a country that, by law, defines a child as such an individual.

(2) Commission.—The term "Commission" means the Child Labor Free Commission established under section 201.

(3) Label.—The term "label" means a display of written, printed, or graphic matter on or affixed to an article of wearing apparel

or a sporting good or on the packaging of the article or a sporting good that meets the standards described in section 101(a).

(4) MADE WITH CHILD LABOR.—

(A) IN GENERAL.—A manufactured article or section of wearing apparel or a sporting good shall be considered to have been made with child labor if the article or section—

(i) was fabricated, assembled, or processed in whole or in part; or

(ii) contains any part that was fabricated assembled, or processed in whole or in part, by any child described in subparagraph (B).

(B) COVERED CHILDREN.—A child is described in this subparagraph if that child engaged in the fabrication, assembly, or processing of the article or section—

(i) under circumstances that the Secretary of Labor considers to be abusive or exploitative;

(ii) under circumstances tantamount to involuntary servitude; or

(iii) under—

(I) exposure to toxic substances or working conditions that otherwise pose serious health hazards; or

(II) working conditions that result in the child's being deprived of basic educational opportunities.

(5) PRODUCER.—The term "producer" includes a contractor or subcontractor of a manufacturer of all or part of a good.

(6) SPORTING GOOD.—The term "sporting good" shall have the meaning provided that term by the Secretary of Labor.

(7) WEARING APPAREL.—The term "wearing apparel" shall have the meaning provided that term by the Secretary of Labor.

[From Marymount University Center for Ethical Concerns, November, 1995]

NEW STUDY FINDS AMERICANS INTOLERANT OF SWEATSHOPS IN GARMENT INDUSTRY

ARLINGTON, VA.—Retailers selling clothing made in sweatshops operating in the United States could feel the ire of American consumers, suggests a new survey sponsored by Marymount University in Arlington, Virginia. The new study shows that consumers would avoid stores that sell goods made in sweatshops and be more inclined to shop at stores working actively to prevent garment worker abuses.

According to the survey, more than three-fourths of Americans would avoid shopping at stores if they were aware that the stores sold goods made in sweatshops. Consumers also are willing to pay a price for assurances that the goods they buy are not made in sweatshops. An overwhelming majority (84 percent) say they would be willing to pay up to an extra $1 on a $20 garment if it were guaranteed to be made in a legitimate shop.

The study, sponsored by Marymount's Center for Ethical Concerns and the Department of Fashion Design and Merchandising, was prompted by the recent discovery of sweatshops operating in the United States in which illegal aliens smuggled into the country were forced to produce garments under almost slave labor conditions. In one factory, raided earlier this year by U.S. officials, workers had been confined in a barbed wire-enclosed compound and forced to work between 16 and 22 hours a day. Workers were paid less than $1 an hour and essentially held captive until they had repaid the cost of their passage to the United States, a process that took years in some cases.

Since these revelations, the U.S. Department of Labor has been working with retailers to encourage greater diligence in policing the industry voluntarily and plans in the near future to release a list of companies that have agreed to cooperate in these efforts. The new study shows that a substantial majority of Americans (66 percent) would be more likely to patronize stores that they know are cooperating with law enforcement officials to prevent sweatshops. If such a list were published, more than two-thirds (69 percent) of consumers say they would take this information into account when deciding where to do their shopping this holiday season.

"It is gratifying to know that Americans condemn these sweatshop conditions and are willing to demonstrate that commitment when they shop, even if it costs them a few pennies. The industry, including retailers, has a responsibility to make sure it is not selling garments made in sweatshops, and the public is willing to hold them accountable," said Sr. Eymard Gallagher, RSHM, president of Marymount University. "Despite the competitiveness in the industry, we can't close our eyes to these kinds of conditions that we thought had disappeared years ago," she said.

The telephone survey of 1,008 randomly selected adults, was conducted by ICR Survey Research Group of Media, PA, at the request of Marymount. The survey has a margin of error of plus or minus 3 percentage points.

Marymount University's fashion design and fashion merchandising programs are among the leaders in this field in the United States. Marymount is an independent, Catholic university, emphasizing excellence in teaching, attention to the individual, and values and ethics across the curriculum. Located in Arlington, Virginia, Marymount enrolls 4,200 men and women in its 34 undergraduate and 24 master's degree programs.

STUDY BACKGROUND AND OBJECTIVES

United States officials recently discovered that workers who had been smuggled into this country were making garments in sweatshops where they were forced to work long hours under extremely poor working conditions for less than the minimum wage. As a result, this research was conducted to determine: Whether respondents would avoid shopping at retailers if aware they sold garments made in sweatshops; Whether respondents would be more inclined to shop in retail stores cooperating with law enforcement officials to prevent sweatshops; Whether respondents would be willing to pay $1 more for a $20 garment if it were guaranteed to be made in a legitimate shop, and; Whether respondents would be more likely this holiday season to shop in retail stores on a forthcoming list of retailers assisting authorities in their effort to end abuse of United States garment workers. Whether the manufacturers or the retailers should have the responsibility of preventing sweatshops.

RESEARCH METHODOLOGY

The research entailed a telephone interview insert in ICR Survey Research Group's EXCEL Omnibus. EXCEL includes a national random sample of approximately 1,000 adults (18+), half male and half female.

Interviewing was conducted from Friday, October 27 through Tuesday, October 31. A total of 1008 interviews were completed. Data has been weighted to reflect the U.S. population 18 years of age and older (188,700,000).

IN A NUTSHELL . . . HERE ARE THE FINDINGS

Retailers—beware of sweatshop garments

Americans overwhelmingly support the idea of officials publishing a list of retailers who assist law enforcement agencies in their effort to end abuse of United States garment workers. Seven-in-ten respondents indicate they would be more likely to shop at the stores this holiday season that cooperate to end garment worker abuse. Consumers are willing to pay a price for assurances that goods they buy are not made in sweatshops. 84% of consumers would pay an additional $1 on a $20 item if they knew the garment was guaranteed to be made in a legitimate shop.

Most Americans (76%) blame the existence of sweatshops on the manufacturers who employ the contractors or workers. However, if consumers knew a retailer sold garments that were made in sweatshops, nearly eight-in-ten would avoid shopping there. As the holiday season starts to kick-off, retailers would be wise to ensure their garments were in fact made in legitimate shops. Given the potential for enticing customers with legitimately made garments, and the potential for losing customers if caught selling sweatshop-made garments, promoting legitimately made garments provides a strategic business opportunity for retailers.

By Mr. ALLARD:

S. 555. A bill to amend the Solid Waste Disposal Act to require that at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund be distributed to States to carry out cooperative agreements for undertaking corrective action and for enforcement of subtitle I of that Act; to the Committee on Environment and Public Works.

THE LEAKING UNDERGROUND STORAGE TANK TRUST FUND AMENDMENTS ACT OF 1997

Mr. ALLARD. Mr. President, today I am introducing, The Leaking Underground Storage Tank Trust Fund Amendments Act of 1997. This legislation, if enacted, would change who controls the bulk of the money from the trust fund, and the purposes for which the money can be spent. The legislation is simple, it mandates that 85 percent of the money in the trust fund must be allocated to the States. It's my view that since the States are responsible for the bulk of underground storage tank enforcement and cleanup, they should have greater control over the dollars.

This legislation also broadens the purposes for which trust fund dollars can be spent. Under this legislation States would have the authority to use the funds to meet the greater demand for cleanup.

There has been some concern expressed about how trust fund money has been targeted up to this point. For example, since inception of the program only 1 percent of the money has been used for actual cleanup of orphan tanks. The other 99 percent has gone to administration and enforcement. I think there should be some discussion on whether this money can be spent with greater environmental benefit. Instead of targeting 99 percent to administration and enforcement, perhaps it would be a better idea to help owners and operators who need financial assistance to handle their problem. Since the money for assistance would come from a dedicated tax, and not the general fund, why not get as big an environmental bang for the buck as possible. By taking this action we may also be able to have more appropriated out of the trust fund every year. As some may be aware, only a small portion of the $1.5 billion in the trust fund is appropriated every year. If we can show that the money being appropriated is directly cleaning up tanks, we can certainly make a better claim for those dollars.

Finally, I understand that EPA and some Members have concerns with this legislation. I think that working with Chairman SMITH and Chairman CHAFEE, and their staffs, we can craft legislation that will be signed into law.

By Mr. INHOFE (for himself, Mr. HUTCHINSON, Mr. HELMS, Mr. COCHRAN, Mr. NICKLES, and Mr. SESSIONS):

S. 556. A bill to provide for the allocation of funds from the Mass Transit Account of the Highway Trust Fund, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MASS TRANSIT LEGISLATION

Mr. INHOFE. Mr. President, I rise today to introduce legislation that attempts to level the playing field for transit donor States across the country. In addition to myself, Senators TIM HUTCHINSON, HELMS, COCHRAN, NICKLES, and SESSIONS are all original cosponsors.

Federal Transit dollars are distributed according to the Federal Transit Act as amended by the Intermodal Surface Transportation Efficiency Act [ISTEA]. Similar to highway dollars, transit dollars are collected at the gas pump and are distributed by both formula and discretionary grants.

States such as Oklahoma that do not receive back all of the revenues that they send to the Federal mass transit account are considered donor States. Unfortunately, these States are not getting nearly as much back in Federal funding as they contribute. In 1995, Oklahoma contributed about $30 million and only received back about $8 million from the mass transit account of the highway trust fund. This inequity allows for States with more urban centers to receive more dollars back than they actually contribute to the Federal account. Basically, donor States are subsidizing large metropolitan areas with the portion of the funds that we never get back. This puts smaller and rural areas at a disadvantage in trying to maintain transit systems whether it be buses or light rail. Rural areas are, too, interested in conserving fuel and contributing to better air quality.

My proposal is designed to address this critical transit problem as we move deeper into the ISTEA reauthorization debate. Under my bill, each State that contributes $50 million or less into the Federal Mass Transit Account will be guaranteed to receive back no less than 80 percent of its apportionment.

States should reasonably be able to expect that local dollars will be used for local transit needs. A large portion of Oklahoma-generated revenues should be remitted back to our State to provide for improved public transportation in Oklahoma—not urban mass transit systems in other States. My bill will put equity into the mass transit apportionment system by returning locally generated dollars home.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOCATION OF MASS TRANSIT ACCOUNT FUNDS.

(a) MINIMUM ALLOCATION.—The Secretary of Transportation shall take such actions as may be necessary to ensure that, in each fiscal year, each State's percentage of the total apportionments to all States from the Mass Transit Account of the Highway Trust Fund established by section 9503 of the Internal Revenue Code of 1986 is not less than 80 percent of the State's estimated tax payment attributable to highway users in the State paid into that Account in the most recent year for which data are available.

(b) APPLICABILITY.—Subsection (a) does not apply to any State whose contribution to the Mass Transit Account of the Highway Trust Fund established by section 9503 of the Internal Revenue Code of 1986 in the applicable fiscal year is greater than or equal to $50,000,000.

By Mr. MCCONNELL (for himself and Mr. INHOFE):

S. 557. A bill to amend the Clean Air Act to exclude beverage alcohol compounds emitted from aging warehouses from the definition of volatile organic compounds; to the Committee on Environment and Public Works.

THE CLEAN AIR ACT AMENDMENTS DISTILLED SPIRITS CLARIFICATION ACT OF 1997

Mr. MCCONNELL. Mr. President, today I rise to introduce legislation which will correct an oversight in the Clean Air Act Amendments of 1990. This legislation will clarify the treatment under the act of beverage alcohol compounds emitted from aging warehouses.

Under the current statute, EPA classifies beverage alcohol emissions (ethanol) as a volatile organic compound [VOC]. VOC's react in the atmosphere to form ozone. Ethanol, however, has been proven to play an insignificant role in ozone formation because of its low reactivity.

Despite scientific evidence proving the minimal value of these controls (at exorbitant cost) the EPA has wrongly refused repeated requests regarding removal of restrictions on beverage distillation. If control technology is implemented, this would mean process changes in the historical aging process that makes each beverage unique.

Aging is arguably one of the most important components of the production process. For example, Bourbon whisky, which is a distinctive product of the United States, and Kentucky, must be aged at least 2 years in wooden barrels according to Federal regulation. This process involves natural oxidation which requires the passage of air and ethanol vapors into and out of the barrels. Any effort to alter this natural aging process through controls on temperature, ventilation patterns, and humidity, could change the actual physical properties of Bourbon whisky, thus altering the distinguishing taste associated with certain brands.

Mr. President, I agree that we must protect the environment that we all share. However, when extremist, inflexible regulation threatens an entire industry at minimal, if any, environmental return, we must reevaluate our priorities. I urge my colleagues to join me in restoring a little sanity to our regulatory process.

I ask unanimous consent for the bill to be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 557

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF VOLATILE ORGANIC COMPOUNDS.

Section 302(s) of the Clean Air Act (42 U.S.C. 7602(s)) is amended by adding the following at the end thereof: "Such term shall not include beverage alcohol compounds (ethanol) emitted from aging warehouses.".

By Mr. BIDEN (for himself and Mr. GRASSLEY):

S. 558. A bill to provide for a study and report regarding the potential recruitment, hiring, or retention of qualified former officers of the Royal Hong Kong Police by Federal law enforcement agencies; to the Committee on the Judiciary.

THE ROYAL HONG KONG POLICE ANTICRIME STRATEGY ACT OF 1997

Mr. BIDEN. Mr. President, the forthcoming reversion of Hong Kong to Chinese control is, as a matter of diplomacy, the mere implementation of a diplomatic agreement between the United Kingdom and the government of the People's Republic of China.

But it is, of course, far more complicated, and its implications far more profound. The challenges ahead are many. Will Beijing abide by the rule of law and uphold its commitment to the United Kingdom and the people of Hong Kong to "one country, two systems?" Will America and the major powers have the political will to challenge China should they renege on their commitments?

Nowhere are the challenges of reversion greater than for United States law enforcement—for Hong Kong has long been a center of the international criminal organizations which control the trade in Asian heroin, money laundering is on the rise, and there are a host of other law enforcement problems.

Here in the United States, we see the related problems of Asian organized crime, or Tongs, heroin trafficking from Asia through Hong Kong, alien smuggling, arms trafficking, and the use of Hong Kong as a money laundering center for criminals. Unfortunately, the capacity of U.S. law enforcement to respond to this threat is limited by the fact that we simply do not have enough agents with the language skills, intelligence background and contacts to infiltrate Asian organized crime.

This is why I am introducing today the Royal Hong Kong Police Anticrime Strategy Act of 1997. I am pleased to be joined in doing so by Senator Grassley, my colleague on the Senate International Caucus on Narcotics Control.

This legislation seeks to take advantage of a potential opportunity—even in the face of all the challenges which will come with the reversion of Hong Kong. To describe in simplest terms the opportunity—as officers of the Royal Hong Kong Police leave their force, U.S. law enforcement agencies may be able to bolster our anti-drug, money laundering, alien smuggling and Asian organized crime capabilities with the unique knowledge of the former officers of the Royal Hong Kong Police.

For example, it could be of significant value to federal law enforcement to simply retain on a one-time or continuing basis former Royal Hong Kong Police personnel to use them to help build a major Asian-Crime investigative database. Such a database could form the backbone of U.S. investigations in the years to come. I offer this simply as a means to illustrate to my Senate colleagues the potential law enforcement benefits of this legislation. Of course, the best uses must be decided by the law enforcement professionals within the Justice and Treasury Departments.

I also point out that I have long worked on this issue—beginning with a hearing with the FBI on the issue of Asian organized crime way back in August, 1990. My January 1992 drug strategy also called on the Bush Administration to determine if these police officers could be of assistance. In fact, a DEA operation began in 1992 which used some retired Royal Hong Kong Police in a very limited capacity to provide translation services to support investigations of Asian heroin trafficking.

I was also pleased to include a provision offered by Senator Roth in the 1994 Biden Crime Bill to study this issue—unfortunately, this provision was dropped from the final agreement due to opposition in the House.

But, today, with the continuing rise of the heroin trade, I am reiterating my call for us to address this issue. The legislation I offer today calls on the Attorney General and the Treasury Secretary to report to Congress on the need and potential benefits—as well as any potential security or administrative problems—of adding former officers of the Royal Hong Kong Police to our federal law enforcement agencies.

And, if the benefits exist, this legislation authorizes the addition of up to 200 former officers to assist in the investigation of international drug trafficking, alien smuggling, money laundering and organized crime undertaken by the Justice and Treasury Departments.

Mr. President, preparing for the reversion of Hong Kong primarily means preparing for the challenges ahead—but it also requires us to recognize the opportunities ahead. Taking advantage of this opportunity is what the "Royal Hong Kong Police Anticrime Act of 1997" is all about.

I ask unanimous consent that the full text of the legislation appear in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 558

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Royal Hong Kong Police Anticrime Strategy Act of 1997".

SEC. 2. ROYAL HONG KONG POLICE ANTICRIME STRATEGY.

(a) Definitions.—In this section—

(1) the term "Attorney General" means the Attorney General of the United States;

(2) the term "controlled substance" has the same meaning as in section 102 of the Controlled Substances Act (21 U.S.C. 802);

(3) the term "Federal law enforcement agency" includes—

(A) the Drug Enforcement Administration of the Department of Justice;

(B) the Federal Bureau of Investigation of the Department of Justice;

(C) the Immigration and Naturalization Service of the Department of Justice;

(D) the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury; and

(E) the United States Customs Service of the Department of the Treasury;

(F) the United States Secret Service of the Department of the Treasury; and

(G) any other department or agency of the Federal Government that is authorized to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of Federal law;

(4) the term "qualified former officer of the Royal Hong Kong Police" means any individual employed by the Royal Hong Kong Police on or before June 30, 1997, who—

(A) during that period of employment, was authorized to engage in or supervise the prevention, detection, investigation, or prosecution of criminal law;

(B) in the determination of the Attorney General and the Secretary of the Treasury, does not constitute a law enforcement, national security, or other threat to the interest of the United States; and

(C) meets such other requirements as the Attorney General and the Secretary of the Treasury may establish.

(b) Study and Report.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of the Treasury shall—

(A) conduct a study regarding the potential recruitment, hiring, or retention of qualified former officers of the Royal Hong Kong Police by Federal law enforcement agencies to assist those agencies in the prevention, detection, investigation, or prosecution of Federal criminal offenses; and

(B) submit to the Committees on the Judiciary of the Senate and the House of Representatives a report describing the results of the study under subparagraph (A).

(2) Consultation.—The Attorney General and the Secretary of the Treasury—

(A) shall consult with the Director of the Office of National Drug Control Policy of the Executive office of the President in conducting the study under paragraph (1)(A); and

(B) shall include any recommendations of the Director in the report submitted under paragraph (1)(B).

(3) Contents of Report.—To the maximum extent practicable, in addition to such information as may be included at the discretion of the Attorney General and the Secretary of the Treasury, the report under paragraph (1)(B) shall include an analysis of—

(A) the potential benefits of recruiting, hiring, or retaining qualified former officers of the Royal Hong Kong Police by Federal law enforcement agencies to assist or otherwise support those agencies the prevention, detection, investigation, or prosecution of Federal criminal offenses, including—

(i) illegal international and domestic trafficking of controlled substances, including any violation of section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A));

(ii) illegal immigration, including the smuggling of illegal immigrants;

(iii) illegal international arms trafficking; and

(iv) any violation of section 1956 of title 18, United States Code;

(B) any special knowledge or capabilities that qualified former officers of the Royal Hong Kong Police would potentially provide to Federal law enforcement agencies, such as translation or linguistic support, including an assessment of the extent to which such knowledge and capabilities are available domestically;

(C) any legal or administrative barriers that may prevent the recruitment, hiring, or retention of qualified former officers of the Royal Hong Kong Police by Federal law enforcement agencies and, if necessary, recommendations for legislation to address those barriers; and

(D) any potential security issues that would be raised by the hiring of qualified former officers of the Royal Hong Kong Police by Federal law enforcement agencies and, if necessary, the potential for minimizing any security risks through deployment in support or other capacities.

(c) CERTIFICATION.—Not later than 30 days after the date on which the report is submitted under subsection (b)(1)(B)—

(1) if the Attorney General determines, based on the results included in that report, that the recruitment, hiring, or retention of qualified former officers of the Royal Hong Kong Police would be of significant assistance to Federal law enforcement, the Attorney General shall so certify to Congress; and

(2) if the Secretary of the Treasury determines, based on the results included in that report, that the recruitment, hiring, or retention of qualified former officers of the Royal Hong Kong Police would be of significant assistance to Federal law enforcement, the Secretary of the Treasury shall so certify to Congress.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) FISCAL YEAR 1998.—There are authorized to be appropriated for fiscal year 1998 such sums as may be necessary to carry out subsection (b)(1).

(2) SUCCEEDING FISCAL YEARS.—If—

(A) the Attorney General makes a certification under subsection (c)(1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998, 1999, 2000, and 2001 for the purposes of recruiting, hiring, or retaining not more than 100 qualified former officers of the Royal Hong Kong Police to support the activities of the Department of Justice; and

(B) the Secretary of the Treasury makes a certification under subsection (c)(2), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998, 1999, 2000, and 2001 for the purposes of recruiting, hiring, or retaining not more than 100 qualified former officers of the Royal Hong Kong Police to support the activities of the Department of the Treasury.

Mr. GRASSLEY. Mr. President, I am pleased to join Senator BIDEN in offering the Royal Hong Kong Police Anticrime Strategy Act of 1997. As the recent State Department report on international narcotics control makes clear, the criminal activities of major Asian organized crime groups directly affects the United States. Whether we are talking about alien smuggling, heroin trafficking, or spreading corruption, major Asian-based gangs, many operating from Hong Kong, daily affect the quality of life of many of our citizens. Their activities to launder their illegal incomes threatens the integrity of our banking and financial systems.

With the transfer of Hong Kong to China, much of the current expertise on these criminal organizations now based in the Royal Hong Kong Police will be lost. What this legislation will do, and it is only a first step, is to give us the opportunity to examine ways of retaining that expertise, of putting it to use in our efforts to stop a despicable trade in human beings and to improve our capability to stop the flow of dangerous drugs that do so much to make our neighborhoods and streets unsafe. The proposal is innovative and timely. While only authorizing a study, the present proposal will give us the opportunity to explore ways to ensure the effectiveness of our international narcotics control efforts.

By Mr. DASCHLE (for himself and Mr. KENNEDY) (by request):

S. 559. A bill to amend the Internal Revenue Code of 1986 to provide tax relief to middle-income families who are struggling to pay for college, to amend the Higher Education Act of 1965 to provide significantly increased financial aid for needy students, provide universal access to postsecondary education, reduce student loan costs while improving student loan benefits, to streamline the Federal Family Education Loan Program, and for other purposes; to the Committee on Finance.

S. 560. A bill to amend the Higher Education Act of 1965 to provide significantly increased financial aid for needy students, provide universal access to postsecondary education, reduce student loan costs while improving student loan benefits, to streamline the Federal Family Education Loan Program, and for other purposes; to the Committee on Labor and Human Resources.

THE HOPE AND OPPORTUNITY FOR POSTSECONDARY EDUCATION ACT OF 1997

Mr. DASCHLE. Mr. President, on behalf of the administration, I am introducing, with Senator KENNEDY, the Hope and Opportunity for Postsecondary Education [HOPE] Act of 1997. This legislation includes the President's higher education tax and spending proposals to help make a college education more affordable for American families.

During the last decade, college costs have soared. Federal student aid programs have been instrumental in helping many people get a good education. But aid to students has not kept pace with the cost. In the 1970's, Pell grants made up 77 percent of the cost of going to college; today they make up only about 30 percent of the cost. Many of these students, and those who don't qualify for assistance, are taking on larger and larger amounts of debt. This has many consequences both for the student and for the Nation. Concerns about high levels of indebtedness affects students' choices about where to go to school or what to study and, for some, makes it impossible to get a degree at all. This means we are not developing the talents of our people to the fullest, and that has significant costs for our Nation.

Access to higher education is clearly the key to our future. Not only do we know that those who attend college earn higher incomes, but having a well-educated work force is also important for our Nation's overall economic growth and ability to compete in the global marketplace.

I applaud the President for his initiatives in this area—his plan is a good and thoughtful one. He deserves a lot of credit for taking on this important issue and insisting that it be part of the national agenda. His bill helps people from a wide range of backgrounds who need help, from middle-class families who are struggling to make ends meet to people from low-income families who are trying to escape poverty and make decent lives for themselves. He does this by increasing the maximum Pell grant to $3,000 and he reduces student loan interest costs.

I do want to say that I have some concerns about aspects of this bill. I believe we have an important opportunity to help lower income people further by making the tax credit be refundable. We did that in S. 12, legislation introduced earlier this year by Senate Democrats. I also believe that we should allow the credit to be combined with other aid, again as we did in S. 12.

Despite these concerns, I am pleased to introduce this legislation for the administration, because I believe it helps us move forward to find ways to improve the affordability of education in this country.

This is not a partisan issue: all families worry about the cost of college. We ought to find common ground to make a college education more affordable. It's time to hold hearings so that we can examine these issues and advance the public dialog. Higher education is too important to the future of this Nation to divide us. I am committed to this goal and look forward to working with my colleagues on the other side of the aisle to find solutions to this problem.

Senator KENNEDY and I are also introducing, by request, a separate piece of legislation that includes the non-tax-related provisions of the HOPE legislation. We are doing this because, historically, these programs have been in the Labor Committee's jurisdiction, and we want to make sure the Labor Committee considers them fully.

Mr. President, I ask unanimous consent that the administration's letter of transmittal, and a section-by-section analysis of the HOPE legislation be printed in the RECORD.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hope and Opportunity for Postsecondary Education Act of 1997".

TITLE I—TAX PROVISIONS

SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS

SEC. 101. (a) SHORT TITLE.—This title may be cited as the "Higher Education Tax Incentive Act of 1997".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

TITLE I—TAX PROVISIONS

Sec. 101. Short title; amendment of 1986 code; table of contents.
Sec. 102. Credit for higher education expenses.
Sec. 103. Deduction for higher education expenses.
Sec. 104. Treatment of cancellation of certain student loans.
Sec. 105. Employer-provided educational assistance programs.
Sec. 106. Small business educational assistance credit.

CREDIT FOR HIGHER EDUCATION EXPENSES

SEC. 102. (a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 24 the following new section:

"SEC. 24A. HIGHER EDUCATION TUITION AND FEES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount of qualified higher education expenses paid by the taxpayer during such taxable year for education furnished during any academic period beginning in such year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—

"(A) IN GENERAL.—The amount allowed as a credit under subsection (a) for any taxable year with respect to the qualified higher education expenses of any 1 individual shall not exceed $1,500.

"(B) ,REDUCTION FOR OTHER NONTAXABLE FEDERAL ASSISTANCE.—

"(i) IN GENERAL.—If any nontaxable Federal assistance is allocable to any academic period, the dollar amount applicable under subparagraph (A) for the taxable year in which such period begins shall be reduced by the amount of such assistance.

"(ii) NONTAXABLE FEDERAL ASSISTANCE.—For purposes of clause (i), the term 'nontaxable Federal assistance' means any scholarship or grant provided by the Federal Government which is exempt from tax under this chapter by reason of section 117 or any other Federal law. Such term shall not include any benefit described in section 480(c)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(c)(2)), as in effect on the date of enactment of this section.

"(2) CREDIT ALLOWED FOR ONLY 2 TAXABLE YEARS.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual unless the taxpayer elects to have this section apply with respect to such individual for such year. An election under this paragraph shall not take effect with respect to an individual for any taxable year if an election under this paragraph (by the taxpayer or any other individual) is in effect with respect to such individual for any 2 prior taxable years.

"(3) CREDIT ALLOWED FOR YEAR ONLY IF INDIVIDUAL IS AT LEAST½ TIME STUDENT FOR PORTION OF YEAR.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual unless such individual is an eligible student for at least one academic period which begins during such year.

"(4) CREDIT ALLOWED ONLY FOR FIRST TWO YEARS OF POSTSECONDARY EDUCATION.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified higher education expenses of an individual if the individual has completed (before the beginning of such taxable year) the first 2 years of postsecondary education at an institution of higher education.

"(c) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph is the amount which bears the same ratio to the amount which would be so taken into account as—

"(A) the excess of—

"(i) the taxpayer's modified adjusted gross income for such taxable year, over

"(ii) $50,000 ($80,000 in the case of a joint return), bears to

"(B) $20,000.

"(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year—

"(A) determined without regard to section 221, and

"(B) increased by any amount excluded from gross income under section 911, 931, or 933.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an institution of higher education.

"(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such course or other education is part of the individual's degree program.

"(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education' means an institution—

"(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

"(B) which is eligible to participate in a program under title IV of such Act.

"(3) ELIGIBLE STUDENT.—The term 'eligible student' means, with respect to any academic period, a student who—

"(A) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1), as in effect on the date of the enactment of this section, and

"(B) is carrying at least½ the normal full-time work load for the course of study the student is pursuing.

"(4) OTHER TERMS RELATING TO THE HIGHER EDUCATION ACT.—The following terms shall have the meanings prescribed in regulations under section 481(g) of the Higher Education Act of 1965 (20 U.S.C. 1088(g)), as added by the Student Financial Aid Improvements Act of 1997:

"(A) Academic period.

"(B) Normal full-time workload.

"(C) First two-years of postsecondary education.

"(D) Qualifying grade point average.

"(E) Job skills and new job skills.

"(e) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

"(1) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year, and

"(2) qualified higher education expenses paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

"(f) TREATMENT OF CERTAIN PREPAYMENTS.—If qualified higher education expenses are paid by the taxpayer during a taxable year for an academic period which begins during the first 3 months following such taxable year, such academic period shall be treated for purposes of this section as beginning during such taxable year.

"(g) SPECIAL RULES.—

"(1) DENIAL OF CREDIT IF INDIVIDUAL CONVICTED OF DRUG OFFENSE.—No credit shall be allowed under subsection (a) with respect to the qualified higher education expenses of an individual for any taxable year if the individual has been convicted before the end of such year of a Federal or State felony offense consisting of the possession or distribution of a controlled substance.

"(2) DENIAL OF CREDIT IF INDIVIDUAL FAILS TO SATISFY GRADE POINT AVERAGE REQUIREMENT.—If an election was in effect under this section with respect to the qualified higher education expenses of an individual for any taxable year, no credit shall be allowed under subsection (a) with respect to qualified higher education expenses of such individual for a succeeding taxable year if the individual does not have a qualifying grade point average for all courses at an institution of higher education for academic periods ending before the beginning of such succeeding taxable year. Such average shall be determined without regard to—

"(A) courses taken while attending high school, and

"(B) courses referred to in subsection (d)(1)(B).

"(3) NO DOUBLE BENEFIT.—No credit shall be allowed under subsection (a) for any taxable year for any expense—

"(A) with respect to an individual if a deduction is allowed under section 221 for the taxable year for any expense with respect to such individual, or

"(B) for which a deduction is allowed under any other provision of this chapter.

"(4) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under subsection (a) to a taxpayer with respect to the qualified higher education expenses of an individual unless the taxpayer includes the name and taxpayer identification number of such individual on the return of tax for the taxable year.

"(5) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to an individual for an academic period shall be reduced (before the application of subsections (b) and (c)) by the sum of—

"(A) any amounts paid for the benefit of such individual which are allocable to such period as—

"(i) a qualified scholarship which is excludable from gross income under section 117,

"(ii) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or under chapter 1606 of title 10, United States Code,

"(iii) a payment which is excludable from gross income under section 127, or

"(iv) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for such individual's educational expenses, or attributable to such individual's enrollment at an institution of higher education, which is excludable from gross income under any law of the United States, and

"(B) the amount excludable from gross income under section 135 which is allocable to such expenses with respect to such individual for such period.

"(6) No credit for married individuals filings separate returns.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(7) Nonresident aliens.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

"(h) Inflation Adjustments.—

"(1) Dollar limitation on amount of credit.—

"(A) In general.—In the case of a taxable year beginning after 1997, the $1,500 amount in subsection (b)(1)(A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1996' for 'calendar year 1992'" in subparagraph (B) thereof.

"(B) Rounding.—If any amount as adjusted under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"(2) Income limits.—

"(A) In general.—In the case of a taxable year beginning after 2,000, the $50,000 and $80,000 amounts in subsection (c)(2) and section 221(b)(2)(B)(i)(II) shall each be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) Rounding.—If any amount as adjusted under subparagraph (A) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

"(i) Regulations.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit."

(b) Extension of Procedures Applicable to Mathematical or Clerical Errors.—Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", and", and by inserting after subparagraph (H) the following new subparagraph:

"(I) an omission of a correct TIN required under section 24A(g)(4) or under section 221(d)(2)(A) (relating to higher education tuition and fees) to be included on a return."

(c) Returns Relating to Higher Education Expenses.—

(1) In general.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

"SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION EXPENSES.

"(a) In General.—Any person—

"(1) which is an institution of higher education which receives payments for qualified higher education expenses with respect to any individual for any calendar year, or

"(2) which is engaged in a trade or business which, in the course of such trade or business makes payments during any calendar year to any individual which constitute reimbursements or refunds (or similar amounts) of qualified higher education expenses of such individual,

shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may be regulations prescribe.

"(b) Form and Manner of Returns. A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name, address, and TIN of the individual with respect to whom payments described in subsection (a) were received from (or were paid to),

"(B) the name, address, and TIN of any individual certified by the individual described in subparagraph (A) as the taxpayer who will claim the individual as a dependent for purposes of the deduction allowable under section 151 for any taxable year ending with or within the calendar year,

"(C) the—

"(i) aggregate amount of payments for qualified higher education expenses received with respect to the individual described in subparagraph (A) during the calendar year, and

"(ii) aggregate amount of reimbursements or refunds (or similar amounts) paid to such individual during the calendar year,

"(D) the aggregate amount of nontaxable Federal assistance received respect to the individual described in subparagraph (A) during the calendar year, and

"(E) such other information as the Secretary may prescribe.

"(c) Application to Government Units.—For purposes of this section—

"(1) a governmental unit or any agency or instrumentality thereof shall be treated as a person, and

"(2) any return required under subsection (a) by such governmental entity shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) Statements To Be Furnished to Individuals With Respect to Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return under subparagraph (A) or (B) of subsection (b)(2) a written statement showing—

"(1) the name, address, and phone number of the information contact of the person required to make such return, and

"(2) the aggregate amounts described in subparagraphs (C) and (D) of subsection (b)(2).

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(e) Definitions.—For purposes of this section, the terms 'institution of higher education', 'qualified higher education expenses', and nontaxable Federal assistance' have the meanings given such terms by section 24A.

"(f) Returns Which Would Be Required To Be Made By 2 or More Persons.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section. No penalties shall be imposed under section 6724 with respect to any return or statement required under this section until such time as such regulations are issued."

(2) Assessable Penalties.—Section 6724(d) (relating to definitions) is amended—

(A) by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, in paragraph (1)(B) and by inserting after clause (ix) of such paragraph the following new clause:

"(x) section 6050S (relating to returns relating to payments for qualified higher education expenses),", and

(B) by striking "or" at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting ", or", and by adding at the end the following new subparagraph:

"(Z) section 6050S(d) (relating to returns relating to qualified higher education expenses)."

(3) Clerical Amendment.—The table of sections for Subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050R the following new item:

"Sec. 6050S. Returns relating to higher education expenses."

(d) Clerical Amendment.—The table of sections for Subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 24 the following new item:

"Sec 24A Higher education tuition and fees."

(e) Effective Date; Sunset.—(1) Purpose.—The President's budget produces balance in fiscal year 2002 under Office of Management and Budget assumptions, including the permanent changes in law providing tax reduction set forth in the preceding portions of this section. The President's budget also includes a mechanism to guarantee balance under Congressional Budget Office assumptions. As a part of that mechanism, the following provision sunsetting the tax reduction is included, as well as specific expedited procedures for reinstatement of the reduction to the extent that Office of Management and Budget assumptions prove correct.

(2) The amendments made by this section shall apply to expenses paid after December 31, 1996 (in taxable years ending after such date), for education furnished in academic periods beginning after June 30, 1997, except that no credit shall be allowed under section 24A of the Internal Revenue Code of 1986 for

taxable years beginning after December 31, 2000.

DEDUCTION FOR HIGHER EDUCATION EXPENSES

SEC. 103. (a) DEDUCTION ALLOWED.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. HIGHER EDUCATION TUITION AND FEES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount of qualified higher education expenses paid by the taxpayer during the taxable year for education furnished to the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151, as an eligible student at an institution of higher education during any academic period beginning in such year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—

"(A) (IN GENERAL.—The amount allowed as a deduction under subsection (a) for any taxable year shall not exceed $10,000.

"(B) PHASE-IN.—In the case of taxable years beginning in 1997 or 1998, subparagraph (A) shall be applied by substituting '$5,000' for '$10,000'.

"(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The amount which would (but for this paragraph) be allowed as a deduction under subsection (a) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

"(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph equals the amount which bears the same ratio to the deduction (determined without regard to this paragraph) as—

"(i) the excess of—

"(I) the taxpayer's modified adjusted gross income for the taxable year, over

"(II) $50,000 ($80,000 in the case of a joint return), bears to

"(ii) $20,000.

"(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (B), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

"(i) without regard to this section and sections 911, 931, and 933, and

"(ii) after the application of sections 86, 135, 219, and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(D) CROSS REFERENCE.—For inflation adjustment of $50,000 and $80,000 amounts, see section 24A(h).

"(c) DEFINITIONS.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), terms used in this section which are also used in section 24A have the respective meanings given such terms in section 24A.

"(2) DEDUCTION AVAILABLE FOR EDUCATION TO ACQUIRE OF IMPROVE JOB SKILLS.—For purposes of applying this section, the requirement of section 24A(d)(3) shall be treated as met if—

"(A) the individual is enrolled in a course which enables the individual to improve the individual's job skills or to acquire new job skills, and

"(B) the individual is not enrolled in an elementary or secondary school.

"(d) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under subsection (a) for any expense for which a deduction is allowed to the taxpayer under any other provision of this chapter.

"(2) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (e) and (f) of section 24A, and the following rules of section 24A(g), shall apply for purposes of this section:

"(A) Paragraph (4) (relating to identification requirement).

"(B) Paragraph (5) (relating to adjustment for certain scholarships).

"(C) Paragraph (6) (relating to no benefit for married individuals filing separate returns).

"(D) Paragraph (7) (relating to nonresident aliens).

"(3) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section."

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (16) the following new paragraph:

"(17) HIGHER EDUCATION TUITION AND FEES.—The deduction allowed by section 221."

(c) CONFORMING AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the item relating to section 221 and inserting:

"Sec. 221. Higher education tuition and fees.
"Sec. 222. Cross reference."

(d) EFFECTIVE DATE; SUNSET.—(1) PURPOSE.—The President's budget produces balance in fiscal year 2002 under Office of Management and Budget assumptions, including the permanent changes in law providing tax reduction set forth in the preceding portions of this section. The President's budget also includes a mechanism to guarantee balance under Congressional Budget Office assumptions. As a part of that mechanism, the following provision sunsetting the tax reduction is included, as well as specific expedited procedures for reinstatement of the reduction to the extent that Office of Management and Budget assumptions prove correct.

(2) The amendments made by this section shall apply to expenses paid after December 31, 1996 (in taxable years ending after such date), for education furnished in academic periods beginning after June 30, 1997, except that no deduction shall be allowed under section 221 of the Internal Revenue Code of 1986 for taxable years beginning after December 31, 2000.

TREATMENT OF CANCELLATION OF CERTAIN STUDENT LOANS

SEC. 104. (a) CERTAIN DIRECT STUDENT LOANS THE REPAYMENT OF WHICH IS INCOME CONTINGENT.—Paragraph (1) of section 108(f) is amended by striking "any student loan if" and all that follows and inserting "any student loan if—

"(A) such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers, or

"(B) in the case of a loan made under part D of title IV of the Higher Education Act of 1965 which has a repayment schedule established under section 455(e)(4) of such Act (relating to income contingent repayments), such discharge is after the maximum repayment period under such loan (as prescribed under such part)."

(b) CERTAIN LOANS BY EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Paragraph (2) of section 108(f) (defining student loan) is amended by striking "or" at the end of subparagraphs (B) and (C) and by striking subparagraph (D) and inserting the following:

"(D) any organization described in section 501(c)(3) and exempt from tax under section 501(a), or

"(E) any educational organization described in section 170(b)(1)(A)(ii) pursuant to an agreement with any entity described in subparagraph (A), (B), (C), or (D) under which the funds from which the loan was made were provided to such educational organization.

"The term 'student loan' includes any loan made by an organization described in subparagraph (D) to refinance a loan meeting the requirements of the preceding sentence."

(2) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Subsection (f) of section 108 is amended by adding at the end the following new paragraph:

"(3) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Paragraph (1) shall not apply to the discharge of a loan made by an organization described in paragraph (2)(D) (or by an organization described in paragraph (2)(E) from funds provided by an organization described in paragraph (2)(D)) if the discharge is on account of services performed for either such organization."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act.

EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS

SEC. 105. (a) EXTENSION.—Subsection (d) of section 127 (relating to exclusion for educational assistance programs) is amended to read as follows:

"(d) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2000."

(b) REPEAL OF LIMITATION ON GRADUATE EDUCATION.—The last sentence of section 127(c)(1) is amended by striking ", and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree".

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

(2) GRADUATE EDUCATION.—The amendments made by subsection (b) shall apply with respect to expenses relating to courses beginning after June 30, 1996.

(3) EXPEDITED PROCEDURES.—The Secretary of the Treasury shall establish expedited procedures for the refund of any overpayment of taxes imposed by the Internal Revenue Code of 1986 which is attributable to amounts excluded from gross income during 1996 or 1997 under section 127 of such Code, including procedures waiving the requirement that an employer obtain an employee's signature where the employer demonstrates to the satisfaction of the Secretary that any refund collected by the employer on behalf of the employee will be paid to the employee.

SMALL BUSINESS EDUCATIONAL ASSISTANCE CREDIT

SEC. 106. (a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45D. SMALL BUSINESS EDUCATIONAL ASSISTANCE CREDIT.

"(a) General Rule.—For purposes of section 38, the small business educational assistance credit for any taxable year is an amount equal to 10 percent of the qualified educational assistance expenses of the taxpayer for the taxable year.

"(b) Qualified Educational Assistance Expenses .—For purposes of this section—

"(1) In general.—The term 'qualified educational assistance expenses' means any amount paid or incurred by an eligible small employer for educational assistance furnished to an employee of the employer by a person other than such employer (or an employee of such employer) under an educational assistance program described in section 127(b).

"(2) Educational assistance.—The term 'educational assistance' has the meaning given such term by section 127(c)(1) (determined without regard to subparagraph (B) thereof).

"(3) Limitations.—

"(A) Dollar limitation per employee.—The aggregate amount which may be taken into account under paragraph (1) with respect to any employee for any taxable year shall not exceed $5,250.

"(B) Payments to related persons.—

"(i) In general.—No amount shall be taken into account under paragraph (1) if such amount is to be paid to a related person with respect to the employer.

"(ii) Related person.—For purposes of this subparagraph, a person shall be related to the employer if—

"(I) such person is a 5-percent owner (within the meaning of section 416(i)(1)(B)(i)) of the employer, or

"(II) such person bears a relationship to the employer or such a 5-percent owner which is described in section 267(b) or 707(b)(1).

"(C) Trade or business.—No amount shall be taken into account under paragraph (1) unless it is incurred in the active conduct of a trade or business by the taxpayer.

"(c) Eligible Small Employer.—For purposes of this section—

"(1) In general.—A taxpayer shall be treated as an eligible small employer for any taxable year if the average annual gross receipts of the taxpayer for the 3-taxable year period ending with the preceding taxable year are $10,000,000 or less.

"(2) Special rules.—Section 448(c)(3) shall apply for purposes of this subsection.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Definitions.—The terms 'employee' and 'employer' have the meanings given such terms by paragraphs (2) and (3) of section 127(c), respectively.

"(2) Aggregation.—

"(A) In general.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single employer.

"(B) Allocation of credit.—The credit (if any) determined under this section with respect to each person described in subparagraph (A) shall be its proportionate share of the qualified educational assistance expenses giving rise to such credit.

"(3) Short taxable years.—For any taxable year having less than 12 months, the credit determined under this section shall be multiplied by a fraction, the numerator of which is the number of days in the taxable year and the denominator of which is 365.

"(4) Disallowance of deduction.—"For disallowance of deduction for expenses for which credit allowable, see section 280C(d).

"(e) Termination.—This section shall not apply to qualified educational assistance expenses incurred in taxable years beginning after December 31, 2000."

(b) Disallowance of Deductions.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end of the following new subsection:

"(d) Credit for Small Business Educational Assistance Expenses.—

"(1) In general.—No deduction shall be allowed for that portion of the qualified educational assistance expenses (as defined in section 45D(b)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45D.

"(2) Election of reduced credit.—

"(A) In general.—In the case of any taxable year for which an election is made under this paragraph—

"(i) paragraph (1) shall not apply, and

"(ii) the amount of the credit under section 45D(a) shall be the amount determined under subparagraph (B).

"(B) Amount of reduced credit.—The amount of the credit determined under this subparagraph for any taxable year shall be the amount equal to the excess of—

"(i) the amount of credit determined under section 45D(a) without regard to this paragraph, over

"(ii) the product of—

"(I) the amount described in clause (i), and

"(II) the maximum rate of tax under section 11(b)(1).

"(C) Election.—An election under this paragraph for any taxable year shall be made not later than the time for filing the return of tax for such year (including extensions), shall be made on such return, and shall be made in such manner as the Secretary may prescribe. Such an election, once made, shall be irrevocable.

"(3) Controlled Groups.—Paragraph (3) of subsection (b) shall apply for purposes of this subsection."

(c) General Business Credit.—Subsection (b) of section 38 (relating to general business credit) is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting, "plus", and by adding at the end the following new paragraph:

"(13) the small business educational assistance credit determined under section 45D(a)."

(d) Conforming Amendments.—

(1) No Carryback.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

"(8) No Carryback of section 45D credit before enactment.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D."

(2) The table of sections for Subpart D of such part IV is amended by adding at the end the following new item:

"SEC. 45D. SMALL BUSINESS EDUCATIONAL ASSISTANCE CREDIT."

(e) Effective Date.—The amendments made by this section shall apply to education and training furnished in taxable years beginning after December 31, 1997.

TITLE II—STUDENT FINANCIAL AID PROVISIONS

SHORT TITLE; REFERENCES

Sec. 201. (a) Short Title.—This title may be cited as the "Student Financial Aid Improvements Act of 1997".

(b) References.—References in this title to "the Act" shall refer to the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*).

Part A—Pell Grants

PELL GRANT MAXIMUM AWARD

Sec. 211. Section 401(b)(2)(A) of the Act is amended by adding at the end thereof the following: "Except as otherwise provided in this section, in no case shall the maximum basic grant be less than $3,000.".

Part B—Student Loan Provisions

MANAGEMENT AND RECOVERY OF RESERVES

Sec. 221. (a) Section 422 of the Act is amended—

(1) by amending subsection (g)(1) to read as follows:

"(1) Authority to recovery funds.—(A) Notwithstanding any other provision of law, the reserve funds of the guaranty agencies, and any assets purchased or developed with such reserve funds, regardless of who holds or controls the reserves or assets, shall remain the property of the United States.

"(B) The Secretary may direct the guaranty agency to require the return, to the guaranty agency or to the Secretary, of any reserve funds or assets held by, or under the control of, any other entity, that the Secretary determines are required—

"(i) to pay the program expenses and contingent liabilities of the guaranty agency;

"(ii) to satisfy the guaranty agency's requirements under subsection (h); or

"(iii) for the orderly termination of the guaranty agency's operations and the liquidations of its assets.

"(C) The Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activity involving expenditure, use, or transfer of the guaranty agency's reserve funds or assets that the Secretary determines is a misapplication, misuse, or improper expenditure of such funds or assets."; and

(2) by adding after subsection (g) the following new subsections:

"(h) Recall of Reserves in Fiscal Years 1997 Through 2002; Limitations on Use of Reserve Funds and Assets.—(1)(A) Notwithstanding any other provision of law, the Secretary shall, except as otherwise provided in this subsection, recall from the reserve funds held by guaranty agencies (which for purposes of this subsection shall include any reserve funds held by, or under the control of, any other entity) not less than—

"(i) $731,000,000 in fiscal year 1998;

"(ii) $127,000,000 in fiscal year 1999;

"(iii) $186,000,000 in each of the fiscal years 2000 and 2001; and

"(iv) $1,271,000,000 in fiscal year 2002.

"(B) Funds returned to the Secretary under this subsection shall be deposited in the Treasury.

"(C) The Secretary shall require each guaranty agency to return reserve funds under subparagraph (A) based on its proportionate share, as determined by the Secretary, of all reserve funds held by guaranty agencies as of September 30, 1996.

"(2)(A) Within 45 days of enactment of this subsection, all reserve funds held by a guaranty agency that have not yet been recalled by the Secretary under paragraph (1) shall be transferred by the guaranty agency to a restricted account (of a type specified by the Secretary) established by the guaranty agency, and be invested in United States Government securities specified by the Secretary. The manner and timeframe in which reserve funds so invested are recalled shall be specified by the Secretary, consistent with the requirements of this subsection. Except as described in subparagraph (B), the guaranty agency shall not use the reserve funds in such account, which shall include the earnings thereon, for any purpose without the express permission of the Secretary.

"(B)(i) In order to assist guaranty agencies in meeting program expenses, the Secretary shall permit the use of not more than an aggregate of $350,000,000 of the reserve funds held in the restricted accounts described in subparagraph (A) by guaranty agencies with agreements under section 428(c), as working capital to be used for such purposes as the Secretary may specify. The Secretary shall specify the amount of reserve funds in each guaranty agency's restricted account that may be used as working capital, based on the guaranty agency's proportionate share of all borrower accounts outstanding on September 30, 1996. The guaranty agency shall repay such amount to its restricted account (or returned to the Treasury, if so directed by the Secretary) by no later than September 30, 2002, or the date on which such agency's agreement under section 428(c) ends (through resignation, expiration, or termination), whichever is earlier.

"(ii) The guaranty agency may use the earnings from its restricted account for fiscal year 1998 to assist in meeting its operational expenses for such year.

"(C) Non-liquid reserve fund assets, such as buildings and equipment purchased or developed by the guaranty agency with reserve funds, and any liquid assets remaining in a guaranty agency's restricted account after the recalls in paragraph (1)(A), shall—

"(i) remain the property of the United States;

"(ii) be used only for such purposes as the Secretary determines are appropriate; and

"(iii) be subject to recall by the Secretary no later than the date on which such agency's agreement under section 428(c) ends (through resignation, expiration, or termination, as the case may be).".

REPAYMENT TERMS

SEC. 222.(a) Section 427 of the Act is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (B), in the matter preceding clause (i), by striking "over a period" through "not more than 10 years" and inserting "in accordance with the repayment plan selected under subsection (d),";

(B) in subparagraph (C), at the end of the subparagraph, by striking out "the 10-year period described in subparagraph (B);" and inserting the following: "the length of the repayment period under a repayment plan described in subsection (d);";

(C) by striking subparagraph (F);

(D) by redesignating subparagraphs (G), (H), and (I) as subparagraphs (F), (G), and (H), respectively; and

(E) in subparagraph (G) (as redesignated by subparagraph (D)), by striking "the option" through the end of the subparagraph and inserting "the repayment options described in subsection (d); and";

(2) in subsection (c), by striking "in subsection (a)(2)(H)," and inserting the following: "by a repayment plan selected by the borrower under subparagraph (C) or (D) of subsection (d)(1),"; and

(3) by adding after subsection (c) the following new subsection:

"(d) REPAYMENT PLANS.—(1) DESIGN AND SELECTION.—In accordance with regulations of the Secretary, the lender shall offer a borrower of a loan made under this part the plans described in this subsection for repayment of such loan, including principal and interest thereon. No plan may require a borrower to repay a loan in less than five years. The borrower may choose from—

"(A) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed ten years;

"(B) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, not to exceed 30 years, except that the borrower shall repay annually a minimum amount determined in accordance with subsection (c);

"(C) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over an extended period of time, not to exceed 30 years, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

"(D) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed ten years.

"(2) LENDER SELECTION OF OPTION IF BORROWER DOES NOT SELECT.—If a borrower of a loan made under this part does not select a repayment plan described in paragraph (1), the lender shall provide the borrower with a repayment plan described in paragraph (1)(A).

"(3) CHANGES IN SELECTIONS.—The borrower of a loan made under this part may change the borrower's selection of a repayment plan under paragraph (1), or the lender's selection of a plan for the borrower under paragraph (2), as the case may be, under such conditions as may be prescribed by the Secretary in regulation.

"(4) ACCELERATION PERMITTED.—Under any of the plans described in this subsection, the borrower shall be entitled to accelerate, without penalty, repayment on the borrower's loans under this part.".

(b) Section 428(b) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking clauses (i) and (ii) and the clause designation "(iii)";

(B) in subparagraph (E)—

(i) in clause (i)—

(I) by striking "or section 428A," and inserting "or section 428H,"; and

(II) by striking "the option" through the end of the clause and inserting "the repayment options described in paragraph (9); and"; and

(ii) in clause (ii)—

(I) by striking "over a period" through "nor more than 10 years" and inserting "in accordance with the repayment plan selected under paragraph (9), and"; and

(II) by striking "of this subsection;" at the end of clause (ii) and inserting a semicolon; and

(C) in subparagraph (L)(i), by inserting after the clause designation the following: "except as otherwise provided by a repayment plan selected by the borrower under paragraph (9)(A)(iii) or (iv),"; and

(2) by adding after paragraph (8) the following new paragraph:

"(9) REPAYMENT PLANS.—(A) DESIGN AND SELECTION.—In accordance with regulations of the Secretary, the lender shall offer a borrower of a loan made under this part the plans described in this subparagraph for repayment of such loan, including principal and interest thereon. No plan may require a borrower to repay a loan in less than five years. The borrower may choose from—

"(i) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed ten years;

"(ii) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, not to exceed 30 years, except that the borrower shall repay annually a minimum amount determined in accordance with paragraph (2)(L);

"(iii) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over an extended period of time, not to exceed 30 years, except that the borrower's scheduled payments shall not be less than 50 percent, or more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

"(iv) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed ten years.

"(B) LENDER SELECTION OF OPTION IF BORROWER DOES NOT SELECT.—If a borrower of a loan made under this part does not select a repayment plan described in subparagraph (A), the lender shall provide the borrower with a repayment plan described in subparagraph (A)(i).

"(C) CHANGES IN SELECTIONS.—The borrower of a loan made under this part may change the borrower's selection of a repayment plan under subparagraph (A), or the lender's selection of a plan for the borrower under subparagraph (B), as the case may be, under such conditions as may be prescribed by the Secretary in regulation.

"(D) ACCELERATION PERMITTED.—Under any of the plans described in this paragraph, the borrower shall be entitled to accelerate, without penalty, repayment on the borrower's loans under this part.

"(E) COMPARABLE FFEL AND DIRECT LOAN REPAYMENT PLANS.—The Secretary shall ensure that the repayment plans offered to borrowers under this part are comparable, to the extent practicable and not otherwise provided in statute, to the repayment plans offered under part D.".

(c) Section 428C of the Act is amended—

(1) in subsection (b)(3)(F), by striking "alternative"; and

(2) in subsection (c)—

(A) by amending paragraph (2) to read as follows:

"(2) REPAYMENT PLANS.—(A) DESIGN AND SELECTION.—In accordance with regulations of the Secretary, the lender shall offer a borrower of a loan made under this section the plans described in this paragraph for repayment of such loan, including principal and interest thereon. No plan may require a borrower to repay a loan in less than five years. The borrower may choose from—

"(i) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed ten years;

"(ii) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, not to exceed 30 years, except that the borrower shall repay annually a minimum amount determined in accordance with paragraph (3);

"(iii) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over an extended period of time, not to exceed 30 years, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

"(iv) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed ten years.

"(B) LENDER SELECTION OF OPTION IF BORROWER DOES NOT SELECT.—If a borrower of a loan made under this section does not select a repayment plan described in subparagraph (A), the lender shall provide the borrower with a repayment plan described in subparagraph (A)(i).

"(C) CHANGES IN SELECTIONS.—The borrower of a loan made under this section may change the borrower's selection of a repayment plan under subparagraph (A), or the lender's selection of a plan for the borrower under subparagraph (B), as the case may be, under such conditions as may be prescribed by the Secretary in regulation.".

(d) Section 455(d) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by inserting after "an extended period of time," the following: "not to exceed 30 years,"; and

(B) in subparagraph (C), by striking "a fixed or extended period of time," and inserting the following: "an extended period of time, not to exceed 30 years,"; and

(2) in paragraph (2), by striking "subparagraph (A), (B), or (C) of paragraph (1)." and inserting "paragraph (1)(A).".

INTEREST RATES

SEC. 223. (a) Section 427A of the Act is amended—

(1) in subsection (g)(2)—

(A) by inserting after the paragraph heading the subparagraph designation "(A)";

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(C) by striking "paragraph (1)," and inserting "paragraph (1), and except as provided in subparagraph (B),"; and

(D) by adding after subparagraph (A) (as redesignated by subparagraph (A)) the following new subparagraph:

"(B) In the case of loans made or insured under section 428 or 428H for which the first disbursement is made on or after October 1, 1997, for purposes of paragraph (1), the rate determined under this paragraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the bond equivalent rate of the securities with a comparable maturity, as established by the Secretary, except that such rate shall not exceed 8.25 percent.";

(2) in subsection (h)—

(A) in the heading thereof, by striking "JULY 1, 1998.—" and inserting "OCTOBER 1, 1997.—";

(B) in paragraph (1)—

(i) by striking "(f), and (g)" and inserting "and (f),"; and

(ii) by striking "July 1, 1998," and inserting "October 1, 1997,"; and

(C) in paragraph (2)—

(i) in the heading, by striking "JULY 1, 1998.—" and inserting "OCTOBER 1, 1997.—"; and

(ii) by striking "July 1, 1998," and inserting "October 1, 1997,"; and

(3) in subsection (i)(7)(B), by adding at the end the following: "Notwithstanding any other provision of law the interest rate determined under this subparagraph shall be used solely to determine the rebate of excess interest required by this paragraph and shall not be used to calculate or pay special allowances under section 438.".

(b) Section 455(b) of the Act is amended—

(1) in paragraph (2)(B)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(B) by inserting after the subparagraph heading the clause designation "(i)";

(C) by striking "subparagraph (A)," and inserting "subparagraph (A) and except as provided in clause (ii),"; and

(D) by adding after clause (i) (as redesignated by subparagraph (B)) the following new clause:

"(ii) In the case of Federal Direct Stafford/Ford Loans or Federal Direct Unsubsidized Stafford/Ford Loans for which the first disbursement is made on or after October 1, 1997, for purposes of subparagraph (A), the rate determined under this subparagraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the bond equivalent rate of the securities with a comparable maturity, as established by the Secretary, except that such rate shall not exceed 8.25 percent.";

(2) in paragraph (3)—

(A) by striking "and (2)," and inserting ", and except as provided in paragraph (2),"; and

(B) by striking "made on or after July 1, 1998," and inserting "for which the first disbursement is made on or after October 1, 1997,"; and

(3) in paragraph (4)(B), by striking "July 1, 1998," and inserting "October 1, 1997,".

LENDER AND HOLDER RISK SHARING

SEC. 224. Section 428(b)(1)(G) of the Act is amended by striking "not less than 98 percent" and inserting "95 percent".

FEES AND INSURANCE PREMIUMS

SEC. 225. (a) Section 428(b)(1)(H) of the Act is amended—

(1) by inserting the clause designation "(i)" following the subparagraph designation;

(2) by striking "the loan," and inserting "any loan made under section 428 or 428B before July 1, 1998,"; and

(3) after clause (i) (as redesignated by paragraph (1)), by adding "and" and the following new clause:

"(ii) provides that no insurance premiums shall be charged to the borrower of any loan made under section 428 or 428B on or after July 1, 1998;".

(b) Section 428H(h) of the Act is amended—

(1) by inserting the paragraph designation "(1)" following the subsection heading;

(2) by striking "under this section" and inserting "of a loan made under this section made before July 1, 1998"; and

(3) by adding at the end of paragraph (1) (as redesignated by paragraph (1)) the following new paragraph:

"(2) No insurance premium may be charged to the borrower on any loan made under this section made on or after July 1, 1998.".

(d) Section 438(c) of the Act is amended—

(1) in paragraph (2), by striking "paragraph (6)" and inserting "paragraphs (6) and (8)"; and

(2) by adding after paragraph (7) the following new paragraph:

"(8) ORIGINATION FEE ON SUBSIDIZED LOANS ON OR AFTER JULY 1, 1998.—In the case of any loan made or insured under section 428 on or after July 1, 1998, paragraph (2) shall be applied by substituting '2.0 percent' for '3.0 percent'.".

(e) Section 455(c) of the Act is amended—

(1) by striking "The Secretary" and inserting "(1) For loans made under this part before July 1, 1998, the Secretary";

(2) by striking "of a loan made under this part"; and

(3) by adding at the end thereof the following new paragraph:

"(2) For loans made under this part on or after July 1, 1998, the Secretary shall charge the borrower an origination fee of—

"(A) 2.0 percent of the principal amount of the loan, in the case of Federal Direct Stafford/Ford Loans; or

"(B) 3.0 percent of the principal amount of the loan, in the case of Federal Direct Unsubsidized Stafford/Ford Loans or Federal Direct PLUS Loans.".

FUNCTIONS OF GUARANTY AGENCIES

SEC. 226. (a) Section 428 of the Act is further amended—

(1) in subsection (a)—

(A) in paragraph (1)(B)—

(i) in the matter preceding clause (i), by striking "which is insured" and inserting "which, before October 1, 1997, is"; and

(ii) in clause (ii), by inserting "as in effect the day before the day of enactment of this section," after "subsection (b),"; and

(B) in paragraph (3)—

(i) by striking subparagraph (B); and

(ii) in subparagraph (A)—

(I) in clause (ii), by striking "under any" through the end of the clause and inserting a period;

(II) by striking the subparagraph designation "(A)";

(III) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(IV) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively;

(2) in subsection (b)—

(A) by amending the heading to read as follows: "REQUIREMENTS TO QUALIFY LOANS FOR INSURANCE AND INTEREST SUBSIDIES.—";

(B) in paragraph (1)—

(i) by amending the heading to read as follows: "REQUIREMENTS.—";

(ii) by amending the matter preceding subparagraph (A) to read as follows: "A loan by an eligible lender shall be insurable by the Secretary, and students who receive such loans shall be entitled to have made on their behalf the payments provided for in subsection (a), under a program of student loan insurance that—";

(iii) by amending subparagraph (K) to read as follows:

"(K) provides that the holder of any such loan will be required to submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by regulation for the purpose of enabling the Secretary to determine the amount of the payment which must be made with respect to that loan;";

(iv) by amending subparagraph (O) to read as follows:

"(O) provides that, if the sale, assignment, or other transfer of a loan made under this part to another holder will result in a change in the identity of the party to whom the borrower must send subsequent payments or direct any communications concerning the loans, then—

"(i) the transferor and the transferee shall be required, not later than 45 days from the date the transferee acquires a legally enforceable right to receive payment from the borrower on such loan, either jointly or separately to provide a notice to the borrower of—

"(I) the sale, assignment, or other transfer;

"(II) the identity of the transferee;

"(III) the name and address of the party to whom subsequent payments or communications must be sent; and

"(IV) the telephone numbers of both the transferor and the transferee; and

"(ii) the transferee shall be required to notify the Secretary, and, upon the request of an institution of higher education, the Secretary shall notify the last such institution the student attended prior to the beginning of the repayment period of any loan made under this part, of—

"(I) any sale, assignment, or other transfer of the loan; and

"(II) the address and telephone number by which contact may be made with the new holder concerning repayment of the loan;

"except that this subparagraph shall apply only if the borrower is in the grace period described in section 427(a)(2)(B) or 428(b)(7) or is in repayment status";

(v) in subparagraph (Q), by striking "guarantee" and "428A" and inserting "insurance" and "428H", respectively;

(vi) by amending subparagraph (R) to read as follows:

"(R) provides for the making of such reports, in such form and containing such information, including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States, and for keeping such records and for affording such access thereto as the Secretary may find necessary to ensure the correctness and verification of such reports;";

(vii) by amending subparagraph (S) to read as follows:

"(S) provides that a lender shall pay a default prevention fee in accordance with subsection (g);

(viii) in subparagraph (T)—

(I) in clause (i), by inserting ", by the guaranty agency, in accordance with regulations prescribed by the Secretary," after "limitation"; and

(II) in clause (ii)—

(aa) in the matter preceding subclause (I), by inserting ", in accordance with regulations prescribed by the Secretary," after "institution";

(bb) by striking subclauses (I) and (II); and

(cc) redesignating subclauses (III), (IV), and (V) as subclauses (I), (II), and (III), respectively;

(ix) by amending subparagraph (U) to read as follows:

"(U) provides—

"(i) for such additional criteria concerning the eligibility of lenders described in section 435(d)(1) as may be permitted by the Secretary; and

"(ii) an assurance that the guaranty agency will report to the Secretary concerning changes in criteria under clause (i), including any procedures in effect under such program to take emergency action, limit, suspend, or terminate lenders; and"; and

(x) by striking subparagraphs (V), (W), and (X);

(C) by amending paragraph (2) to read as follows:

"(2) SKIP-TRACING REQUIREMENT.—In the case of a default claim based on an inability to locate the borrower, a lender shall certify to the Secretary, at the time of submission of the default claim, that diligent attempts have been made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with regulations prescribed by the Secretary.";

(D) in paragraph (3)(B), by striking the parenthetical through the end of the subparagraph and inserting a period; and

(E) by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

"(5) COMPLIANCE AUDITS.—(A) Except as provided in subparagraph (B) or by the Single Audit Act Amendments of 1996, an eligible lender that originates or holds more than $5,000,000 in loans made under this title during an annual audit period shall submit to the Secretary a compliance audit for that audit period which is conducted by a qualified, independent organization or person in accordance with the Government Auditing Standards issued by the Comptroller General, and the regulations of the Secretary.

"(B) The Secretary may permit a lender to submit the results of an audit conducted for other purposes if the Secretary determines that such other audit results provide the same information as required under subparagraph (A).";

(3) in subsection (c)—

(A) by amending the heading to read as follows: "AGREEMENTS WITH GUARANTY AGENCIES.—";

(B) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by striking "A guaranty agreement" and inserting "An agreement between the Secretary and a guaranty agency";

(ii) in the flush left language at the end of the paragraph, by striking "Guaranty agencies" and inserting "The Secretary"; and

(iii) by redesignating paragraph (3) as paragraph (11);

(C) by striking paragraphs (1), (2), (4), and (5);

(D) by inserting after the subsection heading the following new paragraphs:

"(1) AUTHORITY TO ENTER INTO AGREEMENTS.—(A)(i) The Secretary may enter into an agreement with a guaranty agency, under which the Secretary shall insure loans made under this section through the guaranty agency as the agent of the Secretary.

"(ii) Any guaranty agency that had an agreement with the Secretary under section 428(b) as of the day before the date of enactment of the Student Financial Aid Improvements Act of 1997 may enter into an initial agreement with the Secretary under this subsection.

"(iii) An agreement under this subsection shall be five years in duration, and may be renewed by the Secretary for successive five-year periods.

"(iii) The Secretary may terminate the agreement prior to its expiration in accordance with paragraph (9).

"(2) EFFECT ON PRIOR GUARANTY AGREEMENTS AND LOAN INSURANCE BY GUARANTY AGENCIES.—(A) All guaranty agreements made under this subsection as it was in effect on the day before the date of enactment of the Student Financial Aid Improvements Act of 1997 shall terminate not later than 180 days after the date of enactment of that Act.

"(B) Notwithstanding any other provision of law—

"(i) to the extent that a guaranty agency had insured loans under this part, loan insurance by such guaranty agency that is outstanding as of the date of the termination under subparagraph (A) shall be replaced on such date by loan insurance issued by the Secretary, and the guaranty agency shall be relieved of any further liability thereon;

"(ii) the Secretary's liability for any outstanding liabilities of a guaranty agency (other than outstanding loan insurance under this part), shall not exceed the fair market value of the unrestricted funds of the guaranty agency, which shall consist of—

"(I) all accumulated earnings not otherwise placed in a restricted account in accordance with section 422(h)(2)(A); and

"(II) any working capital that may be provided under section 422(h)(2)(B); and

"(iii) for the first year after the date of enactment of the Student Financial Aid Improvements Act of 1997, the Secretary may specify such interim administrative measures as the Secretary determines to be necessary for the efficient transfer of the loan insurance function, and to carry out the purposes of this part.

"(3) TERMS OF AGREEMENT.—The agreement between the Secretary and a guaranty agency shall include, but not be limited to—

"(A) provisions regarding the responsibilities of the guaranty agency for—

"(i) administering the issuance of insurance on loans made under this section on behalf of the Secretary;

"(ii) monitoring insurance commitments made under this section;

"(iii) default prevention activities;

"(iv) review of default claims made by lenders;

"(v) payment of default claims;

"(vi) collection of defaulted loans;

"(vii) adoption of internal systems of accounting and auditing that are acceptable to the Secretary, and reporting the result thereof to the Secretary on a timely, accurate, and auditable basis;

"(viii) timely and accurate collection and reporting of such other data as the Secretary may require to carry out the purposes of the programs under this title;

"(ix) monitoring of institutions and lenders participating in the program under this part; and

"(x) such other program functions as the Secretary may require of the guaranty agency;

"(B) provisions regarding the fees the Secretary shall pay to the guaranty agency under the agreement, and other revenues that the guaranty agency may receive thereunder, as described in paragraphs (4) and (6);

"(C) provisions requiring the guaranty agency to carry out its responsibilities under the agreement in accordance with paragraph (5);

"(D) provisions regarding the use, in accordance with paragraph (10), of net revenues in excess of the guaranty agency's need for working capital, as determined after compliance with section 422(h), for such other activities in support of postsecondary education as may be agreed to by the Secretary and the guaranty agency;

"(E) provisions regarding such other businesses, previously purchased or developed with reserve funds, that relate to the program under this part and in which the Secretary permits the guaranty agency to engage (as determined on a case-by-case basis);

"(F) provisions setting forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, and to ensure proper and efficient administration of the loan insurance program;

"(G) provisions regarding the submission of the results of audits of the guaranty agency that are conducted—

"(i) at least annually;

"(ii) by a qualified, independent organization or person in accordance with the standards established by the Comptroller General for the audit of governmental organizations, programs, and functions; and

"(iii) in accordance with the regulations of the Secretary;

"(H) provisions requiring the making of such reports, in such form and containing such information, including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and to protect the Federal fiscal interest, and for keeping such records and for affording such access thereto as the Secretary may find necessary or appropriate to ensure the correctness and verification of such reports;

"(I) adequate assurances that the guaranty agency will not engage in any pattern or practice which may result in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution, length of the borrower's educational program, or the borrower's academic year in school;

"(J) assurances that—

"(i) upon the request of an eligible institution, the guaranty agency shall, subject to clauses (ii) and (iii), furnish to the institution information with respect to students (including the names and addresses of such students) who received loans made or insured under this part for attendance at the eligible institution and for whom preclaims assistance activities have been requested under subsection (l);

"(ii) the guaranty agency shall require the payment by the institution of a reasonable fee (as determined in accordance with regulations prescribed by the Secretary) for such information; and

"(iii) the institution may use such information only to remind students of their obligation to repay student loans and may not disseminate the information for any other purpose; and

"(K) such other provisions as the Secretary may determine to be necessary to protect the United States from the risk of unreasonable loss and to promote the purposes of this part.

"(4) FEES AND OTHER REVENUES.—(A)(i) The Secretary shall pay to a guaranty agency with an agreement under this subsection the following uniform fees:

"(I) a one-time issuance fee for each new loan made under this part that is insured by the Secretary through the guaranty agency; and

"(II) an annual maintenance fee for each active borrower account.

"(ii) The fees described in clause (i) shall be paid on a quarterly basis, from the funds available under section 458(a), in such amount as the Secretary determines, for all guaranty agencies with agreements under this subsection.

"(B) A guaranty agency with an agreement under this subsection also may receive revenues derived from—

"(i) a default prevention fee paid by lenders in accordance with subsection (g);

"(ii) the collection retention allowance under paragraph (6);

"(iii) the interest earned on working capital provided under section 422(h);

"(iv) such other businesses, previously purchased or developed with reserve funds, that relate to the program under this part and in which the Secretary permits the guaranty agency to engage (as determined on a case-by-case basis); and

"(v) such other fees as may be authorized under this part.

"(5) PERFORMANCE REQUIREMENT.—(A) A guaranty agency with an agreement under this subsection shall carry out its responsibilities thereunder in accordance with such measurable performance-based standards as the Secretary may specify; and shall submit timely and accurate data to the Secretary in support of its performance.

"(B) The Secretary shall apply the performance standards uniformly to guaranty agencies with agreements under this subsection.

"(C) The Secretary shall assess the performance of each guaranty agency on the basis of the audits required under paragraph (3)(G), and shall compare such guaranty agency's performance against the performance of other such guaranty agencies and publicly disseminate such comparison.

"(D) The Secretary may impose a fine, in accordance with the terms of the agreement, on a guaranty agency that fails to achieve a specified level of performance on one or more performance standards. If the guaranty agency's failure to achieve such performance level results in a financial loss to the United States, the guaranty agency shall indemnify the Secretary for such loss.";

(E) by amending paragraph (6) to read as follows:

"(6) COLLECTION RETENTION ALLOWANCE.—(A) If, after the Secretary has paid a claim on a loan made under this title, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after the payment of the default claim by the Secretary), there shall be paid over to the Secretary that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments an amount for costs related to the student loan insurance program that—

"(i) shall be specified by the Secretary on the basis of the Secretary's review of payments for similar services in a competitive environment; and

"(ii) in no case shall exceed 18.5 percent of such payments (subject to subparagraph (B)).

"(B) If, after the Secretary has paid a claim on a loan made under this title, and the liability on such loan is discharged by payment of the proceeds of a consolidation loan under this part or under part D, the guaranty agency may not deduct the amount specified in subparagraph (A), but may charge the borrower an amount specified by the Secretary and not to exceed 18.5% of the principal amount of the defaulted loan at the time of consolidation, to defray the guaranty agency's collection costs on the defaulted loan to be consolidated.";

(F) by amending paragraph (7) to read as follows:

"(7) SECRETARY AUTHORIZED TO RENEW OR MAKE ALTERNATE AGREEMENTS.—Notwithstanding any other provision of law, once the initial agreement with a guaranty agency entered into after the date of enactment of the Student Financial Aid Improvements Act of 1997 has ended (through its expiration, the termination of the guaranty agency agreement by the Secretary in accordance with paragraph (9), or the resignation of the guaranty agency, as the case may be), the Secretary, in his discretion, may enter into—

"(A) another agreement with the guaranty agency;

"(B) an alternate agreement under which the functions previously performed by the guaranty agency shall be performed by another State or private nonprofit agency with which the Secretary has an agreement under this subsection; or

"(C) a contract under section 428E.";

(G) by amending paragraph (9) to read as follows:

"(9) TERMINATION OF GUARANTY AGENCY AGREEMENTS.—(A) A guaranty agency's agreement under this subsection may be ended in advance of its expiration date in accordance with subparagraph (B), or (C). If its agreement is so ended, the guaranty agency shall immediately—

"(i) cease to be an agent of the Secretary for purposes of the program under this part; and

"(ii) surrender all remaining liquid and non-liquid reserve funds, and assets purchased or developed with reserve funds, still held by the guaranty agency (including reserves held by, or under the control of, any other entity) to the Secretary or the Secretary's designated agent.

(B) A guaranty agency's agreement under this subsection shall be void, and the Secretary shall immediately so notify such guaranty agency, if—

"(i) the guaranty agency fails to comply in a timely manner with the recall of reserve requirements of section 422(h);

"(ii) the guaranty agency fails to increase the amount of funds in its unrestricted account (as measured by comparing the amount of funds in such account at the beginning and end of a year) for each of two years (that may or may not be consecutive) in the five year period of the agreement under this subsection;

"(iii) any other agreement that the guaranty agency has with the Secretary is terminated;

"(iv) the guaranty agency becomes insolvent or declares bankruptcy; or

"(v) there is any legal impediment to the guaranty agency substantially performing its responsibilities under the agreement.

"(C) The Secretary shall, after notice and opportunity for a hearing, terminate a guaranty agency that has substantially failed to achieve an acceptable level of performance under its agreement with the Secretary. A substantial performance failure under this subparagraph may include the existence of material internal control weaknesses relating to data quality in the guaranty agency's audits for each of two years (that may or may not be consecutive) in the five year period of the agreement under this subsection.

"(D) Notwithstanding any other provision of Federal or State law, if the Secretary has terminated or is seeking to terminate a guaranty agency's agreement in advance of its expiration date—

"(i) no State court may issue any order affecting the Secretary's actions with respect to such guaranty agency;

"(ii) any contract with respect to the administration of reserve funds held by a guaranty agency, or the administration of any assets purchased or developed with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the date of enactment of the Student Financial Aid Improvements Act of 1997 shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section; and

"(iii) no provision of State law shall apply to the actions of the Secretary in terminating the operations of a guaranty agency."; and

(H) by adding after paragraph (9) the following new paragraph:

"(10) USE OF SURPLUS FUNDS.—(A) A guaranty agency with an agreement under this subsection may retain the amount determined in accordance with subparagraph (B) for activities in support of postsecondary education that are approved by the Secretary.

"(B)(i) A guaranty agency may retain 50 percent of its net revenues for fiscal year 1998 in excess of the guaranty agency's need for working capital for such year, as determined after compliance with section 422(h), for approved activities.

"(ii) A guaranty agency may retain for approved activities for fiscal year 1999 and succeeding fiscal years the lesser of—

"(I) 50 percent of its net revenues for such year in excess of its need for working capital, as determined after compliance with section 422(h); or

"(II) the amount of its net revenues for such year in excess of its need for working capital, as determined after compliance with section 422(h), that is equal to a uniform percentage, established annually by the Secretary, of federal revenues received by the guaranty agency for the preceding year. In determining such percentage, the Secretary shall take into account all guaranty agencies' revenues and costs for the preceding year to determine an adequate level of economic incentive for guaranty agencies to maximize their efficiency.";

(4) by amending subsection (g) to read as follows:

"(g) DEFAULT PREVENTION FEE PAID BY LENDERS.—(1) An eligible lender shall pay a guaranty agency, to which such lender referred a delinquent loan, a default prevention fee of not to exceed $100 per borrower account if the guaranty agency succeeds in bringing such loan into current repayment status.

"(2) The Secretary shall prescribe in regulations the circumstances in which a lender may obtain a refund of a default prevention fee if the borrower of a loan on which such fee was paid subsequently defaults on such loan."; and

(5) in subsection (1)—

(A) in paragraph (1), by striking the paragraph designation and the paragraph heading; and

(B) by striking paragraph (2).

(b) Section 435(j) of the Act is amended by striking "section 428(b)." and inserting "section 428(c)."

REPEAL OF STATE SHARE OF DEFAULT COSTS

SEC. 227. Section 428 of the Act is further amended by striking subsection (n).

CONSOLIDATION LOANS

SEC. 228. (a) Section 428C of the Act is further amended—

(1) in subsection (a)(3)—

(A) in subparagraph (A), by inserting "in an in-school period," after "for consolidation loan is"; and

(B) in subparagraph (B), by amending clause (i) to read as follows:

"(i) Eligible student loans received by the eligible borrower may be added to a consolidation loan during the 180-day period following the making of such consolidation loan.";

(2) in subsection (b)(4)(C), by amending clause (ii) to read as follows:

"(ii) provides that interest shall accrue and be paid—

"(I) by the Secretary, in the case of a consolidation loan made before October 1, 1997 that consolidated only Federal Stafford Loans for which the student borrower received an interest subsidy under section 428;

"(II) by the Secretary, in the case of a consolidation loan made on or after October 1, 1997, except that the Secretary shall pay such interest only on that portion of the loan that repays Federal Stafford Loans for which the student borrower received an interest subsidy under section 428; and

"(III) by the borrower, or capitalized, in the case of a consolidation loan, or portion thereof, other than one described in subclause (I) or (II);"; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "subparagraph (B) or (C)." and inserting "subparagraph (B), (C), (D), or (E), and subject to subparagraph (F).";

(ii) in subparagraph (C), by striking "after July 1, 1994," and inserting "after July 1, 1994 and before October 1, 1997,"; and

(iii) by adding after subparagraph (C) the following new subparagraphs:

"(D) A consolidation loan made on or after October 1, 1997, that repays loans made under section 428 or 428H, or a combination thereof, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to—

"(i) the rate specified in section 427A(g), in the case of a borrower in an in-school or grace period; or

"(ii) the rate specified in section 427A(h)(1) in all other cases.

"(E) A consolidation loan made on or after October 1, 1997, that repays loans made under section 428B shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the rate specified in section 427A(h)(2).

"(F) Notwithstanding any other provision of this section, the Secretary may prescribe in regulation such procedures as may be necessary to ensure that—

"(i) a borrower of a consolidation loan that repays a combination of loans eligible to be consolidated under this section, shall continue to receive, after consolidation, any interest subsidy benefits associated with a loan, without extending such benefits to any other loans consolidated that do not have interest subsidy benefits;

"(ii) in the case of a consolidation loan that repays a combination of loans described in subparagraphs (D) and (E), the interest rate on such consolidation loan shall be calculated in a manner that reflects the interest rate applicable to loans made under each such subparagraph; and

"(iii) in the case of a consolidation loan that repays a loan eligible to be consolidated under this section other than those described in subparagraphs (D) and (E), the interest rate applicable to such other loan shall be the interest rate described in subparagraph (D) if such other loan is considered by the Secretary to be subsidized, and the interest rate described in subparagraph (E) if such other loan is considered by the Secretary to be unsubsidized."; and

(B) in paragraph (4)—

(i) by striking "Repayment" and inserting "(A) Except as provided in subparagraph (B), repayment"; and

(ii) by adding after subparagraph (A) (as redesignated by clause (i)) the following new subparagraph:

"(B) In the case of a consolidation loan that repays a loan made under this part for which the borrower is in an in-school period at the time the consolidation application is received, the repayment period for such consolidation loan shall commence after the completion of a grace period, as described in section 428(b)(7)(i).".

CONTRACTS WITH OTHER ENTITIES

SEC. 229. Part B of title IV of the Act is amended by inserting after section 428D the following new section:

"CONTRACT AUTHORITY

"SEC. 428E. The Secretary may enter into one or more contracts to carry out any of the functions that otherwise would be carried out by a guaranty agency with an agreement under section 428(c).".

ELIGIBLE LENDER

SEC. 230. Section 435(d) of the Act is amended—

(1) in paragraph (1), by striking "(6)," and inserting "(7),"; and

(2) by adding after paragraph (6) the following new paragraph:

"(7) UNIFORM TERMS AND CONDITIONS. Subject to such exceptions as the Secretary may prescribe in regulations, the term 'eligible lender' shall not include any lender that offers different terms and conditions to different borrowers of the same type of loan made or insured under this part.".

SPECIAL ALLOWANCE

SEC. 231. Section 438 of the Act is amended—

(1) in subsection (a)(3), by striking "quarterly rate" each place it appears and inserting "rate"; and

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by striking "subparagraphs (B), (C), (D), (E), and (F)" and inserting "subparagraphs (B), (C), (D), (E), (F), and (G)"; and

(ii) by adding after subparagraph (F) the following new subparagraph:

"(G)(i) Notwithstanding any other provision of this section, in the case of loans made or insured under this part for which the first disbursement is made on or after October 1, 1997, the special allowance paid pursuant to this subsection shall be computed for any 12-month period beginning on July 1 and ending on June 30 by—

"(I) determining the bond equivalent rate on the preceding June 1 of the securities with a comparable maturity, as established by the Secretary; and

"(II) subtracting the applicable interest rate on such loans from such amount.

"(ii) The amount of special allowance computed under clause (i) shall be paid in quarterly increments for the 3-month periods described in paragraph (1)."; and

(B) in paragraph (3), in the second sentence, by striking "determined for any such 3-month period shall be paid promptly after the close of such period." and inserting "calculated under this subsection shall be paid promptly after the close of the 3-month period for which such special allowance payment is due.".

STUDENT LOAN MARKETING ASSOCIATION OFFSET FEE

SEC. 232. Section 439(h)(7) of the Act is amended by adding after subparagraph (C) the following new subparagraph:

"(D) The calculation of the fee required under subparagraph (A) or (B), as the case may be, shall be determined on the basis of the principal amount of all loans (except for loans made under sections 428C, 439(o) or 439(q)—

"(i) owned, in whole or in part, by the Association, any subsidiary of the Association, or any company, trust or other entity owned by, or controlled by, the Association; or

"(ii) held by a trust (including by a trustee on behalf of a trust), or by any other entity in which the Association, or any subsidiary, holds more than a minimal beneficial interest (as determined by the Secretary).".

DIRECT LOAN TRANSITION FEE

SEC. 233. Section 452(b) of the Act is amended to read as follows:

"(b) TRANSITION FEES.—The Secretary shall pay fees to institutions of higher education (or a consortium of those institutions) with agreements under section 454(b), in the first year of their participation in the program authorized by this part, in order to compensate for costs associated with their transition to the program. The fees shall not exceed an average of $10 per borrower at all institutions receiving the fees.".

FUNDS FOR ADMINISTRATIVE EXPENSES

SEC. 234. Section 458(a) of the Act is amended, in the first sentence, by striking $260,000,000" through the end of the sentence and inserting the following: "$532,000,000 in fiscal year 1998. $610,000,000 in fiscal year 1999. $705,000,000 in fiscal year 2000, $806,000,000 in fiscal year 2001, and $904,000,000 in fiscal year 2002.".

PART C—NEED ANALYSIS AND GENERAL PROVISIONS

HOPE SCHOLARSHIP NEED ANALYSIS AMENDMENTS

SEC. 241. (a) CALCULATION OF AVAILABLE INCOME.—(1) Section 475 of the Act is amended—

(A) by amending subsection (c)(1)(A) to read as follows:

"(A) the sum of—

"(i) Federal income taxes;

"(iii) the amount of any tax credit taken under section 24A of the Internal Revenue Code of 1986; and

"(iii) the amount by which tax liability determined without regard to the deduction provided under section 221 of the Internal Revenue Code exceeds the amount of tax liability determined after taking such deduction into account;"; and

(B) by amending subsection (g)(2)(A) to read as follows:

"(A) the sum of—

"(i) Federal income taxes;

"(ii) the amount of any tax credit taken by the student under section 24A of the Internal Revenue Code of 1986; and

"(iii) the amount by which tax liability determined without regard to the deduction provided under section 221 of the Internal Revenue Code exceeds the amount of tax liability determined after taking such deduction into account;".

(2) Section 476(b)(1)(A)(i) of the Act is amended to read as follows:

"(A) the sum of—

"(i) Federal income taxes;

"(ii) the amount of any tax credit taken under section 24A of the Internal Revenue Code of 1986; and

"(iii) the amount by which tax liability determined without regard to the deduction provided under section 221 of the Internal Revenue Code exceeds the amount of tax liability determined after taking such deduction into account;".

(3) Section 477(b)(1)(A) of the Act is amended to read as follows:

"(A) the sum of—

"(i) Federal income taxes;

"(ii) the amount of any tax credit taken under section 24A of the Internal Revenue Code of 1986; and

"(iii) the amount by which tax liability determined without regard to the deduction provided under section 221 of the Internal Revenue Code exceeds the amount of tax liability determined after taking such deduction into account;".

(b) DEFINITIONS.—Section 480 of the Act is amended—

(1) in subsection (a)(2)—

(A) by striking "and no portion" and inserting "no portion"; and

(B) by inserting after "(42 U.S.C. 12571 *et seq.*)," the following: "and no portion of any tax credit taken under section 24A of the Internal Revenue Code of 1986,";

(2) in subsection (b)—

(A) in paragraph (13), by striking "and" at the end of the paragraph;

(B) by redesignating paragraph (14) as paragraph (15); and

(C) by inserting after paragraph (13) the following new paragraph:

"(14) any tax deduction taken under section 221 of the Internal Revenue Code of 1986; and";

(3) in subsection (e)—

(A) in paragraph (3), by striking "and" at the end of the paragraph;

(B) in paragraph (4), by striking the period at the end of the paragraph and inserting "; and"; and

(C) by adding after paragraph (4) the following new paragraph:

"(5) any tax credit taken under section 24A of the Internal Revenue Code of 1986; and";

(4) in subsection (j), by adding after paragraph (3) the following new paragraph:

"(4) Notwithstanding paragraph (1), a tax credit taken under section 24A of the Internal Revenue Code of 1986 shall not be treated as estimated financial assistance for purposes of section 471(3).".

INCOME PROTECTION ALLOWANCE FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS

SEC. 242. (a) Section 476(b) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by amending clause (iv) to read as follows:

"(iv) an income protection allowance, determined in accordance with paragraph (4);"; and

(ii) in clause (v), by striking "paragraph (4);" and inserting "paragraph (5);"; and

(B) in subparagraph (B), by striking "paragraph (5)." and inserting "paragraph (6).";

(2) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) INCOME PROTECTION ALLOWANCE.—The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 478):

"INCOME PROTECTION ALLOWANCE

Family size (including student)	Number in college	
	1	2
1	8,000	
2	10,520	8,720".

(b) Section 478(b) of the Act is amended by striking "sections 475(c)(4) and 477(b)(4)." and inserting "sections 475(c)(4), 476(b)(4), and 477(b)(4).".

HOPE SCHOLARSHIP DEFINITIONS

SEC. 243. Section 481 of the Act is amended by adding after subsection (f) the following new subsection:

"(g) HOPE SCHOLARSHIP DEFINITIONS.—(1) As necessary for purposes of the tax credit provided under section 24A of the Internal Revenue Code of 1986, and the deduction provided under section 221 of such Code, the Secretary of Education shall define in regulation the following terms:

"(A) academic period;

"(B) normal full-time workload;

"(C) first two years of postsecondary education;

"(D) qualifying grade point average;

"(E) job skills; and

"(F) new job skills.

"(2) Notwithstanding any other provision of law, the regulations described in paragraph (1) shall not be subject to section 482(c).".

EXTENSION OF STUDENT AID PROGRAMS

SEC. 244. Title IV of the Act is amended—

(1) in section 401(a)(1), by striking "September 30, 1998," and inserting "September 30, 1999,";

(2) in section 424(a), by striking "1998." and "2002." and inserting "2002." and "2006.", respectively;

(3) in section 428(a)(5), by striking "1998," and "2002." and inserting "2002," and "2006.", respectively;

(4) in section 428C(e), by striking "1998." and inserting "2002."; and

(5) in section 466—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1), by striking "September 30, 1996," and March 31, 1997," and inserting "September 30, 1998," and March 31, 1999", respectively; and

(ii) in paragraph (1), by striking "September 30, 1996," and inserting "September 30, 1998,";

(B) in subsection (b), by striking "September 30, 1996," and inserting "September 30, 1998,"; and

(C) in subsection (c), by striking out "October 1, 1997," and inserting "October 1, 1998,".

PART D—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 251. (a) Except as otherwise provided in this section, the amendments made by this title shall take effect on the date of enactment of this Act.

(b) Section 211 is effective for the calculation of Pell Grant awards for award years beginning on or after July 1, 1998.

(c) Section 222 is effective for a loan made under part B or part D of title IV of the Act for which the first disbursement is made on or after October 1, 1997.

(d) Section 223(a)(3) and section 428(b)(5)(C) of the Act (as added by section 226(a)(2)(E)) are effective as if they were enacted on July 23, 1992.

(e) Sections 224, 229, and 230 take effect on October 1, 1997.

(f) Section 231 is effective for a loan made or insured under part B of title IV of the Act for which the first disbursement is made on or after October 1, 1997.

(g) Section 232 is effective as if it were enacted on August 10, 1993, but does not apply to the privatized entity that may be created as a result of the Student Loan Marketing Association Reorganization Act of 1996 (Title VI of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 1997, as enacted by section 101(e) of Division A of Pub. L. No. 104–208).

(h) Section 242 is effective for determinations of need for academic years beginning on or after July 1, 1998.

S. 560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—STUDENT FINANCIAL AID PROVISIONS

SHORT TITLE; REFERENCES

SEC. 101. (a) SHORT TITLE.—This title may be cited as the "Student Financial Aid Improvements Act of 1997".

(b) REFERENCES.—References in this title to "the Act" shall refer to the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*).

PART A—PELL GRANTS

PELL GRANT MAXIMUM AWARD

SEC. 111. Section 401(b)(2)(A) of the Act is amended by adding at the end thereof the following: "Except as otherwise provided in this section, in no case shall the maximum basic grant be less than $3,000.".

PART B—STUDENT LOAN PROVISIONS

MANAGEMENT AND RECOVERY OF RESERVES

SEC. 121. (a) Section 422 of the Act is amended—

(1) by amending subsection (g)(1) to read as follows:

"(1) AUTHORITY TO RECOVER FUNDS.—(A) Notwithstanding any other provision of law, the reserve funds of the guaranty agencies, and any assets purchased or developed with such reserve funds, regardless of who holds or controls the reserves or assets, shall remain the property of the United States.

"(B) The Secretary may direct the guaranty agency to require the return, to the guaranty agency or to the Secretary, of any reserve funds or assets held by, or under the control of, any other entity, that the Secretary determines are required—

"(i) to pay the program expenses and contingent liabilities of the guaranty agency;

"(ii) to satisfy the guaranty agency's requirements under subsection (h); or

"(iii) for the orderly termination of the guaranty agency's operations and the liquidation of its assets.

"(C) The Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activity involving expenditure, use, or transfer of the guaranty agency's reserve funds or assets that the Secretary determines is a misapplication, misuse, or improper expenditure of such funds or assets."; and

(2) by adding after subsection (g) the following new subsections:

"(h) Recall of Reserves in Fiscal Years 1997 Through 2002; Limitations on Use of Reserve Funds and Assets.—(1)(A) Notwithstanding any other provision of law, the Secretary shall, except as otherwise provided in this subsection, recall from the reserve funds held by guaranty agencies (which for purposes of this subsection shall include any reserve funds held by, or under the control of, any other entity) not less than—

"(i) $731,000,000 in fiscal year 1998;

"(ii) $127,000,000 in fiscal year 1999;

"(iii) $186,000,000 in each of the fiscal years 2000 and 2001; and

"(iv) $1,271,000,000 in fiscal year 2002.

"(B) Funds returned to the Secretary under this subsection shall be deposited in the Treasury.

"(C) The Secretary shall require each guaranty agency to return reserve funds under subparagraph (A) based on its proportionate share, as determined by the Secretary, of all reserve funds held by guaranty agencies as of September 30, 1996.

"(2)(A) Within 45 days of enactment of this subsection, all reserve funds held by a guaranty agency that have not yet been recalled by the Secretary under paragraph (1) shall be transferred by the guaranty agency to a restricted account (of a type specified by the Secretary) established by the guaranty agency, and be invested in United States Government securities specified by the Secretary. The manner and timeframe in which reserve funds so invested are recalled shall be specified by the Secretary, consistent with the requirements of this subsection. Except as described in subparagraph (B), the guaranty agency shall not use the reserve funds in such account, which shall include the earnings thereon, for any purpose without the express permission of the Secretary.

"(B)(i) In order to assist guaranty agencies in meeting program expenses, the Secretary shall permit the use of not more than an aggregate of $350,000,000 of the reserve funds held in the restricted accounts described in subparagraph (A) by guaranty agencies with agreements under section 428(c), as working capital to be used for such purposes as the Secretary may specify. The Secretary shall specify the amount of reserve funds in each guaranty agency's restricted account that may be used as working capital, based on the guaranty agency's proportionate share of all borrower accounts outstanding on September 30, 1996. The guaranty agency shall repay such amount to its restricted account (or returned to the Treasury, if so directed by the Secretary) by not later than September 30, 2002, or the date on which such agency's agreement under section 428(c) ends (through resignation, expiration, or termination), whichever is earlier.

"(ii) The guaranty agency may use the earnings from its restricted account for fiscal year 1998 to assist in meeting its operational expenses for such year.

"(C) Non-liquid reserve fund assets, such as buildings and equipment purchased or developed by the guaranty agency with reserve funds, and any liquid assets remaining in a guaranty agency's restricted account after the recalls in paragraph (1)(A), shall—

"(i) remain the property of the United States;

"(ii) be used only for such purposes as the Secretary determines are appropriate; and

"(iii) be subject to recall by the Secretary no later than the date on which such agency's agreement under section 428(c) ends (through resignation, expiration, or termination, as the case may be).".

REPAYMENT TERMS

Sec. 122. (a) Section 427 of the Act is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (B), in the matter preceding clause (i), by striking "over a period" through "nor more than 10 years" and inserting "in accordance with the repayment plan selected under subsection (d),";

(B) in subparagraph (C), at the end of the subparagraph, by striking out "the 10-year period described in subparagraph (B);" and inserting the following: "the length of the repayment period under a repayment plan described in subsection (d);";

(C) by striking subparagraph (F);

(D) by redesignating subparagraphs (G), (H), and (I) as subparagraphs (F), (G), and (H), respectively; and

(E) in subparagraph (G) (as redesignated by subparagraph (D)), by striking "the option" through the end of the subparagraph and inserting "the repayment options described in subsection (d); and";

(2) in subsection (c), by striking "in subsection (a)(2)(H)," and inserting the following: "by a repayment plan selected by the borrower under subparagraph (C) or (D) of subsection (d)(1),"; and

(3) by adding after subsection (c) the following new subsection:

"(d) Repayment Plans.—(1) Design and Selection.—In accordance with regulations of the Secretary, the lender shall offer a borrower of a loan made under this part the plans described in this subsection for repayment of such loan, including principal and interest thereon. No plan may require a borrower to repay a loan in less than five years. The borrower may choose from—

"(A) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed ten years;

"(B) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, not to exceed 30 years, except that the borrower shall repay annually a minimum amount determined in accordance with subsection (c);

"(C) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over an extended period of time, not to exceed 30 years, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

"(D) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed ten years.

"(2) Lender selection of option if borrower does not select.—If a borrower of a loan made under this part does not select a repayment plan described in paragraph (1), the lender shall provide the borrower with a repayment plan described in paragraph (1)(A).

"(3) Changes in selections.—The borrower of a loan made under this part may change the borrower's selection of a repayment plan under paragraph (1), or the lender's selection of a plan for the borrower under paragraph (2), as the case may be, under such conditions as may be prescribed by the Secretary in regulation.

"(4) Acceleration Permitted.—Under any of the plans described in this subsection, the borrower shall be entitled to accelerate, without penalty, repayment on the borrower's loans under this part.".

(b) Section 428(b) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking clauses (i) and (ii) and the clause designation "(iii)";

(B) in subparagraph (E)—

(i) in clause (i)—

(I) by striking "or section 428A," and inserting "or section 428H,"; and

(II) by striking "the option" through the end of the clause and inserting "the repayment options described in paragraph (9); and"; and

(ii) in clause (ii)—

(I) by striking "over a period" through "nor more than 10 years" and inserting "in accordance with the repayment plan selected under paragraph (9), and"; and

(II) by striking "of this subsection;" at the end of clause (ii) and inserting a semicolon; and

(C) in subparagraph (L)(i), by inserting after the clause designation the following: "except as otherwise provided by a repayment plan selected by the borrower under paragraph (9)(A) (iii) or (iv),"; and

(2) by adding after paragraph (8) the following new paragraph:

"(9) Repayment plans.—(A) Design and selection.—In accordance with regulations of the Secretary, the lender shall offer a borrower of a loan made under this part the plans described in this subparagraph for repayment of such loan, including principal and interest thereon. No plan may require a borrower to repay a loan in less than five years. The borrower may choose from—

"(i) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed ten years;

"(ii) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, not to exceed 30 years, except that the borrower shall repay annually a minimum amount determined in accordance with paragraph (2)(L);

"(iii) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over an extended period of time, not to exceed 30 years, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

"(iv) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed ten years.

"(B) LENDER SELECTION OF OPTION IF BORROWER DOES NOT SELECT.—If a borrower of a loan made under this part does not select a repayment plan described in subparagraph (A), the lender shall provide the borrower with a repayment plan described in subparagraph (A)(i).

"(C) CHANGES IN SELECTION.—The borrower of a loan made under this part may change the borrower's selection of a repayment plan under subparagraph (A), or the lender's selection of a plan for the borrower under subparagraph (B), as the case may be, under such conditions as may be prescribed by the Secretary in regulation.

"(D) ACCELERATION PERMITTED.—Under any of the plans described in this paragraph, the borrower shall be entitled to accelerate, without penalty, repayment on the borrower's loans under this part.

"(E) COMPARABLE FFEL AND DIRECT LOAN REPAYMENT PLANS.—The Secretary shall ensure that the repayment plans offered to borrowers under this part are comparable, to the extent practicable and not otherwise provided in statute, to the repayment plans offered under part D.".

(c) Section 428C of the Act is amended—

(1) in subsection (b)(3)(F), by striking "alternative"; and

(2) in subsection (c)—

(A) by amending paragraph (2) to read as follows:

"(2) REPAYMENT PLANS.—(A) DESIGN AND SELECTION.—In accordance with regulations of the Secretary, the lender shall offer a borrower of a loan made under this section the plans described in this paragraph for repayment of such loan, including principal and interest thereof. No plan may require a borrower to repay a loan in less than five years. The borrower may choose from—

"(i) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed ten years.

"(ii) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, not to exceed 30 years, except that the borrower shall repay annually a minimum amount determined in accordance with paragraph (3);

"(iii) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over an extended period of time, not to exceed 30 years, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

"(iv) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed ten years.

"(B) LENDER SELECTION OF OPTION IF BORROWER DOES NOT SELECT.—If a borrower of a loan made under this section does not select a repayment plan described in subparagraph (A), the lender shall provide the borrower with a repayment plan described in subparagraph (A)(i).

"(C) CHANGES IN SELECTIONS.—The borrower of a loan made under this section may change the borrower's selection of a repayment plan under subparagraph (A), or the lender's selection of a plan for the borrower under subparagraph (B), as the case may be, under such conditions as may be prescribed by the Secretary in regulation.".

(d) Section 455(d) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by inserting after "an extended period of time," the following: "not to exceed 30 years,"; and

(B) in subparagraph (C), by striking "a fixed or extended period of time," and inserting the following: "an extended period of time, not to exceed 30 years,"; and

(2) in paragraph (2), by striking "subparagraph (A), (B), or (C) of paragraph (1)." and inserting "paragraph 91)(A).".

INTEREST RATES

SEC. 123. (a) Section 427A of the Act is amended—

(1) in subsection (g)(2)—

(A) by inserting after the paragraph heading the subparagraph designation "(A)";

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(C) by striking "paragraph (1)," and inserting "paragraph (1), and except as provided in subparagraph (B),"; and

(D) by adding after subparagraph (A) (as redesignated by subparagraph (A)) the following new subparagraph:

"(B) In the case of loans made or insured under section 428 or 428H for which the first disbursement is made on or after October 1, 1997, for purposes of paragraph (1), the rate determined under this paragraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the bond equivalent rate of the securities with a comparable maturity, as established by the Secretary, except that such rate shall not exceed 8.25 percent.";

(2) in subsection (h)—

(A) in the heading thereof, by striking "July 1, 1998.—" and inserting "October 1, 1997.—";

(B) in paragraph (1)—

(i) by striking "(f), and (g)" and inserting "and (f),"; and

(ii) by striking "July 1, 1998," and inserting "October 1, 1997."; and

(C) in paragraph (2)—

(i) in the heading, by striking "*JULY 1, 1998.*—" and inserting "*OCTOBER 1, 1997.*—"; and

(ii) by striking "July 1, 1998," and inserting "October 1, 1997,"; and

(3) in subsection (i)(7)(B), by adding at the end the following: "Notwithstanding any other provision of law, the interest rate determined under this subparagraph shall be used solely to determine the rebate of excess interest required by this paragraph and shall not be used to calculate or pay special allowances under section 438.".

(b) Section 455(b) of the Act is amended—

(1) in paragraph (2)(B)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(B) by inserting after the subparagraph heading the clause designation "(i)";

(C) by striking "subparagraph (A)," and inserting "subparagraph (A) and except as provided in clause (ii),"; and

(D) by adding after clause (i) (as redesignated by subparagraph (B)) the following new clause:

"(ii) In the case of Federal Direct Stafford/Ford Loans or Federal Direct Unsubsidized Stafford/Ford Loans for which the first disbursement is made on or after October 1, 1997, for purposes of subparagraph (A), the rate determined under this subparagraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the bond equivalent rate of the securities with comparable maturity, as established by the Secretary, except that such rate shall not exceed 8.25 percent.";

(2) in paragraph (3)—

(A) by striking "and (2)," and inserting ", and except as provided in paragraph (2),"; and

(B) by striking "made on or after July 1, 1998," and inserting "for which the first disbursement is made on or after October 1, 1997,"; and

(3) in paragraph (4)(B), by striking "July 1, 1998," and inserting "October 1, 1997,".

LENDER AND HOLDER RISK SHARING

SEC. 124. Section 428(b)(1)(G) of the Act is amended by striking "not less than 98 percent" and inserting "95 percent".

FEES AND INSURANCE PREMIUMS

SEC. 125. (a) Section 428(b)(1)(H) of the act is amended—

(1) by inserting the clause designation "(i)" following the subparagraph designation;

(2) by striking "the loan," and inserting "any loan made under section 428 or 428B before July 1, 1998,"; and

(3) after clause (i) (as redesignated by paragraph (1)), by adding "and" and the following new clause:

"(ii) provides that no insurance premiums shall be charged to the borrower of any loan made under section 428 or 428B on or after July 1, 1998;".

(b) Section 428H(h) of the Act is amended—

(1) by inserting the paragraph designation "(1)" following the subsection heading;

(2) by striking "under this section" and inserting "of a loan made under this section made before July 1, 1998"; and

(3) by adding at the end of paragraph (1) (as redesignated by paragraph (1)) the following new paragraph:

"(2) No insurance premium may be charged to the borrower on any loan made under this section made on or after July 1, 1998.".

(d) Section 438(c) of the Act is amended—

(1) in paragraph (2), by striking "paragraph (6)" and inserting "paragraphs (6) and (8)"; and

(2) by adding after paragraph (7) the following new paragraph:

"(8) ORIGINATION FEE ON SUBSIDIZED LOANS ON OR AFTER JULY 1, 1998.—In the case of any loan made or insured under section 428 on or after July 1, 1998, paragraph (2) shall be applied by substituting '2.0 percent' for '3.0 percent'.".

(e) Section 455(c) of the Act is amended—

(1) by striking "The Secretary" and inserting "(1) For loans made under this part before July 1, 1998, the Secretary";

(2) by striking "of a loan made under this part"; and

(3) by adding at the end thereof the following new paragraph:

"(2) For loans made under this part on or after July 1, 1998, the Secretary shall charge the borrower an origination fee of—

"(A) 2.0 percent of the principal amount of the loan, in the case of Federal Direct Stafford/Ford Loans; or

"(B) 3.0 percent of the principal amount of the loan, in the case of Federal Direct Unsubsidized Stafford/Ford Loans or Federal Direct PLUS Loans.".

FUNCTIONS OF GUARANTY AGENCIES

SEC. 126. (a) Section 428 of the Act is further amended—

(1) in subsection (a)—

(A) in paragraph (1)(B)—

(i) in the matter preceding clause (i), by striking "which is insured" and inserting "which, before October 1, 1997, is"; and

(ii) in clause (ii), by inserting "as in effect the day before the day of enactment of this section," after "subsection (b),"; and

(B) in paragraph (3)—

(i) by striking subparagraph (B); and

(ii) in subparagraph (A)—

(I) in clause (ii), by striking "under any" through the end of the clause and inserting a period;

(II) by striking the subparagraph designation "(A)";

(III) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(IV) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively;

(2) in subsection (b)—

(A) by amending the heading to read as follows: "REQUIREMENTS TO QUALIFY LOANS FOR INSURANCE AND INTEREST SUBSIDIES.—",

(B) in paragraph (1)—

(i) by amending the heading to read as follows: REQUIREMENTS.—";

(ii) by amending the matter preceding subparagraph (A) to read as follows: "A loan by an eligible lender shall be insurable by the Secretary, and students who receive such loans shall be entitled to have made on their behalf the payments provided for in subsection (a), under a program of student loan insurance that—";

(iii) by amending subparagraph (K) to read as follows:

"(K) provides that the holder of any such loan will be required to submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by regulation for the purpose of enabling the Secretary to determine the amount of the payment which must be made with respect to that loan;";

(iv) by amending subparagraph (O) to read as follows:

"(O) provides that, if the sale, assignment, or other transfer of a loan made under this part to another holder will result in a change in the identity of the party to whom the borrower must send subsequent payments or direct any communications concerning the loans, then—

"(i) the transferor and the transferee shall be required, not later than 45 days from the date the transferee acquires a legally enforceable right to receive payment from the borrower on such loan, either jointly or separately to provide a notice to the borrower of—

"(I) the sale, assignment, or other transfer;

"(II) the identity of the transferee;

"(III) the name and address of the party to whom subsequent payments or communications must be sent; and

"(IV) the telephone numbers of both the transferor and the transferee; and

"(ii) the transferee shall be required to notify the Secretary, and, upon the request of an institution of higher education, the Secretary shall notify the last such institution the student attended prior to the beginning of the repayment period of any loan made under this part, of—

"(I) any sale, assignment, or other transfer of the loan; and

"(II) the address and telephone number by which contact may be made with the new holder concerning repayment of the loan;

"except that this subparagraph shall apply only if the borrower is in the grace period described in section 427(a)(2)(B) or 428(b)(7) or is in repayment status.";

(v) in subparagraph (Q), by striking "guarantee" and "428A" and inserting "insurance" and "428H", respectively;

(vi) by amending subparagraph (R) to read as follows:

"(R) provides for the making of such reports, in such form and containing such information, including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States, and for keeping such records and for affording such access thereto as the Secretary may find necessary to ensure the correctness and verification of such reports;";

(vii) by amending subparagraph (S) to read as follows:

"(S) provides that a lender shall pay a default prevention fee in accordance with subsection (g);

(viii) in subparagraph (T)—

(I) in clause (i), by inserting ", by the guaranty agency, in accordance with regulations prescribed by the Secretary," after "limitation"; and

(II) in clause (ii)—

(aa) in the matter preceding subclause (I), by inserting ", in accordance with regulations prescribed by the Secretary," after "institution";

(bb) by striking subclauses (I) and (II); and

(cc) redesignating subclauses (III), (IV), and (V) as subclauses (I), (II), and (III), respectively;

(ix) by amending subparagraph (U) to read as follows:

"(U) provides—

"(i) for such additional criteria concerning the eligibility of lenders described in section 435(d)(1) as may be permitted by the Secretary; and

"(ii) an assurance that the guaranty agency will report to the Secretary concerning changes in criteria under clause (i), including any procedures in effect under such program to take emergency action, limit, suspend, or terminate lenders; and"; and

(x) by striking subparagraphs (V), (W), and (X);

(C) by amending paragraph (2) to read as follows:

"(2) SKIP-TRACING REQUIREMENT.—In the case of a default claim based on an inability to locate the borrower, a lender shall certify to the Secretary, at the time of submission of the default claim, that diligent attempts have been made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with regulations prescribed by the Secretary.";

(D) in paragraph (3)(B), by striking the parenthetical through the end of the subparagraph and inserting a period; and

(E) by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

"(5) COMPLIANCE AUDITS.—(A) Except as provided in subparagraph (B) or by the Single Audit Act Amendments of 1996, an eligible lender that originates or holds more than $5,000,000 in loans made under this title during an annual audit period shall submit to the Secretary a compliance audit for that audit period which is conducted by a qualified, independent organization or person in accordance with the Government Auditing Standards issued by the Comptroller General, and the regulations of the Secretary.

"(B) The Secretary may permit a lender to submit the results of an audit conducted for other purposes if the Secretary determines that such other audit results provide the same information as required under subparagraph (A).";

(3) in subsection (c)—

(A) by amending the heading to read as follows: "AGREEMENTS WITH GUARANTY AGENCIES.—";

(B) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by striking "A guaranty agreement" and inserting "An agreement between the Secretary and a guaranty agency"

(ii) in the flush left language at the end of the paragraph, by striking "Guaranty agencies" and inserting "The Secretary"; and

(iii) by redesignating paragraph (3) as paragraph (11);

(C) by striking paragraphs (1), (2), (4), and (5);

(D) by inserting after the subsection heading the following new paragraphs:

"(1) AUTHORITY TO ENTER INTO AGREEMENTS.—(A)(i) The Secretary may enter into an agreement with a guaranty agency, under which the Secretary shall insure loans made under this section through the guaranty agency as the agent of the Secretary.

"(ii) Any guaranty agency that had an agreement with the Secretary under section 428(b) as of the day before the date of enactment of the Student Financial Aid Improvements Act of 1997 may enter into an initial agreement with the Secretary under this subsection.

"(iii) An agreement under this subsection shall be five years in duration, and may be renewed by the Secretary for successive five-year periods.

"(iii) The Secretary may terminate the agreement prior to its expiration in accordance with paragraph (9).

"(2) EFFECT ON PRIOR GUARANTY AGREEMENTS AND LOAN INSURANCE BY GUARANTY AGENCIES.—(A) All guaranty agreements made under this subsection as it was in effect on the day before the date of enactment of the Student Financial Aid Improvements Act of 1997 shall terminate not later than 180 days after the date of enactment of that Act.

"(B) Notwithstanding any other provision of law—outstanding as of the date of the termination under subparagraph (A) shall be replaced on such date by loan insurance issued by the Secretary, and the guaranty agency shall be relieved of any further liability thereon;

"(ii) the Secretary's liability for any outstanding liabilities of a guaranty agency (other than outstanding loan insurance under this part), shall not exceed the fair market value of the unrestricted funds of the guaranty agency, which shall consist of—

"(I) all accumulated earnings not otherwise placed in a restricted account in accordance with section 422(h)(2)(A); and

"(II) any working capital that may be provided under section 422(h)(2)(B); and

"(iii) for the first year after the date of enactment of the Student Financial Aid Improvements Act of 1997, the Secretary may specify such interim administrative measures as the Secretary determines to be necessary for the efficient transfer of the loan insurance function, and to carry out the purposes of this part.

"(3) TERMS OF AGREEMENT.—The agreement between the Secretary and a guaranty agency shall include, but not be limited to—

"(A) provisions regarding the responsibilities of the guaranty agency for—

"(i) administering the issuance of insurance on loans made under this section on behalf of the Secretary;

"(ii) monitoring insurance commitments made under this section;

"(iii) default prevention activities;

"(iv) review of default claims made by lenders;

"(v) payment of default claims;

"(vi) collection of defaulted loans;

"(vii) adoption of internal systems of accounting and auditing that are acceptable to the Secretary, and reporting the result thereof to the Secretary on a timely, accurate, and auditable basis;

"(viii) timely and accurate collection and reporting of such other data as the Secretary may require to carry out the purposes of the programs under this title;

"(ix) monitoring of institutions and lenders participating in the program under this part; and

"(x) such other program functions as the Secretary may require of the guaranty agency;

"(B) provisions regarding the fees the Secretary shall pay to the guaranty agency under the agreement, and other revenues that the guaranty agency may receive thereunder, as described in paragraphs (4) and (6);

"(C) provisions requiring the guaranty agency to carry out its responsibilities under the agreement in accordance with paragraph (5);

"(D) provisions regarding the use, in accordance with paragraph (10), of net revenues in excess of the guaranty agency's need for working capital, as determined after compliance with section 422(h), for such other activities in support of postsecondary education as may be agreed to by the Secretary and the guaranty agency;

"(E) provisions regarding such other businesses, previously purchased or developed with reserve funds, that relate to the program under this part and in which the Secretary permits the guaranty agency to engage (as determined on a case-by-case basis);

"(F) provisions setting forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, and to ensure proper and efficient administration of the loan insurance program;

"(G) provisions regarding the submission of the results of audits of the guaranty agency that are conducted—

"(i) at least annually;

"(ii) by a qualified, independent organization or person in accordance with the standards established by the Comptroller General for the audit of governmental organizations, programs, and functions; and

"(iii) in accordance with the regulations of the Secretary;

"(H) provisions requiring the making of such reports, in such form and containing such information, including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and to protect the Federal fiscal interest, and for keeping such records and for affording such access thereto as the Secretary may find necessary or appropriate to ensure the correctness and verification of such reports;

"(I) adequate assurances that the guaranty agency will not engage in any pattern or practice which may result in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution, length of the borrower's educational program, or the borrower's academic year in school;

"(J) assurances that—

"(i) upon the request of an eligible institution, the guaranty agency shall, subject to clauses (ii) and (iii), furnish to the institution information with respect to students (including the names and addresses of such students) who received loans made or insured under this part for attendance at the eligible institution and for whom preclaims assistance activities have been requested under subsection (l);

"(ii) the guaranty agency shall require the payment by the institution of a reasonable fee (as determined in accordance with regulations prescribed by the Secretary) for such information; and

"(iii) the institution may use such information only to remind students of their obligation to repay student loans and may not disseminate the information for any other purpose; and

"(K) such other provisions as the Secretary may determine to be necessary to protect the United States from the risk of unreasonable loss and to promote the purposes of this part.

"(4) FEES AND OTHER REVENUES.—(A)(i) The Secretary shall pay to a guaranty agency with an agreement under this subsection the following uniform fees:

"(I) a one-time issuance fee for each new loan made under this part that is insured by the Secretary through the guaranty agency; and

"(II) an annual maintenance fee for each active borrower account.

"(ii) The fees described in clause (i) shall be paid on a quarterly basis, from the funds available under section 458(a), in such amount as the Secretary determines, for all guaranty agencies with agreement under this subsection.

"(B) A guaranty agency with an agreement under this subsection also may receive revenues derived from—

"(i) a default prevention fee paid by lenders in accordance with subsection (g);

"(ii) the collection retention allowance under paragraph (6);

"(iii) the interest earned on working capital provided under section 422(h);

"(iv) such other businesses, previously purchased or developed with reserve funds, that relate to the program under this part and in which the Secretary permits the guaranty agency to engage (as determined on a case-by-case basis); and

"(v) such other fees as may be authorized under this part.

"(5) PERFORMANCE REQUIREMENTS.—(A) A guaranty agency with an agreement under this subsection shall carry out its responsibilities thereunder in accordance with such measurable performance-based standards as the Secretary may specify, and shall submit timely and accurate data to the Secretary in support of its performance.

"(B) The Secretary shall apply the performance standards uniformly to guaranty agencies with agreements under this subsection.

"(C) The Secretary shall assess the performance of each guaranty agency on the basis of the audits required under paragraph (3)(G), and shall compare such guaranty agency's performance against the performance of other such guaranty agencies and publicly disseminate such comparison.

"(D) The Secretary may impose a fine, in accordance with the terms of the agreement, on a guaranty agency that fails to achieve a specified level of performance on one or more performance standards. If the guaranty agency's failure to achieve such performance level results in a financial loss to the United States, the guaranty agency shall indemnify the Secretary for such loss.";

(E) by amending paragraph (6) to read as follows:

"(6) COLLECTION RETENTION ALLOWANCE.—(A) If, after the Secretary has paid a claim on a loan made under this title, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after the payment of the default claim by the Secretary), there shall be paid over to the Secretary that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments an amount for costs related to the student loan insurance program that—

"(i) shall be specified by the Secretary on the basis of the Secretary's review of payments for similar services in a competitive environment; and

"(ii) in no case shall exceed 18.5 percent of such payments (subject to subparagraph (B)).

"(B) If, after the Secretary has paid a claim on a loan made under this title, and the liability on such loan is discharged by payment of the proceeds of a consolidation loan under this part or under part D, the guaranty agency may not deduct the amount specified in subparagraph (A), but may charge the borrower an amount specified by the Secretary and not to exceed 18.5% of the principal amount of the defaulted loan at the time of consolidation, to defray the guaranty agency's collection costs on the defaulted loan to be consolidated.";

(F) by amending paragraph (7) to read as follows:

"(7) SECRETARY AUTHORIZED TO RENEW OR MAKE ALTERNATE AGREEMENTS.—Notwithstanding any other provision of law, once the initial agreement with a guaranty agency entered into after the date of enactment of the Student Financial Aid Improvements Act of 1997 has ended (through its expiration, the termination of the guaranty agency agreement by the Secretary in accordance with paragraph (9), or the resignation of the guaranty agency, as the case may be), the Secretary, in his discretion, may enter into—

"(A) another agreement with the guaranty agency;

"(B) an alternate agreement under which the functions previously performed by the guaranty agency shall be performed by another State or private nonprofit agency with which the Secretary has an agreement under this subsection; or

"(C) a contract under section 428E.";

(G) by amending paragraph (9) to read as follows:

"(9) TERMINATION OF GUARANTY AGENCY AGREEMENTS.—(A) A guaranty agency's agreement under this subsection may be ended in advance of its expiration date in accordance with subparagraph (B), or (C). If its agreement is so ended, the guaranty agency shall immediately—

"(i) cease to be an agent of the Secretary for purposes of the program under this part; and

"(ii) surrender all remaining liquid and non-liquid reserve funds, and assets purchased or developed with reserve funds, still held by the guaranty agency (including reserves held by, or under the control of, any other entity) to the Secretary or the Secretary's designated agent.

(B) A guaranty agency's agreement under this subsection shall be void, and the Secretary shall immediately so notify such guaranty agency, if—

"(i) the guaranty agency fails to comply in a timely manner with the recall of reserve requirements of section 422(h);

"(ii) the guaranty agency fails to increase the amount of funds in its unrestricted account (as measured by comparing the amount of funds in such account at the beginning and end of a year) for each of two years (that may or may not be consecutive) in the five year period of the agreement under this subsection;

"(iii) any other agreement that the guaranty agency has with the Secretary is terminated;

"(iv) the guaranty agency becomes insolvent or declares bankruptcy; or

"(v) there is any legal impediment to the guaranty agency substantially preforming its responsibilities under the agreement.

"(C) The Secretary shall, after notice and opportunity for a hearing, terminate a guaranty agency that has substantially failed to achieve an acceptable level of performance under its agreement with the Secretary. A substantial performance failure under this subparagraph may include the existence of material internal control weaknesses relating to data quality in the guaranty agency's audits for each of two years (that may or may not be consecutive) in the five year period of the agreement under this subsection.

"(D) Notwithstanding any other provision of Federal or State law, if the Secretary has terminated or is seeking to terminate a guaranty agency's agreement in advance of its expiration date—

"(i) no State court may issue any order affecting the Secretary's actions with respect to such guaranty agency;

"(ii) any contract with respect to the administration of reserve funds held by a guaranty agency, or the administration of any assets purchased or developed with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the date of enactment of the Student Financial Aid Improvements Act of 1997 shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section; and

"(iii) no provision of State law shall apply to the actions of the Secretary in terminating the operations of a guaranty agency."; and

(H) by adding after paragraph (9) the following new paragraph:

"(10) USE OF SURPLUS FUNDS.—(A) A guaranty agency with an agreement under this subsection may retain the amount determined in accordance with subparagraph (B) for activities in support of postsecondary education that are approved by the Secretary.

"(B)(i) A guaranty agency may retain 50 percent of its net revenues for fiscal year 1998 in excess of the guaranty agency's need for working capital for such year, as determined after compliance with section 422(h), for approved activities.

"(ii) A guaranty agency may retain for approved activities for fiscal year 1999 and succeeding fiscal years the lesser of—

"(I) 50 percent of its net revenues for such year in excess of its need for working capital, as determined after compliance with section 422(h); or

"(ii) the amount of its net revenues for such year in excess of its need for working capital, as determined after compliance with section 422(h), that is equal to a uniform percentage, established annually by the Secretary, of federal revenues received by the guaranty agency for the preceding year. In determining such percentage, the Secretary shall take into account all guaranty agencies' revenues and costs for the preceding year to determine an adequate level of economic incentive for guaranty agencies to maximize their efficiency.";

(4) by amending subsection (g) to read as follows:

"(g) DEFAULT PREVENTION FEE PAID BY LENDERS.—(1) An eligible lender shall pay a guaranty agency, to which such lender referred a delinquent loan, a default prevention fee of not to exceed $100 per borrower account if the guaranty agency succeeds in bringing such loan into current repayment status.

"(2) The Secretary shall prescribe in regulations the circumstances in which a lender may obtain a refund of a default prevention fee if the borrower of a loan on which such fee was paid subsequently defaults on such loan."; and

(5) in subsection (l)—

(A) in paragraph (1), by striking the paragraph designation and the paragraph heading; and

(B) by striking paragraph (2).

(b) Section 435(j) of the Act is amended by striking "section 428(b)." and inserting "section 428(c)."

REPEAL OF STATE SHARE OF DEFAULT COSTS

SEC. 127. Section 428 of the Act is further amended by striking subsection (n).

CONSOLIDATION LOANS

SEC. 128. (a) Section 428C of the Act is further amended—

(1) in subsection (a)(3)—

(A) in subparagraph (A), by inserting "in an in-school period," after "for a consolidation loan is"; and

(B) in subparagraph (B), by amending clause (i) to read as follows:

"(i) Eligible student loans received by the eligible borrower may be added to a consolidation loan during the 180-day period following the making of such consolidation loan.";

(2) in subsection (b)(4)(C), by amending clause (ii) to read as follows:

"(ii) provides that interest shall accrue and be paid—

"(I) by the Secretary, in the case of a consolidation loan made before October 1, 1997 that consolidated only Federal Stafford Loans for which the student borrower received an interest subsidy under section 428;

"(II) by the Secretary, in the case of a consolidation loan made on or after October 1, 1997, except that the Secretary shall pay such interest only on that portion of the loan that repays Federal Stafford Loans for which the student borrower received an interest subsidy under section 428; and

"(III) by the borrower, or capitalized, in the case of a consolidation loan, or portion thereof, other than one described in subclause (I) or (II);"; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "subparagraph (B) or (C)." and inserting "subparagraph (B), (C), (D), or (E), and subject to subparagraph (F).";

(ii) in subparagraph (C), by striking "after July 1, 1994," and inserting "after July 1, 1994 and before October 1, 1997,"; and

(iii) by adding after subparagraph (C) the following new subparagraphs:

"(D) A consolidation loan made on or after October 1, 1997, that repays loans made under section 428 or 428H, or a combination thereof, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to—

"(i) the rate specified in section 427A(g), in the case of a borrower in an in-school or grace period; or

"(ii) the rate specified in section 427A(h)(1) in all other cases.

"(E) A consolidation loan made on or after October 1, 1997, that repays loans made under section 428B shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the rate specified in section 427A(h)(2).

"(F) Notwithstanding any other provision of this section, the Secretary may prescribe in regulation such procedures as may be necessary to ensure that—

"(i) a borrower of a consolidation loan that repays a combination of loans eligible to be consolidated under this section, shall continue to receive, after consolidation, any interest subsidy benefits associated with a loan, without extending such benefits to any other loans consolidated that do not have interest subsidy benefits;

"(ii) in the case of a consolidation loan that repays a combination of loans described in subparagraphs (D) and (E), the interest rate on such consolidation loan shall be calculated in a manner that reflects the interest rate applicable to loans made under each such subparagraph; and

"(iii) in the case of a consolidation loan that repays a loan eligible to be consolidated under this section other than those described in subparagraphs (D) and (E), the interest rate applicable to such other loan shall be the interest rate described in subparagraph (D) if such other loan is considered by the Secretary to be subsidized, and the interest rate described in subparagraph (E) if such other loan is considered by the Secretary to be unsubsidized."; and

(B) in paragraph (4)—

(i) by striking "Repayment" and inserting "(A) Except as provided in subparagraph (B), repayment"; and

(ii) by adding after subparagraph (A) (as redesignated by clause (i)) the following new subparagraph:

"(B) In the case of a consolidation loan that repays a loan made under this part for which the borrower is in an in-school period at the time the consolidation application is received, the repayment period for such consolidation loan shall commence after the completion of a grace period, as described in section 428(b)(7)(i).".

CONTRACTS WITH OTHER ENTITIES

SEC. 129. Part B of title IV of the Act is amended by inserting after section 428D the following new section:

"CONTRACT AUTHORITY

"SEC. 428E. The Secretary may enter into one or more contracts to carry out any of the functions that otherwise would be carried out by a guaranty agency with an agreement under section 428(c).".

ELIGIBLE LENDER

SEC. 130. Section 435(d) of the Act is amended—

(1) in paragraph (1), by striking "(6)," and inserting "(7),"; and

(2) by adding after paragraph (6) the following new paragraph:

"(7) UNIFORM TERMS AND CONDITIONS.—Subject to such exceptions as the Secretary may prescribe in regulations, the term 'eligible lender' shall not include any lender that offers different terms and conditions to different borrowers of the same type of loan made or insured under this part.".

SPECIAL ALLOWANCE

SEC. 131. Section 438 of the Act is amended—

(1) in subsection (a)(3), by striking "quarterly rate" each place it appears and inserting "rate"; and

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by striking "subparagraphs (B), (C), (D), (E), and (F)" and inserting "subparagraphs (B), (C), (D), (E), (F), and (G)"; and

(ii) by adding after subparagraph (F) the following new subparagraph:

"(G)(i) Notwithstanding any other provision of this section, in the case of loans made or insured under this part for which the first disbursement is made on or after October 1, 1997, the special allowance paid pursuant to this subsection shall be computed for any 12-month period beginning on July 1 and ending on June 30 by—

"(I) determining the bond equivalent rate on the preceding June 1 of the securities with a comparable maturity, as established by the Secretary; and

"(II) subtracting the applicable interest rate on such loans from such amount.

"(ii) The amount of special allowance computed under clause (i) shall be paid in quarterly increments for the 3-month periods described in paragraph (1)."; and

(B) in paragraph (3), in the second sentence, by striking "determined for any such 3-month period shall be paid promptly after the close of such period," and inserting "calculated under this subsection shall be paid promptly after the close of the 3-month period for which such special allowance payment is due.".

STUDENT LOAN MARKETING ASSOCIATION OFFSET FREE

SEC. 132. Section 439(h)(7) of the Act is amended by adding after subparagraph (C) the following new subparagraph:

"(D) The calculation of the fee required under subparagraph (A) or (B), as the case may be, shall be determined on the basis of the principal amount of all loans (except for loans made under section 428C, 430(o) or 430(q))—

"(i) owned, in whole or in part, by the Association, any subsidiary of the Association, or any company, trust or other entity owned by, or controlled by, the Association; or

"(ii) held by a trust (including a trustee on behalf of a trust), or by any other entity in which the Association, or any subsidiary, holds more than a minimal beneficial interest (as determined by the Secretary).".

DIRECT LOAN TRANSITION FEE

SEC. 133. Section 452(b) of the Act is amended to read as follows:

"(b) TRANSITIION FEES.—The Secretary shall pay fees to institutions of higher education (or a consortium of those institutions) with agreements under section 454(b), in the first year of their participation in the program authorized by this part, in order to compensate for costs associated with their transition to the program. The fees shall not exceed an average of $10 per borrower at all institutions receiving the fees.".

FUNDS FOR ADMINISTRATIVE EXPENSES

SEC. 134. Section 458(a) of the Act is amended, in the first sentence, by striking "$260,000,000" through the end of the sentence and inserting the following: "$532,000,000 in fiscal year 1998, $610,000,000 in fiscal year 1999, $705,000,000 in fiscal year 2000, $806,000,000 in fiscal year 2001, and $904,000,000 in fiscal year 2002.".

PART C—NEED ANALYSIS AND GENERAL PROVISIONS

HOPE SCHOLARSHIP NEED ANALYSIS AMENDMENTS

SEC. 141.(a) CALCULATION OF AVAILABLE INCOME.—(1) Section 475 of the Act is amended—

(A) by amending subsection (c)(1)(A) to read as follows:

"(A) the sum of—

"(i) Federal income taxes;

"(ii) the amount of any tax credit taken under section 24A of the Internal Revenue Code of 1986; and

"(iii) the amount by which tax liability determined without regard to the deduction provided under section 221 of the Internal Revenue Code exceeds the amount of tax liability determined after taking such deduction into account;"; and

(B) by amending subsection (g)(2)(A) to read as follows:

"(A) the sum of—

"(i) Federal income taxes;

"(ii) the amount of any tax credit taken by the student under section 24A of the Internal Revenue Code of 1986; and

"(iii) the amount by which tax liability determined without regard to the deduction provided under section 221 of the Internal Revenue Code exceeds the amount of tax liability determined after taking such deduction into account;".

(2) Section 476(b)(1)(A)(i) of the Act is amended to read as follows:

"(A) the sum of—

"(i) Federal income taxes;

"(ii) the amount of any tax credit taken under section 24A of the Internal Revenue Code of 1986; and

"(iii) the amount by which tax liability determined without regard to the deduction provided under section 221 of the Internal Revenue Code exceeds the amount of tax liability determined after taking such deduction into account;".

(3) Section 477(b)(1)(A) of the Act is amended to read as follows:

"(A) the sum of—

"(i) Federal income taxes;

"(ii) the amount of any tax credit taken under section 24A of the Internal Revenue Code of 1986; and

"(iii) the amount by which tax liability determined without regard to the deduction provided under section 221 of the Internal Revenue Code exceeds the amount of tax liability determined after taking such deduction into account;".

(b) DEFINITIONS.—Section 480 of the Act is amended—

(1) in subsection (a)(2)—

(A) by striking "and no portion" and inserting "no portion"; and

(B) by inserting after "(42 U.S.C. 12571 et seq.)," the following: "and no portion of any tax credit taken under section 24A of the Internal Revenue Code of 1986,";

(2) in subsection (b)—

(A) in paragraph (13), by striking "and" at the end of the paragraph;

(B) by redesignating paragraph (14) as paragraph (15); and

(C) by inserting after paragraph (13) the following new paragraph:

"(14) any tax deduction taken under section 221 of the Internal Revenue Code of 1986; and";

(3) in subsection (e)—

(A) in paragraph (3), by striking "and" at the end of the paragraph;

(B) in paragraph (4), by striking the period at the end of the paragraph and inserting "; and"; and

(C) by adding after paragraph (4) the following new paragraph:

"(5) any tax credit taken under section 24A of the Internal Revenue Code of 1986; and";

(4) in subsection (j), by adding after paragraph (3) the following new paragraph:

"(4) Notwithstanding paragraph (1), a tax credit taken under section 24A of the Internal Revenue Code of 1986 shall not be treated as estimated financial assistance for purposes of section 471(3).".

INCOME PROTECTION ALLOWANCE FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS

SEC. 142. (a) Section 476(b) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by amending clause (iv) to read as follows:

"(iv) an income protection allowance, determined in accordance with paragraph (4);"; and

(ii) in clause (v), by striking "paragraph (4);" and inserting "paragraph (5);"; and

(B) in subparagraph (B), by striking "paragraph (5)." and inserting "paragraph (6).";

(2) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) INCOME PROTECTION ALLOWANCE.—The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 478):

"INCOME PROTECTION ALLOWANCE

Family Size (including student)	Number in College	
	1	2
1	8,000	
2	10,250	8,720".

(b) Section 478(b) of the Act is amended by striking "sections 475(c)(4) and 477(b)(4)." and inserting "sections 475(c)(4), 476(b)(4), and 477(b)(4).".

HOPE SCHOLARSHIP DEFINITIONS

SEC. 143. Section 481 of the Act is amended by adding after subsection (f) the following new subsection:

"(g) HOPE SCHOLARSHIP DEFINITIONS.—(1) As necessary for purposes of the tax credit provided under section 24A of the Internal Revenue Code of 1986, and the deduction provided under section 221 of such Code, the Secretary of Education shall define in regulation the following terms:

"(A) academic period;

"(B) normal full-time workload;

"(C) first two years of postsecondary education;

"(D) qualifying grade point average;

"(E) job skills; and

"(F) new job skills.

"(2) Notwithstanding any other provision of law, the regulations described in paragraph (1) shall not be subject to section 482(c).".

EXTENSION OF STUDENT AID PROGRAMS

SEC. 144. Title IV of the Act is amended—

(1) in section 401(a)(1), by striking "September 30, 1998," and inserting "September 30, 1999,";

(2) in section 424(a), by striking "1998." and "2002." and inserting "2002." and "2006.", respectively;

(3) in section 428(a)(5), by striking "1998," and "2002." and inserting "2002," and "2006.", respectively;

(4) in section 428C(e), by striking "1998." and inserting "2002."; and

(5) in section 466—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1), by striking "September 30, 1996," and "March 31, 1997," and inserting "September 30, 1998," and "March 31, 1999", respectively; and

(ii) in paragraph (1), by striking "September 30, 1996," and inserting "September 30, 1998,";

(B) in subsection (b), by striking "September 30, 1996," and inserting "September 30, 1998,"; and

(C) in subsection (c), by striking out "October 1, 1997," and inserting "October 1, 1998,".

PART D—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 151. (a) Except as otherwise provided in this section, the amendments made by this title shall take effect on the date of enactment of this Act.

(b) Section 211 is effective for the calculation of Pell Grant awards for award years beginning on or after July 1, 1998.

(c) Section 222 is effective for a loan made under part B or part D of title IV of the Act for which the first disbursement is made on or after October 1, 1997.

(d) Section 223(a)(3) and section 428(b)(5)(C) of the Act (as added by section 226(a)(2)(E)) are effective as if they were enacted on July 23, 1992.

(e) Sections 224, 229, and 230 take effect on October 1, 1997.

(f) Section 231 is effective for a loan made or insured under part B of title IV of the Act for which the first disbursement is made on or after October 1, 1997.

(g) Section 232 is effective as if it were enacted on August 10, 1993, but does not apply to the privatized entity that may be created as a result of the Student Loan Marketing Association Reorganization Act of 1996 (Title VI of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 1997, as enacted by section 101(e) of Division A of Pub. L. No. 104–208).

(h) Section 242 is effective for determinations of need for academic years beginning on or after July 1, 1998.

U.S. DEPARTMENT OF EDUCATION,
Washington, DC, March 20, 1997.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: We are enclosing for the consideration of the Congress the Administration's legislative proposal entitled "The Hope and Opportunity for Postsecondary Education (HOPE) Act of 1997." This bill, which includes higher education tax and spending proposals, would promote access to college for low- and middle-income students and provide tax relief to middle-income families struggling to pay for college. These proposals are fully paid for in the President's fiscal year 1998 budget proposal. An identical letter is being sent to the Speaker of the House.

The need for higher education—both for the individual and the Nation—has never been greater. Economic prosperity in the next century will come through productivity gains and technological advances that require an adaptable and highly-skilled work force. Those nations that provide their citizens with opportunities to gain higher level skills and to learn throughout a lifetime will thrive.

The Federal student aid programs have already opened the doors to college for millions of Americans. Despite making tremendous gains in access to college, students from lower-income families still are far less likely to attend college or earn a degree than are students from higher-income families. Even students from middle-income families are only one-half as likely to earn a college degree as those from upper-income families. This gap shows that we must do more to make higher education readily available to all.

To enable all of our citizens, young and old, to gain access to higher education and training, and to strengthen the Nation's ability to compete in the global economy, the Administration proposes a set of integrated grant, loan and tax relief measures that would: create HOPE Scholarships, higher education tax deductions and other tax benefits worth $38.6 billion between fiscal years 1997 and 2002; create strong incentives for saving to help families pay for postsecondary education costs; significantly increase the amount of grant aid available to needy students through the Pell Grant program; and reduce up-front fees in the loan programs to put an additional $2.6 billion over five years in the hands of students. These targeted financing proposals would help our citizens acquire and maintain the knowledge and skills they need to be productive throughout their lives.

TITLE I—TAX PROVISIONS

This section of the bill would create a HOPE Scholarship tax credit to help make 14 years of education the standard for all Americans. A taxpayer could claim a $1,500 per-student nonrefundable tax credit for tuition and required fees for enrollment of the taxpayer, the taxpayer's spouse, or the taxpayer's dependent in a postsecondary degree or certificate program.

The credit would be available for payments made after December 31, 1996 with respect to education commencing on or after July 1, 1997. The amount of the credit would be reduced by other non-taxable Federal educational grants, such as Pell Grants, received by the student. The student could claim the credit for two different years, so long as he or she is enrolled on at least a half-time basis in each of those years. The HOPE Scholarship would be available for a second year only if the student had obtained at least a B-minus average for all prior post-secondary course work completed before the beginning of the second taxable year. A credit would not be available in any year for a student who had been convicted of a drug-related felony. The maximum credit amount would be indexed for inflation beginning in 1998.

In addition to the HOPE Scholarship tax credit, an annual tax deduction of up to $5,000 per family ($10,000 after 1998) would be permitted for the tuition costs of college, graduate study, job training, or retraining for the taxpayer, or the taxpayer's spouse or dependents. The deduction would be available to all taxpayers, whether or not they itemized deductions. Because the deduction would be available for students enrolled in as little as one course at a time if the course is career-enhancing, it would be especially valuable for working adults seeking to improve their job skills.

A taxpayer could claim either the HOPE Scholarship tax credit or the tax deduction but not both, for a student's expenses in the same tax year. In addition, both the credit and deduction would be phased out for taxpayers filing a joint return with adjusted gross income (AGI) between $80,000 and $10,000. For taxpayers filing a head-of-household or single return, the credit and deduction would be phased out for those with AGI between $50,000 and $70,000. The phase-out ranges would be indexed for inflation beginning in 2001. Education expenses qualifying for the credit and deduction include tuition and fees paid to institutions eligible to participate in Federal student aid programs under the Higher Education Act (HEA).

This bill would exempt from taxation up to $5,250 annually in employer-provided educational assistance and restore this benefit for graduate level education. In addition, beginning in 1998, small businesses would be eligible for a new credit equal to 10 percent of amounts spent on worker training provided by third parties. The bill also would provide tax relief for loan forgiveness so that students whose loans are forgiven by charitable or educational institutions in return for community service, and borrowers whose Direct Loans are forgiven after 25 years in the Income Contingent Repayment plan, are not taxed on the forgiven amount.

As you know, in addition to the tax proposals contained in the HOPE Act, the President has also proposed targeted tax cuts to help middle-income Americans raise their young children and save for the future. Under the economic and technical assumptions of the Office of Management and Budget (OMB), which we stand behind, all of these tax cuts could be made permanent, and the President's budget would still reach balance in 2002.

At the same time, the President has committed to reach balance in 2002 under the assumptions of the Congressional Budget Office (CBO) as well. For the sole purpose of ensuring that CBO continues to score the President's budget as balanced in 2002, we have included in this proposal, and elsewhere, sunset dates that would end most of our tax cuts after the year 2000. However, the President's budget also includes a fast-track procedure for the Congress to extend the tax cuts if, as we believe, OMB's assumptions prove more accurate than CBO's, and we can still reach balance in 2002.

TITLE II—STUDENT AID PROVISIONS

The Administration is proposing funding sufficient to establish the maximum Pell Grant award at $3,000 in its fiscal year 1998 appropriation request, up from $2,700 in fiscal year 1997. The HOPE Act contains language that would reinforce this funding request by requiring that the Pell Grant maximum award be at least $3,000, a level that is needed to help restore the value of the grant and to provide a meaningful level of support.

This bill also proposes substantial improvements in the way financial need is determined for disadvantaged independent students who do not have dependents (other than a spouse). The bill would set the income protection allowances for independent students who do not have dependents in the same way as the allowances used for other students. The Administration has included an amendment in the 1998 appropriation language for the 1998–99 award year. This bill would make a permanent change to the HEA for later years.

The proposed bill would amend the HEA to reduce loan fees for students by $2.6 billion over five years and lower interest rates for Unsubsidized Stafford Loan borrowers by one percentage point, thereby saving students an additional $1 billion over five years. The bill also would standardize benefits for students, to the extent practicable, across the Direct Loan and Federal Family Education Loan (FFEL) programs, and address a number of structural problems and inefficiencies in the FFEL program.

Under this bill, borrowers would realize substantial benefits as loan origination fees are cut in half for the neediest students and by 25 percent for others. Interest rates on Unsubsidized Stafford loans would be lowered by one percentage point while borrowers are in school. Lenders would be required to offer the same terms to all borrowers for the same type of loan—just as the government is required to do under the Direct Loan program. Borrowers who consolidate loans within FFEL would receive the same interest rates and comparable benefits to those who consolidate in Direct Loans.

This bill proposes a number of changes to the FFEL guaranty agency system in recognition that these State and private nonprofit entities are not the ultimate guarantors of FFEL and act only as administrative agents of the Federal government. Because the Federal government is the sole insurer of FFEL loans, the Secretary would undertake the obligation to pay lenders directly using his agents and recall guaranty agency reserves over the next five years, saving some $2.5 billion.

To address structural deficiencies that hamper default prevention activities, guaranty agencies would be authorized to retain no more than 18.5 percent of default collections—comparable to the Department's cost of collections—not the arbitrary 27 percent guaranty agencies retain under current law. Guaranty agencies would receive a default prevention fee from lenders when delinquent loans are brought current. To further encourage default prevention, lender risk-sharing would be increased to 5 percent from 2 percent, and lenders would be required to offer borrowers certain additional flexible repayment options now offered under the Direct Loan program.

A more complete summary of the bill's provisions is contained in the Section-By-Section Analysis enclosed with this letter.

This bill is part of an ambitious national agenda—an agenda for the next century that places education at the center and recognizes that all workers need to possess ever higher levels of skills throughout their lifetime. Provisions in this bill reflect the Administration's strong belief that we must raise educational expectations and make 14 years of education the standard for every American. At the same time, this bill offers substantial increases in benefits to needy students, significant, targeted education tax relief to working and middle-income families, and lifelong learning opportunities for all Americans.

The HOPE Act creates a powerful new way for the Nation to invest in its citizens and the economy. I urge you to join me in supporting this legislation. The Office of Management and Budget advises that there is no objection to the submission of this legislation to the Congress and that its enactment would be in accord with the program of the President.

Pay-As-You-Go Requirement

The Omnibus Budget Reconciliation Act of 1990 requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it will trigger a sequester if not fully offset.

EDUCATION TAX INCENTIVES—CHANGE IN FEDERAL REVENUES

[Millions of dollars]

	1997	1998	1999	2000	2001	2002	97-02
PAYGO—on-budget	138	4,479	6,662	8,372	8,819	9,349	37,819
Non-PAYGO—off-budget	28	210	207	234	60	0	739
Total Receipts—Effects	166	4,689	6,869	8,606	8,879	9,349	38,558

STUDENT LOAN PROVISIONS—CHANGE IN BUDGET AUTHORITY AND OUTLAYS

[Millions of dollars]

	1997	1998	1999	2000	2001	2002	97-02
Loans: Budget Authority	340	1,304	154	190	193	1,287	3,468
Loans: Outlays	340	1,050	347	225	210	1,294	3,466

Sincerely,

RICHARD W. RILEY,
Secretary of Education.
ROBERT RUBIN,
Secretary of the Treasury.

THE HOPE AND OPPORTUNITY FOR POSTSECONDARY EDUCATION ACT OF 1997

SECTION-BY-SECTION ANALYSIS

TITLE I—EDUCATION AND TRAINING TAX INCENTIVES

HOPE SCHOLARSHIP TUITION TAX CREDIT AND EDUCATION AND JOB TRAINING TAX DEDUCTION

Current Law

Taxpayers generally may not deduct the expenses of higher education and training. There are, however, special circumstances in which deductions for higher education expenses are allowed, or in which the payment of higher education expenses by others is excluded from income.

Higher education expenses may be deductible, but only if the taxpayer itemizes deductions, and only to the extent that the expenses, along with other miscellaneous itemized deductions, exceed two percent of adjusted gross income (AGI). A deduction for educational purposes is allowed only if the education maintains or improves a skill required in the individual's employment or other trade or business, or is required by the individual's employer, or by law or regulation for the individual to retain his or her current job.

The interest from qualified U.S. savings bonds is excluded from a taxpayer's gross income to the extent the proceeds of the bonds are used to pay qualified educational expenses. To be qualified, the savings bonds must be purchased after December 31, 1989, by a person who has attained the age of 24. The interest exclusion is phased out for taxpayers with AGI over certain amounts. For 1996, the exclusion was phased out for taxpayers with modified AGI between $49,450 and $64,450 ($74,200 and $104,200 for joint returns). Qualified educational expenses consist of tuition and fees for enrollment of the taxpayer, the taxpayer's spouse, or the taxpayer's dependent at a public or non-profit institution of higher education, including two-year colleges and vocational schools.

Reasons for Change

Well-educated workers are essential to an economy experiencing technological change and facing global competition. The Administration believes that reducing the after-tax cost of education for individuals and families through tax credits and deductions will encourage investment in education and training while lowering tax burdens for middle-income taxpayers.

The expenses of higher education place a significant burden on many middle-class families. Grants and subsidized loans are available to students from low- and moderate-income families; high-income families can afford the cost of higher education. The combination of Federal grants and a tax credit reduces the after-tax cost of higher education, creating a Federal guarantee of a specified amount of assistance for higher education expenses by reducing the after-tax cost of higher education. This guarantee will help make 14 years of education the norm in America.

Proposal

As described in detail below, taxpayers would be able to claim a non-refundable tax credit or a tax deduction for qualified higher education expenses incurred for themselves, their spouses or their dependents during their first two years of postsecondary education in a degree or certificate program. If the requirements for both the credit and the deduction were met with respect to a particular student's expenses, the taxpayer would be free to choose either the credit or the deduction for those expenses. The deduction, but not the credit, would be available for qualified higher education expenses incurred after the first two years of postsecondary education or at any time for courses that enable the taxpayer, the taxpayer's spouse or dependent to acquire or improve job skills.

HOPE Scholarship Tuition Credit

A taxpayer would be allowed a non-refundable credit against Federal income tax for qualified higher education expenses paid during the taxable year for the education of the taxpayer, the taxpayer's spouse, or the taxpayer's dependents. The credit would be available with respect to an individual student for two taxable years, provided the student has not completed the first two years of postsecondary education.

A credit for qualified higher education expenses would be available in the taxable year the expenses are paid, subject to the requirement that the education commence or continue during that year or during the first three months of the next year, and provided the student is enrolled during the year (or in the first three months of the next year) at least half-time in a degree or certificate program. Qualified higher education expenses paid with the proceeds of a loan generally would be eligible for the credit (rather than repayment of the loan itself). The credit would be recaptured where a student or the taxpayer received a refund (or reimbursement through insurance) of tuition and fees for which a credit had been claimed in a prior year.

With respect to an individual student, a taxpayer is limited to a tuition tax credit of the lesser of the taxpayer's qualified higher education expenses and the maximum credit amount. The maximum credit for a taxable year would be $1500, reduced by any Federal educational grants, such as Pell Grants, awarded for that year (or for education beginning in the first three months of the next year, if credits are claimed based on payments for that education). Beginning in 1998, the maximum credit amount would be indexed for inflation, rounded down to the closest multiple of $50.

The maximum credit amount would be phased out ratably for taxpayers with modified AGI between $50,000 and $70,000 ($80,000 and $100,000 for joint returns). Modified AGI would include taxable Social Security benefits and amounts otherwise excluded with respect to income earned abroad (or income from Puerto Rico or U.S. possessions), and would be determined before the deduction for education expenses contained in this proposal. Beginning in 2001, the income phaseout ranges would be indexed for inflation, rounded down to the closest multiple of $5000.[1]

Qualified higher education expenses would be defined as tuition and fees charged by an institution of higher education that are directly related to an eligible student's course of study (e.g., registration fees, laboratory fees, and extra charges for particular courses). Charges and expenses associated with meals, lodging, student activities, athletics, health care, transportation, books and similar personal, living or family expenses would not be included. The expenses of education involving sports, games or hobbies would not be qualified higher education expenses unless this education is required as part of a degree program.

Qualified higher education expenses generally would include only out-of-pocket tuition and fees. Qualified higher education expenses would not include expenses covered by educational assistance that is not required to be included in the gross income of either the student or the taxpayer claiming the credit. Thus, total tuition and required fees would be reduced by scholarship or fellowship grants excludable from gross income under section 117 of the Internal Revenue Code (scholarships and fellowships that pay for tuition, required fees, books and equipment) and any educational assistance received as veterans' benefits. However, assistance with expenses other than tuition, required fees and books, such as expenses associated with meals, lodging, student activities, athletics, health care and transportation, could be received without a reduction of creditable higher education expenses. In addition, qualified higher education expenses would be reduced by the interest from qualified U.S. savings bonds that is excluded from a taxpayer's gross income for the taxable year. However, no reduction would be required for a gift, bequest, devise, or inheritance within the meaning of section 102(a).

An eligible student would be one who is enrolled or accepted for enrollment during the taxable year in a degree, certificate, or other program (including a program of study abroad approved for credit by the institution at which such student is enrolled) leading to a recognized educational credential at an eligible institution. The student must pursue a course of study on at least a half-time basis. In addition, for a student's qualified higher education expenses to be eligible for the credit, the student must not have been convicted of a Federal or state felony consisting of the possession or distribution of certain drugs, and generally cannot be a nonresident alien. Furthermore, a taxpayer would not be entitled to a credit for a second taxable year unless the student obtained a qualifying grade point average for all previous postsecondary education. Generally, this would be an average of at least 2.75 on a 4-point scale, or a substantially similar measure of achievement. This provision would allow institutions that do not use a 4-point grading scale to retain their own system while still allowing their students to qualify for the credit: these institutions will determine what measure under the system they use reasonably approximates a B- grade point average.

An "institution of higher education" is defined by reference to section 481 of the Higher Education Act. Such institutions generally would be accredited postsecondary educational institutions offering credit toward a bachelor's degree, an associate's degree, or another recognized postsecondary credential. They could also be proprietary institutions or postsecondary vocational institutions. The institution must be eligible to participate in Department of Education student aid programs.

This proposed credit would not affect deductions claimed under any other section of the Code, except that if a student's qualified higher education expenses for a taxable year are deducted under another section of the Code (including the proposed deduction for education expenses) no credit would be available. If a taxpayer is eligible to claim either the credit or the deduction for qualified higher education expenses with regard to a single student, the taxpayer may choose between the credit and the deduction, but may not claim both. In addition, a taxpayer may claim the credit for some students and the deduction for others. An eligible student would not be entitled to claim a credit under this provision if that student is claimed as a dependent for tax purposes by another taxpayer. If a parent claims a student as a dependent, any education expenses paid by the student would be treated as paid by the parent for purposes of this proposal.

The Secretary of the Treasury and the Secretary of Education, operating in close consultation, will have authority to issue regulations to implement the provisions. The Secretary of the Treasury generally would be authorized to issue regulations to implement this section of the Internal Revenue Code. For example, the Secretary of the Treasury would have authority to issue regulations providing appropriate rules for recordkeeping and information of reporting. These regulations would address the information reports institutions of higher education would file to assist students and the IRS in determining whether a student meets the eligibility requirements for the credit and calculating the amount of the credit that is potentially available. However, certain terms would be defined by reference to the Higher Education Act of 1965. The Secretary of Education would have the authority to issue regulations under those provisions as well as authority to define other education terms as necessary. The Secretary of the Treasury and the Secretary of Education would coordinate their work in developing their respective regulations.

The proposal would be effective for payments made on or after January 1, 1997, for education commencing on or after July 1, 1997.

Education and Job Training Tax Deduction

A taxpayer would be allowed a deduction for qualified higher education expenses paid during the taxable year for the education or training of the taxpayer, the taxpayer's spouse, or the taxpayer's dependents. The deduction would be allowed in determining AGI. Therefore, taxpayer's could claim the deduction even if they do not itemize their deductions and even if they do not meet the two-percent of AGI floor on miscellaneous itemized deductions.

The term "eligible student" generally is defined in the same way for the proposed deduction as it is for the proposed tuition credit, that is, to include students enrolled at least half-time in a degree or certificate program at an institution of higher education. However, a student taking a course to improve or acquire jobs skills would also be an eligible student for purposes of the deduction. Qualified higher education expenses would also be defined in the same way for the deduction proposal as they are for the tuition credit proposal, that is, tuition and required fees that are directly related to an eligible student's course of study.

"Institution of higher education" is defined the same way for purposes of this proposal as it is in the tuition credit proposal.

Qualified higher education expenses would be deductible in the taxable year the expenses are paid, subject to the requirement that the education commences or continues during that year or during the first three months of the next year. Deductible educational expenses paid with the proceeds of a loan generally would be deductible (rather the repayment of the loan itself). Normal tax benefits rules would apply to refunds (and reimbursement through insurance) of previously deducted tuition and fees, making such refunds includable in income in the year received.

In 1997 and 1998 the maximum deduction for a taxpayer would be $5,000. In 1999 and thereafter, this maximum would increase to $10,000. The deduction would be phased out ratably over an income range in the same way as the credit. The maximum deduction would not vary with the number of students in a family.

This proposal would not affect deductions claimed under any other section of the Code, except that any amount deducted under another section of the Code could not also be deducted under this provision. In addition, a taxpayer who claimed a deduction for a student's qualified higher education expenses for a particular taxable year could not also claim a tuition tax credit for any of the student's qualified higher education expenses for the year. A student would not be eligible to claim a deduction under this provision if that student is claimed as a dependent for tax purposes by another taxpayer. If a parent claims a student as a dependent, any education expenses paid by the student will be treated as paid by the parent for purposes of this proposal.

The proposal would grant the Secretary of the Treasury authority to issue regulations under this section, including rules requiring record keeping and information reporting.

This proposal would be effective for payments made on or after January 1, 1997, for education commencing on or after July 1, 1997.

TAX INCENTIVES FOR EXPANSION OF STUDENT LOAN FORGIVENESS

Current Law

Generally, a taxpayer has income when all or part of a loan made to the taxpayer is forgiven. However, an exception is provided in section 108(f) for the forgiveness of certain student loans. If the United States, a State or local government, or a public benefit corporation with control over a state, county, or municipal hospital makes a loan to a student to support the student's attendance at an educational institution and subsequently forgives all or part of the loan, the income resulting from the cancellation of indebtedness is excluded from the student's income, provided the loan forgiveness is contingent on the student's working for a certain period of time in certain professions for any of a broad class of employers.

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[1] This description of the proposal reflects a modification of the indexing date contained in the OMB analytical materials relating to this proposal.

Reasons for Change

The Administration believes in encouraging Americans to use their education and training in community service. Providing tax relief in connection with the forgiveness of certain student loans will help make it possible for students with valuable professional skills to accept lower-paying jobs that serve the public.

Proposal

The income exclusion for student loan forgiveness would be expanded to cover forgiveness of loans extended by nonprofit tax-exempt charitable or educational institutions to their students or graduates when the proceeds are to be used to repay outstanding student loans, provided the loan forgiveness is contingent on the student's working for a certain period of time in certain professions for any of a broad class of employers. The income exclusion would not be available where a loan is extended and then forgiven by an institution that employs the borrower. The exclusion would also be expanded to cover forgiveness of direct student loans made through the William D. Ford Federal Direct Loan Program where loan repayment and forgiveness are contingent on the borrower's income level.

The proposal would be effective with respect to amounts otherwise includable in income after the date of enactment.

EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE

Current Law

Section 127 provides that an employee's gross income and wages do not include amounts paid or incurred by the employer for educational assistance provided to the employee if such amounts are paid or incurred pursuant to a qualified educational assistance program. This exclusion is limited to $5,250 of educational assistance with respect to an individual during a calendar year. The exclusion applies whether or not the education is job-related. In the absence of this exclusion, educational assistance is excludable from income only if it is related to the employee's current job.

The exclusion for undergraduate education expires in mid-1997. The exclusion does not apply to graduate level courses beginning after mid-1996.

Reason for Change

Well-educated workers are essential to an economy experiencing technological change and facing global competition. Extension of section 127, including reinstatement of its application to graduate courses, will expand educational opportunity and increase productivity. In addition, these provisions will encourage the retraining of current and former employees to reflect the changing needs of the workplace. The extension of section 127 also will simplify the rules for employers and workers by eliminating the need to distinguish between job-related expenses and other employer-provided educational assistance.

Proposal

The section 127 exclusion would be extended through December 31, 2000 and reinstated for graduate education.

SMALL BUSINESS TAX CREDIT FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE

Current Law

Under current law, job-related training and education expenses, as well as amounts paid or incurred by an employer for educational assistance provided to employees pursuant to a qualified educational assistance program, are deductible by the employer. Employer payments for job-related training and amounts paid under a qualified educational assistance program up to $5,250 annually are excluded from the gross income and wages of the employee. No special incentive is provided to assist small businesses in promoting employee education.

Reason for Change

Education and training builds skills and increases the productivity of the American workforce. Well-educated workers are better able to adapt to changes in the workforce and the demands of technological challenges and global competition. An additional incentive is needed to foster increased educational opportunities and workforce training for employees of small businesses that otherwise may be unable to devote sufficient resources to their employees' skill development.

Proposal

Small businesses would be allowed a 10 percent income tax credit for payments made in taxable years beginning after December 31, 1997, and before January 1, 2001, with respect to expenses incurred during those taxable years for education of employees by third parties under an employer-provided educational assistance program. The credit would be available to employers with average annual gross receipts of $10 million or less for the prior three years.

TITLE II—STUDENT FINANCIAL AID PROVISIONS

Section 201.—Section 201 of the bill sets out the short title for Title II of the bill, the "Student Financial Aid Improvements Act of 1997".

PART A—PELL GRANTS

Section 211.—Section 211 of the bill would amend section 401 (b)(2)(A) of the Higher Education Act of 1965 (hereinafter referred to as "the Act") to provide that, subject to the award rules in section 401(b) of the Act, the Pell Grant maximum award may not be less than $3,000. This increase from the $2,700 maximum for FY 1997, which was in turn a significant increase in the Pell Grant maximum award over previous years, further restores the eroded buying power of Pell Grants. By providing more aid to students at the lowest income levels, this increase would complement the tax proposals in Title I of the bill, which are focused more on middle class students and their families. Together, these proposals would significantly enhance the affordability of postsecondary education.

PART B—STUDENT LOAN PROVISIONS

Section 221.—Section 221 of the bill would add a new subsection (h) to section 422 of the Act, and make conforming changes to subsection (g) of that section. Under new section 422(h), the Secretary would recall from the reserve funds held by guaranty agencies at least $731,000,000 in fiscal year 1998; $127,000,000 in fiscal year 1999; $186,000,000 in each of the fiscal years 2000 and 2001; and $1,271,000,000 in fiscal year 2002. The amounts recalled from each guaranty agency each year would be in proportion to its share of the total reserve funds held by guaranty agencies as of September 30, 1996, and recalled funds would be deposited in the Treasury.

Each guaranty agency would be required, within 45 days of the date of enactment of this provision, to transfer all reserve funds that it holds (that have not yet been recalled) to a restricted account and invest those funds in United States Government securities specified by the Secretary. Except under the working capital provisions described below, the guaranty agency could not use any restricted account funds for any purpose without the express permission of the Secretary.

A guaranty agency would be permitted to use the FY 1998 earnings on its restricted account to assist in meeting its operational expenses. In addition, the Secretary would permit the use of up to $350,000,000 in the aggregate of restricted account funds to be used as working capital to assist with guaranty agency operating expenses. A guaranty agency's share of working capital would be based on its proportionate share of all borrower accounts outstanding on September 30, 1006. Working capital provided to the guaranty agency must be repaid by no later than September 30, 2002, or the date on which the guaranty agency's agreement under section 428(c) ends (through resignation, expiration, or termination), whichever is earlier.

Finally, new subsection 422(h) would specify that non-liquid reserve fund assets, such as buildings and equipment purchased or developed by the guaranty agency with reserve funds, as well as any liquid assets remaining in a guaranty agency's restricted account after the recalls, would remain the property of the United States, could only be used for purposes that the Secretary determines are appropriate, and would be subject to recall by the Secretary no later than the date on which the guaranty agency's agreement under section 428(c) ends.

The proposed recall of reserves is consistent with the legal status of those reserves as Federal property, as well as the current role of the guaranty agency in the Federal Family Education Loan (FFEL) program, as well as the changes proposed in section 226 of the bill, described below. Section 432(o) of the Act, which was added by the Higher Education Amendments of 1992 (P.L. 102–325), clarified that the Secretary is the ultimate insurer of all FFEL guarantees. Thus, guaranty agencies function more like loan servicers than guarantors, and their need for reserve funds is currently limited to their 2 percent risk-sharing requirement, which also comes from Federal funds. The changes proposed in section 226 of the bill would eliminate any need for a guaranty agency to hold capital excess of their working capital requirements.

Section 222.—Section 222 of the bill would amend sections 427, 428(b), 428C, and 455(d) of the bill to provide FFEL borrowers with the extended and graduated repayment options currently available only to Direct Loan borrowers. These new options would be in addition to the standard and income sensitive repayment plans currently available to FFEL borrowers (a more limited form of graduated repayment is also currently available to FFEL borrowers), and would provide far greater flexibility to FFEL borrowers in managing their loan obligations, and therefore may avoid defaults. As with Direct Loan repayment, a FFEL borrower would also have the ability to change repayment plans. The Secretary would also be required to ensure that, to the extent practicable and not otherwise provided in statute, the repayment plans offered to FFEL borrowers are comparable to Direct Loan repayment plans.

Section 223.—Section 223 of the bill would amend sections 427A and 455 of the Act to reduce the applicable interest rate on all subsidized and unsubsidized FFEL and Direct Loans during in-school, grace, and deferment periods to the same rate as the Department of Education's own borrowing rate, although the interest rates would be capped at the same levels as in current law. This change would reduce Federal costs by reducing excess profits to lenders during times when there are few servicing costs associated with subsidized loans, but the highest profit margins. It would also provide lower interest rates to borrowers of unsubsidized loans while they are in in-school, grace, or deferment periods. Finally, these amendments would standardize interest subsidy costs for the FFEL and Direct Loan programs.

In addition, section 223 of the bill would clarify that the interest rate used to determine the rebate of excess interest under section 427A(i)(7)(B) of the Act was not intended to be used to change special allowance payments for the period affected by the rebate. This change would correct a recent contrary court decision.

Section 224.—Section 224 of the bill would amend section 428(b)(1)(G) of the Act by reducing lenders' insurance rate from 98 to 95 percent. This change would give lenders a greater economic incentive to prevent loan defaults.

Section 225.—Section 225 of the bill would amend sections 428(b)(1)(H), 428H(h), 438(c), and 455(c) of the Act to eliminate the one percent insurance premium that may be charged to a FFEL borrower at the time his or her loan is originated, to reduce FFEL origination fees on subsidized FFELs by one percent (*i.e.*, from three percent to two percent), and to reduce comparably the loan fee charged on Direct Loans. The loan fee for Direct Loans is currently four percent, and is designed to be the equivalent of the FFEL insurance premium plus the FFEL origination fee. Thus, the Direct Loan loan fee would be reduced from four percent to three percent for unsubsidized Direct Loans, and from four percent to two percent for subsidized Direct Loans.

These reductions in fees will provide significant benefits to all students, and will provide additional funds to borrowers up front, at the time that the loan funds are needed to pay for costs of attendance. The proposed changes would also assist in standardizing borrower benefits within the FFEL program as well as between the FFEL and Direct Loan programs, because lenders and guaranty agencies will no longer be able to selectively reduce costs for certain FFEL borrowers by waiving or paying the insurance premium on the borrower's behalf. The Secretary is not authorized to waive or lower loan fees under the Direct Loan program.

The additional reduction in fees for subsidized FFEL and Direct Loans would also complement the HOPE Scholarship and tax deduction proposals in Title I of the bill by significantly reducing loan costs for the neediest students and providing them with additional resources when the loan is originated.

Section 226.—Section 226 of the bill would substantially revise section 428 of the Act to reflect more accurately the current role of the guaranty agency in the FFEL program, and to affirmatively recognize that the Secretary is the sole guarantor of FFELs. Section 432(o) of the Act, which was added by the Higher Education Amendments of 1992 (P.L. 102–325), clarified that the Secretary is the ultimate insurer of all FFEL guarantees. Thus, in practice, guaranty agencies actually function more like loan servicers than guarantors. The changes proposed in section 226 of the bill would treat guaranty agencies in a manner more consistent with their current program functions.

Subsections (a) and (b) of section 428 would be modified and reorganized to reflect the substantive changes proposed primarily to section 428(c) of the Act. Under these changes, the Secretary would be authorized to enter into an agreement with a guaranty agency, under which the Secretary would insure loans with the guaranty agency acting as the agent of the Secretary. Any guaranty agency that had an agreement with the Secretary under section 428(b) on the day before the date of enactment of this bill could enter into an initial agreement with the Secretary, and all existing guaranty agency agreements would expire within 180 days of the date of enactment. Outstanding loan insurance issued by the guaranty agency would be replaced by loan insurance issued by the Secretary, and the guaranty agency would, in general, be relieved of any further liability on the loans. To help ensure a smooth transition, for the first year after the date of enactment the Secretary could specify interim administration measures necessary for the efficient transfer of the loan insurance function.

The new guaranty agreements would be for five years, renewable by the Secretary for successive five-year periods, although the Secretary could terminate the agreements prior to expiration of certain circumstances. After the initial agreement with a guaranty agency entered into after the date of enactment has ended (through its expiration, the termination of the guaranty agency agreement by the Secretary, or the resignation of the guaranty agency), the Secretary, in his discretion, may enter into another agreement with that guaranty agency, an alternate agreement under with a different guaranty agency, or one or more contracts under section 428E (as added by section 229 of the bill) under which contractors would carry out one or more of the functions formerly performed by the guaranty agency.

The agreement between the Secretary and a guaranty agency would specify the responsibilities of the guaranty agency, if any, for: administering the issuance of insurance on FFELs on behalf of the Secretary; monitoring insurance commitments made under this section; default prevention activities; review of default claims made by lenders; payment of default claims, collection of defaulted loans; adoption of internal systems of accounting and auditing that are acceptable to the Secretary; reporting requirements; and monitoring or participating institutions and lenders. The Secretary could also permit the guaranty agency, on a case-by-case basis, to engage in such other businesses, previously purchased or developed with reserve funds, that relate to the FFEL program.

Under the agreement, guaranty agencies would receive the following fees and revenues: a one-time issuance fee for each new FFEL insured by the Secretary through the guaranty agency; and annual maintenance fee for each active borrower account; a default prevention fee, paid by lenders, of not to exceed $100 per borrower account if the guaranty agency succeeds in bringing a loan into current repayment status; a collection retention allowance of not to exceed 18.5 percent, determined on the basis of the Secretary's review of payments for similar services in a competitive environment; the interest earned on working capital provided under section 422(h) (as added by section 221 of the bill); and revenues derived from other FFEL-related businesses in which the Secretary permits the guaranty agency to engage.

In addition to restructuring guaranty agency agreements, the changes proposed in section 226 of the bill would provide guaranty agencies with an incentive to improve their efficiency by permitting them to retain a share of their net revenues for activities, approved by the Secretary, in support of postsecondary education. The share that guaranty agencies may retain and use for this purpose would be calculated by the Secretary after determining an adequate level of economic incentive for guaranty agencies to maximize their efficiency, in an amount not to exceed 50 percent of guaranty agency net revenues.

A guaranty agency would be required to carry out its responsibilities under the agreement in accordance with performance standards specified by the Secretary, which would be uniformly applied to all guaranty agencies. The Secretary would compare the performance of the guaranty agencies with one another, and publicly disseminate the comparison. A guaranty agency that fails to achieve a specified level of performance on one or more performance standards could be fined, and if its failure resulted in a financial loss to the United States, the guaranty agency would be required to indemnify the Secretary for that loss.

A guaranty agency's agreement could be ended in advance of its expiration date, either because its agreement becomes automatically void under certain circumstances, or because the Secretary, after notice and opportunity for a hearing, terminates the guaranty agency for substantially failing to achieve an acceptable level of performance under its agreement.

Finally, while most of the changes proposed in this section of the bill pertain to guaranty agencies and their functions, section 226(a)(2)(E) of the bill would require only eligible lenders that originates or holds more than $5,000,000 in FFELs during an annual audit period to submit to the Secretary a compliance audit for that audit period. This change is similar to exemptions provided in recent Appropriation Acts, and would alleviate the burden and disproportionate expense that annual compliance audits impose on lenders with small FFEL portfolios.

Section 227.—Section 227 of the bill would repeal section 428(n) of the Act, which requires a State to pay to the Secretary an annual amount that represents the State's share of risk for high default rates at institutions within the State. This provision has never been implemented.

Section 228.—Section 228 of the bill would make a number of changes to section 428C of the Act pertaining to FFEL consolidation loans that would make the terms of these loans more comparable to Direct consolidation loans. (Changes to repayment terms for FFEL consolidation loans are proposed in section 222 of the bill.) Section 228 would permit borrowers to obtain a FFEL consolidation loan while they are in "in-school" status, and to consolidate FFEL consolidation loans into new FFEL consolidation loans. Lenders would also retain the interest subsidy on the portion of a FFEL consolidation loan that repays subsidized loans, and the interest rate on FFEL consolidation loans would be changed to a variable rate comparable to the rate applicable to Direct consolidation loans. By extending favorable terms currently available only to borrowers of Direct consolidation loans to borrowers of FFEL consolidation loans, these amendments would reduce costs for, and provide greater flexibility to, these FFEL borrowers, particularly those FFEL borrowers with loans from multiple lenders who have not consolidated these loans because they would lose the benefits associated with the separate loans.

Section 229.—Section 229 of the bill would add a new section 428E to part B of Title IV of the Act that would authorize the Secretary to enter into one or more contracts to carry out any of the functions that otherwise would be carried out by a guaranty agency. This amendment is consistent with the changes to guaranty agency functions that are proposed in section 226 of the bill.

Section 230.—Section 230 of the bill would amend the definition of an "eligible lender" in section 435(d) of the Act to require lenders to offer uniform terms and conditions to all borrowers taking out the same type of FFEL loans (for example, Unsubsidized or Consolidation Loans). The Secretary would be authorized to prescribe regulatory exceptions to this requirement.

Section 231.—Section 231 of the bill would amend section 438 of the Act to provide for the computation of special allowance rates at the same time and in the same manner as student loan interest rates (annually rather than quarterly), to eliminate the potential for special allowance payments merely because the rates are calculated on a different cycle.

Section 232.—Section 232 of the bill would amend section 439(h)(7) of the Act to reflect congressional intent that the Student Loan Marketing Association (Sallie Mae) not be able to circumvent the requirement that it pay an offset fee on loans it holds by "securitizing" loans upon which it would otherwise be required to pay the offset fee. This provision would also remedy a recent, partially adverse, court decision and would be effective retroactively to August 10, 1993, the date of enactment of the Sallie Mae offset fee requirement, but would not apply to the privatized entity that may be created as a result of the Student Loan Marketing Association Reorganization Act of 1996.

Section 233.—Section 233 of the bill would amend section 452(b) of the Act to replace the statutory requirement (currently overridden by the FY 1997 Appropriation Act) to pay all participating institutions that originate Direct Loans a fee to assist in meeting the costs of loan origination with a fee to be paid only to institutions (or consortia of institutions) in their first year of participation in the Direct Loan program, in order to compensate for costs associated with their transition to the program. The new, more targeted transition fee could not exceed an average of $10 per borrower at the institutions receiving the fee.

Section 234. Section 234 of the bill would amend section 458(a) to specify funding levels through FY 2002 for mandatory administrative expenses for the student financial aid programs, including the Direct Loan program, at levels lower than the current baseline.

PART C—NEED ANALYSIS AND GENERAL PROVISIONS

Section 241.—Section 241 of the bill would make a series of changes to the calculation of a postsecondary student's need for assistance under Title IV of the Act that complement the HOPE Scholarship and deduction proposals in Title I of the bill. These changes are intended to ensure that a student's future eligibility for Title IV assistance is not affected by his or her family's use of the HOPE Scholarship tax credit or the education and training tax deduction. These amendments would: 1) prevent the HOPE Scholarship tax credit from being treated as part of the family's total income by treating the credit amount as "excludable income" and making clear that it is not to be treated as "untaxed income and benefits"; 2) prevent the education and training tax deduction from reducing the family's total income by treating the amount deducted as "untaxed income and benefits"; 3) ensure that the family's available income is accurately reflected by taking account of federal taxes that would be owed if neither the HOPE Scholarship tax credit nor the education and training tax deduction were available; and 4) prevent the HOPE Scholarship tax credit from substituting for other forms of student aid by making clear that the amount of the credit is not to be treated as "financial assistance."

Section 242.—Section 242 of the bill would amend section 476(b) of the bill to make the income protection allowance (IPA) (one factor used in the calculation of a student's need assistance) for independent students without dependents (other than a spouse) comparable to the IPAs used for parents of dependent students and for independent students with dependents. This change would increase the Pell Grant and other need-based aid available to low- and moderate-income students in this category. A conforming change would also be made to section 478(b) of the Act to permit the updating of the numbers used in the IPA calculation to reflect inflation, consistent with the IPA calculations for the other categories of students.

Section 243.—Section 243 of the bill would add a new subsection (g) to section 481 of the Act that would require the Secretary to define in regulations certain education-related terms for purposes of the HOPE Scholarship tax credit and the deduction proposed in Title I of the bill. Section 482(c) of the Act, which requires that regulations must be published in final form by December 1 in order to be effective for the award year beginning the following July 1, shall not apply to these regulations, which pertain to the administration of the tax provisions, not the student aid programs under Title IV.

Section 244.—Section 244 of the bill would amend several provisions of Title IV of the Act primarily to extend the FFEL program and section 458 of the Act through FY 2002. These extensions are necessary in order to make the other changes proposed in this Title for years after FY 1998.

PART D—EFFECTIVE DATES

Section 251.—Section 251 sets out the effective dates for the amendments proposed in this Title of the bill.

Mr. KENNEDY. Mr. President, I give my strong support to President Clinton's HOPE and Opportunity for Postsecondary Education Act of 1997, introduced today by Senator DASCHLE and myself.

Education must continue to be a top priority in Congress. We need to do more to make college accessible and affordable for all students. It is not enough to maintain current spending levels for education. Targeted increases are essential to help students, and also to help colleges deal with increasing enrollments.

Today, college is priced out of reach for many families. From 1980 to 1990, the cost of college rose by 126 percent, while family income increased by only 73 percent. To meet that rising cost, students are going deeper and deeper into debt. In 1993 alone, students borrowed $30 billion—a 65-percent increase since 1993. Since 1988, borrowing in the Federal student loan program has increased by more than 100 percent, while starting salaries for college graduates have failed to increase at all. Many students and their families are fearful of the mounting debt burdens that await college graduates.

The President's bill will help students pay for college in two ways: through tax relief and through increased direct financial aid. With the tax relief, students and their families will be able to choose between a $1,500 HOPE tax credit and a $10,000 tax deduction to pay annual tuition expenses for the first 2 years of postsecondary education, including graduate school The tax deduction is also available to help reduce the cost of further years of education, including graduate school. These two changes will make a college education more affordable for thousands of middle and lower income families.

The bill also provides tax relief for students whose loans are forgiven in return for community service or for low-income wage earners under the income-contingent repayment plan. In addition, the bill provides tax incentives to encourage employers to pay for the further education of their employees.

In the area of direct financial aid, the bill broadens the reach of Pell grants to help the neediest students pay for higher education. It increases the maximum Pell grant from $2,700 to $3,000. It also changes the needs analysis for some independent students by increasing the income protection allowance to make it comparable with that allowance for other categories of students.

The bill also decreases the cost of student loans by reducing interest rates, and by lowering the initial fees charged to students. Borrowing has become an essential part of financing education for millions of students. These provisions will benefit them while they are in college by reducing the initial fees, and after college by lowering the interest rates on the amount they owe.

It is fitting that this bill is being introduced today, because many members of the United States Student Association are here on Capitol Hill this week to urge Congress to give education the high priority it deserves. These students want a better education. They know they need it. And they are worried about how to pay for it. They want Congress to work together to provide the financial assistance they need to pursue their dreams. The presence of these intelligent and committed students reminds us that the future of our country depends on the education they receive. This Congress can open the door of higher education for many more of them.

The President's proposal deserves broad bipartisan support. It is vital for the country that higher education be truly open to all qualified students, without monetary barriers. Investing in education is investing in a stronger America here at home and around the world. I look forward to working with my colleagues on both sides of the aisle to renew and extend our commitment to higher education.

By Mr. D'AMATO (for himself, Mr. FAIRCLOTH, Mr. BENNETT, Mr. SARBANES, Mr. DODD, Mr. KERRY, Mr. BRYAN, Mrs. BOXER, Ms. MOSELEY-BRAUN, Mr. JOHNSON and Mr. REED):

S. 562. A bill to amend section 255 of the National Housing Act to prevent the funding of unnecessary or excessive costs for obtaining a home equity conversion mortgage; to the Committee on Banking, Housing, and Urban Affairs.

THE SENIOR CITIZEN HOME EQUITY PROTECTION ACT

Mr. D'AMATO. Mr. President, I rise today to introduce legislation which will protect our Nation's senior citizens from exploitation by fraudulent operators who are manipulating the Department of Housing and Urban Development's [HUD] Federal Housing Administration [FHA] home equity conversion mortgage program.

I commend the cosponsors of this legislation and thank them for their support of this essential initiative: Senator LAUCH FAIRCLOTH; Senator ROBERT BENNETT; Senator PAUL SARBANES; Senator CHRISTOPHER DODD; Senator JOHN KERRY; Senator RICHARD BRYAN; Senator BARBARA BOXER; Senator MOSELEY-BRAUN; Senator TIM JOHNSON; and Senator JACK REED.

I am pleased to announce a bicameral, bipartisan response to this injustice. Identical companion legislation is being introduced today by Representative RICK LAZIO, chairman of the House Banking Subcommittee on Housing and Community Opportunity. I salute Congressman LAZIO for his swift response in condemning this outrageous practice and for proposing a legislative solution. I pledge to work side-by-side with him on this important issue until our companion bills become law.

This legislation has been endorsed by the administration. I would like to commend HUD Secretary Andrew Cuomo for recognizing this serious problem, bringing these abuses to our attention, and acting courageously to prohibit their continued occurrence.

The FHA home equity conversion mortgage program offers elderly homeowners the opportunity to borrow against the equity in their homes. This effective program assists our senior citizens who have substantial equity in their property but have incomes too low to meet ordinary or extraordinary living expenses. A program recipient can receive cash through this reverse mortgage in the following ways: a lifetime guaranteed monthly payment; a line of credit; a combination of monthly payment and line-of-credit options; or a lump sum. These mortgages are originated by FHA-approved lenders, insured by the FHA and purchased by the secondary mortgage market.

Since the program's inception, approximately 20,000 loans have been made. The median age of borrowers is 76 years old and the median income is $10,400. This reverse mortgage program represents an ideal public/private partnership in which needy, very-low income Americans are aided without cost to the Federal Government.

Unfortunately, unscrupulous middlemen, posing as service providers or estate planners have taken advantage of seniors by charging unnecessary and excessive fees to assist them in obtaining a home equity conversion mortgage. These predators have charged elderly homeowners fees ranging from 6 to 12 percent of the loan amount. In hundreds of cases, very low-income seniors have been manipulated into paying several thousand dollars in return for ministerial and often meaningless services. The Department of Housing and Urban Development provides information on applying for a reverse mortgage at no cost.

These abuses must be stopped at once. Such exploitation is absolutely unconscionable. The elderly who are being preyed upon are some of the most vulnerable in our society. Reverse mortgage proceeds are generally used by the homeowner to maintain a decent standard of living and pay for essentials like property taxes, medical bills, and groceries.

The legislation we are introducing today will assist HUD with its efforts to ensure that our senior citizens are protected. We must ensure that not even one recipient of a HUD reverse mortgage is charged any unnecessary or excessive costs for obtaining that mortgage.

The bill provides two important safeguards to achieve this purpose. First, it provides a requirement that the mortgagor has received a full disclosure of all costs of obtaining the mortgage, including any costs of estate planning, financial advice or other related services. Second, it clarifies that the HUD Secretary has authority to impose restrictions to ensure that the mortgagor is not charged any unnecessary or excessive costs for obtaining a reverse mortgage.

The legislation requires the HUD Secretary to implement the above described safeguards in an expeditious manner by interim notice. Within 90 days of the date of enactment of this Act, the Secretary shall issue final regulations after providing notice and opportunity for public comment. The terms of the interim notice shall not be effective after the final regulations are in place.

I urge all my colleagues to support this vital legislation and look forward to its speedy passage by the Senate. The Senate, the House of Representatives and the administration must work together quickly to ensure that our Nation's most vulnerable homeowners are no longer victimized.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 562

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senior Citizen Home Equity Protection Act".

SEC. 2. DISCLOSURE REQUIREMENTS; PROHIBITION OF FUNDING OF UNNECESSARY OR EXCESSIVE COSTS.

Section 255(d) of the National Housing Act (12 U.S.C. 1715z-20(d)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking "and" at the end;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

"(C) has received full disclosure of all costs to the mortgagor for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services, and";

(2) in paragraph (9)(F), by striking "and";

(3) in paragraph (10), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(11) have been made with such restrictions as the Secretary determines to be appropriate to ensure that the mortgagor does not fund any unnecessary or excessive costs for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services.".

SEC. 3. IMPLEMENTATION.

(a) NOTICE.—The Secretary of Housing and Urban Development shall, by interim notice, implement the amendments made by section 2 in an expeditious manner, as determined by the Secretary. Such notice shall not be effective after the date of the effectiveness of the final regulations issued under subsection (b).

(b) REGULATIONS.—The Secretary shall, not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, issue final regulations to implement the amendments made by section 2. Such regulations shall be issued only after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2) and (b)(B) of such section).

ADDITIONAL COSPONSORS

S. 197

At the request of Mr. ROTH, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 197, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 257

At the request of Mr. LUGAR, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN] and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of S. 257, a bill to amend the Commodity Exchange Act to improve the Act, and for other purposes.

S. 302

At the request of Mr. CHAFEE, the name of the Seantor from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 302, a bill to amend title XVIII of the Social Security Act to provide additional consumer protections for Medicare supplemental insurance.

S. 318

At the request of Mr. D'AMATO, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 318, a bill to amend the Truth in Lending Act to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction, and for other purposes.

S. 356

At the request of Mr. GRAHAM, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the Medicare and Medicaid Programs.

S. 370

At the request of Mr. GRASSLEY, the name of the Senator from Arkanas [Mr. BUMPERS] was added as a cosponsor of S. 370, a bill to amend title XVIII of the Socil Security Act to provide for increased Medicare reimbursement for nurse practitioners and clinical nurse specialists to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 371

At the request of Mr. GRASSLEY, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 371, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physician assists, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 492

At the request of Mr. SARBANES, the names of the Senator from Washington [Mrs. MURRAY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Hawaii [Mr. INOUYE], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 492, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

S. 494

At the request of Mr. KYL, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 494, a bill to combat the overutilization of prison health care services and control rising prisoner health care costs.

S. 509

At the request of Mr. BURNS, the name of the Senator from Wyoming [Mr. ENZI] was added as a cosponsor of S. 509, a bill to provide for the return of certain program and activity funds rejected by States to the Treasury to reduce the Federal deficit, and for other purposes.

S. 511

At the request of Mr. CHAFEE, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 511, a bill to require that the health and safety of a child be considered in any foster care or adoption placement, to eliminate barriers to the termination of parental rights in appropriate cases, to promote the adoption of children with special needs, and for other purposes.

S. 525

At the request of Mr. KENNEDY, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 525, a bill to amend the Public Health Service Act to provide access to health care insurance coverage for children.

At the request of Mr. BENNETT, his name was withdrawn as a cosponsor of S. 525, supra.

S. 528

At the request of Mr. CAMPBELL, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 528, a bill to require the display of the POW/MIA flag on various occasions and in various locations.

S. 536

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 536, a bill to amend the National Narcotics Leadership Act of 1988 to establish a program to support and encourage local communities that first demonstrate a comprehensive, long-term commitment to reduce substance abuse among youth, and for other purposes.

S. 537

At the request of Ms. MIKULSKI, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 537, a bill to amend title III of the Public Health Service Act to revise and extend the mammography quality standards program.

SENATE JOINT RESOLUTION 11

At the request of Mr. LOTT, the name of the Senator from Michigan [Mr. ABRAHAM], the Senator from Missouri [Mr. ASHCROFT], the Senator from Mississippi [Mr. COCHRAN], the Senator from Texas [Mrs. HUTCHISON], and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Joint Resolution 11, a joint resolution commemorating "Juneteenth Independence Day," June 19, 1865, the day on which slavery finally came to an end in the United States.

At the request of Mr. KOHL, his name was added as a cosponsor of Senate Joint Resolution 11, supra.

SENATE CONCURRENT RESOLUTION 13

At the request of Mr. SESSIONS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Concurrent Resolution 13, a concurrent resolution expressing the sense of Congress regarding the display of the Ten Commandments by Judge Roy S. Moore, a judge on the circuit court of the State of Alabama.

SENATE RESOLUTION 69

At the request of Mr. MCCAIN, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of Senate Resolution 69, a resolution expressing the sense of the Senate regarding the March 30, 1997, terrorist grenade attack in Cambodia.

AMENDMENT NO. 27

At the request of Mr. COVERDELL his name was added as a cosponsor of Amendment No. 27 proposed to S. 104, a bill to amend the Nuclear Waste Policy Act of 1982.

SENATE CONCURRENT RESOLUTION 20—RELATIVE TO THE INVESTIGATION OF THE BOMBING OF THE ISRAELI EMBASSY IN BUENOS AIRES IN 1992

Mr. BROWNBACK (for himself, Mr. ROBB, Mr. HELMS, and Mr. BIDEN) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 20

Whereas on March 17, 1992, the Israeli Embassy in Buenos Aires, Argentina, a school, and several nearby buildings were destroyed by a powerful suicide car bomb blast in which 29 innocent children, women, and men lost their lives and an additional 252 innocent people were injured;

Whereas the victims of this terrorist attack included employees of the Israeli embassy and their families, children from a nearby Roman Catholic primary school, women and men from a nearby Roman Catholic church shelter, a Roman Catholic priest, and people from across the spectrum of Argentine society;

Whereas Argentina's Jewish community, which numbers 300,000 and is the largest Jewish community in Latin America, has suffered severe anti-Semitism during periods of military rule and feels particularly vulnerable to assault from certain radical Islamic groups and from indigenous far right extremists in Argentina;

Whereas Islamic Jihad claimed responsibility for the bombing of the Israeli Embassy and praised the name of the alleged suicide bomber, Abu Yasser, by calling him a "martyr struggler";

Whereas Islamic Jihad is a terrorist organization that is supported by Iran and, according to Department of State officials, Iranian diplomats collected information to plan the bombing;

Whereas the failure of Argentine and international efforts to bring the perpetrators of the embassy bombing to justice made Argentina a prime target for a second devastating terrorist attack on July 18, 1994;

Whereas the second bombing destroyed the Asociacion Mutual Israelita Argentina (AMIA) Jewish Community Center, killing 86 people and injuring over 200 people; and

Whereas the investigation of the Israeli Embassy bombing has been hampered by the inefficiency of having the entire membership of the Supreme Court of Argentina in charge of the investigation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) notes that as of March 17, 1997, 5 years after the bombing of the Israeli Embassy and 2½ years after the bombing of the AMIA Jewish Community Center, Argentinean police and judicial authorities have not identified and initiated prosecution of the perpetrators of these 2 barbarous acts of terrorism;

(2) urges the Supreme Court of Argentina to designate a single investigative judge to conduct the investigation of the terrorist bombing of the Israeli Embassy in order to improve the efficiency of the inquiry;

(3) urges Argentinean judicial authorities to aggressively investigate the bombing of the AMIA Jewish Community Center and the possible connection between that bombing and the bombing of the Israeli Embassy in Buenos Aires;

(4) urges Argentinean authorities to acknowledge publicly the reports submitted by Argentinean, United States, and Israeli experts, that the explosion at the Israeli Embassy took place outside the walls of the embassy;

(5) urges the President and appropriate executive agencies to provide whatever assistance is requested by Argentinean Government authorities in order to help that Government investigate these 2 acts of terrorism; and

(6) directs the Secretary of the Senate to transmit a copy of this resolution to the Government of Argentina.

SENATE RESOLUTION 70—REGARDING EQUAL PAY FOR EQUAL WORK

Mr. DASCHLE (for himself, Mr. LEAHY, Mrs. MURRAY, Mr. REID, Mr. HARKIN, Ms. LANDRIEU, Ms. MIKULSKI, Mr. DURBIN, Ms. MOSELEY-BRAUN, Mr. KENNEDY, and Mr. KERRY) submitted the following resolution; which was referred to the Committee on Labor and Human Resources.

S. RES. 70

Whereas, in recent years, the participation of women in the workforce has increased dramatically, with women now making up almost half of the workforce;

Whereas families in which both parents must work are the norm;

Whereas in 1995, 72 percent of all 2-parent families with children, or 18,000,000 such families, were supported by a working mother and father;

Whereas many families depend on the pay of working women;

Whereas some families depend wholly on women's pay, with 22 percent of all families with children, or 7,600,000 such families, being headed by single mothers;

Whereas the inability to earn adequate pay is a burden for an entire family and sometimes forces women onto public assistance to provide for their families;

Whereas unfair pay disparities lead to inadequate savings for retirement and lower pensions for women;

Whereas on average, during the period between 1995 and 1981, a woman earned only 60 cents for each dollar earned by a man;

Whereas on average a woman earned 63.9 cents for each dollar earned by a man in 1955, a figure that improved only to 71.4 cents for each such dollar in 1997, with a woman of color earning even less;

Whereas this improvement equals an average annual increase of only 0.28 percent from 1955 to 1997;

Whereas much of this improvement has resulted from a decline in men's real pay and, if men's real pay had not declined, there would have been a much smaller increase in women's pay relative to men's pay;

Whereas working women have benefited the United States economy enormously;

Whereas the provision of equal pay helps business by improving productivity and reducing employee turnover;

Whereas the pay disparities cost the economy $130,000,000,000 in lost purchasing power per year;

Whereas ensuring equal pay is a high priority for working women and their families;

Whereas it took a woman, on average, from January 1, 1996, to April 11, 1997, to receive as much pay as a man received in 1996 alone; and

Whereas April 11 is being recognized as National Pay Inequity Awareness Day: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) women have made great contributions to the United States workforce and the United States economy and should be paid fairly and have the same access to education and training as men;

(2) all employers, in the public and private sectors, should comply with Federal and State law requiring equal pay for equal work;

(3) many employers have made serious efforts to provide equal pay and should be commended for those efforts; and

(4) all employers should address unequal pay in their workplaces and ensure that working families can prosper.

Mr. DASCHLE. Mr. President, this Friday, April 11, is National Pay Inequity Awareness Day, the day on which an average woman's salary, when combined with her salary from last year, will equal the salary earned by an average man in 1996 alone. It is a day that challenges us to meet our goal of providing equal pay for equal work. Today I want to take another step toward this goal by introducing Senate Resolution 70, a resolution recognizing the important role that women play in the work force and in supporting their families and how far we have yet to go before they will be fairly paid for their efforts.

This is an issue of fairness and of families. In 1995, 72 percent of all two-parent families with children—18 million in total—were supported by a working father and a working mother. An additional 7.6 million families were dependent entirely on the income of a working mother. The burden of unfair pay falls directly on these families, and makes an immediate difference in their lives. For example, an average female secretary makes $2,000 less than a male secretary. Think of the difference that $2,000 can make in the life of a family—it can pay for bags of groceries, check-ups for the children, or rent. Unfair pay is more than a slogan, it means less security for families struggling to meet the needs of their everyday lives.

There is no dispute about the facts. On average, women earn 71 cents for every dollar earned by a man. And even professional women earn less than men, even when women have the same duties, experience, and educational level. On average, female lawyers earn $11,000 less than male lawyers. Female computer programmers earn $4,000 less than their male counterparts. The discrepancies are equally great for women who work for hourly wages. Over her lifetime, the average woman will earn $420,000 less than a man. This leaves retired women with smaller pensions and leads to a high rate of poverty among elderly women.

Mr. President, I look forward to the time when we no longer need to recognize National Pay Inequity Awareness Day. It is my hope that as women's wages increase, this day will fall earlier and earlier in the year, and that, someday soon, when women are finally paid what they deserve, we won't need to commemorate this day at all. One important step toward that goal would be the enactment of S. 71, the Paycheck Fairness Act. It would provide important new tools to remedy this problem of unfair wages, and I urge my colleagues to give it their full support.

I also urge my colleagues to show their support for the principle of fair pay by joining me in support of this resolution recognizing National Pay Inequity Awareness Day. It calls for all women to be paid fairly, for women to have the same access to education and training as men, for all employers to comply with State and Federal laws requiring equal pay for equal work, and it commends employers who have made progress in this important area. It is a small but important way to demonstrate our support for working women, and to participate in the activities taking place in more than 30 States around the Nation to highlight the wage gap. Raising women's salaries presents us with formidable challenges, but, together, I am convinced that we will be successful.

AMENDMENTS SUBMITTED

THE NUCLEAR WASTE POLICY ACT OF 1997

REID (AND BRYAN) AMENDMENT NO. 28

Mr. REID (for himself and Mr. BRYAN) proposed an amendment to amendment No. 27 proposed by Mr. THURMOND to the bill (S. 104) to amend the Nuclear Waste Policy Act of 1982; as follows:

At the end of the matter proposed to be inserted, add:

Notwithstanding any other provision of this bill, transportation of spent nuclear fuel or high-level radioactive waste under the provisions of this bill to a centralized interim storage site or to a permanent repository shall not cross any state line without the express written consent of the governor of the State of entry.

WELLSTONE AMENDMENTS NOS. 29–30

Mr. REID (for Mr. WELLSTONE) proposed two amendments to amendment No. 26 proposed by Mr. MURKOWSKI to the bill, S. 104, supra; as follows:

AMENDMENT NO. 29

On page 22 of the substitute, line 5, after "(3)(B)" insert "until the Secretary has made a determination that personnel in all State, local, and tribal jurisdictions on primary and alternative shipping routes have met acceptable standards of training for emergency responses to accidents involving spent nuclear fuel and high-level nuclear waste, as established by the Secretary, and".

AMENDMENT NO. 30

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE REGARDING FEDERAL ASSISTANCE FOR ELDERLY AND DISABLED LEGAL IMMIGRANTS.

It is the sense of the Senate that Congress should take steps to ensure that elderly and disabled legal immigrants who are unable to work, will not be left without Federal assistance essential to their well-being.

BINGAMAN AMENDMENTS NOS. 31–32

(Ordered to lie on the table.)

Mr. BINGAMAN submitted two amendments intended to be proposed by him to amendment No. 26 proposed by Mr. MURKOWSKI to the bill, S. 104, supra; as follows:

AMENDMENT NO. 31

On page 28, line 17, strike "If the President" and all that follows through page 29, line 1 and insert the following:

"(3) If the Secretary makes a determination under section 206(c)(3) that the Yucca Mountain site is not suitable or cannot satisfy the Commission's regulations applicable to the licensing of a repository, the Secretary shall—

"(A) terminate all activities (except necessary termination activities) related to construction of an interim storage facility at any site designated under paragraph (1); and

"(B) no later than 24 months after such determination, make a preliminary designation of one or more alternative sites for construction of an interim storage facility.

"(4) If the Commission, after review of the Secretary's application for construction authorization for the repository or after review of the Secretary's application for a license to receive and possess spent nuclear fuel or high-level radioactive waste at the repository, determines that it is not possible to license a repository at Yucca Mountain under section 206—

"(A) the Commission shall promptly notify the Secretary, the Congress, and the State of Nevada of its determination and the reasons therefore; and

"(B) the Secretary shall—

"(i) promptly take the actions described in paragraphs (1) and (2) of section 204(b);

"(ii) suspend all activities (except for necessary surveillance and maintenance) related to construction or operation of an interim storage facility at any site designated under section 204(c)(1);

"(iii) no later than 24 months after being notified by the Commission of its determination, make a preliminary designation of one or more alternative sites for construction of an interim storage facility; and

"(iv) at the time of the designation under clause (iii), transmit recommendations to Congress with respect to further construction or operation of an interim storage facility at any site designated under section 204(c)(1).".

AMENDMENT NO. 32

On page 28, strike section 204(c)(2) of the amendment and insert the following:

"(2) No later than 18 months after a determination by the President under subsection (b) that the Yucca Mountain site is unsuitable for development as a repository, the President shall designate a site for the construction of an interim storage facility.".

BUMPERS AMENDMENT NO. 33

Mr. BUMPERS proposed an amendment to amendment No. 26 proposed by Mr. MURKOWSKI to the bill, S. 104, supra; as follows:

On page 75, strike lines 4 through 8 and insert:

"It is the sense of the Senate that—

"(1) the Department of Energy has entered into contracts with utilities for the disposal of spent nuclear fuel or high-level radioactive waste, under section 302(a) of the Nuclear Waste Policy Act of 1982, based on the standard contract in subpart B of 961 of title 10, Code of Federal Regulations;

"(2) the U.S. Court of Appeals for the District of Columbia Circuit, in Indiana Michigan Power Company v. DOE, has interpreted the Nuclear Waste Policy Act of 1982 to require the Department of Energy to start disposing of the utilities' spent nuclear fuel no later than January 31, 1998;

"(3) the Department of Energy cannot begin to receive and transport significant amounts of spent nuclear fuel by January 31, 1998, because of delays arising out of causes beyond the control and without the fault or negligence of the Department of Energy, including the following acts of Government in its sovereign capacity—

"(A) the failure of Congress to appropriate funds requested by the Department in order to proceed expeditiously with—

"(i) the characterization and development of the Yucca Mountain site, and

"(ii) the design and development of associated systems required to transport spent nuclear fuel;

"(B) the enactment by Congress, since 1982, of additional environmental statutes affecting the process of designing and licensing the repository;

"(C) the failure of the Environmental Protection Agency to meet statutory deadlines in section 801 of the Energy Policy Act of 1992 for the promulgation of radiation standards for the Yucca Mountain site; and

"(D) delays on the part of the State of Nevada in issuing permits necessary for the Department to initiate exploratory activities at the Yucca Mountain site;

"(4) the enactment of this Act is intended by the Congress to address the Department's inability to meet the January 31, 1998, deadline and to provide an adequate remedy to contract holders by ensuring that the Department meets its obligations under the contracts in paragraph (1) at the earliest practicable time, consistent with the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and applicable Commission regulations; and

"(5) in any action alleging failure by the Department to perform its obligation to start disposing of spent nuclear fuel by January 31, 1998, under a contract based on the standard contract in subpart B of part 961 of title 10, Code of Federal Regulations, the court should take due account of article IX(A) of such standard contract.".

DOMENICI AMENDMENTS NOS. 34–35

(Ordered to lie on the table.)

Mr. DOMENICI submitted two amendments intended to be proposed by him to amendment No. 26 proposed by Mr. MURKOWSKI to the bill, S. 104, supra; as follows:

AMENDMENT NO. 34

In the pending amendment, on page 54 line 10 after the period insert the following:

"Notwithstanding the language of section 802(d) of title 5 of the United States Code, no points of order under the Congressional Budget and Impoundment Control Act of 1974 or any Concurrent Resolution on the Budget shall be considered to be waived during the consideration of a joint resolution under subparagraph (A)."

AMENDMENT NO. 35

In the pending amendment, beginning on page 49 line 11 strike all through page 53 line 11 and insert the following:

"(2) NUCLEAR WASTE OFFSETTING COLLECTION.—

"(A) For electricity generated by civilian nuclear power reactors and sold during an offsetting collection period, the Secretary shall collect an aggregate amount of fees under this paragraph equal to the annual level of appropriations for expenditures on those activities consistent with subsection (9) for each fiscal year in the offsetting collection period, minus—

"the percentage of such appropriation required to be funded by the Federal government pursuant to section 403.

"(B) The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold.

"(C) For purposes of this paragraph, the term 'offsetting collection period' means—

"(i) the period beginning on October 1, 1999 and ending on September 30, 2003; and

"(ii) the period on and after October 1, 2006.

"(3) NUCLEAR WASTE MANDATORY FEE.—

"(A) Except as provided in subparagraph (C) of this paragraph, for electricity generated by civilian nuclear power reactors and sold on or after January 7, 1983, the fee paid to the Secretary under this paragraph shall be equal to—

"(i) 1.0 mill per kilowatt-hour generated and sold, minus

"(ii) the amount per kilowatt-hour generated and sold paid under paragraph (2);

"Provided, that if the amount under clause (ii) is greater than the amount under clause (i) the fee under this paragraph shall be equal to zero.

"(B) No later than 30 days after the beginning of each fiscal year, the Secretary shall determine whether insufficient or excess revenues are being collected under this subsection, in order to recover the costs incurred by the Federal government that are specified in subsection (c)(2). In making this determination the Secretary shall—

"(i) rely on the 'Analysis of the Total System Life Cycle Cost of the Civilian Radioactive Waste Management Program,' dated September 1995, or on a total system lifecycle cost analysis published by the Secretary (after notice and opportunity for public comment) after the date of enactment of the Nuclear Waste Policy Act of 1997, in making any estimate of the costs to be incurred by the government under subsection (c)(2);

"(ii) rely on projections from the Energy Information Administration, consistent with the projects contained in the reference case in the most recent 'Annual Energy Outlook' published by such Administration, in making any estimate of future nuclear power generation; and

"(iii) take into account projected balances in, and expenditures from, the Nuclear Waste Fund.

"(C) If the Secretary determines under subparagraph (B) that either insufficient or excess revenues are being collected, the Secretary shall, at the time of the determination, transmit to Congress a proposal to adjust the amount in subparagraph (A)(i) to ensure full cost recovery. The amount in subparagraph (A)(i) shall be adjusted, by operation of law, immediately upon enactment of a joint resolution of approval under paragraph (5) of this subsection.

"(D) The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

"(4) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1997 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997 pursuant to the contracts, including any interest due pursuant to the contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2002. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fees assessed under this subsection, on or before the date on which such fees are due, and the license shall remain suspended until the full amount of the fees assessed under this subsection is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spent nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

"(4) EXPENDITURES IF SHORTFALL.—If, during any fiscal year on or after October 1, 1997, the aggregate amount of fees assessed under this subsection is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

The percentage of such appropriations required to be funded by the Federal Government pursuant to section 403—

The Secretary may make expenditures from the Nuclear Waste Fund up to the level equal to the difference between the amount appropriated and the amount of fees assessed under this subsection.

MURKOWSKI AMENDMENT NO. 36

Mr. MURKOWSKI proposed an amendment to amendment No. 26 proposed by him to the bill, S. 104, supra; as follows:

Beginning on page 49, strike line 11 and all that follows through line 21 on page 52 and insert the following:

"(2) NUCLEAR WASTE OFFSETTING COLLECTION.—

"(A) For electricity generated by civilian nuclear power reactors and sold during an offsetting collection period, the Secretary shall collect an aggregate amount of fees under this paragraph equal to the annual level of appropriations for expenditures on those activities consistent with subsection (d) for each fiscal year in the offsetting collection period, minus—

"(i) any unobligated balance collected pursuant to this paragraph during the previous fiscal year; and

"(ii) the percentage of such appropriation required to be funded by the Federal government pursuant to section 403.

"(B) The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold.

"(C) For purposes of this paragraph, the term 'offsetting collection period' means—

"(i) the period beginning on October 1, 1998 and ending on September 30, 2001; and

"(ii) the period on and after October 1, 2006.

"(3) NUCLEAR WASTE MANDATORY FEE.—

"(A) Except as provided in subparagraph (C) of this paragraph, for electricity generated by civilian nuclear power reactors and sold on or after January 7, 1983, the fee paid to the Secretary under this paragraph shall be equal to—

"(i) 1.0 mill per kilowatt-hour generated and sold, minus

"(ii) the amount per kilowatt-hour generated and sold paid under paragraph (2);

"Provided, that if the amount under clause (ii) is greater than the amount under clause (i) the fee under this paragraph shall be equal to zero.

"(B) No later than 30 days after the beginning of each fiscal year, the Secretary shall determine whether insufficient or excess revenues are being collected under this subsection, in order to recover the costs incurred by the Federal government that are specified in subsection (c)(2). In making this determination the Secretary shall—

"(i) rely on the 'Analysis of the Total System Life Cycle Cost of the Civilian Radioactive Waste Management Program,' dated September 1995, or on a total system lifecycle cost analysis published by the Secretary (after notice and opportunity for public comment) after the date of enactment of the Nuclear Waste Policy Act of 1997, in making any estimate of the costs to be incurred by the government under subsection (c)(2);

"(ii) rely on projections from the Energy Information Administration, consistent with the projections contained in the reference case in the most recent 'Annual Energy Outlook' published by such Administration, in making any estimate of future nuclear power generation; and

"(iii) take into account projected balances in, and expenditures from, the Nuclear Waste Fund.

"(C) If the Secretary determines under subparagraph (B) that either insufficient or excess revenues are being collected, the Secretary shall, at the time of the determination, transmit to Congress a proposal to adjust the amount in subparagraph (A)(i) to ensure full cost recovery. The amount in subparagraph (A)(i) shall be adjusted, by operation of law, immediately upon enactment of a joint resolution of approval under paragraph (5) of this subsection.

"(D) The secretary shall, by rule, establish procedures necessary to implement this paragraph.

"(4) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1997 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997 pursuant to the contracts, including any interest due pursuant to the contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2001. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fees assessed under this subsection, on or before the date on which such fees are due, and the license shall remain suspended until the full amount of the fees assessed under this subsection is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spent nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983."

FRIST (AND THOMPSON) AMENDMENT NO. 37

Mr. THOMPSON (for Mr. FRIST, for himself and Mr. THOMPSON) proposed an amendment to amendment No. 26 proposed by Mr. MURKOWSKI to the bill, S. 104, supra; as follows:

On page 28, line 16, after "Washington" insert "or the Oak Ridge Reservation in the State of Tennessee".

DOMENICI AMENDMENTS NOS. 38–39

(Ordered to lie on the table.)

Mr. DOMENICI submitted two amendments intended to be proposed by him to the amendment No. 26 proposed by Mr. MURKOWSKI to the bill, S. 104, supra; as follows:

AMENDMENT NO. 38

At the appropriate place insert the following:

"Notwithstanding any other provision of this act, no points of order, which require 60 votes in order to adopt a motion to waive such point of order, shall be considered to be waived during the consideration of a joint resolution under section 401 of this Act."

AMENDMENT NO. 39

In the pending amendment No. 26, beginning on page 49 line 11 strike all through page 53 line 11 and insert the following:

"(2) NUCLEAR WASTE OFFSETTING COLLECTION.—

"(A) For electricity generated by civilian nuclear power reactors and sold during an offsetting collection period, the Secretary shall collect an aggregate amount of fees under this paragraph equal to the annual level of appropriations for expenditures on those activities consistent with subsection (d) for each fiscal year in the offsetting collection period, minus—

the percentage of such appropriation required to be funded by the Federal government pursuant to section 403.

"(B) The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold.

"(C) For purposes of this paragraph, the term 'offsetting collection period' means—

"(i) the period beginning on October 1, 1998 and ending on September 30, 2001; and

"(ii) the period on and after October 1, 2006.

"(3) NUCLEAR WASTE MANDATORY FEE.—

"(A) Except as provided in subparagraph (C) of this paragraph, for electricity generated by civilian nuclear power reactors and sold on or after January 7, 1983, the fee paid to the Secretary under this paragraph shall be equal to—

"(i) 1.0 mill per kilowatt-hour generated and sold, minus

"(ii) the amount per kilowatt-hour generated and sold paid under paragraph (2);

"Provided, that if the amount under clause (ii) is greater than the amount under clause (i) the fee under this paragraph shall be equal to zero.

"(B) No later than 30 days after the beginning of each fiscal year, the Secretary shall determine whether insufficient or excess revenues are being collected under this subsection, in order to recover the costs incurred by the Federal government that are specified in subsection (c)(2). In making this determination the Secretary shall—

"(i) rely on the 'Analysis of the Total System Life Cycle Cost of the Civilian Radioactive Waste Management Program,' dated September 1995, or on a total system lifecycle cost analysis published by the Secretary (after notice and opportunity for public comment) after the date of enactment of the Nuclear Waste Policy Act of 1997, in making any estimate of the costs to be incurred by the government under subsection (c)(2);

"(ii) rely on projections from the Energy Information Administration, consistent with the projections contained in the reference case in the most recent 'Annual Energy Outlook' published by such Administration, in making any estimate of future nuclear power generation; and

"(iii) take into account projected balances in, and expenditures from, the Nuclear Waste Fund.

"(C) If the Secretary determines under subparagraph (B) that either insufficient or excess revenues are being collected, the Secretary shall, at the time of the determination, transmit to Congress a proposal to adjust the amount in subparagraph (A)(i) to ensure full cost recovery. The amount in subparagraph (A)(i) shall be adjusted, by operation of law, immediately upon enactment of a joint resolution of approval under paragraph (5) of this subsection.

"(D) The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

"(4) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1997 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997 pursuant to the contracts, including any interest due pursuant to the contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2001. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fees assessed under this subsection, on or before the date on which such fees are due, and the license shall remain suspended until the full amount of the fees assessed under this subsection is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spent nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

"(4) EXPENDITURES IF SHORTFALL.—If, during any fiscal year on or after October 1, 1997, the aggregate amount of fees assessed under this subsection is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus the percentage of such appropriations required to be funded by the Federal Government pursuant to section 403, the Secretary may make expenditures from the Nuclear Waste Fund up to the level equal to the difference between the amount appropriated and the amount of fees assessed under this subsection.

DOMENICI AMENDMENT NO. 40

Mr. DOMENICI proposed an amendment to amendment No. 26 proposed by Mr. MURKOWSKI to the bill, S. 104, supra; as follows:

In the pending amendment, beginning on page 49 line 11 strike all through page 53 line 11 and insert the following:

"(2) NUCLEAR WASTE OFFSETTING COLLECTION.—

"(A) For electricity generated by civilian nuclear power reactors and sold during an offsetting collection period, the Secretary shall collect an aggregate amount of fees under this paragraph equal to the annual level of appropriations for expenditures on those activities consistent with subsection (d) for each fiscal year in the offsetting collection period, minus the percentage of such appropriation required to be funded by the Federal government pursuant to section 403.

"(B) The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold.

"(C) For purposes of this paragraph, the term 'offsetting collection period' means—

"(i) the period beginning on October 1, 1998 and ending on September 30, 2001; and

"(ii) the period on and after October 1, 2006.

"(3) NUCLEAR WASTE MANDATORY FEE.—

"(A) Except as provided in subparagraph (C) of this paragraph, for electricity generated by civilian nuclear power reactors and sold on or after January 7, 1983, the fee paid to the Secretary under this paragraph shall be equal to—

"(i) 1.0 mill per kilowatt-hour generated sold, minus

"(ii) the amount per kilowatt-hour generated and sold paid under paragraph (2);

"Provided, that if the amount under clause (ii) is greater than the amount under clause (i) the fee under this paragraph shall be equal to zero.

"(B) No later than 30 days after the beginning of each fiscal year, the Secretary shall determine whether insufficient or excess revenues are being collected under this subsection, in order to recover the costs incurred by the Federal government that are specified in subsection (c)(2). In making this determination the Secretary shall—

"(i) rely on the 'Analysis of the Total System Life Cost of the Civilian Radioactive Waste Management Program,' dated September 1995, or on a total system life-cycle cost analysis published by the Secretary (after notice and opportunity for public comment) after the date of enactment of the Nuclear Waste Policy Act of 1997, in making any estimate of the costs to be incurred by the government under subsection (c)(2);

"(ii) rely on projections from the Energy Information Administration, consistent with the projections contained in the reference case in the most recent 'Annual Energy Outlook' published by such Administration, in making any estimate of future nuclear power generation; and

"(iii) take into account projected balances in, and expenditures from, the Nuclear Waste Fund.

"(C) If the Secretary determines under subparagraph (B) that either insufficient or excess revenues are being collected, the Secretary shall, at the time of the determination, transmit to Congress a proposal to adjust the amount in subparagraph (A)(i) to ensure full cost recovery. The amount in subparagraph (A)(i) shall be adjusted, by operation of law, immediately upon enactment of a joint resolution of approval under paragraph (5) of this subsection.

"(D) The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

"(4) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1997 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of the Nuclear Waste Policy Act of 1997 pursuant to the contracts, including any interest due pursuant to the contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2001. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fees assessed under this subsection, on or before the date on which such fees are due, and the license shall remain suspended until the fund amount of the fees assessed under this subsection is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spent nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

"(4) EXPENDITURES IF SHORTFALL.—If, during fiscal year on or after October 1, 1997, the aggregate amount of fees assessed under this subsection is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—the percentage of such appropriations required to be funded by the Federal Government pursuant to section 403—the Secretary may make expenditures from the Nuclear Waste Fund up to the level equal to the difference between the amount appropriated and the amount of fees assessed under this subsection.

BINGAMAN AMENDMENT NO. 41

Mr. BINGAMAN proposed an amendment to amendment No. 26 proposed by Mr. MURKOWSKI to the bill, S. 104, supra; as follows:

On page 28, strike the second sentence of section 204(c)(2).

DOMENCI AMENDMENT NO. 42

Mr. LOTT (for Mr. DOMENICI) proposed an amendment to amendment No. 26 proposed by Mr. MURKOWSKI to the bill, S. 104, supra; as follows:

At the appropriate place insert the following

"Notwithstanding any other provision of this act, no points of order, which require 60 votes in order to adopt a motion to waive such point of order, shall be considered to be waived during the consideration of a joint resolution under section 401 of this Act."

MURKOWSKI AMENDMENT NO. 43

Mr. LOTT (for Mr. MURKOWSKI) proposed an amendment to amendment No. 26 proposed by Mr. MURKOWSKI to the bill, S. 104, supra; as follows:

In the pending amendment, on page 1, insert at the end the following:

"Notwithstanding any other provision of this act, except as provided in paragraph (3)(c), the level of annual fee for each civilian nuclear power reactor shall not exceed 1.0 mill per kilowatt-hour of electricity generated and sold."."

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Tuesday, April 15, 1997 at 9:30 a.m. to receive testimony from Senator MARY L. LANDRIEU, Louis "Woody" Jenkins, and/or their counsels in connection with petitions filed in connection with a contested U.S. Senate election held in Louisiana in November 1996.

For further information concerning this hearing, please contact Bruce Kasold of the Rules Committee staff.

SUBCOMMITTEE ON EMPLOYMENT AND TRAINING

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Subcommittee on Employment and Training, Senate Committee on Labor and Human Resources will be held on Tuesday, April 16, 1997, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is Innovations in Adult Training. For further information, please call the committee.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Thursday, April 17, 1997 at 9:30 a.m. to consider the committee's course of action regarding petitions filed in connection with a contested U.S. Senate election held in Louisiana in November 1996.

For further information concerning this hearing, please contact Bruce Kasold of the Rules Committee staff.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, April 10, 1997 at 2:30 p.m. in SR–328A to consider the nominations of Lowell Lee Junkins, of Iowa, to be a member of the board of directors of the Federal Agricultural Mortgage Corporation, Vice Edward Charles Williamson; and Velma Ann Jorgensen, of Iowa, to be a member of the Farm Credit Administration Board for the term expiring May 21, 2002, Gary C. Byrne, resigned.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, April 10, 1997, at 10:30 a.m. multi-channel video competition.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MURKOWSKI. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, April 10, 1997, beginning at 10 a.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 10, 1997, at 10 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 10, 1997, at 2 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, April 10, at 10 a.m. for a hearing on IRS and the Taxpayer at Risk.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, April 10, 1997 beginning at 10:30 a.m. to receive testimony from outside counsel concerning petitions filed in connection with a contested U.S. Senate election held in Louisiana in November 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing on S. 208, the HUBZone Act of 1997 on Thursday, April 10, 1997, which will begin at 9:30 a.m. in room 428A of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, April 10, 1997 at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Subcommittee on Acquisition and Technology of the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, April 10, 1997, in open session, to receive testimony on science and technology research in review of S. 450, the National Defense Authorization Act for Fiscal Years 1998 and 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICES

Mr. MURKOWSKI. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Thursday, April 10, at 2 p.m. for a hearing on "Proliferation: Chinese Case Studies".

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Thursday, April 10, 1997 in open session, to receive testimony on Department of Defense Depot Maintenance privatization initiatives in review of S. 450, the National Defense Act for Fiscal Years 1998 and 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, April 10, 1997, at 2 p.m. earthquake hazard reduction.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

WITHDRAWAL OF COSPONSORSHIP OF S. 525

• Mr. BENNETT. Mr. President, today I withdraw as a cosponsor of S. 525.

I recognize the need to address the challenge represented by millions of uninsured children. In addition, I am in favor of any effort to discourage tobacco use, which is our Nation's No. 1 health problem. For these reasons, I initially agreed to assist Senator HATCH.

However, after a complete review of the actual language of the bill, I find that it moves in the wrong direction. Accordingly, with great regret for any problems this may pose for my colleague and friend, I have taken my name off the bill as a cosponsor.•

NEW MEXICO'S OUTSTANDING WOMEN BUSINESSOWNERS

• Mr. BINGAMAN. Mr. President, I rise to recognize the outstanding achievements of the "Top 25" women-owned businesses in New Mexico that are being honored by Albuquerque Woman magazine. These businesses—small-, medium-, and large-sized—are all contributing to the economic well-being of our State.

It is not easy to start up a new business venture, and it is even more difficult to become a prosperous enterprise. Economic success requires the dedication, hard work and know how that all of the winners of the "Top 25" awards have shown. But successful businesses operated by caring individuals generate more than economic growth, they also build our communities. If you look at the list of the businessowners that I will include later in my statement, you will notice many familiar names. These names are familiar because these women are contributing their energy and insight to improving our communities in New Mexico every day.

We face many challenges in my home State of New Mexico, not the least of which is to create jobs that pay good wages and provide retirement security. The contributions these women businessowners have made represent real progress in building both the human and capital infrastructure of private enterprise in New Mexico. I congratulate them on their accomplishments and wish them well on the further growth of their businesses.

The list of those businessowners being honored by Albuquerque Woman magazine are: Teresa McBride, Jo Summers, Dorothy Queen, Melissa Deaver, Barbara Trythall, Kathleen Olson, Shirley Jones, Judy Roberts, Carole Petranovich, Sandra Bundy, Judi Friday, several doctors from Women's Specialists of New Mexico Ltd., Ching-Ching Ganley, Caroline Roberts, Laurie Steinberg, Elizabeth Pohl, Joan Rosley-Griffin, Ella Leeper, Mary Severns, Sandra Levinson, Annique Torres, Brenda Kilmer, Sally C. Olinger, Jan Pfeiffer, and Renee Budagher.•

MUSEUM OF AFRICAN-AMERICAN HISTORY

• Mr. LEVIN. Mr. President, I would like to make my colleagues aware of an important event taking place in my home city of Detroit, Michigan—the opening of the new Museum of African American History. The Museum is unique in its size, scope and mission.

Located in Detroit's Cultural Center, the 120,000 square foot Museum of African American History is the largest museum in the nation dedicated to documenting and celebrating the African American experience. It is led by Kimberley Camp, who was the first African American gallery director in the history of the Smithsonian Institute. Under Dr. Camp's leadership, the Museum is poised to become a destination for tourists and researchers from around the country.

The Museum was designed by prominent Detroit architects Howard Sims and Harold Varner, of Sims-Varner and Associates, Inc. Using contemporary building materials, Mr. Sims and Mr. Varner created a building thoroughly American in design, but with significant accents which evoke African culture and traditions. Two Detroit artists, Richard Bennett and Hubert Massey, created some of the most striking of these accents. Mr. Bennett's massive African-style masks adorn the facade above the bronze front doors, which he also created. Mr. Massey's terrazzo tile mosaic, "Genealogy," is interwoven with the floor in the rotunda. Crowning the rotunda is a glass and steel dome, the largest dome in southeastern Michigan.

The central display in the Museum will be the core exhibition, "Of the people: An African American experience." This exhibition will use historical artifacts, audio recordings, documents, and three-dimensional displays to take visitors through the totality of the African American experience, from the first slave ships through the present day. Displays will also put into context the importance of African traditions in historical and modern American culture. Two additional galleries will be used for new and changing exhibits.

The men and women of the new Museum of African American History are committed to creating an institution which is truly a partner in the community. To that end, the Museum will offer a lecture series, after-school programs for Detroit children, weekend workshops for children and adults and theatrical arts programs.

The Museum never would have been built without the leadership of Mayors Coleman Young and Dennis Archer, and without the financial support of the residents of Detroit and the corporate community. All of them came together and pledged their support for what will be the finest institution of its kind in the country.

At the Museum's grand opening on April 12, the United States Postal Service will unveil the winning design for the first stamp celebrating Kwanzaa. The Kwanzaa stamp, which has been designed by the internationally acclaimed artist Synthia Saint James, will highlight the importance of African traditions in the lives of so many Americans. Ms. Saint James is an accomplished author, poet, and award-winning illustrator of books for children and adults. She has previously been commissioned to create works of art for organizations like UNICEF, Dance Africa and the Girl Scouts of America.

Mr. President, it is important that we recognize the contributions African Americans have made to our nation's cultural heritage. People of all races will learn and be touched by their experience at Detroit's Museum of African American History. On the occasion of the Museum's grand opening, I know my colleagues join me in congratulating the men and women who helped make this remarkable institution a reality.●

UNANIMOUS-CONSENT REQUEST—SENATE RESOLUTION 70

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Senate Resolution 70, submitted earlier today by Senator DASCHLE and others, that the resolution and preamble be agreed to, and the motion to reconsider be laid upon the table en bloc. Further, that any statements relating thereto be placed in the RECORD at the appropriate place.

The PRESIDING OFFICER. Is there objection?

Mr. SMITH of New Hampshire. Mr. President, I object at this time on behalf of some Members on our side of the aisle.

The PRESIDING OFFICER. Objection is heard.

REGARDING THE STATUS OF THE INVESTIGATION OF THE BOMBING OF THE ISRAELI EMBASSY IN BUENOS AIRES IN 1992

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 20, submitted earlier today by Senators BROWNBACK, ROBB, HELMS, and BIDEN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 20) expressing the sense of Congress regarding the status of the investigation of the bombing of the Israeli Embassy in Buenos Aires in 1992.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 20) was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 20

Whereas on March 17, 1992, the Israeli Embassy in Buenos Aires, Argentina, a school, and several nearby buildings were destroyed by a powerful suicide car bomb blast in which 29 innocent children, women, and men lost their lives and an additional 252 innocent people were injured;

Whereas the victims of this terrorist attack included employees of the Israeli Embassy and their families, children from a nearby Roman Catholic primary school, women and men from a nearby Roman Catholic church shelter, a Roman Catholic priest, and people from across the spectrum of Argentine society;

Whereas Argentina's Jewish community, which numbers 300,000 and is the largest Jewish community in Latin American, has suffered severe anti-Semitism during periods of military rule and feels particularly vulnerable to assault from certain radical Islamic groups and from indigenous far right extremists in Argentina;

Whereas Islamic Jihad claimed responsibility for the bombing of the Israeli Embassy and praised the name of the alleged suicide bomber, Abu Yasser, by calling him a "martyr struggler";

Whereas Islamic Jihad is a terrorist organization that is supported by Iran and, according to Department of State officials, Iranian diplomats collected information to plan the bombing;

Whereas the failure of Argentine and international efforts to bring the perpetrators of the embassy bombing to justice made Argentina a prime target for a second devastating terrorist attack on July 18, 1994;

Whereas the second bombing destroyed the Asociacion Mutual Israelita Argentina (AMIA) Jewish Community Center, killing 86 people and injuring over 200 people; and

Whereas the investigation of the Israeli Embassy bombing has been hampered by the inefficiency of having the entire membership of the Supreme Court of Argentina in charge of the investigation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) notes that as of March 17, 1997, 5 years after the bombing of the Israeli Embassy and 2½ years after the bombing of the AMIA Jewish Community Center, Argentinean police and judicial authorities have not identified and initiated prosecution of the perpetrators of these 2 barbarous acts of terrorism;

(2) urges the Supreme Court of Argentina to designate a single investigative judge to conduct the investigation of the terrorist bombing of the Israeli Embassy in order to improve the efficiency of the inquiry;

(3) urges Argentinean judicial authorities to aggressively investigate the bombing of the AMIA Jewish Community Center and the possible connection between that bombing and the bombing of the Israeli Embassy in Buenos Aires;

(4) urges Argentinean authorities to acknowledge publicly the reports submitted by Argentinean, United States, and Israeli experts, that the explosion at the Israeli Embassy took place outside the walls of the embassy;

(5) urges the President and appropriate executive agencies to provide whatever assistance is requested by Argentinean Government authorities in order to help that Government investigate these 2 acts of terrorism; and

(6) directs the Secretary of the Senate to transmit a copy of this resolution to the Government of Argentina.

DESIGNATING THE J. PHIL CAMPBELL, SENIOR, NATURAL RESOURCE CONSERVATION CENTER

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 785, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 785) to designate the J. Phil Campbell, Senior, Natural Resource Conservation Center.

The Senate proceeded to consider the bill.

JAMES PHILANDER CAMPBELL

Mr. COVERDELL. Mr. President, James Philander Campbell made significant contributions to the State of Georgia and the Nation during his lifetime, especially in the area of agriculture. J. Phil Campbell was born in Dallas, GA, just northeast of Atlanta, on March 28, 1878. He grew up on a farm and at an early age helped enact legislation to authorize agriculture instruction in Georgia's rural schools. Mr. Campbell was a true visionary who saw the importance of agriculture to our Nation and the need to establish a comprehensive national strategy.

Between 1908 and 1910, Mr. Campbell served as the first farm extension supervisor to the southeast region. This was done before passage of the Smith-Lever Act in 1915, which created the Federal extension service. In 1910, he began a career as the Georgia State agent for the U.S. Department of Agriculture, as well as serving on the staff of Georgia State University's College of Agriculture.

Mr. Campbell was the director of extension work in agriculture and home economics. In 1933, he helped assist the Agriculture Adjustment Administration with its cotton belt crop replenishment division. Shortly thereafter, he was named as Assistant Chief of the Soil Conservation Service in the U.S. Department of Agriculture. He remained at that post until his death in December 1944.

The legislation we have before us today, H.R. 785, sponsored by Representative CHARLIE NORWOOD, recognizes the lifetime accomplishments of Mr. Campbell by renaming a building which he was substantially responsible for creating, the Southern Piedmont Conservation Research Center, in his honor. H.R. 785 is similar to legislation which I introduced earlier this year, S. 338, which renames this center in Mr. Campbell's honor. I would like to thank my colleague in the House, Representative NORWOOD, for his work on this legislation, as well as Senator CLELAND for his cosponsorship of S. 338 and help in facilitating the passage of H.R. 785. I would also like to thank Chairman LUGAR, the staff of the Senate Agriculture Committee, the majority leader, and the minority leader for their help in enacting this legislation.

The Southern Piedmont Conservation Research Center is located on Experimental Station Road in Watkinsville, GA. This legislation would redesignate this facility as the "J. Phil Campbell, Senior Natural Resource Conservation Center." I would like to point out that the Congressional Budget Office [CBO] has stated that enactment of this legislation will result in no significant cost to the Federal Government or taxpayers. In addition, Secretary of Agriculture Dan Glickman has no objections to this legislation.

I urge my colleagues to join me in recognizing Mr. Campbell's contributions to agriculture and our Nation by supporting this legislation.

Mr. SMITH of New Hampshire. I ask unanimous consent the bill be considered, read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 785) was passed.

JUNETEENTH INDEPENDENCE DAY

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S.J. Res. 11 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

> A joint resolution (S.J. Res. 11) commemorating "Juneteenth Independence Day," the day on which slavery finally came to an end in the United States.

The Senate proceeded to consider the joint resolution.

Mr. DASCHLE. Mr. President, today we recognize the date upon which slavery finally came to an end in the United States, June 19, 1865, also known as "Juneteenth Independence Day." It was only on this day that slaves in the Southwest finally learned of the end of slavery. Since that time, for over 130 years, the descendants of slaves have celebrated this day in honor of the many unfortunate people who lived and suffered under slavery. Their suffering can never be repaired, but their memory can serve to ensure that no such inhumanity is ever perpetrated again on American soil. We commemorate Juneteenth Independence Day to honor the struggles of these slaves and former slaves, to acknowledge their suffering and so that we may never forget even the worst aspects of our Nation's history.

But this day and this resolution in honor of the end of slavery should also make us feel proud, proud that we as a nation have come so far toward advancing the goals of freedom and justice for all of our citizens. While we must continue ever forward in the search for justice, we should be thankful that the tireless efforts of vigilant Americans have enabled us to achieve a society built on Democratic principles and the recognition that all men and women are created equal.

Ms. MOSELEY-BRAUN. Mr. President, today, April 11, is national pay inequity awareness day. Today we recognize that women are still earning less than 75 cents for every dollar that a man earns and that this pay differential has a long-lasting negative impact on women and on the Nation.

Women earn less than men. In 1981, a woman earned just 60 cents for every dollar a man earned. We have made progress and today women are earning about 71 cents on the dollar. In Illinois that number is just 66 cents for every dollar, but even this is progress. Nonetheless the remaining inequity is unacceptable.

Besides the basic equity issue, the fact that women earn less than men is unacceptable for three reasons: women comprise over half the population, women contribute to family income in over half of all American families, and women live longer than men.

Women make up over half the population and that means that pay inequities affect the majority of the American people. Employers continue routinely to pay lower wages on jobs that women dominate and in many cases women receive less pay for performing the same work as men. Women in the American work force are not only met with the challenge of breaking through a glass ceiling, but also a glass wall.

Women are breadwinners in over half of all American families. The fact that over a lifetime, this difference in pay can equal over a quarter of a million dollars has a direct impact on America's families—families struggling to send their children to school, to pay their mortgages, to save for retirement. Women who receive 71 cents on the dollar in wages are not able to pay 71 cents on the dollar for groceries or child care. Equal pay is a survival issue for America's families.

Women live longer than men. Women are going to spend more years in retirement and will have to make their fixed incomes stretch even further. The impact of lower lifetime earnings mean that only a third of female retirees today earn private pension benefits and the median pension benefit for women is half that of men's. In addition, while Social Security covers most female retirees, women's benefits are lower than men's. Even with full benefits, Social Security was never meant to provide for a secure retirement, it is only a floor. Today, women make up three-quarters of the elderly poor because they continue to earn less in retirement.

Women make up the majority of the population, are breadwinners in the majority of families and live longer than men. These facts combined with the reality of women's lower earnings result in a system of inequity that hurts America's families.

It is for these reasons that I joined my colleagues in sponsoring a sense-of-the-Senate amendment recognizing the important contributions women make to our country, recognizing the strides that employers have made in the area, and calling on all employers to address the issue of equal pay in their workplaces so that America's families can prosper. This is a resolution I believe we can all support.

I am also the cosponsor of legislation in this Congress that will make it easier for women to challenge unfair pay practices and for the Equal Employment Opportunity Commission to pursue cases of unequal compensation. This legislation is a basic remedy for a problem we all agree should not exist. I urge my colleagues to join me in sponsoring S. 71.

Mr. SMITH of New Hampshire. I ask unanimous consent the resolution be considered read a third time and passed, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The joint resolution (S.J. Res. 11) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 11

Whereas news of the end of slavery came late to frontier areas of the country, especially in the American Southwest;

Whereas the African-Americans who had been slaves in the Southwest thereafter celebrated June 19 as the anniversary of their emancipation;

Whereas their descendants handed down that tradition from generation to generation as an inspiration and encouragement for future generations;

Whereas Juneteenth celebrations have thus been held for 130 years to honor the memory of all those who endured slavery and especially those who moved from slavery to freedom; and

Whereas their example of faith and strength of character remains a lesson for all Americans today, regardless of background or region or race: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the annual observance of June 19 as Juneteenth Independence

Day is an important and enriching part of our country's history and heritage.

That the celebration of Juneteenth provides an opportunity for all Americans to learn more about our common past and to better understand the experiences that have shaped our Nation.

That a copy of this resolution be transmitted to the National Association of Juneteenth Lineage as an expression of appreciation for its role in promoting the observance of Juneteenth Independence Day.

PERMITTING THE USE OF THE ROTUNDA OF THE CAPITOL FOR A CEREMONY AS PART OF THE COMMEMORATION OF THE DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent the Senate proceed to the consideration of House Concurrent Resolution 11, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 11) permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

Mr. SMITH of New Hampshire. I ask unanimous consent the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 11) was considered and agreed to.

UNANIMOUS-CONSENT AGREEMENT—INSPECTORS GENERAL NOMINATIONS

Mr. SMITH of New Hampshire. Mr. President, as in executive session, I ask unanimous consent that nominations to the Office of Inspector General, excepting the Office of Inspector General for the Central Intelligence Agency, be referred during the 105th Congress in each case to the committee having substantive jurisdiction over the department, agency or entity, and if and when reported in each case, then to the Committee on Governmental Affairs for not to exceed 20 calendar days.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, APRIL 14, 1997

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Monday, April 14. I further ask unanimous consent that on Monday, immediately following the prayer, the routine requests through the morning hour be granted, and there then be a period for the transaction of morning business until the hour of 12 noon, with Senators to speak for up to 5 minutes each, with the following exceptions: Senator COVERDELL, or his designee, 60 minutes; Senator DASCHLE, or his designee, 30 minutes; Senator DURBIN, 10 minutes; Senator CONRAD, 20 minutes; Senator HAGEL, 20 minutes.

I further ask unanimous consent that at 12 noon on Monday, the Senate resume consideration of S. 104, the Nuclear Waste Policy Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SMITH of New Hampshire. Mr. President, the leader has asked me to state for the information of all Senators that the Senate will not be in session on Friday and will reconvene on Monday. As announced earlier, there will be no rollcall votes occurring during Monday's session of the Senate. All Senators should be aware that rollcall votes will occur early on Tuesday, April 15, beginning at 9 a.m.

ADJOURNMENT UNTIL MONDAY, APRIL 14, 1997, AT 10 A.M.

Mr. SMITH of New Hampshire. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:11 p.m., adjourned until Monday, April 14, 1997, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate April 10, 1997:

DEPARTMENT OF STATE

PETE PETERSON, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOCIALIST REPUBLIC OF VIETNAM.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

INTRODUCING H.R. 1271, THE FAA RESEARCH, ENGINEERING, AND DEVELOPMENT AUTHORIZATION ACT OF 1997

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mrs. MORELLA. Mr. Speaker, I rise today as Chair of the House Committee on Science's Subcommittee on Technology to introduce the FAA Research, Engineering, and Development Act of 1997. The legislation authorizes the FAA to conduct research, engineering, and development [RE&D] projects and activities that improve the national aviation system by increasing safety, security, capacity, and productivity for fiscal years 1998, 1999, and 2000.

Although the budget for RE&D reflects a relatively small portion of the FAA's total budget, the program plays a critical role in the research and development of new aviation technologies to help meet the increasing aviation demands of the next century. A major challenge facing the FAA today is the modernization of an aging system infrastructure. An infusion of new technology and procedures is essential if air traffic services are to continue to support safe and efficient flight operations of the future.

For fiscal year 1998, the legislation authorizes a slight increase over last year's enacted funding level, from $208,412,000 to $217,406,000. The increase is necessary to safeguard sensitive computer and information system data from unauthorized disclosure, to enhance weather research activities recognizing weather as a major contributor to aircraft incidents, to strengthen research activities helping the FAA to meet its goal of reducing aircraft noise 80 percent by the year 2000, and to establish a new undergraduate research grants program. The legislation authorizes $224,000,000 for fiscal year 1999 and $231,000,000 for fiscal year 2000 to carry out the FAA RE&D program.

Mr. Speaker, I am pleased to introduce this legislation which will assist the FAA in its efforts to increase airspace capacity, reduce inefficiencies, and to improve aviation safety and security. I encourage all my colleagues to join me in supporting the FAA Research, Engineering, and Development Authorization Act of 1997.

INTRODUCTION OF THE NATIONAL SCIENCE FOUNDATION ACT OF 1997, H.R. 1273

HON. STEVEN SCHIFF

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. SCHIFF. Mr. Speaker, I rise today to introduce the National Science Foundation Act of 1997. This 2-year authorization bill lays out a realistic and supportable plan to fund science.

The National Science Foundation [NSF] provides funding to over 19,000 research and education projects in science and engineering. It does this through grants and cooperative agreements to more than 2,000 colleges, universities, K–12 schools, businesses, and other research institutions in all parts of the United States. The Foundation accounts for about 25 percent of Federal support to academic institutions for basic research.

The President's fiscal year 1998 request for the National Science Foundation [NSF] is $3.367 billion. While the President's request offers a 3-percent increase over fiscal year 1997, I believe this number serves as a baseline for science funding.

The Research and Related Activities [RR&A] Account serves as the bellweather indicator for basic research at the Foundation. My bill authorizes $2.563 billion, or a 5.4-percent increase over fiscal year 1997. While I understand we are operating under tough budget times, I firmly believe that the discoveries of next century will be born from our Nation's current investment in basic research. This investment is a must for the United States to remain a world leader well into the next century. I am proud of the work of my subcommittee and the full committee in providing an achievable goal for the RR&A account in fiscal year 1998.

In fiscal year 1999, the bill increases the RR&A account to $2.740 billion, a 7-percent increase over fiscal year 1998. I believe this is an achievable goal. Over this next year, I intend to make the case to Congress and to the science community that this goal is the right track for basic research funding.

This bill provides for full authorization of the Antarctic Rehabilitation Program. Both within my subcommittee and at the full committee, after numerous committee hearings and oversight activities, we believe this Antarctic Rehabilitation Program is extremely worthwhile. Mr. Norm Augustine stated at our full committee hearing on, "The Future of Antarctic Research," "It's our belief we would not send a ship to sea or a spacecraft to orbit in the condition of the facilities that we have at the pole." Furthermore, the Secretary of State, Madeline Albright, reaffirmed in a letter to the Committee, "* * * it is essential for the United States to maintain an active and influential presence in Antarctica, including the South Pole Station." I believe now is the time to make the commitment to our Nation and scientists.

In the Education and Human Resources Directorate, this bill incorporates the President's request of $625.5 million, a 1.1-percent increase over fiscal year 1998. As a strong supporter of education, I am planning an aggressive oversight agenda for math and science education this year. Because I believe these programs are important, this bill provides for growth in this program to over $644 million, in fiscal year 1999.

This bill stresses the need to maintain low overhead and expenses in the salaries and expenses account. Also, in both years, we provide slight increases to the Office of the Inspector General.

In other provisions of the bill, NSF is required to submit a plan to the Congress on the status of present and future construction, repair, and upgrades to our national research facilities.

Understanding that the science community should not be immune to justifying its expenses in these tough budget times, the bill directs the Office of Science and Technology Policy to undertake a study to review indirect cost rates.

I want to particularly thank my ranking minority member, Mr. BARCIA, for his efforts on this bill and the bipartisan support he has shown in supporting the National Science Foundation.

IN HONOR OF THE BAYONNE COMMUNITY MENTAL HEALTH CENTER: CELEBRATING 25 YEARS OF INVALUABLE SERVICE TO THE CITY OF BAYONNE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to an exceptional organization, the Bayonne Community Mental Health Center which is celebrating its 25th anniversary. This achievement will be recognized at a celebration to be held the evening of April 12 at the Hi-Hat Caterers in Bayonne.

A quarter century ago, an exceptional group of concerned women recognized a need in the Bayonne community for mental health services. A place was envisioned where not a single person would be denied health services, regardless of his ability to provide payment for these valuable services. Through dedication and a commitment to excellence, the dream became a reality in the form of the Bayonne Community Mental Health Center.

Twenty-five years ago, people with a mental or psychological disability were often shunned

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

by others within their communities. Through the efforts of the Bayonne Community Mental Health Center, this perception has been greatly reversed. In its first year, the center provided almost 300 mental health visits for the residents of the Bayonne community. By 1996, this number had grown to more than 16,000 people availing themselves of the services on a yearly basis. The extraordinarily qualified staff of therapists and psychiatrists at the center offer comprehensive and personalized care covering a full spectrum of psychological illnesses.

Missions as important as that of the Bayonne Community Mental Health Center are never accomplished by one person. Each staff member has played a vital role in serving the community. Chief among these individuals are the past presidents of the Bayonne Community Mental Health Center including: Rose Donski, Gloria Koenig, Ethel Rosenthal, Harold Strohefer, Leonard Kiczek, William Downey, Mary Brennan, and Peter Anastas. Their work is continued by current president Agnes Mangelli.

I ask that my colleagues join me in recognizing the outstanding contributions made by the Bayonne Community Mental Health Center to the people of Bayonne. The well being of all residents of the area has been enhanced by the invaluable work of the center's dedicated individuals. It is an honor to have such an outstanding organization working on behalf of the residents of my district.

TRIBUTE TO CLOVIS UNIFIED SCHOOL DISTRICT

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Clovis Unified School District [CUSD]. In a Joint Powers Agreement, CUSD and Fresno Unified School District [FUSD], will open the Center for Advanced Research and Technology in Clovis, CA [CART]. An extended branch of the educational system in Clovis, CART will allow students in the community to adequately prepare for the technological challenges of the future.

Scheduled to open in the fall of 1999, CART pilot programs have been slated to begin in fall 1997. CART was made possible by a combination of grants and a partnership between local businesses and the educational departments of the community.

As a center striving to meet the employment needs of the community and adequately prepare students to take advantage of postsecondary options, the course work presented at the center will be responsive to the changes in the industry. CART will offer courses that require sophisticated laboratory environments and interdisciplinary curriculum that integrates higher order mathematics, sciences, and technology education. This course work will focus on the intellectual processes of problem solving, analyzing, team building resource allocation, and self-assessment through a cognitive apprenticeship instructional model. The skills taught at CART will be invaluable in both interpersonal and technological growth throughout the students, lives.

Striving to educate all segments of the community, high school students and adults will reap the benefits of CART. High school students will spend half of their day at the center receiving laboratory instruction. The State Center Community College District will offer postsecondary classes for students. Additionally, the Central California Business Incubator Program will also be located at the center.

Mr. Speaker, it is a pleasure to welcome a program of this nature to the 19th District. I look forward to monitoring the progress that CART makes as it works closely with members of the local community. I ask my colleagues to join me in wishing the Center for Advanced Research and Technology my best wishes for future success.

A TRIBUTE TO DOUG DOBMEIER

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. POSHARD. Mr. Speaker, I rise today to recognize a good friend of mine, Doug Dobmeier, the senior vice president of operations for Tharaldson Enterprises [TE] in Shelbyville, IL. Tharaldson Enterprises builds hotels and other businesses across the country, including over 30 hotels in the 19th Congressional District of Illinois. On behalf of southern Illinois I want to extend our appreciation for the many jobs and businesses that TE has generated over the past three decades, and for many pleasant stays during my own travels throughout the district.

Tharaldson Enterprises, Inc., was founded in 1982 by Gary Tharaldson. In 1984, as the company started to grow and the expansion of three new hotels was added, Gary decided to hire Doug Dobmeier to oversee TE's thriving business. With Doug's leadership TE became the largest hotel developer in the United States. Doug was soon promoted to senior vice president of operations and during his tenure has seen this company grow from 3 to 230 hotels located in some 20 States. Today this company witnesses 40 to 50 hotels added every year, which equates to an average of 1 grand-opening per week, and the company's number of employees has jumped from 33 to over 4,000. Doug's vision and leadership have steered this company to phenomenal success. Currently, Doug is the driving force behind the Extended Services Division overseeing their main goal of reaching 400 hotels by the year 2000. Doug has a dedicated and loyal staff working with him, including executive assistant Jill Gates and regional vice presidents Larry Davis, Don Klain and Tim Gefroh.

Mr. Speaker, Doug also has the overwhelming support of his wife, Sarah Dobmeier, and his three children, Andrea, Adam, and Amanda. Doug is a dedicated father and takes an active role in his children's schooling as a parent teacher association member. He is an anchor in his community, taking a leading role in the Hope Lutheran Church in Fargo, ND, where he serves as associate deacon. Doug and Sarah contribute to the youth advocate counselor for their parish and recently took a group of 20 teenagers to the Black Hills in South Dakota for a retreat. Doug also played an integral role in starting a youth traveling basketball team for the Boy's and Girl's club of Fargo, ND, serving as head coach. The support of Doug's community and family has allowed him to run such a successful business in southern Illinois.

Mr. Speaker, it's people like Doug who help stimulate the economy in the 19th Congressional District and inspire young people to give back to their communities. Doug Dobmeier is not only a team leader, but an example for all of us as we enter the 21st century.

HONORING ILLINOIS MOTHER OF THE YEAR PAULA "POLLY" MYERS

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. LAHOOD. Mr. Speaker, today I rise to honor a woman in my congressional district who was recently named Illinois' Mother of the Year. Paula "Polly" Myers, from Petersburg, IL, has been chosen for her involvement in her church, school, and community, but mostly for the love and dedication she has shown in raising seven wonderful children.

Polly Myers has lived her life displaying the qualities that inspire this type of award. Even as she was working and going to school to provide better opportunities for her children, she found time to teach Sunday School, serve on the PTA board, and play an active role in all aspects of her children's lives. She dedicated herself to her four natural children, and her three step-children, whom she raised as her own.

To be selected for this award, a nominee must meet a very rigid list of criteria. The search committee looks at the character and accomplishments of her children, her involvement in religious and civic institutions, her adherence to the Golden Rule, and how she embodies traits such as courage, patience, kindness, and understanding. By all of these standards, Polly Myers is a deserving recipient.

Polly Myers said herself that "You never go into motherhood thinking you're going to get an award." She is certainly right about that. Still, I am glad that awards such as this are given, and I am proud to honor Polly Myers, a truly deserving recipient.

INTRODUCTION OF THE PELL GRANT STUDENT/TAXPAYER PROTECTION ACT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mrs. ROUKEMA. Mr. Speaker, I am pleased today to introduce the Pell Grant Student/Taxpayer Protection Act. This legislation would prevent a postsecondary school from participating in the Pell Grant Program if that school is already ineligible to participate in the federally guaranteed student loan program. Plain and simple, this legislation will make sure that if you have high default rates, then you should not receive any title IV higher education funding period.

This is a critical time for our country. Congress is trying to save taxpayer dollars while improving the quality of postsecondary education that is available to all Americans. We have taken strong steps forward in achieving this when we reauthorized the Higher Education Act with nearly 100 sorely needed reforms that were good for students and good for taxpayers.

Reforms such as the 3-year 25 percent cohort default rate were intended to put an end to risk-free Federal subsidies for those unscrupulous, for profit trade schools who promise students a good education that leads to a good job and then fail to deliver on that promise—at the expense of both students and the taxpayers. If these schools violated these rules, then they would be bounced from the program.

We have already determined that schools with unacceptably high student loan default rates should not be permitted to participate in the federally guaranteed student loan program. I submit that if a school is deemed ineligible to participate in the federally guaranteed student loan program, then it should also not be permitted to participate in the Pell Grant Program.

We were able to put this into effect by making it a part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996. After going into effect for 1 year, about $8 million were redistributed to responsible schools.

If we could find a way to pay for an increase in title IV student aid programs, there would be very few Members, if any, who would be unsupportive. But, faced with a $4.7 trillion debt and annual deficits exceeding $200 billion, we do not have that luxury. However, today we have an opportunity to stretch our Pell grant funds by disqualifying those schools that we have already disqualified from the federally guaranteed student loan program.

I urge my colleagues to support this critical legislation. Make our Pell grant money go farther. Throw the scam schools out of the Pell program. Protect the taxpayer. Cosponsor the Pell Grant Student/Taxpayer Protection Act.

INTRODUCTION OF H.R. 1274, THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY [NIST] AUTHORIZATION ACT OF 1997

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mrs. MORELLA. Mr. Speaker, I rise today to introduce H.R. 1274, the National Institute of Standards and Technology [NIST] Authorization Act of 1997.

Mr. Speaker, NIST is one of our least known yet most important agencies. As part of the Department of Commerce, NIST performs for the Federal Government the vital role of standardization. This constitutionally mandated effort ensures that U.S. businesses have the ability to interact not only with each other, but in the global marketplace. Without an arbiter of standards, we would never know what even the simplest of measures represents. NIST laboratories are responsible for the maintenance and development of accurate weights and measures necessary for developing new technologies and carrying out commerce.

H.R. 1274 authorizes the NIST programs, the Under Secretary for Technology, and Office of Technology Policy for fiscal years 1998 and 1999. Unlike the administration's request, the bill prioritizes funding for NIST laboratory functions, increasing their funding by 5 percent in fiscal year 1998 and 3 percent in fiscal year 1999, while reducing funding for lower priority programs such as the Advanced Technology Program [ATP].

Specifically for fiscal year 1998, the bill authorizes $278,563,000 for NIST laboratory activities. This total includes an increase of $2,500,000 above the administration's request for the physics laboratory program to support reengineering measurement services to simplify the delivery of measurement assurance at the point of use. This initiative should increase the accuracy and lower the cost of calibration for the end users of NIST standards.

A $4,000,000 increase from the levels recommended by the administration is included for the Computer Science and Applied Mathematics Program to augment NIST work in the field of computer security; and $500,000 has been added for the Technical Assistance Program to support improving measurement standards to facilitate international trade and provide additional funding to implement the National Technology Transfer and Advancement Act of 1995. The bill authorizes a total of $286,919,890 for the NIST labs in fiscal year 1999.

The bill also authorizes funding for both the Advanced Technology Program [ATP] and the Manufacturing Extension Partnership [MEP] Program in fiscal years 1998 and 1999. ATP is authorized at $185,100,000 in fiscal year 1998 and $150,000,000 in fiscal year 1999. The program's match requirements are also altered by the bill, with new requirements for a 60-percent match from the private sector awardee replacing the program's traditional 50–50 split. This change should enable ATP grant funding to be further leveraged. To ensure that ATP grants are not simply displacing private capital, the bill also contains language requiring review of ATP applications to ensure that the ATP grant is actually required in order to enable the project to go forward.

Mr. Speaker, H.R. 1274 includes $117,800,000 for the Manufacturing Extension Partnership [MEP] Program in fiscal year 1998 and $111,300,000 in fiscal year 1999. These totals will allow for full funding of all 75 existing MEP centers and will cover the administrative costs associated with running the program. The bill also includes language which will allow MEP centers slated to sunset during the life of the bill to continue to receive funds for an additional 2 years if they meet the program's performance criteria.

The bill also authorizes $4,134,500 in fiscal year 1998 and $5,289,000 in fiscal year 1999 for the Malcolm Baldrige National Quality Program. The increases are sufficient to allow for the program's expansion into education and health care over the next 2 years.

Finally, the bill authorizes funding for NIST critical maintenance and construction needs. The bill includes $16,692,000 in fiscal year 1998 and $67,000,000 in fiscal year 1999 for construction and maintenance of NIST facilities. The funding is sufficient to cover the administration's request for maintenance in fiscal year 1998 and fiscal year 1999 and $50,000,000 in fiscal year 1999 for NIST's top new facility priority, the Advanced Metrology Laboratory [AML]. In order to ensure that the construction funding is used in the most appropriate fashion, H.R. 1274 includes a certification requirement precluding the Department from obligating any money to new construction unless it meets the requirements of NIST's new facilities plan.

Along with the authorization language, the bill includes provisions to reduce scientific research earmarks, to require the Science Committee to receive notice of any reprogramming of NIST funds, and to express the sense of Congress that NIST should address the year 2000 computer date field problem.

Mr. Speaker, H.R. 1274 is a sound bill. It is fiscally responsible and will help ensure that some of our Nation's most important technology research and development programs are adequately funded for the next 2 years. I encourage all my colleagues to join me in supporting the National Institute of Standards and Technology Authorization Act of 1997.

INTRODUCTION OF THE UNITED STATES FIRE ADMINISTRATION AUTHORIZATION ACT OF 1997, H.R. 1272

HON. STEVEN SCHIFF

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. SCHIFF. Mr. Speaker, I rise today with my colleagues Mssrs. SENSENBRENNER, BROWN, and BARCIA to introduce a bipartisan bill to authorize the programs of the United States Fire Administration [USFA]. This small agency, housed in the Federal Emergency Management Agency, provides vital assistance to the Nation's fire and emergency services communities which helps them to save lives and property. The USFA is able to perform this service through its four primary missions: fire service training; fire-related data collection and analysis; public education and awareness; and research and technology.

Through the efforts of the USFA as a partner with State and local fire and emergency service communities, fire deaths and injuries and property losses are down. For a relatively small amount of money, these programs provide the men and women of the fire service the necessary leg up that enables them to achieve the seemingly insurmountable obstacles they face every day as the first line of defense in the fight against fire and arson.

This 2-year authorization bill establishes funding levels sufficient to preserve all the missions and functions of the United States Fire Administration and the National Fire Academy [NFA], which is administered by the

USFA. Specifically, the bill provides a 3-percent increase over the administration's fiscal year 1998 requested level and a 3-percent increase in fiscal year 1999. We believe this additional money is necessary in order to ensure that the agency can continue its current mission activities as well as perform a new counterrerrorism training function.

Mr. Speaker, I applaud the efforts of the USFA and the NFA, and I believe this bill, as a reflection of the bipartisan support for these agencies, will enable them to continue their missions and accomplish their goals.

IN HONOR OF FATHER FRANCIS DOLS, T.O.R.: CELEBRATING 50 YEARS OF SERVICE TO HIS FELLOW MAN BOTH IN EUROPE AND AMERICA

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to an exceptional man, Father Francis Dols, who is celebrating the 50th anniversary of his ordination as a priest in the Franciscan Order. Father Dols' achievement will be recognized at a concelebrated Mass of thanksgiving on April 13 at the Immaculate Heart of Mary Church in Elizabeth to be followed by a reception and dinner in the Main Parish Hall.

Father Francis Dols seemed destined to serve his fellow man from an early age. He was born in the small Spanish town of Santa Maria Del Cami—"St. Mary of the Road". This beautiful island community set Francis Dols on the path that has led to his being with us today. At the age of 12, Francis Dols entered the Franciscan seminary of the Third Regular Order [T.O.R.] of St. Francis. When he was 16, Father Dols was accepted as a novice, and one year later he was professed as a fully committed member of the religious Order of St. Francis. Another year hence, Francis Dols left Spain for Rome to enroll in the Angelicum Catholic University to pursue the academic credentials required for admittance to the priesthood. However, the war in Europe resulted in the temporary closing of the university, thereby forcing Father Dols to return home.

Upon returning to Spain, Father Dols spent the next 4 years at the Franciscan Seminary. On April 13, 1947, Father Francis Dols was ordained a priest and began a new chapter in his spiritual journey. Father Dols' first assignment was to a large parish in the southwestern part of Spain, approximately 150 miles from the capital city of Madrid, where he spent the next 5 years in pastoral ministry. This extraordinary experience provided Father Dols with many gratifying moments caring for the spiritual needs of his parishioners. A highly positive experience aroused Father Dols' interest in spreading the word of God to those in the Americas. His arrival in the northwestern region of Brazil saw Father Dols working with the native Americans in the vast Amazon Forest. Father Dols' 4 years in South America afforded him many good times participating in the lives of this eager flock.

After leaving his adopted home, Father Dols' road of spiritual enlightenment led him to the United States. The people of Elizabeth were extremely fortunate to have Father Dols accept the position of pastor of Immaculate Heart of Mary. His spiritual leadership has enriched the congregation; bringing them closer to God. And, he has been a source of guidance and solace to all who have sought his counsel.

It is an honor to recognize Fr. Francis Dols on the anniversary of his ordination. He has committed his life to God's service; and, over the past half century, has dedicated himself to his fellow man. I am certain that my colleagues join me in paying tribute to this remarkable priest.

VETERANS' EMPLOYMENT OPPORTUNITIES ACT OF 1997

SPEECH OF

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mrs. KELLY. Mr. Speaker, I rise today in strong support for H.R. 240, the Veterans' Employment Opportunities Act of 1997. I am proud to be a cosponsor of this important legislation and ask all my colleagues from both sides of the aisle to join me in voting overwhelmingly for quick passage.

In 1944, Congress enacted the Veterans Preference Act to address the readjustment needs of the men and women who served their country during a time of war. The law was designed to assist veterans in regaining the lost ground their civilian careers had suffered as a result of military service. In the beginning, the Federal Government gladly complied with the provisions of the new veterans preference law. Unfortunately, as time passed and the memory of war faded, so did America's concern for fulfilling its obligation to its citizen-soldiers. Today, the original legislation and its amendments are easily circumvented.

Currently, veterans' preference laws give certain veterans preference in appointment to civilian employment with the Federal Government based upon their military service. Congress has long recognized that this is an earned benefit, not a gift. H.R. 240 strengthens veterans' preference and increases employment opportunities for veterans. It provides veterans an effective, efficient, and user-friendly redress mechanism for veterans whose rights have been violated under veterans' preference laws. In short, H.R. 240 will end circumvention of veterans' preference laws.

Additionally, H.R. 240 provides veterans with increased protections during reductions in force and extends veterans' preference to certain positions at the White House and in the legislative and judicial branches. This legislation is long overdue. If Federal agencies and Federal managers were fulfilling their obligation to enforce current law, this legislation would not be necessary.

In closing, I again ask that all of my colleagues join me in support of our Nation's veterans by voting for H.R. 240.

HONORING EUGENE CLARK

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. STUPAK. Mr. Speaker, it is an honor for me to bring to the attention of the House of Representatives and the American public the distinguished record of service to Michigan's disabled veterans by Michigan State Commander of the Disabled American Veterans, Eugene Clark, of St. Ignace, MI. Mr. Clark is a friend and a constituent of mine from the First Congressional District. As he concludes his term as State Commander this June, I wish to call the Nation's attention to this dedicated veteran.

Entering the U.S. Army in 1966, Mr. Clark served in Vietnam with the 25th Infantry Division and its 2/14th Infantry. He was involved in several major conflicts, including the Tet Offensive, Manhattan, and Junction City. Mr. Clark's love of country and dedication to the military earned him 2 separate Purple Hearts, the Combat Infantry Badge, the Vietnam Service Medal with 3 bronze service stars, and 4 Presidential Unit Citations during the 24 months he served in Southeast Asia.

Upon his discharge, Mr. Clark joined Local 324 of the Operating Engineers where his outstanding work was always acknowledged and appreciated. He was employed as a superintendent of the American Dredging and Construction before retiring.

In his role as DAV State Commander, Eugene Clark has led the 42,000 Michigan DAV members with dignity, compassion, and decisiveness. While motivating the DAV membership, Mr. Clark has confidently and respectfully promoted the goals and ideals of the DAV throughout his tenure.

Mr. Clark has dedicated his life to veterans and their families and his service as State Commander will serve as an example for his successors. I know I speak for all veterans in thanking Eugene Clark for his work on behalf of veterans, especially Michigan veterans, and wish him well in his future endeavors.

HELEN JACKSON CLAYTOR CELEBRATES 90TH BIRTHDAY

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. EHLERS. Mr. Speaker, I would like to ask you and my colleagues to join me in extending birthday greetings to a very special woman from my hometown of Grand Rapids, MI. Mrs. Helen Jackson Claytor will celebrate her 90th birthday on April 12. I am honored to know Helen and I greatly respect the time and energy she has put forth in making our community a better place to live through her work with race relations. Her tireless leadership and ability to get results should serve as an inspiration for all of us.

Born and raised in Minneapolis, MN, Helen graduated from John Marshall High School at the top of her class in 1925. After high school she attended the University of Minnesota, where she graduated cum laude in just 3 years while studying to become a teacher. While at the University of Minnesota she was also elected to Phi Beta Kappa. Following her graduation Helen found that opportunities for African-American teachers were extremely limited. The lack of available teaching jobs led her to the YWCA in Trenton, NJ where she worked as a Girl Reserves secretary. She also served a similar stint at the YWCA in Kansas City, MO in late 1930. These jobs marked the beginning of her long association with the YWCA.

Helen serves as a true ambassador for the YWCA, having traveled all over the country to speak on the topic of race relations at YWCA's that were segregated before the civil rights movement. As an elected member of the YWCA's World Council she traveled to such places as China, Switzerland, and Africa. Her drive and determination led her to the position of an active board member of the YWCA in Grand Rapids and later in her career she made history by becoming the first black women ever to be elected president of a community YWCA. In the late 1940's she was elected to the National Board of Directors of the YWCA and served as the president from 1967 until her retirement in 1976. As president, Helen played a key role in helping the organization draft the YWCA Purpose in 1967, an honor she regards as a major accomplishment of her career. She still holds the title of Honorary Member of the Board.

In addition to her numerous roles with the YWCA, Helen has been actively involved in countless community organizations and has been recognized for her efforts with numerous awards and commendations. Among her more recent honors are an honorary degree from Aquinas College, the Giant's Award from the Coalition of Grand Rapids Organizations, the Grand Rapids Y.W.C.A.'s Tribute to Women Award, and the Grand Rapids NAACP Role Model Award; she has also been inducted into the Michigan Women's Hall of Fame.

Widowed twice, Helen was married to journalist Earl Wilkens, who died of tuberculosis at an early age. She later married Dr. Robert Claytor, the first black physician in Grand Rapids. Throughout her years, Helen has been blessed with the support of a very loving and caring family that includes her three children, Roger Wilkens, Judith Claytor, and Sharon Claytor Peters.

Mr. Speaker, there is not enough time in the day to thoroughly highlight the many contributions that Helen had made to our society. Celebrating 90 years of life is truly a blessing. I want to again personally extend my heartfelt wishes to Helen for a joyous day of celebration with her family and many friends that will gather to honor her on April 17 at the Grand Rapids YWCA. Thank you, Helen, for being the outstanding citizen that you are.

HONORING ANNA-MARIE STRANGE FOR GIRL SCOUT GOLD AWARD

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. YOUNG of Alaska. Mr. Speaker, I am proud to announce Anna-Marie Strange, daughter of Beth and Sam Strange of Kasilof, as the latest Kenai Peninsula recipient of the Girl Scout Gold Award. Anna-Marie, a fifth generation Alaskan, is the granddaughter of Barbara and Ed Meier and Tom and Ned Strange, Anchorage.

Anna-Marie a member of Senior Troop 994, has been active in Girl Scouting for 11 years and recently received a Lifetime Membership in Girl Scouting as a gift from her long time Girl Scout mentor. For several years she served as an A.C.E. (junior counselor), at the Rainbow Trails Girl Scout Day Camp, and was a unit leader at the Nikiski Day Camp in 1994. She also completed the leader in training and counselor in training programs. In 1994, she traveled to Hokkaido, Japan with Susitna Council's Japanese Exchange Program. During the 1995–96 school year Anna-Marie served as a leader for Daisy Girl Scout Troop 32, Tustumena School. She has also worked as junior core-staff for the 1993 and 1995 Susitna Council encampments.

For her Girl Scout Gold Award project, Anna-Marie cross-referenced the Project WILD, Project Learning Tree, programs as well as the films and activities available at the Kenai National Wildlife Refuge with the various levels of the Girl Scout program. She then compiled a book for local leaders to use when incorporating outdoor activities in their troop programming. To culminate and test out her completed project, Anna-Marie hosted a Wide-Game for local Girl Scouts at the refuge in late August.

In addition to Girl Scouting, Anna-Marie has been active in many outside activities. She participated in swim team and cross-country skiing at Skyview, played the bassoon in both the Kenai Peninsula Community Band and Orchestra, and is active in Soldotna Methodist Church. She was salutatorian of Skyview High School, Band Student of the Year, and a member of the All State Honor Band and Borough Honor Band. She received the John Philip Sousa Award and Marine Corps Semper Fi Award in 1996. She is a member of the National Honor Society and Japanese Club, and received a Student of the Year scholarship from the Soldotna Chamber of Commerce. Anna-Marie is a certified life guard and swimming instructor, and worked at the Skyview pool for the past year. She also volunteered as assistant waterfront director for the local Cub Scout day camp in 1995 and in 1996 at the exhibits department of the Palmer State Fair.

Anna-Marie is now a freshman at Gustavus Adolphus College, Minnesota, majoring in music education.

PERSONAL EXPLANATION

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Ms. KILPATRICK. Mr. Speaker, because I was unavoidably detained in the 15th Congressional District of Michigan, I was not present at rollcall vote No. 72 and rollcall vote No. 73. Had I been present for these votes, I would have voted "aye" for rollcall vote No. 72 and "aye" for rollcall vote No. 73.

ON BRIAN BLANKENBURG'S ATTAINMENT OF EAGLE SCOUT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor Brian Blankenburg of North Olmsted, OH, who will be honored this month for his recent attainment of Eagle Scout.

The attainment of Eagle Scout is a high and rare honor requiring years of dedication to self-improvement, hard work, and the community. Each Eagle Scout must earn 21 merit badges, 12 of which are required, including badges in: lifesaving; first aid; citizenship in the community; citizenship in the Nation; citizenship in the world; personal management of time and money; family life; environmental science; and camping.

In addition to acquiring and proving proficiency in those and other skills, an Eagle Scout must hold leadership positions within the troop where he learns to earn the respect and hear the criticism of those he leads.

The Eagle Scout must live by the Scouting Law, which holds that he must be: trustworthy, loyal, brave, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, clean, and reverent.

And the Eagle Scout must complete an Eagle project, which he must plan, finance, and evaluate on his own. It is no wonder that only 2 percent of all boys entering scouting achieve this rank.

Brian's Eagle project was the repair, refurbishing, and repainting of ticket booths and parking lot lampposts at North Olmsted High School.

My fellow colleagues, let us join Boy Scouts of America Troop 53 in recognizing and praising Brian for his achievement.

INTRODUCTION OF THE VETERANS' NURSING CARE AVAILABILITY ACT OF 1997

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mrs. KELLY. Mr. Speaker, I rise today to introduce the Veterans' Nursing Care Availability Act of 1997. This important legislation will help correct a flaw that exists in the way that the Department of Veterans Affairs ranks applications for its State Extended Care Facilities Grant Program.

The State Extended Care Facilities Grant Program provides Federal funding for up to 65 percent of the total cost for the construction of State veterans nursing homes. Many States have been desperately trying to get a grant under this program to assist in the construction of State veterans nursing homes. However, despite documented need, they have been unable to get the Federal funding necessary to move forward.

Because of the overall inequity of the system that the VA uses to rank State applications, I have decided to introduce legislation that will ensure that States with the greatest veteran need receive priority funding.

The current system that the VA uses to rank State applications gives priority to States that have never received a similar grant in the past. While on the surface this may seem logical, the practical effect is that States with the highest veteran's need are often neglected because they received a grant sometime in the past. As a matter of fairness, I believe applications should be ranked solely on the needs of veterans.

The legislation I am introducing will correct this inequity by ensuring that States with the highest need receive priority. The Department of Veterans Affairs has determined that there should be 4 nursing home beds for every 1,000 veterans in a State. Using this determination, my bill would have applications based on a formula where veteran need is defined as a number of veterans in the State multiplied by 4 and divided by 1,000 (need = vet. population * 4/1,000).

Mr. Speaker, this is an important piece of legislation for our Nation's veterans. I urge all of my colleagues to join me in working for its enactment.

HONORING TISBE FALCONE DIMEO

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. ENGEL. Mr. Speaker, today, I would like to praise a woman whose contributions are the kind which go unnoticed by society at large but which mean so much to the people who are directly affected. Tisbe Falcone DiMeo is such a person. For more than 20 years she has worked at the board of education in Public School 87 in the Bronx where she was a school lunch aide. But it was the personality and charm she brought to the kitchen which made it distinct. Mrs. DiMeo turned this into an area where teachers would come to relax, to talk about work and themselves, to take that vital time which reinvigorates us. That kitchen was such a center of the school that the principals would drop in to become a closer part of that small community. Mrs. DiMeo personifies the person we all remember who made school more like home than an institution, the one we always speak foundly of. As a former teacher I can appreciate the atmosphere created by such a person. I have also had the opportunity to witness first hand the warmth and charm of this caring individual. She is the mother-in-law of my administrative assistant, John Calvelli.

On the evening of Friday, April 11, 1997, members and friends of PS 87 will be hosting a dinner to celebrate a new chapter in Mrs. DiMeo's life: her retirement. I salute her and thank her for all she has given to the school, its teachers and its students, and consequently to our community. I look forward to sharing many special events in the coming years with her and the entire DiMeo family.

IN HONOR OF REV. THOMAS BOYD OF THE SALEM MISSIONARY BAPTIST CHURCH OF BROOKLYN, NY

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. SCHUMER. Mr. Speaker, it is with profound pleasure that I congratulate today an exemplary community and religious leader, Rev. Thomas Boyd of the Salem Missionary Baptist Church. He has devoted 50 years of his life to the church, 37 of those to the Salem Missionary Baptist Church alone.

Reverend Boyd has been an invaluable spiritual leader. He plays a vitally important role in the community to the many who over the years have come to depend on his warm heart and kind words. His dedication and service to the church is testament to what a commitment, in this case to the faith, requires of us all. His leadership is inspirational and extends well beyond the reaches of his congregation. As public servants we should draw from his example and strive to emulate this level of commitment.

I ask my colleagues to join me in extending a hearty congratulations to Reverend Boyd for his 50 years of religious service. And also to the Salem Missionary Baptist Church, for providing him a base from which to build a spiritual home for the people of Brooklyn.

TENNESSEE CLASS A BASKETBALL CHAMPIONS

HON. ED BRYANT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. BRYANT. Mr. Speaker, may it be known that the Vikings of Perry County High School in Perry County, TN, are Class A basketball champions. The feat gave Perry County High School its sixth State Championship Trophy for basketball since 1955.

Twenty-eight times during their regular season, these Vikings took to the hardwood floors of Tennessee's high school gymnasiums to measure their metal. And those 28 competitions brought upon them the inspiring thrill of success and victory. Indeed, their numerous regular season achievements, coupled with a sheer desire to win, would carry them to victory throughout the district, regional, sub-State, and the pinnacle of high school basketball, the State Tournament.

Coach Bruce Slatten is to be commended for such a fine year of coaching. Without his unwavering guidance and devotion to his players, this team would likely not have been the same. Seniors Phillip Carroll, Kirk Haston, Chris Jones, and Chad Marrs undoubtedly showed team leadership throughout the year. Other players who made this team a success include Cory Brown, Nick Coble, Shannon Hamm, Ben Mercer, Mitchell Rhodes, Blake Warren, Barton Coble, Clay Pope, Josh Warren, Dan McEwen, and Josh Walker. Team managers Kenny Tohn, Adam Trull, and Ryan Parnell lent helping hands, as did statisticians Jeremy Hester and Troy Himes, and cameraman Michael Jones.

Four Vikings would go on to earn All-State Tournament honors—Cory Brown, Kirk Haston, Chris Jones, and Mitchell Rhodes. Mr. Haston was named the Single A State Tournament's "Most Valuable Player," and for the second year in a row, was named "Mr. Basketball" in Tennessee Single A basketball.

I am proud to see Perry County High School uphold its winning and championship tradition in high school basketball, and wish this team the best of luck in all their future endeavors.

TRIBUTE TO JAMES FARMER

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. LEWIS of Georgia. Mr. Speaker, 55 years ago this month, the first sit-in took place. It was at the Jack Spratt Coffee Shop in Chicago, IL. It was conceived, organized, and led by James Farmer.

Fifty years ago, in 1947, in followup to the 1946 Supreme Court ruling that blacks could not be forced to sit in the back of buses traveling interstate, Farmer led CORE members in a challenge to the practice of segregated seating. On what he called the journey of reconciliation, they traveled through Maryland, Virginia, North Carolina, and West Virginia. Some members of that group, including Bayard Rustin, were arrested and served 30 days on a chain gang in North Carolina for having violated local segregation laws.

These are among the little known but critical events on the road to equal rights and equal protection under the law in the United States. Better known are the Freedom Rides. James Farmer orchestrated them, too.

Tireless and committed, Jim Farmer led 13 of us—an interracial group of young men and women whom he had helped train in the Ghandian principles of direct action and nonviolence—on a journey toward freedom, through the deep South. There was violence all around. Our buses were burned. We were beaten. But, we never turned back.

The Freedom Rides catapulted Birmingham police commissioner, Bull Connor, onto the front page of major newspapers around the world. The Freedom Rides opened Bobby Kennedy's eyes to the intransigence of Southern segregationists and the need for the Federal Government to intervene in the struggle for civil rights. And the Freedom Rides brought down the white only and colored signs that had been hung over every bus seat, terminal bench, toilet, and water fountain in the South.

Although he was one of the "Big Six" leaders of the civil rights movement, a planner of the 1963 march on Washington and scheduled to speak at the march, Jim Farmer didn't make it to the march. He was in jail in Louisiana at the time; and, while he could have been released, he chose to stay with the 200 others who had marched in Plaquemine earlier in the week protesting the inhumane treatment of black people in that parish.

Almost a month later, the Plaquemine protesters were released. However, the only way Farmer was able to escape Louisiana was in a coffin in the back of a hearse. The State troopers had vowed to find him and kill.

Referred to as a "young negro aristocrat," Farmer was born in Texas, where his father was the first black person to earn a Ph.D. degree. Today, he is 77 years old. He is blind. He has lost the use of both of his legs. He is not in good health.

He is still teaching at Mary Washington College in Fredericksburg, VA, where is he Distinguished Professor of History and American Studies. He continues to inspire his students and all those who come in contact with him to set goals, direct their actions, lead, be creative, have vision and keep the faith.

I invite my colleagues to join me in paying tribute to James Farmer, one of our Nation's greatest heros, his work, his legacy, and his life.

INTRODUCTION OF THE FAIR PAY ACT OF 1997

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Ms. NORTON. Mr. Speaker, today I reintroduce the Fair Pay Act [FPA], a bill that would require employers to pay equal wages to employees in comparable jobs in an effort to remedy the pay inequities which women continue to endure. I introduce the bill today, the day before Pay Inequity Day, because that is the day on which women finally earn what men earned in the previous calendar year. I have introduced this legislation each Congress with increasing support in both the House and the Senate, and I hope to have even more support in the 105th Congress. The bill already has 25 original cosponsors.

American families are becoming more and more dependent on women's wages. Today, 40 percent of all working women have children under 18. In two-parent families, 66 percent of the women work, and the number of female-headed households has more than doubled since 1970.

Although most American families today must rely heavily on women's wages, women continue to earn less than their male counterparts with comparable qualifications. Women complete more schooling than men but earn only 72 cents for each dollar earned by men. Although the wage gap has slowly narrowed over the years, much of the gap is not closing for women at all but is due to the decline in men's wages. Much of the rest of the progress can be traced to earnings of a small group of professional or highly skilled women. The average woman has seen little if any progress. Over her lifetime, a woman loses over $420,000 due to pay inequity, and collectively, women—and therefore often their families—lose·more than $100 billion in wages each year because of wage discrimination.

The Equal Pay Act (EPA) was passed in 1963, and by focusing on pay disparities where men and women were doing the same (or similar) jobs, its enforcement has helped narrow the wage gap between men and women. The Fair Pay Act takes the Equal Pay Act one step further and seeks to confront the pay disparity problem of the 1990's the way the EPA confronted the equal pay problem in the 1960's.

The FPA recognizes that if men and women are doing comparable work, they should be paid the same. If you are an emergency services operator, a female-dominated profession, for example, you should not be paid less than a fire dispatcher, a male-dominated profession, simply because you are a woman and he happens to be a man. If you are a social worker, a traditionally female occupation, you should not earn less than a probation officer simply because you are a woman.

The FPA, like the EPA, will not tamper with the market system. As with the EPA, the burden will be on the plaintiff to prove discrimination. She must show that the reason for the disparity between herself and a man doing comparable work in her workplace is sex—or race—discrimination, not legitimate market factors.

As women's employment becomes an increasingly significant factor in the diminishing real dollar income of American families, fair pay between the sexes for comparable employees escalates in importance. This new paycheck frontier must be conquered for women and their families. I urge my colleagues to support this legislation.

TRIBUTE TO LOS LOBOS

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. BECERRA. Mr. Speaker, it is with great pride that I rise today to recognize the internationally acclaimed musicians Los Lobos for sharing their remarkable talents and their spirit of generosity with the people of America. The quintet has steadily gained fans internationally and earned a place as one of music's most uncompromising innovators. What is less known but equally as valuable about Louie Perez, Cesar Rosas, David Hidalgo, Conrad Lozano, and Steve Berlin is their roles as Ambassadors of goodwill. Los Lobos have become inspirational role models for the greater Los Angeles community, especially for our children.

Messrs. Perez, Rosas, Hidalgo, and Lozano were born and raised in east Los Angeles and were friends at Garfield High School. They came of age during the 1960's rock movement but have never abandoned their Mexican folk music heritage. The band's 20-plus-year history incorporates traditional rhythms, American folk, rock-and-roll and R&B among its influences. However, the strongest pull for Los Lobos derives from their east Los Angeles roots.

Los Lobos have released 10 albums and collaborated on numerous film, television, theatrical, and commercial productions. In 1985, the group received the distinction as "Band of the Year" by Rolling Stone. It was their hit "La Bamba," one of eight Ritchie Valens remakes recorded for the namesake movie soundtrack, that thrust them into America's eye and brought the band international acclaim. The song was Billboard's No. 1 pop single in 1987.

In 1988, Los Lobos received a Grammy Award for "Best Mexican-American Performance" for "La Pistola Y El Corazon." They have received other accolades ranging from MTV Music Video Awards to "L.A. Times Album of the Year."

All of what I have just recited explains the fame. But, one of Los Lobos' most recent perhaps most cherished achievements has been their support of Broadoaks Children's School in Whittier, CA. The group has raised considerable funds during three sold-out benefit concerts at Whittier College. All of these funds have enabled the school to expand its services to children, families, and teachers throughout Los Angeles.

In 1996, Broadoaks dedicated its newest building the "Los Lobos Learning Center," honoring the groups commitment to this first through sixth grade elementary school. The Los Lobos Learning Center includes two classrooms for fourth through sixth grade students, many of whom require special education services. All students in this center are required to participate in public service projects to instill the value of volunteerism—a reminder and tribute to their benefactors.

Mr. Speaker, on Friday, April 11, 1997, friends and family will gather at a dinner to pay special tribute to Los Lobos to acknowledge the group's commitment and generosity toward the children at Broadoaks Children's School. It is with distinct pleasure that I ask my colleagues to join me today in saluting these exceptional individuals for their outstanding contributions to the music world and for their lasting gesture of goodwill toward our community.

THE AMERICAN MEDICAL ASSOCIATION AND MEDICAL MARIJUANA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. SOLOMON. Mr. Speaker, the American Medical Association and all health care providers should be alerted that legislation I am introducing today will require the Attorney General to revoke the Federal license to prescribe medication to any health care practitioner who recommends to a patient the use of smoked marijuana. This bill is a response to the fraudulent efforts of the pro-drug crowd in the States of California and Arizona where they now allow for the medical use of marijuana. This bill will be offered as an amendment to the first available authorization or appropriations bill.

The organizations which promoted the California and Arizona medical marijuana initiatives—Drug Policy Foundation/NORML—intentionally exploited the pain and suffering of others as part of their back door attempt to legalize marijuana.

As we know, Mr. Speaker, it is a Federal offense to sell, use, or possess a controlled substance, such as marijuana. The Federal Government, or more specifically, the Food and Drug Administration has repeatedly rejected marijuana for medical use because it adversely impacts concentration and memory, the lungs, motor coordination, and the immune system.

There is increasing scientific evidence that smoked marijuana would be the last medication you would want to prescribe to persons with AIDS since this drug further compromises their immune system, thereby increasing the risk of infections and respiratory problems.

Specifically, my bill, the Medical Marijuana Prevention Act, requires the DEA to revoke the Federal license of a physician to dispense approved medication, under the Controlled Substance Act, if they recommend the use of smoked marijuana for a medical treatment.

Federal law (21 U.S.C. S. 824) provides the President authority to deny a doctor's registration to dispense controlled substances—medication—if the doctor is found to commit acts inconsistent with the public interest. In other words, the President already has the authority under existing law to end the medical marijuana fraud.

As I have said on countless occasions, the only legacy of the Clinton Presidency will be a dramatic increase in the use of illegal drugs in America. There is still time for the President to reverse this trend but it would require decisive action on his part. Unfortunately given his record on this most important of issues it may again be left to Congress to take the initiative.

HELP COMMUNITIES AFFECTED BY BASE CLOSURE

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. McCOLLUM. Mr. Speaker, today I am introducing legislation that will facilitate the swift transfer of closed military bases to local communities. I am happy to be joined in this endeavor by my colleague, Mr. SAXTON, the primary cosponsor of this legislation. This action is necessary because current law hinders the large and complex transfer of military base property with economic redevelopment in mind.

Many of the laws governing the reuse of military bases are antiquated and filled with confusing terms and conditions. One major existing hindrance is a clause prohibiting the obtainment of profit by local communities. This is a problem because it prevents local communities from generating profits through subleasing for the purpose of reinvestment to maintain and improve landscaping, maintenance, and infrastructure. The remedy for this situation is to replace the clause with legislation embodying the provisions of the base closure laws and amendments of the 1990's.

The interim lease provisions have not been as successful as planned because many of the terms and conditions act as disincentives to economic development conveyance. For example, there is no commitment for final ownership by Federal agencies upon assumption of control or occupancy of transferred property. Commercial firms are willing to enter into leases, but are refusing this option because of the lack of commitment for final ownership. In addition, the new occupants of closed base property are unable to conduct major renovations unless they agree to restore the property to its original condition. Many of the facilities require major alterations from their original condition just to bring them to local code standards. Why are we requiring restoration of undesired conditions? this makes no sense and ultimately results in taxpayer waste.

Prior to 1996, departure of Federal agencies reverted property to the Federal Government for disposal by GSA. A "leaseback provision" was established in the National Defense Authorization Act for fiscal year 1996 to protect communities from a Federal agency revolving door. Under this law, property approved for Federal usage would be transferred to the local redevelopment agency, then leased to a Federal agency at no cost for up to 50 years. The reasoning behind this is to ensure transfer of property to local communities in the event of departure by Federal agencies. The lack of a mandatory requirement for leaseback acceptance allows for circumvention of the legislative intent. In Orlando, FL, the Veterans Administration [VA] has requested Orlando Naval Training Center property through the Federal screen process. VA has refused to enter into a long-term lease with the city. This creates major problems for community redevelopment authorities as it limits their ability to finalize reuse plans. My legislation guarantees an option for communities to obtain reuse property after the departure from the property by the first Federal agency lessee.

We must allow common sense to prevail in this base reuse process. There are some instances where it makes sense to lease to organizations affiliated with the branch of service that previously occupied the base property. This is currently prohibited; yet doesn't it make sense to relocate recruiting stations, reserve centers, and military processing centers onto closed base property?

The four branches of the U.S. Armed Forces are currently able to contract with local governments for fire and police services for only the last 6 months prior to the closure of a base. Many times a base is phased out over a long period of time and the military eliminates military fire and police services much longer before the base is fully closed. Families and military personnel remaining need fire and police services from the local community. The military should be able to contract for these services throughout a long closure process.

Mr. Speaker, the bill I'm introducing today will make major strides in reforming the base closure reuse process. We must enact this legislation to protect our local communities. I urge my colleagues' support.

CONGRATULATIONS TO SARAH THOMAS

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. OLVER. Mr. Speaker, I rise today to congratulate my constituent, Sarah Thomas, for her prize-winning entry in the 1997 Voice of Democracy broadcast scriptwriting contest. This contest, sponsored by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary, is highly competitive, with more than 109,000 entries and only 54 available scholarships. Sarah, a junior at St. Bernard's High School in Fitchburg, MA, distinguished herself from other competitors by composing an exceptionally insightful piece that truly reminds us all how fortunate we are to live in a nation of democracy and freedom. I would like to insert Sarah's inspirational script for the RECORD.

1996-97 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM

(By Sarah Thomas)

As I look around the room in my history class I see many things that I consider my window to the world unknown. A map shows me where the problems we discuss are happening. A picture above of President Abraham Lincoln above speaks to me of a government "* * * of the people, by the people, and for the people." A book on the desk retells the stories of those who fought many battles and we hear the mournful cries of those who lost and the joyful tales of those who tasted victory. And we learn from them all.

As I look around, though, I am saddened by what I see. A pair of gazing eyes stares aimlessly out the window thinking of this afternoon's soccer game and another person half asleep's thinking. "Why do we need history anyway? This stuff happened years ago." I must confess that I have asked myself the same question several times in my life—until this year.

I am lucky, for I have met and grown close to three exchange students this year. Much can be learned from them and I have been awakened to how privileged we in America truly are. Next to me sits Lan from Beijing, China. He takes notes furiously as he wants to learn as much as he can about the freedom and justice we have in our country. He desperately wants to expand his knowledge during his short stay here in the United States, for when he returns home he may not get the opportunity to further his education. Lan's government places a percentage on those allowed to college and Lan may be one of the many who will not be able to continue his schooling. In a government where the people do not have a voice over the laws placed over them, personal development and growth may be stunted and full potentials may not be reached.

Behind me sits Maria. "Living in Spain is quite different from living here," she once said to me. "You have so many opportunities that I cannot get at home." Unfortunately many of these opportunities are overlooked by those of us lucky enough to live in a country that allows us to enjoy the freedom of new experiences. Maria was surprised at all of the activities girls could participate in. In the schools of her native country, athletics are for the boys and there is not much offered to the girls. United States citizens are fortunate, for under the constitution an eminent theme of equality prevails. The people are also encouraged to voice their opinion if they are unhappy with the actions of government. Elections and voting are just two of the numerous ways an individual can help to make change in our ever-evolving society. In our schools today men and women have equal opportunity and this is thoroughly supported by the laws of our governmental system.

Across the room sits Dahlia. When she speaks of her home in Israel, I see a picture with much turmoil. Saddened by the thought of leaving America, Dahlia tells us what she faces when she returns home—a home where she fears the unknown. Because Dahlia will soon be eighteen years old, when she goes home she will be forced to enter the military. All men and women, upon reaching eighteen years of age, must enter the military and give up their plans and aspirations at least for a while. Unfortunately many forms of government do not allow their people to take a stand for what they believe in. Government controls all. But in those forms of ruling * * * who controls the government?

In the United States of America, we, the people, have a voice. Through our democratic society, our voice is heard. My worry for Lan, Maria, and Dahlia helps me to have a clearer vision of my "land of opportunity"—a country that allows me to develop my potential and realize my dreams.

In class, a poster over-head is yet another reminder of our unparalleled good fortune. It echoes the words of President Franklin Delano Roosevelt, "Since the beginning of our American History we have been engaged in change—in a perpetual peaceful revolution—a revolution which goes on steadily, quietly adjusting itself to changing conditions." I believe a society must be able to adapt with the changing world if it is to succeed. Democracy is above and beyond all other forms of government because it allows us to do just that. By allowing its people to make change, our country not only survives, but as a nation of involved people, we thrive. A nation, a people, a voice, we must be heard. Through democracy, we are heard.

INTRODUCTION OF LEGISLATION PROVIDING FOR THE RELIEF OF NANCY WILSON

HON. THOMAS H. ALLEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. ALLEN. Mr. Speaker, I rise today to introduce a private relief bill that would provide Social Security widow benefits for my constituent, Nancy B. Wilson of Bremen, ME. I appreciate the opportunity to help resolve Nancy Wilson's unjust restriction of benefits.

Section 216(c) of the Social Security Act requires that a widow be married for at least 9 months to collect her spouse's benefit. Nancy Wilson is not eligible for her husband's Social Security benefit because she was legally married to Al Wilson for only 7 months.

In the mid 1940's, Al Wilson's first wife was committed to a mental institution in Massachusetts. Mr. Wilson wanted a divorce, but was unable to proceed due to Massachusetts State law. According to a study conducted by the Congressional Research Service (CRS), the existing State law excluded insanity or institutionalization as grounds for a divorce.

In 1950, Nancy had a common-law marriage with Mr. Wilson. For 19 years, these two people lived as husband and wife. Al had two children from his original marriage. Nancy also had a child. They raised their children together as a family. Nancy stayed at home, allowing Al to work and support the family. Through his employment, Mr. Wilson paid into the Social Security trust fund.

In 1969, Al Wilson's wife passed away in the institution where she had spent her last 25 years. Within 20 days, Nancy and Al Wilson were legally married. After waiting 19 years to be legally recognized as husband and wife, Al and Nancy's marriage lasted less than 1 year. Seven months after their marriage, Al passed away.

In 1991, upon turning 64, Nancy Wilson applied for widow benefits. She was refused on the grounds that the duration of her marriage did not satisfy the 9 month requirement. She went through the full appeal process, but was again denied.

A spouse forgoes employment to work in the home. Work in the home helps the family, but hurts the individual who, as a result, does not accumulate Social Security benefits. The intent of the Social Security Act is that widows and widowers be entitled to their spouse's benefit to offset their personal lack of sufficient benefits. This private relief bill seeks to fulfill this intent in the case of Nancy Wilson. The 9-month requirement for Social Security widow benefits is not disputed by this bill.

Nancy Wilson's situation fulfills the intent of the Social Security Act. Al and Nancy were prohibited from marrying. It was their choice to coexist as husband and wife, and as a family. Nancy raised the couple's children while Al provided financially for the family. Clearly, Nancy and Al Wilson would have married if the law would have allowed. Now, after a lifetime together, Nancy cannot collect the widow benefits she deserves.

This private relief bill makes Nancy Wilson eligible for widow benefits. The bill establishes that Nancy and Al were married for no less than 9 months. This unique situation is an exception that will not be repeated. Since their marriage, the no-fault divorce statute has been enacted in Massachusetts, which prevents this situation from reoccurring.

Thank you Mr. Speaker for this opportunity to advocate for my constituent, Nancy Wilson. Clearly, Nancy's unfortunate situation deserves to be addressed.

HONORING GREEK INDEPENDENCE DAY

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mrs. KENNELLY of Connecticut. Mr. Speaker, I rise today to recognize the 176th Anniversary of Greek Independence. On this day of celebration of Greek and American democracy, we pay tribute to the people of both our nations, and to the common bonds of democracy that unite Greece and the United States.

While the Founding Fathers of the United States of America drew heavily upon the political experience and philosophy of ancient Greece in forming our representative democracy, the founders of the modern Greek state modeled their government after that of the United States in an effort to best imitate their ancient democracy. Today, Greece is one of only three nations in the world that has been allied with the United States in every major international conflict this century.

The First Congressional District in Connecticut has long-lasting ties to Greek democracy and independence. During the Greek War of Independence, fundraisers to support the struggle for democracy were held in the Hartford home of Lydia Sigourney. In addition to raising moneys, she sheltered refugees and in 1832 established the first Greek school in the United States. Today, that long-lasting relationship is evidenced by the 120,000 people of Greek ancestry who call the Constitution State home.

I support the efforts to expand the opportunities for cultural and trade exchange between the United States and Greece and the continuation of this historical relationship, and I offer my congratulations to all Greek-Americans as they celebrate Greek Independence Day.

VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1997

SPEECH OF

HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. MALONEY of Connecticut. Mr. Speaker, on behalf of the 57,000 veterans in the fifth district of Connecticut, I rise today to support H.R. 240, the Veterans Employment Opportunities Act of 1997

Veterans provided an invaluable service to this Nation, and they continue to play a critical role in our work force. H.R. 240 protects the rights of veterans who are in the Federal work force by establishing a special counsel to bring those who knowingly violate preference laws before the Merit System Protection Board.

H.R. 240 also protects veterans during Federal reductions in force and expands veterans preference to jobs that are not currently covered. This bill opens Federal employment opportunities for individuals honorably discharged from the military after 4 years of service, by eliminating artificial barriers which prevent them from competing for Federal jobs because they are not already civilian employees or employees of a particular agency.

Our veterans are treasured national assets. They have defended our country in time of war, and safeguarded it in time of peace. This bill today honors them with the respect and dignity they deserve, by utilizing their skills and expertise in the Federal work force. I urge the House of Representatives to pass this measure unanimously.

MARTIN LEE AND THE FUTURE OF DEMOCRACY IN HONG KONG

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. PORTER. Mr. Speaker, as you may know, the future Government of Hong Kong recently made public its specific proposals to restrict personal and political freedoms after the transition to Chinese sovereignty on July 1, 1997. Such proposals should be of great concern to every Member of this body because they represent the unraveling of the economic and political miracle that is Hong Kong. These proposals are especially disturbing in light of other actions by China that are directly aimed at dismantling the fledgling democratic institutions in Hong Kong, such as the dissolution of the Legislative Council and threats against journalists by high-ranking Chinese officials.

In sharp contrast to these ominous signals from Beijing, Martin Lee continues unabated in his fight to preserve democracy and freedom in Hong Kong. Martin bravely perseveres despite the fact that he is reviled by the Government of the People's Republic of China as a traitor, and his public, global crusade to protect Hong Kong's way of life is a thorn in its side.

Last night in the Russell Caucus Room, Martin Lee received the 1997 Democracy Award from the National Endowment for Democracy, along with praise, good wishes and pledges of support from many Senators and Members of Congress from both sides of the aisle. This award recognizes the strength of Martin's character, the righteousness of his cause and the commitment that he brings to his mission.

I believe that we owe it to the people of Hong Kong to meet with their legitimately elected representatives and give them our unequivocal support. Martin represents the very principles that our country was founded upon. More than most, Martin deserves to be heard at the highest level of our Government and he needs our help. He has heeded the call of freedom and democracy—we must not abandon him now.

It is in this spirit that I have written a letter to President Clinton calling on him to meet with Martin during this visit. Such a meeting would send a clear message to Beijing that the United States cares about what happens in Hong Kong—not just because we have economic interests there, but because we have shared values and ideals with the people of Hong Kong. I urge my colleagues to join me in asking the President to send this message and demonstrate our support for Hong Kong at this historic juncture.

BILL LYNCH—ALL AMERICAN BASKETBALL STAR

HON. DAVID M. McINTOSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. McINTOSH. Mr. Speaker, I rise today to lift up a very talented young man from Indiana's Second Congressional District. Billy Lynch of Muncie, IN, was recently awarded one of Indiana's top tributes as a basketball player.

Billy Lynch, a senior at Delta High School, was the recipient of the Trester Award for his leadership on the basketball team. The Trester is awarded for leadership above and beyond. Given each year to to a senior member of the four State finalist, the Trester recipient must receive the nomination of his principle and be recognized as a team leader for his mental attitude.

Recently, Billy and his fellow teammates—the Delta Eagles—advanced all the way to the Final-Four Tournament in Indianapolis. In Indiana, advancing to the Final-Four is considered one of the highest honors earned by a ballplayer.

It was Billy's positive, mental attitude that helped the Delta Eagles though the season, the playoff's and win the coveted place in Hoosier basketball history by advancing to the Final-Four. Today, I'd like to join the community of Munice, the State of Indiana and the Delta Eagles in praising Billy Lynch for his leadership.

In Indiana, Hoosier's hysteria for high school basketball has a special place in the hearts of many. Indeed, Billy Lynch's performance and contribution to the Eagles winning season has captured the hearts of many in Delaware County.

Billy Lynch has made so many of us so very proud.

RESTORING TRUST IN GOVERNMENT ACT OF 1997

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. PORTMAN. Mr. Speaker, for most Americans, the November elections and their aftermath clearly demonstrate the need for campaign finance reform. Unprecedented amounts of soft money were spent, special interests seemed to have played a disproportionate role, and there seemed to be no way to police the system. And now, every day seems to bring a new allegation of improper fundraising activities. The cumulative effect of these problems and the recent allegations of fundraising impropriety undermines the people's faith in their government. In my view, the only way to begin to restore that faith is to take a hard look at the problems with our existing campaign finance system and develop sensible changes to address them.

Today, I am introducing the Restoring Trust in Government Act. It makes some specific changes that I think address these concerns and that I believe are long overdue. The bill reduces special interest influence, curbs soft money, expands disclosure, eliminates undue incumbent advantages, and, in general, restores faith in our political system.

To curb special interests, it bans the increasingly influential activities of Political Action Committees [PAC's]. It will also reduce the influence of outside groups by requiring House candidates to raise 60 percent of funds in their own district, and Senate candidates to raise 60 percent of their funds from within their own State. It's an idea based on a simple premise—if you're going to represent the people of your area, you shouldn't take most of your money from outside special interest groups.

The bill places significantly tighter restrictions on the use of so-called soft money given to national political parties. It would also require increased disclosure of soft money donations. And, it would address recent concerns about improper use of Federal property for political fundraising by making the solicitation of soft money on Federal property a criminal offense. The bill also clearly prohibits political contributions by noncitizens to eliminate any trace of foreign influence on our elections.

Finally, the bill levels the playing field by reducing built-in incumbent advantages and puts some teeth in the important enforcement responsibility of the Federal Election Committee.

Mr. Speaker, the American people deserve a new campaign finance system that addresses the 1996 soft money abuses, curbs special interest influence, requires disclosure and given the FEC the authority they need to better police the system. This bill represents a comprehensive approach that addresses each of these problems. I urge my colleagues to join with me in making these commonsense changes to restore trust in our campaign finance system and in our government. Let's make real campaign finance reform a priority this year.

REMEMBERING ALBERT SHANKER

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. GOODLING. Mr. Speaker, I'd like to take this opportunity to remember Mr. Albert Shanker, president of American Federation of Teachers. I considered him one of the better educators in the country. He demanded excellence from the teachers and insisted that teachers demand excellence from students. Mr. Shanker was very interested in helping all students by holding them to high academic standards.

Mr. Speaker, in my mind Mr. Shanker was a very important advocate for a quality education system in this country. He would always put the needs of the students first, and constantly sought to challenge them. Over the years I always appreciated his honesty and forthrightness. He will be missed.

PSCA COUNSELORS OF THE YEAR

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. KLINK. Mr. Speaker, I rise today to salute three individuals who have performed a great service to the people of Pennsylvania. Gene James, Susan Gill, and Jeanne Brimmeier have performed above and beyond the call in their field of professional school counseling. They truly deserve the designation of Counselor of the Year at their respective levels.

These three will be honored at the Pennsylvania School Counselors' Association [PSCA] Annual Conference in Pittsburgh, PA. The theme of this year's conference, "Navigating the Rivers of Change," is especially appropriate considering the struggle that each and every person involved in the education of today's adolescents must face. Susan, Jeanne, and Gene have shown that they are adept in navigating the perilous waterways of their life and steering them in right direction. They along with all of the members of the PSCA demonstrate the visionary and bold leadership needed to counsel the youth of today.

And so I urge my colleagues to rise and join in the recognition of these people who devote their lives to helping others. They should be commended for their excellence.

CONGRATULATIONS TO TEMPLE BETH EL

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. THOMAS. Mr. Speaker, today, we celebrate a milestone in the history of Bakersfield, CA, one that is of great importance.

The Temple Beth El has been with us now for 50 years and with each passing decade its strength and enduring qualities have grown. It is fitting that with this anniversary we pause and reflect upon the many miles traveled and obstacles overcome. We look back and remember that the founding of Beth El coincided with the end of one of the saddest times in human history—World War II. Indeed, some of the veterans of that war were founding members of Beth El. I wonder if those founding families ever imagined that their small temple in Bakersfield would someday blossom into the revered institution Beth El is today.

Temple Beth El has been ecumenical in reaching out to churches in the area, thereby strengthening the intangible ties that bind the fabric of Bakersfield. This task, while no small deed, has opened eyes and minds that were once closed and diluted the misunderstanding that flows through some, making Bakersfield shine more as a city.

The contributions of Beth El to the community are numerous—the charities, the food drives, the commitment. One goal Beth El members have continually pursued is to make life better for others. This congregation has achieved that goal in many ways.

They have given us hope for a better, fairer, safer, more tolerant, and caring world. As we approach the end of the century and look forward to the next, the current generations of members of Beth El are sure to pave the road to the future by continuing their efforts to make Bakersfield a better community. Again, I congratulate the congregation and look forward to Temple Beth El's many anniversaries in years to come.

HONORING THE JOLIET FEDERATION OF MUSICIANS ON ITS 100TH ANNIVERSARY

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. WELLER. Mr. Speaker, I rise today to honor the work and dedication of the many members of the Joliet Federation of Musicians Local 37 as they celebrated their 100th anniversary on Tuesday, April 8, 1997.

Tonight they recognize the past and present members who have entertained the members of their communities as they performed at area free concerts, parades, and dances.

The members of the Joliet Federation of Musicians Local 37 have helped direct the musical aspirations of their students as they have taught music lessons and served as grade school, junior high school, senior high school and college band directors.

Also being honored for their many years of commitment to the organization are those members of the organization who have served for 25 and 50 years. Their dedication should be commended.

The Joliet Federation of Musicians Local 37 is a strong organization that has greatly benefited and enlightened our community.

INTRODUCTION OF A BILL TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO TRANSFER CERTAIN FACILITIES OF THE MINIDOKA PROJECT TO THE BURLEY IRRIGATION DISTRICT AND FOR OTHER PURPOSES

HON. MICHAEL D. CRAPO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. CRAPO. Mr. Speaker, I'm introducing this bill to authorize the Secretary of the Interior to transfer certain facilities at the Minidoka project to the Burley Irrigation District.

In 1926, under contract with the Bureau of Reclamation, operation and maintenance of the distribution system of the southside pumping division of the Minidoka project was transferred to Burley Irrigation District. The district has operated and maintained the distribution system ever since.

In the early 1950's the main southside canal and certain electrical distribution lines were transferred for operation and maintenance to Burley Irrigation District as well. In addition to those transfers the district agreed, under its contracts, to pay to the United States the construction costs incurred in constructing the project and the Minidoka Dam.

It also agreed to pay its proportionate share of the construction costs of storage facilities in which the irrigation district attained a right to all water stored in the space acquired by the district in the reservoir.

At this time, the Burley Irrigation District has paid in full all construction costs allocated to the district in the storage facilities and all costs incurred in the construction of the distribution system operated and maintained by the district.

For 70 years the Burley Irrigation District has demonstrated its competence in operating and maintaining the facilities proposed for title transfer. Clearly they have the technical capability to meet both their physical and financial obligations.

For these reasons I am introducing this bill to convey title to the Burley Irrigation District, of Federal reclamation distribution facilities.

INTRODUCTION OF LEGISLATION

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. COSTELLO. Mr. Speaker, I rise today to introduce the Student Health Insurance Portability Protection Act of 1997.

Last year, we made great strides in passing the Kennedy-Kassebaum Health Insurance Portability Protection Act. However, 14.3 million college students covered by health insurance plans sponsored by their college or university are not covered under last year's health provisions. It is essential for college students to fall under these provisions.

My bill requires college-sponsored health plans to be portable and exclude long preexisting condition waiting periods. College-sponsored plans will be considered as group plans and allow students to go from college-sponsored plans to work-sponsored plans without loss of coverage due to a preexisting condition. Students will also be eligible for another school's health plan when transferring from university to university. This bill takes an important step in ensuring health care coverage for our country's college students at no extra cost to the taxpayer.

I ask my colleagues to join me in supporting this bill and ensuring health care for our Nation's college students. Give them the health care they need to enter the work force. Do not leave college students out of health care reform.

THE TAX FREEDOM RESOLUTION

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. SAM JOHNSON of Texas. Mr. Speaker, today, I will introduce the Tax Freedom Resolution to repeal the 16th amendment to the Constitution. This resolution will reverse one of the most destructive amendments to the U.S. Constitution and deny Congress the ability to lay and collect taxes on income.

I believe that the 16th amendment has created a system that is economically destructive, impossibly complex, overly intrusive, unprincipled, dishonest, unfair, and inefficient. Now is the time for us to restore freedom to the American taxpayer.

The tax freedom bill is the first step to do that. It will encourage an open, honest an constructive debate about why our current tax structure has failed and what we expect in a new system.

Why do we need to repeal the 16th amendment? Let me tell you. The current system cannot be fixed. It has already undergone 31 major revisions and 400 minor ones in the past 40 years. And each time the system has become more and more complicated, not less.

The IRS has 480 different tax forms, plus 280 more to explain how to fill out the first 480. The original Tax Code had 11,400 words; today it has 7 million.

Our current system also discourages savings and investment and hampers economic growth. Complying with the Federal Tax Code costs taxpayers more than $200 billion each year. In 1991, the tax foundation reported that small corporations spent a minimum of $382 in compliance costs for every $100 they paid in income taxes.

In addition, several economists have said that replacing the current tax system will cause interest rates to go down and savings and capital investments to increase.

Right now, we have a system that stifles opportunity by picking winners and losers; a system in which Washington decides what is best for the people, instead of letting the people decide what is best for America.

The Federal Government simply takes too much money out of people's pockets. As recently as 1982, Americans paid only 19.90 percent of their income in taxes. New data reveals that in 1995 Americans paid 31.3 percent of their income in taxes: The highest level in history.

By embracing the principles of freedom, we can create a system that is fair and simple that reduces the Federal Bureaucracy, that encourages savings and investment, that is efficient, that drives the economy, that creates opportunity for all, and that puts more money in your pocket.

Fundamental and comprehensive tax reform will be one of the most profound changes this Nation experiences this century. It is time for all of us—whether you support a flat tax, a consumption tax, a value added tax, or a national sales tax—to come together and focus on our one common goal: Replacing the current system. The tax freedom bill gives us the chance to do that and at the same time restore freedom to the American taxpayer.

IN HONOR OF JOHN A. PICA, SR., RECIPIENT OF THOMAS D'ALESANDRO, JR., GOOD CITIZEN AWARD

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Ms. PELOSI. Mr. Speaker, I rise today to salute John A. Pica, Sr., the 1997 recipient of the Thomas D'Alesandro, Jr. Good Citizen Award. John Pica exemplifies the spirit in which this award is given. He has devoted every day of his adult life to service of his country and his community, especially the Italian-American community of Baltimore.

Raised in the Little Italy section of Baltimore by Italian immigrant parents, Tony and Maria, John Pica received a bachelor of law degree at Mt. Vernon School of Law and a Juris Doctorate from the University of Baltimore. In addition, he attended the Maryland Institute of Engineering.

In 1943, John enlisted in the Army and served in the 34th Infantry Division. He returned home as the most highly decorated war hero in the State of Maryland, achieving the Silver Star, three Bronze Stars, three Purple Hearts, a Combat Infantry Badge for courage, and the Roll of Honor Award for Distinguished Service.

John Pica also served with distinction as an aide to my father, Mayor Thomas D'Alesandro, Jr. In 1955, when my father was mayor of Baltimore, he appointed John to a vacancy on the Baltimore City Council, where John served until 1967. During his tenure on the council, John was instrumental in passing major legislation of great importance to the community of Baltimore. Among his many legislative accomplishments, John was responsible for securing Social Security and health insurance benefits for city employees and for revising the housing building code, which brought about the reorganization of the Department of Public Works. John continues his public service today by serving on the Maryland Transportation Commission as an advisor to Gov. Parris Glendening.

Mr. Pica's extraordinary professional success has not prevented him from active involvement in his community. His enthusiastic participation in organizations including Italian-American Charities, the Little Italy Lodge, and as cofounder of the Little Italy American Legion, merely solidified the great respect and affection the community of Little Italy feels for this native son.

Mr. Pica's love, understanding and compassion for others have earned him the loyalty and admiration of many friends. It is said by his friend that if you look up the meaning of the word kindness in the dictionary, you find John Pica. His list of friends have included such names as Truman, Kennedy, Schaefer, Nixon, Reagan, D'Alesandro, McKeldin, and Schmoke.

Mr. Speaker, I am pleased to salute John Pica for the honor he has brought to the Italian-American community by his many accomplishments and commitment. He deserves this award for the contributions he has made in the spirit and tradition of its namesake, Thomas D'Alesandro.

MEDICARE MEDICALLY NECESSARY DENTAL CARE ACT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. HOYER. Mr. Speaker, I am pleased to introduce today, along with Congressmen CARDIN and STARK, the Medicare Medically Necessary Dental Care Act. This bill will improve health care for thousands of senior citizens and save the Nation millions of dollars in Medicare costs.

Under current law, Medicare cannot pay for outpatient dental work. However, untreated dental problems can lead to expensive complications when other unrelated procedures are performed. The failure to treat these conditions has both a high cost in suffering for seniors and a high price tag for Medicare.

The Medically Necessary Dental Care Act would permit Medicare to pay for dental care when it is necessary to prevent complications in valvular heart disease, cancer of the head or neck, lymphoma, leukemia, and organ transplants. While expanding dental coverage in these areas is estimated to cost nearly $17 million, the act would save Medicare about $117 million by preventing further complications. The bill would also give the Secretary of the Department of Health and Human Services the authority to expand coverage of medically necessary oral health care in connection with other medical problems if the Health Care Finance Administration determines that the dental coverage will result in cost savings to Medicare.

Take the case of Alma, a senior citizen in Baltimore who underwent a heart valve replacement surgery. Not long ago, she went to the University of Maryland medical system emergency room with a racing heart, fever, chills, and pain in her mouth. Alma was diagnosed with an acute abscess over her upper front teeth which had led to a systemwide infection. She was hospitalized, and will have to undergo 6 weeks of intravenous antibiotics to knock out the infection. In addition. she will probably have to have her heart valves replaced again.

In many ways, Alma is lucky. Dental infection is a common cause of complications in heart valve replacement patients, and some die before their infection can be stabilized. Medicare covered the cost of Alma's hospitalization, and will pay the $20,000 to $40,000 bill if her heart valves have to be replaced again. But all of this could have been avoided by a simple dental checkup and treatment before her first surgery.

A few years ago, James, another Maryland senior, was diagnosed with neck cancer and treated with radiation therapy to his head and neck. Over time, James started to feel pain in his lower jaw, and to have difficulty opening his mouth. His doctor diagnosed a jaw fracture, caused by radiation-related complications of previously infected teeth. To cure the problem, James underwent three surgeries, including removal of a portion of his jaw and a hip graft to replace it. Removal of James's infected teeth before radiation would have cost less than $300, but Medicare covered the actual cost of $27,950.

This bill is supported by the American Association of Hospital Dentists, the American Society for Geriatric Dentistry, the Academy of Dentistry for Persons With Disabilities, the American Association of Dental Research, the American Academy of Pediatric Dentistry, the American Association of Dental Schools, and the American Association of Public Health Dentistry. More importantly, it will save taxpayers millions, while improving the quality of life for senior citizens. I urge my colleagues to join me in supporting this important legislation.

DETERIORATION OF HUMAN RIGHTS IN BELARUS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. SMITH of New Jersey. Mr. Speaker, over the last year, we have witnessed a steady deterioration in the human rights situation in Belarus. Belarusian President Alyaksandr Lukashenka has flouted international commitments by infringing on the human rights of the citizens of Belarus. He has violated elementary human rights and freedoms, such as freedom of speech, assembly and association, and has stifled democracy by clamping down on the media, on the democratic opposition, and on fledgling nongovernmental organizations. Lukashenka has amassed near-dictatorial powers, using an illegitimate constitutional referendum held last November to extend his power, disbanding the Parliament and creating a new legislature and constitutional court subservient to him.

The international community has widely censured Lukashenka for his blatant disregard for international commitments. The Organization for Security and Cooperation in Europe [OSCE] has repeatedly called upon the Government of Belarus to respect human rights and democratic principles, to enter into dialog with the opposition and to ensure freedom of the media. The chairman in office of the OSCE has stated that neither the preparations for the November 1996 referendum nor the new constitution comply with OSCE norms, principles, and commitments. The OSCE hopes to send a mission to Belarus this month if it receives assurances that the mission can meet with members of the opposition.

Mr. Speaker, unfortunately, the human rights situation in Belarus has taken a turn for the worse in recent weeks. Last week, on April 3, the leadership of the Commission on Security and Cooperation in Europe—Helsinki Commission—wrote to President Lukashenka expressing our dismay at recent developments in Belarus and urging President Lukashenka to reverse the deterioration of human rights in his country and live up to obligations freely undertaken as an OSCE member.

Mr. Speaker, I request that the letter be included in the RECORD.

COMMISSION ON SECURITY AND
COOPERATION IN EUROPE,
Washington, DC, April 3, 1997.

His Excellency ALYAKSANDR LUKASHENKA,
President, Republic of Belarus,
Miensk, Belarus.

DEAR PRESIDENT LUKASHENKA: We are writing to express our heightened concern about the further deterioration in the human rights situation in your country and to protest a series of actions by your government in blatant violation of OSCE principles and norms.

Within the last few weeks, two American citizens, including a U.S. diplomat, have been expelled from Belarus. First Secretary Serge Alexandrov was unjustly and illegally detained and expelled for observing an opposition rally, a routine practice of diplomats. A few days earlier, on March 16, Belarusian Soros Foundation Executive Director Peter G. Byrne was prevented from reentering Belarus, detained, held incommunicado for over 12 hours in flagrant violation of diplomatic and consular conventions in effect between the United States and Belarus, and forcibly expelled the next day. Mr. Byrne ostensibly was expelled for illegal activity, but in reality, was expelled for supporting efforts to develop Belarus' fledgling civil society.

These expulsions come on the heels of other repressive actions, including arrests and beatings of demonstrators who have been protesting your policies over the last few months. Organizers of these rallies, such as former Chairman of Parliament Mechyslau Hryh have received stiff fines or have been arrested and jailed for up to 15 days. We are alarmed by reports of beatings that resulted in injuries and detentions of several hundred protestors and journalist during yesterday's demonstrations in Miensk.

We are deeply concerned about the Belarusian Government's restrictions on the right to freedom of speech and assembly—as manifested by your March 5 decree which also bans the display of Belarusian national symbols at rallies—and the arrest of peaceful protestors, as well as journalists, at a number of these rallies. We are also alarmed by the political intimidation of leading opposition figures, as illustrated by police visits to their homes demanding they admit they violated a presidential edict that restricts demonstrations, and by police searchers of various political party headquarters. In February, two opposition leaders were attacked in Miensk in separate incidents by unidentified assailants under suspicious circumstances. Also, we have received reports of the intimidation of university professors and other examples of crude threats by police against democratic activists.

We are especially troubled by the plight of Henadz Karpenka, Deputy Chairman of the 1996 parliament and chair of the opposition shadow cabinet, who was on a hunger strike to protest the special police guard placed outside his ward in a hospital where he is currently a patient.

Another example of apparent intimidation is the March 10 decree calling into question important tax exemptions granted to the Belarusian Soros Foundation and other nongovernmental organizations and the March 18 announcement that all nongovernmental organizations in the country will be investigated. We understand that these investigations by government security officials have commenced.

Furthermore, freedom of the media in your country continues to be assailed, most recently by the withdrawal of press accreditation from and the expulsion of Russian NTV reporter, Alexander Stupnikov, the March 23 decree banning of several Russian television networks from broadcasting footage from Belarus, and the recent announcement by your government that all foreign journalists must obtain new accreditation.

Earlier this year, OSCE Chairman-in-Office and Danish Foreign Minister Helveg-Petersen, urged your government to take action to respect fully OSCE norms, principles and commitments, to enter into dialogue with the opposition and to ensure freedom of media. Unfortunately, actions since that time have only further called into question your government's commitments under the Helsinki Final Act and subsequent OSCE agreements. We urge you to take to heart the concerns of the OSCE and other international entities, as well as individual countries, including the United States, and to begin to reverse the serious deterioration of human rights that has occurred in your country during the last year.

Mr. President, last week you spoke to your countrymen about the international isolation that Belarus is now facing. The best way that you can prevent this international isolation, if you so desire, is to live up to obligations you have freely undertaken as an OSCE member.

Sincerely,

CHRISTOPHER H. SMITH,
Co-Chairman.
STENY H. HOYER,
Ranking Member.
ALFONSE D'AMATO,
Chairman.
FRANK LAUTENBERG,
Ranking Member.

CHARLES DEDERICH, SR., FOUNDER OF SYNANON

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. DELLUMS. Mr. Speaker, I rise today to salute the efforts of the now deceased Charles Dederich, Sr., founder of Synanon, a drug rehabilitation organization that reformed the lives of thousands of people. Dederich distinguished himself in the area of drug rehabilitation and amassed great wealth before his organization was associated with violence and tax problems. Because of the continuing negative social impact of substance abuse in our society, it is appropriate to pause to reflect on the positive contribution made by Mr. Dederich to create a treatment regime to solve this problem at the individual level.

Charles Dederich, Sr., was himself a reformed alcoholic, who founded Synanon in 1958 with a $33 unemployment check in Ocean Park, CA. His approach to rehabilitating drug addicts has became a major paradigm for drug recovery and therapeutic communities the world over. He believed that relief for addicts would come when they realized they must admit and face their addictions head-on. Much of the rehabilitation involved teaching a strong work ethic. Synanon was a new kind of group therapy; an effective approach to racial integration; an unusual kind of communication; and an exciting, fresh approach to the cultural arts and philosophy.

His organization created a new social movement and approach to life that provided a structured community-type living atmosphere for treatment of medical problems—persons, including narcotic and other drug addicts, alcoholics, former criminals, and juvenile delinquents were all the beneficiaries. Participants in the Synanon movement moved from the gutters, prisons, brothels, and back rooms of society into positions of moral leadership and more importantly regained hope and control over their lives.

REGARDING THE WESTERN PENNSYLVANIA CARING PROGRAM FOR CHILDREN

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. COYNE. Mr. Speaker, in 1995–96, there were 23 million American children who did not have health insurance for all or part of that 2 year period. This is one out of three children. Further, recent research suggests that the number of children who have access to privately sponsored employer-provided health insurance benefits is declining.

I would like to highlight an important program in my State of Pennsylvania that is providing a critical point of entry to the health care system for thousands of children. The Western Pennsylvania Caring Program for Children, administered by the Highmark Blue Cross Blue Shield Program and financed by a State tobacco tax and private donations, has succeeded in providing health insurance to nearly 60,000 children in Pennsylvania. In Pennsylvania, nearly 92 percent of newly enrolled children in the Caring Program have parents who work full time—they simply cannot afford the high cost of health insurance.

The following is an article on this highly successful program that appeared in the Washington Post on April 1, 1997. I commend the Caring Program and the Highmark Blue Cross Blue Shield Corp. for the determination and perseverance in helping the families of Pennsylvania provide their children with the opportunity to lead healthy lives. It is my hope that the 105th Congress can look to the example set by the Caring Program and the Commonwealth of Pennsylvania and pass legislation that will provide every child in America the same opportunity to receive needed health care services that Pennsylvania's children have.

[From the Washington Post, Apr. 1, 1997]

INSURING CHILDREN

(By Steuart Auerback)

IRWIN, PA.—Jodie Gavin's serene middle-class lifestyle ended in the wreckage of a car crash that killed her husband, Larry, and his brother 3½ years ago on what she now ruefully describes as a "chance-of-a-life family vacation" to see relatives in Ireland.

The vibrant young wife and mother of two young sons was transformed into a 28-year-old widow who was forced to cope without her husband's paycheck and benefits to pay for all the normal trappings of life: mortgage payments on a neat one-story home, health insurance, money for food, clothing and recreation.

"We came home and the kids were crying. They asked me, 'Will we have to move from our house, Mom?' " Gavin recalled.

Another big worry was health coverage. Her youngest son, Philip, now 6, suffers from congenital heart disease that so far has required three operations. The family had been covered through the husband's job as a maintenance supervisor at the University of Pittsburgh. Although Gavin could have continued her husband's policy, the $650-a-month price tag was beyond her income of $1,476 a month in Social Security benefits.

"It was either food on the table or health insurance or pay the mortgage or health insurance. Social Security meant I was too rich for medical assistance, and I couldn't afford to buy insurance myself," she said.

"Those were really hard times. I didn't know what to do. I was afraid we'd all end up on the street somewhere."

Her most immediate health concern was Philip's heart problem.

A relative told Gavin about the Western Pennsylvania Caring Program for Children, a private community initiative, administered by the local Blue Cross Blue Shield organizations, to provide health insurance to children of parents who can't afford to buy it themselves but whose income is too high to qualify for federal-state Medicaid.

Gavin was able to enroll Philip and Larry, 9, without a waiting period. Once enrolled they had their own Blue Cross Blue Shield card; as far as any doctor or hospital knew, they were members of the health care plan. But the cost of the insurance was borne not by the Gavin family or a private employer, but by the Caring Program, which is funded through charitable donations and state funds.

While the Caring Program only covers children from 1 to 19, Blue Cross Blue Shield offers low cost coverage to parents of children in the Caring Program for $730 a year. "I was devastated by my husband's death. But because of the Caring Program, I knew that my children could stay in this house and that I could clothe them, that I could feed them and that I could love them," Gavin said.

The Pennsylvania program is gaining attention as a national model for covering the growing ranks of uninsured children, estimated as totaling 10 million across the nation.

A FULL RANGE OF BENEFITS

The 12-year-old program, now expanded to the entire state and financed largely through a two-cent-a-pack tax on cigarettes, provides health insurance for 60,000 Pennsylvania children 26,000 in the 29 counties of western Pennsylvania. The program provides a full range of health care benefits including visits to doctor's offices, immunizations, diagnostic tests, emergency care, outpatient surgery, dental treatments, vision and hearing care, prescription drugs (with a $5 co-payment), mental health care and hospitalizations.

While the coverage is free for eligible children, Charles P. LaVallee, vice president and executive director of the Caring Program, calculated the cost of the insurance at $850 a year for each enrolled child.

"Covering kids is relatively cheap. Extending coverage to more children should not be a big financial burden," said E. Richard Brown, director of the University of California at Los Angeles Center for Health Policy Research, which studied uninsured children in California.

The Western Pennsylvania Caring Program has been replicated in 26 states by Blue Cross Blue Shield. In some states, including Massachusetts, the program is financed by increases in the cigarette tax.

Pennsylvania's children health insurance program is targeted largely to middle-class working families who don't get health insurance for their children as part of their employee benefits and don't earn enough money to buy insurance on their own. They also earn too much to be eligible for Medicaid. Under the Pennsylvania program, a family of four earning $28,860—185 percent above the $15,600 poverty line—qualifies for free health insurance for their children.

In western Pennsylvania, 92 percent of newly enrolled children have parents who work full or part time. This reflects the national profile of the uninsured. A UCLA study found that nine of 10 uninsured children in California come from a working family and 60 percent of the uninsured children come from families with at least one full-time working parent. The Children's Defense Fund found similar figures in a national sampling, as a growing number of parents are working for employers who no longer offer health insurance for children as a benefit.

A new study released last week by Families USA Foundation, based on federal census data, reported that an estimated 23 million American children were without health insurance coverage for at least one month during a two-year period.

"America's uninsured children live in families where the breadwinners work hard, pay taxes and play by the rules. But they don't get health coverage on the job, for themselves or their children. And they can't afford to pay for it out-of-pocket," said Ron Pollack, executive director of Families USA.

AVOIDING TRIPS TO THE DOCTOR

A typical situation is that of Susan Din, executive director of the Ligonier Valley Chamber of Commerce.

"I almost called for help," said the mother of two teenage daughters.

"My husband has been out of work for two years, and I was taking care of a family of four on my chamber salary of about $20,000 a year. We had no insurance for the kids or ourselves. There was no way we could have afforded insurance. It was just food on the table and mortgage payments," Din said.

"I just kept saying to the kids, 'Don't get sick.' "

Without insurance, Din also avoided going to the doctor. The family was lucky. There were no injuries or major illnesses. Her husband, Angie, now has a job with an axle manufacturing company in Michigan, where the family will move after the school year is over.

"I can't wait until we get insurance [from her husband's new job]," she said. "I haven't seen a doctor in three years."

She explained that she didn't sign her children up for the Caring Program because her family was not destitute. "We had a nice house and investments we could tap into. We are not like people who don't have anything. There's a lot we could have gone through before we got to the place where a lot of people already are," Din said.

"But I still was afraid to go to the doctor in case he found something wrong. That could wipe us out."

That is a common fear among parents with no health insurance for their children. A survey taken for the Caring Program by the University of Pittsburgh health economists Judith R. Lave and Edmund Ricci found that three out of four parents of uninsured children postpone going to the doctor, preferring to save that cost to pay for medical care for their children.

Because they can't afford it, many parents also put off getting needed treatment for their children.

As a result many of the children who come into the Caring Program have unmet medical needs. The Pittsburgh study found that one in four new enrollees needed to see a doctor for untreated ailments such as asthma, bronchitis, bruised kidneys, depression, diabetes and sprained ankles. The illnesses were caught before they caused permanent damage, and the researchers said treating them meant the children grew up to be healthier adults.

More than four of every 10 children enrolled in the Caring Program needed dental care and almost two in 10 needed glasses.

The lack of health coverage also affected the family's lifestyle. In the study, about 12 percent of the children were forced to restrict activities such as bike riding and ball playing because parents feared their children would get hurt.

"They wouldn't let their children engage in a sport that they feared would lead to an accident and a need for emergency medical care they couldn't afford. I was surprised. It had never occurred to me that lacking health insurance would keep children away from playgrounds and out of sports," Ricci said.

But this was no surprise to social workers in the community. "I can't tell you how many parents say, 'Now he can play baseball again,'" said Kimberly Rodd, an outreach coordinator for St. Michael's of the Valley Episcopal Church in Ligonier. The church both raises money and seeks out children for the program.

"Schools require physicals before a child can participate in organized sports. They can't afford physicals if they don't have health insurance," added Amy Salay, a counselor for the Ligonier schools who steers children into the Caring Program.

FOUNDED AFTER LAYOFFS

The Western Pennsylvania Caring Program was born after massive layoffs hit the steel mills that had been the bedrock of the region's economy. Teams of ministers asking about the needs of thousands of formerly well-paid laid-off steelworkers were told:

"Don't worry about us. Do something for our kids," recalls LaVallee, who was studying for the ministry at the time.

The ministers settled on offering a basic package of primary care health coverage for children, financed by community donations matched by Blue Cross of Western Pennsylvania and Pennsylvania Blue Shield, now merged into a single organization, Highmark Blue Cross Blue Shield. The Blue Cross Blue Shield organizations took an active interest in the program, donating the administrative services that keep it going.

In the beginning, the benefits were far from comprehensive—doctors' visits, immunizations, diagnostic tests, emergency care and outpatient surgery—but the cost was low, just $13 a month for each child, which amounts to $156 a year.

LaVallee and others raised the money from the community by holding bake sales and making the rounds of Kiwanis Clubs and church groups. They argued that every $156 raised from the community would be matched by the Blues and thus would provide health insurance for two children.

Community fund drives remain a part of the Caring Program, accounting for $500,000 to $900,000 a year. But LaVallee said he quickly realized community support could go only so far. The explosive growth for the program came in 1993, after Democrat Harris Wofford won a U.S. Senate seat from Pennsylvania on a platform favoring national health insurance. He upset former governor and U.S. attorney general Dick Thornburgh, and helped put health insurance on the national agenda for the next three years.

In Pennsylvania, State Rep. Allen Kukovich had a bill to expand and enlarge the western Pennsylvania program, financing it with two cents from a 13-cent-a-pack cigarette tax, which added up to $20 million for the program.

"I had the only serious health care bill around," recalled Kukovich, now a state senator. "It was languishing, but all of a sudden it moved to the front burner. It passed in five weeks and was signed in 1993."

"We had this Caring Program in western Pennsylvania providing primary care only for 6,000 children," recalled LaVallee. "All of a sudden we could provide comprehensive care for 25,000. We got more money in a month from the Commonwealth of Pennsylvania than we got in a year of fund-raising. For us that was a dream come true . . . and enabled us to take the next step.

The program has turned out to be a way station for families, 40 percent of whose children move off the program within a year—largely because their families got jobs. Thus the program becomes a bridge to mainstream coverage.

That is what happened with Maurine Ceidro, 41, who lives with her three children—Sarah, 11, Jason, 13, and Janean, 19—in nearby Greensburg. They were covered by the Caring Program for four years after her husband died in 1992. Although she has a college degree in theology, she was working low-paying, no-benefit jobs: part of a crew cleaning houses and offices after they had been damaged by fire and soot and as a caregiver at a home for disturbed children. Neither provided health insurance for herself or her children.

She saw a Caring Program brochure advertising free health care for children. "I thought this was too good to be true. This is not possible," she said.

"Once I knew we had health care coverage, I could think about steps I have to take, because obviously I was their sole support. If we kept on the way we were going, we would be putting out fires for the rest of our lives. It offered no future."

Ceidro went back to school for her master's degree in theology. "Having health coverage for the children gave me the opportunity to go back to school because I didn't have to worry about any bad mishaps devastating the family," she said. Unlike Gavin, she didn't worry about health insurance for herself.

In January, after her children had been covered for four years, Ceidro started work as director of pastoral care at Jeannette District Memorial Hospital.

That's how it works. It got us through that really awful period," she said. "But in January I called up and said, 'I don't need it any more make room for three new children.'"

The Gavins have been in the program for more than three years and it has proved its worth. After three operations at Pittsburgh Children's Hospital, covered by the Caring Program, Philip is behaving like any other rambunctious 6-year-old, chasing his older brother Larry, 9, a straight-A student who holds a second-degree red belt in karate.

"Without health insurance in no way could I treat Philip as normal, I have a hard time treating him normally now, but I let him go and I bite my nails. To me he is special, but to an insurance company he's just medical bills," Gavin said.

"When I am sure he is well, then I can figure out what I want to do when I grow up," said Gavin, who believes the best thing she can do now is be "a full-time mom."

"When that happens we won't need insurance from the Caring Program anymore and someone else can get it."

INFORMING DOD PERSONNEL OF EXPERIMENTAL DRUG ADMINISTRATION

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. KENNEDY of Rhode Island. Mr. Speaker, I have come to the conclusion that trust and confidence in the American Government could very well have reached a low point. No one can dispute that citizen trust is vital to the health and well-being of our country and our way of life. We especially need the trust of the men and women of the U.S. military, those who have served, those who serve today and those who will serve in the future. The men and women in our Armed Forces are willing to risk their lives in defense of our national security interests, therefore we must continually work to ensure the bonds of trust endure in peace and in war time.

Unfortunately, it appears that this trust has been called into question. One need merely read newspaper articles surrounding the Persian Gulf war to see what I mean:

On February 28, the New York Times ran an article entitled: "Pentagon Reveals It Lost Most Logs on Chemical Arms: Missing From Two Sites: Gulf War Veterans Now Raise Questions of Cover-Up or Criminal Incompetence."

Allegations of cover-up and criminal incompetence indicate to me that we have our work cut out for us if we intend to earn back that trust. Just 3 days earlier, a New York Times headline read: "Army Warned Early of Chemical Exposure in Gulf."

The article stated that the CIA gave the Army information more than 5 years ago that some American troops may have been exposed to nerve gas from the destruction of an Iraqi ammunition depot following the Persian Gulf war. The article further stated that these CIA reports discredit the Pentagon's continued assertion that it became aware of the potential exposure only last year.

And in today's Washington Post the headline of the lead article read: "CIA Knew In '84 of Iraq Poison Gas: Agency Official Apologizes To Persian Gulf War GIs."

Unfortunately, what we have here are glaring examples of why some of our troops and veterans may question the veracity of information provided by their own Government. It appears that this situation goes hand in hand with another major cause of mistrust: the unsolved mysteries of gulf war syndrome. Far too many of our troops who deployed to the gulf are suffering from undiagnosed illnesses that neither they nor their doctor can explain.

I commend the President for his efforts aimed at finding answers and restoring this trust. He directed the Presidential Advisory Committee on Gulf War Veterans' Illnesses to investigate and search for a cause of the symptoms experienced by so many gulf war veterans; he convened a White House Panel; and he appointed Bernard D. Rostker, Assistant Secretary of the Navy, to lead the DOD's investigation into possible chemical agent exposure during the war.

More can and must be done, however, to rebuild trust, to avoid repeating past mistakes, and to prevent future health consequences similar to those experienced during and after the gulf war. Our troops must be assured that when we send them into battle, they will be protected by the best military technology, the best leaders, and the best medicine. Protection also means proper education and training, as well as provision of critical information, including information about investigational new drugs that may be administered to our troops for their protection against chemical and biological threats.

Unfortunately, for our troops, the threat of chemical and biological weapons have become an increasing reality. During Operation Desert Storm, the DOD sought to utilize two investigational vaccines, Pyridostigmine Bromide [PB] and Botulinum Toxoid [BT], to protect troops against chemical weapons. The FDA deemed these drugs investigational because they were not originally approved for the purpose DOD intended to use them. Under FDA regulations, use of such Investigational New Drugs [INDs] required informed consent by recipients, except where not feasible. Concerned with its inability to obtain informed consent during the exigencies of war, the DOD sought an exception from the FDA of its informed consent requirement. In response, the FDA established an interim regulation defining "combat exigency" as one instance where informed consent could be waived. The DOD subsequently applied for the exception and the FDA granted it, subject to certain conditions, including:

1. Each BT vaccine was to be recorded in the individual's permanent immunization record.

2. The DOD had to maintain a roster of all individuals receiving the investigational vaccines.

3. Recipients were to report adverse reactions to the vaccines.

4. Most importantly, the DOD had to provide individuals receiving the vaccines accurate, fair, and balanced information about the vaccines. The information was contained in leaflets produced by the FDA.

Approximately 8,000 troops received the BT vaccine, while at least 250,000 received PB. However, the DOD believes that only 40 percent, and that is on the high end of the scale, only 40 percent of those services members actually received information about the vaccines administered to them. This is unacceptable.

Prior to Desert Storm, it was agreed that PB and BT constituted the best available preventative therapy against chemical agents our troops might face in the Persian Gulf. Even though the use of these investigational drugs could not have been avoided, failure to inform the troops about the drugs could and should have been avoided.

The men and women who served in the Gulf War had a right to know that the vaccines administered to them were investigational.

The same service members had a right to know about the side effects of the investigational drugs.

Let me give you an example of the importance of this information to our troops. PB is known to cause gastrointestinal problems, cramps, and headaches; but these symptoms disappear after the drug is taken for a certain period of time. Some service members stopped taking PB once they experienced these symptoms, making them dangerously susceptible to chemical agents. Had they known about PB's symptoms and that these symptoms eventually would disappear, they may not have stopped using the drug and would not have put their lives in further jeopardy.

In addition, some of our veterans who did not receive the information about the nature and side effects of the INDs may wonder today what lingering impact the drugs have on their health. With no information, a person has nothing to refute either misinformation or worst case scenarios. All of our military personnel have a right to know about the investigational inoculations they receive from the DOD. Today I rise to introduce legislation to ensure that this gulf war situation is not repeated, to ensure that in the future our troops are informed of investigational drugs, and to help ensure that our service members can and will trust their government.

The legislation will require the DOD to inform service members about the use of experimental drugs. Specifically, the bill requires that the DOD inform individuals prior to, or no later than 30 days after administration.

1. That the drug being administered is investigational;

2. The reasons why the drug is being administered;

3. The potential side effects of the drug, including side effects resulting from interactions of the drug with other drugs or treatments being administered to the individual.

While information about investigational drugs will not prevent possible side effects, the information will ensure our troops know that the Government is not intentionally misleading them or seeking to hide information from them. They will know that we value their service to our country and that we too are doing our best to protect them. Through sharing of this information can we contribute to the process of rebuilding the bonds of trust.

HAPPY 50TH ANNIVERSARY WALTER AND MARGARET BARBER

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. BARCIA. Mr. Speaker, the sanctity of marriage is more precious than any other matter in the relations that people have. It is a commitment that seems easy to make on the day of the wedding, and more priceless to hold on to for each and every additional day.

Today marks the 50th wedding anniversary of Walter and Margaret Barber, two of my constituents who I have the pleasure to know personally, and who serve as an inspiration to all of us who treasure the value of devotion. They will celebrate this golden anniversary with friends and family this Saturday in Auburn, MI.

Walter Barber served our country as a member of the Army Air Force in Europe. After returning and working at Dow Chemical, he was fortunate enough to meet Margaret Ida Koch of Bay City. They were married at St. Mark's Evangelical Lutheran Church in Auburn, IN, by Pastor Allen Trout.

Their family grew with the addition of two sons, Dennis and David, and one daughter, Lynn. They now have eight grandchildren.

Their civic involvements hold great importance for Walter and Margaret Barber. He, with the support and understanding of Margaret, had been a longtime member of the Williams Volunteer Fire Department, an activity that is of great importance to the public, and quite honestly frequent risk to the volunteer and their families. They are charter members of Grace Lutheran Church, and life members of VFW Post 6950 and its auxiliary.

They have lived very full lives, and continue to try to do more each day. It was very touching to have Walter describe for me his great love, appreciation, and gratitude for his wife Margaret, for having put up with and taking care of him for the last 50 years.

If we want to praise family values and their importance for young people, we need look no further than the lives and commitment of Walter and Margaret Barber. Mr. Speaker, I ask you and all of our colleagues to join me in wishing them the happiest of anniversaries, and many more to come.

ST. PETERSBURG FOLK FAIR SOCIETY HONORS JOSEPH MATHEWS OF SEMINOLE, FL

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. YOUNG of Florida. Mr. Speaker, St. Petersburg is home to the St. Petersburg International Folk Fair Society, or SPIFFS as it is known, which is one of the most unique organizations of its kind anywhere in our Nation. The highlight of every year comes in March when SPIFFS hosts its annual folk fair to celebrate the blend of ethnic backgrounds and history that have made the Pinellas County area of Florida I represent such a special and diverse community in which to live.

This was the 22d annual folk fair, and over 55 ethnic groups participated to showcase their culture, ethnic diversity, and foods, as well as provide continuous entertainment from around the world. For the first time this year's festival was held outdoors in St. Petersburg's Vinoy Park.

In conjunction with this year's folk fair, the Central Florida Chapter of the American Immigration Lawyers Association sponsored an essay competition entitled "Why I'm Glad America Is a Nation of Immigrants." The winning essay was submitted by Joseph Mathews, a seventh grader at Seminole Middle School. Joseph was recognized for his essay during the opening ceremonies of the folk fair, and it is an honor for me to bring this young man's thoughts to the attention of my colleagues today.

"WHY I'M GLAD AMERICA IS A NATION OF IMMIGRANTS"

(By Joseph Mathews)

The American dream. It's something we born on U.S. soil take for granted, but to others, it means hope, and a way of life.

Many immigrants in American have lived the dream and added to it.

Madeline Albright was brought to the United States by her parents to escape the holocaust. America didn't only mean her future, it also meant freedom, a place of refuge, and a chance to serve as the first woman Secretary of State.

Irving Berlin was another fortunate and successful immigrant. After traveling to the U.S. at the age of 5, Berlin became one of our most famous songwriters. "God Bless America" expresses his feelings about his new home.

Immigrants touch the lives of Americans on a smaller scale as well. My piano teacher, Gloria Bolivar, immigrated to California from Mexico as a teenager, bringing her talent, the knowledge she had gained, and nothing more. She told the Stanford Music Conservatory that she had no money, nowhere to stay, spoke little English, and needed all of her tuition paid. During the audition, Ms. Bolivar had played but a few moments when the professors said, "We want you." She became a top graduate. After several years as a concert artist, she is now teaching in Florida, and has enriched my life by sharing her musical gifts with me.

For hundreds of years, foreigners have travelled in a continuous wave to our country, bringing experience, knowledge, and skills. I am definitely sure it should remain so.

IN TRIBUTE TO MARY LOU McGRATH

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. KENNEDY of Massachusetts. Mr. Speaker, I pause today to join the city of Cambridge, MA, in paying tribute to local hero and community leader, Mary Lou McGrath, who is retiring after a long and distinguished career in the field of education and in service to her city, State, and country.

For the past 40 years, Mary Lou McGrath has been instrumental in determining the shape and direction of the public schools in Cambridge. After receiving her Masters of Education from Boston State College, Mary Lou went on to become an educator in and later the first Superintendent of the Cambridge Public School System.

In her years as Superintendent, Mary Lou McGrath has led the way toward the future of education through constant reform and innovation. Collaborating with local colleges and universities, businesses, health organizations, and government agencies, Mary Lou has sought to enhance the experience of education for both student and teacher alike. Her work has included the creation of model programs in the areas of bilingual education, gay/lesbian student education, and special needs education.

One can only begin to describe the depth of Mary Lou's devotion of time and energy to issues concerning the youth of her community. Serving on various boards and committees, Mary Lou has worked to address issues of civil rights, violence, drug use, and other youth-related concerns.

In recognition of her dedication to and efforts on behalf of the welfare of our young people and the ideals of education, Mary Lou McGrath has been presented the Ford educational "Woman of the Year" by the Cambridge YMCA. These are only a few among many honors accorded Mary Lou throughout her career.

Mr. Speaker, the people of Cambridge, MA, owe their gratitude to Mary Lou McGrath. On June 19, they will gather to salute her 40 years of devoted service. I ask my colleagues in the House to join with them and me in extending a simple, "thank you and Godspeed to Mary Lou McGrath. She has made us all proud.

IN MEMORIAM, HELEN BERNSTEIN AND ALBERT SHANKER

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Ms. HARMAN. Mr. Speaker, with the sudden passing of Helen Bernstein last week, public education in Los Angeles suffered a terrible blow, one that will continue to ache for many years to come. Only 52 years old, Helen was struck by an automobile while crossing a street to address the Miracle Mile Residents Association.

Those who were fortunate enough to glimpse the private Helen know that her daughter, mother, and brothers will mourn the premature loss of an unquenchable source of energy and warmth. To them, I offer my deepest sympathies.

Those of us who were familiar with the public Helen—and who were products of the Los Angeles Unified School District—are painfully aware that the voice of its most articulate critic and energetic champion has been silenced forever. The civic life of Los Angeles will be impoverished by that silence.

Helen's experience, intelligence, and wisdom will be especially missed in the months and years immediately ahead: Her beloved school system, the second largest in the Nation, will be negotiating difficult passage through budget restrictions, multicultural complexities, performance standards, and various proposals for reform and restructuring.

Only 5 months ago, Helen became Mayor Richard Riordan's first education advisor. Previously, she had taught history in three different public schools and served as president of United Teachers-Los Angeles from 1990 to 1996. At the time of her death, Helen was running for election to the commission that will rewrite the Los Angeles City Charter. She was also developing a national teacher union reform network.

Helen's passing, coupled with that of Albert Shanker, president of the American Federation of Teachers, will be a disorienting effect on the movement to revitalize public education in America. Congress, the President, State departments of education, and local school districts across the country are now placing a high priority on educational reform; but all of us feel an urgent need for the patient counsel of battle-tested veterans—in short, for the wisdom of a Helen Bernstein and an Albert Shanker. Only members of their immediate families will miss their presence more than public officials grappling with complexities of again creating a matchless system of public education.

THE COLLEGE STUDENT TAX RELIEF ACT OF 1997

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. KNOLLENBERG. Mr. Speaker, in recent years the price tag on a college education has gone through the roof. Last year, the General Accounting Office reported that between 1980–95, tuition at 4-year public colleges and universities increased by a whopping 234 percent. In comparison, the Consumer Price Index increased by 74 percent and median household incomes—the measure of a family's ability to pay for college—increased by 82 percent over the same period.

With tuition increases outpacing inflation and the growth in family incomes, it has become harder and harder for students to pay for college without taking out loans and going thousands of dollars into debt. As a result, the average student loan has increased from $518 in 1980 to $2,417 in 1995.

Mr. Speaker, I rise today to introduce legislation that addresses this serious problem by strengthening the Federal work-study program. Under current law, earnings from this program are taxed. My bill, the College Student Tax Relief Act of 1997 excludes these earnings from the Federal income tax.

The Federal work-study program enjoys strong bipartisan support because it rewards those who are willing to help themselves. This program provides jobs to needy students who must earn money to help pay their college expenses.

By allowing these students to keep more of what they earn, my bill will significantly increase the take-home pay of working students and ease the financial burdens created by the aforementioned increases in college tuition.

Consider the following example:

Jennifer, an undergraduate student at a public university, qualified for a work-study award of $2,600. To earn her award, Jennifer worked 18 hours a week during the school year—28 weeks—at the library and was paid $5.15 an hour for her services. During the summer—12 weeks—Jennifer earned $3,600 by working as a receptionist in a law firm.

Therefore, Jennifer's total earnings for the taxable year were $6,200.

Under current law Jennifer would be able to deduct $4,000—the standard deduction for individuals who can be claimed as a dependent—from her taxable income, leaving her with a tax burden of $332.

Under my proposal, Jennifer's tax liability would be eliminated because she would also deduct $2,600—the amount of her work-study earnings—from her taxable income.

Mr. Speaker, I urge my colleagues to cosponsor the College Student Tax Relief Act of 1997. While $332 might not sound like a lot of money, it would help students like Jennifer make ends meet and minimize their student loan debt.

INTRODUCTION OF LEGISLATION

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. ROHRABACHER. Mr. Speaker, today I am proud to introduce H.R. 1275, the Civilian Space Authorization Act. This bill authorizes appropriations in fiscal years 1998 and 1999 for, and provides policy direction to, the National Aeronautics and Space Administration, the Office of Commercial Space Transportation in the Federal Aviation Administration, and the Office of Space Commerce in the Department of Commerce.

This is an aggressive but responsible bill. Based on the Committee on Science's Views and Estimates, which calls for strengthening our Nation's research and development investment while pursuing the bipartisan goal of balancing the budget, this bill provides a slight increase in funding for NASA above their fiscal year 1997 level, while holding the other two agencies essentially constant.

This bill reflects priorities set by the Science Committee and its Space and Aeronautics Subcommittee over several years, under both parties' leadership. We strongly support human spaceflight, space science, and the aeronautics and space technology efforts which will keep American industry No. 1, and open the frontier of space to commercial enterprise.

With a few exceptions, we have approved the President's budget request for NASA. It is a greatly improved budget submission than the one he made in fiscal year 1997, especially with regard to the outyears. In two areas, we have added the funds necessary to achieve important goals. In others, we have made small reductions or limitations on the use of funds.

After preserving the safety of the Space Shuttle Flight Program, NASA Administrator Goldin has repeatedly stated to the Congress and audiences all over the country that his most important goal is dramatically reducing the cost of transporting people and cargo into space. NASA has made an excellent start in that direction with the X–33 program and its smaller sibling, the X–34. We are fully funding those programs, and indeed specifically funding the X–33 amount. Unfortunately, the NASA budget only has funds to develop and flight-test one concept for the X–33. NASA has indicated, both in testimony and direct conversations with me and staff that they wish to pursue additional X-vehicles in the future to continue pushing down the cost of space transportation. They also wish they could have funded more than one X–33 concept. This bill uses most of our increase over the President's request to fully fund a different, competitively chosen X-vehicle concept using the most advanced technologies possible. This will provide technical redundancy to the X–33, enable downstream competition in the reusable launch vehicle industry, and accelerate the drive toward cheap access to space.

Another important goal of the subcommittee is preserving steady funding for Space Science. We are providing some small increases to the Space Science accounts in this bill, particularly for analysis of the data coming back from science missions, and also for important initiatives like asteroid detection and NASA participation in the Air Force's Clementine II asteroid intercept mission.

Perhaps the most well known program in this bill is the International Space Station program, which we are fully funding at the President's request, so it will enable important science and help open new frontiers to American free enterprise. Of course, the station program is currently facing the challenge of lack of funding from the Russian Government for their share of the hardware. The Subcommittee on Space and Aeronautics held an excellent hearing on April 9 which discussed both the problems with the Russian partnership and the great importance of completing the space station on schedule for scientific and commercial reasons. I am hopeful that the White House will work with us over the next week so that when this bill is marked up in the full Science Committee on April 16, we can address the problems with Russia in this legislation.

Now, this bill doesn't just fund NASA. As commercial space activities continue to grow, creating high wage, high technology jobs here in America using private capital, it is vital that the Government provide a stable and streamlined regulatory and positive business environment for this emerging industry. That's why President Reagan created the Office of Commercial Space Transportation and the Office of Space Commerce. This bill funds and directs the Office of Commercial Space Transportation, now part of the Federal Aviation Administration, to license commercial space transportation vehicles and spaceports. We also fully fund and permanently establish, the Office of Space Commerce, which promotes the growth of current, and the emergence of new, commercial space activities.

As I said earlier, this bill provides significant policy direction as well as authorizing appropriations. That direction boils down to two important themes: ensuring NASA's accountability in spending nearly $14 billion each year in taxpayer funds, and improving the cost effectiveness of all government civil space spending.

Regarding accountability, this bill gives NASA four major directives. First, in the International Space Station program, the Congress should be better informed as to the thinking behind, and the commercial impact of, the international hardware barter agreements NASA is negotiating with various foreign entities. Second, we want to make sure that as NASA consolidates its nonshuttle operational contracts and moves those activities more into the private sector, that NASA fully consider and inform the Congress regarding the issues of competition and fixed-price versus cost-plus-fee contracting. Third, we direct NASA to pursue independent cost analyses of its programs which include all costs to the taxpayer. And finally, we direct NASA to provide the Congress with a detailed report on the status of the Earth Observing System's Data Information System.

Of course, all of us on the committee and in this body want to ensure that our constituents' tax dollars are spent as effectively as possible, particularly as we drive toward a balanced budget in 2002. So for civil space, like all other so-called discretionary programs, the Congress and administration must work hard to continually improve and reform the cost effectiveness of all Federal space activities. To that end, this bill does several things to improve both the efficiency and effectiveness of the taxpayers' investment. We include an initiative to improve NASA's procurement of new technology. We direct NASA to actively pursue the greatest possible commercial participation and use of the International Space Station program. We direct NASA to purchase space science data from commercial providers. We fund a continuing program at the Stennis Space Center to purchase commercial remote sensing data to more cheaply meet the needs of the Mission to Planet Earth program. We strongly state our commitment to move from government-operated space launch vehicles to the purchase of commercially provided launch services, including the possible option of a privatized Shuttle fleet. And we place in statute a very important provision of the President's National Space Policy mandating the purchase of, and preventing NASA competition with, commercially available space goods and services.

So, Mr. Speaker, this is quite a bill. We fund vital Federal space activities in three agencies, and set a positive policy direction for the future of American enterprise, as well as Government projects, in space. I look forward to speaking on the floor for its adoption as soon as possible after the Committee on Science reports it to the full House.

HOUSE OF REPRESENTATIVES—*Monday, April 14, 1997*

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mr. PEASE].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 14, 1997.

I hereby designate the Honorable EDWARD A. PEASE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We recognize, O gracious God, that we represent our best selves when we see our lives with the perspective of thanksgiving and praise. On this day we voice our gratitude for the freedoms we have to express our faith in differing and divergent ways, each person with the opportunity to believe, each with the opportunity to witness, each with the possibility to worship and pray as You have given us the wisdom so to do. Just as we hold to our own heritage of faith and our own words of belief, so we have been blessed in this Nation by the liberty to believe as we believe, to worship as we worship, and to pray as we pray. For these gifts we offer this prayer of thanksgiving. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from California [Mr. ROGAN] come forward and lead the House in the Pledge of Allegiance.

Mr. ROGAN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill and a concurrent resolution of the House of the following titles:

H.R. 785. An act to designate the J. Phil Campbell, Senior, Natural Resource Conservation Center.

H. Con. Res. 11. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

The message also announced that the Senate had passed a joint resolution and a concurrent resolution of the following titles:

S.J. Res. 11. Joint resolution commemorating "Juneteenth Independence Day," June 19, 1865, the day on which slavery finally came to an end in the United States.

S. Con. Res. 20. Concurrent resolution expressing the sense of Congress regarding the status of the investigation of the bombing of the Israeli Embassy in Buenos Aires in 1992.

EXTENDING ORDER OF THE HOUSE OF FEBRUARY 12, 1997, THROUGH APRIL 16, 1997

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the order of the House of February 12, 1997, be extended through April 16, 1997.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT OF EMERGENCY MEETING OF COMMITTEE ON RULES TODAY

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, this evening at 5 p.m. the Rules Committee will be meeting on other matters, but I would announce that there will be an emergency rules meeting of the Rules Committee for the purposes of establishing a Suspension Calendar for Wednesday and Thursday and I would like to inform the body.

JUSTICE IN RESOLVING THE GINGRICH ETHICS VIOLATION

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, as a former prosecutor and judge, I devoted my life to ensuring that great injustices did not occur; and my concern, Mr. Speaker, is that we are a body about to see a potential injustice done with respect to final resolution against the Speaker of the House in reimbursing the Committee on Standards of Official Conduct.

There has been a great deal of disinformation spread about his particular case. In fact, Mr. Speaker, there was no finding of any violation of tax law. The Committee on Standards of Official Conduct filed a 22-page report and found there was no evidence of any willful or criminal conduct on behalf of the gentleman from Georgia [Mr. GINGRICH]. There was no violation of law found by this bipartisan committee. And yet, despite that, Mr. Speaker, there is this great urge now to come up with a preordained result as to how the Speaker ought to pay that.

Mr. Speaker, I rise to urge Mr. GINGRICH to consider his options and give them equal consideration as he decides how to reimburse this House and not be cowed or intimidated by any lynch mob out to obtain a result disproportionate to the transgression that the House found.

AMERICA'S PATENT SYSTEM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from California [Mr. ROHRABACHER] is recognized for 60 minutes as the designee of the majority leader.

Mr. ROHRABACHER. Mr. Speaker, yesterday was the birthday of Thomas Jefferson. Thomas Jefferson, author of the Declaration of Independence, is a revered Founding Father of our Nation, the man who stood more than any of our other Founding Fathers for liberty and independence, the author of the Declaration of Independence.

Thomas Jefferson, I might add, did not stand just for liberty and freedom and democracy, he also stood for technology. Many times, people have forgotten this aspect of Thomas Jefferson, but Thomas Jefferson's commitment, his dedication to the concept of America being a new kind of society where people would be free to grow and to expand and to live decent lives and to have opportunity that was unknown throughout the world at the time of Thomas Jefferson, his dedication has been imprinted onto American law in ways that most Americans do not even remember or reflect upon as we enjoy this freedom and this great standard of living that we have as Americans.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Thomas Jefferson was a technologist as well as a democrat, small-D democrat. Thomas Jefferson, when he retired from his political life, went home to invent gadgets and devices and machines around Monticello, which can be seen even today as visitors visit Monticello. So today it is fitting that we begin this week, the Thomas Jefferson week in the House of Representatives, recognizing that on Thursday of this week, there will be a vote on the floor of the House of Representatives, this body, that will make the difference as to whether America remains the technological leader of the world or whether we will gut our patent system and open up this country to the greatest theft of its genius and creativity that the world has ever seen.

Yes, on Thursday, there will be a vote that will make the difference in the standard of living of future generations of Americans and not only our economic well-being but the security of our country as well. What is fascinating is that most Americans have no idea that this issue is coming to a vote. In fact, half or more of the Members of Congress do not know the issue will be coming to a vote. Yet it will come to a vote, the skids have been greased, the legislation is coming forward, and it will be voted on on Thursday whether or not the Members are fully aware of how their constituents believe. But what they will be aware of is the lobbyists for multinational corporations who are knocking on their door telling them how important it is to pass said legislation on America's patent system.

How fitting for Jefferson's week that we will be at a turning point because, if we vote the wrong way, if we permit the gutting of our patent system, America's technological lead will evaporate in the next 20 years; and Americans 20 years hence, the children of today, will never know what happened to their standard of living.

I call it Pearl Harbor in slow motion. What will happen is that foreigners who have long looked at America's technological genius with envious eyes will at last have the legal opportunity to steal American technology and to use it against us because we are changing the patent system that has protected Americans for over 200 years in a way that guts the protection of the little guy, the little guys like Thomas Edison, like Alexander Graham Bell, like the Wright Brothers.

The word has not gotten out because there is a blackout in the mainstream media that this bill will be coming forward. In fact, there was one article in the New York Times, and that is all I have seen among the networks and among the major newspapers of this country, one small article and no articles leading up to this great momentous decision that will be made.

Someone does not want the public to know the decision that will be made here on Thursday. The American people would be left totally in the dark if it was not for talk show radio hosts like Michael Reagan and others who have been spreading the word and warning the people, like modern-day Paul Reveres, telling the American people to wake up or they will lose their freedom.

We will be making this decision on Thursday. If the American people remain in the dark, a decision will be made that will harm their children. As I say, their children will think, did we not used to have the technological lead? Were we not always the leaders? Did we not put a man on the moon? Were we not the ones, why was it that our fathers and grandfathers could outcompete all these countries with cheap labor and now we cannot do it anymore?

They will never know. It will never be traced back to a vote here on the floor of the House of Representatives on the week that we celebrate Thomas Jefferson's birthday in the year 1997. They will not even think about it because patent law and many of the laws that protect our rights and have been responsible for this great land of liberty and opportunity that we enjoy today, many of those laws are taken for granted. Freedom, people have said, is like the air; you take it for granted until it is denied. The moment you are denied the right to breathe air, you will realize that breathing air is the most important thing in your life because everything else disappears without it. But yet we take it for granted because it is abundant and all around us.

So, too, with America's freedom, so, too, with the legal protections that have permitted the people of the United States by and large, millions of us, tens of millions, hundreds of millions of us to live lives of dignity and opportunity, lives that are the dream of people throughout the planet and over the ages.

Yet that will be threatened because the legal basis that protected America's rights is being eroded, the legal basis is being eroded. It is being eroded bit by bit by people who have good motives. They say that we live in a world that is far different than the world of Thomas Jefferson, far different than the world of Teddy Roosevelt, far different than the world of Dwight Eisenhower and Ronald Reagan.

□ 1415

They say now we live in a world where we have to accommodate the changes by creating a global economy. These individuals, who are very well-intended, believe that by creating a global economy that we can perfect the planet, or at least near perfect the planet.

I say to my fellow Americans today and my colleagues in the House of Representatives, "Lord, protect us from those who would perfect mankind." Because, in the end, they always threaten the rights and freedoms of the American people.

I do not care if they were Communists, I do not care if they were Fascists, I do not care who they are or what they are, if they will superimpose an ideal world upon the American people with no reflection on our constitutional rights, we will see a diminishing of our rights and we will see a decline in our standard of living.

Mr. Speaker, the vote that is coming up on Thursday will be a vote on H.R. 400, which has already passed committee, both the subcommittee and the committee. Yet the American people have no idea that this great gutting of our patent system is on the way to the floor and what repercussions it will have on the standard of living of the American people, of their children and their children's children.

I have a piece of legislation that will be granted the right to be offered as a substitute to H.R. 400. I call H.R. 400 the Steal American Technology Act. My bill, H.R. 811, and its companion bill, 812, will be offered as a substitute to H.R. 400.

The issues are clear and simple. However, the American people have been denied the right to hear those issues. They have been denied the right to a public debate by a media elite that has put a blanket over this issue.

Perhaps the media believes that patriotism and loyalty to one's country and fellow countrymen is old-fashioned. Perhaps they believe that it will hinder the development of a global economy, which will benefit all the people in the world. I do not know what the motive is, but I will say this much; that this is a crucial vote in our history, and unless the American people become part of the process and contact their Representative in Washington, DC, this vote will be lost and the American people will never know what hit them.

Here are the central issues. When we ask our colleagues why they support H.R. 400, they will say that there are numerous reasons they support H.R. 400. H.R. 400 officially is called the 21st Century Patent Reform Act. The 21st Century Patent Reform Act. That is what they will say; that there are lots of reforms.

It is like a bouquet of flowers that is being handed to the American people: Look at all of these reforms. And I will have to admit when I look at the flowers in the bouquet I am very supportive. In fact, my alternative substitute for H.R. 400 will contain all the flowers that are in H.R. 400. We have taken from the bill all of the good points of that bill, and that is all the authors want to talk about.

That was not the original title of H.R. 400. I call H.R. 400 the Steal American Technologies Act, but that is my title. The title they are going by now officially is the 21st Century Patent Reform Act. What was the original title of H.R. 400 when it was introduced over a year ago in the House of Representatives? The title then was the Patent Publication Act.

Well, why have they changed the name? Why has the name changed? The name has changed because in those flowers that I talked about in the bouquet are poisonous snakes. Poisonous snakes. If we only look at the flowers and we take the bouquet home, the snakes will bite our family and children and will destroy us. And the worst of all of the snakes is a snake called publication, which is the central purpose of the bill. That is why H.R. 400 was called formerly the Patent Publication Act, because the purpose of the bill is to establish a rule about publication.

For those who have not heard what this rule is, it is dramatic, it is revulsive, it is something that will shock one's sensitivities, because no one will believe that serious people are proposing that this become the law of the land in the United States of America.

What I am talking about is the main provision of H.R. 400, the provision that mandates that every American inventor who applies for a patent, that after 18 months that patent application will be published for the entire world to see whether or not the patent has been issued.

To tell my colleagues how different this is, from the founding of our country and the Constitution of the United States, from the moment that was affirmed and made the law of the land until today, Americans have had a right of confidentiality. An American inventor who applied for a patent would know that until that patent was issued no one else could know about what his application dealt with. No one would be given the details. He and his investors, he or she and their investors would be protected from their competition and from thieves.

H.R. 400 dramatically changes the fundamental law of the land to permit every thief in the world, every copycat, every individual and organization that despises the United States of America to have possession of every one of our intellectual and technological secrets so that they may use those secrets and that technology against the interests of the people of the United States of America.

There are all kinds of reasons that we will hear from the proponents of this bill as to why it is so important for our big businesses, our big businesses, to have knowledge of what is being investigated and researched by different inventors and that will give them a heads-up on what our inventors are up to.

Yes, that will give our own businessmen a heads-up, and then those huge corporations can steal from the little guy as well, just like multinational corporations. More importantly, it will permit multinational and foreign corporations to have that same information to go into production and to use the profits from producing their stolen technology to defeat and destroy American technologists in the court, using our own resources against us.

Now, why are people doing this? Again, they will say they have some sort of motive that makes sense, and sometimes it is hard to understand, but let me show everyone the real reason. What we have here, my fellow colleagues, people of the United States, and I will put this into the RECORD for another time, this is a copy of an agreement that was signed on January 20, 1994. The signatories are the head of the United States Patent Office, Bruce Lehman, and his Japanese counterpart. This is an agreement by the head of our Patent Office to harmonize American law with that of Japan's. That is the real purpose behind this legislation.

Why do we want to change our patent law so that it discloses all of this secret information, all of our technological secrets to our adversaries? Because we have an agreement to harmonize our law. Did anyone ever pass on that agreement? Did someone acknowledge this agreement on the floor of the House or the U.S. Senate? Absolutely not. But then we turn around and we have people trying to put this into law without telling us what it is really all about. Bruce Lehman had no power to make this agreement, but we can be tricked into fulfilling the obligations set out by this unelected official from the United States.

To put things into perspective, harmonization of law with Japan may be a good thing, if they are bringing their standards up to ours. But Bruce Lehman, as is clear by this document, has set out, along with his supporters in the administration and in the corporate community, to bring down the protections of American law to the level of Japan. That is harmonization. That, ladies and gentlemen, is a formula for catastrophe and disaster for the people of the United States of America. That is a formula that will permit the economic shoguns and the tyrants who rule the Japanese economy and brutally suppress anyone who threatens their interests, it will permit those power elites in Japan, who have beaten down their own people, to come to the United States and beat down our people because now we have changed our legal protections to harmonize with Japan's.

Why should they not come here and steal our technology? Why should they not try to beat us down and destroy the standard of living of the American people in order to put cash in their own pockets? Why should they not when the American Congress is willing to change the law to permit them to do it?

It is not shame on the Japanese. The Japanese Government is simply watching out for the interests of Japanese people and the special interests who hold power in Japan. It is not shame on Japan. It is shame on those people who would decrease the legal protection of the people of the United States in order to harmonize our law; those people who would risk our standard of living and the technological advances that have kept us the envy of the world, who now have a global picture in mind and think that having the American people, a people guaranteed certain rights and freedoms and opportunities that do not exist in other parts of the planet, that that has become some sort of passe goal for American leaders.

If it was not for the United States of America, there would be no freedom and no hope anywhere in the world. Yes, I think it is nice that we should try to help others and we should try to help establish situations where trade and commerce flourish. I believe in free trade. But I believe in free trade between free people. I believe first and foremost, when our negotiators sit down at the table they should not be thinking about some idealistic goal that is a dream goal of a unitary planet where commerce is flowing freely and that everyone is benefitted, but when they sit down at the table they should be representing the interests of the people of the United States.

There is nothing wrong with that. We should make no apologies for that. The American people have borne the burden of war and borne the burden of aid to other countries. We have been the most generous people in the world, but we should not be generous with our technology and permit others to steal it in order to use it against us.

Yes, there will be a price to pay. Not only our economic adversaries will be stealing this technology, but so will potential foreign policy and military adversaries. The Americans won the cold war not because we matched the potential Communist enemy man-forman. It was when Ronald Reagan expanded the technological capabilities of our military that broke the will of the Communist bosses in Moscow and led to a more peaceful world.

Today we have a great opportunity to lead mankind into a more peaceful world, but we will not do it by lowering the protections that have afforded Americans the highest standard of living and the rights of opportunity and freedom that were unknown in other parts.

Yes, the Chinese, not just the Japanese, and other American competitors are ready and waiting with their Xerox machines and their fax machines for this Congress to pass this rule that will mandate every one of our technological secrets to become public information even before the patent is issued.

We are told, well, we are giving the right of people to sue some corporate entity if the corporate entity steals their patent after it has been published after 18 months. To put this in perspective, often it takes years for a patent of significance to issue, sometimes 5 and 10 years. Thus, we are saying to our people we are going to expose all of your secret information, all the work that you have done to your adversaries, who can then use it, and then once the patent is issued, let us say 5 or 10 years later, after they have been in production of your idea, of your technology, we are giving you the right to sue them.

This is asking smaller American companies or even individual Americans to sue huge U.S., huge foreign, and multinational corporations. Talk about a fantasy. This is an absolute fantasy that that means anything. That has absolutely no relevance. It is setting up a situation where there will be theft and no recourse because the Americans will not have the money to go out and file these suits against huge foreign corporations, especially if those huge corporations happen to be the People's Liberation Army of China, which is currently stealing much of our intellectual property.

□ 1430

Let us put this in perspective as well. The Wright brothers, people who we are so proud of. We are proud of the Wright brothers. Go down to Kitty Hawk, NC, and see where two Americans, with little education, who worked at a bicycle shop, had a dream, had a dream of inventing a machine that would permit mankind to soar through the air. And people all over the world who had tried before them failed, yet they persevered, and they tried and they failed and they came back to try again. And there on the windy slopes on the coastline of Kitty Hawk, NC, in 1903, less than 100 years ago, mankind ascended into the sky with powered flight for the first time, and the lives of the American people and the people of the world were changed forever, because they had discovered the secret of the shape of the wing and the aerodynamics of an airplane. And under the new system that is being decided on Thursday, if it passes, the Wright brothers' secret would be made public for everyone in the world to know the secret before the patent was issued, and you can bet that Mitsubishi Corp. in Japan, which made airplanes during World War II to shoot down Americans and destroy Americans, that that corporation would have used the Wright brothers' patent information to build aircraft, and today the American people would say, well, I wonder why Japan is always ahead of us. How come they are always ahead of us? Like for example, how come we have to buy all of our jet airplanes from Japan? They would never know that if it was not for this type of legislation that America would have a strong aerospace industry, that we would have hundreds of thousands of jobs, high-paying, good jobs, manufacturing jet aircraft, except for the fact that we changed the law and the Japanese were able to steal the technology and go into production. Yes, that is how much difference it will make in the future for America, but they will never know what hit them.

This law, H.R. 400, is the worst piece of legislation that I have seen as a Member of Congress. It is also perhaps the piece of legislation that has been attempted to be passed through this body in the most insidious manner that I have seen during my time in Congress. This agreement with the Japanese in 1994 has two main provisions. One we are talking, is the publication, and the other one happens to be the changing of another fundamental in our patent system called the guaranteed patent term.

Americans do not even know this. But right now they have already lost that right. Up until 3 years ago, until from the time of the founding of our country, that any inventor in the United States had a right to a guaranteed patent term. That patent term would be the same no matter how long it took the patent to be issued from the bureaucracy, from the Patent Office. Well, that was what our Founding Fathers had in mind, because no matter how long it took that patent to issue after someone applied for a patent, he had, or she had, 17 years of guaranteed protection. That is called the guaranteed patent term. You would have a guaranteed term of 17 years. Again to model the Japanese system, that was replaced 3 years ago. The American people do not even know they have lost that right and it has been replaced by a system that is the Japanese system. The Japanese system, by the way, is when someone applies for a patent, the clock starts ticking, but it is ticking against the inventor and 20 years later you have no more patent rights. And during that 20 years, if the bureaucracy is slow or you have powerful interests trying to slow up the issuance of your patent, you are losing every second. That is why in Japan they never invent anything, because in reality the inventors do not have a guaranteed patent term. They have something that is uncertain and people do not invest in new technology, they invest in stealing other people's ideas.

We have already changed that. That change was made not by an up-and-down vote here on the floor of the House, that change was made when some bright person, and I do not know who that person was, decided to get around the democratic process in the United States, meaning let us not let the elected representatives of the people of the United States vote on this fundamental change in our patent law. Instead, this provision was stuck into the GATT implementation legislation. GATT was an agreement on trade and tariffs between a multitude of countries around the world. We gave our President fast-track authority which permitted him to make the agreement and then when he brought it back to the House floor, that we would have 50 days to look at it but only those things that were required by GATT were supposed to be in that legislation. This was not required by GATT. This change in our patent law was not required by GATT. Yet it was put into the GATT implementation legislation. Why was that? Because some bright person, I do not know who it was, decided that bypassing the democratic process where we would get an up-and-down vote on this did not make any difference. So Members of Congress were faced with voting against the entire world trading system or accepting this change in the patent law, and what was the purpose of that, what I consider to be an underhanded maneuver? It was to fulfill our agreement, an agreement made between two unelected officials, but especially the official representing us was unelected, in Japan. If we let unelected officials go to Japan and let them bargain away our rights as Americans and then come back here and sneak the provisions of those agreements into other pieces of legislation, our standard of living and our freedom are in jeopardy. That is why I am making such a big deal about this vote that is coming up on Thursday. It is a threat to our national security. It is a threat to the well-being of average Americans. There has never been a vote in this body that I have seen in my 8 years as a Member of the House that is more of a little guy versus big guy vote. In fact, there is bipartisan support of H.R. 400, the Steal American Technologies Act, but there is also bipartisan support for my substitute, the Rohrabacher substitute, H.R. 811 and 812. DAVID BONIOR, MARCY KAPTUR, CYNTHIA MCKINNEY, you name it, we have got some very strong, active, liberal Democrats and we have got some conservative, active Republicans, but it all comes down to the little guy versus the big guy. Our corporate interests in the United States of America, the big corporations, have decided that they would be cutting deals with their multinational brothers and sisters, and the foreign corporations have decided it is time to end America's patent system as it has been since the founding of our country, and we are in the process of seeing that go down if H.R. 400 passes.

I have told you the main aspect of H.R. 400 has been publication. But there are other aspects of H.R. 400 which I call other poisonous snakes in the bouquet. And when you ask someone about H.R. 400 and they say they are in favor of H.R. 400 and then want to talk about the little flowers, tell them you do not want to talk about the flowers, you want to talk about the poisonous snakes. Everybody is in favor of the flowers. And the first poisonous snake is the publication, mandatory publication. Is someone in favor of publishing for the world all of our secrets?

That is No. 1. But the second item, the second poisonous snake, it is called reexamination.

When our patents are issued to Americans, those patents are your property. You then own a piece of property for a given period of time. It is like someone giving you a deed. There has only been one way to challenge that deed, and that is if someone can prove that that person actually invented the invention first and that the Patent Office was wrong, that they invented it first. But H.R. 400, on the other hand, does what? H.R. 400 opens up for reexamination America's current patents, so not only are they putting in jeopardy all of our future technology, they are also putting at risk all of our current technology that is patented. William Banner, former U.S. Commissioner of Patents and Trademarks, calls attention to the fact in this bill in terms of publishing patent applications, and it will permit those applications to be subject to reexamination prior to any patent issuance as well as after the issuance. So what we have got here is the experts now are telling us, this bill permits reexamination of current patents and examination of those patents that are in the process, reexamination within the process.

What we have got is a lawyers heaven. We have opened up for litigation. All of our patent rights are now on the legal block. You can bet that when a foreign company decides that they want to use American technology, and it has been patented already, that company is going to say, well, should we sue this American company and tie them up or should we just pay them royalties? They are not going to go for the royalties. They are going to say, let us tie them up, let us put them through the grinder and if this company does not have the money or if this small group of American inventors do not have the money to basically protect themselves in court, then the foreign corporation will win. That is on current patents. That is currently the patents that exist.

This bill, H.R. 400, is an invitation to every thief in the world, every powerful interest in the world to come and take on the American people and to steal our technology. People say, well, how can anybody support this? Well, this same gentleman who signed this agreement is still the head of our Patent Office, Bruce Lehman. Last year he proposed, guess what? Mr. Lehman proposed last year that we give the entire data base of our Patent Office, that we put it on disks, on these computer disks, the entire data base for our Patent Office and give it to the Red Chinese. I know there are some people right now just falling out of their seats and they cannot believe that anyone would ever do that. When he was asked, why would we ever want to do that, his answer was, "Well, we've got to tell them what not to steal, and we can give a little message, here's what not to steal." Well, that is very close to sending the world's worst crime syndicates the combinations of every safe in the United States of America and say, By the way, we would hope that you don't steal and use these combinations to the safes in the United States of America to steal American money.

We are sending you this so you will know what not to do. Give me a break. What is going on here? Something is going on here. It is called the harmonization of law that has nothing to do with the best interests of the people of the United States.

Something else, another poisonous snake in H.R. 400, the bill that will be voted here on Thursday, celebrating Jefferson's birthday, the birthday week of Thomas Jefferson, we will vote, and a poisonous snake in the bouquet of H.R. 400, another one, is that the Patent Office that is written into our Constitution, in our Constitution is written a provision that establishes a Patent Office. We can thank Tom Jefferson, we can thank Ben Franklin, we can thank our forefathers and mothers who saw well beyond the years of 1789 and knew that this would be important to our country, that we would actually establish in our Government a means of protecting the new genius of our people and that people would come from all over the world to participate in this, the American dream. But do you know what H.R. 400 does to the Patent Office? It obliterates the Patent Office. It eliminates the Patent Office as part of the U.S. Government. It corporatizes the Patent Office. Corporatizes. What does that mean? Well, I am not sure exactly what it means. It turns the Patent Office, which has been part of our Government, into sort of a quasi-private, quasi-government corporation that is sort of like the Post Office. To put it in perspective, our Patent Office has functioned for over 200 years and there has never been a scandal in which the patent examiners, the men and women who make the decision as to who owns these technologies, decisions that are worth billions of dollars, decisions that will mean whether or not we will have a high standard of living, whether or not the flow of wealth will come in the direction of the United States, or will pour out of the United States into other countries and into the coffers and bank accounts of other interests in the world, these patent examiners have never, ever had a scandal in which their veracity and their integrity was called and that they had failed us as Americans.

□ 1435

They have always worked hard and diligently, and it is a tough job. Now these people who have been protected as civil servants from outside influences because they were part of the U.S. Government, these civil servants, who we can thank for doing a good job, are now going to be put under a new structure that will not be part of the U.S. Government officially, but instead will be a corporatized entity, a corporatized entity.

Now what kind of influences will be put on people who work for a new corporatized entity? Will they be protected from the outside?

Well, for one thing, the patent bill suggests that this new corporate entity, this H.R. 400, says that it may, if you want to listen to this, that H.R. 400 says that this new corporate entity "may accept monetary gifts or donations of services or of real personal and mixed property in order to carry out the function of the office." In other words, this new corporate entity will be able to receive gifts from big foreign corporations or special interests from here and abroad.

Do you think that would have some impact on the way we do business, in the way that people make decisions as to who owns what property and what patents are issued? Well, it might, it might not, but we are opening the door. This is not a door that we want to open to poisonous snakes.

And then, of course, the opposition says, well, Government agencies, Government agencies, can already accept gifts. Well, that is true. That is true, and you will hear that rebuttal from the proponents from most people who are supporting H.R. 400.

My colleagues, when you hear that rebuttal, keep in mind that that is half the story. The other half of the story, when you can accept gifts, is that what can you do with those gifts?

Currently anybody who gives a gift to a Government agency or department, well, those gifts now basically have to go through the Federal property and administrative services, and they basically, what you have got to do, other people, other Government agencies who are set up to handle these gifts, determine what happens to the gifts, and they basically go, and they become Federal property for the overall Federal Government.

What we are doing with this legislation is exempting this new corporatized Patent Office from that requirement. Thus, they will be able to accept gifts and use it for the Patent Office as determined by the directors of the Patent

Office. Do you think that will influence anybody?

So anybody who says do not worry about it, every Government agency has this same type of right to accept gifts, remember that person is trying to deceive you because they know darn well that currently those gifts and the gifts of other agencies are well controlled by the Federal Government, and their insurance is to make sure that does not influence those decision makers in those departments and agencies and that this new corporate entity is exempt, exempt from that type of safeguard.

Also, I might add that the new corporate entity has a right to borrow money on the U.S. taxpayers. That is correct. This new corporation, this new corporation that will come into existence, the patent corporation, who will be deciding on our future rights as Americans, have a right to borrow money and to issue bonds. H.R. 400 transforms an agency now fully funded by user fees to one that can borrow and incur debt.

Last year Patent Commissioner Bruce Lehman stated that he would seek—now get this—Bruce Lehman has already stated for the record that he would seek to borrow $2 billion, citing priorities like a new headquarters for the corporate structure; $2 billion added to our national debt. That debt is our debt. That debt, if this new corporation does not pay it back, becomes the responsibility of the American taxpayers.

Oh, my gosh. Oh, my gosh. Can you imagine? We have got a corporate entity out there, somewhat independent, who now can borrow against, and we are responsible to pay it back. We got somebody who believes they are going to build, they are going to spend billions of dollars on new offices, and you can bet when this Mr. Lehman buys his office that he is going to want it to be pretty plush, and I have not seen the plan, but I bet you there will be more marble in this new patent building, especially on his floor that he has for his offices, than one can ever imagine, and I am sure there will be lots of gold trim, too, because why not? They are going to borrow from the taxpayers, and we have got a limited right to step in and make sure that we have oversight, they have limited oversight, as compared to today where we have just the same oversight as any other Government agency.

So, we have this decision coming up on Thursday. We have all of these poisonous snakes about to be unleashed on the American people. The seed corn of American prosperity is about to be given away because that is the seed corn of America's crops in the future, that is our ideas in this era of ideas, and we have got the mainstream media with a total blackout, almost a total blackout on this issue, we have got talk show hosts all over the country talking about it because they have been informed, and they are running with it and going directly to the American people.

How will the vote turn out? How will the vote turn out? It could go in either direction. Something as important to the future of our country, to the well-being of our children, something that goes to the heart of our system, is going to be decided, and it can go either way, and you have got people here who delightfully will say the biggest employer in my district wants me to support this bill and that is what I am going to do, and that is what a lot of Congressmen are basing their opinion on, the largest employer in their district.

So let us talk about the dynamics of why we have ads being placed in the Roll Call magazine by America's largest corporations trying to foist off on the American people this gutting of America's patent system. Why is that? What are the dynamics involved?

Well, first and foremost I believe that our own multinational and domestic corporations who sometimes have interlocking directorates with other corporations from other countries, I might add, first and foremost they do not want to pay royalties to inventors either. So they would just as soon wipe out what they consider an antiquated protection of American technologies because it is just too much. Of course, these same corporations would invest in Adolf Hitler's Germany in order to make a 20-percent profit, just like they are investing all of the money now in Communist China in order to make a 20-percent profit rather than creating jobs in the United States of America for American workers because they would rather do that even though it is a dictatorship than to invest over here because over here their return of their investment is maybe 10 percent a year, and over there it might be 20 or 25 percent.

Well, that is one reason. They want to make more money, they do not want to pay royalties, and they do not care about the people of the United States, and they especially do not care about these little nerd inventors, which is what they think of inventors.

Well, another reason huge corporations get together and put ads in Roll Call, and I might add huge corporations, foreign and domestic, hire lobbyists, an army of lobbyists, to knock on the doors of each and every Member of Congress to try to get them to vote in this way is because they like the status quo, they like the status quo, and there is nothing that distorts the status quo as much as someone coming up with a new technological innovation. And they want to control, they want to control growth and progress in the United States, so that their investment in all of this new equipment and all of their corporate structures that are based on current technology, they do not want to put that technology at risk. They would rather us stay exactly the way we are because then their capital investment does not have to be remade. But these small inventors who come up—you know some guy who comes up; by the way, I have got an invention that can do that very same thing and will only cost a dollar as compared to $200 that you are charging for what you do currently. Do you think a corporate leader wants to hear that? They do not want to hear that. They want that guy to go away. They do not want the American people to have a cheaper widget. They do not have a cheaper refrigeration system. They do not want to have something that develops that makes our life better, but we do not have to pay as much money to some big corporation for making it for us.

The fact is that the corporate leaders today are not the innovators of the world, they are not the people, the Alexander Graham Bells; they are not the Thomas Edisons. They are people who got educations in corporate management at big elitist schools, and they do not care about the people of the United States, and they do not want their elite position challenged. They want to control what happens in our country for their benefit, and they do not want new innovations coming out that could so stir up things that it makes their current investments meaningless.

That is a big motive for what is going on right now with H.R. 400. That is one of the reasons that we have H.R. 400 before us today, because there are powerful interests who do not—do not respect the will, nor do they consider themselves to be Americans and watching out for the interest of Americans. They are watching out for their bank account. And what effect will this have if we let those people, those elitists move forward? How will it impact us? How will it impact the average American?

I have had calls from all over the United States, all over the United States from inventors and from small companies, small businesses who are trying to develop new things. Just last night I was talking to a person who owns a small company in my own congressional district, and they told me, and I will not go into great detail about it, but about a process that will absolutely prevent, and I should not say "absolutely" so often that will prevent meat from being contaminated, and when it is contaminated, it will alert the consumer so that never again will we have to worry about getting bad meat and different bacteria in the meat, and it would be very low cost, and it will just spread across America, and it is a marvelous idea, and do you know that he has been waiting for his patent for over 2 years, and if this system was in place, the system they are trying to foist on us, his information that he used to—he used, you know, hundreds of thousands of dollars in time and investment to develop this new technology. It would have been published, all of his people all over the world would already have known about it, his competitors, and he would never ever get any return on it. So why should he even try in the first place? That system would never emerge because no one would have the profit motive to come up to try to invent it.

Then of course we have got letters from a person who is trying to act like—talk to this person as well who has developed a way of debugging not only buildings, but crop land without the use of chemicals. We are poisoning our homes and poisoning our environment and poisoning our land in order to get rid of bugs that are eating our crops. This person has a new technology that will eliminate these bugs, kill them without the use of poisons, without the use of chemicals. Yet he says to me, "I'm afraid to write up a patent application because if it takes 15 years or 5 years or 10 years for me to get my patent issued, all of the foreigners will steal my idea, and I'll never get any benefit from it."

Someone wrote me and said "I need a new system to try to detect breast cancer."

Now these are things we do not think of, breast cancer, or meat spoilage, bugs that are being killed. These are little things that just slip by, but they make all the difference in the world to what our standard of living is, what kind of land that we will be in, whether or not we will—all of our food will be eaten by bugs or rodents or things like that, or we have to poison ourselves with chemicals to get rid of that problem.

□ 1500

These problems can be solved if we keep the door of technological progress open. This will slam the door in the face of these people. They know it. They are writing and calling every day saying, I cannot see a future and I will never move forward with my invention if these laws are in place.

The American people will suffer, and they will never know what hit them. They will never know that there was equipment to debug their homes without chemicals. They will never know about it in the future. Their children will be sick and their grandparents will be sick from the fumes, and our food will have the chemicals in it. They will never know there was an alternative, because the inventors could not apply for a patent without the worry of having it stolen from them.

Mr. Speaker, I had a man in my office when this was going to the committee, he ran a small solar energy company. And as I told him what was going on, his face became red and he was pounding on the table. He said, Mr. Congressman, if that bill passes, I have put millions of dollars in trying to invent this method of improving the amount of electricity that comes out of solar energy. If they publish my patent, the Japanese will be in production of what I have invested my whole life in; they will be in production and they will be using the money that they are making from my technology to steal my technology from me legally in the court system once my patent is issued.

Mr. Speaker, this is wrong. This is wrong. It is going to hurt America. It is coming to a vote, and it is sliding right through the process. H.R. 400 will come to a floor vote on Thursday. There is an army of lobbyists contacting Members of Congress, paid for by multinational corporations and by huge American corporations.

Members of Congress need to talk to their constituents and the constituents need to talk to their Member of Congress. That is the way America will be saved. That is the way America has always been saved, not by some top dog somewhere making some decision.

During the American Revolution when Thomas Jefferson was writing the Declaration of Independence, a third of the colonists were supporting the British. They were basically people who were of the elite classes. Throughout our history, when American freedom was in jeopardy, it was the American people themselves and not our corporate elite and not our business executives, and not the big, important, handsome, and beautiful people that stepped forward. But it was those average Americans, average you and me type people, who saved the day, who charged up San Juan Hill with Teddy Roosevelt, who fought with the 69th Regiment, the Irish Regiment at Gettysburg, who fought the American Revolution, and afterwards saw that they did not get anything from it, and those same Tories came back who had supported the British and made all kinds of money by speculating on currency, on continental currency.

But I believe in the American people. I know that they will meet the challenges. They will keep our country free. When we celebrate Thomas Jefferson's birthday, and his birthday week, we will hold that torch high, because that is our job. It is not the job of Government. It is not the job of the other guy. It is the job of every human being who believes in liberty and believes our country must maintain the standards of justice and decency and the legal protection of individual rights far beyond those of any other country on this planet. Of that we can be proud.

Mr. Speaker, as long as we have that kind of commitment, America will remain that dream, that hope for all mankind. And we will lead the rest of the world into a new era when other people do have more opportunities, because we will maintain our standards, rather than trying to bring our standards down to those of other countries.

I am confident that we have a chance to win, but I am warning the people now. I am ringing the alarm bell. The people of this country have to step forward. I know they will.

Mr. Speaker, I include for the RECORD the document entitled "Mutual Understanding Between the Japanese Patent Office and the United States Patent and Trademark Office".

The material referred to is as follows:

JANUARY 20, 1994.

MUTUAL UNDERSTANDING BETWEEN THE JAPANESE PATENT OFFICE AND THE UNITED STATES PATENT AND TRADEMARK OFFICE

Actions to be taken by Japan:

1. By July 1, 1995, the Japanese Patent Office (JPO) will permit foreign nationals to file patent applications in the English language, with a translation into Japanese to follow within two months.

2. Prior to the grant of a patent, the JPO will permit the correction of translation errors up the time allowed for the reply to the first substantive communication from the JPO.

3. After the grant of a patent, the JPO will permit the correction of translation errors to the extent that the correction does not substantially extend the scope of protection.

4. Appropriate fees may be charged by the JPO for the above procedures.

Actions to be taken by the U.S.:

1. By June 1, 1994, the United States Patent and Trademark Office (USPTO) will introduce legislation to amend U.S. patent law to change the term of patents from 17 years from the date of grant of a patent for an invention to 20 years from the date of filing of the first complete application.

2. The legislation that the USPTO will introduce shall take effect six months from the date of enactment and shall apply to all applications filed in the United States thereafter.

3. Paragraph 2 requires that the term of all continuing applications (continuations, continuations-in-part and divisionals), filed six months after enactment of the above legislation, be counted from the filing date of the earliest-filed of any applications invoked under 35 U.S.C. 120.

WATARU ASOU,
Commissioner, Japanese Patent Office.
BRUCE A. LEHMAN,
Assistant Secretary of Commerce, and Commissioner of Patents and Trademarks, United States Patent and Trademark Office.

THOSE WHO WOULD AMEND THE CONSTITUTION ARE REVOLUTIONARIES, NOT CONSERVATIVES

The SPEAKER pro tempore (Mr. PEASE). Under the Speaker's announced policy of January 7, 1997, the gentleman from North Carolina [Mr. WATT] is recognized for 60 minutes as the designee of the minority leader.

Mr. WATT of North Carolina. Mr. Speaker, I do not think my colleague, the gentleman from California [Mr. ROHRABACHER], could have set the table any better for my comments, because I, too, am here today to speak on behalf of the American people, and some of the principles for which the American people fought many years ago in the establishment of this country.

This is a first for me. This is my third term in Congress. I am in my 5th year. I have never, ever requested an hour to address my colleagues or anyone in a special order. But I come today with such a firm belief that what we are about to do in this House on tomorrow, the issue that we are about to consider, which would require a two-thirds vote in this House for the passage of a bill which had the effect of increasing taxes, is so inconsistent with every single principle that is near and dear to me, and should be near and dear to the American people, that I asked for this time today.

The American people will probably remember this debate from a year ago. On April 15, 1996, the Republican leadership brought a bill to this body that was essentially identical to this bill. It would have required a two-thirds majority to increase taxes. That bill was resoundingly defeated, bipartisanly defeated, and so one wonders initially, why would the bill be back again tomorrow, on April 15, 1997, a bill that lost 243 to 177 last time? Why would it be back again?

Mr. Speaker, my Republican colleagues I believe are trying to convince the public that they are doing something that is in their interest, and on tax day they are trying to fan some flames and get some political benefits. But the American people should not be fooled by this.

Mr. Speaker, my colleagues tomorrow who bring this bill will say, we bring it to do a favor for the American people. We bring it as a conservative initiative to counteract those liberals who would raise taxes on the American people.

I want to reflect back, at the outset of my comments, to comments made by President Abraham Lincoln on February 27, 1860. This is what he said. I am quoting him directly:

> But you say you are conservative, imminently conservative, while we are revolutionary, destructive, or something of the sort. What is conservatism? Is it not adherence to the old and tried, against the new and untried? We stick to, contend for, the identical old policy on the point in controversy which was adopted by our fathers who framed the government under which we live, while you, with one accord, reject and scalp and spit upon that old policy, and insist upon substituting something new.
>
> True, you disagree among yourselves as to what the substitute shall be. You are divided on new propositions and plans, but you are unanimous in rejecting and renouncing the old policy of the fathers of our country.

Amending the Constitution of the United States, Mr. Speaker, is not a conservative notion. It is a revolutionary, a radical notion, and I keep wondering why it is under those circumstances that over and over and over again this new majority, which calls itself a majority of conservatives, brings time after time after time again proposed amendments to the Constitution of the United States of America, in unprecedented numbers.

During the last term of Congress there were 118 constitutional amendments proposed; various permutations, combinations, proposed to this body by this new conservative majority, calling themselves conservatives, attacking the very document which is the basis on which we operate our Government.

In the last Congress we voted on four amendments to the Constitution, the balanced budget amendment, the term limits amendment, the flag desecration amendment, the supermajority for tax increases amendment, the same proposal that will be before the House again tomorrow.

Mr. Speaker, four proposed amendments to the Constitution may not sound like a dramatic number, but 118 proposed amendments were introduced in this body, the great, great, great, great majority of them by my colleagues calling themselves the new conservative majority; in the 104th Congress, the last Congress, proposed amendments 10 times more than any of the prior 10 Congresses, this conservative new majority.

Over the last 10 years, the average number of constitutional amendments introduced and voted on in the House was 1. Look back through our whole history in this country and look at the number of times our basic framework of our democracy has been amended, and here we are again tomorrow with a new constitutional amendment attacking the framework under which our Government and our country operates.

Mr. Speaker, I come with a passion about this issue. I have told my colleagues in this body many times that I believe on constitutional issues I may be the most conservative, maybe the only conservative in this body. I think it is revolutionary to propose a constitutional amendment. It is not conservative.

My colleagues can tell me over and over and over again how conservative they are, but it is not a conservative notion to amend the Constitution of the United States. Yet, over and over again during the last Congress and in this Congress, starting anew, there are a bunch of cavalier Members who believe that they have a better idea about how our country ought to operate than the Founding Fathers of our Nation, whose ideas have stood the test of time; a bunch of radicals calling themselves conservatives, and saying, we have a better idea about how to run this country.

Those are the kinds of people that my colleague, the gentleman from California, was talking about, who are supporting not ordinary citizens who believe in the Constitution under which we operate, but they are supporting a different notion.

Why do I choose this proposed constitutional amendment to come and address? Mr. Speaker, I believe this is the most basic attack on our Constitution of any that were proposed during the last Congress, and any that will be proposed during this Congress.

□ 1515

It goes at the very heart of our democracy. Our democracy is based on majority rule, one person, one vote; every single individual in this country is equally weighted. And to come with a constitutional amendment which says require a two-thirds majority diminishes the value of somebody's vote and enhances the value of somebody else's vote. It is counterdemocratic.

Mr. Speaker, the essence of democracy is majority rule. Lord knows, I have been in a minority my entire life. I have no objection to being in a minority. What I have objection to is some supermajority requirement, because I understand that our democracy is based on majority rule.

Why is majority rule so basic? Go back to our Founding Fathers, Alexander Hamilton, in The Federalist Papers, here is what he said: "The fundamental maxim of republican government requires that the sense of the majority should prevail."

That is Alexander Hamilton, majority rule is the basis of our democracy. We litigated for years and years to establish the requirement that each person's vote out in the populace should be equally weighted in the selection of Members of the U.S. House of Representatives. In the cases of Gray versus Sanders and Wesberry versus Sanders, the U.S. Supreme Court specifically articulated that every single individual has an equivalent right to select the Members of this body.

Here is what the court said in Westbury versus Sanders:

> We hold that, construed in its historical context, the command of Article I, Section 2 of the Constitution that representatives be chosen by the people of the several States means that, as nearly as practicable, one man's vote in a congressional election is to be worth as much as another's. To say that a vote is worth more in one district than in another district would not only run counter to our fundamental ideas of democratic government, it would cast aside the principle of a House of Representatives elected by the people, a principle tenaciously fought for and established at the Constitutional Convention.

We spent in 1990 almost $3 billion, and in the year 2000 we will spend another $4 to $5 billion to count every citizen in the United States and reapportion our Government, because we believe in the principle of one person, one vote. We do not count and do a census just for the heck of it. It is the basis of our democracy. It is the basis on which the membership of this House of Representatives is constituted.

We will spend $4 billion in support of that proposition in the year 2000. And guess what? After that census is taken, in order to ensure that one person one vote is appropriately applied, the whole system of districts, congressional districts throughout the country will be reordered. Some States will lose representatives because they have lost population in proportion to other States. Some States will gain population. There will have to be a redrawing of congressional lines all across this country, because we believe in the principle of one person one vote. It is the basis of majority rule. It is the basis of a democracy.

Now, what happens then when a constitutional amendment is offered that requires a two-thirds vote? What you have said to the American people is, oh, no, we understand that you have the right to be equally represented in the selection of your Representatives, but your Representatives do not have the right to be equally represented in their voting on this issue. That, my friends, is the reason that the number of places in the U.S. Constitution requiring anything other than a majority vote is severely limited, limited to only four instances, four instances: Ratification or consent to a treaty, that is our relationship with an external entity, somebody external to our country so we require a higher level of support for that kind of endeavor; conviction in impeachment trials or expulsion of Members, our relationships internally in this body, we require a higher constitutional requirement; to override a Presidential veto, we require a higher than majority vote because that has to do with the balance of power between the various branches of the Government, and that is the way our Founding Fathers set it up; or passing a constitutional amendment.

That ought to tell us something about what our Founding Fathers thought about willy-nilly, based-on-popularity polls, based on the issue of the day or the thought-of-the-moment thought about amending the Constitution. That ought to tell us something about how serious they were about it. Yet this new conservative majority would have us believe that they are somehow being conservative, attacking the very document that is the basis of our democratic society.

We do not even require a supermajority, anything other than a majority in this House to declare war. Would anybody submit to me that a declaration of war is less important than raising somebody's taxes?

Mr. Speaker, this is a counterdemocratic movement that is being proposed, and it is being brought out here tomorrow onto this floor on April 15, just like it was on April 15 a year ago, not for any substantive purposes but for political purposes.

Well, what do some of our Founding Fathers have to say about this majority rule or supermajority requirement? Listen, if you would, to Alexander Hamilton again, when he debated at the convention this whole notion that there ought to be something other than a majority vote to decide issues. Here is what he said:

> What at first sight may seem a remedy is in reality a poison. To give a minority a negative upon the majority, which is always the case where more than a majority is requisite to a decision, is in its tendency to subject the sense of the greater number to that of the lesser. Its real operation is to embarrass the administration, to destroy the energy of the government, and to substitute the pleasure and caprice of an insignificant, turbulent or corrupt junta.

He called them a junta. Hey, that is a revolutionary term. It is a revolutionary term.

He went on to say,

> This interruption of regular deliberations in decisions of a respectable majority would lead to tedious delays, continual negotiation and intrigue, contemptible compromises of the public good.

Mr. Speaker, those are not my words. Those are Alexander Hamilton's words on the founding of this country about this same kind of notion that is coming to the floor of the House of Representatives tomorrow.

Well, was Alexander Hamilton alone in his contempt for this requirement of something other than majority rule? No, he was not. What about James Madison in The Federalist Papers? It has been said, and I am quoting,

> It has been said that more than a majority ought to have been required for a quorum and in particular cases, if not in all, more than a majority of a quorum for a decision. In all cases where justice or the general good might require new laws to be passed or active measures to be pursued, the fundamental principle of free government would be reversed. It would be no longer the majority that would rule, the power would be transferred to the minority. Were the defense privilege limited to particular cases, an interested minority might take advantage of it to screen themselves from equitable sacrifices to the general will or in particular emergencies to extort unreasonable indulgences.

Those are the words of James Madison on the founding of our country. They are not my words. And yet my colleagues would have us believe that this two-thirds supermajority to raise taxes is just, we are protecting the people of the United States. Well, which people of the United States are they protecting?

□ 1530

Which people are they protecting? I submit that they are not protecting any of us. Because if we truly believe in democracy, then we truly believe in the rule of the majority. And if we need to raise taxes or lower taxes or declare war or take any action that is not already specified in the Constitution as requiring a higher than a majority vote, then we ought be able to do it based on majority rule.

I did not come here to talk about raising taxes or lowering taxes. This is not about the issue that underlies this. This is about the document that is the fabric and basis of our democracy. It is about majority rule. It is about standing up for every single person to have the same right that every other person in this country enjoys. It is about every single representative, each one of us, representing an equivalent number of people in the scheme of our Government, not having his or her vote in this House of Representatives diminished in any measure.

So it is not about taxes. That is not the issue at all. It is about the Constitution of the United States of America. It is about the principles that underlie majority rule and democracy in our country.

Mr. Speaker, this proposal that will come to us tomorrow is not even well drafted. I could not believe that I could pick up a document that proposes to amend the Constitution of the United States and find some of the language that I found in this bill. It says, "In order to pass a tax increase, you got to have a two-thirds vote if the tax increase is something more than 'de minimis'."

Who knows what de minimis means? There is not a person in this body who knows what de minimis is. There is no such word in the Constitution of the United States as we speak today. There has never been any definition of what that means.

So this constitutional amendment, this proposed constitutional amendment, were it to pass, would pass that authority to decide what the word "de minimis" means to the judicial branch of our government, interrupting, unbalancing the balance of power that has been established between the legislative body and the judicial branch of the Government.

The wording somehow was pulled out of the air for the purposes of this moment so that we could get it to the floor of the House of Representatives on April 15 because everybody is going to be worried about paying their taxes tomorrow.

That is the only reason this bill is coming to the floor tomorrow because my colleagues want the American people to think about this in an emotional fashion. They do not care about the merits of the bill. They do not care that 200 years from now they will have interrupted the most cherished notion of majority rule that our country is based on. They just want to make some political points on April 15, and they think that is the day to make them because people will be incensed about having to pay taxes. And they are going to come here tomorrow and tell the American people that they are trying to do a favor for the American people.

I want to spend just a minute or two. I am not going to take the entire time I have, but I do want to take a few more minutes just to alert my colleagues that this is not about protecting the American people.

Understand that in 1952, corporate income taxes constituted 32 percent of all Federal revenue. By 1992, corporate taxes represented 9 percent of Federal revenue.

Let me repeat that. In 1952, corporate taxes constituted 32 percent of the Federal revenue. By 1992, corporate taxes constituted only 9 percent of Federal revenue.

During that time, we gave major tax breaks to trans, multinational corporations. They can set prices on an intercompany basis, sales and elect whatever country they wanted to pay taxes in. And nobody ever collects any taxes in the United States, so we built in an incentive for them to take our jobs abroad to other places. Represents $12 billion in tax subsidies a year. Pass this constitutional amendment in order to undue that corporate tax welfare; it would take a two-thirds vote.

Do my colleagues really think this is about protecting the American people? This is about imposing more of the burden on the American people.

I am not going to go through all the corporate loopholes and subsidies that we provide to corporations, but it should tell us something, that if over a 40-year period the percentage of income that the Federal Government gets from corporations went down from 32 percent of income to 9 percent of the income, that somebody had to pick up that difference.

Now we are here, my colleagues, telling us that they are conservatives in this body, willing to undermine the basic principle that individual citizens and rights that individual citizens have in this country to have their vote equally counted and equally represented, with a piece of legislation that would require a two-thirds vote now to get rid of any of those corporate tax subsidies. We could not even go after them. Could not do it.

So tell me, my colleagues, whether this is about protecting the individual. Is this about protecting individual citizens of this country? My friends, it is not. What protects individual citizens of this country is being equally valued, being able to cast a vote and know that my vote counts as much as my colleague's vote and my colleague's vote counts as much as the next person's vote.

We go to great pains every 10 years to do a census because we value that notion. We value majority rule. We value one person, one vote, and we should resist as a people any attempt to undermine the value that we place on that notion of majority rule. That is the essence of our democracy.

Mr. Speaker, you may have gathered by now that I feel strongly about this piece of legislation. Not because it has anything to do with taxes. I have been on this floor many times since I have been in this body speaking against proposed amendments to the Constitution of the United States. Were this a two-thirds majority requirement to reduce taxes, I would oppose it. Were it a two-thirds majority requirement to declare war, I would oppose it. Were it a two-thirds majority requirement to declare a war on poverty or to rescind a war on poverty, I would oppose it.

I cannot think of any single thing that I could want a two-thirds majority in this House to have to make law that is not already in the Constitution of the United States. And the reason I feel so strongly about that is because I believe that our country is founded on the notion that we all are equal. The value of our votes are equal, and the value of our Representatives in this body ought to be equal. This proposed constitutional amendment would end that in this instance.

I call on my colleagues to consider the value that our Founding Fathers placed on majority rule. They debated it at length. They did not want a dictatorship. They did not want the value of the wealthy to be greater than the value of the poor. They did not want the value of a person in California to be less than the value of a person in North Carolina. All they wanted was equality. That is all I want.

I urge my colleagues to defeat this proposed constitutional amendment, to preserve and respect the Constitution of the United States.

IT IS IN AMERICA'S INTEREST TO REVOKE CHINA'S MOST-FAVORED-NATION STATUS

The SPEAKER pro tempore (Mr. Pease). Under the Speaker's announced policy of January 7, 1997, the gentleman from Virginia [Mr. Wolf] is recognized for 60 minutes.

Mr. WOLF. Mr. Speaker, I am submitting for the Record the op-ed piece by Gary Bauer, president of the Family Research Council, which appeared in Sunday's Washington Post, April 13, 1997.

Mr. Bauer, along with a powerful coalition of religious leaders, advocates revoking China's most-favored-nation status, MFN, because of China's worsening human rights record, its continued proliferation of dangerous weapons and technology, its unprecedented military buildup, and its ballooning trade surplus with the United States.

□ 1545

Mr. Bauer writes, and I quote, "Morality and realism, too often considered the poles of this debate, both now clearly dictate the same course. Unless it changes its ways, China should be disfavored nation in every aspect of foreign policy."

For Mr. Bauer and the coalition of conservative pro-family organizations and Christian leaders representing some 25 million Americans, the most compelling though not the only reason to revoke China's MFN status is repression of China's religious community. The government views as subversive the estimated 100 million Buddhists, the 17 million Moslems, the 8 million Catholics, and the 30 million Protestants worshiping outside the state-controlled so-called patriotic church system.

The Chinese Government's attacks on the people of faith have intensified since President Clinton delinked trade from human rights in 1994. Last year according to Nina Shea of Freedom House's Puebla Program, Chinese Christians reported that they were experiencing the worst persecution since the pre-Deng era of the 1970's. Shea estimates that China holds more religious prisoners than any other country in the world. Freedom House maintains a list of 200 persons imprisoned for their religious beliefs but estimates the actual numbers are thought to be in the thousands.

Since 1994, Chinese authorities have increased efforts to crack down on all unregistered churches and believers. In January 1994, Premier Li Peng, who was the man who called out the Chinese troops in Tiananmen Square that massacred all those young people, Li Peng promulgated two sets of regulations for registering religious activities. Security forces harass, arrest, beat, and imprison church leaders, impose stiff fines, demolish religious buildings or meeting places, and confiscate Bibles. Chinese authorities have called Protestants "enemy forces" and warned that Christianity has become the major threat to the Communist Party.

My office recently obtained a copy of a document released by the Communist Party at Donglai Province on November 20, 1996, outlining procedures for eradicating the underground Catholic church. It calls for "reeducation," ideological struggle sessions, and criminal prosecution of Catholics who are not involved in official churches.

Mr. Speaker, over 100 house church leaders have been arrested and jailed in the first 3 months of 1997, the first 3 months of 1997. And still the Clinton administration wants to grant this regime most-favored-nation trading status. This has been according to Compass Direct, including leaders of the three largest house church networks in Henan Province. Just before the Easter visit to China of Vice President Al Gore and a bipartisan congressional delegation led by Speaker Newt Gingrich, authorities raided the Shanghai residence of Catholic Bishop Fan Zhongliang and confiscated his Bibles and other religious materials.

Last year, three evangelicals and one Catholic priest were killed in three separate incidents after receiving severe beatings by the police. Hundreds of Protestant house churches in Shanghai and other provinces have been forcibly closed or demolished, and the popular Catholic shrine at Donglu has been smashed. A number of unregistered Catholic churches in Hebei and Jiangxi have been desecrated, destroyed, or shut down.

And yet they want to give MFN to a country that does this, whose goal is to eradicate the house church, has Catholic bishops and priests in jail, is going after the evangelical Protestant church, have plundered Tibet and expelled the Dalai Lama from Tibet, and are persecuting Moslems in the northwest part of the country. And they want to grant MFN to them.

Mr. Speaker, would these people have wanted to give MFN to the Soviet Union when they were persecuting those of the Jewish faith and shutting down dissidents and doing all the bad things that they were doing? No, no one wanted to give it to them then in the 1980's because of the terrible things they were doing. We used MFN to get dissidents out of jail. Yet they want to give MFN to China when they are doing all these terrible things in the 1990's, in the year 1997.

In Tibet, the Chinese Government continues to plunder the Tibetan Buddhist culture and religion. The arrest, imprisonment, and torture of Tibetan monks and nuns continue unabated. The Chinese Government widened its ban on the photos of the Dalai Lama and contravened the spiritual process for selecting the Dalai Lama's successor, the Panchen Lama. The 6-year-old identified by the Dalai Lama as his successor disappeared in July 1995 and has not been heard of since. He has disappeared because of the activity of the Chinese Government in Tibet. And yet some people say they continue to want to give China most-favored-nation trading status. Only in Washington would that ever be said.

The Chinese Government has also continued its assault on political dissidents. In the words of the State Department's annual human rights report, it says, and I quote, "All public dissent against the party was effectively silenced by intimidation, exile, the imposition of prison terms, administrative detention or house arrest," end quote.

There are no dissidents left outside of prison in China because they are all in prison in China or have been expelled from the country.

Beijing's dictators have stepped up its religious persecution and its punishment of those who advocate democracy. That is a compelling moral reason to revoke MFN, even for those, like myself, who favor free trade.

I quote, "Turning a blind eye to the torture of fellow believers, winking at forced abortions, and ignoring slave labor camps and summary executions are too high a markup for people who are both economic and social conservatives," Bauer argues.

He continues, and I quote, "all Americans have a historic attachment to the idea of human rights. Jewish leaders, because of the activities on behalf of Soviet Jews in the 1970's and 1980's, have effectively reminded Christians of their responsibility to help their brethren in China. We should have learned through bitter experience that aggressive and despotic regimes that abuse their own people seldom stop there. Soon they rise up to undermine our allies and, ultimately, to threaten us," end of quote.

Standing up to dictators is in our long-term national interests. The opposing view is that constructive engagement will bring long-term change we desire in China. But there is not evidence to suggest this approach is working. This engagement policy of MFN every year has been in effect for several years now, and we have seen no improvement, only worsening conditions. And for those who say maybe there is some improvement, talk to the priests and the ministers that are in jail, talk to the bishops that are in jail and ask them if their life has improved.

Mr. Speaker, there is not evidence to suggest this approach is working. To this Mr. Bauer says, and I quote, "Under the theories of constructive engagement, the past few years of America's demoralized Chinese policy should have produced at least some progress. In fact the regime in Beijing had every incentive to extend some olive branch to human rights issues. That it has chosen the opposite course should strike the advocates of cooperation as galling. But they are not easily galled," end of quote.

The business community continues to convince the Clinton administration to hold the Sino-American relationship hostage to American business interests. The Clinton administration hopes that China will become a modern civilized nation only when it is offered full membership in the community of nations.

"Today," and this is a quote, "Beijing continues to maintain a giant gulag of extra-judicial forced-labor camps called laogai. The cadres continue to impose a ruthless population-control program of forced sterilization and abortion. The systemic practices rival the worst abuses that occurred during seven decades of communist rule in the Soviet Union," Bauer argues. "U.S. human rights policy was never delinked from Moscow's behavior toward its own citizens."

It was never delinked in the Carter administration. It was never delinked in the Reagan administration. And we had a bipartisan foreign policy of Republicans and Democrats, liberals and conservatives, that linked human rights and trade and MFN.

The Soviet Union was never a most favored trading partner in the United States. In the 1980's, we would have never given MFN to the Soviet Union. No member of Congress would have ever come down to the well of the House and spoken out in granting MFN to the Soviet Union because of what they were doing, and now the Clinton administration is asking that they extend MFN. Some are even asking for a permanent extension of MFN.

In the 1980's, Ronald Reagan called the Soviet Union the evil empire. His words resonated around the world and into the Soviet gulags where victims of repression were energized by the belief that the United States cared for them and was speaking out for them. I had the opportunity with the gentleman from New Jersey [Mr. SMITH] to go to Perm Camp 35, the gulag before communism fell where Shcharansky was imprisoned. We interviewed Shcharansky's cell mate in the gulag. Strangely enough, in the gulag, in the Ural Mountains far away from civilization, the prisoners in the gulag knew that Ronald Reagan and the Reagan administration was standing up for human rights. How? I do not know. But somehow they knew, because he had stood boldly in a bipartisan way on these issues of human rights. And now today China has repressed those in the Chinese gulags, and as many people know there are more gulags in China than there were in the Soviet Union.

Mr. Speaker, we all know that Solzhenitsyn wrote the book "Gulag Archipelago," and yet there are more gulags in China than there were in the Soviet Union. Yet today China's repressed hear only that the United States continues to deal with their repressor and ignores their suffering. How do we think a dissident in China feels when he sees that the Clinton administration is in support of MFN and wants to delink with regard to human rights and MFN?

For foreign policy realists, those who believe that power rather than principle should drive foreign policy, the case for revoking MFN is equally compelling. Principle or power. "The People's Liberation Army," and I quote, "is engaged in an unprecedented buildup and is selling its weapons to terrorist regimes," Bauer points out. China maintains a trade surplus in the United States that is fast approaching $50 billion. We sell 15 billion dollars' worth of goods to China, but we buy almost 50 billion dollars' worth of goods in return and as a result have put a lot of American workers out of jobs.

Many people in jail in China, as I told my colleagues, in Beijing Prison No. 1 and other slave labor camps are working on goods that are being exported to the United States. In fact, I visited Beijing Prison No. 1, a jail where Tiananmen Square demonstrators were working on making socks for export to the United States. And yet our workers had to compete with people who are in gulags and slave labor camps and jails.

Mr. Speaker, I have long believed that the benefits of standing with the victims of tyranny far outweigh the short-term economic sacrifices of dealing with dictators. Morally, economically, and militarily, the case for revoking China's MFN status gets stronger each year.

In summary, Mr. Speaker, I would put Mr. Bauer's whole article in the RECORD. I would encourage my colleagues to read it.

I will close this as something we should all think about as we folks face this issue in the next couple of weeks. There are Catholic priests and bishops in jail in China and have been there for a long while, and some have been recently arrested. There are Protestant pastors in China. On a weekly basis they go into house churches and arrest people. They have plundered Tibet and have expelled the Dalai Lama.

□ 1600

They are prosecuting those in the Moslem faith in the northwest region of their country. They have sold military equipment to the Iranian government. Just as recently as not very long ago, according to an article in the Washington Times this Friday, they have sold nuclear technology information to the Pakistan Government, which could destabilize the nuclear proliferation issue. They have more gulags in that country than they had in the Soviet Union, and yet we were so concerned about those in the Soviet Union, as we should have been, but we do not seem to be very concerned about what is taking place in China.

They have an organ donor program whereby they kill prisoners, line them up, and we have it on film, shoot them, and then the doctors take their kidneys out and sell them for transplantation for kidneys to people in the West for $35,000 and $40,000. We have a trade imbalance of almost $40 billion.

And many times, if you hear people speak, they will speak about the Declaration of Independence. I am blessed to represent the State of Virginia where Thomas Jefferson, one of our leaders and Presidents and Governor, wrote the words in the Declaration of Independence while he was residing in the city of Philadelphia where he said "We hold these truths to be self-evident, that all men," and women, "are created equal, endowed by their Creator"; that means given by God, not by some Executive order by some administration or some legislative fiat, but endowed by God, given by their Creator, "with inalienable rights of life, liberty and the pursuit of happiness."

Now when Jefferson wrote those words he did not mean life, liberty, and the pursuit of happiness for people from Charlottesville or only from Virginia, but he meant it for the United States, he meant it for the people in China, he meant it for the people in Africa, he meant it for the people all round the world.

So when we think of these issues, do we want to stand with those of power, or do we want to stand with those with regard to principle, and I maintain for all of these reasons, economic reasons and defense reasons, but fundamentally for the life, liberty, and the pursuit of happiness reasons, those people of faith who are being persecuted in the country of China, we should deny MFN, and when we denied MFN to Romania back in the mid-1980's because of the activity it was doing of persecuting those of faith, the next day on Radio Free Europe in little villages throughout Romania on their little crystal sets they heard the word that the United States Congress, the House of Representatives, the people's body, had taken a stand on behalf of those people of faith, and that made a tremendous difference. And when we take a stand in this body in the next several months on behalf of people of faith, it will be one of our finest hours when we deny MFN to China.

Mr. Speaker, I include for the RECORD the Gary Bauer article I referred to.

[From the Washington Post, Apr. 13, 1997]

WHY PEOPLE OF FAITH MUST CHALLENGE CHINA

(By Gary Bauer)

The ground is shifting in the debate over renewal of most favored nation (MFN) trading status for China. New evidence of intensifying Chinese repression of religious liberty and political dissent is drawing into the argument a collection of religious and family-values organizations who sat out the MFN debate in 1996 and thereby ceded the field to economic interests, especially multinational businesses and Wall Street. We are sitting out no longer. Sometime next month, President Clinton will seek another yearlong extension of China's favorable status in American trade law. When he does, Congress should hold a more searching discussion than we've had in past years. Then the president's request should be rejected. Morality and realism—too often considered the poles of this debate—both now clearly dictate the same course. Unless it changes its ways, China should be a disfavored nation in every aspect of American foreign policy.

For social conservatives, the most compelling—though not the only—reason is repression of China's growing religious community. The government views as subversive the estimated 100 million Buddhists, 17 million Muslins, 8 million Catholics and 30 million Protestants worshiping outside the state-controlled "patriotic church" system.

Repression ranges from ransacking homes in Tibet in search of banned pictures of the Dalai Lama to destroying or closing some 18,000 Buddhist shrines in Zhejiang province last spring. Ministers, priests and monks are routinely arrested, imprisoned, tortured and sometimes killed for the mere expression of their faith. Pastor Wong, who runs 40 evangelical churches in Wuhan, was released in December after a fourth arrest for spreading the Gospel. This time his captors broke several of his fingers with pliers. Last month, just before Easter, police invaded the apartment of Roman Catholic Bishop Fan Zhongliang of Shanghai, seizing Bibles and other religious items.

These events form the core of the arguments we are making on Capitol Hill, and members of Congress have begun to rethink their positions. In the past few weeks, formerly "safe" House Republican votes for the renewal of MFN, like Majority Leader Dick Armey (Tex.) and Reps. John Kasich (Ohio), Fred Upton (Mich.), Peter Hoekstra (Mich.) and Bill Paxon (N.Y.), have voiced new doubts about the wisdom of the status quo.

In a letter to leaders of both parties earlier this year, I told them that the vote on MFN for China will no longer be a one-sided debate between big business and a handful of critics. My letter carried the support of Richard Land of the Southern Baptist Convention, James Dobson of Focus on the Family, Ralph Reed of the Christian Coalition, the Rev. Richard John Neuhaus of the Institute for Religion and Public Life, Ron Sider of Evangelicals for Social Action, and 19 other individuals and groups. Among us we have a combined membership of 25 million Americans.

Joined with labor and human rights groups, this is a formidable alliance—as it will need to be. The opposing Business Coalition for U.S.-China Trade is marshaling the lobbying efforts of more than a thousand multinational corporations and trade associations. But I believe that our involvement brings particular strengths because of our own pro-business record. We disagree in this case because turning a blind eye to the torture of fellow believers, winking at forced abortions, and ignoring slave labor camps and summary executions are too high a markup for people who are both economic and social conservatives.

But all Americans have a historic attachment to the ideal of human rights. Jewish leaders, because of their activities on behalf of Soviet Jews in the 1970s and 1980s, have effectively reminded Christians of their responsibility to help their brethren in China. We should have learned through bitter experience that aggressive and despotic regimes that abuse their own people seldom stop there. Soon they rise up to undermine our allies and, ultimately, to threaten us.

President Clinton entered office on an explicit pledge to revive the moral basis of U.S. policy on China, which had been left in ruins at Tiananmen Square. He said he would abandon the accommodating posture of President Bush and deal more firmly with the men his running mate, Al Gore, called the "butchers of Beijing." In particular, Clinton said, he would make the 1994 renewal of MFN—then and always the most significant element in Sino-U.S. relations—conditional on improvements in China's abysmal human rights record.

When 1994 arrived, there was no evidence of human rights progress. But the Clinton administration, in an exercise of misguided pragmatism, abandoned its own promises and "delinked" human rights from trade. Ever since, the administration has single-mindedly pursued a policy of "engagement" with Beijing like no other in the history of U.S. contact with a communist regime. "Realism" requires it, according to the administration.

Let's be realistic, then, about the fruits of current China policy. Besides China's apparent attempt to influence U.S. elections (a story that is painfully unfolding each day), we have the spectacle of American business interests ratcheting up the level of accommodation even as Beijing tightens the thumbscrews of repression. Today, elements of the U.S. business community say annual renewal of MFN is not enough: Let's make China's status permanent, and throw in World Trade Organization membership and terminate sanctions on high-tech exports to China, to boot.

To understand how well this strategy will work now, consider 1994. At the very time President Clinton abandoned his MFN stance, the Chinese moved to crush religious freedom and began a brutal anti-clerical campaign. Premier Li Peng's Orders 144 and 145 banned all religious expression conducted outside China's state-run churches. China's timing was doubtlessly designed to test our mettle. Finding none, there came more turns of the screw. The U.S. State Department confirmed this in February in its report on human rights abuses. "Overall in 1996, the authorities stepped up efforts to cut off expressions of protest of criticism." The same went for "non-approved religious groups, including Protestant and Catholic groups."

Under the theories of constructive engagement, the past few years of America's demoralized China policy should have produced at least some progress. In fact, the regime in Beijing has had every incentive to extend some olive branch on human rights issues. That it has chosen the opposite course should strike the advocates of cooperation of galling. But they are not easily galled.

U.S. corporate opportunities in China's emerging economy, we are told, are too lucrative to be "held hostage" to human rights principles. "Hectoring" Beijing about its tyrannical behavior is counterproductive. China, the Clinton administration believes, will become a modern, civilized nation only when it is offered full membership in the community of civilized nations.

Today, three years after that invitation was extended. Beijing continues to maintain a giant gulag of extra-judicial forced-labor camps called laogai. The cadres continue to impose a ruthless population-control program of forced sterilization and abortion. These systemic practices rival the worst abuses that occurred during seven decades of communist rule in the Soviet Union. U.S. human rights policy was never "delinked" from Moscow's behavior toward its own citizens. And the Soviet Union was never a "most favored" trading partner of the United States.

So much for the moral benefits of engagement. But the broader goals of American foreign policy haven't been achieved either. The People's Liberation Army is engaged in an unprecedented buildup and is selling its weapons to terrorist regimes. Meanwhile, we annually export a paltry $15 billion in goods to the mainland's largely closed markets, yet we buy $50 billion in return. If American policy is going to stand on "bread alone," it should be better bread than this.

Admission to the company of civilized nations should require, at the very least, civilized behavior. How can the free world be "free" is it admits to its ranks, for favored commercial and diplomatic treatment, a burgeoning super-power that is the very definition of tyranny? It can't. Ronald Reagan, who peacefully ended the Cold War with a hard-nosed realism that was derived from morality, not deprived of it, understood this truth. And a Republican-majority Congress that claims Reagan's legacy should never forget it.

RECESS

The SPEAKER pro tempore (Mr. PEASE). Pursuant to clause 12 of rule I, the House stands in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 4 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1828

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 6 o'clock and 28 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Ms.PRYCE of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 105–53) on the resolution (H. Res. 112) providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 62, TAX LIMITATION CONSTITUTIONAL AMENDMENT

Ms.PRYCE of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 105–54) on the resolution (H. Res. 113) providing for consideration of the joint resolution (H.J. Res. 62) proposing an amendment to the Constitution of the United States with respect to tax limitations, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ROHRABACHER) to revise and extend their remarks and include extraneous material:)

Mr. GEKAS, for 5 minutes each day, on April 15, 16, and 17.

Mr. NEUMANN, for 5 minutes each day, on April 15 and 17.

Mr. MILLER of Florida, for 5 minutes on April 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ROHRABACHER) and to include extraneous matter:)

Mr. RADANOVICH.

Mr. GILMAN in two instances.

(The following Members (at the request of Mr. WOLF) and to include extraneous matter:)

Mr. SCOTT.

Mr. KENNEDY of Massachusetts.

Mr. FARR of California.

Mr. VISCLOSKY.

Ms. JACKSON-LEE of Texas.

Mr. FATTAH.

Mr. KUCINICH.

Mr. GINGRICH.

Mr. COLLINS of Georgia.

Mr. GILMAN.

Mr. POMEROY.

Mr. UNDERWOOD.

Mr. ACKERMAN.

(The following Member (at the request of Ms. PRYCE of Ohio) and to include extraneous matter:)

Mr. BONIOR in two instances.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 20. Concurrent resolution expressing the sense of Congress regarding the status of the investigation of the bombing of the Israeli Embassy in Buenos Aires in 1992; to the Committee on International Relations.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight reported that that committee did on the following date present to the President, for his approval, a bill of the House of the following title:

On April 10, 1997:

H.R. 412. An act to approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District.

ADJOURNMENT

Ms. PRYCE of Ohio. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 30 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, April 15, 1997, at 10:30 a.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2753. A letter from the Assistant Secretary of Labor for OSHA, Department of Labor, transmitting the Department's final rule—Abatement Verification (Occupational Safety and Health Administration) [Docket No. C–03] (RIN: 1128–AB40) received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2754. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plan; Indiana [IN73-1a; FRL-5807-9] received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2755. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Ohio [OH106-1a; FRL-5808-5] received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2756. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation—Low-Price Systems [MM Docket No. 92-266] received April 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2757. A letter from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Rules and Policies Regarding Calling Number Identification Service—Caller ID [CC Docket No. 91-281] received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2758. A letter from the General Counsel, Federal Retirement Thrift Investment Board, transmitting the Board's final rule—Thrift Savings Plan Loans [5 CFR Part 1655] received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

2759. A letter from the General Counsel, Federal Retirement Thrift Investment Board, transmitting the Board's final rule—Thrift Savings Plan; Continuation of Eligibility [5 CFR Part 1620] received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

2760. A letter from the Archivist of the United States, National Archives and Records Administration, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

2761. A letter from the Assistant Secretary for Policy, Management and Budget, Department of the Interior, transmitting the Department's final rule—Department of the Interior Acquisition Regulation; Department of the Interior Acquisition Regulation System (RIN: 1090-AA60) received April 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2762. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear [Docket No. 961107312-7021-02; I.D. 033197A] received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2763. A letter form the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fishery Off Alaska; Scallop Vessel Moratorium [Docket No. 961203339-7063-02; I.D. 111896B] (RIN: 0648-AI88) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2764. A letter from the Assistant Secretary of the Army (Civil Works), the Department of the Army, transmitting a letter from the Chief of Engineers, Department of the Army dated July 26, 1996, submitting a report on the Port of Long Beach, CA, together with accompanying papers and illustrations, pursuant to Public Law 104-303, section 101(a)(4) (110 Stat. 3663) (H. Doc. No. 105-65); to the Committee on Transportation and Infrastructure and ordered to be printed.

2765. A letter from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting the Department's final rule—Regulations Governing Book-Entry Treasury Bonds, Notes and Bills (Bureau of the Public Debt) [31 CFR Part 357] received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2766. A letter from the Chair, Physician Payment Review Commission, transmitting the Commission's 1997 annual report, pursuant to 42 U.S.C. 1395w-1(c)(1)(D); jointly, to the Committees on Ways and Means and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLILEY: Committee on Commerce. H.R. 1001. A bill to extend the term of appointment of certain members of the Prospective Payment Assessment Commission and the Physician Payment Review Commission (Rept. 105-49 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ARCHER: Committee on Ways and Means. H.R. 1226. A bill to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information; with an amendment (Rept. 105-51). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUMP: Committee on Veterans' Affairs. H.R. 1090. A bill to amend title 38 United States Code, to allow revision of veterans benefits decisions based on clear and unmistakable error (Rept. 105-52). Referred to the Committee of the Whole House on the State of the Union.

Mr. DREIER: Committee on Rules. House Resolution 112. Resolution providing for consideration of motions to suspend the rules (Rept. 105-53). Referred to the House Calendar.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 113. Resolution providing for consideration of the joint resolution (H.J. Res. 62) proposing an amendment to the Constitution of the United States with respect to tax limitations (Rept. 105-54). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. NETHERCUTT (for himself and Ms. Furse):

H.R. 1315. A bill to amend the Public Health Service Act to require the establishment of a comprehensive plan regarding the diabetes-related activities of the National Institutes of Health, and for other purposes; to the Committee on Commerce.

By Mr. COLLINS:

H.R. 1316. A bill to amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits; to the Committee on Government Reform and Oversight.

By Mr. KOLBE (for himself, Mr. Diaz-Balart, and Mr. Barton of Texas):

H.R. 1317. A bill to establish the High Level Commission on International Narcotics Control; to the Committee on International Relations.

By Mr. ROYCE (for himself and Mr. Minge):

H.R. 1318. A bill to establish a National Commission to Eliminate Waste in Government; to the Committee on Government Reform and Oversight.

By Mr. ROYCE:

H.R. 1319. A bill to abolish the Department of Commerce; to the Committee on Commerce, and in addition to the Committees on Transportation and Infrastructure, Banking and Financial Services, International Relations, National Security, Agriculture, Ways and Means, Government Reform and Oversight, the Judiciary, Science and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. VISCLOSKY:

H.R. 1320. A bill to amend the Internal Revenue Code of 1986 to waive in the case of multiemployer plans the section 415 limit on benefits to the participant's average compensation for his high 3 years; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

H.R. 18: Mr. Baldacci, Mr. Gekas, Mr. LoBiondo, and Mr. Hulshof.

H.R. 52: Mrs. Maloney of New York.

H.R. 113: Mr. Smith of Michigan and Mr. Bartlett of Maryland.

H.R. 147: Mr. Davis of Illinois.

H.R. 218: Mr. Lucas of Oklahoma.

H.R. 234: Mr. Gonzalez and Mr. Gejdenson.

H.R. 235: Mr. Jones.

H.R. 407: Mr. Neal of Massachusetts, Ms. Kilpatrick, Mr. Hayworth, Mr. Kleczka, and Mrs. Kelly.

H.R. 411: Mr. Filner.

H.R. 418: Mr. Gallegly and Mr. Weygand.

H.R. 426: Mr. Clyburn, Mr. Gordon, Mr. Hunter, Mr. Calvert, and Mrs. Kelly.

H.R. 437: Ms. Hooley of Oregon, Mr. Fattah, Mr. Weygand, Mr. Dellums, Mr. Gilman, and Mr. Ackerman.

H.R. 588: Mr. Clay, Ms. Christian-Green, Mr. Bartlett of Maryland, Mr. Nussle, and Mr. Lewis of Georgia.

H.R. 623: Mr. LaTourette.

H.R. 662: Mr. Capps, Ms. Waters, and Mr. Miller of California.

H.R. 663: Ms. McKinney, Ms. Ros-Lehtinen, Mr. Meehan, Mr. Yates, Mr. Delahunt, Mr. Capps, Mr. Jefferson, Mr. Payne, Ms. Brown of Florida, Mr. Rush, Mr. Olver, Mr. Evans, Mr. Hastings of Florida, and Mr. Miller of California.

H.R. 680: Mr. Watt of North Carolina.

H.R. 681: Mr. Dreier, Mr. Lewis of California, Mr. Packard, Ms. Eshoo, Mr. Condit, Mr. Berman, Ms. Millender-McDonald, and Mr. Waxman.

H.R. 688: Mr. RADANOVICH, Mr. PALLONE, and Mr. PAXON.

H.R. 871: Mr. SANDERS, Mr. BENTSEN, Mr. DELLUMS, and Ms. FURSE.

H.R. 891: Mr. WELDON of Florida, Mr. FROST, Mr. FOLEY, Mrs. EMERSON, and Mr. BACHUS.

H.R. 919: Mr. DAVIS of Illinois.

H.R. 1023: Mrs. FOWLER, Ms. KILPATRICK, Mr. SPENCE, Mr. FORD, Mr. KIND of Wisconsin, Mr. MASCARA, Mr. WATKINS, Ms. WOOLSEY, Mr. WEYGAND, Mr. HINOJOSA, Mr. GREENWOOD, and Mr. KENNEDY of Massachusetts.

H.R. 1050: Mr. DAVIS of Illinois and Mr. KUCINICH.

H.R. 1073: Mr. FRANK of Massachusetts, Ms. WATERS, Mr. BARRETT of Wisconsin, and Mr. FROST.

H.R. 1089: Mr. DAVIS of Illinois and Mr. WYNN.

H.R. 1090: Ms. SLAUGHTER, Mr. WATTS of Oklahoma, and Mr. FATTAH.

H.R. 1111: Mr. OLVER, Ms. MCKINNEY, Mr. CLAY, Mr. WALSH, Mr. TOWNS, Ms. BROWN of Florida, Mr. FROST, Mr. GONZALEZ, Ms. CHRISTIAN-GREEN, Mrs. MORELLA, Mr. UNDERWOOD, and Mr. LEWIS of Georgia.

H.R. 1126: Mr. BOYD and Mr. KING of New York.

H.R. 1147: Mrs. CHENOWETH and Mr. NEY.

H.R. 1161: Mr. SMITH of New Jersey and Mr. ROTHMAN.

H.R. 1162: Mr. PACKARD.

H.R. 1178: Mr. SHAYS and Mr. FROST.

H.R. 1226: Mr. GREENWOOD.

H.R. 1251: Mr. HASTINGS of Florida.

H.R. 1263: Mr. KENNEDY of Rhode Island.

H. Con. Res. 8: Mr. BOEHLERT, Mr. SHAYS, Mr. ACKERMAN, Mr. FALEOMAVAEGA, and Mr. GOSS.

H. Con. Res. 37: Mr. TORRES.

SENATE—*Monday, April 14, 1997*

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord of light and truth, just as physical light makes objects visible in their real character, so the light of Your presence exposes everything in the moral and spiritual order in its true essence. In Your light we can see ourselves compared with Your absolute moral purity. What at first seems like an impossible standard becomes an undeniable source of strength.

Shine Your light into our inner selves, the well-springs of our motivations, attitudes, actions, and reactions. Expose anything that would hinder our effectiveness in serving You today. Then shine Your light of affirmation on the true person inside each of us who wants to throw caution and reserve aside and love and serve You with loyalty and faithfulness today. Thank You for liberating us to glorify You in all that we do today. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader [Senator LOTT] is recognized.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will be in a period of morning business until the hour of 12 noon to accommodate a number of Senators who have requested time to speak. By consent, at 12 noon the Senate will resume consideration of S. 104, the Nuclear Policy Act. And by previous consent, all remaining amendments that are in order to the bill must be offered and debated today. As previously announced, no rollcall votes will occur during today's session. Any votes ordered on the amendments will be stacked, and the votes will occur at 9 a.m. on Tuesday. I emphasize that for all Senators' information. The votes will begin at 9 a.m., and there will be a minimum I guess of three votes—probably three votes at that hour. Therefore, the Senate will resume consideration of S. 104 at 9 a.m. on Tuesday, and Senators can expect to begin voting at that time.

Senators can expect rollcall votes on Tuesday morning, and then following the disposition of this bill the Senate may turn to the Alexis Herman nomination to be the head of the Department of Labor, or legislation dealing with the chemical weapons ban.

Now, as it stands at this time we probably will not vote on the Alexis Herman nomination until Wednesday. We hope to get an agreement, or if we do not get an agreement our intent is to proceed, if we can, to S. 495, the Kyl-Helms and others bill, on Thursday relating to the chemical weapons issue. This is the bill. This is not the convention. And I would expect that that would take up most of the time on Thursday.

As always, we will notify Senators of the schedule and when anticipated votes will occur.

Again I would like to thank Senators on both sides of the aisle and both sides of the issue for their cooperation on the Nuclear Policy Act. I think we are doing the right thing by getting this legislation completed without undue delay, and voting on it so that the House can act. And I understand they do plan to act on this legislation within the next 30 days. We hope to get it to the President and hope for his signature.

TAXES AND ABUSES AT THE INTERNAL REVENUE SERVICE

Mr. LOTT. Mr. President, also, I want to remind Senators again that the American people are watching and waiting to see what we have to say, in fact, about what we are going to do about taxes in this country. Tomorrow is the day that we all have to pay the taxes we owe. And the feeling I had gotten when I was home is that people are very upset with the tax burden, both the size of it, how much is taken from them in taxes, the variety of ways that it is taken from them, the unfairness in what we take away from families with children that could do more for and want to do more for their children. Also it discourages savings and investments in the economy. And we even tax death. It is time for us to do something about it. And this is the week to do it.

We will have a number of comments and some votes tomorrow, in fact, on abuses at the Internal Revenue Service. When you have a computer system that has had millions of bucks spent on it that does not work, you have to ask, you know, how long can this go on, because we have provided millions of dollars. And also when you see that people are being fired for snooping through taxpayers' files, that is absolutely an unacceptable practice.

So we need to stop the abuses. Then we need to give some tax relief. And then we need to reform the entire system. At a very minimum, this year we should give working people of this country some tax relief. And it is my hope we will be able to do that.

We are going to be working with the administration, with the White House specifically, this week to see if we can come to an agreement on the tax cuts that we will have in our budget for this year. I hope we can reach an agreement. If we cannot, we will just have to proceed to a process that would allow us to get to a vote on this important issue this year.

Mr. President, I see no Senator seeking recognition at this time. I do believe that a couple Senators are on the way. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 12 noon, with Senators permitted to speak therein for up to 5 minutes each.

The Senator from Georgia [Mr. COVERDELL] is to be recognized to speak for up to 60 minutes; the Democratic leader is to be recognized to speak for up to 30 minutes; the Senator from Illinois [Mr. DURBIN] is to be recognized to speak for up to 10 minutes; the Senator from North Dakota [Mr. CONRAD] is to be recognized to speak for up to 20 minutes; and the Senator from Nebraska [Mr. HAGEL] is to be recognized to speak for up to 20 minutes.

The Chair recognizes the Senator from North Dakota [Mr. CONRAD].

THE DISASTER IN NORTH DAKOTA

Mr. CONRAD. Mr. President, just for the information of my colleague, Senator BREAUX is here. I have 20 minutes allocated. I will not take 20 minutes. I hope to be closer to 10 minutes. So the Senator from Louisiana will have an opportunity as well.

Mr. President, I have just returned from another trip to my home State of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

North Dakota to see firsthand the developing slow-motion disaster that is occurring there. I call it a slow-motion disaster, Mr. President, because it is not one of those things that happens and then is over with. We have a slow-motion disaster. We have had the worst winter on record in North Dakota. Then we were hit at the end by the most powerful winter storm in 50 years, on top of the greatest flood threat in 150 years.

Mr. President, you can imagine, people of my State are beginning to wonder what happened, what could have led to a series of events as extreme as these. I don't think anyone has the answer at this point. We are truly coping with an unprecedented series of disasters. We have just had a visit from the Vice President of the United States, Vice President GORE, the Secretary of Transportation, Rodney Slater, and the head of FEMA, James Lee Witt, all in the State of North Dakota last Thursday and Friday. We deeply appreciated the Federal response. We got a Presidentially declared major disaster and we got it in very short order. We have also received unprecedented assistance from the Corps of Engineers, in terms of advanced measures, to hold down the catastrophe that could have occurred without the really heroic efforts by the Corps of Engineers, by FEMA, and by local agencies, local leadership and, of course, the extraordinary efforts of volunteers.

We had people go 300 miles, from western North Dakota to eastern North Dakota, to help sandbag because they knew we were faced with an imminent disaster in eastern North Dakota. My own cousin, a professor at the University of Wisconsin, heard that Fargo, ND, was about to flood and they needed sandbaggers. He drove all night from Madison and arrived at 3 in the morning and sandbagged from the time he got there all day and into the next evening. That is the kind of attitude North Dakota has brought to this disaster.

I tell you, out of all this, the thing I am most proud of is the response of the people of our State, which has truly been extraordinary. Not only have all of the Federal agencies and State agencies pulled together, along with the volunteers, literally thousands of them across the State that helped out, but we also want to thank the Red Cross for their outstanding assistance across North Dakota. We should also thank all of the other agencies. The mental health hotline tells me they are taking a dramatically increased level of calls.

I have been asked, "What did you see out there, Senator CONRAD?" This picture shows the power lines that are down. You can see that power pole after power pole snapped. They went down like tinker toys. We had this massive ice storm, after we already had 100 inches of snow in North Dakota, the heaviest snowfall we have ever experienced. Then we get this storm that dumped another 2 feet in parts of North Dakota. It was combined with ice. Ice formed on the lines, and there were 70-mile-an-hour winds that came through. Those winds just took down these structures all across North Dakota. Over 4,000 power poles were taken down.

Mr. President, it didn't end there. This is a picture of one of the most stunning events that occurred during this disaster. This is one of the largest structures in North America. This is a 2,000-foot television tower for KXJB television; it all went down, all 2,000 feet. You can see that this structure is laid out just as if somebody came and knocked it over and laid it out perfectly across the snow. That, of course, took a lot of television stations and radio stations off the air in the midst of this crisis. So not only did you have horrible weather, you also had a communications problem.

Mr. President, this picture shows a farmer on his tractor. As you can see, these are his silos in the back. His tractor is up to its wheel rims in water. He is just getting across the farm trying to move into a position to rescue grain that would otherwise be destroyed by the rising flood waters.

Mr. President, we have another chart that tells the extent of this disaster. We had 80,000 homes without power. From a week ago Saturday, on into the week, many homes were not restored until last Friday. This is in the midst of zero temperatures with 40-degree-below-zero wind chill factors, people without heat—80,000 people without power. There were over 600 people at emergency shelters, and that is as of Friday. Many more than that were in shelters during the peak. And 4,000 power poles were destroyed. Over 9½ feet of snow fell since November. That really is an extraordinary set of circumstances, with not only the most snowfall we have ever experienced, but they had the most powerful winter storm in 50 years on top of the greatest flood threat in 150 years.

The Red River to the north—I hear some of the national news media talking about it as though it flows south. Of course, anyone that knows geography knows the Red River flows north. The Red River has exceeded the highest flood levels ever in four different locations. In the northern part of the State, it is still rising. We have had the crest in the southern part of the State, although we expect the second crest to come later when this snow that has just fallen melts. Nonetheless, the peak crest has now hit the southern part of the State and is moving north. In the north, the river is still rising.

The livestock losses were running 60 percent above normal before this latest storm hit. Because of the very severe weather conditions we have had, we have had tens of thousands of cattle killed across the State of North Dakota. In fact, this shows losses of more than 70,000. As of this morning, I have been notified that cattle losses, they now believe, are running well over 100,000 in the State of North Dakota. The occupant of the chair, who is from the neighboring State of Wyoming, understands what cattle losses mean in a State like ours. I think even the occupant of the chair would find it hard to fully appreciate the loss of 100,000 head. That is a tremendous economic blow to the State of North Dakota. As the occupant of the chair knows well, we have been hurt by very low cattle prices as it is, and that industry is certainly struggling. To have piled on top a 100,000 loss of cattle across the State—in fact, they tell us 112,000 head is perhaps the best estimate. But that is an enormous economic blow to the State of North Dakota.

Mr. President, I have come here this morning in order to share these circumstances with my colleagues so that they can appreciate and understand what is happening across the State. I can tell you that resilient North Dakotans continue to battle their disaster. In many places it is an uphill battle. But North Dakota has a can do attitude, and—as I saw in town after town as I traveled across the State on Thursday and Friday, the people are recovering. They understand what is at stake.

Mr. President, we very much appreciate the Federal assistance that the President has called for with his disaster declaration.

Again, we want to thank the North Dakota National Guard, the Federal Emergency Management Agency, and the U.S. Army Corps of Engineers. Let me just say that the Corps of Engineers is being praised from one end of the State to the other by local officials who are saying this was the best prepared they have ever been for flooding disaster. That is a good thing because this is the worst flooding that we have seen in the history of North Dakota.

I also again would like to thank the Red Cross, the Salvation Army, the church organizations, and volunteer organizations that have pitched in. The response, as one of the disaster coordinators told me, has just been superb. It has been everything you could possibly ask for.

So we extend our appreciation to all of those who pitched in.

I also want to conclude by saying that I very much appreciate what my colleagues have told me—that they will stand up and be supportive during this time of need. We certainly have attempted to do that when they were in a disaster situation. And I very much appreciate the words of support that we have received from literally dozens of our colleagues.

With that, Mr. President, I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I yield myself 20 minutes under the time allocated to the distinguished Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. Mr. President, let me commend KENT CONRAD for his good remarks on the situation in his State and in that part of the country, and also my part of the country. There is no doubt about it because as the snow begins to melt eventually it finds its way down the Mississippi River and causes problems for us. We sympathize with what is going on in his area, and certainly we are willing to participate and help as well.

So I commend him for his comments on the floor of the Senate.

THE MEDICARE CRISIS

Mr. BREAUX. Mr. President, what I want to talk to the Senate this morning and our colleagues about is the situation that I think is most serious in this Congress. If we balance the budget this year and also come up with tax cuts, I think that this Congress will still go down as a failure if we do nothing to address the very serious Medicare crisis that is facing this country. I think that we must realize that we need to do more than we are attempting to do at this moment.

There is no question that Medicare has been a wonderful program for the 38 million Americans that have come under the Medicare Program for all of these years. It has been a success story that I think is unparalleled in the history of government. Before Medicare was passed less than half of the seniors in this country had access to quality health care. Today 99 percent of all seniors in America have quality health care under the Medicare Program. The poverty rate among seniors has dropped largely, on the part of Medicare and Social Security, from about 35 percent of all seniors down to about 12 percent. The United States has about the ninth highest life expectancy of any nation in the world. That is not that great. When you look at the life expectancy of seniors in this country, the United States has the highest life expectancy of all citizens over the age of 65 largely due to the fact they have access to quality health care under the Medicare Program. The problem, however, is that Medicare is about to go broke. We have talked about it. Now I think more and more people are understanding that we must do something to address the problem.

The first chart that I have up here really is an indication of how part A, which is the hospital trust fund which pays for the hospital services for seniors, is projected by about the year 2001 to run out of money. We are right here starting to run out of money in the trust fund. And the red line shows that, indeed, this is a very serious crisis that we cannot allow to continue. The President's budget extends the life of the fund to the year 2007. That is a short-term fix when I suggest we should be looking at long-term fixes.

Part B, which is the program that pays for physician services, is not in the same situation, obviously, because it is supported by general revenues although the cost of Medicare physician services has increased by 53 percent over the past 5 years.

I would like to take a look at chart No. 2 which shows the number of people that are working in order to pay for the Medicare beneficiaries. Back in 1967 there were about 4.4 workers paying for every Medicare beneficiary. Today we are looking at a ratio of about 3.9 workers in 1995 right here. It is a dramatic drop down to the year 2030 when we are talking about only 2.2 American workers working to pay for one beneficiary. So while it started off in a very good ratio back in 1967 it is dropping as more and more people become eligible for Medicare and fewer and fewer workers are working to pay for those services.

The Congressional Budget Office estimates that payroll taxes would have to be increased 25 percent a year just to extend the trust fund solvency to the year 2006. I don't know of any Member of Congress that is recommending a 25-percent increase in the payroll taxes, or something that is simply not going to occur.

Chart No. 3 shows you how much money we are spending on Medicare as a percentage of our overall Federal budget. In 1975 it is 5 percent, more than double in 1995, and with 11.3 percent of the entire Federal budget now being spent on Medicare. By the year 2020 the estimation is that it will be almost 25 percent; 24-plus percent of our total budget expenditures. That means when you are talking about education, roads, highways, infrastructure, there is not going to be a lot of money left. We will be spending 25 percent of everything we take in just on Medicare.

Why is this happening? There are two reasons. No. 1 is the growth of beneficiaries. There are a lot more people on Medicare. People live longer. The population is aging. We are glad they are. We are glad they are living longer. But we have a lot more beneficiaries than we used to. Between now and the year 2010 the number of people on Medicare will grow by about 1½ percent a year. After that it is going to grow to almost 2.5 percent a year, which is a rate of growth that is just incredible and unreasonable for the cost.

The second reason, as I point out on the chart, is the amount of money we are spending per beneficiary. We are spending a lot more. For a self-insured man who earned average wages he will receive Medicare benefits of over $44,000 a year in his lifetime. For these benefits he is only going to contribute about $13,000. He is getting about $32,000 more than he is putting in. We are spending a lot more per beneficiary. In 1995, the average benefit is $80,000 in a lifetime. Their contribution is $30,000. So we are spending a lot more money per beneficiary than we used to, and it is certainly a lot more money than they are contributing.

So we know what is happening. Unfortunately, what we are talking about so far in the President's budget and in most proposals is to tinker around the edges. We are talking about, "Well, let's fix Medicare by cutting the amount of money we give to doctors and cutting the amount of money we give to hospitals." I suggest that that is a Band-Aid type of an approach which we have tried time and time again. When we get into these great arguments about cutting or increasing Medicare, truly we aren't fixing anything. We are just tinkering around the edges. We need some fundamental reform and change. If we continue to just reduce the amount we give to doctors and to the hospitals pretty soon doctors and hospitals are going to say, "Wait a minute. I am not going to treat Medicare patients anymore. You are giving me less than it is costing me to provide these wonderful services that are important to seniors in this country. So I quit. I am out of here." You are seeing that happen around the country. Unfortunately, the proposals we have on the board so far this year are simply just the same old same old—simply reducing the amount we pay doctors and hospitals. I think we have to do something more fundamental than that.

What I am suggesting is that we restructure Medicare by modeling it on what we have as Senators, what we have as Members of Congress, and what 9 million Federal employees have for their health care package of benefits. I think most people believe that if Congress wrote a plan for themselves it must be pretty good. They are right. It is pretty good. It is much better than what seniors have under the current Medicare plan. I am suggesting that we take the Medicare plan and give people who are on Medicare—the beneficiary—at least the option of having the same benefits that their Senator or their Congressman, or the rest of the Federal work force has which is the Federal employee health benefit plan. With our plan the Federal Government finances about 71 percent of the premium cost for the plan with the participants paying the other remaining 29 percent. We have the option of choosing a Cadillac plan for which we will pay a little bit more, or a less expensive plan that we pay a little bit less for, and the Government pays a little bit less. But you have the flexibility. It is sort of a combination of a defined contribution and benefit plan where the Federal Government says we want some people to offer us some option. It has to meet a minimum standard. And depending on which plan you pick determines how much you are going to have to pay for it.

No. 1, the plan would give seniors a greater choice of health care plans than they currently have. It would give them better coverage than they currently have while at the same time curbing the growth in Medicare costs by creating what Medicare doesn't have, and that is real competition.

The reason Medicare is increasing at twice the rate of private insurance is because there is no real competition among Medicare beneficiaries and the plan that they have. In the private sector, which is increasing about 4 percent or less, there is competition. They receive more. They pay less under Medicare. We get less and pay more.

So I am suggesting that a plan based on the Federal employee health benefit plan would give more competition, more benefits, more information, and more choice to Medicare recipients than they have today. There would be more competition because the current Medicare system of price fixing by the Government here in Washington I think is a disaster. We have people in Washington that work very hard to try to fix prices. But it is not working. The costs are going up higher than the private plans and they are fixing the price. It is not working. So we are the only group that has lost money on managed care.

Medicare now offers HMO's because it is under a price structure and price fixing. We are losing money on HMO's. Everybody else who is trying HMO's is saving money because there is competition. But under Medicare, when somebody gets in an HMO, we are still controlling the price. And the Government is losing money under HMO's because of price fixing, and everybody else is saving a substantial amount of money.

So we have to change the way we are doing business, and to bring in more competition. The Federal Government OPM negotiates on behalf of 9 million employees. And there is a lot of competition because they can go to the market and say, "We are going to offer you 9 million workers, and we want you to bid on what health care you are going to provide them. And make sure it is a minimum standard, and see who offers the best deal." We have 38 million people in the system. The potential for negotiating a good price is astronomically increased, and it makes much more sense. Right now we are relying on Medicare and arbitrary bureaucratic price regulations and price fixing. The private sector, which relies on competition, more information, and more flexibility, is working and the prices have not gone up.

The second thing is we would get more benefits. When we talk to seniors, we say that we want to change it. But we want to give you more benefits than you have right now because what you have is a 1965 model that is like a Chevrolet that has never been repaired since 1965. It wouldn't run very well today. But we are giving them a 1965 model. It was great for a long period of time. But because of the change in the world it is not giving the benefits that the private sector gives other people.

Medicare doesn't cover most outpatient prescription drugs. For instance, it doesn't cover generally dental care, or have any catastrophic limits on catastrophic health care and out-of-pocket contributions as private plans do. In fact, Medicare's benefit package is less generous than about 85 percent of private insurance and private sector plans. I think a lot of seniors think that they have a great plan when in truth it is less generous than 85 percent of the private sector health insurance plans. It is not that good of a plan by any stretch of the imagination. The program covers only about 45 percent of the total annual health care bill of the elderly. That is not a particularly good deal by any stretch, if your health care plan is only covering about 45 percent of your annual out-of-pocket expenses. That is what Medicare currently does with our seniors.

The plan would also give them more information. They do not get a lot of information under Medicare. They get a card. They say, go to your doctor under a fee-for-service plan, but you do not get a lot of information about which doctors are the best, which hospitals are the best, which services are the most efficient and do the best job. To the contrary, with the Federal plan, every year they publish a guide with information on benefits and premiums.

We can improve upon that. We should have a report card for all these plans so they can see how many people were treated, their success ratio, what the failure rate is, and how the plans are working. So we need to give them more information than they currently have. Medicare currently really gives seniors zero information on the quality of the plans under which they operate. That is not fair to the seniors, and it is not helpful to the system at large.

Then it gives them more choice. The 9 million Federal employees nationwide have the benefit of looking at about 388 different health insurance plans to see which one that they would like that fits their needs—388 different plans that they can take a look at and say, "This one is better" or "this one." That is nationwide. Most of us in Washington look at two or three or four, maybe five different plans and say, "This one fits my family; I will take this high option," or "I will take the low-option or standard plan." It is an easy choice with a lot of information, and, most importantly, it has information that is needed to make the correct choice.

All of these plans under Medicare simply continue to rely on the very inefficient Federal price fixing as opposed to how much the market is charging. We have bureaucrats who are trying to do a wonderful job. I do not criticize them. But it is impossible to do what they are attempting to do to make sure we have a better system.

Mr. President and my colleagues, I will be talking more about this. We are still working on the details. But I suggest we need to be looking at, fundamentally, restructuring Medicare to make it a better program for the seniors than they are now getting and at a price we can afford. Doing nothing is not an option, because then we destroy the system that has taken care of the needs of seniors for over 30 years in this country.

We in Congress have an obligation to fix it and to be able to help educate the seniors that what they have now is not a good deal, it is not as good as most private plans, and we can offer them more choice and more benefits, better information, and do it in a way that allows the marketplace to determine the price.

The Office of Personnel Management looks at the top six health plans in the country and comes up with an average price and negotiates based on that average price. It is not Washington fixing prices but the market. When we have that large of a pool of individuals, then you can have the competition that is necessary to get the price down. So what the private sector is getting is a lot more choice, more benefits, and the price is increasing only at about 4 percent a year or less while Medicare has less of everything and the price is increasing at about 8.6 percent a year.

So we are going to be talking more about the details. We do not have all the details yet, but this is a concept that I think makes sense. My proposal will allow the current fee-for-service system to stay in place. If they wish to keep the whole system, they would have the option to do that. But I guarantee you, as more and more people understand what this plan will offer them, I think very few will elect to go back to a 1965 model when they have the opportunity to select a 1997 model which makes sense and gives them a great many more benefits.

Mr. President, I conclude my remarks by saying we will continue to talk about this, to help educate our colleagues about what we are attempting to do. Others have come up with this plan. We have had groups like the Progressive Policy Institute that has suggested this. The Brookings Institution has suggested this type of approach. The Heritage Foundation has suggested this type of approach. We have liberals, conservatives, and moderates saying we have to fundamentally make some changes. This is the way to go. This is the right approach. I agree with them. I think as we know more about it, more and more of our colleagues will agree with this approach as well.

Mr. President, I yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The senior Senator from Wyoming is recognized.

TAXES

Mr. THOMAS. I rise to speak about taxes and will be handling the time that has been set aside for Senator COVERDELL, if that is acceptable.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. THOMAS. Madam President, tomorrow is tax day. I guess every one of us knows that. Certainly some of us are a little sleepless from having dealt with it. So it is an appropriate time to talk, I think, about taxes. There are lots of things to talk about in the area of taxes, of course. One of them is the tax system. Obviously, most people believe the tax system needs to be changed, needs to be made simpler, needs to be made more fair. We could talk about the IRS. A lot of people talk about that, particularly in April. There need to be changes there, clearly. On the other hand, most believe, and I do as well, that if we really expect something different from the enforcement and collection agency for taxes, then we have to change the tax system which they enforce.

But, today I wanted to take this time, along with a number of my colleagues—and I appreciate very much Senator COVERDELL setting aside this time; I expect there will be six of us here over the next number of minutes—to talk about taxes, what taxes mean to us and what they mean to our constituents. It is an appropriate time, also, not only to talk about taxes, but to talk about the agenda that we have in the Senate, particularly the Republican agenda with respect to taxes: What our plans are, what we have on our menu with regard to taxes, to provide some tax relief for American families, provide an opportunity for American families and American businesses to spend the money that they earn themselves; to talk a little bit about the fact that, on the average, American families spend almost 40 percent of their total income on taxes, all kinds of taxes—Federal, State, local—40 percent. That is an awful lot of our labor that is paid to the government. So, let me make it clear that Republicans want tax relief, we want tax relief soon, we want tax relief this year, and I am hopeful—we want tax relief as part of this budget that is now being prepared.

We hear a lot—I hear it from my constituents and I am sure my associate from Wyoming hears the same thing—that families are having difficulties getting ahead, families are having difficulties in savings, families are having difficulties paying their bills. Part of the reason is the level of taxes. So, it seems to me that it is necessary for us to respond. People in my State remind me that nearly 40 percent of their income is paid in State and local taxes, as well as Federal taxes. That is an awful lot of our money.

Surveys have indicated that Americans are willing to pay taxes, but they perceive that like 25 percent would be a more acceptable and reasonable figure. My constituents want to know what we are doing about taxes in this Congress. Frankly, there is a great deal of opposition to doing very much of anything. I think, really, if you want to be serious about tax relief, you have to go back to the basic issue, the really basic issue. The talk about taxes and balanced budgets is more than talking about arithmetic, more than talking about balancing numbers. It represents a philosophy. It represents the point of view that people have with respect to Government. There are those in this body who believe—certainly in this country there are those who believe—the Government spends money better than individuals, that more and more money ought to be brought into the central Government so it can be disbursed for all kinds of ideas. There is a legitimate point of view that the Federal Government should be involved in almost everything that is troublesome to people in this country. As a matter of fact, I think one could say that has been the President's political philosophy, to get involved in all kinds of things, some say the kinds of things that ought to be done by the city council, that ought to be done by the school board. But the President has found those to be politically viable. So it is a philosophy.

Those who want more and more Government, of course need to have more and more taxes. I do not agree with that point of view. I think our efforts ought to be designed toward reducing the role of the central Government in our lives. Those things that are inherently governmental, and there are some, ought to be done by government at the level closest to people. There is a role for the Federal Government. There are things the Federal Government ought to be doing. But, conversely, there are things that the Federal Government should not be doing. So my point is that when you talk about budgets, when you talk about tax relief, the response is always, we—you—cannot balance the budget; we cannot cut spending enough to have tax relief for American families.

I suggest that we can. We have a $1.7 trillion budget, and in that budget there are many things that could be reduced. There are many things that could be combined. There are many things that could be, in fact, eliminated. It is possible to balance the budget and have tax relief. The other alternative, of course, which again is the one the administration has taken over the last several years, is let us balance the budget but let us do it by continuing to increase spending and raise taxes. The President's budget that is out before us now raises taxes by $23 billion. It has some tax relief in it but that is offset by more tax increases.

So that is really the issue. We will talk about all kinds of details on the floor. Details are fine. We ought to talk about them. When you really peel it all away, you are talking about a philosophical difference of more Government versus less Government. Frankly, I think it would be sort of interesting and honest if those who want more Government would simply get up and say, "Yes, I want more Government. I think we ought to have more spending." Seldom do you hear that. There are a million other reasons for it, but that is really the bottom line.

So, that is what we talk about, I think, when we talk about the budget. That is what we talk about when we talk about tax relief. It is possible to balance the budget, reduce taxes and get tax relief at the same time. The two are not mutually exclusive in a $1.7 trillion budget. Can you imagine what $1.7 trillion is? There are plenty of examples of waste and abuse. There are plenty of examples and opportunities to create a smaller, more efficient Government. For a few examples, the State Department has $500 million in unneeded real estate. How to dispose of that? Repeal of Davis-Bacon would save $2.5 billion, so contracts in the Government sector are the same as they are in the private sector. There are 160 employment and job training programs in 15 different agencies—160. I cannot imagine that we could not be more efficient than to have 160 programs aimed at the same thing. In fact, we could get more money to the people who need the money if we would consolidate those, in addition to spending reductions. There are 73 Federal programs aimed at gathering statistics.

I have introduced, along with a number of my associates, what we call the Freedom From Government Competition Act. It is a simple idea, an idea that has been policy for a very long time. It has not been implemented. That is, to identify those activities within the Federal Government that are commercial in nature and also those that are inherently Government; and those that are commercial, put them out for a bid in the private sector so they could be accomplished in the private sector, substantially saving dollars, some say as much as $30 billion, in the private sector. That is really what we all say we want to do, is to strengthen the private sector and limit the size of Government. Here is an opportunity to do that. Yet the administration drags its feet and says, "Oh, we are doing all this." The fact is, they are not. The fact is, there are lots of things that can be contracted out that are commercial in nature.

I happen to be chairman of the Parks Subcommittee. We are entering into a long-term study of strengthening the parks and seeing how we can provide more resources to protect the resources there, more dollar resources to protect the natural resources. One of the ways is to take some of those functions and put them into the private sector. So, we have introduced a bill to do that.

There are all kinds of ways in which efficiencies can be found, in which Government can be smaller. The result of that can be a balanced budget and a reduced tax burden on American families. There are two that particularly come from my constituents when I am in Wyoming. One of them has to do with the estate tax. As you might imagine, a lot of our folks are ranchers and farmers and small business people, families who have worked all their lives, perhaps several generations, to put together a farm or a ranch which has asset value and, frankly, has relatively little cash flow. Yet, quite often under our current estate taxes, that family has to dispose of their assets, dispose of their ranch, on the death of the senior person in order to pay the taxes. So he or she cannot pass it on, that lifetime of work, to their family. The fact is, we spend more money in this country avoiding estate taxes than we do paying them—it is relatively minor.

Capital gains? We would like to have a good healthy economy, of course, and it seems to me there is nothing that would provide more strength to the economy than to provide an opportunity for people to invest in businesses without having all their growth taken in capital gains taxes. This is a direct result of reducing taxes, to have investments, and, indeed, for the first several years it increases revenue.

So that is what we are talking about here. Again, let me say I get concerned sometimes, when we seem to kind of trivialize the debate, whether this is going to produce that. We get very involved in the numbers game when beyond that, in a much broader sense, is a philosophical direction. Where are we going with the Federal Government? Do we want more? Do we want less? Do we want people to have more money to invest for themselves? Do we want to invest in the private sector to create jobs and therefore increase revenues?

We always hear about the 1980's in which the deficit grew, and, indeed, the deficit did grow. But if you take a look at it, revenue grew exceedingly fast. It was the longest growth of revenue in history. The problem was Congress continued to spend more. It was not a matter of not having enough revenues; it was a spending issue, and that is what we ought to face up to, it seems to me.

So we are talking here a great deal about the philosophy—philosophy. Do you want more Government? Do you want less? Do you want it more efficient? Do you want to continue as it is? It makes some sense to reduce the size of the budget and cause some of the agencies to have to find some better ways to do things, and they can. Specific tax cuts, it seems to me, that are most important have to do with capital gains, which helps to increase jobs, helps to allow people to have a living wage and to take care of their own families; and estate tax, which allows people to work their lives to create an asset and to be able to keep it; to provide $500 per youngster under 18 for families, so they can take care of their own health insurance for young people. It seems to me that is the direction we ought to go and this is the time to make those kinds of decisions.

I am joined by my friend and associate, the Senator from Nebraska. I would like now to yield to the Senator.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Madam President, I wish to thank my distinguished colleague and fellow tax cutter, the distinguished Senator from Wyoming.

The people of the United States are drowning in a sea of taxes. Reducing the tax burden on the American taxpayer was a principal reason I ran for the U.S. Senate last year. Tax relief is a top priority for my State, for Nebraskans, and I believe for all Americans. We must make it a top priority in this Congress. We must make it a top priority in this Congress for the American people.

American taxpayers are honest, hardworking people. They deserve to reap and to keep the benefits of their labors. Yet, the typical American family pays more in taxes than it spends on food, clothing and shelter combined.

On average, nearly 40 percent of income goes for taxes; 28 percent goes for those other necessities of life. I say other necessities because it seems in America today taxes are considered a necessity, a more important necessity than food, shelter, and clothing. These numbers are according to the Tax Foundation.

That is not what our forebears envisioned for America. That is not the freedom that so many of our people have fought, sacrificed, and died to defend. That is not the America we want to leave our children and our grandchildren. Our people, Madam President, deserve better. The American people want less Government, less regulation, less spending, and less taxes. It is time for our leaders, the leaders of this body, the leaders of the Congress of the United States of America to act on America's wishes. It is time for significant tax relief.

Tomorrow is tax day 1997. We must make change happen. We must provide the leadership to make tax relief happen now. The heavy burden of taxes must be taken off the American people so they can enjoy the life they work hard to provide their families and not have to worry if they will have enough to be able to survive financially.

As we look down the road into the next generation, we know by any scoring of the budget that unless we make drastic changes in our spending habits, spending habits that now have given this country a $5.3 trillion debt, and we add $700 million a day to that debt, if we do not change those spending habits and out of control fiscal policy in this country, we know one thing: that within 10 years, every dollar in the Federal budget will be consumed by four programs—interest on the national debt and entitlements. There will be not $1 for national defense, for roads, for scholarships, for the environment—not $1. It will go to pay interest, not even the principal, interest on the national debt and for entitlements.

This is the modern challenge. This is the modern challenge to our ongoing quest to secure life, liberty and the pursuit of happiness for all Americans. We need to look to the future, we need to look seriously to the future, and we need to look to the future now. We need to completely overhaul our present Tax Code. It is a sham, it is ridiculous, it is an embarrassment.

Our system is too complicated, too punitive and too unfair. We need to make it flatter, fairer and simple, and we need to get at it now. We need to look at all the options as we tackle this issue, but we must make sure that a new Tax Code eases the burden on the American taxpayer and encourages—encourages—rather than inhibits or destroys growth, investment, and savings. Growth, investment and savings, that is our future. That is how we pay down this debt. That is how we continue to give generation after generation in this country real opportunities, like my generation has had and every preceding generation has had.

We have a very important stewardship here. This is a stewardship about fiscal responsibility, that our children and our grandchildren inherit something worth inheriting, not a mound of debt, not a concern that they will not have an opportunity to buy a home or send their children to college. We must ensure that the American taxpayer is treated fairly and that any new tax system is managed correctly. The people who enforce our tax system must always—always—act with respect for taxpaying men and women. We need a smaller, leaner, more responsive Government. Americans are willing to pay for the Government they need, but they are not willing to keep paying for the oversized, overreaching Government that we now have.

The Omaha World Herald, the State daily newspaper in my State of Nebraska, recently put the case very well, and I quote from the Omaha World Herald:

> Taxation isn't evil. Without it, the Constitution's mandate of providing for the common defense and promoting the general welfare might well go unfulfilled. But there's a point at which too much taxation makes Government the master of the people instead of their servant.

Let me repeat that.

> There's a point at which too much taxation makes Government the master of the people instead of their servant. That point comes nearer each year that Government figuratively gobbles up more of the workday for its own needs, leaving Americans less time to support themselves and provide for their families.

Today, the typical worker works 2 hours' 49 minutes of each 8-hour work day just to pay taxes at every level of government. That is almost three times as high as it was in 1930 when it took only 1 hour each day to earn enough to pay taxes at every level of government. This trend will continue until something is done.

The time for tax relief is now. If we fail to provide that relief, our economy will weaken—it surely will weaken—our people will suffer and our role in a global economy will be lessened, and just at a time when America should be leading the world into a grand hopeful new century, a century that should be full of promise and hope and opportunity. We will have to forfeit the leadership and the opportunities that should be there for our young people. But if we meet the challenge, we will open the door to an exciting new era in America and the world.

This country is great, not because of its Government, not because of the country; the Government is great and the people are great and the Nation is great because of our culture, because of our people. Let's not hold our people back from their potential with a heavier and heavier tax burden. But rather, let's allow our citizens to flourish, prosper and soar, just as we have done in this country for over 200 years. Americans deserve tax relief. I intend to do all I can to make that happen. We need tax cuts and spending cuts now.

Madam President, I thank you for the time, and I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. Madam President, I join my other colleagues this morning in talking about the dubious date of April 15, which comes upon us tomorrow. I rise today to speak briefly in support of what we call profamily and progrowth tax relief. I will focus on two of the most frequently asked questions, and that is: Why is it critical to provide tax relief this year, and then, can we do it while still trying to balance the budget?

You always hear the question asked of the people: "Do you want a balanced budget, or do you want tax relief," just like they are two separate questions and they cannot be one. I believe they are dual track and both have to be done at the same time.

Before I begin, let me set one fact straight, and that is, over the next 5 years, the Federal Government will take away $8.6 trillion in taxes from the pockets of working Americans. What we are asking is that 2 cents of every dollar that the Government takes from the taxpayers—again, I repeat, just 2 cents of every dollar—be returned to them in the form of tax relief. That is what S. 2, the Family Tax Relief Act is all about. It is 2 cents worth of tax relief. Too much? Well, I don't think so.

Madam President, tomorrow will be the cruelest day of the year for millions of Americans as they rush to meet the April 15 tax filing deadline, and cruel is not only an appropriate word to describe the tax burden faced by working Americans, it is perhaps the best word. Taxes imposed on American families are at an all-time high, as we have heard from other colleagues this morning, and this year, tax freedom day—that is the day when Americans stop working for the Government and start working for themselves—will be announced by the Tax Foundation this morning and it could come as late as May 9, which would be later than ever before.

The average American family today spends more on taxes than it does for food, clothing, and housing combined. A typical median-income family can expect to pay nearly 40 percent of its income in Federal, State, and local taxes. This means, again, more than 3 hours of every 8-hour working day are dedicated just to pay taxes. In 1996, an average household with an annual income of between $22,500 and $30,000 paid an average of about $9,073 for food, clothing and housing, but they paid $11,311 in taxes. Households with incomes ranging from $45,000 to $60,000 averaged about $16,000 for basic necessities but paid more than $25,000 in taxes.

If the hidden taxes that result from the high cost of Government regulations are factored in as well, a family today gives up more than 50 percent of its annual income to the Government. If you want to put that in context, 50 percent to taxes, if you go back to the Boston Tea Party, that was staged over a one-half of 1 percent tax when the Revolutionary War started and people thought they were being taxed too high at one-half of 1 percent.

When the Government takes more, families get less. Between 1989 and 1995, the typical American family's real income fell by about 5.2 percent. Most economists point out that the decrease in income was the result of slow economic growth, and that is a direct result of higher Federal taxes.

We all recognize the children are our future of our Nation and that families are the foundation of our society, but Washington's deficit spending and high-tax policies have systematically ignored our children's future and severely have undermined the basic functions of the family. We must abandon the policies and help restore the family to an economic position that is capable of fulfilling its vital responsibilities and, therefore, we should provide American families with meaningful tax relief, allowing them to keep more of their hard-earned money.

Again, S. 2, the Family Tax Relief Act, is truly a progrowth, profamily tax-cut plan for working Americans. It will reduce taxes by $172 billion and with 95 percent of that tax relief going directly to middle-class families.

I am proud we have built our plan around the $500 per child tax credit which the taxpayers in Minnesota have asked me to make a top priority. The $500 per child tax credit means real relief and will return nearly $500 million to overtaxed Minnesota families every year.

Our plan will also expand individual retirement accounts for spouses and allow penalty-free withdrawal from an IRA for education, business startup and emergency expenses. It promotes savings in investment by lowering the antigrowth capital gains tax and takes on the damaging estate tax, or the death tax, that jeopardizes so many family businesses and farms.

By enacting these tax cuts, we can begin turning back the decades of abuse that taxpayers have suffered at the hands of their own Government, a Government that has been too often eager to spend the taxpayers' money with reckless disrespect. As the Government takes money out of the hands of private citizens, the Government itself keeps expanding. Even though President Clinton has proclaimed otherwise, he said the era of big Government is over, but the era of big Government is far from over. Despite a shrinking Federal deficit, the Government is getting bigger not smaller.

Total taxation is at an all-time high. So is total Government spending. According to the Congressional Budget

Office, the Government will spend $9.4 trillion over the next 5 years, much of it going toward wasteful or unnecessary Government programs, and tax relief is the right solution because it takes power out of the hands of Washington's big spenders and it puts it back where it can do the most good, and that is with families.

By leaving $500 per child in the family bank account, taxpayers are then empowered to use it to directly benefit their household. If you wonder what kind of impact that could have on a family budget, consider that for a family with two children, the $500 per child tax credit could pay for 3 months of groceries, nearly 20 months of clothing for the kids or your home mortgage for a month and a half.

The President's tax cut proposal, on the other hand, includes a mini-child-tax credit that only begins with $300 per child and increases to $500 per child 2 years later, but only to be eliminated entirely after that. Furthermore, the President's plan provides tax credit only to families with children under the age of 13. So only up to the age of 12, again greatly diluting its value.

We have 18.3 million teenagers age 14 to 18 in this country. As we all know, family expenses soar during those teenage years, so excluding this age group from the benefits of family tax relief simply makes no sense.

Let me focus for a moment also on the estate tax. Today, when a small business owner or a farm owner dies, the Federal estate tax confiscates 37 percent of his or her assets valued between $600,000 and $1 million. That rises to 55 percent of assets valued at more than $3 million.

Gifts valued at more than $1 million to grandchildren are also taxed at 55 percent. Many, if not most, businesses are severely crippled or forced to close by this unfair tax hit.

Family-owned and closely held businesses are the backbone of America's economy and a bedrock of the American culture. They must be preserved.

I am reminded constantly by proud family farmers in my home State of Minnesota—like Andy Quin, who is a corn farmer from Litchfield, and Don Buhl, a pork producers from Tracy—that if we are to preserve our proud, rural traditions, we must ensure that farming remains an attractive and viable profession.

Making it easier to pass the farm from one generation to the next should be a priority in Congress. I am also pleased that S. 2 includes a meaningful estate tax cut for small family business owners and for farmers.

Beyond the direct benefits to families, tax cuts can have a substantial, positive impact on the economy as a whole.

It was John F. Kennedy who observed that "an economy hampered with high tax rates will never produce enough revenue to balance the budget just as it will never produce enough output and enough jobs." It was President Kennedy who said that.

And he was able to put his theories to work in the early 1960's, when he enacted significant tax cuts that encouraged one of the few periods of sustained growth we have experienced since the Second World War.

Twenty years later, President Ronald Reagan cut taxes once again. The reinvigorated economy responded enthusiastically as 19 million new jobs were created and take-home pay grew 13 percent between 1982 and 1989.

Madam President, let me now turn to the other question of whether we are able to balance the budget and provide tax cuts at the same time. The truth is we can absolutely do both at the same time, as long as we have the political will to do it. Many States have already proved that this can be done.

Some examples. While Washington was busy debating whether to give 2 cents of every dollar it collected back to working Americans, many States took action to lower their taxes.

In the State of New York, Governor Pataki cut taxes 15 times, returning more than $3.5 billion to New Yorkers in just 2 years. By the end of Governor Pataki's term, $13 billion will be returned to New Yorkers.

What is remarkable about New York is that the Governor provided tax cuts while balancing the budget. What is more, New York ran a $400 million surplus and it put the money into the State's rainy day fund for the first time since 1978.

Governor Rowland of Connecticut also cut taxes and balanced the budget. He turned deficits into a $250 million budget surplus in only the first full fiscal year of his term. Many other States, including New Jersey, Mississippi, Michigan, Iowa, and Arizona, have done the same.

My own State of Minnesota is another example. When Gov. Arne Carlson was elected to office in 1990, he inherited a deficit greater than $1.8 billion and a government that was spending 15 percent faster than the rate of inflation.

But the Governor cut spending by making the tough choices that elected officials are supposed to make, decisions that cut wasteful spending and cut taxes.

Thanks to that dedication, Minnesota today finds itself with a stronger economy, more jobs, and an unemployment rate of just 3.8 percent—that is well below the national average—and a $2.3 billion budget surplus. Now the Governor is planning to cut income taxes by 22 percent.

By balancing the budget and lowering taxes, those States have produced remarkable economic results: The 10 States that cut taxes the most have seen strong job growth, a 10.8-percent increase compared to a national average of 5.9 percent.

And also the top 10 tax-hiking States, they registered a zero job growth during that same period. No wonder even the State of Maryland has recently adopted a plan to cut tax by 10 percent. Madam President, I strongly believe we should follow the tax-cutting trend at the Federal level.

By implementing profamily, progrowth tax relief and creating a tax system that is more friendly to working Americans and more conducive to economic growth, Congress and the President can make our economy more dynamic, our businesses more competitive, and our families more prosperous as we approach that 21st century.

I strongly disagree with those who insist the deficit cannot be reduced as we simultaneously provide tax relief. The States have shown us that the deficit can be reduced, the budget can be balanced, and taxes can be cut at the same time.

After eliminating wasteful, redundant, and needless spending from the Federal budget, we can still allow for a spending increase while providing tax relief to working Americans.

To omit tax cuts from the budget resolution is not acceptable to Republicans seeking to deliver on our commitment to return money to the taxpayers.

Therefore, I support the alternative budget prepared by Senator GRAMM, a budget Democrats and President Clinton have supported that is based on the President's own numbers. It is a compromise for us that includes tax relief.

I also disagree with the suggestion that we should delay any tax cuts or separate our budget agreement from tax relief. Again, the taxpayers have been very clear on this: A recent USA Today/CNN/Gallup Poll shows that 70 percent of Americans want us to keep tax relief in our budget plan.

Despite what you hear from the arguments on the other side, 70 percent of Americans want us to keep our pledge to cut taxes.

Madam President, as I close, I am certain there is nothing we can ever do to make tax day an occasion to celebrate. But it is within our power to make it a great deal less painful. So we have made a promise. We must keep that promise. And let us give back that 2 cents on every dollar to America's hard-working families.

Madam President, thank you very much.

I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. I thank the Senator from Minnesota. I would like to get a copy of those remarks. They are very well stated.

I yield up to 10 minutes of my time to the distinguished Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Thank you very much, Madam President.

Madam President, earlier this year I joined Senator ROTH and 32 of our colleagues in introducing Senate bill S. 2, legislation to provide American taxpayers with a $500-per-child tax credit, a reduction in capital gains taxes, an increase in the exemption from estate and gift taxes, and full access to IRA's for nonworking spouses.

I support this and other efforts to reduce the tax burden on Americans because, Madam President, we owe it to the American people. We owe it to the hard-working families who have build this country, to whom we owe our way of life and the honor and privilege of serving in this House.

S. 2 is necessary for the well-being of our families, Madam President for a number of reasons. Let me explain why.

To begin with, families today pay a higher proportion of their incomes in taxes than ever before in our history—almost 40 percent. That is more than food, clothing, and shelter combined. And it means that families have less money to spend on necessities, and less to save for their retirement and for their children's education.

S. 2 would address this tragedy through a $500-per-child tax credit. It would allow the typical American family to live better, and to save for a better future.

But there is much more to S. 2 than just these specific family fax provisions.

Suppose, for example, that your family, like most, is trying to save for retirement. This bill would make that task much easier. How? By cutting our capital gains tax—one of the highest and most punitive in the industrialized world.

By cutting the capital gains tax we would spur capital investment and increase the value of the mutual funds in which so many Americans invest, either directly or through their company pension plans.

Lest we forget, Madam President, well over half those who would benefit from the capital gains tax cut in this bill earn under $50,000 per year. And all Americans would benefit from the increased economic activity and competitiveness it would produce.

Now, let us say that your family owns a small business or a small farm. Right now you probably live in fear that, when you die, your family will have to sell the farm or business just to pay the estate taxes.

This bill will allow you to rest easy. It would do so by increasing the exemption from estate taxes on family-owned businesses from the current $600,000 to a more realistic $1 million.

Madam President, the Government should not be in the business of breaking up the family farm, or the family business. Under this bill we help eliminate that problem.

Now, suppose you belong to a family in which you have small children. Today, unfortunately, too many such families require two paychecks just to make ends meet.

Mothers of young children too often are pushed into the workplace, not by their own desire, but by economic necessity.

This bill would provide a full IRA deduction for nonworking spouses. This will help some mothers who do not want to work outside the home stay with their children. It also will provide much needed financial security to homemakers currently discriminated against by the tax laws.

A child tax credit that directly lowers income taxes. A capital gains tax cut that increases the value of retirement and other savings. An increase in the estate and gift tax exemption to protect family farms and family-owned businesses. A spousal IRA to provide financial security to spouses working in the home.

This, Madam President, is what our tax bill would provide. It grants much needed relief from a tax system that is out of control. It begins the long road back toward frugal, manageable Government and toward prosperity for our working families.

I urge my colleagues to give their full support to this much needed legislation.

I can assure this body that reducing taxes does not drain a government of its resource base. I also can assure this body that reducing taxes will create prosperity.

In my own State of Michigan, over the last 6 years we have cut taxes 21 times. The result has been dramatic. Six years ago Michigan had a deficit of $1.8 billion. Today it not only has a balanced budget, but it has a rainy day fund in which $1 billion is available to our State for tough times, should they come again.

Because of 21 tax cuts, we have an unemployment rate, for the first time in 30 years, that is consistently below the national average and below that of other industrialized States. In fact, last month our unemployment rate in Michigan was the lowest it has ever been in the history of our State as long as we have been keeping records of unemployment.

That experience, to me, is the kind of model we ought to use in Washington. For that reason, I believe S. 2 sets us in the proper direction.

Today, I noticed in my office there arrived, amid all the mail that comes to us, one piece of mail that I was not anxious to see. It was the tax returns that have been sent by my accountants for my wife and me. Our tax return is in there. I have not yet opened it. When I leave the floor after my speech, I am going back to the office to do that. I am going to be quivering as my hands reach for that envelope to open it up, because I am not sure exactly what the consequences are going to be.

But I am not going to be happy when I finally put in perspective exactly what the bottom line is, because whether we have, through withholding, satisfied our obligations for this year, I do not know. But I do and will soon know exactly how much we will be paying in taxes.

Our family is obviously not the average American family. But when I travel around my State and talk to average working families, the same kind of concerns, as April 15th approaches, are expressed to me time after time; families who say, "Look. We work hard. We play by the rules. And every year it seems we have less to show for it."

One reason that families have less to show for it is because the basis on which their taxes are calculated has continued to go up. As I indicated in my remarks, it is at an all-time high for the working family. As a collective, our country now takes more dollars to Washington as a percentage of gross domestic product than we ever have in the history of America.

We do not have the crises of a world war. We do not have the Vietnam war. We do not have a depression. We do not have the sorts of things that might justify an unusually high demand for the hard-working dollars of our taxpayers. But today we have 20.8 percent of the gross domestic product sent to Washington. Madam President, that is too high. It does not build the base for a strong economy in the long term.

The experiences in our State of Michigan, to me, make sense and ought to be emulated here in Washington. For that reason, I am glad to be here today, not just to support S. 2, but to speak at a very timely moment about taxes that are too high. It is time, as my colleague from Minnesota said, to balance the budget and do so in a way that lets the working families of our country keep more of what they earn.

That is one of the reasons I came to Washington and is certainly going to be something that I continue to speak out on as long as I am here.

I thank my colleague from the State of Georgia for putting together today's special order.

I yield the floor.

Mr. COVERDELL. I certainly thank the Senator from Michigan, not only for the legislation he is proposing but for the common sense rationale he brought to the floor today.

I would like to yield, if I might, Madam President, up to 10 minutes of my time to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Madam President, thank you.

I rise today to address an issue that is of great concern to the people of the State of Wyoming as well as the citizens of America.

During my campaign last summer and fall, and again since I have taken office, I have traveled all across the great State of Wyoming. I have traveled from Cheyenne in the south to Sheridan in the north and from Evanston in the west to Sundance in the east and all of the counties in between. One message came through loud and clear from the citizens of Wyoming: Our tax system is too complicated and our taxes are too high.

Working families are forced to pay too much for their income to a bloated Federal Government. Small businesses, which are the backbone of the American economy, are strangled by a complicated and often punitive Tax Code. As the only accountant in the U.S. Senate, I have had to weed through a Tax Code which is frustratingly complex. And as a small businessman, I have experienced firsthand the Tax Code which all too often discourages individual enterprise and penalizes ingenuity. As a husband and a father, I have felt the burden of working for nearly half a year to pay all the taxes levied by the Federal, State, and local governments. I promised the people of Wyoming that I would work to make the tax system simpler and fairer so that the taxpayers of Wyoming and America could keep more of their hard-earned money.

I should note that it has been the Republicans who have long been sounding the battle cry for lower taxes and smaller Federal Government. It was the Republicans who led the charge on the balanced budget constitutional amendment. And it is the Republicans who have shown the determination to provide meaningful tax relief for America's families. I was proud to be an original cosponsor of the balanced budget constitutional amendment. I am also proud to be a cosponsor of several bills that would get us closer to a simpler and fairer tax system.

With tax day now upon us, we are reminded of the impact our current tax system has on all of us. We are paying the price for a Government that has too long lived beyond its means. Like a child in a candy shop, the Federal Government hasn't met a sugar-coated spending project it did not like. To pay for its appetite, Congress has left the American people holding the tab with higher and higher taxes. It's time for Congress to rein in the Federal Government and ease the burden it places on America's taxpayers.

Since I was sworn in as a Member of the U.S. Senate, I have joined my Republican colleagues in cosponsoring legislation that would allow America's families to keep more of what they earn. The American Family Tax Relief Act includes a $500-per-child tax credit, substantial cuts in the capital gains rate, and sizable reductions in the punitive estate tax. This legislation helps families with children by returning some of their hard-earned money to them. The American Family Tax Relief Act encourages investment and frees up creative capital by lessening the penalty of the capital gains transactions.

I have cosponsored legislation that would help small businesses by allowing them a 100-percent deduction on health insurance coverage for their employees. This home-based business tax relief would put small businesses on a similar footing with the larger competitors who currently enjoy full deductibility of their employee's health care costs. It would also broaden the home office deduction so that parents and other individuals who choose to operate businesses out of their homes can receive more benefit from their expenses. This legislation encourages economic growth and creativity and lessens the tax burden on America's families. It would also take us another step closer to a Tax Code which sparks ingenuity and encourages family-owned business.

There remains little doubt in the minds of the American people that the Tax Code is in need of serious surgery. The present Tax Code is needlessly complicated and treats American businesses and individuals unfairly. One example of this is the alternative minimum tax. This tax system, first instituted in 1986, has imposed substantial hardships on capital-intensive businesses, like mining and manufacturing, in Wyoming and across America. These businesses are forced to compute their taxes under both the regular corporate method and the alternative minimum tax method. This affects the farms and ranches as well. And they have to pay the greater of the two amounts. This compliance is expensive for businesses, and it ties up valuable capital that could be used to expand their operations and provide new jobs.

The alternative minimum tax is a punitive tax because it effectively penalizes businesses that invest in equipment and structures necessary for the operation of their businesses. The current alternative minimum tax system is yet another example of why it is time to inject some common sense into the Internal Revenue Code.

Reform of the alternative minimum tax would simplify the Tax Code and make the accounting method more consistent with the regular corporate tax rules. This legislation would make the Tax Code fairer for thousands of businesses that are now at a serious tax disadvantage. It marks an important step toward restoring simplicity and integrity to America's tax system.

Reforming the alternative minimum tax depreciation allowance would work wonders for the American economy. One recent study estimates that the investment resulting from AMT reform would increase America's gross domestic product by $15 billion over an 8-year period. This would spur a surge in employment. Total jobs would roughly increase by 100,000 per year during a 5-year period. These jobs would be largely concentrated in the high-paying manufacturing sector of the economy. That is why this reform is needed so badly. The new high-paying jobs that would be available in my home State of Wyoming and throughout America will do wonders to improve our economy and the strength of our families. It is high time we give the American people the commonsense tax relief they so strongly desire.

Right now, we tax anything that moves, we tax what doesn't move, we tax it when you buy it, we tax it when you sell it, we tax you for living. One of the worst taxes of all is that we tax you for dying. We want you to be able to keep more of your own money to do what you know how to do best. As tax day quickly approaches, I urge my colleagues in the U.S. Senate to join me in giving the American people meaningful tax reform.

I thank the Chair and yield the floor.

Mr. COVERDELL. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has until 12 noon remaining.

Mr. COVERDELL. I believe that will be sufficient time.

I thank the Senator from Wyoming and all the others that have visited with America this morning from the Senate floor about the consequences of tomorrow, April 15. I think perhaps that day resonates among more Americans than even our more famous holidays.

I want to comment for a moment about the consequences of the data that was presented this morning by the Senator from Minnesota. He was talking about the impact of current taxation on American families and inferring that an average family forfeits about half of their income to taxation and the cost of Government. Specifically, we have taken a good look at this in Georgia. If you add up direct taxation—Federal Government, State and local government—and if you add on top of that the share that each family pays for the cost of regulation today, which is now approaching $7,000 per family, and if you add in the cost that an average family pays because of higher interest rates due to the national debt, which was created by the Federal Government over the last 30 years, which has spent 5-trillion-plus more dollars than it has, that adds up to 55 percent of their income. That is just stunning. And you wonder what is causing so much stress and behavioral changes in the American family? I suggest that before you look to Hollywood, you look to Washington. What else marches through their checking accounts and takes over half of what they earn?

To put it another way, I figure if somebody is taking over half of what I earn, they probably have more to do with my life than I do. And you can see the impact on those families in the number of families that have both spouses working and the fact that the average family isn't saving any money—what would they have to save—and the fact that bankruptcies are up; the fact that consumer debt is at an all-time high; the fact that we find more children without adult supervision; that the teenage suicide rate has quadrupled from 1960 to 1990; that SAT scores have plummeted, and the fact that families are smaller. These are all phenomena that are as a result of an oppressive economic policy from their own Government.

If you ask the American family what they think is a fair burden, it is real interesting that, no matter what economic strata they represent, they all come forward with the same answer: They think that a fair contribution for the services they receive from Government is 25 percent. So, in other words, it is over double what they think is fair.

Madam President, let's, for a moment, say that it is at least reasonable that, at a minimum, an American family worker would be able to keep two-thirds of their paycheck. Most people think that is a minimum. But given today's circumstances, that is a large reach. Let's put this into real dollars. An average family in the State of Georgia—and this would equate pretty much across the country—makes about $40,000. So it makes it a lot more clear what our goal is. If we were going to adopt as a principle that we need to return to the worker at least two-thirds of the fruits of their labor to manage his or her family, that means that the goal for the U.S. Congress is to return or let them keep $8,000 more a year. That is a pretty significant undertaking. But if we set out to accomplish that, we will do enormous good.

If we can figure out how to leave another 20 percent of that paycheck in their checking account to be talked about at their kitchen table, we will see many, many positive results. We will see larger savings. We will see new companies forming because there is capital to invest in them. The job lines will be shorter. Interest payments will be less. The family will have an opportunity to make sound judgments about educating their families. They won't have as high a consumer debt on their credit cards because they will have their own cash in their accounts. The list just goes on and on.

I want to reiterate, what do all these numbers mean? They mean that for an average family in America, the Government is taking $8,000 out of their checking account that it really can't rationally claim and that is doing severe damage to these families—severe damage. They can't prepare for the future, for education, or retirement, or a health crisis. There is nothing left. They can barely get through the ABC's of running that family. There is no margin. You can't pick up a newspaper without reading about the distress in middle America. This is what causes it. We are choking the resources necessary for them to make healthy decisions about running their families.

Madam President, I hope that more and more Members of Congress will just write a very simple goal on their ledger: Let's go to work and fight to ensure that an American worker can keep two-thirds of what he or she makes. Let's resolve that the fact that they keep less than half today is unconscionable. If we could line up our forefathers here and they could see what we have done to the fruits of labor, they would be stunned and they would admonish us all.

Now is the time, in this 105th Congress, to start turning that around and leaving those resources in the checking accounts of American families.

Madam President, I see that the hour of noon has arrived. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BILLINGS MONTANA STORY: "NOT IN THIS TOWN"

Mr. BAUCUS. Madam President, I rise today to tell my colleagues about some events that took place in Billings, MT, a few years ago. It is the story of a town whose citizens decided that hatred and bigotry were not welcome in their community.

The people of Billings enjoy the high quality of life that only Montana can provide. The magic city is the largest city in Montana, but it still has the feel of a small town. Folks still say hi to each other on the street. Families go to the symphony in Pioneer Park during the summer. And neighbors still go out of their way to help someone when they need a hand.

That placid life was shattered in November 1993, when a group of skinheads threw a bottle through the glass door of a Jewish home. A few days later they put a brick through the window of another Jewish home—with a 5-year-old boy in the room. Then they smashed the windows of a Catholic high school that had a Happy Hanukkah sign on its marquee.

The events frightened and repulsed the citizens of Billings. They were shocked to find that hatred and violence had penetrated their peaceful community.

But the people of Billings did not allow this outside menace to take root. The community banded together. Thousands of people put menorahs in their homes. They showed the skinheads that they were united against hate. And that year, Billings held the largest Martin Luther King Day march ever in Montana. The skinheads left town. Billings showed that hatred can be overcome.

Madam President, the people of Billings didn't ask to be recognized. They just did what came naturally. Recently, the USA network has decided that the Billings story was worth telling to the world. With all the bad news out there these days, it is refreshing to know that someone wants to tell a positive story. The people of Billings can be a shining example to the rest of our country; Montana will not tolerate hatred in any way, shape, or form.

I commend the USA network and—most important—the people of Billings, for their efforts in making this country a more tolerant place for us all.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NUCLEAR WASTE POLICY ACT AMENDMENTS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 104, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 104) to amend the Nuclear Waste Policy Act of 1982.

The Senate resumed consideration of the bill.

Pending:

Murkowski amendment No. 26, in the nature of a substitute.

Reid (for Wellstone) amendment No. 29 (to amendment No. 26), to ensure that emergency response personnel in all jurisdictions on primary and alternative shipping routes have received training and have been determined to meet standards set by the Secretary before shipments of spend nuclear fuel and high-level nuclear waste.

Reid (for Wellstone) amendment No. 30 (to amendment No. 26), to express the sense of the Senate regarding Federal assistance for elderly and disabled legal immigrants.

Lott (for Domenici) amendment No. 42 (to amendment No. 26), to provide that no points of order, which require 60 votes in order to adopt a motion to waive such point of order, shall be considered to be waived during the consideration of a joint resolution under section 401 of this Act.

Lott (for Murkowski) amendment No. 43 (to amendment No. 42), to establish the level of annual fee for each civilian nuclear power reactor.

Mr. WELLSTONE. Madam President, I wonder whether I might, before I ask unanimous consent that the pending amendment be set aside and the Senate now consider amendment No. 29—I am actually waiting for my colleague Senator MURKOWSKI from Alaska, under courtesy—I wonder whether I might ask unanimous consent that I be able to speak for 3 or 4 minutes on another matter without this counting against my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair. Madam President, I shall be brief and then go on with the amendment as soon as my colleague is here.

WELFARE ASSISTANCE FOR LEGAL IMMIGRANTS

Mr. WELLSTONE. Madam President, I wanted to call the attention of my colleagues and the people in the country to what I think is an important gathering here in the Nation's Capital. It is a gathering which focuses on the elimination of assistance for legal immigrants. The sponsors of this gathering have done over the years a great deal of work with the Soviet Jewry, and I guess we can now say Russia and other republics. And, of course, they are concerned about legal immigrants—Jews that have come from Russia or the other new republics, many of whom are elderly, many of whom have meager resources, and many of whom now as a result of action taken last Congress in the welfare bill will be without supplementary security income assistance and will be without food nutrition assistance.

What is important about this gathering, this rally, that is now taking place is that the sponsors have made it very clear that they don't want to focus just on Jews who have come to our country or who have fled persecution, but really on legal immigrants across the board from many different nations. The message of this rally, I think, is that we are a nation of proud immigrants. We are talking about many of our parents and many of our grandparents. In my case we are talking about my father who fled persecution from Russia. It really is shameful what we did, which I think was an overreach, which I hope we will rectify this Congress—I think we must—which is that we eliminated assistance to many people. As Mayor Giuliani said, by definition people who are receiving supplementary security income assistance or food nutrition assistance because they are so low income and poor really need this help. So what we are now faced with is a situation in our country where over 500,000 legal immigrants are going to be cut off supplementary security income and over 1 million are going to be cut off from any food stamp assistance. In the State of Minnesota about 35,000 legal immigrants are going to be cut off SSI and about 15,000 off food stamps.

This rally is the first of many gatherings. I think we are going to see it all across the country, and it is going to be a combination of people who are scared to death. They are elderly, they are disabled, they can't work, and really all of the assistance is going to be cut off. The question is, What happens to them? The religious community is involved. Our county organizations are involved. Mayors are involved. Many Governors are now getting involved.

I want to say to colleagues that as a matter of what is right, as a matter of elementary justice, as a matter of compassion, as a matter of considering our own tradition, our own roots, our own heritage, we have to restore this funding. It is simply unconscionable. It really is shameful what we did last Congress. I hope that we will make this a huge priority when we go forward with our budget. Otherwise, we are going to see a lot of vulnerable people who came to our country, who have worked, who have paid their taxes, who were legal immigrants, who maybe have an income total of $525 a month, and they are going to see almost all of that assistance eliminated. The question becomes, What happens to these people? That is the question I have for my colleagues. What happens to these people? Are we willing to be so generous with the suffering of others? I don't think we can just insulate ourselves here and act as if this isn't happening around the country.

People have now received letters that have notified them that they are going to be cut off; that this assistance which has been a lifeline of assistance is going to be eliminated.

I will tell you something. In my adult life—and this is not an exaggeration—I don't think I have ever seen people so frightened. I have never met with a group of citizens nor have I have ever met with a group of people who are more frightened. I have never seen such fear in the faces of people. I cannot believe that we don't have enough goodness inside of us, enough compassion here to really fix this problem, change the course, and make sure that we provide some assistance to many people in our country who deserve our assistance.

NUCLEAR WASTE POLICY ACT AMENDMENTS

The Senate continued with the consideration of the bill.

Mr. WELLSTONE. I am going to for a moment, until the Senator from Alaska comes, suggest the absence of a quorum because the Senator is not here. In order to have debate, it is important that he be here, and I do not want to go forward with an amendment and not give him an opportunity to respond. So for a brief period of time, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HAGEL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair. I welcome my colleague, Senator MURKOWSKI from Alaska.

AMENDMENT NO. 29 TO AMENDMENT NO. 26

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the pending amendment be set aside and that the Senate now consider amendment No. 29. My understanding is that we have an hour on this amendment to be equally divided.

The PRESIDING OFFICER. That is correct. Is there objection? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada (Mr. REID) for Mr. WELLSTONE proposes an amendment numbered 29 to amendment No. 26.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22 of the substitute, line 5, after "(3)(B)" insert "until the Secretary has made a determination that personnel in all State, local, and tribal jurisdictions on primary and alternative shipping routes have met acceptable standards of training for emergency responses to accidents involving spent nuclear fuel and high-level nuclear waste, as established by the Secretary, and".

Mr. WELLSTONE. Mr. President, let me start out by giving some context to this amendment. I feel strongly that the Federal Government should live up to its obligation to take possession of nuclear waste. That is my framework. I am with this amendment not operating outside of that framework.

I also add that Minnesotans and other customers of nuclear power have been paying into a nuclear waste fund over the years, and the reason was and the understanding is that the Federal Government would make this commitment and live up to this commitment. That part of this legislation, that premise, I fully support.

Mr. President, I have been concerned in the past—and still am although I don't have an amendment today that deals with this—about what happens when the Federal Government actually takes title under this bill because I do think that over the years you are going to have a huge taxpayer liability. So while I want the Federal Government to be responsible and live up to its national commitment to do something about it, I worry about the transfer of over 10,000 years all of a sudden to the taxpayers. The GAO has estimated that the taxpayers' future burden could be about $77 billion. This is assuming a 100-year program. But we are talking about a program of nuclear waste that is over thousands of years.

Mr. President, concerns about this legislation. First of all, the legislation still attempts to skirt some of the requirements of the National Environmental Policy Act. There is a reason for that piece of legislation, and I do think, when you are talking about the transport of highly radioactive nuclear waste material, this is a time, if there ever was a time, when you want to have full environmental review, when you want to be absolutely certain that you are talking about the transportation of this kind of material taking into full account the health and safety and protection of families all across the country.

My esteemed colleagues from Nevada have discussed some of the risks and problems associated with transporting highly radioactive nuclear waste in their struggle against this bill. They also feel that Nevada has been unfairly singled out, and I respect them for that. My framework is a little different. But I do want to point out there are going to be some 16,000 shipments on our highways and our railways over the coming years. We are talking about some significant distance traveled. There are legitimate concerns that people have about the transportation of this highly radioactive nuclear waste material; people are going to be concerned about it, and in addition there is some debate about whether or not the containers themselves are safe.

We already transport hazardous materials, but I want to argue there is a significant difference when we are talking about nuclear waste material, especially highly radioactive nuclear waste. Consider it this way. If you have an accident involving nuclear waste as opposed to many hazardous wastes, you can have a dramatically different outcome. Radiation, without doubt, kills people, and it is a different scale we are talking about. God forbid—worst case scenario—we have an accident. We have to do everything we can to guard against that accident. We could be talking about something catastrophic. We cannot afford to have such an accident in our country which results in this kind of radiation leak that could have such dire consequences for people, such dire consequences for our families, and therefore I think we have to do everything possible to assure safety. That is what this amendment is about.

Now, this bill calls for a transportation planning process, and I note—and I thank the distinguished Senator from Alaska—that part of the amendment I proposed last week calling for more public participation has been incorporated. That is to say, there is some language about public comment when it comes to these plans. But in Minnesota we currently have 641 metric tons of high-level nuclear waste and spent nuclear fuel. That is a conservative estimate. And by the year 2014 we expect there will be around 987 metric tons, all of which will travel the roads and rails of Minnesota and States between us and Nevada, if this bill succeeds. So I think we have to do everything possible to ensure the safety and security of these shipments, and I would add that I think to talk about public comment really does not go far enough.

Initially, our amendment said that in the actual planning process, as you chart out the routes, those citizens who are affected by the transportation of this material ought to be able to be involved in the planning process, as should local officials. They should at least be consulted. I did not say they would have a veto because I know that would not work. But I did talk about consultation. I did talk about involving citizens who will be affected, who are going to be worried about themselves and their families, and local officials who are going to be worried. I talked about involving them in a more integral and real and substantive way in the planning process. I wish that amendment had been accepted.

My friends from Alaska, Mr. MURKOWSKI, and from Oregon, Mr. WYDEN, have made sure that this legislation really does take some steps forward from the last bill. Grants can be provided for training, and in addition there are going to be training standards which are going to be set. I still think, again, that we have to do everything possible to ensure the safety of these shipments. We have to do everything possible, leave no stone unturned, in making sure that we prevent the worst case scenario, which could be a nightmare scenario for our country. If we do not do that, we are going to be asking ourselves, when such an accident takes place, did we do everything possible when we transported this poisonous waste all across America.

The brave men and women who are likely to be first on the scene when an accident occurs, local firefighters, do not support this bill because they believe it inadequately provides for their needs such as the training, funding, and technical assistance.

I ask unanimous consent that a letter from the International Association of Firefighters be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INTERNATIONAL ASSOCIATION
OF FIRE FIGHTERS,
Washington, DC, April 14, 1997.

Hon. PAUL WELLSTONE,
U.S. Senate,
Washington, DC.

DEAR SENATOR WELLSTONE: On behalf of the nation's more than 225,000 professional fire fighters, I wish to express our enthusiastic support for your amendment to S.104 which would ensure that emergency response personnel along the proposed shipping routes are adequately trained to respond to an emergency incident.

Currently, only a fraction of all emergency responders have adequate training and equipment to respond to an incident involving radiological material. Indeed, more than 40% of the fire departments along the proposed routes do not even meet minimum training requirements for basic hazardous materials response. The training needed for radiological materials is far more complex.

Put quite simply, America's emergency responders are currently not equipped to deal with an incident along the routes to the Yucca Mountain facility. If an incident were to occur, whether it be an accident or a terrorist act, lives would be unnecessarily lost because the local emergency response personnel lack the necessary training and equipment to effectively respond.

We are indebted to you, Senator, for your leadership on this vital public safety issue. Please feel free to call on us if we can be of any assistance to you.

Sincerely,

ALFRED K. WHITEHEAD,
General President.

Mr. WELLSTONE. I thank the Chair.

Mr. President, what the firefighters are saying is, look, you are going to have $150,000 which is going to be offered by each State that is to be affected by this along this transportation route but the question we are asking, says the firefighters, is how do we know that in 2 years or 5 years we are going to be ready? We want to make sure there is enough funding for our training, and we want to make sure we are adequately prepared for this because it is our responsibility to protect the citizens in our communities.

I am told that the International Association of Firefighters, which represents 95 percent of professional firefighters in the United States, did a survey of departments along a potential test shipping route in Ohio, and they found that 40 percent of the departments along the route were not prepared, according to current standards, to deal with hazardous material accidents. Let us face it. When it comes to hazardous material and when it comes to highly radioactive nuclear waste, we are going to try, whether it be by rail or road, to go in the less populated of our rural areas. And by the way, all too often, people in rural America are familiar with the saying let's go where fewer people live, but they say there may be fewer of us but we count as much as anybody living in any metropolitan area.

We are also hearing from a lot of communities: We are worried that we are not going to be trained; we don't feel we are even ready when it comes to the transportation of hazardous materials.

So, Mr. President, let us assume the grants have been made and a State takes advantage of these funds. Two years pass and shipments of nuclear waste begin to pass through the State. What guarantee do we have that local fire departments are fully trained and equipped and that if the worst thing possible happens, they can respond in such a way as to minimize disaster.

What this amendment says is that the Department of Energy must determine—in other words, we talked about training. We have talked about some grants, but nowhere in this piece of legislation do we have the fail-safe, ironclad guarantee that as a matter of fact these local fire departments, these local emergency response personnel will have received adequate training. This amendment proposes that the Department of Energy must determine that emergency response personnel along the routes where over 16,000 shipments of highly radioactive waste will pass have met an acceptable standard of training before these shipments begin. That is all this amendment says.

Again, what we want to do is to verify that these brave men and women—they are asking this. They are going to be on the frontline, the first line of response to an accident, people who are going to be putting their lives on the line—in fact have received the training they need. This amendment says that no shipments will occur until the Department of Energy has determined that the emergency response personnel in all jurisdictions along a given shipping route will have met an acceptable level of training. It seems to me that is very reasonable. I think this is a logical extension of the Wyden amendment in committee.

Yes, we have some funding, although we do not know whether it is going to be enough. Most communities do not think it is. Yes, we have some training standards. But what we are saying is we have to make sure, above and beyond some funding and some standards for acceptable levels of training, that level of training is met before any deadly cargo under this bill hits the road. In other words, no training, no shipments. That is a pretty reasonable amendment.

This bill in its current form calls for training standards to be established by the Department of Transportation, but I am concerned that the bill is ambiguous at best about who is really responsible for making sure these standards are met. That is what this amendment speaks to. By requiring the Secretary of the Department of Energy to determine that every jurisdiction has met the standards, this amendment holds the processor of the waste responsible for making sure all safety precautions have been taken.

If requiring a determination by the DOE just simply adds one additional signoff to this process, then I say this makes all the sense in the world.

One more time. What we have is a situation where we are going to be talking about the shipment of highly radioactive nuclear waste. This is of a different order than hazardous material. We have the firefighters and other people who are concerned about this living in the local communities saying we are worried about whether or not we are going to receive adequate funding for training and whether or not we are in fact going to be trained.

There is some funding. I do not think it is going to be enough. We do not want this to become an unfunded mandate. And there is some setting of the level of standards by the Department of Transportation but nowhere in this legislation do we have a clear line of accountability that as a matter of fact firefighters and other local safety personnel will be trained to deal with a crisis if they have to do so.

It seems to me that the very least we can do is to make sure that happens.

Let me simply conclude by quoting the last part of this letter from the International Association of Firefighters:

> Put quite simply, America's emergency responders are not equipped to deal with an incident along the routes to the Yucca Mountain facility. If an incident were to occur, whether it is an accident or terrorist act, lives would be unnecessarily lost because the local emergency response personnel lack the necessary training and equipment to effectively respond.

All this amendment does is say let us make sure, Department of Energy, you are accountable; you have to make a determination that before we ship this waste, the local fire departments, the local safety personnel have, in fact, received the training and they are equipped to deal with, if, God forbid, there is, a serious accident. I believe this amendment should be accepted. It is imminently reasonable, and it seems to me we ought to take every step necessary to make sure we guarantee the safety and security of people in our communities.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 16 minutes.

Mr. WELLSTONE. Mr. President, I reserve the rest of my time to respond to my colleague.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

I very much appreciate the amendment from my friend from Minnesota, and I know of his interest in this matter because there is substantial amounts of spent nuclear fuel from reactors in Minnesota. I am sure the Senator from Minnesota is aware of the transportation route where high-level nuclear waste has been transferred across the United States, some 2,400 shipments, and I have a map here that shows the manner in which these shipments have occurred from 1979 to 1995.

I think the Senator was out in his State Friday when we were talking about this. This chart shows that shipments of nuclear waste have been made over an extended period of time, all over the Nation. And during those 2,400 shipments there have been seven accidents. Most of those accident were minor ones. In the most serious accident, the tractor trailer swerved off the road to avoid another car that was out of control, turned over and the cask rolled off. But there was no leakage of radioactivity. The cask did not break. It was not perforated in any manner or form.

As the Senator from Minnesota knows, this type of nuclear waste, while it is highly radioactive, does not go up in the air and vaporize or move with the wind currents or whatever. It has a tendency, because of its weight and denseness, to stay wherever it occurs. And these are high-level waste rods from the reactors.

I think the intent of the Senator from Minnesota is parallel with my own intent. We want to safeguard, in every possible way, the transportation of this material.

Here is an example of the type of truck and the cask. You can see the cask up on top. These have been designed to withstand any foreseeable accident of any kind that would be determined to be possible on a highway. In testing, they have been dropped. They have been hit by trains. They have been incinerated and so forth. I go into this detail, not to suggest there could not be some type of accident that would cause a penetration but, clearly, the best scientists, the best engineers we have have concluded that these casks have been designed in such a way as to survive real-world accidents and ensure the public safety.

The concern the Senator from Alaska has, relative to the amendment offered by my friend from Minnesota, is how to determine just what is adequate, relative to training? I think, if you look at the safeguards we have attempted to put in S. 104, we have put in funding for technical assistance for emergency responders along the routes to be used to transport the fuel. The Wyden language, which we adopted, provided more detail. Rigorous provisions regarding route selection and training for emergency responders were included. We had left it to the Department of Transportation to choose the preferred routes. Again, considerations in route selection would include concerns over population, hazards, shipping time, and so forth.

But I want to point out to my friend that this is nothing new. The only reason these other 2,400 shipments were not news is because nothing happened. These were in connection with moving high-level material from experimental reactors and other reactors around the country for disposition. So, to suggest that what we have had before was adequate is inconsistent, I think, with reality. The question we are looking at now is, Can we do everything possible to ensure that we have the safest possible transportation route and have made the maximum effort to protect public safety? It is also important to recognize that this plan is fully integrated with State notification, inspection, emergency response plans, as well as should it go through any tribal or native lands.

It also grants at least $150,000 in State and tribal funding. I think this was something the Senator from Minnesota brought up in his debate. If there is no training, there are no shipments. That is a provision of our bill. We make it clear the Department of Energy cannot transport fuel under this act unless the technical assistance and funding required by the bill have been provided for at least 3 years prior to the shipments. As I understand the Wellstone amendment, it would add as a requirement that the Department of Energy make a formal determination that personnel along the routes have met acceptable standards of training for emergency response to accident. It does not provide additional training. And it requires the Department of Energy to make an official determination.

My concern, and I am sure the concern of the Senator from Minnesota, is to get this stuff moved out of his State. That is a legitimate concern that he and others have, other States have, where this material is piled up. So we have to make sure we do not tie this process up in litigation so every State or every tribe or every local community could come in under a determination of adequacy. I am concerned here as to how I can meet the concerns of the Senator from Minnesota and still ensure that we have a viable and practical situation where this oversight does not throttle our objective here, and that is to move this material to an appropriate repository.

I am concerned if this amendment is adopted as it is now, we might find ourselves tied up in litigation and it would not be that the DOE had or had not followed the Department of Transportation's regulations to the letter. I do not think it matters that the Department of Energy has followed the NRC regulations with care and precision. It might not matter the Department of Energy has integrated emergency response plans with all the State tribes. And it will not matter the DOE has provided funding for emergency responders. What will matter is we might have a lawyer along the way who has decided that a new volunteer fireman has not had acceptable level of training. The next thing you know, the Department of Energy is in court trying to prove that every individual firefighter along every single route has been trained to an acceptable level. I do not know how we are going to prove that. What is an acceptable level? That would be in the eyes of a court to determine.

I just wonder if we might confer a little bit, or perhaps here on the floor, if the Senator wished, to discuss how we would address that concern of what is acceptable, because I think we both want to get there from here. I would defer to my colleague, on my own time.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Let me thank the Senator from Alaska. I have some ideas about how we might do that. I wonder whether I might yield some of my time to the Senator from Oregon. While he is speaking, the two of us might talk this over.

Mr. MURKOWSKI. Mr. President, I reserve the remainder of my time.

Mr. WELLSTONE. If the Senator from Oregon is not ready, I wonder whether or not I could, just for a moment, call for a quorum call that would not be charged to either side so we might be able to discuss this. I ask unanimous consent.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I have conferred with the distinguished Senator from Minnesota with regard to the suggestion that has been made for a change in the wording of the amendment, by adding the word "preliminary." That would be in line 2. It is my understanding the amendment would read:

> On page 22 of the substitute, line 5 after "(3) (B)" insert, "until the Secretary has made a" [and the additional would be "preliminary"] "determination. . . ."

The rest of the amendment would be the same.

That is satisfactory to our side. I leave it up to the other side for discussion and analysis, but we are prepared on this side to accept the amendment in that form.

Mr. REID. We object to the modification. Objection.

The PRESIDING OFFICER. It would take unanimous consent to modify the amendment. Objection is heard. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I understand I had been clear with colleagues from Nevada about this amendment. I always—my own people have their own goals here. I really do believe something has to be done. The Federal Government has made a commitment and I want to see the Federal Government live up to it.

What I was trying to do in this amendment is to assure the safety and security of the shipments. I understand why my colleagues have taken the position they have taken. I say to the Senator from Alaska that I do think the change that we proposed on preliminary determination makes good sense. I am sorry we cannot do this.

Mr. President, I yield to the Senator from Alaska.

Mr. MURKOWSKI. I wonder if it would satisfy the Senator from Minnesota if I gave him a commitment that we would accept his amendment, at least I would attempt to accept his amendment, in conference, because, obviously, I will be on the conference committee.

I would accept the underlying amendment now with the provision that I would give him my commitment to do my very best in conference to adopt his amendment, but I am willing to accept the underlying amendment now.

Mr. WELLSTONE. Mr. President, I want to again suggest the absence of a quorum for a moment. My concern is—I have no reason to doubt the good work of my colleague from Alaska—but I sometimes have not fared so well in conference committee, and I am a little worried about it. I have to make a decision. I think it would take unanimous consent to do it.

Mr. MURKOWSKI. I think there is a misunderstanding. I am prepared to accept the amendment with the commitment that I will try to get the Senator's revision which we talked about—adding the word "preliminary"—adopted in conference.

Mr. WELLSTONE. I see. Mr. President, I do not need time to confer with my colleague from Alaska on that. I am pleased that he is willing to do so. We do not need a vote on it if the Senator from Alaska will accept this amendment. I have some additional time. Maybe my colleague from Oregon, who has done so much work on this, might want to speak on this amendment for a moment. Does the Senator from Oregon want to speak for a moment on this?

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I thank the Senator from Minnesota for yielding me time.

Transportation of defense- and commercial-grade nuclear fuel and high-level radioactive waste is a great concern to the people of Oregon. Virtually every shipment to and from the Department of Energy's Hanford site requires at least 200 miles of transport on the roads in our State. As we have heard these past several days, the transportation of spent nuclear fuel and high-level radioactive waste is a major concern to many Senators on both sides of the aisle in this debate with respect to how to handle nuclear waste in the next century.

During the Energy Committee markup on S. 104, my amendment on transportation safety of spent nuclear fuel and high-level radioactive waste was adopted. A key component of that amendment is the no shipments if no training provision. It literally means what it says, that there will be no shipment of spent nuclear fuel or high-level radioactive waste through the jurisdiction of any State or reservation lands of any Indian tribe eligible unless technical assistance and funds to implement procedures for the safe routing transportation are available for at least 3 years prior to any shipments.

This provision was carefully crafted to ensure safe transportation while also preventing anyone from using this provision to obstruct shipment by refusing to accept the grants or by failing to use the grants for training.

Senator WELLSTONE's amendment further tightens this requirement, and, it seems to me, Mr. President, that our Government, built on checks and balances, ought to be ensuring this kind of mechanism, the kind of mechanism envisaged by the Senator from Minnesota, to ensure accountability and to ensure public safety.

I also point out that it is not necessary to reinvent the wheel to transport spent nuclear fuel or high-level radioactive waste. What this amendment does, as did the amendment that I offered in committee, is to essentially build on the good system already in place to provide for the safest method possible for the transportation of spent nuclear fuel and high-level radioactive waste. That is the system now being used for the transportation of plutonium from the Hanford nuclear reservation and other Department of Energy facilities to the WIPP facility in New Mexico.

For the past 5 years, the Department of Energy has worked cooperatively with States and Indian tribes to develop the WIPP Land Withdrawal Act transportation system. It has been applied with success to a variety of shipments of nuclear materials moving literally from coast to coast. The Department of Energy has been working well with Western States in preparing shipments of transuranic wastes to the WIPP facility.

I believe the WIPP Act, which the Senator from Minnesota builds on with his amendment, takes the right approach to address issues such as advance notification to the States of shipments, agreement of avoiding adverse weather conditions, qualification of carriers and emergency training and response of emergency responders. I do believe that this issue is one of bipartisan concern.

In the Senate Energy Committee, my colleague from Oregon, Senator SMITH, joined me in offering the amendment that was adopted in committee, now strengthened by the Wellstone amendment.

I thank the Senator from Minnesota for yielding me this time, and I am very hopeful that it will be possible on a bipartisan basis to accept the Wellstone amendment, which I believe builds on the progress that was made in committee with respect to tightening safety measures, to proving accountability for moving these dangerous wastes across the country.

I thank the Senator from Minnesota for yielding me time.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I probably only have a couple of minutes left. Let me thank the Senator from Oregon and also, again, my colleague from Alaska. I do think this is a logical extension of what the Senator from Oregon had done in committee. I do think, again, what we want to make sure of is that there is enough funding, and, of course, we are talking about setting standards by the Department of Transportation, and the Department of Energy will be involved in it. We want to make sure, in fact, those standards have been met.

I would like to thank the National Association of Firefighters and the firefighters of Minnesota. What they have said is, "Look, we want to make sure you have some kind of process, some kind of fail-safe mechanism to make sure we are adequately trained to deal with this disaster." That is what this amendment does. It holds someone accountable—the Department of Energy. It says the Department of Energy is going to make a preliminary determination, whatever the operative language is, that, in fact, before we have the actual transportation of this highly radioactive nuclear waste material, that the local personnel, firefighters, and others, are ready, trained and equipped to deal with an emergency if they have to do so.

I am very pleased that my colleagues have accepted the amendment. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. How much time does the Senator from Minnesota have?

The PRESIDING OFFICER. Seven minutes 45 seconds.

Mr. REID. Will the Senator yield me 3 or 4 minutes?

Mr. WELLSTONE. I will be pleased to yield the final 7 minutes to the Senator from Nevada.

Mr. REID. Mr. President, let me say to my friend from Minnesota and my colleagues, I think this amendment improves the bill, but it is still a lousy bill. This bill is opposed by every environmental organization in America. We know from the record that has been laid before this body that you cannot transport nuclear waste at this stage safely. The dry cask storage containers simply will not allow it. If you go 30 miles an hour, have an accident and there is a fire, you are in big trouble carrying this product.

This is a bad bill. It is a bad bill for the environment. As indicated by the experience in Germany, you cannot transport nuclear waste. I say to anyone who has any care about the environment, listen to what the environmental community is saying about this legislation. This legislation is bad. This amendment, while directed toward safety procedures for transporting nuclear waste, is a pinpoint in the universe. It does not help the legislation. This is bad legislation, as indicated by the scientific community and the environmental community.

I yield back the remainder of the time.

Mr. WELLSTONE addressed the Chair.

Mr. REID. Mr. President, I thought the Senator left the floor. Whatever time is left is under the control of the Senator from Minnesota.

Mr. WELLSTONE. Before I go forward with the second amendment that I think is next in order, previously agreed to, I would like to suggest the absence of a quorum just for a few minutes, no more than 5 minutes, and then I will be ready to offer that amendment.

Mr. President, I suggest the absence of a quorum without it being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, it is the intent of this side to not prolong this discussion. Therefore, I am willing to yield back the remainder of our time on this side. It will be my intention to have a voice vote, I believe, to dispose of the amendment.

The PRESIDING OFFICER. The Senator from Minnesota has 5 minutes remaining on his time.

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I have been informed that my colleague from Minnesota is willing to yield back the remainder of his time. So I yield back, on behalf of Senator WELLSTONE, the remainder of his time. It is my understanding that there is no time left on either side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 29) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WELLSTONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WELLSTONE. Mr. President, I say to my colleague, if he would be gracious enough to give me 2 more minutes, I will be ready with the second amendment. I have looked at the second-degree amendment, and I think we will be able to work together. If I could have 2 more minutes. I suggest the absence of a quorum, with the time not to be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 30 TO AMENDMENT NO. 26

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the pending amendment be set aside and that the Senate now consider amendment No. 30.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 30.

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE REGARDING FEDERAL ASSISTANCE FOR ELDERLY AND DISABLED LEGAL IMMIGRANTS.

It is the sense of the Senate that Congress should take steps to ensure that elderly and disabled legal immigrants who are unable to work, will not be left without Federal assistance essential to their well-being.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, let me start off by reading a March 19, 1997, article in the New York Times about Luz Gross, 88 years old, a widow who resides in New York City. She is from the Dominican Republic and is suffering from severe Alzheimer's.

When asked when she was born, Mrs. Gross says, "When I came to the United States, I wasn't born." Asked if she wanted to become a citizen, she began talking about her childhood when she lived close to the sea in Santo Domingo.

Mrs. Gross' only child Felix is 72 himself, retired and living on $10,320 a year from Social Security and a small union pension earned after working 18 years as a building handyman in Manhattan. He visits his mother every day repairing whatever breaks in her apartment and watching television with her. But he said he cannot afford to support her, and there is no room for her to live in his small one-bedroom apartment. "I feel in denial," he said. "I can't believe this is happening."

Mr. President, Nouphanh is 65 years old, and she has been in the United States since 1984. Before she left Laos, she had no access to education because her parents moved from place to place to get away from the war. She does not understand English and has no family here. She is alone. She is on disability income, $484 a month, and she lives in a housing project. She is severely depressed and currently undergoing treatment. She says, "Sometimes in this country I feel like I am deaf, I am blind, I am mute, because I cannot learn English." Every day she lives in fear, and every day she asks herself what will happen to her if she does not have SSI and food stamps.

Mr. President, let me, one more time, bring to the attention of my colleagues this amendment. I am hoping for a good, strong, positive vote. It is the sense of the Senate that Congress should take steps to ensure that elderly and disabled legal immigrants who are unable to work will not be left without Federal assistance essential to their well-being.

Mr. President, I said it earlier before my colleague arrived. The reason that I bring this sense-of-the-Senate amendment to the floor of the U.S. Senate today is because I think we are confronted with the fierce urgency of now—Arizona being one good example of one State in the country—we have all heard from legal immigrants and we have all heard from 80-year-old women living alone, and partially disabled. They have received letters. They are now, as a result of the legislation we passed last year, going to be cut off assistance. They are terrified. They live in fear.

I said earlier, and I am not being melodramatic, I was a community organizer for 20 years before I was fortunate enough to become a U.S. Senator from Minnesota. I have worked with lots of people who have been struggling with lots of different issues, many of them very poor, and I have never in my whole life seen people with such fear in their faces. I have never seen people so terrified.

Mr. President, what in God's name does eliminating supplemental security income and food nutrition assistance for an 80-year-old Hmong woman, partially disabled, living alone in Minnesota have to do with reform? It is not reform. It is unconscionable. It is shameful.

Mr. President, I said earlier I am going to have a chance to speak at a rally this afternoon, going on right now, organized by groups and organizations that have worked with Soviet Jewry over the years. I am the son of a Jewish immigrant who fled persecution in Russia. Maybe that is why I feel so strongly about this. But, Mr. President, it is not just Jewish immigrants from Russia or Eastern Europe; it is legal immigrants, people who have come to our country, many of whom have worked and paid taxes.

There have been reports by the Urban Institute and others that show that these legal immigrants have given much more to our country in taxes than any benefit that they have ever received.

Mr. President, last Congress we passed a piece of legislation, all in the name of deficit reduction, that eliminated $22 billion worth of assistance to these vulnerable citizens. Mr. President, it was easy to do. They are among the most vulnerable citizens in this country with the least amount of political power and, therefore, we chose to make the cuts there.

But, Mr. President, I think there is goodness—I am sorry—in my colleagues. I think we did not realize what we were doing. That happens often. I have voted for legislation for which I did not fully understand all of the consequences, and later on I changed my mind. Please, let us change our minds.

We are hearing from our Governors, Mr. President. We are hearing from our mayors. We are hearing from our county officials. They are all saying, "Wait a minute. These people, by definition, on supplemental security income are not going to make it to self-sufficiency." By definition we are talking about people who are either very elderly or people who are disabled and people who need the support.

Mr. President, at one of many community meetings I attended in Minnesota there was a man who came up to me who was a Hmong. He fought on our side during the Vietnam war. He has—I know this is hard to believe; but it is true—he has one bullet still in his brain and one bullet still in his knee. He is disabled. We are going to eliminate his supplemental security income assistance. What does that have to do with reform?

Mr. President, I was at a gathering on the west side of St. Paul. I will never forget it. It sent chills down my spine. A woman came up to me. I thought that she was 80. She was bent over. Certainly she looked every bit 80 years of age. She came up to me, and her hands were shaking, and she began to wail. That was the kind of crying that she was doing. She began to wail. And she had in her hands a picture of her husband, and then I realized he was my age and, therefore, she was probably about my age. Her husband fought in the Vietnam war.

Again, she was a Hmong who came over to our country. We have a large Hmong community in Minnesota. Her husband apparently had just passed away about a month earlier.

Mr. President, this woman is not going to learn our language. She is not going to become a citizen. But these people fought the war in Indochina. They came to our country. We made a commitment that there would be some assistance for them. She has nowhere to go. She has nowhere to go.

What I hated about that community meeting, and what I hate about all of these meetings, is that I keep thinking to myself, people really think that as a Senator from Minnesota I can change this. It scares me, because I am afraid we will not do anything at all.

Mr. President, this sense-of-the-Senate amendment is an amendment that I think all of my colleagues can vote for. It does not specify a course of action that we should take. But it at least gives the religious community, all of the legal immigrants, and many local officials who feel like we are dumping the cost on them some assurances. Much less it gives us some reassurance that we have rediscovered part of our soul again if we would at least go on record saying it is the sense of the Senate that Congress should take steps to ensure that elderly and disabled legal immigrants who are unable to work will not be left without Federal assistance essential to their well-being.

Mr. President, I think it would be a very important statement for us to make. I think this is a very important position for us to take. We are heading into the budget negotiations. We are hearing from people in our States. We are hearing from people in the country. And that is why I come to the floor of the Senate.

I told that Hmong woman, who was about 50 years of age, though she looked like she was going on 80—she has had such a difficult life, holding the picture of her husband, no longer alive, who served on our side during the war in Vietnam—I told her, through a translator, because she does not speak English, all these people who have come to these community meetings, that although I did not know whether I would win or not, I would come to the floor and fight for people.

This is just the beginning of this effort. I am lucky to have a strong colleague, LUIS GUTIERREZ, in the House who is pushing very hard. I am really hoping Senators, Democrats and Republicans alike, will accept this amendment or will vote for this amendment. It is time that we correct this.

We did the wrong thing, colleagues. You may not agree with me on all issues, and I know quite often you do not, but we did the wrong thing. These are people that we should not literally throw out in the cold. These are people who really need this assistance. These are some very good people. These are, for many of us, our parents or our grandparents.

Mr. President, we have to do something. We have to take some corrective action; and this amendment, I think, is the beginning of our doing that.

I yield the floor.

I reserve the remainder of my time.

Mr. MURKOWSKI. I yield to the Senator from Oregon.

UNANIMOUS-CONSENT REQUEST

Mr. WYDEN. Mr. President, I ask unanimous consent that Ms. Moira Shea, a congressional fellow in my office who is visually impaired, be granted floor access during the course of debate on S. 104, the Nuclear Waste Policy Act, and that Ms. Shea's guide dog also be granted floor access during the course of debate on S. 104.

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I shall not personally object because I have no personal objection to the request of my friend from Oregon, but on behalf of another Member who just called the cloakroom, I do voice an objection.

The PRESIDING OFFICER. Objection is heard.

Mr. WYDEN. Mr. President, in light of the objection, I ask unanimous consent that I be permitted to proceed for 10 minutes as in morning business for the purpose of submitting a resolution.

The PRESIDING OFFICER (Mr. KYL). Is there objection? Without objection, it is so ordered.

(The remarks of Mr. WYDEN pertaining to the submission of Senate Resolution 71 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

AMENDMENT NO. 44 TO AMENDMENT NO. 30

(Purpose: To express the sense of the Senate regarding assistance for elderly and disabled legal immigrants.)

Mr. MURKOWSKI. Mr. President, I have a second-degree amendment to the Wellstone amendment, which I understand may be acceptable. Therefore, I ask unanimous consent to offer the second-degree amendment at this time on behalf of Senator LOTT. The only change it would make to the Wellstone amendment would be to add the words "the President" on line 2—* * * that the President, Congress, the States, and faith-based and other organizations * * *" et cetera. I send this second-degree amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment will be in order at this time.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for Mr. LOTT, proposes an amendment numbered 44 to amendment No. 30.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the pending amendment, strike all after "SEC. ." and insert the following:

"SENSE OF THE SENATE REGARDING ASSISTANCE FOR ELDERLY AND DISABLED LEGAL IMMIGRANTS.

"It is the sense of the Senate that elderly and disabled legal immigrants who are unable to work should receive assistance essential to their well-being, and that the President, Congress, the States, and faith-based and other organizations should continue to work together toward that end."

Mr. WELLSTONE. Mr. President, first of all, I ask unanimous consent that I be included as an original cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I thank my colleague. I came to the floor of the Senate today to try to make sure that we make a commitment, albeit a preliminary commitment. I will read the operative language. "* * * take steps to ensure that elderly and disabled legal immigrants who are unable to work, will not be left without Federal assistance essential to their well-being."

I believe that, "It is the sense of the Senate that elderly and disabled legal immigrants who are unable to work should receive assistance essential to their well-being, and that the President, Congress, the States, and faith-based and other organizations should continue to work together toward that end," is in the same spirit.

We are going to have to define this with concrete language and with a decision made about investment of resources. I think it is an important step forward. I thank my colleague from Alaska. I would be pleased if we could have a voice vote if that is what my colleague wants to do.

The PRESIDING OFFICER. Is time yielded back on the amendment?

Mr. WELLSTONE. I yield back our time.

Mr. MURKOWSKI. I yield our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 44) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote.

Mr. WELLSTONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 30

Mr. MURKOWSKI. Mr. President, has the first-degree amendment been adopted?

The PRESIDING OFFICER. The first-degree amendment has not been adopted. The question is whether Senators yield back their time on that amendment if they wish to vote.

Mr. WELLSTONE. I yield back my time.

Mr. MURKOWSKI. I yield back my time and urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 30) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote.

Mr. WELLSTONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. Mr. President, I believe we are waiting for another Member to come down to the Chamber. We have two more amendments, is my understanding.

Mr. President, I think it is fair to say that no Member of this body intended, by any means, that last year's welfare bill would place the elderly and the disabled legal immigrants out of their residence and into the streets of this country. I am sure that when our President signed the reform bill, that certainly was not his intention.

Since the bill was signed into law, many State Governors have attempted to address the concerns raised by my good friend from Minnesota. Many of the State's Governors and representatives have large budget surpluses that can be used to alleviate some of the potential problems that have surfaced. That is not in all States, by any means, but in those that have that capability, I think there is an appropriate expenditure suggested. In addition, the Immigration and Naturalization Service has recently issued new guidelines that should facilitate citizenship applications by many elderly disabled immigrants.

Mr. President, I am certain that Congress, working with the administration, State Governors, and other organizations, will surely come up with a solution that ensures the well-being and safety of all legal immigrants, especially the elderly and the disabled. This is not to suggest, however, that we are going to rewrite the historic welfare legislation we passed last year. As many colleagues stated on the floor last year, if and when unanticipated problems arise resulting from the welfare bill, we will address those problems in an appropriate fashion.

There are some in this body who want to restore, piecemeal, the old AFDC welfare entitlement. That program has been unanimously adjudged a dismal failure. Piecemeal attempts to restore that failed system are simply not going to happen. I want to assure my friend from Minnesota that I am committed to working with my colleagues on the Finance Committee, along with the help of the administration and Governors, to ensure that necessary assistance is made available to resolve this unintended problem.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 43

Mr. MURKOWSKI. Mr. President, I understand amendment No. 43 to S. 104 is pending.

Mr. President, let me go into the purpose of the amendment. It is establishing a fee cap and is a second-degree amendment to protect the ratepayers. These are the ratepayers who pay into a special fund and use and generate power from nuclear reactors. It is to protect the ratepayers who are the ones who ultimately pay the nuclear waste fee by making it clear that the nuclear waste user fee cannot exceed 1 mill per kilowatt hour without specific congressional authorization.

The spent fuel disposal program is paid for with a fee collected from the consumers of nuclear energy. This fee is currently set at 1 mill per kilowatt hour. While the nuclear waste program has had problems, collecting sufficient amount of money from the ratepayers certainly hasn't been one of them. After all, we collected over $13 billion and have expended only $6 billion on a permanent repository at Yucca Mountain. But we have a problem created by the fact that our budgetary system forces the program to compete against other DOE programs for funding even though this fee is earmarked for nuclear waste disposal. This situation has contributed to the problem where ratepayers have spent some $13 billion in the fund but have only received excuses in return.

Our budget system also creates an incentive to use nuclear waste fund receipts to disguise the size of the budget. Senate bill S. 104 addresses these problems by providing for two fees. One is a user fee that is equal to the appropriations provided to the program. The other is mandatorily created that makes up the difference between appropriations and the current level of the fee which is 1 mill per kilowatt-hour. The user fee goes directly to fund the ongoing programs. The mandatory fee goes into the nuclear waste fund to continue to bill the balance to ensure there will still be money in the fund to deal with the waste even after the reactors stop operating.

With that background, let me briefly explain what my amendment does. My amendment simply makes it clear that the user fee cannot exceed 1 mill without congressional authorization. This is designed to protect ratepayers. Critics will say perhaps that this is designed to protect utilities. But it is really the ratepayers who pay the fee, don't they? Certainly not the utilities. Some may argue that a 1 mill fee is insufficient to pay for both interim storage and permanent repository. DOE's own budget projections show that this is not the case. The 1 mill fee generates $630 million per year.

Because defense waste will also be placed in the permanent repository, a portion of the cost, therefore, must be appropriated from the national defense budget account to the nuclear waste fee each year. In the last few years this has been some $200 million. That is a combined total of $830 million each year. Is $830 million per year combined with the roughly $6 to $7 billion in the waste fund today sufficient to fund both the permanent repository and the interim storage facility? This is a key question. According to the Department of Energy's own budget plan, the answer is yes. It is plenty. The fact is the budgetary provisions in the Department of Energy's own program plan assume an interim storage facility is named in 1998.

To quote from the DOE plan, "Fiscal year 1999 through the year 2002 amounts for the program assume the enactment of legislation authorizing and siting an interim storage facility and providing appropriate funding arrangements." So there we have it. DOE's own plan reflects exactly the same schedule for siting and constructing an interim facility as that set out in Senate bill S. 104. The Department of Energy's own plan shows that the cost of both the permanent repository and interim facility will range from $535 to $698 million per year. That is well under the $830 million going in the fund from the ratepayer contributions and defense appropriations. So lack of money is not the problem. But if changed circumstances or other factors make the cost of the programming to go up, then Senate bill S. 104 provides expedited procedures to consider a change in the 1 mill cap.

Under Senate bill S. 104 the Secretary determines each year whether the DOE has collected too little or too much money. The Secretary then transmits his or her recommendations to Congress, and a joint resolution to raise or lower the fee is introduced and considered on an expedited basis. This is another way to ensure that this program will be adequately funded for its entire life. But by requiring Congress to act to raise the fee we protect the ratepayers, and that is the purpose of the language of Senate bill S. 104 and the amendment before us now. We carefully balance the needs of the program while protecting the ratepayers.

Mr. President, I urge the adoption of the amendment.

Mr. BUMPERS. Mr. President, the pending second-degree amendment caps the fee paid by the utilities for nuclear waste disposal services. That sounds simple enough, but to understand the amendment we must first understand the funding provisions in both the Murkowski substitute, which the pending amendment amends, and how both will affect the nuclear waste program's current funding mechanism.

One of the fundamental principles of the Nuclear Waste Policy Act of 1982 is that the full cost of disposing of nuclear waste should be borne by the waste's generators. In the case of the military waste, that means the Treasury and the taxpayers. In the case of commercial power plant waste, that means the utilities and their ratepayers.

The existing nuclear waste program will cost about $34 billion. Of this amount, the utilities are responsible for $27 billion and the defense program is responsible for $7 billion.

Under the Nuclear Waste Policy Act of 1982, the utilities' share is recovered through a fee on electricity generated by nuclear power. The 1982 law set the fee at 1 mill, which is one-tenth of a cent, per kilowatt-hour.

Congress assumed in 1982 that the fee would need to be adjusted from time to time for inflation, to meet higher than expected costs, of if the number of plants paying the fee changed. Thus, the existing law gives the Secretary of Energy the power to adjust the fee.

The Secretary has never used his adjustment authority. The fee remains at 1 mill despite 14 years of inflation and despite GAO concerns that the fee is not recovering the program's full cost. DOE admits that the fee will only collect about $19 billion of the $27 billion the utilities will owe. DOE is counting on interest on the unspent balance in the Nuclear Waste Fund to make up the shortfall. The utilities will contribute even less than $19 billion if any nuclear power plants shut down before the end of their useful lives, as many are expected to do as the electricity industry becomes more competitive.

Because of budget scoring roles, the fees collected from the utilities do not offset spending on the program. As a result, the nuclear waste fee takes in more money than is appropriated to the program each year. In fiscal year 1997, for example, the utilities are expected to pay $649 million compared to $182 million appropriated to the waste program.

The Murkowski substitute tries to get around these budget constraints without violating the Budget Act. The approach taken in the substitute, while convoluted, works. First, the substitute preserves the existing 1 mil mandatory fee. Second, it creates a new offsetting fee, which will be set at whatever amount is needed to recover the amount appropriated to the program each year. The amount of the offsetting fee will fluctuate from year to year. To prevent double recovery from the two fees, the amount of the mandatory fee will be reduced by the amount of the offsetting fee collected. Thus, the combined fees may total more than 1 mill but will never be less than 1 mill.

The substitute eliminates the Secretary of Energy's existing authority to adjust the fee, but it makes up for it by allowing Congress to raise the fee to keep up with program spending through the annual appropriations process.

The Murkowski substitute requires the Secretary of Energy to propose an increase or decrease to the mandatory 1-mill fee if he finds that the combined fees are collecting too little or too much money. The Secretary's proposal would not take effect until approved by a joint resolution adopted under expedited procedures. The expedited procedures provided under the substitute waive Budget Act points of order.

The Domenici first-degree amendment reinstates any applicable Budget Act points of order. That's only fair.

The Murkowski second-degree amendment, however, has nothing to do with the points of order restored by the Domenici amendment. The Murkowski second-degree amendment caps the combined total of the two fees in the underlying substitute at 1 mill.

The Murkowski amendment repudiates the full-cost recovery principle of the Nuclear Waste Policy Act of 1982 and shifts part of the cost of the nuclear waste program from the utilities and their ratepayers to the Treasury and the taxpayers.

How much of the program's cost will be shifted to the taxpayers is unclear but the 1-mill fee will certainly be inadequate to pay the program's full cost. GAO already says it is inadequate. DOE says it will be inadequate if future interest rates are not high enough to offset the current shortfall between what the utilities will pay—$19 billion—and what their share of the program will cost—$27 billion. The underlying bill, S. 104, will increase the cost of the program by $2 billion for interim storage. Competition will cause utilities to shut down some nuclear plants before the end of their useful lives, thereby decreasing the amount of the fees paid.

Under current law, the Secretary of Energy can correct any shortfall by raising the fee, but S. 104 and the Murkowski substitute strips the Secretary of that power. Even under the Murkowski substitute, though, Congress could still correct any shortfall in future appropriations acts. But the Murkowski second-degree amendment forecloses any opportunity for DOE or Congress to address a future shortfall except by joint resolution.

The pending amendment fundamentally alters the bargain the Government struck with the utilities in 1982. That bargain was that the Federal Government would take on the responsibility for disposing of the utilities' waste in a permanent repository and, in return, the utilities would pay the program's full cost or the repository program and, in the meantime, fulfill their responsibility for storing their own waste at their reactors until the repository was ready or else pay the Government extra to store it at a Federal site.

The nuclear industry and its Republican supporters have made much of the sanctity of the nuclear waste contracts. They have complained loudly about DOE's inability to meet the 1998 waste acceptance date in the contract and have alleged the Government owes the utilities billions of dollars in damages for this failure.

The Murkowski substitute already rewrites the bargain struck in 1982 by making the Government responsible for temporary storage. The Murkowski second-degree amendment further alters the bargain struck in 1982 by relieving the utilities of their obligation to pay the full cost of the now expanded program.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, what is the pending business?

The PRESIDING OFFICER. Amendment No. 43 to amendment No. 42.

AMENDMENT NO. 31 TO AMENDMENT NO. 26

(Purpose: To provide for the case in which the Yucca Mountain site proves to be unsuitable or cannot be licensed and to strike the automatic default to a site in Nevada)

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the pending amendment be set aside, and that it be in order to call up amendment No. 31.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment No. 31 to Amendment No. 26.

On page 28, line 17, strike "If the President" and all that follows through page 29, line 1 and insert the following:

"(3) If the Secretary makes a determination under section 206(c)(3) that the Yucca Mountain site is not suitable or cannot satisfy the Commission's regulations applicable to the licensing of a repository, the Secretary shall—

"(A) terminate all activities (except necessary termination activities) related to construction of an interim storage facility at any site designated under paragraph (1); and

"(B) no later than 24 months after such determination, make a preliminary designation of one or more alternative sites for construction of an interim storage facility.

"(4) If the Commission, after review of the Secretary's application for construction authorization for the repository or after review of the Secretary's application for a license to receive and possess spent nuclear fuel or high-level radioactive waste at the repository, determines that it is not possible to license a repository at Yucca Mountain under section 206—

"(A) the Commission shall promptly notify the Secretary, the Congress, and the State of Nevada of its determination and the reasons therefor; and

"(B) the Secretary shall—

"(i) promptly take the actions described in paragraphs (1) and (2) of section 204(b);

"(ii) suspend all activities (except for necessary surveillance and maintenance) related to construction or operation of an interim storage facility at any site designated under section 204(c)(1); and

"(iii) no later than 24 months after being notified by the Commission of its determination, make a preliminary designation of one or more alternative sites for construction of an interim storage facility; and

"(iv) at the time of the designation under clause (iii), transmit recommendations to Congress with respect to further construction or operation of an interim storage facility at any site designated under section 204(c)(1).".

Mr. BINGAMAN. Mr. President, the issue of disposal of spent nuclear fuels and high-level radioactive waste has been debated in this Senate in one form or another ever since I arrived here some 14½ years ago. Nuclear waste is a serious issue. It demands serious attention by all Senators. It is a problem that is national in scope.

It is also a particular responsibility of the Federal Government. After all, it was the Federal Government that proposed, beginning with the Atoms for Peace Program in the Eisenhower administration, to develop the peaceful uses of nuclear power. The problems of disposal of spent nuclear fuel that we face today are the legacy of our past laws and decisions.

I am not going to characterize the current situation as a crisis. There is too much hype already about disposal of nuclear waste, from all sides of the debate.

But there are serious problems facing the program that merit attention now, in this Congress. I have an important disagreement with the chairman of the Senate Energy Committee about the substitute amendment that is before the Senate today. I believe that it is fatally flawed on two counts, and my amendment is intended to address this fatal flaw. But I also believe that the chairman is right when he says that simply continuing with the current situation is not acceptable.

Let me point out a number of issues that call out for congressional action at this time.

First, ratepayers have paid over $8 billion in fees to the nuclear waste fund and earned about $2 billion in interest. Only about $5 billion of this money has been spent on the program.

Our current budget rules and accounting principles make it nearly impossible to give the program, each year, the appropriations that it deserves. For example, in fiscal year 1996, the President asked for $640 million for the DOE Yucca Mountain Program. Congress appropriated only $315 million—half of the request. As a result, the program had to abandon a comprehensive program plan that was less than 2 years old, and go through yet one more strategic planning exercise to figure out how to cope with an inadequate funding base.

There is no incentive for the President to even make a reasonable budget request at this point. Not surprisingly, the utilities and public utility commissions, who are paying in $600 million each year and seeing only a fraction of that getting spent, are upset with this state of affairs. They have every right to be.

A second reason why action is required in this Congress is that DOE won't meet its January 31, 1998, deadline to dispose of spent nuclear reactor fuel and is way behind schedule in building a repository. Utilities and ratepayers will have to pay for onsite storage for spent fuel after 1998 in addition to what they would otherwise have needed if DOE had met its 1998 deadline. While many thought that 1998 was unrealistic when it was first picked as a target date, no one thought that we would be missing it by so wide a margin. Some relief is now in order.

A third problem that needs to be addressed in this Congress is that there will never be a repository if EPA doesn't issue a radiation standard for it. EPA is right in the middle of the critical path for this program, and keeps missing deadline after deadline.

Part of the blame lies at EPA—it is hard to detect any sense of urgency on their part. But an important part of the blame lies in the inherent difficulty of writing this standard and having it stand up to scrutiny in the courts. Let me remind my colleagues that in 1985, EPA did promulgate a radiation standard for the repository. Two years later, it was stuck down in court. Without some statutory help to clarify issues, I believe that EPA is destined to face the same fate again.

For example, according to the National Academy of Sciences, there is no technical basis for incorporating human intrusion into a repository standard, because any analysis of human intrusion, in their words, is "driven by unknowable factors." How will EPA successfully defend a new standard in court, if it has to depend on the unknowable?

Further, the underlying law governing EPA's development of a repository standard currently places EPA in a legal catch-22. The law requires EPA both to promulgate a dose-based standard and to follow the recommendations of the National Academy of Sciences. But the National Academy of Sciences has recommended against promulgating a does-based standard. Without additional statutory guidance, how does EPA get out of that box?

If we sit by and do nothing, we are setting EPA up for certain failure in developing a repository standard over the next few years.

The final problem that I want to cite which justifies action and leads me to conclude that we need to have action in this Congress is that there is a lawsuit pending against DOE that seeks to escrow the current nuclear waste fee outside the Government. If the court decides that there is liability on DOE's part, there may be other payments for damages that no one can put a price tag on right now. No one can say what the court will do—but it has surprised the Government twice already with its rulings in favor of the utilities. One thing is clear though. There is a sizable potential for major damage, and perhaps fatal damage, to the nuclear waste program over the next 12 months.

The administration has taken the view that it is premature to consider legislation on this topic at this time, and that Congress should wait until 1999, when the viability assessment of the Yucca Mountain site is complete.

The list of problems that I have just gone through, and it is far from a complete list, won't age gracefully during the next 2 years. If we don't fix some of them fairly quickly, I believe that we will be wasting a substantial amount of taxpayers' money. I cannot support a same time, next Congress approach to clear and serious difficulties in this program.

Further, the administration's emphasis on the viability assessment as some sort of touchstone for further congressional action greatly exaggerates the value of the viability assessment. The senior Senator from Nevada has reminded us repeatedly, in this debate, that the viability assessment is not a suitability determination. He is absolutely right. All the scientists involved in the viability assessment agree with him. The viability assessment will not tell us if Yucca Mountain is a good place for a geologic repository.

The viability assessment will only be useful as a decisionmaking guide if Yucca Mountain is so terrible a site for a repository that even a small amount of scientific data is sufficient to make an overwhelming case that we should give up at that site and look elsewhere.

If the viability assessment will not tell us much, if anything, about the suitability of Yucca Mountain for a repository, then why is the viability assessment in the critical path for deciding what we should legislate here in this Congress?

I think the problems facing the Yucca Mountain Program speak for themselves. They will not wait another 2 years to be resolved and neither should we.

Having agreed with the chairman of the Senate Energy Committee on the need for legislation at this time, let me say that in one important respect I cannot support the proposal he has presented to the Senate. I opposed S. 1936 last year, and I opposed S. 104 this year in its original form when we voted on it in committee. Although the chairman's substitute amendment today is a vast improvement over last year's bill, it still contains fatal flaws that force me to continue to oppose it.

Before I talk about the fatal flaws in the bill, it is only fair to acknowledge the good-faith cooperation that we have had from the chairman of the Senate Energy Committee in addressing, since the committee's markup, many of the problems that the administration identified in last year's bill.

The chairman said at the markup that he was open to suggestions as to how to make the bill better and that he wanted to have a constructive dialog, and he meant it. I am glad that I took him at his word for he and his staff have negotiated with me and my staff in very good faith, and anyone who looks at the substitute amendment that is before us today and compares it to the original bill has to admit that, while crucial flaws remain, major progress has been made on a number of topics toward getting a good bill on this topic.

Almost all the problems that have been aired in the Chamber in this debate and in the veto threat issued by the administration have been addressed in one way or another.

Mr. President, I would like to describe eight areas in which the chairman proved to be open and flexible to my suggestions for how to improve S. 104 and address major areas of concern raised by the administration and others.

First, radiation standard. Few provisions of last years nuclear waste bill, S. 1936, and this year's bill, S. 104, have received more criticism than the statutory radiation standard of 100 millirems. Every Member of the Senate has received, over the last week, numerous letters opposing S. 104 from environmental, religious, and public advocacy groups. These letters consistently emphasize the fact that the 100 millirem standard in S.104 is 4 times higher than similar radiation standards for other nuclear facilities. The new radiation standard in the substitute amendment, which is identical to the proposal I offered in the Energy Committee, resolves this issue. It is a risk-based standard that is equivalent to about 25 millirems. It gives statutory expression to the major recommendations of the National Academy of Sciences on every issue except one. The National Academy recommended that the radiation standard be applied at the time of maximum risk, but this is 80,000 to 250,000 years from now. In a licensing proceeding, which is the venue in which any standard will be applied, proving anything with certainty about the world 80,000 years from now—160 times greater than all of recorded history—is a virtual impossibility. So the substitute amendment uses a timeframe for assessing compliance in the licensing proceeding of 10,000 years, the same timeframe that EPA has proposed to use in the past. The substitute also requires a report to Congress from the Nuclear Regulatory Commission on the predicted compliance of the repository at the time of maximum risk, and delays the effective date of the construction license until Congress has had 90 days to review the commission's report. A similar approach is taken to the question of human intrusion, which the Academy states is "driven by unknowable factors." I believe that any objective observer would conclude that the radiation standard in the substitute amendment resolves all of the objections that were raised against the old 100 millirem standard.

Second, NEPA. S. 104 was criticized for running roughshod over the NEPA process. Nowhere was this more apparent than in the licensing procedure for the interim storage facility. NRC regulations require it to prepare an environmental impact statement for any interim storage facility. Yet the time lines in the S. 104, as introduced, would have precluded the commission from carrying out a meaningful EIS. NRC regulations also clearly state that beginning construction of an interim storage facility prior to completion, by the NRC, of its NEPA process is, all by itself, grounds for the commission to refuse to issue such a license. Yet S. 104, as introduced, instructed DOE to start construction as soon as it submits a license application. In committee, I offered an amendment to correct these problems. The substitute amendment adopts my approach. Under the substitute amendment, no construction of an interim storage facility occurs until the NRC has completed the NEPA process called for under its regulations.

Third, transportation planning. We have heard a lot of discussion about transportation risks in this debate so far. Senator WYDEN proposed an amendment that was accepted in the committee's markup that strengthened the provisions of the bill relating to transportation planning. I supported his amendment and he deserves great credit for working closely with his own State of Oregon and with the Western Governors Association, which includes New Mexico as a member, in strengthening the bill in this important area. One goal that he was unable to achieve prior to committee markup was to provide for 3 years of funding and assistance to States and localities, to enable them to be up-to-speed to handle any contingencies related to transportation, no matter how remote their probability. The reason that it was rejected was because it would have conflicted with the headlines in the bill as it stood at that time. After his staff was briefed about progress in my discussions on timing issues, he requested that I explore getting them the third year of training and assistance. Senator MURKOWSKI was agreeable to Senator WYDEN's new request, and as a result, every place through which nuclear waste may be shipped will now have 50 percent more training and assistance. I think this is a real improvement.

Fourth, timing. S. 104 was criticized for its unrealistic deadlines that were virtually impossible to meet. The new deadlines in the substitute amendment are virtually the same as those in the proposal that I offered in committee. They are drawn from the current DOE program plan and from technical discussions by my staff with the actual persons at DOE and the NRC who would be responsible for meeting those deadlines. The resulting deadlines are very realistic, and in some cases have extra scheduling cushion built in.

Providing enough time for DOE and the NRC to do their work properly has the advantage of postponing construction and operation of an interim storage site in Nevada until after the scheduled record of decision on the permanent repository—September 2000. Under my proposal, which Senator MURKOWSKI agreed to, the interim storage facility license is issued 9 months after DOE has applied for construction authorization for the permanent repository. In other words, we don't put the waste on the road to Nevada until well after the time at which DOE has determined, as part of its own NEPA process, that Yucca Mountain is suitable.

A final advantage of the way my proposal sequences the interim storage facility and the permanent repository is the elimination of much of the competition between the two for financial resources.

In the period 1999–2001, DOE can concentrate on repository characterization and on putting together a high-quality repository EIS and license application, while the NRC is working on the interim storage facility license application.

In the period 2002–2005, DOE can concentrate on interim storage facility construction and initial operation while the NRC is reviewing the repository license application.

Fifth, size of the interim storage facility. In S. 104, as introduced, the capacity of the interim storage facility grows to either 40,000 metric tons of spent fuel in December of 2002, or, if the Secretary is late in submitting a license application for the permanent repository or in opening the repository for operations, 60,000 metric tons of spent fuel. This extra 20,000 metric tons of capacity is added even if the Secretary of Energy does not ask for it or think it is necessary. We accumulated 32,000 metric tons of spent fuel over the last 40 years. I was concerned that an aboveground storage facility that had a capacity of twice today's spent fuel inventory, and a licensing term of 100 years, with indefinite renewals into the 22d and 23d centuries, would be, in reality, more like a permanent aboveground repository, than an interim facility.

I proposed, and Senator MURKOWSKI accepted, a linkage between the size of the interim storage facility and the status of the permanent repository. Before the permanent repository is in operation, the interim storage facility capacity is limited to just what is needed to get to that date. It is a bridge, not a replacement. A second part of my proposal was to allow the capacity limit of the interim storage facility to grow, only after the repository is licensed to operate by the NRC, and only for the purposes of operating the interim storage facility as an integral part of a total system with the repository. This, too, was accepted.

The adoption of these changes improve the bill, but only represent a partial success in terms of establishing the correct relationship between the interim storage facility and the permanent repository. My remaining amendment to this substitute amendment is intended to finish the job on getting the right relationship between the two facilities.

Sixth, preemption. S. 104, as introduced, contained a very worrisome provision preempting all Federal, State, and local laws on the basis of a novel standard of "inconsistent or duplicative." Removing this preemption provision was a key demand in the administration's veto threat. At my suggestion, we have moved to a preemption provision that restates the status quo in this area of law. The first part of the provision restates the two fundamental Supreme Court rulings on preemption of State requirements by Federal law. Its language is identical to that found in the Hazardous Materials Transportation Act. The second part of the provision is also modeled after the HAZMAT Act. It lists five areas where Congress intends this act to be the last word. Three of the five are modeled after the areas listed in the HAZMAT Act. The other two topic areas for preemption are the land transfer provisions of the Act and the siting and licensing of the repository and interim storage facility. Neither topic breaks new ground. Thus, we have taken a very objectionable provision and removed everything that was objectionable about it.

Seventh, financing. We have heard a lot, over the last few days, about the problems of S. 104 in terms of how it pays for the nuclear waste program. The junior Senator from Nevada has made some pretty good points about how the bill, as introduced, transfers the burden of paying for the repository from the beneficiaries of nuclear power to the general taxpayer. This issue has been of deep concern to me, as well. Fixing this problem is not easy, as has been evidenced by the fact that we have had additional amendments on this topic during the floor debate. The Nuclear Waste Fund is caught, along with other trust funds, in a trap of budgetary rules and accounting principles that have grown up over the years and that, in cases like this one, yield results that defy common sense. Getting completely out of the trap requires cooperation from either the administration or the Budget Committee, and neither is willing to help. There is a partial solution, though, that puts the program on a sound financial basis outside the current scoring window and that can be implemented for 4 years during the scoring window. This solution has three parts.

The first part is a fee that is tied to appropriations, to remove the disincentive that now exists to fully fund the program. In the original substitute amendment, there was no cap on this fee. Thus, if the Congress were to appropriate $800 million of civilian spending to the program, the fee would rise to about 1.3 mills per kilowatt-hour. I believe that it is appropriate to go over the 1-mill limit, if the ratepayers are getting what they are paying for.

The second part of the partial solution is a second fee that kicks in if the level appropriated is less than 1 mill per kilowatt-hour. This second fee is set at the difference between the appropriations-based fee and the 1.0 mill per kilowatt-hour level. The second fee goes into the nuclear waste fund, to build the needed surplus for the last 40 years of the program.

The third part of the partial solution is an expedited procedure to approve any recommendation by the Secretary to adjust the 1.0 mill per kilowatt-hour level used to calculate the second fee. If we need to be collecting a larger second fee to ensure the integrity of the Nuclear Waste Fund, the Secretary's proposal will make it to the floor for expeditious consideration.

This agreement, as I originally proposed it, completely answers the concerns raised by the junior Senator from Nevada. Instead of a 1.0 mill per kilowatt-hour cap, we have a floor that the Secretary can propose to raise, to ensure that the funds needed to keep the nuclear waste fund solvent are always there. Instead of transferring liability to the general taxpayer and providing corporate welfare to the nuclear industry, my original proposal ensures that the industry continues to pay its fair share of the costs of the repository.

Eighth, lawsuit. The last area of agreement that I want to discuss is a commitment to discuss the current lawsuit by the nuclear industry in any conference on the bill. The commitment is in the form of a sense of the Senate that the DOE, the utilities, and the public utility commissions should settle the lawsuit before we enact this bill into law. The idea behind this sense of the Senate language is simple. The utilities and public utility commissions have a two-track strategy to solve their problems. One is legislative. The other is judicial. There is nothing wrong with pursuing both tracks at this time, since it is not clear that the legislative track will produce a public law anytime soon.

But if the utilities and the public utility commissions do succeed in getting relief from Congress and the President, in the form of nuclear waste legislation that delivers an interim storage facility on a reasonable timeframe and that fixes the nuclear waste fee problem, then the lawsuit against the Federal Government should go away.

The principle that I believe that the Senate should take to conference, then, is that you can't have your cake and eat it too. You can't get a complete legislative overhaul of the nuclear waste program and then go and try to improve on it, or blow it up, in the D.C. Circuit Court of Appeals. I recognize that we are dealing, in the lawsuit, with vested contractual rights, and that our options to deal with the lawsuit in legislation may ultimately be somewhat limited. But I believe that we should put all parties on notice that the Senate is serious about a cooperative solution to the problem, and that they should be, too.

Mr. President, I cannot say if the administration thinks that its concerns have been resolved. I am still waiting to hear some definitive statement from the administration on the amendments that we offered in committee a month ago and also a definitive statement on their position with regard to the amendment I am offering today.

Despite the substantial progress toward making S. 104 a better bill, a key flaw remains in the substitute. It is an issue of the highest importance. It is an issue of whether S. 104, if enacted, would lead to the abandonment of our fundamental policy of geologic storage of nuclear waste in the circumstance where Yucca Mountain would fail as a candidate for a repository.

This scenario can occur and it does occur in the substitute amendment if the proper relationship between the interim storage facility and the permanent geologic repository is not maintained.

So what is this proper relationship that I think is so important? The current Nuclear Waste Policy Act of 1982 provides for a facility similar to the interim storage facility that is provided for in this bill. In the 1982 act it was called the monitored retrievable storage facility or MRS. We never found a place to put an MRS, but the restrictions on the MRS in current law—

which we passed in 1982—are instructive as a guide to how we need to think about such facilities.

In current law, construction of an MRS cannot begin until the permanent repository has a construction license. In current law, construction of the MRS or acceptance of spent nuclear fuel at the MRS is prohibited during any time in which the repository license is revoked or construction of the repository, that is, the permanent repository, ceases. In current law, the MRS has a capacity limit tied to the opening of the repository.

These restrictions are all safeguards to prevent the MRS from turning into a de facto permanent above-ground repository.

In the case of the current bill, we are allowing the interim storage facility to proceed in advance of the licensing of the Yucca Mountain facility, and I agree with that. This is a defensible step in light of the delays in the repository program and the need for such a facility to be in full operation 10 years from now.

But the decision to allow the interim storage facility to get ahead of the permanent repository makes the issue of safeguards to prevent the interim storage facility from turning into a de facto permanent repository all the more important.

On the issue of tying the capacity limit of the interim storage facility to the opening of the permanent repository, there is a provision in the substitute amendment that works providing that the substitute also addresses the issue of what happens to the interim storage facility if Yucca Mountain fails to pass muster at some point in the process. And here is where the rub is. The substitute does not address the issue in a complete fashion.

As I see it, there are four points in the process where Yucca Mountain can fail. There must be clarity on what happens to any interim storage facility in each of those cases.

The first point in the process is already covered in the bill. It is the viability assessment. As I mentioned earlier, if Yucca Mountain is an absolutely terrible place technically to put a repository, we will probably find out at this stage. The substitute amendment provides that if the President finds, based on the viability assessment, that the Yucca Mountain site is unsuitable for a repository, then he and the Congress have 24 months to find another interim storage facility site or the site in Nevada right next to Yucca Mountain is chosen by operation of law. I will come back to the automatic default to Nevada in just a moment.

The second point in the process where Yucca Mountain can possibly fail as a candidate repository occurs before the Secretary submits the license application to the NRC, the Nuclear Regulatory Commission. During the NEPA process for the repository, the Secretary will have to make and defend a suitability determination. If the Secretary determines that Yucca Mountain is unsuitable or cannot meet NRC licensing standards, then, according to the substitute amendment, the Secretary must notify Congress and the State of Nevada to cease all activities at the repository site and report to the Congress within 6 months on the need for additional legislation dealing with nuclear waste.

What the substitute amendment remains silent on is this question: What happens to the interim storage facility in this case? The Secretary has already submitted a license application to the Nuclear Regulatory Commission, but no construction has started as yet. In that case, the silence in the substitute amendment means that the Secretary is authorized and in fact is required to go forward in Nevada. In fact, the provisions of the substitute amendment, perhaps unintentionally, turn the interim storage facility into a runaway train. Recall that the statutory limit for the interim storage facility in the substitute is tied to what is needed to get you to the date when the permanent repository opens. If the permanent repository suddenly moves 30 years into the future because of a decision that Yucca Mountain is unsuitable, these provisions could be construed as sanctioning moving an extra 90,000 metric tons of spent fuel to Nevada. This is unacceptable.

The first provision added to the substitute by my amendment would fix this problem. It terminates the Secretary's authority to move forward on an interim storage facility at the site in Nevada if Yucca Mountain fails as a candidate for a permanent repository during the process of making the suitability determination. The Secretary must then make a preliminary designation of one or more alternative sites within the next 24 months.

The third and fourth points for potential failure of Yucca Mountain as a repository candidate is during the two-step Nuclear Regulatory Commission licensing process. Suppose that during this process the NRC concludes it is not possible to issue a license for a repository at Yucca Mountain. Under the substitute amendment, the construction and operation of the interim storage facility continue unabated.

So the second provision added to the substitute by the amendment that I am offering today would try to fix this problem. If Yucca Mountain fails to pass muster at the NRC, then all construction and operation of the interim storage facility is stopped except for safety-related surveillance and maintenance.

As with the previous case, the Secretary must then make a preliminary designation of one or more sites within the next 24 months and must, in addition, make recommendations to Congress about what to do with the interim storage facility. But in this case, it takes the enactment of another law by Congress to restore any authority to resume construction or resume shipments to the interim storage facility.

Could there be nuclear waste stored at the interim storage facility at this point? Yes, there could. If the NRC concludes that Yucca Mountain cannot be licensed after the first 20 months of its deliberations on DOE's license application for the repository, then the interim storage facility will contain some amount of spent nuclear fuel. The same situation can also occur under current law. It is possible for the MRS to have its operation suspended because of failure to license a permanent repository after the MRS has received spent nuclear fuel.

But if you are troubled by the fact that there is a possibility that waste could be shipped to Nevada before the geologic repository is open for shipments, then you are against one of the fundamental premises of this bill; that is, that it is acceptable to provide for an interim storage solution linked to the repository prior to the opening of the repository. Whether or not you think this is acceptable is, of course, for each Senator to decide. If the program were close to a successful opening of the repository today, I would personally be in favor of waiting a few more years. But since the date is now 2010 or potentially beyond that date if we do not fix some of the other problems with the program in this bill, I believe that an interim storage solution is acceptable with the right safeguards.

In the case of the amendment that I am offering here, one of the safeguards is to face this issue squarely and to make Congress decide what to do and then to enact another law before the Secretary can act. In this way at every stage in the process where Yucca Mountain can fail, my amendment would stop the interim storage facility in its tracks or cancel it outright.

The probability of Yucca Mountain failing is probably not great, particularly after the suitability determination by the Department of Energy in the year 2000. But that probability is also not zero. The 5-mile tunnel has been dug through the mountain. There is more water inside the mountain than was previously thought to be the case. Maybe this is significant; maybe it is not. There is a second east-west tunnel that will go through the exact area under the western side of the mountain where most of the waste will be placed. The east-west crossing will not occur until after the viability assessment but is critical to the suitability determination. The western slope of the mountain receives more rainfall than the eastern side. Does this mean that there will be even more water under the mountain where the waste will be placed? Enough pause to make the mountain fail as a repository site? No one knows at this point. That is why we are characterizing the mountain in the first place. The ultimate answer will not be known until after the window, in the current substitute amendment, for making a final and irrevocable decision on proceeding with the interim storage facility in Nevada.

Mr. President, in addition to the problem in the substitute of not permitting us to deal with the failure of Yucca Mountain as a candidate site at any point at which it can occur, there is the problem of the automatic default to Nevada if another site for an interim storage facility is not picked within 24 months. Under the substitute amendment, an interim storage site in Nevada is established regardless of whether the Yucca Mountain site is suitable or not, and the site is changed only if Congress and the President can produce another law providing for an alternative site within 24 months.

Realistically, Mr. President, passing another nuclear waste law from scratch in 24 months is not going to happen. Consider that we have been working on this bill and its predecessors for substantially longer than that. The nuclear industry spent a great deal lobbying this effort in the last Congress and came up with no solution. Does anybody believe that they would make any kind of effort like that if there was an easy answer to their problem, which this bill now provides no matter what happens? So, the provision contained in subsection 204(C)(2) of the bill is fatally flawed on two counts. If Yucca Mountain fails, the practical result is that the waste goes to Nevada, no matter what.

I do not think that any reasonable person should vote for the substitute amendment with this provision in it. It is not sound policy and it is certainly not fair to the people of Nevada.

There are lots of ways to ensure that the President acts expeditiously in finding an alternative site and proposing legislation to Congress. The chairman of the Senate Energy Committee has alluded, in previous remarks, to discussions that we have had as to whether a mechanism such as a base closure or realignment commission could develop a set of recommendations that would be forwarded to Congress for action. There are, no doubt, other mechanisms that could work equally well. But I think the principle has to be that any default mechanism we propose has to be workable and has to be fair, if it is actually invoked. I think the scheme in S. 104, the substitute for S. 104, fails on that point.

I will conclude these remarks by reiterating the basic principles behind the amendment with respect to how interim storage should relate to the permanent repository. First, siting an interim storage facility next to the Yucca Mountain site is acceptable, but—and this is crucial—only as long as that is where the permanent repository is going to be built.

Second, we should not start construction on an interim storage site in Nevada until Yucca Mountain has passed the suitability determination phase of site characterization. That phase ends with the completion of the environmental impact statement for the repository and issuance of the record of decision.

Third, if Yucca Mountain is disqualified as a repository site at any point during the process, we should stop any interim storage facility at the site in its tracks. The search for a new interim storage site should then be part of an overall process of looking for a new repository site as well.

I do not expect my colleagues from Nevada to agree with all these principles. I realize they are implacable in their opposition to the idea of interim storage in Nevada. I oppose the proposition as set forth in the substitute amendment, unless my amendment being offered today is agreed to. But I urge Senators who, like me, would like to have the chance to vote for a good nuclear waste bill, one that has what I think is the right relationship between the two facilities, to support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent we set aside the Bingaman amendment and go back to the pending Domenici amendment, which has been brought before the Senate previously.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

AMENDMENT NO. 42

Mr. DOMENICI. Mr. President, I understand that the parliamentary situation is that the Domenici amendment has been offered in my behalf by the chairman, and that it has had an amendment added to it, so that pending before the Senate is the Domenici amendment with an amendment thereto, and also the Bingaman amendment, and others? And that at some point we will vote on the amendment to the Domenici amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I believe whatever needs to be said about my amendment, which is clearly a budget issue, has been said. From what I understand, my amendment is not controversial. If there is controversy, it has to do with the amendment to my amendment; not with it. So I would like to take no longer than 10 minutes, and if the Chair will tell me when I have used the time, I would not want to take any more time than that, of the Senate, to speak on the bill.

When Congress passed the Nuclear Waste Policy Act of 1982, we created a contract with the country's taxpayers that the Government of the United States would accept responsibility for waste from the reactors providing them with power across these United States. We have now watched for 15 years while the date for this permanent geological repository has moved from an original target of 1998 to the current earliest possible date of 2010. Even though progress at Yucca Mountain in the last few years has finally been significant, the taxpayers impacted by their regional utilities are faced with continued storage of high-level waste at 80 sites in 41 States. Many of those storage sites are near population centers and significant funds are now being expended to keep those multiple sites safe and secure. Many of those sites are nearly full; 23 will be full in 1998, 1 year from now.

Incidentally, nuclear energy is still important in the United States. While we are not adding any nuclear capacity to our electric generating system, about 20 percent of the Nation's electrical power is nuclear energy and a failure to promptly act in that regard could, indeed, affect the viability of one-fifth of our Nation's electrical supply. That is not a small amount.

Senate bill S. 104, the bill before us, provides a comprehensive plan for the Federal Government to meet its obligation to provide a safe place for the Nation's spent fuel and high-level nuclear waste. It continues the path toward a permanent geological repository that is being explored at Yucca Mountain, and provides a critical intermediate step to relieve the pressure at those 80 sites by building an interim storage facility near Yucca Mountain. I voted last year for S. 1936, and S. 104 traces its parentage to S. 1936. But, when S. 104 was introduced in the Energy Committee this year, it contained improvements over S. 1936. I commend Chairman MURKOWSKI, and those who have worked with him, for their diligent, bipartisan efforts over the last few weeks to work with many of our colleagues to further improve S. 104.

S. 104 was a good bill in February and it is a better bill in April. S. 104 now includes realistic dates for action on the interim storage site. This bill now provides even more time, after the department has finalized its viability decision on Yucca Mountain, before the start of construction of the interim site. S. 104 now includes improved risk-based radiation standards that involve the Environmental Protection Agency in the process.

S. 104 applies a HAZMAT-type approach to transportation. The hazardous material processes of our law and procedures are going to hold true in the transportation arena. And a careful balancing of State and Federal laws allowing preemption by State and local laws only where State intransigence prevents the Federal purpose from being accomplished.

The new transportation provision in this bill, coupled with years of impressive demonstrations on the safety of nuclear waste shipments, should completely address the concerns that some continue to express on transportation issues. These and other changes make the current version of S. 104 significantly better than our previous approaches. S. 104 is now truly a bipartisan approach to solving this problem of immense national impact. At a time in our history when fiscal responsibility is under intense scrutiny, passage of S. 104 is critical, from a financial perspective as well as the contractual responsibilities and safety issues that it addresses. The current suit against the Department of Energy by States and utilities may require the payment of significant penalties. Taxpayers will bear the burden for all these penalties. If the court rules that the Department of Energy, thus the U.S. Government, has breached its contractual obligation and penalties are assessed, they will come from the taxpayers of this country. And the ratepayers, who happen to also be taxpayers, are already bearing the burden for storage of waste at the present 80 sites in this country. The financial impact of not moving ahead with S. 104 is very, very significant.

I have been very critical, not alone, with many others, of the administration and the Department of Energy in recent years, for their inaction and lack of leadership on the critical issues surrounding nuclear waste policy. The Department has taken the view that they are free of any obligation until a repository is ready. At the same time, utility companies are collecting fees from ratepayers to ensure the readiness of the storage capability. This is simply bad faith on the part of the Department. S. 104 resolves the gridlock which has paralyzed the Department and the nuclear industry in this country for many years.

S. 104 continues the evaluation of the repository as an ultimate and final solution. But the creation of a monitored retrievable storage capability and capacity might also allow the Department to consider some of the suggestions developed in 1993 by the Department's task force on an alternative program strategy for Yucca Mountain. I hope the Department will review that study and even view the monitored retrievable storage as providing some time to enable consideration of some of the research proposals for approaches like transmutation, the changing of the high-level waste to something less energy-possessed, and thus, perhaps, provide for some utility rather than storage forever. That could reduce the toxicity of the material, which is finally emplaced in the repository.

I hope the administration will reevaluate their stated resistance to earlier versions of S. 104. This bill represents a bipartisan approach to a national problem. It now addresses the concerns stated by the administration with previous versions. S. 104 would give the country what it has sought for 15 years, a well-defined path on the nuclear waste issue, one that we can truly do, do safely, and do within a reasonable period of time. Furthermore, we honor the commitments made in 1982 to the citizens who depend upon nuclear power, who have been paying for this solution ever since then.

Incidentally, just as an aside, it is not as if we have not been trying for the permanent repository. We have spent in excess of $6 billion and we have not yet finished the characterization of the site. Although some real headway was made in the last 18 months, for which we can be grateful to the man who led that, Mr. Dan Dreyfus, who is no longer with the Department of Energy—but, essentially, after about $6 billion and continued spending at a very elaborate amount each year, we are still a few years away from that permanent, long-lasting repository. In the meantime, problems with the short-term storage continue to mount.

I compliment the chairman of the Energy Committee. This is a good solution. I hope it passes with sufficient votes for the President's threatened veto not to be sustained. But, in any event, it is worth his effort to see that we have found a good, bipartisan, American solution to a truly big American problem.

I yield the floor.

The PRESIDING OFFICER. Who yields time? the Senator from Nevada.

Mr. BRYAN. Mr. President, may I inquire as to the status? How much time is remaining on the amendment we are debating?

The PRESIDING OFFICER. The Senator from Alaska controls 25 minutes on this amendment.

Mr. BRYAN. On the other side of the proposition, if I might inquire of the distinguished Senator who is presiding?

The PRESIDING OFFICER. The Senator from New Mexico has 19 minutes and 46 seconds.

Mr. BRYAN. I am wondering, since I speak in opposition, if I might get time either yielded from the time of the Senator from Alaska or the Senator from New Mexico? I was not aware that there was not time allocated to those who oppose the amendment. If that is the state of the parliamentary situation, I ask for 10 minutes, if there is that much time available. I do not think I will need that much time.

Mr. MURKOWSKI. I have no objection.

The PRESIDING OFFICER. The Senator from Nevada has 10 minutes.

Mr. BRYAN. I thank the Chair. I perhaps will not require all the time.

I do not, Mr. President, want to take much time to talk about the merits of S. 104 because, as we will point out later, S. 104 is a very bad piece of legislation and, in my view, is a policy disaster. It is unnecessary. There are provisions that would preempt Federal and State law, standards, viability, transportation—there are many, many things that could be said about the legislation, and I will address each of those arguments with some particularity.

I must say that I am constrained to address the issue of the lawsuit, because we hear a lot about the lawsuit. The lawsuit was decided before our votes were cast last year on S. 1936, but I think it is curious and revealing, revealing as to the true motives of this bill. Nothing in S. 104 deals with the lawsuits.

This Senator believes that ratepayers who are in a position where they may incur additional expense for storage because of the unavailability of a permanent repository in 1998 are entitled to relief. I do not think ratepayers ought to pay twice. I have introduced legislation each year that I have been a Member of Congress to express that view. It is curious, Mr. President, the utilities who drive the policy in this—this is the nuclear utilities bill—do not want to talk about that. As recently as a couple of weeks ago, the Secretary of the Department of Energy acknowledged that the Department wanted to talk about compensation to utilities who will incur additional expense because they will be storing beyond what was contemplated in 1982 as a 1998 acceptance date. So this legislation does nothing with respect to compensation or to provide relief for ratepayers, and the fact that it does not makes the motive so abundantly clear. This is all about getting the waste out to Nevada, irrespective of environmental or other policy considerations.

Let me talk, if I may, very briefly, about the substitute as it deals with the mill tax levy. Current law provides that the utilities must pay into the nuclear waste trust fund on the basis of 1 mill per kilowatt hour of nuclear power generated. It goes into a trust fund. That is paid only so long as that utility generates nuclear power.

If you look at this line, Mr. President, the mill fee payment line, you will notice it rapidly declines between now and the year 2033, and the reason for that is because every currently licensed nuclear reactor in America will be closed by 2033. Their license period will expire. So with each closure of a reactor, less is being paid into the fund.

The obligation, however, in terms of dealing with the issue of nuclear waste goes out to the year 2071, so that you can see that there is another 38 years beyond 2033 that there is a responsibility to make payments dealing with the waste, and there will be no money coming in.

Currently, the Department estimates that the nuclear waste trust fund is underfunded between $4 billion and $8 billion currently. If it is underfunded, I respectfully submit that you do not need a degree from the Wharton School of Finance to know who is going to make up the shortfall. It is the American taxpayers who are going to make it up. So the current law says with respect to the mill levy and how much it will be, is that the Secretary will make a recommendation when it needs to be adjusted, and unless the Congress or one House rejects that recommendation, that will go into effect. It was a law not written by the Nevada delegation. It dates back to the 1982 Nuclear Waste Policy Act.

Here is what is done to change all of that. In the original substitute, we changed the burden so that now any change to increase the rate of mill-tax collection, rather than being enacted unless there is a rejection by one House, it requires an affirmative burden to pass both Houses of Congress.

As the distinguished occupant of the Chair knows, based upon his considerable legislative experience, it is far more difficult to pass a piece of legislation than to object to it.

So that is the nub of this. It will be virtually impossible if the utilities object to an increase in the mill levy to get that on because it will require both Houses of Congress to affirmatively act on a resolution.

In the substitute that was offered by the able chairman of the Energy Committee, all budget points of order were waived. So the Senator from New Mexico, and appropriately so, sought an amendment in the first degree to restore a budget point of order, and I have no quarrel with that.

The second degree, in effect, provides that still both Houses must approve any increase, and so, in my judgment, this is a provision that is designed to provide relief for the utilities to leave the nuclear waste fund underfunded by billions and billions of dollars, and long after any Member who currently serves in this body or the other body leaves, the American taxpayer is going to get the short end of the stick.

Let me say, Mr. President, that no one would disagree if they are honest with their original position that it was understood that the nuclear utilities would undertake an expense of all of the cost of nuclear waste disposal. That was an obligation they agreed to do and that is why the mill tax on each kilowatt hour was imposed, that is why the nuclear waste trust fund. But through this substitute, we have a situation that will exacerbate the shortfall. It is said there is $8 billion in the trust fund, but, Mr. President, from 2033 until 2071, nothing comes into the trust fund because all of the reactors that are currently licensed are shut down. That is the buildup, and that is what this yellow line indicates, because it begins to build up and it, too, declines as the expenses are incurred and the revenues into the fund decrease.

So this is a bad, bad amendment, and I urge that it be rejected. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. How much time is remaining on our side?

The PRESIDING OFFICER. Sixteen minutes 30 seconds.

Mr. MURKOWSKI. And the other side has?

The PRESIDING OFFICER. The other side has 19 minutes and 45 seconds.

Mr. MURKOWSKI. I do not have need for further discussion. I wonder if the other side would consider yielding back their time since we are going to have a rollcall vote on this tomorrow.

Mr. BRYAN. Let me ask my colleague if he cares to speak.

Mr. REID. Mr. President, I will be happy to yield back time.

Mr. BRYAN. I am wondering, I might say to the chairman, at one point we had been told that one of our other colleagues may want to speak, and I refer to the ranking member on the committee. I do not know if that is still the case. May we suggest the absence of a quorum and check with him?

Mr. REID. I am wondering if we can withhold that. Maybe we can set this aside and go ahead and work on the Bingaman amendment. Would that save time?

Mr. MURKOWSKI. Anything that moves us saves time.

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment be set aside and we return to the Bingaman amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MURKOWSKI. If I may, I would appreciate it if we could find out if there is going to be any further Members wishing to speak on the Domenici amendment.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 31

Mr. MURKOWSKI. Mr. President, first of all, let me spend a little time thanking the efforts of Senator BINGAMAN from New Mexico for his efforts on this bill. He and his staff have worked very, very hard. I think what we have up to this point is a much better piece of legislation as a consequence of the efforts of Senator BINGAMAN and his staff. In the committee markup, as I recall, Senator BINGAMAN had amendments touching about eight different issues, and we were able to eventually accommodate the Senator from New Mexico on seven of those. We unfortunately could not accept all the amendments, but we certainly resolved to work with him and his staff and continue to do so as we debate the substitution, and the Bingaman amendment that is before us.

I think we have made progress. Progress was made on licensing requirements for the temporary storage facility. Progress was made in the application of NEPA. Progress was made on leasing standards for a permanent repository. Progress was made on preemption of other laws, and certainly progress was made on nuclear waste fee requirements.

I think it is fair that we agree that Nevada should be chosen as the permanent repository. I was a little confused in his statement where he implied that it was unfair that Nevada would necessarily be chosen as the last, I guess the last possible choice or the choice of last resort, or words to that effect.

We have 50 States out there and nobody wants it. I have said time and time again, you can't throw it up in the air, it is going to come down somewhere. So I think it is imperative that we recognize that we have to choose a site, and that site is going to be objected to by the delegation from that State.

We have chosen a permanent repository in Nevada, assuming that it meets the requirements. Yucca Mountain was chosen after looking at other sites, other sites in other States.

Nevada is the preferred site for a repository. Nevada has been selected and, as a consequence, we have 5 miles of tunnel that have been completed there. We have expended $6 billion. We are committed, probably, by the time we are complete to spend up to $30 billion. So that is a given. I would say we agree Nevada should be chosen for an interim facility if the viability assessment for the permanent repository at Yucca Mountain is positive, and I think that is, more or less, the opinion of my friend from New Mexico.

I think it is further apparent we agree that the President should have time to pick an alternative site, even in the event that Yucca Mountain is determined not to be viable as a permanent repository.

We have come a remarkable distance toward total agreement. Unfortunately, we have this one area where we have not been able to agree and I think that is, of course,the substance of the Bingaman amendment.

I think what we have here, in our opinion, and I tried to cite this early in our debate, is an effort to try and get this resolved informed by past debates on this subject and the history of the issue. If there is any way out of a conclusion to address the disposition of this waste, somebody is going to find it, Mr. President.

We clearly see a lack of direction from the administration on this. I personally communicated in three specific letters to the President asking what the administration's position is. The administration, in all fairness, simply does not have a position.

You can look at some of the rhetoric that has come out of some of the newspapers relative to the administration's position. It is kind of surprising to comment on whether they are a little bit naive or not well informed, but from the Thursday, April 10, Congress Daily, White House Council on Environmental Quality Chairwoman Kathleen McGinty said yesterday that the administration would be "loathe to consider" legislation that would force the Energy Department's hand in building the temporary storage facility before it knows the waste would be able to stay at Yucca Mountain. "Loathe to consider" legislation that would force the Energy Department's hand in building the temporary storage facility before it knows the waste would be able to stay at Yucca Mountain.

That is totally inaccurate because if one looks at the schedule in the bill, in my substitute, if Yucca is viable by December 1998, a viability assessment will go to the President. March 1999 would be the deadline for a Presidential determination on viability.

If there is no negative determination, the Nevada test site is determined to be the site. The reason for that is obvious. If we do not name a site, we are going to be drifting around here where we are today.

April 30, 1999, the Secretary files licensing application with NRC.

Approximately August of the year 2000, construction begins when the EIS is complete.

No later than June 30 in the year 2003, fuel acceptance begins.

Now, how can the administration interpret that this legislation would force the Energy Department's hand in building a temporary storage before it knows the waste would be able to stay at Yucca Mountain?

Construction cannot begin until August in the year 2000. Somebody might say, "Well, Senator, what's the big deal here? Why not wait for Yucca Mountain to be done?" Well, we are told by the Secretary of Energy, Hazel O'Leary, that it will be the year 2015 before Yucca is completed, certified, licensed, and ready to take fuel.

That is why, Mr. President. The "why" is that the time is now. We have a contractual commitment to take this waste beginning next year, 1998. We made a contract with the nuclear power industry. We have collected $13 billion from the ratepayers of this country. They are expecting performance, and the Government has not any capability. The Government is not going to be able to accept that waste. And the Government is going to be liable for damages.

Every Member of this body has an obligation to minimize the Government's liability associated with those damages. That is what a temporary repository at Yucca Mountain is all about: expediting the process. So if there is anybody in anybody's office who is misconstruing the timing of this—Katie McGinty, of the White House Council on Environmental Quality, has somehow gotten an interpretation that we would force the Energy Department's hand in building a temporary storage facility before it knows the waste would be able to stay at Yucca Mountain. It is totally inaccurate; and that is an understatement, Mr. President.

Let us talk about Yucca not being viable.

If Yucca is not viable, September of the year 2000 would be the deadline for the President to designate a site.

February of the year 2001 would be the deadline for Congress to approve a site.

And if no site is designated and approved, the Nevada test site is the site.

March 2001 the Secretary files a license. July 2002, construction begins.

September 2005, fuel acceptance begins.

So this is where Senator BINGAMAN and I have our departure. We feel we have to have a bottom line on this debate. We feel that we must firmly chart a predictable and sure course to a safe, interim storage facility and get it done now, not next year, not in 2 years or 5 years or 2001 or 2010 or 2011. I do not want to be standing here in another 4 our 5 years and have to find that we are still hung up on a decision.

Congress dealt with this issue in 1982. We thought it had resolved the problem forever. In 1987, we had to deal with it again. At that time we were told we had resolved nuclear waste once and for all.

This is the problem, Mr. President. This is the legacy of the program. If it is possible to delay a decision, a decision gets delayed. It has been in progress so far. If it is possible to push the decision off to somebody else's watch, that is what is going to happen. And that has been suggested time and time again. If the process is vulnerable to political pressure, then political pressure will be used.

We have learned the hard way that any trap door left anywhere in the process inevitably, Mr. President, gets used. And it will happen in this case. Any weakness in the approach gets exploited. That is why we have spent $6 billion over 15 years and the Federal Government is still unable to meet its promise to take the waste in 1998. I implore my colleagues, let us not be fooled again. Let us face up to our obligation.

Our bill, Senate bill 104, is destined to make sure there are no trap doors here, no copouts, no more delays. This chart shows our selection process. No matter what happens, the loop is closed. It is a box. Every decision leads to a safe, central storage facility.

Let me explain to you this effort. Here we sit in 1997, as you see over in the left-hand corner of the chart, with the status quo. We have waste in 81 sites in 40 States. That is just the harsh reality. If we do not do anything, that is where it will remain. Your reactors may go down for lack of storage. Your waste is going to remain.

If you want the waste to move, it has to be transported. That is a given. We can do that safely. We have transported 2,400 individual shipments.

So let me follow the red line from next year when we are under contract, the Federal Government, to accept the waste. If Yucca Mountain is viable for a permanent repository, then we have one safe central storage site, it is over. That is one end of the square.

Let us go up. If Yucca Mountain is not viable for a permanent repository, what happens then? Well, then the President can pick an alternative site. OK. And Congress will ratify it, and we come right back with a square box, one safe, central storage site.

If the President does not select an alternative site; in other words, if the President says—"Well, I just won't act"—our. bill deals with that possibility. If the President does not act, then where does it go? It defaults. It defaults to the Nevada test site. That is evidently a problem for my friend from New Mexico.

But on the other hand, history of this matter suggests that if we leave it to the Bingaman amendment—and let me refer to the next chart—this is the exposure. And this is where Senator BINGAMAN and I part company, because, if Yucca Mountain is viable, we are fine. If Yucca Mountain is not viable, then the Secretary picks an alternative site. But if he does not, if he does not do that, no site is chosen and we are right back to where we are. We are leaving it where it is. Let me run through that again to make sure everybody understands it.

This is the difference between the Bingaman and our particular approach with S. 104. If Yucca Mountain is viable, we have a central storage site, no problem. But if Yucca Mountain is not, the Secretary picks an alternative storage site. That is fine if he does—if he does—Mr. President. But if he does not, we are right back where we were.

Look at the other chart.

That is the difference between the two particular versions of this amendment. We give the President the authority to pick an alternative site.

Congress ratifies the site, and we are all right. But if the President does not select an alternative site, it goes back to the Nevada test site.

That is where we are, Mr. President. I think it is fair to say that our concern with the Bingaman amendment is that in our opinion it creates the trap door, it opens the process to political pressure. It invites indecision, and it invites pressures that will be apparent to do nothing so we will all be back where we are now, 40 States, 81 sites, reactors potentially shutting down because storage sites are filled up, and the stuff sits. It still is not moving.

The Department of Energy tells us that the odds of Yucca Mountain being suitable as a permanent repository are good. I think that they used the odds currently of 90 percent. Well, that is pretty good around here. So the President's finding of suitability looks pretty good. But it is still at his own discretion. I ask all of my colleagues and those in their offices who listen, do you think the Senators, our good friends from Nevada, will try to influence the President's decision? Sure they will. They should. We acknowledge that. Wouldn't you if you were placed in that situation?

If the President decides Yucca Mountain is not viable, not a viable site for a permanent repository, the need for an interim repository becomes even more desperate. The waste simply cannot stay where it is, Mr. President, in 80 sites in 41 States. We cannot afford to start closing nuclear plants that have run out of room for spent fuel because, remember, Yucca, if it is viable, if it is licensable, is not going to be ready until the year 2015.

Under the Bingaman amendment, if the President were to determine that Yucca Mountain is not viable, then all the Secretary needs to do to prevent the designation of a central storage site is to simply fall back to another site; that is my point, leave the waste where it is.

There is another area that I am concerned about in the Bingaman amendment, and that is even if the Secretary does pick a site, the tools provided to make that site a reality are somewhat limited.

Of course, we know that the Secretary does not have the authority to withdraw land for an interim repository. The Secretary does not have the authority to condemn land for an interim repository. I am fearful, under Senator BINGAMAN's amendment, under this goal, we would not be able to reach our mutual goal, which is something where we are both on the same track. We want this waste to move. But we both want it to move now.

With the loopholes in here, I am just convinced they would be used. With the U.S. court of appeals ruling that DOE has a binding legal obligation to take the spent fuel, Mr. President, I just cannot believe that we can accept more failures, more runaround, more delays. We cannot expose the taxpayer to the liability of more damages resulting from the court cases that are going to come up when we are not able to take this spent fuel next year.

Mr. President, I do not want to settle for a failure.

The U.S. Senate should not settle for a failure. I think we can do better, and I hope that we can work out, if you will, some way to address the concerns of my friend from New Mexico. As we look at this chart and recognize—here they are, Mr. President. These are the 80 sites throughout the Nation, in 41 States. They are the sites that have a problem. If we don't relieve this problem with meaningful legislation and if we do it with legislation that provides a trapdoor or a copout or an exit that is convenient, politically or otherwise, it is going to be used. So our liability and our damages are going to be higher, and the fuel is going to stay right where it is now, at 80 sites in 41 States, instead of getting on with the process that we have outlined in S. 104, which is to close the loop.

Let me show you one more time, Mr. President, what we have attempted to do here. We have attempted to force this body to make a decision once and for all. All the safeguards are in here, Mr. President. I want to refer to them again. Under the substitute, if Yucca Mountain is viable, OK, starting in 1998, in December, the viability assessment goes to the President. March 1999 is the deadline for the viability determination by the President. If there is no negative determination, the Nevada test site is the site. That is, if Yucca is viable. On March 30, 1999, the Secretary files license application with NRC. In approximately August 2000 construction begins when the EIS is completed.

The importance of that, Mr. President, is to begin to allay the concerns of the White House and Katie McGinty. They have been loath to consider building a temporary storage site before it knows that the waste would be able to stay at Yucca Mountain. I think that takes care of that.

If Yucca Mountain is not viable, September 2000 is the deadline the President has to designate a site. So he has time. Then another deadline for Congress, February 2001, is the deadline for Congress to approve the site. If no site is designated or approved, OK, it goes back to the Nevada test site. But, even then, there are more delays. In March 2001, the Secretary files a license. In July 2002, construction begins. In September 2005, fuel acceptance begins.

But, Mr. President, I swear that if we do not close in this loop, we won't get the job done. We know that's what the administration prefers—not to address it at this time. We have already seen the smoke and mirrors relative to their side of the story.

I will run through the difference I have with Senator BINGAMAN's amendment. If Yucca is viable, OK, the same, except that Senator BINGAMAN would add a new provision, which is that after the Department of Energy files a licensing application in the year 2001 and NRC finds that Yucca cannot be licensed for some reason, they suspend operations at the interim facility and the NRC has 24 months to recommend another interim site or restart operations at the NTS.

But if Yucca Mountain is not viable, Mr. President—here is where the bear goes through the buckwheat—the deadline for the Secretary to designate an alternate site up here is February 2001. But what happens if he doesn't do it, Mr. President? I will tell you what happens. Nothing. If he doesn't do his job in February of the year 2001, and no site is designated, the stuff stays where it is, at 81 sites in 41 States.

I think that should identify sufficiently for the Members the differences relative to Senator BINGAMAN's view of how to resolve this problem and the view of the Senator from Alaska. I have the deepest respect for my friend, but I am firmly convinced that we have to get it resolved, and if we don't do it now, it isn't going to be done. That loophole out there will be utilized and we will be back here another day, another month, another year on this same process.

Mr. President, I will be happy to try to work out some way to accommodate my friend from New Mexico. I reserve the remainder of my time. I yield the floor.

Mr. BINGAMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Mexico has 3 minutes remaining, and the Senator from Alaska has 3 minutes remaining.

Mr. BINGAMAN. Mr. President, I will need a few more minutes. I ask unanimous consent that I be allowed to speak for up to 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. I ask unanimous consent that the Senator from Alaska, of course, be given equal time, if he would like that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I didn't hear that unanimous consent request.

The PRESIDING OFFICER. The unanimous consent request was that the Senator from New Mexico be allowed to have an additional 3 minutes, totaling 6 minutes, and also that the Senator from Alaska also have up to 6 minutes.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me clarify my understanding of the situation. First of all, I agree with much of what was said by the Senator from Alaska. The amendment that I am offering here today does not, in any way, interfere with the end result, as long as the determination is made at every step of the process that the Yucca Mountain site is the appropriate site for a permanent repository of nuclear waste. If that decision is made, then we are in agreement. Then the problem does not exist. It is only if a contrary decision is made that we get into disagreement.

Let me clarify here that there is a difference in my understanding between the viability assessment, which is due to be completed on December 1, 1998, and the suitability determination, which is due to be completed on October 31 of the year 2000. I agree that as long as Yucca Mountain is a suitable site and that suitability determination is made in the year 2000, then that is the site we ought to go forward with. So we are in agreement there.

I think the question is, if we want to look at a permanent repository, I think we choose Yucca Mountain, if it is suitable. If it is determined not to be suitable, then the question is, what do we do about an interim facility?

Now, the only reason for putting an interim facility in Nevada is that that is where the permanent repository is going to be. The Nuclear Waste Technical Review Board said in its report, "If Yucca Mountain proves suitable for permanent repository development, then the centralized storage facility should be located there as well." That makes eminent sense to me. Let's have an interim storage facility there, as long as it is decided that we are going to have a permanent repository there. If we decide not to have a permanent repository there, then, in my view, we ought to have the issue come back to Congress, come back to the President to make a decision on what we are going to do.

The reason I think it is so important that we do that is that I think the end result is a different end result than the Senator from Alaska has in mind. The Senator from Alaska is saying the end result is we have to get this waste out of the present locations at these nuclear powerplants and move it to a central site. That is the end result he is looking for. The end result I am looking for is that we need to have geologic storage, permanent storage, of this waste. In my view, my amendment has a much greater chance of getting us to geologic permanent storage of this waste than his solution does.

His solution says that, regardless of what we decide about Yucca Mountain as a permanent repository, we are going to put the waste in Nevada in this interim site, and that's going to happen. There is no way to wiggle out of that. Once the suitability of the Yucca Mountain site is determined, we are going to put the waste in Nevada. It is going to be on an interim site there, and there is no way to wiggle out. So we have accomplished our end result.

My view is that, fine, we moved the waste to Nevada, but it is on a slab of cement out in the middle of the desert. It is not in geologic storage, not in safe storage, not in permanent storage. Therefore, we have not solved the problem that we set out to solve for all these many decades with regard to nuclear waste. The only way to get us to a geologic repository for that waste, a permanent repository for that waste, if the Yucca Mountain proves unsuitable, is to bring it back to Congress and the President and say, "Choose another permanent repository for this waste." That is what is going to have to happen. That is what ought to have to happen. At that time, we also can decide what to do about an interim site.

But it makes no sense to me to be saying, look, if we decide Yucca Mountain is not suitable, we decide we can't put the waste there in a permanent repository, we are still going to put all the waste there; we are going to put it in a central repository, and it is going to be in Nevada because we earlier said it was going to be in Nevada. Granted, the only reason we said that is because we are going to have a permanent repository there. Now we have decided if we can't have a permanent repository there, we can still put the waste there and get it out of these other States. I don't think that is fair to Nevada. I don't think it is good public policy. So I say let's keep the two issues tied together. Let's say, if the permanent repository at Yucca Mountain in Nevada is determined not to be a suitable facility, if we decide that that site, Yucca Mountain, is not a suitable site for a permanent repository, then we need to put the brakes on with regard to using this interim facility in Nevada and say, wait a minute, we have to pick another permanent repository. Let's also make a decision about an appropriate interim storage site.

So that's the difference that we have. I think it is a good-faith difference. The great failing that I see with the substitute the way it now stands is that if Yucca Mountain is determined not to be an appropriate permanent repository, then all of the pressures, the course of least resistance will be to move the waste to an interim site in Nevada, put it on a cement slab out in the middle of the desert. That will be the end of it. The pressure will be off. Congress will be under no obligation to do anything else. The President will be under no obligation to do anything else. The only people who will suffer, or potentially suffer, from this are the people of Nevada. I think that is not a responsible public policy position for us to take. We need to find another permanent repository if Yucca Mountain proves not to be the right permanent repository.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Alaska has up to 6 minutes.

Mr. MURKOWSKI. Mr. President, we are so close, yet so far away in our differences here. I think it is fair to say that when the viability assessment is completely at the discretion of the President, we would all agree that it is subject to political pressures. I think we all agree that we have an obligation to make a decision. We have agreed to withhold on a decision until the viability assessment is available. My friend from New Mexico has indicated a concern about the viability and the suitability. I am told that the suitability is 80 percent likely. Viability is 90 percent. Those are very high odds.

The problem of how we resolve this and whether or not we are going to be delaying this action again, I think, has to be related to the fact that when we get the viability assessment, we either choose Nevada if it is positive, or give the President time to choose another site if it is negative.

Only if we are unable to choose another site—only then—would it go to Nevada. That would imply that the President wasn't doing his job, and that Congress wasn't capable of doing their job. And I think we both agree that there would be a significant shirking of an obligation or duty. I am just fearful with the history of this that without some kind of closure that might happen. I believe my friend from New Mexico has stated that the only reason for putting interim in Nevada is if Yucca is permanent. But if Yucca doesn't pan out then we desperately need an interim site, and I think we need it quickly because Yucca is the year 2015 from being ready to accept waste. We have 80 sites in 41 States, and we have lawsuits coming on, and damages coming on. From the looks of this place, Congress doesn't make decisions very quickly.

Let me just say one more thing with regard to delay. Although we may not know the ultimate site of an interim facility, there is one indisputable fact. We need a central temporary storage facility for our Nation's nuclear waste. If Yucca Mountain is viable then it makes sense to put the material at the Nevada test site. If Yucca Mountain is not viable, it will take 50 or 60 years of process at a minimum to find and license another permanent repository site under our present permitting process. We cannot leave nuclear waste at 80 sites around the country over this period of time. That is why the crisis is here. The spent fuel pools at nuclear reactors were not designed for long-term storage.

Mr. President, in all due respect, Senate bill 104 was designed to make sure there were no trapdoors, and that no matter what happens this loop is closed. And this decision has to lead to a safe central storage facility ultimately at a permanent repository in Yucca Mountain.

So, Mr. President, the decision is ours. The time is now. Let's not shirk this duty and this responsibility by leaving an open-end alternative that I guarantee will be used.

Mr. President, I believe my time is up. I yield the remainder of my time.

The PRESIDING OFFICER. All time is yielded.

SECTION 101(F)

Mr. CRAIG. Mr. President, I rise to address a specific provision of the Murkowski substitute amendment to Senate bill 104, the Nuclear Waste Policy Act of 1997. This provision is also in the bill as introduced, and was in similar legislation passed by this body in the last session of Congress. This provision is of special importance to my State and I wish, therefore, to clarify its appearance in this important legislation. I refer specifically to section 101, entitled "Obligations of the Secretary of Energy," paragraph (f), which states, "Nothing in this act is intended to or shall be construed to modify . . . obligations imposed upon the Federal Government by the U.S. District Court of Idaho in an order entered on October 17, 1995, in *United States* v. *Batt* (No. 91-0054-S-EJL)."

Mr. President, the consent order referred to in section 101 of S. 104 binds the State of Idaho, through the Attorney General, and Gov. Philip E. Batt in his official capacity; the Department of Energy, through the general counsel and assistant secretary for environmental management; and the Department of the Navy, through the general counsel and director, Naval Nuclear Propulsion Program to certain terms and conditions to fully resolve all issues in the actions Public Service Co. of Colorado versus Batt and United States versus Batt.

Mr. KEMPTHORNE. Will the senior Senator from Idaho, my colleague, yield for a question?

Mr. CRAIG. I yield to my colleague.

Mr. KEMPTHORNE. I thank my colleague for bringing the attention of this body to an important provision of Senate bill 104; a provision of significance to the State of Idaho. Could you elaborate on the particular relevance of this consent order settlement agreement to this legislation?

Mr. CRAIG. The consent order has a number of compliance points requiring action by the U.S. Department of Energy at the Idaho National Engineering and Environmental Laboratory, which have bearing on the overall spent nuclear fuel and high-level radioactive waste management storage and disposal program as structured in Senate bill 104. In general terms, the consent order requires specific actions for treatment, storage, disposal, or shipment offsite for disposal of spent fuel and waste at the Idaho National Engineering and Environmental Laboratory, and requires these actions to be performed according to a timetable set down in the consent order.

Mr. MURKOWSKI. Will the Senator yield for a question?

Mr. CRAIG. I yield to my colleague from Alaska for a question.

Mr. MURKOWSKI. I understand that this consent order contains provisions relating to transuranic waste, spent nuclear fuel, and high-level waste. Could you please describe the requirements that specifically relate to commercial spent nuclear fuel?

Mr. CRAIG. As I know my colleague from Alaska is aware, the Idaho National Engineering and Environmental Laboratory has, over the course of its history, received commercial spent nuclear fuel for research and development purposes. One of the largest receipts was the receipt of the discharged core from the Three Mile Island nuclear powerplant in the 1980's. Idaho has also received, and continues to store, expended fuel from naval nuclear reactors. One of the key provisions of the consent order is that the DOE is ordered to remove all spent fuel, including naval spent fuel and Three Mile Island spent fuel from Idaho by January 1, 2035.

Mr. KEMPTHORNE. Will my colleague, the senior Senator from Idaho, yield for a question?

Mr. CRAIG. I yield to my colleague for a question.

Mr. KEMPTHORNE. As a member of the Senate Armed Services Committee, I am familiar with the important national security contribution made by the Navy's Nuclear Propulsion Program. The Idaho National Engineering and Environmental Laboratory contains a Navy facility called the expended core facility. This facility receives the expended, or spent, nuclear cores from Navy vessels for examination and storage. I wonder if my colleague from Idaho will explain, for the benefit of our fellow Senators, how the consent order affects this important national security mission.

Mr. CRAIG. The consent order limits shipments of naval spent nuclear fuel into Idaho. Specifically, the total number of shipments of naval spent fuel to Idaho through 2035 shall not exceed 575 shipments and shall not exceed 55 metric tons. Most relevant to our discussion of Senate bill 104, however, is the Department of Energy's commitment, through this settlement agreement, that naval spent fuel stored at the Idaho National Engineering and Environmental Laboratory on the date of the opening of a permanent repository or interim storage facility shall be among the early shipments of spent fuel to the first permanent repository or interim storage facility.

Mr. MURKOWSKI. Will the Senator yield for a further question?

Mr. CRAIG. I yield to my colleague for a question.

Mr. MURKOWSKI. In the course of deliberations on Senate bill 104, we have debated the merits of exclusions for a number of Department of Energy sites. Specifically, I am referring to exclusion from consideration for selection as the interim storage site for commercial spent nuclear fuel under the provisions of this legislation. Does the consent order we are discussing have any bearing on this question for Idaho?

Mr. CRAIG. The Senator from Alaska is correct. The consent order settlement agreement contains a provision that, except for a narrow exception for the treatment of graphite fuel from the Fort St. Vrain reactor in Colorado, the Department of Energy will make no shipments of spent fuel from commercial nuclear powerplants to the Idaho National Engineering and Environmental Laboratory. Therefore, selection of Idaho for further commercial fuel storage would be inconsistent with and in violation of the consent order.

Mr. KEMPTHORNE. Will the Senator yield?

Mr. CRAIG. I yield to my colleague from Idaho.

Mr. KEMPTHORNE. I thank my colleague, the senior Senator from Idaho, for bringing to the attention of this body the significance of the section 101 reference to the Idaho settlement agreement consent order and its relevance to the legislation before us, Senate bill 104. I also wish to thank my colleague for his continued leadership, along with the Senator from Alaska, on this Nation's nuclear waste problem and for proposing the common sense solution embodied in this legislation.

Mr. CRAIG. I thank my colleague from Idaho for his contribution. Idaho and its citizens have been addressing the legacy of this Nation's nuclear defense missions and the products of its ongoing operations in the Naval Nuclear Propulsion Program for many decades at the Idaho National Engineering and Environmental Laboratory. I believe it is important to explain to my colleagues the relationship of this history, and its pending commitments, to the legislation before us.

SECTION 101(G)

Mr. LEVIN. Mr. President, at page 11, lines 2-5 of the manager's substitute amendment, section 101(g) provides that "subject to subsection (f), nothing in this act shall be construed to subject the United States to financial liability for the Secretary's failure to meet any deadline for the acceptance or emplacement of spent nuclear fuel or high-level radioactive waste." Is it the manager's intention that this language prevent contract holders from recovering damages or other financial relief from the Government on account of DOE's failure to comply with the 1998 deadline established in section 302(a) of the Nuclear Waste Policy Act of 1982?

Mr. MURKOWSKI. It is not the manager's intention that section 101(g) limit in any way the rights of contract holders, their ratepayers, or those agencies of the State governments that represent ratepayers, from enforcing any right they might have, including the right to hold the Federal Government liable financially, under the 1982 act and the contracts executed pursuant thereto. Section 101(g) is expressly subject to section 101(f), which makes clear that rights conferred by section 302(a) of the Nuclear Waste Policy Act of 1982 or by the contracts executed thereunder are not affected by this bill, including section 101(g). To the extent that act or the contracts established a 1998 deadline and the DOE fails to meet that deadline, it is not the manager's intent that the substitute amendment in any way restrict the relief available to those damaged by the failure to meet the deadline.

Mr. LEVIN. Is it correct then that the manager does not intend that the amendment would restrict the scope of remedies available to the plaintiffs in the litigation in which the Court of Appeals of the District of Columbia has held that the 1998 deadline is a binding obligation of the Federal Government?

Mr. MURKOWSKI. That is correct. It is not the manager's intent that the language of section 101(g) proscribe the court of appeals or any other court from awarding monetary relief or other financial remedies to those who have paid fees to the Government under the 1982 act and the contracts, or those who will incur additional expense on account of the DOE's failure to comply with any right conferred by 1982 act or the contracts.

Mr. LEVIN. If a deadline were imposed by the Nuclear Waste Policy Act of 1997, as reflected by the substitute amendment, as well as by the Nuclear Waste Policy of 1982 or the contracts executed thereunder, is it the manager's intention that section 101(g) would proscribe financial liability for failure to meet the deadline to the extent it is imposed by the 1982 act? For instance, if DOE were to fail to commence the acceptance and emplacement of spent nuclear fuel and high level radioactive waste by November 30, 1999 or thereafter, would the amendment proscribe a court from imposing financial liability on DOE if a court ruled that DOE's inaction constituted a failure to comply with the deadline established in section 302(a) of the Nuclear Waste Policy Act of 1982 and the contracts?

Mr. MURKOWSKI. It is not the manager's intention that section 101(g) limit the rights or remedies available under the Nuclear Waste Policy Act of 1982 or the contracts executed thereunder. If a failure by DOE to comply with any deadline established in the amendment also constituted a failure to comply with a deadline established by the 1982 act or a contract under that act, it is not the manager's intent that section 101(g) modify the right of any contract holder to see any and all remedies otherwise available for the violation of the 1982 act or for breach of the contract. It is the manager's intention that section 101(f) preserve all of those rights, regardless of whether the same or a similar obligation is expressed in the Nuclear Waste Policy Act of 1997.

Mr. LEVIN. With respect to a deadline imposed for the first time in the Nuclear Waste Policy Act of 1997, is it the manager's intention that section 101(g) proscribe a court order that the Secretary of Energy comply with such deadline, or granting relief other than money damages to contract holders?

Mr. MURKOWSKI. It is not the manager's intent that section 101(g) proscribe anything other than financial liability for failure to meet a deadline imposed by the Nuclear Waste Policy Act of 1997. To the extent other forms of relief are available for the Government's failure to comply with a deadline imposed by the amendment, the manager does not intend that such a remedy be prohibited.

Mr. LEVIN. Is it the manager's intention that section 101(g) limit the liability of the United States for anything other than a failure to meet a deadline? For instance, if the Nuclear Waste Policy Act of 1997 imposes an obligation which is not a deadline, such as the requirement to reimburse contract holders for transportable storage systems if DOE uses such systems as part of the integrated management system, is it the manager's intention that that obligation not constitute a financial liability of the United States?

Mr. MURKOWSKI. It is not the manager's intention that section 101(g) limit the liability of the Federal Government for anything other than a deadline. The manager does not intend that any other obligation imposed by the Nuclear Waste Policy Act of 1997 be affected by section 101(g).

Mr. MURKOWSKI. Mr. President, my understanding is that the disposition of the S. 104 will take place tomorrow. We will have a vote on Domenici, we will have a vote on Bingaman, and a vote on final passage. The Parliamentarian has set down I believe on Friday the voting procedure. I might ask for the benefit of Members when we could anticipate votes to occur and the time between the votes.

The PRESIDING OFFICER. Under the orders the votes are to occur beginning at 9 a.m. and there will be 3 minutes between each vote. The votes subsequent to the first vote will be 10 minutes in length.

Mr. MURKOWSKI. Mr. President, I yield the floor.

Mr. SMITH of New Hampshire addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that I might be recognized in morning business for no more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. SMITH of New Hampshire pertaining to the introduction of S. 567 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BRYAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I am sure that most of my colleagues who have watched this debate for the last week are of the opinion that after some 5 days of debate that everything that can ultimately be said about this legislation has been said, and I hate to disabuse them of the notion but my colleague from Nevada and I are going to beg their indulgence and talk a little bit more about the substitute that has been offered by the Senator from Alaska.

It is my firm conviction that the belief of the scientific community is that this legislation for interim storage is unnecessary. That is the conclusion advanced by the Nuclear Waste Technical Review Board. We have talked about that a great deal. But the reason this is important is that this is the scientific community. This is not the Senator from Nevada debating with our friends from Alaska, Idaho, or any other State delegation. Not a single member of this Nuclear Waste Technical Review Board is a Nevadan. That is their position; that it is a fundamental flaw in this legislation. It is not necessary. It is not being requested by the scientific community. It is not being supported by the scientific community, and quite to the contrary. The 1996 report says that the Nuclear Waste Technical Review Board was reconstituted with new members in 1997, a new chairman, and a number of new members. And they reaffirmed the position of the technical review board a year ago in concluding that it is not necessary. It is not necessary. So it is premature. It is unwise. It is the worst of policy.

I only wish I were capable, Mr. President, of articulating with more insight, more capacity, and with more persuasive force because it has been said here on the floor of the Senate over and over again that the Nevada test site is the preferred alternative. Mr. President, there is not one scintilla of evidence to suggest that.

Yucca Mountain is being characterized or studied for the permanent repository. But there has been no scientific evaluation or judgment made that the Nevada test site is a preferred alternative—none—because under the current law an interim storage facility cannot be established in Nevada, nor the State of the distinguished occupant of the chair, nor any other State until application is made for licensure under the permanent site.

So there has been no search in a scientific sense to have a determination made as to an interim site. So anyone who thinks that this is the product of analytical scientific reasoning needs to be aware of the fact that there has been no study, no evaluation, no scientific analysis, nothing—absolutely nothing—that suggests that the Nevada test site is a preferred alternative or a desired alternative; absolutely not because the focus in terms of the Nuclear Waste Policy Act of 1982 is the permanent geological storage. And Yucca Mountain, much to my dismay—I don't like this fact—but Yucca Mountain is being studied or characterized. And that is where the focus has been in terms of scientific study and analysis.

So I think it is important to make that clear distinction. It has been said that the Nevada test site has been used for previous testing programs. That is true. But that is not to suggest that makes it a preferred or a better site than any one of a number of other possibilities around the country. I think we need to try to drive that point home to my colleagues who are studying this issue and who are trying to make some rational judgments based upon the debate we have had over the last 5 days.

The substitute: It has been said that it is a better piece of legislation than the one last year.

I suppose if a terminally ill man is told that he has 6 months to live rather than 3 months to live, that is better news, but it is still not a desirable result and certainly something that would cause little rejoicing.

This is a bad piece of legislation because it destroys a carefully crafted, carefully constructed environmental protection legislative framework that has served America under both Republican and Democratic Presidents exceedingly well for the last 28 years or so.

It has been said by our friends who are arguing for this that we have taken care of the problem of preemption. Those who followed the debate in the last Congress will recall that preemption was at the heart of the issue, and it continues to remain so.

Here is what the law says. Let me just say that the nuclear utility lawyers ought to get an A-plus for being clever and disingenuous, because this is an exceedingly skillful bit of legalistic drafting that produces a consequence that I think no fair-minded person could conclude. The substitute says that except as provided in a couple sections a law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe is preempted.

So the argument that is made in the Chamber is that we are only preempting State law. Not true, not true, not true, because under the legislative system we have established for the environmental acts that have been passed over the last nearly three decades, Federal legislation is enacted whether we are talking about safe drinking water, clean air, clean water, RCRA, in which the States are delegated the ability to enforce if they enact legislation that is equal to or greater than the Federal legislation.

It has been suggested the language that is used now in the new section 501, found on page 59, of S. 104, the substitute, is just what we have in HAZMAT. Not true, Mr. President, not true, not true. HAZMAT has a provision that says except as provided in the appropriate subsections unless authorized by another law of the United States, a requirement of a State, political subdivision of a State, or an Indian tribe is preempted. The operative language "unless authorized by another law of the U.S." It is not by omission, inadvertence or happenstance that operative language "unless authorized by the U.S." has been dropped, because it is that provision of law in the HAZMAT code that says "unless authorized by another law of the U.S." that enables a State statute responding to the delegation of authority given to it under Federal environmental law, that those State laws are protected because they are authorized by Federal law.

So here is what we have. Let us forget for a moment what kind of passion one might have for nuclear waste and a sense, yes, gosh, it ought to be sent somewhere. But let us just talk about policy. If this legislation passes, Nevada will be the only State in the Union that will be unable to enforce a State law enacted pursuant to an environmental delegation of authority.

Now, what conceivable rationale could possibly lead to that conclusion? It is very clear that this is nothing less than a preemption, and so we are talking about safe drinking water, clean air, clean water, RCRA, much as we did in the last session of the Congress when this was debated.

Another provision is kind of interesting as well if HAZMAT be the standard. Under HAZMAT, a State has the ability to make application for a waiver to that preemption of a State law—a law that would not be enacted pursuant to the delegation of Federal authority under our environmental law—but let's just say another provision of State law. A State would have the ability to seek a waiver and a judgment would be made as to whether or not a waiver should be granted.

That provision is not included, not included, not included in S. 104. Furthermore, under the waiver provision, if a State is denied a waiver provision under the HAZMAT legislation, which is again asserted by the supporters of S. 104, S. 104 is virtually—and we will come back to the word "virtually" in a moment—identical to HAZMAT. We already have it. No reason to be concerned. This is something that we have established, a precedent. The policy is there. We are just simply asking you to do no more in S. 104 than we have all agreed to be done in HAZMAT.

Not true, Mr. President, not true, not true, because in HAZMAT a State that makes an application for a waiver, that provision that is not available under S. 104, also has the ability for judicial review, to have the denial reviewed in a court of law consistent with the Administrative Procedures Act that exists at the Federal level and State level. But under S. 104 there is no mechanism provided for judicial review.

Another provision ever so subtle is a provision that goes on to say that any law that is not the same as or substantially the same as—this would also be on page 9. I read as follows:

> Except as otherwise provided in this act, a law, regulation, order or other requirement of a State, political subdivision of a State or Indian tribe about any of the following subjects that is not substantially the same as—

"Not substantially the same as." That, too, differs from what we have previously had in HAZMAT where we are talking about as long as it is not inconsistent with. A totally different standard. Under S. 104, your State law is preempted if it is not substantially the same. Under HAZMAT, it would be preempted if it was inconsistent with. A big, big difference.

Now, here is what that means. The Senator that presides is from a Western State, and he knows the importance of water law to those of us in the West. He also knows, because his State, like my own, is relatively arid and ground water resources are of critical concern to the viability and the integrity of the economy of his State as well as my own. Under this provision in S. 104, the ground water quality control provisions of State law are preempted, even though those ground water provisions have long predated the debate about nuclear waste, because they are not substantially the same as the provisions of this act. So, in effect, the State of Nevada would be unable to exercise control of its own ground water based upon the standards established by law or regulation because those statements, standards or regulations are not substantially the same as a provision of this act.

So, in effect, we do have a preemption, a preemption in the first instance that gives us the inability to enforce State statutes enacted pursuant to an environmental delegation—the whole raft of Federal environmental legislation which has as its premise to allow States to enforce those standards so long as they enact statutes or regulations that would be equal to or greater than the Federal standard. We have no provision to apply for a waiver, and we have no ability for judicial review. Add to that not only do we preempt those provisions in State law that would be inconsistent with the enactment of S. 104, but those provisions that are not substantially the same. So a whole host of legislative enactments that have had nothing to do with the debate and Yucca Mountain or nuclear waste could be preempted.

Now, I have to tell you, what possible policy would justify that conclusion? Well, it is our friends to the nuclear utilities who, indeed, want to tie our hands, who, indeed, want to trample upon the environmental protection provisions that all Americans enjoy irrespective of State and to say to one State those provisions shall not be available to your citizens.

I want to talk about the viability assessment because that has been discussed at some length during the course of this debate. I think in order to do so we need to recount a little history.

Currently, a standard is being developed by the Environmental Protection Agency. That direction was part of the Energy Policy Act of 1992. The 1992 Energy Policy Act directs the Administrator of the Environmental Protection Agency to develop and promulgate a standard that is consistent with, and I shall read it:

> The administrator shall, based upon and consistent with the findings and recommendation of the National Academy of Sciences promulgate by rule public health and safety standards for protection of the public from releases from radioactive materials stored or to be disposed of in the repository at Yucca Mountain.

This was not a provision insisted upon by the Nevada delegation. This happens to be a decent policy that directs the EPA to develop a standard consistent with the National Academy of Sciences.

The National Academy of Sciences has come up with its recommendation, and the EPA is about ready to promulgate that standard. So what do we have now? We have legislation now in S. 104 that says the following. It is kind of now we give it to you and now we take it back. Now it says in S. 104 that the Administrator shall achieve consistency with the findings and recommendations of the National Academies of Science and the Commission shall amend its regulations accordingly.

All right, that sounds like basically we are talking about the standards that the Congress directed NAS to come up with the recommendations and the Environmental Protection Agency to adopt.

Not so, Mr. President, not so. Because the following text goes on to change those standards considerably. The risk standard, in terms of the group that is to be examined, in terms of the possibility of risk due to death from cancer, is changed; assumptions are made that are not part of the National Academy of Sciences, particularly the length of period for which the standard shall apply. It is assumed, for purposes of S. 104, that the standard has a premise that there is no population migration into or near or adjacent to the area, that we establish the standard based upon those people who currently live in the vicinity. That is certainly an unrealistic premise, and one that the academy of sciences would certainly reject, particularly in an area, as southern Nevada is, the fastest-growing place in America with a population that now exceeds 1 million people and in which the relentless movement of people in the southern Nevada area each month, and each year, moves to the north and toward Yucca Mountain. So, why would you freeze or limit the ability of those who are to promulgate the standards to only those people who are living where they are living today as opposed to those who would reflect reasonable migration changes?

Another provision is the assumption that there will be no human intrusion. Again, that is something specifically rejected by the National Academy of Sciences. So, we have a standard that is now being changed. It is now being changed. This standard was about ready to be promulgated based upon the 1992 Energy Act directives with respect to the National Academy of Sciences, and requiring the Environmental Protection Agency to adopt a standard that is consistent with those findings. Now we are given a whole additional subset of limitations and restrictions. It is as if one said: I want you to follow with great meticulous care and detail the Constitution of the United States, but you shall not consider the first amendment, you shall not consider the fifth amendment, or the sixth amendment. That is about what we have here. Follow the standards, but you cannot do this, you must not consider this, and you must put a limitation on the period of time for which that evaluation is being given in terms of prospective safety.

So we have a mockery of the standards. The standards are important for a number of reasons, but a lot of debate occurred here earlier this afternoon about the assessment—the viability assessment, as it is called—and the timeline. That is very, very important because the President of the United States is directed to make a viability assessment by no later than March 1, 1999. What is the problem? First of all, we expected that there would, in fact, be a standard promulgated, as I have indicated, because the Environmental Protection Agency, after some 5 years working with the National Academy of Sciences, is about ready to come forth with one. But as I have also indicated in my previous comment, no such standard is going to be approved because, if S. 104 becomes the law, a very different standard will emerge; a very different standard will emerge. So the President of the United States is going to have to make the viability determination. He is told, in the first instance, that he should rely upon the standard promulgated by the Environmental Protection Agency but I must say, in view of the fact that the standard is being changed totally, nobody believes that new standard will be ready by March 1, 1999, when the President has to make his viability assessment.

So, what does this legislation say? I have never seen anything like this. Once upon a time I practiced a little law, I read some statutes, examined some regulations. This provision goes on to say if the standard under section 206(F), that is what we have been talking about, has not been promulgated, and I reiterate I don't believe anybody believes that it will be, because they are being asked now to draft a new standard with all the limitations that we have previously recommended, then, in effect the President shall make this determination relative to an estimate—rather, the Secretary, excuse me—“relative to an estimate by the Secretary of an overall performance standard that is consistent with section 206 (F).”—an estimate, a guess; March 1, 1999, because S. 104 directs that a new standard be prepared, and it has taken essentially the better part of 5 years to develop the standard that was about to be promulgated. So, not only must the President make a viability assessment on a standard that is not in existence, he is directed to make a viability assessment based upon an estimate of what that standard might be—an estimate. That is just a very nice legalism for a guess. How in the world would he be able to make that determination when the technical people, the environmental agency, working with the National Academy of Sciences, would not have such a standard available to him for a determination? So, any suggestion of a standard, any suggestion of a viability assessment that is based upon a standard, is simply not going to occur.

I want to comment on this lawsuit, if I may, before yielding the floor to my senior colleague. We have heard it argued 500 different ways, in every conceivable mood, tense, that this lawsuit, with the decision that the Department of Energy has liability, that this is such a dreadful thing, that this will cause the ratepayers to endure all kinds of hardship, that they will be denied the benefit of that bargain, that it is a terrible, terrible thing and in fairness to the ratepayers we need to get S. 104 enacted.

There is not one word in this legislation that provides any relief to the ratepayers. I happen to think that the ratepayers are entitled to some protection because, in 1998, under no conceivable scenario will any kind of facility be open to which high-level nuclear waste can be transported. But I have to tell you, all of this wringing of hands, all of this gnashing of teeth, all of this great empathy for the ratepayer—and I happen to believe the ratepayer ought to be protected—not a single word in S. 104 provides benefits to the ratepayer because of additional costs which they might incur if, come 1998, they need to provide for additional storage on-site.

Indeed, as has been pointed out time and time again, the Secretary of the Department of Energy has made it very clear that compensation needs to be made. We have heard all kinds of things: It is going to cost $80 billion, $59 billion, $30 billion—the numbers are as elusive as a shooting star. But the measure of damages that the utilities, on behalf of their ratepayers, are entitled to is spelled out in the contract. It is spelled out in the contract that each utility was required to enter into in 1982 or shortly thereafter, when the Nuclear Waste Policy Act was entered into. It is clearly laid out in article 9, "delays." It is apparently a well-drafted contract.

> If the delays are unavoidable, then in such instances the schedule for delivery of nuclear waste is simply modified in accordance with the exigencies as they are in light of the delay.

No monetary damages are assessed. If, however, a determination is made that the delays were avoidable and that, indeed, the Department of Energy bears a responsibility for that delay, then specifically the contract provides:

> The charges and schedules specified by this contract will be equitably adjusted to reflect any estimated additional costs incurred by the party not responsible for or contributing to the delay.

Mr. President, that is fair and that is reasonable. If, indeed, a determination is made that this is a delay that is at the fault of the Department of Energy, the ratepayer and the utility is entitled to have the sums paid into the Nuclear Waste Trust Fund equitably adjusted to reflect any estimated additional cost incurred by the party not responsible for or contributing to the delay. Mr. President, I agree with that. That is fair to the ratepayer. Indeed, in legislation that I have introduced in each Congress since 1989, I have essentially proposed that kind of remedy.

So, if my colleagues are concerned about the additional cost that the ratepayer may incur because of the unavailability of a repository in 1998, S. 104 provides no comfort for them or their constituents. There is no relief with respect to any additional cost that may be incurred.

Mr. President, I am going to stop here and yield the floor and give my colleague an opportunity to make some comments and then I will conclude my remarks thereafter.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Nevada.

Mr. REID. Mr. President, S. 104 is a bad bill in the form it was originally introduced. The bill in its substitute form is bad—for a lot of different reasons. No one in this body that I know of is more in tune with the substance of legislation than is the junior Senator from New Mexico. This man, who graduated from Stanford University among other schools such as Harvard, is a person who understands the merits of legislation. He has worked for years to try to improve this piece of legislation. He has worked on it because he believes in good public policy. He has failed. He has tried, he has tried, but when it comes right down to it, the proponents of this legislation will not give the junior Senator from New Mexico anything that will really substantively improve the bill. They have tried at the edges to play with it a little bit, but they have not been willing to change the substance of this poor legislation.

The Senator from New Mexico summed up this legislation best in his closing few minutes of remarks today when he said, and I am paraphrasing: It is very obvious what is happening. Once the system is short-circuited and they go around the law that now exists and establish a temporary repository, that will end good science and good law.

In effect, what he was saying is once interim storage is established, the billions, the billions of dollars spent trying to determine if Yucca Mountain is suitable would be wasted. That is what it amounts to. S. 104 is bad. It does not deal with transportation. We do not have the means of safely transporting nuclear waste today anywhere in the world, as evidenced by what happened recently in Germany. We will talk about that later.

Why do all environmental groups—I repeat, all environmental groups, not 65 percent of them, not a majority, not a vast majority, not 85 percent—100 percent of environmental groups oppose this legislation? Not a single group favors this legislation. Why? Because it would be difficult to dream up a scenario that would be worse than this for the environment.

One of the things we have not talked about is terrorism.

We will talk about terrorism in a few minutes, but this legislation does not do anything to address the terrorism that is sweeping this world and is sweeping this country, and this bill leaves the terrorists a sitting duck.

To show how insincere proponents of this legislation are, let's take one amendment that was offered and defeated. We have heard on this Senate floor for the past week how safe it is to transport nuclear waste, how safe it is generally. In fact, we were told by one of the proponents of this legislation that it was safer to transport nuclear waste than it was to pick up a carton of milk at a grocery store and take it to your home. That is not a paraphrase, that is a statement that was made.

If, in fact, that is true—and, of course, it is not—but if it is true and the proponents of this legislation really believe that, why wouldn't they accept an amendment we offered that simply said, if you want to transport nuclear waste through a State, the Governor of that State should agree to let it pass through the State? If this material can be transported safely and the material is as benign as they say, if it is like picking up a carton of milk at 7-Eleven and taking it home, then they should have supported our amendment, but they did not do that.

Mr. President, what is happening can best be illustrated by virtue of an editorial that appeared last week in the Washington Post newspaper. This editorial said, among other things, that this was not the appropriate thing to do, this is not the time to bring up this legislation.

I ask unanimous consent that the full text of the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 8, 1997]

WASTE VOTE IN THE SENATE

The Senate is scheduled to take a cloture vote today on a bill to create an "interim" national nuclear waste repository in Nevada. The outcome is likely to be the same as last year: votes enough to limit debate and pass the bill, but not to overcome the president's promised veto. Our own sense is that the bill is the wrong solution to a genuine problem. The president is right to keep it from passing, but then the administration owes a real alternative, not just lip service to a process that is a pretext for deferral.

Waste disposal always has been the great unsolved problem of nuclear power. Proponents like to say the nuclear alternative is clean when compared with such other sources of power as coal. It is until you get to the disposal issue: what to do with the spent fuel rods. Then it's the dirtiest of all.

The expectation always has been that government would play a major part in the disposal issue. In 1982 Congress spelled out the process. A fee would be imposed on consumers of electricity to create a fund; the fund would be used to plan, build and fill a permanent national nuclear waste repository. By a process of elimination having at least as much to do with congressional politics as with science, Yucca Mountain in Nevada was subsequently chosen, over the protests of Nevadans, as the likeliest site. Safety, environmental and all manner of other studies have been underway ever since.

The government was supposed to start accepting the spent fuel in 1998. There isn't a prayer it will be ready, and meanwhile the material is building up in the storage facilities at the power plants. The bill to create the interim facility is an effort by the industry to force the government's hand on the theory that, absent a forcing move, nothing will ever be done. The utilities are entitled to feel that way. But the interim facility would be adjacent to Yucca Mountain, and the fear on the other side is that that would be it: Yucca Mountain would become the permanent site whether the studies showed it to be best suited or not.

The permanent storage decision is too important to be made under that kind of pressure. At the same time, the administration needs to give the industry some assurance that the process won't drag on forever. There are critics of the industry who would like to see it choke on its own waste, but that's not a solution. Whatever the future of the industry, the waste is here. There needs to be a policy of something other than deferral to deal with it.

Mr. REID. Mr. President, "Waste Vote in the Senate" is the headline. The Washington Post said:

> Our own sense is that the bill is the wrong solution to a genuine problem . . . Proponents like to say the nuclear alternative is clean when compared with such other sources of power as coal. It is until you get to the disposal issue: what to do with the spent fuel rods. Then it's the dirtiest of all . . . .
>
> The permanent storage decision is too important to be made under that kind of pressure.

The Washington Post, Mr. President, said that we are being stampeded into a decision that will have long-term detrimental effects on this country. I believe the Washington Post.

We also know that the President of the United States is going to veto this bill. He is going to veto this bill if it gets 100 votes, which it will not. He is going to veto this legislation no matter how many votes it gets, because Bill Clinton believes this is bad policy.

The President has said in a statement of policy earlier this month, about a week ago, that this was bad policy for our country. This statement has been coordinated with all the Federal agencies. We should remember that the President is going to veto this for good reasons: It is bad policy.

The easiest thing for the President of the United States to do would be to join with a vast majority who support this legislation, not the majority of people, because the President is helping to set public policy to oppose this legislation, but it would be easy for him, less controversial for him, if he would go along with the madding crowd here that says, "Let's support this legislation." He won't do that for a number of reasons, not the least of which, as I indicated, it is bad public policy.

We also know that the Secretary of Energy, Federico Peña, opposes this legislation, with a letter directed to us on April 8, 1997.

I ask unanimous consent that a statement of administration policy be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, April 7, 1997.

STATEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies.)

S. 104—NUCLEAR WASTE POLICY ACT OF 1997—MURKOWSKI (R–AK) AND 27 COSPONSORS)

If S. 104 were presented to the President in its current form, the President would veto the bill. S. 104 would undermine the credibility of the Nation's nuclear waste disposal program by, in effect, designating a specified site for an interim storage facility before the viability of that site as a permanent geological repository has been assessed. The bill would also undermine the ongoing work on the permanent disposal site by siphoning away resources for an interim site.

The Administration is committed to resolving the complex and important issue of nuclear waste storage in a timely and sensible manner. The Federal government's long-standing commitment to permanent, geological disposal should remain the basic goal of high-level radioactive waste management policy. This Administration has instituted planning and management initiatives to accelerate progress on assessing Yucca Mountain, Nevada, as a permanent geologic disposal site, and urges the Congress to provide sufficient resources to allow the Administration to complete the Yucca Mountain viability assessment in 1998.

S. 104, however, would effectively establish Nevada as the site of an interim nuclear waste storage facility before the viability assessment of Yucca Mountain as a permanent geologic repository is completed. Moreover, even if Yucca Mountain is determined not to be viable for a permanent repository, the bill would provide no plausible opportunity to designate a viable alternative as an interim storage site. Any potential siting decision concerning such a facility ultimately should be based on objective, science-based criteria and informed by the likelihood of the success of the Yucca Mountain site.

In addition, the Administration strongly objects to the bill's weakening of existing environmental standards by preempting all Federal, State, and local laws inconsistent with the environmental requirements of this bill and the Atomic Energy Act. This preemption would effectively replace EPA's authority to set acceptable radiation release standards with a statutory standard and would create loopholes in the National Environmental Policy Act.

Mr. REID. Mr. President, I ask unanimous consent that the letter from the Secretary of Energy to the Honorable TOM DASCHLE setting forth the Department of Energy's policy be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, April 8, 1997

Hon. TOM DASCHLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DASCHLE: I am writing to inform you of the Department of Energy's views on S. 104, the Nuclear Waste Policy Act of 1997, as reported by the Committee on Energy and Natural Resources.

The Administration's position on nuclear waste is clear: we are committed to resolving the complex and important issue of nuclear waste disposal in a timely and sensible manner, consistent with sound science and protection of public health, safety, and the environment. The Administration believes that the federal government's longstanding commitment to permanent, geologic disposal should remain the basic goal of high-level radioactive waste management policy.

The Administration's position on S. 104 is also very straightforward. The Administration believes that a decision on the siting of an interim storage facility should be based on objective, science-based criteria and should be informed by the viability assessment of Yucca Mountain. Therefore, as the President has stated, he would veto any legislation that would designate an interim storage facility at a specific site before the viability assessment at Yucca Mountain has been completed.

I believe that one of the premier challenges the Department of Energy faces is that of nuclear waste disposal. This challenge requires that we develop the scientific data for the viability assessment of Yucca Mountain as the repository of the Nation's radioactive waste. The repository effort is essential not only for commercial spent fuel disposal but also for the cleanup of the nuclear weapons complex and disposal of weapons-grade materials in furtherance of our nuclear non-proliferation goals.

I am sensitive to the frustrations expressed over the Department's inability to accept spent nuclear fuel by January 31, 1998. As I committed during the confirmation process, I have met with representatives of both the utility industry and environmental organizations to discuss ways of mitigating the impacts of this delay. I will also be meeting in the near future with representatives of the state public utility commissions.

Last week, I began a cooperative process with representatives of the utility industry to address the difficult and controversial issues of how the Department will meet its 1998 contractual commitment. I believe we had a constructive discussion of these issues, and we agreed to set up working groups to continue the discussion in the next several weeks. We discussed a number of options for meeting the 1998 commitment, ranging from compensation, to taking title to utilities' spent fuel, to moving the fuel. I also expressed my personal commitment to fill the position of Director of the Office of Civilian Radioactive Waste Management as soon as possible and committed to provide more frequent technical updates on the progress of work at Yucca Mountain to stakeholders.

Unfortunately, the legislation now pending before the Senate, S. 104, contains elements that undermine the Federal government's longstanding commitment to seeking a permanent solution to the nuclear waste problem. The bill would effectively establish the Nevada Test Site as the site for an interim storage facility before the Yucca Mountain viability assessment is completed. If the Yucca Mountain site is found not to be viable, the provisions of the bill do not provide sufficient time to designate, license, and construct a facility at any alternative to the Nevada Test Site, thereby forcing the siting of an interim facility in Nevada regardless of the outcome of the viability assessment. This would be an unwise rush to judgment. Furthermore, designating an interim storage site, before the government can be informed by the repository viability assessment, would jeopardize the long-term strategy for the ultimate disposal of nuclear waste and undermine public confidence in the near-term transportation and storage activities.

S. 104 also contains unrealistic schedules for beginning interim storage facility operations, which, could not be met even if a site were available today. It would repeat the mistakes of the past with regard to unrealistic schedules for completing actions without regard to generating public support. Such schedules would result in excessively curtailed regulatory processes and potential competition for funding between the repository program and interim storage project.

Finally, I want to emphasize that the Department of Energy has, in fact, made significant progress in this program over the last four years and will be in a position by late 1998 to assess the viability of the Yucca Mountain site for a geologic repository. The Department has underway an aggressive site characterization program at Yucca Mountain focusing on the most critical technical questions (e.g., hydrology, waste package lifetime, and the effects of heat on the repository block). The Department has reduced the cost of the technical and scientific work associated with preparing a license application by approximately 40 percent. The Department also has excavated over four miles of the five-mile underground loop of the Exploratory Studies Facility and expects to complete the tunnel this spring and complete seven test alcoves by the end of this year. Following completion of the tunnel, the Department will collect additional scientific and engineering data in order to prepare the materials necessary to complete the viability assessment. Designation of an interim storage site prior to completion of this work is likely to undermine public confidence that a repository evaluation will be objective and technically sound.

For all of these reasons, I urge you and your colleagues to join the President and the Administration in opposing this legislation.

Sincerely,

FEDERICO PEÑA.

Mr. REID. Also, Mr. President, I have from the Council on Environmental Quality—and let me explain to the viewers what this is. The President has, and it has been in the last 20 years, an agency within the Executive Office of the President that gives the President advice on environmental issues. The chairperson of that very important office is Katie McGinty. Her office has advised the President this legislation is bad legislation. She has advised the minority leader and the majority leader of the U.S. Senate that it is bad policy.

I ask unanimous consent that a letter dated April 7, 1997, indicating Katie McGinty's absolute opposition to this legislation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, COUNCIL ON ENVIRONMENTAL QUALITY,

Washington, DC, April 7, 1997.

Hon. TOM DASCHLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DASCHLE: The purpose of this letter is to express my opposition to S. 104, which effectively mandates construction of an interim storage facility for nuclear wastes at the Nevada Test Site, near the location under consideration as a permanent geologic repository at Yucca Mountain. This Administration supports a long-term solution for the disposal of nuclear wastes, but not, as would be the case with S. 104, at the expense of sound science and public health, safety and environmental protection. While I am troubled by a number of provisions in the bill that would undermine such safeguards, I am particularly concerned over the dismantling of the environmental impact assessment process under the National Environmental Policy Act (NEPA).

Congress passed NEPA in 1969 to ensure that federal agencies integrate environmental values, as well as social, economic and technical factors, into the decision making process. To that end, section 102 of NEPA establishes an "action forcing device," known as an environmental impact statement (EIS), for proposed major federal actions significantly affecting the quality of the human environment. At the heart of the EIS process is the alternatives analysis, in which reasonable alternatives to the proposed action are addressed in an effort to provide a clear basis of choice by decision makers and the public, and to ensure that the most environmentally sound course of action is taken.

S. 104 renders the NEPA process meaningless by precluding the incorporation of NEPA's core values which are necessary for making informed and timely decisions essential for protecting public health, safety and environmental quality. Consequently, the bill all but locks into place both interim and permanent storage sites by giving decision makers no reasonable options in the event that Yucca Mountain is found unsuitable.

If Yucca Mountain is found unsuitable for permanent geologic disposal, the time lines in the bill virtually ensure there will not be enough time for the President to designate, and the Secretary of Energy to construct, an interim site. Further, since the EIS for both the interim and permanent facilities are not required until well after the critical decisions have been made—including site selection, design, and some construction—either or both facilities may well be so far into development that if health, safety or environmental problems are identified, there would be no time, nor would it be economically feasible, to look to other sites. This is even more compelling since the bill prevents actions taken by the Secretary and the Nuclear Regulatory Commission from being challenged in court until after these critical decisions have been made.

Finally, S. 104 precludes the EIS from addressing potential long-term environmental impacts of interim storage; only the initial term of the license or subsequent renewal periods may be considered. In addition, the bill tends to downplay health and safety concerns of state and local communities by stating that the EIS may address the environmental impacts of the transportation of the nuclear wastes to the interim storage facility, only "in a generic manner."

The permanent disposal of nuclear waste is critical to all Americans, and to future generations. When Congress passed NEPA in 1969, it envisioned a decision making process that would ensure that federal agencies "look before they leap." This can occur only if reasonable alternatives to a proposed action are explored earlier in the planning stages, with meaningful public involvement. Only then can an agency make a fully informed decision, one which provides assurances for the maximum possible protection of human health and the environment.

Thank you for your consideration of this matter. Please do not hesitate to contact me or members of my staff if we can be of further assistance.

Sincerely,

KATHLEEN A. MCGINTY,
Chair.

Mr. REID. Mr. President, not only do we have Government agencies opposing this legislation, we have already established that the scientific community opposes this legislation. When this legislation was established, it was determined that there should be some nonpartisan, scientific group that could give the Congress and the President a scientific view as to what was happening on nuclear waste.

The Nuclear Waste Technical Review Board was established, and a group of scientists were selected. The chairman of this group is from prestigious Yale University. He is a dean at one of the schools there. They have said, do not support this legislation, interim storage of nuclear waste should not be.

Mr. President, in addition to scientists, we also have environmental groups all over the country who oppose this legislation.

So I guess I would say to the Chair and those within the sound of my voice, which position would you support? The position of the monopolistic nuclear utilities, the nuclear power lobby? Or the scientific community unions, like the United Transportation Union, environmentalists, and churches? I would say, first glance and second glance and third glance, you would go along with the churches, scientists and the environmentalists.

I am not going to read and have printed in the RECORD the statements from almost 200 environmental groups, but let me just give a brief statement from an environmental group in Atlanta, GA. This group is called WAND from Atlanta, GA, W-A-N-D. I have a letter written to every Senator:

> [We strongly urge] you to oppose S. 104, the Nuclear Waste Policy Act . . . vote against final passage [of this bill].
>
> S. 104 paves the way for a new era of disregard for public health and safety. The bill carves loopholes in the National Environmental Policy Act, preempts other environmental laws, and eliminates licensing standards for permanent repository. The radiation release standard set by the bill for the permanent repository of 100 millirems would allow individuals to receive four times as much radiation as permitted by current regulations for nuclear waste storage. . . .
>
> S. 104 mandates interim storage. . .despite the lack of justifiable rationale for interim storage and safety concerns with that site. In the process this bill weakens environmental standards that protect the public, preempts states' rights, and limits public participation in the decisionmaking process.

I ask unanimous consent that the full text of the Women's Action for New Directions in Atlanta, GA, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WOMEN'S ACTION FOR NEW DIRECTIONS,
Atlanta, GA, March 28, 1997.

U.S. Senate,
Washington, DC.

DEAR SENATOR: Women's Action for New Directions (WAND) strongly urges you to oppose S. 104, the Nuclear Waste Policy Act of 1997, support a likely filibuster by Senators Bryan and Reid, and vote against final passage should this bill come to the floor.

S. 104 paves the way for a new era of disregard for public health and safety. The bill carves loopholes in the National Environmental Policy Act, preempts other environmental laws, and eliminates licensing standards for the permanent repository. The radiation release standards set by the bill for the permanent repository on 100 millirems would allow individuals to receive four times as much radiation as permitted by current regulations for nuclear waste storage. By setting aside important regulations and standards for short-term expediency, the bill sets the stage for future exemptions when other radioactive waste problems, such as cleanup of the nation's nuclear weapons complex, become too perplexing or expensive.

S. 104 mandates interim storage for high-level waste at the Yucca Mountain Nevada site, the proposed permanent repository, despite the lack of justifiable rationale for interim storage and safety concerns with that site. In the process this bill weakens environmental standards that protect the public, preempts states' rights, and limits public participation in the decision-making process. It would set into motion the largest nuclear waste transportation project in human history, sending thousands of tons of radioactive waste onto the roads and railways in 43 states, without safety standards. It imposes an unrealistic November 1999 date for the beginning of high-level waste transportation, despite Nuclear Regulatory Commission conclusions that the waste can stay where it is for 100 years.

Even amendments added to change some items in the bill, such as Senator Wyden's amendments protecting Hanford from becoming an interim dump site, and some transportation provisions, do not address the overall failures of the bill and its mockery of environmental protection.

We believe the nation's current nuclear waste policy is fundamentally flawed. It places an unfair burden on politically isolated, often indigenous people, endangers public health and safety. . . .

* * * * *

Mr. REID. Mr. President, native Americans have joined together almost in unison against this legislation. Native Americans also have an organization called National Environmental Coalition of Native Americans, NECONA. They have said this legislation is extremely bad. They have done this in the form of a letter written on March 31 of this year:

> [D]eveloping a storage facility now would jeopardize the repository program and has the added risk of prejudicing any future decision about the suitability of that site. . .
>
> The DOE lists 109 cities of over 100,000 people which would be impacted. Dozens of our tribes would also be impacted, and the most recent DOE survey of tribal and state capabilities to deal with nuclear transportation accidents revealed many serious gaps in preparedness.

I ask unanimous consent that the full text of the NECONA statement be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ENVIRONMENTAL
COALITION OF NATIVE AMERICANS,
Prague, OK, March 31, 1997.

DEAR SENATOR: We are writing to you as a non-profit, educational coalition of Indian people who have been long concerned about national and international nuclear waste policy. Some of us live near current nuclear waste sites, and others are threatened with massive transportation impacts if plans for future nuclear waste sites are implemented. Seventy-one tribes in North America have declared their lands to be Nuclear Free Zones.

We urge you to oppose the current Senate bill S. 104 which calls for centralized interim storage of high level nuclear waste and nuclear irradiated fuel at the Nevada site at Yucca Mountain. NECONA, with other environmental groups, views this bill as an unwise re-direction of U.S. nuclear waste policy.

Congress's own Nuclear Waste Technical Review Board in March 1996 released a report which stated forcefully that "there are no compelling technical or safety reasons to begin moving spent fuel from reactor sites for the next several years, so the development of a centralized storage facility should be linked to the decision about the suitability of Yucca Mountain," in about five years. "[D]eveloping a storage facility now would jeopardize the repository program" and "has the added risk of prejudicing any future decision about the suitability of that site . . ."

The industry's bills, for example S. 104, to the contrary would direct DOE to place its "highest priority" effort on a temporary "interim storage facility" in Nevada. While we have serious concerns about the DOE program at the Yucca Mountain site, we do not wish to see a reversal of the current policy, since the 1982 Nuclear Waste Policy Act, of placing highest priority on a continued search for long-term disposition of nuclear waste.

The nuclear utility industry is pushing in these bills an irresponsible and phony "solution" to the problem of nuclear waste. The U.S. Department of Energy in 1996 produced new national maps depicting the national and state routes, by highway and rail, over which massive numbers of irradiated fuel shipments will move beginning around 1999 if the legislation is enacted. The DOE lists 109 cities over 100,000 which would be impacted. Dozens of our tribes would also be impacted, and the most recent DOE survey of tribal and state capabilities to deal with nuclear transportation accidents revealed many serious gaps in preparedness.

The nuclear industry should not be allowed to wash their hands of their ever-mounting nuclear wastes by merely putting the wastes on the rails and highways for thirty years on the way to an interim storage facility—which will most nearly resemble a parking lot—in Nevada.

* * * * *

Mr. REID. Mr. President, I will also state that the Physicians for Social Responsibility, a group consisting of 16,000 American physicians, oppose this legislation. We have a letter from their executive director, Dr. Musil, who says to every Senator:

> We . . . oppose Senate bill 104 . . . because it mandates a badly flawed nuclear waste management strategy which potentially endangers public health.

I ask unanimous consent that the full text of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PHYSICIANS FOR SOCIAL RESPONSIBILITY,
Washington, DC, March 25, 1997.

DEAR SENATOR: Physicians for Social Responsibility is one of the nation's largest organized medical societies, with more than 16,000 members and supporters nationwide, representing all major fields of medicine. We write to urge you to oppose Senate bill 104, the Nuclear Waste Policy Act of 1997, because it mandates a badly flawed nuclear waste management strategy which potentially endangers public health.

S. 104 would allow construction of an "interim" nuclear waste dump near Yucca Mountain in Nevada. Storing highly radioactive waste at the site presents a potentially serious public health danger. The Geological Society of America has reported at least 15 small earthquakes since May 1995 at Yucca Mountain, which sits atop two earthquake faults. Moreover, transporting waste where long-term isolation cannot be assured is irresponsible and creates new and possibly greater dangers.

S. 104 would require the greatest nuclear waste transportation project in history. It would put 95% of the radioactivity of U.S. nuclear waste on our nation's roads and railways in casks of questionable safety. The bill would send highly radioactive nuclear waste through 43 states within one-half mile of 52 million people, providing minimal protection to local communities.

S. 104 would exempt nuclear waste from most environmental laws. The bill would exempt site selection, license application, and construction from the Environmental Impact Statement (public participation) process normally required by the National Environmental Policy Act. It would also set radiation release standards far higher than any other standard, presenting greater risks to public health and safety.

Alternatives should be explored. Our organization seeks a thorough examination and review of all national nuclear waste policies and programs. Such a process should include meaningful and effective public participation to ensure a program that is safe and acceptable to the American public.

We, as health professionals, are deeply concerned about the grave dangers S. 104 would pose to public health and safety. Please do not trade protection of human health and the environment for a short-term non-solution to the nuclear waste problem. Please vote no on S. 104.

Sincerely,
ROBERT K. MUSIL, PH.D.,
Executive Director.

Mr. REID. Mr. President, in short, this legislation is bad. The technical experts say it is bad. There is no technical or safety reason to move spent nuclear fuel. It is before us for one simple reason, and that is the power of the nuclear utilities. The motive of the nuclear utilities is more money. We have already established the huge profits they make. I compared their 17 percent average profit to what I learned in a case that I handled against Safeway Stores. They make a little over 1 percent on their volume. The nuclear utilities make 17 percent. This legislation is here, it is motivated by money, and they want more money. Their greed is endangering the American public, our fragile environment and the Nation's policy to develop a permanent repository for spent nuclear fuel and high-level radioactive waste.

This bill, S. 104, is anti-environmental. The bill is opposed by every environmental group in America, as I have stated several times. This bill is a disaster for the environment. The public opposes this legislation because they see the facade of S. 104's hysterical claims of crisis for onsite storage. This is not true.

The real motivation, we have established, is money. The best option is to leave it on site, right where it is today, Mr. President. We would save billions of dollars, and it would be safe. Everyone should be outraged by this legislation. No better evidence of bad legislation exists than that the provisions of the legislation prohibit discussion and full and open disclosure of the bill's consequences and its alternatives.

S. 104 is proposing to violate the intent of the National Environmental Policy Act of 1969, because the nuclear power industry would fail in its efforts if the law were obeyed. The nuclear power industry is indifferent to environmental quality, especially when it comes to money.

This legislation would try—and I underline "try"—to prematurely ship tens of thousands of tons of spent nuclear fuel needlessly before the country is ready to do that. Past shipments of nuclear waste showed there would be about one accident on the road or rail for every 300 shipments. That suggests, under S. 104, we would have at least 50 accidents involving high-level nuclear waste.

That is only part of the story, because in the examples that they used, we are talking about very short hauls of nuclear waste. Here we are talking about hauling nuclear waste thousands of miles.

Most of the shipments under this legislation would be transcontinental. Truck transport statistics predict about six accidents every million miles, while rail statistics predict about 12 accidents per million miles.

Using these statistics, the Nation should expect more than 160 accidents involving spent nuclear fuel or high-level radioactive waste. Each of these accidents would risk radioactive dispersal from canisters, each of which contain the radiological equivalent of 200 Nagasaki bombs. They are talking about hauling this poison, and the canisters have not even been designed. The only thing they designed are requirements that canisters survive only if you are going less than 30 miles an hour and have fire temperatures of only 1,475 degrees.

We all know that most accidents occur going more than 30 miles per hour. The technical community knows that diesel burns on the average at 1,800 degrees. The canisters survive only 1,400-plus degrees, 1,475 at the most. Under some conditions, Mr. President, diesel fuel burns at temperatures exceeding 3,000 degrees, more than twice what the canisters would withstand.

So if this is not enough, the chairman of the Nuclear Waste Technical Review Board also opposed this plan, as I have already mentioned, because the country is not ready yet to ship nuclear waste.

Truck crews have not been trained. There is no integrated emergency response plan for these accidents. Police, fire, emergency, medical, hazardous material management, radioactive material management—all these teams must be developed, and once they are developed become an integrated capable force.

The response force needs an accepted and capable command and control structure to organize their action. They do not have one.

The response force needs to be equipped with technical gear peculiar to radioactive material management. They do not have it.

The response force needs to train together so they can work together when it becomes necessary. Integrated training has not been done or even contemplated.

It could not be more obvious that we are not ready to move spent nuclear fuel or high-level radioactive waste across this country.

S. 104 is an open invitation to terrorists. We know that terrorists will do anything to grab a headline. Terrorists exist both at home and abroad. Terrorists can move freely through this country. Everybody knows the routes and schedules of waste shipments. Weaponry exists that can breach waste containers. Everybody knows that terrorists with a little bit of money and determination can get these weapons.

Places exist along those routes where shipments could be stopped where we know there would be time enough to breach the canisters and disperse the waste, to say the least.

We must do something to prevent terrorists from attacking these irresistible targets. We have done nothing. We continue to not do anything to prevent this kind of threat.

We need to be prepared to respond with effective and overwhelming capability in a very short time if our prevention tactics fail.

We are not planning for prevention. We are not planning for response. We are sitting around with our heads in the sand hoping that this will not happen. That is just what terrorists count on.

S. 104 spends not one bit of its energy or money on this critical issue because the nuclear power industry does not care that much. They only care about money. That is the only thing they care about.

They would risk the lives and health of tens of millions of citizens living and working within 10 miles of the routes of this transportation system.

The nuclear power industry and the sponsors of S. 104 have not convinced the American people that spent nuclear fuel is safe.

I have said previously on this floor—and I think it speaks volumes—they tried this recently in Germany. They could not do it, Mr. President. We are talking about moving this waste thousands and thousands of miles. They tried in Germany to move it less than 300 miles.

What did it take to move six canisters 300 miles? It took 30,000 police, 170 injuries, 500 arrests, $150 million. Germany has said, "We're backing off. This is a program that won't work."

So now, Mr. President, that orderly and conservative region of Germany has become a hotbed of protest and hatred for the government. The transportation program has been stopped. The police have refused to continue with arrests and suppression. The German parliament, as I mentioned, is reconsidering its decision to move the waste. All that for six casks moving just a short distance.

We have talked, Mr. President, about terrorism. I want everyone to understand that this is not something that is just being made up.

In fact, one organization from North Carolina, just last year, decided how hard it would be to commit an act of terrorism with a nuclear waste shipment. They determined it would be as easy as falling off a log.

Referring to a letter to the U.S. Senate about a year ago, the Blue Ridge Environmental Defense League, which is an old organization, in existence for 15 years thereabouts, decided to see if they could find a load of nuclear waste and follow it. They could follow it. It was real easy.

They said:

> In the wake of Oklahoma City and Atlanta the dangers posed by domestic or international terrorists armed with explosives make the transport of highly radioactive spent nuclear fuel too dangerous to contemplate for the foreseeable future.

My friend, the manager of this bill, the senior Senator from Alaska, said: "What are we going to do? Just throw it in the air? If we do, it is going to come down some place."

That's the whole point of the terrorists. It won't just come down some place; it will come down all over the place—with no control over where it will come down, according to the Blue Ridge Environmental Defense League.

They have said that "Our work"—and they only looked in three States, North Carolina, Tennessee, and Virginia—"takes us to many rural communities. Emergency management personal in these areas are dedicated volunteers, but they are unprepared for nuclear waste. Volunteer fire departments in rural counties are very good at putting out house fires and brush fires," but that is about all.

"The remote river valleys and steep grades of Appalachia are legendary. At Saluda, NC the steepest standard gauge mainline railroad grade in the United States drops 253 feet/mile," or a 4.8-percent grade. "The CSX and Norfolk Southern lines trace the French Broad River Valley and the Nolichucky Gorge west through the Appalachian Mountains along remote stretches of rivers famous among whitewater rafters for their steep drops and their distance from civilization. The Norfolk Southern [Railroad] crosses the French Broad River at Deep Water Bridge where the mountains rise 2,200 feet above the river. These are the transport routes through western North Carolina that will be used for high level nuclear waste" if this legislation passes.

Mr. President, I ask unanimous consent that their letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BLUE RIDGE ENVIRONMENTAL
DEFENSE LEAGUE,
Marshall, NC, July 29, 1996.

Hon. TOM DASCHLE,
U.S. Senate, Washington, DC.

DEAR SENATOR: The Nuclear Waste Policy Act of 1996 (S 1936) would place in jeopardy the lives of millions of American citizens by transporting 15,638 casks of highly radioactive material over railways and highways of this nation. This attempt at a quick-fix for the nuclear waste dilemma would cause more problems than it attempts to solve. The people who would bear the greatest burden would be the 172 million Americans who live nearest the transportation corridors. S 1936 is a legislative short-circuit that will make us less secure as a nation and which will dump the costs of emergency response on the states and local governments.

The Blue Ridge Environmental Defense League began in 1984: our work takes us throughout the southeast. Since 1994 we have observed the international shipments of spent nuclear fuel (SNF) from foreign research reactors (FRR) to a disposal site at the Savannah River Site (SRS) in South Carolina. Two shipments arrived at the Military Ocean Terminal at Sunny Point (MOTSU) in North Carolina, were loaded onto rail cars, and then transported overland to SRS. We were able to track both of these shipments from their ports of origin in Denmark, Greece, France, and Sweden across the Atlantic to North Carolina to SRS. We observed the fuel shipments when they arrived at MOTSU. We watched the SNF transfer from ship to train and followed it through the countryside of coastal North and South Carolina. Our reason for doing this was to alert people along the transport route about the shipments through their communities. We rented a light plane and flew out over the SNF ships when they reached the three-mile limit. Television news cameras accompanied us and transmitted pictures for broadcast on the evening news. If we can track such shipments, anyone can. These shipments cannot be kept secret so long as we live in a free society. Our actions were peaceful, but we proved that determined individuals on a shoestring budget can precisely track international and domestic shipments of strategic materials. In the wake of Oklahoma City and Atlanta the dangers posed by domestic or international terrorists armed with explosives make the transport of highly radioactive spent nuclear fuel too dangerous to contemplate for the foreseeable future.

Our work in North Carolina, Tennessee, and Virginia takes us to many rural communities. Emergency management personnel in these areas are dedicated volunteers, but they are unprepared for nuclear waste. Volunteer fire departments in rural counties are very good at putting out house fires and brush fires. While serving as a volunteer fire fighter in Madison County, NC, I had the privilege of working with these men and women. We took special training to handle propane tank emergencies utilizing locally-built water pumper trucks. More sophisticated training or equipment was prohibitively expensive and beyond our financial means. Traffic control is a consideration at an emergency scene. Any fire or accident tends to draw a crowd. Onlookers arrive as soon as the fire department—sometimes sooner in remote areas. There are always traffic jams reducing traffic flow to a one-lane crawl day or night, fair weather or foul. The remote river valleys and steep grades of Appalachia are legendary. At Saluda, NC the steepest standard gauge mainline railroad grade in the United States drops 253 feet/mile (4.8% grade). The CSX and Norfolk Southern lines trace the French Broad River Valley and the Nolichucky Gorge west through the Appalachian Mountains along remote stretches of rivers famous among whitewater rafters for their steep drops and their distance from civilization. The Norfolk Southern RR crosses the French Broad River at Deep Water Bridge where the mountains rise 2,200 feet above the river. These are the transport routes through western North Carolina that will be used for high level nuclear waste transport as soon as 1998 according to S. 1936.

County emergency management personnel are entrusted with early response to hazards to the public in western North Carolina communities. When we asked about their readiness to respond to a nuclear transport accident, they answered professionally saying, "We'll just go out there and keep people away until state or federal officials arrive." This may be the best that can be done while a fire burns or radiation leaks from a damaged cask. In a recent interview, one western NC emergency coordinator said, "There is no response team anywhere in this part of the state and, for the foreseeable future, there is no money in local budgets to equip us with any first response to radioactive spills."

The concerns of local officials reflect their on-the-scene responsibility while state officials, faced with limited budgets and staff, make plans based on current bureaucratic realities. The Nuclear Waste Policy Act and Amendments of 1982 and 1987 place large-scale nuclear transportation scenarios decades in the future. This fact and the limited resources of existing emergency planning departments make the timeline for preparation for nuclear accident response completely inadequate for shipments beginning as soon as 1998. In North Carolina's Division of Emergency Management, the lead REP planner has four staffers and a whole state to cover. It is not possible, under these circumstances, to be ready with credible emergency response plans, training, and equipment in two years.

I am asking you to oppose this expensive and dangerous legislation which would place an unfair and unnecessary financial burden on communities and which would place at risk the health and safety of millions of American citizens.

Respectfully,

LOUIS ZELLER.

Mr. REID. I would just say that terrorists' modus operandi is to find areas of weakness so that they can spread terror. This, believe me, Mr. President, would spread terror. And that is an understatement.

As my colleague from Nevada pointed out, S. 104 is not improved with the substitute.

This substitute amendment is no better than S. 104 as originally submitted.

The bottom line of this substitute is that the nuclear power industry and its allies insist that spent nuclear fuel be stored in Nevada no matter what.

They did not address their real concern, they say, and that is transportation. They did not address environmental concerns.

The bill now says that if Yucca Mountain is found unsuitable by the President, then a different interim storage site must be designated within 24 months. If that is not bad public policy, I cannot believe what would be.

If a different interim site is not designated within that period, then Nevada would become the default storage site, even though it has already been determined scientifically to be inadequate for that purpose.

Everybody knows that no alternative site can be designated in 24 months. Everybody knows we spent well over 15 years trying to decide whether Yucca Mountain is suitable. At least that much time would be required before another interim site could be designated.

Yucca Mountain must be designated as interim storage site under S. 104 regardless of the suitability assessment. That is wrong. That makes a mockery of the scientific and objective process of site characterization at Yucca Mountain.

S. 104 makes worthless the more than $2.5 billion spent on developing the Exploratory Studies Facility at Yucca Mountain.

S. 104 makes worthless all the preceding legislation and all the scientific investments for developing a permanent repository in accord with national policy for dealing with spent nuclear fuel and high-level radioactive waste.

Everybody knows that once the waste is moved from its generator sites to a centralized site, it will never be moved again.

And, just as surely, once a centralized site is designated, the nuclear power lobby and its allies will insist that repository resources be diverted to the development and construction of the interim facility and away from development of a permanent site.

So designation of an interim site will terminate the permanent repository.

What does that mean?

That means that waste that was once meant to be stored in emplacement canisters, yet to be proven, in an underground repository, yet to be designed, would be instead stored in transportation containers on a cement pad, exposed to the weather and damage from human activity or natural events.

That means that any difficult issues that arise with regard to the interpretation of data from the Yucca Mountain characterization will not be pursued and will not be resolved.

That means that Yucca Mountain will never be designated as a permanent repository under the law, and so spent nuclear fuel will be stored indefinitely in a temporary configuration. There will be no emplacement casks to provide engineered barriers for waste isolation.

There will be no natural barriers to inhibit migration of waste that escapes the containers.

There will be no possible promise of public health and safety.

These are the reasons, Mr. President, I say that S. 104 is a ploy by the nuclear power industry to terminate the permanent repository program. Because S. 104 will do that, the nuclear power industry is behind S. 104.

A number of years ago, we laid out a logical path that would guarantee a permanent disposal facility for spent nuclear fuel. We in Nevada, Mr. President, fought that. We thought it was unfair to characterize one site. But that has been ongoing. And what the nuclear industry now realizes is that it is taking a little longer than they thought. Therefore, they want to chuck the experience, money, and efforts out and go and pour it on top of the ground, dump nuclear waste on top of the ground.

The architects of that process to develop a permanent repository recognized that interim storage at a candidate site for the permanent repository would hopelessly compromise the quality, the completeness, and the funding of site suitability studies.

These architects also recognized that such a compromise would ultimately negate the whole notion of a permanent repository at that site.

So they prohibited the designation of an interim storage site in any State in which a candidate repository site was being evaluated.

That prohibition extended until the candidate site was deemed suitable for permanent disposition of spent nuclear fuel.

The strategy developed by the architects of the current law would guarantee that a suitable permanent disposal site existed before the waste was moved, thereby preventing what S. 104 would guarantee—permanent storage of nuclear waste in a temporary configuration.

It is this absolute determination by S. 104 to establish an interim storage facility at the Nevada Test Site before determining the suitability of Yucca Mountain that compels us to state that S. 104 is really all about sabotaging this country's avowed policy to permanently dispose of spent nuclear fuel in a geologic repository.

Think about it. S. 104 would move nuclear waste and store it permanently at a site that has been found scientifically to be unsuitable for that purpose.

If Yucca Mountain is found unsuitable, this legislation directs the temporary repository to go there. What could be more outrageous? Such a folly goes beyond being deceptive or stupid. It is just outrageous.

S. 104 would knowingly risk public health and safety by storing nuclear waste at a location that is determined to be an unsafe storage site.

S. 104 would knowingly risk public health and safety by storing nuclear waste on an open concrete pad, exposed to weather and to all manner of damage from human activity or natural events, like earthquakes, rain, lightning.

S. 104 would knowingly risk public health and safety by abandoning the requirement for the engineered barriers of emplacement casks to ensure waste isolation from the environment.

S. 104 would knowingly risk public health and safety by abandoning the requirement for natural barriers of geologic disposal that would prohibit migration of waste that escaped from the emplacement casks.

Supporting S. 104 in its determination to permanently store nuclear waste in a temporary site would be about the worst decision this Senate could make.

Mr. President, this is bad public policy. I repeat, to my colleagues, who should you support, those that take the position saying this legislation is good, supported by the nuclear utilities, or those who take the position supported by churches, scientists, doctors, Indian tribes, and everyone in the environmental community? I think the choice is pretty easy. But sometimes easy choices are not determined about the substance of legislation, but by the politics of legislation. We submit, Mr. President, that good public policy supports a "no" vote on this legislation.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Nevada [Mr. BRYAN] is recognized.

Mr. BRYAN. I thank the Chair and I thank my colleague for his extraordinary review of this piece of legislation, in pointing out its pitfalls. We are concluding a week's debate on this, Mr. President. I want to make just a couple of more points, and then tomorrow we will have a vote and we will either do the right thing, or we will impose upon the American public a terrible public policy consequence.

Mr. President, I have reviewed in an earlier part of my statement the various provisions in this bill, which, in my view, represent the most atrocious policy options that one could conjure up. As my senior colleague mentioned, who would you trust and rely upon to give you advice on an issue that, obviously, is very technical, very complicated? For those of us who do not deal with these kinds of issues every day, this is not something that is intuitive judgment.

I want to return to the starting point for just a moment to talk about this being unnecessary legislation—unnecessary in that the policy and the scientific community disagree with its very premise. Now, when you look at the various groups that are playing a role in this debate, one thing stands out: The only people that are advocating this legislation are the nuclear utilities and their supporters. It is not the environmental community.

My colleague recited that every major organization in America that has an environmental constituency has opposed this legislation, and for good reason. It is not the scientific community. We frequently hear science invoked as the governing beacon that ought to guide us in this policy debate. If that were true, there would not be a single vote for S. 104, because the scientific community is not urging us to enact this legislation. This is legislation that has been generated, fomented by the nuclear utility industry and is part of the history that we have faced in America in dealing with this very complicated, troublesome, and very, very dangerous electrical generation source.

More than 15 years ago, we were confronted with policy debates that sound very much like those on the floor today, in which the utilities said that we are going to be without energy, we will have brownouts, and the utilities will be forced to close because they will run out of reactor space. This was all generating hysteria. It was not true then and it is not true now. But that has been the legacy that we have in this debate, in trying to make our way through the very sound judgments that ought to control our decisionmaking process in reaching the proper conclusion.

So, essentially, you have the policymakers, the scientific community, the President of the United States all saying, look, this is unnecessary. They are allied against the utilities who have made this argument, as I say, for several decades. It has been said that this is a better piece of legislation. I think that is very questionable, Mr. President. When one looks at what is done, we wreak havoc upon the environmental legislation in America. Only by the most tortured and twisted and convoluted logic could S. 104 be considered sound environmental policy.

The preemption provisions, which I have discussed at some length, deprive a State of its ability to enforce environmental laws by the Federal Government. It eliminates waiver provisions that are part and parcel of our environmental legislation that provides judicial review. We talked about what is done to standards. Those have greatly been diminished. We are talking about something, Mr. President, that isn't just temporarily inconvenient or needs to be cleaned up because it would be a nuisance in the community. We are talking about something that is lethal, deadly, for 10,000 years and beyond. That is beyond the period of recorded history. We have never dealt with that kind of a policy issue. I can understand the frustration that some of my colleagues experience, that it may be another 4, 5, 6 years before this determination or that. But when you are talking about 10,000 years, and beyond, 4 or 5 years more to get it right, to do the right thing, to protect the health and safety of the American public seems rather little to ask when you are dealing with something as dangerous as this.

We have talked about the flaw in the viability assessment of the President of the United States. He has to make his assessment based on a standard that is not going to exist. Charitably, it would have to be a guess. How can one make a sound policy judgment based upon a standard that is yet to be developed and is nonexistent? Whatever one thinks about the politics of this administration, one would have to conclude that it is the ultimate irresponsibility to ask any Chief Executive to make a judgment based upon his or her assessment, when the standard upon which the benchmarks are to be measured don't exist.

My colleague talked at great length about the transportation dangers. I understand that we all in this Chamber are candidates who have faced the people in our States respectively. I understand that the utilities in a number of States have leaned very heavily and have been to the offices and advocated and raised all kinds of specters. Let me just suggest for a moment that what is happening in California as we speak, I think, is very instructive. There, as many of you may be aware, nuclear waste is going to be shipped from the Pacific in the Concorde and then transported over the Sierra Nevada from California into Nevada and, ultimately, to be stored in Idaho. If you think that the pressures that the utilities have brought to bear are heavy, when the first series of 17,000 shipments of high-level waste traversing the highways and rail systems of 43 States, in which 51 million people live within 1 mile or less—when that begins to occur, much as my senior colleague has pointed out with graphic detail about what has occurred fairly recently in Germany, that is going to be a real constituent concern, and rightly so, because an accident can have a devastating impact upon the health of that community.

So this is not just a Nevada issue. This is an issue which will affect many millions of people in this country. We have talked about the lawsuit, how there is this great empathy and understanding about the ratepayers and the consequences for them, how they paid $8 billion over the years into the nuclear waste trust fund. Nothing in this legislation provides 1 cent of relief for the ratepayers. That, to me, is the true indicator of what this is all about. This isn't trying to provide equity for the ratepayers. This is not trying to provide or prevent ratepayers from paying twice for something that they have already paid once for. It has nothing to do with that, or you would see relief in S. 104. There is nothing. Nothing provides any relief for a lawsuit. The lawsuit remedy, as I have indicated, under section 9 of the contract, provides for an equitable adjustment of payments made into the nuclear waste fund. I think that is fine. But nothing in this legislation deals with the ratepayers, because nothing is contained that provides any kind of equitable relief for the ratepayers.

Finally, let me talk about one other section of this legislation, which I think, again, would indicate how corrupting it is in terms of doing great violence to the environmental laws of America, laws that have, by and large, survived the test of time for nearly three decades and have enjoyed bipartisan support. It was during the Nixon administration that most of these pieces of legislation first saw the light of day.

I want to talk about the National Environmental Policy Act, as it is referred to as NEPA. We are told in one instance that NEPA must be followed. It sounds good, doesn't it? But then we are told that the following activities will be deemed preliminary activities. That just might seem like words—"preliminary." That is a very precise term because preliminary activities are not subject to judicial review. And in most instances, the courts themselves make a judgment as to whether something is deemed preliminary or final for the purposes of review. But just as a further indication of how this stacks the deck against anything that provides environmental protection, you have a whole series of actions at page 90 under this act—transportation requirements; viability assessment, and that is section 204; 205(a) is generic design, submitted for interim storage; 205 is site-specific design standards; 205 is license application for interim storage; 206 is repository characterizations. Each of those sections are deemed to be preliminary, so as to preclude the opportunity for independent judgment as to whether or not they do, in fact, comply with the law and make good sense. So, in effect, what we do in those sections, if 104 passes, we gut NEPA, eviscerate it. We proclaim our great devotion to it in the first section, but then say that it shall not include the following.

Let me further go on to indicate that the essence of NEPA is to consider the various options or choices that are available. That is the underlying premise, the theory being that if you look at all of the options on the table, we will rule out, through some rational, thoughtful process, those that are the least compelling from a policy point of view and reach a conclusion as to the best of the options available. But we are told here, with respect to the environmental impact statement, that is part of the NEPA requirement, that this commission shall not be required to consider the need for an interim storage facility, the time of initial availability of a repository or interim storage facility, the alternatives to geological disposal or centralized interim storage or alternatives to the interim storage facility site. So to profess that we do give any kind of meaningful adherence to the National Environmental Policy Act—NEPA—is itself a travesty.

Finally, let me say that when the vote comes tomorrow, I hope that my colleagues, putting aside all of the technical arguments for a moment, might consider policy. What is the right policy for America? What protects public health and safety? What is the most thoughtful way to proceed? Mr. President, the most thoughtful way to proceed is to reject S. 104. It has been asserted that we have no policy with respect to the disposal of nuclear waste. That is simply not true. The policy that we have was essentially designed in 1982 with the enactment of the Nuclear Waste Policy Act, and that policy first is to site permanent repository. I am not ecstatic about, I do not like it, and I wish it were not the case that Yucca Mountain in my own State was chosen. But that is a policy that came down as a result of the things that were done and I believe were highly politicized in terms of the way it was done. But nevertheless that is where we are. Yucca Mountain is being characterized as an interim storage. This legislation would change the existing law, which says that we ought to seek first if a permanent repository can pass muster, is it suitable, before making a determination as to interim storage. This legislation reverses that process and says, in effect, that we will make decisions with respect to interim storage irrespective of what happens with respect to the permanent repository. That makes no sense at all.

Finally, I think, just as an admonition, that this has been a very difficult time for Nevada. I believe that it is without precedent in the years that I have been a Member of this body that a State has been so imposed upon, so unconsidered, so rejected of a rational policy argument to acquiesce to the requests of a special interest group—the nuclear utilities in America.

But let me say that if we pass S. 104, what a dreadful precedent that may be. No other State can be heard to say thereafter, "Gee, this is terrible policy for us as it affects my State." In effect, we establish a precedent in which a State's rights are imposed upon in which the State's ability to protect its own citizens' health and safety by way of Federal environmental standards being limited, and in which those very basic provisions of the ability to review and get judicial determination before something as horrendous as this is imposed upon a State, are for all intents and purposes emasculated. That is the dreadful policy, and we will rue the day that occurs.

So I urge my colleagues to reject S. 104. Let's stay the course. It may not be perfect in every respect, but at least we are moving on a basis of permanent repository in a rational context without getting involved in the emotionalism that has been present with respect to this frantic effort to have interim storage placed at the Nevada test site, a site, as we pointed out, which has not been recommended as a site to be preferred. Never, to the best of my knowledge, has it ever been studied for interim storage, and it was kind of picked out of the air. "You have Yucca Mountain over there, and Yucca Mountain may take it. So let's put it here." That is not a very rational basis to make a policy judgment.

I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I rise today to urge my colleagues to support S. 104, the Nuclear Waste Policy Act of 1997. This much needed legislation will help protect the American taxpayers and ratepayers and resolve our Nation's growing nuclear waste storage problem.

As many of my colleagues know, the Department of Energy will not live up to its 15-year promise to collect commercial nuclear waste into a centralized repository. Unfortunately, with over $6 billion of ratepayer's money already spent by the Federal Government, a permanent repository will still not be completed until well into the next century.

The map behind me illustrates the result of this failed policy: The creation of over 80 nuclear waste storage sites across our Nation. From coast to coast and from one international border to another, over 41 States have been affected by the lack of action. As my colleagues can see, this is not a regional problem; it's a national problem demanding a Federal solution.

Mr. President, the Federal Government should no longer be allowed to forget its commitment to the American public. Last year, the Federal court of appeals agreed that this was a Federal problem when it ruled that the Department of Energy will be liable for damages if it does not accept commercial nuclear waste by January 31, 1998.

Under current law, no one at the DOE will be held personally liable for any assessed damages; the bill will go to the American taxpayers at an estimated cost between $40 and $80 billion. Such a tremendous liability burden on taxpayers would make the public bailout of the savings and loan collapse seem small in comparison.

Many others agree that a Federal solution is needed immediately. Frustrated with the DOE's inability to resolve our nuclear storage problem, the National Association of Regulatory Utility Commissioners, 48 State agencies, and 38 utilities have joined forces to ask the Federal courts to suspend ratepayer's payments into the nuclear waste fund, which finances the Federal Government's commercial nuclear waste program.

They are concerned that their constituents and customers are being asked to pay too many times for a failed policy.

Take, for instance, the situation facing ratepayers in my home State of Minnesota. Since 1982, Minnesota's nuclear energy consumers have paid over $250 million into the nuclear waste fund believing that the Federal Government would fulfill its obligation to transport nuclear waste out of Minnesota.

But as time went on and the DOE continued to ignore its responsibilities, utilities in Minnesota and around the country were forced to temporarily store their waste within the confines of their own facilities.

When it became clear to many utilities that storage space was running out and the Department of Energy would not accept waste by the established deadline, utilities then had to go to their States to ask for additional onsite storage or else be forced to shut down their operations.

For example, ratepayers in Minnesota, North Dakota, South Dakota, and Wisconsin were forced to pay for onsite storage in cooling pools at Prairie Island in southeastern Minnesota. In 1994, with storage space running out, the Minnesota Legislature—after a bruising battle—voted to allow for limited onsite dry cask storage until the year 2004.

Mr. President, the cost associated with this onsite storage is staggering. Ratepayers in the midwestern service area alone have paid over $25 million in storage costs and will pay an estimated $100 million more by the year 2015, in addition to the required payments to the Federal Government.

To make matters worse, storage space will run out at Prairie Island just after the turn of the century, forcing the plant to close unless the State legislature once again makes up for the DOE's inaction. This will threaten over 30 percent of Minnesota's overall energy resources and will likely lead to even higher costs for Minnesota's ratepayers.

In fact, the Minnesota Department of Public Service estimates that the increase in costs could reach as high as 17 percent, forcing ratepayers to eventually pay three times: once to the nuclear waste fund, again for onsite storage, and yet again for increased energy costs.

And Minnesota is not alone in facing this unacceptable situation; 36 other States across the Nation are facing similar circumstances of either shutting down and losing their energy-generating capacity or continuing to bail out the Federal Government for its failure to act.

So, Mr. President, when some of my colleagues speak about how well the status quo is working, I would simply point them to my home State of Minnesota where the status quo has failed dismally—to the detriment of the ratepayers and soon to the taxpayers.

Mr. President, I ask unanimous consent to submit for the RECORD recent letters from Minnesota Governor Arne Carlson and Minnesota Department of Public Service Commissioner Kris Sanda on the need to pass legislation correcting our Nation's nuclear waste program.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MINNESOTA DEPARTMENT
OF PUBLIC SERVICE,
St. Paul, MN, April 14, 1997.

Hon. ROD GRAMS,
Dirksen Building, Washington, DC.

DEAR SENATOR GRAMS: Your leadership on the need to address high-level nuclear waste at the nation's nuclear power plants is greatly appreciated. I will continue to do everything in my power to ensure a successful outcome to the vote tomorrow morning and assist you in your efforts on behalf of all Americans who face the costly burden of continuing to delay reform of the U.S. civilian nuclear waste program.

Attached is a letter from Governor Carlson sent this morning to individual Senators urging their vote for S. 104, the Nuclear Waste Policy Act of 1997. I hope it helps them to understand the urgency for action.

Once again, thank you for your powerful advocacy on this issue.

Sincerely,

KRIS SANDA,
Commissioner.

STATE OF MINNESOTA,
St. Paul, MN, April 14, 1997.

Hon. WAYNE ALLARD,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR ALLARD: I am writing to strongly urge your support for S. 104, the Nuclear Waste Policy Act of 1997. This Act addresses the glaring deficiencies and failures of this country's civilian nuclear waste program and is of the utmost importance to all American electric consumers and taxpayers.

In brief summary, S. 104:

ensures adequate funding for the permanent disposal program.

eliminates the need for individual high-level waste storage sites at 73 nuclear power plants in 34 states.

provides centralized waste storage for which DOE is legally responsible under contracts signed with individual utilities.

ensures the scientific integrity of the disposal program. It authorizes the President to locate the centralized storage site away from Yucca Mountain if, at the President's discretion, it is found to be an unsuitable site.

subjects waste transportation to Federal hazardous materials regulations and NRC oversight.

ensures National Environmental Policy Act (NEPA) reviews are prepared for licensing. Only those issues already addressed by Congress (i.e., facility need and program alternatives) are not revisited under NEPA.

averts tens of billions of dollars of U.S. Judgments Fund payments as well as related budget and appropriations problems that will result from program failure.

American consumers have paid $13 billion to meet their obligation for funding waste disposal under contracts with the federal government. Over half that money has been spent for something else. Now is the time to end this consumer fraud.

Please support S. 104.

Warmest regards,

GOVERNOR ARNE H. CARLSON.

Mr. GRAMS. Mr. President, if there's one part of the status quo that is working within our Nation's overall nuclear waste disposal program, it is the way in which the Federal Government is actively meeting the needs of foreign countries. It is not working for domestic spent fuel, but our program seems to be working very well in meeting the needs of spent nuclear fuel from foreign countries.

As this map shows, the DOE has resumed collecting spent nuclear fuel from a total of 41 countries under the Atoms for Peace Program.

Similar to the large number of our States which are facing nuclear waste storage problems, countries from around the world are experiencing the same problems. The only difference is that their needs—not our own ratepayers' needs—are being met by our Federal Government.

In fact, the DOE has completed urgent relief shipments of 252 spent nuclear fuel assemblies from European nations to the agency's facility at Savannah River. It has also accepted nuclear spent fuel from Latin American countries. Ultimately, as I learned during a recent trip to the Savannah River site, up to 890 foreign research reactor cores will be accepted by the DOE over a 13-year period.

So they can take it from foreign countries and handle it safely, but somehow they cannot handle domestic spent nuclear fuels.

Mr. President, an important point to discuss when it comes to these foreign nuclear waste shipments is how they are transported once they reach the continental United States. Nuclear assemblies from these 41 countries have been and will continue to be transported by rail and truck to the Savannah River facility. These photographs illustrate just one of the means by which shipments of foreign-generated fuel are being transported to the DOE's facility. Here, my colleagues can clearly see how foreign nuclear waste is being loaded on to railcars at Charleston Harbor and then shipped to the Savannah River facility. The safety record of these shipments speaks for itself.

The Federal Government is also actively accepting nuclear waste from many of our universities nationwide. As this map indicates, nuclear waste from research reactors at our finest educational institutions is being accepted at the DOE's Savannah River facility. Again, this nuclear waste is being safely transported by rail and truck across the Nation. Chairman MURKOWSKI also spoke extensively on this safety record earlier today.

There has not been one accident nor any release of nuclear fuel. These shipments serve as a very small portion of the 2,400 shipments of high-level nuclear waste that has already been shipped across the United States, including naval spent fuel. So, Mr. President, as the distinguished chairman of the Senate Energy and Natural Resources Committee has indicated, transportation is no longer a question of technology but becomes one of politics.

I understand the rationale behind reducing our international nuclear dangers by collecting and transporting spent fuel within our borders. But what I and many others cannot comprehend is how our Government has made it a priority to help foreign countries with their nuclear waste problems while simultaneously ignoring the concerns right here in our own country.

Under this scheme, our Nation will have a disjointed nuclear waste storage policy: one that works for our universities and foreign nations and another that has failed and will soon be partially administered by the actions of the Federal Court of Appeals. It seems clear to me that while States, utilities, and ratepayers have kept their end of the bargain, the DOE has not. That sends the wrong message to the American people about trusting the promises of the Federal Government.

The Federal Government is living up to its promises in the Atoms for Peace Program. It is accepting spent nuclear fuel from 41 countries. They have lived up to that policy, that agreement, and that contract, but somehow they can't live up to contracts with the American ratepayers.

Despite widespread support for action to create an interim storage site—including support from former DOE Secretary Hazel O'Leary and Dan Dreyfus, the former administrator of the civilian nuclear waste program under the Clinton administration—the DOE has failed to offer a substantive alternative to our legislation. Although the Department's new Secretary, Federico Peña, now admits that a Federal solution is needed to resolve our interim storage problems, he recently indicated in a meeting with nuclear utility executives that the DOE is still unwilling to move commercial spent fuel. Instead, the DOE offered a proposal to compensate utilities for on-site storage.

In other words, they will not accept it. But the DOE says it is willing and offered a proposal to compensate utilities for on-site storage.

Unfortunately, this proposed compensation scheme does little but needlessly spend the taxpayers' money while continuing the failed status quo. In other words, it just wants to collect more money from the taxpayers and then pay it out as compensation. So you are going to take it from one pocket and put it into another. It is still the taxpayers who are going to be left holding the bag, not the Department of Energy, not their budget, not the Secretary of Energy Mr. Peña, but the taxpayers. In other words, they don't want to solve the problem. They just want taxpayers to continue to pay for their mistakes. It signals to the ratepayers that the Federal Government has no intention of moving commercial nuclear waste in the near future, despite a Federal court mandate.

Moreover, continuing the policy of noncentralized storage facilities may lead to the premature shutdown of one nuclear plant in Minnesota—compromising 30 percent of the State's energy needs and significantly increasing ratepayer costs.

Again, this is not only typical to Minnesota. Many other States face the same problem. Many utilities are facing the same problem. Ratepayers could be paying the same increase in power because, again, of the lack of action by the DOE.

In recent communications to the Senate, DOE Secretary Peña and the President's Office of Management and Budget yet again indicated the Clinton administration's opposition to our legislation to move nuclear waste from the over 80 sites around the Nation.

Speaking of the need for a long-term, permanent repository, the letters failed to address any specific alternatives to our legislation or how the Federal Government will address future taxpayer liability in light of the

DOE's failure to live up to its 1998 contractual deadline. They offer no alternative except to sit back and say, yes, they will adhere to any court-ordered compensation because it is no money out of their pocket. They can just delay or defer any kind of an agreement or answer and will not live up to their contractual deadline.

In the last week of debate on this legislation, we have negotiated with Senator BINGAMAN and others who want to resolve our interim nuclear waste storage needs. Some important and constructive changes to our bill have resulted from that. Although I oppose one change that moves the construction of the interim storage facility back 1 or 2 years, a number of reforms have been made to address the concerns of the administration. Among them are helpful provisions strengthening radiation protection standards, preemption of State and Federal laws, environmental concerns, and funding for the civilian nuclear waste program.

These important changes should help persuade some of my colleagues to support this commonsense environmental protection bill, and it should also help pave the way for the President to sign this legislation based on sound policy and not to veto it due to political concerns. Again, this is not oversight. It is not over technology. It is not over the safety record of transportation of spent fuel. It is basic, raw politics. And above all, Congress has an obligation to protect the American public from the estimated $40 to $80 billion they face in liability expenses. Our bill will reform our current civilian nuclear waste program to help avoid the squandering of billions of dollars of ratepayers' and taxpayers' money—not that the Federal Government hasn't wasted enough recently, but with tax day tomorrow, this should also come as more important to taxpayers to say they don't want billions more dollars squandered.

It will eliminate the current need for onsite storage at our Nation's nuclear plants, keep plants from shutting down prematurely due to the lack of storage space, and maintain stable energy prices.

Mr. President, for too long our States, our ratepayers and taxpayers have been threatened by a policy of inaction. As reported out of the Energy and Natural Resources Committee and amended in the Chamber, this legislation sets up a time line for the DOE to finally live up to its promises again while helping to protect our environment. As a result, this bill has broad bipartisan support across the Nation. It deserves to be passed overwhelmingly on behalf of the American public. In closing, I urge my colleagues to cast politics aside and to take a giant step forward by voting for this very much-needed legislation.

I thank the Chair. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Nevada.

Mr. REID. I say to my friend from Minnesota, as we have laid across the RECORD here in these proceedings this past week, this legislation is bad legislation. If they, the proponents of this legislation, were truly concerned about the ratepayers and the fact that there is a court decision that says that the Federal Government is responsible under the contractual provisions that they entered into with the utilities, it would seem there should be something in the legislation agreeing to compensate utilities. Nothing. That shows how disingenuous the proponents of this legislation are. They talk about problems, but the legislation does not meet that.

Some have complained, Mr. President, as has my friend from Minnesota, about the rate of progress toward determining Yucca Mountain's suitability for permanent disposition of this waste material. Others have complained about the returns from the investments in the Yucca Mountain characterization. Those who complain about the Yucca Mountain schedule should remember that the Congress has consistently underfunded the project budget. Requested levels for funding have never been met. In fact, allocations have been less than 75 percent of requested levels.

Perhaps more importantly, this job of developing a permanent repository of nuclear waste is far more difficult than critics are willing to admit. It is far more difficult than even the technical community thought it would be when they started. That difficulty should not be a mystery. We are undertaking a mission that has never been done before. We are starting down a path to completely isolate from the environment the most dangerous material in human history for a period longer than recorded human history.

We have no experience with such an assignment, so a lot of options must be explored to provide a foundation for the assumptions we must make to evaluate effectiveness of final design. Utilities have pushed these time lines. The reality of a permanent repository demands a research program in which many unforeseen obstacles must be understood and resolved.

These things take time and money. The Congress has seen fit to deny the money, so more time has been required than was initially estimated.

Complaints about returns on the investment in Yucca Mountain have no basis in fact either. Those who benefit from nuclear power have been paying into the nuclear waste repository at the rate of 1 mill per kilowatt hour. Those collections today amount to nearly $12 billion, much of which has yet to be spent.

So there is a lot of talk about abuse of this fund by inappropriate application of its resources. It is true that more has been collected from the ratepayers than has been appropriated for waste disposal to date, but the final bill for a permanent repository is estimated to be between $34 billion and $50 billion. That is more than the current plan proposes to collect, so it is likely the ratepayers will come out ahead.

That means the general public will contribute to the waste repository so that ratepayers will get a break before all is said and done.

I agree that the waste fund should not be applied to inappropriate activities, and I do not think it has. I agree that we should be vigilant to see that all the ratepayers' contributions are used for the permanent disposition of spent nuclear fuel. But I also believe that the general taxpayers should not have to pick up the tab for a repository except for that fraction dedicated to disposition of defense nuclear waste from whose generation we all benefited through assurance of our national security.

S. 104 provides no improving legislation with regard to funding the repository, and none is needed now. The returns on Yucca Mountain investments will be realized when the characterization is complete and not before. Site characterization must be completed before we see clearly the path of future actions.

In short, my friend from Minnesota has not addressed the problems that we face. Those problems are the environmental laws are not being met. The transportation problems are certainly not being met. And the fact is that there are many, many problems still in existence.

The parties to the current litigation regarding DOE's contracts with waste holders are using on-site storage costs to justify their threats to seek damages from the Government. We have gone into this on many occasions.

Sponsors of S. 104 stood and argued on this floor that only passage of this bill will relieve every American of this huge obligation. The actual incremental costs of on-site storage at the generator sites is minimal. That cost is negligible when compared to the costs of transportation and the costs that the permanent or temporary repository would cost.

I believe that we should understand that we are here as a result of the nuclear power industry, and that reason only. There are certainly, Mr. President, many reasons why the statement of the Senator from Minnesota was without fact. Those are spread across this record. We have answered such statements on many occasions these past 7 days.

HANFORD NUCLEAR RESERVATION

Mr. GORTON. Mr. President, I would like a clarification of the scope and intent of the committee's third amendment to S. 104. That amendment, which is incorporated into section 204(b)(1)(D) of the act, states that the President shall not designate the Hanford Nuclear Reservation in the State of Washington as the site for construction of an interim storage facility.

Am I correct in my belief that this amendment defines interim storage facility in a way that would not preclude steps that the Washington Public Power Supply System might need to take with regard to the storage of the spent nuclear fuel generated at the WNP-2 facility?

Mr. MURKOWSKI. The Senator is correct. The intent of the committee in adopting the third committee amendment was to prevent the President from designating the Hanford Nuclear Reservation as the site of the nationwide interim storage facility for all civilian and spent nuclear fuel and high-level radioactive waste from U.S. commercial reactors. This amendment is not intended to preclude steps that an individual utility, such as the supply system, might need to take to manage the storage of its own spent nuclear fuel.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

(The remarks of Mr. NICKLES pertaining to the introduction of S. 570 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Wyoming.

Mr. THOMAS. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BISON IN YELLOWSTONE PARK

Mr. THOMAS. Mr. President, I rise to talk about a difficulty that we have had this winter in Wyoming and Montana in the Yellowstone Park area with respect to buffalo. Many of you, of course, have read about the problem as a result of an extremely difficult winter, freezing rain and snow, lack of feed, and I think also an excessive number of buffalo. As chairman of the Senate Energy Committee Subcommittee on National Parks, I come to the floor today to announce that we plan to hold hearings on the prospective plan for bison in Yellowstone Park next year. It is not our purpose to particularly pick apart what happened last year, but what we want to do is avoid the same thing happening in the year that is to come.

Many of you have probably read in this weekend's New York Times some details about the conflicting and contentious perspectives regarding bison and the issue of brucellosis. The hearing I plan to have will be to spur the Interior Department to set a plan for the upcoming year. If we do not, then we might very well end up with another year of the same kinds of difficulties.

Many buffalo in Yellowstone Park are afflicted with brucellosis, which is a major threat to the surrounding livestock States that border on Yellowstone Park, particularly, in this case, Montana. Unfortunately, the only solution that has been developed so far for the Park Service in the State of Montana is to shoot the buffalo as they come out of Yellowstone. Clearly, that solution is not acceptable. We have to find one that is a long-term solution to the problem.

Management of the bison herd in Yellowstone is not a brand new idea. Clearly, there has to be some kind of management to a herd of this kind. There has been a great deal of interest in having a natural, free-roaming herd, which would be a nice thing. Up until about 1967, however, it was managed very closely. Then the decision was made to let the herd simply act as it would in a natural situation and be controlled by the lack of feed and predators and all those kinds of things. Unfortunately, that is not very workable in a park that is visited by 3 million people a year, in a park where other kinds of controls are not in place. So the result is the herd had grown from somewhere in the neighborhood of 1,500 bison to nearly 4,000. There are over 3,500. As long as the weather circumstances and the grazing circumstances were excellent, they were able to get by, even though most observers did note that the grazing there was damaged considerably by that number of bison.

So the Park Service has made some efforts to address the matter. But the fact is that there has not been any real leadership for doing something over a period of time. Instead of facing the problem, the Park Service focused on the theory of natural regulation. As you can see by the events of last year, that natural regulation did not resolve the matter. Natural regulation does not work well when one Federal agency holds the threat over ranchers in the State that they will be stripped of their brucellosis-free status if bison cross into their State. At the same time, another Federal agency encourages wildlife to migrate from the park by not developing a proper management plan. This is precisely, of course, what happened.

It is more a problem in Montana than it is in Wyoming. You at least have a buffer in Wyoming, on both the south and east sides of the park, of a forest wilderness area; whereas, in fact, private property grazing takes place immediately outside of the park on the Montana side.

So, in order to avoid repeating that unfortunate situation, where a good number of bison starved to death in the park and another number was shot as they went out of the park to avoid the problem of brucellosis, we think we need to find a more innovative solution. The time for finger pointing is over. It has been sort of a tough deal out there, with everybody being involved.

What we need is some strong leadership to face the issue. Unfortunately, the President has still not appointed a new Director of the Park Service. It is a little difficult to deal with the Park Service and Interior Department in terms of policy, in terms of the future, when there really is not a permanent Director there. So we clearly need, and it is very vital that we have, focused and solid leadership in the National Park Service. In fact, I have sent a letter today to the President urging he do that.

Along with Chairman MURKOWSKI, I and others on the Senate Energy Committee are willing to work with the administration to develop positive and constructive solutions. As a matter of fact, we have held a couple of general hearings on the park. Our purpose in the next several months will be to take a look at the park to find a way, a very positive way, to strengthen the National Park System. We have about 375 parks. I think they are among the most important elements of our culture and our history, and our effort ought to be increased to maintain those natural resources as well as providing an opportunity for visitors to enjoy them.

So, we are ready to address the tough issues and launch a proparks agenda for this next year to try to make some moves to ensure that this buffalo incident does not occur next year and that we find a solution that protects not only the buffalo, protects not only the resource, but also protects the surrounding States and their very important livestock industries and allows them to remain in a brucellosis-free certification area. So we will be moving forward on that, Mr. President. I appreciate the opportunity, and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR WASTE POLICY ACT AMENDMENTS

The Senate continued with the consideration of the bill.

Mr. CRAIG. Mr. President, the Senate has before it at this moment, and has for some days, through tomorrow, the consideration of Senate bill 104, the Nuclear Waste Policy Act of 1997.

Senator FRANK MURKOWSKI, chairman of the Energy and Natural Resources Committee, and myself, along with a good number of others of our colleagues, have recognized the need for this Government and this Congress to clarify its position on high-level nuclear waste and spent fuel in compliance with the Nuclear Waste Policy Act of 1982, as amended in 1987.

As a result of that recognition, that is exactly what we are doing. We are certainly encouraging at this moment a resounding passage of this bill tomorrow.

Mr. President, last week my colleague from Alaska, the chairman of the committee, introduced the substitute. I am discouraged that in spite of all the work we have done, the administration has not withdrawn its veto threat of this legislation.

We have listened to the other side. We have incorporated amendments from the other side. We have now picked up substantially more Members from the other side who are supporting this bill.

I have recently reviewed, once again, the basis for the veto threat and I find no remaining legitimate reason for this administration to be in opposition.

Let me address just a couple of specifics for just a few moments.

The statement of administration policy states that S. 104 would effectively establish Nevada as the site of an interim nuclear storage facility before a viability assessment of Yucca Mountain is completed. Not true. Mr. President, let me repeat, that is an untrue statement.

S. 104 designates the Nevada site as the location for the interim storage facility after—after—the DOE completes the viability assessment in 1998.

The statement of administration policy states that S. 104 would create loopholes in the National Environmental Policy Act. The truth is that the substitute has lengthened the duration of both licensing and public participation opportunities. Again, what the President said and what is in fact in the legislation simply do not relate.

The statement of administration policy states that S. 104 replaces the Environmental Protection Agency's authority to set acceptable radiation release standards with a statutory standard. Again, we have fully addressed this concern. Our substitute reverses the approach on setting an environmental standard for the deep geologic repository. S. 104, as introduced, set a standard of 100 millirem. Last week, I addressed this body and set this 100 millirem in the proper context of everyday risk from everyday living. I noted for my colleagues that we receive an annual radiation dosage of 80 millirem simply by spending most of our time inside the U.S. Senate. Why? It is a product of the radiation that comes from the granite structure around the Senate body itself. In other words, the normal decay of stone that is part of the structure of this Capitol.

We have listened, however, to the concerns of our opponents and the administration, that this legislation should contain a risk-based standard. We have heard discussions. We have listened to those suggestions and adopted the recommendations of the National Academy of Science.

In our openness to enhance the broad bipartisan support already enjoyed by this legislation, we have listened to all of those suggestions. Therefore, our substitute now requires that the Environmental Protection Agency determine a risk-based radiation standard for the repository.

In other words, we tried to utilize all national and international standards that are acceptable to the public, based on science, but were forced to say, OK, you won't believe the truth, then we will allow the Environmental Protection Agency latitude in developing those standards. Our substitute directs that the Environmental Protection Agency set this radiation standard in accordance with the National Academy of Science's recommendations.

Mr. President, I commend my colleague, the chairman of the Energy and Natural Resources Committee, the Senator from Alaska, for conducting a process for developing this legislation and this substitute, in what I believe to be an unprecedented character of openness and willingness to hear and respond to the concerns of our opponents. There is simply, Mr. President, no legitimate remaining basis for the administration's opposition to this legislation. I urge the President of the United States not to fight this Congress. This Congress will soon express its will on the issue and, most likely, the outcome will be the same broad, bipartisan consensus that we developed in the last Congress.

Mr. President, I said a few days ago on this floor that this legislation was good science and good engineering and good technology, and that there would be one simple reason to oppose it, and that would be political. I stand here today with the amendments the chairman has accepted and the character of this legislation when it comes to final passage. I now can say in fact that there are no impediments for this administration to accept this legislation, except for politics, and politics alone.

I am amazed that the President of the United States can say that, because of his politics, he is willing to ask the American people to pay an additional $80 billion—or potentially that amount—in a negative environmental situation, when we are standing here today with a very positive environmental move that would cost less than about $3 billion to develop an interim storage facility. This facility would allow the Congress of the United States and the administration to say to the American people that we will abide by the law, we will adhere to the courts and the laws that have already been passed by past Congresses to develop a deep geologic repository, and we will do so in a timely fashion. That is the issue before the Congress when it considers S. 104.

I hope my colleagues will join with us in a resounding bipartisan vote as we deal with this critical national major environmental issue. We have worked to resolve it in a balanced approach that all can agree with. I think the efforts of Senator MURKOWSKI will be demonstrated in a vote that we see cast on this legislation tomorrow.

With that, Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Madam President, in 1982, Congress passed the Nuclear Waste Policy Act and tasked the Federal Government with the handling of spent nuclear waste from commercial powerplants and military usages. Despite the clear congressional intent of the act, the Department of Energy has avoided and delayed positive action regarding temporary and permanent storage of nuclear waste.

The 1982 act called for a permanent waste repository to be built by 1998. But DOE now says the earliest a repository will be ready is 2010. Given 15 years of relative inaction, this delay and avoidance history does not engender faith that the current administration will address this issue in a timely manner absent congressional action. Regrettably, the country that harnessed energy of the atom can't seem to accomplish the basic task of storing and disposing of waste.

The Federal Government promised nuclear energy consumers that it would develop a plan to dispose of the waste. Congress obligated the Federal Government to begin the waste collection program in 1998. A Federal court of appeals ruled in 1996 that this is a binding legal obligation.

The Federal Government, therefore, has a binding, legal obligation to pick up the nuclear waste scattered throughout the Nation's coastal communities, farm lands and industrial centers. It must remove used nuclear fuel from 34 States that now store used fuel at nuclear powerplants that were never intended to hold the waste until the end of time.

Due to the foresight of 15 Senators who reported the Nuclear Waste Policy Act of 1997 out of the Energy and Natural Resources Committee and in particularly its architects, Senators FRANK MURKOWSKI and LARRY CRAIG, we are here today to put this program back on the road to recovering used fuel from commercial powerplants and DOE facilities that store high-level radioactive waste from defense-related projects. In 30 years of operation, that waste has amounted to a relatively small sum, given that nuclear electricity powers 65 million homes at any given time in the United States. All of the used fuel produced from nuclear electricity during its history, if stacked end to end, would span a football field to a depth of almost 4 yards.

While a permanent repository is the ultimate requirement, no one can legitimately deny that an interim storage facility is an absolute necessity.

Let's talk for a minute about the cost to the public. America's electricity consumers have relied upon the availability of nuclear energy. But such consumption did not occur in a vacuum and without cost. These energy users have already committed nearly $13 billion to pay for the Federal waste disposal program—a staggering figure considering there's nothing to show for such costs to date except for a few feasibility studies. The bill continues to climb, even as the Department of Energy says it will be unable to start taking used fuel by the 1998 deadline.

Some States are so frustrated by the Federal Government's failure on this program that they are considering withholding their share of the more than $600 million a year that flows from electricity customers to the U.S. Treasury. How can we blame them?

The Nuclear Waste Policy Act of 1997, would put an end to bureaucratic delays and spiraling program costs by integrating three components:

First, a Federal storage facility for centralized management of used fuel until a permanent disposal facility is ready;

Second, a continued scientific study on a permanent disposal site at Yucca Mountain, NV; and,

Third, a transportation network to move used fuel safely from nuclear powerplants, research reactors and DOE sites to storage and disposal facilities.

It has been argued by some that we cannot safely transport spent or used nuclear fuel waste from nuclear powerplants to a central storage facility. Certainly the naysayers recognize that we do not intend to throw used nuclear fuel on a truckbed or in a boxcar.

The Nuclear Regulatory Commission has rigid standards about the types of containers it permits nuclear waste to be transported in. All such containers must receive their stamp of approval. Before such approval, containers must undergo an onslaught of tests without breaking open and allowing radiation to escape. They must successively withstand a 30-foot drop onto a flat, unyielding surface; a drop of 40 inches onto a steel spike; and a fully engulfing fire burning at 1,475 degrees Fahrenheit.

For proof of the canisters' performance, look at the safety record of the 2,400-plus shipments of used nuclear fuel that have taken place in the United States during the past three decades. Not one used fuel container has ever ruptured during those trips. Radioactive fuel has never been released, harmed the environment, or caused any injury or public safety threat.

By shipping to a single storage spot, we are reducing the level of risk. A remote, desert location would provide an added margin of safety. Logically, used fuel can be managed more efficiently and effectively at an individual site than it can at multiple sites.

S. 104 goes further to alleviate safety concerns by ensuring that Federal funds and resources are channeled to State and tribal officials for public safety training to handle and manage used fuel long before the first shipment enters their area.

Many of my colleagues know what it's like to have nuclear waste sitting in their backyards. Pennsylvania, for instance, currently stores 2,920 metric tons of uranium at nine nuclear powerplant sites next door to dairy farms and the fourth largest apple producing region in the country. Failure to adopt S. 104 would be irresponsible in the face of current storage arrangements and limitations. By passing S. 104, my colleagues can prove our resolve to end the Nation's nuclear waste dilemma.

Nuclear waste disposal must not become mired in petty politics. There is no better time to act on nuclear waste disposal than now. It's the only prudent and economic course. The greater delay, the greater the costs to taxpayers and electricity consumers. A new user fee mechanism proposed in S. 104 would continue funding nuclear waste disposal on a self-financing basis and adapt the nuclear waste fund to recent changes in the Federal budget process.

Funds originally intended to cover the cost of the nuclear waste disposal program have been diverted elsewhere to offset deficit spending. Detouring waste fund payments may help counteract the deficit, but it does little to further the Federal Government's obligation to managed used nuclear fuel. In reality, even though consumers have committed more than $13 billion to the nuclear waste fund, the Energy Department has spent only about $6 billion. That's about 30 cents on the dollar being spent on the waste program. In America, we live under the premise that you ought to get what you pay for. Our constituents aren't getting what they paid for.

Inaction on the part of Congress in ordering the Energy Department to act could force other complications, including whether State utility regulators will permit additional on-site storage. In Minnesota, the State legislature was forced to settle the issue and established new, high-priced requirements for the utility to meet before securing more waste containers. That costly burden may force utilities to consider shutting down nuclear plants prematurely. Is nuclear electricity to become a casualty of misguided DOE planning or continue, through this legislation, to be a reliable, clean energy source.

Don't forget that this legislation isn't just about finding a suitable spot for commercial nuclear waste. States like Idaho must worry about permanent storage for high-level radioactive waste from defense-related activities and used fuel from research reactors. Idaho is host to a wide range of defense facility wastes at the Idaho National Engineering Laboratory. Cleanup of INEL is likely to take decades. But how does the Federal Government plan to clean up this site if it has no place to dispose of the high-level waste? Leaving it in the vicinity of the Snake River and Sun Valley hardly qualifies as proper action on the part of the Federal Government.

That's why S. 104 calls for DOE to factor those types of used fuel into its capacity at an interim storage facility and ultimately at a permanent underground repository. This amount of waste from defense activities, naval reactors, universities, and foreign research reactors, at a minimum, must be no less than 5 percent of total acceptance during a given year.

At Idaho National Engineering Laboratory, the Department of Energy collects fuel from naval and research reactor projects like Connecticut, and Illinois' Argonne National Laboratory, New Mexico, Maryland, Colorado, and California's Aerotest and General Atomics sites.

DOE is also sending used nuclear fuel to Idaho from foreign research reactors. Idaho National Engineering Laboratory will accept used fuel assemblies from the Pacific rim this year, even though the Federal Government will not commit to taking used fuel from commercial reactors as it is obligated to next year. And while our taxpaying, electricity consuming constituents are shouldering the entire burden to develop a national waste disposal plan, the Department of Energy and the Clinton administration are willing to have our constituents assume the full cost of transporting and managing the spent nuclear fuel from foreign countries with research reactors that can't afford to pay for the service. Why should we be debating this storage issue with Clinton administration opposition when the Department of Energy's position is to help foreign countries with their nuclear waste storage problems before that Department is willing to address our country's own storage problems in a meaningful way?

Most importantly, perhaps, let me say that this legislation is without question the most environmentally sound bill this Congress has the opportunity to approve.

S. 104 fully complies with the National Environmental Policy Act. It calls for environmental impact statements for an interim central storage facility and a permanent, underground repository. Judicial review of both impact statements ensures acceptable health and safety standards. It is designed to choose transportation routes that minimize impact on the environment and population centers—by avoiding densely populated areas and shipping only along specified rail and highway routes. States can also participate in the route selection.

By finding a suitable place to store nuclear waste, it ensures that Americans will continue to enjoy clean, cost-effective nuclear electricity that is part of the U.S. diverse blend of energy sources. Since 1973, our Nation's nuclear powerplants have reduce the cumulative amount of emissions from carbon dioxide, the chief greenhouse gas, by 1.9 billion metric tons of carbon. In fact, it many reasonably be asserted that S. 104 furthers the Clinton administration's climate change action plan, which is intended to achieve a Presidentially imposed U.S. limit to carbon dioxide emissions to 1990 levels by 2000. That's a reduction of 108 million metric tons of carbon.

Madam President, I would like to address our attempts to work with the Clinton administration and the Department of Energy to reach an agreement on how we can expeditiously proceed to resolve this problem. The plain fact of the matter is that little progress was made during the past 4 years, and the current position of the administration holds little hope for much progress during the President's current term of office. The administration and the Department of Energy continue to only pay lip service to the problem without offering any meaningful alternative to the solutions proposed in S. 104.

S. 104 is the fulfillment of the promise of Congress to the American people and will begin the process of putting in place storage facilities for spent nuclear fuel. We must continue to find solutions to potential problems created in the 20th century before we begin to build bridges to the 21st century. In preparing for our future, we must clearly remained focused on the present.

The fact is, simply stated, that this country has 109 nuclear powerplants operating and providing more than 20 percent of our electricity in a process that produces no harmful air emissions. We have the responsibility, in return, to ensure that the nuclear waste from those facilities and from defense-related activities is safeguarded and managed in a reasonable and reliable manner. This isn't a decision to impose upon future generations. It is a decision that is our responsibility to make now.

In closing, I would like to commend Senators MURKOWSKI, CRAIG, and all those who cosponsored and worked for the passage of S. 104 for their diligence in pressing forward and recognizing the importance of achieving bipartisan support to enact meaningful reform for the benefit of the American people. Finally it appears that we are going to pass the legislation which would carry out the intent of that act. If we do not, it would be another 15 years before we would get a final result and billions more dollars. We need to act on this legislation. I am assured that the House is going to act this year, and we can send this legislation to the President for his hoped-for signature or his veto, if he feels so inclined. But I think it is a very important issue. This is in my opinion the most important environmental issue that faces this country. We have nuclear waste in temporary sites in cooling ponds in States, buried in South Carolina, Vermont, in my own State of Mississippi, Idaho, Minnesota, and from the shores of the Atlantic to the shores of the Pacific. This waste is there and we need action. We need it now.

This legislation has been carefully drafted. The concerns that have been raised about transportation are properly addressed here.

Madam President, I urge my colleagues to support this very carefully crafted legislation.

MORNING BUSINESS

Mr. LOTT. Madam President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO THE RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES ON THE OCCASION OF THEIR 75TH ANNIVERSARY

Mr. THURMOND. Madam President, just across the street from the east front of the U.S. Capitol stands the Minute Man Memorial building, which houses the Reserve Officers Association of the United States, one of the most patriotic and self-sacrificing organizations in the Nation. This year marks the association's 75th anniversary, and its origins, history, and accomplishments are all well worth remembering.

At the beginning of World War I, America found herself unprepared to enter the fight in Europe because we had an inadequate supply of trained military leaders for our Armed Forces. Confusion prevailed at the War Department while recruiters rushed to select, and the military hastened to train, an officer corps that would be large enough to lead "Doughboys" and "Devil Dogs" on the battlefields of France and Germany. Despite the lack of initial preparation, the United States' entry into World War I proved to be the decisive factor in securing victory against our enemies and bringing peace to the continent. After the armistice was signed and our troops came home, American military leaders were wisely determined to never be faced with another shortage of commissioned officers, and on October 2, 1922, 140 reserve officers, at the suggestion of General of the Army John J. Pershing, met at the Willard Hotel in Washington, DC. At that meeting, General Pershing said, "I consider this gathering perhaps one of the most important, from a military point of view, that has assembled in Washington or anywhere else within the confines of this country within my time," and the Reserve Officers Association of the United States [ROA] was organized.

The new found commitment to a well-trained and equipped force got off to a positive start with the passage of the National Defense Act of 1920 which created a 2 million member "Citizens Army," to be led by a 200,000 member Officers Reserve Corps. However, it was clear that the success of this civilian army and reserve corps of officers would depend entirely upon the patriotic and voluntary spirit of Americans. With this understanding, General Pershing charged ROA with the responsibility to recruit the corps, develop public support for it, and petition Congress to appropriate adequate funds to train these citizen service members.

As the United States grappled with recovering from the Depression and getting its economy back on its feet, the seeds of war were being sowed in Europe and Asia, and on December 7, 1941, a surprise attack on American Navy facilities at Pearl Harbor finally pushed our Nation back into another global conflict, World War II. Though still under-prepared for war, we thankfully had an Officer Reserve Corps that had grown to 115,000 and the chaotic rush to recruit officers that took place in the First World War was not repeated. General George C. Marshall said, "In contrast with the hectic days of 1917 * * * with no adequate reservoir of officers to draw upon * * * we now have available in the Officers Reserve Corps a great pool of trained men available for instant service." Clearly, the R.O.A. had done their job.

During the war, the ROA suspended its activities as its members were off serving in the branches of the various armed services; once, however, the hostilities ceased and the troops came home, the ROA resumed its activities as advocates for the Reserve forces and a strong national defense. That the founder of one of the first ROA chapters in Kansas City, Harry S. Truman, was now President of the United States signalled that the reserve structure was to grow and grow stronger in the post-World War II/cold war era. During his administration, President Truman ordered his Secretary of Defense to aggressively build a reserve military structure, and the Chief Executive took personal pride in the passage of a strong Armed Forces Reserve Act.

It was also during this period that Congress took the unusual step of granting the ROA a charter mandating the organization "to support a military policy of the United States that will provide adequate national security, and to promote the development and execution thereof". With this infrequently granted charter, Congress, in effect, was telling ROA that it respected its expertise and desired the association's advice on legislation affecting national security, as well as matters involving the military, both Reserve and Active.

Over the years, the ROA has taken its charter and congressional mandate seriously. Its positions are without partisanship and are based solely on promoting a strong defense. The officers and members of the ROA have supported initiatives they thought would strengthen our Nation's military, and opposed those which would undermine America's preparedness. The ROA helped block attempts to eliminate the Coast Guard and Air Force Reserves, and to cut the Navy Reserve in half; and, they stood strong against the Panama Canal and the SALT II treaties, as well as any budget or manpower cuts to our Reserve forces. On the other hand, revitalizing the Selective Service System, lifting the embargo on arms sales to Turkey, selling AWACS to Saudi Arabia, and activating the Reserves during the early days of the gulf war all were supported by the ROA During the Clinton administration, the Association has been out front in seeking postwar benefits for military personnel including medical treatment for victims of gulf war illnesses, and it is most notable that since 1982, the ROA has successfully supported more than $15 billion in equipment procurement and construction for the Reserve and National Guard.

Madam President, the ROA of today is a strong and vibrant association whose 100,000 strong membership includes active, retired, and honorably discharged officers of all the services; cadets and midshipmen from the service academies and ROTC programs; and officers of the Public Health Service, and the National Oceanic and Atmospheric Administration. That more than half of these individuals are life members is an indication of the amount of support the ROA has among the Reserve community, and the credibility it has as representatives of our Nation's truest "citizen-soldiers". Obviously, such a dynamic organization requires dynamic leadership and I am proud to note that my friend and fellow South Carolinian, Maj. Gen. Herbert Koger, Jr., USAR, is serving as the president of the ROA this year, an office that is rotated annually among each of the services. Additionally, retired Maj. Gen. Roger W. Sandler, who was Chief of the Army Reserve prior to his 1994 retirement, very capably serves as the association's chief of staff. I commend both these men for the excellent jobs they do, especially for the input they give Congress on matters related to our national security.

Madam President, as the Reserve Officers Association prepares to enter its fourth quarter of a century of service, I think it is appropriate to cite another quote by General Pershing, who said, "It would be false economy to save a few dollars by neglecting commonsense preparation in peace times, and then to spend billions to make up for the deficiency when war comes." These are the watchwords of the men and women who makeup the ROA, and words each of us should bear in mind as we approach the 21st century and begin to consider the future needs, roles, and missions of our armed services.

Congratulations to the Reserve Officers Association of the United States on its 75th anniversary.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Madam President, at the close of business, Friday, April 11, 1997, the Federal debt stood at $5,378,191,895,041.28. Five trillion, three hundred seventy-eight billion, one hundred ninety-one million, eight hundred ninety-five thousand, forty-one dollars and twenty-eight cents.

One year ago, April 11, 1996, the Federal debt stood at $5,143,688,000,000. Five trillion, one hundred forty-three billion, six hundred eighty-eight million dollars.

Twenty-five years ago, April 11, 1972, the Federal debt stood at $429,624,000,000. Four hundred twenty-nine billion, six hundred twenty-four million dollars, which reflects a debt increase of nearly $5 trillion—$4,948,567,895,041.28. Four trillion, nine hundred forty-eight billion, five hundred sixty-seven million, eight hundred ninety-five thousand, forty-one dollars and twenty-eight cents, during the past 25 years.

THE U.S. ARMY'S TASK FORCE XXI ADVANCED WARFIGHTING EXPERIMENT

Mr. LEVIN. Madam President, during the recent congressional recess I visited the U.S. Army's National Training Center at Fort Irwin, CA, with Army Chief of Staff Gen. Dennis Reimer. The purpose of my visit was to observe the culmination of the Army's brigade-size Task Force XXI warfighting experiment. I want to take a few moments today to describe this important and far-reaching exercise for my colleagues.

The Army's National Training Center is probably the best training center for mechanized ground combat forces in the world. Army brigades rotate through the NTC to test their skills in a 2-week exercise against the NTC's vaunted opposing force, or OPFOR—the 11th Armored Cavalry Regiment, currently commanded by Col. Guy Swan. This opposing force uses equipment and tactics similar to those used by the military forces of the former Warsaw Pact. Many in the Army consider this force to be the best-trained brigade-size force of any army in the world.

The exercise I observed with General Reimer was part of the Army's Task Force XXI advanced warfighting experiment. It involved the so-called experimental force of the 1st Brigade of the 4th Infantry Division, Mechanized—the EXFOR—commanded by Col. Tom Goedkoop. This was a long anticipated exercise, Mr. President, because it was the first brigade-level test of a range of digital technology capabilities designed to bring the power of information warfare to ground combat forces.

The goal of the Army's Task Force XXI advanced warfighting experiment is to increase the combat power of Army divisions and to make them more versatile, more deployable and more agile across a broad range of missions. Some people have even compared the 2-week exercise at the National Training Center with the historic Louisiana maneuvers of the 1930's which established the structure and warfighting doctrine of our World War II Army.

The Army began this experiment with digitization with the decision over a year ago to use the 4th Infantry Division, Mechanized, stationed at Fort Hood as a testbed for this technology. The Army established a factory-like operation at Fort Hood to modify over 900 vehicles into over 180 different configurations. The EXFOR was equipped with 87 different digital systems—over 5,000 individual pieces of equipment in total. This digital equipment included unmanned aerial vehicles, a networked computer system, global positioning satellite receivers, position reporting transmitters, digital radios, and the most advanced night vision and thermal imaging equipment.

This equipment was developed and designed to dramatically improve the situational awareness capability of the experimental force. Situational awareness refers to the ability to determine and track the location of all forces on the battlefield at a given time. It is the ability to answer the three questions—Where am I? Where are my buddies? Where is the enemy?—which are critical to success on the modern battlefield. Each vehicle in the EXFOR brigade was outfitted with a computer terminal that gave the members of the brigade unprecedented and real-time friendly situational awareness from the individual infantry fighting vehicles and tanks all the way up to division level, as well as unprecedented intelligence on enemy, or OPFOR, operations.

The digital equipment also provided the EXFOR with integrated and automated mission planning, mission execution, and command and control capabilities never before available to any army in the world. For intelligence information, commanders down to battalion level could access all levels of support, including national satellite systems, overhead reconnaissance aircraft like the U-2, the SR-71, and JSTARS, the Joint Surveillance Target Attack Radar System.

During my visit to the NTC, I observed the combat battalions of the experimental force in a deep attack against the opposing force. I watched as the EXFOR conducted breach operations against the OPFOR's formidable obstacle system as the OPFOR fought to defend its battle position. While this specific engagement turned out to be a tactical draw, there were many instances where the technology available to the experimental force demonstrated the potential for greatly enhanced capabilities in the Army of the future.

Before a combat operation the commander generally conducts what is called the intelligence preparation of the battlefield. In the case of offensive operations, the commander and his staff compare a doctrinal template of the way they expect the enemy to array his forces in the defense to that dictated by the actual terrain in the area of operations. The resultant situational template allows the commander to target his reconnaissance effort against the suspected enemy defensive positions to confirm or deny the accuracy of the template. He then adjusts his scheme of firing and maneuvering to effectively attack and destroy the enemy in his confirmed positions.

Today, Army units rely principally on their integral aerial and ground scouts with their current optical, thermal, or radar systems to conduct this reconnaissance. Very often scouts are destroyed before reaching their positions, or are unable to send back accurate or timely spot reports for any number of reasons. In that case a commander is forced to attack against an unconfirmed or incomplete situational template of the enemy defense, or is forced to change his scheme of maneuver at the last minute—a particularly difficult and dangerous endeavor.

With its enhanced situational awareness capability, the EXFOR was able to conduct the intelligence preparation of the battlefield much quicker and with greater accuracy than normal Army brigades. The situational template was developed and transmitted digitally to all echelons of command. The commander used all reconnaissance assets, including national satellite systems, overhead aircraft, UAV reconnaissance, and the Joint Surveillance Target Attack System, as well as his integral aerial and ground scouts who were equipped with enhanced sights and other surveillance equipment. OPFOR positions were detected and transmitted digitally to all of the EXFOR vehicle computer systems to update the situational template. With such accurate and timely intelligence the commander was able to quickly change the scheme of fires and maneuver for his attack with ample time and information for subordinate commanders to plan and react effectively.

During the EXFOR attack the OPFOR employed an artillery delivered minefield across the EXFOR's avenue of approach in an attempt to confuse and slow the EXFOR attack. With its superior situational awareness provided by its digital systems, the EXFOR was able to transmit the locations of the minefield quickly and accurately to follow-on attacking battalions. These battalions were able to avoid the minefield and resort to an alternate route of attack. Likewise, superior situational awareness permitted those battalions, in the dead of night, to rapidly traverse the more difficult terrain of the alternate route and surprise an OPFOR unaccustomed to such a rapid response on the part of a training unit.

During this attack highly accurate situational awareness permitted rapid and effective EXFOR response in other situations as well. In the battle I observed, the EXFOR placed very accurate counter-battery radar coverage zones around its units that needed priority protection. This proved critical when the EXFOR combat engineers were breaching the obstacles in front of the OPFOR defensive position and came under OPFOR mortar attack. The counter-battery radars detected the first incoming rounds and alerted EXFOR artillery, which immediately responded with counter-battery fires that destroyed the OPFOR mortars before they could fire another round against the engineers.

During the later stages of the battle I visited the brigade and divisional tactical operations centers and saw the soldiers and officers of the EXFOR using the digital equipment in the most realistic combat environment the Army can simulate short of actual war. I observed the unmanned aerial vehicle—or UAV—being flown from a van attached to the brigade tactical operations center under the direction of one of the brigade operations officers, providing the brigade with real-time intelligence and tremendous targeting information. The commander of the OPFOR brigade later told me that he had to devote significantly more resources to protecting his own forces in this exercise compared to others. He said that all of his soldiers, for example, spent a lot of time during the 2-week exercise looking up in the sky and watching for the EXFOR's UAV's.

Madam President, an important aspect of the Army's effort to incorporate digital technology into its divisions is the unprecedented cooperation between the Army and the contractor community. This cooperation extended to the exercise at the National Training Center. During my visit I toured what the Army calls the Central Technical Support Facility, a facility jointly manned by Army personnel and contractor personnel. The Army established this unique organization to act as an enabler for rapid integration of software and hardware systems through interaction of soldiers, contractors, and program managers. Any problems identified by the soldier-users of the tactical internet and digital systems were immediately dealt with by hardware and software engineers at the Central Technical Support Facility. In some cases, their solutions resulted in design changes which were immediately incorporated into the experiment, shaving months or years off the normal time-lines for the testing and acquisition process. Senior Army officials believe this concept is a prototype which holds great potential for changing the way users and contractors interact in the future. I share the Army's interest in further development of this arrangement.

I have inevitably been asked who won the 2-week exercise—was it the EXFOR with its new technology, or was it the OPFOR who lacked the newer technology but had a tremendous home-field advantage with its intimate knowledge of the terrain and long experience of fighting together? The answer to that question is not nearly as important as the answer to the question of how effective were the various new technologies used by the EXFOR.

The answer to both will have to wait for the results of the comprehensive after-action review that is being conducted by the Army. My own discussions during my visit left me with the overall impression that this digitization technology can be a tremendously powerful tool for the Army. UAV's—unmanned aerial vehicles—were a great force multiplier, as were the latest generation night vision equipment and the situational awareness technology. The Apache Longbow helicopter, the new Javelin antitank weapon and the Paladin howitzer were all combat systems available to the EXFOR which gave them a clear advantage over the OPFOR, and these systems were made even more effective by UAV's and other systems that provided real-time targeting data.

In some significant instances, the NTC exercise did not reflect the full potential of some new technologies that are already reaching the deployed forces. For example, the M1A2 tank is in such short supply at this time that the Army is fielding this system only with the early deploying combat forces. The EXFOR was using M1A1 tanks with internally mounted computer terminals to provide situational awareness. Although these internally mounted terminals are a great help, they are not a long-term solution and do not adequately represent the target acquisition and situational awareness capability of the embedded information warfare systems fielded with the M1A2.

The technologies that the Army is testing under their advanced warfighting experiments are not without bugs and problems. Some echelons of command, for example, were reluctant to rely on the real-time situational awareness reported digitally over the EXFOR's tactical internet and preferred instead to rely on traditional acetate maps and voice communications. With much of the technology still in development, this reliance on traditional methods of command and control was understandable, and some backup capability to the tactical internet will need to be retained in the future. In general, though, much of the technology that I saw on display during the exercise can be incorporated into systems that will significantly improve the survivability and lethality of our Army combat forces. The commander of the OPFOR brigade acknowledged that his brigade had been tested more than usual by the EXFOR brigade. He also said that he would not like to fight the EXFOR brigade after they had a year to train with their new equipment.

There is an old saying that knowledge is power. The advanced warfighting experiment at the National Training Center demonstrated that knowledge is also military power—particularly the knowledge of the battlefield that comes from the tremendous situational awareness available through the digital technology of information warfare. No amount of technology is going to change the basic requirement for Army combat forces to be able to close with and destroy the enemy. But the information dominance that the Army is developing through the Force XXI effort can be a tremendous force multiplier.

Earlier this year General Shalikashvili told the Armed Services Committee that the Defense Department will have to change the way it does business. "Where possible," General Shalikashvili stated, "we will also have to trim personnel end strength especially where technological changes such as improved weapons systems afford us the possibility to consider fewer and smaller units." The technology of information warfare tested at the National Training Center last month is a good example of technology that may in fact allow a smaller force to have the same or even greater lethality and combat effectiveness as the forces we have today.

Madam President, I want to congratulate General Reimer, the Army Chief of Staff and his predecessor Gen. Gordon Sullivan; Gen. William Hartzog, the commander of the Army's Training and Doctrine Command; and Maj. Gen. Paul Kern, the commander of the 4th Infantry Division for their vision and determination to make information technology a force multiplier for the Army of the future. I also want to congratulate the thousands of soldiers, Department of the Army civilians, and civilian contractors responsible for their contributions to this important effort.

The job, however, is not complete. There are a number of challenges that must be addressed before the decision is made to expand this technology throughout the Army, including questions of cost; the integration of new technology into existing systems; the impact of this technology on the Army's organizational structure and doctrine, and on the tactics, techniques and procedures to execute this doctrine; the impact on the training base; and the impact on personnel systems, including leader development.

Madam President, the Armed Services Committee will look closely at the results and lessons learned from the advanced warfighting experiment in the coming weeks and months. I look forward to working with the Army and with my colleagues on the Armed Services Committee to bring the best of this experiment to the rest of the Army in a timely manner.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC 1501. A communication from the Director of the U.S. Arms Control and Disarmament Agency, transmitting, a draft of proposed legislation entitled "The Chemical Weapons Convention Implementation Act of 1997"; to the Committee on Foreign Relations.

EC 1502. A communication from the Chairman of the Board of the African Development Foundation, transmitting, a draft of proposed legislation to authorize appropriations for the African Development Foundation; to the Committee on Foreign Relations.

EC 1503. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of voluntary contributions to international organizations for the period October 1, 1995 through March 31, 1996; to the Committee on Foreign Relations.

EC 1504. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC 1505. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC 1506. A communication from the General Counsel of the Department of Treasury, transmitting, a draft of proposed legislation to authorize appropriations to pay for the U.S. capital subscription as part of the eighth general capital increase of the Inter-American Development Bank; to the Committee on Foreign Relations.

EC 1507. A communication from the General Counsel of the Department of Treasury, transmitting, a draft of proposed legislation to authorize the U.S. participation in and appropriations for the U.S. contribution to the sixth replenishment of the resources of the Asian Development Bank; to the Committee on Foreign Relations.

EC 1508. A communication from the General Counsel of the Department of Treasury, transmitting, a draft of proposed legislation to authorize consent to and authorize appropriations for a U.S. contribution to the Interest Subsidy Account of the successor to the Enhanced Structural Adjustment Facility of the International Monetary Fund; to the Committee on Foreign Relations.

EC 1509. A communication from the General Counsel of the Department of Treasury, transmitting, a draft of proposed legislation to authorize the U.S. participation in and appropriations for the U.S. contribution to the eleventh replenishment of the resources of the International Development Association; to the Committee on Foreign Relations.

EC 1510. A communication from the General Counsel of the Department of Treasury, transmitting, a draft of proposed legislation to authorize the U.S. participation in an increase in authorized capital stock of the European Bank for Reconstruction and Development, and to authorize appropriations to pay for the increase in the U.S. capital subscription; to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Labor and Human Resources: Alexis M. Herman, of Alabama, to Secretary of Labor.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SANTORUM (for himself and Mr. COVERDELL):

S. 563. A bill to limit the civil liability of business entities that donate equipment to nonprofit organizations; to the Committee on the Judiciary.

S. 564. A bill to limit the civil liability of business entities providing use of facilities to nonprofit organizations; to the Committee on the Judiciary.

S. 565. A bill to limit the civil liability of business entities that make available to a nonprofit organization the use of a motor vehicle or aircraft; to the Committee on the Judiciary.

S. 566. A bill to limit the civil liability of business entities that provide facility tours; to the Committee on the Judiciary.

By Mr. SMITH of New Hampshire:

S. 567. A bill to permit revocation by members of the clergy of their exemption from Social Security coverage; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. MACK, Mr. KENNEDY, Mr. D'AMATO, and Mr. MOYNIHAN):

S. 568. A bill to make a technical correction to title 28, United States Code, relating to jurisdiction for lawsuits against terrorist states; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself, Mr. CAMPBELL, Mr. DOMENICI, and Mr. DORGAN):

S. 569. A bill to amend the Indian Child Welfare Act of 1978, and for other purposes; to the Committee on Indian Affairs.

By Mr. NICKLES (for himself, Mr. BREAUX, Mr. MACK, Mr. BAUCUS, Mr. D'AMATO, Mr. BOND, Mr. DEWINE, Mr. COCHRAN, Mr. ENZI, Mr. HAGEL, and Mr. THOMAS):

S. 570. A bill to amend the Internal Revenue Code of 1986 to exempt certain small businesses from the mandatory electronic fund transfer system; to the Committee on Finance.

By Mr. REID:

S. 571. A bill to establish a uniform poll closing time throughout the continental United States for Presidential general elections; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WYDEN (for himself, Mr. REID, Mr. WELLSTONE, Mr. MURKOWSKI, and Mr. BRYAN):

S. Res. 71. A resolution to ensure that the Senate is in compliance with the Congressional Accountability Act with respect to permitting a disabled individual access to the Senate floor when that access is required to allow the disabled individual to discharge his or her official duties; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SANTORUM (for himself and Mr. COVERDELL):

S. 563. A bill to limit the civil liability of business entities that donate equipment to nonprofit organizations; to the Committee on the Judiciary.

S. 564. A bill to limit the civil liability of business entities providing use of facilities to nonprofit organizations; to the Committee on the Judiciary.

S. 565. A bill to limit the civil liability of business entities that make available to a nonprofit organization the use of a motor vehicle or aircraft; to the Committee on the Judiciary.

S. 566. A bill to limit the civil liability of business entities that provide facility tours; to the Committee on the Judiciary.

LEGISLATION TO LIMIT CIVIL LIABILITY OF BUSINESS

● Mr. SANTORUM. Mr. President, I introduce four related pieces of legislation all aimed at increasing donations of goods and services to charities. Collectively called the charity empowerment project, I urge my colleagues to consider cosponsoring these bills.

Over the past 30 years, courts have consistently expanded what constitutes tortious conduct. Regrettably, fault is often not a factor when deciding who should compensate an individual for damages incurred. This has had an impact on charitable giving. Today, individuals and businesses are wary of giving goods, services, and time to charities for fear of frivolous lawsuits.

The charity empowerment project is designed to free up resources for charities by providing legal protections for donors. Generally, these bills raise the tort liability standard for donors, whereby they are liable only in cases of gross negligence, hence eliminating strict liability and returning to a fault based legal standard. By allowing businesses to once again become good Samaritans, I look forward to seeing a massive increase in the donation of goods and services to charities.

Specifically, I am introducing four bills each of which accomplishes one of the following four objectives: First, to limit the civil liability of business entities that donate equipment to nonprofit organizations; second, to limit the civil liability of business entities that provide use of their facilities to nonprofit organizations; third, to limit the civil liability of business entities that provide facility tours; and fourth, to limit the civil liability of business entities that make available to nonprofit organizations the use of motor vehicles or aircraft.

Clearly, where an organization is grossly negligent when providing goods or the use of its facilities to charity, that organization should be fully liable for injuries caused. These bills merely require this to be the standard in cases arising from certain donations to charities.

Last autumn, the Good Samaritan Food Donation Act was passed into law. This law now protects donors of foodstuffs to charities from liability except in cases where the donor was grossly negligent in making the donation. I was proud to join Senator BOND in his successful efforts to pass this act. The bills I introduce today draw from my successful work with Senator BOND last year. Each of these bills is modeled on the legal framework of the Good Samaritan Food Donation Act. I hope my distinguished colleagues who supported the Food Donation Act will help further these efforts by supporting the charity empowerment project.

Mr. President, I wish to note additional efforts by my colleagues to enhance charitable giving. Senator COVERDELL and Senator ASHCROFT have recently introduced legislation which protects volunteers from frivolous and damaging litigation. I am proud to be an original cosponsor of Senator COVERDELL's Volunteer Protection Act of 1997, and I anticipate supporting Senator ASHCROFT's bill with equal vigor. Collectively, I look forward to our legislation freeing up massive resources for charities through increased volunteerism and increased giving.

At the end of this month, the Summit for America's Future will assemble in Philadelphia. The Senate now has the opportunity to consider the Santorum, Coverdell, and Ashcroft bills prior to the convening of this century's greatest gathering on voluntarism. There may never be a more appropriate time to consider legislation which so dramatically empowers charities with enhanced ability to carry out their noble causes.

Mr. President, I ask unanimous consent that the text of these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIABILITY OF BUSINESS ENTITIES THAT DONATE EQUIPMENT TO NONPROFIT ORGANIZATIONS.

(a) DEFINITIONS.—In this section:

(1) BUSINESS ENTITY.—The term "business entity" means a firm, corporation, association, partnership, consortium, joint venture, or other form of enterprise.

(2) EQUIPMENT.—The term "equipment" includes mechanical equipment, electronic equipment, and office equipment.

(3) GROSS NEGLIGENCE.—the term "gross negligence" means voluntary and conscious conduct by a person with knowledge (at the time of the conduct) that the conduct is likely to be harmful to the health or well-being of another person.

(4) INTENTIONAL MISCONDUCT.—The term "intentional misconduct" means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person.

(5) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means—

(A) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) any not-for-profit organization organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(6) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(b) LIMITATION ON LIABILITY.—

(1) IN GENERAL.—Subject to subsection (c), a business entity shall not be subject to civil liability relating to any injury or death that results from the use of equipment donated by a business entity to a noprofit organization.

(2) APPLICATION.—This subsection shall apply with respect to civil liability under Federal and State law.

(c) EXCEPTION FOR LIABILITY.—Subsection (b) shall not apply to an injury or death that results from an act or omission of a business entity that constitutes gross negligence or intentional misconduct, including any misconduct that—

(1) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(2) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(3) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court; or

(4) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law.

(d) SUPERSEDING PROVISION.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (e), this Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection for a business entity for an injury or death described in subsection (b)(1).

(2) LIMITATION.—Nothing in this Act shall be construed to supersede any Federal or State health or safety law.

(e) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This Act shall not apply to any civil action in a State court against a business entity in which all parties are citizens of the State if such State enacts a statute—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this Act shall not apply to such civil action in the State; and

(3) containing no other provisions.

S. 564

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIABILITY OF BUSINESS ENTITIES PROVIDING USE OF FACILITIES TO NONPROFIT ORGANIZATIONS.

(a) DEFINITIONS.—In this section:

(1) BUSINESS ENTITY.—The term "business entity" means a firm, corporation, association, partnership, consortium, joint venture, or other form of enterprise.

(2) FACILITY.—The term "facility" means any real property, including any building, improvement, or appurtenance.

(3) GROSS NEGLIGENCE.—The term "gross negligence" means voluntary and conscious conduct by a person with knowledge (at the time of the conduct) that the conduct is likely to be harmful to the health or well-being of another person.

(4) INTENTIONAL MISCONDUCT.—The term "intentional misconduct" means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person.

(5) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means—

(A) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) any not-for-profit organization organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(6) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(b) LIMITATION ON LIABILITY.—

(1) IN GENERAL.—Subject to subsection (c), a business entity shall not be subject to civil liability relating to any injury or death occurring at a facility of the business entity in connection with a use of such facility by a nonprofit organization if—

(A) the use occurs outside of the scope of business of the business entity;

(B) such injury or death occurs during a period that such facility is used by the nonprofit organization; and

(C) the business entity authorized the use of such facility by the nonprofit organization.

(2) APPLICATION.—This subsection shall apply—

(A) with respect to civil liability under Federal and State law; and

(B) regardless of whether a nonprofit organization pays for the use of a facility.

(c) EXCEPTION FOR LIABILITY.—Subsection (b) shall not apply to an injury or death that results from an act or omission of a business entity that constitutes gross negligence or intentional misconduct, including any misconduct that—

(1) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(2) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(3) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court; or

(4) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law.

(d) SUPERSEDING PROVISION.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (e), this Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability for a business entity for an injury or death with respect to which conditions under subparagraphs (A) through (C) of subsection (b)(1) apply.

(2) LIMITATION.—Nothing in this Act shall be construed to supersede any Federal or State health or safety law.

(e) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This Act shall not apply to any civil action in a State court against a business entity in which all parties are citizens of the State if such State enacts a statute—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this Act shall not apply to such civil action in the State; and

(3) containing no other provisions.

S. 565

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIABILITY OF BUSINESS ENTITIES PROVIDING USE OF A MOTOR VEHICLE OR AIRCRAFT.

(a) DEFINITIONS.—In this section:

(1) AIRCRAFT.—The term "aircraft" has the meaning provided that term in section 40102(6) of title 49, United States Code.

(2) BUSINESS ENTITY.—the term "business entity" means a firm, corporation, association, partnership, consortium, joint venture, or other form of enterprise.

(3) GROSS NEGLIGENCE.—The term "gross negligence" means voluntary and conscious conduct by a person with knowledge (at the time of the conduct) that the conduct is likely to be harmful to the health or well-being of another person.

(4) INTENTIONAL MISCONDUCT.—The term "intentional misconduct" means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person.

(5) MOTOR VEHICLE.—The term "motor vehicle" has the meaning provided that term in section 30102(6) of title 49, United States Code.

(6) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means—

(A) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) any not-for-profit organization organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(7) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(b) LIMITATION ON LIABILITY.—

(1) IN GENERAL.—Subject to subsection (c), a business entity shall not be subject to civil

liability relating to any injury or death occurring as a result of the operation of aircraft or a motor vehicle of a business entity loaned to a nonprofit organization for use outside of the scope of business of the business entity if—

(A) such injury or death occurs during a period that such motor vehicle or aircraft is used by a nonprofit organization; and

(B) the business entity authorized the use by the nonprofit organization of motor vehicle or aircraft that resulted in the injury or death

(2) APPLICATION.—This subsection shall apply—

(A) with respect to civil liability under Federal and State law; and

(B) regardless of whether a nonprofit organization pays for the use of the aircraft or motor vehicle.

(c) EXCEPTION FOR LIABILITY.—Subsection (b) shall not apply to an injury or death that results from an act or omission of a business entity that constitutes gross negligence or intentional misconduct, including any misconduct that—

(1) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(2) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(3) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court; or

(4) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law.

(d) SUPERSEDING PROVISION.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (e), this Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability for a business entity with respect an injury or death with respect to which the conditions described in subparagraphs (A) and (B) of subsection (b)(1) apply.

(2) LIMITATION.—Nothing in this Act shall be construed to supersede any Federal or State health or safety law.

(e) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This Act shall not apply to any civil action in a State court against a volunteer, nonprofit organization, or governmental entity in which all parties are citizens of the State if such State enacts a statute—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this Act shall not apply to such civil action in the State; and

(3) containing no other provisions.

S. 566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIABILITY OF BUSINESS ENTITIES PROVIDING TOURS OF FACILITIES.

(a) DEFINITIONS.—In this section:

(1) BUSINESS ENTITY.—The term "business entity" means a firm, corporation, association, partnership, consortium, joint venture, or other form of enterprise.

(2) FACILITY.—The term "facility" means any real property, including any building, improvement, or appurtenance.

(3) GROSS NEGLIGENCE.—The term "gross negligence" means voluntary and conscious conduct by a person with knowledge (at the time of the conduct) that the conduct is likely to be harmful to the health or well-being of another person.

(4) INTENTIONAL MISCONDUCT.—The term "intentional misconduct" means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person.

(5) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(b) LIMITATION ON LIABILITY.—

(1) IN GENERAL.—Subject to subsection (c), a business entity shall not be subject to civil liability relating to any injury to, or death of an individual occurring at a facility of the business entity if—

(A) such injury or death occurs during a tour of the facility in an area of the facility that is not otherwise accessible to the general public; and

(B) the business entity authorized the tour.

(2) APPLICATION.—This subsection shall apply—

(A) with respect to civil liability under Federal and State law; and

(B) regardless of whether an individual pays for the tour.

(c) EXCEPTION FOR LIABILITY.—Subsection (b) shall not apply to an injury or death that results from an act or omission of a business entity that constitutes gross negligence or intentional misconduct, including any misconduct that—

(1) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(2) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(3) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court; or

(4) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law.

(d) SUPERSEDING PROVISION.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (e), this Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability for a business entity for an injury or death with respect to which the conditions under subparagraphs (A) and (B) of subsection (b)(1) apply.

(2) LIMITATION.—Nothing in this Act shall be construed to supersede any Federal or State health or safety law.

(e) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This Act shall not apply to any civil action in a State court against a business entity in which all parties are citizens of the State if such State enacts a statute—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this Act shall not apply to such civil action in the State; and

(3) containing no other provisions.●

By Mr. SMITH of New Hampshire:

S. 567. A bill to permit revocation by members of the clergy of their exemption from Social Security coverage; to the Committee on Finance.

SOCIAL SECURITY COVERAGE LEGISLATION

Mr. SMITH of New Hampshire. Mr. President, today I am introducing what I believe to be a very sensible piece of legislation which will allow a number of members of the clergy of all faiths to participate in the Social Security Program. Before 1968 a minister was exempt from Social Security coverage unless he or she chose to elect that coverage, and in 1968 ministers were covered by Social Security unless they filed an irrevocable exemption from the IRS on the grounds that they were opposed on basic religious principles to participate in any public insurance program. So a member of the clergy who is eligible for this exemption is an "individual who is duly ordained, commissioned, or licensed member of a church, or a member of a religious order which has not taken a vow of poverty."

About 260,000 ministers are affected by this exclusion. This legislation which I have offered would simply permit ministers and the few members of religious orders who have not taken a vow of poverty to secure that coverage. Modestly paid clergy would be among those most likely to need Social Security benefits when they retire. But earlier in their careers many chose not to participate in the program. They had good intentions. They were doing it on principle. But they didn't fully understand the ramifications of the exemption. Since 1968—once in 1977 and another time in 1986—ministers were given a temporary opportunity to revoke their exemption from Social Security; that is, they would have the opportunity to have a window whereby they could come back under the Social Security System.

This was brought to my attention by the distinguished bishop in Manchester, NH, Reverend Bishop O'Neil. He brought this matter to my attention—that there are a number of hardships for individuals who may or may not have any retirement income as a result of this.

So this legislation simply provides another open season, a 2-year period whereby those who are clergy who may wish now to be under the Social Security System may take advantage of this opportunity to revoke their exemption.

That is all the bill does, and I think it is fair in that again these are very principled members of the cloth who have decided now that they would like to have the opportunity to get into the program.

So it is a 2-year open season during which the members of the clergy could opt into the system. The application for benefits must be filed before the clergy member can become entitled to benefits, and those who choose coverage would be subject to self-employment taxes. And their earnings would be credited for Social Security and for Medicare purposes. And, of course, no one who is at retirement age now would be allowed in. These would be people who are not yet at the retirement age.

Based on the experience in 1986 and the trends in the number of clergy since then, the Congressional Budget Office estimates that maybe as many as 1,500 to 1,600 members of the clergy would take advantage of the open season and enroll in Social Security. That is based on past performance. That is what happened in 1986. The bill was scored by the Congressional Budget Office. I have had it scored. It is a short-time revenue raiser because people would be paying into the system but, of course, it is going to ultimately be like any other Social Security beneficiary in the sense that we will be paying out more than comes in.

This legislation has the endorsement of the National Conference of Catholic Bishops. It is an issue of fairness. I hope my colleagues will join me in support of this legislation which I would like to see passed this year so that we could begin the open season process so that members of the clergy could opt in now to the Social Security System. I hope that many of my colleagues will join me as quickly as possible in cosponsoring the legislation so that we can get it out of the Finance Committee and here on the floor so that we can begin to correct this inadequacy, this unfairness where many members of the clergy are affected.

By Mr. HATCH (for himself, Mr. MACK, Mr. KENNEDY, Mr. D'AMATO, and Mr. MOYNIHAN):

S. 568. A bill to make a technical correction to title 28, United States Code, relating to jurisdiction for lawsuits against terrorist states; to the Committee on the Judiciary.

JURISDICTION FOR LAWSUITS AGAINST TERRORIST

Mr. HATCH. Mr. President, I rise to introduce legislation to make a technical correction to the provision of the Antiterrorism and Effective Death Penalty Act of 1996, which provided a limited exception to the Foreign Sovereign Immunity Act, allowing U.S. courts to hear claims by American victims of foreign terrorism against the lawless governments that sponsored the terrorist act. I am pleased to be joined by Senator MACK, Senator KENNEDY, Senator D'AMATO, and Senator MOYNIHAN in introducing this bill.

Nearly a year ago, when we passed the landmark Antiterrorism and Effective Death Penalty Act, Congress took the important step of ensuring that Americans who are harmed by foreign governments committing or directing terrorists acts can sue those governments in American courts. Congress did this by amending the Foreign Sovereign Immunity Act, which generally bars claims against foreign governments, to provide that the FSIA does not preempt claims for personal injury or death by the victims and survivors of terrorist acts committed by certified terrorist states. Thus, lawless nations no longer are able to hide their terrorist acts behind the rules of international law that they otherwise flaunt.

It has come to our attention, however, that a particular phrase in this law puts at risk, for a small class of intended claimants, the right to be heard in court.

As enacted, the law provides that a claim must be dismissed if "the claimant or the victim was not a national of the United States" when the terrorist act occurred. There is substantial concern that this phrase may be interpreted by the courts to require that both the victim and the claimant be U.S. nationals. As a result, several American claimants against Libya for the bombing of Pan Am Flight 103 could be barred from bringing an action because their spouses, who were killed in the attack, were British subjects.

Notably, the amendment to the Foreign Sovereign Immunity Act was not intended by Congress to preclude its application in such circumstances. Rather, all that was intended was that either the victim or the claimant be U.S. a national in order for foreign sovereign immunity not to apply, permitting a claim to go forward.

The legislation we are introducing today corrects this ambiguity, by amending the law to apply foreign sovereign immunity, and thus bar the claim if "neither the claimant nor the victim was a national of the United States." It is only right that we should do this.

Companion legislation, H.R. 1225, has been introduced in the other body by Representatives HYDE and CONYERS, the distinguished chairman and ranking member of the House Judiciary Committee. It is my hope that my colleagues will join us in a bipartisan effort to pass this legislation quickly.

Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 568

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective with respect to any cause of action arising, before, on, or after the date of the enactment of this Act, section 1605(a)(7)(B)(ii) of title 28, United States Code, is amended by striking "the claimant or victim was not" and inserting "neither the claimant nor the victim was".

Mr. D'AMATO. Mr. President, I rise in support of the bill offered by the chairman of the Judiciary Committee that will correct a drafting error in the Antiterrorism and Effective Death Penalty Act of 1996, thereby removing an impediment that would have restricted U.S. victims or their U.S. survivors to sue a country, designated by the Department of State, that sponsored the terrorist act which caused the death.

The Antiterrorism Act contained provisions that limited the jurisdictional immunities of foreign states, particularly those countries that sponsored acts of terrorism. It was intended that a victim of terrorism who is an American national, or their American survivors, would not be barred from filing a claim against a country that sponsored the terrorist act. Unfortunately, as drafted, it was not clear that Congress intended this right of action to be available to victims who are American as well as survivors who are American, even if the victim who perished was not a U.S. citizen.

Countries, designated by the Department of State, that sponsor terrorism should be subject to civil suits by the victim or their surviving families. This right of action should be available whether the victim was American or the survivor was American.

This clarification should allow for the suit of an American citizen whose spouse perished in the destruction of Pan Am 103 over Lockerbie, Scotland, in December 1988.

I thank my colleague for taking up this issue and urge immediate passage so that justice can be achieved for several of the families of Pan Am 103, and all future victims of state-sponsored terrorism.

By Mr. McCAIN (for himself, Mr. CAMPBELL, Mr. DOMENICI, and Mr. DORGAN):

S. 569. A bill to amend the Indian Child Welfare Act of 1978, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN CHILD WELFARE ACT AMENDMENTS OF 1997

• Mr. McCAIN. Mr. President, I am introducing today a bill to amend the Indian Child Welfare Act [ICWA] of 1978 to make the process that applies to voluntary Indian child custody and adoption proceedings more fair, consistent, and certain. The provisions of this legislation would further advance the best interests of Indian children without eroding tribal sovereignty and the fundamental principles of Federal-Indian law.

I want to thank my principal cosponsors, Senators CAMPBELL, DOMENICI, and DORGAN, for their continued support of this much-needed legislation. Let me point out also that this bill is identical to legislation which passed the Senate by unanimous consent on September 26, 1996. It is the result of nearly 2 years of discussions and debates among representatives of the adoption community, Indian tribal governments, and the Congress to address some of the problems with the implementation of ICWA since its enactment in 1978.

Mr. President, ICWA was originally enacted to provide for procedural and substantive protection for Indian children and families and to recognize and formalize a substantial role for Indian tribes in cases involving involuntary and voluntary child custody proceedings, whether on or off the Indian reservation. Although implementation of ICWA has been less than perfect, in the vast majority of cases ICWA has effectively provided such protection. It has compelled greater efforts and more painstaking analysis by State and private adoption agencies and State courts before removing Indian children from their homes and communities. It has required recognition by all parties that an Indian child has a vital interest in retaining a connection with his or her Indian tribe.

Nonetheless, particularly in the voluntary adoption context, there have been occasional, high-profile cases which have resulted in lengthy, protracted litigation causing great anguish for the children, their adoptive families, their birth families, and their Indian tribes. This bill takes a measured and limited approach, crafted by representatives of tribal governments and the adoption community, to address the problems of implementing ICWA in voluntary adoption proceedings.

This legislation would achieve greater certainty and speed in the adoption process for Indian children by providing new guarantees of early and effective notice in all cases involving Indian children. The bill also establishes new, strict time restrictions on both the right of Indian tribes and families to intervene and the right of Indian birth parents to revoke their consent to an adoptive placement. Finally, the bill includes a provision which would encourage early identification of the relatively few cases involving controversy and promote the settlement of cases by making visitation agreements enforceable.

For a full analysis of the provisions of the bill, I respectfully refer my colleagues to the report accompanying the legislation as it was reported to the Senate on July 26, 1996, which is Senate Report No. 104–335.

Mr. President, nothing is more sacred and more important to our future than our children. The issues surrounding Indian child welfare stir deep emotions. I am thankful that, in formulating the compromise that led to the introduction of this bill in the last Congress, the representatives of both the adoption community and tribal governments were able to put aside their individual desires and focus on the best interests of Indian children.

Mr. President, last year, proposals were put forth in the House which would have gone too far in restricting the application of ICWA. Those proposals, which were considered by the Senate as title III of H.R. 3286, the Adoption Promotion and Stability Act of 1996, were deleted by the Indian Affairs Committee because of our concern about the breadth of the language and the fundamental changes the provisions would have made to the government-to-government relationship between the United States and Indian tribes.

I believe this bill represents an appropriate and fair-minded compromise proposal which would enhance the best interests of Indian children by guaranteeing speed, certainty, and stability in the adoption process. At the same time, the provisions of this bill preserve fundamental principles of tribal government by recognizing the appropriate role of tribal governments in the lives of Indian children.

Mr. President, this bill has been thoroughly analyzed and debated in the Senate, as well as in the adoption community and Indian tribal governments. I believe it is time for the Congress to act in the best interests of Indian children by approving these amendments to the voluntary adoption procedures in the 1978 ICWA.

Mr. President, I ask unanimous consent that the full text of the legislation I am introducing today be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 569

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Indian Child Welfare Act Amendments of 1997".

(b) REFERENCES.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.).

SEC. 2. EXCLUSIVE JURISDICTION.

Section 101(a) (25 U.S.C. 1911(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by striking the last sentence and inserting the following:

"(2) An Indian tribe shall retain exclusive jurisdiction over any child custody proceeding that involves an Indian child, notwithstanding any subsequent change in the residence or domicile of the Indian child, in any case in which the Indian child—

"(A) resides or is domiciled within the reservation of the Indian tribe and is made a ward of a tribal court of that Indian tribe; or

"(B) after a transfer of jurisdiction is carried out under subsection (b), becomes a ward of a tribal court of that Indian tribe.".

SEC. 3. INTERVENTION IN STATE COURT PROCEEDINGS.

Section 101(c) (25 U.S.C. 1911(c)) is amended by striking "In any State court proceeding" and inserting "Except as provided in section 103(e), in any State court proceeding".

SEC. 4. VOLUNTARY TERMINATION OF PARENTAL RIGHTS.

Section 103(a) (25 U.S.C. 1913(a)) is amended—

(1) by inserting "(1)" before "Where";

(2) by striking "foster care placement" and inserting "foster care or preadoptive or adoptive placement";

(3) by striking "judge's certificate that the terms" and inserting the following: "judge's certificate that—

"(A) the terms";

(4) by striking "or Indian custodian." and inserting "or Indian custodian; and";

(5) by inserting after subparagraph (A), as designated by paragraph (3) of this subsection, the following new subparagraph:

"(B) any attorney or public or private agency that facilitates the voluntary termination of parental rights or preadoptive or adoptive placement has informed the natural parents of the placement options with respect to the child involved, has informed those parents of the applicable provisions of this Act, and has certified that the natural parents will be notified within 10 days of any change in the adoptive placement.";

(6) by striking "The court shall also certify" and inserting the following:

"(2) The court shall also certify";

(7) by striking "Any consent given prior to," and inserting the following:

"(3) Any consent given prior to,"; and

(8) by adding at the end the following new paragraph:

"(4) An Indian custodian who has the legal authority to consent to an adoptive placement shall be treated as a parent for the purposes of the notice and consent to adoption provisions of this Act.".

SEC. 5. WITHDRAWAL OF CONSENT.

Section 103(b) (25 U.S.C. 1913(b)) is amended—

(1) by inserting "(1)" before "Any"; and

(2) by adding at the end the following new paragraphs:

"(2) Except as provided in paragraph (4), a consent to adoption of an Indian child or voluntary termination of parental rights to an Indian child may be revoked, only if—

"(A) no final decree of adoption has been entered; and

"(B)(i) the adoptive placement specified by the parent terminates; or

"(ii) the revocation occurs before the later of the end of—

"(I) the 180-day period beginning on the date on which the Indian child's tribe receives written notice of the adoptive placement provided in accordance with the requirements of subsections (c) and (d); or

"(II) the 30-day period beginning on the date on which the parent who revokes consent receives notice of the commencement of the adoption proceeding that includes an explanation of the revocation period specified in this subclause.

"(3) The Indian child with respect to whom a revocation under paragraph (2) is made shall be returned to the parent who revokes consent immediately upon an effective revocation under that paragraph.

"(4) Subject to paragraph (6), if, by the end of the applicable period determined under subclause (I) or (II) of paragraph (2)(B)(ii), a consent to adoption or voluntary termination of parental rights has not been revoked, beginning after that date, a parent may revoke such a consent only—

"(A) pursuant to applicable State law; or

"(B) if the parent of the Indian child involved petitions a court of competent jurisdiction, and the court finds that the consent to adoption or voluntary termination of parental rights was obtained through fraud or duress.

"(5) Subject to paragraph (6), if a consent to adoption or voluntary termination of parental rights is revoked under paragraph (4)(B), with respect to the Indian child involved—

"(A) in a manner consistent with paragraph (3), the child shall be returned immediately to the parent who revokes consent; and

"(B) if a final decree of adoption has been entered, that final decree shall be vacated.

"(6) Except as otherwise provided under applicable State law, no adoption that has been in effect for a period longer than or equal to 2 years may be invalidated under this subsection.".

SEC. 6. NOTICE TO INDIAN TRIBES.

Section 103(c) (25 U.S.C. 1913(c)) is amended to read as follows:

"(c)(1) A party that seeks the voluntary placement of an Indian child or the voluntary termination of the parental rights of a parent of an Indian child shall provide written notice of the placement or proceeding to the Indian child's tribe. A notice under this subsection shall be sent by registered mail (return receipt requested) to the Indian child's tribe, not later than the applicable date specified in paragraph (2) or (3).

"(2)(A) Except as provided in paragraph (3), notice shall be provided under paragraph (1) in each of the following cases:

"(i) Not later than 100 days after any foster care placement of an Indian child occurs.

"(ii) Not later than 5 days after any preadoptive or adoptive placement of an Indian child.

"(iii) Not later than 10 days after the commencement of any proceeding for a termination of parental rights to an Indian child.

"(iv) Not later than 10 days after the commencement of any adoption proceeding concerning an Indian child.

"(B) A notice described in subparagraph (A)(ii) may be provided before the birth of an Indian child if a party referred to in paragraph (1) contemplates a specific adoptive or preadoptive placement.

"(3) If, after the expiration of the applicable period specified in paragraph (2), a party referred to in paragraph (1) discovers that the child involved may be an Indian child—

"(A) the party shall provide notice under paragraph (1) not later than 10 days after the discovery; and

"(B) any applicable time limit specified in subsection (e) shall apply to the notice provided under subparagraph (A) only if the party referred to in paragraph (1) has, on or before commencement of the placement, made reasonable inquiry concerning whether the child involved may be an Indian child.".

SEC. 7. CONTENT OF NOTICE.

Section 103(d) (25 U.S.C. 1913(d)) is amended to read as follows:

"(d) Each written notice provided under subsection (c) shall contain the following:

"(1) The name of the Indian child involved, and the actual or anticipated date and place of birth of the Indian child.

"(2) A list containing the name, address, date of birth, and (if applicable) the maiden name of each Indian parent and grandparent of the Indian child, if—

"(A) known after inquiry of—

"(i) the birth parent placing the child or relinquishing parental rights; and

"(ii) the other birth parent (if available); or

"(B) otherwise ascertainable through other reasonable inquiry.

"(3) A list containing the name and address of each known extended family member (if any), that has priority in placement under section 105.

"(4) A statement of the reasons why the child involved may be an Indian child.

"(5) The names and addresses of the parties involved in any applicable proceeding in a State court.

"(6)(A) The name and address of the State court in which a proceeding referred to in paragraph (5) is pending, or will be filed; and

"(B) the date and time of any related court proceeding that is scheduled as of the date on which the notice is provided under this subsection.

"(7) If any, the tribal affiliation of the prospective adoptive parents.

"(8) The name and address of any public or private social service agency or adoption agency involved.

"(9) An identification of any Indian tribe with respect to which the Indian child or parent may be a member.

"(10) A statement that each Indian tribe identified under paragraph (9) may have the right to intervene in the proceeding referred to in paragraph (5).

"(11) An inquiry concerning whether the Indian tribe that receives notice under subsection (c) intends to intervene under subsection (e) or waive any such right to intervention.

"(12) A statement that, if the Indian tribe that receives notice under subsection (c) fails to respond in accordance with subsection (e) by the applicable date specified in that subsection, the right of that Indian tribe to intervene in the proceeding involved shall be considered to have been waived by that Indian tribe.".

SEC. 8. INTERVENTION BY INDIAN TRIBE.

Section 103 (25 U.S.C. 1913) is amended by adding at the end the following new subsections:

"(e)(1) The Indian child's tribe shall have the right to intervene at any time in a voluntary child custody proceeding in a State court only if—

"(A) in the case of a voluntary proceeding to terminate parental rights, the Indian tribe filed a notice of intent to intervene or a written objection to the termination, not later than 30 days after receiving notice that was provided in accordance with the requirements of subsections (c) and (d); or

"(B) in the case of a voluntary adoption proceeding, the Indian tribe filed a notice of intent to intervene or a written objection to the adoptive placement, not later than the later of—

"(i) 90 days after receiving notice of the adoptive placement that was provided in accordance with the requirements of subsections (c) and (d); or

"(ii) 30 days after receiving a notice of the voluntary adoption proceeding that was provided in accordance with the requirements of subsections (c) and (d).

"(2)(A) Except as provided in subparagraph (B), the Indian child's tribe shall have the right to intervene at any time in a voluntary child custody proceeding in a State court in any case in which the Indian tribe did not receive written notice provided in accordance with the requirements of subsections (c) and (d).

"(B) An Indian tribe may not intervene in any voluntary child custody proceeding in a State court if the Indian tribe gives written notice to the State court or any party involved of—

"(i) the intent of the Indian tribe not to intervene in the proceeding; or

"(ii) the determination by the Indian tribe that—

"(I) the child involved is not a member of, or is not eligible for membership in, the Indian tribe; or

"(II) neither parent of the child is a member of the Indian tribe.

"(3) If an Indian tribe files a motion for intervention in a State court under this subsection, the Indian tribe shall submit to the court, at the same time as the Indian tribe files that motion, a certification that includes a statement that documents, with respect to the Indian child involved, the membership or eligibility for membership of that Indian child in the Indian tribe under applicable tribal law.

"(f) Any act or failure to act of an Indian tribe under subsection (e) shall not—

"(1) affect any placement preference or other right of any individual under this Act;

"(2) preclude the Indian tribe of the Indian child that is the subject of an action taken by the Indian tribe under subsection (e) from intervening in a proceeding concerning that Indian child if a proposed adoptive placement of that Indian child is changed after that action is taken; or

"(3) except as specifically provided in subsection (e), affect the applicability of this Act.

"(g) Notwithstanding any other provision of law, no proceeding for a voluntary termination of parental rights or adoption of an Indian child may be conducted under applicable State law before the date that is 30 days after the Indian child's tribe receives notice of that proceeding that was provided in accordance with the requirements of subsections (c) and (d).

"(h) Notwithstanding any other provision of law (including any State law)—

"(1) a court may approve, if in the best interests of an Indian child, as part of an adoption decree of that Indian child, an agreement that states that a birth parent, an extended family member, or the Indian child's tribe shall have an enforceable right of visitation or continued contact with the Indian child after the entry of a final decree of adoption; and

"(2) the failure to comply with any provision of a court order concerning the continued visitation or contact referred to in paragraph (1) shall not be considered to be grounds for setting aside a final decree of adoption.".

SEC. 9. FRAUDULENT REPRESENTATION.

Title I of the Indian Child Welfare Act of 1978 is amended by adding at the end the following new section:

"SEC. 114. FRAUDULENT REPRESENTATION.

"(a) IN GENERAL.—With respect to any proceeding subject to this Act involving an Indian child or a child who may be considered to be an Indian child for purposes of this Act, a person, other than a birth parent of the child, shall, upon conviction, be subject to a criminal sanction under subsection (b) if that person knowingly and willfully—

"(1) falsifies, conceals, or covers up by any trick, scheme, or device, a material fact concerning whether, for purposes of this Act—

"(A) a child is an Indian child; or

"(B) a parent is an Indian; or

"(2)(A) makes any false, fictitious, or fraudulent statement, omission, or representation; or

"(B) falsifies a written document knowing that the document contains a false, fictitious, or fraudulent statement or entry relating to a material fact described in paragraph (1).

"(b) CRIMINAL SANCTIONS.—The criminal sanctions for a violation referred to in subsection (a) are as follows:

"(1) For an initial violation, a person shall be fined in accordance with section 3571 of title 18, United States Code, or imprisoned not more than 1 year, or both.

"(2) For any subsequent violation, a person shall be fined in accordance with section 3571 of title 18, United States Code, or imprisoned not more than 5 years, or both.".●

Mr. CAMPBELL. Mr. President, as Chairman of the Committee on Indian Affairs, today I join Senator MCCAIN in introducing the Indian Child Welfare Act Amendments of 1997. This legislation will amend the 1978 Indian Child Welfare Act [ICWA] and will serve the best interests of Indian children across the United States in the process. The ICWA is a procedural statute and this legislation clarifies and strengthens the procedures contained in it. The bill strengthens the statute by providing certainty, stability, and finality to adoptions and other placements involving Indian children.

In the 104th Congress, this legislation received the support of parties affected by and knowledgeable of ICWA-related adoptions: tribal organizations, and non-Indian adoption attorneys. The bill I am cosponsoring today addresses the major concerns of these parties in a way that strengthens the existing ICWA, and provides certainty and finality to non-Indian adoptive families. Most important, this bill serves the best interests of Indian children and enhances the integrity of Indian families.

Adoption and child custody proceedings are delicate and emotional matters for all involved: for the Indian child; for the birth parents; for the Indian tribe; and for the adoptive parents. My own experience as a youth is helpful in providing a context for ICWA and why it was enacted. I grew up in California, many miles from the Northern Cheyenne Reservation in Montana where my tribe and relatives lived. I am lucky in that even though I was not raised on the reservation, I still cling to my tribal identity, my culture, and the spiritual traditions that make me a member of the Northern Cheyenne Tribe. Many Indian youth are not so lucky, and once removed from their Indian families, tribes and cultures, never regain what they have lost.

The 1978 statute has worked well since its inception, and the reasons it was introduced are crucial to understanding the act and the legislation we introduce today. After exhaustive congressional testimony and many years of hard work the Indian Child Welfare Act was enacted in 1978. Prior to 1978 there were no available protections for Indian children, families, or tribes in situations involving the unwarranted and forced removal of Indian children from their families, tribes, and rich cultures. The cold fact is that prior to ICWA between 25 percent and 35 percent of all Indian children were separated from their families and given to adoptive families or placed in foster care or in institutions.

Through exhaustive hearings prior to enactment of the 1978 act, the Congress realized that at the staggering rate of Indian child removal, it would have been simply a matter of time before Indian families and tribes would literally be sapped of their futures—their precious children.

The ICWA is procedural in nature and is designed to protect the best interests of Indian children by reinforcing the strong interests Indian families and tribes have in maintaining their relationships with their children. The act also recognizes that tribal authorities and tribal courts are the appropriate authorities over Indian adoptions and placements. Just as we in the majority often speak of maintaining families and traditions and of respecting the rights of local governments, this act is one of the few Indian statutes that actually does both.

Non-Indian institutions, including State courts, do not and cannot completely understand the unique culture and relationships that make up tribal life. Because they cannot know these facts and these relationships, they should not be given authority to make child custody decisions involving Indian children. Practically, State authorities are not in a position to make these decisions. Legally, they should not be allowed to make these decisions. The right of any sovereign nation, including Indian nations, includes the right to determine who is and who is not a member or citizen. The legislation we introduce today preserves those most basic rights of Indian tribes: tribal self-preservation and self-determination.

Mr. President, I want to say a word about adoptive parents and families. The decision to adopt a child or children is one that is done out of the noblest motives, and with much love and affection. It is often a process fraught with many obstacles, both emotional and financial. I have nothing but the greatest respect and admiration for adoptive parents. This legislation will provide adoptive parents with the security they sometimes lack under current law. The bill will provide what many have complained of: finality and security in cases involving Indian children. For the past several years, there have been highly publicized cases involving Indian children and what some felt were late interventions by tribes in these proceedings.

By strengthening the procedures of ICWA this bill will make cases like the ones we saw last year a thing of the past. Parties seeking placement of Indian children would be required to file detailed notices with the tribe that includes biographical information on the child, as well as information regarding the rights of the tribe in responding to the notice. With the notice in hand, the tribe must decide if it wants to intervene or not, and to inform the party seeking placement of its intentions.

By requiring tribes to file written notice of intervention and providing time limits within which tribes can intervene in proceedings, adoptive parents can be assured that they will not face the prospect of having final or near final. These procedural demands are not unduly burdensome and fall equally on both the parties seeking placement and tribal governments.

The truth is that many of these inflammatory and well-publicized cases involved unethical attorneys and other adoption professionals who advised their Indian clients to conceal or not reveal their Indian heritage in an effort to expedite the adoption. Because ICWA-related adoptions and proceedings involve procedural requirements, some attorneys and professionals seek to cut corners and save time and money. Not only is this shortsighted, but is damaging to all parties involved in an adoption or custody proceeding.

By expediting these adoptions, the attorneys interests were served. But what about the Indian children, Indian families, Indian tribes, and non-Indian adoptive families?

As we have seen, these people have had to endure long, bitter, and costly court battles some of which continue to this day. The legislation we introduce today will provide tough civil and criminal penalties to any person that willfully falsifies facts regarding whether a child is Indian or whether a parent is Indian; makes false or fraudulent statements; or falsifies documents containing facts related to the proceeding.

These provisions are not radical notions. They simply provide that if you are involved in an ICWA-related proceeding, and if you do not want to lose your money and your freedom, follow the law. No good adoption attorney worth his salt will fear these penalties if he or she follows the law and is forthright with the facts.

I urge my colleagues to join in enacting this crucial legislation to bring stability and certainty to adoptions and other proceedings involving Indian children.

By Mr. NICKLES (for himself, Mr. BREAUX, Mr. MACK, Mr. BAUCUS, Mr. D'AMATO, Mr. BOND, Mr. DEWINE, Mr. COCHRAN, Mr. ENZI, Mr. HAGEL, AND MR. THOMAS):

S. 570. A bill to amend the Internal Revenue Code of 1986 to exempt certain small businesses from the mandatory electronic fund transfer system; to the Committee on Finance.

MANDATORY ELECTRONIC FUND TRANSFER SYSTEM LEGISLATION

Mr. NICKLES. Mr. President, today, I am introducing legislation with my colleague from Louisiana, Senator BREAUX, to address the ever-recurring problem of Federal mandates on small business. Our bill will prohibit the Internal Revenue Service from forcing thousands of small businesses to deposit payroll taxes by electronic funds transfer under threat of penalty. In addition to Senator BREAUX, I would like to thank several other Senators who have agreed to cosponsor this legislation, including Senator MACK, Senator BAUCUS, Senator D'AMATO, Senator BOND, Senator DEWINE, Senator COCHRAN, and Senator ENZI.

Legislation enacted in 1993 to implement the North American Free-Trade Agreement directed the IRS to begin collecting a progressively larger percentage of payroll tax deposits from employers by electronic funds transfer, in lieu of the Federal tax deposit coupon system. Congress' intent was to simplify the tax deposit system and reduce paperwork for taxpayers, financial institutions, and the IRS. The Senate report accompanying this bill recommended that the implementation of this mandate not create hardships for small businesses, and that no small business should be required to purchase computers or gain access to any electronic equipment other than a touchtone telephone. Further, the report urged Treasury to take into account the specific needs of small employers, including possible exemption for the very smallest businesses from the electronic deposit system.

Unfortunately, the IRS has done little to mitigate the impact on small business. Instead, they sent notices to 1.2 million small businesses last summer stating that they must begin using the new electronic Federal tax payment system, or EFTPS, to make payroll tax deposits on January 1, 1997. Further, the IRS told these taxpayers that continued use of the Federal tax deposit coupon system would result in penalties equal to 10 percent of each deposit. The IRS targeted this mandate on any business which deposited more than $50,000 in payroll taxes in 1995. Prior to this time, the threshold for mandatory electronic deposits was $47 million. If the IRS is not stopped, Mr. President, the threshold will drop to $20,000 next year.

The reaction from the small business community to this mandate last year was adverse and vocal, Mr. President. Fortunately, Congress acted to delay the EFTPS mandate until July 1, 1997. However, that date is quickly approaching, and thousands of small business owners are no more comfortable with the mandate now than they were last year. Business owners who have used the coupon system for years to diligently pay their taxes on time are incensed to learn that they can be forced from that system against their will. Some fear IRS access to their bank accounts, and others fear the additional costs which may arise if their bank begins charging fees for these transactions. Finally, many small businesses are discovering that their current bank does not participate fully in the electronic transaction system.

Mr. President, small business owners should not have a new tax deposit system forced down their throats without alternatives and without enough time or information to make an orderly transition to the new system. Further, they should not be forced to incur fees or other additional costs in order to pay their taxes. While I agree that many taxpayers will come to prefer an electronic deposit system, I do not believe such a change should be mandated under threat of penalty. If a small business prefers to use the coupon system and continues to pay their taxes on time, they should not be penalized for doing so.

Mr. President, the legislation Senator BREAUX and I are introducing today will phase in the requirement to pay depository taxes electronically in manageable increments and exempt most small businesses permanently. Under our bill, only businesses who annually deposit over $5 million in payroll taxes will ever be mandated to use the electronic deposit system. Further, the bill directs the Secretary of the Treasury to establish a program to encourage all business taxpayers to voluntarily participate in the electronic deposit system.

Enactment of this legislation will free small business owners from yet another heavyhanded Federal mandate and preserve their right to pay their taxes in a manner which best suits their business needs. I encourage all Senators to join in this effort.

Mr. President, again I wish to thank the Presiding Officer of the Senate at this time, the Senator from Wyoming, for cosponsoring this legislation. I also ask unanimous consent that Senator HAGEL be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, to summarize again for the benefit of my colleagues, effective July 1, if we do not change this current—I started to say "law," but this is not a law. The IRS came up with a regulation. We passed a law. Congress passed a law that says we want to encourage electronic fund transfers of payroll taxes. A good idea. It makes sense. It will work for a lot of people.

IRS, to implement this, and maybe with some direction of Congress—Congress said put most of the taxpayers in. The IRS did so, and then they came up with a 10-percent penalty. That is a big inducement, encouragement. Congress did not put on the 10-percent penalty; the IRS did—it puts a gun to the taxpayer's head—and then said, "You have to do this." Then they said, "This is not too much of a challenge for bigger employers." As a matter of fact, the current requirement, the threshold is $47 million of payroll taxes. If you have payroll taxes of $47 million, that is a big operation. And they are doing that now. That actually applies to 1,500 taxpayers in the country today.

The next threshold level drops from $47 million to $50,000. Now you are talking about a lot of companies. You are talking about a lot of businesses. You do not have to be very big to have payroll taxes of $50,000. You might have total payroll of a quarter of a million or $300,000. That deadline is July 1. It was to be January 1. We postponed it for 6 months.

The legislation we have introduced today, it phases down the $47 million threshold to $30 million, to $10 million, to $5 million, and says, "If you have payroll taxes of less than $5 million, you do not have to do this. You can still do it, you still have the option to do it."

I met with some representatives from the IRS. They said, "We are concerned, if we pass this legislation, a lot of people might not get into the system. Maybe that would not be fair for the people already in the system."

I said I want them to have the option. In our legislation, we want to encourage people to move into the electronic fund transfer. We think that would be good. A lot of people pay their home notes—I do that. When I pay my home mortgage, I do it by electronic fund transfer where you used to have the coupon system. I am happy with that. I think a lot of taxpayers will be happy paying payroll taxes this way, and we want this to be an option.

We want to eliminate the 10-percent penalty for noncompliance, especially for small business.

So that is what we have done. I ask unanimous consent Senator THOMAS also be included as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I ask unanimous consent to have printed in the RECORD immediately following my statement a copy of this legislation and, in addition to the legislation, a letter from the Small Business Legislative Council and a letter from the National Restaurant Association endorsing the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 570

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) IN GENERAL.—Section 6302(h)(2) of the Internal Revenue Code of 1986 (relating to use of electronic fund transfer system for collection of certain taxes) is amended to read as follows:

"(2) TAXPAYERS SUBJECT TO SYSTEM.—

"(A) IN GENERAL.—The regulations referred to in paragraph (1) shall only require taxpayers to use the electronic funds transfer system for a calendar year if the aggregate amount of depository taxes of such taxpayer for the second preceding calendar year exceeded the applicable dollar amount.

"(B) APPLICABLE DOLLAR AMOUNT.—For purposes of subparagraph (A)—

"If the 2d preceding calendar year is:	**The applicable dollar amount is:**
1995	$47,000,000
1996	30,000,000
1997	20,000,000
1998	10,000,000
1999 or later	5,000,000.

"(C) AGGREGATION RULE.—All persons treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer for purposes of subparagraph (A).

"(D) VOLUNTARY COMPLIANCE.—The Secretary shall encourage taxpayers not described in subparagraph (A) to participate in the electronic funds transfer system. The participation of such taxpayers shall be voluntary."

(b) CONFORMING AMENDMENT.—Section 6302(h)(4) of such Code is amended to read as follows:

"(4) COORDINATION WITH OTHER ELECTRONIC FUND TRANSFER REQUIREMENTS.—Under regulations, any tax required to be paid by electronic fund transfer under section 5061(e) or 5703(b) shall be paid in such a manner as to ensure that the requirements of the second sentence of paragraph (1)(A) are met."

(c) REPORTS.—The Secretary of the Treasury or his delegate shall submit annual reports to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. Such reports shall provide an analysis of the progress being made in implementing the electronic funds transfer system under section 6302(h) of the Internal Revenue Code of 1986, including, but not limited to, information with respect to—

(1) the number and nature of any penalties imposed on taxpayers due to noncompliance with such system,

(2) any administrative efficiencies accruing to the Federal Government by reason of such system, and

(3) the amount of any additional costs imposed on businesses to comply with such system.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to deposits required to be made on and after the date of the enactment of this Act.

NATIONAL RESTAURANT ASSOCIATION,
Washington, DC, April 14, 1997.

Senator DON NICKLES,
Assistant Majority Leader,
Washington, DC.

DEAR SENATOR NICKLES: On behalf of the 770,000 restaurant locations nationwide, we would like to thank you and Senator Breaux for introducing legislation to help reduce the regulatory burden on our nation's employers.

As part of a revenue-raising provision in NAFTA, our members were mandated to begin filing payroll taxes electronically over a five year phase-in period. Starting July 1, all businesses that deposit over $50,000 in federal payroll taxes will have to start wiring their tax deposits to the Internal Revenue Service. This is the first phase-in that will truly affect the small businesses, including thousands of restaurant owners. For months, the National Restaurant Association and other employer groups have been warning the government that many businesses don't know about the mandate and could face penalties beginning in July for not complying.

We strongly support this bipartisan legislation which will allow small businesses the option of filing electronically, and will provide a reasonable phase-in of the mandate for larger businesses. Thank you for your leadership on this issue.

Sincerely,

ELAINE Z. GRAHAM,
Senior Vice President,
Government Affairs and Membership.
KATHLEEN O'LEARY,
Legislative Representative.

SMALL BUSINESS
LEGISLATIVE COUNCIL,
Washington, DC, April 14, 1997.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: On behalf of the members of the Small Business Legislative Council (SBLC), I wish to commend your efforts to address the concerns of the small business community with respect to the Electronic Federal Tax Payment System (EFTPS).

The EFTPS has proven to be a source of great frustration for us. On one hand, we applaud the movement towards an electronic funds transfer system. Any small business owner can vouch for the inherent flaws in the current paper coupon-based deposit system. Errors and inadvertent late payments are still all too frequent. And, while the IRS has become more reasonable in ultimately absolving small businesses of blame, it is difficult to turn off the IRS paper spigot. It can take several unnecessary exchanges to resolve the problem.

The electronic age is upon us and, ultimately, most small businesses will embrace it fully. But the small business community is not ready yet and, more importantly, neither is the technology and structure to implement this concept. As you know, we secured one delay in implementation in the hopes everything would work out.

It appears we still have a long way to go, and until such time as the small business community's confidence is secured, it appears a voluntary approach is in everyone's best interest. If the technology does work, it would seem foolish for small business' owners not to embrace it. But, rather than work everyone up into a "tizzy" as each new deadline approaches, it may be better to take the longer view, and make sure everyone comes on-board at their own pace and comfort level. We'd rather see the program make it on its own merits. And it does have merit, if done properly.

Therefore, we support your effort. Once again, you have demonstrated your strong commitment to small business.

As you know, The Small Business Legislative Council (SBLC) is a permanent, independent coalition of nearly one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional, and technical services, construction, transportation, tourism, and agriculture. For your information, a list of our members is enclosed.

Sincerely,

BENHAMIN Y. COOPER,
Chairman.

Mr. BAUCUS. Mr. President, I am very pleased today to join my colleagues Senator NICKLES and Senator BREAUX in introducing legislation to help support America's small businesses. This bill will address the problem created for the small business community by the Internal Revenue Services' requirement that they convert to a system of depositing payroll taxes by electronic funds transfer.

IRS has been implementing legislation directing the agency to begin collecting a progressively larger percentage of Federal tax deposits from employers by electronic funds transfer, rather than the current Federal tax deposit coupon system. The intent behind the legislation was to simplify the tax deposit system and reduce paperwork for taxpayers, financial institutions, and the Internal Revenue Service itself. The Senate report accompanying the bill recommended that the implementation of this mandate not create hardships for small businesses, and that no small business should be required to purchase computers or gain access to any electronic equipment other than a touch-tone telephone. The report also urged Treasury to take into account the specific needs of small employers, including possible exemption for the very smallest businesses from the electronic deposit system.

We do not believe the Treasury Department has accomplished this goal. While a timetable for compliance has been established, there is little evidence that the concerns of the small business community have been alleviated as July 1, 1997, the deadline for implementation, draws near. Business owners who have used the coupon system for years to diligently pay their taxes on time do not understand why they are being required to convert to an electronic funds transfer system. Many small business owners I have spoken with in Montana fear IRS access to their bank accounts, particularly in light of recent reported incidences of IRS employee browsing through taxpayer records without a valid reason. Other small business owners are concerned, and not unreasonably, that banks may begin charging fees for these transactions, adding to their costs of doing business. Finally, many small businesses are discovering that their current banks do not even participate fully in the electronic transfer system, forcing them to find a new bank through which to send in their deposit payments.

Mr. President, I agree with my colleagues that small businesses have not been given enough time or information to make an orderly transition to the new electronic funds transfer system. I also agree that they should not be required to pay a fee in order to pay their taxes. The bill we are introducing today will exempt businesses who annually deposit under $5 million in payroll taxes from the electronic payment requirement permanently, and phase it in for the rest at a much more manageable rate.

I believe this bill will preserve the right of small business owners to pay their taxes in a manner which best suites their business needs. I commend Senators NICKELS and BREAUX for the work they have done on this bill, and encourage our other colleagues to join in our effort.

By Mr. REID:

S. 571. A bill to establish a uniform poll closing time throughout the continental United States for Presidential general elections; to the Committee on Rules and Administration.

THE UNIFORM POLL CLOSING ACT OF 1997

Mr. REID. Mr. President, today I am introducing legislation which will set a uniform poll closing time for the continental United States. Election officials and political scientists for years have believed that early announcements, based on exit polls, discourage thousands of people from voting and affect the outcome of close races for other Federal, State and local offices. Less than 50 percent of eligible voters actually voted last year. As public officials, we have a responsibility to do everything we can to encourage voting, not dissuade it. Uniform poll closing times is a step in this direction.

We are all aware that the controversy over early network projections is not a new one. Senator Barry Goldwater introduced a bill after the 1960 election prohibiting radio broadcast of any Presidential election returns until after midnight on election day. Network predictions 4 years later of Goldwater's landslide loss, and of Richard Nixon's landslide victory in 1972, spawned several Senate bills to muzzle radio and television. But none were enacted.

In 1980, when new technology made it unnecessary for networks to wait for actual returns, the furor over early projections was brought to its highest pitch. In that year, voters in the West were told at 5 p.m., hours before their polls closed, who the next President of the United States would be. The three major networks trumpeted Ronald Reagan's victory long before the polls had closed in their States. After the election, our colleagues, Representatives Tim Wirth and Al Swift began a congressional search for a way to prevent early calls of elections. Numerous ideas were discussed as solutions to the problem of early projections based on exit polls, but there was no consensus. In addition to uniform poll closing times, shifting election day to Sunday, spreading voting over 2 days, making election day a national holiday and forbidding the networks from issuing predictions were proposed. Of course the best solution would be voluntary restraint on the part of the networks, but that has proven to be a failure.

My legislation simply states that each polling place in the continental United States must close, with respect to a Presidential general election, at 10 p.m., eastern standard time. This means the polls with close at 7 p.m. Pacific time, 8 p.m. mountain time and 9 p.m. central time. I do not believe these times are unreasonable. It is my hope that this legislation will revive the debate over the use of exit polls. I welcome my colleagues to work with me for a solution.

ADDITIONAL COSPONSORS

S. 11

At the request of Mr. SARBANES, his name was added as a cosponsor of S. 11, a bill to reform the Federal election campaign laws applicable to Congress.

S. 39

At the request of Mr. STEVENS, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 39, a bill to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes.

S. 224

At the request of Mr. WARNER, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 224, a bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employees Health Benefits Program, and for other purposes.

S. 238

At the request of Mr. GRAMS, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 238, a bill to amend title XVIII of the Social Security Act to ensure Medicare reimbursement for certain ambulance services, and to improve the efficiency of the emergency medical system, and for other purposes.

S. 248

At the request of Mrs. FEINSTEIN, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Washington [Mrs. MURRAY], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 248, a bill to establish a Commission on Structural Alternatives for the Federal Courts of Appeals.

S. 263

At the request of Mr. MCCONNELL, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 311

At the request of Mr. GRAHAM, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 311, a bill to amend title XVIII of the Social Security Act to improve preventive benefits under the Medicare Program.

S. 342

At the request of Mr. THOMAS, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 342, a bill to extend certain privileges, exemptions, and immunities to Hong Kong Economic and Trade Offices.

S. 356

At the request of Mr. GRAHAM, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the Medicare and Medicaid Programs.

S. 369

At the request of Mr. JEFFORDS, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 369, a bill to amend section 1128B of the Social Security Act to repeal the criminal penalty for fraudulent disposition of assets in order to obtain Medicaid benefits added by section 217 of the Health Insurance Portability and Accountability Act of 1996.

S. 370

At the request of Mr. GRASSLEY, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 370, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners and clinical nurse specialists to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 371

At the request of Mr. GRASSLEY, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 371, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 375

At the request of Mr. MCCAIN, the names of the Senator from Florida [Mr. MACK], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Delaware [Mr. BIDEN], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 375, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 381

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 381, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for Medicare beneficiaries with cancer who are enrolled in an approved clinical trial program.

S. 389

At the request of Mr. ABRAHAM, the names of the Senator from Oklahoma [Mr. INHOFE] and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 474

At the request of Mr. KYL, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 474, a bill to amend sections 1081 and 1084 of title 18, United States Code.

S. 502

At the request of Mr. GRASSLEY, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 502, a bill to amend title XIX of the Social Security Act to provide posteligibility treatment of certain payments received under a Department of Veterans Affairs pension or compensation program.

S. 503

At the request of Mr. NICKLES, the name of the Senator from Arkansas [Mr. HUTCHINSON], the Senator from New Hampshire [Mr. SMITH], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 503, a bill to prevent the transmission of the human immunodeficiency virus, commonly known as HIV, and for other purposes.

S. 528

At the request of Mr. CAMPBELL, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Georgia [Mr. CLELAND], the Senator from Virginia [Mr. WARNER], the Senator from Maine [Ms. COLLINS], and the Senator from New Jersey [Mr. TORRICELLI] were added as cosponsors of S. 528, a bill to require the display of the POW/MIA flag on various occasions and in various locations.

S. 535

At the request of Mr. MCCAIN, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 535, a bill to amend the Public Health Service Act to provide for the establishment of a program for research and training with respect to Parkinson's disease.

S. 536

At the request of Mr. GRASSLEY, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 536, a bill to amend the National Narcotics Leadership Act of 1988 to establish a program to support and encourage local communities that first demonstrate a comprehensive, long-term commitment to reduce substance abuse among youth, and for other purposes.

SENATE JOINT RESOLUTION 9

At the request of Mr. KYL, the names of the Senator from Texas [Mr. GRAMM] and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of Senate Joint Resolution 9, a joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for increasing taxes.

SENATE JOINT RESOLUTION 18

At the request of Mr. HOLLINGS, the name of the Senator from Georgia [Mr. CLELAND] was added as a cosponsor of Senate Joint Resolution 18, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

SENATE JOINT RESOLUTION 25

At the request of Mr. COCHRAN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 25, a joint resolution disapproving the rule of the Occupational Safety and Health Administration relating to occupational exposure to methylene chloride.

SENATE RESOLUTION 58

At the request of Mr. ROTH, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of Senate Resolution 58, a resolution to state the sense of the Senate that the Treaty of Mutual Cooperation and Security Between the United States of America and Japan is essential for furthering the security interests of the United States, Japan, and the countries of the Asia-Pacific region, and that the people of Okinawa deserve recognition for their contributions toward ensuring the treaty's implementation.

SENATE RESOLUTION 69

At the request of Mr. MCCAIN, the names of the Senator from Vermont [Mr. JEFFORDS], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of Senate Resolution 69, a resolution expressing the sense of the Senate regarding the March 30, 1997, terrorist grenade attack in Cambodia.

SENATE RESOLUTION 71—RELATIVE TO THE CONGRESSIONAL ACCOUNTABILITY ACT

Mr. WYDEN (for himself, Mr. REID, Mr. WELLSTONE, Mr. MURKOWSKI, and Mr. BRYAN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. Res. 71

Resolved, That (a) an individual with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) who has or is granted the privilege of the Senate floor may bring those supporting services (including service dogs, wheelchairs, and interpreters) on the Senate floor the employing or supervising office determines are necessary to assist the disabled individual in discharging the official duties of his or her position.

(b) The employing or supervising office of a disabled individual shall administer the provisions of this resolution.

Mr. WYDEN. Mr. President, the resolution that I submit today would change the Senate rules that deny floor access to those individuals who are visually impaired and need to use guide dogs to carry out their official duties.

By denying floor access to Ms. Shea and her guide dog, the Senate, in my view, is violating the Congressional Accountability Act, which requires that Congress abide by the requirements and intent of the Americans With Disabilities Act. A guide dog is a person's vision. A guide dog is a working dog, not a pet. This guide dog is with Ms. Shea all the time. He is with her in meetings in my office. He goes with her to energy committee hearings and has even gone with her to nuclear weapons facilities.

Mr. President and colleagues, I had hoped that there would be no need to offer this resolution, but I am forced to because discrimination still persists here. Ms. Shea is being treated differently simply because she is visually impaired and needs to use a guide dog.

Now, some may believe that the Senate fulfills its obligations under the Americans With Disabilities Act—

Mr. REID. Will my friend yield for a unanimous-consent request?

Mr. WYDEN. Yes.

Mr. REID. I ask unanimous consent that I be added as a cosponsor of the Senator's resolution.

Mr. WELLSTONE. Mr. President, I also ask unanimous consent that I be made a cosponsor.

Mr. MURKOWSKI. I ask unanimous consent that I also be added as a cosponsor to the resolution.

The PRESIDING OFFICER. Without objection, the Senators will be added as cosponsors.

Mr. WYDEN. I thank my colleagues.

Mr. President, some believe that the Senate is fulfilling its obligations under the Americans With Disabilities Act if they provide someone to accompany Ms. Shea to the Senate floor. But let me say that an unknown staff person is no substitute for a working guide dog.

The relevant language from the Americans With Disabilities Act says that an employer must provide reasonable accommodation for an individual with a disability. The Equal Employment Opportunity Office has said, "reasonable accommodation [is] when an employer permits a person who is blind to use a guide dog at work."

Let us put ourselves in Ms. Shea's situation. Imagine that you need to go on the Senate floor to carry out your official duties, but, wait, you must first check your ability to see with the doorkeeper, or go to the Rules Committee to get a resolution. I fail to see the logic of this, and I fail to see the justice behind it. Miss Shea's situation doesn't require extra financial resources nor special treatment. She just wants to do her job as a professional.

A large part of the problem seems to be a lack of understanding. So let me tell the Senate a little bit about what guide dogs do. They are working dogs, not pets. A guide dog is that person's vision, an integral part of that person's essential activities and professional responsibilities. A blind person or a visually impaired person, such as Ms. Shea, has learned to turn over her diminishing sight to her dog and trusts that dog with her safety. This guide dog has blocked Ms. Shea from oncoming traffic. He knows his left from his right. He is a marker to others that Ms. Shea is visually impaired. She has gone to the Senate Energy Committee hearings and nuclear weapons facilities. This dog has even met more just access with respect to the Soviet Union.

Yet, here in the United States, on the Senate floor, where we passed the ADA and the Congressional Accountability Act, we are refusing access to someone who needs to use a guide dog. This guide dog has a serious job, and, I might add, the dog performs it very well. This is the tool that Ms. Shea uses to be a productive member of the work force, and today we are denying her the ability to do her job to the best of her ability. Ms. Shea is part of a growing work force of persons who want to be independent, who want to be productive, and who have been raised with a can-do attitude.

Let me conclude by describing how the guide dog would work on the floor. Ms. Shea would most likely tell him to "follow me," and as they walked down the aisle, the dog would alert Ms. Shea to each step by stopping. Then Ms. Shea would say to him "find the chair," and then Ms. Shea would sit down and the dog would lay right beside her. We would all forget that the dog was even here. In leaving, Ms. Shea would tell the dog to "find the door" once again, and the dog would alert her to where all the steps are and take her right to the door.

Mr. President, that is all there is to it. It seems to me that the Senate should change its rules to ensure that there is justice for people like Ms. Shea. To tell someone like Ms. Shea that she cannot come to the Senate floor with either a white cane or a guide dog and only with an escort is demeaning. You take away her right to decide what is the best method for her to carry out her job as a professional. You take away her sense of independence. You take away her dignity. You make her dependent on others. That is not what the Americans With Disabilities Act is all about.

Ms. Shea has Usher's Syndrome. That is the leading cause of deaf-blindness in the United States. She has struggled and worked hard to get where she is today as a professional. She is independent and self-sufficient, and she told me that she can cope with losing her eyesight, but she should not be forced to face blatant discrimination.

It is time for the Senate to change its rules. I look forward to working with my colleagues on the Rules Committee to do this. It is time to ensure that the visually impaired in our country have justice, and have justice in the way that Congress envisioned with the Americans With Disabilities Act and the Congress Accountability Act. I thank my friends from Minnesota, Nevada, and Alaska for joining me as cosponsors this morning on this resolution.

AMENDMENTS SUBMITTED

THE NUCLEAR WASTE POLICY ACT OF 1997

LOTT AMENDMENT NO. 44

Mr. MURKOWSKI (for Mr. LOTT, for himself and Mr. WELLSTONE) proposed an amendment to amendment No. 30 proposed by Mr. WELLSTONE to the bill (S. 104) to amend the Nuclear Waste Policy Act of 1982; as follows:

In the pending amendment, strike all after "SEC. ." and insert the following:

"SENSE OF THE SENATE REGARDING ASSISTANCE FOR ELDERLY AND DISABLED LEGAL IMMIGRANTS.

"It is the sense of the Senate that elderly and disabled legal immigrants who are unable to work should receive assistance essential to their well-being, and that the President, Congress, and States, and faith-based and other organizations should continue to work together toward that end."

NOTICES OF HEARINGS

SUBCOMMITTEE ON IMMIGRATION

Mr. HATCH. Mr. President, there will be a hearing held by the Subcommittee on Immigration, Senate Committee on the Judiciary, on Tuesday, April 15, 1997, at 10:30 a.m., in room 226, Senate Dirksen Building, on "Immigrant Entrepreneurs, Job Creation, and the American Dream."

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Thursday, April 24, 1997, at 9 a.m. in SR-328A to receive testimony regarding U.S. agricultural exports.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON FINANCE

Mr. GRAMS. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Monday, April 14, 1997, beginning at 1:30 p.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RECOGNITION OF HOME EDUCATION IN MISSOURI

• Mr. BOND. Mr. President, it is my pleasure to recognize homeschoolers in the State of Missouri. They are a part of the ongoing commitment to quality education for Missouri's youth.

Home educators make an effort to give their children a chance for success in today's ever-changing society by personally guiding the education of their children and ensuring that all facets of their children's development are included in scholastic endeavors.

Homeschoolers establish one-on-one relationships with their adult mentors and develop interpersonal skills with all age groups through apprenticeship opportunities and involvement in civic and community organizations.

Home education in Missouri has enjoyed considerable success in recent years because of the tremendous support received for countless citizens who realize the significance of family participation in the educational process. The State of Missouri has resolved to commend the efforts of home educators by designating May 4–10, 1997, Home Education Week. I applaud the home educators for their commitment to quality education and taking the time to be directly involved in their children's education.•

B–2 BOMBER

• Mr. INOUYE. Mr. President, today I want to address a very serious issue, which is at the heart of the defense of our Nation's interests. I want to address the need to acquire a meaningful long-range-strike weapons system. I want to address the procurement of nine more B–2 bombers, which are needed to complete a three-squadron fleet that will have the means to deter, the capabilities to defend against, and the power to defeat threats to our national interest.

I speak today in support of America's most capable long-range-strike aircraft, the B–2 bomber. The B–2 is not just a bomber. When most people think of bombers, they think of World War II airpower films, with scores of bombers flying in tight formation, dropping strings of iron bombs on rail lines and oil refineries. The B–2 is more than a bomber. It is a long-range-strike aircraft, capable of reaching anywhere in the world and releasing highly sophisticated, explosive weapons with uncommon precision on specific targets. Unlike the bombers of old, which often missed their targets by miles, the B–2 strike aircraft can hit as many as 16 separate aim points, with deadly accuracy, in a single pass.

Mr. President, it defies convention to think of the B–2, with its high sticker cost, as a cost-effective weapon. Only when we stop thinking of the B–2 as a bomber, and instead think of it as a long-range-strike weapons system, do we realize that it is, indeed, the most cost-effective weapons system in our Nation's arsenal which can realistically be used to protect our citizens, our interests, and our allies around the world. It is the only weapons system that combines long-range, large payload, modern precision weapons, and stealth—a revolutionary and powerful combination.

Since the end of the cold war, we have come to recognize that we no longer live in a bipolar world. Threats to our national security have taken on both familiar and unfamiliar forms: renewed territorial aggression, simmering regional and ethnic conflicts, state-sponsored terrorism, and now, for the first time since the Middle Ages, stateless terrorism. We send our forces abroad to protect air bases and oil fields and our sons and daughters are attacked by religious zealots. We all vividly recall the loss of life at our military barracks in Dhahran, Saudi Arabia. It was attacked, not by the Iraqi forces we seek to deter, but by nameless terrorists from Iran, or from Lebanon, or from internal Saudi opposition groups, or from God knows where. With the B–2, the forward air bases would not be needed; the oil fields could be protected from afar.

What happened when Saddam Hussein attacked the U.N.-protected Kurdish safe zone in northern Iraq? We attacked Baghdad and southern Iraq. Because the leadership in Jordan, in Saudi Arabia, in Turkey, and in other countries, where we have shorter range aircraft, was concerned with stirring up public opinion, United States forces were denied the freedom to launch counter strikes from air bases on their territory. With the B–2, we could have struck Saddam Hussein's forces in the North, from bases in the United States.

The Secretary of Defense stated in his annual report for fiscal year 1996: "Because potential regional adversaries may be able to mount military threats against their neighbors with little or no warning, American forces must be postured to project power rapidly to support United States interests and allies." Clearly, the most appropriate weapon in our arsenal for rapid power projection is the B–2 long-range-strike aircraft. Yet, because of legislation—which has now been repealed—we currently have only two squadrons of B–2's. In order to meet effectively our basic strategic objectives, just nine more B–2's, bringing the total to three squadrons, are essential. Mr. President, we must restart this program; we must provide funding for the B–2 this year.

The B–2—a long-range, precision-strike aircraft—is the best, and perhaps only, option available to us to counter emerging threats in our security environment. We are not able to spend as much for defense as we have in the past, causing us to decrease our presence abroad and base more of our forces here at home. This, in turn, limits our forward presence and ability to rapidly respond to a crisis elsewhere in the world. In addition, access to foreign bases, closer to theaters of conflict, has become more and more uncertain. And above all, weapons of mass destruction and accurate delivery systems are becoming more prolific, possibly held by rogue states and organized terrorists alike. These chemical, biological, or nuclear weapons could be used with devastation to attack American ground, naval, and air forces based within a theater of conflict.

How does the B–2 respond to these challenges? The B–2 uses stealth technology, technology more effective than that employed on F–117 fighter bombers in the gulf war. As you recall, these planes were the key to securing the advantage immediately in the air war and remained impossible for the Iraqis to stop. However, the B–2 is a more powerful and flexible weapon, and offers several advantages over the F–117.

First, it is a long-range system. The B–2 can fly anywhere in the world, from bases in the United States, with only one refueling. These factors also make the B–2 an important tool for deterrence, allowing the President the ability to strike anywhere in the world immediately. Thus, a counterstrike can be launched from the United States, as soon as the threat is apparent, without reliance on foreign bases, or troop buildup.

Second, the B–2 carries a bigger, more accurate payload than the F–117. The precision bombs carried by the B–2 use GPS-aided targeting systems, and GPS-aided munitions [GATS/GAM], which enables up to 16 independent points to be targeted with extreme accuracy, in 1 pass. This precision is an important counter to the mobile and relocatable nature of many of our new potential enemies, such as Scud missiles or terrorist encampments. The local release of a strike allows last minute adjustments to account for local conditions, or target movement. This is not possible with cruise missiles. In addition, delivering a strike via bomber also allows difficult targets, like the dark side of a mountain, or underground bunkers, to be attacked and destroyed.

One of the most important points to make about the B–2 is that it will reduce the number of American soldiers put in harm's way, and ultimately reduce casualties. Because the President can choose to respond immediately, or preemptively, engagement in a conflict or its escalation, may be avoided. Because the aircraft is launched from outside the theater, all support personnel and equipment are also outside the theater of conflict. Because the B–2 utilizes stealth, the need for escort aircraft, which are also theater-based, is eliminated. I have read several estimates about the value of stealth and precision weapons, and one that sticks in my mind is that one B–2 bomber has the combat power of 75 non-Stealth aircraft.

This last statistic illustrates another important factor in our consideration to build nine additional B–2's: the program will provide cost savings in the long run. This may be hard to believe, when we are talking about aircraft that cost $850 million each to build, but as I have explained—the B–2 requires less support; is more precise, requiring fewer sorties to accomplish the task; and, may reduce the need for further massive troop and aircraft involvement. Air Force analysis shows that, operating independently, free of the requirement for fighter escorts, electronic jamming aircraft, and tankers, a single B–2 with two crew members can accomplish missions currently requiring 75 tactical aircraft and 147 crew members. The B–2's ability to penetrate air defenses, without the usual armada of support aircraft, means that we can, in some mission areas, replace dozens of aircraft with one bomber, potentially saving billions of dollars over the long run.

Mr. President, the American bomber force currently relies most heavily on two aging conventional bomber aircraft—the B–52 and the B–1. In order to maintain mission safety while attacking specific, above ground targets, these bombers must use cruise missiles. These missiles are more expensive—the 44 cruise missiles fired against Iraq during the gulf war cost more than $100 million—over 100 times more expensive than what an equivalent number of precision, direct-attack weapons, delivered by the B–2, would cost. Moreover, these missiles are less effective—current-generation cruise missiles cannot be used against mobile or heavily hardened targets. The B–2 long-range-strike aircraft is cost effective.

Mr. President, the last B–52 was built 35 years ago. It has been a very successful aircraft, but it will not last forever. As we look to the future, with the retirement of B–52's and the withdrawal of the B–1 from active service, the B-2 will be the only long-range aircraft in the Air Force inventory. That is why the B-2 program also represents an important opportunity for the United States to maintain superiority in a critical field of production. This program is the only remaining component of the combat aircraft manufacturing industry in California. By building the remainder of the third squadron, the production lines would stay open another 10 years. Not only would this sustain American know-how in this important industry, but would also save tens of thousands of jobs within aerospace and related industries. When we buy the B-2 we are not only buying the best long-range-strike aircraft in the world, we are also investing in the industrial capacity to produce them. We preserve the industrial base, while preserving the ability to project power anywhere in the world to protect American interests.

Another important cost factor to consider is what we have already invested in this revolutionary weapons system. If we do not have the foresight to approve the remaining nine bombers now, the costs to restart this program will be much greater in the future, as the need becomes more critical. Planning ahead will allow us to get more value from the money and effort already committed to this project.

Mr. President, earlier, I mentioned Saddam Hussein's aggression against the Kurds last fall, as an example of new threats to our national security. This is especially true since administration officials have stated that we should expect to contend with Saddam on a yearly basis from now on. In response to Saddam's movements against the Kurds, on September 3, 1996, we attacked targets in the southern regions of Iraq. It would have been more effective to strike the Republican Guard, which was the actual threat to the Kurds in the north, or the hardened command and control centers of the Iraqi leadership in Baghdad. However, our insufficient response to Saddam's assault resulted from a lack of options available to us.

Because Saudi Arabia, Jordan, and Turkey each indicated that they would not permit American aircraft from launching air strikes from bases in their countries, we were forced to use other options not dependent on foreign governments: carrier airpower, bombers, and cruise missiles. The inherent limitations of each of these options imposed constraints on where and what we could attack—the northern targets were out of range of carrier-launched missions and, because the targets were mobile, cruise missiles could not be used. The most important targets in Baghdad were too heavily protected for conventional, non-Stealth aircraft delivering cruise missiles that, in any event, could not penetrate underground bunkers. Thus, we had to choose targets that were easier to attack: fixed targets, which were above ground and not hardened and, therefore, vulnerable to cruise missile attacks within range of carrier-based aircraft in the southern no-fly zone.

In order to more effectively attack Saddam and punish his aggressive actions, we would have had to use a stealth weapon to elude detection by Iraqi air defense; a long-range weapon, not based in a foreign country; and a precise weapon to strike the mobile and hardened targets presented in Iraq. Our B-2 is this weapon. It is the only tool in our arsenal that allows us to respond to the new threats we face in an unequivocal and decisive fashion.

What about those who say we don't need any more B-2 bombers? The issue of our bomber capacity was addressed in the Department of Defense Heavy Bomber Force Study. This study concluded that our current force would be sufficient through sometime around 2015. I was very disappointed with the conclusions of this study, not only because I believe the study was fundamentally flawed and based on unrealistic assumptions, but also because I believe the B-2 is the most vital weapon of our future.

The study utilizes a scenario of two regional conflicts, but assumes that our enemies would be incredibly considerate of our needs. It was assumed that we would have a 14-day advanced warning of an enemy attack, allowing time to deploy our forces; that the two regional conflicts would not be simultaneous, so our bombers could be used in both conflicts; and that no weapons of mass destruction would be used to poison the ground and air in the area where we would intend to deploy our troops. These were the assumptions.

I ask my colleagues, with the furor aroused in the American populace by the gulf war syndrome and the conflicting stories which have emerged from the Pentagon, is there anyone who still believes that we would deploy forces into an area where we suspect the enemy has released chemical or biological weapons? What is to prevent an enemy from discharging chemical or biological agents in an area prior to the initiation of open hostilities? Would our troops be able to deploy into the theater of conflict without interference? Could they set up and operate air bases and troop reception centers while under the threat of chemical or biological weapons? I am confident that the answers point to the urgent need for long-range-strike aircraft and support the acquisition of nine more B-2 aircraft.

The heavy bomber study also made some broad assumptions about other factors that may or may not be in our control. The study assumes that we will be able to move our troops and equipment faster than we ever have before; that all of our allies will be on board and welcome foreign troops into their bases and ports; that our forward locations will also be conveniently located near the regional conflicts; and that our current equipment, including bombers built in the 1950's and 1960's, will be available and fully functional. Altogether, these are awfully big leaps of faith to make about uncertain enemies and unlikely conditions in the future.

If any one of the unrealistic assumptions does not hold true, the B-2 becomes our primary weapon and our only practical option. It is the only system that is not vulnerable to surprise attack. It is the only system that is independent of support aircraft based in the theater of conflict. It is the only system that is capable of operating beyond the range of weapons of mass destruction.

Mr. President, we have also learned that our allies do not always cooperate readily with our requests to use bases in their countries, or fly through their airspace, when answering aggression—again, examples are the United States raid on Libya in 1986 in response to terrorist bombings and the attack on Iraq last year when organized Iraqi forces attacked Kurds in northern Iraq. To give the President the best option to protect American interests and citizens, while reducing to a minimum the risk to American soldiers, we need to have the most effective tool available—an independent, global, precision strike system. We need to give him this option and take advantage of the most advanced technology available; we must approve funding in order to complete the third squadron of B-2's.

Mr. President, I am no military expert. But those whom I know and trust, men such as retired Air Force General Charles Horner, who ran the air campaign in the gulf war, have determined that three squadrons of B-2's represent the minimum operational capacity required to meet our basic military objectives. In order to halt an invasion from bases at home, and to conduct a strategic air campaign, like that of the gulf war, from bases at home, the Air Force needs three squadrons of B-2's. These three squadrons are also critical to neutralizing weapons of mass destruction and theater ballistic missiles; establishing air superiority and attacking enemy airfields; and suppressing enemy air defenses; all of which then enable the deployment of forces to the theater when necessary.

Mr. President, history shows us that surprise attacks, both strategic and terrorist, do happen and are very effective—Pearl Harbor and Korea, as well as the attack on the Marine barracks in Beirut, and on our installation in Dhahran—are poignant examples of our past failures. We dare not fail again. We need to plan for surprise—to equip our military forces with the ability to blunt or defeat an attack anywhere, at any time, and with weapons that we will actually use and which others believe we will actually use. That means conventional explosives delivered with great accuracy and with immediacy and with little risk of U.S. casualties. That means the B–2 long-range-strike aircraft.

Mr. President, with the B–2, our ability to respond effectively to diffuse global threats, through the projection of American power, is secure; without it, our foreign policy is one of dependence on others, our interests are hostage to public opinion in foreign countries, and our soldiers, whom we send to defend our interests abroad, are needlessly imperiled.

Mr. President, I call upon my colleagues to support the acquisition of nine more B–2 aircraft, to establish the minimal, militarily effective force of three squadrons.•

REGARDING THE UNDERSTANDING REACHED BETWEEN THE UNITED STATES AND THE EUROPEAN UNION

• Mr. D'AMATO. Mr. President, I rise today to comment on the understanding reached between the United States and the European Union regarding the implementation of the Helms-Burton Act and the Iran-Libya Sanctions Act.

I want, from the start, to congratulate Ambassador Stuart Eizenstat, Undersecretary of Commerce, who negotiated this understanding. His commitment to easing relations between the United States and the European Union is unending. His work on the issue of Holocaust victims assets in Swiss banks has also played a vital role in settling that problem. I am honored to work with him on both counts.

The understanding, as it relates to the Iran-Libya Sanctions Act, is quite clear. It states:

> The U.S. will continue to work with the EU toward the objectives of meeting the terms (1) for granting EU Member States a waiver under Section 4.C of the Act with regard to Iran, and (2) for granting companies from the EU waivers under Section 9.C of the Act with regard to Libya.

It should be clear that the terms for granting a waiver, specifically with regard to Iran are very simple. If the country from which the company to be sanctioned is situated imposes substantial measures, including the imposition of economic sanctions, then a waiver can be granted. Yes, there is a provision for national security waivers, but to simply provide a blanket waiver for the European Union, is a clear contravention to the will of Congress and goes against the very fact that the President signed the bill.

Congress intends for this law to be implemented in full, without blanket waivers that do not follow the provisions enacted unanimously last year. If blanket waivers are provided without just cause then only Iran will benefit. Congress enacted this bill with the intention of denying the funds to Iran necessary to fund terrorism, as shown by the verdict in Mykonos and the strong speculation that Iran had a role in the bombing of the Khobar towers in Saudi Arabia. It also did so to deny Iran the funds with which to obtain weapons of mass destruction.

We must remember that the Iranian Government, at the highest levels, has been implicated in ordering the assassination of Kurdish dissidents in Berlin. This terrorist act was conducted on European soil, not American. It is unfortunate that Europeans are blind to the need for action to curb Iranian terrorism, even when it is occurring on their own streets. For Europeans to push for a relaxation of antiterrorism legislation to counter Iran, is even worse. Yet, all of this seems to be of little matter to them. The only thing that does matter is that trade continues, even with the likes of Iran. I wonder if they will ever understand this all?

I look forward to seeing how this understanding progresses, and I look forward to European compliance with the legislation. Europeans may take this issue lightly. If they think that they can get a simple waiver so that they can conduct business as usual with the foremost sponsor of international terrorism, but they're wrong—very wrong.•

HONORING ANTHONY (DUKE) DEBIASE OF THE MARINE CADETS OF AMERICA

• Mr. LIEBERMAN. Mr. President, I rise today to honor a former marine, Mr. Anthony (Duke) DeBiase on the occasion of his 29 years of faithful service to the youth of Connecticut through his service with the youth program, the Marine Cadets of America. Mr. DeBiase is a retired city of New Haven employee and also served as chief of security for the New Haven public school system prior to his retirement. Mr. DeBiase also served for 15 years as a member of the board of directors for the U.S. Marine Corps Youth Foundation and among his awards is the Distinguished Service Award from the foundation, he is also the recipient of the Certificate of Congressional Recognition which was awarded for his outstanding community service. Captain DeBiase presently serves as the commanding officer of Company A, 1st Battalion, Marine Cadets of America, a national program recognized by the U.S. Marine Corps and the U.S. Department of Defense. The dedication of Captain DeBiase to the war on drugs through his program has bestowed national recognition for his efforts and we wish him continued success in his outstanding leadership to the youth of America.•

COMMENDING GENE ROBERTS

• Mr. THOMPSON. Mr. President, today I wish to recognize a man of character, his tradition of accomplishment, his outstanding record of public service, and his contribution to his community and the State of Tennessee. Today, April 14, Gene Roberts steps down as the mayor of Chattanooga. He will be missed, but I know that wherever he chooses to put his skills to use in the future, he will be a great asset.

Gene Roberts is a low-key kind of man, the kind who leads with confidence. When Gene gets behind some cause or effort, people just fundamentally know that he's in it for the right reasons and that they ought to seriously consider following his lead. The people of Chattanooga have had the benefit of Gene's talents in his capacity as mayor since 1983. They know firsthand what I'm talking about.

Gene's history of public service goes back over 25 years, back to 1971, when he was the commissioner of fire and police for Chattanooga. For a brief time, he served in the cabinet of my friend, Gov. Lamar Alexander. And his long tenure as mayor has been marked by unprecedented growth, progress, and a rise in the fortunes and profile of the city of Chattanooga.

He has presided over real progress. During his years in office, Chattanooga has seen a revival of its downtown, revitalized neighborhoods, a cleanup of pollution to preserve the beautiful land in the area, and a marked increase in the quality of life for the folks who call Chattanooga home.

Thanks to Gene's efforts, and his coordination of efforts with other civic-minded groups and individuals, Chattanooga has become a model for other cities striving to improve. Today, leaders from around the world and across the country visit Chattanooga to see what's been done, and to find out how they can duplicate the success of this model city.

It's this kind of effort that creates a vigorous economy for the area, and that's good for everyone. In no small measure, we have Gene Roberts to thank for that.

These kinds of positive changes only happen when an individual steps forward to take the initiative. You've got to care enough to invest time and skill and experience to make a good city into a great city. Things like this don't just happen by themselves.

Congratulations and all the best to Gene Roberts as he retires from the office of mayor of Chattanooga, TN.•

SALUTE TO LARRY MANCINO

• Mr. MOYNIHAN. Mr. President, the Communications Workers of America [CWA] has recently elected Larry Mancino as the new vice president to lead CWA District 1, the largest region in the union. As a fellow native of New

York City. I am pleased by Mr. Mancino's election to vice president.

Most significant, Mr. Mancino made it to the top of the CWA District 1 the old-fashioned way. He earned it! For more than 30 years, he has been a dedicated trade unionist, serving as a rank-and-file activist before advancing to the union's national staff. In 1991, he was promoted to assistant to CWA President Morton Bahr, the position he held prior to his election as vice president.

Mr. President, there are revolutionary changes occurring in the telecommunications industry as the United States approaches the 21st century. The convergence of computer and telephone technology is transforming not only how our citizens communicate with each other, but also how Americans communicate with the world.

In this turbulent time of transition in the telecommunications field, the CWA members in district 1 are fortunate that Larry Mancino is an innovative leader who can confront the challenges that workers in the telephone industry face.

I wish the CWA members in New York and throughout district 1 well as they journey forward under the proven leadership of Larry Mancino.●

CENTENNIAL ANNIVERSARY OF THE PENNSYLVANIA INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

● Mr. SANTORUM. Mr. President, the Pennsylvania Institute of Certified Public Accountants [PICPA] celebrated its 100th anniversary on March 23, 1997. I rise today to congratulate PICPA for a century of service to the people and businesses of Pennsylvania. This distinguished organization, which boasts more than 18,000 members, is the second oldest society of certified public accountants [CPAs] in the United States. In fact, several of the big six accounting firms were actually founded by PICPA alumni.

Mr. President, PICPA is comprised of dedicated professionals who provide essential financial advice to individuals, corporations, nonprofits, and government entities. Every day, they ensure that corporate financial dealings are properly reported to stockholders, help organizations comply with our tax laws, and provide detailed financial reports for managers.

In a dynamic business climate, it is essential to stay apprised of changing professional standards, government regulations, and accounting practices. PICPA associates have risen to this challenge. They have demonstrated a commitment to the accounting profession by adhering to a continuing education requirement. Likewise, they subject themselves to periodic peer reviews to improve the quality of their financial statements.

I am also pleased to note that PICPA encourages community service. Members have proudly helped improve the quality of life for less fortunate Pennsylvanians by donating thousands of hours to charitable organizations.

Mr. President, members of PICPA are currently serving the public as auditors, tax advisors, computer consultants, personal financial planners, educators, legislators, small business advisors, managers, and estate planners. I salute CPA's in all walks of life, and I ask my colleagues to join me in congratulating the accountants and employees of PICPA, both past and present, for 100 years of exemplary service.●

RELATIVE TO THE ATTORNEY GENERAL APPOINTING AN INDEPENDENT COUNSEL IN 1996 CAMPAIGN FINANCE INVESTIGATION

● Mr. LEVIN. Mr. President, the Attorney General, today, will apparently respond to the request of a majority of the members of the Senate Judiciary Committee that she seek the appointment of an independent counsel in the investigation into campaign finance irregularities of the 1996 campaign. In deciding how to respond, the Attorney General's duty is to follow the law, not to respond to political pressure.

But over the weekend, extraordinary attempts were made by several House Republican leaders to literally scare the Attorney General into doing what they want, not necessarily what the law requires.

Both Speaker GINGRICH and Majority Leader ARMEY said Sunday in effect that if she doesn't seek an independent counsel it's because she caved in to administration pressure. I ask that the Washington Post article of Monday, April 14, 1997, entitled "Republicans Warn Reno on Independent Counsel" be printed in the RECORD immediately following my remarks.

Mr. President, those comments by the Speaker of the House and the Majority Leader of the House constitute an attempt at political intimidation. Their message to the Attorney General yesterday was that if she doesn't seek the appointment of an independent counsel today, she runs the risk of being hauled up before a congressional committee and put under oath. There are consequences, they are telling the Attorney General—there are consequences to not doing what they want her to do.

Well, Mr. President, those statements by House Republican leaders fly in the face of the very purpose of the independent counsel law. Here's a statute that we passed to take the politics out of criminal investigations of high-level officials, and the Speaker and House Leader worked hard to put politics right back in. Their threats to the Attorney General—to make her do what they want her to do are inappropriate and jeopardize the very law they are demanding that she invoke.

I have confidence, Mr. President, that the Attorney General will follow the law wherever it leads her, despite their clumsy effort at political intimidation. I hope that Members on both sides of the aisle here in the Senate will respect her decision, whatever it is, and the discretion the law entitles her to exercise.

The article follows:

[From the Washington Post, Apr. 14, 1997]

REPUBLICANS WARN RENO ON INDEPENDENT COUNSEL

ATTORNEY GENERAL SHOULD BE CALLED TO TESTIFY IF INQUIRY IS NOT REQUESTED, GINGRICH SAYS

(By John E. Yang)

House Speaker Newt Gingrich (R-Ga.) said yesterday Attorney General Janet Reno should be called before Congress to testify under oath if she does not tell Congress today that she will seek an independent counsel to investigate alleged abuses in Democratic Party fund-raising.

Gingrich declared he has no confidence in Reno as attorney general and, when asked if she should resign, said: "We'll know tomorrow," the deadline for Reno to respond to a request from congressional Republicans that she call for an independent counsel in the matter.

"The evidence mounts every day of lawbreaking in this administration," Gingrich said on "Fox News Sunday."

"If she can look at the day-after-day revelations about this administration and not conclude it's time for an independent counsel, how can any serious citizen have any sense of faith in her judgment?"

Late last week, the indications were that Reno would likely not seek a counsel in the case, which is already being investigated by career Justice Department prosecutors, but aides emphasized no final decision had been made.

If she decides not to ask a three-judge panel to name an independent counsel, Gingrich said, Reno needs to explain her decision. "She needs to answer in public, she needs to answer, I think, under oath," he said.

Senate Judiciary Committee Chairman Orrin G. Hatch (R-Utah) said Reno "becomes a major issue" if she does not call for an independent counsel.

"The conflict of interest, both apparent and real, it seems to me, would necessitate her choosing an independent counsel," he said on ABC's "This Week." "If she doesn't then I think there's going to be a swirl of criticism that's going to be, I think, very much justified.

Justice Department spokesman Bert Brandenburg dismissed such talk. "Unfortunately, this has become a battle between law and politics," he said in a telephone interview. "The Justice Department will adhere to the law."

Reno routinely asks the career prosecutors looking into the matter whether any development requires the appointment of an independent counsel, according to Brandenburg. So far, they have not said that an independent counsel is indicated, he said.

The law says the attorney general must ask for an independent counsel if there is specific, credible information of criminal wrongdoing by top administration officials—including the president, vice president and

Cabinet officers—the head of a president's election or reelection campaign or anyone else for whom it would be a conflict of interest for the Justice Department to investigate.

House Judiciary Committee Chairman Henry J. Hyde (R–Ill.) said an independent counsel was needed to maintain public confidence in the investigation. "In-house investigations, as honorable as they might well be, don't sell the public on the fact that they are independent," he said on ABC.

While Hyde said he retains his confidence in Reno as attorney general, Gingrich was sharply critical of her for not telling White House officials the FBI suspected China was planning to make illegal campaign contributions. Reno has said she telephoned national security adviser Anthony Lake, failed to reach him and never called back.

"If you're the top law enforcement officer of this country * * * wouldn't you say to the White House, 'Gee, the president and the secretary of state ought to know we think the Chinese communists may be trying to buy the American election'?" he said.

House Majority Leader Richard K. Armey (R–Tex.) suggested Reno is victim of the political pressures within the administration.

"This is a person that would like to be professional and responsible in their job, and that makes her out of place in this administration," Armey said on CBS's "Face the Nation." "She is in a hopeless situation. * * * If I were Janet Reno, I would just say 'I can't function with people that stand with these standards of conduct and behavior and I'm leaving.' "

On another topic, Gingrich said the United States should "consider very seriously" military action against "certain very high-value targets in Iran" if there is strong evidence linking a senior Iranian government official to a group of Shiite Muslims suspected of bombing a U.S. military compound in Saudi Arabia last year.

"We have to take whatever steps are necessary to convince Iran that state-sponsored terrorism is not acceptable," he said. "The indirect killing of Americans is still an act of war."

The Washington Post reported yesterday that intelligence information indicates that Brig. Ahmad Sherifi, a senior Iranian intelligence officer and a top official in Iran's Revolutionary Guards, met roughly two years before the bombing with a Saudi Shiite arrested March 18 in Canada. According to Canadian court records, the man, Hani Abd Rahim Sayegh, had fled Saudi Arabia shortly after the June 25 bombing that killed 19 U.S. servicemen and wounded more than 500 others.●

JOHN PIDGEON'S 40TH ANNIVERSARY AS HEADMASTER OF THE KISKI SCHOOL

● Mr. SPECTER. Mr. President, I have sought recognition to acknowledge John "Jack" Pidgeon's 40th anniversary as headmaster of the Kiski School in Saltsburg, PA. John is well known to many Pennsylvanians for his excellent career in education and also is the proud husband of Pennsylvania's State treasurer, Barbara Hafer.

Forty years ago, John Pidgeon left a position at the Deerfield Academy to assume the position of headmaster of the Kiski School. In 1957, he became the youngest headmaster in the United States. Today, he is the longest serving headmaster in the country. In this capacity, he has worked to stabilize the school's finances, develop the campus, and build upon its outstanding academic reputation.

When John first arrived at the Kiski School, the institution's infrastructure was suffering and its deficit was rising. Under his direction, the school raised funds for a campus face lift, built a strong financial foundation, and stabilized enrollment. Throughout his career, he has emphasized the value of courtesy, ethics, discipline, high moral standards, and quality of education. By establishing a philosophy that combined these values in the school's education program, he has prepared Kiski boys to meet the challenges and opportunities they will face in the future.

I ask that the text of an article in the September, 1996 Kiski Bulletin be printed in the RECORD.

The article follows:

KISKI—THE SCHOOL THAT JACK BUILT

Forty years ago, John "Jack" Pidgeon left a secure job at Deerfield Academy to become the Headmaster of The Kiski School. As the new headmaster, he not only ran the School, taught classes, and coached sports, but also initiated a major face-lift of the deteriorating campus. Along with no entrance road and few athletic fields, the school had no desks or chairs in some dormitory rooms, lacked water for days at a time, and suffered a $200,000 deficit. The students willingly pitched in to paint and clean up the school grounds.

Before 1957, Kiski never received a donation larger than $10,000. Today, the 350 acre campus is the envy of both independent schools and liberal arts colleges. Under the direction of the Headmaster, the School has completed over a dozen substantial fund-raising campaigns and added:

Daub Hall, 1961.
The Field House, 1962.
Heath Clark Classroom Building, 1967.
The Indoor Swimming Pool, 1967.
McClintock Hall, 1968.
Vlahos Hall, 1968.
The Dining Hall and Infirmary, 1976.
Sheesley Hall, 1978.
The S.W. Jack Sports Center, 1983.
The Stephen C. Rogers Fine Arts Center, 1984.
Schoenbaum Center, 1985.
The John A. Pidgeon Library, 1993.
Six faculty homes.
A new dormitory in planning for 1997.

Today, campus buildings are worth over $5 million, and the School has an endowment of $20 million.

The campus enrollment is 250 boys, 225 boarders and 25 area day students. Over the past decade, "Jack's Boys" have come from six continents, 30 countries and 28 states of the U.S.

Jack Pidgeon came to Kiski as the youngest headmaster in the United States. Today his forty years of service make him the longest serving headmaster in the country. In addition to building a school with a superb physical plant, a sound financial basis, and a stable enrollment, Jack Pidgeon prides himself on placing high value on courtesy, ethics, discipline, morals, and a quality educational program. "Kiski Boys" are prepared to meet the challenges and opportunities they will face in the real world.

The man who played in the same backfield with actor Jack Lemmon and the same field with President George Bush at Phillips Andover Academy left a secure job teaching Latin at Deerfield Academy and took the leap of faith in coming to Kiski. He has, in his dynamic years as headmaster, built a school that has had a positive effect on the lives of thousands of young men. Every year, these young men receive a personally signed birthday card from the man who cared enough about their future that he risked his own on their behalf.●

MARINE CADETS OF AMERICA

● Mr. LIEBERMAN. Mr. President, I rise today to honor a national organization based in my district in Connecticut and headed by Col. George F. Keyes USMC (ret.), its current president. The Marine Cadets of America was founded in Connecticut in 1958 and is in its 39th year of operation, and although its mission has drastically changed and is geared to diverting children from falling prey to drugs and alcohol, it also provides children with a wholesome environment by teaching leadership skills, CPR, vocational skills, and a regular camping and survival program along with physical fitness and water sports. The men and women that serve as adult advisors and role models all serve without pay as volunteers and donate their professional skills to the children of this program. I congratulate and commend these men and women for their efforts and wish them every success in the continued efforts of this outstanding youth program.●

TRIBUTE TO ZVI H. MUSCAL

● Mr. SANTORUM. Mr. President, I rise today to pay tribute to Zvi Muscal, an exemplary businessman from Philadelphia and an outstanding community leader. Last December, the American-Jewish Community presented the 1996 Civic Achievement Award to Zvi Muscal, and I had the distinct honor of delivering the keynote address at his presentation dinner.

In 1979, Zvi left his beloved Israeli homeland to start a branch of Bank Hapoalim in Philadelphia. Like many who came to this country before him, Zvi came to America with a dream and a strong work ethic.

As the bank grew under his leadership, Zvi dedicated himself to many organizations which had a major impact on the Philadelphia community. Serving on the International City Steering Committee, the World Affairs Council, and the Philadelphia-Israel Economic Development Corp., which later became the Philadelphia-Israel Chamber of Commerce, Zvi has been a tireless advocate for business development in Philadelphia. Additionally, he has worked zealously to promote the city's cultural affairs and to support many important nonprofit organizations. In fact, the city of Philadelphia recognized Zvi's outstanding achievements and contributions by proclaiming May 19, 1985, Zvi Muscal Day.

Since then, Zvi has undertaken several business ventures. For instance, he started PhilTrade, Inc., an international trading company. Later, he and other business leaders founded the First Executive Bank. Zvi served as the bank's chief executive officer until June, 1996, when it merged with the First Republic Bank. Today, Zvi is the chairman of this institution.

As Zvi climbed the ladder of success, he strengthened his commitment to the community and his ardent devotion to Philadelphia. He currently serves on the board of the University of Pennsylvania School of Dental Medicine, the Philadelphia International Airport Advisory Council, the Community Bank Advisory Council of the Federal Reserve Bank of Philadelphia, the Operation Smile-Philadelphia Chapter, the Police Athletic League, the Philadelphia-Israel Chamber of Commerce, Elwyn Jerusalem, the Solomon Schecter Day School, and the Gesu School of Philadelphia.

Mr. President, I salute Mr. Muscal for his achievements in business and in the community at large. I ask that my colleagues join me in wishing Zvi Muscal and his family all the best.•

IVA MAE DECKER'S 105TH BIRTHDAY

• Mr. JEFFORDS. Mr. President, I rise today to congratulate Iva Mae Decker, a Vermonter and very special woman who is celebrating her 105th birthday today.

Iva Mae Decker was born in Montpelier, VT, on April 14, 1892. Ask Iva Mae what the secret to her longevity is and she will answer: "Just keep on moving."

Iva Mae lives at home with her daughter, Beverly, and appreciates the support she receives from her friends in the community. She is a shining example that independence need not be lost due to age. Beverly says of her mother, "She remembers the past, lives in the present, and looks forward to the future."

Iva has a genuine concern and warmth for others, as the children of the Proctor Elementary School will attest. In 1992, during the annual Count to 100 Day, Iva visited the first graders in Proctor, VT. Five years later, Iva continues to encourage these children to read and write through correspondence and poetry.

To celebrate her 103d birthday, Iva took a hot air balloon ride. A surprise 104th birthday present provided by many friends, family and local businesses fulfilled Iva's life-long dream of riding the cable cars in San Francisco. She had a tremendous trip.

Last week, Iva had planned to celebrate her 105th birthday by visiting Washington, DC to tour the city and share her thoughts on Government with her congressional Representatives. However, the flu forced her to postpone her plans for the moment. A birthday celebration will be held instead in her home today. Among the many officials attending will be Rutland's mayor who will present a Rutland city proclamation in her honor.

I would like to join Iva Mae's many family and friends in wishing her a very happy birthday. Her longevity and zest for life is an inspiration to us all.•

ORDERS FOR TUESDAY, APRIL 15, 1997

Mr. LOTT. Madam President, I ask unanimous consent that on Tuesday, immediately following third reading of S. 104, there be 10 minutes for debate with 5 minutes under the control of Senator MURKOWSKI and the remaining 5 minutes divided between Senators REID and BRYAN, and, immediately following that 10 minutes, the Senate proceed to vote on passage of S. 104, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Madam President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9 a.m. on Tuesday, April 15. I further ask unanimous consent that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate immediately resume consideration of S. 104, the Nuclear Policy Act as under previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Madam President, I further ask unanimous consent that, after the ordered stacked votes tomorrow morning, there then be a period of morning business until the hour of 12:30 with Senators to speak for up to 5 minutes each with Senator DASCHLE, or his designee, under the control of the time from 10:30 until 11:30 with 10 minutes of that time set aside for Senator CONRAD and Senator THOMAS, or his designee, in control of time from 11:30 to 12:30.

I further ask unanimous consent that the Senate stand in recess from the hours of 12:30 to 2:15 for the weekly policy conferences to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I further ask unanimous consent that when the Senate reconvenes following the weekly party luncheons that there be a period for the transaction of morning business during which Senators will address the significance of April 15, 1997, Tax Day.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Madam President, for the information of all Senators, tomorrow at 9 a.m. the Senate will resume consideration of the Nuclear Policy Act. Under the order, following 3 minutes of debate prior to the rollcall vote we will proceed to a series of rollcall votes on or in relation to the pending amendments to that legislation. Senators can therefore expect approximately three rollcall votes beginning tomorrow morning shortly after 9 a.m. I believe there are 3 minutes between each vote also.

It is our intention to introduce and possibly conduct a rollcall vote with respect to legislation regarding unauthorized access by the IRS to tax records. There has been a bipartisan effort to get this legislation developed. We hope to have that cleared and to get a recorded vote on it tomorrow. It is something I know the American people feel very strongly about. There has been a lot of attention given to the fact that IRS employees have been fired because of this unauthorized access to these IRS records. It also will give us an opportunity tomorrow to talk about other abuses at the IRS.

So Senators can expect additional votes on Tuesday after the policy luncheons—at least one and hopefully two more votes tomorrow.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. LOTT. Madam President, if there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate at 6:11 p.m., adjourned until Tuesday, April 15, 1997, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate April 14, 1997:

DEPARTMENT OF JUSTICE

ERIC H. HOLDER, JR., OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY ATTORNEY GENERAL, VICE JAMIE S. GORELICK, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, USC, SECTION 601:

To be general

LT. GEN. RICHARD B. MYERS, 7092

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, USC, SECTION 601:

To be general

LT. GEN. RALPH E. EBERHART, 7375

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, USC, SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN B. HALL, JR., 5835

EXTENSIONS OF REMARKS

COLLINS AMENDMENT TO THE FEDERAL EMPLOYEE GROUP LIFE INSURANCE ACT

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 14, 1997

Mr. COLLINS. Mr. Speaker, I rise today to introduce legislation that will provide a much needed clarification of the Federal Employee Group Life Insurance Act.

This legislation will level the playing field between laws that govern private life insurance and the Federal statute that provides guidelines for the life insurance policies held by Federal employees.

My legislation will amend the Federal Employee Group Life Insurance Act to ensure that a domestic relations order, issued by a court, is considered a designation of beneficiary in the event that no designation of beneficiary has been filed.

Currently, if a Federal employee dies without properly naming a beneficiary for his/her life insurance policy, the law provides a very strict, prioritized list of individuals that are eligible to receive the benefits of that policy.

Unlike most State laws, the Federal code does not give any consideration to an existing court decree that may link that policy to a beneficiary as a part of a settlement agreement.

There are real instances where this inequity in Federal law is causing significant confusion among FEGLIA beneficiaries. It is time for us to clarify the law with this legislation that will correct this inconsistency and ensure that a court decree is given appropriate consideration.

During the 104th Congress, my legislation was included in the Omnibus Civil Service Reform Act, H.R. 3841, as reported by the Committee on Government Reform and Oversight.

The Department of Health and Human Services, Child Support Division, and the Office of Personnel Management have reviewed the legislation and do not oppose this change.

In addition, I have appeared before the Corrections Advisory Group chaired by Representative DAVE CAMP and they have recommended the legislation for inclusion on the Corrections Calendar. I appreciate this opportunity to introduce this legislation and look forward to its enactment.

TRIBUTE TO UAW LOCAL 314 ON ITS 60TH ANNIVERSARY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 14, 1997

Mr. BONIOR. Mr. Speaker, today I pay tribute to the UAW Local 314 as they celebrate their 60th anniversary. On April 5, the membership of this great union will celebrate with an anniversary dinner.

In the 1930's, like most of the United States, the Detroit area was suffering from the Great Depression. In 1934, the Mechanic Educational Society of America tried to organize a union. Unfortunately, company resistance and union-busting activities were too strong for the fledgling union.

However, in February 1937, the UAW organized 90 percent of the Long Manufacturing workers and on April 6, 1937, local 314 was established. Many of the workers remembered the difficult years before the union and knew how important it was to establish a strong leadership. Within 2 months, this leadership helped win a contract that protected the workers' right to bargain collectively, seniority, wage increase, premium pay for overtime, a grievance procedure, vacation with pay, and the right to seek redress.

This was a historic contract in that it laid down the ground rules for protecting the rights of the workers for years to come. For 60 years, local 314 has preserved these basic rights while improving the working conditions for the employees.

Even though the name Long Manufacturing has changed to Borg and Warner Automotive, one thing remains the same—the commitment of the union to protect the workers. The hard work, sacrifice, and dedication of the leaders and members is illustrated in the struggles that the union has surpassed in the past 60 years.

I would like to congratulate the members of UAW Local 314 for their contribution to the labor movement on their 60th anniversary, and I wish them luck as they represent a new generation of union members.

LEGISLATION TO EXEMPT MULTIEMPLOYER PENSION PLANS FROM COMPENSATION-BASED LIMITS ON BENEFITS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 14, 1997

Mr. VISCLOSKY. Mr. Speaker, today I am introducing legislation that will help correct a gross oversight within our Nation's pension system.

Under section 415 of the Internal Revenue Code, pension benefits from multiemployer pension plans are limited to the average of the retired employee's three highest consecutive years of income. This compensation-based limit makes perfect sense for many types of corporate pension plans, where pensions are based on compensation and income levels are relatively steady and tend to increase over time. But for many participants in multiemployer pension plans, limiting pension benefits in this way is both unfair and inequitable.

Unlike their corporate counterparts, benefits earned under multiemployer pension plans have very little relationship to actual compensation. Rather, benefits are generally based on a worker's years of covered service and the collectively bargained dollar amount of contributions made into the multiemployer plan. But the compensation-based limits contained in section 415 override the benefit rates set in the multiemployer plan, often decreasing a retiree's pension benefit well below what was negotiated.

Workers in the building and construction industries are particularly disadvantaged by section 415. Compensation for these workers can fluctuate dramatically from year-to-year, with the availability of work in these mobile, cyclical industries. For workers in these industries, section 415 often has the effect of driving the compensation-based limit much lower than the worker's average income. What's more, finding the 3 highest years of consecutive compensation often means basing the benefit limit on a period well before the date of retirement, which can mean a dramatic drop in income and lower standard of living once the worker retires.

Legislation passed by the 104th Congress, Public Law 104–188, which provided a long-overdue increase in the minimum wage, also exempted public employees from the pension benefit limits contained in section 415. But for reasons that have gone unexplained, Public Law 104–188 did not extend this exemption to multiemployer pension plans.

Mr. Speaker, no one should misinterpret either the intention or the effect of this legislation. These plans are not tax shelters and exempting multiemployer plans from section 415 will not result in an unfair windfall of pension benefits. Instead, my legislation would take a necessary step to ensure that benefits from multiemployer plans are not artificially reduced, and that every retired worker covered by these plans receives the pension benefits that he or she rightly deserves. I urge you and my other colleagues to cosponsor and support this important measure.

TRIBUTE TO LARRY HORAN

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 14, 1997

Mr. FARR of California. Mr. Speaker, I rise today to pay tribute to a man who is truly one of a kind. Larry Horan, who made his mark as a star college athlete before becoming a star director of the Peace Corps in El Salvador, Costa Rica, and Colombia, where I served, was honored last weekend for his many contributions as chairman of the board of the Special Olympics of Northern California. It was

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

quite a tribute. Few men have had as positive an impact on those around him as Larry Horan.

In my own life, Larry has been a model. A defender of the common man and woman, Larry has spent his career standing up for those values that represent the best in all of us. A graduate of the University of California, Berkeley, where he earned both undergraduate and law degrees in the 1950's, Larry's first venture into the working world consisted of a 5-year tour in the Alameda County District Attorney's Office where he served on the senior trial staff and worked hard for the people. In 1960, Larry further distinguished himself by joining forces with my father, former California State Senator Fred Farr, in the Law Offices of Farr, Horan & Lloyd, and served with distinction until a greater calling came.

Like many of us who followed the vision of our valiant President, John F. Kennedy, Larry decided the best gift he could give the world was one of service. He enlisted in the Peace Corps to make the world a better place and worked hard for 3 years to improve the plight of those living in the Central and South American countries where he lived with his wife Jean and where his youngest daughter, Maureen, was born. In 1967, Larry was named regional director of the Office of Economic Opportunity for the Western United States. Larry returned to California's beautiful central coast in 1970 where he became president and founding member of the Law Offices of Horan, Lloyd, Karachale, Dyer & Schwartz and Law & Cook Inc.

While working to benefit his local community, Larry has also given of himself in countless other ways. Sitting on the board of directors of the Monterey Institute of International Studies, he also serves as a trustee of the Naval Postgraduate School Foundation, on the board of advisors of the Big Sur Land Trust, as an advisor of the Friends of Moss Landing Marine Laboratories, on the Board of Directors of the Franciscan Workers and as Chairman of the Board of Directors of the Special Olympics of northern California, the organization that honored him.

I could go on and on about Larry Horan. To me, he symbolizes the very best qualities of the American spirit. Generous and compassionate to a tee, Larry is one of those very unique people who profoundly impacts all those he touches. He is a natural-born leader and deeply deserving of all the praise we can bestow upon him.

VOLUNTARY ALCOHOL ADVERTISING STANDARDS FOR CHILDREN ACT

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 14, 1997

Mr. KENNEDY of Massachusetts, Mr. Speaker. This Bud's for you—It's Miller Time—Tap into the Rockies—I love you Man—these phrases have become familiar sounds in the living rooms of homes across the country. Soon, you will also be able to recall slogans for Seagram's Crown Royal whiskey and Hiram Walker's Kahlua liqueur, and a host of other spirits. In too many cases, it is children that are influenced by such ads—remembering and reciting these jingles, leading many to their first drink of alcohol in hopes of imitating the athletic, academic, or social success being sold to them over the airwaves.

The Wall Street Journal and Ad Age recently reported on the prevalence of alcohol advertising on television stations and during programming that have large youth audiences. For example, beer ads were shown to run frequently on MTV, a rock music station that is popular with kids. So the message to kids is to sit down with a brew to watch Beavis and Butt-Head?

Alcohol use and abuse among our children is on the rise. Alcohol-related deaths are the No. 1 killer of people under the age of 24—killing more than 100,000 people each year, 5 times as many as the death toll for illicit drugs. There are approximately 18 million alcoholics or problem drinkers in our country, 4 million of whom are minors.

We spend $15 billion a year fighting the war on drugs in this country. Yet alcohol, America's No. 1 drug, is promoted by billions of dollars in slick ad campaigns that tell kids if they want to be the first down the mountain, or get a good-looking date, or win the bicycle race, all they need to do is drink a beer, a wine cooler, or shot of whiskey.

For nearly 50 years the Distilled Spirits Council of the United States [DISCUS] had the right idea. As model corporate citizens, they voluntarily agreed not to advertise their product on television.

However, by ending their voluntary industry ban last November, they made a decision to lower the bar at a time when it needs to be raised.

The hard liquor industry had a legitimate argument that they were at a competitive disadvantage under their old code because the beer and wine industries advertise aggressively. But they took the wrong direction in an effort to even the playing field. We want fewer alcohol advertisements on television, not more.

I have in the past, and will again, introduce legislation which places specific restrictions on all alcohol advertising—beer, wine, and distilled spirits—particularly where alcohol products are being marketed to young audiences. These bills, the Just Say No Act and the Comprehensive Alcohol Abuse Prevention Act, prescribe specific restrictions with which I feel the alcoholic beverage industry should comply.

However, today we are embarking on a new, voluntary approach to solving this problem—not to be confused, though, as abandoning old strategies. We are convinced that television broadcasters, under their public interest obligations, should be expected to add their voices to this important debate by developing a voluntary code of conduct for alcohol advertising that will limit the exposure of such ads to children.

Some broadcasters have taken the first step. When the hard liquor industry abandoned its voluntary pledge not to advertise on television, all of the major network stations publicly stated that they would not accept their ads. Yet viewing audiences have been baptized with hard liquor ads around the country because network affiliates have agreed to air them. More can and should be done about all televised alcohol advertising that targets young audiences.

The legislation that I will introduce with my colleagues today, the Voluntary Alcohol Advertising Standards for Children Act, is a tool that will bring to bear a new benchmark for responsible advertising of beer, wine, and distilled spirits. Under this legislation, an antitrust exemption is established so that television broadcasters can come together to devise the new code of "kid-friendly" standards.

While the legislation does not prescribe or mandate what the final code should look like, it does lay out five general guidelines for consideration:

First, content—alcoholic beverage companies often market their products by using sex, fantasy, sports figures, cartoons, and fast music. Advertisements using such content clearly have a strong market appeal to youthful audiences.

Second, frequency—families should be able to turn on their televisions without being overwhelmed with alcohol advertising campaigns. Alcohol ads should not be airing in homes at a rate that surpasses advertisements of other products.

Third, timing—children are less likely to be watching TV late at night. Alcohol advertisements should not be airing during prime time viewing hours or hours when children are likely to be a significant portion of the overall viewing audience.

Fourth, program placement—what television shows are sandwiched in between alcohol advertisements? "The X-Files"? Early Saturday sporting events? Alcohol ads should not be aired immediately preceding, during, or directly following television programming that has a significant youth audience.

Fifth, balanced messages—some deliberation should be given to the issue of balancing advertisements promoting alcohol consumption with public information messages about the risks of alcohol use by minors.

This bill would give the broadcasters 1 year to develop their code. The Federal Communications Commission [FCC] is required to approve the code before it is implemented, seeking public comment. If after 1 year, the broadcasters fail to develop their own standards, the FCC is given the authority to impose their own code, using the same five guidelines.

Any FCC-imposed code must be developed in a partnership with an advisory committee composed of parents, broadcasters, public interest groups, and other interested individuals from the private sector. The final, approved code would be enforced as a regulation by the FCC, punishable by monetary penalties.

This is largely a hands-off governmental approach. Regulators do not get involved in the creation of this code unless broadcasters abandon their responsibility to do so.

Alcohol is not a legal product for consumption by minors and therefore should not be advertised in a manner, place, or time where children are likely to be influenced. This legislation gives concerned parents and the public a voice in protecting their children from these negative influences. And this bill gives broadcasters the latitude to voluntarily develop alcohol advertising standards which they believe will protect children under their public interest obligations. All would be served well by passage of this legislation.

TIME TO PUT EQUITY FOR WOMEN BACK ON THE AMERICAN AGENDA

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of the Fair Pay Act of 1997, a bill that would ensure that men and women receive the same wages for equal work. It could not be more appropriate to discuss this bill today, because tomorrow is Pay Inequity Day. Pay Inequity Day is April 11—3½ months into 1997—and it is the day on which women's earnings finally equal those of men for the previous calendar year.

Pay inequity is no longer just a women's issue. It is one that intimately affects many American families as more and more American families rely on women's wages. An increasing number of families are headed by single working women. Many more families, those with two parents, find that to make ends meet it is necessary for both parents to work. In two-parent families, 66 percent of women work and the number of female-headed households has more than doubled since 1970.

At a time when families are increasingly dependent on the money earned by their female members, women with similar qualifications still earn less than 72 cents for every dollar earned by men in comparable jobs. Over her lifetime, a woman loses more than $420,000 to pay inequity. Wage discrimination costs all women together more than $100 billion a year. This is money that the American family can ill afford to lose.

I ask that my colleagues support this important legislation that will address gender pay inequity and in so doing take a stand to help America's working families.

TRIBUTE TO PATRICIA GORDON

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 14, 1997

Mr. BONIOR. Mr. Speaker, today I rise to congratulate Patricia Gordon, Secretary of the Year. On April 23, 1997, Ms. Gordon will be honored at the Secretaries Day Banquet during Professional Secretaries Week.

Each year, the Macomb Chapter of Professional Secretaries International chooses the Secretary of the Year based on a list of important qualities. Candidates are chosen based on their education, work experience, and involvement in PSI activities. Ms. Gordon's professional accomplishments and expertise led to the honor of Secretary of the Year.

Ms. Gordon began her career as an office professional 23 years ago as an office co-op at Center Line High School. For the past 10 years she has been employed by East Detroit Public Schools. Ms. Gordon is a group benefit secretary under Assistant Superintendent Raymond Berlin. She has made an important contribution to education and her community by performing many of the fundamental responsibilities that allow the schools to operate everyday.

In 23 years, Ms. Gordon has earned a CPS designation, been an active member of Professional Secretaries International and has obtained her real estate license. Ms. Gordon and her husband have also raised four children, Mellanie, Erica, Lauren, and Alexander. Her future goal is to continue her education and earn a degree in business.

I ask my colleagues to join me as I commend Ms. Gordon on her hard work and accomplishments as she accepts the award of 1997 Secretary of the Year.

CONGRATULATIONS TO THE GARY ALUMNAE CHAPTER OF THE DELTA SIGMA THETA SORORITY

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 14, 1997

Mr. VISCLOSKY. Mr. Speaker, it is truly my pleasure to congratulate the Gary Alumnae Chapter of the Delta Sigma Theta Sorority as it hosts a statewide Founders Day Celebration on Saturday, April 26, 1997, at Marquette Park in Gary, IN.

The Gary Alumnae Chapter will host the Founders Day Celebration with the help of 14 Delta Sigma Theta Chapters throughout the State of Indiana. The statewide celebration will feature Delta Sigma Theta Sorority's National President, Marcia L. Fudge, Esq., as the keynote speaker at a private banquet. After the celebration, Ms. Fudge will be introduced to community leaders at a reception held at Marquette Park from 5 to 7 p.m. During the reception, Mayor Scott King of Gary, IN, will present her with a proclamation from the city of Gary. In addition, Ms. Fudge will receive a proclamation from Indiana Governor, Frank O'Bannon. The festivities will conclude with area Deltas worshiping with Ms. Fudge at St. Timothy Community Church in Gary, IN.

Founded in 1913 at Howard University, the Delta Sigma Theta Sorority is a public service sorority comprised of over 200,000 members, both nationally and internationally. The founders of Delta Sigma Theta defined the organization's purpose as "establishing and maintaining a high standard of morality and scholarship among women."

Since its inception in 1938, the Gary Alumnae Chapter has worked diligently to fulfill the Delta Sigma Theta mission in northwest Indiana through members' participation in a variety of public service initiatives. Some of the local activities include: sponsorship of food banks and clothing drives; aid to Marion Home; a local shelter for pregnant teens; sponsorship of Delteens, an organization which organizes activities for high school junior and senior girls; and the awarding of $4,000 in college scholarships annually. The chapter also participates in Project Read, Stop the Violence Campaign, Kids Vote USA, and voter registration efforts. In addition, the Gary Alumnae Chapter has devoted much of its energy and resources to national public service efforts. Members of the chapter aid the NAACP, NAACP Defense Fund, the United Nations Children's Fund, and Habitat for Humanity, through financial contributions, and participation in local events.

It is my distinct privilege to congratulate the members of the Gary Alumnae Chapter of Delta Sigma Theta as it hosts the statewide Founders Day Celebration. The members of this organization are most deserving of the pride and honor exhibited on this very special occasion, as they have provided invaluable services to the citizens of northwest Indiana through their hard work and dedication. May this event prove to be most successful and rewarding.

TRIBUTE TO PETER BEHR

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 14, 1997

Mr. FARR of California. Mr. Speaker, I rise today to honor the late Senator Peter Behr, a dedicated and inspiring public servant of California. Senator Peter Behr was an instrumental force in the California legislature who was driven by principles and a commitment to preserving our precious environment. In his nearly 30 years of service, Senator Behr served as an inspiration to both his colleagues and constituents, including me. He will be remembered for his unparalleled environmental activism and for epitomizing the characteristics of an inspiring leader.

Senator Behr's admirable career in politics began as city councilman of Mill Valley in 1956. While serving in Marin County, he was recognized for leading a grassroots campaign to preserve and protect California's Pacific coastline. Through hard work and dedication, he moved up to county supervisor, and shortly thereafter he was elected to represent Marin in the California Senate.

One of Senator Behr's most notable accomplishments was the save-our-shores petition drive, which was instrumental in the formation of Point Reyes National Seashore, a beautiful expanse of the northern California coast. Additionally, Senator Behr established The 1972 Wild Scenic Rivers Act, which provided protection for priceless rivers.

After retiring from the senate, Senator Behr remained dedicated to preserving California's natural resources by involving himself with various organizations which strive to preserve our precious environment. He demonstrated his leadership among such groups as the Sierra Club Foundation, Friends of the River, and the San Francisco Foundation.

Today, Senator Behr is recognized as an exceptional politician who earned the utmost respect from both his colleagues and constituents. He will be remembered as an avid protector of the environment whose visionary ideology will remain a model forever. I ask my colleagues today, to join me in recognizing Senator Behr's accomplishments and the legacy he will surely leave behind.

ISRAELI PRIME MINISTER NETANYAHU'S ADDRESS TO AIPAC

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 14, 1997

Mr. GILMAN. Mr. Speaker, last week Israeli Prime Minister Benjamin Netanyahu made a major speech at the annual AIPAC policy conference dinner. This event is the pre-eminent pro-Israel activity in our Nation's capital, and was attended by over 150 Members of Congress. Because the Prime Minister's remarks are very timely and deserving of special attention, I would like to share them with my colleagues, and therefore request that they be reprinted at this point in the CONGRESSIONAL RECORD.

REMARKS OF PRIME MINISTER BENJAMIN NETANYAHU, AIPAC DINNER, WASHINGTON HILTON, WASHINGTON, DC, MONDAY, APRIL 7, 1997

PRIME MIN. NETANYAHU (Applause.) Thank you very much. Thank you. I want to say to Melvin Dow that you should give me these introductions in the Knesset. (Laughter.) I thank you for that, and I thank you for your leadership. I thank you for having AIPAC and for its support for Israel and for Israeli-American relations and for peace. You are doing a magnificent job. Thank you. (Applause.) You know that Melvin is the last—well, not the last—there will be others—but he is the most recent of a distinguished line of heads of AIPAC who are here. I've worked with all of them in some form or capacity or the other—Ed Levy and Bob Asher and Larry Weinberg whom I remember from our first meeting—it must be 20 years ago—you haven't changed—(laughter)—and Barbara Mitchell and Steve Grossman. It's the best people you could find. And they are joined here by some very good friends that I have had. First of all, the two ambassadors—the ambassador of Israel to the United States, Eli Ben Elissar—(Applause)—and the ambassador of the United States to Israel, Martin Indyk. (Applause.) He should stay the ambassador of the United States to Israel, if it were up to me—but I don't decide these things. Did I spill out anything? You should stay the ambassador of the United States to Israel as far as possible (Applause.) These are exceptional diplomats, and we are joined today by many other exceptional diplomats. And I thank you on behalf of the state of Israel for giving us an opportunity to speak to all of you not at the U.N. (Laughter.) This is a distinct advantage. (Applause.)

I want to say to my friends Leon Levy and Art Sandler, and of course my old-time friends Jonathan Mitchell and Sheldon Edelson—this goes on the order of the length of our acquaintance that it is wonderful seeing all of you here today. And it is a great honor for me to be on the stage that you provided so kindly, Howard, with your excellent staff that shepherded us—corralled us right in here—and prevents us from seeing all these extraordinary people in the audience. But I do see the people on the stage, and it is a privilege to be with Senators Ted Stevens and John Kerry—(applause)—two great friends of the state of Israel—(applause)—who represent over 40 senators and over 90 congressmen and congress women who are here. And I am very, very, very, very appreciative of the support that you are rendering Israel. And believe me there is not a person in Israel who does not share that same appreciation and wants to extend the same thanks.

I have to also confess to you that this is my first—I think it is—yes, it is my first AIPAC conference as the prime minister of Israel—(applause)—which—now, wait a minute, wait a minute. What this means in that in this capacity I have only seven more conferences to go—(laughter)—in this capacity. And I look forward to every one of them.

But I was discussing this with Jonathan Mitchell outside. And he said, "Well, what's it like being the prime minister of Israel?" And I said, "Well, it's like a walk in the park." (Laughter.) And he said, "You mean Central Park at midnight?" (Laughter. Applause.) And I said, "No, it's like a bed of roses but with a lot of thorns." But it is with all the challenges of this particular job, it has great rewards, first to see the things we want to see accomplished, and we are accomplishing them however difficult it is—the quest for peace. And Melvin put it correctly: the only meaningful peace, peace with security. And also a small idea that we have to make Israel—and this should not shock you—economically self-sufficient—(applause)—and a place where Jewish people make money by being good businessmen. These are all things that are happening in Israel. And the country is undergoing a tremendous revolution. It is becoming a technological power of the first order, and the world—we are marrying our special capabilities—technological capabilities—with the idea, with the strange idea of free market principles. And the combination is explosive. It is producing unparalleled investment in Israel. And I think it will be a tremendous boon for peace. It will help all of us. (Applause.)

I think that we in Israel—and I think all of humanity—extraordinary lucky that as we enter the 21st century the United States is the only superpower. It is a great force—a force for more clarity, for democracy, for justice and for peace. (Applause.) And I think Israel is especially lucky that AIPAC exists in this country to present Israel's case. I don't think anyone is more knowledgeable than you about the Middle East as it really is. And I think no one can present our case better. And I must say that no one does it with greater dedication. It is not enough to marshal the facts. It is not enough to muster the arguments. In order to persuade and make a difference you have to bring conviction. You have to couple the heart with the mind. And that is what you do—you give your heart and your mind to Israel, and for this I thank you from the bottom of my heart. (Applause)

I met with President Clinton today and with Secretary of State Albright, and we had very good meetings. We had I thought open talks—excellent talks—because we tried to get to the root of what it is that we can do to secure the peace. And I think that Israel and the United States share a common view. I found a real understanding for our position that there must be strong resolve in both our parties, but I think also elsewhere, to give the fight against terrorism the top priority it deserves. (Applause.) We all agree terrorism is the enemy. It is the enemy of the United States, it is the enemy of Israel, it is the enemy of peace, it is the enemy of our civilization. And it is an enemy that rears its head, and it must receive an answer. It must be stopped. Terrorism must be stopped and terrorism can be stopped. And we are the ones who ultimately will decide if it wins the day or loses ground. And I believe that it's within our capacities—when I say our capacities I mean not only the government of Israel and the government of the United States, but I think the men and women in this hall can each do their part to ensure that everyone does their part to wage the battle against terrorism.

We have I think a true friend in the White House—actually true friends—the president and the vice president. (Applause.) We have true friends in the State Department with the secretary of state. We certainly have true friends on Capitol Hill—that demonstrated aptly tonight. (Applause.) And I am sure that all of us—the administration, Congress, the government of Israel—will each be doing his part to pull together for our common cause. And with your help, which I think is indispensable, we will achieve the goal that we seek, which is a secure peace between Israel and its neighbors.

Now, this is not an easy task, because peace is elusive, and it cannot be captured merely by repeating the word "peace" like a mantra. For peace to exist in our part of the region of the world—we live in a difficult neighborhood as you no doubt ascertained—for peace to exist and survive and thrive in our part of the world, it must—it must be—the quintessential idea of peace which exists anywhere else is an obvious thing. Peace means the absence of violence. Otherwise there is no meaning to it. (Applause.) Peace means the absence of terror. If I were to say peace and terror cannot co-exist, this ought to be a redundancy. This shouldn't be said because it is so obvious. And yet it has to be said again and again and again, because we are asked to accept the notion that we can have peace on the one hand and terrorism on the other hand, both in the same process, both co-existing. It cannot be. One drives out the other, and we have to decide if peace drives out terrorism, and not that terrorism drives out peace. (Applause.)

Now, we are engaged today in an effort to rescue the Oslo process. This is a process which was based on two parallel ideas. The first idea was that the Palestinians—the Palestinian Authority would undertake to stop terrorism from its domains. And the second was that Israel would withdraw from the population centers which would become the Palestinian domains. Two ideas. Fight terrorism, leave the population centers. That's the basic deal of Oslo. Everything else is elaboration. And you have to ask how was this cemented. It was cemented not only in the provisions of Oslo that states this quite clearly; it was so important for Israel that the late Prime Minister Yitzhak Rabin refused—refused to sign onto Oslo until he got in addition to the provisions of the agreement a specific written commitment from the chairman of the PLO, Yasser Arafat, promising that he would combat terrorism, and the Palestinian Authority would fight terrorism. In other words, this is for Israel from the start this was the most fundamental aspect of Oslo.

I can say here tonight that had the Palestinians lived up to this assurance we would not be busy today trying to save the peace process. (Applause.) Now, it's widely believed that I am against Oslo—this is how it is portrayed. And I made my peace with Oslo. I made my peace with Oslo before the elections, and I said we will keep Oslo. It is not Oslo we are against; it is the idea that we alone shall keep Oslo, and the other side has agreed not to keep Oslo. (Applause). (Audio break)—most of them before I came to office. But I completed the hardest one, the redeployment in Hebron, which as you know is the oldest point of Jewish settlement on Earth, going back almost 4,000 years to the time of Abraham. We did that.

But when we look at the other side of Oslo, did the Palestinian Authority fulfill its part, then the answer is not a recent no, because in the 30 months that preceded the elections, since the signing of Oslo—the first 30 months of the Oslo agreement Israel suffered the worst terrorist waves in its history from terrorist groups based in those same PA—Palestinian Authority domains that were provided by the Israeli government. And this culminated in a week of incredible savagery, the suicide bombings of February and March of last year which cost the lives of 60 people.

I know this is redundant, but I'll say it anyway: This was before the rise of hard-line Netanyahu government. You can't have just Netanyahu—hard-line Netanyahu government, of the intransigent Likud government, as it is commonly known. It was before all of this. And I can tell you—and I suppose this means reminding too in some quarters—this was also before Har Homa. There was no Har Homa. There was no, quote, "Provocation" in Jerusalem. There was nothing. In fact, there was the most conciliatory—okay, dovish—(laughter)—the most conciliatory government in Israel's existence. It took extra pains not to do anything that would be perceived by the Palestinian Authority as a provocation. And yet we have these incessant attacks from terrorist groups which were not stopped by the Palestinian Authority. And this is what the people of Israel asked us to correct. They didn't say abandon Oslo. They said correct Oslo—make sure that they fulfill their side of the bargain as well. (Applause.)

I should tell you that when those waves of terrorist attacks took place last March the peace process was in danger of complete collapse. The Labor government at the time suspended the redeployment in Hebron, and in effect it stopped all of the negotiations. And it was then, and only then, that the Palestinian Authority began to do something about terrorism. They began to act then against the terrorist organizations, because they understood that failing to do so would stop the Israeli withdrawal. I have to tell you that this activity was partial, because the PA did not—did not dismantle the terrorist organizations and did not disarm the terrorists. But its efforts, however partial, coupled with the cooperation between our security agencies—and there was important cooperation—all of that was enough to demonstrate that if it wanted to the Palestinian Authority could control the situation and significantly curb terrorism. And indeed this was the case in the following months. And in fact this was the case for a full year, until there was a decision to change the policy. And now we are faced again, once again, with terrorism and violence. The excuse of course is that we are building a housing project in Har Homa. You have heard—well, it's hard to say who of us has heard more nonsense about Har Homa, you or I—but you have heard a lot of nonsense about Har Homa. So let me tell you the facts. Har Homa is not an area in Arab East Jerusalem. (Applause). It is a barren hill in the southern part of Jerusalem, and it is on land that is mostly private land—75 percent private land owned by Jews. (Applause.) It is not a settlement. I said this morning that I have nothing against settlements, but it happens to be—that is a joke, by the way—(laughter)—but that—that there is a difference between a neighborhood in a city within the municipal boundaries of Jerusalem and a settlement is something that is obvious to you. But of course this is not obvious to anyone who watches most of the news media of the world, because this is deliberately obfuscated, the word "settlement" connoting something bad. And Har Homa is not a settlement; it is a neighborhood designed to alleviate the severe housing shortage in Jerusalem. And it is matched by our plans to have ten such projects of differing size altogether culminating in even more housing units for the Arab residents of Jerusalem, because we consider it our obligation to take care of the city's residents, whether they are Jewish or Arab, with equal effort. (Applause.)

And finally, the building of this residential neighborhood in no way contravenes the Oslo agreement. Oslo doesn't forbid in any way the construction of neighborhoods in Jerusalem—no government in Israel—not the Labor government or Likud government—would ever sign onto an accord that would limit our right to build in our ancient capital. And indeed I have to say the Labor government did not do this. (Applause.)

But Oslo does stipulate something about Jerusalem. It says that Jerusalem will be—the issue of Jerusalem will be negotiated and decided on in the final settlement negotiations, but pending the conclusion of those negotiations. There is only one stipulation about Jerusalem, and it is the curbing not of Israeli activity in Jerusalem but of Palestinian activity. The Palestinian Authority is prohibited—specifically prohibited under Oslo—to have any governmental offices in Jerusalem or any governmental activities of the Palestinian Authority. (Applause.)

So it is not Israel that is violating the Oslo Accords vis-a-vis Jerusalem; it is the Palestinian Authority which maintains illegally and contravening the Oslo Accords those offices in Jerusalem. It's a small point that I thought I should get across, because I didn't see it on the nightly news. (Applause.)

Now, we are told that building houses in Har Homa is introducing instruments of terror. This is a new concept of terror. It's called condominium terror—(laughter)—or terror of the walk-up rentals. (Laughter.) Or apartment—what is this? You can laugh, but it's not funny, because the attack on basic human values is always preceded—always preceded by a corruption of language. (Applause.) You twist people's minds by twisting the meaning of words. And once you can twist it—once you can say that there is this terrorism of the bulldozers—and that's what they say—then you can prepare the way for the acceptance by millions who listen to this pulp day in and day out that there is some kind of equality between a grievance that the Palestinians may have unjustly—unjustly as far as the agreement is concerned—that's for sure. In my opinion, as far as history and as far as justice is concerned, but that's not the point. Suppose they have a grievance. We have a grievance against them in Jerusalem. But that grievance cannot be used to vitiate the meaning of the word "terrorism," to apply it where it doesn't belong, and indeed to legitimize the blowing of 50 people in a cafe in Tel Aviv, and the murder of three young women, one with an unborn child, and the other leaving aside a scarred baby girl that will never grow up a normal human being, that will always be scarred, whether her physical wounds heal or not—her mother she will never see.

I said on another occasion that nothing justifies terrorism. And the attempt to exculpate terrorism, the attempt to excuse it or explain it, understand it, is an attempt, however, unwittingly applied by some, to justify war crimes. (Applause.) Terrorism is a war crime. War crimes—the basic concept of a war crime is that even though mankind is consigned for the foreseeable future to engage on occasion in armed conflict we call wars, we proscribe—we prohibit armed combatants to deliberately attack the other part of humanity outside the war—that is, defenseless civilians—women, children, men, babies. They might be hurt accidentally, but they cannot be deliberately and systematically attacked. That's the whole idea behind the convention outlawing war crimes. If you don't have these limits, then anything is permissible. If you don't have these limits on attacking deliberately and purposefully and systematically, men and women and children and babies, then there are no limits that tell you that you cannot throw a million babies into ovens, or five or six.

And therefore the attempt to in any way explain terrorism—an insidious attempt that we are witnessing today—is an attempt essentially to do what I call—what I recall I must say is Pope John Paul's magnificent statement. He said the greatest danger of terrorism is that it can murder man's sense of sin. And we must never accept this attempt, using Jerusalem or any other excuse, to in any way limit or diminish the horror of the savagery committed buy these terrorists. And we will never accept terrorism. Nothing justifies terrorism. Nothing, period. (Applause.)

I think that for the peace process to proceed amid the difficulties that still lie ahead it is important on every occasion that each one of you without exception make your outrage of this obscenity known. It is important that you home—continuously home the perception and understanding of citizens, but especially of political leaders and government leaders, of the absolute unacceptability of terrorism.

Now, it's now a month—almost a month—since the Palestinian Authority has made it clear to the terrorist organizations that they can resume operations. The results are known. I can tell you that a week after the bombing in Tel Aviv only a miracle prevented the slaughter of scores of young children, ranging in age from four to twelve, and I saw them on the same day in my office, and I was deeply moved and deeply gratified that such a miracle took place. I think that we should make clear that we cannot accept what we are being told. We are being told that if we want the terror to stop we must stop building in Jerusalem. You are familiar in this country with this procedure. In the United States it is called a protection racket. It's extortion. And it never ends. It's something that we reject. We are not going to be a part of it. (Applause.) We are not going to pay a price for the privilege of not being killed. (Applause.)

I've been talking about terrorism, because I think it's important to understand that no peace negotiations can take place under its threat. I think that's understandable to you too. It's the position of another foreign government—foreign to the United States, but a close ally as well. Britain is now considering negotiating with the Sinn Fein. And it is said that they are demanding the complete cessation of terrorism before the British government sits down and negotiates with the Sinn Fein. We are not taking that position. We are not taking that position because we recognize that in our part of the world there are enough fanatics who can crawl out of the woodwork and try to obstruct peace negotiations. We don't demand from our Palestinian partners 100 percent success. We do demand 100 percent effort. (Applause.) We don't attribute the presence or the perpetration of occasional isolated acts as a necessary breakdown of our partner's will.

I'll give you an example. Three weeks ago we had a terrible terrorist incident. A Jordanian soldier killed in a terrible act of savagery seven schoolgirls aged 12 and 13. We didn't point an accusing finger at Jordan. We knew that the army of Jordan, the security forces of Jordan, the government of Jordan, and the king of Jordan make every effort—and spare no effort—in order to fight terrorism. And you saw how movingly King Hussein expressed this attitude when he came to Israel to comfort the relatives of the slain girls. (Applause.)

So as much as we'd like to have 100 percent success, what we are asking from our Palestinian partners is 100 percent effort.

And right now what we are receiving is close to zero percent. And that has to change. (Applause.) And if it changes—if it changes in the coming days and weeks, I can assure you that I will be the first one to welcome this change. (Coughs.) One thing I didn't take is Contac on the plane. (Laughter.)

So it is the fulfillment of the most basic provision of Oslo that we seek. But I don't want to leave you with the sense that we have given up on the other provisions. We have stated that we would keep our side of the bargain. And we should be judged on whether we have done so. Well in the last three months—actually in the last two and a half months, we have done the following: We have redeployed in Hebron—not easy. We have released female terrorist prisoners—some of them with a lot of blood on their hands—a commitment taken by the previous government—not easy, but we did it. We passed over significant funds to the Palestinian Authority, even though they still owe us a lot—they don't pay their phone and gas bills—not easy, but we did it. We lifted the closure. We encountered a situation where there were 25,000 workers, Palestinian workers, entitled to work in Israeli cities. We raised it to 56,000—some risk—not easy, but we did it. We did all these things—and other things—because these were solemn commitments that we took, and I said we keep Oslo.

Now, look at what happened on the other side. You have already heard Palestinian offices in Jerusalem—violation of the agreement. The fact that we have terrorists that are released rather than incarcerated—violation of the agreement. The fact that there is hostile incitement towards terrorism and violence—contrary to the agreement. The fact that the military size, the size of the military forces and the police forces of the Palestinian Authority well exceeds the limit set by the agreement—violation of the agreement. All of this, and other violations, are shunted aside. And the equation is put forward in the following way: Israel, which keeps the Oslo Accords, is accused of violating them. And the Palestinian Authority, which violates the Oslo Accords, is credited with keeping them. This is the reality within which we find ourselves. I don't have many opportunities to reach such an important audience, so I have gone through in some elaboration on this point. But it is very, very important that the truth come out. We cannot fight this battle for peace if we don't fight the battle for truth. And you are our ambassadors for truth. (Applause.)

So if you want to be truthful, then there are two essential conditions for peace. One of them is the mutual fulfillment of obligations, which I call reciprocity. And the other is the abandonment of violence and terror and the systematic fighting against terror which can enable us to proceed down the road for peace. We have to assure ourselves that this battle against terrorism is not episodic, it's not ephemeral, it's not something that is done for the next three weeks, but is something that is consistent and remains a permanent feature of Palestinian policies and attitudes. And this requires us to be convinced that the sword is not unsheathed to be used periodically every time we have an argument and then sheathed again for a few weeks until we've reached the next impasse. (Applause.) What we want is this sort of terror to be beaten into plowshares and to prunning forth into computers, into anything but terror. And that I think encapsulates the twin expectations that we have from our negotiating partners.

And if that is achieved, if we can have an assurance of a change of policy and a change of heart, then we can proceed towards final settlement negotiations. That is not a diktat; it's an option. It's an idea. And the idea basically says that rather than spend time on a protracted path, eroding mutual confidence, that we try to telescope the final settlement process and try to engage all our energies, all our efforts, on trying to resolve the Palestinian-Israeli conflict altogether. One can spend an enormous amount of effort on a small thing, or one can spend an enormous amount of effort on a big thing. I'd rather spend it on a big thing and get to the end of this conflict. Both our peoples—Palestinians and Israelis—deserve such a solution. (Applause.) And I believe it is within which—I am convinced that an accelerated process will benefit both sides But this is an option that must be considered alongside other options. And the United States and President Clinton are considering their ideas. I am sure they will be presented to us in full form over the next days and weeks and months, and I am sure the same will apply to the Palestinian Authority. I trust the United States to be not only an indispensable partner for peace—it has been the mainstay of all our successful efforts for peace—all of them, from Camp David on—and it will be in this successful effort as well.

But I think the key ingredient to assure that these peace talks succeed is the narrowing of the distance between the size. And this requires of necessity tailoring expectations to reality. It's not easy to do that. It's the main job of leaders to do that, because your constituents will always demand more.

Now, we had to take a significant move, and we took it before the elections and after the elections. We recognized that we could not fulfill all of our dreams. We recognized there were facts on the ground. We recognized there were agreements that had been signed. And we said that we would honor those agreements and recognize those facts—and it wasn't easy—not before the elections, not after the elections, not before Hebron and not after Hebron—not today. But that is the job of leaders. They have to tell their people the truth and make them see the vision forward and the reality present. We do not see yet such a movement on the Palestinian leadership's part. (Applause.) They still cling—you clap for that? They still cling to an impossible idea. They cling to the idea that we will return to the '67 boundaries, that we will redivide Jerusalem, that we will build a Palestinian state. I have to tell you we are not going back to the '67 boundaries. (Applause.) We will not risk ourselves and the lives of future generations. (Applause.) And we are not going back to those insecure and indefensible lines. We oppose the Palestinian state because those sovereign powers that accrue to statehood—such as control of the airspace or control of the borders, and the importation of weapons of mass destruction, or even focused destruction—could endanger the very survival of the state of Israel. And we certainly under no circumstances will ever redivide Jerusalem. (Applause. Cheers.)

You hear references today—references today that you hear about Jerusalem or Arab East Jerusalem as a separate city—there is no such thing. Jerusalem is one city. It was divided for 19 years. It was reunited in the Six Day War. It shall stay united. (Applause.) I spent my childhood in that city from Day Two—when I was two days old. And so I grew up in that city, and I remember it. I remember it as a city, a walled city. In the middle of the city there was a wall with barbed wire and sniper positions. And I remember that people could not sit on the terraces of the King David Hotel without fear of being shot from the Old City. They preferred always the rooms facing the other way. Now thank God it has changed. It will remain changed. (Applause.)

And the fact of our bond with the city of Jerusalem is something that all of humanity recognizes, and certainly those that don't recognize it—they don't do so because they don't know our special bond. We have a bond with that city unlike any other bond of any other people to any other city in the world. It is a bond that has existed for 3,000 years. And no other people had Jerusalem as its capital during those three millennia except the Jewish people. No other people will have Jerusalem as their capital for the coming millennia as well. (Applause.)

I don't think there is any other body in the world that recognizes our attachment to Jerusalem and our rights to Jerusalem than the U.S. Congress, the Senate and the House together. (Applause.) Since the Six Day War, since Jerusalem was reunited, Congress has recognized the unity of Jerusalem in 30 special and separate initiatives, and this includes initiatives by such extraordinary figures in American life as Scoop Jackson and Hubert Humphrey and Everett Dirksen and Immanuel Seller (sp)—the youngsters here don't remember those names, but I remember those names—wonderful, wonderful Americans. And Jacob Javits (sp) and Hugh Scott (sp) and Edward Kennedy and Daniel Patrick Moynihan, and Joseph Lieberman, and Connie Mack, and Newt Gingrich, and Daniel Inouye and many, many others who have raised their voice in Congress on behalf of Jerusalem. (Applause.)

And there are many, many leaders here tonight who are doing and who will continue to do much with the unity of Jerusalem. I think that some of them have spoken in remarkably moving ways. I think of—since this is a bipartisan meeting—that Dick Gephardt's description of Jerusalem as the crown jewel of modern civilization is a wonderful penetration of the truth of what Jerusalem encapsulates in people's aspirations. He called it a triumph of faith and freedom—not just for the Jewish people, but for all people. And on the other side of the aisle Trent Lott, in another house, talked from this podium on his next visit to Jerusalem, and he said to touch those great stones of the Western Wall that still speak to us over all the tragic ages—stones which remained the enduring foundation of faith that has survived the unthinkable and accomplished the impossible.

These are words that come from the heart of people who share our aspirations, because Jerusalem is more than a city. It is a great ideal. It is sacred to the three great faiths of the world—to Islam, to Christianity and to Judaism. And it is something that we will always hold as precious for them as it is for us. (Applause.) It is the city on the hill. It is often the city of harsh reality and conflict, but it's also the city of light and dreams. And it is the city of song and prayer—prayer for a better world, prayer that there will be peace for men and women of good will, that we will see this peace in our lifetime and bequeath it to our children for all time. The people of Israel and the government of Israel are determined to do whatever is possible to realize this hope for peace—peace for Jerusalem, peace for Israel, peace for Israel's neighbors. And with your help—all of your help—I am sure we will succeed in this effort. Thank you. (Applause.)

I want to thank Senators Stevens and Kerry for having the patience to endure. And I have to apologize to them and to you—I have a plane to catch. It's mine—(laughter)—but I have an appointment in Jerusalem. So I want to say thank you again, and see you soon in Jerusalem—not next year, but this year. Thank you. (Applause.)

RETIREMENT OF PAUL HOLLOWAY, NASA LANGLEY RESEARCH CENTER

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 14, 1997

Mr. SCOTT. Mr. Speaker, I rise today on behalf of Congressman HERB BATEMAN and myself to pay tribute to Dr. Paul F. Holloway on the occasion of his recent retirement from the National Aeronautics and Space Administration, or NASA. During a career spanning nearly 37 years, which included over 5 years as the director of NASA's Langley Research Center in Virginia, Mr. Holloway exemplified the leadership, wisdom, and scientific achievement for which NASA has long been proud.

Following graduation from the Virginia Polytechnical Institute and State University, Paul began his distinguished career at NASA as an aerospace research engineer. By 1972 he was already the chief of the Space Systems Division, and, only 3 years later, was named the Director for Space. In this position, Mr. Holloway led efforts in advanced space transportation, the space station, large space antenna research, and Langley's atmospheric science programs. As a fitting pinnacle of a dedicated career, Paul was named as the 6th director of the Langley Research Center in 1991.

Among Paul's awards and honors are an honorary doctorate from Old Dominion University in our home State, membership in the International Academy of Astronautics, the Presidential Rank of Meritorious Service, the Senior Executive Service's Distinguished Presidential Rank award—presented in 1987 and again in 1993—and NASA's Equal Employment Opportunity Medal for "exemplary leadership, commitment to equity, diversity, and excellence. . . ."

Under Paul Holloway's leadership, the NASA Langley Research Center has continued its 80 years of invaluable service to the Nation's scientific, space, and aeronautic research and development efforts and he has helped it to achieve worldwide recognition. Thanks in large part to Paul's direction, NASA as an agency—and the Langley Research Center in particular—are now both on a direct course toward the 21st century, ready to expand on the proud achievements and heritage which has been the hallmark of the National Aeronautics and Space Administration. The Nation owes a debt of gratitude to Paul Holloway and, Mr. Speaker, I am proud to take the opportunity today to recognize his service publicly.

H.R. 1003, THE ASSISTED SUICIDE FUNDING RESTRICTION ACT

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 14, 1997

Mr. POMEROY. Mr. Speaker, on Thursday, April 10, 1997, I was absent from this Chamber to be home in North Dakota attending to the flooding crisis plaguing large areas of my district. On the 10th, I accompanied Mr. James Lee Witt, Director of the Federal Emergency Management Agency, on a visit to North Dakota to coordinate the Federal response to the disaster declared in the State in the wake of recent blizzards and flooding.

Unfortunately, attending to the flooding crisis back home caused me to miss the vote on H.R. 1003, the Assisted Suicide Funding Restriction Act. I strongly support this legislation, and had I been in the House on Thursday, would have voted for its passage. The debate over assisted suicide implicates some of the most troubling moral and ethical questions in today's society. Issues such as whether vulnerable populations might be targeted for assisted suicide and whether patients grappling with depression and severe illness can make sound choices on this matter demonstrate the troubling consequences of an embrace of assisted suicide. In addition, many Americans' strong religious convictions lead them to abhor suicide in any situation. These factors—and the resulting extreme controversy of the practice—make it abundantly clear that the Federal Government should not be in the business of using taxpayer dollars to fund assisted suicide. H.R. 1003 ensures that this will not occur and consequently has my strong support.

PERSONAL EXPLANATION

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 14, 1997

Mr. RADANOVICH. Mr. Speaker, regrettably, I was unable to attend the vote on the floor of the House of Representatives on H.R. 1003, the Assisted Suicide Funding Restriction Act, on April 10, 1997. Had I been present for this vote, I would have voted in support of the measure, as I believe that American taxpayers should not be required to subsidize the practice of euthanasia, that is, assisted suicide.

The U.S. Supreme Court has heard oral arguments for two cases concerning the constitutionality of euthanasia. One case is 95–1858, *Vacco* v. *Quill*, and the other one is 96–110, *Washington* v. *Glucksberg*. Both are pending a decision.

H.R. 1003, the Assisted Suicide Funding Restriction Act, is a necessary measure to protect the Federal Government from potentially having to provide Federal funds, under the guise of health care, to be used for euthanasia.

THE BANK OF GUAM: 25 YEARS OF EXCELLENT SERVICE TO THE PEOPLE OF GUAM

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Monday, April 14, 1997

Mr. UNDERWOOD. Mr. Speaker, responsibility, service, commitment—these noble words are fitting descriptions for the role Bank of Guam has played on Guam for the past 25 years. Chartered for operation on March 13, 1972, the Bank of Guam was the brainchild of Mr. Jesus S. Leon Guerrero, cofounder and chairman of its board of directors, and the late Mr. Jose L.G. Untalan.

Out of concern for the people of Guam, Mr. Leon Guerrero and Mr. Untalan decided to take on the responsibility of establishing a full service banking institution tailoring to the needs of island residents. Not only did they see this type of institution sorely lacking on Guam, as pioneering businessmen, they were also driven by a desire to service their island community utilizing their business acumen.

December 11, 1972, was opening day for Mr. Leon Guerrero, Mr. Untalan, and 13 staff members. From its humble beginnings in the Santa Cruz area of Agana to branches in Saipan, Rota, Tinian, Chuuk, Pohnpei, Majuro, Ebeye, Kwajalein, Palau, and San Francisco, the Bank of Guam has expanded to tremendous proportions. Their services range from full service banking, to ATM machines, to investment opportunities, to home banking. Currently managed by a cadre of business professionals following in the footsteps of the two founders, the Bank of Guam is fulfilling its promise to the people of Guam and to the people of Micronesia as a responsible banking institution.

In conjunction with the hallmarks of responsibility and service, Bank of Guam is also known for its sincere commitment to the community as a whole. This commitment has made it possible for its successful operation during these past 25 years. With competent staff members and an experienced board of directors, Bank of Guam is leading the banking community in our region into the 21st century.

Mr. Speaker, although this is a mere outline of Bank of Guam's numerous accomplishments, one can clearly comprehend the overwhelming positive impact this institution has had, and will continue to have, on the people of Guam and Micronesia. On this occasion of their silver anniversary, I am submitting this Record as testimony of their significant achievements. For 25 years, the Bank of Guam has faithfully served our island communities, and I believe that it will continue to provide excellent services. In the words of Mr. Jesus Leon Guerrero, "There are two fundamental reasons why I wanted to take the risk in starting the Bank of Guam. No. 1, provide a service to the community that was not available, and then two, back up that service with a commitment to take care of our people." The Bank of Guam has proven itself numerous times with respect to this philosophy.

Congratulations to the Bank of Guam for 25 years of dedicated service to the community. The legacy which the original pioneers—Jesus S. Leon Guerrero and Jose L.G. Untalan—left behind will continue to be strong, vibrant and beneficial to the people of Guam for generations to come. We have every confidence that current president, Tony Leon Guerrero, and his excellent staff will build on that legacy.

In Chamorro we refer to the Bank of Guam as Bangkon Ifet—the Bank of Ifil. Ifil is the hardest wood which can be found in Guam. The Bank of Guam has become synonymous with the strength and durability which the ifil tree represents. More importantly, both the Bank of Guam and the ifil tree represent growth from the soil and soul of Guam. Si Yu'os Ma'ase Bangkon Ifet.

IN MEMORIAM OF BLANCHE WOLFF

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 14, 1997

Mr. ACKERMAN. Mr. Speaker, I rise in sorrow over the passing of Blanche Wolff, a friend, a constituent and the wife of our former colleague, Lester Wolff.

Lester held the seat which I now represent for eight terms; over the years, I have come to know the family quite well. Beside him, always rendering counsel and advice was his helpmate of 58 years, Blanche, a compassionate able lady who was loved by constituents to whom she was always available. Theirs was a romance that began in elementary school and flourished through the years.

Blanche was born in New York City, matriculated at Hunter College and graduated with an accounting degree in 1940. She was a selfeffaciing person who was comfortable with heads of state whom she met with Lester, and as well was always sensitive to the needs of those less fortunate than her.

During World War II she volunteered for the security detail at the LaGuardia airport control tower. Never one to pursue her own place in the spotlight, she was the doting parent of Diane and Bruce and glorified in their careers as well as Lester's.

Blanche held strong views in the area of human rights and she used for good purpose the influence that her position allowed. She was an active participant in ORT, Hadassah, Association to Help Retarded Children and the NAACP. She truly exemplified American womanhood: A modern woman who grew with the times, but one who never forgot her heritage or her principles.

This land of ours is better for Blanche; its loss is even greater.

I have lost a constituent. America has lost one of its great ladies.

ON ANDREW McCOLLUM'S ATTAINMENT OF EAGLE SCOUT

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 14, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor Andrew McCollum of North Olmsted, OH, who will be honored this month for his recent attainment of Eagle Scout.

The attainment of Eagle Scout is a high and rare honor requiring years of dedication to self-improvement, hard work and the community. Each Eagle Scout must earn 21 merit badges, twelve of which are required, including badges in: lifesaving; first aid; citizenship in the community; citizenship in the Nation; citizenship in the world; personal management of time and money; family life; environmental science; and camping.

In addition to acquiring and proving proficiency in those and other skills, an Eagle Scout must hold leadership positions within the troop where he learns to earn the respect and hear the criticism of those he leads.

The Eagle Scout must live by the Scouting Law, which holds that he must be: trustworthy, loyal, brave, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, clean, and reverent.

And the Eagle Scout must complete an Eagle Project, which he must plan, finance and evaluate on his own. It is no wonder that only 2 percent of all boys entering scouting achieve this rank.

Andy's Eagle Project was the clean up of an island in the Cleveland Metro Park system which will enable animals and birds to feed and reclaim the island as part of a vibrant local ecology.

My fellow colleagues, let us join boy Scouts of America Troop 53 in recognizing and praising Andy for his achievement.

CONGRATULATIONS TO TEMPLE BETH ZION-BETH ISRAEL SYNAGOGUE

HON. CHAKA FATTAH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 14, 1997

Mr. FATTAH. Mr. Speaker, on the occasion of the 50th anniversary of the Temple Beth Zion-Beth Israel Synagogue, in Philadelphia, PA, the congregation and community at large will celebrate with the recitation of the Kiddush Proceed and festive music. Located in central Philadelphia, Temple Beth Israel was established in 1840 and is the third oldest congregation in the Philadelphia. This historic congregation merged with Beth Zion (1946) in 1964.

In 1984, the Neziner congregation merged with Temple Beth Zion-Beth Israel. Today, the Neziner congregation would have been over 100 years old. All the artifacts from the Neziner Synagogue were carefully and lovingly placed at Beth Zion-Beth Israel in the lower level referred to as the Neziner Chapel.

This multicultural congregation represents Beth Israel members from Germany and Poland, and Neziner members from Russia and eastern Europe. Beth Zion members are offspring of both waves of immigrants who defied flight to the suburbs and created a major Jewish congregation in the heart of this great American city.

The present quarters, a gothic stone structure of the 19th century known as "A jewel of a synagogue," with its lofty tower, is reminiscent of the ancient synagogue in Prague, with its distinctive architecture. The sound interior upholds the concept of the threefold function of a synagogue: a house of worship; an area of study; and a meeting place. Some of the services provided to the congregation include a Hebrew School and Youth Activities Program for youth age 1½ through high school. Additionally, the synagogue offers an Adult Education Studies Program which is open to the public.

The anniversary of this great American multicultural Jewish synagogue is worthy of mention to remind us of the extent to which diversity is an integral part of the American character.

ISRAELI PRIME MINISTER NETANYAHU'S ADDRESS TO THE "VOICES UNITED FOR ISRAEL" CONFERENCE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 14, 1997

Mr. GILMAN. Mr. Speaker, last week Israeli Prime Minister Benjamin Netanyahu gave a major address to the participants of the Voices United for Israel Conference in Washington, DC. Comprised of 200 Christian and Jewish organizations, Voices United for Israel collectively represents 40 million Americans whose support for Israel and its security are strong.

Because the Prime Minister's remarks were especially noteworthy, I would like to take this opportunity to share his speech with my colleagues, and therefore request that it be reprinted at this point in the CONGRESSIONAL RECORD.

ISRAELI PRIME MINISTER BENJAMIN NETANYAHU AT "VOICES UNITED FOR ISRAEL" BREAKFAST

(By Prime Minister Netanyahu)

I may be 7,000 miles from Jerusalem, but I feel very much at home here. And I think the main reason is that you, too, feel that Jerusalem is your home too. Jerusalem is the home of all of those who believe in our values—in our values of freedom, in the dignity of man, in democracy, in peace, in belief and faith in the Almighty. That is what Jerusalem is.

Some describe it today as "Arab East Jerusalem." This is the place where David ruled. This is the place where Isaiah prophesied his eternal prophesies. This is the place where I walk and I feel my ancestors' footsteps on those stones, on those paths, on that ground.

Jerusalem was, is, and will always be the capital of the Jewish people.

Jerusalem is the City of David, the City on a Hill, the city which the nation of Israel has cherished as its capital for 3,000 years. And it is something that defies all rational explanations. The connection of the Jewish people to its land and to its eternal city has broken all the laws of history.

It is more powerful than all the laws of history because it expresses the deepest yearning of the human soul and of a people to reach its salvation, to return once again to the crucible in which it was formed, in which its most cherished values were forged, and in which its future and its destiny can be realized once again. That is what Jerusalem means for all of us. (Applause.)

So it's not just a city. It is a great city, but it is also an ideal and, I think, an expression not only of the Jewish people's but of mankind's loftiest aspirations.

I know there are attempts to divide the city. It is done sometimes directly, sometimes obliquely, sometimes by challenging our rights to build apartments, for God's sake, in our city—apartments. (Laughter, applause.) But I want to assure you today, we will never allow Jerusalem to be redivided again—ever, never. We will keep the city united, and we will continue to do what we have done for the last two decades—three decades—and that is to keep it an open city, a city of peace, a city accessible to all three great faiths.

And it is only under Israel, in the close to 2,000 years since our dispersion and exile, that we have enabled that city to be open to every believer and every worshiper. That was not the case—it was not the case when the city was ruled by others. It was not the case in the 19 years from the start of the state of Israel, when the city was conquered—that eastern part of the city was conquered, and Jews were barred from the holiest place for the Jewish people, the Western Wall. And you know the fate of Christians in Jerusalem as well. That has changed forever.

We will keep Jerusalem united and we will keep Jerusalem open and accessible for unfettered worship for all Christians and Muslims and Jews. And we shall never resurrect those ramparts.

Now you have heard many things about Har Homa. You have heard that it is an Arab-occupied land in East Jerusalem—a settlement. Indeed. Well, first of all, it's not in East Jerusalem, it's in the southern part of Jerusalem. Secondly, it's not Arab-occupied land, it is land that is 75 percent private Jewish land—by the way, expropriated by the Labor government, god forbid. (Laughter.) The Likud didn't do this. There must be something wrong with this model! (Laughter.) And it is not, as was said, a settlement—not that I have anything against settlements, as you know. But it happens to be a neighborhood.

You can go out of this hotel and you can see a neighborhood: streets, apartments, groceries, supermarkets. What's wrong with that? Nothing.

This is what happens in cities; they grow. People get married, they have children, they need apartments. And that's what governments do. Preferably, they don't build; they allow contractors to build. We call that private initiative. But that's what we're doing. We're allowing contractors to build in Har Homa for the Jewish couples who need it. But we're also allowing constructions and contracts to build, in 10 Arab neighborhoods, actually a greater number of apartments, in the next three years, than in Har Homa, for Palestinian couples. Why not? That is what we do as a sovereign and a united Jerusalem. We take care of all its residents; Palestinians and Israelis; Moslems, Christians and Jews—everyone—and that is our right; that is our obligation. Now, this simple act has been described as an "act of terrorism"—the terrorism of the walk-up rentals—(laughter)—the terrorism of the condominiums. (Laughter.) Now you laugh; it's not a laughing matter. I'll explain to you why; because people take this seriously. And this is used to justify the most savage crimes that we can conjure up. And a few weeks ago, this was used to justify the blowing up of a cafe in downtown Tel Aviv, where three young women were murdered, one of them carrying an unborn child and another leaving a scarred baby, whose scars may get healed, one hopes, but who will grow up never knowing her mother, who died in that blast. And 50 others were wounded as well. And this is justified.

Well, it's explained; it's not justified. The line goes like this: They say—because you have to say it—that nothing justifies terrorism. "But you have to understand," they say, "that these people had no remedy because of the terrorism of the bulldozers. They felt they had to do something to vent out their frustration."

Now this is a peculiar argument, because I want to give you a corollary argument. If this is true, then we must understand another individual who, seeing hundreds of his countrymen being blown up in the streets of Tel Aviv and Jerusalem and Haifa and everywhere a few years ago by Palestinian terrorists, seeing that there was no recourse from the government at the time, he said, "I have to have a remedy. I have to act!" and he went into a mosque, into the cave of the Tomb of the Patriarchs, the Machpela Cave, and he gunned down 40 worshipers. Would anyone think of saying, "We have to understand it; he had no other recourse, he had to remedy, he had to seek a remedy"? Of course not. We condemned it—everyone in Israel. I condemned it, with the greatest force that I could muster, because nothing justifies the murder of innocent people—nothing, ever—nothing!

If we accept, even in the insidious language that is used to exculpate and explain and wash away these crimes—if we accept that, we vitiate the whole notion of war crimes, because What is a war crime? For centuries, indeed millennia, there was no such thing as a war crime. We had savagery perpetrated and savagery justified.

But for the last 150 years, humanity is making an effort—difficult—we've seen in this century how difficult—to define limits to conflict. And we say that even though mankind has not yet reached Isaiah's peace—and, yes, we still have swords that we haven't beaten into plowshares—we cling to the dream. But even as we are living in this imperfect world, we set limits to the use of swords. And we say that we don't deliberately murder men, women, and children—innocent people.

We divide the world into two. On the one side are combatants—soldiers. On the other side are civilians. We may engage combatants, and we may, on occasion—not deliberately, accidentally, in times of war—hurt and even kill civilians. But we dare not deliberately cross the line and systematically and purposefully murder civilians—men, women, children, babies.

And if we do, that is called a war crime. That means that when you gas babies, that is a war crime. Not everything is allowed. Terrorism is a war crime. And when we say that there has to be a remedy, an understanding, an exculpation, a justification, understand these people, you are saying, "Understand war criminals." We will never understand these war criminals! We will always fight them. Nothing justifies terrorism. Everything justifies a battle against terrorism—everything.

And to create this monstrous equation, we are being told that our building of these flats is a "declaration of war." What a concept of peace! What an inversion of language, what a perversion of the basic concepts that guide our civilization. I can't think of something more insidious.

I think there is nothing more destructive of achieving a real peace than doing such injury to the truth. And the truth is simple; terrorism is incompatible with the peace process. It's incompatible with peace. It's one or the other, but not both. The whole idea of peace is that you live in peace. What does peace mean? It's not being blown to pieces; it means coming back home in one piece.

Ant terrorism is that exact opposite of this. It's not only not morally justified; it's practically impossible to seek peace, to engage in the quest for peace and at the same time sanction terrorism. And, therefore, we have put forward a simple proposition; the other side took on obligations; we took on obligations. And we didn't like this agreement, but we said orderly governments keep their agreements; we keep ours. Sometimes this mandates very difficult decisions on our part, and I have taken them. But we expect the other side to keep their part.

For example, they have a covenant calling for the destruction of Israel; they promised to annul it—annul it—finish it. This is an obligation. For another, they promised to fight terrorism emanating from their own domains. Fight terrorism; keep your obligation. Sadat came to Jerusalem; he understood this very clearly. He said, "No more war, no more bloodshed." He didn't say: "Oh, well, we now have protracted negotiations. And if you don't do what I want, there'll be bloodshed." He said, "Once we enter the path of peace, we leave the path of bloodshed."

This is what we expect from our negotiating partners. This is what they have to demand of themselves, if they want to be accepted as genuine partners for peace—peace—and not terror.

Now there has been some talk about our giving something, making a concession in return for a real crackdown by the Palestinian Authority on the terrorist organization. And this means, pure and simple, surrender to terrorism. We are being told to pay for the privilege of not being killed. We are not going to do that.

We demand, as is our right, 100 percent effort against terrorism. We know there can't be 100 percent success, although I must tell you, that another government right now is negotiating, under somewhat analogous conditions—all analogies are imperfect—but the British government is negotiating with the Sinn Fein right now, and they are saying, "A complete cessation of terrorism; otherwise, we don't talk."

Well, we're in a different process. We have inherited it. We don't say that, because we also know that there are fanatics around who could upset the process, if they operate against the wishes of our negotiating partners. Now that, on occasion, can happen.

It happened two weeks ago—three weeks ago—in a terrible incident along the Jordan. And the Jordan—the Jordan's water was stained with the blood of seven young girls, 12- and 13-year-olds. And a Jordanian soldier broke ranks fired at them, killed them, in an act of savage terrorism.

We didn't blame Jordan. We didn't blame the army of Jordan; we know it's doing all it can to fight terrorism.

We didn't blame the security forces of Jordan; we know they're doing all they can to fight terrorism. We didn't blame the king of Jordan because we know he's doing all he can to fight terrorism. Indeed, you saw him coming to the families, and therein lies the difference. They are making a hundred-percent effort; it, however, there can't be a hundred-percent success.

But look at what is happening on the other side. A hundred-percent effort? Almost zero effort, and at times zero and worse than zero, because a few weeks ago they gave the green light to terrorism. We know they have a capacity to control the terrorists. They have shown it for the last year. Fearing the consequences, they kept tight—a very tight lid on these terrorists. They incarcerated them; they took action against them. But now, witnessing a first impasse, understanding that this is a different government that will not redivide Jerusalem, will not go back to the '67 boundaries, will not establish an armed Palestinian state on our borders, they understand that now.

They want to bend our will by giving the green light to these people, to these criminals, and this will not do; not merely because we will bend—that's obvious—but also because we cannot have peace this way. And if we want peace, they must fight terrorism. That is their obligation. We will fight terrorism, too, I assure you, and we do. And there are many, many successes of which you don't hear because it never comes to pass. But we have every right to demand from our partners for peace, to be partners for peace. And this is what I have come to say here in Washington, and this is what I say also back home in Israel. And this is what I want you to say, far and wide in this country, because we have not only a struggle for peace, we have a struggle for the truth. And I need your help to get the truth out. We have no greater friend and no greater ally than the truth. And we have no greater friends and no greater allies than the people sitting today in this room. And I salute you, and I thank you for helping us pursue this goal.

I think we can convince the world of our justice, the justice of our cause. And I think that you can play an immeasurable role in that part. You can make it clear to the American people, of all persuasions, that the road through peace or to peace goes through the negotiating table, not through the slaughter of women and children. You can convince all fair-minded people that if we allow terrorism to prevail, that if we make concessions to appease terrorists, we will be like those of whom the prophet Jeremiah said, they—he described them as saying, "Peace, peace," when there is no peace. Well, we want there to be peace, and you can tell our friends, your friends and ours, that together we can achieve such a peace, a peace that will last, a peace that will bring prosperity and progress and, above all, security to the people of the Middle East. It is time for that kind of peace. It is time that the children of Israel and the children of the Palestinians will be free to live free of violence, free to enjoy the fruits of God's Earth. It is time for that genuine peace. And that is the peace we aim to achieve and which, I believe, that with your help and with God's help, we will bring to our part of the Earth. Thank you.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, April 15, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 16

9:30 a.m.
Labor and Human Resources
To resume hearings on proposed legislation authorizing funds for programs of the Higher Education Act.
SD–430

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of the Army.
SD–192

Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Federal Communications Commission.
S–146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Transportation, focusing on aviation safety and security.
SD–124

Armed Services
Airland Forces Subcommittee
To resume hearings on S. 450, the National Defense Authorization Bill for Fiscal Years 1998 and 1999, focusing on tactical aircraft modernization plans.
SR–222

Finance
To hold hearings on education tax proposals, including S. 1, to provide safe and affordable schools.
SD–215

Governmental Affairs
To hold hearings on the Census in the year 2000.
SD–342

Judiciary
To hold hearings on S.J. Res. 6, proposing an amendment to the Constitution of the United States to protect the rights of crime victims.
SH–216

2:00 p.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Education.
SD–124

Armed Services
Strategic Forces Subcommittee
To hold hearings on S. 450, the National Defense Authorization Act for Fiscal Year 1998, focusing on information warfare programs, policies, and issues.
SR–222

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the President's proposed budget for fiscal year 1998 for Federally-funded research and development projects and to examine associated trends.
SR–253

Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine the Federal Government's role in television programming.
SD–342

Judiciary
Youth Violence Subcommittee
To hold hearings to examine the need for more juvenile bedspace and juvenile record-sharing.
SD–226

Select on Intelligence
To hold closed hearings on intelligence matters.
SH–219

APRIL 17

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on crop and revenue insurance issues.
SR–332

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Forest Service of the Department of Agriculture.
SD–192

9:15 a.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine opportunities for improvement in the public schools of the District of Columbia.
SD–342

9:30 a.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of the Treasury, focusing on law enforcement programs.
SD–124

Labor and Human Resources
Employment and Training Subcommittee
To hold hearings to examine innovations in youth training.
SD–430

Rules and Administration
Business meeting, to consider the committee's course of action concerning petitions filed in connection with a contested U.S. Senate election held in Louisiana in November 1996.
SR-301

Veterans' Affairs
To hold hearings to examine Persian Gulf War issues.
SH-216

10:00 a.m.
Armed Services
Readiness Subcommittee
To resume hearings on S. 450, the National Defense Authorization Act for Fiscal Years 1998 and 1999, focusing on the status of the operational readiness of the U.S. military forces.
SR-222

Commerce, Science, and Transportation
Oceans and Fisheries Subcommittee
To hold hearings on S. 39, to revise the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean.
SR-253

Finance
To hold hearings on certain revenue raising provisions of the President's proposed budget for fiscal year 1998.
SD-215

Foreign Relations
To resume hearings on the ratification of the Chemical Weapons Convention (Treaty Doc. 103-21).
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

10:30 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for foreign assistance programs, focusing on Korea, Burma, and Hong Kong.
SD-138

1:30 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Supreme Court of the United States and the Judiciary.
S-146, Capitol

2:00 p.m.
Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings to review U.S. efforts relating to the proliferation of Iran.
SD-419

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

APRIL 18

9:30 a.m.
Labor and Human Resources
To hold hearings to examine proposals to improve the health status of children.
SD-430

10:00 a.m.
Foreign Relations
To hold hearings on the nomination of Thomas R. Pickering, of New Jersey, to be Under Secretary of State for Political Affairs.
SD-419

APRIL 22

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the National Science Foundation and the Office of Science and Technology Policy.
SD-192

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Environmental Management Program of the Department of Energy.
SD-124

Indian Affairs
To hold hearings on S. 459, to authorize funds for and extend the Native American Programs Act of 1974.
SR-485

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Agricultural Research Service, the Cooperative State Research, Education, and Extension Service, the Economic Research Service, and the National Agricultural Statistics Service, all of the Department of Agriculture.
SD-138

2:00 p.m.
Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to examine the antitrust implications of the British Airways and American Airlines Alliance.
SD-226

APRIL 23

9:30 a.m.
Labor and Human Resources
To resume hearings on proposed legislation authorizing funds for programs of the Higher Education Act.
SD-430

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on medical programs.
SD-192

Appropriations
District of Columbia Subcommittee
To hold hearings on an additional funding request for fiscal year 1997 by the District of Columbia Financial Responsibility and Management Assistance Authority for capital improvements to D.C. public schools and for public safety agencies.
SD-138

Armed Services
To hold hearings on the Administration's proposal on NATO enlargement.
SH-216

APRIL 24

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the National Endowment for the Arts/National Endowment for the Humanities.
SD-192

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Corp of Engineers and the Bureau of Reclamation, Department of the Interior.
SD-124

10:00 a.m.
Labor and Human Resources
To hold hearings to examine issues relating to vocational education.
SD-430

APRIL 29

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Veterans Affairs.
SD-138

Energy and Natural Resources
To hold oversight hearings to review a GAO evaluation of the development of the Draft Tongass Land Management Plan.
SD-366

Indian Affairs
Business meeting, to mark up S. 459, to authorize funds for and extend the Native American Programs Act of 1974; to be followed by an oversight hearing on the implementation of the San Carlos Water Rights Settlement Act of 1991 (P.L. 102-575).
SR-485

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Commodity Futures Trading Commission, and the Food and Drug Administration, Department of Health and Human Resources.
SD-124

Labor and Human Resources
To hold hearings on proposed legislation authorizing funds for programs of the National Endowment for the Arts and the Humanities.
SD-430

APRIL 30

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on the structure and modernization of the National Guard.
SD-192

MAY 1

9:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of the Interior.
SD-192

9:30 a.m.
Labor and Human Resources
Public Health and Safety Subcommittee
To hold hearings to examine biomedical research priorities.
SD-430

MAY 6

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the National Aeronautics and Space Administration.
SD-138

MAY 7

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD-192

MAY 14

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on environmental programs.
SD-192

MAY 21

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on Air Force programs.
SD-192

JUNE 4

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD-192

JUNE 11

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD-192

CANCELLATIONS

APRIL 15

2:00 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on counter-terrorism issues.
S-146, Capitol

POSTPONEMENTS

APRIL 15

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Housing and Urban Development.
SD-138

APRIL 16

10:00 a.m.
Small Business
Business meeting, to mark up S. 208, to provide Federal contracting opportunities for small business concerns located in historically underutilized business zones.
SR-428A

SENATE—*Tuesday, April 15, 1997*

The Senate met at 9 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we thank You for this moment of quiet in which we can reaffirm who we are, whose we are, and why we are here. Once again, we commit ourselves to You as sovereign Lord of our lives and our Nation. Our ultimate goal is to please and serve You. You have called us to be servant leaders who glorify You in seeking to know and to do Your will in the unfolding of Your vision for America.

We spread out before You the specific decisions that must be made today. We claim Your presence in all that we do this day. Guide our thinking and our speaking. May our convictions be based on undeniable truth which has been refined by You.

Bless the women and men of this Senate as they work together to find the best solutions for the problems before our Nation. Help them to draw on the supernatural resources of Your spirit. Give them divine wisdom, penetrating discernment, and indomitable courage.

When this day draws to a close, may our deepest joy be that we received Your best for us and worked together for what is best for our Nation. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I wish the Senate a good morning and a good day.

SCHEDULE

Mr. MURKOWSKI. On behalf of the leader, this morning the Senate will resume consideration of S. 104, the Nuclear Policy Act. Under the order, following 3 minutes for debate, there will be a series of rollcall votes on or in relationship to the pending amendments. The last vote in that series will be final passage of the Nuclear Policy Act.

Following disposition of S. 104, there will be a period of morning business until the hour of 12:30 p.m. The Senate will recess at 12:30 p.m. until the hour of 2:15 to allow for the weekly policy conferences to meet. When the Senate reconvenes after the luncheons, it is hoped that we will be able to begin discussions on legislation regarding the IRS's unauthorized access to tax records. Therefore, Senators can expect additional votes today following the policy luncheons.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. HUTCHINSON). Under the previous order, the leadership time is reserved.

NUCLEAR WASTE POLICY ACT AMENDMENTS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 104 which the clerk will report.

The bill clerk read as follows:

A bill (S. 104) to amend the Nuclear Waste Policy Act of 1982.

The Senate resumed consideration of the bill.

Pending:

Murkowski amendment No. 26, in the nature of a substitute.

Lott (for Domenici) amendment No. 42 (to amendment No. 26) to provide that no points of order, which require 60 votes in order to adopt a motion to waive such point of order, shall be considered to be waived during the consideration of a joint resolution under section 401 of this act.

Lott (for Murkowski) amendment No. 43 (to amendment No. 42) to establish the level of annual fee for each civilian nuclear power reactor.

Bingaman amendment No. 31 (to amendment No. 26) to provide for the case in which the Yucca Mountain site proves to be unsuitable or cannot be licensed and to strike the automatic default to a site in Nevada.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I ask unanimous consent that privileges of the floor be extended to a staff member of mine, Brent Heberlee, throughout consideration of S. 104 and amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 31

The PRESIDING OFFICER. There will now be 3 minutes debate prior to the vote on the Bingaman amendment No. 31.

Mr. MURKOWSKI. Mr. President, let me very briefly address the Bingaman amendment which I feel introduces some serious loopholes in S. 104's ironclad process toward a safe, central interim storage facility.

The loopholes will be used, as they have in the past, to keep the nuclear waste where it is at 80 sites in 41 States, near schools and residential neighborhoods—right where it is today.

The history of the nuclear waste issue has taught us some simple lessons we must heed: Any decision regarding nuclear waste that can be delayed will be delayed; any decision that can be ignored will be ignored. That is why we have spent $6 billion over 15 years, and the Federal Government is still unable to meet its legal and moral obligation to take the waste in 1998.

I implore my colleagues: Let us not be fooled again. S. 104 is designed to make sure there are no trap doors. The chart that I explained to my colleagues yesterday attempts to make a decision, force a decision now, not leave us with a way out or a copout.

I suggest to you that the Bingaman amendment as it is structured opens a loophole. It opens the process to political pressure. It invites indecision. It continues the legacy of failure that the Department of Energy's nuclear waste program is noted for.

It would be my intention, Mr. President, to move to table the Bingaman amendment.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, first, I ask unanimous consent that Anne Marie Murphy, who is a Congressional Fellow on Senator DURBIN's staff, be granted privileges of the floor today, April 15.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, the amendment I have offered goes to the heart of a flaw in S. 104. Without the amendment that I am offering, S. 104 will send nuclear waste to the site right next to Yucca Mountain even if Yucca Mountain fails as the geologic repository. We will then have a permanent aboveground repository rather than a geologic repository and will be able to shuffle off the responsibility for dealing with nuclear waste to our children and grandchildren.

There is an attempt in the bill to disguise this unfair policy with a provision that allows the President to send waste somewhere else if we pass a law to that effect within 24 months. But we are not going to pass a new nuclear waste law in 24 months especially if the reward for not doing so is to keep sending all the waste to Nevada where we can forget about it.

My amendment stops construction and operation of an interim storage site in Nevada if Yucca Mountain fails as a candidate repository at any time before it opens. If Yucca Mountain is not suitable as a repository, then it is not the right place for interim storage.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

We must have certainty that our ultimate solution for nuclear waste is based on having a geologic repository and that any action on an interim storage facility rises or falls with the fate of a permanent facility.

I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

The question is on agreeing to the amendment.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I move to table the Bingaman amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. I announce that the Senator from Indiana [Mr. COATS] is necessarily absent.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

The result was announced—yeas, 59, nays, 39, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—59

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kempthorne
Kohl
Kyl
Leahy
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Murkowski
Murray
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—39

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Harkin
Inouye
Kennedy
Kerrey
Kerry
Landrieu
Lautenberg
Levin
Lieberman
Mikulski
Moynihan
Reed
Reid
Robb
Sarbanes
Torricelli
Wellstone
Wyden

NOT VOTING—2

Coats
Rockefeller

The motion to lay on the table the amendment (No. 31) was agreed to.

Mr. MURKOWSKI. The Senate is not in order, Mr. President.

The PRESIDING OFFICER. The Senate will be in order. There will now be 3 minutes for debate prior to the vote——

Mr. MURKOWSKI. Mr. President, I did not hear the vote count, and I wonder if my other colleagues did. I wonder if the President will repeat it.

The PRESIDING OFFICER. On the motion to table, Senators voting in the affirmative 59, voting in the negative 39. The motion to table is agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 43

The PRESIDING OFFICER. There will now be 3 minutes of debate prior to the vote on the Murkowski amendment No. 43.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, the purpose of this amendment is to protect the taxpayer by making it clear that nuclear waste user fees cannot exceed 1 mill per kilowatt hour without specified congressional authorization. The spent fuel disposal program is paid for with a fee that is currently set to 1 mill per kilowatt hour. My amendment simply protects the ratepayer by making it clear that the user fee cannot exceed 1 mill without congressional authorization. DOE's own budget projections show that a 1 mill fee is sufficient.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, in 1982, when this body adopted the Nuclear Waste Policy Act, we set, as the distinguished chairman of the committee has said, the amount the utilities would pay to build a permanent repository at 1 mill per kilowatt hour. In 14 years, we have collected $8 billion. The total cost of the program is $34 billion. The utilities' share of that cost is $27 billion. So we are looking for the 1 mill fee to produce $27 billion. The defense program's share is $7 billion. The interest on the excess that sits in the Treasury is expected to make up the balance.

In 14 years, the Secretary of Energy has had the discretion, which we gave the Secretary, to raise this 1 mill fee to whatever it would take to pay the utilities' share of the program's cost. In 14 years, he or she has never seen fit to raise it. There is no point in tinkering with it now because it is working fine.

If there ever was a case where we are trying to fix a problem that does not exist, this is it. Leave the law as it is. We are adding $2 billion to the $27 billion cost now with the Murkowski bill. That is going to up the ante $2 billion. One mill is fine for now. The utilities are happy with it. It is producing the amount of money we want. There is absolutely no reason for this amendment. I do not think we will have to raise it, but we might.

Mr. President, I yield back such time as I have.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana [Mr. COATS] is necessarily absent.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

The result was announced—yeas 66, nays 32, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—66

Abraham
Allard
Bennett
Bond
Breaux
Brownback
Burns
Campbell
Chafee
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Dodd
Domenici
Enzi
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kohl
Kyl
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Murkowski
Nickles
Robb
Roberts
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—32

Akaka
Ashcroft
Baucus
Biden
Bingaman
Boxer
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Harkin
Kennedy
Kerrey
Kerry
Landrieu
Lautenberg
Moseley-Braun
Moynihan
Murray
Reed
Reid
Torricelli
Wellstone
Wyden

NOT VOTING—2

Coats
Rockefeller

The amendment (No. 43) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote.

Mr. STEVENS. Mr. President, I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 42

The PRESIDING OFFICER. There will now be 3 minutes for debate prior to the vote on the Domenici amendment No. 42.

Mr. MURKOWSKI. I ask unanimous consent the yeas and nays be vitiated on the substitute amendment. I understand the underlying Domenici amendment is acceptable.

Mr. DOMENICI. Mr. President, my amendment is, in effect, a technical amendment which ensures that any joint resolution addressing a change to the fee set out in this bill does not automatically escape Budget Act scrutiny.

The underlying bill provides fast-track procedures for enacting the joint resolution. The procedures provide that all points of order are waived. My amendment provides that Budget Act points of order are not waived: It would be a bad precedent to waive Budget Act points of order when we don't have the measure before us for review.

The PRESIDING OFFICER. If there is no future debate, the question is on agreeing to the Domenici amendment.

The amendment (No. 42) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. I now ask for the yeas and nays on the passage of Senate bill 104.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

AMENDMENT NO. 26

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the Murkowski amendment in the nature of a substitute, as amended.

The amendment (No. 26), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. There are 2 minutes for debate evenly divided at this time.

Mr. MURKOWSKI. Mr. President, the question before the body now is whether we want to leave the waste where it is, 41 States in 80 sites, or do something about the waste. Do we want the waste to move out again because of an inability to reach a decision? Where would it move? Nobody wants it in any of the 50 States. It would move out to the Pacific. God knows where it would move. Today we must make an important environmental decision which will lead to a safer future for all Americans.

Currently, Mr. President, as I have noted, we have the waste stored in 80 sites in 41 States. This is in addition to waste stored at DOE facilities, and it is in our backyards across the land. Do we want that waste to stay there, or do we want to move it? That is the question.

Every year that goes by our ability to continue to store nuclear waste at each of these sites in a safe and environmentally responsible way diminishes. Our temporary storage facilities were designed for just that—temporary storage. We have struggled with this nuclear waste issue for more than a decade. We have collected $13 billion from the taxpayers, but some are unprepared to meet the Government's promise to take the waste by 1998, next year.

The administration's position would suggest that we are undermining the permanent repository program. They have not read the bill. The reality is that it is the only way to save the permanent repository program.

Mr. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct. Order in the Chamber.

Mr. BYRD. Let's get order in the Senate. The rule requires that the Chair secure and maintain order in the Senate and in the galleries without a point of order being made from the floor.

I hope the Chair will insist on it, and I hope that Senators will respect the Chair.

Mr. MURKOWSKI. Let me remind you that the U.S. court of appeals has ruled that the Department of Energy has an obligation to take possession of the nuclear waste in 1998, whether or not a repository is ready. Damages for the Department of Energy's failure to perform are going to cost the American taxpayer tens of billions of dollars.

Now, the administration says that S. 104 would effectively establish Nevada as a site for an interim storage facility before the viability assessment of Yucca Mountain as a permanent repository is completed. Well, they have not read the bill, Mr. President. S. 104 does not choose a site for interim storage before the viability assessment of Yucca Mountain is completed. If the viability assessment is positive, the bill provides that the interim storage facility will be constructed at the Nevada test site. If the viability assessment is negative, the bill provides that the President has 18 months and Congress has 2 years to choose another interim storage site.

This bill, Senate 104, protects the public health, environment, and extends the schedule for siting and licensing. It requires environmental impact statements. It provides the interim facility will be licensed. It shortens the license term of the interim facility to 40 years; it balance State and Federal laws, preempting only those State laws that are inconsistent with the act; it provides that the Environmental Protection Agency will set standards for a permanent repository, based upon the National Academy of Science recommendation.

So we have reached a crossroad, Mr. President. The job of fixing this program is ours. The time for fixing the program is now. Much progress has been made at Yucca Mountain. The 5-mile exploratory tunnel will soon be complete. If Yucca is found on unsuitable or is not licensed, it will be vital that we have a centralized interim site. I have a simple bottom line. We must chart a safe, predictable, and sure course to interim and permanent waste storage. There can be no trapdoors, Mr. President. I don't want to have to stand here next year or the year after doing this again. We have to ask ourselves, do we want to move the waste or simply leave it where it is?

We can choose now whether the Nation needs 80 interim storage sites, or just one. The arid, remote Nevada test site, where we have exploded scores of nuclear bombs during the cold war, is a safe and remote location for a monitored interim site. The time is now. I think S. 104 is the answer. So ask yourself, do you want to leave the waste where it is, in 40 States at 80 sites? Or do you want to move the waste from your State to one location, and that is the Nevada test site?

I reserve the remainder of my time for the Senator from Idaho, Senator CRAIG.

Mr. REID. Mr. President, how much time do the opponents of the legislation have?

The PRESIDING OFFICER (Mr. FRIST). Five minutes.

Mr. REID. The proponents have how much time?

The PRESIDING OFFICER. They have 33 seconds.

Mr. REID. I ask the Chair to advise the Senator when I have used 2 minutes.

Members of the Senate, you have seen bad legislation in your day, but this is the worst. S. 104, as written, was bad. S. 104 in the substitute form is just as bad. People like Senator BINGAMAN have tried to improve this legislation. Senator BINGAMAN worked very hard. They tinkered with the edges. The proponents tried to pacify Senator BINGAMAN and others, and the legislation was not improved upon with their tinkering.

This legislation is bad in its substitute form and in its amended form. They have failed to deal with the transportation system at all. They haven't dealt with it. In Germany, in recent months, they tried to move six casks. They called out 30,000 police to take care of that—30,000. There were 170 people injured and 500 arrested. It cost $150 million to move it less than 300 miles. The German parliament is reconsidering the program. There is nothing in this legislation to allow it to be carried through your State safely. Every environmental group in America opposes this legislation.

The terrorism possibilities with this legislation are replete, as we laid out on the floor yesterday. The Washington

Post is only one newspaper that said "don't do it." Many newspapers throughout the country have said "don't do it."

The President is going to veto this because it is bad legislation, as agreed upon by his Secretary of Energy, head of the EPA, and by the Council of Environmental Quality. We picked a scientific group to give us insight and oversight of this legislation. They have told us that this legislation is bad. We, the Congress chartered these scientists. They are not from Nevada. They are bipartisan scientists, and they said the legislation is bad.

The United Transportation Union doesn't like the legislation. Doctors oppose this legislation. Churches, like the Lutheran Church and the Baptist ministry oppose this legislation. A group of environmentalists who deal with Native Americans in this country oppose this legislation.

This is bad legislation. If you want to cast a good vote, vote against this. It is a bad bill.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? Time will be charged equally against both sides.

Mr. BRYAN. Mr. President, what the Senate is asked to do this morning is a total repudiation and rejection of good science. S. 104 is opposed by the Nuclear Waste Technical Review Board, a body of eminent scientists, created pursuant to an act of Congress. They reviewed it last year in 1996 and last year. They say two things. First, it is unnecessary. Second, it interferes with the citing process, which is currently taking place. We dismantle the environmental laws in America if we enact this legislation.

In 1992, the Energy Efficiency Act directed the National Academy of Sciences in conjunction with EPA to develop a standard. They are about ready to do that. This legislation rejects that standard and proposes a limitation on the ability of the National Academy of Sciences and the EPA to develop the standard that would provide minimal protections for health and safety.

The third point that needs to be made is that the Nevada test site is frequently referenced. That is the proposed site for the alternative storage, the interim storage. No study has ever been made that would indicate that the Nevada test site is either desirable or suitable as an interim storage facility.

The fourth point I make is that this legislation, in fact, preempts laws in my own State, unlike it does any other State in America. The environmental protection laws are essentially delegated to the States with their ability to enforce. This legislation would preempt that ability. So in Nevada we could not enforce clean air, clean water, safe drinking, RCRA, and other provisions.

The fifth point is that the National Environmental Policy Act is gutted by the provisions. It is bad legislation. I urge my colleagues to reject it, and I reserve the remainder of my time.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the sky is not falling. The National Academy of Science adopts standards and EPA uses them. That is in the bill. Save $25 to $30 billion. Honor our commitment since 1982 to abide by the law and the contracts of our Government and the Federal court and find a single, safe repository for nuclear waste. This is the number one environmental bill this year, if you are concerned about 80 sites spread across this country. The issue is good policy. S. 104 is good law. The Senate ought to support it unanimously.

The PRESIDING OFFICER. The opponents have 24 seconds.

Mr. BRYAN. Mr. President, let me take 12 seconds. It is late in the game. Any Senator who believes we do not eviscerate and emasculate the standards set by the National Academy of Science, look at page 37, my friends. That is why no environmental organization in America supports it; they all oppose it.

Ms. LANDRIEU. Mr. President, as we have engaged in this debate on the nation's strategy to deal with temporary storage of high-level nuclear waste, I have come to several conclusions. Certainly storage is a troublesome issue that has remained unresolved for the past 16 years. As time has gone by, it has become clearer and clearer that the Nation needs a more comprehensive strategy, not a piecemeal strategy, to handle all the issues associated with long-term storage of nuclear waste. Furthermore, given the vehemently strong opinions expressed by citizens, administrators, State and local officials, and others who would be affected by a centralized storage plan, I believe we need to have the utmost confidence in the way we choose to dispose of spent fuel.

When we began to consider the Nuclear Waste Policy Act of 1997, I was optimistic about our ability to work toward the common goal of providing guidance on this issue. Supporters of the bill made an extremely credible case to me that something needs to be done. The Nuclear Waste Act of 1982 set up a trust fund to help pay for the cost of a permanent geologic repository. As part of the deal, the Department of Energy was directed to contract with utilities to accept spent fuel at a permanent repository by 1998, but now it cannot. The Nation's nuclear reactors have begun to run out of space for spent fuel in pools at reactor sites. Soon, more and more utilities will have to build above ground storage casks. I am sympathetic to the frustrations expressed by State governments and utilities over this breach. I am sure many of my colleagues agree with me.

Another issue that demands attention is the Nuclear Waste Fund. Congress has established 172 trust funds financed by taxpayers for specific purposes. Few have maintained their integrity in the spending process. The Nuclear Waste Fund is one of the few where the Government entered into an actual contract to perform a duty—to take on spent nuclear fuel by a time certain. Considering the history of this issue, I am opposed to the idea that ratepayers, who have already contributed over $12 billion to the Nuclear Waste Fund for the construction of a permanent repository, should also have the cost of on-site storage passed on to them. Louisianians have paid over $140 million into this fund since 1982, with no results. This is unacceptable. The public should be getting its money's worth. Otherwise, the money should not be spent.

Conversely, and most importantly, I am hesitant to commit to the construction of an interim storage facility if there are uncertainties associated with the designated permanent repository site. So much rests on a decision to place an interim site near Yucca Mountain. Will we transport the waste more than once if Yucca Mountain is unsuitable? How wise is it to ignore this possible outcome? This body several years ago requested a study from the Nuclear Waste Technical Review Board. Their findings were illustrative of the complexity of this effort. It seems that a particular element was found in the exploratory tunnel at Yucca Mountain. This element is generally present when there is fast flowing water in a location. No one expected this finding. Nor did anyone expect the Board to determine that utilities could go on safely storing nuclear waste at reactor sites for another decade. Both these findings show that certainties are hard to come by, even when from all indications, a clear outcome is expected. Mr. President, we should not create a nuclear waste policy based on incomplete information. This issue is just too important.

For these reasons, I am unable at this time to support S. 104. I believe that the rationale for a comprehensive approach to waste storage is evident. The working process I have witnessed over the last few weeks between the leaders on this issue, if continued, could result in a measure that addresses all of the concerns raised by industry, State and local administrators including tribes, and the administration. I have felt for some time that a compromise on the provisions of S. 104 exists. In fact, a compromise was nearly achieved.

Mr. President, it is said that a rolling stone gathers no moss. I submit that we cannot afford to let moss grow. We need to adopt a clear policy sooner rather than later on this question. I am disappointed that compromise could not be found at this time, but I urge my colleagues to continue to work on finding solutions so that we can have a sensible nuclear waste policy for this Nation.

In closing I will say that permanent storage of nuclear waste is something that we need to do—we need to do it once and only once. It is of paramount importance that it be done correctly and to the satisfaction of all.

Mr. CHAFEE. Mr. President, I would like to make a few remarks about S. 104, the Nuclear Waste Policy Act of 1997.

Last year, I voted against S. 1936, the Nuclear Waste Policy Act of 1996 for several reasons. I felt that the measure rushed to build the interim site before the viability of the permanent site was considered. Also, under last year's bill, NEPA, the National Environmental Policy Act, would not have applied until quite late in the game, after great time and resources had been expended. It only would have applied to the licensing of the facility. It wouldn't have applied to construction of the facility at all. Finally, the radiation standards provided in S. 1936 were too lax, and EPA was virtually shut out of the process of setting such standards. Last year's bill was a take-it-or-leave-it proposal, and I chose to leave it.

When S. 104 was reported by the Energy Committee earlier this year, I had every intention of opposing the Nuclear Waste Policy Act, S. 104, again. But this year, the Energy Committee has worked hard to address the concerns that were raised about last year's proposal. After reviewing the changes made in the Murkowski substitute amendment, I have decided to vote in favor of the bill before us. While it is not perfect, the substitute is a significant improvement over last year's bill and this year's bill as reported by the Energy Committee. Is it a perfect bill? Not at all, but it is a far more reasonable solution to a terribly difficult situation than we have ever had before.

Years ago, Congress rejected reprocessing as an alternative to waste storage. There aren't a lot of options when it comes to disposing of nuclear waste. Either it stays on site, or it goes to a centralized storage facility. I support centralized storage of nuclear waste; however, I believe that the effects of designating a central site must be considered before such a critical decision is reached.

The Department of Energy is committed to completing a viability study of Yucca Mountain as the permanent repository by the end of next year. Until that study is completed, I feel strongly that there is no reason to go forward with an interim facility at the nearby test site in Nevada. Under last year's bill, as well as the bill reported by the committee, the viability study was disregarded. Site preparation and construction would begin upon enactment of the legislation. Senator BINGAMAN worked closely with Senator MURKOWSKI and the Energy Committee to address this issue. The committee substitute amendment specifically precludes any work, beyond generic design, from going forward at the interim site, before the viability study of Yucca Mountain is completed. I also supported Senator BINGAMAN's amendment, which would have ensured that the interim storage facility would not become a de facto permanent repository if Yucca Mountain were deemed to be unsuitable. Regrettably, that amendment failed. While I was disappointed with the failure of this amendment, it was not enough to cause me to vote against the bill. Simply put, I believe it is highly unlikely that the viability study will be negative.

The substitute also strengthens the role of NEPA. Site preparation, construction, and the use of the interim facility are no longer exempt from NEPA. In fact, no construction at the interim site could proceed before an environmental impact statement is completed by the Nuclear Regulatory Commission. This is an enormous improvement over last year's bill, which disregarded NEPA at every step prior to the licensing of the facility.

The process for setting standards to protect the public from radiation at the Yucca Mountain site also is a marked improvement over previous measures. Rather than setting an arbitrary statutory standard, the substitute incorporates recent recommendations made by the National Academy of Sciences in setting an overall radiation standard for the repository.

Let me close by saying that the arguments on both sides of this issue have been persuasive. I want to recognize the undaunted persistence of Senators BRYAN and REID in articulating the potential implications of the bill and in arguing relentlessly for the interests of Nevada. I also want to commend Senator MURKOWSKI for his hard work and determination. Senator MURKOWSKI ably managed this very complex measure and was willing to accept suggestions and changes from other Senators that vastly improved the bill.

The bill, as passed, did not resolve all of my concerns, but it did resolve most of them.

Mr. DODD. Mr. President, I would like to say a few words about the Nuclear Waste Policy Act of 1997. My State of Connecticut is heavily dependent on nuclear power. I have long supported this energy source, and long been concerned about how to safely dispose of its waste.

I support the need for a national, permanent, geological repository for nuclear waste, but I cannot support the bill before us today. The Nuclear Waste Policy Act mandates construction of an above-ground, interim storage facility even before the scientific findings on the permanent repository at Yucca Mountain are completed. The Department of Energy has said that the viability studies for Yucca Mountain should be completed in 1998.

I remain concerned that construction of an interim facility would effectively stifle efforts to establish a permanent, geological repository. It is a costly and risky diversion from what should be our primary goal in this area: finding a safe, permanent place to store our Nation's nuclear waste. We have already spent almost $5 billion on the permanent facility and it is not even finished. It is estimated that the interim facility would cost an additional $2 billion.

Let me remind you that the interim facility is above ground. If for any reason the scientific assessments for Yucca Mountain are negative, either the interim facility would become the de facto permanent repository without establishing its suitability as such, or the waste would have to be moved again. Either alternative is unacceptable.

One of the main reasons that I cannot support this bill, is my fear of what could happen if we must move the nuclear waste multiple times. Let us not forget that transporting nuclear waste is inherently risky and any accident or act of terrorism could prove disastrous. I do not want our communities in Connecticut and around the Nation to be at risk because we acted imprudently.

The supporters of this bill have tried to assure us that transporting nuclear waste is safe, and that environmental safeguards would be in place. I am convinced that this bill does not adequately protect public health and safety and that too many environmental laws are weakened.

In fact, this bill restricts the Environmental Protection Agency's [EPA] ability to set a drinking water standard at the nuclear waste repository. Let me remind you that last Congress the Senate passed the Safe Drinking Water amendments by a resounding vote of 98–0. Clearly, upholding Federal drinking water standards should be a priority in Nevada no less than in Connecticut. EPA is further restricted in its ability to adequately protect the population from radiation emissions. Granted, EPA can continue to set the annual acceptable dose limit for radiation exposure, but the bill remains vague on any further action that EPA could take to protect the public health and safety from dangerous emission levels. Furthermore, language in the bill is so vague that it is unclear whether compliance with the Clean Water Act or the Clean Air Act would be required.

It seems to me that threatening public health and safety is the price of expediency. State laws that could slow the process of interim storage are simply preempted. The National Environmental Policy Act [NEPA], passed by Congress in 1969, establishes an environmental impact process for major Federal projects, like Yucca Mountain. The goal of the environmental impact process is to look at all alternatives to ensure that the most environmentally sound alternative is chosen. This bill severely restricts the NEPA decision-making process regarding transportation and the design of either repository. In effect, the public has no role in the decision-making process.

Now, I would like to clarify a few statements that have been made during this debate regarding the State of Connecticut.

I recognize the importance of safely storing nuclear waste and the impact this has on my State. It has been said that the situation in Connecticut is urgent. However, it is my understanding that there is sufficient capacity. The fuel pool at one of the facilities in my State should be able to accommodate waste from the other reactors until the end of their licenses and well into the next century. Decisions concerning the fourth facility, Connecticut Yankee, await a final decommissioning plan.

Last week, my colleague from Alaska, Mr. MURKOWSKI, mentioned a Hartford Courant editorial that, I might say, only marginally supported the bill. In fact, I believe the editorial was entitled, "The Lesser of Two Evils"—hardly a rousing endorsement.

Mr. President, I ask unanimous consent that there be printed in the RECORD another Connecticut editorial. This one is from the New London Day, a newspaper located in the southeastern part of Connecticut, just down the road from three of our nuclear reactors. The editorial, entitled, "Nagging Nuclear Waste Problem," states that "Many safety advocates believe that waste should not be sent to Yucca Mountain unless the facility is designated as suitable to hold the material long-term." The editorial goes on to say that, "Otherwise, opponents say, if the site is ultimately found to be unsuitable, waste will have to be shipped out again. It doesn't make any sense to have nuclear waste from 109 plants shipped all over the country unless it can be shipped once."

Mr. President, I concur with the rationale of the New London Day. We should wait for scientific verification of Yucca Mountain as a permanent storage site, before shipping nuclear waste throughout Connecticut and our country.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NAGGING NUCLEAR-WASTE PROBLEM

America's difficulty in finding a solution to permanent storage for nuclear waste isn't confined to these shores. Europe is in an uproar about the same issue. A salt mine in the German town of Gorleben has been chosen as an interim storage disposal facility for German nuclear waste. The decision sparked widespread protests.

Adding outrage to the protests was the derailment of a train carrying casks holding radioactive material bound for the site. The casks weren't harmed. But the accident illustrated the point of opponents, which is that radiation shouldn't be shipped all over Europe.

The Senate Energy Committee is set to vote on a similar interim-storage facility for America, designating Yucca Mountain, Nev., for that distinction. The president has threatened to veto such a bill if it reaches his desk.

WAITING MAKES SENSE

President Bill Clinton is right. Although the country needs a site for nuclear waste, and an interim storage facility is appealing, it probably makes more sense to wait until a permanent facility is approved.

Many safety advocates believe that waste should not be sent to Yucca Mountain unless the facility is designated as suitable to hold the material long-term. Otherwise, opponents say, if the site is ultimately found to be unsuitable, waste will have to be shipped out again. It doesn't make any sense to have nuclear waste from 109 plants shipped all over the country unless it can be shipped once, stored * * *.

So far, though, the political process has been maddeningly inadequate to handle this touchy subject. Congress for years has forced the nuclear industry to pay billions to help build a storage facility that was supposed to be up and running by the end of this century. Instead, that facility won't open for at least a decade. In the meantime, all over the country nuclear plants' 40-foot-deep, spent-fuel pools are filling up with spent nuclear waste. The pools were never designed for long-term storage.

It might make more sense to rebate to the industry some of the many millions it has sent to the government to spend on other things while Congress and the Energy Department delayed building a waste facility. With the money, the nuclear plants can put their spent fuel rods in dry-cask storage, considered an expensive but extremely safe method of storing nuclear fuel.

The typical "cask" for such a task is 18 feet long, 8½ feet in diameter and made of concrete. It weighs 90 tons fully loaded and holds anywhere from nine to 25 fuel rods. This type of storage is considered safer than spent-fuel pools, because the pools have been known to leak occasionally, risking exposure of the fuel.

The best of all possible worlds would be for our political system to prove adequate to such thorny problems as nuclear waste. So far, such has not been the case. So the safest interim solution must be sought. With 109 plants around the country, shipping waste to a temporary facility seems short-sighted. Better to choose the safest temporary solution, and work for a permanent answer.

The PRESIDING OFFICER. All time has expired. The yeas and nays have been ordered.

The question occurs on final passage of S. 104, as amended.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia [Mr. ROCKEFELLER] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 34, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—65

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Chafee
Cleland
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kempthorne
Kohl
Kyl
Leahy
Levin
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Murkowski
Murray
Nickles
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wyden

NAYS—34

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Campbell
Coats
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Inouye
Kennedy
Kerrey
Kerry
Landrieu
Lautenberg
Lieberman
Mikulski
Moynihan
Reed
Reid
Sarbanes
Torricelli
Wellstone

NOT VOTING—1

Rockefeller

The bill (S. 104), as amended, was passed, as follows:

S. 104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Nuclear Waste Policy Act of 1982 is amended to read as follows:

"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Nuclear Waste Policy Act of 1997'.

"(b) TABLE OF CONTENTS.—

"Sec. 1. Short title and table of contents.
"Sec. 2. Definitions.

"TITLE I—OBLIGATIONS

"Sec. 101. Obligations of the Secretary of Energy.

"TITLE II—INTEGRATED MANAGEMENT SYSTEM

"Sec. 201. Intermodal transfer.
"Sec. 202. Transportation planning.
"Sec. 203. Transportation requirements.
"Sec. 204. Viability assessment and Presidential determination
"Sec. 205. Interim storage facility.
"Sec. 206. Permanent repository.
"Sec. 207. Compliance with the National Environmental Policy Act.
"Sec. 208. Land withdrawal.

"TITLE III—LOCAL RELATIONS

"Sec. 301. Financial assistance.
"Sec. 302. On-Site Representative.
"Sec. 303. Acceptance of benefits.

"Sec. 304. Restrictions on use of funds.
"Sec. 305. Land conveyances.

"TITLE IV—FUNDING AND ORGANIZATION

"Sec. 401. Program funding.
"Sec. 402. Office of Civilian Radioactive Waste Management.
"Sec. 403. Federal contribution.

"TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

"Sec. 501. Compliance with other laws.
"Sec. 502. Judicial review of agency actions.
"Sec. 503. Licensing of facility expansions and transshipments.
"Sec. 504. Siting a second repository.
"Sec. 505. Financial arrangements for low-level radioactive waste site closure.
"Sec. 506. Nuclear Regulatory Commission training authority.
"Sec. 507. Emplacement schedule.
"Sec. 508. Transfer of title.
"Sec. 509. Decommissioning Pilot Program.
"Sec. 510. Water rights.

"TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

"Sec. 601. Definitions.
"Sec. 602. Nuclear Waste Technical Review Board.
"Sec. 603. Functions.
"Sec. 604. Investigatory powers.
"Sec. 605. Compensation of members.
"Sec. 606. Staff.
"Sec. 607. Support services.
"Sec. 608. Report.
"Sec. 609. Authorization of appropriations.
"Sec. 610. Termination of the board.

"TITLE VII—MANAGEMENT REFORM

"Sec. 701. Management reform initiatives.
"Sec. 702. Reporting.

"TITLE VIII—MISCELLANEOUS

"Sec. 801. Sense of the Senate.
"Sec. 802. Effective date.

"SEC. 2. DEFINITIONS.

"For purposes of this Act:

"(1) ACCEPT, ACCEPTANCE.—The terms 'accept' and 'acceptance' mean the Secretary's act of taking possession of spent nuclear fuel or high-level radioactive waste.

"(2) AFFECTED INDIAN TRIBE.—The term 'affected Indian tribe' means any Indian tribe—

"(A) whose reservation is surrounded by or borders an affected unit of local government, or

"(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of an interim storage facility or a repository if the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe.

"(3) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or interim storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

"(4) ATOMIC ENERGY DEFENSE ACTIVITY.—The term 'atomic energy defense activity' means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

"(A) Naval reactors development.

"(B) Weapons activities including defense inertial confinement fusion.

"(C) Verification and control technology.

"(D) Defense nuclear materials production.

"(E) Defense nuclear waste and materials byproducts management.

"(F) Defense nuclear materials security and safeguards and security investigations.

"(G) Defense research and development.

"(5) CIVILIAN NUCLEAR POWER REACTOR.—The term 'civilian nuclear power reactor' means a civilian nuclear power plant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

"(6) COMMISSION.—The term 'Commission' means the Nuclear Regulatory Commission.

"(7) CONTRACTS.—The term 'contracts' means the contracts, executed prior to the date of enactment of the Nuclear Waste Policy Act of 1997, under section 302(a) of the Nuclear Waste Policy Act of 1982, by the Secretary and any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for acceptance of such waste or fuel by the Secretary and the payment of fees to offset the Secretary's expenditures, and any subsequent contracts executed by the Secretary pursuant to section 401(a) of this Act.

"(8) CONTRACT HOLDERS.—The term 'contract holders' means parties (other than the Secretary) to contracts.

"(9) DEPARTMENT.—The term 'Department' means the Department of Energy.

"(10) DISPOSAL.—The term 'disposal' means the emplacement in a repository of spent nuclear fuel, high-level radioactive waste, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such material for any future purpose.

"(11) DISPOSAL SYSTEM.—The term 'disposal system' means all natural barriers and engineered barriers, and engineered systems and components, that prevent the release of radionuclides from the repository.

"(12) EMPLACEMENT SCHEDULE.—The term 'emplacement schedule' means the schedule established by the Secretary in accordance with section 507(a) for emplacement of spent nuclear fuel and high-level radioactive waste at the interim storage facility.

"(13) ENGINEERED BARRIERS AND ENGINEERED SYSTEMS AND COMPONENTS.—The terms 'engineered barriers' and 'engineered systems and components', mean man-made components of a disposal system. These terms include the spent nuclear fuel or high-level radioactive waste form, spent nuclear fuel package or high-level radioactive waste package, and other materials placed over and around such packages.

"(14) HIGH-LEVEL RADIOACTIVE WASTE.—The term 'high-level radioactive waste' means—

"(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

"(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation, which includes any low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

"(15) FEDERAL AGENCY.—The term 'Federal agency' means any Executive agency, as defined in section 105 of title 5, United States Code.

"(16) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

"(17) INTEGRATED MANAGEMENT SYSTEM.—The term 'integrated management system' means the system developed by the Secretary for the acceptance, transportation, storage, and disposal of spent nuclear fuel and high-level radioactive waste under title II of this Act.

"(18) INTERIM STORAGE FACILITY.—The term 'interim storage facility' means a facility designed and constructed for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel and high-level radioactive waste in accordance with title II of this Act.

"(19) INTERIM STORAGE FACILITY SITE.—The term 'interim storage facility site' means the specific site within Area 25 of the Nevada Test Site that is designated by the Secretary and withdrawn and reserved in accordance with this Act for the location of the interim storage facility.

"(20) LOW-LEVEL RADIOACTIVE WASTE.—The term 'low-level radioactive waste' means radioactive material that—

"(A) is not spent nuclear fuel, high-level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

"(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

"(21) METRIC TONS URANIUM.—The terms 'metric tons uranium' and 'MTU' means the amount of uranium in the original unirradiated fuel element whether or not the spent nuclear fuel has been reprocessed.

"(22) NUCLEAR WASTE FUND.—The terms 'Nuclear Waste Fund' and 'waste fund' mean the nuclear waste fund established in the United States Treasury prior to the date of enactment of this Act under section 302(c) of the Nuclear Waste Policy Act of 1982.

"(23) OFFICE.—The term 'Office' means the Office of Civilian Radioactive Waste Management established within the Department prior to the date of enactment of this Act under the provisions of the Nuclear Waste Policy Act of 1982.

"(24) PROGRAM APPROACH.—The term 'program approach' means the Civilian Radioactive Waste Management Program Plan, dated May 6, 1996, as modified by this Act, and as amended from time to time by the Secretary in accordance with this Act.

"(25) REPOSITORY.—The term 'repository' means a system designed and constructed under title II of this Act for the geologic disposal of spent nuclear fuel and high-level radioactive waste, including both surface and subsurface areas at which spent nuclear fuel and high-level radioactive waste receipt, handling, possession, safeguarding, and storage are conducted.

"(26) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

"(27) SITE CHARACTERIZATION.—The term 'site characterization' means activities, whether in a laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory facilities, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the licensability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

“(28) Spent nuclear fuel.—The term ‘spent nuclear fuel’ means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

“(29) Storage.—The term ‘storage’ means retention of spent nuclear fuel or high-level radioactive waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

“(30) Withdrawal.—The term ‘withdrawal’ has the same definition as that set forth in section 103(j) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(j)).

“(31) Yucca mountain site.—The term ‘Yucca Mountain site’ means the area in the State of Nevada that is withdrawn and reserved in accordance with this Act for the location of a repository.

“(32) Administrator.—The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

“(33) Suitable.—The term ‘suitable’ means that there is reasonable assurance that the site features of a repository and the engineered barriers contained therein will allow the repository, as an overall system, to provide containment and isolation of radionuclides sufficient to meet applicable standards for protection of public health and safety.

“TITLE I—OBLIGATIONS

“SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.

“(a) Disposal.—The Secretary shall develop and operate an integrated management system for the storage and permanent disposal of spent nuclear fuel and high-level radioactive waste.

“(b) Interim Storage.—The Secretary shall store spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders at an interim storage facility pursuant to section 205 in accordance with the emplacement schedule, beginning no later than 18 months after issuance of a license for an interim storage facility under section 205(g).

“(c) Transportation.—The Secretary shall provide for the transportation of spent nuclear fuel and high-level radioactive waste accepted by the Secretary. The Secretary shall procure all systems and components necessary to transport spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders to and among facilities comprising the Integrated Management System. Consistent with the Buy American Act (41 U.S.C. 10a–10c), unless the Secretary shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, all such systems and components procured by the Secretary shall be manufactured in the United States, with the exception of any transportable storage systems purchased by contract holders prior to the effective date of the Nuclear Waste Policy Act of 1997 and procured by the Secretary from such contract holders for use in the integrated management system.

“(d) Integrated Management System.—The Secretary shall expeditiously pursue the development of each component of the integrated management system, and in so doing shall seek to utilize effective private sector management and contracting practices.

“(e) Private Sector Participation.—In administering the Integrated Management System, the Secretary shall, to the maximum extent possible, utilize, employ, procure and contract with, the private sector to fulfill the Secretary's obligations and requirements under this Act.

“(f) Pre-existing Rights.—Nothing in this Act is intended to or shall be construed to modify—

“(1) any right of a contract holder under section 302(a) of the Nuclear Waste Policy Act of 1982, or under a contract executed prior to the date of enactment of this Act under that section; or

“(2) obligations imposed upon the Federal Government by the United States District Court of Idaho in an order entered on October 17, 1995 in United States v. Batt (No. 91-0054-S-EJL).

“(g) Liability.—Subject to subsection (f), nothing in this Act shall be construed to subject the United States to financial liability for the Secretary's failure to meet any deadline for the acceptance or emplacement of spent nuclear fuel or high-level radioactive waste for storage or disposal under this Act.

“TITLE II—INTEGRATED MANAGEMENT SYSTEM

“SEC. 201. INTERMODAL TRANSFER.

“(a) Access.—The Secretary shall utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from the mainline rail line at Caliente, Nevada, to the interim storage facility site.

“(b) Capability Date.—The Secretary shall develop the capability to commence rail to truck intermodal transfer at Caliente, Nevada, no later than 18 months after issuance of a license under section 205(g) for an interim storage facility designated under section 204(c)(1). Intermodal transfer and related activities are incidental to the interstate transportation of spent nuclear fuel and high-level radioactive waste.

“(c) Acquisitions.—The Secretary shall acquire lands and rights-of-way necessary to commence intermodal transfer at Caliente, Nevada.

“(d) Replacements.—The Secretary shall acquire and develop on behalf of, and dedicate to, the City of Caliente, Nevada, parcels of land and right-of-way within Lincoln County, Nevada, as required to facilitate replacement of land and city wastewater disposal facilities necessary to commence intermodal transfer pursuant to this Act. Replacement of land and city wastewater disposal activities shall occur no later than 2 years after the effective date of this section.

“(e) Notice and Map.—No later than 6 months after the effective date of this section, the Secretary shall—

“(1) publish in the Federal Register a notice containing a legal description of the sites and rights-of-way to be acquired under this subsection; and

“(2) file copies of a map of such sites and rights-of-way with the Congress, the Secretary of the Interior, the State of Nevada, the Archivist of the United States, the Board of Lincoln County Commissioners, the Board of Nye County Commissioners, and the Caliente City Council.

Such map and legal description shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors and legal descriptions and make minor adjustments in the boundaries.

“(f) Improvements.—The Secretary shall make improvements to existing roadways selected for heavy-haul truck transport between Caliente, Nevada, and the interim storage facility site as necessary to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste.

“(g) Local Government Involvement.—The Commission shall enter into a Memorandum of Understanding with the City of Caliente and Lincoln County, Nevada, to provide advice to the Commission regarding intermodal transfer and to facilitate on-site representation. Reasonable expenses of such representation shall be paid by the Secretary.

“(h) Benefits Agreement.—

“(1) In general.—The Secretary shall offer to enter into an agreement with the City of Caliente and Lincoln County, Nevada concerning the integrated management system.

“(2) Agreement content.—Any agreement shall contain such terms and conditions, including such financial and institutional arrangements, as the Secretary and agreement entity determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of the City of Caliente and Lincoln County, Nevada.

“(3) Amendment.—An agreement entered into under this subsection may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with paragraph (4).

“(4) Termination.—The Secretary shall terminate the agreement under this subsection if any major element of the integrated management system may not be completed.

“(5) Limitation.—Only 1 agreement may be in effect at any one time.

“(6) Judicial review.—Decisions of the Secretary under this section are not subject to judicial review.

“(i) Content of Agreement.—

“(1) Schedule.—In addition to the benefits to which the City of Caliente and Lincoln County is entitled to under this title, the Secretary shall make payments under the benefits agreement in accordance with the following schedule:

BENEFITS SCHEDULE

(amounts in millions)

Event	Payment
(A) Annual payments prior to first receipt of spent fuel	$2.5
(B) Annual payments beginning upon first spent fuel receipt	$5
(C) Payment upon closure of the intermodal transfer facility	$5

“(2) Definitions.—For purposes of this section, the term—

“(A) ‘spent fuel’ means high-level radioactive waste or spent nuclear fuel; and

“(B) ‘first spent fuel receipt’ does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

“(3) Annual payments.—Annual payments prior to first spent fuel receipt under paragraph (1)(A) shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under paragraph (1)(C) shall be made on the anniversary date of such first spent fuel receipt.

“(4) Reduction.—If the first spent fuel payment under paragraph (1)(B) is made within 6 months after the last annual payment prior to the receipt of spent fuel under paragraph (1)(A), such first spent fuel payment under paragraph (1)(B) shall be reduced by an amount equal to 1/12 of such annual payment under paragraph (1)(A) for each full month less than 6 that has not elapsed since the last annual payment under paragraph (1)(A).

"(5) RESTRICTIONS.—The Secretary may not restrict the purposes for which the payments under this section may be used.

"(6) DISPUTE.—In the event of a dispute concerning such agreement, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

"(7) CONSTRUCTION.—The signature of the Secretary on a valid benefits agreement under this section shall constitute a commitment by the United States to make payments in accordance with such agreement under section 401(c)(2).

"(j) INITIAL LAND CONVEYANCES.—

"(1) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, all right, title and interest of the United States in the property described in paragraph (2), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Lincoln, Nevada, unless the county notifies the Secretary of the Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Lincoln under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Lincoln County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

"(2) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, shall be conveyed under paragraph (1) to the County of Lincoln, Nevada:

Map 10: Lincoln County, Parcel M, Industrial Park Site

Map 11: Lincoln County, Parcel F, Mixed Use Industrial Site

Map 13: Lincoln County, Parcel J, Mixed Use, Alamo Community Expansion Area

Map 14: Lincoln County, Parcel E, Mixed Use, Pioche Community Expansion Area

Map 15: Lincoln County, Parcel B, Landfill Expansion Site.

"(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in paragraph (2) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

"(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Lincoln, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

"(k) This section shall become effective on the date on which the Secretary submits a license application under section 205 for an interim storage facility at a site designated under section 204(c)(1).

"SEC. 202. TRANSPORTATION PLANNING.

"(a) TRANSPORTATION READINESS.—The Secretary—

"(1) shall take such actions as are necessary and appropriate to ensure that the Secretary is able to transport safely spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities and from the mainline transportation facilities to the interim storage facility or repository, using routes that minimize, to the maximum practicable extent consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas; and

"(2) not later than 24 months after the Secretary submits a license application under section 205 for an interim storage facility shall, in consultation with the Secretary of Transportation and affected States and tribes, and after an opportunity for public comment, develop and implement a comprehensive management plan that ensures safe transportation of spent nuclear fuel and high-level radioactive waste from the sites designated by the contract holders to the interim storage facility site.

"(b) TRANSPORTATION PLANNING.—

"(1) IN GENERAL.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility.

"(2) MATTERS TO BE ADDRESSED.—Among other things, planning under paragraph (1) shall provide a schedule and process for addressing and implementing, as necessary—

"(A) transportation routing plans;

"(B) transportation contracting plans;

"(C) transportation training in accordance with section 203;

"(D) public education regarding transportation of spent nuclear fuel and high-level radioactive waste; and

"(E) transportation tracking programs.

"(c) SHIPPING CAMPAIGN TRANSPORTATION PLANS.—

"(1) IN GENERAL.—The Secretary shall develop a transportation plan for the implementation of each shipping campaign (as that term is defined by the Secretary) from each site at which high-level nuclear waste is stored, consistent with the principles and procedures stated in Department of Energy Order No. 460.2 and the Program Manager's Guide.

"(2) REQUIREMENTS.—A shipping campaign transportation plan shall—

"(A) be fully integrated with State and tribal government notification, inspection, and emergency response plans along the preferred shipping route or State-designated alternative route identified under subsection (d) (unless the Secretary certifies in the plan that the State or tribal government has failed to cooperate in fully integrating the shipping campaign transportation plan with the applicable State or tribal government plans); and

"(B) be consistent with the principles and procedures developed for the safe transportation of transuranic waste to the Waste Isolation Pilot Plant (unless the Secretary certifies in the plan that a specific principle or procedure is inconsistent with a provision of this Act).

"(d) SAFE SHIPPING ROUTES AND MODES.—

"(1) IN GENERAL.—The Secretary shall evaluate the relative safety of the proposed shipping routes and shipping modes from each shipping origin to the interim storage facility or repository compared with the safety of alternative modes and routes.

"(2) CONSIDERATIONS.—The evaluation under paragraph (1) shall be conducted in a manner consistent with regulations promulgated by the Secretary of Transportation under authority of chapter 51 of title 49, United States Code, and the Nuclear Regulatory Commission under authority of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), as applicable.

"(3) DESIGNATION OF PREFERRED SHIPPING ROUTE AND MODE.—Following the evaluation under paragraph (1), the Secretary shall designate preferred shipping routes and modes from each civilian nuclear power reactor and Department of Energy facility that stores spent nuclear fuel or other high-level defense waste.

"(4) SELECTION OF PRIMARY SHIPPING ROUTE.—If the Secretary designates more than 1 preferred route under paragraph (3), the Secretary shall select a primary route after considering, at a minimum, historical accident rates, population, significant hazards, shipping time, shipping distance, and mitigating measures such as limits on the speed of shipments.

"(5) USE OF PRIMARY SHIPPING ROUTE AND MODE.—Except in cases of emergency, for all shipments conducted under this Act, the Secretary shall cause the primary shipping route and mode or State-designated alternative route under chapter 51 of title 49, United States Code, to be used. If a route is designated as a primary route for any reactor or Department of Energy facility, the Secretary may use that route to transport spent nuclear fuel or high-level radioactive waste from any other reactor or Department of Energy facility.

"(6) TRAINING AND TECHNICAL ASSISTANCE.—Following selection of the primary shipping routes, or State-designated alternative routes, the Secretary shall focus training and technical assistance under section 203(c) on those routes.

"(7) PREFERRED RAIL ROUTES.—

"(A) REGULATION.—Not later than 1 year after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary of Transportation, pursuant to authority under other provisions of law, shall promulgate a regulation establishing procedures for the selection of preferred routes for the transportation of spent nuclear fuel and nuclear waste by rail.

"(B) INTERIM PROVISION.—During the period beginning on the date of enactment of the Nuclear Waste Policy Act of 1997 and ending on the date of issuance of a final regulation under subparagraph (A), rail transportation of spent nuclear fuel and high-level radioactive waste shall be conducted in accordance with regulatory requirements in effect on that date and with this section.

"SEC. 203. TRANSPORTATION REQUIREMENTS.

"(a) PACKAGE CERTIFICATION.—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

"(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and tribal governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

"(c) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—

"(A) STATES AND INDIAN TRIBES.—As provided in paragraph (3), the Secretary shall provide technical assistance and funds to States and Indian tribes for training of public safety officials of appropriate units of State, local, and tribal government. A State shall allocate to local governments within the State a portion of any funds that the Secretary provides to the State for technical assistance and funding.

"(B) EMPLOYEE ORGANIZATIONS.—The Secretary shall provide technical assistance and funds for training directly to nonprofit employee organizations and joint labor-management organizations that demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste, or emergency response or post-emergency response with respect to such transportation.

"(C) TRAINING.—Training under this section—

"(i) shall cover procedures required for safe routine transportation of materials and procedures for dealing with emergency response situations;

"(ii) shall be consistent with any training standards established by the Secretary of Transportation under subsection (g); and

"(iii) shall include—

"(I) a training program applicable to persons responsible for responding to emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste;

"(II) instruction of public safety officers in procedures for the command and control of the response to any incident involving the waste; and

"(III) instruction of radiological protection and emergency medical personnel in procedures for responding to an incident involving spent nuclear fuel or high-level radioactive waste being transported.

"(2) NO SHIPMENTS IF NO TRAINING.—(A) There will be no shipments of spent nuclear fuel and high-level radioactive waste through the jurisdiction of any State or the reservation lands of any Indian tribe eligible for grants under paragraph (3)(B) until the Secretary has made a determination that personnel in all State, local, and tribal jurisdictions on primary and alternative shipping routes have met acceptable standards of training for emergency responses to accidents involving spent nuclear fuel and high-level nuclear waste, as established by the Secretary, and unless technical assistance and funds to implement procedures for the safe routine transportation and for dealing with emergency response situations under paragraph (1)(A) have been available to a State or Indian tribe for at least 3 years prior to any shipment: *Provided, however*, That the Secretary may ship spent nuclear fuel and high-level radioactive waste if technical assistance or funds have not been made available due to (i) an emergency, including the sudden and unforeseen closure of a highway or rail line or the sudden and unforeseen need to remove spent fuel from a reactor because of an accident, or (ii) the refusal to accept technical assistance by a State or Indian tribe, or (iii) fraudulent actions which violate Federal law governing the expenditure of Federal funds.

"(B) In the event the Secretary is required to transport spent fuel or high-level radioactive waste through a jurisdiction prior to 3 years after the provision of technical assistance or funds to such jurisdiction, the Secretary shall, prior to such shipment, hold meetings in each State and Indian reservation through which the shipping route passes in order to present initial shipment plans and receive comments. Department of Energy personnel trained in emergency response shall escort each shipment. Funds and all Department of Energy training resources shall be made available to States and Indian tribes along the shipping route no later than three months prior to the commencement of shipments: *Provided, however*, That in no event shall such shipments exceed 1,000 metric tons per year: *Provided further*, That no such shipments shall be conducted more than four years after the effective date of the Nuclear Waste Policy Act of 1997.

"(3) GRANTS.—

"(A) IN GENERAL.—To implement this section, grants shall be made under section 401(c)(2).

"(B) GRANTS FOR DEVELOPMENT OF PLANS.—

"(i) IN GENERAL.—The Secretary shall make a grant of at least $150,000 to each State through the jurisdiction of which and each federally recognized Indian tribe through the reservation lands of which a shipment of spent nuclear fuel or high-level radioactive waste will be made under this Act for the purpose of developing a plan to prepare for such shipments.

"(ii) LIMITATION.—A grant shall be made under clause (i) only to a State or a federally recognized Indian tribe that has the authority to respond to incidents involving shipments of hazardous material.

"(C) GRANTS FOR IMPLEMENTATION OF PLANS.—

"(i) IN GENERAL.—Annual implementation grants shall be made to States and Indian tribes that have developed a plan to prepare for shipments under this Act under subparagraph (B). The Secretary, in submitting the annual departmental budget to Congress for funding of implementation grants under this section, shall be guided by the State and tribal plans developed under subparagraph (B). As part of the Department of Energy's annual budget request, the Secretary shall report to Congress on—

"(I) the funds requested by States and federally recognized Indian tribes to implement this subsection;

"(II) the amount requested by the President for implementation; and

"(III) the rationale for any discrepancies between the amounts requested by States and federally recognized Indian tribes and the amounts requested by the President.

"(ii) ALLOCATION.—Of funds available for grants under this subparagraph for any fiscal year—

"(I) 25 percent shall be allocated by the Secretary to ensure minimum funding and program capability levels in all States and Indian tribes based on plans developed under subparagraph (B); and

"(II) 75 percent shall be allocated to States and Indian tribes in proportion to the number of shipment miles that are projected to be made in total shipments under this Act through each jurisdiction.

"(4) AVAILABILITY OF FUNDS FOR SHIPMENTS.—Funds under paragraph (1) shall be provided for shipments to an interim storage facility or repository, regardless of whether the interim storage facility or repository is operated by a private entity or by the Department of Energy.

"(d) PUBLIC EDUCATION.—The Secretary shall conduct a program to educate the public regarding the transportation of spent nuclear fuel and high-level radioactive waste, with an emphasis upon those States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste.

"(e) COMPLIANCE WITH TRANSPORTATION REGULATIONS.—Any person that transports spent nuclear fuel or high-level radioactive waste under the Nuclear Waste Policy Act of 1997, pursuant to a contract with the Secretary, shall comply with all requirements governing such transportation issued by the Federal, State and local governments, and Indian tribes, in the same way and to the same extent that any person engaging in that transportation that is in or affects interstate commerce must comply with such requirements, as required by section 5126 of title 49, United States Code.

"(f) EMPLOYEE PROTECTION.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this Act shall be subject to and comply fully with the employee protection provisions of section 20109 of title 49, United States Code (in the case of employees of railroad carriers) and section 31105 of title 49, United States Code (in the case of employees operating commercial motor vehicles), or the Commission (in the case of all other employees).

"(g) TRAINING STANDARD.—(1) No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. The regulation shall require that the employer possess evidence of satisfaction of the applicable training standard before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

"(2) If the Secretary of Transportation determines, in promulgating the regulation required by subparagraph (1), that regulations promulgated by the Commission establish adequate training standards for workers, then the Secretary of Transportation can refrain from promulgating additional regulations with respect to worker training in such activities. The Secretary of Transportation and the Commission shall work through their Memorandum of Understanding to ensure coordination of worker training standards and to avoid duplicative regulation.

"(3) The training standards required to be promulgated under subparagraph (1) shall, among other things deemed necessary and appropriate by the Secretary of Transportation, include the following provisions—

"(A) a specified minimum number of hours of initial off site instruction and actual field experience under the direct supervision of a trained, experienced supervisor;

"(B) a requirement that onsite managerial personnel receive the same training as workers, and a minimum number of additional hours of specialized training pertinent to their managerial responsibilities; and

"(C) a training program applicable to persons responsible for responding to and cleaning up emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste.

"(4) There is authorized to be appropriated to the Secretary of Transportation, from general revenues, such sums as may be necessary to perform his duties under this subsection.

"SEC. 204. VIABILITY ASSESSMENT AND PRESIDENTIAL DETERMINATION.

"(a) VIABILITY ASSESSMENT.—No later than December 1, 1998, the Secretary shall provide to the President and to the Congress a viability assessment of the Yucca Mountain site. The viability assessment shall include—

"(1) the preliminary design concept for the critical elements of the repository and waste package;

"(2) a total system performance assessment, based upon the preliminary design concept in paragraph (1) of this subsection and the scientific data and analysis available on June 30, 1998, describing the probable behavior of the repository relative to the overall system performance standard under section 206(f) of this Act or, if the standard under section 206(f) has not been promulgated, relative to an estimate by the Secretary of an overall system performance standard that is consistent with section 206(f);

"(3) a plan and cost estimate for the remaining work required to complete the license application under section 206(c) of this Act, and

"(4) an estimate of the costs to construct and operate the repository in accordance with the preliminary design concept in paragraph (1) of this subsection.

"(b) PRESIDENTIAL DETERMINATION.—No later than March 1, 1999, the President, in his sole and unreviewable discretion, may make a determination disqualifying the Yucca Mountain site as a repository, based on the President's views that the preponderance of information available at such time indicates that the Yucca Mountain site is not suitable for development of a repository of useful size. If the President makes a determination under this subsection—

"(1) the Secretary shall cease all activities (except necessary termination activities) at the Yucca Mountain site and section 206 of this Act shall cease to be in effect; and

"(2) no later than 6 months after such determination, the Secretary shall report to Congress on the need for additional legislation relating to the permanent disposal of nuclear waste.

"(c) PRELIMINARY SECRETARIAL DESIGNATION OF INTERIM STORAGE FACILITY SITES.—

"(1) If the President does not make a determination under subsection (b) of this section, no later than March 31, 1999, the Secretary shall make a preliminary designation of a specific site within Area 25 of the Nevada Test Site for planning and construction of an interim storage facility under section 205.

"(2) Within 18 months of a determination by the President that the Yucca Mountain site is unsuitable for development as a repository under subsection (b), the President shall designate a site for the construction of an interim storage facility. The President shall not designate the Hanford Nuclear Reservation in the State of Washington, and the Savannah River Site and Barnwell County in the State of South Carolina, or the Oak Ridge Reservation in the State of Tennessee, as a site for construction of an interim storage facility. If the President does not designate a site for the construction of an interim storage facility, or the construction of an interim storage facility at the designated site is not approved by law within 24 months of the President's determination that the Yucca Mountain site is not suitable for development as a repository, the interim storage facility site as defined in section 2(19) of this Act is designated as the interim storage facility site for purposes of section 205. The interim storage facility site shall be deemed to be approved by law for purposes of this paragraph.

"SEC. 205. INTERIM STORAGE FACILITY.

"(a) NON-SITE-SPECIFIC ACTIVITIES.—As soon as practicable after the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary shall submit to the Commission a topical safety analysis report containing a generic design for an interim storage facility. If the Secretary has submitted such a report prior to such date of enactment, the report shall be deemed to have satisfied the requirement in the preceding sentence. No later than December 31, 1998, the Commission shall issue a safety evaluation report approving or disapproving the generic design submitted by the Secretary.

"(b) SITE-SPECIFIC AUTHORIZATION.—The Secretary shall design, construct, and operate a facility for the interim storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility site designated under section 204 and licensed by the Commission under this section. The Commission shall license the interim storage facility in accordance with the Commission's regulations governing the licensing of independent storage of spent nuclear fuel and high-level radioactive waste (10 CFR part 72). Such regulations shall be amended by the Commission as necessary to implement the provisions of this Act. The Commission may amend part 72 of title 10, Code of Federal Regulations with regard to facilities not covered by this Act as deemed appropriate by the Commission.

"(c) LIMITATIONS AND CONDITIONS.—

"(1) The Secretary shall not commence construction of an interim storage facility (which shall mean taking actions within the meaning of the term 'commencement of construction' contained in the Commission's regulations in section 72.3 of title 10, Code of Federal Regulations) before the Commission, or an appropriate officer or Board of the Commission, makes the finding under section 72.40(b) of title 10, Code of Federal Regulations.

"(2) After the Secretary makes the preliminary designation of an interim storage site under section 204, the Secretary may commence site data acquisition activities and design activities necessary to complete license application and environmental report under subsection (d) of this section.

"(3) Notwithstanding any other applicable licensing requirement, the Secretary may utilize facilities owned by the Federal Government on the date of enactment of the Nuclear Waste Policy Act of 1997 and located within the boundaries of the interim storage site, in connection with addressing any imminent and substantial endangerment to public health and safety at the interim storage facility site, prior to receiving a license from the Commission for the interim storage facility, for purposes of fulfilling requirements for retrievability during the first five years of operation of the interim storage facility.

"(d) LICENSE APPLICATION.—No later than 30 days after the date on which the Secretary makes a preliminary designation of an interim storage facility site under section 204, the Secretary shall submit a license application and an environmental report in accordance with applicable regulations (subpart B of part 72 of title 10, Code of Federal Regulations, and subpart A of part 51 of title 10, Code of Federal Regulations, respectively). The license application—

"(1) shall be for a term of 40 years; and

"(2) shall be for a quantity of spent nuclear fuel or high-level radioactive waste equal to the quantity that would be emplaced under section 507 prior to the date that the Secretary estimates, in the license application, to be the date on which the Secretary will receive and store spent nuclear fuel and high-level radioactive waste at the permanent repository.

"(e) DESIGN.—

"(1) The design for the interim storage facility shall provide for the use of storage technologies which are licensed, approved, or certified by the Commission, to ensure compatibility between the interim storage facility and contract holders' spent nuclear fuel and facilities, and to facilitate the Secretary's ability to meet the Secretary's obligations under this Act.

"(2) The Secretary shall consent to an amendment to the contracts to provide for reimbursement to contract holders for transportable storage systems purchased by contract holders if the Secretary determines that it is cost effective to use such transportable storage systems as part of the integrated management system: *Provided*, That the Secretary shall not be required to expend any funds to modify contract holders' storage or transport systems or to seek additional regulatory approvals in order to use such systems.

"(f) LICENSE AMENDMENTS.—

"(1) The Secretary may seek such amendments to the license for the interim storage facility as the Secretary may deem appropriate, including amendments to use new storage technologies licensed by the Commission or to respond to changes in Commission regulations.

"(2) After receiving a license from the Commission to receive and store spent nuclear fuel and high-level radioactive waste in the permanent repository, the Secretary shall seek such amendments to the license for the interim storage facility as will permit the optimal use of such facility as an integral part of a single system with the repository.

"(g) COMMISSION ACTIONS.—

"(1) The issuance of a license to construct and operate an interim storage facility shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Prior to issuing a license under this section, the Commission shall prepare a final environmental impact statement in accordance with the National Environmental Policy Act of 1969, the Commission's regulations, and section 207 of this Act. The Commission shall ensure that this environmental impact statement is consistent with the scope of the licensing action and shall analyze the impacts of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility in a generic manner.

"(2) The Commission shall issue a final decision granting or denying a license for an interim storage facility not later than 32 months after the date of submittal of the application for such license.

"(3) No later than 32 months following the date of enactment of the Nuclear Waste Policy Act of 1997, the Commission shall make any amendments necessary to the definition of 'spent nuclear fuel' in section 72.4 of title 10, Code of Federal Regulations, to allow an interim storage facility to accept (subject to such conditions as the Commission may require in a subsequent license)—

"(A) spent nuclear fuel from research reactors;

"(B) spent nuclear fuel from naval reactors;

"(C) high-level radioactive waste of domestic origin from civilian nuclear reactors that have permanently ceased operation before such date of enactment; and

"(D) spent nuclear fuel and high-level radioactive waste from atomic energy defense activities.

Following any such amendments, the Secretary shall seek authority, as necessary, to store such fuel and waste at the interim storage facility. None of the activities carried out pursuant to this paragraph shall delay, or otherwise affect, the development, licensing, construction, or operation of the interim storage facility.

"SEC. 206. PERMANENT REPOSITORY.

"(a) Repository Characterization.—

"(1) Characterization of the Yucca Mountain site.—The Secretary shall carry out site characterization activities at the Yucca Mountain site in accordance with the Secretary's program approach to site characterization. Such activities shall be limited to only those activities which the Secretary considers necessary to provide the data required for evaluation of the suitability of such site for an application to be submitted to the Commission for a construction authorization for a repository at such site, and for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) Guidelines.—The Secretary shall amend the guidelines in part 960 of title 10, Code of Federal Regulations, to base any conclusions regarding whether a repository site is suitable on, to the extent practicable, an assessment of total system performance of the repository.

"(b) Environmental Impact Statement.—

"(1) Preparation of environmental impact statement.—Construction and operation of the repository shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall prepare an environmental impact statement on the construction and operation of the repository and shall submit such statement to the Commission with the license application. The Secretary shall supplement such environmental impact statement as appropriate.

"(2) Schedule.—

"(A) No later than September 30, 2000, the Secretary shall publish the final environmental impact statement under paragraph (1) of this subsection.

"(B) No later than October 31, 2000, the Secretary shall publish a record of decision on applying for a license to construct and operate a repository at the Yucca Mountain site.

"(c) License Application.—

"(1) Schedule.—No later than October 31, 2001, the Secretary shall apply to the Commission for authorization to construct a repository at the Yucca Mountain site.

"(2) Maximizing capacity.—In developing an application for authorization to construct the repository, the Secretary shall seek to maximize the capacity of the repository, in the most cost-effective manner, consistent with the need for disposal capacity.

"(3) Decision not to apply for a license for the Yucca Mountain site.—If, at any time prior to October 31, 2001, the Secretary determines that the Yucca Mountain site is not suitable or cannot satisfy the Commission's regulations applicable to the licensing of a geological repository, the Secretary shall—

"(A) notify the Congress and the State of Nevada of the Secretary's determinations and the reasons therefor; and

"(B) promptly take the actions described in paragraphs (1) and (2) of section 204(b).

"(d) Repository Licensing.—The Commission shall license the repository according to the following procedures:

"(1) Construction authorization.—The Commission shall grant the Secretary a construction authorization for the repository, subject to such requirements or limitations as the Commission may incorporate pursuant to its regulations, upon determining that there is reasonable assurance that spent nuclear fuel and high-level radioactive waste can be disposed of in the repository—

"(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

"(B) without unreasonable risk to the health and safety of the public; and

"(C) consistent with the common defense and security.

"(2) License.—Following the filing by the Secretary of any additional information needed by the Commission to issue a license to receive and possess source, special nuclear, or byproduct material at a geologic repository operations area the Commission shall issue a license to dispose of spent nuclear fuel and high-level radioactive waste in the repository, subject to such requirements or limitations as the Commission may incorporate pursuant to its regulations, if the Commission determines that the repository has been constructed and will operate—

"(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

"(B) without unreasonable risk to the health and safety of the public; and

"(C) consistent with the common defense and security.

"(3) Closure.—After emplacing spent nuclear fuel and high-level radioactive waste in the repository and collecting sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with the Commission's regulations applicable to the licensing of a repository, as modified in accordance with this Act, the Secretary shall apply to the Commission to amend the license to permit permanent closure of the repository. The Commission shall grant such license amendment, subject to such requirements or limitations as the Commission may incorporate pursuant to its regulations, upon finding that there is reasonable assurance that the repository can be permanently closed—

"(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

"(B) without unreasonable risk to the health and safety of the public; and

"(C) consistent with the common defense and security.

"(4) Post-closure.—The Secretary shall take those actions necessary and appropriate at the Yucca Mountain site to prevent any activity at the site subsequent to repository closure that poses an unreasonable risk of—

"(A) breaching the repository's engineered or geologic barriers; or

"(B) increasing the risk of the repository beyond the standard established in subsection (f)(1).

"(5) Application of health and safety standards.—The licensing determination of the Commission with respect to risk to the health and safety of the public under paragraphs (1), (2), or (3) of this subsection shall be based solely on a finding whether the repository can be operated in conformance with the overall performance standard in subsection (f)(1) of this section, applied in accordance with the provisions of subsection (f)(2) of this section and the standards established by the Administrator under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note).

"(e) Modification of the Commission's Repository Licensing Regulations.—The Commission shall amend its regulations governing the disposal of spent nuclear fuel and high-level radioactive waste (10 CFR part 60), as necessary, to be consistent with the provisions of this Act. The Commission's regulations shall provide for the modification of the repository licensing procedure in subsection (d) of this section, as appropriate, in the event that the Secretary seeks a license to permit the emplacement in the repository, on a retrievable basis, of spent nuclear fuel or high-level radioactive waste as is necessary to provide the Secretary with sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with applicable regulations.

"(f) Repository Licensing Standards and Additional Procedures.—In complying with the requirements of section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note), the Administrator shall achieve consistency with the findings and recommendations of the National Academy of Sciences, and the Commission shall amend its regulations with respect to licensing standards for the repository, as follows:

"(1) Establishment of overall system performance standard.—

"(A) Risk standard.—The standard for protection of the public from releases of radioactive material or radioactivity from the repository shall limit the lifetime risk, to the average member of the critical group, of premature death from cancer due to such releases to approximately, but not greater than, 1 in 1000. The comparison to this standard shall use the upper bound of the 95-percent confidence interval for the expected value of lifetime risk to the average member of the critical group.

"(B) Form of standard.—The standard promulgated by the Administrator under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note) shall be an overall system performance standard. The Administrator shall not promulgate a standard for the repository in the form of release limits or contaminant levels for individual radionuclides discharged from the repository.

"(C) Assumptions used in formulating and applying the standard.—In promulgating the standard under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note), the Administrator shall consult with the Secretary of Energy and the Commission. The Commission, after consultation with the Secretary, shall specify, by rule, values for all of the assumptions considered necessary by the Commission to apply the standard in a licensing proceeding for the repository before the Commission, including the reference biosphere and size and characteristics of the critical group.

“(D) Definition.—As used in this subsection, the term ‘critical group’ means a small group of people that is—

“(i) representative of individuals expected to be at highest risk of premature death from cancer as a result of discharges of radionuclides from the permanent repository;

“(ii) relatively homogeneous with respect to expected radiation dose, which shall mean that there shall be no more than a factor of ten in variation in individual dose among members of the group; and

“(iii) selected using reasonable assumptions—concerning lifestyle, occupation, diet and eating and drinking habits, technological sophistication, or other relevant social and behavioral factors—that are based on reasonably available information, when the group is defined, on current inhabitants and conditions in the area of 50-mile radius surrounding Yucca Mountain contained within a line drawn 50 miles beyond each of the boundaries of the Yucca Moutain site.

“(2) Application of overall system performance standard.—The Commission shall issue the construction authorization, license, or license amendment, as applicable, if it finds reasonable assurance that for the first 10,000 years following the closure of the repository, the overall system performance standard will be met based on a probabilistic evaluation, as appropriate, of compliance with the overall system performance standard in paragraph (1).

“(3) Factors.—For purposes of establishing the overall system performance standard in paragraph (1) and making the finding in paragraph (2)—

“(A) the Administrator and the Commission shall not consider climate regimes that are substantially different from those that have occurred during the previous 100,000 years at the Yucca Mountain site;

“(B) the Administrator and the Commission shall not consider catastrophic events where the health consequences of individual events themselves to the critical group can be reasonably assumed to exceed the health consequences due to impact of the events on repository performance; and

“(C) the Administrator and the Commission shall not base the standard in paragraph (1) or the finding in paragraph (2) on scenarios involving human intrusion into the repository following repository closure.

“(4) Congressional review.—

“(A) Any standard promulgated by the Administrator under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note) shall be deemed a major rule within the meaning of section 804(2) of title 5, United States Code, and shall be subject to the requirements and procedures pertaining to a major rule in chapter 8 of such title.

“(B) The effective date of the construction authorization for the repository shall be 90 days after the issuance of such authorization by the Commission, unless Congress is standing in adjournment for a period of more than one week on the date of issuance, in which case the effective date shall be 90 days after the date on which Congress is expected to reconvene after such adjournment.

“(5) Report to congress.—At the time that the Commission issues a construction authorization for the repository, the Commission shall submit a report to Congress—

“(A) analyzing the overall system performance of the repository through the use of probabilistic evaluations that use best estimate assumptions, data, and methods for the period commencing after the first 10,000 years after repository closure and including the time after repository closure of maximum risk to the critical group of premature death from cancer due to repository releases;

“(B) analyzing the consequences of a single instance of human intrusion into the repository, during the first 1,000 years after repository closure, on the ability of the repository to perform its intended function.

“(g) Additional Actions by the Commission.—The Commission shall take final action on the Secretary's application for construction authorization for the repository no later than 40 months after submission of the application.

“SEC. 207. COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT.

“(a) Preliminary Activities.—Each activity of the Secretary under sections 203, 204, 205(a), 205(c), 205(d), and 206(a) shall be considered a preliminary decision making activity. No such activity shall be considered final agency action for purposes of judicial review. No activity of the Secretary or the President under sections 203, 204, 205, or 206(a) shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of section 102(2) of such Act (42 U.S.C. 4332(2)(E) or (F)).

“(b) Standards and Criteria.—The promulgation of standards or criteria in accordance with the provisions of this title, or under section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note), shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of section 102(2) of such Act (42 U.S.C. 4332(2)(E) or (F)).

“(c) Requirements Relating to Environmental Impact Statements.—

“(1) With respect to the requirements imposed by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)—

“(A) in any final environmental impact statement under section 205 or 206, the Secretary or the Commission, as applicable, shall not be required to consider the need for a repository or an interim storage facility; the time of initial availability of a repository or interim storage facility; the alternatives to geological disposal or centralized interim storage; or alternative sites to the Yucca Mountain site or the interim storage facility site designated under section 204(c)(1); and

“(B) compliance with the procedures and requirements of this title shall be deemed adequate consideration of the need for centralized interim storage or a repository; the time of initial availability of centralized interim storage or the repository or centralized interim storage; and all alternatives to centralized interim storage and permanent isolation of high-level radioactive waste and spent nuclear fuel in an interim storage facility or a repository, respectively.

“(2) The final environmental impact statement for the repository prepared by the Secretary and submitted with the license application for a repository under section 206(c) shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization and license for such repository. To the extent such statement is adopted by the Commission, such adoption shall be deemed to satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969 and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

“(c) Construction with Other Laws.—Nothing in this Act shall be construed to amend or otherwise detract from the licensing requirements of the Nuclear Regulatory Commission established in title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.).

“(d) Judicial Review.—Judicial review under section 502 of this Act of any environmental impact statement prepared or adopted by the Commission shall be consolidated with the judicial review of the licensing decision to which it relates.

SEC. 208. LAND WITHDRAWAL.

“(a) Withdrawal and Reservation.—

“(1) Withdrawal.—Subject to valid existing rights, the interim storage facility site and the Yucca Mountain site, as described in subsection (b), are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, the material sale laws, and the mining laws.

“(2) Jurisdiction.—Jurisdiction of any land within the interim storage facility site and the Yucca Mountain site managed by the Secretary of the Interior or any other Federal officer is transferred to the Secretary.

“(3) Reservation.—The interim storage facility site and the Yucca Mountain site are reserved for the use of the Secretary for the construction and operation, respectively, of the interim storage facility and the repository and activities associated with the purposes of this title.

“(b) Land Description.—

“(1) Boundaries.—The boundaries depicted on the map entitled ‘Interim Storage Facility Site Withdrawal Map’, dated March 13, 1996, and on file with the Secretary, are established as the boundaries of the Interim Storage Facility site.

“(2) Boundaries.—The boundaries depicted on the map entitled ‘Yucca Mountain Site Withdrawal Map’, dated July 9, 1996, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

“(3) Notice and maps.—Concurrent with the Secretary's designation of an interim storage facility site under section 204(c)(1), the Secretary shall—

“(A) publish in the Federal Register a notice containing a legal description of the interim storage facility site; and

“(B) file copies of the maps described in paragraph (1), and the legal description of the interim storage facility site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

“(4) Notice and maps.—Concurrent with the Secretary's application to the Commission for authority to construct the repository, the Secretary shall—

“(A) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

“(B) file copies of the maps described in paragraph (2), and the legal description of the Yucca Mountain site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

“(5) Construction.—The maps and legal descriptions of the interim storage facility site and the Yucca Mountain site referred to in this subsection shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

"TITLE III—LOCAL RELATIONS

"SEC. 301. FINANCIAL ASSISTANCE.

"(a) GRANTS.—The Secretary is authorized to make grants to any affected Indian tribe or affected unit of local government for purposes of enabling the affected Indian tribe or affected unit of local government—

"(1) to review activities taken with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of the integrated management system on the affected Indian tribe or the affected unit of local government and its residents;

"(2) to develop a request for impact assistance under subsection (c);

"(3) to engage in any monitoring, testing, or evaluation activities with regard to such site;

"(4) to provide information to residents regarding any activities of the Secretary, or the Commission with respect to such site; and

"(5) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken with respect to such site.

"(b) SALARY AND TRAVEL EXPENSES.—Any salary or travel expense that would ordinarily be incurred by any affected Indian tribe or affected unit of local government may not be considered eligible for funding under this section.

"(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

"(1) ASSISTANCE REQUESTS.—The Secretary is authorized to offer to provide financial and technical assistance to any affected Indian tribe or affected unit of local government requesting such assistance. Such assistance shall be designed to mitigate the impact on the affected Indian tribe or affected unit of local government of the development of the integrated management system.

"(2) REPORT.—Any affected Indian tribe or affected unit of local government may request assistance under this section by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from activities of the integrated management system.

"(d) OTHER ASSISTANCE.—

"(1) TAXABLE AMOUNTS.—In addition to financial assistance provided under this subsection, the Secretary is authorized to grant to any affected Indian tribe or affected unit of local government an amount each fiscal year equal to the amount such affected Indian tribe or affected unit of local government, respectively, would receive if authorized to tax integrated management system activities, as such affected Indian tribe or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such affected unit of local government.

"(2) TERMINATION.—Such grants shall continue until such time as all such activities, development, and operations are terminated at such site.

"(3) ASSISTANCE TO INDIAN TRIBES AND UNITS OF LOCAL GOVERNMENT.—

"(A) PERIOD.—Any affected Indian tribe or affected unit of local government may not receive any grant under paragraph (1) after the expiration of the 1-year period following the date on which the Secretary notifies the affected Indian tribe or affected unit of local government of the termination of the operation of the integrated management system.

"(B) ACTIVITIES.—Any affected Indian tribe or affected unit of local government may not receive any further assistance under this section if the integrated management system activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

"SEC. 302. ON-SITE REPRESENTATIVE.

"The Secretary shall offer to the unit of local government within whose jurisdiction a site for an interim storage facility or repository is located under this Act an opportunity to designate a representative to conduct on-site oversight activities at such site. The Secretary is authorized to pay the reasonable expenses of such representative.

"SEC. 303. ACCEPTANCE OF BENEFITS.

"(a) CONSENT.—The acceptance or use of any of the benefits provided under this title by any affected Indian tribe or affected unit of local government shall not be deemed to be an expression of consent, express, or implied, either under the Constitution of the State or any law thereof, to the siting of an interim storage facility or repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

"(b) ARGUMENTS.—Neither the United States nor any other entity may assert any argument based on legal or equitable estoppel, or acquiescence, or waiver, or consensual involvement, in response to any decision by the State to oppose the siting in Nevada of an interim storage facility or repository premised upon or related to the acceptance or use of benefits under this title.

"(c) LIABILITY.—No liability of any nature shall accrue to be asserted against any official of any governmental unit of Nevada premised solely upon the acceptance or use of benefits under this title.

"SEC. 304. RESTRICTIONS ON USE OF FUNDS.

"None of the funding provided under this title may be used—

"(1) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

"(2) for litigation purposes; and

"(3) to support multistate efforts or other coalition-building activities inconsistent with the purposes of this Act.

"SEC. 305. LAND CONVEYANCES.

"(a) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after the effective date of the construction authorization issued by the Commission for the repository under section 206(g), all right, title and interest of the United States in the property described in subsection (b), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Nye, Nevada, unless the county notifies the Secretary of the Interior or the head of such other appropriate agency in writing within 60 days of such date that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Nye under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Nye County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

"(b) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, and on file with the Secretary shall be conveyed under subsection (a) to the County of Nye, Nevada:

Map 1: Proposed Pahrump Industrial Park Site
Map 2: Proposed Lathrop Wells (Gate 510) Industrial Park Site
Map 3: Pahrump Landfill Sites
Map 4: Amargosa Valley Regional Landfill Site
Map 5: Amargosa Valley Municipal Landfill Site
Map 6: Beatty Landfill/Transfer Station Site
Map 7: Round Mountain Landfill Site
Map 8: Tonopah Landfill Site
Map 9: Gabbs Landfill Site.

"(c) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in subsection (b) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

"(d) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Nye, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

"TITLE IV—FUNDING AND ORGANIZATION

"SEC. 401. PROGRAM FUNDING.

"(a) CONTRACTS.—

"(1) AUTHORITY OF THE SECRETARY.—In the performance of the Secretary's functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such waste or spent fuel. Such contracts shall provide for payment of fees to the Secretary in the amounts set under paragraphs (2), (3), and (4), sufficient to offset expenditures described in subsection (c)(2). Subsequent to the enactment of the Nuclear Waste Policy Act of 1997, the contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act: *Provided*, That the Secretary shall consent to an amendment to such contracts as necessary to implement the provisions of this Act.

"(2) NUCLEAR WASTE OFFSETTING COLLECTION.—

"(A) For electricity generated by civilian nuclear power reactors and sold during an offsetting collection period, the Secretary shall collect an aggregate amount of fees under this paragraph equal to the annual level of appropriations for expenditures on those activities consistent with subsection (d) for each fiscal year in the offsetting collection period, minus the percentage of such appropriation required to be funded by the Federal Government pursuant to section 403.

"(B) The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold.

"(C) For purposes of this paragraph, the term 'offsetting collection period' means—

"(i) the period beginning on October 1, 1998 and ending on September 30, 2001; and

"(ii) the period on and after October 1, 2006.

"(3) NUCLEAR WASTE MANDATORY FEE.—

"(A) Except as provided in subparagraph (C) of this paragraph, for electricity generated by civilian nuclear power reactors and sold on or after January 7, 1983, the fee paid to the Secretary under this paragraph shall be equal to—

"(i) 1.0 mill per kilowatt-hour generated and sold, minus

"(ii) the amount per kilowatt-hour generated and sold paid under paragraph (2): *Provided*, That if the amount under clause (ii) is greater than the amount under clause (i) the fee under this paragraph shall be equal to zero.

"(B) No later than 30 days after the beginning of each fiscal year, the Secretary shall determine whether insufficient or excess revenues are being collected under this subsection, in order to recover the costs incurred by the Federal Government that are specified in subsection (c)(2). In making this determination the Secretary shall—

"(i) rely on the 'Analysis of the Total System Life Cycle Cost of the Civilian Radioactive Waste Management Program', dated September 1995, or on a total system lifecycle cost analysis published by the Secretary (after notice and opportunity for public comment) after the date of enactment of the Nuclear Waste Policy Act of 1997, in making any estimate of the costs to be incurred by the Government under subsection (c)(2);

"(ii) rely on projections from the Energy Information Administration, consistent with the projections contained in the reference case in the most recent 'Annual Energy Outlook' published by such Administration, in making any estimate of future nuclear power generation; and

"(iii) take into account projected balances in, and expenditures from, the Nuclear Waste Fund.

"(C) If the Secretary determines under subparagraph (B) that either insufficient or excess revenues are being collected, the Secretary shall, at the time of the determination, transmit to Congress a proposal to adjust the amount in subparagraph (A)(i) to ensure full cost recovery. The amount in subparagraph (A)(i) shall be adjusted, by operation of law, immediately upon enactment of a joint resolution of approval under paragraph (5) of this subsection.

"(D) The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

"(4) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1997 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997 pursuant to the contracts, including any interest due pursuant to the contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2001. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fees assessed under this subsection, on or before the date on which such fees are due, and the license shall remain suspended until the full amount of the fees assessed under this subsection is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spent nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

"(5) EXPENDITURES IF SHORTFALL.—If, during any fiscal year on or after October 1, 1997, the aggregate amount of fees assessed under this subsection is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus the percentage of such appropriations required to be funded by the Federal Government pursuant to section 403, the Secretary may make expenditures from the Nuclear Waste Fund up to the level equal to the difference between the amount appropriated and the amount of fees assessed under this subsection.

"(6) EXPEDITED PROCEDURES FOR APPROVAL OF CHANGES TO THE NUCLEAR WASTE MANDATORY FEE.—

"(A) At any time after the Secretary transmits a proposal for a fee adjustment under paragraph (3)(C) of this subsection, a joint resolution may be introduced in either House of Congress, the matter after the resolving clause of which is as follows: 'That Congress approves the adjustment to the basis for the nuclear waste mandatory fee, submitted by the Secretary on _______'. (The blank space being appropriately filled in with a date.)

"(B) A joint resolution described in subparagraph (A) shall be referred to the committees in each House of Congress with jurisdiction.

"(C) In the Senate, if the committee to which is referred a joint resolution described in subparagraph (A) has not reported such joint resolution (or an identical joint resolution) at the end of 20 calendar days after the date on which it is introduced, such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

"(D) In the Senate, the procedure under section 802(d) of title 5, United States Code, shall apply to a joint resolution described under subparagraph (A).

"(7) POINTS OF ORDER.—Notwithstanding any other provision of this Act, no points of order, which require 60 votes in order to adopt a motion to waive such point of order, shall be considered to be waived during the consideration of a joint resolution under section 401 of this Act.

"(8) LEVEL OF ANNUAL FEE.—Notwithstanding any other provision of this Act, except as provided in paragraph (3)(C), the level of annual fee for each civilian nuclear power reactor shall not exceed 1.0 mill per kilowatt-hour of electricity generated and sold.

"(b) ADVANCE CONTRACTING REQUIREMENT.—

"(1) IN GENERAL.—

"(A) LICENSE ISSUANCE AND RENEWAL.—The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

"(i) such person has entered into a contract under subsection (a) with the Secretary; or

"(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

"(B) PRECONDITION.—The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of spent nuclear fuel and high-level radioactive waste that may result from the use of such license.

"(2) DISPOSAL IN REPOSITORY.—Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in the repository unless the generator or owner of such spent fuel or waste has entered into a contract under subsection (a) with the Secretary by not later than the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste.

"(3) ASSIGNMENT.—The rights and duties of contract holders are assignable.

"(c) NUCLEAR WASTE FUND.—

"(1) IN GENERAL.—The Nuclear Waste Fund established in the Treasury of the United States under section 302(c) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act and shall consist of—

"(A) the existing balance in the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1997; and

"(B) all receipts, proceeds, and recoveries realized under subsections (a)(3), (a)(4), and (c)(3) subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997, which shall be deposited in the Nuclear Waste Fund immediately upon their realization.

"(2) PURPOSES OF THE NUCLEAR WASTE FUND AND THE NUCLEAR WASTE OFFSETTING COLLECTION.—Subject to subsections (d) and (e) of this section, the Secretary may make expenditures from the Nuclear Waste Fund or the Nuclear Waste Offsetting Collection in section 401(a)(2) only for—

"(A) identification, development, design, licensing, construction, acquisition, operation, modification, replacement, decommissioning, and post-decommissioning maintenance and monitoring of the integrated management system or parts thereof;

"(B) the administrative cost of the integrated management system, including the Office of Civilian Radioactive Waste Management under section 402, the Nuclear Waste Technical Review Board under section 602, and those offices under the Commission involved in regulation of the integrated management system or parts thereof; and

"(C) the provision of assistance and benefits to States, units of general local government, nonprofit organizations, joint labor-management organizations, and Indian tribes under title II of this Act.

"(3) ADMINISTRATION OF NUCLEAR WASTE FUND.—

"(A) IN GENERAL.—The Secretary of the Treasury shall hold the Nuclear Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Nuclear Waste Fund during the preceding fiscal year.

"(B) AMOUNTS IN EXCESS OF CURRENT NEEDS.—If the Secretary determines that the Nuclear Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the

Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

"(i) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Nuclear Waste Fund;

"(ii) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings; and

"(iii) interest earned on these obligations shall be credited to the Nuclear Waste Fund.

"(C) EXEMPTION.—Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Nuclear Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

"(d) BUDGET.—The Secretary shall submit the budget for implementation of the Secretary's responsibilities under this Act to the Office of Management and Budget annually along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget shall consist of the estimates made by the Secretary of expenditures under this Act and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the budget of the United States Government.

"(e) APPROPRIATIONS.—The Secretary may make expenditures from the Nuclear Waste Fund and the Nuclear Waste Offsetting Collection, subject to appropriations, which shall remain available until expended.

"SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

"(a) ESTABLISHMENT.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

"SEC. 403. FEDERAL CONTRIBUTION.

"(a) ALLOCATION.—No later than one year from the date of enactment of the Nuclear Waste Policy Act of 1997, acting pursuant to section 553 of title 5, United States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors shall include—

"(1) an appropriate portion of the costs associated with research and development activities with respect to development of an interim storage facility and repository; and

"(2) as appropriate, interest on the principal amounts due calculated by reference to the appropriate Treasury bill rate as if the payments were made at a point in time consistent with the payment dates for spent nuclear fuel and high-level radioactive waste under the contracts.

"(b) APPROPRIATION REQUEST.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, as established under subsection (a).

"(c) REPORT.—In conjunction with the annual report submitted to Congress under section 702, the Secretary shall advise the Congress annually of the amount of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, requiring management in the integrated management system.

"(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, as established under subsection (a).

"TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

"SEC. 501. COMPLIANCE WITH OTHER LAWS.

"(a) CONFLICTING REQUIREMENTS.—Except as provided in subsection (b) of this section, a requirement of a State, political subdivision of a State, or Indian tribe is preempted if—

"(1) complying with a requirement of the State, political subdivision, or tribe and a requirement of this Act or a regulation prescribed under this Act is not possible; or

"(2) the requirement of the State, political subdivision, or tribe, as applied or enforced, is an obstacle to accomplishing and carrying out this Act or a regulation prescribed under this Act.

"(b) SUBJECTS EXPRESSLY PREEMPTED.—Except as otherwise provided in this Act, a law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe about any of the following subjects, that is not substantively the same as a provision of this Act or a regulation prescribed under this Act, is preempted:

"(1) The designation, description, and classification of spent fuel or high-level radioactive waste.

"(2) The packing, repacking, handling, labeling, marking, and placarding of spent nuclear fuel or high-level radioactive waste.

"(3) The siting, design, or licensing of—

"(A) an interim storage facility;

"(B) a repository;

"(C) the capability to conduct intermodal transfer of spent nuclear fuel under section 201.

"(4) The withdrawal or transfer of the interim storage facility site, the intermodal transfer site, or the repository site to the Secretary of Energy.

"(5) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of packaging or a container represented, marked, certified, or sold as qualified for use in transporting or storing spent nuclear fuel or high-level radioactive waste.

"SEC. 502. JUDICIAL REVIEW OF AGENCY ACTIONS.

"(a) JURISDICTION OF THE UNITED STATES COURTS OF APPEALS.—

"(1) ORIGINAL AND EXCLUSIVE JURISDICTION.—Except for review in the Supreme Court of the United States, and except as otherwise provided in this Act, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

"(A) for review of any final decision or action of the Secretary, the President, or the Commission under this Act;

"(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this Act;

"(C) challenging the constitutionality of any decision made, or action taken, under any provision of this Act; or

"(D) for review of any environmental impact statement prepared or environmental assessment pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act or alleging a failure to prepare such statement with respect to any such action.

"(2) VENUE.—The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

"(b) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought no later than 180 days after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action no later than 180 days after the date such party acquired actual or constructive knowledge or such decision, action, or failure to act.

"(c) APPLICATION OF OTHER LAW.—The provisions of this section relating to any matter shall apply in lieu of the provisions of any other Act relating to the same matter.

"SEC. 503. LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS.

"(a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after January 7, 1983, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

"(b) Adjudicatory Hearing.—

"(1) Designation.—At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

"(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

"(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

"(2) Determination.—In making a determination under this subsection, the Commission—

"(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

"(B) shall not consider—

"(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor to which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

"(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless—

"(I) such issue results from any revision of siting or design criteria by the Commission following such decision; and

"(II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

"(3) Application.—The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

"(4) Construction.—The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear power plant by the Commission.

"(c) Judicial Review.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

"(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

"(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

"SEC. 504. SITING A SECOND REPOSITORY.

"(a) Congressional Action Required.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

"(b) Report.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

"SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.

"(a) Financial Arrangements.—

"(1) Standards and instructions.—The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on January 7, 1983, prior to termination of such licenses.

"(2) Bonding, surety, or other financial arrangements.—If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

"(b) Title and Custody.—

"(1) Authority of secretary.—The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

"(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

"(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

"(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

"(2) Protection.—If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

"(c) Special Sites.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

"SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.

"The Commission is authorized and directed to promulgate regulations, or other appropriate regulatory guidance, for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians, and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear power plant operator licenses and for operator requalification programs; requirements governing Commission administration of requalification examinations; requirements for operating tests at civilian nuclear power plant simulators, and instructional requirements for civilian nuclear power plant licensee personnel training programs.

"SEC. 507. EMPLACEMENT SCHEDULE.

"(a) The emplacement schedule shall be implemented in accordance with the following:

"(1) Emplacement priority ranking shall be determined by the Department's annual 'Acceptance Priority Ranking' report.

"(2) Subject to the conditions contained in the license for the interim storage facility, the Secretary's spent fuel and high-level radioactive waste emplacement rate shall be no less than the following: 1,200 MTU in fiscal year 2003 and 1,200 MTU in fiscal year 2004; 2,000 MTU in fiscal year 2005 and 2000 MTU in fiscal year 2006; 2,700 MTU in fiscal year 2007; and 3,000 MTU annually thereafter.

"(3) Subject to the conditions contained in the license for the interim storage facility, of the amounts provided for in paragraph (2) for each year, not less than one-sixth shall be—

"(A) spent nuclear fuel or high-level radioactive waste of domestic origin from civilian nuclear power reactors that have permanently ceased operation on or before the date of enactment of the Nuclear Waste Policy Act of 1997.

"(B) spent nuclear fuel from foreign research reactors, as necessary to promote nonproliferation activities; and

"(C) spent nuclear fuel, including spent nuclear fuel from naval reactors, and high-level radioactive waste from research or atomic energy defense activities: *Provided, however*, That the Secretary shall accept not less than five percent of the total quantity of fuel and high-level radioactive waste accepted in any year from the categories of radioactive materials described in subparagraphs (B) and (C).

"(b) If the Secretary is unable to begin emplacement by June 30, 2003 at the rates specified in subsection (a), or if the cumulative amount emplaced in any year thereafter is less than that which would have been accepted under the emplacement rate specified in subsection (a), the Secretary shall, as a mitigation measure, adjust the emplacement schedule upward such that within 5 years of the start of emplacement by the Secretary—

"(1) the total quantity accepted by the Secretary is consistent with the total quantity that the Secretary would have accepted if the Secretary had began emplacement in fiscal year 2003, and

"(2) thereafter the emplacement rate is equivalent to the rate that would be in place pursuant to subsection (a) above if the Secretary had commenced emplacement in fiscal year 2003.

"SEC. 508. TRANSFER OF TITLE.

"(a) Acceptance by the Secretary of any spent nuclear fuel or high-level radioactive waste shall constitute a transfer of title to the Secretary.

"(b) No later than 6 months following the date of enactment of the Nuclear Waste Policy Act of 1997, the Secretary is authorized to accept all spent nuclear fuel withdrawn from Dairyland Power Cooperative's La Crosse Reactor and, upon acceptance, shall provide Dairyland Power Cooperative with evidence of the title transfer. Immediately upon the Secretary's acceptance of such spent nuclear fuel, the Secretary shall assume all responsibility and liability for the interim storage and permanent disposal thereof and is authorized to compensate Dairyland Power Cooperative for any costs related to operating and maintaining facilities necessary for such storage from the date of acceptance until the Secretary removes the spent nuclear fuel from the La Crosse Reactor site.

"SEC. 509. DECOMMISSIONING PILOT PROGRAM.

"(a) AUTHORIZATION.—The Secretary is authorized to establish a Decommissioning Pilot Program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

"(b) FUNDING.—No funds from the Nuclear Waste Fund may be used for the Decommissioning Pilot Program.

"SEC. 510. WATER RIGHTS.

"(a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising under this Act.

"(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER NEVADA LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements of the State of Nevada. Nothing in this Act shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands.

"(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER NEVADA LAWS.—Nothing in this Act shall be construed to limit the exercise of water rights as provided under Nevada State laws.

"SEC. 511. DRY STORAGE TECHNOLOGY.

"The Commission is authorized to establish, by rule, procedures for the licensing of any technology for the dry storage of spent nuclear fuel by rule and without, to the maximum extent possible, the need for site-specific approvals by the Commission. Nothing in this Act shall affect any such procedures, or any licenses or approvals issued pursuant to such procedures in effect on the date of enactment of the Nuclear Waste Policy Act of 1997.

"TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

"SEC. 601. DEFINITIONS.

"For purposes of this title—

"(1) CHAIRMAN.—The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

"(2) BOARD.—The term 'Board' means the Nuclear Waste Technical Review Board continued under section 602.

"SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

"(a) CONTINUATION OF THE NUCLEAR WASTE TECHNICAL REVIEW BOARD.—The Nuclear Waste Technical Review Board, established under section 502(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of the Nuclear Waste Policy Act of 1997, shall continue in effect subsequent to the date of enactment of the Nuclear Waste Policy Act of 1997.

"(b) MEMBERS.—

"(1) NUMBER.—The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after December 22, 1987, from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

"(2) CHAIR.—The President shall designate a member of the Board to serve as Chairman.

"(3) NATIONAL ACADEMY OF SCIENCES.—

"(A) NOMINATIONS.—The National Academy of Sciences shall, not later than 90 days after December 22, 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

"(B) VACANCIES.—The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

"(C) NOMINEES.—

"(i) Each person nominated for appointment to the Board shall be—

"(I) eminent in a field of science or engineering, including environmental sciences; and

"(II) selected solely on the basis of established records of distinguished service.

"(ii) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

"(iii) No person shall be nominated for appointment to the Board who is an employee of—

"(I) the Department of Energy;

"(II) a national laboratory under contract with the Department of Energy; or

"(III) an entity performing spent nuclear fuel or high-level radioactive waste activities under contract with the Department of Energy.

"(4) VACANCIES.—Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

"(5) TERMS.—Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after December 22, 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment, except that a member of the Board whose term has expired may continue to serve as a member of the Board until such member's successor has taken office.

"SEC. 603. FUNCTIONS.

"The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after December 22, 1987, including—

"(1) site characterization activities; and

"(2) activities relating to the packaging or transportation of high-level radioactive waste or spent nuclear fuel.

"SEC. 604. INVESTIGATORY POWERS.

"(a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

"(b) PRODUCTION OF DOCUMENTS.—

"(1) RESPONSE TO INQUIRIES.—Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information as may be necessary to respond to any inquiry of the Board under this title.

"(2) AVAILABILITY OF DRAFTS.—Subject to existing law, information obtainable under paragraph (1) shall not be limited to final work products of the Secretary, but shall include drafts of such products and documentation of work in progress.

"SEC. 605. COMPENSATION OF MEMBERS.

"(a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

"(b) TRAVEL EXPENSES.—Each member of the Board may receive travel expenses, including per diem in lieu of subsistence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"SEC. 606. STAFF.

"(a) CLERICAL STAFF.—

"(1) AUTHORITY OF CHAIRMAN.—Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

"(2) PROVISIONS OF TITLE 5.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 3 of such title relating to classification and General Schedule pay rates.

"(b) PROFESSIONAL STAFF.—

"(1) AUTHORITY OF CHAIRMAN.—Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

"(2) NUMBER.—Not more than 10 professional staff members may be appointed under this subsection.

"(3) TITLE 5.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

"SEC. 607. SUPPORT SERVICES.

"(a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

"(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General and the Librarian of Congress shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

"(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

"(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

"SEC. 608. REPORT.

"The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations.

"SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

"Nothwithstanding section 401(d), and subject to section 401(e), there are authorized to be appropriated for expenditures from amounts in the Nuclear Waste Fund under section 401(c) such sums as may be necessary to carry out the provisions of this title.

"SEC. 610. TERMINATION OF THE BOARD.

"The Board shall cease to exist not later than one year after the date on which the Secretary begins disposal of spent nuclear fuel or high-level radioactive waste in the repository.

"TITLE VII—MANAGEMENT REFORM

"SEC. 701. MANAGEMENT REFORM INITIATIVES.

"(a) IN GENERAL.—The Secretary is directed to take actions as necessary to improve the management of the civilian radioactive waste management program to ensure that the program is operated, to the maximum extent practicable, in like manner as a private business.

"(b) AUDITS.—

"(1) STANDARD.—The Office of Civilian Radioactive Waste Management, its contractors, and subcontractors at all tiers, shall conduct, or have conducted, audits and examinations of their operations in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects consistent with its role in the program.

"(2) TIME.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporations engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the enactment of the Nuclear Waste Policy Act of 1997.

"(3) TIME.—No audit contemplated by this subsection shall take longer than 30 days to conduct. An audit report shall be issued in final form no longer than 60 days after the audit is commenced.

"(4) PUBLIC DOCUMENTS.—All audit reports shall be public documents and available to any individual upon request.

"(c) VALUE ENGINEERING.—The Secretary shall create a value engineering function within the Office of Civilian Radioactive Waste Management that reports directly to the Director, which shall carry out value engineering functions in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects.

"(d) SITE CHARACTERIZATION.—The Secretary shall employ, on an on-going basis, integrated performance modeling to identify appropriate parameters for the remaining site characterization effort and to eliminate studies of parameters that are shown not to affect long-term repository performance.

"SEC. 702. REPORTING.

"(a) INITIAL REPORT.—Within 180 days of enactment of this section, the Secretary shall report to Congress on its planned actions for implementing the provisions of this Act, including the development of the Integrated Waste Management System. Such report shall include—

"(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession of, and delivery of spent nuclear fuel and high-level radioactive waste in accordance with the emplacement schedule under section 507;

"(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligations under this Act and the contracts;

"(3) a detailed description of the Secretary's contingency plans in the event that the Secretary is unable to meet the planned schedule and timeline; and

"(4) an analysis by the Secretary of its funding needs for the five fiscal years beginning after the fiscal year in which the date of enactment of the Nuclear Waste Policy Act of 1997 occurs.

"(b) ANNUAL REPORTS.—On each anniversary of the submittal of the report required by subsection (a), the Secretary shall make annual reports to the Congress for the purpose of updating the information contained in such report. The annual reports shall be brief and shall notify the Congress of—

"(1) any modifications to the Secretary's schedule and timeline for meeting its obligations under this Act;

"(2) the reasons for such modifications, and the status of the implementation of any of the Secretary's contingency plans; and

"(3) the Secretary's analysis of its funding needs for the ensuing 5 fiscal years.

"TITLE VIII—MISCELLANEOUS

"SEC. 801. SENSE OF THE SENATE.

"It is the sense of the Senate that the Secretary and the petitioners in Northern States Power (Minnesota), v. Department of Energy, pending before the United States Court of Appeals for the District of Columbia Circuit (No. 97-1064), should enter into a settlement agreement to resolve the issues pending before the court in that case prior to the date of enactment of the Nuclear Waste Policy Act of 1997.

"SEC. 802. EFFECTIVE DATE.

"Except as otherwise provided in this Act, this Act shall become effective one day after enactment.".

SEC. 2. SENSE OF THE SENATE REGARDING ASSISTANCE FOR ELDERLY AND DISABLED LEGAL IMMIGRANTS.

It is the sense of the Senate that elderly and disabled legal immigrants who are unable to work should receive assistance essential to their well-being, and that the President, Congress, the States, and faith-based and other organizations should continue to work together toward that end.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I take this opportunity to thank those who have worked so hard on this piece of legislation, Karen and Gary and several others, as well as my colleagues on the other side, professional staff, and the two Senators from Nevada. It has been a good debate, and I think we send a message to the administration relative to the reality of whether we are going to leave the waste on 80 sites in 41 States or do something about it. So we will look forward to the House action.

Again, I thank all my colleagues who participated.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I extend my appreciation to the manager of the bill, the Senator from Alaska, who has been a gentleman during these deliberations these past 9 days. It is a hotly contested issue. We hope there is the ability to use reason in this issue, to go ahead and site the permanent repository wherever it should be and use good science to judge. But I do extend my appreciation to Senator MURKOWSKI and his staff for the courtesies they have extended to the Senators from Nevada and look forward to working with him in the future on matters of importance.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I extend my thanks to the chairman of the Energy and Natural Resources Committee for the tremendous work he has done, very successful work on S. 104. We have picked up votes. Today we had the votes in the Senate to override a Presidential veto, and we saw that action going on right here in the well.

I appreciate the work my colleagues from Nevada have done. They have certainly maintained my respect for them and I hope likewise. But clearly this Nation needs a permanent repository, and S. 104 moves us in that direction. We will now move to the House. I think the value is that the administration now needs to clearly recognize that the Congress of the United States in a strong bipartisan way wants to resolve this issue and tell the American people it will honor its commitments and its contracts to resolve this major environmental issue.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the Chair.

Mr. President, I say to the chairman, the floor manager, we have had a spirited and prolonged debate. That is in the best tradition of the Senate. I thank him for his personal courtesies in terms of procedure in the Chamber so that we were given an opportunity to fully express and develop our views.

Let me say to my colleagues who voted against this bill, I know that for a number of them it was particularly difficult. That vote was in the interest of good science. I appreciate their courage. I appreciate their support. Senator ROCKEFELLER could not be here this morning because he has another matter. We appreciate his support, and he reaffirmed his support to us in a message earlier today. Several of my colleagues indicated they would be with us to support us on the veto override if it reaches that point. So I think what we have done is to allow science and logic to proceed in the development of what is a responsible nuclear waste policy rather than to respond to the emotions of the occasion. I appreciate very much my colleagues who stayed with us on this important issue and the floor leader and the chairman for his courtesies in permitting us to proceed in an orderly fashion.

I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. I do not want to prolong this any further, but I must also join in congratulating the chairman of the Energy and Natural Resources Committee, the Senator from Alaska. He has done a great job. He spent a lot of time on this bill, both this year and last year. He has been patient. He has done a magnificent job.

I also commend the Senator from Idaho [Mr. CRAIG] for his work, and also again express my appreciation to the Senators from Nevada. I know it is a very difficult issue for them. They have been vigorous in their position on behalf of the people in their State to oppose this legislation but have also been gentlemen about it, and I extend my appreciation to them.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I also rise to commend my colleagues on both sides of the aisle who have participated in the debate that has just now been completed. This is really the way it ought to be. This was a very difficult, emotional, contentious issue, an issue that involved Republicans and Democrats on both sides of the aisle on either side of the issue. It is appropriate that at times like this we commend both sides, both leaders for their civility and for the way in which this issue was presented to this body. It was a good debate, a debate in my view that brought out the very complex nature of this legislation.

So on behalf of all of my colleagues on this side of the aisle, I commend Senator MURKOWSKI and the senior Senator from Idaho [Mr. CRAIG], and especially our colleagues from Nevada, Mr. REID and Mr. BRYAN. They all represented themselves well. They did the debate proud. I think it portends well for future debates on just as complex and controversial issues. I commend our Senators and appreciate very much the manner with which they conducted themselves in the last week.

I yield the floor.

REGARDING FLOOR PRIVILEGES FOR DISABLED PERSONS REQUIRING SUPPORTING SERVICES

Mr. LOTT. Mr. President, I have been working this morning with all Senators, including the distinguished Democratic leader, to resolve a matter that emerged yesterday with regard to permitting access to the Senate floor of guide dogs and other equipment needed by disabled individuals. The resolution I am about to offer will allow the Sergeant at Arms to work immediately with staffers who have the need for guide dogs to be able to access the floor on a case-by-case basis. The resolution also calls for the Committee on Rules and Administration to consider a formal change in the Senate rules to address the situation. A permanent resolution is expected to be brought out of the committee before the full Senate so that we can have a formal rule on how matters of this nature will be handled.

Again, I thank all Senators involved for their thoughtfulness in addressing the matter immediately. I think it is the right thing to do, and I am pleased that with today's action, assuming we can get this agreed to, the Senate will address an inequity that has been brought before us and we will remove roadblocks in the way of individuals helping us to serve the American people in the Senate.

The chairman of the Rules Committee has been involved in this discussion, the ranking member. I believe we have touched bases on both sides, and I believe this is an appropriate resolution to an immediate problem but also one that can be addressed by the appropriate committee so that the rules will be a little clearer as to how this type of situation will be addressed in the future.

Before I ask unanimous consent, I wonder; I see the Democratic leader, if he wanted to comment. Would the Senator like me to yield for comment before we get unanimous consent?

Mr. DASCHLE. Mr. President, I commend the majority leader for his expeditious handling of this matter. This has only recently been presented as a problem to the body, and I think the manner in which the majority leader is handling it represents sensitivity to the issue and a recognition for the need for some practical application of our current rules. And so I am very supportive of the effort that he and his colleagues are making in this regard, and I hope that we can see this matter resolved successfully today.

Mr. LOTT. Mr. President, I ask unanimous consent then that an individual with a disability who has or is granted the privilege of the Senate floor may bring those supporting services, including service dogs, wheelchairs, and interpreters, on the Senate floor, which the Senate Sergeant at Arms determines are necessary and appropriate to assist the disabled individual in discharging the official duties of his or her position until the Committee on Rules and Administration has the opportunity to properly consider the matter.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LOTT. Mr. President, I now send a resolution the desk dealing with the same subject and ask that it be appropriately referred.

The PRESIDING OFFICER. The resolution will be received and appropriately referred.

Mr. LOTT. Mr. President, I yield the floor.

MORNING BUSINESS

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, it is my understanding there is to be a 1-hour morning business segment under the control of the minority leader; is that correct?

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m. with Senators permitted to speak for 5 minutes each.

Mr. DORGAN. Mr. President, I ask unanimous consent we begin the 1 hour reserved for the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I yield as much time as he may need to the Senator from Illinois, Mr. DURBIN.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DURBIN. I thank the Senator.

BUDGET RESOLUTION DEADLINE

Mr. DURBIN. April 15, we all know that date; 40 percent of the American taxpayers file their returns within the last 48 hours as the closing day comes for filing personal income tax returns. This year, for about the third year in succession, I did my own tax return. I do not know how many of my colleagues in the Senate and House do that. But I think it is a good educational experience. Perhaps we should pass a law that every Member of Congress should complete their own income tax returns. It might urge us on to reform the system and make it simpler so that families across America will have a little easier time of it in paying their taxes and meeting their responsibility to this Nation.

When it comes to responsibility, there is also a responsibility in this Senate Chamber. April 15 is another deadline. April 15 is a deadline for passing a budget resolution. By this time we are required by law to have passed a budget resolution and started the appropriations process.

I have been on Capitol Hill, I guess this is my 15th year, and I do not think I have ever seen happen what has happened this year because now April 15 will come and go without even so much as a real debate on a budget resolution. The President sent his version to Capitol Hill. I disagreed with some parts of it. But everyone had to concede that his approach to balancing the budget would in fact balance the budget. He met his obligation. He started the process. Of course, when it comes to Congress, that is not under the President's control, nor should it be. That is the control of the Republican leadership in the House and the Senate. The ball is on their side of the net. It is their time to put together a budget resolution and to spell out for the American people in very specific terms how can we reach a balanced budget.

Just a few weeks ago we spent 2 weeks, maybe 3, perhaps 4 weeks, in the Chamber here debating an amendment to the Constitution of the United States, an amendment which said Congress has no choice; it must balance the budget. I voted against it.

I did not think we needed to put into our Constitution an obligation which we all know we must accept. So many people on the other side, my friends on the Republican side, and a few Democrats stood up and said, "No, no, no, we need to have a constitutional imperative to force us to act." Little did I know that just a few weeks later they would prove themselves true. The Republican leadership has been unable or unwilling to come forward with their offering about balancing the budget.

The other night at the radio/TV correspondents' dinner the President had an interesting observation about how slow the pace is on Capitol Hill and, frankly, how boring it becomes as we go in, week in and week out, in the House and Senate, without addressing the real issues. The President said that the pace on Capitol Hill is so slow that C-SPAN, the television network which covers our hearings, has decided to play reruns from the previous Congress so people will keep up their interest on Capitol Hill.

It is an amusing observation. I do not believe it is necessarily true, but it does reflect on the fact that for some reason we cannot get started up here this year. For some reason, Republican leadership has been unable to come forward with their offering for a budget resolution. Why would that be? Why would a party that is so dedicated to a constitutional amendment to force a balanced budget have such a difficult time meeting its statutory obligation to produce that budget resolution on the floor?

The answer is fairly obvious: Because they have set up certain conditions for a balanced budget which they themselves cannot meet. They have suggested we should include tax cuts in any kind of balanced budget scenario. Coming out for tax cuts on April 15 may be the most popular thing a politician can do. But let's be very honest about it, as Senator Dole learned in the last campaign, just promising a tax cut is not enough. The American people have to understand it is attainable, it is reasonable, it will not in fact blow up our efforts to balance the budget. I think that is the problem that the majority, the Republicans, face here—how to meet the obligation of satisfying all of their rhetoric about tax cuts and still meet their obligation to balance the budget. Unfortunately, it does not work.

They found 2 years ago when they were pushing a tax cut package even smaller than this one, they had reached such a crisis stage that we shut down the Government. We shut down the Government for the longest period of time in our Nation's history. That worries me, because I am afraid we may be on that same road again.

I have the Durbin plan for dealing with Government shutdowns. There are two parts to it. The first part is a piece of legislation which says, "No dessert until you clean your plate." Remember when Mom and Dad used to say that? I think we ought to say that when it comes to the business of Congress. Here is what I am driving at. I do not believe that we should consider the appropriation to keep Congress running on Capitol Hill until every other appropriation bill is passed. So, if there is going to be a Government shutdown of any agency, it will necessarily also shut down Congress. I think that will focus our attention on the fact that we cannot abide by a Government shutdown or impose on innocent Federal employees that sort of scenario.

Second, the last time there was a shutdown under the leadership of the 104th Congress, three of us, I believe, in the House of Representatives said as long as the Government is shutting down, we are not going to take a paycheck, and we did not. If every other Member of the House and Senate would hew to the same standard, I will guarantee you will never see another Government shutdown.

But, now, where are we? Where are the Republicans headed? What is their plan for balancing the budget? Will they stick with this massive tax cut package they cannot pay for? Will they turn around and try to cut Medicare again, as deeply as they did last time? Will they make cuts in educational programs like college student loans? Will they cut environmental protection efforts, like toxic waste cleanup? I hope they are not on that course. But I do hope they are on the course of meeting their statutory obligation to produce a budget resolution, as they were required to under the law, today, April 15, tax day.

Mrs. BOXER. Will the Senator yield?

Mr. DURBIN. I am happy to yield to my colleague from California.

Mrs. BOXER. I will be brief. But I just wanted to thank the Senator from Illinois for, in his very direct way, putting this issue before the American people. The Senator and I served on the Budget Committee in the House of Representatives for many years. And I serve here on the Budget Committee. I have never seen a situation like this before. The Senator talked about the no budget no pay legislation. While he was fighting for that in the House, I was here in the Senate fighting for that as well; and some of us over here gave our pay to charity during that period.

I know that my colleagues on the other side of the aisle do not want to have another Government shutdown. As a matter of fact, some of them are going to introduce legislation to pass a permanent continuing resolution and avoid such a shutdown. Frankly, I am glad they are thinking along the lines of avoiding a shutdown. But that really begs the question of the day. That is the cowardly way out. If we cannot get our act together, we admit it now, we are introducing legislation to just keep the Government going at the old rate even though, by the way, things are changing and we need to react to what the people want. But they will continue it going to avoid the heat of a Government shutdown.

The fact is, where is the budget? Tonight, late at night, there will be a rush at mailboxes all across this country of people mailing in their tax returns. They have to get an extension if they do not meet the deadline. Where is this extension? I have yet to see a budget.

In my closing remarks to the Senator from Illinois, I say to him, does he remember anything quite like this? I know some deadlines have been missed in the past, but in my memory, that does go back a ways. At least we had a budget out there. We may not have dotted all the i's, crossed all the t's, and come to a conclusion by this time, but we always had that budget document out there.

Where we stand today is the President has a budget document out there. It balances by the year 2002, according to the Congressional Budget Office. The Republicans do not like that budget. Fair enough. That is why they are

Republicans. They have different values. They do not want to see the increases in education. They do not want to see the increases for the environment. They want to give tax breaks to the very wealthy while the President is targeting those tax breaks to middle-class people who need help sending their kids to college, and so on. So that is fair game.

But now I want to see their budget. That is what they have to do. That is their responsibility. They keep saying they want a balanced budget amendment, as my friend said. That did not do anything to balance the budget. It was just a lot of rhetoric, and some of us said that at the time. Where is your plan? The fact is, without one Republican vote we have seen this deficit go down from $290 billion to what is it now projected to be, $91 billion? That is an extraordinary record of accomplishment.

So all we are saying here in our own way, it seems to me, and what the Senator is saying—and I would ask for his comment —is we have never seen a situation where the majority party was so afraid to offer a budget; we have never seen a situation where they did not have the courage to lay down their priorities. I wonder if my friend agrees, if this is really an unprecedented situation?

Mr. DURBIN. I thank my colleague from California. She and I served together on the House Budget Committee, and I agree with her. In 15 years, I have never seen anything like this. For some reason, the Budget Committee is on vacation when it is supposed to be on the job. The statute says get moving by April 15, give us a budget resolution. We have an appropriations process to get started in the House, to move forward on in the Senate, and it cannot get started until we figure out what our priorities in spending are going to be. That is a very difficult thing to do with the high-flying rhetoric. The Republicans ran for the House and Senate saying, "Let us lead." And these steely-eyed, styptic-hearted conservatives said, "We know how to balance a budget. Out of the way, bleeding-heart liberals. Give us a chance. We'll get rid of all this red ink. We'll get you on the straight and narrow."

Where is the budget? I don't see it. What do we have to do? As the Senator suggested earlier this morning, do we have to send out dogs to sniff out this budget? Where is it? Where on the floor? Is it in one of the committee meeting rooms on Capitol Hill? In one of the think tanks? Does the Heritage Foundation have a budget they want to send up here for us to take up? What are we waiting for? The American people met their obligation today. Some of them are sitting down right now saying, "Oh, my goodness, I have to finish this 1040 form. I have a legal responsibility to do it. My family is going to meet its legal responsibility." When is this Congress going to meet its legal responsibility to find and prepare a budget resolution which keeps up with the rhetoric which we have heard now time and again in this Chamber and across the Nation?

I thank the Senator for her leadership. I think the President has at least given us a starting document. Now, to my friends in the majority, on the Republican side, it is certainly your turn.

Mr. DORGAN. I wonder if the Senator will yield?

Mr. DURBIN. I will be happy to yield.

Mr. DORGAN. One of the reasons we do not have a budget brought to the Senate on time—and today is the date it is supposed to be here—is because, frankly, the proposal they would offer does not add up, and they know it. They are proposing very substantial tax cuts, the majority of which will go to the upper-income folks in this country, and you cannot balance the budget with the kind of tax cuts they propose, especially the kind of tax cuts that will go to upper-income folks.

This morning, on NPR, a Republican commentator said something. I would like to read it to my friend from Illinois and my friend from California, because I think it is important. He is talking specifically about the capital gains tax cut, and the Citizens For Tax Justice provide a chart to show who gets what from the tax cuts offered by the majority party. The top 20 percent get nearly 80 percent of the tax cuts, the bottom 60 percent get about 8 percent of the tax cuts.

But here is what Kevin Phillips had to say this morning. He said:

> It's time to put [this issue] on the table—the argument that because Congressmen and Senators want capital gains tax cuts as a payoff to their big contributors, that's a good reason to block it as a powerful beginning for reforming campaign finance.

This is a Republican, Kevin Phillips, who says this morning:

> Think about it. The experts say that two-thirds of the benefit from the Senate Republican leadership's cap-gain cut proposal would go to the top 1% of Americans incomewise. That's exactly the same crowd that gives big [campaign] contributions. Anybody who believes that linkage is a coincidence probably believes in the tooth fairy, too.

It is not me speaking. This is Kevin Phillips, a Republic commentator. Let me continue.

> Let me stipulate. The deficit-cutter case against the cap-gain cut is overwhelming, too, because it's such a huge boondoggle. Over the next ten years, the Senate's proposed reduction would cost the government some somewhere between 133 billion dollars and 237 billion dollars [in lost income]. The 133 billion dollar estimate comes from the conservative-run Joint Congressional Committee on Taxation and the 237 billion dollar estimate comes from the liberal-run Citizens For Tax Justice. The truth is probably somewhere in the middle, which would be about 185 billion dollars over ten years, which would have to be paid for—literally—with massive cuts in programs for ordinary Americans or with deficit spending.

Again, Kevin Phillips, a Republican commentator, says this morning on NPR:

> Worse still, it's not a worthy outlay. It's just pork for fat-cat political donors. The rate reduction [from capital gains] obviously isn't needed to encourage more investment. The last six or eight years have seen enormous amounts of money invested under the present tax rate. And experts have scoffed at claims in which hired economists say the cuts are badly needed for capital formation. Even Herbert Stein, a former Republican Chairman of the President's Council of Economic Advisers, argues that only economic activity that could be counted on from a cap gains cut would be more activity by accountants and lawyers in converting other income into capital gains.

Again, Kevin Phillips continuing. He says:

> Cutting the capital gains rate across the board, for every kind of quick-buck tax ploy, isn't policy, it's pandering. It isn't serious legislation, and Congress knows that; it's a payback to big contributors. Relief for small businessmen, like for homeowners, may justify giving every household a one or two hundred thousand dollar lifetime capital gains exemption. But tens of billions of dollars worth of cap gains cuts for the people who've just flooded the Republican and Democratic parties with hundreds of millions of dollars worth of record-level 1995–96 campaign contributions would be the political equivalent of bribery. Blocking that pork feast, by contrast, would send an important message: a message that reform of campaign finance is already underway.

Again, this is a Republican commentator. Incidentally, his last suggestion is one that I authored as a piece of legislation. I said, let us take, for every American—every American—let us give them an opportunity for a $250,000 capital gains income, if they have held the asset for 10 years, to be taken with zero tax liability; a quarter of a million dollars during one's lifetime, zero tax liability if you hold the asset 10 years. But let's not go back to the full-blown capital gains approach, where you hold a share of stock for 6 months and 1 day and sell it and pay half the tax someone who works all day pays. It's the same old approach by those in this Congress, and there are plenty of them, who say: Let us have a tax system that deals with different groups in different ways. Let us decide that those who invest shall pay no tax and those who work shall pay a significant tax. In other words, let us have a tax on work but not a tax on investment.

What kind of sense does that make? Let us tax work but not tax investment? There are a lot of streams of income in this country. Guess who has most of the investment income? Most of the folks at the upper level, the same folks who are giving the campaign contributions.

That is why these plans that say, "Let's go ahead and tax work and we will exempt investment," and when they exempt the tax on investment, what they do is propose plans that give the bulk of the tax benefits to a very small group of upper income taxpayers, and the result of that is, of course, the budgets do not add up.

If the budget does not add up to a balanced budget, then you cannot meet the budget deadline of April 15 and bring a budget to the floor that completes what you said you were going to do, and that is balance the Federal budget. The only people in the Senate who have done what is necessary to take this country on a road to a balanced budget are those who, in 1993, stood up here in the face of opposition and in the face of criticism and said, "Count me in, this is a deficit reduction package. I am willing to vote for it and it is tough medicine because it cuts spending and does increase some revenue, but count me in, because I am for reducing the budget deficit."

I was one of those who voted for that. The easiest vote by far would have been to say, "I'm AWOL, I'm out of here, don't count on me for a vote. All I want to do is talk about balancing the budget, and when it is time to do something about it, I am gone."

I did not do that, nor did the majority of my colleagues. We passed that bill by one vote. We did not get one vote from the other side of the aisle. Those who talked the loudest about balancing the budget did not offer one vote to reduce the budget deficit. It has been reduced well over 60 percent. Now we need to do the rest of the job.

Today is the day by which the budget is supposed to come to the Senate to do the rest of the job. Why is it not here? It is not here because the majority party cannot bring a budget to the floor of the Senate that adds up that reaches balance. Why can they not do that? Because they are proposing very large tax cuts that go, in most cases, to the largest income earners in this country.

The Washington Times had a piece the other day from which I want to read a couple of paragraphs:

> Major donors told the national committee chairman, Jim Nicholson, they are fed up with the party's congressional leadership and the party can forget about more money from them unless the GOP lawmakers enact tax cuts.

Shorthand for that: Give us our tax breaks, and we will give you more money. This comes from something called "Eagles," corporate eagles who give $20,000 a year and individual eagles who give $15,000 a year. What they are saying is, "Give us our tax cuts, we'll give you some money. Withhold the tax cuts, we'll withhold the political contributions."

It is kind of an interesting and dismaying piece, it seems to me. But the fact is, a budget cannot be put together that proposes the kind of tax cuts the majority wants and, at the same time, shows that we are balancing the budget. That is the dilemma.

Job one in this country, in my judgment, is to balance the budget. I do not happen to think one side is all right and the other side is all wrong; they have no answers, we have all the answers. That is not the case at all. But we spent a month and a half in this Chamber talking about amending the Constitution of the United States to require a balanced budget. I pointed out then if the Constitution were altered 1 minute from now, 2 minutes from now there would be no difference in the Federal deficit, because changing the Constitution does not change the deficit. The only way you change the deficit and reach a balanced budget is the individual taxing-and-spending decisions. That is why asking the majority party who controls Congress and controls our agenda to bring a balanced budget to the floor today on April 15, which is the deadline in law for them to do so, is an important and right thing for them to do.

Mr. President, I yield to my colleague, Senator CONRAD, who has comments on this same subject. I yield him as much time as he may consume.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from North Dakota.

Mr. CONRAD. Mr. President, today is an important day for Americans. April 15 is the deadline for all Americans to file and pay their individual taxes. I know that. I was signing my returns yesterday to make sure they were sent off. I had to write a check—not as big a check as last year. I was glad for that, but, nonetheless, had to pay some additional tax in addition to what was withheld. All across America, people are engaged in that last moment of frantic scrambling to make sure they file their taxes.

Today is another deadline as well. Today is the deadline for the Congress of the United States to pass the budget for the year. And that gives rise to the question that I put on this chart: Where is the budget? We are not going to pass a budget for the next year here today. There is not even one before the U.S. Senate. But it is even worse than that, because the Budget Committee had a deadline of April 1, and we have not even considered a budget in the Budget Committee.

I am a member of the Budget Committee and have been a member for 10 years. There is no budget that the Republicans—who control the U.S. Senate and the U.S. House, and, as a result, they control the budget committees—have put before us. We have the budget from the President which they have criticized, but we have no budget from them. Mr. President, it is time for those on the other side of the aisle to come forward with their budget proposal.

What we have heard from them is endless proposals for tax cuts aimed at the wealthiest among us. We have heard the Speaker even assert that we can eliminate capital gains taxes and eliminate estate taxes and have a major tax cut for children, but he does not put forward a plan that shows us how this would all add up.

Where would the cuts be to not only eliminate the deficit, but to pay for the tax cuts? There is no plan. It is easy to talk about things we would all like to have if you do not ever have to make it add up. The difficult part of the budget process is to try to come up with a plan that will balance the budget. All of us know that requires spending cuts. Spending cuts are painful. We also know that there is a need for tax reduction in the country.

I have supported a plan. We had the centrist coalition last year, 10 Democrats, 10 Republicans, that worked together for hundreds of hours and put together a plan that was a consensus of our group on a bipartisan basis. We brought that plan to the floor of the Senate, and we received 46 votes, about evenly divided between Democrats and Republicans. Frankly, that is what it is going to take again this year. But when I hear our friends on the other side of the aisle assert that it is this side of the aisle that is responsible for budget deficits, I think we then have to talk about the record and talk about the facts.

Here is the record and here are the facts. If we look at the last three administrations and look at the record on the deficit, it is very clear who has performed and who has talked.

This is the record during the Reagan administration. He took office in 1981. The unified deficit for that year was $79 billion. It promptly shot up to over $200 billion and largely stayed that way through the Reagan administration.

Then the Bush administration came into office and started with a unified deficit of $153 billion. By the time the Bush administration was finished, they had a deficit of $290 billion.

Then President Clinton came into office, and the first year, the unified deficit was $255 billion, and each and every year, the deficit went down: $203 billion the second year of the Clinton administration, $164 billion the third year, and this chart shows $116 billion, but it actually wound up somewhat better than that. The deficit came in at $107 billion.

All of that occurred because we put in place a budget plan in 1993 to cut spending and, yes, raise revenue on the wealthiest among us. The wealthiest 1 percent of this country were asked to pay somewhat more, and we cut spending about $250 billion over a 5-year period. Over 10 years, that deficit reduction package reduced the deficit $2.5 trillion. That is an extraordinary record of deficit reduction. In fact, now we are told that the unified deficit this year, the year that will end on September 30, will come in at about $91 billion. That will be 5 years in a row of deficit reduction.

I just think if we are going to have a serious debate here over who has done what, then we ought to look at the facts, and we ought to talk about who, in fact, did have the courage to stand up and vote for that 1993 budget package, which the other side said would crater the economy. They said it would increase the deficit. They said it would increase unemployment. They said it would reduce economic growth.

They were wrong on every single score. It reduced the deficit every single year. It reduced unemployment. We have had nearly 12 million jobs created in the United States since we put that plan in place, and we have had a large economic expansion in this country. That is the record. Those are the facts.

If we are going to finally achieve closure of this and actually balance the budget, then it is going to take both sides working together, because the Republicans control the Congress, the Democrats control the White House, and nothing is going to happen unless we work together.

Last year, those of us who participated in the centrist coalition that involved Democrats and Republicans on an equal basis found the effort one of the most rewarding we have engaged in while we have been privileged to be part of this body, because we did work together. Nobody was running out and holding press conferences attacking the other side. Nobody was trying to get over on the other side. There were no raised voices. There was calm reasoning to try to achieve a result that we all understood was important for our country.

Why is it important for the country? Mr. President, what is at stake here is the economic future of the country. This chart shows our children's economic position in the year 2035 in terms of the gross national product of the United States. This is on a per person basis.

Very recently, the Congressional Budget Office issued a report and told us this: If we fail to act, the per capita size of our economy will be $33,200 in the year 2035. But if we would balance the budget on a unified basis—and I do not consider a unified balance a true balancing of the budget, but at least it is a step in the right direction—then the per capita size of our economy would be $40,900 in the year 2035. We would have much more income per person in this country if we moved toward balancing the budget. That is the message of this chart.

Why is that the case? It is the case because if we are not deficit spending, we are not eating into the societal savings account. The more savings you have, the more investment that is possible. The more investment you have, the stronger the economic growth. That is the key to the future of America's economy, and it is why it is critically important to actually balance the budget. It is not just some abstract idea. It is critically important to the economic future and health of America.

Mr. President, we hear some on the other side saying they are going to cut this tax, that tax, we are going to cut all taxes. On our side, we say we ought to have targeted tax relief. Middle-class families need tax relief. We are in favor of that. When we start talking about reducing taxes that primarily are paid by the wealthiest among us, it really does not make sense to do that and jeopardize balancing the budget. Why not? Because the biggest help that we can be to this economy is to balance that budget.

Let me just indicate that when people start talking about what will help promote growth in this economy, they look closely at the benefits of balancing the budget. Balancing the unified budget is expected to reduce interest rates by about 1 percent. In an economy with $14.5 trillion in nonfinancial sector debt, a 1-percent reduction in interest rates means an $145 billion boost to the economy in 1 year. That dwarfs any of the tax cuts that are being talked about in terms of providing a lift to the economy.

So the truth of the matter is the best tax cut that we can give, the best tax cut, the most effective tax cut, is one that leads to a balanced budget. The only way we do that, obviously, is to cut spending that has contributed to the budget deficit, and have a revenue stream that balances with the spending. That is how you balance a budget. It is not just spending. It is the combination of spending and revenue that has to be in balance.

So those who talk about massive tax cuts will have to come down here at some point with a plan that shows how it adds up. They have not done it. They did not do it by April 1 in the Budget Committee which was their responsibility. They have not done it by today, which is by law their responsibility. So we are waiting. We are asking the question, where is the budget? When they come with a budget plan, it needs to add up. That is in the long-term interests of the United States.

Mr. President, I will yield the floor.

Mr. DORGAN. Mr. President, let me ask the Senator from North Dakota a question. Senator CONRAD is on the Senate Budget Committee and, as he indicated, the legal date for the completion of work on a budget by Congress is April 15. In fact, a couple of years ago, we heard some folks here on the floor of the Senate and in the House say, "The President is irrelevant. We control the Congress. We will write a budget and we will ram this thing home. It does not matter what the President thinks."

Now we hear the story, "What the President thinks matters to us. We will not do a budget unless the President comes to the table." The President submitted a budget, but my understanding is that the Budget Committee in both the House and Senate have not moved forward to say, "Here is what we in Congress think ought to comprise a budget."

Again, my notion is that it was not done because there is not any way to add this up. If you want to give giant tax reductions, most of which will go to the upper income folks, and say that is what we promised, but we also promised a balanced budget, the best way to avoid the conflict of a budget that does not add up is to not submit one, do not show your hand.

Is that what is happening in the Budget Committee?

Mr. CONRAD. I am afraid it is. The law says: "Before April 15 of each year, the Congress shall complete action on a concurrent resolution on the budget for the fiscal year beginning on October 1."

We are not just supposed to have completed the budget in this Chamber. The entire Congress is to have completed the budget plan by today. We have not even started. We have not even started in the Senate Budget Committee to consider a plan. I fear the reason is that our colleagues on the other side and all over America in the last campaign promised they would cut this tax, that tax, and every tax, and when they came back here to try to see how it would add up, they find, wait a minute, it does not add up. In fact, the only way you can get it to add up is to have cuts that are even deeper than the ones they proposed last year in Medicare, education, and environmental protection.

So our friends on the other side have a real problem. The problem is their rhetoric does not match reality. The problem is they do not have a plan that adds up. It does not balance.

As I said in my statement, what is critically important is that we work together to get a plan that does balance. That will be the best thing we can do for American taxpayers and the American economy. It will mean greater economic growth. It will mean a stronger economy. As I indicated, a 1-percent reduction in interest rates, which is what the economists tell us we will get if we balance the budget, will save those who have debt—corporations, individuals, families—$145 billion in a year. That will provide more lift to the economy. That is the best lift we can give this economy of anything that we could do.

We favor targeted tax relief to middle-income folks that, in fact, are under a lot of economic pressure. That makes sense. Some of these tax schemes the people have floated that give the overwhelming weight of the tax reduction to the wealthiest among us, and then do not permit you to have a plan that adds up, does not make any sense. It is not the right course for the country. I think that is why they really have not come up with a plan. They have not begun to come up with a plan because most of those who have tried to get these numbers to add up know that they do not.

Mr. DORGAN. I ask the Senator, did the Senator hear my reading of the Washington Times story in which the Eagles from the Republican Party said to the party chairman, look, we are not going to contribute more money if you do not give us some of these tax breaks. We are tired of contributing money and getting nothing for it. That is not quite the way they said it, but it is how it reads.

It reminds me of the movie "Jerry McGuire," toward the end of the movie the fellow is knocked out of the end zone, laying there holding the football, and gets up and rushes around the stadium. If you remember his chant during the entire movie "Show me the money, show me the money." That is what that message was in the Washington Times report from the Eagles, "Show us the money."

The dilemma here is you cannot cut $500 billion or $550 billion in taxes and promise everything to everybody and then come to the floor of the Senate and say, "By the way, here is our plan to balance the budget." Cut your revenue by half a trillion dollars and then balance the budget? No, what you do is create a giant hole and increase the Federal deficit.

We had a fellow named Laffer who constructed the Laffer curve, used in the early 1980's. It turns out to be a "laugher." He said, "You can cut the taxes, especially for those at the top, because we believe in trickle down, where you pour in at the top and it all trickles down to help everybody else." Some of us believe in the "percolate up," give something to the bottom and it percolates up. Nonetheless, the Laffer curve would have substantial cuts, and somehow you balance the budget.

What happened was the largest deficits in the history of this country. Double the defense budget—that was the Reagan recipe, double the defense budget—cut taxes, and you end up with very large deficits. That does not come from me. That comes from David Stockman, who did it, who wrote a book afterward and said what a terrible thing to have done, and then we bear the results of that.

But those of us who in 1993 cast tough votes for a plan that said do what is necessary to march down the road to really balance the budget, we have taken tough steps to do this. We have marched in the right direction, but we are not there. We get there when we have balanced the budget. Senator CONRAD is talking about the requirement to do that.

I personally would like to see us essentially say, balance the budget first, and then talk about the Tax Code. There is plenty wrong in the Tax Code to the extent the upper income folks do not pay what they should or to the extent $30 billion that corporations ought to be paying, they are not. That means working people are paying higher taxes than they should. We ought to relieve them of that burden.

What I would like to do is balance the budget and then turn to the Tax Code and make the right decisions about the Tax Code. The right decision is not to say those who invest shall be tax-exempt and those who work shall be taxed. In effect, saying as they do every day, tax work and exempt investors. Gee, that sounds pretty good for those folks, because guess who supports them? The investors. They are saying exempt the folks who support us, and tax all the working folks. What about exempting workers? Capital gains cut—what about a workers' gains cut? Is there not a workers' gain when you have a circumstance where you have an increase in productivity but you have inflation that devalues some of their earnings? What about a workers' gains cut? Why is it always capital? They say no, tax work and exempt investors. What a wrongheaded approach. Yes, help investors, but you do not help investors by saying, "By the way, you are a privileged group of people. You get to be tax-exempt," because they are so intending to do that in such a significant way there is not any way to add this up.

There is only one arithmetic book, and you start when you are young. Adding is simple. One plus one equals two, two plus two equals four, and I can go further than that because I went to a pretty good school, but it does not add up.

Today is April 15. The budget is supposed to be here by law. Tonight, every newscast will show there is a traffic jam at the post office because people are pushing to file their return for April 15, but the deadline to bring a budget to this floor of the Senate is not going to be met.

Guess what? The folks that run this place will be sleeping at midnight. They will not be in the post office or driving around looking for a mail drop. They will be sleeping. Why? Because their plan does not add up.

Mr. CONRAD. Maybe they ought to have to file for an extension.

Mr. DORGAN. Maybe we should ask before the 12 o'clock postmark is necessary, maybe at least they ought to file for an extension today.

Mr. CONRAD. If I could just add, I think one of the things that gets lost is why balancing the budget has so much merit. If we balance the budget and the economists are correct that that would reduce interest rates by 1 percent, that would mean on a typical mortgage, a savings of $900 a year. Over 5 years it would be over $4,500 in savings for a homeowner. On a car loan, that would be savings of $400, and approximately $1,000 a year in savings to the typical North Dakota farmer because of interest savings.

I think we have to keep our eye on the ball here. The first and most important step we can take is to balance this budget. That will reduce interest expenses on nonfinancial sector debt by $145 billion. That will provide enormous lift to this economy. That is really the single best thing we could do for the country.

I yield the floor.

Mr. DORGAN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The time controlled by the minority will expire at 11:30, so you have 2 or 3 minutes. You can extend that by unanimous-consent request.

Mr. DORGAN. I had asked unanimous consent at 10:45 when we began to begin the hour allotted to the majority leader, and that was my intention in the unanimous-consent request.

The PRESIDING OFFICER. The Senator is correct. The Chair apologizes.

Mr. DORGAN. I yield the remaining time to the Senator from South Carolina, Senator HOLLINGS.

TRUTH IN BUDGETING

Mr. HOLLINGS. Mr. President, I rise this morning to discuss truth in budgeting. Let me emphasize "truth in budgeting." We do not appreciate, Mr. President, the reality. The reality is that we are giving billions and billions more in Government than we are willing to pay for.

In fact, Mr. President, from the year 1945 when President Truman was in office until 1980, when President Reagan came in, the deficits were an average of $20 billion. Whereas for the last 16 years, the average has been $277 billion. So for the last 16 years everybody is running around and pointing fingers as to the blame, while we have been giving $277 billion more in Government than we are willing to pay for.

Now, a couple of years ago, my distinguished colleagues on the other side of the aisle kept saying, "If you want to change the Congress you have to change the Congressman. If you want to change the Senate, you have to change the Senator," and the American people said "fine, that is what we will do." But instead of getting change, instead of getting a proposed budget where we pay up here for the Government we are giving, we get into this big folderol about leadership and everything else.

Under the Constitution, the Congress legislates, the President executes. It is our responsibility to legislate. In fact, the concurrent resolution for a budget is not even signed by the President. Yet, this weekend I had to listen to the distinguished chairman of the Budget Committee on the House side, Mr. KASICH, say, "If the President could only show leadership and step up to the plate." They have all the jargon and litany—"if he can only show some responsibility," and "if he only had the courage." Well, he has put up a budget. He maintains that his budget is balanced by the year 2002. There is a serious question about that, obviously. But at least he put up a budget. Now, from January to June, we are still hearing the chairmen of the Budget Committees on both sides of the Capitol asking for leadership and courage and everything else, when that is what they asked the American people for and received. We have a Republican Congress; where is the Republican budget? It is just totally out of whole cloth around here; we can't get the truth about where we are.

Now, going right to the point about their being derelict as to their responsibility. All of us have been derelict as to the reality of the deficit. All you need do is the simple arithmetic to find out how much the debt increases each year and to determine your deficit, not this unified Mickey Mouse thing which uses borrowed funds. The unified deficit is the one that was used all of last year during the campaign, and it was used the day before yesterday on the Sunday morning talk shows. David Broder used it in his column, and all the responsible writers use it. The number they use is $107 billion. Totally false. Totally false.

To get the actual deficit, you just subtract the increase from one year to the next, and you can find that the actual deficit was $261 billion. How do they get to the $107 billion? Well, Mr. President, they borrow $154 billion. You borrow $154 billion from Social Security, from Medicare, from the civil service retirement, from military retirement, and you go right on down the list until you get to $107 billion. Why not borrow that $107 billion and say the budget is balanced?

What kind of gamesmanship are we playing? When are we going to get the truth out of the free press in America and quit quoting a silly figure that doesn't reflect the reality. The reality, Mr. President, is when that deficit grows to $261 billion this year, and you add that amount to the debt and the existing interest costs, this conduct, along with Mr. Greenspan's, causes your interest costs to go through the roof. In fact, right now, interest costs are estimated at $360 billion for 1997. That was the CBO figure before the increase in interest rates. So the figure is now around $1 billion a day—$365 billion, or even more.

Mr. President, today is April 15. Today, everyone is required to pay their income tax. I just got this table from CBO which says the total amount paid in individual income tax is estimated to be $676 billion. We are already 6½ months into our fiscal year. Therefore, when I say a billion dollars a day in interest costs, what I am saying is that the people of America worked from October of last year up until today, income tax day, April 15, for what? To pay for the wasteful interest costs in Government, and this charade that continues. Half of our Nation's income taxes go to pay for interest costs on the national debt. Even if we get a little bit of savings from the CPI, a little bit from Medicare, we are still way off. I will be joining with the Blue Dogs; we are working out the figures right now for a budget freeze—no increase in taxes, no cut in taxes, no back-end loading. And even then, without the borrowings, it is going to take you 5 more years, until 2007 rather than 2002, for a true balanced budget.

The American people should understand that we are playing a game up here to buy the vote, so we can all get reelected again next year. We have been doing that for the past 16 years with this silly Reaganomics and the litany of growth, growth. One fellow, Stevie Forbes, wrote "hope, growth, and opportunity." You turn on all the programs, and the discussions are all about inheritance taxes and the capital gains tax. "Just do away with the IRS and the income tax," they say. We are talking out of whole cloth. We act like that is reality. We cannot afford tax cuts. Look at the figures. The domestic budget is $266 billion. The defense budget is $267 billion. Look on page 36 of your budget book. Entitlement spending is $859 billion. That comes, Mr. President, to $1.382 trillion. Then you add interest costs of $360 billion, and that is $1.742 trillion. To get down to CBO's projected revenues of $1.632 trillion, we have to cut $110 billion.

Now, that's the job that we have at hand—not capital gains, not inheritance taxes, not getting rid of the IRS and income taxes. Yes, taxes are too much. Why are they too much? Because of the interest costs on the national debt. If you go back to 1980, it was $74.8 billion. We have literally added just about $300 billion in interest costs on the national debt that must be paid up first. It is just like taxes. You might call them an increase in taxes each day of $1 billion. We are running around here cutting taxes while we are increasing their taxes $1 billion a day. But if you had that $300 billion, Mr. President, we could balance the budget, we could get improve technology, we could pave the highways, repair the bridges, give more student loans, and we could have double the research at NIH. We could do all these things. Taxes are too high. But why are they high? For the silly charade. There is no better word for this off-Broadway show that goes on out here, without the reality, without the truth in budgeting. These people act as if we have the luxury of cutting taxes because they are too high.

You have to cut the interest costs on the debt. You have to start paying for the Government we have. They have been meeting since January to decide how can we get both sides to go along with a fraud; one grand fraud is what this is. You know it, and I know it. We will get my budget realities chart up here later on, and I will be glad to give people copies of it.

There is no question in my mind that this fraud has to be exposed because these interest costs, which are really taxes, are eating us alive. By cutting taxes, we are really saying "let's increase the deficit, the debt, and interest costs." If the people don't understand that, every one of these writers should tell you that. It is not complicated at all. All you have to do is go from year to year. And we are still going to borrow from the Social Security, which is illegal. We passed a law of the Budget Act, section 13301, that said thou shalt not use Social Security trust funds in order to lower the deficit or in reporting it. Yet they violate it.

They are running around wanting to know who slept in the Lincoln bedroom or who flew on the Air Force One plane. Come on, when are we going to get to work on the real problem? That is why the American people have no confidence in this institution up here. We don't tell the truth. I remember my friend, Bill Proxmire, who got up here every day on a certain treaty. Finally, after about 6 or 7 years, he got some attention. I don't know whether people would give me that much time, but I am going to have to start taking time every morning hour to show the reality of what we are doing. No, you can't balance the budget and pay for the Government this next year, but you can put us on a truth course. If you saw that chart my distinguished colleague Mr. CONRAD had, you will find that the deficit went way down in 1985 and 1986. In 1985 and 1986 was during Gramm-Rudman-Hollings, and this was when we really cut the deficit.

I appreciate the indulgence of the Chair. I yield the floor.

The PRESIDING OFFICER. We are now into the time reserved by the Senator from Wyoming.

The Senator from Kansas [Mr. BROWNBACK] is recognized.

Mr. BROWNBACK. Mr. President, I ask for 5 minutes of the time reserved by the Senator from Wyoming to speak on the issue of taxes.

The PRESIDING OFFICER. The Senator has that right.

TAX DAY 1997

Mr. BROWNBACK. Mr. President, I appreciate very much the opportunity to be able to address the American people on a very difficult day. I would like to recognize a couple of things that have been said by previous speakers, to start off with.

I congratulate the President on the reduction of the overall deficit that has taken place during the past 4 years, because the deficit has gone down. But what I also want to point out to the American people is there are a couple of ways of doing this. In the first 2 years of President Clinton's time in office, with a Democratic Congress, they did it by raising taxes. In the second 2 years, with a Republican Congress, we lowered the deficit by cutting spending. Now, you can go either way on this; you can raise taxes or cut spending. I happen to believe that, in the long term, when you raise taxes, you are going to cut your revenues and it is going to make things worse. The point of it is, on tax day, we should be talking about the level of taxes; they are too high in this country. The way to reduce the deficit is by cutting spending. That is not the way it was done in the first 2 years—by raising taxes.

The second thing I would like to respond to that has been raised by the other side of the aisle is capital gains taxes. That certainly needs to be cut, along with some others, and along with a $500 per child tax credit for working and struggling families.

I find it interesting that, as we look forward to working with the issue of Washington, DC, the District of Columbia, and rejuvenating the District of Columbia, a metro area that has great difficulties in this country, one that we have had a lot of problems with which are well known to this Nation—do you know what the other side of the aisle is proposing to rejuvenate Washington, DC? What ELEANOR HOLMES NORTON, along with Jack Kemp, is supporting to rejuvenate Washington, DC? They are proposing a zero capital gains tax rate on real property. Both the left and the progrowth ring on the right in this Congress are proposing zero capital gains for Washington, DC. Why would they do that? If this is such a bad thing to do, why are we doing it to Washington, DC? Because they know it will stimulate growth, hope, and opportunity. That is being put forth by ELEANOR HOLMES NORTON and Jack Kemp.

These are things that I think people have to realize. When you make those sorts of cuts, it stimulates the growth overall taking place in the economy. Now, the month of April—particularly April 15—I think serves as a powerful reminder of the size and scope of the Federal Government. Even though America will pay its taxes today, Americans will not be freed from taxation. They will not experience tax freedom day until May 9. Last year, it was May 7. This year, it goes up 2 more days, and it won't be until May 9. In other words, on May 9, ladies and gentlemen, you finally start working for yourself instead of the Government. Up until May 9, you are effectively working for the Government, paying your taxes to carry this huge, large Federal Government that is too big.

The issue is not that we should raise taxes to balance the budget; the issue is, we should cut taxes and cut the size, the scope, and the intrusiveness of the Federal Government to liberate the American people.

Today, a family of four must send both parents into the workplace to provide for the same standard of living that was once provided by only one parent. Is that a way to support the family across America, that we have to have both parents going out and working just to support the family? Is that a way to have strong families across the country? I don't think it is.

Unfortunately, even with both parents working, our families are still often unable to get ahead. Living paycheck to paycheck has been the norm for American families for as long as our Federal Government has grown as large as it as, consuming more and more.

Taxes hurt America's families. They punish good investment, they stifle entrepreneurial activity, and they hamper true economic growth. That is why I support a tax limitation amendment and insist that any budget deal must provide for meaningful tax relief.

Balancing the budget and cutting taxes are not mutually exclusive goals, as some would have you believe. In fact, balancing America's budget virtually requires that we cut taxes. In the long run, it will be more difficult to balance the budget if we do not shrink the size of our Federal Government with significant tax cuts. And what we are doing today is happening across this country. We have a good economy that is growing strong. We are having an economy that is producing more revenues coming into the Federal Government. We need that to continue to take place if we are going to be able to balance the budget. You need to have growth taking place in the economy. That is the critical nature of cutting taxes. It continues to stimulate growth so we can have those revenues coming in and balance the budget, and it is not enough to just balance the budget.

As my good colleague from South Carolina has pointed out, we need to start paying the debt down so that interest levels can go down.

The tax limitation amendment is a simple amendment requiring a supermajority in both Houses in order to raise taxes; in other words, more than a majority. You have to have a supermajority. And we should do that so that we don't just shift this Government from being debt financed to being tax financed. We need to be able to, overall, force the Government to be smaller and to live within its means instead of taking more of those means from hard-working American families.

Later today the House will vote on the tax limitation amendment. I believe this vote will send a strong message to the American people that the Republicans in the House are committed to truly reducing the tax burden in America. The Senate had an opportunity to unify with the House and show their support for this amendment but balked at the opportunity late last week. I think that is an unfortunate reality that too many people lack the wherewithal to stand up to the tax-and-spending regimes of this Government and say no—just say no—to future tax increases.

Because Congress has lacked the will in the past on both sides of the aisle to stand up to a flawed Keynesian economic principle that our Government has used in its fiscal policy, that has hurt economic growth and that has hurt our families.

I think what we have to do clearly in the future is we just have to stand up and say no to more big Government programs, to put policies in place that reduce that tax burden, that release the American people, their opportunities, their entrepreneurial spirit, and their families to grow and to prosper. Government must be cut. Taxes must be cut.

Mr. President, I want to quote the President of the United States who, a couple of years ago, made a very clear statement to the American people. It was resonating very clearly, which the American people wanted to believe. But they know it is just not true yet. And it may end up being the signature statement of this President. "The era of big Government is over." Well, the era of big Government unfortunately is only over in rhetoric. In practice, it remains, and more is even being proposed by the President.

To end the era of big Government, we must end the era of big taxes and a big Tax Code. I want to point out to you, Mr. President, and others about the size of the Tax Code. This is something that Steve Forbes has made us familiar with. But I think it is pretty good on a graphic.

Just look at the words that govern our lives and the important documents that have taken place. You can see that they do not necessarily have to be documents with a lot of words to have a great deal of meaning. The Declaration of Independence—1,300 words—which declared our independence and more vision of a National Government.

The Holy Bible—773,000 words are in this document that so many people read and go to with reverence.

The U.S. Tax Code—this is just the code; this is not the regulations that underpin the code that direct all of our lives. But the Tax Code itself is 2.8 million words. If you add the regulations to it that go forward with setting out what this code actually means and interpreting it, we are up to 10 million words governing our lives.

The truth of the matter is, on the Tax Code, not only are taxes too high, but the code is so intrusive anymore that it is more about trying to cause you to do something or your business not to do something rather than being about raising revenue for the Federal Government. The Tax Code is about social engineering out of Washington instead of about what it raises for the Federal Government. You can see that, just by the sheer number of words and the volume of words that are involved in the Tax Code.

Mr. President, April 15 is a tough day for a lot of Americans, and people aren't to happy about it. They should not be, because their level of taxes are too high.

I have had people call in on radio call-in shows. I had one in Saline, KS, that was so memorable to me. A gentleman called in and he said, "You know, Mr. BROWNBACK, I believe in serving my country. I have done everything I could to serve my country. I served in the military. I am married. I have two children. I am doing everything I can to work hard. But let me tell you, you guys are just taxing me out of my family's existence. I can't continue to support my family off of what you are taking for taxes. I believe in America and I believe in this country. But I just can't keep carrying this burden. It is too heavy. It is too much. Can you lift it off of me?"

If we will help that man in Saline, KS, he will not only start working harder and earning more and taking care of that family better, which is at the core of the cultural renewal that we need to take place in the family, but he is going to be even more of a patriot if we just release him a little bit instead of requiring him to work until May 9 just to pay his taxes. Let's let him work a little bit more to raise his family.

This day should focus on tax policies, on the failings of tax policies across the United States, on what its impact is, and on the theory that if you tax something, you get less of it, and if you subsidize something, you get more of it.

We have too much tax which is hurting too many people. It is hurting us in growth. It is hurting families. It is hurting us in the opportunity to create an era after era of big Government. And an era after the era of big Government, I think, is one of an unlimited America. But it is one in which we have to reduce the tax monster to be able to get to that.

I am happy to be able to speak about the issue of tax freedom which is not with us yet. But it is a day I hope people will recognize the importance of—of what tax policy has done, how much needs to be changed, and how we need to limit taxation taking place in this Nation.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, parliamentary inquiry? Is there an order for people to speak at this point?

The PRESIDING OFFICER. The majority controls the next 46 minutes.

Mr. DOMENICI. I see Senator KYL. Did he plan to speak next?

Mr. KYL. I am ready.

Mr. DOMENICI. I have not spoken yet. How long would he speak?

Mr. KYL. Five minutes.

Mr. DOMENICI. Could I yield the floor, the Senator from Arizona speaks for 5 minutes, and then I could be recognized for about 7 minutes?

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

Mr. KYL. Thank you.

Mr. President, first let me thank the distinguished chairman of the Budget Committee. I am glad I don't have to follow his remarks. So I am pleased to speak before he does.

Mr. President, T.S. Eliot once wrote that "April is the cruelest month." Of course, he was referring to the change of seasons—of "mixing memory with desire." Millions of Americans would probably agree with Eliot about April being the cruelest month, but for a far different reason. It is, of course, on April 15 that income taxes are due.

By midnight tonight, millions of Americans will have finally completed their income tax returns. According to estimates by the Internal Revenue Service, Americans will have spent 5.4 billion hours on tax-related paperwork. The Tax Foundation estimates that the cost of compliance will approach $200 billion.

If that is not evidence that our Tax Code is one of the most inefficient and wasteful ever created, I do not know what is. Money and effort that could have been put to productive use solving problems in our communities, putting Americans to work, putting food on the table, or investing in the Nation's future are instead devoted to tax preparation. And that is a waste.

It is no wonder that the American people are frustrated and angry, and that they are demanding real change in the way their Government taxes and spends.

Mr. President, the House of Representatives is today considering a proposed constitutional amendment that represents the first step in the direction of the kind of fundamental tax reform the American people have been demanding—it would require a two-thirds majority vote of the House and Senate to approve tax increases. Why do I say that it is the kind of reform the people are demanding? Because a third of the Nation's population has now imposed such limits on their State governments, and voters have approved tax limits by wide margins. In Arizona, for example, tax limitation passed with 72 percent of the vote. In Florida, it passed with 69.2 percent of the vote; in Nevada, with 70 percent.

The tax limitation amendment, which I introduced in January, now has 22 Senate cosponsors. It is something that was recommended by the National Commission on Economic Growth and Tax Reform. The commission, chaired by former HUD Secretary Jack Kemp, advocated a supermajority requirement in its report on how to achieve a simpler, single-rate tax to replace the existing maze of tax rates, deductions, exemptions, and credits that makes up the Federal income tax as we know it today.

Here are the words of the Commission:

> The roller-coaster ride of tax policy in the past few decades has fed citizens' cynicism about the possibility of real, long-term reform, while fueling frustration with Washington. The initial optimism inspired by the low rates of the 1986 Tax Reform Act soured into disillusionment and anger when taxes subsequently were hiked two times in less than seven years. The commission believes that a two-thirds super-majority vote of Congress will earn Americans' confidence in the longevity, predictability, and stability of any new tax system.

Mr. President, tax reform cannot succeed without a supermajority requirement for raising taxes. In the decade since the last attempt at comprehensive tax reform, Congress and the President have made more than 4,000 amendments to the Tax Code. Four thousand amendments. The constant changes have left taxpayers perplexed, unsure how to comply today, let alone how to prepare financially for the future. Without the protection of the tax limitation amendment, taxpayers will be vulnerable to further tax-rate increases, particularly if tax reform—which we all hope will occur within the next few years—eliminates many of the tax deductions, exemptions, and credits in which they find refuge today.

Let me make a few other points about this amendment. First, the tax limitation amendment itself cuts no taxes. It does not preclude Congress from raising taxes in the future. It only raises the bar on future tax increases.

Many people, myself included, believe that taxes are already far too high, and that we ought to cut taxes. This amendment does not do that. All it says, in effect, is "enough is enough." It makes Congress find a way to meet its obligations without taking even more from the pockets of the American people.

Mr. President, here are some astonishing statistics from Americans for Tax Reform. According to the organization's calculations, about 31 percent of the cost of a loaf of bread is attributable to taxes. About 54 percent of the cost of a gallon of gas goes to taxes. About 40 percent of the cost of an airline ticket is attributable to taxes, as is 43 percent of the cost of a hotel room.

Understand that on an aggregate basis, the average family pays more in taxes than it does on food, clothing, and shelter combined. According to the Tax Foundation, Federal taxes amount to about 27 percent of the family's budget, and State and local taxes consume another 12 percent—for a total of almost 39 percent. But spending on food, clothing, and shelter totals only about 28 percent of the family budget. And families still have to find a way to pay for everything else they need—for example, medical care, transportation, education, and an occasional vacation or dinner out—out of the meager amount that is left after taxes.

So what the tax limitation amendment says is that Government already takes far too much from hard-working Americans and should at the very least take no more, unless there is a very broad and bipartisan consensus in Congress and around the country.

A second point. There is no small irony in the fact that it would have taken a two-thirds majority vote of the House and Senate to overcome President Clinton's veto and enact the 1995 Balanced Budget Act with its tax relief provisions. By contrast, the President's record-setting tax increase in 1993 was enacted with only a simple majority—and not even a majority of elected Senators, at that. Vice President GORE broke a tie vote of 50 to 50 to secure passage of the tax-increase bill in the Senate.

The tax limitation amendment is based upon a simple premise—that it ought to be at least as hard to raise people's taxes as it is to cut them. What the tax limitation amendment seeks to do is force members of Congress to think of tax increases, not as a first resort, but as a last resort.

Mr. President, I hope the House will pass the tax limitation amendment today. And if it does, I hope the Senate will take it up promptly and give the States an opportunity to consider its ratification. While there is much disagreement about whether to cut taxes and how, we should at least be able to agree that we should not raise taxes any further. I urge support for the tax limitation amendment.

I hope we will be able to pass that amendment, and I hope we will have an opportunity thereby to ensure that more money is left in the pockets of hard-working American families rather than being sent to the Federal Government here in Washington.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized for up to 10 minutes.

Mr. DOMENICI. Mr. President, I compliment the distinguished Senator from Arizona, Senator KYL, for his devotion and dedication to doing something about the tax mess in America. I look forward to supporting many of his ideas here on the floor.

Mr. President, I thought today I would speak just a few moments about the history of the income tax law in this Nation, and see if we can't all agree without equivocation that something has really gone awry.

On October 13, 1913, President Woodrow Wilson signed the bill enacting the income tax law under the authority of the 16th amendment to the Constitution of the United States—October 13, 1913. The entire law was 14 pages long. Slightly more than 1 percent of the population had incomes large enough to be subject to the new tax.

The New York Herald predicted that many new taxpayers would proudly display their income tax receipts as evidence of the fact "that their value and standing in the commercial world was worthwhile." So people were pleased to pay their taxes and held up their receipts to indicate that they had accomplished something meaningful in the United States, they had gotten somewhere.

According to the Treasury Historical Association, when the first income tax was due—listen to this—throngs of new taxpayers crowded the IRS offices to pay and some of them were glad to be there. There are throngs at the post office today mailing in their tax forms. I daresay few are glad to be there.

At the time of the enactment, Representative Cordell Hull, the chairman of the Ways and Means Committee, labeled the income tax "the fairest, most equitable system of taxation that has been devised."

Amazingly, most Americans actually agreed and welcomed the tax. Perhaps those statements were true in 1913. I say to our new Senator from Arkansas in the Chamber, but in 1997 they no longer reflect reality.

The current code is neither fair, equitable, efficient, nor loved. It adds one-third to the cost of capital. Capital which makes a modern economy grow and prosper is encumbered by the antigrowth ingredients of this Tax Code such that capital has had added to its cost one-third—in other words, one-third is wasted because of the nature of our tax laws. It is hostile toward savings. It is tilted toward debt. Thus, it slows economic growth, prevents jobs from being created, and makes us less competitive in world markets.

The Tax Foundation estimates that complying with the Federal tax system of the United States will cost the American people—I am not talking about paying the tax. The cost, the waste, the money, the energy—$225 billion in 1996.

Based on historical data from the IRS and the OMB—that is the Office of Management and Budget—taxpayers will spend 5.3 billion hours complying with the Federal tax laws.

Since 1954, the number of sections dealing with this have increased dramatically. Determination of tax liability has grown 1,000 percent; deferred compensation, 1,400 percent; computation of taxable income, 1,500 percent. Since 1954, there have been 31 major tax bills enacted, more than 400 public laws that have amended the Internal Revenue Code.

Two-thirds of the compliance burden is borne by the business sector. Because of the marriage penalty built throughout this code—speak of something that is antifamily. I would assume if you have a policy that is antimarriage it cannot be, by definition, very profamily—most working spouses work primarily to pay taxes rather than to improve the standard of living of the family.

Congress will be dealing with tax cuts if we arrive at a budget agreement, and that is good because it is obvious the tax take for the United States, the amount of revenue we are getting from taxes, continues to rise. But I believe ultimately the country is not going to be as well off as it should be until we do a comprehensive tax reform. We have put together, Senator Nunn and I and many Senators and many people helping, an entire new tax plan. When time comes for reform, it will be on the table. This Congress Senator DODD has agreed to carry on the work of Senator Nunn.

We call it the USA Tax Plan—Unlimited Savings Allowance. For those who think IRA's are great investment vehicles we ought to be using, I agree, but this is an unlimited IRA tax plan because essentially people will pay taxes only on income they spend. Amounts they save or invest will not be taxed until they take it from the savings pool of the Nation, an investment pool of the Nation, and spend it. The tax would be deferred, in other words, until it is consumed and has become income that is being spent.

There is talk about tax credits and deductions for education purposes. This USA tax recognizes those needs and takes care of that. It provides a tax credit not for some taxpayers but for all, all families facing higher education expenses. This plan recognizes investment in capital should be expensed by the business community. It provides a deduction from taxable income in the year that the investment is made instead of requiring installment deductions called depreciation, which I assume is the major argument between the business community, business people, and the IRS.

This plan which I am speaking of today, with its unlimited deferral, results in a capital gains tax rate of zero so long as the proceeds remain invested. When they are no longer invested and they are being spent, they are listed as income and subject to taxes.

The President and Republicans want to provide a $500 tax credit for children, recognizing that family budgets are stretched most when there are children in the family. I should say the President wants to do this, although with less money. And the age that this stops vesting is lower in the President's proposal. Nonetheless, they both recognize that families, income tax payers are most stretched when there are members of the family under this code.

The USA tax proposal includes a family living allowance, in addition, to the dependent deduction. It does not phase out when a child reaches 13. It goes on until the child reaches adulthood.

Taken together, these two USA tax provisions provide relief equivalent to what the dependent deduction would have been if it kept up with inflation since the time it was first enacted.

So let me suggest that while we are all talking about tax cuts, and I hope I have given a bit of the history that should shock us into understanding that something basically is very wrong.

Our current Tax Code is sapping the strength of this country, it is sapping the entrepreneurial spirit of people. This country will be great when the entrepreneurial spirit, when innovation and risk taking is maximized. Unfortunately, we have a code that does the opposite, obviously, and we ought to get rid of it.

For now, we are scheduled this year for some tax cuts. I have outlined them heretofore, and the Finance Committee chairman and others have announced them, and the President has his set of proposals. But I do not think we should let today go by without saying that tinckering is not enough.

What we must do is throw out what we have and do a new one for the American people, for growth, prosperity, and peace of mind for the American people.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri.

Mr. BOND. Mr. President, let me thank the Senator from Tennessee, who is next in line and allowed me to go first.

I commend my distinguished colleague from New Mexico for his great leadership on this issue. He has within his hands the needed mechanism to get to tax relief, and that is what I want to address very briefly here today.

I follow up his point about the cost of the complexity of today's Tax Code by saying we in the Small Business Committee have figures indicating that computing taxes, figuring out taxes, takes 5 percent of the revenues of small business. That is not paying the taxes. That is just figuring out how much they are.

Mr. President, each year the American Tax Foundation computes what they call "Tax Freedom Day," the day of the year when the average American can quit working to pay Federal, State, and local taxes and start working for herself or himself. Last year it was May 7. This year it will be May 9. This means each day you have worked since the new year has been simply to pay your tax bill for the new year and you still have 3 weeks to go. If that does not make you happy, I do not know what will.

The American people take too much of their hard earned income to pay for Uncle Sam's spending habits. Why is the tax burden on families so high? Because Uncle Sam spends too much. It is that simple. Congress has not balanced the budget since 1969. The cumulative effect of all that deficit spending is a tax burden for most families that exceeds what they pay for food, clothing, housing and automobile costs combined. We need to fix that. We are trying to balance the budget so we can reduce the tax burden for families with children, small and home-based businessowners, family farmers, and frankly, everybody else who is taking part in the economy.

The first step in bringing tax relief to middle-class America, however, is to bring Government spending under control. A balanced budget means a healthier economy, more Government revenue and less need for taxes. As you fill in the amount of tax paid line on your 1040 form this year or as you write out your check to the IRS, think about ways you could use even a portion of that tax money and remember who is trying to balance the budget and who is not because balancing the budget and getting spending under control is the first step toward tax relief.

I thank the Chair and yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Tennessee.

Mr. THOMPSON. I thank the Chair.

Mr. President, it seems at this time of year every year we tend to go out of our way to criticize the Internal Revenue Service, but I think part of the reason for that is that sometimes it seems to take so much to get their attention. As the Presiding Officer knows, the General Accounting Office has a list of high-risk agencies which they set forth as agencies that are more prone to fraud, waste and abuse, and mismanagement.

The IRS has been on that list now for 6 years in a row, and we had hearings last week in order to find out what they intended to do about it because not only do they have the normal problems that we all hear about and complain about every year, it seems now that in their attempt to modernize their computer system, which is totally outdated; they are working on 1960's technology, but in an attempt to do something about that they have spent billions of dollars and canceled one program after another and are not making substantial progress into getting into the 20th century much less the 21st century.

We also found out that the Internal Revenue Service cannot stand an audit. They do not really know how much they have spent on this computer modernization system and they really do not know how much money they collect in terms of various categories of collection.

In addition to that, we have learned more about the security problems. We know that we are all concerned about the browsing problem we have had some discussions about recently, but now we learn of the tremendous physical security problems, so much so that they had to classify the report when they sent it over here to us because they did not want to provide a blueprint, understandably, for people who might wish them ill. It is that bad.

Congress has responded with the power of the purse. And last year we cut them back some, but that is not the total answer because they are going to need revenues in order to take care of some of these problems. So we had the hearings. We brought the IRS in. We brought the Treasury in, which the IRS, of course, is a part of. Perhaps if there is any good news in this it looks as if for the first time we do have a blueprint to work our way out of this.

Congress in the past few years has passed some legislation which requires these agencies to come in and report on what kind of progress they are making in solving some of these problems. We have not always had this, but now we have some accountability—what are they trying to achieve, and every year come back and tell us and show us in some detail what they are doing to work out of these things.

Treasury now says they are going to take a greater oversight responsibility, which they clearly should have done long before. There are timetables which they are going to be held accountable to. We are going to make sure they report back in solving these problems when they are supposed to be reporting back. So perhaps we are going to be making some progress for the first time. But this is the reason why we talk about the IRS. It is not just the fact that people do not like to pay taxes. It is just they have the right to have the IRS and all these other agencies at least reach the minimal compliance levels they expect out of the American taxpayer because, ultimately, our national security and our prosperity depend upon our faith in these institutions and certainly the IRS.

So with that, I thank the Chair and will relinquish the remainder of any time I might have.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

Mr. SESSIONS. Mr. President, I would just like to take a few minutes on this important day in our Nation's history, this day that comes up every year, when we are responsible for paying our taxes, to discuss the problems of working families and what they are facing in America.

Two years ago, I traveled all over the State of Alabama, campaigning for Attorney General. I talked to all kinds of people. This past year I campaigned throughout the State of Alabama and talked to hundreds and hundreds of young families who are struggling throughout our State. They are struggling all over America. People who are doing their very best to live the American dream are not able to do so because of financial reasons. Many families are calling on their parents to help them with the finances and burdens it takes to raise their children. We need to help those families.

I was recently in a committee meeting in which a very wise Senator said: We look at numbers and we study statistics and we do all these kinds of things. But, when it comes right down to it, we need to use our judgment about what we believe are the most important problems facing America. In my judgment, no matter what numbers show—and numbers back me up on this—in my judgment, working families are struggling. In terms of income, the numbers have declined in the last 6 years in relative terms, considering inflation. It is more expensive than ever to raise children today.

I want to show a chart that illustrates a shocking statistic. In 1950, due to the personal exemption for children and family members, which allows you to exempt your income from taxes, 70 percent of the average working family's income was exempt from taxes. They did not have to pay taxes on 70 percent of their income. Today only 30 percent of working families' income is exempt from taxes. They must pay taxes on 70 percent of their income and they are paying at a much higher rate than they paid in 1970. Is there any reason to wonder that working families are falling further behind? In 1950, they paid 2 cents of every dollar to the Federal Government. Today, every working family pays 25 percent of every dollar to the Government. That is unacceptable. No wonder families are struggling to raise and educate their children, who will take care of us in the future.

The Republicans have proposed a bold plan to give a $500-per-child tax credit to every working family in America. I support that proposal and campaigned for it very aggressively. Just a few months ago the President said he believed in the per-child tax credit and that he would support such a plan because it is needed to bring working families' incomes up to the level that they need to be. I ask American families today to think about this. What would you do if there were two children in the family and you had a $1,000 tax credit? That means $1,000 extra income to the family, in which there would be no income tax or health care taken out—nearly $100 a month, $90 a month extra income that you could spend for your family.

It would be available to buy shoes, clothes and for field trips for school. Maybe the car breaks down—you could repair the transmission. Maybe you need a set of tires for the vehicle or just grocery money. These are the kinds of things that families struggle with every day. This tax credit would put real money into their hands and drive their incomes up in an immediate way. It would put an immediate source of income into the pockets of the people who are making America great.

These are the people who are going to raise the next generation who will lead this country. The families today are raising that next generation that will take care of us and we need to give them some relief. We need to give families some income so that they can do their job of raising their children. We need to give them the kind of commitment that our families gave to us.

One thing I must say. The President says he is for a tax credit. But you have to look at the small print, as we so often have to do. His $500 deduction would only go up to age 13. I have had children under age 13. I have had children over age 13. Anyone who has had children in that age group knows it costs more to raise a teenager than it does a younger child.

That is totally unacceptable. The President says he is for a tax credit. Let's do it. Let us support the teenagers, too. Let families have the kind of money so they can raise their teenagers in the way they should. I feel this is a very important issue for our country. I think it is important that this body recognize that we have penalized working families. It is time to give families some relief and restore them to the position they were in a number of years ago. It is time to restore and strengthen family values in America.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado.

Mr. ALLARD. Mr. President, I rise today to make a few remarks concerning April 15. That is today. As all Americans are no doubt aware, today is tax day. Millions of Americans spent this past weekend finalizing their returns. Today those returns are due.

However, while the returns and taxes are due today, the tax burden continues. According to the Tax Foundation, the average American family now must work until May 9 in order to pay local, State, and Federal taxes. April 15 may be tax return day, but May 9 is tax freedom day.

The Tax Foundation also reports that Federal, State, and local taxes now cost a typical two-earner family more than that family spends on food, clothing, transportation, and housing combined. It is no wonder that most families require more than one income. As families work through their tax returns, many were no doubt struck by the complexity of the tax system. Earlier this year, Money magazine revealed the results of its annual report on tax complexity. The magazine commissioned 45 tax professionals, many of them CPA's, to complete the tax return of a hypothetical and prosperous American family. While this hypothetical family certainly had more tax issues to deal with than the typical family, the issues raised were not unique and should have been very familiar to tax professionals.

The results reported in the Money article were astounding. No two preparers came up with the same result, and the fluctuation in the level of the taxes was striking. There were literally tens of thousands of dollars of differences between the calculations of some of the preparers.

Nearly $14 billion is spent by the Internal Revenue Service and other Federal agencies to enforce the tax laws each year. There are 136,000 employees of the Internal Revenue Service. There are 17,000 pages of Internal Revenue Service laws. There are 480 tax forms published by the Internal Revenue Service, and there are an estimated 8 billion pages of forms and instructions sent out by the Internal Revenue Service every year.

I think these statistics make the case for tax reform. There are certainly a number of reforms that need to be made at the Internal Revenue Service. However, Congress is the principal entity responsible for the Tax Code. Congress should scrap the current tax system and start fresh with a simple and fair system.

I support taking this action now. However, if our leadership determines we cannot reach agreement with the President on comprehensive tax reform, then we should at a minimum reduce taxes this year. This should be done by a reduction in the capital gains tax by at least half the current rate for all individuals, eliminate the estate taxes, and a reduction in the family tax burden. This action should be done as a part of the budget and should not be delayed.

Before I close, I would like to mention a necessary tax change in health care. This concerns medical savings accounts. Last year, Congress made the tax changes necessary to make medical savings accounts available for up to 750,000 individuals. Medical savings accounts allow companies to give the funds currently set aside for health benefits directly to their employees. These employees are then empowered to purchase their own health plans and set aside funds for future medical expenses.

MSA's, or medical savings accounts, are an important counterweight to Government and health care bureaucracies. They put greater power in the hands of individuals and families. The changes made last year have proven popular and demand for medical savings accounts is high. But even before Congress provided the full deductibility for MSA's, many employers offered them successfully for years.

Last year, I opposed the artificial cap on medical savings accounts, and today I am introducing legislation that would make medical savings accounts available to all taxpayers. This will foster the type of empowerment and competition that we need in health care. It will also increase health care coverage for the self-employed and, thus, those in transition from one job to another. Medical savings accounts are the ultimate form of health care portability.

Medical savings accounts provide a superior alternative to a further expansion of Government-run health care. Americans want health care choice and competition, not more bureaucracy.

I invite all my Senate colleagues to cosponsor this MSA extension legislation.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, every year like clockwork, with the approach of April 15, tax day, millions of Americans are out scrambling to find out how much they owe the Federal Government in taxes and how much they have overpaid the Federal Government in taxes. The IRS requires us to fill out complicated tax forms and, after plugging in numbers to formulas and performing various mathematical calculations, we come up with the magic number of what we owe the Federal Government or sometimes, rarely, what the Federal Government owes to us. To complete these tax forms is sobering. Sometimes it is a frightening experience, especially when you look at the block on your W-2 form that shows the amount of your income that has been consumed for tax purposes.

The truth be told, the typical worker toils nearly 3 hours in a typical 8-hour workday just to pay taxes. Many families with two working parents find that one of those working parents is working full time just to pay Uncle Sam. Put another way, May 9 is tax freedom day. In theory, this is the day when an individual who has been working since January 1 will be able to take home his or her first paycheck. Every penny of the income they earn during that first 5 months of the year has gone to pay their annual income taxes.

Our Nation's total tax burden is at an alltime high. Federal, State and local receipts remain at a record 31.7 percent of the gross domestic product. That is one-third of our Nation's total output now consumed in taxes.

Even more demonstrative of the magnitude of the American tax burden is the fact that the average American family pays more in taxes, as we have heard over and over again, than it spends on food, clothing, and shelter combined. This, I think, is proof positive that American families are overburdened and in need of tax relief.

That is why I introduced, with Senator GRAMS of Minnesota, who is on the floor this afternoon, the $500-per-child tax credit for all working families, regardless of income. Everyone talks about the importance of family values. It is time that we act to preserve American families by passing that $500-per-child tax credit.

I talked to a person in Pine Bluff, AR. He said, "My children are grown. What do you have for me? I don't need that $500-per-child tax credit." I said, "Sir, if you would just compute the benefit that you had as you had reared your children—they are now grown—you would see that the benefit that you had has been eroded through inflation and no longer exists." And he was soon convinced. As we look at that per child dependent exemption, that would be over $8,500 had it been indexed for inflation.

The 1997 tax season has been fraught with reports of abusive practices and sloppy management with the IRS—reports of taxpayer money being used to provide tax refunds to prison inmates at the nearby Lorton prison facility, of IRS agents improperly accessing taxpayers' returns, and of other coercive tactics employed by IRS agents to collect taxes.

Americans already suffer under an unfair and incomprehensible Tax Code. As they struggle to be honest, taxpaying citizens, they should not have to worry about being harassed by an agency that, according to the General Accounting Office, cannot accurately account for its own $7 billion annual budget.

I think millions of Americans feel as I do today, as we look at the Internal Revenue Service. We would say, "Physician, heal thyself."

I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

Mr. FRIST. Mr. President, I understand morning business was to end at 12:30. Was there a unanimous consent obtained to extend that?

The PRESIDING OFFICER. The Senator is correct, but there has not been.

Mr. FRIST. Mr. President, I ask unanimous consent that morning business be continued for 30 minutes, or until such time that speakers on the floor are allowed to make their presentation.

Mrs. HUTCHISON. Mr. President, can I make an inquiry?

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. The time was extended for the Democratic side by 10 minutes. Up until 12:40 is still the Republican time; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mrs. HUTCHISON. Thank you, Mr. President.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

Mr. FRIST. Mr. President, I ask unanimous consent that the time be extended up until 1 o'clock, or until Senators are allowed to complete.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. President, I rise today to speak out for Americans on tax day—April 15. On this day more than any other, every American is reminded how much government costs—not just in actual dollars but in time and energy spent filling out forms.

Today, many of my colleagues have described the tax burden in many insightful and illustrative analogies. For example, we know that the average American will work until May 9—tax freedom day—just to pay his or her taxes. We know that the typical American family pays 38 percent of their income in Federal, State, and local taxes—a one-third increase over the past four decades. I commend my colleagues for bringing clarity and focus to an extremely complex debate.

Today, I want to add to their comments. Putting statistics and anecdotes aside, every lawmaker should be asking three questions about tax revenue—not just on Tax Day but every day: Whose money is it? How much of it are we spending? and How are we spending it?

WHOSE MONEY IS IT?

Whenever we debate tax policy in this body, we must begin with a simple principle that should govern all our decisionmaking: There is no such thing as government money, there is only the people's money. Every dollar that comes into Washington belongs to some individual, family, or business—not the other way around. For far too long, the Federal Government has treated the income of the American people as it own—as an entitlement it deserves—and this practice must stop.

As newspaper columnist James Glassman describes it,

> Tax dollars begin life as personal dollars. They're yours, not Washington's. You do agree, through the political process, to turn over some of your income—but that deal is transitory and renewable, and it depends on Washington providing good value for your money.

That agreement is based on public trust.

When we Senators meet with constituents in our home States, we must remember: It's their money. Every time we pass a spending bill on the floor of the U.S. Senate, we must be able to look our constituents in the eye and say, "Here is how we spent your money." If we can't—look them in the eye—then we have betrayed their public trust and we have failed as representatives.

HOW MUCH OF IT ARE WE SPENDING?

Too often over the last half century, lawmakers seem to have forgotten or ignored whose money they were managing. Once we remind ourselves that we are dealing with the taxpayer's hard-earned dollars, we must ask, "How much of it are we spending?"

This year, the Federal Government will spend about $1.6 trillion. Grasping the concept of a trillion dollars is difficult, but let me try. If you started a business 2,000 years ago and that business lost $1 million a day each day from then until now, you still would not have lost your first trillion dollars. Yet our 200-year-old Government already owes $5.5 trillion.

Why? Because the Federal Government consistently spends more than it takes in, running up massive debts and threatening our economic future. This year alone, the Federal Government will spend about $107 billion more than it receives from the taxpayers. These annual deficits have added up over time to a total debt of $5.4 trillion—that's nearly $20,000 for every man, woman, and child in America. We cannot continue to shackle our children and grandchildren with this debt burden. That is why balancing the budget is so critical for our future. A balanced budget is the first step toward breaking those shackles.

HOW ARE WE SPENDING IT?

The third and final question lawmakers must ask themselves on tax day is "How are we spending the taxpayers' money?"

The simple answer is, "We are spending it at an unsustainable rate." In 1965, entitlement spending and interest on the debt consumed 30 percent of the Federal budget. Discretionary spending—which includes the basic functions of Government like defense, highways, education, medical research, and national parks—consumed 70 percent. Today, entitlements and interest consume 70 percent of the budget, while discretionary programs consume 30 percent. By 2012, just 15 years from now, entitlements and interest on our growing debt will consume all Federal revenues—leaving nothing for roads, education, national parks, medical research, defense.

We have all heard from Members who say that the current tax rate is punitive, burdensome, and a threat to the survival of our competitive, capitalistic economy. If that's true today—when our tax rate hovers at 38 percent per family—consider the effects on our economy in the future if we do nothing to change this. If we fail to act and act soon, a child born today will pay a lifetime tax rate of 84 percent on his or her earnings to pay for the cost of Government overspending. Such a burden would be at the very least unfair and irresponsible.

As the tax debate rages on, I urge my colleagues to remember that we are trustees of the American Treasury. Building and maintaining that trust is one of our most important duties as representatives of the people. If we always remember whose money we are spending, how much we are spending, and how we are spending it, I believe we can be more responsible trustees and we can leave our children a future worth working toward.

I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mrs. HUTCHISON. Mr. President, today is tax day, and for millions of Americans, this is the day that they end their painful ritual of fiscal fealty to the Federal Government. So I thought it would be appropriate to cite a few statistics that make tax day possible: 136,000 is the number of employees of the IRS responsible for administering the tax laws; $13.7 billion, that is the amount that it costs to administer and enforce the Tax Code; 480 is the number of forms printed by the IRS; 8 billion—8 billion—is the number of pages of forms and instructions sent out by the IRS every year; 293,760 is the number of trees that must be cut down each year to supply the 8 billion pages of paper needed for filing the country's taxes.

Mr. President, these are just a few of the statistics that point out the complexity and the burden that our Tax Code puts on the American family and the Nation itself. The typical American family pays more in taxes than it spends on food, clothing, and shelter combined. That is more than 38 percent for total taxes versus 28 percent for food, clothing, and housing.

This year, the Republican Congress wants to do something unusual for the taxpayers of our country: Give their money back to them. We want to stop penalizing young couples for getting married. Republicans want to increase the standard deduction for married couples filing jointly. In 1993, 40 percent of families paid higher taxes because they got married. A couple without children who earns $20,000 a year pays an additional $188 in taxes. When they have children, the number soars to $3,717 per year. In Texas, a mother of two children on welfare is penalized $5,862 a year for marrying a man who earns $20,000. Our Tax Code is biased against marriage, and that is just flat wrong.

We want to provide a $500-per-child tax credit for the American family to give them help in the struggles of raising a family. This would mean 3.5 million families in America would not have to pay taxes anymore. We want to cut capital gains taxes to encourage and reward investment to create new business, to create new jobs.

A low capital gains tax rate is important to our future, because we should be able to take our money and put it where we need it at the time. But many people cannot sell their assets because of the huge capital gains tax that has accrued over the years. So we need to encourage investment to create the new jobs and the new industries that will get our economy on a safer track.

We want to cut estate taxes so that years of hard work and success will not be wiped out in a generation. I have known people who have had to sell land that they inherited because they could not pay the inheritance taxes on that land. Mr. President, that is wrong. It walks away from the American dream. The American dream is if you work harder in this country, you can do better and you can create a little nest egg that will make it easier for your children to have a better life. Why in the world would we take dollars that are taxed first when you earn them, again when you invest them, then when you die? It does not make sense, and it especially hurts the small family farm, ranch, or business.

We are trying to cut the burden of taxes on the American family. What better day than today to talk about this burden and to talk about the differences between the President and Congress and our priorities.

Thank you, Mr. President. I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. Time has expired. Under the current order, we are in morning business.

Mr. GRAMS. Mr. President, I ask unanimous consent to speak for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Mr. President, there are 365 days in each calendar year, but I can think of no other date that the American people await with such universal dread as April 15, tax day.

However, there is one other date working Americans should look upon with equal disdain, and that is the date that says a great deal about the Federal, State, and local tax burden working families are expected to bear. That date is May 9, this year's tax freedom day.

As it does every year, the Tax Foundation has calculated the date the average American stops working just to pay their share of the tax burden and begins working for themselves. This year, tax freedom day falls on May 9. And while the use of the word "freedom" in tax freedom day implies something to celebrate, working Americans have absolutely nothing to celebrate when it comes to their taxes.

Tax freedom day falls a full day later this year than it did in 1996, meaning taxpayers must work 128 days before they can count a single penny of their salary as their own.

Of those days, 44 will be spent paying personal income taxes; 38 days will be spent paying payroll taxes; sales and excise taxes, 18 days; property taxes, 12 days; corporate income taxes, 13 days; also 3 days will be spent paying miscellaneous taxes.

When you total all that up, that is 128 days, Mr. President, 128 days in which the American people spend imprisoned by their own tax system. If the cost of complying with the tax system itself were included in the calculations, tax freedom day would be pushed forward another 13 days.

The tax burden on middle-class Americans is rising rapidly. Taxpayers are now working an entire week longer to pay off their taxes than they were when President Clinton first took office in 1993. That sounds like Government getting larger and more expensive, not the "era of big Government is over." If you calculate the tax load in hours and minutes, instead of days, Americans spend fully 2 hours and 49 minutes of each 8-hour workday laboring to pay their taxes.

That is a great deal more than the 1 hour, 40 minutes it takes to pay for their family's food, clothing, and shelter.

May 9 marks the arrival of Tax Freedom Day for the average State.

Unfortunately for taxpayers in my home State, Minnesota ranks well above average in the tax burden my constituents are forced to bear. In 1997, Tax Freedom Day will not arrive in Minnesota until 4 days later, until May 13. Only five other States and the District of Columbia mark Tax Freedom Day as late or later than we do.

There has never been a time in our history when the need for tax relief was so obvious and so great. Let us make 1997 the year we enact the $500 per-child tax credit. Let us make 1997 the year we kill off the death tax. Let us make 1997 the year we promote savings and investment by cutting capital gains. Let us not let another Tax Day go by before we deliver on our promise of substantial relief for the American taxpayers.

Mr. President, it is not a normal practice of mine to quote poetry on the Senate floor. I prefer to leave the rhymes to those Senators who possess a more poetic nature than I. But because this is Tax Day, I would like to share the closing lines of a poem by Ogden Nash and then follow it up with a final comment.

"Abracadabra, thus we learn
The more you create, the less you earn.
The less you earn, the more you're given,
The less you lead, the more you're driven,
The more destroyed, the more they feed,
The more you pay, the more they need,
The more you earn, the less you keep,
And now I lay me down to sleep.
I pray the Lord my soul to take
If the tax-collector hasn't got it before I wake."

It was 1935 when Mr. Nash first published his poem warning of the dangers of a tax system run amuck. At that time in our history, the Federal tax rate was less than four percent.

Now, I cannot imagine what kind of poem Mr. Nash would write today, at a time when Washington demands an average 28 percent of our income in taxes. And even if I could imagine what Mr. Nash would write I am not sure I would be allowed to read it on the floor of the Senate.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPRECIATION TO SENATE LEADERSHIP

Mr. WYDEN. Mr. President, I rise today to express my appreciation to the bipartisan leadership for responding so quickly to an issue that cries out for justice. With strong and responsive action from the leadership today, the U.S. Senate said that those who have a visual impairment will be able to fully utilize their talents on this Senate floor.

A resolution was accepted today in the Senate which allows persons requiring a guide dog, a wheelchair, or a cane to be considered on a case-by-case basis for entry to the floor. Pursuant to this resolution, the Sergeant at Arms has determined that for Ms. Moira Shea, a staffer in my office, that her guide dog is necessary and appropriate to the performance of her duties.

PRIVILEGE OF THE FLOOR

Mr. WYDEN. Given this development, Mr. President, I ask unanimous consent that my staffer, Ms. Moira Shea, be granted access to the floor of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

EQUAL ACCESS AND OPPORTUNITY

Mr. WYDEN. Mr. President, and colleagues, watching Ms. Shea enter the Chamber today makes me feel very proud. It is a good day for the Senate because ensuring equal access to opportunity is what the U.S. Senate is all about. Ms. Shea has been assisting my office in a number of matters, particularly nuclear waste legislation and legislation with respect to the rights of the disabled.

Yesterday, I attempted to bring Ms. Shea on to the Senate floor to assist me in debate on the nuclear waste bill. Ms. Shea is a respected economist and energy policy expert who has worked for the Federal Government for more than 20 years. She was denied access to the Senate floor yesterday because she requires the use of a guide dog as a result of a genetic condition which significantly impairs her vision.

Today, Mr. President and colleagues, I thank the majority and minority leaders as well as the chairman and ranking member of the Rules Committee for moving so expeditiously to ensure that this body extend equal opportunity to citizens who are visually impaired.

Today, a resolution was offered by the majority and minority leaders and referred to the Senate Rules Committee that seeks to permanently address this issue so that an individual with a visual impairment will not need to seek case-by-case approval just to use their talents on this Senate floor. I intend to work with Members on both sides of the aisle and with Ms. Shea to make certain that the U.S. Senate provides appropriate access to those citizens with disabilities and that the access complies with the spirit of the Americans with Disabilities Act.

It seems to me, Mr. President, that what the Senate is saying today is that a double standard will not be allowed here. In the private sector, for example, Federal law is very clear. In the private sector where you have an individual with Ms. Shea's talents and abilities, and if a guide dog or a white cane is needed to carry out those duties in the private sector, Ms. Shea would have a legal right to have that guide dog with her.

Now, I close by thanking several of our colleagues for their help in rectifying this situation. I particularly thank Senator REID of Nevada, the lead cosponsor of my resolution, as well as chairman FRANK MURKOWSKI for his support yesterday. In addition, Senators WELLSTONE and BRYAN and, in fact, all Members of the Senate who were on the floor yesterday during discussion of this issue moved to be cosponsors of this legislation. I thank

Senator Ford who also, for years, has worked for the rights of the disabled. Finally, I thank our Sergeant at Arms, Mr. Greg Casey. He has been extraordinarily patient and conscientious in working with myself and our staff. I thank him for helping to bring justice to the floor of the Senate.

Mr. President, the U.S. Senate has done the right thing today by standing up for full legal rights and equal opportunity for those like Ms. Shea who have a visual impairment. The Senate is sending a message across this country that we are not going to leave our citizens behind. I am very proud that the Senate has taken this action. I yield the floor.

Mr. HATCH. Mr. President, I compliment the distinguished Senator from Oregon and Ms. Shea for doing this historic and unprecedented resolution. This is a beautiful dog, Ms. Shea, and we are proud to have you on the floor of the U.S. Senate and proud to have your dog here as well.

Mr. LEVIN. Will the Senator yield?

Mr. HATCH. I yield.

Mr. LEVIN. I want to join Senator Hatch in congratulating and thanking the Senator from Oregon for his persistence.

Ms. Shea, we are delighted you are on the Senate floor with your dog. It is a historic day for the Senate. Senator Hatch has made the point and I join, and I think all of our colleagues join, in expressing appreciation to the Senator from Oregon who has done an important service for the Senate for making it possible for this to happen.

Mr. WYDEN. I thank my colleague.

UNANIMOUS-CONSENT REQUESTS—S. 522

Mr. LOTT. Mr. President, today is April 15, tax day. There has been a good effort underway between Senator Coverdell and Senator Glenn and Senator Roth and others to bring before the Senate very important legislation, S. 522, regarding the unauthorized access of tax returns. They have come to a bipartisan agreement. I think on this day it is very important that we have this legislation come before the Senate to be debated and voted on. The American people certainly feel that should be done. I think they will feel comforted by the fact that the Senate stepped up and has addressed these concerns. This idea of a snooping through taxpayers files is very offensive to all Americans. So we need to get this done today.

Mr. President, I ask unanimous consent that at 2:15 today, April 15, the Senate proceed to the consideration of calendar No. 37, S. 522, regarding the unauthorized access of tax returns and the bill be considered under the following limitations: That there be only 1 amendment in order to the bill, to be offered by Senators Coverdell, Glenn, and Roth, no other motions or amendments be in order, and further, total debate on the amendment and the bill be limited to 1 hour 35 minutes, divided equally between Senator Coverdell or his designee and Senator Glenn or his designee. I further ask consent that following the expiration or yielding back of time, the Senate proceed to vote on the Coverdell amendment, the bill then be read the third time, and there then be 10 minutes for debate, to be equally divided, to be followed by the final vote on passage of S. 522, as amended, if amended.

Mr. DASCHLE. Mr. President, I support the Coverdell-Glenn substitute amendment to establish criminal penalties for unauthorized inspection of tax returns and tax information. Penalties already exist for unauthorized disclosure of these documents. It is only fair and reasonable that these be extended to unauthorized inspection as well, particularly in light of the recent revelations involving misbehavior by some IRS employees. Tax filings are privileged, private information. Taxpayers have a right to know that the information they provide the IRS will be seen only by those who process it in the normal course of Government business.

I would like to salute Senator Glenn, in particular, for his steadfast advocacy of this legislation over the years. The distinguished Senator from Ohio was ahead of his time when, years ago, he proposed the changes incorporated into the legislation before the Senate today. On behalf of the taxpayers of my State, I would like to thank him for his leadership on this important issue.

I also want to thank Senator Coverdell and others who have been involved in this effort. I don't know that there is much opposition at all to their mutually effective work in addressing the problem that needs to be addressed at the earliest possible date.

Unfortunately, as anyone who watches the news knows, we have a set of circumstances in the upper Midwest that also requires immediate action. Severe flooding, brought on by the most severe winter in the history of the region, has devastated hundreds of communities throughout the States of Minnesota and South and North Dakota. In my home State of South Dakota, there have been only 2 days this year in which a Presidential Disaster Declaration has not been in effect for the entire State. Despite the best efforts of FEMA and the administration to respond, State and local governments have been financially devastated by the costs associated with these disasters. The ongoing flooding that is currently occurring is having an even greater financial effect on families and individuals. In Watertown, SD, and other communities in the region, thousands of residents have been evacuated from their homes due to rising flood waters. Many of these evacuated homeowners have now discovered that they are unable to obtain benefits from their flood insurance, even though they purchased flood insurance and are now flooded out and lost their homes, their farms, and their businesses. Just last week, when many of us were home, we pledged immediate response in an effort to resolve the problem that they have as quickly as possible. I simply cannot pass up the opportunity, legislatively, to attempt to find a way to reconcile that pledge with my responsibilities here on the Senate floor.

So it is in keeping with that effort that I ask unanimous consent that as part of the Coverdell amendment, we allow this small change, which the administration is completely in support of. There is very, very minimal budgetary exposure involved, and it would be an extraordinary measure of assistance to many people who, today, are not only without insurance coverage, but are also without homes. So I simply ask unanimous consent that this small change in the flood insurance law be accommodated in the Coverdell amendment. Then I will have no objection.

Mr. LOTT. Mr. President, reserving the right to object to that additional unanimous-consent request. I might say that I am from a State that has been disaster prone, and I know that Senator Daschle's area has had all kinds of problems this year—drought, flooding, freezing flooding, the works. We have had similar problems in my State, from droughts to floods, tornadoes, hurricanes, freezing rain, which have caused terrible devastation. So I am sympathetic to the problem.

However, this is asking for a change in the law that has been in place since 1968. Clearly, my constituents and the constituents all over America that have had to deal with disasters have complied with and have dealt with this 30-day requirement of the insurance coverage versus 15 days. Regardless of that, I think it is something we should consider. But we have just recently been aware of the language of the Senator from South Dakota in this area. We need to assess whether there is objection to it. Will there be a budget impact? What does it mean for people that had to deal with it in the past or will in the future? We are checking with the chairmen of the Budget Committee, the Banking Committee, and the Finance Committee. I think we should not leap to do it until we know for sure exactly what the impact would be.

Again, I do think we should work with each other in a bipartisan way, always, when disasters are involved. But as good stewards of our constituents, we need to make sure we understand the ramifications, too.

So I think that within, hopefully, a relatively short period of time, we will be able to get an assessment of any negative impact that might come from this.

I hope we can get started with this legislation, which is so important with regard to snooping through IRS files. Everybody understands that it is wrong. People are outraged by it. There is a bipartisan commitment to it. So if we don't get an agreement to get started on this now, or shortly, we will not be able to get it done today, which is symbolically a very important day to do it. So I would not be able to agree to this change in the bill at this time, while we are talking it out.

I have suggested another alternative to make in order as an amendment. There are a lot of options. We could either withdraw it, or accept it, or vote on it later in the day. We will work with the Senators that have the jurisdiction. We will talk with the Senator from South Dakota to see if we can work something out on the flood insurance provision.

In the meantime, I do object to the addition at this time. I plead with the Senator to allow us to proceed with this legislation under our unanimous-consent request while we continue to work on this issue.

Mr. DASCHLE. Mr. President, I have no objection at all to proceeding with consideration of the legislation. As I indicated, I think Senators COVERDELL and GLENN ought to be complimented for their work in trying to address this matter. There is a difference between proceeding to the bill and proceeding under the unanimous-consent request, as propounded by the majority leader. I, of course, would object to the unanimous-consent request but would have no objection to proceeding to the bill in an effort to begin debate.

Mr. LOTT. In view of that, then, Mr. President, I am prepared to yield the floor. I advise Senators that we will renew our request again, probably within an hour or so after we have had a chance to check further into this matter.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senator from Illinois, Senator DURBIN, be recognized for up to 10 minutes of morning business following the remarks of Senator HATCH.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent I be permitted to proceed as in morning business for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISAPPOINTMENT WITH THE ATTORNEY GENERAL

Mr. HATCH. Mr. President, I hoped to come to the floor today to deliver a statement commending the Attorney General for her courageous decision to do the right thing and request the appointment of an independent counsel to investigate the fundraising violations in connection with the 1996 Presidential election. Regrettably, I am here today for a much different reason, to express disappointment and frustration with her refusal to even initiate an independent counsel's appointment.

I appreciate the fact that the Attorney General is under enormous pressure from the White House, the Congress, the media, and the public, and that she is in a very unenviable position. I have respect and admiration for the Attorney General, but her refusal to do what the law permits and indeed requires her to do, frankly, does not engender respect or admiration in this instance.

The Clinton administration and the Department of Justice is trying to cast her decision as a legal decision when, in fact, it is a decision within her power, and in my opinion, one which she is ethically obliged to make.

As chairman of the Senate Judiciary Committee, which, pursuant to its statutory responsibilities requested 33 days ago that the Attorney General apply for the appointment of an independent counsel, I am compelled to respond to what can only be characterized as her inadequate response. In all candor, the substance of the Attorney General's report is vague, ambiguous at best, and at times, legally disingenuous. Especially in light of the fact that the committee requested she evaluate and report on "all of the information before her," not just a few isolated allegations, the Attorney General's report also is incomplete, and in a rather selective way at that.

A judge in a court of law would recognize the Attorney General's report as a defense brief, too clever by a half, carefully and zealously crafted to serve a client's interest. But the Attorney General's client here is not the President of the United States or her political party, it is the public. And the public's confidence that this investigation will be fair, as thorough, and as tough as any other, altogether untainted by political considerations, has not been fulfilled. I am afraid this client, the public, has been disserved.

Given the evasiveness of the Attorney General's report, together with the delay in its transmission and the fact that as the Attorney General herself admits, "much has been discovered," since the committee sent its letter, I have little choice but to conclude that much to my disappointment, the Attorney General did not receive our request with a mind fully open to doing what is plainly in our Nation's best interests.

Before responding to the Attorney General's report in more detail, I feel I should briefly review what the independent statute provides for. An independent counsel can be triggered in one of two ways: Where there is sufficient information to investigate whether any person "covered" by the statute may have violated Federal law; or where an investigation of someone else who may have violated the law may result in a political or other conflict of interest. It is that simple.

Let me talk, No. 1, about the mandatory trigger of that legislation. With respect to the first, the mandatory trigger where "covered individuals" are at issue, the Attorney General's report does little but make reference to legal "factors that must be considered," and then repeatedly draws the summary conclusion that she does not have specific and credible evidence that a covered individual may have violated the law. Despite the White House's characterization of the Attorney General's decision as simply "applying the law to the facts," there is virtually no application of the pertinent law to the pertinent facts actually before the public, let alone the facts before the Attorney General.

While the statute requires the Attorney General to set forth the reasons for her decisions with respect to each matter before her, in my view she has utterly failed to do so here. To illustrate just a few examples of the inadequacy of the Attorney General's response, let me point out that she fails to specifically explain why an independent counsel is not warranted to further investigate the abundant evidence that covered individuals made extensive and deliberate use of Federal property and resources for campaign purposes including, for example, the Lincoln bedroom, and other areas of the White House, Air Force One, and a computer database costing the taxpayers $1.7 million.

An authority higher than me and more independent than the Attorney General needs to determine the scope of the various laws implicated by this conduct and whether any of the laws were violated. The Attorney General's somewhat evasive approach to this entire matter is aptly illustrated by her argument that the use of the Government telephone does not constitute conversion of Government property. I am sure it does not. But as the Attorney General knows all too well, that is beside the point. The allegations of misuse of Government property are not based on phone calls.

Mr. President, the Attorney General's evasive approach to this entire matter is aptly illustrated by her argument that the use of the Government telephone does not constitute conversion of Government property. I am sure it does not. But, as the Attorney General knows all too well, that is beside the point: The allegations of misuse of Government property are not based on phone calls, but on the diversion of resources, such as the White House, Air

Force One, and the White House database for campaign purposes, while phone solicitations were not alleged to have violated the conversion laws, but rather the prohibition on solicitations from Federal property. The conclusion I cannot help but draw here is that, however involved the Attorney General's career staff was in preparing this letter, in the end, it was her political advisers who had the last word.

In short, the Attorney General's carefully finessed and, in some cases, deliberately irrelevant legal arguments, combined with her summary conclusions that there is no specific, credible evidence that a covered individual may have violated the law, hardly persuades one that an independent counsel is not mandated under the statute or, for that matter that the question has been given a genuinely thorough and candid evaluation.

Perhaps more fundamental, though, is the Attorney General's altogether inadequate explanation as to why she will not request an independent counsel pursuant to the second statutory trigger —to avoid a conflict of interest. Here the test is quite simple: If the Attorney General is presented with a conflict of interest in investigating whether any individuals may have violated the law, she has the discretion to proceed with the appointment of an independent counsel. Try as the White House and the Attorney General might to cast this as a narrow and technical legal question, it is anything but that; it is an ethical one requiring sensitive judgment as to what is necessary to ensure the public's confidence that an investigation can be supervised by the Attorney General and completed in a thorough and impartial manner.

In the past, the Attorney General has had a rather broad view of what is necessary to protect the public's confidence that an investigation is not compromised by any perception of a conflict of interest. In her Whitewater independent counsel request, for example, Attorney General Reno concluded that an independent counsel was required because her investigation would involve an investigation of James McDougal and "other individuals associated with the President and Mrs. Clinton" would amount to a conflict of interest. It was that simple. In her referral of the Nussbaum perjury allegation to the independent counsel, the Attorney General concluded that a conflict of interest existed because the investigation "will involve an inquiry into statements allegedly made by a former senior member of the White House staff." It was that simple. And, testifying before Congress in 1993, Ms. Reno stated that the Iran-Contra investigation "could not have been conducted under the supervision of the Attorney General and concluded with any public confidence in its thoroughness or impartiality." It was that simple.

Indeed, the Attorney General's testimony at that time thoroughly explained her rather strong view that even the slightest appearance of a conflict of interest should at all costs be avoided by the appointment of an independent counsel. It was that simple. She testified:

> There is an inherent conflict of interest whenever senior Executive Branch officials are to be investigated by the Department of Justice and its appointed head, the Attorney General. The Attorney General serves at the pleasure of the President. Recognition of this conflict does not belittle or demean the impressive professionalism of the Department's career prosecutors, nor does it question the integrity of the Attorney General and his or her political appointees. Instead, it recognizes the importance of public confidence in our system of justice, and the destructive effect in a free democracy of public cynicism.

Attorney General Reno further testified:

> It is absolutely essential for the public to have confidence in the system, and you cannot do that when there is a conflict or an appearance of conflict in the person who is, in effect, the chief prosecutor. . . . The Independent Counsel Act was designed to avoid even the appearance of impropriety in the consideration of allegations of misconduct by high-level Executive Branch officials and to prevent. . . the actual or perceived conflicts of interest. The Act thus served as a vehicle to further the public's perception of fairness and thoroughness in such matters and to avert even the most subtle influences that may appear in an investigation of highly placed Executive officials.

Now, in her report to the Judiciary Committee, however, the Attorney General adopts a far narrower view of when an independent counsel is called for. Suddenly, the conflict of interest provision has become a complicated legal threshold which "should be invoked only in certain narrow circumstances." That is on page 3 of the letter to me. Directly contradicting her own public statements that it is impossible for the public to have confidence in an investigation where there is a "conflict or an appearance of conflict in the person who is, in effect, the chief prosecutor," now the Attorney General claims that her discretion is limited only to situations where there is an actual conflict of interest. Quite frankly, the Attorney General's efforts to distance herself from her 1993 testimony require her to render a rather creative reading of her own testimony.

Allow me to suggest that, to the extent an independent counsel was called for to ensure public confidence in an investigation of Mr. North, Mr. Nussbaum or Mr. McDougal and his associates, one certainly is called for here. If the Attorney General has adopted a new standard for evaluating when an independent counsel is necessary to ensure the public's confidence in an investigation, she should state as much and explain the basis for her new position.

Although the Attorney General does not say as much in her letter, one can only surmise that her position is that First, there is no conflict of interest in continuing to investigate any of the individuals already under investigation, that is, Huang, Riady, Trie, Kanchanalak, John H.K. Lee, the Wiriadinatas, Charles DeQueljoe, Mark Middleton and Webster Hubbell, and second, that there is no basis for investigating whether other high-ranking officials may have violated the law. Since Attorney General Reno fails to explain her reasoning, let's step back for a moment and review some of the facts here to determine whether either of these apparent positions can really be defended.

Take Mr. John Huang, the former Lippo executive whom the Riady's are widely reported to have bragged was placed in the Clinton Administration in exchange for generous donations by the Riady family, whose ties to the Clintons date back to Little Rock in the 1980's. See, for example, the New York Times, October 7, 1996. Recall that the Lippo Group, Huang's former employer, is connected to a far-reaching network of seriously questionable activities, directly implicating not just the Riadys and Huang, but the other individuals that figure in this troubling scandal, including Charlie Trie, Pauline Kanchanalak, Soraya Wiriadinata, C.J. Giroir, Mark Middleton, Mark Grobmeyer, Wang Jun, Charles DeQueljoe, and even Webster Hubbell. Since the Department is already investigating Huang, there plainly are sufficient grounds to investigate whether he may have violated federal law. In declining to invoke the discretionary conflict of interest trigger, the Attorney General's position, therefore, must be that there is no potential conflict of interest in her investigating Huang.

Let's take a look at some of this. This is the "Lippo Group, an Overview."

John Huang was a former Lippo executive in the United States. He had a $780,000 severance package before he went to work for the Government. By the way, before he went to work for the Government, for 5 months he had a security clearance given him by this administration. There is a question whether that was legal; a former Commerce official, multiple contacts with Lippo during that time; former DNC vice chairman; raised more than $3.4 million; $1.6 million is to be returned; and, he visited the White House more than 75 times.

C.J. Giroir, a Lippo Joint Venture person, and a former Rose Law Firm attorney, met with James Riady, President Clinton, and Lindsey on Huang on his move to the DNC. He donated $25,000 to the DNC.

Mark Middleton, former White House aide from Little Rock, met with James Riady and President Clinton; has Far

East business interests; unlimited access to the White House after his departure.

Charlie Trie, Little Rock restaurateur, had a $60,000 loan from Lippo; former Lippo executive; arranged with a former Lippo executive Antonio Pan, a Hong Kong dinner for Ron Brown; attempted to give more than $600,000 to the Clinton's legal expense trust; visited the White House at least 27 times.

I can go through all of these other people.

Mr. President, I ask unanimous consent that the description of each of them be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE LIPPO GROUP—AN OVERVIEW

- John Huang:
  - Former top Lippo executive in U.S.
  - $780,000 severance package
  - Former Commerce Official-multiple contacts w/Lippo
  - Former DNC Vice Chairman
  - Raised more than $3.4 mill. (appx. $1.6 mill. returned)
  - Visited White House more than 75 times
- Pauline Kanchanalak:
  - Thai lobbyist who worked w/Huang when he was at Lippo
  - Contributed $235,000 to DNC—all returned
  - Frequent contacts with Huang
  - Visited White House at least 26 times
- Charles DeQueljoe:
  - President of Lippo Securities in Jakarta
  - Gave $70,000 to DNC
  - Appointed to USTR advisory panel
- Webster Hubbell:
  - Former Associate Attorney General
  - Received $250,000 "consulting fee" from Lippo—won't say why
- Wang Jun:
  - Lippo joint ventures
  - Chinese arms merchant
  - Senior Executive at CITIC & COSTIND (Chinese gvt. entities)
  - Attended White House coffee
- C.J. Giroir:
  - Lippo Joint Ventures
  - Former Rose Law Firm attorney
  - Met with James Riady, Pres. Clinton, & Lindsey on Huang move to DNC
  - Donated $25,000 to DNC
- Mark Middleton:
  - Former White House aide from Little Rock
  - Met with James Riady & President Clinton
  - Far East business interests
  - Unlimited access to White House after departure
- Charlie Trie:
  - Little Rock restaurateur
  - $60,000 loan from Lippo
  - Arranged (w/former Lippo exec. Antonio Pan) Hong Kong dinner for Ron Brown
  - Attempted to give more than $600,000 to Clinton legal expense trust
  - Visited White House at least 37 times
- Mark Grobmyer:
  - Little Rock attorney—close friend of Pres. Clinton
  - Consultant to Lippo
  - Far East business interests
  - Met with James Riady, Huang, & Pres. Clinton
- Soraya Wiriadinata:
  - Daughter of Hashim Ning, former Lippo exec.
  - Contributed $450,000 to DNC—all returned
  - Has returned to Indonesia

Mr. HATCH. Mr. President, let's just take a look at the specific, credible evidence that has surfaced to date. Huang, who received a severance package from Lippo of $788,750 is reported to have:

Received a top secret security clearance that could have allowed him to review classified intelligence documents, for 5 months while still employed by the Lippo Group, and before he joined the Commerce Department, all after a lax security check that was limited to his activities in the United States;

Made at least 78 visits to the White House during his 18 months at the Commerce Department;

Received 37 intelligence briefings on issues relating to China, Vietnam, and other matters of potential interest to Lippo;

Made more than 70 calls to a Lippo-controlled bank; and received at least 70 calls; 39 classified, top-secret briefings; 30 phone conversations with Mark Middleton; 9 phone calls from Webster Hubbell; received at least 9 calls from the Chinese Embassy officials. He had at least three meetings with Chinese Government officials. He had a 1-year top secret clearance after leaving Commerce after he joined the Democratic National Committee. You wonder why national security interests were compromised and why information was given to the DNC.

Like I say, he had 30-plus phone conversations with Mark Middleton or his associates. All of them had interests—at least I understand had interests—in the Far East.

He had his transfer to the DNC orchestrated at a curious September 13, 1995, Oval Office meeting attended by the President, Bruce Lindsey, James Riady, and Lippo joint venture partner and former Rose law partner, Joseph Giroir;

Raised over $3.4 million while at the DNC—money used to reelect the President—retaining his top secret security clearance even though he was no longer working for the U.S. Government; and had $1.6 million of that $3.4 million used to reelect the President returned because of its suspicious sources.

As we now know, John Huang has taken the fifth amendment, or has asserted the fifth amendment, while the Riadys have not only taken the fifth but they fled the country. Doesn't an investigation of Huang, so close to those who are covered by the statute, and the Riadys, so close to those who are covered by the statute who, like the McDougals, are political supporters and "individuals associated with the President"—to use the Attorney General's language of the past—doesn't that raise a conflict of interest?

It isn't just John Huang. Here are some examples of illegal funds raised by Huang: The Wiriadinatas, $450,000. They have returned to Indonesia. All funds are supposed to have been returned by the DNC. I am not sure that is true.

Pauline Kanchanalak gave $253,000. She left the country. She is now in Thailand. Allegedly all of that $250,000 has been returned by the DNC. I am not so sure.

Mr. Gandhi gave $250,000; testified he had no assets. How could he give $250,000? All of those funds are supposed to have been returned by the DNC. I am not so sure about that either.

John H.K. Lee. He gave $250,000. He has disappeared. And those funds were supposed to be returned by the DNC. I am not so sure they have done it.

Then Hsi Lai Buddhist Temple, $166,750 raised there. The temple residents, many of whom gave part of this money, were people who had taken a vow of poverty and had no money to give. Is there no illegality there; nothing to raise a possibility that something may be wrong here which is what the statute basically says? Supposedly $74,000 of that was returned by the DNC. You mean these things aren't wrong and illegal? You mean there is no conflict of interest here at all? If all you do is look at Huang, you have to say there is something wrong here.

Then there is Mr. Charles Trie. Trie is a former Little Rock restaurateur, and reportedly a longtime friend of President Clinton who now runs an international trading company in Little Rock, AR. Mr. Trie has also asserted the fifth amendment and has even fled the country, along with these others.

He is a business partner with Ng Lap Seng, a Chinese Government official. He received a $60,000 loan from the Lippo Group. He raised $645,000 in questionable funds which have been returned by the DNC. He raised $639,000 for the Clinton "Legal Defense Fund," which was returned because the source of the money could not be identified; or the sources of the moneys could not be identified.

He was during this period receiving wire transfers of very large sums from the Bank of China, owned by the Chinese Government.

He visited the White House 37 times.

He escorted Mr. Wang Jun, a Chinese arms merchant, to a White House coffee last year, which, when revealed, was described by the President as "inappropriate."

He wrote the President in March 1996 to question his decision to deploy aircraft carriers to the Taiwan straits when the Chinese test-fired missiles in Taiwan's direction, receiving a personal letter back from the President assuring Trie that the United States only wanted peace in the region; arranged a Hong Kong dinner for former

Commerce Secretary Ron Brown; and, finally, was formally appointed to a Presidential Commission on Asian Trade in April 1996.

To the extent there was a conflict of interest preventing public confidence in the Justice Department's investigation of Oliver North or James McDougal, certainly the same conflict exists with respect to an investigation of Huang, the Riadys, and Trie, not to mention the handful of other individuals who have taken or will assert the fifth amendment, fled the country, or done both, including Pauline Kanchanalak, Arief and Soraya Wiriadanata, John H.K. Lee, and Charles DeQueljoe. Frankly, there is even more of a conflict here.

Moreover, it has become clear that there is specific, credible information providing sufficient grounds to investigate whether various high-ranking members of the administration may have known of, or conspired in, any of these apparent fundraising violations. Indeed, we now know from the Ickes files that the decision to transfer Huang from the Commerce Department to his fundraising role in the DNC was made at the September 13, 1995, Oval Office meeting which included not just Huang, James Riady, and Lippo Joint Venture Partner and former Rose Law Partner Joseph Giroir, but Bruce Lindsey—who seems to pop up in all of these instances—and President Clinton himself, and that a participant at this Oval Office meeting reportedly recommended that the President "reassign Huang from his Government job to a political fund-raising job, where he could extract contributions for favors done and favors yet to come." The New York Times, March 5, 1997. Mr. Ickes' notes expressly indicate that Huang had specifically targeted "overseas Chinese." And it has been reported how this decision to transfer Huang to the DNC, made at that September 13, 1995, Oval Office meeting, was directly linked to a plan, agreed to just days earlier by the President, Dick Morris, Harold Ickes, and others, to raise funds to wage a preemptive television ad campaign. See New York Times, April 14, 1997. In short, isn't there sufficient information at least to investigate whether any of these top-level White House advisers were aware of or involved in Huang's and the Riady's far-reaching scheme to launder foreign funds into Democratic campaign coffers? Does the Attorney General expect the public to have confidence that she can thoroughly and dispassionately investigate individuals among the President's closest advisers without any conflict?

Similarly, there is now a wealth of information documenting the extensive involvement from the President down through Mr. Ickes and other White House advisers in the plans, discussed earlier, to use the Lincoln bedroom, the White House, Air Force One, and the White House's computer database to further campaign purposes, and that campaign contributions were received at the White House. The Attorney General claims she is "actively investigating" whether laws were violated. Doesn't this investigation of these high-level White House advisers, even if not covered individuals, present a conflict at least as great as the conflict that apparently existed with regard to the investigations of Mr. North and Mr. McDougal?

How can one say that there is no conflict when the FBI and White House are publicly squabbling over whether the White House should receive information about the investigation, and the Attorney General is smack in the middle of this squabble; when the White House falsely accuses the FBI of telling the National Security Council staff not to pass on information regarding Chinese attempts to illegally influence United States policymakers?

Indeed, the very fact that the FBI, an agency within the Justice Department, refused to produce this information to the White House on the eve of Secretary Albright's visit to China clearly suggests that the investigation has already reached high up into the White House. It is curious, to say the least, that the Department of Justice leaked its decision to the press over the weekend, but it did not actually notify the Judiciary Committee of its decision until 6:30 last night, 2 days after this letter was due. Furthermore, the Acting Deputy Attorney General's assertion that the fact that both Judiciary Committees have made a formal request would emphatically not have any impact on their decision suggests to me that the Justice Department is in a defense mode.

In short, I think there is little doubt there is at the very least a potential conflict of interest in having the Justice Department investigate these matters. The administration should not be investigating itself, it is just as simple as that, as long as we have an independent counsel statute. Simply claiming to defer to career Justice Department officials will not do. Would the public accept a Member of Congress not recusing himself or herself from a particular matter on which he or she had a major conflict of interest because staff recommended they not recuse themselves? Would the public accept a judge's refusal to recuse himself or herself in the face of a conflict because a clerk advised against it?

The fact is that the DNC, the Democratic National Committee, has simply, on the basis of its own audit, already identified over $3 million in improper contributions, violations of law, if you will. A significant portion of this illicit money has not even been returned yet, only confirming that this $3 million has already been spent, spent to reelect President Clinton.

We have people calling for campaign finance reform on this floor. Why don't we enforce the campaign finance laws that are already on the books. That is what this is all about, in part, I have to tell you. Three million dollars in illegal funds, illicit funds spent to reelect the President, already spent. I wonder how Candidate Dole feels about that.

The need for an independent counsel is not merely a matter of applying the law to the facts. The chorus we are now hearing from the President's press secretary and the Democratic apologists would seem to indicate that that is so when in fact it is not. In my opinion, Attorney General Reno was presented with an ethical question, a question ultimately of whether the public can have confidence in this investigation, whether the public can have confidence in this Justice Department, and whether the public can have confidence in the Clinton administration itself. Make no mistake about it. Attorney General Reno's decision yesterday was a significant political event, one which, much to my regret, will subject her to serious and I think justified criticism. This is not a happy day for the Department of Justice or for the public confidence in our system of justice. By continuing to permit what certainly appears to be a very serious conflict of interest, the Attorney General regrettably has, to use her own words, brought upon the Nation "the destructive effect in a free democracy of public cynicism."

I yield the floor. I thank the Chair.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

Mr. DURBIN. I ask unanimous consent to speak for 10 minutes.

The PRESIDING OFFICER. Under a previous order, that has already been granted.

Mr. DURBIN. I was seeking recognition on the same subject. Senator HAGEL, I believe, is on the way up to join me for 10 minutes. This is a separate request. Is it possible to do both?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I thank the Chair.

I would like to address the issue that the chairman of the Judiciary Committee raised, and I am glad he stayed in the Chamber. I could not disagree with him more. If this really is a contest over the professionalism of Attorney General Janet Reno, I feel very confident to stand by her. On four separate occasions, Attorney General Reno has exercised the right to call for an independent counsel within the Clinton administration, three of those counsel investigating members appointed to the President's Cabinet and a fourth investigating the Whitewater controversy involving the Clinton family itself. It is very clear to me that Attorney General Reno is calling these as she sees them.

Look at the situation that we now have before us. The Speaker of the House of Representatives, Mr. GINGRICH, leaders of the Republican Party, all come forward and say that if Attorney General Reno does not ask for an independent counsel, they are going do drag her up to Capitol Hill, put her before the committee, maybe put her under oath, and demand to know why she has not called for an independent counsel.

I suggest to my colleagues in the Senate the independent counsel statute itself is hanging on by a slender thread if we try to politicize this process and pressure the Attorney General into calling for an investigation where it is not warranted.

Keep in mind the creation of this statute came from an era when President Nixon fired Archibald Cox as a special prosecutor, the so-called Saturday Night Massacre. The independent counsel statute was created to try to put in place a third party or a dispassionate or a detached approach to investigations. And now, because those in the majority, the Republican Party, are dissatisfied that Attorney General Reno has not called for an independent counsel, you hear all sorts of comments about we are going to put the pressure on her; we are going to bring her up here and put her before a committee to answer all these questions.

Mr. HATCH. Will the Senator yield?

Mr. DURBIN. I will be happy to yield in just a moment. It just may be a fact that there is insufficient evidence to support the charges which the Senator from Utah and other Republicans believe. Now, this Attorney General has been involved in this investigation for a long period of time with 50 different FBI agents. If the newspaper reports are accurate, she has basically said that she will turn to her career prosecutors to make this call. I trust her judgment. I think we should trust her judgment. Applying political pressure at this point on the Attorney General is not in the best interests of a good investigation that may be necessary and may lead to the appointment of an independent counsel.

I will be happy to yield.

Mr. HATCH. I appreciate my colleague yielding.

Let us just make it clear to my colleague that this chairman of the Judiciary Committee and Chairman HYDE over in the House, when many people were calling for us to send her a letter, delayed and delayed, giving the Attorney General a lot of time, nor have we been calling improperly for her to act in any way other than properly. But it will be interesting for people to know that we had scheduled our oversight hearing for May 20 for the Attorney General to come in and to be examined by the Judiciary Committee. I think for the information of everybody who is here, she has agreed to come earlier than that, within the next 3 weeks, probably in the first week of May, and at that time she will have to justify this decision.

I think it is also safe to point out that I have been a very strong supporter of the Attorney General and still care for her a great deal. I do not like to see her subjected to this, but this is, to my knowledge, the first time that the letters from thoughtful chairmen and all the Republicans on both sides of the Judiciary Committee have been rejected and I think under much more stringent circumstances than independent counsel she has granted in the past.

So I personally hope she can assert why she has not decided to at least conduct a preliminary investigation which would have triggered another 90 days to do this. I suggested to her and to the Justice Department that she do that.

I also do not accept the—I am sorry; I will not take much longer. I do not accept her assertion that she is relying on professional staff members.

Now, I have a lot of confidence in the professional staff members down there, but this involves a lot more than that and, frankly, involves just how this statute is going to be applied.

When the time comes to reconsider this statute, I will be very interested in working with the distinguished Senator from Illinois and others to make sure that, if we are going to have a statute like this, let us have it so it works, and, frankly, I have qualms about having it at all. But since we do have it and since it does have these two main methods of triggering the call for an independent counsel and the appointment of an independent counsel, I have to say I am sadly disappointed that she has not chosen to do that under these circumstances. But I do understand my colleague at this hour rising to defend Attorney General Reno. I am not attacking her personally. I am just attacking what has been done here, and I think it should have been done before.

Mr. DURBIN. I thank the Senator from Utah. I want to say this much. If there has been any criticism of Attorney General Janet Reno in the last 6 months, it is that she is too independent. There was a question as to whether this President would even reappoint her because of her independence, the fact she had named four independent counsels. That has been the criticism of Attorney General Reno. She calls them as she sees them. She is a professional.

She has made a decision today which the Republicans are unhappy with; they wanted an independent counsel named in this case. But when she named four previous independent counsels, they cheered—good judgment, good work. Now, when she has decided not to call for one, they want to bring her up to Capitol Hill, put her before the committee, start asking questions: Why won't you bend to this pressure? I hope she does not. I hope she calls it based on the evidence.

On a show that I was on last night, one of my colleagues on the Republican side said, "Hasn't there been enough time here? Shouldn't she call for an independent counsel?"

This is not about time. This is about evidence, credible witnesses. If they do not come forward with the evidence and with the testimony to justify an independent counsel, I hope Attorney General Reno will not bow to pressure here. I hope she will stand up for what she believes in. And as a Democrat, I am prepared to accept her decision. I believe she is professional enough that we can stand behind her. But we jeopardize the future of this statute, and I think we ought to think twice about it, by putting this kind of public pressure on the Attorney General trying to push her in one political direction or the other.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). Does the Senator from Illinois yield?

Mr. DURBIN. Mr. President, I had asked for an additional 10 minutes on another topic with the Senator from Nebraska.

Mr. HATCH. Will the Senator yield for just 90 seconds?

Mr. DURBIN. I will be happy to yield to the Senator from Utah.

Mr. HATCH. I would like to say this in response. I just spent 30 minutes laying out some of the evidence that I think clearly shows the grounds for further investigation. The question is how can the Attorney General continue this investigation within the Department without a conflict of interest? I do not think she can. Again, I will cite her testimony back in 1993.

She had a strong view that even the slightest appearance of a conflict of interests should, at all costs, be avoided by the independent counsel. She said this:

> . . . there is an inherent conflict of interest whenever senior Executive Branch officials are to be investigated by the Department of Justice and its appointed head, the Attorney General. The Attorney General serves at the pleasure of the President. Recognition of this conflict does not belittle or demean the impressive professionalism of the Department's career prosecutors, nor does it question the integrity of the Attorney General and his or her political appointees. Instead, it recognizes the importance of public confidence in our system of justice, and the destructive effect in a free democracy of public cynicism.

She further testified that:

> It is absolutely essential for the public to have confidence in the system and you cannot do that when there is conflict or an appearance of conflict in the person who is, in effect, the chief prosecutor. . . . The Independent Counsel Act as designed to avoid even the appearance of impropriety in the

> consideration of allegations of misconduct by high-level Executive Branch officials and to prevent . . . the actual or perceived conflicts of interest. The Act thus served as a vehicle to further the public's perception of fairness and thoroughness in such matters, and to avert even the most subtle influences that may appear in an investigation of highly-placed Executive officials.

I really believe that the case has been made here. And, although I still have very fond feelings toward the Attorney General, I think she has made a tragic error. And I believe that this is not going to end it. In the end, I think we would have been a lot farther down the road had she applied for the appointment of an independent counsel.

Be that as it may, these remarks had to be made because they are important. Either we are going to have a statute or we are not. As I have said, I have never been a strong supporter of this statute. But it is there and it has been used in prior administrations. It has been used in this administration. And this case, it seems to me, is even more overwhelming than some of the prior cases where it has been used.

I yield the floor, and I thank my colleague.

Mr. DURBIN. Mr. President, who has time at this moment?

The PRESIDING OFFICER. The Senator from Illinois has the remaining time.

Mr. DURBIN. Mr. President, let me just say in closing, on this particular issue, before I move to the other with Senator HAGEL, this is a matter of the Attorney General's discretion. Whether that Attorney General is a Democrat or a Republican, under this statute the Attorney General is to gather the evidence, listen to the testimony, and decide whether or not that evidence and testimony crosses a threshold to suggest that a crime has been committed, either by a covered person in the administration or a Member of Congress, or creating a conflict of interest between the administration and the investigation.

If I listened and heard correctly, the Senator from Utah questions whether or not an Attorney General, appointed by a President, can exercise appropriate discretion when there has been a suggestion that that President or his Cabinet be investigated.

What the Senator from Utah calls into question is more than the judgment of any specific Attorney General. He calls into question the very existence of the statute. I think there are many deficiencies in this statute. I think we should address those, and perhaps reauthorize it with some changes. Among those changes, I might add, is that if an independent counsel is to be appointed, that independent counsel be truly independent.

In the history of this statute, 15 independent counsels have been named: 11 Republicans, 2 Independents, 2 Democrats. This process has been loaded to appoint Republican independent counsels. And how? Because the three judges who make the appointment, named by the Chief Justice, have created a daisy chain, where they are appointed for 2 years as the statute calls for and then reappointed for another 2 years. They keep coming back, over and over and over again, the same people, making the same judgments about the appointment of independent counsel.

I think this statute needs to be addressed. But, if we are going to attack this Attorney General because she has to exercise her discretion, believe me that is what the statute says that she must do. She must look at that evidence, decide whether it is credible, and decide whether to go forward. As unhappy as the Republicans may be with this decision by the Attorney General, I trust her judgment. I trust her professional judgment. If she says at this moment it is not warranted, I think she is right. I will stand by it.

Should she change her mind at some later date, I will accept that decision, too. But to call her up here and put her under pressure because she has made that decision is a serious, serious mistake.

At this point I believe there has been a unanimous-consent request for 10 minutes for Senator HAGEL and myself to address another issue, is that correct?

The PRESIDING OFFICER. The Senator has 7 minutes remaining of that time.

Mr. DURBIN. I thank the Chair.

(The remarks of Mr. DURBIN and Mr. HAGEL pertaining to the introduction of S. 575 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, this Senator inquires of the order of business?

The PRESIDING OFFICER. The Senate is scheduled to recess absent a unanimous-consent request.

Mr. BURNS. Mr. President, I ask unanimous consent I may proceed as in morning business for no more than 6 to 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

OUR SYSTEM OF TAXATION

Mr. BURNS. Mr. President, this is likely the single most frustrating day of the year for many Americans. What self-respecting member of any legislative body would not take to the floor and talk about his or her favorite subject, taxes? We could all relate to the tension of the day and the frustration of working our way through the "simplified" tax forms, worrying about making an inadvertent mistake. But, also, how we are going to do what is expected of us? With April 15 now upon us, it is time to reflect on our system of taxation and the burden it places on each and every one of us who live in this country.

I know at times the IRS finds itself as the brunt of many jokes. But to a lot of folks in Montana, tax day is no laughing matter. The fact is, families all across this Nation are forced to make some tough financial choices each year around this time. Serious questions are being asked. What can we do as a family to pay our fair share of taxes? By and large, Americans know, and they understand that some taxes are necessary to pay for the essential government services: For education, for the infrastructure of transportation and other services that we enjoy. But the question also surfaces on how to balance our family needs.

All too often, the options given require sacrifices. And, you know what? They affect children and they affect relationships. Most times, it is not fair. And sometimes it is just not right.

Unfortunately, it seems we are living in an age when only one wage earner cannot live financially secure and comfortable. Nowadays, in order to make ends meet both parents are working, even though one may prefer to remain home with their children. Families in which one parent chooses to remain at home often struggle financially, living paycheck to paycheck, while, on the other hand, dual-income families find a disproportionate share of the second check being melted away with added expenses of cost of child care, additional transportation needs and so on, and still no tax relief on the burden that is suffered on the second paycheck. Neither situation leaves families in a comfortable financial condition. Time and time again we have seen bad economic conditions lead to the demise of families and the family structure. Who suffers? Our children suffer.

I believe it is important that we begin the process of reform, which will allow our families more options and, in the end, allow them to keep more of what they earn. Those decisions should be and could be made at home instead of some IRS office or, yes, an office here in Washington, DC. Let families decide, make the financial decision of what to do with their income. All the polls that I have seen taken on the attitudes of Americans tell us that our current system of taxation is in bad need of reform. I agree. Giving Montanans and all Americans the opportunity to be financially secure should be the goal.

I might add at this point, the Nation's tax collection agency also needs to do something about its own image. That may be a feat that borders on the impossible, but it should be attempted. There are two taxes, in my estimation, that are destructive of the majority of families. They are death taxes—the estate taxes—and capital gains. Montana, my State, is a State made up of family-run farms and ranches and small businesses. With regard to the death taxes, upon the death of an owner of a small family business or a family farmer ranch, the family is required to pay more than 55 percent of the value of the farm or business value in excess of $600,000. The only thing the survivors want to do is simply continue operating the family business or farm.

But in most cases, they are forced to sell it in order to pay those death taxes. No one—no one, Mr. President—should be forced to sell the farm to save the farm.

Another equally burdensome tax is the capital gains tax, which punishes those who choose to save and invest for their future. This tax affects everybody who saves and invests to ensure they can take care of themselves and their loved ones. Like the estate tax, the capital gains tax is punitive. It is a voluntary tax. You do not have to pay capital gains tax because you do not have to sell. If you do not sell, you limit economic opportunity in the financial community.

Like the estate tax, it is a form of double taxation, moneys taxed once it is earned as income and again upon the sale of an asset or investment, and Lord knows how many times in between, making it even more difficult for families to save for the future.

The capital gains tax has a top rate of 28 percent, which is among the highest in the world. Many of the world's strongest economic powers, including Germany, Hong Kong and South Korea, have no capital gains tax at all. These countries recognize the importance of savings. They also recognize the importance of investments, and they know what it takes to create jobs, maintain an economic growth and stability and, let's face it, governments cannot take all the money and provide a stable financial future for anybody with the exception of those who choose to exploit their own government.

There is no question in my mind, in order to strengthen the American family, we must make them economically secure. No matter what we say or how good it seems, Government cannot do that. With juvenile crime at an all-time high, there is no hope for young people if they cannot see a future that allows them to use their God-given talents to ensure economic and political freedom.

We must put in place those policies that allow us to provide essential Government services, help those who cannot help themselves and build the infrastructure that provides us with opportunity and promise for the future. We must work to ease the excessive tax burden being shouldered by families.

It would be a noble work, indeed, in this Senate, if we could provide for the time when decisions could be made by families at the kitchen table with regard to their economic and political future, when parents had more options. We must provide them.

Through reform and reduction of our tax burden, this process can begin. The opportunity exists at this time, and the time is now. It ensures parents the opportunity to raise their children comfortably and provide for a stable, financially secure future. Thank you, Mr. President.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour 2:15 p.m.

Thereupon, at 2:04 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

The PRESIDING OFFICER. The Chair, in his capacity as the Senator from Indiana, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I thank the Chair.

(The remarks of Mr. LEVIN pertaining to the introduction of S. 576 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEVIN. Mr. President, I ask unanimous consent that after I speak for 4 minutes, the Senator from Illinois be recognized at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ATTORNEY GENERAL'S INDEPENDENT COUNSEL DECISION

Mr. LEVIN. Mr. President, I want to comment on the independent counsel decision of the Attorney General.

The Attorney General's obligation is to follow the law. It is not to respond to political pressure from whatever source.

Now, over the last weekend, there were some extraordinary attempts made by a number of House Republican leaders to literally scare the Attorney General into doing what they wanted. Both Speaker GINGRICH and Majority Leader ARMEY said Sunday, in effect, that if the Attorney General did not seek an independent counsel, it is because she caved in to administration pressure.

I ask unanimous consent that the April 14 article of the Washington Post, entitled "Republicans Warn Reno on Independent Counsel," be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEVIN. Mr. President, those comments by the Speaker and the majority leader of the House constitute an attempt at political intimidation and coercion. Their message to the Attorney General was that if she doesn't seek the appointment of an independent counsel, she would run the risk of being brought before a congressional committee and that she would be investigated, she would be put under oath, as though she, somehow or other, is violating her oath.

The statements by the Republican leaders in the House fly in the face of the very purpose of our independent counsel law. Now, this is a statute that we passed, on a bipartisan basis, to take politics out of criminal investigations of high-level officials. But the Speaker of the House and the majority leader of the House worked mighty hard to put politics right back into the law. Their threats to the Attorney General—and that is exactly what they were—to make her do what they want were inappropriate, and they jeopardize the very law that they are demanding she invoke.

She is required and was required to follow the law, wherever it leads her, despite the clumsy efforts at political intimidation of the Speaker of the House and the majority leader of the House. Their comments and their efforts to intimidate and coerce her to reach a conclusion that they believe is the right conclusion are inappropriate; they undermine a very important law, and they put that law's usefulness into jeopardy.

There are thresholds in the independent counsel law. The Attorney General has gone through, very carefully, in her letter to the Congress why it is she does not at this time seek the appointment of an independent counsel. She has gone through the evidence that she has and has indicated why the thresholds in the statute have not been met. She has done so carefully and professionally.

I urge every Member of this body to read the Attorney General's letter to Senator HATCH before they join any partisan effort to attempt to undermine the purpose of the law and to partisanize it.

Now, Senator Cohen and I worked mighty hard to reauthorize this law. We did it more than once. We did it because it holds out the hope that serious allegations against high-level officials can be dealt with on a nonpartisan basis. That hope is being dashed by the kind of excessive comments that the Speaker of the House and majority leader of the House engaged in last weekend when they engaged in threats and coercion, attempting to politically intimidate the Attorney General of the United States. She has not shown a reluctance to use the independent counsel statute when the threshold has been met. She is following the law to the best of her conscience and ability. She has done a professional job. I commend her for following the law and the public integrity section recommendation in her Department, rather than bowing to political pressure. I emphasize that she has not, and I believe will not, bow to political pressure from whatever source or whatever direction.

I ask unanimous consent that the Attorney General's letter to Senator HATCH be printed in the RECORD at this time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, April 14, 1997.
Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On March 13, 1997, you and nine other majority party members of the Committee on the Judiciary of the United States Senate wrote to me requesting the appointment of an independent counsel to investigate possible fundraising violations in connection with the 1996 presidential campaign. You made that request pursuant to a provision of the Independent Counsel Act, 28 U.S.C. §592(g)(1), which provides that "a majority of majority party members [of the Committee on the Judiciary] * * * may request in writing that the Attorney General apply for the appointment of an independent counsel." The Act requires me to respond within 30 days, setting forth the reasons for my decision on each of the matters with respect to which your request is made. 28 U.S.C. §592(g)(2).

I am writing to inform you that I have not initiated a "preliminary investigations" (as that term is defined in the Independent Counsel Act) of any of the matters mentioned in your letter. Rather, as you know, matters relating to campaign financing in the 1996 Federal elections have been under active investigation since November by a task force of career Justice Department prosecutors and Federal Bureau of Investigation (FBI) agents. This task force is pursuing the investigation vigorously and diligently, and it will continue to do so. I can assure you that I have given your views and your arguments careful thought, but at this time, I am unable to agree, based on the facts and the law, that an independent counsel should be appointed to handle this investigation.

1. The Independent Counsel Act:

In order to explain my reasons, I would like to outline briefly the relevant provisions of the Independent Counsel Act. The Act can be invoked in two circumstances that are relevant here:

First, if there are sufficient allegations (as further described below) of criminal activity by a covered person, defined as the President and Vice President, cabinet officers, certain other enumerated high Federal officials, or certain specified officers of the President's election campaign (not party officials), see 28 U.S.C. §591(b), I must seek appointment of an independent counsel.

Second, if there are sufficient allegations of criminal activity by a person other than a covered person, and I determine that "an investigation or prosecution of [that] person by the Department of Justice may result in a personal, financial or political conflict of interest," see 28 U.S.C. §591(c)(1), I may seek appointment of an independent counsel.

In either case, I must follow a two-step process to determine whether the allegations are sufficient. First, I must determine whether the allegations are sufficiently specific and credible to constitute grounds to investigate whether an individual may have violated Federal criminal law. 28 U.S.C. §591(d). If so, the Department commences a "preliminary investigation" for up to 90 days (which can be extended an additional 60 days upon a showing of good cause). 28 U.S.C. §592(a). If, at the conclusion of this "preliminary investigation," I determine that further investigation of the matters is warranted, I must seek an independent counsel.

Certain important features of the Act are critical to my decision in this case:

First, the Act sets forth the only circumstances in which I may seek an independent counsel pursuant to its provisions. I may not invoke its procedures unless the statutory requirements are met.

Second, the Act does not permit or require me to commence a preliminary investigation unless there is specific and credible evidence that a crime may have been committed. In your letter, you suggest that it is not the responsibility of the Department of Justice to determine whether a particular set of facts suggests a potential Federal crime, but that such legal determinations should be left to an independent counsel. I do not agree. Under the Independent Counsel Act, it is the Department's obligation to determine in the first instance whether particular conduct potentially falls within the scope of a particular criminal statute such that criminal investigation is warranted. If it is our conclusion that the alleged conduct is not criminal, then there is no basis for appointment of an independent counsel, because there would be no specific and credible allegation of a violation of criminal law. See 28 U.S.C. §592(a)(1).

Third, there is an important difference between the mandatory and discretionary provisions of the Act. Once I have received specific and credible allegations of criminal conduct by a covered person, I must commence a preliminary investigation and, if further investigation is warranted at the end of the preliminary investigation, seek appointment of an independent counsel. If, on the other hand, I receive specific and credible evidence that a person not covered by the mandatory provisions of the Act has committed a crime, and I determine that a conflict of interest exists with respect to the investigation of that person, I may—but need not—commence a preliminary investigation pursuant to the provisions of the Act. This provision gives me the flexibility to decide whether, overall, the national interest would be best served by appointment of an independent counsel in such a case, or whether it would be better for the Department of Justice to continue a vigorous investigation of the matter.

Fourth, even this discretionary provision is not available unless I find a conflict of interest of the sort contemplated by the Act. The Congress has made it very clear that this provision should be invoked only in certain narrow circumstances. Under the Act, I must conclude that there is a potential for an actual conflict of interest, rather than merely an appearance of a conflict of interest. The Congress expressly adopted this higher standard to ensure that the provision would not be invoked unnecessarily. See 128 Cong. Rec. H 9507 (daily ed. December 13, 1982) (statement of Rep. Hall). Moreover, I must find that there is the potential for such an actual conflict with respect to the investigation of a particular person, not merely with respect to the overall matter. Indeed, when the Act was reauthorized in 1994, Congress considered a proposal for a more flexible standard for invoking the discretionary clause, which would have permitted its use to refer any "matter" to an Independent Counsel when the purposes of the Act would be served.

Congress rejected this suggestion, explaining that such a standard would "substantially lower the threshold for use of the general discretionary provision." H.R. Conf. Rep. No. 511, 103rd Cong., 2nd Sess. 9 (1994).

2. Covered Persons—The Mandatory Provisions of the Act:

Let me now turn to the specific allegations in your letter. You assert that there are "new questions of possible wrongdoing by senior White House officials themselves," and you identify a number of particular types of conduct in support of this claim. While all of the specific issues you mention are under review or active investigation by the task force, at this time we have no specific, credible evidence that any covered White House official may have committed a Federal crime in respect of any of these issues. Nevertheless, I will discuss separately each area that you raise.

a. Fundraising on Federal Property. First, you suggest that "federal officials may have illegally solicited and/or received contributions on federal property." The conduct you describe could be a violation of 18 U.S.C. §607. We are aware of a number of allegations of this sort; all are being evaluated, and where appropriate, investigations have been commenced. The Department takes allegations of political fundraising by Federal employees on Federal property seriously, and in appropriate cases would not hesitate to prosecute such matters. Indeed, the Public Integrity Section, which is overseeing the work of the campaign financing task force, recently obtained a number of guilty pleas from individuals who were soliciting and accepting political contributions within the Department of Agriculture.

The analysis of a potential section 607 violation is a fact-specific inquiry. A number of different factors must be considered when reviewing allegations that this law may have been violated:

First, the law specifically applies only to contributions as technically defined by the Federal Election Campaign Act (FECA)—funds commonly referred to as "hard money." The statute originally applied broadly to any political fundraising, but in 1979, over the objection of the Department of Justice, Congress narrowed the scope of section 607 to render it applicable only to FECA contributions. Before concluding that section 607 may have been violated, we must have evidence that a particular solicitation involved a "contribution" within the definition of the FECA.

Second, there are private areas of the White House that, as a general rule, fall outside the scope of the statute, because of the statutory requirement that the particular solicitation occur in an area "occupied in the discharge of official duties." 3 Op. Off. Legal Counsel 31 (1979). The distinction recognizes that while the Federal Government provides a residence to the President, similar to the housing that it might provide to foreign service officers, this residence is still the personal home of an individual within which restrictions that might validly apply to the Federal workplace should not be imposed. Before we can conclude that section

607 may have been violated, we must have evidence that fundraising took place in locations covered by the provisions of the statute.

Thus, while you express concerns about the possibility of "specific solicitation . . . made by federal officials at the numerous White House overnights, coffees, and other similar events," we do not at this time have any specific and credible evidence of any such solicitation by any covered person that may constitute a violation of section 607.

We do not suggest, of course, that our consideration of information concerning fundraising on Federal property is limited to whether the conduct constituted a violation only of section 607. However, at this point in time, we have no specific and credible evidence to suggest that any crime was committed by any covered person in connection with these allegations.

b. Misuse of Government Resources. You next assert that Government property and employees may have been used illegally to further campaign interests—conduct which might, in some circumstances, constitute a theft or conversion of Government property in violation of 18 U.S.C. §651. Again, we are actively investigating allegations that such misconduct may have occurred. However, we are unaware at this time of any evidence that any covered person participated in any such activity, other than use of Government property that is permitted under Federal law, such as the reports that the Vice President used a Government telephone, charging the calls to a nongovernment credit card. Federal regulations permit such incidental use of Government property for otherwise lawful personal purposes. See, e.g., 5 C.F.R. §2635.704; 41 C.F.R. §201–21.601 (personal long distance telephone calls). Thus, for example, allegations that a Government telephone or telefacsimile machine may have been used on a few occasions by a covered person for personal purposes does not amount to an allegation of a Federal crime. To the extent that there are allegations warranting investigation that individuals not covered by the Independent Counsel Act diverted Government resources, it is my conclusion, as I explain below, that there is at present no conflict of interest for the Department of Justice to investigate and, if appropriate, prosecute those involved in any such activity.

c. Foreign Efforts to Influence U.S. Policy. You next cite reports suggesting the possibility that foreign contributions may have been made in hopes of influencing American policy decisions. These allegations are under active investigation by the task force. The facts known at this time, however, do not indicate the criminal involvement of any covered person in such conduct.

It is neither unique nor unprecedented or the Department to receive information that foreign interests might be seeking to infuse money into American political campaigns. That was precisely the scenario that underlay the criminal investigations, prosecutions and congressional hearings during the late 1970s involving allegations that a Korean businessman was making illegal campaign contributions, among other things, to Members of Congress to curry congressional support for the Government of South Korea. In a more recent example, in 1996 an individual was prosecuted and convicted for funneling Indian Government funds into Federal elections through the cover of a political action committee.

Absent specific and credible evidence of complicity by a covered person, it has never been suggested that the mere allegation that a foreign government may have been trying to provide funds to Federal campaigns should warrant appointment of an independent counsel. Nor can it be the case that an independent counsel is required to investigate because campaign contributors or those who donated to political parties believed their largesse would influence policy or achieve access. The Department of Justice routinely handles such allegations, and because of its experience in reviewing and investigating these sensitive matters, embracing, among other things, issues of national security, is particularly well-equipped to do so.

d. Coordination of Campaign Fundraising and Expenditures. You also suggest that the "close coordination by the White House over the raising and spending of 'soft'—and purportedly independent—DNC funds violated Federal election laws, and/or had the legal effect of rendering those funds subject to campaign finance limitations they otherwise would not be subject to." We believe this statement misapprehends the law. The FECA does not prohibit the coordination of fundraising or expenditures between a party and its candidates for office. Indeed, the Federal Election Commission (FEC), the body charged by Congress with primary responsibility for interpreting and enforcing the FECA, has historically assumed coordination between a candidate and his or her political party.

Of course, coordinated expenditures may be unlawful under the FECA if they are made with funds from prohibited sources, if they were misreported, or if they exceed applicable expenditure limits. However, we presently lack specific and credible evidence suggesting that any covered person participated in any such violations, if they occurred.

With respect to coordinated media advertisements by political parties (an area that has received much attention of late), the proper characterization of a particular expenditure depends not on the degree of coordination, but rather on the content of the message. Indeed, just last year the FEC and the Department of Justice took this position in a brief filed before the Supreme Court, in a case decided on other grounds. See generally, Brief for the Respondent, *Colorado Republican Federal Campaign Committee* v. *FEC*, (S. Ct. No. 95–489) at 2–3, 18 n.15, 23–24. In this connection, the FEC has concluded that party media advertisements that focus on "national legislative activity" and that do not contain an "electioneering message" may be financed, in part, using "soft" money, i.e., money that does not comply with FECA's contribution limits. FEC Advisory Op. 1995–25, 2 Fed. Elec. Camp. Fin. Guide (CCH) ¶6162, at 12,109–12,110 (August 24, 1995); FEC Advisory Op. 1985–14, 2 Fed. Elec. Camp. Fin. Guide (CCH) ¶5819, at 11,185–11,186 (May 30, 1985). Moreover, such advertisements are not subject to any applicable limitations on coordinated Expenditures by the party on behalf of its candidates. AO 1985–14 at 11–185–11,186.

We recognize that there are allegations that both presidential candidates and both national political parties engaged in a concerted effort to take full advantage of every funding option available to them under the law, to craft advertisements that took advantage of the lesser regulation applicable to legislative issue advertising, and to raise large quantities of soft political funding to finance these ventures. However, at the present time, we lack specific and credible evidence suggesting that these activities violated the FECA. Moreover, even assuming that, after a thorough investigation, the FEC were to conclude that regulatory violations occurred, we presently lack specific and credible evidence suggesting that any covered person participated in any such violations.

3. Conflict of Interest—The Discretionary Provisions of the Act:

In urging me to conclude that the investigation poses the type of potential conflict of interest contemplated by the Act, you rely heavily on my testimony before the Senate Committee on Government Affairs in 1993 in support of reauthorization of the Independent Counsel Act. I stand by those views and continue to support the overall concept underlying the Act. My decisions pursuant to the Act have been, I believe, fully consistent with those views.

The remarks you quote from my testimony should be interpreted within the context of the statutory language I was discussing. When, for example, I referred to the need for the Act to deal with the inherent conflict of interest when the Department of Justice investigates "high-level Executive Branch officials," I was referring to persons covered under the mandatory provisions of the Act. With respect to the conflict of interest provision, my testimony expressed the conviction that the Act "would in no way preempt this Department's authority to investigate public corruption," and that the Department was clearly capable of "vigorous investigation of wrongdoing by public officials, whatever allegiance or stripes they may wear. I will vigorously defend and continue this tradition." While I endorsed the concept of the discretionary clause to deal with unforeseeable situations, I strongly emphasized that "it is part of the Attorney General's job to make difficult decisions in tough cases. I have no intention of abdicating that responsibility[.]" These principles continue to guide my decisionmaking today.

There are times when reliance on the discretionary clause is appropriate, and indeed, as you point out, I have done so myself on a few occasions. However, in each of those cases, I considered the particular factual context in which the allegations against those persons arose and the history of the matter. Moreover, even after finding the existence of a potential conflict, I must consider whether under all the circumstances discretionary appointment of an independent counsel is appropriate. In each case, therefore, the final decision has been an exercise of my discretion, as provided for under the Act.

I have undertaken the same examination here. Based on the facts as we know them now, I have not concluded that any conflict of interest would ensure from our vigorous and thorough investigation of the allegations contained in your letter.

Your letter relies upon press reports, certain documents and various public statements which you assert demonstrate that "officials at the highest level of the White House were involved in formulating, coordinating and implementing the [Democratic National Committee's (DNC's)] fundraising efforts for the 1996 presidential campaign." You suggest that a thorough investigation of "fundraising improprieties" will therefore necessarily include an inquiry into the "knowledge and/or complicity of very senior White House officials," and that the Department of Justice would therefore have a conflict of interest investigating these allegations.

To the extent that "improprieties" comprise crimes, they are being thoroughly investigated by the agents and prosecutors assigned to the task force. Should that investigation develop at any time specific and credible evidence that any covered person may have committed a crime, the Act will be triggered, and I will fulfill my responsibilities under the Act. In addition, should that investigation develop specific and credible evidence that a crime may have been committed by a "very senior" White House official who is not covered by the Act, I will decide whether investigation of that person by the Department might result in a conflict of interest, and, if so, whether the discretionary clause should be invoked. Until then, however, the mere fact that employees of the White House and the DNC worked closely together in the course of President Clinton's reelection campaign does not warrant appointment of an independent counsel. As I have stated above, the Department has a long history of investigating allegations of criminal activity by high-ranking Government officials without fear or favor, and will do so in this case.

I also do not accept the suggestion that there will be widespread public distrust of the actions and conclusions of the Department if it continues to investigate this matter, creating a conflict of interest warranting the appointment of an independent counsel. First, unless I find that the investigation of a particular person against whom specific and credible allegations have been made would pose a conflict, I have no authority to utilize the procedures of the Act. Moreover, I have confidence that the career professionals in the Department will investigate this matter in a fashion that will satisfy the American people that justice has been done.

Finally, even were I to determine that a conflict of interest of the sort contemplated by the statute exists in this case—and as noted above I do not find such a conflict at this time—there would be a number of weighty considerations that I would have to consider in determining whether to exercise my discretion to seek an independent counsel at this time. Because invocation of the conflict of interest provision is discretionary, it would still be my responsibility in that circumstance to weigh all the factors and determine whether appointment of an independent counsel would best serve the national interest. If in the future this investigation reveals evidence indicating that a conflict of interest exists, these factors will continue to weigh heavily in my evaluation of whether or not to invoke the discretionary provisions of the Act.

* * * * *

I assure you, once again, that allegations of violations of Federal criminal law with respect to campaign financing in the course of the 1996 Federal elections will be thoroughly investigated and, if appropriate, prosecuted. At this point it appears to me that that task should be performed by the Department of Justice and its career investigators and prosecutors. I want to emphasize, however, that the task force continues to receive new information (much has been discovered even since I received your letter), and I will continue to monitor the investigation closely in light of my responsibilities under the Independent Counsel Act. Should future developments make it appropriate to invoke the procedures of the Act, I will do so without hesitation.

Sincerely,

Janet Reno.

Exhibit 1

[From the Washington Post, Apr. 14, 1997]

Republicans Warn Reno on Independent Counsel

(By John E. Wang)

House Speaker Newt Gingrich (R-Ga.) said yesterday Attorney General Janet Reno should be called before Congress to testify under oath if she does not tell Congress today that she will seek an independent counsel to investigate alleged abuses in Democratic Party fund-raising.

Gingrich declared he has no confidence in Reno as attorney general and, when asked if she should resign, said: "We'll know tomorrow," the deadline for Reno to respond to a request from congressional Republicans that she call for an independent counsel in the matter.

"The evidence mounts every day of lawbreaking in this administration," Gingrich said on "Fox News Sunday."

"If she can look at the day-after-day revelations about this administration and not conclude it's time for an independent counsel, how can any serious citizen have any sense of faith in her judgment?"

Late last week, the indications were that Reno would likely not seek a counsel in the case, which is already being investigated by career Justice Department prosecutors, but aides emphasized no final decision had been made.

If she decides not to ask a three-judge panel to name an independent counsel, Gingrich said, Reno needs to explain her decision. "She needs to answer in public, she needs to answer, I think, under oath," he said.

Senate Judiciary Committee Chairman Orrin G. Hatch (R-Utah) said Reno "becomes a major issue" if she does not call for an independent counsel.

"The conflict of interest, both apparent and real, it seems to me, would necessitate her choosing an independent counsel," he said on ABC's "This Week." "If she doesn't, then I think there's going to be a swirl of criticism that's going to be, I think, very much justified."

Justice Department spokesman Bert Brandenburg dismissed such talk. "Unfortunately, this has become a battle between law and politics," he said in a telephone interview. "The Justice Department will adhere to the law."

Reno routinely asks the career prosecutors looking into the matter whether any development requires the appointment of an independent counsel, according to Brandenburg. So far, they have not said that an independent counsel is indicated, he said.

The law says the attorney general must ask for an independent counsel if there is specific, credible information of criminal wrongdoing by top administration officials—including the president, vice president and Cabinet officers—the head of a president's election or reelection campaign or anyone else for whom it would be a conflict of interest for the Justice Department to investigate.

House Judiciary Committee Chairman Henry J. Hyde (R-Ill.) said an independent counsel was needed to maintain public confidence in the investigation. "In-house investigations, as honorable as they might well be, don't sell the public on the fact that they are independent," he said on ABC.

While Hyde said he retains his confidence in Reno as attorney general, Gingrich was sharply critical of her for not telling White House officials the FBI suspected China was planning to make illegal campaign contributions. Reno has said she telephoned national security adviser Anthony Lake, failed to reach him and never called back.

"If you're the top law enforcement officer of this country . . . wouldn't you say to the White House, 'Gee, the president and the secretary of state ought to know we think the Chinese communists may be trying to buy the American election'?" he said.

House Majority Leader Richard K. Armey (R-Tex.) suggested Reno is victim of the political pressures within the administration.

"This is a person that would like to be professional and responsible in their job, and that makes her out of place in this administration," Armey said on CBS's "Face the Nation." "She is in a hopeless situation. . . . If I were Janet Reno, I would just say, 'I can't function with people that stand with these standards of conduct and behavior and I'm leaving.' "

On another topic, Gingrich said the United States should "consider very seriously" military action against "certain very high-value targets in Iran" if there is strong evidence linking a senior Iranian government official to a group of Shiite Muslims suspected of bombing a U.S. military compound in Saudi Arabia last year.

"We have to take whatever steps are necessary to convince Iran that state-sponsored terrorism is not acceptable," he said. "The indirect killing of Americans is still an act of war."

The Washington Post reported yesterday that intelligence information indicates that Brig. Ahmad Sherifi, a senior Iranian intelligence officer and a top official in Iran's Revolutionary Guards, met roughly two years before the bombing with a Saudi Shiite arrested March 18 in Canada. According to Canadian court records, the man, Hani Abd Rahim Sayegh, had fled Saudi Arabia shortly after the June 25 bombing that killed 19 U.S. servicemen and wounded more than 500 others.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

JACKIE ROBINSON AND PENSIONS FOR FORMER NEGRO LEAGUE/MAJOR LEAGUE PLAYERS

Ms. MOSELEY-BRAUN. Mr. President, particularly as we are talking about tax day, I think it is important, also, to talk about something that, as Americans, we can celebrate together on this day.

Today marks the anniversary of an important day in American history. Today is the 50th anniversary of Jackie Robinson's dismantling of the color barrier in major league baseball. It might even be said that his actions, in so doing, were the beginning of the dismantling of American apartheid and the system of Jim Crow segregation that kept us apart in this country. I know for a fact that I would not be here in the U.S. Senate today had it not been for the achievement of Jackie Robinson. I daresay that the victory of Tiger Woods in the Masters, which every American celebrated, I think, would not have happened had it not been for Jackie Robinson's achievement.

It was 50 years ago that Jackie Robinson became a member of the Brooklyn Dodgers, making history by opening doors that had previously been closed to African American athletes. The year 1997 also marks the year that major league baseball owners agreed to give pensions to several baseball players who played in the then-segregated Negro Leagues. Many of those players followed in the path that was blazed by Jackie Robinson, but they were ineligible for major league pensions. The fact that the owners fixed that this year again is reason for us to celebrate.

Mr. President, there are few Americans today who do not know of Jackie Robinson, the baseball great whose talent and pursuit of excellence enabled him to break the color barrier 50 years ago. Jackie Robinson began his baseball career in 1945 as a Negro League player after serving his country in World War II. The following year he joined the minor league operation of the Brooklyn Dodgers, and was named the Minor League Most Valuable Player. In 1947, he was brought up to play in the major leagues, and was named 1947's Rookie of the Year. Two years later, he was named the league's Most Valuable Player. In 1962, Jackie Robinson became the first African-American named to Baseball's Hall of Fame.

Jackie Robinson's legacy, however, is not restricted to that of a sports legend, or even a civil rights pioneer. Today I want to talk about some of his many achievements off the baseball field. While playing professional baseball, Jackie Robinson served as an inspiration to many people of the heights they could achieve. Upon his retirement, he was determined to make a real difference in the quality of the lives of others. As founder of the Jackie Robinson Development Corp. and the Freedom National Bank, he was able to provide access to capital and affordable housing to low income families in the underserved community of Harlem.

Even today, his good works continue through his widow, Rachel Robinson, who started the Jackie Robinson Foundation 1 year after his death. The Foundation provides full 4-year college scholarships for minority and disadvantaged young people. The recipients are chosen based on academic strength, community service, leadership potential and financial need. There have been over 400 Jackie Robinson scholars from across the country with a 92 percent graduation rate.

In order to celebrate these achievements, Senator D'AMATO and I led the effort to mint a commemorative coin in honor of Jackie Robinson. I am delighted that this legislation passed and that the Jackie Robinson Foundation will benefit from profits earned by the coin. Minting will begin later this year.

Jackie Robinson's extraordinary successes were the result of phenomenal talent and determination. While much of the world knows of Jackie Robinson's success, we must not forget the African-American baseball players who played in the Majors and helped integrate the game, yet did not receive the recognition for their contribution to the game, nor, for that matter, receive a pension for their time in the Majors.

Last year, I became aware of the plight of Sam Jethroe, a former major league ball player whose career in baseball began in the Negro League. Sam Jethroe, born in East St. Louis, IL, on January 20, 1922, began playing for the Cleveland Buckeyes, a Negro League team, at the age of 20. He played for the Buckeyes for seven seasons, and was one of the recognized stars of the Negro League.

A switch-hitting outfielder who threw right-handed, Jethroe was christened "Jet" for running so fast; opposing teams actually worked at strategies to slow him down. Sam Jethroe was also a good hitter; he batted .300 during his time with the Buckeyes and he led the Negro League in hitting in 1942, 1944, and 1945.

Although African-Americans had previously been banned from the major leagues, Mr. Jethroe was given a tryout with the Boston Red Sox in 1945. He wasn't signed onto a major league team, however, until 1949, 2 years after Jackie Robinson's historic appearance in the league. At that time, Mr. Jethroe became the first African-American baseball player on the Boston—now Atlanta—Braves and debuted on their team in 1950. He was their starting center fielder.

In 1950, Sam Jethroe won the basestealing crown, with 35, scored 100 runs, and batted .273, with 18 homers and 58 RBI's. As a result he was named National League Rookie of the Year in 1950, the third African-American to capture the honor in 4 years, following Jackie Robinson and pitcher Don Newcombe. In 1951, Sam Jethroe was even better. He repeated his stolen base title win and batted .280, with 101 runs scored, 29 doubles, 10 triples, 18 homers, and 65 RBI's.

After spending 1953 in the minors, Mr. Jethroe completed a successful career in baseball by playing two games with the Pittsburgh Pirates.

At the time that Sam Jethroe played baseball, a player needed 4 years of service in the major leagues in order to qualify for a pension. As you may know, players active since 1980 need only 1 year in the majors to qualify. Because Sam Jethroe fell short of the 4-year requirement, he has never received a pension. I believe that Mr. Jethroe would have qualified for a pension; that is, he would have played more than 4 years in major league baseball had it not been for the fact that he was banned from baseball because of the color of his skin.

The misfortune of the ban was compounded by the change of vesting rules for pension eligibility. Sam Jethroe is now 74 years old, and does not enjoy a secure retirement.

Pension security goes to the heart of our challenge to treat the end of life as the golden years rather than the disposable years. Retirement security has been likened to a three legged stool. Social security, private pensions, and personal savings constitute the basis of an income stream for the later years of life. While Sam Jethroe was eligible for social security benefits, he had limited savings, and did not receive a pension for his years in major league baseball.

Sam Jethroe's compelling story prompted me to contact Jerry Reinsdorf of the Chicago White Sox to see if anything could be done to help Sam Jethroe and Negro League veterans suffering from similar circumstances.

Mr. Reinsdorf took the initiative and raised the issue of pension protection with other owners for those people who were excluded from major league baseball prior to the breaking down of the barriers by Jackie Robinson.

In 1997, the owners decided to provide pensions to the African-Americans who played solely in the Negro leagues before 1948, as well as those who played both in the Negro leagues and in the major leagues. I would like to commend Jerry Reinsdorf for his help in this matter. Sam Jethroe and the other Negro League players would not have received this long-awaited relief had it not been for him.

I also want to commend the owners for the tremendous good will and propriety of their decision. They recognized an injustice and fixed it. It is fitting that major league baseball recognize the contributions of these fine athletes in the year that we recognize and celebrate the 50th anniversary of Jackie Robinson's historic breakthrough in major league baseball.

So, Mr. President, in summary, I would like to say that there is good news today, the 15th of April. Not only did Jackie Robinson 50 years ago help open up doors in America, but he helped to change hearts. Fifty years ago, after the owners of major league baseball debated whether or not to let people of color play America's game, they made a decision that America's game would take care of one of its own. It seems to me to be an essential American story, that in 50 years' time we have seen enough change in this country, given rise by the sacrifice, the commitment, and the excellence pursued by Jackie Robinson and those like him who opened up doors. Now, 50 years later, those doors have been opened, and the hearts of many Americans have, indeed, been changed.

I think that is good news for today that we can all celebrate.

(The remarks of Ms. MOSELEY-BRAUN pertaining to the introduction of S. 586 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Missouri is recognized.

Mr. ASHCROFT. I thank the Chair very much for this opportunity to speak in morning business.

I commend the Senator from Illinois for her excellent remarks regarding Jackie Robinson, who is an American leader, an inspiration in terms of an individual whose conduct was inspiring not just to people of one race or another but to all America. This is the day upon which we are encouraged to and would appropriately celebrate his vast achievements and his substantial contributions. I thank the Senator from Illinois for her comments in that respect.

(The remarks of Mr. ASHCROFT pertaining to the introduction of S. 579 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

UNANIMOUS-CONSENT AGREEMENT—S. 522

Mr. LOTT. Mr. President, I ask unanimous consent that beginning immediately, at approximately 3:20 today, the Senate proceed to the consideration of Calendar No. 37, S. 522, regarding the unauthorized access of tax returns, and the bill be considered under the following limitations: There be only one amendment in order to the bill, to be offered by Senators COVERDELL, GLENN, ROTH and MOYNIHAN; no other motions or amendments be in order; further, total debate on the amendment and the bill be limited to 35 minutes divided equally between Senator COVERDELL or his designee and Senator GLENN or his designee.

I further ask unanimous consent that following the expiration or yielding back of time, the Senate proceed to the vote on the Coverdell amendment, the bill then be read a third time and there be 10 minutes for debate at that point to be equally divided, to be followed at that point by a vote on S. 522, as amended if amendment.

That would mean we would have 45 minutes of debate and have final passage shortly after 4 o'clock, probably 5 minutes after 4.

That is my unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Reserving the right to object, I would like to ask the majority leader if I could have unanimous consent for 10 minutes to introduce a bill and speak after the vote on the Coverdell legislation?

Mr. LOTT. Mr. President, we have a number of Senators that may be requesting time to speak after this. I think we can accommodate the Senator, but I would like to get a minute where maybe we can get all those wrapped up and we will get an agreement during the debate. So the Senator will get the 10 minutes shortly after the vote, if he would defer for now, and I will see what we have to do. We will certainly treat the Senator fairly in that context.

Mr. DURBIN. I withdraw my objection.

Mr. DASCHLE. Reserving the right to object, I thank my colleagues, especially Senator COVERDELL, for working with us to try to resolve this matter. The language that we now have incorporated, or will have incorporated, in the resolution is certainly acceptable. I hope we can have a good debate and pass this legislation this afternoon. It is important we do it today, but it is also important this legislation, involving flood victims, be passed today. This will accommodate our need in that regard.

I thank Senator COVERDELL and the majority leader for their cooperation. I have no objection.

Mr. LOTT. Mr. President, I will send an amendment to the desk. I do want to note, while this is going to the desk, we did work to accommodate the Senator and other Senators from the area where there have been floods. We have made a change in the time flood insurance is required to be covered by—we limited the times involved, so we could have time to assess, maybe, the impact and whether or not to put it on a permanent basis. But I want the RECORD to show that we worked to make sure that Senators' concerns, which were certainly understandable, were accommodated.

Was there objection?

The PRESIDING OFFICER. No objection was heard to the majority leader's request.

Mr. LOTT. I thank the Chair.

TAXPAYER PRIVACY PROTECTION ACT

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 522) to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 45

(Purpose: To amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information)

Mr. LOTT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. COVERDELL, for himself, Mr. GLENN, Mr. ROTH, and Mr. MOYNIHAN proposes an amendment numbered 45.

Mr. COVERDELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Taxpayer Browsing Protection Act".

SEC. 2. PENALTY FOR UNAUTHORIZED INSPECTION OF TAX RETURNS OR TAX RETURN INFORMATION.

(a) IN GENERAL.—Part I of subchapter A of Chapter 75 of the Internal Revenue Code of 1985 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7213 the following new section:

"SEC. 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.

"(a) PROHIBITIONS.—

"(1) FEDERAL EMPLOYEES AND OTHER PERSONS.—It shall be unlawful for—

"(A) any officer or employee of the United States, or

"(B) any person described in section 6103(n) or an officer or employee of any such person, willfully to inspect, except as authorized in this title, any return or return information.

"(2) STATE AND OTHER EMPLOYEES.—It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under provision of section 6103 referred to in section 7213(a)(2).

"(b) PENALTY.—

"(1) IN GENERAL.—Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding $1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

"(2) FEDERAL OFFICERS OR EMPLOYEES.—An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

"(c) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'return', and 'return information' have the respective meanings given such terms by section 6103(b)."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 7213(a) of such Code is amended by inserting "(5)," after "(m)(2), (4),".

(2) The table of sections for part I of subchapter A of chapter 75 of such Code is amended by inserting after the item relating to section 7213 the following new item:

"Sec. 7213A. Unauthorized inspection of returns or return information."

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring on and after the date of the enactment of this Act.

SEC. 3. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OF RETURNS AND RETURN INFORMATION; NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.

"(a) CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION.—Subsection (a) of section 7431 of the Internal Revenue Code of 1986 is amended—

(1) by striking "DISCLOSURE" in the headings for paragraphs (1) and (2) and inserting "INSPECTION OR DISCLOSURE", and

(2) by striking "discloses" in paragraphs (1) and (2) and inserting "inspects or discloses".

(b) NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.—Section 7431 of such Code is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) NOTIFICATION OF UNLAWFUL INSPECTION AND DISCLOSURE.—If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

"(1) paragraph (1) or (2) of section 7213(a),

"(2) section 7213A(a), or

"(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code,

the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure."

(c) NO DAMAGES FOR INSPECTION REQUESTED BY TAXPAYER.—Subsection (b) of section 7431 of such Code is amended to read as follows:

"(b) EXCEPTIONS.—No liability shall arise under this section with respect to any inspection or disclosure—

"(1) which results from a good faith, but erroneous, interpretation of section 6103, or

"(2) which is requested by the taxpayer."

(d) CONFORMING AMENDMENTS.—

(1) Subsections (c)(1)(A), (c)(1)(B)(i), and (d) of section 7431 of such Code are each amended by inserting "inspection or" before "disclosure".

(2) Clause (ii) of section 7431(c)(1)(B) of such Code is amended by striking "willful disclosure or a disclosure" and inserting "willful inspection or disclosure or an inspection or disclosure".

(3) Subsection (f) of section 7431 of such Code, as redesignated by subsection (b), is amended to read as follows:

"(f) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'inspection', 'return', and 'return information' have the respective meanings given such terms by section 6103(b)."

(4) The section heading for section 7431 of such Code is amended by inserting "INSPECTION OR" before "DISCLOSURE".

(5) The table of sections for subchapter B of chapter 76 of such Code is amended by inserting "inspection or" before "disclosure" in the item relating to section 7431.

(6) Paragraph (2) of section 7431(g) of such Code, as redesignated by subsection (b), is amended by striking "any use" and inserting "any inspection or use".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act.

SEC. 4.

(a) IN GENERAL.—Section 1306(c)(1) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(1)) is amended by striking "30" and inserting "15".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be construed to have taken effect on January 1, 1997, and shall expire June 30, 1997.

Mr. COVERDELL. Mr. President, as I understand the situation at the moment, we now have until 4:05, when the unanimous consent called for the vote. Time would be equally divided?

The PRESIDING OFFICER. The Senator from Georgia is correct.

Mr. COVERDELL. Is that about 20 minutes on each side?

The PRESIDING OFFICER. There will be 17½ minutes for each side.

Mr. COVERDELL. Mr. President, first, let me thank all the Senators who have played a significant role in this legislation that we are about to vote on, certainly Senators GLENN of Ohio and ROTH of Delaware and others, who have committed themselves to ending the practice on the part of the IRS of snooping through the personal tax files of American citizens.

Recently, the GAO issued its report on IRS system security, on April 8, which was initiated at the request of Senator GLENN. The General Accounting Office concluded that the IRS has failed to effectively deal with file snooping. It says:

> Further, although the IRS has taken some action to detect browsing—

That word means looking at the personal tax files of American taxpayers.

> it is still not effectively addressing this area of continuing concern because (1) it does not know the full extent of browsing and (2) it is consistently addressing cases of browsing.

The GAO found that the IRS still does not know the full extent of file snooping, it says:

> Because the IRS does not monitor the activities of all employees authorized to access taxpayer data . . ., IRS has no assurance that employees are not—[snooping, they use the word browsing] taxpayer data, and no analytical basis on which to estimate the extent of the browsing problem or any damage being done.

The Internal Revenue Service stated a zero tolerance policy, with regard to file snooping. In 1993, Commissioner Margaret Richardson stated:

> Any access of taxpayer information with no legitimate business reason to do so is unauthorized and improper and will not be tolerated.

She said:

> We will discipline those who abuse taxpayer trust up to and including removal or prosecution.

Recent reports have documented up to 800, last year alone, files were violated, hundreds of employees have been involved—and there have been 23 suspensions. This statement that was made to the American people has not been fulfilled. That is why this legislation is here today.

Since the IRS Commissioner made this statement, the IRS has found 1,515 additional confirmed cases of file snooping. But, as I said, only 23 resulted in job termination and only 23 percent resulted in any disciplinary action at all. Since 1991, there have been 3,345 confirmed cases of file snooping by IRS employees.

This is reprehensible activity. These are very, very personal records and are expected to be maintained in just that way. I think the irony of this is that whenever you get at odds with IRS, you get audited. Some would say audited is a kind word. Some people feel they have been bludgeoned. But the IRS has been engaged in activity that is reprehensible and it is time for them to be audited.

This measure, coauthored by myself, Senator GLENN, Senator ROTH and others, is the beginning of an audit of IRS. It is symbolic that we pass this legislation today but it is important to note that the IRS Accountability Act comes right behind this, the IRS Accountability Act, which will deal not only with file snooping, but with random audits, balancing the ledger between the taxpayer and this agency, and putting IRS agents under the same laws as the rest of American citizens.

Recently, the Wall Street Journal, on April 3, 1997, printed an article about IRS activities. I will quote it here. According to a Federal jury here, this gentleman:

> . . . took unauthorized looks at returns of a political opponent, [this is an IRS employee] a family adversary, and two associates in the white-supremacist movement whom, the government says, he suspected of being informers. The jury convicted [this gentleman] in December 1995 on 13 counts of wire and computer fraud, and he spent 6 months of 1996 in jail.

Some IRS browsers apparently are merely nosy. Geoffrey Coughlin, a Houston account analyst, last year pleaded guilty to looking at more than 150 unauthorized files, including those of friends and relatives, ex-girlfriends, politicians, and sports stars.

This is another case. Robert M. Patterson, an IRS examiner in Memphis, TN, scanned agency computers for tax records of people named Dolly Parton, Wynonna Judd, Karen Carpenter, Garth Brooks, Elizabeth Taylor—well, it is pretty clear, to understand the drift here.

This legislation, Coverdell-Glenn-Roth, makes it a Federal misdemeanor, $1,000 fine, a year imprisonment under the Federal sentencing guidelines. A convicted offender would pay costs of prosecution and be dismissed from position where applicable. It covers Federal employees and officers, and State and other employees who have access to tax records.

Taxpayers whose files have been accessed and are disclosed without proper authorization can seek civil action; such civil action against the United States, when the offender is a Federal employee, and against the individual offender when not a Federal employee. It requires taxpayer notification if we certify that their files have been improperly accessed or disclosed and they would be notified when the offender is charged formally.

There are several Senators who want to speak on this measure. I notice the Senator from Ohio has arrived, the coauthor of the proposal.

I am going to yield to the Chairman of the Finance Committee, Senator ROTH, who has done outstanding work on this proposal.

Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Georgia has 9 minutes remaining.

Mr. COVERDELL. I yield 5 minutes to the chairman of the Finance Committee.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 5 minutes.

Mr. ROTH. Mr. President, students of history may remember Henry Stimson. He served America as Secretary of War and Secretary of State in the first half of the 20th century. While in office, Stimson tried to close down American counterintelligence sources. His reason, you may recall, was that "gentlemen do not read each other's mail."

Today, Mr. President, Henry Stimson would not only be concerned about counterintelligence operations but about the Internal Revenue Service as well. Recent reports disclose that among the abuses and misuses of power and access at the IRS is the ability of IRS employees to snoop in the files of unwitting taxpayers.

While it's not the mail that these snoops are reading, it is something just as sensitive. I don't know of anyone who wants his or her detailed financial information perused without reason. The millions of Americans who comply with the law and file tax returns each year, should be able to do so without fear or hesitation that someone—for purposes of curiosity, revenge, or even a more avaricious motive—is snooping through their private information.

If Government has one responsibility to these men and women it certainly must be to ensure their privacy. Current law does prohibit the disclosure of confidential taxpayer information. However, the Internal Revenue Code does not specifically prohibit IRS employees from unauthorized inspection or snooping of confidential taxpayer information.

I can think of no better day to call for change than today, April 15, when once again those millions of trusting Americans are rushing their returns off to the IRS.

You may remember, Mr. President, that last year, Congress amended title 18 of the United States Code to make it a crime to use a computer to snoop information of any Federal department or agency, including the IRS. However, last year's legislation did not apply to unauthorized inspection of paper documents.

The bill we introduce today will correct that. It will require that tax return information be kept confidential by the IRS and it's employees. It will ensure that IRS employees do not snoop confidential taxpayer information.

This bill will create a criminal penalty in the Internal Revenue Code of up to 1 year in prison and/or a fine of up to $1,000, plus the cost of prosecution for unauthorized willful browsing of confidential taxpayer information. The bill will also require the abusing employee to be fired.

The bill will allow civil damages for snooping, and, if an IRS employee is indicted for unlawful inspection or disclosure of a taxpayer's confidential information, the bill will require that the IRS notify the taxpayer.

Mr. President, this bill will provide additional protections and some peace of mind for taxpayers. I want to thank Senator COVERDELL and Senator GLENN for their efforts to protect taxpayers by making it a crime for IRS employees to snoop taxpayer data.

Mr. MOYNIHAN. Mr. President, I rise as an original cosponsor of this legislation to associate myself with the remarks of the distinguished chairman of the Committee on Finance. Unauthorized browsing of confidential tax information undermines the confidence of taxpayers, and such behavior ought to be subject to criminal penalties—which it will be under this bill.

This legislation is a product of the bipartisan efforts of the Senator from Ohio, Mr. GLENN, the Senator from Georgia, Mr. COVERDELL, the chairman of the Finance Committee, Senator ROTH, and the Senator from New York, among others. I join my chairman in urging its prompt enactment.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. We each have 17 minutes, is that correct?

The PRESIDING OFFICER. Seventeen and one-half minutes.

Mr. GLENN. I yield myself such time as I shall use.

Mr. President, today is April 15. We do not need to tell everybody that. It is tax day for most Americans. On this day, honest hard-working citizens voluntarily—voluntarily—share their most personal and sensitive financial information with their Government.

All Americans should have unbridled faith that their tax returns will remain absolutely, unequivocally confidential and zealously safeguarded. That is the hallmark of our taxpaying system, and if this trust is breached, it shakes the whole foundation of our very Government, because it means our people are losing faith in their Government.

That is why I am proud to be standing here today as one of the authors, one of the sponsors, the Democratic sponsor of legislation to outlaw what I have come to term as "computer voyeurism." That is the unauthorized inspection of your tax information by those not entitled to see it, not the people legitimately working on your tax account.

In 1993 and 1994, as chairman of the Governmental Affairs Committee, I held hearings which first exposed this insidious practice. We came across it almost by happenstance.

In 1990, I was pleased to work with my distinguished colleague who just spoke, Senator ROTH, then ranking member of the committee, to pass into law the Chief Financial Officers Act. That measure required major Government agencies to do something for the first time which our own private businesses take for granted. That is, producing annual auditable financial statements so we know how much money is being spent, where it is being spent, and how it is being spent.

I figured that of all the Government agencies which should be able to balance its books and come up with a good auditable statement, it would be the IRS; it should be able to account for all the revenue taken in, and the IRS would be the agency we would look at first. In fact, before the CFO Act, we had no idea of the differences between what revenues the IRS reported it was collecting and what was actually on the books. Little did I know then how wrong I really was.

For 4 years running now, the IRS has not been able to pass its own audit. The General Accounting Office, which we asked to go in and help audit the IRS, still cannot even render an opinion on the reliability of the IRS's own books due, in part, to missing records, unsubstantiated amounts, and unreliable information. If we have that situation in the IRS, you can imagine what the situation is in some of the other agencies of Government.

The IRS, I guess if we put it in our own household terms, it would be records in a shoe box under the bed. If your return was being audited and you could not come up with the documents, you would be called on the carpet for that. You would not get too much sympathy. But all that is another story, one of which the Governmental Affairs Committee has held numerous oversight hearings on.

But it was through these initial GAO CFO audits we first discovered the problems IRS was having in preventing and detecting employees who get their kicks, apparently, out of surfing through other people's tax returns, ones they are not supposed to be working on or looking at.

Our hearings revealed that in the years 1989 to 1994, more than 1,300 IRS employees were investigated on suspicion of snooping through private taxpayer files. Those probes resulted in disciplinary action against 420 workers, primarily in the Southeast region where the investigation was concentrated.

My investigation found that some IRS employees had been browsing through the financial records of family members, ex-spouses, coworkers, neighbors, friends and enemies, and celebrities in particular.

They also had submitted fraudulent tax returns and then used their computer access to monitor the IRS review of those returns.

They used the computer to issue fraudulent refunds to family and to friends and, in fact, one employee was reported to have altered about 200 accounts and received kickbacks from inflated refund checks.

We, in Congress, at that time were absolutely stunned at these revelations and did not believe it could happen, but it did. But it did not light a candle to the firestorm across the country from outraged—appropriately outraged—American taxpayers because we got a wave of indignation. Taxpayers were shocked to know that the most personal information they voluntarily, and in good faith, provide to the Government could, in effect, become an open book for others' private entertainment.

Even worse was the pitifully low number of employees fired for committing these awful actions. It turned out that no criminal penalties existed for these kinds of browsing offenses.

Mr. President, above the entrance to the main IRS building in DC are inscribed the famous words uttered by Oliver Wendell Holmes:

> Taxes are what we pay, for a civilized society.

Unfortunately, what American citizens have been subjected to in this case is downright uncivilized behavior.

At our hearings, the Commissioner of Internal Revenue pledged to implement a "zero tolerance" policy. Warnings of possible prosecution for unauthorized use of the system began appearing whenever workers logged on to the main taxpayer account database. Explicit memos went out to all employees warning them against such unauthorized activities.

Finally, a new automated detection program, called EARL—electronic audit research log—was installed on the primary computer system to monitor employee use and alert managers to possible misuse.

To evaluate the effectiveness of these actions, particularly the new computer detection system, I asked GAO to conduct a review. I also asked the inspector general at the Department of Treasury to perform an inspection.

In the meantime, we worked with the Treasury Department, the Department of Justice and the IRS to come up with a legislative solution for closing the legal loophole that let browsers off the hook from criminal punishment.

That effort culminated in the legislation, the Taxpayer Browsing Protection Act, which I introduced in 1995 during the 104th Congress and as S. 523 for the 105th Congress.

The goal was simple: to make willful browsers subject to a criminal misdemeanor penalty of up to $1,000 and a year in jail, and if any IRS employees are convicted of such an offense, they would be fired immediately. Zero tolerance should mean what it says—absolutely, positively no tolerance.

That legislation was incorporated into this amendment and was the basis for the bill as is currently being considered in the House.

We were not able to pass my bill in the last Congress—we did come close to trying to move it in the Senate—the issue has gotten more exposure now due to two recent court cases.

Just last year, in Tennessee, a jury acquitted a former IRS employee who had been charged with 70 counts of improperly peeking at the tax returns of celebrities such as Elizabeth Taylor, Dolly Parton, Wynonna Judd, Michael Jordan, Lucille Ball, Tom Cruise, President Clinton, and Elvis Presley, just to name some of them.

More recently, just a few weeks ago, a Federal appeals court in Boston reversed the conviction of a former employee who had been found guilty of several counts of wire and computer fraud by improperly accessing the IRS taxpayer database. It is reported that he had browsed through several files, including those of a local politician who had beaten him in an election, and a woman he once had dated. The Government had alleged that this worker was a member of a white supremacist group and was collecting data on people he thought could be Government informers.

In both of these cases, though there was unauthorized snooping, because there was no subsequent disclosure to third parties, no criminal penalties could be meted out. As the First U.S. Circuit Court of Appeals held:

> Unauthorized browsing of taxpayer files, although certainly inappropriate conduct, cannot, without more, sustain a felony conviction.

Sounds ridiculous, but that is what the court ruled. That was their interpretation of the fine print of the law. I doubt these kinds of decisions give great comfort to honest law-abiding citizens.

I should note that last year, Congress passed the Economic Espionage Act of 1996. My good friend, Senator LEAHY, played a major part in this effort. This law does provide title 18 criminal penalties for anyone intentionally accessing a computer without authorization, or exceeding authorized access, and obtaining any information from any Department or agency of the United States. This section may be helpful in prosecuting future cases, since it would apply to tax information stored in computers.

This provision is not enough in our efforts to deter and punish browsing, for, according to the IRS, it does not apply to the unauthorized access or inspection of paper tax returns, return information in other forms, such as documents or magnetic media, such as tapes.

That is why we, all taxpayers, need the protections originally espoused in the bill and incorporated in this amendment to specifically fill this gap and ensure unauthorized browsing or inspection of any tax information in any form is subject to criminal penalties, and that is what this does. It will also provide those criminal sanctions within the Internal Revenue Code so that the confidentiality scheme governing tax information and the related law enforcement mechanisms are preserved in the same section.

While I do feel the recent court decisions have spurred us on, I also believe the new findings contained in a GAO report I released last weekend entitled "IRS Security Systems: Tax Processing Operations and Data Still at Risk Due to Serious Weaknesses," have brought this problem to the forefront.

This report is the evaluation I asked GAO to undertake in 1994 in response to the actions implemented by the IRS to prevent browsing and enforce its zero tolerance policy. It was released by GAO earlier this year; however, because some of the specific details could potentially jeopardize IRS security, the report was designated for "Limited Official Use" with restricted access.

I have been involved in this important issue for a long time and because I believe the public has a right to know, I requested that GAO issue a redacted version of the report suitable for public release. I thank GAO for their hard work in this matter and also the IRS for their cooperation in making this possible.

The findings of GAO's report are disturbing. Even more important, their conclusions are reaffirmed by the IRS in a comprehensive internal report of their own compiled last fall.

In addition, I should add, they are buttressed to some extent by a review I asked the Treasury Inspector General to conduct on IRS computer security controls and the Service's progress in addressing the shortcomings. That report, too, is "Limited Official Use." But I can tell you, while there have been some positive actions taken to proactively confront this problem, we are nowhere near any satisfactory resolution.

The bottom line is although the IRS efforts in this area are well-intentioned, unfortunately they have come too late and fall far short of the commitment and determination sorely needed to tackle this problem head on.

The findings of GAO's report are disturbing. Just as important, their conclusions are affirmed by the IRS in a comprehensive internal report of their own compiled last fall.

GAO found that serious weaknesses in IRS's information security makes taxpayer data vulnerable to authorized use, to modification, or to destruction. According to GAO, the IRS also has no effective means for measuring the extent of the browsing problem, the damage being done by browsing, or the progress being made to deter browsing.

Finally, and this is something I am having GAO look at further, we do not know to what extent the detection and control systems exist in other IRS databases, besides "IDRS," the primary taxpayers' account system looked at here. That may be open for further problems.

I was struck by the candor in the IRS's own internal report on the "EARL" detection system. That report found its progress in management programs to prevent and detect browsing "painfully slow," as they determined. Quite distressing to me, the IRS internal report indicated that some employees felt IRS management does not aggressively pursue browsing violations. Some workers, when confronted about their snooping activities, saw nothing wrong and believed it would be of no consequence to them even if they were caught. Hard to believe.

Mr. President, we have to fix that. When you have over 1,500 investigations of browsing cases since my last hearings 2 years ago, and only 23 workers fired, something just is not right. That does not sound like zero tolerance to me.

I have a more detailed summary of the major findings contained in both the GAO and internal IRS report which I ask unanimous consent to have printed at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. I also point out the effectiveness of controls used to safeguard IRS systems, facilities, and taxpayer data. GAO found serious weaknesses in these efforts, especially in the areas of physical and logical security.

For example, the facilities visited by GAO could not account for over 6,400 units of magnetic storage media such as tapes and cartridges which might contain taxpayer data. Now, IRS responded last week they have located 5,700 of the units, but that means that 700 are still unaccounted for. That begs the question: Where are they? Are they deemed lost? And can they be misused? Each of the units can store tax information on thousands of Americans. We need to know where they are. Moreover, GAO only visited selected facilities. I just wonder if the IRS is able to track all of its inventory at the other major sites not visited by GAO. We would like to know what the results are there, too.

GAO also found that printouts containing taxpayer data were left unprotected and unattended in open areas of two facilities, where they could be compromised. I do not want to say much more on this portion of the report than I have already said, except that these matters and the others referred to by GAO must be dealt with swiftly and effectively.

I am glad to have brought this matter to the Senate's attention and am pleased to have the support of colleagues. I commend the efforts of Senator COVERDELL in this area. He has added very significant provisions to some of the original language. I think we have an excellent bill. I want to congratulate him for taking the initiative in bringing this up.

The first of the sections that Senator COVERDELL brought would require that a taxpayer be notified by the Secretary of the Treasury when a criminal indictment or charge is brought against an IRS employee for unlawful inspection of that taxpayer's return or return information. This is something I remember Senator Pryor, our former colleague, bringing up before the Commissioner at one of our earlier hearings.

The second new section will provide taxpayers with a civil remedy in such unauthorized inspections as similarly provided under current law for unlawful disclosures. This provision clarifies that civil liability will not be a remedy in cases where the inspection is requested by the taxpayer or in any instance which results from an accidental review of a return or return information.

I want to be clear about that last point in reference to the legislation at hand. I do not want to compromise IRS employees' ability to do what they are supposed to be doing, especially in the areas of return processing, examination, and inspection. Under this bill, IRS employees will continue to be able to inspect tax returns or return information as authorized by the Internal Revenue Code or tax administration purposes without penalties. Only intentional, willful, unauthorized inspections will be subject to prosecution, where you knew or should have known it was wrong.

As the report by the House Ways and Means Committee states: "Accidental or inadvertent inspection that may occur—such as, for example, by making an error in typing in a TIN [Taxpayer Identification Number]—would not be subject to damages because it would not meet this standard."

These are good provisions and I welcome their inclusion. I also want to thank my distinguished colleague, Senator ROTH, who sat with us as ranking member of the Governmental Affairs Committee during our hearings last year during consideration of the Taxpayer Bill of Rights 2, pledged his commitment and support for bringing this legislation to the floor.

Let me say a word about the men and women who work at the IRS. The vast majority of the people who work at the IRS are just as fine a people as there are in this room or anywhere else in this country. They are dedicated. They are trying to do a good job. I do not want to unduly scare anyone that this is commonplace or that their privacy has been violated. You have a few bad apples over there, but I am sure most of the people over there want to turn in themselves because most of the people of the IRS, including the Commissioner, are proud of the work they are doing.

The Commissioner has done a good job in many areas. I have been complimentary of her. Her plan to deal with the IRS is a good one. The way of getting it downhill to the centers and the different regions and having it done there did not occur the way it should have, with what I thought was a very good plan. I do not want to condemn all the IRS over there. Normally, the people look down on the tax man every April 15. We know that. It is not popular to pay taxes. The people working there are doing a great service for this country, and we want to weed out those few bad apples that may be over there.

I have visited some of the sites and I know what some of the IRS employees are up against. It is not an easy job. They are, by and large, a dedicated bunch, committed to their job and laboring under difficult conditions with very outmoded systems. Unfortunately, in this day and age, they must also fear for their own personal safety. However, even just a single incidence of this behavior is one too many and cannot be tolerated.

The IRS has a moral and legal obligation to uphold when Americans provide the Government with their most personal and private information. The IRS must have the complete trust and confidence of taxpayers. That means we cannot tolerate any of this browsing or mishandling of accounts. The American people expect and demand nothing less.

I thank you, and I reserve the balance of my time.

Major Findings From GAO Report, Supplemented With Excerpts From the IRS' EARL Executive Steering Committee Report

THE IRS SYSTEM DESIGNED TO DETECT BROWSING (EARL) IS LIMITED

The main monitoring system, EARL, is supposed to be able to detect patterns of potential abuse by IRS employees in the IRS' primary database (IDRS). GAO found that the EARL system is ineffective because it can't distinguish between legitimate work activity and illegal browsing. Only through time-consuming manual reviews, which, according to internal IRS documents can sometimes take up to 40 hours, can actual instances, of snooping be positively identified.

Moreover, EARL only monitors the main taxpayer database. There are several other systems used by employees to create, access, or modify data which, apparently, go unsupervised. This is something I have asked the GAO to look into further.

According to GAO, "because IRS does not monitor the activities of all employees authorized to access taxpayer data . . . IRS has no assurance that these employees are not browsing taxpayer data and no analytical basis on which to estimate the extent of the browsing problem or any damage being done."

In fact, according, to the IRS' EARL report:

"The current system of reports does not provide accurate and meaningful data about what the abuse detection programs are producing, the quality of the outputs, the efficiency of our abuse detection research efforts, or the level of functional management follow through and discipline. This impedes our ability to respond to critics and congressional oversight inquiries about our abuse detection efforts."

IRS PROGRESS IN REDUCING AND DISCIPLINING BROWSING CASES IS UNCLEAR

IRS' management information systems do not provide sufficient information to describe known browsing incidents precisely or to evaluate their severity consistently.

The systems used by the IRS cannot report on the total number of unauthorized browsing incidents. Nor do they contain sufficient information to determine, for each case investigated, how many taxpayer accounts were inappropriately accessed or how many times each account was accessed.

Consequently, for known incidents of browsing, IRS cannot efficiently determine how many and how often taxpayers' accounts were inappropriately accessed. Without such information, IRS cannot measure whether it is making progress from year to year in reducing browsing.

Internal IRS figures show a fluctuation in the number of browsing cases closed in the last few years: 521 cases in FY'91; 787 in FY'92; 522 in FY'93; 646 in FY'94, and; 869 in FY'95.

More distressing, however, is the fact that in spite of the Commissioner's announced "Zero Tolerance" policy, the percentages of cases resulting in discipline has remained constant from year to year. Figures for FY'91–FY'95 show that the percentage of browsing cases resulting in the IRS' three most severe categories of penalties (disciplinary action, separation, resignation/retirement) has ranged between 23–32 percent, with an average of 29 percent.

The IRS' internal report also confirms this: "A review of disciplinary actions for IDRS abuse over the last four years showed that only 25% of the cases result in some discipline."

That report also indicated that almost one-third of the cases detected were situations where an employee accessed their own account, which, according to the report, is "generally attributable to trainee error."

INCIDENTS OF BROWSING ARE REVIEWED AND REFERRED INCONSISTENTLY

IRS processing facilities do not consistently review and refer potential browsing cases. They had different policies and procedures for identifying potential violations and referring them to the appropriate unit within IRS for investigation and action. Further, IRS management had not developed procedures to assure that potential browsing cases were consistently reviewed and referred to management officials throughout the agency.

The IRS internal report identifies this as a problem area, too:

"Although the EARL system has been under development since 1993, the service has not yet maximized its ability to identify IDRS browsing. The process is labor intensive and there is little accountability for effectively using EARL and handling the cases it identifies. There is little consistency in the detection procedures from one center to the next or in how discipline is applied on abuse cases throughout the nation."

PENALTIES FOR BROWSING ARE INCONSISTENT ACROSS IRS

Despite IRS policy to ensure that browsing penalties are handled consistently across the agency, it appears that there are disparities in how similar cases are decided among different offices, or even sometimes within the same office. Examples of inconsistent discipline included:

Temporary employees who attempted to access their own accounts were given letters of reprimand, although historically, IRS terminated temporary employees for this type of infraction.

One employee who attempted to access his own account was given a written warning, while other employees in similar situations, from the same division, were not counseled at all.

The IRS' EARL internal report also demonstrated widespread deviations on how browsing penalties were imposed. That report showed that for FY'95, for example, the percentage of browsing cases resulting in employee counseling ranged from a low of 0 percent at one facility to 77 percent at another. Similarly, the report showed that the percentage of cases resulting in removal ranged from 0 percent at one facility to 7 percent at another. For punishments other than counseling or removal (e.g., suspension), the range was between 10 percent and 86 percent.

More incredible to me—and quite distressing—is the extremely low percentage of employees caught browsing each year who are fired for their offense, according to the IRS' own figures. Would you believe that, for all of the browsing cases detected and closed each year, the highest number of employees fired in one year has been 12. Between FY'91–FY'95, only 43 employees were fired after browsing investigations. That is generally 1% of the total number of cases brought each year. Even if you include the category of resignation and retirement, the highest percentage of employees terminated through separation or resignation/retirement in any one year has been 6%.

PUNISHMENTS ASSESSED FOR BROWSING NOT CONSISTENTLY PUBLICIZED TO DETER VIOLATIONS

GAO found that IRS facilities did not consistently publicize the penalties assessed in browsing cases to deter such behavior. For example, one facility never reported disciplinary actions. By contrast, another facility used its monthly newsletter to report disciplinary actions for browsing, including citing a management official who had accessed a relative's account.

By inconsistently and incompletely reporting on penalties assessed for employee browsing, IRS is missing an opportunity to more effectively deter such action.

Mr. COVERDELL. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Georgia has 4 minutes and 23 seconds, plus the 5 minutes.

Mr. COVERDELL. Mr. President, first let me thank my good colleague from Ohio, Senator GLENN, for the extended effort and work, some of which he outlined in his statement, over a period of years to get at this problem. I appreciate his kind remarks in regard to my efforts.

Mr. President, the fact that we have come to a situation where it has been certified by the General Accounting Office and others that employees of the Internal Revenue Service have been reviewing personal records in an unauthorized way must be stopped. The purpose of this legislation is to do just that.

Senator GLENN also complimented the many loyal employees who work at the Internal Revenue Service, and that should be done. We would be remiss not to do so.

Mr. President, there is a reason that half the American people are offended by this Agency. The belligerence, the intimidation is well-documented, time and time again, and it is time that aura of having a standard or status that is higher than the taxpayer themselves come to an end.

As I said, on this Senator's part, this legislation is but a beginning of the kind of accountability that I think needs to be put in place with regard to the relationship between the Internal Revenue Service and the American people.

Somebody said today, in all the flurry of meetings, trying to resolve the differences here, that in no case should the average American citizen be frightened by an arm of their Government in the day-to-day function and relationship between people and their Government. The people should not be intimidated. They should not be fearful of this relationship.

I will leave the individual unnamed, but not long ago I was in a commercial establishment and I was visiting with probably a 70-year-old-plus woman in Atlanta. I was completing the transaction, and she said she wondered if she might be in touch with me. I said, "Of course." I was about to leave, so I was trying to give her my card. I said, "Here is somebody you can call to give me the details," and she leaned over between her computer and her cash register and motioned me to come over and began whispering to me about a problem that involved her and the IRS—a 70-year-old woman, a hard worker for years and years. She was scared to death. She was whispering to me because she was frightened. That has left a mark on me. It has happened to me more than once.

All too often the citizens that contact me with regard to problems with the IRS are of very modest means and they cannot defend themselves. They cannot protect themselves. They are frightened to death.

I hope what we jointly, in this bipartisan effort, are doing is but, as I said, a first step. We are ending a reprehensible practice that has occurred on the part of some at the IRS, but there is much work to be done as we begin a congressional audit of the Internal Revenue Service.

I am prepared to yield back my time and relinquish the floor for final comments from the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. I thank my distinguished colleague from Georgia. I know we are approaching the time when we are supposed to have a vote.

The American people have to have the utmost confidentiality in the IRS. We have to have somebody collect the taxes that does everybody in this country good, that builds roads, the airways, does everything, so those who say we are mad at the IRS and we will do away with it, if they will just think what they are saying, what we need is to have zero tolerance for browsers and misuse of the system. That is what this addresses today. Our legislation will get the snoops out of the IRS. Our legislation says if you are going to snoop, you are going to jail. It is that simple.

If you are going to snoop, you are going to pay also. You are also going to lose your job. I think browsing angers me just like being violated personally, almost. Everybody has to feel that way because you trust your Government. We say we are giving this information willingly, honestly, and then they are misusing it. They are browsing, and the information may not remain confidential. We don't know what is going to happen to it. The American people deserve better than that.

I deplore those who are guilty of engaging in IRS-bashing. And it always seems to build to a crescendo on April 15. I repeat that most IRS employees are just as honest as anybody in this room or anybody in America. They are dedicated workers. They want to clean out this snooping and they want to see this problem go away just like all the rest of us do, so that more Americans don't lose faith in our voluntary tax system.

Mr. President, I ask unanimous consent to add JOHN KERRY of Massachusetts and Senator KOHL of Wisconsin to the bill as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, last Congress we passed legislation I had written to provide criminal penalties for unauthorized snooping in computers. I understand that the Republican leadership is bringing up an extension of that legislation today. I am happy to see them bring it up, but I also point out to the American people that we have already passed some very strong legislation on this.

In fact, in terms of privacy protection legislation, we could have passed additional, strong legislation last year to provide protection and criminal sanctions against misuse of personal medical information, except that the Republican leadership objected to it. That medical records confidentiality legislation was we put together in a bipartisan fashion with Senator BENNETT of Utah, myself, and others, based on work a number of us have been doing for years, but we were blocked when it was going to pass last year. I hope that the Republican leadership willingness to extend protections against government snooping into private financial records will signal a new attitude and willingness to address the crisis that is looming with respect to the confidentiality of health care information, as well.

I think we have to ask, why is it suddenly so important to take up this IRS bill today without consideration by the Senate Judiciary Committee or any Senate Committee. Aha, what is today? April 15. This is, as more and more things around here are, a staged event for partisan political purposes. This is tax day, to be sure. But, unfortunately, the Republican majority is looking for something to do and something to distract from the fact that it is not doing what it is supposed to do today.

Along with all Americans we have to file our income taxes today, April 15. The Republican leadership of the House and Senate, however, is supposed to pass a budget by April 15. I suspect that there are tens of millions of Americans who are getting their taxes filed by today. When they go down to file their taxes, having stayed up late and worked it out, they should ask the leadership in the House and Senate if that Republican leadership has done what the law requires them to do—to have a budget by April 15. Guess what? Has one been passed? No. Has one even been debated? No. There is a law that says that, by April 15, we must pass it, but today will come and go and the Senate will miss its statutory deadline.

Now, I ask my friends throughout this country, Republican, Democrat, and Independent, if you don't follow the law that says you have to file and pay your taxes by April 15, what is going to happen? Aha, you might suddenly become a guest of the State, in a very secure place—bars on the windows, bars on the doors.

What happens to the leadership of the House and the Senate if they don't obey the law and have a budget passed by April 15? They will be on the floor in the House and the Senate with a distraction.

So while I support the extension of the law we introduced in 1995 and passed last year in order to cover the paper records of the IRS, I remain concerned that the Senate is not making the progress that we need to make on the Federal budget, on the chemical weapons treaty, and on confirming Federal judges. We have confirmed two Federal judges in 4 months. There are 100 vacancies. Talk about zero population growth. At this rate, at the end of the Congress there will 150 vacancies.

Then there's campaign finance reform. Remember campaign finance reform? Has anybody heard of it since the handshake in New Hampshire. Ha, ha and ho, ho. The Republican leadership could bring up campaign finance reform this afternoon if they wanted to. You are not going to see it.

I understand that the House plans to use the Constitution as a political prop again today. I guess I should at least be grateful that the Senate has avoided that temptation—for today.

All I suggest, Mr. President, is that the American people are required to follow the law and file their taxes today. The U.S. Senate and the House of Representatives are required to have a budget by today—and we are waiting.

Privacy is a precious right of every American. When our own Government workers abuse their access to personal information and compromise our privacy, it is doubly wrong.

While I was happy that we are taking this matter up today and to support it, I comment briefly on the manner in which this matter is proceeding. Unfortunately, the Senate of the United States is not doing the work that needs to be done to serve the interests of the American people. We are not confirming the Federal judges that we all need, we are not making progress on balancing the budget, we are not considering the chemical weapons treaty, and we are not considering campaign finance reform legislation.

I commend Senator GLENN for his efforts in following up on his longstanding efforts to monitor abuse of access to Internal Revenue returns and information by Government employees.

When we file our tax returns today and the American people reveal to the Government intimate details about their personal finances, we rightfully expect that the Internal Revenue Service and its employees will treat that information with confidentiality, as the law has long contemplated. Reports that IRS employees are snooping through these files to satisfy their own voyeuristic urges are unacceptable. Unauthorized browsing by IRS employees has been a longstanding problem, according to a recent GAO report, and one that has concerned a number of us for years.

It is one of the principal circumstances that motivated me to include within legislation that I authored last Congress criminal sanctions against unauthorized snooping. Back in June 1995, I introduced, with Senators KYL and GRASSLEY, legislation making snooping through use of Government computers a crime. We obtained the views of the Attorney General, the FBI Director, the Secret Service and others. The bill was considered and reported twice by the Senate Judiciary Committee and passed by the Senate as part of a legislative package back in October 1996. The National Information Infrastructure Protection Act, title II of Public Law 104–294, made it a Federal crime for Government employees to misuse their computer access to obtain private information in Government files. Under the law, Government employees who abuse their computer privileges to snoop through personal information about Americans, including tax information, are subject to criminal penalties.

Part of our purpose in passing that law was to stop the snooping by IRS employees of private taxpayer tax returns. In 1994, at least 1,300 IRS employees were internally investigated for using Government computers to browse through the tax returns of friends, relatives, and neighbors. At a 1995 oversight hearing of the Department of Justice, I asked the Attorney General whether a criminal statute making it clear that such snooping is illegal would send a clear signal that we want our private information provided to the Government to remain private? Her response focused on the need for passage of the NII Protection Act. Attorney General Reno stated:

> Enactment of a new statute covering such situations is advisable to send a clear signal about the privacy of such sensitive information. To that end, included as part of [the NII Protection Act] is an amendment to 18 U.S.C. §1030(a)(2) that would make it clearly illegal for a government employee to intentionally exceed authorized access to a government computer and obtain information.

I have long been concerned with maintaining the privacy of our personal information. Doing so in this age of computer networks is not always easy but is increasingly important.

By passing the NII Protection Act we have already closed a loophole that had existed in our laws. That loophole resulted in the dismissal of criminal charges earlier this year against an IRS employee who went snooping through the tax returns of individuals involved in a Presidential campaign, a prosecutor who was investigating a family member, a police officer and various social acquaintances. He made these unauthorized searches in 1992, before our new law went into effect. He was able to retrieve on his computer screen all the taxpayer information stored in the IRS main data base in Martinsburg, WV. Since the IRS employee did not disclose the information to anyone else and did not use it for nefarious purposes, the wire and computer fraud charges against him had to be dismissed. The point is that with President Clinton having signed the NII Protection Act into law last October 11, the law has been corrected to make such unauthorized snooping through individual tax records by means of computers a Federal crime.

Employees of the IRS and other Government agencies and departments are forewarned that under the law and augmented by the NII Protection Act last year, unauthorized browsing through computerized tax filings is criminal and will be prosecuted.

I am hopeful that the National Information Infrastructure Protection Act and its privacy protections will help deter illegal browsing by IRS employees and help restore the confidence of American taxpayers that the private financial information we are obliged to give the Government will remain private.

Our job is not done, however. We need to remain vigilant to protect the privacy of our intimate personal information in this era of computer networks. I am particularly concerned that we are doing a woefully inadequate job at protecting the privacy of our medical information. For several years I have worked on legislation to provide privacy protection to our health care information. I hope that this year we will finally enact this much-needed and overdue legislation. If we do not, we risk having the computerized transmissions of health care information required by the so-called administrative simplification provisions of the law passed last year, without the privacy protection that the American people expect and deserve.

Mr. BAUCUS. Mr. President, the public expects some essential services from the Government. Social Security payments, Highway Funding, National Defense, a safety net in bad times, Clean Air and Water, the National Park System, and so on. These are important to the country and the Government should provide them.

So most folks are willing to pay their fair share of taxes. Nobody likes it, but most of us do it regularly and honestly. But we do expect the Government to keep it fair, make it as simple as possible, and keep it private.

And we've recently found that in their zeal to catch the few people who don't pay their taxes, some tax collectors forget the most fundamental truth about our tax system. Citizens have rights that must be protected.

One of the first bills I introduced when I first came to the Senate was a Taxpayers' Bill of Rights, to protect taxpayers in disputes with the Internal Revenue Service. And I noted:

> Oliver Wendell Holmes reasoned that "Taxes are what we pay for a civilized society." However, Justice Holmes did not consider additional burdens imposed on taxpayers—added costs and delays that result from inefficiencies and inconsistencies in the administration of tax law.

That was back in 1979. And it took a while, but in 1988 we finally passed a comprehensive Taxpayer Bill of Rights. That went a long ways toward defining taxpayer rights and gave some protection against arbitrary actions by the IRS.

This law made IRS give at least 30 days' notice before levying on a taxpayers' property, so that he or she would have time to file an appeal. It exempted more kinds of property from IRS levies, and raised the wage total exempt from collection. It allowed taxpayers to collect costs and attorney's fees from the Government if the IRS acted without substantial justification. And it let taxpayers sue the Government for damages if IRS employees acted recklessly in collecting taxes or intentionally disregarded any provision of the Internal Revenue Code.

This helped make taxation a little more fair and accountable. But it didn't solve all the problems. Last year, we did some more with the Taxpayer Bill of Rights II. This created an Office of Taxpayer Advocate within the IRS to help taxpayers resolve their problems with the IRS. It gave taxpayers more power to take the IRS to court in order to abate interest and eased the burden of proof for collecting attorney's fees and costs when you challenge an IRS decision and win. And it raised the damages a taxpayer can collect in the event an IRS agent recklessly or intentionally disregards the Internal Revenue Code.

But as important as these laws are, we need to do a lot more to give taxpayers confidence in the system and the people who work in it.

Today we're going to go a little further. Every once in a while we find that some IRS employees are snooping around in tax returns that ought to be private. That's happened twice this year—first, with the revelation that President Nixon tried to pressure his IRS Administrator to look through political opponents' returns, and now when we hear that some IRS employees have browsed in returns for fun. Our bill today will impose criminal penalties on anyone who does it. And we'll make sure the taxpayer whose records have been violated in this way can be notified so that they too can take action. Without this high level of protection of taxpayer privacy, we undermine our ability to make a system of voluntary taxation work.

Once this bill is signed into law, as I am confident that it will be, we must not rest on our laurels. There is still much work to be done to fully protect the rights of taxpayers. The administration proposes simplification and Bill of Rights initiatives that we must review very soon. The Commission on the Restructuring of the Internal Revenue Service will also issue a bipartisan report that will help us address a broad range of problems with the IRS.

That should be a top priority. We need a tax system that brings in the revenue to pay for essential services. One that balances the budget. But also one that is fair and reasonable, and understands that most of us are good people who obey the law and shouldn't be picked on all the time. It's that simple.

Mr. CAMPBELL. Mr. President, I am pleased to be a cosponsor of S. 522, legislation which would allow civil and criminal penalties to be imposed for the unauthorized access of tax returns and return information by employees of the Internal Revenue Service or other Federal employees. It is altogether appropriate that this issue should come before both the House and Senate on April 15, and I applaud the efforts of my colleagues, Senators COVERDELL and GLENN, to work together on this bipartisan piece of legislation.

Abuse by employees of the IRS has been of concern to Members of Congress for many years. Over the years numerous Coloradans have written me to express their concerns with this type of abuse as well. And with the recent release of the report by the General Accounting Office detailing its findings on security problems at the IRS, in addition to reports on browsing by IRS employees through private taxpayer files, this issue has once again come to the forefront.

This morning, as chairman of the Appropriations Subcommittee on Treasury and General Government, I held a hearing to receive testimony on the issue of browsing. For the record, I would like to state the witnesses included: Senator JOHN GLENN; Larry Summers, Deputy Secretary of the U.S. Department of the Treasury; Dr. Rona B. Stillman, Chief Scientist for Computers and Telecommunications with the GAO; Margaret Milner Richardson, Commissioner of the IRS; and Valerie Lau, inspector general of the U.S. Department of the Treasury.

It became clear in all of the witnesses' testimonies this morning that currently it is not necessarily illegal for IRS employees to browse through taxpayer files. The law, as it exists, makes it difficult for the IRS to take effective action against those employees who are caught browsing taxpayer files.

Those IRS employees who do access the computerized or paper records of celebrities, friends, or enemies most often do so just for the fun of it. However, let me tell you—taxpayers do not find this activity very funny. It is an invasion of privacy, and unauthorized browsing should be punishable with civil and criminal penalties. During this morning's hearing, Treasury officials kept referring to taxpayers as "customers". Well, I would like to clarify that in my State Coloradans do not consider themselves customers. If anything, they consider themselves victims. Unfortunately, taxpayers have become victims of browsing, and they currently have no assurances that browsers will be held accountable for their actions.

With that, Mr. President, I ask unanimous consent to submit a couple of items for the record to be printed immediately following my statement. First, I have an article from the Washington Post. In addition, I would also like to submit a relevant section of the Electronic Audit Research Log's Executive Steering Committee Report on taxpayer privacy.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CAMPBELL. Finally, I would simply like to reiterate my support for S. 522. I would like to be able to tell my constituents that Congress recognized the need to safeguard their personal tax records and took action accordingly by passing this legislation and sending it on to the President for signature.

EXHIBIT 1

[From the Washington Post, Apr. 9, 1997]

IRS AUDIT REVEALS MORE TAX BROWSING

(By Stephen Barr)

The Internal Revenue Service fired 23 employees, disciplined 349 and counseled 472 other workers after agency audits found that government computers were still being used to browse through the tax records of friends, relatives and celebrities, an IRS document released yesterday showed.

The document, covering fiscal 1994 and 1995, listed 1,515 cases where employees were accused of misusing computers. After accounting for the firings, the disciplinary action and the counseling, 33 percent of the cases were closed without any action and the remaining 12 percent took retirement or were cleared.

Yesterday's disclosure, made by Sen. John Glenn (D-Ohio), marked the second time that IRS employees have been faulted for peeking at tax records. A probe in 1993 and 1994 turned up more than 1,300 employees suspected of using government computers to browse through tax files. At the time, the IRS promised "zero tolerance" for such snooping.

But the new data indicate the problem has continued and the agency does not know how big a problem it has on its hands. "I don't know what kind of new math they are using, but that doesn't sound like zero tolerance to me," Glenn said at a news conference, where he released excerpts of IRS documents and a General Accounting Office (GAO) report.

Government employees face criminal penalties for misuse of computer databases, but loopholes have thwarted prosecution of some IRS employees who snooped in files but did not disclose the information to others. Glenn and other lawmakers, including House Ways and Means Committee Chairman Bill Archer (R-Tex.), have proposed legislation this year to tighten the laws.

David A. Mader, the IRS chief for management, said "browsing is not widespread" at the 102,000-employee agency, but stressed that curious employees must understand that even one unauthorized peek in tax files undercuts the IRS goal of fair and confidential tax administration. The IRS supports efforts to tighten laws, he said.

"It is challenging to change the behavior of an organization this size," Mader said. Not every employee deserves to be fired when accused of browsing, he said, but "we ought to start with the assumption we're going to fire them and then look at the circumstances.

The disclosure of additional IRS employee snooping comes at a time when privacy advocates are increasingly worried about the government's growing dependence on computers and information technology. The GAO, for example, has issued more than 30 reports in the last four years describing how government systems are vulnerable to "hackers" and even federal employees who want to change data, commit fraud or disrupt an agency's operations.

The GAO, in reviewing IRS computer security at Glenn's request, found that five IRS centers could not account for about 6,400 computer tapes and cartridges that might contain taxpayer data. Since the GAO audit, however, 5,700 of the tapes and cartridges have been found, Mader said. He said the problem involved inventory controls and that no tapes were lost.

In two centers, computer printouts containing taxpayer data were left unprotected and unattended in open areas, the GAO said.

GAO found some computer problems were so sensitive that the congressional watchdog agency feared public disclosure could jeopardize IRS security. As a result, Glenn received a confidential report on those problems and the GAO-prepared report released yesterday leaves out some matters and does not identify the tax processing centers with lax security practices. But the breaches of taxpayer privacy led congressional investigators to conclude that IRS computer systems operate with "serious weaknesses" that place tax returns and tax files "at risk to both internal and external threats," GAO said.

The IRS handles more than 200 million taxpayer returns each year at 10 primary centers. After the returns are processed, the data are electronically transmitted to a central computer site, where master files on each taxpayer are maintained and updated.

To avoid compromising taxpayer information, the IRS developed a software program to monitor the electronic trail left by employees as they call up tax returns and files on their computer screens. The program, the Electronic Audit Research Log (EARL), also signals managers when an employee's work pattern or use of command codes appears at odds with the tasks assigned. The audit trail covered about 58,000 employees who use the IRS's main computer system. But the GAO found EARL does not monitor IRS employees using secondary computer systems and does not effectively distinguish between browsing and legitimate work.

The IRS internal audit, in a section on disciplining employees, said, "Some employees, when confronted, indicate they browsed because they do not believe it is wrong and that their will be little or no consequence to them if they are caught."

The IRS document added that agency managers "apply vastly different levels of discipline for similar offenses," sending "an inconsistent message to the workforce." Glenn called for swift passage of his bill to end loopholes in the law that allow some federal workers to escape prosecution for browsing through records.

He cited a federal appeals court decision in February that overturned a guilty verdict against a Ku Klux Klansman employed by the IRS in Boston who browsed through tax records of suspected white supremacists, a family adversary and a political opponent.

Last year, a former IRS employee was acquitted of criminal charges after peeking at the records of Elizabeth Taylor, Lucille Ball, Tom Cruise, Elvis Presley and other celebrities.

In both cases, there was little or no testimony to prove that the IRS workers passed information to others or used the information in a criminal way.

Congress expanded criminal penalties last year to deter the use of computer data without proper authorization, but the provision does not apply to paper tax returns or magnetic tapes.

EARL EXECUTIVE STEERING COMMITTEE REPORT

Attached are excerpts from a lengthy internal IRS audit on the state of taxpayer privacy at the agency. Following are highlights, including the executive summary of the report. Left out are discussions of computer codes and other primarily technical information.

DISPOSITION OF CASES—MISCONDUCT ALLEGATIONS INVOLVING MISUSE OF IDRS

[Population approximately 56,500]

	FY 1991		FY 1992		FY 1993		FY 1994		FY 1995	
	Actions	Percent	Actions	Percent	Actions	Percent	Actions	Percent	Actions	Percent
Clearance	5	1	75	10	10	2	50	8	58	7
Closed Without Action	174	33	245	31	146	28	204	32	291	33
Counseling	221	42	202	26	205	39	190	29	282	32
Disciplinary Action	100	19	242	31	140	27	163	25	186	21
Separation	7	1	7	1	6	1	12	2	11	1
Resignation/Retirement	14	3	16	2	15	3	27	4	41	5
Total	521	....	787	....	522	....	646	....	869	....
Disciplinary Action/as a percent of IDRS users	0.21%	....	0.45%	....	0.28%	....	0.35%	....	0.41%	....

Mr. HAGEL. Mr. President, we are engaged in an important debate—a debate about privacy, liberty, and the role of Government in our lives. The American people want less Government, less regulation and less taxes. They want less hassle and more respect from their Government.

I am proud to be an original cosponsor of the Taxpayer Privacy Protection Act, which was introduced by my distinguished colleague from Georgia, Senator COVERDELL. The Senate will vote on this important legislation later today, and I urge all of my colleagues to support it.

As the April 15 income tax deadline approaches each year, Americans rush to file their returns while wading through a paper storm of tax forms that even some tax lawyers have trouble understanding. During tax season, animus for the IRS reaches its peak as taxpayers are reminded what an intrusive, overbearing bureaucracy the Internal Revenue Service has become.

Nobody likes taxes, and nobody likes tax collectors. They are necessary evils. But if we must have them, then we need to do all we can to ease the burden they impose on our citizens and to make the system user-friendly and respectful of our people.

The IRS system today is neither user-friendly nor respectful. Today we have an IRS that is out of control from top management all the way down to its field offices, and the American taxpayers are paying the price for that disarray—a price in inefficiency, inconvenience, intrusiveness, and even harassment.

The American people deserve better. It is bad enough that taxpayers have to pay for an agency that wastes their money and time. But it is simply unacceptable that the IRS has tolerated some of its employees snooping through confidential taxpayer information.

The headlines of our newspapers have been littered with accounts of IRS employees reading taxpayers' confidential files without authority and without cause. During fiscal years 1994 and 1995, there were 1,515 cases of IRS employees browsing through confidential taxpayer computer records, according to a recent General Accounting Office report. These employees violated the privacy of hundreds of taxpayers when they snooped through the tax returns of friends, family member or celebrities without authorization and without justification.

Yet, of those 1,515 cases of snooping, only 844 resulted in employees being fired, disciplined, or counseled.

Let me emphasize that, Mr. President—only 844 of the 1,515 snoops had action taken against them. That means almost 700 known cases of snooping went unpunished.

This is not acceptable. Unauthorized snooping is wrong and intolerable. That is why the laws need to be changed.

The Taxpayer Privacy Protection Act imposes civil and criminal penalties against IRS employees who snoop through tax returns and related information without authority. It puts real power in the hands of taxpayers who are the victims of IRS snooping—it lets them bring suit against the IRS employee who is responsible. Under this legislation, IRS employees can be fired, fined, and jailed if they are found guilty of snooping.

This bill is an important step toward protecting Americans from an out of control IRS. It is an important step toward holding IRS employees accountable for their actions. It is a small but important step toward making our tax system respectful, trustworthy, and sound.

It should become law—now.

Mr. FAIRCLOTH. Mr. President, as a cosponsor of S. 522, The Taxpayer Browsing Protection Act, I urge my colleagues to support this important measure to stop IRS employees from electronically browsing through taxpayer files.

Mr. President, today is not a day when most Americans feel much sympathy for the IRS. For many Americans finishing up their tax returns, the last several days have been painful ones, with families struggling to understand and fill out complex forms, writing checks to the IRS and wondering where all the money they send to Washington actually goes.

And it doesn't help to see recent news accounts of the $4 billion of the taxpayers money has been wasted by the IRS in an effort to modernize its computer system—without success. That's nearly enough money to pay for our troops in Bosnia, and for continued disaster relief to areas of the country damaged by floods and storms, including areas of North Carolina still suffering from the effects of Hurricane Fran.

And so, Mr. President, today is not a good day for the American people to be told of yet another outrage at the IRS. As many as 211 million Americans who file tax returns this year will pay over $1.6 trillion in taxes. That is outrage enough. Quite frankly, the American people are overtaxed, and I hope that we can provide them some tax relief this year.

As complicated and burdensome as our Tax Code has become, the vast majority of taxpayers fill out their tax forms honestly and completely. In fact, our entire system of tax collection depends on the voluntary compliance of the American people. Much of the information contained in these tax returns is extremely private and sensitive. Taxpayers have a right to expect that this information will be treated with the greatest of care.

For that reason, I was deeply troubled by the results of the recent investigation of the Internal Revenue Service by the General Accounting Office which has prompted this hearing. The GAO has uncovered at least 1,515 cases where IRS employees have used Government computers to browse through the private tax files of Americans—without authorization.

According to the GAO, this is not the first time that IRS employees have been caught peeking in on private tax files. In 1993 and 1994, the GAO discovered that more than 1,300 IRS employees had used Government computers to electronically browse through tax records. At that time, the Commissioner of the IRS announced a new zero tolerance policy for such behavior.

Unfortunately, zero tolerance has been more like zero improvement. According to the GAO, little has changed since this problem was first identified in 1993. IRS employees are still snooping into tax files without proper authorization. The system put in place by the IRS to fix the problem and detect unauthorized browsing—the Electronic Audit Research Log, or EARL—can't even tell the difference between browsing and legitimate work.

To make matters worse, an IRS internal audit found that many employees who were caught browsing did not believe that snooping in taxpayers' files is wrong, and perhaps even more troubling, they thought there would be little or no consequence to them if they were caught.

I am concerned that we can't count on the senior management of the IRS to supervise their employees. In fact, I am concerned about the supervisors themselves, and I wonder who is watching them. I find news accounts that the IRS may be conducting politically motivated audits of selected nonprofit organizations deeply troubling.

Mr. President, the IRS has demonstrated that it cannot adequately supervise its own employees to protect the privacy of the American people. Stronger measures are clearly needed. That is why I am a cosponsor of of S. 522, The Taxpayer Browsing Protection Act offered by my good friend, Senator COVERDELL. I join my colleagues in support of the measure.

Mr. President, due to a prior family commitment, I was unavoidably detained and missed the vote on S. 522. Had I been present I would have voted "aye."

Mr. COVERDELL. Mr. President, I ask for yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. COVERDELL. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 45.

The amendment (No. 45) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time.

The PRESIDING OFFICER. The question now occurs on passage of the bill.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina [Mr. FAIRCLOTH] and the Senator from Oregon [Mr. GORDON SMITH] are necessarily absent.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—97

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—3

Faircloth
Rockefeller
Smith (OR)

The bill (S. 522), as amended, was passed, as follows:

S. 522

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Taxpayer Browsing Protection Act".

SEC. 2. PENALTY FOR UNAUTHORIZED INSPECTION OF TAX RETURNS OR TAX RETURN INFORMATION.

(a) IN GENERAL.—Part I of subchapter A of chapter 75 of the Internal Revenue Code of 1986 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7213 the following new section:

"SEC. 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.

"(a) PROHIBITIONS.—

"(1) FEDERAL EMPLOYEES AND OTHER PERSONS.—It shall be unlawful for—

"(A) any officer or employee of the United States, or

"(B) any person described in section 6103(n) or an officer or employee of any such person,

willfully to inspect, except as authorized in this title, any return or return information.

"(2) STATE AND OTHER EMPLOYEES.—It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under a provision of section 6103 referred to in section 7213(a)(2).

"(b) PENALTY.—

"(1) IN GENERAL.—Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding $1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

"(2) FEDERAL OFFICERS OR EMPLOYEES.—An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

"(c) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'return', and 'return information' have the respective meanings given such terms by section 6103(b).".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 7213(a) of such Code is amended by inserting "(5)," after "(m)(2), (4),".

(2) The table of sections for part I of subchapter A of chapter 75 of such Code is amended by inserting after the item relating to section 7213 the following new item:

"Sec. 7213A. Unauthorized inspection of returns or return information.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on and after the date of the enactment of this Act.

SEC. 3. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OF RETURNS AND RETURN INFORMATION; NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.

(a) CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION.—Subsection (a) of section 7431 of the Internal Revenue Code of 1986 is amended—

(1) by striking "DISCLOSURE" in the headings for paragraphs (1) and (2) and inserting "INSPECTION OR DISCLOSURE", and

(2) by striking "discloses" in paragraphs (1) and (2) and inserting "inspects or discloses".

(b) NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.—Section 7431 of such Code is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) NOTIFICATION OF UNLAWFUL INSPECTION AND DISCLOSURE.—If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

"(1) paragraph (1) or (2) of section 7213(a),

"(2) section 7213A(a), or

"(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code,

the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.".

(c) NO DAMAGES FOR INSPECTION REQUESTED BY TAXPAYER.—Subsection (b) of section 7431 of such Code is amended to read as follows:

"(b) EXCEPTIONS.—No liability shall arise under this section with respect to any inspection or disclosure—

"(1) which results from a good faith, but erroneous, interpretation of section 6103, or

"(2) which is requested by the taxpayer.".

(d) CONFORMING AMENDMENTS.—

(1) Subsections (c)(1)(A), (c)(1)(B)(i), and (d) of section 7431 of such Code are each amended by inserting "inspection or" before "disclosure".

(2) Clause (ii) of section 7431(c)(1)(B) of such Code is amended by striking "willful disclosure or a disclosure" and inserting "willful inspection or disclosure or an inspection or disclosure".

(3) Subsection (f) of section 7431 of such Code, as redesignated by subsection (b), is amended to read as follows:

"(f) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'inspection', 'return', and 'return information' have the respective meanings given such terms by section 6103(b).".

(4) The section heading for section 7431 of such Code is amended by inserting "**INSPECTION OR**" before "**DISCLOSURE**".

(5) The table of sections for subchapter B of chapter 76 of such Code is amended by inserting "inspection or" before "disclosure" in the item relating to section 7431.

(6) Paragraph (2) of section 7431(g) of such Code, as redesignated by subsection (b), is amended by striking "any use" and inserting "any inspection or use".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act.

SEC. 4. NATIONAL FLOOD INSURANCE ACT OF 1968.

(a) IN GENERAL.—Section 1306(c)(1) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(1)) is amended by striking "30" and inserting "15".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be construed to have taken effect on January 1, 1997, and shall expire June 30, 1997.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I would like to announce officially—as most Senators know, but in case they missed it—that that was the last recorded vote for the day. We are discussing some other issues that we hope to get agreement on today and tomorrow. We will keep the Members informed on that.

UNANIMOUS-CONSENT REQUEST—SENATE RESOLUTION 73

Mr. LOTT. Mr. President, I would like to now propound a unanimous-consent request that the Senate proceed immediately to the consideration of a Senate resolution submitted by myself regarding the sense of the Senate relating to tax relief for the American people. I further ask unanimous-consent that there be 10 minutes for debate on the resolution equally divided in the usual form, and following that debate the Senate proceed to a vote on the adoption of the resolution to be followed by a vote on the preamble, and the motion to reconsider be laid upon the table.

I might take just a moment so that there can be a response to that unanimous-consent request. This is a sense of the Senate which just declares a need for tax relief for the American people, and condemns the abuses of power and authority committed by the Internal Revenue Service.

We have discussed this with a number of Senators. We have provided it to the other side of the aisle.

So I propound that unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate proceed to—before I propound the unanimous-consent request, let me explain my objection to the resolution offered by the Senate majority leader and then indicate that I would intend to offer a resolution of my own.

Some of the provisions that are in the resolution offered by the Senator from Mississippi, the majority leader, are not troublesome, but there are some provisions and some language that are very troublesome to some of us in this resolution.

It is clearly a partisan resolution written in a manner that suggests that one side is no good, the other side is all bad, and for that reason I object to it.

In the spirit of discussing the taxes, tax burden on the American citizens and the ability to address meaningful tax reform for American families and to do so in a budget process that has a requirement that the Congress bring to the floor of the Senate and pass a budget today on April 15, I would offer a unanimous-consent request and will do so, and the resolution that I will offer is a resolution that talks some about the tax burden that we face in this country and our desire to offer meaningful tax relief to American families but to do so in the context of a budget that reaches balance, and that we do it in a process as described by law in this country, that a budget be brought to the Congress, be passed by April 15.

It is unusual that we have not even started a budget process at this point. April 15 is two deadlines. One, people will line up at the post office this evening in a traffic jam trying to file their income tax return and get an April 15 postmark because people at the post office want to meet their obligation.

There is a second obligation today, and that is the obligation of the Congress to pass a budget resolution, by law, on April 15. Obviously, we are far from that position of being able to pass a budget resolution. No budget resolution has come from the Budget Committee. There is not an indication that such a budget resolution will be forthcoming.

In the resolution that I will ask unanimous consent to offer we ask that the majority party take up without delay a budget resolution that balances the budget by the year 2002 and targets its tax relief to working and middle-class families to the same degree as the proposal offered by the President and, at the same time, protects important domestic priorities such as Medicare, Medicaid, education, and the environment.

I might say there is a difference with respect to our interest in tax relief. There are those who propose tax relief but do it in a way that says what they would like to do is especially exempt income from investment, which means there is more of a burden on income from work. It is an approach that says let us tax work but let us exempt investment. Guess who has all the investment income in the country. The upper-income folks.

And so you have a proposal that essentially says let us exempt the folks at the upper-income scale, and then we will shift the burden, and what we will end up doing is taxing work.

Some of us think that is the wrong way to offer tax relief, that overburdened working families deserve some tax relief in this country, and we believe a responsible budget that allows for some tax relief to working families but still protects important priorities, and, importantly, balances the budget in 2002, is a responsibility of this Congress. And it so happens that today is the day by which that is supposed to be done.

UNANIMOUS-CONSENT REQUEST—SENATE RESOLUTION 74

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of a resolution I will send to the desk submitted by myself and on behalf of Senator DASCHLE regarding the sense of the Senate relating to the budget deficit reduction and tax relief for working families.

I further ask there be 10 minutes for debate on the resolution equally divided in the usual form, and, following that debate, without intervening action, the Senate proceed to vote on the adoption of the resolution, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senate majority leader.

Mr. LOTT. Also, I must say it is regrettable that the objection was heard on the earlier unanimous-consent request for a sense-of-the-Senate resolution in this area. I had hoped the Senate would be able to adopt the resolution in a timely manner, considering this is April 15, tax day, the day that most Americans have the worst feeling about in the entire year. This is a sense-of-the-Senate resolution, and as a matter of fact I would assume that we could probably come together on language that would make it clear we feel that working Americans should have and deserve some tax relief and we need to do it today, not May 9, which is how long the American people have to work to pay their taxes for the year. Until May the 9th we all work for the Government, and then after that we get to keep the money we have been earning because we have paid off the tax burden that the American people are saddled with.

I know of examples of young Americans who are working making $30,000 a year and their tax burden, when you add it all up, is probably 40 percent. Others, like my own young son who is a young entrepreneur, creating jobs, trying to help people get a job, keep a job, make a living, get some basic training, move on, are paying over 50 percent. We now have probably the highest tax burden on working Americans in history. It is very high. It is oppressive.

With regard to the budget itself, as a matter of fact, Congress has only met the April 15 deadline for budget resolutions once in 15 years. That is not to say we should not do it. I had hoped we would meet that deadline this year, and I will work toward that goal in the future. One of the reasons we have not is because we have been working in good faith with the administration to see if we could come together on agreement of a package that would take us to balance by the year 2002 with tax relief for working Americans.

I remind Senators, as a matter of fact, that there has been bipartisan support for tax relief for working Americans. Senator BREAUX and Senator LIEBERMAN have supported capital gains tax rate cuts. I think maybe the Senator from North Dakota was referring to that a moment ago. Senator TORRICELLI joined Senators BREAUX, NICKLES, CRAIG, and I in saying the estate tax, the death tax, clearly is one of the worst things we have in the Tax Code because it undermines the American dream of working and saving up something, producing something and leaving something to your children but now the tax law takes 44 percent, minimum, of a life's work above certain levels, once you get above the exemption, and up to 55 percent under certain conditions.

We should raise that exemption for individuals, for small businesses, farmers, and ranchers, in the Senator's State, in the North Dakota area, in my State and all across America.

So we should come up with a sense-of-the-Senate resolution today, April 15, that makes a commitment to reducing the burden. As a matter of fact, one of the reasons why we need to do it, the Senator will recall we had the largest tax increase in history that was passed in the first year of the Clinton administration, 1993. We need to give back a little bit of that to families with children, and to the capital gains area where a lot of people are not selling or not being able to get the benefit of their lands or stocks or what they own because they do not want to have to pay the excessive capital gains tax rate.

But without saying OK, you did it, we did it, they did it, what I am advocating this afternoon is we get a sense-of-the-Senate resolution in a bipartisan way in which we agree that the American people deserve some relief. And that is what the title says here—declare the need for tax relief for the American people and condemn the abuses of power and authority committed by the Internal Revenue Service. We have already done that today. We have already said that their snooping around through files is wrong, and we put some penalties in the law for that. We worked together on that one.

So it seems that while there has been objection heard on both sides I guess so far this afternoon, I think we ought to see if we cannot come to an agreement on something where the American people can say, yes, look, they really are committed to doing their job in controlling the rate of growth in the Federal Government and giving some tax relief to the American people. So I would be constrained at this point to object to that unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Without belaboring this at great length, the Senator from Mississippi said we will not go through "you said, they said, we said," having already done that. The fact is I would not have objected, nor would other Members on this side of the aisle have objected to this resolution except this is not a resolution you bring to the floor and say, by the way, let us be bipartisan.

Let me give you an example. This is a resolution that says page 1, sub 5, "President proposed and Democratic-controlled Congress enacted a $241 billion tax increase on the American people in 1993, the largest in history," and on and on and on. It was not the largest in history. The largest in history came during the Reagan administration in 1982, the largest tax increase in history documented by the Congressional Budget Office and Joint Tax Committee, but that is beside the point.

In 1993, a provision that I voted for was a deficit reduction provision, and guess what happened as a result of that? Yes, the deficit was reduced. Contest that? Well, even Alan Greenspan says it was reduced as a result of that action. The deficit was reduced because we had the courage to reduce spending and increase some revenue. The deficit has been reduced over 60 percent since 1993. We have had economic growth. We have had job creation. We have had lower interest rates. And the fact is this country was put back on track because the deficits were being reduced and we were moving in the right direction.

Now, was it controversial to do that? Yes, of course, it was. Why was it controversial? Because it lends itself to this sort of nonsense, someone coming to the floor of the Senate and saying, well, gee, look at the Democrats over on the other side of the aisle. This resolution says, well, the Democrats did it. The Democrats passed the largest tax increase in history.

Some of what the majority leader said I agree with, and we can draft a bipartisan resolution that talks about the common interests here. Should we try to do some tax relief for working families? Of course, we should. Let us do that in the context of a balanced budget. Can we do something that allows people to pass businesses and family farms from one generation to the other without inheriting the business and the farm and the estate tax obligation? Yes, let us do that. Should we, however, agree to some of the other proposals on the other side that say let's have a zero tax on estates, exempt all estates and have no estate tax, and, by the way, let us decide there be a zero tax for the capital gains that someone has?

Kevin Phillips, a Republican commentator, today on NPR talked about that issue, and I will read it again in the Chamber tomorrow. I read it today. It makes no sense to decide we are going to have a tax system, and there are four streams of income in this country and we decide to treat a couple streams of income by exempting them and the other streams will bear a tax burden. So we will create a situation where someone would propose, let's tax those people who are recipients of income from investments and decide then, all right, we have taxed them at half the rate they used to be taxed. Now we will exempt them altogether. Let us just have a total tax exemption for people who have their income from investments, but people who get their income by working, let's go ahead and keep taxing those folks.

Guess what. It is like squeezing a balloon. When you exempt a class of income over here from any tax obligation, the people who are over here remaining to pay the tax are going to pay a higher burden. It is saying let's exempt people who are investors and we will ask people who work to pay a higher tax.

Does that make any sense? Tax work but exempt investment? Capital gains tax—I proposed a capital gains tax proposal that says if you hold a capital asset for 10 years, maybe you should be able to take $250,000 with a zero tax rate during your lifetime; tax free $250,000 during your lifetime. But should we go back to the good old days where you have a tax shelter industry with tens of thousands of people doing nothing but help people convert ordinary income to capital gains so they end up paying no tax so the people who go to work every day end up paying a certain tax. I do not think so. It does not make sense to me.

If the Senator from Mississippi wants to pass a bipartisan resolution and takes these kinds of things, especially, out of it, write a resolution and we will pass it. I have no problem with that. But you cannot call this bipartisan, bringing this to the floor and throwing out sort of an in-your-face admonition about what Democrats did in 1993. Most of us feel good about what we did in 1993. We turned this country around, and passed a piece of legislation that substantially reduced the Federal deficit, substantially reduced the Federal budget deficit, helped create new jobs, put us on a course to economic growth and reduced interest rates. That is what we did, and we did not get one vote to help us. All we got was criticism then and now, 4 years later, we slip papers under the doors and over the transom, to say, "Here is what they did, here is what they did back in 1993."

That is not the way to do business. If you want to do a resolution, let us do one. Let us just take all this backbiting out of it and do a resolution that reaches the consensus that I think we could reach on some of the things that we think should be done with respect to our Tax Code.

I yield the floor.

MORNING BUSINESS

Mr. DORGAN addressed the Chair.

Mr. LOTT. Mr. President, if I could, I have a brief unanimous-consent request that I do not think will be a problem. I ask unanimous consent there now be a period for morning business with Senators to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. For the information of all Senators, as I noted, there will be no further rollcall votes. We are working on a time agreement for tomorrow on the assisted suicide legislation that has already passed the other body. I would expect that rollcall to occur mid to late afternoon, and we are still working on the situation with regard to the nominee to be Secretary of Labor. So there could be at least one and maybe two votes tomorrow. We will give Senators the exact time once we have information.

I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). Who seeks time?

TAXES

Mr. BUMPERS. Mr. President, I compliment my distinguished friend from North Dakota on his very prescient remarks, which I think are right on target. I listened to a lot of the debate today on the question of taxation, and I must say I find it puzzling. I do not really mean this, but I say quite often that I wish everybody had the opportunity to live through the Depression. My brother and sister and I were lucky. We had something to eat. We also had devoted parents and that makes up for a multitude of problems. However, not everyone is as fortunate. Some people need a helping hand.

Nobody likes the idea of taxes. I coughed up a sizable amount yesterday to the IRS. I did not particularly enjoy it. But I have never begrudged the taxes I paid, even though, as a U.S. Senator, I see a lot of waste. I see money misspent. I see priorities misplaced. And sometimes it is kind of a bitter pill to swallow. But I can not accept the idea that some Senators that have propounded today that somehow there is something unholy and evil about paying taxes. As Justice Holmes said, taxes are necessary "to make our society a civilized one." To complain about the taxes we pay in order to live in a civilized society is unfathomable to me.

My brother, who is my best friend, does not like to pay taxes. I keep reminding him the thing he and my sister and I had that a lot of children did not have when we were growing up, is that we chose our parents well. A lot of children do not have that luxury. The fact is that the Federal Government has done a tremendous amount of good with our tax funds. I think about the house we lived in and the fact that the water well was only about 10 steps away from the outhouse, and people died of typhoid fever in the summertime and we could not figure out why. All of a sudden, Franklin Roosevelt was elected President, the first President of the United States who began to treat the South as a part of the United States and not as a conquered nation. So, we began to get paved streets, running water, indoor plumbing, electricity, natural gas, housing, medical help, free shots against typhoid fever and smallpox at the schoolhouse, by a nurse paid for by those insidious taxes that we pay.

Mr. President, if I could just list all of the things that have happened since I was 10 years old, that have made us the great Nation we are, not one single Member of the U.S. Senate would take any of them back—not one. I am thinking about the housing programs we have, the farm programs we have, the medical research that we do, the medical help we give people. I think about the bank insurance fund. If we had not had the FSLIC fund when the S&L's were all going broke, you think about what a catastrophe that would have been in this country. That is what happened during the Depression, the banks went broke. And my mother, who had carefully saved $1,100 selling cream and eggs and chickens on Saturday, lost every nickel of it when the bank went under. And she grieved about it until her dying day.

Who would turn their back on the environmental improvements we have made in this country? Mr. President, 65 percent of the streams were unfishable and unswimmable. Now 65 percent are swimmable and fishable, and nobody here wants to do anything but go to 100 percent clean water and air for our children and grandchildren yet to come.

I could go on with many other things the Government has done to benefit us all. For instance, we have dammed the rivers that used to flood every spring. My mother and father used to go down to the Arkansas River every April, see people straggling along the road who had lost their homes and all their possessions, pick them up, take them home, keep them for a couple of nights until the water receded, and take them back to the area they had called their homes. We dammed the Arkansas River. It not only provides navigation but recreation and flood control. And people in those same areas of Arbuckle Island do not have to worry about it anymore.

And now some in Congress want a constitutional amendment that would require a two-thirds vote to raise taxes. You could not even correct a mistake with less than two-thirds of the vote. You could not close a tax loophole with less than two-thirds of the vote. It would favor the wealthy, who would be assured their taxes would never go up. And it would be a terrible disservice to the people who rely on Government services—yes, even welfare recipients. Like I say, everybody did not have Bill and Lattie Bumpers for parents.

We talk about family values. I have the three greatest children and the greatest family a man could have. I know all about family values. I put mine up against those of anybody in the world. Yet you and I know there are a lot of children in this country who would be better off almost anyplace than where they are.

So, I believe in helping these children. We keep on building more prisons and spending $25,000 a year for every person we incarcerate, and if we had given that child an education at roughly half the cost, he would not be in prison. When I was Governor I used to go to the prisons and talk, sit and have lunch with them, interview them, talk to them. I never met one with a college degree, though there probably were a few. I never met one who owned his own home. I didn't meet very many who did not come from a broken home.

Mr. President, I stand here on April 15 and we are still without a budget. Instead, we are wasting the peoples' time with a debate between the Democrats and Republicans about taxes. So far as I am concerned, the whole country loses with that debate. If you really want to restore confidence in the American political system and you want to stop the alienation of people's attitudes toward Congress and what goes on here, do two things: Balance the budget and change the way you finance campaigns. Anybody who thinks a democracy can survive when the laws we pass and the people we elect are totally dependent on how much money we put on it is dreaming.

And, if you want to stop alienation and really cause people to dance in the streets, balance the budget. In 1981, FRITZ HOLLINGS, Bill Bradley and DALE BUMPERS were the only three Senators who voted for Ronald Reagan's spending cuts and against his tax cuts. I can show you absolute documented proof, if everybody had voted that way we would have had a balanced budget in 1985. But, no, the herd instinct swept across this body and we voted for those massive tax cuts that guaranteed the budget was going to go out of control. And it did. Just as I screamed from this very spot in 1981.

Here we are, back to the same old stand. It reminds me of trying to housebreak my little dog. I just could not do it. His memory was just too short. And he is not alone. The memories of people in this body are awful short, too. Nobody seems to remember how we got an additional $3 trillion in debt from 1981 to 1992.

So, it is nonsense to talk about a two-thirds vote to raise taxes. Even the Articles of Confederation, which started out by saying you have to have 9 of 13 States agree to raise taxes before you can do it, had to be changed because they knew that would not work.

Mr. President, I have tried to make two points today. As I have said many times before, if it had not been for a generous, compassionate, caring Government, who had taxes to pay for my education on the GI bill, I would not be standing here right now. I have been trying to pay back this great Nation, the oldest democracy on Earth, with an organic law which we call the Constitution; next to the Holy Bible the most sacred to me. And every time we get in a tough political spot somebody says, "Well, let's amend the Constitution." When I think about some of the people here trying to tinker with what Ben Franklin and James Madison and John Adams and Alexander Hamilton did, crafted the greatest document and delivered under that document the greatest Nation, the greatest democracy on Earth, and people are constantly trying to destroy it, undo it—I shudder when I hear some of my colleagues wanting to undo what the greatest assemblage of minds ever assembled under one roof did to bring this all about.

What do they want to do? Make it impossible to raise taxes because the rich would have to pay. I am not going to be caught voting to cut Medicare and welfare and Medicaid and have somebody come to me and say, "Did you use it for balancing the budget?"

No.

"Did you use it for education, so that everybody can have a college education?"

No.

"Did you put it into housing? The environment?"

No.

"What on Earth did you do with it?"

Why, we cut taxes for the wealthiest 5 percent of the people in America. That is what we did with it.

I will be 6 feet under before you catch me voting for something like that.

I just came over here to say that the citizenry of this country, when you stop and talk to them from the heart, if not the head, talk to them from the heart and the head, let them know we are the luckiest people alive.

Yes, I paid a lot of taxes yesterday, and I did not like it, but I will tell you what I do like. I enjoy living in a civilized society where the crime rate is down, where the unemployment rate has been dramatically reduced, where inflation is under control, where people have jobs and where some Senators are trying to figure out a way to educate every child in this country who wants it.

So, no, I am not voting for any of this nonsense that would require a two-thirds vote to raise taxes. That is not a democracy. I consider myself just about the luckiest man that ever lived, No. 1, because of my parents and No. 2, because I got elected to the U.S. Senate after serving my State as Governor for 4 years. Why? It is the greatest place in the world to keep faith with humankind, to give other people the same kind of chances you had.

So I am very fortunate to be an American, and I did not begrudge the taxes I paid yesterday, just as I never begrudged the taxes I have paid, and I think most of the Members of the Senate agree with that when they stop and really reflect on it.

I yield the floor.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Minnesota.

Mr. GRAMS. Madam President, thank you.

TAX DAY AND TAX RELIEF

Mr. GRAMS. Madam President, I would like to talk a little bit about tax day and, of course, the arguments going on here in the last few minutes about taxes and who should pay them, how much should be paid. I find it a little ironic, but perhaps not surprising, that efforts to get a couple of resolutions on the floor to approve or have the Senate go on record that the American taxpayer, the American family, the American working people need tax relief—we tried to get just a resolution approved under a unanimous-consent agreement, but it was denied.

Many talk about tax relief. The only problem is there are many more in this body who talk against tax relief. I have been a strong supporter of family tax relief, and I have been the author and have supported for the last 4 years an effort to get a $500-per-child tax credit across the board. That is not really enough, because when you look at how we support families and children, if we kept pace—and a lot of you just looked at your 1040 forms, 1040EZ forms, and you found out for every dependent you can deduct $2,550. If that had kept pace with inflation from 1955, it would be worth over $9,000. So over the last 20 or 30 years, somehow we have found children or families less worthy of tax relief than we do today.

We talk about other tax relief, like the death tax, the estate tax. In other words, you have worked all your life, you have tried to put something away, as you are encouraged to do, to provide for your family after you are gone, to be able to leave your children or your spouse some money for the means of doing better. But yet, when you die, the Government wants to come in and take the majority of it. I think it was Paul Harvey who went through this the other day on the radio and talked about if you had a $3 million estate, by the time the Government got finished taking money away from you through penalties, et cetera, and the estate tax and everything else, your family would get $400,000, the Government would get $2.6 million of that.

If you had an estate of $1.9 million, the tax on it would be 85 percent that would go to the Government. What kind of a message does this send to anybody? Does it tell you that you should save? "Why? I'm going to save up all my money so that the day I die, the Government can come in and take 85 percent of it away from my kids."

We talk about the death tax, and we talk about eliminating the estate tax. You worked all your life, you have already paid your taxes on those dollars. This is after-tax income, and yet, when you die, the Government says, "That's not enough, we want the bulk of whatever you have in your savings account and cap gains tax."

There is always talk about how it is only a tax cut for the wealthy. Granted, there are people who have money who are going to benefit from this, but it is capital they are going to reinvest. When we talk about being able to provide an economy for working families in this country, we need to grow, and that needs investments, it needs capital, no matter where it comes from—foreign investors, local, domestic. We need those dollars.

Right now, it is estimated that $7.5 trillion is locked up in old investments; in other words, in companies that maybe are not as efficient as new companies, old products that could be replaced by new, because of penalties of taking your money out of one investment to put into another, and the Government is standing there to grab a majority of it. In other words, people cannot afford to take it out of one investment because the Government is going to confiscate a large part of that. So those investments remain locked up. What we are saying is cap gains would release a flood of new investments into new jobs, new companies, new products; it would expand the economy, it would provide new revenues.

I know my time is going to run out, but let me talk quickly about tax cuts. We always hear these charges of where did the deficit go wrong, and they all go back and blame it on Ronald Reagan in 1981. He said, "Let's have some tax relief for Americans," and he pushed through a tax relief package. During 1981 to 1990, revenues to the Federal Government nearly doubled. They increased 99.4 percent—99.4 percent—but that was not enough because this Congress spent 112 percent. They spent far exceeding even the growth in the revenues.

They say, and we have seen the charts this morning, "Let's look at where the blame is; the blame is the Reagan-Bush administrations because that is when the deficits went up, and let's give all the credit to President Clinton because this is where the deficit is coming down."

Let's retrace that. During the Reagan-Bush administrations, who controlled the purse strings? Who was in control of Congress? I don't want to throw stones, but I think everybody knows. It was controlled by Democrats. Who controlled spending? Ronald Reagan suggested and was able to get through tax relief under the premise that for every $1 in tax relief, there would be a $2 reduction in spending. But once the revenues came in, the eyes got big and people just could not resist being the good guy on the block and taking your money and spending it. In fact, they spent it so fast they even outspent a rapidly growing economy.

Who was to blame? It was not Reagan or Bush, it was the democratically controlled Congress spending the dollars.

Let's look at the last 4 years. They say in the last 4 years, deficits have actually gone down. From 1993 to 1995, they went down because Bill Clinton got through the largest tax increase in history. Again, who passed it? It was Congress who passed it, and that was controlled by the Democrats. So we did have deficit reduction but, again, because of tax increases. In fact, this Congress has raised taxes once on average every 22 months.

The last 2 years, under a Republican controlled Congress, deficits continued to go down, but because of reductions in spending.

Here we have a difference in philosophy. We could balance the budget if we take 80 percent of everything you make. We can probably balance the budget and still increase spending, but it would come out of somebody's pocket. I don't know, it does not seem to make sense. In a recent USA/CNN poll, 70 percent of Americans said they wanted tax relief, meaningful tax relief. Not this give-and-take, smoke-and-mirrors, a little bit here, little bit there, targeted what you believe as tax relief, not what they believe you should have but what you believe you should have.

Let's look at 5 years. The Government is going to take $8.6 trillion from you over the next 5 years, and we are asking in tax relief one penny on every dollar. Somehow, you are going to hear from this body that we cannot live with 99 cents on the dollar, but you, as taxpayers, sure can give it all up. Somehow you can make the sacrifice, tighten your belt, spend less on your children, education, food, clothing, shelter, homes, maybe a night out for pizza, but do not let Congress take one penny on the dollar less than what they want to spend. By the way, that would not even be enough.

The support for taxes, I still support—let's look at DC and the budget in DC.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAMS. I was going to wrap this up by saying the District of Columbia has problems with their budget, and what has been the proposed solution? Give them tax relief. I think the whole country has a serious problem, taxpayers have a problem, just like what is facing Washington, DC, and I think they need tax relief as well.

Thank you, Madam President. I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, first, I wish to compliment and congratulate my colleague from Minnesota for an outstanding statement on really the need for tax relief. Today is tax day. Today is the day that thousands of Americans will be running to the post office trying to make sure they get their taxes filed on time.

In my household, it is not a pleasant time. My wife and I have been married 28-plus years, and this is always the time where we are scrambling around to make sure we find all the charitable contributions, make sure we get all the 1099's, make sure we get all the forms together, and it is not pleasant, it is not easy, it is not something we look forward to.

I heard my friend and colleague from Arkansas say he does not mind one bit the amount of money he pays in taxes. I will say, as a taxpayer, I mind. I will say a lot of taxes are unfair and a lot of taxes are very counterproductive to individual freedom. As a matter of fact, a lot of taxes actually suffocate an individual's ability to expand, to grow, to work for yourself, to take care of your family.

I will give you a couple of examples and one of the reasons why this Senator favors very much balancing the budget but also, likewise, cutting taxes for families, particularly working families, making some changes in estate taxes as outlined by my colleague, Senator GRAMS, and making some changes in capital gains. Let's touch on a couple of examples.

I heard my colleague from Arkansas say, "Well, they're cutting taxes for the wealthy." You do not have to be very wealthy, and all of a sudden you are working for the Government more than you are working for yourself. If you are a self-employed individual and you have a company, maybe you have a painting service or lawn service—I used to have a janitor service when I was in college—if you are self-employed, single, and you have taxable income at $25,000, most people would not categorize you as rich. But according to Government sources, you must be, because the Government wants half of everything you make.

If a person has a taxable income at $25,000, their marginal income tax bracket is 28 percent Federal income tax. That individual must also pay Social Security taxes; if self-employed, he pays 15.3 percent. Add that to the 28, and that is 43.3 percent, and that is before they pay any State income tax. In my State that is about 7 percent.

That means that person, that individual with taxable income of $25,000 pays 28 percent Federal income tax, 15.3 percent FICA tax, unemployment tax, Social Security, Medicare tax. You add the two together and get 43.3, add State income tax and, bingo, that person is taxed at over 50 percent, and any additional dollar they make is going to Government.

I think that is too high. I do not think Government is entitled to take over half of what they make. They are the ones creating the work. They are the ones doing the job. They are the ones putting in the labor, the sweat, the equity, the homework, the education necessary to create the job, create the service, and Government is coming in saying they want half of it. If it is a couple and their taxable income is $40,000, they are in the same 50-percent tax bracket.

I think that is too high. I think estate taxes are high. My colleague said that is cutting taxes for the wealthy. You can have a taxable estate of $1 million, and Uncle Sam says they want 39 percent. Why in the world, if a person accumulates a couple of restaurants, maybe two or three restaurants, and they happen to have an estate value of $1.6 million—we have a $600,000 exemption, so he has two or three restaurants and their value is worth, say, $2 million, why should Uncle Sam say it wants 40 percent of it? What did Uncle Sam do to generate those businesses? Why should it be entitled to 40 percent?

Or if you have a taxable estate of $3 million, Uncle Sam wants 55 percent of that estate. Again, it could be a farm, ranch, machine job, it could be a restaurant, it could be any type of business. Why should the Government come in and say, "We want over half"? What did Government do to create those jobs, that business? I disagree. That tax is unfair. It needs to be changed. I think it is counterproductive. I do not think it raises money.

I think when you get into marginal rates, over half of the people find ways to avoid taxes. They will come up with schemes. They will come up with scams. They will do different scams. They do not want the Government to get over half of what they make. They work to get it down.

We should change rates. When we change rates, my colleague from Minnesota mentioned, when we lower that tax on transactions, there are more transactions, and the Government makes more money. A lot of people are sitting on a lot of transactions. They would like to sell this land for that, and buy this land, or sell this stock and buy that stock, but they do not want to if Uncle Sam says, "We want 28 percent for that exchange." If you reduce the tax on that exchange, capital gains, you will have a lot more trading, a lot more buying and selling, and Government will make money on the transactions. The Government does not make money if people sit on the assets and do not trade the assets.

The point is, we can reduce the rates and generate more money for the Federal Government, and, I think, create a healthier, more stable economy.

So, Madam President, I make this statement urging my colleagues that this is the year that we can balance the budget and provide tax relief for American families. It should be a done deal. President Clinton campaigned for tax relief in 1992. He did not deliver. Actually he delivered just the opposite. In 1993, he passed the largest tax increase in history. In 1996, President Clinton campaigned for tax relief. Bob Dole, the Republican candidate, campaigned for tax relief. Both said they favored a $500-tax-credit per child. You would think that would be a done deal. We passed that last year in the last Congress. President Clinton, unfortunately, vetoed it. You think it would be a done deal and now it would happen. I am not so sure everybody on the other side is willing to do that. Hopefully the President will.

I want to work with the President. I want it to become law. I do not have an interest in passing a tax bill just to have it vetoed. I want to pass a tax relief package this year that includes relief for American working families, that includes a reduction in capital gains, that includes estate tax relief, that includes incentives to save, IRAs, saving for retirement and education. I want to pass that and have it become law.

We look forward to working with the President and other Members in this body to pass a bipartisan package that can actually reduce taxpayers' taxes this year.

Madam President, I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ATTORNEY GENERAL RENO'S ACTIONS UNDER THE INDEPENDENT COUNSEL LAW

Mr. NICKLES. Madam President, Attorney General Janet Reno's refusal to appoint an independent counsel to investigate the Clinton administration's highly questionable fundraising activities is based upon a shocking misinterpretation of the history, purpose, and requirements of the independent counsel law.

Ms. Reno states that the act "does not permit" invoking the independent counsel provisions unless there is "specific and credible evidence that a crime may have been committed by" a person covered by the law. In fact, the law requires that it be invoked whenever there is "information sufficient to constitute grounds to investigate" whether any person covered by the law may have violated Federal law. In short, even though Attorney General Reno acknowledges that there are "sufficient grounds to investigate," and even though that investigation is ongoing as I speak, she insists on controlling the investigation herself.

There remains no conceivable room for doubt that the Clinton administration, the Clinton-Gore campaign, and the Democratic National Committee engaged in fundraising practices that must be investigated. Virtually every editorial page in the Nation, from the Wall Street Journal to the New York Times, have demanded an investigation. Indeed, even the highest officials at the DNC have acknowledged that their practices were questionable and have agreed to return over $3 million in contributions from foreign nationals, persons who gave contributions in the names of others, and contributions that may have come from foreign governments. And serious questions exist as to the use of Government property to solicit contributions and reward contributors.

The Vice President has admitted that he made numerous telephone calls from his official office using a Clinton-Gore campaign card to raise funds for the purpose of furthering the Clinton-Gore reelection campaign. Several of the recipients of those calls said that they felt pressured to contribute because they had ongoing business with the Government. Other telephone call recipients perceived these calls as constituting a shakedown. When a charge was recently aired that a prominent Member of Congress had pressured a potential contributor, a Federal grand jury investigation was launched within days of the allegation. Shouldn't the Vice President, or the President, who had pointedly not denied making fundraising calls from his office, be investigated as well?

The purpose of the independent counsel law is to entrust the investigation of these matters to someone who is not a subordinate of the official or officials being investigated. Yet Attorney General Reno refuses to invoke the independent counsel law until she is satisfied that laws have, in fact, been broken. That decision is not hers to make. That interpretation stands the law on its head.

It is impossible to defend the proposition, as the Attorney General attempts to do, that covered persons are not implicated in the investigation that she is presently conducting and which should be conducted by an independent person. Documents released by the White House prove conclusively that the fundraising by the President's reelection campaign and by the DNC was run, on a day-to-day, hands-on basis by the President, himself, and his direct subordinate, Deputy Chief of Staff Harold Ickes. The DNC took orders directly from the President through Mr. Ickes. And the President and the Vice President and the First Lady were directly and substantially involved in all fundraising activities by the Clinton-Gore campaign and by the DNC, which was raising not soft money, but money that was raised for the purpose and used directly to fuel the President's reelection drive.

The Attorney General seems to feel that some of the laws implicated by these practices may not or should not be prosecuted. But that prosecutorial decision must not be made by someone who owes her position in Government to the official who may have possibly violated those laws. It does not answer this concern for the Attorney General to state that she is relying on career officials in the Department of Justice. As long as they are reporting to her, they are reporting to the President. She may not independently investigate the conduct of President Clinton any more than Attorney General Mitchell could investigate President Nixon or Attorney General Meese could investigate President Reagan.

I am not prejudging the results of the investigation which must be conducted into these matters. But I know that the practices that must be investigated may have violated Federal criminal laws, and that those violations may have been encouraged, inspired, directed, or condoned by the President or his immediate subordinates. The people of the United States are entitled to a prompt, full, fair, and independent investigation of these matters, and that investigation cannot be controlled by a person who serves at the pleasure of the President.

TAX RELIEF, TAX REFORM, AND IRS REFORM

Mr. CRAIG. Madam President, an estimated 30 million taxpayers will file their Federal income tax returns today. They will be among the more than 100 million households filing returns so far this year.

Most of these households do not have charitable feelings about the process to which their Government has just subjected them.

Today, tax day, is the right day to call for tax relief, tax reform, and reform of the Internal Revenue Service.

The Tax Foundation has announced today that tax freedom day for 1997 will be May 9—128 days into the year and later than it has ever been in our taxpaying history.

Madam President, our colleague, the senior Senator from West Virginia [Mr. BYRD], is a student of classical history. I read recently that subjects in some of the outer provinces of the Roman Empire stirred up civil unrest when Roman plus local taxation reached an estimated 25 percent of their income.

Today, the typical American family of four pays 38 percent of its income in taxes at all levels—working 3 hours of every 8-hour day just to pay taxes.

Tax-and-spend liberals don't like it when taxpayers are reminded that it is the taxpayer's money—not the Government's —that is taken in taxes.

I continue to support reasonable, fair tax relief that is pro-family and proeconomic growth.

Among other efforts, today, I am joining again as an original cosponsor, with Senator ASHCROFT, of the Working Americans Wage Restoration Act.

American wage-earners are double taxed. They pay Social Security taxes and income taxes twice on the same wages. The least they deserve to an above-the-line deduction against their income taxes for the taxes they pay into Social Security.

Too often within government, common sense is the least common kind of sense.

The Ashcroft-Craig bill would be one important step in the right direction.

American workers and their families need tax relief as soon as we can enact it. They are also clamoring for fundamental tax reform.

Compliance with the current Federal income tax system costs 5.4 billion hours a year and $200 billion—$700 for every man, woman, and child in America.

The IRS publishes 480 different tax forms, and another 280 forms to explain the first 480 forms.

If laid end-to-end, the 8 billion pages of instructions sent out by the IRS every year would circle the Earth 28 times.

The Internal Revenue Code is too complex, produces arbitrary results, and is far too involved in social engineering.

It is costing the Government the trust and confidence of the American people.

That's why Senator SHELBY and I will reintroduce the Freedom and Fairness Restoration Act—the flat tax bill—in the coming weeks.

Our bill would create a single, flat, tax rate of 17 percent. Families of modest and middle-class means would be protected—by a personal exemption amounting to $33,800 for a family of four.

A fair, flat tax system would reward work, promote savings and economic growth, and increase willing compliance with the law. As much as Americans distrust the tax laws, they fear the tax collector who enforces them.

Small wonder: Drug dealers, child molesters, and organized crime hit men have more legal rights than an average taxpayer whom the IRS suspects of underpaying his or her taxes.

Blatant disregard for individuals' rights has all been in pursuit of one goal: Get the money.

An ever-growing Federal Government, with its voracious appetite for taxpayers' hard-earned dollars, has led Congresses dominated for decades by tax-and-spend liberals to expand the powers of the Internal Revenue Service and allow the agency to ignore the due process of law protections to which American citizens otherwise have been entitled.

Americans expect to enjoy due process of the law as one of their fundamental rights. But that's not the case when you're dealing with the IRS.

Most of the time, if a criminal suspect is not publicly attracting the attention of a law enforcement officer, no one from the government—from the FBI to the local sheriff—can search their home or seize their property without a warrant from an impartial court, based upon a showing of probable cause.

But if the IRS thinks someone has underpaid their taxes, it can seize cars and freeze bank accounts on its own authority—without obtaining any kind of impartial, prior approval.

It can consider the taxpayer guilty until proven innocent. It can impose costly penalties until the taxpayer—sometimes after years of court proceedings—conclusively proves they did nothing wrong.

So-called "horror stories" about the IRS are multiplying. Sometimes the problem is brought on by a Tax Code that is too complicated even for the IRS to understand. Sometimes the problem is with IRS agents who act outside the law. And sometimes, it happens when IRS officials push to the limit the legal powers they've been granted by past Congresses and Presidents. In any case, there's never an excuse for such behavior.

Congress is now investigating these incidents. We are working to make the IRS more accountable and the process fairer.

One of these efforts will take a major step closer to becoming law today—S. 522, the "anti-snooping" bill introduced by Senator COVERDELL. I am proud to be a cosponsor.

This bill will clamp down on rogue IRS agents and put a stop to the unauthorized inspection of taxpayers' information. Years into the age of the computer, this is overdue. Absolute power corrupts absolutely.

Congress never should have granted powers to the IRS that allow it—that, in fact, have encouraged it—to trample the due process rights that all Americans should enjoy.

Criminal activity by individual, rogue IRS agents should not be hidden behind a shield of sovereign immunity.

We will pass the anti-snooping bill today. It is one small part of a larger reform package that still needs to be passed.

Many of the other needed reforms are included in another of Senator COVERDELL's bills, S. 365, the IRS Accountability Act. I am also proud to be a cosponsor of that bill, as well.

No people can remain free, or their government effective, if they do not display trust and confidence in each other.

Yet America's tax system increasingly eats like a corrosive acid at these very bonds of support and legitimacy.

I am committed to the three-step program necessary to restore fairness to the tax system and trust to the people:

Pro-family, pro-growth tax relief; a simpler, fairer, flatter Tax Code; and reform for the tax collector, increasing accountability and requiring the IRS to treat the taxpayer with dignity, respect, and due process of the law.

STUDY ON TAX CONTRIBUTIONS OF IMMIGRANTS

Mr. KENNEDY. As tax day is here, it is worth considering the contributions of legal immigrants to Uncle Sam.

A new study by the Library of Congress highlights the extraordinary level of Federal taxes paid by legal immigrants. Recent immigrants—including both those who have not yet naturalized and those who have become citizens—paid an estimated $55 billion in Federal income taxes in 1995. Without immigration, the Government would have had $55 billion less to pay for key services or deficit reduction.

We have long known of the major contributions of immigrants in developing innovative technologies, creating jobs for American workers, vitalizing our inner cities, serving in our Armed Forces, and in many other ways. But this report also shows that immigrants pay their way in Federal taxes.

The $55 billion that recent immigrants contributed is almost three times what the Federal Government will spend this year on law enforcement to deal with crime. It is twice what the Federal Government will invest in education. It is nine times the budget of the Environmental Protection Agency.

Often in recent years, Congress has been too quick to engage in immigrant-bashing, or too slow to recognize the immense contributions of immigrants to the Nation's heritage and history. Studies like this help to redress the balance, by demonstrating the continuing important role of immigration in our modern society.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Madam President, at the close of business yesterday, Monday, April 14, 1997, the Federal debt stood at $5,378,600,468,556.80. (Five trillion, three hundred seventy-eight billion, six hundred million, four hundred sixty-eight thousand, five hundred fifty-six dollars and eighty cents.)

Five years ago, April 14, 1992, the Federal debt stood at $3,895,238,000,000. (Three trillion, eight hundred ninety-five billion, two hundred thirty-eight million.)

Ten years ago, April 14, 1987, the Federal debt stood at $2,280,863,000,000. (Two trillion, two hundred eighty billion, eight hundred sixty-three million.)

Fifteen years ago, April 14, 1982, the Federal debt stood at $1,063,287,000,000. (One trillion, sixty-three billion, two hundred eighty-seven million.)

Twenty-five years ago, April 14, 1972, the Federal debt stood at $430,716,000,000 (four hundred thirty billion, seven hundred sixteen million) which reflects a debt increase of nearly $5 trillion—$4,947,884,468,556.80 (four trillion, nine hundred forty-seven billion, eight hundred eighty-four million, four hundred sixty-eight thousand, five hundred fifty-six dollars and eighty cents) during the past 25 years.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

Mr. NICKLES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT RELATIVE TO DUTY-FREE TREATMENT—MESSAGE FROM THE PRESIDENT—PM 29

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

The Generalized System of Preferences (GSP) program offers duty-free treatment to specified products that are imported from designated developing countries. The program is authorized by title V of the Trade Act of 1974, as amended.

Pursuant to title V, I have determined that Argentina fails to provide adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property. As a result, I have determined to withdraw benefits for 50 percent (approximately $260 million) of Argentina's exports under the GSP program. The products subject to removal include chemicals, certain metals and metal products, a variety of manufactured products, and several agricultural items (raw cane sugar, garlic, fish, milk protein concentrates, and anchovies).

This notice is submitted in accordance with the requirements of title V of the Trade Act of 1974.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 11, 1997.*

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:11 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 785. An act to designate the J. Phil Campbell, Senior, Natural Resources Conservation Center.

The enrolled bill was signed subsequently by the President pro tempore [Mr. THURMOND].

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry:

Ann Jorgenson, of Iowa, to be a member of the Farm Credit Administration Board, Farm Credit Administration for a term expiring May 21, 2002.

Lowell Lee Junkins, of Iowa, to be a member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1511. A communication from the Under Secretary of Agriculture for Rural Development, transmitting, pursuant to law, a rule entitled "Community Facilities Grants" (RIN0575–AC10) received on April 2, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1512. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Nectarines and Peaches Grown in California" (FV–96–916–3 IFR) received on April 2, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1513. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Amendments to the Perishable Agricultural Commodities Act" (RIN0581–AB41) received on March 31, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1514. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Popcorn Promotion, Research, and Consumer Information Order" (FV–96–709FR) received on March 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1515. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Farm Credit" (RIN0560–AE87) received on March 27, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1516. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Special Combinations for Flue-Cured Tobacco Allotments and Quotas" (RIN0560–AF14) received on March 31, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1517. A communication from the General Sales manager and Vice President of the Commodity Credit Corporation, Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, a report relative to donations of surplus commodities; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1518. A communication from the Acting Executive Director of the U.S. Commodity Futures Trading Commission, transmitting, pursuant to law, a rule received on April 7, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1519. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, a rule entitled "Disclosure to Shareholders" (RIN3052-AB62) received on March 25, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1520. A communication from the Congressional Review Coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Viruses, Serums, Toxins, and Analogous Products" received on March 21, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1521. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, a rule entitled "Organization and Functions" (RIN3052-AB61) received on April 8, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1522. A communication from the President of the United States, transmitting, pursuant to law, a report relative to telecommunications services for the period June 30, 1996 through December 31, 1996; to the Committee on Foreign Relations.

EC-1523. A communication from the Assistant of Defense (Health Affairs), transmitting, pursuant to law, a report relative to medical care; to the Committee on Armed Services.

EC-1524. A communication from the Executive Director of the Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report of additions to the Procurement List received on march 28, 1997; to the Committee on Governmental Affairs.

EC-1525. A communication from the General Counsel of the Federal Retirement Thrift Investment Board, transmitting, pursuant to law, a rule relative to death benefits received on March 25, 1997; to the Committee on Governmental Affairs.

EC-1526. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, a rule entitled "Cost-of-Living Allowances" (RIN3206-AH07) received on March 25, 1997; to the Committee on Governmental Affairs.

EC-1527. A communication from the Director of the Office of the Secretary of Defense, transmitting, pursuant to law, a rule entitled "The Air Force Privacy Act Program" received on March 25, 1997; to the Committee on Governmental Affairs.

EC-1528. A communication from the Director of the U.S. Office of Government Ethics, transmitting, pursuant to law, a rule entitled "Post-Employment Conflict of Interest Restrictions" (RIN3209-AA07) received on March 24, 1997; to the Committee on Governmental Affairs.

EC-1529. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports and testimony for February 1997; to the Committee on Governmental Affairs.

EC-1530. A communication from the President and Chief Executive Office of the Overseas Private Investment Corporation, transmitting, pursuant to law, the management report for fiscal year 1996; to the Committee on Governmental Affairs.

EC-1531. A communication from the Secretary of the Panama Canal Commission, transmitting, pursuant to law, the report of a rule relative to acquisition (RIN3207-AA30), received on March 26, 1997; to the Committee of Armed Services.

EC-1532. A communication from the Secretary of the Panama Canal Commission, transmitting, a draft of proposed legislation to amend the Panama Canal Act; to the Committee on Armed Services.

EC-1533. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule relative to demonstration projects, received on April 3, 1997; to the Committee on Armed Services.

EC-1534. A communication from the Secretary of the Army, transmitting, pursuant to law, a notification relative to program unit costs; to the Committee on Armed Services.

EC-1535. A communication from the Defense Financing and Accounting Service, Department of Defense, transmitting, pursuant to law, a cost comparison study; to the Committee on Armed Services.

EC-1536. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report on Parity of Pay for Active and Reserve Component members, to the Committee on Armed Services.

EC-1537. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, the report on the small business loan program; to the Committee on Armed Services.

EC-1538. A communication from the Assistant Secretary of Defense (for Reserve Affairs), transmitting, pursuant to law, the report on the income insurance program; to the Committee on Armed Services.

EC-1539. A communication from the Assistant Secretary of Defense, (for Force Management Policy), transmitting, pursuant to law, the report on Military Permanent Medical Nondeployables; to the Committee on Armed Services.

EC-1540. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, the report on health care costs; to the Committee on Armed Services.

EC-1541. A communication from the Under Secretary of Defense (for Industrial Affairs and Installations), transmitting, pursuant to law, a report on Commercial Activities; to the Committee on Armed Services.

EC-1542. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense, transmitting, pursuant to law, the report of a rule relative to Defense Federal Acquisition Regulation Supplement, received on April 8, 1997; to the Committee on Armed Services.

EC-1543. A communication from the Chief, Programs and Legislative Division, Office of Legislative Liaison, Department of the Air Force, Department of Defense, transmitting, pursuant to law, a cost comparison study relative to Laughlin Air Force Base (AFB), Texas; to the Committee on Armed Services.

EC-1544. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report concerning the administration of veterans' preference requirements; to the Committee on Armed Services

EC-1545. A communication from the Secretary of Defense, transmitting, pursuant to law, the report on the effects of mergers and acquisitions; to the Committee on Armed Services.

EC-1546. A communication from the Assistant Secretary of Defense (for Health Affairs and Reserve Affairs), transmitting jointly, pursuant to law, the report on the means of improving the provision of uniform and consistent medical and dental care to the members of the reserve components serving on active duty; to the Committee on Armed Services.

EC-1547. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, the report on printing and duplicating services; to the Committee on Armed Services.

EC-1548. A communication from the Secretary of Defense, transmitting, pursuant to law, the annual report for the National Security Education Program; to the Committee on Armed Services.

EC-1549. A communication from the Secretary of Defense, transmitting, pursuant to law, the report on the Reserve Forces Policy Board for fiscal year; to the Committee on Armed Services.

EC-1550. A communication from the Secretary of Defense, transmitting, pursuant to law, the report on proposed obligations for weapons destruction and non-proliferation in the former Soviet Union; to the Committee on Armed Services.

EC-1551. A communication from the General Counsel of the Department of Department, transmitting, a draft of proposed legislation to authorize a food cost based Basic Allowance for Subsistence for enlisted military personnel; to the Committee on Armed Services.

EC-1552. A communication from the General Counsel of the Department of Department, transmitting, a draft of proposed legislation to permit Service Secretaries to defer the retirement of Chaplains; to the Committee on Armed Services.

EC-1553. A communication from the General Counsel of the Department of Department, transmitting, a draft of proposed legislation that address personnel, procurement, policy and environmental concerns; to the Committee on Armed Services.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ALLARD:

S. 572. A bill to amend the Internal Revenue Code of 1986 to repeal restrictions on taxpayers having medical savings accounts; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Ms. MOSELEY-BRAUN, and Mr. BURNS):

S. 573. A bill to amend the Internal Revenue Code of 1986 to allow an income tax deduction for student loan interest payments; to the Committee on Finance.

By Mr. ABRAHAM (for himself and Mr. LEVIN):

S. 574. A bill to delay the application of the substantiation requirements to reimbursement arrangements of certain loggers; to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. HAGEL, Mrs. MURRAY, Ms. SNOWE, Mr. HARKIN, Mr. ALLARD, Mr. JOHNSON, Mrs. HUTCHISON, Mr. REID, Mr. SHELBY, Mr. ROBERTS, Mr. BAUCUS, Mr. KERREY, Mr. JEFFORDS, Mr. MACK, Ms. COLLINS, and Mr. BIDEN):

S. 575. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals; to the Committee on Finance.

By Mr. LEVIN (for himself and Mr. MCCAIN):

S. 576. A bill to amend the Internal Revenue Code of 1986 to provide that corporate tax benefits from stock option compensation expenses are allowed only to the extent such expenses are included in corporate accounts; to the Committee on Finance.

By Mr. GLENN (for himself and Mr. LIEBERMAN):

S. 577. A bill to increase the efficiency and effectiveness of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. HATCH, Mr. GRASSLEY, Mr. ABRAHAM, Mr. REID, Mr. INOUYE, Mr. BAUCUS, Mr. CRAIG, Mr. KEMPTHORNE, and Mr. THOMAS):

S. 578. A bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ASHCROFT:

S. 579. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for the old-age, survivors, and disability insurance taxes paid by employees and self-employed individuals, and for other purposes; to the Committee on Finance.

By Mr. SMITH of New Hampshire (for himself, Mr. FAIRCLOTH, Mr. GRAMM, Mr. HATCH, and Mr. KYL):

S. 580. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated; to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. LEAHY, Mrs. FEINSTEIN, and Mr. TORRICELLI):

S. 581. A bill to amend section 49 of title 28, United States Code, to limit the periods of service that a judge or justice may serve on the division of the United States Court of Appeals for the District of Columbia to appoint independent counsels, and for other purposes; to the Committee on the Judiciary.

By Mr. BROWNBACK (for himself, Mr. DOMENICI, Mr. ROBERTS, and Mr. BINGAMAN):

S. 582. A bill to deem as timely submitted certain written notices of intent under section 8009(c)(1) of the Elementary and Secondary Education Act of 1965 for school year 1997–1998; to the Committee on Labor and Human Resources.

By Mr. GREGG:

S. 583. A bill to change the date on which individual Federal income tax returns must be filed to the Nation's Tax Freedom Day, the day on which the country's citizens no longer work to pay taxes, and for other purposes; to the Committee on Finance.

By Mr. ABRAHAM:

S. 584. A bill to amend the Internal Revenue Code of 1986 to change the time for filing income tax returns from April 15 to the first Tuesday in November, and for other purposes; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. DASCHLE, Mr. JOHNSON, and Mr. WELLSTONE):

S. 585. A bill to amend the Internal Revenue Code of 1986 to authorize the Secretary of the Treasury to abate the accrual of interest on income tax underpayments by taxpayers located in Presidentially declared disaster areas if the Secretary extends the time for filing returns and payment of tax for such returns; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. CHAFEE, Mr. SMITH of New Hampshire, Mrs. BOXER, Mr. WYDEN, Mr. BYRD, Mr. KENNEDY, Mr. INOUYE, Mr. ROTH, Mr. BIDEN, Mr. LEAHY, Mr. SARBANES, Mr. DODD, Mr. D'AMATO, Mr. SPECTER, Mr. KERRY, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. JEFFORDS, Mr. AKAKA, Mrs. FEINSTEIN, Mr. GREGG, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Ms. SNOWE, Mr. SANTORUM, Mr. DURBIN, Mr. TORRICELLI, Mr. REED, and Ms. COLLINS):

S. 586. A bill to reauthorize the Intermodal Surface Transportation Efficiency Act of 1991, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself, Mr. WYDEN, Mr. REID, Mr. WELLSTONE, Mr. MURKOWSKI, and Mr. BRYAN):

S. Res. 72. A resolution to allow disabled persons or Senate employees seeking access to the Senate floor the ability to bring what supporting services are necessary for them to execute their official duties; to the Committee on Rules and Administration.

By Mr. LOTT:

S. Res. 73. A resolution to declare the need for tax relief for the American people and condemn the abuses of power and authority committed by the Internal Revenue Service; to the Committee on Finance.

By Mr. DORGAN (for Mr. DASCHLE):

S. Res. 74. A resolution to commend the budget deficit reduction and tax relief for working families that has occurred under the Clinton Administration and to urge the Republican Congressional majority to take up without delay a budget resolution, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself, Ms. MOSELEY-BRAUN, and Mr. BURNS):

S. 573. A bill to amend the Internal Revenue Code of 1986 to allow an income tax deduction for student loan interest payments; to the Committee on Finance.

THE LOAN INTEREST FORGIVENESS FOR EDUCATION ACT

Ms. MOSELEY-BRAUN. Mr. President, I am pleased to join my distinguished colleague from Iowa, Senator GRASSLEY, and my colleague from Montana, Senator CONRAD BURNS, in introducing S. 573, the Loan Interest Forgiveness for Education Act, the LIFE Act. One of the major forces driving this bill is our growing concern that parents and students in this country have access to a quality education without amassing enormous student loan bills.

The cost of college has a direct impact on access to college. The more tuition goes up, the more students will be priced out of their opportunity for the American dream. Our country will suffer the loss of talent and training. We cannot as a nation prepare for the 21st century by making it more difficult for our children to access higher education.

This Congress is working hard to eliminate the Federal deficit. In part, this is because we know that piling on more debt ultimately undermines the ability of the generations that follow us to achieve the American dream, and to do what we have done—live better than our parents. Mr. President, that is why we are introducing this LIFE bill. It will do two things: encourage individuals to go to college, and reduce the cost of a college education. I believe very strongly, Mr. President, that the way to achieve this dream is to ensure that everyone who is in need of financial assistance to attend an institution of higher learning has that opportunity. They should have the opportunity, as we did, to pursue their dreams.

It is absolutely essential that we continue to invest in our most important asset—our children. That is what the Loan Interest Forgiveness for Education Act is all about. The bill will create a deduction for qualified student loan interest including expenses for interest paid on student loans used to pay postsecondary education expenses such as tuition, books, room and board. This bill is similar to provisions contained in both the Republican and Democratic leadership education bills, S. 1 and S. 12, and is also similar to a provision passed by Congress as part of the 1995 Budget Reconciliation Act.

As you may know, President Clinton has proposed a bill to allow a $1,500 tax credit per year for the first 2 years of college or a $10,000 deduction per person per year for qualified college tuition expense. I am glad to see President Clinton focus on investing in education for the middle class because it is truly our only hope of remaining competitive in this global marketplace. However, I believe we should go even further by investing in those working parents too, who would otherwise not be able to send their children to college without loans.

The median income for a family of four as reported by the Joint Committee on Taxation in 1995 was $49,531. If that household income was comprised entirely of wage or salary income and, if that household filed a joint return claiming the standard deduction and four personal exemptions, the household's income tax liability would have been $4,947 and a total payroll tax liability of $7,578 resulting in a total tax liability of $12,525. When considering the tax liability and the limited income of the median household family, a large number of American families will not have the extra income to save $80,000 for two children to go to college.

This legislation will focus on those that do not have parents who can afford to save for college. Those working parents who can barely afford to make ends meet; parents who provide the basics of life such as food, clothing, shelter, and medical insurance for their children but do not make the extra income to save for college. Even if families could afford to save the money to pay for their children's college education, income tax liability of many families is not high enough to benefit from the President's proposal because neither the $10,000 tax deduction nor $1,500 tax credit is refundable.

Students whose parents are unable to pay for college up front are generally the ones who rely more heavily on student loans to pay for college and should be given the same type of tax relief as those that come from families that can afford to finance the costs of a college education from savings. That is why the Loan Interest Forgiveness for Education Act, or the LIFE Act, helps not only to improve the life of students who might not otherwise have the opportunity to attend college, it also helps to improve their life after graduation. These students generally have an enormous burden of debt and the interest costs impair their ability to get started in life after college. New college graduates just beginning their careers all too often have to pay a higher percentage of their income in educational loan bills than they do in rent.

I believe we should encourage individuals who cannot afford to pay for college to realize that education is a wise investment in their future. Although some individuals must incur substantial debt to complete their education, the Government should do their part to make sure that these students will not suffer because of this decision for the next 20 years of their lives.

The Government uses the Tax Code to help American families buy their own homes. It is equally important to use the Tax Code to encourage higher education. It is an investment in our children, our economy and our future. If a child receives a college education, that person is much more likely to be able to afford to purchase a home. The link between educational attainment and earnings is unquestionable. Statistics show that the average earnings of the most educated Americans are 600 percent greater than that of the least educated Americans. The Department of Labor estimates that, by the year 2000, more than half of all new jobs will require an education beyond high school. As we move nearer to the 21st century and into an information-driven economy, the gap between high school and college graduates is growing. A college graduate in 1980 earned 43 percent more per hour than a high school graduate. By 1994, that had increased to 73 percent. When we reduce access to higher education, we reduce access to the American Dream.

Given the fact that many of the people in the young generation are going to be pushed into the ocean of responsibility to pay off our national debt, and pay higher Social Security taxes to support us, the least that we could do, Mr. President, is to provide them with a life-preserver. It is the ethical thing to do and the right thing to do. This life-preserver that I speak of, Mr. President, is education. By supporting this educational initiative we are affording members of this young generation and others a chance to arm themselves with knowledge as well as enhance their income potential. This is very important because most economist agree that education produces substantial spillover, which simply means indirect effects, that will benefit society in general. Examples cited of such positive spillover effects include a more efficient work force, lower unemployment rates, lower welfare costs, and less crime. All of these are issues that concern us greatly. Furthermore, an educated electorate is said to foster a more responsive and effective government. So as you can see this bill is very timely.

This bill comes at a time when the cost of attending an institution of higher learning has increased at a rate higher than inflation. In the 1980's, for example, the cost of a year's tuition at a publicly supported college increased from $635 to $1,454, an increase of almost 130 percent. And a year's tuition at a private college increased from an average of $3,498 to $8,772, an increase of 150 percent. A more recent figure can be found in the state of Illinois where, as of 1994, students at Northern Illinois University and Illinois State University, both public institutions, were paying nearly 96 percent more than the increase in the inflationary rate for that same year. The number of loans borrowed through the main Federal college loan programs rose by nearly 50 percent since 1990, from 4,493,000 in 1990 to 6,672,000 in 1995. Rapid increases in college tuition force today's students to borrow much more than their predecessors did, yet in 1986, the interest deduction for student loans was eliminated.

I am working with the GAO, [Government Accounting Office] to further investigate why college tuition is rising so rapidly, and what the Federal Government can most appropriately do about this problem. One of the arguments against providing up front tax cuts to parents for the costs of education is that tuition costs will increase to take into account the tax benefit given to parents. However, the Loan Interest Forgiveness for Education Act will not increase the cost of tuition because the benefit will be received after individuals have graduated. This bill will improve the life of college graduates while at the same time encouraging them to pay back their student loans.

We must improve the accessibility of education, so that all Americans may receive a higher education, not just the wealthy elite.

It is a critical matter in terms of the opportunities than this generation of Americans will have to access and maintain the American dream. The fact that Americans depend on people being able to make a living and support themselves, and to reach as high as their talents will take them, should not be hampered in any way by the limitation of availability of educational opportunity because of costs.

I know that I would not be in the Senate today were it not for quality public education and the accessibility of affordable higher education. The Chicago Public Schools gave me a solid foundation, and I was able to attend the University of Illinois and the University of Chicago in spite of the fact of that my parents were working-class people. I am committed to seeing that the students of this generation and those who follow them have even greater opportunities than I have had. I am absolutely determined to ensure that the exploding cost of college does not close the door to opportunity for them. Our generation has an absolute duty to keep the door open, and to preserve and enhance the opportunity for a better life and the American dream for the 21st century.

Certainly this generation should not have to bear a burdensome loan portfolio when they graduate that keeps them from making other optimal economic choices.

So, Mr. President, I introduce this legislation. I send it to the desk, and I encourage my colleagues to consider cosponsorship of it. I hope that by tax day next year we are able to provide those students who are going to college and have taken on loans the opportunity to have some loan forgiveness once they graduate.

By Mr. ABRAHAM (for himself and Mr. LEVIN):

S. 574. A bill to delay the application of the substantiation requirements to reimbursement arrangements of certain loggers; to the Committee on Finance.

TAX RELIEF FOR MICHIGAN LOGGERS

Mr. ABRAHAM. Mr. President, April 15 is a day that generally is viewed with consternation throughout the Unided States. For many loggers in Michigan's Upper Peninsula, however, tax day is synonymous with bankruptcy. This is because the IRS insists on enforcing a little known, and less understood, tax law affecting loggers in my State.

For nearly three decades, businesses in the timber industry have used an accounting plan that allocated a percentage of loggers' wages as rental for the use of the loggers' chain saws, thereby excluding this portion of their wages from income tax withholding, FICA, and FUTA taxes. This practice was acceptable to the IRS until the Family Support Act of 1988 required that an employee business expense reimbursement not be excluded from an employee's income unless it is paid under an accountable plan. The timber industry's traditional accounting procedure was not an accountable plan.

Unaware of the change in policy, the timber industry continued to use their old accounting plan in violation of the new law. Many small logging operations and loggers have now been assessed penalties and interest by the IRS because of their violation of this obscure law. It should be noted that most of the timber industry was in line with the new policy by tax year 1993 and continues to abide by the correct accounting procedure policies. Nonetheless, some loggers face fines of $20,000 or more. Mr. President, many loggers in Michigan's Upper Peninsula earn less than $20,000 per year.

To add to the frustration, IRS headquarters has stated that each district operation has the authority to decide the effective date of the requirement for accountable plans, and in other States, the IRS has decided to have an effective date for this accounting procedure as it relates to the timber industry of January 1, 1993. The IRS office in Michigan, however, will not agree to the January 1, 1993 date which is being used in other parts of the country. Michigan is the only State in which the IRS will not accept this date.

Mr. President, relief for these loggers is long overdue, and today Senator Levin joins with me to introduce legislation that will change the Tax Code and make permissible the qualified logger reimbursement arrangement for loggers in any taxable year prior to January 1, 1993. It will also provide for a refund or credit of any overpayment of tax accrued during these years. This correction is long overdue and I hope for swift adoption during this session of Congress.

By Mr. DURBIN (for himself, Mr. Hagel, Mrs. Murray, Ms. Snowe, Mr. Harkin, Mr. Allard, Mr. Johnson, Mrs. Hutchison, Mr. Reid, Mr. Shelby, Mr. Roberts, Mr. Baucus, Mr. Kerrey, Mr. Jeffords, Mr. Mack, Ms. Collins, and Mr. Biden):

S. 575. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals; to the Committee on Finance.

THE HEALTH INSURANCE TAX EQUITY FOR SELF-EMPLOYED ACT

Mr. DURBIN. Mr. President, I will use just 2 or 3 minutes and defer to my colleague. I want to say I am glad he is with me today. It is one of our first bills as new Members of the U.S. Senate and one that is very important, not only to our States but also to the Nation. I think it is extremely fitting that Senator Hagel and 14 of our colleagues have joined me in introducing a bipartisan bill to provide tax relief for a group of hard-working Americans, namely the self-employed. What we are trying to do with this bill, and I think it is appropriate to discuss it on April 15, is to say that people who are self-employed, small business people, farmers and the like, should enjoy the same tax benefits of deduction for health insurance premiums as corporations. This is only simple fairness.

If I work for a big company, they can literally write off every penny of the cost of my health insurance that they pay. However, if I happen to be a farmer in central Illinois, or a self-employed woman in Chicago working at home at a computer, and I go to buy health insurance, only 40 percent of the premiums could be deducted. That is unfair and it creates a real disadvantage. We should encourage people to take out health insurance. The best way to encourage them to do it is to make it more affordable by providing full deductibility. In my State of Illinois there are over 400,000 people who are self-employed who would benefit from this tax relief. In fact, over 3 million Americans who are self-employed do not have health insurance. That represents 25 percent of the self-employed. That is a high percentage compared to other groups.

So, what Senator Hagel and I are trying to do with our legislation is to level the playing field, give them all equal treatment and fair treatment. I think this tax relief could be worth $500 or $1,000 for somebody today who could deduct only 40 percent, but in the future could deduct 100 percent under our legislation.

I thank my colleague for joining me in introducing this bill. It is supported not only by the National Federation of Independent Businesses, the National Farm Bureau, the Pork Producers, the Corn Growers and the Farmers Union, but also by the National Association of Women Business Owners. Between 1987 and 1996 the number of women-owned businesses increased by 78 percent, and about 80 percent of these are individual proprietorships.

I think this is an issue whose time has come. I have spoken to many of my colleagues and they believe that is the case, too. I hope we can work as part of any budget agreement to include this provision.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 575

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Insurance Tax Equity for Self-Employed Act".

SEC. 2. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS INCREASED.

(a) In General.—Section 162(*l*)(1) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

"(1) Allowance of deduction.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and dependents.".

(c) Effective Date.—The amendment made by this section applies to taxable years beginning after December 31, 1996.

Mr. HAGEL. Mr. President, I am pleased to join with my distinguished colleague from Illinois, Senator Durbin, to introduce legislation that will cut taxes and improve access to health insurance for millions of small business owners and farmers across America.

Our legislation—the Health Insurance Tax Equity for Self-Employed Act—is a bill about fairness. Under current law, corporations can deduct from their income tax the full amount of money spent on health care for their employees. But the 10½ million self-employed men and women in America cannot fully deduct what they spend on their own health care. They can deduct a percentage—which is now 40 percent and will increase to 80 percent by 2006—but they cannot deduct the entire cost.

Our bill would immediately eliminate this disadvantage—effective January 1, 1997—and put the self-employed on the same footing with their incorporated competitors. And it would make health insurance more affordable for the 3 million uninsured Americans who are self-employed.

This bill will make a real difference to real people. The high cost of health insurance was the No. 1 problem that small businesses cited in a recent comprehensive study by the National Federation of Independent Businesses [NFIB]. Small business owners often pay 30 percent more for the cost of their health insurance than do larger companies—they pay more, but they can deduct less.

Our bill will make health insurance more affordable for small business owners. That is why it has been endorsed by the National Federation of Independent Businesses.

It also is strongly supported by the National Farm Bureau and by the Nebraska Farm Bureau Federation. Both have sent me letters endorsing this legislation. I ask unanimous consent that the full text of these be submitted for the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HAGEL. More than 95 percent of farmers and ranchers are self-employed and generally pay the full cost of their insurance coverage themselves. Our bill makes a real difference to them as well.

I am involved in this issue because it is vitally important to my home State of Nebraska. There are 98,000 self-employed people in Nebraska, of whom more than 10,000 are uninsured. These are real numbers. These are real people. This legislation can make a real difference for them—making their health insurance more affordable and their businesses more profitable.

Every State in America has hardworking, self-employed men and women who need the tax relief and health care assistance this bill offers. I hope my colleagues will support this important effort.

EXHIBIT 1

NEBRASKA FARM BUREAU FEDERATION,
Lincoln, NE, April 10, 1997.

Hon. CHUCK HAGEL,
U.S. Senate,
Washington, DC.

DEAR CHUCK: On behalf of Nebraska's largest farm organization, I am writing to offer Nebraska Farm Bureau Federation's strong support for your legislation that would provide a 100 percent tax deduction of health insurance premiums for the self-employed.

Deductibility of health insurance premium costs for self-employed individuals has been a long standing goal of Farm Bureau. More than 95 percent of farmers and ranchers are self-employed and generally pay the full cost of their insurance coverage themselves. In addition, many farm families are forced into a situation where a spouse must get an off-farm job primarily to obtain more affordable health insurance coverage for their family.

The cost of self-employed health insurance, when not purchased as part of a group, can be significant and cause financial hardships for some individuals and farm families. In many cases, farmers and ranchers pay more than $3,000 to $5,000 annually for health insurance. Farmers and ranchers are looking at many avenues to cut skyrocketing health insurance premiums. More farmers have moved to higher deductible policies—quite often in the $2,500 to $5,000 range. In other cases, farmers are opting to go without health insurance altogether.

As you know, current federal tax law allows self-employed people to deduct 30 percent of the cost of their health insurance premiums. That will increase to 80 percent by the year 2006. Current federal tax law also allows corporations to deduct 100 percent of their health insurance premium costs. Members of Nebraska Farm Bureau believe that fairness and equity dictate that Nebraska's self-employed individuals receive the same tax treatment as other employees and employers.

Nebraska Farm Bureau appreciates your work on the introduction of this legislation and we wholeheartedly offer our support to this effort.

Respectively,
BRYCE P. NEIDIG, *President.*

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, April 10, 1997.

Hon. CHUCK HAGEL,
U.S. Senate,
Washington, DC.

DEAR SENATOR HAGEL: On behalf of the 600,000 small business owners of the National Federation of Independent Business (NFIB), I am writing to express our strong support of your legislation to extend the deduction of health insurance premiums for the self-employed to 100 percent, effective immediately upon date of enactment.

Current law's tax treatment of the health insurance premiums for the self-employed is extremely unfair. The three million self-employed Americans who are presently uninsured should have access to the same 100 percent deduction that CEO's and employees in Fortune 500 companies receive. The Health Insurance Portability and Accountability Act of 1996 gave the self-employed the ability to take a 40-percent deduction in 1997 and gradually phases in a permanent deduction for the self-employed reaching 80 percent in 2006. Enabling the self-employed to take an 100 percent deduction would certainly help us to make health care more affordable for this important group of employers and their employees.

The cost of health insurance is the number one problem that small businesses cited in a 1996 NFIB Education Foundation study. Small Business Problems and Priorities, the most comprehensive study of its kind in the country. Small business owners often pay 30 percent more for the cost of their health insurance than larger companies. In addition, self-employed business owners face the cost that result from having to pay income taxes on the majority of the amount of their health insurance premiums. Instead of penalizing the self-employed in this manner, Congress should be doing all it can to help the self-employed, a group who plays a critical role in our economy.

NFIB appreciates your understanding of this issue and your willingness to introduce this significant piece of legislation.

Sincerely,
DAN DANNER,
Vice President, Federal Governmental Affairs.

By Mr. LEVIN (for himself and Mr. MCCAIN):

S. 576. A bill to amend the Internal Revenue Code of 1986 to provide that corporate tax benefits from stock option compensation expenses are allowed only to the extent such expenses are included in corporate accounts; to the Committee on Finance.

THE ENDING DOUBLE STANDARDS FOR STOCK OPTIONS ACT

Mr. LEVIN. Mr. President, for the past several years, the Wall Street Journal has published a special pullout section of the newspaper with a number of articles on executive pay. Last year's headline read, "The Great Divide: CEO Pay Keeps Soaring Leaving Everybody Else Further and Further Behind." Last week, Business Week magazine featured this cover story on its 47th annual pay survey: "Executive Pay: It's Out of Control."

Both publications analyze the pay of top executives at approximately 350 U.S. major corporations. Their analysis shows that the pay of the chief executive officers continues to outpace inflation, other workers' pay, the pay of CEO's in other countries, and company profits.

According to Business Week, for CEO's of the leading 350 companies studied, their average total compensation rose 54 percent last year to about $5.7 million, which came on top of 1995 CEO pay increases of 30 percent. So in 1995 we had the CEO's increasing their pay by 30 percent, last year increases of 54 percent. Blue-collar employees received a 3 percent raise in 1996, and white-collar workers fared only slightly better with a 3.2 percent raise.

So in 1996 the pay of the top executives was 209 times the pay of the factory employee, which is a huge increase. The ratio of executive pay to factory workers' pay in the United States was already two to three times more than the pay ratio in any other country. Suddenly, now we see this going up to a ratio of 209 times the pay of the average factory worker. The last time we had statistics, the ratio of executive pay to factory worker pay was 20 times in Japan and 25 times in Germany. Those statistics are a few years old but we do not think they have changed that much.

These statistics, the 3.2 percent pay increase that went to the white collar workers and the 3 percent increase in wages and benefits that went to America's blue collar workers, represent a growing problem in America, and represent a gap that is growing. The question is now what? Is this gap going to continue? That is a question more for the market than for government.

There is something that government is currently doing that can change this, and that is right now we permit stock options, which represent the biggest portion of corporate pay, to be taken as a tax deduction for income tax purposes, although it is not shown as an expense on the company's books. There is no other form of executive compensation for which this is true. Every other form of executive compensation, of compensation for anybody, is shown as an expense on the company's books when it is taken as a deduction on income tax.

There is no double standard for any form of compensation in our country, in our Tax Code, except for stock options. If a corporate executive gets stock, that is an expense on the company's books. It is a tax deduction on their income taxes. If there is a bonus based on performance, that is an expense on the company's books, and it is a tax deduction. But when it comes to stock options, the Tax Code right now permits there to be a tax deduction for the company when that stock option is exercised. However, the company does not show that stock option as an expense on its own books. It is a stealth exception. It is a double standard. We should end it.

That is why, today, Senator McCain and I are introducing legislation to end this corporate tax loophole that is fueling the increases in executive pay and is fueling those increases with taxpayer dollars. Again, this loophole allows companies to deduct from their income taxes these multimillion dollar pay expenses that never show up on the company office books as an expense.

A just completed survey of CEO pay at 55 major Fortune 500 corporations by a leading executive compensation publication called Executive Compensation Reports, found that in 1996 stock options averaged about 45 percent of total executive pay. That is up from 40 percent just 1 year ago, and stock options provided more money to the 55 CEO's studied than their base salary or their annual bonus. In fact, for 1996, salary accounted for only 22 percent of CEO compensation while stock options accounted for 45 percent.

These stock options enable a CEO typically to buy company shares at a set price for a period of time, which is usually 10 years. Since stock prices generally rise over time, stock options have become the most lucrative source of executive pay.

Now, again, I do not think anyone is suggesting government ought to determine how much executives get paid. We should not. Stockholders and boards of directors should set that. But we should determine whether or not we want to allow our Tax Code to contain this loophole any longer, where this one form of executive compensation and only this form of compensation is dealt with by a double standard. We permit the company to get the tax deduction when it comes to filing their income tax return, but we do not require the company to show that same expense as an expense on their books, thereby hiding the cost to the company of the stock option cost but still getting a tax deduction.

Now, say, a corporate executive exercises stock options to purchase company stock and makes a profit of $10 million. The company can claim the full $10 million as a business expense and deduct it from the company's tax bill. But when it comes to showing that expense on their books, on their annual report, it is not an expense. It is a footnote, not required to be shown as an expense like other forms of compensation, but rather hidden in a footnote.

This is not an accounting issue. The accounting authorities, the experts, have decided how this should be handled as an accounting matter. This is now a tax loophole issue. The question is whether or not we, on tax day, want to continue a loophole for executives—because that is who we are talking about in approximately 98 percent of the cases. In perhaps 1 or 2 percent of the cases these stock option plans are broadly based and help average employees, and we would not include that in our bill. But in maybe 98 percent of the cases, these are narrowly based stock option plans only going to the top officials of companies.

This bill would end the double standard. It gives a choice. If you want to take it as an expense for tax purposes, deduct this as compensation for tax purposes, that is fine, no restriction. But then you have to show it on your books as an expense also. You do not want to show it on your books as an expense? That is your choice, but then we will not let you take it as an expense on your income taxes and have the rest of the taxpayers of the United States foot the bill.

Stock option pay is either a company expense or it is not. It either lowers company earnings or it does not. Something is clearly out of whack when in the tax law a company can say one thing at tax time and something else to investors at the annual meeting.

This bill that I am introducing with Senator McCain today would end the double standard that allows corporations to treat stock option pay one way on the tax form and the opposite way on the company's books.

I want to emphasize that this bill does not prohibit stock options. It doesn't put a cap on them. It doesn't limit them in any way. It just says, if you want to claim stock option pay as an expense at tax time, you have to treat it as an expense the rest of the year as well.

In summary, the bill would not prohibit stock options. It would not put a cap on them or limit them in any way. It just says, if a company wants to claim stock option pay as an expense at tax time, it has to treat it as an expense the rest of the year as well. Period.

The bill provides one exception to ensure that closing the stock option tax loophole doesn't affect the pay of average workers.

Right now, stock option pay is overwhelmingly executive pay. In 1994, the most extensive stock option review to date, covering 6,000 publicly traded U.S. companies, found that only 1 percent of the companies issued stock options to anyone other than management and 97 percent of the stock options issued went to 15 or fewer individuals per company.

Nevertheless, there are a few companies that issue stock options to all employees and do not disproportionately favor top executives. Our bill would allow companies that provide broad-based plans to continue to claim existing stock option tax benefits, even if they exclude stock option pay expenses from their books. Like FASB, we would encourage but not require these companies to treat these expenses consistently. By making this limited exception, we would ensure that average worker pay would not be affected by closing the stock option loophole. We might even encourage a few more companies to share stock option benefits with average workers.

The bottom line is that the bill that Senator McCain and I are introducing today is not intended to stop the use of stock options. Our bill is aimed only at stopping the manipulation of stock option expenses by those companies that are trying to have it both ways—claiming stock option pay as an expense at tax time, but not when reporting company earnings to Wall Street and the public. It is aimed at ending a stealth tax benefit that is fueling the wage gap, favoring one group of companies over another, and feeding public cynicism about the fairness of the Federal Tax Code.

It would also curtail an expensive tax loophole. The Congressional Budget Office has estimated that eliminating the corporate stock option loophole would save taxpayers $373 million over 7 years and $933 million—almost $1 billion—over 10 years. In this era of fiscal austerity, that's money worth saving.

Mr. President, I ask unanimous consent that the bill Senator McCain and I are introducing be printed in the Record, along with a section-by-section analysis of the bill that would end the double standards for stock options.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 576

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ending Double Standards for Stock Options Act".

SEC. 2. REQUIREMENTS FOR CONSISTENT TREATMENT OF STOCK OPTIONS BY CORPORATIONS

(a) Consistent Treatment for Tax Deduction.—Section 83(h) of the Internal Revenue Code of 1986 (relating to deduction of employer) is amended by adding at the end the following new paragraph:

"(2) Special rules for property transferred pursuant to stock options.—

"(A) In general.—In the case of property transferred in connection with a stock option, the deduction otherwise allowable under paragraph (1) shall not exceed the amount the taxpayer has treated as an expense for the purpose of ascertaining income, profit, or loss in a report or statement to shareholders, partners, or other proprietors (or to beneficiaries). In no event shall such deduction be allowed before the taxable year described in paragraph (1).

"(B) Exception for broad-based option programs.—Subparagraph (A) shall not apply to property transferred in connection with a stock option if, at the time the stock option was granted—

"(i) substantially all employees of the corporation issuing such stock option were eligible to receive substantially similar stock options from such corporation,

"(ii) no individual performing services for such corporation received more than 20 percent of the total number of stock options granted by such corporation during the taxable year, and

"(iii) at least 50 percent of the total number of stock options granted by such corporation during such taxable year were issued to employees other than individuals performing executive or management services for such corporation.

"(C) EMPLOYEES COVERED.—For purposes of this paragraph, an employee shall be taken into account only if—

"(i) the employee is a full-time employee, and

"(ii) substantially all of the services performed by the employee for the corporation are performed within the United States.

"(D) SPECIAL RULES FOR CONTROLLED GROUPS.—The Secretary shall prescribe rules for the application of this paragraph in cases where the stock option is granted by a parent or subsidiary corporation (within the meaning of section 424) of the employer corporation."

(b) CONSISTENT TREATMENT FOR RESEARCH TAX CREDIT.—Section 41(b)(2)(D) of the Internal Revenue Code of 1986 (defining wages for purposes of credit for increasing research expenses) is amended by inserting at the end the following new clause:

"(iv) SPECIAL RULE FOR STOCK OPTIONS AND STOCK-BASED PLANS.—The term 'wages' shall not include any amount of property transferred in connection with a stock option and required to be included in a report or statement under section 83(h)(2) until it is so included, and the portion of such amount which may be treated as wages for a taxable year shall not exceed the amount of the deduction allowed under section 83(h) for such taxable year with respect to such amount."

(c) CONFORMING AMENDMENTS.—Section 83(h) of the Internal Revenue Code of 1986 is amended by striking "In the case of" and inserting:

"(1) IN GENERAL.—In the case of".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property transferred and wages provided on or after the date of enactment of this Act, pursuant to stock options granted on or after such date.

SECTION-BY-SECTION ANALYSIS OF ENDING DOUBLE STANDARDS FOR STOCK OPTIONS ACT

Short Title. Section 1 of the bill provides the short title.

Consistent Treatment. Section 2 of the bill would establish requirements for consistent treatment of stock options by corporations when deducting stock option compensation as a business expense under Section 83(h) or claiming stock option wages to obtain a research tax credit under Section 41.

Tax Deduction. Subsection 2(a) of the bill would amend section 83(h) of the Internal Revenue Code by adding at the end a new paragraph (2) with special rules for corporate tax deductions related to stock options. A new subparagraph 2(A) of Section 83(h) would limit the deduction that a company could claim for stock option compensation to no more than the amount of stock option expense reported by that company in a financial statement to stockholders. The subsection would continue current law by allowing the deduction at the time the stock option beneficiary exercises the option and includes it in personal income.

Average Workers Protected. A new subparagraph 2(B) of Section 83(h) would establish an exception for stock option plans that benefit average workers. To qualify, substantially all full-time, U.S. employees in a company would have to be eligible to receive substantially similar company stock options during the taxable year; no one person could have received more than 20 percent of the stock options issued during the year; and at least 50 percent of the stock options would have had to be issued to non-management employees during the year. A new subparagraph 2(C) would state that only full-time employees performing services in the United States would need to be taken into account in determining eligibility for the exception.

Controlled Groups. A new subparagraph 2(D) of Section 83(h) would authorize the Secretary of the Treasury to issue regulations applying these rules to stock options granted by a parent or subsidiary corporation of the employer corporation.

Tax Credit. Subsection (b) of the bill would amend Section 41 of the Internal Revenue Code to clarify the "wages" that may be used in calculating the research tax credit allowable under Section 41. The bill would add a new clause (iv) at the end of Section 41(b)(2)(D) stating that the allowable "wages" under Section 41 shall not include stock option compensation, until a company reports that compensation in a financial statement to stockholders, as provided in Section 83(h)(2) (as amended by this bill). The clause would limit the amount of stock option compensation allowed as a deduction under Section 83(h). Stock option wages could be claimed under Section 41 only after a company reported the compensation expense under Section 83(h)(2), as amended by this bill.

Conforming Amendment. Section (c) of the bill would make technical conforming amendments to Section 83(h).

Effective Date. Section (d) of the bill would make the amendments applicable only to stock options granted on or after the date of enactment.

Mr. McCAIN. Mr. President, I rise today to introduce legislation with my friend and colleague, Senator LEVIN, entitled Ending Double Standards for Stock Options Act. This legislation requires companies to treat stock options for highly paid executives as an expense for bookkeeping purposes if they want to claim this expense as a deduction for tax purposes.

Currently, corporations can hide these multimillion-dollar executive compensation plans from their stockholders or other investors because these plans are not counted as an expense when calculating company earnings. Even the Federal Accounting Standards Board [FASB] recognized that stock options should be treated as an expense for accounting purposes. This month, new accounting disclosure rules issued by FASB require that companies include in their annual reports a footnote disclosing what the company's net earnings would have been if stock option plans were treated as an expense.

An article in the Wall Street Journal, dated January 14, 1997, stated these new rules could reduce some companies' annual earnings by as much as 11 to 32 percent. One might reasonably ask how an arcane accounting rule could have such a large effect on the bottom line of corporations. The answer lies in the growth and value of stock options as a means of executive compensation. These plans now account for about one-fourth of total executive compensation.

We all have heard the reports of executives making multimillion-dollar salaries, while average worker salaries stagnate or fall. Recently, The Washington Post reported that Michael Eisner, the CEO of Disney, was given a stock option package estimated to be worth as much as $771 million over the next 10 years. Why shouldn't the value of this compensation package be included in calculating Disney's earnings? How can stockholders evaluate the true value of executive compensation if the value is just buried in a footnote somewhere in the annual report?

No other type of compensation gets treated as an expense for tax purposes, without also being treated as an expense on the company books. This double standard is exactly the kind of inequitable corporate benefit that makes the American people irate and must be eliminated. If companies do not want to fully disclose on their books how much they are compensating their executives, then they should not be able to claim a tax benefit for it.

This legislation does not require a particular accounting treatment; the accounting decision is left to the company. This legislation simply requires companies to treat stock options the same way for both accounting and tax purposes.

I hope my colleagues will join in cosponsoring this important legislation that will end the double standard for executive stock option compensation.

I ask unanimous consent that the two articles to which I have referred be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 14, 1997]

AS OPTIONS PROLIFERATE, INVESTORS QUESTION EFFECT ON BOTTOM LINE

(By Laura Jereski)

How much does Microsoft Corp. really earn from its business?

For the fiscal year ended June 30, the Redmond, Wash., software giant said pretax income rose 56% to a record $3.4 billion. But a telltale footnote to its income statement revealed that pretax earnings would have been $2.8 billion—$570 million less—if Microsoft had compensated its employees entirely with cash.

But employees didn't get just cash. Like many companies these days, Microsoft sprinkles stock options liberally among its workers. That makes a big difference in the earnings outlook at Microsoft and elsewhere.

Wall Street and Main Street fervently embrace options as a tonic for much of what ails corporate America. Lucrative for employees, options appear to be cost-free to the employer. Distribute them broadly, the wisdom goes, and employees will pull together, company returns will rocket and shareholders will cheer.

But some investors and critics say the options downpour is muddying companies' earnings pictures. Companies can show investors higher earnings if they slash compensation costs by handing out options. As Byron Wien, Morgan Stanley & Co.'s top stock-market strategist, points out: "In the short run, people are overstating current earnings because part of employees' compensation is coming in the form of options."

BET ON GROWTH PROSPECTS

Put another way: Investors may be making a bigger bet on company growth prospects than they realize. If Microsoft's options were treated as an expense, its net income last year would have been about $1.8 billion, or $2.85 a share, instead of $2.2 billion, or $3.43 a share—meaning its $83.75 closing stock price on the Nasdaq Stock Market yesterday would reflect an earning multiple of nearly 30 times last year's earnings instead of about 24 times.

Michael Brown, Microsoft's chief financial officer, scoffs at that notion: "The Street figures it our pretty fast."

But disparities will be popping up all over come March when new accounting disclosure rules by the Financial Accounting Standards Board take effect. For the first time, companies will have to include a footnote in their annual reports disclosing what net would have been if options were treated as an expense—something Microsoft and some others are already doing. Murray Akresh, a compensation expert with Coopers & Lybrand, says the earnings difference could be as much as 11% for some companies. By the time the full impact of the new rule is felt at the end of a four-year transition period, the difference could reach 32%.

Companies' true earning power is of particular concern because earnings growth has propelled the stock market's sustained rise. But some money managers say that rise is making options more costly for companies to issue.

"What's really happening is that companies are selling their stock to employees at a discount," says Richard Howard, a mutual-fund manager at T. Rowe Price Associates in Baltimore. Often, the companies then turn around and buy stock at the higher market price to hold steady the number of shares outstanding.

"There's a real economic cost when stocks are going up," Mr. Howard says. "That's when options cost the most."

OPTIONS HAVE VALUE

One measure of that aggregate cost can be seen in stock-buyback programs. In 1996, buybacks totaled $170 billion, according to Securities Data Co., a Newark, N.J., securities-market-data company, up 72% from the previous year's $99 billion. Buyback costs are partly offset by the money companies collect from employees who exercise their options and buy.

Some investors say the costs ought to be reflected in companies' income statements at the time the employees earn the options. "Stock options have value, so they should be recorded as an expense," says Jerry White, president of Grace & White, a New York money-management firm.

And some shareholder activists are rebelling against the amount of options being dispensed. Institutional Shareholders Services, which votes on shareholder issues on behalf of many large investors, votes against about one in five option plans as too generous and expensive. Says ISS research director Jill Lyons: "A human being has to say, 'This is too much.'"

ISS focuses on how much shareholder value option plans transfer, rather than how they might affect company earnings. For example, a magnanimous plan adopted two months ago by San Jose, Calif., computer networker Cisco Systems Inc. will set aside 4.75% of Cisco's stock for options annually for three years. Three-fourths of those options will go to employees below the vice-president level.

Most of Wall Street applauds this employee motivator. Analyst Suzanne Harvey at Prudential Securities wrote recently that Cisco has the best employee benefits in the computer industry.

But ISS analyst Caroline Kim warned clients that the option plan would double insiders' stake in Cisco to nearly 23%—twice what employees in comparable companies get—and hand over to employees shareholder value of $3.6 billion during the next three years. Shareholders approved the plan anyway.

Many investors and financial analysts see nothing wrong with companies' generosity with options. In a recent survey of 300 top Wall Street stock analysts, eight of 10 said they would disregard stock options entirely, as long as companies don't have to take a charge for them. "I think that's accounting mumbo jumbo, as opposed to a value measure that has to do with stock prices," says Bruce Lupatkin, head of research at Hambrecht & Quist.

That view prevailed in 1995, after a long and bruising battle over whether such options largess should count against earnings. Hundreds of companies, analysts, venture capitalists, and even congressmen joined forces to defeat accounting rule makers who wanted companies to reflect the actual value of options in their earnings. When the FASB held hearings on the proposal in Silicon Valley—where such options have created thousands of fortunes—they were disrupted by a "Rally in the Valley" of the local citizenry, complete with marching bands, balloons and T-shirts stamped "Stop the FASB."

MORE WIDESPREAD

FASB opponents argued that companies incur no cash costs in granting options. Further, not all options granted will be exercised since employees leave and stock prices sometimes fall below the option exercise price. The FASB accountants argued that options are valuable because they give employees a long-term right to buy stock at a set price. They lost, which led to the compromise with the footnote disclosure.

Since then, option grants have become more generous and more widespread. Once they were mainly used by small, fast-growing high-technology companies loath to part with precious cash. Today, big companies are enthusiasts, according to a survey of 350 large companies by William M. Mercer Inc., a New York compensation-consulting firm. Annual stock-option grants soared by more than 20% between 1993 and 1995, the firm's work shows.

John McMillin, a food-industry analyst at Prudential Securities, says that means "the quality of the earnings you are looking at is often not good." What's more, some companies offer employees the chance to take raises and pay-related benefits in stock instead of cash, which distorts earnings even more. (That can be a losing bet for the employee if the stock fails to rise above the exercise price.)

One big proponent of options-for-all is General Mills Inc. The Minneapolis cereal and baked-goods company started granting options to all employees in 1993. General Mills had already been offering its top 800 people the opportunity to take raises and some other benefits in options instead of cash.

Mike Davis, General Mills' compensation vice president, says the option programs are "very attractive for shareholders" because they cut fixed costs and thereby boost profits, though he can't say by how much. One clue: The company's selling, general and administrative expenses, which include compensation, dropped by $222 million, or 9%, to $2.1 billion, in May 1996, compared with May 1994. For that same period, pretax earnings from continuing operations rose $194 million, or 34%, to $759 million.

Meantime, General Mills' options grants have been steadily ratcheting up. Today, the company distributes almost 3% of its stock to employees annually, buying enough stock to match that distribution. "They are working hard to keep the shares-outstanding line flat," Mr. McMillin of Prudential says. "That also means that they have to go into the market arbitrarily, as options are exercised, and buy stock back at a higher level."

Microsoft, to some extent, also uses buybacks to offset option grants, says, Mr. Brown, its chief financial officer. But the buybacks have become so expensive that the company had to invent a new security to help offset the cost. "The impact of buying back shares has been more extreme for them because the price took off so dramatically," says Michael Kwatinetz, a stock analyst who covers the company for Deutsche Morgan Grenfell. Still, Mr. Kwatinetz views the options package overall as "a strong plus" for employees.

For a while, Microcsoft was coming out about even, in real money terms. When employees exercise options for, say, $40 a share, they pay Microsoft the exercise price. Microsoft gets a tax deduction for the difference between the exercise price and the market price.

NO SMALL CHANGE

But the gross buyback cost has been rising, to $1.3 billion last year from $348 million in 1994. Employees paid Microsoft about $500 million last year for their stock, and tax savings further reduced the company's out-of-pocket costs. But Microsoft still had to shell out about $300 million.

Compared with the $570 million in options expense, that sounds like Microsoft is getting its money's worth. In fact, the company is actually paying out $400 million in real cash, to offset employee stock options whose cost isn't recognized in its financial statements.

Still, $400 million is no small change, even for a company as flush as Microsoft. So in December, the company sold $1 billion of a newfangled convertible-preferred stock to outside investors that will reduce such costs as long as the stock rises more than 6.88% a year for the next three years. (The preferred stock, which will be redeemed at as high as $102.24 a share, can be exchanged for cash, debt or stock. If Microsoft's stock price falls, the preferred would be redeemed at no less than $79.875 a share.)

Many investors consider the financial impact of the options by focusing on earnings per share on a fully diluted basis, a calculation that assumes that options outstanding at prices below the current market have been exercised. Tom Stern at Chieftain Capital, a New York money manager, goes one step further. He estimates how much the stock ought to rise, if his earnings estimates are right, and figures out how many more options will be exercised. "We pay close attention to options," he says. "If you don't, your earnings get diluted."

Will the required footnote disclosure in companies' annual reports have a big impact? "That's not chopped liver," says Jack Ciesielski, author of the Analyst's Accounting Observer newsletter. "I don't think investors have any idea how big the options programs are."

To calculate the cost, many companies will use option-pricing models in wide use on Wall Street that combine the time span of the options with the volatility of each company's stock price. Options in a hightech company tend to be worth more since chances are better the stock will surge.

A few companies have already bit the bullet. Bristol-Myers Squibb Co., the New York pharmaceuticals concern, revealed last year that its options plan would have trimmed 1995 net by a mere $35 million, cutting seven cents a share from per share earnings of $3.58, had options been treated as an expense.

The impact of options can be suprisingly big, however, even if the company hasn't been that generous. At Foster Wheeler Corp., the Clinton, N.J., builder of refineries and power plants, the impact was heightened by a restructuring charge that reduced reported earnings at the same time as its stock took off. The result was that a 1995 grant of only 1.35% of shares outstanding would have slashed the year's earnings by 14%, or $4.1 million.

Tobias Lefkovich, a Smith Barney analyst who follows Foster Wheeler, says nobody noticed. "Investors are more focused on consistent earnings growth and new orders" than the option cost, he explains. Nonetheless, Charles Tse, an outside director at Foster Wheeler who serves on the compensation committee, says, "the whole compensation plan is being reviewed." A company spokesman said later that the review wasn't prompted by the stock-option disclosure.

[From the Washington Post]

Disney Chief May Reap $771 Million From Stock Options

(By Paul Farhi)

By any measure, Michael Eisner the chief executive of the Walt Disney Co., has been one of America's most successful corporate executives. And by any measure, he has been handsomely compensated for it.

Eisner, in fact, could be poised to become one of the most richly rewarded employees in the history of American business. Thanks to a new 10-year pay package that includes generous stock options, the top executive of the entertainment conglomerate could reap nearly $771 million over the next decade, according to estimates by the compensation expert who designed Eisner's new contract. The figure doesn't include Eisner's $750,000-per-year salary or bonuses that could add another $15 million annually.

While Disney argues that Eisner has proved he's worth it, the huge package has raised anew a debate over executive compensation. A group of 22 institutional pension funds that hold Disney stock plans to protest Eisner's contract at Disney's annual meeting in Anaheim, Calif., next week.

They intend to withhold their votes for the five management-backed nominees to Disney's board—including former Senate majority leader George Mitchell and Roy E. Disney, Walt's nephew—and to vote against a resolution that sets the formula for Eisner's annual bonus.

The group, which includes the big public-employee pension funds of California, Louisiana and Wisconsin, also is displeased with the severance package awarded Michael Ovitz, the Hollywood talent agent who served as Disney's president for 14 months. Ovitz, who resigned in December, has received $38.9 million in cash from Disney and options on 3 million shares that have a current paper value of $54 million.

The Washington-based Council of Institutional Investors, which organized the pension fund protest, acknowledges the action is largely symbolic—it is not voting for alternative board candidates. The group's members control about 11.5 million Disney shares—a tiny fraction of the 675 million Disney shares in the public's hands; it's not clear whether the action has wide support among other shareholders.

"We're merely trying to send a message," said Alyssa Machold, deputy director of the council. "We don't want to start burning Mickey Mouse in effigy. But by not voting, we're calling into question the actions of Disney's board," which approved the Eisner and Ovitz packages.

The organization says Disney's 16-member board includes 10 directors whose financial ties to the company could compromise their independence. Mitchell's Washington law firm, for example, provides legal services to Disney.

Even before his new pay package was disclosed in January, Eisner was often at the center of the executive-pay controversy. In 1992, he made headlines when he exercised options on shares then worth about $202 million.

According to Disney's records, the 54-year-old executive has reaped $240 million in profits by exercising options and selling stock in his past 12 years as chief executive. As of September, he held stock that would bring an additional $304 million of profit if sold.

His new contract awards him 8 million options. (An option gives its owner the right to buy stock in a company at a particular point in time at a predetermined price; it has value if it permits the buyer to buy stock at a price below the existing market price.)

Assessing the future value of an option is an inexact science because it requires guessing the future price of a stock. Officially, Disney estimates the value of Eisner's new options at $195.4 million over their 10-year life.

Raymond Watson, the Disney board member who directed negotiations on the contract with Eisner, says that is a conservative figure, based on the low end of assumptions about Disney's future performance.

Graef "Bud" Crystal, an executive-pay expert whom Disney's board consulted to formulate the contract, said the value of the Eisner deal likely will be much higher. Assuming an 11 percent annual return—Disney's average stock performance for the past 10 years—Crystal calculated Eisner could realize $770.9 million from exercising the options from 2003 to 2006.

Asked about that figure, Watson said, "I don't dispute it. We looked at it that way and 30 other ways besides."

But Watson said Eisner's compensation will be worth it if he can help Disney keep up its historical growth. He noted that options only have value if the company's stock keeps appreciating. Indeed, companies award executive options in order to motivate them to keep share value rising.

Under Eisner, Disney has been one of Wall Street's stellar performers. Its revenue has grown from $1.5 billion in 1984 to $18.7 billion in 1996. And its stock has soared during that period—from $3 per share to $75.37½ as of Friday, after adjusting for splits.

Even Crystal, a frequently quoted critic of huge executive pay packages, grudgingly says Disney's board had to offer Eisner his huge new deal. "The package he got is awesome," he said. "But if Sony had tried to lure him away, they would have offered him Tokyo and thrown in Kyoto as a bonus."

By Mr. GLENN (for himself and Mr. LIEBERMAN):

S. 577. A bill to increase the efficiency and effectiveness of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

THE GOVERNMENT RESTRUCTURING AND REFORM ACT OF 1997

Mr. GLENN. Mr. President, I rise today to introduce the Government Restructuring and Reform Act of 1997, legislation whose objective is to reorganize the executive branch into a form and a structure that is capable of meeting the challenges of the 21st century. The bill is cosponsored by my distinguished colleague from Connecticut, Senator LIEBERMAN.

We are in an era of contraction at the Federal level. Some of this contraction is needed in my opinion, in some areas I don't think it's a good idea. But it is a fact. Many programs are being cut, others have been eliminated or consolidated into block grants to the States. Agencies and departments are being downsized and in some cases eliminated. In the last Congress, the Bureau of Mines, Office of Technology Assessment, Interstate Commerce Commission, and Advisory Commission on Intergovernmental Relations were all terminated. In addition, agency rules and paperwork are being pruned. And Federal employment has been cut by over 250,000 positions in the last 4 years and continues to fall.

These are big and historic changes, spurred on by our efforts to reach a balanced budget and the desire of the American people for a more cost-effective Government.

However, despite the overall downsizing effort, the basic structure of the Federal Government remains unchanged. In fact, the basic structure of the Federal Government has changed little in the last 25 years, despite structural changes in the private sector, the economy, and our society over that same time period. The Federal Government has been the last to follow suit—and that's as it should be in a democracy—but that does not mean it should be immune from change forever. We cannot keep the status quo in the existing executive branch structure while continuing to downsize, cut budgets and programs and reduce personnel levels and also expect these same Federal agencies to perform effectively and maintain adequate levels of service. We'll end up with what I call the hollowing out of Government. We'll have the same agencies and departments in place doing most of the same activities as they do now. But with less money and less people on hand, these activities will be carried out less effectively. We'll have a less costly Federal Government, but not a more cost-effective one. That is, unless we address reorganization and consolidation of Federal agencies and functions in a comprehensive, well-thought-out way.

Reorganization issues are very difficult, perhaps among the most difficult issues we face in Government. It raises questions that don't have simple, right and wrong answers. Should we have greater centralization of Government functions in less, but larger Cabinet departments? This is the traditional, centralized model of how Government bureaucracy is organized. Or should we decentralize and spread Government functions across many smaller agencies and departments? Such an approach fits what many call the entrepreneurial model of Government organization.

Well, I can think of pros and cons to both approaches. To add to this difficulty, reorganization necessarily involves questions of turf and jurisdiction. Turf battles in this town are as hotly contested as any policy issue. I know this through experience. Several years ago I proposed consolidating the Government's trade and technology functions into one Cabinet department and I faced very stiff opposition. Likewise, turf is just as jealously guarded at the other end of Pennsylvania Avenue. Ask the President's National Performance Review. They proposed integrating the Agency for International Development into the State Department in addition to consolidating the Federal law enforcement agencies only to be faced down by the bureaucracy. So I don't think comprehensive reorganization can be tackled successfully by either the Congress or the executive branch.

That's why I'm in favor of establishing a Government commission to examine executive branch organization. My bill establishes a nine-member, bipartisan Commission to make recommendations to the President and the Congress in 2 years on consolidating, eliminating, and restructuring Federal departments and agencies in order to eliminate unnecessary activities, reduce duplication across programs, and improve management and efficiency. This Commission would be not just any old Commission, producing some big thick study that would wind up largely unread in some recycling bin, or on the dusty shelf of academia. Rather the Commission's recommendations would be submitted to the Congress and have to be considered on a what I call a flexible fast-track basis. They could not perish in committee, as so often occurs with commission reports and recommendations.

There is precedent for such a commission. In fact, the few successful Government reorganization efforts that have taken place have come about because of the work of a commission. Let me give you some background.

The Hoover Commission is probably the most famous Government restructuring commission from recent times. It was formed in 1947 and chaired by former President Hoover. The 12-member commission operated until 1949 and issued 19 reports to the President recommending various changes in the structure of the Federal Government. From these recommendations, President Truman submitted eight reorganization plans to Congress in 1949, of which six became effective. The following year he submitted 27 reorganization plans, 20 of which became effective. Included among these plans were the creation of the General Services Administration, the expansion of the Executive Office of the President, and the creation of a centralized Office of Personnel.

A second Hoover Commission was formed in 1953 and made 314 specific recommendations over the following 2 years, 202 of which were implemented. However, generally this Commission was not considered as successful as the first Hoover Commission, as it engaged itself in more controversial matters of policy rather than solely focus on management and organization as the first commission had done.

Our next restructuring effort of note was put forward by President Nixon's Ash Council, which was in operation from 1969 to 1971. Headed by Roy Ash, chairman of Litton Industries, the Council supplied the President with nine memoranda detailing with specific reorganization and consolidation proposals. The Council recommended the formation of OMB, the EPA, and NOAA from the consolidation of existing programs. These proposals were all implemented. The Council also recommended the creation of several super-Departments, including a Department of Natural Resources, but these proposals ultimately did not pass the Congress.

The next notable Commission came during the Reagan years, the Grace Commission, which was established by Executive order in 1982 and was in operation through 1984. The panel was composed of 161 corporate executives and it issued a massive 47 volume report with nearly 2,500 recommendations. Many of its recommendations were policy-based rather than organizational in nature, hence they generated controversy and polarized debate in the Congress. Still, many of the recommendations were implemented, primarily through executive branch action. And the Commission did call for stronger financial management in the Federal bureaucracy. That's something we have built on in the Committee on Governmental Affairs through enactment of the Chief Financial Officers Act.

More recently, the Committee on Governmental Affairs passed legislation to establish a bipartisan reorganization commission as part of our efforts to make the VA a Cabinet department. That Commission became law. Unfortunately, in order to pass it, we had to place a mechanism to trigger the activation of the Commission through a Presidential certification that the Commission was in the national interest. Unfortunately, that certification was not made. Had it been, perhaps we would have in place today the blueprint for the Government of the 21st century.

Then in the 103d Congress, we reported out a Glenn-Roth-Lieberman Commission bill by a 12 to 1 vote. But we did not move it to the floor because the President's National Performance Review was just getting underway and we wanted to see what it might come up with before establishing the commission.

Finally, last year the committee reported out a version of a government reorganization commission; however, it was tied to legislation dismantling the Commerce Department and thus died. Late in the session, Senator STEVENS developed a substitute retaining the commission but dropping the dismantling provisions. We came close to an agreement and my hope this Congress is that we will reach one.

For a more detailed history of government restructuring commissions I would refer my colleagues to an excellent report prepared by CRS titled "Reorganizing the Executive Branch in the Twentieth Century: Landmark Commissions."

I believe that a commission would complement nicely the efforts of the NPR. The Federal work force has been reduced by over 250,000 positions. Federal paperwork and redtape has been simplified, procurement reform has been enacted, and unnecessary field offices at the Department of Agriculture has been closed. These accomplishments are due in significant part to the work and the efforts of the NPR.

However, the NPR has generally not focused on government restricting. In the instances where it has made proposals—I noted two examples earlier in my statement—they have been rebuffed by the bureaucracy, the Congress or both.

Recent congressional efforts have fallen short also, as several of my colleagues learned in advocating the dismantling of four Cabinet departments—HUD, DOE, Commerce, and Education. Those efforts were heavy-handed in my view and would have created more problems than they would have solved.

In closing, I believe an examination of the experience of the private sector in restructuring and downsizing is instructive in differentiating between the right and wrong ways to downsize. A 1993 survey of over 500 U.S. companies by the Wyatt Co. revealed that only 60 percent of the companies actually were able to reduce costs in their restrucuting efforts. Both the Wyatt Survey and a similar one conducted by the American Management Association concluded that successful restructuring efforts must be planned carefully with a clear vision of their goals and objectives, and that proper attention be given to maintaining employee morale and productivity. Otherwise, the costs of reorganization may outweigh its benefits.

There is a right and a wrong way to reorganize and downsize. I believe that the Commission approach is the right way. I hope my colleagues will support this legislation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Summary of the Government Restructuring and Reform Act of 1997

MISSION

To consolidate, eliminate and reorganize Federal government departments, agencies and programs to improve efficiency and effectiveness, streamline operations and eliminate unnecessary duplication. To strengthen management capacity. To propose criteria for government-sponsored corporations. To define new/reorganized agency missions and responsibilities.

MEMBERSHIP

Nine Members (No more than five from any one party). Three Members (including Chair) appointed by the President (Chairman is selected in consultation with the respective Republican and Democratic leaders of the House and Senate). Six Members appointed by the Congress (1 each for each party leader, then 1 by Speaker in concurrence with Sen. Majority Leader and 1 by Sen. Minority Leader in concurrence with House Minority Leader). Appointments made within 90 days of enactment. Six Members must be in agreement for the Commission to approve any recommendation.

REPORTS

President may submit his own recommendations (7/1/98) for the Commission to consider. Commission issues a preliminary (due 12/1/98) and final report (8/1/99) to the President, Congress, and the public. Public hearings must be held and the Commission is subject to FACA. President has 30 days to suggest changes to final report. The final report is forwarded to Congress by 10/1/99.

LEGISLATION

"Flexible" fast-track process is in place. Commission final report is introduced as one single bill and Committees have 30 legislative days to act or bill is discharged. Bill is then placed on the Senate calender and after 5th legislative day it is in order to proceed to consideration of the bill. Bill can be filibustered or amended (must be relevant). Fast track procedures apply for the House as well. House-Senate conferees then have 20 days to report.

FUNDS/TENURE

$5 M per yr. Sunsets by 10/1/99.

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. HATCH, Mr. GRASSLEY, Mr. ABRAHAM, Mr. REID, Mr. INOUYE, Mr. BAUCUS, Mr. CRAIG, Mr. KEMPTHORNE, and Mr. THOMAS):

S. 578. A bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes; to the Committee on Labor and Human Resources.

THE ACCESS TO MEDICAL TREATMENT ACT

Mr. DASCHLE. Mr. President, today I am introducing the Access to Medical Treatment Act. I am pleased to be joined by Senators HARKIN, HATCH, GRASSLEY, REID, ABRAHAM, INOUYE, BAUCUS, CRAIG, KEMPTHORNE, and THOMAS in this effort to allow greater freedom of choice in the realm of medical treatments.

I was introduced to the alternative medical treatment debate the same way many Americans are: through personal experience. Actually, in my case it was the experience of a personal friend: Berkley Bedell.

Berkley Bedell, as many of you know, is a former Congressman from Iowa's 6th District. He is also—since his battle with Lyme disease several years ago—a tireless advocate for improving access to alternative treatments.

As some may remember, Congressman Bedell was ill with Lyme disease when he left the House at the end of the 100th Congress. Having tried several unsuccessful rounds of conventional treatment consisting of heavy doses of antibiotics over approximately 4 years, he turned to an alternative treatment that he believes cured his disease.

This treatment consisted on its most basic level of nothing more than drinking processed whey from a cow's milk. After about 2 months of taking regular doses of this processed whey, his symptoms disappeared.

Despite Congressman Bedell's amazing recovery, and the fact that this same treatment appeared to be effective in treating other cases of Lyme disease, the treatment can no longer be administered because it has not gone through the FDA approval process.

Congressman Bedell's story—and others I have heard since—have convinced me of two things: first, that our health care system actually discourages the development and use of alternative medical treatments; and second, that this myopic outlook does not serve the best interest of the American people.

As I looked into the potential of alternative therapies, I was struck by what appears to be a deep-seated skepticism of alternative treatments within the medical establishment that may be impeding their use. It is clear to me that the public would benefit by greater debate about the value of alternative medical treatments, and it is to stimulate that debate and ultimately remove barriers to potentially effective treatments that I have reintroduced the Access to Medical Treatment Act.

This legislation would allow individual patients and their physicians to use certain alternative and complementary therapies not approved by the FDA. A companion measure has been introduced in the House by Representative DEFAZIO and 43 of his colleagues.

Mr. President, it has been my experience that efforts to expand access to alternative treatments often produce strong emotional reactions—on both sides of the issue. Sometimes, those reactions are so strong they detract from the merits of the debate.

Therefore, let me clarify the intent of the Access to Medical Treatment Act.

This bill is intended to promote greater access to alternative therapies under the supervision of licensed health practitioners and under carefully circumscribed guidelines. Hopefully, it will stimulate a constructive discussion of how best to achieve this objective.

I appreciate the natural inclination to be wary of uncharted waters, and I am not suggesting that caution be thrown to the wind in the case of alternative therapies. Some have expressed concern that this bill could have the unintended effect of opening the door to unscrupulous entrepreneurs who seek to make profit on the despair of the sick. I don't minimize that concern. How to guard against such an unintended consequence is an issue we will want to examine closely and address.

What I am suggesting, however, is that this concern should not blind us to the benefit and potential of alternative medicine. It is not a reason to shrink from the challenge of expanding access to alternative therapies.

Alternative therapies constitute a legitimate field of endeavor that is an accepted part of medicine taught in at least 22 of the Nation's 125 medical schools, including such prestigious institutions as Harvard, Yale, Columbia, Johns Hopkins, Georgetown, Albert Einstein, Mount Sinai, UCLA, and the University of Maryland.

At the National Institutes of Health's Office of Alternative Medicine, scientists are working to expand our knowledge of alternative therapies and their safe and effective use.

And the State medical licensing boards now have a committee discussing alternative medicine. I encourage that panel to explore how safe access to alternative medicine might be increased.

Additionally, more and more Americans are turning to alternative therapies in those frustrating instances in which conventional treatments seem to be ineffective in combating illness and disease. In 1990 alone, the New England Journal of Medicine found that Americans spent nearly $14 billion on alternative therapies, and made more visits to alternative practitioners than they did to primary care doctors. American consumers are turning to these therapies because they are perceived to be a less expensive and more prevention-based alternative to conventional treatments.

Given the popularity of alternative therapies among the American public, it will be asked why this legislation is necessary. If a particular alternative treatment is effective and desired by patients, then why can't it simply go through the standard FDA approval process?

The answer is that the time and expense currently required to gain FDA approval of a treatment makes it very difficult for all but large pharmaceutical companies to undertake such an arduous and costly endeavor. The heavy demands and requirements of the FDA approval process, and the time and expense involved in meeting them, serve to limit access to the potentially innovative contributions of individual practitioners, scientists, smaller companies, and others who do not have the financial resources to traverse the painstakingly detailed path to certification.

Thus, the current system has the unfortunate effect of both discouraging the exploration of life-saving treatments and preventing low-cost treatments from gaining access to the market. The Access to Medical Treatment Act attempts to open the door to promising treatments that may not have huge financial backing.

I want to be absolutely clear, however, that this legislation will not dismantle the FDA, undermine its authority or appreciably change current medical practices. It is not meant to attack the FDA or its approval process. It is meant to complement it.

The FDA should—and would under this legislation—remain solely responsible for protecting the health of the Nation from unsafe and impure drugs. The heavy demands and requirements placed upon treatments before they gain FDA approval are important, and I firmly believe that treatments receiving the Federal Government's stamp of approval should be proven safe and effective.

The real question posed by this legislation is whether it is in the public interest to simply forgo the potential benefits of alternative treatments because of economies of scale, or whether, working with the FDA, it makes sense to explore ways to bring such treatments to the marketplace.

Mr. President, the Access to Medical Treatment Act proposes one way to extend freedom of choice to medical consumers under carefully controlled situations. It suggests that individuals—especially those who face life-threatening afflictions for which conventional treatments have proven ineffective—should have the option of trying an alternative treatment, so long as they have been fully informed of the nature of the treatment, potential side effects and any other information necessary to fully meet FDA informed consent requirements. This is a choice that is rightly left to the consumer, and not dictated by the Federal Government.

The bill requires that a treatment be administered by a properly licensed health care practitioner who has personally examined the patient. It requires the practitioner to comply fully with FDA informed consent requirements. And it strictly regulates the circumstances under which claims regarding the efficacy of a treatment can be made.

No advertising claims can be made about the efficacy of a treatment by a manufacturer, distributor, or other seller of the treatment. Claims may be made by the practitioner administering the treatment, but only so long as he or she has not received any financial benefit from the manufacturer, distributor, or other seller of the treatment. No statement made by a practitioner about his or her administration of a treatment may be used by a manufacturer, distributor, or other seller to advance the sale of such treatment.

What this means is that there can be no marketing of any treatment administered under this bill. As such, there should be little incentive for anyone to try to use this bill as a bypass to the process of obtaining FDA approval. Also, because only properly licensed practitioners are able to make any claims at all about the efficacy of a treatment, there should be little room for so-called quack medicine. In short, if an individual or a company wants to earn a profit off their product, they would be wise to go through the standard FDA approval process rather than utilizing this legislation.

In essence, this legislation addresses the fundamental balance between two seemingly irreconcilable interests: the protection of patients from dangerous treatments and those who would advocate unsafe and ineffective medicine—and the preservation of the consumer's freedom to choose alternative therapies.

The complexity of this policy challenge should not discourage us from seeking to solve it. I am convinced that the public good will be served by a serious attempt to reconcile these contradictory interests, and I am hopeful the discussion generated by introduction of this legislation will help point the way to its resolution. I welcome anyone who would like to join me in promoting this important debate to cosponsor this legislation. I also welcome alternative suggestions for accomplishing this objective.

As I mentioned previously, I am sympathetic to the concern about the need to protect patients against unscrupulous practitioners. Individuals are often at their most vulnerable when they are in desperate need of medical treatment. That is why it is absolutely critical that a proposal of this nature include strong protections to ensure that patients are not subject to charlatans who would prey on their misfortunate and fears for personal gain. The Access to Medical Treatment Act contains such protections.

Mr. President, this legislation represents an honest attempt to focus serious attention on the value of alternative treatments and overcome current obstacles to their safe development and utilization. If there is a better way to make alternative therapies available to people safely, let's find that way. But let's continue this discussion and get the job done.

I ask unanimous consent that the text of the Access to Medical Treatment Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Access to Medical Treatment Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) ADVERTISING CLAIMS.—The term "advertising claims" means any representations made or suggested by statement, word, design, device, sound, or any combination thereof with respect to a medical treatment.

(2) DANGER.—The term "danger" means any negative reaction that—

(A) causes serious harm;

(B) occurred as a result of a method of medical treatment;

(C) would not otherwise have occurred; and

(D) is more serious than reactions experienced with routinely used medical treatments for the same medical condition or conditions.

(3) DEVICE.—The term "device" has the same meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(4) DRUG.—The term "drug" has the same meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(5) FOOD.—The term "food"—

(A) has the same meaning given such term in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)); and

(B) includes a dietary supplement as defined in section 201(ff) of such Act.

(6) HEALTH CARE PRACTITIONER.—The term "health care practitioner" means a physician or another person who is legally authorized to provide health professional services

in the State in which the services are provided.

(7) LABEL.—The term "label" has the same meaning given such term in section 201(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(k)).

(8) LABELING.—The term "labeling" has the same meaning given such term in section 201(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(m)).

(9) LEGAL REPRESENTATIVE.—The term "legal representative" means a parent or an individual who qualifies as a legal guardian under State law.

(10) MEDICAL TREATMENT.—The term "medical treatment" means any food, drug, device, or procedure that is used and intended as a cure, mitigation, treatment, or prevention of disease.

(11) SELLER.—The term "seller" means a person, company, or organization that receives payment related to a medical treatment of a patient of a health practitioner, except that this term does not apply to a health care practitioner who receives payment from an individual or representative of such individual for the administration of a medical treatment to such individual.

SEC. 3. ACCESS TO MEDICAL TREATMENT.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), an individual shall have the right to be treated by a health care practitioner with any medical treatment (including a medical treatment that is not approved, certified, or licensed by the Secretary of Health and Human Services) that such individual desires or the legal representative of such individual authorizes if—

(1) such practitioner has personally examined such individual and agrees to treat such individual; and

(2) the administration of such treatment does not violate licensing laws.

(b) MEDICAL TREATMENT REQUIREMENTS.—A health care practitioner may provide any medical treatment to an individual described in subsection (a) if—

(1) there is no reasonable basis to conclude that the medical treatment itself, when used as directed, poses an unreasonable and significant risk of danger to such individual;

(2) in the case of an individual whose treatment is the administration of a food, drug, or device that has to be approved, certified, or licensed by the Secretary of Health and Human Services, but has not been approved, certified, or licensed by the Secretary of Health and Human Services—

(A) such individual has been informed in writing that such food, drug, or device has not yet been approved, certified, or licensed by the Secretary of Health and Human Services for use as a medical treatment of the medical condition of such individual; and

(B) prior to the administration of such treatment, the practitioner has provided the patient a written statement that states the following:

"WARNING: This food, drug, or device has not been declared to be safe and effective by the Federal Government and any individual who uses such food, drug, or device, does so at his or her own risk.";

(3) such individual has been informed in writing of the nature of the medical treatment, including—

(A) the contents and methods of such treatment;

(B) the anticipated benefits of such treatment;

(C) any reasonably foreseeable side effects that may result from such treatment;

(D) the results of past applications of such treatment by the health care practitioner and others; and

(E) any other information necessary to fully meet the requirements for informed consent of human subjects prescribed by regulations issued by the Food and Drug Administration;

(4) except as provided in subsection (c), there have been no advertising claims made with respect to the efficacy of the medical treatment by the practitioner;

(5) the label or labeling of a food, drug, or device that is a medical treatment is not false or misleading; and

(6) such individual—

(A) has been provided a written statement that such individual has been fully informed with respect to the information described in paragraphs (1) through (4);

(B) desires such treatment; and

(C) signs such statement.

(c) CLAIM EXCEPTIONS.—

(1) REPORTING BY A PRACTITIONER.—Subsection (b)(4) shall not apply to an accurate and truthful reporting by a health care practitioner of the results of the practitioner's administration of a medical treatment in recognized journals, at seminars, conventions, or similar meetings, or to others, so long as the reporting practitioner has no direct or indirect financial interest in the reporting of the material and has received no financial benefits of any kind from the manufacturer, distributor, or other seller for such reporting. Such reporting may not be used by a manufacturer, distributor, or other seller to advance the sale of such treatment.

(2) STATEMENTS BY A PRACTITIONER TO A PATIENT.—Subsection (b)(4) shall not apply to any statement made in person by a health care practitioner to an individual patient or an individual prospective patient.

(3) DIETARY SUPPLEMENTS STATEMENTS.—Subsection (b)(4) shall not apply to statements or claims permitted under sections 403B and 403(r)(6) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-2 and 343(r)(6)).

SEC. 4. REPORTING OF A DANGEROUS MEDICAL TREATMENT.

(a) HEALTH CARE PRACTITIONER.—If a health care practitioner, after administering a medical treatment, discovers that the treatment itself was a danger to the individual receiving such treatment, the practitioner shall immediately report to the Secretary of Health and Human Services the nature of such treatment, the results of such treatment, the complete protocol of such treatment, and the source from which such treatment or any part thereof was obtained.

(b) SECRETARY.—Upon confirmation that a medical treatment has proven dangerous to an individual, the Secretary of Health and Human Services shall properly disseminate information with respect to the danger of the medical treatment.

SEC. 5. REPORTING OF A BENEFICIAL MEDICAL TREATMENT.

If a health care practitioner, after administering a medical treatment that is not a conventional medical treatment for a life-threatening medical condition or conditions, discovers that such medical treatment has positive effects on such condition or conditions that are significantly greater than the positive effects that are expected from a conventional medical treatment for the same condition or conditions, the practitioner shall immediately make a reporting, which is accurate and truthful, to the Office of Alternative Medicine of—

(1) the nature of such medical treatment (which is not a conventional medical treatment);

(2) the results of such treatment; and

(3) the protocol of such treatment.

SEC. 6. TRANSPORTATION AND PRODUCTION OF FOOD, DRUGS, DEVICES, AND OTHER EQUIPMENT.

Notwithstanding any other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.), a person may—

(1) introduce or deliver into interstate commerce a food, drug, device, or any other equipment; and

(2) produce a food, drug, device, or any other equipment,

solely for use in accordance with this Act if there have been no advertising claims by the manufacturer, distributor, or seller.

SEC. 7. VIOLATION OF THE CONTROLLED SUBSTANCES ACT.

A health care practitioner, manufacturer, distributor, or other seller may not violate any provision of the Controlled Substances Act (21 U.S.C. 801 et seq.) in the provision of medical treatment in accordance with this Act.

SEC. 8. PENALTY.

A health care practitioner who knowingly violates any provisions under this Act shall not be covered by the protections under this Act and shall be subject to all other applicable laws and regulations.

By Mr. ASHCROFT:

S. 579. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for the old-age, survivors, and disability insurance taxes paid by employees and self-employed individuals, and for other purposes; to the Committee on Finance.

THE WORKING AMERICANS WAGE RESTORATION ACT

Mr. ASHCROFT. Mr. President, it has been said that America is a city on a hill, a special example for the rest of the world to observe—a place of hope, a place of opportunity—what America is and ought to be. But it might be said that if we are a city, we are in need of urban renewal. We need to restart our engine, to regenerate the potential for growth, for the development of opportunity in this culture.

Economic growth has been the idea, it has been the mechanism whereby America could find a special place of opportunity, where America could be that particular country that said:

> Give me your tired, your poor, your huddled masses, yearning to breathe free, the wretched refuse of your teeming shore. Send these, the homeless tempest tossed, to me.

With what the writer of that great poem inscribed on the Statue of Liberty, America could proudly proclaim, "I lift my lamp beside the golden door."

America has been a place of opportunity because it has been a place of growth, with an understanding that we could always grow our way through problems. Growth has been that marvelous key toward providing some new hope for individuals. Individuals from anywhere and everywhere at all times in our history have provided a part of the stream of a growing America, a set of opportunities that is the envy of the world. Yet what is happening and has happened to our growth? What has happened to our culture? Working families are being stressed. They get up early. They work hard. They sacrifice time with each other and with their children, and they seem to have less and less to show for it. They are squeezed not just financially but as families.

What is the reason? Why is that we as a culture find ourselves laboring under this weight rather than soaring with the opportunity characteristic of our heritage?

I think we have a tax load that is weighing down individuals in this culture, and it is a major one. It is simple. It is not hard to understand. The most recent issue of Baron's magazine, which is a magazine that monitors business activity and government and families and opportunity, spells out the tremendous tax load—heavier at this moment in history than at any other time in the history of America. It is interesting to note that we were able to spend our way out of the Great Depression with lower tax rates than we now have. We were able to make the world safe for democracy or to work toward making it in the First World War. We were able to defeat the onerous and terrible power of Nazi Germany in the Second World War with lower tax rates than we have now.

Big government is taking so much of the working wages of Americans that Americans no longer have the resources to spend on themselves that they need.

The family budget in 1955, for example, was 27.7 percent in total taxes. Now the total taxes of the average American family is well over 38 percent. And you are well aware of the fact that we spend more on taxes than we do on food, clothing, and shelter combined. We need to take a look at what we are spending and how we are deploying it, to see what has happened to what we thought were our wage increases. We have had a lot of wage increases, but we end up with less and less. It turns out that the wage increase for America has been stolen by the Government. If we had the kind of income that we have now and we were paying 27.7 in total taxes like we were in 1955, we would have had real wage increases.

Mr. President, today is April 15. It is tax day. Yet most Americans do not realize that we are forced to pay a double tax. We pay income tax on the Social Security taxes that are deducted from our check, on those taxes which are pulled out before we ever see our check. We pay income taxes on that tax. That is particularly unfortunate. We are double taxed. Money that we never see, money that goes to Government, we pay a second tax to Government on that money. It does not make sense.

Interestingly enough, this is not a tax that hits American businesses the same way. As you will recall, half of the Social Security tax is paid by citizens; half is paid by corporations or the employers. The citizen who pays the tax pays a double tax—not only pays the Social Security tax but then has an income tax on that same money that is required to be taken out of his remaining funds. The business that pays Social Security taxes gets to deduct from its other taxes what it has paid in Social Security taxes, or gets to deduct from its taxable income what it has paid in Social Security taxes.

So the business community gets fair treatment of a single tax while the working individual has a double tax situation there, and it is time to end that kind of arbitrary, unreasonable, unequal, discriminatory approach to the worker and to provide parity with the reasonable expectation that is demanded from the employer and the corporation. If this is deductible to the employers and to corporations and to businesses, the payment of those taxes should also be deductible to individuals in our culture.

The ordinary citizen, the worker, cannot though, and it is time that we lift the American worker at least to tax parity and to tax equality, a position that they should share with the corporate community and the business community.

For those who are fond of saying that every tax break is a tax break for the rich, it is time to think again. This is not a proposal that is designed to help people who make millions and millions of dollars. Social Security taxes are only levied on the first $65,000 of income. If we provide a deduction for those Social Security taxes which are paid, the person who makes $65,000 in income does not have any smaller deduction or any smaller benefit than the person who makes $650,000 in income or the person who makes $65 million in income. The tax benefit is the same once you reach the $65,000 level.

So this is a tax benefit that is not focused on the rich. It is not any more valuable to the very rich than it is to the middle class. The truth is this is the middle-class tax cut that is fair. It provides for people who work, that they will not be double taxed on their work. Social Security taxes are the only tax in America levied on work. Income taxes are levied on earned income or unearned income, but Social Security taxes are levied on work. How ironic that in America we would have a double tax on work. We ought to be standing for a proposition, instead of double taxing work, at least give it equality with other income that would not be double taxed. We would give Americans an opportunity to retain some of that for which they had worked so they could spend it themselves.

There would be a significant improvement in the setting for the average two-income family in America. The average two-earner family pays about $1,227 more in income taxes because they cannot deduct from their income tax the taxes they have already paid to Social Security. If we allow them to deduct those, that means that $1,227 that is paid in income taxes would be available for individuals to have to meet their family needs. This is not just a way of saying that people will be able to spend the money. It is saying that people will be able to spend this money on themselves rather than have Government spend this money on more Government programs. I think most Americans understand that they would be better off deciding what they need most and how best to meet those needs than expecting Government to spend the money for them.

The thrust of the matter is that this $1,227 per year for the average two-income family would be a welcome relief from a tax load which is higher than it has ever been before in the history of this country.

I had the privilege of being Governor in my State for two terms before I came here, and I know what jobs mean and how important jobs are. What is interesting to note is that if we were to implement this tax measure of relief for the American people, the scholars estimate it would mean 900,000 new jobs in this country. Nine hundred thousand new jobs would provide a real spurt of growth for this Nation and would help us reacquire the sense of dynamic that America has had historically and that our heritage contains. Nine hundred thousand new jobs would be an average of about 18,000 jobs per State. I know that 18,000 jobs is equivalent to at least 3 car plants, new car plants, in a State. That would mean growth. That would mean opportunity. It would build for the future of this great country. I think we need to remind ourselves on a consistent basis when we tax people it is not a question of whether or not the money will be spent; it is a question of whether Government will spend the money or people will spend the money. I believe people can decide best.

The passage of this act would affect the take-home pay of 77 million Americans who would have more resources to devote to meet the needs of their families, and it would be a measure of providing equity and fairness so that they would not be double taxed and neither would they be taxed unequally and in a discriminatory way as compared to the taxes which are levied on the corporate community.

Mr. President, so often we say that bigger Government is required because some think that families will not do what they ought to do. I believe we have come to a juncture where Government has made it impossible for families to do what they need to do. Families want to share. They want to be involved in their communities. They want to be involved in reaching out to other people. When Government takes such a big portion of your income, when you have to work 3 hours every day to pay your taxes and you struggle through the rest of your day to meet your own needs, it does not leave much opportunity for sharing.

The purpose of Government is related to growth. It is related to the growth of people, not the growth of Government. If we are to perpetuate a system where the only thing that can grow is Government, we have made a mistake. We would have destroyed the genius of America and repudiated our rich history of being able to grow our way through any challenge. It is time for us, the United States of America, the city on the Hill, again to be a city of hope and opportunity. It is time for us to provide a basis upon which the American worker and the American economy can grow. We can do that by ceasing the practice of double taxing work. We must stop double taxing working Americans.

The bill, which I now send to the desk, is cosponsored by Senators Craig, Shelby, Cochran, Hagel, and Hatch. It would end the double taxation that American workers pay on Social Security taxes, because income taxes are levied on those amounts which are deducted as payroll taxes, known as Social Security taxes.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 579

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Working Americans Wage Restoration Act".

SEC. 2. DEDUCTION FOR OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE TAXES OF EMPLOYEES AND SELF-EMPLOYED INDIVIDUALS.

(a) Taxes of Employees.—

(1) Deduction allowed in arriving at adjusted gross income.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by inserting after paragraph (16) the following new paragraph:

"(17) Employees' OASDI taxes.—The deduction allowed by section 164(g)."

(2) Determination of deduction.—Section 164 of such Code (relating to deduction for taxes) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Employees' OASDI Taxes.—

"(1) In general.—In the case of an individual, in addition to the taxes described in subsection (a), there shall be allowed as a deduction for the taxable year an amount equal to the sum of—

"(A) the taxes imposed by section 3101(a) for the taxable year, and

"(B) the taxes imposed by section 3201(a) for the taxable year but only to the extent attributable to the percentage in effect under section 3101(a).

"(2) Special rule for certain agreements.—For purposes of paragraph (1), taxes imposed by section 3101(a) shall include amounts equivalent to such taxes imposed with respect to remuneration covered by—

"(A) an agreement under section 218 of the Social Security Act, or

"(B) an agreement under section 3121(l) (relating to agreements entered into by American employers with respect to foreign affiliates).

"(3) Coordination with special refund of social security taxes.—Taxes shall not be taken into account under paragraph (1) to the extent the taxpayer is entitled to a special refund of such taxes under section 6413(c).

"(4) Coordination with earned income credit.—No deduction shall be allowed under paragraph (1) for any taxable year if the individual elects to claim the earned income credit under section 32 for the taxable year."

(3) Conforming amendment.—The next to last sentence of section 275(a) of such Code is amended by inserting "or 164(g)" after "164(f)".

(b) Deduction for Self-Employed Individuals.—

(1) In general.—Paragraph (1) of section 164(f) of the Internal Revenue Code of 1986 (relating to deduction for one-half of self-employment taxes) is amended to read as follows:

"(1) In general.—In the case of an individual, in addition to the taxes described in subsection (a), there shall be allowed as a deduction for the taxable year an amount equal to the sum of—

"(A) the taxes imposed by section 1401(a) for such taxable year, plus

"(B) 50 percent of the taxes imposed by section 1401(b) for such taxable year.

In the case of an individual who elects to claim the earned income credit under section 32 for the taxable year, only 50 percent of the taxes described in subparagraph (A) shall be taken into account."

(2) Conforming amendments.—

(A) Section 32(a)(1) of such Code is amended by inserting "who elects the application of this section" after "eligible individual".

(B) The heading for section 164(f) of such Code is amended by striking "One-Half" and inserting "Portion".

(C) Section 1402(a)(12) of such Code is amended—

(i) by striking "one-half" the first place it appears and inserting "portion", and

(ii) by striking subparagraph (B) and inserting:

"(B) a percentage equal to the sum for such year of the rate of tax under section 1401(a) and one-half of the rate of tax under section 1401(b);".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

By Mr. SMITH of New Hampshire (for himself, Mr. Faircloth, Mr. Gramm, Mr. Hatch and Mr. Kyl):

S. 580. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated; to the Committee on Finance.

THE TAXPAYER DEBT BUY-DOWN ACT OF 1997

Mr. SMITH of New Hampshire. Mr. President, today I am introducing legislation to create an active role for "We the People" in the fiscal matters of the Federal Government. I am joined by my colleagues, Senators Faircloth, Gramm, Hatch, and Kyl, who are original cosponsors of this measure.

WHY WE NEED THE TAXPAYER DEBT BUY-DOWN: THE PRESIDENT AND CONGRESS HAVE NOT STEPPED UP TO THE PLATE

On February 6, President Clinton submitted his fifth unbalanced budget.

Then, on March 4, the Senate failed by one vote to approve the balanced budget constitutional amendment (BBCA).

During the debate on the balanced budget constitutional amendment, the president and his congressional allies decried the constitutional change as too permanent, and argued that Congress could impose fiscal self-discipline.

In response to these claims, today I am reintroducing the Taxpayer Debt Buy-Down Act. This legislation not only answers appeals for statutory restrictions, but also takes the balanced budget debate to the people.

If the President and Congress cannot agree, the American people should decide.

I first introduced the bill in 1992, and it was endorsed by President George Bush.

More than one-third of the Senate voted for my plan which I offered as an amendment to the tax bill of 1992.

I feel the time has come again to empower the taxpayers to tell Congress how much spending they want cut in order to balance the budget and buy down the debt.

For example; in 1996, individual income tax revenue totaled over $650 billion.

So if every taxpayer checked off the maximum designation of 10-percent, Congress would have to come up with roughly $65 billion in spending cuts.

Admittedly, this level of participation is highly unlikely initially.

A more reasonable estimate would be that the total taxpayer check-off would amount to about 3-percent of all individual tax revenue in the first few years.

Under this scenario, Congress would only have to find less than $20 billion in spending reductions.

Considering the danger posed by our growing national debt, who could oppose $20 billion in spending cuts.

The American people will be able to tell us if we are on the right track, or if they want more deficit and debt reduction.

I challenge my colleagues to support their claims that they support a balanced budget. Ask the taxpayers.

THE PROCESS WOULD BE SIMPLE

First, by checking off a box on their April 1040 tax forms, taxpayers would designate up to 10 percent of their income tax liability, what they owe, for the purpose of deficit and debt reduction. Once the deficit is eliminated, designated cuts would buy down the debt.

Second, the following October, the Treasury Department would calculate the amount demanded by the taxpayers. Congress would then have until the end of the next fiscal year to cut Federal spending in any area to meet this target.

Third, if Congress failed to make the necessary cuts, an automatic across-the-board sequester of all Government accounts, with some necessary exemptions, would be triggered at the end of the session. This sequester would ensure compliance with the taxpayer-mandated spending reductions. However, I would hope this would not occur if Congress listens to the mandate of the taxpayers.

Fourth, furthermore, to harmonize this grassroots effort with congressional efforts to balance the budget, the check-off will initially mandate spending cuts and debt retirement only over and above the savings that Congress otherwise enacts. For example, if Congress passes legislation that implements savings of $50 billion in fiscal year 1999, and the check-off for that year totals $60 billion, only an additional $10 billion would be cut under this bill.

By Mr. DURBIN (for himself, Mr. LEAHY, Mrs. FEINSTEIN and Mr. TORRICELLI):

S. 581. A bill to amend section 49 of title 28, United States Code, to limit the periods of service that a judge or justice may serve on the division of the United States Court of Appeals for the District of Columbia to appoint independent counsels, and for other purposes; to the Committee on the Judiciary.

INDEPENDENT COUNSEL LEGISLATION

Mr. DURBIN. Mr. President, I rise today to introduce, with Senators LEAHY, FEINSTEIN and TORRICELLI, legislation dealing with the three-judge panel that appoints independent counsels.

In the last few days, we have heard a flurry of speeches about the appointment of an independent counsel and about the grasp that the Attorney General has on her job. Recently some Members of Congress have suggested that we should open an investigation on the Attorney General because of her decision not to seek the appointment of an independent counsel.

This is a new high in the efforts to politicize the independent counsel statute and a new low in bullying tactics.

And, Mr. President, these tactics have worked insofar as their goal was to politicize this issue. Many Americans now view this statute as just another political football. Here in Congress, we toss about calls for an independent counsel. We threaten to minutely examine every act of the Attorney General in her efforts to carry out her duties under the statute.

Meanwhile, one of the most important institutions to the operation of the independent counsel statute goes unexamined. The three-judge panel that appoints and oversees the independent counsels wields enormous power. And it has tainted itself through close connections to partisan politics and through the appointment of special counsels who are likewise partisans.

This panel seems to operate free of any genuine scrutiny. It plays one of the most important roles in the administration of the statute. And it is the most in need of some oversight.

The last time an independent counsel was appointed, we all saw just how embroiled that three-judge panel is in partisan politics. The head of that panel, the Republican-appointed David Sentelle, had lunch with two Republican Senators just a few weeks before he appointed an independent counsel who was a Republican Justice Department official and who had just recently publicly contemplated running for the Senate as a Republican. As a result of this incident, five former presidents of the American Bar Association issued a letter rebuking Judge Sentelle for his actions.

A recent article in the Legal Times noted:

> In fact, with the appointment of independent counsel[s] handled by a highly secretive three-judge panel, named by the chief judge of the United States, it could be argued that one partisan system has simply been supplanted by another.

Let me explain what the panel currently does and how that contributes to the failings of the statute.

The first flaw in the statute is in the appointment terms of the judges who sit on this special panel. Currently, three judges are appointed to the panel by the Chief Justice of the United States. The judges are appointed to the division for 2-year terms.

But David Sentelle is now serving his third 2-year term. Judge John D. Butzner, Jr., is in the middle of his fourth 2-year term. And Judge Peter T. Fay is in the midst of his second 2-year term.

In short, some judges are becoming entrenched in the independent counsel process.

A second flaw in the judges' panel is in its consistent failure to issue any rules of procedure and practice. In 1994, when we reauthorized the act, Congress called on the panel to promulgate rules of procedure for practice before it, clarify available avenues of appellate review, and undertake to catalog and preserve independent counsel reports and make public versions accessible upon request.

They have not done so. Only recently, the panel issued some draft rules of procedure dealing with attorney fee applications, but in 3 years they do seem to have not otherwise complied with Congress's request.

This special division is like a magician's hat: independent counsels emerge from it. But we do not know how. Are there any criteria used by the panel to appoint an independent counsel? Does the panel make any effort to assure that the person it appoints is actually independent? How does someone get this job—a job with a virtually unlimited budget and a stunning array of powers?

We do not know because the Court will not tell us, even though we asked them to 3 years ago.

We need to do a few things about this panel. The legislation I introduce today is intended to remove any taint of partisan politics from this panel. It requires that judges on the panel serve no more than two, 2-year terms. This will ensure that no one judge gets entrenched in appointing independent counsels. And it assures that the division does not get politicized. In addition, it is consistent with current law. Why have 2-year terms if the judges just stay on as long as they want? The 2-year term was clearly inserted with the view that judges would not stay on the division forever.

In addition to limiting judges on the panel to 4 years, the measure I introduce requires that the division promulgate the very rules that we asked them to issue 3 years ago.

The special division should not be a mysterious black box. People who practice before it should know the rules. Attorney fee applications are the most common things the Division has to deal with, but this provision also requires that the Special Division have rules governing the appointment of an independent counsel. We should know what criteria and what procedure they use to assure that the independent counsel is indeed independent and qualified.

Mr. President, I hope we can all agree that this measure is vitally needed. It is simply aimed at improving the operation of the independent counsel statute not tearing it down. It's goal is to take some partisan politics out of the system and to put a little more independence back into the statute.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 581

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON PERIODS OF SERVICE THAT A JUDGE MAY SERVE ON THE DIVISION TO APPOINT INDEPENDENT COUNSELS.

(a) LIMITATION ON SERVICE.—

(1) IN GENERAL.—Section 49 of title 28, United States Code, is amended by adding at the end the following:

"(g)(1) Notwithstanding subsections (a) through (f) and subject to paragraphs (2) and (3) of this subsection, no judge or justice may serve more than 2 two-year periods assigned to the division to appoint independent counsels under this section.

"(2) For purposes of paragraph (1), service in filling a vacancy on the division of—

"(A) less than 1 year shall not apply; and

"(B) 1 year or more shall be considered service for the full two-year period.

"(3) A judge of the United States Court of Appeals for the District of Columbia who has served 2 two-year periods on the division may be assigned to serve an additional two-year period, if—

"(A) every other judge of such Court otherwise eligible for such assignment has served 2 two-year periods in such assignment; and

"(B) the period of time since such judge last served in such assignment is not less than the period of time any other judge of such Court (who is otherwise eligible to serve) last served in such assignment.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act and shall apply to any judge or justice serving on such date on the division to appoint independent counsels of the United States Court of Appeals for the District of Columbia.

(b) ADMINISTRATION OF DIVISION BY THE CIRCUIT JUDICIAL COUNCIL.—

(1) IN GENERAL.—Section 332 of title 28, United States Code (including subsection (d) of such section relating to making all necessary and appropriate orders for the effective and expeditious administration of justice), shall apply with respect to the administration of the division of the United States Court of Appeals for the District of Columbia to appoint independent counsels by the Circuit Judicial Council for the District of Columbia.

(2) RULES.—No later than 6 months after the date of enactment of this Act, the Circuit Judicial Council for the District of Columbia shall promulgate rules to—

(A) govern practice and procedures before the division to appoint independent counsels;

(B) govern the procedure for the appointment of an independent counsel by the division;

(C) clarify procedures for judicial appellate review of actions of the division; and

(D) catalog and preserve independent counsel reports and make public versions available upon request.

Mr. LEAHY. Mr. President, the whole purpose of the independent counsel law—to get politics out of the process of investigating politically potent matters—has been severely undercut recently by partisan efforts to bully the Attorney General into appointing an independent counsel to investigate fundraising activities in the 1996 Presidential campaign. In fact, some Republicans in Congress have threatened that if Janet Reno refuses to do what they want, she will be investigated and her job will be at stake.

This marks a new low in the politicization of the independent counsel process. These threats demean our system of justice and, I fear, undermines public confidence in all branches of government.

Continued politicization of the independent counsel process will be the death knell for this law. The American people already have legitimate questions about how much independent counsels cost, how long they take, and how this law is working. By last count, independent counsels have cost taxpayers a total of over $125 million. Whitewater counsel Ken Starr alone has already spent over $22 million. We still have an independent counsel investigating matters from the Reagan administration.

Suspicions about the role of partisan politics in the selection of so-called independent counsels are already strong. A Reagan-appointed Chief Justice, who served in the Nixon administration, appointed a staunchly Republican judge to the selection panel that, after meeting in secret, appointed partisan Republican Kenneth Starr to investigate Whitewater.

If the results of independent counsel investigations cannot be trusted because they are tainted by partisan politics, we will not be able to justify the costs of this law.

That is why I am commending Senator DURBIN for his work on this bill. It takes important steps to begin restoring public confidence in the process by which independent counsels are selected. Specifically, the bill sets term limits for the three judges who serve on the Special Division of the D.C. Circuit division that appoints the independent counsel. Under current law, these judges serve for 2-year terms. However, all of them are on at least their second 2-year term. The legislation would prohibit a judge, including the current panel, from serving more than 2-year terms.

In addition, the bill would allow sunshine on the selection of independent counsels and the results of independent counsel investigations. What criteria does the Special Division use to select independent counsels? Do they look for trial experience, prosecutorial experience or political experience? The bill places the Special Division that selects independent counsels under the authority of the Circuit Judicial Council and requires that the Council promulgate within 6 months rules of practice for the Division. These rules would specify the procedure for selection of an independent counsel. This is important so everyone will know what qualifications the Special Division uses to evaluate candidates. Public procedures should also open up the process so that appropriate candidates know how to apply for independent counsel positions when openings occur. This is too important a process to be decided by political cronies over lunch.

The bill would also require that the Court catalog and preserve independent counsel reports and make public versions available upon request.

This bill is not a cure-all for the problems we have seen with the independent counsel law. But this is a good start.

Mr. President, the whole purpose of the independent counsel law—to get politics out of the process of investigating politically potent matters—has been severely undercut recently by partisan efforts to bully the Attorney General into appointing an independent counsel to investigate fundraising activities in the 1996 Presidential campaign. In statement after statement by otherwise responsible Members of Congress, they tell her how she should use here discretion and how she should make up her mind, before she even has an opportunity to do so. Some Republicans in Congress have threatened that if Janet Reno refuses to do what they want, she will be investigated and her job will be at stake.

Basically, the American people were asked last night to make this choice: Would they let the Speaker of the House, Mr. GINGRICH, determine what the ethics rules should be, or would they rather allow the Attorney General of the United States, Janet Reno to follow the law and investigate whether crimes have occurred?

Frankly, I am very confident in allowing Attorney General Reno to proceed. She has done a pretty darn good job so far. She calls them as she sees them and has been a very straightforward Attorney General.

I hope that everybody, whether in this body or the other body, will stop trying to substitute their ethical standards and political judgment as to what should be done and allow the Attorney General, who sticks to a very strong ethical standard, to follow and enforce the law. I believe the statements seeking to intimidate the Attorney General mark a new low in the politicization of the independent counsel process.

By Mr. GREGG:

S. 583. A bill to change the date on which individual Federal income tax returns must be filed to the Nation's Tax Freedom Day, the day on which the country's citizens no longer work to pay taxes, and for other purposes; to the Committee on Finance.

TAX FILING ON TAX FREEDOM DAY ACT OF 1997

Mr. GREGG. Mr. President, this past weekend we had a weekend of firsts. Tiger Woods became the youngest PGA player to ever win the Masters and in doing so broke the all-time scoring record of 270 and established the largest margin of victory—12 shots—in the tournament's 61-year history.

On April 14, 1997, the Tax Foundation announced another first, Tax Freedom Day this year will be on May 9.

What is Tax Freedom Day? Tax Freedom Day is the day when the average

American stops working for the Government and starts working for themselves. This year's record date for Tax Freedom Day of May 9 is 2 days after last year's record of May 7 and up significantly since the Clinton administration took office in 1993.

This year the average American will have to work a total of 128 days to pay his or her tax bill. That equates to 2 hours 49 minutes of each working day laboring to pay taxes. That's hard time any way you slice it.

Over the years, April 15 has metamorphosized from being a trip to the dentist's office to being a major root canal without the novocaine.

I rise today to introduce legislation that will change the date on which individuals file their Federal income tax returns from April 15 to May 9, Tax Freedom Day.

While this legislation does little to bring about a change in the amount of money paid by the average American wage earner, I believe that issue would be helped greatly with the enactment of a balanced budget with tax relief. It does ensure that your taxes won't be due until you free yourself from crushing Federal taxes.

I ask unanimous consent that a copy of the bill be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tax Filing On Tax Freedom Day Act of 1997".

SEC. 2. TAX FILING ON TAX FREEDOM DAY.

(a) IN GENERAL.—Each year, in time to be included in the instruction and information booklets that accompany the year's individual income tax returns, the Secretary of the Treasury (in this Act referred to as the "Secretary") shall determine the year's Tax Freedom Day pursuant to subsection (d).

(b) DUE DATE FOR TAXES.—Notwithstanding any other provision of law, Federal individual income tax returns for each year shall be due on the date of the Tax Freedom Day in the subsequent year (rather than April 15th).

(c) INFORMATION PROVIDED.—The Secretary shall include in the instruction and information booklets a prominent section that provides the following information with respect to the Tax Freedom Day:

(1) An explanation of Tax Freedom Day and what it signifies.

(2) A statement that Congress provided for Federal individual income tax returns to be due on Tax Freedom Day to emphasize how long the average citizen works to pay government taxes.

(3) During leap years, a note that the year's Tax Freedom Day appears one calendar day earlier than normal.

(4) A chart showing how the Tax Freedom Day's date has changed over time.

(5) Information on the State and Federal components of the total tax burden, and how the Tax Freedom Day would differ on a State-by-State basis.

(d) DETERMINATION OF TAX FREEDOM DAY.—Each year, the Secretary shall determine the Tax Freedom Day as follows:

(1) TAX FOUNDATION.—By contacting and receiving the date from the Tax Foundation (which has been determining and publishing a Tax Freedom Day since 1973), in time to meet the informational requirements of subsection (c), as long as the Tax Foundation maintains its—

(A) status as a non-profit, non-partisan research and public education organization;

(B) consistent method of analysis with respect to determining Tax Freedom Day (unless a change results in a demonstrably much more accurate determination); and

(C) trademark on Tax Freedom Day.

(2) REQUIREMENTS NOT MET.—If the Tax Foundation—

(A) fails to maintain any of the requirements described in paragraph (1), or

(B) does not provide such information to the Secretary in a timely manner after the Secretary's request for the information,

then the Secretary shall determine the year's Tax Freedom Day in accordance with paragraph (3).

(3) DETERMINATION BY THE SECRETARY.—If either subparagraph (A) or (B) of paragraph (2) are met, then the Secretary shall determine the year's Tax Freedom Day—

(A) by assuming that income is earned evenly throughout the year and that individuals initially devote all of their earnings to paying incomes taxes;

(B) by calculating an effective tax rate for the nation, by dividing the per capita income tax burden (including Federal, State and local taxes) by per capita income (using the net national product, a component of the national income product accounts, as compiled annually by the Bureau of Economic Analysis of the Department of Commerce);

(C) by multiplying the effective tax rate determined in subparagraph (B) by the number of days in the year; and

(D) by ensuring that a consistent methodology is utilized from year-to-year, and altering the existing methodology only if the new methodology is demonstrably much more accurate.

The resultant total shall signify the number of days the average citizen devotes to paying taxes, and the corresponding calendar day shall be the Tax Freedom Day.

SEC. 3. EFFECTIVE DATE AND SECRETARIAL SUBMISSION.

(a) EFFECTIVE DATE.—This Act shall take effect for taxable years beginning after December 31, 1997.

(b) SECRETARIAL SUBMISSION.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of the Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this Act.

By Mr. ABRAHAM:

S. 584. A bill to amend the Internal Revenue Code of 1986 to change the time for filing income tax returns from April 15 to the first Tuesday in November, and for other purposes; to the Committee on Finance.

THE TAXATION ACCOUNTABILITY ACT

Mr. ABRAHAM. Mr. President, we made several reforms during the last Congress intended to put Members of this body in closer touch with the American people. Among those reforms were provisions applying to Members of Congress the same laws that apply to private businesses and citizens.

Today I am introducing legislation that I believe will further strengthen the ties between Members and their constituents. In particular, Mr. President, I am concerned that, where, according to a USA Today poll from this March, 70 percent of the American people believe that they need a tax cut, many in Congress still refuse to give it to them.

I am convinced, Mr. President, that some Members continue to oppose any limits on Federal tax funds because they are out of touch with the American people. That is why I am introducing the Taxation Accountability Act to tie the act of voting more closely with the act of taxpaying.

Too many Members believe that the American people are not, and do not believe themselves to be, over-taxed. This is wrong, Mr. President, and we must put an end to this mistaken and dangerous belief. How? By making it possible for Americans to more effectively act on their convictions regarding proper levels of taxation. By moving tax day, now April 15, to coincide with election day.

To begin with, Mr. President, most Americans are not even fully aware of the percentage of their income the government takes from them in the form of taxes. According to the National Taxpayer's Union, the average American family now pays almost 40 percent of its income in State, local, and Federal taxes. That is an all-time high.

Yet, with almost 40 percent of their income going to taxes, mothers and fathers in America still are not going to the polls. Despite the huge investment they are making, voluntarily or involuntarily, in government in this country, this last Presidential election showed the lowest turnout in our history. Americans are not exercising their right to decide who shall represent them in deciding how that government shall be run—what it shall do and at what expense.

Why are Americans so apathetic in the face of such staggering tax rates, Mr. President? Simple, most Americans simply do not know how high their taxes really are.

Two years ago a Readers Digest poll asked Americans, "What is the highest percentage of income that is fair for a family of four making $200,000 to pay in all taxes?" The median response, regardless of whether the respondent was rich or poor, black or white, was 25 percent.

This estimate among Americans, that 25 percent is the limit of fair taxation, is borne out by a grassroots research poll conducted last March. That poll found that a majority of Americans would favor a constitutional amendment to prohibit Federal, State, and local taxes from taking "a combined total of more than 25 percent of anyone's income in taxes."

Yet the Tax Foundation tells us that a dual-income family today pays an average of 38.4 percent of its income in taxes to State, local, and Federal governments.

Why is it, Mr. President, that Americans, are not aware of so vital a figure as the percentage of their income that is taken away by the government in taxes?

One reason is the significant extent to which the taxes they pay are hidden. Taxes on businesses eventually are paid by families. So are sales taxes. Taxes on the average loaf of bread equal 31 percent of the total cost. Taxes also represent 43 percent of the cost of a hotel room, 54 percent of the cost of a gallon of gas and 40 percent of the cost of an airline ticket.

Another, and perhaps the most significant way taxes are hidden is withholding. Many taxpayers do not realize how much the government is taking from them because it takes their money before they ever see it. Only when they fill out their tax forms do most Americans have a chance to see the full enormity of the tax burden they bear. And then they have 7 months to cool off before election day rolls around.

Combined, these factors keep Americans from realizing the extent of their tax burden, and acting on that realization. Information is crucial to effective voting. And just as crucial, in my view, is information that is timely. Only if people know the extent of their tax burden, and are made aware of it at a time when they can do something about it, will they act. Only if Americans are aware of what is at stake on election day will they vote on election day. And only if they vote, expressing their opinions on crucial issues like taxation, can they hold Members of Congress responsible for their actions.

Mr. President, we are not likely to do away with withholding or repeal Federal taxes on bread and butter. But we can highlight the importance of voting by tieing the process of tax-filing more closely to the process of voting.

To achieve this, Mr. President, I am proposing legislation that would move tax day, the day tax forms must be mailed to the Internal Revenue Service, to the first Tuesday after the first Monday in November—election day. In this way our citizens will have fresh in their minds the substantive importance of voting at the same time they are to exercise their right to vote. Voter participation will increase as effective information increases, and thus so will the accountability of elected officials, as was intended by our Founders.

There will be no cost to the Treasury because this bill moves the fiscal year into accord with the calendar year at the same time that it moves tax day. But there will be a significant impact on our form of government. Members of Congress will be put in closer touch with the people, to the vast improvement of democracy.

I urge my colleagues to support this legislation as we attempt to foster responsible voter conduct and responsible government.

By Mr. DORGAN (for himself, Mr. DASCHLE, Mr. JOHNSON, and Mr. WELLSTONE):

S. 585. A bill to amend the Internal Revenue Code of 1986 to authorize the Secretary of the Treasury to abate the accrual of interest on income tax underpayments by taxpayers located in Presidentially declared disaster areas if the Secretary extends the time for filing returns and payment of tax for such returns; to the Committee on Finance.

INCOME TAX RELIEF LEGISLATION

Mr. DORGAN. Mr. President, today I'm joined by Senators DASCHLE, WELLSTONE, and JOHNSON in introducing legislation to provide much-needed income tax relief for North and South Dakotans and others pummeled by the severe blizzards and flooding this spring in the Upper Midwest. This legislation builds upon the good work started by the Internal Revenue Service [IRS] last week.

About a week ago, the Internal Revenue Service announced that taxpayers living in counties recently declared a disaster area by the President will be able to delay filing their Federal income tax returns until May 30, 1997, without facing a late filing or payment penalty. Clearly this is significant relief for those who may be prevented from filing their tax returns by the April 15, 1997 due date because of the recent blizzard and flooding in our part of the country.

In its announcement, however, the IRS stated that it did not have the authority to waive any interest charges accruing on delayed payments made between April 15, 1997 and May 30, 1997. It makes no sense to impose interest charges for payments occurring after the original due date, when the IRS itself says—and I think properly so—that it will extend the time for filing income tax returns and payments by taxpayers located in a Presidentially-declared disaster area. In my opinion, the IRS's action properly suggests that income tax return filing and payments made before the new date should not be treated as late. It is just that simple, and our legislation reflects this point.

Specifically, our legislation requires the IRS to abate the assessment of interest on underpayment by taxpayers in Presidentially-declared disaster areas if the IRS acts to extend the period of time for filing income tax returns and paying income tax by taxpayers in such areas. The legislation would apply to all Presidentially-declared disasters announced after December 31, 1996.

Once again, the IRS wisely and promptly granted an extension for North Dakotans and others to file their income tax returns due to flood-and snow-related emergencies without facing late filing and payment penalties. But the IRS has been prevented from doing more by statute. Our legislation remedies this problem in the case of IRS extensions due to Presidential disaster declarations.

We intend to advance this proposal at the first available opportunity in the U.S. Senate. We urge our colleagues to support this important initiative to provide income tax relief for those affected by this year's weather-related disasters and for those living in disaster areas in the future.

Mr. DASCHLE. Mr. President, I would like to commend Senator DORGAN on the introduction of legislation authorizing the Internal Revenue Service to waive interest on late payments of taxes in Presidentially-declared disaster areas. The IRS currently has authority to waive penalties for late tax filings following natural disasters. Last week, it did so in the Dakotas and part of Minnesota in response to the severe flooding in the region. However, the IRS does not now have parallel authority for waiving interest in these circumstances.

A number of South Dakotans have raised questions about the disparate treatment of penalties and interest. If taxpayers deserve more time to file and pay their taxes due to a natural disaster, why should they be charged 9 percent interest, a rate many would consider punitive, on these same taxes? Senator DORGAN's bill would address this apparent anomaly in our tax laws and help numerous flood victims who are too busy securing their homes, businesses, and communities to file on time. Some of these people have been physically prevented from obtaining tax forms by the rising flood waters.

For this reason, I am pleased to cosponsor Senator DORGAN's legislation, and I thank him for his leadership on this pressing matter.

By Mr. MOYNIHAN (for himself, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. CHAFEE, Mr. SMITH of New Hampshire, Mrs. BOXER, Mr. WYDEN, Mr. BYRD, Mr. KENNEDY, Mr. INOUYE, Mr. ROTH, Mr. BIDEN, Mr. LEAHY, Mr. SARBANES, Mr. DODD, Mr. D'AMATO, Mr. SPECTER, Mr. KERRY, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. JEFFORDS, Mr. AKAKA, Mrs. FEINSTEIN, Mr. GREGG, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Ms. SNOWE, Mr. SANTORUM, Mr. DURBIN, Mr. TORRICELLI, Mr. REED, and Ms. COLLINS):

S. 586. A bill to reauthorize the Intermodal Surface Transportation Efficiency Act of 1991, and for other purposes; to the Committee on Environment and Public Works.

THE ISTEA REAUTHORIZATION ACT OF 1997

Mr. MOYNIHAN. I rise with Senators LAUTENBERG and LIEBERMAN and a distinguished group of my colleagues today to introduce the ISTEA Reauthorization Act of 1997. This bill is designed to reauthorize, with some modifications and improvements, the Intermodal Surface Transportation Efficiency Act of 1991. ISTEA is an innovative law that addresses the fundamental imbalance in national transportation investment, and in so doing, serves to promote intermodalism, improve mobility and access to jobs, protect the environment, empower local communities, and enhance transportation safety.

ISTEA spurred the Federal Government and the States to invest their transportation dollars in whatever modes were most efficient for moving people and goods and to solicit the input of local communities in planning those investments. The result was a dramatic increase in investment in maintenance and rehabilitation of existing roads and bridges, in mass transit, and in creative approaches to our transportation needs, from bicycle and pedestrian paths to ferry boats.

When I introduced the original ISTEA legislation in 1991, I had only four Senate cosponsors—Quentin Burdick of North Dakota, Steve Symms of Idaho, JOHN CHAFEE of Rhode Island, and FRANK LAUTENBERG of New Jersey. The bill I introduce today has broad bipartisan and grassroots support, with 31 Senate cosponsors from across the country joining me. We have learned a lot over the last 6 years.

In 1991, my House counterpart Robert A. Roe of New Jersey, then chairman of the Public Works Committee, and I had hoped to develop a Federal highway bill that would mark the end of the era of interstate highway construction. That era had brought the nationwide, multilane, limited access highway system, as first envisioned at the General Motors Futurama exhibit at the 1939 World's Fair, and then advanced in 1944 by President Roosevelt. The New York State Thruway was the system's first segment. In fact, the civil engineer who built it, Bertram Tallamy, left Albany in 1956 to start up the national program in Washington with funding from a dedicated tax proposed by President Eisenhower and approved by Congress that year.

But by 1991 the interstate system was essentially done and Chairman Roe and I confronted the question, "What now?"

We developed three principles for the first highway bill to mark the post-interstate era. First, the primary objective was to improve efficiency of the transportation system we already had. Second, the time had come to turn the initiative in transportation matters back to the States and cities. Third, transit was to be an option for cities.

I am proud to say we achieved our three principles and more.

The Interstate Highway System left a big mark on American cities, where the majority of the funds were spent. I wrote in *The Reporter* in 1960:

> It is not true, as is sometimes alleged, that the sponsors of the interstate program ignored the consequences it would have in the cities. Nor did they simply acquiesce in them. They exulted in them . . . This rhapsody startled many of those who have been concerned with the future of the American city. To undertake a vast program of urban highway construction with no thought for other forms of transportation seemed lunatic.

The results often were. American cities were cruelly split, their character and geography changed forever, with interstate highways running through once-thriving working class neighborhoods from Newark to Detroit to Miami. Homes and jobs were dispersed to the outlying suburbs and beyond. The wreckage was something to see. Some cities have used ISTEA funds to try to repair the damage where they could, using funds for transit—even bike and pedestrian paths—instead of more road building. Or with plans such as Boston's Central Artery, a project that will reunite some of that city's most historic and colorful neighborhoods, separated for almost 40 years by an elevated highway.

Today, I ask that we continue to build upon our success with ISTEA, changing it only as needed. The bill we introduce today retains the basic structure of ISTEA, which distributes funds primarily on needs balanced with such factors as historical shares, but updates outmoded formulas and streamlines the equity adjustment programs. The ISTEA Reauthorization Act of 1997 also increases flexibility for States by allowing them to use some of their transportation funding to support Amtrak. This is the first step this year in meeting our commitment to address Amtrak's long-term funding needs.

The ISTEA Reauthorization Act of 1997 reauthorizes all the program categories of the original legislation—the National Highway System, the Interstate Maintenance Program, the Highway Bridge Rehabilitation and Replacement Program, the Congestion Mitigation and Air Quality Improvement Program, the Surface Transportation Program, the Interstate Highway Reimbursement Program, and the Transportation Enhancements Program—at a total funding level of $26 billion, which can be fully supported by the Highway Trust Fund.

While the ISTEA Reauthorization Act increases funding for all the program categories, I want to mention three programs in more detail. The bill strengthens the Congestion Mitigation and Air Quality Improvement Program, funding it at $2 billion annually, with a portion of the authorized amount to be distributed on the basis of population residing in fine particulate non-attainment areas. The CMAQ program, which has allowed States and municipalities to find creative solutions to improving air quality and reducing traffic congestion, has been an ISTEA success story, resulting in impressive improvement in U.S. air quality over the last few years.

The bill also increases funding for the Highway Bridge Rehabilitation and Replacement Program to $3.75 billion per year. The success of the Bridge Program is dramatic—in four years, there has been a 15 percent drop in deficient bridges—from 111,200 in 1990 to 94,800 in 1994. I believe broad consensus exists to strengthen this important program that has already done so much to preserve our existing bridge infrastructure.

Finally, the ISTEA Reauthorization Act fully funds the Interstate Highway Reimbursement Program at $2 billion per year. The Federal-Aid Highway Act of 1956 provided for the Federal Government to fund the construction of the Interstate Highway System with a Federal-State share of 90–10. At that time a number of States had, at their own expense, already constructed a total of 10,859 miles of highways that later became part of the Interstate System.

As a result, Congress tasked the Bureau of Public Roads with determining the cost of reimbursing States for those segments, and the Bureau arrived at a figure of $5 billion in 1957 dollars. ISTEA used that figure, adjusted to $30 billion in 1991 dollars, and established a 15-year repayment schedule. The ISTEA Reauthorization Act retains this program, which is a matter of basic equity and provides urgently needed funds for those highways that are the oldest and among the most heavily used portions of the Interstate System.

These programs are essentially, but I do hope that as Congress considers reauthorization of ISTEA, we can ask the question once again, "What now?"

Congress must focus on increasing the U.S. investment in transportation infrastructure. The United States has watched our European and Asian competitors finance and build innovative transportation infrastructure that is the envy of the world. As the budget process gets underway this year, we will need innovative financing ideas to leverage scarce Federal dollars and address our chronic multi-billion dollar underinvestment in U.S. roads, bridges, rails, ports, and transit systems.

We must also search for new technologies and innovations—like Magnetic-Levitation trains [maglev] and Intelligent Transportation Systems [ITS]—to solve our congestion and air quality problems without pouring ever more concrete. The railroad represents an early 19th century technology, the automobile an early 20th century technology; we need new modes of transportation for the next century.

Today, maglev trains run in Bremen, but not in New York, where the maglev concept was first conceived in 1960 by a young Brookhaven scientist, James Powell, as he sat mired in traffic on the Bronx-Whitestone Bridge. In truth, today most of the meager Federal transportation research and development resources are going for improvements in existing highways, and not into other modes such as rail and transit, where I suspect we can achieve much greater economic and environmental returns.

As we determine the course for this bill, I also wish to address the so-called donor State issue. To distribute Federal transportation funds primarily upon the ability of each State to collect fuel taxes, as advocated by representatives of the donor States, would run counter to whole concept of federalism, which is based on collecting national resources to address national needs. When California has an earthquake, or Florida has a hurricane, or the Mississippi River floods its banks, the entire Nation addresses these needs, without considering whether the needed funds were raised in the affected States. Every other Federal program—from crop supports to water reclamation projects to airport improvement grants—distributes funds on the basis of need.

For example, in response to the Savings & Loan crisis, the Resolution Trust Corp. was formed to help bail out depositors, but each State did not contribute according to the amount of dollars lost in that State. If such an approach had been taken, Texas alone would have faced costs of over $26 billion, while the cost to New York would have been only $3 billion. Under our Federal system, which allocates national resources to meet national needs, the taxpayers of New York shouldered a significant portion of Texas's burden. The cosponsors of the ISTEA Reauthorization Act, most of them from donor States in the larger scheme of the balance of Federal payments, reject the idea that gasoline taxes should be distributed according to where they are collected.

Furthermore, some of the highway bill proposals put forth this year, which distribute up to 60 percent of transportation funding on the basis of where the gas taxes were collected, thwart our national environmental efforts. These bills reward States with high gas consumption, and punish States that conserve fuel and invest in mass transit. Under these proposals, a State that invests in a new bus or rail line, or in other improvements that reduce traffic congestion and improve air quality, would receive less transportation money as gas consumption falls.

As a Nation we have made clean air and reduced dependence on foreign oil two major priorities—these bills threaten to undo the progress we have made. In 1944, the United States exported oil. In 1956, we imported only 11.5 percent of consumption. Today, we import nearly 50 percent of the oil we consume. It could be said that the biggest single effect of the Interstate Highway System has been in the field of American foreign policy. We are a nation that absolutely must have foreign oil, and must shape our defense and foreign policies accordingly. We must strive to keep that dependency to a minimum. The sponsors of the ISTEA Reauthorization Act of 1997 are committed to that goal.

We are also committed to working with other Members, including our distinguished colleagues on the Transportation and Infrastructure Subcommittee, Senators WARNER and BAUCUS, who have both put forth their own proposals for reauthorizing ISTEA. Each coalition's bill reflects, to a greater or lesser extent, the interests of its own member States and regions, and I am confident that all will ultimately contribute to a transportation bill that best serves the Nation.

I ask unanimous consent that the text of the ISTEA Reauthorization Act of 1997 legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 586

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "ISTEA Reauthorization Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Authorization of appropriations.
Sec. 4. National Highway System.
Sec. 5. Congestion mitigation and air quality improvement program.
Sec. 6. Surface transportation program.
Sec. 7. Bridge program.
Sec. 8. Minimum allocation.
Sec. 9. Reimbursement program.
Sec. 10. Apportionment adjustments.
Sec. 11. Research programs.
Sec. 12. Scenic byways program.
Sec. 13. Ferry boats and terminals.
Sec. 14. National recreational trails program.
Sec. 15. Transportation and land use initiative.
Sec. 16. Appalachian development highway system.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) (referred to in this section as "ISTEA") was the result of a bipartisan and multiregional consensus to change transportation policy by giving States and localities more flexibility in spending Federal funds while still pursuing important national goals;

(2) the Federal Government has an important role to play in helping to fund transportation improvements and ensuring that a national focus remains on national goals such as mobility, connectivity and integrity of the transportation system, safety, research, air quality, global and national economic competitiveness, and improved quality of life;

(3) this role as funding partner and policymaker—

(A) should nurture State and local flexibility in using funds to solve problems creatively; and

(B) should relieve the States of burdensome regulation and review procedures that slow down project implementation without adding value;

(4)(A) the economic health of the United States and of the metropolitan and rural areas in the United States depends on—

(i) a strong transit program funded above fiscal year 1997 levels; and

(ii) dedicated support for intercity passenger rail; and

(B) this Act should be accompanied by companion legislation to provide for the needs described in subparagraph (A);

(5) the funding programs authorized by ISTEA were visionary and will continue to influence transportation into the future;

(6) the partnerships between the Federal Government and State and local governments, and between the public and private sectors, that were reaffirmed and strengthened by ISTEA are helping to improve transportation investment and transportation policy choices; and

(7) it is in the interest of the United States as a whole to—

(A) reauthorize ISTEA in 1997 with refinements but without significant changes, and without eliminating current funding categories;

(B) authorize the maximum feasible level of funding for ISTEA programs;

(C) allocate these funds among the States based primarily on need, with adjustments to be considered to reflect—

(i) system usage;

(ii) system extent; and

(iii) historic distribution patterns;

(D) preserve and strengthen the partnerships among the Federal Government, State governments, local governments, and the private sector;

(E) minimize prescriptive Federal regulation that is unnecessary and eliminate regulatory duplication between the Federal Government and State governments;

(F) increase flexibility to address intermodal projects; and

(G) provide a separate adequately funded transit program.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For the purpose of carrying out title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of title 23, United States Code, $5,600,000,000 for each of fiscal years 1998 through 2003.

(2) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of that title $5,250,000,000 for each of fiscal years 1998 through 2003.

(3) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title $5,250,000,000 for each of fiscal years 1998 through 2003.

(4) BRIDGE PROGRAM.—For the highway bridge replacement and rehabilitation program under section 144 of that title $3,750,000,000 for each of fiscal years 1998 through 2003.

(5) Congestion mitigation and air quality improvement program.—For the congestion mitigation and air quality improvement program under section 149 of that title $2,000,000,000 for each of fiscal years 1998 through 2003.

(6) Minimum allocation.—For the minimum allocation program under section 157 of that title $830,000,000 for each of fiscal years 1998 through 2003. Such sums shall not be subject to subsection (a) or (f) of section 104 of title 23, United States Code.

(7) Apportionment adjustments.—For apportionment adjustments under section 10 $470,000,000 for each of fiscal years 1998 through 2003. Such sums shall not be subject to subsection (a) or (f) of section 104 of title 23, United States Code.

(8) Interstate reimbursement program.—For reimbursement for segments of the Interstate System constructed without Federal assistance under section 160 of that title $2,050,000,000 for each of fiscal years 1998 through 2003.

(9) Federal lands highways program.—

(A) Indian reservation roads.—For Indian reservation roads under section 204 of that title $210,000,000 for each of fiscal years 1998 through 2003.

(B) Public lands highways.—For public lands highways under section 204 of that title $215,000,000 for each of fiscal years 1998 through 2003.

(C) Parkways and park roads.—For parkways and park roads under section 204 of that title $100,000,000 for each of fiscal years 1998 through 2003.

(10) FHWA highway safety programs.—For carrying out section 402 of that title by the Federal Highway Administration $25,000,000 for each of fiscal years 1998 through 2003.

(11) FHWA highway safety research and development.—For carrying out section 403 of that title by the Federal Highway Administration $10,000,000 for each of fiscal years 1998 through 2003.

(b) Limitation on Obligations.—Notwithstanding any other provision of law, any limitation on obligations established for any of fiscal years 1998 through 2003 for funds apportioned or allocated from the Highway Trust Fund (other than the Mass Transit Account) shall apply equally to all such apportionments and allocations, except that no such limitation shall apply to any allocation made under section 125 of title 23, United States Code, for emergency relief.

SEC. 4. NATIONAL HIGHWAY SYSTEM.

(a) In General.—Section 104(b) of title 23, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) National highway system.—For the National Highway System, 1 percent to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands and the remaining 99 percent apportioned as follows:

"(A)⅓ of the remaining apportionments in the ratio that—

"(i) the total vehicle miles traveled on public highways in each State; bears to

"(ii) the total vehicle miles traveled on public highways in all States;

"(B)⅓ of the remaining apportionments in the ratio that—

"(i) the total lane miles of public highways in each State; bears to

"(ii) the total lane miles of public highways in all States; and

"(C)⅓ of the remaining apportionments in equal amounts to each State.".

(b) Set Aside for 4R Projects.—Section 118(c)(2)(A) of title 23, United States Code, is amended in the first sentence—

(1) by striking "1996, and" and inserting "1996,"; and

(2) by inserting after "1997" the following: ", and $100,000,000 for each of fiscal years 1998 through 2003".

SEC. 5. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) Adjustment for New Nonattainment Areas.—

(1) Report.—Not later than April 1, 2000, the Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall—

(A) prepare a report containing recommended adjustments to the formula used to apportion funds for the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code, and the amount apportioned for the program, to reflect changes, since the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240), in—

(i) national ambient air quality standards under the Clean Air Act (42 U.S.C. 7401 et seq.); and

(ii) the emission control requirements that result from the standards; and

(B) submit the report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) Adoption of new formula and apportionments.—

(A) Effect of failure to adopt.—Notwithstanding any other provision of law, if, by September 30, 2000, the recommendations contained in the report described in paragraph (1) have not been enacted into law, as proposed in the report or as amended by Congress, the Secretary of Transportation shall withhold 10 percent of the apportionments otherwise required to be made under title 23, United States Code, on October 1, 2000.

(B) Effect of later adoption.—The Secretary shall apportion the amount withheld under subparagraph (A) upon the enactment of a law described in subparagraph (A).

(b) Particulate Matter.—Section 104(b)(2) of title 23, United States Code, is amended—

(1) by redesignating subparagraphs (A) through (E) as clauses (i) through (v), respectively, and indenting appropriately;

(2) by striking "For the congestion mitigation and air quality improvement program, in the ratio which" and inserting the following:

"(A) In general.—For the congestion mitigation and air quality improvement program in accordance with subparagraphs (B) and (C).

"(B) Weighted nonattainment area population.—The Secretary shall apportion 90 percent of the remainder of the sums authorized to be appropriated for expenditure on the program in the ratio that";

(3) in subparagraph (B) (as so designated)—

(A) by striking "such subpart." in clause (v) and all that follows through "the area was" and inserting the following: "such subpart.

If the area was"; and

(B) in the sentence beginning with "If the area", by striking "paragraph" and inserting "subparagraph";

(4) by striking the sentence beginning with "Notwithstanding any provision" and inserting the following:

"(C) Particulate matter.—The Secretary shall apportion 10 percent of the remainder of the sums authorized to be appropriated for expenditure on the program in the ratio that—

"(i) the population of all areas that are nonattainment under the Clean Air Act (42 U.S.C. 7401 et seq.) for particulate matter with an aerodynamic diameter smaller than or equal to 10 micrometers (known as 'PM–10') in each State; bears to

"(ii) the population of all such areas in all States.";

(5) in the next-to-last sentence, by striking "Notwithstanding" and inserting the following:

"(D) Minimum apportionment.—Notwithstanding"; and

(6) in the last sentence, by striking "The Secretary" and inserting the following:

"(E) Determination of population.—In determining population for the purpose of this paragraph, the Secretary".

(c) Increased Flexibility.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (3), by striking "or" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(5) if the project or program will have air quality benefits and consists of—

"(A) construction, reconstruction, or rehabilitation of, or operational improvements for, intercity rail passenger facilities (including facilities owned by the National Railroad Passenger Corporation);

"(B) operation of intercity rail passenger trains; or

"(C) acquisition or remanufacture of rolling stock for intercity rail passenger service; except that not more than 50 percent of the funds apportioned to a State for a fiscal year under section 104(b)(2) may be obligated for operations.".

SEC. 6. SURFACE TRANSPORTATION PROGRAM.

(a) Apportionment Formula.—Section 104(b) of title 23, United States Code, is amended by striking paragraph (3) and inserting the following:

"(3) Surface transportation program.—

"(A) In general.—For the surface transportation program, in the ratio that—

"(i) the total lane miles of public highways in each State multiplied by the relative intensity of use of public highways in the State; bears to

"(ii) the sum of—

"(I) the total lane miles of public highways in each State; multiplied by

"(II) the relative intensity of use of public highways in the State.

"(B) Determination of relative intensity of use.—For the purpose of subparagraph (A), the relative intensity of use of public highways in a State shall be determined by dividing—

"(i) the vehicle miles traveled on public highways in the State per lane mile of public highways in the State during the latest 1-year-period for which data are available; by

"(ii) the vehicle miles traveled on public highways in all States per lane mile of public highways in all States during that period.

"(C) Minimum apportionment.—Notwithstanding any other provision of this paragraph, for each fiscal year, each State shall receive an apportionment under this paragraph of not less than½ of 1 percent of all funds apportioned under this paragraph for the fiscal year.".

(b) Increased Flexibility.—Section 133(b) of title 23, United States Code, is amended by adding at the end the following:

"(12) Construction, reconstruction, and rehabilitation of, and operational improvements for, intercity rail passenger facilities (including facilities owned by the National

Railroad Passenger Corporation), operation of intercity rail passenger trains, and acquisition or remanufacture of rolling stock for intercity rail passenger service, except that not more than 50 percent of the funds apportioned to a State for a fiscal year under section 104(b)(3) may be obligated for operations.".

(c) ALLOCATION OF OBLIGATION AUTHORITY.—Section 133(f) of title 23, United States Code, is amended by striking "6-fiscal year period 1992 through 1997" and inserting "6-fiscal-year period 1998 through 2003".

SEC. 7. BRIDGE PROGRAM.

(a) MINIMUM APPORTIONMENT.—Section 144(e) of title 23, United States Code, is amended in the fifth sentence by striking "0.25" and inserting "0.5".

(b) AUTHORIZATIONS FOR DISCRETIONARY PROGRAM.—Section 144(g) of title 23, United States Code, is by striking paragraph (1) and inserting the following:

"(1) DISCRETIONARY BRIDGE PROGRAM.—

"(A) IN GENERAL.—For each of fiscal years 1998 through 2003, of the amounts authorized to be appropriated to carry out this section, all but $100,000,000 in the case of each such fiscal year shall be apportioned as provided in subsection (e).

"(B) RESERVED AMOUNT.—For each of fiscal years 1998 through 2003, of the $100,000,000 referred to in subparagraph (A)—

"(i) $90,000,000 shall be allocated at the discretion of the Secretary on the same date and in the same manner as funds apportioned under subsection (e); and

"(ii) $10,000,000 shall be allocated by the Secretary in accordance with section 1039 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 144 note; 105 Stat. 1990).".

(c) CONFORMING AMENDMENT.—Section 1039(e) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 144 note; 105 Stat. 1991) is amended by striking "1992, 1993," and all that follows and inserting the following: "1998 through 2003, $1,500,000 shall be available to the Secretary to carry out subsections (a) and (b), and $8,500,000 shall be available to the Secretary to carry out subsection (c). Such sums shall remain available until expended.".

SEC. 8. MINIMUM ALLOCATION.

Section 157 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (4), by striking the paragraph designation and all that follows before "on October 1" and inserting the following:

"(4) FISCAL YEARS 1992–1997.—In each of fiscal years 1992 through 1997,"; and

(B) by adding at the end the following:

"(5) FISCAL YEAR 1998 AND THEREAFTER.—

"(A) DETERMINATION OF AMOUNTS.—In fiscal year 1998 and each fiscal year thereafter on October 1, or as soon as practicable thereafter, the Secretary shall determine what amount of funds would be required to ensure that a State's percentage of the total apportionments in each such fiscal year and allocations for the prior fiscal year for—

"(i) the National Highway System under section 103;

"(ii) the Interstate maintenance program under section 119;

"(iii) the surface transportation program under section 133;

"(iv) the bridge program under section 144;

"(v) the congestion mitigation and air quality improvement program under section 149;

"(vi) grants for safety belts and motorcycle helmets under section 153;

"(vii) the Interstate reimbursement program under section 160; and

"(viii) the scenic byways program under section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1996);

is not less than 90 percent of the percentage that the population of the State is of the population of the United States.

"(B) APPORTIONMENT.—After determining the amounts of funds under subparagraph (A), the Secretary shall apportion the funds authorized to carry out this section to each State in the ratio that the amount determined for the State under subparagraph (A) bears to the total amount determined for all States under subparagraph (A).";

(2) in subsection (b), by striking the last 2 sentences and inserting the following: "Funds apportioned under this section shall be subject to any limitation on obligations established for Federal-aid highways and highway safety construction programs."; and

(3) by striking subsection (e) and inserting the following:

"(e) DEFINITION OF STATE.—Notwithstanding any other provision of this title, in this section, the term 'State' means each of the 50 States.".

SEC. 9. REIMBURSEMENT PROGRAM.

Section 160 of title 23, United States Code, is amended—

(1) in subsection (a), by striking "The Secretary shall allocate to the States in each of fiscal years 1996 and 1997" and inserting "For any fiscal year for which funds are authorized to carry out this section, the Secretary shall allocate to the States"; and

(2) in subsection (b), by striking "each of fiscal years 1996 and 1997" and inserting "each fiscal year described in subsection (a)".

SEC. 10. APPORTIONMENT ADJUSTMENTS.

(a) DEFINITION OF STATE.—In this section, the term "State" means each of the 50 States.

(b) DENSITY ADJUSTMENT.—

(1) IN GENERAL.—Subject to subsection (d), in the case of any State eligible for a density adjustment under paragraph (3), the amount of funds apportioned to the State for the surface transportation program under section 133 of title 23, United States Code, for each of fiscal years 1998 through 2003—

(A) shall be increased as necessary to ensure that the percentage obtained by dividing—

(i) the total apportionments to the State for the fiscal year for Federal-aid highways and highway safety construction programs; by

(ii) the total of all apportionments to all States for the fiscal year for Federal-aid highways and highway safety construction programs;

is not less than the minimum percentage for the State determined under paragraph (2); and

(B) shall be increased as necessary to ensure that the State receives an increased apportionment under subparagraph (A) of not less than $5,000,000.

(2) MINIMUM PERCENTAGE.—The minimum percentage referred to in paragraph (1)(A) for a State shall be equal to the State's percentage of the total apportionments and allocations during fiscal years 1992 through 1997 under title 23, United States Code, the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240), and the National Highway System Designation Act of 1995 (Public Law 104–59), excluding apportionments and allocations made for—

(A) Interstate construction under section 104(b)(5)(A);

(B) emergency relief under section 125;

(C) the Federal lands highways program under section 204;

(D) donor State bonus amounts under section 1013(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 157 note; 105 Stat. 1940);

(E) Kansas projects under section 1014(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1942);

(F) hold harmless adjustments under section 1015(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943);

(G) 90 percent of payment adjustments under section 1015(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1944); and

(H) demonstration projects under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240).

(3) ELIGIBLE STATES.—A State shall be eligible for a density adjustment under this subsection if the State—

(A) has a population density of less than 20 persons per square mile or more than 450 persons per square mile; or

(B) is an island State completely separated from the continental United States by water.

(c) MINIMUM APPORTIONMENT ADJUSTMENT.—Subject to subsection (d), the amount of funds apportioned to a State for the surface transportation program under section 133 for each of fiscal years 1998 through 2003 shall be increased as necessary to ensure that—

(1) the sum of—

(A) the total apportionments to the State for the fiscal year; and

(B) the total allocations, authorized by this Act, to the State for the previous fiscal year;

for Federal-aid highways and highway safety construction programs (excluding apportionments and allocations for emergency relief under section 125 and for Federal lands highways under section 204); is not less than

(2)(A)½ of 1 percent of the sum of—

(i) the total of all apportionments described in paragraph (1) to all States for the fiscal year; and

(ii) the total of all allocations described in paragraph (1) to all States for the previous fiscal year; or

(B) 90 percent of the total of all apportionments described in paragraph (1) to the State for fiscal year 1997.

(d) LIMITATION ON APPORTIONMENT ADJUSTMENTS.—If the amounts authorized to be appropriated for apportionment adjustments under this section for a fiscal year are insufficient to fund the increased apportionments required by subsections (b) and (c) for the fiscal year, the increased apportionment for each State shall be reduced proportionately.

SEC. 11. RESEARCH PROGRAMS.

(a) STRATEGIC HIGHWAY RESEARCH PROGRAM.—Section 307(b)(2)(B) of title 23, United States Code, is amended by striking "1994, 1995, 1996 and 1997" and inserting "1994 through 2003".

(b) APPLIED RESEARCH PROGRAM.—Section 307(e)(13) of title 23, United States Code, is amended in the first sentence by striking "1993, 1994, 1995, 1996, and 1997" and inserting "1993 through 2003".

(c) INTELLIGENT TRANSPORTATION SYSTEMS.—Section 6058 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 307 note; 105 Stat. 2191) is amended—

(1) in subsection (a), by striking "1997" and inserting "2003"; and

(2) in subsection (b), by striking "1997" and inserting "2003".

SEC. 12. SCENIC BYWAYS PROGRAM.

Section 1047(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1996) is amended by striking "1995, 1996, and 1997" and inserting "1995 through 2003".

SEC. 13. FERRY BOATS AND TERMINALS.

Section 1064(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 129 note; 105 Stat. 2005) is amended by striking "fiscal year 1997" and inserting "each of fiscal years 1997 through 2003".

SEC. 14. NATIONAL RECREATIONAL TRAILS PROGRAM.

Section 1302(d)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261(d)(3)) is amended by striking "shall not exceed" and all that follows and inserting "shall not exceed $30,000,000 for each of fiscal years 1992 through 2003.".

SEC. 15. TRANSPORTATION AND LAND USE INITIATIVE.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 307 the following:

"§ 307A. Transportation and land use initiative

"(a) ESTABLISHMENT.—The Secretary shall establish a comprehensive initiative to investigate, understand, and, in cooperation with appropriate State, regional, and local authorities, address the relationships between transportation and land use.

"(b) TRANSPORTATION AND LAND USE RESEARCH.—

"(1) IN GENERAL.—The Secretary, in cooperation with appropriate Federal, State, regional, and local agencies and experts, including States and other entities eligible for assistance under subsection (d), shall develop and carry out a comprehensive research program to investigate and understand the relationships between transportation, land use, and the environment.

"(2) FUNDING.—For each of fiscal years 1998 through 2003, of the sum deducted by the Secretary under section 104(a), not less than $1,000,000 shall be made available to carry out this subsection.

"(c) TRANSPORTATION AND LAND USE PLANNING GRANTS.—

"(1) APPLICATIONS.—The Secretary shall solicit applications for transportation and land use planning grants under this subsection from State, regional, and local agencies, individually or in the form of consortia, to plan, develop, implement, and monitor strategies to integrate transportation and land use plans and practices.

"(2) PURPOSES.—The purposes of grants under this subsection shall be—

"(A) to support initiatives to reduce the need for costly future highway investments;

"(B) to provide access to jobs, services, recreational and educational opportunities, and centers of trade, in a cost-effective and efficient manner;

"(C) to otherwise improve the efficiency of the transportation system; and

"(D) to avoid, minimize, or mitigate the environmental impacts of transportation projects.

"(3) PREFERENCES.—In selecting recipients of grants under this subsection, the Secretary shall give preference to applicants that—

"(A) are agencies that have significant responsibilities for transportation and land use; and

"(B) submit applications that—

"(i) demonstrate a commitment to public involvement; and

"(ii) demonstrate a meaningful commitment of non-Federal resources to support the efforts of the project team.

"(4) NUMBER.—For each fiscal year, the Secretary shall make not more than 5 grants under this subsection.

"(5) MAXIMUM AMOUNT.—A grant made under this subsection for a fiscal year shall be in an amount not greater than $1,000,000.

"(d) TRANSPORTATION AND LAND USE POLICY GRANTS.—

"(1) IN GENERAL.—The Secretary may make transportation and land use policy grants to State agencies, metropolitan planning organizations, and local governments to—

"(A) recognize significant progress in integrating transportation and land use plans and programs; and

"(B) further aid in the implementation of the programs.

"(2) PREFERENCES.—In selecting recipients of grants under this subsection, the Secretary shall give preference to applicants that—

"(A) have instituted transportation processes, plans, and programs that—

"(i) are coordinated with adopted State land use policies; and

"(ii) are intended to reduce the need for costly future highway investments through adopted State land use policies;

"(B) have instituted other policies to promote the integration of land use and transportation, such as—

"(i) 'green corridors' programs that limit access to major highway corridors to areas targeted for efficient and compact development;

"(ii) urban growth boundaries to guide metropolitan expansion;

"(iii) State spending policies that target funds to areas targeted for growth; and

"(iv) other such programs or policies as determined by the Secretary; and

"(C) have adopted land use policies that include a mechanism for assessing and avoiding, minimizing, or mitigating potential impacts of transportation development activities on the environment.

"(3) USE OF GRANT FUNDS.—Grants made under this subsection shall be available for obligation for—

"(A) any project eligible for funding under this title or title 49; and

"(B) any other activity relating to transportation and land use that the Secretary determines appropriate, including purchase of land or development easements and activities that are necessary to implement—

"(i) transit-oriented development plans;

"(ii) traffic calming measures; or

"(iii) any other coordinated transportation and land use policy.

"(4) MINIMUM AMOUNT.—A grant made under this subsection for a fiscal year shall be in an amount not less than $10,000,000.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account)—

"(1) to carry out subsection (c) $3,000,000 for each of fiscal years 1998 through 2003; and

"(2) to carry out subsection (d) $50,000,000 for each of fiscal years 1998 through 2003.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 307 the following:

"307A. Transportation and land use initiative.".

SEC. 16. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) AUTHORIZATION.—

(1) IN GENERAL.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for construction of the Appalachian development highway system authorized by section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) $425,000,000 for each of fiscal years 1998 through 2003.

(2) TRANSFER AND ADMINISTRATION OF FUNDS.—The Secretary of Transportation shall transfer the funds made available by paragraph (1) to the Appalachian Regional Commission, which shall be responsible for the administration of the funds.

(b) FEDERAL SHARE.—The Federal share under this section shall be 80 percent.

(c) DELEGATION TO STATES.—Subject to title 23, United States Code, the Secretary of Transportation shall delegate responsibility for completion of construction of each segment of the Appalachian development highway system under this section to the State in which the segment is located, upon request of the State.

(d) ADVANCE CONSTRUCTION.—The Secretary of Transportation may make available amounts authorized by this section in the manner described in section 115(a) of title 23, United States Code.

(e) CONTRACT AUTHORITY.—Funds authorized by this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that—

(1) the Federal share of the cost of any construction under this section shall be determined in accordance with subsection (b); and

(2) the funds shall remain available until expended.

(f) OTHER STATE FUNDS.—Funds made available to a State under this section shall not be considered in determining the apportionments and allocations that any State shall be entitled to receive, under title 23, United States Code, and other law, of amounts in the Highway Trust Fund.

Mrs. BOXER. Mr. President, it is an honor for me to join today with four of the giants of the first ISTEA—Senators MOYNIHAN, CHAFEE, LAUTENBERG, and LIEBERMAN to support the ISTEA Reauthorization Act, the reauthorization of the 1991 Intermodal Surface Transportation Efficiency Act. Their vision of how we should shape transportation in this country in the postinterstate era is why we are here today to carry that vision into the next century.

The economic power of California and this Nation can only be unleashed if we invest in the means to get our workers to their jobs and our exports into international trade. This legislation not only will accomplish that vital goal but it will do so without leaving our environment in worst shape for generations to come.

At this time, Senator MOYNIHAN's bill best meets the goals that I have set for rewriting our surface transportation law. It is the best approach for California, which contributes more in Federal gas taxes than any other State. While this legislation is not what I will expect in a final bill, it is the best horse for California out of the starting gate.

I look forward to working with colleagues in committee to add provisions important to my State, including adding my legislation to provide Federal investment in border infrastructure to relieve border choke points resulting from increased trade. Senator MOYNIHAN knows this is a key issue for the border States.

Let me tell you briefly why this bill is the best for California right now:

First and foremost, this bill recognizes the responsibility that transportation bears to environmental protection by preserving the Congestion Mitigation and Air Quality Program. Nearly 26 million of California's 33 million residents live in an area that fails to meet one or more of the EPA's air quality standards. CMAQ must be preserved as a separate program targeted to those areas that need alternative transportation choices.

The bill also anticipates the adoption of new standards that will increase CMAQ funding for new nonattainment areas while protecting the funding levels of current areas. In addition, the bill preserves funding for areas that are in maintenance status, a measure that I authored in the 1995 National Highway System Designation Act to help these areas continue their path toward improved air quality.

Second, the bill uses up to date factors such as actual vehicle use and current population estimates in determining the highway funding categories. Those factors help raise California's share of funding. I will continue to work with my colleagues in the committee for a fairer share of the transportation funds for California, but this is a good start.

Third, the bill continues the Bridge Rehabilitation and Repair Program. In 1994, after the Northridge disaster, my colleagues here supported my bill that permitted this program to fund seismic retrofit projects without needing some other kind of repair first. This program is unique in that it permits such funding for local bridges.

Last, but not least, this bill carries the torch for the basic framework of ISTEA. I have heard from my local governments north to south in California that ISTEA works. Some change, yes. But the basic integrity of this law is sound. I agree with them, and I am proud to join the "ISTEA works team."

Mr. LAUTENBERG. Mr. President, I am pleased to join with Senator PATRICK MOYNIHAN, Senator JOSEPH LIEBERMAN, and 32 other Senators to introduce the ISTEA Reauthorization Act of 1997. This bill recognizes the success of the 1991 law, the Intermodal Surface Transportation Efficiency Act, by reauthorizing it with no major changes.

Mr. President, 17 Governors endorsed a statement of principles for the next surface transportation law that strongly affirmed ISTEA's goals and effectiveness in ensuring a sound national transportation infrastructure. Included in those goals were these statements: Maintain the course set by ISTEA; reauthorize ISTEA with simplification and refinement but without significant changes; allocate funds to states primarily based on needs; retain the Federal Government's role as a key transportation partner to help fund highway, bridge, and transit projects and to assure that a national focus remains on mobility, connectivity, uniformity, integrity, safety, and research. Their message was, plain and simple, ISTEA works.

Over the past few months, many others, from coast to coast, have sounded that message. Some are in the transportation business, others, such as mayors, county officials, and environmentalists are not. The drumbeat has sounded, that ISTEA works.

I strongly support that message. ISTEA was bold and innovative, and changed the way we think and make decisions about transportation. It brought the public into the process. It requires sound planning. It promotes energy efficient transportation, research and development. It strengthens safety.

It recognizes that the goal of a transportation system is how best to move goods and people, efficiently and effectively.

Mr. President, ISTEA has worked across this Nation, as witnessed by the 32 cosponsors from 17 States. ISTEA has also worked for my home State of New Jersey. ISTEA could not have had a better laboratory than New Jersey. New Jersey is a corridor State, linking commerce and travel to the Northeast and the rest of the country. New Jersey has the highest vehicle density of any State in the United States. Thousands of heavy duty trucks, only half of which are not registered in New Jersey, use New Jersey's roads.

It is a commuter State, heavily reliant on mass transit. New Jersey's transportation infrastructure is heavily used and is significantly older than many other State's. We as a State have had to be creative in finding ways to maintain the condition of the infrastructure, while improving mobility and promoting sound planning.

Improving mobility reduces congestion, which in turn, improves air quality and makes our highways safer. This means that our time is not spent in long commutes to work or stuck in traffic. We need to remember why sensible transportation funding and planning is important. It's not to satisfy some special interest. It's to remember that sound transportation systems help cope with growing communities—our neighborhoods. Sound transportation systems help to improve mobility to transport freight and promote domestic and international commerce, making our economy more efficient and creating jobs—our businesses. Sound transportation systems help to improve air quality and protect the environment—our personal health. In short, transportation can, and should, help develop liveable communities and create a better way of life.

Mr. President, ISTEA was the first step toward this goal. The ISTEA Reauthorization Act of 1997 is the next logical step to launch our Nation's transportation system into the 21st century.

The bill we are introducing today recognizes that current levels of transportation investment fall short of needs, so it increases authorized transportation funding over 6 years and continues the emphasis on preservation and maintenance of transportation systems.

The bill continues to support the scientifically proven link between transportation and air quality by bolstering the Congestion Mitigation and Air Quality Program.

The bill supports allocating transportation funds based on need, by continuing the bridge program without any changes.

The bill increases flexibility by making Amtrak eligible for certain highway funds, and maintains the flexibility for transit.

And, the bill recognizes special needs of States with both low and high density populations, by providing additional funding.

Mr. President, I would also like to comment on the effort to revise our national highway program to ensure that each State receives allocations based on a certain percentage of its gas tax contributions to the highway trust fund—the donor-donee issue. This is the wrong way to think about transportation funding. It is in the national interest to have a Federal transportation policy with national goals. That's how we promote interstate and international commerce, further economic productivity, protect the environment, and ensure safety. That's why decisions to allocate Federal transportation funding should be based on need, not on a State's contribution to the highway trust fund. We do not allocate airport improvement program funds based on the amount of ticket tax that is collected in each State. No Federal programs work that way.

However, if we choose to approach the issue in that context, then we must first recognize each State's return on the Federal dollar for all Federal programs. New Jersey receives only 68 cents of return on the Federal dollar—second to last, just ahead of Connecticut. New Jerseyans collectively contribute $15 billion more in Federal payments than they receive—that's more than $1,800 per resident.

Mr. President, if we were to adopt an across-the-board rule to require 95 percent return on Federal dollars, consider what would happen if we apply that test to other programs. New Jersey would then receive $169 million more for agriculture subsidies, $2.1 billion more of defense spending, and about $55 million more for child and family health services funding.

Mr. President, national transportation funding should continue to be allocated based on national goals and State needs like other Federal programs.

Mr. President, ISTEA has worked for our cities, our counties, our environment, and for economic development. Let us build on the success of the past and not turn the clock back on transportation progress.

Mr. LEAHY. Mr. President, 6 years ago, thanks to the leadership of Senators MOYNIHAN and COHAFEE, this Nation made a fundamental change in the way that it allocates public investment in transportation. That change was based on the premises that local people understand local needs, that funding should be flexible, and that transportation should contribute to meeting national environmental and public health goals.

I made a commitment to myself and to Vermonters that I would only sponsor legislation that embodies those three premises. Today I announce that I am proud to be an original cosponsor of the ISTEA Reauthorization Act of 1997, and I look forward to doing whatever I can to ensure that this progressive legislation makes it through the Senate and into law.

This bill maintains and enhances our transportation commitments in ways that will benefit Vermonters. I fought hard to include the provision that will allow the State of Vermont the flexibility to use Federal funds for Amtrak service. Our small State has two successful Amtrak trains, both of which operate because of the leadership shown by Governor Dean and the legislature. If this provision passes it will mean that Amtrak service in Vermont can be maintained and possibly even expanded.

This bill also protects transportation flexibility that has been so popular in Vermont. It maintains the recreational trails and scenic byways programs, and allows States to continue to use funds for bicycle transportation and pedestrian walkways. I will continue to fight for these programs in the coming months.

Finally, this bill will bring more resources to Vermont. Our small State lies on a major north-south truck route. Much of this traffic passes through Vermont without stopping for fuel. Consequently, our roads get a lot of the wear and tear that goes along with commerce, without the accompanying gas tax receipts. This legislation provides Vermont with a major boost in highway funding, so that we can better maintain and repair our existing roads.

In closing, Mr. President, I urge my colleagues who have not yet done so to join me and the bipartisan group of 32 other Senators who have committed themselves to the ISTEA reauthorization bill of 1997.

Mr. LIEBERMAN. Mr. President, I'm delighted to join with Senator MOYNIHAN and Senators LAUTENBERG, CHAFEE, DODD, and numerous other colleagues to introduce the Intermodal Surface Transportation Efficiency Reauthorization Act of 1997.

As a member of the Environment and Public Works Committee, I was proud to have worked hard with Senator MOYNIHAN and others to craft ISTEA in 1991. Without a doubt, ISTEA was the most significant and innovative transportation legislation of a generation. It recognized that our Nation is now reaching a maturing system of transportation. With our Interstate system built, ISTEA moved us to also focus on maintenance, intermodalism, efficiency, funding flexibility, and environmental protection.

So often today we hear complaints about laws and programs that don't work. ISTEA is a law that has worked and is working—very well. It's one area where we don't need to reinvent government—we did that in 1991 when we adopted ISTEA. That's why Governors, mayors, county officials, guilders unions, environmental groups, planners, businessmen and women, and others are telling us to reauthorize the law with minimal change. That was the resounding message I heard in Connecticut at a forum yesterday from a broad range of interests.

Let me spend a few minutes reviewing why ISTEA is so important.

In a very unique way, ISTEA combines this country's long-standing commitment to our national priorities—a national system of transportation central to our economic growth and our commitment to protecting and enhancing our environment—with a new emphasis on responding to local conditions, priorities, and interests and involving the public in this decisionmaking process.

The statement of policy that introduces ISTEA reminds us that the economic health of the country depends on access to an efficient transportation system. It reads as follows:

> It is the policy of the United States to develop a national intermodal transportation system that is economically efficient and environmentally sound, provides the foundation for the nation to compete in the global economy and will move people and goods in an efficient manner.

ISTEA's commitment to a national transportation system includes dedicated sources of funding to preserve, restore, and rehabilitate our Interstate highways and bridges. In many areas of the country, like my own, our infrastructure is older and densely traveled. We need dedicated sources of funding for these programs to help ensure an efficient transportation system for our entire Nation.

Second, ISTEA recognized that there is an inextricable link between transportation and the quality of our environment, particularly our air quality. Automobiles are a large contributor to our smog, carbon monoxide, and particulate matter pollution. As Americans drive more and more miles, the pollution control gains from cleaner cars get wiped out.

The Congestion Mitigation and Air Quality Improvement Program is one of the most innovative programs created under ISTEA. It is providing $1 billion per year for projects to reduce air pollution. These funds are being used to help States restore air quality to healthy levels. This program is the opposite of the so-called unfunded mandates—it provides Federal funds to help meet the requirements of the Clean Air Act. In Connecticut where our air quality is so bad, this program provides an important source of funding to help us move toward clean air. Stamford, Greenwich, and Norwalk, for example, made innovative use of these funds. Our bill would substantially increase funding for this program.

While recognizing these national priorities, ISTEA also makes nearly one-half of all funds available for State and local decisionmaking. The transportation needs of Connecticut are different from the needs of Montana, and this program allows each area to decide what's right for them, again, within the context of protecting a national transportation system. And for the first time, it allowed local decisionmakers to spend funds on either highways or transit. This leveling of the playing field between transit and highways is very important for many areas of the country, including my own.

ISTEA also created a popular program known as Transportation Enhancements which provides a small amount of funding to mitigate some of the negative effects transportation has caused for our local communities. I heard yesterday at a forum in Connecticut how funds were used from this program to restore a recreational and open space corridor along the abandoned right of way of the former Farmington Canal and the Boston and Main Railroad. This project was selected as one of the Nation's 25 best enhancement projects. We've also used funds from this program to help restore some of our coastal wetlands, to protect and enhance the landscape of our famous Merritt Parkway and for the restoration of the Route 8 and Route 15 interchanges.

We should also not forget the important process changes made by ISTEA. The law gave local decisionmakers and the public a much greater role in making the transportation decisions that so affect their communities. In Connecticut, mayors and other local elected officials strongly support this approach. In fact, I heard from mayors at a forum yesterday that ISTEA's planning provisions have led to greater cooperation between central cities and their suburban neighbors on a wide variety of issues—extending beyond transportation.

Unfortunately, despite ISTEA's record of achievement, our efforts to reauthorize it will not be easy. ISTEA is under attack. A significant number of Senators already support proposals which would eliminate many of the fundamental bases of ISTEA, including much of our commitment to a national transportation system. Instead, these proposals would turn much of the program into essentially a block grant, where I'm concerned our national priorities for our transportation system would be lost. The funds would be distributed based on how much money each State is contributing to the Highway Trust Fund in gasoline taxes rather than looking to the Nation's infrastructure needs and also focusing funding on those systems that require preservation and enhancement. In short, these proposals would largely abandon the Federal role in transportation which is so essential to support national economic growth, global competitiveness, and the quality of life in our communities.

I congratulate my friend and colleague Senator MOYNIHAN and his staff for their outstanding work in putting this bill together. I look forward to working with him and my other colleagues as we move through this process.

Mr. KENNEDY. Mr. President, I join in commending Senator MOYNIHAN and the other bipartisan sponsors for their leadership on this important issue. The stakes are very high. The strength of our economy is directly tied to the quality of our transportation. This is no time to turn back the clock on ISTEA and its well-balanced commitment to seven key points: Highways; public transit; environmental protection; bikeways, recreational trails, and historic preservation; computerized traffic management; safety; and a strong voice for local communities in the allocation of funds.

In all of these areas, ISTEA has worked well and deserves to be continued.

This is our reply to the STEP 21 coalition and the Western coalition. Their proposals are blatant schemes to gerrymander the funding formula against our States and undermine other key aspects of ISTEA, and they're not acceptable.

They say their States should get back from the Treasury in ISTEA funds what they pay into the Treasury in gas tax revenues. But that kind of tunnel vision is distorting this debate. It's wrong to focus narrowly just on transportation spending versus gas tax revenues. The only fair comparison is between overall Federal spending that goes into a State, and the overall Federal tax revenues that come from that State.

By that standard, our States are donor States. We send more to Washington than we get back in return. The States complaining the loudest about not getting their fair share of Federal transportation dollars are huge net winners in the overall picture. They get back far more in Federal spending than they pay into the Treasury. And they're trying to grab even more through ISTEA. I say, they should keep their hands out of the ISTEA cookie jar.

We have enormous transportation needs in our States, and those needs deserve strong Federal support. Working together, we intend to do all we can to chart a fair transportation course for the coming years. I look forward to that challenge and to our successful efforts together.

Ms. MOSELEY-BRAUN. Mr. President, I am honored to join my colleague from New York, Senator MOYNIHAN, and Senator LAUTENBERG, Senator LIEBERMAN, and many others today to introduce the ISTEA Reauthorization Act of 1997. This law builds on the success of the last 6 years of ISTEA, and will guide more than $175 billion in Federal highway spending over the next 6 years.

Few laws we enact this year will have as much of an immediate and significant effect on our economy than the ISTEA reauthorization bill. The transportation industry employs 12 million people, consumes 20 percent of total household spending, and accounts for 11 percent of our Nation's total economic activity. Highways are the most important component of our transportation infrastructure, and their use is growing. Between 1984 and 1994, U.S. motor vehicle travel increased 37.5 percent.

Over the past 6 years, the Intermodal Surface Transportation and Efficiency Act has provided the basis for a strong Federal-State-local partnership to help the Nation meet its transportation needs. It has directed $157 billion into highways, mass transit, and related transportation priorities nationwide. It is one of the most successful intergovernmental partnerships in American history. Under ISTEA, we completed the system of Interstate and Defense Highways begun by President Eisenhower 40 years ago, defined the National Highway System that will help prioritize highway improvements for decades to come, and coordinated planning among different transportation modes.

ISTEA has improved the capacity and overall condition of our transportation infrastructure. According to the U.S. Department of Transportation, our highways and bridges are in better shape than they were a few years ago. Our environment is in better condition too, thanks to ISTEA innovations like the congestion mitigation and air quality and transportation enhancement programs.

Despite our success, we continue to face enormous challenges over the next 6 years to maintain and improve our highways and bridges. Over this time, it will cost an estimated $148.5 billion just to maintain the current physical conditions of our highways. Every year, we must renew 100,000 miles of highways in order to maintain current pavement conditions.

My own State of Illinois will need several billion dollars to repair aging roads and bridges. According to some estimates, nearly 43 percent of Illinois roads need repair, and almost one-fourth of Illinois bridges are in substandard condition. Every year, Illinois motorists pay an estimated $1 billion in vehicle wear and tear and other expenses associated with poor road conditions.

In Chicago, the transportation hub of the Nation, the traffic flow on some of the major arterial highways has increased seven-fold since they were built in the 1950's and 1960's. According to a recent study, Chicago is the fifth most congested city in the Nation. The typical Chicago-area driver wastes 34 hours every year sitting still in traffic jams, and pays $470 a year in lost time and wasted fuel.

In order to meet the transportation infrastructure needs of Illinois and the Nation, the Federal Government must continue to play a lead role in the ongoing partnership to improve America's highways. If there were ever a legislative case in point for the saying, "If it's not broken, don't fix it," ISTEA is it.

The ISTEA Reauthorization Act of 1997 is a simple bill. It builds on the success of the last 6 years. It does not represent a set of major policy changes. It provides a significant increase in funding over ISTEA levels, updates some of the funding formulas, and increases flexibility for States, all within the constructs defined by ISTEA. I hope the Environment and Public Works Committee will use this bill as the basis for its deliberations on ISTEA reauthorization, and I urge all of my colleagues to join us in sponsoring this important legislation.

I want to point out that this legislation does not reauthorize the mass transit half of ISTEA. That job falls on the Banking Committee. I look forward to working with my colleagues on the committee and with others who have a strong interest in transit to ensure the next 6 years of transit policy also mirror the successful framework of transit policy defined by ISTEA.

As we head into the 21st century, we must continue to maintain and improve America's transportation infrastructure. In the global economy, one of the things that makes our products competitive is our ability to move freight across the country cheaply and efficiently. The ISTEA Reauthorization Act of 1997 will accomplish that goal by continuing the success of ISTEA into the next 6 years.

ADDITIONAL COSPONSORS

S. 1

At the request of Mr. COVERDELL, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1, a bill to provide for safe and affordable schools.

S. 25

At the request of Mr. FEINGOLD, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 25, a bill to reform the financing of Federal elections.

S. 66

At the request of Mr. HATCH, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 66, a bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes.

S. 181

At the request of Mr. GRASSLEY, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 181, a bill to amend the Internal Revenue Code of 1986 to provide that installment sales of certain farmers not be treated as a preference item for purposes of the alternative minimum tax.

S. 194

At the request of Mr. CHAFEE, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 194, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly-traded stock to certain private foundations and for other purposes.

S. 255

At the request of Mr. MCCAIN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 255, a bill to amend the Communications Act of 1934 to provide for the reallocation and auction of a portion of the electromagnetic spectrum to enhance law enforcement and public safety telecommunications, and for other purposes.

S. 261

At the request of Mr. DOMENICI, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 261, a bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.

S. 365

At the request of Mr. COVERDELL, the names of the Senator from Texas [Mr. GRAMM], the Senator from Colorado [Mr. ALLARD], the Senator from Missouri [Mr. ASHCROFT], the Senator from Washington [Mr. GORTON], the Senator from Ohio [Mr. DEWINE], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 365, a bill to amend the Internal Revenue Code of 1986 to provide for increased accountability by Internal Revenue Service agents and other Federal Government officials in tax collection practices and procedures, and for other purposes.

S. 377

At the request of Mr. BURNS, the name of the Senator from Wyoming [Mr. ENZI] was added as a cosponsor of S. 377, a bill to promote electronic commerce by facilitating the use of strong encryption, and for other purposes.

S. 387

At the request of Mr. HATCH, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software.

S. 404

At the request of Mr. BOND, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 404, a bill to modify the budget process to provide for separate budget treatment of the dedicated tax revenues deposited in the Highway Trust Fund.

S. 492

At the request of Mr. SARBANES, the names of the Senator from Kentucky [Mr. FORD] and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 492, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

S. 494

At the request of Mr. KYL, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 494, a bill to combat the overutilization of prison health care services and control rising prisoner health care costs.

S. 521

At the request of Mr. COVERDELL, the names of the Senator from Missouri [Mr. ASHCROFT], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Ohio [Mr. DEWINE] were added as cosponsors of S. 521, a bill to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes.

S. 522

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 522, a bill to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes.

At the request of Mr. BRYAN, his name was added as a cosponsor of S. 522, supra.

At the request of Mr. COVERDELL, the names of the Senator from Texas [Mr. GRAMM], the Senator from Florida [Mr. MACK], the Senator from Colorado [Mr. ALLARD], the Senator from Missouri [Mr. ASHCROFT], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Ohio [Mr. DEWINE], the Senator from Colorado [Mr. CAMPBELL], the Senator from Idaho [Mr. CRAIG], the Senator from Wisconsin [Mr. KOHL], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 522, supra.

S. 525

At the request of Mr. KENNEDY, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 525, a bill to amend the Public Health Service Act to provide access to health care insurance coverage for children.

S. 526

At the request of Mr. KENNEDY, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 526, a bill to amend the Internal Revenue Code of 1986 to increase the excise taxes on tobacco products for the purpose of offsetting the Federal budgetary costs associated with the Child Health Insurance and Lower Deficit Act.

S. 528

At the request of Mr. CAMPBELL, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 528, a bill to require the display of the POW/MIA flag on various occasions and in various locations.

S. 529

At the request of Mr. GRASSLEY, the names of the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Colorado [Mr. ALLARD], and the Senator from Kansas [Mr. ROBERTS] were added as cosponsors of S. 529, a bill to amend the Internal Revenue Code of 1986 to exclude certain farm rental income from net earnings from self-employment if the taxpayer enters into a lease agreement relating to such income.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE JOINT RESOLUTION 11

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Joint Resolution 11, a joint resolution commemorating "Juneteenth Independence Day," June 19, 1865, the day on which slavery finally came to an end in the United States.

SENATE RESOLUTION 70

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Resolution 70, a resolution expressing the sense of the Senate regarding equal pay for equal work.

SENATE RESOLUTION 72--RELATIVE TO SENATE FLOOR ACCESS

Mr. LOTT (for himself, Mr. WYDEN, Mr. REID, Mr. WELLSTONE, Mr. MURKOWSKI, and Mr. BRYAN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 72

Resolved, That an individual with a disability who has or is granted the privilege of the Senate floor may bring such supporting services on the Senate floor, which the Senate Sergeant At Arms determines are necessary and appropriate to assist such disabled individuals in discharging the official duties of his or her position until the Committee on Rules and Administration has the opportunity to fully consider a permanent rules change.

SENATE RESOLUTION 73—TO DECLARE THE NEED FOR TAX RELIEF

Mr. LOTT submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 73

SECTION 1. FINDINGS.

The Senate finds that:

(1) The total tax burden on the American family in 1996 was 30.4%, the highest level in history;

(2) In 1996, one in every three dollars earned in America was paid over in taxes to the federal government;

(3) The Congressional Budget Office estimates that in 1997 the federal government will take $1.5 trillion from taxpayers; the highest amount ever;

(4) The President's Office of Management and Budget estimates that in 1997, the federal government will take $673 billion from working families, the highest level in history;

(5) President Clinton proposed, and the then-Democrat-controlled Congress enacted, a $241 billion tax increase on the American people in 1993—the largest in history.

(6) The American family today pays 38.4% of its income in federal, state and local taxes, the highest burden in history.

(7) The date on which the American family is free from taxes and begins to keep what it earns is the latest ever—May 7.

(8) 56% of all tax returns reporting capital gains came from taxpayers with total incomes below $50,000;

(9) Since 1993, the economy has had below average growth—2.5% versus 3.2% in the previous ten years—and productivity has increased at below-average-rates—0.3% versus 1.5% in the previous ten years.

(10) The estate tax can be as high as 55%, which is an unjustifiable and confiscatory level of taxation that penalizes work, thrift and entrepreneurship.

(11) For three decades, despite spending over 3 billion dollars of taxpayer money, the IRS has failed to create a successfully functioning computer system.

(12) The IRS investigated 1,515 employees for unauthorized snooping in taxpayer files, yet of those employees only 23 were fired;

(13) The IRS has serious security problems which jeopardize its ability to process taxes, and puts taxpayer information at risk of being misused, changed or destroyed;

(14) It is estimated that $200 billion each year is lost to fraud and non-payment of taxes, which the IRS is incapable of finding and collecting.

SEC. 2. SENSE OF THE SENATE.

It is the Sense of the Senate that:

(1) In 1997, Congress should provide tax relief for the American people, particularly for families with children, and should cut the capital gains tax, reduce the estate tax burden, and begin moving toward a fairer, simpler tax system.

(2) The President should send a detailed plan to Congress by August 1, 1997, addressing the problems with the IRS and proposing an action plan to resolve these problems.

(3) In 1997, Congress should pass legislation that imposes criminal penalties for unauthorized snooping in taxpayer files by IRS employees.

SENATE RESOLUTION 74—RELATIVE TO BUDGET DEFICIT REDUCTION AND TAX RELIEF

Mr. DORGAN (for Mr. DASCHLE) submitted the following resolution; which was referred to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one committee reports, the other committee has 30 days to report or be discharged:

S. RES. 74

Whereas the United States economy continues to expand at a brisk pace after 6 consecutive years of economic growth;

Whereas unemployment and inflation continue to remain at the lowest combined rate in 30 years;

Whereas median family income is experiencing its fastest growth since the 1960s;

Whereas taxes as a percentage of gross domestic product are lower in the United States, at 31.7 percent, than in any of the Group of Seven industrialized countries, the average for which is 36.5 percent;

Whereas according to the Congressional Budget Office, Federal taxes as a share of national income are 19.4 percent, the same level as in 1969, and are projected to fall to 18.8 percent in 2002, not including any tax cuts which Congress may yet enact this year;

Whereas according to the Congressional Budget Office, the total Federal effective tax rate, including income, payroll, and excise taxes, for a family making $40,000 per year averages 19 percent, of which only 6 percent is attributable to individual income taxes, the lowest of any of the major industrialized countries;

Whereas the Center on Budget and Policy Priorities has calculated that the typical American generates the income necessary to pay his or her annual Federal personal income tax by January 20th of each year;

Whereas strong economic growth, low inflation and unemployment, and declining tax burdens on typical American families have been achieved at the same time that the Federal budget deficit has been reduced by nearly two-thirds;

Whereas every Republican Senator voted against the Omnibus Budget Reconciliation Act of 1993, which cut the deficit by 63 percent, lowered interest rates, stimulated job creation, and boosted gains in personal income;

Whereas the 1993 budget legislation cut taxes on 15,000,000 workers and their families (40,000,000 Americans) and made 90 percent of small businesses eligible for corporate tax reductions;

Whereas President Clinton has submitted to Congress a budget proposal that would further reduce taxes on working families, including tax credits and deductions designed to make post-secondary education and training more affordable;

Whereas the Congressional Budget Office has certified that the President's budget proposal would eliminate the fiscal deficit by 2002, achieving the first budgetary surplus in the United States since 1969;

Whereas the principal budget legislation offered in the 105th Congress by the Republican majority would make it more difficult to balance the budget by extending $526,000,000,000 of tax cuts over the next 10 years, more than an estimated three-quarters of which would benefit the best-off 20 percent of taxpayers rather than middle class working families;

Whereas as many Americans rush to submit their income tax returns to the Internal Revenue Service by April 15, Congress is poised to miss its own April 15 deadline to pass a budget resolution because the Republican majority in the 105th Congress has emphasized symbolic political gestures in connection with the Federal budget rather than the bipartisan construction of legislation to eliminate the deficit; and

Whereas the continuing failure by the Republican majority to advance a budget resolution has the effect of withholding from middle-class Americans the tax cuts proposed for them by the President, undermining progress toward a balanced budget, and denying the economy the benefit of the lower long-term interest rates that a balanced budget would promote: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Republican majority should take up without delay a budget resolution that balances the budget by 2002, targets its tax-relief on working and middle class families to the same degree as the President's budget proposal, and protects important domestic priorities such as medicare, medicaid, education, and the environment.

AMENDMENTS SUBMITTED

THE TAXPAYER PRIVACY PROTECTION ACT

COVERDELL (AND OTHERS) AMENDMENT NO. 45

Mr. LOTT (for Mr. COVERDELL, for himself, Mr. GLENN, Mr. ROTH, Mr. MOYNIHAN, Mr. MACK, Mr. KERRY, Mr. KOHL, and Mr. D'AMATO) proposed an amendment to the bill (S. 522) to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Taxpayer Browsing Protection Act".

SEC. 2. PENALTY FOR UNAUTHORIZED INSPECTION OF TAX RETURNS OR TAX RETURN INFORMATION.

(a) In General.—Part I of subchapter A of chapter 75 of the Internal Revenue Code of 1986 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7213 the following new section:

"SEC. 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.

"(a) Prohibitions.—

"(1) Federal employees and other persons.—It shall be unlawful for—

"(A) any officer or employee of the United States, or

"(B) any person described in section 6103(n) or an officer or employee of any such person, willfully to inspect, except as authorized in this title, any return or return information.

"(2) State and other employees.—It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under a provision of section 6103 referred to in section 7213(a)(2).

"(b) Penalty.—

"(1) In general.—Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding $1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

"(2) Federal officers or employees.—An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

"(c) Definitions.—For purposes of this section, the terms 'inspect', 'return', and 'return information' have the respective meanings given such terms by section 6103(b)."

(b) Technical Amendments.—

(1) Paragraph (2) of section 7213(a) of such Code is amended by inserting "(5)," after "(m)(2), (4),".

(2) The table of sections for part I of subchapter A of chapter 75 of such Code is amended by inserting after the item relating to section 7213 the following new item:

"Sec. 7213A. Unauthorized inspection of returns or return information."

(c) Effective Date.—The amendments made by this section shall apply to violations occurring on and after the date of the enactment of this Act.

SEC. 3. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OF RETURNS AND RETURN INFORMATION; NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.

(a) Civil Damages for Unauthorized Inspection.—Subsection (a) of section 7431 of the Internal Revenue Code of 1986 is amended—

(1) by striking "Disclosure" in the headings for paragraphs (1) and (2) and inserting "Inspection or disclosure", and

(2) by striking "discloses" in paragraphs (1) and (2) and inserting "inspects or discloses".

(b) Notification of Unlawful Inspection or Disclosure.—Section 7431 of such Code is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) Notification of Unlawful Inspection and Disclosure.—If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

"(1) paragraph (1) or (2) of section 7213(a),

"(2) section 7213A(a), or

"(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code, the Secretary shall notify such taxpayers as soon as practicable of such inspection or disclosure."

(c) No Damages for Inspection Requested By Taxpayer.—Subsection (b) of section 7431 of such Code is amended to read as follows:

"(b) Exceptions.—No liability shall arise under this section with respect to any inspection or disclosure—

"(1) which results from a good faith, but erroneous, interpretation of section 6103, or

"(2) which is requested by the taxpayer."

(d) Conforming Amendments.—

(1) Subsections (c)(1)(A), (c)(1)(B)(i), and (d) of section 7431 of such Code as each amended by inserting "inspection or" before "disclosure".

(2) Clause (ii) of section 7431(c)(1)(B) of such Code is amended by striking "willful disclosure or a disclosure" and inserting "willful inspection or disclosure or an inspection or disclosure."

(3) Subsection (f) of section 7431 of such Code, as redesignated by subsection (b), is amended to read as follows:

"(f) Definitions.—For purposes of this section, the terms 'inspect', 'inspection', 'return', and 'return information' have the respective meaning given such terms by section 6103(b)."

(4) The section heading for section 7431 of such Code is amended by inserting "**INSPECTION OR**" before "**DISCLOSURE**".

(5) The table of sections for subchapter B of chapter 76 of such Code is amended by inserting "inspection or" before "disclosure" in the item relating to section 7431.

(6) Paragraph (2) of section 7431(g) of such Code, as redesignated by subsection (b), is amended by striking "any use" and inserting" any inspection or use".

(e) Effective Date.—The amendments made by this section shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act.

SEC. 4.

(a) In General.—Section 1306(c)(1) of the National Food Insurance Act of 1968 (42 U.S.C. 4013(c)(1)) is amended by striking "30" and inserting "15".

(b) Effective Date.—The amendment made by subsection (a) shall be construed to have taken effect on January 1, 1997, and shall expire June 30, 1997.

NOTICES OF HEARINGS

SUBCOMMITTEE ON IMMIGRATION

Mr. HATCH. Mr. President, there will be a hearing held by the Subcommittee on Immigration, Senate Committee on the Judiciary, on Tuesday, April 15, 1997, at 10:30 a.m., in room 226, Senate Dirksen Building, on immigrant entrepreneurs, job creation, and the American dream.

SUBCOMMITTEE ON EMPLOYMENT AND TRAINING

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Subcommittee on Employment and Training, Senate Committee on Labor and Human Resources, will be held on Thursday, April 17, 1997, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is innovations in youth training. For further information, please call the committee, 202/224–5375.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Friday, April 18, 1997, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is improving the health status of children. For further information, please call the committee, 202/224–5375.

COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, May 1, 1997, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 457, a bill to authorize the Bureau of Land Management to manage the Grand Staircase-Escalante National Monument.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 304 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President. I would like to announce for the benefit of Members and the public that the Committee on Energy and Natural Resources has scheduled a hearing to receive testimony on S. 430, the New Mexico Statehood and Enabling Act Amendments of 1997.

The hearing will take place on Monday, May 5, 1995, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

Those wishing to testify or submit written statements for the record should contact James Beirne, senior counsel to the committee at (202) 224–2564 or Betty Nevitt, staff assistant, at (202) 224–0765 or write the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

NOTICE OF WORKSHOPS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public, the workshops which have been scheduled before the Committee on Energy and Natural Resources to exchange ideas and information on the issue of competitive change in the electric power industry.

The first workshop will take place on Thursday, May 8, beginning at 9:30 a.m. in room 216 of the Hart Senate Office Building. The topic of discussion will be the effects of competition on fuel use and types of generation.

The second workshop will take place on Thursday, May 22, beginning at 9:30 a.m. in room 216 of the Hart Building. The topic of discussion will be the financial implications of restructuring.

The third workshop will take place on Thursday, June 12, beginning at 9:30 a.m. in room 216 of the Hart Senate Office Building. The topic of discussion will be the benefits and risks of restructuring to consumers and communities. Participation is by invitation. For further information please write to the Senate Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, attn: Shawn Taylor.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 15, 1997, at 2 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, April 15, 1997 beginning at 9:30 a.m. to receive testimony from Senator MARY L. LANDRIEU, Louis "Woody" Jenkins, and/or their counsels in connection with a contested U.S. Senate election held in Louisiana in November 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Acquisition and Technology of the Committee on Armed Services be authorized to meet at 2 p.m. on Tuesday, April 15, 1997, in open session, to receive testimony on the trends in the industrial and technology base supporting national defense in review of S. 450, the National Defense Authorization Act for Fiscal Years 1998 and 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 15, 1997, at 10 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMPLOYMENT AND TRAINING

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Training of the Committee on Labor and Human Resources be authorized to hold a hearing on innovations in adult training during the session of the Senate on Tuesday, April 15, 1997, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 2 p.m. on Tuesday, April 15, 1997 in open session, to receive testimony regarding environmental and military construction issues in review of S. 450, the National Defense authorization bill for fiscal years 1998 and 1999, and S. 451, the military construction authorization bill for fiscal year 1998.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE IRS AND TAXPAYERS AT RISK

• Mr. THOMPSON. Mr. President, on the final day for taxpayers to file their tax returns, I think it is appropriate for Congress and the American people to assess how well the Internal Revenue Service [IRS] is doing managing the collection of 1.4 trillion taxpayer dollars. Unfortunately, the answer is not very well. The Committee on Governmental Affairs held a hearing last week on the IRS programs on the General Accounting Office's [GAO] high risk list which identifies those Federal programs most vulnerable to waste, fraud, abuse, and mismanagement. To the taxpayer's dismay, the IRS made the list six times. IRS programs have been consistently on GAO's high risk list since its inception in 1990 and GAO has issued over 200 reports in the past 5 years critical of the problems at IRS.

The problems at IRS are considerable. For example:

IRS still can't pass an audit—something that the private sector has been doing since the 1930's and State governments since the 1980's. Because IRS' financial statements are so poor, it is likely the entire Government will not be able to pass its first congressionally required audit of its financial statements this fall. Shouldn't IRS live up to the same accounting standards it imposes on the taxpayer?

For three decades IRS has been attempting to overhaul its outdated 1960's era computer systems. In its third unsuccessful attempt at modernization, IRS has spent over $3 billion, with very little to show for it. This has become a case study in how not to buy computers.

In the area of tax collections, GAO finds that IRS has no real basis for determining how much it is owed or, in any comprehensive sense, by whom. This is important because every dollar owed which is not collected due to inaccurate filing or ineffective collection comes out of the pocket of every honest taxpayer.

Despite an IRS pledge to have zero-tolerance for snooping by IRS personnel through taxpayer's files, GAO finds that the practice continues. Only one IRS computer system has a very limited ability to detect snooping. As for the rest of IRS systems and paper files there are few controls to protect sensitive taxpayer records from this invasion of privacy.

All of IRS' computers are at risk of not operating properly on January 1, 2000, because of the antiquated computers' inability to deal with the year 2000 date change. In less than 1,000 days, the collection of revenue and the entire tax processing system will be in jeopardy.

It is estimated that $200 billion is lost each year to fraud and nonpayment of taxes. While IRS caught $131 million in fraudulent returns in 1995, GAO lists filing fraud as a high risk area and it is uncertain how many fraudulent returns slip through the system.

But these concerns are even surpassed by new ones raised by GAO in January in a confidential report on IRS security weaknesses which is now being released in very restricted form. IRS has very serious physical and information security problems which jeopardize its ability to function and puts taxpayer data at risk of being improperly used, changed, or destroyed. It should concern us all that GAO's findings of IRS' vulnerability to security threats are of such great concern that most of the original report can not be made public.

What is at stake here? The confidence of the taxpayer is at stake. Tax laws must be fairly enforced at the least possible cost and personal intrusion and IRS must meet the standards it expects the taxpayer to meet.

Our credibility as the steward of the money we ask the taxpayer to contribute is at stake. Each dollar the Government collects is a dollar someone else has earned. It is our obligation to make the best use of that dollar, and not waste a cent of it.

Finally, at stake is the very ability of government to perform its necessary responsibilities and functions. Without taxpayer confidence that we are collecting money fairly and wisely, our system of government is crippled.

Taxation in this country has a long and tumultuous history. We are a Nation founded on a tax revolt and are continuously renewed by a healthy skepticism toward all forms of taxation. It is important to remember that it is only with the American people's consent that the IRS exists in the first place.

As a Nation we collect taxes to pay for the responsibilities we have assigned to our Government. Right over the entrance to the IRS are the words of Oliver Wendell Holmes: "Taxes are the price we pay for a civilized society." But, recognizing the need to fund government responsibilities does not imply that we should continue with business as usual at the IRS. If an agency fails in its fundamental mission, or fails to keep its promises to Congress and the American people, we need to be prepared to make fundamental changes. I, for one, favor greatly simplifying the Tax Code. A simpler code, fairly administered, will help to restore the taxpayers' faith in the system. It will also make the system more manageable.

In the meantime, it is imperative for IRS to improve its operations. It is outrageous that IRS programs put on GAO's high-risk list remain there year-after-year. GAO testified before the Governmental Affairs Committee in June of 1991 and described key areas in which IRS needed to improve its operations. Six years later, we heard virtually the same message in the same areas from GAO. What has IRS been doing in the last 6 years? What has been done to correct systemic management problems at IRS?

Fortunately, the forces for change may now be coming into place. Congress has used its power of the purse to express its dissatisfaction with IRS' computer modernization. A new Commission to Restructure the IRS has been formed to address how the Nation collects taxes and the administration has announced a new plan for reform at IRS. The Deputy Secretary of Treasury Lawrence Summers, testified before the Governmental Affairs Committee last Thursday on this plan. The administration's recognition of many of the problems it faces is a good first step. However, it is unclear how establishing new layers of bureaucracy will improve the situation at IRS. We also need to understand how giving IRS greater personnel and budgetary flexibilities would enable it to better manage its programs and finances.

It is necessary for Congress and the administration to work together to reform the IRS. As for the next step, the Congress needs more details on the administration's IRS reform proposals. I plan to work with my colleagues to ensure that a detailed plan is sent to Congress as soon as possible to address the IRS' high risk problems. This reform plan should be linked to IRS' GPRA strategic plan and should include specific performance measures that will successfully address IRS' high-risk areas.

Congress is also taking up today legislation on criminalizing the snooping by IRS employees of confidential taxpayer data. This is an issue with a longstanding history at the Governmental Affairs Committee. The issue was first brought to light during financial audits under the Chief Financial Officers Act. In 1994, it was thought that IRS would address this issue in a comprehensive manner. At last week's hearing, GAO found that snooping was still a significant problem. All of us are greatly disturbed about reports of lax security and the unauthorized browsing by IRS employees of taxpayer information. This invasion of privacy is a breech of public trust and only further lowers the faith of the taxpayer in the fairness of the system.

I want to work with the administration and other congressional committees to implement lasting solutions to identified management problems at IRS and reduce the risks to the taxpayers. Most of these problems have existed for years. I recognize that this administration, and previous ones, have tried to solve them. But, time is growing short. The confidence of our citizens is low and the risks are high.•

JACKIE ROBINSON

• Mr. CLELAND. Mr. President, I rise today to pay tribute to Jackie Robinson, a true American hero. Born in Cairo, GA and raised by a single mother in Pasadena, CA, Jackie Robinson integrated major league baseball 50 years ago today. It was not an easy task. He faced outright prejudice from fans, other teams, as well as his own teammates. He was cursed and spit upon. It is hard to imagine how one man could endure such circumstances. But, he persevered and paved the way for young blacks who had long dreamed of wearing a major league baseball uniform. His courageous actions forced all Americans to face the issue of integration, and he helped to jump start the civil rights movement.

Jackie Robinson was deservedly elected to the Hall of Fame in 1962, his first year of eligibility. He had a career batting average of .311 with the Dodgers; won the 1949 batting title with a .342; was selected as National League MVP in 1949; and named National League Rookie of the Year in 1947.

As my dear friend, Hank Aaron, wrote in an op-ed piece which ran in the New York Times on Sunday, April 13, 1997, "Jackie showed me and my generation what we could do, he also showed us how to do it. By watching him, we knew that we would have to swallow an awful lot of pride to make it in the big leagues." Jackie Robinson and Hank Aaron not only made it in the big leagues, but they also succeeded with their lives.

Mr. President, I ask that the entire text of Hank Aaron's op-ed that appeared in the New York Times on April 13, 1997, be printed in the Record.

The material follows:

[From the New York Times, Apr. 13, 1997]

When Baseball Mattered

(By Hank Aaron)

ATLANTA.—Jackie Robinson meant everything to me.

Before I was a teen-ager, I was telling my father that I was going to be a ballplayer, and he was telling me, "Ain't no colored ballplayers." Then Jackie broke into the Brooklyn Dodgers lineup in 1947, and Daddy never said that again. When the Dodgers played an exhibition game in Mobile, Ala., on their way north the next spring, Daddy even came to the game with me. A black man in a major-league uniform: that was something my father had to see for himself.

Jackie not only showed me and my generation what we could do, he also showed us how to do it. By watching him, we knew that we would have to swallow an awful lot of pride to make it in the big leagues. We knew of the hatred and cruelty Jackie had to quietly endure from the fans and the press and the anti-integrationist teams like the Cardinals and the Phillies and even from his teammates. We also knew that he didn't subject himself to all that for personal benefit. Why would he choose to get spiked and cursed at and spat on for his own account?

Jackie was a college football hero, a handsome, intelligent, talented guy with a lot going for him. He didn't need that kind of humiliation. And it certainly wasn't in his nature to suffer it silently. But he had to. Not for himself, but for me and all the young black kids like me. When Jackie Robinson loosened his fist and turned the other cheek, he was taking the blows for the love and future of his people.

Now, 50 years later, people are saying that Jackie Robinson was an icon, a pioneer, a hero. But that's all they want to do: say it.

Nobody wants to be like Jackie. Everybody wants to be like Mike. They want to be like Deion, like Junior.

That's O.K. Sports stars are going to be role models in any generation. I'm sure Jackie would be pleased to see how well black athletes are doing these days, how mainstream they've become. I'm sure he would be proud of all the money they're making. But I suspect he'd want to shake some of them until the dollar signs fell from their eyes so they could once again see straight.

Jackie Robinson was about leadership. When I was a rookie with the Braves and we came north with the Dodgers after spring training, I sat in the corner of Jackie's hotel room, thumbing through magazines, as he and his black teammates—Roy Campanella, Don Newcombe, Junior Gilliam and Joe Black—played cards and went over strategy: what to do if a fight broke out on the field; if a pitcher threw at them; if somebody called one of them "nigger."

In his later years, after blacks were secure in the game, Jackie let go of his forbearance and fought back. In the quest to integrate baseball, it was time for pride to take over from meekness. And Jackie made sure that younger blacks like myself were soldiers in the struggle.

When I look back at the statistics of the late 1950's and 60's and see the extent to which black players dominated the National League (the American League was somewhat slower to integrate), I know why that was. We were on a mission. And, although Willie Mays, Ernie Banks, Frank Robinson, Willie Stargell, Lou Brock, Bob Gibson and I were trying to make our marks individually, we understood that we were on a collective mission. Jackie Robinson demonstrated to us that, for a black player in our day and age, true success could not be an individual thing.

To players today, however, that's exactly what it is. The potential is certainly there, perhaps more than at any time since Jackie came along, for today's stars to have a real impact on their communities. Imagine what could be accomplished if the players, both black and white, were to really dedicate themselves—not just their money, although that would certainly help—to camps and counseling centers and baseball programs in the inner city.

Some of the players have their own charitable foundations, and I applaud them for that. (I believe Dave Winfield, for instance, is very sincere.) But as often as not these good works are really publicity stunts. They're engineered by agents, who are acting in the interest of the player's image—in other words, his marketability. Players these days don't do anything without an agent leading them every step of the way (with his hand out). The agent, of course, could care less about Jackie Robinson.

The result is that today's players have lost all concept of history. Their collective mission is greed. Nothing else means much of anything to them. As a group, there's no discernible social conscience among them; certainly no sense of self-sacrifice, which is what Jackie Robinson's legacy is based on. It's a sick feeling, and one of the reasons I've been moving further and further away from the game.

The players today think that they're making $10 million a year because they have talent and people want to give them money. They have no clue what Jackie went through on their behalf, or Larry Doby or Monte Irvin or Don Newcombe, or even, to a lesser extent, the players of my generation. People wonder where the heroes have gone. Where there is no conscience, there are no heroes.

The saddest thing about all of this is that baseball was once the standard for our country. Jackie Robinson helped blaze the trail for the civil rights movement that followed. The group that succeeded Jackie—my contemporaries—did the same sort of work in the segregated minor leagues of the South. Baseball publicly pressed the issue of integration; in a symbolic way, it was our civil rights laboratory.

It is tragic to me that baseball has fallen so far behind basketball and even football in terms of racial leadership. People question whether baseball is still the national pastime, and I have to wonder, too. It is certainly not the national standard it once was.

The upside of this is that baseball, and baseball only, has Jackie Robinson. Here's hoping that on the 50th anniversary of Jackie's historic breakthrough, baseball will honor him in a way that really matters. It could start more youth programs, give tickets to kids who can't afford them, become a social presence in the cities it depends on. It could hire more black umpires, more black doctors, more black concessionaries, more black executives.

It could hire a black commissioner.

You want a name? How about Colin Powell? He's a great American, a man more popular, maybe, than the President. I'm not out there pushing his candidacy, but I think he would be great for baseball. He would restore some social relevance to the game. He would do honor to Jackie Robinson's name.

It would be even more meaningful, perhaps, if some of Jackie's descendants—today's players—committed themselves this year to honoring his name, in act as well as rhetoric.

Jackie's spirit is watching. I know that he would be bitterly disappointed if he saw the way today's black players have abandoned the struggle, but he would be happy for their success nonetheless. And I have no doubt that he'd do it all over again for them.●

MUSIC IN OUR SCHOOLS MONTH

● Mr. SANTORUM. Mr. President, I would like to take a few minutes of Senate business to discuss Music In Our Schools Month.

Throughout the month of March, which was designated Music In Our Schools Month, the Pennsylvania Music Educators Association [PMEA] promoted public awareness of arts education. On March 11, the Pennsylvania Alliance for Arts Education sponsored the Second Annual Arts in Education Day in Harrisburg, PA. Representatives from PMEA also attended the "SingAmerica" campaign here in Washington, DC, on March 13. In addition to renewing an interest in music, "SingAmerica" sought to restore a sense of pride in our communities.

For years, public schools in Pennsylvania have provided opportunities for children to grow and learn through the arts. Several teachers have observed that studying music has helped children learn to work in groups, to think creatively, and to communicate more effectively. Moreover, music education has helped introduce students to history and cultural studies.

Mr. President, I would like to take this opportunity to recognize the teachers who have dedicated their lives to preparing children for the future. I hope my colleagues will join me in thanking them for their commitment to improving education.●

THE HONORABLE ALMA STALLWORTH

● Mr. LEVIN. Mr. President, I rise today to pay tribute to my friend, the Honorable Alma Stallworth, a truly dedicated public official who recently retired after 18 years of serving the people of northwest Detroit in the Michigan House of Representatives. Representative Stallworth is being honored at a retirement celebration hosted by the Black Caucus Foundation of Michigan and the Black Child Development Institute Metro-Detroit Affiliate.

Throughout her 18-year career in the Michigan House, Alma Stallworth was widely recognized as a champion of women, children, and minorities. She fought to expand prenatal coverage for pregnant women, increase Michigan's child immunization rate and provide parenting education to teenagers with children. She was an active member of the National Black Caucus of State Legislators, as well as a successful fundraiser for the United Negro College Fund, raising more than $1 million over the past 11 years.

Representative Stallworth was also a leader on issues related to public utilities. She served as chair of the Public Utilities Committee in the Michigan House of Representatives, and was a vice-chair of the Telecommunication and Banking Committee in the National Conference of State Legislatures.

Alma Stallworth's legislative leadership will be missed, but I am confident that she will continue to serve as a champion for those people who often lack a voice in the political process. I know my colleagues will join me in congratulating Alma on her illustrious career and in wishing her well in her future endeavors.●

FIFTIETH ANNIVERSARY OF JACKIE ROBINSON BREAKING BASEBALL'S COLOR BARRIER

● Mr. ABRAHAM. Mr. President, I rise to pay special tribute to a legendary figure in our Nation's history; Jack Roosevelt Robinson. One half century ago today, Jackie Robinson stepped out of the dugout before an Ebbets Field crowd of 30,000 to play first base for the Brooklyn Dodgers. In doing so, he became the first African-American to play professional baseball in the modern major leagues.

However, Jackie Robinson did not merely break baseball's color barrier, he shattered it in the most spectacular fashion imaginable. He was the first African-American to lead the league in stolen bases, to win the batting title, to play in the All-Star Game, to play in the World Series, to win the Most Valuable Player Award, and to be inducted into the Hall of Fame.

As an ardent baseball fan, I marvel at his accomplishments on the field. As an American, I stand in gratitude for all he did for civil rights in this country. The impressive nature of his long litany of baseball firsts is far surpassed by the measure of his exceptional character. To be able to bear the brunt of national adversity and hostility and still perform with such dignity and grace requires a courage far greater than most could summon.

To many, the details of April 15, 1947 are long forgotten. For the record, in the seventh inning Robinson scored the deciding run in a 5 to 3 win over the Boston Braves. When Robinson crossed home plate, it was a victory for his team, for professional sports, and, indeed, for the entire country. Jackie Robinson was one of those rare individuals who transcended both race and athletics to become an American hero. It is my hope and belief that his legacy today is as powerful as ever.●

JACKIE ROBINSON

Mr. CONRAD. Mr. President, some of the most pivotal events in U.S. history that have helped eliminate the barriers between white and black Americans have been simple acts that occurred in very common, everyday settings; on a bus, in a diner, and in a school. Today marks the 50th anniversary of one of those events, and it also occurred in a common and unlikely setting—at a baseball game. On April 15, 1947, the Brooklyn Dodgers debuted their new infielder, Jackie Robinson, in a game against the Boston Braves. And by his very presence on that field, American society was changed forever.

Until that day, professional baseball had been segregated for over 50 years, and no African-American in the 20th century had worn a major league uniform. Segregation had denied many fine black players from competing side by side with their white counterparts. It was the dream of many Negro League stars like Satchel Paige, Josh Gibson, and Cool Papa Bell to take the field in a major league park and have the chance to claim their rightful place in the record books alongside Babe Ruth and Ty Cobb. They knew they were good enough, and so did many white baseball executives who saw them play. But until Jackie Robinson, black Americans were kept out of the majors and many of these great players never got the chance to play there.

In 1947, Dodgers' manager Branch Rickey ignored the color line and gave Jackie Robinson a chance to play. Not because he was black, not because he could be a symbol for a change in American society, but because he was a dazzling player who could help the Dodgers win. And he did. In that very first year, Robinson became the National League's Rookie of the Year. In 1949, he would be named the Most Valuable Player. In 10 years, he helped Brooklyn capture six National League championships and one World Series title. He retired with a lifetime batting average of .311 and was named to the Hall of Fame in his first year of eligibility.

After his rookie season, he was listed second only to Bing Crosby as the most popular man in America. That is a very interesting fact, for even though he clearly captured the hearts and minds of many Americans, and no doubt changed the thinking of many others, there were also those who hated him and let him know it with vicious insults, jeers, and threats of physical violence. On the field opposing ballplayers tried to spike him on the base paths, and pitchers regularly threw fast balls near his head. Even some of his own teammates asked to be traded when they learned he was being called up from the minors. Off the field he sometimes could not join the rest of the Dodgers in the same hotels or restaurants. Jackie Robinson had to endure it all, because he knew if he fought back, if his confidence and calm were rattled, and if he did not perform to the highest athletic level, it could be years before another minority player would be given the same chance. But he used his courage and ability to succeed on every level, proving himself to be much, much more than just a talented baseball player.

How far we have come in terms of racial equality in the half-century since Jackie Robinson's debut is debatable. Black athletes are now commonplace in professional sports, and some, such as basketball star Michael Jordan, are among the most successful and instantly recognizable figures in the world. Over the weekend, an amazingly-gifted and congenial young man named Tiger Woods became both the first African-American and first Asian-American to win the Masters golf tournament, breaking down another long-held color barrier.

But outside of sports, there are still subtle but daunting barriers that prevent African-Americans, as well as other minorities, from achieving equal status in many facets of our culture. Shortly before his death in 1972, Robinson himself was quoted as saying,

> I can't believe that I have it made while so many of my black brothers and sisters are hungry, inadequately housed, insufficiently clothed, denied their dignity, live in slums or barely exist on welfare.

If he were still alive today, it is likely his opinion would be unchanged.

But America is a work in progress and there may always be barriers, large and small, which create inequity in our society. Jackie Robinson was one of the best athletes in the world, and the barrier he broke was one that prevented him and other black athletes from using their talents for their fullest gain. Jackie Robinson faced that barrier with courage, faith, and dignity. He broke it for himself, but even more significantly for all those who have followed. That is why he is a hero and why we celebrate his memory today. Perhaps the lesson we can learn from Jackie Robinson's example is that we must face those areas of discrimination we encounter in our lives, no matter what our racial heritage, with the same courage, faith, and dignity. We may never fully end discrimination but we can continue working together to eliminate the barriers that remain.

JACKIE ROBINSON

● Mr. COVERDELL. Mr. President, today, all of America celebrates the 50th anniversary of Jackie Robinson's courageous entry into major league baseball, an event which foreshadowed and indeed paved the way for the wider integration of American society in the 1950's and 1960's. For the people of Georgia, this celebration has special significance because Jackie Robinson was born in Cairo, GA, 78 years ago. Last year, his Georgia roots were honored when the Cairo High School named its baseball stadium Jackie Robinson Field.

The son of a sharecropper and grandson of a slave, Jackie Robinson knew poverty, adversity, and the most overt forms of discrimination. He knew especially the lonely burden of having to break the color line in baseball all by himself. Apart from remarkable athletic abilities, Jackie Robinson possessed extraordinary personal qualities which enabled him to embody the hopes and challenge the prejudices of an entire generation of Americans. He truly met the classic definition of courage—the demonstration of grace under pressure.

Georgians and all Americans honor the history which Jackie Robinson made 50 years ago today. It is clear in retrospect that he did more than open the door of the national pastime to African-Americans. He also helped to open the door of a genuine opportunity society to all Americans. Jackie Robinson believed passionately in the promise of the American dream. Through a lifetime of hard work, personal sacrifice, and commitment to racial harmony, he did as much as any American over the past half century to help make that noble dream a reality.●

RECOGNIZING THE FRONT LINE IRS EMPLOYEE

● Mr. ROBB. Mr. President, as we debate our tax system and the management of the Internal Revenue Service, I believe we should take time out to recognize a largely unappreciated group of public servants. If there is anyone dreading tax day more than the taxpayer in general, it is the front line IRS employee who is right now trying to handle all of those last minute phone calls and process the bulk of returns that are just now starting to flood in. These people are not the problem, they are the ones who make the system as it exists work in the best way possible. The revenues they collect pay for our national parks, our highways, and our national defense. While we can debate the system at length, I believe we should take a moment today of all days to recognize the hard work done by those front line men and women at the IRS to make our government run.●

TRIBUTE TO THE TOP 10 SMALL BUSINESSES IN KANSAS CITY

● Mr. BOND. Mr. President, on Monday, April 21, 1997, the Kansas City MO Chamber of Commerce will honor the

1997 Top 10 Small Businesses of the Greater Kansas City area. The Chamber is an association of almost 3,000 businesses across the 10-county bistate area whose members employ approximately 240,000 people in the Greater Kansas City area. This honor is part of the Chamber's award-winning Small Business Week activities, which are among the country's largest Small Business Week celebrations.

The Top 10 Awards are given in recognition of the economic contributions of small businesses which make up more than 90 percent of the Greater Kansas City metropolitan area. These 10 businesses alone contributed $104 million in annual sales and employed more than 840 people in 1996. Nearly 700 companies were nominated, but only 10 can earn the honor of small business of the year. Of the 10, the Greater Kansas City Chamber will select its 11th annual Small Business of the Year, at its luncheon on April 25, 1997. The Small Business of the Year will receive the "Mr. K" award, named for Ewing Marion Kauffman, one of the country's best entrepreneurs.

This year's Top 10 recipients are, Accommodations by Apple, Inc., Gould Evans Affiliates, Hermes Landscaping, Inc., Arthur Clark Holding Inc., Boulevard Brewing Co., The Corridor Group, Inc., Courtney Day Inc., DARCA Inc., Data Systems International Inc., and Galvmet Inc.

When Ewing Kauffman observed that, "Surprisingly, of all of the motivational aspects that there are, once a person has food, clothing, and shelter, the most motivating force in the world is appreciation. * * * we don't express appreciation as much as we should." I can only speculate that he was thinking of businesses such as these. As the Chairman of the Senate Committee on Small Business, it gives me great satisfaction to see my home State thriving in the small business community and I would like each honoree to know how much I appreciate their hard work and commitment to excellence. I congratulate these companies not only for this honor, but also for the outstanding community service they provide to the Greater Kansas City area. They are an inspiration to all small businesses not only in this area, but around the country, and I applaud them.•

TRIBUTE TO MAJ. MARGARET M. JOSEPH

• Mr. SANTORUM. Mr. President, I would like to take a few moments of Senate business to honor Maj. Margaret Joseph, a Pennsylvanian who dedicated her life to defending freedom and serving her country.

Margaret distinguished herself as a member of the Army Nurse Corps. During World War II, she served in the European theater. Many soldiers fighting in France and England owe their lives to dedicated professionals such as Margaret Joseph, who nursed them back to health. For others, her compassionate care was among the last acts of kindness they would experience on this Earth. In recognition of Margaret's skill and dedication, she was promoted to the rank of major by an act of Congress.

Unfortunately, Major Joseph is no longer with us. She passed away on November 19, 1996, in Philadelphia, PA. On December 3, 1996, she was laid to rest at Arlington National Cemetery with full military honors.

Mr. President, Major Joseph was rightfully proud of her service to this Nation. I hope my colleagues will join me both in recognizing her accomplishments and in honoring her as a patriot, as a distinguished soldier, and as a courageous human being.•

BUDGET SCOREKEEPING REPORT

• Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the Budget for 1986.

This report shows the effects of congressional action on the budget through April 14, 1997. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1997 concurrent resolution on the Budget (H. Con. Res. 178), show that current level spending is above the budget resolution by $16.9 billion in budget authority and by $12.6 billion in outlays. Current level is $20.5 billion above the revenue floor in 1997 and $101.9 billion above the revenue floor over the 5 years 1997-2001. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $219.6 billion, $7.6 billion below the maximum deficit amount for 1997 of $227.3 billion.

Since my last report, dated March 4, 1997, there has been no action to change the current level of budget authority, outlays or revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 15, 1997.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1997 shows the effects of Congressional action on the 1997 budget and is current through April 14, 1997. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1997 Concurrent Resolution on the Budget (H. Con. Res. 178). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report, dated March 3, 1997, there has been no action to change the current level of budget authority, outlays or revenues.

Sincerely,

JUNE E. O'NEILL,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1997, 105TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS APRIL 14, 1997

[In billions of dollars]

	Budget resolution (H. Con. Res. 178)	Current level	Current level over/under resolution
ON-BUDGET			
Budget Authority	1,314.9	1,331.8	16.9
Outlays	1,311.3	1,323.9	12.6
Revenues:			
1997	1,083.7	1,104.3	20.5
1997–2001	5,913.3	6,015.2	101.9
Deficit	227.3	219.6	−7.6
Debt Subject to Limit	5,432.7	5,262.6	−170.1
OFF-BUDGET			
Social Security Outlays:			
1997	310.4	310.4	0.0
1997–2001	2,061.3	2,061.3	0.0
Social Security Revenues:			
1997	385.0	384.7	−0.3
1997–2001	2,121.0	2,120.3	−0.7

Note.—Current level numbers are the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 105TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS APRIL 14, 1997

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			1,101,532
Permanents and other spending legislation	843,324	801,465	
Appropriation legislation	753,927	788,263	
Offsetting receipts	−271,843	−271,843	
Total previously enacted	1,325,408	1,317,885	1,101,532
ENACTED THIS SESSION			
Airport and Airway Trust Fund Reinstatement Act of 1997 (P.L. 105–2)			2,730
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	6,428	6,015	
TOTALS			
Total Current Level	1,331,836	1,323,900	1,104,262
Total Budget Resolution	1,314,935	1,311,321	1,083,728
Amount remaining:			
Under Budget Resolution			
Over Budget Resolution	16,901	12,579	20,534
ADDENDUM			
Emergencies:			
Funding that has been designated as an emergency requirement by the President and the Congress	1,806	1,228	
Funding that has been designated as an emergency requirement only by the Congress and is not available for obligation until requested by the President	323	305	
Total emergencies	2,129	1,533	
Total current level including emergencies	1,333,965	1,325,433	1,104,26•2

ORDERS FOR WEDNESDAY, APRIL 16, 1997

Mr. NICKLES. Madam President, I ask unanimous consent that when the

Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Wednesday, April 16. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and there then be a period of morning business until the hour of 1 p.m. with Senators to speak for up to 5 minutes each, with the following exceptions: Senator CAMPBELL, 10 minutes; Senator HUTCHINSON, 10 minutes; Senators MCCONNELL and GRAHAM, 30 minutes each; Senator CONRAD, 10 minutes; Senator KENNEDY, 15 minutes; and, Senator DORGAN, 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. NICKLES. Madam President, for the information of all Senators, tomorrow from 10 a.m. until 1 p.m. the Senate will be in a period of morning business to accommodate a number of Senators who are wishing to speak.

At 1 p.m. we hope to reach an agreement to begin consideration of H.R. 1003, the so-called assisted suicide legislation. This is legislation that would ban Federal funding of assisted suicide. If an agreement is reached, it would allow for 3 hours of debate on that bill. Therefore, Senators can expect a rollcall vote on Wednesday mid to late afternoon. All Senators will be notified accordingly when the vote is scheduled.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. NICKLES. Madam President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6 p.m., adjourned until Wednesday, April 16, 1997, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate April 15, 1997:

DEPARTMENT OF STATE

LINDA JANE ZACK TARR-WHELAN, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS U.S. REPRESENTATIVE TO THE COMMISSION ON THE STATUS OF WOMEN OF THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

NATIONAL COUNCIL ON DISABILITY

YERKER ANDERSSON, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1999. (REAPPOINTMENT)

HOUSE OF REPRESENTATIVES—*Tuesday, April 15, 1997*

The House met at 10:30 a.m.

MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Texas, Mr. SAM JOHNSON, for 5 minutes.

REPEAL OF THE 16TH AMENDMENT

Mr. SAM JOHNSON of Texas. Mr. Speaker, believe it or not, today is tax day. It is on this day that every hardworking American sends more money than is necessary to the Federal Government, a day that most people probably would like to forget.

Most Americans are tired of big government, high taxes, the complexity of the current Tax Code and, guess what, the IRS. Well, I am too, and I plan on doing something about it.

Last week I introduced a bill that everyone can support and rally behind. It will unite Members and the public behind a common goal, eliminating the IRS and developing a new tax system. I think that is something every one understands and is energized about.

My bill is called the tax freedom bill and would repeal the 16th amendment to the Constitution. That is the amendment that authorizes the income tax. The tax freedom bill is designed to reverse one of the most destructive amendments, in my view, to the U.S. Constitution.

As most of my colleagues know, the 16th amendment was passed by Congress in 1909, ratified in 1913, and upheld by the Supreme Court in 1916. It has been 81 years since the Supreme Court's approval and Congress, in all its wisdom, has developed a tax system that has become the most economically destructive and possibly complex, overly intrusive, unprincipled, dishonest, unfair, and inefficient system in this Nation's history. I do not think anybody can disagree with that.

The current Tax Code has become an uncontrollable and rampant institution with no regard for what has made this country great, individual freedom.

Mr. Speaker, there is a bill on the floor that we will consider today that illustrates the problems we face. The bill makes browsing or snooping through taxpayer files a crime, subjecting offenders to criminal penalties of up to $100,000 and/or 1 year in jail. To me this is a serious violation of privacy, and I am greatly disturbed that has been allowed to occur within the IRS.

Mr. Speaker, this is just one more reason why the IRS should be abolished. It is time for us to stop tinkering around the edges, time for us to get serious and abolish the IRS and replace the current system.

The tax freedom bill is the first step to do that. I believe it will encourage an open, honest, and constructive debate about why our current tax structure has failed and what we should expect. By embracing the principles of freedom, we can create a system that is fair and simple, that reduces the bureaucracy, that encourages savings, that is efficient, that drives the economy, that creates opportunity for all and finally puts more money in our pockets.

The current system fails to meet these commonsense criteria. It is not fair or simple.

The current system has 480 different forms plus 280 more to say how to fill out the 480. Explain to me how the first 480 can do anything. The original Tax Code, by the way, only had 11,000-plus words in it. Today it has 7 million plus.

It does not reduce bureaucracy. The IRS staff is over 100,000, about 110,000, one of the most out-of-control big government staffs that we have, more people in the IRS getting into our pockets than there are immigration and customs agents on our borders.

The current system discourages savings and investment by taxing income when we earn it, taxes it when we save it, taxes us when we invest it, and taxes us again when we die.

It is not efficient. Complying with, I think, the Federal Tax Code costs taxpayers more than $600 billion a year.

Replacing this system will cause interest rates to go down, by every testimony that we have had, and savings and capital investment to increase.

Finally, we have stifled opportunity by designing a system that picks winners and losers, one in which Washington decides what is best for the people instead of letting the people decide what is best for America.

As recently as 1982, Americans paid only 19.9 percent of their income in taxes. New data reveals that in 1995 Americans paid 31.3 percent of their income in taxes, the highest level in history, and that does not count local and State. If we add those in, we are paying nearly 50 percent, 51, I guess.

Mr. Speaker, those that say the system can be fixed are crazy, in my view. It has undergone 31 major revisions and 400 minor ones in the past 40 years. I believe any new system must be based on a vision of America that places the individual, not the Government, in charge.

THE AMERICAN DREAM TAX FAIRNESS EQUITY ACT OF 1997

The SPEAKER pro tempore (Mr. SNOWBARGER). Under the Speaker's announced policy of January 21, 1997, the gentleman from Montana [Mr. HILL] is recognized during morning hour debates for 5 minutes.

Mr. HILL. Mr. Speaker, I am planning to introduce a bill to reduce the high rate of capital gains and eliminate the current estate tax burden that falls disproportionately on farmers and small business owners.

My legislation will restore the American dream to hard-working citizens who choose to invest in or expand a business. It will give hope to those who wish to pass along their life's work to their children and grandchildren without fear that more than half of their estate will go to the Government.

Reducing the high rate of capital gains is vital to our ability to compete in the global marketplace and to expand our work force here at home. My bill will reduce the capital gains rate to a new, lower 15 percent rate on investments held 3 years or more. Taking this action would create a strong incentive to help establish a vibrant and growing economy. And a strong, growing economy will help us achieve a balanced budget.

Mr. Speaker, reducing the burdensome estate tax has long been a goal of mine. My bill will entirely replace the estate tax. At the time of death, the estate would pay a 15-percent capital gains tax rate on investments held 3 years or more in excess of the $600,000 unified exemption credit and in excess of the tax basis. The gains on assets held less than 3 years would be taxed at the current 28 percent rate. Any assets without gains would be passed without tax.

By replacing the current estate tax with a lower capital gains tax, children of farmers and small business owners

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

would not be forced to break up their inheritance to pay estate taxes. Unlike most other tax proposals, my legislation will pay for itself. It would simplify the tax law by establishing the same treatment for the taxation of trusts. A trust would pay a 15-percent capital gains tax and follow the same tax treatment as the estate tax on all capital assets.

My bill would create an even playing field between trusts, estates, and prior gifting. Life insurance proceeds would not be taxed and there would be no tax on cash transfers.

When the estate tax began in 1913, it was limited to 10 percent of one's inheritance. Today the tax has become exorbitant and punitive. With the highest marginal rate of 55 percent, more than half of an estate can go directly to the Government. It hinders passage of many family owned farms and small businesses to the next generation.

In addition, if the estate must be sold to pay the tax, application of current capital gains tax can further diminish the inheritance. Many observers rightly see this as double taxation of income from capital assets. And it does not end there. Families must often pay lawyers and accountants and planners for estate tax planning purposes, one of the most complicated areas of our Tax Code.

According to the IRS, families average 167 hours complying with the maze of estate tax law. Further, even after the best tax planning, the IRS undertakes tax audits in nearly 40 percent of the estate returns compared to a mere 1.7 percent on normal income tax returns.

After all the money and effort spent on compliance, the estate tax contributes only 1 percent of our national revenues. The inefficiencies of the estate tax are further demonstrated in recent economic studies that indicate compliance and enforcement costs 65 cents of every dollar collected. Every IRS field office has separate estate and gift tax units to handle the more than 80 pages of the Tax Code and almost 300 pages of rules in the Federal Register that are devoted to enforcing this tax. The Federal courts are now clogged by 10,000 estate tax cases.

Mr. Speaker, the bill I will soon introduce reduces the capital gains tax rate, replaces the estate tax with a simpler, fairer tax on capital gains. It will revitalize the American economy and restore the American dream to hard working citizens who choose to pass their assets onto their children and grandchildren instead of pouring them into the Government's tax grinder.

The American Dream Tax Fairness Equity Act of 1997 will help level the playing field between estate tax, trusts and gifting. It will stimulate the economy, expand investment incentives and reinvigorate the American tradition of individual enterprise and risk taking. Unlike most tax proposals, it will pay for itself.

I urge my colleagues to join me in doing the right thing. Let us restore the American dream with an equitable estate tax policy and provide America the capital gains incentive she needs for competition in tomorrow's marketplace.

TAX DAY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from South Dakota [Mr. THUNE] is recognized during morning hour debates for 1 minute.

Mr. THUNE. Mr. Speaker, when most folks think about April 15, they think about somehow coming up with enough money to fend off the tax man. However, if the truth be told, April 15 is really about people subjecting themselves to government. In other words, it is about giving up your God-given freedom.

By forking over your hard-earned dollars, you are empowering the Government to decide how your money should be spent to help you, instead of you deciding how you should spend your own money to help yourself.

I am not suggesting for a moment that you should not pay your taxes. You should. Nor am I suggesting that the Government should not collect taxes. It should.

However, Mr. Speaker, I am suggesting that average American families should not have to pay 40 percent of their income to the Government. That is way too much freedom for any one family to give up. Let us reduce taxes on saving and investment. Bring tax relief to families and pass the tax limitation amendment.

NO TAXATION WITHOUT RESPIRATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997 the gentleman from Colorado, Mr. BOB SCHAFFER, is recognized during morning hour debates for 1 minute.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, it is April 15, tax day, and I rise to speak about a grave matter. The American farmer, the owners of small businesses, the freedom-loving Americans across the land want to abolish one of the most offensive taxes of all. That is right, I am talking about the inheritance tax or the death tax as it has come to be known.

Mr. Speaker, let me be clear about what our policy ought to be. No taxation without respiration. The injustice of this tax, a tax that strikes at the hearts of the bond between generations, cannot be denied. It is offensive to the American ideal. This tax is a scandal among thousands in our Tax Code and, an outrage against the living and a crime against the departed.

□ 1045

Mr. Speaker, what kind of sinister motives lie behind this tax? Who could conceive of such a scheme that assures that the Federal Government has more of a claim on our life's work than the family we have left behind?

I say death to the death tax. The tax man cometh already once, may the tax man cometh no more.

TAX LIMITATION AMENDMENT

The SPEAKER pro tempore (Mr. SNOWBARGER). Under the Speaker's announced policy of January 21, 1997 the gentleman from Washington [Mr. METCALF] is recognized during morning hour debates for 5 minutes.

Mr. METCALF. Mr. Speaker, we are all very much aware that today is April 15: Tax day. Millions of Americans are feverishly working to complete and mail their tax returns by midnight tonight.

With that in mind, it is very appropriate that today we will vote on the tax limitation amendment. I have joined with 118 colleagues from both parties to sponsor this amendment to the Constitution. It would require a two-thirds congressional appropriation for any new or higher taxes.

Mr. Speaker, in 1950 about 3 percent of the average American family's income went to taxes. Three percent in 1950. Now, over 40 percent of the family's income goes for local, State, and Federal taxes. And, for what? Intrusive regulation on small business, tobacco subsidies, snooping into tax records by Internal Revenue Service agents, duplication in the Federal bureaucracy, and an ever increasing agency bureaucracy that hinders rather than helps our local schools teach our kids.

According to a 1994 study by the National Taxpayer Union Foundation, the coming explosion in Federal entitlement spending could cause after-tax incomes to fall by as much as 59 percent over the next 45 years. We cannot stand a 59-percent increase.

The study shows that funding benefits and other Government services will require taxes of between 57 to 69 percent of our income. Mr. Speaker, the American family simply cannot survive and pay those kinds of taxes. At 40 percent we are close to the breaking point.

For 124 years the U.S. Constitution protected the American people against the expansion of the Federal Government and against unlimited taxes. It prohibited the income tax, and constitutional scholars stressed that Congress had only 18 powers that were granted specifically in the Constitution.

Ratification of the 16th amendment in 1913 authorized an income tax with no limitation. The result: With constitutional limits on taxes stripped away, Federal tax collections have climbed more than 175,000 percent since 1913. Now, let us go over that again. My colleagues heard me right. It has increased 175,000 percent since 1913.

It is time we restored constitutional limits on taxation. The tax limitation amendment is in the spirit of the Bill of Rights, which limits Government to preserving individual freedom. We must protect the people from excessive taxes.

The fact is, Mr. Speaker, it is just too easy to increase taxes on the American people. During the past 30 years, of 16 votes to increase taxes, only 8 would have passed if the two-thirds supermajority requirement had been in place. In the 1980's and 1990's, more than $660 billion in new taxes was passed by the slimmest of majorities. That is $660 billion that taxpayers would not have had to pay if the tax limitation amendment had been in effect.

President Clinton's 1993 tax increase, the largest in our Nation's history, at $275 billion in one shot, passed by only one vote in the House. That hammered small businesses, millions of people on Social Security and anyone who drives a car.

Opponents say that passage of the Tax Limitation Amendment would be fiscal disaster for our country. The facts just do not support that argument. Already 28 States have some form of limitation on taxes or government spending, and 13 of those States require supermajorities to increase taxes, including my own home State of Washington.

In addition, Mr. Speaker, the tax limitation amendment will help check runaway Federal spending because it is tougher to pass taxes. Congress and the President will need to make the tough choices necessary to slow the growth of the bloated Federal bureaucracy. Under our current system it is not easy to cut spending. Every line item expenditure has a constituency or interest group fighting to keep their pet program in place.

History has shown us that tax increases do not reduce the deficit, they make it worse by fueling more Federal spending. Example: In 1982, Congress passed $217 billion in higher taxes with the promise they would match every dollar in new taxes with $2 in spending cuts. In fact, spending skyrocketed and the national debt went through the roof.

Mr. Speaker, we must pass the tax limitation amendment today.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the House stands in recess until 12 noon.

Accordingly (at 10 o'clock and 51 minutes a.m.), the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GOODLATTE) at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray. We know, O God, that we need the power of the spirit to walk the paths of life and to do the work of justice. And so we ask Your guidance as we seek that way that honors our own creation and shows us the way of service to other people. Grant us strength for the task, wisdom for our minds, love for our hearts, and enthusiasm for our spirits that we will be the people You would have us be. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Oregon [Mr. DEFAZIO] come forward and lead the House in the Pledge of Allegiance.

Mr. DEFAZIO led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WORKING AMERICANS WAGE RESTORATION ACT

(Mr. NETHERCUTT asked and was given permission to address the House for 1 minute.)

Mr. NETHERCUTT. Mr. Speaker, today taxpayers throughout America will do their civic duty by paying their Federal income taxes. The typical American family will pay more in all taxes than it spends on food, clothing and shelter combined.

Our colleague in the Senate, Senator JOHN ASHCROFT, and I believe this is too much, that working Americans know better how to spend their money than the Government does. So I am pleased today, with Senator ASHCROFT in the Senate, to introduce the Working Americans Wage Restoration Act.

This bill will allow American workers to deduct their share of Federal payroll taxes. These payroll taxes are inherently unfair because workers are taxed twice in the same income. They are taxed once as a portion of gross income for Federal income purposes and for a second time for the contribution to the Social Security trust fund.

By allowing workers to deduct on their income taxes their share of Social Security contributions, the Working Americans Wage Restoration Act will eliminate this double taxation and allow workers to keep more of the money they earn.

So I urge my colleagues to join with us in this bill in giving fair tax relief to the American workers.

LINE ITEM VETO ACT HELD UNCONSTITUTIONAL BY FEDERAL DISTRICT COURT

(Mr. SKAGGS asked and was given permission to address the House for 1 minute.)

Mr. SKAGGS. Mr. Speaker, I am joining with three other colleagues in introducing a bill to give the President and Congress new, effective and, very importantly, constitutional powers to weed out wasteful Government spending.

As my colleagues know, the Federal District Court last week held unconstitutional, as it should have, the Line Item Veto Act that was passed by Congress last year and became effective the first of this year.

The bipartisan approach that I am taking today with colleagues is the introduction of the Expedited Rescissions Act of 1997, it will provide an effective tool for getting at those items of wasteful spending that sometimes get buried in appropriations bills, but doing so in a way that honors the constitutional principle of separation of powers that was central to the court's holding of unconstitutionality of the line item veto last week.

This bill is similar to one that passed the House but was not taken up by the Senate in 1993. It will provide a very useful tool for getting at wasteful items in appropriations bills, and I urge my colleagues to consider cosponsorship.

STOP THE TAX RIP-OFFS

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, it is a sad fact that simply to mention today's date is to utter a phrase that most Americans find repugnant: April 15, tax day. The words just sort of lie there, cold and hard and ugly. We take a perfectly good month like April and we spoil it with this tax ritual, because the amount of money that the Federal Government takes away from working families is a scandal, the amount of money that the Federal Government spends and wastes is a scandal, and the arrogant, bureaucratic system by which the Federal Government takes that money is a scandal, too.

We have to change the system, Mr. Speaker. We have to get back to the idea that the bureaucrats work for the taxpayer, not vice versa. The presumption ought to be in favor of the taxpayer, not in favor of the Government. The presumption ought to be against Government boondoggles, like the National Sheep Industry Improvement Council. Not a single sheep is being improved but the taxpayer is being fleeced.

We need to end corporate welfare, we need to stop the Government rip-offs, and we need to give the American people tax relief. Let us cut taxes now.

TRIBUTE TO JACKIE ROBINSON

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to pay tribute to Jackie Robinson. Jackie Robinson, the man, the native Georgian. On this day 50 years ago this son of America, this citizen of the world, broke the color line in professional baseball.

He was a good athlete. He succeeded on the field and he was superb off the field. He was able to catch and hit. He was able to steal bases. He was able to run. But his greatest contribution was not baseball, his greatest contribution was to the cause of social justice. Through his actions he inspired hundreds to walk in dignity, to march for pride, to stand up for America by sitting in places where African-Americans had never been able or allowed to sit before.

For his action on the field, he opened doors that had been closed for generations. This one man, this one man, Jackie Robinson, continues to inspire men and women, young and old, to strive to do their best.

Today, Mr. Speaker, we salute, we pay tribute, to a great American: Jackie Robinson.

IT IS TIME TO SLASH THE OPPRESSIVE TAX CODE

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, it is time to take a cue from Lorena Bobbitt. It is time to slash. We need to slash away at the crushing tax burden that is holding back the American economy, dashing the hopes and dreams of middle class families, and robbing millions of new college graduates of opportunities.

We can adopt the audacious strategy of boldness and with one stroke we can slash tax rates across the board, giving tax relief to all working Americans. Or we can adopt a more calculated strategy, and with systematic thrusts we can slash first the death tax, then slash the tax on capital gains, and then, just to be sure, slash the rates on personal income to complete the task.

Today, on April 15, is a reminder, it is the season to slash and cut. We must get to work now and slay the giant job-killer, an oppressive Tax Code that threatens us all.

PROPOSED CONSTITUTIONAL AMENDMENT WOULD PROTECT CORPORATE AND SPECIAL INTEREST TAX LOOPHOLES

(Mr. DeFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DeFAZIO. Mr. Speaker, as we debate today, millions of Americans across the country are still laboring over their taxes. No one can argue that the current system is simple or fair. But today, under the guise of offering relief to average taxpaying hard-working wage-earning Americans, this Congress is going to consider a constitutional amendment that would make it impossible to close the loopholes and make other needed changes in the Internal Revenue Service and the Tax Code.

It would be more properly titled "The Corporate and Special Interest Loophole Protection Amendment." It would not allow us, except with a two-thirds vote, to close the loophole that allows 71 percent of the profitable foreign corporations in America to pay not a penny of tax in this country, and 31 percent of the largest, most profitable U.S. multinationals to pay not a penny of tax in this country.

Foreign firms filed claims on our precious minerals last year. A foreign company got $13 billion of gold for $13,000. We would not be able to charge them anymore without a two-thirds vote under this ridiculous amendment.

AMERICANS NEED A TAX CUT

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, I want to increase the take-home pay of American workers. What could be done? We could cut the tax on job creation that would improve economic growth, create new jobs and more opportunities, or we could reform the Tax Code in a way that will give businesses a greater incentive to invest in new machinery and equipment that would improve productivity and raise wages. Or we could encourage greater investment in education and training, so workers could have more skills, be more productive, and earn higher wages.

But the best way to increase the take-home pay is to do so directly. This is not rocket science. Raise take-home pay by allowing workers to keep more of their money that they earn.

Mr. Speaker, millions of workers live paycheck to paycheck. A tax cut would allow that paycheck to go a little bit further, especially for those just getting by. It is time to give American workers a break. They need a tax cut.

NO EXTENSION FOR BUDGET COMMITTEE ON BUDGET RESOLUTION DAY

(Mrs. TAUSCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mrs. TAUSCHER. Mr. Speaker, today is tax day, the deadline for all Americans to submit their Federal income tax returns. But there is another deadline today. April 15 is the day by which the House is statutorily required to have approved a budget resolution. The IRS generously allows taxpayers to file an extension if they cannot complete taxes by today. The House should not be so kind to the Committee on the Budget.

The American people sent us here with a mission to restore fiscal sanity to the Federal budget. Today only the Blue Dog Coalition has prepared a balanced budget proposal. Unfortunately, the Committee on the Budget has refused to tell the American people what steps it would take to eliminate the deficit by 2002.

In the absence of a budget resolution, the House has been brought to a grinding halt. Important legislation cannot move forward without knowing how much money is available. Decisions on priorities ranging from education to transportation have been put on hold.

The Committee on the Budget does not warrant an extension on Budget Resolution Day. Show us your plan and let us decide if it makes sense for the American people.

THE TRUTH ABOUT THE BENEFITS OF H.R. 400

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, several weeks ago I received a call from a man who identified himself as a frustrated small inventor. He then proceeded to give me a tongue-lashing about the patent bill, H.R. 400, claiming that it would put the little guy out of business.

I asked him what was his source of information. He referred to a talk show featuring a Congressman who said that. I asked the caller if he had read the bill. No. I asked him if he wanted to read the bill. Yes. I mailed a copy of the bill to him, and then about 10 days later he called me and apologized. He said, this is a good bill, not at all like I was told on the talk radio show.

Yesterday, Mr. Speaker, a woman came to me, a Member of this body who was scheduled to speak on behalf of the bill later this week. She said, I cannot do it. I said, why? Because I have received mail that says H.R. 400 is bad for the little guy. I said, were there any details spelled out? No, she said.

This is how she bases her opinion. This is how the caller based his opinion. Scare tactics are very effective. Scare tactics make a formidable opponent.

NEIGHBOR HELPING NEIGHBOR

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, April 15 is the day notorious among Americans. We dread the tax deadline, despair over the amount of money we turn over to the Government and wonder how much benefit it will reap. Many citizens assume that, once they pay their taxes, the Government will take care of everything. History has proven this untrue.

What history proves is that this Nation is great because of a tradition of neighbor helping anybody or and community and faith-based institutions assisting others when they need help. This tradition allows people to take responsibility for themselves and their neighbors rather than abdicating this responsibility to the government.

I join the hundreds of thousands of others today in celebrating National Youth Service Day and the 10th anniversary of Youth as Resources. Gathering today in Indiana is a group of unique young people. The Coalition of Community Foundations for Youth has gathered teenagers from all walks of life and all ages, from the poorest to the wealthiest, who actively participate in community service and allows them to exchange ideas and discuss models for improving the quality of life in their own neighborhoods.

One such partnership is in my district, at the Wabash Valley Community Foundation in Terre Haute, IN. The Youth Grant Committee involves young people in evaluating projects for awards to other young people and in the process allows them to take responsibility for their future.

INVITATION TO CONFERENCE ON ISSUES IMPORTANT TO UNITED STATES-MEXICO BORDER

(Mr. REYES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REYES. Mr. Speaker, I rise today to talk about an important event being held in Washington this week and to invite all my colleagues to attend. The United States-Mexico Chamber of Commerce and the University of Texas at El Paso are sponsoring a conference this week in Washington about issues that are important along the United States-Mexico border.

The border between our countries is almost 2,000 miles long. We have a common border, and we have common challenges to meet.

This conference will be held Wednesday and Thursday. It will address such issues as the economics of the border, environmental concerns of the border, transportation and infrastructure needs of the border, cultural aspects of the border and a status report on the impact of NAFTA on the United States-Mexico border.

I invite all my colleagues to a congressional reception from 6 to 8 p.m. on Wednesday, April 16 in B-369 Rayburn. I also invite all my colleagues to attend all the conference or parts of the conference. I also ask my colleagues to look for my Dear Colleague letter this afternoon.

IN SUPPORT OF THE TWO-THIRDS TAX LIMITATION AMENDMENT

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I hold in my right hand a copy of the Constitution of the United States of America. When this document was ratified by the Original Thirteen Colonies in 1787, in article I, section 9, I want to read the following sentence: No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

What that meant was there could be no income tax in the original Constitution, but on February 3, 1913, the 16th amendment was passed to the Constitution that overrode that sentence that I just read. The 16th amendment says: The Congress shall have the power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States.

We need to pass the two-thirds tax limitation constitutional amendment on the floor of the House of Representatives this afternoon to put back into the Constitution not an absolute prohibition against leveling income taxes but at least a supermajority requirement that will take two-thirds of the House and the Senate before we raise taxes.

TAX BURDEN ON SENIORS MUST BE LIFTED

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, today is tax day. I think most of us would agree that we are taxed too much. But do we really need to tax seniors like we do? I do not think so.

Sadly, that is precisely what happened with the Clinton 1993 budget package. Some might try to argue that that was a good package. They were wrong. They are still wrong. These folks in the administration have long pursued a tax and spend policy. Try telling seniors that their taxes on Social Security are fair and necessary.

I have introduced legislation to roll back this additional tax burden that was placed on seniors by the Clinton administration in 1993. It also includes indexation of capital gains and American dream savings accounts for young people who are trying to purchase their first home. I urge my colleagues who believe in tax relief, true tax relief for all Americans, to sponsor my bill which is budget neutral. It is H.R. 1266. It is entitled the Budget Neutral American Tax Relief Act.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PEASE). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 4 p.m. today.

TAXPAYER BROWSING PROTECTION ACT

Mr. ARCHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1226) to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information, as amended.

The Clerk read as follows:

H.R. 1226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Taxpayer Browsing Protection Act".

SEC. 2. PENALTY FOR UNAUTHORIZED INSPECTION OF TAX RETURNS OR TAX RETURN INFORMATION.

(a) IN GENERAL.—Part I of subchapter A of chapter 75 of the Internal Revenue Code of 1986 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7213 the following new section:

"SEC. 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.

"(a) PROHIBITIONS.—

"(1) FEDERAL EMPLOYEES AND OTHER PERSONS.—It shall be unlawful for—

"(A) any officer or employee of the United States, or

"(B) any person described in section 6103(n) or an officer or employee of any such person, willfully to inspect, except as authorized in this title, any return or return information.

"(2) STATE AND OTHER EMPLOYEES.—It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under a provision of section 6103 referred to in section 7213(a)(2).

"(b) PENALTY.—

"(1) IN GENERAL.—Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding $1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

"(2) FEDERAL OFFICERS OR EMPLOYEES.—An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

"(c) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'return', and 'return information' have the respective meanings given such terms by section 6103(b)."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 7213(a) of such Code is amended by inserting "(5)," after "(m)(2), (4),".

(2) The table of sections of part I of subchapter A of chapter 75 of such Code is amended by inserting after the item relating to section 7213 the following new item:

"Sec. 7213A. Unauthorized inspection of returns or return information."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on and after the date of the enactment of this Act.

SEC. 3. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OF RETURNS AND RETURN INFORMATION; NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.

(a) CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION.—Subsection (a) of section 7431 of the Internal Revenue Code of 1986 is amended—

(1) by striking "DISCLOSURE" in the headings for paragraphs (1) and (2) and inserting "INSPECTION OR DISCLOSURE", and

(2) by striking "discloses" in paragraphs (1) and (2) and inserting "inspects or discloses".

(b) NOTIFICATION OF UNLAWFUL INSPECTION OR DISCLOSURE.—Section 7431 of such Code is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) NOTIFICATION OF UNLAWFUL INSPECTION AND DISCLOSURE.—If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

"(1) paragraph (1) or (2) of section 7213(a),

"(2) section 7213A(a), or

"(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code,

the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure."

(c) NO DAMAGES FOR INSPECTION REQUESTED BY TAXPAYER.—Subsection (b) of section 7431 of such Code is amended to read as follows:

"(b) EXCEPTIONS.—No liability shall arise under this section with respect to any inspection or disclosure—

"(1) which results from a good faith, but erroneous, interpretation of section 6103, or

"(2) which is requested by the taxpayer."

(d) CONFORMING AMENDMENTS.—

(1) Subsections (c)(1)(A), (c)(1)(B)(i), and (d) of section 7431 of such Code are each amended by inserting "inspection or" before "disclosure".

(2) Clause (ii) of section 7431(c)(1)(B) of such Code is amended by striking "willful disclosure or a disclosure" and inserting "willful inspection or disclosure or an inspection or disclosure".

(3) Subsection (f) of section 7431 of such Code, as redesignated by subsection (b), is amended to read as follows:

"(f) DEFINITIONS.—For purposes of this section, the terms 'inspect', 'inspection', 'return', and 'return information' have the respective meanings given such terms by section 6103(b)."

(4) The section heading for section 7431 of such Code is amended by inserting "**INSPECTION OR**" before "**DISCLOSURE**".

(5) The Table of sections for subchapter B of chapter 76 of such Code is amended by inserting "inspection or" before "disclosure" in the item relating to section 7431.

(6) Paragraph (2) of section 7431(g) of such Code, as redesignated by subsection (b), is amended by striking "any use" and inserting "any inspection or use".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to inspections and disclosures occurring on and after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. ARCHER] and the gentleman from Pennsylvania [Mr. COYNE], each will control 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill, H.R. 1226.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today is tax day. As most of the country knows by now, I continue to do my own taxes. Like millions of other Americans who struggle to fill out their forms before tonight's midnight deadline, I keenly know how difficult, time-consuming and troubling it is to comply with our Tax Code. But once the forms are complete and mailed in, you would think taxpayers could then look forward to a refund or, for some unfortunate souls, an audit.

But we have now learned that taxpayers have something else to fear: IRS agents, who snoop through people's personal, confidential tax records.

Mr. Speaker, this is a copy of form 1040. Taxpayer records are among society's most confidential and sensitive documents. They often describe how much alimony people pay, how much they spend on health care, and, of course, how much money they make. This information belongs to the taxpayers, not the Government. And taxpayers who suffer enough already should not have to worry about snooping Toms at the IRS who abuse their trust by looking up private tax information.

Yet the General Accounting Office tells us that there are more than 1,000 incidents that they know of in which IRS agents snooped into someone's files. That is why I am pleased that the House today, as a part of taxpayer protection week, will pass this bill that makes it a crime to snoop into taxpayer records.

This bill also adds an important privacy shield for taxpayers by requiring the IRS to notify taxpayers when criminal browsing activity is indicated. If someone's privacy has been violated by the Government, they have a right to know it, and they should be outraged.

I believe these two provisions will serve as a twin deterrent to protect the privacy of taxpayer information.

Mr. Speaker, I look forward to the time when we can protect taxpayers not only from the IRS but also from the current Tax Code which, after all, is the root cause of these problems. The current code is unfair, excessively complicated, overly intrusive, and antigrowth.

I believe we must pull the income tax out by its roots and throw it away so that it can never grow back. When we do, we will have made the tax system fairer, simpler, created more economic growth, and we will have gotten the IRS completely and totally out of the lives of every individual American.

Until that great day comes, we must do everything in our power to protect the rights of taxpayers. When it comes to fighting those who browse and snoop into personal taxpayer records, there ought to be a law, and now there will be.

Mr. Speaker, I reserve the balance of my time.

Mr. COYNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1226, the Taxpayer Browsing Protection Act. This bill was introduced on a bipartisan basis in April 1997, and I want to thank my Democratic and Republican colleagues on the Committee on Ways and Means for their support of H.R. 1226 and their very quick action.

As expected, H.R. 1226 was approved unanimously by the committee with one amendment on April 9, 1997. The bill before us today is a good example of the Committee on Ways and Means working together to improve and support the Internal Revenue Service. Also H.R. 1226 has the strong support of the IRS and the Treasury Department.

Enactment of this bill will provide needed statutory support for the IRS Commissioner's current zero tolerance policy for browsing. I should mention that earlier this year IRS Commissioner Richardson contacted members of the Committee on House Oversight to renew her request for criminal sanctions in the tax code to deal with unauthorized inspection of an individual's tax information.

Legislation similar to H.R. 1226 had been introduced by Senator GLENN during the 104th Congress but was never acted upon at that time. I want to commend the gentlewoman from Connecticut [Mrs. JOHNSON] for her leadership on H.R. 1226 and the gentleman from Texas [Mr. ARCHER] and the committee ranking member, the gentleman from New York [Mr. RANGEL] for their support for this legislation. It is time that something be done. The public has the right to expect that its tax records will only be reviewed by those authorized to do so. Browsing is unacceptable, period. It must and it will stop.

In summary, H.R. 1226 would clarify in the Tax Code the criminal sanctions for unauthorized inspection of tax information and application of civil damages. First, violators would be subject to significant criminal sanctions and dismissal from the IRS in their employment. The offense that would be committed would be a misdemeanor, with a fine of up to $1,000 and a prison term of up to 1 year, plus the cost of prosecution.

Second, the criminal sanctions would apply to IRS employees, IRS contractors, and other Federal and State employees having access to Federal tax information.

Third, tax information retained by the IRS on paper and electronically as well would be protected from unauthorized browsing.

And finally, the availability of civil damages for unauthorized inspection or disclosure would be expanded. The taxpayer would be notified when there has been a criminal indictment for illegal browsing or disclosure, and the taxpayer would be able to sue for civil damages in the same manner as under current law for an unauthorized disclosure, the greater of $1,000 or actual punitive damages, plus costs.

□ 1230

It is important to note that the IRS employee would not be subject to criminal sanctions in the bill unless the unauthorized inspection was willful inspection.

Also, the bill would not provide civil damages in the case of an accidental or inadvertent inspection, such as making an error in typing into the computer a taxpayer's identification number.

H.R. 1226 should not be construed as an attack on the IRS. While there are a small number of IRS employees intent on violating the law, the vast majority of IRS employees are hardworking and committed public servants. IRS employees nationwide will benefit from this legislation, knowing that any browsers identified by the IRS will be fired from their jobs and prosecuted criminally.

Mr. Speaker, I urge passage of this important legislation and I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield 2½ minutes to the gentlewoman from the State of Washington, [Ms. DUNN] who has contributed a great deal toward the development of this bill today. In fact, an amendment that she offered in committee is included in the bill, and I congratulate her for all of her very, very good work.

Ms. DUNN. Mr. Speaker, I want to commend Chairman ARCHER for his leadership in bringing this timely issue of taxpayer privacy to the floor of the House today.

Throughout my tenure in the Congress I have heard from thousands of constituents who have described to me a myriad of problems they see within our system of taxation.

Granted, our Nation suffers under an unfair and incomprehensible Tax Code that takes too much of what we earn. Worse, some rogue members of the IRS, the organization responsible for the enforcement of the Tax Code, have a record of seeking to intimidate and to frighten honest hard working taxpayers. They damage the reputation of a huge majority of the honest people working at the agency. We must not tolerate a Tax Code that punishes families just as we should not tolerate an IRS agent who is eager to bully, harass, or snoop on a taxpayer.

An important element of the IRS Accountability Act that I have offered and of the bill on the floor today is the protection of taxpayer privacy. It is well-documented that certain agents have been able to snoop through confidential taxpayer information with no regard for individual rights of the honest and the law-abiding taxpayers.

Furthermore, recent reports shed additional light on the need for this legislation and the adoption of my amendment. According to the GAO, for fiscal year 1994 and 1995, over 1,500 instances occurred where IRS employees were accused of unlawful browsing. After accounting for firings, for disciplinary action, and for counseling, 33 percent of these cases were closed without action.

I am glad the Committee on Ways and Means adopted my amendment to require that the taxpayer be notified when an IRS agent is indicted or otherwise charged with unauthorized inspection.

The bottom line is that this provision addresses what I believe to be a matter of common decency.

My amendment also provides taxpayers a civil remedy in such unauthorized inspection or browsing cases. The honest American family works too long and too hard to have to deal with an unfair and, on occasion, overly intrusive IRS and agents who trample on their rights.

The IRS deserves closer scrutiny when certain agents go beyond acceptable enforcement procedures and commit outright intimidation or when it is unable to use common sense as a yardstick.

This bill, the one we are considering on the floor today, will ensure that the powerful government agency, the IRS, will no longer scoff at the rights of well-intentioned and law-abiding taxpayers.

Mr. Speaker, I thank the chairman for his proposal of this legislation, and I urge my colleagues to support the adoption of this measure.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], another member of our committee, highly respected, and chairman of the Subcommittee on Oversight.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the chairman for yielding me this time and commend him for his leadership on this matter, bringing forth a bill that is truly bipartisan and addresses a very significant problem at the IRS.

The American public's willingness to provide the Federal Government with sensitive personal information on their tax returns each year depends on the confidence that the people have that this information will be held in the strictest confidence. That is why it is vitally important to have strong measures in place to ensure the security of tax return information.

Public confidence in the IRS has been again shaken by new reports that the IRS personnel continue to snoop into taxpayer files. Last year the IRS confirmed almost 800 cases in which IRS employees looked through taxpayer files without authorization. That has just got to stop.

As an original cosponsor of the Taxpayer Browsing Protection Act, I believe this legislation will give the IRS the tool it needs to enforce its zero tolerance policy against unauthorized browsing into taxpayer records by making it a crime punishable by up to a year in jail.

Today we are telling IRS employees that if they go into other people's private files, they will be heavily penalized and they may go to jail. As Americans file their tax returns today, they can be confident that their tax return information is theirs alone and their privacy rights will be protected by law by this Congress.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas, Mr. SAM JOHNSON, another respected member of the Committee on Ways and Means.

Mr. SAM JOHNSON of Texas. Mr. Speaker, from 1982 to 1993, the Democrats in Congress voted to increase the taxes of hardworking Americans by $666 billion. This new revenue was not put toward the debt or used to eliminate the deficit. Instead it was used to increase the size and scope of Government.

History has shown us that every time Congress increases taxes, they also increase spending. I believe that it is one more reason why the American people should demand that Congress abolish the IRS. I think the agency is out of control.

What the tax limitation amendment will do is provide a safeguard for taxpayers and no longer be simple and easy for Congress to increase taxes. It is a win-win for the American taxpayer. Not only will they get a smaller, more efficient government, but protection from higher taxes.

I think the Speaker agrees with me that something must be done. I think that of the browsing that has been going on, the Speaker probably does not know that 1,500 IRS agents were caught browsing from fiscal year 1994 to 1995, and only 23 of them were tried. The rest were either given a slap on the wrist or counseled. What does counseling mean? I do not know.

We ought to demand accountability not only from the IRS, but from the judges in Boston who ruled it was OK as long as they did not use it maliciously.

Mr. Speaker, I strongly urge my colleagues to vote with us today. Give Americans the assurance of trust they deserve from their Government.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CAMP] another respected member of the committee.

Mr. CAMP. Mr. Speaker, I thank the chairman for yielding me this time, and I rise in support of this protaxpayer bill.

For years the American people have told us that our Tax Code needs reform. Seventy-five percent of Americans believe we need a fundamental overhaul of our tax law. We in the Committee on Ways and Means are continuing a series of hearings today on doing just that.

Incidents like those reported recently, IRS employees browsing through tax records of neighbors, relatives, friends, and with friends like that who needs enemies, IRS employees even browsing the records of celebrities like Tom Cruise, all this shows how badly reform is needed.

With 108,000 IRS employees, twice as many as DEA, CIA, and FBI combined, there is plenty of time, apparently, to fool around. In only 2 years, over 1,500 cases of unauthorized browsing have occurred. Clearly, these IRS employees are doing the wrong things. Do these people have no sense of respect for the privacy of the customers they serve? We and they work for the U.S. taxpayer, and now IRS employees are arrogantly snooping wherever they choose.

Let us pass this bill today. Then we will be able to take appropriate action against those who violate our trust. Meanwhile, we in the Congress must continue our work and, as the gentleman from Texas, [Mr. ARCHER] is so fond of saying, tearing our present Tax Code out by the roots and putting in its place a fairer and simpler tax system with less room for such fraud and abuse.

Mr. COYNE. Mr. Speaker, I yield myself such time as I may consume just to submit for the RECORD a letter that was written to me by Commissioner Richardson of the IRS on March 10, citing the need for the legislation that we are debating here today and insert that in the RECORD; also, a memo from Commissioner Richardson in October 1993 to all employees of the IRS stating her policy of zero tolerance for any type of browsing within the agency.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, March 10, 1997.

Hon. WILLIAM J. COYNE,
Subcommittee on Oversight, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. COYNE: I wanted to let you know about a case that was recently decided by the United States Court of Appeals for the First Circuit, *United States v. Czubinski*, No. 96–1317, 1997 U.S. App. LEXIS 3077 (1st Cir. February 21, 1977) and to request your support for legislation to clarify the criminal sanctions in the Internal Revenue Code for the unauthorized access of taxpayers' accounts by Internal Revenue Service employees.

Since becoming Commissioner, I have repeatedly stated that the IRS will not tolerate violations by employees of the rules against unauthorized access. The Service's "zero tolerance" policy prohibits any employee access to (and use of) tax information, except to the extent necessary for an employee to perform assigned duties.

In the *Czubinski* case, the First Circuit reversed the conviction of a former IRS employee for improperly accessing taxpayer information in the IRS database. That person had been indicted and convicted of several counts of violating 18 USC §§1343 and 1346 (wire fraud) and 18 USC §1030(a)(4) (computer fraud). In reversing the conviction, the court stated that "unauthorized browsing of taxpayer files, although certainly inappropriate conduct, cannot, without more, sustain [a] federal felony conviction [under 18 USC §§1343, 1346 and 1030(a)(4)]."

This decision and a 1996 acquittal, by a Memphis, Tennessee jury of another former IRS employee who had been indicted for improper access of taxpayer accounts under 26 USC §7213 (Unlawful Disclosure of Tax Return Information), *United States v. Patterson*, Cr. No. 96–20002 (W.D. Tenn. April 10, 1996), are very troubling and make it more difficult for the Service to appropriately discipline employees who violate our policy against unauthorized access.

In the past several years, the IRS has taken a number of steps to ensure that unauthorized access of taxpayer information by IRS employees does not occur. For example, each time an employee logs onto the taxpayer account database, a statement warns of possible prosecution for unauthorized use of the system. All new users receive training on privacy and security of tax information before they are entitled to access the Integrated Data Retrieval System (IDRS). The Service has also installed automated detection programs that monitor employees' actions and accesses to taxpayers' accounts, identify patterns of use, and alert managers to potential misuse. Employees are disciplined according to a Guide for Penalty Determinations that includes dismissal. In the *Czubinski* opinion, for court noted that "the IRS rules plainly stated that employees with passwords and access codes were not permitted to access files on IDRS [the database] outside of the course of their official duties."

In addition to the internal actions, the IRS has recommended and supported legislative efforts to amend the Internal Revenue Code and Title 18 to clarify the criminal sanctions for unauthorized computer access to taxpayer information. A recent amendment to 18 USC §1030(a)(2)(B) by the Economic Espionage Act of 1996, Pub. L. No. 104–294, 110 Stat. 3488 (1996), provides criminal misdemeanor penalties for anyone who intentionally accesses a computer without authorization or who exceeds authorized access and thereby obtains information, including tax information from any department or agency of the United States. I have been advised by counsel that had this amendment been in effect and applicable to the *Czubinski* and *Patterson* cases, the government very likely would not have lost those cases.

Although the recent amendment to 18 USC §1030(a)(2)(B) will hopefully serve as a significant deterrent to unauthorized computer access of taxpayer information, this statute *only* applies to unauthorized access of computer records. It does not apply to unauthorized access or inspection of paper tax returns and related tax information. Legislation such as S. 670, introduced in the 104th Congress, would achieve that result. By clarifying the criminal sanctions for unauthorized access or inspection of tax information in section 7213 of the Internal Revenue Code, whether that information is in computer or paper format, the entire confidentiality scheme respecting tax information and related enforcement mechanisms would be appropriately found in the Internal Revenue Code.

An amendment to section 7213 such as was proposed in the 104th Congress would serve important tax administration objectives. (Of course, as is currently the case under section 7213 for convictions resulting from the disclosure of tax information to unauthorized third parties, a conviction of federal officers and employees for the unauthorized access or inspection of tax information would, in addition to imprisonment and fine, continue to result in dismissal from office or discharge from employment.)

We would like to work with you and your staff to assure that improper access can be dealt with appropriately.

Sincerely,
MARGARET MILNER RICHARDSON.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC October 20, 1993.

Memorandum for all employees.
From: Margaret Milner Richardson, Commissioner, Internal Revenue Service.
Subject: Taxpayer privacy and security.

One of the most important issues facing the IRS today is the privacy and security of taxpayer account information. Many of the changes we are experiencing right now, as well as the ones we hope to make, depend on our ability to protect private tax information.

In our daily work, we must continue to perform our duties in a manner that recognizes and enhances individuals' rights of privacy and ensures that our activities are consistent with laws, regulations, and good administrative practice. The Privacy Advocate, recently established under the Chief Information Officer to oversee the privacy concerns of the IRS and American taxpayers, has developed a Privacy Policy Statement. I fully endorse the attached statement, which gives a clear message about the importance of protecting taxpayers and employees from unnecessary intrusion into their tax records.

Any access of taxpayer information with no legitimate business reason to do so is unauthorized and improper and will not be tolerated. I made a pledge to Congress and I make it to you; taxpayer privacy and the security of tax data will not be compromised. We will discipline those who abuse taxpayer trust up to and including removal or prosecution.

The fundamental basis of our tax system, voluntary compliance, is directly affected by the level of trust taxpayers have in our ability to protect their information. The vast majority of IRS employees are dedicated and trustworthy. We must depend on each other's integrity and commitment to this agency and to keeping our tax system the best in the world.

Attachment.

TAXPAYER PRIVACY RIGHTS

The IRS is fully committed to protecting the privacy rights of all taxpayers. Many of these rights are stated in law. However, the Service recognizes that compliance with legal requirements alone is not enough. The Service also recognizes its social responsibility which is implicit in the ethical relationship between the Service and the taxpayer. The components of this ethical relationship are honesty, integrity, fairness, and respect.

Among the most basic of a taxpayer's privacy rights is an expectation that the Service will keep personal and financial information confidential. Taxpayers also have the right to expect that the Service will collect, maintain, use, and disseminate personally identifiable information and data only as authorized by law and as necessary to carry our agency responsibilities.

The Service will safeguard the integrity and availability of taxpayers' personal and financial data and maintain fair information and recordkeeping practices to ensure equitable treatment of all taxpayers. IRS employees will perform their duties in a manner that will recognize and enhance individuals' rights of privacy and will ensure that their activities are consistent with law, regulations, and good administrative practice. In our recordkeeping practices, the Service will respect the individual's exercise of his/her First Amendment rights in accordance with law.

As an advocate for privacy rights, the Service takes very seriously its social responsibility to taxpayers to limit and control information usage as well as to protect public and official access. In light of this responsibility, the Service is equally concerned with the ethical treatment of taxpayers as well as their legal and administrative rights.

Approved: Margaret M. Richardson, Commissioner.

Date: October 15, 1993.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, November 16, 1994.

Memorandum for all employees.

From: Margaret Milner Richardson, Commissioner of Internal Revenue.

Robert M. Tobias, President, National Treasury Employees Union.

Subject: Privacy and Security of Taxpayer Information.

Safeguarding public confidence in the integrity and competence of the Service is a top priority for all employees. Each of us must take seriously any perceived or real breach in public confidence and trust in our ability to administer tax laws. The availability of taxpayer information, or any other protected data, dictates a responsibility to observe privacy principles, to secure sensitive data, and to guard against improper disclosures. Clearly, most Service employees are conscientious and respect the taxpayer's right to expect that the information they provide will be safeguarded. However, any one breach by any one of us seriously undermines public confidence and trust in the Service.

Improper access to, or misuse of, taxpayer information violates law, rule, and regulation and is contrary to our ethical values and principles of public trust. In October 1993, the Service issued a Privacy Policy Statement. The policy emphasizes comprehensive privacy, security, and disclosure requirements. It also represents an application of Service ethical values and principles of public trust in our day-to-day operations. This year, we began to strengthen our commitment to the protection of taxpayer privacy through the Declaration of Privacy Principles and the issuance of the Guide for Penalty Determinations. Each of you received a copy of these documents and we urge you to become familiar with their contents.

Our efforts to maintain taxpayer privacy also includes continually improving Service ability to identify any employee who fails to safeguard taxpayer information and, where appropriate, taking disciplinary action, up to and including removal. This effort is not intended to impose an additional burden on conscientious employees in their use of tax systems. It is, however, intended as a concerted effort to maintain a work environment that reflects the highest standard for the protection of sensitive taxpayer information.

Privacy, security and disclosure issues will continue to be a major consideration and top priority for you as our Compliance 2000 and Tax Systems Modernization efforts lead to the identification of innovative approaches to the protection of taxpayer privacy. Each of us must continually examine how we accomplish our duties and be ever vigilant in safeguarding taxpayer privacy.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, January 3, 1995.

Memorandum for all employees.

From: Margaret Milner Richardson, Commissioner of Internal Revenue.

Subject: IRS information security policy.

Privacy, security and disclosure issues are key elements for the success of our Compliance 2000 and Tax Systems Modernization efforts. The success of the Service in addressing privacy, security and disclosure issues also has a critical impact on voluntary compliance, the fundamental basis of our tax system. Therefore, it is mandatory for each of us to secure sensitive data and guard against improper disclosures.

In October 1993, the Service issued a Privacy Policy Statement developed by the Privacy Advocate. A related document, the IRS Information Security Policy, has been developed by the System Architect's Office under the direction of the Chief Information Officer. The intent of this policy, which is attached, is threefold:

Ensure that the Service complies with the applicable guidance from public laws, regulations, and directives.

Ensure that taxpayer and other sensitive information is protected commensurate with the risk and magnitude of the harm that would result from inappropriate use.

Ensure that taxpayer and other sensitive information is used only for necessary and lawful purposes.

I fully endorse the attached policy statements.

I made a pledge to Congress and I make it to you: taxpayer privacy and the security of tax data will not be compromised. The implementation of the IRS Information Security policy is an important step in fulfilling this pledge.

Attachment.

IRS INFORMATION SECURITY POLICY

P1. It is the policy of the IRS to establish and enforce a comprehensive and appropriate security program that assures IRS information resources are protected commensurate with the risk and magnitude of the harm that would result from the loss, misuse, or unauthorized access to or modification of such resources.

P2. It is the policy of the IRS to collect, use, maintain, and disseminate only that information required for a necessary and lawful purpose.

P3. It is the policy of the IRS to ensure that its information collection, use, storage, dissemination, and derivation processes maintain the accuracy of the information relative to its intended use.

P4. It is the policy of the IRS to ensure that all information and resources required by an authorized individual to perform an assigned function are complete and available when required.

P5. It is the policy of the IRS to collect, use, maintain, and disseminate information with appropriate timeliness to ensure successful completion of IRS business functions.

P6. It is the policy of the IRS to limit access to IRS information and resources to authorized individuals who have a right to the information or resource or a demonstrable need for the information or resource to perform official duties.

P7. It is the policy of the IRS to disclose information to organizations or individuals outside of the IRS only when such disclosure is consistent with public law and other governing regulations.

P8. It is the policy of the IRS to ensure that only functions required for a necessary and lawful purpose be performed on IRS information or resources.

P9. It is the policy of the IRS to prevent, or to detect and counter, fraud.

P10. It is the policy of the IRS to ensure the continuity of operation of activities that support official agency functions.

P11. It is the policy of the IRS to establish and enforce security procedures for persons involved in the design, development, operation, or maintenance activities that affect the protection of IRS information and resources.

P12. It is the policy of the IRS to ensure that its work force has the technical and awareness training, appropriate to level of responsibility and authority, to implement and adhere to an IRS security program.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona, [Mr. HAYWORTH], another respected member of the Committee on Ways and Means.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman for yielding me this time. I apologize, but I was visiting with constituents from the great State of Arizona, so I hope I can be forgiven my tardiness.

Mr. Speaker, I rise in strong support of this measure. Indeed, the only criticism I would have would be with its name, Taxpayer Browsing, because I believe that is far too mild a term for what has transpired.

As Americans, if we truly champion the notion of privacy, then we should react as we are reacting today, in a bipartisan fashion, to put an end to this obscenity, this voyeurism in the vault that allows bureaucrats to take a look at the most sensitive financial information supplied by any citizen.

What we will do today, Mr. Speaker, is to rise collectively, as a body, to end this obscenity, for it is totally at odds with our notion of a right to privacy. It is totally at odds with the notion of fairness and, indeed, I champion the fact that this legislation now prescribes exact penalties so that those voyeurs of people's records will be punished when they are caught and that taxpayers, whose records have been violated, will be notified of such violation.

□ 1245

Mr. Speaker, the late Supreme Court Justice Potter Stewart when talking about obscenity said, "I can't define it. I know what it is when I see it."

Mr. Speaker, what has occurred in the past has been an obscenity the American people can do without. Punishment will be swift and sure. This is a positive action we take together on a bipartisan basis to say let us rein in those who would abuse our rights to privacy.

Mr. COYNE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. I thank the gentleman from Pittsburgh for yielding me this time and for his good work.

Mr. Speaker, today is a day that we all dread, and we know that it comes every year. As the old expression goes, "You can be certain about death and taxes." But there is another thing that you should be certain about, and that is your privacy.

As technology continues to advance and more of us surf the net, privacy becomes more difficult to protect. Information that individuals report on their tax returns should be kept confidential. Individuals have every right to expect that this information will remain confidential and that liberty should not be violated.

Senator GLENN has worked diligently to correct browsing at the Internal Revenue Service. Browsing is unauthorized opportunities to peek at tax returns. In 1993, the IRS commissioner established a zero tolerance for such conduct.

The IRS is working toward fair and private tax administration, and this is but another example. Commissioner Richardson has requested this legislation today, and we hope that it will eliminate browsing. I have been a cosponsor of this legislation, and I certainly believe that the IRS is correct in attempting to implement a zero tolerance policy.

The purpose of this legislation is to clarify in the Tax Code criminal sanctions for the unauthorized inspection of tax information. Violators would be subject to significant criminal sanctions and dismissal from IRS employment. Criminal sanctions would apply to IRS employees, IRS contractors, and other Federal and State employees having access to Federal tax information. Tax information on paper and in computer data bases would be protected from browsing.

Some of the browsing which has occurred at the IRS entailed the unauthorized viewing of celebrities' tax returns. We need to send a strong message to IRS employees that they should respect the rights of all citizens and taxpayers. IRS employees should not act on impulses based upon curiosity. It may be tempting to look at the tax files of such famous individuals as Lucille Ball, but everyone should have their expectation of privacy met.

This legislation will provide a deterrent against IRS employees taking a quick look at tax returns for purposes not related to work. I commend the IRS for identifying this problem and taking corrective action immediately. Commissioner Richardson also should be noted for her work on this legislation, and today we will pass it in a bipartisan manner. This legislation is something positive that we can do for all taxpayers. We can ensure their basic right to privacy.

While I urge an affirmative vote on the Taxpayer Browsing Protection Act, I also would point out to my colleagues in this institution and to members of the media as well that one of the most fundamental rights in this society is the basic notion of privacy. It is also the cornerstone of liberty.

Mr. COYNE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield the balance of my time to the gentleman from Georgia [Mr. GINGRICH], the respected Speaker of the House of Representatives.

Mr. GINGRICH. I thank my friend, the chairman, for yielding me this time.

Mr. Speaker, let me say first of all I want to commend both sides of the Committee on Ways and Means, both the Republicans and the Democrats, for bringing this timely bill out in a very responsive way.

We were surprised, I think, all of us, to discover how frequently Internal Revenue Service agents look at, I would use the word "snoop" rather than "browse," the private files of individual citizens. There were apparently in the last year over 800 cases of different employees illegally looking at tax returns without authorization. Ninety of them were fired. The rest were either reprimanded or received a slap on the wrist, yet supposedly the Internal Revenue Service has a zero tolerance policy for these abuses.

I commend the Committee on Ways and Means on this bipartisan effort to change the law to make clear that the Congress will not accept Internal Revenue agents stepping over their bounds and looking at private tax information purely out of curiosity or, in some cases, potentially in order to blackmail people.

This step of beginning to curb IRS abuses is only the first step in what I think will be a real landmark Congress in bringing the Internal Revenue Service under control. The fact is, with 110,000 employees, the Internal Revenue Service is too big, too complex, and too arrogant.

For the average citizen, let me just say 110,000 IRS employees compares with 5,500 working for the Border Patrol or 7,400 working for the Drug Enforcement Administration. So there are almost 10 IRS agents for every person protecting us from drugs and illegal immigration. I think that is clearly too many. One of our goals is to change the IRS as we know it, to shrink it, to go through tax simplification, to make sure that we have a much simpler and much fairer tax system.

The need for a simpler tax system was made clear when the IRS spent $4 billion, not million, $4 billion trying to build a computer that could understand the Tax Code. The fact is that that computer could not understand the Tax Code because the Code is probably incomprehensible. Every year reporters call five or six different IRS offices and get five or six different answers, because it is impossible for any human to fully understand the complexity.

I want to commend the gentleman from Texas [Mr. ARCHER], the chairman, for a joint editorial that he and the gentleman from Texas [Mr. ARMEY], the majority leader, had in this morning's Washington Times where they both begin to outline the case for dramatic, bold tax simplification. They happen to go at it in slightly different ways. The gentleman from

Texas [Mr. ARCHER], the chairman, would replace the entire income tax with a sales tax. The gentleman from Texas [Mr. ARMEY] would have a very flat income tax that one could fill out on a single page. But both of them have the right direction.

The debate over the next 2 or 3 years between a flat tax or replacing the income tax with a sales tax will be one of the most important debates in American history, and one of the consequences of that debate will be the adoption of a system which is dramatically simpler, with a much smaller IRS, with much less impact on your lives.

Let me give a couple of examples of how complicated this gets and how bad the need is, how desperate the need is, for change. Let me start with—one of my staff brought in his daughter's paperwork. She has a small amount of money she has been saving. Her parents and grandparents have tried to help her save money for college. She is 10 years old. They put it in a little fund for her.

Last year, the stock market went up too much. She had not paid quarterly, so at 10 years of age she found she had a $6 penalty. It took nine pages of tax forms to get to that point.

I note from some material that the gentleman from Ohio [Mr. BOEHNER], chairman of the House Republican Conference, has shared that in 1992 the Internal Revenue Service seized $26 from the bank account of a 6 year old to help pay her parents' overdue tax bill. Now surely at 6 years of age one hardly needs to encounter the IRS.

We had in my own district a couple that had taken over a small firm. This was a little company called Pro Tackle in Duluth, GA. When they took over the firm, they found out that the former chief executive at a previous time under the previous corporation had embezzled the excise tax funds. The IRS pursued the new couple and the new firm and basically put them out of business through a mistake. They did not understand that the legalities had changed, that in fact they did not owe the money, and between the cost of the attorney and the cost of fines and penalties, Mr. Mitchell, my constituent, was forced out of the bait and tackle business. Finally, years later, the IRS came back and said they goofed.

Similarly, there are other examples, and some of these, frankly, are almost impossible to believe, but let me give some examples. The Heritage Foundation issued a report that a day care center which allegedly owed the IRS $14,000 was raided by armed agents who then refused to release the children until parents pledged to give the Government money.

One taxpayer in 1993, this again is from the Heritage Foundation, was fined $46,806 for an alleged underpayment of 10 cents. Another taxpayer was fined $10,000 for using a 12-pitch typewriter, that is a kind of type, to fill out his tax form instead of a 10-pitch typewriter. Again, that is from the Heritage Foundation.

Going through case after case, one discovers that the IRS is out of touch, it is arrogant, it does not understand the average American, and I am not quite sure how they train their new employees, but again and again they seem to have difficulties.

Money magazine sent reporters posing as ordinary citizens to 10 different IRS district offices around the country and had them call the IRS help line and ask 10 common questions. This is according to Money magazine. Quote: It took an extraordinary effort to get a staffer on the line. A full 30 percent of the time, no one who could answer questions picked up the phone. Most of the time, we either got busy signals or recorded messages or were disconnected. Furthermore, well over half the callers who got through, 60 percent, waited 5 minutes or more, including one in four who had to hold for more than 20 minutes.

Money magazine went on to say, and I quote, and when we finally got through, we did not receive the right answer one out of every five times. The IRS workers answered only 78 percent of our questions accurately, got 12 percent wrong, and promised to call back with the correct answer but then failed to do so 10 percent of the time.

These are the IRS folks who, instead of learning the Tax Code and helping the citizen, have been snooping into the privacy files of citizens without right.

This bill is a first step toward changing the IRS as we know it. It sets the right standard. I commend again both the Democrats and the Republicans on the committee. This is the perfect day to be offering this bill. I just want to take one final moment to encourage the chairman, who I know hardly needs encouragement, but what he is doing in launching this dialog on whether we should replace the income tax with a sales tax or go to a flat tax, what he and Majority Leader ARMEY are doing is truly historic, and I want to take this moment on April 15 to thank him for the leadership he is offering and urge everyone to vote yes on this bill.

Mr. KLECZKA. Mr. Speaker, I rise today in support of a bipartisan bill to protect taxpayers, H.R. 1226, the Taxpayer Browsing Protection Act.

In February of this year, the First Circuit Court of Appeals overturned the conviction of Richard W. Czubinski, a former Internal Revenue Service employee who had snooped through the tax records of several taxpayers. The court claimed that although there was a law against unauthorized disclosure of confidential tax information, there was no law against unauthorized browsing of those private tax records.

The public correctly expects that their tax records will only be inspected by those authorized to do so for legitimate purposes: Browsing is unacceptable, and it must stop.

This bill will prohibit unauthorized review or browsing of Federal tax information which the IRS possesses. It will improve current law by putting criminal sanctions in the Tax Code and by protecting tax information in both electronic and paper forms. Those who break the law would be dismissed by the IRS, could be sentenced up to a year in jail, and additionally could be forced to pay up to $100,000 in fines. Also upon the filing of a criminal action against a browser, the IRS would notify affected taxpayers who could then sue the violator for civil damages.

Mr. Speaker, taxpayers expect and deserve that the Federal Government will protect the privacy of their personal financial information. As an original cosponsor of this measure, I urge Members to join me in voting "yes" today on H.R. 1226, the Taxpayer Browsing Protection Act.

Mr. STARK. Mr. Speaker, I rise in support of H.R. 1226, the Taxpayer Browsing Protection Act.

This bill bolsters the administration's position of zero tolerance for unauthorized browsing of taxpayer information. Current law focuses more on unauthorized disclosure of taxpayer information. This bill addresses—and makes a crime—IRS employees looking at a taxpayers records when they have no justifiable reason to do so, even if no disclosure of the information to others takes place.

Taxpayers are entitled to privacy of their records and we must assure that the information they provide the IRS will be protected. Protection of privacy rights of taxpayers is critical for a voluntary tax system.

IRS employees also deserve to have their ranks purged of those whose unlawful acts bring shame on Federal workers.

As a cosponsor of H.R. 1226, I am pleased to see that the House is responding to the administration's request for action on this legislation.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is on the motion offered by the gentleman from Texas [Mr. ARCHER] that the House suspend the rules and pass the bill, H.R. 1226, as amended.

The question was taken.

Mr. ARCHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

SENSE OF HOUSE ON FAMILY TAX RELIEF

Mr. ARCHER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 109) expressing the sense of the House of Representatives that American families deserve tax relief.

The Clerk read as follows:

H. RES. 109

Whereas American families currently pay too much of their hard-earned money in taxes;

Whereas every American will work for at least 120 days in 1997 to pay his or her share of taxes;

Whereas Americans should be allowed to keep more of their money to invest in their childrens' futures, purchase homes, or start businesses; and

Whereas the American family will be strengthened by providing tax relief: Now, therefore, be it

Resolved, That the House of Representatives urges that the Congress and the President work together to enact permanent tax relief for our Nation's families.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. ARCHER] and the gentleman from California [Mr. MATSUI] each will control 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on House Resolution 109.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARCHER. Mr. Speaker, I ask unanimous consent to yield the balance of my time to be managed by the gentleman from Pennsylvania [Mr. PITTS] and I further ask unanimous consent that he be able to further yield blocks of time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PITTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of House Resolution 109, a resolution calling upon the Congress and the President to work together to give American families much-needed tax relief.

As all Americans are painfully aware, today is the dreaded tax day. As I speak, families across America are rushing to deliver their latest payment to Uncle Sam. Americans will work into the month of May just to pay these taxes. Post offices will stay open late tonight to accommodate millions of hard-working Americans, Americans who need all the time they can get to understand the complicated and cumbersome IRS Code.

□ 1300

Whether a person fills out the EZ, the EITC, or the capital gains tax return or any of the other of 480 different forms that we have in this country, the struggle to pay taxes is a burden on everyone. The paperwork required by the IRS is staggering. In fact, the IRS sends out enough paper every year to circle the Earth 28 times. Many folks labor just to figure out how they are going to come up with the money they need to pay off the Federal Government for 1 more year.

Mr. Speaker, American families are simply paying too much to the Federal Government; 45 years ago families paid only 5 percent of their income in Federal taxes. Not anymore. In 1990 the Federal tax burdens averaged about 24 percent. When combined with other taxes today, families lose nearly 40 percent of their income to the Government.

As this chart shows, American families pay more into Government coffers then they spend on their family's food, clothing, transportation, and housing combined. As we can see, the total tax load for the average American family is $21,883 compared to a total of $19,605 for basic necessities and $8,600 for housing, $5,200 for food, $3,600 for transportation, $2,100 for clothing.

On this difficult day they can tell what permanent tax relief would provide. It would provide them with additional money to spend on their kids' education, it could go into an account for a child's college tuition, it could be invested for a family's future, and it could be used to buy a home or start a small family business. In fact the American family's ability to use their own money wisely is limited only by the government's confiscation of it.

We must begin today to take steps this session toward letting the American creativity thrive by letting Americans keep what they earn. House Resolution 109 is the starting point. It will begin the much needed bipartisan discussion on not if, but how to provide tax breaks for the American family.

Surely everyone in this room must agree that the American family needs permanent tax relief, not just temporary relief. House Resolution 109 places us on this common ground.

Let us start asking the tough question of how we get America's families a tax break. I support a repeal of the Federal estate tax, a $500 per child tax credit, capital gains tax relief, but there are other methods of providing American families the relief they deserve, and we should start that dialog.

I urge every Member of this House to deliver good news to American families living in their districts, that they will fight for permanent tax relief in the coming months. I urge passage of House Resolution 109.

Mr. Speaker, I reserve the balance of my time.

Mr. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is no one that could really oppose this resolution, and I thank the gentleman on tax day for bringing it up. Resolution 109 is one in which bipartisan support will occur. Basically it says expressing the sense of the House of Representatives that the American family deserves tax relief, the American family currently pays too much of their hard-earned taxes whereas every American works 120 days, in 1997, to pay for his or her share of taxes. We need to keep more money to invest in our children's future, purchase homes, or start a business. Now we are asking for tax relief that the President and Congress worked together on.

I might just also point out, however, in this discussion that April 15 is another day. Not only do over 100 million Americans pay their taxes by filing their tax returns, but also this Congress, this institution, has a responsibility as well, one that I think we will not talk too much about today; maybe on the floor of the House in this moment may be the only time we talk about it, but on April 15, according to the law, this is a law that was passed on July 12 signed by the President, President Nixon incidentally, on July 12, 1974. It says on or before April 15 of each year the Committee on the Budget of each House; that is the House and the Senate, shall report to the House the first concurrent resolution on the budget. It should do a comparison of revenues and expenditures and a comparison of the appropriate levels of the total budget outlays and total new budget authority. And so essentially what this law says; this is the law of the land, that on the 15th of April we have a budget resolution.

Now we do not have a budget resolution. In fact this is the first time in 10 years, in 10 years, that we have not even had the Committee on the Budget come out with a budget resolution. I think it even goes further back than that, but I just wanted to take the last 10 years, since Democrats have been in control for 7 of those years, and Republicans in control 3 of those years. But in the last 10 years the Committee on the Budget has had a budget resolution out. This is the first time not only we do not have a bill on the floor, on the floor of the Senate, on the floor of the House, but the committees of the House and Senate have not come up with a budget resolution.

The reason that is important, the reason that is important is because for the gentleman's wish, the maker of this resolution, those that will support it, for our wish to come true; that is for tax relief for the average American family, one has to have a budget resolution because we all agree, we have all agreed that by the year 2002 we want a balanced Federal budget. That is not a goal, that is a demand by both the House, the Senate, and the President. We want a balanced Federal budget.

But in order to do that, one has to get the revenues of the Government, the expenditures of the Government and has to factor in our tax laws. And in order to come up with the tax provisions we have to figure out how we are going to balance the Federal budget.

And so this resolution is great, it is wonderful, but the fact of the matter is it is like taking a gun and shooting blanks; and the gentleman talked about, well, let us start the debate as to how we are going to get tax relief. We have been debating this for quite some time. Why do we not just now have the Committee on the Budget of the House and the Senate come up with a resolution, bring it to the floor of the House so we can vote on it because that determines the priorities, that determines the priorities of each and every Member of this institution and each and every Member of the other body.

Let me conclude by making one further observation. The gentleman said he wanted tax relief for middle-income families; that is a child credit. The gentleman says that he wants to eliminate the estate taxes. And the gentleman says he wants capital gains relief. I am assuming that means eliminating the capital gains tax.

I add that all up, tax relief for children, if we want to do a $300 per child credit or $500 per child credit. The estimate is that a revenue loss will occur of $109 billion over the next 6 years. If we want to eliminate the estate and gift tax, that is a loss of $136 billion over 6 years, and if we eliminate the capital gains tax, that is a loss of $334 billion over 6 years; and that means essentially those three tax credits or tax deductions that the gentleman favors will result in a loss of $569 billion over the next 6 years.

Now what we really should be talking about, we should show the courage, how are we going to come up with that kind of tax relief? Are we going to cut Social Security, are we going to cut Medicare, are we going to significantly reduce the CPI; that is, almost eliminate the cost-of-living adjustment? These are the issues we should be discussing. That is what we are being paid here for. That is what the American public sent us last November to make a decision on, not really to pass resolutions that no one opposes.

The real debate in America should be about priorities. It should be about what we stand for, what our values are, what we want to do with our country in the next 10, 20 years. And tax relief should be a component of it, but also taking care of our children, taking care of educational needs, certainly taking care of senior citizens; that should all be part of the component, and the only way to do that is by having a budget.

I would just like to see my colleagues find a way to have a budget resolution brought to the floor this week, if not this week next week, but I bet anything we will not have a budget resolution to the floor of the House even in the month, the entire month, of April; and the reason for it is because many Members do not want to make the tough decisions, the tough decisions on how to apportion tax relief and spending provisions and spending cuts.

These are the decisions we should be making. We are not being paid to pass resolutions that have no meaning. We are being paid to make the tough decisions of America.

Mr. Speaker, I reserve the balance of my time.

Mr. PITTS. Mr. Speaker, I yield 30 seconds to myself.

Mr. Speaker, my friend on the other side of the aisle has the gall to criticize Republicans for not having a balanced budget yet. I would like to ask them where is their balanced budget.

The President knows how difficult it is to produce a balanced budget. In fact he could not do it. There are no tough decisions in President Clinton's proposal, and in fact he inflates the debt by $1.2 trillion by 2002. His spending cuts would not occur until he leaves office, his tax cuts are temporary. The Republican Congress has been trying to negotiate a real balanced budget, and we will do that.

Mr. Speaker, I yield 1 minute to the gentleman from Utah [Mr. COOK].

Mr. COOK. Mr. Speaker, I rise in strong support of House Resolution 109 sponsored by my friend and colleague from Pennsylvania. Although Americans feel the sting of their tax burden each and every day, today, April 15, tax day, we realize just how much the Government takes from our hard-earned paychecks.

As a taxpayer, I understand the frustration with Government taking so much of our hard-earned money. However, the real tragedy is how our complicated tax system is dragging down the American economy.

Our tax system punishes those who work, save and invest, yet benefits the wealthy and special interests who have the legal and lobbying power to manipulate the tax code for their own self-interest.

Meanwhile, the average American will spend more time working to pay taxes than working to pay for housing, food, and clothing combined. Congress must pass tax relief so Americans are able to keep more of what they earn and simplify the tax code to ensure fairness.

Mr. MATSUI. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, it would be difficult today to suggest that American families in general do not deserve tax relief, and those who pay taxes, mostly the middle and lower income working people, certainly feel that it is a burden and they are going to feel it as they run around trying to find the money today to pay their taxes.

It is a fact that our taxes are lower, our Federal income tax, than any other developed nation in the world. It is also a fact that it is probably more unfairly distributed, with the very wealthy in this country paying nowhere near their fair share of the burden of supporting this country, which goes, interestingly enough, disproportionately to benefit the rich, who pay the least.

Now, if in fact there is some relief, perhaps what it ought to be is relief from the unfair structure which has allowed corporations to escape paying much, if any, tax, which has allowed the very rich in this country to escape from paying much, if any, tax, and the taxes go into a system which now leaves us with 10 million uninsured children, 43 million uninsured Americans without health care insurance.

We are the only developed nation in the world that treats our people in the health care system so poorly. Yet we have a low tax system, and it is disproportionately the low-income people who are uninsured and whose children are uninsured. So relief is in the eye of the beholder.

While I think we will all be voting "yes" to provide tax relief to the Americans, I think the Americans watching our actions will have different reactions. Those who do not pay any tax and are very rich would like relief from the fear that we might make them do the right thing. Those who are very poor and do not have health insurance for their children or do not have a decent place to live or do not have the prospect of being able to send their children to college might hope that we will do the right thing and let the tax code be a vehicle for sharing some of the largesse in this Nation.

So as we think about tax day, I hope we will think about the fairness of the code, how it could strengthen our country by allowing everyone in this country to share in its munificence and indeed support tax relief, but define it a bit more broadly and define it so that every American can participate and enjoy the bounties of this country.

□ 1315

Mr. PITTS. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, the gentleman on the other side has stated that this is about tax relief for corporations. This resolution is about American families, not corporations. We could not do anything really more worthy on the day that we pay taxes in the people's House than to discuss tax relief for American families.

Mr. Speaker, I yield 4 minutes to the gentleman from Missouri [Mr. HULSHOF].

Mr. HULSHOF. Mr. Speaker, for most Americans, the point of least favorable contact between them and Washington occurs today, in fact tonight, and probably up until the midnight deadline when Americans will be delivering their tax returns to the local Post Office. It is during this period of time that Americans are painfully reminded that they work too hard for

Washington to take so much of their money away.

The struggle to not only pay, but to file our taxes is a burden, and not only are our taxes too high, but our tax system is too complex.

I am happy to serve with the two distinguished gentlemen from California on the Committee on Ways and Means. I am one of the few on the tax-writing committee that actually muddles through my tax forms every year without the benefit or assistance of accountants and tax lawyers. We have to do better than the current bureaucratic nightmare of 480 IRS tax forms and 17,000 pages of IRS laws and regulations.

Mr. Speaker, I have a copy of the Gettysburg Address, 267 words in this document. The Declaration of Independence talked about the principle of no taxation without representation, 1,322 words in this document. And then we come, Mr. Speaker, to our Tax Code. Nearly 1 million words in this Tax Code, not counting the forms that tell us how to deal with this very complex code.

Although it is difficult to believe, I think the gentleman from Pennsylvania [Mr. PITTS] pointed out very accurately that a recent study shows that the average American family does pay more on taxes than they spend on food, clothing, and shelter combined.

When we turn on a light, we pay a tax. If we pursue the American dream and we are able to own a home, we pay property tax. When we drive our child to school, we pay a gas tax. When we buy groceries at the market, we pay a sales tax. Perhaps the cruelest tax of all is that when we die and pass on our legacy to descendents, our family pays a death tax, and that of course not counting the payroll tax and income taxes that we are saddled with.

It used to be that the largest investment that most families made was in their home. Now it is paying the tax bill. Back in the 1950's, taxes took just a fraction of our family incomes. Today, almost half of what we earn goes to the Government in some form or another, one-half. In too many families, one parent is working to put food on the table, while the other is working to pay for the Washington bureaucracy, and Mr. Speaker, I believe this has to stop.

I believe we need to demand relief from an unfair tax burden. That is why I support my colleague from Pennsylvania [Mr. PITTS], in supporting the tax freedom resolution, which calls upon this body and the President to enact permanent tax relief for American families.

Mr. Speaker, here in Washington many politicians forget that the taxes that we impose have to be paid by real people who struggle to pay their bills and to make ends meet. My friend from California talks about the revenue loss. Well, Washington's loss is American families' gain. It is my goal to end this tax trap. It is my goal to help Americans earn more of their money and keep more of what they earn so they can do more for themselves, for their families and for their communities.

Mr. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Missouri has the copy of the code there, and I will not ask, because I do not want to get involved in a rhetorical debate, but I would only point out to him that this resolution does not change one word, it does not eliminate one page in that document. That is just what we are trying to bring up today. We are not trying to say people are not entitled to tax relief.

We are all going to be voting for the prior bill that is antibrowsing legislation. I was the originator, along with the gentlewoman from Connecticut [Mrs. JOHNSON], last year on the Taxpayers' Bill of Rights, which gave significant protections to taxpayers, and we intend to do it again this year or 1998. So we want to make substantive changes and actually do some of the things the gentleman suggested. However, this resolution does not do anything to that big Tax Code there, nor does it reduce it one word nor one page.

I might just finally conclude by making another observation. The reason I raised those numbers, $579 billion, was not to suggest that it should not go back to the American public. It is just that if we want to balance the budget, we have to come up with other spending cuts or revenue offsets in order to make up the difference, and then we have to ask ourselves, should it be Social Security? In other words, should we cut Social Security from seniors? Should we cut Medicare from senior citizens? Shall we cut Medicaid again and again and take money away from children? These are the issues we have to discuss.

The reason we raise these numbers is not to create problems, but it is merely to point out that we have to make the tough decisions, and a paper like this does not do it. This is really a matter for a special order; it should not be part of a legislative process. I do not know why we even raise this issue today. As I said, no one is going to vote against it, because it is noncontroversial, it is kind of harmless.

Mr. Speaker, I reserve the balance of my time.

Mr. PITTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again the minority simply does not understand the intent of House Resolution 109. Since I have been a Member of the House of Representatives, the Democrats have not had an opportunity to go on record officially in a vote and support tax relief. We have had this debate going on for a couple of months. They have endorsed a budget that is out of balance, that has raised taxes, that would raise taxes, that would increase welfare spending.

Mr. Speaker, this resolution speaks in a clear, unequivocal voice: We will have tax relief this year. It will be permanent, not temporary. It will be part of our budget. It will be for the American family.

Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. PICKERING].

Mr. PICKERING. Mr. Speaker, today, I rise in support of this resolution for my family, which for most of my life operated a dairy farm.

There is a Greek proverb which has special meaning to me. It says, "Milk the cow, but do not pull off the udder." On this day, April 15, which for most people is the day of infamy, they feel they have been pulled and stretched for too long, way too long.

Let me give my colleagues two examples in my district of individuals and families that are affected by the current tax burden. Chester Thigpen, 85 years old. He has four children. On his first day of labor, in 1918, he earned 35 cents. From that first day of work he built up a tree farm, for which he is proud. He is the first African-American to earn the honor of Mississippi and the National Tree Farmer of the Year Award.

He wants to leave that legacy, that farm, to his four children, but our Government wants to confiscate it. Now, is that fair? Is that not double taxation after a lifetime of earning and paying taxes? From his grave they will tax him. Is that not taxation without representation? We need to act now to provide reform so that families can leave their legacy and their small farms and businesses to their children.

Another example: Bobby and June Pickle. They have two small children in Pearl, MS. After the birth of their first child, June Pickle wanted to stay home with her children, but they soon discovered that the tax bill was too high and that she must go back to work. Does she have the freedom to stay at home with her children? Is that fair?

Mr. Speaker, we must act now to give families a tax credit, $500 per child, that can give people and families back some of the freedom that they have lost and some of their hard-earned wages.

Mr. PITTS. Mr. Speaker, I yield 2½ minutes to the gentleman from New Jersey [Mr. PAPPAS].

Mr. PAPPAS. Mr. Speaker, I want to thank my friend and colleague from Pennsylvania for the chance to speak on this very timely resolution.

It is important that today, a day in which many Americans are rushing to finish the complex and burdensome tax forms of the IRS, that we, the 105th Congress, reaffirm our commitment to provide the American people with tax relief.

Is there a Member of Congress who can honestly say the people in his or her district do not think that they pay enough in taxes? I know that the people of central New Jersey tell me every week when I am home that they pay too much in taxes.

Week in and week out, Members of this body introduce legislation that is aimed at improving the quality of life for the American people, but what could be more basic than tax relief? After all, it is not our money, it is their money. It is money that they could use to put toward their children's education, to buy dinner for their family, to buy a new car, to take a vacation. We are constantly discussing issues that are aimed at helping families, but the single greatest thing that they could possibly do is to let them keep more of what is rightfully theirs.

Families in America are struggling. Mothers and fathers are sometimes working two jobs just to pay their tax bills. How can we expect American families, parents to spend more time together, more time with their kids to monitor what they are watching on TV or looking at what they are viewing on the Internet when they must work harder and longer just to pay the Federal Government. The time that is spent paying the tax bill and filling out the tax forms is time that could be better spent.

In our country, virtually everything that we do, buy, produce, or interact with is taxed. Today, the average American family pays 19 percent of its annual income in Federal taxes. It was just reported yesterday that Americans will work until May 9 of this year just to pay their taxes, and if we look at this chart, it very graphically points out over 4 months of the year is spent paying Uncle Sam. That means that people will spend more time on their taxes than they will for housing, food, and clothing combined.

If we in this Congress on both sides of the aisle are really committed to improving the quality of lives of the people in our country, then let us pass meaningful tax relief and demonstrate that by supporting this resolution.

Mr. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

I might just point out again, this resolution is one we should all support, since it is really harmless. But it basically says that the House of Representatives should urge ourselves to work for permanent tax relief for the American public. I have no objections to urging ourselves to work for permanent tax relief for the American public.

Mr. Speaker, I yield back the balance of my time.

Mr. PITTS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. DELAY], the distinguished majority leader.

Mr. DELAY. Mr. Speaker, I rise in support of this resolution that expresses the sense of Congress that American families deserve tax relief, and I think it is very important to have such a resolution as this on this particular day.

I want to congratulate my colleague, the gentleman from Pennsylvania [Mr. PITTS], for his efforts in bringing this resolution to the floor and highlighting an issue that is very near and dear to my heart.

□ 1330

And we are very fortunate to have a man like the gentleman from Pennsylvania, Mr. JOE PITTS, here in this House coming from a long history in Pennsylvania of doing what is right for working families in Pennsylvania. Now he is working on what to do right for American families.

Today working families across this Nation are getting ready to pay their taxes after spending hours upon hours figuring out our complicated tax system. Many do this chore with the knowledge that taxes are an inevitable part of the process, like death.

While taxes may be a necessary evil, the current tax system is a national disgrace. In fact, the Government takes more than 50 percent of the average working family's paycheck through costs of taxes and regulations.

That means that 50 cents out of every hard-earned dollar that the American family makes today goes to the Government. No wonder it takes one parent to work for the Government while the other parent works for the family.

It also means that a single parent must work twice as hard to support the Government and his or her children. Now, when mothers and fathers work more to support their government than they do to support their children, I say that this system has gone awry.

We want to change the system to allow families to keep more of what they earn to support their children. Now, some say that it takes a village to raise a child, while I say that it takes a village idiot to raise taxes on working families.

Mr. Speaker, we need to cut taxes for working families but we are running into opposition, and he resides at the other end of Pennsylvania Avenue. President Clinton talks a good game but his actions prove that he is against family tax relief.

Last year he introduced other legislation that would have given working families immediate tax relief; and this year he wants to increase taxes, increase taxes by $80 billion to pay for more wasteful Washington spending. Are families not taxed enough already?

So I just urge my colleagues to join with me and send the President a message, the American family deserves a tax break.

Mr. PITTS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARCHER] that the House suspend the rules and agree to the resolution, House Resolution 109.

The question was taken.

Mr. PITTS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

REMOVAL OF NAME AND ADDITION OF NAME OF MEMBER AS COSPONSOR OF H.R. 1200

Mr. MCDERMOTT. Mr. Speaker, I ask unanimous consent to remove the gentleman from Oklahoma, Mr. J.C. WATTS, as a cosponsor of H.R. 1200 and to add the name of the gentleman from North Carolina, Mr. MEL WATT, to the bill. I inadvertently got the wrong name.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

EXTENDING TERM OF APPOINTMENT OF CERTAIN MEMBERS OF PROSPECTIVE PAYMENT ASSESSMENT COMMISSION AND PHYSICIAN PAYMENT REVIEW COMMISSION

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1001) to extend the term of appointment of certain members of the Prospective Payment Assessment Commission and the Physician Payment Review Commission.

The Clerk read as follows:

H.R. 1001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TERM OF APPOINTMENT OF CERTAIN MEMBERS OF THE PROSPECTIVE PAYMENT ASSESSMENT COMMISSION AND THE PHYSICIAN PAYMENT REVIEW COMMISSION.

In the case of an individual who is appointed as a member of the Prospective Payment Assessment Commission or of the Physician Payment Review Commission and whose term of appointment would otherwise expire during 1997, such terms of appointment is hereby extended to expire as of May 1, 1998.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. THOMAS] and the gentleman from California [Mr. STARK] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1001. It is the bill to extend the term of appointment of certain members of the Prospective Payment Assessment Commission and the Physician Payment Review Commission. This is a noncontroversial bill; nevertheless, it is a necessary one because it is needed to ensure the continued operation of these two commissions.

H.R. 1001 was introduced by myself and the chairman of the Subcommittee on Health and the Environment of the Committee on Commerce, the gentleman from Florida [Mr. BILIRAKIS]. The bill was reported by both the Ways and Means Health Subcommittee and the full Committee on Ways and Means by a voice vote without amendment.

Under current law the appointment of, we call it the PROPAC and PHYSPRC, the Prospective Payment Assessment Commission and the Physician Payment Review Commission, membership is made by the Director of the Office of Technology Assessment.

However, because Congress has closed the OTA, there is no one to make these appointments. This bill would extend the members' terms which expire this year. It will provide the committees of jurisdiction time to consider the future structure of the two commissions in order to develop legislation that would first, reauthorize their activities, and second, put in place a structure for determining a membership appointment.

Mr. Speaker, this measure received, as I said, the unanimous support of the Subcommittee on Health and the Environment and the full committee. I urge my colleagues to join me in support of this noncontroversial but much-needed piece of legislation.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California has described the bill well and accurately. There is no controversy, or, that I know of, any opposition to it. It is supported on our side. I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1001.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. THOMAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. THOMAS] that the House suspend the rules and pass the bill, H.R. 1001.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TECHNICAL CORRECTION RELATING TO JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES

Mr. HYDE. Mr. Speaker I move to suspend the rules and pass the bill (H.R. 1225) to make a technical correction to title 28, United States Code, relating to jurisdiction for lawsuits against terrorist states.

The Clerk read as follows:

H.R. 1225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective with respect to any cause of action arising, before, on, or after the date of the enactment of this Act, section 1605(a)(7)(B)(ii) of title 28, United States Code, is amended by striking "the claimant or victim was not" and inserting "neither the claimant nor the victim was".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. HYDE] and the gentlewoman from Texas [Ms. JACKSON-LEE] each will control 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1225 corrects a drafting error in the foreign sovereign immunity provisions of last year's antiterrorism bill. We enacted these provisions to allow victims of state-sponsored terrorism, like the Pan American 103 tragedy, to sue the countries who sponsored the terrorist act in American courts.

Our intent was that families should have the benefit of these provisions so long as either the victim or the survivor was an American citizen. Unfortunately, and due to an inadvertent error, the current language can be read to allow the benefit only to those families in which both the victim and the survivor are American citizens.

H.R. 1225 corrects this error and restores the law to our original intent, that the affected person should get all of the benefits of section 221 of last year's antiterrorism bill, including the statute of limitations.

I understand this problem affects several of the Pan American 103 families, including Mr. Bruce Smith, who has been one of the leaders of those families. Mr. Smith, who is an American citizen, lost his wife, who was a British citizen, in the Pan American 103 tragedy. He now stands to lose his claim against Libya if this correction bill is not passed. The case is currently before the Supreme Court on a petition for certiorari. The Court may act on the petition as soon as this month. If that case is concluded before we act, those affected families may lose their claims.

For that reason, I believe it is important that we act expeditiously on this technical correction. The staff has consulted with both the Justice Department and the State Department, and I understand they do not have any objection to the correction.

Mr. Speaker, I am pleased that the distinguished ranking member, the gentleman from Michigan [Mr. CONYERS], the chairman of the subcommittee, the gentleman from Florida [Mr. MCCOLLUM], and the ranking member of the subcommittee, the gentleman from New York [Mr. SCHUMER], joined me in cosponsoring this legislation.

In addition, the other members of the committee from Mr. Smith's home State, the gentlemen from Florida, Mr. CANADY and Mr. WEXLER, Mr. Smith's own Congressman, Mr. MICA, and the gentleman from New York, Mr. MCNULTY, who also has an affected constituent, have joined me in cosponsoring this legislation.

I want to thank Senator HATCH, Senator LEAHY, Senator MACK, and Senator KENNEDY, who are working to get H.R. 1225 passed quickly by the Senate.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join the chairman, the gentleman from Illinois [Mr. HYDE], in supporting this legislation, H.R. 1225. In the antiterrorism bill passed into law last Congress, we amended the Foreign Sovereign Immunities Act to allow American citizens to sue for money damages in American courts for acts of terrorism that occur abroad.

Unfortunately, an error was made when that legislation was drafted. The legislation we consider here does nothing more than correct that error. As written, the law allows suit only if the claimant and the survivor are both American citizens. But if the victim of the terrorist act was not an American citizen, that victim's American spouse cannot sue.

This bill fixes the provision to allow suit if either the victim or the claimant is an American citizen. Because this correction will allow several families to continue their lawsuits against Libya over the bombing of Pan Am flight 103, as well as apply to any future cases in which American families are victimized by state-sponsored terrorism, it is our responsibility, Mr. Speaker, to protect Americans, and to protect Americans against terrorism. I think this correction goes one step further to ensuring that Americans and America and this Government stands up against terrorism. I urge my colleagues to support this legislation.

Mr. Speaker, I am pleased to join Chairman HYDE in supporting this legislation, H.R. 1225. In the antiterrorism bill passed into law last Congress, we amended the Foreign Sovereign Immunities Act to allow American citizens to sue for money damages in American courts for acts of terrorism that occur abroad.

Unfortunately, an error was made when that legislation was drafted. The legislation we consider here today does nothing more than correct that error.

As written, the law allows suit only if the claimant and the survivor are both American citizens. But if the victim of the terrorist act was not an American citizen, that victim's American spouse cannot sue. This bill fixes the provision to allow suit if either the victim or the claimant is an American citizen.

Because this correction will allow several families to continue with their lawsuits against Libya over the bombing of Pan Am flight 103 as well as apply to any future cases in which American families are victimized by state-sponsored terrorism, I urge my colleagues to support this legislation.

Mr. HYDE. Mr. Speaker, I thank the gentlewoman from Texas. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. HYDE] that the House suspend the rules and pass the bill, H.R. 1225.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

NOTICE OF WITHDRAWAL OF BENEFITS ON ARGENTINIAN EXPORTS UNDER GENERALIZED SYSTEM OF PREFERENCES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105-66)

The Speaker pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed.

To the Congress of the United States:

The Generalized System of Preferences (GSP) program offers duty-free treatment to specified products that are imported from designated developing countries. The program is authorized by title V of the Trade Act of 1974, as amended.

Pursuant to title V, I have determined that Argentina fails to provide adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property. As a result, I have determined to withdraw benefits for 50 percent (approximately $260 million) of Argentina's exports under the GSP program. The products subject to removal include chemicals, certain metals and metal products, a variety of manufactured products, and several agricultural items (raw cane sugar, garlic, fish, milk protein concentrates, and anchovies).

This notice is submitted in accordance with the requirements of title V of the Trade Act of 1974.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 11, 1997.*

POSTPONING FURTHER CONSIDERATION OF HOUSE JOINT RESOLUTION 62 UNTIL AFTER VOTES UNDER SUSPENSION OF THE RULES

Ms. PRYCE of Ohio. Mr. Speaker, I ask unanimous consent that during consideration of House Joint Resolution 62, pursuant to House Resolution 113, notwithstanding the order of the previous question, it may be in order at any time for the Chair to postpone further consideration of the joint resolution until a time designated by the Speaker after disposition of any motions to suspend the rules on which proceedings were proposed earlier in the day.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

□ 1345

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 62, TAX LIMITATION CONSTITUTIONAL AMENDMENT

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 113 and ask for its immediate consolidation.

The Clerk read the resolution, as follows:

H. RES. 113

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 62) proposing an amendment to the Constitution of the United States with respect to tax limitations. An amendment in the nature of a substitute consisting of the text recommended by the Committee on the Judiciary now printed in the joint resolution, modified by the amendment specified in the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. The previous question shall be considered as ordered on the joint resolution, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) three hours of debate on the joint resolution, as amended, which shall be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) one motion to amend, if offered by the minority leader or his designee, which shall be considered as read and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore [Mr. GOODLATTE]. The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], distinguished ranking member of the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of this resolution all time yielded is for the purpose of debate only.

GENERAL LEAVE

Ms. PRYCE of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. PRYCE of Ohio. Mr. Speaker, House Resolution 113 is a straightforward rule providing for consideration in the House of House Joint Resolution 62, the tax limitation constitutional amendment.

The rule provides for 3 hours of debate, equally divided between the chairman and ranking minority member of the Committee on the Judiciary. The amendment in the nature of a substitute recommended by the Committee on the Judiciary, modified by the amendment specified in the report, will be considered as the base text for the purpose of amendment.

What that means is that the rule enacts a very important amendment sponsored by the gentleman from Florida [Mr. MCCOLLUM], a senior member of the Committee on the Judiciary, which would simply ensure that the tax limitation amendment would not have the unintended consequences of making it harder to reduce taxes in the future, a very important consideration as we move toward the dynamic scoring of major tax relief and economic growth legislation.

The rule also provides for the consideration of an amendment if offered by the minority leader or his designee. The amendment shall be considered as read and shall be debatable for 1 hour equally divided and controlled by a proponent and an opponent.

Finally, the rule provides for one motion to recommit with or without instructions. So under the rule, Mr. Speaker, our friends in the minority will have two different opportunities to amend the legislation in any way they see fit, consistent with the normal rules of the House.

Mr. Speaker, it is no coincidence that the House takes up the consideration of a constitutional tax limitation amendment today, April 15, as millions of taxpayers file their Federal income taxes. This is the day in which millions of hard-working Americans and their families are all too sharply reminded that high taxes have become a cruel and harsh fact of life in the United States of America.

What many Americans are experiencing today is middle class tax anxiety as they feel that they are working harder than ever but falling further behind. That is why so many constituents tell me that they fear the next generation will not be as fortunate or as prosperous as their generation, and why they believe their children and grandchildren will be worse off financially than they are.

It is no wonder that so many families feel this way. The truth is for the past 40 years or so, the size, scope, and tax burden imposed by the Federal Government has grown year in and year out. In 1980, the average tax burden was $2,286 per person. By 1995, that figure had more than doubled to $4,996. Federal, State, and local taxes take more than 38 cents out of every dollar the American family earns, and that estimation is almost as high as 50 cents in some quarters.

The Federal tax burden alone is now nearing a record one-fifth of family income. American families deserve better and they should be able to keep more of their hard-earned money to spend on things they need like food, clothing, shelter, perhaps a college education or even sometimes a family vacation. They do not need to send more of their tax dollars to Washington to be spent on a larger and larger Federal bureaucracy.

Regrettably, the power to lay and collect taxes, which was granted to Congress by the Founding Fathers, has been terribly abused. As ratified, the Constitution did not allow the direct taxation of the income of American citizens. For three-quarters of our history, three-quarters of our history the power of the U.S. Government to tax was carefully constrained by explicit constitutional restraints. For many decades the Federal Government was able to function without a permanent income tax, and it was not until 1913 when the 16th amendment to the Constitution was ratified that Congress was given specific authority to collect income taxes, and the Constitution's careful balance with respect to taxes was swept away.

As recently as 1940, Federal taxes were only 6.7 percent of the gross domestic product. Since the late 1960's, Federal taxes have approached 20 percent of GDP. Under our current system, it is simply too easy to add to the already onerous tax burden that Congress has placed on the American people.

Mr. Speaker, while many worthwhile arguments have been made against this constitutional amendment, the time has now come when we must return some fiscal discipline to the Federal Government where much of the discipline imposed by the Founding Fathers in the Constitution no longer exists.

That is exactly what this legislation seeks to do, to make it more difficult for Congresses in the future to raise taxes. The amendment will force Congress to focus on options other than raising taxes as a means of balancing the Federal budget. It does not mean, as some opponents have claimed, that taxes cannot be raised at all somewhere down the road. It merely requires a broader political consensus to achieve that goal. And the requirement can be waived temporarily, whenever a declaration of war is in effect or when the United States faces an imminent serious threat to its national security.

While we try to make it harder to raise taxes at the Federal level, several States have already taken a step to incorporate this fiscal discipline in their own constitutions. For example, 14 States already require a supermajority to raise taxes in one form or another, including high-growth States like California and Florida.

Mr. Speaker, the need for this amendment is clear. By raising the bar on tax increases, we put the focus where it should be, on cutting spending first. Unlike the many special interests that benefit from Federal spending, the American taxpayers do not have a paid voice looking out for their interests when appropriation season comes along. It is time for Congress to play that role more effectively, and passing this tax limitation amendment will do a lot to give the American people the voice they deserve in the fight to control spending and to protect family incomes.

In closing, Mr. Speaker, I would urge my colleagues to support both the rule and the underlying legislation. This is a balanced rule that will enable the House to have a full and fair discussion of the merits of this constitutional amendment, and I recommend its swift adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume, and I thank my distinguished colleague and friend, the gentlewoman from Ohio [Ms. PRYCE], for yielding me the customary half hour.

Mr. Speaker, exactly 1 year ago today I stood on the House floor in this very same spot and spoke out against a nearly identical rule and joint resolution. At that time I said my Republican colleagues should be ashamed of that rule and that proposed constitutional amendment.

Mr. Speaker, I say it again today. They should be ashamed of this proposed constitutional amendment, and they should be ashamed of sending to the House floor another closed rule. Of 11 rules that have been sent to the floor so far this Congress, 9 of them have been restrictive.

As was the case last year, Mr. Speaker, this event today is nothing more than a political escapade. It is no coincidence that we are considering this bill at this time on this very date. It all has been very carefully orchestrated that we debate the vote just in time for the 6 o'clock news, and of course today is tax day.

So if my colleagues do not believe me, just look at the letter that was sent to the Committee on Rules by the sponsor of this constitutional amendment. To my colleagues and to the TV audience I say, it is show time.

Mr. Speaker, our Constitution has been amended only 27 times in the 200-plus years since our Nation's inception. And any attempt to amend the Constitution is very serious business and should be done only when absolutely necessary to the well-being of our country and our citizens.

It should never be used as a political tool, as I fear it is being used today. Our Nation's Founding Fathers carefully designed and drafted our Constitution not to meet their own personal and political agenda but to endure and meet the needs of this great Nation for centuries to come.

Mr. Speaker, I also find it ironic that my colleagues on the Republican side of the aisle are contemplating imposition of a two-thirds supermajority requirement in this proposed amendment. As we may recall, in the beginning of the 104th Congress, the Republican Party changed the House rules to require a three-fifths vote for any tax increases. Mr. Speaker, guess what happened? Whenever a bill containing a tax increase came along, they conveniently used the Committee on Rules to waive the three-fifths requirement. They waived this rule for Contract With America, Tax Relief Act; they waived the rule with Medicare Preservation Act. They waived the rule on Budget Reconciliation Act. They waived the rule on Health Insurance Reform Act; and finally, the welfare reform conference report.

Mr. Speaker, they had so many waives we got seasick up there in the Committee on Rules.

In short, Mr. Speaker, during the last Congress, they waived that provision every single time that it applied. In fact, their rule change was so unworkable and so unenforceable that they had to fix it in the 105th Congress rules package.

So if they could not make the provision work in the House rules, how can they expect to make a tougher requirement work in the Constitution? I certainly hope my friends on the other side of the aisle understand that. We cannot waive or rewrite a constitutional amendment just because it is convenient. Furthermore, Mr. Speaker, I wonder if they need a lesson in basic civics. Do they not understand that, when we require a supermajority vote for passage of a measure, we are effectively turning control over to a small minority who can stop legislation, even something that the majority supports?

James Madison, in The Federalist papers, wisely argued against supermajorities, stating, and I quote: "the fundamental principle of free government would be reversed. It would be no longer the majority that would rule: the power would be transferred to the minority."

Mr. Speaker, this proposed constitutional amendment will seriously undermine Congress' ability to pass major budgetary initiatives. It will allow a small majority in either House to stop widely supported, meaningful legislation containing any revenue measure. It will impede any progress toward a balanced budget by removing from the table many options for reaching that goal.

It could also lead to cuts in benefits in Social Security, in Medicare. It will sharply limit Congress' ability to close tax loopholes or to enact tax reform measures.

So I urge my colleagues on both sides of the aisle to reject this closed rule and this ill-advised constitutional amendment. We do not need any gimmicks to solve the financial concerns of our Nation. If we really want to address the needs of this country, let us get to work on responsible legislation that truly accomplishes something.

Mr. Speaker, I would hope that they would vote down this rule.

Mr. Speaker, I reserve the balance of my time.

□ 1400

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, "Well," as Ronald Reagan used to say.

Mr. Speaker, I rise in strongest support for this excellent piece of legislation. I really hate to stand up here and criticize the previous speaker because he is my counterpart. He is the ranking member of the Committee on Rules, and he sits over there looking like a cross between Sean Connery and Santa Claus, both of whom I deeply admire, as I do him.

I really am just hesitant to stand up here and say that my good friend from Boston, MA, is rated by the National Taxpayers Union, along with all of the other speakers that will oppose this rule and this bill today, they all are rated as the biggest spenders in the Congress.

Now, think about that for a minute. All the people that are opposed to a supermajority of raising taxes are rated as the biggest spenders in this House. And this is not for 1 year or 2 years, this is over 20 years; for at least as long as I have been here.

So, Mr. Speaker, let me just talk about this bill. The tax limitation amendment is designed to make it more difficult for the Federal Government to take more money out of the pockets of our constituents. It will require the Congress to focus on options other than raising taxes to manage the budget.

Imagine that. We have to find a different way because it is going to be very difficult to raise taxes. It will require this Congress to focus on options that really mean getting this fiscal House in order, because we all know what has happened to the budget over the last 15 years or so; it has just exploded.

The tax limitation amendment does not forelose the possibility of raising taxes, however, but it requires a broad political consensus to achieve that goal. As ratified in the original Constitution, it allowed no direct taxation of incomes of our citizens.

Did my colleagues realize that? When this country was formed, this Republic of States that we have here today, and it is a republic, there was no income tax and no provisions to allow for it. For most of our history, the power of the Federal Government to tax was carefully constrained by explicit constitutional limitations. It was not until early in this century that the 16th amendment swept away the Constitution's careful balance with respect to taxes. That was way back, I think, in 1913.

Initially, the burden grew very slowly. Federal taxes went from 5 percent of a family's income in 1934, to 19 percent in 1994, and many, many Americans pay a lot more than 19 percent in Federal taxes.

However, when we add to that the impact of State taxes, especially in my State, the highest taxed State in the Union, and if we want to look at the take-home pay of the average young American in my district, there is practically no money there to take home after all these taxes.

By some calculations, when we figure in State, county, town, city, and village, and local taxes, the American people are paying over 40 percent of their total income in some form of taxes. If we add in the cost of burdensome government regulations, the cost goes up substantially, even above that, as high as 60 percent in some areas.

Mr. Speaker, the idea of requiring a supermajority to raise taxes is not a brand new idea around here. There are presently 14 States that require a supermajority to raise taxes, 14 States, according to the Heritage Foundation. I would ask all my colleagues to get their report and read it.

The empirical data from the States suggests that a supermajority requirement is successful in limiting the growth of government, now isn't that something, and enabling a more rapid pace of economic growth and job creation. Well, is that not what we are here for, to encourage those kind of things?

States with supermajority requirements, and listen to this, have lower spending increases, faster economic growth, they had more jobs, and a more tightly controlled tax burden than States without those requirements.

Oh, I wish New York State had this. If they did, I do not think my five children would have had to leave the State.

Mr. Speaker, at the Federal Government level there are numerous precedents for supermajority requirements. Both the House and the Senate routinely use supermajority voting requirements.

For over a century and a half, this House has required a two-thirds vote to suspend the rules and pass legislation, which we are going to be doing here today. It requires a two-thirds vote to take up a rule on the same day that it is reported from the Committee on Rules. The House also requires a three-fifths vote to pass bills on the Corrections Calendar.

The other side of this building, the Senate, requires a three-fifths vote of all Senators just to end debate. Thank goodness we do not have that over here, though. The Senate budget procedures require that three-fifths of the Senate must agree to waive points of order that would violate the budget approved by the Congress.

There are instances in which the Constitution currently requires a supermajority vote. Pick it up and read it. They are scattered all over the Chamber here. For example, a two-thirds vote is required in the Senate to consent to a treaty. And certainly increasing the burden of taxation on our own citizens is a more important decision in the life of this Nation than many of these silly treaties that we enter into.

Mr. Speaker, the Framers of the Constitution, they understood the need for requiring supermajority votes for certain fundamental decisions. The adoption of a supermajority provision to raise taxes on the American people will, I think, help this Congress to give more careful consideration against such proposals and would require a broad consensus in order to do that. Asking for a two-thirds vote certainly is not too much.

Mr. Speaker, I urge a "yes" vote on the rule and a "yes" vote on the bill itself.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

It is interesting that I do hold the constitution of the United States in my hand, and one thing that is very often repeated and certainly noted by the Founding Fathers and Framers of the Constitution, and stated in the Federalist Papers, is that requiring more than a majority of a quorum for a decision will result in minority rule, and the fundamental principle of free government would be reversed.

Alexander Hamilton said in 1775 that it is important that the sacred rights of mankind are not to be rummaged, and therefore they are written as with a sunbeam in the whole volume of human nature by the hand of the Divinity itself and can never be erased or obscured by immortal power.

There is a sense of moral righteousness on the other side about a two-thirds majority for increasing taxes, but it does not respond to the very nature and responsibility of this Government to operate, to balance the budget, to fairly operate with the funds and revenue that we secure.

While there are several supermajority requirements referenced in the Constitution, none pertain to the day-to-day operations of the Government or the fiscal policy matters. Let it be clear that we are the place of last resort for these United States. That means when there is a hurricane in Florida, an earthquake in California, or floods in the Midwest, we are looked to in the U.S. Government.

Something else that is concerning is that a recent Congressional Budget Office study found that over half of the corporate subsidies the Federal Government provides are delivered through tax expenditures. Under this legislation, even measures that raise revenue by shutting down opportunities for tax fraud could require a two-thirds majority vote, undermining the ability of this House to operate the day-to-day needs of the United States of America.

How ridiculous and frivolous, when there is tax fraud and moneys being expended unfairly and illegally, that we would have to have this overmajority, supermajority, in order to stop fraud on the American people.

Also, this constitutional budget, according to the Center on Budget and Policy Priorities, will make it more difficult to address the long-term financing problems of Social Security and Medicare in order to avoid insolvency. Therefore, in order to avoid insolvency with respect to Medicare and Social Security, Congress must be able to use the tax system. It is for these reasons that this proposed constitutional amendment squarely goes to undermining the responsibility that we have.

Everything we do in this House should be borne by the beam of the sunlight that Alexander Hamilton spoke of. The Constitution, having been amended only 27 times, is a sacred document. In this book that I hold, it says that the Declaration of Independence was the promise, the Constitution is the fulfillment.

We have the responsibility to fulfill our role as representatives of the American people, firs, to make sure that we do not overtax, but, second, that a minority does not rule with respect to a free government. This two-thirds constitutional amendment is wrong, wrong-headed, wrong-directed. It does not allow us to protect the American people as we should.

For those States who have the problems of overtaxation, my instruction to them would be to fix it. We in the U.S. Government should be able to fix our responsibilities by being a House that responds to all of the people.

Mr. Speaker, I rise to speak on the rule of House Joint Resolution 62, which would amend the Constitution to require that any legislation raising taxes be subject to a two-thirds majority vote in the House and Senate. I rise to speak against the modified closed rule passed by the Rules Committee concerning this legislation.

I offered two amendments to the Rules Committee that were not passed. One amendment would have safeguarded the Social Security trust fund. It stated that any tax increase that involves Social Security would not require a supermajority in the House in order to pass. According to the Center on Budget and Policy Priorities, this proposed constitutional amendment would make it more difficult to address the long-term financing problems of Social Security and Medicare. The center has stated that the 1996 report of the Social Security trustees, projects the Social Security trust fund will start running deficits by 2012 and become insolvent by 2029. In order to avoid this shortfall, Congress must be able to use the tax system, and if not, then the Social Security trust fund will remain in grave danger.

I also introduced an amendment that would state that constitutional amendment would not apply to any bill which increases taxes collected from persons who are not U.S. citizens. There is absolutely no reason why we would want to offer foreign multinational corporations—who take thousands of jobs from this country—any special ability to block efforts to increase tax collections against them. I guarantee you that no other country would make it more difficult than is necessary to collect taxes against U.S. corporations.

I urge my colleague to vote against the rule for House Joint Resolution 62.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. GOSS], a valued member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the gentlewoman from Columbus, OH [Ms. PRYCE] for yielding me this time.

I rise in support of this fair, modified closed rule, which provides for consideration of House Joint Resolution 62, the tax limitation amendment.

As most of us are aware, the House traditionally considers constitutional amendments under a restrictive rule. I think it appropriate that we once again are following that precedent, but I note, especially today, we are providing the minority two opportunities to offer differing versions. So this is a fair rule.

Tonight, millions of Americans will spend a few last hours putting their tax returns together and then rushing them to the post office by midnight, they hope.

While we all devote a good deal of time to filling out the tedious and confusing forms generated by the IRS, an even more discouraging fact is that this year the average American will spend about 3 hours of every 8-hour work day just to make enough money to pay taxes to the Government to get that money in the mail tonight.

Something is wrong when we pay more in total taxes than we do in food, clothing, and housing combined. That is a fact. Something is wrong, and today we are trying to fix it.

We have already considered two bills dealing with the Tax Code: H.R. 1226, which would make it a crime for IRS employees to snoop through citizens' tax records, we had debate earlier on that. With the passage of H.R. 109, we will have stated our commitment to providing real tax relief for American families. The vote comes later on that.

The measure we are about to consider, the tax limitation amendment, would require a two-thirds majority vote for the passage of any legislation resulting in a tax increase. Most people understand that.

H.R. 1215 shifts the focus away from taxing and spending and toward responsible management of our resources. With the tax burdens most Americans face these days, we need to be sure that any future tax increase that Congress is tempted to pass faces added scrutiny.

Mr. Speaker, this is an important measure, and, of course, I intend to support it. I also look forward to considering real tax cuts on this floor as soon as possible. Instead of the illusory cuts offered in the Presidential campaigns that seem to disappear after the election, we should work for meaningful, permanent tax relief, and we should do it now.

We should cut the capital gains tax, we should cut the estate tax, we should repeal the insidious Clinton tax hike on Social Security, on the benefits of Social Security, that are being now taxed and are hitting so many of the constituents in my district and other districts where there are seniors so hard.

We should examine ways to end the so-called marriage penalty that imposes a roadblock for young couples trying to start their lives together.

April 15 could be an annual reminder of the responsibility we have as Americans to relinquish readily some of our hard-earned resources to preserve freedom and the opportunities of this land.

But instead, April 15 is becoming a day of infamy as we unfairly and recklessly overburden productive Americans by taking an ever larger bite of their paycheck through an incomprehensible process to feed an ever larger, ever more wasteful, insatiable big brother Government right here in Washington.

I think it is time to stop that, and I am anxious to get to work to provide relief from those oppressive taxes so that next year, when we stand here, next year's tax bite will not be quite so painful for so many. I urge support for this rule, and I urge support for this legislation.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, I rise to speak against the rule for the constitutional amendment of the day.

Mr. Speaker, we are here on tax day to consider yet another version of the tax limitation amendment. Unfortunately, the timing of press conferences has taken priority over responsible legislating.

At the Committee on Rules, a number of very important amendments were offered but rejected by the Committee on Rules. These amendments would have protected Social Security, they would have maintained our ability to close corporate loopholes, they would have clarified language that both Republican and Democratic hearing witnesses called problematic, and would have addressed the issue of judicial review.

Mr. Speaker, it is extremely unfortunate that the only amendment that was accepted was offered by the gentleman from Florida [Mr. MCCOLLUM], whose self-executing amendment will ensure that a two-thirds majority is not required to reduce capital gains taxes.

☐ 1415

In response, Mr. Speaker, we should have the opportunity to at least vote on an amendment that will ensure that a two-thirds requirement is not a requirement to close corporate loopholes. We should also have the opportunity to clarify language that witnesses at hearings called silly, impractical and a threat to the Federal Government's budget integrity. We should have the ability to address that concern.

Mr. Speaker, because the Committee on Rules once again passed a closed rule, the Members will be deprived of the opportunity to even consider issues which their constituents feel are in their best interests.

Mr. Speaker, another problem presented by the rush to hear the bill today is the fact that the language in the proposed constitutional amendment that we will consider today is different from the language that was considered by experts at the subcommittee hearing. This version provides that a two-thirds majority is required for changes in internal revenue laws that increase revenue instead of the previous requirement of a two-thirds majority for legislation that increases the internal revenue. This change is monumental for the very simple fact that no one seems to know what constitutes an internal revenue law. Is a new fee an internal revenue law? If you call the new fee a tax, is it covered?

Instead of waiting until we know the ramifications of the amendment, we are rushing to vote today so that some can stand on their pedestals, thump their chests and participate in an April 15 publicity stunt. Changes in this resolution should be made, but instead of making these changes, we are allowing the processes to fall prey to political pageantry. I urge my colleagues to reject the rule.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. MCCOLLUM], who authored the amendment that is included in the base legislation.

Mr. MCCOLLUM. Mr. Speaker, I thank the gentlewoman for yielding me time, and I rise to support this rule today and the self-executing-amendment provision that is in the rule.

First, let me say that as one Member of this body I strongly believe we should be changing the tax laws of this country. We should go to either a flatter rate income tax or we should go to a sales tax. We need major reform. That is not what is about this bill and this rule today.

Personally, I also believe that in the interim we should not be taxing at all capital gains or estate taxes should be eliminated. I think we frankly do not need a tax on dividends. A double taxation on dividends is bad or interest that is earned, but that is not what this legislation is about today. What we are about today is a rule that will allow us to vote in a few hours to amend the Constitution of the United States to say that in the future there shall be no tax increase, no revenue increase to the U.S. Treasury without a two-thirds, supermajority vote of this body and the other body.

I think that is entirely appropriate. Fourteen States have adopted such provisions. We had some discussion in the Committee on Rules yesterday about my State of Florida. I want to clarify for the gentleman from Massachusetts, who asked a question about it, that my State has adopted in 1994 an initiative which applies to all taxes, including the sales tax, the two-thirds requirement. That may not have been apparent in the publications that were before the committee yesterday, but that in fact is the law now in the State of Florida.

But my concern today particularly is making sure that what we are going to vote on when we vote on our amendment is correct, is what we want to have. There was a provision, interpretation at least, of the provisions of the underlying amendment that could have been confused to state in some way or be interpreted in some way as saying if we vote for a capital gains tax reduction, which might increase revenues to the Treasury and in real terms surely it would, at least many of us believe it would, we would have to have a two-thirds vote to do that because the underlying proposal says you have got to have a two-thirds vote of the bodies of Congress in order to increase revenues.

So I proposed, and the Committee on Rules has engrafted upon this today when we have the rules vote, the language that reads as follows: "For the purposes of determining any increase in the internal revenue under this section, there shall be excluded any increase resulting from the lowering of an effective rate of any tax."

I remember a few years ago we passed a luxury tax, an excise tax on yachts. Everybody thought that was going to raise some money for the Treasury of the United States. Instead we put yacht making companies out of business. It lowered the revenues. Not only did we not have an excise tax, but we did not have the income taxes from the people who were making those big yachts anymore. Then when we came along and removed that excise tax, that luxury tax, the revenues of the United States were raised, not because we had more excise taxes but because we at least had businesses again selling yachts, creating taxable transactions and yielding income taxes that were coming to the U.S. Government.

There are any number of possible ways where you could reduce the taxes on Americans throughout this country and actually increase revenues. So I think it is very important what the Committee on Rules has done, and I wanted every Member to understand that the self-executing provision in this rule is a significant improvement, an important improvement albeit a technical one, to the underlying constitutional amendment proposed.

Mr. Speaker, I strongly urge the adoption of the rule and the amendment incorporated therein today. I additionally of course urge the adoption of the constitutional amendment that would require a two-thirds vote of both bodies before we could pass any increase in taxes on the American public in the future.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman who just left the microphone for correcting my statement at the Committee on Rules, but I was reading from the majority's report that stated, "For example, in Florida, the supermajority requirement only applies to corporate income taxes. Exempt from the requirement is the sales tax on the purchase of goods." That is in the majority's report.

Mr. McCOLLUM. If the gentleman will yield, he is absolutely right. That report is erroneous in that regard. It applies to the sales taxes, as I understand, in Florida. There are a few technical exceptions, but all basic taxes, including if we ever had an income tax, which we do not have. I thank the gentleman for making that point.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman from Massachusetts for yielding time for the purposes of debate on the rule for this bill.

Mr. Speaker, the bill is on the floor today because it is April 15, and there are some Members of this body who want to try to take political advantage of the fact that people are feeling like they paid too much taxes. That is perhaps a worthy political objective. But we have to debate whether this bill is a reasonable substantive objective. It is on that point that I rise.

I would say to the Speaker that I would rise here today in opposition to a constitutional amendment that required a two-thirds vote on any issue, whether it was a taxing issue or any other issue that we might be considering, because it is my position, and I believe it is supported by historical fact, that a two-thirds vote is counterdemocratic. It is counter the very essence of our democracy, which says that it is the majority which should rule in this country.

I want to call my colleagues' attention to two quotations from our Founding Fathers. First, Alexander Hamilton, who said, "The fundamental maxim of a Republican government requires that the sense of the majority shall prevail."

And then James Madison, who said:

> It has been said that more than a majority ought to have been required for a quorum and in particular cases, if not in all, more than a majority for a decision. In all cases where justice or the general good might require new laws to be passed or active measures to be pursued, the fundamental principle of free government would be reversed. It would be no longer the majority that would rule. The power would be transferred to the minority.

That is what this constitutional amendment is about. It does not have to do with taxes. It has to do with the balance of individuals related to each other and the power of individual Members of this House of Representatives as they relate to each other.

Why should we give more power to one group of people who support a proposition than we give to other people? That is fundamentally out of kilter with the majority rules concept, and I submit that while we are engaging in this pageantry for tax day, we ought to be engaging in some preservation, we ought to be paying attention to the constitutional framework in which this proposed constitutional amendment is playing itself out and protecting the concept of majority rule, which is so near and dear to our constitutional principles in this country.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia [Mr. LEWIS], the deputy minority whip.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my friend, the gentleman from Massachusetts [Mr. MOAKLEY], for yielding me this time.

Mr. Speaker, once again Republicans are ready to sacrifice our Constitution at the altar of partisan politics. It seems that every day the leadership of this body comes up with some new stunt to prove they do not like taxes. Today they want to destroy the Constitution. They want to destroy majority rule. Majority rule is central to our Constitution. It is the foundation of our democracy. It is our core belief. And so it has stood for over 200 years. This amendment would allow minority rule. A minority of the Congress would decide when we can and cannot raise taxes.

Mr. Speaker, if this amendment were allowed to our Constitution, do my colleagues have so little faith in majority rule? It is my hope and my prayer, my sincere hope, that enough Members of this body would have the courage to do what is right and vote against this ill-conceived, ill-constructed and ill-advised amendment.

If we adopt this amendment, our Constitution will suffer. We will suffer. This amendment could force us to cut Medicare, this amendment could force us to cut Social Security, even if a majority of the Members opposed these cuts, because under this amendment, the majority does not rule.

But we are not here because this is a well-written, well-reasoned amendment. This amendment is not even a good idea. We are here because today is tax day. We all know why we are here. Today is tax day. It is time to score political points no matter what the cost. It is unfortunate that the leadership of this House can come up with nothing better to do than debate this amendment.

This amendment is a waste of time. Where is the Republican agenda? Where is the Republican budget? Show me the budget.

Mr. Speaker, today is not only the day that taxes are due, it is also the day the budget is due. The American taxpayers have paid their taxes. The returns are in the mail. Where is the Republican budget? The President has a budget. The Blue Dogs have a budget. It seems that the only people without a budget are the Republicans. The House leadership has no budget.

Mr. Speaker, let me make it plain and crystal clear. It is time to stop grandstanding and time to get to work. Nobody, but nobody, likes paying taxes. I do not like paying taxes. But this is not a reason to support a flawed constitutional amendment. Instead we should pass a budget and we should pass it here and now.

Mr. Speaker, I urge my colleagues to respect our Founding Fathers. Respect the Constitution. Respect democracy and this body. I urge my colleagues to vote "no", "no" on this rule and "no" on this amendment.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

□ 1430

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to this rule and in strong opposition to amending the Constitution to eviscerate majority rule and to favor the wealthy and the powerful over working families.

As my colleagues know, the first bill I ever introduced as a Member of the Congress was the Middle Class Tax Relief Act of 1991, so I welcome a debate on the best way to cut taxes. But today we cannot even have that debate. Today we are having a mock debate because only one party has tax cuts on the table, the Democrats.

We have heard so much talk from the Republicans about cutting, we could think that they had a tax cut proposal. The fact is that they do not. In fact, the Republican tax package might be called the Hale-Bopp tax cut because it seems that my Republican colleagues are waiting for the tax cut to drop from the heavens. But tax cuts and budgets do not fall from the sky, they take work to produce, and it is time that my colleagues from across the aisle come back to Earth and get down to business.

Today, April 15, has dual significance. It is the tax filing deadline for American families, but it is also the deadline for Republicans to submit their budget. As Americans all across the country live up to their responsibilities and to meet their deadline by filing their taxes, Republicans are ignoring their responsibility by ignoring their deadline to present a budget, and that is why this Congress has been dubbed the do-nothing Congress.

If Republicans are honest about wanting to cut taxes, there is only one way to do that, and that is to present a budget. But only the Democrats have a budget on the table, and in this budget President Clinton has proposed middle-class tax relief including tax cuts to pay for college, tax cuts to buy a first home, and tax deduction for adoption. It is a plan that would help those who need it most.

But most important, all of these tax cuts are paid for within a balanced budget, and that is the real reason why Republicans cannot and will not produce a budget. The truth of the matter is that the tax cuts they propose cannot be paid for in a balanced budget without making deep and dangerous cuts in Medicare and education and in the environment, and we all know that the American people rejected that tradeoff in the last Congress.

Mr. Speaker, that means it is time to go back to the drawing board, come up with a tax plan that we can pay for and produce a balanced budget. The President has done so. It is time for Republicans to stop waiting for that Hale-Bopp tax cut, and I can assure my colleagues that a tax cut in the balanced budget will not be delivered on the tail of a comet.

So roll up those sleeves and get down to work. Then maybe this Congress can be known as the Congress that delivered tax relief to American families instead of the do-nothing Congress.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, with all due respect to the last few speakers as the hard-working American taxpayers labor about a third of the year just to pay their taxes, they stay up late, rolling up their sleeves, burning the midnight oil over their tax returns, or worse, paying accountants and lawyers thousands and thousands of dollars for the very privilege of paying their taxes, it is our duty, it is our responsibility, to stop, to put on the brakes of this annual travesty. This is the perfect day to provide this legislation.

Mr. Speaker, with that I yield 5 minutes to the gentleman from Texas [Mr. Barton], the author of this legislation.

Mr. BARTON of Texas. Mr. Speaker, article 5 of the Constitution of the United States gives the House of Representatives the right to propose amendments to the Constitution of the United States if two-thirds of the Members present voting vote in the affirmative. So we are here today to propose such an amendment requiring a two-thirds vote to increase income taxes or any other tax in the Internal Revenue Code of this country.

I want to speak briefly about the process which has brought us to this day and then if I have time, talk a little bit about the policy.

We had this same vote last year on tax day, April 15, and we got 243 Members of the House to vote in the affirmative if that was 37 votes short of the vote necessary to get the two-thirds vote. The Speaker of the House at the time, Speaker GINGRICH, said that as long as he was Speaker we would have the same vote every April 15, tax day, until we actually pass the amendment and send it to the Senate. So that is why we are here today on April 15.

In order to take advantage of the regular process, we went to the committee of jurisdiction for constitutional amendments, the Committee on the Judiciary, and asked them to hold hearings on this important amendment. The distinguished subcommittee chairman of the Subcommittee on the Constitution, the gentleman from Florida [Mr. CANADY], did so. We had a hearing on the merits, the pros and the cons of the amendment, and I would point out that at that hearing Members were invited to attend, and not one Member of the minority party took advantage of the opportunity to attend and speak in the negative, although we did have several Members speak in the affirmative.

We then went to the full committee where again every member of the Committee on the Judiciary had an opportunity to offer amendments, offer substitutes, offer alternatives. A number were offered. The amendment was slightly modified and reported out on a 18 to 10 vote, which is only one vote short of having a two-thirds vote in the full committee. The gentleman from Florida [Mr. McCollum] offered an amendment on the effective rate issue. He offered and withdrew it. We worked on that issue until we had it refined to the point that the Committee on Ways and Means and myself and the other cosponsors were very supportive. He took that amendment to the Committee on Rules, and yesterday the Committee on Rules voted to put it into the constitutional amendment.

The rule that is before us makes in order an alternative by the minority, the minority leader, Mr. GEPHARDT of Missouri, if he wishes to offer such. It also makes in order a motion to recommit with instructions.

So if we want to talk about the process, the process has been imminently fair, reasonable and according to regular order. It is a modified closed rule because it is a constitutional amendment.

Now let me talk a little bit about the policy. Several Members in the opposition have spoken about violating the Constitution, that somehow it is unfair to amend the Constitution, that we have a two-thirds vote requirement for a tax increase. I would point out that in article I, section 9 of the original Constitution there is a direct prohibition against any direct taxes, zero tolerance, and I want to read article I, section 9: "No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken."

We had zero, we had 100 percent prohibition against income taxes in the original Constitution. But on February 13, 1913, the amendment XVI to the Constitution said we could have an income tax. So in 1915 we had an income tax for the first time. It was 1 percent, 1 percent of income. Today that 1 percent has moved up to an average of 19 percent, the marginal rate has moved from 1 percent to 40 percent, so the marginal rate is 4,000 times more than the marginal rate was in 1915.

The reason we need a two-thirds vote for a tax increase, for an income tax increase, is because the ability to restrain taxes has been abolished by the 16th amendment, and I would point out again that in the original Constitution there was a direct prohibition against any direct tax. That has been repealed so we at least need to raise the bar above a simple majority vote to the two-thirds.

Now let me speak about this majority vote if I can very quickly, and again in the original Constitution there is nowhere in here that says votes have to be only by majority. In fact, there are seven specific instances in the Constitution that you have to have a supermajority, in most cases a two-thirds supermajority to ratify treaties, to expel a Member, to impeach a Federal judge or to amend the Constitution.

So everything we are doing today on the floor on this amendment is totally constitutional, it is totally regular order, and it is totally in the spirit that the original Founding Fathers would have had us. I have no doubt that if Thomas Jefferson and James Madison were here they would vote for the constitutional amendment.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself the balance of the time.

We have heard some very good arguments on both sides of this issue here this past hour, and under this fair rule the House will have ample opportunity to debate the merits of the tax limitation amendment in much greater depth. Any and all minority amendments can be in included in the substitute and again in the motion to recommit.

I would urge my colleagues to consider the tax limitation is working in the States which have adopted supermajority requirements. States have grown more slowly, spending has not increased as fast, economies have expanded faster, and the job base has grown more quickly. The Federal Government and our national economy could surely use the same benefits.

We have the opportunity today to adopt a fiscal tool that will help counter what many of my colleagues and I believe is a natural bias in favor of bigger government and higher taxes. Let us not miss this opportunity to strike a blow for fairness for hard-working families.

Mr. Speaker, as my colleague from Florida, Mr. GOSS, said moments ago, there is something wrong when the average worker spends more time working to pay his total tax bill than to provide food, clothing, and shelter for his family, something terribly wrong, and this bill is not even asking or seeking any kind of repeal. That will come later. We are just making it harder, a little harder, to make it any worse on the hard-working American taxpayer.

I urge adoption of this rule and the underlying legislation.

Mr. Speaker, I ask unanimous consent to place extraneous materials in the RECORD following my remarks on this resolution.

The SPEAKER pro tempore [Mr. GOODLATTE]. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The material referred to is as follows:

Tax Limitation Constitutional Amendment

The Charge: The Democrats may claim that the ⅗ vote requirement for a tax increase as a House rule has not worked, has caused problems, was waived frequently in the 104th, and that is a reason why the Tax Limitation Constitutional Amendment (requiring a ⅔ vote) should be opposed.

This is flatly wrong. The ⅗th Tax rule is enforceable and has worked.

At the beginning of the 104th Congress, when the GOP took control of the House, we adopted a House rule requiring a ⅗ vote for passage of any income tax rate increase and prohibiting consideration of any retroactive tax increase.

While the rule was waived several times during the 104th Congress, these waivers were primarily necessary to prevent dilatory tactics by the Democrats. They consistently tried to use the ⅗th rule to prevent the consideration of unrelated legislation. For example, the Democrats tried to claim that the three-fifths rule applied to the Medicare Preservation Act because in some instances Medicare premiums may have been increased for some individuals. The Parliamentarian ruled that this was clearly not the intended object of this rule. This clearly is not an income tax rate increase. Three of the six times the rule was waived in the 104th Congress was to prevent such dilatory motions.

The other three times the rule was waived in the 104th Congress was when Congress was trying to close a perceived tax loophole in an effort to balance the budget. This also was never an income tax rate increase.

Furthermore, Republicans during the 105th Congress amended this rule to make it crystal clear that it only applies to income tax rate increases and to limit opportunities for this rule to be abused as it was by the Democrats during the 104th Congress.

The rule now specifically cites the sections of the Internal Revenue Code to which applies, namely subsection (a), (b), (c), (d), or (e) of section 11(b) or 55(b). These sections cover tax rates on married individuals, heads of households, unmarried individuals, married individuals filing separate returns, estates, trusts, corporations and the tentative minimum tax.

These changes not only clarify the application of the rule but also provide enough flexibility for Congress to cut taxes, close loopholes, and reform the tax code.

The tax limitation amendment also provides for this clarity and flexibility with its de minimis exception.

Description of Modifications to Cl. 5(c) and (d) of House Rule 21—Relating to Tax Increases Made by H. Res. 5—Adopting Rules of the House for the 105th Congress on January 7, 1997

Clarifying Definition of Income Tax Rate Increase: The section clarifies the definition of "income tax rate increases" for the purposes of clauses 5 (c) and (d) of House Rule XXI which require a three-fifths vote on any amendment or bill containing such an increase, and prohibits the consideration of any amendment or bill containing a retroactive income tax rate increase, respectively. A "federal income tax rate increase" is any amendment to subsection (a), (b), (c), (d), or (e) of section 1 (the individual income tax rates), to subsection (b) of section 11 (the corporate income tax rates), or to subsection (b) of section 55 (the alternative minimum tax rates) of the Internal Revenue Code of 1986 which (1) imposes a new percentage as a rate of tax and (2) thereby increases the amount of tax imposed by any such section.

Thus, paragraphs (c) and (d) of Rule XXI clause 5 would apply only to specific amendments to the explicitly stated income tax rate percentages of Internal Revenue Code sections 1(a), 1(b), 1(c), 1(d), 1(e), 11(b) and 55(b). The rules are not intended to apply to provisions in a bill, joint resolution, amendment, or conference report merely because those provisions increase revenues or effective tax rates. Rather, the rules are intended to be an impediment to attempts to increase the existing income tax rates. The rules would not apply, for example, to modifications to tax rate brackets (including those contained in the specified subsections), filing status, deductions, exclusions, exemptions, credits, or similar aspects of the Federal income tax system and mere extensions of an expiring or expired income tax provision. In addition, to be subject to the rule, the amendment to Internal Revenue Code section 1(a), 1(b), 1(c), 1(d), 1(e), 11(b) or 55(b) must increase the amount of tax imposed by the section. Accordingly, a modification to the income tax rate percentages in those sections that results in a reduction in the amount of tax imposed would not be subject to the rule.

Text of Clauses 5(c) and (d) of House Rule 21—Tax Increases as Modified on January 1, 1997 by H. Res. 5—Adopting Rules of the House for the 105th Congress

Cl. 5(c) of House Rule 21—Requiring a ⅗ Vote on a Federal Income Tax Rate Increase:

(c) No bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase shall be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting. For purposes of the preceding sentence, the term "Federal income tax rate increase" means any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section.

Cl. 5(d) of House Rule 21—Prohibiting Consideration of Retroactive Tax Increases:

(d) It shall not be in order to consider any bill, joint resolution, amendment, or conference report carrying a retroactive Federal income tax rate increase. For purposes of the preceding sentence—

(1) the term "Federal income tax rate increase" means any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section; and

(2) a Federal income tax rate increase is retroactive if it applies to a period beginning prior to the enactment of the provision.

History of Congressional Consideration of Budget Resolutions Under Democratic Majority

Section 301(a) of the Congressional Budget Act of 1974 provides that Congress shall complete action on a concurrent resolution on the budget on or before April 15 of each year. The following table represents the dates of House and final congressional passage of concurrent resolutions on the budget:

Final Congressional Passage of Budget Resolution	*House Passage of Budget Resolution*
June 29, 1995	May 18, 1995.
May 12, 1994	March 8, 1994.
April 1, 1993	March 15, 1993.
May 21, 1992	March 5, 1992.
May 22, 1991	April 17, 1991.
October 9, 1990	May 1, 1990.
May 18, 1989	May 4, 1989.
June 6, 1988	March 23, 1988.
June 24, 1987	April 9, 1987.
June 27, 1986	May 15, 1986.
August 1, 1985	May 23, 1985.
October 1, 1984	April 5, 1984.
June 23, 1983	March 23, 1983.
June 23, 1982	June 10, 1982.
May 21, 1981	May 7, 1981.
June 21, 1980	May 7, 1980.
May 23, 1979	May 14, 1979.
May 17, 1978	May 10, 1978.
May 17, 1977	May 5, 1977.
April 29, 1976	April 29, 1976.

Ms. PRYCE of Ohio. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 950

Ms. DELAURO. Mr. Speaker, I ask unanimous consent to have my name withdrawn as a cosponsor of H.R. 950. My name was inadvertently included as a cosponsor of this bill.

The SPEAKER pro tempore (Mr. SOLOMON). Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

TAX LIMITATION CONSTITUTIONAL AMENDMENT

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 113, I call up the resolution (H.J. Res. 62) proposing an amendment to the Constitution of the United States with respect to tax limitations, and ask for its immediate consideration in the House.

The Clerk read the title of the House Joint Resolution.

The text of House Joint Resolution 62 is as follows:

H.J. Res. 62

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE—

"SECTION 1. A bill to increase the internal revenue shall require for final adoption in each House the concurrence of two-thirds of the whole number of that House, unless that bill is determined at the time of adoption, in a reasonable manner prescribed by law, not to increase the internal revenue by more than a de minimis amount.

"SECTION 2. The Congress may waive the requirements of this article when a declaration of war is in effect. The Congress may also waive this article when the United States is engaged in military conflict which causes an imminent and serious threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law. Any increase in the internal revenue enacted under such a waiver shall be effective for not longer than two years.

"SECTION 3. Congress shall enforce and implement this article by appropriate legislation."

The SPEAKER pro tempore (Mr. SOLOMON). Pursuant to House Resolution 113, the committee amendment in the nature of a substitute, modified by the amendment printed in House Report 105-54 is adopted.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.J. RES. 62

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE—

"SECTION 1. Any bill, resolution, or other legislative measure changing the internal revenue laws shall require for final adoption in each House the concurrence of two-thirds of the Members of that House voting and present, unless that bill is determined at the time of adoption, in a reasonable manner prescribed by law, not to increase the internal revenue by more than a de minimis amount. For the purposes of determining any increase in the internal revenue under this section, there shall be excluded any increase resulting from the lowering of an effective rate of any tax. On any vote for which the concurrence of two-thirds is required under this article, the yeas and nays of the members of either House shall be entered on the journal of that House.

"SECTION 2. The Congress may waive the requirements of this article when a declaration of war is in effect. The Congress may also waive this article when the United States is engaged in military conflict which causes an imminent and serious threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law. Any increase in the internal revenue enacted under such a waiver shall be effective for not longer than two years.

"SECTION 3. Congress shall enforce and implement this article by appropriate legislation.".

The SPEAKER pro tempore. The gentleman from Florida [Mr. CANADY] and the gentleman from Virginia [Mr. SCOTT] each will control 90 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Speaker, I yield 30 minutes to the gentleman from Texas [Mr. BARTON] and I ask unanimous consent that he may be permitted to yield blocks of time to other Members.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Joint Resolution 62 introduced by the gentleman from Texas [Mr. BARTON] requires a two-thirds vote for any bill that changes the internal revenue laws to increase the internal revenue by more than a de minimis amount. Why is this amendment needed? Simply put, a supermajority vote makes it more difficult for Congress to raise taxes. It is a mechanism by which to restrain the Government's appetite for reaching into people's pockets and taking their money. It is a mechanism to protect the American people from Government overreaching.

The Federal Government's insatiable appetite for raising taxes is borne out by the facts. In 1934 Federal taxes were just 5 percent of a family's income. By 1994 this figure had jumped to 19 percent; almost one-fifth of a family's income went to pay Federal income taxes.

The amendment will require the Congress to focus on options other than raising taxes to manage the Federal budget. It will force Congress to carefully consider how best to use current resources before demanding that taxpayers dig deeper into their hard-earned wages to pay for increased Federal spending. The amendment would not require a two-thirds vote for every tax increase in any bill. For example, a bill that both lowered and increased taxes, if it were revenue neutral, would not be subject to the two-thirds vote.

□ 1445

In addition, the supermajority requirement would be waived when a declaration of war is in effect or when both Houses pass a resolution, which becomes law, stating that, "The United States is engaged in military conflict which causes an imminent and serious threat to national security."

The resolution we are considering this afternoon also includes a provision offered by the gentleman from Florida [Mr. MCCOLLUM] which amended the committee-reported version with the adoption of the rule. The McCollum amendment addresses a problem which may arise if, at some time in the future, Congress decides to move to a system of dynamic scoring for determining the revenue effects of legislation.

Under current revenue estimating procedures, scoring of a capital gains tax cut, for example, would generally result in projected revenue losses and thus would not require a two-thirds vote under the amendment. However, if Congress moved to a system of dynamic scoring, as some have urged, a cut in the capital gains tax probably would result in some increase in revenue.

The McCollum amendment makes clear that increases in revenue which result from the lowering of the effective rate of a tax are not to be taken into consideration in determining whether a piece of legislation is subject to the two-thirds vote requirement.

During committee consideration, I offered a substitute amendment which was adopted by the Committee on the Judiciary making two changes to the underlying text. The substitute amendment requires that all votes taken pursuant to the amendment be taken by the yeas and nays. It also conforms the text of House Joint Resolution 62 to the language voted on by the House in 1996 by making clear that the amendment applies to any bill, resolution, or other legislative measure changing the Internal Revenue laws. Any bill changing the Internal Revenue laws would require a two-thirds vote, unless it was determined that the bill's provisions, taken together, raise revenue by less than a de minimis amount.

Generally, the term "internal revenue laws" covers taxes found in the Internal Revenue Code: income taxes, estate and gift taxes, employment taxes, and excise taxes.

The gentleman from Texas [Mr. ARCHER], chairman of the Committee on Ways and Means, explained the scope of the amendment in an April 7, 1997, letter to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary. He stated, and I quote, "Internal Revenue laws means the current Internal Revenue Code. That is, the Federal individual and corporate income tax, estate and gift taxes, employment taxes, and excise taxes. It would also include any new tax that may be added to the current Internal Revenue Code or that is analogous to any tax in the Internal Revenue Code," close quote.

The amendment would not apply to tariffs, asset sales, user fees, voluntary payments, or bills that do not change Internal Revenue laws, even if they have revenue implications.

For purposes of determining whether a bill raises more than a de minimis amount of revenue, only tax provisions in the bill would be considered. Legislation that is roughly revenue-neutral would not be subject to a two-thirds vote. For example, a bill that closed a tax loophole would not require a two-thirds vote if it created no more than a de minimis increase in revenue or was accompanied by an offsetting tax cut. It is the intention of the sponsors that a bill would be considered to raise a de minimis amount of revenue if it increased tax revenues by no more than one-tenth of 1 percent over 5 years.

The amendment states that a determination must be made at the time of the adoption of the legislation as to whether it raises the Internal Revenue by more than a de minimis amount. The determination shall be made in a reasonable manner prescribed by law. In order to implement the article, Congress will need to adopt legislation defining terms and fleshing out the necessary procedures.

It is up to this or a future Congress to design implementing legislation pursuant to the provision of the amendment requiring the Congress to enforce and implement the amendment through legislation. The gentleman from Texas [Mr. ARCHER], chairman of the Committee on Ways and Means, which would have jurisdiction over such implementing legislation, suggested the following reasonable criteria in his letter to Chairman HYDE, and I quote again: "Revenue would be measured over a period consistent with current budget windows. For example, measuring the net change in revenue over a 5-year period would be appropriate. Estimation would be made employing the usual estimating rules. As under the Budget Act, a committee of jurisdiction or a conference committee would, in consultation with the Congressional Budget Office or the Joint Committee on Taxation, determine the revenue effect of a bill."

In McCulloch versus Maryland, a case that was decided in 1819, long before the advent of the Federal income tax, the U.S. Supreme Court Chief Justice John Marshall stated, "The power to tax involves the power to destroy." This sentiment is no less true today. The power to tax is the power to use the coercive mechanisms of Government to require citizens to surrender their property to the Government for its own purposes. This amendment will ensure that this enormous power is exercised in a careful, thoughtful, and prudent fashion for the sake of ourselves, our Nation, our children, and future generations of Americans.

The Federal Government seems to have forgotten a fundamental fact: The money we spend belongs to the people. It is money that they have earned. It is only fitting that when we increase our demands on those earnings, with all the coercive effect of law, we do so only with careful consideration and broad agreement. Adoption of the tax limitation amendment will bring needed relief to the American people. I urge the passage of the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Before I begin discussing my concerns with the specific amendment, I would like to say a few words about my concern with the priorities of the House.

Mr. Speaker, I remind my colleagues that we have not yet reached an accord on the budget. Today is the deadline for Congress to have completed action on our budget, and yet we are debating senseless constitutional amendments, intervening in impending cases, and we are passing worthless resolutions. Instead of participating in tax day political pageantry, I would hope that we would begin to address some of the serious issues facing the American public today.

Mr. Speaker, I have some very serious concerns about the constitutional amendment of the week, House Joint Resolution 62, the proposed constitutional amendment with respect to tax limitations. My concerns are not objections to my colleagues' attempts to limit new taxes. All Members of this Congress should be constantly asking themselves whether our tax system is fair and appropriate. In fact, our Committee on Ways and Means has the responsibility of addressing these complex issues in great detail.

The end of limiting new taxes, however, is not the issue here. Rather, it is the issue of a means which is impractical and counterproductive, and that is what I have concerns about.

The terms of the amendment are unbelievably vague. About the only thing clear about this amendment is the fact that this amendment will cause great confusion. Both Democratic and Republican witnesses at the subcommittee hearing expressed very serious concerns about House Joint Resolution 62. Former Office of Management and Budget Director Jim Miller, a tax limitation amendment supporter, even went so far as to call some of the language silly and unworkable.

The vagueness issue is further exacerbated by a change made to the language seemingly in response to the negative comments made by experts at the hearings. Our subcommittee chairman, the gentleman from Florida [Mr. CANADY] to his credit, has made a valiant effort to correct some of those problems. However, I think the mission was just impossible.

The language considered by the experts at the hearing required a two-thirds majority to, quote, increase the Internal Revenue. We marked up a very different language in the committee than that which was reviewed by the experts. The language we considered in the Committee on the Judiciary and are now considering on the floor requires a two-thirds majority to, quote, change Internal Revenue laws if they increase the Internal Revenue by more than a de minimis amount. Of course, no one seems to have a good idea of what constitutes a, quote, Internal Revenue law or what exactly may be considered a de minimis amount.

My office has contacted a number of tax lawyers, including some of the witnesses who testified before the Subcommittee on the Constitution. None of them has a clear idea as to what will or will not be considered a, quote, Internal Revenue law. The committee report further fuels the confusion by stating that Internal Revenue laws are laws both within the Internal Revenue Code and outside the Internal Revenue Code. In other words, even the Committee on the Judiciary that reported the bill does not have a clear idea of what will and will not be considered a, quote, Internal Revenue law.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. SCOTT. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman for yielding, and I want to tell the gentleman, when I am controlling time, I will be happy to yield. Last year we had a pretty good dialog back and forth, and we have enough time that we can do that.

Mr. Speaker, on the gentleman's question of what will be covered, if the gentleman will continue to yield, I can read exactly what would be covered.

Mr. SCOTT. Mr. Speaker, I will continue to yield if the gentleman will explain what he is reading off of.

Mr. BARTON of Texas. Mr. Speaker, I am actually reading off my own staff briefing paper, but I am the sponsor of the amendment.

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SCOTT. Mr. Speaker, I will regain my time and yield to the gentleman from North Carolina [Mr. WATT] very briefly.

Mr. WATT of North Carolina. Mr. Speaker, I would inquire of the gentleman from Texas [Mr. BARTON], does the gentleman profess to be able to tell us what a constitutional amendment means himself as opposed to trying to clarify the language that he professes to be able to pull out of his own notes? I suppose we are going to do this in a court of law?

Mr. BARTON of Texas. Mr. Speaker, the short answer is yes, I do claim to be a constitutional expert.

Mr. WATT of North Carolina. Mr. Speaker, I just want to make clear that that is what the gentleman is doing here, because there is no definition in this bill, and the problem we are raising is, the gentleman from Texas [Mr. BARTON] is not going to be around every time this gets litigated in a court of law to be able to explain to the court what this constitutional amendment means.

Mr. SCOTT. Reclaiming my time, Mr. Speaker, I yield to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, revenue increases subject to the supermajority requirement include: Income taxes, and I think we all know what a direct income tax is; estate and gift taxes; employment taxes, including Social Security and Medicare; and excise taxes, such as Superfund, aviation, gasoline.

Things that would not be included under the amendment would be tariffs, user fees, voluntary Medicare premiums, the Part B premium, and bills that do not change the Internal Revenue laws even if they have revenue implications.

On the question of de minimis, de minimis is one-tenth of 1 percent, which, under the current Tax Code, would be about $300 million a year.

Mr. Speaker, I yield back to the distinguished gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, I would say that the gentleman has indicated that to increase spending on Superfund would take a two-thirds majority, so we are attacking the environment. Also, if we label something a fee, it is not included. If we call it a tax, it is included.

In terms of de minimis, the gentleman from Texas [Mr. BARTON] has suggested that the one-tenth of 1 percent is de minimis. Our total budget, Mr. Speaker, is $1.6 trillion. One-tenth of 1 percent of $1.6 trillion is $1.6 billion. Jokes have been made about a billion here and a billion there, but I certainly think that most people would think that $1.6 billion is more than de minimis. But of course the courts would have to make that decision, and, as the gentleman from North Carolina has pointed out, a staff memo to the chief sponsor is not what the Supreme Court will consider.

Mr. Speaker, the confusion created by this constitutional amendment will create powers in a new bureaucracy, such as the CBO, or cede Congress' taxing power to the court, because someone has to answer the questions that we have not answered. Some faceless bureaucrat punching numbers will have the power to determine how Congress will consider bills. Will the court overturn entitlement reform or cuts in corporate welfare because such initiatives were passed with less than a two-thirds vote? We should not be ceding our powers to courts or unelected economists.

Who will be appointed or anointed with the power to decide the golden question: Will a particular bill constitute an increase in the revenue more than a de minimis amount? Last March in the subcommittee, we heard one witness saying that this power should be vested in one person who would have the power to control the legislative powers of Congress.

In addition, the complex and subjective nature of economics makes it clear that any interpretation will be disputed, so who becomes the arbitrator of such disputes?

Mr. Speaker, the American public deserves answers to these questions before, and not after, we have made a mess that cannot be cleaned up. What happens, for example, if we pass a controversial corporate tax loophole that we estimated would have cost $500 million, only to find later that we made a mistake in our estimate and it will actually cost $5 billion?

□ 1500

Although it would have taken a simple majority to pass the subsidy, it would take a two-thirds majority to correct it. For this reason, we should be calling this resolution the loophole protection act. In addition to being vague and biased in its protection of corporate loopholes, this amendment would be unworkable.

There is a very good reason why supermajorities are rare in our Constitution. They are rare because the framers of the Constitution learned from their experiences and the failed Continental Congress that excessive supermajority requirements are not practical in an efficient government.

Supermajorities are only required for a precious few actions, such as overriding a Presidential veto, impeachment or proposing constitutional amendments to the States. These are well-defined circumstances not open to interpretation.

Unfortunately, there will always be numerous interpretations on the question of whether or not a bill will "increase revenue more than a de minimis amount."

The fact that we have not been able to adhere to our own tax limitation rules should give us a fairly good idea of how problematic this constitutional amendment will be to the body.

In the 104th Congress, we had a rule that required a three-fifths vote on bills involving Federal income tax increases. The story of the tax limitation rule's application in the last Congress was one of waiver after waiver after waiver because many bills included changes in the tax system that could be classified as tax increases.

The rule was waived for the 1996 budget reconciliation report. It was waived for the Medicare preservation bill. It was waived for the Health Coverage and Availability Act.

In recent history, no major tax changes, whether signed by a Democratic or Republican president, passed both houses with a two-thirds majority vote. If we could not function with a three-fifths requirement that included a waiver provision, how possibly could anyone think we could function with a two-thirds requirement that could only be waived by war or by amending the Constitution.

Mr. Speaker, amending the Constitution is serious business which should not be conducted haphazardly. Some very tough questions have not come even close to being answered; and I, therefore, urge my colleagues to act responsibly and reject this tax day publicity pageantry and vote "no" on House Joint Resolution 62.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I rise in strong support of this resolution; and I thank the gentleman from Texas for yielding me time. I am pleased to be one of the original cosponsors of this bill.

A little over 2 years ago, President Clinton's budget, in a footnote that was often mentioned by Ross Perot, said the young people born that year would pay average lifetime tax rates of 82 percent.

Paul Tsongas a well-respected member of the other party who served for 10 years in the House and Senate, wrote a column about this and he called it an incredible 82 percent; and he said that we were in danger of turning the young people into indentured servants for the Government, and he predicted that in a very few years we would have a war between the generations.

Already today the average person pays almost half of his or her income in taxes and in paying the cost of regulations. Very few people really realize how much they are paying. But when you add up sales taxes, property taxes, gas taxes, excise taxes, Social Security taxes, it is a tremendous sum; income taxes become a small part of the whole burden.

Unfortunately, for too many people, too many people believe that if the Government sends them back a small refund, it is doing them some kind of a favor.

As many people have pointed out, today it takes two incomes to do what one did just a few years ago. Today one spouse basically works to support the Government, while the other spouse works to support the family.

Mr. Speaker, the people of this country can spend their own money better than than the bureaucrats can spend it for them. The easiest thing in the world to do, Mr. Speaker, is to spend other people's money. We need to make it harder for Government to take so much money from the people.

The Government at all levels, but particularly at the Federal level, is becoming increasingly arrogant and coercive. We need to take this coercive society that we have created today and turn it into a great and free society once again.

We can do this if we leave to the people the power, the freedom to have more control over their own money. We need to require a two-thirds majority vote to pass a tax increase. Very few people in this country think that taxes are too low.

Those who want to see the 82 percent tax rate predicted in President Clinton's budget just 2 years ago should vote against this legislation. Those who want to hold down taxes should vote for this resolution.

Mr. SCOTT. Mr. Speaker, I yield 8 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I thank my colleague for yielding time to me for the purpose of debating the bill.

Mr. Speaker, we have heard a lot of discussion today about the fact or the alleged fact that the supporters of this bill are trying to do the public taxpayers a favor. I want to take issue with that. I want to do it in two different ways.

First of all, I want to say to my colleagues, and individuals who may be listening to this argument also, that in 1952 corporate income taxes contributed 32 percent of the Federal revenue. By 1992, corporate income taxes contributed a total of 9 percent of the total Federal revenue.

During that period of time when corporate income taxes were becoming a smaller and smaller and smaller and smaller part of the Federal budget, many, many loopholes were put into our tax laws that provide substantial corporate tax benefits to corporations. Now, if this amendment passes, if this constitutional amendment passes, those loopholes that are currently in the law will require a two-thirds majority of this House to be removed from the law.

So if there is any individual taxpayer in America, any person in America who thinks that this bill is about protecting individual taxpayers, they had better think again. What it is really about is protecting corporate tax interests who have already seen their percentage of the Federal revenues decreased over the last 40 years from 32 percent of our revenues down to 9 percent.

Who was it that picked up the burden of that corporate tax reduction? It was individuals. So anybody who is suffering under the impression that this is for the benefit of individual taxpayers, dissuade yourself of that notion. It is just simply not the case.

The second point I want to make on this has to do with the constitutional framework in which we operate, the concept of majority rule. Every 10 years we are required by law to take a census of the number of people in this country, and by constitutional law, to redistrict the entire Congress of the United States for election purposes.

The reason for that redistribution, and in that process some States that have gained population gain representatives, some States that have lost population over the last 10 years lose representatives, but the reason we go through that process is to assure that every single person in the United States has equal representation in this House of Representatives. Every single district in America is supposed to represent approximately the same number of people. The reason we do that is because we believe in the whole concept of majority rule.

Every single Member of this body who comes in here representing equal constituencies, on almost every single item with the exception of four or five things that were delineated in the original Constitution of the United States, has an equal vote.

Mr. Speaker, what these cavalier gentlemen would like to do is to upset that balance, to say to the American people that their vote is less important unless they are in the minority or majority, depending on which side they happen to be on. Any time we require something other than a majority vote in this House, we are diminishing the value of somebody's vote out there in the public.

I want to dissuade all of my colleagues, Mr. Speaker, and the American people, that this is not about taxation. This is about the equal representation that all of us fought so hard for and that our ancestors fought so hard to protect, the whole theory of democratic rule.

My colleagues on the other side are going to get up and tell us we are trying to protect the American people. What they are doing is protecting their corporate interests. We have seen it over the last 40 years, a reduction in the amount corporations contribute to support the Government, and what they are doing is diminishing the right of every single individual voter in this country by saying, oh, no, your vote is not as important as somebody else's vote in this body.

I have risen on the floor of this House to oppose every single constitutional amendment that they have proposed. They keep saying that they are conservatives. What is conservatism but to uphold the Constitution of our United States?

This new conservative majority has proposed 118 constitutional amendments in the last 2 years. This new conservative majority brought four constitutional amendments to the floor of the House last year. That is an average of four times more than any Congress in the last 10 years.

They would have us believe that this is about upholding some constitutional conservative principle. Defending the Constitution as it is written is the conservative notion, Mr. Speaker. I think we should reject this amendment and stand up for the power of individual citizens in this country.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. CHABOT], a member of the Committee on the Judiciary.

Mr. CHABOT. Mr. Speaker, I rise in strong support of this taxpayer protection amendment. Early in this century, Congress passed a constitutional amendment to make it easier for the Federal Government to tax people. The 16th amendment authorizes a direct Federal income tax.

Now as we near the end of the 21st century we have some significant experience with heavy Federal taxation. I think one inescapable conclusion we must draw from our Nation's experience is that the Federal Government does not find it difficult to raise taxes. Rather, it finds it all too easy. We need to pass structural constitutional protections for the American taxpayers, to make it harder to raise taxes.

□ 1515

Most of what goes on in this town involves taking and spending other people's money. Political power determines how much money is taken away from people who earn it, and political power determines to whom that money is given. People who have to spend most of their time earning a living for themselves and to support their families do not have very much time or very much say over how the taxing and spending goes on in this town. And they get ripped off time and time again.

For example, just look at the so-called market access program under which money is taken away from taxpayers and given to corporate trade associations to advertise their products overseas. Sure, it is a ripoff, a $100-million-a-year ripoff. But the big corporations that benefit from it have real incentives to lobby here in Washington to keep the transfers going and the money coming from the taxpayers, and the taxpayers get hit.

In recent years to pay for programs like this, the Federal Government has raised taxes on the gasoline people buy. It has raised taxes on working seniors. It has raised taxes on small businesses. The Government's share of the average American family income has gone up, when it was born, from around 5 percent, now it is 25 percent. That is a 500-percent increase just during my lifetime. We all know the Federal Government has not gotten 500 percent better. The Government taxes people to pay for the entertainment of rich elites in the NEA. The Government taxes people to build roads through national forests for private lumber companies. The Government taxes people in order to subsidize the profits of various utility companies.

Those who argue that we cannot have structural protections in the Constitution requiring a supermajority here ignore other similar protections: the requirement that a bill pass through two different Houses of Congress, for example; the power of the President to veto legislation; it takes two-thirds to override a Presidential veto; the constitutional limitations restricting Federal power to specifically enumerated areas. All of these are valuable protections against congressional abuse.

Oppressive increases in Federal taxation have got to stop. We cannot keep increasing the frequency with which Congress goes back to the well and raises taxes over and over again. It is too easy for the Government to raise taxes on hard-working American people. I urge passage of this protection for the American taxpayer.

Mr. SCOTT. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, I thank my distinguished colleague for yielding me the time.

Mr. Speaker, I could not begin to match the eloquence of the previous speakers on this side who would suggest to the American public that they are at grave risk of having their Constitution damaged by a capricious majority who would today—in kind of a television stunt that is hardly worthy of a second rate talk show host—try and convince the American people that they are doing something to save them money or to save the Government. It is again a sham. There is much that we could be doing in this body that is important, and obviously we are not.

But it is important to note what might have happened had this kind of a silly constitutional amendment been agreed upon earlier. Social Security would now be bankrupt. It would not have been saved in the 1984 legislation which did not receive a two-thirds vote. As the Republicans have repeatedly tried to raise the taxes on the senior citizens for Medicare in their own rule which required two-thirds last year, they had to waive the rule to increase the premiums on Medicare beneficiaries. That was a Republican move.

The health coverage availability and affordability bill would have imposed additional taxes on withdrawals from medical savings accounts, an equally silly idea, but again the Republicans had to waive their own rule. The Republicans could not operate, they do not know how to operate the House with a two-thirds rule they have in here now. If they had to read the Constitution without moving their lips, I suspect they would be in real trouble. The House waived or ignored the two-thirds rule each time it would have applied.

This resolution is far more restrictive and it is a bad idea through and through. It is a gimmick. It is showboating. It denigrates the Constitution. We were all sent here to make tough choices, some unpopular. Occasionally it is necessary to raise revenues in this country. We would no longer have airport traffic control. Our Nation's transportation infrastructure would disappear. The Medicare Social Security Program would no longer be able to be kept viable. All of these would be the outgrowth of this cockamamie idea that has come up and would be much better if we would just pledge allegiance a few more times today in honor of those good citizens who do pay their taxes, which happens to be mostly the lower middle income folks, I might add, and not the rich folks who can take advantage of the many loopholes that we have built into the system.

I urge my colleagues to ignore this, to vote no, to pretend that it did not happen, to go back home and say that there are important things that this Congress could do but they are not being presented to us by the Republican majority.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I want to speak in this 2-minute period about the tax issue directly. I notice that my distinguished colleagues on the other side do everything but talk about the direct issue, which is taxes. In the 4 years of the Clinton administration, including this fiscal year 1997, Federal revenues have gone up an average of $88 billion a year, $88 billion. The high year was $104 billion; the low year, the year that we are currently in, it is estimated to be $52 billion. So that is an average of $88 billion increase in Federal revenues during the Clinton administration.

If we go back to the Bush administration, the average was $65 billion, the high year being, and the low year being $23 billion. If we go back to the last 10 years, to include the last 2 years of the Reagan administration, we still have an average increase, including the Clinton years, the Bush years and the last 2 years of President Reagan, $65 billion a year. We do not have a problem of Federal revenues going up. We have a problem limiting the revenues going up in terms of tax increases and limiting the ability to increase spending.

I would point out again, in the original Constitution there was a zero; there was zero income tax, 100 percent prohibition against any direct tax, Article I, Section 9. The 16th amendment to the Constitution, 1913, changed that. We need to go back, maybe not 100 percent prohibition as the Founding Fathers, but a two-thirds vote requirement would make it more difficult to raise taxes. I would point out, if we would have had a two-thirds requirement on the books, 4 of the last 5 major tax increases totaling $666 billion would not have occurred. I would hope that we can talk about the substance of the amendment and what it would do, which would make it more difficult to raise taxes.

Mr. CANADY of Florida. Mr. Speaker, I would inquire of the Chair concerning the amount of time remaining on each side.

The SPEAKER pro tempore (Mr. SOLOMON). The gentleman from Florida [Mr. CANADY] has 49¾ minutes remaining, the gentleman from Virginia [Mr. SCOTT] has 67¾ minutes remaining, and the gentleman from Texas [Mr. BARTON] has 26 minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Nevada [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise here today in support of House Joint Resolution 62, the tax limitation amendment. As a private citizen in Nevada, I led an effort to amend our State constitution with this very same language. I am proud to say that after passing overwhelmingly in 2 consecutive elections, and may I say both with over 70 percent support of the voters, that initiative, the Gibbons tax restraint initiative, as it became known, has become law in Nevada, a policy that says, we need to put a leash on runaway spending and tax increases. The Federal Government needs to be put on a fat-free diet by making it more difficult to raise taxes, we shift the focus of the balanced budget debate to where it needs to be, on the spending.

Mr. Speaker, the facts speak for themselves. States with similar supermajority requirements for tax increases experience greater economic growth, lower taxes, and reduced growth in spending.

Mr. SCOTT. Mr. Speaker, I yield 7 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I could not help but notice the somewhat pained look on the face of my friend from Florida, when the Chair told him he had 49 minutes remaining. Time goes quickly when you are having fun, I would have to say to the enthusiastic advocate of this constitutional amendment.

Mr. Speaker, we should note that today is the day when under the law of the country, the Republican majority should be giving us their budget. We have no budget. They do not want to present the budget, and what we have today is a diversion, a proposal that is not taken seriously by all but a handful on the other side, that no one thinks is going to go anywhere, and it is an effort to divert people's attention from the fact that they have failed their legislative responsibility to bring forward a budget.

The problem is not for them that it is too easy to raise taxes. It is that for all of their rhetoric, it is too hard to cut spending. The gentleman from Texas, the author of the amendment, said if this amendment had been in effect we would have $666 billion less in revenue. Well, I assume when those who advocate this amendment would show us how they could cut $666 billion a year out of spending. But they will not; they will not even try.

What we have is the emptiest rhetoric imaginable, all of this breast beating about cutting spending but not a nickel cut. Where is their budget?

If, in fact, they believe that we have overtaxed and that the remedy is to reduce spending, why have they failed their statutory responsibility to bring forward a budget?

What happened was a few years ago, a year and a half ago, 1995, the Republican majority found out that there is a great inconsistency between their talk about reducing spending in general and their interest in reelection in particular. The public did not like it when they shut down the Government. They are not prepared to live up to the rhetoric. They are not prepared in fact to propose those spending reductions.

So we sit around here waiting, I guess, for heaven-sent spending reductions. We go pass the time when we are supposed to do the budget, and they talk about a tax limitation amendment.

There are a couple of problems with the amendment on its own terms. In the first place, with this amendment, we have to be very careful because every time we turn around it is a new form.

The fact is, it is very difficult to put into the Constitution legislation of this sort. Defining taxes for this purpose is difficult. Last week they got through the Committee on the Judiciary a version of this that they did not notice until we pointed it out to them apparently would have required a two-thirds vote to cut the capital gains tax. Because under their view, cutting the capital gains tax increases revenue, and their amendment was worded so we would have needed a two-thirds vote to cut the capital gains tax.

We pointed that out to them so we have a new version of the amendment which takes care of that. But there are other problems.

There are Members who have argued that one thing we should do to balance the budget is to cut back on the Consumer Price Index and what it triggers. I am not in favor of that as a whole; some Members are. But I understand this: The Consumer Price Index controls tax brackets. The Consumer Price Index determines tax bracketing. If we were to reduce the Consumer Price Index, as the Boskin Commission recommended, we would be increasing tax revenues because we would be changing the bracketing in a way that brought in more revenue. So if this constitutional amendment were part of the Constitution, it would then take two-thirds to reduce the CPI.

Now, if we had another version of this coming up they would probably change it to do that. The problem is, we cannot put into the Constitution this sort of procedure. But there is a more profound problem. This bespeaks a majority that does not trust the American public. This bespeaks Members who do not think they can get a majority.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, the CPI is not part of the Internal Revenue Code so it would not take a two-thirds vote. In fact, it would not even take a vote. We could do that by Executive order or by regulation of the Department of Labor.

Mr. FRANK of Massachusetts. Mr. Speaker, it is interesting to have the advocate that says you need a two-thirds vote of the Congress to raise taxes say he wishes it could be done instead by Executive order, because understand, first of all, that changing the CPI the way the Boskin Commission said would increase taxes.

□ 1530

It would increase the rate of taxation on people because of what it would do with the brackets.

The gentleman from Texas, not surprisingly, said I do not want to do that; let the President do that by Executive order. So on the one hand he wants it to be a two-thirds vote, and on the other hand he wants the President to do it by Executive order.

He may not have read the most recent version of his amendment, because it does not say the Internal Revenue Code. It quite specifically, as we were told in the Committee on the Judiciary, does not say the Internal Revenue Code, it says the internal revenue of the United States, small "i" small "r". So when the gentleman says this does not affect the Internal Revenue Code, that is wrong.

Finally, the CPI does directly affect the brackets. If we reduce the CPI, then we reduce the indexation of brackets and the result is higher revenues.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. Mr. Speaker, I will be glad to yield to the gentleman from Texas if he wants to appeal to the President to get him out of this one again.

Mr. BARTON of Texas. Mr. Speaker, I would say to the gentleman, that did not state my preference. I simply said what the amendment would cover and would not cover.

Mr. FRANK of Massachusetts. Mr. Speaker, reclaiming my time, let me be clear. The gentleman did not mean, and I apologize to the gentleman, I will not in the future confuse what he says with what he believes, if that is what I am supposed to interpret. It did seem to me like he was saying we will let the President do that one.

In fact, however, the point is still valid. This amendment does not deal with the Internal Revenue Code, big "I", big "R", big "C". It says the generic, the internal revenue of the United States. And cutting the CPI would increase the internal revenue of the United States, and it would clearly require a two-thirds vote.

The point is it should not require a two-thirds vote. Democracy should be allowed to function. Today there is not a majority in this country for raising taxes. There might be a majority for reducing taxes.

Suppose 10 years from now there is a different majority. Suppose 10 years from now people have changed their views? We have had economic growth; they want to deal more fully with certain things. They, in fact, decide they have to get that debt down and they would be willing to vote a tax increase dedicated to reducing the national debt.

That ought to be a decision that the majority of the American people could take if they want to, and this is one more obstacle that we are trying to put in the way, those who support this, in the path of a majority.

The majority today ought to do what it thinks is right. If it wants to reduce taxes, it should reduce taxes. If it wants to keep them the same, it should keep them the same. If it wants to cut spending, it should cut spending, although the majority apparently does not want to do that, because that would require a budget that requires tough political discussions, and they want to avoid those.

But what we should not do is to say, because we have a majority today, we will change the basic rules so that 10 years from now, if a new majority said things have been pretty good economically and we could afford a tax increase to reduce the deficit, we should not require that to take two-thirds.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. RILEY].

Mr. RILEY. Mr. Speaker, I rise today in strong support of the American taxpayer and in support of the tax limitation amendment.

To put it simply, taxes on Americans are too high. The average American taxpayer works until May 7 to earn enough income to pay an entire year's tax. When we factor in local and State taxes, U.S. taxpayers will spend more time working for the Government than for their own families. Clearly, taxes are out of control.

Mr. Speaker, the tax limitation amendment will provide Congress with the needed discipline to once and for all hold the line on taxes.

Today we have heard from the naysayers and the doomsdayers who fear that the sky will fall if the tax limitation amendment is passed. They are rightfully concerned. This is because so many in Washington still lack the courage to make the tough decisions, the tough decisions that today will create a better America for tomorrow.

The tax limitation amendment will indeed make it tougher for Congress to raise taxes, and that is exactly why I support it.

Mr. SCOTT. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Speaker, I rise in support of House Joint Resolution 62, the tax limitation amendment.

Today is a day that a lot of hard-working Americans, honest and decent people, have come to view with a sense of despair, hopelessness, and some even fear. It is not a sense of selfishness but rather a sense of disenfranchisement with the process which causes so many millions of Americans to believe that Government spending and taxes are out of control.

If we had had this amendment back 3 years ago, we would not have had the largest tax increase in the history of this country. If we had had this in 1986, when we had Chairman Rostenkowski and President Reagan pushing for a tax bill, for a new tax reform act, we would not have had this. That is the worst thing, in my opinion, that has hit this Congress since I have been up here.

Today we have an obligation to our constituents to let them know that we are listening to what they say and that we are willing to take some responsibility by endorsing a very concrete step toward slowing the rate of growth in spending and moving closer always toward the goal of what we have all been seeking, what the President says he wants, what the House and Senate say they want, and that is a balanced budget.

Today we are asked to vote for or against the tax limitation amendment, House Joint Resolution 62. This proposal would amend the Constitution so as to require a two-thirds supermajority vote in both Chambers of Congress as a prerequisite for passage of any legislation which would raise taxes by more than a de minimis amount.

This resolution covers income taxes, estate and gift taxes, payroll taxes, and excise taxes. It does not cover tariffs, user fees, voluntary premiums, and other items which are not part of the internal revenue laws. Currently, just such a rule is in place in the House to make certain that we all go on record when a tax increase is proposed. However, this rule does not apply to the U.S. Senate; it only applies this term to the House.

We are just asking to bring some discipline into the process. We are asking to make it a little bit harder to tax the American people. This is a day to make it a little bit harder to tax the American people, the day when they are parting with their money, 40 percent, upper or lower, depending on their bracket or their area, of all the money they have made all of last year.

The many good people in my district, the 4th Congressional District, have been unified and very clear in communicating to me their desire to see Congress balance the budget. The tax limitation amendment would simply challenge Congress to balance the budget without gouging hard-working individuals with regular tax increases.

Contrary to some arguments made by pro-spending opponents of this resolution, the tax limitation amendment does not hamper efforts to close so-called loopholes, because tax increases below a small amount are not subject to the two-thirds requirement.

Those of us who are working toward fundamental tax reform will not be impeded either, because so long as the end result does not increase the tax burden, tax reform bills will not be subjected to the supermajority requirement.

The tax limitation amendment makes good sense. It restores discipline on a system which has spun out of control. Our constituents are overburdened now by a system which has for years left the doors wide open for tax increases to be slipped in as riders to all kinds of legislation. We have to reverse our course and restore a sound business approach to the Government by passing the tax limitation amendment, thereby committing ourselves to going on record so that our constituents can see us vote either yes or no when their pocketbooks are at stake.

I am proud to be the lead Democrat on this bill, along with the gentleman from Mississippi, GENE TAYLOR, and I urge all my colleagues to deliver some relief to the overtaxed and disenfranchised constituents today by voting the passage of the tax limitation amendment.

Mr. Speaker, we have people from all walks of life who support this. We have the American Conservative Union, the Americans For Tax Reform. We talk about senior citizens. The Senior Coalition, United Seniors Association, U.S. Chamber of Commerce, the National Tax Limitation Committee, and I could go on and on. People want us to bring some discipline to this House and discipline to the taxation that takes away the money that they work so hard for.

Mr. Speaker, I thank the gentleman from Virginia for yielding me this time.

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. SESSIONS], the distinguished gentleman from the Fifth District and one of the whips in this effort to pass the amendment today.

Mr. SESSIONS. Mr. Speaker, I rise today to support not only the gentleman from Texas, JOE BARTON, but also the previous speaker, the gentleman from the Fourth District of Texas, the Honorable RALPH HALL.

As the Congressman from the Fifth District of Texas, I can tell my colleagues that these gentlemen understand and know not only what freedom is but also how to go about it.

Mr. Speaker, Republicans and Democrats across the country ran on the promise to lower taxes for all Americans. The tax limitation amendment is important because it protects the American people from excessive taxes. It restores accountability to elected officials and forces Congress to prioritize how they spend the American people's money.

Future generations deserve lower taxes. Responsible leaders in the Federal Government that only spends money on those things that are within its constitutional mandate are critical to the success of not only today but our future.

If we believe that all Americans deserve to keep more of their hard-earned dollars while paying less in taxes, then the tax limitation amendment is a positive change. If we want to promote prudent financial responsibility and a stronger, healthier economy by cutting off the supply of taxpayer dollars to Washington's spending machine, then the tax limitation amendment is the right thing to do.

If we also believe that the Federal Government should have more power and control over people's lives and resources, then the tax limitation amendment makes our life more difficult. If we believe that the American people deserve more government interference while they continue to pay close to 40 percent of their earnings to the Federal Government, then the tax limitation amendment is not a welcome change. Tax increases are not the answer to any problem. A balanced budget, a trimmed-back Federal Government, a healthy economy, and meaningful tax reform are important.

Seventy percent of taxpayers support a supermajority requirement for Congress to raise taxes. I think it is time that we as Republicans and Democrats listen to America, listen to the taxpayer, and listen to those who put us in office. Let us do the right thing. I am in support of the tax limitation amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. COBLE], a valued member of the Committee on the Judiciary.

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding me this time.

I had not planned on coming over here, because I am working on another matter known well to the Speaker, but I felt obliged to be here.

Let us first admit what has gotten us into this mess: Excessive spending for the past 25 to 30 years. If more prudence had been practiced in those days, folks, we would not be here talking about this. That cow, however, is out of the barn, so now we have to play the hand that is dealt us.

I am not one in favor of rushing to the Constitution each time the whim strikes me, but we live in an era today, Mr. Speaker, when activities occur regularly that would astound our Founding Fathers.

I was talking to one of my constituents about 3 weeks ago, and she told me how much taxes she must pay on or before today. This woman is not impoverished, but she is by no measuring stick wealthy. She would be lower middle. The amount she told me almost knocked me off my chair.

As imperfect as it is, my friends, there is no doubt that the United States of America is the greatest country in the world, but oftentimes I wonder if other countries impose such hardships upon savings, upon investing, upon hard work as America does.

Capital gains and estate tax. Let us call the estate tax what it is, the death tax. They are probably the two most lucid illustrations I could offer. The estate tax ought to be abolished. Forget about reducing it or increasing the threshold, it should be abolished. It generates relatively little revenue when compared to total tax collections.

Tax day and the IRS are synonymous. I look across this great hall and see my friend from Ohio, who is probably the most outspoken critic of the IRS. And I am not saying that all IRS agents and employees are no good; I am not saying that at all. I am certain there are many who are good Federal employees. But I am equally certain, Mr. Speaker, that there is much heavy-handed activity, there is much yanking taxpayers around, there is much intimidation that flows from the IRS to taxpayers who are then placed in vulnerable positions. Such activity is intolerable and inexcusable and should not be allowed to be practiced.

□ 1545

Finally, the more difficult we can make it to increase taxes, the better all America will be served.

In conclusion, Mr. Speaker, I say, happy tax day, America.

Mr. SCOTT. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Speaker, today is a day that is dreaded by all Americans for one reason or another. Today, April 15, is commonly known as tax day but in deference to my friend who just spoke a moment ago, as he said, happy tax day, I think a more appropriate description of this initiative would be happy gimmick day. All that is missing would be to have that individual who used to stand in the well of the House with a TV Guide in his hand and an ice bucket on his arm talking about term limits after having served for 18 years, that 12 is good enough for the rest of us, and then we ought to talk about the balanced budget amendment, how everybody on that side was thankful that it was defeated. And then we talked about the line-item veto and they are once again in good shape because a Federal judge turned down that initiative.

This is about another gimmick, Mr. Speaker. That is what this initiative is proposed for today. It is to call attention to the failure of the majority to administer the House. We should be speaking about balancing the budget today, and that is where our time should be more appropriately spent.

We went through this exercise exactly 1 year ago today, because, thank goodness, rational minds prevailed and the resolution fell 37 votes short of the majority required to change the Constitution. Every time we do not like something around this institution during the last 4 or 6 years, we suggest that we ought to alter the Constitution for short-term political gain.

Instead of holding this publicity stunt today, Mr. Speaker, we ought to be working on balancing the budget. This resolution is not going to help individual taxpayers. But a balanced budget would help all of us today. If we want to help taxpayers, we should be enacting legislation like an expanded individual retirement account. But instead we are debating an amendment to the Constitution. It ought to be done with these discussions in a serious manner.

This proposal that we are offering today would offer a change in revenue if it is determined at the time of adoption in a reasonable manner prescribed by law, not to increase internal revenue by more than a de minimis amount. This resolution does nothing but compound our current budget stalemate and debate.

Twenty years ago I was standing in a classroom teaching American history to high school students and to college students. I value the Constitution. I tried to pass that on to my students. The Constitution requires a two-thirds majority vote in the House in only three instances: overriding a President's veto, submission of a constitutional amendment to the States, and expelling a Member from the House. These instances differ substantially from the issue before us today.

Mr. Speaker, I have to tell my colleagues today as we begin this debate, this proposal is about the next election. It is not about balancing the budget. This proposal is how we once again can speak to the concerns and qualms of wealthy Americans at the expense of middle and lower income people. Time and again we have had opportunities to address this balanced budget necessity, but instead we come up with superfluous issues like the one that is proposed today.

The Founding Fathers examined what majority rule meant. Why should one-third of the Members of this institution determine the fate of an initiative that is as important to the future of this country as this one? Why should one-third of the Members of this institution be allowed to veto the long-term interests of this Nation?

I hear Members come to this well on that side and talk about the conservative virtues that made this Nation strong. And in the same breath, we have a constitutional amendment proposed here to address every political concern that they have.

Our time would be better served today speaking to balancing the budget. Jefferson's most prized student, James Madison, reviewed the question of what constituted a majority in a legislative body. They concluded, based upon the bad experience of the Articles of Confederation where 9 votes were required of the 13 to raise revenue, that it was a bad idea.

This proposal is about demagoguery, it is about dividing this Congress, but it goes to the main issue, the core issue, of any legislative body, and that is the right of the majority, the simple majority, to set responsibilities every single day. And by any objective standard, this proposal fails that measurement. We should be spending our time today focusing on balancing the budget and not upon these kind of superficial initiatives.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, we have heard quite a bit of dissemination about what the amendment may or may not cover. Let me actually read the relevant part of the amendment, section 1. Any bill, resolution or other legislative measure changing the internal revenue laws, and I want to emphasize, changing the internal revenue laws, shall require for final adoption in each House the concurrence of two-thirds of the Members of that House present and voting unless that bill is determined at the time of adoption and in a reasonable manner prescribed by law not to increase the internal revenue by more than a de minimis amount. For purposes of determining any increase in the internal revenue under this section, there shall be excluded any increase resulting from the lowering of an effective rate of any tax. On any vote for which the concurrence of two-thirds is required under this article, the yeas and nays of the Members of either House shall be entered on the journal of that House.

So in plain English, it takes a two-thirds vote to raise Federal income taxes. Right now there is $5.7 trillion of personal income in this country, of which about $2.6 trillion is considered to be taxable. If we came to the floor of the House and tried to raise the Federal income tax rate 1 percent, that would be between $26 billion and $57 billion a year. It would take a two-thirds vote to do that, in plain simple English, a two-thirds vote to raise personal income taxes even 1 percent. So let there be no mistake. That is what we are trying to do, make it more difficult to raise income taxes.

Members do not have to take some Congressman's word for this that it might work. They do not have to take a professor's word that it might work. We have 14 States that have this in their State constitution or in their State laws. There are 4 States that have passed it since last year, Missouri, Nevada, Oregon, and South Dakota have passed a supermajority requirement, in most cases a two-thirds supermajority requirement, since last year, and the total is 14 States, including the largest State, the great State of California, which has had this on the books since 1978. In those States that have it, in these 14 States, there are certain facts that are true in every State.

What are those facts? In States that have a supermajority for a tax increase, taxes go up. We are not saying you would not prohibit any tax increase, but they go up more slowly: 102 percent in tax limitation States versus 112 percent in States that do not have any kind of tax limitations. That is a 10 percent difference. Ten percent at the Federal level would be over $100 billion a year.

In the States that have tax limitation, consequently State spending goes up slower, 132 percent versus 141 percent. That is a 9 percent difference. And because the State spending is going up more slowly, the State economies, the private sector economies, grow faster, 43 percent versus 35 percent. And because the economies are growing faster in those States, employment is growing faster, 26 percent versus 21 percent, or a 5 percent difference.

Again, in plain English, tax limitation works. Supermajority requirements for tax limitation actually works. If it works in these States, Arizona, Arkansas, California, Colorado, Delaware, Florida, Louisiana, Mississippi, Missouri, Nevada, Oklahoma, Oregon, South Dakota, and Washington, it will also work in Washington, DC, at the Federal level.

Again, we are not trying to make it impossible to raise income taxes; we are just trying to make it more difficult. When the time comes to vote on this, just keep in mind a 1 percent increase in personal income tax is going to result in $26 billion to $57 billion a year increase in Federal revenue, and as I pointed out earlier, Federal revenues have gone up an average of $88 billion a year the last 4 years.

Mr. CANADY of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, we have withholding taxes, income taxes, sales taxes, excise taxes, liquor taxes, ticket taxes. We even created a surtax once. We taxed tax years ago. We coined recently a retroactive tax. We taxed before the tax really would start so the tax did not look as bad as when it started.

Mr. Speaker, how many ways can Congress raise taxes? I would say if Congress was as creative in creating jobs, we would not have any problem with taxes and any problem with revenue. We would have no deficit.

The truth of the matter is today is tax day. The American people are taxed off. We are not talking about the old taxes, and the possible new taxes. What about the hidden taxes that seem to creep up on us? But I just take a look at the whole scheme. Here is the way it is in America.

If you work hard, you get hit on the head and you pay a lot of taxes. If you do not work, the Government sends you a check. Beam me up. Congress debates today corporation taxes, and more corporation taxes. My God, they can move to Mexico and pay no taxes. Why stay here the way it is?

We should be incentivizing and strategizing with the Tax Code, a Tax Code that is so cumbersome you need three accountants and two attorneys and, by God, if you get audited they will all run for the hills and say they did not tell you those things. You know it and I know it. Our Tax Code kills jobs; kills, in fact, investment; rewards dependence; penalizes achievement, and in many cases treats the taxpayer like a second-class citizen. In fact, in a civil tax court, and the Republicans should have dealt with the issue, a taxpayer carries the burden of proof this day against an accusation made by the Government, if you want to talk about Constitution.

I think if the American people had a voice in this debate, you know what they would say? Tax this, Congress. They are fed up. I think this is a simple measure. It deals with income. I am not one to vote for constitutional amendments. But quite frankly, how many ways can we tax people? And the American people are sitting back waiting for someone in the Congress to do something.

I want to give credit to the Republicans. They are trying. But let me say this. There is an awful lot more that could be done. I suggest changing our Tax Code, rewarding work, not nonwork, giving people more of their income, by cutting income taxes and creating a consumption tax, get everybody in America participating, even those deadbeats that avoid the payment of income taxes, folks.

But I think there is one element that is left out of this debate, and I think it is the taxpayer. I think they just have a train coming at them, they are on the track and they are looking not just for some relief, they are looking for some justice.

I support this constitutional amendment. I applaud the efforts of the gentleman from Texas [Mr. BARTON] and those who have brought it forward. I doubt if it will become law. You know that and I know that. But if we make some common sense here, we would reward work. The American people are taxed off and rightfully so.

Mr. SCOTT. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. DELAHUNT].

□ 1600

Mr. DELAHUNT. Mr. Speaker, I rise in opposition to the bill.

The Framers of the Constitution were very practical people, and most held profound beliefs about democracy, but their goal was above all to design a system of government that would work. They recognized that certain key questions such as treaty ratification, conviction and impeachment trials or expulsion of a Member of Congress demand more than the customary majority. But with respect to the normal operation of government, they provided in all cases for a simple majority vote. They made no exception for taxation. Pause and reflect for a moment: They made no exception even for declarations of war. Mr. Speaker, what they rightly feared was that a supermajority requirement would give minorities a veto over the political process.

As Madison wrote in The Federalist papers, "It would be no longer the majority that would rule; the power would be transferred to the minority. An interested minority might take advantage of it to screen themselves from equitable sacrifices to the common wheel, or, in particular emergencies, to extort unreasonable indulgences."

Madison could have been describing the very amendment before us today. It would give a veto over revenue bills to a minority of Members of either House. It would enable Members of Congress representing one-third of the population or Senators chosen by one-tenth of the population to block revenue measures supported by the vast majority of Americans. It would give these minorities enormous leverage in an emergency to extract concessions in exchange for their support.

The proposed amendment pays lip service to this concern by allowing the two-thirds requirement to be waived in the event of war, yet it would probably be easier to obtain a two-thirds vote to raise taxes during wartime than in my other perilous circumstances. The bill makes no provision at all for hurricanes, floods, terrorist attacks or other localized disasters, let alone a severe economic crisis or a breakdown in the financial system itself. Furthermore, it would make it virtually impossible to eliminate corporate subsidies and other loopholes in the tax system. Corporate welfare would be difficult to reform.

The proponents of this amendment seem willing to accept these consequences, for they rejected a series of amendments in committee which would have addressed at least some of these concerns. They also seem determined to repeat past mistakes.

I was not a Member of this House when the current majority took control in 1995, but I know the House adopted a rule at that time requiring a three-fifths majority to raise taxes. Unfortunately, having created this rule, the majority found it impossible to govern in accordance with it, and it was repeatedly waived or ignored.

Today the majority invites us to graft this failed rule with two-thirds vote onto the Constitution of the United States where it cannot be waived and it cannot be ignored, and this is an invitation that we should and must decline.

Mr. CANADY of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Florida for the time, and I welcome the gentleman from Massachusetts to this body. In the spirit of bipartisanship, I think it is great for us to be able to debate these issues and to take a look at some different perspectives.

I appreciated the citation of a quotation from James Madison, who perhaps more than any one individual is responsible for the Constitution of the United States. I would also try to put at ease the mind of my good friend from Ohio who rose in support of this amendment who said he was not that fond of voting for constitutional amendments. He was somewhat reluctant. Certainly our friends in opposition to this amendment will readily note the veracity of article V of the Constitution, which gives us as the people of the United States the ability from time to time to amend this Constitution.

Indeed I would only take issue with one observation of the gentleman from Massachusetts when he quoted James Madison, and that would be this: that when James Madison penned those words at the outset of this Nation, he did not have to deal with the 16th amendment to the Constitution that led to the direct taxation of personal income. Indeed those who would wrap themselves in the Constitution and talk glowingly about preserving the integrity of this document have to deal with that essential fact. For if it were such a great and good idea, if it were the intent of the founders to directly tax income, then they would have included that in the body of the Constitution or in those first few amendments known as the Bill of Rights.

No, Mr. Speaker, the wisdom of our Founders comes from the fact that they realized from time to time because governments are constituted of men who attempt to make laws that there would be abuse, there would be abuse of the electorate, there would be abuse of the citizenry.

The gentleman from Massachusetts used the term extortion when he talked about minorities. No, Mr. Speaker, the extortion has taken place when this Government has stuck its hands into the collective wallets of hard-working American taxpayers and always, always, and again always ratcheted up their taxes, taking more and more to the point now where the average American family spends more in taxes than on food, shelter, and clothing combined, when the average American family who in 1948 sent only 3 percent of its income in taxes to the Federal Government, at a time last year sent almost one-quarter of its income.

No, the wisdom is found in article V of the Constitution, which gives us the right, indeed the responsibility, to move against those procedures in government which have proved troublesome, to say the least, more than bothersome, which had proven to be real problems for real Americans. That is the wisdom of our Founders found in article V and in the wake of the 16th amendment to the Constitution, which allowed for the direct taxation of income, which allowed for Washington to reach into pockets of average hard-working Americans.

We must find a counterbalance, and the wisdom is found in this amendment that would require a supermajority, as occurs now in my home State of Arizona, to restrain the rate of growth of government because, as history has shown us, the easiest thing in the world to do is raise taxes. The toughest thing in the world to do is to teach this Government to live within its limits to allow the American people to hold onto more of their hard-earned money and send less of it to Washington.

So, Mr. Speaker, it is in that spirit that I wholeheartedly endorse this amendment to the Constitution, and I rise in strong support, and I fervently hope for its adoption in this body today.

Mr. SCOTT. Mr. Speaker, I yield 4 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY of Connecticut. Mr. Speaker, I rise in opposition to this constitutional amendment. Everything is in the eyes of the beholder, but it is very hard for me to understand how one looks at a very serious situation like this and then sets a rule of demand, two-thirds vote to do something on this floor about taxes in a democracy that is usually the majority rules, and it has kept us pretty well in good shape for the last 200 years.

But I would like to say a few words. I noticed the gentleman from Ohio, one of the strongest advocates of this constitutional amendment still said it would not pass. He knew why. Exactly a year ago today we had this same constitutional amendment before us, and we have done nothing about it until this year when it is rolled out again as another public relations type situation.

But there are some serious things that are involved in this amendment. This constitutional amendment can add to the deficit. Normally, when revenue raisers and spending provisions are matched to ensure that a piece of legislation is paid for when it is passed, they do not match exactly, and they rather yield some slight differences and are used to reduce the deficit. Reading this legislation, it seems to me that this could no longer happen.

So this amendment precludes a people or authors of the bills that they want to adjust their spending upward so to avoid that they will adjust their spending upward to avoid a majority, a supermajority requirement. Obviously this makes no sense.

This amendment, and what I am trying to say is this amendment would require a supermajority to close down egregious tax shelters, to take corporate subsidies that are antiquated, not used anymore or are abused, and take those and say, "You can't eliminate these, you can't eliminate tax shelters unless in fact you were doing that to pay for somebody else's tax shelter, not to reduce the deficit." This absolutely once again makes no sense.

Let us go into another everyday kind of housekeeping type of thing that we do around this Congress, and that is authorization. We have reauthorization bills before us this year that we certainly hope we can pass, Superfund, very important to the environment. Let us do the Superfund legislation; as I read this legislation, would take a supermajority.

ISTEA. We finally have something to be happy about. We are going to address the whole situation of transportation in this country. We look at this, and if my colleagues read the legislation as I am reading it, it looks to me like we would have to have a supermajority do, reauthorize, the ISTEA bill.

This whole situation says to me we are in an area that is controversial enough, but let us not kill good legislation before we even write it. And while we are talking about every day and rules of the House, let us talk about rules that were passed in the last Congress that in fact said we had to have a supermajority to do this very thing as a rule of the House. What happened? The majority could not abide by it. They had to waive it time after time after time.

So I am saying it is OK if my colleagues want to waive a rule; they are in the majority. On the other hand, if we pass a constitutional amendment that demands a supermajority, we cannot waive a constitutional amendment.

So I stand here fully understanding that this is tax day and that we have to address these issues.

In 1986 we reformed the Tax Code. We did some good things. We took 6 million people off the Tax Code. We made it simpler. We reduced the margin. We did some bad things. We authored a minimum tax. Oh, my heavens, to wrestle with that was impossible. Passive loss rules; they were much too complicated.

It is time that we do tax reform again. We should do tax reform, we should not attack those working for the IRS. Today they are working the last couple of weeks, and they will continue to work for us to collect our taxes to run this country. We need tax reform, we need simplification, but let us do it in the right way. These ploys are overused, overdone, and we should absolutely not pass this amendment.

The SPEAKER pro tempore (Mr. SOLOMON). Pursuant to the order of the House of today, further consideration of House Joint Resolution 62 will be postponed until after disposition of the two motions to suspend the rules on which proceedings were postponed earlier today.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 1226, by the yeas and nays; and House Resolution 109, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote after the first vote in this series.

TAXPAYER BROWSING PROTECTION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1226, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARCHER] that the House suspend the rules and pass the bill, H.R. 1226, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 412, nays 0, not voting 20, as follows:

[Roll No. 76]

YEAS—412

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—20

Bilbray
Carson
Conyers
Costello
Danner
Flake
Hilleary
Inglis
Istook
Kilpatrick
King (NY)
Lowey
Manton
Owens
Rangel
Sawyer
Schiff
Souder
Towns
Wexler

□ 1632

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HILLEARY. Mr. Speaker, on rollcall vote 76 I was unavoidably detained from the House Chamber. Had I been present I would have cast my vote as a "yea."

SENSE OF HOUSE ON FAMILY TAX RELIEF

The SPEAKER pro tempore (Mr. SOLOMON). The pending business is the question of suspending the rules and agreeing to the resolution, House Resolution 109.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARCHER] that the House suspend the rules and agree to the resolution, House Resolution 109, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 412, nays 0, not voting 20, as follows:

[Roll No. 77]

YEAS—412

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)

Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kind (WI)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—20

Bilbray
Carson
Costello
Danner
Delahunt
Flake
Istook
Kilpatrick
King (NY)
Lowey
Manton
Owens
Rangel
Sandlin
Sawyer
Schiff
Skeen
Smith (TX)
Souder
Towns

□ 1642

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BILBRAY. Mr. Speaker, I was regrettably and unavoidably detained on my way to the House floor this afternoon, and as a result was not present for rollcall votes No. 76 and No. 77—H.R. 1226, the Taxpayer Browsing Relief Act, and House Resolution 109, a sense of Congress on family tax relief.

Had I been present, I would have certainly voted "yea" on both measures.

PERSONAL EXPLANATION

Ms. KILPATRICK. Mr. Speaker, because I was unavoidably detained in the 15th Congressional District of Michigan, I was not present at rollcall vote No. 76 and rollcall vote No. 77. Had I been present for these votes, I would have voted "yea" for rollcall vote No. 76 and "yea" for rollcall vote No. 77.

TAX LIMITATION CONSTITUTIONAL AMENDMENT

The SPEAKER pro tempore. The pending business is the further consideration of the joint resolution (H.J. Res. 62) proposing an amendment to the Constitution of the United States with respect to tax limitations.

The Clerk read the title of the joint resolution.

□ 1645

The SPEAKER pro tempore (Mr. SOLOMON). The gentleman from Florida [Mr. CANADY] has 36½ minutes remaining, the gentleman from Texas [Mr. BARTON] has 19½ minutes remaining, and the gentleman from Virginia [Mr. SCOTT] has 43½ minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 3½ minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I rise today to express my strong support for the tax limitation amendment. What could I say in this short amount of time that would change many Members on that side of the aisle? I thought carefully about it. Did all of my colleagues know, perhaps they heard this before, that the Constitution has been amended 27 times? Perhaps they did not know in the first 4 years of this country's history they amended the Constitution 10 times. Perhaps they did not know this, but at that point they prohibited any taxes at all.

Mr. Speaker, the Founding Fathers did not want to have any taxes. They were interested in perhaps real estate taxes or a sales tax, but they did not honestly believe in taxing up to 39.5 percent, almost 40 percent. When you add State income tax and local taxes, you are talking about for people, some people are paying 55 percent.

Our Founding Fathers 220 years ago, of course, had the foresight to use supermajority for certain things. Impeachment, talking about expelling a Member of Congress, overriding the veto, they foresaw the need for a supermajority. They understood firsthand what could happen with corruption and power. The power to tax is what we are talking about today, the ruination of overtaxation. The gentleman from Texas is simply offering an amendment to slow this process down.

Quite simply, our forefathers fought a war to ensure freedom from unchecked oppression. They fought a war basically to prevent ruination of taxation, which we have today. So the gentleman from Texas is simply trying to stop this by saying let us have a two-thirds majority.

The American people do not like and trust their Government. They have said that over and over again. It is 1997, and the Government needs to be put in check just like the modern-day King George III which we are trying to do today what our forefathers tried to do when they started this country. Over the past 40 years, Congress has continually increased taxes. Since 1981, there have been 19 separate tax increases, in 1993, the largest tax increase in history. It is obvious to anybody who has studied the political landscape, if we do not have this amendment, we will have increased taxes. Mr. Speaker, we increased taxes on airline tickets, and I am ashamed that we passed that vote without a counterbalancing amendment to make it budget neutral.

In 1775, the rallying cry was no taxation without representation. Here we are, over 200 years later, and it has not changed. The American taxpayers are fed up. They are looking at bloated bureaucracy and they want a change.

Daniel Webster once said, the power to tax is the power to destroy. This afternoon, these words ring with resonance on April 15. What we want to do here is very, very simple. We only want to make it harder to raise taxes, to make it just a little bit more difficult for this Congress to prevent someone from succeeding in the American dream, to make sure that the power to tax is not abused. Simply put, we want to put the power back where it belongs, back where the Founding Fathers put it, in the hands of the people.

I urge my colleagues to put partisanship aside and to cast their vote for the taxpayers of this Nation. Remember, our Founding Fathers amended the Constitution 10 times in 4 years, and it has been amended 27 times since this Republic has been founded. This is a very simple step forward, on a symbolic day of April 15, to bring this Congress under control.

Mr. SCOTT. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, for the record for the American people, we have already spoken on the issue of responding to the desire to have real tax relief. I voted for the Taxpayers Protection Act. We voted just now to prevent browsing in personal files of taxpayers.

I support giving families in America the right to have tax relief such as a tax credit for children. We can do this in a manner that allows us to uphold the Constitution. My colleagues who have been citing the Constitution need to just read the responsibilities of this U.S. Congress, for section 8 says that the Congress shall have power to provide for the common defense and the welfare of this Nation.

This particular resolution does not in any way allow us to protect you by having a strong defense. This two-thirds resolution quickly undermines the majority rule that the Constitution wants us to have. As the Vice President traveled this weekend to the Midwest, he never saw such devastation. This two-thirds amendment clearly says that, when there are floods or freeze, hurricanes or earthquakes, this country will be crippled and not able to do the business of the people.

It is clear that this majority process, overlooking the majority process by requiring two-thirds, clearly undermines the ability of this Congress to operate this Government. The supporters of this legislation support the fact or mention the fact that there are supermajority requirements pertaining to other aspects of our business. Yes, they do; treaties as well as the impeachment trial. But it does not impact on day-to-day operations of keeping this Government running. When an American citizen is strained and oppressed by an earthquake, a flood, a hurricane, they want this Government to act. This legislation does not allow them to act.

Interestingly enough, let me read to my colleagues from the Concord Coalition, a bipartisan coalition that believes in bringing down the deficit, Sam Nunn, former Senator, Warren Rudman, cochairs: Enactment of this constitutional amendment would be detrimental to the budget process. Accordingly, the Concord Coalition of Citizens councils has selected this issue as a 1997 key vote for purposes of its tough choices deficit reduction scorecard.

What we need to be doing is bringing down the deficit. We do not need a constitutional amendment to bring down the deficit. In considering how to balance the Federal budget and keep it balanced over the long term, all options for reducing spending or raising revenues must be on the table. No area of the budget on either of the spending or the revenue side should receive preferential treatment such as requiring a supermajority.

This is bad legislation. More important, do we know what it prevents us from doing? It prevents us from eliminating tax fraud. In order to eliminate tax fraud, we will have to get a two-thirds supermajority. What American citizen would tell us they enjoy the tax fraud that others are perpetrating on this Nation?

The other aspect is, I offered an amendment to protect Social Security and Medicare. This legislation will not allow us to protect the citizens of the 21st century, baby boomers who are coming into their own in need of Social Security and Medicare.

When the baby boomers again begin to retire not that many years from now, the country will be in an era of constant fiscal strain. To avoid destructive deficits, there will be a need to respond operationally, either by tax increases or spending cuts. This amendment does not allow us to save Social Security, Medicare, and any other manner of operating this Government.

It is interesting that the majority as well has waived such supermajority legislation when it has been for their benefit; five times in fact over the last 2 years. One in particular, on October 19, 1995, they waived in consideration of the Medicare preservation bill.

That is what I am trying to say to my colleagues, but the Medicare preservation bill would have imposed additional taxes on withdrawals of Medicare savings accounts. When it is to the advantage of the majority that has offered this legislation, they will waive such votes on tax increases.

I am saying to the American public that what we have is a responsibility to balance the budget. We must do it. We have a responsibility to bring down the deficit. We must do it. But the Constitution says we have a responsibility to provide for defense and welfare. To do that, we must be able to operate this House, this Nation in a manner that says, we the people.

Let me just finish by saying that Alexander Hamilton noted that the sacred rights of mankind are not to be rummaged for among old parchments or musty records. They are written as with a sunbeam on the whole volume of human nature.

I would say to my colleagues that, whatever we do in the House, the sunbeam should shine on it. Whatever we do on behalf of the American people, bringing down the deficit, operating this Government, the sunbeam should shine. This is an undercover amendment. This is bad law, a bad amendment to the Constitution. We should not support it.

Mr. Speaker, I rise to speak in opposition to this resolution to House Joint Resolution 62, which would amend the Constitution to require that any legislation raising taxes be subject to a two-thirds majority vote in the House and the Senate. If this amendment is added to the Constitution, Congress will not have the flexibility that is necessary to meet the important fiscal priorities of our Nation.

Let me also point out that one of our Founding Fathers and Framers of the Constitution James Madison, stated in his Federalist Papers, that requiring more than majority of a quorum for a decision, will result in minority rule and the fundamental principle of free government would be reversed. While there are several supermajority voting requirements referenced in the Constitution, none pertain to the day-to-day operations of the Government or fiscal policy matters. What is particularly troubling this Member of Congress is the fact that the Center on Budget and Policy Priorities, the proposed constitutional amendment, would make it more difficult to address the long-term financing problems of Social Security and Medicare. The Center has stated that the 1996 report of the Social Security trustees, projects the Social Security trust fund will start running deficits by 2012 and exhaust all of its reserves—that is, become insolvent—by 2029. In order to avoid this shortfall or insolvency, Congress must be able to use the tax system, and if not, then the Social Security trust fund will remain in grave danger. That is why I offered an amendment both in full committee and before the Committee on Rules which would have preserved the solvency of the Social Security trust fund. Both of these efforts failed.

Let me also point out Mr. Speaker that Republicans have frequently waived House rules requiring a three-fifths majority vote to increase taxes. Last Congress, the majority waived this three-fifths requirements for tax increases on four separate occasions. On April 5, 1995, during the consideration of H.R. 1215, the Contract With America Tax Relief Act, there was a parliamentary ruling that the new House rule did not apply to the bill even through the bill would have repealed the current 50-percent exclusion for capital gains from sales of certain small business stock. On October 26, 1995, the House rule was waived for the consideration of fiscal year 1996, the budget reconciliation bill, which contained several tax increases. On October 19, 1995, the House rule was waived for the consideration of the Medicare preservation bill, which would have imposed additional taxes on withdrawals form Medicare savings account. On March 28, 1996, the Republicans waived the house rule for consideration of the health coverage availability and affordability bill, which imposed additional taxes on withdrawals from Medicare savings accounts.

Mr. Speaker, it is imperative that this House vote this proposed constitutional amendment down and let us preserve the intent that the Founding Fathers had in mind when they decided that votes in the Congress should be decided by a simple majority.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. PORTMAN].

Mr. PORTMAN. Mr. Speaker, let me say at the outset, Members are talking a lot about the Founders. In the Constitution, of course, article I section 9 actually prohibits the kind of income tax that we currently have in this country, and that is why in 1913, Congress passed the 16th amendment. So if we are going to look back at the Founders, I think there is not a good argument for not changing the way we do business here.

Let me just say that for the last year, as cochairman of the National Commission on Restructuring the IRS, I have been spending a lot of time delving into the tax system generally, and the IRS in particular. We are going to issue our final recommendations in June. The gentleman from Pennsylvania [Mr. COYNE] on the other side of the aisle is on that Commission. I cochair with Senator BOB KERREY. It is bipartisan, the administration is represented and it has a lot of good private sector expertise.

Our goal, really, with this Commission is nothing short of having Americans in the future associate April 15 less with the frustration and anxiety and headaches connected with their tax system and more with pleasant things, like the beautiful spring day we are enjoying here in Washington today. Now, that is a tall order and it is difficult to get there.

But, we think there are three ways we can do it. First, we have to restructure the IRS. We have to change the IRS from top to bottom so there is real accountability in terms of its management. Second, the IRS has to be more taxpayer friendly. A 21st century IRS has to be a customer-driven organization.

Third, and I think most importantly, we have determined, after looking at the IRS from every angle over the last year, that we have to stop Congress from passing new, complex tax legislation. We have to give people a break from taxes.

This relates to what we are talking about today. That is why I like so much what the gentleman from Texas [Mr. BARTON] has been promoting, because it will force Congress to be more deliberative as we do tax legislation in this body. It will force Congress to analyze the impact of increasing taxes, which we clearly have not done over the years. And it will keep Congress from continuously changing the code, sometimes in a rather haphazard manner, because we will have this new requirement in place.

So I want to commend the gentleman from Texas [Mr. BARTON] and others for pushing this issue and frankly for shedding light on the reality that Congress does not act as deliberately and thoughtfully with regard to taxes as it should.

□ 1700

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. MCINTOSH].

Mr. MCINTOSH. Mr. Speaker, I rise in support of this constitutional amendment to require a supermajority in order for Congress to raise taxes. I want to commend the subcommittee and the full committee for working on this, and in particular commend my colleague, the gentleman from Texas [Mr. BARTON], for championing this issue. I only wish we could make sure it was part of our balanced budget amendment as well.

Everywhere I go in Indiana, I talk to people at factory gates, at the shopping mall, at restaurants, and I ask them if they have any message for Washington. And time and time again, I hear from those people: Yes, cut our taxes; I am working two jobs, working overtime, and the Government seems to take all of that in taxes. My wife and I are both working, and we cannot make ends meet.

We have to cut taxes in this country, but we would not have to do that if we had had this amendment in the last 40 years to put a check on all of the tax increases.

A young man named Garth Rector, who works as a grounds keeper at a local college today, came to one of my town meetings about a year ago and said, "You know, I figured it out. I have two kids. And if you guys pass that $500 tax credit, that is about 20 bucks a week that I will get more in my paycheck, and that will go a long way to buying gas and food for the kids. So I hope you get that done."

It has gotten to a point in this country where the average family no longer pays 5, 6, 10 percent of their income, but 23 percent of their income, to the Federal Government in taxes. When we add State and local taxes, it is almost 40 percent. It is no wonder that working families in this country have a difficult time seeing their standard of living increase. We have to cut taxes, we have to eliminate the death tax, we have to cut the tax on investment.

In my State, we have seen a lot of jobs that have been sent down to Mexico and overseas, but if we cut in half the tax on investment, there would be $2.5 billion of investment money available that did not go to the Federal Government but could stay in Indiana and create new, good jobs.

Mr. Speaker, I rise in support of this amendment today because, as I said, if we had only had this amendment over the last 40 years, I am convinced that today the average American family would keep much more of its hard-earned dollars and not send it to Washington, where it sees it being wasted on one program after another.

Mr. BARTON of Texas. Mr. Speaker, I yield 1½ minutes to the gentleman from Arizona [MR. SALMON].

Mr. SALMON. Mr. Speaker, I thank the gentleman for yielding me this time.

It is really appropriate we are here on April 15, when people are feverishly trying to scrape together their hard-earned incomes so that they can keep this wonderful Federal Government going.

It is interesting. I listened to the other side, those people that oppose making it tougher to raise taxes, and it is those same people that say we do not need a constitutional amendment to balance the budget, we simply have the willpower here in Congress.

Somehow they believe that the American people are going to wake up and say Congress is going to be different from the last 40 years; things are going to be completely different now into the future, because suddenly they have this resolve; they do not need to have their feet kept to the fire.

Frankly, I think the American people are on to us. Once again those opposed to any limits on Federal spending have come out of the woodwork to proclaim that a constitutional amendment limiting Congress' ability to spend other people's money is dangerous and, indeed, unnecessary. They claim that willpower alone can limit taxes and spending.

I will not doubt the commitment of the U.S. Congress to cut spending and balance the budget. Just look at the great job Congress has done in the past. Nor will I question the resolve of this President, who boldly declared last year in his State of the Union Address that the era of big government is over. Although he has vetoed two balanced budgets and has yet to produce a balanced budget that really balances, we can all sleep like angels, knowing this time he truly means it.

Mr. Speaker, it is time to end this charade. For decades the politicians in Washington have promised to rein in Federal spending, yet every year the tax burden shouldered by the American people continues to rise. Only by making it harder to raise taxes can we give the American people a reason to believe that things are going to be a little different here in Washington, DC.

Mr. SCOTT. Mr. Speaker, I yield 6 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we are here this evening engaged in a great rite of spring political theater. I am impressed with the acting ability of many on the other side and those in support of this because they are pretending to be engaged in serious constitutional lawmaking.

This is constitutional gibberish. It is constitutional mush. It is an insult to the Constitution to be considering this proposal. It is bad policy. It is bad law.

Second only perhaps to a declaration of war, an amendment to the Constitution ought to be the occasion for the most serious and deliberate application of the talents of this body to the important responsibilities we bear to the Nation. And anyone who attempts to suggest that the language in this amendment could be implemented logically, coherently, without the regular interference of the courts is simply kidding themselves.

This amendment, among many of its failings, violates the fundamental principle of this representative democracy, the fundamental principle of free government; as Madison put it, the principle of majority rule.

There are a few exceptions to that in the Constitution, I will grant my colleagues, but none, none, none goes to the day-to-day fundamental responsibilities of operating this Government.

The logical corollary of supermajority rule is minority control. And under this amendment, Mr. Speaker, 34 Senators, representing under 10 percent of the population of this country, would be in a position to control the Government's revenue and tax policy.

Aside from that absurdity, think of the many, many impractical consequences, both intended and unintended. One would be that, for all practical purposes, this amendment, if it were to become law, would lock into the Tax Code its provisions as it existed at the time of ratification.

If we like the tax system the way it is, or if we are supremely confident that between now and ratification we will have gotten it just right, then we may support this amendment with good conscience. Otherwise, I think we should have great, great pause and reservations.

Another related consequence would be to make it infinitely more difficult for us to achieve what many on both sides of the aisle hold forth as our principal responsibility right now, and that is balancing the budget, especially as that effort relates to gaining control of the growth of entitlement programs.

And a final and, I think, very, very persuasive reason to have second, third, fourth, and fifth thoughts about this piece of constitutional stuff is the experience that this body has had now for over 2 years with our House rule having purported to cause us to require a three-fifths vote whenever we deal with tax increases.

We already are aware of the confusion that has been generated by the ambiguities in that provision. Compound that, if you will, by what would be the result if this similar provision were put in the Constitution.

Wiser men than we considered and rejected at the time of the founding of this great Republic similar constraints on majority rule. They rejected them because of their then recent experience with the impossibility of governing a much smaller and less complicated Nation in those days under the supermajority requirements of the Articles of Confederation. In other words, we have a Constitution today, in large part, because it was impossible to govern this Nation under supermajority provisions after the Revolution.

This provision would go far beyond any constitutional precedent in effectively paralyzing the ability of future Congresses to deal with one of the most nuanced, subtle areas of public policy: revenue and taxes.

Now, recent national campaigns and debates have surfaced a number of very intriguing ideas about the way we should change the Federal tax system. If this amendment were now in the Constitution, however, we would be essentially forestalled from taking any of those up, because it is highly unlikely that any of them would gather a two-thirds vote in both Houses, and all of them involve some increases in taxes, some provision designed to increase some taxes over others, whether it is consumption taxes or any number of other variations.

Mr. Speaker, I will close by recalling for the body the experience that we have had recently in dealing with our own three-fifths rule, not a two-thirds rule but a three-fifths rule under House procedures.

It has been waived during consideration of the majority party's 1996 budget reconciliation, the majority's Medicare bill, the Kennedy-Kassebaum health care bill, the Small Business Protection Act, the Personal Responsibility and Work Opportunity Reconciliation Act of 1995. All of these waivers have been accompanied by dispute and confusion as to the meaning of that rule.

This constitutional amendment is replete with even more profound ambiguities and invitations to litigation and confusion. We do our constituents no service, we certainly do the Framers of the Constitution no service, we do our future colleagues in this body no service by entertaining this silly idea any further.

Mr. Speaker, I oppose this proposed amendment to the Constitution to require the vote of two-thirds of both Houses of Congress to approve any bill changing the internal revenue laws in a way that would increase the revenue collected by the Government.

This proposed amendment is a bad idea and bad constitutional law.

Second only, perhaps, to a declaration of war, an amendment to the Constitution ought to command the most serious and deliberate sort of legislative review, examination, and analysis we are capable of. It deserves better treatment than a legislative rush job to have a symbolic vote on the deadline day for paying income taxes. The Constitution shouldn't be used as a vehicle for a political bumper sticker.

I would, however, like to commend the sponsors of this bill on one point. They recognize that a change in the U.S. Constitution is necessary in order to require a supermajority to pass legislation on this subject. In effect, they concede that the attempt by the House in January 1995 to simply pass a rule requiring a supermajority is not the proper procedure.

I oppose this proposed constitutional amendment on a number of grounds. It violates what Madison called the fundamental principle of free government, the principle of majority rule. The Constitution makes very few exceptions to the principle, none having to do with the core, on going responsibilities of Government. We should be extremely wary of any further exceptions, especially if it would complicate the essential responsibilities and competency of the Government.

We have to be mindful that the logical corollary of supermajority rule is minority control. And under this proposed amendment, 34 Senators representing less that 10 percent of the American people would have the power to control the Government's revenue and tax policy.

I also oppose this proposed amendment because of its almost absurdly impractical consequences—intended and unintended.

One such consequence would be for all practical purposes to lock into law the Tax Code as it would exist at the time of this amendment's ratification. If you like the tax system the way it is now, or if you have supreme confidence that some future Congress will have gotten it fixed just right before ratification, you ought to live this proposal.

Another related consequence of this proposal would be to complicate efforts to balance the budget, particularly as they entail reducing the growth of entitlement programs.

Finally, I'm opposed to this proposed amendment because, like the current House three-fifths rule, it is vague and will generate confusion and litigation.

I know the authors of this proposal have strong feelings about taxes. But simply having strong feelings isn't good reason to cede power over all future changes to an important area of national law to a small minority. Members of Congress also have very strong feelings on civil rights, trade, and the deployment of U.S. troops abroad. But that doesn't mean that we should let a minority in Congress block any changes in the laws on civil rights, trade, or the deployment of troops. In none of these areas does it serve the long-term national interest to undermine the principle of majority rule.

Wiser lawmakers than we have considered the question of whether to require a supermajority for passage of certain kinds of legislation. At the Constitutional Convention, the Framers of the Constitution specifically considered—and rejected—proposals to require a supermajority to pass legislation concerning particular subjects such as navigation and commerce. They rejected various legislative supermajority proposals largely because of their experience under the Articles of Confederation and the paralysis caused by the Articles' requirement of a supermajority to raise and spend money. In other words, we have a Constitution because it was impossible for the country to function under a constitutional law such as is being proposed here.

The Framers' judgment on this matter, including whether to retain the Articles' supermajority to raise revenues, should give us all cause to reflect on the wisdom of the proposals before the House today.

In those cases in which the Framers did impose supermajority requirements, none deals with topics of regular legislative business central to the ongoing operation and management of the Federal Government, such as taxes and revenues.

In those cases in which the Framers did impose supermajority requirements, only two require action by both bodies, namely, the override of a Presidential veto and the referral of a proposed amendment to the States. Both are extraordinary matters.

In sum, this proposal would go far beyond any existing constitutional precedent. It would effectively paralyze the ability of future Congresses to deal with one of the most nuanced of all legislative issues—revenues and taxes, allowing a small minority to control national policy.

Recent national campaigns and debate have brought forward a number of innovative ideas regarding and Federal tax system. Were it now in the Constitution, this new amendment would likely serve to thwart these ideas or other reforms. This proposed amendment would likely require a two-thirds vote on legislation implementing the consumption tax or Value Added Tax [VAT] proposed by some, which again proponents believe would increase economic activity and Federal revenues. There's been a lot of talk on both sides of the aisle about getting rid of corporate welfare. Many want to end corporate welfare by closing tax loopholes—and that, of course, would likely bring in additional tax revenue from affected corporations and so would require a two-thirds vote under this proposal.

But let's say we tried one of these ideas out before the amendment took effect. Is anyone certain enough that one of them is the correct solution to the tax reform problem that you wish to make repeal or revision next to impossible?

And if this proposed amendment were part of the Constitution, it would probably make it more difficult to reduce taxes. If at some point in the future, Congress judges the budget and economy healthy enough to reduce taxes, how likely is it that a responsible Congress would go ahead and do so knowing that it would be almost impossible to raise rates again in the event circumstance required it?

If now in the Constitution, this proposed amendment would certainly make the current efforts to balance the budget a lot more difficult. Whether adjusting the Consumer Price Index [CIP], or reducing business and tax subsidies, or narrowing the EITC, or means testing Medicare part B premiums, or limiting the amount of profits companies can shift to overseas subsidiaries—all would have to be passed by two-thirds.

It is important to realize that the proposal being considered here today is not really a tax amendment at all. The word "tax" does not appear in the text, nor does "income tax," "tax rate," or "new tax." It is a revenue amendment. The only legislation requiring a two-thirds vote under this proposal is that which amends the internal revenue laws with the predicted effect of increasing internal revenue by more than a de minimis amount.

There is no technical definition of internal revenue except perhaps as distinguished from revenues from external sources, such as import duties. All other sources of Federal revenue are presumably included under the language of this proposed amendment. So any legislation to increase any Federal fee or charge or fine would arguably be subject to a two-thirds vote if it results in more than a de minimis increase in revenues. The only way the proposal's supporters try to get around this problem is by having the legislative history define internal revenue laws creatively. I wonder what would happen if the courts were to decline to accept the creative definitions contained in the legislative history.

And according to the proposed amendment, de minimis is to be defined by Congress at some later time, or quite conceivably, at each time a revenue bill is considered, inviting an exercise in manipulative definition whenever the prospect of winning two-thirds approval was dim.

On the other hand, it's arguable that this proposal would not necessarily require approval of two-thirds for a tax rate increase. Some tax rate increases can actually reduce or, at least, not increase revenues. For example, the luxury tax on certain boats that was repealed in 1993 is said to have actually reduced sales so dramatically that associated revenues actually declined. Some even argue that most tax increases on business activity actually reduce Federal revenues by depressing economic growth. What economic theory, interpreted by which expert, will therefore determine the application and effect of this amendment if it were adopted?

So, once you consider how this amendment might be interpreted, many absurd consequences come to mind.

In the context of deficit reduction, we should also consider the fairness and equity implications of this amendment. Most Federal benefits to lower and middle-income Americans come from programs that depend on direct expenditures. The benefits of upper income Americans and corporations often come through various kinds of tax breaks. Since this amendment would require a simple majority to cut programs benefiting lower and middle-income Americans, but a supermajority to reduce tax benefits to wealthy Americans and corporations, it would unfairly bias deficit reduction and create a path of least resistance that would disproportionately hurt middle- and lower income citizens.

In evaluating this proposed amendment, it's also helpful to examine some recent experience in the House. In the 104th Congress, the House pretended to operate under a new rule requiring a three-fifths vote to pass any increase in a Federal income tax rate. Obviously, the amendment before the House today would go much further.

The short history accumulated on the application of the new House rule is instructive about the problems that would likely arise under this proposed constitutional amendment. Since the three-fifths rule has been in effect, it has been waived during consideration of the majority party's fiscal year 1996 budget reconciliation bill, the majority's Medicare bill, the Kennedy-Kassebaum health care bill, the Small Business Protection Act, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1995. These waivers have been accompanied by dispute and confusion as to the meaning of the rule. In addition, there is now general agreement that the rule should have been applied to the Contract With America Tax Relief Act, and that a waiver would have been necessary to pass that legislation.

The amendment we are considering is for more problematic because the Constitution can't be waived for convenience sake when questions arise. And you can be certain that similar questions about the meaning of this amendment will arise in great number. Almost every future tax bill that were to pass by less than two-thirds under some claimed exemption from this amendment would likely be subject to protracted litigation, creating an outcome we ought to avoid in tax law—uncertainty and confusion.

One thing we can be sure of. We don't know the future. Why would we wish to deprive our successors in Congress of the tools and ability to deal with the problems they will face? To our successors we are in effect saying, "We don't care what the particular circumstances may be in 10 or 50 years; we don't trust you, and you're stuck with our expectations of your incompetence." What arrogance.

I urge the Members from both sides of the aisle to take a close look at this proposed constitutional amendment in the light of the wisdom and experience of the Framers, its stifling and absurd effects, and the history of the House of Representatives' three-fifths rule. Treat it for what it is, a political statement—and one better made on the floor of the House than put into the U.S. Constitution.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I did not go to Hershey, PA, at the bipartisan retreat, but if I had and would have come on the floor for this debate this evening, I do not believe I would have used words like "absurd," "mush," things of that sort. I do not think they help us.

Mr. SKAGGS. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Speaker, I say to the gentleman that the purpose of the retreat and of our efforts to restore civility is to debate ideas, which I was attempting to do. If I said anything that is personal to the gentleman, I apologize. I was characterizing the ideas that are in debate. We all recognize the importance of a full and hearty debate about policy and ideas.

Mr. BARTON of Texas. Mr. Speaker, reclaiming my time, my good friend from Colorado meant nothing personal toward me, nor did I take it as such. So I want to be perfectly clear on that.

I will say, if we are going to engage in an idea and a robust debate, that we should do so on the merits of the issue, and the issue at hand is whether we should amend the Constitution of the United States to require a two-thirds vote to raise taxes as they are defined in the internal revenue laws of this land.

I would point out that in article I, section 9 of the Constitution that the Founding Fathers of the United States of America adopted, direct taxes were prohibited. Prohibited. There could have been a 100 percent unanimous vote and not had an income tax. The 16th amendment to the Constitution, which was passed on February 3, 1913, said we could levy direct taxes.

I would further point out that in the Constitution, as adopted by our Founding Fathers, nowhere in there, unless it says specifically that there is a two-thirds or some sort of a supermajority vote required, does it say in the presentment clause that we have to have simple majorities. In fact, this body routinely passes many measures by a voice vote.

So I think it is entirely appropriate to look at the tax burden that is currently on the American taxpayer, which averages 19 percent, which was before the adoption of the 16th amendment, and before the adoption of the first Federal income tax in 1913 it was zero, and say it is time to raise the bar a little higher.

Now, I would further point out that all we have to do is look at the States as our laboratory to see if supermajorities for tax limitation work. There are 14 States that have it. It works in those 14 States. Four States have added it since the debate last year.

I asked my staff to go to the States that have had it in effect for any length of time and find out if there are any States where it is not working, or is there any State that wants to repeal it, and the answer that we got back was "no." The States that have it are happy with it. More States are adding to it, 40 percent in the last year, and there are another 5 to 10 States that have it.

Finally, Mr. Speaker, I would point out that if we had had a two-thirds vote requirement for a Federal income tax increase the last 10 years in this Congress, we would have saved $666 billion in tax increases, because four of the last five major tax increases would not have passed.

Now, I do not know about other Members, but where I come from, the idea of a tax limitation is not absurd, it is not silly, it is not mush, it is common sense. It is doing what should have been done a long time ago. And I would hope when the time comes, that we pass this with the supermajority required in the Constitution, two-thirds, to send it to the Senate for ratification.

□ 1715

Mr. SCOTT. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, it is tax day. I am certainly not going to stand up and defend the existing system as either comprehensible to mere mortals or for being fair. It is extraordinarily unfair, the current tax system, in this country. We have heaped a massive burden on middle income wage earning families in this country.

Earlier one of my colleagues from the other side of the aisle stood up and carried on at great length about the tax system of 40 years ago. The gentleman was correct. The tax system 40 years ago was much more fair. The top rate was twice what it is today. The wealthiest Americans paid twice as much percentagewise as they pay today, corporations carried twice as much of the total tax burden in this country as they do today, and they were doing quite well in the days of Dwight David Eisenhower.

So corporations were paying a larger share, the wealthy were paying a larger share, and, yes, under those conditions middle income wage earning folks could pay a lower part of their salary in taxes, and we could have that again today. But I fear under this amendment that the last thing this Congress is going to do with a two-thirds vote requirement is raise taxes on the wealthiest one-half of 1 percent of the people in this country who are doing quite well, thank you very much, or raise taxes on those corporations who in fact are paying no taxes.

Seventy-one percent of the profitable foreign corporations operating in the United States of America pay zero income taxes, and the rest pay at a marginal rate of less than 1 percent of their gross. And 30 percent of the largest profitable U.S. multinational corporations pay zero income taxes in this country. Some of them pay, Intel company, something called a nowhere tax. That means their income is created nowhere, they do not pay taxes in Japan, they do not pay taxes in the United States. They pay taxes nowhere.

This amendment would lock that system into place. Is that fair? No. Is that what our colleagues on the other side of the aisle want? I think not. One challenged us saying, well, those people over there do not support a balanced budget amendment. I do. I have been a cosponsor, I have supported it for a long time. Are we going to get to balancing a budget by saying it will require a two-thirds vote to raise taxes and close loopholes on those wealthy corporations and the people at the top who are getting away with murder now and it only takes a 50 percent vote plus 1 to spend more money? That sounds like a recipe for disaster. Come on. Give us a break here. Fifty percent to spend more money which people around here love to do and a two-thirds vote to balance that off with revenues. I think I know who is going to win under that formula.

Let us talk about large mining companies. We gave away a $13 billion gold claim to a Canadian mining company last year for $10,000. If we got a royalty fee which I got in a mining reform a few years ago, that would be considered a tax. We should not have asked that poor Canadian corporation that is operating here in America and not paying income tax here to pay a royalty for the minerals they might extract from public lands. I mean $10,000 is more than fair for a $13 billion gold claim. To assess them a small royalty, the same that private landowners do, State landowners do, every other foreign nation on Earth does, Indian tribes do, no, the U.S. Government will not have a royalty and under this amendment we will never have a royalty and we will never get a fair share. My colleagues want to talk about operating Government as a business, let us operate it as a business and stop giving things away.

This amendment quite simply is going to again open up the cash drawer. One-half of this body can vote to spend money on anything and it will require a two-thirds vote to pay for it. That sounds again, as I said earlier, like a recipe for disaster.

It is time to be honest with the American people. The honest thing is, there has been a massive shift onto middle income and working families in this country and that is going to be perpetuated today if we pass this two-thirds requirement. When the American people finally wake up and they say, "Let's close some of those loopholes, let's raise some money, let's pay for some things I want, like college loans for my kid to go to college," they are not going to be able to get it because it will only take one-third of this body to block any increases in revenues, any closing of loopholes, any asking the wealthy and the biggest corporations to pay their fair share.

Mr. Speaker, I urge my colleagues to reject this special interest amendment and move on toward fiscal sanity in this Congress and give real tax relief to middle income families.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Speaker, I thank the gentleman for yielding me this time. We have just heard an impassioned defense of the unfettered ability of Congress to raise taxes and my colleague from Oregon has pointed out a number of people whose taxes he would like to raise. He apparently believes that the tax limitation amendment would inhibit his ability to raise taxes on the rich, on mining companies, on the long list that he just gave us, but that would be true only if he were not willing to give the middle class a break at the same time.

The truth is that it is only if you want to raise everybody's taxes that this tax limitation amendment would get in your way. But if what you want to do is ease the burden on the middle class by closing loopholes somewhere, this amendment would not affect you at all.

The question before us is in the aggregate, is it too easy for Congress to raise taxes? Should it be more difficult for Congress to raise taxes? I think it is fair to say that the position of most of the Members who have been speaking on the Democratic side is it is not too difficult to raise taxes and, the corollary, taxes presently are not too high. We should not make a constitutional amendment, moreover, they say, even if taxes were too high, because tinkering with the Constitution does violence to the memory of our Founding Fathers.

First on this question of whether or not it is too easy. If it were not too easy and not too hard, then the history of tax increases and tax reductions would be on parity, we would have about as many increases as decreases. But that has not been the history. Taxes have moved up and down, but over time they have gone up and up and up and up.

When the tax was first introduced, only 2 percent of the American people paid it. The top rate was 7 percent. In the 1950's, the average family paid Federal income taxes at a rate of 4.9 percent. Today that is 25 percent. In 1993, we had the largest tax increase in American history, and since 1993, just since 1993, in the 3 years subsequent, individual income taxes in America have gone up over 25 percent. In the last year, 1996 individual income taxes went up 11 percent, even though the economy grew only 2 percent. We cannot keep growing Federal taxes and the Government at a rate so far in excess of the economy which supports it.

This second argument, that we cannot amend the Constitution even if it is too easy because the Founding Fathers, after all, had a different idea in mind, would be all fine except as has been pointed out, article 1, section 9 prohibited a tax of this kind, income tax, at all. So even a unanimous Congress, unanimous, would not be enough to impose income taxes at any level. It was the 16th amendment to the Constitution, not adopted until the 20th century, that gave us this problem, and it is perfectly appropriate for us to fix it with a constitutional amendment.

In short, raising taxes should no longer be Washington's first resort. Government should not continue growing so much faster than the economy which supports it, and this tax limitation amendment should be adopted.

Mr. SCOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, my problem is not that we are attempting to amend the Constitution. My problem is that we are always, it seems, attempting to amend the Constitution. This is twice in this young legislative year that this House has attempted to amend the Constitution of the United States, and the Senate has attempted to amend the Constitution once themselves. That was a balanced budget amendment that the other body had taken up.

It would appear to me that this amendment is anathema to a balanced budget amendment. It requires a supermajority to raise taxes, but it does not require a supermajority to spend money. So we go back really to policies of the 1980's that took this country from about a $1 trillion debt to over a $4 trillion debt. It is OK that we continue to spend, but we are not going to raise the taxes to pay for it.

The other problem that I have is we have this debate on the floor of the House and across this country that my friends who are amending the Constitution call themselves conservatives, say that these are conservative principles. I do not think that rewriting the Constitution of the United States every time that there is a problem is truly something that is conservative. Our Founding Fathers did adopt a very simple principle. They wrote the Constitution. They said that this national government should operate through a majority rule. There are special times when we have a supermajority, and the gentlemen and gentlewomen from both sides of the aisle have talked about what those times are. But just raising taxes, I do not think, was intended to be one of them.

Finally, I really think that there is a lot of gall bringing this amendment to the floor today. Not only did our friends in the majority waive this piece of the House rules several times when it was convenient during the last Congress, which I thought brought hypocrisy to new heights, now they are ignoring another April 15 deadline. You see, today is not only tax day in this Nation, it is a day when by law, April 15, Congress is to have approved a budget.

My question is, where is the Republican budget? It has been nowhere in sight. We have meandered all over the place, we have been a rudderless ship here in the House of Representatives in this 105th Congress. Yet we are attempting again for the third time in the 105th Congress to rewrite the Constitution of the United States.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman from Florida for yielding me this time. I appreciate this opportunity, Mr. Speaker, to address a very important issue that faces our country today.

Mr. Speaker, I rise in support of the tax limitation amendment. I do believe, as some of my Democrat colleagues have suggested, that you should be careful about amending the Constitution. I do not believe that it should be a knee-jerk reaction. I do not believe it should be at the drop of a hat or something that should be simple to do. It should be reserved for times of national difficulty, in areas in which the framing document of our country needs to be reworked. I believe that we have such a national problem today that justifies the tax limitation amendment. I offer three points for consideration.

First, I do believe that we are overtaxed in our country. I think that is the underlying issue that we face as we address this proposed amendment. In Arkansas, the average taxpayer pays $7,000 in taxes. This might not be much money in Washington, DC, but in Arkansas it is almost one-third of a person's paycheck. I believe they need relief. I believe that they are overtaxed.

The Tax Freedom Foundation says that we work until May 9 to pay our taxes. I believe that is long enough and yet it goes longer each year. I believe there is a point that you can reach in society at which government takes too much and confiscates too much of your work, and I believe we are at this point.

In 1913, the people adopted the amendment to the Constitution that allowed the income tax. But there is no restriction on the majority vote that is needed to adopt new taxes. Since then, we have been overtaxed. And so I believe Congress needs to have the discipline to prevent it from raising taxes so frequently and from providing for an ever-expanding Federal Government. This amendment makes it more difficult to vote for tax increases, and it puts a restraint on spending.

I believe, also, that it works well in the States. We consider the States the laboratory of democracy, where experiments are done. In Arkansas, there is a tax limitation proposal. It makes it more difficult to raise taxes. It puts a supermajority requirement on raising the income tax. It has worked well in Arkansas, it has worked well in other States, and so I believe that it is appropriate.

Mr. Speaker, we need this amendment to restore confidence to the common man in America. They have lost confidence because promises have been made and promises have not been kept. This will make it more difficult to raise taxes. It is needed to restore faith in our democracy, in our institutions. For that reason, I support the resolution.

□ 1730

Mr. CANADY of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Mr. Speaker, there is a person who has been forgotten about in this entire debate over our constitutional amendment to curb the powers of the U.S. Congress to raise taxes. It is the person who gets up every day at the crack of dawn, packs the kids' lunch, gets the kids off to school, and he walks out the door with his lunch bucket, and oftentimes his wife will go to work also, and they work long hours, and they come back home, help the kids with the homework, and sit down on a Friday night, begin to write some checks and realize that they are working harder than ever in their entire lives and taking home less money.

The reason for that is government is too big, it is too pervasive. The Federal Government has over 10,000 programs, and according to a chapter called generational forecasts that appears in most of our annual budgets, by the time their child who was born after 1993 goes into the work force, that child will pay in State, local, and Federal taxes between 84 and 94 percent of his or her income in taxes.

We have a crisis on our hands before, and that is that some morning when these Americans get up to go to work they are going to turn on the television set and find out that the dollar has been so devaluated that their pension plans are worthless, that the economy is going to collapse because of the tremendous effect of the debt that $5.3 trillion has on this Nation. They are the ones who have been left out of this debate.

The man who wrote my office earning $1,000 a month, not married, no children, paid over close to $900 a year in Federal income taxes. He is paying too much money because the U.S. Congress—it is too easy here in this body to raise taxes and to strap the American people with the onerous debt that we are passing along to this generation and to the one coming after it.

That is why we need, we need the shackles of a constitutional amendment, as Jefferson said. This body has to be restrained in the incredible spending that is going on and how easy it is to save one more tax, one more 4.3 cents tax per gallon of gasoline to fuel one more program, one more investment, and I ask this U.S. Congress to take into consideration those people who are making this country, those who get up at the crack of dawn, those who every day go to work and those who see their money wasted in so many programs, and they are saying to the U.S. Congress today, on tax day, today when they have to write their checks, "We are demanding you to be responsible so that you can pass on to our generation a legacy other than $5.3 trillion in debt."

Mr. SCOTT. Mr. Speaker, I yield 10 minutes to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I assure the gentleman from New York [Mr. RANGEL] I will not use 10 minutes, but to my distinguished colleague about to leave the floor that just was the previous speaker: I am one of those guys that get up at the crack of dawn and work hard for a living, and on behalf of a lot of them I want to tell my colleague that as bad as we want to balance the budget, we would like it to be done with the majority of the 435 Members from the several States making the decision as to how we do it as opposed to a supermajority. That poses, I think to ordinary Americans, a very serious problem because it does a jujitsu on the democratic process and allows a minority to control the majority.

So on behalf of those Americans who do work, who do get up at the crack of dawn, but still want majority rule, I would respectfully disagree with my colleague.

Now I would also like to bring to my colleague's attention the statement of Warren Rudman; my colleagues know who he is; Sam Nunn, and they have all pointed out, and these are the bipartisan national balanced budgeters of the Nation, the Concord Coalition Committee. They ask us not to do what it is they are trying to do. They want to balance the budget, but they say in the first sentence: "We urge you to vote against this resolution, a constitutional amendment, because it would be detrimental to the budget process."

So in considering how to balance the Federal budget and keep it balanced over the long term, all options for reducing spending or raising revenues must be kept on the table. No area of the budget on either the spending or revenue side should receive preferential treatment such as requiring supermajority votes.

Now do my colleagues understand that? And if they do, what is their argument against it?

Mr. Rudman goes on:

> In the current drive to balance the budget by the year 2002 the prevailing consensus is that the deficit should be eliminated by reducing spending. There is no sentiment for raising taxes as there was in 1993. Thus the proposed amendment seems to be fighting the last battle rather than focusing on the task at hand and taking a long view into the future.

And so I want to bring that to the attention of my conservative friends, that they are shooting themselves in the foot in their zeal to accomplish their goal in that they have friends trying to do this on this side of the aisle as well. So let us proceed in a rational manner. Why put this off into the Constitution, allowing judges to do our work?

I presume everyone is serious and sober when they say they want to balance the budget. So why do we not start balancing the budget? The one way to start balancing the budget is to produce a budget for this fiscal year, and that has not been done.

I noticed the Speaker has not given any explanation for why the budget is not being offered. As my colleagues know, the President , and this is elementary, but I want to say it any way: The President does not initiate the budget, the Congress does; and not just somebody in the Congress; the House; and not somebody in the House, the Committee on the Budget chair, appointed by the Speaker. And yet today, as the rhetoric escalates into the heavens about the need to balance the budget, we go into this fiscal year without a budget at all and none in sight.

Now it would be appropriate to all of us, and especially me, is that I get some explanation, if not from the Speaker himself, but from the leadership of this body, the Republican leadership, what is going on here? They would balance the budget, a process that would take years, and yet their job of producing a budget by April 15 goes by without hardly a murmur. Can somebody tell me what is going on here? I mean what does this mean?

So I have to propose my own solutions as best I can, and I offer to stand to be corrected. The budget for this fiscal year due today is not being offered because some of the Members on their side want as much as a 30-percent tax cut.

I remember the distinguished gentleman from Kansas, Mr. Dole, the late and present Mr. Dole; he said he wanted a 30-percent tax cut, and I think that may create a little difference in the ranks as to how we proceed, but I do not think we should obfuscate that difference by amending the Constitution or pretending to attempt to do that.

And then there is the problem of Medicare, is there not? Medicare would have to be cut if they revealed your budget. And guess what? The Contract with America is kind of under a very heated examination right now. The scrutiny is intense; is it not? And as much as we have heard, and I think almost every day that we have been in session one of my distinguished conservative Members of the body has articulated that Medicare will never be touched. But if they reveal their budget, and when they do, Medicare I think will be touched, and maybe that is a reason that we are dealing with a constitutional amendment that will kick in in the next millennium rather than what you should be doing and should have been doing in the calendar year 1997.

Have a heart. Stop kidding the American people. They can take it. They can take it on the chin. If you got to cut programs, and you think it is in the national interest, that is what you are here for. We make the laws. The law is what we say it is, the Supreme Court permitting.

But let us be honest about it. Are you punting this afternoon? I mean, let us go through the constitutional process. How many States, how many years, who will be here even if it were to become actual? Well, the answer is most of the self-imposed term limiters will not be here. A few more will have met their fate at the hands of their constituency when they really understand that the contract was on them and not with them.

So I just ask for as much candor as we can muster in our debate on this very crucial subject, and I would urge anybody that is not yet settled in their mind what they are going to do on this resolution, vote against it.

Mr. Speaker, thank the gentleman from Virginia [Mr. SCOTT] who has done a magnificent job of leading the debate on our side.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Speaker, there is no mystery why we pay taxes in the spring and we vote in the fall, and it is because Washington wants to give the American people as long as possible to forget how high their taxes are before they vote. It is because Washington does not want to have to explain to people why it takes so much of their income and gives so little. It is because Washington does not want to be held accountable for its big wasteful bureaucracies, its bloated programs and never ending growth, and it is because Washington does not want people to notice that their taxes keep going up to pay for this bureaucracy and to keep paying for this waste.

☐ 1745

Mr. Speaker, we are going to do something about that today. We are going to vote on a constitutional amendment to make it harder for Washington to raise taxes on the American people.

Just within the last 7 years, a Democrat-controlled Congress hit working Americans with two of the biggest tax increases in our country's history. Today we say, no more.

The typical family today currently pays in taxes about as much as it cost them for clothing, food, and housing all put together. And the typical worker today gives everything they earn from New Year's to May 9 just to pay taxes. That is too much, and it has to stop. Today we ought to vote for this constitutional amendment to require a two-thirds vote in this House.

Mr. CANADY of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. PAUL].

Mr. PAUL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to first compliment the gentleman from Texas [Mr. BARTON] for having brought this to the House floor. I think it is a wonderful opportunity for us to discuss a very important issue and also to make a proposal to do some good around here.

Limiting taxes happens to be an issue that is dear to my heart and something I want to talk about. I have a philosophy about taxes. One is that taxes really hurt us twice, once when we take the money from the people, then when we go and spend it. So rarely do we spend the money wisely, but the people always seem to be hurt.

I have yet in my many years experience in political life had anybody come up to me and say, go to Washington and raise taxes. Everybody feels that they are overtaxed. Anything that we could do to limit taxes I think would be beneficial.

Whether or not this amendment will solve all of our problems is another issue. Quite frankly, it is not going to solve all of our problems. We have seen a proposal floating around for several years about balancing the budget. I am not enthusiastic about the balanced budget amendment precisely because that amendment, in itself, does not preclude what this amendment does, and that is raising taxes in order to balance the budget. That would be very, very detrimental.

The important issue that we have to deal with is the level of government expenditures. If we have a balanced budget at $2 trillion a year, that is very detrimental. If we have an unbalanced budget at $1 trillion a year, at least the American people would have more of their own money to spend.

This is an effort to move in the direction of limiting taxes, and I think this is very, very important. There are a lot of things, though, that are out of our control. For instance, a small tax increase is not going to be included here. If we change the Tax Code and change indexing, taxes will go up, and this will not be included.

Another tax that is not talked about much around here, but I consider it a very important tax, and that is the inflation tax. If we in the Congress spend too much, we do not have enough revenues, we can send the bill to the Federal Reserve. The Federal Reserve creates credit, and therefore diluting the value of our money, and the people suffer because their cost of living goes up. So that indeed is a tax.

We do not have a whole lot of choices on how we accommodate our spending habits here. First, we can tax people; second, we can borrow; and the other is, we can inflate. All of these are detrimental. The important issue is to limit government spending.

We will not solve any of our problems here until we address the serious subject of what should the role of government be. If we continue to believe that the role of government should be to perpetuate a bankrupt welfare state and to police the world and tell people how to live their personal lives, quite frankly, we are not going to get anywhere in solving our problems. We cannot patch this together.

Collecting more revenues would be detrimental. Collecting less revenues would put more pressure on us to spend less money. But then again, it is not going to deal with the subject of interest rates.

What happens if this year the interest rates go up 1 percent? Which they may, because interest rates are rising once again. And if interest rates go up 1 percent, it adds $50 billion to our interest payment on our national debt. That is out of our direct control here in the House or in the Senate. We cannot take care of that just by passing another law or raising taxes.

Also, we do not have control of the business cycle. We should have much better control, because we understand and should understand the business cycle and we should prevent the downturns. But sure enough, there will be another recession, entitlement payments will automatically go up, put more pressure on us with the deficit, and also put more pressure on those who would like to say, well, if the spending is going up, we have to take care of the people, and what we need to do is raise taxes. The easier, the better. A very, very dangerous situation when it is easy to raise taxes. The Founders of this country in no way intended that taxes on income should ever occur, let alone be done easily.

So this is a small effort in the right direction. I ask for a yea vote on this amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, there is an old joke that asks the question: What is the difference between death and taxes? And the answer to that question: Death does not get worse every time Congress comes to town.

Hopefully, today we are going to take a big step toward making that joke obsolete by passing House Joint Resolution 62.

The evidence is already there that making it harder to raise taxes actually benefits government as well as individuals. In States that have adopted provisions similar to the amendment we are voting on today, taxes have increased more slowly, spending has grown more slowly, economies have expanded faster, and employment has grown more quickly.

Mr. Speaker, we are already working to balance the budget, decrease the size and scope of the Federal Government, and reduce spending. Let us also follow the good example of the States by passing this amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, on this day, April 15, I am most reluctant to get up and speak against an amendment which, on its face, appears to be something that we all should support. However, I think it is an amendment that we should not be putting into the Constitution of the United States.

The bill before us today does not in any way give the American people any tax relief. What it simply would do is to institutionalize into the U.S. Constitution a provision, an antidemocrat provision, and I do not mean Democrat party, I mean one having to do with democracy; a provision that would say that the minority can run this House. Think about it for a moment. Under this constitutional amendment, 7 percent of the population, through a vote in the Senate, could run the business of the legislative body of this great country of ours.

When this came to the floor last time, I voted for it. Since then, I have been giving it a great deal of thought, and that thought has been somewhat around my support of the constitutional amendment that would require us to balance our budget.

Mr. Speaker, we should think for a moment when we have a situation where we are putting into the Constitution a provision where 7 percent of the population of this great country can stop legislation. We will have put into position in the Constitution a constitutional amendment that requires the Federal Government to balance its budget, and then we try to put a tax bill on the floor when funds may be desperately needed, not in a time of hostility, but perhaps just needed in order to build up our own forces to compete with a force that is potentially hostile elsewhere in this world.

As a leader of the free world and as a leader of this entire world, this country could be brought to its knees by 7 percent of the population. That is absolutely unthinkable to me.

As much as I hate to vote against this amendment, and as much respect as I have for the proponents of this amendment and what they are trying to do, and as much as I support them in the efforts of what they are trying to do, this is not the responsible way for this great body to go.

It is time that we as Republicans get away from the minority mentality that we seem to be carrying with us in this House. We control this House. We are the party of lower taxes, and as long as we can control this House, we will remain the party of lower taxes, and we will not increase the taxes on the American people.

Let us have faith in ourselves; let us have faith in our own party; let us have faith in our willingness and our resolve not to raise taxes on the American people. That is where the vote should be. That is where the limitation should be, at the ballot box, where the American people elect their representatives to send to this Congress.

Mr. CANADY of Florida. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in opposition to this amendment and I would like to associate myself with the remarks of the gentleman from Florida [Mr. SHAW].

Mr. Speaker, Representative SHAW is right.

In search of a sure-fire method to address the grim fiscal realities of high taxes and deficit spending in America in 1997, we have come up with House Joint Resolution 62, the so-called tax limitation amendment. However, once again, we are threatening to approve an amendment to our Constitution that would shred the very constitutional fabric of our representational form of government.

We have before us a proposed constitutional amendment that would require a two-thirds vote of the House and the Senate to increase net Government revenues by more than a de minimis amount. Ignoring the obvious ambiguity of this language, this proposed amendment raises the specter of the tyranny of the minority—that one-third of either Chamber can, in effect, hold the vast majority hostage.

I, too, am former history and government teacher and I have a healthy respect for the principle of majority rule. The Framers of the Constitution debated this issue at length before enshrining majority rule as its foundation. Since then, our Constitution, the model for emerging democracies around the globe, has served us very well. I cannot believe that our current wisdom exceeds that of the Founding Fathers.

Let us be clear. This amendment institutionalizes minority rule in the area of tax law. It means that Representatives elected by one-third of the U.S. population, or Senators representing less than 10 percent of the U.S. population, could block tax policy that may be supported by a vast majority of the American people.

The American people are justifiably sick and tired of what they see as political gamesmanship, bickering, and gridlock in Washington. My colleagues, if the American people are frustrated now, they should just wait to measure the effects of this amendment. This amendment is practically a guarantee of legislative paralysis with the potential for devastating damage to our economy.

Mr. Speaker, Americans know that the future of their children and their grandchildren is threatened by a growing mountain of debt. But our problem is not taxing. Our problem is spending.

What we are doing here this afternoon is trying to legislate political courage. Unfortunately, a host of legislative measures over the years designed to reduce our dangerous budget deficit have failed. We now spend 25 cents of every $1 just to pay interest on the national debt. Under these circumstances, it is no wonder we are losing our edge in a very competitive global economy.

Once again, as was the case with the line-item veto, we have properly identified the problem, but have developed the wrong solution. This two-thirds tax amendment is wrong.

What we should be doing today is voting to cut spending, downsize Government, and promote a save and invest in America tax program that will allow us to create good jobs at good wages.

We must reform our spending and tax policies for sure. However, violating the fundamental foundations of our democracy is not salvation. It is apostacy and a serious erosion of our democracy—of the people, by the people, for the people.

Let's not violate majority rule, the foundation of our noble democracy.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I first want to take this opportunity to thank the gentleman from Texas [Mr. BARTON] for having the leadership to bring this legislation to the House floor today and for his steadfast efforts of making sure that the House has an opportunity to move forward with this positive legislation.

The tax limitation amendment is modeled after State constitutions which require a supermajority, Mr. Speaker, a vote of their legislatures in order to pass increases, a House amendment that would require a two-thirds majority in both the House and the Senate to raise taxes. This is a bipartisan measure which has wide support in both Chambers.

Mr. Speaker, I would point out that four of the last five major tax increases were passed by less than a two-thirds majority. Those bills raised taxes on Americans by $666 billion.

From 1980 to 1987, taxpayers in States with tax limitations in their State law enjoyed a 2-percent decrease in personal income paid in taxes.

Consider these facts also, Mr. Speaker: Families paid just 5 percent of income in Federal taxes in 1950, and yet today the average Federal taxpaying family pays 24 percent of its annual income in taxes.

What could they do with that extra money for education? What could they do with that extra money to take care of their mortgage? What could they do with that extra money in their pockets to take care of health care needs?

I do not believe in money sent to Washington to duplicate State programs and to also duplicate local programs as an intelligent way to spend money. Tax limitations work in the States; Eleven States have now adopted tax limitations. In tax limitation States, taxes have grown more slowly, spending has grown more slowly, economies have expanded faster, and the job base, Mr. Speaker, has also grown more quickly. The Federal Government and the national economy could get the same kind of benefits with the adoption of the Barton legislation.

The success of tax limitation has also encouraged new States to put limits in their State constitutions. Americans clearly want Federal tax limitation too. Recent surveys show that 70 percent feel that way, and I would ask that the body please, by an overwhelming majority, support the Barton legislation for tax limitation.

Mr. SCOTT. Mr. Speaker, I yield 5½ minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN of Virginia. Mr. Speaker, I rise in opposition to this resolution to amend the United States Constitution to require a two-thirds vote to raise Federal taxes. I think the Washington Post characterized it accurately today with their editorial entitled, "A Show Vote On Tax Day." But the Constitution deserves better than to be used as a political proper.

It is a simple idea, but I think voting for it, while it may give my colleagues some brownie points with some of the antigovernment tax groups, it invites dangerous consequences for the future of our economy and our democracy.

□ 1800

The House leadership sought to avoid a discussion of the serious consequences that this could effect by bypassing the regular committee process with hearings and the kind of extensive public debate that it merited. The resolution fails to define what the term "de minimis" means in this legislation.

Quickly, sure, the gentleman is going to tell me that there was some committee discussion of it.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, we followed absolute regular order this year. We did not bypass the subcommittee, we did not bypass the full committee, we did not bypass the Committee on Rules. We allowed any Member who wanted to to testify, and when it was before the subcommittee, those in opposition, at least the Members in opposition, chose not to appear and testify.

Mr. MORAN of Virginia. I understand that.

Mr. Speaker, I think the gentleman would agree that, relative to other votes of consequence, there was a minimal amount of debate within the committee itself. Normally you go for several weeks, bringing in all the interest groups that are involved in this and have given it study. But that is not my main point anyway. I do not want to debate the gentleman at length. I appreciate the gentleman's point of view on it.

Mr. Speaker, I think that with ratification of this amendment, anyone who objects to any tax policy change could have their day in court. Any changes that broaden the tax base, that close corporate loopholes, that overhaul our tax system, be it the majority leader's call for a new flat tax, the chairman of the Committee on Ways and Means' interest in the national sales tax, but even something far less radical like a capital gains tax cut, could be contested in court.

The resolution will prove unworkable. As the House leadership has already found with their once-celebrated tenet of the Contract With America, a meaningless rule change that required a three-fifths vote for tax legislation had to be waived by the Committee on Rules each time we took up any kind of tax bill before this body. It violates the spirit of majority rule and will take us back to the very problems our Founding Fathers experienced under the Articles of Confederation.

I hope some of my colleagues will listen to this, because our Founding Fathers did in fact require that 9 out of the 13 States ascertain the sums and expenses necessary for the States to raise revenue. In other words, they had this requirement originally in the Articles of Confederation. It did not work. They found that this supermajority was too much, that there were not two-thirds of the Members who had the courage to do what they felt was necessary to make this country survive. So in 1787, at the Constitutional Convention, our Founding Fathers recognized this defect. They established a national government that would impose and enforce laws and collect revenues through a simple majority rule.

There is a lot of debate on this. I would like to also stress how unworkable the resolution will prove based upon the experience we had in the last Congress, where we required a three-fifths vote of approval for any tax increase that we passed. In one of the first actions at the beginning of the 104th Congress, the Congress modified clause 5(c) of rule XXI. It said that no bill or joint resolution, in other words, any action that carries a Federal income tax increase, will be considered as passed unless it gets three-fifths of the Members voting.

Compliance with that rule lasted no longer than 3 months, the time it took to bring the Contract With America Tax Relief Act of 1995 to the floor of the House for a vote. It did not work.

On April 5 of that year I came to this well and raised a point of order on a provision in that act that repealed section 1(h) affecting the maximum rate for long-term capital gains. It was a tax increase. In fact, subsequently, the Parliamentarian agreed with me. Mr. Speaker, five times when we have had tax bills before this body we violated the three-fifths requirement. There had to be a waiver of the rule.

Now, at the beginning of this Congress, we made it easier to completely avoid that three-fifths requirement. What are we doing now, saying that we are going to have a constitutional amendment that requires two-thirds? We know it will not work. It did not work with the last Congress. I think we are playing with the Constitution and we are doing a disservice to the American people. I urge a no vote.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. DELAY], the majority whip.

Mr. DELAY. Mr. Speaker, I rise in support of this constitutional amendment to make it more difficult to increase taxes on the American people. I want to thank the gentleman from Texas, Mr. JOE BARTON, and everybody else who has worked on this bill for their tireless efforts to protect the taxpayers of this country.

People might laugh when the Congress says stop us before we tax again. But I assure the Members, this is no laughing matter. The American family is taxed too much by a government that does too much to limit the freedom and responsibilities of the people.

This is not only about keeping a lid on the taxes that the American people pay. It is about shrinking the size and the power of the Federal Government. Freedom works. Freedom sells. Freedom creates opportunities and provides all of us with a better quality of life. But our freedom is threatened when we spend our children's inheritances as we tax the estates of those who die.

The Federal Government can do better if it does less. The American people will do better if they are allowed to do more. This amendment to the Constitution will lead to both results. I urge my colleagues to vote for this amendment.

Mr. SCOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Speaker, I have listened to some interesting discussion and debate here this afternoon about the justice of the tax system. I even heard one comment from the majority side that suggested that Federal income taxes have risen 25 percent over the last 4 years.

I do not know who is doing the Members' taxes on that side of the aisle, but

I assure them that it is not 25 percent. As Members of Congress, I think we should be serious about our discussion and our debate and not try to inflate figures or make up figures as we have a debate here.

We have each earned the same salary for the last 4 years, or we have reported that same salary for the last 4 years. It has been $133,000. If Members have had the same children and the same home and the same exemptions, I do not see how Members paid 25 percent more in Federal income taxes. I would suggest that they check their accountants, and not blame it on the tax system. It just is not real. It is not happening.

Mr. Speaker, I ask the American public, pull out your income taxes. If you have had the same number of children, lived in the same home, and have had basically the same salary, see if you got a 25-percent increase in Federal income taxes over the last 4 years. You can go and check. You should have the records, because the IRS does require us to keep them for the last 7 years. That is point No. 1.

Point No. 2, but we see the demagoguery in many of these issues, because today is tax day. I just want to talk about a few people who not only play by the rules but pay by the rules.

Much has been said. A recent CRS study says that 85 percent of those that are not citizens of the United States but are here legally in this country, guess what they did today, 85 percent of them? They filed Federal income taxes and paid them today. Moreover, you say, oh, but what about those who were born in this country? They are definitely more true blue and pay more Federal income taxes than those immigrants that came? Wrong, by 1 percent; 1 percent higher, those who were born in the United States to those who come here as immigrants, in terms of those who will file Federal income tax returns today. That is the CRS study that was just issued.

No. 3, what was interesting was those today who filed a Federal income tax return, on average, if you have in your family somebody that was born not in the United States of America but became a naturalized citizen of the United States of America, he reported, on average, guess what, $5,000 more in earnings than the person that was born in the United States of America, on average, without an immigrant. It sounds to me like pretty good politics, to have somebody who comes to this country, contributes and works, and becomes an American citizen, to talk about immigrants being this drain on the economy.

Last, I would like to suggest to everybody, the same study, guess what: Immigrants to the United States of America, that is, those that are here legally, under color of law, pay $70 billion. Yes, that is right, they pay $70 billion in taxes. Yet, they use $13 billion in that terrible, nasty welfare system. Sounds like a real good deal to me.

Let us stop the demagoguery. Let us get on with the truth.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ROYCE].

Mr. ROYCE. Mr. Speaker, if we went back two generations ago, we would find that American families paid 5 percent of their income in income taxes; and if we went back one generation ago, we would find it was 10 percent. And now we find today that it is about 20 percent. And that is just income tax.

If we add on the State taxes, if we add on all the indirect taxes, we find that more is being spent on these taxes than if we add up clothing and food and housing combined.

If we look at the States that have tried to put tax limitation to work, 14 States have done it, it works there. Taxes grow more slowly, spending grows more slowly in those States, the economies expand faster.

That is what is important to me, the economies expand faster when they are limited as to taxation, the job base grows more quickly. The Federal Government and the National economy, I argue, should get the same benefits.

Now, the House of Representatives is already on record for tax limitation. The House rules here require a supermajority vote for income tax increases, but this rule only covers this House, it does not cover the next Congress.

If we go back to that vote that put those rules on this House, it was 279 to 152. Now, that is just 9 votes short in the 104th Congress of what we would need for a supermajority.

Tax limitation is necessary because of the current bias in the Federal Government toward tax increases. Most Government benefits benefit distinct special interests. These groups have strong economic interest in banding together to lobby for additional increases in spending.

Taxpayers, however, are spread evenly throughout the country and find it difficult and uneconomical to band together to lobby to stop any particular tax increase. The inherent bias toward tax increases can be balanced by this amendment requiring a two-thirds provision of this House to increase taxes.

And I will close by pointing out that the Tax Limitation Amendment would have stopped the 1993 Clinton increase, which was the largest tax in U.S. history. The $275 billion in new taxes passed by only one vote in both the House and by one vote in the Senate.

If a supermajority requirement for tax increases had been in effect then, the tax increases would have been much smaller or never passed at all.

Mr. CANADY of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, there has been a lot said here today, but when the gentleman from Texas [Mr. DELAY], came to the well and spoke about freedom, it really did ring a bell that I think rings very true.

Our country was founded 220 years ago, and it was the anticipation of the Founding Fathers that we would have a relatively small and inexpensive Government that was initially funded by tariffs. And as a matter of fact, there was not an income tax until I believe it was 1922 or right thereabouts.

And so, over the years, as it became necessary in the judgment of Members that served in this House and the other body to take on more responsibility, it became necessary to find more funding to do that. And with each additional percentage that we asked the American people to send here, they lost part of their economic freedom.

Imagine going from a brand new country with no taxes, no domestic taxes, to a country today where Government consumes very close to 40 percent of our GDP. Forty percent of what the American people earn is sent to Washington, DC, and the State governments and the local governments around the country.

So today they have only 60 percent of their income to dispose of, where the freedom that they had in terms of the economies of families and how they spent their money, the freedom they had was 100 percent. Today, the American people have a diminished economic freedom that amounts to 60 percent on average of what they earn.

□ 1815

Freedom is very important to us. Economic freedom is very important to us. I think, to Members of both sides of the aisle, we all agree on that. Yet in 1990 we voted for a big tax increase; I did not, but the majority here did. In 1993, Mr. Speaker, we voted for another big tax increase, and in both cases we eroded the economic freedom of the American people.

I happen to be an active member, in fact the chairman of the Joint Economic Committee. Our function, as my colleagues know, is not to handle legislation but to study what we do here to see what kind of an effect it has on the American economy and the American family and the American people and the freedom they have in an economic sense to progress and work hard and to have their families get ahead.

One of the studies we did shows clearly that, once the Federal Government begins to consume more than about 18 percent of GDP, it begins to act as a wet blanket on the economy generally. So there are fewer jobs, pay scales get stagnated as they are today when wages are not going up, and so once again we find that we lose the economic freedom when the Government gets too big and too expensive, when today we consume a full 23 percent of gross domestic product, instead of the 18 percent which many of us think is about the optimum level, a full 5 percentage points above what we ought to.

Now, what this amendment to the Constitution is about is to preserve the economic freedom that the American people deserve and expect and work hard to achieve. Yes, we can make a decision here collectively about how to spend their money. But they would much rather make decisions within their family structures or as individuals about how they spend their money, how we spend our money back home.

So I think it is incumbent upon us to recognize these basic, very basic elements of freedom as they apply to our economy and our work force and all of the things to go with it.

One of my good friends just a few minutes ago talked about 7 percent of the people of the country, and I am not quite sure how that works out, but 7 percent of the people making decisions for the rest of us or keeping us from doing the things that we might, 93 percent of us presumably want to do. I would suggest this amendment goes in just the opposite direction because all it does, Mr. Speaker, is to set the stage for a national debate that will take place in the States. All 50 States have the opportunity to debate what our rules here should be by which we enact economic freedom legislation or the lack thereof.

Mr. BARTON of Texas. Mr. Speaker, may I inquire as to how much time remains on each side?

The SPEAKER pro tempore (Mr. SOLOMON). The gentleman from Texas [Mr. BARTON] has 13½ minutes remaining, the gentleman from Florida [Mr. CANADY] has 1 minute remaining, and the gentleman from Virginia [Mr. SCOTT] has 7 minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Illinois [Mr. SHIMKUS].

Mr. SHIMKUS. Mr. Speaker, as a former U.S. history teacher, I taught that the U.S. Constitution was a living document, let it live. This debate is about the Federal Government's ability to raise taxes. It should be very hard to do and it should not be easy. As a new Member, one of my great privileges is to run on an issue, be able to cosponsor an issue, work for its passage and eventually vote on its passage. The people in my district want this amendment to make it harder to raise taxes. It is time to match political will with political strength. Let us pass this amendment.

Mr. SCOTT. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, this constitutional amendment diverts attention from the fact that today with the deadline for congressional action on the budget, and there was no budget, we have talked about debt; this amendment is a recipe for disaster. We can continue to spend with a simple majority but a two-thirds vote to pay for it. That is a recipe for more debt.

Finally, Mr. Speaker, if we passed a loophole for corporations that we thought was going to be $500 million and it was a mistake and was actually a $5 billion loophole, we would have to take a two-thirds majority to close that loophole or, if we cannot get the two-thirds and we are trying to balance the budget, we would have to cut education, Social Security, Medicaid, Medicare to pay for that mistake, because that loophole is protected.

Mr. Speaker, we ought to call this the loophole protection act rather than something else. This constitutional amendment is not fair and it should be rejected.

Mr. Speaker, I yield the balance of my time to the gentleman from New York [Mr. RANGEL], ranking member of the Committee on Ways and Means.

The SPEAKER pro tempore. The gentleman from New York [Mr. RANGEL] is recognized for 6 minutes.

Mr. RANGEL. Mr. Speaker, I took advantage of the opportunity to go to the Hershey retreat in an effort to see whether or not we could get along better than we have since the majority was gained by the Republicans. I thought it was very useful. In that light, I view this constitutional amendment, one that should have really been brought to the floor on April 1 rather than April 15, I assume that this is a jocular type of thing that is being done to allow the American people to believe that the majority is not everything that they think it should be.

It seems to me, if there was any sensitivity about reducing taxes and cutting spending, that after I reviewed the Contract With America, it said that the rules of the House are not changed, that majority ruled. This was a point that my dear friend, the gentleman from Florida [Mr. SHAW], was making who serves on the tax writing committee.

It may be interesting to note that some of us that have been assigned to this committee, which is the constitutional committee to raise the revenue for the United States of America, not the other body, have refrained from speaking on the floor in favor of this type of thing because we respect the membership to do what the voters want.

To me it would make a lot of sense if we had a Contract With America and we said we were reducing taxes by $300 billion, the first thing we would do is count the amount of votes that we have. And there sure are more Republicans than there are Democrats. It seems to me that, when the Speaker of the majority of this House says that he wants to eliminate inheritance taxes for the wealthy and just eliminate all of capital gains taxes, the staff estimates it costs $450 billion. But I am a minority, my colleagues are the majority. I am on the committee. I do not see any bill to reduce taxes by $450 billion. I have not seen a bill coming from the majority since I have been on the committee.

I remember when the candidate for President, he upped the ante $500 billion. But in my committee, what we were doing is having hearings on ripping up the entire tax system. So if the chairman of my committee is having hearings on pulling the tax system up by its roots and the candidate for President is interested in using the same system but decreasing taxes for $500 billion, for God's sake, before we ask the courts to decide our tax policy, can we not get along? Can the majority kind of tell us, what is it that they want that they cannot get with the majority of the vote? Why give up and throw up our hands and say, we have got to make it impossible for us to be able to raise taxes because we need two-thirds. We cannot get a majority on anything.

So if we just want to take away the House's ability and constitutional right to assume this responsibility, why do we not at least try the other side? They have got bills over there now. They say they are going, they do not have the constitutional right to get it over here, I mean to enact it over there, but it still has to come here. Why do they not tell us with the 450 billion cuts, how are we going to pay for it?

We all started out with the Republican leadership in reducing the budget. I really think that the President went along with everything when he indicated that he would do it in 7 years because it seemed like a great figure to me, so the Speaker said he thought it was a nice number. So he adopted the nice number.

Now how are we going to get the $450 billion tax cut that the other side, at least they have a bill, unless we know how we are going to pay for it? Have we given up on deficit reductions? Or is this something that really comes up every April 15 where we can tell the American people that we are going to reduce taxes?

If I was partisan, and since the retreat I am not, I would think that the American people would think there is some kind of hoodwinking going on here. How year after year after year you are saying we are paying too much taxes and it should be reduced by half a trillion dollars and you cannot get a bill together to reduce it by $1. You cannot come together with anything. That is a challenge that comes from our side of the aisle.

The way this system is supposed to work is the President proposes we dispose. So we are in a minority. We do not have a bill yet. We are waiting for the majority to come up with something to tell the President, we do not like what you have done. We have got a plan.

The last plan you had, the Contract With America, was very politically successful, and that is to adopt President Clinton's proposal that you rejected. And ever since then you have said that you can enjoy bipartisanship since you lost your candidate on the way to the polls.

But that is behind us. Now is the time for us to work together to see what can we do in the House of Representatives. If what you are saying is that having won the majority, having taken your contract to the people, that we now have to have a constitutional amendment and turn it over to the courts, you missed April fool's day by 2 weeks.

The SPEAKER pro tempore. The Chair would point out that the gentleman from Florida [Mr. CANADY] has the right to close and has 1 minute remaining.

The Chair recognizes the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I yield 6 minutes and 30 seconds to the gentleman from Arizona [Mr. SHADEGG], who led the fight in the great State of Arizona to pass it at the State level.

Mr. SHADEGG. Mr. Speaker, as the distinguished gentleman from Texas indicated, I did push this measure as an initiative in the State of Arizona, and it passed with the support of 72 percent of the voters. And like the other States which have adopted a measure of this nature, Arizona's economy has gotten dramatically stronger since we passed this measure.

I rise in strong support of it, and before I get into my remarks, let me address one point raised on the other side. It was argued that this is a loophole protection act. Nothing could be further from the truth. This measure is simple and straightforward.

Anyone identifying what they believe to be a loophole in our law, a corporate loophole favoring some taxpayer, can with a simple majority close that loophole provided that we return those taxes that were being extracted to the voters rather than keep them here in Washington.

Mr. Speaker, this is a simple measure designed to make it slightly harder for the Federal Government and this U.S. Congress to raise your taxes yet one more time.

Let us begin by looking at the tax increases we have faced in this Nation and the tax burden today. This chart on my left shows us that in 1950, the Federal tax bite required that an average family with children send $1 to Washington for every $50 that it earned, $1 for every $50.

By 1996, the chart demonstrates a dramatic change. That figure is not $1 in $50 sent to Washington, it is now $1 out of $4; earn $4, send 1 of them to Washington, DC. That is a dramatic increase in the Federal tax bite.

Indeed, Mr. Speaker, just since 1980, the tax bite, as this chart shows, has more than doubled on the average American taxpayer. In 1980, they paid slightly over $2,000 in taxes. By 1995, that figure was almost $5,000, a dramatic increase in the tax bite in just 15 years.

Mr. Speaker, a famous Supreme Court Justice in the case of McCulloch versus Maryland, John Marshall, once wrote that the power to tax involves the power to destroy.

□ 1830

And indeed, Mr. Speaker, it does. It is close to destroying the economy of this Nation.

That raises the question that some argue that what we need to do is raise taxes to deal with the deficit facing this Nation. Let me point out that that is a false premise and that those who argue this measure will keep us from dealing with the deficit are absolutely wrong.

The Joint Economic Committee did a study in April 1996, and it demonstrated that when we look at the tax increases this Congress has enacted in recent years, for every $1 in additional taxes imposed on the American public, we did not lower the deficit, we did not lower it by a dollar, we did not lower it by 50 cents; indeed, we raised the deficit. For each dollar in tax increase, we raised the deficit by $1.59, because we spent even more than we increased taxes.

As a result of that situation, Mr. Speaker, along comes a reasonable proposal. And we have heard today that this is some sort of a radical motion, that it is not worthy of debate, that this is show or stage, or that this is not a substantive proposal. Mr. Speaker, let me point out, that is again false.

Talk to the 80 million Americans, 80 million Americans who live in States that have already passed tax limitations. There are 14 States, as shown on this chart, that have already enacted tax limitations in their constitutions. They are listed here, Arizona at the top and Washington at the bottom. That covers almost a third of all Americans living in States which have chosen to pass a measure virtually identical to what we are trying to pass today.

As we have heard this afternoon, the economies of those States are growing faster than the economies of States which do not have a supermajority requirement. I would point out that four of those States have enacted these tax limitation constitutional amendments within the last year. That is, since this last issue was debated on this floor 1 year ago, in April 1996, four more States have chosen to pass a measure of this type.

Now, some argue we should not have a supermajority requirement in the Constitution, that somehow that is thought to be antidemocratic. I suggest that it is not and that, indeed, as this chart indicates, in the original Constitution there were seven such supermajority requirements.

Seven times the Founding Fathers said this issue is extraordinary enough that we ought to require a supermajority. Three of those require votes here on the floor: For expulsion of a Member, for override of a Presidential veto, or for proposing a constitutional amendment.

Three additional amendments have been added to the Constitution which have also put in a supermajority requirement, each of them saying that for certain issues it is vitally important that we not have a simple majority but that we have a broad consensus of support.

I would argue that today in America, with the tax bite having been increased to the degree it has been increased, with the power to tax equalling the power to destroy, it is time indeed to say that before we raise taxes on hardworking American families and businesses yet one more time, we say let us have a broad consensus, let us have two-thirds of this body agree that it needs to be done, and that is what we have done in each of these other instances. It is appropriate that we do that.

Now, many people have come to the floor and spoken against this measure today and have articulated their views. I think the issue was well summed up by John Randolph. John Randolph served as a Member of this House of Representatives and later as a Member of the U.S. Senate, and he said a quote which I hope every American thinks about and I hope every one of our colleagues reflects upon, Mr. Speaker, and that is, he said,

> It has been said that one of the most delicious of all privileges is that of spending other people's money.

Mr. Speaker, this debate is about the right to spend other people's money.

Let me just conclude by saying this is the fundamental issue right here on the floor, the delicious privilege of spending other people's money, and that is what we enjoy when we impose tax increases on the American people.

Should we not say that that requires a broad consensus? Should we not say that given the other restrictions in the Constitution, which have been weakened over time, that now is the time to say that before we raise taxes on the American people one more time, before we do as we are doing tonight all across America and reaching into their wallets and taking more money out, that we have a supermajority to do that? I believe we should. I urge its adoption.

Mr. BARTON of Texas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, first, I want to thank the gentleman from Virginia [Mr. SCOTT], and the gentleman from Florida [Mr. CANADY] for their floor management of this time. They have both been gentlemen, and I think we have had a good debate.

We need to get down to brass tacks now. In plain common language, what we are trying to do with this constitutional amendment is to make it more difficult to raise taxes.

I have listened to the opponents very carefully this afternoon. I have yet to have any of the opponents say that the amendment would not accomplish its intended purpose; that is, if passed and put into the Constitution, it would make it more difficult to raise taxes.

As Americans are scurrying around as we speak, trying to get their taxes done or that extension form filled out so they have the magic postmark of midnight, April 15, on their tax return, I think we owe it to them to do something substantively in the House of Representatives this afternoon, or this evening, to make it more difficult to raise their taxes.

Now, we have pointed out earlier in this debate that in the Constitution, as adopted, there was a direct prohibition against any direct tax, a 100-percent prohibition. We could not have an income tax. The 16th amendment, passed in 1913, said we could have incomes taxes, and since that time the average tax rate on the American people has gone from zero income taxes to an average of 19 percent.

Taxable income is $2.6 trillion out of $5.7 trillion personal income. American taxpayers will be sending to Uncle Sam tonight $520 billion, half a trillion dollars in Federal income taxes.

We know that tax limitation works because we have 14 States that have passed some form of tax limitation. Four of those States have passed it in the last year, since this debate on the floor of the House last year. In those States, as has been pointed out repeatedly, taxes go up more slowly; State spending goes up more slowly; the economies grow faster; therefore, private jobs are created more quickly.

How would the supermajority requirement work if it were to become the law of the land? It would say that an income tax increase, an estate and gift tax increase, an employment such as Social Security or Medicare tax increase, or an excise tax increase, such as the aviation tax, the gasoline tax, would require a two-thirds supermajority vote. Those are all taxes that are in the Internal Revenue Code of this country.

If we wanted to do something with tariffs, user fees, voluntary part B Medicare premiums, or bills that do not change the Internal Revenue laws, we could do that without a supermajority vote. If we wanted to substitute a flat tax or a national sales tax for the Federal income tax, we could do that with a simple majority, so long as the amount of revenue intended to be raised was not greater than the current revenue of the Internal Revenue Code.

We know it will work. We know we need it. We know the Federal Government is spending too much money. The gentleman from Arizona [Mr. SHADEGG] pointed out that every time we raise a dollar of taxes, historically, spending goes up $1.59. It is time to act.

Now, in my final summary I want to say once again that if we limit the ability to raise taxes over time, we limit the ability to spend. If we limit the ability to spend, over time we force ourselves to focus on spending reduction, not tax increases.

I have not heard anybody say this amendment would not work. We know it works in the States that have it. I have not heard anybody stand up primarily on the Democratic side and say they want to raise taxes. So my assumption is that we can all vote in a bipartisan fashion to make it more difficult to raise taxes.

Let us vote for the Barton constitutional amendment. Let us require a two-thirds vote to raise taxes in the future on the American taxpayer.

Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 62.

The SPEAKER pro tempore (Mr. SOLOMON). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, I yield myself the balance of my time.

The issue before the House today is very clear: Should it be more difficult for Congress to raise taxes? Should we put in place a requirement that will help protect the American taxpayer from an overreaching Federal Government?

This amendment is not, as some of its opponents contend, a trivial proposal. It is a proposal that deals with the fundamental issue concerning the relationship between Government and the people. It is an amendment that seeks to restrain Government and to increase freedom. It is a proposal that should be approved by this House and sent to the State for their ratification. I urge the Members of the House to vote yes.

Mr. POMEROY. Mr. Speaker, I rise in opposition to House Joint Resolution 62, a proposed constitutional amendment to require a two-thirds majority vote to approve bills that increase internal revenue by more than a de minimis amount.

This amendment, which its supporters freely acknowledge will fail in the House and will not likely even be considered by the Senate, serves only to postpone consideration of a balanced budget plan that includes actual tax relief for American working families. I would remind my colleagues that April 15 is not only tax day but is also the day by which Congress is required by law to have passed a budget resolution. Unfortunately, because the majority waited 2 months after the President submitted his budget on February 6 before engaging the White House in serious negotiations, the House is today engaging in empty political gestures rather than enacting a balanced budget plan with real tax relief.

Besides being a diversion from the important task of balancing the budget, House Joint Resolution 62 also violates the democratic principle of majority rule.

The Constitution specified just three instances in which a supermajority vote is required for approval by Congress—overriding the President's veto, submission of a constitutional amendment to the States, and expelling a Member from the House. With these three limited exceptions, the Founding Fathers adhered closely to the fundamental principle of majority rule. It is important to note that none of the exceptions relate to public policy issues but rather to protecting the Constitution and establishing the balance of powers between the executive and legislative branches of the Federal Government. House Joint Resolution 62, on the other hand, would give a minority of members the authority to control a fundamental component of fiscal policy.

In summary, I urge my colleagues to reject this measure and move forward to agree on a plan to enact tax relief for working families while balancing the budget by 2002.

Mr. GILCHREST. Mr. Speaker, in the landmark case of McCulloch versus Maryland, America's first judicial giant, John Marshall, wrote that the power to tax is the power to destroy. To be sure, in that instance Justice Marshall was seeking to prevent my home State of Maryland from taxing a Federal bank, but the principle remains. The fact is that taxation, taken to the extreme, can render meaningless the right to property, freedom of contract, or virtually any other freedom. For example, we can all agree that a high enough tax on newspaper profits would make freedom of the press moot. Excessive or capricious tax policy can similarly erode nearly every other freedom we enjoy in one way or another.

This amendment simply clarifies that Congress' use of that potentially destructive power—the power of taxation—should be subject to a higher approval standard than that of Congress' other powers as defined under article I, section 8 of the Constitution. This amendment would make it subject to the same super-majority requirements used for constitutional amendment, veto override, or treaty ratification.

It is true that the founders did not intend for taxation to be subject to the same requirements. But it is also true that their standards were adopted prior to the ratification, indeed the proposal, of the 16th amendment. Prior to the 16th amendment, the power of taxation meant tariffs and excise taxes. But the 16th amendment created the income tax which refocused taxation on the livelihoods of individuals. When the rights of individuals to earn a living face potential threats from Government power, there should be a higher legislative standard for Government to use that power. The amendment before us creates such a standard.

Mr. Chairman, today many people feel the strain attendant to tax rates which have risen continually over decades. On this day more than any other, our constituents are aware of the potentially destructive power of federal taxation. I am supporting this amendment to provide my constituents a reasonable level of protection against that. I urge my colleagues to do the same.

Mr. GILMAN. Mr. Speaker, I rise in support of House Joint Resolution 62 to provide for a constitutional amendment requiring a two-thirds vote for any bill that increases taxes. It is imperative, and appropriate on the day that all Americans must file their tax returns, that Congress approve a tax limitation amendment making it more difficult for future Congresses to raise taxes.

This year, Tax Freedom Day comes on May 9, the 129th day of the year. This means that the average working American will work 128 days, 1 day later than last year, to pay off their tax bill. This is why I support tax relief for working Americans and why I support this amendment.

As my colleagues know, during the 104th Congress we voted twice on a constitutional supermajority requirement to raise taxes. I was pleased to support this amendment then and plan on doing so today.

This amendment would only apply to changes to the Internal Revenue laws. Revenue increases subject to the supermajority requirement including income taxes, estate and gift taxes, payroll taxes, and excise taxes. The amendment would not cover tariffs, user fees, voluntary payments, or bills, having secondary revenue implications, if they do not change the Internal Revenue laws.

Accordingly, I urge my colleagues to support this necessary, commonsense amendment to limit increase taxes.

Mr. PACKARD. Mr. Speaker, I rise today in full support of the tax limitation amendment this House will soon consider. This week, I am reminded of the many hardworking families in southern California and across the country who foot the bill year after year for Washington's tax and spend mentality.

The pockets of hardworking Americans should never be mistaken for the special interest cookie jar. For far too long, Washington has abused its power at the expense of America's families. In the last half century alone, the percentage of family income taken back for Federal taxes has jumped from 5 percent to 24 percent. When you add in other taxes, the average family loses 40 percent of their income to government. That is simply unacceptable.

The 1993 Clinton tax increase of $275 billion passed by only 1 vote. The fact that the largest tax increase in the history of the world came down to just one person's decision should disturb every American. If a supermajority requirement for tax increases had been in effect then, this tax increase would have never passed.

Its not Washington's money—and it is only right that we protect those who have worked for it—by enabling them to keep it. The sad fact is, Americans are finding it harder and harder just to keep food on the table, let alone save for a child's tuition or pay for braces.

This legislation is a huge step in the right direction. We should protect American families from being pick-pocketed by Uncle Sam each time our leaders fund a new program or refuse to eliminate waste. Its tough love for big government bureaucracy and it is long overdue. I encourage my colleagues to support the tax limitation amendment.

Mr. BEREUTER. Mr. Speaker, this Member rises in reluctant opposition to House Joint Resolution 62, the so-called tax limitation amendment. Certainly it would be more politically expedient to simply go along and vote in support of a constitutional amendment requiring two-thirds approval by Congress for any tax increases. However, as a matter of conscience, this Member cannot do that.

As this Member stated when a similar amendment was considered by the House 1 year ago, there is a great burden of proof to deviate from the basic principle of our democracy—the principle of majority rule. Unfortunately, this Member does not believe the proponents of this amendment have met this burden.

There should be no question of this Member's continued and enthusiastic support for a balanced budget and a constitutional amendment requiring such. Tax increases should not be employed to achieve a balanced budget. That is why this Member supported the inclusion of a supermajority requirement in the rules of the House which were adopted at the beginning of the 104th and 105th Congresses. However, to go beyond that and amend the Constitution is, in this Member's opinion, unreasonable and it is the reason for why this Member will vote against House Joint Resolution 62.

Mr. CANADY of Florida. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

The Chair has been advised that the gentleman from Missouri [Mr. GEPHARDT] will not be offering an amendment.

Pursuant to House Resolution 113, the previous question is ordered on the joint resolution, as amended.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the joint resolution.

The question was taken.

Mr. CONYERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 233, nays 190, not voting 9, as follows:

[Roll No. 78]

YEAS—233

Aderholt
Andrews
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCarthy (NY)
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pallone
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shays
Sherman
Shimkus
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)

NAYS—190

Abercrombie
Ackerman
Allen
Baesler
Baldacci
Barrett (WI)
Bateman
Becerra
Bentsen
Bereuter
Berman
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Coyne
Cummings
Davis (FL)
Davis (IL)

DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gillmor
Gonzalez
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hostettler
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Luther
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pascrell
Pastor
Pelosi
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schumer
Scott
Serrano
Shaw
Sisisky
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Turner
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates
Young (FL)

NOT VOTING—9

Costello
Flake
Gilchrest
Lewis (CA)
Lowey
Manton
Payne
Schiff
Towns

□ 1901

Mr. MENENDEZ, Ms. HOOLEY of Oregon, Mr. WYNN, and Mr. VISCLOSKY changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the joint resolution was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RESIGNATION AS MEMBER OF COMMITTEE ON SMALL BUSINESS

The SPEAKER pro tempore (Mr. LUCAS of Oklahoma) laid before the House the following resignation as a member of the Committee on Small Business:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 14, 1997.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: I hereby resign as a member of the House Committee on Small Business.

Sincerely,

WALTER B. JONES,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

□ 1215

INDEPENDENT COUNSEL STATUTE

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute, revise and extend her remarks and include therein extraneous material.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I too rise today to salute the great American Jackie Robinson and hope that we all will recognize the great step he made for all of us.

It is because of that reason that I also rise to speak to the decision made by the of the United States of America, Janet Reno. She made that under cover of law and under the respect of the Independent Counsel Act, which first of all says that, only if there are sufficient allegations of criminal activity by a public person such as President, Vice President, Cabinet member or others, should there be an independent counsel appointed. And second, if there is sufficient evidence of criminal activity by those covered persons and there is an apparent conflict in the Justice Department, should the Justice Department not be the one to investigate.

Clearly, Mr. Speaker, there has been no evidence of intentional criminal activity or criminal activity of any kind by a Cabinet member, President or Vice President of the United States with respect to campaign fundraising. There is also no question that Janet Reno and the Justice Department have the integrity to investigate. Stop this frivolity, stop following around and let us go on with the people's business. Let the Justice Department investigate as they have been doing.

Mr. Speaker, I rise to speak on the request of the majority party's request for the Attorney General to appoint an independent counsel to investigate possible fundraising violations in connection with the 1996 Presidential campaign. The Independent Counsel Act sets forth very clear circumstances in which an independent counsel may be appointed.

First, if there are sufficient allegations of criminal activity of a covered person and if there are sufficient allegations of criminal activity by a person other than a covered person, and then an investigation or prosecution of that person by the Department of Justice may result in a conflict of interest, and independent counsel may be appointed. There must be specific and credible evidence. I urge my colleagues to read the statute which makes this quite clear. The Attorney General has already convened a task force that will investigate Democratic campaign fundraising. This does not call for an appointment of an independent counsel and the Attorney General's decision should be respected on this matter by all Members of Congress.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

WETLANDS RESTORATION AND IMPROVEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, I rise today to announce the introduction of H.R. 1290, the Wetlands Restoration and Improvement Act. This legislation builds upon the mitigation banking bill I introduced last year and also the Federal guidance which was issued in 1995.

My eastern North Carolina district includes a majority of the coast and four major river basins; specifically, 65 percent of the land can be classified as wetlands. The citizens are directly affected by wetlands and the numerous regulations that protect the wetlands. I have been contacted by farmers, business owners and State and local officials, landowners and even the military for advice and guidance in hopes of reaching a balance between protecting these valuable wetlands and improving water quality but also allowing for ecosafe development.

Quite frankly, these different opinions have led to years of confrontation instead of reaching common sense solutions. I believe that in order to make progress we need cooperation instead of confrontation. It is time to find a middle ground on which everyone can agree on and everyone can win.

This commonsense approach is mitigation banking.

Mitigation banking is a concept embraced by regulators, developers and the environmental community. It is a balanced approach to improving the wetland mitigation process. Mitigation banking recognizes the need to protect our wetlands resources while balancing the rights of property owners to have reasonable use of their properties.

Wetlands mitigation banking allows private property owners to pay wetlands experts to mitigate the impact their development has on wetlands. Those experts working with regulators do the mitigation in banks of lands which are set aside and restored to wetlands status.

Years ago the Federal Government adopted a no-net-loss wetlands policy.

Due to the belief at the time that a majority of the Nation's wetlands had been destroyed, a whole system of regulations were designed to stop further destruction of our wetlands, one part being the requirement of a landowner to mitigate his or her wetland damage.

Quite frankly, traditional mitigation is not working. It is too expensive, time consuming and ineffective. Approximately 90 percent of onsite mitigation is unsuccessful.

Mr. Speaker, unlike other mitigation projects, mitigation banks are complete ecosystems. Regulators usually require that more wetlands be restored in a bank than are destroyed in a project. So instead of only trying to protect remaining wetlands, with mitigation banking we are actually increasing wetland acreage.

What is more, because the mitigation banks give economic value to wetlands, potentially billions of private sector dollars could flow into restoring wetlands and sensitive watersheds.

However, Federal legislation is needed. Mr. Speaker, mitigation banking has been occurring but is very limited because regulators have no statutory guidance. Also, investors are hesitant to invest the money needed to restore wetlands without legal certainty.

The Wetlands Restoration and Improvement Act will give wetlands mitigation banking the statutory authority it needs to flourish, and it will begin restoring the wetlands that many thought were lost forever.

Specifically, the legislation requires the banks to meet rigorous financial and legal standards to ensure that the wetlands are restored and preserved over a long time, provides for ample opportunity for meaningful public participation, and, third, the bank itself has a credible long-term operation and maintenance plan.

This legislation can and should be a bipartisan effort to ensure that in the next century we will do what we have to do in order to protect valuable wetlands. I hope my colleagues will join me, Mr. Speaker, in supporting this bill.

LINE-ITEM VETO IS UNCONSTITUTIONAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PAUL] is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, I appreciated very much the remarks made by the previous speaker regarding Jackie Robinson. I think it would be interesting to note that the great achievement of Jackie Robinson all occurred prior to affirmative action, and I think that should be noted.

Today, though, I would like to spend a few minutes talking about the courts. I have been a strong critic of the courts, especially the Federal courts, because so often the Federal courts seem to be unconcerned about the Constitution, and so often they do a lot more legislation than they should.

Last week there was a court ruling that I was very pleased with, and I believe they deserve a compliment. There was a Federal court judge by the name of Thomas Jackson last week in the district court who ruled that the line-item veto was unconstitutional. Simply put, he said, it was unconstitutional because it delegated too much powers to the President. It was clear in the Constitution that the powers to legislate are given to the Congress. So I am very pleased to see this ruling and to compliment him on this.

To me, it was an astounding event really to see so many a few years back pass the legislation that gave us the line-item veto, and so often the proponents of the line-item veto was made by individuals who claimed they were for limited government. But this item, the line-item veto really delegates way too much power to the President, is unconstitutional, and if we believe in limited government, we ought to believe in maintaining this power in the House of Representatives and in the Senate.

The court ruled that it just is not constitutional for a President to be able to rescind an appropriation or specific tax or a specific tax benefit, or for even that matter, a regulation. This is far and beyond anything intended by the writers of the Constitution. I am convinced the founders of this country, the writers of our Constitution, would have been proud of this ruling.

The line-item veto gives too much power to the President. It gives the President political power. It gives him the chance to lobby for his particular piece of legislation with the threat that if you do not vote for what I want, I can line-item veto that special thing that you like for your district.

Having been in the Congress prior to this term for several years, I had been lobbied on a few occasions by conservative Presidents, and the only time they ever called was for me to vote for more spending, never less spending. So I see the line-item veto as something a President can use actually to enhance or increase spending, not to reduce spending, which is the intent.

The line-item veto will still be ruled on again in the Supreme Court. I am sure it will be appealed. I will be anxiously awaiting to find out exactly what occurs there, but already in the corridors I hear a fair amount of grumbling among our fellow Members, Members who are saying, I wonder what the President is going to do. Is he going to take his veto pen out and line-item out a special project. I think that is a justifiable concern.

I think it is important that we concern ourselves about these issues because the main goal that we ought to have is to follow our oath of office, which is to obey the Constitution, and we should not be passing legislation that disregards the Constitution.

When the judge ruled, he had a statement that was somewhat out of the ordinary, but to me rather profound. He said that it is critical that we maintain the separations of powers in order to preserve liberty. That is the purpose of the separation of powers. It is to preserve liberties. It was designed deliberately, specifically, and we must cherish it.

I have to compliment those individuals from the other side of the aisle who brought suit, took it to court, and insisted that this be ruled on with the sincere belief that it is unconstitutional to have a line-item veto. I appreciate that very much.

NOMINATION OF ALEXIS HERMAN AS SECRETARY OF DEPARTMENT OF LABOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, very soon the other body will vote to confirm Alexis Herman as Secretary of Labor. I am sure that the Senators will vote almost unanimously for her because no one has been asking the tough questions that need to be asked about this nomination, yet the liberal magazine, The New Republic, has a scorching article about Ms. Herman in its current issue.

The New Republic would ordinarily be one of the strongest supporters for someone like Ms. Herman, but listen to what The New Republic has to say about her. "It would not be quite accurate to say that Herman's political career has been tainted by cronyism. Her political career is cronyism. For Herman, it seems government has meant little more than a way to enrich herself and her friends."

The President should reconsider this nomination in light of all of the reports in The New Republic, The Washington Times, and other publications concerning questionable financial dealings. It appears that Ms. Herman has spent her career doing political wheeling and dealing at great expense to the American taxpayer. Let me mention just two examples.

Ms. Herman was paid $600,000 simply for advising on hiring minority firms for construction of the Federal Triangle project in Washington, DC. Six hundred thousand dollars is an unbelievably exorbitant fee for this type of work. Then the project was criticized for its very poor job in hiring minority firms, the very thing for which Ms. Herman was being paid. The Senate should have subpoenaed Ms. Herman and her records and questioned her in great detail about exactly what she did to get all of this money. This project, with interest, financing and all of the sweetheart deals, is going to cost $2 billion, according to the GAO, and be the most expensive Federal building project in history.

Then there is the Market Square project, also in Washington, DC. According to The Washington Times, Ms. Herman was reportedly given a 1-percent ownership primarily because of her connections to Washington, DC Mayor Marion Barry. This 1-percent interest may now be worth as much as $500,000, which she got to be a minority partner, even though she never invested any of her own money.

There are other examples, Mr. Speaker, and every Member of the other body should read this article in the current issue of The New Republic before they vote to confirm Ms. Herman. The title of the article is "Dishonest Labor." I will be sending every Member of the other body a copy of this article tomorrow.

I have no illusions, Mr. Speaker. I know she will be overwhelmingly confirmed, but the Senate should not confirm someone who has gotten rich for very little work or investment at great expense to the taxpayer. No one should be put in charge of a major department of the Federal Government who has such a cavalier disregard for the taxpayer.

At the very least, Mr. Speaker, I certainly hope that when she is confirmed that she stops all of this cronyism and political and financial wheeling and dealing while she is in office. Also, I hope the national news media will stay on guard and closely question every single contract the Department of Labor enters into under her leadership. Is she going to give all the contracts to her friends and pals and political buddies?

I close, Mr. Speaker, by repeating the words from The New Republic, not my words, but theirs. "It would not be quite accurate to say that Herman's political career has been tainted by cronyism. Her political career is cronyism. For Herman, it seems government has meant little more than a way to enrich herself and her friends." Not my words, Mr. Speaker, but those of The New Republic. Surely we can do better for one of the highest offices in our land.

[From The New Republic, April 28, 1997]

DISHONEST LABOR

(By Jonathan Chait)

Richard Shelby has distinguished himself in the United States Senate mainly by his passionate and oft-professed hatred for the Clinton administration. Indeed, he has made a career out of Clinton-hating, once proclaiming gleefully that his animosity for the president formed the basis of his popularity in his home state of Alabama. In February 1993, before other Democrats had even polished off the leftover champagne from Clinton's inauguration, Shelby attacked the White House for raising taxes. Clinton retaliated by moving ninety NASA jobs out of Alabama. The relationship went downhill from there. Just after the 1994 elections, Shelby shed his last Democratic vestiges and joined the Republican Party. Like Strom Thurmond and other Dixiecrat-turned-Republicans, Shelby took to the GOP faith with more fervor than most lifetime believers. As a reward, his new party handed him the chairmanship of the Intelligence Committee, from which Shelby resumed his antipathetic ways: over the last two months he almost single-handedly harangued Anthony Lake into forsaking his nomination for CIA director.

On March 19, still basking in the afterglow of Lake's demise, Shelby spoke before the Senate Labor and Human Resources Committee, which had gathered to decide the fate of another controversial Clinton nominee, Labor Secretary-designate Alexis Herman. On this occasion, however, Shelby came to praise, not bury, a Clinton nominee. In proud, almost pious tones, he introduced Herman as if she were a conservative convert. "She's worked in the vineyards," he declared. "She's worked in the Democratic Party. She's worked in the White House. She has earned her way the hard way: by hard work." Shelby wasn't the only senator cooing. Other, normally belligerent Republicans burbled equal goodwill. Their few forays into the known areas of controversy regarding Herman were so polite as to be almost apologetic. The four-and-a-half-hour love-in ended in smiles and mutual praise, the prelude to an expected overwhelming confirmation by the Senate.

How striking is the contrast between Herman's cruise to confirmation and the experiences of other Clinton appointees. Nomination struggles have plagued Clinton from the beginning, Lake's ordeal providing only the most recent example. To be sure, the Senate has given a bye to a few Clinton nominees. But those exceptions, like Madeleine Albright or William Cohen, arrived with impressive résumés, untainted by scandal. Herman, by marked contrast, is perhaps the least qualified—and certainly the most scandal-plagued—nominee that Clinton has put forth over the course of his presidency. Her harmonious confirmation is not merely curious, but perverse: the intellectual and ethical debasements that ought to have disqualified Herman are the very things that have saved her.

It would not be quite accurate to say that Herman's political career has been tainted by cronyism. Her political career is cronyism. For Herman, it seems, government has meant little more than a way to enrich herself and her friends. Herman's Washington career dates back to the Carter administration, where she headed the Women's Bureau of the Department of Labor. There she linked up with Little Rock civil rights pioneer and Clinton friend Ernest Green, who ran the department's Employment and Training Administration (and who is currently playing a supporting role in the Clinton fundraising scandals). Following the 1980 presidential election, the department frantically shoveled millions of dollars in grant money out the door before the Reagan administration could take over. The largest grants went to two sources: a training program that employed Green and Herman before their Labor tenure, and a youth training program run by Jesse Jackson, a close Herman friend. In 1981, Green and Herman formed a diversity consulting firm, Green-Herman & Associates Inc., which got a quick boost from Jackson. In those years, the reverend frequently threatened boycotts of companies he deemed insufficiently diverse. When Jackson's targets sued for peace, according to media accounts, he recommended that they hire Green-Herman & Associates.

The diversity consulting business proved lucrative for Green & Herman. Corporations hire diversity consultants mainly to avoid lawsuits. Thus, the two enjoyed a particular advantage: as consultants, they could sell advice on complying with the affirmative action laws that, as government officials, they had enforced.

One way to comply with those laws, it turned out, was to give Alexis Herman a great deal of money. Bob Mendelsohn, a real-estate developer who had met Herman while he was working for the Interior Department under Carter, quickly figured this out. In 1986, he gave her a 3.34 percent stake in his venture to build a complex of offices and condominiums in downtown Washington. Herman sold part of her holding and recently valued the rest at somewhere between $500,000 and $1 million, a strong return for an investment of zero dollars. Mendelsohn handed out similar deals to two other limited partners, bringing the minority ownership to 10 percent, in order to comply with federal affirmative action guidelines. Mendelsohn could have bestowed this windfall upon any number of more needy black Washingtonians. But Herman had something that escaped her less fortunate cohabitants: a tight relationship with Washington Mayor Marion Barry, who held considerable sway over which firms received building contracts in the district. Mendelsohn later insisted that Herman's clout played no part in his decision.

In 1989, Herman became chief of staff at the Democratic National Committee, working directly under another mentor, Ron Brown, then party chair, later secretary of Commerce. Her firm, now A.H. Herman & Associates (Green had gone into investment banking), remained under her control. The next year Mendelsohn hired her firm to help him win an even bigger contract. For $600,000, A.H. Herman designed Mendelsohn's affirmative action plan. Mendelsohn won the fiercely contested contract, although his company had been underbid by hundreds of millions of dollars and had given what one knowledgeable insider described as a vastly inferior proposal. Mendelsohn claims that Herman's post at the DNC played no role in either his decision to hire her or the government's decision to award the contract to Mendelsohn.

Later, the Mendelsohn-Herman building deal came under fire in Congress—because, ironically, some congressmen thought its affirmative action program was not aggressive enough. According to numerous press accounts at the time, Herman took her DNC clout to the Hill to lobby for continued funding, a move widely criticized as a conflict of interest. Herman recently wrote to the Senate Labor Committee that she has "no recollection of lobbying either Members of Congress or their staffs." Her spokesman, Joe Lockhart, has denied outright that she lobbied for Mendelsohn. But, according to a 1990 article in The Washington Business Journal, "sources at the House Government Operations Committee" maintained that Herman "did not hesitate to appear at meetings between legislative aides and the Delta Team [Mendelsohn's group]." The article reported that Mendelsohn had "said he had asked Herman to go to the Hill to address concerns about minority participation in the project because she had written the plan." Mendelsohn now denies having asked Herman to lobby and insists the 1990 article "got a lot of things wrong."

Despite the alleged conflict of interest, Herman's political stock continued to rise. With Ron Brown devoting much of his time to fund-raising, Herman ran the day-to-day operations of the 1992 convention. It was not unrewarded labor. A U.S. News & World Report story the following year reported that she enjoyed frequent limousine service—over $6,000 worth during one two-week stretch alone—and $3,500-per-month rent, all on the party's dime.

In late 1993, after becoming White House director of public liaison, Herman sold her firm to longtime friend Vanessa Weaver. Then, while working at the Office of Public Liaison, Herman recommended—as she later admitted in a written response to the Senate Labor Committee—that both Weaver and Weaver's sister be included on a trade mission to Mexico. The sisters were so included, and later donated $25,000 apiece to the DNC.

But the business relationship between Herman and the Weaver sisters apparently goes back even further. According to payroll documents, the DNC paid Weaver $15,000 in consulting fees during the 1992 convention run by Herman. Neither several former convention staffers nor Lockhart were able to say, when asked, what precisely Weaver did to earn her money. According to the 1992 DNC Employee Handbook, Herman had responsibility for reviewing all contracts, meaning that, at minimum, she approved hiring Weaver. Why does this matter? Because it appears to contradict her written responses to questions posed by the Senate Labor Committee. When asked if she had "extend[ed] any courtesy or provide[d] any benefit" to Weaver before or after the selling of A.H. Herman & Associates, Herman replied that she had not. Lockhart, questions, argued that it didn't matter if Herman had misstated the truth to the Senate. "If you contract someone and they do the work," he said, "I don't see how that's a benefit." Herman declined, through Lockhart, to be interviewed prior to confirmation.

Herman won the nomination for secretary of Labor from Clinton at least in part for the same reason she got her first big deal from Mendelssohn: the president needed to fill a quota. Ron Brown's unexpected death in April 1996, and the departure of Hazel O'Leary and Mike Espy, had left the Clinton Cabinet with just one African American, and no black women. But, as in her building deal, Herman and more than her sex and race going for her. She benefited, once against, from political cronyism. In this instance, her old friend and consulting ally Jesse Jackson lobbied Clinton to pick her.

Herman's nomination represents a marked ideological shift in the administration's economic thinking. During the first term, Labor Secretary Robert Reich's liberalism counterbalanced the moderate Wall Street impulses of Treasury Secretary Robert Rubin. Reich's influence stemmed from both his academic heft and from his long-standing relationship with Clinton. Herman, with neither, could not dream of challenging Rubin. "It's like the New York Yankees against 'Farm Team To Be Determined.'" laughs an administration official.

Its seat at the table sacrificed for the sake of diversity, organized labor went through the classic stages of grievous loss. First, denial. Labor leaders, refusing to accept the finality of Clinton's choice, preferred former Pennsylvania Senator Harris Wofford as an alternative. When Wofford didn't fly, labor threw its support, in quick succession, behind Esteban Edward Torres and Alan Wheat, both minorities with pro-union records in Congress. These progressively more humiliating failures hastened the second stage: anger. "The not-for-attribution comments of labor leaders I talked to the day of Herman's appointment ranged from rage to—well, rage," wrote liberal columnist Harold Meyerson in The Sacramento Bee. The third stage: bargaining. AFL–CIO President John Sweeney met with Jackson and Clinton. Though none could confirm it, several labor officials privately expressed a belief that the administration had granted Sweeney more say in staffing lower-level jobs at Labor. This led, at last, to: acceptance. "Once it became clear that the administration chose Herman, there was no point in opposing her," sighs one labor official. AFL–CIO officials now maintain, somewhat ahistorically, that their support for Wofford are based on a big misunderstanding: they would have picked Herman first if only they had known she wanted the job.

With the Democratic coalition in line, Herman's fate now rested with the Senate. Nominally, her key hurdle was the Senate Labor Committee, chaired by Jim Jeffords of Vermont. In reality, it was up to Majority Leader Trent Lott, who initially resisted granting the chairmanship to the moderate Jeffords. Jeffords won the chair, which he had earned by seniority, only by agreeing to defer to the leadership's wishes on any important matters. In February, Lott bottled up Herman's nomination in order to force Democrats to allow a vote on a "comp time" bill that would permit employers to substitute extra vacations for overtime pay.

Seeking a pretext for delaying Herman's hearings, Lott ruminated publicly over her role in organizing White House coffee sessions with potential donors. Many of those donors were black. When a reporter questioned McCurry about this, he pounced: "I can't believe the majority leader would suggest she's disqualified from serving as secretary of Labor because she attempted to encourage African Americans to participate in the political life of this nation." Lott, who had suggested nothing of the sort, fumed. But the White House had Lott where it wanted him. The Herman nomination became a civil rights issue. They had thrust Lott into his nightmare role of George Wallace, blocking the doorway of the Labor Department. African American and feminist organizations rushed to the White House to attack Republican delays. Even the AFL–CIO chimed in, demanding "immediate hearings on the nomination of this African American woman."

Republicans, it turns out, were all too happy to oblige. And here lies the true perversity of Herman's nomination: Congress, in the position of helping to select its foe, wants a pathetic Labor secretary. The previous one, Reich, helped Clinton push through a higher minimum wage, which most Republicans consider the low point of their last Congress. Reich's successor will be charged with fighting Republican efforts to pass legislation limiting unions' powers to negotiate in the workplace and organize politically. Therefore, the worse the secretary, the more scandal-plagued and the less policy-focused, the better. Herman's lack of qualifications became, ironically, her strongest qualification. "She will be an ineffective Labor secretary," explains a conservative activist who works closely with Senate Republicans. "There's just a general view that 'What damage can she do us? If we put somebody else in there who's effective, it'll be a much bigger headache.'"

Indeed, Republicans are happy to support Herman's sort of liberalism because it restricts government largesse to ever fewer, ever less-deserving beneficiaries. It costs much less to enrich a tiny coterie of well-connected African Americans than to improve ordinary black lives. Clinton's relegation of Reich's chair to a quota slot is itself an act of Hermanism. The Labor Department won't do much for the working poor, but it will at least do well by Alexis Herman.

TIME TO TAKE THE TERROR OUT OF TAX TIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, today, April 15, brings terror across the land to all kinds of Americans who have spent hours and hours filling out their tax forms, Americans who want to pay their fair share, Americans who know April 15 is coming on, and yet, at the same time, are very frustrated by the fact that they cannot figure out what their tax forms are.

A study showed that businesses have spent on an average each year 3.6 billion manhours a year filling out and complying with tax forms. American individuals spend 1.8 billion hours filling out tax forms.

So in total, Mr. Speaker, we have approximately 3 million Americans working 40 hours a week, 12 months a year, just to comply with the IRS. Today the IRS has 200 tax forms, 400 forms that tell you how to fill out the 200 forms, and 111,000 IRS employees who do not know which forms are correct and which forms are not.

Another study showed that last year on questions to IRS agents, over 8 million of the questioners were given wrong answers. It is time to change our tax system.

We have, I think, a lot of good employees at the IRS, and yet in the same hand we have a system that is impossible for them to work with, a system that cannot be audited. Congress has sent in auditors to the IRS, and their books are not in good enough order for us to audit.

Now, what would happen to the businesses back home if the IRS agents came to their door and said, "We want to see your books," and they would say, "Well, we cannot be audited, our books are in too much disarray"?

☐ 1930

Yet that is the standard that the IRS has. We have spent $4 billion on a tax automation system for the IRS, and they are no more automated now than they were 10 years ago when we started.

Mr. Speaker, I believe that the time is right for us to vigorously engage in a debate on tax simplification or in a debate on a consumption tax. It is time for us to say that the current tax system is impossible, it is counterproductive. Businesses and individuals are spending too much time trying to avoid tax considerations, rather than just doing their daily chores.

For example, if we have a widget company, the business of a widget company is to manufacture, produce, and sell widgets. It is not to avoid taxes and try to figure out IRS compliance. Yet that seems to be the custom these days.

I had one constituent call me, Mr. Speaker. She had gotten a letter from the IRS saying that she had overpaid her taxes one year and was entitled to a $1,000 return. But in order to get the $1,000 return, she needed to send an additional copy of her tax return for that year. No big deal.

Now, in this particular case, the woman did her tax form herself. She did not use an accountant. She did not have a Xerox machine at home. All she did was filled out her original form with ink, and then a copy of the original with pencil. So the only thing she had was a penciled copy of her tax form. But the IRS letter was pretty explicit. Just send in your old tax form and we will send you the $1,000 that you have overpaid in the past.

She sent that in. Lo and behold, her next letter from the IRS, instead of saying here is your $1,000, the next letter from the IRS says, you are just now paying your taxes from 2 years ago, and inasmuch as you are, you owe a penalty plus all the taxes due that year.

I got involved in it. We fought in a tug of war for a long time. Finally she ended up not getting the $1,000, not having to pay the taxes twice, but she did have to pay a penalty. The IRS brought the whole matter up. She was fine.

Again, Mr. Speaker, it is just a matter of the system is too chaotic, too confused for IRS agents to fairly administer it themselves. So the time to debate a flat tax, and the Armey flat tax proposal is that you pay 20 percent, basically, of what you earn. The only deduction, I believe, that the gentleman from Texas [Mr. Armey] is proposing is for dependents, but no other deductions. You can fill out your tax form on a postcard. How many Americans sitting at home tonight wished they had that option?

The other proposal I understand is for a consumption tax. It is a tax system that rewards savings and it taxes consumers when they spend money. I believe both these proposals are good. I believe both should vigorously be debated. I look forward to the debates. As far as I am concerned, the time has come. Let us get it done.

THE INTERNAL REVENUE SERVICE

The SPEAKER pro tempore (Mr. Lucas). Under a previous order of the House, the gentlewoman from Washington, [Mrs. Linda Smith] is recognized for 5 minutes.

Mrs. LINDA SMITH of Washington. Mr. Speaker, sometimes we come to the end of the day and we just talk about the things that went wrong, the votes that were lost, or we decry the votes that did not go the way we want.

But today, the American people can feel good. This morning while they were at work, or while they were busy with their children, there was a vote that is really significant, that Americans need to watch in the Senate.

Over my life, my past job was working with the Internal Revenue Service, not as an agent but helping people with their problems. They would come to me if they were in trouble with the IRS or with the taxes, or ask me to help them keep out of trouble. Over the years what I found, though, was a significant uneasiness within me, that I felt Internal Revenue often knew more about my clients than they really should know. I could not prove it, but I felt they were into areas they should not be in. Again, I could not prove it, but that uneasiness persisted.

Today, this morning, we rectified a problem that has been going on. Just a few years ago there was a report from the Internal Revenue Service that said that agents were browsing through computer files, private files on citizens, and often in areas they had no right to be in. The IRS said, we will never do that again. We will have a policy of no tolerance. But this last week we got another report from Internal Revenue. They had 1,515 documented cases of what we would consider violations of our personal liberties and freedom of privacy. In this country that is really important.

So right away a lot of us just decided that it was time to make a change. The IRS had promised to clean up their act, but the privacy of citizens was not protected, so a bill passed this morning that said not only is it wrong, but IRS agents would be subject to the same penalties you and I would be subject to if we violated the privacy of another individual by wiretapping or getting into their personal affairs illegally.

It says, simply, that they will have civil, that means monetary, damages personally against them, and that they can go to jail, because we hold this right of privacy very, very closely in America. There has been a double standard, that agencies have not protected that privacy as we would demand and we have a right to expect.

Later this day, though, we had another vote. It was a good vote. It was a majority vote for the taxpayer. Two hundred and thirty-three Members of Congress had the courage to stand up and say it is time that it be harder to raise your taxes than it is to raise spending, so we have to raise your taxes again, as has been going on for many years.

My mom and dad's income tax to the Federal Government would be less than 4 percent, when they were raising me. Today, my children, who are raising my grandchildren, their tax is nearly a quarter, and will be nearly a half, when we count all taxes on these young families. We have to expect that to grow on my grandchildren.

Mr. Speaker, we took that vote. It did not win, even though we had a majority, because it takes a supermajority for that type of vote. But it was a good vote for the American people, to show them that at least a majority of Congress now care about the American people, the family that is paying that tax, and that 40, 50, or even 25 percent is more than we should be taking from the working family who would rather spend that time with their family; a very good day for the taxpayer.

But the American people have to understand that they have to stay diligent, because until a few years ago when I was written in for Congress, and I did not run, I was written in, I was not paying attention to Congress. But when I got here I found that it was very hard to say no to the groups that came to you and wanted something, but very easy to say yes to them, and then, a cumulative giving the tax increase, or the burden to the next generation in a debt.

This is a very good time, but only if the American people address this time and weigh in. Again, this has been a good day for the American people, but they need to contact their Senators and encourage them to also pass the tax snooping bill to stop the IRS from invading privacy.

H.R. 400 LEVELS THE PLAYING FIELD FOR AMERICAN INVENTORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. Coble] is recognized for 5 minutes.

Mr. COBLE. Mr. Speaker, there have been many accusations about H.R. 400, popularly known as the patent bill, which will be on the floor this coming Thursday, allowing the Japanese and other foreign entities to steal our technology. The problem is that those making these accusations are disseminating misinformation, or inaccurate information to be more specific.

This bill does not discriminate against American applicants. On the contrary, it levels the playing field so that Americans will stop being treated unfairly in our own country. It is the current system that protects what the gentleman from California [Mr. Rohrabacher] calls Japanese or Chinese interests.

Under the abuses employed by foreign applicants today, which continue to be allowed under the bill of the gentleman from California, foreign applicants are laughing all the way to the bank.

Get this: A foreign applicant can file a patent application in his own country, or anywhere other than the United States, while delaying his application in the United States; a practice, by the way, which H.R. 400 prevents. Consequently, the foreign applicant's patent issues quickly overseas and not in the United States until much later.

Under the Rohrabacher system, as the foreign-issued patent is about to expire, the foreign company may then abandon its delay tactics in the United States and allow its U.S. patent to issue, ensuring years of monopoly protection in our country. So the foreign applicant initially prevents American companies from selling competing products abroad, and to make matters worse, when the foreign patent expires, the foreign applicant receives a U.S. patent, which then prevents American companies from selling competing products here.

This encourages, by the way, Mr. Speaker, American companies to move overseas taking with them American jobs.

Here is another example: Right now a foreign applicant can come into the United States, take a product which is being held as a trade secret by an American company, patent it, and make the American inventor pay royalty fees for its own invention. This actually occurs.

Small businesses represented who testified in front of our subcommittee have shared their personal stories about this. The gentleman from California, Mr. ROHRABACHER'S bill allows this to continue. H.R. 400 allows the original American inventor to continue using his invention in the same way he was using it before he was sued by the foreign patent holder.

Here is another abuse, committed by foreign and American applicants which the gentleman from California, [Mr. ROHRABACHER] allows and which our bill, H.R. 400, stops; it is called submarine patenting.

This procedure is a tool of self-serving predators who purposely delay their applications and keep them hidden under the water until someone else with no way to know of the hidden applications invests in the research and development to produce a new consumer product, only to have the submarine rise above the surface and sue them for their innovation.

One recent suit earned a submariner $450 million at the expense of consumers. Submariners do not hire workers, do not invest in the economy, and they do not advance technology. They only live to sue others who do invest and contribute.

The gentleman from California, [Mr. ROHRABACHER] will tell you that there are hardly any submariners out there and that they constitute a minuscule amount. Of course, we all know that if you make your living suing American innovators, you sue as many as possible and hope to settle for nuisance value.

That is why many cases initiated by submariners are not recorded. I urge everyone to take a look at the front page story of the Wall Street Journal about the problem which appeared on April 9. It is a great problem which my bill prevents. And it is these submariners, Mr. Speaker, who probably stand to benefit more than any other group if our bill is defeated.

Some folks are confused about what this bill does and does not do in view of my previous illustrations. There have been some concerns that have arisen which have involved great discussion and significant negotiation. Those will form the basis of a floor manager's amendment which I will offer to this body on Thursday.

Inventors have complained that the office has not been able to spend its valuable resources on the most important function of the office, that is the Patent and Trademark Office.

Mr. Speaker, I appreciate the support of my colleagues on Thursday.

Mr. Speaker, I want to take 5 minutes to address some of the scare tactics being employed by critics to a very important patent law reform bill coming to the floor and explain the contents of an important floor manager's amendment which will be offered to H.R. 400 on Thursday. After much negotiation with all interests involved with this bill, the Judiciary Committee will put forth a comprehensive amendment containing many improvements and alleviating many concerns, especially of the independent inventor and small business communities.

There have been many accusations about H.R. 400 allowing the Japanese, or other foreign entities, to steal our technology. The problem is that those making the accusations don't understand the bill. This bill does not discriminate against American applicants, on the contrary, it levels the playing field so that Americans will stop being treated unfairly in our own country.

It is the current system that protects what Mr. ROHRABACHER calls Japanese or Chinese interests. Under the abuses employed by foreign applicants today, which continue to be allowed under Mr. ROHRABACHER'S bill, foreign applicants are laughing all the way to the bank.

Get this: a foreign applicant can file a patent application in his own country, or anywhere other than the United States, while delaying his application in the United States—a practice which H.R. 400 prevents. Consequently, the foreign applicant's patent issues quickly overseas, and not in the United States until much later. Under the Rohrabacher system, as the foreign-issued patent is about to expire, the foreign company may then abandon its delay tactics in the United States and allow its U.S. patent to issue, ensuring years of monopoly protection in our country. So the foreign applicant initially prevents American companies from selling competing products abroad, and to make matters worse, when the foreign patent expires, the foreign applicant receives a U.S. patent which then prevents American companies from selling competing products here. This encourages, by the way, Mr. Speaker, American companies to move overseas, taking American jobs.

Here's another example: right now a foreign applicant can come into the United States, take a product which is being held as a trade secret by an American company, patent it, and make the American inventory pay royalty fees for its own invention. This really happens. Small businesses who testified in front of our subcommittee have shared their personal stories about this. Mr. ROHRABACHER'S bill allows this to continue. H.R. 400 allows the original American inventor to continue using his invention in the same way he was using it before he was sued by the foreign patent holder.

Here's another abuse, committed by foreign and American applicants, which Mr. ROHRABACHER allows and H.R. 400 stops. It's called submarine patenting. This procedure is a tool of self-serving predators who purposely delay their applications and keep them "hidden under the water" until someone else, with no way to know of the hidden application, invests in the research and development to produce a new consumer product, only to have the submarine rise above the surface and sue them for their innovation. One recent suit earned a submariner $450 million at the expense of consumers. Submariners do not hire workers, invest in the economy, or advance technology. They only live to sue others who do invest and contribute. Mr. ROHRABACHER will tell you that there are hardly any submariners out there and that they constitute a minuscule amount. Of course, we all know that if you make your living suing American innovators, you sue as many as possible and hope to settle for nuisance value. That's why many cases brought by submariners are not recorded. I urge everyone to take a look at the front page story of the Wall Street Journal about this problem which appeared on April 9. It is a great problem which my bill prevents.

So you see, Mr. Speaker, some folks are confused about what this bill does and what it doesn't do. There have been some concerns that have come up on which there has been great discussion and significant negotiation. Those will form the basis of a floor manager's amendment which I will offer on Thursday.

Inventors have complained that the Office has not been able to spend its valuable resources on the most important function of the Office—granting patents and issuing trademarks with quality review in the shortest time possible. The manager's amendment separates completely policy functions from operational functions. Policy functions are left to the Department of Commerce, while management and operational functions are vested completely in the PTO. This will allow the PTO to be led by a Director who will have only one mission: to process and adjudicate efficiently and fairly the important Government functions of granting patents and issuing trademarks.

Independent inventors and small businesses have expressed concern over the publication requirement contained in the bill. While publication has many benefits for both of these groups, the manager's amendment will give them a choice over whether or not they wish to be published. It will effectively exempt independent inventors and small businesses from publication by deferring it until 3 months after they have received at least two determinations on the merits of each invention claimed on whether or not their patent will issue. At this stage, the applicant knows whether or not his patent will issue, in which case it would be published anyway under today's law. If it will not be granted, the applicant can withdraw its application and avoid publication and protect the invention by another means.

Critics have been concerned about the language in the bill, taken from current applicable law, that allows the PTO to continue its current practice of accepting gifts in order to allow examiners to visit research sites to help them to a better job. In order to alleviate any concerns, founded or unfounded, the manager's amendment will explicitly subject the acceptance of any gifts to the provisions of the criminal code and require that written rules be promulgated to specifically ensure that the acceptance of any gifts are not only legal, but avoid any appearance of impropriety.

The manager's amendment will also adopt two measures included in a bill introduced by my colleague, Mr. HUNTER of California, which provide for an incentive program to better train examiners, and require publication for public inspection all solicitations made by the PTO for contracts. These are good ideas that make H.R. 400 an even better bill, and I thank the gentlemen for his contribution to this important debate.

While the current bill ensures that the Advisory Board for the new PTO should be comprised of diverse users of the Office in order to help Congress conduct more effective oversight, the manager's amendment will explicitly require that inventors be included as members. While this was always the intent of the provision, it will be clarified.

The Appropriations Committee has expressed concern over the borrowing authority in the bill, and critics, although many misunderstand how the authority works under the control of Congress, have made much ado about a procedure which would offer a small possibility for the new PTO to borrow money instead of having to raise fees on inventors to pay for any high technology future projects. Accordingly, the manager's amendment will strike the borrowing authority provisions from the bill.

In further guaranteeing an inventor at least 17 years of patent term from the time of issuance, the manager's amendment will allow inventors adequate time to respond to inquiries from the PTO regarding their applications. The manager's amendment will also allow inventors who were adversely affected by the change in patent term in 1995 to receive a further limited examination to avoid losing term.

Small businesses and independent inventors have been concerned that the new PTO may not recognize the longstanding reduction in fees applicable to these constituencies. The manager's amendment requires that the agency continue to provide that small businesses and independent inventors pay half-price for their patent applications.

Independent inventors have claimed that the reexamination provisions contained in H.R. 400 are too broad, even though they simply offer an alternative to expensive Federal court litigation that occurs today at the expense of and sometimes leading to the bankruptcy of small businesses and independent inventors. To make reexamination an even more attractive and cheaper alternative, the manager's amendment will require all multiple requests for reexamination to be consolidated into a single proceeding.

Importantly, reexamination is also limited to prior patents and publications and will not be expanded at all from the process as it is done today.

As you can see, Mr. Speaker, the committee has been constructively engaged with the small business and independent inventor community for over 2 years. These final safeguards for those constituencies will be added to the numerous safeguards already contained in the bill, including special provisions for the university and research communities.

SUBMARINE PATENTING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. ROHRABACHER] is recognized for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, the gentleman from North Carolina [Mr. COBLE] and I, who have disagreement, have great great respect for one another; and I am very happy to have the gentleman from North Carolina as an admired adversary on this particular bill. Although we agree on 90 percent of everything else, we strongly disagree on this particular bill. And I am very pleased that we can do this in the spirit of friendship. I thank the gentleman.

Just a couple thoughts about the battle that will take place here on the floor of the House of Representatives on Thursday. It is a battle between two different distinct points of view as to what direction our country should go in terms of patents.

There are several issues at stake. One of the issues is not submarine patenting. The submarine patenting which is being used as an excuse to pass all kinds of other things within a bill is not a factor in this debate.

The Congressional Research Service has found that my substitute, the Rohrabacher substitute, as well as the bill of the gentleman from North Carolina, [Mr. COBLE] bill, H.R. 400, will end the practice of submarine patenting.

This was found by an independent body that examined both of our pieces of legislation and came to the conclusion that the practice of submarine patenting, which was of limited importance to begin with, will be put to an end forever in both of our bills.

□ 1945

So both of our bills handled the problem, as described by an independent analysis. Obviously there are other issues at stake. Many of the things that the gentleman from North Carolina [Mr. COBLE] has described tonight I agree with. And I, in fact, agreed to put almost every one of those things into my substitute bill or agreed to support his legislation, if those things were continued to be in the bill except for the three major differences between us. There are three differences between the Rohrabacher substitute and H.R. 400, what I call the Steal American Technologies Act.

Those differences being, H.R. 400, which will be coming to a vote here, which was originally called the Patent Publication Act, its No. 1 goal is mandating that American patents, whether or not they have been issued, a patent application, will be published after 18 months so that every thief in the world, every person who wants to bring down our standard of living, every one of our economic adversaries will know all of our new technological ideas and secrets even before the patent is issued.

This problem is handled by H.R. 400 by saying, OK, if the Chinese or the Japanese or other thieves around the world steal the patent from the American inventor after 18 months, once that patent is issued, let us say 5 years later, that inventor now will have the right to sue the Japanese corporation or the Chinese corporation. The People's Liberation Army is stealing a lot of intellectual property rights. Imagine an American inventor trying to sue the People's Liberation Army.

This is a joke. This is not protection for the American people. This is a giveaway of American technology, and even the most unsophisticated person can see we do not give away our secrets until that patent is issued. That has been our right, and this bill H.R. 400 will take it away.

The second thing that will be in the bill that we have disagreed on, the other things we do agree on, we can correct those, is reexamination. This bill opens the door to actually making all kinds of new challenges against existing patents so Americans who own patents who now had very little, there is very little opportunity to challenge their ownership of current patents, will find that they are vulnerable to challenges from large corporations, foreign and domestic.

Our little guys, those small companies, are going to be tied up for years with litigation by people who are challenging their patent rights of a patent they already supposedly own.

Finally, the patent office has been part of the U.S. Government since the founding of our country. It is written into our Constitution. There has never been a scandal dealing with the patent examiners because they have been insulated from all outside influences.

This bill would corporatize the American patent office. It would take it out of the government as a government agency and make it a semiprivate, semigovernment corporation. Does that make any difference? We do not know what difference it will make.

This corporate entity will have the right to take gifts from foreign corporations and domestic corporations. It will have the right to accept money and gifts and in-kind services. And unlike other government agencies, there will be no rules. The rules are waived against this new corporate entity, the Patent Office, in controlling where those gifts are spent.

This is dangerous. I ask my colleagues to join me in opposing H.R. 400, the Steal American Technologies Act, and supporting the Rohrabacher substitute.

HEALTH CARE COVERAGE FOR CHILDREN

The SPEAKER pro tempore (Mr. LUCAS of Oklahoma). Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized for 30 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I am pleased to say I will be joined tonight by the gentleman from New York [Mr. SERRANO]. We are here, once again, to talk about the lack of health insurance for children throughout this Nation. The figure of 10 million children who are uninsured has been put forward on this House floor many times, and it really is a scandal and, in my opinion, completely unacceptable.

The number of children without health insurance is growing and it is increasingly children in working families who are without the coverage.

Just in my own State alone we estimate that over 200,000 children are without health care coverage. In one of the dailies in my district, the Home News, just a few weeks ago in April, they did an editorial saying how inadequate coverage for children was in my home State. And they specifically mentioned that the Families USA organization here in Washington estimates there are 553,000 children in New Jersey receiving inadequate or no health coverage. So whether it is 200- or 500,000 in New Jersey alone, it clearly is simply unacceptable.

What this really means is that many children simply do not get any care unless they get very sick and end up in an emergency room, and that procedure makes no sense. It makes no sense to not have a child be able to go to a doctor, get very sick, and end up in an emergency room. It costs a lot more to treat an ailment once it has gotten to a very critical stage as opposed to preventing it when it first starts to occur, and it is also very harmful to a child's future health.

Obviously we do not want children to be sick and be impacted in terms of their adult life. And I think a problem clearly exists here where working families should not have to be in a position of constantly worrying about whether their child will get hurt at the playground or catch the cold or a flu that is going around at the school.

In other words, what we have is working parents who basically have to make choices about whether they are going to take their child to a doctor or not as opposed to paying the rent or doing something else.

I just wanted to say that, and I think we have said it over and over again on the House floor, Democrats have for a long time been committed to helping families provide health care for the children. It was last June, it will be almost a year now, that the Democrats rolled out their families first agenda. And one of the priorities was to ensure adequate coverage for the Nation's children.

We also started at the beginning of this session a Democratic health care task force, once again, with its major priority being to try to address the problem of children without health insurance. So Democrats have been there concerned about this issue. What we need to have is the Republicans who are in the majority join us.

There was some progress in this regard in the last few weeks, I have to say. The gentleman from California [Mr. THOMAS] of the Subcommittee on Health of the Committee on Ways and Means did have a hearing on the issue of kids health care. I want to applaud him for taking the initiative and at least recognizing the problem. But action has to follow.

My concern is that, even though there was one hearing in the Committee on Ways and Means, that there was not any indication as a result of that hearing that any bill is going to come to the floor or any effort is going to be made to mark up a bill and take some action on this issue.

Several Democrats, including myself, sent a letter to the Republican leadership in the last couple weeks urging them to move forward by marking up legislation and bringing a bill to the House floor by Mother's Day and Father's Day respectively, and that, we are saying, is mark up a bill that addresses the issue of lack of health insurance for children, mark it up in committee by Mother's Day, bring it to the floor for a vote on the House floor, on this floor by Father's Day.

And it is our hope that we can create such a ground swell of support behind making children's health care a reality that House Republicans will be forced eventually into action.

I wanted to say, before I introduce my colleague from New York, that the Democratic health care task force at this point is not necessarily saying that we have to have any particular solution in terms of legislation. Some of us are in favor of expanding Medicaid. Others have talked about block grants to the States along the lines of the Kennedy-Hatch bill, which is gaining momentum now in the Senate. Some of us have actually introduced the Kennedy-Hatch bill here in the House, myself included, but we want to see some movement on this issue.

But whether it is tax credits, vouchers, Medicaid expansion, or block grants to the States, we want to see action, and we want to see a deadline set when we are going to address this issue of 10 million American children who do not have health insurance.

Mr. Speaker, I yield to the gentleman from New York [Mr. SERRANO], who has been on the floor with me and others many times over the last few months, trying to bring attention to this issue.

Mr. SERRANO. Mr. Speaker, I want to thank the gentleman from New Jersey [Mr. PALLONE] for having the vision to bring this issue to the floor and to discuss it as many times as we have and I know as many times as we will in the future.

The gentleman well says it when he says that our families first agenda speaks to this issue. And certainly when we look at the issue, I think what all Americans who are watching tonight have to ask themselves is, Are we talking about reinventing the wheel here? Are we talking about creating a new Government program? What are we really talking about?

It is very simple. I spend some time every day thinking about how lucky we are to live in this country and, at the same time, to compare what goes on in this country with what happens in other parts of the world. And we know that we are fortunate to be in a society that has been able to accomplish things other societies have not.

Therefore, this issue becomes very important and very sad as we discuss it, because health care is not a discussion about throwing money away. Health care is about a basic right. Children, therefore, become the neediest in society if they cannot attain basic health care.

What we are saying here is that in our country, if you were not listening to the beginning of this discussion and just listened to the middle part and we discuss 10 million children without health care, someone could say that we are in another Parliament or another legislative body somewhere in the world discussing a situation which fits into the conditions that they find themselves in. But we are not. We are in the U.S. House of Representatives in the U.S. Congress saying that 10 million children do not have health care available to them.

And as the gentleman so well has pointed out, the part that makes this really difficult to even understand is that most of these children are in families where both parents or at least one parent is working. So we are not talking now about many of the conversations we have on the floor on a daily basis or on a weekly basis.

We are talking about children that are within those families that supposedly are doing better in this society, but when it comes to providing health care for their children, they are not. The problem we have is that it is a burden, in my opinion, that we place on these American families that they should not have.

Again, I repeat, we are not talking about American families demanding a new road in front of their house. We are not talking about American families looking for a handout. We are not talking about a gift that Government will give to people.

We are talking about a basic human right, the right to decent health care. The country has the mechanism to deliver that health care, but in its lack of wisdom in this area, has allowed for 10 million children to fall by the wayside.

Now, when I say over and over again that we do not have to reinvent the wheel, I believe that. I believe that we have in this country the mechanisms which allow us to cover these 10 million children. And we are not, as the gentleman well has stated, saying to our colleagues across the aisle that they must do it our way.

What we are saying is, let us come together and let us do it. Let us celebrate as a nation the fact that we will cover 10 million children. In fact, if it was up to us, we would cover every American that is not covered right now.

Now, interestingly enough, and I go back to my usual argument, there are countries that we criticize on a daily basis where this would not be a discussion. They have other problems, but this is not a discussion. Everyone, from the time they are born to the time they die, is covered by health care. And so what we are doing here tonight is calling on our colleagues to say, listen, there are some issues that are political issues. There are some issues that we have to argue back and forth about. There are some issues that the public expects us to disagree on. But covering and providing health care for 10 million American children who are in need of this health care, to take this worry away from families, to take this dilemma away from working families, this is something we can do. If we set our minds to do it, we can do it.

Now, what really amazes me about this issue is that I do not know why they do not want to do it. I do not know, I cannot figure that out, because we are talking about something that the American public is in favor of.

Interestingly enough, let us use some labels, if you go to your most fiscally conservative middle-class American and say, here is what we are going to do, we are going to expand current programs and make some changes to cover 10 million children who do not have health care; do you have a problem with that?

I am taking a political chance here. I am saying they do not have a problem with that. What mother, father, who tonight knows her children has health care coverage, is going to be upset that another parent somewhere else who does not may begin to have it next month or the month after that?

□ 2000

This is not what Americans are about. We are about taking care of our neighbor and making sure that children are taken care of.

So I will do tonight what I have done every other night that we have spoken on this issue, and that is to reach out to those parents who tonight are helping their children with their homework. Perhaps they are taking a little time off to watch the Met-Dodger game and discussing with the children the celebration of the Jackie Robinson legacy and what that means to this country and to the future of this country. Perhaps they are tucking their children in bed and kissing them good night, knowing that they are secure within, not rich, not overflowing with gifts, but secure.

I hope that they will take some time and write to Members of Congress and say: Let us get this done. I do not think it is right that when I put my child to bed, I know that everything is OK in terms of health care with him, that it is provided for him, that we are covered, and that there are 10 million children somewhere else in this country that do not have this coverage.

I would implore these American parents do that tonight, to take that little time and write to those of us who have not seen the light tonight on behalf of those children, because what happens is, if the parents of those children do the only writing, then people will say, well, of course it is the ones who need the program, need the assistance, who are calling us; we need to hear from other people.

I think that this is something that we can all be very proud of. If we accomplish this, if we, one of these evenings, ourselves, go to bed knowing that there is not a child in this country who is in need of basic health care, I think then we can be proud of the work we are doing in this House.

Mr. PALLONE. I appreciate what the gentleman said and also the fact that he makes the point of reaching out and having the average person thinking about their own situation and how they may have coverage for their children and have that security but so many other American parents do not.

That is really the crucial issue here, that so many people lack that security, basically live the day and night knowing that if something happens to their children, they are not covered by health insurance.

I just wanted to say that our Democratic task force last week had a hearing, and we will probably have more hearings, but the basic purpose of this hearing was to get factual material about the nature of the problem. In the future, we will probably have hearings on specific legislation.

Families USA at that time had just put out a report, and it was really interesting in terms of what the gentleman just mentioned about how this primarily affects kids who have working parents. It is not very long, and I wanted to make reference to some of their key findings in that regard.

They were talking about their data that provides information about children without health insurance during a 2-year period, and the data showed the following:

That almost half of uninsured children, 47 percent, had uninsured spells of 12 months or longer; that one out of seven, 15 percent, lacked health insurance for the full 2-year period.

Then they went on to say that the uninsured child population, this population we are talking about, was comprised primarily of children whose parents worked. Of the children who lacked insurance for 1 or more months, 9 out of 10, 89 percent, lived in households where the head of household worked during all or part of the 24-month period.

Then it said that uninsured children are two times more likely, 69 percent versus 31 percent, I know these statistics get a little difficult, the uninsured children are two times more likely to live with a married rather than a single parent. Children uninsured for the entire 24-month period are four times more likely to live with a married parent. And of the children who were uninsured throughout the 24-month period, over one out of three had a head of household who was employed full-time throughout that 24-month period.

So, again, we are talking about children where both parents are working. Some of them are working two jobs. It is amazing, the statistics about the nature of this population.

The other thing that I just wanted to say again that comes from this Families USA report is that we are really talking about prevention. What the gentleman and I want to do here is provide a mechanism for kids to have preventive care. That is what really this is all about.

Most of the time, not all the time, but most of the time, if a kid gets really sick, they can go to an emergency room. I am not saying that is always true, but usually it is. But the problem is, when they get to that stage, it is almost too late. Oftentimes there is permanent damage.

Families USA at our Democratic task force hearing used the case of a young girl, this was not her real name, but they used the name, Maria. It is a real case, and they called her Maria. It said that when Maria entered a new school as a third-grader, her teacher believed she was performing below her potential. A health examination arranged by the school's Healthy Start Program revealed that Maria had suffered multiple ear infections, probably over a period of several years.

Maria's father ran a small nursery business and could not afford health insurance. Without insurance to pay for her care, Maria's ear infections were not treated. As a result, scar tissue built up within her ears. Maria became deaf in one ear and lost hearing in the other, and it took a year and a half to equip Maria with hearing aids after they had discovered this.

This would appear this was some sort of school clinic that detected the problem and, as a consequence, started the rehabilitation that eventually led to her having a hearing aid. But this is what we are talking about. We are talking about lack of care, not being able to see a doctor, which leads to permanent damage.

Ultimately, this child, although she now has a hearing aid, probably will never be able to fully hear and, with a small amount of money and a couple of visits to the doctor at the initial stage, before this started, probably would have had no problem at all.

So we need to think about the psychological and the physical consequences, and think about the costs, because how much more will it cost for the hearing aid and apparatus down the road as she becomes an adult as opposed to just a simple doctor visit in the beginning?

Mr. SERRANO. Mr. Speaker, if the gentleman would continue to yield briefly, as the gentleman mentioned, also this brings up another thought, and that is, on a daily basis we put a heavy demand on our school system. And we complain, we all do in this country, about the conditions of the schools if they are not what we want them to be in certain neighborhoods and the quality of the teaching if it is not what we want it to be in certain neighborhoods.

But at the same time, we do not realize that there are other factors that impact on that situation. What the gentleman just mentioned is a prime example. If children are attending school who are suffering an ailment or a condition that may have an impact on their ability to learn, we then have placed a teacher and the school administration in a situation that they should not be placed in. They now have to cope with that and try to figure out what the problem is.

So here we have a situation where we have a school-based clinic, which is a rarity in this society, but a school-based clinic may have picked up this situation of these ear infections which may leave this child permanently damaged for the rest of her life. Now, if that child had regular visits, the way most children in this country do, chances are that could have been picked up.

So again, where is the investment? Is it about what it might cost now, which we do not think we are talking about costs here, we are talking about expanding existing programs, or the investment that we are making in the health of that child and, therefore, the education of that child?

So I really think this one is an easy one. I know when we present something and we support it, we always try to make it sound like it can be done. But this is an easy one; this can be done. This is the country that can do it; this is the society that can do it; this is the Congress that can do it. All we need is the OK to say we will get together and do it. It is an outrage. It should not be. It is inhumane. It is improper. It is not a good investment for the future of our country, and it is not fair to these children.

One last point. It cannot be said enough. It cannot be said enough that we are now talking about children who have one, possibly two parents working one, possibly more jobs. We have to continue to repeat this, not because we want to listen to ourselves talk, but because people in some places in this country get the wrong impression, that we are talking about people who may not want to help themselves or who may not be looking for that service.

This is not available, and it is not available to people who can pay certain bills but cannot pick up a full visit at a doctor or hospital stay, because that is not the way it works in this country. It costs so much money to do that.

So once again I thank the gentleman for bringing this subject up again, and we will continue to discuss it at length until we get the action that we think the children need.

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman.

I really believe that we are starting to be heard. We know that, for example, on the Senate side there is a movement on a bipartisan basis to try to address this issue, and I just noticed during the Easter time, when we were out of session for 2 weeks, there was a lot of attention in the news media about it. So I believe that the more we talk about it, the more we will see some action on it.

I wanted to say, if I could, before our time is up, that there was some really good information provided by the General Accounting Office that talked about why children are uninsured, the categories, whom we are dealing with. They basically talked about three categories:

First, children who are eligible for Medicaid but not enrolled. According to the General Accounting Office, an estimated 3 million uninsured children are eligible but not enrolled in Medicaid. So that is the first category.

We might say, why is that the case? There are a lot of socioeconomic reasons. As we mentioned before, most of these kids have parents who work, sometimes two or three jobs. It is very difficult a lot of times for them to even get involved with the bureaucracy where they would go to Medicaid and sign up and fill out a lot of papers in order to enroll their children.

There is also a sense of pride, that Medicaid, probably wrongly, is in many cases now associated with welfare. So there is a stigma attached to it, and a lot of working parents, even if their children are eligible, simply will not enroll their children.

The second category are parents who earn too much for Medicaid but too little for private coverage. Again, as the number of employers simply do not provide insurance, if there is no group policy and they have to go out and pay for an individual policy, as the gentleman also knows, that is almost impossible for the average working family.

The third is parents who change jobs. Nearly half of all children who lose health insurance do so because their parents lose or change jobs. So, again, if we look at this over the 2 years that Families USA is looking at it, we can see there are times when kids are covered and not covered, that there are a lot of gaps because of the fact people are changing jobs.

And a lot of people in the lower income categories but who are working have temporary jobs and are subject to tremendous fluctuations in their job. They may change every 6 months or whatever because it is not a job necessarily that has a lot of permanence.

So it is a real problem that we have to look at the various aspects of it. And I am not saying there is an easy solution. All the gentleman and I are saying is that we want this addressed. We want the Congress and the House of Representatives to take it up.

I appreciate the gentleman's participating, again, and all the gentleman has done to speak out on this issue.

Mr. Speaker, I yield back the balance of my time.

TRIBUTE TO THE MEMORY OF JACKIE ROOSEVELT ROBINSON

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentlewoman from Florida [Mrs. MEEK] is recognized for 30 minutes as the designee of the minority leader.

Mrs. MEEK of Florida. Mr. Speaker, I want to help this Congress and America understand the dignity and the grace and the illumination which Jackie Robinson, Jackie Roosevelt Robinson, brought to our wonderful country, the United States of America. I am delighted to have this opportunity to host this special order, and it is going to honor one of the true greats in American history, and that is Jackie.

Why is it relevant to the Congress to even talk about Jackie Robinson or to address a special order to the memory of Jackie Robinson? First of all, it is so very important, No. 1, so that the young people in this country will understand that we have heroes in this country, and they are heroes because they worked very hard to bring glory not only to their athletic teams but to the glory of this country and to show the dominance which great athletic prowess can bring when it is used for the good of others.

That is why it is so significant that from this well we address many of our heroes, and tonight I am addressing Jackie Roosevelt Robinson.

Fifty years ago, that has been quite a long time, Jackie Robinson broke major league baseball's color line. He broke the color line. That meant that before Jackie there were no African-Americans in major league baseball. He broke this color barrier, and he opened up the doors that had long been closed to talented African-Americans, not only in baseball but in other activities throughout our country.

This may have been an opening through a sporting event, but it opened up many, many doors of opportunity to African-Americans throughout this country.

□ 2015

Jackie Robinson was a respected athlete, a respected gentleman, a respected family man. Therefore, Mr. Branch Rickey chose him because he represented to Mr. Rickey someone who could take the taunts of the public, someone who could be yelled at, someone who could be thrown at, someone who could be talked about and still keep his dignity and still show his athletic prowess on the field of baseball. He was the first black to play major league baseball. He overcame these insults and threats. He overcame them with talent and dignity, and he won recognition as a great baseball player and great human being.

That is what is so important about Jackie Robinson. He was not just a baseball player. He was not just an athlete. He was not just someone with athletic prowess, but he was also a great human being. He established an enduring model throughout sports, and he proved to all America that character and ability are keys to success, not the color of one's skin or not one's athletic prowess. The color of one's skin or athletic prowess is not nearly as important as character and ability. Because if Jackie had not had all of that, he could not have done what he did in the baseball world in this country. No one, not even other blacks who soon followed Jackie into the major leagues, could know what Jackie Robinson endured in 1947 when he entered major league baseball.

I had the pleasure of meeting Jackie Robinson in 1947 because he came to a small college in Daytona where I worked, called Bethune Cookman College, one of the primary good colleges in America today. Jackie Robinson came to Bethune Cookman College, and it was said at that time that that was the only place in Daytona where Jackie could get living quarters or living accommodations. The team was on Daytona Beach, but Jackie Robinson had to live at Bethune Cookman, a small black college. I say to the Speaker that that is an honor to Bethune Cookman College that Jackie Robinson slept there because of what he has done and what he has brought to this country.

So, then, he took a lot of abuse, occasional physical abuse as well as mental abuse, but he absorbed this abuse. Nor was it the early hostile attitude of some of his own teammates that was shown. I understand a little guy by the name of Pee Wee Reese was very helpful to Jackie Robinson, to help him bridge this gap and that he reached out to Jackie, because he could feel Jackie's problems as he tried to show the world that it was not all about just being a good baseball player, but being a gentleman.

Jackie Robinson was no ordinary man. He was a college graduate and one who had come from the State of California, his parents having moved from the South, and he brought a certain dignity that should have been brought. He was sort of a multi-dimensional person. He was not a one-dimensional person. You could not say that Jackie Robinson was just a good baseball player. He internalized much of the fears and much of the hate and much of the venom which was thrown after him. It takes an extraordinary man to do that and Jackie Robinson did it. He knew what he had to do. He knew what it was all about was much more than baseball.

Mr. Rickey knew that as well. That is why he chose Jackie Robinson. He knew he had to open doors which had long been closed to talented African-Americans, not only in sports but in many other activities. I think Jackie Robinson also knew that becoming a great baseball player was not his major motive as well, because he knew he was great. He had played with the Kansas City Monarchs and he knew that he could play baseball. He also knew that there were several other blacks out there who could play perhaps even better than he could, but they did not get the opportunity. So he knew he had to represent them. He knew he had to represent all of these small African-American children who would never get a chance for the kind of opportunity he was getting.

He carried the burden, I tell the Speaker, for the entire race, to show all America that blacks could compete not only on American playing fields, but also in its classrooms and corporate boardrooms.

Mr. Robinson's interest in baseball set a new tone for the country. I listened to Jackie Robinson's lovely wife on television as the entire country is paying tribute to Jackie Robinson, and they asked her did she think that Jackie would have done this even if it were not for baseball, would he have done it anyway, and she said, yes, and they also asked her how did he take the kind of poor treatment he got from the fans who were following the game, and she said that Jackie knew that he had a challenge and that he had to do this because it would help others and he had to prove this to others. So my summary of that is Jackie did this not for himself but for others.

The national sport of baseball and Jackie's interest in it made it much easier for football to continue in its integration, and it set a model for basketball as well. The glory of Jim Brown and Bill Russell are directly connected to Jackie Robinson's sacrifice and efforts.

I say to the young athletes who come around today, I wonder if you know that you are standing on the shoulders of Jackie Roosevelt Robinson, and many of them do not understand it. So it is good that we help America understand that if it were not for the strong shoulders of Jackie Robinson, they would not be able to do the things they are doing today. That is none of them, with no exception, because Jackie Robinson handled this task at hand, Mr. Speaker, and it meant much more than simply holding his tongue and fists in check on the baseball diamond that first year, it meant more than not being able to stay in the same hotel, it meant more than that. Jackie could have walked away by saying, "I can't stay in the same hotel as the white players. Therefore, I'm going to walk away." Or "I can't say what I want to say. Therefore, I'm going to walk away." "I can't throw back the threats which they are giving to me. Therefore, I'm going to walk away."

Jackie knew, even though he could not eat in the same restaurant as his teammates, he knew that there was a greater prize that would come because of his persistence in playing baseball and opening the doors for others. He was a part of a historic task of sweeping a whole lot of mental cobwebs from the minds of millions of white Americans and many black Americans who did not realize that this could happen. Many of them were probably unaware of their own bigotry and racism, and it was not until Jackie came along and they could see and hear the taunts that he was receiving and they could see how he received it with the calmness and sincerity of a man who is a true gentleman. His discipline and restraint were as crucial to the larger cause of black advancement in that first season as his aggressive assertion of his rights was to black respect in later years.

I do not want anyone to think that Jackie was just a doormat or a carpet. He was not that kind of a man. Quite naturally his success was on the baseball diamond, but that success also reached out into the world and helped other people have opportunities to enter things that African-Americans could not before. By Jackie playing and taking those kicks and taking those taunts, he encouraged the Brooklyn Dodgers to employ other black players. I remember how we used to just run to the radio, when many of us did not have televisions during those days, just to see Jackie Robinson run, and to see him run the baselines, Mr. Speaker, was beauty in motion, and it was the kind of physical endurance and the kind of physical prowess that so few people have and how he could dance off third base and make them throw the ball and he ran beautifully into home plate.

In turn, the success of the Dodgers encouraged competing organizations to reevaluate their color lines. And when I say Jackie Robinson opened up these color lines, not only for baseball and for major league sports but he opened it up for other kinds of color lines that were already there. Step by step, new models emerged and resistance weakened to equal opportunity. So he was Mr. Equal Opportunity and he should be recognized 50 years after the time when this happened.

I have heard the story of a baseball executive who believed that the hiring of Robinson would sink the Brooklyn Dodgers, and I remember how Mr. Rickey explained it to Jackie, as the type of person he would need to do this. Of course Jackie, being a very educated and a very articulate man, was able to converse with Mr. Rickey as to what his fears were, the fact that he had the kind of courage and behavior to do this. Soon after, Mr. Rickey agreed that Robinson would work out fine. He went to the other leaders in the Brooklyn Dodgers. But three black Dodgers people felt at that time would sink the Dodger franchise, and they thought that if three would sink the Brooklyn Dodgers, five would destroy the National League and eight would demolish the entire sport of baseball.

Now you say, "Well, Carrie, that's ridiculous, how could anyone think that African-Americans would sink a sport that was so greatly attuned in the American system as baseball"? But people did think that at that day and at that time.

By the end of 1947, the Dodgers had signed 16 black players. America understands that at that time there was a black league of baseball where very good players were there playing baseball, and they had a very good organization, and the major leagues were beginning to look at these black leagues and think of it, why not integrate some of them into major league baseball because they had the ability to play. So this opened up some of these players in the black leagues, and history is replete with stories about what happened in the black league and how good these players were also.

So then the farm teams began to look at baseball, and began to look at the black leagues and they began to bring people up. In the American League, the Cleveland Indians brought up Larry Doby, who was an outstanding outfielder at that time. He became the league's first black player, another opening brought on by Jackie Robinson.

By 1949, 56 black players had been signed by big league organizations. And by 1950, 5 major league teams had been integrated, to just show you the domino effect of a man like Jackie Robinson opening the doors 50 years ago.

By 1953, 7 teams were integrated. And by 1959, every major league baseball team had been integrated. Think of it. This was all because of the efforts, and all because of the persistence and all because of the respect that Jackie Roosevelt Robinson had.

He was liberated from passivity. Robinson assumed a very aggressive role. He was not there just to be a body or just some kind of baseball symbol but he was there to do his very best, to be a leader. He was aggressive, and the Brooklyn Dodgers followed Jackie Robinson. He fought back, not only against opposition base runners but against old patterns of racial segregation in hotels, restaurants, and stadium facilities. At the deepest level of significance, baseball's modern movement began with Jackie Robinson's assertion of himself, not only as a participating player but as an aggressive player on field and off. He could not have done it on field alone, it had to be off.

He not only changed baseball, Mr. Speaker, he changed America. Just try imagining baseball today without athletes of color. They help to make up this sport which is so, I would think, indigenous of our great country. Think of baseball without Henry Aaron, without Mo Vaughn, the current Boston Red Sox player who wears Jackie Robinson's No. 42 as a tribute. That is saying something for Mo Vaughn, to wear Jackie Robinson's No. 42. It is a very large shirt to fill.

In conclusion, Mr. Speaker, this special order has been one in which I have tried to help America understand the significance of Jackie Roosevelt Robinson, particularly black Americans, particularly young black Americans who may not have heard of Jackie Roosevelt Robinson, and how he broke the bounds of color in 1947. It is said that extraordinary lives often reveal extraordinary traits. Jackie Robinson had extraordinary traits. He was born in 1919 in Cairo, GA, the heart of the segregated South. His family migrated to California when he was 4 years old.

This whole legacy of Jackie Robinson is one that we can all take a lesson from. He crammed a whole lot into his 53 years, and he left a legacy of accomplishment. He left a legacy of perfection and accuracy, of acclaim, controversy and influence that has been matched by very few Americans.

Mr. Speaker, I declare that Jackie Robinson performed an historic breakthrough which has helped every American, black Americans included, to really come into what America is all about, and that is equal opportunity for all.

Mr. TAUZIN. Mr. Speaker, will the gentlewoman yield?

Mrs. MEEK of Florida. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I want to thank the gentlewoman for yielding, and I want to congratulate her for this special order and associate myself with her wonderful comments tonight.

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You spoke of the extraordinary person that Jackie Robinson was and what an extraordinary contribution he made to our country and to the more open society that we enjoy today. That legacy continues, as you know, in the beautiful performance just this weekend of a young man named Tiger Woods. The Masters is another great example of breakthroughs in our society. That young man took a moment to think about those who preceded him and opened doors for him and the grace and skill that he exhibited at the Masters Tournament I think is also a part of that legacy you talked about tonight.

I just want to congratulate you because an extraordinary tribute to an extraordinary man was delivered tonight by an extraordinary woman, and I think this House is grateful for your special order tonight.

Mrs. MEEK of Florida. I thank you for your comments, and we are so indebted to you as well. Thank you very much, so very much.

Mr. Speaker, I yield to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is with great joy and thanksgiving that I rise to pay tribute and recognize the contributions of a great athlete, diplomat, and gentleman, Jackie Robinson.

The American psyche has been filled with the achievements of Tiger Woods as the first African-American to win the Masters golf championship at the ripe old age of 21. Over the last few days I have seen smiles on people's faces of all ethnicities and races who may not share anything else, not even an equal appreciation for the sport of golf, but they love a winner, a young winner no matter what his race; and Tiger certainly gave us that.

Few sports fans in America today can imagine a world of segregated athletics where barriers prevent people of different races from playing together on the field of competition. This was not a policy limited to professional sports. It was the norm of the entire American segregated society, segregated, isolated from the joy that all of us have felt over the last few days at seeing a fresh faced 21-year-old American kid make good.

It is the American dream that our society was robbed of. People barred themselves from fully experiencing the pleasure of untempered excellence on the field of competition.

White-only signs littered the landscapes announcing to all who moved throughout society that there was a line that should not and must not be crossed. However, a colossal event on April 10, 1947 occurred. The sport of baseball helped to change the way America thought about the issue of race. The instrument of change for that day to this was Mr. Jackie Robinson by becoming the first black player to sign a major league contract.

Jackie Robinson was invited across the color line by Mr. Branch Ricky, the Brooklyn Dodgers' general manager. Together they made history. The Boys of Summer, as Roger Kahn's book refers to the Dodgers, made a very mature decision in inviting Jackie Robinson to join them. That decision is one that will affect the whole American society.

Mr. Speaker, they all knew that history was in the making and that some in their society may not be ready for the new day which would dawn the first time a Negro player joined a professional, formerly all-white team.

I would like to congratulate the Houston Astros today, on April 15, for they will honor and commemorate with the entire community in Houston Jackie Robinson Day. I am told that, as I speak, throngs and throngs of inner-city young people will be going to the Astrodome to recognize Jackie Robinson and as well to understand that baseball can be more than a sport, it can take and be an opportunity to bring all together.

Unfortunately, they were all right that time when they spoke about this whole tragedy of segregation. The first game that Jackie Robinson played professionally at Ebbets Field after his name was called and he joined the other players on the field, the fans did boo him. His new friend, Pee Wee Reese, captain of the Dodger team, went over to Jackie and placed his arm around his shoulder. Spontaneously, it seemed, the rest of the team followed suit by huddling around Robinson and making it clear to all that he was a Dodger today, yesterday, and tomorrow through and through. That is the spirit that will be in the Astrodome tonight with all of the young people from our inner-city and the 18th Congressional District with our owner as well, Drayton McLane, celebrating, commemorating the first person who broke the color line in baseball.

Jackie Robinson was on the field as the first statement on affirmative action, 27 years before it became a public policy goal. It was good then, it is good now.

The pitchers did not throw slower fast balls or straighter curve balls when Jackie Robinson went to bat. He earned every one of his runs to home base. Most of all, Jackie Robinson was a gentleman. He was someone who believed that he could show better by his actions than he could by using contrary and adverse actions to rebut those who would be racists.

On June 24, 1947, Jackie Robinson stole home base against the Pittsburgh Pirates, helping the Brooklyn Dodgers to win 4 to 2. On October 6, 1949, Jackie Robinson scored the only run in the Dodgers' 1 to 0 victory over the New York Yankees in game 2 of the World Series. And on April 23, 1954, Jackie Robinson stole home on the front end of a rare triple seal, helping the Dodgers to a 6 to 5 win over the Pittsburgh Pirates.

□ 1915

Jackie Robinson, with his talent, communication skills, and grit, spiced with determination, proved that indeed an African-American man had the intellectual capacity, physical capability, and spiritual fortitude to meet all challenges put before him on the field of competition. I believe that Tiger Woods, as he should have, has paid homage to the great Jackie Robinson for making that first step of American society, for without Jackie Robinson there may not have been a Tiger Woods. Jackie Robinson, we appreciate and thank you for your efforts on all of our behalf.

I heard one commentator who said that Tiger Woods was on capability what Jackie Robinson was on politics. Both of them were on capability, both of them stand as great Americans. I pay tribute to Jackie Robinson because he first opened the door to make America great.

Mr. Speaker, with joy and thanksgiving, I rise to speak on this special order offered in recognition of the contributions of a great athlete, diplomat, and gentleman—Mr. Jackie Robinson. And I would like to thank Congresswoman CARRIE MEEK for organizing this special order.

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I believe that Tiger Woods, as he should have, has paid homage to the great Jackie Robinson, for making that first step for the American society.

For without a Jackie Robinson there would not be a Tiger Woods.

Jackie Robinson we appreciate and thank you for your efforts on all of our behalf.

Baseball player Ed Charles wrote a poem about Jackie Robinson:

He ripped at the sod along the base path, As he ran advance of a base. On his feet were your hopes and mine. For a victory for the black man's case. And the world is grateful for the legacy, which he left for all humanity. Thanks, Jackie, wherever you are. You will always be our first superstar.

Mr. TOWNS. Mr. Speaker, today I am proud to rise and pay tribute to a great man who not only contributed to the sport of baseball, but one who contributed to all of humanity. In both instances, the late great Jackie Robinson prevailed and taught the world an important lesson; if given the opportunity any man can excel to the greatest heights.

Jackie Robinson was many things to many people. As father, husband, writer, political activist, military man, and of course, baseball player; Jackie did it all with ease, dignity, and respect. Jackie not only challenged the gentleman's agreement of segregated baseball, but he also won a court-martial case for refusing to sit in the colored section of an army bus when he was transferred to Camp Breckenridge in Kentucky where he later received an honorary discharge.

The love of his country kept Jackie determined to be the best that he could be. In 1947, he signed for $5,000 to play for the Brooklyn Dodgers baseball team where he led the National League with 20 stolen bases.

As we celebrate this great man, I personally had the opportunity to witness the unveiling of a roadside sign renaming the Interborough Parkway in my congressional district, the Jackie Robinson Parkway in honor of the 50th anniversary of his first major league game. This tribute is well deserved for a man who in his 10 years with the Brooklyn Dodgers helped them to win six pennants, to finish second three times, and to never finish worse than third.

Jackie Robinson rests at the Cypress Hill National Cemetery, in the 10th Congressional District in New York; we will continue to celebrate his life by breaking racial barriers and settling our own records of achievement.

Mr. CONYERS. Mr. Speaker, 50 years ago today, Jackie Robinson played first base for the Brooklyn Dodgers. It was the first time that a black baseball player took the field with a major league baseball team in the modern era. Although he did not get a hit in four trips to the plate, he did score the game's winning run. But most importantly, Jackie Robinson paved the way for thousands of athletes to follow and gave dignity to millions of African-Americans as they struggled in a society where segregation was institutionalized in its laws and customs.

Robinson did more than just break the color barrier in major league baseball. He excelled at, and helped redefine, the sport. He was named Rookie of the Year in 1947 and had a lifetime batting average of .311. Although he played only 10 seasons, he hit 137 home runs, drove in 734 runs, and stole 197 bases. In 1949, he was named the league's Most Valuable Player, and beginning in 1949, he was elected to six consecutive all star teams.

And what makes Jackie Robinson's baseball accomplishments all the more remarkable is the fact that many inside and outside of baseball tried their best to ensure Robinson's failure. Pitchers threw at him, runners spiked him, and opposing teams shouted racial taunts at him. Crowds booed him and sportswriters vilified him. But all of this only strengthened Robinson's resolve to prove himself on the playing field. And prove himself he did.

But I don't want to focus solely on what Jackie Robinson did on the baseball diamond, because his off-field activities and accomplishments are what made Jackie Robinson a truly remarkable individual. Given the racial abuse Robinson endured as a player, it would have been perfectly understandable for him to not get personally involved in the civil rights struggle of this country. He could have viewed his breaking the color barriers as his contribution to the African-American struggle. But as Robinson said in 1964, "Life is not a spectator sport. * * * If you're going to spend your whole life in the grandstand just watching what goes on, in my opinion you're escaping your life."

So after he left baseball, Robinson continued to fight for the rights of all Americans. He preached the message that racial integration and equality would not just improve the lives of African-Americans, it would enrich the Nation. "Negroes aren't seeking anything which is not good for the Nation as well as ourselves," Robinson once said. "In order for America to be 100 percent strong—economically, defensively, and morally—we cannot afford the waste of having second-and-third class citizens."

Every American President who held office between 1956 and 1972 received letters from Robinson expressing his concerns about their failure to advance the cause of civil rights as forcefully as possible. He made no regard to party affiliation—Democrats were just as likely as Republicans to hear from Robinson. Robinson was unapologetic about his political efforts:

> Civil rights is not by any means the only issue that concerns me—nor, I think any other Negro. As Americans, we have as much at stake in this country as anyone else. But since effective participation in a democracy is based upon enjoyment of basic freedoms that everyone else takes for granted, we need make no apologies for being especially interested in catching up on civil rights.

So as we reflect on the 50th anniversary of Jackie Robinson's debut in major league baseball, let us also reflect on what Robinson fought for off the field. African-Americans still are under represented in many segments of our society, from the front offices of major league baseball to corporate boardrooms to the U.S. Senate. Black babies still are more likely to die than their white counterparts and black motorists still are more likely to be stopped by the police.

And let's not be patient in our fight for justice and equality. Robinson realized that official calls for patience were really calls for inaction. After President Eisenhower, addressing an audience at the summit meeting of negro leaders, urged patience, Robinson wrote President Eisenhower, saying:

> I respectfully remind you sir, that we have been the most patient of all people. When you said we must have self-respect, I wondered how we could have self-respect and remain patient considering the treatment accorded us through the years. 17 million Negroes cannot do as you suggest and wait for the hearts of men to change. We want to enjoy now the rights that we feel we are entitled to as Americans. This we cannot do unless we pursue aggressively goals which all other Americans achieved over 150 years ago.

There is much still to be done in the civil rights struggle. So let us follow Robinson's advice and be vigilant and aggressive in our fight.

Mr. GILMAN. Mr. Speaker, I rise today to pay special tribute to the legacy of Jackie Robinson, whose monumental breaking of the color barrier in Major League Baseball 50 years ago we are celebrating this spring. I would like to thank the distingusihed gentlewoman from Florida, Congresswoman CARRIE MEEK, for sponsoring this special order.

As many of us will recognize today, Jackie Robinson's imprint on this Nation has been far-reaching, not only as a prominent African-American but also as a man who deeply cared about the importance of integration and improved race relations in this Nation.

Jackie Robinson was a man of great courage and character, two traits which he showed when he received the call from Brooklyn Dodger President Branch Rickey and made his debut for the Dodgers in 1947. Despite withstanding the taunts and ill-will of many fans and players alike, Jackie proved his mettle and earned the Rookie of the Year Award. Over the course of 10 seasons in the big leagues, Jackie amassed a lifetime batting average of .311, and led his league in batting in 1949 and won the National League's Most Valuable Player Award in 1949. In 1962, he was inducted into the Baseball Hall of Fame in Cooperstown, NY, becoming a member of baseball's most distinguished fraternity.

While Jackie Robinson will forever be remembered as a Hall of Fame ballplayer, his strongly held convictions and advocacy of civil rights and improved economic opportunities for African-Americans sets him apart as one of our Nation's outstanding citizens of all time.

Mr. SCHUMER. Mr. Speaker, today all of my colleagues from Brooklyn joined me to introduce legislation awarding a Congressional Gold Medal to Jack Roosevelt Robinson.

The legislation cites Jackie Robinson's "enduring contributions to racial equality, athletics, business, and charitable causes" as the ample justification for this honor. But he would deserve 10 gold medals just for his most famous act.

On April 15, 1947, Jack Roosevelt Robinson changed America forever. All he did was walk out onto the grass of Ebbetts Field to play a game for a few hours. But those few steps were as important in our history as the moonwalk.

Like the moonwalk, Americans old enough to remember know just what they were doing that day.

And the courage he showed was just as great as the courage of those astronauts.

From the moment Jackie Robinson integrated baseball, he began to integrate America too. The next year, the Armed Forces were desegregated. The Nation's schools followed a few years later.

The last time Jackie Robinson stepped to the plate in 1956, America was a very different place—and it was on its way to even greater changes in the near future.

The path was never easy, but finally our Nation was forced to confront the legacy of racism and the challenges of creating a truly united country.

For Brooklyn, that day in 1947 is an especially treasured moment. We are bursting with pride that Jackie Robinson made history right here.

But in a lot of ways it makes sense that he took that moonwalk there, because for the 10 years that he wore number 42 for our Dodgers, he was Brooklyn's hero.

And the reason is simple enough: Jackie Robinson captured Brooklyn's heart, because he captured the spirit of Brooklyn. If you are a typical Brooklynite, Jackie Robinson represents your dreams, and your vision of how you wish you could be.

There's so much trite talk today about how modern athletes should try to be better role models for our kids. But Jackie Robinson never seemed to try. He seemed to effortlessly represent all the values that Brooklyn aspires to: steadiness and success, toughness and tolerance, chutzpah and grace.

First of all, Jackie Robinson was an all-time great baseball player. He richly deserved induction into the Hall of Fame, regardless of his role as a racial barrier-breaker.

Jackie Robinson was no token—he earned his status every day where it counted: on the field.

In that first game, on April 15, 1947, he scored the winning run.

In his first season, Robinson won Rookie of the Year, led the league in base stealing, and batted .297.

And he kept up that level of skill for a decade with remarkable consistency.

Most fans know that his lifetime batting average was an impressive .311.

But some don't realize how consistent he was. If you look at his career averages against lefties or righties, in day games or night games, at home or on the road—all these numbers vary from one another by only 16 points.

That kind of steady skill is something the typical Brooklynite always aspires to. We want to be good at what we do, day in and day out—reliable, consistent, accomplished.

If you ask most people around the country, they also think of Brooklynites as tough—and they're right. That's another quality that Jackie Robinson shared in abundance.

He faced taunts and stony silence, brushback pitches and spikings, segregated hotels and even death threats. But none of it ever stopped him.

In his first season, he was hit by pitches nine times. But Jackie Robinson never charged the mound.

Instead, he just kept playing great baseball, and he became a hero.

These are the sorts of challenges and hostility that few of us can imagine. It took unbelievable toughness to withstand the pressure.

But Jackie Robinson had it, and Brooklyn loved him for it. Whenever you feel like you're up against the entire world—and Brooklynites feel that way a lot—you can get through it if you summon up half of his toughness.

That steely determination was matched by another Brooklyn specialty—Jackie Robinson had guts.

On the field, his audacious baserunning made every pitcher nervous and revolutionized the game.

No matter how swift you are, it takes lots of chutzpah to steal home 19 times, as he did.

And it took incredible guts to step forward as baseball's racial pioneer.

He knew the challenges when he signed with the Dodgers. Many other players would have backed away from such a task. But by all accounts, Jackie Robinson accepted the assignment with hardly any reservations.

Finally, Brooklyn is also one of the most diverse places in America. What better place for Jackie Robinson to be a champion of diversity than right here?

The borough is almost 40 percent African-American and 20 percent Hispanic. Three out of ten Brooklynites were born in another country, and 4 out of 10 Brooklyn households speak a primary language other than English.

There have been some infamous, horrible times when that diversity has divided our community in ugly incidents. But much more often, it is a point of pride for Brooklyn.

Jackie Robinson showed us the way to tear down the barriers that divide us, and then to draw on that unity as a source of strength.

He did it before he played ball—as an army lieutenant—when he faced a court martial for refusing to move to the back of a military bus. He did it after he played ball, when he marched with Martin Luther King.

Ellen Roney Hughes, who is organizing this year's special Jackie Robinson exhibit at the Smithsonian, points out how "his technique of peacefully breaking down the system became a civil rights technique."

And she's absolutely right.

Jackie Robinson's greatest legacy to all of us—whether we're from Brooklyn, New York or Brooklyn Park, MN—might be the talent, the toughness, and the guts he showed in challenging bigotry with deeds rather than words.

He put it best himself, when he said: "a life is not important, except in the impact it has on other lives."

In that case, I'm sure you'd agree that Jackie Robinson's life was among the most important America has ever known.

I urge all of my colleagues to join me as a cosponsor of this proposal, and thus appropriately honor this incredible life with the Congressional Gold Medal.

Mr. SABO. Mr. Speaker, I rise today to pay tribute to Jackie Roosevelt Robinson, who 50 years ago today broke the color barrier in major league baseball.

Mr. Speaker, I am a baseball fan. Whether it's amateur or professional—and particularly when it's Congressional—I have loved the game of baseball my whole life.

Jackie Robinson was one of my earliest baseball heroes, and I was a Brooklyn Dodgers fan because of him. When I was a boy, I remember running home from school to listen to the Mutual radio baseball game of the week, especially for Jackie Robinson and a Brooklyn Dodgers game broadcast.

As a boy, I admired Jackie Robinson as a great baseball player. His achievements in 10 seasons with the Brooklyn Dodgers are still amazing to consider: 1947 National League Rookie of the Year, 1949 National League batting champion and Most Valuable Player, a .311 lifetime batting average, 197 stolen bases, and a 1962 Hall of Fame inductee. For baseball fans, these statistics are a marvel. But, Jackie Robinson's legacy is so much more significant than great baseball.

Today, I admire Jackie Robinson as a great man. He bore the full brunt of racial prejudice during a shameful period in our Nation's history. Robinson was vilified for being the first African-American to play and excel in white major league baseball.

While Robinson's terrific baseball skills soon quieted his racist critics, the experience of being the first African-American to integrate major league baseball was not easy for him. He suffered snubs and insults from players and fans, and endured more than his fair share of runners' spikes and brush-back pitches. But he withstood every test. And, slowly, but surely, more and more baseball fans began to see past the color of his skin and respect Jackie Robinson for the truly great baseball player he was.

Jackie Robinson had a sixth sense about running the bases. He would dance off a base, challenge pitchers and taunt catchers—daring them to do something about it.

"Daring," he once said. "That's half my game."

Jackie Robinson's daring smashed racial myths of the day and made him a baseball legend in the process. He changed the game of baseball and American society forever—leading the way for other African-Americans who wanted to play. But, more importantly, he defied racial prejudice in America with grace and courage.

Mr. Speaker, Jackie Robinson was a true American hero. We celebrate his baseball talents, but his strength of character and commitment to social justice are what we most proudly remember him for today. He has a special place in our Nation's history—and in my heart.

GENERAL LEAVE

Mrs. MEEK of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order today, a tribute to Jackie Roosevelt Robinson.

The SPEAKER pro tempore (Mr. LUCAS). Is there objection to the request of the gentlewoman from Florida?

There was no objection.

CITIZEN PROTEST OF THE INTERNAL REVENUE SERVICE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Louisiana [Mr. TAUZIN] is recognized for 60 minutes as the designee of the majority leader.

Mr. TAUZIN. Mr. Speaker, tonight we gather in a special order on a special day. Today is of course April 15, the day the tax man cometh, and as I speak Americans across this land are scrambling to reach the post office by midnight tonight, scrambling to fill out those last forms and read those last instructions and those complicated booklets, trying to fulfill their duty as an American and to file their income taxes as required by law.

Tonight I am joined in this special order by my dear friend and colleague from Colorado DAN SCHAEFER. DAN SCHAEFER and I just came back from Boston, MA earlier today. We traveled to Boston, MA, the site of this Nation's birth of freedom for a very special reason on this April 15. Today in Boston Harbor DAN SCHAEFER and I were joined by three of our colleagues who came to Boston and have joined us in support of a very important idea that we wanted the Nation to begin thinking about and to begin debating this year.

We journeyed to Boston, to Boston Harbor, in commemoration of an event that occurred on December 16, 1773 in that very same harbor, and we gathered at the site at Boston Harbor where in fact the birth of liberty, the birth of freedom, the idea of America first came to reality.

In that harbor in Boston, Congressman DAN SCHAEFER and our colleagues literally reenacted that event of December 16, 1773. We got aboard the brig, the Beaver, which is a replica of the original brig, the Beaver, that was there along with two other ships, the Dartmouth and the Endeavor, both of which were there to—I am sorry, the Eleanor, the Dartmouth and the Eleanor, both of which were there docked at the harbor along with the brig, the Beaver, filled in tea shipped in by companies in Great Britain under a monopoly arrangement and subject to a tax on tea that the colonists found great fault with.

As you know, on that fateful evening about 50 colonists, led in part by young Sam Adams and many other patriots including John Hancock and the likes of Paul Revere, gathered together as sons and daughters of liberty meeting at the Green Dragon there in Boston Harbor and determined to resist this foreign taxing power and determined to assert their rights as citizens of this country, citizens of colonial America then to determine their own destiny apart from this power in Great Britain that was determined to tax them without representation.

On that fateful evening, dressed as Mohawk Indians, they docked those ships, boarded those ships rather, and tossed the tea into the harbor in an event that clearly led to Lexington, clearly led to Concord, clearly led to American independence, clearly began the process by which this great Nation was founded, founded on those principles of liberty and freedom and the fact that citizens of this country were indeed masters of their fate, that government would always be their servant.

And so today we gathered in Boston Harbor, new sons and daughters of liberty, gathered there with citizens from across America to declare that on this day we begin the process of debating here in this country, here in this Congress, whether it is time indeed to take on the taxing power of this Government and declare our personal freedom again.

Today we dumped the U.S. Tax Code in a tea box into Boston Harbor in a deliberate protest announcing our decision today to file the Schaefer-Tauzin bill which is the first bill filed along with the one we filed last year to repeal the income tax of America, to abolish the IRS, to repeal in fact all income taxes in this country, including gift and inheritance taxes, and replace them all with simple, straightforward national retail consumption tax.

I am pleased to yield to my friend, the principal sponsor of the legislation, who joined me and our colleagues in Boston Harbor for this demonstration of citizen protest against the U.S. tax system and its taxing agency, Congressman DAN SCHAEFER.

Mr. DAN SCHAEFER of Colorado. I thank the gentleman for yielding, and this truly was an eventful moment, I feel, and four other Members also feel what happened.

Some people have called this a radical move. I call it revolutionary, and if we started the revolution today, I am proud of it. It is going to take people all across this country joining us in this endeavor to get this Tax Code out of our hair once and for all and go to a very sensible tax that we now will allow the American people to decide on how they are going to pay their taxes, not the IRS and not Congress anymore. And I think when we start talking about this from coast to coast, north to south, people are beginning to come aboard.

A year ago the debate had already begun, and since then we have been on talk shows, radio, TV, all of us have, and it is starting to gel, just the people who were there today that were holding up the placards were from California and from Texas and from Oregon and Florida and Arizona and everywhere, and they made a long trip. There was an 88-year-old gentleman who came in from Houston into Virginia, drove 8 hours to get up to Boston. Now that is dedication.

Mr. TAUZIN. Mr. Speaker, I thank my friend.

Also joining us tonight for this special order is another gentleman who joined us in Boston. In fact he preceded us. He went the night before, he was so excited to be a part of this event, the honorable Congressman from the great State of Georgia, CHARLIE NORWOOD.

Mr. NORWOOD. I thank the gentleman from Louisiana [Mr. TAUZIN] and I am delighted to be here tonight with the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from Louisiana [Mr. TAUZIN], and in fact I have been delighted to be with you all day. It has been one of those exciting and exhilarating days, and I agree with both of you. It was a little part of history today.

As a school boy I always fantasized being one of those Indians that dumped the tea into Boston Harbor originally, and I have to tell you that I thoroughly enjoyed myself today as we made a statement across the country saying that the present tax system will not do any longer; the American people have had enough of it, it is unfair, it is too complex, too complicated, and we need to take a step like we took today in an effort to do the wonderful things we are doing.

I mean, how can you not be for anything that will repeal the corporate income tax, the personal income tax, the inheritance tax, capital gains, gift tax? I mean, how can you not be for that, knowing that we are going to very nicely fund the country on a 15-cent sales tax, and I hope tonight we will talk about this a little bit and help explain to the American people more details in your fine bill.

Mr. TAUZIN. I thank the gentleman, and let me first announce that what we started today was most importantly a debate on the current tax system. Most importantly what we did today was to say to all Americans that you ought to seriously consider and not trivialize, seriously consider whether or not the income tax system that we in this Congress vote on yearly and change every other Congress, the income tax system which is the basic funding mechanism for this government in Washington is a good system for this country or whether it is a bad one; and if it is a bad one, to seriously consider with us a national grassroots effort to educate America and, more importantly, the Members of this Congress and the Senate who are going to make the difference if they vote correctly to one day consider abolishing this system in favor of a better one. That is the first decision we have to talk about: Is the current income tax system good for this country or is it bad for this country?

So I suggest we do that first. Let us have a discussion, if you will, about why the current income tax system is a bad tax system for a country in this century, about to enter a new century in an increasingly globally free trade economy. Is this a good tax system for citizens who are filling out those forms tonight? Is it a good tax system for workers who are out there struggling to feed their families, educate their kids and leave something for their grandchildren and others to enjoy when they pass away? Is this a good system or is this a bad one?

I yield to my friend from Colorado.

Mr. DAN SCHAEFER of Colorado. I thank the gentleman for yielding very much, and I think when we all do town meetings out there we talk about a lot of different things, but I do tell you one thing. The issue that gets everybody going very, very quickly and very, very favorably is talking about this tax system.

Now they know that when they go and make out those taxes and mail them in today that they should sprinkle holy water on it before they mail it because who knows what is going to happen? There have been a number of polls out. You take your taxes to a CPA. He figures them out. He figures them out, or she figures them out; then you take them to 15 other CPA's, and they will all figure them out different. So who is wrong and who is right? And the IRS will tell you it is a different figure altogether.

There is one thing right there, and, my colleagues, when you get on these talk shows, and the one thing that I continually say is how would you like to take all of that money that was withheld from you in your last check and put it in your pocket, and you could decide whether you want to spend it or save it or whatever you want to do? It is yours. If you consume it, if you buy a television set or if you buy a piece of furniture or a suit of clothes, sure you are going to pay a 15 percent tax. But everything else is gone, and I just say that the American people are the ones who are pushing this one and we have to be the catalyst to make it grow.

Mr. TAUZIN. I yield to my friend from Georgia.

Mr. NORWOOD. Mr. Speaker, I would also like to point out: Is this a good system? I note that I certainly do not understand the Tax Code or the system, and I am not sure that my taxes were right today. I have what I consider one of the best CPA's in Georgia, and he readily tells me, "Well, I don't understand this tax code, I'm not sure if I have it right. I can call on the IRS and ask them if they know what the system is all about, and they say, 'Well, I'll give you an answer, but I'm not sure if we have it right.'"

The IRS tried to correct that and purchased a $4 billion computer and after trashing a $4 billion computer they say, "Well, the computer doesn't understand if we have it right," and I am struck by the quote from Albert Einstein: The hardest thing in the world to understand is our income tax system.

Now if Mr. Albert Einstein cannot understand our system—and I do not think we have a lot of Mr. Einsteins over at the IRS—how do we expect the average person in the 10th District of Georgia to have submitted their taxes today without considerable fear?

Mr. TAUZIN. I thank my friend. Let me point out that the IRS Tax Code, according to editorial IRS, the problem is power of Investors Business Daily, April 11, 1997. The IRS contains now in its code and regulations 5.5 million words, 17,000 pages. It was a pretty hefty chest we threw over into Boston Harbor today. It is so complex that it is a wonder anybody understands it.

In fact in 1986, if you recall, Ronald Reagan offered us a plan called simplified income taxes, and that plan was passed. It reduced the rates of taxation from 14 down to about 2. Well, guess what has happened since 1986 again? Since 1986 this Congress made 4,000 individual changes in that Income Tax Code of 1986. It is now up to five rates and growing daily, and today we are told that Americans have to work on average until May 9 just to pay taxes in America—if they can figure them out and file their forms correctly.

□ 2045

And if the tax, if the tax forms are filed, and the IRS decides that you did something wrong, guess what happens in America? Unlike a Federal court, where you might be indicted and yet presumed innocent until a jury finds you guilty, with the IRS we created, you are guilty until you prove yourself innocent. It is the most un-American system I think we could ever devise in a country that was founded on the principles of liberty and freedom, as our forefathers who gathered in Boston Harbor thought about a country all those years back to 1773.

In short, what we are saying is that the Income Tax Code is not only incomprehensible to most of us and to experts, it has become a burden on our society. In fact, in America, we spend nearly 300 billion of manhours preparing those tax forms.

In the Kemp Commission report filed just recently, last year I think it was, the Kemp Commission reported that the small businesses in America, they will spend $4 for every $1 they send the Government tonight, just doing the paperwork, just doing the records and the procedures that lead to the filing of that tax form.

In short, we have a system that is out of control; we have an agency that is un-American. It is time to seriously consider replacing it with a better system.

I yield to my friend from Colorado.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I thank the gentleman for yielding.

I took the liberty of going back and pulling up the 1913 tax forms. Now, this was a surprise. There were 14 pages of explanations. Now, only 14, my friend from Louisiana, and the forms that you fill out were withholding, deductions, and what you had to pay, three forms. Now, I do not know how many are in that Tax Code, but it was very, very heavy when we lifted them in that one single tea box with that chain around it today.

So what has happened, and the gentleman is exactly right, we go back to that 1986 bill. We have over 8,000 pages now of codifications, rules, regulations, and everything else stuck in there, and I do not know how anybody can figure anything out of what we have.

So that is what is bad with it. It is too complicated. It is just too complicated. That is what we want to do, is simplify it.

Mr. TAUZIN. Mr. Speaker, I will give my friend a better reason why the Income Tax Code that we run this Government with is lousy for every working American.

The Income Tax Code that we run this Government with, that only taxes your income, it taxes your spending, it taxes your saving, it taxes your investments. It taxes your gifts to your children, whether you are alive, or if you are trying to give it to them when you die through inheritance. It taxes you on the same money over and over and over again.

Now, why does it tax you more than once? Let me explain that. It taxes you more than once because once you paid your taxes, once they have been withheld from your paycheck and you go out into the marketplace and try to buy something in this society, if you dare to buy anything made in America, if you can find anything made in America on the shelves of the store in your town, you are going to pay an IRS premium on that purchase.

How much? Economists tell us that the cost of the IRS system, the cost of all of this filing of all of this paper, all of these manhours, all the taxes that are paid by the farmer, the miner, the forester, the manufacturer, the shipper, the wholesaler, the retailer, by the time that box of cereal reaches you at home, so much taxes and cost to the IRS have been applied to the manufacturer of that product that you paid 10 percent to 15 percent more as a hidden IRS cost in everything made in America.

Now, here is the real tragedy. If you buy something made foreign, if you buy an imported product, you do not pay that tax. So guess why we buy so many foreign products in America? Those foreign products coming in in a free trade GATT society come into America without having to pay the income tax load, because the countries where they are shipped exempt them from the VAT taxes they impose at home. Those taxes come in untaxed to America and compete on the shelf with a product made by American labor that bears a 10 to 15 percent hidden IRS tax on it.

We wonder why so many jobs are leaving America. We wonder why so many Americans are buying foreign products, why so many retailers are reaching out across the globe to find products to bring into this country instead of manufacturing them here. We wonder why Pat Buchanan stirred up America, the peasants with pitchforks, to complain about the GATT Treaty. It was not the treaty that was at fault, it was our Tax Code that said in America we are only going to tax American labor, we are only going to tax American products, we will not tax foreign products coming in.

How do we change that? We cannot change that with an Income Tax Code under the GATT Treaty. We can only change it if we get rid of the income tax and impose a common tax on the purchase of goods made in America and goods brought in, imported into this country.

How serious is it? For every $1 billion that we lose in export trade, 19,000 American jobs are lost; 19,000 Americans are out of work, because our Income Tax Code, for every $1 billion of foreign trade that we lose.

How many of those billions could we attract back to home if we suddenly ended this 10 to 15 percent IRS cost on the products we make in America? How many families could have a job again? How many people could be productive again in this society? How many manufacturers could be hiring people instead of laying people off if we simply had a Tax Code that treated people fairly in America?

In short, we are talking about an Income Tax Code that taxes us when we earn money; it punishes us when we save money, because it taxes our interest earnings; it punishes us when we invest, because it taxes our investment earnings and our capital gains; it punishes us if we buy America; and it rewards us only if we buy something imported into this country, manufactured in some foreign country.

What a lousy Tax Code. Who would want to keep such a Tax Code? Who in this body, given a choice to substitute that Tax Code for one that treated American labor and American products fairly, that taxed both the import and the domestic product equally, like most other countries do, and that send our exports into the world without the cost of the IRS on their back? Who, given that choice, would not vote for it tonight, today?

Well, the truth is, we have a lot of educating to do. We have a big job, starting this day, starting in that Boston Harbor to educate Americans about just how lousy this Income Tax Code is, how depressing it is to the U.S. economy, how it damages American workers, how it literally discriminates against American products, not only in our own market, but all over the world.

A Tax Code like that deserves to get ripped out by its roots, it deserves to get dumped in Boston Harbor, and it deserves to get abolished by this Chamber.

I yield to my friend from Georgia.

Mr. NORWOOD. Mr. Speaker, if the gentleman would yield for a question, because I think he made a very good point, but if he will walk me through it a little bit where I can perhaps understand it a little better.

What we are saying is an end-use consumption tax. That means, for example, the farmer goes out and buys a tractor and seeds, and he pays no tax under our bill. He plants his seeds and produces the wheat. He pays no tax. He ships the wheat to a miller. From the miller it goes to a baker, and from a baker it goes to the retail outlet. All the way along the line now, there has been no tax under our bill. Is that a correct statement?

Mr. TAUZIN. Mr. Speaker, the gentleman from Georgia is accurate. So what the gentleman from Georgia is explaining is the alternative to the income tax, what we describe in the Schaefer-Tauzin bill as a national retail consumption tax.

The gentleman is correct. Under our concept, there is no tax on the income earned by the individual or by the business. There is no tax on any of the processes that produce a product in America. The only time there is a tax is when the product is eventually sold for consumption, and it does not matter whether that product is made in America or imported into this country from foreign lands. When it is bought for consumption in America, our bill would provide a 15-percent retail consumption tax in the place of all those other taxes that currently burden us so badly.

Mr. NORWOOD. Mr. Speaker, is the gentleman saying our consumption tax bill will increase jobs, so if we do the same scenario with a tire, and we get to the point where we are ready to export that tire, that tire then does not have that 15 cents' worth of taxes on it, does it?

Mr. TAUZIN. Mr. Speaker, the gentleman is exactly right. The gentleman is exactly right.

Under the current Income Tax Code, when we manufacture any product, let us take that box of cereal, all the way from the farmer all the way to the retailer, when that product is sold in foreign commerce today, it bears all the costs of the IRS in its price.

That is why it fails to compete when it gets overseas, because guess what happens if you ship it to England? In England they put another tax on it, so it is taxed in England and it is taxed in America. When England sends a box of cereal to America, they exempt that box of cereal from their value-added tax. We do not tax it when it gets here, so it comes in tax-free.

In short, our products are at a great disadvantage with our Income Tax Code, and, in short, if we changed it to what the gentleman from Colorado, [Mr. DAN SCHAEFER] and I have recommended, that box of cereal would enter the market in Great Britain, let us say, without a single IRS tax on its back. It would get the VAT tax when it got there, but it would compete fairly against the English box of cereal that also had a VAT tax on it. In short, we would equalize our products in the marketplace, establish a fair playing field in exports, and we would create American jobs the likes of which we have not seen in decades.

Mr. NORWOOD. Mr. Speaker, what happens to the box of cereal produced in England then that is shipped to our country for sale?

Mr. TAUZIN. If it is produced in England and shipped to America, the value-added taxes that would be imposed in England are exempted. They are actually rebated back to the producer, and that box of cereal enters America without the value-added tax on it, and it sits on the shelf right next to the box of cereal that was produced in America with all of those income taxes on it. So one has a 14- to 15-percent disadvantage. Which one is it? The American product.

The same thing is true when we send that box of cereal to England. It carries that 14 and 15 percent IRS tax on its back, and it gets the English value-added tax on it, and it sits on the shelf next to the English product that only has a value-added tax. Guess who suffers a disadvantage? The American product again.

So when Pat Buchanan was running around complaining about how free trade was damaging American workers and sending jobs overseas, he was right, but the real culprit is not the GATT Treaty, the real culprit is our tax laws which penalize every worker in this country, every American product, whether it is sold domestically or in foreign lands.

Mr. NORWOOD. Mr. Speaker, the gentleman from Louisiana makes the point here then that if we go to the consumption tax, we have almost a 30-percent spread in products that will be produced in this country going our way. That is what you mean by, it will increase jobs in this country, because we are better able to compete; therefore, we will have more jobs in this country.

Mr. TAUZIN. Mr. Speaker, the gentleman is right. We do not have to penalize ourselves in a free trade global environment. What we ought to do is treat ourselves as well as we treat any foreign product, but we do not. We penalize ourselves at home, and then we penalize our products when we sell them abroad, and the penalty is 20- to 30-percent.

Now, I would ask my colleague to tell me how, with a 20- or 30-percent penalty, America cannot see its jobs continue to fly overseas and why, if we could get rid of that penalty, those jobs would come back home.

I yield to my friend from Colorado.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, the gentleman mentions in a couple of cases with this box of cereal, and I think it is very, very important that the American people understand, this is not a value-added tax. A value-added tax is a terrible way of taxation. All along, every time a product changes hands, there is a new tax added on it. This is not a value-added tax.

The second thing that is wrong with this system that we have is this lousy inheritance tax that is out there. People work all their lives to build a farm or a business or whatever it is, and they want to finally give it to their children. The IRS steps in, takes 50, 60 percent of that hard-earned money that people have labored over.

Mr. TAUZIN. The gentleman forgot a step. It is hard-earned money that they have already paid taxes on.

Mr. DAN SCHAEFER of Colorado. That is exactly right.

I want to make one other point, and the gentleman from Louisiana already has, and this is bringing jobs in.

□ 2100

If we look at the people in this world, and we have talked to them, who are international marketeers, they say, do you realize what would happen if you passed a piece of legislation like this? Manufacturers in foreign countries would say, we can come over here, build a factory, create jobs, turn around and export, no taxes. But, the important thing is that we are creating a lot of jobs, and that is all good for the American economy.

Mr. TAUZIN. Mr. Speaker, I think we have concluded and we should all conclude that the American income tax system is far more complicated than we could understand. Even Albert Einstein could not understand it. But it has reached a point in this historical setting where it has been amended and tinkered with so many times that it gets more complicated every time we see it; that it has become so incomprehensible that Americans tonight, I am sure, are struggling to fill out all those forms, as we struggle every year; that April 15 has become a day of tyranny in this country, a day in which we indeed wanted to celebrate the birth of our Nation's freedom in Boston Harbor by declaring that today we begin the process of educating Americans and the Members of this body on why the income tax is terrible for this country, and why we ought to seriously consider repealing it, removing it, and substituting an alternative in its place.

We are not alone. We are not alone. There are many others who are joining in as cosponsors. Let me tell the Members the wonderful truth. The wonderful truth is that the person in this House most responsible for writing tax policy, the chairman of the Committee on Ways and Means, the honorable gentleman from Texas [Mr. BILL ARCHER] is a supporter of this concept. He is a driving force behind all of our efforts to talk about repealing the United States Income Tax Code and the IRS and replacing it with a better model, one that works better for America and for every worker in this country, every family, every income earner.

The gentleman from Texas, the chairman of the Committee on Ways and Means, today has started that process of examination. We hope that over time, as more and more Members become knowledgeable about how rotten this system is, and how there are better alternatives out there, then perhaps one day we can have a vote in this Chamber, the kind of vote I earlier described, where as patriots, new sons and daughters of liberty, we do in this Chamber what we illustrated could be done in Boston Harbor, we dump this income tax system and replace it with a much better, simpler, flatter rate system that Americans can live under with dignity and pride and a full exercise of the freedoms that those patriots so dearly fought for way back when our country was first thought of.

Mr. Speaker, I yield to my friend, the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Speaker, just a couple of thoughts, and what we might discuss. If we find this consumption tax bill is law and people are able to save once again, they are not penalized for doing so. In other words, their compounding of their money is not taxed, and they would have great incentives to save. If our saving dollars increased in this, I think it is pretty reasonable to suspect that interest rates come down.

The other part of this bill that I think is so important that will prepare us for the 21st century is that people will have an incentive to invest in plants and factories and stores, because if they should happen to make a profit, they get to keep the profit, not send it all to Washington, at least until it is consumed. That, to me, is the answer for the 21st century as we compete with China and Asia and different parts of this globe, is give our own people incentives to build and invest, so we build our own plants and factories.

Is that not what the gentleman's consumption bill is trying to do?

Mr. TAUZIN. Mr. Speaker, the gentleman is abundantly correct. Let us talk about this alternative now. Let us talk about several alternatives that people have talked about to the United States Income Tax Code.

We have heard a lot about the flat tax. It was proposed, of course, in the Presidential campaign by Mr. FORBES, and our colleague, the gentleman from Texas [Mr. ARMEY] has a flat tax proposal before this body. The flat tax is simply a flattening of all the IRS rates, the five rates we currently have, into a single flat rate. It also imposes a single flat rate on all businesses. I think it is a 17 percent, in that bill, on individuals, a 20 percent on businesses. So it is a vast improvement upon the current complex code.

Is there a problem with that alternative? Yes; the problem with that alternative is that the 17-percent rate has to go up considerably when we start providing the necessary deductions for the home mortgage interest, perhaps for medicine and other things. The bottom line is that the real problem with the flat rate proposal is that it is still an income tax, and an income tax is an income tax is an income tax. It can become a fat, complicated tax after a few congressional sessions.

Most importantly, it is still a double taxation system. It taxes personal income once when you earn it, and it taxes your spending on American products again, because it includes that 20 percent tax on American manufacturing and business. It is not a tax that is equally applied to foreign imported products. So it again discriminates against the American workers and the American product. So while it is an improvement over the current tax and the current income tax structure, it is not yet the best answer.

So what is the best answer? I am not sure what the best answer is yet, but I will tell the Members what the best answer we have come up with so far, in my opinion, is: It is the Schaefer-Tauzin bill.

What we have proposed in this bill is the complete elimination of the income tax, both on individuals and on businesses; the complete elimination of income taxes on savings accounts; the complete elimination of income taxes on capital gains and other investments; the complete elimination of taxes on gifts to our children, to charities, to anything; the complete elimination of taxes on inheritance, the kind of gifts we make to our children when we eventually pass away and want to leave them something which we have tried to build for them during our lifetime; and, finally, it is a tax that will apply to both domestic and foreign products.

How do we do it? We do it by substituting all of those taxes that we repeal with a simple 15-percent tax on the final purchase for consumption in America of products and services.

How does that work, and why did we come up with 15? We came up with 15 percent because, according to the National Taxpayers Union, 12.9 percent on goods and services consumed in America produces the same amount of money that the current income tax code produces, along with gift and inheritance taxes and a host of excise taxes, which we also repeal.

At 12.9 percent, in other words, we could make this Government whole. It would be revenue-neutral. A 12.9-percent retail consumption tax would produce the same amount of money that the current taxes that I have described produce as a group.

Why have we chosen 15 percent? We chose 15 percent because we thought it was important in a national retail consumption tax to do several things which were critical to our society.

First, we wanted to make sure that no one who earned income below the poverty line would be adversely affected by a retail sales tax. So at 15 percent, we have enough money collected so we can reduce FICA taxes for all citizens on their earnings up to and including the poverty line for their family.

In short, we have taken the regressivity argument away. We have taken away the argument that this sales tax proposal will adversely affect those who earn below the poverty line. In fact, we hold people below the poverty line, in fact, all the earners, completely harmless from the effect of the tax on poverty-earned income.

Second, the 15 percent helps us to fund two important features of the bill. One is a continuation of the exemption of the home mortgage interest deduction, critical to a society that favors the purchasing and ownership of homes, in a society where family life and families are critical.

We have also continued in this bill the exemption for moneys spent to purchase an education, for training and education, because we consider this—just as we would consider purchases made to produce products, as part of the cost of being productive in our society.

So at 15 percent we take care of the educational expenses of being a productive society, we take care of the home mortgage interest deduction, and we protect income below the poverty line, and yet we still produce, with the retail consumption tax, the same amount of money that the current income tax system produces to run this government, along with all the other taxes I mentioned: taxes on gifts and taxes on inheritance, taxes on capital gains and corporations in America.

In short, we provide in this bill, which will become, very soon, H.R. 2001, we provide the complete elimination of this income tax which so burdens America tonight, the abolishment of the IRS, and a simple, flat retail consumption tax that is fair to all Americans and that will increase the productivity of this country, and create for the first time parity, equal treatment, for American jobs, American labor, and American products in this import-export free market world.

Is that a better alternative? I suggest it definitely is, but if Members have a better one, if they have an alternative that is even better than this one, we are anxious to hear it.

What we wanted to do in Boston Harbor today, CHARLIE, was to begin this debate; to get Americans to focus tonight, on this awful day the tax man cometh, on whether or not we, as sons and daughters who have inherited this enormous land of liberty and freedom, are willing, indeed, to tackle the difficult job of dumping this American income tax system and replacing it with one that is fairer and better for our country and better for our economy.

Is that worthwhile? Is that worth doing? I suggest to the Members that it is. I suggest that this alternative, the Schaefer-Tauzin retail consumption tax for America, is a much better alternative than any one you will hear about, any one you will read about, that I know of. If there is a better one out there, I am anxious to find it.

Mr. Speaker, I yield to the gentleman from Georgia.

Mr. NORWOOD. Mr. Speaker, I want to talk about the price of goods that could occur under the consumption tax.

Presently, if a loaf of bread is a dollar, we have to generally earn $1.28 to go buy that loaf of bread. Now, under the consumption tax bill, we are going to eliminate 30 cents of that dollar that is in the process of getting to the loaf of bread that is in taxes that companies and farmers and retailers and millers normally pay, as well as the compliance part.

What, I would ask the gentleman from Louisiana [Mr. TAUZIN] is going to happen to the cost of bread when you eliminate that 30 cents out of the dollar?

And I just use one example here. It is true in gasoline and many other products. But what is going to really happen to us now with that cost of bread when you take out 30 percent of the cost?

What do we think that the American citizen would end up paying then for that same loaf of bread that previously they had to earn $1.28?

Mr. TAUZIN. Well, let us start out with the notion, CHARLIE, that every citizen that buys that loaf of bread suddenly has more money to buy it with.

I want you to look at your tax statement or look at your pay stub this week. Look at how much money is taken out in withholding taxes from your pay stub. I would like everyone in the Chamber to do that. Look at the amount of money that you finally got as your salary. Look at how much money the Government took before you even saw your salary in the form of withholdings, and imagine tonight that instead of the Government withholding that money from you, imagine it all came to you, that you had all those withholding taxes now to spend to buy that loaf of bread. You would have a lot more disposable income in your pocket as a family to buy that loaf of bread.

Second, the gentleman is right, when we repeal the income tax effect on products produced in America, we reduce that cost significantly. And if the cost of the income tax system is 15 or 30 percent of that loaf of bread, in a competitive marketplace, what quickly happens is that bread competitors, all of whom want you to buy their bread, start competing against one another; and because they have a big margin now with profit to work with, they tend to lower their prices to attract customers away from one another.

So, in the normal course of events in the competitive marketplace, prices begin to fall, prices of American products begin to come down in our society. And as those prices come down, you have more money to buy those products with and you pay that 15 percent sales tax when you consume it, you are much better off than in this current system where you are paying taxes on your incomes paying for much higher products in the marketplace, and then also having to pay taxes on the interest earnings or the gifts or inheritance taxes that may come from whatever money you have left after you get through saving what little you can save in this society.

In short, prices under our bill are likely to come down, are likely to moderate as competition weeds out this excess profit and as consumers take advantage of prices and competitors in a marketplace where costs are coming down instead of going up.

Mr. NORWOOD. Mr. Speaker, today being tax day, everybody has at least a copy of their returns in their hand. Perhaps they still have their returns. But today might be a good day to look at what happened in last year's tax bill and compare it to what might happen under our consumption tax bill.

I mean, would you not take your income, and then from that income you would deduct any state or local taxes that you paid, you would be able to deduct from that income the amount up to the poverty level because that is exempt, I think it is $15 or $16 thousand, any money that you might set aside out of that income for savings that would be deducted; and you simply multiply 15 percent times what is left.

And I think it would be a neat exercise for every American in this country today to look at their tax bill today and see what the difference would mean to them and their families if we were doing a consumption tax in this country as opposed to income tax.

Did I leave anything out?

Mr. TAUZIN. Mr. Speaker, the gentleman left one thing out, the thing we just talked about, the fact that not only will that tax bill come down, every American at every income level does better under this plan, but the fact that the cost of American products also come down simultaneously.

Mr. NORWOOD. I think we can show a difference even if you say the cost will not come down, but we all know it will.

Mr. TAUZIN. Even if the cost did not come down, Americans would come out better.

I am often asked, what about Americans who are not earning an income? What about Americans who are retired?

First of all, most retired Americans are earning an income. They are collecting money that taxes were delayed upon and later on taxes are collected upon, pension incomes, what have you. All those taxes on that income are repealed under our bill.

□ 2115

So that seniors who have taxes due on money that have not paid taxes yet, that are scheduled to pay taxes later, those taxes are repealed under our bill.

The Social Security tax, the tax on Social Security earnings is repealed under our bill. The taxes earned in money markets or investments made by seniors for their later years are repealed under this bill. Most importantly, most seniors who are under Social Security or other subsidy programs, pensions, have COLA adjustments to protect them against any impacts this tax may have upon the price of anything. We think prices are going to go down but if they do not, CPI adjustments take care of that.

In short, we think every income category from those who retire all the way to those who are earning in our society at full levels are going to be better off under this bill. And I invite Americans to do the exercise you talked about, look at what taxes you paid this year. Look at what taxes you paid under this income tax system. And look at what happens under this bill. If you need a copy of the bill, call our office or contact us here, we will make sure you get a copy. Examine it to see whether or not you are not better off under this bill.

My idea is that you are going to find out you are not only better off, you are much better off. You do not have to keep forms anymore. You do not have to keep records anymore. You do not have to worry about the IRS audits anymore. You do not have to worry about April 15 anymore. You do not have to file any forms.

You decide how much taxes you pay by deciding how much spending you do above poverty for things you want. You decide how much taxes you will not pay by deciding to save or invest instead that money. You are masters of your own fate.

This Government, this Congress is no longer telling you how to live, what to save, how to spend. It is not saying who is going to get a tax break and who will not. From now on under this proposal there is a simple rate. You decide how much you want to pay by deciding how much you want to spend instead of saving or investing above that poverty line.

If you live below the poverty line, the bill protects you from the effects of this tax. You get all the benefits of lower prices and no income tax and you are protected from the effects of the sales tax. You are much better off if you are retired, as explained. I think you are better off, too.

Let me tell you why America is better off. We are down to three people working in this country for every two people who are retired under Social Security. You wonder why Social Security is looking like it is going to be in trouble as we turn the century? You wonder why Medicare is going bankrupt in this society?

We have got fewer and fewer workers supporting an aging population. That is a prescription for problems. That is a prescription for disaster. How do you change that? You change that by having more workers in your society, by encouraging jobs back into your country.

How do you do it with an income Tax Code that breaks the back of anyone who wants to make anything in this country, that penalizes you at 10 or 15 percent against any product imported into this country? You change it by repealing that Tax Code and by substituting in its place a Tax Code that gives American products not a disadvantage but a real advantage in our marketplace and every export marketplace.

Do you know what you do then? You start creating three and four and five workers for every retired American. And do you know what you do then? You stabilize Social Security and Medicare. You protect seniors in the future in a way that we cannot even think about protecting them today as we squabble over trying to balance the budget and save Medicare from bankruptcy.

In short, changing the Tax Code is the best prescription for putting this country back on a growth economy where workers are protecting their seniors with contributions to pension funds and Social Security systems and Medicare trust funds.

In short, this is the best medicine I know for America. On April 15, when we are all suffering because of this income tax system, when we are all suffering through having to meet these deadlines, this is the best prescription to make us well again. This is the best prescription to make this country strong again, to grow it again, to create the jobs every day we are sending overseas and to bring them back to America where this country can be strong. Is this worth debating? You betcha. Are we serious? You betcha. Do not dare not take us seriously.

We are finally in this Chamber debating the real question of whether or not we are going to keep this income Tax Code or repeal it. What a wonderful day. What a wonderful start in Boston Harbor. What a wonderful night it will be when we stand in this Chamber one day and we get a chance to put our cards into those voting machines and actually vote on repealing the IRS and abolishing the income Tax Code for America and giving us a Tax Code that works for us instead of against us.

Mr. Speaker, I yield to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, our time is coming to an end. I agree with the gentleman. It has been a wonderful and exciting day. I have been so pleased and honored to participate in that project.

But in summary, I would simply say that our present tax system, and all Americans would agree, is simply too complex. It is too difficult. In addition to that, we spend way too many nonproductive hours in this country trying to prepare for taxes, trying to avoid taxes, just being caught up in the whole taxing system that this Congress for years has used to slowly but surely take away individual freedoms.

I know, and I have not been here long, but I know my life often is driven by the Tax Code and what is done here in Congress to try to get me to do this or go that way, and to me it simply is taking away freedoms.

In addition to that, the system is simply unfair. We have thousands and thousands of dollars tied up in a cash economy, not to speak of the money that the drug dealers do not pay at all in any kinds of taxes. Most Americans say today that they feel they are paying more of their hard-earned money than they really wish to pay for Congress. Yet tonight we sit here and we talk about a great opportunity to change our tax system and go to a very simple system that will increase and improve jobs in this country.

It is going to let every American have more money in their own pocket, not because they are not having to pay so much up here, but because prices in this country can come down. And think how wonderful it is to think that April 15 could be just as fine a day as July 15. I mean that alone is worth a great deal of effort.

What about the growth that you are talking about in our country and the investment that is going to occur when we quit penalizing capitalists. That is what we are, are we not, we are a capitalist country where people invest their dollars and hope to make a profit.

And they do not want to make the profit for the Federal Government or either the banks. And we are talking about lowering the interest rate so people can keep more of their money. Then maybe more than anything else, we are talking about personal freedoms, and this bill gives us an opportunity to control our own lives without 535 people in Washington telling us what to do from the minute we get up to the minute we go to bed, not to speak of the 125,000 IRS agents out there that are constantly observing to make sure that we do all the things that they want us to do.

I hope the American people will take this very seriously. And if they believe in what we are doing or if they want more information or if they need to talk to their Congressman or Congresswoman or their Senator, just send them a tea bag. Just send them a simple little tea bag saying, yes, I want to change the tax code as we know it today. They do not even have to write them a note. They are going to know what they mean. They are going to know that they want an alternative taxing system to the present unfair system.

It has been a great pleasure and a great honor to be with the gentleman from Louisiana [Mr. TAUZIN] today.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman. I want to thank him for accompanying me and our colleagues to Boston and for being such a great voice on this issue tonight and, I am sure, as we go into future debates on it.

I think you have really set the tone for us to conclude this special order because you talked about personal freedoms and liberty. That is what Boston Harbor was all about, and that is what this debate is all about.

Congress is not going to repeal the income Tax Code easily. The income Tax Code is where the power in this place exists. It is where we reward our friends, punish our enemies, play the class warfare games. Give a tax credit to this group and take it away from this group. Reward you today; take it away from you tomorrow, 4,000 changes since 1986 alone.

Congress is not going to give up this power easily. What we are talking about is giving power back to the American people by abandoning this system where Government in Washington tells us how to live and where you instead would make the decisions in your own life by deciding how much taxes you pay dependent on how much you spend as opposed to how much you save and invest.

And I think it is important, as we think about that notion of freedom and liberty, to again remember the contributions of those early patriots. Paul Revere met the night before the Boston Tea Party at the Green Dragon with his friends. He met knowing that what he was going to do the next day would be considered treason by the British.

I want to tell you what that meant for these men. For treason a man could be hanged and then revived, this is awful, have his guts drawn from him like a chicken's and be cut into four quarters to be hung in the drying wind and sun. This is awful but I quote it only because that is the risk those patriots took in Boston Harbor, December 16, 1773. They risked their lives, their liberty, their personal fortunes to make a statement that this place, which eventually became America, was a very special place on earth where people counted first, where they were the masters and government was the servant, where a taxing authority had to answer to them, where their family and their futures were more important than the wishes and whims of a government authority somewhere far away.

So they entered those ships that next day and dumped that tea into the harbor, covered with paint and war paint, dressed like Mohawk Indians. They did it to protect themselves from discovery. We found out later who many of them were.

Today, as we met in Boston Harbor, we did not have to put on war paint and dress up like Mohawk Indians. We went as citizens of this country, some of us Members of this Congress. We went as citizens in front of the cameras, proud to show who we were in a country where our freedoms and liberty have already been protected for us by so many who have given their lives for us to have that chance today to stand in Boston Harbor and to demonstrate against this Tax Code.

And today I think it only fitting that we remember them, that we were able to stand in that harbor and stand on that boat and throw the U.S. income Tax Code into the Boston Harbor in our protest today without having to be covered with war paint because we have inherited a country of freedoms and liberty.

If we are true stewards of that wonderful inheritance, if we are true sons and daughters of freedom in this country, do we dare less than enter this debate with the same kind of fervor and commitment that those early patriots gave to the effort? Do we do less than preserve for every American that sacred gift of freedom and liberty handed down to us?

Can we do less than urge Americans to join with us in a new revolutionary spirit to become new sons and daughters of liberty in this great society and to demand that this Government in Washington stop its burdensome tax practices that hurt so many American workers and so many American families and abolish an income tax system that is not right for this country, that is abundantly wrong for us, and to substitute in its place a simple, fair, flat rate that Americans can live with and that we can grow with and that we can expand our personal freedoms and liberties rather than seeing them constantly contracted by constant revisions and adaptations of that awful code?

Tonight on this tax day, we call upon this body to begin the deliberation, to begin the discussion and to take on the task of preserving and enlarging those liberties and freedoms that those men and women in Boston Harbor put on the line for the rest of us who have followed them.

Earlier tonight we heard a special order about Jackie Robinson and the enormous contributions he made to opening up this country. It is fitting that we always look back at those who sacrificed for the rest of us. For every American tonight suffering under this income tax system that is oppressing this Nation and oppressing every job and every worker in this country and every family who is struggling to survive as jobs continue to leave our society to go to foreign shores, for every one of us, we look back upon those patriots with admiration. And we look upon their efforts as in some way urging ourselves to begin to emulate them, thinking of how we can perfect those liberties and those freedoms.

I suggest to you tonight the most important contribution we can make to the continued success of this country and to the enlargement of those freedoms and liberties would be to do in legal terms what we did physically today. We would dump that Tax Code into Boston Harbor. Yes, we had to retrieve it back because to leave it down there would be awful pollution of that harbor. We had to pick it back up. But we dumped it symbolically in that harbor today as we asked Congress to consider to begin the debate on realistically passing a bill to dump the U.S. income Tax Code and the IRS in favor of something that is fairer and better for our country.

□ 2130

We start this debate on tax day, but this is not the last my colleagues have heard of us. Americans are going to rally across this country, I predict. There will be tea parties across America before we finish, and there will be citizens organized as sons and daughters of liberty in this modern age who will assist us, and eventually we will have that vote. We will have that chance to speak for those patriots and for every American patriot who believes that it is time for us to end this awful and oppressive tax system.

TAX RELIEF FOR ALL AMERICANS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Missouri [Mr. HULSHOF] is recognized for 60 minutes.

Mr. HULSHOF. Mr. Speaker, last week the newly elected Members on the other side of the aisle held a press event, with the minority leader in tow, to complain about the legislative pace of this Congress.

As the Speaker knows, on this side of the aisle, newly elected Members have, since back in February, taken to the floor of this House each week that we have been in session to talk about solutions instead of pointing out problems. We have been accentuating the positive, success stories that are alive and thriving in each of our congressional districts across this great Nation.

We have spoken passionately about ways to renew our communities, how government can be a partner rather than as a parent. We have promoted efforts to talk about our pro-family agenda and ways to enact regulatory relief.

Tonight, it is no secret, Mr. Speaker, that with millions of Americans we train the white hot glare of the spotlight of this House onto the Tax Code.

I have spoken to several constituents by telephone who have been supportive and yet have been very angry as they have made their way to the post offices across the Ninth Congressional District of Missouri. And even as some may be tuned in with pencils worn down and erasers worn thin and piles of tax forms and instruction booklets scattered about, Mr. Speaker, our message tonight should be one of hope, because today on the floor of this House, in this hall, we have a couple of victories to pass along to the American people, two victories and a minor setback. And, again, we hope to focus on the positive.

One of those was the House Resolution that was actually introduced by another freshman GOP member, a friend and colleague, the gentleman from Pennsylvania [Mr. PITTS], expressing a sense of Congress that American families deserve some much needed tax relief.

I see that my friend from New Jersey is in the well of the House. I know the gentleman spoke very eloquently earlier today about this resolution, and I would yield to my colleague from New Jersey.

Mr. PAPPAS. Mr. Speaker, I thank the gentleman for yielding, and I thank him once again for providing the leadership as president of the freshman Republican class, for giving us each the opportunity to come to the floor and to talk to each other, but also to the American people that are watching, about what we hope to accomplish here as Members of Congress.

Today, I say to the gentleman, is an important day for all Americans, and it is an important day for a good friend of mine, Jim Flannery, an accountant, who is also celebrating his birthday today. It is particularly unique to have someone in that line of work who has today as his birthday.

Our tax system, our Tax Code, is complex, and I am told, although I have not counted, that there are 17,000 pages of IRS laws and regulations, approximately 480 IRS forms, and even the instructions to the 1040 EZ are 28 pages long. I know the gentleman from Missouri had earlier today held that book, that was probably about that thick, of the IRS regulations.

The IRS spent $4 billion on a computer system recently that was referred to as the tax system's modernization computer program, $4 billion, and I am told that it does not work.

The average American family pays approximately 19 percent of their income in Federal taxes, which is significantly higher than the single-digit percentages just a few decades ago.

The gentleman is absolutely correct, the resolution that the House passed today was, while it was a sense of the Congress, I think it was very, very important to demonstrate to the American people that we are serious about providing for real significant across-the-board tax relief for the American people.

I am disappointed that the tax limitation amendment, the constitutional amendment, failed today, but I am hopeful that, again, we can continue to speak about that and that kind of a measure. I believe, as most State legislatures in our Nation have adopted that, that that would be something that at some point in the not too distant future this Congress could address and approve to send to the States for their ratification.

The tax resolution that we passed was, as I recall, passed by a 412 to zero vote, and the Taxpayer Protection Act was also passed today by the same margin, which makes it a crime for IRS employees to snoop in people's files.

A member of my staff said they saw in a newspaper article that the actor Tom Cruise had his file snooped in as well. And people, whether it is Mr. Cruise or anyone else, certainly deserve the privacy that that Taxpayer Protection Act would afford.

Tax Freedom Day is one that we will be celebrating, which, if I am not mistaken, is May 9 this year, 2 days later in the year than it was last year.

Earlier, when we debated the resolution, I had a chart here that showed the calendar for 1997 and reflected January 1 to May 9 circled in red, each of those days, and that is the amount of time that the average American spends working to go pay their taxes, whether it is Federal taxes or taxes at lower levels of government.

People are fed up. And I certainly am looking forward to working with the gentleman. I know, as a member of the Committee on Ways and Means, the gentleman is intimately involved in reviewing reforms to lower taxes for American families.

A couple of other things that I wanted to mention, and maybe we could talk about those a bit, are the number of tax reform measures that many of us have introduced in this Congress. I introduced two myself, the first one on the first day I served, and we were sworn into office on January 7, that would reduce the capital gains tax by 50 percent and then seek to eliminate it, phase it out 1 percent a year for the next 14 years, significantly lower the corporate capital gains tax, and to raise the estate tax to a million dollars to help many family-owned businesses and farms to be passed from one generation to the next.

More recently, just a few weeks ago, I introduced H.R. 955, which deals with the home office deduction and would, I think, correct what has been an inappropriate interpretation by the IRS of the home office deduction applicability to allow those that have legitimate home-based businesses, that may not see their customers or their patients or their clients within their homes, to take that deduction.

I am very pleased there have been a number of other Members that have joined as cosponsors and would encourage those that are here that may not have joined as cosponsors to consider doing so.

Mr. HULSHOF. If the gentleman would allow me to reclaim my time on that, during the Easter recess, when we had the opportunity to go back to our districts, the gentleman from the Second Congressional District of Missouri [Mr. TALENT], who is the chairman of the Committee on Small Business, held a field hearing and invited me to attend and to participate. I found it extremely interesting.

One of the things he talked about and that we had testimony about was just what the gentleman just mentioned, and that is the home office deduction.

We had some women who testified that they were trying to juggle family responsibilities and, at the same time, wished to join the work force. Several of them had children that were in their teenage years, and some who had actually gone on to college, and they had wanted to start their own businesses and do it from their home.

Of course, with modern technology, when we have fax lines and we have the copying machines and being able to do so many things over the Internet and on the computer systems, they wanted to establish their own businesses in their homes so that they could still juggle their responsibilities with their families, yet they were fearful to do so because, as one of them told us in this field hearing back in St. Peters, MO, she was fearful of an audit by the IRS; that she had been told by a tax accountant, and probably some very conservative advice passed along to her, that this is a red flag. She was told that taking a deduction for home office expenses, a percentage of the home that is dedicated to business as well as other expenses, that this is like waving a red flag in front of an IRS agent.

So there were many, I believe, who testified that day who had qualified deductions but chose not to take those deductions due to fear of an ultimate audit.

The gentleman talked about a couple of facts, that it seemed there were a lot of papers and publications on this day, and he talked about all the pages and numbers of words.

I took note of a survey that was recently conducted as to those who would prefer having root canal surgery in the dentist office or an IRS audit. Forty-seven percent said they favored root canal work, and 40 percent said an IRS audit. I guess the others were torn between those two attractive alternatives.

I applaud the gentleman for promoting a measure and introducing that measure in this House.

Mr. PAPPAS. I appreciate that, and I wish the gentleman would not mention root canal, because I have to have some wisdom teeth removed and he has just reminded me about that.

But getting back to the discussion we are having on home-based businesses, I have heard of a statistic that there are over 14 million home-based businesses in our country today. Of those that are starting, those people that are starting businesses, new businesses, over 70 percent of them are women.

There are many families, whether they are single-parent families or two-parent families, that would find a home office deduction being helpful to them to assist them in raising their children, saving the expense, or not having to have the expense of day care, which would again give them greater flexibility. I think all of those things are critically important.

I look forward to working with the gentleman and the other members on his committee to move legislation such as this, but I think it is absolutely critical for our country to have permanent, across-the-board tax relief, capital gains tax reduction, not estate tax but it is really a death tax.

There are so many family-owned farms in my district and small businesses where there are people, men and women, who have worked their lives to be able to pass that business or that farm on to their children and just face the likelihood that that will not take place because of the tax bill that their kids would see. I view it as a family-friendly measure. I view it as an environmental measure.

There was a rather large farm in the central part of my district. Fortunately, we have a farm preservation program in our State, which has joined with the counties, and the development rights were purchased by the State and the counties to pay to the heir of the farmer, and we were able to see that farm preserved.

She did not want to see that farm sold for development, nor would her parents have wanted to see that take place, but she faced the estate tax bill which had to be paid, and she had two options: She had the option of selling it for development, which she did not want to do: and, fortunately, we have the option of selling the development rights, or her selling the development rights, so that farm is now preserved.

But there are many other people who are not in that position. I certainly want to work with the gentleman in doing what I can to see that people like that and families like that are given greater options and are not penalized for working hard and trying to better themselves, the opportunities for themselves and their families.

□ 2145

Mr. HULSHOF. I appreciate the gentleman's efforts. I know that in a special order speech just prior to ours that our more seasoned colleagues took to the floor and began the debate, or facilitated the debate about having major reform, whether that means going to a consumption-based tax or to a flat income tax, and certainly that is a debate that we need to bring the American people into with us, to hear their ideas and concerns. But I also believe in the short term that we need to provide some meaningful tax relief.

You talk about the home office deduction. I think that is a very realistic way, for those that are still perhaps tuning in, Mr. Speaker, gnawing on their pencils, wondering about trying to squeeze out those last few deductions before the clock strikes midnight and they get their forms down to the post office.

Another I think that has been talked about in this House is a 100 percent deduction for those individuals who are self-employed who purchase health insurance. As it is right now, those that are employers, that have a company that purchase health insurance for their employees, and certainly we encourage making health care accessible to those working men and women, but the fact is that those bosses get to deduct as a business deduction the full cost of the premiums that they pay to cover their employees. Such is not the case for those that are self-employed, and those that are truly seeking the American dream do not have the opportunity to take a similar deduction for their own health insurance, and I think this is a way to craft some relief in the short term that can really make a meaningful difference in the lives of those Americans.

Mr. PAPPAS. Just one concluding point because I know there are other Members here who want to participate in this discussion. There hopefully are many people around the country that are watching this debate as we take part in it. I would encourage them if they have not completed their tax returns, that when they do, if they may take a moment and just write a note to their Member of Congress or their Member of the Senate, and if they agree with you and with me and with so many other people that are here to talk about this very important issue, I might encourage people to enact the kind of tax reform measures that we have been speaking about.

Mr. HULSHOF. I think, Mr. Speaker, certainly tax burdens for working families have reached new heights in recent history. As my friend pointed out, the first 120 days of our calendar year we toil and labor simply to pay the tax bill. Certainly we need to provide some relief, even in the immediate future. But I know there was one measure that we did bring up on the floor today that would have provided, I think, a more forward vision, Mr. Speaker, as far as future lawmakers who gather in this body, to make it more difficult for them to raise taxes on the American people. I know that there are many States that have a tax limitation constitutional amendment.

In fact, if I am not mistaken, the State of Arkansas has such a tax limitation amendment. I know my friend from Arkansas also spoke very forcefully this afternoon during that debate. I would be happy to yield to him for what comments he would like to make.

Mr. HUTCHINSON. I commend the gentleman from Missouri for the excellent leadership he has provided, not just the freshman Republican class but also a broader range than that, of Members of Congress on this tax issue and tax limitation.

I did want to talk for a moment about the tax limitation amendment that received 233 votes in this body today. I was disappointed that it did not receive the two-thirds vote necessary in order to refer this constitutional amendment to the people of this great country. But it did receive 233 votes of the Members of this body. I think that it is important that we continue to educate the American public, that we continue to talk about this tax limitation amendment, because I believe that it is something that is necessary to ward off additional tax increases, to make it more difficult to pass tax increases in the United States. The tax limitation amendment is very simple, that it requires a two-thirds vote of the House and the Senate in order to raise taxes.

I want to say quite frankly that I was reluctant. I think too often we go to constitutional amendments to solve our problems. I think they should be reserved for serious national problems in which we have a framework difficulty with our founding document that we need to adjust. I believe that such is the case with the tax limitation amendment. I believe we have a serious national problem today that should be addressed, and that is why this amendment is necessary.

Whenever Congress has had the choice of either raising revenues or slowing the growth of spending, they have always had to raise revenues in order to move forward and not decrease spending.

I believe that there should be, if there is a fair approach to it. Sometimes when you have a budget problem, sometimes you raise revenues, sometimes you decrease spending. We do that in our family budgets all the time. But the history of Congress is that we have never reduced spending. We have never slowed the growth of government. Instead, we have always decided that we need to raise the revenues. So Congress has historically taxed more and spent more, and I believe this is a serious national problem.

In Arkansas, the average Arkansan pays $7,000 per worker in taxes to the government. This might not be much in Washington, D.C., but in Arkansas it is a lot of money. It is one-third of the average paycheck.

And so I think it is a serious problem, as the gentleman pointed out, that the Tax Foundation has indicated that we work until May 9 just to pay our tax bill, and it is the latest tax freedom day ever. If you compare this in history, in 1902, tax freedom day came on January 31. This year it is not 31 days into the year, but it is 128 days into the year. It is because we have not been able to control taxes.

There have been a number of arguments that have been proposed that say we should not have this tax limitation amendment. One of them is that, well, our Founding Fathers never imposed a supermajority requirement. Well, that is true that they did not in reference to the income taxes, because our Founding Fathers did not have the income tax. They simply restrained the Federal Government and said it does not have that power, and so it was a power that did not even exist when our Founding Fathers wrote the Constitution of the United States. It was in 1913, in which the people of America adopted the 16th Amendment that did give the power to Congress to impose the income tax. Yet we have seen it increase consistently and consistently, never going down for a long period of time. That is why this two-thirds vote is necessary.

I think that that amendment was good. I am disappointed that it did not get the two-thirds vote. I hope that Congress will readdress it in the future.

Let me just conclude on what I believe is very, very important, and that is restoring faith to the American worker, to the American people. We have had broken promise after broken promise when it comes to taxes. With every broken promise, this Government loses the faith of common Americans. Increasingly they see Washington, DC, as a hollow city, built upon hollow promises. Shall we in Congress lead for a change and accept responsibility for this loss of faith? Or will we, like hollow men, offer excuses and then return to the campaign trail in another year to yet again promise great things?

I know that because of the leadership of people like the gentleman from Missouri and the other good Members of this body, that we will not do that. Let us be committed to tax reduction, tax relief in the form of capital gains tax reduction, reducing the inheritance tax, $500 per child tax credit, and we can start to restore the faith of the average American. That is what I believe is important on this tax day.

I thank the gentleman for allowing me this opportunity to address this issue.

Mr. HULSHOF. I thank the gentleman. A couple of points that I would like to make, and even ask a question of the gentleman. Does the State of Arkansas have such an amendment?

Mr. HUTCHINSON. We do. Whenever we imposed the income tax in Arkansas, we required a supermajority in order to increase it, a supermajority of both houses of the general assembly, and so with that we have not turned to increasing the income tax. It is very difficult to do. It is not impossible to do it. Because it takes a bipartisan effort to do it. You have to have a broad base of support to do it. So it is not a hurdle that cannot be risen over but it is something that slows down tax increases. It has worked well in Arkansas. It has served our State well.

Mr. HULSHOF. I know that at various town hall meetings back in Missouri during the district work period that we had some discussions about the upcoming vote that we had today on the tax limitation amendment. There were some questions about exigent circumstances or what about at times of emergency or times of war, and that safety feature was in this constitutional amendment had it passed, for exigent circumstances such as war or military conflict or situations that would require an immediate access to substantial Federal revenues, that that could be done by a simple majority vote. Yet again, I also note with interest, as the gentleman pointed out, that on this vote, on the tax limitation amendment, while it did pass by a simple majority of 233, earlier in the day when we had the sense of Congress expressing a strong desire that American families deserved tax relief, I think that passed unanimously, with well over 400 votes. So if we deduct, then, the 400 votes of those Members who believed that the American people deserve tax relief and yet only 233, there are about 170 or so that were not willing to step up to the plate, if you will, on this issue that would have had a very forward vision for the future of our country.

Mr. HUTCHINSON. If the gentleman would yield for just a moment, I will elaborate on that. One, we can reach this consensus in Congress on areas that there is great unanimity on, on which there is a great national interest on. In fact, tomorrow we have what we call suspension votes in this Congress, in which you have to have a two-thirds vote to suspend the rules and pass the legislation. We do this routinely. Tomorrow I believe we have 4 or 5 votes under the suspension calendar which will require a two-thirds vote, and we are going to do it. We are going to reach that level.

And so I am confident that this Congress, working together, if there was exigent circumstances that we had to increase the revenues of our country for a multitude of purposes, that we could do it in a bipartisan fashion and get the job done.

Mr. HULSHOF. In fact, if memory serves me, that earlier because of such an emergency situation regarding the safety of airports and the fact there was a shortfall in the airport trust fund or the safe harbor rule, that there was an extension of the airline fee that was extended for another year. If memory serves, that passed by a two-thirds majority vote.

Mr. HUTCHINSON. That is exactly correct. That passed by two-thirds. It was done then, and it can be done. And so the argument that a two-thirds majority requirement, a supermajority requirement for raising taxes puts an impossible burden on this Congress to raise taxes is really fallacious. I do not think it has merit. I think it is really a question of whether you believe that the American people are overtaxed or not. I believe, as I know the gentleman does, that they are overtaxed. We need to turn back the tide.

Mr. HULSHOF. I appreciate the gentleman's comments.

I see that our friend from Colorado, our patriot, has joined us. I would be happy to yield to my friend from Colorado.

Mr. BOB SCHAFFER of Colorado. Good evening. I thank the gentleman from Missouri for yielding.

I am curious if the gentleman recognizes this. Before people get too confused, this is the red and white stripes without the stars. I am curious whether the gentleman recognizes this. Many people do. I assure the gentleman that around the founding days of our country, the British understood full well what this banner was. This is the flag of liberty. This is the flag that the Sons of Liberty had flown and had organized under. The Sons of Liberty, of course, being the ones who initiated the Boston Tea Party. I keep this flag in my office as a constant reminder, as well as several other things that I will be happy to share with the gentleman and others today, reminders that I keep in my office in the Fourth Congressional District office of Colorado, across the street, to remind me and my staff and all those who enter that office every day what our job here is and what the challenges are for the country and for the people that we represent, not just in Colorado or Missouri but throughout the country as well.

The Sons of Liberty have been mentioned several times today. In fact, some of our colleagues went up to Boston and dumped the entire Tax Code into the Boston Harbor. I am going to leave this hanging up here. I hope people do not confuse this with our American flag, but let me tell the gentleman why recalling the Sons of Liberty and this banner are so important today and why I hope that more and more Americans begin to identify with the theory behind this, the theme behind the flag of liberty, the spirit of the revolution and what caused it to initiate. Because I have to tell the gentleman that we as Americans tolerate far more than what the colonists tolerated back 220 years ago. The terms which launched the Revolution against the British was the Stamp Act, the intolerable acts, these acts which, yes, resulted in excessive taxation and taxation without representation, but nowhere near the extent of confiscation that our tax policy represents today.

They were in larger colonial cities, they sprang up in American communities, they largely opposed the Stamp Act of 1765. They circulated patriotic petitions, they harassed British tax officials, they denounced British tyranny and organized mass protests against increasing British control of the colonies. New York and Boston had the largest and most active Sons of Liberty chapters. They celebrated the opposition to the Stamp Act, August 14, 1773, they flew this flag over the tent where they were meeting. It consisted of 13 stripes, alternating red and white, the flag's popular design, of course, before and after the Revolution. In fact, as my colleagues can see, this largely resembles with the addition of the stars to represent those colonies and eventually States, represents our U.S. flag today.

☐ 2200

Again I keep this in my office, I keep this plaque next to it, and I invite people to stop by and take a look at that and recall what it is that unites us today. You know the clock is running. It is 10 o'clock here in Washington, DC, in the eastern time zone; 2 hours left for tax filers who have not made it to the post office yet to file their tax forms. In the central time zone they have got 3 hours. In the Rocky Mountain time zone, where my constituents live, they have 4 hours left. And so the clock is ticking, and it reminds me, since we talked about early Americans, I want to spend a little bit of time on a personal level speaking about some of the early Americans of my family.

A couple of the other things I keep in my office are pictures of my grandparents. Now this is a picture of my Grandma Bednar. She is the little one here. She is just a few months old. This is a picture taken in her hut that she was born in up in Canada. She was Ukrainian and immigrated to the United States several years later with this man here who ended up being her husband.

Now when they came here to the United States the Federal Government taxed their family at 3 percent of total income. Now 3 percent, when you think about that, and this is in fact one of the reasons they came here, for the search of liberty and the search of freedom and the opportunity for honest hard work and self-determination and self-sufficiency, and they achieved that, I have to say. I am very proud of these beginnings, and they have an awful lot to do with, I think, why I am here and what I think about when I think about America. And I think often about how hard they worked, what they created for our country.

These are the people who are much like your parents, grandparents or anybody else in America. They are the ones who built the roads, who built the schools, who largely put the face on America as a place where we really do look within for internal greatness. In fact they are the reason the rest of the world still looks to us today for leadership and guidance because of what we represent.

Now I can contrast what they came to America for, opportunity and liberty, taxed at 3 percent of their income in order to pay and fund for the Federal Government which they deeply believed in and were firmly committed to, and I contrast that with this crew here. These are three of my children; I have one more at home. And my family, as most American families, as opposed to the 3 percent that Americans paid, in family, of their income that they paid in taxes back in the early forties, my family pays 40 percent of our total family budget to taxes, and I say that as an average American. That is what most Americans who have 2 hours left in the eastern time zone pay their taxes, that is what they pay.

I also am reminded in that same Ukrainian heritage; I keep in close contact with lots of people who come from Ukraine and have immigrated to the United States; there is a man named Ivan Stebelski who lives out in Colorado, a very good friend of mine. And one day we were speaking about the revolution here in the United States and contrasting that with what occurs throughout the rest of the world, why he left Ukraine to come to the United States, and we talked about tax policy obviously. He mentioned that, and I asked. I said, "Well, why don't the people in these oppressed countries just revolt?" This is prior to the revolution in those countries. "Why don't they just revolt and stand up against the tyranny of their government and oppressive taxation and so on?"

He said something that I remember especially this evening. He said that the strategy of the Communists and the Soviets was to keep their citizens occupied by standing in line for groceries, for food, to comply with the rules and regulations to pay taxes. He said people who are spending their time standing in line have no time to make revolution.

And so I think of that vision, and I think of that image and how similar that vision is to what most people are going to see tonight when they are lined up at the post office to make the Government-imposed deadline to get their taxes filed in time to avoid any penalties of their Government, 40 percent of their family income. And let me just put that into real numbers as those are people perhaps keeping one eye on their Government tonight and the other eye on their tax forms. Americans this year will spend in excess of 5.4 billion hours complying with their tax forms, 5.4 billion hours, and along with that that 5.4 billion hours compels $200 billion every year in compliance costs.

Now these are not dollars that go to Uncle Sam, come here to Washington. These are dollars that go to tax preparers and accountants and attorneys of all sorts to help people understand just what these tax rules say.

We are still smarting, frankly, from the last two tax increases of the Bush administration and in the Clinton administration as well in 1990 and 1993, that latter one being the largest in the history of the United States. It raised $285 billion, and we are paying for that not just in our taxes today, but we pay for that in, as I mentioned, compliance costs. We are also paying that in lost jobs, forfeited income, lower living standards, anemic economic security, good farmland that is taken out of production, on, and on, and on.

We just cannot afford it anymore, and for anybody who believes that we cannot talk about balancing the budget in this Congress and at this point in time without a discussion of—without also engaging in a discussion of tax cuts, they are just wrong.

In fact I would suggest that we, as Americans, look back to the Kennedy administration, the Reagan administration, two Presidents of different parties, different viewpoints politically who proved that, when you cut taxes and implement pro-growth economic policies, that you in fact earn more revenue, generate more revenue through economic productivity to the Federal Government to allow us to put toward the task of balancing the budget.

So we do need spending cuts certainly; there is no denying that, and we need to focus on that. But at the same time, and I say simultaneously, we need to focus on tax relief as well in an effort not just to provide relief but also to stimulate economic growth.

Our deficit, $5.5 trillion, and I would submit a challenge to anybody here tonight to show that our deficit was caused by not taxing enough. This policy we have of confiscatory tax policy sapping 40 percent of the average family's income tonight, this very night, is the final step in that effort, is just unconscionable. It needs a change. I know it is something that people in Colorado care very deeply about, and it is the primary mission they sent me to accomplish, was to remember the value that went behind this flag and what it stands for, the flag of liberty, the sons of liberty who flew it proudly, risked their lives, as a matter of fact, and, again I submit, for far less than what we are willing to tolerate as Americans today.

We need a rebellion of sorts. We need to use the occasion of April 15, tax day, to launch small rebellions in every community. Politically I am speaking. I am not suggesting people get up in arms again or risk their lives directly. We do not need to do that today thanks to those grandparents that I mentioned before and others like them, but to resolve tonight that they will no longer vote for politicians who go to raise taxes in Washington, will no longer vote for elected officials who will go to Washington or their State legislature or county commissioners or city councils to increase spending and waste and so on and to make it a personal point to get politically involved personally, not just to vote, but to be angry customers of their Government, to be demanding customers, and, when all else fails, to run for office themselves. I hope that that is what we are able to inspire here today along with the very clear and decisive message that this tax system is undeniably broken and it needs to be fixed, and I think we are just the people to do it.

Mr. HULSHOF. I appreciate the gentleman's historical and personal perspective and I think put it very well especially the contrast with your grandparents and then the future of this country as evidenced by your young children.

The gentleman mentioned that the clock is ticking, and I think symbolically the clock is ticking. It is not that Americans are not taxed enough, because clearly they are overtaxed. The fact is that Washington spends too much and should spend less, which those discussions we will get to have in the weeks and months ahead, and I appreciate my friend from Colorado.

And I also see that another son of liberty, if you will, from the State of Texas [Mr. SESSIONS] joins us in this Chamber, and I would be happy to yield to Mr. SESSIONS.

Mr. SESSIONS. Mr. Speaker, I thank my freshman friend from the State of Missouri, Mr. HULSHOF.

It is great to be here. I would like to continue this discussion that we are having, and my colleague talked about that we spend too much money. It is not just the tax system but that our Government in this Congress does not have the discipline in order to rein itself in.

Our message is plain and simple today, April 15. Our tax system is too complex, and taxes are too high, and, as we speak tonight, there are those in our country that are struggling tonight to try and finish out that IRS tax form to comply with the law.

And before I begin some formal remarks that I have, I would like to talk about this complex Tax Code, and I think that Americans that are out there tonight struggling with filling out their taxes to comply should know that we in Washington, at least freshman Republicans, are trying to do our best to hear them and do something about it.

Those people who fill out their tax forms tonight are not by themselves. In 1993 the IRS gave out 8.5 million wrong answers to taxpayers who were seeking help with their taxes. In other words, someone who was struggling like tonight in those final few hours in order to comply, picking up the phone and calling the IRS, or perhaps earlier today, the IRS gave out 8.5 million wrong answers to people who are trying to comply.

There are 17,000 pages of IRS laws and regulations, there are 480 separate IRS tax forms, it requires 136,000 employees at the IRS and elsewhere in the Government to administer our tax laws, and it costs $13.7 billion by the IRS and other governmental agencies simply to enforce and oversee our tax laws. That should tell us that there is a problem.

As a member of the Committee on Government Reform and Oversight, we have had testimony from the IRS where they talked about spending $4 billion, upwards to 6, but $4 billion is what they have told us of spending to try and put together a computer system, the big IRS computer system in the sky. The bottom line is that they could not do it. The reason why, the Tax Code is too complex. If you cannot put something and flow chart it and put it in a computer, then you cannot make it work.

Mr. Speaker, what we are dealing with is a tax code that is too complex and taxes are too high.

I would now like to, if I could, enter into some formal remarks that I have that I believe will once again bring back the point about what we are talking about when we talk about taxes or tax system, balancing the budget and certainly our appetite to spend money in this country.

I believe that the budget, balancing the budget, is all about discipline, the discipline to do the right thing, the discipline to tell the American people the truth. With annual revenues of the United States of over $1.45 trillion, the Government spends more than $1.6 trillion each year. That means that our Government spent $4.3 billion every day, $178 million every hour, and $3 million each minute. But more importantly, it means that the President and Congress cannot do what American families do every single day, and that is only spend what they have.

This year the President, as is required by law, sent his budget to us here in Congress. When he delivered his budget, he told the American people and us here in Congress that his budget would be balanced by the year 2002. But that is not the truth. We have now learned that the President wants to send us and will send us a budget that will not be in balance until well after the year 2002. In fact, the Congressional Budget Office recently announced that the President's budget will leave a $69 billion deficit in the year 2002. Mr. Speaker, the President's budget also utilizes gimmicks, accounting gimmicks, that I believe he should be ashamed of.

The bottom line is it is going to require serious and tough decisions on spending priorities to balance the budget. The responsible thing would be to parcel out spending cuts over a period of time that it will take to balance the budget. Instead, the President's budget makes all the serious cuts in services to the American people long after he is gone.

That is right. The President is not going to suffer with us, but he is going to leave the pain for that person that is in the White House while he is back in Arkansas. I do not think that this is leadership.

This country has a great history of standing up to whatever challenges God has sent our way. When we were oppressed, we fought for independence against overwhelming odds. When tyranny threatened our neighbors, we stood up against it and conquered it twice. When poverty sapped our Nation's energy, we rose from it to retain our place as the greatest Nation in the world. Today we face similar challenges.

I would like to, if I could, take us back to just a few weeks ago when his excellency President Eduardo Frei of Chile spoke to this august body, and he spoke to this joint session of Congress, and he gave us a good bit of advice about how Chile is handling their problems and their future. He began by saying:

I want to share with you why we Chileans are ever more satisfied with the dividends of freedom, why we do not look back, why we wish we had been a part in the new history, the history of mine kind of is now beginning to be written. In other words, what he said is we look ahead, we do not have to look behind, and I am going to tell you why. Chile was in a period of stagnation and suffered many of the budgetary perils that exist in the United States today.

□ 2215

But Chile got the discipline and rose above that. Chile has sustained 14 years of growth, averaging 7 percent annually. Real annual wages have risen over 4 percent each year. Per capita income has doubled in Chile in the last decade. Chile's savings rate is now close to 25 percent.

All of this has been achieved not in spite of, but as a direct result of, and continuing with, 5 consecutive years of balanced budgets and fiscal surpluses.

I listened to President Frei and I was impressed by how he described the character of the Chilean people and its leaders. He said, we have learned to be patient. Chile does not begin anew with each election, but rather, we build on creativity and our work. We are well aware that we have a unique historic opportunity to achieve full development in a free market of political freedom. We value our achievement, but we give equal attention to the challenges that are ahead of us.

Our President, President Clinton, I do not believe has that same belief in the American people. I do not believe that he believes we have the same fortitude as the people of Chile. He does not believe that the American people have the patience to put our fiscal house in order, but I do. I think the American people will rise to this occasion as they always have, and I can tell my colleagues that as we stand on tax day 1997, talking about freedom, talking about opportunity, talking about our families and talking about freedom that can be enjoyed for generations, I believe that we can look to a model, another model that is in this world, and that is the Chilean government. Free people make great decisions.

Mr. Speaker, I want to fight for freedom, because I think it is the thing to do.

Mr. HULSHOF. Mr. Speaker, I appreciate the gentleman and his comments. I also note with interest, as he pointed out, the Internal Revenue Service saying the difficulties they have had regarding the expenditure of our tax money for the tax system's modernization effort, and the gentleman mentioned his committee. I too was serving on the Subcommittee on Oversight of our committee, the Committee on Ways and Means, and we were examining on that occasion a couple of weeks ago the budget that the IRS was wanting us to consider.

I noted with interest that they made a request for an additional $1 billion over the next 2 fiscal years for additional capital expenditures. Yet, as we talked about, the monies that we have spent, and certainly as the clock is ticking and people are actually writing checks out tonight to put into an envelope to send to the Internal Revenue Service, my question is perhaps we should look to simplify the Tax Code rather than to invest additional of our tax monies into computer technology.

Certainly computer technology is needed, but at the same time I think we need to look at paring down this very complex and complicated and massive Tax Code in an effort to provide some relief. I thank the gentleman.

Mr. SESSIONS. Mr. Speaker, the gentleman has hit upon the key to the entire debate and that is, our Tax Code is too complex. We cannot expect the IRS to make something pretty of it when it is simply ugly. We must have the determination, people who got elected to Congress and who gave our word to the American people that we were going to go to Washington and do something that would be good for the taxpayer.

The Tax Code of the United States is the problem. Let us tell the truth about it, let us tell the American people. They know they are dealing with it here. Let us not be afraid to tell the truth. It is a problem and we can do better. A flat tax or a consumption tax is far better, and that is the direction that we are headed. I hope the American people hear us tonight.

Mr. HULSHOF. Mr. Speaker, I thank the gentleman, and I see that my colleague, the gentlewoman from Kentucky [Mrs. NORTHUP] is here.

While she is making her way to the microphone, there was, Mr. Speaker, as you know, some additional good news that we had today. Yes, the tax limitation amendment did not pass, but yes, we did pass overwhelmingly the sense of Congress to provide tax relief.

In addition, Mr. Speaker, we passed today the Taxpayer Browsing Protection Act, which I think is certainly necessary in light of the conversations we have had about this investment in the computer technology and equipment for the Internal Revenue Service. We did pass today by a two-thirds majority vote a measure that would protect the individual taxpayers, that would make it a crime in the Internal Revenue Code for an IRS agent or employee to inspect tax return information without authorization.

In addition, this bill mandates that employees that are convicted of browsing or, as some have said, snooping or intruding upon our confidential information that those employees be dismissed from office or discharged from employment.

The reason that we had this discussion last week, the General Accounting Office gave us information that over 1,500 cases of unauthorized inspections of taxpayer records occurred between 1994 and 1995. Even though the agency had implemented a zero tolerance policy, it has largely been ineffective and, therefore, this bill hopefully will solve that problem. That was a silver lining to this very dark day of tax day 1997.

I see my colleague and friend from Kentucky is here, and I would be happy to yield to her.

Mrs. NORTHUP. Mr. Speaker, I thank my honorable friend from Missouri, Mr. HULSHOF, for the opportunity to share with my freshman majority party colleagues that are talking about taxes and the tax burden that so many of our constituents have told us that they have become very angry about.

The truth is, if I had to describe the one issue that is the most uniting issue in my district it has become taxes. I really think that that is unique to this year. I think that there have been questions about taxes, complaints about taxes as long as people have been paying them.

Over the years there have been a variety of concerns, but somewhere over the last 4 or 5 years the American public began to believe that truly Congress was going to direct their attention to the tax burden that we pay and that we were going to address that issue, resolve that issue, and find a way to lower their taxes, a variety of their taxes. There are particular taxes that are very unpopular in this country.

As Congress has moved into its third year under the direction of this leadership, there seems to be some frustration and some concerns that we have not addressed the issue yet. So tonight I would like to take this opportunity to make some suggestions about how we might go about in a government of bipartisan control, of bipartisan work, to resolve the impasse of tax cuts and government spending so that we can truly address the questions and the concerns that so many of our constituents have.

First of all, public policy and dealing with public policy is a very imperfect world. I think most of us, when we were elected, we came to Washington and if we had a perfect world we would wrap up in one tight package a spending bill that would substantially reduce spending, and we would also reduce taxes for the American people. We would put it together in one package, we would send it to the President, and it would be passed.

I think that we could look into the last 2 years of history and know that that is a very difficult thing to achieve. In fact, bill after bill was vetoed. There never was any agreement, and the issue is so big, when we package it all in an omnibus bill, that it is very difficult to discuss with the American people all of the ways that we are trying to comply with their wishes.

So maybe we ought to go about, as has been discussed recently, separating the issues of the budget and the tax cuts, not because we do not believe in both of them and not because we believe that one should foreshadow the other, but because we believe both of them on their own merit have the support of the American people.

First of all, let us look at the budget and the budget that we need to pass. It is our responsibility to pass a budget and to decrease spending. Most people that have run for Congress in the last couple of years have said that the Government spends too much money. Then let us scour every agency.

Sitting on the Committee on Appropriations, I can look at the agencies that come before me and see the terrible waste, the millions, the billions of dollars that are wasted. Mr. Speaker, sometimes we keep spending that money because there is the idea that somehow it is there. It reminds me as a mother of six children what it would be like to give each one of my children a $10 bill to go into a candy store. There would be no limit. They would not stop buying until every last cent were spent.

That is what we are doing in government today, but the money is just not there. Somebody is sacrificing and paying and writing that check to the Federal Government.

So because we agree the Government is too big, because we believe there is too much bureaucracy that is a part of our programs, because we believe there are many areas where we could block grant this money to States and local governments and have more effective programs that better address the problems, because we believe there are obsolete programs, because we believe there are overlapping programs that could be combined, because we believe there is waste that is costing all of our people money, let us go back to the budget with the idea in our minds that we are going to eliminate every excessive program, every program that can be eliminated, not because we are looking towards tax cuts, but because the American people and we believe government is too big and that we need to make it smaller, make it more streamlined, make it more effective. Let us put those ideas before the American people. Let us write them up in a budget, let us send them to the Senate and to the President and let us see if he will sign a bill that reflects what we are all talking about: smaller government.

Let us deal with programs that are insolvent and make them solvent. People believe Medicare should be solvent. People believe Social Security should be solvent. Let us deal with those problems, separate from tax cuts, and make those programs solvent, all of those things, because they are the right thing to do. The American people are clamoring for it.

At the same time on a parallel track, let us start talking about each and every tax cut that have been mentioned to the American people, what they are talking about and asking us for.

Let us talk about the $500 tax credit for families with children. That is the most pinched group of people in our society today. They have young children. They have not had a time in their life where they could save money and build a nest egg. They drive their car all the time to get their children to school, to get to work, to get their children to the doctors, all of the things, the demands that are on young families.

They are the people that go to work, they pay their taxes, and they wait to buy tennis shoes for their children until they have the money in the bank. Those are the families that are most concerned about how they are going to make it. They are the most frustrated about the fact that they get up every day and they go to work and they do all of the responsible things, they pay for day care for their children, they pay their taxes, and they do not know whether there will be the money to take their family on a camping trip this year.

☐ 2230

Let us give them that $500 tax relief. Then let us move to capital gains. Let us send that to the President, in every form. We can start with the perfect form. If that is not what he wants, then let us move to a phase-in, let us move to the different kinds of capital gains tax, and let us move to every form that hopefully the President will eventually sign.

Mr. Speaker, I believe that if we put both of these issues separately before the American people that there will be strong support for both of them, and that we can describe them and communicate with the American people in a way that will build the consensus we so badly need.

Mr. HULSHOF. Mr. Speaker, I thank my friend, the gentlewoman from Kentucky. I see our time is about to expire.

Just to conclude very briefly, once again, those of us on the GOP side, newly elected Members, it is our goal to end this tax trap. It is our goal to help the American people, as we have heard here tonight, earn more money, to be able to keep more money so they can do more for their families and communities.

Earlier today a friend of mine on the other side of the aisle said, what about the loss of revenue? Mr. Speaker, Washington's loss is the American family's gain. We stand committed and ready to achieve that measure.

COSCO: A COMMUNIST CHINESE-OWNED COMPANY

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under the Speaker's announced policy of January 7, 1997, the gentleman from California [Mr. CUNNINGHAM] is recognized for 60 minutes.

Mr. CUNNINGHAM. Mr. Speaker, I do not plan to take the whole time. My colleagues just spoke on the issue of our generation and future generations on taxation, and as important as it is, I feel it is very important that we bring up another subject. That is the subjugation of the United States by a Communist-owned company, and control of.

What I would like to do tonight is talk on the facts. Those facts are based on when I served in the U.S. Navy, I served on 7th Fleet staff and was responsible for all Southeast Asia countries, the defense of, not only in the training exercises, but in the real world threat.

For example, in Team Spirit in Korea, we ran exercises involving our allies in the defense of Korea. That involved our reserves, that involved all of our friendly assets that we had to bear if North Korea came across a line. But at the same time, I had access to some 13 linguists that monitored North Korea's frequencies to give us an idea of real threats.

For example, my last year there, the two Mig 21's came over across the line and defected, and we were responsible for that as well. While at Navy Fighter Weapons School my job was to plan and coordinate not only offensive but defensive impacts and invasions of Southeast Asian countries, so I come tonight with experience and fact. I would like to give those tonight to the Speaker to make his decision, as I hope the American people do.

Cosco is a Communist-owned, Communist Chinese-owned company. Its purpose is ship containers in and out of major ports all over the world. Recently, California has been devastated by the President's defense cuts. We have lost over 1 million jobs. The additional BRACC cuts in base closings and realignments have cost thousands to millions of jobs in the State of California. The people of Long Beach have lost thousands of those jobs, as we did at Kelly Air Force Base, as we did at El Toro and Miramar, and the shifting of different assets.

In that process, the people of Long Beach are looking for help. They have mouths to feed just like anyone else. They have children to send to college. They have been devastated from these cuts in national security in base realignment and closures.

What I plan to show tonight is a direct link between the White House fundraising with China and assets that have gone in favor of Communist China that could pose as a national security threat to the United States. I have intelligence reports that state so. I have facts that also state so, and I would like to make that case this evening.

First, Mr. Speaker, let us look at Long Beach perspective. Again, people have been devastated. They are without jobs, and they need help.

Mr. Speaker, I would say that all of my colleagues on both sides of the aisle that are opposed to a Chinese Communist company taking over Long Beach Naval Air Station would be more than willing to do everything we can to help Long Beach recover those jobs, but not to a Communist-controlled nation of the Chinese Republic.

Cosco's ships fly flags of the People's Republic of China. The port lease with Cosco will provide Cosco with its own terminal. Major imports from China to Long Beach include toys, sporting goods, footwear, apparel, electrical parts, and machinery.

But Mr. Speaker, that is not all. Last year, it was Cosco that delivered to the State of California 2,000 AK–47's. The company that builds the AK–47's, the company that negotiates the trade of AK–47's around the world, the company Cosco, all set up by the PRC, the People's Republic of China, owns. They do not report to department heads. Their CEO is Communist China, all owned and coordinated and controlled by Communist China. Yet, they delivered over 2,000 AK–47's into our country, with the intent of selling these arms to our inner cities to disrupt, to disrupt our inner cities, and disrupt our political environment within the United States of America.

At the same time, the Clinton White House accepted both Cosco and the gunrunners themselves in a White House coffee. I will later show the direct tie between the $366,000 that was conducted to the DNC by the White House recipients and Chinese investors to allow Cosco to gain this favored status.

Long Beach Naval Shipyard closed as a result, as I said, of the additional base closures and lots of jobs were lost. We have a long way to protect those. I would also like to point out that during the bid to reclaim Long Beach Naval Shipyard, the marines lost a bid for the site to a China Cosco firm, and I quote from the Washington Times:

> Several officers in the Marine Corps have raised questions about why the Clinton administration favored turning over a military base in Long Beach, CA to the Chinese ocean shipping company, Cosco, over the protest of marine reserve battalion made homeless by the 1994 Northridge earthquake. Briefings on the firm fail to convince many of its members. The CIA, the Office of Naval Intelligence, and the Coast Guard reinforced the view that Cosco's strong link with the Chinese Government is a fatal flaw in its proposal to deliver the base to a company.

Mr. Speaker, there is a current report, an updated report from the FBI, that states that Cosco is currently actively involved in placing intelligence officers, spies, in all of their ports of call. That is a national security interest.

Cosco has enjoyed a 15-year access to Long Beach Naval Shipyard. I have no problems with that. My problem comes with Cosco taking over complete control of the 145 acres in which they will control access of every ship there. Every cargo container that comes off there, they will place it. They will have control of who sees where that cargo goes, where it is stored, what time of night it goes out, and who receives it.

Mr. Speaker, if we give China that opportunity, we are going to see an increase of illegal aliens in which two Cosco ships forced, in the last Congress, two ships owned by Cosco shipped in illegal aliens, the Chinese, it was in the newspapers, along with the AK–47's. At the same time, you remember it was a Cosco ship that plowed into the port recently and nearly devastated the port in another U.S. facility.

We cannot discuss the actual details of that intelligence briefing as it would not be prudent and it was a classified briefing. But I want to mention that two of the representatives that represent, and I understand their needs, they represent the people that are looking for jobs, one of those individuals stated that, and I quote, "All intelligence agencies that briefed us have assured us that Cosco represents no threat to our national security."

I want to tell you, Mr. Speaker, it is an untruth, the fact that the same intelligence briefers, the CIA, the National Security, the Coast Guard, have all stated that no such comment was ever made and ever intended. And as a matter of fact, they were very, very upset at the dear colleague press release.

Why? Because they stated that this is a policy issue for them to discuss, and they would never say that there is a national security interest, nor would they say that there is not.

So I would submit that is not the case and that after careful deliberation of experience that there is a national security interest.

Let me go through some of the facts. The national security of the United States is a responsibility of Congress and the President, not the city of Long Beach.

Cosco has been attendant at Long Beach since 1991. The proposed lease agreement would turn over 145 acres of port property and grant Cosco a much more significant presence at that port, which I have discussed.

Cosco ship, Empress Phoenix, had attempted to smuggle in some 2,000 AK–47's fully automatic assault weapons, the same kinds of weapons, Mr. Speaker, that were used in the bank holdup in Los Angeles that placed our law enforcement agents in great jeopardy, the same companies in port at which we recently found down off the border, M–2 fully automatic weapons going to Mexico to disrupt their elections which are going to take place over the next 90 days and cause anti-American, antireform legislators and affect the elections in Mexico City. That the Chinese regime is not steadily a U.S. ally.

On January 24, 1996, the New York Times reported warnings by the former Ambassador, Charles Freling, quoting a Chinese official that China would intimidate Taiwan because U.S. leaders would care more about Los Angeles than they would Taiwan.

When the U.S. fleet started to go through the straits, when communist China started shelling Taiwan and missile attacks, the Chinese responded as we started to enter our fleet that either we withdraw or the threat of nuclear warfare on the city of Los Angeles.

Now, let's take a look at a Communist-owned and controlled facility in Long Beach Naval Shipyard. Hutchinson Group, also owned by Communist China, recently purchased both ends of the Panama Canal. This would give the Chinese control of the Panama Canal, it would give them control of Long Beach Naval Shipyard, and all of the access to and from and who sees what and where it goes. We feel that this would be a major national security threat.

Mr. Speaker, let us take a look at why economically China would want to do this. There is a study coming out by the military. China's number one import from the United States is wheat.

Why, Mr. Speaker, does not China or other cargo-containing vessels go around the horn instead of using the Panama Canal? Primarily, it has affected seagoers for centuries, the weather is bad and the threat of lost ships.

If they own both ends of the Panama Canal, the major export of wheat out of the United States to China is controlled through Long Beach Naval Shipyard, they could control economically price fixing of all of our exports going out of our major port at Long Beach. And we feel that this is also an economy threat as well as a military security threat.

According to the New York Times, Chinese officials had conveyed an ominous message to Anthony Lake, President Clinton's national security adviser, just weeks earlier: "The possibility that American interference in Beijing efforts to bring Taipei to heel could result in devastating attack on Los Angeles."

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San Diego Union Tribune, March 31, 1996.

Panama Canal, one of the most strategic locations on the globe, has been brought under COSCO's web. Hutchinson Port Holdings Incorporated, a Hong Kong operated, controlled, again by a corporation, by Chinese Communists with direct ties to the Pacific and Atlantic entrances to the Panama Canal and global, syndicated columnist, Georgie Anne Geyer, Universal Press Syndicate, March 26, 1997.

At the same time, Mr. Speaker, we lost the Panama Canal, both ends of it, to Communist China owned companies. We had an American company from Alabama that bid on those same sites. They won the contracts for both of those sites. It was selected by Panama. After selection, after announcement, the Chinese government went in with sacks of cash, much like they did with our government here in the United States, and said, here is $25,000 for you, here is another $25,000 for you. And guess what? That decision was reversed and it went to Chinese Communists instead of a U.S. based firm. Johnny Chung, a Chinese American businessman from California, gave $366,000 to the Democrats, the DNC, that was later returned on suspicion it illegally came from foreign sources. Chung brought 6 Chinese officials to the White House last year to watch President Clinton make his weekly radio address. One of the 6 was the advisor from COSCO who was later given by the President access to Long Beach shipyard and also the actual gun runners that were there in the White House gave money to the DNC.

The chairman of one of these two Chinese arms companies implicated in the scheme to smuggle the 2,000 illegal Chinese-made weapons into Oakland aboard COSCO's ship had coffee in the White House in an affair associated with D.C. fundraising. Officials of the weapons company were indicted for shipping those arms.

I would reiterate, Mr. Speaker, the company that shipped it, the company that made the rifles, the company that were the arms dealers are all owned by a CEO called Communist China. So what if we turn over a port to COSCO, complete control of a Communist Chinese operated state. We will have illegal immigrants come into the United States. We will have an increase of drugs come into the United States. We will have an increase of Chinese intelligence officers within the United States on our borders, and it could prove a devastating national security issue.

On the campaign trail last year and in a White House meeting in 1995, President Clinton endorsed the proposal to transfer land of the Long Beach Naval shipyard to COSCO, but it was this March, 1995, the White House radio address that had critics talking. A COSCO advisor was among the Chinese businessmen invited to hear the President in the oval office just two days after a California businessman, Johnny Chung, made a $50,000 donation to the DNC and hand-delivered it to Mrs. Clinton's chief of staff Margaret Williams, CBS Evening News, March 11, 1997.

Shortly after the Long Beach Naval shipyard land transfer was arranged, the Clinton administration helped arrange, listen to this, Mr. Speaker, in the President's budget that he submitted, he gave free, no strings, gave to Communist China $50 million to burn a coal burning plant, after these meetings and after these DNC fundraisers from the Chinese. He can cut impact aid for education, but he can also give $50 million to Communist China in the name of trade and just give it. That is not fair trade.

He also gave a multimillion dollar loan to build 5 Communist Chinese ships, COSCO ships, in a nonrecourse loan. What that means, Mr. Speaker, this is a loan of some $137 million, which may not be much to many Members around this body, but you ask the American people, $137 million of their taxpayers' dollars back up a nonrecourse loan to Communist China, a state-controlled company by Communist China, and if they forfeit, who is left holding the bag? The United States taxpayers. Our own ship builders do not have access to this type of loan, Mr. Speaker. Incredible. But yet the administration gives Communist China.

Over the past year a COSCO ship plowed into New Orleans boardwalk injuring 116 people and 6 COSCO ships were denied or detailed for violating international safety regulations by our Coast Guard. This is since January, COSCO has violated by the Coast Guard and had 6 violations since January and declared as an unsafe company, not only for plowing into the pier at New Orleans and devastating that pier, causing millions of dollars in injuries, but for the other violations as well.

COSCO was fined for paying kickbacks to shippers instead of abiding by tariffs. This is, again, a Chinese-operated company that was cited for giving kickbacks, payoffs for access.

We want to make it clear that we do not mean any ill will toward the people of Long Beach. As a matter of fact, we will do everything we can to restore the jobs that they lost in the BRACC closures and defense cuts. My colleagues on both sides of the aisle that are opposed to COSCO taking over this port will do that and do so vigorously.

COSCO's track record, if they were a company owned by some of our greatest allies, Great Britain or others, I would not want them in my backyard for the violations. But I would say this, if they want to stay as a tenant of Long Beach and not have total control and access of a former national security base, most of us would support that, Mr. Speaker.

Our problem, again, is giving them total access to a security base that controls entry of illegals, of drugs, of illegal arms and intelligence officers and could pose an economic and national security threat.

Mr. Speaker, President Clinton took a personal role in promoting the interests of COSCO. At the same time he was cutting over 100 warships from the U.S. fleet, drawn up by the Bush administration, a 23 percent cut. The symbolism could not be anymore stark.

Richard Fisher, senior policy analyst with the Asian Studies Center of the Heritage Foundation, noted the real security concerns of Long Beach Steel in a Washington Times column on April 13. His main point is given below.

If it so desires, the Chinese leadership can direct that COSCO assets be put at the disposal of the People's Liberation Army, the PLA, or the main espionage organ, the Ministry of State Security, the MSS. Do we really want a subsidiary of the People's Republic of China, a future superpower, to have such large presence at a port on our own coast, one of the only two West Coast ports with a dry dock large enough to repair our aircraft carriers?

Mr. Speaker, I would say that we do not. It is one of the reasons that the gentleman from California [Mr. DUNCAN HUNTER] and I offered a bill to stop this takeover by a Communist power of U.S. territory.

The Clinton administration, and I would like to go through this step by step, it is not enough that there is a national security interest, but the Clinton administration and the China connection is very complicated. Unless you go step by step through it on how the various pieces seem to fit together, it is difficult to draw any special direction.

Webster Hubbell, John Huang, Johnny Chung, Charles Yah Lin Trie will be discussed. The other incidences of Roger Tamraz, a felon, Susan McDougal, White House and DNC Immigration and Naturalization Service, Arapaho Indian Tribe, Oklahoma fundraising—all of these I will not discuss, Mr. Speaker, because they do not have a direct tie, although indirectly, to the Chinese taking over a shipyard in Long Beach. I would like to go through and show how devastating the empirical indictment of a conflict of interest between the White House and Long Beach Naval Shipyard.

Let me first start with a family called the Riady family. The Riady family is based in Indonesia, controls a $12 billion financial empire operating under the umbrella of the Lippo Group. The family patriarch, one son, Stephen Riady has served as Lippo chairman since 1991. James Riady lived in Arkansas in the 1980's and there came to know then Governor Bill Clinton. The Riady family has an unusually big stake in maintaining most-favored-nation status for China since Lippo maintains enormous investments in Hong Kong, which is also the company that Mr. McDougal worked at.

The China connection. A Justice Department investigation into improper political fundraising activities has uncovered evidence that representatives of the People's Republic of China sought direct contributions from foreign sources to the DNC, the Democratic National Committee, before the 1996 Presidential election.

Mr. Speaker, our intelligence—the FBI and CIA—warned Janet Reno directly that China was attempting to influence the White House in policy decisions through campaign finance reports, much like they did in the port that we just talked about, by giving cash donations.

The Justice Department task force has discovered that in early 1995, Chinese representatives developed a plan to spend nearly $2 million to buy influence in Congress, this body, and the Clinton administration, and investigators are apparently trying to determine if any of that money was received by John Huang, Charlie Trie, among others. So the FBI has given us warning and the CIA that the Chinese are trying to influence our Government to make decisions in their favor. And then the Clinton administration gives them a $50 million coal burning plant, gives them a $127 to $137 million loan to build Chinese Communist ships. Then they give them access to Long Beach Naval Shipyard and complete control of it. We think that there is a direct problem.

John Huang, the Commerce Department and Lippo. John Huang, with no background check, with no background check, received top-level security clearance for work at the Commerce Department while still working for Lippo. This, despite Mr. Huang's ties to a Lippo bank that was ordered to cease and desist money laundering and despite Lippo commercial ties to China and its intelligence services, was granted access to top level intelligence services within the White House.

President Clinton attended a September 13, 1995, White House meeting with John Huang, James Riady of Lippo Bank, Bruce Lindsey, and C. Joseph Giroir, the lawyer who hired then-Governor Clinton's wife, Hillary Clinton, to the Rose Law Firm and who is now doing Riady business in China.

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It was at that meeting that the transfer of Huang from the Department of Commerce to the DNC was arranged. A January 13, 1997, letter from the Commerce Secretary Mickey Kantor says that Mr. Huang got a weekly intelligence briefing centered on the People's Republic of China and the materials related to those briefings were under the control of the CIA. And again there was no security clearance whatsoever, although they were warned, the administration, that this man had ties to Communist China.

Senior White House aides learned that Commerce Department officials had concerns about John Huang in mid-1995, several months before the White House helped place him in a sensitive fund-raising job in the DNC, the Democratic National Committee. People at the Commerce Department itself described Mr. Huang as "bad news."

According to several people familiar with the matter, officials at the Department were worried that Mr. Huang's government work posed a conflict with his past employment with Lippo and direct ties with Communist China.

In his second week on the job at the Commerce Department, Mr. Huang and Webster Hubbell, who has recently been in the news and who was then employed by Lippo, met for lunch in Washington. At the time, according to the internal White House documents, administration officials were monitoring Mr. Hubbell's cooperation with the Whitewater independent counsel. That evening, Mr. Huang joined Mr. Riady and Mr. Clinton at the President's birthday party.

It is no secret that these were some of the individuals that gave Mr. Hubbell over $500,000, quote, as a friend.

John Huang received 37 CIA-documented intelligence briefings at the Commerce Department, saw more than two dozen intelligence reports, and made over 70 phone calls to a Lippo-controlled bank in Los Angeles, his former employer.

Mr. Huang's message slips from the Commerce Department also showed calls from one Chinese Embassy official in February 1995 and three calls from the Embassy's commercial minister in June and August of that year.

Mr. Huang's desk calendar entries had three meetings scheduled with Chinese Government officials. He attended policy breakfasts at the Chinese Embassy in October 1995 and visited the Indonesian Embassy on October 11, 1995.

In March, President Clinton, after this meeting in Indonesia by Mr. Huang, in March 1996, President Clinton reversed a key administrative policy on immigration following a $1.1 million Asian fund-raising dinner, the most successful Asian-American political fund-raiser in United States history. Held the previous month and organized by, who else? John Huang, a former employee of Lippo.

President Clinton had previously opposed the practice of allowing foreign-born siblings of naturalized U.S. citizens to come to the United States, based on recommendations of a commission he appointed himself, and affirmed his desire to halt immigration in an early 1996 letter to the Speaker of the House.

But in March 1996, President Clinton made a last-minute about-face, after the Indonesian meeting with Mr. Huang and after the fund-raising of $1.1 million, and reversed his position and put top priority recommendations made in a strongly worded John Huang memorandum to Bill Clinton. And then, and now former, Senator Alan Simpson said: I never in 18 years in Congress, and I quote, saw an issue that shifted so fast and so hard.

After receiving $1.1 million from Indonesia, Mr. Huang began aggressively arguing for U.S. trade policy toward Vietnam only 1 day after joining the Commerce Department, and again with no security clearances whatsoever or background check, in July 1994, and pushed the idea for the next 17 months when Lippo Group sought to expand its investment empire into Vietnam itself. He also attended interagency meetings of an Indonesian working group. The next month, a United States trade mission to China resulted in a $1 billion power plant that Lippo would finance and benefit from. This is at the same time when the President agreed to give Communist China $50 million for a Chinese coal-burning plant.

In 1992, Candidate Clinton described as unconscionable Indonesia's treatment of the East Timorese, 200,000 of whom had perished since Indonesia had annexed East Timor 20 years ago. The administration even supported the United Nations resolution criticizing Indonesia's East Timor policy. Around the same time, Mark Grobymer, an Arkansas lawyer who golfs with Mr. Clinton, joined Mr. Huang and Mr. Riady on a trip to East Timor. In April the three men visited Mr. Clinton, and, guess what? The President reversed his position. Human rights activists claimed the administration's concern for Timor would be looked into.

John Huang helped raise $425,000 from an Indonesian couple whose primary bread earner was as a landscaper. When it was looked into, and that checks were made concurrently by the same source and it was brought up to the press, the DNC returned the money.

John H. K. Lee, of Cheong Am America, United States subsidiary of a South Korea company, gave $250,000 in illegal contributions to the DNC following a private meeting with President Clinton, and arranged by guess who? John Huang. The money was returned following a press story.

Mr. Speaker, what I am trying to show is that there was a direct link between fund-raising of foreign powers and the takeover of a national security base, Long Beach Naval Shipyard, by the Communist Chinese. And that if we allow this to happen, that in the interest of national security and economic security, that this administration has sold itself out to fund-raising interests from overseas.

On March 9, 1995, Margaret Williams, Chief of Staff to Hillary Clinton, accepted a $50,000 donation to the Democratic party from Johnny Chung, a California businessman who emerged as a central figure of the Justice Department and congressional investigations into Democratic fund-raising. Mr. Chung made a $50,000 donation to Democrats the same week as he escorted COSCO and also the gun runners that were there at the White House, a $50,000 donation to the DNC from these groups.

After that visit, President Clinton told his aides that he was not sure we want photos of him made with these people circulating around, end quote.

Mr. Chung told Mrs. Williams earlier in the administration that he wanted to give money to the Clintons personally, sought to exploit his contributions to excess commercial gain. Associates of Mr. Chung have said that he used his political access to submit business deals with investors from China, Taiwan and Hong Kong, bringing them to the White House events for fund-raisers.

National security warnings ignored: Robert L. Suetting, a Chinese specialist on National Security Council, warned that Mr. Chung was quote a hustler who appeared to be involved in setting up some kind of consulting operation that will thrive by bringing Chinese entrepreneurs into the town for exposure to high level United States officials, that is, COSCO.

Three months later Mr. Suetting expressed concern to Anthony Lake, who was at the time President Clinton's national security adviser, after the White House learned that Mr. Chung was leaving for China and planned to get involved in the sensitive case of imprisoned Chinese dissident Harry Wu.

Mr. Chung visited the White House 51 times, records show. Twenty-one of these times he was cleared for entry by the office of the First Lady. Mr. Chung made 17 visits to the White House after the April 1995 Committee on National Security memorandums identify him as a hustler and urged caution, and 8 visits after the second warning memorandum was sent to the NSC, Director Anthony Lake, in July 1995.

In March 1997, in her first extensive public remarks about the DNC fundraising controversy, the First Lady said she did not know why Johnny Chung had as much access and was spending so much time around her staff offices in the executive office building, but yet 21 of the 51 times it was the First Lady's office that granted direct access to Mr. Chung.

In March 1996, Charlie Trie, a Little Rock restaurateur and long-time friend of President Clinton, presented Michael H. Cardozo, executive director of the Presidential Legal Expense Trust, a defense fund set up for President Clinton and Mrs. Clinton to help pay their legal bills, with two manila envelopes containing checks and money orders for more than $450,000.

The fund returned about 70,000 immediately but deposited $378,300. Two months later, after the fund ordered an investigation, the rest of the money is returned. The investigation found that some of the money came from sequentially numbered money orders, supposedly from different people in different cities, and apparently signed in the same handwriting. And guess what? It was done by Mr. Trie and Mr. Huang again.

According to a defense fund trustee, Harold Ickes and Hillary Clinton had knowledge of the corrupt money and did nothing to stop the flow of it until newspaper columns and stories triggered Ickes' tip-off to the DNC that maybe Trie's fundraising would be linked to John Huang and James Riady and, yes, Mr. McDougal.

A Justice Department FBI task force investigating allegations that China may have directed contributions to the DNC, charges that the Chinese Government denies, is focusing on a series of substantial wire transfers in 1995–96 from a bank operated by the Chinese Government. The transfer, made from the New York office of the Bank of China, and usually made in increments of $50,000 and $100,000, came at a time when Mr. Trie was directing large donations, again to the DNC.

The Democratic National Committee has returned $187,000 that Mr. Trie personally contributed and plans to return another $458,000 he helped raise from others. The DNC said the donations appear to have foreign sources, which would make them illegal, and they returned them.

Some of the donors invited to the White House who participated in events with the President include: Mr. Russ Barakat, a south Florida Democrat party official who, 5 days after attending a White House coffee session in April 1995, was indicted on criminal charges and ultimately convicted of tax evasion.

A Florida newspaper was full of the stories about Mr. Barakat's problems with the law before the executive mansion get-together.

Mr. Wang Jun a Chinese businessman and the head of a military-owned arms company, while a part of the United States Government, was out investigating Wang Jun for allegedly smuggling in arms to this country, that is, 2,000 AK-47's. He was with Mr. Clinton at a White House coffee courtesy of Charlie Trie.

I will not speak about Eric Wynn because there is no tie.

Chong Lo, convicted of tax evasion in 1980 under the name of Esther Chu, who was another visitor at the coffee of the White House Clintons, has since been arrested again on 14 charges of falsifying mortgage applications, to which she had pleaded not guilty at the time.

In March 1997, Mr. Speaker, former White House Chief of Staff Leon Panetta acknowledged that the 1996 Clinton reelection committee played a role in the spending of some $35 million to $40 million in soft money contributions on campaign commercials. Mr. Panetta's comments marked the first time that a member of Mr. Clinton's inner circle publicly stated that the President's reelection campaign helped direct the spending of these funds.

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When asked if it was illegal for the Clinton campaign to use soft money, Mr. Panetta replied it was not because the money was spent as a part of overall Democratic strategy in confronting the Republican Congress.

The key witnesses in the Democratic fundraising probe, Webster Hubbell, John Huang, and former White House aide Mark Middleton have reportedly invoked their fifth amendment rights and refused to turn over subpoenaed papers to the White House Government Reform and Oversight Committee, although in recent developments in the news, Mr. Hubbell has been forthcoming.

The Democratic National Committee has said it will return $3 million in illegal, improper or suspicious donations including $1.6 million raised by Mr. Huang, $645,000 raised by Charlie Trie and $366,000 raised by Johnny Chung.

What I would say, Mr. Speaker, is we need to take a look. Is there a conflict of interest between payments to the DNC, to the White House, and to the takeover of a Communist-controlled COSCO in Long Beach Naval Shipyard, a company again that shipped in AK-47's, a company that is owned by Communist China. Another company that actually made the arms, owned by Communist China. Another company that directs the sales of those and delivery of those arms owned by Communist China. All three corporations, their CEO is Communist China. And what future developments could we have by Communist China completely controlling and having access to Long Beach Naval Shipyard?

Again if they want to have a right to port there like they have over the 15 years, we have no problem with that. Our problem is it gives them complete control of the 145 acres and access, and where things go.

Mr. Speaker, we are opposed to the takeover of Long Beach Shipyard by a Communist Chinese power. Recently Communist China has increased its military spending by over 30 percent in one year. They recently purchased 250 SU-27's which outclass, nonparity, our F-15 Strike Eagles and our F-14-D's. Their AA-10, AA-11 and 12 missiles that they bought from Russia outclass our AMRAAM to where we do not have parity, even with those fighters.

Russia has currently a follow-on to that, the SU-35. Communist China and COSCO have illegally shipped nuclear weapons to all of our former enemies, including Iraq, Iran, and Syria. They have been cited for shipping chemical and biological weapons to Iran, Iraq, and Syria. That, with the threat to the United States that if we got involved with one of their holdings, Taiwan, that they would threaten us with nuclear retaliation on the city of Los Angeles, is that a country that we want to have control and access to our port? I say no, Mr. Speaker.

I believe in China, and I believe in trade, that it is hard to change a 10,000-year-old dog, and I think we need to get involved in investment with China. But currently we have one of the largest deficits, trading deficits with any other Nation with China. When we talk about trade, we need to talk about fair trade. We do not want access of Chinese-controlled government, we do not want them to slap us in the face with the threat of Taiwan. I think under Republican and Democratic administrations, Mr. Speaker, that our weak link is our State Department. I think our new successor in that department is probably the absolute best person we could have. She is tough, she is tough on negotiations, and I think she will stand up for our workers' rights over trade with China. But it has not happened in the past. And Madeleine Albright, I think if anybody can do it in the administration, she can, and I support that, because she is tough and that is what we need for a change in our trade negotiations. I supported NAFTA and I supported GATT, but yet our administration now and under Republican administrations in many of my colleagues' opinion has not stood up for our workers. Yes, we do need to trade with China. We do need to trade with other countries. But not when they keep slapping us in the face, and currently and in the future pose a national security threat to this country.

Mr. Speaker, all these facts are documented in newspaper articles.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SCHIFF (at the request of Mr. ARMEY), for today and the balance of the week, on account of medical reasons.

Mr. COSTELLO (at the request of Mr. GEPHARDT), for today, on account of his mother's illness.

Mr. MANTON (at the request of Mr. GEPHARDT), for today, on account of official business in the district.

Ms. DANNER (at the request of Mr. GEPHARDT), until 5 p.m. today, on account of an illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders hereto entered, was granted to:

(The following Member (at the request of Mr. PALLONE) to revise and extend her remarks and include extraneous material:)

Ms. MCKINNEY, for 5 minutes today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. PAUL, for 5 minutes, today.

Mrs. LINDA SMITH of Washington, for 5 minutes, today.

Mr. MCINTOSH, for 5 minutes each day, on today and April 16.

Mr. GUTKNECHT, for 5 minutes, on April 16.

Mr. COBLE, for 5 minutes, today.

Mr. UPTON, for 5 minutes, on April 17.

Mr. DUNCAN, for 5 minutes, today.

Mr. JONES, for 5 minutes, on April 17.

Mr. KINGSTON, for 5 minutes each day, on today and April 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. ROEMER.
Mr. PASCRELL.
Mr. KUCINICH.
Mr. OBEY.
Mr. POMEROY.
Mrs. MEEK of Florida.
Mr. VISCLOSKY.
Mr. SCHUMER.
Mr. FRANK of Massachusetts.
Mr. TOWNS.
Mr. MCGOVERN.
Mr. SABO.
Mrs. KENNELLY of Connecticut.
Ms. NORTON.
Ms. KILPATRICK.
Mr. MENENDEZ.

(The following Members (at the request of Mr. DUNCAN) and to include extraneous matter:)

Mr. SOLOMON.
Mr. CAMP.
Mr. GALLEGLY.
Mr. GOODLING.
Mr. DOOLITTLE.
Mr. MCINTOSH.
Mr. ARCHER.
Mr. DIAZ-BALART.
Mr. GEKAS.
Mr. CUNNINGHAM.
Mr. SPENCE in two instances.
Mr. GILMAN in two instances.

(The following Member (at the request of Mr. CUNNINGHAM) and to include extraneous matter:)

Mr. DIXON.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 785. An act to designate the J. Phil Campbell, Senior, Natural Resource Conservation Center.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight reported that that committee did on the following date present to the President, for his approval, a bill of the House of the following title:

On April 15, 1997:

H.R. 785. An act to designate the J. Phil Campbell, Senior, Natural Resource Conservation Center.

ADJOURNMENT

Mr. CUNNINGHAM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 20 minutes p.m.), the House adjourned until tomorrow, Wednesday, April 16, 1997, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2767. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Raisins Produced From Grapes Grown In California; Final Free and Reserve Percentages for the 1996–97 Crop Year for Natural (Sun-Dried) Seedless Raisins [FV97–989–1IFR] (7 CFR Part 989) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2768. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Hazelnuts Grown in Oregon and Washington; Establishment of Interim and Final Free and Restricted Percentages for the 1996–97 Marketing Year [Docket No. FV96–982–2 FIR] (7 CFR Part 982) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2769. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Irish Potatoes Grown in Washington; Amended Assessment Rate [Docket No. FV97–946–1 IFR] (7 CFR Part 946) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2770. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Establishment of Container Marking Requirements and Special Purpose Shipment Exemptions [FV96–956–3 FR] (7 CFR Part 956) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2771. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order; Referendum Procedures [FV–97–701FR] (7 CFR Part 1208) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2772. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Sethoxydim; Extension of Time-Limited Pesticide Tolerance [OPP–300467; FRL–5598–7] (RIN: 2070–AB78) received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2773. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Norflurazon; Pesticide Tolerance for Emergency Exemptions [OPP–300470; FRL–5598–2] received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2774. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Myclobutanil; Pesticide Tolerances for Emergency Exemptions [OPP–300466; FRL–5597–9] (RIN: 2070–AC78) received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2775. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Propiconazole; Pesticide Tolerances for Emergency Exemptions [OPP–300474; FRL–5600–5] (RIN: 2070–AB78) received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2776. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Phosphinothricin Acetyltransferase and the Genetic Material Necessary for Its Production in All Plants; Exemption From the Requirement of a Tolerance On All Raw Agricultural Commodities [OPP–300463; FRL–5597–3] (RIN: 2070–AB78) received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2777. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Bacillus Thuringiensis Subspecies Kurstaki Cryla(c) and the Genetic Material Necessary for Its Production in All Plants; Exemption From the Requirement of a Tolerance on All Raw Agricultural Commodities [OPP–300462; FRL–5596–7] (RIN: 2070–AB78) received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2778. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clopyralid; Pesticide Tolerance [OPP–300473; FRL–5600–2] (RIN: 2070–AB78) received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2779. A letter from the Acting President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Mexico, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

2780. A letter from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits (29 CFR Part 4044) received April 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2781. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Promulgation of Extension of Attainment Date for the Portland, Maine Moderate Ozone Nonattainment Area [FRL–5809–5] received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2782. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Ambient Air Quality Surveillance; Connecticut/Maine/Massachusetts/New Hampshire/Rhode Island/Vermont; Modification of the Ozone Monitoring Season [001–7201a; FRL–5808–7] received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2783. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Approval of Source-Specific RACT [PA069–4053, PA096–4053; FRL–5808–9] received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2784. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Limited Approval and Limited Disapproval of Implementation Plans; Rhode Island [RI–6972a; FRL–5711–1] received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2785. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Indiana [IN45–3a; FRL–5698–5] received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2786. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Minnesota [MN48–01–7268a; FRL–5699–1] received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2787. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Act Approval and Promulgation of PM10 Implementation Plan for Denver, Colorado [CO–001–0016; FRL–5802–6] received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2788. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Source-Specific VOC and NO_X RACT Determinations [PA–4055a; FRL–5809–9] received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2789. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision; Bay Area Air Quality Management District [CA 179–0029a; FRL–5697–1] received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2790. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Source-Specific VOC and NO_X RACT Determinations [PA–4056a; FRL–5809–7] received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2791. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 04–97 for United States involvement in the United Kingdom's Fast Jet Missile Approach and Warning System Technology Assessment Program [FJMAWS TAP], pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

2792. A letter from the Chair, Christopher Columbus Fellowship Foundation, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2793. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Excepted Service—Schedule A Authority for Temporary Organizations [5 CFR Part 213] (RIN: 3206–AH67) received April 15, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

2794. A letter from the Secretary of Housing and Urban Development, transmitting the Federal Housing Administration's [FHA] annual management report for the fiscal year 1995, pursuant to 31 U.S.C. 9106; to the Committee on Government Reform and Oversight.

2795. A letter from the Chief Justice, the Supreme Court of the United States, transmitting amendments to the Federal Rules of Civil Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2074 (H. Doc. No. 105–67); to the Committee on the Judiciary and ordered to be printed.

2796. A letter from the Chief Justice, the Supreme Court of the United States, transmitting amendments to the Federal Rules of Criminal Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2074 (H. Doc. No. 105–68); to the Committee on the Judiciary and ordered to be printed.

2797. A letter from the Chief Justice, the Supreme Court of the United States, transmitting amendments to the Federal Rules of Bankruptcy Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2075 (H. Doc. No. 105–70); to the Committee on the Judiciary and ordered to be printed.

2798. A letter from the Chief Justice, the Supreme Court of the United States, transmitting amendments to the Federal Rules of Evidence that have been adopted by the Court, pursuant to 28 U.S.C. 2074 (H. Doc. No. 105–69); to the Committee on the Judiciary and ordered to be printed.

2799. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model MD–11 and DC–10 Series Airplanes, and KC–10A (Military) Airplanes (Federal Aviation Administration) [Docket No. 95–NM–234–AD; Amdt. 39–9986; AD 97–07–12] (RIN: 2120–AA64) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2800. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce plc RB.211–524 Series Turbofan Engines (Federal Aviation Administration) [Docket No. 95–ANE–56; Amdt. 39–

9978; AD 97-07-04] (RIN: 2120-AA64) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2801. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Textron Lycoming and Superior Air Parts, Inc. (Federal Aviation Administration) [Docket No. 96-ANE-43; Amdt. 39-9977; AD 97-01-04] (RIN: 2120-AA64) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2802. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A320 Series Airplanes (Federal Aviation Administration) [Docket No. 96-NM-105-AD; Amdt. 39-9988; AD 97-07-14] (RIN: 2120-AA64) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2803. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model CN-235 Series Airplanes (Federal Aviation Administration) [Docket No. 96-NM-127-AD; Amdt. 39-9987; AD 97-07-13] (RIN: 2120-AA64) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2804. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28882; Amdt. No. 1792] (RIN: 2120-AA65) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2805. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28883; Amdt. No. 1793] (RIN: 2120-AA65) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2806. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28863; Amdt. No. 1789] (RIN: 2120-AA65) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2807. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28865; Amdt. No. 1791] (RIN: 2120-AA65) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2808. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments (Federal Aviation Administration) [Docket No. 28864; Amdt. No. 1790] (RIN: 2120-AA65) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2809. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Reduced Vertical Separation Minimum Operations (Federal Aviation Administration) [Docket No. 28870; Amdt. No. 91-254] (RIN: 2120-AE51) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2810. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Truckee, CA (Federal Aviation Administration) [Airspace Docket No. 96-AWP-21] (RIN: 2120-AA66) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2811. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; San Francisco, CA (Federal Aviation Administration) [Airspace Docket No. 97-AWP-5] (RIN: 2120-AA66) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2812. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Willcox, AZ (Federal Aviation Administration) [Airspace Docket No. 97-AWP-8] (RIN: 2120-AA66) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2813. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Hudson, NY; correction (Federal Aviation Administration) [Airspace Docket No. 96-AEA-12] (RIN: 2120-AA66) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2814. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Temporary Restricted Area R-3203D; Orchard, ID (Federal Aviation Administration) [Airspace Docket No. 96-ANM-21] (RIN: 2120-AA66) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2815. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Craig, CO (Federal Aviation Administration) [Airspace Docket No. 96-ANM-030] received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2816. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Battle Mountain, NV (Federal Aviation Administration) [Airspace Docket No. 96-AWP-32] (RIN: 2120-AA66) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2817. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E2 Airspace; Brunswick Malcolm-Mckinnon Airport, GA (Federal Aviation Administration) [Airspace Docket No. 97-ASO-6] (RIN: 2120-AA66) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2818. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; St. Cloud, MN, St. Cloud Regional Airport (Federal Aviation Administration) [Airspace Docket No. 96-AGL-33] (RIN: 2120-AA66) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2819. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Hillsboro, ND, Hillsboro Municipal Airport (Federal Aviation Administration) [Airspace Docket No. 96-AGL-32] (RIN: 2120-AA66) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2820. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; St. Cloud, MN, St. Cloud Regional Airport (Federal Aviation Administration) [Airspace Docket No. 96-AGL-34] (RIN: 2120-AA66) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2821. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Mackinac Island, MI, Mackinac Island Airport (Federal Aviation Administration) [Airspace Docket No. 96-AGL-35] (RIN: 2120-AA66) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2822. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Mineral Point, WI, Iowa County Airport (Federal Aviation Administration) [Airspace Docket No. 96-AGL-38] (RIN: 2120-AA66) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2823. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Detroit, MI, Romeo Airport (Federal Aviation Administration) [Airspace Docket No. 97-AGL-5] (RIN: 2120-AA66) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2824. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Phillips, WI, Price County Airport (Federal Aviation Administration) [Airspace Docket No. 97-AGL-4] (RIN: 2120-AA66) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2825. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Pine Ridge, SD, Pine Ridge Airport (Federal Aviation Administration) [Airspace Docket No. 96-AGL-7] (RIN: 2120-AA66) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2826. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Monte Vista, CO (Federal Aviation Administration) [Airspace Docket No. 95-ANM-31] received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2827. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment of Class E Airspace; Burlington, CO (Federal Aviation Administration) [Airspace Docket No. 95–ANM–27] received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2828. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Removal of Certain Limitations on Cost Comparisons Related to Contracting Out of Activities at VA Health-Care Facilities (RIN: 2900–AI61) received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

2829. A letter from the General Counsel, Department of Defense, transmitting proposed items of legislation that address personnel, procurement, policy, and environmental concerns of the Department of Defense; jointly, to the Committees on National Security, Ways and Means, the Judiciary, Government Reform and Oversight, and Transportation and Infrastructure.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SKAGGS (for himself, Mrs. Roukema, Mr. Spratt, and Mr. Stenholm):

H.R. 1321. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HYDE (for himself, Ms. Pryce of Ohio, Mr. Barcia of Michigan, Mr. Royce, Mr. Stump, Mr. Bono, Mr. Moran of Virginia, Mr. Horn, Mr. Brady, Mr. Foley, Mr. Stearns, Mr. Gallegly, Ms. Ros-Lehtinen, and Mr. LoBiondo):

H.R. 1322. A bill to implement the Victims' Rights Constitutional Amendment and protect the rights of crime victims; to the Committee on the Judiciary.

By Mr. McHALE (for himself, Mr. Hansen, Mr. Meehan, Mr. Oberstar, Mr. Yates, Mr. Hinchey, Ms. Rivers, Mr. Ackerman, Mr. Miller of California, Mr. Lipinski, Mr. Gejdenson, Ms. Furse, Mr. Dellums, Mr. Evans, Ms. Norton, and Ms. DeLauro):

H.R. 1323. A bill to amend the Internal Revenue Code of 1986 to disallow deductions for advertising expenses for tobacco products; to the Committee on Ways and Means.

By Mr. MARKEY (for himself, Mr. Dingell, Mr. Klink, and Mr. Sawyer):

H.R. 1324. A bill to amend the Communications Act of 1934 to clarify the authority of the Federal Communications Commission to authorize foreign investment in U.S. broadcast and common carrier radio licenses; to the Committee on Commerce.

By Mr. DAN SCHAEFER of Colorado (for himself, Mr. Tauzin, Mr. Bono, Mr. Hall of Texas, Mr. Hefley, Mr. Linder, Mrs. Myrick, Mr. Norwood, Mr. Packard, Mr. Stump, and Mr. Wicker):

H.R. 1325. A bill to promote freedom, fairness, and economic opportunity for families by repealing the income tax, abolishing the Internal Revenue Service, and enacting a national retail sales tax to be administered primarily by the States; to the Committee on Ways and Means.

By Mr. BUNNING of Kentucky (for himself and Mr. Thornberry):

H.R. 1326. A bill to amend title 31, United States Code, to provide for continuing appropriations in the absence of regular appropriations; to the Committee on Appropriations.

By Mr. CAMP:

H.R. 1327. A bill to amend the Internal Revenue Code of 1986 to provide for a child tax credit; to the Committee on Ways and Means.

By Mr. FRANK of Massachusetts:

H.R. 1328. A bill to prohibit the importation of goods and produced abroad with child labor, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Ways and Means, for a period to be subsequently determine by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GREENWOOD:

H.R. 1329. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare Program of drugs approved by the Food and Drug Administration for the treatment of individuals with multiple sclerosis; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KANJORSKI (for himself, Mr. Towns, Mr. Borski, Mr. Underwood, Mr. Mascara, and Ms. Norton):

H.R. 1330. A bill to prohibit Federal officers and employees from providing access to Social Security Account statement information, personal earnings and benefits estimate statement information, or tax return information of an individual through the Internet or without the written consent of the individual, and to establish a commission to investigate the protection and privacy afforded to certain Government records; to the Committee on Government Reform and Oversight.

By Mrs. KENNELLY of Connecticut:

H.R. 1331. A bill to require the Commissioner of Social Security to assemble a panel of experts to assist the Commissioner in developing appropriate mechanisms and safeguards to ensure confidentiality and integrity of personal Social Security records made accessible to the public; to the Committee on Ways and Means.

By Mrs. MALONEY of New York (for herself, Mr. Conyers, Mrs. Mink of Hawaii, and Ms. Christian-Green):

H.R. 1332 A bill to protect the civil rights of victims of gender-motivated violence and to promote public safety, health, and regulate activities affecting interstate commerce by creating employer liability for negligent conduct that results in an individual's committing a gender-motivated crime of violence against another individual on premises controlled by the employer; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NETHERCUTT (for himself, Ms. Dunn of Washington, Mr. McIntosh, Mr. Hostettler, Mr. Calvert, Mr. Chabot, and Mr. Hefley):

H.R. 1333. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for the old-age, survivors, and disability insurance taxes paid by employees and self-employed individuals, and for other purposes; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 1334. A bill to amend the Federal tort claims provisions of title 28, United States Code, to repeal the exception for claims arising outside the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself, Mr. Owens, Mr. Towns, Ms. Molinari, Mr. Nadler, Mrs. Maloney of New York, and Ms. Velázquez):

H.R. 1335. A bill to award a congressional gold medal to honor Jack Roosevelt Robinson; to the Committee on Banking and Financial Services.

By Mr. SMITH of Texas (for himself, Mr. Roemer, Mrs. Roukema, and Mr. Watt of North Carolina):

H.R. 1336. A bill to amend the Adult Education Act to authorize the Secretary of Education to make grants to States to provide support services to participants in adult education programs; to the Committee on Education and the Workforce.

By Mr. SNOWBARGER (for himself and Mr. Schiff (both by request), Mr. Moran of Kansas, Mr. Tiahrt, and Mr. Ryun):

H.R. 1337. A bill to enhance the administrative authority of the respective presidents of Haskell Indian Nations University and the Southwest Indian Polytechnic Institute, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOUDER (for himself, Mrs. Myrick, Mr. Largent, Mr. McIntosh, Mr. Weller, Mr. Shadegg, Mr. Watts of Oklahoma, Mr. Coburn, Mrs. Kelly, Mr. English of Pennsylvania, Mrs. Chenoweth, Mr. Duncan, Mr. Kolbe, Mr. Bartlett of Maryland, Mr. Weldon of Florida, Mr. Graham, Mr. Sensenbrenner, Mr. Cox of California, Mr. Chabot, Mr. Paul, Mrs. Emerson, and Mr. Calvert):

H.R. 1338. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the charitable contribution deduction, to allow such deduction to individuals who do not itemize other deductions, and for other purposes; to the Committee on Ways and Means.

By Mr. UNDERWOOD:

H.R. 1339. A bill to amend title 10, United States Code, to impose certain notification requirements on the Secretary of Defense as a precondition on the establishment of Department of Defense domestic dependent elementary and secondary schools; to the Committee on National Security.

By Mr. VISCLOSKY:

H.R. 1340. A bill to reduce corporate welfare and promote corporate responsibility; to the Committee on Ways and Means, and in addition to the Committees on Resources, Agriculture, Science, Banking and Financial Services, the Budget, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HYDE (for himself, Ms. PRYCE of Ohio, Mr. BARCIA of Michigan, Mr. ROYCE, Mr. STUMP, Mr. BONO, Mr. MORAN of Virginia, Mr. HORN, Mr. BRADY, Mr. FOLEY, Mr. STEARNS, Mr. GALLEGLY, Ms. ROS-LEHTINEN, and Mr. LOBIONDO):

H.J. Res. 71. Joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

By Mr. WATTS of Oklahoma (for himself, Mr. LARGENT, and Mr. BUNNING of Kentucky):

H. Con. Res. 61. Concurrent resolution honoring the lifetime achievements of Jackie Robinson; to the Committee on Government Reform and Oversight.

By Mr. HASTINGS of Florida:

H. Con. Res. 62. Concurrent resolution directing the Joint Committee on the Library to procure a bust or statue of Sojourner Truth for placement in the Capitol; to the Committee on House Oversight.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. HAYWORTH introduced a bill (H.R. 1341) for the relief of Comdr. Carl D. Swanson; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 14: Mr. HASTERT, Mr. RIGGS, Mr. SANDLIN, Mr. CALVERT, Mr. NORWOOD, Mr. FOX of Pennsylvania, and Mr. BOB SCHAFFER.

H.R. 27: Mr. BRADY, Mr. HERGER, Mr. HOSTETTLER, Mr. DUNCAN, Mr. BACHUS, and Mr. COMBEST.

H.R. 38: Mr. GALLEGLY, Mr. DEUTSCH, Mr. LAMPSON, and Mr. HEFNER.

H.R. 44: Mr. ANDREWS and Mr. FILNER.

H.R. 47: Mr. COOKSEY.

H.R. 65: Mr. GALLEGLY, Mr. JONES, Mrs. EMERSON, Mr. ANDREWS, Mr. BACHUS, and Mr. SAM JOHNSON.

H.R. 96: Mr. FATTAH, Ms. DANNER, Mrs. MALONEY of New York, Mr. GREENWOOD, Mr. SCHUMER, and Mr. MCNULTY.

H.R. 107: Mr. GIBBONS, Mr. FORBES, Mr. DEUTSCH, Mr. ANDREWS, Mr. LEWIS of Georgia, Mr. TALENT, and Mr. LANTOS.

H.R. 124: Mr. BARTLETT of Maryland and Mr. HOSTETTLER.

H.R. 125: Mr. CALVERT.

H.R. 127: Mr. OWENS, Mr. NEY, Mrs. THURMAN, and Mr. LANTOS.

H.R. 145: Mr. RUSH, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. MCCARTHY of Missouri, Mr. WALSH, Mr. WELLER, and Mrs. CLAYTON.

H.R. 158: Mr. GILLMOR, Mr. MICA, Mr. CRANE, Mr. DREIER, Mr. CUNNINGHAM, Mr. BONILLA, Mr. WALSH, Mr. SESSIONS, Mr. WHITFIELD, Mr. GRAHAM, Mr. CALVERT, Mr. BARCIA of Michigan, Mr. BAKER, and Mr. BONO.

H.R. 159: Mr. GRAHAM.

H.R. 161: Mr. KOLBE.

H.R. 163: Mrs. EMERSON.

H.R. 166: Mr. BROWN of California.

H.R. 198: Mr. CRANE and Mr. GALLEGLY.

H.R. 228: Mr. ENGLISH of Pennsylvania.

H.R. 303: Mr. GALLEGLY, Mr. JONES, Mr. SHAW, Mrs. EMERSON, and Mr. SAM JOHNSON.

H.R. 312: Mr. PACKARD and Mr. BILIRAKIS.

H.R. 335: Mr. ANDREWS.

H.R. 347: Mrs. EMERSON.

H.R. 408: Mr. WEXLER and Mr. DICKS.

H.R. 423: Mr. LUTHER and Ms. PRYCE of Ohio.

H.R. 424: Mr. EHRLICH and Mr. PETRI.

H.R. 437: Mr. WELDON of Florida.

H.R. 446: Mr. FATTAH, Mr. BOB SCHAFFER, and Mr. FILNER.

H.R. 450: Mr. CAMP, Mr. LEWIS of Georgia, Mr. CALVERT, and Mr. BARR of Georgia.

H.R. 465: Mr. CLYBURN, Mr. BACHUS, Mr. FLAKE, Mr. CALVERT, and Mr. WEYGAND.

H.R. 475: Mr. DELAHUNT, Mr. PETERSON of Pennsylvania, Mrs. MYRICK, and Mr. SHUSTER.

H.R. 482: Mr. POMBO.

H.R. 493: Mr. SANFORD.

H.R. 533: Mr. PAUL, Mr. TRAFICANT, and Mr. LEWIS of Georgia.

H.R. 566: Mr. FLAKE, Mr. TOWNS, Mr. WEXLER, Mr. DAVIS of Illinois, and Mr. LEWIS of Georgia.

H.R. 586: Mr. CARDIN, Mr. MCHALE, Mr. PETRI, and Mr. WOLF.

H.R. 589: Mr. SNOWBARGER and Mrs. CUBIN.

H.R. 614: Mr. SALMON, Mr. SENSENBRENNER, and Mr. NEUMANN.

H.R. 622: Mr. PETERSON of Pennsylvania.

H.R. 630: Mr. GALLEGLY and Mr. ROGAN.

H.R. 659: Mr. HILL, Mr. GUTKNECHT, Mr. HASTINGS of Washington, Mr. BOB SCHAFFER, and Mr. BERRY.

H.R. 667: Ms. SLAUGHTER, Mrs. MINK of Hawaii, Mr. MANTON, Mr. BERMAN, Ms. CHRISTIAN-GREEN, Mr. LEWIS of Georgia, and Mr. HINOJOSA.

H.R. 705: Mr. THORNBERRY.

H.R. 722: Mr. YOUNG of Alaska, Mr. KLUG, Mr. HEFLEY, Mr. BOYD, Mr. WATTS of Oklahoma, and Mr. RYUN.

H.R. 723: Mr. BAESLER, Mr. BUNNING of Kentucky, Mrs. CHENOWETH, Mr. DOOLITTLE, Mr. PETERSON of Minnesota, Mr. PICKERING, and Mr. WATKINS.

H.R. 758: Mr. GOODLING, Mr. WATTS of Oklahoma, Mr. UPTON, Mr. COBLE, Mr. PICKERING, Mr. BURTON of Indiana, Mrs. NORTHUP, Mr. JONES, Mr. GOSS, Mr. BLILEY, Mr. BACHUS, Mr. GOODLATTE, Mr. LEWIS of Kentucky, Mr. MICA, Mr. KIM, Mr. SHADEGG, Mrs. MYRICK, and Ms. PRYCE of Ohio.

H.R. 789: Mr. SHADEGG, Mr. CHABOT, Mr. BERRY, and Mrs. ROUKEMA.

H.R. 793: Mr. MANTON, Mr. GUTIERREZ, Mr. LEWIS of Georgia, and Mrs. MINK of Hawaii.

H.R. 794: Ms. LOFGREN.

H.R. 812: Mr. LIPINSKI.

H.R. 814: Ms. FURSE, Mr. ROTHMAN, and Mr. LEWIS of Georgia.

H.R. 816: Mr. WELLER.

H.R. 841: Mr. HINCHEY.

H.R. 861: Mr. LUCAS of Oklahoma, Mr. BARRETT of Nebraska, Mr. BOB SCHAFFER, and Mr. THUNE.

H.R. 862: Mr. FROST.

H.R. 875: Mr. KING of New York, Mr. GANSKE, Ms. LOFGREN, Mr. DIAZ-BALART, Mr. MANTON, Mr. DIXON, Mr. COYNE, and Mr. FILNER.

H.R. 880: Mr. PICKETT, Mr. LUCAS of Oklahoma, Mr. BARRETT of Nebraska, Ms. STABENOW, Mr. BAKER, and Mr. STEARNS.

H.R. 901: Mr. LATHAM, Mr. NEUMANN, Mr. HASTERT, Mr. WELLER, Mr. SOUDER, Mr. TURNER, Mr. HALL of Texas, Mr. BOEHNER, Mr. MCCOLLUM, and Mr. BAKER.

H.R. 902: Mr. CRAMER, Mr. HASTERT, and Mr. MCINNIS.

H.R. 910: Mrs. MORELLA and Mr. FARR of California.

H.R. 911: Mr. WYNN, Mr. CARDIN, Mr. PACKARD, Mr. DAVIS of Illinois, Mr. TALENT, and Mr. FORD.

H.R. 915: Ms. PELOSI, Mrs. MEEK of Florida, Mr. KENNEDY of Rhode Island, Mr. LIPINSKI, Mr. DEFAZIO, Mr. TRAFICANT, Ms. BROWN of Florida, Ms. DANNER, Mr. BARRETT of Wisconsin, Mr. OLVER, Mr. EHLERS, Mr. MCNULTY, and Mr. RUSH.

H.R. 916: Mr. ENGLISH of Pennsylvania, Mr. KLECZKA, Mr. HILLIARD, Mr. DEUTSCH, Mr. LIPINSKI, Mr. EDWARDS, Ms. CHRISTIAN-GREEN, and Mr. YOUNG of Florida.

H.R. 919: Mrs. MINK of Hawaii.

H.R. 939: Mr. SKEEN and Mr. SUNUNU.

H.R. 947: Mr. BENTSEN, Mr. KUCINICH, and Mr. CAPPS.

H.R. 953: Ms. NORTON.

H.R. 955: Mr. LARGENT, Mrs. CUBIN, Mr. KNOLLENBERG, Mr. BACHUS, Ms. PRYCE of Ohio, Mr. SHIMKUS, and Mr. WYNN.

H.R. 964: Ms. MOLINARI, Mr. JONES, Mr. MCINTYRE, Mr. MCINTOSH, Mr. KNOLLENBERG, Ms. PRYCE of Ohio, and Mr. BALLENGER.

H.R. 965: Mr. DREIER.

H.R. 977: Mr. BARRETT of Nebraska.

H.R. 978: Mr. BILIRAKIS, Mr. JONES, and Mr. BARR of Georgia.

H.R. 979: Mr. HILLIARD, Mr. MORAN of Virginia, and Mr. LEWIS of Georgia.

H.R. 983: Mr. LEWIS of Georgia and Mr. FILNER.

H.R. 984: Mr. SENSENBRENNER, Mr. ENGLISH of Pennsylvania, and Mr. GRAHAM.

H.R. 986: Mr. BOB SCHAFFER, Mr. CHRISTENSEN, Mr. BAKER, and Mr. RAMSTAD.

H.R. 991: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. CRAMER.

H.R. 1031: Mr. PAYNE, Mr. DELAY, Mr. FROST, Mr. BOEHNER, Mrs. CLAYTON, Mr. MCINTOSH, Mr. JEFFERSON, Mrs. MYRICK, Mr. SENSENBRENNER, Mr. HILL, Mr. PICKERING, Mr. ENGLISH of Pennsylvania, Mr. TRAFICANT, Mr. HULSHOF, Mr. WAMP, Mr. KNOLLENBERG, Mr. SOUDER, Ms. CHRISTIAN-GREEN, Mr. THORNBERRY, Mr. RIGGS, Mr. COBURN, Mr. NORWOOD, Mr. BARTLETT of Maryland, Mrs. EMERSON, Mr. KUCINICH, Mr. HAYWORTH, Mr. CHABOT, Mr. KING of New York, Mr. TOWNS, Mr. WELDON of Florida, Mr. WATKINS, Mr. NEUMANN, Mr. SOLOMON, Mr. PETERSON of Pennsylvania, Mr. LEWIS of Kentucky, Mr. PITTS, Mr. LARGENT, Mr. MILLER of Florida, Mr. DAVIS of Virginia, and Mr. ENSIGN.

H.R. 1035: Mr. FATTAH.

H.R. 1043: Mr. JEFFERSON, Mr. BARCIA of Michigan, Mr. VENTO, Mr. WISE, Mr. ABERCROMBIE, Mr. BALDACCI, Mr. ACKERMAN, Mr. KIND of Wisconsin, and Ms. FURSE.

H.R. 1049: Mr. MARTINEZ.

H.R. 1050: Mr. RUSH.

H.R. 1054: Ms. LOFGREN, Mr. MILLER of California, Mr. DREIER, Mr. CUNNINGHAM, Mr. ENGLISH of Pennsylvania, Mr. HERGER, and Mr. ROYCE.

H.R. 1060: Mr. BRYANT, Mrs. LINDA SMITH of Washington, Mr. GANSKE, Mr. WAMP, Mr. SOLOMON, Mr. ALLEN, Mr. TURNER, and Mr. WELDON of Florida.

H.R. 1114: Mr. FALEOMAVAEGA, Mr. GONZALEZ, Mrs. MORELLA, Mr. KUCINICH, Mr. FOGLIETTA, Mr. HINOJOSA, and Ms. SLAUGHTER.

H.R. 1125: Ms. DELAURO, Mr. DOYLE, Mr. KANJORSKI, Mr. HINCHEY, and Mrs. LOWEY.

H.R. 1126: Mr. LANTOS.

H.R. 1129: Mr. SHAW, Mr. FATTAH, Mr. OBERSTAR, Ms. SLAUGHTER, Mr. FARR of California, and Mr. MATSUI.

H.R. 1130: Mr. DAVIS of Illinois, Mr. ROTHMAN, and Ms. PELOSI.

H.R. 1140: Mr. BUNNING of Kentucky and Mr. DEAL of Georgia.

H.R. 1169: Mr. BOEHLERT, Mr. MCGOVERN, Mr. HAYWORTH, Mr. GALLEGLY, Mr. GREENWOOD, Mr. RADANOVICH, Mr. SANDLIN, Mr. PETERSON of Minnesota, and Mr. PITTS.

H.R. 1178: Mr. NADLER.

H.R. 1215: Mr. FROST, Mr. BILBRAY, Mr. BERMAN, Ms. PELOSI, Mr. BONIOR, and Mr. EVANS.

H.R. 1224: Mr. CALVERT.

H.R. 1231: Mr. SANDERS and Mr. BORSKI.

H.R. 1245: Ms. CHRISTIAN-GREEN, Mr. EVANS, Mr. FROST, and Ms. LOFGREN.

H.R. 1246: Ms. CHRISTIAN-GREEN, Mr. FROST, Mrs. MEEK of Florida, and Mr. WATTS of Oklahoma.

H.R. 1247: Mr. DEAL of Georgia, Mr. LAHOOD, Mr. CALVERT, Mr. TALENT, Mrs. LINDA SMITH of Washington, and Mr. MILLER of Florida.

H.R. 1248: Mr. PICKERING.

H.R. 1263: Mr. MCGOVERN, Mr. WEXLER, Mr. OLVER, and Mr. MCHALE.

H.R. 1270: Ms. DUNN of Washington, Mr. FOX of Pennsylvania, Mrs. THURMAN, Mr. CONYERS, Mr. LATOURETTE, Mr. KLUG, Mrs. FOWLER, Mr. HYDE, Mr. GILLMOR, Mr. CALVERT, and Mr. SAM JOHNSON.

H.R. 1299: Mr. TAYLOR of North Carolina, Mr. CRAMER, Mr. COOKSEY, Mr. BAKER, and Mr. GOODE.

H.R. 1301: Mr. LEWIS of Georgia, Mr. DEFAZIO, Mr. RANGEL, Mr. YATES, Mr. PAYNE, Mr. SPRATT, Mr. GEJDENSON, Mr. SAWYER, Mr. BLUMENAUER, and Ms. LOFGREN.

H.R. 1302: Ms. KILPATRICK, Ms. LOFGREN, Mr. KILDEE, Ms. JACKSON-LEE, Mr. WEYGAND, Mr. MORAN of Virginia, and Mrs. MEEK of Florida.

H.J. Res. 37: Mrs. CHENOWETH.

H.J. Res. 54: Mr. BERRY, Mr. KLUG, and Mr. THOMPSON.

H.J. Res. 56: Mr. SESSIONS.

H.J. Res. 65: Mrs. MEEK of Florida, Mrs. MALONEY of New York, and Mr. FROST.

H. Con. Res. 8: Mr. ORTIZ.

H. Con. Res. 13: Mr. LEWIS of Georgia, Mr. WATT of North Carolina, Mr. PAYNE, Mr. BILIRAKIS, Mr. GILLMOR, Mr. WELDON of Florida, Mr. HILLIARD, Mr. DAVIS of Illinois, Mr. HINOJOSA, and Mr. YOUNG of Florida.

H. Con. Res. 23: Mr. CLAY.

H. Con. Res. 32: Mrs. KENNELLY of Connecticut and Mr. DELLUMS.

H. Con. Res. 38: Ms. DELAURO, Mr. FATTAH, and Mr. LAFALCE.

H. Con. Res. 43: Mr. EVANS and Mrs. MCCARTHY of New York.

H. Con. Res. 53: Mr. LANTOS.

H. Res. 37: Mr. FLAKE and Ms. DUNN of Washington.

H. Res. 39: Mrs. MALONEY of New York and Mr. GUTIERREZ.

H. Res. 109: Mr. RADANOVICH, Mr. PAXON, Mr. ROYCE, Mr. PAPPAS, and Mr. ADERHOLT.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 950: Ms. DELAURO.

H.R. 1200: Mr. WATTS of Oklahoma.

EXTENSIONS OF REMARKS

THE CONSTITUTION AND THE AMERICAN DREAM

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. GOODLING. Mr. Speaker, I want to share with you one of the best speeches I have ever heard. It was not delivered by a professional speaker, but by a professional student at the Christian School of York before several hundred people attending a banquet.

Jonathan delivered the speech with conviction and compassion—without notes.

THE CONSTITUTION AND THE AMERICAN DREAM

(By Jonathan D. Markley, Christian School of York)

"Give me your tired, your poor,
Your huddled masses, yearning to breathe free!"

When hundreds of foreign immigrants mouthed these words in the late 1800s, they dreamt the impossible dream: freedom! They came, from Ireland, and Poland, and Southeastern Europe. These families risked, quite literally, everything that they called their own. They severed their traditional family ties to the homeland. And they chased after something that was truly inconceivable to them and yet, for once, absolutely within their grasp. What earthly call could possibly elicit so great a sacrifice? That call was freedom! The call of the American Dream!

It has been well over one hundred years now since Emma Lazarus penned those exhilarating words. Yet, in the interim, the same Dream that beckoned immigrants to our shores has been abused. That Dream requires that we be involved in our government. It is not an option; rather it is a God-given privilege! And because we have proven lax in our responsibilities, our patriotic American Dream is fading . . . fading into a maze of apathy. For example, only 49% of the American people voted in last year's election . . . Certainly, we have shirked our duties!

The American Dream, with its rights and responsibilities, is guaranteed by two theories built into our United States Constitution. These concepts, Limited Government and Popular Sovereignty, remove the power of government from any one party and, instead, vest that power totally in the control of the people. Our Constitution does not refer to a ruling body with absolute authority; but, rather, the preamble states, "We the People . . . do ordain and establish this Constitution for the United States of America." What a revolutionary idea: People ruling themselves! Government by the consent of the governed! The conclusion of this argument, therefore, is that such freedoms demand our involvement.

We can readily observe just how severely the sands of time have dulled our sense of this privilege. In this decade, our court dockets are jammed with tort litigation suits, totally countless millions; proving, once again, that our concept of the American Dream seems limited to personal benefits instead of prosperity for all Americans. Consider the epidemic of flag-burning—deliberately desecrating our country's ideals. My friends, this is not merely an issue of a person's rights to burn a piece of fabric. No! It is indicative of a mindset that pervades our nation and threatens to stifle our comprehension of the true essence of liberty in a free society.

Our passion for patriotism has flickered dangerously in the last decades. Today, it is not uncommon for many to argue against the Constitution and against American Dream, as if the former is hopelessly dogmatic and hackneyed and the latter is only realized by avaricious capitalists. How they are wrong!

To see what the American Dream really symbolizes, journey with me to Valley Forge in the winter of 1778. As the torrents of snow cascaded down upon the remnants of the Continental Army, they were realizing tremendous personal sacrifice for this ideal of freedom. Nevertheless, an internal spark motivated them to lay down their own lives upon the fields of Brandywine and Bunker Hill. They never wavered in their patriotic dedication to our infant republic. In the words of Bart McDowell, they all were guilty of treason. "They knew the risks—death by hanging for themselves, poverty and dishonor for their families—," and yet there was absolute conviction in Patrick Henry's voice when he asked "Is life so dear, is peace so sweet, as to be purchased at the price of chains and slavery?" What then followed was one of the most noble allegiances ever made to America, he said, "I know not what course others may take; but as for me, give me liberty or give me death!" His words shook both those house chambers and the hearts of every soul who was willing to protect liberty with life itself, if sacrifice so required. Today, where is that spirit, that zeal, that fire of patriotism?

After our revolution, they founded a document to protect that Dream for their posterity. Their Constitution has guided our country through two hundred years of change and transition: through war and peace; through slavery and emancipation; through poverty and prosperity. Our Constitution has been a beacon of hope for our citizens, challenging them to dream, regardless of their birth; or nationality; or creed; or religion. Because our forefathers struggled valiantly to obtain these hopes and dreams, we cannot afford to be apathetic! Becoming involved is hardly convenient, but we must measure our own consecration to this cause in light of their noblest of sacrifices, their purest form of heroism. Far from being dogmatic or hackneyed, our Constitution has transcended time. Certainly, it is not obsolete! Certainly, it can lead us into the next century!

Let us remember once again, let us ponder deeply the words of Emma Lazarus. Somehow, these words paint a poignant image of the American Dream that must never be expunged from our consciences. Once we have ascertained these privileges, we must be willing to pay the price:

"Give me your tired, your poor,
your huddled masses, yearning to breathe free,
The wretched refuse of your teeming shore,
Send these, the homeless, tempest tost to me.
I lift my lamp beside the golden door!"

I pray, that that lamp, beside that golden door, may never be extinguished in our world!

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TRIBUTE TO PAT ASSALONE

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. PASCRELL. Mr. Speaker, I would like to bring to your attention the selfless and steadfast dedication and outstanding public service of Pasquale "Pat" Assalone, to the community of West Paterson.

After more than 30 years of service on the West Paterson police force, Deputy Chief of Police Assalone is retiring. Pat has been a dedicated and loyal servant of the public, coming up through the ranks within the police department and eventually being promoted to the rank of deputy chief of police.

Pat is a well-decorated officer, with numerous meritorious service awards and citations from the department. He has been honored by the State Police Benevolent Association many times for meritorious service, life saving, and honorable service. As the deputy chief of police, Pat oversees every facet of the department's administration, from training to public relations, scheduling to grants.

Always serving above and beyond the call of duty, Pat has been a natural leader within the police department as well as the community. He was an integral part in the institution of the borough's Drug Abuse Resistance Education [DARE] program 6 years ago and has been an instrumental part in maintaining the success of the program ever since.

Pat remains steadfast in his commitment to the community and his family: wife, Judy, daughter Lisa, and two grandchildren, Shane and Steven, and to the memory of his loving son, Vincent, who has recently passed away.

Mr. Speaker, I ask that you join me, our colleagues, Pat's family and friends, members of the law enforcement community, and the entire borough of West Paterson, in recognizing the outstanding and invaluable service of more than 30 years to the community of Deputy Chief of Police Pat Assalone.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

IN MEMORY OF JOSEPH PATRICK O'NEIL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor Joseph Patrick O'Neil, a son of Parma, OH, who lived the American dream.

Mr. O'Neil was a truckdriver and a proud union member of Teamsters Local 407. Mr. O'Neil earned the respect of his fellow union members during his 43 years with the union. He served in the position of recording secretary for 11 years. He also served as a steward.

Mr. O'Neil was a veteran, and served in the U.S. Army during World War II as a master sergeant in Germany and France. He was awarded two Bronze Star medals for valor at Normandy and in central Europe.

Mr. O'Neil is survived by his wife of 51 years, Erika; sons, Edward of Brunswick and Kevin of Lakewood; and two grandsons.

He will be missed.

IN COMMEMORATION OF NATIONAL CRIME VICTIMS' RIGHTS WEEK

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. SOLOMON. Mr. Speaker, far too often, the criminals who terrorize our society are glorified through massive media attention, while the rights of the victims and the general public who are made to suffer and live in fear are virtually ignored. While the rights of these destructive individuals are scrupulously and vigilantly guarded, the rights of those whose lives they devastate fall by the wayside.

This travesty is the focus of National Crime Victims' Rights Week, which falls this year on April 13–19. During this week, organizations such as the Capital District Coalition for Crime Victims' Rights, are focusing their efforts on bringing maximum public attention to the many trials and tribulations faced by the victims of crime in America. On April 14, the Capital District Coalition dedicated a plaque at the site of a tree planted last year in commemoration of all the victims and survivors of crime in Saratoga County, NY, in my congressional district. Events such as this are critical in the effort to raise awareness of the impact of crime on its victims and their families. I sympathize immensely with the heartbreak suffered by those whose lives are permanently altered by the devastating effects of crime, and who then must sit by while they are often either ignored or victimized even more by the justice system. We in Congress are trying to do our part to remedy this shameful situation by enacting legislation such as the Victims' Rights Act of 1995, but it is the tireless efforts of individuals and organizations who devote countless amounts of their time and effort that will ensure that the crisis in victims' rights takes its rightful place at the forefront of the media's attention.

Mr. Speaker, I ask all members to rise in recognition of National Crime Victims' Awareness Week. Hopefully, through this designation and the work of crime victims' rights organizations nationwide, victims of crime in America will receive the respect and consideration to which they and their rights are entitled.

BYE-BYE NATO

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. OBEY. Mr. Speaker, Thomas Friedman, the respected international affairs columnist for the New York Times, has written an excellent column questioning the wisdom of the expansion of NATO.

He raises important concerns about whether or not the expansion of NATO will, in fact, dilute it, making it less likely that NATO will serve as an effective military instrument to defend any of the countries under its umbrella.

It is a sobering article and I urge every member of the administration to heed the concerns raised by Mr. Friedman: .

[From the New York Times, Apr. 14, 1997]

BYE-BYE NATO

(By Thomas L. Friedman)

BRUSSELS.—Some enterprising Russian p.r. experts recently visited NATO headquarters and suggested a novel way to ease tensions between an expanding NATO and Russia: Just change NATO's name, the Russians suggested, because NATO is a four-letter word for Russians. So how about calling it TOMATO (Trans-Oceanic Military Alliance and Treaty Organization), or POTATO (Peace Organization for Trans-Atlantic Ties and Operations), or maybe VODCA (Vanguard Organization for Defense, Cooperation and Assistance)?

NATO's savvy boss, Javier Solana, laughed off the Russian proposal. But discussions with officials here left me convinced that if NATO goes ahead with its expansion, just about everything other than its name will be changing—and that's too bad. I rather liked NATO the way it was—a tightly knit group of like-minded democracies capable of taking on any military foe in the world. Everyone is assuming that NATO can expand and keep that focused identity. Don't believe it. The real truth is NATO is now locked on a path of expansion that will dilute its power every bit as much as baseball expansion diluted Major League Pitching and made every 90-pound weakling a home-run threat.

It didn't have to be this way. NATO has always had two core functions. One was defense management—the commitment by each member to defend the others in the event of attack. The other was peace management—the commitment by NATO's 16 members to share their defense plans and budgets so that everyone knew what his neighbor was up to. Mutual defense kept peace between NATO and Russia and peace management kept peace among NATO's 16 members.

The question NATO asked itself after the cold war was: How do we preserve our defense strength while expanding our peace management capabilities to stabilize newly liberated Central Europe? It came up with a solid idea: Partnership for Peace. P.F.P. was a junior NATO in which 27 non-NATO European states—including Russia—engaged in joint exercises, sent ambassadors to NATO, were educated on NATO standards, discussed problems and participated with NATO in peacekeeping in Bosnia. The one thing P.F.P. members didn't get was NATO's commitment to mutual defense, which was confined to the core 16. The beauty of P.F.P. was that it preserved NATO's core strength while creating a framework to fill the power vacuum in Central Europe—without threatening Russia or setting up a competition over who gets into NATO and who doesn't.

So what happened? Unfortunately, in 1996 the Clinton team abandoned P.F.P. in favor of expanding NATO's core members. It was a clinical effort to attract votes from Polish, Czech and Hungarian Americans by promising their motherlands membership. This silly decision set NATO on a slippery slope to who knows where.

NATO now has three options. One is that it eventually expands to Russia's border, including the Baltic states Latvia, Lithuania and Estonia. If that happens, it will be the end of NATO as a mutual defense alliance because there's no way the U.S. Army is going to guarantee the Estonia-Russia border. In this scenario NATO becomes just a mini-U.N. Or as a senior NATO military officer told me: "The more nations that come in, the more NATO becomes just a collective security organization, in which members watch each other—not a collective defense group against a common enemy. That's not the NATO we have now."

Scenario 2 is that NATO doesn't expand beyond Poland, Hungary and the Czech Republic and tries to maintain its current defense and peace management functions, with just three new members. But then we'll have a permanent gray zone of states between NATO and Russia. The states left out will fight to get in and Russia will fight to keep them out.

Scenario 3, the one the White House is counting on, is that NATO begins to expand now but simultaneously deepens NATO-Russia cooperation and aid to Russia. This creates so many incentives for Moscow to be nice that NATO will be able to steadily creep toward the Russian border, and fill in the gray zone with new members, without alienating Moscow.

Which will it be? No one at NATO can tell you. In other words, NATO expansion is a swan dive into an unknown future. What a reckless way to deal with the most successful military alliance in history.

INTRODUCTION OF THE FAMILY TAX CREDIT ACT OF 1997

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. CAMP. Mr. Speaker, today, I rise to introduce legislation to provide much-needed tax relief to America's middle class. Today—April 15—millions of Americans are putting their tax forms in the mail. Last year, the average American family paid 38 percent of their income taxes—Federal, State, and local taxes—to feed an ever hungry Government that demands more and more taxpayer dollars. Contrast this April 15 with April 15, 1947. Fifty years ago, Americans paid just 22 percent of their income in taxes.

My bill, the Family Tax Relief Act of 1997, would provide a $500 per child family tax credit to every middle-class family with children under age 18. The Family Tax Relief Act of 1997 will cut the income tax burden of a family of four earning $30,000 per year 51 percent, and the tax burden of a family earning $40,000 by 30 percent. Families earning $75,000 would see their tax burden reduced by 12 percent. The credit is for truly middle-class families—phaseouts begin to cut or eliminate the credit for families making over $75,000. Fifty million children, from 28 million American families, are eligible for the credit. The credit eliminates the total tax burden for families making less than $23,000.

In the last Congress this family tax credit was a part of the Balanced Budget Act that was vetoed by the President. The American people sent us to Washington with a clear mandate—reduce the crushing weight of taxes on everyday middle-class American households and cut spending.

But one key thing has been left out—middle-class tax relief. That is why I am introducing this legislation today. I believe that it is vitally important for Members of Congress to send a clear signal to all that middle-class tax relief will be an absolutely required component of budget negotiations and any budget deal reached with the President.

It is time for the Congress to deliver on our promise and give tax relief to hard-working, overtaxed middle-class American families.

FORTY-FIRST ANNIVERSARY OF TUNISIAN INDEPENDENCE

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. RAHALL. Mr. Speaker, in acknowledgment of the 41st anniversary of the independence of the Republic of Tunisia, I wish to help commemorate March 20, 1997 as an historic day of celebration for the people of Tunisia. This year is particularly important, as Tunisia will be commemorating the bicentennial of the Treaty of Amity, Commerce and Navigation that was signed on August 28, 1797.

Tunisia has taken bold steps toward a more democratic system of government by broadening political debate, advancing social programs, developing economic programs encouraging privatization of the banking and financial sectors, and improving the quality of life for the people of Tunisia, in spire of instability emanating from neighboring countries. Further, Tunisia has acted as leader and catalyst for peacekeeping missions in suffering countries, contributing military contingents to operations in Cambodia, Somalia, the Western Sahara and Rwanda. Tunisia has been a voice of moderation in the Arab-Israeli peace process had has called for greater international efforts to fight terrorism.

Tunisia has, and continues to be a success story in a very volatile region of the world. I am pleased and proud to witness stronger relations between the U.S. and Tunisia. I have had the fortunate opportunity to spend time with Tunisia's Ambassador, His Excellency Azouz Ennifar, and have the strong impression that Tunisia is emerging as a healthy, independent and politically secure country. I encourage and support continued commitment and cooperation between our two countries and urge my colleagues to take this occasion to salute the Tunisian Government and its people.

COMMEMORATION OF VENTURA COUNTY CHILDHOOD CANCER AWARENESS WEEK

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. GALLEGLY. Mr. Speaker, I would like to commemorate the week of April 14 through April 20 as "Childhood Cancer Awareness Week" in Ventura County, CA.

Through the unwavering dedication of Steven Firestein and the American Cancer Fund for Children, which he founded, the lives of countless children suffering from cancer have been touched. This organization has brought the issue of childhood cancer in the United States to the forefront and heightened community involvement in social services to families in need.

Each year, approximately 10,000 children in the United States are diagnosed with cancer, the leading cause of death by disease among children in this country. Incited to action by these staggering numbers, the American Cancer Fund for Children has not only worked to heighten awareness, but to provide financial assistance for medical procedures, food, clothing, transportation, prosthetic devices and social service programs to young people in treatment at hospitals throughout Los Angeles County and serving residents of Ventura County.

The American Cancer Fund for Children has accepted the challenge of meeting the demand for patient and family services to help promote the chances of survival. These services provide a variety of patient psycho-social services designed to foster self-esteem, encourage peer interaction, and develop special patient communication.

I would especially like to thank Steven Firestein who, out of the death of his friend, began his mission to improve the lives of other children stricken with cancer. From this personal tragedy rose an array of services and programs to assist childhood victims of cancer.

Mr. Speaker, I ask all of my colleagues to join me in recognizing the outstanding efforts of the American Cancer Fund for Children in conjunction with Ventura County during Childhood Cancer Awareness Week.

50TH ANNIVERSARY OF THE BOYS' AND GIRLS' CLUB OF CLIFTON

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. PASCRELL. Mr. Speaker, I would like to bring to your attention the momentous occasion of the 50th anniversary of the founding of Boys' and Girls' Club of Clifton, NJ.

Founded in 1947, the Boys' Club of Clifton provided recreational activity opportunities to young men in the community. These recreational programs were held after-class hours in the local school until 1958, when the current building on Clifton Avenue was opened and became a center for the children in town.

In 1966, the Girls' Club was founded to provide similar recreational activity opportunities for young women in the community and in 1979, the Girls' Club initiated Clifton's first after-school day-care program for 30 children.

Since 1986, the two clubs consolidated, becoming the Boys' and Girls' Club of Clifton, Inc. The Boys' and Girls' Club still occupies the Clifton Avenue building, but over the years additions to the building were constructed to house the executive offices and the teen program. An adjacent building contains the preschool area and a recreational facility.

The current facilities are right now at maximum capacity as they serve approximately 1,400 children from Clifton and the surrounding communities at any given time, and provide services to more than 2,000 children yearly. After several years of exploring various expansion options, the Club's Board of Trustees finally settled on plans to add an addition that will connect the existing buildings as well as extensively renovating the facilities now in use.

The new addition will house a modern pool, learning center, computer room, counseling area, and offices. The renovations will allow for the Boys' and Girls' Club to redesign their current program space to provide new program areas and make the entire facility accessible for handicapped and senior citizens.

Mr. Speaker, I ask that you join me, our colleagues, the members of the Boys' and Girls' Club of Clifton, and the city of Clifton, in recognizing the momentous occasion of the 50th anniversary founding of the Boys' and Girls' Club of Clifton, Inc., as they commemorate the founding with a groundbreaking celebration on Sunday, April 6, 1997.

IN RECOGNITION OF STATE ROAD ELEMENTARY SCHOOL'S 75TH ANNIVERSARY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor State Road Elementary School of Parma, OH, on its 75th anniversary. State Road Elementary has been the starting place for thousands of proud, educated and involved Parmanians. They have grown to become leaders in their unions, respected members of their churches and capable and loving parents.

State Road Elementary began humbly as a small school. But it grew with the neighborhood. It fit in with the neighborhood's character. State Road Elementary is located in a neighborhood where family values are strong. These are families that work hard at their jobs, support one another, look out for one another and stand up for what is right. State Road Elementary prepared children to be active and upstanding members of their community.

For three-quarters of a century, this Parma neighborhood has sent its daughters and sons to start their education at State Road Elementary. I see no reason not to think that another four generations of families will be able to count on State Road Elementary for a healthy start and a head start for their children.

EXPEDITED RESCISSIONS ACT OF 1997—AN EFFECTIVE AND CONSTITUTIONAL ALTERNATIVE TO THE DISCREDITED LINE-ITEM VETO ACT

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. SKAGGS. Mr. Speaker, today I am joining three other Members in introducing a bill to give the President and Congress new, effective—and constitutional—powers to weed out wasteful Government spending.

This bipartisan approach, the "Expedited Rescissions Act of 1997," is being cosponsored by the gentlewoman from New Jersey, MARGE ROUKEMA; the ranking Democrat on the Budget Committee, JOHN M. SPRATT, JR.; and CHARLES W. STENHOLM, a long-time leader in the fight for a balanced budget. I am very pleased to have their support for this measure.

We all know that sometimes a large appropriations bill includes an item that could never pass if it had been considered on its own. Being able to cut that kind of unnecessary spending out of a bill is essential to be prudent in how we spend taxpayer money, to get the Federal budget under control, and to restore public faith in Congress. The line-item veto was supposed to be a way to deal with that. But while the diagnosis was right, the proposed remedy went too far—further than the Constitution permits. That's why it's been struck down in court.

Our bill is a better prescription—one that will work and that will pass constitutional muster.

Under our bill, whenever the President wants to cut a particular spending item in an appropriations bill, he would be able to require Congress to reconsider and vote separately on rescinding that item, under tight deadlines and without amendment.

So, like the line-item veto act, our bill would let the President throw a bright spotlight onto spending items and have Congress vote on them separately, up or down, without changes and in full public view. Since the wasteful spending we're trying to get at is the kind of project that would never pass on its own, this process will be a completely reliable an effective way to block that kind of waste of taxpayer money.

Our legislation is patterned after, but stronger than, the enhanced-rescission authority passed by the House in 1993. Unlike the 1993 bill, our approach does not let the Appropriations Committee come up with its alternative way to rescind the same amount of money that would be cut by the President's proposed rescission. Our legislation requires that the actual rescission proposed by the President—that one, without any amendment, and with no alternative to it—be voted on by the Congress.

Unlike the line-item veto, our bill is constitutionally sound. It does not attempt to give to the President the basic law-making authority that the Constitution vests solely in the Congress.

Constitutionally, the line-item veto act could not be effective—it wasn't real. This bill would give the President authority that could be used effectively—it is real.

The administration has said it will ask the Supreme Court to reverse Judge Jackson's decision striking down the line-item veto. I do not believe appeal will be successful. Judge Jackson's unusually emphatic opinion makes it clear that he was completely convinced that the line-item veto is profoundly unconstitutional. I'm confident the Supreme Court will agree.

We in the Congress ought to pass this new bill. That way, when the Supreme Court does sound the final death knell for the line-item veto act, we will have an effective, constitutionally valid alternative in place and ready for use. A majority of Congress wants a mechanism to cut out of appropriations bills that spending that could not withstand a separate up-or-down vote; the President wants that mechanism; a majority of the American people wants us to have that mechanism. This bill will give us that.

INDIA MUST STOP KILLING SIKHS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. SOLOMON. Mr. Speaker, I would like to take this opportunity to wish the Sikh Nation a happy Vaisakhi Day. Vaisakhi Day is the birthday of the Sikh Nation, the anniversary of its founding by Guru Gobind Singh in 1699. The Sikhs have always been a tough, freedom-loving people, and I take this opportunity to salute them.

However, not everyone shares my enthusiasm for the Sikh Nation's love of freedom. From 1984 to 1992, according to the Punjab State Magistracy, which represents all the local judges in the state of Punjab, the Indian regime murdered more than 200,000 Sikhs. Since then, the Punjab Human Rights Organization reports that more than 50,000 have been murdered by the brutal Indian regime. That means that in excess of a quarter of a million freedom-loving Sikhs have been murdered since 1984 by "the world's largest democracy."

One recent case will illustrate the brutality of India's methods in occupied Khalistan. On March 15, a 26-year-old Sikh named Kashmir Singh, who was the publicity secretary of the Akali Dal—Amritsar—in the district of Hoshiarpur, was picked up in the middle of the night along with his father. The police threw them into a van. Somewhere down the road, Kashmir Singh's father was thrown from the van while it was still moving. Kashmir Singh was then tortured and murdered and his body was dumped at the Hoshiarpur district hospital at 4 in the morning for a post mortem.

The police falsely claimed that Kashmir Singh was killed in an encounter with the police. This claim is so ridiculous that even the pro-Government newspaper the Indian Express could not accept it. The Indian Express described the murder of Kashmir Singh as a cold-blooded killing.

Unfortunately, the murder of Kashmir Singh is not an isolated incident. It is part of a pattern of intimidation designed to put a fear psychosis in the minds of Sikhs both in Punjab, Khalistan and outside in order to scare them into dropping their demand for freedom. An ongoing incident which has been closely watched in this Congress is the case of Jaswant Singh Khalra, who was kidnaped by the police on September 6, 1995, after he published a report exposing the fact that over 25,000 young Sikh men have been abducted by the regime, tortured, and murdered, then their bodies have been declared unidentified and cremated. In many cases the family members have never been notified. The Punjab and Haryana High court described this policy as worse than a genocide.

Eighteen months after Mr. Khalra was kidnaped, Khalra's whereabouts remain unknown. The Khalra case and his findings are discussed in detail in a video released last year called "Disappearances in Punjab," produced by a Hindu human rights activist named Ram Narayan Kumar. Recently, Mr. Kumar was himself detained overnight at the Delhi airport when he attempted to fly to Austria to be with his wife. The regime even detained an American citizen, Balbir Singh Dhillon, for 9 months on trumped-up charges, apparently because he advocates an independent Khalistan.

Mr. Speaker, these are not the tactics of a democracy. The oppression of the Sikhs, the Muslims of Kashmir, the Christians of Nagaland, the black "untouchables" known as Dalits—the aboriginal people of the subcontinent, the Assamese, Manipuris, and others continues at a feverish pace.

On October 7, 1987, the Sikhs declared their independence from India and named their independent country Khalistan. India has responded to the peaceful movement to liberate Khalistan by stepping up the repression.

This kind of repression is not acceptable in any country. It especially offends us when that country proclaims its commitment to Democratic values. In that light, it is appropriate for the United States to take measures to bring democracy to all the people of South Asia. We should publicly declare our support for an internationally supervised plebiscite on the question of independence for Khalistan, similar to the periodic votes we hold in Puerto Rico. The United States should also cut off all aid to India. These actions will begin to bring freedom to the subcontinent.

A SHOCKING TRAGEDY

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. DIAZ-BALART. Mr. Speaker, I am placing the Council of Khalistan's press release on a recent tragedy into the RECORD. Press reports have recently stated that in attempting to capture an alleged terrorist, Indian police officers killed two adults and a 3-year-old child. The death of a 3-year-old child must shock the conscience of the international community.

I call on the Indian Government to conduct a full and exhaustive investigation into this tragedy and to punish all those responsible. Justice delayed is, truly, justice denied. We must always remember, in the eloquent words of Dr. Martin Luther King, Jr., that an injustice anywhere is an affront to justice everywhere.

[From the Council of Khalistan, Dec. 17, 1996]

INDIAN REGIME MURDERS 3½-YEAR-OLD LABELS TODDLER "TERRORIST"

WASHINGTON, DC.—A story in the December 10 issue of The Hitavada, an Indian newspaper, reported that a 3½-year-old Sikh boy was murdered by the police, then the police claimed that he was a "terrorist" who was killed in an "encounter."

According to the story, the police murdered little Arvinder Singh, his father Jaswinder Singh, and the young boy's maternal uncle along the Grand Trunk Road to collect bounty money which was offered for the killing of militants. These Sikhs were not militants. The family has not been given the bodies because they were cremated. The police attached phony identities to the bodies of these victims using the names of known militants. Then they claimed bounty money for killing these militants. When the boy's grandfather brought a complaint against the police, Punjab and Haryana High Court Justice Iqbal Singh stated that a three-year-old boy could not be a "terrorist," according to the article. According to the Hitavada article, witnesses were coerced into supporting the police version of the incident by testifying that the bullets which killed these Sikhs did not come from the police weapons.

The court ordered India's Central Bureau of Investigation to investigate the killing of little Arvinder Singh and to submit its report promptly.

"If India has to murder a 3½-year-old child to keep its brutal, corrupt empire together, then freedom for Khalistan cannot be far behind," said Dr. Gurmit Singh Aulakh, President of the Council of Khalistan. Khalistan is the Sikh homeland which declared its independence on October 7, 1987. "This incident is a clear reflection of the immorality of the Indian regime and the character of the Punjab Police, who do not hesitate to kill their brothers and sisters to make themselves rich," Dr. Aulakh said. "They do not realize that they are pushing future generations into the darkness of continued repression," he added.

Dr. Aulakh called on the U.S. government to take strong measures to punish this brutality. "I urge the Administration and Congress to cut off U.S. aid to India, place an embargo on India like the one America had on South Africa before Apartheid ended, and support freedom for Khalistan and all the other freedom-seeking nations of the subcontinent," he said. "This kind of brutal repression is unacceptable. Freedom-loving nations like the United States must not tolerate it," he said.

"If Indian police are killing toddlers like Arvinder Singh and labelling them as terrorists," Dr. Aulakh said. "Then the world has a moral and legal obligation to isolate India until they are ready to join the ranks of civilized nations and peacefully end its occupation of Khalistan and other South Asian nations; so that democracy in South Asia can be a reality and not a well cultivated lie."

PERSONAL EXPLANATION

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. BALLENGER. Mr. Speaker, had I been present for rollcall votes 72, 73, 74, and 75 last week, I would have voted "yea." I am a cosponsor of H.R. 1003, the Assisted Suicide Funding Restriction Act of 1997, and applaud the leadership for bringing it to the floor for early adoption.

REDESIGNING THE SYSTEM

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. ARCHER. Mr. Speaker, on behalf of myself and my good friend, the distinguished Majority Leader DICK ARMEY of Texas, I would like to submit for the RECORD an OP–ED on tax reform that ran in today's Washington Times. Today is the Federal income tax filing deadline for all Americans. Every April 15, we are reminded how much of our incomes are taken by the Federal Government and how long it takes us to figure out how much we owe.

Congressman ARMEY and I are united in our dislike for the current tax system. It is unfair, burdensome, complicated, and inefficient. We need a system that is far simpler, fairer, honest, encourages growth and rewards savings and investment.

The American people overwhelmingly favor a change in the current system, but we cannot radically overhaul our flawed income tax without the President joining our efforts. On April 15, tax day of 1997, the distinguished majority leader and I submit our OP–ED for the RECORD to let America know we stand on the side of real, substantial tax reform.

REDESIGNING THE SYSTEM

(By Bill Archer and Dick Armey)

Along with the millions of Americans who have struggled to meet the April 15 income tax filing deadline, we support overhauling today's federal income tax. While the April 15 deadline reminds us all of our cumbersome tax system, its problems are with us every day of the year.

Last month's Federal Reserve decision to raise interest rates amounts to a devastating indictment of our current tax system. In effect, the Fed declared that in our current tax and regulatory environment, we are unable to handle anything more than a meager 2.4 percent growth rate without risking higher inflation.

This, to us, is unacceptable. Rather than resigning ourselves to continuing low growth rates, we believe it is time for bold change. When Congress' Joint Committee on Taxation invited a diverse group of economists to consider tax reform, everyone agreed our economy would grow faster with either a national consumption tax espoused by Bill Archer, chairman of the tax-writing Ways and Means Committee, or under House Majority Leader Dick Armey's flat tax. We must replace our existing tax code with a system that is fair, honest, vastly simplified and more conducive to economic growth.

Our current tax system is complicated and unfair—it must be eliminated. It imposes, by conservative estimates, $200 billion in annual compliance costs and immeasurable anxiety on American taxpayers. By punishing work, savings and investment, the current code hampers the creation of new and better jobs and reduces growth in take-home pay. In addition, due to high taxes, last year it took average American workers until May 7 to earn enough to pay their federal, state, and local tax bills.

Not only is our tax code burdensome, it is also fundamentally unfair. The current federal income tax is riddled with special-interest loopholes that allow people with similar incomes to pay vastly different amounts in taxes. According to a recent IRS study, some people earning more than $200,000 a year pay no taxes at all.

Even if you do have to pay taxes, chances are you are not paying the correct amount. Money magazine hired 45 professional tax preparers to fill out a hypothetical family's 1996 return and they gave 45 different answers, for how much that family owed in taxes. In fact, only a quarter of the tax preparers came even within $1,000 of the actual taxes due. Mistakes and inequity are inevitable so long as we keep our ridiculously complicated code.

We have and will continue to discuss our respective proposals to fundamentally restructure how the federal government collects taxes and how we can work together to replace the current tax system. As a result of our discussions, we have reaffirmed our support for legislation to completely replace the current tax system with a new, simple and fair system that:

Applies a single, low rate to all Americans.

Requires a supermajority of both chambers of Congress to raise taxes.

Provides tax relief for working Americans.

Protects the rights of taxpayers and reduces tax collection abuses.

Eliminates the bias against savings and investment and promotes economic growth to create jobs and opportunities for our children and our grandchildren.

We are committed to working together to elevate the debate on comprehensive tax reform and to lay the groundwork in Congress for the enactment of tax reform legislation that meets these principles. Unfortunately, the Clinton administration has so far shown an unwillingness to substantially change our federal income tax. In February, the congressional leadership wrote the president urging him to submit a tax overhaul proposal by May 1. We will continue to ask the Clinton administration to face up to its obligation to beleaguered taxpayers and offer its own tax reform proposal.

Eliminating the current tax system and replacing it with a simpler, fairer, pro-growth system won't be easy. A recent study showed that Washington's lobbying industry employs 67,062 people, making it the largest private sector employer in the nation's capital. The livelihood of these well-funded special interests depends on preserving their favored treatment in the tax code. If we want to enact meaningful tax reform, America must prevail over Washington special interests.

While we may prefer slightly different paths to reach true tax reform, we stand firmly united in our resolve to replace today's antiquated tax system. There is no greater legacy we can leave our children.

TRIBUTE TO MS. EARTHA KITT

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to one of South Carolina's outstanding natives, Ms. Eartha Kitt.

Ms. Kitt's personal story reminds me of the famous Harlem Renaissance poet Langsten Hughes who posed the question, "What happens to a dream deferred? Does it dry up like a raisin in the sun? Of fester like a sore—And then run? Does it stink like rotten meat? Or crust and sugar over—like a syrup sweet? Maybe it just sags like a heavy load. Or does it explode?"

Luckily, Eartha Kitt never considered deferring her dreams. Born on a cotton plantation in South Carolina, the young Eartha Kitt left the South to live with an aunt in New York at the age of eight. It was there that she blossomed into the magnificent entertainer she is today.

She has danced and sung her way to become one of the country's consummate cabaret performers, taken Broadway and the Silver Screen by storm, and amassed accolades from Tony, Emmy, and Academy Award nominations to receiving her own star on Hollywood Boulevard's Walk of Fame.

Ms. Kitt has also demonstrated her outspoken dedication to her strongly held beliefs. Her vocal opposition to the Vietnam war at a White House luncheon in 1968 resulted in her being blacklisted by the American entertainment community. That setback didn't stop Ms. Kitt from taking her act overseas where she still has a devoted following.

I applaud and commend the contributions this South Carolina native has made to the entertainment industry. Her inspiring career, which had its humble beginnings on a cotton plantation in the deep South, has enchanted audiences around the world. As a result of her accomplishments, Eartha Kitt has become a living legend.

Today, on behalf of the State of South Carolina, I offer a word of thanks as Ms. Kitt embarks on a performance from her heart. This week she participates in a special homecoming performance of Walter Rutledge's "SOULS—The Calah" benefiting Benedict College in Columbia, SC. Ms. Kitt's extraordinary talents, which have endeared this woman of the South to an international audience, will now be showcased for those back home.

I join with all South Carolinians in thanking Eartha Kitt for the example she has set, the accomplishments she has achieved, and the contributions she has made to our cultural livelihood. Her life as a testament to what one can achieve if their dreams are not deferred.

IN PRAISE OF CREDIT UNIONS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. KUCINICH. Mr. Speaker, I rise to praise credit unions. Credit unions do not charge exorbitant bank fees; they do not have excessive account minimums. They make low interest loans, mainly to their members in the communities in which they live. Credit unions are run by their members, who have a voice in the operation and policies of their credit union.

Small businesses depend on credit unions for those reasons because offering credit union membership as a benefit to prospective employees is a benefit which workers value.

Credit unions are very small compared with banks. The average credit union has less than $28 million in assets—less than one-sixteenth the assets of the average bank. The two largest U.S. banks—Chase and Citibank—combined have more assets than all 12,047 credit unions combined.

Credit unions are modest compared to banks. Banks today control nearly every dollar in savings—93 percent—and in loans—94 percent—in the United States.

Banks overshadow credit unions by market share and profitability, as was recently detailed in the March 14, 1997, edition of the American Banker, "Commercial Banks Set $52 Billion Profit Record Last Year, FDIC Says." I commend it to my colleagues.

[From the American Banker, Mar. 14, 1997]

COMMERCIAL BANKS SET $52 BILLION PROFIT RECORD LAST YEAR, FDIC SAYS

(By Dean Anason)

WASHINGTON.—The banking industry earned a record $52.4 billion last year, although losses on consumer loans continued to grow.

The Federal Deposit Insurance Corp. said Thursday that the nation's 9,528 commercial banks earned $13.7 billion in the fourth quarter, up 14.5% from the same period a year ago.

For the year, profits rose 7.5% despite the $650 million banks paid to help rescue the Savings Association Insurance Fund.

Profits were driven by noninterest income from fees and service charges, which increased 13.5% in 1996 to $93.6 billion. Interest income rose to $162.8 billion, but at half the rate of noninterest income.

Despite the record profits, FDIC Chairman Ricki Helfer described as "worrisome" the yearend statistics on consumer loans, particularly credit card loans.

Net loan losses rose to $15.5 billion, a 27% increase from 1995. Credit card loan writeoffs accounted for $9.5 billion of that total.

"We have seen both delinquent and noncurrent consumer loans increase at the same time that chargeoffs have risen dramatically," Mrs. Helfer said. "Chargeoff rates are approaching the levels reached in the last recession."

Commercial banks wrote off 2.29% of their consumer loans, compared with 1.73% in 1995. Credit card writeoffs amounted to 4.3% in 1996, up from 3.4% the previous year. Writeoffs reached 4.72% in the fourth quarter.

The doubling of credit card loans in the past four years and rising personal bankruptcy filings only exacerbate concern, Ms. Helfer said.

Ms. Helfer declined to say whether banks should tighten their credit card lending standards more, but she cautioned that banks must be "very careful" in making assumptions about a very unpredictable line of business. Further, she warned against underestimating risk caused by liabilities from credit card loans that have been securitized.

Not all loan categories performed poorly. Commercial and industrial loans rose 7.3 percent to $710 billion, and real estate loans jumped 5.5 percent to $1.1 trillion.

Average return on investment approached record levels, rising to 1.19 percent in 1996 from 1.17 percent in 1995. Nearly 70 percent of banks equaled or surpassed the traditional benchmark 1 percent ROA.

The industry's asset growth slowed for the second year in a row, increasing 6.2 percent to $266 billion in 1996. Assets had grown at annual rates of 7.5 percent and 8.2 percent in the two prior years. Ms. Helfer described that as "probably a good sign" considering that rapid asset growth in the late 1980s and early 1990s foreshadowed industry downturns.

The bank deposit insurance fund topped $2 trillion for the first time and reached reserves of $1.34 for every $100 of insured deposits at the end of 1996. After a $4.5 billion capitalization in October, the thrift fund achieved reserves of $1.30 for every $100 at the end of the 1996, versus 55 cents per $100 six months earlier.

A slowdown in merger activity and rising numbers of new banks caused the smallest quarterly decline in commercial banks in 11 years, according to the FDIC. Only five banks and one thrift failed in 1996, the fewest since 1972.

Echoing recently released figures by the Office of Thrift Supervision, the FDIC reported healthy thrift profits, too. The nation's 1,924 savings institutions earned $7 billion in 1996 despite spending $3.5 billion to capitalize the thrift fund.

INTRODUCING THE CORPORATE RESPONSIBILITY ACT OF 1997

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. VISCLOSKY. Mr. Speaker, today I am introducing legislation that will cut an estimated $35.3 billion in corporate welfare over the next 5 years. My bill, the Corporate Responsibility Act of 1997, eliminates or reforms 12 Federal programs that currently use billions of taxpayers dollars to subsidize corporate America.

I am introducing this legislation because I am extremely concerned about the hundreds of billions of taxpayer dollars spent every decade on special interests and Fortune 500 corporations. Estimates of current total corporate welfare expenditures range from $200 billion to $500 billion over 5 years, money that would go a long way toward balancing the budget and investing in our future. Last year, the Congress passed important legislation to reform the welfare system. It is time to reform the corporate welfare system by getting dependent companies off the Government dole.

In the 104th Congress, I introduced similar corporate welfare legislation. That bill, H.R. 3102, took aim at seven of the worst corporate welfare programs in the Federal budget, including the Market Promotion Program, the U.S. territorial possessions tax credit, and the Export Enhancement Program. I was extremely pleased when legislation was signed into law last year, Public Law 104–188, that eliminated the territorial possessions tax credit. Eliminating this program, which gave companies a tax break for sending good U.S. job abroad, will save taxpayers $10.6 billion over the next 10 years.

While the premise of my new bill remains the same—to reduce corporate welfare—I have expanded the scope of my legislation, and added a lockbox mechanism to ensure that all savings and revenue go directly toward deficit reduction. This bill would save $35.3 billion over 5 years by ending eight corporate welfare programs and reforming four others. Because I've limited this legislation to the most egregious examples, my bill is a litmus test for anyone is serious about ending corporate welfare. In short, this bill puts a balanced budget, jobs, education, and a clean environment ahead of handouts to Fortune 500 companies and special interests.

The legislation I am introducing today represents an important step in the effort to end wasteful spending and balance the Federal budget. I urge you and my other House colleagues to cosponsor and support the Corporate Responsibility Act.

The Corporate Responsibility Act of 1997 would:

Eliminate the Export Enhancement Program [EEP]: The U.S. Department of Agriculture [USDA] subsidizes the export of agricultural commodities by paying exporters cash bonuses to export agricultural products. Since its inception in 1985, EEP has paid out more than $7 billion in bonuses, mostly to giant agribusinesses. Taxpayers should not be asked to hand out these corporate giveaways or subsidize the purchase of food products by foreign consumers. Estimated savings: $2.1 billion over 5 years.

Eliminate the Market Access Program [MAP]: USDA subsidizes foreign advertising costs of multinational and U.S. corporations, such as McDonalds and Wrangler. MAP—formerly known as the Market Promotion Program—funds consumer-related promotion of products through trade shows, advertising campaigns, commodity analysis, and training of foreign nationals. Taxpayers should not be asked to pick up the tab for the advertising costs of large companies that can afford to advertise on their own. Estimated savings: $350 million over 5 years.

Overhaul the 1872 Mining Act: Allowing foreign companies to buy public land for $2.50 per acre and pay no royalties on the valuable minerals extracted is a license to steal that should be revoked. Many of the mining interests that benefit from this system are not even U.S. companies. My bill would establish a leasing system and require these companies to pay an 8-percent royalty on the valuable minerals extracted from Federal land. Estimated savings: $300 million over 5 years.

Eliminate the subsidy for the Tennessee Valley Authority [TVA]: TVA receives $106 million each year in a direct Federal subsidy. In this era of power deregulation and deficit reduction, the Government can no longer afford to subsidize the TVA in this way. Even TVA's chairman, Craven Crowell, has said that his agency can make due without its annual appropriation. Estimated savings: $500 million over 5 years.

Reform irrigation subsidies: Under current law, USDA gives farmers—often large agribusiness—Freedom to Farm payments along with irrigation subsidies for the same crops on the same land. My bill would end this double dipping by requiring recipients to pay for irrigation costs if they are already receiving Freedom to Farm subsidies. Estimated savings: $500 million–$1 billion over 5 years.

Eliminate the Tobacco Program: The Federal Government aids producers of tobacco through a combination of marketing quotas, price-supporting loans, and restrictions on imports. Tobacco is the sixth largest cash crop in the country and most of the price-supports and marketing quotas benefit huge companies like Phillip Morris and RJR Nabisco. Estimated savings: $200 million over 5 years.

Eliminate the Advanced Technology Program [ATP]: ATP gives away nearly half a billion dollars a year in research and development grants to huge high-technology firms like Caterpiller, General Electric, and Xerox to help develop new products. These companies are very well financed and should be using their own money for R&D. Estimated savings: $1.1 billion over 5 years.

Reform process for developing timber roads in national forests: Timber companies profit tremendously from the use of roads in national forest lands, but they pay virtually none of the cost of building them. My bill would stop subsidizing the construction of roads which are mainly used by timber companies go gain access to timber. Estimated savings: $250 million over 5 years.

Reform the U.S. role in the General Arrangements to Borrow: The General Arrangements to Borrow [GAB], part of the International Monetary Fund [IMF], are intended to prevent any future internal monetary crisis caused by developing countries that are unable to pay their bills. We are bailing out these countries—and the banks that support them—despite the fact that they have enough capital to spend vast amounts of money on money-losing State-sponsored industries, huge bureaucracies, and large militaries. My bill would prevent increased U.S. participation in the GAB. Estimated savings: $3.5 billion over 5 years.

End special tax treatment of alcohol fuels: Manufacturers of gasohol, a motor fuel composed of 10 percent alcohol, received a tax subsidy of 54 cents per gallon of alcohol used. Archer-Daniels-Midland—which produces most of the country's gasohol—has made billions of dollars from this tax break. These subsidies have a dubious balance of public versus private benefits, and they are an inefficient use of our energy resources. Estimated savings: $2.4 billion over 5 years.

Eliminate the Foreign Sales Corporation [FSC] tax break: The Tax Code's FSC provisions permit U.S. exporters to exempt 15 percent of their export income from U.S. taxation. This encourages U.S. companies to form subsidiary corporations in a foreign country—which can just be a mailing address—to qualify as an FSC. A portion of the FSC's own export income is exempt from taxes, and the FSC can pass on the tax savings to its parent company because domestic corporations are allowed a 100-percent dividends-received deduction for income distribution from an FSC. Estimated savings: $7.5 billion over 5 years.

Eliminate the "title passage" tax break: Companies can treat sales income as foreign source income—therefore realizing a tax break—by passing title to the property sold offshore even though the sales activity may have taken place in the United States. The title passage rule allows a company with excess foreign tax credits to classify more of its income as foreign source, then the company receives an implicit tax subsidy. My bill would put an end to this practice by closing this tax loophole. Estimated savings: $16.6 billion over 5 years.

Total estimated savings: $35.3 billion over 5 years.

Deficit reduction lock box: This bill includes a deficit reduction lockbox to ensure that all savings/revenue go directly toward deficit reduction and are not used to finance other programs.

CENTENNIAL OF THE INDIANA OPTOMETRIC ASSOCIATION

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. ROEMER. Mr. Speaker, I rise today to recognize the 100th anniversary of the Indiana Optometric Association. I want to join my colleagues here and in the Senate and House of Representatives in Indiana in commemorating this event. Following is the text of the Concurrent resolution adopted by the 110th general assembly of the State of Indiana:

"Whereas, the Indiana Optometric Association (IOA) was founded in 1897 and will be celebrating its Centennial Anniversary during the year 1997, and

"Whereas, the IOA is marking 100 years of successful advocacy for the profession of optometry in Indiana, and

"Whereas, the IOA has provided 100 years of service the public interest on behalf of the eye care and eye health of Indiana's citizens, and

"Whereas, the IOA was instrumental in the decision of the Indiana General Assembly that established the Indiana University School of Optometry in the early 1950's, and has forged an ongoing professional relationship with the School of Optometry that is a national model, and

"Whereas, the IOA commends the Indiana General Assembly for its continuing support of the profession of optometry and the patients it serves, and

"Whereas, the IOA has historically distinguished itself as an exemplary professional optometric association in the United States, and

"Whereas, the IOA rededicates itself and the profession of optometry to serving the eye health and vision care needs of the citizens of the State of Indiana for the next 100 years,

"Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

"Section 1. That, on behalf of the people of the State of Indiana, we extend our sincere appreciation to IOA for its dedicated service to the people of the State of Indiana and the profession of optometry.

"Section 2. That the Secretary of the Senate is directed to transmit a copy of this resolution to the Indiana Optometric Association."

Mr. Speaker, it is my sincere pleasure to join my colleagues at the State house in saluting the Indiana Optometric Association. The dedication to the health of our fellow Hoosiers and to the education of future optometrists bring honor to the Indiana Optometric Association. They deserve to be suitably proud of this landmark in their existence.

100TH ANNIVERSARY OF THE UNITARIAN CHURCH OF MONTCLAIR

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. PASCRELL. Mr. Speaker, I would like to bring to your attention the momentous occasion of the 100th anniversary of the Unitarian Church of Montclair, NJ.

The church dates from February 1897, when a few women gathered to consider the feasibility of forming a Unitarian Society. Having a church school for their children was of their greatest concern, and therefore the women began preparing themselves as teachers. In 1898, the church's first minister, the Rev. Arthur Grant, was called, and both the church and the church school were organized. Reverend Grant was succeeded in 1902 by Rev. Leslie Sprague, and it was during his ministry that the church was built on its present site.

In 1906, the Rev. Edgar Swan Wiers was called and continued as minister until his death in 1931. During his ministry, and with keen interest from himself and the congregation in the cultural life of the community, Reverend Wiers established a forum series, a Unity Institute, and a concert series which has continuously brought the best available talent to Montclair. Later in Reverend Wiers' ministry, Unity Institute was expanded to include a travel series as well as a chamber music series. Interest in the institute's programs of the performing arts, theatrical, musical, and the fine arts was vast and continued in numerous concerts, plays, monologs, and art shows. From the forum series grew the Collegiate Pulpit.

Dr. Norman Fletcher became the church's minister in 1932 and his concern for civil rights, as well as his love of English literature and the theater was evident. During the years of World War I, the church's women's alliance was very active in several war projects. The women's alliance continued with its concern for the people as well as its support for the church through projects such as fairs and rummage sales.

Throughout the 1950's, church membership soared with scores of chairs being placed in the church's aisles to accommodate the growing congregation. This remarkable increase in members led to numerous discussions concerning the need for a new church. The church school, with close to 500 members, outgrew the basement classrooms and the public library located next door was bought from the township for church use.

In 1970, Dr. George J.W. Pennington was appointed as an associate minister, and in 1972, upon the retirement of Dr. Fletcher, who had become minister emeritus, Dr. Pennington became a full minister. With a second profession as a clinical psychologist, Dr. Pennington managed to increase the amount of counseling work done and also lent a psychological tone to many of his sermons. As with the times, the church became less formal, and in March 1982, Dr. Pennington resigned.

The Rev. Lee Barker was called to the ministry of the church in 1983 and had been with the church until June 1994. His ministry was distinguished by a growth of membership and a continuing commitment to community outreach.

Called to the pulpit in April 1995, the Reverend Charles Blustein Ortman became the seventh minister of the church on November 4, 1995. Reverend Ortman continues to serve as minister and, along with the church's congregation, is looking forward to the centennial anniversary of the Unitarian Church of Montclair.

Mr. Speaker, I ask that you join me, our colleagues, Reverend Ortman, members of the congregation, and the township of Montclair, in recognizing the outstanding and invaluable service to the community and the 100th anniversary of the Unitarian Church of Montclair.

THE FEDERAL RESERVE IS WRONG

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. FRANK of Massachusetts. Mr. Speaker, I have voiced my strong disagreement with the recent decision by the Federal Reserve to raise interest rates on the floor of the House. Recently I saw an article in the April 21 issue of The New Republic which makes the case in a cogent way that Mr. Greenspan was mistaken, and that his mistake will be damaging to our economy. Similarly, the Economic Scene column by Peter Passell in the April 10 issue of the New York Times does a good job describing the downside of the Fed's decision to clamp down on economic growth. I am inserting both articles here:

[From the New Republic, Apr. 21, 1997]

FED ACCOMPLI

Last week the Federal Reserve ended a five-year experiment: How many people can the nation put to work without triggering inflation? The results are fiercely contested, their ramifications enormous. Everybody wants unemployment to be as low as possible, but nobody knows for sure how low that is. Growth optimists believe unemployment can fall much lower than the current 5.3 percent without fueling inflation. Inflation hawks, led by Fed Chairman Alan Greenspan, don't.

But the debate is academic, because monetary policy isn't set by public debates and majority votes, it's set by Alan Greenspan. And Greenspan is sure that the current high levels of economic growth and employment will soon cause a spiral of higher prices. So he raised interest rates last week and appears likely to do so again, effectively ensuring that unemployment will not drop any lower than it is today. Given the data of the last two years, data that, despite endless scrutiny, shows not the slightest hint of creeping inflation, we wish the chairman were a little less certain.

Both Greenspan and his critics agree that prices hinge upon a balance of power between employers and employees. When joblessness drops, the value of labor rises. Employers raise salaries and pass the cost on to consumers. These higher prices cause other workers to demand raises. Such an inflationary spiral can only be stopped if the Federal Reserve slows the economy, making everybody worse off. The big question is how low unemployment can drop before an inflationary spiral begins. Conventional economists have long held that inflation would start to mount if unemployment fell below 6 percent. But the current economic expansion, which began in 1992, has brought unemployment down to 5.3 percent without a trace of rising inflation. For inflation hawks like Greenspan, this state of affairs can't go on.

The growth optimists, with varying levels of plausibility, suggest another story. They believe the economy has entered a new era, capable of sustaining lower unemployment than before. Why have the rules changed? There are several reasons:

Globalization. International competition makes it harder for American companies to raise the cost of their goods, lest foreign firms undercut them. It has also made workers less secure about their future and hence more timid in demanding raises. (Polls of employee confidence support this notion.)

Computers have increased productivity. This is the pivotal point. Productivity ultimately determines wages. If wages are rising just because employees have more leverage, then the boss has to raise prices. But if workers are producing more, then employers can pay for a wage increase out of profits instead of passing the cost on to consumers. The latter scenario seems to be the case. Productivity rose 1.5 percent last year, while real wages rose by just 0.6 percent. The share of the economy going to corporate profits is up a full percentage point from the peak of the last business cycle. This suggests that firms can pay their employees more without hiking prices.

Bad statistics. Most (though not all) economists believe the government has been overestimating inflation for years. That means we have less to worry about than Greenspan thinks. (Greenspan, interestingly, adheres to this theory himself, although he has of yet failed to reconcile it with his inflationary paranoia.)

Hard data to support the new era hypotheses remains sketchy. So far, however, the story checks out. And, even if it's wrong, failure entails nothing more than slightly higher prices and a future interest rate hike. At its current level, inflation appears unlikely to spiral out of control. A little inflation hurts, of course, but it doesn't really start to bite until it hits the mid-to-upper single digits. As MIT economist Paul Krugman wrote recently in The Economist, “3 percent inflation does much less than one-third as much harm as 9 percent.

One other recent even has strengthened the case for experimentation: welfare reform. If the government demands that all citizens who can work do work, it cannot simultaneously enforce Greenspan's explicitly anti-employment program. Or, at least, it should not do so without first attempting an alternative. The alternative—an effort to see whether we can successfully push unemployment below 5 percent, and perhaps improve the lives of millions in the American underclass in the process—may prove a pipe dream. But the benefits of success outweigh the costs of failure. And we'll never know unless the Federal Reserve chairman opens himself to the possibility that he is wrong.

[From the New York Times, Apr. 10, 1997]

(By Peter Passell)

The latest labor market numbers have been widely greeted as fresh evidence that the Federal Reserve chairman, Alan Greenspan, has a direct line to the Oracle of Delphi. With data suggesting that the demand for workers is growing more rapidly than the working-age population, the Fed's preemptive strike against inflation last month seems to be one more sign that the Fed remains ahead of the game.

But not quite everyone is convinced that Mr. Greenspan's latest prognostication—or for that matter, the unbroken economic expansion since 1991—proves that he has all the answers. For while a recession-free six years may have marginalized his critics, it has not really established that the Fed has found a golden mean between stable prices and economic growth.

For that exquisite balance, if it exists at all, depends as much on value judgments as technocratic insight. "Where was it written," asks Robert M. Solow of M.I.T., a Nobel laureate in economics, "that absolute security against inflation is worth sacrificing unknown quantities of national income?"

Moreover, this seems a particularly unfortunate moment to choose to err on the side of fighting inflation at the expense of higher unemployment—and without even a whimper of debate. To make welfare reform work, there have to be jobs for those pushed off the rolls. Yet without tight labor markets, business will have little incentive to invest in the training needed to bring marginally competent workers into the mainstream.

No one disputes that Admiral Greenspan has kept the economy on an even keel since the recession of 1990-91. His performance seems all the more impressive when compared with that of German, French and Japanese policy makers, who have not been able to spring their economies from the doldrums. Today, unemployment is at 5.2 percent and the economy is growing at an annual rate well above 3 percent.

Indeed, even his critics are quick to praise Mr. Greenspan for flexibility in recent years, keeping interest rates steady as unemployment dipped below the level experience suggested would fuel wage-led inflation. "He deserves a lot of credit" for holding the line long after traditional conservatives were calling for a tougher stance, argues James Tobin of Yale, another Nobel laureate.

By the same token, most economists see the quarter-point interest rate increase last month as a sign of Mr. Greenspan's enlightened pragmatism and the best way to avoid a future recession brought on by painfully high interest rates. "By tightening a little now," suggests William Dudley of Goldman, Sachs, "he makes it less likely he'll have to tighten a lot later."

So what's left to argue about? Plenty. Mr. Tobin says that inflation is simply not a clear and present danger. A close reading of other bellwether statistics—notably the proportion of the newly unemployed who were dismissed and the index of labor demand based on help-wanted ads—is surprisingly benign. "The risks of inflation seem no greater today," he concludes, "than when unemployment was up at 6 percent."

For his part, Mr. Solow is unconvinced by the conventional wisdom that gradualism works best. Small increases in interest rates early on—the pre-emptive strike—may seem less traumatic. But by Mr. Solow's reading of the evidence, larger increases once signs of inflation are unambiguous are no more likely to generate overcorrections.

Economists are comfortable staying within the confines of this purely technical debate. A Greenspan-worshiping majority believes that unemployment is already below the rate that can be sustained without bringing on inflation, or that the economy's momentum will soon bring the rate into the inflationary range. An embattled minority suspects that fundamental changes in the economy—globalization, de-unionization, downsizing—have sharply lowered the level of unemployment that is compatible with stable prices.

But the debate can be confined only to the technical by ignoring its social dimension. No one really knows whether the magic "nonaccelerating inflation rate of unemployment" is 5.5 percent or 4.5 percent. So decisions about the target implicitly have as much to do with how one weighs the consequences of erring on the side of slow growth against the costs of inflation.

Fear of inflation has been an easy sell since the trauma of the oil shocks in the 1970's. Uncertainty about prices leads to economic inefficiency—and, horror of horrors, lower stock prices. Besides, inflation breeds recessions because it eventually brings down the wrath of the monetary gods. But not to belabor the obvious, living with 5.2 percent unemployment if the economy is able to sustain 4.5 percent also has costs: every tenth of a percentage point represents at least 130,000 jobs.

It may be tidier to leave monetary policy in the hands of a benign despot. But it's also a little sad: if the 5 percent unemployment barrier cannot be tested when inflation is beyond the horizon and a Democrat is in the White House, when can it?

HOOSIER HEROS—SPECIAL OLYMPICS COACH JERRY KNOOP

HON. DAVID M. McINTOSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. McINTOSH. Mr. Speaker, I rise today to give my report from Indiana.

During the recess break I had the opportunity to meet with and listen to the stories of the people all throughout the great State of Indiana. These stories of hope, dedication, and family are truly inspirational. Hoosiers who have dedicated their time and compassion to make a difference in the lives of others in communities. These people are truly heroes, Hoosier heroes. I would like to share with you a story of a father who goes above and beyond the responsibilities of a parent. Jerry Knoop, of Fairland, IN, has always been involved in the community. Whether it would be coaching his children's athletic teams, or supporting the local athletes, Jerry has helped unselfishly to better the lives of others.

After an accident left his son, Eddie Knoop, mildly mentally handicap at the age of 8, Jerry discovered that the local athletic programs could no longer accommodate the needs of his son. He then took it upon himself to make sure his son and others like him received the attention they deserve. By working with the local school's special education programs as well as the Special Olympics, Jerry made himself known throughout the community as the man who can't say no to volunteering. When his son became old enough to attend Shares Inc., a local shelter for the handicap, Jerry quickly involved himself by coaching several of the athletic teams. His wife, MarySue, commented that it takes a unique person to coach people with disabilities. Jerry approaches the athletes with a lot of patience and caring.

He takes the time to break down things to the athletes so that they can understand the fundamentals of the sport. He often ends up repeating himself to try and help them as much as they can. It is this type of patience and commitment which won him the 1997 U.S.A. Weekend Most Caring Coach Award.

Nominated by his son, Jerry's commitment to helping others has invoked his family and friends to also involve themselves with the Special Olympics. His daughter and son-in-law, Kileen and Jack Clay, have also coached Special Olympic teams. Kevin Pagent and Don Wright, two coworkers of Jerry have followed Jerry's example by coaching and supporting Special Olympic athletes, often traveling as far away as 2 hours to get to a game. Jerry's influence has also reached to the young people in the community. Kurt Benshimer, a junior at Trinton central High School, got involved with the Special Olympics after learning of Jerry Knoop's dedication through his church, where Jerry also volunteers putting together the weekly bulletin.

Jerry Knoop wholeheartedly puts others in front of himself. We should all follow the example that Jerry sets. Mr. Speaker, I would like to salute Jerry's efforts in the State of Indiana and recognize the positive impact that he has had on the community.

Jerry Knoop is truly a Hoosier hero. That concludes my report from the Second District of Indiana.

THERE THEY GO AGAIN; THE BIG LABOR BOSSES VERSUS AMERICAN TAXPAYERS, EMPLOYERS, AND JOBS

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. CUNNINGHAM. Mr. Speaker, there they go again. In 1996, the big labor bosses in Washington attempted to buy a political party and the elections, using $35 million in union dues from honest working men and women—40 percent of whom opposed the union bosses' endorsed Presidential candidate. Now they are coordinating with the Clinton administration an expansive, expensive, and bureaucratic new Federal contracting regulation to shake down everybody else—American taxpayers, employers, and the 90 percent of workers who are not union members—for the self-serving interests of the labor bosses in Washington.

It should go without saying that the President's proposed Executive order on project labor agreements is in addition to existing Federal contract and labor law, which includes but is not limited to the Service Contract Act, the Davis-Bacon Act, the Fair Labor Standards Act and the minimum wage, the Equal Pay Act, the Family and Medical Leave Act, the Employee Retirement Income Security Act, the Civil Rights Act, the Americans With Disabilities Act, and the Occupational Health and Safety Act, among others, plus the laws of the States.

I enter into the RECORD a memorandum from AFL–CIO President John Sweeney that outlines the labor bosses' plan, so that Members may read it and draw their own conclusions.

American Federation of Labor and Congress of Industrial Organizations

Memo to: National and International Union Presidents.
From: John J. Sweeney.
Subject: Support for Pro-Worker Federal Procurement Reforms.
Date: March 25, 1997.

The purpose of this memo is to alert you to an exciting initiative that requires the immediate attention of affiliated unions, and to request your assistance in building the case for these much-needed reforms.

As you may recall, the Clinton Administration recently announced its intention to undertake several initiatives that will protect worker rights and workplace standards while improving federal government procurement and contracting practices. If properly implemented, these initiatives will affect the expenditure of hundreds of billions of dollars every year. In any given year federal contracts total as much as $200 billion, and federal contractors and subcontractors employ approximately one-fifth of the labor force. At any given time perhaps 3% of the labor force is directly employed in the performance of a federal government contract.

In order for these initiatives to take effect and withstand Republican and business community opposition in Congress and the courts, we need the assistance and active involvement of AFL–CIO unions. We are asking affiliates to undertake the efforts described in the attached memorandum, and to designate one person from each organization who will work with us in coordinating these efforts.

Our short term goal is to develop material to buttress our case for these reforms from a hostile attack from the Republican Congress. The long term goal is to build and sustain a body of information to help us make the most of these initiatives and have a positive, pro-worker impact on the world of federal contracting.

The government will be issuing proposed procurement regulations that will accomplish three reforms.

First, the government will evaluate whether a bidder for a government contract has a satisfactory record of labor relations and other employment practices in determining whether or not the bidder is a "responsible contractor" eligible to receive a particular government contract.

Second, the government will not reimburse federal contractors for costs they incur in unsuccessfully defending against or settling unfair labor practice complaints brought against them by the National Labor Relations Board.

Third, the government will not reimburse contractors for the money they spend to fight unionization of their employees.

These proposed amendments to the Federal Acquisition Regulations will be published in the Federal Register for a 60-day notice and comment period by the public, and then issued in final and binding form following consideration of those comments.

President Clinton will also issue an executive order directing all federal departments to consider using a project labor agreement when they undertake government-funded construction projects. This order is not subject to notice-and-comment or other administrative steps.

Republicans in Congress and the business community attacked these plans as soon as the Administration announced them. Republican leaders have said they may try to override them and are also threatening litigation. Both groups assert that the initiatives are bad policy and simply a payoff to the AFL–CIO for its efforts during the 1996 election campaign.

In order to secure final issuance of the procurement regulations, and to defeat the campaign that is coalescing against them and the proposed executive order, it is imperative that AFL–CIO affiliates bolster the case in support of these changes with specific information and examples of corporate lawbreaking or bad practices that justify the regulations, and successful experiences with project labor agreements in both the private and public sectors.

We are reaching out in particular to organizers, lawyers, researchers and lobbyists for AFL–CIO affiliates to ask their assistance in securing this information, and to consult as appropriate with other staff in their union and its affiliated local, district and similar bodies.

The attached memorandum describes these initiatives in more detail and specifies the information and materials we need. Responses should be sent directly to AFL–CIO Corporate Affairs Department Director Ron Blackwell, who is coordinating the AFL–CIO's research efforts for the procurement reforms. Ron can be reached at AFL–CIO headquarters at 202-637-5160.

Thank you for your help in our campaign to win these important reforms.

Information Needed in Support of Proposed Government Contracting Reforms

The Clinton Administration will soon be proposing regulations to modify the Federal Acquisition Regulations in three areas, and will be issuing an executive order on project labor agreements. A description of the forthcoming proposals, and the information needed to support these proposals, follows:

1. REQUIRING GOVERNMENT CONTRACTORS TO HAVE SATISFACTORY LABOR AND EMPLOYMENT PRACTICES

Under the regulations that govern federal procurement and contracting—Part 9 of the Federal Acquisition Regulations—before the government can award a contract for goods, services or construction, such as computers, building maintenance or the erection of a government office building, it must evaluate the contractor's past performance record; its record of integrity and business ethics; and its capability to perform the contract.

In selecting contractors, the government has only occasionally taken into account a contractor's labor relations and employment practices. Often, then, a contractor with a shabby record of treating its workers has won a government contract, and on only rare occasions has the government decided that a contractor's labor relations were so poor that it could not satisfactorily perform the contract up for bid.

The government will now revise its procurement regulations so they expressly provide that a satisfactory record of employment practices is a component of both the "business ethics and integrity" and "capability" qualifications for being "responsible." This means the government will review a contractor's labor and employment policies and practices and its compliance with laws and standards concerning safety and health; wages, benefits and other labor standards; equal employment opportunity; and the right to organize and bargain collectively.

The AFL–CIO has stressed two important public purposes that are served by this initiative. First, it ensures that the government won't award contracts to companies that don't respect worker rights or adopt sound workplace standards, because these companies aren't trustworthy or reliable enough for the government to do business with. Second, it will improve the performance of government contracts because employers with good labor relations and employment practices are more stable, productive and efficient.

In order to support this initiative, we need information and documentation about government contractors that either are lawbreakers or have substandard labor and employment practices or policies—for example, government contractors that—

Have been held liable for substantial breaches of the National Labor Relations Act; the Occupational Safety and Health Act; the Fair Labor Standards Act; the Employee Retirement Income Security Act; the Civil Rights Act of 1964; the Age Discrimination in Employment Act; or other federal laws protecting workplace standards and barring employment discrimination.

Are being investigated, sued or prosecuted for such violations (examples: Caterpillar and Mitsubishi) even though no final determination has been made.

Pay substandard wages; have no defined workplace rules and arbitrarily administer employment policy; provide few or no benefits; provoke ongoing worker dissatisfaction or unrest; experience unusually high turnover and workforce instability; enforce unfair or degrading rules and procedures; or provide no means for workers to raise on-the-job problems.

We need names, dates, related documents and, just as important, union representatives or workers who can attest to these situations or provide at least anecdotal information. If your organization has compiled any relevant general data, that would prove very useful as well.

We particularly suggest that: Lawyers gather records of cases involving government contractor violations of workplace laws; lobbyists review their files where local unions or other internal bodies have requested intervention with either the Congress or the Executive Branch over a problem with a government contractor like the ones described in this memo; organizers review ongoing and recent organizing campaigns at employers that are government contractors; and researchers investigate the records of contractors in the principal industries they represent.

2. ENDING GOVERNMENT REIMBURSEMENT OF EMPLOYERS' ANTIWORKER EXPENSES

a. Defense of Unfair Labor Practice Complaints

Under current government procurement and contracting regulations—Part 31 of the Federal Acquisition Regulations—the government now precludes the reimbursement of government contractors for their costs in unsuccessfully defending or settling criminal indictments and certain civil proceedings brought by the government involving fraud or similar misconduct or the imposition of a monetary penalty. But the regulations don't specify whether the defense of unfair labor practice complaints issued by the NLRB General Counsel charging violations of the NLRA is a reimbursable cost incurred in the performance of a contract that contractors can pass on to taxpayers. Now those regulations will preclude the use of public funds for that private purpose where the contractor is found liable or the contractor resolves the case by settlement. This will end the self-defeating practice of the government funding both the enforcement and the defense of government litigation to enforce the labor laws.

We need information about employers that have defended unfair labor practice complaints brought by the NLRB General Counsel during the performance of a government contract, where either the NLRB held that the contractor violated the NLRA or the contractor settled the case after a compliant was issued. We are looking especially for situations in which the contractor violated organizing rights during an organizing campaign; refused to bargain in good faith for a first contract; tried to destroy an established collective bargaining relationship; or unlawfully discharged or otherwise retaliated against employees because they supported a union.

If known, we especially need cases where the government reimbursed the contractor for the cost of unsuccessfully defending the ULP complaint. We recognize that it is unlikely that the union would know these details. Identification of the organizing campaign alone would be helpful; we will try to obtain information about reimbursement from other sources.

In particular: Lawyers should provide citations to NLRB decisions, and copies of ALJ decisions, settlement agreements and other documents arising from ULP prosecutions of government contractors; organizers should provide information about the organizing campaigns at worksites of government contracts that gave rise to ULPs and identify the union staff of workers who had direct experience with the matter; lobbyists, again, should review their files where local unions or other internal bodies have requested intervention with either the Congress or the Executive Branch over a problem with a government contractor like the ones described in this memo; and researchers should undertake associated research into these matters.

b. Anti-Union Campaigning

Under several federal statutes and regulations, including those governing Head Start, Medicare, the National and Community Service Act and the Job Training Partnership Act, federal contractors and fund recipients have long been barred from using government money to fight their workers' efforts to exercise their rights to organize and bargain collectively.

The government will now revise its regulations—specifically, in Part 31 of the Federal Acquisition Regulations—to specify that as a general rule covering all government procurement, contractors will not be able to obtain government reimbursement for these sorts of activities.

This reform will create a more level playing field when employees of government contractors try to exercise their rights under the National Labor Relations Act by ending the grossly unfair practice of taxpayers underwriting employer efforts to fight or influence their employees' decision about exercising their rights. This initiative will save taxpayers these expenses, which have nothing to do with guaranteeing satisfactory government contract performance.

We need unions to identify instances where organizing campaigns took place in bargaining units of employees that were actually performing the government contract. Again, if known, instances of government reimbursement should be described. We are especially interested in situations in which the employer aggressively opposed the campaign; the employer committed ULP's during the campaign; the employer broke or skirted the law but, for whatever reason (such as where the union won the election), the union did not pursue NLRB objections or charges; and other situations where the employer engaged in an anti-union campaign, such as during collective bargaining.

In particular, Lawyers should review organizing and contract campaigns they were involved with, particularly those in which the employer incurred substantial legal expenses; organizers should review organizing and contract campaigns and, again, identify both the union staff and workers who had direct contract with the situation; lobbyists should, again, review their files as described earlier; and researchers should undertake associated inquiries.

3. AUTHORIZING PROJECT LABOR AGREEMENTS FOR GOVERNMENT CONSTRUCTION.

A project labor agreement is a comprehensive collective bargaining agreement negotiated at the outset of a project between the construction owner or manager and the unions representing all the workers who will construct the project. This agreement sets the wages, working conditions, work rules and dispute resolution procedures for the duration of the project. They usually guarantee that projects will be built without strikes, lockouts and similar disruptions. In the private sector, project labor agreements have long proven their worth in the construction of large utility, manufacturing and other complexes.

Over the years of federal government has used project labor agreements on large construction projects, including dams, atomic energy facilities and other defense installations, but it has never had a policy to consider using them or to require its contractors to negotiate them where these agreements may facilitate efficient and timely construction.

Innumerable state and locally funded construction projects such as the mammoth cleanup of Boston Harbor, and bridges, office complexes, highways, and airports have been built under project labor agreements. In the past three years, Republican Governors Whitman of New Jersey and Pataki of New York and Democratic Governor Miller of Nevada have issued executive orders authorizing the use of project labor agreements for state-funded construction when it will promote the efficient, timely and safe construction of a project.

Under this new presidential executive order, when an agency decides that a project labor agreement will benefit a federal construction project, it may either negotiate one directly or require bidders to agree to negotiate one for the project.

This order advances fair and efficient government contracting by making it clear that federal agencies, just like state and municipal governments and private builders, have the option of using project labor agreements as one means of assuring that the project will be performed in a cost-effective, competent and timely manner.

In order to defend this order from anticipated political attack, we need information from Building and Construction Trades Department affiliates about recent or ongoing project labor agreements, whether public or private. Especially useful would be examples of experiences in the three states where executive orders encourage such agreements on public construction projects.

In particular, building trades: Lawyers should provide examples of publicly-funded project labor agreements whose lawfulness has been litigated; lobbyists should report efforts to have states and localities adopt project agreements on particular projects or general executive orders to promote them as a matter of policy; and researchers should compile lists and data regarding the use of project labor agreements.

We appreciate any assistance you can provide to our campaign to support these initiatives and counter the opposition coalescing against them.

HAPPY 298TH BIRTHDAY KHALSA PANTH

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. TOWNS. Mr. Speaker, I rise today to say happy 298th birthday to the Sikh Nation. April 13 is Vaisakhi Day, the anniversary of the founding of the Khalsa Panth. On this auspicious occasion, I would like to salute the Sikh Nation on their dedication to hard work, family, faith, and freedom.

Sikhism is a monotheistic religion which believes in the equality of all people, including gender equality. The Sikhs currently live under a repressive occupation by India. We have discussed some of the details of this tyranny many times. Let me just take this opportunity to express my solidarity with the Sikh Nation in its peaceful struggle to throw off oppression. Like the United States 200 years ago, the Sikh Nation will ultimately triumph because the cause of freedom is always the right cause.

The Council of Khalistan has recently issued a flyer for Vaisakhi Day. It contains more detailed information about the Sikh struggle. I would like to insert it into the Record at this time, and I recommend to all my colleagues that they read it.

Happy 298th Birthday Khalsa Panth

We are gathered to celebrate the 298th birth anniversary of the Khalsa Panth, or Sikh nation. On this day in 1699, the tenth and last living Guru of the Sikhs, Guru Gobind Singh Ji stood atop a hill in Anandpur Sahib in Khalistan and asked the Sikhs gathered if anyone would be willing to give their life for their Guru. Five times Guru Gobind Singh Singh Ji asked and five times a different volunteer would offer their head. Guru Ji would escort the volunteer to his tent and re-emerge with bloody sword in hand.

After Guru Gobind Singh Ji asked for the fifth volunteer and escorted him into the tent, Guru Ji came back out of the tent along with all five volunteers who were clad in resplendent robes, perfectly healthy and unscathed. Guru Ji told the congregation that these five Sikhs selflessly offered their lives for their faith, and in so doing, they are to be called the Panj Piaras—the five beloved ones.

Afterwards, Guru Gobind Singh Ji prepared Amrit by placing sugar in a steel bowl stirred with a double edged sword and reciting prayers from Sikh scripture. Guru Ji then administered the Amrit to the Panj Piaras. Afterwards, Guru Ji asked the Panj Piara to baptize him. Following Guru Ji's baptism, tens of thousands of Sikhs who were gathered at Anandpur Sahib, also became baptized.

Through this act of baptism, Guru Gobind Singh Ji created the modern Sikh nation—the Khalsa Panth. By baptizing himself, Guru Ji had taken the first step of transferring the Guruship to the Khalsa Panth. Nine years later, in 1708, Guru Gobind Singh Ji would proclaim an end to the era of living, human Gurus. He declared that the Sikh holy book, the Adi Granth—containing the writings, hymns and poetry of the previous nine Gurus—would permanently receive the Guruship.

On this day, we celebrate the fact that Guru Gobind Singh Ji vested the Khalsa Panth with our modern identity which has imbued us with a strong ethical and martial tradition and ensured our survival and the integrity of our homeland for almost 3 centuries. This identity includes unshorn hair; the turban to keep the head covered as a sign of respect to God, and, the carrying of a kirpan—a weapon representing personal defense and readiness to protect the defenseless from injustice, exploitation and cruelty.

Sikhism is a religion anchored in service to God through service to humanity. We end our daily prayer with the words "Sarbat Da Bhalla", a prayer for the well being of all humanity. Sikhs reject idol worship, Sikhs reject all forms of caste and social hierarchy, and Sikhs believe in full gender equality and reject religious priesthood or any other intermediaries between God and humanity.

CELEBRATING SURVIVAL IN THE FACE OF GENOCIDE,‘FREEDOM IN THE FACE OF IMPERIALISM

Due in part to romanticized visions of India, fostered by movies like "Gandhi" (almost 40 percent of the film's budget came from the Indian Government and they retained editorial control), India continues to enjoy an international reputation as the "world's largest democracy." However, for outcaste Hindus and non-Hindu peoples and nations, India is not a democracy, but a totalitarian state far more ruthless than its British predecessors. Since 1988, Indian police and security forces have killed 43,000 Kashmiris. Indian government forces have murdered over 200,000 Christians since 1947. Tens of thousands of Assamese and tribal peoples have also been murdered by the Indian State.

In addition, the aboriginal people of South Asia, the Dalits, whose indigenous roots and black skin color has relegated them to the status of outcaste untouchables in Indian society, are subjected daily to subhuman treatment which has not changed for millennia. Unlike "Gandhi" the movie, Mohandas Gandhi did not represent India's untouchables but instead represented the Oxford-educated Brahmins of the Indian National Congress. Gandhi, who fervently believed in the Hindu caste system, went on a hunger strike when Daht untouchable leader Dr. Ambekdar demanded full and equal civil and political rights for Dalits. When Congress Party members threatened Dr. Ambekdar that they would start mob riots that would target Dalit communities throughout South Asia, he relented in his demands.

The Sikh homeland Punjab, Khalistan (from the Arabic root "sovereign country of the Sikhs") face similar threats in India. The attack on the Sikh's holiest shrine the Golden Temple, on June 4, 1984, was the beginning of a bloody and calculated attack to destroy the Sikhs politically, culturally and morally. Baptized Sikhs, Amritdhari Sikhs, were reclassified as terrorists as revealed in an excerpt of 'Batchit' [Military Order] Circular No. 153, which contain the official Indian military orders issued for July of 1984.

"Any knowledge of the Amritdharis [baptized Sikhs] who are dangerous people and pledge to commit murders, arson and acts of terrorism should immediately be brought to the notice of the authorities. These people may appear harmless from the outside but they are basically committed to terrorism. In the interest of all of us, their identity and whereabouts must always be disclosed."

With this military order, and the Draconian laws that followed, the Sikhs have faced its darkest period in 300 years. According to the Punjab State Magistracy, the group representing all of the local court judges in the Punjab. Indian police murdered over 200,000 Sikhs from 1984 to 1992. According to Punjab/Haryana High Court Justice Ajit Singh Bains of the Punjab Human Rights Organization (PHRO), over 50,000 Sikhs have been killed since then.

It is not surprising, therefore, that international human rights groups like Amnesty International have not been allowed in Khalistan for almost 20 years.

EVEN AS THE SIKH GENOCIDE CONTINUES, SO DOES THE FREEDOM STRUGGLE

A quarter million Sikhs murdered since 1984 has not deterred the Sikh nation from our commitment to establish an independent and democratic Khalistan. Unlike what is reported by the Indian government and its media outlets, the Sikh struggle to re-establish our homeland as an independent state is not a violent one. We are committed to the Sikh tradition of peaceful, nonviolent civil and political disobedience called Shantmai Morcha, or peaceful agitation.

The Sikh Nation of Punjab was the last South Asian country to fall to British imperialism in 1849. The Sikhs ruled Punjab for almost a century before the British conquest. A century later, Sikh national sovereignty was expressly recognized by both the British and Indian leaders. Nehru assured the Sikhs that they would enjoy the "glow of freedom" in the Sikh homeland. Mohandas Gandhi told the Sikhs that if the Congress should ever betray them ". . . the Congress would not only thereby seal its own doom, but that of the country too. Moreover, the Sikhs are a brave people. They know how to safeguard their rights by the exercise of arms, if it ever comes to that."

In the intervening 50 years of Indian government rule, Sikhs have faced its darkest period in history. Even toddlers who have been baptized into Sikhism are not spared. Last December the Chandigarh court found that the police had murdered 3 year old Arvinder Singh, along with his father and his uncle, and labeled them as terrorists. Under Indian law, police can kill Sikhs, identify them as terrorists and receive cash rewards for the killing. In 1994, the U.S. State Department estimated that 41,000 cash bounties were issued between 1991 and 1993.

Throughout this horrible period, we Sikhs have never surrendered our right to national sovereignty, and we have never surrendered our rightful claim to a pluralistic democracy in an independent Khalistan. The Indian government genocide campaign, a campaign in which all baptized Sikhs are considered terrorists, is just the latest form of oppression set upon the Sikh nation; and is part of a larger pattern of Indian government imperialism over numerous nations and peoples in South Asia.

U.S. RESPONDS TO INDIAN OPPRESSION OF THE SIKHS

In response to the continued subjugation of the Sikhs in Khalistan, Congress has just introduced legislation, House Concurrent Resolution 37 (H. Con. Res. 37), which recognizes and supports the Sikh nation's right to national self-determination. The bipartisan resolution, co-sponsored by Gary Condit (D-CA) and Dana Rohrabacher (R-CA), urges the implementation of an internationally sponsored plebiscite so that Sikhs themselves could decide, by free and fair vote, whether or not they want to remain with India.

If India is the democracy that it claims, then it should allow the people of Khalistan to decide for themselves whether or not they want to be a part of India, just as the U.S. has done with respect to Puerto Rico and Canada has done with respect to Quebec.

Please join us in celebrating this auspicious holiday of the Sikh Nation, it is a time of feasting and festivity. But please also remember that there are millions of Sikhs in our homeland Khalistan who do not have much to celebrate. And think about them the next time you read something about the "world's largest democracy" and call your Member of Congress and ask them to cosponsor H. Con. Res. 37—because everyone deserves the kind of freedom that we enjoy in the U.S.

Happy 298th Birthday Sikh Nation.

HONORING MARJORIE DAVIS FOR OUTSTANDING AND CONTINUED COMMUNITY SERVICE

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mrs. MEEK of Florida. Mr. Speaker, it is my pleasure to recognize Marjorie Davis who has contributed greatly to making our community safer and a better place to live. Ms. Davis, originally from Overtown but now a resident of Northwest Fort Lauderdale, has volunteered her time, effort, and hard work to eliminate drug dealers from the community, and has created programs that have helped unite the communities with one another. She is an outstanding individual who has helped shape community pride, generated respect, and manifested hope that was once lost.

The Miami Herald recognized Marjorie Davis in a January 20, 1997, article entitled "Building Bridges Between Communities" which commemorated her honorable civic service. I would like to submit this inspiring article for the RECORD.

MARJORIE DAVIS

The whistler has left the corner of Fifth Street and 18th Avenue in Northwest Fort Lauderdale.

A defiant intruder in a modest community of neighbors who know each other by name, he would stand with his hat cocked to the side, pucker his lips, and blow to signal his customers.

Mothers, fathers, and teenagers with an appetite for crack cocaine who heard the shrill would file to the corner like children chasing the song of an ice cream truck.

For a while, whistler thought the corner was his. That is, until he met Marjorie Davis, president of Dorsey-Riverbend Homeowners Association.

The corner is hers. Has been for 40 years. She owns a three-bedroom home with a gazebo at 1713 NW Fifth St., and was not afraid to let the whistler know it.

"I'm paying property tax for all this corner right here," she told whistler one day, looking him square in the eyes.

"Old lady, get back in the house," he said smugly.

In the '80s, whistler and his friends stood on corners throughout Davis' neighborhood in the heart of Fort Lauderdale's historic black community. Pimps with flashy cars and prostitutes in skimpy dresses strutted down the community's Main Street.

Their days were numbered.

Davis, then an elementary school teacher in her 50s, rallied the troops, a batallion of proud neighbors who weren't going to let their community be overrun by hoodlums. The association—organized in the '70s over lively conversation and plates of barbecue chicken and potato salad at a neighborhood cookout—haunted city commission meetings until they got police to beef up patrols.

Soon after, the whistler was arrested.

"I guess he thought I was just going to run in the house and be afraid," says Davis, a widow who turns 70 next month. "God doesn't like ugly."

A child of Bahamian immigrants, Davis was taught to stand up for what she believes in. She and her two siblings grew up in Overtown under the watchful eye of every adult on her tidy block until the highway divided her community.

Davis is spending her retirement making her neighborhood the kind of close knit community she knew as a child.

"You really need somebody to get the people together" says Lula Gardner, a retired domestic, standing in the doorway of a home she rebuilt and decorated with a garden of Impatients and Chrysanthemums. "She keeps around here nice."

Davis has worked with the city to make it that way, adding shade trees, sidewalks, and a citizen patrol. Along the way, she's battled slumlords, billboards, and politicians looking to build a homeless shelter.

The fight keeps her young.

"My husband used to say, 'You put this community before anyone else,'" Davis says. "I think they appreciate it."

Marjorie Davis has demonstrated her commitment to strengthening and linking communities together. Her enthusiasm and service are special qualities that make her a remarkable individual who is greatly appreciated by many. Mr. Speaker, on behalf of my entire community, I commend Marjorie Davis for her outstanding service to our community and extend our best wishes for continued success.

IN HONOR OF MR. BENJAMIN EISENSTADT, FOUNDER OF CUMBERLAND PACKING CORP.

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. SCHUMER. Mr. Speaker, I rise in honor of a great man, Mr. Benjamin Eisenstadt, founder of the Cumberland Packing Corp.

I wish to honor him today not because he began what is now a successful company, but instead because he was, and remains, the example of a model employer who earned the admiration, respect, and loyalty of his employees. His legacy remains in these times when corporate downsizing has become the norm, and hardworking, loyal employees have become disposable commodities. The company he started is now described as a "family business that tries to treat its workers like family" by the New York Times. Mr. Eisenstadt's belief was that the workers do matter and business decisions should take them, and their families, into account.

It is often said that these qualities have long been lacking in corporate America. I submit to you that they are not, but only that we have overlooked them by focusing on wealth over character. Mr. Eisenstadt showed us all that it was, and still is, possible to build a successful business without sacrificing your employees. His company still provides good jobs with livable wages to its workers. In exchange Cumberland has their support and undying loyalty. His method was simple, people are your first and most important resource: Treat them well. I am certain that Marvin, his son, will continue this honorable legacy.

I wish for my colleagues to join me today in saluting this fine and good man, Mr. Benjamin Eisenstadt. Thank you, Mr. Eisenstadt, for showing us that the way of the future is not less, but more. More compassion, more opportunity, and more respect for working men and women.

TRIBUTE TO LEXINGTON HIGH SCHOOL

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. SPENCE. Mr. Speaker, I rise to bring to the attention of my colleagues an article that appeared in the March 20, 1997 edition of The State, concerning Lexington High School, in my hometown of Lexington, SC. As a graduate of Lexington High School, I am especially proud of it receiving the Carolina First Palmetto's Finest award.

[From The State, Mar. 20, 1997]

LEXINGTON HIGH NAMED BEST IN STATE

SCHOOL BECOMES FIRST SECONDARY INSTITUTION TO WIN PALMETTO'S FINEST

(By Neil White)

A good year for Lexington High School got even better last week when it won the first-ever Carolina First Palmetto's Finest award given to a high school.

Strong programs in academics, athletics, arts and technology—highlighted by a pair of students who garnered perfect scores of 1,600 on the SAT and a basketball team that competed for its second-consecutive Class AAAA state championship—have kept the school in the forefront. Now this award adds to that.

"It's an exciting time for students, teachers and parents," Principal Allan Whitacre said. "Being the first high school, we feel very proud about that, too."

The Palmetto's Finest awards, coordinated by the S.C. Association of School Administrators, are in their 19th year, but this year, the program was expanded to include a secondary school. Irmo Elementary School was named in the elementary school category.

In addition to academic achievement and student leadership, a point system is used to rate school personnel, programs and curriculum, community involvement, physical maintenance of facilities, safety and communications. Nominations are received in the fall. The winners are chosen by a committee based upon the results of a comprehensive application process and two school visits.

"Receiving the Carolina First Palmetto's Finest award presents hard work, perseverance, cooperation and a commitment to excellence by our entire school community. Our school board and district office have supported that commitment," said Whitacre. "Everything we do, from the curriculum to the extra-curricular activities, is focused on giving students the best possible preparation we can provide to help them become productive, well-rounded citizens."

Since 1985 the school has received Department of Education incentive award money, which rewards the state's highest-ranked schools.

Following graduation, 79 percent of the students plan to attend college. Graduates in the class of 1996 received scholarship offers valued at more than $4 million.

"There's a lot of pride for the student body in the whole thing," Whitacre said.

Lexington's High serves approximately 1,850 students in grades 10–12, and steady growth in the district keeps new students coming through the doors.

THE RON BROWN TORT EQUALITY ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Ms. NORTON. Mr. Speaker, the bill I introduce today broadens the rights of Federal employees and other Americans by amending the Federal Tort Claims Act. The need for this bill has been demonstrated in the aftermath of the tragic and needless accident which killed Secretary Ron Brown and 34 other Americans when their plane, piloted by the U.S. Air Force, crashed into a Croatian mountainside on April 3, 1996. I introduce this bill this month in memory of the Americans who died in Croatia to allow fair compensation to their relatives for their irretrievable losses and to deter similar accidents in the future.

News reports and constituent calls to my office have made clear the need for this bill. Some victims' families have faced financial hardship, in some instances, due to the minimal Government benefit payments. If a private plane had been responsible for this accident, the victims' families would have been entitled to recover no less than $75,000, and if willful misconduct were shown, the amount recoverable would have been unlimited. The bill I introduce today increases the damages available to the victims of tragedies caused by the Federal Government and covers accidents occurring on or after April 3, 1996.

My bill will not unfairly open the United States to lawsuits by increasing its exposure in large numbers of accidents. The bill is limited to accidents in which the burden would be on the plaintiff to prove gross negligence, which the record shows to be a small number.

The official Air Force investigation found three independent causes, any one of which, had it not existed, would have prevented the accident. Surely, in the unusual circumstances of gross and preventable negligence, the country has an obligation to do more than mourn the victims and offer minimal damages.

My bill addresses two problems. The first affects only Federal employees. Under current law, the sole source of recovery for an injured Federal employee is the Federal Employees Compensation Act [FECA]. The act provides compensation benefits to U.S. employees for disabilities due to personal injury incurred while working. Although the FECA applies to injuries that occur here in this country and those that occur overseas, a Federal employee cannot sue for gross negligence. And if that Federal employee dies and has no dependents, the recoverable damages under FECA are practically nonexistent. My bill remedies this by allowing Federal employees to sue the United States for gross negligence, notwithstanding any compensation they would receive under the Federal Employees Compensation Act.

My bill addresses a second problem as well. This problem is that nonfederal employees who are injured overseas have no right of recovery against the Federal Government. Currently, under the Federal Tort Claims Act [FTCA], an individual may bring a tort suit against the Federal Government for injuries caused by the negligent or wrongful act or omission of any Federal employee acting within the scope of his employment. Under the FTCA, an individual has 2 years to present a claim to the Federal agency involved, and if the agency denies the claim, then that person has the right to sue in Federal district court. Although this right exists for people who are injured in the United States, the individual who is injured overseas has absolutely no right of recovery under the Federal Tort Claims Act for the negligent conduct of the Federal Government. My bill remedies this problem by providing a cause of action.

The accident in Croatia pointed up in the most tragic way the need for this bill. The Air Force Accident Investigation Board revealed raw negligence from takeoff to landing. The Board found that the command gave authorization to fly certain procedures that had not been reviewed and properly approved, that the aircrew made errors in planning and executing the flight, that the approach to the airport was improperly designed, and that inadequate training was a substantially contributing factor. As a result of the investigation, 2 officers were disciplined under article 15 of the Uniform Code of Military Justice—the most serious form of military punishment short of a court-martial—2 received letters of reprimand, and actions were taken against 12 others.

We owe the families of those left behind after last year's accident in Croatia more than our continuing sympathy. We owe them just compensation and assurance that Federal tort law will deter such tragedies in the future. I urge my colleagues to support this legislation.

PRIVACY IN SOCIAL SECURITY

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mrs. KENNELLY. Mr. Speaker. On March 5, 1997, the Social Security Administration [SSA] initiated online access to individual Social Security earnings data and projected benefits via the Internet. Because this access raised a number of serious privacy and security concerns, I recommended that The Social Security Subcommittee hold hearings on this issue and asked the General Accounting Office to review SSA's actions. Subsequently, SSA suspended its Internet access to these records, pending nationwide hearings to obtain public comment on the desirability of electronic access to individual data.

I am today introducing legislation to require the Social Security Administration to consult experts at the cutting edge of computer technology regarding the security and privacy of online Social Security files. I believe such consultation is necessary to assure the public that the Social Security Administration has used the most advanced technology available to protect individual Social Security earnings information.

The legislation would require the Commissioner to assemble a panel of experts to advise him on issues such as the confidentiality, security, and authenticity of online transmission of records. In addition, the Commissioner would receive advice on appropriate techniques for authenticating the identify of the person requesting the information and procedures for detecting unauthorized access to individual records. Such action should help to assure the public that, if these records are offered via the Internet, they have been protected by the most advanced means available.

The Social Security Subcommittee intends to move forward with a May hearing. In addition, SSA will be holding its field hearings in the next 60 days. With the addition of expert consultations, as proposed in this legislation, the public should have some degree of confidence that an appropriate balance has been struck between efficient access to personal Social Security records and the privacy and security of that data.

TRIBUTE TO JOSEPH A. LeFANTE, FORMER MEMBER OF CONGRESS

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to a dedicated public servant, Joseph A. LaFante of Bayonne. Congressman LeFante's death at age 68 was a loss for the State of the New Jersey and its residents.

Joseph A. LaFante grew up in his beloved Bayonne. When he turned 16, he started to work full-time at a manufacturing plant. As a young man, he became involved with unions and attended a 3-year study program at St. Peter's Institute of Industrial Relations. He graduated from the New Jersey Real Estate institute in 1957.

Congressman LeFante had an exemplary devotion to the Bayonne community. In his first experience with politics, he served as Bayonne Charter Commissioner. Then he went on to the city council and the local board of school estimate. He was elected to the New Jersey State Assembly in 1969 and served 7 years, culminating in his being elected speaker of the assembly. In 1976, he was elected to become a Member of the 95th Congress. After his service in the House of Representatives, he returned to politics in New Jersey as Gov. Brendan Byrne's commissioner of community affairs. Although he had an unsuccessful run in the Democratic primary for U.S. Senate in 1982, he continued to serve the citizens of New Jersey in the administrations of Governor Kean and Governor Florio. Throughout this time, he operated Public Service Furniture, a furniture store in Bayonne. In the past few years, he worked on his furniture businesses before his retirement.

Joe LeFante never forgot where he came from, was a man of good ethics, kept his word and was a man of principle. He had a passion for using government to help others, and he used that passion to improve the lives of the people he represented.

Mr. Speaker, it is honor to have had such a distinguished public servant living in my district. He always kept the best interests of the residents of Bayonne, his district, the State of New Jersey, and the Nation in mind when serving in his numerous offices. And he served those he represented with distinction.

TRIBUTE TO THE UNIVERSITY OF SOUTH CAROLINA

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. SPENCE. Mr. Speaker, I rise to bring to the attention of my colleagues an article that appeared in the March 9, 1997, edition of the State, highlighting the national honors that have been achieved recently by the University of South Carolina. The University is attaining prominence in a variety of areas of national and international importance. I would like to commend the faculty and students of the University of South Carolina on their commitment to excellence.

The article follows:

[From the State, Mar. 9, 1997]

USC RANKINGS SHOWCASE S.C.

(By Fred Monk)

The University of South Carolina basketball team is drawing national attention to the university and Columbia.

The impact of its performance isn't lost on USC professors, who are citing with pride the basketball team's achievement in discussions on academic excellence.

While USC's No. 4 basketball ranking has fans in a frenzy, other rankings are noteworthy.

The blend of academic and athletic performance is lifting USC's stature internationally.

Recently, USC received two important recognitions.

Its graduate international business programs were rated No. 2 in the nation by a U.S. News & World Report poll.

Since the poll's inception, USC has ranked No. 1 or No. 2.

This is no small feat, even though USC was knocked off the top spot by the inclusion last year of the American Graduate School of International Management, also known as the Thunderbird school, whose sole focus is international business.

USC is the only public institution in the top five. It leads Columbia University, the University of Pennsylvania and Harvard.

In February, USC received another Top Five national honor—one equal in university circles to the basketball team's national ranking, said Don Greiner, USC's interim provost.

For the second consecutive year, USC was awarded the Hesburgh Certificate of Excellence, this time for its faculty/student development program.

Father Hesburgh's name is synonymous with Notre Dame, a university known for its athletic and academic excellence.

Other recent national honors USC has received included:

No. 1 ranking in the Southeast and Top Five nationally by professional journals of the geography department's programs.

A Top Five national ranking for the pharmacy department.

The college of journalism's public relations and advertising programs are ranked 12th and 13th in the nation by U.S. News.

U.S. News also ranks USC's psychology doctoral program as third best in the nation.

USC's Naval ROTC program received the nation's highest academic ranking by the naval Education and Training Command.

The college of business was cited by Success magazine as one of the 25 best in the nation for producing entrepreneurs.

These are a few of many significant achievements USC has been cited for recently.

But there's another important aspect to recognition.

Coach Eddie Fogler crafted a basketball team around South Carolina Talent—nine of the 11 players are from South Carolina.

In academics as well as athletics, USC is trying to keep the best and the brightest at home, Greiner said.

Through its Carolina Scholars and Honors College program, USC is going after the best students in the state.

And it has scored well. The 1996 average Carolina Scholars SAT score was 1488.

But competition for South Carolina's best—in academics and athletics—is keen.

Some South Carolina high schools don't even include USC when recommending universities for their top students.

With a continued focus on an investment in academic as well as athletic excellence, USC's recognition will grow. And so will its ability to recruit talent.

Most important, the impact will be felt across South Carolina.

HONORING THE TRICKLE UP PROGRAM

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. SCHUMER. Mr. Speaker, I ask my congressional colleagues to join me in honoring the Trickle Up Program for the outstanding job they have done to increase the possibility and opportunity for self-sufficiency amid the world's poorest populations. I hereby submit for inclusion into the CONGRESSIONAL RECORD the 1996 annual report.

The Trickle Up Program offers low-income people opportunity for income and self employment through entrepreneurship. In the past 18 years, more than 58,000 micro-enterprises have been started or expanded in 114 countries with support from Trickle Up. In 1996, 6,738 businesses were launched or expanded in 51 countries, benefiting 24,899 entrepreneurs and over 100,000 dependents. Eighty-two percent of the enterprises begun in 1996 are family owned, and 80% are the entrepreneurs' main source of income. Fifty-nine percent of the entrepreneurs are women.

REGIONAL HIGHLIGHTS

Africa: 2,314 micro-enterprises in 26 countries. In partnership with 126 local partners, Trickle Up helped start or expand businesses among the very poor, including refugees in Sierra Leone, displaced people in Liberia, people living with HIV/AIDS in Uganda, and families of streetchildren in Ethiopia. An exciting new partnership with the United Nations Volunteers was launched in Mozambique. The Peace Corps was an active partner in Africa, helping to start micro-enterprises in Mali, Benin, Kenya, Zimbabwe, Senegal, Sao Tome, and Togo. Many low-income entrepreneurs were reached by community-based organizations in Zaire, Tanzania, and Madagascar.

Asia: 2,970 mirco-enterprises in 12 countries. Trickle Up continued to work in the poorest countries as well as those recovering from war or confronted with political dissent. In India the program was focused on isolated rural communities in Bihar and urban slum dwellers in Calcutta. Families in the far western region of Nepal were helped by UN Volunteers. In Bangladesh Trickle Up worked with women's organizations and tribal groups, and in China pursued initiatives linking environmental conservation with sustainable development. A new partnership was forged in Afghanistan with the World Food Programme, a UN agency.

Americas: 1,442 businesses in 9 countries. Micro-enterprises were started by single mothers and disabled people in Guatemala, mothers of malnourished children in Haiti, teenagers in Peruvian shantytowns, and Bolivian families in the Andes. Trickle Up often serves as the first step to business development among the poorest: 25% of one-year-old businesses started through one Nicaraguan partner agency accessed loans for business expansion. Several evaluations of the sustainability and impact of Trickle Up's work showed the following results: in El Salvador, 58% of the businesses are continuing after five years; in Guatemala, 90% of 2- to 4-year-old businesses are continuing; and in Ecuador, 90% of the businesses begun by parents of working children were continuing after 18 months and helped reduce the hours worked by their children by 20%.

U.S. Update: Trickle Up helped start or expand 108 businesses through 17 Coordinating Agencies in 8 states. Expansion is planned along the eastern seaboard with a new grant size.

Europe: 22 micro enterprises. The Program remained active in Armenia and expanded to Georgia and Romania. The Peace Corps continues to be Trickle Up's main partner in the region.

In 1996, Trickle Up continued to fulfill its mission of reducing poverty by enabling the very poor to start or expand small businesses. Trickle Up accomplishes this with the generous support of foundations, corporations, organizations and individuals—many of them entrepreneurs. Trickle Up continues to rely on those who find in the Trickle Up process a way to make a difference and reduce poverty—one business at a time. Trickle Up brings the poor more than seed capital; it brings dignity, a job, self-confidence and real hope for a better future. Trickle Up has helped people start or expand nearly 60,000 businesses. Our goal is to start 100,000 by the millennium.

Income Sources	*Percent*
Foundations	41
Individuals	33
Corporations	6
Organizations	6
Governments	14

The Program: The Trickle Up Program provides business training material and micro-venture capital of $100 to a family or group of 3 people to start a business. This start-up capital is conditioned upon investment of 250 hours or work per participant in three months, savings or reinvestment of 20% of the profit in the enterprise, and completion of a Trickle Up Business Plan and Business Report. The capital is given in two $50 installments.

The Partners: The program is delivered through a network of "Coordinating Agencies", locally based organizations around the world who volunteer their services to Trickle Up. This partnership enables grass-roots agencies to incorporate a micro-enterprise component in their development work.

TESTIMONY OF PATRICK A. TRUEMAN

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. DOOLITTLE. Mr. Speaker, I commend to the attention of my colleagues the testimony of Patrick Trueman, president of the American Family Association, who appeared before the Interior Appropriations Subcommittee concerning funding for the National Endowment for the Arts. Mr. Trueman makes a compelling case for eliminating the NEA, claiming the agency poses serious problems in the prosecution of child pornography cases.

AMERICAN FAMILY ASSOCIATION

Pursuant to clause 2(g)(4) of the rule XI of the Rules of the House of Representatives, I certify that neither the American Family Association nor I have received any federal grant or contract during the current fiscal year or either of the two previous fiscal years.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: I want to thank you for the opportunity to appear before you today on behalf of American Family Association. As you are aware, for the past eight years AFA has been the leading organization opposing federal funding for the National Endowment for the Arts. In 1989, AFA president Rev. Donald Wildmon called to national attention the funding by the NEA of Andres Serrano's work "Piss Christ" which consisted of a crucifix submersed in the artists' urine. The fact that such a blasphemous work was federally funded outraged a great segment of American society and precipitated a battle to end federal funding of the agency. That battle will not end until funding for the NEA ends, rest assured of that fact.

The federal government should not be in the business of dictating what art is. That is not a proper function for the government and, in the case of the NEA, such a function poses a potential conflict with the federal criminal law. Year after year NEA grants make possible the production and distribution of a variety of sexually explicit material. During the last part of the Reagan Administration and during the entire Bush Administration I served in the United States Department of Justice, Criminal Division, Washington D.C. as Chief of the Child Exploitation and Obscenity Section. That office is charged with the prosecution of obscenity and child pornography crimes. Part of my job, as supervisor of the office was to review and make prosecutorial decisions on both adult and child pornography. Much of what we prosecuted in those two presidential administrations involved material of the same nature as that funded through the years by the NEA. Mr. Chairman, how can you expect common citizens to respect the rule of law, particularly the federal criminal law on child pornography and obscenity when Congress continues to fund the NEA knowing the agency has a pattern of conduct over the years and to the present day of funding material which may offend the criminal law. To continue to do so would be the height of hypocrisy.

I submit that the NEA poses a direct threat to the prosecution, on both the federal and state levels, of obscenity and child pornography crimes. In obscenity cases a jury is' required to make a determination that the material is "obscene" based on the three-part test established in the U.S. Supreme Court case of Miller v. California, 413 U.S. 15 (1973): whether the material (1.) depicts specific sex acts in a patently offensive way; (2.) appeals to the prurient interest in sex as a whole; and (3.) lacks serious literacy, artistic, political or scientific value. (emphasis added) It would be a relevant defense argument that material similar to that charged in a particular prosecution if funded by the NEA as "art." Indeed it may be appropriate, on motion from the defense, for a judge to allow a jury to view a specific NEA-funded work that is similar to the work charged as obscene in the case to aid the jury in the application of the Miller test. Surely you can understand the dilemma this would pose to a jury which must make a unanimous finding on the obscenity or non obscenity of the material. Just one juror trusting the federal governments' opinion on the nature of such material would cause the acquittal of a hardcore pornographer.

The problems the NEA could pose in the prosecution in a child pornography case are somewhat different. The Miller test does not apply and thus a jury is not asked to decide whether the material is lacking in artist value. However, the imprimatur of the NEA on such material or similar material may play a deciding factor in prosecutorial discretion, i.e. whether a case should be prosecuted or not.

Should a case be charged against a particular NEA grantee for a work considered by a prosecutor to be child pornography (not an unlikely scenario given the history of the agency) the dilemma is more direct however. It would be difficult if not impossible to keep from a jury a defense argument that the material charged is not child pornography at all but rather "art" because the NEA has provided funding for its production or distribution.

The threat that the NEA poses in the prosecution on obscenity and child pornography cases is not merely hypothetical. The difficulties I have outlined in this regard were faced by the U.S. Department of Justice during my years in the criminal division with respect to the funding by the NEA of an exhibit by the late Robert Mapplethorpe.

The American Family Association is convinced after years of monitoring the NEA that the agency will never change. While it is only a small portion of its annual budget the NEA continues to fund pornographic works as "art." Some of the more recent and troubling works funded by the agency include grants to a group called FC2 and another called Women Make Movies, Inc. FC2 was provided $25,000 in the past year to support the publication of at least four books according to U.S. Representative Peter Hoekstra who has been tracking the NEA: S&M, by Jeffrey DeShell, Blood of Mugwump: A Tiresian Tale of Incest, by Doug Rice, Chick-Lit 2: No Chick Vics, edited by Cris Maza, Jeffrey Deshell and Elisabeth Sheffield and Mexico Trilogy, by D.N. Stuefloten. These books include descriptions of body mutilation, sadomasochistic sexual act, child sexual acts, sex between a nun and several priests, sodomy, incest, hetero and homosexual sex and numerous other graphically described sexual activities.

Women Making Movies, Inc. received $112,700 in taxpayer money over the past three years for the production and distribution of several pornographic videos. Here are descriptions of but two taken from the groups catalog: "Ten Cents a Dance" a depiction of anonymous bathroom sex between two men; and another called "Sex Fish" which is "a furious montage of oral sex."

Oral sex is not art and the NEA and Congress should not pretend that it is. Please stop offending the taxpayers of America. Funding for the NEA should be eliminated.

TELECOMMUNICATIONS TRADE AND FOREIGN INVESTMENT ACT OF 1997

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. MARKEY. Mr. Speaker, I rise to introduce the Telecommunications Trade and Foreign Investment Act of 1997. I am pleased to introduce this legislation today along with Commerce Committee ranking Democrat JOHN DINGELL, and committee members RON KLINK and TOM SAWYER.

The international trade agreement reached in Geneva last February on telecommunications basic services has provided an excellent opportunity for the telecommunications industry and policymakers to assess the progress this country has made in breaking open new telecommunications markets worldwide. Without question, there are significant new opportunities in the recent telecommunications deal for American companies. When U.S. companies make new inroads into foreign markets, that's good for American workers and the strength of our economy. Yet, we also know that in the agreement there are notable underachievers, most notably Canada, Mexico, and Japan—three of our largest trading partners

As a Democrat who has voted in favor of both NAFTA and GATT, I subscribe to the view that America's future economic health is inseparable from the global economy. I believe that this Nation ought to compete for high end, information-based jobs across the planet. These are telecommunications, computer, software, and electronic commerce jobs. For this reason it is imperative that foreign high-tech markets be opened up for competition from the United States. The Communications Act of 1934 clearly did not contemplate a world where there would be trade agreements allowing foreign ownership of common carriers throughout the world.

The administration expects the Federal Communications Commission [FCC] to consummate this deal administratively by modifying its regulations to encompass the new multilateral trade pact. I am particularly concerned, however, about the administration's current interpretation of the FCC's authority because it implicates foreign ownership of U.S. television and radio stations. Section 310(b) of the Communications Act treats foreign ownership issues for both broadcasting and common carrier licenses the same way.

Congress certainly did not envision that the Communications Act could be read in a way that would wind up allowing 100 percent foreign ownership of U.S. television and radio stations. The administration's current reading of the statute would allow such an outcome. I appreciate the fact that the administration has stated that it has no intention of unraveling the prohibitions on foreign ownership of broadcast licenses. I believe it would serve a useful purpose to ensure that this cannot be done legally and that the law should be appropriately modified to treat broadcasting as separate and distinct from common carrier issues.

Mr. Speaker, the legislation I am introducing today will cap foreign investment in broadcast licenses at 25 percent. This proposed legislation will not allow any future FCC to unilaterally limit, by rule, the scope and applicability of possibly determinative public interest criteria and thereby grant waivers for 100 percent foreign ownership of U.S. television and radio stations.

The legislation I am introducing today will also serve to update and amplify the statutory language with respect to common carrier foreign investment by making it clear that where America has a trade commitment, the FCC is directed to show deference to the President on such matters for applicants from countries that are part of the trade deal. This provision is a WTO-friendly provision and is intended to dovetail with the process that the FCC, as an independent agency, has indicated it will use to implement this multilateral trade pact.

In the last session of Congress, Mr. Speaker, the House was successful in legislating in this area of communications law. I look forward to working with Commerce Committee Chairman TOM BLILEY, committee ranking Democrat JOHN DINGELL, Telecommunications Subcommittee Chairman TAUZIN, my good friend Congressman MIKE OXLEY, who has long advocated updating our telecommunications foreign investment laws, as well as my colleagues—on both sides of the aisle—on the Commerce Committee and in the House, in fashioning common sense legislation that will modernize and clarify the foreign investment provisions of the Communications Act.

THE 135TH ANNIVERSARY OF THE DISTRICT OF COLUMBIA EMANCIPATION ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Ms. NORTON. Mr. Speaker, I am very grateful to my distinguished colleague, Representative DON MANZULLO, for his generous and thoughtful attention to the District and to Emancipation Day and for his consistent assistance to District residents in this annual observance. We also very much appreciate the work of DC Reading is Fundamental in this educational event. Our thanks go as well to Mr. Arnold Goldstein, superintendent of the National Park Service, and to other Park Service officials and employees for their cooperation in helping us celebrate this commemorative event, just as the Park Service has been consistently helpful to the District in so many other ways.

It is 135 years after the emancipation of slaves in the District, yet we continue to celebrate the emancipation of 3,100 District slaves. Emancipation in the District was of further importance because it was the first such action and culminated in the general emancipation of slaves in the United States. If I may, this day has importance for my family as well, because Richard Holmes, my great-grandfather, was in the District that day. Our family does not claim him as a run-away slave hero, because Richard Holmes simply walked off a Virginia plantation one day and laid down roots in the District. I can only imagine what this day must have meant to him.

The abolitionist movement in the District was especially strong. Abolitionists regarded slavery in the capital of the United States a national shame. Regrettably that expression was to continue to apply to other forms of denial of basic rights unbecoming to the capital of the free world. The District was a bastion of lawful racial discrimination and did not integrate its schools until the Supreme Court struck down illegal segregation in 1954. In 1997, the District remains the only jurisdiction where Americans pay taxes without full representation in Congress and the only jurisdiction, including the four territories, whose laws can be overturned at the whim of Congress.

Still, we are pleased today to note that when President Lincoln ended slavery here, nine months before the Emancipation Proclamation, the District led the country out of the most serious form of oppression any nation can impose. Our country would have been even better off had it followed the pattern laid out in the District of Columbia Emancipation Act because emancipation in the District did not involve war; slave owners were compensated and former slaves were allowed to emigrate and were themselves compensated, although at a lesser amount.

We continue to celebrate April 16th as District of Columbia Emancipation Day in the city, but surely not out of nostalgia or false comparison of ourselves to those who lived under slavery in the last century. I am very pleased about the participation of District of Columbia Reading is Fundamental. The involvement of DC Reading is Fundamental focuses us on today's problems and priorities, a worthy way to respect the memory of those who had no way to overcome such problems. The value of noting District of Columbia Emancipation Day is not history for its own sake, despite that worthy objective, but history to inspire our reenergized efforts to eliminate today's problems. Slavery is not one of them. Children who cannot read is a problem. Good schools where children function at grade level and improving high school graduation rates are where we must focus in 1997. Reducing crime, building strong family units, helping welfare recipients find work, reforming the District government, rebuilding our city—these are the issues of today.

The 3,100 District of Columbia residents who were emancipated by Abraham Lincoln on April 16, 1862, probably could not read and probably would have given everything to acquire that skill. In their memory, we commemorate their emancipation day and pledge to do all we can to emancipate ourselves from the problems of today and to accept the challenges of tomorrow.

TRIBUTE TO DON NEWCOMBE

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. DIXON. Mr. Speaker, I rise today on the 50th anniversary of the fall of the color barrier in major league baseball to honor and acknowledge the valuable contributions made by Mr. Don Newcombe, a constituent, and pitcher for the Brooklyn and Los Angeles Dodgers from 1948 to 1958. A contemporary of the legendary Jackie Robinson, Mr. Newcombe pitched in three World Series and four All-Star Games. He is the only man in the history of baseball to win Rookie of the Year, Most Valuable Player, and the Cy Young Award.

Mr. Speaker, Mr. Newcombe has not been content to rest upon his accomplishments on the field of sport. He has continued his extraordinary career, and is now director of community relations for my home team, the Los Angeles Dodgers. He has traveled worldwide in this capacity to deliver lectures to youth and adults on the dangers of alcohol and drug abuse. This year, Mr. Newcombe is being honored for his work as the recipient of an honorary doctorate in the humanities by Daniel Webster College in Nashua, NH.

Mr. Speaker, I am proud to recognize Don Newcombe. He is a man who has made a difference in sport, in the humanities, and like many other black athletes, in the very structure of our society. I ask my colleagues to join me in recognizing his full and productive career, and in wishing him continued success in his future endeavors.

SENATE—*Wednesday, April 16, 1997*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, this is one of those days when we really need two alarm clocks: One to wake us up and the other to remind us of why we are up. Give us a two-alarm wake-up call every hour of today—an alarm to go off inside us to wake us up to the wonderful privilege of being alive, and the other to claim the wondrous power You offer us to do Your will in all the responsibilities and challenges You have given us.

Keep us sensitive to see You at work in the world around us, active in the lives of people and abundant in Your blessings. Astonish us with evidences of Your intervening love. When we least expect You, You are there. May we never lose the capacity to be constantly amazed by what You are up to in our lives and the lives of people around us. You have taught us that a bored, bland, unsurprisable, unamazed person is a contradiction in terms.

So, Lord, give us courage to attempt what only You could help us achieve. Renew our enthusiasm; invigorate our vision; replenish our strength. With eyes, minds, and hearts wide open, we press on to the day. In the name of Him who gives us abundant life. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, is recognized.

Mr. LOTT. I thank the Chair.

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will be in a period of morning business until the hour of 1 p.m. to accommodate a number of Senators who have requested time to speak. That is 3 hours, but we have those requests that have been made, and we have a Senator waiting to begin speaking now. So we will accommodate those requests.

It is my hope that an agreement will be reached this morning to begin consideration of H.R. 1003, the so-called assisted suicide bill. If an agreement is reached, Senators can expect to begin consideration of the bill at 1 p.m. with a 3-hour time limitation. Therefore, Senators can expect rollcall votes this afternoon. I would expect at least one and possibly two. As always, I will notify Senators of the voting schedule as soon as possible.

I yield the floor, Mr. President.

The PRESIDENT pro tempore. The able Senator from Colorado is recognized.

Mr. CAMPBELL. I thank the Chair.

(The remarks of Mr. CAMPBELL pertaining to the introduction of S. 587, S. 588, S. 589, S. 590, and S. 591 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CAMPBELL. I thank the Chair and yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER (Mr. ALLARD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. I would also like to ask unanimous consent I be allowed to speak in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FUTURE OF THE NATIONAL PARK SERVICE SYSTEM: A PLAN FOR LEADERSHIP

Mr. THOMAS. Mr. President, I want to talk about a subject that is very important and close to my heart, and that is national parks, for at least two reasons. One is I grew up right outside of Yellowstone Park in Wyoming. We have Teton Park in Wyoming as well.

I am also chairman of the Subcommittee on National Parks. We have had a series of two hearings on the future of the National Park System, and, as chairman, I am committed to the formulation of a proparks agenda which will allow us to enrich parks well into the next century.

Before speaking on the issue of the future, however, let me briefly discuss the current status of the system and some of the real problems that do confront us. Today's National Park System is comprised of 375 park units and is visited each year by millions of visitors. The parks are immensely popular destinations, of course, intended to protect and commemorate this country's most significant natural, historical, and culture resources.

According to recent testimony from our hearings, this diverse collection of units stimulates over $10 billion annually in revenue to local economies and supports 230,000 tourism-related jobs. Each year, 12 million foreign visitors are drawn to our parks, contributing significantly to a $22 billion international travel trade surplus. So, in addition to protecting our most precious resources, they are also an economic stimulus, of course.

The Park Service is currently authorized to employ 20,342 full-time workers. This system includes approximately 80.2 million acres. The 1997 budget is authorized at roughly $1.4 billion.

This relatively small agency, managing a large land base enjoying unparalleled popularity and generating significant tax and business revenues, faces a pressing dilemma. At a time when the American taxpayers are serious about smaller Government and lower taxes, Americans have also demonstrated an equally serious interest in their parks. Unfortunately, their interest has not, as yet, been translated into a serious and long-range plan nor commitment for the care of parks. The result is a legacy of critical problems plaguing the National Park Service.

Today, we face an overwhelming inventory of unfunded National Park Service programs. Over the years, the National Park Service has been pulled in a wide variety of directions. Each change, each new direction, each new responsibility has caused an adverse effect in the system.

The Park Service has proven beyond a reasonable doubt that you can do more with less. But, in adding new areas and new responsibilities, the agency is forced into a scenario of doing less with less in terms of service and protection. As a result of decisions made by the Congress and the administration, we face an unbelievable backlog of unfunded Park Service programs. The budget shortfall is staggering. Let me touch briefly on some of the problems.

Within the 375 units of the Park Service we have approximately $1.4 billion of authorized land acquisitions. These are private lands that are authorized within authorized park boundaries, but these lands have never been acquired. There are 823 billion dollars worth of national resource management projects which have gone unfunded. It is almost impossible to make a sound management decision based on scientific evidence if we are lacking the basic information on the extent and the condition and the inventory of these valuable natural resources.

It is more than difficult to protect something if you do not have a clue as to what you are protecting.

In the area of cultural resource management projects, the unfunded backlog is $331 million. Again, these valuable cultural resources are not protected or stabilized.

There are 1.5 billion dollars worth of building-related projects for which there is no budget provision. For the benefit of my colleagues, I would like to point out that if Congress decided to fully fund this item, we would only provide needed repairs to existing deteriorating facilities. No new facilities would be constructed under this scenario.

There are $304 million of utility systems that are in advance states of disrepair throughout the system. Potable water and sewage systems that meet specifications are an absolute necessity if we want visitors to continue to come to our parks.

In the identified resource protection work that needs to be accomplished, $1.8 billion would begin to arrest the digression of natural resources of our parks before we lose those resources that we are committed to protect.

Mr. President, $2.2 billion is required for road and bridge repair and transportation systems. In my own State of Wyoming, the cost of road repair in Yellowstone Park exceeds $300 million. This cost will automatically increase if the road repairs are ignored.

I might add, in the last few years, something like $8 million has been committed to this $300 million deficit.

In many cases, employee housing is substandard. There are parks where the occupants of the National Park Service need not look outside to see if it is snowing. They only have to check the snow level in their living room. The pricetag to get employee housing to an acceptable standard is $442 million. If we cannot afford to take care of the caretakers, then there is something radically wrong.

The total unfunded backlog in maintenance, resource stabilization, infrastructure repair and employee housing is $8.7 billion. This price tag does not include the concessions which also need, of course, to keep pace.

Mr. President, $8.7 billion is a major problem. We need to take positive steps to correct this deficiency. Forward-thinking, new, innovative approaches will be required. It is a problem that cannot be resolved in the short term.

I am happy to report, however, that there is, I think, reason for optimism and a favorable prognosis. It is going to be difficult, but I think we can do it.

As a result of our hearings on the future of the parks, there are many ideas to be discussed and evaluated, but now is the time to address the long-term solutions and to reinvigorate the National Park Service so that our park system will stand as an example to the world well into the next century.

Most importantly, we need to ensure that we are conserving and protecting the resources, protecting the natural and historic objects and the wildlife, while at the same time ensuring that the parks will be visited and will be an enjoyable experience.

Within the next few weeks, we plan to circulate a strategic plan to our colleagues and to the administration which will chart a course to deal with this serious dilemma, a plan to serve as a foundation for a program to reinvigorate the parks by the year 2010.

The Thomas plan—we have not thought of a better name—will contain some proposals for legislative initiatives, as well as some concepts that the administration can implement. As a result of our hearings on the future, it became very apparent that we need to incorporate some of the best ideas.

Several financial concepts will, out of necessity, be discussed. As a start, the plan will include a bonding initiative. Many of our parks are essentially small villages or towns. In essence, they are towns that are required to have roads and utility systems and infrastructure. It seems to me we cannot expect to bring those up to operating condition out of annual operating funds. So the municipalities can show us the way. They have over the years bonded to do that. We do not have the money.

The process is relatively simple. We can establish a Federal corporate entity within the Department to administer the bonds. We need to establish a dependable system to pay off the bonds, and we can do that. There are additional options that ought to be considered.

I anticipate our plan would be built on the fine work of Senator GORTON in the last session making the fee demonstration permit and extending it to all units of the national parks, a proposal where the revenues collected in those parks stay where they are collected.

A number of our witnesses spoke about establishing a strict criteria for the establishment of new additions. When we are $8.7 billion behind, we need to be careful about the additional authorizations we make. This is not suggesting we should delete any of the units, but we ought to be careful about the new ones and, frankly, not make a political decision that a State park or local park be converted to a Federal park so the Feds will take over. The Park Service was never intended to be a redevelopment agency.

There are other programs, of course, that need help. Our plan will include a concession reform which turns away from the failed practice of trying to repair and refurbish the existing and inadequate law. We will take an innovative approach and, hopefully, there will be some higher fees paid to maintain the parks.

We should turn to the private sector for expertise in the management and operations of concessions. These are multimillion-dollar programs.

As a result, we ought to have an asset manager in the Park Service—it is a huge financial operation—someone who is experienced and who has a background and training in assets. We can do that.

On a different issue, our hearings revealed the need for better employee training. We can do that, largely with the use of universities and schools that are there.

We need to continue progress made in more cost-effective management, insisting on efficiency-oriented management goals, linked with the reduction of the size of the Washington office and put the folks in the parks where they really need to be. I am not suggesting a personnel reduction, but I am suggesting a reallocation.

Many of our parks are funding maintenance departments that would be the envy of small towns. There are ways to streamline this. There is no reason why the private sector cannot be contracted to do many of these things and do them more efficiently and save money.

Mr. President, the Park Service identifies backlogs and other problems. It is fine to do park planning, but the process and the content needs to be timely and realistic. Park general management plans have been sitting on the shelves for years. It is time to update, implement and really go forward.

This is an ambitious agenda, but, in my opinion, there are concepts that can be enacted. We can collectively achieve a great victory in the preservation of something that we all support.

My home State of Wyoming is now famous for its parks—Yellowstone, Tetons, Devils Tower. Like most Americans, I take great pride in those. So we want to set a standard for national parks for the 21st century. We have invited, of course, the administration to join with us. Among other things, I have sent a letter to the President asking that he appoint a park director. There is not one now. In order to have some plans and work together, we do need some leadership there.

I am suggesting and want my colleagues to know I am prepared to undertake this issue, and together we can cause something constructive to happen. We have a great opportunity. The time is now, the time is right, and I am willing to work any time with anyone to bring the National Park Service into the 21st century alive, vibrant, efficient, effective, and lasting, more importantly, an agency that would provide excellent service to visitors and provide excellent service to the resource. We can do that.

Mr. President, I thank you, and I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, let me thank my colleague from Wyoming for his statement and his sincere commitment to our National Park System. As chairman of the Parks Subcommittee of the Energy and Natural Resources Committee, he offers this country tremendous leadership in the area of parks and park management. I am sure his statement this morning is well received and clearly demonstrates some of the difficulties our Park Service now experiences that this Congress ought to be actively and responsibly dealing with.

(The remarks of Mr. CRAIG pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

MINNESOTA FLOODS

Mr. GRAMS. Mr. President, I rise today to discuss my visit to Minnesota last week to see firsthand the floods that have ravaged my State, as well as North and South Dakota, and the damage left behind in the water's wake. For the many Minnesotans who live and work in counties devastated by these floods, this continues to be a very difficult and emotional time.

Let me say first that President Clinton has approved the request of Minnesota Governor Arne Carlson to declare an additional 25 counties a major disaster area. That would help to bring to 46 the total number of counties eligible to receive Federal disaster assistance.

As Governor Carlson said in making his request to the President, this assistance will help to get people back into their homes.

The worst may not be over for many Minnesotans, however, especially those in the Red River Valley. Upstream on the Red River at Breckenridge, over 400 people were evacuated yesterday from the southern section of the community. It appears that the river may have stopped rising, and efforts will continue today to try and save the rest of the city.

There is still the danger that the river might crest all at once from Wahpeton south of Fargo to Grand Forks on the north because of water created by melting snow.

Last Thursday, I traveled with Senators CONRAD and DORGAN of North Dakota, Senator WELLSTONE of Minnesota, and other members of the congressional delegation, along with James Lee Witt, the Director of the Federal Emergency Management Administration, to the cities of Ada, Moorhead, and many others. I traveled the next day with Vice President AL GORE to survey the damage in Breckenridge and elsewhere in western Minnesota.

On Saturday, I visited Red Cross and emergency service centers with Minnesota Lieutenant Governor Joanne Benson. At each stop over those 3 days, we witnessed widespread devastation and the strength of Minnesota's community spirit, as we spoke with many citizens whose lives have been turned upside down by the floods.

The disastrous flooding has severely disrupted the lives of many Minnesotans. Dreams of enjoying warm spring weather after a brutally long Minnesota winter has been replaced with efforts to ensure families and communities are safe and that adequate food, water, and shelter is available.

I am pleased that both State and Federal tax filing deadlines have been extended for those taxpayers living within the disaster areas.

Later this week, I will introduce legislation modeled after a bill I signed into law during the Midwest floods of 1993 to help ease lending regulations in those disaster-declared areas as well. This will make it easier for the restructuring of loans and prevent unnecessary foreclosures on farmers and other small businesses. The flooding—and the snow, the ice, and the cold that made relief efforts extremely difficult—has been an exhausting nightmare for those who are in it, and it has been agonizing for the rest of the Nation to watch. The Minnesotans I met with at the flood sites we traveled to have been tested time and time again.

The floods of 1997 are creating an agricultural disaster as well. While hard numbers do not exist yet, more than 2 million acres of Minnesota cropland are now under water, affecting thousands of farms, and all of Wilkin County's 400,000 acres of cropland are flooded. In Clay County, it is 200,000 acres under water.

It has been estimated that farmers who already lost more than $100 million due to the blizzards that caused the floods could now have flood losses totaling over $1 billion.

Dairy farmers have been hit especially hard, forcing them to dump hundreds of thousands of pounds of milk because milk trucks could not reach them. The biggest problem has been getting out to the farms that are surrounded by water.

Spring planting, which is normally just 2 weeks away, will be a problem in parts of southern Minnesota. Along the Red River Valley, more than 40 percent of the sugar beet crop is normally planted by the end of April. No one will be planting by then this year.

According to the National Weather Service, flood warnings remain in effect until April 20 along the Mississippi from St. Paul to Red Wing, as well as for portions of the St. Croix and the Minnesota rivers.

Red Cross volunteers have begun to close emergency shelters and are now distributing flood cleanup kits. By the end of last week, the Red Cross had served more than 55,000 meals to sandbaggers and those people in shelters.

While tough times are still ahead, I was moved by Minnesotans coming together for the common goal of protecting and cleaning up their communities.

In Ada, people are tense, weary from days of flood relief work, and still shaken by their losses. For those lucky enough to remain in their homes, the loss of heat and electricity were devastating in the harsh, winter-like conditions.

You may have read the story of Ada residents Warren and Colleen Goltz. Although the Goltzes lost electricity as water in a nearby drainage ditch began to rise, they decided to stay in their house. Four feet of water seeped into the basement, ruining many of their possessions.

They burned old newspapers in the fireplace to keep warm, but the temperature fell to 38 degrees. Finally, a friend arrived with a generator, another dropped off firewood, and another opened his house so they could use the phone.

As Rev. Earl Schmidt of the Zion Lutheran Church of Ada said, "It's going to make us much more caring for each other. I hope it makes us look to God more, obviously. And it's given us a quick lesson in survival."

We have been inspired once again by people of Minnesota, who have rallied together for their communities as they always do when tragedy strikes. It is during critical times such as these that we finally understand the importance of neighbor helping neighbor.

At a time when we rarely make the effort to get to know and appreciate our neighbors, Minnesotans in a great many of our communities have formed lasting bonds over this past week and found their civic spirit had been restored.

Mr. President, I was equally impressed with the efforts of Minnesota's young people. All too often we hear and read about young people who are not responsible, who do not care about their community.

Last week, I witnessed countless occasions when young and old worked together, filling and hauling sandbags, feeding those who had lost their homes, and finding them shelter. They set a remarkable example for the rest of the Nation.

Much work has been done, but the most difficult work is yet to be accomplished, and that will be the cleanup that takes place over the next few months, after the news crews have moved on, the TV cameras have been hauled away, and the spotlight has shifted to another part of the country.

I will be working with the Governor's office and with local officials to ensure that available Federal assistance will be distributed to those counties that so desperately need it.

Mr. President, last week I witnessed neighbor helping neighbor and volunteers working side by side to help save their communities. It is this kind of determination that will lead people through these difficult times, as we deal with what one Minnesotan described as "a flood frozen in place."

Thank you very much, Mr. President. I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, we have reserved an hour, I believe, in morning business. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. Mr. President, a number of my colleagues will be on the floor presently. I would like to begin the hour and will be yielding time to some of my colleagues. But I do want to follow, in the first 5 minutes or so, the remarks of the Senator from Minnesota, Senator GRAMS, on the issue of flooding.

We intend, during this hour, to talk about the chemical weapons treaty and the critical vote that will be coming up on that in the Senate next week on that issue. I will get to that.

FLOODING IN THE NORTHERN GREAT PLAINS

Mr. DORGAN. Mr. President, first, let me respond to the issue of flooding. The Senator from Minnesota said it very well. I was with him as we toured part of the Red River Valley last week.

The Red River, which is one of the only rivers that I know of that flows north, flows into a watershed up north that is still frozen. The Red River often has problems with flooding. We often cope with the challenges of dealing with a flood in the Red River. But this is a flood of historic proportions, a century flood, on the heels of a winter in which we had five to seven blizzards, the last of which a week and a half ago put, in many cases, up to 20 inches of snow in our region.

A massive flood, the worst blizzard in 50 years, massive power outages all around the region, and then you understand a little about the challenges faced by people in the Northern Great Plains.

This has been very, very difficult. The Red River today has turned into a lake that is now 200 miles long. If you fly over it, it is almost inappropriate to characterize it as a river. It is a 200-mile lake that is held in by the heroic efforts of some people to fill bags with sand and stack them on top of each other and hope that that sandbagging will keep water from their homesteads, their farms or their houses.

Also, there are the heroic efforts of the Corps of Engineers, contracting with wonderful contractors to build emergency dikes. It is some effort in North Dakota, Minnesota, and South Dakota to watch the fight to stem the tide of this difficult flood.

Last weekend, I was in a shelter in Grafton, ND, where people had gone in order to seek refuge. They had been for days without any electricity in their homes. An 89-year-old woman living alone in her home had finally decided, "I must go to a shelter." I talked to her, and typical of the tough, gritty Norwegian and German stock in North Dakota, she said, well, it was not so bad, that, you know, she was getting through it—89 years old, no complaints, fighting the flood, fighting the elements, living in a shelter, but she knew that we would get through this. And that is the spirit that exists in our part of the country.

There was a woman in north Fargo named Sylvia Hove. Just before I left, to come back to the Senate here in DC for votes this week, I stopped by Sylvia's house. The amount of diking they had to do to keep the wall of water out from the back of her house and her backyard is truly extraordinary. Then, at 4 o'clock in the morning, with this very tall dike that they had built—and I helped pile some of the sandbags on that dike the week previous—the dike springs a leak.

Sylvia's son, who is there from out of State, hailed down a policeman. The policeman put out the alert on the radio. And at 4 o'clock in the morning there were four policemen there, just like that. The policemen routed their cars, stacking sandbags, dealing with the leak in the dike until others came.

It is the way that neighbors have helped neighbors, and, yes, in Minnesota, in Breckenridge, the North Dakota side, all up and down, especially the valley, the Red River Valley in North Dakota and Minnesota.

Unfortunately, this is a flood that comes and stays. Most floods we see on television are some raging river, completely out of control, taking houses with it down the middle of the stream. That is not the way the flood on the Red River occurs. It is a river that runs north; it runs very, very slow. It has a very insignificant grade, and the result is the crest comes but the flood will stay for a long, long while.

They will be fighting the flood in North Dakota and Minnesota yet for some weeks. It is truly a very significant challenge and a heroic effort on the part of mayors and city councils and young people and old folks and just ordinary folks who are doing extraordinary things to try to deal with this calamity.

I was at a sandbagging operation in Grand Forks. They put out a call for volunteers. I went into this giant area where they have two big sandbagging operations. There must have been 200 volunteers there ranging from 15 years old, I think, probably to 80 years old, all of them working hard piling sandbags on trucks. It really is quite an extraordinary thing to see.

There are a couple of outstanding issues. The head of the Corps of Engineers, Colonel Wonsik, called me last evening at home and gave me a description of where we are with respect to Wahpeton and Breckenridge, Fargo, Grand Forks, Grafton, Drayton, Pembina, all the way up and down the valley. He feels that they are making some progress, but it is an enormous challenge.

The mayor of Fargo called me about an hour ago. Again, it is an enormous challenge, but they are fighting a significant battle. All of the preparation they are doing is preventing the enormous damage that could have been done had we not had the diking that is now in place.

Some have asked the question about the emergency help that is going to be available on a 75 percent/25 percent ratio, 75 percent Federal, 25 percent State and local. The Governor had asked for a 90–10 ratio. I will just observe on that point the folks in FEMA and the administration have a formula: If the damage in a region goes above $40 million, then they go to a 90–10 formula. That will almost certainly occur in our region, probably has already occurred. That will be retroactive. So it is almost certain that our region will have this 90–10 formula in which the rest of the country reaches out in a disaster to say, we are here to help you, just as we have reached out on earthquakes and tornadoes and floods in other regions of our country. So that is something that is important.

Second, the Internal Revenue Service has been very helpful. As you know, there was a traffic jam in the District of Columbia last night; people at midnight trying to post their income tax returns on time. The Internal Revenue Service extended the date for filing to May 30 in the Dakotas and Minnesota where disaster has been declared. That is going to be helpful. They indicated they did not have authority to waive the interest charge during that 45-day extension.

I introduced a piece of legislation last evening in the Senate to waive that interest charge. It seems to me if the IRS says—and I appreciate the fact they have said it—that a tax return will be timely filed if it is filed by May 30, you ought not charge the interest on something you consider timely filed. So I would like to see that interest charge waived.

But we very much appreciate the cooperation of the Internal Revenue Service. People out there trying to man dikes and fill sandbags and so on are not able to get back to find their records to file a tax return if they had not already done it. They have been working on this flood and responding to it now for several weeks, so we appreciate the cooperation of the Internal Revenue Service.

I especially, as I conclude, want to echo the words of the Senator from Minnesota. The men and women in our region of the country have had about as tough a time as you can have this winter and now this spring. I am enormously proud of what they are doing. I have been privileged to be there the last two weekends and most of the week previous to be a part of that. We will get through it. North Dakotans and Minnesotans and South Dakotans are tough people who have faced tough challenges in the past. We will get through it and rebuild and have better days ahead of us.

THE CHEMICAL WEAPONS TREATY

Mr. DORGAN. Mr. President, next week we will have an enormously important vote in the U.S. Senate.

There are days when people come to the floor of the Senate and debate almost nothing or find almost nothing to debate about. But, of course, almost nothing can provoke a debate in the Senate. We tend to get involved in discussions back and forth and find reasons to dispute each other over the smallest word or the smallest nuance in a piece of legislation. Sometimes that is a little frustrating, especially if you came here wanting to do some important things and some big things.

Next week we will do something important and tackle a big issue. It's the chemical weapons treaty. It is an attempt by a group of countries, hopefully including our country, to ban an entire class of weapons of mass destruction.

The negotiation on a Chemical Weapons Convention to ban chemical weapons was begun by President Ronald Reagan. President Bush was active as Vice President and as President in supporting the treaty. The treaty was the great achievement of the last month of his administration. Today, he very strongly supports ratification. President Clinton back in 1993 submitted the treaty to the Senate for ratification.

This treaty is the result of decades of negotiation and leadership by our country. The treaty which came from those negotiations needs to be ratified by the U.S. Senate, and it has been hanging around for some long while. It was supposed to be voted on last year, but it got caught up in Presidential politics. We need to ratify it by April 29 if we, as a country, are to be involved in the regime that sets up the monitoring and the processes by which this treaty is implemented.

We are told that next week we will vote on this treaty. We also understand that it is going to be a close vote. I want to tell you why I think this is important. We will have several other Members of the Senate here in the next hour to describe why it is important from their standpoint.

What are chemical weapons? Well, simply, they are poison gases, horrible weapons of war, highly toxic gases or liquids that can be used in bombs, rockets, missiles, artillery shells, mines, or grenades. This treaty says let us ban entirely poison gases, let us outlaw this class of weapons completely.

Some do not like any treaties on arms. Some in this Senate will stand up and say we should not have arms treaties. Some have opposed START I, START II, the nuclear arms treaties. They are inappropriate, they say.

Well, I held up on the floor of the Senate about a year ago a piece of metal about the size of my fist. The piece of metal came from a missile silo, a silo that housed a missile in Pervomaisk, Ukraine, a silo that held a missile with a nuclear warhead that was aimed at the United States of America.

I held up a piece of that silo in my hand because the silo has been destroyed, the missile has been destroyed, the warhead is gone, and where a missile once sat, aimed at the United States of America, is now a patch of dirt planted with sunflowers.

Why was a missile taken out, a silo destroyed, and sunflowers planted where there once was a missile aimed at the United States? Because the arms control treaties required it—required it—required that missiles be destroyed. We are destroying missiles on nuclear weapons. So is the former Soviet Union. The Ukraine is now nuclear free. The fact is, we have had success with arms control agreements. Are they perfect? No. Do they work? Yes. We have had success with arms control agreements. This is a treaty on arms control. We need to ratify it. We will vote on that next week.

Let me describe, again, what this is about. It is a treaty to try to ban a class of weapons of mass destruction. Not many people probably know what chemical weapons are. I really don't. I have obviously not seen chemical weapons used. Very few people have.

Let me read from a poet, Wilfred Owen, a famous poet from World War I, and the lines he wrote about a gas attack. Germany was the first nation in modern times to use chemical weapons, in the World War I battle at Ypres, a town in Belgium, April 22, 1915. It is said that a hissing sound came from German trenches as 6,000 cylinders spewed chlorine gas aimed at the allied lines. That is a gas that attacks the lungs, causes severe coughing and choking and death. It had a devastating effect on the allied soldiers, who were unprepared. Soldiers breathing that gas began to cough up blood, their faces turning purple, their bodies writhing in the trenches. There were 15,000 casualties that day, we are told. Chlorine gas, mustard gas, and blister gas caused a million casualties in World War I.

Wilfred Owen, the poet, wrote a description of a gas attack in the First World War. A company of exhausted soldiers is marching back from the front lines, when suddenly someone shouts:

"Gas! GAS! Quick, boys!"
An ecstasy of fumbling,
Fitting the clumsy helmets just in time;
But someone still was yelling out and stumbling;
And flound'ring like a man in fire or lime. . . .
Dim, through the misty panes and thick green light,
As under a green sea, I saw him drowning.
In all my dreams, before my helpless sight,
He plunges at me, guttering, choking, drowning.
If in some smothering dreams you too could pace
Behind the wagon we flung him in,
And watch the white eyes writhing in his face,
His hanging face, like a devil's sick of sin;
If you could hear, at every jolt, the blood
Come gargling from the froth-corrupted lungs,
Obscene as cancer, bitter as the cud
Of incurable sores on innocent tongues. . . .

That is Wilfred Owen describing a gas attack, an attack using chemical weapons.

Modern armies have the capability of protecting themselves in many circumstances against chemical weapons with protective devices and protective gear.

But of course civilians are the most vulnerable to chemical weapons. Perhaps the example that most of us remember was the attack at the Tokyo subway by a terrorist group, a cult headquartered in Japan but active in America. They used the nerve gas sarin in a terrorist attack. The cult released the gas on March 20, 1995, during the morning rush hour at a busy Tokyo subway station. In that attack, 12 were killed, over 5,000 were injured. We are told that it was very close to a circumstance in which thousands would have been killed from that attack. We all remember the frightening television images of people staggering up out of the subway with their handkerchiefs over their mouths and collapsing on the street. Not surprisingly, the Japanese Diet, or parliament, ratified the chemical weapons treaty within a month of the Tokyo subway attack.

This raises the question of why the Senate has yet to do the same.

Why would people come to the floor of the Senate and say this is an inappropriate treaty and they intend to oppose it with every fiber of their being? Let me go through some of the myths we will hear about the chemical weapons treaty.

Myth one: by ratifying the chemical weapons treaty the United States will surrender a vital deterrent to chemical attack. That is not true at all. This is not about our weapons. It is about other countries' weapons. President Reagan already made a decision back in the 1980's that we were going to get rid of our stock of chemical weapons. The question now is whether other countries will similarly abandon their stock of chemical weapons and join us in an approach that will verify that other countries in the world are not producing chemical weapons.

Myth two: rogue states will refuse to join the treaty, so it will only tie our hands, not theirs. As I just indicated, we are not producing chemical weapons, we are destroying the stock of chemical weapons we now have. So it will not tie our hands. But the Chemical Weapons Convention will shrink the chemical weapon problem down to a few rogue states and help curb their ability to get the materials necessary to make chemical weapons.

Some say if you cannot prevent murder why should you have a law against murder. Common sense says murder is wrong, you have a law that provides penalties for murder. The production of chemical gasses ought to be wrong and we ought to have a convention that says we intend as a country to be part of an effort to ban it from the world. The fact we might have a few rogue nations wanting to produce them does not mean we ought not decide to ratify this treaty. What we ought to do is join all of our friends around the world who feel similarly and go after the rogue nations to demand and make certain that they are not producing chemical weapons.

The treaty is unverifiable, people say. Well, no treaty is perfectly verifiable. We should not be making the perfect the enemy of the good. We will be able to adequately verify this treaty.

The military use of chemical weapons requires significant testing and equipping or training of forces that will be difficult to hide in the face of the kind of investigation that will occur if this treaty is approved.

I will intend to proceed further with the myths that we will hear on the floor of the Senate about the Chemical Weapons Convention, but let me do that at another time, because I intend to come to the floor on a number of additional occasions and talk about this subject. But other Senators are joining me on the floor to speak about this. Senator LEVIN from the State of Michigan is here. He has been one of the most eloquent spokesman on this issue in the U.S. Senate and feels passionately about it. I am pleased he has joined me. Senator BINGAMAN is also coming to the floor, as are a couple of others.

I yield such time as he may consume to the Senator from Michigan, Senator LEVIN.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Michigan.

Mr. LEVIN. I thank the Chair, and I thank my good friend from North Dakota. His eloquent voice is indeed critical to the ratification of this convention.

It is long overdue, Mr. President, that the Senate take up the Chemical Weapons Convention and that we promptly provide our advice and our consent to its ratification so that the United States can join the convention as an original party.

I will focus just for a few moments this morning on the military issues and the military implications as they relate to the Chemical Weapons Convention from my perspective as the ranking member on the Armed Services Committee.

Under the 1985 treaty which was signed by President Reagan, we are already unilaterally destroying our stockpile of unitary chemical weapons. We are doing this without a treaty, without being required to do so, because of our own decision as to their limited military usefulness. This process is scheduled to be completed by the year 2004. This is a point which Secretary Cohen makes very, very effectively.

This is not an issue of saying we will give up our chemical weapons if the other guys do the same thing. We are already unilaterally destroying our chemical weapons. The question now is whether we will join a convention where other countries are going to do what we are already doing unilaterally. So the destruction of our chemical weapons will take place whether or not the Senate ratifies this convention. It will require other nations to do what we are already doing and will reduce the risk of chemical attacks against our troops and our country in the process.

This convention will enter into force on April 29, with or without the United States being a party. So the question before the Senate is not whether the Chemical Weapons Convention is a perfect treaty. It is whether or not we want the United States to have a role in overseeing and implementing this convention so that it greatly enhances our security. Our military and our civilian defense leadership give a resounding yes to the question of whether or not the United States should ratify this convention.

First, here is the testimony of General Shalikashvili, the Chairman of our Joint Chiefs of Staff, before the Foreign Relations Committee, last March 28, 1996. This is what General Shalikashvili said:

> From a military perspective, the Chemical Weapons Convention is clearly in our national interest. The Convention's advantages outweigh its shortcomings. The United States and all other CW capable state parties incur the same obligation to destroy their chemical weapon stockpile. While less than perfect, the verification regime allows for intrusive inspections while protecting national security concerns. The nonproliferation aspects of the convention will retard the spread of chemical weapons and, in so doing, reduce the probability that U.S. forces may encounter chemical weapons in a regional conflict. Finally, while foregoing the ability to retaliate in kind, the U.S. military retains the wherewithal to deter and defend against a chemical weapons attack. I strongly support this convention and respectfully request your consent to ratification.

General Shalikashvili told this to the Foreign Relations Committee a year ago.

Then he said in another point in his testimony to the Armed Services Committee last month that all of the chiefs of staff and the commanders in chief of our combatant commanders support the Chemical Weapons Convention. He told the Senate Armed Services Committee, "I fully support early ratification of the Chemical Weapons Convention and in that respect I reflect the views of the Joint Chiefs and the combatant commanders."

Now, this is really quite an important point, I believe, for the U.S. Senate. We have the Chairman of our Joint Chiefs, we have all of the Chiefs, all of our combatant commanders urging us to ratify the Chemical Weapons Convention because our troops will be safer with the convention in effect than if it is not in effect. That ought to count heavily with the U.S. Senate. It is not always true that you have that kind of a unified position on the part of our uniformed military. It is not always true that the Chairman of the Joint Chiefs can say that all of the Chiefs, all of the combatant commanders, agree that a certain course of action ought to be taken in the U.S. Senate. But it is true in this case.

As I mentioned, Secretary Cohen, when he was still the Secretary-designate for his current position, testified as follows, before the Armed Services Committee, when asked whether or not he supports the ratification of the convention prior to the April 29 deadline, and this, basically, is his answer:

> Yes. The CWC, as both a disarmament and a nonproliferation treaty, is very much in our national security interest because it:
>
> No. 1, establishes an international mandate for the destruction of chemical weapons stockpiles;
>
> No. 2, prohibits the development, retention, storage, preparations for use, and use of chemical weapons;
>
> No. 3, increases the probability of detecting militarily significant violations of the CWC; and
>
> No. 4, hinders the development of clandestine CW stockpiles.

Mr. President, I ask unanimous consent that the detailed explanation of Secretary Cohen for each of those conclusions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> Establishes an international mandate for the destruction of chemical weapons (CW) stockpiles. Congress has mandated that the Army, as executive agent for CW destruction, eliminate its unitary CW, which constitute the bulk of its CW stockpile, by 31 December 2004. That destruction process is

> well under way at the CW destruction facilities at Johnston Atoll and Tooele, UT. The CWC mandates that state parties destroy, under a strict verification regime, their entire CW stockpiles within 10 years after the Convention enters into force (April 2007). Given that the U.S. does not need CW for its security, and given that we are currently legally committed to eliminating unilaterally the vast majority of our CW stockpile, common sense suggests that it would be preferable to secure a commitment from other nations to do the same.
>
> Prohibits the development, retention, storage, preparations for use, and use of CW. These expansive prohibitions establish a broadly accepted international norm that will form a basis for international action against those states parties that violate the CWC. Unlike the 1925 Geneva Protocol, which only bans the use of CW in war, the CWC: includes a verification regime; restricts the export of certain dual-use CW precursor chemicals to non-state parties; prohibits assisting other states, organizations, or personnel in acquiring CW; and requires state parties to implement legislation prohibiting its citizens and organizations from engaging in activities prohibited by the Convention. The CWC also contains mechanisms for recommending multilateral sanctions, including recourse to the UN Security Council.
>
> Increases the probability of detecting militarily significant violations of the CWC. While no treaty is 100% verifiable, the CWC contains complementary and overlapping declaration and inspection requirements. These requirements increase the probability of detecting militarily significant violations of the Convention. While detecting illicit production of small quantities of CW will be extremely difficult, it is easier to detect large scale production, filling and stockpiling of chemical weapons. Over time, through declaration, routine inspections, fact-finding, consultation, and challenge inspection mechanisms, the CWC's verification regime should prove effective in providing information on significant CW programs that would not otherwise be available.
>
> Hinders the development of clandestine CW stockpiles. Through systematic on-site verification, routine declarations and trade restrictions, the Convention makes it more difficult for would-be proliferators to acquire, from CWC state parties precursor chemicals required for developing chemical weapons. The mutually supportive trade restrictions and verification provisions of the Convention increase the transparency of CW-relevant activities. These provisions will provide the U.S. with otherwise unavailable information that will facilitate U.S. detection and monitoring of illicit CW activities.

Mr. LEVIN. Secretary Cohen concluded by saying the following:

> I strongly support the Chemical Weapons Convention and the goal of U.S. ratification of the convention by April 29, 1997 . . . U.S. ratification of the Convention prior to this date will ensure that the U.S. receives one of the 41 seats on the Executive Council of the Organization for the Prohibition of Chemical Weapons (OPCW), the international organization that will oversee CWC implementation. Early ratification will also ensure that U.S. citizens will fill key positions within the OPCW and act as inspectors for the Organization. Direct U.S. involvement and leadership will ensure the efficacy and efficiency of the OPCW during the critical early stages of the Convention's implementation. The U.S., upon ratification and implementation of the CWC, will also receive CW-related information from other state parties. As a state party and a member of the Executive Council, the U.S. will be in the best position to assure the effective implementation of the Convention's verification provisions.

Now, that is our former colleague, Bill Cohen. It is an exceptionally clear and cogent statement of why the CWC is in our international interest. Defense Secretary Perry before him, said the following before the Senate Foreign Relations Committee, on March 28, 1996:

> In conclusion, the Department of Defense considers the Chemical Weapons Convention a well-balanced treaty that, in conjunction with our other efforts against CW proliferation, a robust chemical protection program and maintenance of a range of nonchemical response capabilities, will serve the best interests of the United States and the world community. The Department of Defense strongly supports the Convention. I respectfully request that the Senate give its advice and consent to ratification this spring.

Mr. President, our military, today, enjoys a high level of protection against chemical weapons. The treaty specifically permits that level of protection and any additional level of protection to continue. We spend about $500 million a year on chemical and biological defenses. The Senate should help assure that our forces maintain an effective capability to defend themselves. We plan on doing just that in the budget that we will be submitting to the Senate.

But by not ratifying the Chemical Weapons Convention, we would be giving other nations an excuse for delaying or rejecting ratification, while taking the pressure off of pariah states to join the treaty.

General Schwarzkopf, retired now, recently testified as follows:

> I am very, very much in favor of the ratification of that treaty. We don't need chemical weapons to fight our future warfares. And, frankly, by not ratifying that treaty, we align ourselves with nations like Libya and North Korea, and I'd just as soon not be associated with those thugs in this particular matter. So I am very, very much in favor of ratification of that particular treaty.

Admiral Zumwalt, now retired, said the following relative to this treaty. He was the Chief of Naval operations in the early 1970's. He said:

> If we refuse to ratify, some governments will use our refusal as an excuse to keep their chemical weapons. Worldwide availability of chemical weapons will be higher, and we will know less about other countries' chemical activities. The diplomatic credibility of our threat of retaliation against anyone who uses chemical weapons on our troops will be undermined by our lack of "clean hands."

Admiral Zumwalt, who, in this article I am quoting from in the Washington Post of January 6, 1997, pointed out that he is not a dove. As a matter of fact, he said he helped lead the opposition to the SALT II treaty because he was convinced that it would give the Soviet Union a strategic advantage. This is someone who has a history of being skeptical in terms of arms control agreements. Admiral Zumwalt in the Washington Post that day added the following:

> At the bottom line, our failure to ratify will substantially increase the risk of a chemical attack against American service personnel.

I ask unanimous consent that Admiral Zumwalt's entire article in the Washington Post of January 6, 1997, be printed in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 6, 1997]

A NEEDLESS RISK FOR U.S. TROOPS

(By E.R. Zumwalt Jr.)

It has been more than 80 years since poison gas was first used in modern warfare—in April 1915 during the first year of World War I. It is long past time to do something about such weapons.

I am not a dove. As a young naval officer in 1945, I supported the use of nuclear weapons against Japan. As chief of naval operations two decades ago, I pressed for substantially higher military spending than the nation's political leadership was willing to grant. After retiring from the Navy, I helped lead the opposition to the SALT II treaty because I was convinced it would give the Soviet Union strategic advantage.

Now the Senate is considering whether to approve the Chemical Weapons Convention. This is a worldwide treaty, negotiated by the Reagan administration and signed by the Bush administration. It bans the development, production, possession, transfer and use of chemical weapons. Senate opposition to ratification is led by some with whom I often agree. But in this case, I believe they do a grave disservice to America's men and women in uniform.

To a Third World leader indifferent to the health of his own troops and seeking to cause large-scale pain and death for its own sake, chemical weapons have a certain attraction. They don't require the advanced technology needed to build nuclear weapons. Nor do they require the educated populace needed to crate a modern conventional military. But they cannot give an inferior force a war-winning capability. In the Persian Gulf war, the threat of our uncompromising retaliation with convention weapons deterred Saddam Hussein from using his chemical arsenal against us.

Next time, our adversary may be more berserk than Saddam, and deterrence may fail. If that happens, our retaliation will be decisive, devastating—and no help to the young American men and women coming home dead or bearing grevious chemical injuries. What will help is a treaty removing huge quanities of chemical weapons that could otherwise be used against us.

Militarily, this treaty will make us stronger. During the Bush administration, our nation's military and political leadership decided to retire our chemical weapons. This wise move was not made because of treaties. Rather, it was based on the fact that chemical weapons are not useful for us.

Politically and diplomatically, the barriers against their use by a First World country are massive. Militarily, they are risky and unpredictable to use, difficult and dangerous to store. They serve no purpose that can't be met by our overwhelming convention at forces.

So the United States has no deployed chemical weapons today and will have none in the future. But the same is not true of our potential adversaries. More than a score of nations now seeks or possesses chemical weapons. Some are rogue states which we may some day clash.

This treaty is entirely about eliminating other people's weapons—weapons that may some day be used against Americans. For the American military, U.S. ratification of the Chemical Weapons Convention is high gain and low or no pain. In that light, I find it astonishing that any American opposes ratification.

Opponents argue that the treaty isn't perfect: Verification isn't absolute, forms must be filled out, not every nation will join at first and so forth. This is unpersuasive. Nothing in the real world is perfect. If the U.S. Navy had refused to buy any weapon unless it worked perfectly every time, we would have bought nothing and now would be disarmed. The question is not how this treaty compares with perfection. The question is how U.S. ratification compares with its absence.

If we refuse to ratify, some governments will use our refusal as an excuse to keep their chemical weapons. Worldwide availability of chemical weapons will be higher, and we will know less about other countries' chemical activities. The diplomatic credibility of our threat of retaliation against anyone who uses chemical weapons on our troops will be undermined by our lack of "clean hands." At the bottom line, our failure to ratify will substantially increase the risk of a chemical attack against American service personnel.

If such an attack occurs, the news reports of its victims in our military hospitals will of course produce rapid ratification of the treaty and rapid replacement of senators who enabled the horror by opposing ratification. But for the victims, it will be too late.

Every man and woman who puts on a U.S. military uniform faces possible injury or death in the national interest. They don't complain; risk is part of their job description. But it is also part of the job description of every U.S. senator to see that this risk not be increased unnecessarily.

Mr. LEVIN. Finally, Mr. President, I ask unanimous consent that a letter written by a very distinguished group of retired four-star generals and admirals who support the Chemical Weapons Convention be printed in the RECORD at this time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

APRIL 3, 1997.

Hon. WILLIAM J. CLINTON,
The White House, 1600 Pennsylvania Avenue, N.W., Washington, DC.

DEAR MR. PRESIDENT: As former members of the United States Armed Forces, we write to express our strong support for Senate ratification of the Chemical Weapons Convention (CWC). This landmark treaty serves the national security interests of the United States.

Each of us can point to decades of military experience in command positions. We have all trained and commanded troops to prepare for the wartime use of chemical weapons and for defenses against them. We all recognize the limited military utility of these weapons, and supported President Bush's decision to renounce the use of an offensive chemical weapons capability and to unilaterally destroy U.S. stockpiles. The CWC simply mandates that other countries follow our lead. This is the primary contribution of the CWC: to destroy militarily-significant stockpiles of chemical weapons around the globe.

We recognize that the proliferation of weapons of mass destruction, including chemical agents, presents a major national security threat to the U.S. The CWC cannot eliminate this threat, as terrorists and rogue states may still be able to evade the treaty's strict controls. However, the treaty does destroy existing stockpiles and improves our abilities to gather intelligence on emerging threats. These new intelligence tools deserve the Senate's support.

On its own, the CWC cannot guarantee complete security against chemical weapons. We must continue to support robust defense capabilities, and remain willing to respond—through the CWC or by unilateral action—to violators of the Convention. Our focus is not on the treaty's limitations, but instead on its many strengths. The CWC destroys stockpiles that could threaten our troops; it significantly improves our intelligence capabilities; and it creates new international sanctions to punish those states who remain outside of the treaty. For these reasons, we strongly support the CWC.

Stanley R. Arthur, Admiral, USN (Ret); Michael Dugan, General, USAF (Ret); Charles A. Horner, General, USAF (Ret); David Jones, General, USAF (Ret); Wesley L. McDonald, Admiral, USN (Ret); Merrill A. McPeak, General, USAF (Ret); Carl E. Mundy, Jr., General, USMC (Ret); William A. Owens, Admiral, USN (Ret); Colin L. Powell, General, USA (Ret); Robert RisCassi, General, USA (Ret); H. Norman Schwartzkopf, General, USA (Ret); Gordon R. Sullivan, General, USA (Ret); Richard H. Truly, Vice Admiral, USN (Ret); Stansfield Turner, Admiral, USN (Ret); John W. Vessey, General, USA (Ret); Fred F. Woerner, General, USA (Ret); Admiral E.R. Zumwalt, Jr., Admiral, USN (Ret).

Mr. LEVIN. Mr. President, one paragraph from that letter says the following:

> On its own, the CWC cannot guarantee complete security against chemical weapons. We must continue to support robust defense capabilities, and remain willing to respond—through the CWC or by unilateral action—to violators of the Convention. Our focus is not on the treaty's limitations, but instead on its many strengths. The CWC destroys stockpiles that could threaten our troops; it significantly improves our intelligence capabilities, and it creates new international sanctions to punish those states who remain outside of the treaty. For these reasons, we strongly support the CWC.

Former Secretary of State, Jim Baker, spoke out very strongly in support of the CWC the other day and said:

> If we fail to ratify the convention, we will imperil our leadership in the entire area of nonproliferation, perhaps the most vital security issue of the post-cold war era.

Mr. President, before we have a chance to vote on the CWC, we will be voting on a bill introduced by Senator KYL, S. 495. It is a 70-page bill that effects our efforts relative to chemical and biological weapons. The contrast between the lack of analysis of that bill, the contrast between the absence of hearings on that bill and the thoroughness with which the Chemical Weapons Convention has been analyzed, is enormous. We have had about 18 hearings on the Chemical Weapons Convention. We have had dozens of briefings for Senators and our staffs. We have had 1,500 pages of information on the CWC, which has been provided to the Senate by the administration: 300 pages of testimony; 500 pages of answers to letters and reports; 400 pages of answers to questions for the record; 300 pages of other documentation. That is what we have had in the 3½ years that the Chemical Weapons Convention has been before us. The bill introduced by Senator KYL has been in front of us for a few weeks.

So we have had the convention before us for 3½ years, with 18 hearings, hundreds of pages of documents, answers, et cetera, a thorough and complete and exhaustive analysis of this convention. It is long, long overdue that it come before the Senate. Hopefully, we are going to ratify it and not be deterred from ratification in any way by a bill recently introduced, just a few weeks ago, with 70 pages of complicated text relative to the same subject, but which doesn't affect anybody else's weapons, only our own.

Mr. President, I want, again, to thank the Senator from North Dakota for his leadership in this area. It is important to this Nation's position and posture in the world as a leader that a convention that was designed by us, negotiated by Presidents Reagan and Bush, supported by them, a bipartisan convention, be finally brought before the Senate for debate and ratification.

I thank the Chair and my friend from North Dakota for yielding me some time.

I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. How much time remains?

The PRESIDING OFFICER. There are 25 minutes remaining.

Mr. BINGAMAN. I thank the Chair. Mr. President, let me, first of all, compliment my colleague from Michigan on his excellent statement. I agree with each of his points. It is past time for the Senate to bring this issue to the floor for debate, to debate it seriously, to make whatever modifications or changes or conditions the Senate believes is appropriate, if any, and to get on with ratifying the Chemical Weapons Convention.

Mr. President, one of the challenges in discussing the Chemical Weapons Convention is to figure out how to bring this home to the average American that this is an issue and a concern that is important to them. Many people say, well, this is long term, this is international, this doesn't relate to me right here in River City, or Santa Fe, NM, or Silver City, NM, or wherever their hometown happens to be. But, in fact, the convention intends to reduce the likelihood that any of our troops or any American civilians in the future will be injured or killed as a result of chemical weapons.

The history of the use of chemical weapons is better known by others than by me. My understanding is that the first time there was significant use of chemical weapons was in the First World War. There have been instances since then. We have heard much in the news recently, for example, about the injuries that some of our personnel in the gulf war encountered by virtue of the accidental destruction of Iraqi chemical weapons by some of our own military actions.

So the issue is real, and the question is, what can we do as a nation? What can we do as a Senate to lessen the risk that chemical weapons will, in fact, injure Americans in the future? I think ratifying this treaty at this time is clearly the most important thing we can do.

I hope very much that we go ahead and enter into a unanimous-consent agreement today and begin formal debate of the treaty. We are not in formal debate as of yet because we have been unable to get agreement among all Senators to bring the treaty to the floor. We need to get that agreement and bring it to the floor, and we need to go ahead with the debate. The reason that it is time-sensitive, Mr. President, is that the treaty goes into effect on the 29th of this month. Now, some say it doesn't matter whether we are part of it at the time it goes into effect or whether we are not part of it. They say we can come along later. The problem is that international agreements have been made for the treaty to go into effect. American experts have been working with experts from other countries in putting together protocols and plans for implementing this treaty and the inspections that would be made under the treaty. All of that has been ongoing. If we are not part of the initial group of ratifying nations—it's a very large group; I think 161 nations have signed this treaty. If we are not part of that group when the treaty goes into effect, then the experts from our country that have been involved in establishing protocols and plans for inspection will be excluded from management and inspection teams and others will be put in their place. Perhaps at a later date we could join, but, clearly, it is not in our interest to have an international treaty of this importance begin without us being a part of it.

I also point out an obvious point, which I am sure has been made many times in this debate. The sanctions called for in this treaty against countries that are not party to the treaty will be imposed on our own chemical companies. Many of the objections that have been raised about the treaty are, in fact, in my view, groundless for the simple reason that our own chemical manufacturers in this country have come out in strong support of the treaty. They want to be part of this. They understand the inspections that will be taking place. They readily subject themselves to those inspections, and they do not want sanctions imposed upon them that keep them from selling chemicals that can be used for chemical weapons, but can also have commercial uses at the same time. They would like to continue to be major participants in the world market in chemicals. They estimate that the loss to our chemical manufacturers could be around $600 million per year if we don't ratify the treaty and if sanctions are imposed on us because we are outside the treaty.

Mr. President, there are various objections that have been raised. In my opinion, I have never seen a treaty where there has been more effort to accommodate very groundless objections. We have some objections which are not groundless—I will acknowledge that—and concerns that are valid and need to be considered and addressed. We are doing that. But many of the objections that have been raised, in my opinion, are really grasping at straws by people who are trying to find some basis upon which to oppose this treaty.

The context in which this needs to be considered—this, again, has been said many times here, and I have said it myself—is that we passed a law while President Reagan was in the White House that renounced the use of chemical weapons by this country and which put us on a path to destroy our own chemical weapons capability. President Reagan signed that law. That has been the policy of our Government through the Reagan administration, through the Bush administration, through the Clinton administration, and now into the second Clinton administration.

We have unilaterally made the decision that we do not need chemical weapons in order to look out for national security concerns. We have many other ways to deal with countries that would use chemical weapons.

By signing this agreement, by going ahead and ratifying the Chemical Weapons Convention, we are not giving up any of the other arrows in our quiver, so to speak. We have the ability to retaliate against the use of chemical weapons in any way we determine to retaliate, whether we are a signatory or not. So we do not lose anything by ratifying it and becoming part of this convention. We gain, however, a substantial amount. For that reason, I think the treaty should go forward.

Since we have unilaterally decided not to have chemical weapons, not to produce chemical weapons, not to maintain a stockpile of chemical weapons, and not to use chemical weapons in the future, how can it not be in our interest to try to ensure that other countries make that same decision? How can it not be in our interest to join with international inspection groups to investigate and ascertain that the countries that are signatories to this treaty do not in fact violate the convention?

As I indicated before, our manufacturers agree. If you want to inspect us, come on in. We are glad to have you come in and inspect our plants. We are not going to have chemical weapons, we are not going to stockpile chemical weapons, and, therefore, come on in and investigate us.

If we ratify this treaty, we can be part of the inspection teams that go to other countries to make the same determination. Some people say, "Well, the problem with it is that not all nations are going to sign onto the treaty." That is true. Not all nations are. That is very, very true. To deal with that circumstance, the treaty calls for sanctions against those countries that don't ratify the treaty. We cannot enforce the treaty against countries that don't ratify the treaty, but we can impose sanctions upon their ability to purchase or to sell chemicals that have dual use—that can be used in chemical weapons as well as in commercial purposes. That is a significant tool that this convention will give us.

I do not know of another circumstance—at least in the time I have been here in the Senate—where we have made the unilateral decision to take action that a treaty calls for us to take. For us to now say, "OK, we have already decided to take the actions that the treaty calls for us to take, but we do not know whether we want to go ahead and ratify the treaty so that others also will take those same actions" is nonsensical to me. We need to recognize that in the large scheme of things, this country needs to provide leadership in the world. That leadership includes ratifying this treaty and going forward with putting the protocols for its enforcement in place and participating in the inspection teams required for its implementation. That is exactly what is required. There have been endless negotiations within the Foreign Relations Committee in an effort to accommodate concerns that have been raised. I was not party to those negotiations. I have seen the results of them. Quite frankly, I am amazed at the extent of the conditions that we have agreed should be adopted to allay concerns of different Members. I think that is fine. I have no problem with any of the conditions. I also support whatever is acceptable to the administration, which has primary authority in this area and primary responsibility to enforce the treaty. If they believe these conditions are acceptable, then fine, they are acceptable to me as well. But we do need to get on with ratifying the treaty. We need to get on with providing the additional confidence we can to the American public and to assure them that their security concerns are being dealt with responsibly.

I believe very strongly that this treaty is in the best interest of our country and the best interest of the people of my State. I think it would be a travesty for us to fail to ratify it, and particularly it would be a travesty if we failed to even bring it before the Senate for a vote. That has not happened. I understand the majority leader has worked very diligently to bring that about, and I believe he is on the verge of doing so. I commend him for that. But the reality of the situation is very straightforward—this treaty needs to be ratified. It needs to be ratified soon. The clock is ticking. Our leadership position in the world is at stake, and the security of future generations is also at stake.

I see that we have both Senators from Massachusetts ready to speak. I do not want to delay them. I ask if either of them wishes to speak on the treaty at this point.

How much time remains on the treaty?

The PRESIDING OFFICER. There remain 11 minutes 50 seconds.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent that I be permitted to speak for 15 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, we have had a long history in the world of attempts to rid the planet of the scourge of chemical weapons. That effort began after World War I, as a result of the searing experiences of troops in Europe during that war near the beginning of this century when chemical weapons were used for the first time in a general way in warfare. Those efforts in the early part of the century resulted, in 1925, in the negotiation in Geneva of an accord that bans the use of chemical weapons.

Since that time, the world's more powerful nations have not used them in war, including World War II. There are a couple of rogue states that have used them. Iraq's use against the Kurds and in its war with Iran is the instance most often cited. But despite the progress in seeking to eliminate the use of chemical weapons, the fact is that efforts to ban the manufacture and storage of poisonous gas has hit one brick wall after another over the years.

In the past 25 years a substantial effort has been made to achieve an international agreement to ban manufacture and storage of chemical weapons. The Nixon and Ford administrations—both of whom, of course, were Republicans—worked toward this objective, albeit without success. The administration of Republican President Ronald Reagan reinvigorated international efforts to achieve such an agreement during the early 1980's. When Vice President Bush was elected President, his administration assumed the responsibility for continuing those negotiations that were handed off by the predecessor administration in which he had served as Vice President, and I believe most people ultimately will judge that President Bush and his administration's negotiators acquitted themselves well in this regard.

After intense and lengthy negotiations, initial success was achieved in 1992 when the Chemical Weapons Convention was completed in Geneva and was approved by the United Nations. In early 1993, shortly before leaving office, the Bush administration, representing the United States, joined with 129 other nations to sign the convention, and the process of ratification of the treaty began. On November 23 of that year, the Clinton administration submitted the convention formally to the Senate for its advice and consent.

So here we are now, 4 years from the time when the convention became available for ratification, finally about to exercise our constitutional responsibility in the Senate.

I wish that we had acted sooner. But it is my understanding that we now are going to act—that the majority leader has made a commitment to bring up the resolution of ratification on the Senate floor next week so that we can act prior to the critical day of April 29.

Let me digress to address the subject of the importance of April 29 to this treaty. April 29, less than 2 weeks from today, is the day on which the convention takes effect. Some Members and others have suggested in hearings and elsewhere that this is not a critical date; that we somehow have an extraordinary power to unilaterally dictate the United States can impose changes in the convention beyond that date. The fact is that April 29 is the date on which all the nations that have ratified the convention expect the convention to take effect, per its terms to which all signatory nations including the United States agreed. They believe they have a right to expect that others will have lived by the same rules by which they have lived.

There is a certain contradiction in suggesting that you are going to take the leadership in drafting and seeking support for a treaty which is designed to become international law, and which establishes a set of rules that you and others propose to follow, and before it even takes effect you unilaterally decide you are going to break the first rule it contains which is the date by which you must agree to be a full supporter and participant in order to have a part in setting up on the ongoing procedures and regulations that will apply its terms to all participants. I think those who suggest the United States can simply ignore this deadline—while still seeking international support for some treaty to address the chemical weapons concern, a treaty they believe should be altered in various ways from the treaty that is now before the Senate—are evidencing a kind of arrogance on behalf of our country that often gets us in trouble with our allies and friends and with nations we would like to have as allies and friends.

Even more troubling, Mr. President, is the fact that there are some in the Senate, some Members of the Republican Party, who seem to have a deep-seated aversion to any kind of arms control treaty. As we draw close to the point where the Senate will exercise its constitutional role of advise and consent, we are seeing a desperate effort launched to grab onto any kind of straw to suggest that this treaty is not good for the United States of America. We are seeing a host of problems conjured up, and I do mean literally conjured up, to prevent the assembly of a two-thirds majority of the Senate to approve the resolution of ratification.

I only have a brief amount of time in the Chamber today, but I want to address some of the principal arguments that are being advanced as a rationale for suggesting that this treaty is not in the best interests of the United States. I have spoken previously at some length in this Chamber about the convention, and I will speak again as we formally take up the debate, but today I want to address briefly several of the claims made by opponents.

First, opponents say that the convention could jeopardize confidential business information through frivolous so-called challenge inspections that the critics claim would provide international inspectors with extraordinary access to files, data, and equipment of U.S. chemical companies, and that the inspectors themselves could be spies for adversary nations or for nations whose chemical industries compete with our own. These critics, in effect, are anointing themselves the great protectors of the U.S. chemical industry from an espionage threat they perceive.

Mr. President, I do not believe there is a person in this Chamber that does not want to take all needed steps to thwart espionage, but let me note the facts. The Chemical Manufacturers Association strongly supports the Chemical Weapons Convention. Its representatives helped write the rules contained in the convention pertaining to treatment of confidential business information. Not surprisingly, protecting trade secrets was at the very top of their priority list during the treaty negotiations.

Further, the CMA conducted seven full-fledged trial inspections of chemical facilities just as would be conducted under the treaty's terms, to make certain that the protections against industrial espionage were strong. The Chemical Manufacturers Association is satisfied that those protections are sufficient to safeguard U.S. trade secrets. Furthermore, the treaty gives our Government the right to reject ahead of time for any reason whatsoever any inspectors that we believe would try to spy at U.S. facilities.

Second, Mr. President, opponents say that the convention inspection requirements may involve unreasonable search and seizure which would violate the fourth amendment to the Constitution.

Again, they are wrong. The facts are that at the insistence of our own negotiators who were fully cognizant of issues of search and seizure, the Chemical Weapons Convention explicitly allows party nations to take into account their own constitutional obligations when providing access for a challenge inspection. Constitutional rights in the United States have not been weakened or relinquished. Both the CWC and its draft implementing legislation fully protect U.S. citizens, including businesses, from unreasonable search and seizure. In addition, the treaty allows sensitive equipment information or areas of an inspected facility not related to chemical production or storage that are the subjects of the inspection to be protected during any challenge inspection by adhering to approved managed access techniques.

Further, treaty proponents are prepared to accept, and Senator BIDEN has negotiated with Senator HELMS, a condition of ratification which will provide that search warrants will be obtained through the normal process for all challenge inspections.

A third issue: Opponents say that adherence to the convention's provisions by party nations cannot be perfectly verified. What is occurring here is that the opponents are trying to make the perfect the enemy of the good. I can say that, in the 12 years I have been in the Senate as a member of the Foreign Relations Committee and deeply involved in work on a number of arms control agreements, I do not think I have ever seen an arms control agreement that is absolutely, perfectly, 100 percent verifiable. I do not think anybody who negotiates arms control agreements believes such perfection is attainable.

Perfection is not the standard by which we should make a judgment as to whether we have a good or bad treaty. Both our national defense leadership and intelligence community leadership have testified repeatedly that this treaty will provide them with additional tools that they do not have today which will help them gain more and better knowledge about what is happening in the world regarding chemical weapons and their precursors.

So the test is not can you perfectly verify compliance with the Convention's requirements; the test is do you enhance the security and intelligence interests of your country beyond where they would be without the treaty. Our defense and intelligence community leaders answer a resounding yes to that question.

Fourth, opponents say that the nations about whose chemical activities we are most greatly concerned, the rogue nations like Iraq and Libya and North Korea, will not become parties to the treaty and, if they are not parties to the treaty, it will not give us enough protection from chemical weapons to warrant our being a party to it.

This is a red herring of enormous proportions for the following reasons. As I stand in the Chamber today and the Presiding Officer sits on the dais, there is absolutely nothing to prevent those rogue nations from doing exactly what people say they fear. There is not even an international regime in place that makes manufacture and storage of chemical weapons illegal, or that provides a way to track the movement of such chemicals and their precursors so that there is a greater likelihood the world will know when rogues are engaging in conduct we believe should not occur, or that gives the world a way in which to hold such nations accountable.

I pose a simple question: Is the United States in a stronger position if it is a party to an international treaty in force, to which most nations of the world are trying to adhere, when a nation not a party to the treaty is seen to be engaging in behavior violating the treaty's terms, or is the United States better off with every nation just going about its own business without any protocol at all, without any international standard, without any means to obtain accountability when a nation violates a standard of behavior to which the great majority of the world's nations have formally decreed they believe all nations should adhere.

I think most people would say that if the United States ratifies this Convention, our circumstance relative to rogue nations is in no way worse than it is now. We give up nothing, but we gain important advantages. What are they?

First, under present circumstances, the manufacture and storage of chemical weapons is not illegal under international law or custom. The Convention will provide that law and custom. It will then be possible to focus international opprobrium on nations violating its standards, be they participant or nonparticipant nations.

Moreover, with 72 nations already having ratified, and others certain to follow, especially if the United States ratifies before April 29, there will be a quantum leap forward in the capacity to track the manufacture and sale of chemicals that can be used as weapons, or precursor chemicals, and this enhanced capacity will help us determine what nations might be acting in a way that ultimately could do injury to our country.

It is important for everyone to remember that this treaty will greatly assist our efforts to impede the production and storage of chemical weapons. Therefore, it will make it less likely that our troops or our civilians will ever be put in harm's way by being subjected to an attack by chemical weapons.

I might remind my colleagues that, no matter what we do with respect to this treaty, we are not going to be manufacturing chemical weapons in the United States. That is the track we are on under our current law. The logic seems unassailable to me that the United States will be a lot better off if we bring the family of nations into a regimen which helps us guard against trafficking in those chemicals and which requires party nations to dispose of their own stocks of chemical weapons and not manufacture others.

Fifth, opponents say that participating in the chemical weapons treaty will make the United States less vigilant about the risks of chemical attacks by organized armies or by terrorists and about the need to maintain defenses against those threats. Well, shame on us if that were to be true. I do not think anybody who is supportive of this treaty wants—and I know I do not want—to let down our guard with respect to the possibility of another nation, rogue or otherwise, creating a chemical weapon and using it against us. I absolutely believe it is vital that we have a robust defense which will protect us in the event that someone were to try to break out and do that. But I think this is a tactic of desperation, because if you follow the logic of this criticism to its conclusion, we ought to make certain that our adversaries have chemical weapons to be sure we have sufficient incentive to defend against them, if that is what it takes in order to build our defenses.

I emphasize two points here. First, there is nothing whatsoever that any arms control agreement does that necessarily lessens our resolve to defend against the threat that the agreement is intended to reduce. And, second, neither the Clinton administration nor this Congress is going to play ostrich on this issue. The Clinton administration's budget calls for $225 million in increases in the Defense Department's funding for chemical and biological defense over the next 6 years. A $225 million increase hardly equates to a notion that we are being lulled to sleep or into some kind of complacency. I am willing to bet with any Member of this body that the ratification of the CWC will not result in a reduction of our chemical weapons defense efforts.

Mr. President, in the next few days we will face a debate which I hope will be conducted on the facts. I devoutly hope that we do not waste time debating the question of whether this treaty is a perfect treaty—of course it is not. Instead, I hope we squarely face and debate the question of whether the security of the United States of America and of the entire world is improved by United States ratification of the Chemical Weapons Convention.

I respectfully submit to my colleagues that when they look at the facts, when they measure what the U.S. chemical industry has done to protect itself, when they measure what we are doing to strengthen our defenses against chemical weapons, when they measure what being a party nation to the Convention will provide us in terms of intelligence and information, when they measure what this does in terms of the ability to track chemicals throughout the rest of the world, when they measure the importance to the United States of our being part of this effort before the Convention takes effect on April 29, I believe our colleagues will decide that the answer to the question of whether the Convention improves the security of the United States is an unequivocal yes, and that they will respond by voting to approve the resolution of ratification and against any debilitating amendments that any treaty opponents offer to it.

I yield back any remaining time.

A NATIONAL AGENDA FOR YOUNG CHILDREN

Mr. KENNEDY. Mr. President, tomorrow, the White House is hosting an extraordinary conference on "Early Childhood Development and Learning: What the newest research on the brain tells us about our youngest children." It is the first time a President has focused national attention on this issue. Experts from across America will explore the implications of new scientific research on the intellectual development of young children. In their early years, children have an ability to assimilate far more knowledge than at any other time in their lives. If a child's curiosity is encouraged and his or her mind regularly stimulated, the capacity to learn can be substantially expanded.

If, conversely, a child receives little interaction and stimulation, that capacity declines just as an unexercised muscle atrophies. These findings dramatically reinforce the urgency of programs which will provide parents with the support they need to enrich their children's early years.

There is no more important responsibility which we in the Senate have than to provide a secure foundation on which America's children can build their futures. Now that we have a far greater understanding of the significance of the early childhood years in an individual's development, we know the extraordinary impact which the quality of care and nurturing in those years can have on a child's intellectual and emotional growth. Does a child have access to good preventive medical care? Are parents able to spend time with their child or are they unable to leave work? Do the hours spent in child care provide a real learning experience?

Does the child have access to a quality preschool education program? The answers to questions like these will have a substantial effect on a child's long-term ability to reach his or her full potential. The opportunity lost cannot be recaptured. Making these basic opportunities the birthright of every child should be our national agenda for young children. It should be our highest priority.

Congressional action this year could bring the essential elements of sound early childhood development within the reach of every child. Such an agenda for young children has four key elements: First, providing affordable child health insurance coverage for working families. The Hatch-Kennedy bill will make health care more accessible for the 10 million children whose families cannot afford insurance. Many of these children currently see a doctor only when they are acutely ill. They never receive the preventive health care which is so essential to proper growth and development.

Second, extending the Family and Medical Leave Act to 13 million more employees so that they have the same opportunity to spend precious time with a newborn child or to care for a seriously ill child. Giving each employee 24 hours of leave a year to accompany their child to a school event or on a visit to the pediatrician would also strengthen parental involvement.

Third, improving the quality of child care for infants and toddlers by providing incentive grants to States to make child care programs early learning opportunities. Programs that encourage a child's curiosity and stimulate communication skills can enhance long-term educational development.

Fourth, fully funding Head Start and expanding the Early Start initiative for younger children.

This program is widely recognized for its success in providing children from low-income families with a firm educational foundation. Yet, funding levels currently limit access to only 40 percent of the eligible 4- and 5-year-olds and a much smaller percentage of young children.

In the words of the Carnegie Task Force on Meeting the Needs of Young Children: "The earliest years of a child's life * * * lay the foundation for all that follows." It calls for a comprehensive strategy to "move the nation toward the goal of giving all children the early experiences they need to reach their full potential."

Collectively, these four legislative initiatives will provide all parents with the tools they require to enrich their children's early years.

Each element—medical care, parental involvement, quality child care, and early learning opportunity—is essential to maximizing a child's potential. Let me explain how each of these programs would work:

CHILDREN'S HEALTH CARE

Today, more than 10.5 million children have no health insurance. That is 1 child in every 7. The number has been increasing in recent years. Every day, 3,000 more children are dropped from private health insurance. If the total continues to rise at the current rate, 12.6 million children will have no medical coverage by the year 2000.

Ninety percent of these children are members of working families. Two-thirds are in two-parent families. Most of these families have incomes above the Medicaid eligibility line, but well below the income it takes to afford private health insurance today.

Too many young children are not receiving the preventive medical care they need. Uninsured children are twice as likely to go without medical care for conditions such as asthma, sore throats, ear infections, and injuries. One child in four is not receiving basic childhood vaccines on a timely basis. Periodic physical exams are out of reach for millions of children, even though such exams can identify and correct conditions that can cause a lifetime of pain and disability. Preventive care is not only the key to a healthy child, it also is an investment for society. Every dollar in childhood immunizations, for example, saves $10 in hospital and other treatment costs.

Every American child deserves an opportunity for a healthy start in life. No family should have to fear that the loss of a job or a hike in their insurance premium will leave their children without health care.

Children and adolescents are so inexpensive to cover. That's why we can and will cover them this year—in this Congress. The cost is affordable—and the positive benefits for children are undeniable.

The legislation that Senator HATCH and I have introduced will make health insurance coverage more affordable for every working family with uninsured children. It does so without imposing new Government mandates. It encourages family responsibility, by offering parents the help they need to purchase affordable health insurance for their children.

Under our plan, $20 billion over the next 5 years will be available to expand health insurance coverage to children. When fully phased in, it will provide direct financial assistance to as many as 5 million children annually. Millions more will benefit because their families will be able to buy good quality coverage for their children.

The plan will be administered by the States, under Federal guidelines to guarantee that the coverage is adequate and meets the special needs of children, including good preventive care and good prenatal care. States will contract with private insurance companies to provide child-only health coverage to families not eligible for Medicaid. Eligible families will receive a subsidy through their State to help pay the cost of private insurance coverage for their children. Funding will also be available to help provide prenatal services to uninsured pregnant women.

For the youngest children, this medical care is the most vital. It can prevent serious illnesses and long-term developmental problems.

It is the first priority if we are to help children grow to their full potential.

FAMILY AND MEDICAL LEAVE

Passage of the Family and Medical Leave Act in 1993 was a true landmark for America's families. For the first time, millions of working men and women were freed from the threat of job loss if they needed time off for the birth of a child or to care for a sick family member.

The act has worked well—for employees and for their employers. Employees are now able to take a leave of absence to be with their children or with a sick relative at a crucial time for the family, so that they can provide the special care and compassion which are the glue that binds a family together. In the 4 years since its enactment, it has already helped millions of families.

In more and more American homes today, both parents must have jobs in order to support their families. A substantial majority of children live in families where neither parent is at home during the day because of their jobs. If we value families—if we are serious about helping parents meet the needs of their children—then family medical leave is essential.

The Family and Medical Leave Act currently applies to businesses which employ 50 people or more. It is time to extend the benefits of this landmark law to an additional 13 million people who work for firms with between 25 and 50 employees. Their families face the same crises. Their children deserve the same attention. I concur wholeheartedly with Senator DODD, the original architect of the Family and Medical Leave Act, who has proposed this expansion.

There is another very important leave issue for working families—the need for a brief break in the workday to meet the more routine, but still very important, demands of raising children. Every working parent has experienced the strain of being torn between the demands of their job and the needs of their children. Taking a child to the pediatrician, dealing with a child care crisis or meeting with a teacher to discuss a problem at school, accompanying a child to a preschool or school event—all of these often require time off from work. No parent should have to choose between alienating the boss and neglecting the child.

Many employers understand this, and allow their workers to take time for family responsibilities. But many other companies refuse to accommodate their workers in this way.

The ability of parents to meet these family obligations should not be dependent on the whim of their employer. In a society that genuinely values families, it should be a matter of right.

Under legislation already proposed by Senator MURRAY, working parents would be entitled to 24 hours of leave a year to participate in their child's school activities. I would add time for a parent to take a child to the doctor. Employers would have to receive at least 7 days advance notice of each absence, so that employers will have ample opportunity to arrange work schedules around the brief absence of the employee.

Clearly, this legislation is needed. A recent survey of 30,000 PTA leaders found that 89 percent of parents cannot be as involved in their children's education as the would like because of job demands.

A Radcliffe Public Policy Institute study completed last year found that the total time that parents spend with their children has dropped by a third in the past 30 years. This disturbing trend must be reversed.

Greater involvement of parents in their children's education can make a vital difference in their learning experience. A big part of that involvement is more regular contact between parent and teacher, and more regular participation by parents in their children's school activities. Many of those meetings and activities are scheduled during the work day. As a result, millions of parents are unable to participate because their employers refuse to allow time off. Permitting a modest adjustment in a parent's work day can greatly enrich a child's school day. All children will benefit from this kind of parental support and encouragement, and so will the country.

QUALITY CHILD CARE

Child care for infants and young children is essential for the majority of mothers who work outside the home. However, quality child care for these youngsters is often hard to find. A 1995 GAO study found a shortage of infant care in both inner city and rural areas.

Even where facilities are available, they often do not provide the type of care which would be an enriching experience for young children. A majority of children in child care spend 30 hours or more per week. Their well being requires more than merely a safe and clean place to stay while their parents are at work—though even this is currently out of reach for far too many families. Young children—even infants and toddlers—need regular interaction with attentive caregivers to stimulate their curiosity and expand their minds.

This requires a much lower staff to child ratio than most providers can afford and it requires a level of training, supervision, and compensation which is seldom present. The early years are too precious—their potential too great—for children to spend them in custodial rather than educational care. Yet according to the Work And Family Institute, only one in seven child care centers offers quality care and only 9 percent of family child care homes are found to be of high quality.

To say this is not to criticize those currently providing care. Most work hard to create the best atmosphere for children they can given the current level of resources. However, a simple comparison with the kind of support required under the Military Child Care Act demonstrates how much better we could be doing with the civilian child care system.

Under the military statute, each child care provider participates in an individualized training program and receives salary increases based on their training. Each child care center is monitored at least four times a year and has an on-site teacher mentor. In addition, the military has established family child care networks designed to serve infants and toddlers where similar supports are provided. As a result of these provisions, provider salaries have dramatically increased when compared to civilian child care and staff turnover is negligible. Staff to child ratios have been reduced and individualized care and attention increased. The quality of the services provided reflects these changes. The children of working families deserve no less.

I am proposing that we provide incentive grants to States to model their child programs after the high quality services offered by the military.

This would include lower ratios as well as better training, supervision, salaries, and support. In this way, those who regularly care for our youngest children would be able to provide them with the nurturing and individualized attention they need and deserve. The time spent by children in child care would then become a valuable learning experience for them.

HEAD START

Head Start is widely recognized for its success in providing children from low income families with a solid developmental foundation. It focuses on the complete child—education, emotional growth, physical, and mental health, and nutrition. It strongly encourages parental involvement. Most importantly, it allows at-risk youngsters to enter school ready to learn. Head Start works extremely well for those it serves.

However, even with recent funding increases, it serves only 40 percent of eligible children. There are few legislative initiatives which make more sense than fully funding Head Start. It could truly change the lives of many of those children currently excluded.

In 1994, we established a new Early Head Start initiative for infants and toddlers. HHS has awarded 142 grants nationwide for programs to provide basic early education, nutritional and health services for children under 3 years of age from low income families. This pilot program has proven very successful. The scientific research I alluded to earlier makes a compelling case for services directed to children in their earliest years. If we are seriously concerned about helping children expand their learning capacity, the Senate should fund a major expansion of Early Start.

DISABLED CHILDREN

As we make these reforms for the benefit of all children, we must not forget to provide for the special needs of disabled children. Despite their disabilities, these children hold great potential. With adequate support and assistance from us that potential can be realized. We cannot in good conscience leave the families of these children to face such enormous challenges alone.

CONCLUSION

The national agenda for young children which I have outlined today will give children—regardless of their family's income—a fair chance to reach their full potential. What occurs during a child's earliest years will make a lifetime of difference.

We know how important preventive health care, parental involvement, quality child care, and early learning opportunity during those years are to that child's later development. How can we fail to act? These issues are compelling and they deserve a strong bipartisan response. I urge my colleagues on both sides of the aisle to make this agenda for young children a high priority for Congress in 1997.

Mr. CONRAD. Mr. President, if the Chair would alert me when I have 1 minute remaining, I would appreciate that.

The PRESIDING OFFICER (Mr. THOMAS). The Senator has 10 minutes.

NORTH DAKOTA—THE IMPACT OF BLIZZARD HANNAH ON UTILITIES AND ELECTRIC CUSTOMERS

Mr. CONRAD. Mr. President, I rise to give my third report on the disaster that is still developing in North Dakota after the most severe winter storm in 50 years on top of the most heavy snowfall of any winter in our history on top of the worst flooding in 150 years. Last night, late yesterday, we had a serious situation develop because the main dike protecting Fargo, ND, which is the largest city in my State, sprang a leak. I talked last night to both the mayor and the head of the Corps of Engineers for our area, Colonel Wonzik. They told me they intended to build a second dike inside of the main dike to contain any burst that might occur.

I am pleased to report this morning that that effort is well underway and that the leaking has been contained at this point. But all of us understand that this is an extraordinary situation. These dikes are expected to stand up for much longer than would usually be the case because the flood conditions are so unusual. We have now been told that the crest may last for as long as a week, and that puts enormous pressure, not only on the dikes that were constructed by the Corps of Engineers, but on the dikes that were constructed by literally hundreds of individual homeowners who, in some cases, built walls of sandbags 15 feet high to protect their homes and neighborhoods.

I brought with me today some photographs that show the extent of the damage that has been done by this extraordinary storm. This first chart shows power lines. I do not know if people are able to see it, but it shows about 3 inches of ice that line the power line. Of course, what has happened is first we had a massive ice storm and then 70-mile-an-hour winds. The result was the power poles came down. They snapped like they were toothpicks. It is really extraordinary.

I drove into one town, and coming from the north side there was power pole after power pole just snapped off. This is a condition that led to over 80,000 people being without power. Thankfully, most of those people's power is now restored, although power for some still is not, and this is from a week ago Saturday. Can you imagine being without power for that extended period of time when conditions outside were, at their worst, 40 below wind chill and no heat? We have reports of one fellow who started burning fence posts in his house to keep warm. Others who were using propane heaters, putting them in one room and the family gathering around the propane heater in order to keep warm.

This picture shows a string of power poles, all knocked down by these extraordinary conditions. Let me just say, if I can, that there has been an extraordinary response. We want to say thank you to the power companies that supply North Dakota for flying in extra crews from around the country to help out. I want to take this moment to especially thank our neighbors to the north, because the Governor informed me last Monday that we were faced with a situation in which Manitoba Hydro wanted to send in crews to help us restore power lines, but they were being held up at the border by the Immigration and Naturalization Service. We called them and they immediately gave us a 2-week waiver on all of their requirements at the border, and Manitoba Hydro sent in over 100 people, crews, to help rebuild power lines in North Dakota—I think just an extraordinary act of neighborliness by our neighbors to the north in Canada. We deeply appreciate their action.

This shows the conditions and the power of this storm. You see this picture shows this power pole just snapped, again, like a toothpick. It is absolutely shattered by the force of these ice storms followed by extraordinarily high winds.

This photo shows the difficult conditions that the workers had to contend with in trying to rebuild these lines. Again, 80,000 people without power, most of them for 4 or 5 days. Here they are, working in these very difficult conditions, trying to rebuild lines.

This photo shows, on a farmstead, the kind of heavy equipment that was needed just to get an opening to get through to where the power poles were down. We had in parts of our State 24 inches of snow in this last storm. The people at the University of North Dakota tell me this was the most powerful winter storm in 50 years, and in North Dakota we have had some powerful winter storms. This year alone we have had eight blizzards and six winter storms that put over 100 inches of snow on the ground before this storm. And this storm, of course, was extraordinary by anyone's measure.

This picture shows, again, the extraordinarily difficult conditions the workmen were facing trying to rebuild lines. Jobs that would normally take 2 or 3 hours were taking 10 to 12 hours in order to rebuild these facilities and get power back to people so they could have heat.

Can you imagine being without power? We have all gotten so used to having electricity that I think we sometimes forget how important and central it is to our lives. Just heat alone in our part of the country is absolutely critical. Can you imagine being without any heat in your home for a week when it is extremely cold outside? And not having electricity for any of the conveniences of modern life? This is what these people have been contending with.

I must say, we have seen really heroic actions. I remember being in one town and the mayor described how one of the underground tunnels that carried water was blocked. They called in the fire department that had a man who was a diver. They asked him—remember, this is 40-below wind chill—they asked him to dive down in 6 or 7 feet of water to open up that valve so the water could flow. That takes courage. That young fellow did not hesitate. He went down and unblocked that line that otherwise would have led to far greater flooding. These kinds of heroic efforts have been repeated over and over.

We have had Coast Guard crews in North Dakota. Some people must be wondering, Coast Guard in North Dakota? North Dakota is landlocked. Why would we be having Coast Guard crews in a State like North Dakota?

Very simply, those Coast Guard crews have background and experience and training in water rescue. They can tell some harrowing tales of going out and rescuing people who were in automobiles or were in homes that were surrounded by water. One of the things members of these rescue crews said to me is: Senator, we have never worked in a situation in which we were blocked by ice. We are used to dealing with water, but we are not used to dealing with ice on top of the water and having to break through ice in order to get through to people to save them.

Obviously, not all of the stories have had happy endings. We had a terrible tragedy of a young woman and her 3-year-old daughter who were in a car that went off the road. Water filled it. They were able to escape somehow and then tried to walk to a home that they knew about that was out in the country, a farmstead. Unfortunately, the rivers in this part of the State wind in a very unpredictable way and what they encountered, as they were walking in the bitterly cold weather, soaking wet, was, once again, the river. That young woman and her child died in a field south of Fargo, ND.

There are many other stories, tragic stories, and stories of extraordinary heroism, where people were able to make a difference in saving lives and saving property.

I will just conclude by saying I hope we move the disaster supplemental bill with dispatch. I hope we move that legislation in a way that will provide sufficient funding to be able to manage this latest crisis.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized for up to 30 minutes.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent that the privilege of the floor be extended to Jason Zotalis, an intern in my office, for the remainder of today's morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. I thank the Chair.

(The remarks of Mr. GRAHAM pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

(The remarks of Mr. HOLLINGS pertaining to the introduction of S. 592 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 593 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. I yield the floor and, in the absence of any other Senator on the floor, suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the order?

The PRESIDING OFFICER. We are in morning business until 1 o'clock. Senators have 5 minutes to speak.

Mr. BYRD. Mr. President, I ask unanimous consent I may speak not to exceed 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask that the time for routine morning business, accordingly, be adjusted.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRAYER IN SCHOOL

Mr. BYRD. Mr. President, I introduced a joint resolution on February 6 to amend the Constitution in order to clarify that document's intent with regard to prayer in our public schools. Senators LOTT, HOLLINGS, FORD, and SMITH of New Hampshire have indicated a desire to have their names added as cosponsors. At the conclusion of my remarks I will ask that be done.

Mr. President, my proposed amendment is short, but it constitutionalizes what the Supreme Court has upheld on a number of occasions; namely, that the Founding Fathers did not intend for Government and the schools to be opponents of religion but rather that they should be neutral and impartial in allowing the practice of all religious beliefs by American citizens and by even the schoolchildren of our Nation.

I have long been concerned by the trends in our schools and in our courts to overzealously eliminate all references—all references—to religion and religious practices. It is now uncommon and rare to see any acknowledgment of the religious underpinnings of major holidays. The unfortunate effect of this misguided overzealousness has been to send the subtle but powerful message to our children that religious faith and practice is something unsanctioned, unimportant, and unsophisticated—something that only small handfuls of people practice, and usually then only on weekends. Indeed, this exorcism of religion from the school day and from most of American life has reached even into the recitation of the Pledge of Allegiance and other important American documents.

I was here on June 7, 1954, when the House of Representatives, of which I was then a Member, added the words "under God" to the Pledge of Allegiance. The next day, on June 8, the Senate likewise added the words "under God" to the Pledge of Allegiance. I think it was on June 20 of that year, 1954, that the President signed the additional language into law.

I understand the thinking of the Founding Fathers when they drafted a Constitution that specifically forbade the establishment of a state religion and that intended to—and does—protect the freedom of all religions to observe the rituals and the tenets of their faith. The Founding Fathers and many of the earlier settlers of this country had fled from nations where State-sanctioned religions had resulted in exclusion from Government participation or even persecution of believers in nonsanctioned faiths. They were generally—talking about the founders of this Nation, the framers of the Constitution, the Founding Fathers, those who voted in the various conventions for the new Constitution—they were generally religious men, as the number of plaques in local churches here attest, proclaiming proudly, for example, that "George Washington attended church here." The freedom to worship was important to them, and they sought at all cost to prohibit the Government of our Republic—the Government of our Republic, not our democracy; our Republic—from assuming the dictatorial powers of a king. Indeed, the Federalist Papers 59, in discussing the differences between the President and a king, specifically observes that the President has "no particle of spiritual jurisdiction." There would be no "Church of America," permitted by the Constitution.

But in discussing the qualifications of elected officials and electoral college members, the authors are clear in encouraging participation by members of all faiths, and they pointedly note that religious belief is not a bar to election or selection. So whether you are a Catholic or whether you are a

Jew or whether you are a Baptist or Methodist, Episcopalian is not something that will bar one from election. In Federalist 57, James Madison writes: "Who are the objects of popular choice? Every citizen whose merit may recommend him to the esteem and confidence of his country. No qualification of wealth, of birth, of religious faith, or of civil profession is permitted to fetter the judgment or disappoint the inclination of the people." But, seeking to keep the Government from dictating a particular religion certainly did not mean that all public professions of faith must be banned, and the courts have sustained that view.

Chief Justice Warren Burger, writing for the Court in Lynch v. Donnelly emphasized what he called "an unbroken history of official acknowledgment by all three branches of government of the role of religion in American life from at least 1789."

Now, Mr. President, the words "In God we trust," those words appear on our Nation's currency. Proclamations of days of thanksgiving and prayer, legislative chaplains, the invocation "God save the United States and this Honorable Court" at the opening of judicial proceedings—all these and more reinforce what Chief Justice Burger was asserting when he wrote that the Constitution does not require "complete separation of church and state . . . (but) affirmatively mandates accommodation . . . of all religions, and forbids hostility toward any."

An acknowledgment that faith is, and should be, a part of the everyday life of those who desire it, not just an occasional weekend or holiday exercise, is a message that our children need to absorb. Schools, principals, and administrators should not react in dismay when a student-initiated religious group seeks to meet in a classroom after school. What is wrong with that? That sort of extracurricular activity should be encouraged, not frowned upon. We need not sanctimoniously strike a Christmas carol from the euphemistically named "Winter Concert," nor tiptoe around the observance of a daily "moment of silence" for reflection, meditation, or even, if the child wishes, prayer. And it certainly must be permissible to discuss the role that various religious faiths have played in world history and in the history of our own Nation. Actually, it is imperative to the study of history.

Especially in these troubled days, it is important, in these very significant ways, to send a positive message to children about private faith and religious practice. They spend 6 or more hours a day in school, 180 days or more each year. More and more, in a society where both parents work, schools are where children absorb much of their "life instruction" and develop behavioral and social attitudes, in addition to academic knowledge. School is one of the few places besides church where clean and positive messages are, or should be, instilled in our children, counterbalancing the pervasive violence and seamy morals of television. We put a premium on the diversity of education that they receive in literature, history, geography, science, and mathematics; yet, most public schools are a spiritual dead zone—a spiritual dead zone—completely devoid of even the unspoken understanding that religious faith ought to play a part, perhaps a major part, in people's lives. For fear of offending the sensibilities of the few—we are living in this age of so-called "political correctness." I don't know what that means, and I don't care and don't intend to change my ways and attitudes to be in accordance with "political correctness." For fear of offending the sensibilities of the few, we have denied the needs of the many. A climate of openness and an acknowledgment that many people, including children, can profess and practice different faiths, are needed in our schools, which should not be a spiritual wasteland where even the mere recognition of any spiritual faith is banned.

Mr. President, I am normally and naturally reluctant to amend the Constitution. But I am not one who would say never, never amend the Constitution. Regarding amendments to require a balanced budget, or to provide the President with the line-item veto, I have been vociferously and adamantly opposed. These amendments would fundamentally alter the checks and balances established in the Constitution. But on the financing of political campaigns, I have been willing to seek a constitutional remedy to that scourge of public trust, a scourge that no legislation has ever been able to control. And on this issue of openly acknowledging and accepting the role that prayer and religion can and ought to play in our lives, I believe that an amendment to reaffirm the appropriate neutrality of the Constitution toward prayer and religious activity in school is necessary to swing the pendulum back toward the middle, toward the neutral middle, away from both the existing pole, where the state seems, at least, to have become inimical toward the exercise of religious freedom, and away from the opposite and clearly unconstitutional pole of dictating one religious profession of faith over any other. We do not have to completely discourage any recognition of a Supreme Being in order to avoid favoring one religious faith over another. And to do so is, in effect, a form of religious discrimination which the Founding Fathers would never have sanctioned.

The sum total of this collective effort to bend over backwards to avoid any recognition of a Supreme Being in our schools has had the extremely damaging effect of making any expression of such a belief appear to be undesirable, unfashionable, and even something to be studiously avoided. If one mentions a Supreme Being in some circles, he is considered to be unsophisticated. Children pick up on such messages quickly. And as a result, we have produced several generations of young people largely devoid of spiritual values in their daily lives. Everywhere they turn, they meet the subtle, and perhaps not so subtle, putting down of spiritual values.

Recently, I noted an article in the Washington Post which proclaimed that only 40 percent of U.S. scientists believe in God. Although this is precisely the same percentage as was revealed in a similar survey in 1916—and I am glad it hasn't deteriorated or gotten worse in the meantime, and that is almost worthy of some amazement that it hasn't—I find such a result personally unfathomable.

Who, more than a man or a woman of science, should be more acutely aware that the wonders of the universe could not have just happened? Who, more than an astronomer or a mathematician, or a physicist, or a biologist, intimately familiar with the laws of probability, could better understand the impossibility of the wonders of the universe and all creation occurring simply as a byproduct of fortunate accident?

I wonder how many of these scientists who answered the poll, which indicated that only 40 percent of the scientists believe in a Supreme Being, have read Charles Darwin? Well, no less a pioneering scientific intellect than Charles Darwin, the originator of the theory of natural selection—I have the book here in my hand—refused to rule out a Divine Creator; and he even refers to a Divine Creator in his book, "The Origin of Species."

Darwin asks a very penetrating question, and I'm reading from page 193 of Charles Darwin's volume of "The Origin of Species." Here is the question that he asks: "Have we any right to assume that the Creator works by intellectual powers like those of man?" Now, that is an incisive question because I think we are prone to think of God's intellect in the context of what we think to be or know to be our own intellectual processes, our own intellects. But Darwin asks the question: "Have we any right to assume that the Creator works by intellectual powers like those of man?" That is a great question.

Darwin continues the dovetailing of his scientific theory with the works of the Creator when he writes this on page 194: "Let this process go on . . ."—he is talking about the process of natural selection—"Let this process go on for millions of years; and during each year on millions of individuals of many kinds; and may we not believe that a living optical instrument . . .

might thus be formed as superior to one of glass. . . ." He speaks of a living optical instrument—in other words, the eye, which can adjust itself to light and to distance, and so on, automatically and virtually immediately; whereas, the best camera that the Presiding Officer, PAT ROBERTS, has will have to be adjusted a little bit for light and distance, and he will have to look through it a little bit and adjust this and adjust that. Well, that is what Darwin is talking about when he says: "Let this process go on for millions of years; and during each year on millions of individuals of many kinds; and may we not believe that a living optical instrument (the eye) might thus be formed as superior to one of glass, as the works of the Creator are to those of man?"

So Charles Darwin himself is not backward about speaking of a Creator. "Let this process"—the process of natural selection—"go on for millions of years; and during each year on millions of individuals of many kinds; and may we not believe that a living optical instrument (the eye) might thus be formed as superior to one of glass, as the works of the Creator are to those of man?"

So it is clear that even such a scientific genius as Darwin did not think it to be unsophisticated to believe in a Creator, or make reference to a Creator, a Supreme Being.

I have read and reread many times, Mr. President, the account of creation as set forth in the Book of Genesis in the Holy Bible. I thought it well to read Darwin's theory of "Natural Selection" also. And I have done that. As a matter of fact, when I first read that book some years ago, and it made reference to the Creator in Darwin's "Origin of Species," I was somewhat amazed. I never thought that, after hearing about Darwin's theory—the theory of evolution, and so on—I didn't think he would be so unsophisticated as to make any reference to a Supreme Being, to a Creator. But I found differently.

So it is clear that such a scientific genius as Darwin did not feel the need to rule the Creator out of creation just because man in his limited, narrow, finite intelligence might be arrogant enough to do so. It may just be that such surveys reveal only the desire of some in the scientific field to avoid appearing unsophisticated to their colleagues. For in the minds of many misguided people, to be truly intelligent one must avoid any alignment with the alleged superstition and naivete of religion. What poppycock! For any serious student of science not to express wonder at the mystery of life and the universe and to claim instead that it is all purely a result of an accidental natural physics or chemical reaction is surely an admission of true ignorance and arrogance.

This is not something I know a great deal about, Mr. President. I don't profess such. But I can tell you one thing. There is a hunger in this Nation for a return to spiritual values. It can be seen in the misguided tragedy of the Heaven's Gate cult, looking for a space ship lurking in the tail of a comet to take them to Heaven and away from this miserable, material world. It can be seen in the political strength of the religious right.

Mr. President, I am not of the religious right. I am not of the religious left. I just plainly believe in the old-time religion which I saw exemplified and practiced by two humble parents—foster parents of mine—over the years that I lived with them. It can be seen in the need for our children to focus on something beyond material things in which to anchor their perceptions about right and wrong and good and evil.

In today's turned-around, upside-down society with its diminished values and its emphasis on easy money, casual sex, violence, material goods, instant gratification and escape through drugs and alcohol, our young people need to know that it is OK to have spiritual values, it is OK to follow one's own personal religious guideposts, it is OK to pray, it is OK to recognize and then to do morally the right thing, it is OK to go against the crowd, OK to read the Bible, and OK to read Darwin's theory of natural selection—who knows? This may have been God's way of creating man—and that such activities are not strange, or uncool, or stupid, or unsophisticated.

The language of my amendment is as follows: "Nothing in this Constitution, or amendments thereto, shall be construed to prohibit or require voluntary prayer in public schools or to prohibit or require voluntary prayer at public school extracurricular activities."

I will not take the time today. But one day I want to take the floor, and I want to quote from every President's inaugural speech—every President's, from Washington down to Clinton's—to show that every President was unsophisticated enough to make reference to the Supreme Being in his inaugural speech. All we need to do is travel around this city and see the inscriptions on the walls of the Senate and on the walls of public buildings and museums and monuments to understand that the framers of the Constitution, the founders of this Republic, believed in a higher power. They believed in a Supreme Being. Isn't it folly to claim that the schoolchildren of this Nation should not say a prayer, not be allowed to say a prayer in an extracurricular exercise, at a graduation exercise, if the students want to have a prayer? Who would claim that the framers of the Constitution would be against that?

So my amendment is simple language. It mandates nothing and it prohibits nothing. It simply allows voluntary prayer in our schools and at school functions for those who wish it. Such a course correction is needed to restore balance to a raft of court decisions in the past several years that sometimes in their eagerness to maintain the "wall of separation" in church/state relations have seemingly ruled against the freedom of a large majority of believing Americans to publicly affirm their faiths.

Such a situation is not right, it is not fair, it is not wise, and it certainly is not what the framers had in mind. Their intent was the freedom to practice one's individual faith as one saw fit. Somehow we have gone far, far afield from that original and very sound conception to a point where any public religious practice is actually discouraged. That is certainly the wrong track for a nation founded largely on moral and spiritual principles, and any serious scrutiny of the state of American culture today clearly demonstrates just how badly off track we have wandered.

So I urge all Senators to carefully consider my amendment, and it is my hope that the Committee on the Judiciary will hold hearings this year. This is an urgent matter—an urgent matter for the future of our children and for the future of our country. There is nothing political about it. It doesn't need to be.

Mr. President, I ask unanimous consent that Mr. LOTT, Mr. HOLLINGS, Mr. FORD, and Mr. SMITH of New Hampshire be added as cosponsors of my resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. ASHCROFT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ASSISTED SUICIDE FUNDING RESTRICTION ACT OF 1997

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 1003 relating to assisted suicide.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 1003) to clarify Federal law with respect to restricting the use of Federal funds in support of assisted suicide.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, rarely do we see a showing of bipartisan agreement similar to the one we witnessed last Thursday when the House of Representatives voted 398 to 16 to pass H.R. 1003, the Assisted Suicide Funding Restriction Act. I look forward to the same showing of bipartisanship today as the Senate considers identical legislation. Except for a minimum of differences, H.R. 1003 is substantively the same as S. 304, which Senators DORGAN, NICKLES, and I introduced in February; 33 Senators are now cosponsors of this bill, which simply says and directs that Federal tax dollars shall not be used to pay for or to promote assisted suicide.

This bill is urgently needed to preserve the intent of our Founding Fathers. The integrity of our Federal programs serving the elderly and seriously ill are at stake without this measure. These are programs which were intended to support and enhance health and human life, not to promote their destruction. Government's role in our culture should be to call us to our highest and our best. Government has no place in hastening Americans to their graves. However, our court system is on the brink of allowing Federal taxpayer funding for assisted suicide.

On February 27, the Court of Appeals for the Ninth Circuit reinstated Oregon's law known as Measure 16. It was the first law in America to authorize the dispensation or the giving of lethal drugs to terminally ill patients to assist in their suicide. Oregon's previous Medicaid director and its Health Services Commission chair have both said independently that once assisted suicide is legal—in other words, when the legal obstacles have been cleared away—assisted suicide would be covered by the State's Medicaid plan, which is paid for in part by Federal taxpayers, individuals from all across America. According to the Oregon authorities, the procedure will be listed on Medicaid reimbursement forms under what I consider to be a misleading but grotesque euphemism. The administration of lethal chemicals to end the lives of individuals will be listed as comfort care.

Although the ninth circuit ruling is subject to further appeals, Oregon may soon begin drawing down Federal taxpayer funds to pay for assisted suicide unless we, the representatives of the people, take action to pass the Assisted Suicide Funding Restriction Act.

Additionally, a Florida court recently found a right to assisted suicide in the State's constitution on the right to privacy. If upheld by the Florida State Supreme Court, this decision would raise the question of State funding for assisted suicide. Such actions would implicate Federal funding in matching programs, just as would the situation in Oregon, programs such as Medicaid. And they would raise questions about the permissibility of assisted suicide in federally owned health care institutions in that State.

So action in Congress is needed at this time to preempt and proactively prevent this imminent Federal funding of assisted suicide which effectively may take place at any moment in the event that the courts clear the way in regard to the situation in Oregon and in Florida.

It is important to note that there was overwhelming approval for this measure in the House of Representatives. As I stated earlier, the House passed this measure by a resounding vote of 398 to 16. Shortly after that vote, the White House issued a policy statement saying, "The President has made it clear that he does not support assisted suicides. The Administration, therefore, does not oppose enactment of H.R. 1003, which would reaffirm current Federal policy prohibiting the use of Federal funds to pay for assisted suicides and euthanasia." In light of these events, the Senate should act swiftly to pass this legislation so that it will become the law of the land.

I would like to give the legislative history for the Assisted Suicide Funding Restriction Act in order to respond to some people who might say that the Senate is taking up this legislation too quickly.

The Assisted Suicide Funding Restriction Act is not new. It has received more than adequate consideration. It was introduced in both Houses in the last session of Congress. On April 29 of last year the House held hearings. On February 12, 1997, the Senate introduced its bill. On March 6, the House held hearings on the topic of "Assisted Suicide: Legal, Medical, Ethical and Social Issues." On March 11, 1997, the House introduced legislation. On March 13, the House Commerce Committee Subcommittee on Health and Environment met in open markup session and approved H.R. 1003 for full committee consideration. On March 18 the bill was ordered favorably reported by the Ways and Means Subcommittee to the full committee by a voice vote. Because he found the legislation to be noncontroversial, Chairman ARCHER decided that a markup in the full Ways and Means Committee was unnecessary, and he turned out to be a prophet in suggesting its lack of controversy when in fact on April 10 the House of Representatives passed the measure by a vote of 398 to 16.

Of course, the House legislation is virtually identical to S. 304, and the intention of the bill simply is to say that we do not think it appropriate that funds which were gathered and taxed in order to provide medical assistance to individuals to enhance their lives should be used to end their lives.

It is important also, though, to take a look and clearly develop an understanding of what this bill does not do. While it is clear that the Assisted Suicide Funding Restriction Act prevents Federal funding and Federal payment for or promotion of assisted suicide, it is also just as important to understand there are things this bill is not designed to do. This is a proposal that is very limited and very modest.

No. 1, it does not in any way forbid a State to legalize assisted suicide or even to provide its own funds for assisted suicide. It simply says Federal resources are not to be used to promote or conduct assisted suicides. After passage of this bill, States might choose to legalize or fund assisted suicide, but they would not be able to draw on Federal resources normally drawn upon in joint efforts between the State and the Federal Government for the provision of health services.

No. 2, this bill also does not attempt to resolve the constitutional issue that the Supreme Court considered in January when it heard the cases of Washington versus Glucksberg and Vacco versus Quill. Those cases involved the question of whether there is a right to assisted suicide or whether there is a right to euthanasia.

This bill does not try to answer that complex question. This bill simply says the Federal Government should not be involved in funding or paying for assisted suicides or paying for the promotion of assisted suicide.

As the bill's rule of construction clearly provides as well, it does not affect abortion. It is not designed to deal with the question of abortion. Members of this body have a widely divergent set of views on that important issue, as I do personally, but this bill is not designed to affect that issue. It does not affect complex issues such as the withholding or withdrawing life-sustaining treatment, even of nutrition and hydration. Those issues are not affected by this measure.

Nor does this legislation affect the dispensation of large doses of drugs that are designed to ease the pain of terminal illness. We know that virtually all medical procedures have some risk of not achieving the therapeutic impact desired but as a matter of fact may impair the health of an individual. This bill is not designed for those situations and instances. This bill is designed to prohibit Federal funding of the administration of lethal doses of drugs and other methods used for the purposes of assisting in suicide or for using Federal funding to promote such assisted suicide.

It is with that in mind that we believe there should be a broad bipartisan consensus which will support this bill and we hope will carry it forward in a way similar to the way in which the House of Representatives has so done. This legislation has wide support from the public and important organizations as well and has wide support in the Senate.

It is crystal clear to me and I think to most around us that the American people do not want their tax dollars spent on dispensing toxic drugs with the sole intent of assisting suicide. Recently, a national Wirthlin poll showed that 87 percent of the public opposed such a use of public funds. We would be derelict in our duty were we to allow a few officials in one or two States to command the taxpayers of all the other jurisdictions in America to subsidize the practice of assisted suicide, especially when that practice is against the intention of the individuals in those other States.

The Assisted Suicide Funding Restriction Act has been endorsed by such groups as the American Medical Association and the National Conference of Catholic Bishops, both of which have submitted letters of support to the Congress.

I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, April 15, 1997.

Hon. TRENT LOTT,
U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: The American Medical Association (AMA) is pleased to support H.R. 1003, the "Assisted Suicide Funding Restriction Act of 1997," as passed overwhelmingly by the House of Representatives on April 10th, and the companion bill, S. 304, sponsored by Senators Ashcroft and Dorgan. We believe that the prohibition of federal funding for any act that supports "assisted suicide" sends a strong message from our elected officials that such acts are not to be encouraged or condoned.

The power to assist in intentionally taking the life of a patient is antithetical to the central mission of healing that guides physicians. While some patients today regrettably do not receive adequate treatment for pain or depression, the proper response is an increased effort to educate both physicians and their patients as to available palliative measures and multidisciplinary interventions. The AMA's Ethics Institute is currently designing just such a far-reaching, comprehensive education effort in conjunction with the Robert Wood Johnson Foundation (see attached materials).

The AMA is particularly pleased to note that H.R. 1003 acknowledges—in its "Rules of Construction" section—the appropriate role for physicians and other caregivers in end-of-life patient care. The Rules properly distinguish the passive intervention of withholding or withdrawing medical treatment or care (including nutrition and hydration) from the active role of providing the direct means to kill someone. Most important to the educational challenge cited above is the Rule of Construction which recognizes the medical principle of "secondary effect," that is, the provision of adequate palliative treatment, even though the palliative agent may also foreseeably hasten death. This provision assures patients and physicians alike that legislation opposing assisted suicide will not chill appropriate palliative and end-of-life care. Such a chilling effect would, in fact, have the perverse result of increasing patients' perceived desire for a "quick way out."

We are fully supportive of the amendment to H.R. 1003, adopted by the House Commerce Committee, which would provide for further opportunity to explore and educate physicians and patients on avenues for delivering improved palliative and end-of-life care. We caution, however, against any amendment that may be offered during the bill's Senate consideration which might have the effect of mandating specific medical education curriculum in this area. The AMA has a long standing policy against federal mandates being placed on medical school education.

The AMA continues to stand by its ethical principle that physician-assisted suicide is fundamentally incompatible with the physician's role as healer, and that physicians must, instead, aggressively respond to the needs of patients at the end of life. We are pleased to support this carefully crafted legislative effort, and offer our continuing assistance in educating patients, physicians and elected officials alike as to the alternatives available at the end of life.

Sincerely,
P. JOHN SEWARD, MD.

NATIONAL CONFERENCE OF CATHOLIC BISHOPS, SECRETARIAT FOR PRO-LIFE ACTIVITIES,
Washington, DC, April 15, 1997.

DEAR SENATOR: Having been approved 42-to-2 by the House Commerce Committee and 398-to-16 by the full House of Representatives, the Assisted Suicide Funding Restriction Act (H.R. 1003) will soon be considered on the Senate floor. I write to urge your support for this important legislation.

While no federal funds are being used for assisted suicide at present, federal programs generally lack a written policy on the issue; those few programs which address it do so only in program manuals or interpretive memoranda. Current efforts to legalize assisted suicide by referendum (Oregon) or interpretation of state constitutions (Florida) have raised questions about the use of federal funds and health facilities with a new intensity. In our view, this fundamental issue deserves and demands clear policy guidance from Congress.

This bill will prevent the use of federal funds and health programs to support and facilitate assisted suicide, even if the practice becomes legal in one or more states. It will not prevent a state from legalizing assisted suicide or supporting it with state funds. The bill also clearly states that it will have no effect on distinct issues such as abortion, withdrawal of medical treatment, or the use of drugs needed to alleviate pain even when life may be shortened as an unintended side-effect. Due to its clear and limited scope, H.R. 1003 has received strong bipartisan support and been endorsed by religious, medical and disability rights leaders who may differ on other issues.

Section 12 of H.R. 1003 encourages the Department of Health and Human Services to fund demonstration projects for improved care for persons with disabilities and terminal illness. This section also urges HHS to emphasize palliative care in its programs and to study the adequacy of current medical school curricula on pain management. Information gathered through these modest efforts will, we hope, lead to more extensive and carefully formulated improvements in care for these vulnerable populations in the future.

No one should see H.R. 1003 as a complete response to the inadequacies of our health system in its treatment of disability and terminal illness. The bill's central goal is both modest and urgently necessary: ensuring that the federal government will play no part in legitimizing and institutionalizing assisted suicide as a response to health problems. As acting Solicitor General Walter Dellinger recently said in opposing the idea of a "right" to assisted suicide, "the least costly treatment for any illness is lethal medication." In a health care system too often driven by cost pressures, Congress should say loud and clear that it does not hold human life to be so cheap.

Sincerely,
RICHARD M. DOERFLINGER,
Associate Director for Policy Development.

Mr. ASHCROFT. Additionally, groups such as the National Right to Life, the American Geriatrics Society, Family Research Council and Physicians for Compassionate Care have endorsed this legislation, and nearly one-third of the Senate has signed on as cosponsoring the Assisted Suicide Funding Restriction Act, 33 Senators from both sides of the aisle. I am confident that our vote later today will prove that an even greater number of Senators will support and do support this measure.

This is not just something which I feel should be prohibited because most Americans are against it. I feel it is wrong for Kevorkian's house calls to be paid for by Federal tax dollars. The next time Kevorkian decides to end a life, we should not foot the bill. And unless we take action, that can happen.

I feel it is wrong and would argue against allowing for assisted suicide altogether. In cultures where the focus is on assisted suicide, there is not much emphasis on how to ease pain or how to help people confront those life-ending illnesses through hospice programs. There are some dramatic differences among European countries that have differing policies on assisted suicide. England, which prohibits assisted suicide, has a substantial effort directed at helping people in the terminal stages of disease, while the Netherlands, which allows assisted suicide, has not made such efforts.

So public policy in this arena does make a difference, and it makes a difference on moral grounds. Really, we are focused on very narrow grounds in this particular instance. We are focused on the idea of whether or not tax resources of the Federal Government should be used to assist in suicide.

Obviously, there are practical reasons not to allow Federal funding for assisted suicide. There are cases, many of them in the literature, where there was an improper diagnosis, so that it appeared there was a terminal disease but when someone's autopsy was conducted after an assisted suicide, it was found it was not a terminal disease.

That is a mistake which is irreversible. I believe that for us to fund assisted suicides is to be involved in an extremely risky business; it is to deny the will of the people of the United States; it is to engage in the ending of life rather than the enrichment of life, which is what these medical programs were all about when they were created and funded in the Congress.

I believe it is clear we should signal our intention, an intention consistent with the President of the United States, who has basically endorsed this measure after its passage by the House, consistent with the American Medical Association and a wide variety of other groups that indicate that Federal funding of assisted suicide would be inappropriate.

Our Government's role should be to protect and preserve human life. Federal health programs such as Medicare and Medicaid should provide a means to care for and protect our citizens, not become vehicles for their destruction. The Assisted Suicide Funding Restriction Act will ensure that our policy in this area will continue.

Today, the Senate has an opportunity to act proactively, to take the right steps in advance of these threats which are imminent but are not quite upon us, the threat that these legal obstacles might be cleared away and we would be called upon to participate in the funding of assisted suicide under something as misleading and grotesque as the concept of "comfort care" in the State of Oregon.

Today, the Senate has an opportunity to act responsibly before the situation arises in which Federal health care dollars would be used to end the lives of citizens of this country. I urge my colleagues to join together to pass the Assisted Suicide Funding Restriction Act.

We should not hook up Dr. Kevorkian to the U.S. Treasury, especially when he tries to sever the lifeline to individuals who are in distress. The next time Dr. Kevorkian makes a house call, taxpayers should not foot the bill. It is time for us to respond to what we know the American people's desire to be. It is time for us to say we will not allow the use of Federal funds to assist in suicide.

Mr. BOND. Mr. President, today, I rise in strong support of the Assisted Suicide Funding Restriction Act, which would prevent Federal funds and Federal programs from promoting and paying for the practice of assisted suicide.

We must send a clear signal that Federal tax dollars should not be used for a practice which is neither universally permitted nor accepted, and one which is clearly immoral and unethical.

Many people may be wondering, "Why do we need Federal legislation to prohibit the use of Federal funds for such an abhorrent practice?" Let me take a few moments to lay out the reasons.

Both the Second Circuit Court of Appeals in New York and the Ninth Circuit Court in San Francisco have struck down State laws that criminalized assisted suicide in the States of New York and Washington on the grounds that the laws violate the due process clause and the equal protection clause of the U.S. Constitution.

In January of this year, the U.S. Supreme Court entered this emotional debate by hearing oral arguments on the aforementioned cases. A highly anticipated decision is expected within the next couple of months.

The plaintiffs are contending they have a constitutional right to physician assisted suicide. If these circuit court decisions are upheld, then there would be a nationwide constitutional right to assisted suicide, euthanasia, and mercy killing and the issue of whether Federal funding, under Medicare, Medicaid, title XX, and other programs, for such an action would immediately be at hand.

Moreover, Oregon has passed the Oregon Death with Dignity Act, which makes it legal for physicians to prescribe lethal doses of drugs in certain circumstances. Although a preliminary injunction blocking the law's enactment has been granted, Oregon's Medicaid director and Health Services Commission chair have both said that once assisted suicide is legal, the State would begin subsidizing the practice under Oregon's Medicaid plan.

The Health Care Financing Administration has said that killing patients is not a proper form of treatment and therefore should not be covered under Medicare. I am, of course, pleased that we have those administrative interpretations out there.

But there are others who are prepared to go to court to fight for a different interpretation. A March 6 Reuters newswire story quotes Hemlock Society spokeswoman Dori Zook as saying, "Obviously, we feel that Medicaid and Medicare should be used for assisting suicide."

All it takes is for one district court judge to concur with that belief. Federal law uses broad language in determining what Federal programs will and will not pay for. For instance, Medicare pays for services that are "reasonable and necessary for the diagnosis and treatment of illness or injury." If just one judge agrees with the Hemlock Society and believes that assisted suicide is appropriate medical treatment, then Federal tax dollars could fund assisted suicide in a State where the practice is legal.

If the Supreme Court were to rule that there is a constitutional right to assisted suicide, euthanasia advocates will certainly bring suit for it to be considered just another medical treatment option that must be eligible for funding under Medicare, Medicaid, and other Federal programs.

We need this legislation to prevent this from happening.

And it is not too soon to do so. Far too often, Congress reacts to problems. Today, however, we have an excellent opportunity to be pro-active, not simply reactive. We do not want to wait until the money is already flowing and then try to stop it. We want to stop it before it even starts.

On a related note, it is imperative that we focus this debate on how we, as a decent society, can support and comfort life instead of promoting destructive practices such as euthanasia and assisted suicide. We must work together to ensure the provision of compassionate care for dying persons and their families. We must practice effective pain management, encourage patient self-determination through the use of advance directives, promote the utilization of hospice and home care, and offer emotional and spiritual support when necessary.

Five Catholic health care systems and the Catholic Health Association of the United States have set out to achieve these goals and have formed Supportive Care of the Dying: A Coalition for Compassionate Care. The coalition, including Carondelet Health System, Daughters of Charity, Franciscan Health System, PeaceHealth, Providence Health System, and CHA, is developing comprehensive delivery models, practice guidelines, and educational programs—all with the goal of promoting appropriate and compassionate care of persons with life-threatening illnesses and their families.

These are the goals our Nation must strive for and support. We must promote death with dignity and respect, and not death by the draconian means of assisted suicide.

Let me close with a quotation from an eminent bioethicist at Georgetown University who believes that assisted suicide, and therefore the funding of assisted suicide, tears down the moral structure of our society. He has written that rules against killing "are not isolated moral principles, but pieces of a web of rules that form a moral code. The more threads one removes then the weaker the fabric becomes."

And indeed, assisted suicide is a form of killing, and if we allow for the federal funding of this horrific act, then we risk minimizing the importance of life.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Thank you, Mr. President. I appreciate and am impressed with the thoroughness with which the two Senators from Missouri have covered this particular issue, but I do have a few additional comments I would like to add.

I do rise in support of the Assisted Suicide Restriction Act of 1997, H.R.

1003. I am reminded of the story that I heard when I was very young, and it had an impression which has carried over the years.

It is a story of a kid out playing, and he saw his father carrying this large basket. He went over and asked his dad what it was all about.

He said, "Well, you know, your grandfather had not been very well, not doing well at all, not able to contribute anymore. We sensed he really did not enjoy life anymore. So he is in the basket, and I am taking him down to the river."

The little boy was not impacted much from that. The kid said, "What are you going to do with the basket when you are done?"

He said, "Why are you so concerned about the basket?"

He said, "Because some day I am going to need it for you."

It is important that we as a Congress reaffirm our commitment to the sanctity of human life in all its stages. This is one of the primary duties of the U.S. Senate and as members of a civilized society. The sanctity of human life was clearly articulated in our Nation's charter. The Declaration of Independence counts the right to life as one of the self-evident and unalienable rights with which we have all been endowed by our Creator.

By safeguarding the right to life, our Government fulfills its most fundamental duty to the American people. By violating that right to life, we violate our sacred trust with our Nation's citizens and the families of our country and the legacy that we will leave to those not yet born.

The legislation now before us takes an important step in restoring our Nation's commitment to the importance of the lives of all Americans, especially those who suffer from serious illnesses. This bill would prohibit the direct or indirect use of any Federal funds for the purpose of causing the death of a human being by assisted suicide. It would assure the American people that their hard-earned tax dollars would not be used to fund a principle that they do not believe in—suicide. It would also help Federal dollars to be provided in the form of grants to public and private organizations to help people with chronic or serious illnesses who may be considering suicide.

This legislation would not affect individual States' living will statutes regarding the withholding or withdrawing of medical treatment or medical care. It simply prohibits the Federal Government from directly, or indirectly, funding assisted suicides. We, as a society, must demonstrate our respect for the life of all Americans, especially those who are sick and needy.

Mr. President, when I ran for office, I campaigned on the pledge that I would fight for all life. I was elected on that pledge and sent to Washington where I took an oath to uphold and defend the Constitution of the United States. Physicians also take on the rigors of a campaign to become doctors. Although they are not voted into office, they work just as hard to fulfill their commitments and receive their degrees. Upon graduation, all physicians are intimately familiar with the Hippocratic Oath and its basic premise: First, do no harm. If I might quote from that oath specifically, it says:

> I will use treatment to help the sick according to my ability and judgment, but I will never use it to injure or wrong them. I will not give poison to anyone though asked to do so, nor will I suggest such a plan.

Those powerful words reflect a great insight and wisdom into the human condition. Though they were written so many years ago, they still resonate today. I share them with my colleagues as I urge their support for this legislation. It is our future, too.

I yield back the remainder of my time.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I am pleased today to rise to join my colleague from Missouri, Senator ASHCROFT, in support of this legislation. This piece of legislation was passed by our colleagues in the U.S. House with overwhelming and bipartisan support last Thursday, April 10. The Senate version of this legislation was introduced on February 12 by Senator ASHCROFT and myself, and we had 33 bipartisan cosponsors for that version.

This is not the first time this bill has been introduced in the Senate. Senator ASHCROFT and I also introduced this legislation in the last Congress, but that Congress was not able to take up this legislation, so we reintroduced it earlier this year. I am pleased the Senate is today considering this legislation as it has been passed by the House of Representatives.

This legislation is very, very simple. It will ensure that Federal tax dollars are not used to pay for the costs associated with assisted suicides. Mr. President, I do not know about all of the anguish, the torment and difficulties that are faced by terminally ill individuals toward the end of life who must make critical decisions. I recall before my father's death sitting in the hospital one evening in North Dakota and hearing the cries of pain suffered by someone in a room down the hall, someone who mercifully died the next morning.

I thought that evening about some of these issues, and I do not know what I or others might do in a similar circumstance. I am not here to make judgments about those types of decisions. The decision about whether assisted suicide is protected by the Constitution will be made across the street by the Supreme Court. We do not attempt in this legislation to address the question of whether someone has a right to end one's life. This bill does not address that at all, and I do not stand here today making judgments about it.

Rather, the decision we are faced with today in the Senate, about whether Federal funding should pay for this practice, is a decision that was really presented to us by an action one State has taken. The State of Oregon has decided it will sanction and pay for physician-assisted suicides through its Medicaid program, which is paid for with matching Federal dollars. As a result of these decisions by the State of Oregon, Federal health care dollars may soon be used to pay for those physician-assisted suicides without Congress ever having made an affirmative decision to allow that.

When Oregon's referendum to legalize assisted suicide passed by a narrow margin, it was contested in the courts, and its implementation has been held in abeyance since then. However, the Ninth Circuit Court of Appeals dismissed the challenge to Oregon's law on a technicality in late February. That decision is being challenged by opponents of Oregon's law, but this action means that Federal funding for assisted suicide in Oregon could soon be a reality.

What Senator ASHCROFT and I and others are saying is that we do not want Federal tax dollars, through the Medicaid Program or any other program, to ever be used to help pay for physician-assisted suicides. We do not believe that is what American taxpayers ever intended should be done with their tax dollars that come to Washington, DC. Tax dollars used for health care purposes ought to be used to enhance life, not end life. So again, our legislation very simply says that we will prohibit the use of Federal funding to assist in suicides.

I have told you what this legislation does. Now let me tell you what it does not do. First of all, this legislation says that the ability of terminally ill patients to decide to withhold or withdraw medical treatment or nutrition or hydration is not limited for those who have decided they do not want their life sustained by medical technology. In other words, this legislation does not address this issue at all. The withdrawal of medical treatment or services, which is already legal in our country and which patients in conjunction with their families and doctors decide they want to do, is not prohibited at all by our legislation. Our legislation does not speak to this issue. Our legislation speaks to the narrow, but important, issue of Federal funding for physician-assisted suicides.

Our legislation also does not put limits on using Federal funding for health care or services that are intended to alleviate a patient's pain or discomfort.

even if the use of this pain control ultimately hastens the patient's death.

Finally, our legislation does not prohibit a State or other entity from using its own dollars to assist a suicide. We are not saying what a State may or may not do. We are only saying that a State may not use Federal money to pay for assisted suicide. We have raised and appropriated money at the Federal level to do certain things in our Federal system. One of these important purposes is to help pay for health care, and I am convinced that our constituents want this funding to be used to extend life, not to end life. This legislation is important because it reaffirms the principle that Federal health care dollars should be used to improve and prolong life. This bill will reaffirm that all people are equal and deserving of protection, no matter how ill or disabled or elderly or depressed a person may be.

Some might say, "Well, you have come to the Congress with a bill that is premature, because there is not now Federal funding for assisted suicide." That is correct for now but that situation may soon change. The law already exists in one State that forms the basis for requiring Federal funding of assisted suicides if Congress does not act. Therefore, the Congress must intervene to say that is not our intention that Federal money be used for that purpose. So this is not premature at all.

Those who say, "Federal funding of assisted suicide is not happening, therefore, you need do nothing," do not understand that if we do not act, we effectively allow the use of Federal funds for use in assisted suicides. I think we speak for the vast majority of the American people when we say that tax money should not be used to facilitate assisted suicides.

Let me end where I began by saying that this is not legislation that intends to make legal of moral judgments about assisted suicide. For States and citizens around our country, this is a very difficult and wrenching issue, and it has gotten a lot of press because of one doctor who facilitates assisted suicides.

I expect behind all of those news reports are patients and families who are faced with these very difficult decisions about pain they believe cannot be controlled, life they think is not worth living. I have seen too many circumstances in which I feel really unqualified to pass judgment on the decisions of others. But I do stand here with a great deal of certainty about what uses we ought to be sanctioning for limited tax dollars. When we raise precious tax dollars to spend in pursuit of public health care, I am convinced that the vast majority of the American people do not believe those dollars ought to be spent in the pursuit of assisted suicides. And that is what our legislation reaffirms simply and plainly.

I am pleased to have worked with the Senator from Missouri, Senator ASHCROFT, who has done a substantial amount of work in this area. I hope and expect we will enact our legislation here today in the Senate and send this bill to the President. When we pass this bill later this afternoon, we will have done something that is worthy and has great merit.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Missouri.

Mr. ASHCROFT. Likewise, I would like to extend my thanks and the thanks, I believe, of the American people, to Senator DORGAN for taking this important step and for having the foresight to do it in advance of some commitment of the Treasury. We are perilously close to having Federal funds used in this respect. A court decision stands between us and that potential. But having the foresight to prepare in advance is appropriate, and I thank him for his excellent work.

I am pleased to note that there are others who want to speak on this issue. I look forward to hearing Senator HUTCHINSON's remarks.

I would just say that one of the reasons I am not eager to see Federal funding provide the resource for assisted suicide is that in so many cases that I have known, the diagnosis was missed. It seems to me particularly tragic to think you would seek to fund a suicide on one set of facts and to find out that it was not the case.

I am reminded of a case reported in the Washington Post—and I make reference to it and will submit it for inclusion in the RECORD—from July 29, 1996.

A twice-divorced, 39 year-old mother of two from California, allegedly suffering from multiple sclerosis, checked into a Quality Inn and received a lethal injection—becoming the most recent person to die with Dr. Kevorkian's help. Though her death warranted little notice nationwide, authorities at least had one major question.

According to the doctor who autopsied her body—"She doesn't have any evidence of medical disease." The county medical examiner said in an interview, "I can show you every slice from her brain and spinal cord," obviously, from the pathology reports, "and she doesn't have a bit of MS. She looked robust, fairly healthy. Everything else is in order. Except she's dead."

From the Washington Times, Tuesday, October 1, 1996, another individual, Richard Faw, who reportedly suffered from terminal colon cancer.

The medical examiner wrote: "There was some residual cancer in the colon but none present in the kidney, lungs or liver. . ." He went on to say, "He could have lived another 10 years, at least."

It seems to me it would be particularly ironic to be forced to spend resources that we have committed to protecting and preserving health if we were to be committing those resources unduly and inappropriately based on mistaken diagnoses to destroy individuals.

Mr. President, I ask unanimous consent that these two articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Washington Post, Monday, July 29, 1996]

JUST HOW SICK WAS REBECCA BADGER?; JACK KEVORKIAN HELPED END HER LIFE, AND THAT'S WHEN THE QUESTIONS BEGAN

(By Richard Leiby)

There's no question that Rebecca Badger wanted to die. At 39, she was using a wheelchair, losing bowel and bladder control, and enduring what she called "excruciating" pain. Multiple sclerosis, her doctors said—a debilitating disease that can be treated but not cured.

There's also no question that Badger suffered from episodes of depression, as many MS patients do. In her misery, she turned to the man she considered her only hope for release: Jack Kevorkian, the retired pathologist widely known as "Dr. Death."

On July 9, the twice-divorced mother of two from California checked into a Quality Inn here and received a lethal injection—becoming the most recent person to die with Kevorkian's help, No. 33 for those keeping track.

Though her death warranted little notice nationwide, for authorities here at least one major question persists: Was Badger actually sick?

Not according to the doctor who autopsied her body. "She doesn't have any evidence of medical disease," L.J. Dragovic, the county medical examinér, said in an interview last week. "I can show you every slice from her brain and spinal cord, and she doesn't have a bit of MS. She looked robust, fairly healthy. Everything else is in order. Except she's dead."

If Dragovic's findings are accurate, the Badger case presents an intriguing medical mystery amid an ongoing debate over how to ensure that people who choose euthanasia are mentally competent and not hastening their deaths because of depression.

Kevorkian's screening methods were examined in three criminal trials involving five deaths, and he was acquitted each time. Those cases included a 58-year-old woman with a history of psychiatric problems who suffered from severe pelvic pain for which doctors could find no physical cause.

Multiple sclerosis, which afflicts an estimated 350,000 Americans, is a disease of the central nervous system that tends to strike young adults. It is often difficult to diagnose and sometimes cannot be confirmed until the patient has died and the brain and spinal tissue can be examined.

Attorneys for Kevorkian would not make their client available for comment. One of them called the medical examiner "a liar," insisting that "hundreds" of medical records proved that Badger had an advanced case of multiple sclerosis. Christy Nichols, Badger's 22-year-old daughter, who held her mother's hand as she died, said: "All I know is that her pain was insurmountable. I would not want to inflict that on anyone."

"She was constantly hospitalized with constant and crippling MS," said lawyer Geoffrey Fieger, who has represented Kevorkian for six years. Fieger petitioned the U.S. Supreme Court last week to end Michigan's ban on Kevorkian's work. Today they will appear at the National Press Club in Washington as part of their crusade to legalize what Kevorkian calls "medicide."

That crusade has gathered increasing support since Kevorkian's first assisted suicide six years ago. Earlier this year, federal appeals courts struck down laws against physician-assisted suicide in the states of Washington and New York, ruling that mentally competent, terminally ill adults have a constitutional right to assistance in ending their lives.

Even proponents of euthanasia say the ambiguities of some of the Kevorkian cases point to the need for tight regulation. An Oregon law, approved by voters in 1994 but blocked by a federal judge, forbids a doctor to write a lethal prescription for a terminally ill patient if the doctor suspects that the person suffers from depression.

"The Badger case is clearly worrying," said Derek Humphry, founder of the pro-euthanasia Hemlock Society and author of the million-selling book "Final Exit." "There must be the most careful evaluation of such cases. We need a sound, broad law which permits hastened death in justifiable cases, and we need very thoughtful guidelines that the medical profession can work with."

Interviews with Badger's doctors and daughter leave several questions unresolved: Most important, what was the cause of her illness? Also, how severe were her psychological problems? Were her California physicians properly consulted by Kevorkian's advisers? And could Badger's suffering have been solely the result of a psychiatric disorder—a possibility not discounted by one of her doctors?

"Would a competent psychiatrist have been better than a lethal injection? I understand the question—I've been asking it myself," said Johanna Meyer-Mitchell, a family practitioner in Concord, Calif., who treated Badger for nearly 11 years. "There never was any objective evidence as to why she was in as much pain as she said she was in."

Meyer-Mitchell said she was unaware that her patient was seeking the services of Kevorkian when Badger recently requested that her medical records be sent to two Michigan doctors. "If I had known this is what she was planning or thinking of, I would have tried to intervene to get her psychiatric help," Meyer-Mitchell said.

Badger didn't want to take antidepressants and was displeased with the outcome of an earlier consultation she'd had with a psychiatrist, according to Meyer-Mitchell. "She said, 'They think this is all in my head.'"

Fieger released some of Badger's medical records to the Washington Post, saying they would prove that Dragovic's autopsy results were false. But the records—which included case summaries from Badger's two primary physicians—and interviews with other experts left open the possibility that Badger did not have MS.

A case summary by Meyer-Mitchell states there was "fairly minimal" evidence that Badger had the disease. Badger's doctors said her brain scans were inconclusive, and spinal fluid tests suggested MS but were not definitive. In such cases doctors render a diagnosis of "possible MS" because nothing else explains the patient's symptoms.

"She didn't have the nice, well-wrapped-up package of MS symptoms that many other patients have," said neurologist Michael Stein, of Walnut Creek, Calif. Stein said he made the diagnosis of possible MS in 1988 and said his confidence increased because of progressive symptoms that included limb weakness—Badger limped and also used a walker—and bladder and bowel dysfunction. By June 24, when he wrote a note to accompany Badger's medical records, his diagnosis was unqualified: "She has multiple sclerosis."

But in a interview Friday, Stein said he was never absolutely sure. "There was concern, and there was a question about it. That an autopsy didn't find it, I'm surprised, is all I can say."

Stein also stated in the June 24 note that Badger never suffered from depression "to my knowledge." In an interview, he said, "I concerned myself with MS." But he acknowledged that Badger followed the typical pattern of what is called "relapsing, remitting" MS, during which symptoms—and spells of depression—come and go.

Meyer-Mitchell's records explicitly state a diagnosis of depression. And a May 20, 1996, record of Badger's visit to Meyer-Mitchell's office shows that the patient herself checked off "depression," "confusion" and "trouble concentrating" among her problems.

Badger also was "a survivor of sexual abuse as a child," Meyer-Mitchell wrote, and had "a history of chemical dependency and alcoholism."

On July 2, Stein said, he received a fax from Georges Reding of Galesburg, Mich., who identified himself as a "psychiatric consultant" to Kevorkian and stated that Badger was a candidate for physical-assisted suicide.

According to Stein, Reding inquired about putting Badger on Demerol for pain control. Stein said he faxed back a note saying that Reding should contact Meyer-Mitchell. Reding never contacted her, Meyer-Mitchell said.

"The next thing I hear [on the radio eight days later] is that she's an assisted suicide," recalled Stein. "I said, 'What!?' * * * I presumed they would talk her out of it. I was dead wrong."

Reding, who in May signed a death certificate in another Kevorkian-assisted suicide of an MS patient, did not respond to a request for comment.

Since that May 6 suicide, Kevorkian has been advised by a small group of doctors calling itself Physicians for Mercy. The group, which since then apparently has been involved in six assisted suicides, has developed guidelines that promise a thorough review of a patient's medical records, a consultation with a "specialist dealing with the patient's specific affliction" and an evaluation by a psychiatrist "in EVERY case."

"If there is any doubt about it—the slightest doubt—the patient will be turned down," said internist Mohamed El Nachef of Flint, Mich., a member of the group. He added that patients approved for doctor-assisted suicide "are making rational decisions. They are not depressed and they are not lunatics, and their requests are very reasonable. You cannot deny them their request to stop suffering."

El Nachef would not comment on whether he medically evaluated Badger or was present at her death but said, "I don't think there is any doubt about the extent of her disability or about her diagnosis."

A HARD LIFE

Badger's adult life, by several accounts, was one of disappointment, recurring medical woes and financial worries. Married at 17, divorced by 19, she raised two girls largely on her own in Contra Costa County, east of Oakland. In 1985 she was diagnosed with cancer and rarely was able to work after that.

Badger had a hysterectomy to remove the cancer and surgeons later removed her ovaries. She was free of cancer, Meyer-Mitchell said, but the MS symptoms and other maladies persisted.

Doctors prescribed Badger morphine and Demerol for pain and Valium for spasms. But according to Nichols, her elder daughter, some physicians also believed her mother might have been abusing drugs.

"She lost total faith in the system," Nichols said.

Badger's second marriage, in the early '90s, broke up after only a year. Her symptoms worsened steadily after that, she grew despondent, and by 1994 she mentioned to Nichols that she might want to seek out Kevorkian. In January, Badger moved south to live with her daughter near Santa Barbara.

Nichols said it's "ridiculous" for anyone to conclude that her mother did not have a major physical disease. "I would literally have to drag her to the restroom. She would have her arms wrapped around my neck—who wants a life like that?

"She was sick. Do you think I would let my mother go [to Michigan] and I would hold her hand while she was dying if it wasn't true?"

Nichols and her mother flew to Detroit on July 8, a Monday. About 8 the next morning, Kevorkian and three others joined Badger and her daughter in a suburban hotel room.

Nichols said Kevorkian asked her not to discuss in detail what happened that night, or identify any other participants. But they included a psychiatrist who had talked with her mother on the telephone "numerous times" in the past, she said.

The psychiatrist's on-site assessment lasted about a half-hour, Nichols said. The result?

"He told my mother she was more sane than he was."

Badger signed forms and some of the proceedings were videotaped, as is Kevorkian's custom. He often asked Badger, "Are you sure this is what you want?" and told her she could "stop the process at any time." Nichols recalled.

Badger's right arm had a dime-size bruise consistent with an injection, autopsy photos show. In previous deaths, Kevorkian has used a so-called "suicide machine" that delivers a heart-stopping dose of potassium chloride, and also allows the patients to press the button that delivers the poison.

Nichols doesn't recall her mother's exact last words. "She said she loved me, repeatedly."

Kevorkian wheeled Badger's body into the emergency room at Pontiac Osteopathic Hospital around 11:45 p.m. He was accompanied by another doctor whose identity has not been released.

Departing this life, Badger wore dark leggings and a loose T-shirt advertising "Time Warner Interactive." In the coroner's snapshots, her brown hair was unkempt and her face bereft of makeup.

THE AUTOPSY DISPUTE

Dragovic, the medical examiner, said it was still unclear what killed Badger. Her blood contained morphine and it was "highly likely that potassium chloride was part of the combination," he said. Police have filed no charges.

Fieger, Kevorkian's attorney, has often publicly criticized Dragovic, whose office has performed autopsies in 26 of the 33 cases Kevorkian has been involved with since 1990.

Fieger once offered to wager $1 million that the pathologist's findings were wrong in the autopsy of a woman whose breast had been removed because of cancer. Dragovic said his examination showed no invasion of the cancer to vital organs, but Fieger insisted that her body was ravaged by the disease.

"Dr. Dragovic is a liar," Fieger said last week about the Badger case, again offering a bet: "I will put up a million dollars that Rebecca Badger had severe and crippling MS."

"Could he double the stakes?" Dragovic responded, laughing. "With $2 million, we could improve the building here. She did not have MS, and that's the end of it."

Two multiple sclerosis experts contacted by The Post agreed that symptoms of severe MS are almost certain to show up in a properly conducted autopsy.

"It's inconceivable to me that the autopsy wouldn't pick it up. I would be very skeptical as to whether this woman had MS," said Aaron Miller of Maimonides Medical Center in New York, who chairs the professional education committee for the National Multiple Sclerosis Society.

Miller said certain characteristics of Badger's cerebral-spinal fluid, cited as evidence of MS in her medical records, "don't make the diagnosis." Those signs could be indicative of Lyme disease, syphilis or other inflammatory diseases, he said. "And it might be seen where the patient has no clinical disease."

"The very best confirmatory test for MS" is the autopsy, said Fred Lublin, a professor of neurology at Thomas Jefferson University in Philadelphia. "At death, that's how one proves it."

Kevorkian's "patients" have included six persons with MS diagnoses. Spokesmen for the National Multiple Sclerosis Society point out that the disease is not terminal and that most patients do not develop cases that result in disabling paralysis.

The group recently issued a statement on suicide that says in part, "Although we respect our clients' right to self-determination, we as a Society affirm life."

In an interview with a Santa Barbara television station two days before she died, Badger made a different kind of declaration. She cried out in agony and said, "The pain that I live with is excruciating.

"I know what the future holds," she added. "I know finally there is a man out there with a heart of gold who will help me." Asked about Kevorkian's "Dr. Death" nickname, Badger said: "I hate when he's called that. He's just the opposite."

Meyer-Mitchell, who knew Badger better than any other doctor did, has no ready answers to the questions surrounding her patient's death. She only wishes that the Michigan doctors who received her June 24 letter had paid more attention to the last line:

"I hope you are able to assist this unfortunate woman to have a more comfortable life."

[From the Washington Times, Oct. 1, 1996]

TERMINAL ILLNESS ABSENT IN KEVORKIAN SUICIDE

PONTIAC, MICH.—A medical examiner said yesterday an autopsy reveals a North Carolina psychiatrist who took his life with Dr. Jack Kevorkian's help was not terminally ill.

Dr. Richard Faw, 71, who reportedly suffered from terminal colon cancer, took his life Sunday, becoming Dr. Kevorkian's 41st known assisted suicide.

"There was some residual cancer in the colon but none present in the Kidney, lungs or liver—none of the vital organs," said Medical Examiner Ljubisa Dragovic. "There could be some cancer in the bone which could have caused pain, but this man was not terminal. He could have lived another 10 years, at least."

Mr. ASHCROFT. I am pleased to note the presence of Senator HUTCHINSON from Arkansas. I look forward to his remarks.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I rise to express my strong support for H.R. 1003. I want to commend the Senator from Missouri for his outstanding leadership on this issue, his willingness to be proactive about an issue that is very important to the future of our Nation, and also the Senator from North Dakota for his support of this measure as well.

H.R. 1003 will prohibit Federal funding and promotion of assisted suicide and euthanasia. It is critically important that the Federal Government not appear to sanction suicide as a form of medical treatment in our varied Federal health care programs. Without this bill, that would be the very message we could be sending as we would potentially find ourselves funding and covering so-called mercy killing with Federal tax dollars.

It should be mentioned that this bill passed overwhelmingly in the House of Representatives by a vote of 398 to 16. It enjoys obvious overwhelming bipartisan support. It involves only a prohibition of funding and does not affect the legality of assisted suicide or euthanasia. The bill simply says that the Federal Government will not be a part of the practice of assisted suicide and will not force all taxpayers to be a part of that practice.

The Clinton administration should also be able to support this bill. When asked in the 1992 campaign about legislation to allow assisted suicide, President Clinton said, "I certainly would do what I could to oppose it."

On November 12, 1996, the Clinton administration filed a friend-of-the-court brief with the Supreme Court in opposition to physician-assisted suicide. In the brief for the administration, Solicitor General Walter Dellinger wrote:

> [T]here is an important and commonsense distinction between withdrawing artificial supports so that a disease will progress to its inevitable end, and providing chemicals to be used to kill someone.

Given these statements, the President should be able to sign legislation that has the very modest effect of simply not funding assisted suicide.

I agree with the statement of Walter Dellinger, Solicitor General. A patient may always decline or discontinue medical treatment even if that may incidentally lead to the patient's death. But that is a far cry from administering a lethal injection or providing lethal drugs to that patient. The former is a longstanding and recognized medical practice; the latter is medicalized killing. The Federal Government must not make all taxpayers be involved in such killing.

Some may object that neither suicide nor the attempt at suicide are illegal. If people have a legal right to kill themselves, they continue, then it makes no sense to deny them the help of a physician in doing so, or to cut off the payment for doing that as this bill does. That is the logic.

But it is incorrect to say that people have a right to kill themselves simply because we do not throw them in jail if they attempt to do so.

Think of the following. We have a first amendment right to protest and denounce the policy choices of our elected officials in, say, a public park. If a supporter of that politician tried to physically restrain such speech, that person would be subject to criminal charges of assault and battery.

On the other hand, suppose someone else tries physically to restrain another from committing suicide. As the Minnesota Supreme Court said in a 1975 case:

> [T]here can be no doubt that a bona fide attempt to prevent a suicide is not a crime in any jurisdiction, even where it involves the detention, against her will, of the person planning to kill herself.

In fact, if public authorities detect someone in the act of attempting to commit suicide, they will typically not only interfere, but also place the person in the custody of mental health authorities. And posing a danger to oneself is a basis for involuntary commitment for mental health treatment.

In short, it is not accurate to say that at present people have the legal liberty to commit suicide because they can be, and frequently are, legally restrained from doing so.

Others may suggest that this is only for suicide attempts by the healthy. Everyone deplores the suicide of young, healthy people. But they contend some suicides are rational, like those of terminally ill patients.

Contrary to the assumptions of many in the public, a scientific study of people with terminal illness published in the American Journal of Psychiatry found that fewer than one in four with terminal illness expressed a wish to die, and of those who did, every single one suffered from a clinically diagnosable depression. We must remember that it is the depression, not the terminal illness, that prompts a desire to die or to commit suicide. And that depression is treatable in the sick, the terminally ill, as well as in the healthy.

Psychologist Joseph Richman, former president of the American Association of Suicidologists, the professional group for experts who treat the suicidal, points out that "[E]ffective psychotherapeutic treatment is possible with the terminally ill, and only irrational prejudices prevent the greater resort to such measures."

Dr. David C. Clark, a suicidologist, observes that depressive episodes in the seriously ill "are not less responsive to medication" than depression in others.

So the solution for those among the terminally ill who are suicidal is to treat them for their depression, not pay to send them to Dr. Kevorkian.

This bill sends us on the way to just that: not paying for patient killing so that we can focus on real medical treatment for the patients who need it.

So I am glad to urge my colleagues to join me in supporting H.R. 1003, and in so doing, to send a very important message to the people of our Nation and to the culture of our country.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of Oregon. I ask to be recognized for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of Oregon. I appreciate this opportunity to speak briefly on this issue before the Senate. I begin by thanking my colleagues, Senator ASHCROFT and Senator DORGAN, and their staffs for their leadership on this issue.

As yet, only one State, the State of Oregon, my State, has passed legislation to allow assisted suicide. In 1994, Oregon voters approved ballot measure 16, called the Death With Dignity Act, which exempts from criminal and civil liability physicians who assist their patients in committing suicide. Since its approval, a ruling in March by the Ninth Circuit Court of Appeals has prevented the law from taking effect, leaving the ultimate decision to the Supreme Court of the United States.

However, I believe it is our responsibility to address this issue before other States, including New York and Washington, have to face the dilemma that now confronts Oregon. Oregon has taken the initiative in meeting the health care needs of our most needy and vulnerable citizens. Through the implementation of the Oregon health plan, I was a legislator who helped to enact and to pass and to fund that act. However, ballot measure 16 threatens the lives of those we have worked so hard to help.

The Oregon health plan rations medicine in an honest way. What it does is rank the procedures that promote and provide preventive medicine. I am concerned, as an Oregonian, as an American, as a taxpayer, that this system that has been enacted with the very best of motives will provide a slippery slope that will make the right to die into a duty to die. In a time when we have few health care dollars and so many of those dollars are expended late in life, I fear the financial incentive that is built into the system if soon the right to die becomes, under financial extremis, a duty to die.

Now, lest you think that I am exaggerating in my fears, the Oregon Medicaid director has recently publicly stated that once the legal issues have been resolved, Oregon will begin subsidizing physician-assisted suicide through the Oregon health plan. As one of Oregon's Senators, I cannot, on ethical, moral and other grounds, allow this to happen when I have the opportunity to prevent it.

H.R. 1300 and Senate 304 is legislation that is not an attempt to circumvent the Supreme Court. Rather, this legislation is to determine whether we should require the American taxpayer to pay for these services through Medicare, Medicaid, the Federal Employees Health Benefit Program, health care services provided to Federal prisoners under the military health care system.

The potential legal practice of physician-assisted suicide sets a standard for our entire Nation. We should, instead of subsidizing a path to death, try to strengthen the quality of hospice and end of life care. Let's offer support, not suicide, as the acceptable and responsible, viable option.

Mr. President, my colleagues, it is with great concern and with a heavy heart that I ask your support in passing this important and timely legislation. Oregon is a beautiful State in which to live, to visit, to raise a family. I ask today that you do not help Oregon become a State where people now come to die.

As I have said to the people and press of Oregon, the only thing that we should be killing around here is Federal funding for assisted suicide. Mr. President, I thank my colleagues. I urge their support for this legislation.

I yield the floor and the remainder of my time.

Mr. ASHCROFT. Mr. President, some people have asked me whether this bill would create any new restrictions or limitations on such practices as the withholding or withdrawing of medical care; the withholding or withdrawing of nutrition or hydration, abortion, or the administration of drugs or other services furnished to alleviate pain or discomfort, even if the drugs or services increase the risk of death.

Mr. DORGAN. That is an important question, and one I want to clarify. H.R. 1003 would not create any new restrictions in those areas.

In fact, section 3(b) of the bill explicitly states that none of those practices or services would be affected by the bill. This means that we do not create any new limitations, and none of the practices and services you described would be prohibited or further restricted by this bill. I also want to make clear that this bill would not place any new restrictions on the provision of hospice care, which I strongly support.

Mr. ASHCROFT. I have also been asked about whether the bill would prohibit legal services lawyers or other legal advocates receiving Federal funds from talking to their clients about assisted suicide.

Mr. DORGAN. H.R. 1003 prohibits the use of Federal funds for legal or other assistance for the purpose of causing an assisted suicide; compelling any other person or institution from providing or funding services to cause an assisted suicide, or advocating a legal right to cause or assist in causing an assisted suicide.

However, the bill does not impose any kind of gag rule on legal services or other attorneys receiving Federal funding to provide legal services. An advocacy program could provide factual answers to a client's questions about a State law on assisting suicide, since that alone would not be providing assistance to facilitate an assisted suicide. Similarly, the bill does not prohibit such programs from counseling clients about alternatives to assisted suicide, such as pain management, mental health care, and community-based services for people with disabilities.

In addition, the bill is not intended to have the effect of defunding an entire program, such as a legal services program or other legal or advocacy program, simply because some State or privately funded portion of that program may advocate for or file suit to compel funding of services for assisted suicide. The bill is intended only to restrict Federal Funds from being used for such activities.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, inasmuch as there are no Members wishing to speak on the pending legislation, I ask unanimous consent to speak for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

A MESSAGE TO THE FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, I rise to ask if someone at the Federal Reserve Board might be willing to spend a quarter and buy the Washington Post and read the article on the front page above the fold on the left side. If they are unwilling to do that, I will at least read the headline for them: "Consumer Prices Nearly Flat in March."

Why is this headline important? Because the most recent tax increase imposed in Washington, DC, was imposed by Mr. Greenspan, Chairman of the Federal Reserve Board, and his Board of Governors, who, meeting weeks ago, in a frenzy decided that the problem in our country is that our economy is growing too rapidly, there are too many people working and too few people unemployed and our economy is moving too rapidly. Their solution: Increase interest rates, impose a higher interest rate charge on every single American for every purpose. Of course, that is, in effect, imposing a tax on everybody, isn't it? The difference is, if somebody were to propose a new tax, it would have to be done here in the open, in debate. But in this dinosaur we call the Federal Reserve Board, it is done behind closed doors, in secret, outside of the view of the public, by a bunch of folks in gray suits, coming from their banking backgrounds, or as economists, peer through their glasses and try and see what the future holds. The future is no clearer to them than it was to the augurs in Roman times when practicing the rites called augury. These high priests would read the entrails of birds, the entrails of cattle, observe the flights of foul in order to portend the future.

Well, we now have economists who, of course, practice the study of economics. I sometimes refer to it as "psychology pumped up with a little helium." The economists now tell us what the future will hold. What does the future hold for us? The economists at the Federal Reserve Board, believed by the Board of Governors, say that our country is moving too fast. It is like that Simon and Garfunkel tune, "Feeling Groovy," although I doubt that they would play that there. It says, "Slow down, you're moving too fast * * *" The country is moving too fast, they say —2½, 3 percent economic growth. Lord, what is going to happen if we have 3 percent sustainable economic growth? You can't do that because the Fed wants to put the brakes on. They want people to pay higher interest rates to slow our country down.

You know, the Federal Reserve Board had told us forever that if unemployment dropped below 6 percent, what would happen? A new wave of inflation would come. Unemployment has been below 6 percent for 30 months; inflation is going down. The Consumer Price Index is nearly flat. In fact, Mr. Greenspan, Chairman of the Federal Reserve Board, says to us, "I think the Consumer Price Index overstates the rate of inflation by probably 1 full percent and maybe a percent and a half." If that's the case, there is no inflation in our country. If there is no inflation in our country, why did those folks go behind the closed doors, lock it up, do their banking business in secret, and come out and announce to us that they were imposing a new tax on every American in the form of a higher interest rate?

I ask the Fed today to buy a paper, read the story, convene a meeting and put interest rates where they ought to be. Your Federal funds rate is a full one-half of 1 percent, and now, after your last action, nearly three-quarters of 1 percent above where it ought to be, given the rate of inflation. What does that mean? It is a premium imposed on the American people—a tax in the form of higher interest. It is imposed on every American, without public debate.

I urge the Federal Reserve Board to meet again with the new information and understand what some of us have been talking about for some long while: Your models are wrong. The world has changed. We don't have upward pressures on wages in our country; we have downward pressures on wages in our country. That is why you don't see consumer prices spiking up. We now exist in a global economy in which American workers are asked to compete against workers elsewhere around the world. It is not unusual for American workers to produce a product, to go into a department store to compete against a product produced in a foreign country by a 14-year-old child being paid 14 cents an hour, working 14 hours a day in an unsafe factory. It is a global economy. Unfair? Yes. But it is a global economy that now puts downward pressure on American wages. That is why consumer prices are not spiking up. That is why the Federal Reserve Board is wrong.

The Federal Reserve Board ought to countenance more economic growth in this country. It can be done without reigniting the fires of inflation. It should be done by a Federal Reserve Board that cares more about all of the American people and economic growth and opportunity all across this country than it does about the interest of its constituents, the big money center banks.

I did not intend to speak about this today, but when I bought the paper and saw the story, it occurred to me that someone ought to stand up and say to the Federal Reserve Board: You were wrong a couple of weeks ago. You ought to admit it. We don't accept your remedy. The American people know you are wrong because they understand what is happening in our economy. Our economy isn't growing too fast. If anything, the economic growth is too slow. We need fewer people unemployed and more people employed. We need more economic growth and more opportunity. I hope one day the Federal Reserve Board will adopt policies that will understand that.

Now, we have a couple of vacancies coming at the Federal Reserve Board, and I expect that the Federal Reserve Board will fill the positions with people who essentially look the same, act the same, talk the same, and behave the same as all the other folks there. Take a look at who is at the Fed. In fact, I have brought for my colleagues to the floor a giant chart with pictures of the Board of Governors and regional Federal bank presidents, indicating where they are from, where they were educated, their salaries. I don't want them to be anonymous. I want the people to see who is making the decisions that affect all of their lives.

Now we will have a couple of new people appointed to the Fed. Congress will have a little something to say about that. But the fact is, the nominations will be sent to us. I have said, and I say again, that I would recommend my Uncle Joe. The reason I recommend Uncle Joe is the Federal Reserve Board doesn't have anybody serving on the board like my Uncle Joe. My Uncle Joe actually has made a lot of things in his life. He fixed generators and starters on cars. He has a lot of common sense, understands what it is to start a business, borrow some money, make a product, sell a product. So I recommended my Uncle Joe. I have been doing that for a number of years and Joe hasn't gotten a call yet. So I expect that the Federal Reserve Board will not be blessed by the membership of my Uncle Joe.

I say this because I would like to see some new blood at the Fed, some new energy and new direction that doesn't just buy into this mantra that what we need is more unemployment and slower economic growth, and somehow that represents the future of our country. The Fed is wrong. The numbers demonstrate that the Fed is wrong. I hope as we go down the road talking about this, as well as filling the positions at the Fed that are going to be open, we can have a broader discussion. I wanted to at least acknowledge today that this new information exists. I encourage the Fed to buy the morning paper.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ASSISTED SUICIDE FUNDING RESTRICTION ACT OF 1997

The Senate continued with the consideration of the bill.

Mr. NICKLES. Mr. President, I rise in support of the legislation pending before us, a bill to prohibit Federal funds being used to assist in suicides.

I wish to compliment my colleague, Senator ASHCROFT, and also my colleague, Senator DORGAN, for their leadership. I am happy to cosponsor this legislation. I think it is important that we pass this legislation today. I am pleased that the House passed it overwhelmingly by a vote of 398 to 16. It is not often that we find such an overwhelming vote.

Frankly, I can't see how anyone would vote against this legislation. This legislation makes sense. It is needed. Some may ask, "Why is it needed?"

You might be aware of the fact that the Supreme Court held hearings earlier this year on whether or not there is a legal right for assisted suicide. I have read the Constitution many times. I don't find that right in there. That doesn't mean the Supreme Court might not, nor does it mean that some other judge might say yes, you have a constitutional right for assisted suicide, and someone else say yes, that is a constitutional right; therefore, it should be covered by Medicare or Medicaid, and, therefore, be paid for by the Federal Government.

So maybe this is a preemptive strike. It is unfortunate to think it might even be needed. But it is needed. We want to make sure it doesn't happen. We want to make sure that we don't have more Dr. Kevorkians running around the country saying, "You have a legal right to kill yourself, and therefore, we will help you; and, oh, yes, we want the taxpayers to pay for it." We don't want the taxpayers to pay for it. We want to send a signal to Dr. Kevorkian that we don't agree with him.

Dr. Kevorkian made a statement which was reported in the New York Times on April 5 talking about the fact that he publicly burned a cease and desist order from the State. He said, "If you want to stop something, pass a law."

That is what we are trying to do today. We are trying to make it very clear that the Congress of the United States overwhelmingly believes that you should not use Federal funds to assist in something like suicides, something that is as deadly as suicide.

This would clarify the law. If assisted suicide is legalized by the Supreme Court, or in any individual State, all it would take is one district court judge to rule that assisted suicide fits under the Medicare statute's guidelines. On January 8, 1997, the Supreme Court heard oral arguments in two cases in which the Federal courts of appeals have declared a constitutional right to assisted suicide.

Mr. President I think we want to send a very clear signal. I might mention that this Congress has already passed a ban. In 1995, I offered legislation banning the use of Medicaid and Medicare funds for assisted suicide in the balanced budget amendment which passed this Congress. Unfortunately, President Clinton vetoed the legislation. But he didn't veto the legislation because of this.

An amicus brief, filed by the American Medical Association, to the Supreme Court on November 12, 1996, contends that assisted suicide "will create profound danger for many ill persons with undiagnosed depression and inadequately treated pain for whom assisted suicide rather than good palliative care could become the norm. At greatest risk would be those with the least access to palliative care—the poor, the elderly, and members of minority groups."

Acting Solicitor Gen. Walter Dellinger recently said in opposing the idea of a right to assisted suicide, "The systemic dangers are dramatic . . . the least costly treatment for any illness is lethal medication." That is reported in the New York Times on January 9 of this year.

We are a Nation built on the principle that human life is sacred, to be honored and cherished. As public servants, we deal with issues that affect the lives of people every day. Caring for people is the underlying aspect of nearly every piece of legislation dealt with in this Senate.

Dr. Joanne Lynn, board member of the American Geriatrics Society, and director of the Center to Improve Care of the Dying at George Washington University, said, "No one needs to be alone or in pain or beg a doctor to put an end to misery. Good care is possible."

Cardinal Joseph Bernardin, while dying last November, took the time to write the Supreme Court on assisted suicide, saying,

> There can be no such thing as a "right to assisted suicide" because there can be no legal and moral order which tolerates the killing of innocent human life, even if the agent of death is self-administered. Creating a new "right" to assisted suicide will endanger society and send a false signal that a less than "perfect" life is not worth living.

There are a lot of groups and a lot of individuals who have endorsed this legislation.

The American Medical Association said,

> The power to assist in intentionally taking the life of a patient is antithetical to the central mission of healing that guides physicians. The AMA continues to stand by its ethical principle that physician-assisted suicide is fundamentally incompatible with the physician's role as healer and that physicians must instead aggressively respond to the needs of patients at the end of life.

That was signed by John Seward, executive vice president of the AMA, on April 15.

Mr. President, this legislation is endorsed by not only the American Medical Association but also the National Conference of Catholic Bishops, American Academy of Hospice and Palliative Medicine, American Geriatrics Society, Christian Coalition, Family Research Council, Free Congress, National Right to Life, Physicians for Compassionate Care, and the Traditional Values Coalition.

In addition, I ask unanimous consent that letters be printed in the RECORD at this point from the Catholic Health Association and also the Christian Coalition in support of this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHRISTIAN COALITION,
CAPITOL HILL OFFICE,
Washington, DC, April 16, 1997.

DEAR SENATOR: As of this morning, the Majority Leader was trying to work out an agreement to bring up the Assisted Suicide Funding Restriction Act for a vote this afternoon.

On behalf of the members and supporters of the Christian Coalition, we urge you to vote for the Assisted Suicide Funding Restriction Act. This legislation overwhelmingly passed the House of Representatives by a vote of 398–16.

The Assisted Suicide Funding Restriction Act restricts the use of tax dollars for the purpose of assisted suicide, euthanasia, or mercy killing. The overwhelming majority of American taxpayers oppose the use of tax dollars for assisted suicide and euthanasia, with 87 percent of Americans opposing the use of tax dollars for these purposes. This widespread support, as well as the moral grounds for opposing the funding of assisted suicide, compels passage of this legislation.

This is a carefully-crafted bill and we would like to see it pass in its present form. Please vote for H.R. 1003, the Assisted Suicide Funding Restriction Act. Thank you for your consideration of our views.

Sincerely,

BRIAN LOPINA,
Director, Governmental Affairs Office.

CATHOLIC HEALTH ASSOCIATION
OF THE UNITED STATES,
Washington, DC, April 16, 1997.

Senator TRENT LOTT,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LOTT: I understand that H.R. 1003, the Assisted Suicide Funding Restriction Act, will soon be considered by the full Senate. On behalf of more than 1,200 health care facilities and organizations, the Catholic Health Association of the United States (CHA) urges the Senate to give this legislation swift and favorable consideration.

As health care providers, members of CHA reject physician-assisted suicide as antithetical to their religious beliefs and their mission as healers. Because assisted suicide offends the basic moral precepts of our culture and poses a grave danger to those at the margins of our society, state governments have consistently outlawed its practice. Unfortunately, a Florida state court and two federal Courts of Appeals recently have misconstrued the Constitution to "discover" a constitutionally protected liberty interest in physician-assisted suicide.

In response to the threat of these cases and a recent referendum in Oregon, Congress should establish the principle that federal tax dollars will not be expended for the purposeful taking of human life. While none are being used for this purpose today, judicial activism threatens to undermine our long-established societal consensus against assisted suicide.

The legislative proposal before you properly distinguishes between the withholding or withdrawing of burdensome and ineffective medical treatment and the aiding of another in purposefully taking human life. Catholic teaching and common sense support this distinction.

The most important reason to pass this legislation is to send a signal to disabled persons, the elderly and other vulnerable people that they are valued members of the human community. They enrich rather than burden society. The late Joseph Cardinal Bernardin said it best in his letter to the Supreme Court: "There can be no such thing as a 'right to assisted suicide' because there can be no legal or moral order which tolerates the killing of innocent human life, even if the agent of death is self-administered. Creating a new 'right' to assisted suicide will endanger society and send a false signal that a less than 'perfect life' is not worth living."

CHA has a long and distinguished record of supporting the goal of universal health care coverage. In addition, we support meaningful efforts to improve care for the dying. Yet, we do not support the views of those opposing this bill on the grounds that it does not accomplish all of these worthy goals in one bill. Congress should pass this bill and then move on to legislation that increases health care coverage and helps to provide those at the end of life with the care and comfort that they deserve.

Sincerely,

WILLIAM J. COX,
Executive Vice President.

Mr. NICKLES. Mr. President, again, I wish to thank sponsors of this legislation. I have had the pleasure of working with both Senators from Missouri. Both Senators made outstanding statements in support of this legislation. In addition, Senator DORGAN—we appreciate his support for this legislation. It has bipartisan support. We have a lot of cosponsors on both sides of the aisle.

It is my hope that the Senate will pass the identical bill that the House passed and that we will send it to the President.

Also, I have a statement from the administration. The Clinton administration issued a statement of administration policy on April 10, 1997, which states, "The President made it clear that he does not support assisted suicide. The administration, therefore, does not oppose enactment of H.R. 1003."

Mr. President, there is no reason for us to amend this legislation. There is no reason for us to delay this legislation. Let's pass this legislation and send a message to Dr. Kevorkian and others that Federal funding will not be tolerated and that it will not be legal to assist in assisted suicide.

Mr. President, I yield the floor.

Mr. ASHCROFT. Mr. President, thank you.

Mr. President, I want to thank my colleague from Oklahoma for his excellent statement on this issue. I appreciate his leadership on this issue. When this legislation was initially filed last year, I was not aware of the fact that he had previously included it in other matters. But he has been a leader in respecting the will of the American people not to participate in the funding of assisted suicide.

Mr. President, I might add as well that while House bill 1003 is largely consistent and almost totally compatible with the bill that Senator DORGAN and I filed here in the U.S. Senate, the House added some provisions which I think improve the measure. Both bills were narrowly and tightly drawn and focused on the fact that we didn't believe there should be Federal funding for assisted suicide.

The House measure includes provisions designed to reduce the rate of suicide, including assisted suicide, among persons with disabilities or terminal or chronic illness, by furthering knowledge and practice of pain management, depression identification, palliative care, and other issues related to suicide prevention. The bill would amend the Public Health Service Act to use existing Federal funds to establish research, training, and demonstration projects intended to help achieve the goal of reducing the rate of suicide. That would also, of course, include reducing the rate of individuals interested in assisted suicide. It also includes a provision directing the General Accounting Office to analyze the effectiveness and achievements of the grant programs that are authorized by the Public Health Service Act.

So, resources now available to the public through the Public Health Service Act can be used in accordance with this measure to reduce the rate of suicide. It is important for us not just to be concerned about Federal funding for suicide, but where possible to help individuals understand the potential for hope in the situation rather than despair.

I might just also point out that assisted suicide and the potential for assisted suicide or funding for assisted suicide in a culture are not really conducive to the development of other therapies. It is interesting to note that Justice Breyer pointed out a number of important facts during the Supreme Court's recent oral arguments regarding the right to assisted suicide. He indicated that supportive services for vulnerable patients remain undeveloped once a society has accepted assisted suicide as a quick and easy solution for their problems. In particular, he noted that in England, which prohibits assisted suicide, there are over 180 hospices for people who are terminally ill; 180 facilities designed for compassionate care to help these people. In a sense, each of us is terminally ill. Each of us ultimately will die. In the Netherlands, on the other hand, which allows assisted suicide, rather than having 180 hospices, they have only 3.

It may be inappropriate to draw a conclusion here, but it seems to me that once a culture decides that the thing to do with terminally-ill patients is to help them die quickly, they neglect and otherwise refuse to develop the kinds of institutions which would help people who really ought to live and want to live and have many things to contribute.

It is with that in mind that I think it is peculiarly and singularly important that this Congress respond to the voice of the American people, which with near unanimity is calling for us to prohibit Federal funding of assisted suicide. It is with that in mind that I urge my colleagues to join by voting in favor of this proposal.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, Senator ASHCROFT has just outlined a provision that was included in the legislation enacted by the House of Representatives. Frankly, I think this addition improves the legislation that we introduced here in the Senate. The amendment that was accepted by the House and is in this legislation provides for the prevention of suicide, including assisted suicide. It provides authorization for the Secretary of Health and Human Services to fund research and demonstration projects using existing Public Health Service dollars to prevent suicide among people with disabilities or terminal or chronic illnesses. That amendment addresses an issue that is very significant and serious, and I think it adds to this legislation.

With this legislation, we are not only saying that we want to prevent Federal funding of assisted suicide, but also that we want to improve the availability of compassionate end-of-life care so that terminally or chronically ill individuals do not feel that assisted suicide is their only option for relief.

So I think this amendment is a good amendment, and I support it.

Mr. President, I hope we can move along to final passage on this legislation.

I don't know whether there are those who intend to offer amendments. I see Senator WELLSTONE from Minnesota is on the floor. My hope is that we can proceed on this noncontroversial piece of legislation and finish it today.

Mr. MCCONNELL. Mr. President, today the U.S. Senate considers H.R. 1003, the Assisted Suicide Funding Restriction Act of 1997. As an original cosponsor of S. 304, the Senate companion to H.R. 1003, I rise in support of this measure's reasonable and responsible action in prohibiting the use of Federal funds to support physician-assisted suicide.

Modern medical technology has made a significant difference in the health care challenges that patients and providers face today. While few Americans fear death from scarlet fever or cholera, a growing number are concerned about the potential for a slow, painful death from cancer or a degenerative neurological disorder. Advocates for physician-assisted suicide package the concept as purely an issue of patient choice and personal liberty in seeking relief from suffering. Moreover, they argue that this choice harms no one. I respectfully but stringently disagree. Physician-assisted suicide condones the intentional killing of a human being as a valid method for relieving pain and suffering when other means are available to address a patient's critical medical needs.

Advocates for physician-assisted suicide point to secondary effect, the circumstance where a patient dies during treatment for pain, as a factor lending legitimacy to the legalization of euthanasia. Again, I disagree. A large number of Americans and a majority in the medical community identify the critical difference between the administration of pain medication and physician-assisted suicide. In the former, a physician makes a medical assessment and administers the level of medication necessary to relieve a patient's pain and suffering. Though the action is taken with the knowledge that the treatment could cause death, the physician's sole medical goal is helping the patient attain relief from suffering. In contrast, physician-assisted suicide is the intentional administration of a drug, not for pain relief, but to kill. H.R. 1003 recognizes the critical difference between secondary effect and physician-assisted suicide.

While patients' rights have been raised in the debate over physician-assisted suicide, I want to draw attention to the broader implications of this action on the health care community. The American Medical Association makes clear in its Code of Medical Ethics that the intentional act of killing a patient is antithetical to the central mission of healing that bonds the physician-patient relationship. The AMA fully endorses H.R. 1003's purpose to assure that the integrity of doctors working for Federal health care programs and in Federal health care facilities is not compromised by the act of physician-assisted suicide. Without H.R. 1003, doctors face a painful dilemma of whether they are expected to conduct assisted suicide as a form of medical treatment. The AMA rejects such a concept, and 87 percent of Americans agree that Federal tax dollars should not support such a questionable practice.

It is clear to all that patient concerns regarding the health care threats of degenerative and painful disease must be addressed. This critical need is one of the reasons why I and other Members of the U.S. Senate support Federal investment in medical research. The Federal Government should not invest in physician-assisted suicide as a legitimate option for pain control however. Medicine today is capable of managing physical pain, but patients are forced to endure pain and suffering because this information is not applied uniformly. For the welfare of patients and families, we should focus our energies on correcting these failures in medical care delivery, rather than diverting critical attention toward the questionable promotion of assisted suicide.

Mr. President, I support the right of Americans to decide whether or not to withdraw or withhold medical treatment. I also appreciate the difference between acts to relieve the pain of a dying patient and acts that intentionally produce pre-mature death. H.R. 1003 does the same. This measure makes clear that Federal funds do not and will not support physician-assisted suicide to the detriment of patients, families, and the medical community. I urge my colleagues to join in support of H.R. 1003's intent to ensure that this vital concern for millions of Americans is properly addressed.

Mr. COATS. Mr. President, I rise in support of H.R. 1003 and I urge my fellow Senators also to vote in favor of this legislation.

This bill simply prohibits the use of Federal funds for the controversial and immoral practice of assisted suicide. It rightly keeps the Federal Government out of the business of killing.

The bill prevents the use of funds to provide health care items or services "furnished for the purpose of causing * * * the death of any individual, such as by assisted suicide, euthanasia or mercy killing." Death of the individual has been included because proponents of assisted suicide, mercy killing, and euthanasia often use other terms to describe these activities, such as physician aid in dying. In fact, the Oregon Death with Dignity Act, which legalizes these actions under certain circumstances, specifically provides that "actions taken in accordance with [this law] shall not, for any purpose, constitute assisted suicide, mercy killing, or homicide"—even though the actions precisely are assisted suicide or mercy killing! The bill is very clear about the activity that should not receive Federal funds: an item or service furnished for the purpose of causing the death of any individual will not be funded by American taxpayers.

Close observers will note that this broad language is used in sections 3, 4, and 7 of the bill, while more narrow language is used in sections 2, 5, and 6, where funds are prohibited for "causing the suicide, euthanasia, or mercy killing of any individual. The broad language is used with regard to the general prohibition on health care funding (section 3), the prohibition on the use of funds under the Developmental Disabilities Assistance Act (section 4), and the Patient Self Determination Act (section 7) to ensure that the activities and actions intended not to receive Federal funds in fact do not receive them. The broad language is necessary because proponents often describe these activities in different terms; it is used without concern of unintended consequences because the programs covered in these instances are clearly and narrowly defined.

The narrow language is used in the bill's findings and purposes provisions (section 2, which does not have the force of law), restrictions on advocacy programs (section 5), and restrictions on funding for mercy killing, euthanasia, and assisted suicide in national defense and criminal justice programs (section 6) because broad language, if applied to these programs, could have unintended consequences. For example, if the broad language were used with respect to criminal justice enforcement, it may have the effect of prohibiting capital punishment. But this bill is only about funding for assisted suicide—mainly in Federal health care programs, because proponents of assisted suicide are successfully legitimizing assisted suicide—for some—as a form of health or medical care.

Assisted suicide is not health care. Or medical care. The Federal Government, supported by all American by all American tax payers, should not pay for this. This carefully crafted bill will ensure that that does not happen. It deserves our support.

Some questions have arisen as to whether H.R. 1003 applies to the provision or withholding or withdrawing of medical treatment, medical care, nutrition, or hydration. My reading of the bill indicates that the bill does not address such situations.

H.R. 1003 is a deliberately narrow piece of legislation. It deals with the issue of Federal subsidies for direct killing, as by a lethal injection or a lethal drug. It is not designed to address or affect in any way, positively or negatively, Federal funding for the withholding or withdrawal of medical treatment and medical care, nutrition or hydration. Nor is it designed to address affect in any way, positively or negatively, such withholding or withdrawal in veterans' hospitals, military hospitals, or other Federal facilities.

Therefore, Mr. President, no one should read into the adoption of this legislation any expression of blanket congressional approval for the practice of withholding or withdrawing of nutrition and hydration or, for that matter, of any lifesaving medical treatment. This Senator, for one, is convinced that causing a patient to die of starvation or dehydration is absolutely wrong. I, for one, would not have supported this bill as an original cosponsor if I believed that it authorized the use of Federal funds to withhold or withdraw nutrition and hydration from a patient.

Indeed, I am convinced that every Member of this body, and I dare say of the other body as well, can think of at least some circumstances in which he or she would agree that denial of medical treatment, or of food and fluids, is wrong and should not be subsidized with Federal tax dollars. Plainly, then in voting for this legislation we do not intend some broad sanction for denial of nutrition, hydration, medical treatment and care.

All we do in section 3(b) of H.R. 1003 is make clear the narrow scope of this bill: that it deals with direct killing only, and not with these other practices. Thus, section 3(b) should be read simply as a scope limitation for this legislation, and not as expressing a substantive policy position on withholding or withdrawing medical treatment, medical care, nutrition or hydration. That is a matter for another day.

In conclusion, Mr. President, I want to express my firm belief that ours is a Nation that should direct itself to expanding the scope of the human community; to ensuring that all its members enjoy full access to the protection of life, liberty, and happiness. Our culture is one that increasingly commits itself to death, to killing those that some do not consider to be part of the human family. For years some in this country have treated the preborn child as unworthy of that protection. Recently, the President has vetoed a ban on partial-birth abortions—has allowed the killing of a child just three inches and 3 seconds from full protection of the law. Now our culture is moving toward promoting the killing of the elderly, the handicapped, those who suffer desperately—instead of offering them support, resources, and hope.

I commend the Senator from Missouri for his excellent work on this bill and his steadfast efforts to prevent taxpayers from being forced to support a culture of death. His work reclaims some of our hope that America can again be a beacon of light in a culture of life.

Mr. ROCKEFELLER. Mr. President, I thought it would be helpful to share some thoughts about other important issues that I hope the Congress will address once action is taken on the bill before us to prohibit Federal funding for physician-assisted suicide.

Because of my involvement in health care issues and the Medicare Program specifically, I have spent some time in recent months taking another look at the concerns and dilemmas that face patients, their family members, and their physicians when confronted with death or the possibility of dying. In almost all such difficult situations, these people are not thinking about physician-assisted suicide. The needs and dilemmas that confront them have much more to do with the kind of care and information that are needed, sometimes desperately.

I am learning more and more about the importance of educating health care providers and the public that chronic, debilitating, terminal disease need not be associated with pain, major discomfort, and loss of control. We need to focus on the tremendous amount that can be done to control a wide range of symptoms associated with terminal illness, to assure that the highest level of comfort care is provided to those who are dying or have chronic, debilitating disease.

The tremendous advances in medicine and medical technology over the past 30 to 50 years have resulted in a greatly expanded life expectancy for Americans, as well as vastly improved functioning and quality of life for the elderly and those with chronic disease. Many of these advances have been made possible by federally financed health care programs, especially the Medicare Program that assured access to high quality health care for all elderly Americans, as well as funding much of the development of technology and a highly skilled physician work force through support of medical education and academic medical centers. These advances have also created major dilemmas in addressing terminal or potentially terminal disease, as well as a sense of loss of control by many with terminal illness.

I believe it's time for Medicare and other federally funded health care programs to assure that all elderly, chronically ill, and disabled individuals have access to compassionate, supportive, and pain-free care during prolonged illness and at the end of life. As we discuss restructuring Medicare during the present session of Congress, this will be one of my primary goals.

Much of the knowledge necessary to assure individuals appropriate end-of-life care already exists. Much needs to be done, however, to assure that all health care providers have the appropriate training to use what is known already about such supportive care. The public must also be educated and empowered to discuss these issues with family members as well as their own physicians so that each individual's wishes can be respected. More research is needed to develop appropriate measures of quality end-of-life care and incorporate these measures into medical practice in all health care settings. And finally, appropriate financial incentives must be present within Medicare, especially, to allow the elderly and disabled their choice of appropriate care at the end of life.

I will soon be introducing legislation that addresses the need to develop appropriate quality measures for end-of-life care, to develop models of compassionate care within the Medicare Program and to encourage individuals to have open communication with family members and health care providers concerning preferences for end-of-life care. These are the issues that truly need to be addressed by Congress and encouraged through Federal financing programs for health care, and I am very committed to promoting the action that Americans and their physicians are looking to us to help them with. By addressing end-of-life issues in this manner, there may be a day when the divisive debate over physician-assisted suicide will become unnecessary.

Mr. FRIST. Mr. President, I rise today to address the legislation before us which would further codify and clarify existing Federal law, practice, and policy on the prohibition of the use of Federal funds, whether directly or indirectly, for physician-assisted suicide. This proposal has received broad bipartisan support within the Congress, within the administration, and in the medical community.

This is an issue that supersedes the politics of the present, and cuts to the heart of our concept of respect for life. As a physician, I took an oath, like physicians for centuries before me, to "first do no harm." While there are times when the best in medical technology and expertise cannot save or prolong life, we should never turn those tools into instruments to take life, and we must preserve the sacred trust between physician and patient.

I am pleased that this bill is tightly focused and disciplined in its approach to this controversial issue. However, I am concerned that the most important issue may be obscured by this debate. Physicians have a responsibility to ensure that patients are both comfortable and comforted during their last precious days on Earth. As legislators responsible for policy decisions impacting the federally funded health care programs, we also have a responsibility. We must continue to look for ways to support efforts to provide palliative care, as well as to support efforts to educate physicians, patients, and families about end-of-life issues.

We have made enormous progress in treating and managing illness at the end of life. Over the last 50 years, life expectancy has risen dramatically as we have learned to manage the complications of illnesses which were previously considered terminal. The issue of physician-assisted suicide is an indication of our need to focus on other ways of relieving suffering, while maintaining the dignity of the terminally ill and their families.

While I do not believe that it is the role of the Government to intrude upon the relationship between a physician and patient, I do believe that policymakers have an obligation to create an environment which supports the quality of care in this country. Therefore, our votes in support of this bill must also be seen as our decision to take up a new challenge—that of finding new ways to facilitate the compassionate care of the dying.

Mr. HELMS. Mr. President, when the able Senators ASHCROFT and DORGAN invited me to cosponsor S. 304, a bill to prohibit the use of Federal funds for assisted suicide, I unhesitatingly accepted. Now today, I do hope the Senate will promptly approve H.R. 1003, now pending which is nearly identical to S. 304 and which was passed overwhelmingly by the House this past Thursday.

The Supreme Court's tragic Roe versus Wade decision in 1973 established that human beings—unborn children—at one end of the age spectrum are expendable for reasons of convenience and social policy; euthanasia is now the next step. Many, including this Senator who in 1973 had just been sworn in, argued that if we can justify in our own minds the destruction of the lives of those whose productive years are yet to come, what is to prevent our destroying or agreeing to end the lives of men and women who can no longer pull their own weight in society?

That day may arrive as early as this summer. The Supreme Court is currently reviewing two circuit courts of appeals decisions which, if upheld, will affirm the constitutional right of individuals to terminate their own lives with the assistance of Dr. Kevorkian or other like-minded physicians. But inevitably, those who demand that this become an acceptable right are also expecting the taxpayers to furnish the money for it.

At a minimum, Mr. President, surely the Senate will reject the notion that tax funded programs, such as Medicaid and Medicare, should be used to terminate the lives of human beings. Despite anybody's looking with favor on euthanasia, it is absurd to suggest that the American people must sponsor it with their already-high taxes.

The American people emphatically reject this idea. A poll conducted last year by Wirthlin Worldwide revealed that 87 percent of people oppose Federal funding of assisted suicide.

So, Mr. President, the bill under consideration will not outlaw euthanasia. But it will forbid the use of Federal tax dollars to fund assisted suicides. And more importantly, the Senate will heed the American people's belief that paying for such a morally objectionable procedure is just going too far.

Mr. DOMENICI. Mr. President, I rise today in support of the Physician Assisted Suicide Funding Restriction Act of 1997. This bill would maintain current Federal policy to prevent the use of Federal funds and facilities to provide and promote assisted suicide. It would not nullify any decision by a State to legalize assisted suicide, nor restrict State or privately financed assisted suicide; nor will it affect any living will statutes or any limitation relating to the withdrawal or withholding of medical treatment or care.

The bill is urgently needed to protect Federal programs which have traditionally been designed to protect the health and welfare of our citizens. The ninth circuit recently reinstated an Oregon statute which provided for physician-assisted suicide through the State's Medicaid Program. This program is funded in part with Federal tax dollars. Unless we enact this statute, Federal dollars will be used to fund physician-assisted suicide. There is an immediate and pressing need for the Senate to act on this matter now. Our Nation has always been committed to the preservation of the lives of its citizens. The American people expect that tradition to continue.

Last week, the House of Representatives acted in a decisive vote of 398 to 16 to ban the use of Federal funds to support physician-assisted suicide and the President has indicated that he does not oppose this legislation. Mr. President, the American people do not want their tax dollars spent to assist individuals to commit suicide.

This legislation simply prohibits the use of Federal funds for assisted suicide. It does not address the issue that is currently before the Supreme Court in Washington versus Glucksburg. The issue in that case is whether there is a liberty interest in committing suicide, and if so, whether that interest extends to obtaining the assistance of a doctor to do the same. Mr. President, nothing in this legislation will affect the decision that the Supreme Court will announce later this summer. What this bill does is maintain the longstanding Federal policy of preventing Federal funds from being used for this purpose. The American taxpayer shouldn't be forced to pay for the activities of Dr. Kevorkian and other physicians who may be engaged in assisting suicide.

Mr. President, we are not acting prematurely by passing this legislation. The State of Oregon already has decided that physician-assisted suicide is legal and that State Medicaid funds may be used for that purpose. The long-standing policy against the use of Federal tax dollars is now in jeopardy, and congressional action is now needed. Tax dollars ought to be used to extend life, not cause death.

Finally, I am pleased to see that this legislation contains a provision to allow for research into ways we can reduce the rate of suicide among individuals with disabilities and chronic illnesses. Modern pain management techniques are improving rapidly, and it is my hope that this research will reduce the demand for assisted suicide, whether legal or illegal, in the future. We need to continue pain research, and make resources available to ensure that health care professionals are capable of administering these new treatments as they develop. This is a forward-looking approach and we should encourage this sort of research—it will improve the quality of life for those with debilitating diseases.

Mr. President, I think I speak for the vast majority of the American people when I say that their Federal tax dollars should not be used to fund physician-assisted suicide. I am very pleased to support this bill. I commend Senator ASHCROFT for bringing this issue to the attention of the Senate. I hope my colleagues will support the bill, and I yield the floor.

Mr. BIDEN. Mr. President, I wish we were not here debating this legislation today—not because I don't think it is right; I do, and I am a cosponsor of the bill; but because I wish there was no need to take up a bill like this in the first place.

Unfortunately, our hands have been forced, largely by the courts.

In March of last year, the Ninth Circuit Court of Appeals ruled that a Washington State law prohibiting physician-assisted suicide was unconstitutional under the constitutional right of privacy.

Then, a month later, the Second Circuit Court of Appeals struck down a similar New York State law, arguing that the equal protection clause of the Constitution gives the terminally ill the same rights to hasten their own death through drugs as other patients have to refuse artificial life support.

Although implementation has been delayed by the courts, in 1994, Oregon voters approved a referendum making physician-assisted suicide legal in that State.

The Supreme Court has heard oral arguments on the matter—and it is expected to rule before the end of this term.

Now, if physician-assisted suicide does become legal—through the courts or through State referendums or by some other means—there will be no doubt an attempt made to have the Federal Government pay for this.

I can hear the arguments already. People will demand that Medicare or Medicaid reimburse physicians who help people commit suicide. Mr. President, this is not such a farfetched notion.

After the voters approved the Oregon referendum in 1994, Oregon officials actually admitted they would seek Medicaid reimbursement if the law were to go into effect.

Now, truth in advertising here, Mr. President. I am opposed to physician-assisted suicide becoming legal in this country, period. So I don't want to hide under some false cloak here. I am one of those who does not support abortion, but I acknowledge that my personal religious view should not be imposed upon the rest of the world because, for me, it is hard to determine and insist that my view on when there is a human life in being is more accurate than someone who is equally as religious as me, but might have a different view. But a suicide is a different story. There is no question that there is a human life in being. Physician-assisted suicide is the most dangerous slippery slope, in my view, that a nation can embark upon.

So I make it clear that this has nothing to do with whether physician-assisted suicide should be allowed. I don't think it should be. But that is beside the point today. What is at issue is—if it becomes legal in one State, several States, or all States—is the Federal Government going to have to pay for it?

To that, I hope we will emphatically say "no," regardless of what each of us thinks about the legality or constitutionality of physician-assisted suicide.

No matter where you are on the issue, under no circumstances should the Federal Government be paying physicians to help people kill themselves.

Let me say what else this debate today is not about. It is not about refusing to accept medical treatment. The Supreme Court has already ruled that individuals have a right to refuse unwanted medical treatment. I am not sure how a physician or a hospital would bill Medicare or Medicaid for not providing a treatment that the patient did not want. But, regardless of that, this bill explicitly states that the funding prohibition does not apply in such circumstances and does not apply to drugs given to alleviate pain.

What we are talking about is when physicians specifically give a patient a drug to kill them—when there is a proactive attempt to kill a patient. That is what we are talking about—no Federal dollars allowed.

I commend Senator ASHCROFT and Senator DORGAN for their work on this bill. This has been a bipartisan effort from the start—going back to when this bill was first put together last summer.

Mr. President, it is important that we swiftly and definitively resolve this issue.

Mr. President, I yield the floor.

Mr. SMITH of New Hampshire. Mr. President, I rise in support of H.R. 1003, the Assisted Suicide Funding Restriction Act of 1997.

I am pleased to be a cosponsor of S. 304, the Senate companion bill to H.R. 1003. As a cosponsor, I was especially gratified to learn of the overwhelming bipartisan vote of 398 to 16 by which H.R. 1003 passed the House of Representatives on April 10, 1997.

With its resounding votes to pass both the Assisted Suicide Funding Restriction Act and H.R. 1122, the Partial-Birth Abortion Ban Act of 1997, the House of Representatives has taken two major actions aimed at restoring respect for the sanctity of human life in our great Nation. I trust that in the weeks ahead, the Senate will join the House by passing both of these bills by large majorities and sending them to the President.

Mr. President, before he passed away last November, Joseph Cardinal Bernadin left a moving testimony to the sanctity of life. "I am at the end of my earthly life," Chicago's Cardinal wrote in a letter addressed to the U.S. Supreme Court. "Our legal and ethical tradition has held consistently that suicide, assisted-suicide, and euthanasia are wrong because they involve a direct attack on innocent human life," Cardinal Bernadin continued. "Creating a new 'right' to assisted suicide," the Cardinal concluded, "will . . . send a false signal that a less than perfect life is not worth living."

Mr. President, by enacting H.R. 1003, the Congress will be moving to defend the sanctity of human life by preventing the use of Federal funds and facilities to provide and promote assisted suicide. This is indeed a worthy goal and I am honored to be a part of this effort.

Mr. KENNEDY. Mr. President, I support the ban on the use of Federal funds for assisted suicide, and I commend Senator DORGAN and Senator ASHCROFT for their leadership on this issue.

The disabled, the elderly, low-income and other Americans in need are often totally reliant on federally financed health care. Allowing Federal funds to be used for assisted suicide, euthanasia, or mercy killing could lead to situations in which terminally ill or seriously ill individuals are coerced into choosing assisted suicide over traditional medical treatments or pain management therapies. In addition, many seriously ill people who suffer transient depression could choose suicide, when, if their depression were treated, they would not make this irrevocable choice.

I also support the intent of the legislation to exclude certain medical treatments and procedures from the provisions of the ban. Evidence of this intent is found in both the language of the Senate bill and the language contained in the House report concerning section 3(b). This subsection clarifies the exact nature of the medical procedures and services which are not intended to be covered by the prohibition on the use of Federal funds. It is important to emphasize that the ban does not cover individuals who do not want their lives prolonged by heroic medical treatments or the other specific treatments identified in the language of the House report on this subsection.

Mr. ASHCROFT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. WELLSTONE. Madam President, I am going to in a short period of time offer two amendments which I hope will be really noncontroversial. I just would like to talk about both of them in general terms and then I will come back in time to offer these amendments.

One of these amendments has to do with what I think is, unfortunately, very germane and it has to do with our failure still to provide the kind of mental health services, the kind of mental health coverage that is so direly needed. I know my colleagues have said one of the things that concerns them and concerns others is that all too often some of the people who take their lives are people in a severe state of depression, people who have not been treated. And then, of course, you really wonder whether or not this ever should have happened and this is the last thing you would like to see assisted.

So I really feel that if, in fact, we are saying we do not want to see this kind of assisted, physician-assisted suicide, or people taking their lives, that is to say, then I think we really want to make sure we do not get to the point where some people, some who really want to take their lives are taking their lives not even necessarily because they are in terrible pain with a terrible illness but having more to do with a terrible mental illness. This is an amendment we will come to in a little while.

The first amendment that I will offer shortly is an amendment which says it is the sense of the Senate that the Senate supports firm but fair work requirements for low-income unemployed individuals. I do not think my colleagues would disagree with that. And low-income workers who are jobless but are unable to find a job should look for work, they should participate in workfare or job training programs but they should not be denied food stamps without these opportunities.

Again, I am just waiting for response from a couple other Senators before I introduce these amendments, but just in very broad outline the why of this amendment.

I am going to draw from a study which comes out from the Department of Agriculture February 13, 1997, which really points to the characteristics of childless unemployed adult food stamp and legal immigrant food stamp participants.

Madam President, this is not a pretty picture. We are talking about the poorest of poor people. If we are going to have vehicles out in the Chamber and there is going to be an opportunity—and these are just sense-of-the-Senate amendments—to really try and get the Senate on record to correct some problems that have to be corrected, then I want to take full advantage of it. In this particular case, we are talking about people who are very poor, many of them women, many of them minorities.

What we are saying is, yes, work, but if there is not a workfare program available and someone cannot find a job, then do not cut people off food stamp assistance, do not say that in a 3-year period you can only get 3 months' worth of food stamp assistance.

Why in the world would we want to create the very situation we are now creating which is you are basically taking the most vulnerable citizens, the poorest of poor people and you are putting them in a situation where they want to work, they cannot find a job, there is not a workfare program available, there is not a job training program available, they are suffering, struggling with HIV infection or dying from AIDS, they are struggling with mental illness, they did not even have a high school education, there are no opportunities for the training, and we are now saying that we are going to cut you off food stamp assistance. This was the harshest provision of the welfare bill that we passed.

And so, Madam President, I come to the floor, and I will in a moment suggest the absence of a quorum just for a moment and then we will move forward with both of these amendments. But I come to the floor to introduce both of these amendments. These are sense-of-the-Senate amendments. I hope they will command widespread support. I say to my colleagues I am really hopeful for a very strong vote. I know they are anxious to have the bill come through. I do not think these amendments—I made them sense-of-the-Senate amendments. I think the language is very reasonable, and I do not mean to hold up the legislation at all, but on the other hand I do mean to get some attention focused on some areas that we really need to address.

Madam President, just for a moment, I would suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ASHCROFT. I would ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. The Senator from Minnesota suggests that these are merely sense-of-the-Senate amendments and that they would not impair the progress of the bill substantially. If by adding these amendments to the bill we send the bill to conference, we delay substantially our ability to move this legislation to the President of the United States for his signature.

Throughout our comments and remarks, I think it has been clear we are simply at present awaiting judicial decisions which might authorize on a momentary basis Federal funding of assisted suicide, so that it is crucial we not delay this process. And sending this measure to conference would in fact delay the process.

Second, I should indicate that this is not a measure which is designed to prohibit assisted suicide. Some suggestions seem to have been made that this is a measure which would attempt to control whether or not States could authorize assisted suicide or whether they could fund it on their own or whether we would be intervening by this legislation in the capacity of States to determine what is appropriate or inappropriate for their citizens. Nothing could be further from the truth.

This is not a measure that relates to the commission of suicide. It relates to Federal funding of assisted suicide. This bill—and many people think it unfortunate it would not—does not prevent Kevorkian from acting. That would be controlled by local jurisdictions and what the law in those jurisdictions is. So that the alleged relevance of some of the proposed amendments simply is not consistent with the content of the measure.

I think it is important for us to understand we ought to act quickly. We are fortunate that the courts have not already authorized Federal payments for assisted suicide. But for the injunction of a court in Oregon, that would have been the case, according to the director of Medicaid and the Health Services Commission chair in Oregon. And now the Ninth Circuit Court of Appeals has overturned that lower court's decision and the matter is still suspended in the limbo of the legal proceedings. But as soon as the ninth circuit's opinion would become final, the Oregon officials have indicated they intend to call for Federal resources to participate in the funding of what they call "comfort care." I would be uncomfortable myself to receive the "comfort care" offered there.

But it is, in my judgment, a matter of importance that we act promptly, that we act with dispatch. The attempt to bring unrelated issues to this measure is counterproductive, particularly inasmuch as it is likely to send this legislation to conference and to delay substantially the ability to move the will of the American people into the law of the American people, and that will is that we not fund with Federal resources assisted suicide.

Madam President, I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ASHCROFT. I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk continued with the call of the roll.

Mr. WELLSTONE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WELLSTONE. I ask unanimous consent that Margaret Heldring have the privilege of the floor during the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ASHCROFT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Madam President, I ask unanimous consent that no amendments or motions be in order to the pending legislation, and that there be 10 minutes for debate to be equally divided in the usual form, to be followed by third reading and final passage of H.R. 1003.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ASHCROFT. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. ASHCROFT. For the information of all Senators, a vote will occur within the next 10 minutes on passage of the assisted suicide bill. I thank my colleagues for their cooperation.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I ask unanimous consent to have printed in the RECORD a statement of administration policy on H.R. 1003, including a letter to Senator TRENT LOTT by the Assistant Attorney General, Andrew Fois.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, April 16, 1997.

STATEMENT OF ADMINISTRATION POLICY

H.R. 1003—Assisted Suicide Funding Restriction Act of 1997

The President has made it clear that he does not support assisted suicides. The Administration, therefore, does not oppose enactment of H.R. 1003, insofar as it would reaffirm current Federal policy prohibiting the use of Federal funds to pay for assisted suicides and euthanasia.

However, the Department of Justice advises (in the attached letter) that section 5 of the bill, which would prohibit the use of any federal funds to support an activity that has a purpose of "asserting or advocating a legal right to cause, or to assist in . . . the suicide . . . of any individual," exceeds the intent of the legislation and raises concerns regarding freedom of speech. Therefore, the Administration urges the Senate to address this concern as the legislation moves forward, in order to avoid potential constitutional challenges and implementation problems.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, April 16, 1997.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: This presents the views of the Department of Justice on H.R. 1003, the "Assisted Suicide Funding Restriction Act of 1997." As you know, the President has made it clear that he does not support assisted suicides. The Administration therefore does not oppose enactment of H.R. 1003. We do, however, have a concern that we would like to bring to your attention.

Section 5 of H.R. 1003 provides that "no funds appropriated by Congress may be used to assist in, to support, or to fund any activity or service which has a purpose of assisting in, or to bring suit or provide any other form of legal assistance for the purpose of . . . asserting or advocating a legal right to cause, or to assist in causing, the suicide, euthanasia, or mercy killing or any individual." This restriction, by its plain terms, would apply without limitation to all federal funding. As a result, we believe that the proposed bill would constitute a constitutionally suspect extension of the type of speech restriction upheld in *Rust* v. *Sullivan*, 500 U.S. 173 (1991).

In *Rust*, the Supreme Court upheld a program-specific funding restriction on the use of federal family planning counseling funds to provide abortion-related advice. It explained that the restriction constituted a permissible means of furthering the government's legitimate interests in ensuring program integrity and facilitating the government's own speech. See id. at 187–194. The Court stressed, however, that its holding was not intended "to suggest that funding by the Government, even when coupled with the freedom of the fund recipients to speak outside the scope of a Government-funded project, is invariably sufficient to justify Government control over the content of expression." Id. at 199. For example, the Court emphasized that the First Amendment analysis might differ for restrictions on federally funded services that were "more all encompassing" than the limited pre-natal counselling program at issued in *Rust*. Id. at 200. In addition, the Court explained that the government's authority to place speech restrictions on the use of governmental funds in "a traditional sphere of free expression," such as a forum created with governmental funds or a government-funded university, was far more limited. Id. at 200.

The Court affirmed the limited nature of *Rust* in *Rosenberger* v. *Rectors and Visitors of the University of Virginia*, 115 S.Ct. 2510 (1995). There, the Court explained that *Rust* applies where the government itself acts as the speaker. "When the government disburses public funds to private entities to convey a governmental message," the Court explained, "it may take legitimate and appropriate steps to ensure that its message it neither garbled nor distorted by the grantee." Id. at 2519. The government may not, however, impose viewpoint-based restrictions when it "does not itself speak or subsidize transmittal of a message it favors, but instead expends funds to encourage a diversity of views from private speakers." Id.

Here, the bill places a speech restriction on all uses of federal funds. It would move beyond speech restrictions on the use of federal funds in specific, limited programs, such as the one identified in *Rust*, to establish a viewpoint-based restriction on the use of federal funds generally. As a result, the bill's restriction on speech could apply to an unknown number of programs that are designed to "encourage a diversity of views from private speaker, "*Rosenberger*, 115 S.Ct. at 2519, and to which the Court has held application of a viewpoint-based funding limitation unconstitutional. The bill could also apply to a number of services that are "more all encompassing" than the counselling program at issue in *Rust*, see 500 U.S. at 200, and to which application of a viewpoint-based funding restriction would be subject to substantial constitutional challenge.

Moreover, the general approach that the bill employs is itself constitutionally suspect. Unlike the regulation at issue in *Rust*, H.R. 1003 does not attempt to identify a particular program, or group of programs, in which a funding restriction would serve the government's legitimate interests in ensuring program integrity or facilitating the effective communication of a governmental message. It would instead impose a broad and undifferentiated viewpoint-based restriction on all uses of federal funds. As a result of the unusually broad and indiscriminate nature of the proposed funding restriction, the bill does not appear to be designed to serve the legitimate governmental interests identified in *Rust*. Thus, the bill is vulnerable to arguments that it reflects on "ideologically driven attempt [] to suppress a particular point of view [which would be] presumptively unconstitutional in funding, as in other contexts." "*Rosenberger*, 115 S.Ct. at 2517 (internal quotations omitted). We therefore recommend that this provision be deleted from the bill.

Thank you for your consideration of this matter. Please do not hesitate to call upon us if we may be of additional assistance in connection with this or any other matter. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

ANDREW FOIS,
Assistant Attorney General.

Mr. DORGAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ASHCROFT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

All time has expired. If there be no amendment to be offered, the question is on the third reading of the bill.

The bill (H.R. 1003) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina [Mr. FAIRCLOTH] is necessarily absent.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—99

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith, Bob
Smith, Gordon H.
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Faircloth

The bill (H.R. 1003) was passed.

Mr. ASHCROFT. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ASHCROFT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, parliamentary inquiry: Can I use time as if in morning business to introduce a bill?

The PRESIDING OFFICER. The Senator needs consent to do that at this time.

Mr. DOMENICI. That is not infringing on anything planned?

The PRESIDING OFFICER. We have no orders at this time.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for up to 10 minutes on court-appointed attorney's fees and the taxpayers' right to know how much they are paying.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 598 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FISCAL YEAR 1998 DEFENSE BUDGET AND THE MILITARY SERVICES' UNFUNDED PRIORITY LISTS

Mr. LEVIN. Mr. President, during the consideration of the annual defense budget in each of the last several years, the Armed Services Committee has asked each of the military services to provide a list of unfunded priorities—that is, programs that were not included in the defense budget request submitted to the Congress. For obvious and very understandable reasons, the military services have responded to these requests with a great deal of enthusiasm.

Again this year, the chairman of the Armed Services Committee, Senator THURMOND, asked each of the military service chiefs to indicate to the committee how they would allocate up to $3.0 billion in additional funds above the fiscal year 1998 budget request. Last month each of the four service chiefs provided the committee with a list of $3.0 billion for specific programs not funded in the budget request.

Mr. President, the Armed Services Committee needs to hear the priorities of the military services—but we also have a responsibility to view these priorities in a broader context. The so-called unfunded priority lists submitted to the committee reflect only individual service priorities. They do not necessarily reflect the joint service priorities of the Chairman of the Joint Chiefs or the warfighting commanders in chief.

General Shalikashvili made this point earlier this year to the committee when he said during our February 12 hearing in reference to these unfunded priority lists:

> I would put in as strong a plea as I can that you then ask what the overall prioritization is within the joint context, because we are talking of a joint fight. And so to understand why one system should be put forward versus another, you really ought to see what the joint priority on it is, and how that particular system, in the eyes of the joint warfighter, then contributes to the overall fight. Obviously then you will make a judgment. But I would ask that you do not look at service lists without putting it in the context of a joint view on the importance of that item or the other.

Mr. President, one of the driving forces behind the Armed Services Committee's work on the landmark Goldwater-Nichols Department of Defense Reorganization Act 10 years ago—which our former colleague and now Secretary of Defense Bill Cohen played a key role in—was the need to enhance the joint perspective within the Defense Department. I agree very strongly with General Shalikashvili's view that the Armed Services Committee—and the Senate—should have the benefit of the joint perspective before we take any action on any of the items on the military services' unfunded priority lists. We have a responsibility to ensure that the programs we fund make the greatest possible contribution to the joint warfighting capability of our Armed Forces.

For this reason, when the committee received the four unfunded priority lists from the military service chiefs last month totaling $12.0 billion, I sent all four lists over to Secretary Cohen and General Shalikashvili and asked two questions.

First, I asked which of the specific programs on the military services unfunded priority lists, if any, were programs for which funds are not included in the Defense Department's current Future Years Defense Program.

Second, I asked for Secretary Cohen's and General Shalikashvili's views on the individual programs on the services' lists from a joint warfighting perspective, and whether there were any programs not included in these lists that in their view had a higher priority from the joint perspective.

Mr. President, I recently received letters from both Secretary Cohen and General Shalikashvili in response to my letter. I ask unanimous consent that my letter and their responses be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. LEVIN. Secretary Cohen indicates in his letter that while the military services' unfunded priority lists "provide useful ways that the Defense Department could apply additional funds, the President's budget already provided for the Department's essential priorities." With the exception of four specific items, Secretary Cohen also noted that the items on the services' lists are included in the fiscal year 1998–fiscal year 2003 Future Years Defense Program.

General Shalikashvili's response to my letter outlines his views on the most important programs on the services' lists from a joint warfighting perspective. General Shalikashvili's joint list totals about $4.0 billion, or about one-third of the total $12 billion on the four lists that the service chiefs submitted. His list includes three command, control, communications and intelligence programs that were not on the services' original list. Unfortunately, General Shalikashvili does not indicate relative priorities within the programs on his joint list, but I intend to pursue this question further.

Mr. President, I think Secretary Cohen's and General Shalikashvili's personal involvement in this issue of unfunded priority lists represents an important step forward in what some people have called the wish list process in the last several years—a process that in my view had gotten a little out of hand. It is still too early to tell how relevant these various lists will be this year. The outcome of the budget discussions between Congress and the administration is unclear. I don't believe we should or need to increase the fiscal year 1998 defense budget this year. If Congress does decide to make adjustments to the fiscal year 1998 budget, I think we are much better off with a $4.0 billion joint list than with four $3.0 billion lists that have not had the benefit of a joint review.

I want to thank Secretary Cohen and General Shalikashvili for their cooperation in this effort.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, March 18, 1997.

Hon. WILLIAM S. COHEN,
Secretary of Defense.
Gen. JOHN M. SHALIKASHVILI,
USA, Chairman, Joint Chiefs of Staff, Department of Defense, Washington, DC.

DEAR SECRETARY COHEN AND GENERAL SHALIKASHVILI: At the request of the Committee, each of the Chiefs of the military services has provided the Committee with a list of their program priorities in the event that Congress decides to provide additional funding to the Defense Department for fiscal year 1998 above the President's budget request. I have enclosed a copy of each of these four lists.

I would appreciate your response to two issues concerning these lists which were raised during your testimony before the Committee on February 12, 1997.

First, please indicate which programs, if any, on these lists are programs for which funds are not included in the Department's current Future Years Defense Program.

Second, during the Committee's February 12 hearing, you requested that we look at the prioritization of these programs within the joint context. Accordingly, please indicate your views on the priority of the individual programs on these lists from the joint warfighting perspective. You should also indicate whether there are any programs not included on these lists that have a higher priority from the joint perspective.

I would appreciate your response to these questions by April 1, 1997. Thank you for your assistance in this important matter.

Sincerely,

CARL LEVIN,
Ranking Minority Member.

THE SECRETARY OF DEFENSE,
Washington, DC, April 10, 1997.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR CARL: I welcomed your letter of March 18, 1997, to General Shali and me because it gives me the opportunity to provide my perspective on the Service unfunded priority lists. While the lists provide useful ways the Department could apply additional funds, the President's budget already provided for the Department's essential priorities. Moreover, the vast majority of the items on the lists of unfunded Service priorities are included in the FY 1998–FY 2003 Future Years Defense Program (FYDP). I believe that it is hard to call something a priority if it does not appear in the Department's budget plans anywhere in the next 5 years. Therefore, the Services used inclusion in the FYDP as a key selection criterion in building the lists of unfunded FY 1998 priorities. This also allows the Department to reduce future expenditures to the extent budgeted program completions are accelerated by additions to the FY 1998 budget.

There has been instances where changes after preparation of the FYDP justify including a few items on the unfunded priorities lists that are not in the FYDP. The enclosed table identifies those items and provides a brief explanation of why the items are included in the lists even though they are not in the FYDP.

I believe the enclosed table responds to your first question. Your second question asked for our views on the priority of the individual programs on the lists from a joint warfighting perspective. I believe that General Shali is best suited to answer your second question, and he will respond separately.

Thank you again for the opportunity to confirm that the vast majority of the items on the Service unfunded priorities lists are in the FYDP.

Sincerely,

BILL COHEN.

Enclosure.

PRIORITY LIST ITEMS NOT IN THE FYDP

[Dollars in millions]

Service	Item	Amount	Explanation
Army	None	N/A	N/A
Navy	None	N/A	N/A
Marine Corps	VH–3/VH–60 simulators	$10.0	Responds to a recent finding of the DoD Executive Air Fleet Review that simulator training of VIP aircraft pilots needed improvement.
Marine Corps	2 F/A–18D aircraft	$93.8	Attrition replacement aircraft that should be procured before the F/A–18C/D goes out of production.
Air Force	Global Air Traffic Management (GATM)	$67.7	Required to initiate a program to comply with new Federal Aviation Administration and International Civil Aviation Organization standards that require all aircraft to be GATM capable.
Air Force	Navigation Safety—Phase II	$126.3	Provides for the second phase of modifications to DoD passenger carrying aircraft designed to minimize the chance of accidents like the T–43 crash in Bosnia. Phase II program was not well defined when the FYDP was developed.

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, April 6, 1997.

Hon. CARL LEVIN,
Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: Thank you for the letter requesting a review of unfunded FY 1998 priorities from a joint perspective. I appreciate the opportunity to comment on the Service lists and to provide views with respect to the joint warfighter. Enclosed are items that best support the combatant commanders and are in line with my priorities.

The list also includes three C41 programs that, although not on the Service lists, are joint priorities. The programs, which are in the current FYDP, are Global Broadcast System Theater Injection Points, Global Broadcast System Fiber Connectivity, and Global Command and Control System Data Base Servers.

Please let me know if any further information is desired.

Sincerely,

JOHN M. SHALIKASHVILI,
Chairman, Joint Chiefs of Staff.

Enclosure.

PROCUREMENT

ARMY

- Kiowa Warrior Safety Mods
- Night Vision HUD
- Patriot Mods Increment 1
- Avenger Mods
- MLRS 2X9
- Stinger Blk 1 Upgrade
- Carrier Mods
- FIST Vehicle Mod
- BFV Survivability Enhancements
- Family of Medium Tactical Vehicles'(FMTV)
- HETS Increment 1
- PLS Trucks
- GCCS Data Base Servers
- SINCGARS Test Sets
- Airborne SINCGARS SIP
- WIN Terrestrial Transport
- TRRIP
- C2 Protection
- ASAS Remote Workstations
- SENTINEL
- NV PVS–7D
- Thermal Weapon Sight
- Infrared Aiming Lights
- Firefinder Radar
- Logistics Automation
- Fwd Entry Device
- STAMIS Platform
- SIDPERS–3
- Contact Test Set
- Base Shop Test Facility
- Fire Trucks
- Engr Spt Equip <$2M
- War Reserve Mod

DON

- F/A–18 E/F (2 aircraft)
- E–2C (1 aircraft)
- Tomahawk Remanufacture
- JSOW Restore to DAB Level
- Navy Area TBMD—Accelerate 15 Block-IV Missiles
- Ammunition (5.56mm, 5.56mm Linked, 40mm, Demo Charge)
- SEAWOLF Propulsor
- CEC—Restore Full-Fielding Plan
- Acoustic Rapid COTS Insertion
- Info Technology 21
- HDR and Mini-DAMA
- Light Armored Vehicle R&M (LAV RAM)
- Javelin Medium Anti-Tank Weapon
- Base Telecommunications Infrastructure
- Improved Direct Air Support Center (IDASC)
- Light Tactical Vehicle Replacement (LVTR)
- ISO Truck Beds
- Chem/Bio Incident Response Force (CBIRF) Equipment
- Combat Rubber Reconnaissance Craft (CRRC)
- Combat Vehicle Appended Trainer (CVAT)

USAF

- F–15 E Attrition Reserve
- Sensor to Shooter
- Bomber Modernization
- F–15 C/D PW220E Engine Upgrade
- Global Air Traffic Management (GATM)
- Navigation Safety Phase II
- AWACS Extend Sentry
- HH–60G FLIR
- C130J Support Equipment
- F–16 Support Equipment
- Precision Guided Munitions
- Precision Guided Munitions (Missiles)
- Sensor to Shooter
- Nuclear C2
- Force Protection
- Information Protection
- Range Standardization and Automation
- Theater Deploy Communication
- Spacetrack
- Night Vision Goggles
- Mission Operations Vehicles (Ground)

SOF

- Patrol Costal (PC–14)
- Counter Proliferation of WMD (Classified Programs)

OPERATIONS AND MAINTENANCE

ARMY

- RC School & Training
- Force XXI Architecture
- Instit Tng Pilot Mod Tng
- Maintaining ES/Recruiting
- OCE
- JTAGS
- Logistics Automation
- C2 Protect
- OSACOM AGR
- RC OPTEMPO

DON

- Aviation Depot Maintenance—Reduce Airframe & Engine Backlog
- Reduce Ship Depot Maint Backlog
- Recruiting—Advertising (USN)
- Tuition Assistance & Program for Afloat Education (PACE)
- Real Property Maintenance (USN)
- Initial Equipment Issue (USMC Active)
- Personnel Support Equipment (USMC Active)

Chem/Bio Incident Response Force (CBIRF) Training & Support
Recruiting—Advertising (USMC)
Initial Equipment Issue (USMC Reserve)
Theater Deploy Communications
AWACS Extend Sentry

USAF

GCCS
Force Protection
KC-135 Depot Programmed Equipment Maintenance (DPEM)
Recruiting—Advertising
Information Protection

SOF

Counter Proliferation of WMD (Classified Programs)
Counter Proliferation—Deep Underground Storage (Classified Pro)
SAAM Readiness Support (Classified Program)
C2/Information Warfare Readiness Support (Classified Programs)
OPTEMPO Sustainment

RDT&E

ARMY

National Automotive Tech
Force XXI Land Warrier
TI C2 Protect
Joint Precision Strike Demo
JSSAP
LOS
Vaccines-Adv Dev
Acrft Avionics
Comanche
GBCS Tng Dev
M1 Breacher Prototype
Test Program Sets
CCTT
Force XXI Architecture
Vaccines-Med Bio Def
FAAD GBS
AEROSTAT
Adv FA Tac Data Sys
Bradley—BFIST
Improved Cargo Helicopter (ICH)
Force XXI Battle Command
WIN ISYSCON Segment 1
JCPMS
JTAGS
AGCCS

DON

Extended Range Guided Munitions (ERGM)
AV-8 B Safety, Reliability, and Operational Enhancements

USAF

Cockpit Life Support System Improvement
GBS Theater Injection Points
GBS Fiber Connectivity
Precision Guided Munitions
Sensor to Shooter
Aging Aircraft
Engine Contractor Interim Performance (CIP)
Precision Guided Munitions
Sensor to Shooter
AWACS Extend Sentry
Nuclear C2
GCCS
GPS Systems
Range Standardization and Automation
Spacetrack

SOF

AC-130 Lethality Enhancements RDT&E

MILCON

ARMY

Arrival/Departure Airfield Control Group (DACG)

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, April 15, 1997, the Federal debt stood at $5,383,116,230,748.81. Five trillion, three hundred eighty-three billion, one hundred sixteen million, two hundred thirty thousand, seven hundred forty-eight dollars and eighty-one cents.

One year ago, April 15, 1996, the Federal debt stood at $5,140,011,000,000. Five trillion, one hundred forty billion, eleven million.

Five years ago, April 15, 1992, the Federal debt stood at $3,902,117,000,000. Three trillion, nine hundred two billion, one hundred seventeen million.

Ten years ago, April 15, 1987, the Federal debt stood at $2,281,470,000,000. Two trillion, two hundred eighty-one billion, four hundred seventy million.

Fifteen years ago, April 15, 1982, the Federal debt stood at $1,064,434,000,000. One trillion, sixty-four billion, four hundred thirty-four million—which reflects a debt increase of more than $4 trillion—$4,318,682,230,748.81—four trillion, three hundred eighteen billion, six hundred eighty-two million, two hundred thirty thousand, seven hundred forty-eight dollars and eighty-one cents—during the past 15 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1554. A communication from the general counsel of the Federal Retirement Thrift Investment Board, transmitting, pursuant to law, a rule entitled "Thrift Savings Plan Loans" received on April 14, 1997; to the Committee on Governmental Affairs.

EC-1555. A communication from the chairman of the Federal Housing Finance Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC-1556. A communication from the Tennessee Valley Authority, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC-1557. A communication from the board members of the Railroad Retirement Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1996; to the Committee on Governmental Affairs.

EC-1558. A communication from the District of Columbia auditor, transmitting, pursuant to law, the report of the audit of ANC 1B for the period October 1, 1993 through December 30, 1996; to the Committee on Governmental Affairs.

EC-1559. A communication from the executive director of the D.C. Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, a report relative to the D.C. financial plan and budget for fiscal year 1998; to the Committee on Governmental Affairs.

EC-1560. A communication from the executive director of the D.C. Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, two reports including a report entitled "Recommendations for Performance Measurement—Department of Administrative Services"; to the Committee on Governmental Affairs.

EC-1561. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-458 adopted by the Council on November 25, 1996; to the Committee on Governmental Affairs.

EC-1562. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-524 adopted by the Council on December 3, 1996; to the Committee on Governmental Affairs.

EC-1563. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12-45 adopted by the Council on March 4, 1997; to the Committee on Governmental Affairs.

EC-1564. A communication from the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12-46 adopted by the Council on March 4, 1997; to the Committee on Governmental Affairs.

EC-1565. A communication from the administrator from the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of five rules including one rule relative to hazelnuts, received on April 14, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1566. A communication from the congressional review coordinator of the Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to disease status, received on April 9, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1567. A communication from the President of the United States, transmitting, pursuant to law, the report concerning the national emergency with respect to Angola; to the Committee on Banking, Housing, and Urban Affairs.

EC-1568. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report entitled "Moving Toward a Lead-Safe America"; to the Committee on Banking, Housing, and Urban Affairs.

EC-1569. A communication from the president and chairman of the Export-Import Bank, transmitting, pursuant to law, the report with respect to transactions involving exports to various countries; to the Committee on Banking, Housing, and Urban Affairs.

EC-1570. A communication from the president and chairman of the Export-Import

Bank, transmitting, pursuant to law, the report with respect to transactions involving exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–1571. A communication from the chairman of the Federal Financial Institutions Examination Council, transmitting, pursuant to law, the annual report for calendar year 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–1572. A communication from the assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report with respect to the rule entitled "Regulation M, Consumer Leasing Act, Docket number R–0952," received on March 27, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1573. A communication from the assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report on the Electronic Fund Transfer Act, received on March 31, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1574. A communication from the assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report on the Availability of Consumer Identify Information and Financial Fraud, April 1, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1575. A communication from the chairman of the Federal Trade Commission, transmitting, pursuant to law, the annual report under the Fair Debt Collection Practices Act; to the Committee on Banking, Housing, and Urban Affairs.

EC–1576. A communication from the chairman of the board of the National Credit Union Administration, transmitting, pursuant to law, the 1996 annual report; to the Committee on Banking, Housing, and Urban Affairs.

EC–1577. A communication from the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the annual consumer report for calendar year 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–1578. A communication from the Federal Liaison Office of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to economic growth, received on March 28, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1579. A communication from the secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule relative to penalty reductions, received on March 27, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1580. A communication from the secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule relative to its informal guidance program, received on March 27, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1581. A communication from the secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule relative to investment advisory programs, received on March 27, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1582. A communication from the secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule relative to investment companies, (RIN3235-AH09) received on April 3, 1997; to the Committee on Banking, Housing, and Urban Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CAMPBELL:

S. 587. A bill to require the Secretary of the Interior to exchange certain lands located in Hinsdale County, Colorado; to the Committee on Energy and Natural Resources.

S. 588. A bill to provide for the expansion of the Eagles Nest Wilderness within the Arapaho National Forest and the White River National Forest, Colorado, to include land known as the State Creek Addition; to the Committee on Energy and Natural Resources.

S. 589. A bill to provide for a boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National Forest, Colorado, to correct the effects of earlier erroneous land surveys; to the Committee on Energy and Natural Resources.

S. 590. A bill to provide for a land exchange involving certain land within the Routt National Forest in the State of Colorado; to the Committee on Energy and Natural Resources.

S. 591. A bill to transfer the Dillon Ranger District in the Arapaho National Forest to the White River National Forest in the State of Colorado; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS (for himself, Mr. SPECTER, Mr. BIDEN, and Mr. ROBB):

S. 592. A bill to grant the power to the President to reduce budget authority; to the Committee on Rules and Administration.

By Mr. SPECTER:

S. 593. A bill to amend the Internal Revenue Code of 1986 to impose a flat tax only on individual taxable earned income and business taxable income, and for other purposes; to the Committee on Finance.

By Mr. McCONNELL (for himself, Mr. GRAHAM, Mr. SHELBY, Mr. BREAUX, Mr. COVERDELL, Mr. GLENN, Mr. COCHRAN, Mr. MURKOWSKI, Mr. DEWINE, Mr. MACK, Mr. ROBB, Mr. SPECTER, Mrs. HUTCHISON, Mr. BENNETT, Mr. D'AMATO, Ms. LANDRIEU, and Mr. WARNER):

S. 594. A bill to amend the Internal Revenue Code of 1986 to modify the tax treatment of qualified State tuition programs; to the Committee on Finance.

By Mr. BOND (for himself and Mr. ASHCROFT):

S. 595. A bill to designate the United States Post Office building located at Bennett Street and Kansas Expressway in Springfield, Missouri, as the "John Griesemer Post Office Building"; to the Committee on Governmental Affairs.

By Mr. KOHL (for himself and Mr. COCHRAN):

S. 596. A bill to authorize the Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice to make grants to States and units of local government to assist in providing secure facilities for violent and serious chronic juvenile offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself, Mr. CRAIG, Mr. HOLLINGS, Mr. REID, Mr. AKAKA, Mr. COCHRAN, Mr. DORGAN, Mr. INOUYE, Mrs. BOXER, Ms. SNOWE, Mr. TORRICELLI, and Mr. MACK):

S. 597. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals; to the Committee on Finance.

By Mr. DOMENICI:

S. 598. A bill to amend section 3006A of title 18, United States Code, to provide for the public disclosure of court appointed attorneys' fees upon approval of such fees by the court; to the Committee on the Judiciary.

By Mrs. BOXER (for herself and Mr. LAUTENBERG):

S. 599. A bill to protect children and other vulnerable subpopulations from exposure to certain environmental pollutants, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. FEINSTEIN (for herself and Mr. GRASSLEY):

S. 600. A bill to protect the privacy of the individual with respect to the social security number and other personal information, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MOYNIHAN (for himself, Mr. MACK, Mr. DASCHLE, Mr. LOTT, Mr. LIEBERMAN, Mr. HELMS, Mr. D'AMATO, Mr. KYL, Mr. ALLARD, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BRYAN, Mr. BURNS, Mr. CAMPBELL, Mr. CLELAND, Mr. COATS, Mr. COCHRAN, Ms. COLLINS, Mr. CRAIG, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRIST, Mr. GRAHAM, Mr. GRAMM, Mr. GRASSLEY, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HUTCHINSON, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. LEVIN, Mr. LUGAR, Mr. McCAIN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. NICKLES, Mr. REED, Mr. ROBB, Mr. SANTORUM, Mr. SESSIONS, Mr. SMITH of Oregon, Mr. SMITH of New Hampshire, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMPSON, Mr. TORRICELLI, Mr. WARNER, and Mr. WYDEN):

S. Con. Res. 21. A concurrent resolution congratulating the residents of Jerusalem and the people of Israel on the thirtieth anniversary of the reunification of that historic city, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL:

S. 587. A bill to require the Secretary of the Interior to exchange certain lands located in Hinsdale County, CO; to the Committee on Energy and Natural Resources.

S. 588. A bill to provide for the expansion of the Eagles Nest Wilderness within the Arapaho National Forest and the White River National Forest, Colorado, to include land known as the

State Creek Addition; to the Committee on Energy and Natural Resources.

S. 589. A bill to provide for a boundary adjustment and land conveyance involving the Raggeds Wilderness, White River National Forest, Colorado, to correct the effects of earlier erroneous land surveys; to the Committee on Energy and Natural Resources.

S. 590. A bill to provide for a land exchange involving certain land within the Routt National Forest in the State of Colorado; to the Committee on Energy and Natural Resources.

S. 591. A bill to transfer the Dillon Ranger District in the Arapaho National Forest to the White River National Forest in the State of Colorado; to the Committee on Energy and Natural Resources.

PUBLIC LANDS LEGISLATION

Mr. CAMPBELL. Mr. President, today I introduce five pieces of legislation affecting Federal lands in my home State of Colorado.

The purpose of these bills is to facilitate the process of consolidating our Federal lands into contiguous blocks which makes their management more efficient and less costly.

Much of the land over which the Bureau of Land Management and the U.S. Forest Service has management authority contains numerous inholdings which may have been old mining claims or other privately owned parcels. This patchwork ownership often creates management problems. For example, a particular parcel may block the public's access to other Federal lands. The presence of an inholding may limit the tools which can be used by the Federal agency to manage the land. If a controlled fire is needed to clear underbrush or stop the spread of insects, the presence of private land in the midst of the area may well preclude the use of fire as a management tool. All these considerations require much more time, and adds to the expense of caring for Federal lands.

Whenever an owner of these private parcels willingly offers to sell or exchange their lands, it is important that the Federal Government is able to accomplish these transactions to increase management efficiency and public use. The designated Federal agencies have reviewed these bills and the legislation reflects their input.

The first bill, the Larson and Friends Creek exchange, directs the Secretary of the Interior to exchange lands of equal value for several small parcels within the Handies Peak Wilderness Study Area and Red Cloud Peak Wilderness Study Area in Hinsdale County, CO. This exchange will allow the study areas to better fit the definition of a wilderness area.

The second bill, the Slate Creek addition to Eagles Nest Wilderness, provides for the expansion of the wilderness area in Summit County, CO. The current owners of this parcel are willing to convey it to the United States only if it is added to the existing wilderness area and permanently managed as wilderness. This addition will increase public access to the wilderness.

The third bill, Raggeds Wilderness boundary adjustment, is necessary to correct the effects of earlier erroneous land surveys. Certain landowners in Gunnison County, CO, who own property adjacent to the Raggeds Wilderness have occupied or improved their property in good faith based upon a survey they reasonably believed to be accurate. This bill is necessary to accomplish an adjustment of the boundary between the private landowners and the wilderness area. The entire area involved in this adjustment is less than 1 acre.

The fourth bill, Miles land exchange, authorizes the Secretary of Agriculture to convey lands of equal value in exchange for the Miles parcel located adjacent to the Routt National Forest in Routt County, CO. The purpose of this exchange is to improve on-the-ground management of public lands which are now isolated and difficult to manage. It will eliminate the need for long standing special use permits and add riparian acres to the national forest.

The final bill, the Dillon Ranger District transfer, allows for a boundary adjustment to transfer the Dillon Ranger District from the Arapaho National Forest to the White River National Forest. The Dillon District is already under the jurisdictional management of the White River National Forest. However, this technical correction is necessary because any official publications of the U.S. Forest Service references the district as a part of the Arapaho National Forest and confuses the public.

I ask unanimous consent that these bills be printed in the RECORD with letters of support from various county governments in which these lands are located.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 587

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LARSON AND FRIENDS CREEK EXCHANGE.

(a) IN GENERAL.—In exchange for conveyance to the United States of an equal value of offered land acceptable to the Secretary of the Interior that lies within, or in proximity to, the Handies Peak Wilderness Study Area, the Red Cloud Peak Wilderness Study Area, or the Alpine Loop Backcountry Bi-way, in Hinsdale County, Colorado, the Secretary of the Interior shall convey to Lake City Ranches, Ltd., a Texas limited partnership (referred to in this section as "LCR"), approximately 560 acres of selected land located in that county and generally depicted on a map entitled "Larson and Friends Creek Exchange", dated June 1996.

(b) CONTINGENCY.—The exchange under subsection (a) shall be contingent on the granting by LCR to the Secretary of a permanent conservation easement, on the approximately 440-acre Larson Creek portion of the selected land (as depicted on the map), that limits future use of the land to agricultural, wildlife, recreational, or open space purposes.

(c) APPRAISAL AND EQUALIZATION.—

(1) IN GENERAL.—The exchange under subsection (a) shall be subject to—

(A) the appraisal requirements and equalization payment limitations set forth in section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716); and

(B) reviews and approvals relating to threatened species and endangered species, cultural and historic resources, and hazardous materials under other Federal laws.

(2) COSTS OF APPRAISAL AND REVIEW.—The costs of appraisals and reviews shall be paid by LCR.

(3) CREDITING.—The Secretary may credit payments under paragraph (2) against the value of the selected land, if appropriate, under section 206(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(f)).

S. 588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SLATE CREEK ADDITION TO EAGLES NEST WILDERNESS, ARAPAHO AND WHITE RIVER NATIONAL FORESTS, COLORADO.

(a) SLATE CREEK ADDITION.—If, before December 31, 2000, the United States acquires the parcel of land described in subsection (b)—

(1) on acquisition of the parcel, the parcel shall be included in and managed as part of the Eagles Nest Wilderness designated by Public Law 94-352 (16 U.S.C. 1132 note; 90 Stat. 870); and

(2) the Secretary of Agriculture shall adjust the boundaries of the Eagles Nest Wilderness to reflect the inclusion of the parcel.

(b) DESCRIPTION OF ADDITION.—The parcel referred to in subsection (a) is the parcel generally depicted on a map entitled "Slate Creek Addition—Eagles Nest Wilderness", dated February 1997, comprising approximately 160 acres in Summit County, Colorado, adjacent to the Eagles Nest Wilderness.

S. 589

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARY ADJUSTMENT AND LAND CONVEYANCE, RAGGEDS WILDERNESS, WHITE RIVER NATIONAL FOREST, COLORADO.

(a) FINDINGS.—Congress finds that—

(1) certain landowners in Gunnison County, Colorado, who own real property adjacent to the portion of the Raggeds Wilderness in the White River National Forest, Colorado, have occupied or improved their property in good faith and in reliance on erroneous surveys of their properties that the landowners reasonably believed were accurate;

(2) in 1993, a Forest Service resurvey of the Raggeds Wilderness established accurate boundaries between the wilderness area and adjacent private lands; and

(3) the resurvey indicates that a small portion of the Raggeds Wilderness is occupied by adjacent landowners on the basis of the earlier erroneous land surveys.

(b) PURPOSE.—The purpose of this section to remove from the boundaries of the

Raggeds Wilderness certain real property so as to permit the Secretary of Agriculture to use the authority of Public Law 97-465 (commonly known as the "Small Tracts Act") (16 U.S.C. 521c et seq.) to convey the property to the landowners who occupied the property on the basis of erroneous land surveys.

(c) BOUNDARY ADJUSTMENT.—The boundary of the Raggeds Wilderness, Gunnison National Forest and White River National Forest, Colorado, as designated by section 102(a)(16) of Public Law 96-560 (94 Stat. 3267; 16 U.S.C. 1132 note), is modified to exclude from the area encompassed by the wilderness a parcel of real property approximately 0.86-acres in size situated in the SW¼ of the NE¼ of Section 28, Township 11 South, Range 88 West of the 6th Principal Meridian, as depicted on the map entitled "Encroachment-Raggeds Wilderness", dated November 17, 1993.

(d) MAP.—The map described in subsection (c) shall be on file and available for inspection in the appropriate offices of the Forest Service, Department of Agriculture.

(e) CONVEYANCE OF LAND REMOVED FROM WILDERNESS AREA.—The Secretary of Agriculture shall use the authority provided by Public Law 97-465 (commonly known as the "Small Tracts Act") (16 U.S.C. 521c et seq.) to convey all right, title, and interest of the United States in and to the real property excluded from the boundaries of the Raggeds Wilderness under subsection (c) to the owners of real property in Gunnison County, Colorado, whose real property adjoins the excluded real property and who have occupied the excluded real property in good faith reliance on an erroneous survey.

S. 590

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Miles Land Exchange Act of 1997".

SEC. 2. LAND EXCHANGE, ROUTT NATIONAL FOREST, COLORADO.

(a) AUTHORIZATION OF EXCHANGE.—If the parcel of non-Federal land described in subsection (b) is conveyed to the United States in accordance with this section, the Secretary of Agriculture shall convey to the person that conveys the parcel all right, title, and interest of the United States in and to a parcel of Federal land consisting of approximately 84 acres within the Routt National Forest in the State of Colorado, as generally depicted on the map entitled "Miles Land Exchange", Routt National Forest, dated May 1996.

(b) PARCEL OF NON-FEDERAL LAND.—The parcel of non-Federal land referred to in subsection (a) consists of approximately 84 acres, known as the "Miles parcel", located adjacent to the Routt National Forest, as generally depicted on the map entitled "Miles Land Exchange", Routt National Forest, dated May 1996.

(c) ACCEPTABLE TITLE.—Title to the non-Federal land conveyed to the United States under subsection (a) shall be such title as is acceptable to the Secretary of Agriculture, in conformance with title approval standards applicable to Federal land acquisitions.

(d) VALID EXISTING RIGHTS.—The conveyance shall be subject to such valid existing rights of record as may be acceptable to the Secretary.

(e) APPROXIMATELY EQUAL VALUE.—The values of the Federal land and non-Federal land to be exchanged under this section are deemed to be approximately equal in value, and no additional valuation determinations are required.

(f) APPLICABILITY OF OTHER LAWS.—Except as otherwise provided in this section, the Secretary shall process the land exchange authorized by this section in the manner provided in subpart A of part 254 of title 36, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(g) MAPS.—The maps referred to in subsections (a) and (b) shall be on file and available for inspection in the office of the Forest Supervisor, Routt National Forest, and in the office of the Chief of the Forest Service.

(h) BOUNDARY ADJUSTMENT.—

(1) INCLUSION IN ROUTT NATIONAL FOREST.—On approval and acceptance of title by the Secretary, the non-Federal land conveyed to the United States under this section shall become part of the Routt National Forest and shall be managed in accordance with the laws (including regulations) applicable to the National Forest System, and the boundaries of the Routt National Forest shall be adjusted to reflect the land exchange.

(2) RETROACTIVE APPLICATION.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*-9), the boundaries of the Routt National Forest, as adjusted by this section, shall be considered to be the boundaries of the Routt National Forest as of January 1, 1965.

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

S. 591

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCLUSION OF DILLON RANGER DISTRICT IN WHITE RIVER NATIONAL FOREST, COLORADO.

(a) BOUNDARY ADJUSTMENTS.—

(1) WHITE RIVER NATIONAL FOREST.—The boundary of the White River National Forest in the State of Colorado is adjusted to include all National Forest System land located in Summit County, Colorado, comprising the Dillon Ranger District of the Arapaho National Forest.

(2) ARAPAHO NATIONAL FOREST.—The boundary of the Arapaho National Forest is adjusted to exclude the land transferred to in the White River National Forest by paragraph (1).

(b) REFERENCE.—Any reference to the Dillon Ranger District, Arapaho National Forest, in any statute, regulation, manual, handbook, or other document shall be deemed to be a reference to the Dillon Ranger District, White River National Forest.

(c) EXISTING RIGHTS.—Nothing in this section affects valid existing rights of persons holding any authorization, permit, option, or other form of contract existing on the date of the enactment of this Act.

(d) FOREST RECEIPTS.—Notwithstanding the distribution requirements of payments under the sixth paragraph under the heading FOREST SERVICE" in the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and nine", approved May 23, 1908 (35 Stat. 260, chapter 192; 16 U.S.C. 500), the distribution of receipts from the Arapaho National Forest and the White River National Forest to affected county governments shall be based on the national forest boundaries that existed on the day before the date of enactment of this Act.

SUMMIT COUNTY,
BOARD OF COUNTY COMMISSIONERS,
Breckenridge, CO, February 7, 1997.
Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR CAMPBELL: We are writing in support of modifying the Eagles Nest Wilderness Area boundary to include a 160-acre property along the Slate Creek drainage owned by Scotty and Jeanette Moser. The Board of County Commissioners understands the Mosers want to transfer their property to the National Forest and wish to see the property become part of the wilderness area.

When the boundary for the Eagles Nest Wilderness Area was created in the 1970's, the Moser's property was not included since it was private property and could be effectively "cherry-stemmed" out of the wilderness area. This boundary, based on land ownership, has no on-the-ground basis. In fact, from a land management perspective, the Moser property should logically be part of the wilderness area.

The Mosers have gone to great lengths over the years to preserve the wilderness character of their property. The property contains outstanding riparian habitat, possesses spectacular views, and has no development on it.

There is strong community support in Summit County to include the Moser property in the Eagles Nest Wilderness Area. We are not aware of any opposition to include the Moser property in the Wilderness.

We respectively request your assistance to modify the Eagles Nest Wilderness Area boundary during this session of Congress to include the Moser's property.

Sincerely,
GARY M. LINDSTROM, *Chairman,*
Board of County Commissioners.

HINSDALE COUNTY,
Lake City, CO, June 20, 1996.
Senator BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL: On behalf of the Board of County Commissioners and the citizens of Hinsdale County I am writing to express Hinsdale County's support for the proposed land exchange between the Bureau of Land Management (BLM) and Lake City Ranches, Ltd. Under the agreement, Lake City Ranches, Ltd will receive approximately 560 acres of land adjoining the existing ranch, while the BLM will acquire long sought after inholdings in or near the Handies Peak or Red Cloud Wilderness Study Areas or the Alpine Loop By-way.

Hinsdale County is ninety six percent federally owned and has always been concerned about land trades that erode the amount of private property within the county. Loss of property has unwanted impacts on the local economy and the local government. Also, Hinsdale County firmly believes that any federal actions that may impact our county, like land trades or other policy decisions, must have local public input and cooperation.

It is our understanding the proposed land trade will assist the BLM in consolidating their holdings within wilderness areas and preserve a beautiful and fragile environment. The acquisition by Lake City Ranches, Ltd, though marginal in terms of economic impact to the area, should not reduce the amount of private land within Hinsdale

County. Also, the local BLM office has assured us that no decision regarding the trade shall be made without full disclosure and local input into the decision making process. Both of the above are consistent with Hinsdale County's long-standing political policy and objectives.

Again let me state that Hinsdale County supports the proposed land trade between the BLM and Lake City Ranches, Ltd. as long as the county's policies regarding land trades and input to the decision making process are respected.

Sincerely,

JAMES LEWIS, *Chair,*
Hinsdale County Commissioners.

OPEN SPACE AND TRAILS,
Pitkin County, August 29, 1996.

Senator BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL: The Open Space and Trails Board of Trustees of Pitkin County respectfully requests that moneys be included in the Interior Appropriations legislation for FY 1997 to enable the U.S. Forest Service to purchase the 158 acre Warren Lakes property southeast of Aspen, Colorado. It is our understanding that the House version of the bill contained funds for the purchase since it is one of the top nationwide priorities for acquisition identified by the Forest Service, but that the Senate bill, for reasons unknown to us, did not. We urge that funding be assured in the House-Senate conference.

Public acquisition of Warren Lakes by the Forest Service has been a long-term priority for Pitkin County and the Open Space and Trails Board of Trustees because of the property's extremely high wetland, wilderness, wildlife and recreational values. In addition, the property is the only private inholding in an otherwise solid block of Forest Service land, making the Forest Service the logical owner for this property. As you are likely aware, Pitkin County has for many decades vigorously pursued the protection of open space throughout the County in cooperation with the Forest Service, and the acquisition of the Warren Lakes parcel by the Forest Service is a key element in both entities' plans to protect important areas of open space.

Because of its proximity to the Town of Aspen (5 miles via dirt road) and to the Hunter-Fryingpan Wilderness, public ownership of Warren Lakes will provide important new access to the wilderness and public lands while ensuring perpetual public access along the road through the property, and open up new opportunities for public recreation close to Town. This, in an of itself, is a very important reason for the Forest Service to pursue this acquisition. In addition, Warren Lakes has three large manmade ponds which will provide new fishing opportunities and pristine breeding areas for fish species. The wetlands and peat bogs themselves possess very significant ecological values: they support a unique ecology of many rare plants and provide habitat for numerous animals and birds; they act as natural filtration systems and clean water supplies and replenish ground water; they trap and store water preventing downstream erosion; and, they help abate downstream flooding by acting as natural sponges, absorbing heavy rainfall and snowmelt and then slowly releasing the water downstream. Mountain peat accumulates in these wetlands at only 3 to 11 inches per thousand years and scientists estimate that only 1% of the land in Colorado supports biological communities found in Colorado's peatlands. These combined values are exceedingly rare to find in just one piece of land, and explain why both our constituents and the Forest Service are so anxious to see the land conveyed into public ownership.

The Open Space and Trails Board urges you to do whatever you can to insure that funding for this Forest Service purchase is included in this year's appropriations bill.

Sincerely,

WILLIAM E.L. FALES,
Chairman.

By Mr. HOLLINGS (for himself, Mr. SPECTER, Mr. BIDEN and Mr. ROBB):

S. 592. A bill to grant the power to the President to reduce budget authority; to the Committee on Rules and Administration.

LINE-ITEM VETO LEGISLATION

Mr. HOLLINGS. Mr. President, I have just submitted legislation at the desk to create a separate enrollment version of the line-item veto.

Mr. President, this is the same bill word for word that passed the U.S. Senate on March 25, 1995, by a bipartisan vote of 69 Senators. It was introduced at the time by Senator Dole.

It follows a long history of efforts on behalf of the separate enrollment approach and is different to the enhanced rescission which has been found unconstitutional by the district court.

Back in 1985, I worked alongside Senator Mattingly, and we got 58 votes for the separate enrollment version.

We passed similar legislation in the Senate in 1995, but lost out in conference when the conferees endorsed the House approved enhanced rescission approach rather than the separate enrollment version.

But the courts have now struck down that law. They have ruled that once a bill is signed into law, under the Constitution, the President does not have the authority to repeal laws. Such a repeal is a legislative power which article I of our Constitution reserves for the Congress.

Mr. President, the line-item veto has a proven track record in bringing about financial responsibility at the State and local level. As a Governor, the distinguished Presiding Officer knows that you cannot print money like we do up here in Washington. And if you do all of this borrowing and spending and borrowing and spending, before long you lose your credit rating.

The line-item veto is used at the present time in some 43 States. The separate enrollment mechanism that this legislation is based upon has been shown to meet constitutional muster by Prof. Laurence Tribe of Harvard in a letter to former Senator Bill Bradley back in January 1993. I spoke with Professor Tribe yesterday morning on the telephone at which time he reaffirmed that legal opinion.

Mr. President, this effort is not meant to fix the blame, but to fix the problem. We are not enhancing or diminishing Presidential powers. We are simply changing congressional procedures. We are using the congressional power under article I, section 5 of the Constitution which vests Congress with broad authority to set the rules for its own procedure. And that authority is exercised through changes in the rules which would require separate enrollment. That was found to be the one way that a statutory line-item veto could pass constitutional scrutiny.

We are very, very hopeful that this bill can assist us in fixing responsibility on the one hand and reducing deficits on the other hand. We all know that we are not here, as lawyer Sullivan said, "potted plants." But we are sometimes embarrassed when we see things like appropriations for Lawrence Welk's home.

In 1992, the Government Accounting Office, [GAO] did a study and found that over a 5-year period the line-item veto would save some $70 billion.

So we are very hopeful that we can get expedited procedure. It has been debated for the past 15 years. It has been used by all the Governors now in some 43 States. And there is no rhyme nor reason for us to play around and wait for the delay in the courts.

We are in a very serious circumstance. Our debt has so risen that the interest costs to the Government now are $1 billion a day—$1 billion a day—increased spending for interest costs on the national debt.

It is the largest spending item in the budget. And so I thank the distinguished Senator from Florida for yielding, but I wanted to make sure we introduced this legislation this morning before we got on to the unanimous consent with the particular measure at hand.

By Mr. SPECTER:

S. 593. A bill to amend the Internal Revenue Code of 1986 to impose a flat tax only on individual taxable earned income and business taxable income, and for other purposes; to the Committee on Finance.

FLAT TAX LEGISLATION

Mr. SPECTER. Mr. President, I have sought recognition today to introduce the Flat Tax Act of 1997. This is legislation modeled after the legislation which I introduced in the 104th Congress, in March 1995, which was the first Senate introduction of flat tax legislation.

This bill is modeled after proposals by two distinguished professors of law from Stanford University, Professor Hall and Professor Rabushka. This bill would eliminate all deductions, like the Hall-Rabushka plan, with the modification in my legislation to allow deductions for interest on home interest mortgages up to borrowings of $100,000 and contributions to charity up to $2,500.

The Hall-Rabushka plan would provide for a flat tax rate of 19 percent to be revenue neutral. My proposal raises that rate by 1 percent to 20 percent to allow for the deductions for home interest mortgages, which would cost $35 billion a year, and the charitable deduction, which would cost $13 billion a year.

Mr. President, the advantages of the flat tax are very, very substantial.

First, in the interest of simplicity, a tax return could be filled out on a simple postcard. And this is a tax return which I hold in my hand which could take 15 minutes to fill out. It requires simply that the taxpayer list the gross revenue, list his taxable income, carry forward the deductions for his family, any deductions on interest, any deduction on a home mortgage, the balance of the taxable items, multiplied by 20 percent.

Taxpayers in the United States today, Mr. President, spend some 5,400,000 hours at a cost of some $600 billion a year. The flat tax taxes income only once and thereby eliminates the tax on capital gains. It eliminates the tax on estates, eliminates the tax on dividends, all of which have already been taxed once.

The flat tax is frequently challenged as being regressive, but the fact of the matter is that a taxpayer of a family of four would pay no taxes on the first $27,500 in income; and as it graduates up the scale, a taxpayer earning $35,000 would pay $1,219 less in tax than is paid under the current plan.

It is frequently thought that the flat tax would be regressive and place a higher tax burden on lower income families, but that simply is not true. And the reason that we can have a win-win situation is because the flat tax provides for savings on compliance in the range of some $600 billion a year.

This is a very progrowth proposition. And the economists have projected that over a 7-year period the gross national product could be increased by some $2 trillion. That is over $7,000 for every man, woman, and child in America.

The great advantages of simplicity would especially be appreciated, Mr. President, on this particular day, April 16, because yesterday was the final day for filing the tax returns without any extension. And I have chosen the first day of the new tax period for symbolic reasons—April 16—as a day to reintroduce the flat tax to try to give us some momentum because it is my firm view that if Americans really understood the import of the flat tax, its simplicity, its growth, and its savings, that it would be widely heralded.

Mr. President, as I stated, in the 104th Congress, I was the first Senator to introduce flat tax legislation and the first Member of Congress to set forth a deficit-neutral plan for dramatically reforming our Nation's Tax Code and replacing it with a flatter, fairer plan designed to stimulate economic growth. My flat tax legislation was also the first plan to retain limited deductions for home mortgage interest and charitable contributions.

I testified with House Majority Leader RICHARD ARMEY before the Senate Finance and House Ways and Means Committees, as well as the Joint Economic Committee and the House Small Business Committee on the tremendous benefits of flat tax reform. As I traveled around the country and held open-house town meetings across Pennsylvania and other States, the public support for fundamental tax reform was overwhelming. I would point out in those speeches that I never leave home without two key documents: My copy of the Constitution and my copy of my 10-line-flat-tax postcard. I soon realized that I needed more than just one copy of my flat-tax postcard—many people wanted their own postcard so that they could see what life in a flat tax world would be like, where tax returns only take 15 minutes to fill out and individual taxpayers are no longer burdened with double taxation on their dividends, interest, capital gains, and estates.

Support for the flat tax is growing as more and more Americans embrace the simplicity, fairness, and growth potential of flat tax reform. An April 17, 1995, edition of Newsweek cited a poll showing that 61 percent of Americans favor a flat tax over the current Tax Code. Significantly, a majority of the respondents who favor the flat tax preferred my plan for a flat tax with limited deductions for home mortgage interest and charitable contributions. Well before he entered the Republican Presidential primary, publisher Steve Forbes opined in a March 27, 1995, Forbes editorial about the tremendous appeal and potency of my flat tax plan.

Congress was not immune to public demand for reform. Jack Kemp was appointed to head up the National Commission on Economic Growth and Tax Reform and the commission soon came out with its report recognizing the value of a fairer, flatter Tax Code. Mr. Forbes soon introduced a flat tax plan of his own, and my fellow candidates in the Republican Presidential primary began to embrace similar versions of either a flat tax or a consumption-based tax system.

Unfortunately, the politics of the Presidential campaign denied the flat tax a fair hearing and momentum stalled. On October 27, 1995, I introduced a sense-of-the-Senate resolution calling on my colleagues to expedite congressional adoption of a flat tax. The resolution, which was introduced as an amendment to pending legislation, was not adopted.

In this new period of opportunity as we commence the 105th session of Congress, I am optimistic that public support for flat tax reform will enable us to move forward and adopt this critically important and necessary legislation. That is why I am again introducing my Flat Tax Act of 1997, with some slight modifications to reflect inflation-adjusted increases in the personal allowances and dependent allowances.

My flat tax legislation will fundamentally revise the present Tax Code, with its myriad rates, deductions, and instructions. Instead, this legislation would institute a simple, flat 20 percent tax rate for all individuals and businesses. It will allow all taxpayers to file their April 15 tax returns on a simple 10-line postcard. This proposal is not cast in stone, but is intended to move the debate forward by focusing attention on three key principles which are critical to an effective and equitable taxation system: simplicity, fairness, and economic growth.

Over the years and prior to my legislative efforts on behalf of flat tax reform, I have devoted considerable time and attention to analyzing our Nation's Tax Code and the policies which underlie it. I began this study of the complexities of the Tax Code 40 years ago as a law student at Yale University. I included some tax law as part of my practice in my early years as an attorney in Philadelphia. In the spring of 1962, I published a law review article in the Villanova Law Review, "Pension and Profit Sharing Plans: Coverage and Operation for Closely Held Corporations and Professional Associations," 7 Villanova L. Rev. 335, which in part focused on the inequity in making tax-exempt retirement benefits available to some kinds of businesses but not others. It was apparent then, as it is now, that the very complexities of the Internal Revenue Code could be used to give unfair advantage to some; and made the already unpleasant obligation of paying taxes a real nightmare for many Americans.

Well before I introduced my flat tax bill early in the 104th Congress, I had discussions with Congressman RICHARD ARMEY, now the House majority leader, about his flat tax proposal. Since then, and both before and after introducing my original flat tax bill, my staff and I have studied the flat tax at some length, and have engaged in a host of discussions with economists and tax experts, including the staff of the Joint Committee on Taxation, to evaluate the economic impact and viability of a flat tax.

Based on those discussions, and on the revenue estimates supplied to us, I have concluded that a simple flat tax at a rate of 20 percent on all business and personal income can be enacted without reducing Federal revenues.

The flat tax will help reduce the size of government and allow ordinary citizens to have more influence over how their money is spent because they will spend it—not the Government. With a simple 20 percent flat tax rate in effect, the average person can easily see the impact of any additional Federal spending proposal on his or her own paycheck. By creating strong incentives for savings and investment, the flat tax will have the beneficial result of making available larger pools of capital for expansion of the private sector of the economy—rather than more tax money for big government. This will mean more jobs and, just as important, more higher paying jobs.

As a matter of Federal tax policy, there has been considerable controversy over whether tax breaks should be used to stimulate particular kinds of economic activity, or whether tax policy should be neutral, leaving people to do what they consider best from a purely economic point of view. Our current Tax Code attempts to use tax policy to direct economic activity, but experience under that Code has demonstrated that so-called tax breaks are inevitably used as the basis for tax shelters which have no real relation to solid economic purposes, or to the activities which the tax laws were meant to promote. Even when the Government responds to particular tax shelters with new and often complex revisions of the regulations, clever tax experts are able to stay one or two steps ahead of the IRS bureaucrats by changing the structure of their business transactions and then claiming some legal distinctions between the taxpayer's new approach and the revised IRS regulations and precedents.

Under the massive complexity of the current IRS Code, the battle between $500-an-hour tax lawyers and IRS bureaucrats to open and close loopholes is a battle the Government can never win. Under the flat tax bill I offer today, there are no loopholes, and tax avoidance through clever manipulations will become a thing of the past.

The basic model for this legislation comes from a plan created by Profs. Robert Hall and Alvin Rabushka of the Hoover Institute at Stanford University. Their plan envisioned a flat tax with no deductions whatever. After considerable reflection, I decided to include limited deductions for home mortgage interest on up to $100,000 in borrowing and charitable contributions up to $2,500 in the legislation. While these modifications undercut the pure principle of the flat tax, by continuing the use of tax policy to promote home buying and charitable contributions, I believe that those two deductions are so deeply ingrained in the financial planning of American families that they should be retained as a matter of fairness and public policy—and also political practicality. With those two deductions maintained, passage of a modified flat tax will be difficult; but without them, probably impossible.

In my judgment, an indispensable prerequisite to enactment of a modified flat tax is revenue neutrality. Professor Hall advised that the revenue neutrality of the Hall-Rabushka proposal, which uses a 19-percent rate, is based on a well documented model founded on reliable governmental statistics. My legislation raises that rate from 19- to 20-percent to accommodate retaining limited home mortgage interest and charitable deductions. A preliminary estimate last Congress by the Committee on Joint Taxation places the annual cost of the home interest deduction at $35 billion, and the cost of the charitable deduction at $13 billion. While the revenue calculation is complicated because the Hall-Rabushka proposal encompasses significant revisions to business taxes as well as personal income taxes, there is a sound basis for concluding that the 1-percent increase in rate would pay for the two deductions. Revenue estimates for Tax Code revisions are difficult to obtain and are, at best, judgment calls based on projections from fact situations with myriad assumed variables. It is possible that some modification may be needed at a later date to guarantee revenue neutrality.

This legislation offered today is quite similar to the bill introduced in the House by Congressman ARMEY and in the Senate late in 1995 by Senator RICHARD SHELBY, which were both in turn modeled after the Hall-Rabushka proposal. The flat tax offers great potential for enormous economic growth, in keeping with principles articulated so well by Jack Kemp. This proposal taxes business revenues fully at their source, so that there is no personal taxation on interest, dividends, capital gains, gifts, or estates. Restructured in this way, the Tax Code can become a powerful incentive for savings and investment—which translates into economic growth and expansion, more and better jobs, and a rising standard of living for all Americans.

In the 104th Congress, we took some important steps toward reducing the size and cost of Government, and this work is ongoing and vitally important. But the work of downsizing Government is only one side of the coin; what we must do at the same time, and with as much energy and care, is to grow the private sector. As we reform the welfare programs and Government bureaucracies of past administrations, we must replace those programs with a prosperity that extends to all segments of American society through private investment and job creation—which can have the additional benefit of producing even lower taxes for Americans as economic expansion adds to Federal revenues. Just as Americans need a Tax Code that is fair and simple, they also are entitled to tax laws designed to foster rather than retard economic growth. The bill I offer today embodies those principles.

My plan, like the Armey-Shelby proposal, is based on the Hall-Rabushka analysis. But my flat tax differs from the Armey-Shelby plan in four key respects: First, my bill contains a 20-percent flat tax rate. Second, this bill would retain modified deductions for mortgage interest and charitable contributions—which will require a 1-percent higher tax rate than otherwise. Third, my bill would maintain the automatic withholding of taxes from an individual's paycheck. Last, my bill is designed to be revenue neutral, and thus will not undermine our vital efforts to balance the Nation's budget. The estimate of revenue neutrality is based on the Hall-Rabushka analysis together with preliminary projections supplied by the Joint Committee on Taxation on the modifications proposed in this bill.

The key advantages of this flat tax plan are threefold: First, it will dramatically simplify the payment of taxes. Second, it will remove much of the IRS regulatory morass now imposed on individual and corporate taxpayers, and allow those taxpayers to devote more of their energies to productive pursuits. Third, since it is a plan which rewards savings and investment, the flat tax will spur economic growth in all sectors of the economy as more money flows into investments and savings accounts, and as interest rates drop. By contrast, there will be a contraction of the IRS if this proposal is enacted.

Under this tax plan, individuals would be taxed at a flat rate of 20 percent on all income they earn from wages, pensions, and salaries. Individuals would not be taxed on any capital gains, interest on savings, or dividends—since those items will have already been taxed as part of the flat tax on business revenue. The flat tax will also eliminate all but two of the deductions and exemptions currently contained within the Tax Code. Instead, taxpayers will be entitled to personal allowances for themselves and their children. These personal allowances have been adjusted upward to reflect inflation increases for 1995 and 1996. Thus, the new personal allowances are: $10,000 for a single taxpayer; $15,000 for a single head of household; $17,500 for a married couple filing jointly; and $5,000 per child or dependent. These personal allowances would be adjusted annually for inflation commencing in 1997.

In order to ensure that this flat tax does not unfairly impact low-income families, the personal allowances contained in my proposal are much higher than the standard deduction and personal exemptions allowed under the current Tax Code. For example, in 1996, the standard deduction is $4,000 for a single taxpayer, $5,900 for a head of household, and $6,700 for a married couple filing jointly, while the personal exemption for individuals and dependents is $2,550. Thus, under the current Tax Code, a family of four which does not itemize deductions would pay tax on all income over $16,900—personal exemptions of $10,400 and a standard deduction of $6,700. By contrast, under my flat tax bill, that same family would receive a personal exemption of $27,500, and would pay tax only on income over that amount.

My legislation retains the provisions for the deductibility of charitable contributions up to a limit of $2,500 and home mortgage interest on up to $100,000 of borrowing. Retention of these key deductions will, I believe, enhance the political salability of this legislation and allow the debate on the flat tax to move forward. If a decision is made to eliminate these deductions, the revenue saved could be used to reduce the overall flat tax rate below 20 percent.

With respect to businesses, the flat tax would also be a flat rate of 20 percent. My legislation would eliminate the intricate scheme of complicated depreciation schedules, deductions, credits, and other complexities that go into business taxation in favor of a much-simplified system that taxes all business revenue less only wages, direct expenses, and purchases—a system with much less potential for fraud, "creative accounting," and tax avoidance.

Businesses would be allowed to expense 100 percent of the cost of capital formation, including purchases of capital equipment, structures, and land, and to do so in the year in which the investments are made. The business tax would apply to all money not reinvested in the company in the form of employment or capital formation—thus fully taxing revenue at the business level and making it inappropriate to retax the same moneys when passed on to investors as dividends or capital gains.

Let me now turn to a more specific discussion of the advantages of the flat tax legislation I am reintroducing today.

SIMPLICITY

The first major advantage to this flat tax is simplicity. According to the Tax Foundation, Americans spend approximately 5.3 billion hours each year filling out tax forms. Much of this time is spent burrowing through IRS laws and regulations which fill 12,000 pages and which, according to the Tax Foundation, have grown from 744,000 words in 1955 to 5.6 million words in 1994. The Internal Revenue Code annotations alone fill 21 volumes of mind-numbing detail and minutiae.

Whenever the Government gets involved in any aspect of our lives, it can convert the most simple goal or task into a tangled array of complexity, frustration, and inefficiency. By way of example, most Americans have become familiar with the absurdities of the Government's military procurement programs. If these programs have taught us anything, it is how a simple purchase order for a hammer or a toilet seat can mushroom into thousands of words of regulations and restrictions when the Government gets involved. The Internal Revenue Service is certainly no exception. Indeed, it has become a distressingly common experience for taxpayers to receive computerized printouts claiming that additional taxes are due, which require repeated exchanges of correspondence or personal visits before it is determined, as it so often is, that the taxpayer was right in the first place.

The plan offered today would eliminate these kinds of frustrations for millions of taxpayers. This flat tax would enable us to scrap the great majority of the IRS rules, regulations, instructions, and delete literally millions of words from the Internal Revenue Code. Instead of tens of millions of hours of nonproductive time spent in compliance with—or avoidance of—the Tax Code, taxpayers would spend only the small amount of time necessary to fill out a postcard-sized form. Both business and individual taxpayers would thus find valuable hours freed up to engage in productive business activity, or for more time with their families, instead of poring over tax tables, schedules, and regulations.

The flat tax I have proposed can be calculated just by filling out a small postcard which would require a taxpayer only to answer a few easy questions. The postcard would look like this:

FORM 1 INDIVIDUAL WAGE TAX 1997

Your first name and initial (if joint return, also give spouse's name and initial).

Your social security number.

Home address (number and street including apartment number or rural route).

Spouse's social security number.

City, town, or post office, state, and ZIP code.

1. Wages, salary, pension and retirement benefits.
2. Personal allowance (enter only one):
   —$17,500 for married filing jointly;
   —$10,000 for single;
   —$15,000 for single head of household.
3. Number of dependents, not including spouse, multiplied by $5,000.
4. Mortgage interest on debt up to $100,000 for owner-occupied home.
5. Cash or equivalent charitable contributions (up to $2,500).
6. Total allowances and deductions (lines 2, 3, 4 and 5).
7. Taxable compensation (line 1 less line 6, if positive; otherwise zero).
8. Tax (20% of line 7).
9. Tax withheld by employer.
10. Tax or refund due (difference between lines 8 and 9).

Filing a tax return would become a manageable chore, not a seemingly endless nightmare, for most taxpayers.

CUTTING BACK GOVERNMENT

Along with the advantage of simplicity, enactment of this flat tax bill will help to remove the burden of costly and unnecessary Government regulation, bureaucracy and redtape from our everyday lives. The heavy hand of Government bureaucracy is particularly onerous in the case of the Internal Revenue Service, which has been able to extend its influence into so many aspects of our lives.

In 1995, the IRS employed 117,000 people, spread out over countless offices across the United States. Its budget was in excess of $7 billion, with over $4 billion spent merely on enforcement. By simplifying the tax code and eliminating most of the IRS' vast array of rules and regulations, the flat tax would enable us to cut a significant portion of the IRS budget, including the bulk of the funding now needed for enforcement and administration.

In addition, a flat tax would allow taxpayers to redirect their time, energies and money away from the yearly morass of tax compliance. According to the Tax Foundation, in 1996, businesses will spend over $150 billion complying with the Federal tax laws, and individuals will spend an additional $74 billion, for a total of nearly $225 billion. Fortune magazine estimates a much higher cost of compliance—nearly $600 billion per year. According to a Tax Foundation study, adoption of flat tax reform would cut pre-filing compliance costs by over 90 percent.

Monies spent by businesses and investors in creating tax shelters and finding loopholes could be instead directed to productive and job-creating economic activity. With the adoption of a flat tax, the opportunities for fraud and cheating would also be vastly reduced, allowing the government to collect, according to some estimates, over $120 billion annually.

ECONOMIC GROWTH

The third major advantage to a flat tax is that it will be a tremendous spur to economic growth. Harvard economist Dale Jorgenson estimates adoption of a flat tax like the one offered today would increase future national wealth by over $2 trillion, in present value terms, over a 7-year period. This translates into over $7,500 in increased wealth for every man, woman and child in America. This growth also means that there will be more jobs—it is estimated that the $2 trillion increase in wealth would lead to the creation of 6 million new jobs.

The economic principles are fairly straightforward. Our current tax system is inefficient; it is biased toward too little savings and too much consumption. The flat tax creates substantial incentives for savings and investment by eliminating taxation on interest, dividends and capital gains—and tax policies which promote capital formation and investment are the best vehicle for creation of new and high paying jobs, and for a greater prosperity for all Americans.

It is well recognized that to promote future economic growth, we need not only to eliminate the Federal Government's reliance on deficits and borrowed money, but to restore and expand the base of private savings and investment that has been the real engine driving American prosperity throughout our history. These concepts are interrelated, for the Federal budget deficit soaks up much of what we have saved, leaving less for businesses to borrow for investments.

It is the sum total of savings by all aspects of the U.S. economy that represents the pool of all capital available for investment—in training, education, research, machinery, physical plant, et cetera—and that constitutes the real seed of future prosperity. The statistics here are daunting. In the 1960's, the net U.S. national savings rate was 8.2 percent, but it has fallen to a dismal 1.5 percent. In recent international comparisons, the United States has the lowest savings rate of any of the G-7 countries. We save at only one-tenth the rate of the Japanese, and only one-fifth the rate of the Germans. This is unacceptable and we must do something to reverse the trend.

An analysis of the components of U.S. savings patterns shows that although the Federal budget deficit is the largest cause of dissavings, both personal and business savings rates have declined significantly over the past three decades. Thus, to recreate the pool of capital stock that is critical to future U.S. growth and prosperity, we have to do more than just get rid of the deficit. We have to very materially raise our levels of private savings and investment. And we have to do so in a way that will not cause additional deficits.

The less money people save, the less money is available for business investment and growth. The current tax system discourages savings and investment, because it taxes the interest we earn from our savings accounts, the dividends we make from investing in the stock market, and the capital gains we make from successful investments in our homes and the financial markets. Indeed, under the current law these rewards for saving and investment are not only taxed, they are overtaxed—since gains due solely to inflation, which represent no real increase in value, are taxed as if they were profits to the taxpayer.

With the limited exceptions of retirement plans and tax-free municipal bonds, our current tax code does virtually nothing to encourage personal savings and investment, or to reward it over consumption. This bill will change this system, and address this problem. The proposed legislation reverses the current skewed incentives by promoting savings and investment by individuals and by businesses. Individuals would be able to invest and save their money tax free and reap the benefits of the accumulated value of those investments without paying a capital gains tax upon the sale of these investments. Businesses would also invest more as the flat tax allowed them to expense fully all sums invested in new equipment and technology in the year the expense was incurred, rather than dragging out the tax benefits for these investments through complicated depreciation schedules. With greater investment and a larger pool of savings available, interest rates and the costs of investment would also drop, spurring even greater economic growth.

Critics of the flat tax have argued that we cannot afford the revenue losses associated with the tremendous savings and investment incentives the bill affords to businesses and individuals. Those critics are wrong. Not only is this bill carefully crafted to be revenue neutral, but historically we have seen that when taxes are cut, revenues actually increase, as more taxpayers work harder for a larger share of their take-home pay, and investors are more willing to take risks in pursuit of rewards that will not get eaten up in taxes.

As one example, under President Kennedy when individual tax rates were lowered, investment incentives including the investment tax credit were created and then expanded and depreciation rates were accelerated. Yet, between 1962 and 1967, gross annual Federal tax receipts grew from $99.7 billion to $148 billion—an increase of nearly 50 percent. More recently after President Reagan's tax cuts in the early 1980's, Government tax revenues rose from just under $600 billion in 1981 to nearly $1 trillion in 1989. In fact, the Reagan tax cut program helped to bring about one of the longest peacetime expansions of the U.S. economy in history. There is every reason to believe that the flat tax proposed here can do the same—and by maintaining revenue neutrality in this flat tax proposal, as we have, we can avoid any increases in annual deficits and the national debt.

In addition to increasing Federal revenues by fostering economic growth, the flat tax can also add to Federal revenues without increasing taxes by closing tax loopholes. The Congressional Research Service estimates that for fiscal year 1995, individuals sheltered more than $393 billion in tax revenue in legal loopholes, and corporations sheltered an additional $60 billion. There may well be additional money hidden in quasi-legal or even illegal tax shelters. Under a flat tax system, all tax shelters will disappear and all income will be subject to taxation.

The larger pool of savings created by a flat tax will also help to reduce our dependence on foreign investors to finance both our Federal budget deficits and our private sector economic activity. Currently, of the publicly held Federal debt—that is, the portion not held by various Federal trust funds like Social Security—nearly 20 percent is held by foreigners—the highest level in our history. By contrast, in 1965 less than 5 percent of publicly held national debt was foreign owned. We are paying over $40 billion in annual interest to foreign governments and individuals, and this by itself accounts for roughly one-third of our whole international balance of payments deficit. These massive interest payments are one of the principal sources of American capital flowing abroad, a factor which then enables foreign investors to buy up American businesses. During the period 1980-91, the gross value of U.S. assets owned by foreign businesses and individuals rose 427 percent, from $543 billion to $2.3 trillion.

The substantial level of foreign ownership of our national debt creates both political and economic problems. On the political level, there is at least the potential that some foreign nation may assume a position where its level of investment in U.S. debt gives it disproportionate leverage over American policy. Economically, increasing foreign investment in Treasury debt furthers our national shift from a creditor to a debtor nation, weakening the dollar and undercutting our international trade position. A recent Congressional Research Service report put it succinctly: "To pay for today's capital inflows, tomorrow's economy will have to ship more abroad in exchange for fewer foreign products. These payments will be a consequence in part of heavy Federal borrowing since 1982." With a flat tax in place, America's own supply of capital can be replenished, and we can return to our historic position as an international creditor nation rather than a debtor.

The growth case for a flat tax is compelling. It is even more compelling in the case of a tax revision that is simple and demonstrably fair.

FAIRNESS

By substantially increasing the personal allowances for taxpayers and their dependents, this flat tax proposal ensures that poorer taxpayers will pay no tax and that taxes will not be regressive for lower and middle income taxpayers. At the same time, by closing the hundreds of tax loopholes which are currently used by wealthier taxpayers to shelter their income and avoid taxes, this flat tax bill will also ensure that all Americans pay their fair share.

A variety of specific cases illustrate the fairness and simplicity of this flat tax:

Case No. 1—Married couple with two children, rents home, yearly income $35,000

Under Current Law:

Income	$35,000
Four personal exemptions	$10,200
Standard deduction	6,700
Taxable income	$18,100
Tax due under current rates	$2.719

Case No. 1—Married couple with two children, rents home, yearly income $35,000—Continued

Marginal rate (percent)	15.0
Effective tax rate (percent)	7.8
Under Flat Tax:	
Personal allowance	$17,500
Two dependents	$10,000
Taxable income	$7,500
Tax due under flat tax	$1,500
Effective tax rate (percent)	4.3
Savings of $1,219	

Case No. 2—Single individual, rents home, yearly income $50,000

Under Current Law:	
Income	$50,000
One personal exemption	$2,550
Standard deduction	$4,000
Taxable income	$43,450
Tax due under current rates	$9,053
Marginal rate (percent)	28.0
Effective rate (percent)	18.1
Under Flat Tax:	
Personal allowance	$10,000
Taxable income	$40,000
Tax due under flat tax	$8,000
Effective rate (percent)	16.0
Savings of $1,053	

Case No. 3—Married couple with no children, $150,000 mortgage at 9%, yearly income $75,000

Under Current Law:	
Income	$75,000
Two personal exemptions	$5,100
Home mortgage deduction	$13,500
State and local taxes	$3,000
Charitable deduction	$1,500
Taxable income	$51,900
Tax due under current rates	$9,326
Marginal rate (percent)	28
Effective tax rate (percent)	12.4
Under Flat Tax:	
Personal allowance	$17,500
Home mortgage deduction	$9,000
Charitable deduction	$1,500
Taxable income	$47,000
Tax due under flat tax	$9,400
Effective tax rate (percent)	12.5
Slight Increase of $74	

Case No. 4—Married couple with three children, $250,000 mortgage at 9%, yearly income $125,000

Under Current Law:	
Income	$125,000
Five personal exemptions	$12,750
Home mortgage deduction	$22,500
State and local taxes	$5,000
Retirement fund deductions	$6,000
Charitable deductions	$2,500
Taxable income	$76,250
Tax due under current rates	$16,130
Marginal rate (percent)	31
Effective tax rate (percent)	12.9
Under Flat Tax:	
Personal allowance	$17,500
Three dependents	$15,000
Home mortgage deduction	$9,000
Charitable deduction	$2,500
Taxable income	$81,000
Tax due under flat tax	$16,200
Effective tax rate (percent)	13
Slight Increase of $70	

Case No. 5—Married couple, no children, $1,000,000 mortgages at 9% on 2 homes, $500,000 income

Under Current Law:	
Income	$500,000
Personal exemptions at this level	$0
Home mortgage deductions	$90,000
State and local taxes	$40,000
Retirement deductions	$50,000
Charitable deductions	$30,000
Taxable income	$290,000
Tax due under current rates	$91,949
Marginal rate (percent)	39.6
Effective tax rate (percent)	18.4
Under Flat Tax:	
Personal allowance	$17,500
Mortgage deduction	$9,000
Charitable deduction	$2,500
Taxable income	$471,000
Tax due under flat tax	$94,200
Effective tax rate (percent)	18.8
$2,251 higher taxes	

The flat tax legislation that I am offering will retain the element of progressivity that Americans view as essential to fairness in an income tax system. Because of the lower end income exclusions, and the capped deductions for home mortgage interest and charitable contributions, the effective tax rates under my bill will range from 0 percent for families with incomes under about $30,000 to roughly 20 percent for the highest income groups:

ANNUAL TAXES UNDER 20 PERCENT FLAT TAX FOR MARRIED COUPLE WITH TWO CHILDREN FILING JOINTLY

Income	Home mortgage)[1]	Deductible mtg. interest	Charitable contribution)[1]	Personal allowance (w/children)	Taxable income	Marginal tax rate (in percent)	Taxes owed
<27,500					0	0	0
30,000	60,000	5,400	600	27,500	0	0	0
40,000	80,000	7,200	800	27,500	4,500	2.3	900
50,000	100,000	9,000	1,000	27,500	12,500	5.0	2,500
60,000	120,000	9,000	1,200	27,500	22,300	7.4	4,460
70,000	140,000	9,000	1,400	27,500	32,100	9.2	6,420
80,000	160,000	9,000	1,600	27,500	41,900	10.5	8,380
90,000	180,000	9,000	1,800	27,500	51,700	11.5	10,340
100,000	200,000	9,000	2,000	27,500	61,500	12.3	12,300
125,000	250,000	9,000	2,500	27,500	86,000	13.8	17,200
150,000	300,000	9,000	2,500	27,500	111,000	14.8	22,200
200,000	400,000	9,000	2,500	27,500	161,000	16.1	32,200
250,000	500,000	9,000	2,500	27,500	211,000	16.8	42,200
500,000	1,000,000	9,000	2,500	27,500	461,000	18.4	92,200
1,000,000	2,000,000	9,000	2,500	27,500	961,000	19.2	192,200

[1])Assumes home mortgage of twice annual income at a rate of 9 percent and charitable contributions up to 2 percent of annual income.

My proposed legislation demonstrably retains the fairness that must be an essential component of the American tax system.

CONCLUSION

The proposal that I make today is dramatic, but so are its advantages: a taxation system that is simple, fair, and designed to maximize prosperity for all Americans. A summary of the key advantages are:

Simplicity: A 10-line postcard filing would replace the myriad forms and attachments currently required, thus saving Americans up to 5.3 billion hours they currently spend every year in tax compliance.

Cuts Government: The flat tax would eliminate the lion's share of IRS rules, regulations, and requirements, which have grown from 744,000 words in 1955 to 5.6 million words and 12,000 pages currently. It would also allow us to slash the mammoth IRS bureaucracy of 117,000 employees.

Promotes economic growth: Economists estimate a growth of over $2 trillion in national wealth over 7 years, representing an increase of approximately $7,500 in personal wealth for every man, woman, and child in America. This growth would also lead to the creation of 6 million new jobs.

Increases efficiency: Investment decisions would be made on the basis of productivity rather than simply for tax avoidance, thus leading to even greater economic expansion.

Reduces interest rates: Economic forecasts indicate that interest rates would fall substantially, by as much as two points, as the flat tax removes many of the current disincentives to savings.

Lowers compliance costs: Americans would be able to save up to $224 billion they currently spend every year in tax compliance.

Decreases fraud: As tax loopholes are eliminated and the Tax Code is simplified, there will be far less opportunity for tax avoidance and fraud, which now amounts to over $120 billion in uncollected revenue annually.

Reduces IRS costs: Simplification of the Tax Code will allow us to save significantly on the $7 billion annual budget currently allocated to the Internal Revenue Service.

Professors Hall and Rabushka have projected that within 7 years of enactment, this type of a flat tax would produce a 6-percent increase in output from increased total work in the U.S. economy and increased capital formation. The economic growth would mean a $7,500 increase in the personal income of all Americans.

No one likes to pay taxes. But Americans will be much more willing to pay their taxes under a system that they believe is fair, a system that they can understand, and a system that they recognize promotes rather than prevents growth and prosperity. The legislation I introduce today will afford Americans such a tax system.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 593

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF 1986 CODE.

(a) Short Title.—This Act may be cited as the "Flat Tax Act of 1997".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents; amendment of 1986 Code.
Sec. 2. Flat tax on individual taxable earned income and business taxable income.
Sec. 3. Repeal of estate and gift taxes.
Sec. 4. Additional repeals.
Sec. 5. Effective dates.

(c) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. FLAT TAX ON INDIVIDUAL TAXABLE EARNED INCOME AND BUSINESS TAXABLE INCOME.

(a) In General.—Subchapter A of chapter 1 of subtitle A is amended to read as follows:

"Subchapter A—Determination of Tax Liability

"Part I. Tax on individuals.
"Part II. Tax on business activities.

"PART I—TAX ON INDIVIDUALS

"Sec. 1. Tax imposed.
"Sec. 2. Standard deduction.
"Sec. 3. Deduction for cash charitable contributions.
"Sec. 4. Deduction for home acquisition indebtedness.
"Sec. 5. Definitions and special rules.

"SECTION 1. TAX IMPOSED.

"(a) Imposition of Tax.—There is hereby imposed on every individual a tax equal to 20 percent of the taxable earned income of such individual.

"(b) Taxable Earned Income.—For purposes of this section, the term 'taxable earned income' means the excess (if any) of—

"(1) the earned income received or accrued during the taxable year, over

"(2) the sum of—

"(A) the standard deduction,

"(B) the deduction for cash charitable contributions, and

"(C) the deduction for home acquisition indebtedness,

for such taxable year.

"(c) Earned Income.—For purposes of this section—

"(1) In general.—The term 'earned income' means wages, salaries, or professional fees, and other amounts received from sources within the United States as compensation for personal services actually rendered, but does not include that part of compensation derived by the taxpayer for personal services rendered by the taxpayer to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered.

"(2) Taxpayer engaged in trade or business.—In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income-producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of the taxpayer's share of the net profits of such trade or business, shall be considered as earned income.

"SEC. 2. STANDARD DEDUCTION.

"(a) In General.—For purposes of this subtitle, the term 'standard deduction' means the sum of—

"(1) the basic standard deduction, plus

"(2) the additional standard deduction.

"(b) Basic Standard Deduction.—For purposes of subsection (a), the basic standard deduction is—

"(1) $17,500 in the case of—

"(A) a joint return, and

"(B) a surviving spouse (as defined in section 5(a)),

"(2) $15,000 in the case of a head of household (as defined in section 5(b)), and

"(3) $10,000 in the case of an individual—

"(A) who is not married and who is not a surviving spouse or head of household, or

"(B) who is a married individual filing a separate return.

"(c) Additional Standard Deduction.—For purposes of subsection (a), the additional standard deduction is $5,000 for each dependent (as defined in section 5(d))—

"(1) whose earned income for the calendar year in which the taxable year of the taxpayer begins is less than the basic standard deduction specified in subsection (b)(3), or

"(2) who is a child of the taxpayer and who—

"(A) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or

"(B) is a student who has not attained the age of 24 at the close of such calendar year.

"(d) Inflation Adjustment.—

"(1) In general.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount contained in subsections (b) and (c) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1996' for 'calendar year 1992' in subparagraph (B) of such section.

"(2) Rounding.—If any increase determined under paragraph (1) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

"SEC. 3. DEDUCTION FOR CASH CHARITABLE CONTRIBUTIONS.

"(a) General Rule.—For purposes of this part, there shall be allowed as a deduction any charitable contribution (as defined in subsection (b)) not to exceed $2,500 ($1,250, in the case of a married individual filing a separate return), payment of which is made within the taxable year.

"(b) Charitable Contribution Defined.—For purposes of this section , the term 'charitable contribution' means a contribution or gift of cash or its equivalent to or for the use of the following:

"(1) A State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

"(2) A corporation, trust, or community chest, fund, or foundation—

"(A) created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States;

"(B) organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals;

"(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual; and

"(D) which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

A contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of this paragraph only if it is to be used within the United States or any of its possessions exclusively for purposes specified in subparagraph (B). Rules similar to the rules of section 501(j) shall apply for purposes of this paragraph.

"(3) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—

"(A) organized in the United States or any of its possessions, and

"(B) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

"(4) In the case of a contribution or gift by an individual, a domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

"(5) A cemetery company owned and operated exclusively for the benefit of its members, or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

For purposes of this section, the term 'charitable contribution' also means an amount treated under subsection (d) as paid for the use of an organization described in paragraph (2), (3), or (4).

"(c) Disallowance of Deduction in Certain Cases and Special Rules.—

"(1) Substantiation requirement for certain contributions.—

"(A) General rule.—No deduction shall be allowed under subsection (a) for any contribution of $250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

"(B) Content of acknowledgment.—An acknowledgment meets the requirements of this subparagraph if it includes the following information:

"(i) The amount of cash contributed.

"(ii) Whether the donee organization provided any goods or services in consideration, in whole or in part, for any contribution described in clause (i).

"(iii) A description and good faith estimate of the value of any goods or services referred to in clause (ii) or, if such goods or services consist solely of intangible religious benefits, a statement to that effect.

For purposes of this subparagraph, the term 'intangible religious benefit' means any intangible religious benefit which is provided by an organization organized exclusively for religious purposes and which generally is not sold in a commercial transaction outside the donative context.

"(C) Contemporaneous.—For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of—

"(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or

"(ii) the due date (including extensions) for filing such return.

"(D) Substantiation not required for contributions reported by the donee organization.—Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.

"(E) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases.

"(2) Denial of deduction where contribution for lobbying activities.—No deduction shall be allowed under this section for a contribution to an organization which conducts activities to which section 11(d)(2)(C)(i) applies on matters of direct financial interest to the donor's trade or business, if a principal purpose of the contribution was to avoid Federal income tax by securing a deduction for such activities under this section which would be disallowed by reason of section 11(d)(2)(C) if the donor had conducted such activities directly. No deduction shall be allowed under section 11(d) for any amount for which a deduction is disallowed under the preceding sentence.

"(d) Amounts Paid To Maintain Certain Students as Members of Taxpayer's Household.—

"(1) In general.—Subject to the limitations provided by paragraph (2), amounts paid by the taxpayer to maintain an individual (other than a dependent, as defined in section 5(d), or a relative of the taxpayer) as a member of such taxpayer's household during the period that such individual is—

"(A) a member of the taxpayer's household under a written agreement between the taxpayer and an organization described in paragraph (2), (3), or (4) of subsection (b) to implement a program of the organization to provide educational opportunities for pupils or students in private homes, and

"(B) a full-time pupil or student in the twelfth or any lower grade at an educational organization located in the United States which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on

shall be treated as amounts paid for the use of the organization.

"(2) Limitations.—

"(A) Amount.—Paragraph (1) shall apply to amounts paid within the taxable year only to the extent that such amounts do not exceed $50 multiplied by the number of full calendar months during the taxable year which fall within the period described in paragraph (1). For purposes of the preceding sentence, if 15 or more days of a calendar month fall within such period such month shall be considered as a full calendar month.

"(B) Compensation or reimbursement.—Paragraph (1) shall not apply to any amount paid by the taxpayer within the taxable year if the taxpayer receives any money or other property as compensation or reimbursement for maintaining the individual in the taxpayer's household during the period described in paragraph (1).

"(3) Relative defined.—For purposes of paragraph (1), the term 'relative of the taxpayer' means an individual who, with respect to the taxpayer, bears any of the relationships described in subparagraphs (A) through (H) of section 5(d)(1).

"(4) No other amount allowed as deduction.—No deduction shall be allowed under subsection (a) for any amount paid by a taxpayer to maintain an individual as a member of the taxpayer's household under a program described in paragraph (1)(A) except as provided in this subsection.

"(e) Denial of Deduction for Certain Travel Expenses.—No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in such travel.

"(f) Disallowance of Deductions in Certain Cases.—For disallowance of deductions for contributions to or for the use of Communist controlled organizations, see section 11(a) of the Internal Security Act of 1950 (50 U.S.C. 790).

"(g) Treatment of Certain Amounts Paid to or for the Benefit of Institutions of Higher Education.—

"(1) In general.—For purposes of this section, 80 percent of any amount described in paragraph (2) shall be treated as a charitable contribution.

"(2) Amount described.—For purposes of paragraph (1), an amount is described in this paragraph if—

"(A) the amount is paid by the taxpayer to or for the benefit of an educational organization—

"(i) which is described in subsection (d)(1)(B), and

"(ii) which is an institution of higher education (as defined in section 3304(f)), and

"(B) such amount would be allowable as a deduction under this section but for the fact that the taxpayer receives (directly or indirectly) as a result of paying such amount the right to purchase tickets for seating at an athletic event in an athletic stadium of such institution.

If any portion of a payment is for the purchase of such tickets, such portion and the remaining portion (if any) of such payment shall be treated as separate amounts for purposes of this subsection.

"(h) Other Cross References.—

"(1) For treatment of certain organizations providing child care, see section 501(k).

"(2) For charitable contributions of partners, see section 702.

"(3) For treatment of gifts for benefit of or use in connection with the Naval Academy as gifts to or for the use of the United States, see section 6973 of title 10, United States Code.

"(4) For treatment of gifts accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency, as gifts to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.

"(5) For treatment of gifts of money accepted by the Attorney General for credit to the 'Commissary Funds, Federal Prisons' as gifts to or for the use of the United States, see section 4043 of title 18, United States Code.

"(6) For charitable contributions to or for the use of Indian tribal governments (or subdivisions of such governments), see section 7871.

"SEC. 4. DEDUCTION FOR HOME ACQUISITION INDEBTEDNESS.

"(a) General Rule.—For purposes of this part, there shall be allowed as a deduction all qualified residence interest paid or accrued within the taxable year.

"(b) Qualified Residence Interest Defined.—The term 'qualified residence interest' means any interest which is paid or accrued during the taxable year on acquisition indebtedness with respect to any qualified residence of the taxpayer. For purposes of the preceding sentence, the determination of whether any property is a qualified residence of the taxpayer shall be made as of the time the interest is accrued.

"(c) Acquisition Indebtedness.—

"(1) In general.—The term 'acquisition indebtedness' means any indebtedness which—

"(A) is incurred in acquiring, constructing, or substantially improving any qualified residence of the taxpayer, and

"(B) is secured by such residence.

Such term also includes any indebtedness secured by such residence resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence (or this sentence); but only to the extent the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness.

"(2) $100,000 limitation.—The aggregate amount treated as acquisition indebtedness for any period shall not exceed $100,000 ($50,000 in the case of a married individual filing a separate return).

"(d) Treatment of Indebtedness Incurred on or Before October 13, 1987.—

"(1) In general.—In the case of any pre-October 13, 1987, indebtedness—

"(A) such indebtedness shall be treated as acquisition indebtedness, and

"(B) the limitation of subsection (b)(2) shall not apply.

"(2) Reduction in $100,000 limitation.—The limitation of subsection (b)(2) shall be reduced (but not below zero) by the aggregate amount of outstanding pre-October 13, 1987, indebtedness.

"(3) Pre-October 13, 1987, indebtedness.—The term 'pre-October 13, 1987, indebtedness' means—

"(A) any indebtedness which was incurred on or before October 13, 1987, and which was secured by a qualified residence on October 13, 1987, and at all times thereafter before the interest is paid or accrued, or

"(B) any indebtedness which is secured by the qualified residence and was incurred after October 13, 1987, to refinance indebtedness described in subparagraph (A) (or refinanced indebtedness meeting the requirements of this subparagraph) to the extent (immediately after the refinancing) the principal amount of the indebtedness resulting from the refinancing does not exceed the principal amount of the refinanced indebtedness (immediately before the refinancing).

"(4) Limitation on period of refinancing.—Subparagraph (B) of paragraph (3) shall not apply to any indebtedness after—

"(A) the expiration of the term of the indebtedness described in paragraph (3)(A), or

"(B) if the principal of the indebtedness described in paragraph (3)(A) is not amortized over its term, the expiration of the term of the first refinancing of such indebtedness (or if earlier, the date which is 30 years after the date of such first refinancing).

"(e) Other Definitions and Special Rules.—For purposes of this section—

"(1) Qualified residence.—For purposes of this subsection—

"(A) In general.—Except as provided in subparagraph (C), the term 'qualified residence' means the principal residence of the taxpayer.

"(B) Married individuals filing separate returns.—If a married couple does not file a joint return for the taxable year—

"(i) such couple shall be treated as 1 taxpayer for purposes of subparagraph (A), and

"(ii) each individual shall be entitled to take into account ½ of the principal residence unless both individuals consent in writing to 1 individual taking into account the principal residence.

"(C) Pre-October 13, 1987, indebtedness.—In the case of any pre-October 13, 1987, indebtedness, the term 'qualified residence' has the meaning given that term in section 163(h)(4), as in effect on the day before the date of enactment of this subparagraph.

"(2) Special rule for cooperative housing corporations.—Any indebtedness secured by stock held by the taxpayer as a tenant-stockholder in a cooperative housing corporation shall be treated as secured by the house or apartment which the taxpayer is entitled to occupy as such a tenant-stockholder. If stock described in the preceding sentence may not be used to secure indebtedness, indebtedness shall be treated as so secured if the taxpayer establishes to the satisfaction of the Secretary that such indebtedness was incurred to acquire such stock.

"(3) Unenforceable security interests.—Indebtedness shall not fail to be treated as secured by any property solely because, under any applicable State or local homestead or other debtor protection law in effect on August 16, 1986, the security interest is ineffective or the enforceability of the security interest is restricted.

"(4) Special rules for estates and trusts.—For purposes of determining whether any interest paid or accrued by an estate or trust is qualified residence interest, any residence held by such estate or trust shall be treated as a qualified residence of such estate or trust if such estate or trust establishes that such residence is a qualified residence of a beneficiary who has a present interest in such estate or trust or an interest in the residuary of such estate or trust.

"SEC. 5. DEFINITIONS AND SPECIAL RULES.

"(a) Definition of Surviving Spouse.—

"(1) In general.—For purposes of this part, the term 'surviving spouse' means a taxpayer—

"(A) whose spouse died during either of the taxpayer's 2 taxable years immediately preceding the taxable year, and

"(B) who maintains as the taxpayer's home a household which constitutes for the taxable year the principal place of abode (as a member of such household) of a dependent—

"(i) who (within the meaning of subsection (d)) is a son, stepson, daughter, or stepdaughter of the taxpayer, and

"(ii) with respect to whom the taxpayer is entitled to a deduction for the taxable year under section 2.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over one-half of the cost of maintaining the household during the taxable year is furnished by such individual.

"(2) Limitations.—Notwithstanding paragraph (1), for purposes of this part a taxpayer shall not be considered to be a surviving spouse—

"(A) if the taxpayer has remarried at any time before the close of the taxable year, or

"(B) unless, for the taxpayer's taxable year during which the taxpayer's spouse died, a joint return could have been made under the provisions of section 6013 (without regard to subsection (a)(3) thereof).

"(3) Special rule where deceased spouse was in missing status.—If an individual was in a missing status (within the meaning of section 6013(f)(3)) as a result of service in a combat zone and if such individual remains in such status until the date referred to in subparagraph (A) or (B), then, for purposes of paragraph (1)(A), the date on which such individual dies shall be treated as the earlier of the date determined under subparagraph (A) or the date determined under subparagraph (B):

"(A) The date on which the determination is made under section 556 of title 37 of the United States Code or under section 5566 of title 5 of such Code (whichever is applicable) that such individual died while in such missing status.

"(B) Except in the case of the combat zone designated for purposes of the Vietnam conflict, the date which is 2 years after the date designated as the date of termination of combatant activities in that zone.

"(b) Definition of Head of Household.—

"(1) In general.—For purposes of this part, an individual shall be considered a head of a household if, and only if, such individual is not married at the close of such individual's taxable year, is not a surviving spouse (as defined in subsection (a)), and either—

"(A) maintains as such individual's home a household which constitutes for more than one-half of such taxable year the principal place of abode, as a member of such household, of—

"(i) a son, stepson, daughter, or stepdaughter of the taxpayer, or a descendant of a son or daughter of the taxpayer, but if such son, stepson, daughter, stepdaughter, or descendant is married at the close of the taxpayer's taxable year, only if the taxpayer is entitled to a deduction for the taxable year for such person under section 2 (or would be so entitled but for subparagraph (B) or (D) of subsection (d)(5)), or

"(ii) any other person who is a dependent of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such person under section 2, or

"(B) maintains a household which constitutes for such taxable year the principal place of abode of the father or mother of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such father or mother under section 2.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over one-half of the cost of maintaining the household during the taxable year is furnished by such individual.

"(2) Determination of status.—For purposes of this subsection—

"(A) a legally adopted child of a person shall be considered a child of such person by blood;

"(B) an individual who is legally separated from such individual's spouse under a decree of divorce or of separate maintenance shall not be considered as married;

"(C) a taxpayer shall be considered as not married at the close of such taxpayer's taxable year if at any time during the taxable year such taxpayer's spouse is a nonresident alien; and

"(D) a taxpayer shall be considered as married at the close of such taxpayer's taxable year if such taxpayer's spouse (other than a spouse described in subparagraph (C)) died during the taxable year.

"(3) Limitations.—Notwithstanding paragraph (1), for purposes of this part, a taxpayer shall not be considered to be a head of a household—

"(A) if at any time during the taxable year the taxpayer is a nonresident alien; or

"(B) by reason of an individual who would not be a dependent for the taxable year but for—

"(i) subparagraph (I) of subsection (d)(1), or

"(ii) paragraph (3) of subsection (d).

"(c) Certain Married Individuals Living Apart.—For purposes of this part, an individual shall be treated as not married at the close of the taxable year if such individual is so treated under the provisions of section 7703(b).

"(d) Dependent Defined.—

"(1) General definition.—For purposes of this part, the term 'dependent' means any of the following individuals over one-half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer (or is treated under paragraph (3) or (5) as received from the taxpayer):

"(A) A son or daughter of the taxpayer, or a descendant of either.

"(B) A stepson or stepdaughter of the taxpayer.

"(C) A brother, sister, stepbrother, or stepsister of the taxpayer.

"(D) The father or mother of the taxpayer, or an ancestor of either.

"(E) A stepfather or stepmother of the taxpayer.

"(F) A son or daughter of a brother or sister of the taxpayer.

"(G) A brother or sister of the father or mother of the taxpayer.

"(H) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer.

"(I) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as such individual's principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

"(2) Rules relating to general definition.—For purposes of this section—

"(A) Brother; sister.—The terms 'brother' and 'sister' include a brother or sister by the halfblood.

"(B) Child.—In determining whether any of the relationships specified in paragraph (1) or subparagraph (A) of this paragraph exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child satisfies the requirements of paragraph (1)(I) with respect to such individual), shall be treated as a child of such individual by blood.

"(C) CITIZENSHIP.—The term 'dependent' does not include any individual who is not a citizen or national of the United States unless such individual is a resident of the United States or of a country contiguous to the United States. The preceding sentence shall not exclude from the definition of 'dependent' any child of the taxpayer legally adopted by such taxpayer, if, for the taxable year of the taxpayer, the child has as such child's principal place of abode the home of the taxpayer and is a member of the taxpayer's household, and if the taxpayer is a citizen or national of the United States.

"(D) ALIMONY, ETC.—A payment to a wife which is alimony or separate maintenance shall not be treated as a payment by the wife's husband for the support of any dependent.

"(E) UNLAWFUL ARRANGEMENTS.—An individual is not a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.

"(3) MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

"(A) no one person contributed over one-half of such support;

"(B) over one-half of such support was received from persons each of whom, but for the fact that such person did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year;

"(C) the taxpayer contributed over 10 percent of such support; and

"(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

"(4) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of paragraph (1), in the case of any individual who is—

"(A) a son, stepson, daughter, or stepdaughter of the taxpayer (within the meaning of this subsection), and

"(B) a student,

amounts received as scholarships for study at an educational organization described in section 3(d)(1)(B) shall not be taken into account in determining whether such individual received more than one-half of such individual's support from the taxpayer.

"(5) SUPPORT TEST IN CASE OF CHILD OF DIVORCED PARENTS, ETC.—

"(A) CUSTODIAL PARENT GETS EXEMPTION.—Except as otherwise provided in this paragraph, if—

"(i) a child receives over one-half of such child's support during the calendar year from such child's parents—

"(I) who are divorced or legally separated under a decree of divorce or separate maintenance,

"(II) who are separated under a written separation agreement, or

"(III) who live apart at all times during the last 6 months of the calendar year, and

"(ii) such child is in the custody of 1 or both of such child's parents for more than one-half of the calendar year,

such child shall be treated, for purposes of paragraph (1), as receiving over one-half of such child's support during the calendar year from the parent having custody for a greater portion of the calendar year (hereafter in this paragraph referred to as the 'custodial parent').

"(B) EXCEPTION WHERE CUSTODIAL PARENT RELEASES CLAIM TO EXEMPTION FOR THE YEAR.—A child of parents described in subparagraph (A) shall be treated as having received over one-half of such child's support during a calendar year from the noncustodial parent if—

"(i) the custodial parent signs a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such custodial parent will not claim such child as a dependent for any taxable year beginning in such calendar year, and

"(ii) the noncustodial parent attaches such written declaration to the noncustodial parent's return for the taxable year beginning during such calendar year.

For purposes of this paragraph, the term 'noncustodial parent' means the parent who is not the custodial parent.

"(C) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENT.—This paragraph shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provisions of paragraph (3).

"(D) EXCEPTION FOR CERTAIN PRE-1985 INSTRUMENTS.—

"(i) IN GENERAL.—A child of parents described in subparagraph (A) shall be treated as having received over one-half such child's support during a calendar year from the noncustodial parent if—

"(I) a qualified pre-1985 instrument between the parents applicable to the taxable year beginning in such calendar year provides that the noncustodial parent shall be entitled to any deduction allowable under section 2 for such child, and

"(II) the noncustodial parent provides at least $600 for the support of such child during such calendar year.

For purposes of this clause, amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

"(ii) QUALIFIED PRE-1985 INSTRUMENT.—For purposes of this subparagraph, the term 'qualified pre-1985 instrument' means any decree of divorce or separate maintenance or written agreement—

"(I) which is executed before January 1, 1985,

"(II) which on such date contains the provision described in clause (i)(I), and

"(III) which is not modified on or after such date in a modification which expressly provides that this subparagraph shall not apply to such decree or agreement.

"(E) SPECIAL RULE FOR SUPPORT RECEIVED FROM NEW SPOUSE OF PARENT.—For purposes of this paragraph, in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

"PART II—TAX ON BUSINESS ACTIVITIES

"Sec. 11. Tax imposed on business activities.

"SEC. 11. TAX IMPOSED ON BUSINESS ACTIVITIES.

"(a) TAX IMPOSED.—There is hereby imposed on every person engaged in a business activity located in the United States a tax equal to 20 percent of the business taxable income of such person.

"(b) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the person engaged in the business activity, whether such person is an individual, partnership, corporation, or otherwise.

"(c) BUSINESS TAXABLE INCOME.—

"(1) IN GENERAL.—For purposes of this section, the term 'business taxable income' means gross active income reduced by the deductions specified in subsection (d).

"(2) GROSS ACTIVE INCOME.—For purposes of paragraph (1), the term 'gross active income' means gross income other than investment income.

"(d) DEDUCTIONS.—

"(1) IN GENERAL.—The deductions specified in this subsection are—

"(A) the cost of business inputs for the business activity,

"(B) the compensation (including contributions to qualified retirement plans but not including other fringe benefits) paid for employees performing services in such activity, and

"(C) the cost of personal and real property used in such activity.

"(2) BUSINESS INPUTS.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), the term 'cost of business inputs' means—

"(i) the actual cost of goods, services, and materials, whether or not resold during the taxable year, and

"(ii) the actual cost, if reasonable, of travel and entertainment expenses for business purposes.

"(B) PURCHASES OF GOODS AND SERVICES EXCLUDED.—Such term shall not include purchases of goods and services provided to employees or owners.

"(C) CERTAIN LOBBYING AND POLITICAL EXPENDITURES EXCLUDED.—

"(i) IN GENERAL.—Such term shall not include any amount paid or incurred in connection with—

"(I) influencing legislation,

"(II) participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office,

"(III) any attempt to influence the general public, or segments thereof, with respect to elections, legislative matters, or referendums, or

"(IV) any direct communication with a covered executive branch official in an attempt to influence the official actions or positions of such official.

"(ii) EXCEPTION FOR LOCAL LEGISLATION.—In the case of any legislation of any local council or similar governing body—

"(I) clause (i)(I) shall not apply, and

"(II) such term shall include all ordinary and necessary expenses (including, but not limited to, traveling expenses described in subparagraph (A)(ii) and the cost of preparing testimony) paid or incurred during the taxable year in carrying on any trade or business—

"(aa) in direct connection with appearances before, submission of statements to, or sending communications to the committees, or individual members, of such council or body with respect to legislation or proposed legislation of direct interest to the taxpayer, or

"(bb) in direct connection with communication of information between the taxpayer and an organization of which the taxpayer is a member with respect to any such legislation or proposed legislation which is of direct interest to the taxpayer and to such organization, and that portion of the dues so paid or incurred with respect to any organization of which the taxpayer is a member which is attributable to the expenses of the activities carried on by such organization.

"(iii) APPLICATION TO DUES OF TAX-EXEMPT ORGANIZATIONS.—Such term shall include the portion of dues or other similar amounts paid by the taxpayer to an organization which is exempt from tax under this subtitle which the organization notifies the taxpayer under section 6033(e)(1)(A)(ii) is allocable to expenditures to which clause (i) applies.

"(iv) INFLUENCING LEGISLATION.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'influencing legislation' means any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of legislation.

"(II) LEGISLATION.—The term 'legislation' has the meaning given that term in section 4911(e)(2).

"(v) OTHER SPECIAL RULES.—

"(I) EXCEPTION FOR CERTAIN TAXPAYERS.—In the case of any taxpayer engaged in the trade or business of conducting activities described in clause (i), clause (i) shall not apply to expenditures of the taxpayer in conducting such activities directly on behalf of another person (but shall apply to payments by such other person to the taxpayer for conducting such activities).

"(II) DE MINIMIS EXCEPTION.—

"(aa) IN GENERAL.—Clause (i) shall not apply to any in-house expenditures for any taxable year if such expenditures do not exceed $2,000. In determining whether a taxpayer exceeds the $2,000 limit, there shall not be taken into account overhead costs otherwise allocable to activities described in subclauses (I) and (IV) of clause (i).

"(bb) IN-HOUSE EXPENDITURES.—For purposes of provision (aa), the term 'in-house expenditures' means expenditures described in subclauses (I) and (IV) of clause (i) other than payments by the taxpayer to a person engaged in the trade or business of conducting activities described in clause (i) for the conduct of such activities on behalf of the taxpayer, or dues or other similar amounts paid or incurred by the taxpayer which are allocable to activities described in clause (i).

"(III) EXPENSES INCURRED IN CONNECTION WITH LOBBYING AND POLITICAL ACTIVITIES.—Any amount paid or incurred for research for, or preparation, planning, or coordination of, any activity described in clause (i) shall be treated as paid or incurred in connection with such activity.

"(vi) COVERED EXECUTIVE BRANCH OFFICIAL.—For purposes of this subparagraph, the term 'covered executive branch official' means—

"(I) the President,

"(II) the Vice President,

"(III) any officer or employee of the White House Office of the Executive Office of the President, and the 2 most senior level officers of each of the other agencies in such Executive Office, and

"(IV) any individual serving in a position in level I of the Executive Schedule under section 5312 of title 5, United States Code, any other individual designated by the President as having Cabinet level status, and any immediate deputy of such an individual.

"(vii) SPECIAL RULE FOR INDIAN TRIBAL GOVERNMENTS.—For purposes of this subparagraph, an Indian tribal government shall be treated in the same manner as a local council or similar governing body.

"(viii) CROSS REFERENCE.—

"For reporting requirements and alternative taxes related to this subsection, see section 6033(e).

"(e) CARRYOVER OF EXCESS DEDUCTIONS.—

"(1) IN GENERAL.—If the aggregate deductions for any taxable year exceed the gross active income for such taxable year, the amount of the deductions specified in subsection (d) for the succeeding taxable year (determined without regard to this subsection) shall be increased by the sum of—

"(A) such excess, plus

"(B) the product of such excess and the 3-month Treasury rate for the last month of such taxable year.

"(2) 3-MONTH TREASURY RATE.—For purposes of paragraph (1), the 3-month Treasury rate is the rate determined by the Secretary based on the average market yield (during any 1-month period selected by the Secretary and ending in the calendar month in which the determination is made) on outstanding marketable obligations of the United States with remaining periods to maturity of 3 months or less."

(b) CONFORMING REPEALS AND REDESIGNATIONS.—

(1) REPEALS.—The following subchapters of chapter 1 of subtitle A and the items relating to such subchapters in the table of subchapters for such chapter 1 are repealed:

(A) Subchapter B (relating to computation of taxable income).

(B) Subchapter C (relating to corporate distributions and adjustments).

(C) Subchapter D (relating to deferred compensation, etc.).

(D) Subchapter G (relating to corporations used to avoid income tax on shareholders).

(E) Subchapter H (relating to banking institutions).

(F) Subchapter I (relating to natural resources).

(G) Subchapter J (relating to estates, trusts, beneficiaries, and decedents).

(H) Subchapter L (relating to insurance companies).

(I) Subchapter M (relating to regulated investment companies and real estate investment trusts).

(J) Subchapter N (relating to tax based on income from sources within or without the United States).

(K) Subchapter O (relating to gain or loss on disposition of property).

(L) Subchapter P (relating to capital gains and losses).

(M) Subchapter Q (relating to readjustment of tax between years and special limitations).

(N) Subchapter S (relating to tax treatment of S corporations and their shareholders).

(O) Subchapter T (relating to cooperatives and their patrons).

(P) Subchapter U (relating to designation and treatment of empowerment zones, enterprise communities, and rural development investment areas).

(Q) Subchapter V (relating to title 11 cases).

(2) REDESIGNATIONS.—The following subchapters of chapter 1 of subtitle A and the items relating to such subchapters in the table of subchapters for such chapter 1 are redesignated:

(A) Subchapter E (relating to accounting periods and methods of accounting) as subchapter B.

(B) Subchapter F (relating to exempt organizations) as subchapter C.

(C) Subchapter K (relating to partners and partnerships) as subchapter D.

SEC. 3. REPEAL OF ESTATE AND GIFT TAXES.

Subtitle B (relating to estate, gift, and generation-skipping taxes) and the item relating to such subtitle in the table of subtitles is repealed.

SEC. 4. ADDITIONAL REPEALS.

Subtitles H (relating to financing of presidential election campaigns) and J (relating to coal industry health benefits) and the items relating to such subtitles in the table of subtitles are repealed.

SEC. 5. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act apply to taxable years beginning after December 31, 1997.

(b) REPEAL OF ESTATE AND GIFT TAXES.—The repeal made by section 3 applies to estates of decedents dying, and transfers made, after December 31, 1997.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but in any event not later than 90 days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

By Mr. MCCONNELL (for himself, Mr. GRAHAM, Mr. SHELBY, Mr. BREAUX, Mr. COVERDELL, Mr. GLENN, Mr. COCHRAN, Mr. MURKOWSKI, Mr. DEWINE, Mr. MACK, Mr. ROBB, Mr. SPECTER, Mrs. HUTCHISON, Mr. BENNETT, Mr. D'AMATO, Ms. LANDRIEU, and Mr. WARNER):

S. 594. A bill to amend the Internal Revenue Code of 1986 to modify the tax treatment of qualified State tuition programs; to the Committee on Finance.

THE COLLEGE SAVINGS ACT OF 1997

Mr. MCCONNELL. Mr. President, I have come to the floor today to introduce legislation that addresses an important issue facing families today—the education of their children. For the past several years, I have worked to make college more affordable by rewarding families who save. In both the 103d and 104th Congresses, I introduced legislation—S. 1787 and S. 386 respectively—to make earnings invested in State-sponsored tuition savings plans exempt from Federal taxation.

States have recognized the needs of families and have provided incentives for them to save or prepay their children's education. State savings plans provide families, a safe, affordable and disciplined means of paying for their children's education. The College Savings Act of 1997, will provide Federal tax incentives to provide additional assistance to the efforts of the States.

According to GAO, tuition at a 4-year university rose 234 percent between 1980–94. During this same period, median household income rose 84 percent and the consumer price index rose a mere 74 percent. The College Board reports that tuition costs for the 1996–97 school year will rise 5 percent while average room and board costs will rise between 4-6 percent. While education costs have moderated throughout the 1990's, they continue to outstrip the gains in income. Tuition has now become the greatest barrier to attendance.

Due to the rising cost of education, more and more families have come to rely on financial aid to meet tuition costs. In fact, a majority of all college students accept some amount of financial assistance. In 1995, $50 billion in financial aid was available to students from Federal, State, and institutional sources. This was $3 billion higher than the previous year. A majority of this increase has come in the form of loans, which now make up the largest portion of the total Federal aid package at 57 percent. Grants, which a decade ago made up 49 percent of assistance, have been reduced to 42 percent. This shift toward loans further burdens students and families with additional interest costs.

In response to this trend, the Republican Congress and the President have developed different proposals to address the rising cost of a post-secondary education. S. 1, the Safe and Affordable Schools Act, provides incentives for families to save for their children's college education through education savings accounts and State-sponsored savings plans. For those burdened by student loans, this legislation also makes the interest paid on student loans deductible. The President has offered two tax provisions, the HOPE scholarship, which is a $1,500 tax credit and a $10,000 tax deduction for tuition expenses.

A provision in S. 1 makes the earnings in State-sponsored tuition savings plans exempt from taxation. Like the legislation I am introducing today, this provision recognizes the leadership States have taken in helping families save for college. In the mid-1980's States identified the difficulty families had in keeping pace with the rising cost of education. States like Michigan, Florida, Ohio, and Kentucky were the first programs to be started in order to help families save for college. Today, there are 15 States with programs in operation. An additional four States will implement their programs this year. According to the College Savings Network every other State, except Georgia, which has implemented the HOPE Scholarship Program, is preparing legislation or is studying a proposal to help their residents save for college.

Today there are 600,000 participants contributing over $3 billion to education savings nationwide. By year end, the College Savings Plan Network estimates that they will have 1 million participants. By 2006, they estimate that over $6 billion will be invested in State-sponsored programs.

Kentucky established its plan in 1988 to provide residents with an affordable means of saving for college. Today, 2,602 Kentucky participants have contributed over $5 million toward their childrens' education.

Many Kentuckians are drawn to this program because it offers a low-cost, disciplined approach to savings. In fact, the average monthly contribution in Kentucky is just $49. This proposal rewards those who are serious about their future and are committed over the long-term to the education of their children by exempting all interest earnings from State taxes. It is also important to note that 58 percent of the participants earn under $60,000 per year. Clearly, this benefits middle-class families.

Last year, Congress took the first step in providing tax relief to families investing in those programs. The provisions contained in the Small Business Job Protection Act of 1996 clarified the tax treatment of both the State-sponsored tuition savings plans and the participants' investment. This measure put an end to the tax uncertainty that has hampered the effectiveness of these State-sponsored programs and helped families who are trying to save for their childrens' education.

Already, we can see the result of the tax reforms in the 104th Congress. Last year, Virginia started its plan and was overwhelmed by the positive response. In its first year, the plan sold 16,111 contracts raising $260 million. This success exceeded all goals for this program. While we made important gains last year, we need to finish what we have started and fully exempt the investment income from taxation.

The legislation I am introducing today with the support of Senator GRAHAM and others will make the savings in State pre-paid tuition plans exempt from taxation. While the measure is similar to the provision in S. 1, it is a more comprehensive proposal that has been developed in close consultation with the States. In addition to tax exemption, the bill expands the definition of qualified education expense to include room and board costs. This is important since such costs can amount to 50 percent of total college expenses.

It also allows individuals who invested in series EE savings bonds to contribute these education savings bonds to qualified State tuition programs.

This is a commonsense provision that will give those who are already saving the flexibility to invest in prepaid plan if available. It also clarifies the law to permit States to establish scholarship programs within the plan. The bill also makes several other minor changes that will help the programs to operate more efficiently, including clarification of the transition rule, permitting the transfer of benefits to cousins and stepchildren, and permitting States to include proprietary schools as eligible institutions.

This legislation is a serious effort to encourage long-term saving. It is important that we not forget that compound interest cuts both ways. By saving, participants can keep pace with tuition increases while putting a little away at a time. By borrowing, students must bear added interest costs that add thousands to the total cost of tuition.

During the election the President unveiled his education tax proposals. There are two primary provisions of the President's proposal. The first is the HOPE scholarship, which would allow a parent or student to claim a $1,500 nonrefundable tax credit for tuition expenses. The other is a $10,000 tax deduction to be applied toward tuition expenses.

The most disturbing aspect of this proposal is its cost. It is my understanding that the President's proposal, if allowed to reach its fullest potential, will exceed $80 billion over the next 10 years as estimated by Joint Tax Committee. This contrasts with the modest tax package included in S. 1, which is estimated to cost $18 billion during the same period. This can be compared with the $1.6 million cost associated with the College Savings Act I have introduced today.

The administration has been quick to point out that their tax package isn't a budget buster because of the tax credit sunset that will be implemented if the President's budget isn't in balance by 2002. According to the CBO the President's budget will run a $69 billion deficit in 2002. With such uncertainty, how does this help families plan for their childrens' future? Considering the importance of this issue, I am surprised the President is willing to allow this program to expire, shortly after it begins.

The President's proposal has also been criticized because it will also contribute to increased tuition costs. Mr. Chairman, I would ask that an editorial by Lawrence Gladieux, executive director for the College Board and Robert Reischauer, the former director of the CBO, be included with my testimony.

Mr. Gladieux and Mr. Reischauer argue that the President's credit would be money in the bank, not only for parents, but the schools as well. This across-the-board tax credit would permit schools to add this subsidy into the cost of tuition. It was also their assumption that the tax benefit would benefit primarily wealthy individuals. Therefore the President's package would be two strikes against low-income families who won't benefit from the tax credit, yet will still bear the burden of higher tuition costs.

The authors also point out the President's proposal imposes a new regulatory burden on schools by requiring the IRS to verify that a student received a B average in order to be eligible for a second year of this tax credit. Under the President's proposal we will have the IRS grading student papers and publishing tax regulations defining B work. It is simply a mistake to use the Tax Code in this manner.

It is in our best interest as a nation to maintain a quality and affordable education system for everyone. We need to decide on how we will spend our limited Federal resources to ensure that both access and quality are maintained. It is unrealistic to assume that the Government can afford to provide Federal assistance for everyone. However, at a modest cost, we can help families help themselves by rewarding savings. This reduces the cost of education and will not unnecessarily burden future generations with thousands of dollars in loans.

I urge my colleagues to support this valuable legislation this year to reward those who save in order to provide a college education for their children.

Mr. President, I ask the full text of the bill be printed in the RECORD. I also ask that the article by Larry Gladieux and Robert Reischauer be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 594

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATIONS OF TAX TREATMENT OF QUALIFIED STATE TUITION PROGRAMS.

(a) EXCLUSION OF DISTRIBUTIONS USED FOR EDUCATIONAL PURPOSES.—Subparagraph (B) of section 529(c)(3) of the Internal Revenue Code of 1986 (relating to treatment of distributions) is amended to read as follows:

"(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—Subparagraph (A) shall not apply to any distribution to the extent—

"(i) the distribution is used exclusively to pay qualified higher education expenses of the distributee, or

"(ii) the distribution consists of providing a benefit to the distributee which, if paid for by the distributee, would constitute payment of a qualified higher education expense."

(b) QUALIFIED HIGHER EDUCATION EXPENSES TO INCLUDE ROOM AND BOARD.—Section 529(e)(3) of the Internal Revenue Code of 1986 (defining qualified higher education expenses) is amended by adding at the end the following: "Such term shall also include reasonable costs (as determined under the qualified State tuition program) incurred by the designated beneficiary for room and board while attending such institution."

(c) ADDITIONAL MODIFICATIONS.—

(1) MEMBER OF FAMILY.—Paragraph (2) of section 529(e) of the Internal Revenue Code of 1986 (relating to other definitions and special rules) is amended to read as follows:

"(2) MEMBER OF FAMILY.—The term 'member of family' means—

"(A) an individual who bears a relationship to another individual which is a relationship described in paragraphs (1) through (8) of section 152(a), and

"(B) a spouse of any individual described in subparagraph (A)."

(2) ELIGIBLE EDUCATIONAL INSTITUTION.—Section 529(e) of such Code is amended—

(A) in paragraph (3), by striking "(as defined in section 135(c)(3))" and inserting "(within the meaning of paragraph (5))", and

(B) by adding at the end the following:

"(5) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means an institution—

"(A) which is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this paragraph, and

"(B) which is eligible to participate in a program under title IV of such Act."

(3) TECHNICAL AMENDMENTS.—

(A) Subparagraph (B) of section 529(e)(1) of such Code is amended by striking "subsection (c)(2)(C)" and inserting "subsection (c)(3)(C)".

(B) Subparagraph (C) of section 529(e)(1) of such Code is amended by inserting "(or agency or instrumentality thereof)" after "State or local government".

(C) Paragraph (2) of section 1806(c) of the Small Business Job Protection Act of 1996 is amended by striking so much of the first sentence as follows subparagraph (B)(ii) and inserting the following:

"then such program (as in effect on August 20, 1996) shall be treated as a qualified State tuition program with respect to contributions (and earnings allocable thereto) pursuant to contracts entered into under such program before the first date on which such program meets such requirements (determined without regard to this paragraph) and the provisions of such program (as so in effect) shall apply in lieu of section 529(b) of the Internal Revenue Code of 1986 with respect to such contributions and earnings."

(d) COORDINATION WITH EDUCATION SAVINGS BOND.—Section 135(c)(2) of the Internal Revenue Code of 1986 (defining qualified higher education expenses) is amended by adding at the end the following:

"(C) CONTRIBUTIONS TO QUALIFIED STATE TUITION PROGRAM.—Such term shall include any contribution to a qualified State tuition program (as defined in section 529) on behalf of a designated beneficiary (as so defined) who is an individual described in subparagraph (A)."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1996.

(2) ADDITIONAL MODIFICATIONS.—The amendments made by subsection (c) shall take effect as if included in the amendments made by, and the provisions of, section 1806 of the Small Business Job Protection Act of 1996.

[From the Washington Post, Sept. 4, 1996]

HIGHER TUITION, MORE GRADE INFLATION

(By Lawrence E. Gladieux and Robert D. Reischauer)

More than any president since Lyndon Johnson, Bill Clinton has linked his presidency to strengthening and broadening American education. He has argued persuasively that the nation needs to increase its investment in education to spur economic growth, expand opportunity and reduce growing income disparities. He has certainly earned the right to try to make education work for him as an issue in his reelection campaign, and that's clearly what he plans to do.

Unfortunately, one way the president has chosen to pursue his goals for education is by competing with the GOP on tax cuts. The centerpiece of his education agenda—tax breaks for families paying college tuition—would be bad tax policy and worse education policy. While tuition tax relief may be wildly popular with voters and leave Republicans speechless, it won't achieve the president's worthy objectives for education, won't help those most in need and will create more problems than it solves.

Under the president's plan, families could choose to deduct up to $10,000 in tuition from their taxable income or take a tax credit (a direct offset against federal income tax) of $1,500 for the first year of undergraduate education or training. The credit would be available for a second year if the student maintains a B average.

The vast majority of taxpayers who incur tuition expenses—joint filers with incomes up to $100,000 and single filers up to $70,000—would be eligible for these tax breaks. But before the nation invests the $43 billion that the administration says this plan will cost over the next six years, the public should demand that policy makers answer these questions:

Will tuition tax credits and deductions boost postsecondary enrollment? Not significantly. Most of the benefits would go to families of students who would have attended college anyway. For them, it will be a windfall. That won't lift the country's net investment in education or widen opportunities for higher education. For families who don't have quite enough to send their child to college, the tax relief may come too late to make a difference. While those families could adjust their payroll withholding, most won't. Thus any relief would be realized in year-end tax refunds, long after families needed the money to pay the tuition.

Will they help moderate- and low-income students who have the most difficulty meeting tuition costs? A tax deduction would be of no use to those without taxable income. On the other hand, the proposed $1,500 tax credit—because it would be "refundable"—would benefit even students and families that owe no taxes. But nearly 4 million low-income students would largely be excluded from the tax credit because they receive Pell Grants which, under the Clinton plan, would be subtracted from their tax-credit eligibility.

Will the plan lead to greater federal intrusion into higher education? The Internal Revenue Service would have to certify the amount of tuition students actually paid, the size of their Pell Grants and whether they maintained B averages. This could impose complex regulatory burdens on universities and further complicate the tax code. It's no wonder the Treasury Department has long resisted proposals for tuition tax breaks.

Will the program encourage still higher tuition levels and more grade inflation? While the tuition spiral may be moderating slightly, college price increases have averaged more than twice the rate of inflation during the 1990s. With the vast majority of students receiving tax relief, colleges might have less incentive to hold down their tuition increases. Grades, which have been rising almost as rapidly as tuition, might get an extra boost too if professors hesitate to deny their students the B needed to renew the tax credit.

If more than $40 billion in new resources really can be found to expand access to higher education, is this the best way to invest it? A far better alternative to tuition tax schemes is need-based student financial aid.

The existing aid programs, imperfect as they may be, are a much more effective way to equalize educational opportunity and increase enrollment rates. More than $40 billion could go a long way toward restoring the purchasing power of Pell Grants and other proven programs, whose benefits inflation has eroded by as much as 50 percent during the past 15 years. Unlike tuition tax cuts, expanded need-based aid would not drag the IRS into the process of delivering educational benefits. Need-based aid also is less likely to increase inflationary pressure on college prices, because such aid goes to only a portion of the college-going population.

Economists have long argued that the tax code shouldn't be used if the same objective can be met through a direct-expenditure program. Tax incentives for college savings might make sense; parents seem to need more encouragement to put money away for their children's education. But tax relief for current tuition expenditures fails the test.

Maybe Clinton's tuition tax-relief plan, like the Republican across-the-board tax-cut proposals, can be chalked up to election-year pandering that will be forgotten after November. But oft-repeated campaign themes sometimes make it into the policy stream. That was the case in 1992, when candidate Clinton promised student-loan reform and community service that, as president, he turned into constructive initiatives. If reelected, Clinton again may stick with his campaign mantra. This time, it's tuition tax breaks. This time, he shouldn't.

Mr. MCCONNELL. Mr. President, it does not take an economics professor to figure out that compound interest can either work for or against you. I would think that my colleagues would agree that middle-class Americans deserve to have their hard-earned dollars working for them instead of against them. The College Savings Act allows hard-working Americans to utilize this principle while saving for the college education of their children.

Option 1 illustrates the average cost of using the Federal loan program to finance the average instate college tuition in the United States which is $10,540. Under the Federal loan program, middle-class Americans end up paying $120 per month after graduation to retire just the cost of higher education tuition and fees, not to mention room and boarding costs.

These payments will continue for 120 months, or 10 years after receiving a diploma. Students end up repaying $14,400 on these loans. This means that they will end up paying $3,860 in interest to finance a college education. That is figured at a 6.5-percent interest rate.

Option 2, on the other hand, figures in the same amount of tuition cost, $10,540, but that is where the similarities end. Under the College Savings Act, monthly deposits are half as expensive as loan payments under Federal loan programs. Your monthly deposit over the 120-month, or 10-year period under our legislation would only be $58.

Mr. President, this is possible because under the College Savings Act total payments are only $6,960. This is simply because you have compound interest of 6.5 percent working in your favor, instead of against you, to the tune of $3,580. That totals a whopping difference of $7,440 from Federal loan programs. That is almost half the cost of financing an education through Federal loans.

Mr. GRAHAM. Mr. President, I wish to speak this afternoon about an initiative which has been designed to increase American's access to college education. Today, Senator MCCONNELL and I, along with numerous cosponsors, are introducing the College Savings Act of 1997. This bill would clarify the tax treatment of State-sponsored prepaid college tuition and savings programs and would clarify them in a manner that will allow States flexibility to offer their citizens plans to pay for college on a tax-free basis.

Why are we discussing these programs? We are discussing these State programs because they have flourished in the face of spiraling college costs. As shown on this chart, which was produced by the General Accounting Office, tuition at colleges and universities has increased 234 percent since 1980. During the same period, the general rate of inflation has increased only 85 percent and household income has increased only 82 percent. There has been a growing gap between the cost of higher education, in terms of tuition, and the ability of families to support their children's desire to continue their education beyond high school.

Higher education inflation has been almost triple the rate of general inflation and the increase in Americans' ability to pay for that higher education. The causes of this dramatic increase in tuition is the subject of a significant debate. But whether these increases are attributable to increased costs of colleges and universities, reduction in State funding for public institutions, or the increased value of a college education, the fact remains that affording a college education has become increasingly difficult for American families.

Although the Federal Government has increased its aid to college students over the years, it is the States that have engineered innovative ways to help citizens afford college.

One of the most innovative of those measures has been the prepaid college tuition plan. The first of these plans was adopted in Michigan in 1986. Since that first program was adopted, today 15 States have such prepaid college plans, and an additional 4 States have adopted plans which will be in effect by 1998.

The States shown in green are those which currently offer plans. The four States shown in yellow will initiate their plans this year. All of the remaining States shown in red are currently considering legislation to establish a prepaid college tuition plan. From these State laboratories, two types of programs have emerged: prepaid tuition programs and savings programs.

Under either of these two, a family pays money into a State fund. In future years, the funds which have been accumulating will be distributed to the college or university of the child's choice and the child's ability to secure admission under the academic standards of that institution.

The State pools the funds from all participants, invests those funds in a manner that will match or exceed the rate of higher education inflation.

Under a prepaid tuition plan, the State and the individual family enter into an advanced tuition payment contract naming a student as the beneficiary of the contract. The amount the family must pay depends on the number of years remaining before the student enrolls in college. In most States, purchasers can choose a lump-sum payment or installment payments. Twelve States currently follow this tuition model. Let me explain with an example.

Today, if a Florida child is 7 years old and his family enrolls him in the Florida prepaid tuition plan, they can enter into a contract and pay a lump sum of $5,900. Then in the year 2008, when the child reaches the age of 18 and enrolls in college, the State will transfer the cost of tuition for 120 credit hours of instruction which has a currently estimated value of $14,350 to the college or university the student chooses to attend.

Under a State savings plan, individuals transfer money to a State trust which, in turn, invests the funds and guarantees a certain rate of return. Typically, the earnings on the account are exempt from State taxation. Three States follow the State savings fund model.

One of the attributes of these programs is that just as States establish institutions of higher education to meet the educational needs of their States' citizens, each State program differs in its emphasis. As an example, the Alaska plan allows individuals to direct a portion of the State oil revenues to pay for their contracts. In Alabama, money can be used to take accredited college courses while a student is still attending high school. The Massachusetts plan allows nonresidents to enroll in its plan. Louisiana provides matching grants for certain low-income participants in its plan.

The tax problem that lies before us today, Mr. President, is whether or not the student should be taxed when the student redeems the funds upon enrollment. Until 1996, the Federal tax treatment of these plans remained murky. In the spring of 1996, the Internal Revenue Service indicated its intent to tax families annually on the earnings of funds transferred to these State plans.

I thought this was wrong, counterproductive and would discourage what has been a very positive commitment of American families to save for their children's college education. So I worked with Senators McCONNELL, BREAUX, SHELBY, and the leaders of the Senate Finance Committee to address the issue in the Small Business Job Protection Act of 1996. Provisions we developed were included in the bill that President Clinton ultimately signed into law.

The four basic provisions in the 1996 reform were, first, any prepaid or savings entity established by the State is tax exempt. Two, the earnings on money transferred to these State programs are not taxed until distribution. Three, upon distribution, the appreciation on the contracts or accounts will be taxed to the student beneficiary over the time the student attends college. And fourth, these tax rules apply only to contracts and accounts used to fund the cost of tuition, fees, books, and required equipment.

Mr. President, despite the fact I offered the proposal in the Finance Committee, I have always thought that the right answer was that participation in these programs should be 100 percent tax free. In other words, no taxation upon distribution unless the funds were used for purposes other than qualified educational purposes.

The legislation that Senator McCONNELL and I are introducing today will amend section 529 of the Tax Code in two significant respects. First, the bill provides that if distributions from a State fund are used for qualified educational purposes, then there will be no taxation to the student. In other words, there would be no Federal income tax for participation in these State-sponsored programs.

Second, the bill would expand the definition of qualified higher education expenses. Last year's legislation provided that tuition, books, fees and required equipment were tax exempt. Under the new proposal, we would also include the cost of room and board as qualified educational expenses.

The bill also makes a number of technical and other changes to assure that States have sufficient flexibility to manage their successful programs. There are several policy-related questions in enacting this legislation, and I will turn to them in a minute. But before doing so, I would like to offer an example of the positive influence of these programs from my State of Florida.

I would like, Mr. President, to introduce to you Sean and Patrick Gilliland who are in the gallery today. Sean and Patrick Gilliland are respectively a senior and junior at the University of Florida. In 1988, the first year the prepaid program was offered to Floridians, Mr. and Mrs. Gilliland purchased prepaid contracts for Sean and Patrick. Two years after purchasing the plan, Mr. Gilliland tragically died, unexpectedly leaving Mrs. Gilliland, Sean and Patrick with a single income.

Mrs. Gilliland is a nurse. As a result of the change of income, she attests that without the foresight of having purchased a Florida prepaid college program for her two sons, she would not have been able to provide a college education for Sean and Patrick.

Sean will graduate in 2 weeks from the University of Florida, majoring in business administration with an emphasis in Asian studies. Sean has applied for several overseas positions in Japan, Taiwan, and Korea, with hopes to enter the field of technology in the business world.

Patrick is currently a junior at the University of Florida, the School of Health and Human Performance, majoring in exercise and sports science. He is a member of Golden Key National Honor Society. He also holds a dean's list grade point average. Patrick is looking forward to continuing his education in a graduate program to prepare him for a profession in cardiological rehabilitation. I wish to both of them the very best in their future endeavors.

Sean and Patrick Gilliland exemplify the reasons that we need to encourage the expansion of these State-based prepaid college tuition programs. Let me outline several of the policy reasons why it is appropriate and urgent that Congress enact the legislation that we introduce today to clarify the Federal tax treatment of these programs.

First, Congress needs to support State innovation. Here is an example of a national problem: how to deal with the escalating cost of higher education. The States have provided the energy to address that problem. During the late 1980's and early 1990's, with the Federal Government responding to spiraling college costs in an inadequate manner, States experimented and engineered these programs. The Federal Government should encourage the States by getting the Internal Revenue Service out of the way.

Second, State plans increase college enrollment, especially among low- and moderate-income families. Experience demonstrates that the discipline and the security offered by these prepaid tuition plans provide the exact incentive that many families need to save for college.

For example, in Florida, the median income of families with a college student is $50,000. This chart indicates, in "Who goes to college in Florida," that 22 percent of the families who have children in our State college and university system have incomes of less than $30,000; 26 percent between $30,000 and $50,000.

On the question, "Who buys contracts for Florida's prepaid college tuition program," we find that 8 percent are purchased by families with incomes of under $20,000; 17 percent by families between $20,000 and $30,000; and 23 percent by families between $30,000 and $40,000; and 24 percent by families between $40,000 and $50,000. So almost three-quarters of those families who purchase contracts have an income which is at or below the median income of all students attending Florida's colleges and universities.

This program is providing a powerful incentive for moderate- and low-income Florida families to think about and prepare for their children's education.

Third, State plans help prepare students psychologically. A family that regularly sets aside money for a child's college education converts the focus of their student child from, "Will I be able to go to college," to "Will I be sufficiently prepared to be admitted to college and which college do I wish to attend?"

Fourth, savings is a far superior approach to financing higher education than incurring additional individual and family debt. A prepayment or a savings plan is better economically, both for the family and for the Nation. These programs can also boost the Nation's savings rate.

For example, Virginia's program has just completed its inaugural enrollment. It signed contracts of over $200 million for Virginia families saving for their children's college education.

Finally, an expansion of programs will promote downward pressure on tuition rates. Increased participation in State tuition programs not only will provide participants with a guaranteed hedge against education inflation, but it will also produce downward pressure on tuition rates for all students at all colleges. States sponsoring these programs, in essence, guarantee that if earnings on the funds do not exceed increases in tuition rates, then the State will fund the difference when the student enrolls in college. Thus, a State has an incentive to encourage cost efficiency throughout its State system. The pressure will also promote moderate tuition hikes at private schools which must compete with public colleges for students. This has been true in Florida.

Since the inauguration of the Florida prepaid program in 1988, State tuition has risen by an average of 6 percent per year. That is 2 percent less than the national average of 8 percent a year.

You may say, Mr. President, that, well, 2 percent difference between a particular State's average annual rate of increase in tuition and what is the national average is not a significant amount. Let me put this in dollar terms.

In 1988, the average tuition in the Nation was $1,827. In Florida, it was $1,163. That is a difference of $664.

By last year, with the average annual increase of 8 percent, the national average for tuition at State universities had grown from $1,827 to $3,358. Florida's tuition increasing at 6 percent per year had gone from $1,163 to $1,888. That, Mr. President, is a difference of $1,470 per year between the cost of college education in Florida and the average for the Nation.

I am not saying that Florida's tuition increases have been less than the national average solely because of the Florida prepaid program, but it has been a significant factor.

We need to do everything we can to hold college costs in check. The expansion of these programs can make a noticeable contribution in that effort. And clarifying the tax consequences of participation will help to facilitate additional States beyond the current 19 who have or will have these programs and increase the number of participating families.

Mr. President, I would like to particularly thank Senator MCCONNELL for the leadership which he has displayed in making the College Savings Act of 1997 a reality.

With enactment of this legislation, parents and children will be able to rest easier knowing that Congress has done the right thing by making a college education more accessible. I urge my colleagues in the Senate to join Senator MCCONNELL and me to assure enactment of this important new opportunity for American families to save and plan for the college education of their children.

Mr. WARNER. Mr. President, Virginians appreciate the value of education. The Commonwealth owes its economic success to a strong university system and an educated workforce. This commitment to education continues to fuel economic expansion, job growth, and rising incomes.

Middle-class parents across the country recognize that education is the key to their childrens' success. But they often struggle to provide this education, as college tuition increases far outpace increases in personal income. Tuition savings programs help provide a solution.

Virginia was the first State in the union to launch its program after the Small Business Protection Act was signed into law last August. This legislation builds on that success, by making investment earnings in qualifying State tuition plans entirely tax exempt and by expanding coverage. This bill will encourage more families to save more money for higher education.

Virginia's prepaid tuition program is an overwhelming success. During the first 3-month enrollment period, over 16,000 children were enrolled in VPEP. The value of these contract total over $260 million, ranking Virginia fourth in the Nation among States with prepaid education programs. The Virginia Higher Education Tuition Trust Fund received over 85,000 telephone calls from around the State seeking information about the program. I want to commend Governor Allen for his leadership, as well as Diana Cantor, executive director of the trust fund, and her team for their tremendous efforts.

As Virginians recognize by their overwhelming support of the state's plan, education is a critical component of future success. I am pleased to cosponsor this important legislation and I commend Virginia for taking the lead.

By Mr. BOND (for himself and Mr. ASHCROFT):

S. 595. A bill to designate the U.S. post office building located at Bennett Street and Kansas Expressway in Springfield, MO, as the "John Griesemer Post Office Building"; to the Committee on Governmental Affairs.

THE JOHN GRIESEMER POST OFFICE BUILDING DESIGNATION ACT OF 1997

Mr. BOND. Mr. President, I rise to introduce a bill to designate the U.S. post office building located at Bennett Street and Kansas Expressway in Springfield, MO as the "John Griesemer Post Office Building."

John Griesemer was a true example of an American patriot. He loved, supported, and defended his country.

John Griesemer was born in Mount Vernon, MO, and raised on a dairy farm in Billings, MO. After he graduated from high-school, he attended the University of Missouri—Columbia and in 1953 graduated with a bachelor of science degree in civil engineering. He then entered the Air Force as a first lieutenant, engineering officer. After being discharged from the military in 1956, he went back home to Missouri to work in the family business. He was president and director of the Griesemer Stone Co. until his death in 1993. John Griesemer didn't just work for the family business though. He also started two of his own businesses: the Joplin Stone Co. and Missouri Commercial Transportation Co. as well as serving as president of Springfield Ready Mix, director of Boatmen's National Bank, and president of the Springfield Development Council. In addition to his business interests, John Griesemer was a devoted family man. He and his wife, Kathleen, had five children and John took an avid interest in their lives holding various positions with the Boy Scouts of America and his church.

In 1984, John made his life even busier. He was asked by President Reagan to serve on the U.S. Postal Service Board of Governors. He even served as president of the board in 1987 and 1988.

John Griesemer is an example to us all. He possessed the qualities of perseverance, determination, and strength that allowed him to successfully manage a busy work and service schedule with a very busy family life.

I urge my colleagues to act quickly and pass this bill by unanimous consent.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF JOHN GRIESEMER POST OFFICE BUILDING.

The United States Post Office building located at Bennett Street and Kansas Expressway in Springfield, Missouri, shall be known and designated as the "John Griesemer Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "John Griesemer Post Office Building".

By Mr. KOHL (for himself and Mr. COCHRAN):

S. 596. A bill to authorize the Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice to make grants to States and units of local government to assist in providing secure facilities for violent and serious chronic juvenile offenders, and for other purposes; to the Committee on the Judiciary.

JUVENILE CORRECTIONS ACT OF 1997

Mr. KOHL. Mr. President, I rise to introduce the Juvenile Corrections Act of 1997, which I am proud to sponsor with my friend and colleague, Senator COCHRAN. The act dedicates approximately 10 percent of the 1994 Crime Act's adult prison resources to the construction and operation of State and local juvenile corrections facilities.

Juvenile violence, as we all know, is at the heart of the crime problem in America. Every 5 minutes a child is arrested for a violent crime in the United States; every 2 hours a child dies of a gunshot wound. Unfortunately, there is good reason to believe that this problem may get worse before it gets better. Demographics tell us that between now and the year 2000, the number of children between the ages of 14 to 7 will increase by more than 1 million. The likely result: a serious increase in the number of violent juvenile offenders in the coming years—above already unacceptable levels.

Despite this state of affairs, the Federal Government has treated juvenile corrections as the poor stepchild of the Federal anticrime effort. The 1994 Crime Act contained billions of dollars for policing and adult prisons at the State and local level, but no significant program to help States alleviate the increasing burdens on their juvenile corrections systems.

These burdens are real and substantial, Mr. President. Department of Justice surveys have indicated that many juvenile corrections facilities nationwide are seriously overcrowded and understaffed—in short, bursting at the seams. As a result of the increasing number of 14 to 17 year olds we highlighted above, we will probably see even worse overcrowding in the future.

Mr. President, the consequences of overcrowding should trouble us all. In part due to the combination of overcrowding and understaffing, juvenile offenders attacked detention facility staff 8,000 times in 1993. In countless U.S. cities, juvenile offenders who require detention are nonetheless released into the community because of a lack of space. And finally, it is clear that overcrowding breeds violence and ever more violent juvenile offenders who, when eventually released, are much more dangerous to society than when they were first institutionalized.

For all these reasons, we introduce today the Juvenile Corrections Act. Our legislation provides crucial assistance—over $790 million in funding over 3 years—to State and local governments for the construction, expansion, and operation of juvenile corrections facilities and programs. And, I should note, the Act has no impact on the deficit, as it draws its funding from the $10 billion adult corrections component of the 1994 Crime Act.

Mr. President, we cannot afford to turn a blind eye to the juvenile corrections problem. So I hope my colleagues will join with me and Senator COCHRAN to enact the Juvenile Corrections Act. In light of the spiraling juvenile violence problem, we believe it makes good sense to dedicate roughly 10 percent of the Crime Act's adult prison resources to State and local juvenile corrections.

I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 596

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Juvenile Corrections Act of 1997".

SEC. 2. GRANTS FOR FACILITIES FOR VIOLENT AND SERIOUS CHRONIC JUVENILE OFFENDERS.

(a) DEFINITIONS.—In this section—

(1) the term "Administrator" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice;

(2) the term "combination" has the same meaning as in section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603);

(3) the term "juvenile delinquency program" has the same meaning as in section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603);

(4) the term "qualifying State" means a State that has submitted, or a State in which an eligible unit of local government has submitted, a grant application that meets the requirements of subsections (c) and (e);

(5) the terms "secure detention facility" and "secure correctional facility" have the same meanings as in section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603);

(6) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands; and

(7) the term "unit of local government" has the same meaning as in section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603).

(b) AUTHORIZATION OF GRANTS.—The Administrator may make grants to States and units of local government, or combinations thereof, to assist them in planning, establishing, and operating secure detention facilities, secure correctional facilities, and other facilities and programs for violent juveniles and serious chronic juvenile offenders who are accused of or who have been adjudicated as having committed one or more offenses.

(c) APPLICATIONS.—

(1) IN GENERAL.—The chief executive officer of a State or unit of local government that seeks to receive a grant under this section shall submit to the Administrator an application, in such form and in such manner as the Administrator may prescribe.

(2) CONTENTS.—Each application submitted under paragraph (1) shall—

(A) provide assurances that each facility or program funded with a grant under this section will provide appropriate educational and vocational training and substance abuse treatment for juvenile offenders; and

(B) provide assurances that each facility or program funded with a grant under this section will afford juvenile offenders intensive post-release supervision and services.

(d) MINIMUM AMOUNT.—Of the total amount made available under subsection (g) to carry out this section in any fiscal year—

(1) except as provided in paragraph (2), each qualifying State, together with units of local government within the State, shall be allocated not less than 1.0 percent; and

(2) the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.2 percent.

(e) PERFORMANCE EVALUATION.—

(1) EVALUATION COMPONENTS.—

(A) IN GENERAL.—Each facility or program funded with a grant under this section shall contain an evaluation component developed pursuant to guidelines established by the Administrator.

(B) OUTCOME MEASURES.—Each evaluation required by this subsection shall include outcome measures that can be used to determine the effectiveness of each program funded with grant under this section, including the effectiveness of the program in comparison with other juvenile delinquency programs in reducing the incidence of recidivism, and other outcome measures.

(2) PERIODIC REVIEW AND REPORTS.—

(A) REVIEW.—The Administrator shall review the performance of each recipient of a grant under this section.

(B) REPORTS.—The Administrator may require a grant recipient to submit to the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice the results of the evaluations required under paragraph (1) and such other data and information as may be reasonably necessary to carry out the Administrator's responsibilities under this section.

(f) TECHNICAL ASSISTANCE AND TRAINING.—The Administrator shall provide technical assistance and training to each recipient of a grant under this section to assist those recipients in achieving the purposes of this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $252,700,000 for fiscal year 1998;

(2) $266,000,000 for fiscal year 1999; and

(3) $275,310,000 for fiscal year 2000.

SEC. 3. COMPENSATING REDUCTION OF AUTHORIZATION OF APPROPRIATIONS.

Section 20108(a)(1) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13708(a)(1)) is amended by striking subparagraphs (C) through (E) and inserting the following:

"(C) $2,274,300,000 for fiscal year 1998;

"(D) $2,394,000,000 for fiscal year 1999; and

"(E) $2,477,790,000 for fiscal year 2000.".

SEC. 4. REPORT ON ACCOUNTABILITY AND PERFORMANCE MEASURES IN JUVENILE CORRECTIONS PROGRAMS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall, after consultation with the National Institute of Justice and other appropriate governmental and nongovernmental organizations, submit to Congress a report regarding the possible use of performance-based criteria in evaluating and improving the effectiveness of juvenile delinquency programs.

(b) CONTENTS.—The report required under this section shall include an analysis of—

(1) the range of performance-based measures that might be utilized as evaluation criteria, including measures of recidivism among juveniles who have been incarcerated in a secure correctional facility or a secure detention facility, or who have participated in a juvenile delinquency program;

(2) the feasibility of linking Federal juvenile corrections funding to the satisfaction of performance-based criteria by grantees (including the use of a Federal matching mechanism under which the share of Federal funding would vary in relation to the performance of a facility or program);

(3) whether, and to what extent, the data necessary for the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice to utilize performance-based criteria in its administration of juvenile delinquency programs are collected and reported nationally; and

(4) the estimated cost and feasibility of establishing minimal, uniform data collection and reporting standards nationwide that would allow for the use of performance-based criteria in evaluating secure correctional facilities, secure detention facilities, and juvenile delinquency programs and in administering amounts appropriated for Federal juvenile delinquency programs.

By Mr. BINGAMAN (for himself, Mr. CRAIG, Mr. HOLLINGS, Mr. REID, Mr. AKAKA, Mr. COCHRAN, Mr. DORGAN, Mr. INOUYE, Mrs. BOXER, Ms. SNOWE, Mr. TORRICELLI, and Mr. MACK):

S. 597. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare Program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals; to the Committee on Finance.

THE MEDICAL NUTRITION THERAPY ACT OF 1997

Mr. BINGAMAN. Mr. President, I rise today to introduce the Medical Nutrition Therapy Act of 1997 on behalf of myself, my friend and colleague from Idaho, Senator CRAIG, and a bipartisan group of additional Senators.

This bipartisan measure provides for coverage under part B of the Medicare Program for medical nutrition therapy services by a registered dietitian. Medical nutrition therapy is generally defined as the assessment of patient nutritional status followed by therapy, ranging from diet modification to administration of specialized nutrition therapies such as intravenous or tube feedings. It has proven to be a medically necessary and cost-effective way of treating and controlling many disease entities such as diabetes, renal disease, cardiovascular disease, and severe burns.

Currently, there is no consistent part B coverage policy for medical nutrition and this legislation will bring needed uniformity to the delivery of this important care, as well as save taxpayer money. Coverage for medical nutrition therapy can save money by reducing hospital admissions, shortening hospitals stays, decreasing the number of complications, and reducing the need for physician followup visits.

The treatment of patients with diabetes and cardiovascular disease account for a full 60 percent of Medicare expenditures. I want to use diabetes as an example for the need for this legislation. There are very few families who are not touched by diabetes. The burden of diabetes is disproportionately high among ethnic minorities in the Unites States. According to the American Journal of Epidemiology, mortality due to diabetes is higher nationwide among blacks than whites. It is higher among American Indians than among any other ethnic group.

In my State of New Mexico, native Americans are experiencing an epidemic of type II diabetes. Medical nutrition therapy is integral to their diabetes care. In fact, information from the Indian Health Service shows that medical nutrition therapy provided by professional dietitians results in significant improvements in medical outcomes in people with type II diabetes. For example, complications of diabetes such as end stage renal failure that leads to dialysis can be prevented with adequate intervention. Currently, the number of dialysis patients in the Navajo population is doubling every 5 years. Mr. President, we must place our dollars in the effective, preventive treatment of medical nutrition therapy rather than face the grim reality of having to continue to build new dialysis units.

Ensuring the solvency of the Medicare part A trust fund is one of the most difficult challenges and one that calls for creative, effective solutions. Coverage for medical nutrition therapy is one important way to help address that challenge. It is exactly the type of cost-effective care we should encourage. It will satisfy two of our most important priorities in Medicare: Providing program savings while maintaining a high level of quality care.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 597

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Medical Nutrition Therapy Act of 1997".

SEC. 2. MEDICARE COVERAGE OF MEDICAL NUTRITION THERAPY SERVICES.

(a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraphs (N) and (O); and

(2) by inserting after subparagraph (O) the following:

"(P) medical nutrition therapy services (as defined in subsection (oo)(1));".

(b) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Medical Nutrition Therapy Services; Registered Dietitian or Nutrition Professional

"(oo)(1) The term 'medical nutrition therapy services' means nutritional diagnostic, therapy, and counseling services which are furnished by a registered dietitian or nutrition professional (as defined in paragraph (2)) pursuant to a referral by a physician (as defined in subsection (r)(1)).

"(2) Subject to paragraph (3), the term 'registered dietitian or nutrition professional' means an individual who—

"(A) holds a baccalaureate or higher degree granted by a regional accredited college or university in the United States (or an equivalent foreign degree) with completion of the academic requirements of a program in nutrition or dietetics, as accredited by an appropriate national accreditation organizations recognized by the Secretary for the purpose;

"(B) has completed at least 900 hours of supervised dietetics practice under the supervision of a registered dietitian or nutrition professional; and

"(C)(i) is licensed or certified as a dietitian or nutrition professional by the State in which the services are performed; or

"(ii) in the case of an individual in a State which does not provide for such licensure or certification, meets such other criteria as the Secretary establishes.

"(3) Subparagraphs (A) and (B) of paragraph (2) shall not apply in the case of an individual who as of the date of the enactment of this subsection is licensed or certified as a dietitian or nutrition professional by the State in which medical nutrition therapy services are performed.".

(c) PAYMENT.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 13951(a)(1)) is amended—

(1) by striking "and" before "(P)"; and

(2) by inserting before the semicolon at the end the following: ", and (Q) with respect to medical nutrition therapy services (as defined in section 1861(oo)), the amount paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined under the fee schedule established under section 1848(b) for the same services if furnished by a physician".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1998.

Mr. CRAIG. Mr. President, this morning, I stand to introduce with my colleague from New Mexico, JEFF BINGAMAN, legislation that will be called the Medical Nutrition Therapy Act of 1997. I think we have all heard of the old adage that "an ounce of prevention is worth a pound of cure." That is very true in the legislation that we are proposing today, along with our colleagues from the House.

Simply stated, medical nutrition therapy involves the assessment of the nutritional status of patients with a condition, illness, or injury that puts them at nutritional risk. Once a problem is identified, a registered dietitian can work with the patient to develop a personal therapy or treatment. Almost 17 million Americans each year, mostly the elderly, are treated for chronic illnesses or injuries that place them at risk of malnutrition. But because of medical nutrition therapy, in many instances, this can be resolved. The only problem today is that these preventive measures are not covered by Medicare.

Our legislation would simply provide coverage under Medicare part B for medical nutrition therapy services furnished by registered dietitians and nutrition professionals. This is necessary so that the elderly are not denied effective low-technology treatment of their needs. I had the privilege of touring several hospitals in Idaho where medical nutrition therapy is now being used, and the results are dramatic.

As we begin to closely examine our Medicare system, we must focus on the modernization of a 30-year-old health insurance system for the elderly. We need to make sure that it is truly modern, not only in its payment, its application, its style, but in the broad array of health care services that it responds to. Today, many private health insurance programs recognize medical nutrition therapy. Now, it is time that Medicare did.

I hope my colleagues will join with Senator BINGAMAN and myself, as we introduce the Medical Nutrition Therapy Act. It is important that we begin to recognize these services and provide coverage under Medicare part B.

I yield the floor.

By Mr. DOMENICI:

S. 598. A bill to amend section 3006A of title 18, United States Code, to provide for the public disclosure of court appointed attorneys' fees upon approval of such fees by the court; to the Committee on the Judiciary.

THE DISCLOSURE OF COURT APPOINTED ATTORNEYS' FEES AND TAXPAYER RIGHT TO KNOW ACT

Mr. DOMENICI. Mr. President, I rise today to introduce the Disclosure of Court Appointed Attorneys' Fees and Taxpayer Right to Know Act of 1997.

Mr. President, what would you say if I told you that from the beginning of fiscal year 1996 through January 1997, $472,841 was paid to a lawyer to defend a person accused of a crime so heinous that the U.S. attorney in the Northern District of New York is pursuing the death penalty? Who paid for this lawyer—the American taxpayer.

What would you say if I told you that $470,968 was paid to a lawyer to defend a person accused of a crime so reprehensible that, there too, the U.S. attorney in the Southern District of Florida is also pursuing the death penalty? Who paid for this lawyer—the American taxpayer.

What would you say if I told you that during the same period, for the same purpose, $443,683 was paid to another attorney to defend a person accused of a crime so villainous that the U.S. attorney in the Northern District of New York is pursuing the death penalty. Who paid for this lawyer? The American taxpayer.

Now, Mr. President, what would you say if I told you that some of these cases have been ongoing for 3 or more years and that total fees in some instances will be more than $1 million in an individual case? That's a million dollars to pay criminal lawyers to defend people accused of the most vicious types of murders often which are of the greatest interest to the communities in which they were committed.

At minimum, Mr. President, this Senator would say that we are spending a great deal of money on criminal defense lawyers and the American taxpayer ought to have timely access to the information that will tell them who is spending their money, and how it is being spent. That is why today I am introducing the Disclosure of Court Appointed Attorneys' Fees and Taxpayer Right to Know Act of 1997.

Under current law, the maximum amount payable for representation before the U.S. magistrate or the district court, or both, is limited to $3,500 for each lawyer in a case in which one or more felonies are charged and $125 per hour per lawyer in death penalty cases. Many Senators might ask, if that is so, why are these exorbitant amounts being paid in the particular cases you mention? I say to my colleagues the reason this happens is because under current law the maximum amounts established by statute may be waived whenever the judge certifies that the amount of the excess payment is necessary to provide "fair compensation" and the payment is approved by the chief judge on the circuit. In addition, whatever is considered fair compensation at the $125 per hour per lawyer rate may also be approved at the judge's discretion.

Mr. President, the American taxpayer has a legitimate interest in knowing what is being provided as fair compensation to defend individuals charged with these dastardly crimes in our Federal court system. Especially when certain persons the American taxpayer is paying for mock the American justice system. A recent Nightline episode reported that one of the people the American taxpayer is shelling out their hard-earned money to defend urinated in open court, in front of the judge, to demonstrate his feelings about the judge and the American judicial system.

I want to be very clear about what exactly my bill would accomplish. The question of whether these enormous fees should be paid for these criminal lawyers is not, I repeat, is not a focus of my bill.

In keeping with my strongly held belief that the American taxpayer has a legitimate interest in having timely access to this information, my bill simply requires that at the time the court approved the payments for these services, that the payments be publicly disclosed. Many Senators are probably saying right now that this sounds like a very reasonable request, and I think it is, but the problem is that oftentimes these payments are not disclosed until long after the trial has been completed, and in some cases they may not be disclosed at all if the file remains sealed by the judge. How much criminal defense lawyers are being paid should not be a secret. There is a way in which we can protect the alleged criminal's sixth amendment rights and still honor the American taxpayer's right to know. Mr. President, that is what my bill does.

Current law basically leaves the question of when and whether court appointed attorneys' fees should be disclosed at the discretion of the judge in which the particular case is being tried. My bill would take some of that discretion away and require that disclosure occur once the payment has been approved.

My bill continues to protect the defendant's sixth amendment right to effective assistance of counsel, the defendant's attorney-client privilege, the work-product immunity of defendant's counsel, the safety of any witness, and any other interest that justice may require by providing notice to defense counsel that this information will be released, and allowing defense counsel, or the court on its own, to redact any information contained on the payment voucher that might compromise any of the aforementioned interests. That means that the criminal lawyer can ask the judge to take his big black marker and black out any information that might compromise these precious sixth amendment rights, or the judge can make this decision on his own. In any case, the judge will let the criminal lawyer know that this information will be released and the criminal lawyer will have the opportunity to request the judge black out any compromising information from the payment voucher.

How would this occur? Under current law, criminal lawyers must fill out Criminal Justice Act payment vouchers in order to receive payment for services rendered. Mr. President, two payment vouchers are the standard vouchers used in the typical felony and death penalty cases prosecuted in the Federal district courts. Mr. President, the information of these payment vouchers describes in barebones fashion the nature of the work performed and the amount that is paid for each category of service.

Mr. President, I ask unanimous consent that these two vouchers be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[The vouchers are not reproducible in the Record.]

Mr. DOMENICI. Mr. President, my bill says that once the judge approves these payment vouchers that they be publicly disclosed. That means that anyone can walk down to the Federal district court where the case is being tried and ask the clerk of the court for copies of the relevant CJA payment vouchers. It's that simple. Nothing more. Nothing less.

Before the court releases this information it will provide notice to defense counsel that the information will be released, and either the criminal lawyer, or the judge on his/her own, may black out any of the barebones information on the payment voucher that might compromise the alleged criminals' precious sixth amendment rights.

Mr. President, I believe that my bill is a modest step toward assuring that the American taxpayer have timely access to this information. In addition to these CJA payment vouchers, criminal lawyers must also supply the court with detailed time sheets that recount with extreme particularity the nature of work performed. These detailed time sheets break down the work performed by the criminal lawyer to the minute. They name each and every person that was interviewed, each and every phone call that was made, the subjects that were discussed, and the days and the times they took place. They go into intimate detail about what was done to prepare briefs, conduct investigations, and prepare for trial.

I am not asking that that information be made available for, indeed, it might prejudice the way the trial goes to the detriment of the defendant. Clearly, if all of this information was subject to public disclosure, the alleged criminal's sixth amendment rights might be compromised. My bill does not seek to make this sensitive information subject to disclosure but continues to leave it to the judge to determine if and when it should be released. But the barebones must be released. We must know the amounts, and it must be made available as the dollars vouchers are paid by the Federal district court using taxpayers' moneys which are appropriated to them by us.

In this way, my bill recognizes and preserves the delicate balance between the American taxpayers' right to know how their money is being spent, and the alleged criminal's right to a fair trial.

So we need to recognize and preserve the balance between the American taxpayers' right to know and how much is being spent on these attorneys and the alleged criminal's right to have a fair trial.

I believe we should take every reasonable step to protect any disclosure that might compromise the alleged criminal's sixth amendment rights. My bill does this by providing notice to defense counsel of the release of the information, and providing the judge with the authority to black out any of the barebones information contained on the payment voucher if it might compromise any of the aforementioned interests. I believe it is reasonable and fair, and I hope I will have my colleagues support.

Mr. President, I ask unanimous consent that the bill be appropriately referred.

The PRESIDING OFFICER. The bill will be appropriately referred to the committee.

By Mrs. BOXER (for herself and Mr. LAUTENBERG):

S. 599. A bill to protect children and other vulnerable subpopulations from exposure to certain environmental pollutants, and for other purposes; to the Committee on Environment and Public Works.

THE CHILDREN'S ENVIRONMENTAL PROTECTION ACT OF 1997

Mrs. BOXER. Mr. President, today I introduce the Children's Environmental Protection Act [CEPA]. This legislation will help protect our children from the harmful effects of environmental pollutants. The Children's Environmental Protection Act will do three things:

First, it will require that all EPA standards be set at levels that protect children, and other vulnerable groups, including the elderly, pregnant women, people with serious health problems, and others.

Second, it will create a list of EPA-recommended safer-for-children products and chemicals that minimize potential risks to children. Within 1 year, only these products could be used at Federal facilities. CEPA will also require the EPA to create a family right-to-know information kit that includes practical suggestions on how parents may reduce their children's exposure to environmental pollutants.

For example, newborns and infants frequently spend long periods of time on the floor, carpet, or grass, surfaces that are associated with chemicals such as formaldehyde and volatile organic compounds from synthetic carpets and indoor and outdoor pesticide applications. EPA might suggest safer-for-children carpeting, floor cleaning products, and garden pesticides.

Finally, the bill will require EPA to conduct research on the health effects of exposure of children to environmental pollutants.

Our children face unique environmental threats to their health because they are more vulnerable to exposure to toxic chemicals than adults. We must educate ourselves about environmental pollutants, and we must improve our scientific understanding about how exposure might affect our children's health.

We took an important step in this direction when the Safe Drinking Water Act was passed last year. The new law includes two amendments I supported and worked to enact. The first requires that safe drinking water standards be set at levels that protect children, the elderly, pregnant women, and other vulnerable groups. The second requires that the public receive information in the form of Consumer Confidence Reports about the quality and safety of their drinking water.

The Children's Environmental Protection Act [CEPA] will carry the concept of my Safe Drinking Water Act amendments even further.

Children are not just little adults. According to the National Academy of Sciences, they are more vulnerable than adults. They eat more food, drink more water, and breathe more air as a percentage of their body weight than adults, and as a consequence, they are more exposed to the chemicals present in food, water, and air. Children are also growing and developing and may therefore be physiologically more susceptible than adults to the hazards associated with exposures to chemicals.

We have clear evidence that environmental pollution has a direct impact on children's health. Air pollution is linked to the 40-percent increase in the incidence of childhood asthma and the 118 percent increase asthma deaths among children and young people since 1980. Asthma now affects over 4.2 million children under the age of 18 nationwide and is the leading cause of hospital admissions for children. The incidence of some types of childhood cancer has risen significantly over the past 15 years. For example, acute lymphocytic leukemia is up 10 percent and brain tumors are up more than 30 percent.

Children may face developmental risks from the potential effects of exposure to pesticides and industrial chemicals on their endocrine systems.

Exposure to environmental pollutants is suspected of being responsible for the increase in learning disabilities and attention deficit disorders among children.

What are we doing in response to this evidence? Not enough. We know that up to one-half of a person's lifetime cancer risk may be incurred in the first 6 years of life, yet most of our Federal health and safety standards are not set at levels that are protective of children.

I am very pleased with the Environmental Protection Agency's recent creation of a new Office of Children's Health Protection in the Office of the Administrator, and a new EPA Board on Children's Environmental Health.

We need Federal legislation in order to secure the EPA's administrative efforts and give EPA support and direction.

Yesterday, I received a letter from EPA Administrator Carol Browner expressing support for the goals of my bill. I ask unanimous consent that the letter be inserted in the RECORD at this point, and I also ask unanimous consent that the text of the Children's Environmental Protection Act and a section-by-section analysis be printed in the RECORD as well.

I am very honored and pleased that Representative JIM MORAN has decided to introduce the Children's Environmental Protection Act in the House. I look forward to working with him to get this bill enacted.

Finally, Mr. President, I am pleased to have the Senator from New Jersey, Senator LAUTENBERG, as an original cosponsor of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 599

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Children's Environmental Protection Act”.

SEC. 2. ENVIRONMENTAL PROTECTION FOR CHILDREN.

The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by adding at the end the following:

“TITLE V—ENVIRONMENTAL PROTECTION FOR CHILDREN

“SEC. 501. FINDINGS AND POLICY.

“(a) FINDINGS.—Congress finds that—

“(1) public health and safety depends on citizens and local officials knowing the toxic dangers that exist in their homes, communities, and neighborhoods;

“(2) children and other vulnerable subpopulations are more at risk from environmental pollutants than adults and therefore face unique health threats that need special attention;

“(3) risk assessments of pesticides and other environmental pollutants conducted by the Environmental Protection Agency do not clearly differentiate between the risks to children and the risks to adults;

"(4) a study conducted by the National Academy of Sciences on the effects of pesticides in the diets of infants and children concluded that approaches to risk assessment typically do not consider risks to children and, as a result, current standards and tolerances often fail to adequately protect infants and children;

"(5) data are lacking that would allow adequate quantification and evaluation of child-specific and other vulnerable subpopulation-specific susceptibility and exposure to environmental pollutants;

"(6) data are lacking that would allow adequate quantification and evaluation of child- specific and other vulnerable subpopulation-specific bioaccumulation of environmental pollutants; and

"(7) the absence of data precludes effective government regulation of environmental pollutants, and denies individuals the ability to exercise a right to know and make informed decisions to protect their families.

"(b) Policy.—It is the policy of the United States that—

"(1) all environmental and public health standards set by the Environmental Protection Agency must, with an adequate margin of safety, protect children and other vulnerable subpopulations that are at greater risk from exposure to environmental pollutants;

"(2) information, including a safer-for-children product list, should be made readily available by the Environmental Protection Agency to the general public and relevant Federal and State agencies to advance the public's right-to-know, and allow the public to avoid unnecessary and involuntary exposure;

"(3) not later than 1 year after the safer-for-children list is created, only listed products or chemicals that minimize potential health risks to children shall be used in Federal properties and areas; and

"(4) scientific research opportunities should be identified by the Environmental Protection Agency, the Department of Health and Human Services (including the National Institute of Environmental Health Sciences and the Agency for Toxic Substances and Disease Registry), the National Institutes of Health, and other Federal agencies, to study the short-term and long-term health effects of cumulative, simultaneous, and synergistic exposures of children and other vulnerable subpopulations to environmental pollutants.

"SEC. 502. DEFINITIONS.

"In this title:

"(1) Areas that are reasonably accessible to children.—The term 'areas that are reasonably accessible to children' means homes, schools, day care centers, shopping malls, movie theaters, and parks.

"(2) Children.—The term 'children' means individuals who are 18 years of age or younger.

"(3) Environmental pollutant.—The term 'environmental pollutant' means a hazardous substance, as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), or a pesticide, as defined in section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136).

"(4) Federal properties and areas.—The term 'Federal properties and areas' means areas owned or controlled by the United States.

"(5) Vulnerable subpopulations.—The term 'vulnerable subpopulations' means children, pregnant women, the elderly, individuals with a history of serious illness, and other subpopulations identified by the Administrator as likely to experience elevated health risks from environmental pollutants.

"SEC. 503. SAFEGUARDING CHILDREN AND OTHER VULNERABLE SUBPOPULATIONS.

"(a) In General.—The Administrator shall—

"(1) consistently and explicitly evaluate and consider environmental health risks to vulnerable subpopulations in all of the risk assessments, risk characterizations, environmental and public health standards, and regulatory decisions carried out by the Administrator;

"(2) ensure that all Environmental Protection Agency standards protect children and other vulnerable subpopulations with an adequate margin of safety; and

"(3) develop and use a separate assessment or finding of risks to vulnerable subpopulations or publish in the Federal Register an explanation of why the separate assessment or finding is not used.

"(b) Reevaluation of Current Public Health and Environmental Standards.—

"(1) In general.—As part of any risk assessment, risk characterization, environmental or public health standard or regulation, or general regulatory decision carried out by the Administrator, the Administrator shall evaluate and consider the environmental health risks to children and other vulnerable subpopulations.

"(2) Implementation.—In carrying out paragraph (1), not later than 1 year after the date of enactment of this title, the Administrator shall—

"(A) develop an administrative strategy and an administrative process for reviewing standards;

"(B) publish in the Federal Register a list of standards that may need revision to ensure the protection of children and vulnerable subpopulations;

"(C) prioritize the list according to the standards that are most important for expedited review to protect children and vulnerable subpopulations;

"(D) identify, which standards on the list will require additional research in order to be reevaluated and outline the time and resources required to carry out the research; and

"(E) identify, through public input and peer review, not fewer than 20 public health and environmental standards of the Environmental Protection Agency to be repromulgated on an expedited basis to meet the criteria of this subsection.

"(3) Revised standards.—Not later than 6 years after the date of enactment of this title, the Administrator shall propose not fewer than 20 revised standards that meet the criteria of this subsection.

"(4) Completed revision of standards.—Not later than 15 years after the date of enactment of this title, the Administrator shall complete the revision of all standards in accordance with this subsection.

"(5) Report.—The Administrator shall report to Congress on an annual basis on progress made by the Administrator in carrying out the objectives and policy of this subsection.

"SEC. 504. SAFER ENVIRONMENT FOR CHILDREN.

"(a) In General.—Not later than 1 year after the date of enactment of this title, the Administrator shall—

"(1) identify environmental pollutants commonly used or found in areas that are reasonably accessible to children;

"(2) create a scientifically peer reviewed list of substances identified under paragraph (1) with known, likely, or suspected health risks to children;

"(3) create a scientifically peer reviewed list of safer-for-children substances and products recommended by the Administrator for use in areas that are reasonably accessible to children that, when applied as recommended by the manufacturer, will minimize potential risks to children from exposure to environmental pollutants;

"(4) establish guidelines to help reduce and eliminate exposure of children to environmental pollutants in areas reasonably accessible to children, including advice on how to establish an integrated pest management program;

"(5) create a family right-to-know information kit that includes a summary of helpful information and guidance to families, such as the information created under paragraph (3), the guidelines established under paragraph (4), information on the potential health effects of environmental pollutants, practical suggestions on how parents may reduce their children's exposure to environmental pollutants, and other relevant information, as determined by the Administrator in cooperation with the Centers for Disease Control;

"(6) make all information created pursuant to this subsection available to Federal and State agencies, the public, and on the Internet; and

"(7) review and update the lists created under paragraphs (2) and (3) at least once each year.

"(b) Compliance in Public Areas That are Reasonably Accessible to Children.—Not later than 1 year after the list created under subsection (a)(3) is made available to the public, the Administrator shall prohibit the use of any product that has been excluded from the safer-for-children list in Federal properties and areas.

"SEC. 505. RESEARCH TO IMPROVE INFORMATION ON EFFECTS ON CHILDREN.

"(a) Toxicity Data.—The Administrator, the Secretary of Agriculture, and the Secretary of Health and Human Services shall coordinate and support the development and implementation of basic and applied research initiatives to examine the health effects and toxicity of pesticides (including active and inert ingredients) and other environmental pollutants on children and other vulnerable subpopulations.

"(b) Biennial Reports.—The Administrator, the Secretary of Agriculture, and the Secretary of Health and Human Services shall submit biennial reports to Congress on actions taken to carry out this section.

"SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as are necessary to carry out this title.".

CHILDREN'S ENVIRONMENTAL PROTECTION ACT OF 1997—SECTION-BY-SECTION ANALYSIS

Section 1. Short Title.

The short title of the bill shall be the Children's Environmental Protection Act of 1997.

Section 2. Findings/Policy/Definitions

Amends the Toxic Substances Control Act by adding a new Title V—"Environmental Protection for Children."

Section 501. Findings and Policy

Findings—

(1) Public health and safety depend on citizens being aware of toxic dangers in their homes, communities, and neighborhoods.

(2) Children and other vulnerable groups face health threats that are not adequately met by current standards.

(3) More scientific knowledge is needed about the extent to which children are exposed to environmental pollutants and the health effects of such exposure.

Policy—

(1) All standards for environmental pollutants set by the EPA should be set at levels that protect children's health with an adequate margin of safety.

(2) In order to help the public avoid unnecessary and involuntary exposure to environmental pollutants, the EPA should develop a list of "safer-for-children" products. Only products on this list should be used on federal properties.

(3) EPA and other agencies should conduct more research, both basic and applied, on the short and long term health effects of exposure to environmental pollutants.

Section 502. Definitions

(1) "Areas that are reasonably accessible to children" means homes, schools, day care centers, shopping malls, movie theaters and parks.

(2) "Children" means children ages 0–18.

(3) "Environmental pollutant" means a toxic as defined in Section 101 of the Superfund law or a pesticide as defined in the Federal Insecticide, Fungicide and Rodenticide Act.

(4) "Federal properties and areas" means areas controlled or owned by the U.S.

(5) "Vulnerable subpopulation" means children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulation identified by the EPA as likely to experience elevated health risks from environmental pollutants.

Section 503. Safeguarding children and other vulnerable subpopulations

Directs the EPA to consider environmental health risks to children and other vulnerable subpopulations throughout the standard setting process. Requires EPA to set health standards at levels that ensure the protection of children and other vulnerable subpopulations with an adequate margin of safety.

Requires EPA to develop a list of no fewer than 20 public health standards that need expedited reevaluation in order to protect children. Within 6 years, EPA must propose the revised standards. EPA must complete revision of all existing standards within 15 years, and must issue a progress report to Congress every year.

Section 504. Safer Environment for Children

Requires EPA, within 1 year after enactment of CEPA, to—

(1) identify environmental pollutants commonly used in areas reasonably accessible to children;

(2) identify pollutants that are known to be or suspected of being health risks to children;

(3) make public a list of "safer-for-children" products that minimize potential risks to children from exposure to environmental pollutants; EPA must update the list annually;

(4) establish guidelines to help reduce exposure of children to environmental pollutants, including how to establish an integrated pest management program;

(5) create a family right-to-know information kit that includes information on the potential health effects of exposure to environmental pollutants and practical suggestions on how parents may reduce their children's exposure.

Within one year after enactment, only products on the "safer-for-children" list may be used on federal properties.

Section 505. Research to Improve Information on Effects on Children

Requires EPA to work with other federal agencies to coordinate and support the development and implementation of basic and applied research initiatives to examine the health effects and toxicity of environmental pollutants on children and other vulnerable subpopulations. Requires biennial reports to Congress.

Section 506. Authorization of Appropriations

Authorizes appropriation of "such funds as may be necessary" in order to carry out the purposes of the legislation.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, DC, April 15, 1997.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: I am writing to thank you for your leadership to help protect our children from environmental risks and to congratulate you for the introduction of your Children's Environmental Protection Act. As you know, protecting the health of our children and expanding the public's right to know about harmful pollutants in our communities are top priorities for this Administration.

Recently I established the Office of Children's Health Protection to expand and better coordinate our activities to protect children. This office will review health standards to ensure they are protective for children and increase our family right to know activities to expand access to vital information about children's environmental health.

I look forward to working with you in the future to help protect children from environmental health threats in their homes, schools and communities.

Sincerely,

CAROL M. BROWNER.

By Mrs. FEINSTEIN (for herself and Mr. GRASSLEY):

S. 600. A bill to protect the privacy of the individual with respect to the social security number and other personal information, and for other purposes; to the Committee on Finance.

THE PERSONAL INFORMATION PRIVACY ACT OF 1997

Mrs. FEINSTEIN. Mr. President, today, along with my distinguished colleague, Senator CHARLES GRASSLEY, I am introducing the Personal Information Privacy Act of 1997. This legislation limits the accessibility and unauthorized commercial use of social security numbers, unlisted telephone numbers, and certain other types of sensitive personal information.

In November, the news media reported that companies were distributing social security numbers along with other private information in their online personal locator or look-up services.

In fact, I found that my own social security number was accessible to users of the Internet. My staff retrieved it in less than 3 minutes. I have the printout in my files.

Some of the larger and more visible companies have now discontinued the practice of displaying social security numbers directly on the computer screens of Internet users. Other enterprises have failed to modify their practices. One problem thwarting efforts to protect our citizens' privacy is that there are thousands of information providers on the Internet and elsewhere in the electronic arena—it is impossible to get a comprehensive picture of who is doing what, and where.

But one fact is clear, distributing social security numbers on the Internet is only the tip of the iceberg.

Too many firms profit from renting and selling social security numbers, unlisted telephone numbers, and other forms of sensitive personal information. List compilers and list brokers use records of consumer purchases and other transactions—including medical purchases—along with financial, demographic, and other data to create increasingly detailed profiles of individuals.

The growth of interactive communications has generated an explosive growth in information about our interests, our activities, and our illnesses—about the personal choices we make when we order products, inquire about services, participate in workshops, and visit sites on the Net.

A Newsday article titled "Your Life as an Open Book" recently reported that an individual's call to a toll free number to learn the daily pollen count resulted in a disclosure to a pharmaceutical company that the caller was likely to have an interest in pollen remedies.

It is true that knowledge about personal interests, circumstances, and activities can help companies tailor their products to individual needs and target their marketing efforts. But there need to be limitations.

Prior to the widespread use of computers, individual records were stored on paper in Government file cabinets at scattered locations around the country. These records were difficult to obtain. Now, with networked computers, multiple sets of records can be merged or matched with one another, creating highly detailed portraits of our interests, our allergies, food preferences, musical tastes, levels of wealth, gender, ethnicity, homes, and neighborhoods. These records can be disseminated around the world in seconds.

What is the result? In addition to receiving floods of unwanted mail solicitations, people are losing control over their own identities. We don't know where this information is going, or how it is being used. We don't know how much is out there, and who is getting it. Our private lives are becoming commodities with tremendous value in the marketplace, yet we, the owners of the information, often do not derive the benefits. Information about us can be used to our detriment.

As an example, the widespread availability of Social Security numbers and other personal information has led to an exponential growth in identity theft, whereby criminals are able to assume the identities of others to gain access to charge accounts and bank accounts, to obtain the personal records of others, and to steal Government benefits.

In 1992, Joe Gutierrez, a retired Air Force chief master sergeant in California became a victim of identity theft when a man used his Social Security number to open 20 fraudulent accounts. To this day, Mr. Gutierrez has been hounded by creditors and their collection agencies. "It is pure hell," he said in an interview with the San Diego Union Tribune. "They have called me a cheat, a deadbeat, a bum. They have questioned my character, my integrity, and my upbringing."

As an additional problem, the unauthorized distribution of personal information can lead to public safety concerns, including stalking of battered spouses, celebrities, and other citizens.

There are very few laws to protect personal privacy in the United States. The Privacy Act of 1974 is limited, and applies only to the use of personal information by the Government.

With minor exceptions, the collection and use of personal information by the private sector is virtually unregulated. In other words, private companies have nearly unlimited authority to compile and sell information about individuals. As technology becomes more sophisticated, the ability to collect, synthesize and distribute personal information is growing exponentially.

The Personal Information Privacy Act of 1997 will help cut off the dissemination of Social Security numbers, unlisted telephone numbers, and other personal information at the source.

First, the bill amends the Fair Credit Reporting Act to ensure the confidentiality of personal information in the credit headers accompanying credit reports. Credit headers contain personal identification information which serves to link individuals to their credit reports.

Currently, credit bureaus routinely sell and rent credit header information to mailing list brokers and marketing companies. This is not the use for which this information was intended.

The bill we are introducing today would prevent credit bureaus from disseminating Social Security numbers, unlisted telephone numbers, dates of birth, past addresses, and mothers' maiden names. This is important because this kind of information is subject to serious abuse—to open fraudulent charge accounts, to manipulate bank accounts, and to gain access to the personal records of others.

An exception is provided for information that citizens have chosen to list in their local phone directories. This means that phone numbers and addresses may be released if they already are available in phone directories.

As a second means of limiting the circulation of Social Security numbers, the bill restricts the dissemination of Social Security numbers by State departments of motor vehicles. Specifically, the bill amends certain exemptions to the Driver's Protection Act of 1994.

The legislation would prohibit State departments of motor vehicles from disseminating Social Security numbers for bulk distribution for surveys, marketing, or solicitations.

The bill requires uses of Social Security numbers by State Departments of Motor Vehicles to be consistent with the uses authorized by the Social Security Act and by other statutes explicitly authorizing their use.

In addition to the above measures which will limit the accessibility of Social Security numbers, the Personal Information Privacy Act of 1997 penalizes the unauthorized commercial use of Social Security numbers.

Specifically, the bill amends the Social Security Act to prohibit the commercial use of a Social Security number in the absence of the owner's written consent. Exceptions are provided for uses authorized by the Social Security Act, the Privacy Act of 1974, and other statutes specifically authorizing such use.

I believe this bill represents a major step in protecting the privacy of our citizens, and I urge my colleagues to support it. I ask unanimous consent that the text of the bill be included in the RECORD following our remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 600

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Personal Information Privacy Act of 1997".

SEC. 2. CONFIDENTIAL TREATMENT OF CREDIT HEADER INFORMATION.

Section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is amended by inserting after the first sentence the following: "The term also includes any other identifying information of the consumer, except the name, address, and telephone number of the consumer if listed in a residential telephone directory available in the locality of the consumer.".

SEC. 3. PROTECTING PRIVACY BY PROHIBITING USE OF THE SOCIAL SECURITY NUMBER FOR COMMERCIAL PURPOSES WITHOUT CONSENT.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following:

"PROHIBITION OF CERTAIN MISUSES OF THE SOCIAL SECURITY ACCOUNT NUMBER

"SEC. 1146. (a) PROHIBITION OF COMMERCIAL ACQUISITION OR DISTRIBUTION.—No person may buy, sell, offer for sale, take or give in exchange, or pledge or give in pledge any information for the purpose, in whole or in part, of conveying by means of such information any individual's social security account number, or any derivative of such number, without the written consent of such individual.

"(b) PROHIBITION OF USE AS PERSONAL IDENTIFICATION NUMBER.—No person may utilize any individual's social security account number, or any derivative of such number, for purposes of identification of such individual without the written consent of such individual.

"(c) PREREQUISITES FOR CONSENT.—In order for consent to exist under subsection (a) or (b), the person engaged in, or seeking to engage in, an activity described in such subsection shall—

"(1) inform the individual of all the purposes for which the number will be utilized and the persons to whom the number will be known; and

"(2) obtain affirmatively expressed consent in writing.

"(d) EXCEPTIONS.—Nothing in this section shall be construed to prohibit any use of social security account numbers permitted or required under section 205(c)(2) of this Act, section 7(a)(2) of the Privacy Act of 1974 (5 U.S.C. 552a note; 88 Stat. 1909), or section 6109(d) of the Internal Revenue Code of 1986.

"(e) CIVIL ACTION IN UNITED STATES DISTRICT COURT; DAMAGES; ATTORNEYS FEES AND COSTS; NONEXCLUSIVE NATURE OF REMEDY.—

"(1) IN GENERAL.—Any individual aggrieved by any act of any person in violation of this section may bring a civil action in a United States district court to recover—

"(A) such preliminary and equitable relief as the court determines to be appropriate; and

"(B) the greater of—

"(i) actual damages; and

"(ii) liquidated damages of $25,000 or, in the case of a violation that was willful and resulted in profit or monetary gain, $50,000.

"(2) ATTORNEY'S FEES AND COSTS.—In the case of a civil action brought under paragraph (1) in which the aggrieved individual has substantially prevailed, the court may assess against the respondent a reasonable attorney's fee and other litigation costs and expenses (including expert fees) reasonably incurred.

"(3) STATUTE OF LIMITATIONS.—No action may be commenced under this subsection more than 3 years after the date on which the violation was or should reasonably have been discovered by the aggrieved individual.

"(4) NONEXCLUSIVE REMEDY.—The remedy provided under this subsection shall be in addition to any other lawful remedy available to the individual.

"(f) CIVIL MONEY PENALTIES.—

"(1) IN GENERAL.—Any person who the Commissioner of Social Security determines has violated this section shall be subject, in addition to any other penalties that may be prescribed by law, to—

"(A) a civil money penalty of not more than $25,000 for each such violation, and

"(B) a civil money penalty of not more than $500,000, if violations have occurred with such frequency as to constitute a general business practice.

"(2) DETERMINATION OF VIOLATIONS.—Any violation committed contemporaneously with respect to the social security account numbers of 2 or more individuals by means of mail, telecommunication, or otherwise shall be treated as a separate violation with respect to each such individual.

"(3) ENFORCEMENT PROCEDURES.—The provisions of section 1128A (other than subsections (a), (b), (f), (h), (i), (j), and (m), and the first sentence of subsection (c)) and the provisions of subsections (d) and (e) of section 205 shall apply to civil money penalties under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a), except that, for purposes of this paragraph, any reference in section 1128A to the Secretary shall be deemed a reference to the Commissioner of Social Security.

"(g) REGULATION BY STATES.—Nothing in this section shall be construed to prohibit any State authority from enacting or enforcing laws consistent with this section for the protection of privacy.".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to violations occurring on and after the date which is 2 years after the date of enactment of this Act.

SEC. 4. RESTRICTION ON USE OF SOCIAL SECURITY NUMBERS BY STATE DEPARTMENTS OF MOTOR VEHICLES.

(a) RESTRICTION ON GOVERNMENTAL USE.—Section 2721(b)(1) of title 18, United States Code, is amended by striking "its functions," and inserting "its functions, but in the case of social security numbers, only to the extent permitted or required under section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)), section 7(a)(2) of the Privacy Act of 1974 (5 U.S.C. 552a note, 88 Stat. 1909), section 6109(d) of the Internal Revenue Code of 1986, or any other provision of law specifically identifying such use.".

(b) PROHIBITION OF USE BY MARKETING COMPANIES.—Section 2721(b)(12) of title 18, United States Code, is amended by striking "For" and inserting "Except in the case of social security numbers, for".

Mr. GRASSLEY. Mr. President, I rise today to join my colleague, Mrs. FEINSTEIN, in introducing important legislation. This legislation, the Personal Information Privacy Act of 1997, is a solid first step toward keeping our personal information from being misused.

In this amazing time of technology explosion, new challenges face our society. New technology makes information more readily available for many uses. This information helps the college student write a better term paper, it helps businesses function more effectively, and it helps professionals to stay better informed of developments in their fields. The technology that provides this ready access to infinite information also helps friends and families communicate across continents, increases the feasibility of working from a home office, and provides many other advantages.

However, with these advantages come added risk. Dissemination of information is generally good, but dissemination of all information is not good. Technology can help people with bad intentions find their victims. It can also give people access to personal information that we would rather they not have. With minimal information and a few keystrokes, virtually anyone could have your lifetime credit history and personal wages downloaded to their computer. For this reason, it is important that we work to make sure some personal information stays out of the hands of people we have never met, whose intentions we don't know.

One of the most important functions of lawmaking is to make sure that law keeps up with society, and in this case, technology. The bill that Senator FEINSTEIN and I are introducing today is a solid first step. I will soon be introducing additional legislation affecting the Internet because I believe it is important that we talk about issues related to new technologies; that we exchange ideas. And at the end of the day, we must preserve the confidentiality of personal information and the safety of individuals.

ADDITIONAL COSPONSORS

S. 71

At the request of Mr. DASCHLE, the name of the Senator from Rhode Island [Mr. REED] was added as a cosponsor of S. 71, a bill to amend the Fair Labor Standards Act of 1938 and the Civil Rights Act of 1964 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 75

At the request of Mr. KYL, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 75, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 356

At the request of Mr. GRAHAM, the names of the Senator from Rhode Island [Mr. REED], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the Medicare and Medicaid Programs.

S. 361

At the request of Mr. JEFFORDS, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 361, a bill to amend the Endangered Species Act of 1973 to prohibit the sale, import, and export of products labeled as containing endangered species, and for other purposes.

S. 369

At the request of Mr. JEFFORDS, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 369, a bill to amend section 1128B of the Social Security Act to repeal the criminal penalty for fraudulent disposition of assets in order to obtain Medicaid benefits added by section 217 of the Health Insurance Portability and Accountability Act of 1996.

S. 460

At the request of Mr. BOND, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 460, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals, to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home, to clarify the standards used for determining that certain individuals are not employees, and for other purposes.

S. 497

At the request of Mr. COVERDELL, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Indiana [Mr. COATS], the Senator from Mississippi [Mr. LOTT], the Senator from Arizona [Mr. MCCAIN], the Senator from South Carolina [Mr. THURMOND], the Senator from Iowa [Mr. GRASSLEY], the Senator from Wyoming [Mr. ENZI], the Senator from Virginia [Mr. WARNER], the Senator from Florida [Mr. MACK], the Senator from Nebraska [Mr. HAGEL], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 497, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal the provisions of the acts that require employees to pay union dues or fees as a condition of employment.

S. 526

At the request of Mr. HATCH, the name of the Senator from Oregon [Mr. SMITH of Oregon] was added as a cosponsor of S. 526, a bill to amend the Internal Revenue Code of 1986 to increase the excise taxes on tobacco products for the purpose of offsetting the Federal budgetary costs associated with the Child Health Insurance and Lower Deficit Act.

At the request of Mr. BENNETT, his name was withdrawn as a cosponsor of S. 526, supra.

S. 528

At the request of Mr. CAMPBELL, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Ohio [Mr. DEWINE], and the Senator from Arkansas [Mr. HUTCHINSON] were added as cosponsors of S. 528, a bill to require the display of the POW/MIA flag on various occasions and in various locations.

S. 535

At the request of Mr. MCCAIN, the names of the Senator from Washington [Mr. GORTON] and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 535, a bill to amend the Public Health Service Act to provide for the establishment of a program for research and training with respect to Parkinson's disease.

S. 540

At the request of Mr. BIDEN, the names of the Senator from California [Mrs. BOXER] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 540, a bill to amend title

XVIII of the Social Security Act to provide annual screening mammography and waive coinsurance for screening mammography for women age 65 or older under the Medicare Program.

S. 543

At the request of Mr. COVERDELL, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 543, a bill to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers.

S. 544

At the request of Mr. COVERDELL, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 544, a bill to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers.

S. 556

At the request of Mr. INHOFE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 556, a bill to provide for the allocation of funds from the Mass Transit Account of the Highway Trust Fund, and for other purposes.

S. 579

At the request of Mr. ASHCROFT, the names of the Senator from Idaho [Mr. CRAIG], the Senator from Alabama [Mr. SHELBY], the Senator from Mississippi [Mr. COCHRAN], the Senator from Nebraska [Mr. HAGEL], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 579, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for the old-age, survivors, and disability insurance taxes paid by employees and self-employed individuals, and for other purposes.

SENATE JOINT RESOLUTION 15

At the request of Mr. BYRD, the names of the Senator from Mississippi [Mr. LOTT], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Kentucky [Mr. FORD], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of Senate Joint Resolution 15, a joint resolution proposing an amendment to the Constitution of the United States to clarify the intent of the Constitution to neither prohibit nor require public school prayer.

SENATE CONCURRENT RESOLUTION 6

At the request of Mr. HAGEL, his name was added as a cosponsor of Senate Concurrent Resolution 6, a concurrent resolution expressing concern for the continued deterioration of human rights in Afghanistan and emphasizing the need for a peaceful political settlement in that country.

SENATE RESOLUTION 69

At the request of Mr. MCCAIN, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of Senate Resolution 69, a resolution expressing the sense of the Senate regarding the March 30, 1997, terrorist grenade attack in Cambodia.

SENATE CONCURRENT RESOLUTION 21—CONGRATULATING THE RESIDENTS OF JERUSALEM

By Mr. MOYNIHAN (for himself, Mr. MACK, Mr. DASCHLE, Mr. LOTT, Mr. LIEBERMAN, Mr. HELMS, Mr. D'AMATO, Mr. KYL, Mr. ALLARD, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BRYAN, Mr. BURNS, Mr. CAMPBELL, Mr. CLELAND, Mr. COATS, Mr. COCHRAN, Ms. COLLINS, Mr. CRAIG, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRIST, Mr. GRAHAM, Mr. GRAMM, Mr. GRASSLEY, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HUTCHINSON, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. LEVIN, Mr. LUGAR, Mr. MCCAIN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. NICKLES, Mr. REED, Mr. ROBB, Mr. SANTORUM, Mr. SESSIONS, Mr. SMITH of Oregon, Mr. SMITH of New Hampshire, Ms. SNOWE; Mr. SPECTER, Mr. STEVENS, Mr. THOMPSON, Mr. TORRICELLI, Mr. WARNER and Mr. WYDEN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 21

Whereas for 3,000 years Jerusalem has been Judaism's holiest city and the focal point of Jewish religious devotion;

Whereas Jerusalem is also considered a holy city by members of other religious faiths;

Whereas there has been a continuous Jewish presence in Jerusalem for three millennia and a Jewish majority in the city since the 1840s;

Whereas the once thriving Jewish majority of the historic Old City of Jerusalem was driven out by force during the 1948 Arab-Israeli War;

Whereas from 1948 to 1967 Jerusalem was a divided city and Israeli citizens of all faiths as well as Jewish citizens of all states were denied access to holy sites in the area controlled by Jordan;

Whereas in 1967 Jerusalem was reunited by Israel during the conflict known as the Six Day War;

Whereas since 1967 Jerusalem has been a united city, and persons of all religious faiths have been guaranteed full access to holy sites within the city;

Whereas this year marks the thirtieth year that Jerusalem has been administered as a unified city in which the rights of all faiths have been respected and protected;

Whereas in 1990 the United States Senate and House of Representatives overwhelmingly adopted Senate Concurrent Resolution 106 and House Concurrent Resolution 290 declaring that Jerusalem, the capital of Israel, "must remain an undivided city" and calling on Israel and the Palestinians to undertake negotiations to resolve their differences;

Whereas Prime Minister Yitzhak Rabin of Israel later cited Senate Concurrent Resolution 106 as having "helped our neighbors reach the negotiating table" to produce the historic Declaration of Principles on Interim Self-Government Arrangements, signed in Washington on September 13, 1993; and

Whereas the Jerusalem Embassy Act of 1995 (Public Law 104–45) which became law on November 8, 1995, states as a matter of United States policy that Jerusalem should remain the undivided capital of Israel: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) congratulates the residents of Jerusalem and the people of Israel on the thirtieth anniversary of the reunification of that historic city;

(2) strongly believes that Jerusalem must remain an undivided city in which the rights of every ethnic and religious group are protected as they have been by Israel during the past 30 years;

(3) calls upon the President and Secretary of State to publicly affirm as a matter of United States policy that Jerusalem must remain the undivided capital of the state of Israel; and

(4) urges United States officials to refrain from any actions that contradict United States law on this subject.

● Mr. MOYNIHAN. Mr. President, I submit a concurrent resolution congratulating the residents of Jerusalem and the people of Israel on the 30th anniversary of the reunification of their historic capital. I am joined in this effort by my distinguished colleague from Florida [Mr. MACK] as well as by 68 other Senators.

Next week, Jews around the world will conclude their Passover Seders with one of mankind's shortest and oldest prayers: "Next year in Jerusalem." Throughout the centuries Jews kept this pledge, often sacrificing their very lives to travel to, and live in, their holiest city. The Jewish people's attachment to Jerusalem is as ancient as it is fervent.

That Jerusalem is, and should remain, Israel's undivided capital would seem an unremarkable statement, but for the insidious campaign—begun in the 1970's—to delegitimize Israel by denying her ties to Jerusalem. For too long, the United States acquiesced in this shameful lie by refusing to locate our Embassy in Israel's capital city. As long as Israel's most important friend in the world refused to acknowledge that Israel's capital city is its own, we lent credibility and dangerous strength to the lie that Israel is somehow a misbegotten, an illegitimate, or transient state.

On November 8, 1995, the Jerusalem Embassy Act became the law of the United States. The law states, as a matter of United States Government policy, that Jerusalem should be recognized as the capital of the State of Israel, and should remain an undivided city in which the rights of every ethnic and religious group are protected.

The concurrent resolution I submit today continues in this spirit, and in the spirit of the many previous resolutions I have authored on this subject. In 1990, I introduced Senate Concurrent Resolution 106, which stated simply: "Jerusalem is and should remain the capital of the State of Israel." In 1993, in a message to the American-Israel Friendship League, Prime Minister Yitzhak Rabin wrote:

In 1990, Senator Moynihan sponsored Senate Resolution 106, which recognized Jerusalem as Israel's united Capital, never to be divided again, and called upon Israel and the Palestinians to undertake negotiations to resolve their differences. The resolution, which passed both Houses of Congress, expressed the sentiments of the United States toward Israel, and, I believe, helped our neighbors reach the negotiating table.

The Israeli-Palestinian peace process faces difficult challenges at this time. It is my hope that this clear reiteration of U.S. policy on Jerusalem will help insure that Jerusalem will remain a city at peace and bring closer the day when it will once again become a symbol of peace for all humanity.●

● Mr. MACK. Madam President, I am submitting a concurrent resolution today to congratulate the people of Israel and commemorate the 30-year unity of Jerusalem. Jerusalem must remain an undivided city. As a unified city of Israel for the past 30 years, Jerusalem has protected the rights of every ethnic and religious group. This must continue.

In spite of all that the Congress has done, recent news continues to make reference to Israeli settlements in Jerusalem. Jewish communities and neighborhoods in Jerusalem are not settlements. There is only one Jerusalem, and only one Israel. Jerusalem is an indivisible part of Israel. Israel's friends in Congress understand this. This concurrent resolution is an expression of this support.●

AMENDMENTS SUBMITTED

THE HIGHER EDUCATION ACT OF 1965 TECHNICAL CORRECTIONS ACT OF 1997

JEFFORDS (AND DOMENICI) AMENDMENT NO. 46

Mr. FRIST (for Mr. JEFFORDS, for himself and Mr. DOMENICI) proposed an amendment to the bill (H.R. 914) to make certain technical corrections in the Higher Education Act of 1965 relating to graduation data disclosures; as follows:

At the end, add the following:

SEC. 2. DATE EXTENSION.

Section 1501(a)(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6491(a)(4)) is amended by striking "January 1, 1998" and inserting "January 1, 1999".

SEC. 3. TIMELY FILING OF NOTICE.

Notwithstanding any other provision of law, the Secretary of Education shall deem Kansas and New Mexico to have timely submitted under section 8009(c)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7709(c)(1)) the States' written notices of intent to consider payments described in section 8009(b)(1) of the Act (20 U.S.C. 7709(b)(1)) in providing State aid to local educational agencies for school year 1997–1998, except that the Secretary may require the States to submit such additional information as the Secretary may require, which information shall be considered part of the notices.

SEC. 4. HOLD HARMLESS PAYMENTS.

Section 8002(h)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702(h)(1)) is amended—

(1) in subparagraph (A), by striking "or" after the semicolon;

(2) in subparagraph (B), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) for fiscal year 1997 and each succeeding fiscal year through fiscal year 2000 shall not be less than 85 percent of the amount such agency received for fiscal year 1996 under subsection (b).".

SEC. 5. DATA.

(a) IN GENERAL.—Section 8003(f)(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(f)(4)) is amended—

(1) in subparagraph (A)—

(A) by inserting "expenditure," after "revenue,"; and

(B) by striking the semicolon and inserting a period;

(2) by striking "the Secretary" and all that follows through "shall use" and inserting "the Secretary shall use"; and

(3) by striking subparagraph (B).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to fiscal years after fiscal year 1997.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing entitled "Oversight of SBA's Non-Credit Programs." The hearing will be held on April 24, 1997, beginning at 9:30 a.m. in room 428A of the Russell Senate Office Building.

For further information, please contact Paul Cooksey or Liz Taylor at 224–5175.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Thursday, April 24, 1997, at 9:30 a.m. to hold a hearing to consider revisions to title 44.

For further information concerning this hearing, please contact Ed Edens of the Rules Committee staff at 224–6678.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Wednesday, April 30, 1997, at 9:30 a.m. to hold a hearing to consider revisions to title 44.

For further information concerning this hearing, please contact Ed Edens of the Rules Committee staff at 224–6678.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing entitled "Oversight of SBA's Finance Programs." The hearing will be held on May 1, 1997, beginning at 9:30 a.m. in room 428A of the Russell Senate Office Building.

For further information, please contact Paul Cooksey at 224–5175.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. HUTCHINSON. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, April 16, 1997, beginning at 10 a.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 16, 1997, at 3 p.m. to hold a briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HUTCHINSON. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, April 16, 1997, at 10 a.m., for a hearing on the subject of Census 2000.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HUTCHINSON. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, April 16, 1997, at 2 p.m. for a hearing on the Government's role in television programming.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary hold a hearing on Wednesday, April 16, 1997, at 10 a.m. in room 216 of the Senate Hart Building, on Senate Joint Resolution 6, a proposed constitutional amendment for crime victims.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Reauthorization of Higher Education Act, during the session of the Senate on Wednesday, April 16, 1997, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 16, 1997, at

2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND FORCES

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Subcommittee on Airland Forces of the Committee on Armed Services be authorized to meet on Wednesday, April 16, 1997, at 10 a.m. in open session, to receive testimony on tactical aircraft modernization programs in review of S. 450, the National Defense Authorization Act for fiscal years 1998 and 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Science, Technology, and Space Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, April 16, 1997, at 2 p.m. on research and development funding trends.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON YOUTH VIOLENCE

Mr. HUTCHINSON. Mr. President, I ask unanimous consent on behalf of the Subcommittee on Youth Violence, to meet on Wednesday, April 16, 1997, at 2 p.m., in room 226, Senate Dirksen Building, on "Fixing a Broken System: The need for more juvenile bedspace and juvenile record-sharing."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE FIFTIETH ANNIVERSARY OF THE TEXAS CITY DISASTER

• Mrs. HUTCHISON. Mr. President, I want to share the memory of an important event in Texas history with my colleagues. Fifty years ago today the worst industrial accident in the history of America occurred in Texas City, TX. This morning I was in Texas City for a "rebirth" celebration the city is hosting.

It was a clear and cool spring morning on April 16, 1947, one described by author Elizabeth Lee Wheaton as "a day when just to be alive felt good." A steady northern wind blew over the Texas City harbor when the freight ship S.S. *Grandcamp* caught fire.

Curious schoolchildren and other onlookers marveled at the orange plume of smoke that curled as it rose from the ship. As firefighters worked feverishly to extinguish the flames, this ship loaded down with ammonium nitrate exploded. It was 9:22 a.m. Within moments the ferocious blast had killed 26 firefighters, scores of schoolchildren, ruined all the city's fire fighting equipment, and demolished the dock area. The explosion incinerated ships and businesses. The ship's cargo and dock equipment became missiles and were hurled into businesses, houses, and public buildings.

The explosion was so powerful that it registered on a seismograph as far away as Denver. One thousand homes and buildings throughout the city endured partial or total destruction. An eyewitness described the scene as follows: "For 1,200 feet around the location of the ship, metal shards weighing from one pound to five tons crashed down, creating geysers of water in the ship channel and landing on nearby buildings, killing or injuring the employees inside. Nearly all of the people who were on the wharf, including port officials, volunteer firefighters, and many ship's crew, disappeared, many never to be found."

It was not over yet. The S.S. *High Flyer* was in dock for repairs and also carried the volatile ammonium nitrate. The first explosion ignited the chemicals on the *High Flyer* and although emergency workers moved the ship away from the docks, it exploded just hours later. This explosion took the lives of many rescue workers who were pulling bodies from the wreckage.

In all, nearly 600 people were lost. Thousands more were injured, many severely. There were many heroes there as well. These were the thousands of individuals including those from the Red Cross, other volunteer organizations, and citizens who put out the fires, comforted the casualties while operating temporary hospitals, morgues, and shelters. Help came in from all over Texas and from many areas throughout the country.

I was almost 4 years old, riding my tricycle down Larcum Lane in La Marque when the S.S. *Grandcamp* blew in Texas City, just a couple of miles from my home. I still remember my fear as if it happened yesterday.

Little did I know then that one of the most horrific tragedies in American peacetime history had just occurred; all I knew was that the ground shook, my heart beat double-time, and I had to get home.

Approaching my front yard, I found my mom outside screaming my name. She was terrified upon hearing the explosion, feeling the house shake and the windows rattle, and not knowing where I was.

The happy ending is that we found each other. No one in the Bailey family of La Marque, TX, was injured in the blast. Such was not so for many others, however. Many of my friends grew up without fathers, fathers who had been victims of that blast.

A newspaper headline published 1 year after the tragic explosions announced that "Texas City * * * Rises Phoenix-like From the Abyss of Disaster." The mass tragedy that killed one in 50 citizens and injured 1 in 8, tested the unconquerable spirit of the surviving citizens. Remember the legend of the Phoenix; which consumed with its own fire, raised itself from the ashes as a synbol of immortality.

These resilient people of Texas City rose from the ashes that surrounded them. Through the anguish and heartbreak of such loss, they struggled and shared each others sorrow, refusing to let the dreams die. Immediately city leaders tried to restore life to normal—following the disaster, Sunday church services continued uninterrupted and within the following week the civic clubs met as usual.

As I look at this great city 50 years later, I see the qualities that have earned it honors as an all American city. The survivors and their children possess the spirit that has rebuilt one of our Nation's great industrial complexes. The city's renaissance is in full force. I was so proud to see that Readers Digest just included Texas City in their list of 1997's top 50 places in America to raise a family.

Truly that perfect spring day that became so dark, brought us together as never before. The beauty and strength of the human spirit endured and I can feel is just as evident today. That spiritual strength in retrospect has changed us all for the better.

I ask that my colleagues help me in remembering this disaster and praying that the victims' families, and those who survived the blast, have found peace in the years since.•

YANTIC FIRE ENGINE COMPANY CELEBRATION

• Mr. DODD. Mr. President, I rise today to pay tribute to the Yantic Fire Engine Company, located in my home State of Connecticut. It serves the largest territorial district in Norwich. This year, the Yantic Fire Engine Company celebrates its 150th anniversary. Perhaps the oldest volunteer fire company in Connecticut, and possibly the United States, this company has been providing an invaluable service to Yantic and the city of Norwich for 150 years.

The Yantic Fire Company was created on June 17, 1847, when the Connecticut General Assembly approved its application for charter. The official name of the fire company was Yantic Fire Company No. 1. Rich in tradition and history, this company is unique for many reasons. It still houses some of its original equipment, including an 1847 Waterman hand tub, an 1891 Silsby steamer, and a Silsby hose carriage. These pieces, well maintained and restored, are national treasures.

In July, the Village of Yantic will host a parade in honor of the Yantic Fire Engine Company's 150 years of service. This sure-to-be impressive celebration will include over 100 fire companies and numerous marching groups.

I applaud the efforts of the Yantic Fire Engine Company to commemorate their distinguished history. This fire company has worked hard, with pride and distinction to ensure the health and safety of the members of its community. I join with them in paying tribute to those who have given their lives to protecting others, while serving the Yantic Fire Engine Company.•

TRIBUTE TO THE RECIPIENTS OF THE FIFTIETH ANNIVERSARY POLICE ATHLETIC LEAGUE AWARD

• Mr. SANTORUM. Mr. President, the Police Athletic League of Philadelphia (PAL) is celebrating fifty years of serving the youth of Philadelphia. I rise today to congratulate the dedicated men and women who have made this great success possible.

For five decades, PAL has offered an attractive alternative to street life by cultivating friendships between police officers and children. PAL currently sponsors constructive activities such as sports, substance abuse education, and tutoring programs for more than 24,000 boys and girls of Philadelphia. By providing friends, mentors, and role models for these young people, PAL has helped improve the quality of life for countless children. PAL teaches children to learn, to aspire, and to achieve. The positive impact of this program extends beyond those who are directly involved; this program benefits the entire Philadelphia community.

As we salute this program, we must also celebrate the dedication of those who have worked tirelessly to make it effective. I would also like to take this opportunity to commend the seven outstanding recipients of the 50th Anniversary PAL Award. Congratulations to Sally Berlin, John K. Binswanger, Steven Head, Lewis Klein, Ronald A. Krancer, James F. McCabe, and James E. Schleif. The efforts of these individuals to promote the safety of our children deserve the highest honor. Their service to those in need is truly inspirational.

Mr. President, I congratulate these men and women who have worked to make a difference in the lives of so many children, and I ask my colleagues to join me in recognizing them. On behalf of the Senate, I offer the recipients of the 50th Anniversary PAL Award best wishes for continued success.

Thank you, Mr. President.•

NATIONAL LIBRARY WEEK

• Mr. SARBANES. Mr. President, this week from April 13 to 19 we are celebrating the 39th anniversary of National Library Week. As a strong and vigorous supporter of Federal initiatives to strengthen and protect libraries, I am pleased to take this opportunity to draw my colleagues' attention to this important occasion and to take a few moments to reflect on the significance of libraries to our Nation.

When the free public library came into its own in this country in the 19th century, it was, from the beginning, a unique institution because of its commitment to the same principle of free and open exchange of ideas as the Constitution itself. Libraries have always been an integral part of all that our country embodies: Freedom of information, an educated citizenry, and an open and enlightened society. They are the only public agencies in which the services rendered are intended for, and available to, every segment of our society.

It has been my longstanding view that libraries play an indispensable role in our communities. From modest beginnings in the mid-19th century, today's libraries provide well-stocked reference centers and wide-ranging loan services based on a system of branches, often further supplemented by travelling libraries serving outlying districts. Libraries promote the reading of books among adults, adolescents, and children and provide the access and resources to allow citizens to obtain reliable information on a vast array of topics.

Libraries gain even further significance in this age of rapid technological advancement where they are called upon to provide not only books and periodicals, but many other valuable resources as well. In today's society, libraries provide audio-visual materials, computer services, facilities for community lectures and performances, tapes, records, videocassettes, and works of art for exhibit and loan to the public. In addition, special facilities libraries provide services for older Americans, people with disabilities, and hospitalized citizens.

Of course, libraries are not merely passive repositories of materials. They are engines of learning—the place where a spark is often struck for disadvantaged citizens who for whatever reason have not had exposure to the vast stores of knowledge available. I have the greatest respect for those individuals who are members of the library community and work so hard to ensure that our citizens and communities continue to enjoy the tremendous rewards available through our library system.

My own State of Maryland has 24 public library systems providing a full range of library services to all Maryland citizens and a long tradition of open and unrestricted sharing of resources. This policy has been enhanced by the State Library Network which provides interlibrary loans to the State's public, academic, special libraries, and school library media centers. The network receives strong support from the State Library Resource Center at the Enoch Pratt Free Library, the Regional Library Resource Centers in western, southern, and Eastern Shore counties, and a statewide data base of holdings of over 140 libraries.

The result of this unique joint State-county resource sharing is an extraordinary level of library services available to the citizens of Maryland. Marylanders have responded to this outstanding service by borrowing more public library materials per person than citizens of almost any other State, with 67 percent of the State's population registered as library patrons.

I have had a close working relationship with members of the Maryland Library Association and others involved in the library community throughout the State, and I am very pleased to join with them and citizens throughout the Nation in this week's celebration of National Library Week. I look forward to a continued close association with those who enable libraries to provide the unique and vital services available to all Americans.•

PALESTINIAN TERRORISM AGAINST ISRAEL

• Mr. ASHCROFT. Mr. President, I rise to condemn the resurgence of terrorism against Israel. We have all watched with concern as a seemingly strong peace process has been assaulted with senseless acts of violence. Most troubling to me is the role Palestinian leadership has played in facilitating that terrorism. Yasser Arafat's failure to combat consistently terrorist activity in territory administered by the Palestinian Authority is the greatest single threat to achieving a lasting peace settlement in the Middle East.

In the last few years, the Palestinian Authority has allowed terrorist attacks to reach atrocious levels of violence before finally responding to suppress these criminals. In 1996, four suicide bombings in Israel killed 59 people before Mr. Arafat got serious about combating terrorist networks in Palestinian territory. The Palestinian Authority arrested Islamic extremists, censored mosque sermons, and finally jailed almost all known operatives of Hamas and Islamic Jihad. The crackdown was successful and resulted in almost a year of silence from Hamas.

Last week's suicide bombing in Tel Aviv broke that silence, however, and revived longstanding concerns about Arafat's willingness to use terrorism as a tool of leverage in the peace process. Beginning last August, Arafat gradually released 120 of 200 Islamic activists that Israel identified as security threats. Of those 120 activists, 16 were allegedly involved in terrorist acts that killed Israelis. To make matters worse, Arafat permitted five of the known terrorists to enter his security forces in Gaza and appointed a Hamas spokesman, Emad Falouji, to his Cabinet. Arafat also hired Adnan Ghol, one of Israel's most wanted Hamas terrorists for building the bomb used in a bus attack last year, to serve in his intelligence service in Gaza.

In his visit to the United States in early March, Arafat was warned by the United States of the danger of releasing known terrorists. Such warnings went unheeded as Arafat returned to Palestine and promptly released the most senior remaining terrorist leader, Ibrahim Maqadmeh. Maqadmeh could very well have been involved in the March 21 Tel Aviv suicide bombing. Arafat claims his release of terrorist operatives is meant to bring all elements of Palestinian society into the peace process, but it is clear that such actions merely give a green light to terrorist attacks.

Mr. President, I am troubled by the deterioration of the Middle East peace process and alarmed by the release of known terrorists from Palestinian jails. Terrorists are not welcome at the table of peace, and I call upon the Clinton administration to address this issue more forcefully in future discussions with Palestinian officials. The April 10 joint raid by Israeli and Palestinian security forces on a Hamas terrorist cell in the West Bank is a constructive step to rebuild security cooperation between Israel and the Palestinian Authority. It is my sincerest hope that Yasser Arafat and the Palestinian Authority will suppress terrorism at every turn and consistently adopt policies that preserve the security of both Israel and the occupied territories. When Palestinian terrorism ends, sincere negotiations for a lasting peace can truly begin.•

TRIBUTE TO JANET CUMMINGS AND PETER GOOD

• Mr. DODD. Mr. President, I rise today to honor two Connecticut citizens whose art, talent, and marriage are truly inspirational—Janet Cummings and Peter Good.

On April 30, Janet and Peter will receive the University of Connecticut's highest honor—the University Medal. The University Medal recognizes outstanding professional achievement, leadership, and distinguished public service on a community, State, national, or international level. As a resident of East Haddam, which is just across the Connecticut River from their home in Chester, I have long been familiar with their impressive contributions to Connecticut's artistic community, and I am very pleased that the University of Connecticut has chosen to honor their careers.

Janet and Peter first met while attending UConn's Fine Arts College in the mid-1960's, and for more than 20 years they have worked together at their own graphic design studio in the river-valley town of Chester. The philosophy of their design studio, Cummings & Good, has been to extend their own nurturing and collaborative relationship to their clients. This philosophy has proven to be immensely successful, as they have done work for many respected corporate clients.

This commercial success has allowed Cummings & Good to sustain the cost of providing quality design, but, perhaps more important, it has allowed the studio to do an inordinate amount of work for nonprofit organizations. Cummings & Good has provided designs for the International Year of the Child, the National Theatre of the Deaf in Chester, Wadsworth Atheneum in Hartford, and the Special Olympics, which were held in New Haven in 1995.

On a personal level, Peter's design of the symbol for the University of Connecticut's year-long symposium "Fifty Years After Nuremberg: Human Rights and the Rule of Law," holds special significance for me. This symposium began with the opening and dedication of the Thomas J. Dodd Research Center, which was named for my father who served as a prosecutor at the Nuremberg tribunal. The dedication of this center was one of the proudest moments of my life, and Peter's design truly captured the spirit and essence of the event.

I am also particularly fond of Peter's designs for the U.S. Postal Service's official 1993 holiday stamps. In fact, I reproduced the image of these stamps for the front of my 1993 Christmas card, and I greatly appreciate Peter's kind permission to use his designs for this purpose.

It's hard to imagine two more deserving recipients of this award than Janet and Peter, and I congratulate the University of Connecticut for its decision to bestow its highest honor on two members of the artistic community. The arts are at the root of our Nation's cultural heritage, and if we fail to promote the arts and recognize the achievements of creative individuals like Janet Cummings and Peter Good, we run the risk of becoming a society that is devoid of passion and imagination.

Again, I congratulate Janet Cummings and Peter Good on receiving University Medals, and I hope that they will enjoy at least 30 more years of collaborating in art and marriage.•

LOAN INTEREST FORGIVENESS FOR EDUCATION ACT

• Mr. GRASSLEY. Mr. President, I want to let my colleagues know that I have introduced legislation to make it easier for all Americans to bear the cost of a higher education. My legislation, which I offer with my colleague, Senator MOSELEY-BRAUN, would restore the deduction on the interest paid on student loans, which was eliminated in the 1986 Tax Reform Act.

This bill is a simple, direct proposal. Under this legislation, those who are paying off student loans will be able to claim a deduction for that amount and they would be able to claim this deduction for the time it takes to repay the loan.

When we think of investing money, we often think of investing in things—machines, natural resources, or businesses. This measure is an investment in human capabilities and talents. This bill will send the message to college students across America that their intellectual talents are valued and are worth the investment of tax dollars. Students need to know the Federal Government and the Nation value their contributions of the mind.

Then, I believe they will have a greater appreciation of the effort necessary to successfully complete a higher education.

And, increasingly, a higher education is the starting point on a successful career path. According to the Department of Labor, by the year 2000, more than half of all new jobs created will require an education beyond high school.

However, at the same time as a higher education has become increasingly necessary, it has also become increasingly expensive. In the last 10 years, total costs at public college has increased by 23 percent and at private colleges by 36 percent.

According to the General Accounting Office, this means that over the last 15 years, tuition at a public 4-year college or university has nearly doubled as a percentage of median household income. Accordingly to the Congressional Research Service, the best data available indicates that students graduating from a 4-year program leave that institution with an average loan debt of about $10,000. This, of course, represents a significant burden in itself. However, at the current capped rate of 8.25 percent for the basic Federal student loan program, students also bear nearly $1,000 in interest debt. For individuals just starting out, this extra burden adds insult to injury. We, in the Congress, can send the signal that we value higher education and recognize the financial responsibility students have by restoring the deduction on the interest on student loans.

Furthermore, this proposal is more affordable than what the President has proposed. His tuition deduction which received cost estimates ranging from $36 to $42 billion. What I and my colleague from Illinois are proposing addresses interest cost, which, of course, is a percentage of tuition cost. I believe our proposal provides college students with the help they really need, while at the same time being fiscally manageable. That is why I urge my colleagues on both sides of the aisle to join Senator MOSELEY-BRAUN and I in supporting the Loan Interest Forgiveness for Education Act.•

THE 50TH ANNIVERSARY OF LARRY DOBY'S JOINING THE AMERICAN LEAGUE

• Mr. LAUTENBERG. Mr. President, another season of baseball is underway, and all of us are enjoying the crack of a bat on a hard hit ball and the thrill of a stolen base. But while this season has brought us the familiar sights and sounds, it also recalls a very special anniversary. Nineteen ninety-seven marks the 50th anniverary of the breaking of major league baseball's color barrier.

In April 1947, Jackie Robinson played his first game with the National League's Brooklyn Dodgers and ended segregation in our national pastime; simultaneously, he entered America's pantheon of heroes.

Mr. President, while we rightfully honor Mr. Robinson, we cannot forget that heroes rarely fight their battles alone. Unfortunately, we have largely ignored those other African-American baseball players who broke that barrier with Robinson.

Only 11 weeks after Jackie Robinson first graced a major league baseball diamond, Larry Doby, of Paterson, N.J., took the field with the Cleveland Indians, becoming the first African-American player in the American League. Once on the team, he brought an ability and a consistency to the game which few could match. He was the first African-American player to hit a home run in a World Series, and he was named to six straight American League All-Star teams. During his 13-year career, he attained a .283 lifetime batting average and hit 253 home runs.

But Larry Doby was not only an exciting player, he was also a courageous individual. He ignored the vile epithets hurled at him by both fans in the stands and opposing players on the field. After a road game, his teammates would go back to their hotel and make plans for the evening. Thanks to specter of Jim Crow, Mr. Doby would have to go, alone, to his own dingy hotel room in the black part of town.

Because of the manner in which he handled such adversity, many other African-American players followed him to the major leagues, and we all learned that, in the words of Dr. Martin Luther King, we must judge a person on the content of his character and not the color of his skin. In a recent New York Times article, Mr. Doby himself observed, "If Jack and I had a legacy, it is to show that teamwork, the ability to associate and communicate, makes all of us stronger." And by their example, Mr. President, we definitely are a stronger nation.

Mr. President, Larry Doby is rightfully called a legend for his consistency on the field and a hero for his character off the field. But I have the privilege of also calling him a friend. We grew up together on the working class streets of Paterson, N.J. As working class kids, we shared a simple philosophy—if you do what you love, and you do it well, that's its own reward. And that reminds me of one of my favorite anecdotes about Larry.

After his first game in July 1947, the owner of the Cleveland Indians, the renowned Bill Veeck, told Larry, "You are going to make history." Doby recalls that he thought to himself, "History? I just want to play baseball."

In 1975, Larry became the manager of the Chicago White Sox. Today, at the age of 72, he is still involved with the game, working for major league baseball in its Manhattan offices. But at one time, he was an American who just wanted to play baseball. And, given the opportunity, he played with skill and grace—and he made history.

When it comes to Larry, others may have filled his uniform, but no one will ever be able to fill his shoes. Larry Doby proves that good and great can exist in the same individual.•

ELLEN WARREN JOINS CHICAGO JOURNALISM HALL OF FAME

• Mr. DURBIN. Mr. President, I rise today to call to the attention of my colleagues a creative and talented journalist from my State—Ellen Warren. I am pleased to announce that Ellen will be inducted into the Chicago Journalism Hall of Fame on April 18.

Chicago, as many of my colleagues know, has a reputation earned over many years as a place where the news business is taken seriously, by practitioners and consumers alike. By elected officials too, I might add.

From the perceptive observations of Finley Peter Dunne's Mr. Dooley through the "Front Page" days of Ben Hecht to the latter day insights of Mike Royko, Chicago journalism has been of the highest quality—aggressive, competitive, and literary all at the same time.

This year, the name of Ellen Warren of the Chicago Tribune will be among those added to the honor roll of journalists who have, over the course of a career, produced the highest quality work in one of the toughest news markets in the country.

Ellen began her career in 1969 at the City News Bureau of Chicago, a legendary training ground for reporters. At the Chicago Daily News, she was a foreign correspondent as well as the first woman ever permanently assigned to the City Hall beat. At the Chicago Sun-Times, she covered, at various times, Congress, the Supreme Court, and the Carter White House. For Knight-Ridder newspapers, she covered the Bush White House. Since 1993, she has been based in Chicago and has carried out numerous assignments for the Tribune, including that of columnist and political writer.

Ellen Warren has gone about her job with flair, honesty, and dedication. I happen to know that she also is a hall of fame-level wife and mother. For all of her accomplishments, I wish to add my congratulations to Ellen Warren on this occasion of her induction into the Chicago Journalism Hall of Fame.•

TRIBUTE TO MICHAEL GOLDBLATT

• Mr. DODD. Mr. President, I rise today to pay tribute to Michael Goldblatt, who was recently honored as Citizen of the Year by the Eastern Connecticut Chamber of Commerce.

A longtime civic leader and lifelong resident of Norwich, CT, Michael has utilized his passion for antique cars and ice skating to help better the local community.

In 1986 he founded the Eastern Connecticut Antique Auto Show. Currently in its 12th year, the show serves as one of the largest and most successful fundraising events for the chamber of commerce. Today, he is still on the show's executive board and is its chief technical judge.

What's more, he was the catalyst for efforts to build the Norwich Municipal Ice Rink, which today is home for the New England Sharks Double A youth hockey program.

Starting with virtually no financial resources, Michael mobilized local officials and helped raise millions of dollars to make his dream of a year-round, fully enclosed ice rink a reality.

Michael Goldblatt also serves as treasurer of the Norwich Community Development Corp. and has been a member of the board of directors for the Eastern Connecticut Chamber of Commerce, the Norwich Recreation Advisory Board, and the Connecticut Society of CPA's.

In all his endeavors, Michael has been a tremendous asset to both the city of Norwich and to the entire State of Connecticut. His humanitarian and altruistic efforts are an example that all Americans should emulate.

I commend the Eastern Connecticut Chamber of Commerce on their fine choice and I once again congratulate Michael on his selection as Citizen of the Year. He is a deserving choice.•

REGARDING TERRORIST GRENADE ATTACK IN CAMBODIA

Mr. FRIST. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Senate Resolution 69 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The bill clerk read as follows:

A resolution (S. Res. 69) expressing the sense of the Senate regarding the March 30, 1997 terrorist grenade attack in Cambodia.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 69) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 69

Whereas Cambodia continues to recover from more than three decades of recent warfare, including the genocide committed by the Khmer Rouge from 1975 to 1979;

Whereas Cambodia was the beneficiary of a massive international effort to ensure peace, democracy, and prosperity after the October 1991 Paris Agreements on a Comprehensive Political Settlement of the Cambodia Conflict;

Whereas more than 93 percent of the Cambodians eligible to vote in the 1993 elections in Cambodia did so, thereby demonstrating the commitment of the Cambodian people to democracy;

Whereas since those elections, Cambodia has made significant economic progress which has contributed to economic stability in Cambodia;

Whereas since those elections, the Cambodia Armed Forces have significantly diminished the threat posed by the Khmer Rouge to safety and stability in Cambodia;

Whereas other circumstances in Cambodia, including the recent unsolved murders of journalists and political party activists, the recent unsolved attack on party officials of the Buddhist Liberal Democratic Party in 1995, and the quality of the judicial system—described in a 1996 United Nations report as "thoroughly corrupt"—raise international concern for the state of democracy in Cambodia;

Whereas Sam Rainsy, the leader of the Khmer Nation Party, was the target of a terrorist grenade attack on March 30, 1997, during a demonstration outside the Cambodia National Assembly;

Whereas the attack killed 19 Cambodians and wounded more than 100 men, women, and children; and

Whereas among those injured was Ron Abney, a United States citizen and employee of the International Republican Institute who was assisting in the advancement of democracy in Cambodia and observing the demonstration: Now, therefore, be it

Resolved, That the Senate—

(1) extends its sincerest sympathies to the families of the persons killed, and the persons wounded, in the March 30, 1997, terrorist grenade attack outside the Cambodia National Assembly;

(2) condemns the attack as an act of terrorism detrimental to peace and the development of democracy in Cambodia;

(3) calls upon the United States Government to offer to the Cambodia Government all appropriate assistance in identifying and prosecuting those responsible for the attack; and

(4) calls upon the Cambodia Government to accept such assistance and to expeditiously identify and prosecute those responsible for the attack.

MAKING TECHNICAL CORRECTIONS IN THE HIGHER EDUCATION ACT OF 1965

Mr. FRIST. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 914 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 914) to make certain technical corrections in the Higher Education Act of 1965 relating to graduation data exposures.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOMENICI. Mr. President, I rise today to speak about one of the provisions contained in H.R. 914 which is necessary for the 315,000 public school children of New Mexico. The specific provision involves the New Mexico Department of Education's intent to take credit for $30 million of Federal impact aid funds.

New Mexico is one of three States in the country which uses an equalization formula to distribute educational moneys among its school districts. Presently, 40 out of New Mexico's 89 school districts qualify for 30 million dollars' worth of impact aid. The New Mexico Department of Education relies on impact aid in calculating the amount of State funds which will be used to equalize educational funding among all 89 school districts.

Without this legislation, the New Mexico Department of Education would not be permitted to consider $30 million of impact aid in its formula for distributing State education moneys among its school districts. The inability to consider Federal funds would create an imbalance in the distribution of educational funds between non-impact aid school districts and impact aid school districts.

This legislation allows the U.S. Department of Education to recognize as timely New Mexico's written notice of intent to consider impact aid payments in providing State aid to school districts for the 1997–98 school year.

AMENDMENT NO. 46

(Purpose: To make amendments relating to a date extension and to make changes in the program under title VIII of the Elementary and Secondary Education Act of 1965)

Mr. FRIST. Mr. President, I understand Senator JEFFORDS has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. JEFFORDS, proposes an amendment numbered 46.

Mr. FRIST. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, add the following:

SEC. 2. DATE EXTENSION.

Section 1501(a)(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6491(a)(4)) is amended by striking "January 1, 1998" and inserting "January 1, 1999".

SEC. 3. TIMELY FILING OF NOTICE.

Notwithstanding any other provision of law, the Secretary of Education shall deem Kansas and New Mexico to have timely submitted under section 8009(c)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7709(c)(1)) the States' written notices of intent to consider payments described in section 8009(b)(1) of the Act (20 U.S.C. 7709(b)(1)) in providing State aid to local educational agencies for school year 1997–1998, except that the Secretary may require the States to submit such additional information as the Secretary may require, which information shall be considered part of the notices.

SEC. 4. HOLD HARMLESS PAYMENTS.

Section 8002(h)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702(h)(1)) is amended—

(1) in subparagraph (A), by striking "or" after the semicolon;

(2) in subparagraph (B), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) for fiscal year 1997 and each succeeding fiscal year through fiscal year 2000 shall not be less than 85 percent of the amount such agency received for fiscal year 1996 under subsection (b).".

SEC. 5. DATA.

(a) IN GENERAL.—Section 8003(f)(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(f)(4)) is amended—

(1) in subparagraph (A)—

(A) by inserting "expenditure," after "revenue,"; and

(B) by striking the semicolon and inserting a period;

(2) by striking "the Secretary" and all that follows through "shall use" and inserting "the Secretary shall use"; and

(3) by striking subparagraph (B).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to fiscal years after fiscal year 1997.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 46) was agreed to.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 914), as amended, was deemed read the third time and passed.

ORDERS FOR THURSDAY, APRIL 17, 1997

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Thursday, April 17. I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted, and that there then be a period for the transaction of morning business until the hour of 2 p.m., with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator BENNETT, 1 hour; Senator CONRAD, 10 minutes; Senator DASCHLE, or his designee, 1 hour; Senator COVERDELL, or his designee, in control of the time from 1 to 2 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, tomorrow, following the period of morning business, it is hoped that the Senate will be able to begin consideration of S. 495. That bill, which will be discharged from the Judiciary Committee, is regarding the unlawful use or transfer of chemical weapons. It is hoped that we will be able to reach an agreement on that bill which would allow the Senate to complete action of S. 495 following a couple of hours of debate. All Senators can therefore expect rollcall votes on Thursday, possibly mid to late afternoon.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:21 p.m., adjourned until Thursday, April 17, 1997, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate April 16, 1997:

DEPARTMENT OF STATE

BRIAN DEAN CURRAN, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MOZAMBIQUE.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OLIVIA A. GOLDEN, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY FOR FAMILY SUPPORT, DEPARTMENT OF HEALTH AND HUMAN SERVICES, VICE MARY JO BANE, RESIGNED.

NATIONAL COUNCIL ON DISABILITY

GINA MCDONALD, OF KANSAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1998, VICE LARRY BROWN, JR., TERM EXPIRED.

BONNIE O'DAY, OF MINNESOTA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1998. (REAPPOINTMENT)

HOUSE OF REPRESENTATIVES—*Wednesday, April 16, 1997*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. LATOURETTE].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 16, 1997.

I hereby designate the Honorable STEVEN C. LATOURETTE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We cry for freedom, O God, so we can use our consciences and practice our best intentions. We are grateful that we can know the gift of liberty to express our personal values and ideals. Yet we confess, O God, that we can use our liberties and freedoms to avoid the responsibilities of caring for each other, of making our own sacrifice so the pain and suffering of others might be eased. O Author of all of life, remind us that we are bound together in this world by the common creation of Your hand, and we are nurtured each day by the unity that we try to share. So teach us to use our personal freedom so we are responsible in ways that promote justice and mercy for us and for every person. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Kansas [Mr. TIAHRT] come forward and lead the House in the Pledge of Allegiance.

Mr. TIAHRT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. McDevitt, one of its clerks, announced that the Senate had passed bills of the following titles in which concurrence of the House is requested:

S. 104. An act to amend the Nuclear Waste Policy Act of 1982.

S. 522. An act to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes.

ELECTION OF MEMBERS TO THE COMMITTEE ON BANKING AND FINANCIAL SERVICES

Mr. LINDER. Mr. Speaker, by direction of the Republican Conference, I call up a privileged resolution (H. Res. 114) and ask for its immediate consideration. The minority has been apprised of the contents.

The Clerk read the resolution, as follows:

H. RES. 114

Resolved, That the following Members be, and they are hereby, elected to the following standing committee of the House of Representatives:

Committee on Banking and Financial Services: Mr. Manzullo, Mr. Foley, and Mr. Jones.

The resolution was agreed to.

A motion to reconsider was laid on the table.

TAX RELIEF

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, yesterday was the filing deadline for Federal taxes and State taxes in Kansas. But tax freedom day in Kansas is actually on May 7. That is the day we finally pay our direct Federal, State, and local taxes, our direct taxes. Some think that is the day when they can quit working for the Government and start to work for themselves. But it is not. Still remaining are indirect taxes, hidden taxes. Nearly 40 cents on a dollar of gasoline, hidden costs in the form of taxes, 28 cents on a dollar loaf of bread, 48 cents on a dollar glass of draft beer, on and on it goes. Hidden taxes buried in the products we use every day, every day. Add those hidden taxes to the direct taxes, and Americans work more than 6 months for the Government and less than 6 months for themselves.

America needs tax relief today, Mr. Speaker.

PRIORITIES FOR WORKING MEN AND WOMEN

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, America does need tax relief today, but it does not need it for the top 5 percent in this country. The speaker the other day got up and suggested a $300 billion give-away to the top 5 percent. Where is it for the rest of the working people in this country?

Mr. Speaker, it is no secret why the Republican leadership refuses to schedule campaign finance reform. The wealthy donors who contributed to the Republican Party want tax breaks. According to an article that was in the Washington Times last week, they have told the Republican leadership that they can forget about more money for their party unless they have these tax cuts for the wealthiest at the top.

What about providing health care for the 10 million kids who have no health insurance in this country? What about education for our folks? What about a tax break for education for those who want to go on to college? What about school-to-work programs for the 70 percent of our population who do not graduate from college?

Let us have priorities for working men and women in this country and their families and not for the wealthiest few in the Nation.

CAMPAIGN FINANCE REFORM

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, now we hear it from the administration that brought American school kids hepatitis strawberries. They now want to handle kids' health care. Let me see if this makes sense. I am a father of four children. I do not want the Government getting involved in my kids' health care if that is the way they are going to handle the school lunch program. It is absurd.

Are we going to talk about campaign finance reform? Let us talk about the sweet deal for the Chinese leasing an American shipyard. What is the connection here?

Let us talk about American security. Let us talk about the $235,000 in foreign funds given to the Democratic National Committee that had to be returned. Let us talk about Webster Hubbell and the money that was given to him when

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

he resigned. Was it hush money or was it just a mere coincidence? Let us get into the Cuban drug dealers and the Chinese arms dealers who have been wined and dined at the White House. Is this the campaign finance reform we are talking about?

I am curious. I join Democrats in trying to get to the root of this.

IN SUPPORT OF H.R. 400, THE 21ST CENTURY PATENT SYSTEM IMPROVEMENT ACT

(Mr. DELAHUNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAHUNT. Mr. Speaker, tomorrow we take up H.R. 400, the 21st Century Patent System Improvement Act, a bill supported by the entire Committee on the Judiciary and the vast majority of American inventors and developers of advanced technology.

I commend the gentleman from North Carolina [Mr. COBLE], our subcommittee chairman, and the gentleman from Massachusetts [Mr. FRANK], the ranking member, for the diligent and fair-minded way in which they have worked with all interested parties to perfect this legislation over the past 3 years.

As a new member of the subcommittee, I can sympathize with those of my colleagues who feel somewhat overwhelmed by this complex, arcane subject. Unfortunately, much of the information circulated over the past few weeks has been misinformation which has not made it any easier to get to the truth.

I cosponsored this bill because of the benefits it offers to every U.S. inventor and our Nation as a whole. Passage of this bill is absolutely essential if we are to maintain our leadership in technology and successfully compete in the global economy.

TAX RELIEF FOR AMERICA'S FAMILIES

(Mr. THUNE asked and was given permission to address the House for 1 minute.)

Mr. THUNE. Mr. Speaker, 4 years ago Democrats in Congress passed the largest tax increase ever to hit the American taxpayer. As a result of 40 years of continuous tax and spend policies, voters decided to put Republicans in charge of Congress.

In the last Congress, Republicans made it easier for millions of families and hard-working Americans to keep more of the money that they earn. This Congress will be no different. We will maintain our commitment to reducing Government waste and to providing tax relief for millions more families and hard-working Americans.

Americans believe that no more than 25 percent of their income should be taken from them. Right now taxes at all levels consume more than half of an American worker's income. This is immoral and it is unsustainable. America's families and workers need tax relief so they can do more for themselves, their children and their communities.

EMERGENCY FOREIGN AID TO RUSSIA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in 1994 Boris Yeltsin fell off a stage in Germany. He then was unable to get off a plane in Ireland. He then was on his way to a summit meeting where he begged for emergency foreign aid; and the White House complied, giving Boris and Russia $12 billion in foreign aid and millions more to build houses for Russian soldiers.

In 1994, Boris, to get the money, promised no more weapons sales to Iran. Records now show that with American dollars Boris built planes, tanks, missiles and helicopters and sold them to Iran.

Beam me up here, Mr. Speaker. The only thing we should be sending Boris is a counselor from Alcoholics Anonymous.

The truth is, under the weight of all that emergency cash Congress, Boris has fallen and he cannot get up. And if we have any money left over, let us use it in America, not Russia.

Think about that. And I yield back the balance of any money left over from these Ruskies.

MULTIMILLION-WORD TAX CODE

(Mr. BOB SCHAFFER of Colorado asked and was given permission to address the House for 1 minute.)

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, only in Washington do people systematically create a mess and then stand up before America and declare, I am just so proud of this mess that I have created.

That is right, Mr. Speaker, I am talking about the politicians who created our multimillion-word Tax Code. It just saps 40 percent of the family budget so that you cannot afford your own healthcare or any other necessity.

It is truly a bizarre Washington ritual where the politicians come to town year after year, make the Tax Code more and more complicated, more and more illogical and then leave town and tell their constituents how proud they are of their work in Washington, DC.

For 40 years my liberal friends on the other side of the aisle were in power. In 1995, that 40-year attack on freedom came to an end, but their legacy to the American people is a Tax Code of one gigantic, multivolume embarrassment, an embarrassment of which they are nonetheless enormously proud.

I, on the other hand, want no part of that legacy, Mr. Speaker. I, on the other hand, can only look to our tax system as a cruel joke that is the enemy of common sense.

CANNOT CUT TAXES AND REDUCE THE DEFICIT AT THE SAME TIME

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHRISTIAN-GREEN. Mr. Speaker, I am honored to be here today and follow my colleague. I am not proud of this Congress either because we are a do-nothing Congress. But before we condemn the Republican leadership for their inactivity, I would like to remind my colleagues that it could be worse.

We could have a repeat performance of 2 years ago, when the Republicans were busy trying to pass legislation that cut taxes at the expense of Medicare.

While the Republican leadership missed yesterday's deadline for a budget resolution, we are still hearing that my colleagues want to pass tax cuts again. In fact, we have Senate Republicans demanding cuts in Medicare and House Republicans wanting to eliminate estate taxes.

A great plan: We will cut your taxes after you die, but we are going to take your Medicare away from you while are you alive.

We cannot cut taxes and reduce the deficit at the same time.

Following my colleague from Ohio, beam me up, Mr. Speaker. Does this make sense?

REDUCE FEDERAL SPENDING

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute.)

Mr. CUNNINGHAM. Mr. Speaker, my father took home about 85 percent of his paycheck. My brother will take home about 45 percent of his paycheck. My daughters, at the current rate of taxes and spending, will take home between 10 and 16 percent.

Yogi Berra once said, "Ladies and gentleman, the future ain't what it used to be." When I grew up, if you worked hard and tried to save and put money back, you may have a little bit of a life with your family. More and more, that is increasingly different.

Mr. Speaker, we need to reduce the amount of Federal spending and have an effective government. The President wants a $3 billion literacy program. There are already 14 literacy programs in education, all with bureaucracies, to where we get as little as 23 cents on the dollar down to the classroom. That is cutting education, Mr. Speaker.

We need to work on both sides because American families are endangered in this country. A billion dollars a day, but not one penny goes to any of those.

□ 1115

HOW FAR WE HAVE COME, HOW FAR WE HAVE TO GO

(Ms. McKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. McKINNEY. Mr. Speaker, today I am proud to wear an official Jackie Robinson 50th anniversary shirt licensed by Terry Manufacturing, the largest African-American manufacturing apparel company in the United States.

Fifty years ago this week Jackie Robinson shattered not just the color line in baseball, he also shattered the myths upon which Jim Crow America was built.

A few brave men in major league baseball took the courageous step to hire one player. But in major league baseball, just as in other areas of American mainstream life, there are still many more barriers to tear down before we have reached our true ideal as a nation.

Monday the world watched in awe as Tiger Woods shattered every record held for the Masters Tournament at Augusta National. Unfortunately there remain golf courses in America where families like Tiger and his family are not welcome and minorities cannot play.

It is right and appropriate that we take the time now to celebrate how far we have come. Let us also reflect on how far we still have to go.

ILLINOIS' LADY INDIANS BASKETBALL TEAM DEMONSTRATE HIGHEST LEVEL OF SPORTSMANSHIP AND COMPETITION

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I proudly rise this morning to acknowledge an exemplary group of young athletes from Illinois who have persevered in reaching a common goal for the second year in a row. This group of young women have demonstrated the true hearts of champions, and have aspired once again to the highest level of sportsmanship and competition.

This team of student athletes hailing from Carlyle, IL, are known as the Lady Indians basketball team. In March the Lady Indians won the Illinois high school Class A women's basketball championship.

En route to their second State championship and third straight visit to the Illinois finals, Mr. Speaker, the Carlyle Lady Indians rolled to a record 33 wins and no losses, including the championships in the Cahokia Conference Tournament, the Mascoutah Holiday Tournament, and the Highlands Invitational. In the last three seasons the Carlyle ladies high school team has racked up an impressive 94 wins to only 8 losses, which demonstrates a selfless commitment to excellence and a willingness to forsake individual accolades for the good of the team.

Mr. Speaker, this team, led by Courtney Smith, the 1997 Illinois Ms. Basketball, and Angie Gherardini, the Illinois Class A coach of the year, is an outstanding example of hard work, dedication and excellence which every young athlete can learn from, and truly symbolizes the selflessness and devotion of all the people of the 20th District of Illinois.

So today Mr. Speaker, I want to congratulate these 12 devoted players and the assistants who guided this team to their second straight Illinois State Championship in 1997: Michelle Donahoo, Leslie Dumstorff, Heather Hitpas, Kristin Hustedde, who recently visited my office as part of the Congressional Youth Leadership Council, Tara Kell, Erin Knuf, Summer Knuf, Lindsay Macon, Stacey Pollman, Jessica Robert, Brie Sheathelm, and Courtney Smith.

H.R. 2 ABANDONS COMMITMENT TO HOUSING THE VERY POOR

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. VELÁZQUEZ. Mr. Speaker, this week the Speaker of the House announced that he wants to give a $300 billion tax cut to the wealthiest people in this country. This is a disgrace. But the story gets worse, much worse. Today Republicans are going to try to pay for those tax breaks by taking money from poor people in public housing.

Today in the Committee on Banking and Financial Services we will debate H.R. 2, a bill that abandons our Government's commitment to housing the very poor. Under H.R. 2 many poor families will end up spending more of their income on housing or be forced into homelessness. Meanwhile, people making over $350,000 a year will get a tax break.

Mr. Speaker, is this what the Republicans stand for: Giving tax breaks to the rich while throwing poor children onto the street? H.R. 2 is extremely unfair and must be stopped.

DO NOT CUT MEDICARE TO PAY FOR TAX BREAKS

(Mr. McGOVERN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McGOVERN. Mr. Speaker, as we begin the debate over how to balance the Federal budget, I rise today to express my frustration over some of the recent proposals for dealing with our Nation's Medicare Program.

Last week I was concerned to learn of the President's offer to take an additional $18 billion out of projected Medicare spending. Then, Mr. Speaker, I was utterly outraged to learn of the response of the chairman of the Senate Committee on the Budget to the President's offer. The gentleman from New Mexico said an additional $18 billion was not nearly enough.

Republicans have threatened to call off budget negotiations with the President unless he accepts Medicare cuts of up to $30 billion or more. A cut of this magnitude without balanced reform would devastate the Medicare Program and cannot be justified.

And why are the Republicans scrambling so furiously for these deep, unsustainable cuts in Medicare? Not to extend the life of the Medicare trust fund, not to improve the quality of health care for 38 million seniors, but because they need the money to finance massive tax breaks for the very wealthy.

Mr. Speaker, I will not support any budget, whether Republican or Democrat, that uses the Medicare Program as a piggybank for giant tax breaks for the rich.

TAX CUTS FOR THE RICH AT THE EXPENSE OF MIDDLE CLASS WORKING FAMILIES

(Ms. DeLAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DeLAURO. Mr. Speaker, it is the same old song and dance here on Capitol Hill. My colleagues on the other side of the aisle are proposing large tax cuts for the rich at the expense of middle class working families.

The latest tax proposal put forth by the Speaker of the House is to eliminate all capital gains and estate taxes, which would cost a staggering $300 billion over the next 5 years. Who benefits from these cuts? The wealthiest 5 percent of Americans. And who pays for these cuts? Working families.

Do not just take my word for it. USA Today estimated on Monday that it would cost the average American family $400 a year to pay for this tax windfall for the wealthy.

It is time to stop proposing huge tax breaks for those who need it the least and to start providing targeted tax relief for those who need it the most: Middle class American families.

REDUCTION OF TOP RATE OF CAPITAL GAINS TAX FROM 28 TO 14 PERCENT

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I rise to congratulate my colleagues on both sides of the aisle, Democrats and Republicans. I have to do that, after having heard the vitriolic attacks that are emerging from the Democratic side attacking us for what clearly will be the single most important thing that we can do for working families in this country, and that is reducing the top rate on capital gains from 28 to 14 percent.

I am very gratified that we now have, I think it is 127 Democrats and Republicans as cosponsors of this measure. Why? Because Democrats and Republicans know that it is going to benefit working families. It is going to, based on every shred of empirical evidence we have, increase the flow of revenues to the Federal Treasury, as it has always done when we unleash that $7 to $8 trillion of locked-in capital that people are concerned about selling because of that rate that is so extraordinarily high.

Mr. Speaker, I encourage my colleagues to join as cosponsors of H.R. 14, Democrats and Republicans.

BAN HANDGUN POSSESSION BY ANYONE UNDER 21

(Mr. BLAGOJEVICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLAGOJEVICH. Mr. Speaker, do my colleagues know children in the United States are 12 times more likely to die because of a firearm than children in every other major industrialized nation? And that the United States has the highest rate of gun-related child homicides and child suicides of 26 major industrialized nations?

Over the last 30 years the percentage of murders committed by people under 21 in my hometown of Chicago went from 10 percent to nearly 40 percent. Over that same 30-year period, the number of murders committed nationally by those under 21 increased 5 fold.

Mr. Speaker, when we consider these facts, there can be only one conclusion: Our children are all too often the perpetrators and the victims of handgun violence.

Mr. Speaker, we in America need to ban handgun possession by anyone under 21. I have introduced a bill that would do exactly that, and I urge my colleagues to support me in this effort.

A NEW DEFENSE TO CRIMINAL PROSECUTION?

(Mr. BARR of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARR of Georgia. Mr. Speaker, perhaps as a former U.S. attorney and a Federal prosecutor, I am particularly sensitive to new defense theories when they arise in court cases. I was mystified yesterday, though, to see a new defense to criminal prosecution raised by none other than the Attorney General of the United States.

In her letter in which she refuses to appoint an independent counsel to investigate allegations of wrongdoing for which there may be a conflict of interest or an insufficient basis, she says that the Vice President's admitted use of a telephone in the White House and the OEOB to solicit funds was not a crime because the use of the phone for something that is otherwise permissible is OK.

I can see the next time the U.S. attorney has to exercise prosecutorial discretion involving the use of a phone by a drug trafficker, and I suppose now that the Department of Justice will have to decline such prosecutions because the use of the phone is otherwise permissible, and therefore even if it is used to solicit drug monies, that is OK because use of the phone is for otherwise legal purposes.

It is a sad day indeed.

FACING BIGOTRY AND HATRED

(Mr. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAPPS. Mr. Speaker, my remarks today are timed to coincide with tonight's television showing of the film "Not In This Town," about hate groups and racial bigotry in America.

I speak on this topic because I was in Billings, MT, just prior to what happened to Tammie and Brian Schnitzer and their family, after it had become known they are Jewish, an identity which ought to be an occasion of immense pride.

Mr. Speaker, Billings, MT, is not the only city where such events occur. In fact, in Santa Barbara, CA, where I live and work, a community forum was held just last Saturday night because of a recent incident in a local high school. Participants included Babatunde Folayemi, Judith Meisel, Michael Caston, the superintendent of schools, the Reverend Sara Moores Campbell of the Unitarian Society, the Reverend Rueben Ford of St. Paul A.M.E. Church and other community leaders.

The Santa Barbara News Press gave very extensive coverage to this event, demonstrating that a newspaper is a powerful educational instrument.

Mr. Speaker, right now, before Passover, following Easter, we must recognize that bigotry and hatred are challenges faced by the entire human community.

LET US BRING JUSTICE TO THE COMMANDOS

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, I rise today to call attention to an injustice suffered by over 300 men of the Vietnam war, an injustice that spans three decades.

During the war, the United States Government trained a number of South Vietnamese commandos to infiltrate North Vietnam Communist operations. Many of these commandos were captured and brutally tortured during their years of imprisonment and sustained long-term injuries.

There are about 300 commandos currently living throughout the United States. It is now time for our Nation to recognize their heroic war efforts and compensate the few surviving commandos and their families.

The Pentagon has failed to carry out the unanimous will of the 104th Congress to pay these brave men an average of $40,000 each for their time in captivity. In fact, while the Pentagon has delayed, three of the commandos have perished.

The House Committee on Appropriations has the opportunity to fully recognize their service on behalf of the United States as they consider the supplemental appropriations bill this week. It is the least we can do to recognize their enormous sacrifice.

Let us not turn our backs on the commandos.

100 DAYS OF DOING NOTHING

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, today is the 100th day of this Congress. Today marks 100 days of doing nothing.

The Republican leadership has no agenda. The Republican leadership has no budget, no education bill, no children's health care bill. Why do we not have a budget? Why do we not have a children's health care bill? What can be more important? Instead of doing the people's work, we are spending our time on busy work and political posturing.

What have the Republicans done about a budget? Nothing. What have the Republicans done about children's health? Nothing. What have the Republicans done about education? Nothing, nothing, nothing.

Mr. Speaker, 100 days of nothing is enough. It is time to address the concerns of American working families. It is time for this do-nothing Congress to do something. Get to work.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 112 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 112

Resolved, That it shall be in order at any time on Wednesday, April 16, 1997, for the Speaker to entertain motions that the House suspend the rules. The Speaker or his designee shall consult with the minority leader or his designee on the designation of any matter for consideration pursuant to this resolution.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend, the gentlewoman from Fairport, NY [Ms. SLAUGHTER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

□ 1130

Mr. Speaker, in a statement that is more prophetic than he might have imagined when he made it at the time, President Woodrow Wilson said,

> It's not far from the truth to say that Congress in session is Congress on public exhibition, while Congress in committee rooms is Congress at work.

It is the work of Congress that we hope to accomplish with adoption of this rule. It makes in order at any time today, Wednesday, April 16, for the Speaker to entertain motions that the House suspend the rules. The rule further requires the Speaker or his designee to consult with the minority leader or his designee on the designation of any matter for consideration pursuant to the rule.

The bills that will be considered under suspension of the rules as a result of adopting this rule are noncontroversial and very narrowly tailored, thus making it impractical to bring them up under the order of business resolution from our Committee on Rules. However, scheduling them for consideration today is necessary to ensure that our colleagues are here to do very important committee work.

The Committee on Banking and Financial Services is holding an important markup on public housing reform. The Committee on the Budget members are in important negotiations with the administration over the outlines of our balanced budget proposal. The Committee on Commerce is marking up the Leaking Underground Storage Tank Trust Fund Amendments Act. Even our own Committee on Rules will have a hearing tomorrow on improving civility in the House, which is critical, as we all know, to the proper functioning of this institution.

Mr. Speaker, for those of our colleagues who are concerned with the pace and direction of our agenda in the House, adoption of this rule is a precondition to ensuring a productive and successful first session of the 105th Congress.

Also, Mr. Speaker, it is interesting to note that for 2 years during the 104th Congress, we constantly heard complaints from our friends in the minority that the committee system was being bypassed to expedite major legislation. We now have the opportunity to let our committees deliberate openly and do their work, and they are able to have the full participation of the members of their committees.

Mr. Speaker, this is obviously a totally noncontroversial rule. I hope that, unlike last week, we will proceed in a very, very amicable and noncontroversial way as we proceed with this. I urge adoption of the rule.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from California [Mr. DREIER] for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, the rule serves no purpose other than to require the Members of the body to spend another day voting on measures which are noncontroversial and which could easily have been disposed of on the regular suspension days of Monday and Tuesday. Meanwhile, the real business of the House remains neglected.

As we all know, Federal law requires Congress to produce a budget resolution by April 15, 1997. That was yesterday. Well, yesterday came and went without the majority having even proposed a budget or holding a single committee vote on a budget. Nor has the majority taken any steps whatsoever toward enacting campaign finance reform.

Our constituents might wonder what has Congress been spending its time on? Well, the answer is precious little. Today marks the end of the first 100 days of the 105th Congress. Yet the House has barely been in session. This year the House has taken 2 days off for every day it has worked. In fact, the House has been in session for only 33 of the first 100 days of this Congress. Essentially, we took 2 of the first 3 months off. Hardworking families all over the country must look at us and wonder who we think we are. Is this really what we were elected to do?

Since the 105th Congress began, more than 300,000 children have lost their private health insurance. Yet the majority has refused to act on legislation to help families get health coverage for their children. More than 200,000 students have dropped out of high school. But what is our leadership doing to improve public education? More than 1,000 children have been killed, and yet the majority has yet to schedule any floor action for legislation on juvenile crime and drugs.

This Congress took only 60 votes, that is 60, in the first quarter of 1997, 60 votes in the first 90 days. Less than a vote a day, and that is counting all the votes on noncontroversial measures like those to honor democracy gains in Guatemala and Nicaragua and to thank former Secretary Warren Christopher for being Secretary of State and 11 votes for various States for voting term limits.

Now, I am not saying that those measures were unworthy of our votes, only that they do not really constitute heavy lifting. Yet the majority insists on dragging out for consideration these noncontroversial measures day after day, week after week.

Mr. Speaker, why could we not have considered the suspension bills scheduled for today on Monday or Tuesday of this week? Why are we not using the remainder of the week to work on more meaningful legislation like a budget resolution and campaign finance reform?

The rule is disrespectful of the voters we represent and their tax dollars. The majority spent a lot of time on the floor this week talking about taxes. Well, I remind my colleagues, as I did last week when this House considered an identical rule, that it costs the taxpayers of the country $280,000 each week to bring all of us back to Washington. We ought to at least give them their money's worth and get on with the business of passing a budget and enacting campaign finance reform.

Mr. Speaker, I urge my colleagues to defeat the previous question, and if the previous question is defeated, I intend to offer an amendment that would require the House to consider campaign finance reform before Memorial Day, May 31, so that a final campaign finance reform bill can be sent to President Clinton before July 4.

Mr. Speaker, I yield 4 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, here we are, another suspension day. This is one body that just seems to be in constant suspension. I do not know exactly what that means except nothing is being done. We have got some significant bills, as the gentlewoman just said. This Congress has passed bills honoring Warren Christopher for his service as Secretary of State, commending Guatemala for possibly venturing toward democracy; a whole list of things. Yes, they are nice things and they are important, but they are not the guts of legislation.

So what exactly are we here today for, Mr. Speaker? So that we can approve another suspension day doing the same kind of lifting we have been doing? If this were a weight lifting class, I think it would definitely fall under lightweight training. There is no bulking up that is going on around here. There is no heavy lifting taking place. There is not even weight training. It is not cardiovascular. I am trying to figure out what the exercise regime is in this Congress.

But I will tell Members what is not being done when there is no heavy lifting going on in this Congress: There is no Medicare that is being restructured that is supposed to go belly up by the year 2001. There are no education opportunities being created for the many hundreds of thousands of young people that are trying to get to college. There is no pension reform taking place for the thousands, actually millions of Americans who are counting on that pension when they retire. There is no work being done on the budget.

Oh, the budget. Budget negotiations are taking place, I heard. In fact, the previous speaker on the other side talked about the outline of a balanced budget deal. The fact is, Mr. Speaker, that is all there is from the Republican leadership, is an outline because they have not brought a budget down. Yes, I know that Democrats did not bring it down on April 15 either, but I also know that Democrats had a budget. The interesting thing is that in these budget negotiations it is the White House negotiating with itself.

"How much do you want to cut Medicare, Mr. President?"

"Well, I'll cut it this much, because they do not have a budget to cut from." Yet here we are today in another suspension day where we deal only with noncontroversial bills.

Let me suggest something that could be worked on, and that is why I will vote to defeat the previous question. How about campaign finance reform? Just as there have been significant allegations against the Democratic Party, so have there been significant allegations against the Republican Party as well. No side comes out with clean hands on this. In fact today I saw in the newspaper, in one of the local papers, allegations against yet another Republican leader. And so it seems to me that campaign finance reform could be worked on today. But if it cannot be worked on today, could we work on it tomorrow or perhaps could we set a goal that there will be a campaign finance reform bill on this floor by Memorial Day? That would be a Memorial Day worth memorializing.

And so, Mr. Speaker, why are we doing more suspensions? Because there is not anything else to do, because the leadership will not bring anything to the floor. So let me suggest something: Medicare, education, balanced budget, pension reform and campaign finance reform. Campaign finance reform by Memorial Day. That is why I would urge my colleagues to vote against the previous question so that we can get that agenda up.

If my colleagues want to do some real heavy lifting around here, we are going to have to defeat the previous question. Otherwise, we are just into cardiovascular.

Mr. DREIER. Mr. Speaker, I yield 4 minutes to the gentleman from Smyrna, GA [Mr. BARR].

Mr. BARR of Georgia. Mr. Speaker, I thank the distinguished gentleman from California for yielding me this time. This is really amazing, Mr. Speaker, to hear folks on the other side get up here and beat their chests and be so sanctimonious about no work being done. One time I had a lady from Georgia who called our office and complained that I was not earning my pay because I was not on the floor of the House where she could see me on C-SPAN. I explained to her, to her satisfaction at least, and maybe some folks on the other side will understand this now, the bulk of the work of the Congress of the United States takes place in two institutions with which folks on the other side may not be familiar, committees and subcommittees. There are today, just as one example, Mr. Speaker, House committees and subcommittees debating and considering very specific measures of legislation and very important issues for the American people so that they can indeed be brought to the floor with a minimum of rancor and debate, and so forth, on the floor: Trade with Europe, commodity exchange, the appropriations bills, the small business and economic development, more appropriations bills, the ballistic missile programs, arms control, employment programs, public housing markup, storage tanks involving the public safety, OSHA, nursing home fraud, EPA rulemaking, postal service reform, refugees, bankruptcy system, defense review, patent legislation. The list goes on and on and on.

So it is rather disingenuous or evidences a great ignorance for what goes on here in the House for folks on the other side to beat their chests and complain about nothing being done in the Congress. There is in fact a great deal of work being done where it ought to be done, and that is in our House committees and subcommittees.

If I am not mistaken also, Mr. Speaker, these are the very same folks who in the last Congress complained and complained and complained and complained about us moving too quickly, doing too much without deliberating. And here we are trying to accommodate their wishes from the last Congress and be more deliberative, work these matters through the committee, and what happens? Not surprisingly, we get whipsawed and we get criticized for being more deliberative, working through the committees, and so forth, where there is a great deal more opportunity for debate and input on both sides of the aisle.

Then we have, Mr. Speaker, this smoke screen of, oh, we must have campaign finance reform. One really has to wonder, with the daily allegations that are coming out in the media concerning this administration, one wonders where the notion that clean hands are involved here. I mean, good heavens, Mr. Speaker, with the allegations that are coming out that require, that cry out for study, which the Committee on Government Reform and Oversight is trying to do but for, of course, the intransigence on the other side, which delayed for days and days and days and weeks the funding of that committee.

There is a great deal that does need to be done to look into these allegations, to get to the bottom of it, to clean this mess up, and one has to wonder whether this effort to say, oh, we have to have the matter of campaign finance reform generally brought to the floor by Memorial Day, rather a strange day it seems to me to do campaign finance reform, that this may be a smoke screen and an effort to divert the public's attention from the very serious allegations arising out of this administration's activities and the efforts by this body through its Committee on Government Reform and Oversight, exercising its proper jurisdiction, to get to the bottom of those things.

That is what would be very, very enlightening and very positive to hear from the other side about, what can we do about the tremendous current erosion of our political system and the public's faith and confidence in that system by the allegations involving the sale of our election process to foreign governments, foreign individuals, individuals with a lot of money, and so forth. That is really where the focus ought to be, Mr. Speaker.

Ms. SLAUGHTER. Mr. Speaker, I yield 6 minutes to the gentleman from Michigan [Mr. BONIOR].

□ 1145

Mr. BONIOR. Mr. Speaker, I thank my colleague from New York for yielding me the time.

Today, Mr. Speaker, this is the fourth time this Congress that the Democrats are demanding that we have a vote on campaign finance reform, and as my colleagues have said on our side of the aisle already this morning, we will once again vote to defeat the previous question in order to bring up campaign finance reform to the floor of this House so we can have a bill that eventually will reach the President's desk by the designated time that he requested, the Fourth of July.

Now let me say to my colleagues on the other side of the aisle that the American people are watching what we do on this issue. We have had votes on this campaign finance reform on the 7th of January, the opening day of this Congress, on the 13th of March, on April 9, and not one Member on this side of the aisle has joined us in support in bringing to the floor this debate.

We are not asking for a specific vehicle to be debated. There are many vehicles, some of them from this side of the aisle, that have merit, some from this side of the aisle; but what we are asking for is a debate. Our way of financing political campaigns in this country is broken, and the American people know it, and although some have proposed spending even more on campaigns, as the Speaker has suggested, the American people think that we ought to do just the opposite. More than 9 out of 10 believe that too much money is spent on political campaigns.

We need to fix the system, we need to limit the amount of money in political campaigns, we need to stop the negative advertising, and we need to get people voting again.

In 1996, I had 20,000 fewer people voting in my election, in the Presidential election, than we had 4 years earlier in 1992. Something is happening. Somewhere along the line, Mr. Speaker, our Nation's political discussion has gotten disconnected from the American people. They no longer see the link between their lives and politics, the link between their work and the forces controlling our economy and the link between their community and the challenges that face our Nation, and as a result, if we talk to them, they will tell us they feel powerless, they feel frustrated, they feel alienated.

We need to have a debate about the fundamental nature of politics in this country, questions like what is the role of our Government, what is the meaning of citizenship in a modern democracy, what is political participation? Let us have that debate.

As my colleagues know, it is no secret why the Republican leadership refuses to schedule campaign finance reform. The wealthy donors who contribute to the Republican Party want tax breaks. The Speaker just the other day said we ought to do away with $300 billion of tax giveaways to the wealthiest 5 percent of people in our country, and according to an article I have here in the Washington Times, last week they have told the Republican leadership, the wealthiest individuals and contributors, that they can forget, the party can forget, about more money unless tax cuts are enacted.

Now, that is what is going on here. Unless they get these big huge tax cuts for the wealthiest individuals in this country at the expense, I might add, of the rest of America, the other 90, 95 percent who need health care for their kids, who need educational tax breaks so they can afford to send their kids to college or to have a program like school to work where 70 percent of our kids do not go on to finish college and they participate in our society and our economy, unless they get theirs, then they are not going to contribute again to their party. So instead of meeting the needs of working families, this leadership on this side of the aisle would rather cater to the wealthy special interests.

We need to get back on track. We need to correct the situation that exists today in this country. We need to erect firewalls between the money and the politics in this country.

So the vote today is not about a particular bill, as I said, or a solution. It is about setting up a process to debate campaign finance reform. There are a lot of good ideas out there, and we simply are asking that we have a chance to debate these ideas.

Now my friend from West Virginia suggested that this has been a Congress that we really have not done much. Oh, we have praised the Nicaraguans on their election, and we have allowed the armored car people to go across the border with weapons. As my colleagues know, we have done things like that. We have praised the Ten Commandments. But we really have not done the work of this Congress. We have not put a budget out, the budget deadline passed the other day, no budget, no proposed budget by my Republican colleagues, no campaign finance reform, no questions that deal with the real issues, no movement on the issues that affect people who are struggling to make it for their families today in America, nothing on education moving, nothing for the 10 million American kids who do not have health insurance in this country, and that is increasing, by the way, by 3,300 each day; 3,300 American children lose their health insurance because their family loses their insurance. Nothing on that.

So I say let us use this time productively, let us use it to clean up our political system, and let us get on with the task of making people believe in their Government once again.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume to respond to the remarks of my very good friend.

The fact of the matter is, if we look at the need for campaign finance reform, I think virtually everyone recognizes that some change needs to take place in the area of campaign finance reform. I strongly support it. I am in the process of drafting legislation right now which will empower the voter to have greater knowledge on where people gain their support. I have a number of other provisions. There are lots of things that are being discussed around here. But let us look at where we are today.

The argument is being made that we should rush to the floor immediately with campaign finance reform legislation so that we can debate this, but we need to look at what it is that has led to this very high level of frustration among the American people today. The fact that we read headline stories in virtually every major newspaper in this country on the issue of campaign finance reform, it has to do with violations of current law that are continually reported, and I think we should take a moment to review some of those things that have come to the forefront that have led to this hue and cry for change in the campaign finance law which is simply violations of the present law that now exists today. We have seen $3 million in foreign contributions that have been returned by the Democratic National Committee, 158 fundraisers reportedly held in the White House; they have been called coffees or teas or receptions, but the documents show that they were fundraisers designed to raise between $300,000 and $400,000.

Over $100,000 was raised in my area in southern California in a Buddhist temple at an event the Vice President attended among people who have taken a vow of poverty. The Washington Post reported that John Huang had tried to funnel a quarter of a million dollars in illegal donations to the Democratic National Committee through an Asian-American business group.

It seems to me that what we need to look at here, Mr. Speaker, as we have this cry for a rush to look at this thing of campaign finance reform, we need to first find out exactly what has happened under current law. And that is our goal here. But to argue that some do not want to do anything to change this system is preposterous because I know that Members of Congress very much do want to bring about a compliance.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, I thank my friend for yielding, and I thank him for his generous allocation of time. Well, that is exactly my point. We ought to look at what is happening out there and then have a full debate. But the problem is the committee that is investigating this in the House is not looking, they are just looking at the executive branch, and there are problems there. We know that, you have read them out.

But the fact of the matter is that particular committee and the gentleman from Indiana [Mr. BURTON] has refused to deal with the questions of this Congress, it has refused to deal with——

Mr. DREIER. If I can reclaim my time——

Mr. BONIOR. Of the Republican Party as well. It has refused to do the things that Senator THOMPSON is doing over in the Senate.

Mr. DREIER. If my friend will let me respond, I would like to respond to what my friend just said. It is totally untrue to say that the committee is not going to expend any amount of time whatsoever looking into this. If there is evidence of any kind of wrongdoing on this side of the aisle, it clearly will be addressed, and so I mean the fact that they are focusing on this litany of items that continue to be the front page news stories time and time again, that that is their focus, it is understandable because this is what is happening.

Mr. BONIOR. Will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Michigan.

Mr. BONIOR. There were more front page stories in the paper today about the gentleman from Indiana [Mr. BURTON] and his connection with the Sikh community; why is that not being looked at? There were front page stories for 3 months on the Speaker. The Speaker collected between $10 and $20 million when he was in charge of GOPAC. We have no accounting of that. Why is that not being looked at? We just had the whole investigation with respect to the 501(3)(c)'s; why is that not being looked at?

Mr. DREIER. If I can reclaim my time, I am trying to be as generous as I can. We have Members here who want to speak, and I know the gentleman has time on his side of the aisle.

Let me say that if there is evidence of wrongdoing, it is very apparent that they will be looked at on this side of the aisle, but it is so obvious with these things that have taken place from the leadership of their party they desperately need to be addressed, the American people want us to look at those, and then, then we will look at reforming the campaign finance system to take these obvious violations into consideration.

Mr. Speaker, I yield 3 minutes to the gentleman from St. Clairsville, OH [Mr. NEY].

Mr. NEY. Mr. Speaker, let us look at what is really going on here today. The Democrats are trying to pull a fast one. They want to rush a campaign finance bill, and that will help kind of cloud over a few of the things that the gentleman from California [Mr. DREIER] did not get a chance to mention here, key figures in this scandal who have fled the country. We cannot talk to them. We cannot talk to them about their activities. Charlie Trie gave $640,000 in suspicious checks; he has fled the country, we cannot serve a subpoena on him. Pauline Kanchanalak gave $235,000 in foreign funds to the DNC that had to be returned; she has fled the country so we cannot talk to her. Relatives of the Riady family, the Lippo bank, gave $450,000 to the DNC that had to be returned because it was not earned in the United States; they are no longer in the country. This is the real scandal. We can look at the Congress. But as far as rushing a bill today there is so much work to do here we are not going to be able to rush through this process and set a time frame of May or June. We ought to comprehensively look at campaign finance; sure we should. It should have been looked at the last 12 years by the U.S. Congress. But let us not try to rush through a debate on campaign finance reform legislation before we have all the facts. That is important. That is what we are looking for is all the facts.

And let me just say, Mr. Speaker, that they are right. We support campaign finance reform. I know they support campaign finance reform. But we should have a full and informed debate. Let us not try to say, well, we passed a bill, we do not need to talk about anything or look at anything. There is enough information here and enough to look at with the White House, and it was mentioned by the other side that there should be fire walls. For what is going on down on Pennsylvania Avenue we need a fire truck.

Ms. SLAUGHTER. Mr. Speaker, I yield 4½ minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, as my colleagues know, with each passing day of this Congress more and more Americans are realizing that this Gingrich House is doing less and less to address the real concerns of their everyday lives. The millions of American families who are out there struggling and cannot get health insurance for their children know that this Congress is offering no answer. The millions of Americans who are out there struggling to find the resources as the cost of going to college escalates, who need some assistance, some support, a tax break for them to help them get their kids the educational opportunity they need, they know this Gingrich Congress is not doing anything for them.

Why is that? Why is it that this Congress meets occasionally for a few hours to discuss suspension bills? Well, my colleagues, the problem is not the suspension bills but the desire of the leadership of this Gingrich Congress to suspend reality. They would suspend the reality of what it is like out there to try to struggle to make ends meet and to hope that the government would be on their side instead of dealing with some of the issues that this Congress has on occasion in its part-time sessions talked about, congratulating the Nicaraguans instead of being concerned with congratulating and supporting all those Americans who are out there trying to struggle up the economic ladder.

Why does this happen? Why is this Congress so aimless that people on both sides of the aisle recognize it is accomplishing very little? Well, clearly one of the reasons is that we have largely been leaderless throughout this House since day one.

□ 1200

But there is another explanation, and that is the influence of money and politics on this Congress, and it affects everyone in this House. When we have to raise hundreds of thousands, indeed, hundreds of millions of dollars in each congressional election, Members of Congress begin devoting more time to raising money than tending to the Nation's business, and that begins to even affect the donors.

Indeed, as my colleague from Michigan pointed out, the Washington Times reported last week, "Donors tell Republicans they are fed up. Tax cuts to talks as chiefs gather." The basic outline of the story was if we do not get our crown jewel, our big tax breaks, we are not going to be giving any more money. That is the kind of influence that I am talking about that distorts the priorities of this Congress, that allows folks to attempt to suspend reality rather than to deal with the real problems of the American people.

Of course, it is not just that this Congress has been doing very little over the last few months; it is when it does act, it does the wrong thing a good bit of the time, and one of those examples is the issue of campaign finance reform. How amusing it would be were it not so serious to hear my colleague from California and my colleague from Ohio tell the American people they want reform, they just do not want to rush into it.

Well, what do my colleagues think we have been doing around here for the last three or four months, rushing to do anything? Rushing to get out of here occasionally to go home after a day and a half of work dealing with measures that have very little to do with the real needs of American families.

We proposed on day one of this Congress that we address the issue of campaign finance reform, not in a rush but in a thoughtful and considered manner, and that effort on day one was voted down on a party-line vote.

So we came back a couple months later, not in a rush or a panic, but realizing that there are real problems that ought to be addressed in a bipartisan fashion and we were again voted down. We came back a third time and were again voted down on the issue of whether or not we would have the very type of thoughtful debate that the gentleman from Ohio says we need to have.

Today we are here for a fourth time, and for the fourth time some Members of this Congress will have an opportunity to reject reform.

The question is not whether we are going to point fingers at one party or another, but whether we will come together, not looking at somebody else's house down Pennsylvania Avenue alone. That needs to be looked at, and my friends on the other side can look at it to their heart's content. But look right here in Congress and what is happening in this Congress, when donors tell Republicans they are fed up, if we do not get our tax breaks we are not going to be contributing to these congressional campaigns.

This issue needs to be addressed by this Congress and addressed today.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Winter Park, FL [Mr. MICA], the dynamic subcommittee chairman.

Mr. MICA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker and my colleagues, I am trying to remember back now. Let us see. I came in 1992, in that election. 1993, I was here in 1994. I think the gentleman from California [Mr. DREIER] was here in 1993, 1994. I see my colleague on the floor, the distinguished gentleman from Georgia [Mr. KINGSTON], was here in 1993 and 1994. In fact, the gentleman from Georgia [Mr. KINGSTON] and I, I remember we came trying to get campaign finance reform brought before this House. In fact, I am trying to remember, was there ever, when the other party controlled the House, the other body, and the White House, any consideration on this floor of campaign finance reform. That was 24 months.

Now, I do recall when we took over the majority, the things that we did. We did bring to the floor campaign finance reform, and I do not think it was a good bill. In fact, I thought it was a terrible bill. I thought the Republicans had a terrible proposal and the Democrats had a terrible proposal, but it was debated, it was heard fairly and squarely.

What did the Republicans do? They passed a gift ban. In fact, we passed a pretty awesome gift ban. What else did we do? We talked about lobby reform that was long overdue. We not only talked about it, we passed legislation here on the floor. So we talked about these problems and we did something about them.

What we are hearing today is an attempt to speak against a rule that is a fair rule to proceed in an orderly fashion with the business of the House and the business of the Congress. What we are hearing is an attempt by the other side to blur the issue.

I serve on a subcommittee of the Committee on Government Reform and Oversight. We passed a protocol; in fact, we passed a protocol almost immediately, a fair protocol, to consider just about any problems that are brought to our attention, including this, even though we have committees of other areas of jurisdiction to deal with campaign finance. So those issues will, in fact, be heard and the important issues will be heard.

We also heard them say we go too fast. Last year we were going too fast. Now they are saying we are going too slow. We are trying to take the people's business in an orderly fashion, and our actions speak louder than our words.

We brought the Nation's finances into some balance. We cut $53 billion in spending without hurting Medicare, without hurting education, without hurting the environment. So we are on our way. Do not be misled, and we will get the job done.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MCGOVERN].

Mr. MCGOVERN. Mr. Speaker, I thank my colleague from New York [Ms. SLAUGHTER] for yielding me this time.

Mr. Speaker, I did not anticipate participating in this debate today, but as a new Member of this House, as a freshman, I want to rise to express my frustration over the fact that we have not been able to put real campaign finance reform on the agenda.

Mr. Speaker, we cannot pick up a newspaper without reading about another scandal. Bipartisan scandals, scandals in the White House, scandals in the Republican National Committee, scandals involving a certain chairman to investigate other scandals.

What is frustrating to me is that there are a number of good and solid proposals dealing with campaign finance reform that have been introduced in this House in a bipartisan way, and yet we cannot get a date certain in which we can debate these issues, in which we can vote on these issues, up or down.

Every major editorial board in this country has editorialized on the need for this Congress to move fast on the issue of campaign finance reform. The American people, if my colleagues read the polls, overwhelmingly believe that the time has come for us to move forward on campaign finance reform, and yet we cannot get a date, we cannot get a commitment from the leadership on the Republican side to bring this issue up and to do what the American people want us to do.

The previous speaker, the gentleman from Florida [Mr. MICA], raised the issue that in previous Congresses the Democrats did not ever bring up the issue of campaign finance reform. Well, it is my understanding that in the 102d and the 103d Congress campaign finance reform passed this House twice. It was vetoed by President Bush and then it was filibustered by the Republican majority in the U.S. Senate.

But that is beside the point in many respects. The issue here is not which party is involved with the most scandals, the issue here is not who can do the most finger-pointing, the issue should be how do we fix this broken system. There is too much money involved in politics, and we need to take the money out of the system.

Mr. DREIER. Mr. Speaker, I yield 4 minutes to my good friend from Savannah, GA [Mr. KINGSTON], the hardworking leader of our 1-minute effort.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from California for yielding me this time.

Mr. Speaker, I share the Democrats' concern for some movement on campaign finance reform. As a Member of Congress, I have supported campaign finance reform, but to hear them talk about it is similar to hearing Al Capone talk about the need to crack down on organized crime. The hypocrisy is absurd.

Let us talk about enforcement of the existing laws, Mr. Speaker, $3 million in foreign contributions have been returned by the Democrat National Committee. Where is their outrage? Where are they on this? They are not calling. The 158 fundraisers at the White House. The documents show that there have been over $300,000 to $400,000 raised at each fundraiser. Of course, they are calling them teas and coffees. I guess Starbucks would be so proud.

Over $100,000 raised by the Vice President of the United States at a Buddhist temple where everyone is sworn to a vow of poverty. Where are the Democrats? Where is there righteous indignation there? The Vice President makes fundraising phone calls from Federal Government property. Where are the Democrats? Silent again.

The Washington Post reports that John Huang tried to funnel $250,000 in illegal donations to the Democrat National Committee through an Asian American business group, and where are the Democrats? Where is their outrage? Nothing but silence.

Let us continue. Pauline Kanchanalak. Now, I might be mispronouncing that name, Mr. Speaker. I am not as intimate with foreign donors as my Democrat friends are. But Pauline Kanchanalak gave $235,000 in foreign funds to the Democrat National Committee and they had to be returned. Now, we wanted, as Members of Congress, to subpoena her and ask her about this. She has fled the country. Where are the Democrats? Where is their outrage?

Relatives of the Riady family, which of course owns the Lippo Bank, they gave $450,000 to the Democrat National Committee, which again had to be returned. By the way, did they pay interest on that? I mean because it could be a loan, I do not know. But they are no longer in the country either. Again, no subpoena, and again, I ask, where are the Democrats?

Key figures have fled the country because of their activities. Charlie Trie gave $640,000 in suspicious checks to the President's legal defense fund. He has fled the country, cannot be subpoenaed. Where are the Democrats? Cuban drug dealers and Chinese arms merchants wined and dined at the White House. Where are the Democrats? Where is their outrage?

Webster Hubbell given hundreds of thousands of dollars to keep apparently silent when he was under investigation by the independent counsel. Was this hush money? Mr. Speaker, where are the Democrats?

Mr. Speaker, what I am interested in is although it sounds good and it is a great diversionary tactic for the Democrats to say we need campaign finance reform, why do the Democrats not join us on campaign law enforcement? Why do the Democrats not spend just a little bit of their energy having this same outrage at the folks over at 1600 Pennsylvania Avenue instead of this sideshow, instead of these diversionary tactics. Let us look ourselves in the mirror and say, we have some good laws on the books right now and why do we not enforce those?

Ms. SLAUGHTER. Mr. Speaker, I yield 6 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in opposition to the rule because in fact we ought to be using this time to consider campaign finance reform. We all know that the system is broken, and we need to vote on campaign finance reform and we need to do something about reconnecting with the American people.

Let me have just a little stage-setting if I might. The rule before us today would allow us to consider what we call suspension bills here, today, which is a Wednesday. Suspensions are noncontroversial items and are considered on Mondays and Tuesdays, so that in fact this House of Representatives can get down to business for the rest of the week and talk about those issues that the public truly does care about, such as fixing our campaign finance system.

It is hard today to open a newspaper without reading about the lack of accomplishment of this Congress, the do-nothing Congress. But the worst of it is that the Congress is doing nothing when the issue of campaign finance reform cries out for action. Record sums of money, $2.7 billion, were spent in the 1996 elections, and the American people rightly are asking and saying that there is too much money in the process.

Yes, in fact, we have investigations, investigations which I support, which my side of the aisle supports and they ought to go forward. However, it is interesting that in the other body we have an investigation that is proceeding in a bipartisan way to look at how we look at the executive branch, and in fact how we look at the Congress and how they spent their money in the last campaign.

□ 1215

However, on this side of the aisle, on the Republican side of the equation, there is an investigation, but the chairman refuses to allow the investigation to be broadened to the Democrats and Republicans and the Congress.

Mr. Speaker, my colleague just before me talked about where is the outrage. I am outraged. I am outraged by the amount of money that is in this system. Let us open up the investigation on the House side to what the Congress did in the last elections. One of the reasons why my colleagues do not want to do this, let me just tell the Members a little bit about how the majority here, the Republicans, have put special interests before the public interest.

Members will see, that "Donors Tell GOP They Are Fed Up". "Tax Cuts the Talk as the Chiefs Gather." They do not want to deal with campaign finance reform because they are frightened to death that these folks are not going to give them the money that they want.

Let us talk about the last session of the Congress. Tobacco gave the RNC, the Republican National Committee, $7.4 million. The GOP passed favorable legislation, a bill that would have saved the tobacco companies millions and millions of dollars. The NRA, National Rifle Association, gave $2 million, and Members may remember that the GOP worked hard and tried to kill the assault weapons ban.

The GOP Congress let big business help to write the workplace safety bill. January 1995, big business lobbyists wrote up a 30-point item wish list for limiting certain workplace safety regulations. Life and death for American men and women in the workplace. When the bill was finished in early June, virtually every single item on that wish list had been incorporated into the final version of the bill. Business lobbyists even worked closely in drafting the bill.

GOP lawmakers let lobbyists rewrite environmental legislation. The Republican whip admitted that he let a group of big business lobbyist contributors write the plan to place a freeze on environmental legislation: clean water, clean air, safety, and health of our families in this country; that he allowed the lobbyists to write the legislation, and this is a quote from him, he says, "because they have the expertise." And many of the lobbyists had helped to funnel corporate money to Republican campaigns.

The list goes on. This is a book called the NRCCC, National Republican Congressional Campaign Committee, the tactical PAC project. If we go down the list here, we will find that every single political action committee has a rating of friendly or unfriendly in it, and this was used by the chairman of that committee to determine who would get a hearing, who could be let in the door. If they were unfriendly, in fact, they could not come in to have a conversation because they had not given enough. Friendly translates into special interest money.

Nonlegislative outrages. The chairman of the National Republican Committee threatened to limit access of business who gave to Democrats. GOP leaders kept a friendly and unfriendly PAC list of who gave to the Republicans and to the Democrats. "Two-hundred and Fifty Thousand Donors Promised Best Access to Congress by the RNC"; money bought access.

Let me just conclude by saying that in fact we have a problem in the money that is involved in our politics. We are investigating. We are open to the investigation. I, for one, as a Democrat stand here and say, open the House investigation to Republicans and Democrats in the Congress. I am not afraid. Why are you afraid? That is what we ought to be doing.

In fact, what we ought to do is get down, buckle down, get campaign finance reform legislation on this floor to debate and go through, and for the American people, to win that trust back, pass campaign finance reform before Memorial Day.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me first say I very much appreciate seeing the Washington Times regularly quoted by my colleagues on the other side of the aisle. I hope it will not be, as often is the case, maligned when Members on this side hold up articles from the Washington Times in the future.

I should also say to my friend, the gentlewoman from Connecticut, Mr. Speaker, that as we look at this issue, if there is evidence of wrongdoing on this side, there is nothing whatsoever that prevents the Committee on Government Reform and Oversight from looking at that. But every shred of evidence that we have of wrongdoing happens to emanate from the other side of the aisle. I think that is really understandably where the focus will continue to be.

Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Scotsdale, AZ [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today without venom or vitriol to respectfully suggest to my liberal friends that the debate we should be having today in fact is misnamed by my colleague, the gentlewoman from Connecticut, for it is not a debate about campaign finance reform.

Instead, Mr. Speaker, we stand on the precipice of a major debate concerning our national security, a question that should engage everyone, regardless of partisan label or political philosophy, because the question before us, raised not only in the Washington Times but in the Washington Post, the New York Times, the Los Angeles Times, Time, Newsweek, U.S. News and World Report, all the outlets of the main extreme media is this question: In an attempt to win an election, was access to our executive branch conferred upon foreign interests?

Mr. Speaker, it brings me no joy to have to bring this up. This is a question of concern to every American. While I understand and to a certain degree appreciate the political tactic of trying to muddy the water, the observation is clear that the first step to genuine campaign reform is to obey existing law; is for those who now freely admit that they violate Federal law and who use the interesting term that their legal counsel informs them there is no controlling legal authority, let me simply say to those folks in the executive branch, Mr. Speaker, yes, there is a controlling legal authority; Mr. Speaker, yes, there is a controlling legal authority. It is called the Congress of the United States, in its oversight power conferred upon it by the people of the United States, who over 200 years ago ratified the Constitution of the United States.

So the challenge before us today, Mr. Speaker, again is not a question of campaign finance. The challenge that will confront this Congress, indeed that will confront every city of this Republic, is a question of national security brought to light under existing campaign finance law. It is a serious question. The question remains: Was the executive branch rewarding access to foreign interests in a pursuit of the almighty dollar for campaign activities, to hang onto the executive branch of Government?

It is a serious question we must answer.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I had hoped to sit this one out, but a previous speaker, the gentleman from Georgia, asked where is the outrage. I think after 90 days of session it is high time some of us expressed our outrage.

See, for 40 years a group of people much like the previous District of Columbia City Council said, if we could just govern, give us a chance, we will fix it. But they have discovered, much like the D.C. City Council, that either they do not want to or they cannot. Now, 90 days into the session, I would like you to tell me what you have done about any of America's major problems.

What have you done about the drug problem? The answer is absolutely nothing. What have you done about our Nation's $5.7 trillion debt, $222 billion annual operating deficit on your budget, $360 billion interest payment on that debt for your budget?

You come down here and you cry crocodile tears and say we need a tax break. We need to give the wealthiest Americans a big tax break so they can turn around and instead of paying taxes, they can lend more money to the Government at 8 percent and 9 percent, so the average Joes who live in States like Mississippi will get less in return, because the biggest expense of the Government is not those bureaucrats they blast, it is not welfare, it is not food stamps, it is not defense or health care, it is interest on the national debt, and it is getting worse by the day, and you are doing nothing about it.

What have you done to improve our Nation's defense? Defense spending is down about 10 percent since George Bush left office. Yet you all run the Congress. There are 30-year old helicopters right now flying around. Which one is going to crash next?

You have not done anything on defense. You have not done anything on the deficit. You have not done anything on drugs. When given the opportunity to set a good precedent on funding, you secretly sneak through an 8 percent increase on funding for congressional committees. You do not even tell us you are doing it. A reporter has to tell Congress after it is done that you have increased that budget by 8 percent.

The outrage is that now we are trying to take one step in looking at some of the wrongs that are happening. I would like to know how NAFTA passed. Do Members remember the approximately $15 million the Mexican Government spent in Washington promoting the passage of NAFTA? Where did it go, I would ask the gentleman from California [Mr. DREIER]? Do Members not think we ought to know that as well?

The gentleman has made some very legitimate concerns. I agree with the gentleman on every single one of those concerns.

Please, you are being rude, Mr. DREIER.

What about the money the Mexican Government spent passing NAFTA in this town?

If we are concerned about what foreigners are doing to influence our Congress, to influence our administration, should we not know that?

Should not the folks who used to work at those five garment plants just in one 435th of the country that happens to be the Fifth Congressional District of Mississippi, who lost their jobs as a result of NAFTA, do they not deserve to know? Do Members not think the gentleman from Indiana [Mr. BURTON] ought to look into that?

We are asking for just one thing today. You will not do anything about the deficit, you will not do anything about the debt, you will not do anything about drugs. Let us make a little step. Let us look at campaign finance reform so maybe in the future there will not be another Congress that makes such a blatant mistake like NAFTA, where we went from a trade surplus to a trade deficit; where the only thing we are exporting to Mexico are jobs.

That is why we need campaign finance reform. These folks are totally in the right. Give them a break for a change.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say to my colleague who addressed me by name and then said I was rude, to ask him to yield time for me to respond that on the issue of campaign finance reform, we obviously are engaging in that debate as we proceed with this rule today. To argue that the only benefit from the North American Free-Trade Agreement has been to send jobs to Mexico is absolutely preposterous.

Anyone who looks at the record that we have on the benefits that have been accrued to this Nation from free trade with Mexico and other countries, we obviously have seen tremendous job creation here, and improvements in the standard of living in this country because of free trade.

The fact that people exercise their first amendment right to participate politically, that does not need to be investigated. What needs to be investigated is blatant violations of existing Federal law.

Mr. Speaker, I yield 1 minute to the gentleman from Winter Park, FL [Mr. MICA].

Mr. MICA. Mr. Speaker, I would just ask the gentleman if he is aware, regarding comments of the last speaker that this Republican Congress has done nothing on the drug issue, that in fact in the 103d Congress, again, when these folks controlled the House, the Senate, the White House, there was one hearing held. I was on the committee, the Committee on Government Reform and Oversight, on national drug policy.

Since January, we have held more hearings than they held in the entire 103d Congress on drug policy.

□ 1230

We have had the drug czar before us. We have had the head of DEA before us. We spent much of the House's time talking about decertifying Mexico. I introduced that resolution with the gentleman from Florida [Mr. SHAW]. There has never been before a debate to decertify, to my knowledge, on the House floor a country.

The gentleman from Florida [Mr. MCCOLLUM] just held a hearing in Puerto Rico on how they gutted when they controlled all the interdiction around Puerto Rico that is bringing drugs in unprecedented quantity into my district, heroin, and we have held hearings and gotten reports from GAO.

Just in 90 days we have done more than they did in an entire session of Congress on the drug issue.

Mr. DREIER. Mr. Speaker, I would say to the gentleman, another point to add along with that is the fact that the much pooh-poohed statement of the former First Lady, Nancy Reagan, to just say no to drugs played a big role in decreasing the recreational use and the incentive for young people to use drugs, whereas we have from this administration seen very little focus on that issue. The byproduct of that has been a tragic and dramatic increase in the use of drugs.

Mr. Speaker, I yield 3 minutes to the gentleman from Glendale, CA [Mr. Rogan], former majority leader of the California State Assembly.

Mr. ROGAN. Mr. Speaker, I thank my colleague and friend for yielding time to me.

Mr. Speaker, I wish first to associate myself with the remarks of the gentleman from Arizona, who made a very eloquent plea on behalf of Republicans in this Chamber to keep their eye on the ball.

I rise today not as a Republican, but as an American. The almost daily allegations engulfing the White House concern me not from a political standpoint as much as they do from a national standpoint.

Mr. Speaker, I like to think that, if these same allegations were revolving around a Republican administration, my loyalty to my country would be much higher than my loyalty to party. I would urge a thorough investigation of this sort of conduct.

When I was a new prosecutor in Los Angeles County, I first learned of a thing called the SODDI defense. There was a certain criminal that I was prosecuting, who was clearly guilty, and he was claiming someone else had committed the offense. My boss told me, "He is raising the SODDI defense." I spent a day looking for the SODDI case to figure out what it was all about. My boss laughed at me later. He told me the SODDI defense was an acronym for when a criminal claimed "some other dude did it." I later discovered that the louder a criminal professed that "some other dude did it," typically there was a correlating increase in the amount of evidence against them.

Mr. Speaker, on a daily basis we are now being treated to a political version of the old SODDI defense on this floor. And there seems to be a correlation between the decibel level raised on the other side against the desire to keep a full and thorough investigation from occurring, and the mounting incriminating evidence respecting the alleged improper fundraising conduct of the White House.

We do not take oaths on this floor, Mr. Speaker, to our party. We take an oath to the Constitution of the United States of America. I would urge my colleagues on both sides of the aisle to remember that oath. It was an oath to country, not party.

When serious allegations are raised respecting foreign influence, foreign nationals and foreign corporations being able to reach into the White House and potentially affect the outcome of elections, that is not a partisan issue, Mr. Speaker. That is an issue respecting the sanctity of our electoral process.

This House has an obligation to the Constitution and to the country not to allow a SODDI defense diversion from precluding us from fully investigating these matters.

I thank my colleague for yielding to me.

The SPEAKER pro tempore (Mr. LaTourette). The Chair advises that the gentleman from California [Mr. Dreier] has 30 seconds remaining, and the gentlewoman from New York [Ms. Slaughter] has 45 seconds remaining.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the balance of my time.

The majority manager, the gentleman from California [Mr. Dreier], will tell Members the previous question is a procedural vote on whether to close the debate and proceed to vote on the rule, but that is only half true.

If you tell the House you do not want to move on a vote on the rule, control of the House floor will revert to the opponents of the rule for a vote on an alternative course of action. We would use the opportunity to instruct the leadership by majority vote of the House to bring campaign finance reform to a vote under an open rule by the end of next month.

This is a substantive vote and the place where you can tell the leadership you want campaign finance to be a priority on the House agenda.

I include for the Record the text of the proposed amendment at this point, along with a brief explanation of what the vote on the previous question really means:

H. Res. 112—Previous Question Amendment Text

At the end of the resolution add the following new section:

Section 2. No later than May 31, 1997, the House shall consider comprehensive campaign finance reform legislation under an open amendment process.

The Vote on the Previous Question: What It Really Means

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's "Precedents of the House of Representatives," (VI, 308–311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution * * * [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership "Manual on the Legislative Process in the United States House of Representatives," (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual:

"Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule * * * When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's "Procedure in the U.S. House of Representatives," the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues:

"Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

The vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time.

To conclude my remarks, I remind my colleagues that defeating the previous question is an exercise in futility because the minority wants to offer an amendment that will be ruled out of order as nongermane to this rule and in fact they do not even have an amendment, they do not have a bill. So the vote is without substance.

The previous-question vote itself is simply a procedural motion to close debate on this rule and proceed to a vote on its adoption. The vote has no substantive or policy implications whatsoever.

I include an explanation of the previous question for the Record:

The Previous Question Vote: What It Means

House Rule XVII ("Previous Question") provides in part that:

"There shall be a motion for the previous question, which, being ordered by a majority of the Members voting, if a quorum is present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked or ordered."

In the case of a special rule or order of business resolution reported from the House Rules Committee, providing for the consideration of a specified legislative measure, the previous question is moved following the one hour of debate allowed for under House Rules.

The vote on the previous question is simply a procedural vote on whether to proceed to an immediate vote on adopting the resolution that sets the ground rules for debate and amendment on the legislation it would make in order. Therefore, the vote on the previous question has no substantive legislative or policy implications whatsoever.

Mr. DREIER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 223, nays 199, not voting 10, as follows:

[Roll No. 79]

YEAS—223

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—199

Abercrombie
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Martinez
Mascara
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Schumer
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Serrano
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Strickland
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Taylor (MS)
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Watt (NC)
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NOT VOTING—10

Ackerman
Costello
Fattah
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Pelosi
Schiff
Waxman
White

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Mr. COYNE changed his vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LaTourette). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV. Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

HOMEOWNERS INSURANCE PROTECTION ACT

Mr. LEACH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 607) to amend the Truth in Lending Act to require notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction, and for other purposes, as amended.

The Clerk read as follows:

H.R. 607

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homeowners Insurance Protection Act".

SEC. 2. PROVISIONS RELATING TO PRIVATE MORTGAGE INSURANCE.

(a) In General.—Section 6 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605) is amended—

(1) by redesignating subsections (f), (g), (h), (i), and (j) as subsections (k), (l), (m), (n), and (o), respectively; and

(2) by inserting after subsection (e) the following new subsections:

“(f) Disclosures Relating to Private Mortgage Insurance.—

“(1) Disclosure at settlement relating to existence of PMI.—With regard to any covered mortgage loan, the lender shall disclose, in writing at or before the settlement of such covered mortgage loan, whether any private mortgage insurance will be required to be obtained or maintained with respect to such mortgage loan, including any lender-paid private mortgage insurance, and the period during which such insurance will be required to be in effect.

“(2) Disclosure at settlement relating to terminability of PMI.—If the lender requires, as a condition for entering into a covered mortgage loan, the borrower to assume an obligation to make separately designated payments toward the premiums for private mortgage insurance with respect to such loan, the lender shall disclose, in writing at or before the settlement of such covered mortgage loan any of the following notices which are applicable with respect to such loan:

“(A) PMI obligations terminable upon request.—In the case of a loan described in paragraph (3), that—

“(i) the borrower's obligation to make separately designated payments toward the premiums for private mortgage insurance may be able to be terminated while the mortgage is outstanding (including a cancellation permitted before the date of automatic termination under subsection (g)); and

“(ii) the borrower will be notified by the servicer not less frequently than annually of an address and a toll-free or collect-call telephone number which the borrower may use to contact the servicer to determine—

“(I) whether the borrower's obligation to make separately designated payments toward the premium for private mortgage insurance may be terminated while the mortgage loan is outstanding (or before the date of automatic termination); and

“(II) if such obligation may be terminated while the loan is outstanding (or before such date), the conditions and procedures for such termination.

“(B) PMI obligations terminable by operation of law.—That the borrower's obligation to make separately designated payments toward the premiums for private mortgage insurance will be terminated by operation of law under subsection (g).

“(C) Nonterminable PMI obligations.—In the case of a loan not described in paragraph (3), that the borrower's obligation to pay any amount to be applied to any portion of the premiums for private mortgage insurance will not be terminated at the request of the borrower.

“(3) Disclosure with annual statements or other communications.—If—

“(A) private mortgage insurance is required as a condition for entering into a covered mortgage loan; and

“(B) the borrower's obligation to make separately designated payments toward the premiums for such insurance may be terminated at the borrower's request,

the servicer shall, not less frequently than annually, disclose to the borrower a clear and conspicuous statement containing the disclosures set forth in subparagraphs (A) and (B) of paragraph (2), including the address and telephone number referred to in such paragraph, based on the servicer's knowledge at the time such periodic communication is given. Such disclosure shall be included with any annual statement of account, escrow statement, or related annual communications provided to the borrower, while such private mortgage insurance is in effect.

“(4) Disclosures furnished without cost to borrower.—No fee or other cost may be imposed on any borrower for preparing and delivering any disclosure to the borrower pursuant to this subsection.

“(g) Mandatory Termination of PMI Obligations at 75 Percent Loan-to-Value Ratio.—

“(1) In general.—Notwithstanding any provision of a covered mortgage loan, any obligation of the borrower to make separately designated payments toward the premiums for any private mortgage insurance in effect with respect to such loan shall terminate, except as provided in paragraph (3), by operation of law as of the 1st day of the 1st month which begins after the date on which the principal balance outstanding on all residential mortgages on the property securing the loan is equal to or less than 75 percent of the lesser of—

“(A) if the loan was made for purchase of the property, the sales price of the property under such purchase; or

“(B) the appraised value of the property, as determined by the appraisal conducted in connection with the making of the loan.

“(2) Disclosure upon termination.—Not later than 45 days after the date of termination pursuant to paragraph (1) of a private mortgage insurance requirement for a covered mortgage loan, the servicer shall notify the borrower under the loan, in writing, that—

“(A) the private mortgage insurance has terminated and the borrower no longer has private mortgage insurance: and

“(B) no further premiums, payments, or other fees shall be due or payable by the borrower in connection with the private mortgage insurance.

“(3) Exception for delinquent borrowers.—

“(A) In general.—Paragraph (1) shall not apply with respect to any covered mortgage loan on which the payments are not current as of the date that the obligation to make private mortgage insurance premium payments in connection with the loan would otherwise terminate pursuant to paragraph (1).

“(B) Effectiveness once payments are current.—In the case of any covered mortgage loan to which subparagraph (A) applies, paragraph (1) shall apply with respect to such loan as of the 1st day of the 1st month which begins after the date that such payments become current.

“(4) Return of payments toward premiums.—

“(A) Return of payments to borrower.—The servicer for a covered mortgage loan shall promptly return to the borrower any payments toward the premiums for any private mortgage insurance for such loan covering any period occurring after the date of automatic termination for such loan under this subsection.

“(B) Return of payments to servicer.—The private mortgage insurer for a covered mortgage loan shall promptly return to the servicer any payments received from the servicer toward the premiums for any private mortgage insurance for such loan covering any period occurring after the date of automatic termination for such loan under this subsection.

“(h) Lenders' Conditions for PMI.—

“(1) Conditions for termination of borrower's obligation to pay PMI.—The conditions for the termination of the borrower's obligation to make separately designated payments toward the premium for private mortgage insurance with respect to a covered mortgage loan, including any changes in such conditions, shall be reasonably related to the purposes for which the requirement for private mortgage insurance was imposed at the time the loan was made.

“(2) Borrower's right to terminate in accordance with conditions.—In the case of any covered mortgage loan described in subsection (f)(3), the borrower shall have the right under this paragraph to terminate the borrower's obligation to make separately designated payments toward the premiums for such insurance if the conditions and procedures for such termination most recently communicated to the borrower (pursuant to a request by the borrower pursuant to notice under subsection (f)(3) or otherwise) have been met.

“(i) Effect on Other Agreements.—The provisions of subsections (f), (g), and (h) shall supersede any conflicting provision contained in any agreement relating to the servicing of a covered mortgage loan entered into by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any private investor or noteholder (or any successors thereto). A servicer which cancels private mortgage insurance on a covered mortgage loan in compliance with the provisions of subsection (g) or (h) or in accordance with investor guidelines in existence at the time concerning the cancellation of private mortgage insurance (regardless of whether the cancellation by the servicer was mandated by such subsections or initiated by the borrower) shall not be required to repurchase such mortgage loan from the investor or holder of such mortgage loan solely on the grounds that the private mortgage insurance was canceled in accordance with the provisions of such subsections or investor guidelines, as applicable.

“(j) Limitations on Liability.—If the servicer for a covered mortgage loan has complied with the requirements under subsections (f) and (g) to provide disclosures, the servicer shall not be considered to have violated any provision of subsection (f), (g), or (h) and shall not be liable for any such violation—

“(1) due to any failure on the part of the servicer to provide disclosures required under such subsections resulting from the failure of any mortgage insurer, any mortgage holder, or any other party to timely provide accurate information to the servicer necessary to permit the disclosures; or

“(2) due to any failure on the part of any private mortgage insurer, any mortgage holder, or any other party to comply with the provisions of such subsections.

Each private mortgage insurer and each mortgage holder for a covered mortgage loan shall provide accurate and timely information to the servicer for such loan necessary to permit the disclosures required by subsections (f) and (g). In the event of a dispute regarding liability for a violation of subsection (f), (g), or (h), and upon request by the borrower, a servicer shall provide the borrower with information stating the identity of the insurer or mortgage holder.”.

(b) Definitions.—Subsection (n) of section 6 of the Real Estate Settlement Procedures Act of 1974 (as redesignated by subsection (a)(1)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (5), and (6), respectively;

(2) by inserting before paragraph (2) (as redesignated by paragraph (1) of this subsection) the following new paragraph:

"(1) COVERED MORTGAGE LOAN.—The term 'covered mortgage loan' means a federally related mortgage loan under which the property securing the loan is used by the borrower as the borrower's principal residence."; and

(3) by inserting after paragraph (2) (as so redesignated) the following new paragraphs:

"(3) MORTGAGE INSURANCE.—The term 'mortgage insurance' means insurance, including any mortgage guaranty insurance, against the nonpayment of, or default on, a mortgage or loan involved in a residential mortgage transaction, the premiums for which are paid by the borrower.

"(4) PRIVATE MORTGAGE INSURANCE.—The term 'private mortgage insurance' means mortgage insurance other than mortgage insurance made available under the National Housing Act, title 38 of the United States Code, or title V of the National Housing Act of 1949.".

SEC. 3. SCOPE OF APPLICABILITY.

(a) NOTICE AT OR BEFORE SETTLEMENT.—Paragraphs (1) and (2) of section 6(f) of the Real Estate Settlement Procedures Act of 1974 (as added by section 2(a) of this Act) shall apply only with respect to covered mortgage loans made after the end of the 1-year period beginning on the date of the enactment of this Act.

(b) NOTICE OF PMI OBLIGATION TERMINABILITY.—Paragraphs (3) and (4) of section 6(f) of the Real Estate Settlement Procedures Act of 1974 (as added by section 2(a) of this Act) shall apply beginning upon the end of the 1-year period that begins on the date of the enactment of this Act and with respect to any covered mortgage loan without regard to the date on which such loan was made.

(c) TERMINATION OF PMI OBLIGATION BY OPERATION OF LAW.—Subsections (g) and (h) of section 6 of the Real Estate Settlement Procedures Act of 1974 (as added by section 2(a) of this Act) shall apply only with respect to covered mortgage loans made after the end of the 1-year period beginning on the date of the enactment of this Act.

SEC. 4. CONFORMING AMENDMENTS.

(a) SECTION 6.—Section 6(m) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605) (as redesignated by section 2(a)(1) of this Act) is amended—

(1) by inserting "(not including subsection (f))" before "regarding timing"; and

(2) by adding at the end the following new sentence: "The preceding sentence shall not apply to any State law or regulation relating to notice or disclosure to a borrower regarding obtaining, maintaining, or terminating private mortgage insurance and such State laws and regulations shall be subject to the provisions of section 18.".

(b) SECTION 10.—Section 10(b) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2609(b)) is amended by striking "section 6(i)" and inserting "section 6(n)".

(c) SECTION 12.—Section 12 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2610) is amended by striking "section 6(i)" and inserting "section 6(n)".

The SPEAKER pro tempore (Mr. GILLMOR). Pursuant to the rule, the gentleman from Iowa [Mr. LEACH] and the gentleman from Texas [Mr. GONZALEZ] each will control 20 minutes.

The Chair recognizes the gentleman from Iowa [Mr. LEACH].

□ 1300

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. LEACH. Mr. Speaker, before the House today is H.R. 607, the Homeowners Insurance Protection Act of 1997, introduced by the distinguished gentleman from Utah [Mr. HANSEN].

Mr. Speaker, before presenting a committee perspective, I yield such time as he may consume to the gentleman from Utah [Mr. HANSEN], who deserves full credit for bringing this legislation to the attention of the House and also the thanks of thousands, perhaps millions, of American homeowners. It is not only fair but 100 percent accurate to say that without his leadership, this bill would not be before the House today.

Mr. HANSEN. Mr. Speaker, I wish to thank the distinguished gentleman from Iowa for yielding me this time and thank him for the great work that he has done on this piece of legislation, the ranking member and many others who have joined in this.

Let me just say to the people of America, what is private mortgage insurance? It is a very necessary tool that the mortgage industry uses. Without that, when that young couple finally gets the opportunity to buy their first house, they are looking forward to it, they can hardly wait to get their keys, they walk in and they sign papers about that deep.

There is probably not one person in America, well, maybe one or two, that really understands what he is even signing, but he gets down to the time and he signs something on private mortgage insurance, and what is it that he just bought? He bought something that does not protect him. It is not a homeowner's, it is not a title insurance. What it does is it protects the person who is lending him the money. Why does he have private mortgage insurance? Because he could not come up with 20 percent down payment.

So literally thousands of these are across America. Are they necessary? Yes. Are they good? Yes. Should we have them? Absolutely. But what happens when he gets it down to the 20 percent? We are finding that very, very few lenders take it off. They think of one way after another to hassle people. "Oh, the price of your house isn't right" or "Maybe you didn't make your payment exactly on time." So it goes on and on and on and there are horror stories all over America.

Go anywhere and some people say, "I've been paying that all the way down to the last." So what does that mean? That means some servicers, banks, insurance companies, are literally putting millions of dollars in their back pocket, and people do not realize they are doing it.

All we are asking in this bill is basically when you take out the loan, you have the opportunity to understand, full disclosure, what is PMI. On your annual statement that all of us get at the end of the year, it will say on there what you paid in principal, what you paid in interest, what you paid in taxes, and what you paid in PMI and where it stands and when you can get it off. That is very important.

If they can say "Happy birthday, Mr. HANSEN," they can surely put that on there. It always bothers me when they say it is a big deal when they cannot put it on. They do that constantly.

All we are saying now is there are millions of people that are overinsured. There are millions of dollars, multimillions of dollars going into pockets, that should not be there and those who can afford it the least are those who are paying this. These are the people who cannot come up with the 20 percent. Those of us that sit around here, probably very few of them do it. I have personally experienced this. I cannot believe the hassle one goes through.

So this bill will take care of those things plus one thing I have not mentioned, it has an automatic cancellation at 75 percent. I would urge Members to vote for this. Members are doing a good thing for consumers of America. They are doing something right. I urge Members' support of the bill.

Mr. Speaker, I appreciate the opportunity to bring this important bill to the floor. H.R. 607, the Homeowners Insurance Protection Act, puts this Congress squarely on the side of the hard working American homeowners. First, I would like to thank the chairman and ranking minority member of the Banking Committee for their bipartisan leadership in bringing this important bill to the floor in a timely manner. I would also like to thank their fine staff for all their hard work and assistance, and leadership for their support in bringing this good piece of consumer legislation before the House.

H.R. 607 raises the important issue of what homeowners should know when they obtain a home mortgage, and more importantly, when they can stop paying for insurance they no longer need.

The last decade has seen many positive changes within the mortgage industry. These changes have allowed millions of American families to achieve the American dream and become homeowners. I applaud the industry for making home ownership a reality for millions of families by developing alternative mortgage instruments that help get more families into homes than otherwise could have afforded one.

One widespread, and little understood, instrument in the current mortgage industry is private mortgage insurance [PMI]. Private mortgage insurance enables homeowners to purchase homes with as little as a 3-to-5 percent down payment by insuring the mortgage lender against default. As such, PMI does not insure the borrower and should not be confused with a homeowner's property protection policy. For conventional mortgages, PMI is normally required whenever a borrower does not have a 20 percent down payment. PMI plays an important part of the mortgage industry by making home ownership more accessible. The problem arises when homeowners are not informed of what PMI is and when and how they can stop paying it. Overpayment of PMI is potentially costing hundreds of thousands of homeowners millions of dollars per year.

To get some idea of how widespread this problem may be, consider that in 1996 of the 2.1 million home mortgages that were insured, over 1 million required private mortgage insurance. The remainder were either FHA or VA guaranteed. One industry group estimates that at least 250,000 homeowners are overpaying PMI and other estimates suggest this figure represents the low end. At an average monthly cost of $30–$100 dollars, overpayment of PMI can easily cost homeowners thousands of dollars in unnecessary payments over the life of their loan. Each of these cases has one thing in common—homeowners do not understand what PMI is and are not informed of their right to cancel PMI under certain circumstances.

Consider the following example. Eighteen years ago, a woman and her now-deceased husband purchased a home for $20,700. The couple financed $18,700 and were required by their lender to purchase private mortgage insurance. At no time were they told that they were entitled to cancel the mortgage insurance. The last payment on the loan, made in June, 1996, included a private mortgage insurance payment of $13.99. This widow paid private mortgage insurance premiums for the life of her loan! Her mortgage company continued to charge these premiums every month even though they knew that the PMI was unnecessary, that it could be canceled under their own guidelines and that there was no longer any risk to the lender.

In another case, a secretary in Texas, purchased a home for $26,000 19 years ago. She financed $22,950 and was required by her lender to purchase PMI because she did not have a 20 percent down payment. At no time was she told she could cancel PMI after certain requirements were met. Over 19 years later, she and her husband were still paying PMI. Why? She has paid off over 90 percent of the balance of her mortgage, leaving her debt at less than 10 percent of the value of her property. Her mortgage servicer continues to charge her PMI premiums every month even though it knows that the PMI has been unnecessary for years. In fact, her mortgage servicer has been charging her for PMI, even though the owner of her mortgage no longer requires the insurance.

Even Members of Congress are not immune from this problem. When I first came to the Congress I bought a small condominium in Northern Virginia with less than 20 percent down. As I paid my monthly mortgage to the mortgage servicer, I noticed that I was paying $20 a month for PMI. I called the mortgage servicer to find out what this payment was and what I could do to stop paying it. Just like thousands of other homeowners, that is when the real adventure began.

After a short conversation with my mortgage service representative I was told that I needed to pay $4,000 to arrive at the loan of value [LTV] ration required by the investor. If the LTV ratio was less than 80 percent, I would not be considered a risky investment, and I would no longer need PMI. After paying down to the correct LTV, as required, I realized that my mortgage servicer was still charging me for PMI. I assumed this was an error and called the mortgage servicer again. I was now informed that additional requirements needed to be met. One month I was told to get an appraisal. The next month I had to prove that I had a good payment history. The next month I needed to use their appraiser. Each month it was a new requirement and at no time did my mortgage servicer indicate everything needed to cancel the PMI. After 4 years of wrangling with my mortgage servicer it finally required direct intervention by the mortgage investor to cancel PMI on my behalf. As I soon discovered, mine was not an isolated case.

Now you may not think that $20, or even $100 a month is a lot of money, but when its paid by millions of homeowners we soon start talking about real money. In the business world we call this the law of small sums. As any good businessman can tell you, if you can get a little bit of money from a whole lot of people you really have something.

As a small businessman for most of my life, including a short stint in the mortgage industry, I also learned that if an industry polices itself the Government should not interfere. I firmly believe that the Government should stay out of the private marketplace. However, when an industry does not follow even its own guidelines—I believe it is our responsibility to draw the line. That is why I proposed the Homeowner's Insurance Protection Act (H.R. 607), which requires full disclosure of what PMI is, who it insures, and how it can be canceled. H.R. 607 would also require clear periodic notification to the homeowner of both their right to cancel PMI and any preconditions which must be met.

One issue included in H.R. 607 that does merit careful attention is the question of automatic cancellation. I believe that some form of automatic cancellation is the right thing to do. In some segments of the mortgage industry, for example Navy Federal Credit Union, PMI is automatically canceled when the loan to value ratio [LTV] reaches 80 percent. New mortgage servicing guidelines from Fannie Mae, one of the largest investors in home mortgages, also supports some form of automatic cancellation of PMI. This is both good for the consumer and good business. However, I would not want to see automatic cancellation provisions prevent lenders from insuring themselves against consumers who do not have a good record of payment or against a severely depreciated real estate market. In addition, I do not want to create the unintended consequence of shifting costs to lower risk consumers in the form of higher PMI premiums. I believe the 75 percent LTV automatic cancellation provision for only new loans with a good payment history is a responsible compromise in this regard—and which has broad within the industry.

The bottom line is that thousands of hard working American homeowners overpay PMI each year because they don't know what it is or how to get rid of it. Even worse, with PMI overpayment, it is usually the people who can afford it least that end up paying the most. There is nothing more frustrating than paying for something that is not needed. We would not let an auto mechanic charge customers for work that is not needed or a doctor charge patients for procedures that were not performed. PMI plays an important role in the mortgage industry, but when that role is fulfilled the American homeowner should not keep paying for something that serves no legitimate purpose.

H.R. 607 is a good bill which puts this Congress squarely on the side of the American consumer and I would ask for its swift passage.

THE TRUTH BEHIND PRIVATE MORTGAGE INSURANCE

(By Representative James Hansen)

The last decade has seen many positive changes within the mortgage industry. These changes have allowed millions of American families to achieve the American dream and become homeowners. I applaud the industry for making homeownership a reality for millions of families by developing alternative mortgage instruments that help get more families into homes than otherwise could have afforded them.

One widespread, and little understood, instrument in the current mortgage industry is private mortgage insurance (PMI). Private mortgage insurance enables homeowners to purchase homes with as little as a 3 to 5 percent down by insuring against default.

But PMI does not insure the borrower and should not be confused with a homeowner's property protection policy. For conventional mortgages, PMI is normally required whenever a borrower does not put 20 percent down.

PMI plays an important part in the mortgage industry by making homeownership more accessible. The problem arises when homeowners are not informed of what PMI is and when and how they can stop paying it. Overpayment of PMI is potentially costing hundreds of thousands of homeowners millions of dollars per year.

To get some idea of how widespread this problem may be, consider that in 1996, of the 2.1 million home mortgages that were insured, more than one million required private mortgage insurance. One industry group estimates that at least 250,000 homeowners are overpaying PMI, and other estimates suggest this figure represents the low end. At an average monthly cost of $30 to $100, overpayment of PMI can easily cost homeowners thousands of dollars in unnecessary payments over the life of their loan.

Each of these cases has one thing in common—homeowners do not understand what PMI is and are not informed of their right to cancel PMI under certain circumstances.

Consider the following example: Eighteen years ago, a woman and her now-deceased husband purchased a home for $20,700. The couple financed $18,700 and were required by their lender to purchase private mortgage insurance. At no time were they told that they were entitled to cancel the mortgage insurance. The last payment on the loan, made in June 1996, included a private mortgage insurance payment of $13.99.

This widow paid private mortgage insurance premiums for the life of her loan. Her mortgage company continued to charge these premiums every month even though they knew that the PMI was unnecessary, that it could be canceled under their own guidelines, and that there was no longer any risk to the lender.

Even Members of Congress are not immune from this problem.

When I first came to Congress, I bought a small condominium in Northern Virginia with less than 20 percent down. As I paid my monthly mortgage to the mortgage servicer. I noticed that I was paying $20 a month for PMI. I called the mortgage servicer to find out what this payment was and what I could do to stop paying it.

Just like thousands of other homeowners, that is when the real adventure began.

After a short conversation with my mortgage service representative, I was told that I needed to pay $4,000 to arrive at the loan to value (LTV) ratio required by the investor. If the LTV ratio was less than 80 percent, I would not be considered a risky investment and I would no longer need PMI. After paying down to the correct LTV, as required, I realized that my mortgage servicer was still charging me for PMI. I assumed this was an error and called the mortgage servicer again. I was now informed that additional requirements needed to be met.

One month I was told to get an appraisal. The next month I had to prove that I had a good payment history. The next month I needed to use their appraiser. Each month, it was a new requirement, and at no time did my mortgage servicer indicate everything that I needed in order to cancel the PMI.

After four years of wrangling with my mortgage servicer, it finally required direct intervention by the mortgage investor to cancel PMI on my behalf. As I soon discovered, mine was not an isolated case.

As a small businessman for most of my life, including a short stint in the mortgage industry, I also learned that if an industry polices itself, the government should not interfere. I firmly believe that the government should stay out of the private marketplace. However, when an industry does not follow even its own guidelines, I believe it is our responsibility to draw that line.

That is why I have proposed the Homeowners Insurance Protection Act (H.R. 607), which would require full disclosure of what PMI is, who it insures, and how it can be canceled. H.R. 607 would also require clear periodic notification to the homeowner of both their right to cancel PMI and any preconditions that must be met.

Sen. Alfonse D'Amato (R–NY), chairman of the Senate Banking, Housing, and Urban Affairs Committee, has also introduced similar legislation. Hearings were held in the Senate committee on Feb. 25; the House Banking and Financial Services Committee will be looking into this issue in the near future. This legislation is straight forward and long overdue.

One issue that is not addressed in H.R. 607 but does merit attention is the question of automatic cancelation. I believe some form of automatic cancelation is the right thing to do. In some segments of the mortgage industry, for example, the Navy Federal Credit Union, PMI is automatically canceled when the loan to value ratio reaches 80 percent. New mortgage-servicing guidelines from Fannie Mae, one of the largest investors in mortgages, also support some form of automatic cancelation of PMI.

This is both good for the consumer and good business. However, I would not want to see automatic cancelation provisions prevent lenders from insuring themselves against consumers who do not have a good record of payment or against a severely depreciated real estate market. If we are not careful, we may have the unintended consequence of shifting costs to consumers in the form of higher PMI premiums.

The bottom line is that thousands of hard-working American homeowners overpay PMI each year because they don't know what it is or how to get rid of it. Even worse, with PMI overpayment, it is usually the people who can afford it least that end up paying the most.

There is nothing more frustrating than paying for something that is not needed. We would not let an auto mechanic charge customers for work that is not needed or a doctor charge patients for procedures that were not performed. PMI plays an important role in the mortgage industry, but when that role is fulfilled, the American homeowner should not keep paying for something that serves no legitimate purpose.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

As has been noted, this legislation provides for automatic cancellation of private mortgage insurance once homeowners' equity reaches 75 percent of the original value of the house, and as long as the homeowner is current in making mortgage payments.

In addition, it extends important new consumer disclosure provisions to this little understood type of insurance which protects the mortgage holder, but is paid by the homeowner.

The bill is thus designed to strike a balance which protects the homeowner and at the same time provides an incentive for lenders to make loans at competitive rates in circumstances where otherwise credibly priced loans would not be available.

This insurance product has been around for a number of years and typically costs affected homeowners between $300 and $900 annually. But until the gentleman from Utah [Mr. HANSEN] raised the issue of whether coverage was necessary after homeowners' equity reached a certain level, it has not been the subject of congressional action. Since coming to the attention of the Committee on House Banking and Financial Services earlier this year, H.R. 607 has been on a fast track.

The committee held a public hearing on March 18 and approved H.R. 607 on a vote of 36 to 1 just 2 days later, on the eve of our departure for the spring recess. Frankly, it had been my original intention to mark up the legislation in committee on the day of the hearing, but we postponed committee consideration at the request of the minority.

Subsequent to the committee's action, I asked the leadership to schedule this bill for a vote by the full House in the first or second week after the recess. Here we are today, on schedule, with a bill that has been brought to the floor, unmodified from the committee product.

In my judgment, the committee has crafted in a bipartisan fashion an approach which deserves the support of this House. Homeowners should not be stuck with paying insurance to protect others on a home that becomes protected by its own collateral value. If insurance fees continue past the point where 25 percent of the value of the loan has been paid, one group of homeowners: that is, those who originally may not be able to make a large down payment, will be prejudiced against in relation to those able to afford a larger down payment. This bill is thus, above anything else, about common sense equity. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, mortgage insurance is and always has been a powerful tool for American home buyers. Of course, what it does is to reduce the risk of making a low down payment, long-term mortgage, by insuring that the lender, or the investor in that mortgage, will be paid in the event the borrower defaults. With mortgage insurance, tens of millions of Americans have been able to afford a home. Without mortgage insurance, buyers would have to come up with a down payment of about 20 percent, and probably would be able to get only a short-term mortgage.

Before the advent of mortgage insurance, only about a third of Americans owned a home. Today more than two-thirds do. As great as mortgage insurance is, the truth is that a vast number of people are paying for insurance they no longer need. To the average buyer, it costs anywhere from $30 to $100 a month. Anyone who has a good payment record and at least 20 percent equity probably does not need mortgage insurance. But the truth is buyers who should not be paying for insurance are paying millions of dollars in premiums. Some buyers who know this, like our colleague, the gentleman from Utah [Mr. HANSEN], have run into brick walls when they have sought to cancel.

This bill does two things. It preserves mortgage insurance as the valuable and vital tool that it is. Second, it guarantees future buyers that their mortgage insurance will be canceled when they have a 25-percent equity stake and allow them to seek cancellation sooner if they qualify. This bill does not affect contracts, but it does set us on the path of correcting real abuses and it will save home buyers many millions of dollars.

This is a good bill. Of course, like everything else, it is not perfect. Some of us would have liked greater reforms. Some of us wanted less. But this is a consensus bill with virtually unanimous support in the Committee on Banking and Financial Services. It deserves Members' support. I urge an "aye" vote.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield 2½ minutes to the gentleman from North Carolina [Mr. BURR].

Mr. BURR of North Carolina. Mr. Speaker, I thank the chairman of the full committee for yielding me this time.

I rise today, Mr. Speaker, in support of this legislation. Last week I had concerns on this legislation. Today I still have several concerns with this bill. I would like to address those concerns in a colloquy with the gentleman from Iowa, the chairman of the Committee on Banking and Financial Services.

Mr. Speaker, I say to the gentleman from Iowa [Mr. LEACH], the chairman, that I am concerned about the effect the bill will have on pool mortgage insurance, insurance which covers a whole pool of mortgages as opposed to insurance on individual mortgages. If pool insurance was covered, would this not increase home ownership costs?

Mr. LEACH. Mr. Speaker, will the gentleman yield?

Mr. BURR of North Carolina. I yield to the gentleman from Iowa.

Mr. LEACH. Mr. Speaker, I will tell the gentleman, this is an extremely important inquiry. The intent of the legislation is to cover individual private primary mortgage insurance covering individual loans and not insurance for an entire pool of mortgages.

The reason it is important that pool insurance not be covered is that it allows mortgages with PMI to be intermingled in the secondary market with those without, thus providing more flexibility in their securitization and lower cost for the homeowner.

Mr. BURR of North Carolina. It is my understanding that in requiring new disclosure requirements concerning PMI, this bill could add costs to the private sector, especially mortgage servicers and lenders. This is of particular concern to me as well as my colleagues in the North Carolina delegation, because 44 percent of all private mortgage insurance is issued in my State.

Mr. LEACH. This concern is also a valid one, but certain issues should be kept in perspective. Generally, mortgage servicers and lenders already have to make a number of disclosures to homeowners at settlement and during the life of the mortgage under the Truth in Lending Act and the Real Estate Settlement Procedures Act. The intent of the committee in drafting this legislation was to ensure that most of the notices concerning PMI are made in conjunction with the notice requirements of these acts.

In addition, I think it should be noted that the biggest and most reputable mortgage servicers in the country, including one headquartered in my State, are beginning to provide borrowers notices on PMI. Finally, a number of States already require or are considering requiring notices on PMI. For instance, the States of California and New York, which comprise 20 percent of the home mortgage market, require disclosure to borrowers on this kind of insurance. This law would provide a disclosure standard for the entire country, which may make other State legislatures less likely to impose new State standards on this subject.

Mr. COBLE. Mr. Speaker, will the gentleman yield?

Mr. BURR of North Carolina. I yield to the gentleman from North Carolina.

Mr. COBLE. I thank the gentleman for yielding.

Mr. Speaker, I say to the chairman that I would like to extend some of the remarks uttered by the gentleman from North Carolina [Mr. BURR]. I share his concerns, but not at all as to the intent of the bill. You start going after homeowners and you are opening up a bucket of snakes. I am not against homeowners at all. But I have a concern, Mr. Speaker, and I would be happy to hear from the chairman as to whether or not we may be encouraging and nurturing unnecessary and frivolous litigation.

Mr. LEACH. I would tell the gentleman, this is a very legitimate concern. I too want to benefit the homeowner and not the class-action lawyer. Because of some of the industry practices concerning PMI, such as not providing borrowers sufficient information on how to terminate the insurance or requiring PMI long after it is needed, mortgage servicers and insurers are facing more and more lawsuits. This legislation will clarify what the responsibilities of market participants are concerning PMI. Without this legislation, in States which do not have State PMI laws, it will be the courts who will determine by judicial fiat the legal liability of the mortgage industry participants on an ad hoc basis. This bill provides more certainty to the law concerning a borrower's rights and PMI and thus is intended to make litigation less likely.

Mortgage market players have expressed some concern that the provision of the bill requiring the conditions for terminating PMI be reasonably related to the requirements for private mortgage insurance may precipitate unnecessary litigation. This is not the intent of the committee. It is the expectation of the committee that HUD, which has rule making authority, would put forth commonsense interpretations of this provision designed to preclude unreasonable lawsuits.

Mr. COBLE. I thank the gentleman from North Carolina and the gentleman from Iowa, the chairman.

Mr. BURR of North Carolina. Mr. Speaker, I would like to thank the chairman for his willingness to address the concerns of the gentleman from North Carolina [Mr. COBLE] and my concerns with this legislation. I am hopeful that our colleagues that are involved in the completion of this legislation and the process will continue to refine it and to make it the best bill in the coming weeks that they possibly can.

Mr. LEACH. I thank both the gentlemen from North Carolina for their concerns, which are very thoughtful and constructive. I appreciate that.

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Mr. Speaker, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, after listening to the previous dialog, I must point out that this is a good bill, this is a consumer bill, this is not a bill that we have to bring up by a vote of the Committee on Banking and Financial Services 36 to 1 and then hear apologies for. Not at all.

Mr. Speaker, the fact of the matter is, the gentleman from Utah [Mr. HANSEN] did us a great service when he pointed out that lenders, banks, insurance companies, et cetera, have been ripping the consumer off for years and years to the tune of hundreds of millions of dollars. And then we took his bill, and we asked for a 2-day delay, and we negotiated with the majority to make it not simply a bill which would advise us of the problem, but actually terminate, cancel, these premiums that were no longer warranted, no longer justified, at least with respect to future mortgages.

This is the most significant consumer bill brought up in Congress this year. It is probably going to be the most significant consumer bill brought up in Congress during this session and the next session. We should not be apologetic about it. We should rejoice in it, and we should make sure that this is not amended or refined away by the Senate or in conference with the Senate.

We have a good bill, let us pass it virtually unanimously, and then let us hold onto it in conference.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Speaker, I rise to have a colloquy with the gentleman from Iowa, the chairman of the committee. Mr. Speaker, I commend him for bringing this important consumer legislation to the House floor today, and I particularly commend our colleague, the gentleman from Utah [Mr. HANSEN], for introducing it. This bill provides meaningful financial relief of $50 or $100 a month to millions of American families. Best of all, Mr. Speaker, it provides us relief at no cost to the U.S. Treasury.

I also commend the chairman for the genuine bipartisan way this legislation was considered by the committee, which is why it was reported out of the committee 36 to 1. The entire Democratic membership of the House Committee on Banking and Financial Services enthusiastically supported this bipartisan initiative and hopes that the bipartisanship that was demonstrated on this legislation will be a model for subsequent legislation from our committee.

I do have one question for him however. Since the legislation was reported out of committee, it has been brought to my attention that there are mortgage products in the marketplace that may require mortgage insurance of a different type or for a period of time that is not prescribed in statute. I am not aware of all the products, and since the products in the marketplace are evolutionary in nature and we cannot always anticipate what tomorrow may bring in the marketplace, I hope that as the process goes through, the chairman and the members of the conference pay very close attention to this so that in the final end the private mortgage insurance disclosure that we are requiring and the cancellation we are requiring under this act does, in fact, accomplish the best results for the consumer and for the consumer in the marketplace by lower interest rates that will be provided.

Mr. LEACH. Mr. Speaker, will the gentleman yield?

Mr. KANJORSKI. I yield to the gentleman from Iowa.

Mr. LEACH. If I could respond briefly to the gentleman, I share his concerns. I would tell him, though, as we move forward we do want to be very sensitive to possible new products, but we also have to take very great care to insure that poor people do not come under a different standard than others, and if we developed two different standards, we might put complications in the home lending market as well.

So I am open to any of the concerns the gentleman may have, but I am unprepared to make firm commitments.

Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I do rise in support of this legislation. PMI is a little understood, complicated issue as we have heard through the colloquies that have gone on and the description by the chairman and ranking member, but bottom line, PMI does enable homeowners to purchase homes with as little as 3 to 5 percent down payment and insures the mortgage lender against that default. PMI plays an important part in the mortgage industry by making home ownership more accessible, and we should not lose sight of that.

This is, as my colleague from New York stated, it is a good consumer protection bill. I support it. That, however, does not mean we should close our eyes to the fact that we are taking this up under suspension, that there might not be some issues as outlined in the colloquies that deserve perhaps closer attention. It does not mean we should be voting against this, but we should understand that we must weigh very carefully the costs to the consumer as well as the industry, because if we too adversely affect the industry we might be charging higher fees for everybody in the mortgage market, and I think that is important for us to understand.

Someone earlier did also, and I think it was in the colloquy, referenced the issue that is of concern to me, and that is we do not want to have the unintended consequences of providing an incentive for unnecessary and frivolous litigation. I think we can absolutely protect against that in the confines within the strictures of this bill and gain the important consumer protection and at the same time not play a detrimental role in the mortgage market.

So I am confident that as the bill moves through conference, if there are any unintended consequences that we can examine, we can take care of it at that time. But I stand four square behind the legislation, it is an important consumer protection reform, and we should pass it today without exception.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support of the legislation and commend my colleague from Utah for persisting in bringing a problem to us, so often as personal experiences are reflected on the House floor, and this one in which he experienced a difficulty is one frankly that affects millions of American homeowners across this Nation. There is so much that happens at closing on a home: the types of insurance, title insurance, property insurance, other types of insurance. I am certain that many homeowners, their eyes sort of glaze over, they sign the documents not realizing that they have had the necessity of having private mortgage insurance which, incidentally, facilitates the purchase of homes just as other types of VA and FHA insurance may facilitate the purchase of homes, with low down payments. But candidly, on a hundred thousand dollar mortgage it can add anywhere from 35 to a hundred dollars extra payment a month. On a home that is $200,000 the consumer can double that cost, and that occurs in many markets.

And so it is important, and I would point out that PMI on an informal basis, these companies working with lenders have tried and do terminate the insurance, but it is sometimes a frustrating and confusing experience. What this legislation does is provide some mandates. It provides some predictability and certainty to cancel that insurance, some rights for that homeowner so that they get disclosure, they get notice, they get to know what is going on at closing and through the years of the mortgage. It also, while not mandating, provides an opportunity to in fact extinguish that insurance at a higher than 75 percent loan-to-value ratio and to go back and deal with those that have that insurance in effect today that is retroactive. But prospectively it will mandate the lapse of that insurance at 75-percent saving, literally saving millions of dollars of payments for insurance that homeowners do not need, and while such insurance is obviously to the benefit of the lender it is an extreme cost when added to the homeowner.

But I would point out that the secondary markets, the insurance companies and others, have had informal policies in place in some instances, but this measure will provide a more efficient and effective way of dealing with private mortgage insurance, treating I think consumers and treating those that provide these services more fairly, making that American dream that much more attainable, and I commend the chairman and the Members and am pleased to have played a small role in working to write and pass this legislation in the Banking Committee.

Mr. Speaker, I rise in support of H.R. 607 as amended by the Banking Committee and ask my colleagues to support the bill. I would like to commend Mr. HANSEN for introducing and pushing this legislation forward.

Throughout the week of March 17, the House Banking Committee worked on a strong bipartisan basis to develop consensus legislation. We ultimately passed H.R. 607 after a lengthy hearing occurred and all the witnesses from private mortgage insurance industry, consumer groups, mortgage bankers, and thrifts, agreed with the substance of the core issues and the improved substitute product. In the March 20 markup, the committee worked its will on the bipartisan substitute and in the end passed out a bill, 36–1.

Our goal was to produce a bill for the suspension calendar which served the needs of millions of American homeowners covered by private mortgage insurance and to expedite the work of the House of Representatives. The Banking Committee worked quickly and well in a manner that bodes well for future work on financial modernization and possibly housing bills. I am pleased that our good work product has been able to jump the hurdle presented last week by industry groups who had effectively squelched our bill.

Consumers spend hundreds of dollars a year extra in mortgage insurance even though they have paid down the mortgage by 20 percent, 25 percent or more to a point where such insurance is not required or necessary. H.R. 607 as reported by committee will provide some equity for those home buyers who make their payments faithfully for years. The reported bill was praised by consumer groups who, in fact, sought more protections and rights for consumers, but had accepted the "bird-in-hand", noncontroversial measure as an acceptable action in this 105th Congress.

The bill prospectively—1 year after enactment—provides for the automatic cancellation of private mortgage insurance when borrowers have 25 percent equity, or a 75-percent loan-to-value ratio, in their homes—based on the original value of the home. Premiums paid past that date will be refunded.

In a significant addition, the reported bill gives borrowers prospective rights to terminate premiums once they have met industry conditions. The bill also provides for the disclosure of borrowers' rights. Existing loans will get annual statements that their PMI may be cancelable. Future borrowers will be informed of their rights at or before closing along with the annual disclosure.

Mortgage insurance helps provide an opportunity to people to purchase homes when they cannot come up with a 20-percent down payment. On a $100,000 home, that would be a hefty $20,000 plus closing costs. Private mortgage insurance on a $100,000 house ranges from $28 to $76 a month depending on amount of the down payment. That works out to $336 to $912 a year. And of course, in many cities in this Nation, including Washington, DC area, you cannot buy most homes for $100,000, so down payments are tougher to make and premiums also go up proportionately.

In the last 40 years, 17 million homeowners have paid PMI to become homeowners. According to the Mortgage Insurance Companies of America [MICA] more than a million home buyers bought PMI last year alone.

Although we were unsuccessful in committee in trying to ensure cancellation rights to those who have purchased PMI already that is retroactively or automatic cancellation for mortgages which reach the requisite 20 percent equity on their loans, an amendment I offered, we were successful in working in good faith with Chairman LEACH and our counterparts on the Banking Committee to write the initial substitute and a good consensus bill to bring to our colleagues in the House. Importantly while not requiring cancellation this measure "provides a right to cancel" working with lenders. The mortgage servicer, PMI companies terminate the insurance at loan amount higher than 75 percent and permit cancellation to apply retroactively as specific conditions are met.

Mr. Speaker, I urge my colleagues to support this very important consumer legislation. This bill will provide hundreds of dollars in relief to home buyers who have paid their way out of PMI. More than phantom tax cut measures, the bill will produce real consumer savings right away. Let's pass this proconsumer legislation now.

Mr. LEACH. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas [Mr. PAUL].

Mr. PAUL. Mr. Speaker, I hesitate to speak out on this legislation, but having been the only dissenter in the committee I feel compelled to explain my vote.

I am confident this bill will neither destroy Western civilization nor save it. However, it does nothing to help it. What we have here is another problem, another law and another form to fill out, and all along I thought our new mandate was to reduce government rules and regulations. Every time Congress passes a new law to solve some problem, several new unsuspected consequences emerge, requiring even more problem solving regulations. This new piece of regulatory law, I am sure, will do the same. This bill will limit consumer choice, raise costs on consumers and limit availability of consumers to purchase a home.

Just this past weekend, Alan Greenspan explained why consumers are often better served by private market regulations rather than government intervention. He said that, quote: Government regulation can undermine the effectiveness of private market regulation and can itself be ineffective in protecting the public interest.

With this I concur. If Congress were really serious about making it easier for first-time home buyers and others to secure financing, it would do what it could do to lower the cost of capital. Interest rates are high because of the lack of sound monetary and fiscal policies pursued by our government.

What should we do? We should cut taxes. We should cut spending. We should cut regulations, not add a new regulation. And follow sound monetary policy. This approach would lower the interest rates on mortgages for all homeowners and potential homeowners. This lower interest rate climate could benefit home buyers in the way that greater reliance on the nanny state cannot. The Constitution limits the power of Congress and clearly states that powers not delegated to Congress are reserved to the States or to the people. We should not interfere in the private, voluntary, noncoercive contracts of individuals in a free society. This legislation tramples on States rights. Some States, notably California and New York, already have laws on the books dealing with this issue. Congress should not be involved in this issue.

Perhaps this bill is just a veiled attempt to put all mortgages, public and private, under the control of HUD. Private mortgage insurance has benefited 20 million consumers over the past 40 years. Now Congress wants to do for them what they have done for our public housing tenants. Any new regulatory mandates by Congress would only add to the cost of private mortgage insurance and hurt the very people the proponents of the legislation are trying to help.

I suggest that a no vote is the proper vote on this bill. H.R. 607 will limit consumer choice, it will raise the cost to the consumer, it will push home ownership further from the grasp of poor Americans. If my colleagues want to vote for the consumer and if they want to help all potential home buyers, vote no on H.R. 607.

I hesitate to speak out for this legislation, but having been the lone dissenter in committee, I feel compelled to explain my vote.

I'm confident this bill will neither destroy Western civilization nor save it. However, it does nothing to help it.

What we have here is another problem, another law, and another form to fill out. And all along I thought our new mandate was to reduce government rules and regulations.

Every time Congress passes a new law to solve some problem, several new unsuspected consequences emerge requiring even more problem-solving regulations. This new piece of regulatory law, I'm sure, will do the same.

This bill will limit consumer choice, raise costs on consumers, and limit the ability of consumers to purchase a home.

Just this past weekend, Alan Greenspan explained why consumers are often better served by private market regulation rather than government intervention. He said that "government regulation can undermine the effectiveness of private market regulation and can itself be ineffective in protecting the public interest." With this I concur.

He continued,

> The real question is not whether a market should be regulated. Rather, it is whether government intervention strengthens or weakens private regulation, and at what cost. At worst, the introduction of government rules may actually weaken the effectiveness of regulation if government regulation is itself ineffective or, more importantly, undermines incentives for private market regulation. Regulation by government unavoidably involves some element of perverse incentives.

The perversity of this bill is its effect on consumers. It will increase premiums on consumers, limit choices, and make home ownership less affordable.

If Congress were really serious about making it easier for first-time home buyers and others to secure financing, it would do what it could to lower the cost of capital. Interest rates are high because of the lack of sound monetary and fiscal policies pursued by our Government.

What should we do? We should cut taxes, cut spending, cut regulations—not add a new one—and follow sound monetary policies. This approach would lower the interest rates on mortgages for all homeowners and potential homeowners. This lower interest rate climate would benefit the home buyer in a way that greater reliance on the nanny State cannot.

The Constitution limits the power of Congress and clearly states that powers not delegated to Congress are reserved to the States or to the people. We should not interfere in the private, voluntary, noncoercive contracts of individuals in our society.

This legislation tramples on States rights. Some States, notably California and New York, already have laws on the books dealing with this issue. Congress should not be involved in this issue.

It was that wonderful competition of experiments at the State level that brought consumers such benefits as private mortgage insurance, adjustable rate mortgages, and automatic teller machines [ATM's]. Private markets make home ownership more affordable while Washington interference perversely hurts the consumer.

H.R. 607 is harmful and unnecessary. The overwhelming majority of homeowners have no problem canceling their private mortgage insurance, if it is not canceled automatically. In fact, Fannie Mae has studied this concern and is currently setting clear guidelines regarding PMI. These guidelines would quickly become industry standard given the influence they have in the market.

If Congress were so concerned about consumers' alleged overpayment regarding PMI, then we should do something about the mortgages in which we have a vested interest; namely, FHA loans. But this bill exempts FHA homeowners even though it is the FHA mortgages where the Government has some influence.

Perhaps this bill is just a veiled attempt to put all mortgages, public and private, under the control of HUD. Private mortgage insurance has benefited 20 million consumers over the past 40 years. Now Congress wants to do for them what they have done to our public housing tenants.

A dynamic, free market is the best vehicle for prosperity. By overregulating the marketplace, the flexibility to deal with the law of unforseen consequences is lost. Loan to current value is a better indication of the current situation than loan to original value. Forcing mortgage companies to only look at the loan to original value ignores potential changes in that value. In short, it ignores reality.

We cannot ignore the realities of the marketplace. Real values of real estate declined as much as 50 to 60 percent over a 6-month period in the late 1980's. Mortgage decisions should include a combination of factors and individual choices.

Any new regulatory mandates by Congress would only add to the cost of private mortgage insurance and hurt the very people the proponents of the legislation are trying to help. There is a cost to any regulatory burden imposed on the economy. This misguided legislation would increase the cost, and thus limit the availability, of mortgage insurance for everyone. Since very few people would gain from this legislation, it punishes the vast majority for the benefit of the few. We should reject this special interest favoritism and get our own fiscal house in order so all of us can benefit. We should not impose unfunded mandates on those that are helping consumers realize their goal of home ownership.

H.R. 607 will limit consumer choice.

H.R. 607 will raise costs to the consumer, and push home ownership further from the grasp of poor Americans. If you want to vote for the consumer and all potential home buyers, vote "no" on H.R. 607.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WATERS].

☐ 1330

Ms. WATERS. Mr. Speaker, I rise in support of H.R. 607. This is a rather proud moment in the history of this Congress and certainly of the 105th Congress.

I would like to commend the gentleman from Utah [Mr. HANSEN] for his work on this legislation. I would like to commend the members of the Committee on Banking and Financial Services who joined together from both sides of the aisle to do something real for the consumers.

I am so proud we beat the special interests on this bill. I am proud that the leadership understood finally and brought this bill to the floor.

Simply put, American consumers who had home mortgages that paid less than perhaps 20 percent down on those mortgages had to have private mortgage insurance. They should have been able to opt out and not to have to pay that after they had paid 20 or 25 percent, but the mortgage insurance companies did not tell them, their mortgage holders did not tell them, and so we have people paying for insurance beyond the point that they need to pay for it after they had paid and have about 25-percent equity.

This bill would create automatic disclosure. Those families that are giving up $35 and $40 and $50, $100 a month paying this insurance they do not need can now put this money in their pocket, they can put it in their savings account, they can keep the money.

This is a strong consumer bill. I am proud that I amended it so that I could protect States who have strong disclosure laws. Me, the most unlikely person to talk about States' rights, was joined by all of the Members and said yes, that makes good sense.

This bill is going to pass off the floor because it should. Those people who are not going to support it should be dealt with by the consumers. This is indeed a proud moment. I am pleased to be a part of it. I would urge an "aye" vote. Hooray for the consumers. We have won one for a change.

Mr. LEACH. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington [Mr. METCALF].

Mr. METCALF. Mr. Speaker, I rise to thank the gentleman from Utah [Mr. HANSEN] for bringing this important issue to our attention, and to thank the gentleman from Iowa [Mr. LEACH] and the gentleman from New York [Mr. LAZIO], the housing subcommittee chairman.

Nothing is more frustrating than paying for something one no longer needs. Clearly, some homeowners have unknowingly paid private mortgage insurance without the knowledge that they could cancel it when it reached a prescribed equity level. This bipartisan bill addresses that issue, protecting consumers by ensuring automatic cancellation of private mortgage insurance at the proper time. It is a fairness issue for homeowners and potential homebuyers.

As chairman of the Republican Housing Opportunity Caucus, I have heard many stories of people who have been overcharged for this particular insurance. We must protect the consumer from unnecessary costs while balancing the needs of the industry in providing this insurance.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY of New York. Mr. Speaker, I rise in strong support of this pro-consumer legislation. Owning a home is the centerpiece of the American dream. It is difficult enough for working families to come up with enough money necessary to purchase and maintain a home. When that family is overcharged, it is unfair, it is anticonsumer.

Mr. Speaker, it has come to light that some lenders are allowing homeowners to unknowingly continue to carry private insurance long after it is required. The lender simply looks the other way while the homeowner continues to struggle, making overpayments amounting to as much as $900 per year. They are not asking for the money; they are just taking it.

People who need private mortgage insurance are often low and moderate income families who can ill afford to make these extra payments. Today, members of the Committee on Banking and Financial Services, Democrats and Republicans, are coming together on the floor to say we will not tolerate this rip-off of the American consumer.

The bipartisan agreement before us today requires mandatory, full disclosure of all private mortgage insurance terms and places an automatic termination of PMI payments once a homeowner has paid back 25 percent of the original value of the home.

Mr. Speaker, when anyone attacks the ability of hard-working American families to afford a home, it is not partisan concern, it is an American concern.

I want to thank the bill's sponsor, the gentleman from Utah [Mr. HANSEN], our committee chairman, the gentleman from Iowa [Mr. LEACH], and our ranking committee member, the gentleman from Texas [Mr. GONZALEZ], for working together effectively to help preserve the American dream.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. LEACH. Mr. Speaker, I yield 30 seconds to the gentleman from Massachusetts [Mr. KENNEDY].

The SPEAKER pro tempore (Mr. GILLMOR). The gentleman from Massachusetts [Mr. KENNEDY] is recognized for 2½ minutes.

Mr. KENNEDY of Massachusetts. Mr. Speaker, first of all, let me speak very frankly about the efforts of my good friend, the gentleman from Utah [Mr. HANSEN] to bring this issue to the floor of this House. This is really a tribute to one individual Member's persistence.

While this bill has been knocked off track more times than a dog sled in the Iditarod, the truth is that the gentleman has every time come to its rescue, and I think everyone here on both sides of the aisle recognizes the tremendous work that he has put into essentially bringing back into the pocket of the American taxpayer about $200 million a year in overpayments due to private mortgage insurance overreach once the insurance level has hit the automatic 20 percent.

We ought to keep in mind that private mortgage insurance is in fact a good thing, and it has helped millions of homeowners be able to buy homes in this country that, without that, industry could not in fact borrow funds from the banks and the savings and loans and other lending institutions in order to have the highest homeownership in the world.

However, the truth is that within the wonderful work of this industry, there has been a simple overreach into the back pockets of taxpayers and into the back pockets of mortgage owners who have reached the 20 percent equity provisions that private mortgage insurance is designed to fulfill, and yet the industry continues to charge those individuals despite the fact that they have met all of the requirements of the contract that the insurance policy initially created.

While we have seen Freddie and Fannie and others in the secondary market try to provide for some relief in terms of what has gone on, the truth of the matter is that there are still over 250,000 individual mortgages in this country that have reached the 20 to 25 percent equity levels.

The point is that despite the fact that we have seen 250,000 mortgages paid off at the 20- to 25-percent level, there are still thousands more that are out there that, simply because the equity value in the mortgages have reached that 20- to 25-percent, are still not taken into account.

This is a good consumer bill, this is important legislation, and it is a demonstration of one individual's willingness to take on the system and win.

I thank the gentleman from Iowa [Mr. LEACH], the chairman of the Committee on Banking and Financial Services, and I also thank the former chairman, the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, I thank my colleague from Texas for yielding me this time.

Let me echo my colleague from Massachusetts. Private mortgage insurance is good. It has helped a lot of Americans who can put down as little as 5 percent, 6, 7, 8, 9, 10 percent, to get into a house. This is one of the reasons why homeownership is so high in this country and has been rising. What it does, and I think Members need to understand what it does, is it covers the first 20 percent of the exposure. It limits the exposure for the investor of the overall mortgage.

Now, what happens is once one has paid down that amount, the investor is already protected because they hold a first lien on the property and it is assumed, it is now universal, that the property is going to cover the additional 80 percent.

So what happens, and the problem that we are dealing with here, is people are paying for something they no longer need, and it may be $30 a month, which adds up to more than $300 a year over a 15-year life of a 30-year mortgage when somebody would have gotten to 75 percent. That is real money to a lot of Americans. So that is what we are trying to deal with.

I think this is a sound bill, as well. It only affects future mortgages, so it does not affect existing contracts, it does not affect existing mortgage pools, which protects investors. It protects the credit structure of traditional mortgage products and again protects investors and does not affect the efficiency of the mortgage market which we enjoy today.

With respect to the mortgage insurance companies that our colleagues from North Carolina were talking about, I do not believe it is going to affect their business, because their primary business is at the front end of the mortgage product and that is where they make the bulk of their money. So I think they will come out of this just fine.

Finally, it protects the intermediaries within the payment structure of mortgages; the mortgage brokers, the servicers, the bankers. I think the committee has taken great pains to do that.

So this is a very good consumer bill; it is also a very sound bill. That is why it passed 36 to 1 in the committee. I do not think it will have any effect on interest rates, as one of my colleagues suggested, but what I think it will do is put money back into the pockets of consumers, and I think that is good for the American people.

Mr. GONZALEZ. Mr. Speaker, we have no additional requests for time, and I yield back the balance of my time.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

In conclusion, I would like to thank again the gentleman from Utah [Mr. HANSEN] for his thoughtfulness and dedication to this issue; the gentlewoman from New Jersey [Mrs. ROUKEMA], whose subcommittee had thoughtful jurisdiction; the minority for their substantive participation, particularly the gentleman from Texas [Mr. GONZALEZ], the gentleman from Massachusetts [Mr. KENNEDY], and the gentlewoman from California [Ms. WATERS], who passed a very significant amendment.

In the final measure, this bill is pro-consumer, pro-homeowner, pro States' rights, and above anything else, it underscores decency and fairness under the law.

Finally, I would also like to say that it is symbolic of a Congress able to work together in trying political times for the public interest.

Mr. HILL. Mr. Speaker, I rise today to oppose House Resolution 607 and urge my colleagues to vote no on this legislation so that parts of the bill can be corrected under regular order.

Mr. Speaker, I am very concerned that House Resolution 607 would adversely affect new home buyers in Montana and throughout the country. As the bill is currently written, it will drive new home buyers, with a low downpayment, to pay higher interest rates and higher premiums for their private mortgage insurance. Due to the bill's automatic cancellation trigger of private mortgage insurance at the 75 percent loan to value ratio, the available pool of insurance funds will shift the risk to lenders which in turn will raise interest rates for low downpayment mortgages. In addition, the bill would increase the premiums significantly for new homeowners who would be required to purchase private mortgage insurance below the 75 percent loan to value ratio.

In addition to the automatic trigger provisions, I am also concerned with the bill's section (h) which is so loosely worded that it exposes the mortgage industry and lender to frivolous class action lawsuits that will benefit only a handful of trial lawyers, without commensurate benefit to borrowers. As a result, the increased cost of these lawsuits would be passed on to home buyers in the form of higher costs for mortgages.

Finally, Mr. Speaker, this bill has gone from a simple disclosure bill to one that attempts to micro manage the day-to-day business transactions of the mortgage market. This is done by making the Department of Housing and Urban Development [HUD], a bureaucratic agency that cannot manage its own affairs, responsible for regulating of the mortgage insurance industry.

Mr. Speaker, House Resolution 607 is onerous legislation that aims high but misses the mark. Under suspension it cannot be amended. Therefore, I urge my colleagues to defeat this bill under suspension so that a better bill can be worked out for all home buyers.

Mr. SESSIONS. Mr. Speaker, I rise to commend Chairman LEACH and the Banking Committee for working on this legislation as well as Congressman JIM HANSEN for his hard work in bringing this issue before the House for the American taxpayer. I cosponsored the original bill, House Resolution 607, because I support full and increased consumer disclosure regarding private mortgage insurance.

Private mortgage insurance provides a valuable role in expanding the American dream of homeownership. With PMI, families can buy homes with as little as 3 to 5 percent down rather than the usual 20 percent downpayment required.

I want to work with the committee as this bill moves forward to the Senate to ensure that some of the concerns expressed in the markup are addressed. The role of mortgage insurance should be preserved because consumers benefit by being allowed to put a lower downpayment down on their home. But I understand that it's difficult to craft perfect legislation, and I want to ensure that any technical problems or unintended consequences like frivolous litigation with this bill get worked out as we move to conference.

I also want to ensure that the automatic cancellation standards are set at a reasonable level to protect both the consumer and the mortgage industry from problems such as downturns in the economy such as we had in Texas in the eighties. We all benefit from a fair mortgage insurance system that remains safe and sound and also allows consumers to be fully aware of their rights.

Mr. HOYER. Mr. Speaker, I rise today in enthusiastic support of the bill House Resolution 607, the Homeowner's Insurance Protection Act of 1997.

This bill will ensure that millions of homeowners who pay private mortgage insurance [PMI] will no longer pay needlessly and unknowingly once the benefits of paying PMI expire.

Private Mortgage Insurance [PMI] provides important protection to mortgage lenders against losses in the event a homeowner defaults on a mortgage loan. PMI works to the immense benefit of lenders and borrowers alike. By offsetting the risk to lenders of providing low downpayment loans—less than 20 percent of the purchase value—PMI substantially expands homeownership opportunities across America while preventing economic catastrophe for lenders during downturns in the housing market.

PMI has helped make the dream of homeownership a reality for more than 17 million American families who have been able to purchase a home with downpayments as low as 3 to 5 percent of the value of their home. Recently, however, problems with PMI have come to light.

Thousands of American homeowners, Mr. Speaker, are overpaying their PMI—making payments well after PMI becomes cancellable and after the risk to the lender of making a low downpayment loan has expired. In many cases, these homeowners are unaware that their PMI is cancellable or that they are receiving no benefit from continuing to make PMI payments. In other cases, informed homeowners who have attempted to cancel their PMI have encountered difficulty in doing so.

House Resolution 607 addresses this problem by providing for automatic termination of PMI payments once the loan-to-value ratio reaches 75 percent of the value of the home at the time of purchase and by requiring mortgage lenders to notify homeowners as to whether, when and under what conditions their PMI is cancellable.

House Resolution 607 thus empowers homeowners by requiring lenders to inform them of their PMI cancellation rights and by guaranteeing that homeowners will no longer pay for PMI once they have built up 25 percent equity in their new home.

Homeowner beneficiaries of PMI, by and large, are middle-income Americans who are not in a position to invest hard-earned income in overinsuring against a risk to mortgage lenders. This bill preserves the intended protection of lenders provided by PMI while ensuring that the equally important aim of preserving the American dream of homeownership for families is not defeated.

Mr. Speaker, I want to commend Congressman JIM HANSEN for introducing this important legislation which will provide valuable protection to homeowners in the Fifth Congressional District of Maryland and across this great Nation. I strongly urge my colleagues to join me in supporting passage of this important bill.

Mr. LEACH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. LEACH] that the House suspend the rules and pass the bill, H.R. 607, as amended.

The question was taken.

Mr. LEACH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

AMENDING U.S. CODE TO ALLOW REVISION OF VETERANS BENEFITS DECISIONS BASED ON CLEAR AND UNMISTAKABLE ERROR

Mr. STUMP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1090) to amend title 38, United States Code, to allow revision of veterans benefits decisions based on clear and unmistakable error.

The Clerk read as follows:

H.R. 1090

Be it enacted by the Senate and House of Representatives of the United States of America in congress assembled,

SECTION 1. REVISION OF DECISIONS BASED ON CLEAR AND UNMISTAKABLE ERROR.

(a) ORIGINAL DECISIONS.—(1) Chapter 51 of title 38, United States Code, is amended by inserting after section 5109 the following new section:

"§ 5109A. Revision of decisions on grounds of clear and unmistakable error

"(a) A decision by the Secretary under this chapter is subject to revision on the grounds of clear and unmistakable error. If evidence establishes the error, the prior decision shall be reversed or revised.

"(b) For the purposes of authorizing benefits, a rating or other adjudicative decision that constitutes a reversal or revision of a prior decision on the grounds of clear and unmistakable error has the same effect as if the decision had been made on the date of the prior decision.

"(c) Review to determine whether clear and unmistakable error exists in a case may be instituted by the Secretary on the Secretary's own motion or upon request of the claimant.

"(d) A request for revision of a decision of the Secretary based on clear and unmistakable error may be made at any time after that decision is made.

"(e) Such a request shall be submitted to the Secretary and shall be decided in the same manner as any other claim.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5109 the following new item:

"5109A. Revision of decisions on grounds of clear and unmistakable error.".

(b) BVA DECISIONS.—(1) Chapter 71 of such title is amended by adding at the end the following new section:

"§ 7111. Revision of decisions on grounds of clear and unmistakable error

"(a) A decision by the Board is subject to revision on the grounds of clear and unmistakable error. If evidence establishes the error, the prior decision shall be reversed or revised.

"(b) For the purposes of authorizing benefits, a rating or other adjudicative decision of the Board that constitutes a reversal or revision of a prior decision of the Board on the grounds of clear and unmistakable error has the same effect as if the decision had been made on the date of the prior decision.

"(c) Review to determine whether clear and unmistakable error exists in a case may be instituted by the Board on the Board's own motion or upon request of the claimant.

"(d) A request for revision of a decision of the Board based on clear and unmistakable error may be made at any time after that decision is made.

"(e) Such a request shall be submitted directly to the Board and shall be decided by the Board on the merits, without referral to any adjudicative or hearing official acting on behalf of the Secretary.

"(f) A claim filed with the Secretary that requests reversal or revision of a previous Board decision due to clear and unmistakable error shall be considered to be a request to the Board under this section, and the Secretary shall promptly transmit any such request to the Board for its consideration under this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7111. Revision of decisions on grounds of clear and unmistakable error.".

(c) EFFECTIVE DATE.—(1) Sections 5109A and 7111 of title 38, United States Code, as added by this section, apply to any determination made before, on, or after the date of the enactment of this Act.

(2) Notwithstanding section 402 of the Veterans Judicial Review Act (38 U.S.C. 7251 note), chapter 72 of title 38, United States Code, shall apply with respect to any decision of the Board of Veterans' Appeals on a claim alleging that a previous determination of the Board was the product of clear and unmistakable error if that claim is filed after, or was pending before the Department of Veterans Affairs, the Court of Veterans Appeals, the Court of Appeals for the Federal Circuit, or the Supreme Court on, the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. STUMP] and the gentleman from Illinois [Mr. EVANS] each will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. STUMP].

GENERAL LEAVE

Mr. STUMP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1090, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

This bill was introduced by the gentleman from Illinois [Mr. EVANS] last year as H.R. 1483. It passed the House in May 1986, but was never considered in the other body.

H.R. 1090 extends the grounds upon which a veteran may appeal an adverse benefit decision to the Board of Veterans Appeals and to the Court of Veterans Appeals. The bill allows appeals based on what is known as a clear and unmistakable error. Veterans who have been denied benefits which have been in error like this must be given the right to have their claims reexamined. This should greatly improve the recourse provided to veterans when they believe that the VA has reached the wrong conclusion in a VA benefit decision.

Mr. Speaker, I would like to commend the gentleman from Illinois [Mr. EVANS], the ranking minority member of the committee, for introducing this bill and for all the hard work that he has put into this.

Mr. Speaker, I reserve the balance of my time.

□ 1345

Mr. EVANS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I want to thank the gentleman from Arizona, BOB STUMP, for helping us get this bill through the committee process so quickly this year. Without his diligence we would not be here this afternoon. I appreciate it very much, Mr. Speaker.

Mr. Speaker, the most significant change made by this bill would be the new authority for veterans with prior claims involving clear and unmistakable errors to resubmit their claims for new review by the Board of Veterans Appeals. Under present law, a veteran has no right to obtain review of clear and unmistakable errors in the previous decision of the board, no matter how blatant that error.

In the cases where the asserted error was made by the regional office of the Department of Veterans Affairs, this right already exists by regulation. My bill would codify this regulation in title 38.

The kinds of errors which this bill would rectify are those which are undebatable. These are errors which when called to the attention of a subsequent reviewer, compel the conclusion that but for the error, the result would have been manifestly different.

The bill also addresses the situations where evidence in the veteran's file at the time of the prior decision was ignored or wrongfully evaluated under the law as it existed at the time of the original decision. This legislation would give veterans the same kind of opportunity to pursue an erroneous claim decision now provided to Social Security beneficiaries when they had been given misinformation. Veterans deserve the same rights as Social Security recipients to have errors corrected.

H.R. 1090 also provides for a limited expansion of the right for judicial review. Veterans who initiate a claim of clear and unmistakable error in either a prior regional office decision or a prior Board of Veterans Appeals decision would be able to appeal that claim through the administrative process to the Court of Veterans Appeals. Once the court had ruled on the issue, no further claims of clear and unmistakable error could be pursued at the administrative level.

This bill is identical to legislation passed by the Congress last session, and it has strong support from the Disabled American Veterans, as well as other veterans' service organizations.

This legislation is about justice for our veterans. Veterans who have given first-class service to our country should not be experiencing anything less than first-class justice. I want to thank my colleagues for their support of this legislation.

Mr. Speaker, thank you for your willingness to cosponsor this important bill. The most significant change made by this bill is to authorize veterans with prior claims involving clear and unmistakable errors to resubmit their claims for a new review by the Board of Veterans Appeals. Because there is presently no statute or regulation allowing a veteran to claim clear and unmistakable error in a prior decision of the Board of Veterans Appeals, the erroneous decision is binding on the veteran no matter how obvious and egregious the error.

In cases where the asserted error was made by a Regional Office of the Department of Veterans Affairs [VA], a VA regulation permits the veteran to assert clear and unmistakable error in a prior decision. H.R. 1090 would codify this regulation in title 38. The absence of a statute addressing the issue of clear and unmistakable error creates an anomaly by which a veteran who previously appealed a claim to the Board of Veterans Appeals on the basis of clear and unmistakable error is placed in a worse position than a veteran who never appealed the original Regional Office decision.

The kind of errors which this bill will rectify are those which are egregious and undebatable. These are errors which when called to the attention of a subsequent reviewer compel the conclusion that, but for that error, the result would have been manifestly different. The need for this legislation is illustrated by Precedent Opinion 2–97 recently issued by the Department of Veterans Affairs General Counsel. That opinion, which is binding on all levels of the administrative process, affirmed that if a BVA decision is rendered based upon an erroneous interpretation of the law, that decision is final and binding on all VA components unless the Board reconsiders the decision. Under present law, only the VA, and not the veteran has the right to obtain reconsideration of a Board decision. Unlike other actions of the Board, reconsideration decisions are not subject to judicial review.

The following cases brought by veterans who sought review of prior decisions illustrate the kinds of clear and unmistakable errors which would be subject to correction under this legislation.

A veteran with an above-the-knee amputation due to a service-connected condition was entitled to a 60 percent rating under existing law. If at the time of the original rating, the veteran's file showed that he had an above-the-knee amputation, but received only a 40 percent rating, clear and unmistakable error would exist. Under present law, if the Board of Appeals had previously found that their was no clear and unmistakable error in the rating, this veteran could seek, but not compel reconsideration and would have no remedy if the request was denied. Under this bill, the veteran would have the right to have the Board review his claim of clear and unmistakable error and, if dissatisfied with that decision, could seek review in the Court of Veterans Appeals.

A veteran was shot by a single bullet traveling through both the upper and lower leg while in combat. He was awarded service-connection for the injury to the lower leg, but not for the injury to the thigh. Since the record at the time of the original decision showed through and through wounds of both the upper and lower leg, both wounds should have been rated. The failure to rate both wounds would constitute clear and unmistakable error. Since a Regional Office of the VA had made the original clear and unmistakable error, present regulations allow it to be corrected. Under this bill, such a condition could be similarly revisited even if the clear and unmistakable error had been made at the Board of Veterans Appeals.

The bill also addresses those situations where evidence in the veteran's file at the time of the prior decision was ignored or wrongly evaluated under the law as it existed at the time of the original decision. For example, if a dependent's benefit had been wrongly denied because a legal and valid adoption was not recognized by the VA, the bill would allow for correction of the error.

This legislation would provide veterans an opportunity similar to that presently provided to Social Security beneficiaries under title 42 of the United States Code, sections 402(j)(5) and 1383(e)(5). Under those provisions an individual may receive retroactive benefits when a claim for benefits was not pursued due to misinformation provided by any officer or employee of the Social Security Administration. The standard for claims of clear and unmistakable error is similar to the standard currently contained in Social Security regulations at 42 Code of Federal Regulations, section 404.988, for revision of a claim at any time due to error that appears on the face of the evidence considered when the determination or decision was made. Veterans deserve the same right as Social Security beneficiaries to have manifest errors corrected.

The bill does not alter the standard for evaluation of claims of clear and unmistakable error. In order to sustain such a claim, the veteran must specifically identify the alleged error. The claim must assert either a basic error of law or fact in the prior decision or must give persuasive reasons as to why the outcome would be manifestly different had the error not been made. Once a claim of clear and unmistakable error has been raised and decided, the veteran may not raise the same claim again.

This legislation also provides for a limited expansion of the right to judicial review. This expansion is premised upon an understanding that the error in the original adjudication of the claim was so egregious that it should be revised to conform to the true state of the law and the facts as they existed at the time of the original decision. Veterans who initiate a claim of clear and unmistakable error in either a prior Regional Office decision or a prior Board of Veterans Appeals decision would be able to appeal that claim through the administrative process to the Court of Veterans Appeals. Once the court had ruled on the issue, no further claims of clear and unmistakable error could be pursued at the administrative level.

H.R. 1090 is identical to legislation approved by the House last Congress. It is not concerned with minor disputes or the weight given to evidence. Instead it provides an avenue of correction of only those serious and obvious errors about which there can be no doubt. The bill has strong support from the veterans service organizations.

This legislation is about justice for veterans. Veterans who have honorably served our country deserve no less. Where the prior adjudication of claims are found to contain egregious violations of law, veterans should have an opportunity for a full and fair consideration of the errors. Our Nation's veterans are entitled to this.

I thank my colleagues, including the 46 cosponsors of this bill, for their support of H.R. 1090.

Mr. QUINN. Mr. Speaker, H.R. 1090 will provide important new appeal rights to veterans whose claims have been denied by the Veterans Administration.

Mr. Speaker, this bill will put current VBA regulations on clear and unmistakable error into law. Those regulations now apply only to VA Regional Offices. It will also allow veterans to appeal on the basis of clear and unmistakable error at the Board of Veterans Appeals. Currently, veterans may file a motion for reconsideration at the Board on the grounds of obvious error, which the Court of Veterans Appeals has determined to be the same as clear and unmistakable error. Unfortunately, that motion for reconsideration falls short of a right of appeal and is allowable only at the discretion of the Chairman of the Board of Veterans Appeals.

Mr. Speaker, this bill sets a high standard for appeal. The grounds on which such an appeal may be made must be so obvious that a reasonable person would allow the appeal. The error must also materially contribute to a faulty decision by the VA. The court has stated that a mere allegation of such error is not sufficient to automatically grant the appeal.

Mr. Speaker, this right of appeal is long overdue and I urge my colleagues to support H.R. 1090.

Mr. EVANS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILLMOR). The question is on the motion offered by the gentleman from Arizona [Mr. STUMP] that the House suspend the rules and pass the bill, H.R. 1090.

The question was taken; and (two-thirds of those present having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXTENDING AUTHORITY TO ENTER INTO ENHANCED-USE LEASES, AND RENAMING U.S. COURT OF VETERANS APPEALS AND NATIONAL CEMETERY SYSTEM

Mr. STUMP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1092) to amend title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to enter into enhanced-use leases for Department of Veterans Affairs property, to rename the U.S. Court of Veterans Appeals and the National Cemetery System, and for other purposes.

The Clerk read as follows:

H.R. 1092

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—ENHANCED-USE LEASES OF DEPARTMENT OF VETERANS AFFAIRS REAL PROPERTY

SEC. 101. EXPANSION OF AUTHORITY FOR ENHANCED-USE LEASES OF DEPARTMENT OF VETERANS AFFAIRS REAL PROPERTY.

(a) FIVE-YEAR EXTENSION OF AUTHORITY.—Section 8169 is amended by striking out "December 31, 1997" and inserting in lieu thereof "December 31, 2002".

(b) REPEAL OF LIMITATION ON NUMBER OF AGREEMENTS.—(1) Section 8168 is repealed.

(2) The table of sections at the beginning of chapter 81 is amended by striking out the item relating to section 8168.

TITLE II—RENAMING PROVISIONS

SEC. 201. RENAMING OF THE COURT OF VETERANS APPEALS.

(a) IN GENERAL.—(1) The United States Court of Veterans Appeals shall hereafter be known and designated as the United States Court of Appeals for Veterans Claims.

(2) Section 7251 is amended by striking out "United States Court of Veterans Appeals" and inserting in lieu thereof "United States Court of Appeals for Veterans Claims".

(b) CONFORMING AMENDMENTS.—

(1) The following sections are amended by striking out "Court of Veterans Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for Veterans Claims": sections 5904, 7101(b), 7252(a), 7253, 7254, 7255, 7256, 7261, 7262, 7263, 7264, 7266(a)(1), 7267(a), 7268(a), 7269, 7281(a), 7282(a), 7283, 7284, 7285(a), 7286, 7291, 7292, 7296, 7297, and 7298.

(2)(A)(i) The heading of section 7286 is amended to read as follows:

"§ 7286. Judicial Conference of the Court of Appeals for Veterans Claims".

(ii) The item relating to section 7286 in the table of sections at the beginning of chapter 72 is amended to read as follows:

"7286. Judicial Conference of the Court of Appeals for Veterans Claims.".

(B)(i) The heading of section 7291 is amended to read as follows:

"§ 7291. Date when United States Court of Appeals for Veterans Claims decision becomes final".

(ii) The item relating to section 7291 in the table of sections at the beginning of chapter 72 is amended to read as follows:

"7291. Date when United States Court of Appeals for Veterans Claims decision becomes final.".

(C)(i) The heading of section 7298 is amended to read as follows:

"§ 7298. Court of Appeals for Veterans Claims Retirement Fund".

(ii) The item relating to section 7298 in the table of sections at the beginning of chapter 72 is amended to read as follows:

"7298. Court of Appeals for Veterans Claims Retirement Fund.".

(3) The item relating to chapter 72 in the table of chapters at the beginning of title 38 and the item relating to such chapter in the table of chapters at the beginning of part V are amended to read as follows:

"72. United States Court of Appeals for Veterans Claims .... 7251".

(c) CONFORMING AMENDMENTS TO OTHER LAWS.—

(1) The following provisions of law are amended by striking out "Court of Veterans Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for Veterans Claims":

(A) Section 8440d of title 5, United States Code.

(B) Section 2412 of title 28, United States Code.

(C) Section 906 of title 44, United States Code.

(D) Section 109 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(2)(A) The heading of section 8440d of title 5, United States Code, is amended to read as follows:

"§ 8440d. Judges of the United States Court of Appeals for Veterans Claims".

(B) The item relating to such section in the table of sections at the beginning of chapter 84 of such title is amended to read as follows:

"8440d. Judges of the United States Court of Appeals for Veterans Claims.".

(d) OTHER LEGAL REFERENCES.—Any reference in a law, regulation, document, paper, or other record of the United States to the United States Court of Veterans Appeals shall be deemed to be a reference to the United States Court of Appeals for Veterans Claims.

SEC. 202. REDESIGNATION OF NATIONAL CEMETERY SYSTEM.

(a) REDESIGNATION AS NATIONAL CEMETERY ADMINISTRATION.—(1) The National Cemetery System of the Department of Veterans Affairs shall hereafter be known and designated as the National Cemetery Administration. The position of Director of the National Cemetery System is hereby redesignated as Assistant Secretary of Veterans Affairs for Memorial Affairs.

(2) Section 301(c)(4) is amended by striking out "National Cemetery System" and inserting in lieu thereof "National Cemetery Administration".

(3) Section 307 of such title is amended—

(A) in the first sentence, by striking out "a Director of the National Cemetery System" and inserting in lieu thereof "an Assistant Secretary for Memorial Affairs"; and

(B) in the second sentence, by striking out "The Director" and all that follows through "National Cemetery System" and inserting in lieu thereof "The Assistant Secretary is the head of the National Cemetery Administration".

(b) CONFORMING AMENDMENTS.—

(1)(A) The heading of section 307 is amended to read as follows:

"§ 307. Assistant Secretary for Memorial Affairs".

(B) The item relating to section 307 in the table of sections at the beginning of chapter 3 is amended to read as follows:

"307. Assistant Secretary for Memorial Affairs.".

(2) Section 308 is amended—

(A) in subsection (a), by inserting before the period at the end of the first sentence ", in addition to the Assistant Secretary for Memorial Affairs";

(B) in subsection (b), by inserting "other than the Assistant Secretary for Memorial Affairs" after "Assistant Secretaries"; and

(C) in subsection (c), by inserting "pursuant to subsection (b)" after "Assistant Secretary".

(3) Section 2306(d) is amended by striking out "within the National Cemetery System" each place such term appears and inserting in lieu thereof "under the control of the National Cemetery Administration".

(4) Section 2400 is amended—

(A) in subsection (a)—

(i) by striking out "National Cemetery System" and inserting in lieu thereof "National Cemetery Administration responsible"; and

(ii) in the second sentence, by striking out "Such system" and all that follows through "National Cemetery System" and inserting in lieu thereof "The National Cemetery Administration shall be headed by the Assistant Secretary for Memorial Affairs";

(B) in subsection (b), by striking out "National Cemetery System" and inserting in lieu thereof "national cemeteries and other facilities under the control of the National Cemetery Administration"; and

(C) by amending the heading to read as follows:

"§ 2400. Establishment of National Cemetery Administration; composition of Administration".

(5) The item relating to section 2400 in the table of sections at the beginning of chapter 24 is amended to read as follows:

"2400. Establishment of National Cemetery Administration; composition of Administration.".

(6) Section 2402 is amended in the matter preceding paragraph (1) by striking out "in the National Cemetery System" and inserting in lieu thereof "under the control of the National Cemetery Administration".

(7) Section 2403(c) is amended by striking out "in the National Cemetery System created by this chapter" and inserting in lieu thereof "under the control of the National Cemetery Administration".

(8) Section 2405(c) is amended—

(A) by striking out "within the National Cemetery System" and inserting in lieu thereof "under the control of the National Cemetery Administration"; and

(B) by striking out "within such System" and inserting in lieu thereof "under the control of such Administration".

(9) Section 2408(c)(1) is amended by striking out "in the National Cemetery System" and inserting in lieu thereof "under the control of the National Cemetery Administration".

(10) Section 5315 of title 5, United States Code, is amended—

(A) by striking out "(6)" after "Assistant Secretaries, Department of Veterans Affairs" and inserting in lieu thereof "(7)"; and

(B) by striking out "Director of the National Cemetery System.".

(c) SAVINGS PROVISIONS.—

(1) Any reference in a law, map, regulation, document, paper, or other record of the United States to the National Cemetery System shall be deemed to be a reference to the National Cemetery Administration.

(2) Any reference in a law, map, regulation, document, paper, or other record of the United States to the Director of the National Cemetery System shall be deemed to be a reference to the Assistant Secretary of Veterans Affairs for Memorial Affairs.

(d) INITIAL APPOINTMENT.—The initial appointment of an individual to the position of Assistant Secretary of Veterans Affairs for Memorial Affairs may be made by the President alone if the individual appointed is the individual who was serving as the Director of the National Cemetery System on the day before the date of the enactment of this Act.

TITLE III—CODIFICATION OF PRIOR COMPENSATION RATE INCREASES

SEC. 301. DISABILITY COMPENSATION.

Section 1114 is amended—

(1) by striking out "$87" in subsection (a) and inserting in lieu thereof "$94";

(2) by striking out "$166" in subsection (b) and inserting in lieu thereof "$179";

(3) by striking out "$253" in subsection (c) and inserting in lieu thereof "$274";

(4) by striking out "$361" in subsection (d) and inserting in lieu thereof "$391";

(5) by striking out "$515" in subsection (e) and inserting in lieu thereof "$558";

(6) by striking out "$648" in subsection (f) and inserting in lieu thereof "$703";

(7) by striking out "$819" in subsection (g) and inserting in lieu thereof "$887";

(8) by striking out "$948" in subsection (h) and inserting in lieu thereof "$1,028";

(9) by striking out "$1,067" in subsection (i) and inserting in lieu thereof "$1,157";

(10) by striking out "$1,774" in subsection (j) and inserting in lieu thereof "$1,924";

(11) in subsection (k)—

(A) by striking out "$70" each place it appears and inserting in lieu thereof "$74"; and

(B) by striking out "$2,207" and "$3,093" and inserting in lieu thereof "$2,393" and "$3,356", respectively;

(12) by striking out "$2,207" in subsection (l) and inserting in lieu thereof "$2,393";

(13) by striking out "$2,432" in subsection (m) and inserting in lieu thereof "$2,639";

(14) by striking out "$2,768" in subsection (n) and inserting in lieu thereof "$3,003";

(15) by striking out "$3,093" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$3,356";

(16) by striking out "$1,328" and "$1,978" in subsection (r) and inserting in lieu thereof "$1,441" and "$2,145", respectively; and

(17) by striking out "$1,985" in subsection (s) and inserting in lieu thereof "$2,154".

SEC. 302. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 1115(1) is amended—

(1) by striking out "$105" in clause (A) and inserting in lieu thereof "$112";

(2) by striking out "$178" and "$55" in clause (B) and inserting in lieu thereof "$191" and "$59", respectively;

(3) by striking out "$72" and "$55" in clause (C) and inserting in lieu thereof "$77" and "$59", respectively;

(4) by striking out "$84" in clause (D) and inserting in lieu thereof "$91";

(5) by striking out "$195" in clause (E) and inserting in lieu thereof "$211"; and

(6) by striking out "$164" in clause (F) and inserting in lieu thereof "$177".

SEC. 303. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 1162 is amended by striking out "$478" and inserting in lieu thereof "$518."

SEC. 304. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 1311 is amended—

(1) in subsection (a)(1), by striking out "$769" and inserting in lieu thereof "$833";

(2) in subsection (a)(2), by striking out "$169" and inserting in lieu thereof "$182";

(3) in subsection (a)(3), by striking out the table therein and inserting in lieu thereof the following:

"Pay grade	Monthly rate
E–7	$861
E–8	909
E–9	[1]949
W–1	880
W–2	915
W–3	943
W–4	997
O–1	880
O–2	909
O–3	972
O–4	1,028
O–5	1,132
O–6	1,276
O–7	1,378
O–8	1,510
O–9	1,618
O–10	[2]1,774

"[1]If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,023.

"[2]If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,902.";

(4) in subsection (b), by striking out "$100 for each such child" and all that follows through "thereafter" and inserting in lieu thereof "$211 for each such child";

(5) in subsection (c), by striking out "$195" and inserting in lieu thereof "$211"; and

(6) in subsection (d), by striking out "$95" and inserting in lieu thereof "$102".

SEC. 305. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 1313(a) is amended—

(1) by striking out "$327" in clause (1) and inserting in lieu thereof "$354";

(2) by striking out "$471" in clause (2) and inserting in lieu thereof "$510";

(3) by striking out "$610" in clause (3) and inserting in lieu thereof "$662"; and

(4) by striking out "$610" and "$120" in clause (4) and inserting in lieu thereof "$662" and "$130", respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 1314 is amended—

(1) by striking out "$195" in subsection (a) and inserting in lieu thereof "$211";

(2) by striking out "$327" in subsection (b) and inserting in lieu thereof "$354"; and

(3) by striking out "$166" in subsection (c) and inserting in lieu thereof "$179".

SEC. 306. EFFECTIVE DATE.

The amendments made by this title shall take effect as of December 1, 1996.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. STUMP] and the gentleman from Illinois [Mr. EVANS] each will control 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. STUMP].

GENERAL LEAVE

Mr. STUMP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1092.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1092 has several provisions which, one, extends the authority of the VA to enter into enhanced-use leases for VA property, renames the U.S. Court of Veterans Appeals, renames the National Cemetery System, codifies the increased compensation rates authorized in last year's COLA bill.

Enhanced-use leasing is a tool with which the VA can work with the private sector to develop VA property for mutual beneficial uses. This authority has proven effective in developing child care centers, parking facilities, and regional offices on VA campuses. We want to encourage the Department to continue and expand these efforts.

The bill also changes the name of the U.S. Court of Veterans Appeals to the U.S. Court of Appeals for Veterans Claims. According to Chief Judge Nebeker, this will clarify that the court is independent of the Department of Veterans Affairs.

Changing the name of the National Cemetery System to the National Cemetery Administration would make it consistent with other administrations within the VA.

Finally, the bill codfies the compensation and D-I-C increase we enacted in last year's COLA bill. This will make the correct rates available to more people, and has no effect on the amounts actually paid.

I would like to thank all the members of the Committee on Veterans' Affairs, and in particular the gentleman from Illinois [Mr. EVANS], the ranking member, for their willingness to move these provisions through the committee very expeditiously.

Mr. EVANS. Mr. Speaker, I yield myself such time as I may consume.

This legislation is an important measure for our Nation's veterans. I encourage all of our colleagues to support its approval today by the House.

In the interests of time, Mr. Speaker, I would limit my comments on H.R. 1092 to title II of the bill. Title II of this bill renames the Court of Veterans Appeals. This title of the bill incorporates the provisions of H.R. 1089, which I introduced on March 18, 1997.

Too often veterans and others have been confused with the Court of Veterans Appeals and with the Board of Veterans Appeals. I understand this confusion has caused the court to record a message advising callers that they had reached the Court of Veterans Appeals. The caller is then instructed to dial a different number if he or she is inquiring about the status of a case before the Board of Veterans Appeals.

This change was requested and recommended by the chief judge of the court, Judge Nebeker, in recent testimony before the committee. The new name, the U.S. Court of Appeals for Veterans Claims, is consistent with the name of other similar appellate courts and should help end this widespread confusion.

Title II also changes the name of the National Cemetery System to the National Cemetery Administration, and designates the head of the National Cemetery Administration as the Assistant Secretary for Memorial Affairs. The reference to Memorial Affairs reflects the broader functions assigned to the Office of the Assistant Secretary.

Title III of this bill will simply codify the fiscal year 1997 compensation rate increase previously adopted. Mr. Speaker, I am pleased to have joined with Chairman STUMP in the introduction of this legislation, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS], chairman of the Subcommittee on Hospitals and Health Care.

Mr. STEARNS. Mr. Speaker, I thank the chairman of the full committee for yielding time to me.

Mr. Speaker, I rise in support of H.R. 1092, and commend my chairman for bringing this bill to the floor for consideration early in this session. I believe we are sending the VA an important signal today in taking early action on this legislation.

With this bill, we are not only extending a good program but expanding it to encourage highly productive public-private partnerships. This bill would extend for 5 years the VA's authority to enter into long-term leases of underutilized VA property in order to foster development of projects which will benefit the VA as well as the lessee.

This authority has been effective in encouraging development of construction projects that have proven both directly and monetarily beneficial to the Department. Mr. Speaker, existing law imposes certain limits on this authority, which I believe have outlived their usefulness. It limits to 10 the number of enhanced-use leases that the VA may execute in any year, and caps at 20 the total number of such projects under this authority. In lifting these limitations, H.R. 1092 should help spark an expansion of an important partnership concept.

Mr. Speaker, I urge all of the Members to support H.R. 1092.

Mr. EVANS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Speaker, I thank the gentleman for yielding time to me, and the chairman of the full committee, the gentleman from Arizona [Mr. STUMP] for his leadership, and the chairman of the subcommittee, the gentleman from Florida [Mr. STEARNS] for helping bring this to the floor.

Mr. Speaker, I, too, support H.R. 1092. As we have heard from the chairman, it will expand the ability of the Veterans Administration to enter into what is called enhanced-use leases. These leases, with both private and public entities, require that underused VA property be improved to contribute to the VA mission. The leases that have been established in the past under this authority have, without any exception, helped the VA to better serve our Nation's veterans.

So not only are we leasing for revenue, but we are improving the ability of the VA to serve our veterans in the future. I am looking forward to an expansion of this important and very successful program.

As the ranking member, the gentleman from Illinois [Mr. EVANS] said, H.R. 1092 would rename the Court of Veterans Appeals as the U.S. Court of Appeals for Veterans Claims.

The committee has been told by veterans and attorneys representing them that the court, an independent judicial body, is frequently confused with the Board of Veterans Appeals, which is an administrative arm of the VA. We expect this name change to eliminate the widespread confusion. This renaming would also be consistent with recent changes in the names of other courts.

Last, Mr. Speaker, the National Cemetery System would be redesignated as the National Cemetery Administration under this legislation. The cemetery system would thus have the same organizational status within the VA as the other VA major components responsible for delivering benefits; that is, the Veterans Benefit Administration and the Veterans Health Administration.

The bill would also redesignate the director of the National Cemetery System as the assistant secretary for memorial affairs, thus assuring that this position has the status which reflects its responsibilities.

There is a provision also in H.R. 1092 that would protect our veterans by putting into law the increase in veterans compensation benefits that took effect December 1, 1996. H.R. 1092 is supported by the entire Committee on Veterans Affairs, under the leadership of the gentleman from Arizona [Mr. STUMP], as well as the major veterans service organizations. I, too, urge my colleagues to approve this measure.

Mr. BISHOP. Mr. Speaker, I rise today in support of H.R. 1092, a bill to extend the VA's authority to enter into enhanced use leases; rename the U.S. Court of Veterans' Appeals the U.S. Court of Appeals for Veterans Claims; and codify the fiscal year 1997 VA compensation rates to reflect cost-of-living adjustments effective December 1, 1996. Additionally, I support H.R. 1090, a bill to allow veterans to appeal certain claims which may have been erroneously denied by the VA. Both of these bills will assist us with our efforts to provide a suitable quality of life for our Nation's veterans. I want to commend Chairman STUMP, Congressman EVANS, and the Veterans Committee for continued leadership and hard work on these measures and others affecting the veterans community.

America owes its freedom and prosperity to its veterans. So many of them put their lives on the line so that the guiding principles we hold so dear remain protected. Just as they fought on the front lines protecting the security of our great Nation, we must be on the front lines fighting for their well-being and security.

The two veterans bills on the floor today will assist us in this endeavor. H.R. 1092 will extend the authority of the Secretary of Veterans Affairs to enter into enhanced use leases for underutilized VA property. The public-private partnerships created as a result of these leases has proven to be worthwhile. Enhanced use leasing authority has led to the development of a number of beneficial projects: child care centers, parking facilities, and VA office space. These projects and others currently in the development stage greatly contribute to the strength of the VA and its mission. Also, additional revenue received from these leases is used for critical medical care services and nursing homes.

I also support provisions of the bill renaming the U.S. Court of Veterans Appeals. Because of its name, many veterans and attorneys have been highly confused about the jurisdiction and authority of this body. The name change established by the bill will prove beneficial by clarifying that this is an independent judicial body and not an administrative tribunal within the Department of Veterans Affairs.

Additionally, the bill codifies fiscal year 1997 VA compensation rates to reflect cost-of-living adjustments effective December 1, 1996. This is important so that we can protect veterans compensation by locking in rates established by the adjustment.

Again, I want to commend the committee for passing H.R. 1090. This bill would make an important change by allowing veterans to appeal decisions by the Board of Veterans Appeals for clear and unmistakable errors. The veterans' community has been pointing out for some time that the restrictions against appealing VA decisions for clear and unmistakable error are grossly unfair. This bill is very important because it gives veterans an adequate recourse when there has been grave error by the VA. More importantly, it ensures that if the VA makes an error, veterans will not be denied compensation benefits.

H.R. 1092 and H.R. 1090 are tools to be used in the tireless fight on behalf of the veterans community. Again, I express my support and thank the Veterans Committee for its work. I urge my colleagues to support these bills.

Mr. QUINN. Mr. Speaker, H.R. 1092 eliminates the current cap on enhanced use leases for the VA. These leases are models of how Federal agencies may enter into agreements with developers and other entities to get the most out of VA-owned real property. These leases allow developers to build on VA property to provide space to both the VA and private concerns. The result is a lower cost VA infrastructure for the taxpayers and quality commercial space for local businesses.

The bill also changes the name of the National Cemetery System to the National Cemetery Administration and the title of the Director to the Assistant Secretary for Memorial Affairs to more accurately describe the scope of the position's responsibilities.

Additionally, the bill changes the name of the Court of Veterans Appeals to the U.S. Court of Appeals for Veterans Claims.

Finally, the bill codifies the increased rates of veterans service-connected compensation resulting from the cost-of-living allowance effective last December.

Mr. Speaker, I urge my colleagues to support H.R. 1092.

Mr. EVANS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona [Mr. STUMP] that the House suspend the rules and pass the bill, H.R. 1092.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TRAVEL AND TRANSPORTATION REFORM ACT OF 1997

Mr. HORN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 930) to require Federal employees to use Federal travel charge cards for all payments of expenses of official Government travel, to amend title 31, United States Code, to establish requirements for prepayment audits of Federal agency transportation expenses, to authorize reimbursement of Federal agency employees for taxes incurred on travel or transportation reimbursements, and to authorize test programs for the payment of Federal employee travel expenses and relocation expenses, as amended.

The Clerk read the bill, as follows:

H.R. 930

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Travel and Transportation Reform Act of 1997".

SEC. 2. REQUIRING USE OF THE TRAVEL CHARGE CARD.

(a) IN GENERAL.—Under regulations issued by the Administrator of General Services after consultation with the Secretary of the Treasury, the Administrator shall require that Federal employees use the travel charge card established pursuant to the United States Travel and Transportation Payment and Expense Control System, or any Federal contractor-issued travel charge card, for all payments of expenses of official Government travel. The Administrator shall exempt any payment, person, type or class of payments, or type or class of personnel from any requirement established under the preceding sentence in any case in which—

(1) it is in the best interest of the United States to do so;

(2) payment through a travel charge card is impractical or imposes unreasonable burdens or costs on Federal employees or Federal agencies; or

(3) the Secretary of Defense or the Secretary of Transportation (with respect to the Coast Guard) requests an exemption with respect to the members of the uniformed services.

(b) LIMITATION ON RESTRICTION ON DISCLOSURE.—

(1) IN GENERAL.—Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end the following new subsection:

"(q) Nothing in this title shall apply to the disclosure of any financial record or information to a Government authority in conjunction with a Federal contractor-issued travel charge card issued for official Government travel.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) is effective as of October 1, 1983, and applies to any records created pursuant to the United States Travel and Transportation Payment and Expense Control System or any Federal contractor-issued travel charge card issued for official Government travel.

(c) COLLECTION OF AMOUNTS OWED.—

(1) IN GENERAL.—Under regulations issued by the Administrator of General Services and upon written request of a Federal contractor, the head of any Federal agency or a disbursing official of the United States may, on behalf of the contractor, collect by deduction from the amount of pay owed to an employee of the agency any amount of funds the employee owes to the contractor as a result of delinquencies not disputed by the employee on a travel charge card issued for payment of expenses incurred in connection with official Government travel. The amount deducted from the pay owed to an employee with respect to a pay period may not exceed 15 percent of the disposable pay of the employee for that pay period, except that a greater percentage may be deducted upon the written consent of the employee.

(2) DUE PROCESS PROTECTIONS.—Collection under this subsection shall be carried out in accordance with procedures substantially equivalent to the procedures required under section 3716(a) of title 31, United States Code.

(3) DEFINITIONS.—For the purpose of this subsection:

(A) AGENCY.—The term "agency" has the meaning that term has under section 101 of title 31, United States Code.

(B) EMPLOYEE.—The term "employee" means an individual employed in or under an agency, including a member of any of the uniformed services. For purposes of this subsection, a member of one of the uniformed services is an employee of that uniformed service.

(C) MEMBER; UNIFORMED SERVICE.—Each of the terms "member" and "uniformed service" has the meaning that term has in section 101 of title 37, United States Code.

(d) REGULATIONS.—Within 270 days after the date of enactment of this Act, the Administrator of General Services shall promulgate regulations implementing this section, that—

(1) make the use of the travel charge card established pursuant to the United States

Travel and Transportation System and Expense Control System, or any Federal contractor-issued travel charge card, mandatory for all payments of expenses of official Government travel pursuant to this section;

(2) specify the procedures for effecting under subsection (c) a deduction from pay owed to an employee, and ensure that the due process protections provided to employees under such procedures are no less than the protections provided to employees pursuant to section 3716 of title 31, United States Code;

(3) provide that any deduction under subsection (c) from pay owed to an employee may occur only after reimbursement of the employee for the expenses of Government travel with respect to which the deduction is made; and

(4) require agencies to promptly reimburse employees for expenses charged on a travel charge card pursuant to this section, and by no later than 30 days after the submission of a claim for reimbursement.

(e) REPORTS.—

(1) IN GENERAL.—The Administrator of General Services shall submit 2 reports to the Congress on agency compliance with this section and regulations that have been issued under this section.

(2) TIMING.—The first report under this subsection shall be submitted before the end of the 180-day period beginning on the date of enactment of this Act, and the second report shall be submitted after that period and before the end of the 540-day period beginning on that date of enactment.

(3) PREPARATION.—Each report shall be based on a sampling survey of agencies that expended more than $5,000,000 during the previous fiscal year on travel and transportation payments, including payments for employee relocation. The head of an agency shall provide to the Administrator the necessary information in a format prescribed by the Administrator and approved by the Director of the Office of Management and Budget.

SEC. 3. PREPAYMENT AUDITS OF TRANSPORTATION EXPENSES.

(a) IN GENERAL.—(1) Section 3322 of title 31, United States Code, is amended in subsection (c) by inserting after "classifications" the following: "if the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or subagency, will not adequately protect the interests of the Government".

(2) Section 3528 of title 31, United States Code, is amended—

(A) in subsection (a) by striking "and" after the semicolon at the end of paragraph (3), by striking the period at the end of subsection (a)(4)(C) and inserting "; and", and by adding at the end the following new paragraph:

"(5) verifying transportation rates, freight classifications, and other information provided on a Government bill of lading or transportation request, unless the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or subagency, will not adequately protect the interests of the Government.";

(B) in subsection (c)(1), by inserting after "deductions" the following: "and the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or subagency, will not adequately protect the interests of the Government"; and

(C) in subsection (c)(2), by inserting after "agreement" the following: "and the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or subagency, will not adequately protect the interests of the Government".

(3) Section 3726 of title 31, United States Code, is amended—

(A) by amending subsection (a) to read as follows:

"(a)(1) Each agency that receives a bill from a carrier or freight forwarder for transporting an individual or property for the United States Government shall verify its correctness (to include transportation rates, freight classifications, or proper combinations thereof), using prepayment audit, prior to payment in accordance with the requirements of this section and regulations prescribed by the Administrator of General Services.

"(2) The Administrator of General Services may exempt bills, a particular mode or modes of transportation, or an agency or subagency from a prepayment audit and verification and in lieu thereof require a postpayment audit, based on cost effectiveness, public interest, or other factors the Administrator considers appropriate.

"(3) Expenses for prepayment audits shall be funded by the agency's appropriations used for the transportation services.

"(4) The audit authority provided to agencies by this section is subject to oversight by the Administrator.";

(B) by redesignating subsections (b), (c), (d), (e), (f), and (g) in order as subsections (d), (e), (f), (g), (h), and (i), respectively;

(C) by inserting after subsection (a) the following new subsections:

"(b) The Administrator may conduct pre- or postpayment audits of transportation bills of any Federal agency. The number and types of bills audited shall be based on the Administrator's judgment.

"(c)(1) The Administrator shall adjudicate transportation claims which cannot be resolved by the agency procuring the transportation services, or the carrier or freight-forwarder presenting the bill.

"(2) A claim under this section shall be allowed only if it is received by the Administrator not later than 3 years (excluding time of war) after the later of the following dates:

"(A) The date of accrual of the claim.

"(B) The date payment for the transportation is made.

"(C) The date a refund for an overpayment for the transportation is made.

"(D) The date a deduction under subsection (d) of this section is made.";

(D) in subsection (f), as so redesignated, by striking "subsection (c)" and inserting "subsection (e)", and by adding at the end the following new sentence: "This reporting requirement expires December 31, 1998.";

(E) in subsection (i)(1), as so redesignated, by striking "subsection (a)" and inserting "subsection (c)"; and

(F) by adding after subsection (i), as so redesignated, the following new subsection:

"(j) The Administrator of General Services may provide transportation audit and related technical assistance services, on a reimbursable basis, to any other agency. Such reimbursements may be credited to the appropriate revolving fund or appropriation from which the expenses were incurred.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective 18 months after the date of enactment of this Act.

SEC. 4. REIMBURSEMENT FOR TAXES ON MONEY RECEIVED FOR TRAVEL EXPENSES.

(a) IN GENERAL.—Title 5, United States Code, is amended by inserting after section 5706b the following new section:

"§ 5706c. Reimbursement for taxes incurred on money received for travel expenses

"(a) Under regulations prescribed pursuant to section 5707 of this title, the head of an agency or department, or his or her designee, may use appropriations or other funds available to the agency for administrative expenses, for the reimbursement of Federal, State, and local income taxes incurred by an employee of the agency or by an employee and such employee's spouse (if filing jointly), for any travel or transportation reimbursement made to an employee for which reimbursement or an allowance is provided.

"(b) Reimbursements under this section shall include an amount equal to all income taxes for which the employee and spouse, as the case may be, would be liable due to the reimbursement for the taxes referred to in subsection (a). In addition, reimbursements under this section shall include penalties and interest, for the tax years 1993 and 1994 only, as a result of agencies failing to withhold the appropriate amounts for tax liabilities of employees affected by the change in the deductibility of travel expenses made by Public Law 102–486.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5706b the following new item:

"5706c. Reimbursement for taxes incurred on money received for travel expenses.".

(c) EFFECTIVE DATE.—This section shall be effective as of January 1, 1993.

SEC. 5. AUTHORITY FOR TEST PROGRAMS.

(a) TRAVEL EXPENSES TEST PROGRAMS.—Subchapter I of chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 5710. Authority for travel expenses test programs

"(a)(1) Notwithstanding any other provision of this subchapter, under a test program which the Administrator of General Services determines to be in the interest of the Government and approves, an agency may pay through the proper disbursing official for a period not to exceed 24 months any necessary travel expenses in lieu of any payment otherwise authorized or required under this subchapter. An agency shall include in any request to the Administrator for approval of such a test program an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program.

"(2) Any test program conducted under this section shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

"(3) Nothing in this section is intended to limit the authority of any agency to conduct test programs.

"(b) The Administrator shall transmit a copy of any test program approved by the Administrator under this section to the appropriate committees of the Congress at least 30 days before the effective date of the program.

"(c) An agency authorized to conduct a test program under subsection (a) shall provide to the Administrator and the appropriate committees of the Congress a report on the results of the program no later than 3 months after completion of the program.

"(d) No more than 10 test programs under this section may be conducted simultaneously.

"(e) The authority to conduct test programs under this section shall expire 7 years after the date of enactment of the Travel and Transportation Reform Act of 1997.".

(b) RELOCATION EXPENSES TEST PROGRAMS.—Subchapter II of chapter 57 of title 5, United States Code, is further amended by adding at the end the following new section:

"§ 5739. Authority for relocation expenses test programs

"(a)(1) Notwithstanding any other provision of this subchapter, under a test program which the Administrator of General Services determines to be in the interest of the Government and approves, an agency may pay through the proper disbursing official for a period not to exceed 24 months any necessary relocation expenses in lieu of any payment otherwise authorized or required under this subchapter. An agency shall include in any request to the Administrator for approval of such a test program an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program.

"(2) Any test program conducted under this section shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

"(3) Nothing in this section is intended to limit the authority of any agency to conduct test programs.

"(b) The Administrator shall transmit a copy of any test program approved by the Administrator under this section to the appropriate committees of the Congress at least 30 days before the effective date of the program.

"(c) An agency authorized to conduct a test program under subsection (a) shall provide to the Administrator and the appropriate committees of the Congress a report on the results of the program no later than 3 months after completion of the program.

"(d) No more than 10 test programs under this section may be conducted simultaneously.

"(e) The authority to conduct test programs under this section shall expire 7 years after the date of enactment of the Travel and Transportation Reform Act of 1997.".

(c) CLERICAL AMENDMENTS.—The table of sections for chapter 57 of title 5, United States Code, is further amended by—

(1) inserting after the item relating to section 5709 the following new item:

"5710. Authority for travel expenses test programs.";

and

(2) inserting after the item relating to section 5738 the following new item:

"5739. Authority for relocation expenses test programs.".

SEC. 6. DEFINITION OF UNITED STATES.

Chapter 57 of title 5, United States Code, is amended—

(1) in section 5721—

(A) in paragraph (4), by striking "and" following the semicolon at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(6) 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the territories and possessions of the United States, and the areas and installations in the Republic of Panama that are made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979); and

"(7) 'Foreign Service of the United States' means the Foreign Service as constituted under the Foreign Service Act of 1980.";

(2) in section 5722—

(A) in subsection (a)(2), by striking "outside the United States" and inserting "outside the continental United States"; and

(B) in subsection (b), by striking "United States" each place it appears and inserting "Government";

(3) in section 5723(b), by striking "United States" each place it appears and inserting "Government";

(4) in section 5724—

(A) in subsection (a)(3), by striking ", its territories or possessions" and all that follows through "1979"; and

(B) in subsection (i), by striking "United States" each place it appears in the last sentence and inserting "Government";

(5) in section 5724a, by striking subsection (j);

(6) in section 5725(a), by striking "United States" and inserting "Government";

(7) in section 5727(d), by striking "United States" and inserting "continental United States";

(8) in section 5728(b), by striking "an employee of the United States" and inserting "an employee of the Government";

(9) in section 5729, by striking "or its territories or possessions" each place it appears;

(10) in section 5731(b), by striking "United States" and inserting "Government"; and

(11) in section 5732, by striking "United States" and inserting "Government".

SEC. 7. TECHNICAL CORRECTIONS TO THE FEDERAL EMPLOYEE TRAVEL REFORM ACT OF 1996.

Section 5724a of title 5, United States Code, is amended—

(1) in subsections (a) and (d)(1) and (2), by striking "An agency shall pay" each place it appears and inserting "Under regulations prescribed under section 5738, an agency shall pay";

(2) in subsections (b)(1), (c)(1), (d)(8), and (e), by striking "An agency may pay" each place it appears and inserting "Under regulations prescribed under section 5738, an agency may pay";

(3) by amending subsection (b)(1)(B)(ii) to read as follows:

"(ii) an amount for subsistence expenses, that may not exceed a maximum amount determined by the Administrator of General Services.";

(4) in subsection (c)(1)(B), by striking "an amount for subsistence expenses" and inserting "an amount for subsistence expenses, that may not exceed a maximum amount determined by the Administrator of General Services,";

(5) in subsection (d)(2)(A), by striking "for the sale" and inserting "of the sale";

(6) in subsection (d)(2)(B), by striking "for the purchase" and inserting "of the purchase";

(7) in subsection (d)(8), by striking "paragraph (2) or (3)" and inserting "paragraph (1) or (2)";

(8) in subsection (f)(1), by striking "Subject to paragraph (2)," and inserting "Under regulations prescribed under section 5738 and subject to paragraph (2),"; and

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. HORN] and the gentlewoman from New York [Mrs. MALONEY] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Federal Government's travel expenditures are massive. In fiscal year 1994, the last year for which precise figures are available, the Government spent more than $7.6 billion on travel, including transportation, lodging, rental cars, and other related expenses.

There were ample opportunities to save money from this huge sum without restricting important travel. Administrative costs, for example, are shockingly bloated. The cost of completing a travel voucher is about $15 in the private sector, while it can run as high as $123 for each voucher in the Federal Government.

There are several obstacles standing in the way of efficient and affordable Government travel. Agency managers simply do not have complete travel information available to them because of inconsistent payment methods. As a result, it is impossible to effectively analyze their travel budgets in order to locate waste and reduce costs.

Related agencies are often unable to verify that travel charges are business related. They need clear authority to obtain information regarding the credit cards issued to employees for official Government travel. This information will make the Federal Government a better customer, which will in turn increase the size of the rebate the Government receives from businesses that provide services to Federal workers. Private firms currently receive larger rebates from businesses than does the Government.

We should learn from private sector techniques. The Travel and Transportation Act of 1997 contains four major provisions that will clear away obstacles to better management.

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By applying lessons from the private sector, it will encourage a concerted effort to improve the efficiency and the cost effectiveness of Federal travel. Section 1 of H.R. 930 specifies its short title, the Travel and Transportation Reform Act of 1997.

Section 2 concerns the Federal travel charge card. H.R. 930 contains several changes to charge card policy that would save money and make the system work better. Use of the charge card provides managers with valuable information about their agency's travel costs. Currently, however, the card is used inconsistently and, therefore, valuable information that would be recorded on the charge card invoice is never gathered.

As a result, agency managers lack the kind of detailed travel information necessary to effectively analyze their travel budgets, locate waste, and reduce costs. Congress realizes that not every merchant can accept charge cards, but the travel charge card should be used to the maximum extent possible. In addition, there may be some employees, Mr. Speaker, who may not be eligible for the travel charge card due to their poor credit histories or for some other reason. Obviously, the employee may be required to travel for official Government purposes, and an exemption may be required for these personnel.

Universal use of the card would improve information available to managers, increase the rebate due to the Federal Government, and expedite the processing of travel reimbursements. H.R. 930 provides for universal use of the travel card throughout the Government by requiring the Administrator of General Services [GSA] to mandate use of the travel charge card. There are some exceptions that are permitted by the administrator. The intent behind this legislation is that use of the card will be used to the maximum extent practicable by Federal travelers.

The definition of a travel charge card also includes a centrally billed account maintained by the agency. Agencies must be able to verify that charges on the travel card are business related. The Government's ability to access this information has been in question because of the Right to Financial Privacy Act, which restricts the release of an individual's financial records, including accounts maintained by the credit card issuer.

This bill clarifies that the Government has the authority it needs to gather this information to ensure that the card is used properly. It also authorizes the head of a agency to conduct salary offset for Federal employees delinquent on their Federal travel charge accounts. This provision would make the Federal Government a better customer, as I noted earlier, and simplify administration for Federal agencies. The result would be an increase in the size of the Federal Government's rebate.

H.R. 930 also includes an offset program to allow Federal agencies with travel charge card delinquency problems to deduct from the pay of an employee amounts needed to satisfy a delinquent debt owed to a card vendor. It is the intent of Congress that this deduction be made in coordination with the disbursing official in the U.S. Government. If the Treasury Department's financial management service cannot coordinate with agencies, Federal contractors may be paid prior to payments being made to Federal agencies. It it the intent of Congress that, when there is a conflict between a debt owed to a Federal contractor and a debt owed to a Federal agency, the Federal agency will be paid first.

H.R. 930 also requires that GSA write regulations implementing this act. One portion of these regulations calls for timely disbursement of travel repayments due to employees. GSA will be responsible for determining what constitutes submission of travel expense vouchers in its regulatory process. Our committee, on both sides of the aisle, looks forward to working with GSA to ensure that the intent of Congress is reflected. In implementing this section and the remaining portions of the act, it is of utmost importance that GSA do so in a manner that will not impair competition among different vendors in the travel card program and will not unfairly affect Federal workers.

Specifically, the inclusion of interest, fines, penalties or fees charged by bank charge card issuers should not be prohibited, eliminated or complicated by GSA regulations promulgated under this section. We in Congress believe that any such action limiting competition ultimately will not be in the best interest of the United States.

Section 3 of the Travel and Transportation Reform Act of 1997 concerns prepayment audits of travel charges. GSA's office of transportation audits conducted a pilot program that used audit contractors to perform prepayment audits on some transportation vouchers. This pilot identified overpayments worth four times the amount of the payments to the contractors, proving that this is a cost-effective tool. All other invoices submitted to the Federal Government are reviewed for accuracy by the agency incurring the expense prior to payment. The bill authorizes prepayment audits by contractors to verify that the charges are correct prior to disbursement of transportation expenses. According to the General Services Administration, this change would save $50 million per year in reduced transportation expenses.

Section 4 corrects an unjust tax liability. This will be of great interest to a number of Federal employees. The bill authorizes reimbursement to employees who were subjected to a tax liability in tax years 1993 and 1994, due to their service with the Federal Government. This tax liability was established by the 1992 Energy Act. The Energy Act limited the income tax deduction for business related travel to expenses incurred on trips of 1 year or less in duration. Most Federal agencies were unaware of this requirement because the IRS did not notify them until late December, 4 days to go before the new year in December 1993. And they did not withhold tax payments from the employees' salaries.

Many of the affected Federal employees were liable for a lump sum payment, plus penalty and interest charges. In some instances, the tax liability exceeds $1,000 per employee. According to GSA, this correction would cost $4 million on a one-time basis.

Section 5 encourages innovation in Federal travel. The sections of the U.S. Code relating to travel are extremely proscriptive and limit agency flexibility in developing improved benefit systems. This section allows Federal agencies to participate in travel pilot tests that would, it is hoped, save taxpayer dollars.

Saving taxpayer dollars and enhancing Federal travel operations is the goal of this section. Agencies wishing to initiate pilot projects would need approval from the General Services Administration and would be required to submit proposals to the appropriate committees of Congress 30 days before the initiation of the pilot. This authority is limited to 10 pilot programs in each of the temporary duty travel and relocation travel areas.

Mr. Speaker, the Congressional Budget Office estimates that the Travel and Transportation Reform Act of 1997 will save $105 million. I believe the actual amount will be higher, as GSA suggests, particularly if implementation is performed diligently. Poor management of the Federal Government's massive travel expenditures is wasting millions of tax dollars every year. The Travel and Transportation Reform Act of 1997 will improve Federal agency operations and enhance efficiency. I look forward to the passage of H.R. 930.

Mr. Speaker, I reserve the balance of my time.

Mrs. MALONEY of New York. Mr. Speaker, I yield myself such time as I may consume.

My thanks to the chairman for working with the minority in drafting the manager's amendment to this bill. The Government spends over $7.5 billion annually on travel and relocation costs. I rise in support of this bill and in support of streamlining Government paperwork and saving the taxpayers millions in Government travel expenses.

It is so simple. H.R. 930 just calls for the use of one travel card, one bill to pay, one bill to check. If every Government employee simply used this card for all travel related expenses, taxpayers would gain $105 million. The card comes with a 30-day money-back guarantee. Employees must be reimbursed within a month of their payment. H.R. 930 does allow the agency to deduct certain unpaid travel charges from paychecks, unless the employee is disputing the charges.

Even those deductions will not exceed 15 percent of the traveler's wages. H.R. 930 also calls for a review of shipping and other transportation expenses before they are paid. That seems extremely reasonable.

Do not we all look at our bills before we pay them? This measure alone will save $50 million a year. Simplicity saves. Complications cost. I urge my colleagues to support this bill.

Mr. HORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentlewoman from New York [Mrs.

MALONEY], the ranking Democrat on the subcommittee, for her complete cooperation in this further economy which the subcommittee has made over the last 2½ years.

I think we saved $2 to $3 billion in legislation last year. And, as was noted, GSA says we will save $50 million this year. The Congressional Budget Office says we will save $150 million over the next 5 years.

In any case, it is real money and it is money the taxpayers do not have to expend by more efficiency and effectiveness.

Mr. Speaker, today, the House will pass H.R. 930, the Travel and Transportation Reform Act of 1997 under suspension of the rules. I would like to discuss a provision of that bill which was not raised today concerning the pilot programs on travel which agencies may conduct under the bill.

Mr. Speaker, one of the pilot programs which I would like to see conducted involves not only sound management practices, but family values as well. Last year, H.R. 3637, the Travel Reform and Savings Act, contained a provision which would have given discretionary authority to an agency to pay employment assistance services to a spouse of an employee relocated to another duty station by the agency. That provision was not specifically included in H.R. 930. However, there is authority under section 4 of that bill to test this worthy provision, subject to certain congressional oversight procedures. GSA's general counsel's office concurs with this reading of the legislation, and Chairman HORN indicated a positive reaction to this suggestion at a subcommittee hearing held on the bill.

Authorizing employment services on behalf of a spouse of a relocated employee is one of the recommendations of an indepth report by the interagency Joint Financial Management Improvement project. As that report points out, private sector companies have already discovered that to recruit and retain the best work force and ensure that relocated employees are fully productive, some form of employment assistance for relocating spouses represents money well spent. I am persuaded that what makes sense for the private sector makes sense in most cases for the Government. We need to determine if that is the case here.

As I said, section 4 of H.R. 930 authorizes GSA to approve test programs in connection with payment of employee relocation. I believe that such a test program may well show that such assistance is in the best interest of the Government. And I believe it would be cost effective in terms of improved employee performance and reliability. We need to find out. In that regard, it is important to note that Congress will have an opportunity to preview proposed test programs and to review a report of their results. We can then make a fully informed decision about the extent to which these services are in the Government's interest.

In conclusion, Mr. Speaker, I believe we need to test this proposal and urge GSA to favorably consider such a pilot program.

Mr. Speaker, I yield back the balance of my time.

Mr. HORN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from California [Mr. HORN] to suspend the rules and pass the bill, H.R. 930, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DONATING RETIRING FEDERAL LAW ENFORCEMENT CANINES TO HANDLERS

Mr. HORN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 173) to amend the Federal Property and Administrative Services Act of 1949 to authorize donation of surplus Federal law enforcement canines to their handlers, as amended.

The Clerk read as follows:

H.R. 173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION TO DONATE SURPLUS LAW ENFORCEMENT CANINES TO THEIR HANDLERS.

Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) is amended by adding at the end of the following:

"(r) The head of a Federal agency having control of a canine that has been used by a Federal agency in the performance of law enforcement duties and that has been determined by the agency to be no longer needed for official purposes may donate the canine to an individual who has experience handling canines in the performance of those duties.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. HORN] and the gentlewoman from New York [Mrs. MALONEY] will each control 20 minutes.

The Chair recognizes the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, this measure concerns Federal surplus property in the form of dogs. Typically, these dogs are trained in law enforcement and drug interdiction. The bulk of the 500 dogs currently serving the Federal Government are used by the Customs Service, the Immigration and Naturalization Service, and other law enforcement agencies.

Under current law, when an agency no longer needs a dog, it is screened to see if another Federal agency needs that dog. If no Federal use is required, the dog can be donated to a State or local law enforcement agency.

Mrs. MALONEY of New York. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, the minority has no objection to this bill. We support it.

Mr. Speaker, I yield back my time.

Mr. HORN. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. GALLEGLY], the author of this innovative piece of legislation.

Mr. GALLEGLY. Mr. Speaker, I rise today in support of H.R. 173, legislation I introduced to address the unique situation encountered when Federal law enforcement canines are no longer able to perform the duties for which they were trained.

Essentially, this bill streamlines the adoption of Federal law enforcement canines by handlers and allows for a more humane end to the canine's career. As my colleagues know, these trained dogs are considered Federal property, but when their service comes to an end, they are declared surplus property.

Under GSA regulations to dispose of Federal property, agencies must follow certain procedures that ensure the maximum amount competition for the purchase of such property.

In many cases, such as the Border Patrol, Park Police, Customs, and Secret Service, this surplus property is a canine that has served alongside officers enforcing our laws. Because of their unique role, many of these animals have had protection training, which could make them a danger to public safety if they are handled by someone who had not been trained in this capacity.

As a result, these canines should not simply be sold to the highest bidder at an auction to be taken home as a family pet. Unfortunately, if no appropriate trained handler comes forward to bid on the property, there is a possibility that this dog would be caged or even in some cases destroyed.

This is hardly humane, a hardly humane treatment of an animal that has spent its life protecting Americans and upholding our laws.

□ 1415

According to the CRS research, there are over 500 canines in service of the Federal Government. H.R. 173 would allow the surplus canines to be donated to their handlers, who would thereby assume all the costs and responsibilities related to the care of that animal.

This is a simple solution to a unique problem that confronts our Federal law enforcement canine units. H.R. 173 removes the hoops agencies must jump through to place a canine that has served our country with a handler and a nurturing home.

Mr. Speaker, I want to thank the gentleman from California [Mr. HORN] and the gentleman from Indiana [Mr. BURTON] and the committee's action on this bill, and I urge my colleagues to support H.R. 173 to ease the adoption of Federal law enforcement canines.

Mr. HORN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from California [Mr. HORN] that the House suspend the rules and pass the bill, H.R. 173, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize donation of Federal law enforcement canines that are no longer needed for official purposes to individuals with experience handling canines in the performance of law enforcement duties."

A motion to reconsider was laid on the table.

HONORING THE LIFETIME ACHIEVEMENTS OF JACKIE ROBINSON

Mr. HORN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 61) honoring the lifetime achievements of Jackie Robinson.

The Clerk read as follows:

H. CON. RES. 61

Whereas Jackie Robinson was the first four sport letterman at the University of California at Los Angeles;

Whereas on April 15, 1947, Jackie Robinson was the first African-American to cross the color barrier and play for a major league baseball team;

Whereas Jackie Robinson, whose career began in the Negro Leagues, went on to be named Rookie of the Year and subsequently led the Brooklyn Dodgers to six National League pennants and a World Series championship;

Whereas Jackie Robinson's inspiring career earned him recognition as the first African-American to win a batting title, lead the league in stolen bases, play in an All-Star game, win a Most Valuable Player award, play in the World Series and be elected to baseball's Hall of Fame;

Whereas after retiring from baseball Jackie Robinson was active in the civil rights movement and founded the first bank owned by African-Americans in New York City;

Whereas his legacy continues to uplift the Nation through the Jackie Robinson Foundation that has provided 425 scholarships to needy students;

Whereas Jackie Robinson's courage, dignity, and example taught the Nation that what matters most is not the color of a man's skin but rather the content of his character;

Whereas Jackie Robinson, in his career, consistently demonstrated that how you play the game is more important than the final score;

Whereas Jackie Robinson's life and heritage help make the American dream more accessible to all; and

Whereas April 15, 1997, marks the 50th anniversary of Jackie Robinson's entrance into major league baseball: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the achievements and contributions of Jackie Robinson be honored and celebrated; that his dedication and sacrifice be recognized; and that his contributions to African-Americans and to the Nation be remembered.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. HORN] and the gentlewoman from New York [Mrs. Maloney] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, I ask unanimous consent that I may yield my time to the gentleman from Oklahoma, [Mr. WATTS], and that he be permitted to yield blocks of time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oklahoma [Mr. WATTS].

Mr. WATTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in support of House Concurrent Resolution 61. This resolution encourages all Americans to remember the achievements of Jackie Robinson at this important time in our country's history.

There is something magical about the firsts in our society. I sometimes think God gave them broader shoulders to carry the tremendous load they have had to bear to make life better and provide greater opportunities for the rest of us.

The list of firsts is long and should never be forgotten. The Rosa Parkses, the Frederick Douglasses, the Arthur Ashes, the Marian Andersons, the James Merediths, the Jesse Owenses and, in Oklahoma, Prentiss Gautt and Ada Louis Sipuels, and most recently in our Nation we know of Tiger Woods. These are all men and women who had the courage, heart and insight to be the first to create change in our society.

Being the first can often be lonely, but these American heroes have had the strength to push ahead and find justice where injustice had prevailed.

As a former professional athlete, I am thankful for the Jackie Robinsons and the firsts of this world. They have gone before and not only opened the door but they have left it wide open for people like me.

April 15, 1947, was the first day that Jackie Robinson crossed the color barrier with the Brooklyn Dodgers. What made Jackie Robinson so memorable was that his list of achievements did not stop with that crashing of racial barriers. His accomplishments, including being named Rookie of the Year and leading the Dodgers to six National League pennants, including a World Series championship, matched his bravery.

Jackie Robinson understood that he could lock arms with other blacks and fight racism and fight bigotry, but he also understood that success is determined by the individual effort, not by the group.

Jackie was a true entrepreneur. His life did not stop with baseball. He went on to be active in the Civil Rights movement during the 1960's. He served in Governor Nelson Rockefeller's administration and started the first black-owned bank in New York City, as well as a construction firm.

Last night the Nation celebrated this anniversary during the fifth inning of the Dodgers-Mets game. Mrs. Robinson graciously accepted the accolades and America paused to recognize number 42.

Athletics is one of the few arenas today where we are judged on our merits. If an individual is good enough to play, they play. Jackie is an icon because of his integrity and character and what he proved by being the first and opening the door. He accomplished more for all people than he could have accomplished in Washington with more legislation.

There is a lesson in the life of Jackie Robinson for all of us.

Mr. Speaker, I reserve the balance of my time.

Mrs. MALONEY of New York. Mr. Speaker, I yield myself such time as I may consume.

Jackie Robinson is a true American hero. Fifty years ago yesterday he stood up against racism, prejudice and hate and changed this country for the better. We applaud the strength that he showed on the field and especially the courage he exerted off the field. He was a pillar of strength in the civil rights movement and we are fortunate that his legacy is continued today in the Jackie Robinson Foundation.

Mr. Speaker, I reserve the balance of my time.

Mr. WATTS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from California, [Mr. HORN].

Mr. HORN. Mr. Speaker, I thank the gentleman for yielding me this time. It is a great day when Members in both parties can honor one of the really fine Americans of this century.

Jackie Robinson did break barriers throughout his life: as a college student, a college player, and as a professional player. I am delighted to note in the city of Long Beach, which I am honored to represent and in which I live, a few years ago we established the Jackie Robinson Academy. It is located in the inner city. It is an academic achieving school. President Clinton has visited there, spent time with the students and the faculty in the school, and Mrs. Robinson was there on the dedication day, as were a few thousand others. And it was a great spirit that he would have been proud to see if he were still alive.

It is that spirit and gentlemanliness, that compassion that he personifies, and that I think all who study his career hopefully will emulate.

Mrs. MALONEY. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois, [Mr. DAVIS].

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentlewoman from New York for yielding me this time.

Mr. Speaker, I am pleased to join with all of those who have come together in this resolution to honor the life, the legacy, and the contributions of a great American.

I grew up during the Jackie Robinson era and I can tell my colleagues, as a young person there was nobody alive at that moment who had as much impact. As a matter of fact, Jackie Robinson was so important to us and to everybody that I knew that we could recite the Brooklyn Dodger lineup, beginning with the catcher to the right fielder.

More important than that, Jackie Robinson demonstrated not only skill but courage and determination to help break down the barriers of racism, of prejudice, of assumptions that individuals could not all play on one field and make a score. If we can remember that, then I think we will score well not only for ourselves but for generations yet to come.

Mr. WATTS of Oklahoma. Mr. Speaker, I yield 4 minutes to the gentleman from Kentucky, [Mr. BUNNING.]

Mr. BUNNING. Mr. Speaker, I rise in strong support of House Concurrent Resolution 61. I did not get to pitch against Jackie Robinson very many times in his career, because it was just about over when I finally got to the big leagues. When I started out I was in the American League with Detroit and he was in the National League with Brooklyn, so the only time I really got to face him was in spring training games in 1954, 1955, and 1956.

But in those days, Brooklyn was the team to beat. They had a real dynasty going. In fact, they made it to the World Series in 1952, 1953, and again in 1955 and 1956. And Jackie Robinson was one of the biggest reasons they were such an outstanding team.

He was a real trail blazer and an outstanding ball player. A man of destiny. In the mid 1950's, when I finally made it to the major leagues, nearly 10 years after Jackie Robinson broke the color barrier, there were not too many blacks in the American League, and that was 8 years after Jackie Robinson played his first game for Brooklyn.

I can tell my colleagues this: Under the best of circumstances, when an individual is starting out, it is pretty frightening to walk out to the pitcher's mound or to the batter's box in a big league game. That is even true when an individual's race is not an issue. So it is mind-boggling to consider the kind of pressure that Jackie Robinson must have been under when he walked out there the first time when race was an issue, a very big issue.

The fact that he tried, the fact that he dared, the fact that he made it is tremendous testimony to his courage, his self-confidence, and to his love of baseball. Jackie Robinson changed the face of baseball and, for that matter, all other sports, and he made a tremendous contribution to race relations in this Nation.

Fifty years ago Jackie Robinson made a difference. It is right and fitting that we honor the memory of his achievements here today and his courage in doing the things that he did when he lived. My good wishes to Rachael and all his family today.

Mrs. MALONEY. Mr. Speaker, I ask unanimous consent that I may yield my time to the gentleman from Maryland, [Mr. CUMMINGS], and that he be permitted to yield blocks of time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

It certainly is an honor to stand here today to salute a great hero. As I watched the President on television last night, and as I listen to my colleagues, and I am very grateful to all of them for every syllable that is spoken on behalf of Jackie Robinson, I stand, Mr. Speaker, and wonder what he would feel if he were standing here today.

In Baltimore, where I hail from, we have a team that is doing pretty good right now. I look at that team and I ask myself, if it were not for a Jackie Robinson, how many African-American players would be there today?

But going back to the question that I asked before, the question is how would he feel. I think that and I hope that as we celebrate this great man's life, and certainly we do not celebrate because he died but because he lived, I hope that we will keep a lot of things in mind, and I am sure if Jackie Robinson were here today he would agree with me.

First of all, it is true that he did break the color barrier with regard to baseball. But as I read his history, it went far beyond that. He was a man who spoke eloquently about race relations. He stood up for what was right, no matter what the situation was. And that is very important in our society; that we ought to bring about positive change.

I would submit that he was a great man of integrity. The great writer Stephen Carter, in his book "Integrity" says that integrity is based upon three things: No. 1, he says one must discern between what is right and wrong, what is good and bad. And Jackie Robinson surely did that.

□ 1430

He did it over and over and over again. He did not take a walk when it came time to stand up for what he believed in. He made a decision between right and wrong, and he stood on that. Even when people spat on him and people called him all kinds of names, names that I dare not say in this Chamber, the fact is that he stood for what he believed in.

The great writer, Stephen Carter, goes on to say that there is a No. 2 thing that we must do to have true integrity, and Jackie Robinson had it. That is that you must act upon what you believe in even to your own peril.

So I say to America and to our country and to this great Congress that his example is one that we must live up to. That is, that we must look at a man called Jackie Robinson, who broke this color barrier 50 years ago, who stood up over and over and over again for what he believed in, even to his own peril. I cannot even imagine what he must have felt going onto a field with people calling him everything but a child of God. I cannot imagine it. But yet and still, he performed quite nicely under all of those circumstances.

Going back to the writer Stephen Carter, he says you must do one other thing. He says, No. 1, you must discern between right and wrong; No. 2, you must act, even to your own peril, on what is right; but then he says something else, that you must tell someone about it. The reason why he says you must tell someone about it is because of the fact that in order to change the world, in order to change the world, you have to tell people what you stood for and what you did with regard to that.

And so it is that Jackie Robinson told the world. He told the world that no matter what, I shall stand up for what I believe in. He told the world that I will play baseball even under difficult circumstances.

But, Mr. Speaker, he had something else going for him, too. He had a vision. I am sure he had a vision that one day every team in the American League, every team in the National League would have African-American players playing great baseball, African-American players sharing rooms with white players, African-American players doing everything that they could to stand up for what they believed in, just as Jackie Robinson did. And so it is with great honor that I stand here in support of House Concurrent Resolution 61.

Mr. Speaker, I reserve the balance of my time.

Mr. WATTS of Oklahoma. Mr. Speaker, I say to the gentleman from Maryland, that was very well said.

Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. I thank my colleague from Oklahoma for yielding me this time and my colleague from Maryland who preceded me with his comments.

Mr. Speaker, I rise in strong support of this resolution to honor the memory and the legacy of Jack Roosevelt Robinson. A couple of Arizonans offer a unique perspective on the life of Jackie Robinson. One is former Phoenix Mayor Sam Mardian, who grew up in the modest Pasadena neighborhood in close proximity to Jackie Robinson.

In a recent column in the Arizona Republic, he spoke of Robinson's unique gift not only as a great athlete but as one who could reach across barriers, as one who could work to extol the virtues of teamwork. And even as we recognize that, we dare not, we cannot pause without reflecting on Robinson's incredible athletic gifts. A four-sport letterman at UCLA. Indeed, baseball, ironically, was not his greatest sport. But in baseball it is where he began to make a difference for this land of ours.

Another recollection comes from another man who now calls Phoenix home, former Dodger pitcher Joe Black, who joined the Brooklyn organization after Jackie broke the color line and who had the occasion to room with Mr. Robinson. Joe Black recalls that Jackie's first words to him were, "You're a big man, Joe. I bet you're good in a fight, but we're not here to fight."

A personal recollection. My grandfather spent 50 years in major league baseball. He was honored to scout, alongside Branch Rickey, many of those who would come from the Negro leagues into major league baseball. And what Jack Robinson brought to the game was more than a great physical ability, it was an incredible ability to bring his intellectual capacities, the notion of strategy. Indeed, he helped to change the face of baseball. The strategy of using his speed to even steal home changed the face of baseball just as suredly as he broke the color line.

Mr. Speaker, we rise today to honor the memory and legacy of Jackie Robinson, who described himself as an eternal optimist. He did so in one of the most difficult moments in our history. In the wake of the assassination of Dr. Martin Luther King, Jr., Jack Roosevelt Robinson said, I am an eternal optimist and I believe some good will come even of this tragedy.

Jack Robinson was one who was a pioneer in many areas. He stood unafraid to speak the truth as he saw it, active in both major political parties, and it is that eloquence, that ability and, yes, that pioneer spirit that we honor today.

Mr. Speaker, to his widow Rachel, to his family and most of all to the people of the United States of America, we go on record today proud to honor the legacy of Jack Roosevelt Robinson.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Arizona who just spoke for his comments. He said something that I would like to just piggyback on just a bit.

So often out of difficult circumstances come great things. I think that when you look at what Jackie Robinson did and coming through the difficulty that he did come through, the fact is, is that he opened the doors for so, so many. I would venture to guess that the 39 members of the Black Caucus, the Congressional Black Caucus, owe a great debt of gratitude to this great man, for he did open many doors. But he did it through pain. I think that if we are to learn anything from this great man, we should learn that through pain, a lot of times come great things.

Mr. Speaker, I reserve the balance of my time.

Mr. WATTS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. SHADEGG].

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank and compliment all of those involved in this great discussion this afternoon.

Jackie Robinson played his first major league baseball game on April 15, 1947. That was 7 years before the Supreme Court's historic decision in Brown versus Board of Education. It was 18 years before the voter registration drives in Selma, AL. It was 16 years before Martin Luther King's famous "I have a dream" speech. And it was 18 years before passage of the Voting Rights Act of 1965.

It was 1 year before President Truman ordered the integration of the United States Army and 21 years before Arthur Ashe would become the first black man to win the U.S. Open men's singles title. It was 16 years before Michael Jordan was born and 50 years before Tiger Woods, to the pride of millions this weekend, became the first black man to win the Master's golf tournament.

Jackie Robinson and baseball were at the forefront of America's race relations. As baseball went, I am proud to say, so too has gone the country, slowly improving race relations and moving toward equality for all Americans regardless of color. Children growing up in the late 1940's and the early 1950's could look to Jackie Robinson and to his Dodger teammates and witness firsthand black and white working together, being part of a common team. And while there remained much progress to be made after Jackie Robinson integrated baseball and much progress still to be made today, a major step had been taken.

When Jackie Robinson and Branch Rickey showed the courage to challenge baseball and America, to reevaluate American racial policy, they helped start a movement that continues to this day. While much progress remains to be made in today's race relations, we have made great strides in the last 50 years, strides that would not have been possible but for heroes like Jackie Robinson and others similar.

I join the gentleman and am pleased to support this resolution and am proud to be a part of this effort.

Mr. CUMMINGS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Philadelphia, PA [Mr. FATTAH].

Mr. FATTAH. Mr. Speaker, I thank the gentleman from Maryland for yielding me this time, and I rise in support of our attempt to honor the life and legacy of this great African American.

I am reminded, however, that as we come to honor Jackie Robinson, we should be clear what brought him to the opportunity to play major league baseball. It was in its own way an affirmative action program in which he was sought out, brought in to deal with the fact that African-Americans had been excluded from the opportunity to play in major league baseball. If it were not for the active effort to include him, then we would not be here today honoring him, and as we honor him as a nation, we should think about the other doors that are sometimes locked to persons of color because, for whatever reason, people are unable to get past prejudices, to deny people access to law school and medical school, to colleges, college preparatory schools, to deny them access to contracts and employment opportunities.

We know all too well that the racism that existed that prevented Jackie Robinson from being able to play and others who were even more qualified than him perhaps and were denied the opportunity to play in major league baseball at that time has not evaporated totally in this country over the last 50 years.

So I come to the floor to join my voice to the voices of others, but I want to remind us that as we pay homage to Jackie Robinson and as we marvel at the ability of a Tiger Woods, we should know that they represent the reality that Americans of every color and persuasion have gifts given to them by the Creator and are capable if they are given the opportunity. We should continue as a Congress to try to find ways to open those doors of opportunities so that these young people and people like them can continue to create a circumstance in which we can all be proud.

Mr. Speaker, I want to thank the gentleman from Maryland, and thank my colleagues from the other side of the aisle. I hope that as we vote to honor Jackie Robinson, we will not vote to close doors of opportunity to other young people, those same doors that we today rise to congratulate and recognize the accomplishments of this great African-American.

Mr. CUMMINGS. Mr. Speaker, I yield myself the balance of my time.

As I close, Mr. Speaker, I just want to go back to something that the distinguished gentleman from Pennsylvania just talked about. He talked about the fact that there had been doors closed over and over again to people of African-American descent. And there have been doors closed to many immigrants that have come to this country. As I sat there listening to what he had to say, I could not help but be reminded of my childhood as a young boy in south Baltimore, where we did not have many opportunities. We did not play on grass. We played on asphalt. I will never forget looking up to a Jackie Robinson and saying there is a man who looks like me, who looks like my father, there is a man who came from the same kind of neighborhood that I came from, there is a man who is doing it, and so I know that I can do it, too. That was very significant for me.

I shall never forget standing and singing in class, in elementary school, "My country, 'tis of thee, sweet land of liberty, of thee I sing." And then I asked the question, but am I singing for a dream that can be fulfilled? Am I singing for a dream like a Jackie Robinson?

Mr. Speaker, I would submit to the Members of this great Congress that it is people like Jackie Robinson that stood up for little boys and girls all over our country.

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When they looked at Jackie Robinson, they said to themselves, "He looks like me, he comes from my same kind of neighborhood, he stands up like my father, he looks like my father, and if he can do it, so can I."

And so it is that it is only fitting that on this 50th anniversary that we pause, and sometimes, Mr. Speaker, it is so important that we simply pause in our lives to take a moment to recognize great people, that we pause out of our busy schedules and say, wait a minute, time out; let us take a moment to realize and recognize what a great man did.

So to Jackie Robinson, who is not here, but I do believe that he is here in spirit, wherever he is, Jackie Robinson I say to him, thank you, thank you for standing up, thank you for being an example, thank you for being someone that little boys and little girls could follow and who can say that you were a true role model. Thank you for being a role model. Thank you for not taking a walk and saying to our young people that I will not be a role model, that I am not a role model. You were a role model.

So we say to him today, thank you, thank you for lifting us up, thank you for all of us who are now in our 40s, 50s, and 60s, thank you for being that example, thank you for bridging the gap. Thank you for building bridges so that we reach out to one another and say we too are America and so that when little children sing, my country 'tis of thee, sweet land of liberty, so that when they sing those wonderful songs about this patriotic world that we live in, this country that we live in, they can too stand there and say that I can too succeed, that I can too be powerful, that I can too make a difference.

Mr. Speaker, I yield back the balance of my time.

Mr. WATTS of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Jackie Robinson said,

> Life is not a spectator sport. If you're going to spend your whole life in the grandstands just watching what goes on, in my opinion you're wasting your life.

Mr. Speaker, Mr. Robinson did not waste his life. He inspired the lives of others. He carried the weight of the world on his shoulders on April 15, 1947, to make America better. He carried the weight of the world on his shoulders in order to raise the conscious level of the American people concerning injustices of our great Nation at the time, and because Jackie Robinson became better, not bitter, he challenged us all to be our best.

Mr. Speaker, I urge unanimous support for this resolution.

Mr. FRANKS of New Jersey. Mr. Speaker, today I join my colleagues in honoring a real American hero—a man who changed the face of baseball and inspired so many others to break down barriers. Fifty years ago this week, Jackie Robinson walked onto Ebbets Field, wearing his Brooklyn Dodgers uniform and before a crowd of 26,623 fans, became the first African-American to play major league baseball. For young people today, it's probably hard to imagine a time when the color of your skin could keep you from fulfilling your dream of playing professional ball. But for half a century, America's most beloved past time had been off limits to anyone who was not white.

When Jackie Robinson took to the field that day, it marked a turning point in American history. As Jackie Robinson's wife, Rachel, later wrote: "I think the single most important impact of Jack's presence was that it enabled white baseball fans to root for a black man, thus encouraging more whites to realize that all our destinies were inextricably linked." Jackie Robinson's major league debut was a triumph for a naturally gifted athlete who grew up in Pasadena, CA, and excelled in every sport he tried. He was an all-American in basketball and broke the long jump record. During his time at UCLA, he also became a star football player.

When World War II broke out, Robinson joined the Army and was commissioned a second lieutenant. Despite his outstanding athletic ability and commissioned officer status, Robinson came face-to-face with the harsh reality of a segregated America. He was denied an opportunity to play on either the Army's football or baseball teams. When he personally challenged the so-called Jim Crow laws that prohibited Blacks from sitting in the front of a bus, Robinson faced a court martial. Although, he was found innocent, his Army career was soon over.

After his military service, Jackie Robinson returned to his first love, baseball, joining the Kansas City Monarchs of the Negro American League. When the Dodgers' general manager Branch Rickey recruited him for the major leagues, Robinson was not the most famous or talented of the Negro league players. But Rickey saw in Jackie Robinson a man of great courage and conviction, someone who could stand up to adversity and turn the other cheek to those who were out to destroy his career and the dreams of all African-Americans.

Over and over again Robinson was put to the test. He faced the boos, the racial slurs, and even death threats from many fans. Even the other players were far from supportive. Some of Jackie's own teammates threatened to strike. And, once on the field, players dug their spikes into him as they slid into base. Pitchers baited him by throwing balls directly at his head. Jackie Robinson responded saying, "I'm not concerned with you liking me or disliking me. All I ask is that you respect me as a human being."

Jackie Robinson had to put up with other indignities as well. He couldn't stay in the same hotels as his teammates or join them for a meal at many restaurants. In some cities, he had to drink from colored only water fountains and catch a ride in colored only cabs. Throughout it all, Jackie Robinson resisted the temptation to strike back. He let his actions on the field speak for themselves. By the end of his first season, his power hitting and aggressive base running earned him the Rookie of the Year honor as he led the Dodgers' to the National League Pennant.

Jackie Robinson went on to be the spark that ignited the great Dodger teams of the 1950's. He batted .300 or better 6 years in a row and led the National League in stolen bases during two seasons. He was the National League's Most Valuable Player in 1949 with a batting average of .342. And then, in 1962, he was inducted into the Baseball Hall of Fame. Years later, in 1987, the National League Rookie of the Year Award was renamed in his honor.

Mr. Speaker, Jackie Robinson was a great ball player, but as we celebrate his achievements on the field, we must also remember the contributions he made to the American way of life. Jackie Robinson put his own fears aside, stood up to bigotry and hatred, and he triumphed. His remarkable achievement has been a rallying cry to confront all forms of prejudice. Jackie Robinson's legacy is still visible today in the faces of the young boys and girls of all different colors who dream of becoming a professional athlete or of achieving, in some other way, their own special place in history.

In the words of Jackie Robinson "a life is not important except in the impact it has on other lives." Jackie Robinson's life can serve as an inspiration to all of us, both young and old, that through hard work and determination we can overcome any obstacles and break down what appear to be insurmountable barriers.

Mr. SMITH of New Jersey. Mr. Speaker, on this 50th anniversary of Jackie Robinson's major league debut, I am proud to say that I am and always have been a fan of Jackie Robinson. Not just for his athletic prowess, but for what I believe is his greatest achievement: his ability to keep his eye on the goal of playing baseball and doing his best in the face of the catcalls, the hissing, and the jeers.

With all the societal pressures placed on him, Jackie Robinson breathed life to the idea of community and equality; and proved to his contemporaries that the only color that mattered to him was Dodger blue. But more importantly, he made sure he was judged not by the petty mans' standard of skin color, but by the higher standard of merit, performance, ability, tenacity, and perseverance.

No doubt, Jackie Robinson had tough times and dreary days throughout his career. His gift to baseball and, indeed, to America, was his sensibility to see past the setbacks, the biases, the bigotry, and the prejudices directed at him and focus on the enormous task of playing baseball, well, and proving that shades of skin color do not make the player or the man.

In high school, I was on the track and field team, and now, as many of my colleagues know, I play annually on the Republican baseball team. I cherish those times on the field. It's hard to imagine that, before Jackie Robinson broke the color barrier, so many were excluded from the opportunities and rewards that playing organized and professional sports provide us. Some of life's greatest skills—teamwork, stick-to-itiveness, determination, diligence and comradery—are learned and reinforced on the ball field, and to have excluded an entire race from our national pastime is unconscionable.

I have four children, Mr. Speaker, who, like myself, have a passion for sports. Every sport my children participate in, from baseball—that would be my son, Chris—to lacrosse—my daughter Melissa—to soccer—my son Mike and my youngest daughter, Elyse, is a lesson in unity and selflessness. And no one lived that lesson better than Jackie Robinson. With two out and one on in scoring position, and your teammate coming to the plate for the possible game winning RBI, you stand and root him on. And your teammate isn't Jackie, the African-American kid, he is Jackie, your friend, and the best darn player on the team.

Each time my children step on to a field with their teammates and I see the matching colors of their jerseys worn by a vibrant mix of ethnicity and race, I know that we are getting closer to an equal and unified society. I thank Jackie Robinson for breaking the color barrier and laying the foundation. Yet, I know Jackie Robinson would be disappointed in all of us if we didn't finish what he so courageously began. By remembering and honoring him today we rededicate ourselves and our nation to equality and liberty and justice for all.

Mr. PAYNE. Mr. Speaker, last night I had the honor of attending the ceremony at Shea Stadium marking the 50th anniversary of Jackie Robinson's first game with the Brooklyn Dodgers.

Not only was Jackie Robinson a great athlete, he was a man of amazing courage and grace who served as a powerful role model to so many of us growing up in that era.

I recall vividly when I was a young boy the excitement among my friends as we followed the career of Jackie Robinson. In fact, in 1946, when he was still with the International League, he played in Jersey City, which is now in my congressional district, before a wildly enthusiastic crowd of 26,000 cheering fans.

He led the Dodgers to six National League pennants and a World Series championship in 1955. Over the course of his major league career, he was named to six all-star teams. He distinguished himself by winning a batting title, leading the league in stolen bases, and winning a Most Valuable Player Award.

I had the opportunity to see Jackie Robinson play the year he broke the color barrier, 1947. For African-Americans, his accomplishments were a source of great pride and hope for the future.

Last night many of those who knew Jackie Robinson best, his former teammates and colleagues, testified to his strength and perseverance under enormous day to day pressure. Sadly, that strain took a personal toll which undoubtedly led to his medical problems and premature death.

I recall that in 1972, the year which marked the 25th anniversary of his debut in the major leagues, a special tribute was, at long last, given in his honor. At that ceremony, he looked beyond the accolades given to him personally, and spoke out in behalf of future opportunities for other African-Americans. He said that our mission would not be complete until an African-American was given the opportunity to become a manager, a privilege which he was never offered despite his obvious talent and ability. He put his sentiments in these words: "I will be even more pleased when I can look at the third-base coaching box and see a black manager. I'd like to live to see a black manager."

Jackie Robinson never got his wish. He died 9 days later.

As President Clinton noted last night, our Nation can best honor Jackie Robinson's legacy by striving to become a society where we all work together in a spirit of harmony and a shared vision for the future.

Mr. Speaker, as we remember the remarkable legacy of Jackie Robinson, let us also resolve to honor the lessons he so eloquently taught us.

Mr. WATTS of Oklahoma. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. HORN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 61.

The question was taken.

Mr. WATTS of Oklahoma. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. WATTS of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on House Concurrent Resolution 61.

The SPEAKER pro tempore (Mr. UPTON). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

DOS PALOS LAND TRANSFER

Mr. SMITH of Oregon. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 111) to authorize the Secretary of Agriculture to convey a parcel of unused agricultural land in Dos Palos, CA, to the Dos Palos Ag Boosters for use as a farm school, as amended.

The Clerk read as follows:

H.R. 111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND CONVEYANCE, UNUSED AGRICULTURAL LAND, DOS PALOS, CALIFORNIA

(a) CONVEYANCE.—In accordance with the provisions of this section, the Secretary of Agriculture shall convey to the Dos Palos Ag Boosters of Dos Palos, California, all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) held by the Secretary that consists of approximately 22 acres and is located at 18296 Elign Avenue, Dos Palos, California, to be used as a farm school for the education and training of students and beginning farmers regarding farming. The conveyance shall be final with no future liability accruing to the Secretary of Agriculture.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the transferee shall pay to the Secretary an amount equal to the fair market value of the parcel conveyed under subsection (a).

(c) ALTERNATIVE TRANSFEREE.—At the request of the Dos Palos Ag Boosters, the Secretary may make the conveyance under subsection (a) to the Dos Palos School District.

(d) DETERMINATION OF FAIR MARKET VALUE AND PROPERTY DESCRIPTION.—The Secretary shall determine the fair market value of the parcel to be conveyed under subsection (a). The exact acreage and legal description of the parcel shall be determined by a survey satisfactory to the Secretary. The cost of any such survey shall be borne by the transferee.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oregon [Mr. SMITH] and the gentleman from Texas [Mr. STENHOLM] each will control 20 minutes.

The Chair recognizes the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 111 authorizes the Secretary of Agriculture to sell 22 acres of land in Dos Palos, CA, to a nonprofit group, the Dos Palos Ag Boosters, to establish a farm school to teach middle and high school students how to farm. The transfer will be a sale based upon fair market value of a parcel of land to be determined by the USDA's farm service agency.

I think that identifies the legislation, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 111, as amended, which authorizes the Secretary of Agriculture to convey for fair market value a parcel of unused agricultural land in Dos Palos, CA, to the Dos Palos Ag Boosters for use as a farm school for local high school and middle school students. Passage of this bill will achieve a couple of worthy goals:

First, it will ensure that this land remains in agricultural use; second, it will educate and train students and beginning farmers by giving them the hands-on experience necessary to succeed. The students and beginning farmers will learn firsthand about irrigation and conservation methods, integrated pest management, agricultural marketing and administration. This bill will help these students learn to appreciate the hard work that goes into producing our Nation's food supply and may get a few of them off to a good start as farmers.

I would note that this bill is virtually identical to legislation that passed the House last Congress. The minor and technical changes that we incorporate in the bill today are changes requested by the administration. The administration in a prior statement of administrative policy indicated that they supported the objectives of H.R. 111 but would seek perfecting amendments in the Senate. In the interests of expediting consideration of H.R. 111 in the other body in order to get it to the President's desk as soon as possible, we have included in the administration's minor technical changes in the version of H.R. 111 we are considering today. With these changes the administration strongly supports H.R. 111.

I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Oregon. Mr. Speaker, I yield as much time as he may consume to the gentleman from California [Mr. CONDIT], who is a chief sponsor of the bill.

Mr. CONDIT. Mr. Speaker, I will take just a moment. I simply want to thank the Committee on Agriculture, the chairman of the committee, the ranking member, the gentleman from Texas [Mr. STENHOLM], for expediting this bill and making sure we got it through here. We had a minor problem, and they worked very hard to work it out, and I appreciate it very much, and the gentleman from Texas [Mr. STENHOLM] has explained the bill. It is a straightforward bill, and I hope that all Members will join me in supporting H.R. 111 when it comes to a vote.

Mr. STENHOLM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of Oregon. Mr. Speaker, I have no further speakers. I, too, yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon [Mr. SMITH] that the House suspend the rules and pass the bill, H.R. 111, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to provide for the conveyance of a parcel of unused agricultural land in Dos Palos, California, to the Dos Palos Ag Boosters for use as a farm school."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of Oregon. Mr. Speaker, I ask unanimous consent that all members have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has concluded on all motions to suspend the rules.

Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 607, by the yeas and nays;

House Concurrent Resolution 61, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

HOMEOWNERS INSURANCE PROTECTION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 607, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. LEACH] that the House suspend the rules and pass the bill, H.R. 607, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were— yeas 421, nays 7, not voting 4, as follows:

[Roll No. 80]

YEAS—421

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Cox
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt

Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—7

Campbell
Crane
DeLay
Doolittle
Hill
Paul
Scarborough

NOT VOTING—4

Costello
Dingell
Pelosi
Schiff

□ 1514

Mr. CRANE changed his vote from "yea" to "nay."

Mr. KENNEDY of Rhode Island and Mr. ROYCE changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend the Real Estate Settlement Procedures Act of 1974 to require notice of cancellation rights with respect to private mortgage insurance which is required as a condition of entering into certain federally related mortgage loans and to provide for cancellation of such insurance, and for other purposes.".

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. UPTON). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

HONORING THE LIFETIME ACHIEVEMENTS OF JACKIE ROBINSON

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 61.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. HORN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 61, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 427, nays 0, not voting 5, as follows:

[Roll No. 81]

YEAS—427

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—5

Costello
Dingell
Mink
Pelosi
Schiff

□ 1523

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR MEMBER TO SIT IN VACANT POSITION ON COMMITTEE ON BANKING AND FINANCIAL SERVICES

Mr. FAZIO of California. Mr. Speaker, I ask unanimous consent that for the next month the gentleman from California [Mr. TORRES] be allowed to sit in the vacant position on the Committee on Banking and Financial Services as a Democratic member.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

PROPOSED CLOSING OF COMMISSARIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. MASCARA] is recognized for 5 minutes.

Mr. MASCARA. Mr. Speaker, I would like to take a few minutes this afternoon to make our colleagues aware of the problems associated with the proposal to close some 38 commissaries around the world, including some in Korea. I do not think many Members are aware of this potential. I read in the Army Times, dated March 31, of these potential closings.

First of all, one of these commissaries is in my congressional district in Oakdale, PA. This is 1 of 309 commissaries around the world. The problem relates to underfunding of some $48 million to DeCA, the Defense Commissary Commission. The Charles Kelly Support Facility was placed on that list by a subjective number of items that was used in selecting commissaries around the country and around the world that would be closed.

First of all, to the Member, we all agree that the budget must be balanced by the year 2002, and what I am saying, first of all, is that we need to reprioritize our spending, and to make sure that the benefits that were granted to these Members will be placed high on the priority of lists of spending in next year's budget.

The reason that the Charles Kelly Support Facility was selected was because somehow it fell under the category of 100 or more active members that should be on duty in order for a commissary to remain open. First of all, there were more than 100 at the Charles Kelly Support Facility, so the numbers provided by the Defense Department, the Pentagon, and DeCA were flawed and in error. I am hoping that they will consider keeping the commissary open at Oakdale in my congressional district.

□ 1530

In fact, if you go within a 50-mile radius of the Charles Kelly support facility, there are some 3,335 active members on duty in that district. So I have spoken to Major General Beale, Jr. about the matter, and we had a lengthy discussion about the problems of his agency.

First of all, the agency's budget, back in 1991 or 1992, was some $660 million. Then as a result of some accounting nuances, as an accountant myself, I usually check those figures, the department, the DeCA was placed under a performance based organization and asked to accept indirect cost allocations which raised his budget from $600 million to over $1 billion.

So a lot of those costs were as a result of indirect costs which are arbitrary and, I would say, capricious being placed on DeCA. DeCA itself, in addition to accepting those indirect costs, cut some $200 million over a 5-year period so it could help with balancing the Federal budget.

What I am saying is that I think the department, DeCA itself, in looking at closings, should consider using a regional factor that is in Pittsburgh, in Oakdale, PA. If that commissary were closed, you would have to go 200 miles to Dayton or 200 miles to Carlisle, PA in order to have access to a commissary.

The members of the armed services and the active members and the retirees, which number some 48,000 to 50,000, that use that particular commissary should be permitted to have a commissary. They shook the hands of the Federal Government and the military when they joined that they would have these benefits.

So what I am asking today, Mr. Speaker, is that DeCA and the Defense Department look at a regional concept. I am not saying that some of these 38 commissaries should not be closed, but they should look at a regional concept, which would include areas such as the Charles E. Kelly support facility that could reach out to other members of the armed services in that area and perhaps be considered as a regional commissary.

Mr. Speaker, this afternoon I want to take a few minutes to bring to the attention of the House the crisis that is facing our military commissary system.

I do not think many Members are aware of this situation, but for those of you who missed it, on March 31, 1997 the Army Times ran several articles pointing out that the commissary system is facing a $48 million budgetary shortfall.

If a solution is not found, at least 37 commissaries of the 309 worldwide will likely be closed. Four of the commissaries on the proposed closure list are in Korea and 33 in the United States and are located in cities from Hawaii to Maine.

One of the commissaries on the closure list is located at the Army's Charles E. Kelly Support Facility which is in my Pennsylvania district. The Defense Commissary Agency—known as DeCA—put the Charles E. Kelly facility on its list because the base contained less than 100 active duty personnel.

Those of you who know me, know I am an accountant and the first thing I do when I receive any information is to check the numbers.

To make a long story short, DeCA numbers were plain wrong. The Charles E. Kelly serves as many as 3,335 active duty members in a 50 miles radius and nearly another 50,000 reservists, retirees, dependents, survivors, and ROTC instructors who have also earned the right to use the facility.

Needless to say, I have already received assurances that should push come to shove, Charles E. Kelly, and others on the list which serve large populations of military families, will not be closed. DeCA will find some way to make ends meet and keep them open.

While my own parochial problem will likely turn into good news, my goal today is to make Members aware that through a variety of budget actions, DeCA's managers hands have been tied in knots and the commissary systems' finances run through a meat-grinder. And that is putting it politely.

If steps aren't taken to correct the situation, we may end up with the wholesale closure of commissaries all across the country. By default we could hand a victory to those who would like to do away with the commissary system altogether.

On behalf of all those military personnel, retirees, dependents, and survivors, who I know firsthand would have a hard time feeding their families without these commissaries, I would submit Congress owes our military personnel a more constructive solution. If we are to keep those millions of handshakes made between military recruits and our Government, we have no choice but to find an answer to this dilemma and to find it sooner than later.

The commissaries' budget problems can be directly traced to a change in its budget system ordered in 1992 by the Department of Defense which suddenly charged the commissary system with millions of dollars in indirect costs that had previously not been assigned to its budget. In subsequent years, DeCA has been asked to bear millions of dollars of hard budget cuts.

Now DeCA is to become a performance based organization, in laymen's terms an agency that operates more like a private business which tries to make money and meet its customers needs, Unfortunately, as part of the process, DeCA is probably going to be asked to bear at least another $200 million in cuts.

I am an accountant. I know my numbers and from my professional perspective, these repeated financial assaults on DeCA have put it in an untenable position, making it nearly impossible for the agency to carry out its duties.

In the short-term, I have implored Pentagon officials to find a way to reprogram funds to keep these commissaries open.

In the long run, I think the Pentagon and Congress has to seriously consider regionalizing the commissary system and raising the commissary surcharge by 1 percent.

At the present time, the Pentagon apparently only counts active duty personnel when determining the need for a commissary. The reality is there are millions of other military-connected citizens, reservists, retirees, dependents and survivors who also have commissary privileges.

If these groups are counted and clusters drawn where the highest concentration of eligible shoppers occur, the Pentagon could easily establish regional commissaries, a system I predict which would function much more efficiently and cost-effectively.

The second step would be to raise the commissary surcharge which has not been raised since 1983, A 1-percent increase would generate approximately $53 million annually. I know this is not popular to say, but commissary shoppers, with an average basket cost of around $50 would hardly notice the .50 cents added to their bill.

Taking these two steps would give DeCA leaders the flexibility their sorely need to improve services, upgrade stores, and show the rest of the Government that a performance based organization can really work.

Finally, I think it is important to make the point that the men and women directly impacted by these possible commissary closures freely chose a military career serving their country, oftentimes knowing they will make considerably less in terms of pay than they would in a civilian occupation. Part of the reason they dedicate their lives to protecting our country's liberty is because they are told that in return they and their families will receive medical care and access to a commissary. If these commissaries are forced to close, we will be breaking the promise made to them and denying these heros of our society the adequate compensation they clearly deserve in return for their dedication to our country's military.

As you may know, I am a member of the House Committee on Veterans' Affairs and serve on its Subcommittee on Benefits. I come from a family with a long history of serving in the military. I myself am an Army veteran. I have four brothers who served in World War II and my immigrant father earned a Silver Star for valiant and heroic service in World War I. Thus, it is no secret that I strongly feel that our country owes a deep obligation to all active duty military personnel and veterans and must do everything possible to see that they receive the health care and other benefits they so rightfully deserve. It is my intention to work with all appropriate Members to see that these closings do not occur and that the commissary systems long-range problems are resolved.

This isn't an argument over who can sell the cheapest groceries. The question is how do you want to compensate the troops? Is the Pentagon going to raise pay to offset for closing commissaries? Even if each military personnel was given an extra $75 per month to compensate, the cost would be prohibitive. In the end, we would spend more than it costs to keep the commissaries open and running.

I urge my colleagues from both sides of the aisle to join me in this effort. We owe the fine men and women in our military no less.

ISSUES OF IMPORTANCE

The SPEAKER pro tempore (Mr. ROGAN). Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, just frustrated for the last several days, when I have heard Members from the other side of the aisle, the Democrats, suggest to the Republicans, why are you not doing this, why are you not passing campaign finance reform? Why are you not helping this group, or why are you not doing this for those people?

I would like to remind everybody, Mr. Speaker, that the Democrats have controlled this Chamber for the last 40 years, ample opportunity, ample time to deal with some of the problems that they are so ready now to stand up and criticize Republicans for not moving faster.

I cannot help but think of the welfare reform so long overdue, where the U.S. Government has in effect said to young women in this country, if you get pregnant, we are going to do these things for you.

Can you imagine, Mr. Speaker, anybody going to their own young daughter and saying, I want to talk about the possibility of you getting pregnant and, if you get pregnant, we are going to increase your allowance by $500? We are going to give you a food allowance.

We would never say something like that to our own kids. Yet as a society, we have been saying that.

Nothing happened to change welfare until the last 2 years when Republicans, for the first time in 40 years, gained a majority in this House, in this chamber, and decided, look, enough is enough. We are sending the wrong signals. If we want to get back to an America that rewards those people that work hard, that save, that try, then we are going to have to make some changes of where we have been going for the last 40 years. That means changing a complicated tax system.

We now have a Tax Code where special interest lobbyists have been coming in over these past 40 years and getting favoritism for their particular clients. So now we have a Tax Code that is so complicated, that is so unfair that everybody agrees that it needs changing. Yet it has not been changed.

And now what we are saying on this side of the aisle, and we are gaining support from the Democrats, is that we need to make some basic changes in our tax code to make it flatter, to make it fairer.

I would like everybody to guess how many people now work for the IRS, snooping around our different tax filings to see what they can find out. Luckily this week we passed a bill to say, no more snooping for IRS agents.

Sometimes we question what is happening with immigration. If you compare the number of people hired for immigration, something around 14 or 16,000, I think, with the 115,000 IRS agents that we employ to go over taxes, to do our auditing, saying that they have to have this kind of power because they are afraid the American people might cheat if they are not threatened with an audit, it has got to be our goal to get rid of the IRS as we know it.

Mr. Speaker, I would urge all Members of this Chamber to look at what has been accomplished over the last 40 years and what has not been accomplished. And even though Republicans might not be passing as many bills right now as we did 2 years ago, I think it needs to be clear that we are for changing this Tax Code. We are for doing away with as much of the death tax penalty as we can, to do away with that estate tax or at least increase the exemption, to do away with our Tax Code that discourages savings and investment.

We have the greatest penalty, Mr. Speaker, we have the greatest penalty against businesses that decide to buy new tools and machinery. So we penalize savings and we penalize investment. We need to change that. We are moving steadily ahead to do some of the things that should have been done much earlier than this session or last session.

PROBLEMS WITHIN THE DEPARTMENT OF VETERANS AFFAIRS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 5 minutes.

Mr. BILIRAKIS. Mr. Speaker, I rise reluctantly today to highlight problems within the Department of Veterans Affairs.

Over the past several months, incidents of sexual harassment by several VA senior career managers have come to my attention and, I might add, probably to all of our attention.

This greatly disturbs me because Secretary Brown has repeatedly stated his support for a policy of zero tolerance toward sexual abuse.

Recently one former VA medical center director who was found to have sexually harassed a female staff member and who also engaged in abusive, threatening, and inappropriate behavior toward other female staffers was transferred to the Bay Pines VA Medical Center in St. Petersburg, FL. This center serves many of the veterans in my Ninth Congressional District. He was also permitted to retain his salary in excess of $100,000 in a position that was created specifically for him. I am greatly concerned, Mr. Speaker, that the VA's policy of zero tolerance has, at best, not been implemented uniformly and, at worst, has been ignored. More disturbing have been revelations of mismanagement within the VA health care system itself.

Our veterans, Mr. Speaker, have made tremendous sacrifices in defense of our freedoms and way of life.

These sacrifices cannot be imagined by most people. Our veterans are entitled to the best and most timely health care services available.

And overall, Mr. Speaker, I believe that the majority of our veterans receive high-quality care in VA facilities around the country; and yet, these allegations of mismanagement do raise serious questions: Can resources be allocated more efficiently? Is the VA fulfilling its obligation in meeting its commitment to our Nation's veterans?

Mr. Speaker, these questions must be answered. I am pleased that Veterans' Affairs chairman, the gentleman from Arizona [Mr. STUMP], and Oversight Investigation Subcommittee chairman, the gentleman from Alabama [Mr. EVERETT], have agreed to my request to hold hearings on these important matters. Tomorrow we will begin this process.

Our Nation's veterans deserve to know, Mr. Speaker, that the money we appropriated to their health care will not be misspent on $26,000 fish tanks and $500 faucets but, rather, will be spent to meet their health care needs.

Mr. Speaker, since coming to Congress, most of us have committed to fighting for our veterans. That commitment has never diminished. And so, we are anxious to hear from the VA about how they intend to continue to provide high-quality care to our Nation's veterans and how they will rectify any problems detrimental to that pursuit. Our veterans deserve no less.

H.R. 400, THE 21ST CENTURY PATENT IMPROVEMENT ACT OF 1997

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. GOODLATTE] is recognized for 5 minutes.

Mr. GOODLATTE. Mr. Speaker, in light of the deluge of misinformation that has been circulating recently on H.R. 400, the 21st Century Patent Improvement Act, I would like to speak briefly on how this legislation benefits small inventors as well as the entire Nation.

H.R. 400 benefits small inventors in four key areas. First, it allows small inventors to acquire venture capital more quickly and easily than they can under either the current system or H.R. 811, the submarine substitute offered by Mr. ROHRABACHER. Presently, small inventors often have trouble attracting venture capital to transform their ideas into marketable products. By allowing publication after 18 months from filing, however, H.R. 400 brings venture capitalists together with small inventors to market ideas that will benefit all of society.

Second, H.R. 400 gives inventors greater protection against would-be thieves who want to steal their ideas than they currently receive. In the present system, inventors have no protection against people who steal their ideas and commercialize them before their patents are granted. For example, third parties can currently commercialize unpublished patents by manufacturing a product and offering it for sale. The inventor is then powerless to stop the sales or to share in the profits until the patent is actually granted.

Under the Rohrabacher submarine substitute, small inventors would be left to fend for themselves in these situations. H.R. 400, however, allows small inventors to receive fair compensation from any third party who steals their ideas between the time a patent is published and the time a patent is granted. This patent pending protection will give small inventors the protection they need to stop commercial thieves from stealing their ideas.

Third, H.R. 400 gives small inventors longer patent terms than they receive under current law. In the old system, which the Rohrabacher submarine substitute seeks to resurrect, inventors received patent protection for only 17 years from the date the patent was granted. H.R. 400, on the other hand, gives good-faith patent applicants a minimum of 17 years of protection—and in most cases, more than that. Also, H.R. 400 provides extended protection for up to 10 years, and diligent applicants who do not receive timely ruling from the patent office will receive additional protection. Only H.R. 400 give small inventors the protection they need to survive in the marketplace.

Finally, H.R. 400 gives small inventors a special option to avoid publication. While most diligent inventors will want to take advantage of the venture capital and additional protection that comes with publication, some may have second thoughts about publishing their protected ideas—especially in cases where the Patent Office indicates that it might not issue a patent.

In these cases, H.R. 400 gives small inventors the option of withdrawing their applications prior to publication. They may then continue to refine their applications or seek protection under State trade secrecy law. This option is only available to small inventors—large corporations will be required to publish their patents after 18 months.

As an example of how H.R. 400 benefits small inventors, I would like to insert in the RECORD a letter I recently received from a small Virginia inventor supporting H.R. 400. Although a vocal minority has been engaged in a campaign of deliberate misinformation against H.R. 400 in recent weeks, I believe that this letter represents the silent majority of small inventors who fully support H.R. 400.

I would also like to insert into the RECORD a recent Wall Street Journal article exposing the scam of submarine patents. While some may argue that submarine patents do not occur very often, this article clearly shows that submarine patents cost American consumers and taxpayers hundreds of millions of dollars. A single submarine patent can wipe out an entire small business—and with some submarine patents, an entire corporation. The Rohrabacher submarine substitute, which the House will consider tomorrow, would continue to encourage this devastating practice.

Mr. Speaker, in closing, I would like to urge each of my colleagues to oppose the Rohrabacher submarine substitute and to support the unanimous product of the Judiciary Committee, H.R. 400. A vote for the Rohrabacher submarine substitute is a vote against small inventors. Only H.R. 400 will give them the protection they need to compete in the marketplace.

UNIQUE SPECIALTY PRODUCTS
Arlington, VA, April 11, 1997.

Hon. BOB GOODLATTE,
123 Cannon HOB,
Washington, DC.

DEAR CONGRESSMAN GOODLATTE: The 21st Century Patent System Improvement Act, H.R. 400, has been favorably reported from the House Judiciary Committee and is scheduled to be considered on the House floor next week. This letter is to urge your support for the committee bill and to resist crippling amendments.

The bill is the work product of a bipartisan effort over several years to modernize the Patent and Trademark Office and to streamline the U.S. patent system. Extensive hearings have been held on the measure and concerted efforts have been made to accommodate those with keen interests in the legislation.

The bill, if enacted, would be extremely beneficial for my company. USP is a small business engaged in the development of medical imaging software. Currently, we are engaged in an effort jointly with an European pharmaceutical company to enhance the reliability of X-ray mammography. A patent application is pending now and several others may be filed in the next several months. We will then license the European company to utilize our imaging technology in clinical trials.

Several provisions of H.R. 400 will significantly help us in this regard. First, the bill authorizes.and encourages the electronic filing and processing of patent applications. This is especially important in software development, where time is of the essence. The hardware and software imaging technology is evolving so rapidly, that quick response from the Patent Office is absolutely essential to survival of a company such as USP. Further, and more important, these advances in technology much reach the marketplace as soon as possible. Many lives are at stake.

Second, the bill's provisions on early publication are quite significant. The U.S. is the only major advanced society that does not have early publication as a key part of its patent law. As a result, our inventors and technology companies are at the mercy of "submariners" who file generic, all-purpose inventions, deliberately delay consideration of the application by the PTO through delaying and dilatory tactics for years. Meanwhile, the state of the art of the technology advances. Then, belatedly a patent is approved which is overly broad and then forces others—after the fact—to pay royalties.

This uncertainty can be devastating to a company such as mine. In licensing our software, we must warrant that there will be no future claims on it. We could be at the mercy of someone who had an application pending while ours was offered in the marketplace. Early publication of the claims of a pending patent go along way in preventing manipulators from playing havoc with legitimate technology developers. Only the U.S. allows this to happen. Our European clients are simply incredulous that we still follow the old practice.

Further, the "corporatizations" of the PTO is important for us "users" of its services. The PTO should be insulated from bureaucratic meddling and political influence. It is a totally "user fee" self-supporting organization. Our filing fees should be utilized for improvement and modernization of the PTO, not siphoned off to support the Legal Services Corp or some other politically correct governmental activity that is facing budget cuts. The workload at the PTO is already overwhelming. Automation is expensive, both in terms of acquisition costs and training.

In summary, I urge you to support H.R. 400.

With best regards.

Sincerely yours,

RICHARD W. VELDE,
Manager.

[From the Wall Street Journal, Apr. 9, 1997]

HOW PATENT LAWSUITS MAKE A QUIET ENGINEER RICH AND CONTROVERSIAL

(By Bernard Wysocki, Jr.)

SCOTTSDALE, ARIZ.—Few people paid much attention to Jerome H. Lemelson until he figured out a way to make $500 million.

For decades, Mr. Lemelson has been a soft-spoken, somewhat-nerdy engineer who doesn't manufacture products and rarely even makes prototypes but who turns out a steady stream of blueprints and drawings and has filed huge applications at the U.S. Patent and Trademark Office. He files and amends and divides his applications. Eventually, sometimes 20 years later, he usually gets a patent.

Over the years, the 73-year-old Mr. Lemelson has accumulated nearly 500 U.S. patents, more than anybody alive today. They cut through a wide swath of industry, from automated warehousing to camcorder parts to robotic-vision systems.

But he hasn't just hung the patents on a wall, like vanity plates. Seeking royalties, he has turned the strongest ones into patent-infringement claims—and a fortune. In 1992 alone, he collected a total of $100 million from 12 Japanese automotive companies, which decided to settle with him rather than fight him in court over a portfolio of some of his innovations: "machine vision" and image-processing patents. The claims cover various factory uses ranging from welding robots to vehicle-inspection equipment.

"This is what made him rich," says Frederick Michaud, an Alexandria, Va., attorney who represented the Japan Automobile manufacturers Association. "But he's still current, let me tell you."

These days, Mr. Lemelson is casting a longer shadow than ever. True, he makes huge donations, including funding the annual $500,000 Lemelson-MIT Prize for innovation that will be presented tomorrow night at a gala in Washington.

MUCH CONTROVERSY

But behind the pomp lies controversy. Critics say Mr. Lemelson not only exploits the patent system but manipulates it.

He is currently embroiled in a brutal legal battle with Ford Motor Co. Unlike more than 20 other automotive companies, Ford has refused to get a license from him on the machine-vision and image-processing patents. In a filing in federal court in Reno, Nev., it charged that Mr. Lemelson, in an abuse of the system, "manipulated" the U.S. Patent Office. Ford contended in its suit that Mr. Lemelson "unreasonably and inexcusably delayed" the processing of his applications to make the patents more valuable and more up-to-date. A Ford lawyer, in testimony before a congressional committee, once compared his patents to "submarines," sometimes surfacing decades after they were filed, with claims covering new technology.

In 1995, U.S. Magistrate Judge Phyllis Atkins in Nevada sided with Ford, stating that "Lemelson's use of continuing applications has been abusive and he should be barred from enforcing his asserted patent rights." In her report, she also stated that Mr. Lemelson "designs his claims on top of existing inventions for the purpose of creating infringements." Mr. Lemelson has appealed, blaming the Patent Office for his delays in filing claims. A federal district judge is expected to rule soon.

EDISON RECALLED

To Mr. Lemelson and his friends, the litigation is the price paid by genius. "When Edison was alive, he was involved in a lot of litigation," says Mr. Lemelson's lead attorney, Gerald Hosier. "He was also a guy that all of the big companies said every nasty thing they could think of about him. It's only when he died that [Edison] became revered as a great inventor."

Mr. Lemelson's extensive patent filings have the hallmarks of a technical whiz. He holds three engineering degrees from New York University, and his drawings show a draftsman's touch. He is a man with a voracious appetite for technical journals, trade magazines and conference proceedings. A 1993 letter to a potential licensee cited articles in 17 electronics journals.

An inveterate note-taker, Mr. Lemelson says he still churns out ideas nearly every day. His recent notes, grist for future patent filings, fill a folder on file at his lawyer's office here.

Another battle on the horizon will pit Mr. Lemelson against Ford and more than a dozen secret allies. In dispute are some of his pending patent applications that cover "flexible manufacturing" techniques. Ford is trying to prevent them from being issued; if the patents are issued, Mr. Lemelson plans to enforce them. Discussing the litigation—Mr. Lemelson estimates the two sides have spent well over $10 million, with no end in sight—he says, "It's almost, in my opinion, madness."

Meanwhile, Mr. Lemelson is inspiring a horde of imitators. Firms are springing up whose main business is obtaining patents and, like him, enforcing them by first offering a license and then, if refused, suing. Working with them are individual inventors who have decided that patented ideas, legally enforced, can be more lucrative than manufacturing and marketing.

"I'm not interested in building a company and getting into manufacturing. I focus on new inventions, on new things," say Charles Freeny Jr., a 65-year-old inventor in Irving, Texas, with a patent covering transmission of digital information over a network. Today, enforcement of Mr. Freeny's rights is in the hands of E-data Corp., a tiny Secaucus, N.J., company with three employees. Its main business is to try to extract royalty payments from alleged infringers.

A new breed of intellectual-property lawyer has emerged, too. Many seem to be inspired by Mr. Hosier, who pioneered the use of contingency fees in patent cases and whose work for Mr. Lemelson alone has brought him more than $150 million in fees. The lawyer's success—he lives in a 15,000-square-foot house near Aspen, Colo.—has made the field "a very hot area. It's going crazy," says Joseph Potenza, a patent attorney in Washington. Between 1991 and 1996, the American Bar Association says, the number of intellectual-property lawyers soared to 14,000 from 9,400.

One Houston company, Litigation Risk Management Inc., is even helping finance inventors' intellectual-property efforts by bringing in Lloyd's of London to finance 80% of the cost of the litigation. Joby Hughes, Litigation Risk's president, says that if the licensing or litigation effort succeeds, the London insurance exchange will get a 25% profit on the money it puts up. Mr. Hughes's company gets a fee for arranging the deal.

A BOOMING FIELD

Companies long active in intellectual-property enforcement say business is strong. One is Refac Technology Development Corp. The New York company buys the rights to patents and licenses them to manufacturers, which pay royalties to both Refac and the inventors. Last year, Refac's net income more than doubled to $4.7 million on revenue of $9.2 million.

The purpose of the U.S. patent system comes into question, however. A patent doesn't require the inventor to go into manufacturing; technically, a patent is a right to exclude somebody else from using your ideas in commercial products, for 20 years from the date of filing. (Before June 1995, patents were valid for 17 years from date of issue. These and other patent revisions remain a hot topic in Congress.)

U.S. Commissioner of Patents and Trademarks Bruce Lehman says he is outraged by "these people who file patent applications and never, ever, ever go to market with an invention, based on their application. I thought what the patent system was all about was coming here and getting a patent and going to some banker or venture capitalist or something and get money, and then you go out and start a company and put products out on the marketplace. And you go sue the people that infringe on you."

But to the new intellectual-property players, it is the patent itself that has the economic value. And that has long been Mr. Lemelson's notion.

A native New Yorker, Mr. Lemelson worked for big companies and tried his hand at toy manufacturing. By his own testimony, that venture didn't succeed. Over time, he turned to crafting patents and then to seeking licenses. He often got involved in legal battles. His biggest one in toyland was a 15-year fight with Mattel Inc. over the flexible track in its Hot Wheels toys. In 1989, he won a $71 million patent-infringement judgment, but it was overturned on appeal.

BIG DEAL WITH IBM

In electronics, Mr. Lemelson's big break came in 1980, when International Business Machines Corp. agreed to take a license on a portfolio of his computer patents. "After the IBM deal, I became a multimillionaire," he says. "It didn't put me on easy street because I had so many balls in the air at one time. But it certainly helped a lot."

An even bigger break came in the mid-1980s, when Mr. Lemelson met Mr. Hosier. In 1989, the already successful patent lawyer put together the "machine vision" licensing campaign. Mr. Hosier focused his negotiations on 12 Japanese automotive companies, and the talks dragged on through mid-1992. That July, Mr. Lemelson sued four of the companies, Toyota Motor Corp., Nissan Motor Co., Mazda Motor Corp. and Honda Motor Co. Within a month, the Japanese agreed to settle; the 12 companies paid him the $100 million.

At a post-settlement celebration of sorts, in the Brown Palace Hotel in Denver, the

Japanese insisted on taking photographs, which show eight grim-looking Japanese surrounding a beaming Mr. Lemelson. He contends that it was a heroic victory, a patriotic act. "My federal government has made [in taxes] probably over a quarter of a billion dollars on my patents over the years," he says. "A good part of it has been foreign money."

Similar infringement suits followed, against Mitsubishi Electric Corp., against Motorola Inc., against the Big Three Detroit auto makers. Initially, both Mitsubishi and Motorola decided to fight; later, they settled. The suits against General Motors Corp. and Chrysler Corp. were "dismissed without prejudice." In effect, any further action against GM or Chrysler is in abeyance until the Ford outcome is known.

WHY THEY SETTLED

By all accounts, the strategy was well-planned and well-executed. Mr. Hosier says the Japanese were more inclined to settle than the Americans. Commissioner Lehman says the Japanese are "particularly freaked by litigation. And so you start out with them. . . . And, of course, they all pay up, and that establishes a precedent." After the Japanese settlement, several European auto makers also agreed to take licenses on Mr. Lemelson's patents.

Some who settled say they concluded that Mr. Lemelson had a good case. Others call it an uphill battle to try to persuade a judge or jury that the government had repeatedly made mistakes in issuing him all those patents. With a legal presumption that patents are valid, his opponents say they had the burden of proving the Patent Office had goofed 11 times in a row.

In any event, by 1994, Mr. Lemelson had amassed about $500 million in royalties from his patents. But Ford has held out.

Even as the lawyers haggled over the law, many of the facts in the case were undisputed. In 1954 and 1956, both sides agree, Mr. Lemelson made massive patent filings, which included, for example, many drawings and descriptions of an electronic scanning device. As an object moved down a conveyor belt, a camera would snap a picture of it. Then that image could be compared with a previously stored one. If they matched, a computer controlling the assembly line would let the object pass. If the two images didn't match up, it might be tossed on a reject pile.

But because Mr. Lemelson's filings were so extensive and complex, the Patent Office divided up his claims into multiple inventions and initially dealt with only some of them. Thus, for whatever reason, his applications kept dividing and subdividing, amended from time to time with new claims and with new patents.

It was as if the 1954 and 1956 filings were the roots of a vast tree. One branch "surfaced" in 1963, another in 1969, and more in the late 1970s, the mid-1980s and the early 1990s. All direct descendants of the mid-1950s filings, they have up-to-date claims covering more recent technology, such as that for bar-coding scanning.

The lineage was presented to the court in a color-coded chart produced by Ford. It shows how the mid-1950s applications spawned further applications all through the 1970s and 1980s. One result: a group of four bar-code patents issued in 1990 and 1992, with a total of 182 patent claims, all new and forming the basis of 14 infringement claims against Ford. But because of their 1950s roots, these patents claim the ancient heritage of Mr. Lemelson's old applications and establish precedence over any inventor with a later date.

The entire battle has become numbingly complex, a battle over whether the long stretch between the mid-1950s and the new claims in the 1990s constituted undue delay. Ford says yes. Mr. Lemelson says no. The magistrate judge found for Ford.

Another question is whether Mr. Lemelson's original filings—his scanner and camera and picture of images on a conveyer belt—should be considered the concepts of bar-code scanning, and thus Ford's use of bar coding in its factories make it an infringer of his patents. Mr. Lemelson says yes. Ford says no, arguing Mr. Lemelson depicted a fixed scanner (bar-code scanners can be hand-held).

"As we said in our lawsuit, if you walk into the Grand Union and show up for work with a 'Lemelson' bar-code scanner, it won't work," quips Jesse Jenner, a lawyer for Ford.

It's impossible to say which side will ultimately prevail. Or whether there will be a settlement. But the clear winners so far are the lawyers. Mr. Lemelson alone employs a small army of them. And Mr. Hosier pretty much thanks himself for that, noting an old joke: "One lawyer in town, you're broke. Two lawyers in town, you're rich."

STEAL AMERICAN TECHNOLOGY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. FORBES] is recognized for 5 minutes.

Mr. FORBES. Mr. Speaker, I take the floor today in this, the people's House. Yes, we proudly proclaim that this is the people's House where we stand up for the individual.

Mr. Speaker, tomorrow there is going to be a very startling series of events on an issue that will be before this House. I refer specifically to H.R. 400, the Steal American Technology Act.

This act will take American individuals and American interests and supplant them to the foreign interests. It will take multinational corporation interests and put them over the individual's interest. It will weigh in for power and prestige over the needs of Americans and our economy.

Mr. Speaker, H.R. 400 is about gaining access to foreign markets. If my colleagues are concerned about the terrible exporting of American jobs overseas, they will be absolutely outraged if H.R. 400 is to pass this House and become law because it sells out our children's future and our grandchildren's future, it puts us at an economic disadvantage in the world marketplace, and it makes American interests secondary to foreign interests.

Patent protections go back to the beginning of this Republic. They are spelled out in our Constitution. They say that, if a man or woman comes up with a great idea, they can get that idea protected by our Government and by our patent offices, Eli Whitney and his cotton gin protected by the patent system, Henry Ford protected by the patent system, Thomas Edison protected by the patent system.

Mr. Speaker, what this body is about to do tomorrow will put us at a distinct disadvantage. It will say to the little guy, forget you, multinational interests are supreme over individual interests; we need access to foreign markets, so we are going to sell out the individual.

This is a horrendous activity that is about to take place. Mr. Speaker, telling men and women across America, the individuals, the little guys, that come up with the good idea that they are no longer going to be protected because after 18 months, whether they have their patent or not, we will open it up for the whole world to see their idea so that the whole world can copy that idea.

And who better than the more aggressive nations around the globe that are trying to take our American ideas, Asian nations particularly have pleaded with the administration to loosen up on patents, to loosen up those protections, water down our ability to protect American ideas; and in return, we will give you access to foreign markets.

Multinational corporations love it because with their vast legal departments they can protect their interests. But what about the little guy who does not have the resources to get a bank of attorneys to protect their idea?

The American patent system has historically protected the little guy, and tomorrow we are going to sell down the river the little guy in America for the sake of multinational corporations. We must oppose the watering down of our patent protections.

This will put Horatio Alger's notion of this Nation, that an average man or woman with a good idea could build upon that idea and create new jobs, create whole new industries, create a stronger and better America.

As we march into the 21st century, we are going to hand off that notion to foreign interests because multinational corporations want access to foreign markets. And if we let this pass in this House, shame on us, Mr. Speaker.

☐ 1545

Shame on us for selling down the American people in what we have lovingly called the people's House.

REGARDING JUDICIAL ACTIVISM

The SPEAKER pro tempore (Mr. ROGAN). Under the Speaker's announced policy of January 7, 1997, the gentleman from Texas [Mr. DELAY] is recognized for 60 minutes as the designee of the majority leader.

Mr. DELAY. Mr. Speaker, I take this time to once again discuss an issue that is of great concern to the American people. That issue is judicial activism. And I am very pleased to join my colleagues in taking out this special order.

Last week a three-judge Federal appeals court reversed a decision made by Judge Thelton Henderson, who barred the enforcement of the California civil rights initiative. In reversing that decision, the appellate judge wrote, "A system which permits one judge to block with the stroke of his pen what 4,736,180 State residents voted to enact as law tests the integrity of our constitutional democracy."

Well, I think, Mr. Speaker, that is exactly right. Judicial activism threatens the checks and balances written into our Constitution.

And, Mr. Speaker, I would like to enter into the RECORD an article that appeared in today's edition of the Hill newspaper, written by Thomas Jipping, the director of the Free Congress Foundation's Center for Law and Democracy. The article is entitled "Impeachment Is Cure for Judicial Activism." I think it is a well-reasoned and rational explanation of why impeachment should be used by this Congress as a tool to act as a check to the imperial judiciary.

[From The Hill, April 16, 1997]

IMPEACHMENT IS CURE FOR JUDICIAL ACTIVISM

(By Thomas L. Jipping)

America's founders knew that government power, if left unchecked, will always grow and undercut liberty and self-government. The judiciary is today proving them correct. Operating unchecked for generations, judges routinely reach beyond the "judicial power" granted by the Constitution and exercise legislative power they do not legitimately possess.

Judicial activism exists in part because Congress refuses to exercise the checks and balances the founders crafted. One of these is impeachment. Rep. Tom DeLay (R-Texas) recently drew howls of protest from the legal establishment and political left by suggesting that Congress revive this check on excessive judicial power. Rep. DeLay, however, is on solid ground. His critics like activist judges because they like what those judges do; they are simply not honest enough to say so. But it is Rep. DeLay's view of a judiciary exercising only judicial power, checked if necessary with the tools provided by the Constitution, that resonates with America's founders.

Activist judges claim the power to make our laws mean anything they wish. They practice Chief Justice Charles Evans Hughes' maxim that the Constitution is whatever the judges say it is. As President George Bush put it, they legislate from the bench. Even Humpty Dumpty could define judicial activism when he declared: "When I use a word, it means what I choose it to mean—neither more or less." If judges have the power to determine the meaning of our laws, however, they have the power to make our laws. That is a power legitimately exercised only by the people and their elected representatives.

America's founders intended that Congress impeach activist judges. In The Federalist No. 81, Alexander Hamilton argued that "the supposed danger of judiciary encroachments on the legislative authority ... is in reality a phantom." Why? Because, wrote Hamilton, "there never can be a danger that the judges, by a series of deliberate usurpations on the authority of the legislature, would hazard the united resentment of the body entrusted with [impeachment]."

The Constitution allows impeachment for what it calls "high crimes and misdemeanors." Advocates of unlimited judicial power yank this phrase from its constitutional moorings and give it whatever narrow meaning is convenient for their argument. American Bar Association President N. Lee Cooper repeated the current myth in The Hill (March 26) by arguing that judges may only be impeached for a "criminal act."

This bizarre theory has never been true and Mr. Cooper's reliance on high school civics for this theory demonstrates the dangers of both make-it-up-as-you-go judicial activism and the dumbing-down of American education. Arrayed against his position, however, is nothing less than 600 years of English and American legal and political history.

According to Prof. Raoul Berger, impeachment was created because some actions for which public officials should be removed from office are not covered by the criminal law. The phrase "high crimes and misdemeanors" already had 400-year-old roots in English common law when the framers placed it in the U.S. Constitution. English judges were impeached for misuse of their official position or power, mal-adminstration, unconstitutional or extrajudicial opinions, misinterpreting the law, and encroaching on the power of the legislature.

The Constitution's framers also believed that impeachable offenses extended beyond indictable offenses. When they settled on the phrase "high crimes and misdemeanors," for example, George Mason and James Madison believed it included attempts to subvert the Constitution.

All of these are features of the judicial activism that today undermines liberty and self-government. Activist judges do not simply make decisions someone does not like; they exercise power they do not legitimately possess. If a willful exercise of illegitimate power is not impeachable, nothing is.

Faced with these facts, apologists for unlimited judicial power retreat to the cliché of "judicial independence." They never utter a word when judges illegitimately steal legislative power, but suddenly discover judicial independence and the separation of powers at the suggestion of Congress legitimately checking judicial power. Checks and balances, however, cannot work only in the direction one likes.

Judicial independence is a means to the end of a judiciary exercising only the "judicial power" granted by the Constitution and leaving the lawmaking to the legislature. When judges go beyond their proper role and make up new meanings for our laws, it is those judges who violate their own independence and make necessary the checks and balances, such as impeachment, provided by the Constitution.

Mr. Speaker, an independent judiciary is the anchor of our democracy. A despotic judiciary may very well lead to the downfall of our democracy. I just urge my colleagues to consider all the tools within our constitutional authority as we, the Congress, take on a very real problem of judicial despotism. One of those tools is impeachment.

Despite the barrage of criticism that myself and my colleagues have suffered over the last few weeks, I think impeachment is a tool that we should consider using.

Mr. Speaker, I yield back the balance of my time.

JUDICIAL ACTIVISM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Texas, Mr. SAM JOHNSON, is recognized for the remainder of the time as the designee of the majority leader.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I appreciate the position of the other gentleman from Texas, Mr. DELAY. I come before the House today to talk about a problem that the gentleman has already laid out there, but it is quietly and steadily eating away at our constitutional system of government.

Judicial activism is not only compromising our long-held tradition of separation of powers, but throughout our academic and legal community they are pushing the judiciary to be activists in their decisions, so much so that any attempt by Congress to address this issue is immediately met with accusations of political sabotage and constitutional breach.

Mr. Speaker, I want to assure my colleagues that we in the Congress are not trying to undermine the Constitution. Far from it. We are trying to enforce it, to open the issue to public scrutiny and return the role of the Federal judiciary back to our Nation's intended belief, what our Nation's founders had always intended: That the third branch of the Government, the judiciary, is to be the weakest branch of government.

In The Federalist papers, number 78, Alexander Hamilton, for example, wrote that the judicial branch, quote,

> Will be always the least dangerous to the political rights of the Constitution, and that it may truly be said to have neither the force nor will but merely judgment.

The judiciary was intended to interpret the law, not to create it. But that is exactly what we are seeing in some of our courts today. They are not ruling on the law, they are creating the law.

Unelected Federal judges are furthering their own personal and political views by legislating from the bench and ignoring the will of the people of the United States. In fact, it has gotten so bad that judges are even overturning elections of our elected people.

David Barton, in his book, "Impeachment: Restraining an Overactive Judiciary," said it best when he wrote that

> It has gotten to the point that any special interest group that loses at the ballot box only has to file a suit in Federal court to declare itself the winner.

And most of the time our judges are ruling with them.

If we just look at the recent instances of judicial activism, we will see some of the expansion of power that Federal judges are trying to achieve. I say some Federal judges, not all of them. We have seen judges overturn cases based on the weakest of circumstances simply to further their own political views.

Judge Nixon, in Tennessee, a known opponent of capital punishment, has repeatedly issued rulings overturning cases where the criminal was sentenced to death.

More recently, I am sure everyone has heard of Judge Baer in New York, who overturned a drug conviction on a technicality even though the defendant admitted his guilt to the police.

In addition to these reversals, other Federal judges have taken it upon themselves to legislate from the bench, issuing far-reaching orders to impose their own set of political views on the American people. One of those famous cases involves Judge Russell Clark, who ruled in 1987 in Kansas City, MO, that the school system was segregated, and he issued a court order that called for a tax increase and forced the people of that State to pay for his desegregation scheme.

Well, $2 billion in taxpayer dollars later, the Kansas City school system is no better off, and he is probably backing up on that. Judge Clark's agenda included such things as animation labs, greenhouses, temperature-controlled art galleries, and a model United Nations wired for language translation. I am not sure I know what that has to do with segregation.

Closer to home for me, I spent quite a bit of time when I was in the Texas statehouse following the antics of Judge William Wayne Justice, whose rulings on our prison system in Texas forced us to allow prisoners to get out before their time was up, giving them a lot of good time, one; and, two, putting them in bigger rooms. In other words, where we had four beds, we could only put two; where we had two beds, we could only put one. And every man had to have his own color television set in prison. What a waste of taxpayer dollars addressing frivolous inmate lawsuits.

Also back home we are seeing another judicial activist arise in the form of Judge Fred Biery, who on January 24 of this year issued an injunction which prevented two duly elected officials in Val Verde County from taking office. Why? Because he would not allow 800 absentee military votes to be counted.

I consider this to be an affront to the rights of the military. As a matter of fact, after serving in the military for 29 years and being all over this Nation, I would say that it is important that we make sure that our military is allowed to vote, especially while they are defending the Nation.

It is a dangerous precedent where one judge can decide he just does not like the results of the election and simply overrules the results.

One final example, and perhaps the most newsworthy, is the decision by Judge Henderson in California, who issued an injunction stopping the implementation of proposition 209 in California, which would ban racial quotas in California and which passed with 54 percent of the vote of the State.

Not many people know that that particular judge, Judge Henderson, had once served on the board of the American Civil Liberties Union of California, an organization which took an active interest against proposition 209, and here he is ruling with his own special interest group against the people of California who with more than 4,700,000 State residents voted to enact as law proposition 209.

I think that tests the integrity of our constitutional democracy, and I think that the three-judge panel which had the courage to remind their colleagues of the judiciary's rightful place in our constitutional democracy and overrule that ought to be commended.

We cannot always count on Federal judges to keep their colleagues in check, and that is why I feel like Congress must exercise our duty to ensure that the third branch of the Government does not exceed its authority.

Mr. SCARBOROUGH. Mr. Speaker, will the gentleman yield?

Mr. SAM JOHNSON of Texas. I yield to the gentleman from Florida.

Mr. SCARBOROUGH. Mr. Speaker, I can tell the gentleman that I have similar concerns, even though I recognize, like the gentleman does, that the overwhelming majority of the Federal judges that serve in this country do an honorable job.

Back in my area, I have long admired Judge Stafford and Judge Vincent and Judge Collier and Judge Novotany, and all those that have done a great job. But there are, we have to admit, in any profession, some renegades that do violence to the integrity of the system, to the Constitution, and I guess that is what has concerned me the most.

As conservatives and others concerned with judicial activism have come out and started asking some tough questions, we have heard everybody come out and start squealing and talking about how to even look at the system is somehow a threat to democracy. In my understanding of democracy, my understanding of our Constitution, my understanding of 2,500 years of Western civilization style democracy, more a threat to democracy than asking questions in the free marketplace of an idea would be a single judge with a single stroke of the pen being able to erase the popular will of 5 million California residents. That is an outrage.

Mr. SAM JOHNSON of Texas. Well, Mr. Speaker, reclaiming my time, I would ask the gentleman, does he think that the Congress, I mean our country's founders, when they wrote our Constitution, they were pretty smart fellas, and they said, OK, we will appoint these judges for life, but we will give the Congress a method to rein them in if they get out of hand. And that rein-in, I think, is what the gentleman from Texas [Mr. DeLay] was alluding to earlier, that the Congress has the sole discretion to impeach when they get out of line.

Mr. SCARBOROUGH. If the gentleman would continue to yield, we certainly do have the opportunity to supervise what is happening in the judiciary; obviously, allowing them the independence they were afforded in the Constitution, and recognizing that the genius of our system is the fact we do have separation of powers.

The gentleman read from Alexander Hamilton's Federalist paper number 78. Number 81 is equally instructive, where Alexander Hamilton argued that,

> The supposed danger of judiciary encroachments of the legislative authority is in reality a phantom, because there never can be danger that judges, by a series of deliberate usurpations on the authority of the legislature, would hazard the united resentment of the body entrusted with the power of impeachment.

To paraphrase, Hamilton is saying that the judges would never be so brazen as to ignore their constitutional mandate for the people in this legislative body. The legislative branch of government was given the power to rein in the judiciary if the judiciary did violence to the Constitution by actions that were highly inappropriate.

□ 1600

There can be no debate among any reasonable man or woman that understands the constitutional history of this country that our Founding Fathers never anticipated a single judge, a single lower court Federal judge being able to eradicate with one signature the popular will of 5 million American citizens. It does violence to the very concepts that they fought for in the Revolutionary War.

Mr. SAM JOHNSON of Texas. Let me quote from the Federalist Papers again, from Hamilton, in No. 78. He also says, which follows what the gentleman said, "It may truly be said that no judge shall have either force nor will but merely judgment."

If the gentleman recalls back in the 1800's, they even talked about impeaching judges, Federal judges because they cussed in court.

Mr. SCARBOROUGH. If the gentleman will yield further, let me just say, there are some people that are talking about different forms of reining in the Federal judiciary. I know that the whip has been talking about certain things. I would like to see us do it in a calm, rational manner. I think it is time for us to come together as a country and as a legislative body and reexamine the realities of the judiciary in the late 20th century and recognize that things have moved in a certain direction, a bit away from what our Founding Fathers anticipated, and get Congress to start looking into the issue of judicial activism, which we have heard hues and cries about for many years now, and just see if judicial activism really does pose the type of threat to the Constitution that many of us believe it does, and, if so, hopefully, we can enact some common sense solutions without going after any judge, without attacking any particular viewpoint and just have a thoughtful examination of what type of institutional changes that Republicans and Democrats and conservatives and liberals can all come together on to make sure that the judiciary does its job, does the job that our Founders intended it to do and, while doing that, we maintain a clear separation of powers between all branches.

I can tell the gentleman that right now the judiciary may be perceived as liberal. But in the years to come, there certainly will be a shift to the right, and at that time I would certainly hope that the more liberal Members in this legislative body would also be protected in the way that our Founders would want their legislative items to be protected.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield to the gentleman from Colorado [Mr. SKAGGS], one of our colleagues from the other side of the aisle who has a comment.

Mr. SKAGGS. I appreciate the gentleman yielding. I think it is important when we are discussing something as fundamental to the Republic as the separation of powers and the importance of an independent judiciary that perhaps those of us with a slightly different cut on this be heard. It seems to me absolutely essential that we keep in mind that it is the judicial branch of Government through long-established practice and tradition and constitutional foundation that is the ultimate arbiter of the requirements, the constraints, and the liberties guaranteed under the Constitution. And so it is entirely within the prerogative, and appropriately so, for the judiciary to either countermand the legislative branch acting through this Congress or through State legislatures, or the people exercising their residual legislative powers through referenda, to countermand that when enactments violate the Constitution.

We had an occasion for that just last week in which a Reagan-appointed judge, hardly a liberal, properly instructed this Congress that we had violated the basic provisions of the Constitution in attempting to give the President of the United States line-item veto authority by statute. We need to be very careful that when we are holding the judiciary up to scrutiny and invoking the potentiality of impeachment, that that not be done on the basis of their exercising their proper authorities and role under our system of government and the division of powers, but only in those events in which they have clearly been engaged in actionable misconduct and abuse, not merely a difference of opinion about constitutional interpretations.

Mr. SAM JOHNSON of Texas. I do not think that is the case at all that we are trying to enunciate here. The fact of the matter is that the judiciary should, and I agree with the gentleman, rule on the Constitution and constitutionality of anything that happens in the Congress or out in the States. But the question that we are addressing is that some of these judges, for whatever reason, political, social, or otherwise, have ruled based on that, not necessarily a constitutional base for their ruling.

Mr. SCARBOROUGH. If the gentleman will yield further, I will ask the gentleman a question, because he brings up a very good point. An issue like the line-item veto I think helps illustrate some of our concerns. I want to say more particularly my concern is not necessarily in individual judges, in trying to seek retribution from individual judges because we do not like how they rule. That, obviously, causes some serious problems. But my concerns go more to structural changes.

For instance, we had a single Federal judge in California, as the gentleman knows, that with a single stroke of the pen wiped out the view of 5 million Californians. The same thing with a single judge being able to interject his opinion, and again I am not saying his opinion is a flawed opinion. Quite frankly, even though I voted for the line-item veto, I have some very serious concerns and I think any reasonable man or woman could interpret it both ways.

But the question I would like to ask the gentleman is, does he think that it would be reasonable for us as the legislative branch, who have been given power to oversee the judiciary and decide where the jurisdiction rests, to look at structural changes and ask a question like, for instance, whether a single Federal judge should be empowered to stop something through injunction or whether we should possibly have a three-judge requirement? Again, this cuts both ways, liberal or conservative. Would the gentleman say that is a rational question to ask?

Mr. SKAGGS. There is no question that we have the appropriate power as the Congress to determine jurisdictions of lesser courts, the remedies that may be available in the cases of certain causes of action. That is not a particularly contentious proposition.

What was worrisome to me, and I came into the Chamber after my colleagues had been engaged for some time, was referencing again the potential use of the impeachment powers of the Congress to get at actions on which there is simply a disagreement as to wisdom and propriety as opposed to going to the underlying questions of the independence of the judicial branch of government. I think no matter how we may couch it, if we engage in relatively casual discussion of the invocation of impeachment, that goes right to the core and the quick of the independence of the judicial branch of government, which has a terribly important value to this society.

Mr. SCARBOROUGH. Exactly. The gentleman certainly will find that I will not disagree with him on that point. We need to be very careful to not overstep our boundaries. Obviously in extreme situations, impeachment possibly may be looked at, but not in situations where again reasonable men and women could differ.

Again going back to the question, does the gentleman think the time is right for us as a legislative body or as Members in this body to look at possible structural changes in the judiciary? Like for instance on the three-judge panel to decide an issue on whether a proposition that passed with 5 million votes should be handled by a single judge or whether we should somehow protect the voters by empowering a three-judge panel?

Mr. SKAGGS. Given that we have a tradition in comparable areas of especially impaneled three-judge courts to deal with civil rights cases and other constitutional matters, clearly there is precedent for that and I do not have any problem with this body debating the relative wisdom of having more than a single member of the bench rendering judgment in certain very, very important matters.

I would add, however, that the number of people that happen to vote for a referendum, while lending itself to effective rhetoric, does not really get to the question of whether the underlying issue is clearly one that implicates protections guaranteed by the Constitution. As the gentleman well knows, one of the underlying objectives of our constitutional system is to make sure that we have a government of law, that it is not subject to the popular passions of the time which can sometimes manifest themselves in referendums that may pass. Whether 5 million votes or more, it may nonetheless be in violation of basic constitutional requirements.

Mr. SCARBOROUGH. The gentleman is correct. It certainly makes for good drama when we talk about a single judge eradicating the popular will of 5 million people. But the same thing could be said about, again, a decision, to be really honest with the gentleman, I was relieved on the line-item veto decision.

Mr. SKAGGS. I appreciate the gentleman's candor on that.

Mr. SCARBOROUGH. But still structurally again, there is a question on whether we would want a single judge being able to sign off on that, because by this single judge doing that, he has put himself in the middle of a 3-year budget debate that seriously impacts the White House's ability and Congress's ability to figure out where we are going to go in the next few months. I would personally like to see at least a safety net of three judges looking at an issue that important.

Mr. SAM JOHNSON of Texas. I appreciate the gentleman from Colorado [Mr. SKAGGS] talking with us.

Let me just read the gentleman from article 3, section 1, Ralph Burger's comment, he is a legal commentator, who says that the framers of our Constitution did not intend to shelter those who indulge in disgraceful conduct short of great offenses, meaning that the high crimes and misdemeanors does not necessarily have to be an offense that is written into the law. It is not to import the standards of good behavior into high crimes and misdemeanors, but to indicate that serious infractions of good behavior, though less than a great offense, may yet amount to high crimes and misdemeanors in common law.

What he is saying is that judges ought to act like judges and they ought to rule on the Constitution, as you and I both agree on, and that is all we are trying to say.

Mr. SKAGGS. Amen.

Mr. SAM JOHNSON of Texas. I thank the gentleman from Colorado [Mr. SKAGGS], and I thank the gentleman from Florida [Mr. SCARBOROUGH].

HUMANITARIAN AID CORRIDOR ACT

The SPEAKER pro tempore (Mr. ROGAN). Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, today I received very disappointing news from the State Department. The President determined today to permit assistance under the Foreign Assistance Act and the Arms Export Control Act to the Republic of Turkey. This is in spite of the fact that Turkey is maintaining an illegal and downright cruel blockade of the Republic of Armenia.

Mr. Speaker, for the past 2 years, the Foreign Operations appropriations legislation has contained a provision known as the Humanitarian Aid Corridor Act which prohibits U.S. economic assistance to those countries blocking delivery of humanitarian aid to third countries. While this provision is not country-specific, it clearly applies to Turkey, which for more than 4 years has maintained a blockade of neighboring Armenia. While the people of Armenia are struggling to build democracy and reform their economy according to market principles, the blockade imposed along their border with Turkey disrupts the delivery of vitally needed humanitarian supplies.

The Humanitarian Aid Corridor Act, unfortunately, lacks enforcement teeth since it grants the President the power to waive the provisions on very vague national security grounds. In order to make the Corridor Act mean something, last year this body approved an amendment to the Foreign Ops bill, sponsored by the gentleman from Indiana [Mr. VISCLOSKY], that would limit the Presidential waiver authority to provide U.S. economic assistance to countries that violate the Humanitarian Aid Corridor Act. More than 300 Members of the House voted for this amendment, which would have essentially given the Humanitarian Aid Corridor Act some teeth and not allowed the Presidential waiver in most cases. Unfortunately, the amendment was stripped in conference and the gentleman from Illinois [Mr. PORTER] included language instead that required the President to provide a justification for determining that it is in the national security interests of the United States to provide the economic assistance despite the fact that the recipient country, in this case Turkey, is in violation of the Corridor Act.

I want to commend the gentleman from Illinois [Mr. PORTER] for putting that language in, because we did at least get a semblance of a justification from the State Department. But I have to say that the justification issue today was not very convincing.

□ 1615

Mr. Speaker, this action by the administration comes at a particularly bad time. Next week marks the 82d anniversary of the beginning of the genocide against the Armenian people which was perpetrated by the Ottoman Turkish Empire. This genocide, which the Republic of Turkey has refused to acknowledge, ultimately claimed the lives of 1.5 million Armenians. Another 500,000 Armenians were deported.

Many Members of this House will take part with me in a special order next Wednesday to commemorate this solemn occasion. To have made this determination at this time I think is very inappropriate.

Mr. Speaker, I bear no ill will to the Turkish people. I am simply saying that maintaining good relations should not entail turning a blind eye to the outrageous actions committed by the Turkish Government. Given the generosity the United States has shown toward Turkey it is inappropriate, or I think I should say in this case it is appropriate for us to attach conditions, particularly such a basic condition as allowing the delivery of aid to a neighbor in need. I think most Americans would assume that a condition for U.S. aid should be that that country allows other U.S. aid to go through its country or its borders to another country that needs the aid. People, I think, in this country would be shocked to know that such a provision is not already a requirement on the recipients of U.S. assistance.

I want to say in conclusion that Armenia is a very small landlocked nation, dependent on land corridors from neighboring countries for many basic goods. Armenia has been one of the most exemplary of the former Soviet republics in terms of moving toward a Western-style political and economic system.

I traveled there earlier this year and can report that the blockade is having a devastating impact. The Armenian people respect and admire the United States. There are more than 1 million Americans of Armenian ancestry here. The bonds between our countries are strong and enduring, but the people of Armenia face a humanitarian crisis which is not the result of any natural disaster, but a deliberate policy of its neighbor to choke off access to needed goods from the outside world. We believe the exertion of U.S. leadership can play a major role in these intentions in promoting greater cooperation among the nations of the Caucasus regions, but the Humanitarian Aid Corridor Act is an important part of this component. If we do not adhere to the Humanitarian Aid Corridor Act and if the administration and the State Department continue to allow it to be waived, I think in the long run it is going to be detrimental to peace and better cooperation between Armenia and the other nations of the Caucasus and the United States, and I think this is a mistake that the State Department continues to exercise this waiver.

REAL LIFE EFFECTS OF NAFTA

The SPEAKER pro tempore (Mr. ROGAN). Under the Speaker's announced policy of January 7, 1997, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes as the designee of the minority leader.

Mr. BONIOR. Mr. Speaker, I thank my colleague, the gentleman from New Jersey [Mr. PALLONE] for his remarks with respect to Armenia, and I thank my colleague, the gentleman from Oregon [Mr. DEFAZIO] for joining me this evening to talk about the North American Free Trade Agreement.

Four years ago in this Chamber and around the Nation, we had a major debate on NAFTA, the North American Free Trade Agreement, and it really was a debate about our economic future and the economic future of Canada and Mexico as well. In many ways it was based more on theory than on reality. We had all sorts of studies and projections and promises and claims, and now we have had nearly 40 months to see exactly where we are, how this has worked, how it has not worked.

Today we know about the real-life effects of NAFTA. We have the trade data, we have the job data, we have the environmental data. But just as importantly we have personal real-life stories from thousands of people telling us how NAFTA has affected them, what it has done to their jobs and their wages and their environment and the communities that they live in. And it is a story, a cautionary tale, that we have to start telling America about today, because today this debate is moving into a new phase.

Now supporters of NAFTA want to expand it to new countries, and to do that they need a procedure that is known as fast track, and let me tell you what it is. Basically fast track allows the administration to negotiate trade agreements with other countries and then to submit them to Congress, and we are required here in the Congress to expedite the passage or rejection of that agreement without any opportunity to change the agreement. We are locked into either a "yes" or a "no" on what this negotiated.

So we need to think long and hard before we make and grant this authority. It is an awesome authority in its scope and its dimensions. It is far reaching. It affects every man, woman, and child in this country. It affects wages. It affects job protection. It affects your environment. It affects the things that our fathers and mothers and grandparents worked so hard to get into law to protect you and them during eras when the free market went wild and greed was rampant.

So we need to think long and hard before we make this authority, because as a practical matter it may be our final opportunity to reflect on what kind of results fast track produced for NAFTA when it was negotiated more than 4 years ago.

Mr. Speaker, most of my colleagues were not yet Members of the House the last time this House debated fast track authority. One thing that those of us who have seen fast track know is this. If it does not require, and I emphasize require, the trade negotiations to address important labor and environmental issues and make those issues on par with tariff cuts and investment rules, make them enforceable by sanctions, then we are not going to get a good trade agreement. We know that because NAFTA and the fast track for NAFTA did not include strong and necessary labor and environmental components. It did not include any in the core agreement, and we will discuss what this NAFTA model has done to workers and the environment both in the United States and Mexico.

Expanding NAFTA now would be like building a new room onto your house when your kitchen is on fire and your roof is collapsing. It just does not make any sense.

Over the next few weeks we will be discussing the many aspects of NAFTA, but today I want to focus on just two: jobs and wages. Let us look at this first chart, "Jobs Lost Under NAFTA."

Before NAFTA, NAFTA supporters claimed 200,000 new jobs would be created by 1995. That was their claim. Oh, they came to the floor and they said 200,000 new jobs, 200,000 new jobs. They said it over and over and over again during that debate that lasted for months. NAFTA proponents practically guaranteed we would have 200,000 more new jobs. But by using their own formula, which is based on the number of jobs created through a certain dollar amount of trade, we have lost anywhere from 250,000 to 600,000 jobs since NAFTA took effect. And by using the very narrow definition by the Labor Department which includes only those workers who have applied or been certified for NAFTA employment benefits, more than 110,000 Americans have lost their jobs.

Now not all workers qualify for these benefits, and even though their jobs may have been shifted to Mexico, workers in more than 1,400 factories in the 48 States have applied for this NAFTA job retraining program. Three years after NAFTA, more than 110,000 U.S. jobs, U.S. workers, have already been certified under NAFTA unemployment program. Thousands more have filed for benefits; and using the formula of the proponents of NAFTA, anywhere between 250,000 and 600,000 people have lost their jobs. Sixty-five percent of the workers who were laid off ended up with lower paying jobs, two out of three. Two out of three. They did not get the high-tech, high-wage jobs as the theory suggested. They got lower-paying jobs. And when we debated NAFTA, many corporations stepped forward to say that jobs in the United States depended upon NAFTA passage. They promised to create jobs in America.

Let me show you another chart. Broken promises under NAFTA. Ninety percent of the companies failed to deliver on their promises to create U.S. jobs if NAFTA passed. Public Citizens Global Trade Watch. Ninety percent of the companies promised to create jobs, and even worse, in many cases they have moved jobs to Mexico.

In nearly every State and in too many communities these broken promises have let factories shut down and hard-working men and women without paychecks. These giant corporations who spent millions to help get NAFTA passed, who said their workers would be better off, let down their workers, let down their communities in which they operated and did what they said they would not do. And these jobs come from every region in the country, from nearly every type of manufacturing, from industries like footwear and growing tomatoes and consumer electronics where companies are moving wholesale to Mexico, to shifts in sourcing and assembly by the big three automakers. These jobs are leaving in droves.

Now here are just a couple of examples of these broken promises and job losses, and I want to lay them out for you here this afternoon. I want to focus on the television and electronics industry because just a few weeks ago I joined our leader in touring the maquiladores and colonias that are growing rapidly along the border, specifically in Tijuana.

Tijuana now produces more televisions than any other place in the world. More than 10 million TV sets are assembled in Mexico annually; most of these are in Tijuana. In fact, there are nearly 25,000 workers in Tijuana who make televisions, and these workers make no more than $50 per week.

There has been a massive unprecedented shift in TV production in Mexico since NAFTA took effect, and this trend will continue. The electronics industry is expected to grow by 400 percent over the next 4 years in Mexico. But if you had listened to what these TV companies were saying 4 years ago, you would not have believed that any of this would have happened.

Let us take a look at Zenith. For example, here is what Zenith said in 1993 during the NAFTA debate:

> Contrary to numerous reports that companies like Zenith Electronic Corporation will transfer all of their production facilities to Mexico as a result of NAFTA, the NAFTA offers the prospect of more jobs at the company's Melrose Park, Illinois facility.

That is what Zenith said.

And here is what Zenith did. Zenith announced late last year that it is laying off 800 of its 3000 workers at Melrose Park in Illinois and, in addition, 510 workers have been certified for NAFTA trade adjustment assistance at Zenith's facility in Springfield, MO, and Chicago, IL. Zenith, who promised its workers prosperity, gave them pink slips instead, and that is just the tip of the iceberg.

In February, according to the Journal of Commerce, Thompson Consumer Electronics announced it would cut more than 1,800 jobs in two Indiana factories and shift that production to Mexico. Thompson is the company that makes RCA televisions. Also in February, Sylvania, which makes florescent lamps at Danvers, MA announced that it is shifting that production to Mexico, costing 160 workers their jobs.

And finally, General Electric's record would enact the biggest supporters, GE. Their record shows us why we should be skeptical about job promises. During the NAFTA debate GE said its sales to Mexico could support 1,000 jobs for GE and its suppliers. "We fervently believe that these jobs depend on the success of this agreement". Well, as it turns out, GE jobs did depend on NAFTA, but in a very different way.

According to the Department of Labor, GE has shifted 2,300 jobs to Mexico since NAFTA took effect. This includes workers in Fort Wayne, IN; Rome, GA; Erie, PA; and Hickory, NC. Instead of selling our televisions to Mexico, we are now buying them from Mexico. Thousands of jobs have been lost in this sector.

Now here is the real kicker. As terrible and as disgusting as it is with respect to the job losses, especially by companies who said that they would create jobs rather than moving their companies to Mexico, what has even been more omnipresent, suffocating for the American worker, has been the downward pressure on wages, and I want to show you another chart that illustrates what I am talking about.

NAFTA puts downward pressure on U.S. wages. A study that was done by Cornell University for the Department of Labor found that 62 percent of the companies, 62 percent of companies are threatening to close plants rather than negotiate with the union or recognize the union.

□ 1630

These companies either explicitly say or implicitly suggest that they will move their plant to Mexico or another low-wage Nation. Take, for example, Connor Rubber near Fort Wayne, IN. In the midst of the union's first contract negotiations the company decided to close the plant and move to Mexico. In the wake of this closing, the same union pulled an organizing petition at a neighboring subsidiary of Connor Rubber. The union official who was organizing this subsidiary said that wages were lacking, their benefits were lacking, but they also wanted a job.

This is having a dampening effect on wages in America. Fifty percent of Americans now say their purchasing power is now worse than it was before NAFTA.

So in conclusion, before I yield to my friend from Ohio [Mr. BROWN] and my friend from Oregon [Mr. DEFAZIO], I want to say that we still believe that NAFTA can be a force for some progress. We still believe we can create a consumer market in Mexico, but before we even think about expanding NAFTA to other countries we need to fix the flaws in it.

We need to give workers the same kind of health protection that we give companies for things like intellectual property. We need to include labor and environmental standards in the core agreement, not in some side agreement. We need to raise Mexico and other low-wage nations up to our standards, not lower ours to theirs. We need to make noncompliance subject to sanctions, not just consultations. We need to remember that this is not just about markets and trade barriers, this is about jobs and living standards and communities and people's health, it is about human rights and human dignity.

Both sides of the border have workers that are misstreated by multinational corporations and indifferent governments, but they remain brave and they remain hopeful, and until they have a voice to fight for themselves, we have to be their voice. There are more people in this Congress who voted against NAFTA 4 years ago than voted for it, and many who voted for it said they would never vote for it again. Before we expand it, let us fix it. We can fix it. We indeed can fix it if we have the leadership and the guts to do so.

Mr. Speaker, the multinational corporations in America today and abroad, the transnational corporations, are moving through economies in developed and undeveloped nations alike like a great green reaper in the field, just plowing ahead and moving over fence rows and moving over all of the built-in protections that people in legislatures and congresses and parliaments have adopted for the last 100 years. The 40-hour work week, the 8-hour day, labor and safety and health protections, pensions, health care, you name it, I could go through a long list, all were as a result of the excesses and the greed of the multinational, transnational corporations at the turn of the century and during or just prior to the New Deal.

Because there was no force, countervailing force to counteract this, a force was developed. There was a force of people who came together who really cared about community, about family, about localization, not necessarily globalization, and they went to work and they formed a coalition. These were led by labor unions, but they included religious organizations, environmental organizations, people who cared about justice, and they said to this rapacious free market sense of greed that was out there, there are limits, there are limits to your greed.

We are living today in a world economy, in a national economy where our CEO's are making 200 times more than the average worker. In 1960, when we were young men, the gentleman from Oregon and I, the difference between what a CEO made and what a worker made was about 12 to 1. In the 1970's it moved up to 35 to 1, then 180 to 1. Now it is 200 to 1.

We are finding that 80 percent of the American workers in this society have wages that basically have been frozen or have declined since 1979. The top 20 percent are doing very well, but most Americans are struggling to make ends meet. Most Americans have everybody in their home working, therefore less time with their kids, less time to be with them at their ball games, at their PTA meetings, and then the whole cycle of social maladies increases in our society.

It all starts with a good job and a good wage. It all starts with the respect and dignity for the people who produce. These trade agreements, whether they are NAFTA or they are GATT, are robbing us slowly each day, each week, each year, each cycle of the protections we had to build a stable foundation for our families. An 8-hour day, 40-hour work week, severance pay, overtime pay, health and safety protections, you name it. That was all put there to give people a base, and now the multinationals are taking our jobs and moving them overseas, downward pressure on wages, and we are seeing that same cycle repeat itself in history in this country.

I thank my colleague from Oregon [Mr. DEFAZIO], who has been strong and vigilant and caring and tough on this issue, and I thank him for joining me this afternoon.

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman again for his extraordinary leadership for this so far discouraging debate and battle to bring sanity to the trade practices of this country.

I think the study the gentleman just mentioned is something that the American people need to know about. Of course, they have not really heard about it, even though their taxpayer dollars paid for it.

The study the gentleman referenced which points to the extraordinary use of NAFTA by the largest corporations in America to drive down the wages of their workers, with threats of moving their jobs to Mexico, to prevent unions from forming by threatening to close the plant and move to Mexico if the union is formed, to drive down the benefits for those working people and their families, put extraordinary pressures on them. That was all very well-documented in a study paid for by our tax dollars, but strangely enough, it has not been published.

I would think, having been a Democrat for a number of years, that I was dealing with a Republican administration that would repress such a study, but no, I find out that the Clinton administration, that the Department of Labor is repressing a study, a documented study by a well-known academic economist from Cornell University, that documents how destructive NAFTA has been beyond the job laws, beyond the destruction of the environment.

It has hit average Americans who still have their jobs in this country, driving down their wages, while their CEO's, as the gentleman mentioned, see their bonuses and stock options rise to the sky. This is extraordinarily discouraging. I would call on the administration to release this. Let us have a full and fair debate over the impact of NAFTA. Do not try and hide it, do not try and hide reports that point to the problems.

Like my colleagues say, if we are going to consider NAFTA or extensions of NAFTA, let us fix it first.

The gentleman mentioned also the fast track. I think a lot of people say, fast track, what does that mean? What it really means is to get an agreement through the Congress with no scrutiny, no change allowed by your elected representatives, and no accountability. That is how we got NAFTA, that is now how we got GATT, and that is how they want to extend NAFTA. What does that mean?

Well, the administration goes out and negotiates this agreement, of course privileged between the administrative branch, the executive branch, and the executive branch of another nation, and what they tell us is these agreements are so delicate, of course these nations are desperate to have these free-trade agreements with the United States, but it is so delicate that they will get upset and take their marbles somewhere else if we allow the elected representatives of the people, the Congress assembled, to make a single change in a single period, a crossing of a T, let alone a substantive change to those agreements. That is fast track. That is what the administration and the Republican leadership want to foist upon us in the very near future in an attempt to extend NAFTA even further into Latin America.

I am no rust belt Congressman, no offense to my colleagues from the middle part of the country with a proud industrial, tradition. I come from what is supposed to be the brave new world of free trade, the West Coast of the United States, Oregon.

I have been one of the few who stood and questioned these so-called free-trade policies. I was shocked to find out just today, I said to myself, I am going to go down and speak on NAFTA, it has been a while, give me some updated statistics, to find that my State, the great bastion of so-called free trade is fifth out of the 50 States on the list for companies who have filed for trade adjustment assistance, fifth. We are not talking about declining, old plants; we are talking about one of the fastest growing States in the union losing jobs across the wide variety.

Wood products, plastics, computer products, ship repair, natural gas, shirts, coats, clothing, sawmill machinery, circuit boards, trailers, and related mushrooms, we are losing the mushroom business to Mexico. Air crew training, natural rubber, latex gloves for nuclear plants, computer integrated information systems.

These are not the declining jobs that we heard, well, there might be a little dislocation, but all of those workers will get better jobs in these new industries. These are many of the new industries we were told that would bring jobs and prosperity to America, to Main Street, America, under NAFTA, and instead, they brought disaster, dislocation, and a loss of hope on the part of many of my constituents and others across the country.

There are some Members of Congress listening, and we are going to try and stop the fast track and we are going to demand a review of NAFTA as it stands now, and some accountability. Let us go back to those promises, let us look at a bill we introduced called the NAFTA Accountability Act.

Let us compare the promises to the reality, and if they do not match up, which they do not, as my colleague has pointed out, then let us ask the President to go back and renegotiate the agreement in a way that we can achieve the goals and the promises that were first rendered to us when NAFTA was jammed through this Congress on the last fast track experience we had.

Mr. Speaker, I yield back to my colleague if he has a comment on that. I see our colleague from West Virginia is here, if he would care to comment.

Mr. BONIOR. Mr. Speaker, let me just make one quick point and then I will yield to my friend from West Virginia [Mr. WISE] or my friend from Oregon [Mr. DEFAZIO] if he wishes to continue further.

This is the debate about the future and the past. I would submit to you that the proposals that have been offered vis-a-vis GATT and NAFTA are the past. The proponents of these treaties want to take us back to a day when there were no protections for our workers, when there were no protections for our environment, when property rights were much more important than worker rights and human rights. Those were things that we have overcome, hurdles that we have overcome for the past 100 years, and the proponents want to take us back to the 19th century, masquerading that they are taking us to the 20th century, masquerading that they are taking us to the 20th century in order to create this greed.

What we are about is taking us into the 21st century to deal with very human needs of workers. That is really where the center of this debate has to crystallize for the American public to understand what has been going on. So I thank my friend from Oregon for giving us a picture of what has happened in a West Coast so-called trade State. It is not very rosy, to have him elucidate on the floor of the House just how many people in his district and State are affected.

I yield to my friend from West Virginia.

Mr. WISE. Mr. Speaker, I was very struck by the gentleman from Oregon in that statement, because he is correct, those of us from the Midwest and the so-called rust belt and traditional mining and manufacturing areas assume that we bear the brunt of it, and of course we look to the West Coast and the silicon valleys of the world, the start-up industries, and if anybody benefits from these type of free-trade agreements, and yet I think you have illustrated very well what the problems are.

I believe that those who negotiate these treaties for the most part are operating in good faith, I believe are operating in good faith. I think they honestly believe that the marketplace, if left alone, totally alone, will produce the greatest justice for the greatest good. I do not think it always works that way, and I do not think that the human, the human content, the human problems and the human ramifications are taken into consideration adequately enough.

I have not seen too many NAFTA proponents come out in the last 2 years to talk about all of the good that NAFTA was to do. I have not seen anyone stand in the well, as you two gentlemen are standing right now, and tick off goals announced when NAFTA was put forward, goals achieved. If my colleagues remember, the goal was that our trade surplus would at least be the same, if not greater. Of course we are billions of dollars in the red in trade deficits.

Mr. BONIOR. Mr. Speaker, we had a $2 billion surplus going into NAFTA, going into the negotiations, and the United States had a $2 billion trade surplus. Today, 40 months later, we have a $16 billion trade deficit with Mexico.

□ 1645

Mr. WISE. Exactly. There were to be several hundred thousand jobs, good-paying jobs, to be created, was the quote. We have not seen those jobs. We have an economy happily that has been growing, but at a minimalist rate, 2.3, 2.5 percent. That sustains about the level of unemployment, the current level of employment, better said, but it is not a growth economy. It is not an economy that helps.

The gentleman from Michigan was talking about this a little earlier, it is not an economy that sustains and helps middle-income people truly stay middle income and get ahead.

So that is my concern as well. Now I hear talk of a whole new wave of free-trade agreements that may be coming to this Congress. Whether you call it fast track, whether it is with Chile, whether with Mercosur, whether with some of the other countries, and we have the North American Free-Trade Agreement, NAFTA, Southern Hemisphere Area Free-Trade Agreement, that turns into SHAFTA, and I think that is exactly what we are looking at if we keep going down this path.

I happen to believe that there are a number of areas we can negotiate true free-trade agreements. But I think we have to take into context, into consideration, the economic situations of the countries involved, the political situations; and the differentials: the labor differentials, the economic differentials, the environmental differentials, the health and safety standards.

Mr. BONIOR. Mr. Speaker, that is a very good point. When the European Union came together and Portugal and Greece wanted to join the European Union, they were told, you have to meet certain standards. If you meet these standards you can come in, we will embrace you, we will have a trade relationship that is comparable to what we do with each other, with what the French do with the British, what the British do with the Italians. But we are not going to let you come in until you provide certain labor standards, certain environmental standards, certain standards. You have to reach a certain level.

We had an opportunity to do that during NAFTA with Mexico. With Canada we have comparable standards in these areas, but with Mexico we do not. You cannot form a labor union there, you cannot assemble an independent union. You get thrown in jail.

I was just down in Mexico. I saw and talked to people who tried to do that, who worked in factories where the line was moving so fast that members of their families and neighbors were losing their fingers and hands. They put on a demonstration to stop work at this plant one day, to get the attention of the company to deal with this problem, and the people who organized that were fired. Then they tried to form their own independent union and they were thrown in jail. That goes on all the time. There is no sense of justice; economic justice, certainly, let alone other types of justice, in Mexico today.

So what we are saying is, well, until you harmonize upwards and provide people the right to organize and assemble and collectively bargain for their sweat and labor, and until you provide a decent environment where people can bathe without worrying about toxins and fumigants and everything else getting into their children's bloodstream, we are not going to deal with you.

The American Medical Association just recently called the border, the Mexican border along our United States border, a cesspool of infectious disease. This is 4 years almost, after NAFTA, when we were told it was going to get cleaned up.

So we are asking that these countries, and they have great people and wonderful workers, they just need some leadership out of their government, and some responsibility out of these transnational, multinational corporations, to do what they should do naturally, help these people lift themselves up and provide a decent quality of living for them, so they do not have to face these environmental degradations.

The gentleman is absolutely right.

Mr. DEFAZIO. Mr. Speaker, if the gentleman will continue to yield just a moment, this is a common misunderstanding, because the administration and the Republican leadership made a great show of adding environmental protections to the original NAFTA agreement, because they saw in fact that we probably were going to beat the NAFTA fast track agreement on the floor.

But it was all cover. It was not in the agreement. It was not in the annexes. It was not in any part of the North American Free-Trade Agreement. It was in fact a nonbinding side agreement by administrative rule by the President. It was basically to do nothing except to provide cover to some of our weak-willed colleagues, who were torn between the opposition of people concerned about the environment and other things with this agreement and the pressure from some of the largest industries and some of the largest employers in their district, who were going to become smaller employers in their district real soon after this passed.

So this was all cooked up. In fact, there is no binding environmental agreement. We have seen the conditions along the border deteriorate dramatically. It is going to continue to accelerate and get worse. In fact, I do not want to bring in too many side issues, but there is the recent problem with the strawberries. This is a problem of lack of environmental safeguards in Mexico. Americans are threatened with hepatitis because of some strawberries snuck in here in violation of the standards which control our school lunch program, but in any case, labeled as an American product, sold to children, to schools, fed to children, infected with hepatitis because, again, there are no enforceable environmental laws in Mexico. Yet we are opening our border to these goods coming across. This is an incredible threat.

Mr. BONIOR. The gentleman is absolutely right. Let me tell my colleague, when I was down in Tijuana we visited a battery recycling facility. A couple of Americans came over, established this recycling facility for lead batteries in Mexico. They would take the batteries apart.

We visited a field probably the size of a third, maybe a half of this Chamber, that was covered with white lead, exposed, a field of it, where dogs ran through it; very toxic, very dangerous. Dogs were running through it, kids were running through it. And not 5 yards from this exposed battery field of lead was the largest dairy farm in that state of Mexico. When it rained and the wind washed this lead and the cows ingested it, of course the cows died, and of course they have had a huge increase of cancer and other problems in this area. That is the type of a situation we are dealing with here, that type of uncaring and lax concern.

I could tell the Members other horror stories, but believe me, we have not made any progress on the environment down there. We had this thing called an ad bank that our friend and colleague, the gentleman from California ESTEBAN TORRES, worked very, very hard on, but we have not had one significant major loan to deal with the cleanup yet. There are some getting ready to be done, but we have not made any progress there at all.

Mr. WISE. Mr. Speaker, if the gentleman will continue to yield, one of the points that I think all this brings out is if we are talking about trade agreements, because we are, we ought not to be looking at free-trade agreements. First of all, we find out they are not free, we end up paying a whole lot for them. We ought not to be focusing on free-trade agreements, we ought to be focusing on regional trade agreements in which the goal is to up lift a region.

We uplift a region not just in sheer dollars and cents, the fact that you can move a product across a State or country line with a minimum of tariffs, no tariffs, and trying to compete in a race to the bottom as far as living standards. No, a regional trade agreement says we want to uplift the whole region.

We recognize that open trade is the best way to do it, but we also recognize, as the gentleman was talking about with the European Union, we also have to bring in a whole host of other factors as well. In order to participate in this regional trade agreement, then you have to bring labor, health, safety, environmental standards up.

A West Virginia worker can outproduce, I think, anybody else in the world. We are very proud of what we make, whether it is glass, whether it is chemicals, the coal mining that goes on, and now a whole host of new industries. In fact, West Virginia is now, as I recall, the fifth largest exporter per capita in the country. So we compete and we compete well.

But our plants and workers have trouble competing. Even though wages may be higher, they will be more productive, but at the same time if they are having to bear the environmental costs of installing the latest environmental equipment, which the world needs, if they are having to bear health and safety costs that nobody else bears, a whole lot of other things that weigh against them, then that is not free trade and not fair trade. Indeed, you have not benefited people in Mexico either, or wherever else you want to negotiate these treaties.

Mr. BONIOR. Mr. Speaker, that is really the other real tragic and sad piece of all of this, is that the people who are really exploited are the Mexican workers, who are caring, who produce well, who work hard, but yet are paid a pittance.

We were told during the NAFTA debate, my friend, the gentleman from West Virginia [Mr. WISE] and the gentleman from Oregon [Mr. DEFAZIO] will remember, we argued these folks were paid $1 an hour. We were told, they were not going to be paid $1 an hour, they are going to get paid more than $1 an hour. They are not paid $1 an hour today, they are paid 70 cents an hour.

The other side will argue the reason they are paid 70 cents an hour is because the peso was devaluated. We told them that the peso was overvaluated, that this was going to happen. So it is these folks who work these extraordinary hours, they are very productive, and they make $4 and $5 a day at the plants I visited. They are struggling to make ends meet for their family, living in dire and abject poverty.

Many of these corporations that are hiring them are folks we have right in our district. They are headquartered here. You would think they would be interested, the corporations, in paying them a decent wage so they could buy some of the products, the TV's, the automobiles, that these people produce.

If we go to an automobile plant on the border, we do not see any parking lots, because people working in those plants do not have cars. Many do not have televisions, and they assemble more television sets there now than I believe anyplace else in the world, certainly in North America.

That old principle of paying people not only a minimum wage but a liveable wage, so they can purchase what they make and you can create a middle class, and when we create a middle class in Mexico, they have one, they have about 100 million people there, and maybe 20 million are middle class, but the rest are not. But when we create a larger and expanding middle class, then they can purchase some of the things we make here. But until then, we are going to continue to see escalating and growing trade deficits, as we have seen.

Mr. WISE. If the gentleman will yield, Mr. Speaker, I would also note if there are those who are going to bring this kind of legislation to the floor, whether it is the fast-track agreement or free-trade agreements or whatever, please be aware that I think that this time there are a lot of people who have had the benefit of seeing NAFTA in application, and that there will not be the automatic hard sell possible that was done then, as people look at these other factors.

Or if Members are going to bring it to the floor, please have it in those kinds of standards that are so necessary to truly make it a competitive and the often-used phrase is level playing field.

Mr. DEFAZIO. If the gentleman will continue to yield, Mr. Speaker, if we could just return, again to my surprise, that Oregon, so-called free trade, high-technology, a growing State, is No. 5 on the list for applications for people's jobs having been exported or dislocated.

I would just like people to be aware of the other States. No. 4 is the State of Washington, again, looked at as another vital, growing, exporting, high-technology State, dominated, of course, by Boeing and Microsoft.

Then, you know, we get to States that, well, again, Texas, I do not think too many of us have thought in the past about Texas as being one of the them. Actually they are No. 2. No. 1 is Pennsylvania, and No. 3 is New York, and No. 2 is Texas. So what we have pointed out here is that there has been extraordinary job loss.

There are those, as the gentleman pointed out, who would say that this could not have been anticipated. Well, who could have anticipated the decline of the peso? Mr. Speaker, the bottom-line truth here is that this agreement was never intended to create a market for American products. This agreement was always about protecting the movement of United States capital and manufacturing resources to Mexico to exploit the cheaper labor, the lack of enforcement of safety standards, and the lack of enforcement of environmental laws.

The key part of this agreement was something that protected United States capital and set up an independent court of claims in case any of it was expropriated, because United States industry was looking back to the days when, in Mexico, the oil industry had been expropriated. That was the barrier we are talking about.

What they did is opened up the floodgates for capital that is needed in this country to update equipment and productivity, so we can compete in world markets, to move to Mexico with impunity, to exploit their people and the conditions in that nation.

□ 1700

We also opened the floodgates for other foreign nations to move their capital into Mexico in order to obtain access to our markets. It was never about Mexican workers earning a dollar an hour buying the Dodge Ram trucks that they are building. That was an impossible equation. It was never a reality.

In fact, the total purchasing power of all the people of Mexico, if they had spent every peso before devaluation on United States goods, would have been less than the purchasing power of the people of New Jersey. Tell me that in the United States we would enter into an agreement and allow New Jersey to wipe out environmental laws and its labor protections and all that so that we could just gain access to their markets because it was going to boost our economy so much. No offense to the people of New Jersey, the Garden State, a great State.

The point is, this was a blip, even if every peso spent in Mexico could have been spent in this country, that was never the intention. In fact, this agreement has worked out very much the way that its principal proponents intended.

United States capital has fled to Mexico. United States jobs are seeing downward pressure on their wages. United States jobs are fleeing to Mexico. The people of Mexico have seen actually a decline in their standard of living and a decline in their environmental conditions. Now they want to extend this to other countries in Latin America, the great new frontiers where maybe labor is even cheaper than Mexico and maybe they will let us despoil the environment even more than they will in Mexico.

Mr. BONIOR. Mr. Speaker, Mexico was created to be an export platform, an export platform where countries from around the world would come, exploit the cheap labor, inexpensive labor. The reason it is inexpensive is because the Government will not let workers come together and bargain collectively for their sweat. They disallow that. You get thrown in jail if you try to do that.

So you have got a situation where the Government specifically is trying to create an export platform country, keeping the wages low for its workers. And it is not just U.S. corporations. It is Japanese corporations, corporations from Korea, all over the globe who are coming to Mexico and using their labor, people who get paid less than a dollar an hour, and then exporting those products right back here to the wealthiest and the most productive and the most sought after market on the face of the earth, into the United States.

We, in turn, have nothing to sell to Mexicans because they do not have the money to buy it. We have lots of wonderful products, but when you have a society with people, the vast bulk of the people are not working or, if they are working, they are earning a buck an hour or less, they are not going to be able to purchase them. It is a no-win situation for everybody except the multinational corporations and the elites in the Government who back them up and the elites, I might add, in the media who are part of the corporations who are engaged in this type of activity because it is all intertwined.

So the gentleman is absolutely correct. It is a tragic, tragic situation what has occurred here. It is taking us back to the 19th century instead of moving us forward to the 21st century. And it is just terribly tragic.

As my colleague from Oregon says, now they want to extend this to all the rest of Latin America and who knows where else where there will be continued downward pressure on wages.

Mr. DEFAZIO. I saw a cartoon once that basically the punch line was that I always wondered where we are spending all this money on the space station, and this one economist looks at the other and says, well, I know somewhere way out there there may be someone who will work for less than 10 cents an hour.

So I mean in part, I mean what are these brave new frontiers. Of course, we are having some contention over China and other countries that are even more oppressive or repressive than Mexico. It is an extraordinary race to the bottom.

Ultimately it will undermine the strength of our Nation, which was created in part by the spirit of capitalists like Henry Ford who said, I am going to build a product that the people who work in my plants can afford to buy. And for many years there was a wonderful linkage between the owners of capital and the managers of the corporations and the working people, which was to say, if you produce more and do better, we will all go up together.

And now, for whatever reason, they have decided to break that link, to both use agreements like NAFTA to push down wages in our country. In the heartland of our country, we are seeing people who are getting hardballed in negotiations. It was either Delco or Packard Electric, and I do not want to misspeak, but it was a producer of electrical components for automobiles and wiring looms and all those things. When the agreement came up, the company said, look, it is real simple, you take a 50-percent cut in your wages or all your jobs go to Mexico. There was nothing else in the community. And ultimately the workers had to accede to those demands.

Mr. BONIOR. And that happens every day in America, in many places every day at the bargaining table. Sixty-two percent of the employers threaten to close plants rather than negotiate or recognize a union, implying or explicitly threatening to move jobs to Mexico or to other countries if they did not take a cut in pay, if they did not take a cut in health benefits, if they insisted on recognizing a union to bargain, 62 percent. It is a phenomenal number.

If I might say something here about labor unions, because they often get a bad rap. Let me tell you, labor unions, I was driving the other day and I saw this banner that was hanging over a railroad trestle and it said, Labor unions, the people who brought you the weekend.

It reminded me of what they did. They did bring people the weekend. They did bring them their vacation. They did give them wages. They did a lot of things to build the middle class. They moved people into the middle class in this country. And when labor unions were strong, when they had about 35 percent of the workers in this country, they are down to about 10 percent now in the private sector, when they had that percentage, people's wages were up there. They were up there.

When they had 35 percent of the work force in this country, they were getting a comparable amount of the productivity in wages. But when they started to slide and decline in their numbers in the 1960's and the 1970's and the 1980's, what they were able to get for their workers, as it relates to the productivity that the workers were creating, was less and less and less to the point now where they get about a third of the productivity that they performed, their workers.

So the labor unions are an important ingredient. Whether they are here in this country or in Canada or we saw them go arm in arm in Korea recently to demand justice and they won. We saw Parisian workers and German workers march arm in arm in Paris, metal workers, for their rights. They won.

Workers have to come together in solidarity with church groups, with other workers to form a countervailing force to stop this type of activity against working people both here and abroad.

Mr. DeFAZIO. Another point, I have a lot of small business in my district, not a lot of large manufacturers. It came to some of the small businesses and the Chamber of Commerce in my hometown of Springfield, when what had been a profitable door and window manufacturing company was bought out by a nonunion firm from out of state. And they came in with the intent of busting the union, and it did not take very long for the business community, the small business community in this small town in Oregon to figure out, you know, if the people who work at Morgan Nicolai see their wages go down by 50 percent, which was what was being proposed in the busting of the union, they will not have the money for the dry cleaning or the restaurants or the new televisions and the other things.

Actually the workers got support from the traditional community. The small business community in many cases has not yet made that linkage. But it is their livelihood that is also being threatened by this downward trend. It is just not people who work for wages in factories. It is not just union members in the public or private sector. It is everybody who they patronize.

And as we drive down wages in this country, we are ripping the heart out of all of middle-class America. Particularly disheartening to see it happening in this case where not only have the workers in Mexico seen their standard of living go down, but America workers are seeing their standard of living decline, while CEO's in this country go to 200 times average wages of manufacturing employees. What are they doing with all that money? They should not be so greedy. It is just extraordinary to me. It is a recipe for disaster, a recipe for disaster.

Indeed, it is. And we are creating a hollow shell under this economy of ours; and some day it is going to collapse, and when it collapses, it is going to come down with a thud that is going to shake the boots off of people in this country.

Too many folks in America are making money on money, not enough making it on manufacturing and building things that are important for our economy and for our communities.

And when this wage issue continues to erode, as it inevitably will with these trade agreements, I think it does not bode well for our children and grandchildren. And I am very, very concerned about it and I am very disappointed about this tragic turn that many of our colleagues have bought into with respect to trade like we have to do this because it is the only way that we can compete.

It is nonsense, it is crazy, and it is driving the living standards of a lot of our families into the ground.

I thank my colleague for coming.

Mr. DeFAZIO. I thank the gentleman for his leadership.

Mr. BONIOR. And I appreciate his taking the time this afternoon to speak on this issue. We will be joined by others of our colleagues to discuss this issue as we move closer to talking about additional trade agreements as they come to this floor.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 400, 21ST CENTURY PATENT SYSTEM IMPROVEMENT ACT

Mr. McINNIS (during the special order of the gentleman from Michigan, Mr. Bonior) from the Committee on Rules, submitted a privileged report (Rept. No. 105–56) on the resolution (H. Res. 116) providing for consideration of the bill (H.R. 400) to amend title 35, United States Code, with respect to patents, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. McINNIS (during the special order of the gentleman from Michigan, Mr. Bonior) from the Committee on Rules, submitted a privileged report (Rept. No. 105–57) on the resolution (H. Res. 117) providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the Chair recognizes the gentleman from Oklahoma [Mr. COBURN] for 60 minutes.

Mr. COBURN. Mr. Speaker, I have two charts that I would like for the American public to see because I think they very importantly make some cases for where we are today; and I have committed that I will spend the time that is necessary to communicate to the people in my district and people throughout this country what is really happening to us in terms of our budget.

We hear a completely different rhetoric today than what we heard just 2 years ago. And the question that comes to my mind is, Why has the rhetoric changed? And I think the rhetoric has changed because people are fearful for their jobs.

It was not that the rhetoric was wrong. The rhetoric was right, but the results of not communicating the importance of what our job is and not communicating exactly where we are.

I would want people to look at these two charts. One is from 1972, and the other is for this fiscal year, 1997. And they really show the heart of the problem that this country faces with its budget.

If we look at 1972, what we realize is that our entire Federal budget was $231 billion. Whereas, in 1997, we are going to spend $1,632 billion, which is a significant, 700-percent increase, in a mere 25 years in the amount of dollars that we actually spend.

Critics will say, well, that is not real dollars. But it is a significant increase in real dollars to the 700 percentage points.

When we look at the total, the other thing that we first notice is that, of the interest payments that we made on the national debt in 1972, that it was a mere $16 billion, that, in fact, we were spending about 7 percent of our budget on interest; and now we spend 15 percent of our budget on interest, and no small number whatsoever, $248 billion, which is more than the entire amount that we spent on ourselves in 1972.

The other thing that these pie charts show is they show the fix that we are in unless we have the courage to make the changes in the programs that are driving the budget deficit.

We have three choices. As the yellow portion shows that, in 1972, discretionary spending, the things that your Representative truly gets to make a choice on every year and vote on, accounted for 55 percent of the budget. Today, as we can see, it accounts for 34 percent. In the year 2002, it will account for approximately 20 percent.

So what is happening is, the areas where your Representative can make a difference in terms of the discretionary budget is slipping every year in terms of both total dollars and in terms of the percentage of the budget.

The other thing to note is that the interest portion of that has risen 1,600 percent. So if we go to the red area and we see that in 1972 mandatory spending was 38 percent and it is now 51 percent and was projected to continue to rise to approximately 80 percent, we can see that unless we make the necessary changes to make those programs viable, efficient, and affordable, that it does not matter if we do not do anything now.

□ 1715

We will be in such a financial catastrophe in the year 2012, that we will be forced to do it. So the question is, do we take our medicine now or do we take our medicine later? Do we do the right things?

I have a couple of questions that I think are important. One is, remember the debate on Medicare over the last 2 years? Everybody agreed, including the trustees, that Medicare is going bankrupt. We have not heard people talking about it. Is it still going bankrupt?

The plans put forward in the last Congress were necessary, quality, good plans to save Medicare. The plans that are being put forward in this Congress are simply band-aids on Medicare. They will not solve the structural problems, they will not solve the long-term equity and viability that is necessary for a health care program for our seniors, and, in fact, every year that we do not make the right decision to fix the Medicare Program, we will, in fact, make it harder and more expensive when we do finally face the fact.

So the question is, why are people not talking? Were people untruthful in the last 2 years about the Medicare Program? The board of trustees, matter of fact, last year said we were wrong, 2002 is not right when it will go broke, it is probably going to go broke in the year 2000. I expect the trustees this year to tell us that Medicare will go broke in the year 1999 or very close to the year 2000.

So if the problem is still there, why are people not addressing the problem? Why? Because of the falsity and the demagoguery associated with the political system in our country, where if we do the right thing, even though a special interest might not understand the issue, we get beat up on it when we go to run for reelection.

So we have to move to the question, what is more important, doing the right thing for our country or getting reelected to this body? And I hope the American public would be incensed that their Representatives had not addressed the problem of Medicare, because if we really care about seniors in this country, we will make the decisions this year, not next year. Not when President Clinton is no longer President and not when the gentleman from Georgia, NEWT GINGRICH, is no longer Speaker of the House, but this year, when it will make the most difference, save the most money and afford health care to the most seniors.

It either is going broke or it is not. It is going broke. So why would this body not in fact address the Medicare problem?

The second area in this red that we do not have any control over, and we made some attempts in the last Congress, but needs to be addressed, that is further refinement of the food stamp program.

The fact is there is a large portion of the $27 billion that the taxpayers pay in this country for food stamps that goes for beer, cigarettes and crack cocaine. The system needs to be changed. The system needs to be a hard ID'd limited program that provides the basic essentials and basic needs for those who are dependent upon us for good reason. We should not be supplying those things that in fact will harm them.

To continue to accept a system that will waste $7 or $8 billion of taxpayer money because we do not have the courage to tackle what may be a very controversial issue, means we do not have the courage to be here in the first place.

The third point I would make, and if the gentleman from Wisconsin, [Mr. NEUMANN] will stay here, the third point I would make within Medicare is we have good testimony, both from the Inspector General, from the FBI, that of the money we spend on Medicare, somewhere between $20 and $40 billion a year is fraudulent; in other words, is billed to the Federal Government through Medicare for services that were not rendered.

Why should we accept that? Why should we not completely revamp the Medicare rules and regulations to take the incentive for fraud out of Medicare? Why have your Representatives not done that? Why has the President not led on that? Why have the Senators not done that? They have failed to do that.

The same question: What is the issue? The issue is the courage to do the hard thing but the right thing so that the most people in this country will benefit from it.

We have home health care in this country. The Inspector General of HHS testified this year before this Congress that somewhere between 19 and 63 percent of every bill that is submitted to Medicare for home health care is fraudulent. The services were not performed. And yet we continue to have home health care guidelines issued by the Health Care Financing Administration that allows that to continue, and we have known that for 2 to 3 years.

We need action, and we need action that is based on courage and is based on the principle to do the right thing regardless of what it costs to someone's political career. So we need to fix it to where we can make changes in the red. The area of yellow is going to get smaller, the area of blue is going to balloon in terms of interest, and the area of red is eventually all we are going to have, is blue and red, mandatory spending and interest on the national debt.

I do not think that is acceptable for our country. I know it is not acceptable for the future generations that are going to pay for it.

I notice my friend from Wisconsin is here and I welcome him to this discussion.

Mr. NEUMANN. Mr. Speaker, I would just point out to the gentleman, and I saw his charts down on the floor, but I would just point out, and I think it is very important that all our colleagues remember that even though that area that is called discretionary spending seems to be shrinking, that from 1987 to 1996 the nondefense discretionary spending, that is for all of the programs that we hear so much about, that nondefense discretionary spending program is up by 24 percent.

We have been told out here or we have been led to believe that in fact the only problem we have to deal with is the entitlements. The reality is it is not only the entitlements, it is also those other areas that just seem to grow out of proportion. Somebody starts a program, and the next year they decide the program should be bigger, and pretty soon the programs are growing by 10 percent, even though inflation is only 3 percent.

And of course that is how we got to a 24 percent growth in real dollars, or constant dollars, over a 10-year period of time.

Mr. COBURN. Or a 400 percent increase in the last 25 years in nonreal dollars, or inflated dollars.

Mr. NEUMANN. Right. I noticed the gentleman talked about Medicare. Should we talk about the Social Security Program a little bit?

Mr. COBURN. I think we should. One thing I want to address is this bogeyman everybody talks about called the Consumer Price Index, or the CPI. Because, in fact, when we ask politicians and we ask Members of the House of Representatives how many of them want to talk about that with their constituency, very few will say, "Yes, I will be happy to talk about that." They are afraid of that issue. I think we should talk about that issue.

The very people who are receiving Social Security today are the people in this country that went through the Depression and fought the great war. They won World War II. And the real issue surrounding the CPI is, does the CPI accurately represent the increase in the cost associated with the standard of living for people on Social Security?

Mr. NEUMANN. Us country folks from East Troy, WI, call that inflation. That is really what we are measuring. In very simple English, we are measuring inflation.

Would the gentleman like me to walk through how they determine inflation in this country today?

Mr. COBURN. I think we should.

Mr. NEUMANN. The CPI today is determined by looking at 90,000 different articles, 90,000 goods. They call it the basket of goods. They go into 22,000 different stores across America and they look at 35,000 rental units.

So this is a huge number of items that are being analyzed each year. And we can think of it like looking at how much do these 90,000 things in the basket cost on January 1 of this year and how much do they cost January 1, 1 year later, and that is how they determine the rate of inflation today.

Now, some people say that that basket of goods does not contain current items and is not updated frequently enough. An example of this would be in the basket of goods today we would not be looking at typewriters. If typewriters were in there, we would want to replace typewriters with computers.

So some people are saying that basket of goods, the 90,000 items they are looking at, are not actually the items that people in America today are buying. I would suggest, if that is the case, the Bureau of Labor Statistics needs to update the basket of goods.

But that is a very different concept from politicians stepping in and saying even though it appears inflation is 3 percent, we deem it appropriate to make it 2 percent. A politically motivated adjustment to CPI is something that I think I would personally find very, very unacceptable. As a former math teacher, this looks like a math problem to me.

Mr. COBURN. The principle is, if the underlying purpose of the CPI increment, cost of living adjustment, was to reflect that, then what we ought to have is that it reflects the cost of living. If it is overstated, it ought to be lowered; and if it is understated, it ought to be raised.

I have not found any senior in my district that disagrees with that once they understand what the issue is with it. It is not a political fix, it is doing the right thing.

So, again, what we should be saying is that that CPI should accurately reflect, and we have large numbers of people as far as economists and other statisticians that tell us today that that is not accurate. Now, how we solve that is to ask them to do their job and to do it correctly and bring us and the American public that number.

If they will do that, that will not be an issue anymore. But it also brings us back to what our problems are, is we are not demanding excellence in large areas in our Nation. And the first place we should demand excellence is in our Government, and we should demand excellence in the Bureau of Labor Statistics.

Mr. NEUMANN. I think just to make this very, very clear, we are both opposing a politically motivated adjustment to CPI, or a political adjustment, and we are both supporting a mathematical computation that is accurate and that accurately reflects inflation in our Nation today.

I think virtually all of the American people would support that. That is what the Bureau of Labor Statistics is supposed to be doing.

Mr. COBURN. So let me ask the gentleman a question, if I might. Is it possible to balance our budget and pay off the debt; and can we do that and meet the obligations that we have made to the people in this country that depend on us?

Mr. NEUMANN. Well, to answer that I think we need to understand how Social Security fits into that picture. Because, in fact, Social Security is a very big part of whether or not we can balance the budget.

A lot of people would like to take the Social Security Trust Fund money, the extra money that is being collected over and above what is being paid out to our senior citizens in benefits this year, the money that is supposed to be put in a savings account, they would like to take that money out of the savings account, put it in a government checkbook, spend it, and call the checkbook balanced, even though they are spending the money from the Social Security trust fund.

Mr. COBURN. But the answer to the question is we can meet the needs and commitments we have made in this country, and we can balance the budget and we can pay off the debt; is that correct?

Mr. NEUMANN. That is absolutely correct, and we can do it without going into the Social Security trust fund money and spending that trust fund money on other Government programs.

Mr. COBURN. As a matter of fact, we can do it putting that money into investments that will enhance the Social Security; is that not true?

Mr. NEUMANN. Such as a negotiable Treasury bond or a CD, something which our senior citizens are very familiar with. In fact, I think it is very important that we understand that the money that is being collected for Social Security today, and I have a chart that shows that money we are collecting, $418 billion today for the Social Security trust fund.

We are collecting $418 billion for the Social Security trust fund today and we are spending $353 billion on benefits for our senior citizens. That leaves us $65 billion surplus.

Let me translate this into English so it is easy for everyone to understand. If we think about this, it is like we are going into the paychecks and collecting $418, like our own checkbook at home. We put $418 in our checkbook and write out a check for $353 and our checkbook is in pretty good shape. We have $65 left in the checkbook.

The idea in the Social Security trust fund is that $65 left over, it is actually $65 billion, that money is supposed to go into this savings account. Because we all know that in the not too distant future, as the baby boom generation moves towards retirement, there will not be enough money coming into the Social Security System to pay the Social Security checks back out to our senior citizens.

When there is not enough money coming into Social Security, the idea is we are supposed to be able to go into the Social Security trust fund savings account, get the money out of the savings account, put it in our checkbook and make good on the checks. That is no different than the way we would run our own house. If we have $418 in our checkbook today, and we have this problem coming in the future, and we spend $353, so we have $418 in there and we spend $353, we would put the $65 in a savings account and, later on, when we had the problem, we would go to the savings account, get the money, and make good on our checks.

□ 1730

That is how the Social Security system is supposed to be working today. I cannot emphasize this enough, though. That is not what we are doing with the money. What we are doing with the money in Washington today is we are putting it in the big government checkbook called the general fund. We spend all the money out of the general fund and then some. That leads to the deficit. Since there is no money left in the checkbook at the end of the year, we simply put IOU's down into the Social Security trust fund.

As a matter of fact, when we report the deficit, we do not even report the Social Security trust fund money, that $65 billion, as part of the deficit. When this city reports the deficit to the American people of $107 billion, what they do not tell them is that in addition to that $107 billion, they have taken $65 billion out of the Social Security trust fund. When they talk about balancing the budget in Washington, DC, what they actually mean when they say they are going to balance the budget by the year 2002 is that they are going to go into the Social Security savings account, take out $104 billion in the year 2002 and put it in the big government checkbook, and they are then going to call their checkbook balanced even though they took this money out of the Social Security trust fund to make it appear balanced, and that is a big problem.

Mr. COBURN. Let me ask the gentleman a question. Of the money that the Federal Government has borrowed, the internal debt to the Social Security, has the Federal Government paid any interest on that debt?

Mr. NEUMANN. That is a very good question. There is supposed to be $550 billion in that trust fund today. They pay all of the money into the trust fund with IOU's, so guess how they pay the interest to the trust fund.

Mr. COBURN. With IOU's.

Mr. NEUMANN. With another IOU is exactly right.

Mr. COBURN. So in essence none of the money that is supposed to be set aside for Social Security trust fund purposes nor the interest actually has ever been paid, and we continue to send a piece of paper to cover the interest and the additional moneys that we will take this year. What is the estimate this year of the amount of moneys that will be taken from excess Social Security funds, payments over disbursements?

Mr. NEUMANN. In 1997, we expect that number to read in the range of $74 billion. So they will take another $74 billion worth of IOU's. They will spend the $74 billion on other government programs, and they will simply put IOU's in the trust fund.

Mr. COBURN. Plus another $35 or $40 billion in interest payments?

Mr. NEUMANN. No, the $74 billion is the total number.

Mr. COBURN. Will be the excess plus the interest payment that is due on the $550 billion?

Mr. NEUMANN. Right. Of that $75 billion, about $35 billion is actual cash over and above what is collected out of paychecks, and the other $40 billion is the interest on what is already in the trust fund. So, yes, they are paying all of it, it is about $75 billion. It is made up of about $35 billion in principal and $40 billion in interest.

Mr. COBURN. But they are not paying it.

Mr. NEUMANN. They are paying it with IOU's, exactly right.

This really becomes important if I can just go to why this is important not only to senior citizens, but it is important to people in their 50's and in their 40's and it is important to our young people, too, because in 2012, the Government tells us, in my opinion it could happen as soon as 2005, there will not be enough money coming in to pay the benefits back out to our senior citizens, and of course that is when we need the savings account. Now if the savings account is full of IOU's in 2005, or 2012 in the best case scenario, if there is nothing there in that savings account and we have reached the point where there is not enough coming in, there are really only two choices, and this is why it affects everyone. The choices are either to tell the seniors that they cannot have as much as they were expecting from Social Security. From what I have seen of Washington, DC, that is absolutely not going to happen nor should it happen.

The other alternative is to go to people like my son, a sophomore in college, and other kids like him, who are in those years, 8, 9, 10 years from now, are going to be married and have their own kids and forming their own families and working hard to make a living for themselves, we are going to have to go to those young people and say there is not enough money coming in for Social Security. Back there in 1997 we did not do the right thing and put the money in the savings account like we were supposed to, so our only choice now, young people, Andy and Tricia, my daughter, who is a senior, 8 years down the road you have got your own young family, we have to take more taxes out of your paycheck to make good on our Social Security commitment to our seniors.

That is why this a problem that crosses all generations. It is for the young people, it is the threat of increased taxes in 2005 and beyond. It is a threat to our people in their 40's and 50's that the Government will not make good on their commitments for Social Security, and it is a threat to the people that are seniors today.

Let me just go one step further for the young people. If in fact there was $550 billion in the Social Security trust fund, growing all the way to $1 trillion by 2002, if there was 1 trillion actual dollars in that savings account, we could then tell our seniors, your Social Security is safe and we could turn to our young people and begin a discussion about what we might do rather than stay in the Social Security system, because the reality is none of them believe they are going to get Social Security, or very few.

We had an interesting situation in my own house this past week. My third, my youngest, who is 14, worked last summer mowing lawns. He earned $900. I said Matt, you have got to report that $900 on your taxes. So we filled out a tax return for him and guess what we found out? He owed Social Security money, about $128. So we are asking a 14-year-old in the United States of America today to pay $128 out of $900 into that Social Security trust fund, and we down here in Washington are taking that money and we are spending it on other Government programs.

It would be important that we discuss the solutions that the gentleman from Oklahoma [Mr. COBURN] and I are both working very hard to get enacted into law here so we do not leave the impression that there is nothing that can be done about this.

We have introduced a bill, it is called the Social Security Preservation Act. The Social Security Preservation Act is a very straightforward bill. All it does is take the excess money that is collected from Social Security and puts it directly down here in the Social Security trust fund. That is a change of direction of cash-flow. Today that money that is collected goes directly over here into the Government's general fund and then it gets spent on other Government programs. Our Social Security Preservation Act is very straightforward. It simply takes the dollars and puts it directly down here into the Social Security trust fund.

The real meaning for this is that our senior citizens can count on their Social Security checks, the people in their 40's and 50's, if this money is actually there, can count on Social Security to be there for them as they have been banking on and paying into, and our young people can start looking ahead to a day when there are real dollars in the Social Security trust fund so they can start thinking about doing something to take care of themselves in their own retirement.

Mr. COBURN. And the American public will know what the true size is of the deficit that their Representatives are voting for each year, which in fact is significantly higher than what is reported in the press and by the Congressional Budget Office and the Office of Management and Budget, because it does not reflect this money borrowed from Social Security.

Mr. NEUMANN. That is exactly right. I have another chart here with me that really shows that. In 1996, this blue area on the chart is what the people in Washington reported to the American people as the actual deficit. What that is, is the amount they overdrew their checkbook. They overdrew their checkbook by about $107 billion in this particular year. What they did not tell them is that in addition to that, the Social Security trust fund money was also spent. That is another $65 billion, and the true deficit, had they put the Social Security money aside the way we are supposed to be doing, the true deficit was $172 billion.

Again, I would emphasize that in Washington, all the budgets except the one the gentleman and I are working on out here, President Clinton's budget, in 2002 when they say the budget is balanced, what they actually mean is they are going to go into the Social Security trust fund, take out $104 billion, the projected surplus that year. So when they say the budget is balanced, they are going to go into the Social Security trust fund, take out $104 billion, put it in their checkbook and say we balanced the budget.

That is ridiculous. In the private sector where both of us come from, you could not get away with that kind of reasoning, and they should not get away with it out here in Washington, DC, either.

Mr. COBURN. That is why it is so important for people of courage to stand up and do the right thing as far as the budget is concerned. The fact is, is we can balance the budget. We can make the hard decisions. The question is whether or not we will. The only way I am convinced that is going to happen is if the people of this country demand that their representatives make the hard choices that secure the future not only for the seniors and those 50 years of age, my age, and older, for their Social Security but also secure the future for our children and our grandchildren. Because in fact if we do not do these things now, the burden on them and the percentage of their life that they are working just to fund the Federal Government is going to be far in excess of 50 percent and probably close to 70 or 75 percent. The problem is not unfixable, although that is what we hear. The reason it is unfixable is people are not willing to make the tough decisions about the programs.

The thing I would want the American public to know is we cannot continue to do what we are doing and that everybody, everyone, everywhere is going to have to experience some pain in some way if we are going to balance the budget. Sometimes that pain is just a change in a program, but still the delivery of the service. Sometimes that pain is not a Government subsidy to oversee sales for some corporation. Sometimes that pain is making sure that we have an efficient food stamp program, or getting rid of the fraud in Medicare. It is something that we can do.

Mr. NEUMANN. I would point out to the gentleman from Oklahoma [Mr. COBURN] that this year has been a unique year for us. This is my third year here as I came here with the gentleman, of course. I put budget plans together for each of the first two years. This year it was the easiest by far of any of the years we have dealt with. Revenues right now today are so much higher than anyone anticipated that we can actually get this job done simply by saying no to all new Washington spending programs. As a matter of fact, if we accept President Clinton's numbers on Medicare but do not allow the new things that he has added in Medicare, if we accept his Medicaid numbers but do not allow the new Washington spending programs that he has added in Medicaid, if we go down to other mandatory spending, that is, your welfare reform and so on, if we again accept the numbers that he has proposed but do not allow any new Washington spending programs and if we take the discretionary spending numbers, and as the gentleman recalls, that was the yellow part on those charts the gentleman had up there, if we just take the numbers that we have already passed through both the House and the Senate, we have already agreed that we were going to keep the spending levels at this level, if we do all of those things, we do in fact get to a balanced budget by 2002, while at the same time we set aside the Social Security cash reserve and allow the American people to keep more of their own money, providing a $500 per child tax credit as well as reforming the estate tax, or the death tax, if you prefer, as well as reforming the capital gains tax which of course will allow the creation of many, many more jobs. I think we really should expand this vision. I think we should expand it beyond the year 2002 to our children's future and to the next generations of Americans. Because our fathers before us have preserved this Nation and given it to us in the shape that it is in and it is now our responsibility to think what kind of shape this Nation is going to be in for future generations. Really that is the last part of our budget plan. The last part is that after we get to balance in 2002 while at the same time letting the American people keep more of their own money and putting the Social Security money aside the way it is supposed to be, our plan also contains the appropriate course of action to pay off the Federal debt so that by the year 2023, when the gentleman and I are going to be thinking of retirement in all fairness. And, by the way, back in the private sector, long gone from Congress. But by 2023 when it is time for us to leave the work force, we can honestly have the debt paid off and pass this Nation on to our children debt-free. I just cannot think of anything else that we could be doing that would be more important.

Mr. COBURN. What does it take to do that? What is required to do that?

Mr. NEUMANN. My background is as a math teacher and then as a homebuilder, and I kind of combined the things I learned in both of those to figure out a very straightforward procedure to do it.

For any of our colleagues listening tonight, we have the details of this plan laid out from start to finish, from 2002 forward as to exactly how to go about it. It is very interesting what is happening to revenue at the Federal Government. Revenue to the Federal Government grows for two reasons. It grows because of inflation, that is, if you get a pay raise next year, you pay a little more in taxes, that is inflation, but it also grows because of real growth in the economy. So in our present situation we are looking at inflation of roughly 3 percent and real growth of roughly 2 percent. Revenues to the Federal Government then go up by 3 plus 2, or 5 percent to the Federal Government.

Our suggestion is very simply that once we reach balance in 2002, we cap spending increases at a rate 1 percent below the rate of revenue growth. I might point out, much to the chagrin of some of our fellow colleagues out here that would prefer to see Government actually shrinking much faster, that when we do this plan, when we cap spending increases at a rate 1 percent below the rate of revenue growth, we are still in a situation where the Government is expanding faster than the rate of inflation. So that if revenues are going up by 3 plus 2, inflation plus real growth, or 5 percent, we cap spending increases at 4 percent, still 1 percent faster than the rate of inflation, what we find out happens is that by 2023 our debt is repaid in its entirety.

It has been interesting. The Speaker has been recently talking about Hong Kong, and whatever Members think of Hong Kong, they have a very different situation in their Government than we have in ours. In our Government today, a family of five like ours is paying $600 a month to do nothing but pay the interest on the Federal debt. If we were to enact this plan and pay off the debt by 2023, the next generation of Americans, the next family of five a generation from now, would not have to pay that $600 a month. Just think about this.

□ 1745

Just because they do not have to pay the interest on the Federal debt, they can have a $600-a-month, $7,200-a-year, tax cut without affecting any programs in the entire. Now the Hong Kong model goes one step further. The Hong Kong model says not only are we going to not have a debt facing our Nation, but we would like to go one step further and have a rainy day account. That is, if something goes wrong that we were not expecting, we have got money set aside for it.

So they have set up an account. The equivalent in America would be about $750 billion in that account. That would then pay interest into the Federal Government as opposed to what we are doing today, which is going right, which is going into our families and collecting money from them to pay the interest on the debt. It would be exactly the opposite.

My dream, my vision for the future of this country, is that we do balance the budget by the year 2002, we set aside the Social Security trust fund money, we let our families keep more of their own hard-earned money in their pockets through the $500 per child tax credit, and then we look beyond 2002 and we actually pay off the Federal debt, maybe establish this rainy day fund. But whichever, even if we do not establish the rainy day fund, get to the point where our folks are not paying $500, $600, $700 a month into the Federal Government to do nothing but pay the interest.

Is that not a nice vision for America?

Mr. COBURN. It is a great vision and one we ought to leave the American public with is that it is doable to balance the budget, we can meet the commitments to those that we have made commitments to and still balance the budget. We cannot have everything we want and balance the budget, but we can have everything that we need.

As we close this out, what I would want the American public to know is that, as we spend $1.6 trillion, sometimes that is hard to figure out how much money that is, and the best way I know to know how much a trillion dollars is is, if you spent a million dollars a day every day for 2,600 years, you would have spent your first trillion dollars.

So as we think about the magnitude of the size of our Federal Government and how that impacts how each one of us can relate to a million dollars a day being spent, it shows you that the magnitude is there that we can make the changes. All we have to do is be determined to do it.

Mr. NEUMANN. I use another example when we talk about how much the Federal Government is spending every year, you know, and you hear all this discussion about spending cuts out here.

The Federal Government this year is spending $6,500 on behalf of every man, woman and child in the United States of America. So just to put this in perspective, $6,500 for every man, woman, and child in America. A family of five like mine, the Federal Government is spending over $30,000 on behalf of that family of five like mine.

You know, a couple of other things that I think are important is you talked about the concept of need versus want, and I always like to go through what happens if you find a new program that we really need to do in America and you have got this frozen discretionary spending or you are trying to keep spending from going up. I think our vision for the future is that, when you find a new program that is legitimately necessary; for example, we have passed welfare reform last year. That means many women are leaving the welfare rolls and going into the work force, and that is a good outcome. But when they go into that work force, they are at the bottom end of the pay scale in some cases, and we want to see opportunities for them to move up the pay scale. But when they start they might be at $6 an hour or $5.50 an hour, and that does not add up real fast to how many dollars are coming home.

We also just found out that women in their forties should have mammograms. So these folks that have left the welfare roll and done the right thing, gone into the work force, they are able to work, so they have now taken a $6-an-hour job. We just found out that, if they are in their forties, they should have a mammogram. Well, they qualify for Medicaid, so the health insurance is there to provide them with health care, but the money is not in the Medicaid Program currently to pay for the mammogram that we have now found out that this working poor should have.

So what do you do about that? Our vision includes things like, when you find something like that that you need to do, you find another program that you do not need to do, and let me give you an example how that might work.

Mr. Speaker, we put the money in for the mammograms, then we go into our Russian monkeys in space program and say we are not going to go into the taxpayers' pocket and take money out of their pocket and send it to Russia to launch monkeys into space anymore. That $35 million instead gets redirected over into the Medicaid Program so we can now fund a program that we find to be worthwhile.

Mr. COBURN. It is a matter of making judgments as to what our priorities are and how do we best benefit ourself, and once we assume and know we can balance the budget, that is the hard work of Congress, and as it should be.

I want to thank you for joining me in this today, and I would want the American public to leave this discussion knowing that it is possible to balance the budget, it is possible to pay off the debt, it is possible to live up to the commitments that we have made in Social Security, Medicaid and Medicare, and welfare and at the same time secure the future for the next generation.

EXTENDING ORDER OF HOUSE OF FEBRUARY 12, 1997 THROUGH APRIL 17, 1997

Mr. COBURN (during the special order of the gentleman from Oklahoma, [Mr. Coburn]. Mr. Speaker, I ask unanimous consent that the order of the House of February 12, 1997, be extended through April 17, 1997.

The SPEAKER pro tempore (Mr. Radanovich). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

WHALING AND WHALE POPULATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. Metcalf] is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, I rise today to oppose yet another proposal to hunt and kill gray whales along the coast of Washington State and Canada. It has recently come to my attention that the Nuu-Chah-Nulth tribe of British Columbia is planning to hunt whales for the first time in 70 years. Last year tribes from Washington State proposed a whale hunt off the Washington coast, but their petition was denied by the International Whaling Commission after they were notified of a resolution in opposition passed unanimously by the House Resources Committee. The human and economic effects as well as the impacts on whales need to be seriously considered before anyone decides to reopen commercial whaling off the west coast of the United States and Canada.

My district includes the San Juan Islands, and that borders Canada and Vancouver Island near where the proposed Canadian hunt is to take place.

The whale watching industry and tourism are among the main economic forces in this area, and they generate between $15 and $20 million per year in revenue. Now this is not insignificant, the whale watching. The thousands who come to our region to visit and see the whales each year should be able to enjoy these animals, and the people of this region, many of whom are my constituents, should be allowed to operate their businesses and thrive on the presence of these unique creatures.

These whales have become like pets. Lots and lots of boats go out to see them. They are not afraid of boats, they are used to boats. They are very trusting. They are very smart animals. And once commercial whaling, hunting of gray whales, begins, their demeanor will soon change, and they will not allow a boat to get anywhere near them. Thus a $15 to $20 million whale watching business will be decimated just for the personal profit of a few tribes.

Mr. Speaker, I am concerned that once tribes resume commercial whaling, even on a limited basis, the large profits will increase pressure for an even greater hunt. As a result, the whales will be driven further away. As we know, commercial whaling is what drove most whale species to the brink of extinction around the turn of the century, and our country still suffers a guilt from that. Now that the whale populations are beginning to grow, some feel that it is time to resume commercial whale hunting.

Mr. Speaker, it is not time to set sail and hunt or disrupt our fragile whale populations. My concern is not only for the people who benefit from the whale watching industry. I am also disturbed by the alliance of these tribes with the Norwegian and Japanese whaling industries.

Just 2 years ago the whale was removed from the endangered species list at the insistence of some Native American tribes, and Native American groups in the United States and Canada, as well as the international whaling industry, have eyed the whales as a lucrative commercial venture. Having a whale hunt for food, subsistence or preservation of a genuine cultural tradition is arguable, but allowing whaling as a precursor to reviving worldwide whaling industry is unacceptable. One gray whale can bring as much as $1 million in Norway or Japan, and these whale merchants are fully aware of the profit potential. For example, the international whaling industry has offered to fully outfit the tribes with state-of-the-art equipment like boats, explosive harpoons, and so forth, if they are allowed to hunt.

Mr. Speaker, that does not sound like traditional ceremonial whaling in hollowed out canoes. Furthermore, it seems to clearly indicate to me that the whaling industry perceives whaling by tribes as a prime opportunity to expand their own hunting.

The Seattle Times reported on April 13, and I quote:

> The proposed hunt is allied with efforts by the commercial interests in Japan and Norway that hope to turn the tide against anti-whaling sentiment by proposing what they call community-based whaling among indigenous people for cultural, dietary and economic reasons.

Again, I must question the validity of the proposal and the motivations behind a renewed commercial whale harvest. In fact, the fact that many whales are creatures that routinely migrate the globe, and we are talking there about the big whales, the others, not the gray whales, but they routinely migrate around the globe. They demand a consistent international policy. If a few native groups are allowed to harvest whales, then Japan and Norway would deserve and will demand the same. Such a policy will surely lead to a drastic reduction in the world whale populations.

Mr. Speaker, the grim history of commercial whaling should not be reenacted, and I will do my best to see that it is not.

VACATION OF SPECIAL ORDER

Mr. RUSH. Mr. Speaker, I ask unanimous consent that the previous order of earlier today concerning the gentleman from California [Mr. TORRES] be vacated.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON BANKING AND FINANCIAL SERVICES

Mr. RUSH. Mr. Speaker, I offer a resolution (H.R. 118) and I ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

HOUSE RESOLUTION 118

Resolved, That the following named Member be, and that he is hereby, elected to the following standing committee of the House of Representatives:

To the Committee on Banking and Financial Services: Mr. Torres of California.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

TRIBUTE TO THE LATE HONORABLE CHARLES A. HAYES OF ILLINOIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. RUSH] is recognized for 60 minutes.

Mr. RUSH. Mr. Speaker, on last Monday I attended a funeral held in Chicago, IL, a funeral, a home-grown service, for former Representative Charles A. Hayes, a former Member of this body. At that funeral, Mr. Speaker, at that home-grown ceremony, the many people from Chicago, from the First Congressional District, from the State of Illinois, indeed from this entire Nation came to Chicago to the Antioch Missionary Baptist Church located on the south side of Chicago in the First Congressional District to pay homage and give their final respects to a giant within this Nation, a man who, despite tremendous odds, was able to speak up, speak out, to stand for the little guy, the working person, the disadvantaged, the poor persons of this Nation.

Mr. Speaker, Charles Hayes' history is unparalleled in the annals of this Nation. His commitment to the working people, to poor people, to people who needed to have a voice, his commitment was deep seated and long lasting. When he was elected to Congress in 1984, representing the First Congressional District of Illinois, he followed in the footsteps of many giants who represented the First Congressional District, people who, as he did, succeeded against some tremendous odds.

□ 1800

Some of those Members were involved in this body passing legislation that had an effect on making this Nation the great Nation that it is today.

Oscar De Priest was the first African-American to be elected to Congress since the Reconstruction. He came from the First Congressional District. Following Oscar De Priest, we had Arthur Mitchell, the first black Democrat to represent a district in this august body. Following Oscar De Priest we had Congressman William L. Dawson who represented this district for many, many years. Congressman Ralph Metcalf represented this district. Congressman Harold Washington. Congressman Benny Stewart. They all represented this district.

When Charlie Hayes was elected to succeed Congressman Harold Washington, who was elected the first black mayor of the city of Chicago, he immediately began to pick up the baton and to carry forth the battle for equality and justice and fairness within this Nation and within this body.

Charlie was well prepared for this task. Going back many, many years, he had prepared himself for this task. Charlie Hayes, as far back as 1938, after he found employment at a little hardware store in Cairo, IL, making 15 cents an hour, Charlie was sensitive enough, understanding enough that he noticed the blatant racism that existed at that plant where black workers faced insults, indignation, and were forced to work in the lowest-paying and least desirable positions. The black workers did what most workers did at that time. They formed an union, a local union which was later recognized by the company as the Carpenter's Local Union 1424, and Charlie Hayes was elected president at the age of 20 years old.

This action, this standing up for the downtrodden, the poor, the oppressed, started him on his long career of social action and concern for people and their rights as Americans.

Mr. Speaker, I have many, many things I want to say about Charlie Hayes, but I am joined at this moment by the outstanding Member of this House from Illinois' Third Congressional District, a colleague of Charlie Hayes, Congressman BILL LIPINSKI.

Mr. LIPINSKI. Mr. Speaker, I want to thank the gentleman for recognizing me, and I want to thank him very much as a fellow Chicagoan for taking this special order for Charlie Hayes.

I do have a few things I want to talk about in regards to Charlie. Charlie arrived here in the House of Representatives about 6 months after I did, and he will always be remembered to me as Mr. Regular Order. As everybody knows, he became quite famous for that.

But not only did he arrive here 6 months after I arrived, but he was a commuter Congressman like I am, like the gentleman from Illinois [Mr. RUSH] is, flying back and forth every week between Chicago and Washington, DC. On many of those occasions Charlie and I sat together, and we had some enormously interesting conversations about organized labor and the labor movement in this country in the 1930's and the 1940's, 1950's, 1960's, 1970's, and up until the 1980's when Charlie left organized labor and started to represent the people here in Washington.

We also talked about his very, very good friend, the first African-American mayor of the city of Chicago, the Honorable Harold Washington. Obviously Charlie was very much involved in Harold Washington becoming mayor of the city of Chicago, but beyond that, he and Harold were very good friends, and he always was there to help Harold, protect Harold, and speak in Harold's behalf.

Besides having conversations about organized labor and the labor movement in this country and Harold Washington, Charlie Hayes and I were both great baseball fans, great fans of the Chicago White Sox, and on numerous occasions we discussed White Sox ball players of the past. I think that it is really fitting and proper that we have a special order today for Charlie Hayes on the day that we passed the resolution for Jackie Robinson.

Ironically, the African-American ball player that Charlie Hayes often talked about was not Jackie Robinson, but Larry Doby. Larry Doby was the first African-American ball player in the American League. Ironically, that occurred on July 15, 1947, a couple of months after Jackie Robinson had broken it.

I say ironically because Larry Doby pinch hit for the Cleveland Indians against the Chicago White Sox on that day. He did not start the game, there was really no fanfare that he was going to play that day, but in the seventh inning he came out as a pinch hitter.

Charlie Hayes happened to be in the ballpark that day and I happened to be in the ballpark that day also. My mother had taken my brother and I, my cousin, Pat Collins and my cousin Jim Collins to the ball game, and we were not aware, obviously, that we were going to be there on such a historical day. But nevertheless we were there, and as I say, I later discovered that Charlie was there also.

So besides baseball and Harold Washington and organized labor, there were other things that Charlie and I talked about on these plane rides back and forth.

The last one I would mention would be his youth center which I am quite sure you are very familiar with, and I think anyone that ever talked to Charlie would be familiar with because he was extremely proud of it. But it was always in great financial need, and there was more than one occasion when Charlie implored me to be a little bit generous towards his youth center, which fortunately I was in a position to be generous to his youth center on a couple of different occasions.

But Charlie was a very down-to-earth person, he was a very unassuming person. He was a very, very hard-working man, and he was really kind I think to a fault.

The only time I ever saw Charlie get angry was when people were somehow angling to do or doing something to give organized labor, the American working man and woman, the short end of the stick. That is when Charlie became angry and really angry, because I believe that for his entire life, as the gentleman mentioned earlier, he was always speaking for, supporting and fighting for the American working men and women in this country.

He was a very good friend of mine, and I am honored to have been a friend of his, and I am honored to have served in this House with him. I do not think that we could find an individual in the history of the House of Representatives that was ever any more effective for his constituents or a greater fighter for organized labor and the American working man and woman than Charlie Hayes.

I thank the gentleman for taking this special order and allowing me to participate in this tribute to Charlie Hayes, my good friend, Mr. Regular Order.

Mr. RUSH. Mr. Speaker, I thank the gentleman for his words of memorialization for Congressman Charlie Hayes. I share the gentleman's sentiment and his sincerity and his outlook. I share the gentleman's admiration for this giant.

Mr. Speaker, the chairwoman of the Congressional Black Caucus has come into the Chamber and she also served with Charlie Hayes. Mr. Speaker, I just want to say that the gentlewoman from California [Ms. WATERS] took time out from her very, very busy schedule, both as an outstanding Congresswoman from her district in California and also as the chairperson of the Congressional Black Caucus, she took the time out from her busy schedule to come in to Chicago to attend the home-born services for Charlie Hayes.

Mr. Speaker, at this point in time I would like to recognize the gentlewoman for her remarks.

Ms. WATERS. Mr. Speaker, I thank the gentleman, and I would like to commend the gentleman for organizing this effort on the floor together to make sure that we do the proper thing by Charlie Hayes. I would also like to commend the gentleman for his role and his presence at the funeral in Chicago that I did attend.

Of course, not only was the gentleman there, the other members of the delegation were present there all paying their last respects in recognition of the important role that he played not only in this Congress, but certainly in the overall community of Chicago, IL.

To a person when we were there, each one got up and they had wonderful things to say about him. They talked about his early days in the labor movement. They talked about the fact that he started as just a worker in the meat-packing company, and he started organizing there, and he went on in organized labor to become the vice president of the food and commercial workers.

At each step of the way, however, he was organizing, working, not only fighting for the average worker to have better wages and benefits and vacations and pensions, but he was fighting to make sure that African-Americans had a real role in the labor movement.

When he became the vice chair or international vice president of the food and commercial workers, it was unheard of, and it was quite an accomplishment. But he used his power and he used all that he had gained working in the labor movement to help others.

Everybody talked about the fact that he stood side by side with Dr. Martin Luther King. Not only did he march with him, he raised money for him. He was a real civil rights worker. Not only was he a labor organizer and a civil rights worker, he was a legislator who not only talked about what he would like to see for the average human being, the average person, he came here and he worked for it.

His legislation actually identified his priorities, working certainly on behalf of working people. All of the jokes that were told at the funeral about whatever you said to Charlie, he would always answer, a job would take care of that. That was his answer, because he knew the importance of every person who had the opportunity to work, to earn a living, what that meant for them and their families.

So I am proud to stand on this floor, and I am proud to have known him. He certainly represented labor in ways that very few have and can. He was able to represent them because he was a part of them in more ways than many of us will ever, ever understand or get to be ourselves.

□ 1815

So he has gone on, but I remember first noticing him on this floor when he would sit in the back of the room and witness the proceedings, and then there were those who would take advantage of the system and try to speak beyond their allotted time or disrespect the rules.

Then you would hear this roar of "Regular order, Mr. Speaker." And everything would come to a standstill, and people would get back on track, because, really, the person who had anointed himself as the real keeper of the proceedings of this House had spoken.

So we are going to miss the roar, we are going to miss the sound, and we have missed him for quite some time now. Charlie can rest in peace, because he did his work here on Earth. He gave to others, and even as he was in his last days, the stories about the work that he was doing at the hospital there, where he was serving as a patient advocate for the people who were ill and trying to comfort them and look out for their affairs, is something that very few people would ever do when they, certainly, were on their way out.

So I would just like to say thank you for taking out this time, for allowing us to get up on this floor and give recognition to a great legislator, a great leader, and a great human being.

Mr. RUSH. Mr. Speaker, I thank the gentlewoman from California [Ms. WATERS]. I would also like to make note for the RECORD that I know the gentlewoman was on the other side of town, and she told me on the floor, as soon as you start I want to stop whatever I am doing and take the long trip back and make sure I have my remarks on behalf of Charlie. I certainly appreciate that, the Hayes family appreciates it, and certainly the people of the city of Chicago appreciate this and the gentlewoman's other work.

Mr. Speaker, we are joined now by a freshman, a freshman in the House but not a freshman in the fight, a man who comes to this Congress with outstanding achievements of his own, achievements that he has secured in the fight for social and economic justice in this Nation.

Mr. Speaker, I yield to the gentleman from the Seventh District of Illinois, Mr. DANNY K. DAVIS.

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman for yielding to me. I would like to take this opportunity to express my appreciation to the gentleman from Illinois [Mr. RUSH] for having organized this time and these proceedings.

I am very pleased to join with those from around the country and across America who have stood to pay tribute to Charlie Hayes. Charles Hayes, who came from Cairo, IL, rural America, to the slaughter houses of Chicago, on the packing floor, cutting meat, becoming a member of the Meat Cutters Union, who worked his way from rural Cairo to the hallowed Halls of this Congress; who, along the way, never faltered, never stopped, never had any doubt about what he was going to do.

Charlie Hayes represented I think the best of the I can spirit, the I will spirit, knowing full well that once he set his mind to a task, he would do it.

Many people have talked about Charlie's contributions after having become a Member of Congress. But the real Charlie Hayes was the Charlie Hayes who was involved in untold struggles long before he reached the point of having the opportunity to represent that great congressional district that was represented by stalwarts: the first African-American elected to the U.S. Congress after the period of Reconstruction, Oscar DePriest, represented that district; William Dawson; Ralph Metcalf; the great Harold Washington; and then Charlie Hayes; and of course the current representative, the current Congressman from the First District, the gentleman from Illinois, Mr. BOBBY RUSH.

So Charlie fit right in the middle of all these giants, all of these individuals who have been a part of history, all of these individuals who have been makers of history. I always appreciated Charlie because in Chicago politics is rough and tumble; always has been, perhaps always will be. There are always those who are on the sidelines, always afraid to really take a swipe at the tough issues, the tough calls. But Charlie always made the tough ones, always made the heavy ones.

I remember the times when Charlie Hayes, Addie Wyatt, Theodore Dows, a few of the individuals were key movers in the civil rights movement in Chicago. You could always count on Charlie to be there with his voice, with his money, with his time, and with his courage.

So I say, Charlie, you fought the good fight. Yes, you have done your job, just like the village blacksmith with your big hands, your big voice, your big muscles. You have represented well the people not only of the First District of Illinois, but working men and women all over America and throughout the world.

Mr. RUSH. Mr. Speaker, I thank the gentleman for his remarks.

Mr. Speaker, next I will ask another Member of this body who served with Charlie Hayes, the gentleman from Illinois, Mr. GLENN POSHARD, who represents a district that has much similarity to the First Congressional District. He knows the fights of working people in this country.

Mr. Speaker, I yield to the gentleman from Illinois [Mr. POSHARD] for his remarks memorializing Charlie Hayes.

Mr. POSHARD. Mr. Speaker, I want to thank my friend for this special order for the gentleman from Illinois, Mr. HAYES.

Mr. Speaker, I served with Charlie on the Committee on Education and Labor when I first came here to the House of Representatives, and also on the Committee on Small Business. I spent a lot of hours with Charlie over the years, talking to him about various issues.

But a lot of times we talked about where Charlie grew up in Cairo, IL, because that was part of my district at the time, and is still very close to my district. I think because of where Charlie grew up, he had a great affinity for the working people of this country, and especially for the poor people of this country. Charlie's voice was always there for those folks.

I do not know if people know it, but Charlie also had a great love for the coal miners of the State of IL, Bobby, I have to tell you this, because one time I held a hearing in Benton, IL, on black lung disease, which is a disease that our coal miners get from going down into the mines and working below surface and having the coal dust accumulate in their lungs and so on.

We were just beginning the hearing and a large bus drove up outside the gymnasium in Benton, IL where we were having the hearing, and Charlie had brought down, 300 miles from Chicago, had brought a whole group of folks from his district who were older men at that time who had worked in the mines at one time in southern central Illinois, and who had black lung disease and who had moved to the city. But he brought them 300 miles to that hearing, so their voice could be heard with his.

That impressed everyone in our communities, because that is how much Charlie really cared, I think, for people, for working men and women across the country.

I have sat right over here on this floor and talked to him many times when the confusion and the chaos got a little heavy in the Chamber, and you would always hear that loud voice boom out, "Regular order," and things would settle down.

He was a great guy and he was a great White Sox fan, and we talked a lot of baseball, too, as the gentleman from Illinois [Mr. LIPINSKI] had referenced earlier.

I had a little time last night after I finished up some work over in the office. I get kidded a lot around here because I like poetry, and I wrote a little memorial poem for Charlie. It is not grand poetry, but then Charlie would not have appreciated grand poetry. But it is sort of how I felt about him, and I entitled it "Regular Order."

"When Charlie moved regular order
The Chamber settled down
Voices hushed, the Speaker blushed
Back benchers wore a frown
Many of us knew that voice
When raised in earlier days
For workers who had no voice
To change their burdened ways
From Cairo on the quiet river banks
To Chicago on Lake Michigan's shore
Charlie roamed the Prairie State
Defending the weak and the poor.
Carpenters, miners
All were Charlie's friends
Meat cutters, food workers,
They were Charlie's kin
Justice in the factories
Justice in the plants
He organized women and men
To stand up for themselves
To receive their fair share
Their family's future to defend
It broke Charlie's heart
And he never would rest
When young people dropped out of school.
Until he found a way
To help them stay
To learn to play by the rules.
Charlie walked the path of life
And disturbed our conscience each day.
He wouldn't let stand the wrongs he saw
And he wouldn't let us turn away.
Today we celebrate 50 years of
Robinson's remarkable feat
And when Charlie crossed the threshold
Jackie was there to greet
"Charlie," he said, "I opened the door with
both my bat and my glove"
But before my day, you showed us the way
To give justice a gentle shove.
"Charlie," it's just a pick-up game over on
St. Peter's Lot
We're in the fifth
The competition is stiff
Don't know if we'll win or not.
"But we've lost our ump
And confusion reigns out on the field of play
Could you help us out
Call the balls and strikes
Help us save the day."
Charlie smiled that great broad grin
Strolled with Jackie to the edge of the field
For just a moment he surveyed the mess
Then confidently crossed the border.
The arguments stopped, the game resumed
When Charlie yelled "regular order."

Well, it is just a little poem, but it is the way I felt about Charlie. That is the way I saw it.

Mr. RUSH. Very appropriate. Thank you so much for sharing that with us. That is a grand, in Charlie's style, that is a grand, grand poem. Thank you very so very much.

Mr. Speaker, we have bipartisan words of memorialization for our fallen colleague.

I yield to the gentleman from Illinois [Mr. HASTERT] the majority whip, another colleague of Congressman Hayes, who has asked to be allowed to give some remarks and his reflection of the outstanding individual, Charles A. Hayes.

Mr. HASTERT. I thank the gentleman from Chicago. I just have to say that we cannot think of Charlie without that big smile and the gentleness that he had, the love that he had for this body, and the reflection that he had on the long road it took to get here from a very humble beginning; a person who came, as was said before, from southern Illinois, from rural southern Illinois, came to the big city, the city that Carl Sandburg talked about, the stacker of wheat and the layer of railroads and the hog butcher of the world.

□ 1830

That is where Charlie found his beginning, his real economic start in life where he did work in those stockyards in the hog butcher center of the world, that is what he did, something that was not the most wonderful beginning, was not the top job on the economic platform, but Charlie did that. He was proud of it. He was proud of his heritage, proud of what he did. He was proud of his union movement.

The role that he played in the union movement in Chicago in the meat cutters union, he would talk about it. He believed in it, and he served that way. And through that service came to this body through a circuitous route. He was certainly a good man. He was a gentle man.

I remember Charlie, if you were in the Illinois delegation, flying back and forth together. At that time we flew and Charlie was there, we flew to Midway Airport, Midway Airlines. Those were small planes and many times Members of the delegation, we just got bottled up together. Sometimes the flight was canceled. We would sit in the waiting rooms for hours and talk. And Charlie would talk about his heritage, about his beginning, about the people he served and his grandchildren. He loved his grandchildren, loved his family.

And he will be missed in the hearts of Members who served with him in this body. He will be missed certainly among his family and those people that he served. But Charlie does not have to worry. His legacy will live on. It will live on with the people that he served, who he worked with, it will live on among the people that he served, his constituents, and certainly it will live on with the Members he served with here in this body.

He was a wonderful man. We mourn his passing, but we certainly celebrate his life. I thank the gentleman for yielding to me.

Mr. RUSH. Mr. Speaker, I thank the gentleman.

We have the gentleman from New York, Mr. OWENS, who also served as a colleague of Congressman Charlie Hayes and who shared some of his ideas about the world and ideas about labor, the esteemed Member from the State of New York, Mr. MAJOR OWENS.

Mr. OWENS. Mr. Speaker, I commend the gentleman for taking out this special order.

Charlie was my friend. Charlie was, you could say, a member of our class, because I came in one year and that was the year that Harold Washington got elected as mayor of Chicago and Harold Washington was a Congressman at that time and he was replaced by Charlie Hayes the next year. So Charlie was close to our class.

We called him "regular order Charlie," as you heard before. He had a capacity to have a big booming voice leap up and rise up to the ceiling and come crashing back down on all of us, Republicans and Democrats, and it brought a kind of order and harmony on an instantaneous basis when he did it.

Charlie was a great human being. Charlie was a labor leader. Charlie was a working man. Charlie knew it from the pits up. Charlie was probably not quite old enough to be my father, but he reminded me a great deal of my father, who was a very strong advocate of unions. And of course, my father was a working man who saw a great deal of necessity for unions in order for workers to survive with some kind of dignity. My father never worked on the job where he got paid more than the minimum wage. So he appreciated the Government. He appreciated the fact that the Government set the minimum wage because that is all he ever made.

My father worked in a glue factory in the meal department where he did gluing. He had big hands like Charlie Hayes, and the hands were sort of glazed over with glue. I used to look at Charlie's big hands and they had some scars on them similar to the kind of scars my father had on his hands. Charlie, after all, did most of his life in the working world as a meat packer. Meat packing is a rough business. They might have streamlined it more now, but it was quite rough.

He used to talk about people losing fingers, losing hands, losing arms. It was an area where the rate of injury was quite great.

Charlie would not need anybody to tell him how important OSHA is, the Occupational Health and Safety Administration, which is now under attack. And I have spent 4 hours today in a hearing as part of the attack on OSHA. Charlie would need nobody to tell him how important OSHA is. He was there in the plant, right there, and he knew how necessary it was for the Government to intervene, for there to be rules and regulations to stop the slaughter of people, to stop the limbs being cut off, stop the high rate of accidents. He understood it as nobody else could understand it. He understood it the way my father understood it.

I suppose all Democrats would say that they understand what unions are all about, what working people are all about. It is like the baggage that Democrats feel they have to carry as part of their package to validate themselves as Democrats. But there are not many Democrats nowadays who have the passion, who understand that the working people of the world, working people of this country are our people. They are the people we represent first and foremost.

You have to explain too much around here these days when it comes to an issue related to working people. OSHA is under attack because of the fact that there is a perception that it belongs to the unions, it is something that unions created and that unions are not very popular and that we should go out and dismantle some of the kinds of regulatory agencies that were set up to protect workers.

Not only is OSHA under attack, but you have the comp time bill that is before us now that passed the House, and the Senate has to act on it.

You would not have to explain to Charlie Hayes what is going on when you talk about taking away people's cash payments for overtime. Charlie Hayes would understand that readily. My father, overtime was the one time that he got above the minimum wage, when they had to pay overtime. Of course, usually in the plant where my father worked if you paid overtime 1 week or 2 weeks, down the road you were going to get laid off a long time. So you really did not get ahead of the game because the layoffs were always there.

I cannot think of a single year my father worked that he did not have layoffs. And Charlie would understand that you need cash to put bread on the table. You need cash to put shoes on the feet of your children. The kind of arguments you hear now about comptime versus overtime are the arguments that are coming from upper class, middle income workers, often workers, two in a family, doing very well, who want more time off with their children and for other purposes. That is all very well. But the proposal that I put on the table here, an amendment which said, OK, let us do it, let us do something for everybody. Those people who want comptime off and they do not want the Fair Labor Standards Act to stop their boss from being more flexible in terms of giving them time off, let them have it.

But that is only about one-third of the work force. Two-thirds of the work force make less than $10 an hour. The people who are making less than $10 an hour, they want cash. They need cash. The standard of living that they have will be affected greatly if they do not have the cash.

Charlie Hayes would have been a passionate advocate for that. He would not have to have long explanations.

It sort of took us a long time to get started on understanding how detrimental to working class people the comptime bill is. Among Democrats, they were off to a slow start. Even some of the labor leaders I do not think had been in the trenches as much as Charlie Hayes had been.

Charlie made a beeline straight for the Education and Labor Committee when he came here. He and I had that in common. I found that when I got here and I wanted to serve on the Education and Labor Committee, I remember when I talked to Tip O'Neill and he said, what do you want? I said, I want to be on Education and Labor. He chuckled, because Education and Labor had many slots. Nobody was dying to get on the Education and Labor Committee.

Charlie was one of the few who came in and headed straight for Education and Labor, as I did, because my colleagues who were more sophisticated in my freshman class said, why do you want to get on Education and Labor? There is no money there. We are right back to the old issue of raising money for campaigns. You cannot raise any money for your campaigns on Education and Labor. A handful of unions have to stretch themselves out. They cannot give you that much. Children and education, they certainly cannot help you very much, only two teachers unions. They explained it all to me.

But I headed straight for the Education and Labor Committee. I have been there for the whole 14 years that I am here. I have never tried to get on another committee. I think it is very important.

Charlie felt the same way. There was no place for Charlie Hayes to be except on the Committee on Education and Labor. The first bill he introduced was similar to the first bill I introduced. The first bill, I knew it was not going anywhere, but I thought it was very important.

I introduced a bill that said that the right to a job opportunity should be guaranteed to every American, the right to a job opportunity. What is so radical about that? Why cannot this very prosperous Nation move in the direction of guaranteeing a job opportunity for every American who wants to work?

And when the job opportunities are not there in the private sector, why cannot the Government step in as it did in the Depression?

The WPA and the various instruments that were used by Franklin Roosevelt to create jobs are very real in my mind. Because my father never forgot, he never forgot that all those months of not being employed were ended when the WPA came along. He never forgot Roosevelt.

Roosevelt was like a god in my house; and among working people, Roosevelt was like a god. Charlie Hayes looked at Roosevelt like a god. And the first bill he introduced was the reinstatement of Franklin Roosevelt's bill of rights for workers, human rights.

People talk about human rights. It is not only the Chinese who say that human rights ought to mean that we always have enough to eat. Human rights ought to mean we always have employment. Human rights ought to mean that we have housing.

That is not a radical idea that the Chinese Communists have to push forward. Franklin Roosevelt set it forth very early in his New Deal. He did not get all of his New Deal passed, unfortunately, so we did not have any guarantees to jobs. But of course, due to Franklin Roosevelt, we did have jobs.

First of all, they created jobs for the Government; and later the war came along and the issue of jobs was taken off the table because there was plenty of work during World War II. But Charlie reinstated, picked up where Roosevelt had left off.

And part of the Roosevelt set of rights was a right to healthcare. Universal healthcare is not a radical idea, and Charlie's first bill laid out all of those rights that Franklin Roosevelt had set forth.

Charlie would understand right away that our failure to pass the healthcare bill here was a major defeat. And we wonder why working people turn off out there, why so many people feel desperate, feel that working hard in the political arena is futile.

Nobody is even addressing their needs anymore. We have got 40 million Americans who are not covered by healthcare, 40 million Americans. And all we are talking about here is a show, we may put on a show in this Congress to cover 5 million children. Of the 40 million Americans not covered, at least 10 million are children.

So we are going to show the world that we have a heart somewhere underneath all this talk about millions and millions of dollars being raised for campaigns and the cruelty of trying to wipe out OSHA and trying to wipe out unions and institute a team act and various kinds of other things that are aimed at working people; underneath all that we want to show we got a heart.

So what are we going to do? We are proposing to provide healthcare for 5 million of the 10 million children. If we really care about children, why not all children? Why can we not come out of the 105th Congress with at least 10 million children covered if we cannot have universal healthcare and cover all the 40 million who are not covered?

Charlie would have been angry about this deep in his bones, and Charlie would have been a great asset in moving to get this kind of healthcare coverage. Charlie would certainly be very angry about some of the bills that are before our committee right now.

He sat right next to me in the Education and Labor Committee, which the name has changed now, I want the people to know. The Republican majority took over; and the word "labor" they hate so much, they would not even put the word "labor" in the committee name. It was changed to Economic and Educational Opportunities. That was the first name change.

Then now this year when the Republican majority got reelected, they decided that since people out there are very upset and they want education and they have to change their whole attitude toward education, then they put education back in the title. It is Education and the Workforce now, but not labor.

I think Charlie would understand the implications of that and be very upset about it. But, also, some of the first hearings that we had in the committee are hearings directed at the destruction of organized labor.

That is Charlie's bread and butter, Charlie's career. He was first and foremost a leader of organized labor. He was a union man, a union executive. He probably outranks any person who has come to this Chamber in terms of his credentials as a union person.

So he would be very upset that the team act now is one of the first acts that the Senate has on its agenda and the House has on its agenda.

The team act says it is the employer, boss, management can go and pick the people they want among the employees to form some kind of management committee, team of management and employees; and they will do what the collective bargaining process usually does, determine the working conditions and deal with the employees.

They can only do this in places that do not now have unions. Which means, if they were allowed to do that, in violation of present labor relations law, they would guarantee that those places will never have unions, independent unions. The team would smother everybody out.

It is very hard right now to organize labor unions, harder than it was in the days that Charlie talked about. He used to talk about the knock-them-upside-the-head days, where it was dangerous to organize.

He used to go all over the country as food and commercial workers; and as one of the leading people in the meat cutters union, he used to go all over the country.

In the South he got into a lot of trouble, and he used to talk about his adventures and how dangerous it was and he got in a lot of situations where his life was in danger.

Mr. RUSH. If the gentleman would yield for just a moment, would the gentleman please expound on how he thinks that Congressman Hayes would have felt about welfare reform and the onerous effect that it has on people, particularly welfare reform without even the possibility, remote possibility, of getting a job?

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Mr. OWENS. I think Charlie would immediately understand that welfare reform was not reform. It was an attack again on working people, on poor people, people that do not work but who are aspiring to become working people, people who are working but lose their job and they fall back into the welfare. Workers who are unemployed and need food stamps.

Nobody would have to explain anything to Charlie about the devastating impact of the welfare reform. I am sure that in his last days, his knowledge of what had happened did not help at all in terms of how he felt about this country, where the country is moving. I am sure he was quite upset by the welfare reform and the fact we had this attack on the working class, attack on people in a way which really goes at the heart of survival.

We cannot survive unless we have something to eat. We cannot survive unless we have a place to stay. And the attack on welfare was an attack, of course, also on children, because welfare is mainly aid to dependent children. They obscure the fact that only families with children receive aid to dependent children. That is the basic program. The food stamps was broadened so that everybody who was in need was covered, including working people who had lost their jobs and are heavily dependent on food stamps.

I think he would understand that we suffered a grave defeat and setback, and as a New Dealer, a man who admired Roosevelt, I am sure it would have pained him as greatly as it pained some of us that we lost an entitlement. That entitlement, the Federal responsibility for the poorest people, where any poor person in the Nation who met the criteria or the means test and showed that they were really poor, the Federal Government said that they would have enough to eat, that they would have a place to stay.

That is what welfare was all about, and it mainly said to children that they would have an opportunity to survive. That is gone. What we have now is the Federal Government participating in a program which goes to the States. But the Federal Government does not have the obligation anymore. It is a matter of giving the States the money and attaching conditions to that money. But that can all change.

There is no law which says that the Federal Government has to do this. There is no law which says that any person is entitled. And many people who are poor, of course, at the State level, when the State runs out of money, they will say, "We are out of money. People do not have an entitlement. We do not have to do it." The Federal Government would print or borrow more money, whatever is necessary. They would provide because the entitlement was there for everybody who needed it.

So Charlie Hayes would not have been happy if he was in the 104th Congress. He would not be happy about the way the 105th Congress has started. But his spirit lives on. And we are not beggars. We are the majority. The working people of this country are still the majority.

A lot of people thinking they had fled into the middle class find themselves, in a quick turn of fate economically, that they are right back in the same arena economically as the large number of working people. We are the majority. When we put all the people together, and they understand a majority, we can make laws in this country which are reasonable and fair and do not attempt to wipe out working people and the benefits that we have labored so hard to create for working people.

Mr. Speaker, I want to thank the gentleman for taking out this special order. It is my great delight to salute the spirit of Charlie Hayes. Regular order will go on and on, and we will all work to help keep his spirit alive.

Mr. RUSH. Mr. Speaker, I thank the gentleman for his eloquent and outstanding remarks. His remarks certainly captured Charlie Hayes and captured the plight of working people, both in the days of Charlie Hayes and also the working people in their plight today as we speak on this floor.

Mr. Speaker, much has been said about Charlie Hayes, much has been said about the kind of leader that he was; not only as a labor leader, as a political leader, but also as a community leader.

Mr. Speaker, his leadership goes back as far as, as I indicated earlier, 1938, when he originally started organizing a group of workers at the E.L. Bruce Flooring Company in Cairo, IL, and how at the tender age of 20 he became the president of the local, Local 1424.

Mr. Speaker, we jump to 1942, and he had moved to Chicago and an uncle helped Charlie land a job as a fresh pork laborer at Wilson & Co. there in Chicago at the old stockyard, and he soon became a leader in a long and bitter struggle which culminated in 1944 with the recognition of Local 25 of the United Packing House Workers of America as the official bargaining unit for 3,500 Wilson workers; black workers and white workers and Hispanic workers and Asian workers.

This effort marked the beginning of an end to segregated facilities and discriminatory hiring and promotion practices that were pervasive there at that particular plant.

In the 1948 packing house workers' strike at Wilson & Co. Charlie was framed on charges of violence and was fired. He won reinstatement as the result of the National Labor Relations Board arbitration in 1949. By then he had, in the interim, accepted a position to represent the union's 35,000 employees in district 1 as the international field representative, where he led successful fights for job benefits, including paid sick leave and vacations and holidays.

In 1954 he was elected director of district 1 of the United Packing House Workers of America, and he again, with his energy and his resolve and his commitment and his dedication and his courage, he had an immediate long-term and far-reaching impact on the American labor movement.

We can go on and on and on. Chicago was known to have historically troublesome racial relationships, and there was a riot in 1949 in Chicago at Trumbull Park Homes there, and Charlie led the effort to raise money for those families that were in critical and crisis situations as a result of the race riot there in Trumbull Park.

Also, during this same period of time, Charlie Hayes led the charge to raise money to assist in the prosecution of the murderers of Emmet Till, a young African-American from the South Side of Chicago who had ventured down to Mississippi and was found murdered, floating in a river. Charlie Hayes was moved and used his position in the labor movement, took up the call, involved himself in a fight that was highly controversial and certainly not within the purview of a defined role for a labor leader.

Charlie Hayes, when the AFL–CIO emerged in 1955, he became the international vice president and director of district 12, representing a union which was at that time the largest labor union in this Nation, representing 500,000 members. He became the vice president because he was unparalleled in terms of his courage and in terms of his commitment.

Mr. Speaker, the civil rights movement, this movement that saw black Americans and white Americans and others come together to talk about basic civil rights for all Americans, this movement that was spearheaded in the South by Dr. Martin Luther King and others, this movement that captured the imagination of this Nation because it showed this Nation that there was a part of this Nation where just basic rights, rights to public accommodation, rights to vote, just rights to speak up and stand up, even a right to ride on public transportation in the front, where this was a right that was not shared by many citizens of this Nation, Charlie Hayes took up the call, took up the charge, raised money, provided support, critical support for Dr. King and the Southern Christian Leadership Conference in their fight for equal rights.

Mr. Speaker, I can go on and on and on, but let me wind up this particular special order. Charlie Hayes was a civil rights leader, labor leader, political leader, but he was also a devoted family man, a devoted husband. His wife Emma passed in 1973. Charlie Hayes' family, his children, Charlene and Barbara, and his grandchildren, all have in their father, in their grandfather a man who is a role model for all in this world, for all in this Nation.

This man who came from the killing floors of a packinghouse, who came through the labor movement, who served here in this country will always be held in the highest of esteem by all freedom loving people of the world, and his example serves as a sterling example and a beacon for all of us who are fighting to end discrimination of all types and are fighting for a world where all people can have equal rights and justice.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today with fellow colleagues to express our honor and respect at the passing of a former Member of this body, Congressman Charles Arthur Hayes.

There is a lot that we could say about the late Honorable Charles Arthur Hayes, but a day or a week, not even a month would allow us enough time to express all that Congressman Charlie Hayes was to the city of Chicago, to the First Congressional District of Illinois which he represented, to the Congress of the United States, and to the working men and women of this country.

When colleagues of Congressman Hayes would rise to speak on labor issues, they would have to remember that a member of labor was among them. After more than 45 years as a trade unionist, Congressman Charlie Hayes was the congressional expert of labor issues.

In the depths of the Great Depression, Charlie Hayes graduated from Sumner High School and began work with the Civilian Conservation Corps to plant trees on the banks of the Mississippi River.

Charlie Hayes began his long labor career after returning to work in his home town of Cairo, IL. He worked at the E.L. Bruce Hardwood Flooring Co. as a machine operator and helped to organize local No. 1424 of the United Brotherhood of Carpenters and Joiners of America and served as its president from 1940 to 1942.

In 1943 he joined the grievance committee of the United Packing House Workers of America (UPWA) and served as district director for the UPWA's District One from 1954 until 1968, when he became a district director and an international vice president of the newly merged packing house and meat cutters' union.

After 40 years of laboring in the vineyard, Charlie Hayes retired as vice president and director of region 12 of the United Food and Commercial Workers International Union in September of 1983.

But a man like Charlie Hayes, who had worked most of his life on the front line of workers' rights, found retirement to be just a bit too slow a pace.

In April 1983, the Congressional seat for the First District of Illinois became open with the resignation of Harold Washington. Retired Charlie Hayes was then ready to go back to work, but now on the behalf of the residents of the First Congressional District of Illinois.

Congressman Hayes represented the people of the First District located in the city of Chicago, IL. The First District of Illinois includes about half of Chicago's South Side black community.

The South Side of Chicago had been the Nation's largest black community for nearly a century, until redistricting earlier in the 1990's.

The area's demographic statistics however, do not speak to the love Charlie Hayes had for the people of Chicago, and especially for the people of the First Congressional District.

Chicago, and especially the working men and women of the First Congressional District of Illinois, needed the hands, heart, and devotion of a committed warrior in the well of the House of Representatives.

They found all that they needed and much more in the person of Charles Arthur Hayes.

Congressman Hayes came to Washington, DC to work—and that is exactly what he did.

Congressman Hayes served on the Committee on Education and Labor and the Small Business Committee.

He introduced several pieces of legislation to address the educational and employment needs of many Americans. Prominent among these are acts to encourage school drop-outs to reenter and complete their education and to provide disadvantaged young people with job training and support services. Hayes also sponsored bills to reduce high unemployment rates and make it easier for municipalities to offer affordable utility rates through the purchase of local utility companies.

I offer my sympathy and best regards to the family, friends, and colleagues of Congressman Charlie Hayes.

His life's record is a statement of public service.

Mr. CONYERS. Mr. Speaker, I rise today to pay tribute to one of the original leaders of the American civil rights movement, a lifetime advocate of the American worker, and a true crusader for social justice and racial equality: Charles Arthur Hayes. Charlie was a dear friend, a respected colleague, and a trusted ally. He will be deeply missed.

When Harold Washington announced his endorsement of Charles Hayes to replace him in the U.S. House of Representatives, Washington said that "[Hayes] has shown unparalleled leadership and ability to unite blacks, whites and Hispanics into organized coalitions fighting for economic, political, and social justice." This is a role Hayes played throughout his life and during his entire tenure in Congress.

As we remember Hayes, it is important to look back on his lifetime of work so that we might truly appreciate what it was that be brought to the House of Representatives and the Congressional Black Caucus.

A tireless labor leader and a champion of racial equality, Hayes was the first vice president of a labor union to become a Member of Congress. He joined the labor movement in the 1930's after his graduation from high school. As a young machine operator in 1938 he organized a strike by black workers in a hardwood flooring company that lasted 6 weeks. The workers won—not a surprise given that Hayes was their leader. Hayes organized the group into a carpenters' local and became its president. Soon afterward, Hayes moved to Chicago's south side and organized black workers in meat-packing plants into a United Packing house Workers local. He was the key figure in the desegregation of meatpacking plants and also fought successfully for equal pay for black workers.

This outstanding commitment to the plight of America's workers led Hayes to be brought before the House Committee on Un-American Activities in 1959. He took the fifth amendment rather than cooperate with the committee.

I was proud to work with Hayes as a member of the original civil rights movement and as one of the first allies of Dr. Martin Luther King, Jr. As a leader of the Amalgamated Meatcutters and Butchers Union, Hayes rallied support for King in the 1956 Montgomery bus boycott, the 1963 march on Washington, and the 1966 campaign for open housing in Chicago. Hayes was also the driving force behind Chicago's black independent political movement. He led the efforts to get Ralph Metcalfe and then Harold Washington elected to Congress and subsequently helped Washington to be chosen mayor of Chicago.

When Hayes himself became a Member of Congress in 1983, he was once again at the forefront of a hard-fought battle, this time the political assault on President Reagan's economic policies. Hayes stated that in electing him, his constituents had "[served] notice on Ronald Reagan." He vowed to replace Reagan "with a chief executive committed to solving the problems of poor people." We were all thankful for Hayes' presence in this particular battle.

Hayes sponsored bills to reduce high unemployment rates and make it easier for municipalities to offer affordable utility rates through the purchase of local utility companies. He was one of the earliest supporters of my bill for a 32-hour work week. In 1992, he submitted a job bill which would have created 570,000 jobs nationwide while rebuilding the country's infrastructure by channeling money to States for building roads, bridges, and schools at a rate corresponding to the State's unemployment rate.

Even given Charlie's life-long crusade on behalf of America's workers, I may best remember and honor him for his unparalleled commitment to end apartheid in South Africa. In 1984, Charlie, together with Joseph Lowery, was arrested for staging a sit-in at the South African Embassy in Washington while 150 demonstrators chanted "Free South Africa." The demonstration kicked off a nationwide Free South Africa Movement. Two years later, Hayes participated in a congressional delegation to the Crossroads Shantytown near Cape Town. The delegation met with Zulu Chief Gatsha Buthelezi who urged the lawmakers not to side with those favoring violent opposition to apartheid. The visit to South Africa solidified Hayes' commitment to disinvestment in South Africa and encouraged him to work even harder toward this goal, a commitment he brought back with him to the Hill.

I shared a great deal of personal and political history with Charlie Hayes. We were both active in the labor movement before coming to Congress and continued to advocate on behalf of America's workers at every chance we got once on the Hill. We both fought for racial equality along side of some of the greatest leaders in American civil rights history. We both believed that the U.S. Congress was the vehicle through which to continue this work. I am committed to this vision of the Congress and to the work which both Charlie and I came here to do.

It was an honor and a privilege to have known and worked with Charlie Hayes. I thank BOBBY SCOTT for organizing this tribute and I commend the other Members who have participated. I hope that we live to see all of Charlie's battles won. Thank you.

GENERAL LEAVE

Mr. RUSH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. RADANOVICH). Is there objection to the request of the gentleman from Illinois?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. COSTELLO (at the request of Mr. GEPHARDT), for today, on account of an illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. JOHN) to revise and extend his remarks and include extraneous material:)

Mr. MASCARA, for 5 minutes, today.

(The following Members (at the request of Mr. ROGAN) to revise and extend their remarks and include extraneous material:)

Mr. BILIRAKIS, for 5 minutes, today.

Mr. GOODLATTE, for 5 minutes, today.

Mrs. LINDA SMITH of Washington, for 5 minutes, today.

Mr. FORBES, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ROGAN) to revise and extend their remarks and include extraneous material:)

Mr. GEKAS.
Mr. METCALF.
Mr. COBLE.
Mr. HILL.
Mr. PAPPAS.
Mr. MCINTOSH.
Mr. HUNTER.
Mr. PACKARD.
Mr. BILIRAKIS.

(The following Members (at the request of Mr. JOHN) to revise and extend their remarks and include extraneous material:)

Mr. LIPINSKI.
Mr. KUCINICH.
Mr. HAMILTON.
Mr. LAFALCE.
Mr. KLECZKA.
Mr. FOGLIETTA.
Mr. MCDERMOTT.
Mr. DELLUMS.

(The following Members (at the request of Mr. RUSH) and to include extraneous matter:)

Mr. SMITH of New Jersey.
Mr. KNOLLENBERG.
Mr. STRICKLAND.
Mr. STOKES.
Mr. SABO.
Mr. GINGRICH.
Mrs. JOHNSON of Connecticut.
Mr. MCNULTY.
Mr. FILNER.
Ms. SANCHEZ.
Mr. SHAW.

ADJOURNMENT

Mr. RUSH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 p.m.), the House adjourned until tomorrow, Thursday, April 17, 1997, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2830. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Change in Disease Status of Northern Ireland and Norway Because of Exotic Newcastle Disease [Docket No. 97-021-1] received April 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2831. A letter from the Director, Office of Administration and Management, Department of Defense, transmitting the Department's final rule—Pilot Program Policy [32 CFR Part 2] received April 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

2832. A letter from the Assistant Secretary for Pension and Welfare Benefits, Department of Labor, transmitting the Department's final rule—Interim Rules Amending ERISA Disclosure Requirements for Group Health Plans (Pension and Welfare Benefits Administration) (RIN: 1210-AA55) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

2833. A letter from the Chair, Federal Energy Regulatory Commission, transmitting the 1996 annual report of the Federal Energy Regulatory Commission, pursuant to 16 U.S.C. 797(d); to the Committee on Commerce.

2834. A letter from the Secretary of Health and Human Services, transmitting a report on operations of the Medicaid Drug Rebate program, pursuant to Public Law 101-508, section 4401(a) (104 Stat. 1388-155); to the Committee on Commerce.

2835. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the semi-annual report for the period October 1, 1995 to March 31, 1996 listing voluntary contributions made by the U.S. Government to International Organizations, pursuant to 22 U.S.C. 2226(b)(1); to the Committee on International Relations.

2836. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's report on condition in Hong Kong of interest to the United States since the last report in March 1996, pursuant to 22 U.S.C. 5731; to the Committee on International Relations.

2837. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

2838. A letter from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting the Department's final rule—Indian Country Law Enforcement (Bureau of Indian Affairs) [25 CFR Part 12] (RIN: 1076-AD56) received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2839. A letter from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Recordkeeping and Reporting Requirements [Docket No. 961119321-7071-02; I.D. 110796G] (RIN: 0648-AI68) received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2840. A letter from the Attorney General, transmitting the 1996 annual report of the Attorney General of the United States; to the Committee on the Judiciary.

2841. A letter from the Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting a report with respect to the Army Corps of Engineers recreation day use fee program, pursuant to Public Law 104-303, section 208(b)(2) (110 Stat. 3680); to the Committee on Transportation and Infrastructure.

2842. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Nonprocurement Debarment and Suspension (RIN: 2105-AC25) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2843. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations: Fort Lauderdale, Florida (U.S. Coast Guard) [CGD07-012] (RIN: 2115-AE46) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Transportation and Infrastructure.

2844. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Delegation of Authority to Officer in Charge, Marine Inspection (U.S. Coast Guard) [CGD 97-001] (RIN: 2115-AF41) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2845. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulation; Salute to the Queen (U.S. Coast Guard) [CGD08-97-010] (RIN: 2115-AE46) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2846. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Regulated Navigation Area Regulations; Lower Mississippi River (U.S. Coast Guard) [CGD08-97-008] (RIN: 2115-AE84) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2847. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Antarctic Treaty Environmental Protection Protocol (U.S. Coast Guard) [CGD 97-015] (RIN: 2115-AF43) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2848. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Retroactive Payments Due to a Liberalizing Law or VA Issue [38 CFR Part 3] (RIN: 2900-AI57) received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

2849. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—List of Designated Private Delivery Services [Notice 97-26] received April 11, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2850. A letter from the President, U.S. Institute of Peace, transmitting a report of the audit of the Institute's accounts for fiscal year 1996, pursuant to 22 U.S.C. 4607(h); jointly, to the Committees on International Relations and Education and the Workforce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LEACH: Committee on Banking and Financial Services. H.R. 607. A bill to amend the Truth in Lending Act to require notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction, and for other purposes; with an amendment (Rept. 105-55). Referred to the Committee of the Whole House on the State of the Union.

Mr. McINNIS: Committee on Rules. House Resolution 116. Resolution providing for consideration of the bill (H.R. 400) to amend title 35, United States Code, with respect to patents, and for other purposes (Rept. 105-56). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 117. Resolution providing for consideration of motions to suspend the rules (Rept. 105-57). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SMITH of Oregon:

H.R. 1342. A bill to provide for a 1-year enrollment in the conservation reserve of land covered by expiring conservation reserve program contracts; to the Committee on Agriculture.

By Mr. BATEMAN (for himself and Mr. Abercrombie) (both by request):

H.R. 1343. A bill to authorize appropriations for fiscal years 1998 and 1999 for certain maritime programs of the Department of Transportation, and for other purposes; to the Committee on National Security.

H.R. 1344. A bill to amend the Panama Canal Act of 1979, and for other purposes; to the Committee on National Security.

By Mr. CUMMINGS (for himself, Mr. Clay, Mr. Jefferson, Mr. Foglietta, Mr. Ford, Mr. Dellums, Ms. Brown of Florida, Mr. Filner, Mr. Frost, Ms. Pelosi, Mrs. Meek of Florida, Mr. Clyburn, Mrs. Carson, Ms. Norton, Ms. Jackson-Lee, Mr. Scott, Mr. Owens, and Mr. Rush):

H.R. 1345. A bill to establish the Commission on National Drug Policy; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILCHREST (for himself, Mr. Barcia, Mr. Dingell, Mr. Calvert, Mr. Holden, Mr. Gibbons, Ms. Rivers, Ms. Kilpatrick, Mr. Conyers, Mr. Levin, Mr. Bereuter, Mr. Kildee, Ms. Stabenow, and Mr. Clyburn):

H.R. 1346. A bill to amend the Solid Waste Disposal Act to provide congressional authorization for restrictions on receipt of out-of-State municipal solid waste, and for other purposes; to the Committee on Commerce.

By Mrs. JOHNSON of Connecticut (by request):

H.R. 1347. A bill to amend title 18, United States Code, to prohibit the mailing of certain mail matter; to the Committee on the Judiciary.

By Mr. JONES:

H.R. 1348. A bill to amend title 18, United States Code, relating to war crimes; to the Committee on the Judiciary.

By Mr. KENNEDY of Massachusetts:

H.R. 1349. A bill to regulate handgun ammunition, and for other purposes; to the Committee on the Judiciary.

By Mr. SHAW (for himself, Mr. Ney, and Mr. Boehner):

H.R. 1350. A bill to amend the Internal Revenue Code of 1986 to allow associations of persons holding timeshare interests in residential property to elect to be taxed as homeowner associations; to the Committee on Ways and Means.

By Mr. LEWIS of Georgia (for himself, Mr. Shays, Mr. Serrano, Ms. Rivers, Mr. Filner, Mr. Stark, Mr. Dellums, Ms. Norton, Mr. McGovern, Mrs. Mink of Hawaii, Ms. Jackson-Lee, and Mr. Oberstar):

H.R. 1351. A bill to prohibit smoking in any transportation facility for which Federal financial assistance is provided; to the Committee on Transportation and Infrastructure.

By Mrs. LOWEY:

H.R. 1352. A bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decision making at the National Cancer Institute; to the Committee on Commerce.

By Mr. MINGE (for himself, Mr. Ramstad, Mr. Klug, Mr. DeFazio, Ms. Furse, Mr. Kennedy of Massachusetts, Mr. Luther, Mr. Pascrell, Mr. McIntyre, Mr. Hefley, and Mr. Bishop):

H.R. 1353. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate any portion of their income tax overpayments, and to make other contributions, for the purpose of retiring the national debt; to the Committee on Ways and Means.

Mr. OLVER (for himself, Mr. Bonior, Mr. Boucher, Mr. Evans, Mr. Frost, and Ms. Lofgren):

H.R. 1354. A bill to amend title XIX of the Social Security Act to provide for mandatory coverage of services furnished by nurse practitioners and clinical nurse specialists under State Medicaid plans; to the Committee on Commerce.

By Mrs. THURMAN (for herself and Mr. Shaw):

H.R. 1355. A bill to amend the Internal Revenue Code of 1986 to modify the tax treatment of qualified State tuition programs; to the Committee on Ways and Means.

By Mr. WATTS of Oklahoma (for himself, Mr. English of Pennsylvania, Mr. Wolf, Mr. Condit, and Mr. Norwood):

H.R. 1356. A bill to amend title 10, United States Code, to permit beneficiaries of the military health care system to enroll in Federal employees health benefits plans; to improve health care benefits under the CHAMPUS and TRICARE Standard, and for other purposes; to the Committee on National Security, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WATTS of Oklahoma:

H.R. 1357. A bill to require the Secretary of Defense and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Defense with reimbursement from the Medicare Program for health care services provided to Medicare-eligible beneficiaries under the TRICARE program; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. Emerson (for herself and Mr. Condit):

H.J. Res. 72. Joint resolution proposing an amendment to the Constitution of the United States allowing an item veto in appropriations bills; to the Committee on the Judiciary.

By Mr. Lantos (for himself, Mr. Gilman, Mr. Hamilton, Mr. Ackerman, Mr. Berman, Mr. Faleomavaega, and Mr. Rothman):

H. Con. Res. 63. Concurrent resolution expressing the sense of the Congress regarding the 50th anniversary of the Marshall Plan and reaffirming the commitment of the United States to the principles that led to the establishment of that program; to the Committee on International Relations.

By Mr. Linder:

H.J. Res. 114. Resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. ROYCE (for himself, Mr. Payne, Mr. Menendez, Mr. Campbell, Mr. Hastings of Florida, Mr. Chabot, Mr. Gilman, Mr. Hamilton, Mr. Bereuter, Mr. Smith of New Jersey, Mr. Kim, Mr. Graham, Mr. Gejdenson, and Mr. Berman):

H.J. Res. 115. Resolution concerning the promotion of peace, stability, and democracy in Zaire; to the Committee on International Relations.

By Mr. RUSH:

H.J. Res. 118. Resolution designating minority membership on certain standing committees of the House; considered and agreed to.

By Mr. FARR of California (for himself, Mr. Pallone, Mr. Porter, Mrs. Morella, Mr. Evans, Mr. Yates, Mr. Olver, Ms. Woolsey, Mr. Blumenauer, Mr. Torres, Mr. Cummings, Ms. Norton, Mr. Walsh, Mr. Abercrombie, Mr. Sanders, Mr. Murtha, Mr. Waxman, Ms. Harman, Mr. Gejdenson, Mr. Gephardt, Mr. Capps, Mr. Shays, and Ms. Jackson-Lee):

H.J. Res. 119. Resolution providing for the mandatory implementation of the Office Waste Recycling Program in the House of Representatives; to the Committee on House Oversight.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

41. By the SPEAKER: Memorial of the Legislature of the Commonwealth of Virginia, relative to Senate Joint Resolution No. 365 urging Congress to repeal section 13612(a)(C) of the Omnibus Budget Reconciliation Act of 1993; to the Committee on Commerce.

42. Also, memorial of the Legislature of the State of Idaho, relative to Senate Joint Resolution No. 102 urging Congress to pass, and send to the legislatures of the States for ratification, an amendment to the Constitution requiring, in the absence of a national emergency, that the total of all appropriations may not exceed the total of all estimated Federal revenues; to the Committee on the Judiciary.

43. Also, memorial of the Legislature of the State of Idaho, relative to Senate Joint Resolution No. 103 requesting that Congress and the President of the United States amend the Internal Revenue Code so that the maximum tax rate on long-term capital gains be lowered to 14 percent; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 143: Mr. Nussle, Mr. Bentsen, Ms. Kilpatrick, Mrs. Kelly, Mr. Towns, Mr. Coyne, Ms. Eshoo, Mr. Gallegly, Mr. Portman, Mr. Campbell, Mr. Frost, and Mr. Wolf.

H.R. 144: Mr. Talent.

H.R. 165: Mr. Stupak.

H.R. 213: Mr. Weygand.

H.R. 273: Ms. Slaughter.

H.R. 339: Mr. McIntyre.

H.R. 383: Mr. Gallegly and Mr. McIntyre.

H.R. 399: Ms. Kaptur.

H.R. 411: Ms. Woolsey.

H.R. 437: Mr. Bilirakis.

H.R. 453: Mrs. Tauscher, Mr. Frank of Massachusetts, Mrs. Mink of Hawaii, and Mr. Markey.

H.R. 500: Mr. Torres.

H.R. 521: Mr. Cook, Mr. Baesler, and Mr. Frank of Massachusetts.

H.R. 536: Mr. Dingell, Mr. Towns, and Mr. Lantos.

H.R. 629: Mr. Sandlin.

H.R. 638: Mr. English of Pennsylvania.

H.R. 641: Mr. McIntosh and Mr. Watts of Oklahoma.

H.R. 647: Mr. Souder.

H.R. 648: Mr. Kucinich, Mr. Owens, Mrs. Maloney of New York, Ms. Norton, Mr. Davis of Illinois, Mr. Kind of Wisconsin, Mr. DeFazio, Ms. Slaughter, and Mr. Barrett of Wisconsin.

H.R. 653: Mr. Barrett of Wisconsin.

H.R. 688: Mr. Pastor, Mr. Barrett of Nebraska, and Mr. Tiahrt.

H.R. 695: Mrs. Linda Smith of Washington.

H.R. 715: Mr. Weller and Mr. Souder.

H.R. 716: Mr. Deal of Georgia and Mr. Oxley.

H.R. 744: Mr. Owens, Mr. Yates, Mr. Wexler, Mr. Payne, Mr. Dellums, Mrs. Clayton, Mr. Manton, Mr. Boucher, Mr. Gonzalez, Mr. Delahunt, Mr. Olver, Ms. Lofgren, and Mr. Weygand.

H.R. 745: Mr. Neumann and Mr. Smith of New Jersey.

H.R. 755: Ms. Christian-Green.

H.R. 767: Mr. Thune.

H.R. 789: Mr. Camp and Mr. Condit.

H.R. 805: Mr. Ewing.

H.R. 811: Mr. Kucinich.

H.R. 813: Mr. Aderholt.

H.R. 815: Mr. Baldacci, Ms. Pryce of Ohio, Mr. Kasich, Mr. Cooksey, Mr. DeFazio, Mr. Markey, Mr. Fattah, Mr. Hutchinson, Mr. Sawyer, Mr. Skaggs, Mr. Frank of Massachusetts, Mr. Mascara, Mr. Kolbe, Mr. Foglietta, Mr. Gutierrez, Ms. Brown of Florida, Mr. Klink, Mr. McHale, and Mr. Sanders.

H.R. 816: Mr. Kingston and Mr. Graham.

H.R. 878: Mr. Evans, Mr. Nadler, and Ms. Christian-Green.

H.R. 900: Mr. McGovern, Mr. McNulty, Mr. Franks of New Jersey, Mr. Coyne, Mr. Lampson, Mr. Pallone, Mr. Spratt, Mr. Hastings of Florida, Ms. Eshoo, Mr. Sherman, Ms. Hooley of Oregon, Mr. Luther, Mr. Price of North Carolina, Mr. Kind of Wisconsin, Mr. Campbell, Mr. Roemer, Mr. Kleczka, Ms. Norton, Mr. Dixon, Mr. Allen, Mr. Ackerman, and Mr. Barrett of Wisconsin.

H.R. 925: Mr. Kucinich, Mr. Owens, Mr. Kind of Wisconsin, Mr. Davis of Illinois, Mr. Barrett of Wisconsin, and Ms. Slaughter.

H.R. 947: Mr. Brown of California.

H.R. 950: Mr. Gutierrez, Mr. Oberstar, Ms. Woolsey, Mr. Borski, Mr. Kucinich, Mr. Lewis of Georgia, Ms. Lofgren, and Mr. Jackson.

H.R. 956: Mr. Dreier and Mr. Pickering.

H.R. 965: Mr. Gallegly and Mrs. Cubin.

H.R. 981: Mr. Schumer and Ms. Hooley of Oregon.

H.R. 982: Mr. Schumer.

H.R. 1010: Mr. Berry, Mr. Turner, and Mr. Nethercutt.

H.R. 1033: Mr. Calvert and Mr. Radanovich.

H.R. 1039: Ms. Lofgren and Mr. Meehan.

H.R. 1053: Mr. Frank of Massachusetts, Mr. Stark, and Mr. Hobson.

H.R. 1071: Mr. Ackerman and Mr. McIntyre.

H.R. 1079: Mr. Traficant, Mr. Sabo, Mr. Lipinski, Mr. Dellums, Mr. Becerra, Mr. Olver, Mr. Evans, Mr. DeFazio, Mr. Davis of Illinois, Mr. Stark, Mrs. Carson, Mr.

Vento, Mr. Lewis of Georgia, Ms. Christian-Green, Mrs. Meek of Florida, Mr. Rahall, Mr. Stupak, Mr. Pascrell, Mr. Kucinich, Mrs. Mink of Hawaii, Mr. Conyers, Ms. McKinney, Mr. Nadler, Mr. Yates, Ms. Kaptur, Mr. Owens, Mr. Hinchey, Mr. Gonzalez, Mr. Holden, Mr. Boyd, Mr. McGovern, Mr. Tierney, Ms. Slaughter, Mr. Clyburn, Mr. Brown of Ohio, Mr. Mascara, Mr. Rush, Mr. Pallone, Ms. Norton, and Mr. Torres.

H.R. 1126: Mr. Lazio of New York.

H.R. 1132: Mr. Olver, Mr. Meehan, Mrs. Kelly, Mr. Lewis of Georgia, Mr. Dellums, Mr. Yates, Ms. Slaughter, Mr. Rothman, Mr. Abercrombie, Ms. McKinney, and Mr. Gutierrez.

H.R. 1134: Mr. Bliley.

H.R. 1138: Mr. Chabot, Mr. DeFazio, Mr. Cox of California, Mrs. Chenoweth, Mr. Camp, and Mr. Pombo.

H.R. 1161: Ms. Lofgren.

H.R. 1166: Mr. Berman, Mr. Evans, Mr. McNulty, Mr. Dicks, Mr. Cardin, Mr. Frost, Mr. McDermott, Mr. Delahunt, Mr. Lewis of Georgia, Mr. Kildee, Mr. Kennedy of Rhode Island, Mrs. Mink of Hawaii, Ms. Christian-Green, Mr. Green, and Mr. Pascrell.

H.R. 1169: Mr. Weldon of Florida.

H.R. 1227: Mr. Calvert and Mr. Radanovich.

H.R. 1232: Mr. Foley, Mr. Cunningham, Mr. Deal of Georgia, and Mr. McHugh.

H.R. 1247: Mr. Young of Alaska and Mr. Pappas.

H.R. 1263: Mr. Delahunt, Mr. Lipinski, Mr. Meehan, Mr. Baldacci, Mr. Frank of Massachusetts, and Mr. Dellums.

H.R. 1288: Mr. Filner, Mr. Towns, Ms. Lofgren, Ms. Christian-Green, Ms. DeLauro, Mr. Frost, and Mr. DeFazio.

H.J. Res. 54: Mr. Smith of Michigan.

H. Con. Res. 6: Mr. Dingell.

H. Con. Res. 8: Mr. Underwood.

H. Con. Res. 55: Mrs. Morella, Mr. Doyle, Mr. McHugh, Mr. Torres, Mr. Walsh, Mr. Knollenberg, Mr. Farr of California, and Mr. Norwood.

H. Res. 98: Mr. Abercrombie.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 400

Offered By: Mr. Campbell

Amendment No. 1: amend section 302(C)(2), p. 68 of March 20 text: Strike lines 4–6.

Insert: "under this chapter, and such use shall not be greater in quantity, volume, or scope than had been the actual quantity, volume, or scope of the prior use, however, the defense shall also extend to improvements in "

Amend section 302(C)(6), p. 69 of March 20 text:

At line 23, strike "." add: "; in which case the use of the defense shall not be greater in quantity, volume, or scope than had been the actual quantity, volume, or scope of the prior use."

H.R. 400

Offered By: Mr. Campbell

Amendment No. 2: page 48 of March 20 text, strike line 3, insert:

"111(b) of this title, as to which there have been two substantive Patent Office actions since the filing, shall be published, in accordance"

Line 17, insert:

"(D) 'Substantive Patent Office action' means an action by the patent office relating to the patentability of the material of the application (not including an action to separate a'parent application into parts), unless the patent applicant demonstrates under procedures to be established by the patent office that the office action in question was sought in greater part for a purpose other than to achieve a delay in the date of publication of the application. Such Patent Office decision shall not be appealable, or subject to the Administrative Procedures Act."

H.R. 400

Offered By: Mr. Coble

Amendment No. 3: Page 3, insert in the table of contents after the item relating to section 149 the following:

Subtitle D—Under Secretary of Commerce for Intellectual Property Policy

Sec. 151. Under Secretary of Commerce for Intellectual Property Policy.

Sec. 152. Relationship with existing authorities.

Page 3, in the item relating to section 402, strike "development" and insert "promotion".

Page 5, line 12, insert "(1)" before "For purposes".

Page 5, insert after line 15 the following:

"(2) As used in this title, the term 'Under Secretary' means the Under Secretary of Commerce for Intellectual Property Policy.

Page 5, line 21, strike "under" and insert "subject to".

Page 6, line 1, strike "conduct" and insert ", in support of the Under Secretary, assist with".

Page 6, line 4, strike ", the administration" and all that follows through line 8 and insert a semicolon.

Page 6, line 9, strike "authorize or conduct studies and programs cooperatively" and insert ", in support of the Under Secretary, assist with studies and programs conducted cooperatively".

Page 7, strike line 23 and all that follows through page 8, line 3, and insert the following:

"(5) may establish regulations, not inconsistent with law, which—

"(A) shall govern the conduct of proceedings in the Office;

Page 9, line 1, insert "shall" after "(E)".

Page 9, after line 6, insert the following:

"(F) provide for the development of a performance-based process that includes quantitative and qualitative measures and standards for evaluating cost-effectiveness and is consistent with the principles of impartiality and competitiveness;

Page 11, strike lines 15 through 17 and redesignate the succeeding paragraphs accordingly.

Page 11, add the following after line 25:

"In exercising the Director's powers under paragraphs (6) and (7)(A), the Director shall consult with the Administrator of General Services when the Director determines that it is practicable, efficient, and cost-effective to do so.".

Page 13, strike lines 4 through 18 and redesignate the succeeding subparagraphs accordingly.

Page 14, strike line 18 and all that follows through page 15, line 7, and insert the following:

"(5) Compensation.—The Director shall be paid an annual rate of basic pay not to exceed the maximum rate of basic pay of the Senior Executive Service established under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of title 5. In addition, the Director may receive a bonus in an amount up to, but not in excess of, 50 percent of such annual rate of basic pay, based upon an evaluation by the Secretary of Commerce of the Director's performance as defined in an annual performance agreement between the Director and the Secretary. The annual performance agreement shall incorporate measurable organization and individual goals in key operational areas as delineated in an annual performance plan agreed to by the Director and the Secretary. Payment of a bonus under this paragraph may be made to the Director only to the extent that such payment does not cause the Director's total aggregate compensation in a calendar year to equal or exceed the amount of the salary of the President under section 102 of title 3.

Page 16, line 2, strike "policy and".

Page 16, insert the following after line 20:

"(3) Training of examiners.—The Patent and Trademark Office shall develop an incentive program to retain as employees patent and trademark examiners of the primary examiner grade or higher who are eligible for retirement, for the sole purpose of training patent and trademark examiners.".

Page 21, line 13, insert "including inventors," after "Office,".

Page 21, line 20, insert after "call of the chair" the following: ", not less than every 6 months,".

Page 27, line 9, insert after the period close quotation marks and a second period.

Page 27, strike line 10 and all that follows through page 28, line 14.

Page 32, insert the following immediately before line 10 and redesignate the succeeding paragraphs accordingly:

(5) Section 41(h) of title 35, United States Code, is amended by striking "Commissioner of Patents and Trademarks" and inserting "Director".

Page 33, line 7, strike "Title" and insert "(A) Except as provided in subparagraph (B), title".

Page 33, insert the following after line 9:

(B) Chapter 17 of title 35, United States Code, is amended by striking "Commissioner" each place it appears and inserting "Commissioner of Patents".

Page 33, insert the following after line 12:

(12) Section 157(d) of title 35, United States Code, is amended by striking "Secretary of Commerce" and inserting "Director".

(13) Section 181 of title 35, United States Code, is amended in the third paragraph by striking "Secretary of Commerce under rules prescribed by him" and inserting "Director under rules prescribed by the Patent and Trademark Office".

(14) Section 188 of title 35, United States Code, is amended by striking "Secretary of Commerce" and inserting "Patent and Trademark Office".

(15) Section 202(a) of title 35, United States Code, is amended by striking "iv)" and inserting "(iv)".

Page 46, add the following after line 23:

Subtitle D—Under Secretary of Commerce for Intellectual Property Policy

SEC. 151. UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY POLICY.

(a) Appointment.—There shall be within the Department of Commerce an Under Secretary of Commerce for Intellectual Property Policy, who shall be appointed by the President, by and with the advice and consent of the Senate. On or after the effective date of this title, the President may appoint an individual to serve as the Under Secretary until the date on which an Under Secretary qualifies under this subsection. The

President shall not make more than 1 appointment under the preceding sentence.

(b) Duties.—The Under Secretary of Commerce for Intellectual Property Policy, under the direction of the Secretary of Commerce, shall perform the following functions with respect to intellectual property policy:

(1) In coordination with the Under Secretary of Commerce for International Trade, promote exports of goods and services of the United States industries that rely on intellectual property.

(2) Advise the President, through the Secretary of Commerce, on national and international intellectual property policy issues.

(3) Advise Federal departments and agencies on matters of intellectual property protection in other countries.

(4) Provide guidance, as appropriate, with respect to proposals by agencies to assist foreign governments and international intergovernmental organizations on matters of intellectual property protection.

(5) Conduct programs and studies related to the effectiveness of intellectual property protection throughout the world.

(6) Advise the Secretary of Commerce on programs and studies relating to intellectual property policy that are conducted, or authorized to be conducted, cooperatively with foreign patent and trademark offices and international intergovernmental organizations.

(7) In coordination with the Department of State, conduct programs and studies cooperatively with foreign intellectual property offices and international intergovernmental organizations.

(c) Deputy Under Secretaries.—To assist the Under Secretary of Commerce for Intellectual Property Policy, the Secretary of Commerce shall appoint a Deputy Under Secretary for Patent Policy and a Deputy Under Secretary for Trademark Policy as members of the Senior Executive Service in accordance with the provisions of title 5, United States Code. The Deputy Under Secretaries shall perform such duties and functions as the Under Secretary for Intellectual Property Policy shall prescribe.

(d) Compensation.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary of Commerce for Intellectual Property Policy.".

(e) Funding.—Funds available to the United States Patent and Trademark Office shall be made available for all expenses of the office of the Under Secretary for Intellectual Property Policy, subject to prior approval in appropriations Acts. Amounts made available under this subsection shall not exceed 2 percent of the projected annual revenues of the Patent and Trademark Office from fees for services and goods of that Office. The Secretary of Commerce shall determine the budget requirements of the office of the Under Secretary for Intellectual Property Policy.

SEC. 152. RELATIONSHIP WITH EXISTING AUTHORITIES.

Nothing in section 151 shall derogate from the duties of the United States Trade Representative as set forth in section 141 of the Trade Act of 1974 (19 U.S.C. 2171).

Page 48, insert the following after line 18:

"(B) An application that is in the process of being reviewed by the Atomic Energy Commission, the Department of Defense, or a defense agency pursuant to section 181 of this title shall not be published until the Director has been notified by the Atomic Energy Commission, the Secretary of Defense, or the chief officer of the defense agency, as the case may be, that in the opinion of the Atomic Energy Commission, the Secretary of Defense, or such chief officer, as the case may be, publication or disclosure of the invention by the granting of a patent would not be detrimental to the national security of the United States.".

Page 48, line 19, strike "(B)" and insert "(C)".

Page 48, strike line 22 and all that follows through page 49, line 2, and insert the following:

"(D)(i) Upon the request at the time of filing by an applicant that is a small business concern or an independent inventor entitled to reduced fees under section 41(h)(1) of this title, the application shall not be published in accordance with paragraph (1) until 3 months after the Director makes a second notification to such applicant on the merits of the application under section 132 of this title. The Director may require applicants that no longer have the status of a small business concern or an independent inventor to so notify the Director not later than 15 months after the earliest filing date for which a benefit is sought under this title.

Page 49, line 7, strike ", 121,".

Page 49, insert after line 8 the following:

"(iii) Applications asserting the benefit of an earlier application under section 121 shall not be eligible for a request pursuant to this subparagraph unless filed within 2 months after the date on which the Director required the earlier application to be restricted to 1 of 2 or more inventions in the earlier application.

Page 49, line 9, strike "(iii)" and insert "(iv)".

Page 49, line 13, strike "(iv)" and insert "(v)".

Page 49, line 14, insert "nominal" before "fees".

Page 49, line 16, strike "(D)" and insert "(E)".

Page 49, line 17, strike "(C)" and insert "(D)".

Page 50, line 2, strike "(C)" and insert "(D)".

Page 50, after line 2, insert the following:

"(F) No fee established under this section shall be collected nor shall be available for spending without prior authorization in appropriations Acts.".

Page 58, strike lines 1 through 17 and insert the following:

(11) Section 135(b) of title 35, United States Code, is amended to read as follows:

"(b)(1) A claim which is the same as, or for the same or substantially the same subject matter as, a claim of an issued patent may only be made in an application if—

"(A) such a claim is made prior to 1 year after the date on which the patent was granted; and

"(B) the applicant files evidence which demonstrates that the applicant is prima facie entitled to a judgment relative to the patent.

"(2)(A) A claim which is the same as, or for the same or substantially the same subject matter as, a claim of a published application may only be made in an application filed after the date of publication of the published application if, except in a case to which subparagraph (B) applies—

"(i) such a claim is made prior to 1 year after the date of publication of the published application; and

"(ii) the applicant of the application filed after the date of publication of the published application files evidence that demonstrates that the applicant is prima facie entitled to a judgment relative to the published application.

"(B) If the applicant of the application filed after the date of publication of the published application alleges that the invention claimed in the published application was derived from that applicant, such a claim may only be made if that applicant files evidence which demonstrates that the applicant is prima facie entitled to a judgment relative to the published application.".

Page 59, line 7, strike "appellate".

Page 61, strike lines 5 through 9 and redesignate subclauses (III) through (V) as subclauses (II) through (IV), respectively.

Page 62, insert the following after line 6:

"(B) The period of extension of the term of a patent under clause (iv) of paragraph (1)(A), which is based on the failure of the Patent and Trademark Office to meet the criteria set forth in clause (v) of paragraph (1)(B), shall be reduced by the cumulative total of any periods of time that an applicant takes to respond in excess of 3 months after the date on which the Patent and Trademark Office makes any rejection, objection, argument, or other request.

Page 62, line 7, strike "(B)" and insert "(C)".

Page 62, line 19, strike "(C)" and insert "(D)".

Page 63, insert the following after line 4:

Section 132 of title 35, United States Code, is amended—

(1) in the first sentence by striking "Whenever" and inserting "(a) Whenever"; and

(2) by adding at the end the following:

Page 63, strike lines 5 through 7 and insert the following:

"(b) The Director shall prescribe regulations to provide for the further limited examination of applications for patent at the request of the applicant.

Page 63, line 9, strike "reexamination" and insert "examination".

Page 63, strike lines 11 and 12 and insert the following:

qualify for reduced fees under section 41(h)(1) of this title."

Page 63, line 21, insert "secular or" after "succeeding".

Page 64, lines 2 and 3, strike "an applicant who has been accorded the status of independent inventor under section 41(h)" and insert "applicants who are independent inventors entitled to reduced fees under section 41(h)(1)".

Page 71, line 8, strike "**DEVELOPMENT**" and insert "promotion".

Page 71, line 11, strike "**DEVELOPMENT**" and insert "**PROMOTION**".

Page 71, in the item relating to section 58 in the matter after line 12, strike "developer" and insert "promoter".

Page 71, line 15, strike "development" and insert "promotion".

Page 71, lines 16 and 17, strike "developer" and insert "promoter".

Page 71, line 17, strike "development" and inserting "promotion".

Page 71, strike line 20 and all that follows through page 72, line 1, and insert the following: "partnership, corporation, or other entity who enters into a financial relationship or a contract".

Page 72, line 22, strike "development" and insert "promotion".

Pages 73 through 84, strike "invention developer" and "INVENTION DEVELOPER" each place it appears and insert "invention promoter" and "INVENTION PROMOTER", respectively.

Pages 73 through 84, strike "invention development" and "INVENTION DEVELOPMENT" each place it appears and insert "invention promotion" and "INVENTION PROMOTION", respectively.

Page 74, line 1, strike "Developer" and insert "Promoter".

Page 74, line 22, strike "developer" and insert "invention promoter".

Page 77, line 1, strike "DEVELOPER'S" and insert "PROMOTER'S".

Page 81, line 7, strike "Developer" and insert "Promoter".

Page 81, line 16, strike "developer's" and insert "promoter's.

Page 83, lines 19 and 21, and page 84, line 2, strike "developers" and insert "promoters".

Page 84, lines 3 and 4, strike "**developer**" and insert "**promoter**".

Page 84, in the matter after line 19, strike "**Development**" and insert "**Promotion**".

Page 85, line 16, strike "Any" and insert "(a) Request for Reexamination.—".

Page 85, line 19, strike "or on the basis of" and all that follows through "invention" on line 21.

Page 86, line 2, strike "or the" and all that follows through line 4 and insert a period.

Page 86, line 7, strike the quotation marks and second period and insert the following: "If multiple requests for reexamination of a patent are filed, they shall be consolidated by the Office into a single reexamination, if a reexamination is ordered.

"(b) Collection and Availability of Fees.—No fee for reexamination shall be collected nor shall be available for spending without prior authorization in appropriations Acts.".

Page 86, line 21, strike "or by the failure" and all that follows through line 24 and insert a period.

Page 89, line 8, insert before the quotation marks the following: "Special dispatch shall not be construed to limit the patent owner's ability to extend the time for taking action by payment of the fees set forth in section 41(a)(8) of this title.".

Page 95, line 13, strike "6 months" and insert "1 year".

Page 95, line 15, insert "effective" after "such".

Page 95, line 25, strike "If" and insert "Subject to section 119(e)(3) of this title, if".

Page 98, line 2, strike "Section" and insert "(a) In General.—Section".

Page 99, add the following after line 8:

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date that is 2 years after the date of the enactment of this Act and shall apply to applications for patent filed on or after such effective date.

SEC. 606. PUBLICATIONS.

Section 11 of title 35, United States Code, is amended by adding at the end the following:

"(c) The Patent and Trademark Office shall make available for public inspection during regular business hours all solicitations issued by the Office for contracts for goods or services, and all contracts entered into by the Office for goods or services.".

Amend the table of contents accordingly.

H.R. 400

Offered By: Mr. Forbes

Amendment No. 4. Page 20, line 3, insert the following after the period: "Of the members appointed by each appointing authority—

"(A) 1 shall be selected from among small business concerns entitled to reduced fees under section 141(h)(1) of title and individuals who are independent inventors entitled to reduced fees under such section;

"(B) 1 shall be selected from among patent attorneys; and

"(C) 1 shall be selected from among patent examiners.

Page 21, strike lines 10 through 15 and insert the following:

"(b) Basis for Appointments.—Members of the Advisory Board shall be citizens of the United States, and those appointed under subparagraphs (A) and (B) of subsection (a)(1) shall be chosen so as to represent the interests of diverse users of the United States Patent and Trademark Office.

Page 22, strike line 8 and insert the following:

"(f) Compensation.—

"(1) In general.—Subject to paragraph (2), members of the Advisory Board".

Page 22, insert the following after line 18:

"(2) Federal employees.—Members of the Advisory Board who are appointed under subparagraph (C) of subsection (a)(1) shall receive no additional compensation by reason of their service on the Advisory Board.

H.R. 400

Offered By: Mr. Forbes

Amendment No. 5. Page 48, insert the following after line 21:

"(C) An application filed by a small business concern entitled to reduced fees under section 41(h)(1) of this title, or by an individual who is an independent inventor entitled to reduced fees under such section shall not be published until a patent is issued thereon, except upon the request of the applicant.

Page 48, line 22, strike "(C)" and insert "(D)".

Page 49, line 16, strike "(D)" and insert "(E)".

Page 49, line 17, strike "(C)" and insert "(D)".

Page 50, line 2, strike "(C)" and insert "(D)".

H.R. 400

Offered By: Mr. Forbes

Amendment No. 6: Page 85, line 16, strike "at any time" and insert ", not later than 9 months after a patent is issued,".

Page 85, line 17, strike "a" and insert "the".

Page 86, line 7, insert the following after the first period: "No person may file more than 1 request for reexamination with respect to the same patent.".

Page 90, line 20, insert ", subject to the limitations on filing requests for reexamination set forth in section 302," after "not".

Page 92, line 10, strike the quotation marks and second period.

Page 92, insert the following after line 10:

"(c) Limitation on Filing Requests for Reexamination.—Nothing in subsection (a) or (b) shall be construed to permit any person to file a request for reexamination of a patent more than 9 months after the patent is issued, or to file more than 1 request for reexamination of a patent as provided in section 302.".

H.R. 400

Offered By: Mr. Forbes

Amendment No. 7: Page 99, add the following after line 8:

TITLE VII—PATENT TERM.

SEC. 701. PATENT TERMS.

(a) Amendment to Title 35, United States Code.—Effective on the date of the enactment of this Act, section 154 of title 35, United States Code, is amended—

(1) in paragraph (2) of subsection (a), by striking "and ending" and all that follows in that paragraph and inserting "and ending—

"(A) 17 years from the date of the grant of the patent, or

"(B) 20 years from the date on which the application for the patent was filed in the United States, except that if the application contains a specific reference to an earlier filed application or applications under section 120, 121, or 365(c) of this title, 20 years from the date on which the earliest such patent application was filed,

whichever is later."; and

(2) in subsection (c)(1), by striking "shall be the greater of the 20-year term as provided in subsection (a), or 17 years from grant" and inserting "shall be the term provided in subsection (a)".

(b) Technical Amendment.—Section 534(b) of the Uruguay Round Agreements Act is amended by striking paragraph (3).

H.R. 400

Offered By: Mr. Hunter

Amendment No. 8: Page 99, insert the following after line 8 and redesignate the succeeding sections accordingly:

"SEC. 606. CRIMINAL INFRINGEMENT OF A PATENT.

"(a) Establishment of Offense.—

"(1) In General.—Chapter 113 of title 18, United States Code, is amended by adding at the end of Section 2319 the following:

"Sec. 2319A. Criminal Infringement of a Patent

"(a) Prohibition.—Whoever,

"(1) willingly and intentionally uses, offers to sell, or sells any infringed patented invention, within the United States or imports into the United States any infringed patented invention during the term of the patent;

"(2) attempts to commit an offense under paragraph (1); or

"(3) is a party to a conspiracy of two or more persons to commit an offense under paragraph (1),

"(4) offers to sell or sells within the United States or imports into the United States a component of a patented machine, manufacture, combination or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in violation of paragraph(1)

shall be punished as provided in subsection (b).

"(b) Punishment.—

"(1) In general.—Whoever violates subsection (a) shall be punished as follows:

"(a) If the victim has five or more patents, the infringer shall be sentenced to one year imprisonment and fined one million dollars;

"(b) If the victim has four or fewer patents, the infringer shall be sentenced to three years imprisonment and fined three million dollars;

"(c) If the victim has one patent or has a patent pending that has been published, the infringer shall be sentenced to five years imprisonment and fined five million dollars and shall be assessed a 5% royalty which shall be payable to the victim of the infringement.

"(2) Restitution.—In sentencing a defendant convicted of an offense under this section, the court may order the defendant to make restitution in accordance with section 3663.

"(C) Definition.—In this section—

"(1) the term "patent" has the same meaning as in chapter 10 of title 35, United States Code; and

"(2) the term "victim" shall mean anyone who owns a patent or has a published pending patent application that has not been granted that is infringed in accordance with the above.

"(3) the term "infringement" has the same meaning as in chapter 28 of title 35 United States Code.

"(2) CLERICAL AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"2319. Criminal Infringement of a Patent.

"(b) RESTITUTION.—Section 3663 of title 18, United States Code, is amended by adding at the end the following:

"Criminal Infringement of a Patent.—

"(1) IN GENERAL.—In sentencing a defendant convicted of an offense under section 2319A, the court may order, in addition to any other penalty authorized that the defendant make restitution to any victim of the offense.

"(2) COST INCLUDED.—Making restitution to a victim under this subsection may include payment for any costs, including attorneys fees, incurred by the victim in connection with any civil or administrative proceeding arising as a result of the actions of the defendant.".

H.R. 400,

OFFERED BY: MR. HUNTER

AMENDMENT NO. 9: Strike title V and insert the following:

"TITLE V—REEXAMINATION PROCEDURE

"SEC. 501. CONDUCT OF REEXAMINATION.

"Section 305 of title 35, United States Code, is amended in the first sentence by inserting before the period at the end the following: ', except that the primary examiner who issued the patent may not conduct the reexamination'.

"SEC. 502. EFFECTIVE DATE.

"The amendment made by this title shall take effect on the date that is 6 months after the date of the enactment of this Act and shall apply to all reexamination requests filed on or after such date."

Amend the table of contents accordingly.

H.R. 400,

OFFERED BY: MR. HUNTER

AMENDMENT NO. 10: Strike title I of the bill and insert the following:

"TITLE I—PATENT SOVEREIGNTY ACT

"SEC. 101. SHORT TITLE.

"This title may be cited as the 'Patent Sovereignty Act of 1997'.

"SEC. 102. FINDINGS.

"The Congress finds that—

"(1) the quality of United States letters patent is essential for preserving the technological lead and economic well-being of the United States in the next century;

"(2) the quality of United States letters patent is highly dependent upon the maintenance and the comprehensiveness of patent examiners' search files; and

"(3) the quality of United States letters patent is inextricably linked to the professionalism of patent examiners and the quality of the training of patent examiners.".

SEC. 103. SECURE PATENT EXAMINATION.

Section 3 of title 35, United States Code, is amended by adding at the end the following:

"(f) All examination and search duties for the grant of United States letters patent are sovereign functions which shall be performed within the United States by United States citizens who are employees of the United States Government.".

SEC. 104. MAINTENANCE OF EXAMINERS' SEARCH FILES.

Section 9 of title 35, United States Code, is amended—

(1) by striking "may revise and maintain" and inserting "shall maintain and revise"; and

(2) by adding at the end the following "United States letters patent, and all such other patents and printed publications shall be maintained in the examiners' search files under the United States Patent Classification System.".

SEC. 105. PATENT EXAMINER TRAINING.

(a) IN GENERAL.—Chapter 1 of title 35, United States Code, is amended by adding at the end the following new section:

"§ 15. Patent examiner training

"(a) IN GENERAL.—All patent examiners shall spend at least 5 percent of their duty time per annum in training to maintain and develop the legal and technological skills useful for patent examination.

"(b) TRAINERS OF EXAMINERS.—The Patent and Trademark Office shall develop an incentive program to retain as employees patent examiners of the primary examiner grade or higher who are eligible for retirement, for the sole purpose of training patent examiners who have not achieved the grade of primary examiner.".

(b) CLERICAL AMENDMENT.—The table of contents for chapter 1 of title 35, United States Code, is amended by adding at the end the following:

"15. Patent examiner training.".

SEC. 106. ADMINISTRATIVE MATTERS.

(a) LIMITATIONS ON PERSONNEL.—Section 3(a) of title 35, United States Code, is amended by adding at the end the following: "The Office shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Office shall be taken into account for purposes of applying any such limitation.".

(b) RETENTION OF FEES.—(1) Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after the item relating to the National Credit Union Administration, credit union share insurance fund, the following new item: "Patent and Trademark Office".

(2) Section 10101(b)(2)(B) of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended by striking ", to the extent provided in appropriation Acts," and inserting "without appropriation".

(3) Section 42(c) of title 35, United States Code, is amended by amending by striking first sentence and inserting the following: "Revenue from fees shall be available to the Commissioner to carry out the activities of the Patent and Trademark Office, in such allocations as are approved by Act of Congress. Such revenues shall not be made available for any purpose other than that authorized for the Patent and Trademark Office.".

(c) USE OF FEES.—Section 42(c) of title 35, United States Code, is amended by adding at the end the following: "All patent application fees collected under paragraphs (1), (3)(A), (3)(B), and (4) through (8) of section 41(a), and all other fees collected under section 41 for services or the extension of services to be provided by patent examiners shall be used only for the pay and training of patent examiners.".

(d) PUBLICATIONS.—Section 11 of title 35, United States Code, is amended by adding at the end the following:

"(c) The Patent and Trademark Office shall make available for public inspection during regular business hours all solicitations issued by the Office for contracts for goods or services, and all contracts for goods or services entered into by the Office.

"(d) Notice of a proposal to change United States patent law that will be made on behalf of the United States to a foreign country or international body shall be published in the Federal Register before, or at the same time as, the proposal is transmitted.".

SEC. 107. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect 30 days after the date of the enactment of this Act.

In the table of contents, strike all items relating to title I and insert the following:

Title I—Patent Sovereignty Act

Sec. 101. Short title.
Sec. 102. Findings.
Sec. 103. Secure patent examination.
Sec. 104. Maintenance of examiners' search files.
Sec. 105. Patent examiner training.
Sec. 106. Administrative matters.
Sec. 107. Effective date.

H.R. 400

OFFERED BY: MR. ROHRABACHER

(Amendment in the Nature of a Substitute)

AMENDMENT NO. 11: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Rights and Sovereignty Act of 1997".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the right of an inventor to secure a patent is assured through the authorization powers of the Congress contained in Article I, section 8 of the Constitution, has been consistently upheld by the Congress, and has been the stimulus to the unique technological innovativeness of the United States;

(2) the right must be assured for a guaranteed length of time in the term of the issued patent and be further secured by maintaining absolute confidentiality of all patent application data until the patent is granted if the applicant is timely prosecuting the patent;

(3) the quality of United States patents is also an essential stimulus for preserving the technological lead and economic well-being of the United States in the next century;

(4) the process of examining and issuing patents is an inherently governmental function that must be performed by Federal employees acting in their quasi-judicial roles under regular executive and legislative oversight; and

(5) the quality of United States patents is inextricably linked to the professionalism of patent examiners and the quality of the training of patent examiners as well as to the resources supplied to the Patent and Trademark Office in the way of adequate manpower, appropriately maintained search files, and other needed professional tools.

SEC. 3. SECURE PATENT EXAMINATION.

Section 3 of title 35, United States Code, is amended by adding at the end thereof the following:

"(f) All examination and search duties for the grant of United States patents are sovereign functions which shall be performed within the United States by United States citizens who are employees of the United States Government.".

SEC. 4. MAINTENANCE OF EXAMINERS' SEARCH FILES.

Section 9 of title 35, United States Code, is amended—

(1) by striking "may revise and maintain" and inserting "shall maintain and revise"; and

(2) by adding at the end thereof the following: "United States patents, and all such other patents and printed publications shall be maintained in the examiners' search files under the United States Patent Classification System.".

SEC. 5. PATENT EXAMINER TRAINING.

(a) In General.—Chapter 1 of title 35, United States Code, is amended by adding at the end the following new section:

"§ 15. Patent examiner training

"(a) In General.—All patent examiners shall spend at least 5 percent of their duty time per annum in training to maintain and develop the legal and technological skills useful for patent examination.

"(b) Trainers of Examiners.—The Patent and Trademark Office shall develop an incentive program to retain as employees patent examiners of the primary examiner grade or higher who are eligible for retirement, for the sole purpose of training patent examiners who have not achieved the grade of primary examiner.".

(b) Conforming Amendment.—The table of sections for chapter 1 is amended by adding at the end the following:

"15. Patent examiner training."

SEC. 6. ADMINISTRATIVE MATTERS.

(a) Limitations on Personnel.—Section 3(a) of title 35, United States Code, is amended by adding at the end thereof the following: "The Office shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Office shall be taken into account for purposes of applying any such limitation.".

(b) Retention of Fees.—(1) Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after the item relating to the National Credit Union Administration, credit union share insurance fund, the following new item:

"Patent and Trademark Office".

(2) Section 10101(b)(2)(B) of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended by striking ", to the extent provided in appropriation Acts," and inserting "without appropriation".

(3) Section 42(c) of title 35, United States Code, is amended by striking the first sentence and inserting the following: "Revenues from fees shall be available to the Commissioner to carry out the activities of the Patent and Trademark Office, in such allocations as are approved by Act of Congress. Such revenues shall not be made available for any purpose other than that authorized for the Patent and Trademark Office.".

(c) Use of Fees.—Section 42(c) of title 35, United States Code, is amended by adding at the end thereof the following: "All patent application fees collected under paragraphs (1), (3)(A), (3)(B), and (4) through (8) of section 41(a), and all other fees collected under section 41 for services or the extension of services to be provided by patent examiners shall be used only for the pay and training of patent examiners.".

(d) Publications.—Section 11 of title 35, United States Code, is amended by adding at the end thereof the following:

"(c) The Patent and Trademark Office shall make available for public inspection during regular business hours all solicitations issued by the Office for contracts for goods or services and all contracts for goods or services entered into by the Office.

"(d) Notice of a proposal to change United States patent law that will be made on behalf of the United States to a foreign country or international body shall be published in the Federal Register before, or at the same time as, the proposal is transmitted.".

SEC. 7. GAO STUDY AND REPORT.

(a) In General.—The Comptroller General shall conduct a study of—

(1) the total number of patents applied for, issued, abandoned, and pending in the period of the study;

(2) the classification of the applicants for patents in terms of the country they are a citizen of and whether they are an individual inventor, small entity, or other;

(3) the pendency time for applications for patents and such other time and tracking data as may indicate the effectiveness of the amendments made by this Act;

(4) the number of applicants for patents who also file for a patent in a foreign country, the number of foreign countries in which such filings occur and which publish data from patent applications in English and make it available to citizens of the United States through governmental or commercial sources;

(5) a summary of the fees collected by the Patent and Trademark Office for services related to patents and a comparison of such fees with the fully allocated costs of providing such services; and

(6) recommendations regarding—

(A) a revision of the organization of the Patent and Trademark Office with respect to its patent functions, and

(B) improved operating procedures in carrying out such functions,

and a cost analysis of the fees for such procedures and the impact of the fees.

(b) Additional Study Matter.—The Committees on Appropriations, Judiciary, and Small Business of the House of Representatives and the Senate may, no later than 12 months after the beginning of the study under subsection (a), direct the Comptroller General to include other matters relating to patents and the Patent and Trademark Office in the study conducted under subsection (a).

(c) Report.—Upon the expiration of 36 months after the beginning of the study under subsection (a), the Comptroller General shall report the results of the study to the Congress.

SEC. 8. PATENT TERMS.

(a) Amendment of Title .—Effective on the date of the enactment of this Act, section 154 of title 35, United States Code, as amended by the Uruguay Round Agreements Act, is amended—

(1) in paragraph (2) of subsection (a), by striking "and ending" and all that follows in that paragraph and inserting "and ending—

"(A) 17 years from the date of the grant of the patent, or

"(B) 20 years from the date on which the application for the patent was filed in the United States, except that if the application contains a specific reference to an earlier filed application or applications under section 120, 121, or 365(c) of this title, 20 years from the date on which the earliest such patent application was filed,

whichever is later.".

(2) in subsection (c)(1), by striking "shall be the greater of the 20-year term as provided in subsection (a), or 17 years from grant" and inserting "shall be the term provided in subsection (a)".

(b) Technical Amendment.—Section 534(b) of the Uruguay Round Agreements Act is amended by striking paragraph (3).

SEC. 9. DEFINITION OF SPECIAL CIRCUMSTANCES TO PROTECT THE CONFIDENTIALITY STATUS OF APPLICATIONS.

Section 122 of title 35, United States Code, is amended by striking "as may be determined by the Commissioner" and inserting "as in any of the following:

"(1) In the case of an application under section 111(a) for a patent for an invention for which the applicant intends to file or has filed an application for a patent in a foreign country, the Commissioner may publish, at the discretion of the Commissioner and by means determined suitable for the purpose, no more than that data from such application under section 111(a) which will be made or has been made public in such foreign country. Such a publication shall be made only after the date of the publication in such foreign country and shall be made only if the data is not available, or cannot be made readily available, in the English language through commercial services.

"(2)(A) If the Commissioner determines that a patent application which is filed after the date of the enactment of this paragraph—

"(i) has been pending more than 5 years from the effective filing date of the application,

"(ii) has not been previously published by the Patent and Trademark Office,

"(iii) is not under any appellate review by the Board of Patent Appeals and Interferences,

"(iv) is not under interference proceedings in accordance with section 135(a),

"(v) is not under any secrecy order pursuant to section 181,

"(vi) is not being diligently pursued by the applicant in accordance with this title, and

"(vii) is not in abandonment,

the Commissioner shall notify the applicant of such determination.

"(B) An applicant which received notice of a determination described in subparagraph (A) may, within 30 days of receiving such notice, petition the Commissioner to review the determination to verify that subclauses (i) through (vii) are all applicable to the applicant's application. If the applicant makes such a petition, the Commissioner shall not publish the applicant's application before the Commissioner's review of the petition is completed. If the applicant does not submit a petition, the Commissioner may publish the applicant's application no earlier than 90 days after giving such a notice.

"(3) If after the date of the enactment of this paragraph a continuing application has been filed more than 6 months after the date of the initial filing of an application, the Commissioner shall notify the applicant under such application. The Commissioner shall establish a procedure for an applicant which receives such a notice to demonstrate that the purpose of the continuing application was for reasons other than to achieve a delay in the time of publication of the application. If the Commissioner agrees with such a demonstration by the applicant, the Commissioner shall not publish the applicant's application. If the Commissioner does not agree with such a demonstration by the applicant or if the applicant does not make an attempt at such a demonstration within a reasonable period of time as determined by the Commissioner, the Commissioner shall publish the applicant's application.

The Commissioner shall ensure that publications under paragraph (1), (2), or (3) will not result in third-party pre-issuance oppositions which will delay or interfere with the issuance of the patents whose applications' data will be published.".

SEC. 10. INVENTION DEVELOPMENT SERVICES.

(a) Invention Development Services.—Part I of title 35, United States Code, is amended by adding after chapter 4 the following new chapter:

"CHAPTER 5—INVENTION DEVELOPMENT SERVICES

"Sec.

“51. Definitions.
“52. Contracting requirements.
“53. Standard provisions for cover notice.
“54. Reports to customer required.
“55. Mandatory contract terms.
“56. Remedies.
“57. Records of complaints.
“58. Fraudulent representation by an invention developer.
“59. Rule of construction.

“§ 51. Definitions

“For purposes of this chapter—

“(1) the term ‘contract for invention development services’ means a contract by which an invention developer undertakes invention development services for a customer;

“(2) the term ‘customer’ means any person, firm, partnership, corporation, or other entity who is solicited by, seeks the services of, or enters into a contract with an invention promoter for invention promotion services;

“(3) the term ‘invention promoter’ means any person, firm, partnership, corporation, or other entity who offers to perform or performs for, or on behalf of, a customer any act described under paragraph (4), but does not include—

“(A) any department or agency of the Federal Government or of a State or local government;

“(B) any nonprofit, charitable, scientific, or educational organization, qualified under applicable State law or described under section 170(b)(1)(A) of the Internal Revenue Code of 1986; or

“(C) any person duly registered with, and in good standing before, the United States Patent and Trademark Office acting within the scope of that person's registration to practice before the Patent and Trademark Office; and

“(4) the term ‘invention development services’ means, with respect to an invention by a customer, any act involved in—

“(A) evaluating the invention to determine its protectability as some form of intellectual property, other than evaluation by a person licensed by a State to practice law who is acting solely within the scope of that person's professional license;

“(B) evaluating the invention to determine its commercial potential by any person for purposes other than providing venture capital; or

“(C) marketing, brokering, licensing, selling, or promoting the invention or a product or service in which the invention is incorporated or used, except that the display only of an invention at a trade show or exhibit shall not be considered to be invention development services.

“§ 52. Contracting requirements

“(a) IN GENERAL.—(1) Every contract for invention development services shall be in writing and shall be subject to the provisions of this chapter. A copy of the signed written contract shall be given to the customer at the time the customer enters into the contract.

“(2) If a contract is entered into for the benefit of a third party, such party shall be considered a customer for purposes of this chapter.

“(b) REQUIREMENTS OF INVENTION DEVELOPER.—The invention developer shall—

“(1) state in a written document, at the time a customer enters into a contract for invention development services, whether the usual business practice of the invention developer is to—

“(A) seek more than 1 contract in connection with an invention; or

“(B) seek to perform services in connection with an invention in 1 or more phases, with the performance of each phase covered in 1 or more subsequent contracts; and

“(2) supply to the customer a copy of the written document together with a written summary of the usual business practices of the invention developer, including—

“(A) the usual business terms of contracts; and

“(B) the approximate amount of the usual fees or other consideration that may be required from the customer for each of the services provided by the developer.

“(c) RIGHT OF CUSTOMER TO CANCEL CONTRACT.—(1) Notwithstanding any contractual provision to the contrary, a customer shall have the right to terminate a contract for invention development services by sending a written letter to the invention developer stating the customer's intent to cancel the contract. The letter of termination must be deposited with the United States Postal Service on or before 5 business days after the date upon which the customer or the invention developer executes the contract, whichever is later.

“(2) Delivery of a promissory note, check, bill of exchange, or negotiable instrument of any kind to the invention developer or to a third party for the benefit of the invention developer, without regard to the date or dates appearing in such instrument, shall be deemed payment received by the invention developer on the date received for purposes of this section.

“§ 53. Standard provisions for cover notice

“(a) CONTENTS.—Every contract for invention development services shall have a conspicuous and legible cover sheet attached with the following notice imprinted in boldface type of not less than 12-point size:

“‘YOU HAVE THE RIGHT TO TERMINATE THIS CONTRACT. TO TERMINATE THIS CONTRACT, YOU MUST SEND A WRITTEN LETTER TO THE COMPANY STATING YOUR INTENT TO CANCEL THIS CONTRACT. THE LETTER OF TERMINATION MUST BE DEPOSITED WITH THE UNITED STATES POSTAL SERVICE ON OR BEFORE FIVE (5) BUSINESS DAYS AFTER THE DATE ON WHICH YOU OR THE COMPANY EXECUTE THE CONTRACT, WHICHEVER IS LATER.

“‘THE TOTAL NUMBER OF INVENTIONS EVALUATED BY THE INVENTION DEVELOPER FOR COMMERCIAL POTENTIAL IN THE PAST FIVE (5) YEARS IS ________. OF THAT NUMBER, ________ RECEIVED POSITIVE EVALUATIONS AND ________ RECEIVED NEGATIVE EVALUATIONS.

“‘IF YOU ASSIGN EVEN A PARTIAL INTEREST IN THE INVENTION TO THE INVENTION DEVELOPER, THE INVENTION DEVELOPER MAY HAVE THE RIGHT TO SELL OR DISPOSE OF THE INVENTION WITHOUT YOUR CONSENT AND MAY NOT HAVE TO SHARE THE PROFITS WITH YOU.

“‘THE TOTAL NUMBER OF CUSTOMERS WHO HAVE CONTRACTED WITH THE INVENTION DEVELOPER IN THE PAST FIVE (5) YEARS IS ________. THE TOTAL NUMBER OF CUSTOMERS KNOWN BY THIS INVENTION DEVELOPER TO HAVE RECEIVED, BY VIRTUE OF THIS INVENTION DEVELOPER'S PERFORMANCE, AN AMOUNT OF MONEY IN EXCESS OF THE AMOUNT PAID BY THE CUSTOMER TO THIS INVENTION DEVELOPER IS ________.

“‘THE OFFICERS OF THIS INVENTION DEVELOPER HAVE COLLECTIVELY OR INDIVIDUALLY BEEN AFFILIATED IN THE LAST TEN (10) YEARS WITH THE FOLLOWING INVENTION DEVELOPMENT COMPANIES: (LIST THE NAMES AND ADDRESSES OF ALL PREVIOUS INVENTION DEVELOPMENT COMPANIES WITH WHICH THE PRINCIPAL OFFICERS HAVE BEEN AFFILIATED AS OWNERS, AGENTS, OR EMPLOYEES). YOU ARE ENCOURAGED TO CHECK WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE, THE FEDERAL TRADE COMMISSION, YOUR STATE ATTORNEY GENERAL'S OFFICE, AND THE BETTER BUSINESS BUREAU FOR ANY COMPLAINTS FILED AGAINST ANY OF THESE COMPANIES.

“‘YOU ARE ENCOURAGED TO CONSULT WITH AN ATTORNEY OF YOUR OWN CHOOSING BEFORE SIGNING THIS CONTRACT. BY PROCEEDING WITHOUT THE ADVICE OF AN ATTORNEY REGISTERED TO PRACTICE BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE, YOU COULD LOSE ANY RIGHTS YOU MIGHT HAVE IN YOUR IDEA OR INVENTION.’.

“(b) OTHER REQUIREMENTS FOR COVER NOTICE.—The cover notice shall contain the items required under subsection (a) and the name, primary office address, and local office address of the invention developer, and may contain no other matter.

“(c) DISCLOSURE OF CERTAIN CUSTOMERS NOT REQUIRED.—The requirement in the notice set forth in subsection (a) to include the ‘TOTAL NUMBER OF CUSTOMERS WHO HAVE CONTRACTED WITH THE INVENTION DEVELOPER IN THE PAST FIVE (5) YEARS’ need not include information with respect to customers who have purchased trade show services, research, advertising, or other nonmarketing services from the invention developer, nor with respect to customers who have defaulted in their payments to the invention developer.

“§ 54. Reports to customer required

“With respect to every contract for invention development services, the invention developer shall deliver to the customer at the address specified in the contract, at least once every 3 months throughout the term of the contract, a written report that identifies the contract and includes—

“(1) a full, clear, and concise description of the services performed to the date of the report and of the services yet to be performed and names of all persons who it is known will perform the services; and

“(2) the name and address of each person, firm, corporation, or other entity to whom the subject matter of the contract has been disclosed, the reason for each such disclosure, the nature of the disclosure, and complete and accurate summaries of all responses received as a result of those disclosures.

“§ 55. Mandatory contract terms

“(a) MANDATORY TERMS.—Each contract for invention development services shall include in boldface type of not less than 12-point size—

“(1) the terms and conditions of payment and contract termination rights required under section 52;

“(2) a statement that the customer may avoid entering into the contract by not making a payment to the invention developer;

“(3) a full, clear, and concise description of the specific acts or services that the invention developer undertakes to perform for the customer;

“(4) a statement as to whether the invention developer undertakes to construct, sell, or distribute one or more prototypes, models, or devices embodying the invention of the customer;

"(5) the full name and principal place of business of the invention developer and the name and principal place of business of any parent, subsidiary, agent, independent contractor, and any affiliated company or person who it is known will perform any of the services or acts that the invention developer undertakes to perform for the customer;

"(6) if any oral or written representation of estimated or projected customer earnings is given by the invention developer (or any agent, employee, officer, director, partner, or independent contractor of such invention developer), a statement of that estimation or projection and a description of the data upon which such representation is based;

"(7) the name and address of the custodian of all records and correspondence relating to the contracted for invention development services, and a statement that the invention developer is required to maintain all records and correspondence relating to performance of the invention development services for such customer for a period of not less than 2 years after expiration of the term of such contract; and

"(8) a statement setting forth a time schedule for performance of the invention development services, including an estimated date in which such performance is expected to be completed.

"(b) Invention Developer as Fiduciary.—To the extent that the description of the specific acts or services affords discretion to the invention developer with respect to what specific acts or services shall be performed, the invention developer shall be deemed a fiduciary.

"(c) Availability of Information.—Records and correspondence described under subsection (a)(7) shall be made available after 7 days written notice to the customer or the representative of the customer to review and copy at a reasonable cost on the invention developer's premises during normal business hours.

"§ 56. Remedies

"(a) In General.—

"(1) Voidable contract.—Any contract for invention development services that does not comply with the applicable provisions of this chapter shall be voidable at the option of the customer.

"(2) Reliance on false, fraudulent, or misleading information.—Any contract for invention development services entered into in reliance upon any material false, fraudulent, or misleading information, representation, notice, or advertisement of the invention developer (or any agent, employee, officer, director, partner, or independent contractor of such invention developer) shall be voidable at the option of the customer.

"(3) Waiver.—Any waiver by the customer of any provision of this chapter shall be deemed contrary to public policy and shall be void and unenforceable.

"(4) Action by developer.—Any contract for invention development services which provides for filing for and obtaining utility, design, or plant patent protection shall be voidable at the option of the customer unless the invention developer offers to perform or performs such act through a person duly registered to practice before, and in good standing with, the Patent and Trademark Office.

"(b) Civil Action.—

"(1) In general.—Any customer who is injured by a violation of this chapter by an invention developer or by any material false or fraudulent statement or representation, or any omission of material fact, by an invention developer (or any agent, employee, director, officer, partner, or independent contractor of such invention developer) or by failure of an invention developer to make all the disclosures required under this chapter, may recover in a civil action against the invention developer (or the officers, directors, or partners of such invention developer) in addition to reasonable costs and attorneys' fees, the greater of—

"(A) $5,000; or

"(B) the amount of actual damages sustained by the customer.

"(2) Damage increase.—Notwithstanding paragraph (1), the court may increase damages to not more than 3 times the amount awarded.

"(c) Rebuttable Presumption of Injury.—For purposes of this section, substantial violation of any provision of this chapter by an invention developer or execution by the customer of a contract for invention development services in reliance on any material false or fraudulent statements or representations or omissions of material fact shall establish a rebuttable presumption of injury.

"§ 57. Records of complaints

"(a) Release of Complaints.—The Director shall make all complaints received by the United States Patent and Trademark Office involving invention developers publicly available, together with any response of the invention developers.

"(b) Request for Complaints.—The Director may request complaints relating to invention development services from any Federal or State agency and include such complaints in the records maintained under subsection (a), together with any response of the invention developers.

"§ 58. Fraudulent representation by an invention developer

"Whoever, in providing invention development services, knowingly provides any false or misleading statement, representation, or omission of material fact to a customer or fails to make all the disclosures required under this chapter, shall be guilty of a misdemeanor and fined not more than $10,000 for each offense.

"§ 59. Rule of construction

"Except as expressly provided in this chapter, no provision of this chapter shall be construed to affect any obligation, right, or remedy provided under any other Federal or State law.".

(b) Technical and Conforming Amendment.—The table of chapters for part I of title 35, United States Code, is amended by adding after the item relating to chapter 4 the following:

"5. Invention Development Services ... 51".

SEC. 11. PROVISIONAL APPLICATIONS, PLANT BREEDER'S RIGHTS, DIVISIONAL APPLICATIONS.

(a) Abandonment.—Section 111(b)(5) of title 35, United States Code, is amended to read as follows:

"(5) Abandonment.—Notwithstanding the absence of a claim, upon timely request and as prescribed by the Director, a provisional application may be treated as an application filed under subsection (a). If no such request is made, the provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival thereafter.".

(b) Effective Date.—The amendment made by subsection (a) applies to any provisional application filed on or after June 8, 1995.

(c) International Applications.—Section 119 of title 35, United States Code, is amended—

(1) in subsection (a), by inserting "or in a WTO member country" after "the United States" the first place it appears; and

(2) by adding at the end the following new subsections:

"(f) Applications for Plant Breeder's Rights.—Applications for plant breeder's rights filed in a WTO member country (or in a UPOV Contracting Party) shall have the same effect for the purpose of the right of priority under subsections (a) through (c) of this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents.

"(g) Definitions.—As used in this section—

"(1) the term 'WTO member country' has the same meaning as the term is defined in section 104(b)(2) of this title; and

"(2) the term 'UPOV Contracting Party' means a member of the International Convention for the Protection of New Varieties of Plants.".

(d) Plant Patents.—

(1) Tuber propagated plants.—Section 161 of title 35, United States Code, is amended by striking "a tuber propagated plant or".

(2) Rights in plant patents.—The text of section 163 of title 35, United States Code, is amended to read as follows: "In the case of a plant patent, the grant shall include the right to exclude others from asexually reproducing the plant, and from using, offering for sale, or selling the plant so reproduced, or any of its parts, throughout the United States, or from importing the plant so reproduced, or any parts thereof, into the United States.".

(3) Effective date.—The amendment made by paragraph (1) shall apply on the date of the enactment of this Act. The amendment made by paragraph (2) shall apply to any plant patent issued on or after the date of the enactment of this Act.

(e) Electronic Filing.—Section 22 of title 35, United States Code, is amended by striking "printed or typewritten" and inserting "printed, typewritten, or on an electronic medium".

(f) Divisional Applications.—Section 121 of title 35, United States Code, is amended—

(1) in the first sentence by striking "If" and inserting "(a) If"; and

(2) by adding at the end the following new subsections:

"(b) In a case in which restriction is required on the ground that two or more independent and distinct inventions are claimed in an application, the applicant shall be entitled to submit an examination fee and request examination for each independent and distinct invention in excess of one. The examination fee shall be equal to the filing fee, including excess claims fees, that would have applied had the claims corresponding to the asserted independent and distinct inventions been presented in a separate application for patent. For each of the independent and distinct inventions in excess of one for which the applicant pays an examination fee within two months after the requirement for restriction, the Director shall cause an examination to be made and a notification of rejection or written notice of allowance provided to the applicant within the time period specified in section 154(b)(1)(B)(i) of this title for the original application. Failure to meet this or any other time limit set forth in section 154(b)(1)(B) of this title shall be treated as an unusual administrative delay under section 154(b)(1)(A)(iv) of this title.

"(c) An applicant who requests reconsideration of a requirement for restriction under this section and submits examination fees pursuant to such requirement shall, if the requirement is determined to be improper, be entitled to a refund of any examination fees determined to have been paid pursuant to the requirement.".

SEC. 12. PROVISIONAL RIGHTS.

Section 154 of title 35, United States Code, is amended—

(1) in the section caption by inserting "; **provisional rights**" after "**patent**"; and

(2) by adding at the end the following new subsection:

"(d) PROVISIONAL RIGHTS.—

"(1) IN GENERAL.—In addition to other rights provided by this section, a patent shall include the right to obtain a reasonable royalty from any person who, during the period beginning on the date of publication of the application for such patent pursuant to the voluntary disclosure provisions of section 122 or the publication provisions of section 122(1) or 122(2) of this title, or in the case of an international application filed under the treaty defined in section 351(a) of this title designating the United States under Article 21(2)(a) of such treaty, the date of publication of the application, and ending on the date the patent is issued—

"(A)(i) makes, uses, offers for sale, or sells in the United States the invention as claimed in the published patent application or imports such an invention into the United States; or

"(ii) if the invention as claimed in the published patent application is a process, uses, offers for sale, or sells in the United States or imports into the United States products made by that process as claimed in the published patent application; and

"(B) had actual notice of the published patent application and, where the right arising under this paragraph is based upon an international application designating the United States that is published in a language other than English, a translation of the international application into the English language.

"(2) RIGHT BASED ON SUBSTANTIALLY IDENTICAL INVENTIONS.—The right under paragraph (1) to obtain a reasonable royalty shall not be available under this subsection unless the invention as claimed in the patent is substantially identical to the invention as claimed in the published patent application.

"(3) TIME LIMITATION ON OBTAINING A REASONABLE ROYALTY.—The right under paragraph (1) to obtain a reasonable royalty shall be available only in an action brought not later than 6 years after the patent is issued. The right under paragraph (1) to obtain a reasonable royalty shall not be affected by the duration of the period described in paragraph (1).

"(4) REQUIREMENTS FOR INTERNATIONAL APPLICATIONS.—The right under paragraph (1) to obtain a reasonable royalty based upon the publication under the treaty defined in section 351(a) of this title of an international application designating the United States shall commence from the date that the Patent and Trademark Office receives a copy of the publication under such treaty of the international application, or, if the publication under the treaty of the international application is in a language other than English, from the date that the Patent and Trademark Office receives a translation of the international application in the English language. The Director may require the applicant to provide a copy of the international publication of the international application and a translation thereof.".

SEC. 13. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.

EXTENSIONS OF REMARKS

THE GEKAS GOVERNMENT SHUTDOWN PREVENTION AMENDMENT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. GEKAS. Mr. Speaker, in approximately 2 weeks the U.S. House of Representatives will be voting on fiscal year 1997 supplemental appropriations bills. At the appropriate time, I intend to appear before the House Rules Committee to request that my Government shutdown prevention amendment be made in order. My amendment will provide fiscal year 1997 spending levels to continue at 98 percent through the end of fiscal year 1998, in the absence of regular appropriations or a continuing resolution.

Since my election to the House of Representatives in 1982, I have witnessed the enactment of 53 different continuing resolutions, including a whopping 14 during the 104th Congress alone. The absence of either a budget agreement or a stopgap spending bill has resulted in eight partial Government shutdowns during my 14 years in Congress.

In February 1989, I introduced legislation to put an end to these senseless interruptions of Government operations. As originally drafted, my Automatic Continuing Resolution Act would allow the Government to continue to function at the prior year's funding levels should a lapse in appropriations occur. I often referred to this legislation as my instant replay bill, since it was a repeat of the previous year's appropriations measures.

Mr. Speaker, at the time, I knew I was facing an uphill battle in a long war. After all, the threat of a shutdown is one of the most effective weapons in the congressional arsenal. Every fiscal year, the then Democrat-led Congress routinely placed Presidents Reagan and Bush in the position of accepting its budget priorities, or else. If the White House refused to cooperate, Congress would grind large portions of the Federal Government to a complete halt. The shutdown threat, coupled and the public outcry that inevitably results from a lull in Government services, forced both Presidents to grudgingly submit to congressional spending priorities.

Obviously, a Congress jealous of its prerogatives was not going to give up this exceedingly effective tactic overnight. So I bided my time, and gradually garnered support for my legislation during the 101st, 102d, 103d, and 104th Congresses.

Mr. Speaker, without question, the time for enactment of the Gekas Government shutdown prevention amendment is now. The shutdown debacle of last winter has underscored the need to keep the Government operating without interruption. The 27-day shutdown jolted America's confidence in its elected officials, and caused reverberations that can still be felt today. We need to restore the public's faith in its leaders by showing that we have learned from our mistakes. Enactment of this amendment will send a clear message to the American people that we will no longer allow them to be pawns in budget disputes between Congress and the White House.

AMENDMENT TO H.R. —, AS REPORTED, OFFERED BY MR. GEKAS OF PENNSYLVANIA

At the appropriate place, add the following new title:

TITLE ___—PREVENTION OF GOVERNMENT SHUTDOWN

SHORT TITLE

SEC. ___. This title may be cited as the "Government Shutdown Prevention Act".

CONTINUING FUNDING

SEC. ___. (a) If any regular appropriation bill for fiscal year 1998 does not become law prior to the beginning of fiscal year 1998 or a joint resolution making continuing appropriations is not in effect, there is appropriated, out of any moneys in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, such sums as may be necessary to continue any program, project, or activity for which funds were provided in fiscal year 1997.

(b) Appropriations and funds made available, and authority granted, for a program, project, or activity for fiscal year 1998 pursuant to this title shall be at 98 percent of the rate of operations that was provided for the program, project, or activity in fiscal year 1997 in the corresponding regular appropriation Act for fiscal year 1997.

(c) Appropriations and funds made available, and authority granted, for fiscal year 1998 pursuant to this title for a program, project, or activity shall be available for the period beginning with the first day of a lapse in appropriations and ending with the earlier of—

(1) the date on which the applicable regular appropriation bill for fiscal year 1998 becomes law (whether or not that law provides for that program, project, or activity) or a continuing resolution making appropriations becomes law, as the case may be; or

(2) the last day of fiscal year 1998.

TERMS AND CONDITIONS

SEC. ___. (a) An appropriation of funds made available, or authority granted, for a program, project, or activity for fiscal year 1998 pursuant to this title shall be made available to the extent and in the manner which would be provided by the pertinent appropriations Act for fiscal year 1997, including all of the terms and conditions and the apportionment schedule imposed with respect to the appropriation made or funds made available for fiscal year 1997 or authority granted for the program, project, or activity under current law.

(b) Appropriations made by this title shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

COVERAGE

SEC. ___. Appropriations and funds made available, and authority granted, for any program, project, or activity for fiscal year 1998 pursuant to this title shall cover all obligations or expenditures incurred for that program, project, or activity during the portion of fiscal year 1998 for which this title applies to that program, project, or activity.

EXPENDITURES

SEC. ___. Expenditures made for a program, project, or activity for fiscal year 1998 pursuant to this title shall be charged to the applicable appropriation, fund, or authorization whenever a regular appropriation bill or a joint resolution making continuing appropriations until the end of fiscal year 1998 providing for that program, project, or activity for that period becomes law.

INITIATING OR RESUMING A PROGRAM, PROJECT, OR ACTIVITY

SEC. ___. No appropriation or funds made available or authority granted pursuant to this title shall be used to initiate or resume any program, project, or activity for which appropriations, funds, or other authority were not available during fiscal year 1997.

PROTECTION OF OTHER OBLIGATIONS

SEC. ___. Nothing in this title shall be construed to effect Government obligations mandated by other law, including obligations with respect to Social Security, Medicare, Medicaid, and veterans benefits.

DEFINITION

SEC. ___. In this title, the term "regular appropriation bill" means any annual appropriation bill making appropriations, otherwise making funds available, or granting authority, for any of the following categories of programs, projects, and activities:

(1) Agriculture, rural development, and related agencies programs.

(2) The Departments of Commerce, Justice, and State, the judiciary, and related agencies.

(3) The Department of Defense.

(4) The government of the District of Columbia and other activities chargeable in whole or in part against the revenues of the District.

(5) The Departments of Labor, Health and Human Services, and Education, and related agencies.

(6) The Departments of Veterans and Housing and Urban Development, and sundry independent agencies, boards, commissions, corporations, and offices.

(7) Energy and water development.

(8) Foreign assistance and related programs.

(9) The Department of the Interior and related agencies.

(10) Military construction.

(11) The Department of Transportation and related agencies.

(12) The Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

(13) The legislative branch.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

DR. ROBERT "BOB" BUCHANAN: AN EDUCATOR'S EDUCATOR

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mrs. EMERSON. Mr. Speaker, I rise today to pay tribute and say thanks to a 31-year veteran educator in our public school system. The superintendent of Sikeston schools, Dr. Robert "Bob" Buchanan, has decided to move on to life's next challenge.

Bob's retirement closes a remarkable chapter in Sikeston, Missouri's Public R–VI School District. As a teacher, coach, principal, and ultimately superintendent, Bob Buchanan has done it all in his 25 years in Sikeston. Moreover, he's been a positive influence on so many kids and touched many of their families over the past 31 years of dedication to education.

Bob's long and winding road in education started in January 1966 when he first was hired as a social studies instructor in Harrisburg, AR. He then moved across the border to his home State to teach social studies in Bernie, MO—his original hometown—and just down the road in Charleston, MO, before planting new and, as we know today, deep roots in Sikeston in 1972.

Bob Buchanan is a leader by example. His community service record is exemplary. For instance, Bob is a member of Sikeston's chamber of commerce quality of life committee. He's also on the physicians medical organization board, Missouri Delta medical center board, Sikeston area development council board, and in the mid-eighties, he served as chairman of the board of adjustment.

Bob also knows that you must keep learning in life so that you're prepared for the next challenge or hurdle. His personal achievements in his academic pursuits are impressive. After graduating from Bernie High School in 1961, Bob graduated from Arkansas State University with a bachelor of science in education. He earned his master in education administration from Southeast Missouri State University in my hometown of Cape Girardeau in 1971. He graduated with honors 10 years later in 1981 with a specialist in education administration from Southeast Missouri State. Then, in 1987, he earned his doctor of philosophy from the Department of Educational Leadership at Southern Illinois University in Carbondale. Remember, most of these scholastic achievements came about in his spare time because Bob's full-time job was educating our children and helping to provide them a better, brighter future.

Although this will be the last school year for Bob as superintendent of Sikeston schools, I'm sure folks will still find him going to every Bulldog game he and his wife Glenda can attend. Most importantly, I hope that the enthusiastic spirit and drive for excellence that Dr. Buchanan brings to the classrooms under his charge lives on for future generations. Bob Buchanan will be missed, but I truly believe his legacy will live on.

ESTATE AND GIFT TAXES

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. PACKARD. Mr. Speaker, I worry about how our current tax structure will affect America's families and small businesses. I hear from constituents every day who fret that their cherished family home or small business they built from the ground up will end up liquidated because our current estate and gift tax laws make it impossible for families to hold onto their loved one's legacy.

No American should have to stay up late at night worrying about how the tax system will hurt them. The estate and gift tax seems especially cruel when you consider it strips people of the very thing a life well lived provides—the opportunity to endow our children with the fruits of our labor. For all of the suffering estate taxes cause loved ones, the tax accounts for only a small fraction of the Federal Government's revenue—about 1 percent or $15 billion.

Most people mistakenly assume that the estate and gift tax socks it only to the rich. Nothing is further from the truth. In fact, this tax hits small businesses the hardest. More than 70 percent of small businesses never make it into the hands of the next generation, and more than 80 percent never make it to the third generation. The effect on the economy is immeasurable. How many jobs have been lost because a family had to shut down a thriving business just to pay the taxes?

Mr. Speaker, I recently cosponsored the Family Heritage Preservation Act, introduced by Congressman CHRIS COX, Republican from Newport Beach. This legislation would repeal Federal estate and gift taxes. President Clinton's own White House Conference on Small Business has cited estate tax repeal as one of his No. 1 objectives. I will work to repeal the Federal estate and gift taxes in order to ensure for the future of our children and grandchildren.

THE IRS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, April 16, 1997, into the CONGRESSIONAL RECORD:

THE IRS: OVERHAUL OVERDUE

More than 200 million individuals and companies recently sent their tax returns to the Internal Revenue Service. This yearly ritual—and the frustration that surrounds it—makes the IRS the most vilified agency in the federal government. Of course, tax collectors have been criticized since biblical times. No one expects the IRS to be popular, and fair-minded people understand the difficulty of collecting taxes. But American taxpayers have a right to expect fairness and efficiency from their tax collectors.

The IRS is widely recognized to be inefficient. In the previous fiscal year, 74% of all telephone calls to the IRS got a busy signal. The IRS still enters paper returns manually into computers, with a 20% error rate. Because its computers are out of date, the IRS focuses on processing instead of fraud. It is no wonder, then, that millions of suspect returns go unexamined. When it does investigate, the IRS is not always held accountable for investigations that are unfair or overly intrusive. I am most troubled by allegations that some IRS employees "snoop" through tax-payer records without authorization. Any employee who does so should be fired immediately. The IRS is long overdue for a massive management overhaul.

FORMIDABLE TASK

In 1996 the IRS collected $1.5 trillion from more than 200 million individual and corporate taxpayers. The IRS computer system is the largest in the world, and it is difficult to find highly-skilled computer experts who will work for government salaries. Today the IRS collects about $150 billion a year less than what the law requires. Strengthening enforcement, however, can sometimes require more intrusive measures that would be rejected by taxpayers and Congress. If is difficult to strike a proper balance.

These challenges are not new, and Congress has pushed the IRS to modernize for years. A few years ago, Congress created a Taxpayer Advocate and authorized a computer modernization project. Unfortunately, the IRS spent $4 billion to create 12 computer systems that can't even talk to each other. This failed effort is an outrageous symbol of the mismanagement that has pervaded the agency.

SIGNS OF PROGRESS

The IRS is beginning to make some improvements. About 70% of individuals taxpayers use the one-page "EZ" tax form, and other forms have been simplified. The IRS takes 45 million toll-free calls per year. Taxpayers still complain that they cannot get a real person to speak to them on the telephone, but when they do, they now get the correct answer 91% of the time, up from 63% in 1989. The IRS is also beginning to move to automated returns. The new telephone filing service is used by 17 million people; 15 million use computer filing. Taxpayers who file automatically get their refunds in an average of 16 days, compared with 38 days for paper. Moreover, the error rate on automated returns is just 1/40th of the paper rate. The popular IRS internet site (www.irs.ustreas.gov) provides tax forms and answers to frequently asked questions. I commend these steps, but they still fall short of the efficiency and fairness taxpayers deserve.

MAJOR REFORMS

The last major reform of the IRS took place in 1952, when the agency was riddled with political appointees and was widely corrupt. Today's task is more of a management challenge.

Last year, Congress established the National Commission on Restructuring the IRS to issue a report by July 1. This commission has set six objectives: (1) The taxpayer deserves superior, courteous service; (2) the IRS management structure needs to be revamped; (3) the IRS workforce should be the highest quality; (4) the agency needs state-of-the-art technology; (5) the IRS must balance its books; and (6) the tax code should not be so complex or change so often.

I think there are several specific steps we should take.

Independent Board: The IRS should have an independent board of directors. This board would set goals and hold the IRS accountable for reaching them. A similar board was recently set up for IRS computers, and it boosted private contracting from 40% to 64%. this trend should continue.

Experienced Commissioner: Top leaders of the IRS should have management experience. In the past, Commissioners have been tax lawyers, but we should ensure that top managers know how to manage a large organization.

Reduce Complication: Congress should be forced to consider the complexity of all proposed changes before they are enacted. Many proposed tax measures sound attractive, but they only add to the growing complexity of the tax code. It is easier for Congress to support tax credits for education, investment, and other worthy goals than it is to simplify the tax code.

Crackdown on Fraud: The IRS must reduce fraud. The IRS has made many attempts to strengthen tax compliance and collection, but more needs to be done. A more efficient processing system will free up resources to strengthen enforcement. The IRS should improve its enforcement while protecting taxpayer privacy.

Electronic Filing: The IRS should develop a plan to make it convenient for virtually all taxpayers to file electronically. We should not be spending taxpayer dollars on antiquated processing.

Restructuring: The IRS should be realigned by types of taxpayers: individuals, small businesses, large corporations, and excise taxes. Now, the IRS is separated into collection, processing, service, and auditing—divisions that don't work well together.

Amnesty: Taxpayers should not be liable for IRS mistakes. When the IRS gives taxpayers bad advice, they should not be penalized for following it.

CONCLUSION

The IRS is facing serious management problems and needs a comprehensive overhaul. Taxpayers have a right to demand more from the IRS. Talk of eliminating the IRS is largely political: as long as the federal government requires revenue, we need a way to collect it. But the IRS should be fair and efficient, and Congress must move forward on major IRS reform.

HONORING DR. MINA BISSELL

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. DELLUMS. Mr. Speaker, I rise to honor Dr. Mina Bissell of Berkeley, CA, who will be honored this month by the Department of Energy. On April 18, 1997, Dr. Bissell will receive the Ernest Orlando Lawrence Award for her pioneering contributions to our understanding of the extracellular matrix and microenvironment in differentiation, programmed cell death, and cancer.

Dr. Bissell's outstanding dedication as the director of the Lawrence Berkeley National Laboratory's Life Sciences Division has resulted in tremendous scientific discoveries. Among these was identifying the extracellular matrix, a network of proteins that surrounds and supports breast cancer cells as a crucial regulator of normal and malignant breast cancer cells.

Dr. Bissell was born in Iran, where she was the top high school graduate in the country and received a scholarship to study abroad. She came to the United States and studied chemistry at Bryn Mawr College, before transferring to Radcliffe College.

After earning her Ph.D. in microbiology and molecular genetics at Harvard University, she came to the University of California at Berkeley to conduct post-doctoral research. Since joining the Berkeley Lab in 1972, Dr. Bissell has worked tirelessly to increase our knowledge of cancer in the hope of someday finding a cure.

Dr. Bissell's tremendous success is largely due to the unorthodox approach she used in her research. Rather than searching for new cancerous genes, as most cancer researchers were doing, she focused on studying the changes cells go through as they develop, aiming to precisely define normal cell behavior.

This research led to many important conclusions about malignant cells that were considered heretical at the time but have since been shown to be correct. Today, thanks to Dr. Bissell's persistence and initiative, it is widely accepted that the extracellular matrix plays an important role in the spread of cancer and other abnormalities.

A driven researcher, Dr. Bissell motivates her collaborators and students with her passion for science. These traits have made her an effective leader as well as an accomplished scientist. Through her decades of dedication, Dr. Bissell has earned the respect and admiration of the cancer-research community.

Mr. Speaker, I ask my colleagues to rise with me today in honoring the invaluable achievements of Dr. Mina Bissell and in wishing her continued success in her research.

IN RECOGNITION OF AUDIO CRAFT CO., INC.

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor the achievement of Audio Craft Co., Inc., a specialty retailer of home entertainment and mobile electronics which recently was a finalist for the National Torch Award for Marketplace Ethics from the Better Business Bureau.

Audio Craft Co., Inc. employs 75 people in Cleveland, OH. The company was established in 1954 and has set a standard for customer service ever since. Audio Craft regularly exceeds its customer's expectations through rigorously training its staff and by standing behind its guarantees. Audio Craft offers a 30-day, no questions asked return policy. It empowers its employees to make decisions regarding repair and replacement. Audio Craft has an excellent repair shop. Audio Craft's advertising is factual and well designed.

For the past 12 years, Audio Craft has been the recipient of the coveted Audio/Video Best Retailer Award and the Better Business Bureau of Cleveland, OH honored the company with a top place award for customer commitment in 1995.

Audio Craft is actively involved in the support of the Northeast Ohio Alzheimer's Association through the Albums for Alzheimer's Program, which was created by Audio Craft and has grown to become a national and international program.

To become a finalist for the Torch Award, a company must have demonstrated a commitment to ethical practices in the marketplace; high standards of behavior toward customers, employees, suppliers, shareholders, and their communities; truthfulness and accuracy of advertising and sales practices; and training and communications programs designed to assist employees in carrying out established ethics policies.

AMERICAN FAMILIES DESERVE TAX RELIEF

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. RADANOVICH. Mr. Speaker, Americans should keep more of their own money. They should keep more so that they can invest in their children's future, or purchase a home, or start a small business.

Yesterday, the Tax Foundation—as it has done for the past 25 years—announced that the average American will have to work 128 days for the Federal Government before he or she can begin to work for themselves and their families; 128 days, Mr. Speaker. That means that they still have 3½ weeks to go before May 9—the day they stop working for the Government.

A lot of folks talk about the different ways to achieve tax reform or tax simplification—many of which I support. But it seems to me that the best thing for the American people is to just give it back. Instead of new programs and new bureaucracies, give back to the American people some of their hard earned dollars.

This is not a new idea at all. John Kennedy did it in 1962, and so did Ronald Reagan in 1981. It is not a difficult concept. When you give back to the American people what already belongs to them, they reward the economy by investing and spending more.

This is easy, Mr. Speaker. American families deserve tax relief. Support House Resolution 109.

TRIBUTE TO DAVID E. ORTMAN FOR 21 YEARS OF SERVICE ON BEHALF OF THE ENVIRONMENT

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. McDERMOTT. Mr. Speaker, I rise today to congratulate and pay tribute to one of my constituents, David E. Ortman, who stepped down in February as director of the Northwest Office of Friends of the Earth to become director of the Seattle-based Wise Use Movement. On this first day of Earth Week, it is most appropriate to recognize his career dedicated to the protection, restoration, and rational use of our planet's natural ecosystems and precious resources.

Mr. Ortman began working for Friends of the Earth in 1975 through the Mennonite Voluntary Service program. His endeavors for Friends of the Earth encompassed a broad array of environmental and humanitarian issues. During the late 1970's, he worked with the Alaska Coalition in urging Congress to designate Federal land in Alaska as national parks and wildlife refuges. He participated in the United Nations Habitat Conference in Vancouver B.C., as well as the United Nations Special Session on Disarmament in New York.

In the 1980's David's work on wetlands and coastal issues culminated in the establishment of the Grays Harbor National Wildlife Refuge in southwestern Washington.

In the 1990's, David organized the Seattle Citizen Host Committee for the 1993 Asia Pacific Economic Cooperation conference, working with labor unions, environmental organizations, and human rights groups to develop and publicize new approaches to international trade policy.

Mr. Ortman has testified before congressional committees many times during the past 21 years addressing such diverse matters as trade, forest habitat, wetland and coastal ecosystems protection, oil spill prevention, and the Panama Sea Level Canal. He authored a number of position papers for Coastal Zone Management conferences, served on the Department of the Interior's Outer Continental Shelf Policy Advisory Committee, and on the Aquaculture Assessment panel for the Office of Technology Assessment. In addition, Mr. Ortman is a founding board member of the Puget Sound Alliance and of Earth Share of Washington.

David's work has earned him awards from the Seattle and Black Hills Audubon Societies. The Young Alumnus Award from Bethel College, Kansas, and the national Chervon Conservation Award are among other acknowledgments of his commitment to the environment.

Mr. Ortman plans to continue this work as director of Wise Use Movement. He will lead this organization's campaign to preserve and protect wise use of public lands and resources, to educate the public, and to promote environmentally sound regulation of private lands and activities.

Mr. Speaker, our natural habitat is healthier and the diversity of our ecosystems more sustainable thanks to the work of David E. Ortman, a true world citizen. I thank him for his many years of hard work, and wish him well in his future endeavors.

TRIBUTE TO JAMES AND MARGO BITTNER

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. LAFALCE. Mr. Speaker, I rise today to pay tribute to James and Margo Bittner, of Barker, NY, for being chosen as Outstanding Young Farmers for the years 1997–98 by the New York State Junior Chamber of Commerce.

James Bittner is president of Niagara County Farm Bureau and managing partner of Singer Farms. Jim and his wife, Margo, operate a 450 acre farm that produces apples, sweet and tart cherries, peaches and pears. The Bittners are long-time residents of western New York and have made significant contributions on behalf of farmers in Niagara County and the entire community.

I would like to share with my colleagues a resolution passed by the Niagara County Legislature commending the Bittners for their hard work and congratulating them for their achievement:

> Whereas, agriculture and farming are the County of Niagara's leading industry, and
>
> Whereas, the Niagara County Legislature knows the importance that agriculture plays in the economy of Niagara County, and
>
> Whereas, each year the New York State Junior Chamber of Commerce awards excellence to individuals who display outstanding achievement in farming, and
>
> Whereas, James and Margo Bittner of Barker, New York, operate a farm which totals over 450 acres of land, with 250 acres of apples, 50 acres of sweet cherries, 30 acres of tart cherries and 20 acres of peaches and pears, and
>
> Whereas, the New York State Junior Chamber of Commerce named the Bittner's Outstanding Young Farmers 1997–1998 for New York State on November 16, 1996, now, therefore be it
>
> Resolved, that the Niagara County Legislature does hereby commend James and Margo Bittner on a "job well done" and offer sincere congratulations on being awarded such a prestigious title.

I am pleased to join the Niagara County Legislature in commending and congratulating James and Margo Bittner for this well-deserved recognition.

A TRIBUTE TO JOYCE GAMBRELL DRAYTON

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. FOGLIETTA. Mr. Speaker, I rise today to pay tribute to Joyce Gambrell Drayton in honor of her lifelong dedication to the art of sacred choral music. Ms. Drayton has lived in Philadelphia all her life, and has enriched our community with her musical talents since her early days playing organ for the Nazarene Baptist Church School Choir.

Ms. Drayton has served over 37 years in the Nazarene Baptist Church, where she is the organist for the senior choir, the Davis Gospel Chorus, and the women's chorus. In addition, Ms. Drayton is the organist and director of the Hardeman Gospel Chorus of the Hickman Temple AME Church. In 1987, Ms. Drayton added to her accomplishments when she was appointed director of the City Wide Revival Choir.

Ms. Drayton's latest project is the publishing of "Distinguished Church Musicians in the United States," a book she hopes will bring recognition to her craft and attract more young people into the field of church music.

Ms. Drayton was recently honored at a dinner reception at the Nazarene Baptist Church in Nicetown, Philadelphia. I would like to take this opportunity, and I hope my colleagues will join me, Mr. Speaker, in recognizing Ms. Drayton for her contributions to Philadelphia's musical tradition and commend her for her dedication to her craft.

HON. TED WEDEMEYER, JR., NAMED AS 1997 PAL JOEY RECIPIENT

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. KLECZKA. Mr. Speaker, I rise today to congratulate the Honorable Ted Wedemeyer on being named the 1997 Pal Joey Award recipient by the St. Joseph's Foundation, Inc., of Milwaukee, WI.

In honoring Ted, the St. Joseph's Foundation is recognizing a man who has done so much for the community he loves. His commitment to justice is evident in his distinguished career on the circuit court and currently as presiding judge of the First District Court of Appeals, and in his volunteerism with several community organizations, including the St. Joseph's Foundation.

Ted Wedemeyer has shown his dedication to the Milwaukee area throughout his entire life. Over the years he has been committed to improving the lives of many of Milwaukee's citizens through his involvement with organizations including the Wisconsin Children's Service Society, Wisconsin Easter Seals, and the American Legion, just to name a few. His many years of loyal service to the St. Joseph's Foundation demonstrate his desire to make Milwaukee an even better place for all of its citizens. For this reason, the St. Joseph's Foundation wishes to honor Ted by awarding him with the 1997 Pal Joey Award.

Ted Wedemeyer has clearly set an example for all of us to follow. Congratulations, Ted, this is an honor that is well deserved.

INTRODUCTION OF THE BIPARTISAN LINE-ITEM VETO CONSTITUTIONAL AMENDMENT

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mrs. EMERSON. Mr. Speaker, I am joined today by my colleague from California, Representative GARY CONDIT, in proudly introducing a bipartisan resolution to amend the Constitution to provide the President of the United States with line-item veto authority.

On April 10, the U.S. District Court ruled unconstitutional the Line Item Veto Act of 1996 which was a statutory version of this much needed authority to rein-in Federal spending. On the eve of the deadline for hard-working folks to file their Federal income taxes, this court's ruling denied American taxpayers an important protection against wasteful spending. It is time to put to rest the constitutional questions surrounding the line-item veto by passing the constitutional amendment we are introducing today to give the President the explicit authority to zero-out special interest goodies tucked away in the fine print of large spending bills.

Forty-three of our Nation's governors have a line-item veto at their disposal, and it works. Wisconsin Governor Tommy Thompson used the line-item veto hundreds of times to save the taxpayers of Wisconsin close to $3 billion. In Massachusetts, Governor William Weld used the line-item veto to help eliminate an $850 million deficit in his first month in office and resolve a $1.8 billion structural deficit within the first 6 months of his term. While Governor of Arkansas, Bill Clinton repeatedly balanced his State's budget, and an important tool that helped him do so was the line-item veto. The evidence is clear and convincing that the line-item veto saves taxpayers money, and the Congress should answer the 14-year-old call issued by President Reagan to pass the line-item veto amendment.

Mr. Speaker, we tried the legal approach and a Federal court said it will not work. We have yet to hear from the Supreme Court, but the prospects look bleak. So, here we are at the end of tax season and the American public is denied line-item veto protection by a Federal court. We must put an end to the constitutional debate by providing the President the explicit authority of the line-item veto. What would have been good for Presidents Reagan and Bush would be good for President Clinton and every future American President. The line-item veto amendment we are introducing today will guarantee the validity of Harry Truman's adage that "the Buck Stops Here"—right at the President's desk. I urge my colleagues to adopt this most important fiscal tool to ensure that taxpayers never again witness the day when wasteful special interest spending can sneak its way into law.

NATIONAL ASSOCIATION OF LETTER CARRIERS BRANCH 70 AND BRANCH 2525: SAN DIEGO-IMPERIAL COUNTIES LABOR COUNCIL, AFL–CIO COMMUNITY SERVICE AWARD

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. FILNER. Mr. Speaker and colleagues, I rise today to recognize the National Association of Letter Carriers Branch 70 and Branch 2525, as they are honored by the San Diego-Imperial Counties Labor Council, AFL–CIO, for their contributions to the labor movement and to the community as a whole.

The Labor Council's Community Service Award goes to the National Association of Letter Carriers Branch 70 and Branch 2525, primarily for their successful food drives. For the sixth consecutive year, with the cooperation of the Postal Service, they have organized the most successful food drives in San Diego County, collecting between 60 tons and 170 tons of food per year for needy working families.

With 2,500 members, including both active and retired letter carriers representing the majority of San Diego County, Branch 70 and Branch 2525 also contribute each year to the muscular dystrophy telethon. Last year, almost $10,000 was collected locally—joining thousands of other members nationwide to contribute $1.5 million to this worthy cause.

Branch 70 and Branch 2525 of the National Association of Letter Carriers are truly deserving of the award which they are receiving. I join in adding my sincere thanks to their members, and I take pleasure in highlighting their service for my colleagues in the House of Representatives.

TRIBUTE TO THE MEMORY OF LYMAN SPITZER

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. PAPPAS. Mr. Speaker, I rise today to pay tribute to Lyman Spitzer who passed away on March 31.

Lyman was one of the greatest astrophysicists that our world has ever seen and was the visionary for the Hubble space telescope. His passing came just days before the April 3 closing of the Tokamak Fusion Test Reactor [TFTR] at the Princeton Plasma Physics Laboratory which he founded and headed for many years.

The Tokamak experiment was based on one of Dr. Spitzer's most exciting ideas—that it should be possible to recreate the energy producing process of the stars and harness it as an abundant source of energy on Earth. Despite the TFTR's major world record accomplishments of controlled fusion power during its history it was shut down 2 weeks ago.

The long-term interests and needs of our Nation, like the need to find environmentally safe and abundant sources of energy will not end with Lyman Spitzer, but the progress he made in this area will serve as a starting point for years to come.

As America faces a new century, looking for new answers to our Nation's problems, it is the vision and effort of people like Lyman Spitzer that will guide us to the solutions.

TRIBUTE TO JACKIE ROBINSON

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. McNULTY. Mr. Speaker, I am pleased to join with Representative CARRIE MEEK and others in commemorating the 50th anniversary of the day Jackie Robinson broke Major League Baseball's color barrier.

As a ballplayer, Jackie Robinson set standards through both his superior athleticism and dignified grace. His unflinching commitment and determination to achieve set him apart from countless numbers of his peers.

However, a look beyond pure statistics—6 National Pennants and 6 seasons batting over .300, to name a couple—allows us to truly understand why Jackie Robinson is a hero to us all.

Jackie Robinson was an American pioneer. His perseverance when all the odds were against him is certainly an inspiration. This strength of will is reflective of the true spirit of America. His personal sacrifice reflects his commitment to our society. Robert Kennedy once said: "Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope." America was formed and is continually transformed by these "ripples of hope." Jackie Robinson was a "ripple of hope" for many Americans.

Yet, we must never forget the times in which Jackie Robinson lived. Discrimination and dehumanization were societal norms of the 1940's and 1950's. We must continually reflect on these ills, and admit past mistakes. This American conscience has always shaped our society for the better.

People have said that Jackie Robinson never took a step backwards. A lot has changed in the 50 years since he first put on that Brooklyn Dodger cap, yet too much has remained the same. We must continually move forward, ensuring all Americans their rights. The first step is to recognize those individuals who have strived to make an impact. Jackie Robinson's impact is still being felt today.

Therefore, I urge all the Members of this House, and all of my fellow Americans to remember Jackie Robinson as a great ballplayer, an inspirational American hero, and most important of all, an individual whose courage has touched the lives of millions.

GRAPHIC POSTCARD ACT OF 1997

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mrs. JOHNSON of Connecticut. Mr. Speaker, today I rise to urge support for legislation that I have introduced, the Graphic Postcard Act of 1997. My bill, formulated after postcards showing a dismembered fetus were sent unsolicited to a number of towns in Connecticut, requires that material depicting violent or sexually explicit acts sent through the U.S. Postal Service be enclosed in an envelope emblazoned with a large print warning.

It is not unusual for parents to allow small children to open the mailbox and examine the contents. Bills, letters, and most advertisements pose no threats to young children. Sexually explicit material is already required to be covered when sent through the mail.

The right to free speech is one we all cherish. This legislation will not interfere with free speech; it does not prohibit graphic materials to be mailed, but instead places a simple requirement on their mailing in order to protect children. Like it or not, those responsible for these postcards have every legal right to use the U.S. mail to express their viewpoints. However, I believe that parents have an equal right to protect their children from graphic presentations of frightening or violent actions. Requiring an envelope and warning does not infringe on the sender's freedom of speech; it simply guarantees protection for our Nation's children.

This is rational action to stop potentially dangerous behavior. Hundreds of my constituents have called or written to let me know they were outraged by these postcards. The level of violence in our society has reached an unprecedented level and is eroding the values that have made us a strong society. We have a special obligation to protect young hands and eyes from unsuitable material, and this is step one.

I therefore urge my colleagues to join me in support of the Graphic Postcard Act of 1997.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Graphic Postcard Act of 1997".

SEC. 2. NONMAILABILITY OF CERTAIN MAIL MATTER.

Section 1463 of title 18, United States Code, is amended—

(1) in the first paragraph by inserting "(a)(1)" before "All matter";

(2) in the second paragraph by inserting "(2)" before "Whoever" and by striking "section" and inserting "subsection"; and

(3) by adding at the end the following:

"(b)(1) All matter otherwise mailable by law, upon the envelope or outside cover or wrapper of which, and all postal cards upon which, any delineations, epithets, terms, photographs, drawings, visual depictions, or language of a violent or clinically graphic character, or unsuitable for persons under 18 years of age, are written or printed or otherwise impressed or apparent, are non-mailable matter, and shall not be conveyed in the mails nor delivered from any post office nor by any letter carrier, and shall be withdrawn from the mails under such regulations as the Postal Service shall prescribe, except as provided in paragraph (2).

"(2) Paragraph (1) shall not apply with respect to any mail matter which is enclosed in an envelope or other outside cover or wrapper which—

"(A) bears on its face, in conspicuous and legible type in contrast by typography, layout, or color, in accordance with regulations which the Postal Service shall prescribe, such notice as the Postal Service shall by regulation require as to the nature of the contents of the mailing; and

"(B) satisfies such other requirements as the Postal Service may by regulation prescribe in order to carry out the purposes of this subsection.

"(3) Whoever knowingly deposits for mailing or delivery, anything declared by this subsection to be nonmailable matter, or knowingly takes the same from the mails for the purpose of circulating or disposing of or aiding in the circulation or disposition of the same, shall be fined under this title or imprisoned not more than 5 years, or both, for the first such offense, and shall be fined under this title or imprisoned not more than 10 years, or both, for each such offense thereafter.".

REV. WALTER "PAPA" HUFF: 100 YEARS

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. FILNER. Mr. Speaker, I rise today on behalf of all of my constituents to wish the Reverend Walter R. Huff, known affectionately by family and friends as "Papa," a most glorious 100th birthday.

In his 100 years, Papa Huff has witnessed the growth of our Nation, from its horse and buggy days, to the Model-T, to today's space age. He saw, first hand, the rise of organizations like the NAACP and the Urban League and the elimination of legalized segregation in our society.

Born in 1897, Papa Huff lived in Little Rock, AR, for most of his life. It was here, at the Arkansas Baptist College, that Papa Huff received his education.

In 1916, Papa Huff began his career with the Missouri Pacific Railroad. He started his 45-year tenure with the railroad by laying track. During his time with the Missouri Pacific, he progressed in the company from laying track to working the boilers, locomotive operation, and finally, as an inspector.

In 1925, Papa Huff married Lucy Sterling of Little Rock, AR. They were united happily for 45 years.

Papa Huff begin his preaching career in 1925 as assistant pastor of the Mount Pleasant Baptist Church in Little Rock, AR. It was also during this time that Reverend Huff joined the NAACP, led at that time by Mrs. Daisy Bates.

In 1961, Papa Huff retired from the Missouri Pacific Railroad. He began his third career as an entrepreneur. He was the proud owner and operator of a painting business.

Papa Huff came to my district in 1992, where he joined the Mount Erie Baptist Church, led by the Reverend Walter G. Wells. He remains an active member of this congregation.

I, along with the residents of my congressional district, salute the Reverend Walter "Papa" Huff as a living celebration of history, steadfastness, and love. We wish him well on the joyous occasion of his 100th birthday.

SALUTE TO THE NATIONAL FELLOWSHIP COUNCIL OF CHURCHES WORLDWIDE, INC.

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. SCHUMER. Mr. Speaker, I rise in honor of the National Fellowship Council of Churches Worldwide, Inc. They are preparing this week for the consecration and appointment of three new bishops, Rev. Ervin Dease, Sr., Rev. Roy Roberson, and Rev. John Lee Paulson.

The National Fellowship Council of Churches Worldwide, Inc., consists of a vast number of ministries all of which are geared to helping the underprivileged and downtrodden. They find shelter for the homeless and feed the hungry, spiritually as well as physically.

Bishop Anthony R. Monk, Sr., the founder of the fellowship has been instrumental in stamping out crack houses and getting drug dealers off the street corners. He has trained the ministers to assist law enforcement officers in eliminating substance abuse and making neighborhoods safe places to live for our elderly and youth.

The women ministers help, with counseling sessions and workshops, mothers who are raising their children alone to cope with the problems of being a single parent. They also help battered women realize that they do not have to stay in that situation and help them relocate if necessary. The women ministers also try to show other women in the community the need for a spiritual awakening.

I salute them today as they celebrate this most sacred ceremony of consecration and ask my colleagues to join me. A special recognition for Bishops Monk and Billings for starting and maintaining this program. Let us be reminded by the actions and mission of this group that we can come together as people, whatever our personal doctrines, and work in the service of a higher power.

EARTH DAY

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. SABO. Mr. Speaker, I rise today in recognition of the 27th annual Earth Day, which occurs next Tuesday, April 22.

Mr. Speaker, it is easy for us to be complacent today about the state of our environment. After a century of severe pollution, we have rallied over nearly three decades to accomplish major successes in environmental protection and restoration. Among them are the Clean Water Act, the Endangered Species Act, and the Clean Air Act. These laws have left our air and water cleaner than it has been in generations, and they have restored healthy populations of many plant and animal species that were on the brink of extinction.

Perhaps more important than laws, however, is the unprecedented shift in public attitudes and practices that has occurred over the past 25 years. It is becoming commonplace, for instance, to see recycling bins alongside every trash bin; schoolchildren are taught about preservation of resources; and volunteer groups can regularly been seen cleaning up our riverbanks, parks, and open spaces.

After so many years of successfully struggling to improve our environment, it can be easy to lose perspective on why this struggle is important, and why we must remain ever vigilant. Earth Day exists so that we can pause and remember why we began working to protect the environment in the first place.

In debates over whether to preserve a particular species or ban a certain pollutant, we tend to forget why these things are important to us. Simply put, our planet is our home. By polluting it, abusing its natural resources, and reducing the diversity of its species, we make it a more difficult and less healthy place in which to live. Very often we hear people invoke "our children and grandchildren" when talking about the environment. This is not idle sentimentality. A child born today is breathing cleaner air, and can swim in cleaner lakes and rivers than a child born 10 years ago. Environmental protection is about quality of life and survival. It is precisely for this reason that we cannot rest on our laurels.

Americans are clearly living in a healthier environment than we were a generation ago.

But there are still many old problems that have not been resolved, and many new challenges that we must face. This is not the time to be satisfied with our accomplishments and begin to roll back our environmental protections. Rather, it is time to examine what we have done and look for ways to do better.

The debate over clean air presents a good example. There are many opinions about the best way to reduce pollution in our atmosphere. While this debate continues, we must not overlook an important way that individuals and government can ease air pollution—mass transit and environmentally friendly transportation. As a member of the Appropriations Subcommittee on Transportation and now as its ranking member, I have been proud to advocate more investment in mass transit for our cities, and for further development of alternative modes of transportation like bicycling. By making it easier for people to ride their bikes, the bus, or the train to work every day, we can take an important step toward reducing both pollution and our heavy use of gasoline and other limited fossil fuels.

This is just one example of the many ways that environmental protection is important in our daily lives. It shows us that protecting our environment is not an abstract goal that we pursue simply for its own sake. The laws that we enact and the habits we form affect the way we live our lives, and help determine whether future generations will be able to live happy, healthy, and productive lives. This is what I urge all of my colleagues, and all Americans, to think about this Earth Day.

PRESERVING THE DUAL BANKING SYSTEM

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today to comment on the importance of preserving our dual banking system. As we march into the brave new world of interstate banking and branching, we must not forget the critical role that States play in creating an effective banking system which meets the diverse needs of community participation, economic development, and the service of all people in our society.

Specifically, my concern is that Federal regulators do not preempt State law when it comes to determining how State banks best operate within their own boundaries and serve their communities. This concern is sparked by a situation in my own State of Massachusetts. Recently, the Bank of New York, a State bank, filed an application to increase their investment in State Street Boston Corp. a Massachusetts-based holding company which is the parent company of a Massachusetts State chartered bank, State Street Bank.

On March 14, 1997, the Massachusetts Board of Bank Inc. ruled against approving Bank of New York's application to increase its share in State Street Boston Corp. Acting pursuant to Massachusetts State law, the Board of Bank Inc. cited "serious concerns regarding the potentially negative competitive effects of this petition." The board further went on to find that the Bank of New York application "failed to meet its burden to demonstrate that the public convenience and advantage will be promoted", as a result of its proposed investment increase in State Street Boston Corp.

Mr. Speaker, this was precisely the type of State prerogative that we tried to preserve when we approved the Riegle-Neal Interstate Banking and Branching Efficiency Act back in 1994. In my opinion, if Federal regulators approve this application and preempt Massachusetts State law in this matter, we will have undermined both the intent of Riegle-Neal and the preservation of the dual banking system.

So, I ask my colleagues to join me in urging the Federal Reserve to defer to the will of the people of Massachusetts, by acknowledging the Board of Bank Inc.'s ruling against the Bank of New York's application to increase its stake in State Street Bank.

UNITED NURSES ASSOCIATION ORGANIZING COMMITTEE: SAN DIEGO-IMPERIAL COUNTIES LABOR COUNCIL, AFL–CIO ORGANIZING AWARD

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. FILNER. Mr. Speaker and colleagues, I rise today to recognize the United Nurses Association of California [UNAC] Organizing Committee, as they are honored by the San Diego-Imperial Counties Labor Council, AFL–CIO, for their contributions to the labor movement and to the community as a whole.

The UNAC Organizing Committee is being recognized by the labor council with its Organizing Award for the committee's commitment to organizing in the health care industry. This organizing committee conducted an historic drive for union representation at Sharp Hospital during 1996 and won the election by an overwhelming margin. UNAC and Sharp are now at the negotiating table to secure a contract for 2,700 nurses and other health care professionals.

This is a milestone achievement, for UNAC is also celebrating its 25th anniversary this year. Representing 8,000 members in southern California and 3,300 in San Diego, UNAC's members include nurses at Kaiser Permanente and the civilian nurses at Balboa Naval Hospital, as well as the newest members at Sharp. UNAC is also a member of the Coalition for Quality Health Care, which worked to educate the public about a proposed merger of Columbia and Sharp—one which has recently been rejected. They are active legislatively at the local, State, and national levels.

UNAC is a true pioneer in protecting the future of health care in the San Diego community. I want to sincerely congratulate this organization and its members on receiving this significant award.

TRIBUTE TO JOHN J. MANCE

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to John J. Mance, who officially retired from the NAACP on February 15 of this year. The tenure of Mr. Mance with the NAACP parallels the rise of the civil rights movement. He joined the organization in 1944, and became president of the San Fernando Valley Branch in 1959. That same year he met Dr. Martin Luther King at the NAACP Convention in New York City.

John Mance was an active participant in the events that finally brought legal segregation to an end in the American south. Much of his work was done in the San Fernando Valley, educating local residents to the need for change. For example, he organized demonstrations in support of the Southern College student sit-ins, stopping street traffic and halting business at Woolworth, Kress, and Grant's stores for several weekends.

It is because of people like John Mance that the civil rights movement was such a success. And it is because of people such as John Mance that we all recognize the work that remains to be done. He has set a wonderful example for the next generation of community leaders to follow.

I ask my colleagues to join me in honoring John J. Mance, along with his wife, Eleanore, and sons Rick and David. John's tireless dedication and profound sense of justice serve as examples to us all.

TEXT OF ADDRESS BY SPEAKER NEWT GINGRICH TO THE AMERICAN CHAMBER OF COMMERCE, HONG KONG

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. GINGRICH. Mr. Speaker, with the bipartisan excursion to Korea, China, and Japan that 13 Members took part in last month, and the review of the trip several of us participated in through last week's special order, public interest in Asia is at an all-time high. With its low tax rates, balanced budget, and surging economy, the experience of Hong Kong has much to teach Americans. Thus, I enter into the CONGRESSIONAL RECORD a copy of comments made there to the American Chamber of Commerce.

TEXT OF ADDRESS BY SPEAKER NEWT GINGRICH TO THE AMERICAN CHAMBER OF COMMERCE, HONG KONG, MARCH 27, 1997

(Following introduction by Mr. Douglas Henck, Chairman of the American Chamber of Commerce)

Thank you very much, Doug. Let me say first of all that, as a Georgian, I am delighted to be here, as you can imagine. If you're from Atlanta, you sort of wake up every morning with a certain worldwide sense of curiosity, partly based on CNN, partly based on Coca Cola, partly based on

Delta Airlines—I have now done my constituent duty [laughter] and, of course, the Olympics last year brought it all home in a dramatic way. So in that sense, I'm delighted to be here.

It occurred to me, we had a very good meeting with your board of directors a few minutes ago and I want to share a little bit of the way we're approaching this. I think we are a little different than a lot of congressional delegations. This is the beginning of what we believe, will be a long-term commitment to look at a number of issues in a positive way and to frame things in a way that we think will be effective. And I'll talk about that more when we're done. But we also approach this, I think, with a very different approach at a human level. We recognize that America is a remarkable country but that we have much to learn. I mentioned the other night in a meeting we had in talking about imperfections. We were in South Korea at the time, the Republic of Korea. And I mentioned that two of my colleagues on this trip, Congressman Hastings of Florida and Congressman Jefferson of Louisiana, in their lifetime, would have found it difficult, if not impossible, to go across America comfortably because they could not, when they were young, have found hotels in many towns to accommodate them. Jay Kim, our Congressman from California, who has very close family relations and friends in Korea, commented in a way that I think moved all of us that night. That he and his family, he was very young, when Seoul was overrun by North Korea in 1950. Then Seoul was liberated by the United Nations Command, and then Seoul was overrun a second time and his family fled that time. And he came to America. And his first job was working as a janitor in a hospital, cleaning the hospital. And he recently went back to that hospital, where his son, I believe it is, is now a doctor. And one of the older doctors looked at Jay for a moment and said: Didn't you use to scrub the floors here? And he said "yes." He of course is now quite successful and has decided that, while he is successful, he is willing to go through the complexities of public life and so he is also a congressman. And it occurs to us, I think, that we've come on this trip to engage in a dialogue between an imperfect America which has been open to all people of all backgrounds and which seeks to illustrate the best in the human spirit and a variety of countries with whom we desire nothing but friendship and goodwill. For part of the genius of America has been to seek everywhere to extend and exalt the human spirit, so that everyone can have the opportunities that Jay Kim found and to recognize that we need to keep looking at our own imperfections and to reach out to correct those that in our lifetime still exist.

In that sense, I am particularly pleased to have an opportunity to be with you here today to share some observations at this historic moment of transition for Hong Kong. We are particularly delighted to visit Hong Kong, because the people of Hong Kong have created a prosperity that is a tribute to endeavor. Your energy, your courage, your vision, and your creativity have built a standard of living admired throughout the world.

Expanding economic growth is a goal of our agenda in the U.S. Congress. We are about to begin a historic debate between a flat income tax and the replacement of the income tax with a sales tax, two choices that will dramatically improve the current Internal Revenue Service 110,000-agent very complex system. As we discuss Hong Kong's future, we also want your advice about America's future. We have been asking questions beyond just the reversion question. We have been asking about economic growth, about tax codes. Hong Kong has a binding commitment to a balanced budget. It has no outstanding government debt. It has a remarkably low tax rate.

Not surprisingly, Hong Kong has remarkable economic growth. Ten years of Hong Kong's growth rates would transform the American economy and prove to the world that freedom and free enterprise are the model for 21st century success. So, we Americans have much to admire and to learn from you who have helped make Hong Kong a jewel for the entire planet.

I am also here to use this moment to reflect on some enduring American values, values that I believe can serve as a guide for the transition that faces Hong Kong this summer. I am told the overall view from Hong Kong, as the July 1 deadline approaches, continues to be upbeat but cautious. Confidence and uncertainty often exist together, especially for a society faced with momentous change.

As an American, I believe that the confidence to face that future begins with a commitment to freedom. No American leaders would be true to our tradition if they came here and congratulated you on your economic achievements without also saying we believe that economic vitality ultimately depends upon political and personal freedom.

For that reason, America cannot remain silent about the lack of basic freedom—speech, religion, assembly, the press—in China. Were we to do so, we would not only betray our own tradition, we would also fail to fulfill our obligation as a friend of both China and of Hong Kong. For no one can be considered a true friend if that person avoids the truth.

As Americans, we take seriously a country's commitment to human rights. And I say this in the context of having already said: There are failures in America, there are weaknesses, and there are places where we can legitimately be criticized. And our answer should be to listen to those critics and to look at those criticisms, and to try to improve our performance. But we cannot look the other way when the People's Republic of China ignores Article 35 of its own Constitution by depriving a citizen of his free speech; we cannot disregard its failure to uphold Article 36 of its own Constitution every time it denies the free exercise of religion.

The truth is that any effort to provide a partial freedom to any people, to tell them that they can be free in one sphere but not in another, will ultimately fail. China needs to understand that political freedom must accompany economic freedom. If it attempts to restrict the freedom Hong Kong already enjoys, it will have political—and economic—consequences.

We support the Sino-British Joint Declaration which governs the peaceful reversion of Hong Kong to the People's Republic of China, and we fully expect China to honor its pledge of "one country, two systems." We are concerned that China has taken steps to weaken Hong Kong's Bill of Rights. In addition, it has decided to dissolve the elected legislative council on June 30.

As July 1 approaches, the leaders of Congress would look with deep concern on any action that would undermine the Sino-British Joint Declaration. We believe that preserving key elements of Hong Kong society—the rule of law, an independent civil service and judiciary, respect for civil liberties, freedom of religion, a free press—is essential to Hong Kong's future.

If Hong Kong loses the things in which its society is grounded, both American values and American interests will suffer, and the people of Hong Kong will lose opportunity.

It is our strong view that China must maintain Hong Kong's current laws regarding civil rights. These laws are necessary to ensure its future prosperity. Even minor changes or seemingly minor changes in these laws could undermine confidence in the rule of law in Hong Kong, which would significantly affect Hong Kong's attractiveness as a regional center for commerce. Any unilateral changes would indicate that China values power over keeping its word.

A smooth transition in Hong Kong, consistent with the Joint Agreement and Basic Law, will be a key test for Beijing. Reversion will test Chinese standards of governance and international conduct. How that transition is managed will be critical to the future of Taiwan, to China's international standing, and to China's relations with the United States.

Ultimately, we believe the transition for Hong Kong will succeed if it leads to broader economic and political freedom for both "systems." And as Americans, we believe that freedom strengthens both the individual and society.

Our country reacts faster to crises, rectifies its mistakes more rapidly, and maintains a more dynamic national consensus precisely because it has a freely elected government based upon "We the People." Those three words are the first three words of our Constitution, and they frame our view of government.

People who are free to work anywhere come to America because they know that America offers greater opportunity. People who are free to study anywhere come to America because they know that there is more creative research going on in our universities and corporations than in any other country in the world. This freedom and creativity derives from the deepest convictions of our people, and it is built into the political and economic system that has made us a great nation. The legislature invented by American's Founding Fathers is a wonderful protection from any government that would attempt to ignore or thwart the will of the people. That's why the Constitution begins in Article I by establishing the branch of government closest to the people, the United States Congress.

That branch is closest to the people because it is most sensitive to any change that might infringe upon our liberty. Because the founding fathers feared dictatorship, they wanted a government designed to preserve freedom.

They deliberately created a system that dispersed the power of the federal government widely: two legislative bodies, the executive branch, the judiciary. And they reserved all other powers to the state and to the people. They recognized that while God gives us freedom, governments all too often are ready to take that freedom away.

Now America's history has been one of permanent tension between order and freedom between government and the individual, between selfishness and selflessness, between idealism and cynicism. For over 200 years, Americans have worked, fought, sweated and bled, to preserve and extend freedom to all people of all backgrounds from all races and every country of the world.

Look around the world today. We are in the third decade of a global democratic revolution. From Portugal and Spain in the mid-seventies, to Latin America, Central and

Eastern Europe, and the Soviet Union and its allies, the old oppressive regimes have been replaced with new democracies.

In some cases—like the former Soviet Union—the political change preceded the creation of free markets, while in others—like South Korea and Taiwan—there was a substantial transformation of the economic system before political freedom was achieved.

But at the end of the day all found that freedom was indivisible. It was not possible to grant one form of freedom—whether political or economic—without finally granting it all.

And I want to suggest to you that beginning on July 1, Hong Kong has a duty that is historic, because its great economic endeavor can have a moral purpose—the expansion of freedom.

As Americans, we believe our freedom is not the gift of any government. It is a right bestowed by our Creator. With the liberty we receive from God, we can work together and live together to achieve remarkable things.

If you visit the Lincoln Memorial in Washington, you will find etched in stone the Second Inaugural Address Lincoln delivered near the end of our civil war. It is short enough to be one wall, yet it refers to God twelve times. If you walk across to the Jefferson Memorial, you will read on the wall, "The God who gave us life, gave us liberty at the same time; the hand of force may destroy but cannot disjoin them."

If you read our founding document, the Declaration of Independence, you will find the fundamental belief that our Creator has given us the inalienable rights of life, liberty, and the pursuit of happiness.

And at the conclusion of that great declaration of freedom, you will read that the Founding Fathers pledged their lives, their fortunes, and their sacred honor. They viewed their "sacred" honor as their most valuable collateral, and they put it at risk in order to secure the blessings of liberty that we hold as our inalienable right. As Americans, we still recognize today that we cannot be successful if we do not recognize that our rights come from our Creator.

This American system of Creator-endowed rights based on self-evident truths is as current as Microsoft, biotechnology, and the space shuttle. However, its roots go back through our Founding Fathers, to the signing of the Magna Carta in 1215, the creation of Roman law 300 years before Christ, the rise of Greek democracy 500 years before Christ, the founding of Jerusalem by King David 3,000 years ago, and ultimately, to the statement of God's law given to Moses in the earliest period of recorded history.

It all relates to East Asia. The Chinese word for crisis combines the characters for "danger" and "opportunity." In that sense, Hong Kong faces a "crisis" today. It has danger and opportunity. There could be problems or there could be a greater Hong Kong of even greater prosperity, of even greater importance, to the world. On the one hand, Hong Kong confronts challenges and even dangers as it approaches reversion to China. On the other hand, it has enormous opportunities in technology, in entrepreneurship, in the sheer level of human talent dedicated to dynamic economic growth.

For its part, China also faces a "crisis," meaning "danger" and "opportunity." Mishandling reversion would endanger China's relationship with Taiwan, the region, and the broader international community. Honoring the commitments of the Joint Declaration and the Basic Law, on the other hand, would not only enhance economic growth in China; it would also strengthen China's standing in the international community.

If you, as leaders in the Hong Kong business community, can continue to harness the energy aroused by danger and opportunity, and, virtually every entrepreneur every morning senses both of those, we will all stand in admiration at the excitement you continue to produce and the further progress you achieve as you enter the 21st century.

Free societies rely on the courage, creativity, and commitment of each individual citizen. Dictatorship may marshal the obedience of their unthinking subjects, but democracies rely on the unique spark of each person's God-given talent. It may be a far less orderly society, but it is a vastly superior one.

Since each of us is uniquely endowed by the Creator with inalienable rights, there is not and cannot be a single dream. A free society has as many dreams as there are people. The power of those dreams has made America a great country filled with good people. The power of those dreams has made Hong Kong a uniquely successful community admired and studied all around the world.

We want to see the continued fulfillment of the dream of each citizen of Hong Kong. We want to be helpful and making sure that the opportunity outweighs the danger. We recognize that this is a long-term process, that true friendship and good neighbors require much talking over a long period of time and, whenever possible, require avoiding arguments in favor of having discussions. One of the steps we are going to take, after talking with a wide range of leaders here, including Mr. Tung, the current governor, the members of the legislative council, members of the business community, is that Congressmen Bereuter, who was the chairman of our Asia subcommittee, will be regularly coming back at the advice and suggestion of a very broad range of folks to visit here and to visit Beijing in a positive way, to seek positive understanding, to have a positive dialogue. We leave tonight to go to Beijing. We hope to meet with members of the National People's Congress to talk about the idea of a long-term relationship between our two legislative bodies, to develop the understanding and the dialogue.

Now, creating freedom didn't happen overnight anywhere. Having a healthy, open, free society is hard and going through transitions is difficult. We have more than enough examples of pain and failure in American history to not look on anyone with a judgmental sense of superiority. But we also know that, in the end, adhering to the great virtues of individual freedom and seeking to protect the right of the maximum number of people pursuing the maximum amount of happiness, because they get to define their lives is, in fact, the ultimate destiny of the human race. And in that calm optimism we can afford to reach out a helping hand to everyone, to have a dialogue with anyone, and it is in that spirit of learning from your successes, coming to understand your situation, and hopefully having a genuine exchange in the next few days in Beijing and beyond that, in Tokyo and in Taiwan, that we've started this trip. I think just to tell you that we have all found Hong Kong to be fully as remarkable as everyone always told us it was. Those of us who are here for the first time, just as you would expect, are overwhelmed by the achievement of the people of Hong Kong. And we look forward to helping you build on that to a even better 21st century.

Thank you very, very much.

TRIBUTE TO ALLEN BIAS

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. STRICKLAND. Mr. Speaker, I rise to honor Allen Bias, a great Ohioan. Mr. Bias has inspired a community, a country, and a family. It is a great honor to pay tribute today to such an esteemed individual.

Mr. Bias grew up during the Depression with six brothers and sisters on a poor 60-acre hillside farm. Raised by their mother, they were taught the values of honesty and integrity. Despite their modest beginnings, Mr. Bias and his siblings have had successful careers and led productive lives.

At age 17, Mr. Bias joined the Navy to fight for his country in World War II. He volunteered for a special unit in the South Pacific Islands. A member of Marine Aircraft Group Twelve, Mr. Bias displayed tremendous heroism while engaging enemy forces in the South Pacific. He and other members of the Marine Aircraft Group Twelve received the Presidential Unit Citation presented by the President of the United States. Mr. Bias served this country with courage, dedication, and honor.

Mr. Bias has always had a strong work ethic which enabled him to have a long and highly respected career in the baking industry. He held several key management positions with one of the largest companies in the baking industry. He knew how to succeed in business, but more importantly, he knew how to treat employees and coworkers with respect and dignity.

When it was time to retire, Mr. Bias took the opportunity to continue his service to others by working at a center for the mentally disabled. Once again he gained the respect and admiration from those around him.

Mr. Bias has served his country, his community, and his family. He has taught his children honesty and integrity. For these reasons, Mr. Speaker, I'm proud to share his accomplishments with this Congress and the country.

HOUSTON QUICK, REBECCA UNDERHILL, KEN WILSON: SAN DIEGO-IMPERIAL COUNTIES LABOR COUNCIL, AFL–CIO FRIENDS OF LABOR AWARDS

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. FILNER. Mr. Speaker and colleagues, I rise today to recognize Houston Quick, Rebecca Underhill, and Ken Wilson, as they are honored by the San Diego-Imperial Counties Labor Council, AFL–CIO, for their dedication to helping working families and organized labor.

Houston Quick was raised in a union family. I worked with his father, H.B. "Hughie" Quick, who was an organizer for the International Association of Machinists and Aerospace Workers. Since early childhood, Houston has been assisting and supporting labor causes. Motivated by his deep commitment, he has created the Houston Quick Organizing Scholarship Fund to train a new generation of labor organizers.

Rebecca Underhill has redefined the word "voluntarism" with her actions behind the scenes in support of every part of organized labor's services and programs. She has volunteered literally thousands of hours with the Labor Council, United Way's Labor Participation Program, annual food drives, and Labor to Neighbor. She is being honored by the Labor Council for this long-time commitment to the working families of San Diego.

Ken Wilson has been a friend to labor with his contributions and participation in labor causes and event. Formerly a member of the Hotel Employees and Restaurant Employees Union Local 30, Ken is in his seventh season as General Manager of San Diego Jack Murphy Stadium. He is the type of professional employer who exemplifies positive labor-management relationships.

These three individuals are being honored by the Labor Council as friends of labor: members of the community whose work has strengthened labor's efforts and who have touched the lives of thousands of San Diegans. It is truly fitting that the House of Representatives join in this recognition of Houston Quick, Rebecca Underhill, and Ken Wilson.

HONORING BAY RIDGE/MORGAN'S POINT NATIONAL HISTORIC DISTRICT DESIGNATION

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. BENTSEN. Mr. Speaker, I rise to honor the Bay Ridge Park Association and the Morgan's Point historic district for their hard work and dedication to preserving the history and tradition of Morgan's Point in my district.

The Bay Ridge Park Association and Morgan's Point historical district have worked since the Texas sesquicentennial in 1986 to preserve Morgan's Point as a national historic district. Their commitment to this peninsula on Galveston Bay will be rewarded in a ceremony on Saturday, April 19, 1997 with the unveiling of an official Texas historical marker at Morgan's Point.

The small community of Morgan's Point has a long and rich history. Morgan's Point in many ways was born of history—named after Col. James Morgan, an early settler whose property was burned by Santa Anna's troops on the eve of the battle of San Jacinto, the decisive battle in Texas' drive for independence. the Morgan's Point area, with its spectacular views and cool gulf breezes, quickly became a favorite summer retreat for Houston residents seeking refuge from the harsh heat and humidity of the city. The homes along the beach front were modest yet memorable, and featured a broad sense of style. Among the grand houses is a replica of the White House built for Governor Ross Sterling. It is this history that has made Morgan's Point one of Texas' most significant seaside communities.

But in the late 1950's much of Morgan's Point was lost due to construction of the Barbour's cut terminal of the Houston ship channel. To preserve the remaining homes and history of Morgan's Point, the Bay Ridge Park Association fought for a national historic designation to ensure that the history of the town lived on. Thanks to their efforts, the unique and colorful tradition of Morgan's Point will live on for future generations of Texans to enjoy.

ITALIAN-AMERICAN LEADERS IN MICHIGAN

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. KNOLLENBERG. Mr. Speaker, I rise today to honor two great Italian-American community leaders in southeastern Michigan, Judge Michael Martone and Dr. Augustine Perrotta. Each has been named Metropolitan Detroit's 1997 Italian-American of the Year by the Italian Study Club.

Judge Martone, the son of a first generation Italian-American, was elected to the district court bench in 1992. He created the Court in the Schools-Critical Life Choices, a program that relocates his courtroom to local schools. Students witness defendants being fined, punished, or jailed for drunk driving, drug possession, and other crimes.

The second part of the judge's program includes an interactive dialog about what the students witnessed and the lessons they can learn.

Judge Martone, whose program has been copied by other States and featured on NBC's "Today Show," remains very active in the local community with his wife Martha and their two sons, Jonathan and James.

Dr. Augustine Perrotta, a first generation Italian-American born after Mount Vesuvius' eruption drove his family from their ancestral home in Arienzo, worked his way through college and medical school, graduating as valedictorian of his medical school class.

Named the "Top Doc" by Detroit Monthly Magazine in 1995, Dr. Perrotta is a leader in the medical community serving on the boards of numerous hospitals in southeastern Michigan.

His philosophy of practice has been to use humor as medicine and he is well known for maintaining Italian traditions in his home. His hospitality, warmth, and kindness are not only enjoyed by his wife Grace and their three children, but each and every one of his patients.

Judge Martone and Dr. Perrotta are outstanding community leaders. As we enjoy the 23d annual Festa Italiana, I want to recommend them and thank them for their long-time service and loyal commitment to our community.

DOGS HAVE MORE FREEDOM

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. SMITH of New Jersey. Mr. Speaker, "Dogs have more freedom than us; at least they are not afraid to go outside." Mr. Speaker, this is the conclusion of a young Romani father in Slovakia who recounted his experience with growing skinhead violence in his country. His story is, regrettably, just one of the many documented in a January 1997 report prepared by the European Roma Rights Center [ERRC] entitled "Time of the Skinheads: Denial and Exclusion of Roma in Slovakia." This study describes a grim pattern of violent assaults against Roma perpetrated by skinhead extremists; it also suggests that local police forces have been, at best, unwilling to fulfill their obligation to protect their citizens and, at worst, have themselves actually engaged in violence against Roma. Descriptions of a 1995 organized attack on the entire Romani community in the town of Jarovnice—something that reads like a pogrom from a bygone era—were especially chilling.

Since Slovakia became an independent state in 1993, a great deal of international attention has, rightly, focused on the status of the Hungarian minority in that country, a community that makes up approximately 10 percent of the population. Slovakia also has another large minority population which is less well known abroad. While the exact number of Roma in Slovakia is contested, it is estimated to be in the hundreds of thousands. These people—the survivors of Nazi efforts to eradicate the Roma altogether—now face increasing violent attacks against their homes, their villages, and their lives.

The problems of Roma in post-Communist European countries are many, and often defy easy answers. But at least three of the problems described in "Time of the Skinheads" do have obvious solutions. First, the Slovak Government has failed to demonstrate any serious effort to acknowledge and address the widespread problem of violent skinhead attacks on Roma. On the contrary, some public officials—members of the ruling coalition—have repeatedly made crude racist remarks about the Roma. As long as such remarks stand uncontested or unchallenged by Prime Minister Meciar, skinheads will believe that they can attack Roma with impunity. Clearly, local police officials take their cues from the top. Accordingly, any improvement in the situation of Roma in Slovakia must begin with the leadership of that country stating that racism and bigotry will not be tolerated.

Second, the ERRC report described a pattern of excessive use of force by the police against Roma. When the victims seek to bring a complaint against the police, the charges are, in effect, reversed and the Rom is charged with assaulting the police. Significantly, the Council of Europe's Committee for the Prevention of Torture released a report on April 3, which also documented a problem of police brutality in Slovakia.

That report, like the report of the ERRC, noted that the failure to ensure that those charged with a criminal offense have adequate legal representation has significantly contributed to this miscarriage of justice. One of the purposes of providing such representation is to guarantee a fair trial, consistent with the due process of law, and to ensure that those accused of crimes do not have confessions extracted from them by force.

The failure to provide the accused with defense counsel violates one of the most important provisions of the international human rights system—the right to an attorney, a right articulated in article 14 of the International Covenant on Civil and Political Rights as well as para. 5.16 of the OSCE Copenhagen Document. I hope the Slovak Government will take immediate measures to redress this problem.

Finally, the ERRC report on Slovakia indicates that Slovak localities continue to use a system of tightly controlled residency permits to restrict the freedom of movement of Roma. Not only does this practice offend the nondiscrimination provisions of the Helsinki process, this system also harkens back to the rigid controls of the Communist days. If people are not permitted to move where the jobs are, how can a free market system flourish?

Unfortunately, Mr. Speaker, this pattern of violence against Roma is not unique to Slovakia. The ERRC, which was founded to defend the human rights of Roma, has also issued major reports on Austria and Romania. In addition, its most recent newsletter reported on problems Roma face in several other European countries. Clearly, there is much more that many governments in Central Europe can and should do to address these problems.

I realize that Slovakia is in the midst of grappling with a very broad range of fundamental questions regarding its development and future. The basic human rights of Roma should be a part of that agenda. I see no better time. Will Slovakia enter the 21st century as a country which seeks to unite its citizens in achieving common goals, or will it lag behind with those countries which have permitted nationalism and racism to divide their people and weaken the very state they worked so hard to create?

SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 2028 AND IRONWORKERS LOCAL 229: SAN DIEGO-IMPERIAL COUNTIES LABOR COUNCIL, AFL-CIO LABOR TO NEIGHBOR AWARD

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. FILNER. Mr. Speaker and colleagues, I rise today to recognize the Service Employees International Union Local 2028 [SEIU] and the Ironworkers Local 229 as they are honored by the San Diego-Imperial Counties Labor Council, AFL–CIO, for their strong support of the Labor to Neighbor program in San Diego and the Imperial Valley.

The Labor to Neighbor program educates and involves union members and their families in the campaign to protect jobs and the future of working people in San Diego and Imperial Counties.

The slogan of SEIU Local 2028 is "Politics is Union Business." This slogan embodies the essence of the Labor to Neighbor program. Local 2028 mobilized over 100 volunteers in the 1996 election and has also provided crucial support to the Labor to Neighbor Union Summer Program.

The Ironworkers Local 229 is being recognized for its leadership role in bringing Labor to Neighbor into the Imperial Valley. Local 229 also gave significant support to the Labor to Neighbor Union Summer Program and sponsored a golf tournament to help fund Labor to Neighbor's fall program.

For these activities, the San Diego-Imperial Counties Labor Council, AFL–CIO, recognizes SEIU Local 2028 and the Ironworkers Local 229 with their Labor to Neighbor Award. I am pleased to join in honoring their contributions to the working families of San Diego and Imperial Counties.

CENTENNIAL ANNIVERSARY OF THE INDIANA OPTOMETRIC ASSOCIATION

HON. DAVID M. McINTOSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. McINTOSH. Mr. Speaker, I want to join my Indiana Senate colleagues and echo their resolution congratulating the Indiana Optometric Association [IOA] on their 100 years of service to Indiana. The IOA has provided invaluable service to Hoosiers across the State. Therefore, may I add my blessing to Senate resolution included below and add my voice to the chorus of those thanking the IOA for the wonderful work they have provided for eye care in Indiana over the last century:

SENATE CONCURRENT RESOLUTION

A Concurrent Resolution celebrating the Centennial Anniversary of the Indiana Optometric Association

Whereas, the Indiana Optometric Association (IOA) was founded in 1897 and will be celebrating its Centennial Anniversary during the year 1997, and

Whereas, the IOA is marking 100 years of successful advocacy for the profession of optometry in Indiana, and

Whereas, the IOA has provided 100 years of service in the public interest on behalf of the eye care and eye health of Indiana's citizens, and

Whereas, the IOA was instrumental in the decision of the Indiana General Assembly that established the Indiana University School of Optometry in the early 1950s, and has forged an ongoing professional relationship with the School of Optometry that is a national model, and

Whereas, the IOA commends the Indiana General Assembly for its continuing support of the profession of optometry and the patients it serves, and

Whereas, the IOA has historically distinguished itself as an exemplary professional optometric association in the United States, and

Whereas, the IOA rededicates itself and the profession of optometry to serving the eye health and vision care needs of the citizens of the state of Indiana for the next 100 years.

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That, on behalf of the people of the State of Indiana, we extend our sincere appreciation to IOA for its dedicated service to the people of the State of Indiana and the profession of optometry.

SECTION 2. That the Secretary of the Senate is directed to transmit a copy of this resolution to the Indiana Optometric Association.

ONE CITIZEN CAN MAKE A DIFFERENCE

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. HUNTER. Mr. Speaker, today I rise to ask the House this question. Can an ordinary American citizen cause meaningful national legislation to be written and passed? Mr. Speaker, the answer is yes. Mr. Tony Snesko, a resident of San Diego County, has recently proved that this is possible, provided you possess the dedication and endurance necessary. Tony demonstrated a persistent effort which resulted in the passage of an amendment to section 505 of the Telecommunications Act regarding the scrambling of sexually explicit adult video programming.

While the cable television industry has done some moderate scrambling of sexually explicit video transmissions in the past, these acts could still be seen. Additionally, the audio was clear and described the sexually explicit nature of the video. Unfortunately, this programming of slightly scrambled pornographic material was on a channel that was only one click removed from the programming that children normally watch. It was not uncommon that in their attempt to reach their favorite cartoons, children would often accidentally see the pornographic material that was broadcast 24 hours a day on the adjacent channel.

Upon learning of this, Tony, the father of two children and a deacon in his local church, protested to the city council of his home town and the city attorney. He was told that there was nothing that could be done to eliminate this blight. The San Diego district attorney, the U.S. attorney, and the Federal Communications Commission had the same response to his concerns.

Taking action himself, Tony taped the explicit material, requested that the American Family Association pay for 535 copies, which they did, and brought these tapes to Washington, DC. Already having in mind the type of legislation needed to end the airing of this pornography on television, my office aided Tony in having this language written and introduced.

Over the next month, Tony visited the offices of all 435 U.S. Representatives, providing each Member's legislative staff with a copy of the video and the proposed bill. Tony even spoke with then chairman of the House Energy and Commerce Committee JOHN DINGELL. After witnessing Tony's dedication and persistence, Chairman DINGELL agreed to include the bill language as an amendment to a piece of telecommunications legislation that the committee was currently considering.

In 1994, legislation that required complete scrambling of pornographic material on television, both audio and visual, passed the U.S. House of Representatives. Tony then visited all 100 offices of the U.S. Senate, distributing his material and lobbying in favor of the legislation that had recently passed the House. As a result of this continued effort, Senator DIANE FEINSTEIN of California introduced a similar bill in the Senate where it successfully passed and was signed into public law by President Clinton in February 1996.

Following this action, Playboy magazine immediately sought legal action against the U.S. Government in an effort to challenge this legislation. The Delaware district court dismissed this lawsuit and Playboy has until April 23, 1997, to file an appeal with the U.S. Supreme Court. Mr. Speaker, as demonstrated by Tony Snesko, one citizen can make a difference.

HONORING BOB REED

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. COBLE. Mr. Speaker, on Saturday, April 19, a gentleman renowned for his warm and pleasant greeting and service for many years to thousands of Senators and Representatives, staff members, journalists, and others involved in and around Capitol Hill will observe a milestone in his life.

Bob Reed, the stately and congenial mixologist at The Monocle Restaurant, will celebrate his 70th birthday on Saturday.

In the more than a quarter century that Mr. Reed has served his customers, he has become a friend to many, regardless of party affiliation or ideology. I am sure that my colleagues join me in extending our most sincere congratulations to Bob on this special day in his life and wish him many, many more birthday anniversaries in the years ahead.

JEF EATCHEL: SAN DIEGO-IMPERIAL COUNTIES LABOR COUNCIL, AFL–CIO LEADERSHIP AWARD

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. FILNER. Mr. Speaker, I rise today to recognize Jef Eatchel, secretary-treasurer of the Hotel Employees and Restaurant Employees Union [HERE] Local 30, as he is honored by the San Diego-Imperial Counties Labor Council, AFL–CIO, for his leadership and contributions to the labor movement and to the San Diego community as a whole.

Under his leadership, Local 30 has grown to become a powerful union and has been a catalyst in San Diego for organized labor's renewed commitment to organizing. HERE has been at the forefront of focusing both employers and elected officials on the improvement of the lives of working people in San Diego County.

Jef has been active in the labor movement for almost two decades. He has dedicated himself to improving the wages, benefits, working conditions, and quality of life for union and nonunion workers in the hotel and restaurant industry.

Jef serves as a trustee of the HERE international union pension and trust fund, is first vice president of the Culinary Alliance, and has served as a trustee for the International Foundation of Employee Benefits for the last 5 years.

I have known Jef for many years, and I can attest to his dedication and commitment to the causes for which he labors. He is highly deserving of the San Diego-Imperial Counties Labor Council, AFL–CIO Leadership Award.

HELP TRAVELERS BREATHE EASIER

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. LEWIS of Georgia. Mr. Speaker, today I am introducing the Smoke-Free Transportation Facilities Act, legislation that would ban smoking in all transportation facilities that receive Federal funds.

The Smoke-Free Transportation Facilities Act would provide a breath of clean air for travelers. It will provide some relief to the traveler who cannot simply get up and leave when others expose them to tobacco smoke and the risk of premature death.

Smoking and second-hand smoke are class A carcinogens. Cigarettes kill more than 434,000 Americans each year. Tobacco addiction costs the American public more than $65 billion each year in health care costs and lost productivity. Tobacco is a known killer, yet there are no Federal laws or regulations governing smoking in public areas. For this reason, millions of people are exposed to the dangers of second-hand smoke each day. The exposure to second-hand smoke is particularly prevalent in transportation stations, as travelers have little choice other than to remain in the airport, train station, or bus terminal as they await their departure.

The Federal Government has a responsibility to protect travelers from the dangers of second-hand smoke. I believe we all have the right to breath clean air. The Smoke-Free Transportation Facilities Act will help ensure that people who have to travel, or even choose to travel, can breathe a little easier.

CHRISTINE LOPEZ 1997 NATIONAL CRIME VICTIM SERVICE AWARD RECIPIENT

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Ms. SANCHEZ. Mr. Speaker, I would like to take the time to honor Ms. Christine Lopez as recipient of the Crime Victim Service Award by the Attorney General Janet Reno on Friday, April 18, 1997. Ms. Lopez is being recognized for her outstanding dedication to the Gang Victim Assistance program offered by the Community Service Programs, Inc. of Orange County, CA. The Gang Victim Assistance program was started in 1990 as a private nonprofit human service organization that helped extend other services provided by the Community Service Programs, Inc. Ms. Lopez contributes her expertise in gang-related victim and witness issues as the program's supervisor. Furthermore, Christine Lopez's involvement with the Latino community provides another benefit to a team specially created to handle victim and witness issues. This team comprises eight bicultural and bilingual victim specialists and is therefore able to respond to problems that Latino crime victims face when confronted by gang violence.

These specialists are on call 24 hours a day, 7 days a week, and respond to an array of crimes that require victim support and counseling. Ms. Lopez's team services include accompanying investigating officers to the crime scene, delivering death notifications, assessing crime victim's safety and emergency needs, providing counseling services, and referrals to support groups. The team not only provides these services at the time of the crime, but continues to serve victims with support and counseling throughout the course of each case. This remarkable program has been so successful and filled with praise that the Office for Victims of Crime in the Justice Department is in the process of creating a protocol for other communities that are in need of similar programs.

Ms. Lopez's dedication has earned her State and national recognition for her efforts. This recognition includes Ms. Lopez being selected to serve on the advisory board for training and technical assistance for service providers helping Hispanic victims of crime. She was the first recipient of the annual Doris Tate Award that recognizes outstanding commitment and service to victims of crime presented by Governor Pete Wilson in 1993. I would like my colleagues in Congress to join me in recognizing Christine Lopez's contributions to the victims of crime and to commend her selection as a recipient of the Crime Victims Service Award by the Department of Justice and Attorney General Janet Reno.

CONGRATULATIONS POLSON HIGH SCHOOL

HON. RICK HILL

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. HILL. Mr. Speaker, on April 26–28, 1997, more than 1,200 students from 50 States and the District of Columbia will be in Washington, DC, to compete in the national finals of the We the People * * * The Citizen and the Constitution program. I am proud to announce that the class from Polson High School will represent my State of Montana. These young scholars have worked diligently to reach the national finals by winning local competitions in their home State.

The distinguished members of the team representing Montana are: Erin Alcorn, Tracee Basler, Shawna Briney, Claire Brownell, John

Brueggeman, Sierra Carlson, Toberta Dickson, Rick Donaldson, Ruth Fouty, Megan Gran, Kristi Greenwood, Chandra Hermanson, Eric Hogenson, Haydee Huntley, Katie Leonard, Liz Liebschutz, Lori Longin, B.J. Mazurek, Jamie McOmber, Shannon Meeks, Celeste Olsen, Curtis Owen, Dave Robinson, Trena Shima, Heidi Trytten.

I also would like to recognize their teacher, Bob Hilsop who deserves much of the credit for the success of the team. The State coordinator, Sue Suiter, also contributed a significant amount of time and effort to help the team reach the national finals.

The We the People * * * The Citizen and the Constitution program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

The We the People * * * program provides an excellent opportunity for students to gain an informed perspective on the significance of the U.S. Constitution and its place in our history and our lives. I wish these students the best of luck in the national finals and look forward to their continued success in the years ahead. Keep up the good work Polson High School.

TRIBUTE TO DANIEL GARVEY, AN OUTSTANDING TEACHER AND COACH

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. LIPINSKI. Mr. Speaker, today I come to the floor of the House of Representatives to honor Daniel Joseph Garvey for his long and distinguished career as a high school teacher and basketball coach to many young men from Chicago's Southwest Side.

On April 18, 1997, Dan Garvey will be honored by his family, friends, former students, and colleagues at Gaelic Park, Midlothian, IL, for over 40 years of his service and dedication to Marist High School and De La Salle Institute.

Dan Garvey was born and raised on Chicago's Southwest Side by John and Mary Garvey, who were both from County Kerry, Ireland. Dan's family also included his brother Jack and two sisters, Marie and Therese. Dan graduated from St. Kilian Grammar School and De La Salle, and he earned a bachelor's degree from St. Ambrose College and a master's degree from Northeast Missouri State University.

Dan Garvey was an honor roll student and lettered in basketball in all 4 years at De La Salle. Dan earned a scholarship to St. Ambrose College where he was known as Dan "Ceps" Garvey and described as a born hustler on the basketball court. His college basketball career was highlighted with the Intercollegiate and Midlands Conference Championship. Dan's college studies were interrupted for 2 years while he served his country during the Korean War. Before returning to St. Ambrose, Dan married his high school sweetheart and love of his life, Donna Mae Corriston.

Dan Garvey has been associated with Marist High School for over 30 years. Dan was the school's first varsity basketball coach, the head of the physical education department, as well as the first alumni director. Prior to his tenure at Marist, Dan taught and coached at De La Salle with another alum, the highly respected Jerry Tokars.

Though a man of few words, Dan Garvey earned the respect of many young men who went through the doors of Marist and De La Salle for his kindness and compassion, his guidance and positive influence, his work ethic and enthusiasm, and, not the least of, his legendary Irish personality.

In 1987, Dan received the Marist Alumni's Man of the Year Award for his longtime devotion and service to the Marist community. In 1990, Dan's basketball career was recognized by his induction into the De La Salle Sports Hall of Fame.

An inspiration to all of us, Dan Garvey always displayed his total dedication and love to his late wife, Donna, whose memory is also honored. Together they raised four wonderful children, Maureen, Lynn, Dan, Jr., and Kevin.

Mr. Speaker, I ask my colleagues to join with me today in saluting Daniel J. Garvey on his successful career at Marist High School, and wish him the best in his future endeavors.

REMARKS FROM THE MEMORIAL SERVICE FOR RUTH P. RITTER MADE BY HER SON, DON RITTER ON SATURDAY, FEBRUARY 1, 1997

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. BILIRAKIS. Mr. Speaker, I rise today on behalf of a former colleague and friend, Congressman Don Ritter. He recently lost his mother and asked that I share the eulogy he delivered in her honor.

Please bear with my reading these remarks. I'm not accustomed to reading speeches but * * * it's easier for me to get to the finish. I guess Mom was emotional, too. Listen to this if you can hear us Mom, Holden came all the way from Germany, Christopher from Los Angeles, Kristina from San Francisco, Edie and Jordan from Pennsylvania, Melody came from right here in Seffner but she would have come from around the world. It is a truly wonderful thing that we gather here today to say goodbye to our beloved mother, grandmother, guardian, role model and friend. But it is not a final adieu that we bid, for she will be with us in spirit; she will be in our hearts for as long as we live, perhaps forever.

I believe I speak for everyone here and for all who knew her who could not be here today. When we think about what defined Ruth P. Ritter during her marvelous, exciting, rich and full lifetime, here's what rings out like a bell.

She was Nurturing: Ruth P. Ritter was the most nurturing person I have ever known. She nurtured us, constantly, over the decades—our education/families/our security after she was gone.

She had Dignity: She had great dignity. She was a grand lady—her principles did not shift and change with time. She was consistent, judging people by their deeds, not their words.

She was an Optimist: She always looked to the brighter side. Never did she give up hope. She had suffered greatly but never lost her cheery spirit. When her health deteriorated, she still focused on her children and her grandchildren. And she worked at making her hopes come true.

She was Modest: She was so modest about her own achievements, the way she lived was so modest. She clipped coupons until the very end—while the stocks and bonds of the trusts she established for family grew large.

And she was Talented: First, she was a great mathematician and a great teacher. She was an award winning teacher of children. She taught us. And she did all this in spite of a handicap. She had difficulty hearing and that went way back. I remember her fear, after working so hard to become an Assistant Principal, at taking the Principal's exam based on her hearing. And that was long ago. It was a constant difficulty as she was so keen on engaging in discussions with people. Yet, she would always be a natural teacher, almost up to the end. She used to work late at night preparing her lessons. I remember helping her with the art work, posters, presentations, teaching materials. We worked together. We enjoyed each other.

Second, she was a great investor of her capital. She took Dad's limited investments and a never ending influx of a part of her pension and invested wisely, continuously, relentlessly. She put it together for us. She barely touched it. She told me this would be her gift to her children and grandchildren. It meant more to her than spending it on herself. And that's the way she lived.

She Sacrificed: She was born sacrificer for her family. That was her greatest gift throughout our lives. Gifts of love, friendship, concern and wealth live on. She got enormous pleasure from giving to us and thereby helping us to build our own lives. Generosity was Ruth Ritter's middle name. She helped me at every important stage of my life.

She Persevered: Perseverance was her stock in trade. When she made up her mind, something had to be, she would make it happen. She, paraphrasing Sir Winston Churchill, would "never give up." Sometimes it could be called stubbornness . . . but whatever you call it, her perseverance made her strong in life and kept her going through grievous times . . . I can remember the times, the sound and the fury over things we both believed were true . . . oppositely!

Edie and I and Jason and Kristina will never forget the Thanksgiving and Christmas holiday visits—the magnificent presents, the turkey dinners, the love—first with Dan and Mom and then with Mom alone. And although we've lost both and Steve in less than a year, Mom, we will not despair. We will take a page from your book and go on in the very best way we can.

When her firstborn son and my brother, Stephen, with whom there was a truly wonderful reconciliation in the latter years, died prematurely last year, it was an enormous blow to Mom. Stephen and Melody were her great friends and near neighbors in the Tampa area and were the reason Mom came back east for what she knew were her final years. Steve's death brought unimaginable sadness to Mom, but she never lost her optimism about life and her family.

And last, dear mother of mine and of all of us, how you would have gotten pleasure to see us gathered together—your loved ones, your family hopefully getting to know one another after so many years.

The really good part of today, the sunrise part, is that we are, at last, our blood line, our family and those who joined it, ready to go forward, smartly and confidently, into the future. We will build on the love, the nurturing spirit, the dignity, the hope, the modesty, the optimism, the perseverance, and the skills of life that we received and we learned from you.

Until we meet again, Mom, we shall love, cherish and remember you.

ASSISTED SUICIDE FUNDING RESTRICTION ACT OF 1997

SPEECH OF

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 10, 1997

Mr. STOKES. Mr. Speaker, I rise to express my support for H.R. 1003, the Assisted Suicide Funding Restriction Act of 1997. This important piece of legislation prohibits the use of Federal funds to support, advocate, and/or facilitate assisted suicide, even if assisted suicide becomes legal in one or more States.

Programs covered by the bill include Public Health Service block grants, Medicaid, Medicare, Indian health care, the Military Health Care Program, the Veterans Medical Care Program, and the Federal Employee Health Benefits Program. While Federal funds have not been used to pay for assisted suicide, euthanasia, or mercy killing, H.R. 1003 legislatively prohibits such from taking place.

Adoption of this measure is an important move in the assisted-suicide debate. As we consider this legislation, courts in Florida and Oregon are deliberating on the legality of assisted suicide. And, the Supreme Court is reviewing decisions, by the Second and Ninth Circuit Courts of Appeals, which have declared assisted suicide a new constitutional right. The Supreme Court's pending decision on these cases has major implications for most States across this Nation and many are looking to Congress for clear and effective policy directions.

Until now, Mr. Speaker, Federal programs have generally lacked a written policy on this issue. By passing H.R. 1003, we preclude potential problems that may arise from the decisions pending, in the Supreme Court and other courts across this country, on assisted suicide. However, H.R. 1003 does not prevent States from legalizing assisted suicide or from supporting it with State funds.

This measure states clearly that it will have no effect on issues of abortion, withdrawal of medical treatment, or the use of drugs needed to alleviate pain, even when an unintentional side effect could be a shortened life.

Mr. Speaker, I urge my colleagues to vote in favor of prohibiting the use of Federal funds for assisted suicide. Vote "yes" for H.R. 1003.

HOMEOWNERS ASSOCIATION CLARIFICATION ACT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. SHAW. Mr. Speaker, today, I am introducing legislation that addresses a problem developing in the resort and vacation industry, an industry of great importance to my home State of Florida and many other States in this country. Without corrective legislation, I fear the 1.7 million timeshare owners in the United States will ultimately bear an unfair Federal tax burden on their timeshare homeowners associations, simply because these associations complied with State law and sound business practices.

The issue involves the Federal income tax treatment of timeshare homeowners associations. Since the 1970's, timeshare homeowners associations have applied the same tax principles used by condominium associations that do not elect or do not qualify for tax-exempt status under section 528 of the Internal Revenue Code. An IRS Technical Advice Memorandum (TAM 9539001), however, has concluded that a timeshare homeowners association cannot use the same tax treatment relied on by condominium associations in determining taxable income.

As a result, it appears the IRS is poised to adopt burdensome standards for timeshare associations that could result in the inclusion of all regular member assessments in income, even assessments intended for capital reserve expenditures that are held in trust for future use. Many States, including my State of Florida, require timeshare homeowners associations to maintain capital reserves. I believe it is entirely appropriate for States to require timeshare associations to maintain capital reserves in preparation for future expenditures, such as repairing or replacing a roof or repaving a parking lot. In addition to complying with State law, the timeshare homeowners association practice of maintaining capital reserves represents a sound business practice, one we should encourage, not discourage through punitive Federal tax treatment.

The legislation I am introducing today will permit timeshare homeowners associations to elect section 528 of the Internal Revenue Code. Currently, timeshare associations are effectively prohibited from electing section 528 as a result of a residency requirement of that section of the Code. Specifically, Treasury regulations under section 528 require that at least one-half of the units of a housing development must be occupied by the same owner for at least 30 days of the year. Timeshare associations by their very nature, where occupants tend to hold unit ownership for 1 or 2 weeks per year, are unable to meet this residency standard. As a result, timeshare homeowners associations, which are comprised of timeshare owners, are not permitted to elect section 528.

Under my proposal, most timeshare homeowners association that elect section 528 would pay higher taxes on their nonexempt income (i.e., investment income) but appropriately would not be taxed on their exempt income (i.e., membership assessments that are expended to maintain and operate property commonly owned and used by members). I believe this is an exceedingly reasonable solution to the current problem and would hope that many of my colleagues would join in cosponsoring this legislation.

Mr. Speaker, the timeshare industry has done an outstanding job polishing the professionalism of the industry over the past 10 years and providing a high quality vacation product for Americans across the country. In fact, the industry has developed to a level of popularity and sophistication where 1.7 million Americans now own timeshares in the United States, and nearly 120,000 new buyers purchase a timeshare each year. Further, an impressive $6 billion is spent annually by timeshare owners while vacationing at timeshare resorts in the United States. This level of spending and the continued growth of the industry is creating a broad variety of jobs in affected communities and adding significantly to local tax bases.

Mr. Speaker, let my colleagues understand that the strong and sustained growth of the timeshare industry is not a phenomenon indigenous to my State of Florida. The growth of the timeshare industry, measured at 16 percent annually over the past 8 years, is also being enjoyed in many regions across the country, particularly in the States of California, Colorado, North Carolina, Texas, and Arizona.

In addition, with 1.7 million timeshare owners, we can rest assured that we all have constituents who will be adversely and unfairly affected by this IRS policy development. To provide Members a sense of the growth of the industry throughout our country, I have included a chart from the publication "Timeshare Purchasers: Who They Are, Why They Buy, 1995". This chart links the number of households who own timeshares by State, as well as the penetration rate within each State.

It is clear, however, that without corrective legislation, many timeshare homeowners associations will incur Federal tax liabilities simply for complying with State law and following sound business practice. Common sense tells us that timeshare homeowners associations will have little choice but to pass this unfair tax increase on to their timeshare owners in the form of higher assessments.

With these thoughts and concerns in mind, I am introducing the Homeowners Association Clarification Act, that will correct this problem and permit timeshare associations to continue to comply with State law on capital reserves and follow sound business practice without incurring Federal tax liabilities on these funds. I urge my colleagues to join me in cosponsoring this legislation.

HOMEOWNERS ASSOCIATION CLARIFICATION ACT OF 1997

In March 1997, U.S. Representative E. Clay Shaw introduced the "Homeowners Association Clarification Act of 1997". The legislation is intended to resolve an ongoing controversy between the I.R.S. and timeshare homeowners associations, comprising the nation's 1.7 million timeshare owners.

Since the early 1970's, timeshare homeowners associations (HOAs) have applied the same tax principles used by condominium associations. Under these long established principles, timeshare HOAs applied annual assessments paid by timeshare owners in excess of annual expenses to offset assessments for future years (so-called "excess assessments"). Second, assessments allocated to various repair and replacement reserve accounts were considered tax exempt. Reserve funds are dedicated to future capital improvements such as roof repair or replacement and parking lot repavement. The interest earned from reserve accounts have always been considered taxable income.

In 1995, the I.R.S. issued a Technical Advise memorandum (TAM) with respect to one timeshare HOA. The TAM took the position that the Revenue ruling relied upon with respect to excess assessments is not applicable to timeshare HOAs. The TAM concluded that timeshare HOAs provide different level of services to their owners (than condominium HOAs) and that owners were not given the option to have the excess assessment returned. In addition, current I.R.S. positions place in great doubt the tax status of additions to capital reserve accounts.

While the TAM is directed only to the HOA under audit, the I.R.S. has both maintained and intensified the positions taken in the TAM toward the industry as a whole. Subsequent formal guidance provided by the I.R.S. constructs a costly and burdensome administrative scheme for timeshare HOAs to comply.

The Shaw Bill would permit qualifying timeshare HOAs to elect to be treated as tax exempt entities under Section 528 of the Internal Revenue Code.

In order to elect Section 528, a timeshare HOA would be required to derive 60% of its income from members and 90% of the revenue of the HOA would be required to be spent to maintain association property. Under Section 528, prepaid and excess assessments and capital reserve accounts would be tax exempt. However, Investment income would not only continue to be taxed, but at higher rates for the overwhelming majority of timeshare HOAs.

HOUSEHOLDS OWNING RESORT TIMESHARE, BY STATE AND INCOME CATEGORY

State	Total households owning resort timeshare	Income of households owning timeshare		Penetration rate for:		
		Over $35,000	Over $50,000	All households (percent)	Households with incomes: Over $45,000 (percent)	Households with incomes: Over $50,000 (percent)
Alabama	12,000	10,700	8,400	0.76	1.68	2.32
Alaska	3,900	3,500	2,700	1.88	2.58	2.70
Arizona	37,900	33,700	26,400	2.52	5.36	7.68
Arkansas	3,100	2,800	2,200	0.34	0.80	1.18
California	243,900	216,800	169,700	2.24	3.57	4.25
Colorado	29,700	26,400	20,600	2.09	3.74	4.83
Connecticut	30,500	27,100	21,200	2.49	3.40	3.70
Delaware	5,600	5,000	3,900	2.10	3.40	4.33
Florida	116,900	103,900	81,400	2.13	4.30	5.87
Georgia	49,400	43,900	34,400	1.93	3.71	4.95
Hawaii	3,700	3,300	2,600	0.97	1.33	1.47
Idaho	5,800	5,200	4,100	1.45	2.98	4.40
Illinois	60,100	53,400	41,800	1.40	2.21	2.60
Indiana	26,100	23,200	18,100	1.22	2.25	3.08
Iowa	9,400	8,300	6,500	0.86	1.67	2.40
Kansas	9,200	8,200	6,400	0.94	1.80	2.40
Kentucky	14,900	13,200	10,300	1.04	2.28	3.10
Louisiana	11,900	10,600	8,300	0.77	1.66	2.18
Maine	10,600	9,400	7,400	2.24	4.30	6.32
Maryland	49,800	44,300	34,700	2.72	4.02	4.78
Massachusetts	72,900	64,800	50,700	3.23	4.85	5.55
Michigan	42,700	38,000	29,700	1.22	2.10	2.63
Minnesota	25,900	23,100	18,000	1.51	2.62	3.49
Mississippi	4,700	4,200	3,300	0.50	1.27	1.90
Missouri	25,700	22,900	17,900	1.27	2.49	3.38
Montana	5,000	4,500	3,500	1.50	3.23	4.55
Nebraska	3,300	2,900	2,300	0.53	1.01	1,41
Nevada	9,400	8,300	6,500	1.71	3.02	4.05
New Hampshire	13,200	11,800	9,200	3.16	4.62	5.49
New Jersey	75,800	67,400	52,800	2.66	3.52	3.68
New Mexico	7,200	6,400	5,000	1.23	2.71	3.80
New York	126,000	112,000	87,700	1.88	3.05	3.54
North Carolina	51,400	45,700	35,800	1.92	3.91	5.59
North Dakota	1,800	1,600	1,200	0.72	1.51	2.10
Ohio	49,400	43,900	34,400	1.17	2.18	2.95
Oklahoma	7,900	7,100	5,500	0.64	1.58	2.42
Oregon	18,400	16,400	12,800	1.55	3.09	4.44
Pennsylvania	68,200	60,700	47,500	1.49	2.65	3.44
Rhode Island	12,200	10,800	8,500	3.20	5.82	7.99
South Carolina	27,800	24,700	19,300	2.09	4.49	6.40
South Dakota	1,600	1,400	1,100	0.59	1.11	1.48
Tennessee	25,700	22,800	17,900	1.31	2.72	3.71
Texas	67,600	60,100	47,000	1.04	1.95	2.44
Utah	9,500	8,500	6,600	1.64	2.88	4.03
Vermont	3,700	3,300	2,500	1.68	3.16	4.40
Virginia	69,900	62,100	48,600	2.89	4.76	5.87
Washington	45,000	40,000	31,300	2.21	3.71	4.71
West Virginia	5,800	5,200	4,000	0.83	2.11	3.21
Wisconsin	30,500	27,100	21,200	1.61	2.78	3.72
Wyoming	1,800	1,600	1,200	1.00	1.77	2.31
District of Columbia	3,800	3,300	2,600	1.59	2.74	3.19
Total/Average	1,648,200	1,465,500	1,146,700	1.72	3.05	3.80

Source: Unpublished information obtained from Interval International and Resort Condominiums International; The Resort Timeshare Industry in the United States: 1995; and Sales and Marketing Management: "1994 Survey of Buying Power."

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 17, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 18

9:30 a.m.
Labor and Human Resources
To hold hearings to examine proposals to improve the health status of children.
SD–430

10:00 a.m.
Foreign Relations
To hold hearings on the nomination of Thomas R. Pickering, of New Jersey, to be Under Secretary of State for Political Affairs.
SD–419

APRIL 22

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the National Science Foundation and the Office of Science and Technology Policy.
SD–192

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Environmental Management Program of the Department of Energy.
SD–124

Indian Affairs
To hold hearings on S. 459, to authorize funds for and extend the Native American Programs Act of 1974.
SR–485

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Agricultural Research Service, the Cooperative State Research, Education, and Extension Service, the Economic Research Service, and the National Agricultural Statistics Service, all of the Department of Agriculture.
SD–138

2:00 p.m.
Judiciary
Antitrust, Business Rights, and Competition Subcommittee
To hold hearings to examine the antitrust implications of the British Airways and American Airlines Alliance.
SD–226

APRIL 23

9:30 a.m.
Labor and Human Resources
To resume hearings on proposed legislation authorizing funds for programs of the Higher Education Act.
SD–430

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on medical programs.
SD–192

Appropriations
District of Columbia Subcommittee
To hold hearings on an additional funding request for fiscal year 1997 by the District of Columbia Financial Responsibility and Management Assistance Authority for capital improvements to D.C. public schools and for public safety agencies.
SD–138

Armed Services
To hold hearings on the Administration's proposal on NATO enlargement.
SH–216

Commerce, Science, and Transportation
Manufacturing and Competitiveness Subcommittee
To hold hearings to examine the current state of manufacturing in the United States.
SR–253

APRIL 24

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on U.S. agricultural export issues.
SR–332

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the National Endowment for the Arts/National Endowment for the Humanities.
SD–192

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Corp of Engineers and the Bureau of Reclamation, Department of the Interior.
SD–124

Rules and Administration
To hold hearings to discuss revisions to Title 44, relating to the operations of the Government Printing Office.
SR–301

Small Business
To hold hearings to review the Small Business Administration's non-credit programs.
SR–428A

10:00 a.m.
Labor and Human Resources
To hold hearings to examine issues relating to vocational education.
SD–430

APRIL 29

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Veterans Affairs.
SD–138

Energy and Natural Resources
To hold oversight hearings to review a GAO evaluation of the development of the Draft Tongass Land Management Plan.
SD–366

Indian Affairs
Business meeting, to mark up S. 459, to authorize funds for and extend the Native American Programs Act of 1974; to be followed by an oversight hearing on the implementation of the San Carlos Water Rights Settlement Act of 1991 (P.L. 102-575).
SR–485

Special on Aging
To hold hearings to examine the chronic health care delivery system.
SH–216

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Commodity Futures Trading Commission, and the Food and Drug Administration, Department of Health and Human Resources.
SD–124

Labor and Human Resources
To hold hearings on proposed legislation authorizing funds for programs of the National Endowment for the Arts and the Humanities.
SD–430

APRIL 30

9:30 a.m.
Rules and Administration
To resume hearings to discuss revisions to Title 44, relating to the operations of the Government Printing Office.
SR–301

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on the structure and modernization of the National Guard.
SD–192

MAY 1

9:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of the Interior.
SD–192

9:30 a.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold hearings on S. 357, to authorize the Bureau of Land Management to manage the Grand Staircase-Escalante National Monument.
SD–366

Labor and Human Resources
Public Health and Safety Subcommittee
To hold hearings to examine biomedical research priorities.
SD–430

Small Business
To hold hearings on the Small Business Administration's finance programs.
SR–428A

MAY 5

2:30 p.m.
Energy and Natural Resources
To hold hearings on S. 430, to amend the Act of June 20, 1910, to protect the permanent trust funds of the State of New Mexico from erosion due to inflation and modify the basis on which distributions are made from those funds.
SD–366

MAY 6

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the National Aeronautics and Space Administration.
SD–138

MAY 7

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD–192

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Transportation, focusing on transportation infrastructure financing issues.
SD–124

MAY 8

9:30 a.m.
Energy and Natural Resources
To hold a workshop to examine competitive change in the electric power industry, focusing on the effects of competition on fuel use and types of generation.
SH-216

MAY 14

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on environmental programs.
SD-192

MAY 21

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on Air Force programs.
SD-192

MAY 22

9:30 a.m.
Energy and Natural Resources
To resume a workshop to examine competitive change in the electric power industry, focusing on the financial implications of restructuring.
SH-216

JUNE 4

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD-192

JUNE 11

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.
SD-192

JUNE 12

9:30 a.m.
Energy and Natural Resources
To resume a workshop to examine competitive change in the electric power industry, focusing on the benefits and risks of restructuring to consumers and communities.
SH-216

CANCELLATIONS

APRIL 17

10:00 a.m.
Commerce, Science, and Transportation
Oceans and Fisheries Subcommittee
To hold hearings on S. 39, to revise the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean.
SR-253

SENATE—*Thursday, April 17, 1997*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, without whom we could not take a breath or think a thought, we are accountable to You for the way we live the precious days of our lives. Often we hear people who have escaped from some accident or some life-threatening illness say, "God must have some reason for saving my life. I want to find out what it is and get on with it." May all of us be no less grateful for life or no less intentional in living out the special purpose You have for us.

Suddenly, we feel differently about the relationships and responsibilities of the day ahead. You have plans for us and we don't want to miss them. There are things You have appointed us to do and if we don't do them, they will not be done. Help us not to procrastinate by putting off to the day after tomorrow what needs to be done today.

Lord, fill us with Your spirit and give us an enthusiastic, positive attitude for today. Help us to express delight in the people of our lives. They have enough burdens to carry; may we not be one of them. We can choose whether we will drag our feet today or walk with a spring in our step because You are the unseen, but loyal Friend who holds our hands. Through our Lord and Saviour.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized, Mr. BENNETT.

SCHEDULE

Mr. BENNETT. Mr. President, today the Senate will be in a period of morning business until the hour of 2 p.m. to accommodate a number of Senators who have requested time to speak. It is my hope an agreement will be reached this morning to begin consideration of S. 495 regarding the unlawful use or transfer of chemical weapons. If an agreement is reached, Senators can expect a couple of hours of debate beginning probably around 2 p.m. on the bill, with a vote later this afternoon.

Therefore, Senators can expect rollcall votes during today's session of the Senate. As always, of course, the majority leader will notify Senators as agreements are reached.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m. with each Senator permitted to speak therein for up to 5 minutes.

The Senator from Utah is recognized to speak for up to 1 hour.

Mr. BENNETT. I thank the Chair.

THE BUDGET

Mr. BENNETT. Mr. President, this time of year is budget time. Since it is budget time, it is a time when the Senate Chamber has been filled with speeches about budgets, debt, the economy, taxes, and all the rest of the subjects that have to do with our joint effort—joint, meaning Members of both parties, Members of both Houses, Members of both branches, the executive as well as the legislative—to achieve a balanced budget by the year 2002. That is a very laudable goal, one that has been put off for too long. I am delighted to be here representing the State of Utah as the Congress launches itself in this effort.

However, as I have listened to these speeches on both sides of the aisle, it has occurred to me that there is more political sloganeering than analytical analysis that leads toward a better understanding of the problems we face. Therefore, I take the floor today in an effort to lay out what I think is a clear understanding of where we are and what we are looking at with respect to the budget, our deficit, and our future.

One of Washington's most thoughtful and capable political reporters, David Broder, did a column on this subject in which he addressed the issue of whether or not we should have tax cuts in the middle of the debate over balancing the budget. He coined a magnificently succinct phrase. He lauded those who said we must put off tax cuts until the budget is balanced, stating it this way: "In other words, eat your spinach before you get the dessert."

It is a great phrase and worthy of Mr. Broder's skill as a journalist. It also happens to be wrong.

It implies that tax cuts are without nourishment and have no contribution to the meal. They are a reward for doing your job rather than an integral part of doing your job. Much as I respect Mr. Broder and those who have echoed this sentiment in this Chamber, I think that they are in error. We must examine the whole circumstance of where we are in order to understand the role that proper tax policy can play.

Now, in this Chamber, one very familiar image has been with us during this debate which, like David Broder's phrase, is very compelling and very easy to understand. The image is drawn by people on both sides of the aisle, of a family, sitting around the table in their kitchen, going over the family budget. The father says to the members of the family, "We cannot balance our family budget. Our income is not sufficient to cover the expenses." Then the father says to the mother, and solemnly to the gathered children, "We have only two choices. We can either somehow convince the boss down at the factory to give us a raise or we can cut our expenditures. Since the boss is not inclined to give us a raise, we will have to tighten our belts, do the right thing, and cut back on our expenditures."

After we conger that image to mind, those in this Chamber are told the Government is the same way. We must tighten our belts, stop the spending, cut down on the expenditures just like that family. Again, it is a powerful image. It is easily remembered. It surrounded by a great deal of emotion, and it is wholly wrong, just like the spinach and the dessert.

In the process of hearing about the families, we always see this chart. It is displayed by people on both sides of the aisle. This is the chart showing what is happening to the national debt. The national debt is so low it did not show up on the chart in the years prior to 1941, and then gradually it starts creeping up and stays about level and then suddenly it explodes and people point to this chart and remember the family, and say a family that is going into debt this rapidly is headed for absolute disaster.

I want to ask you to consider a different image, a different table, and a different group sitting around the table, that will help us understand, in my view, what is really going on in the economy. Instead of a family sitting around the table talking about their finances, let us consider a group of business people sitting around a boardroom table of a company. The chief executive officer of the company, we will

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

give him the title of chairman of the board, the chairman of the board calls his people together and says to them, "We have a deficit in this company of about $1 million a month. If we cannot solve that deficit problem we will go bankrupt. What can we do to deal with a deficit of $1 million a month?"

His first expert steps up and says, "Mr. Chairman, I have examined this issue very carefully and I can tell you what it is we need to do. Without question, we can solve our problem if we simply raise our prices. We are selling $50 million a month worth of our products. So if we raise our prices 2½ percent, we will make enough money to cover our $1 million a month deficit." Case closed. All you need to do is raise your prices.

The next expert stands up and says, "Mr. Chairman, I have been considering this. Raising prices is absolutely the worst thing you could do. As a matter of fact, I know the answer to our problem. We must cut prices. Yes, our problem is that our competition is cutting into our market share. We are losing sales right and left because our prices are too high. If we simply cut our prices by 5 percent across the board, the increased volume will do two things for us. No. 1, our total sales will go up; and No. 2, our cost of sales will come down as we get economies to spread over a larger number of units. So I disagree absolutely with the first expert. He says raise prices, and I say cut prices."

Then the third expert stands up and addresses the chairman in our boardroom and he says, "No, they are both wrong. The price structure is just fine. What we must do is spend more money on plant and equipment. Our factory is outmoded, our costs are enormously high in the factory. If we spend another $50 million on the factory and retooling and new equipment, we would cut our overall cost of manufacturing by more than $1 million a month, and we would get out of the deficit circumstance."

When he sits down, the fourth expert stands up and she says to the chairman of the board, "Mr. Chairman, they are all wrong. We do not need to raise prices or cut prices. We certainly do not need to increase spending. All we need to do is cut spending, cut the overhead. Our overhead is running about $11 million a month, and if we cut it 10 percent that would give us the $1 million a month we need to come to a break-even position."

So there sits the chairman of the board. He has four groups advising him. The four groups are saying to him, "raise prices, cut prices, increase spending, cut spending." He thanks them all for their efforts. They leave. He is there, left alone with his assistant who does not have a great deal of experience in the business, and looks at the chairman of the board and says to him, "OK, you have four options. Which one are you going to take?" Because we are dealing with a wise chairman who has a great deal of experience in the free market system, he smiles at his assistant and says, "All four."

Yes, Mr. President, all four. When you manage a business that is constantly changing from day to day, as every business is, and you realize that you cannot put in a static pattern and then leave it forever, you realize that you have some products that are not price sensitive, and you can raise the price and thereby increase your margins without having any punishment in the marketplace. You have some products that are, perhaps, overpriced or need a lower price in order to increase their hold on the market, so you cut the prices on those products.

Yes, you have some increased spending for plant and equipment, research and development. It is the future of your business that depends on your increased spending in those areas. Of course, there are always areas where you have to cut spending.

In Government terms, what we are saying with this pattern is, if this were the Government sitting around that table instead of a business, there would be some areas where you would cut taxes, some areas where you would raise taxes, some areas where you would cut spending, and some areas where you would raise spending. It is not the simple either/or circumstance of the family sitting around the kitchen table. It is the very challenging management problem of a business sitting around the board table and trying to figure out how to maximize its profits and, at the same time, make the right kind of investments for the future.

With that new image in our minds, let's address what is, I think, the fundamental question here: How do we manage the economy intelligently? Particularly, the challenge is, how do we manage an economy—think of it in business terms—that is doing $7 trillion worth of business every year? Just think of this. If you were the chief executive officer of a business that was doing $7 trillion worth of business every year, how would you manage that challenge? You obviously would have to look at all four of the options I have outlined.

Well, in order to understand how to manage this economy, we start by asking ourselves, where are we? You cannot manage a business without accurate data, without accurate information and reports. In other words, we can't do the business of the country without accurate information.

I submit to you, Mr. President, that while this chart is enormously popular and enormously emotional in the message that it sends, like the vision of the family sitting around the kitchen table, it is not adequate. No, the numbers are not inaccurate; the numbers are correct. But the question is: Debt compared to what?

If I may repeat an example I have given on the Senate floor before to illustrate this point, I will take you back to my own business career. When I was hired as the chief executive officer of the Franklin Institute in Salt Lake City, that company had debt of $75,000. When I left, prior to my run for the U.S. Senate 6½ years later, the company had debt of $7.5 million. If you were to put that on a chart like this, your reaction would be: BENNETT is a really irresponsible executive. When he took over the company, the debt was way down here at $75,000, and when he left, it was way up here at $7.5 million. Aren't we glad to be rid of him? But you have to ask yourself "the debt compared to what?"

When I took over as CEO of the company, it had four employees, it had sales about $250,000 to $300,000 per year. At the $300,000 figure, the debt was 25 percent of sales. And we were not getting a margin of 25 percent of sales on our profit. The debt of $75,000 threatened the very existence of that company. When I left the company and the debt was $7.5 million, the sales were over $80 million. We had more than $7.5 million in cash on the balance sheet. The only reason we didn't pay the debt off is there were prepayment penalties built into some of the mortgages we had signed, and it was financially more beneficial to keep the cash than to pay the prepayment penalties. So the mere size of the debt had nothing to do with the measurement of my stewardship as CEO of that company.

I will say, as an aside, that since I have left the company, the sales have now gone to over $400 million. It is a very clear cause and effect that getting rid of me caused the company to more than triple.

Let us, therefore, in the Government context, take this chart down and put up another one relating to the example I have given from the business world—debt compared to the size of the company, or, in this case, the size of the country. What is the size of the country? Here we have a chart that shows gross domestic product, GDP, or the size of the Nation's economy. Back in the 1940's, the economy was about a trillion dollars in inflation-adjusted dollars, 1992 dollars. You can see the steady growth up, so that now, in 1996, as I say, we are a $7 trillion economy, headed toward $8 trillion by 2002.

Under those circumstances, this chart is suddenly going to look a little different when you compare it to gross domestic product. This is the result that you get on this chart. Federal debt, as a percentage of our gross domestic product, looks a little different than Federal debt in nominal dollars. We reached the highest point of debt in our history during the Second World War, at 130 percent of gross domestic product. As soon as the war was over, it started coming down and continued to come down until it leveled off at around 30 percent of gross domestic product in the 1970's. It started back up in the mid-1970's and dramatically back up in the mid-1980's.

This is a comforting chart in that it says that the previous chart is not wholly accurate when you compare debt to GDP, and a discomforting chart when you realize that our debt is rising as a percent of our economy for the first time in peacetime in our history. Always before, the debt has been tied to a war. And when the war is over, debt as a percentage of GDP comes down. For the first time in our history, it has started to go up in peacetime; that is a very disturbing trend. I will deal with that in just a moment.

Now, the question is, why? Why is the debt starting to come up? There are those on the other side of the aisle who have a very quick answer, summarized in two words: Ronald Reagan. Ronald Reagan is the one who caused all of this to happen. Look how the debt exploded during the Reagan years; it is all because of the disastrous Reagan tax cuts. It seems to me that we cannot, in this body discuss the tax cut that happened in terms of the marginal rate in the 1980's, without automatically adding in front of the phrase "tax cut," the words "disastrous Ronald Reagan," as the words to describe it—as if it is all one word, a legal term of art.

I want to discuss whether or not the "disastrous Reagan tax cuts" are responsible for this rise in the national debt. Let's take a look at who pays the income taxes in this country and, also, what the history has been of the tax rate. Here is the history of Federal tax receipts and personal tax rates on this chart. The red line on the bottom is Federal tax receipts expressed, again, as a percentage of gross domestic product. This is what we are measuring everything against, this chart showing the lines going up.

Do you notice a clear trend, Mr. President? Virtually from the end of the Second World War until now, Federal tax receipts have remained rock solid, within a narrow band, no lower than 18.5 percent and no higher than 19.5 percent of gross domestic product, averaging around 19 percent year after year. That is where it was, 19 percent, when the top marginal rate under Harry Truman was 91 percent. Then we had a tax cut. The rates went down slightly. John F. Kennedy recommended that it come down to 70 percent, and many people in this body were scandalized, saying we can't afford that heavy a tax cut, we can't afford to lose the revenue. So it came down from 90 percent to 70 percent. What happened to the receipts? They didn't change.

Well, you had this one blip that Lyndon Johnson put through to help pay for the Vietnam war in the tax rate, and it showed up with an upward blip in the tax revenue. But quickly the tax revenue went back to the 19 percent line and the tax rate stayed at 70 percent until the time came to drop it to 50. When the tax rate dropped from 70 percent to 50, what happened to the tax revenues? They stayed solid. As a matter of fact, they went up a little when the drop of 70 percent to 50 percent happened as the marginal rate.

Then Ronald Reagan convinced the Congress to pass the "disastrous Reagan tax cuts." The marginal rate came all the way down to 28 percent. What happened to the revenues? They stayed right solid at 19 percent. Bill Clinton said, "We have to get more revenue to balance the budget," and he forced the marginal rate, with Congress' help, back up to close to 40 percent. Actually, when you add Medicare on top of it, it is more than 40 percent. What happened to the revenue? Nothing. It stayed around 19 percent.

You cannot blame the "disastrous Reagan tax cuts" for the increase in the debt as a percentage of gross domestic product, because they had little or no effect on the tax receipts as a percentage of gross domestic product. Those are the facts.

Now, I said in my example that the businessman will be asked both to raise prices and cut prices. One of the interesting debates we have around here is that Members of the Republican Party stand up and accuse Bill Clinton of pushing through the "largest tax increase in history." Then the Members of the Democratic Party stand up and say, "That's not true, the largest tax increase in history was put through by"—the same two words, Mr. President—"Ronald Reagan."

Who is right? Well, if you take nominal dollars, the Republicans are right. The Clinton tax increase was the largest in history. If you take constant dollars, adjusted for inflation, the Democrats are right. Ronald Reagan's tax increase was the largest in history. Now, he didn't call it a tax increase; he called it "revenue enhancements," which infuriated conservative groups around town that looked upon him as their hero.

Reagan did exactly the thing that the businessman in my example did. He both raised prices on some products and cut prices on others. He raised taxes on gasoline, for example, while cutting tax rates on incomes. And what happened to the economy in the Ronald Reagan years? Let's go back to this chart.

As I say, this chart is the inflation-adjusted gross domestic product. The reason for all the fancy colors is not just to help keep you awake, Mr. President, but to demonstrate the differences in the various administrations. Understand that something that is done in one President's administration doesn't necessarily produce a result in that administration. Many times, the effects are felt years later. Nonetheless, to give us some guidance, here we have the growth of the economy during President Eisenhower's administration. It started up more vigorously in John F. Kennedy's administration. Why is that? That is the period of time we came down from 90 to 70. I don't know whether there is a direct cause-and-effect correlation, but it is certainly a significant enough issue to look at. We dropped the top marginal rate, and the rate of growth in the country goes up through Kennedy and remains through Johnson. Then you get a recession. It is flat in the last year of Johnson's administration and in the first year of Nixon's administration. Incidentally, Mr. President, that is the only year on this chart where we had a balanced budget—1969. It is an interesting correlation. It was flat. Then it starts to go up. But you get a recession that hits you; Nixon-Ford. Here is this recession, and Jimmy Carter becomes President. As we come out of that recession and get the advantage of the recovery out of that recession in his first 2 years, hits the 3d year, and gets another recession, and it becomes flat again. Ronald Reagan was President while we had what the economists called the "double dip." The Carter recession; then they came out of it in 1981, and then the more serious recession that followed, and seriously it came down. But once that recession was over, the rate of growth that came out of those years for the balance of Reagan term in the first 2 years of Bush's term was historically one of the finest we have ever had. Is there any reason for that? Well, that just happens to coincide with "the disastrous Reagan tax cuts." This line that says percentage of GDP, unchanged by the change in tax rates and corresponds with the GDP that is going through the roof. Nineteen percent of this kind of growth produces a whole lot more revenue to the Government than 19 percent of a recession.

We cannot blame the tax policy relating to the top marginal rates for the deficit and our problems. It is very clear that the deficit is not driven by income tax policy.

If I might digress for just a moment, I would like to explain one of the reasons why the change in the income tax marginal rate does not produce a change in the percentage of income that comes in. This next chart demonstrates that because it tells us who pays the income taxes in this country.

The top 1 percent of households produce 13.8 percent of the income in this country. Many people say that is very unfair and they want to do something about it. But that is where we are. The top 1 percent of households produces 13.8 percent of the income. They pay 28.7 percent of the income taxes, or more than twice the percentage of the income that they receive. If you go to the top 5 percent, they get 27.8 percent of the income and pay 47 percent of the income taxes. In other words, the taxes that are paid on this chart, nearly half of them are paid by people in the top 5 percent of our wage earners. If you go down to the top 10 percent, this goes to 60 percent of the income taxes. What that means is that when you change this rate, the people who earn the most income, over here, have options as to what they will do with their money, and they will change their investment pattern to adapt to the Tax Code, consequently avoiding things that are high tax and moving into areas that are low tax, the result being that the percentage that they pay remains constant as measured in terms of GDP.

So what you want to do, again back to this chart, is make sure that the GDP is going up as rapidly as it was during the Reagan years in order to maximize your income because your income is going to remain a constant percentage of that GDP by virtue of who it is that pays the income tax.

Back to this chart, briefly. The bottom 50 percent pay virtually no income taxes at all. The bottom 50 percent gets roughly 15 percent of the Nation's wealth and they pay less than 5 percent of the Nation's income taxes. They, however, pay payroll taxes. They don't pay income taxes, but their payroll tax burden is inordinately high.

At this point, Mr. President, I would call the Senate's attention to a piece that appeared in the Washington Post on the 15th of April written by our colleague from Nebraska, BOB KERREY, and ask unanimous consent that it appear at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENNETT. Senator KERREY has summarized the problem for the people in the bottom half of income earners superbly well, and pointing out that they actually pay a higher effective rate on their income than people who pay income taxes down in this particular area of the chart. They do it in the form of payroll taxes, and that, as I have said on this floor many times before, is just one of the reasons why a complete restructuring of the Tax Code is absolutely necessary. But this is not the time. I don't have the time today to discuss that issue all over again. I am sure I will have a speech on that subject when we get into that later on.

If the deficit is not caused by tax policy, the tax policy is producing roughly the same amount of income regardless of what we do with it, and indeed, if the tax policy causes the gross domestic product to increase rapidly, let's look at the spending side. That is the only other place that the deficit can come from.

There are those in the Chamber who say, "Well, it is all defense spending." Back to Reagan again, "He is the problem, because of his runaway spending for defense."

Let's look at defense spending again by our same measure as a percentage of gross domestic product. The defense spending—we left these years out because this is the Second World War and the aftermath of the Second World War. Here is the Korean war. The green bars are Eisenhower, Kennedy, Johnson, and so on all at the way through different colors. Here is what we are spending in the defense budget in the Korean war. When the Korean war was over it dipped off, and then, starting here in the mid-1960's, the Vietnam war. Again there was a peak in 1968, the last year of Lyndon Johnson's Presidency. And then the spending tapered off and went down still further in the Carter years, and then Ronald Reagan did, indeed, call for a cold war buildup in his attack on the Soviet Union, and you got a bulge. But notice at the highest point of spending for the cold war buildup, it was substantially lower than at any time in the Vietnam war and less than half the spending in the highest year of the Korean war.

Now with the result of the cold war buildup having produced the destruction of the Soviet Union, we are reaping the peace dividend that people have been talking about for so many years. And the spending came down during President Bush's administration, and continues to come down during President Clinton's. It is now, as you go across the chart, at the lowest level it has been since 1940 as a percent of gross domestic spending.

Spending on defense even in the years of Ronald Reagan's buildup could not be responsible for the budget gap. It simply wasn't that significant. You put it in historic context and it is below historic levels in the other conflicts we have been examined. So, if it is not defense spending, it must be nondefense spending—nondefense discretionary spending—that has done this. Let's look at that.

Here is nondefense domestic discretionary spending from 1962, to 2002 projected. Notice where it hits its highest point. It hits its highest point during the Carter years. 1976 is the year Jimmy Carter is elected; 1977 his first year, 1978; the highest point in 1978 tapers off a little bit. If we go back in history, we find that this was a time of great domestic spending expansion. Again it started in the Nixon-Ford years, carried over into the Carter years, and then began to come down. It is back up—1992, 1993, 1994, 1995, the Clinton years. While not competing with the Carter years, his spending is coming back up after having gone down. But this is not the picture of disaster. This is a picture of some stability in spending in this area.

So if it is not defense spending, and it is not nondefense spending, what is it?

Now let us put up the chart that deals with entitlements. Here are entitlements as a percentage of GDP. The yellow portion of the chart shows actual entitlements. The pink portion is the baseline projected for the years ahead through the year 2007. You will notice there is a serious increase right here—late 1970's. This again was a period when Congress significantly expanded Social Security SSI and Medicaid. It was at the same time, a period of recession, when you come over to this chart and find that the GDP is shrinking.

So Congress is authorizing more spending while the economy is shrinking, and that produces these spikes. When the economy recovered, it starts to come down. But then you get another recession, and now it becomes even more serious in this recession that shows up in the first part of the Reagan term. Then the Reagan growth takes off, and you get that rapid growth period and you get a period where entitlement spending as a percent of GDP begins to come down.

But when the growth slows down and you get into the recession that hits in the end of the Bush Presidency, beginning of Clinton, what happens? Entitlement spending goes up. Then you realize what is built in, and what is happening to our demographics. And you see the baseline that the Congressional Budget Office says is going to occur from here on in, and you are into historic highs.

This is where the problem lies. It is not in defense spending. It is not in nondefense discretionary spending. It is in entitlements. And here is where it is showing up.

We will put up another chart that shows the contrast between discretionary spending as represented by the red line and entitlement spending as represented by the gray line. In this gray line, we have added another component that has not been in any of these figures up until now, and that is interest on the debt.

It is interesting. Here in the 1960's, John F. Kennedy is President. The amount of mandatory spending is substantially less than half the amount of discretionary spending. No big deal. The lines cross just about the time that we have been talking about in the mid-1970's when the debt started to go up as a percentage of gross domestic product. They stayed pretty much the same. And then with the recession that hit in the early 1980's, the gray line starts to take off, leaving the red line somewhat constant, going up but not all that much. Clearly the problem is in the gray line. Clearly the challenge that is creating the deficit is not on the tax side, not on the spending for normal Government activities represented by the red line, and clearly the problem of the deficit is the gray line which is mandatory expenditures combined with interest which is in and of itself a mandatory expenditure.

So that is where we are. Our challenge is to get the economy growing as rapidly as it did during the Reagan years, and then on the other hand begin to turn that gray line down so it can become a little bit flat. And that combination can bring us a balanced budget.

How do we do that? Get the gross domestic product growing more rapidly, and get expenditures under control. Those are our twin challenges.

I take you back to the image that we had at the beginning of this presentation, back into the boardroom where the CEO is sitting with his experts and they are telling him what he can do to manage his company more intelligently and solve the company's deficit problem. Remember the first recommendation he had, "Raise prices." At the risk of offending some of the Members of my own party, I think there are places in this Government where we can raise prices. I think there are things we can do—if we want to use the Reagan euphemism, revenue enhancements—where we can charge more for the services we are rendering. That is heresy to people who say never ever raise taxes. I am one who says I won't ever vote for an increase in the marginal tax rate, but there are, all around the Government, things that could be raised, raised prices on those products that are not price sensitive and get a little more revenue into the Government.

Then, the second expert told the CEO, "Cut prices." We are being told, no, if you try that in the Government, that is dessert, not spinach. There is no nourishment to that. I think we have shown clearly that, properly done, cutting tax rates in the right places in the right way can do what we need to do to increase the revenue of the Government by increasing the gross domestic product. Where is the best place to start on that? Clearly, for me it is capital gains.

Oh, says somebody, if you cut the rate on capital gains, you are going to benefit the rich because only the rich have capital gains.

As I have shown you, Mr. President, the rich pay most of the income taxes, period. The issue is not: Are you going to benefit the rich? The issue is how are these people going to allocate their capital in the way that will produce the greatest benefit to the economy as a whole? I say to any Member of this body, go back home, gather the venture capitalists, the real estate investors, people who are involved with moving capital around in your home State, and ask them this question: Are there deals that should be done that would improve the economy in this State that are not being done because of the current capital gains tax rate? If you ask that question, as I have asked it in my State, the answer will be: Every day deals that should be done are not being done because of the capital gains tax rate.

You have capital locked into mature investments which, if the capital gains tax rate were to come down, would immediately flow into entrepreneurial investments, thus creating new jobs. Alan Greenspan, who has been praised by Members of both parties for his deft handling of the monetary policy in this country, has said repeatedly on the record that the best capital gains tax rate for maximum benefit to the economy is zero. I would be happy to see that, but I am not going to put that proposal on the floor because I realize it will not pass. But if we were to do something about the capital gains tax rate, we would see the proper allocation of capital into the economy to produce the kind of growth that we need.

People say, "Oh, no, the stock market is going crazy and a capital gains tax adjustment would simply drive the stock market still farther and still higher and the only people that get rich are the rich." Some portions of the stock market are going up. The Dow is going up. The Dow consists of 30 stocks. The NASDAQ, which consists of substantially more, is not going up nearly as rapidly as the Dow, and the Russell 2000, which consists of 2,000 companies down at the lower level, companies that are not in the Dow, they are not in the Standard & Poor's 500, they are down below that. The companies where the entrepreneurs are investing their money, and where the real new job growth in the future is going to come, is down substantially.

The Russell 2000 index, which hit its peak in January of this year at around 370, is now down to 340. If that drop were on the Dow rather than the Russell 2000, we would have financial analysts jumping out of windows, saying look how much trouble we are in. What that tells us is people are taking their money out of entrepreneurial activity and putting it into the huge stocks that they think can weather the coming storm. If we were to do something about the capital gains tax rate, people would be willing to put their money into the entrepreneurial sector of the economy and we would be building a base for future growth in the gross domestic product that would be enormously beneficial for us in the long run.

So back to my example. The first person said to the CEO, "Raise prices." I say yes, there are places where we can raise revenue in the Government even now. The second person said to the CEO, "Cut prices." I say yes, there are areas where we can cut tax rates and get benefit, where it is not dessert. It has just as much nourishment as spinach and probably tastes a good bit better. Then, of course, you will remember the third expert said to the CEO, "Increase your spending, because you have an aging plant and aging equipment." The fact is, we need to increase spending in the Government in some areas.

Our highways are in trouble; our airport and airway system could use some infrastructure spending. We are taking the money that is in the trust funds for both of those functions and we are spending it for something else. I think we need to take a long look at places where we are being penny-wise and pound-foolish in the long term, as far as some spending initiatives are concerned. I know that to some this sounds like heresy, coming from someone on the Republican side, but it is sound management and for the best of our country.

Finally, we come to the final recommendation that was given to our CEO and that we hear around here a great deal, "You have to cut spending." The answer is clearly, yes, we have to cut spending. Here is a chart that is not the past but the future, that demonstrates the challenge that we face. Like every estimate, it can be wrong, but it is the best estimate that we have. This is dealing with the two largest entitlement programs that we have, Medicare and Social Security. In the first 1996 set of bars, you see that Medicare, the red, is between 2 and 3 percent of gross domestic product; Social Security, the green, between 4 and 5. Ten years later, in 2005, Social Security remains stable, right about the same place. But Medicare, if nothing is done to deal with it, will have grown significantly. Then go out 10 years more. Social Security has now grown fairly significantly and Medicare has caught up with it. In 2025, Social Security has grown again very dramatically, but Medicare has outstripped it. And, in the year 2035, Social Security has grown some more and Medicare is going way past it.

This will not be of any concern to me. I will not be here in 2035. I may be here in 2025—my genes are such that I can expect to live to that year. But these young pages who are here on the floor will be in the height of their earning years in 2035, and they will be facing entitlements, in these two programs alone, which will eat up 15 percent of gross domestic product.

If you remember, what was the line on revenues on the previous chart? It was 19 percent of gross domestic product is all we get with our tax system. If 15 percent of gross domestic product goes to two programs alone, that means there will be nothing left for anything else. And, as the debt goes up as a percent of GDP, interest becomes an increasing problem and you quickly will be at the point in these years, the years when these pages will be looking for jobs or hoping to support families, when the Government will not have any money for anything other than entitlements. That is the future if we do not do something to get this under control.

My time has almost expired. This was not a speech to lay out detailed solutions. It was an attempt to put the debate in the right context, get it out of the context of the family sitting around the kitchen table. It is to understand that this economy operates more like a business and that it is a major economic entity that has to be managed intelligently. But it is very clear that entitlements have to be managed, along with the tax problem, and the other spending problems. We must get entitlements under control or we cannot solve this puzzle.

I suggest I would be willing to vote for means testing of entitlements; changing the definition of an entitlement, if you will, to this: You are entitled to this money if you need it. Absolutely the Government has it there for you. They are holding it for you, and as soon as you need it, the Government will give it to you. Instead of saying, "You are entitled to Social Security payments, Ross Perot. You are entitled to Medicare, Donald Trump."

I say, "Ross Perot, if you ever fall on evil times, Medicare will be there for you. Donald Trump, if you ever go back into bankruptcy, you can draw your Social Security check, absolutely. You are entitled to it if you need it."

The other issue we have to face, of course, is the question of cost-of-living adjustments. Built into this projection is the assumption that the present cost-of-living adjustment formula is accurate and fair. The Boskin commission has looked at that and said, no, the cost-of-living adjustments are overstated by at least 1.1 percent. We are going to have a debate about that on this floor. There are many people on both sides of the aisle who say, politically it would be crazy to try to do something about the way cost-of-living adjustments are calculated, let us just leave it as it is. I say to you the numbers say we cannot leave it as it is. We have to deal with reality.

Social Security is a wonderful program. It was put in place in the 1930's. Medicare is a wonderful program. It was put in place in the 1960's. We now live in the 1990's in an entirely different economy facing an entirely different kind of future. I suggest that ultimately what we want to do, as we deal with the challenge of our budget and our Nation's fiscal sanity in the future, is take a clean sheet of paper and say, "The tax system that was designed 60 years ago no longer meets our needs. Let us write a new one. The retirement program that we put in place for our senior citizens 60 years ago no longer meets our needs. Let us write an entirely new one. The health care plan we put in place for our senior citizens 30 years ago no longer meets our needs. Let us write an entirely new one." And see if we cannot, as good managers, devise a system that will take care of the poor, take care of the elderly, deal with the challenges of the flow of capital in our country, and at the same time see to it that we get back to the rate of growth that we enjoyed during the Reagan years while holding the spending down.

All we need to do is see that the economy grows more rapidly than the Government does. That is all we need to do. That has to be our lodestar. We do not have to freeze the Government. We do not have to dismantle the Government. All we need to do is say we will follow policies that show that the economy will grow more rapidly than the Government will grow. When that happens—let's go back to the chart on debt as a percentage of GDP—we can see the bars start going in the right direction again. Once we get the discipline where the economy grows more rapidly than the Government, this trend will turn into this trend. The debt will start to come down as a percent of GDP in peacetime as it historically has, and our children can have confidence that we will have discharged our governmental stewardship intelligently.

Mr. President, I recognize that this has been lengthy. I do not apologize for the length because of the importance of the subject. I felt that all of this information which is counter to much that has been said on this floor on both sides of the aisle is important to put into this debate. I hope my colleagues who disagree with me will come to the floor and respond. But I hope the responses will be in terms of intellectual analysis and fact rather than political sloganeering on both sides. The issue is too important to be left to sloganeering. The issue is too important to be left to posturing for the 1998 elections, in which I have a rather strong personal interest myself. The issue has to do with generations yet to come of our children and our grandchildren. We owe it to them to do more than shout political slogans to each other but to see to it that we address this issue on the basis of the reality of where we are and where it is that we can go.

With that, Mr. President, I thank you for your time and attention and yield the floor.

EXHIBIT 1

[From the Washington Post, Apr. 15, 1997]

THE FORGOTTEN TAX

(By Bob Kerrey)

Today the income tax comes due for its annual flogging. April 15 is the day we reserve for outpourings of frustration about taxes. But the fact is that for average American families, the biggest tax burden is felt not on this day but on every single pay day, when 12.4 percent of their wages are taken to provide retirement income for senior citizens and operating revenue for government. This tax, known as FICA (the Federal Insurance Contributions Act), funds the most popular and successful government program in America today: Social Security.

FICA is forgotten when tax-cutting time arrives. But because of the way the income and the Social Security payroll taxes are structured FICA is often the biggest tax burden. A household is likely to pay 15 percent income tax, with large chunks of earnings shielded from it, but the 12.4 percent payroll tax applies flatly to all wages up to $65,400.

Consider: In 1995, the median U.S. household earned $34,076, placing it in the 15 percent tax bracket. Because standard exemptions and deductions shielded more than half its earnings, a family of four earning that amount paid just over $2,600 in income tax.

But because the payroll tax—6.2 percent paid by the employee and 6.2 percent more by the employer—was assessed against the family's entire income, it paid more than $4,200 in FICA. This disparity holds true for a family of four making as much as $56,600 or an individual making $30,000. I include the employer's share in those figures because that 6.2 percent represents lost potential earnings and bears at least partial responsibility for stagnating wages. But for a large number of Americans—particularly the self-employed—the payroll tax is larger even without an employer match.

The payroll tax to be sure, is collected for good purpose. By providing income for current retirees, Social Security has drastically reduced the rate of poverty among the elderly. It deserves its distinction at the most popular and successful government program in America.

But as tax policy, FICA also imposes serious burdens on working families. It is not just regressive, it's super-regressive. Because income above $65,400 is exempt, individuals earning more than that amount actually pay less as a percentage of income than those making less. It has economic flaws as well: All of FICA's proceeds go to consumption, either by current retirees or the government. None of the money is invested; to the contrary, the fact that these wages are being taxed means they are unavailable for families to invest for their own retirement and reap the benefits of the soaring value of capital in a global economy.

Most important, without reforms, the social contract on which Social Security rests—that each generation allows its wages to be taxed to provide retirement income, in return for a promise that it will receive retirement income from the next generation's taxes—is threatened by the program's looming insolvency.

There is a way to address each of these problems—Social Security's insolvency and the tax burden on working families—while strengthening the basic income-transfer premise of the program. I have proposed reform under which families would invest two percentage points of what they now pay into Social Security—2 percent of their total income—in Personal Investment Plans under their own control. These plans would provide a vehicle for building retirement wealth. By adjusting the age of eligibility for full benefits, correcting the consumer price index and other reforms, my proposal would shore up Social Security's solvency to ensure it continues to provide retirement income as well.

Because my proposal diverts income currently being paid in taxes to individual accounts owned by the taxpayer, it constitutes a tax cut that totals $300 billion over five years—50 percent bigger than even the most lavish ambitions of the Republican leadership of Congress.

Under this proposal, the hypothetical four member family described above would see its payroll tax burden reduced from $4,200 to just over $3,500, with the difference invested for the family's retirement. At 8 percent return—which is less than the historical long-term performance of the stock market—over the course of a 45-year working life, the family would build more than $300,000 in wealth.

And it would build a stake in America's success in a global economy. It is often lamented that the principal beneficiary of the globalizing economy has been corporate wealth, which is more readily shared with shareholders than employees. Employees with advanced skills prosper, those who lack skills are left behind, and the gap between the two is growing.

Just as troubling—more bothersome is some ways—is the gap in wealth. Skilled workers prosper in a global economy. So do owners of capital. The millions of middle-class Americans who own mutual funds and whose wealth is growing as corporate America thrives know this.

But the gap between those who own capital—and therefore a stake in America's success in the world—and those who do not is fast becoming a chasm. to take just one measure, a recent survey found that among households earning $35,000 or less—51 percent of all households and those most likely to pay more in payroll tax than income tax—only 18 percent own mutual funds. This is compared with 41 percent of households earning $35,000 to $49,000, 58 percent of those making $50,000 to $74,000 and 73 percent of households earning $75,000 or more.

Thus some households not only lack a stake in America's global success; they are often the ones most threatened by it. These are the families that see their wages stagnate and their jobs downsized while corporate profits—and the wealth of those who own a stake—rise on each report of their misery. Part of the solution is ensuring they have the skills to climb the income ladder; another is ensuring laws are written so workers are treated fairly. The other part of the solution—just as vital—is ensuring those workers own a stake in America's success.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that privileges of the floor be extended to Maj. Gregg Kern, a congressional intern from the U.S. Air Force, during the pendency of the chemical weapons matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I yield myself such time as I may consume of the time under the control of the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

RATIFICATION OF THE CHEMICAL WEAPONS CONVENTION

Mr. REID. Mr. President, I rise today to address this body on a most important issue, an issue which may affect our country and, of course, the citizens of our country. The Chemical Weapons Convention, when ratified by this body, will mark the beginning of a new arms control era.

I first stood before the Senate December 11, 1995, and urged that we bring the Chemical Weapons Convention to the floor for debate. I urged that this be done expeditiously and without partisanship. After many unsuccessful attempts, we are now in a position to debate the treaty on the Senate floor.

This treaty was negotiated and signed during the administration of President George Bush. The Clinton administration, after making its own assessment of the treaty, submitted it for the Senate's advice and consent pursuant to our Constitution in November of 1993. The Chemical Weapons Convention is truly a bipartisan effort and is now enjoying support from both sides of the aisle. The Chemical Weapons Convention has been signed by 161 countries and ratified by 68 of these countries and many more will ratify the convention once the United States does.

The Chemical Weapons Convention is not about eliminating our chemical weapons. The United States is already committed to eliminating our chemical weapons. We have done that unilaterally and have been doing that since 1985 because in 1985 we passed legislation requiring the unilateral destruction of all of our chemical weapons inventory. The only question since then has been how and where we do the destruction of the chemical weapons.

The convention will hold other nations to the same standards which we hold ourselves. How can this be viewed as anything but beneficial to the citizens of this country. The Chemical Weapons Convention requires signatory nations to destroy their chemical weapons inventory. The security of this Nation and our allies will be improved when the Chemical Weapons Convention enters into force on April 29 of this year.

Secretary Madeleine Albright, our Secretary of State, has said, among other things:

> The convention will make it less likely that our Armed Forces will ever again encounter chemical weapons on the battlefield, less likely that rogue states will have access to the material needed to build chemical arms, and less likely that such arms will fall into the hands of terrorists.

That is what our Secretary of State said, and I agree with her.

This treaty reduces the possibility that our Armed Forces will encounter chemical weapons on the battlefield by preventing signatory nations from producing and, also importantly, possessing chemical weapons.

Ratification does not prevent our military from preparing for chemical attacks, nor does the ratification diminish the ability of our military leaders to defend against a chemical attack. In fact, as I speak, our national laboratories are working on programs to test how we can defeat terrorist activities using chemical weapons. We need to have a program where we determine how we can eliminate rogue states that have these materials in their possession and terrorists obtain them. A lot of this will be going on at the Nevada test site in the deserts of Nevada.

Ratification does not prevent our military, as I have indicated, from preparing for chemical attacks. The Department of Defense is committed to maintaining a robust chemical defense capability. The defense capability will be supported by aggressive intelligence collection efforts and also the research and testing that I have indicated that will likely take place at the Nevada test site. The Department of Defense will continue to prepare for the eventual possibility of chemical attacks, and they will continue to train on systems which can be used to defend against such an attack.

The Chemical Weapons Convention requires other countries to destroy their weapons, I repeat, weapons that may someday threaten American citizens.

Gen. Norman Schwarzkopf, who became an American folk hero because of his activities during the Gulf war, has said:

> I'm very, very much in favor of ratification of the Chemical Weapons Convention. We don't need chemical weapons to fight our future wars. And frankly, by not ratifying that treaty, we align ourselves with nations like Libya and North Korea.

The 1925 Geneva Protocol does not—I repeat, does not—restrict possession and production of chemical weapons. The Chemical Weapons Convention fills that void by further rolling back the threat of chemical weapons.

The Chemical Weapons Convention prohibits the development, production, acquisition, stockpiling, retention, transfer and use of these weapons. It enforces these basic prohibitions through the use of a multinational economic and political sanction network.

I stress, the Chemical Weapons Convention makes it less likely that our Armed Forces will face these horrible instruments of power on the battlefield by prohibiting the production and the stockpiling of these chemical weapons. The convention also protects Americans at home from deadly terrorist attacks such as those that occurred at the Tokyo subway. It does not eliminate them but it adds to the protection that we in America have.

The Chemical Weapons Convention not only prohibits development of chemical weapons, it also, importantly, limits access to chemical weapons precursors. I do not know for sure, and I guess no one can determine for certain, if this convention would have prevented the deadly attack in the Tokyo subway. It certainly would have made it less likely. But we do know that almost immediately after the attack in the Tokyo subway, where people were killed and injured for life, Japan ratified the Chemical Weapons Convention.

Terrorism is a real threat to this country. We only need look at what happened at the World Trade Center, Olympic Park, and, of course, Oklahoma City. Chemical weapons provide an avenue for terrorists to further their cause. The Chemical Weapons Convention, while not perfect, will minimize the opportunity for these groups to use chemical weapons. The convention enters into force this month on the 29th day. Refusal to ratify the treaty will not stop the treaty. It will only prevent our country from participating on the governing council of this convention.

The United States is the premier world leader today. That is without dispute. We provide leadership and direction in economic, military and political issues whether we want to or not. Delaying ratification of this treaty is counterproductive to our world leadership role and counterproductive to this Nation's security. Failure to ratify this treaty by the 29th of this month not only aligns us with nations like Iran, Iraq, and North Korea, it also prevents the United States from obtaining a seat on the executive council and the international inspection team. This executive council will decide how the treaty will be implemented. If we are to continue as world leaders in nonproliferation, which we are now, it is vital for us to be a part of the executive council and international inspection team. We not only, in my opinion, have the desire to do that but the expertise to do that.

The Department of Commerce estimated last year that only about 2,500 U.S. firms will be required to submit a data declaration form. Most of these firms will only be required to complete a two-page form. It is important to note that chemical companies support this convention. Leading U.S. chemical trade associations such as the Synthetic Organic Chemical Manufacturers and the Chemical Manufacturers Association participated in the negotiation of this treaty and strongly endorse this treaty.

The chemical industry of the United States uses and produces chemicals from medicinal and industrial applications. The Chemical Weapons Convention does not restrict the use of chemicals for these purposes. The Chemical Weapons Convention is designed to ensure that commercial facilities do not convert sensitive precursor chemicals into weapons agents.

The Chemical Weapons Convention, I suggest, does not end the chemical weapons threat. It is only a tool that we can use to reach that as an objective. That objective is eventual elimination of a very dangerous class of weapons. The convention establishes a global norm by which state behavior can be judged. Some would say it levels the playing field in games of weapons proliferation.

Make no mistake. The Chemical Weapons Convention is not without a flaw. However, for all its imperfections, it is in essence a fine treaty, one that will serve this Nation and this world well and will assist in stabilizing this all too volatile world. This convention is clearly in the best interests of our national security. It will assist in the leadership of our country. It will assist in the worldwide destruction of chemical weapons. Let us not imperil our global leadership position. It is time to ratify this convention.

Mr. President, I also want to extend a personal word of congratulations to the two leaders who enabled us to get to the point where we can have a say in whether or not this treaty will be approved. The Democratic leader, Senator DASCHLE, has worked personally, spending hours, days, and weeks to allow us to get to this position. And I have to say I think this shows the leadership qualities of the Republican leader in allowing us to have this treaty before the Senate. If it did not come before the Senate, I think it would show a lack of leadership. At this stage I hope I am not going to be disappointed. I hope it will come before this body in a fashion that will allow us to fully debate and ratify this convention.

The PRESIDING OFFICER (Mr. ALLARD). The Chair recognizes the Senator from Missouri.

Mr. ASHCROFT. I thank the Chair.

CONFLICTING VALUES

Mr. ASHCROFT. I appreciate the opportunity to spend a few moments speaking about two of America's values. They are values that are embraced by people across our Nation from sea to shining sea, but sometimes those values come into conflict. When they come into conflict, how we resolve that particular conflict will depend on how well we succeed in the next century, how capable we are of carrying on at the high level of performance that America has always expected and that the world has always admired.

I speak about two values, and I do not think there are two values that are more highly or intensely admired in America than these. The first one is the value we place on our families. We understand that more than anything else the family is an institution where important things are learned, not just knowledge imparted but wisdom is obtained and understood in a family which teaches us not just how to do something but teaches us how to live.

A second value which is a strong value in America and reflects our heritage is the value of work. Americans admire and respect work. We are a culture that says if you work well, you should be paid well. If you have merit, you should be rewarded. If you take risks and succeed, that is the engine that drives America forward.

When you have this value of family and the value of work both motivating a society, it is good news for the culture and I think America has a bright future. But sometimes these values collide. When the demands of work somehow get so intense that they impair our ability to do with our families what we ought to do, then we feel tension because we have these two important components of the American character that are bumping into each other.

Most of us as Americans know that we are working hard enough now that there are many times when we simply feel we are not spending the time we ought to with our families. If you will look at the data that has been assembled by the pollsters and everyone else who takes the temperature of the American public regularly, you will find out that most Americans would like to be able to spend more time with their families, and that most Americans are spending far less time with their families than they used to, and that most Americans are spending more time on the job than they used to. The number of hours we are devoting to our enterprises and our work is going up, and we feel a tension with the way in which we value our families. Sometimes we feel like we have been sacrificing our families.

So one of the things that faces us as a culture, as a community, as a country is, how are we going to resolve these tensions? I think that is one of the jobs, that we have to try and make sure we build a framework where people can resolve those tensions and where Government somehow does not have rules or interference that keeps people from resolving those tensions.

For example, there are a lot of times when an individual would say on Friday afternoon to his boss or her boss, "My daughter is getting an award at the high school assembly today. Can I have an extended lunch hour, maybe just 1 hour so that I can see my daughter get the award? I would like to reinforce, I would like to give her an 'atta girl,' I would like to hug her and say, 'You did a great job, this is the way you ought to work and conduct yourself, it is going to mean a lot to yourself and our family and our country if you keep it up.' "

Right now, it is illegal for the boss to say, "I will let you take an hour on Friday and you can make it up on Monday," because it is in a different 40-hour week. You cannot trade 1 hour for 1 hour from one week to the next. That will make one week a 41-hour week and will go into overtime calculation. Since most bosses do not want to be involved in overtime, it just does not happen.

What we have is a situation where parents are in a bind. They want to deal with their family, they want to deal with them effectively. Lots of employers would like to help the parent do that, but here is the Government standing and saying, "That's illegal."

One of the reasons the Government says that is illegal is because we crafted our labor laws about what can be done and what cannot be done back in the 1930's. A lot of us cannot even remember the 1930's, but they were tough times. We did not have the commitment to flexibility in the 1930's that we have now. We thought the 40-hour week was something that had to be rigid. Only one out of six mothers of school-age children was in the work force in the 1930's—one out of six. That is about 18 percent. Now we have between 70 and 80 percent of the mothers of school-age children in the work force.

As a result, we live in a different culture. We live in an entirely different world, and these individuals, mothers and fathers, are feeling the stress of not being able to have an ability to accommodate the needs of the family and also pursue the value of work, which we valued so highly and reflected in this body last year when we had welfare reform. We said, "You don't get welfare if you are not willing to go to work," and we want to value work. But we want to have a way so when we have work as being a primary focus of this culture, it also allows us the flexibility to do well with our families because we understand that it is in families that people build the habits of success, that will ultimately carry ourself and our communities.

This tension between the workplace and the home place, juxtaposed or set in a framework of laws created in the 1930's that does not allow us flexibility, is a problem. For example, you might be asked to do overtime over and over and over again, and you do overtime, and then you are paid time and a half for your overtime. But at some point, most Americans come to the conclusion, my goodness, no matter how much pay I get, I still need some time, and I would like to take some time off, instead of getting time and a half in pay. I think it might be a good idea to say, if you want time and a half off some week in the future so you can spend time with your kids and make up for lost time, or go on a vacation or go to a parent-teacher conference, you might be able to say to your employer, "Instead of paying me time and a half in wages, you ought to let me take time and a half off sometime." If the employer agreed to it voluntarily—both parties—we ought to let that happen. It is against the law. The law passed in the 1930's, when we were more rigid and had different conditions in this country, says if you work overtime, you must be paid time and a half; you cannot take comp time or compensatory time off.

Some employers even want to go so far as to help their families by saying instead of doing 1 week for 40 hours, we would be willing, if you wanted to and on a voluntary basis, let the worker average 40 hours over a 2-week period regularly, so you would only work 9 days in the 2 weeks, but you would work 45 hours the first week and 35 hours the second week and have every other Friday off so you could take the kids to the dentist or drop by the department of motor vehicles and get the car licensed or visit the governmental offices that are not open on Saturday. It is against the law to do that now.

What I have described are three problems: One, the comp time problem that you can only get comp time in money not in time; two, flextime; sometimes you need to trade 1 hour one week for another hour the next week; and three, to schedule flexibly so you might be on a regular schedule that allowed you to take time off with regularity.

All three of these things are available in the Federal Government and for governmental entities. Since 1978, the Federal Government has said it is OK to swap comp time off instead of overtime pay. The Federal Government said it is OK to have a flextime bank so if you need to take time off you can take some time off if you put some extra hours in the bank. It is also said if you want to have some flexible scheduling so that every other Friday or every other Monday is off, that is something we can work with you on.

It is totally voluntary—voluntary for the worker, it is voluntary for the Federal Government employer or administrator. Neither can force the other because we do not want to force people to work overtime or take comp time, but we want to allow Americans to make choices which will help them resolve the tensions between the home place and the workplace, these two values that are in competition.

I tell you, it has worked so well in the Federal Government that it is almost unbelievable. When the General Accounting Office did one of its surveys, and the only survey really that has been done on the subject, 76 percent of the workers said they liked it. Only 7 percent said they did not like it. That is better than a 10-to-1 ratio. Frankly, you cannot interview people in Washington and get that much agreement on the fact that today is Thursday. That is an overwhelming endorsement, and I think it is high time that we gave to the American public generally what governmental workers have had for almost 20 years now, 19½ years. Since 1978, Federal workers have had this ability to say on a voluntary basis, "I would like to take some time off instead of getting the overtime pay," and the time off would come at time and a half. Or, "I would like to work an extra hour this week so I can take an hour off next week and put it in a flextime bank." Or, if the worker and employer could agree, "I sure would like to schedule it so I work 9 hours a day for 5 days this week and only work 35 hours next week so I can take off all of Friday, every other Friday."

These potentials, which exist for Federal workers, it occurs to me, ought to be able to be available to workers in the private sector as well, were we not to be locked into the hard and fast rules of the 1930's. That was a time when Henry Ford said, "You can have your Ford any color you want so long as it is black." Things were not quite as flexible then as they are now, and families did not need the flexibility then as they do now. With 70 to 80 percent of all mothers of school-age children now working and two parents working in all those settings, and the tension between work and home, I think we ought to have more flexibility at the option of both the employer and the worker, only when it is agreed to.

That is really the subject of the Family Friendly Workplace Act which I proposed this year and I believe we will be working on and actually voting on in the next 30 days. It is a way of saying we need to allow families to work out the conflict that exists between these important values that are crucial and so fundamental to the success of this culture in the next century, not just fundamental to the success of our culture, but fundamental to the success of our own families.

We were aware when we put this bill together that we did not want to allow any employer to be overbearing or coercive, either directly or indirectly, in this respect, so we put in tough penalties. We doubled the penalties that would attend any violation of overtime rules. Not only that, if a worker says, "I think I would like to have time off at time-and-a-half rates instead of being paid time and a half," and then the worker changes his or her mind, of course, before taking the time off, the worker would have the right to cash the time in at any time. The law provides that if at the end of the year the worker has not taken the time off, the employer has to pay time and a half anyhow. It is designed to make sure there is no coercion and voluntary for both workers and employers, but it is designed as well to be flexible.

Some people thought having family and medical leave would be the answer. There is a law that says you can take time off to meet your family's needs, but you have to take it off without pay. I think that really is a tough situation, because the workers are put in a circumstance where, in order to relieve the family tension, he or she has to increase the financial tension. Well, the financial tension is what has driven people into the workplace in the first instance.

I believe we should not have to take a pay cut in order to be a good mom or dad in America. If we would allow for flexible working arrangements, a worker could have a bank of time they have earned in advance that they could use as flextime or they could take some of the time in your bank that you put in at time and a half for comp time and you could meet your family needs that way without taking a pay cut. Simply, the Family and Medical Leave Act says you can leave without pay. I think we ought to have the Family Friendly Workplace Act which says you do not have to take a pay cut in order to be a good mom or dad in America.

Well, this is the situation. I believe if you ask people, they will tell you they need this. President Clinton commissioned a study by the Labor Department. The report was entitled "Working Women Count," and that report, headed by the Clinton Labor Department, said the No. 1 thing we want is more ability to harmonize, to accommodate the needs of our families and workers. The President himself has recognized this. There was a small portion of Federal Government workers that have not been covered since 1978, and when he took office in the early nineties, he said, "I'll cover them," and he issued an Executive order which extended the benefits to these workers.

I think it is time for America to prepare for the next century, and perhaps it may be a little scary for some people to just loosen their grip a little bit on the 1930's, but we do not live that way anymore. The truth of the matter is, we need flexibility. As long as we have a framework of protections and we guard against abuse and we make it voluntary for both employers and employees, I think it is time we said to the American people generally, you can have the same benefits that the Federal Government employees have had since 1978, you can work to accommodate these competing needs that tug and pull you, the need to have a good work situation and the need to meet the needs of your family.

When we address these issues on the floor of the Senate, I hope we will have an overwhelming vote that sends the American work force into the next century with a sense of optimism and a sense of being able to accommodate these competing values, values of their families and home place and values of industry and the workplace.

Mr. President, I thank you very much.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, first let me compliment the Senator from Missouri. I have supported his efforts and continue to do so because of the important contribution that his legislation would make for flexibility for working families in this country. It is an important effort that I hope we can succeed in adopting before too long in the Senate of the United States. Again, I compliment him.

CHEMICAL WEAPONS CONVENTION

Mr. KYL. Mr. President, we are working toward developing a unanimous-consent agreement which I hope will permit us to vote yet today on an important piece of legislation that complements the efforts of the administration to proceed with the consideration of the Chemical Weapons Convention next week.

For those who support the Chemical Weapons Convention, it is a way of reiterating that support. For those who oppose the Chemical Weapons Convention, it is a way of declaring support for a wide range of very realistic and practical and constructive steps that the United States can take to help reduce the proliferation of weapons of mass destruction and, in particular, chemical and biological weapons here in the United States.

It is my hope that we will be able to call that bill up. It is a bill which I have sponsored with cosponsorships, including I believe all of the Members of the leadership of the Senate Republicans, including the distinguished majority leader, Senator LOTT; Senator NICKLES; Senator MACK; Senator COVERDELL; Senator HELMS; Senator SHELBY; Senator HUTCHISON; Senator ALLARD; Senator HUTCHINSON; Senator INHOFE; Senator SMITH; and myself.

It is a bill which would have, under the unanimous consent agreement being proposed, only 2 hours of debate before the vote. There would be a very limited amount of time to describe it, and, therefore, I would like to briefly describe the legislation at this time.

I think it should be noncontroversial, though the Chemical Weapons Convention itself is very controversial; and reasonable people can fall on either side of that debate. I think the legislation before us today should be supported by all Members of the United States Senate.

The title of the bill—or let me actually read the description of the title of the bill to begin this description:

> To provide criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical weapon or biological weapon, and to reduce the threat of acts of terrorism or armed aggression involving the use of any such weapon against the United States, its citizens, or Armed Forces, or those of any allied country . . .

Mr. President, this legislation came about because of the focus on the Chemical Weapons Convention and the determination that there were a lot of things that the United States could and should do whether or not that convention is ratified.

For example, we found that while it is illegal in the United States to possess or manufacture biological weapons, there is no criminal prohibition upon the manufacture or possession of chemical weapons. Therefore, we combine the two sections of the statute which relate to chemical and biological weapons and provide that it is a criminal offense to manufacture them, to use them, to threaten to use them, to possess them. All of these things are criminalized with substantial penalties being provided for them.

We provide for the revocation of export privileges for those companies in the United States that might violate that law and, incidentally, for the forfeiture of assets to help pay victims of such crime. In effect, say, this was an attack such as in the Tokyo subway about a year ago. We would, under certain circumstances, be able to seize the assets of the criminals responsible for that for the purpose of compensating the victims of that terror.

This legislation provides for sanctions against the use of chemical and biological weapons. Under existing law there are sanctions, but we would provide more flexibility for the President. Under the existing law, the President has a limited range of 10 sanctions that he has to impose in two particular tiers if he makes a finding that there has been a violation of law. These are sanctions against another country.

What we would do is provide the President the flexibility to provide any combination of those sanctions. He is still required to impose five of them, as he is under current law, but this provides him some additional flexibility depending upon the circumstances of how he would impose sanctions against any particular country that has used or possesses or manufactures chemical or biological weapons.

There is also a continuation of the waiver for the President. Although that is strengthened somewhat, he would still be able to waive these provisions in the supreme national interest of the United States.

But importantly, also, this act would call the President to block transactions of any property that is owned by a country found to use chemical or biological weapons. So their property here in the United States should be seized, here again, for paying the victims of such crime.

Another thing this bill does is to call upon the President and the Secretary of State to use their best efforts to maintain the Australia Group in force. That is the group of countries of the world that have agreed among ourselves not to trade in chemicals with countries we do not think should have those chemicals because they might be used to manufacture chemical or biological weapons.

We need to maintain the Australia Group. This provides the sense of the Senate and the policy of the United States to continue that Australia Group in force.

There are currently conditions on assisting Russia in the destruction of and the dismantling of their chemical and biological weapons. They have far and away the largest stocks of chemical and biological weapons in the world. What we have done is to provide assistance to them under what are called Nunn-Lugar funds. This continues the same kind of restrictions that existed in the past with respect to a certification by the President that Russia is in compliance with these requirements.

The four conditions in this legislation closely parallel those in the 1996 Defense Authorization Act in which both Houses of Congress agreed to fence the so-called Nunn-Lugar funds pending a certification by the President that either Russia was making progress toward achieving these goals or that the President could not so certify.

Mr. President, I ask unanimous consent just to speak for a couple more minutes to conclude my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Thank you.

I note the distinguished Senator from Texas is here. I will, therefore, try to stay within this limitation of time.

In any event, this is basically a continuation of previous policy, Mr. President, not something new, but we think it is important to continue.

Our legislation calls for a report on an annual basis on the state of chemical and biological weapons proliferation. It calls for the Secretary of State to work with other nations of the world to try to find ways to put teeth in the 1925 Geneva Protocol. That is the treaty we all signed that bans the use of chemical weapons and, by the way, includes such countries as Iran and Iraq and other countries that really ought to comply with the provisions of that treaty.

We restrict the use of funds until the United States is actually a member of the Organization for the Prohibition of Chemical Weapons.

Next to last, we make it the policy of the United States to continue to enhance our defense capabilities. The GAO came out with a report last year that frankly said our military was going the wrong way in providing defensive capability to our troops, that we need to spend more money and that we need to do a better job in equipping our troops to defend against the use of chemical weapons.

Because of that GAO report, we have included in this legislation instructions to the Secretary of Defense to get on with that job and, very specifically, by the way, to require that the primary facility which engages in this conduct to defend our troops is under the jurisdiction of a general officer of the United States.

We provide a sense of the Senate that the President reevaluate the current policy on negative assurances. And, finally, we provide that the policy begun in the Ford administration on the use of riot control agents be continued in force. This is a policy that says, for example, that notwithstanding any chemical weapons convention, if we have a downed pilot, for example, and there are civilians in the area, we can use riot control agents, tear gas, if you will, so we do not have to fire real bullets to extricate that pilot from that situation.

The bottom line is this act that will be introduced, and we hope voted on today, is an act that continues some very important policies and institutes some new, positive changes in the law, including filling some important gaps in the law relating to the manufacture and use of chemical weapons here in the United States. It ought to be supported by all Senators in this Chamber whether or not they intend to support the Chemical Weapons Convention. This bill is an important bill to support, and we will be calling on them later today for that support.

Thank you, Mr. President.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, are there any time limits on the amount of time that a Senator can speak at this time?

The PRESIDING OFFICER. Five minutes per Senator.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that I be able to speak for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Thank you, Mr. President.

First, I want to commend the distinguished junior Senator from Arizona for all of the efforts that he has made to educate Members of the Senate and members of the American public on the chemical weapons treaty that will be before the Senate at some point in the next week. He has shown so many of the problems with this treaty and some of the consequences that might occur if the treaty is put forward in the form that it is in.

I think his bill would correct some of the real problems, such as the concern over the ability to use tear gas. To unilaterally say we would not use tear gas is unimaginable when we know what an important tool it is to safely extricate a pilot that is down or to safely be able to control a group of prisoners, which was done with Iraqi prisoners of war in Desert Storm. The last thing you want to do is have to shoot with real bullets when you have other options that are not permanently harmful.

So, I thank the Senator from Arizona, and I am proud to be a cosponsor of his bill that I think would correct some of the problems in this treaty so that we would all be able to ratify it very happily and knowing that we have carried our responsibility to do what is right for our country.

THE 50TH ANNIVERSARY OF THE WORST INDUSTRIAL DISASTER IN THE HISTORY OF AMERICA

Mrs. HUTCHISON. Mr. President, I want to say that I had quite an experience yesterday. I went back to my home territory near Texas City, TX, and helped commemorate the 50th anniversary of the worst industrial disaster in the history of America. That was the explosions in Texas City on April 16, 1947.

I remember the incident personally because I was there as a 4-year-old. I remember the tremendous jolt that occurred at that time. I put a statement in the RECORD yesterday that talks about the incredible impact this had on the people of the area of Texas City.

Just to put it in perspective, this was a town of 17,000 that lost 600 of its citizens in one 24-hour period. It lost the entire fire department that was on duty at the time. It lost people who were trying to help victims. It was an incredible impact. But the impact that I witnessed yesterday on the faces of the residents of Texas City highlighted for me the rejuvenation of this city, now of 50,000 people.

Thanks to the leadership of its mayor, Chuck Doyle, there is a 3-day commemoration of this event, and it is having a strong, positive impact on the city. It is a city that has put itself back together and made itself stronger from the adversity.

I am very proud of Texas City, TX, and the sister city of La Marque where I grew up for healing this devastating event in its history and for emerging stronger than ever. The area is today one of the petrochemical centers of the world and a place that I am proud to have grown up in and to have known the wonderful people who live there and who have made this city what it is.

So I commend Mayor Doyle, the survivors of the Texas City explosion, the residents of Texas City, and the many other people who worked to make the commemoration of that disaster such a positive event for Texas City and for this Nation.

THE FAMILY FRIENDLY WORKPLACE ACT OF 1997

Mrs. HUTCHISON. Mr. President, I rise today to speak on the Family Friendly Workplace Act of 1997.

Mr. President, Senator JOHN ASHCROFT of Missouri is the key sponsor of this legislation. It is the Ashcroft-Hutchison legislation that I think is so important for the working people of our country. Senator ASHCROFT talked about it earlier this morning.

I am pleased to be able to talk about this incredible opportunity we have to bring hourly workers under the same laws that salaried, or exempt workers now have, and that all Federal employees now have.

Mr. President, every hourly Federal employee today is given the benefit of flexible work scheduling—a benefit which is unavailable to their private sector counterparts. Federal hourly employees can today go to their manager and say, "I would like to work 2 extra hours this week and get off at 3 o'clock next Friday to go to my child's soccer game," or to take off early on a camping trip, or for whatever reason they choose.

Right now the hourly workers of America are not able to do this because of the inflexibility of the Fair Labor Standards Act. This is unfortunate, because hourly workers, those who punch a time clock, are the most stressed of all American workers. They, more than any other sector of our workforce, would benefit from flexible work schedules. So the Family Friendly Workplace Act of 1997 is meant to give our hourly blue-collar workers the same opportunities that salaried workers and all Federal employees now have.

So what we are trying to do, Mr. President, is to end the inequity in labor laws in this country that artificially place barriers around hourly employees and deny them the freedom to sit down with their employers and work out a flexible schedule that best meets their personal, family, and community needs, in order to relieve some of the stress in their lives caused by time pressures.

Here is what the bill does. Where an employer requires an employee to work overtime, the bill would give that employee the option of choosing paid time and a half off in lieu of time-and-a-half pay. Now, if the employee says "No, I want the time-and-a-half pay," they are absolutely entitled to the time-and-a-half pay. But if they know that they are going to want some time off in the future, they would be able to say, "No, I would like an hour and a half of overtime that I can put in a bank to use when I need it to take my child to the doctor." So this is going to give them the option to earn paid time off for their overtime work.

The second thing the bill does is provide an additional option for those employees who do not typically work overtime, which includes over 90 percent of the hourly wage women who work in this country. These employees would be allowed to voluntarily work more than 40 hours in one week in order to take the same amount of paid time off later on. This will give hourly workers, including working mothers and fathers in our country a better chance to plan for the future and to get the option to go to their employer and say, "You know, I am working 40-hour weeks here but what I really need is flextime. What I need is the ability to start putting hours aside that would allow me to take time off later for a child's school event or some other purpose." For example, the employee could work 9-hour days and take every other Friday off, with pay, as many Federal employees now do. This is called flextime.

Finally, the bill will give employees and employers the option of establishing regular 2-week schedules to allow an employee to work additional hours in week one in order to work fewer hours in week two. Again, this time is paid, and could be taken for any reason the employee wishes.

Mr. President, according to the Bureau of Labor Statistics, both the mother and father work out of the home in two-thirds of the homes in our country. So, Mr. President, we know that mothers and fathers are stressed in two-thirds of the families in our country where both the mother and the father work outside the home.

This has come about because many women would like to work outside the home. That is their choice. It has come about because many women need to work outside the home in order to help pay the bills. In many instances the mother is working just to pay taxes. Now, we are trying to do something about that. We are trying to lower the tax burden on the American family because we think working people should keep more of what they work so hard to earn. Until we are able to do that, to give mothers the choices they want—whether it is to work outside the home or not—we want to give the working mothers of this country every possibility to spend the time with their children that they need.

A key element of our approach is that the time off employees would receive is paid time off. This is in contrast to other proposals, including an expansion of the Family and Medical Leave Act that the President and some others have advocated. They want to give American workers time off, but unpaid time off. Comptime and flextime are paid, because they have been earned by the workers themselves, not handed down from Washington as another unfunded mandate on employers and employees. We want people to be able to have flexible work schedules, without busting their budget.

So, Mr. President, we are trying to expand the options of the hourly workers in our country. That is the key point of this bill. We are not trying to let employers in any way tell an employee or pressure an employee to take comptime instead of comp pay. In fact, there are very stiff penalties if the employer tries to do this. We want the employee to have the option, in cooperation with the employer. We want the employee to be able to say, "It is the stress in my life that I need relief from, without busting my budget." That is what we want the employee to be able to say to the employer—"I am stressed. I want to be able to take 2 hours or 20 hours off next week, in exchange for working a little later this week, so that I can spend more time with my children."

All the polls show, Mr. President, if an employee feels comfortable that he or she has the time with his or her children, that employee is a happier, more productive employee, and it is a win-win situation for both employer and employee. In fact, upward of 75 percent of Federal employees say that they like comptime and flextime, and that it has improved their morale and performance as employees.

Mr. President, Congress cannot make more hours in the day. There are just 24, and there will always be just 24. But we can make those hours more productive and we can make lives less stressful if we give the hourly employees in our country the same opportunities that salaried workers have, that Federal employees have, that they say means a lot to them.

So we want these options to be available to the hourly workers as well. This is our goal. The Family Friendly Workplace Act that is sponsored by Senator ASHCROFT and myself is for the families of our country, it is for the blue-collar workers, the hourly employees that are working so hard, that need the stress relief more than any of us, that do not now have it, and we think they should. That is what we are working for.

I hope we will be able to take this bill to the floor very quickly. It has passed through the committee. It is a good bill. I think we can work together in a bipartisan way if the other side will work with us.

Until we in Congress can get around to giving American families the tax and regulatory relief they deserve, the least we can do is allow them a little more flexibility in their workweek. America's hourly workers want and deserve to choose the hours they work so they can take their children to the doctor, to the soccer game, to the Little League baseball game, or to the camping trip, or whatever they would like to do with their own time. We think it should be their choice.

Thank you, and I urge my colleagues to join Senator ASHCROFT and myself in supporting this most important legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered. The Senator from North Dakota is recognized.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 605 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CONRAD. I thank the Chair and yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may proceed in morning business for a period up to 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 603 and S. 604 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE DRUG-FREE COMMUNITIES ACT OF 1997

Mr. DASCHLE. Mr. President, last week I introduced the Drug-Free Communities Act of 1997. This bill, which is strongly supported by Members from both sides of the aisle, rechannels existing Federal drug control resources into community, antidrug efforts that are already reducing teenage drug abuse in our towns.

We must act now on this issue, because teenage drug abuse is one of the worst problems in America today. Drug abuse encourages crime and gang violence, as well as higher rates of teenage pregnancy, and other social problems. Many of our schools are under siege from the onslaught of drugs.

What's more, teenage drug abuse is getting worse. After more than a decade of substantial progress in combating the problem, the trends have reversed since 1991. Marijuana use alone has tripled among 8th graders and more than doubled among 10th and 12th graders. Daily use has increased so dramatically during this period that one in 20 of today's high school seniors uses marijuana daily. And, the marijuana of today—because of the chemical THC content—can be 15 times stronger than the marijuana of the 1970's. Cocaine, crack cocaine, amphetamine stimulants, barbiturates, and heroin are increasingly popular among teenagers. The use of LSD has never been higher.

These nationwide statistics are extremely troubling. But, the problems of teenage drug abuse are experienced most vividly in each of our towns and communities. Our sons and daughters face this threat every day in school and on the playground. We need to target our drug reduction efforts to help these teenagers in their own communities. That is why we are introducing the Drug-Free Communities Act of 1997.

With little or no Federal funds, many local anti-drug coalitions are already helping some teenagers in their communities. This legislation targets assistance to these coalitions, so that they can reach out to and help more teenagers. In order to receive Federal support, a community must first demonstrate a comprehensive, long-term commitment to addressing teenage drug abuse. This commitment must include a focused mission, the implementation of strategies to reduce drug abuse, and the involvement of all parts of the community—including parents, youth, businesses, media, schools, law enforcement, religious leaders, and others. Moreover, a community must demonstrate that its antidrug effort is an on-going concern that has local support and is self-sustaining.

I also support the Drug-Free Communities Act because it is fiscally responsible. It does not increase Federal spending or the deficit. Instead, it simply rechannels existing funds from the $16 billion Federal drug control budget. Even more importantly, the bill requires a financial commitment from the communities involved. Under the bill, the Federal Government will not simply grant money to local communities that meet the criteria that I just mentioned. The qualifying communities must match the Government's funds with resources of their own—up to a cap of $100,000. These matching grants will force the communities to demonstrate an even greater commitment to fighting drug abuse before receiving Federal funds.

Finally, the legislation creates an Advisory Commission to oversee the antidrug program. This commission will consist of local community leaders and national and State experts on substance abuse. This composition ensures that the program draws upon national expertise in fighting drug abuse, while remaining responsive to local needs.

The Drug-Free Communities Act has attracted the support of more than 150 State and local law enforcement groups, churches, and other organizations. On the national level, it has been endorsed by groups as diverse as Mothers Against Drunk Drivers and William Bennett's Empower America. This bill represents a wonderful opportunity to provide meaningful help to community coalitions in South Dakota and nationwide, without expending additional Federal funds.

I strongly encourage my colleagues to support this important legislation.

NO CASH TO CONVICTS ACT

Mr. ABRAHAM. Mr. President, I rise today to cosponsor Senate bill 438, a bill that will help close a costly loophole in the current administration of Social Security benefits. I commend my colleague, Senator GRASSLEY, for introducing this important bill, the No Cash to Convicts Act. The bill will help the Federal Government identify incarcerated prisoners who are receiving Social Security disability benefits to which they are not entitled, and will provide that prisoners who are incarcerated for even short periods of time are not eligible for those cash benefits when they are in prison.

In the landmark welfare reform legislation enacted last Congress, Congress set up a voluntary program between local law enforcement and the Federal Government to assist in the identification of prisoners who are receiving supplemental security income or SSI benefits. While earlier versions of that legislation covered prisoners' receipt of Social Security disability benefits as well, the Social Security provisions had to be dropped from the final conference report because of Senate rules preventing changes to Social Security benefits in a reconciliation bill. We should finish the job this Congress and ensure that prisoners do not get those cash disability benefits, which would be better spent on our law-abiding elderly and disabled.

By precluding any defendant who is convicted of a criminal offense and who is incarcerated from receiving Social Security disability benefits, this bill removes an arbitrary and illogical requirement under current law that a defendant have been sentenced to at least a year in prison to be ineligible for benefits. There is no reason that an incarcerated prisoner should receive benefit checks intended to provide for necessities like food, shelter, and clothing when the prisoner is already receiving those at the expense of the Government.

The bill also creates financial incentives for State and local law enforcement authorities to provide timely information concerning prisoners to the Social Security Administration. This will permit the Federal Government to check the benefit rolls to see whether prisoners are receiving benefits. If the Federal Government identifies any instances in which inmates are illegally receiving Social Security disability checks, the local authority that provided the information will receive a cash payment.

I am glad that this provision is structured to provide an incentive system rather than an unfunded mandate, and am pleased to join my distinguished colleague from Iowa in sponsoring this much-needed bill.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, April 16, 1997, the Federal debt stood at $5,386,017,997,799.85. (Five trillion, three hundred eighty-six billion, seventeen million, nine hundred ninety-seven thousand, seven hundred ninety-nine dollars and eighty-five cents)

One year ago, April 16, 1996, the Federal debt stood at $5,142,251,000,000. (Five trillion, one hundred forty-two billion, two hundred fifty-one million)

Five years ago, April 16, 1992, the Federal debt stood at $3,882,706,000,000. (Three trillion, eight hundred eighty-two billion, seven hundred six million)

Ten years ago, April 16, 1987, the Federal debt stood at $2,269,312,000,000. (Two trillion, two hundred sixty-nine billion, three hundred twelve million)

Fifteen years ago, April 16, 1982, the Federal debt stood at $1,064,889,000,000 (One trillion, sixty-four billion, eight hundred eighty-nine million) which reflects a debt increase of more than $4 trillion—$4,321,128,997,799.85 (Four trillion, three hundred twenty-one billion, one hundred twenty-eight million, nine hundred ninety-seven thousand, seven hundred ninety-nine dollars and eighty-five cents) during the past 15 years.

LEADING THE WAY AGAINST CHEMICAL AND BIOLOGICAL WEAPONS

Mr. KYL. Mr. President, today the Senate will vote on the Chemical and Biological Weapons Threat Reduction Act which will, for the first time in U.S. history, provide criminal and civil penalties against those who produce, stockpile, or transfer chemical weapons in the United States. It will also legislate other practical and realistic reforms to reduce the spread of both chemical and biological weapons and improve the American military's defenses against them.

The impetus for this legislation was the realization that the Chemical Weapons Convention being promoted by the administration, though noble in aim, would have little practical effect, especially in the United States; and that there were important steps we could take to fill gaps in existing law regardless of what happens with the CWC.

That is why Senate Republicans have introduced the Chemical and Biological Weapons Threat Reduction Act, setting forth a comprehensive package of domestic and international steps to address chemical and biological threats. Importantly, the legislation reiterates our firm commitment to destroying the entire U.S. chemical weapons stockpile whether or not the CWC is ratified—a pledge no other chemical weapons state has matched.

Some may be skeptical of this bill because they see it is as an alternative to the CWC. To the contrary, S. 495 provides a sensible and effective action plan that CWC critics and proponents alike should support. By enacting the Chemical and Biological Weapons Threat Reduction Act, the United States will lead by example, and will underscore its commitment to bringing together like-minded friends and allies to make unthinkable the resort to chemical or biological weapons. This is not going it alone, this is leadership.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, it is my understanding that the next hour, 1 o'clock to 2, is under my control either for my own purposes or those that I might designate?

The PRESIDING OFFICER. The Senator is correct.

ABUSE OF EXECUTIVE ORDERS AND REGULATIONS

Mr. COVERDELL. Mr. President, a news flash to President Clinton: In America, you do not get to rule by Presidential decree.

President Clinton is prepared to provide the ultimate payoff to labor bosses, an Executive order that essentially mandates that Government contractors toe the union line. Too bad about the millions of American workers who choose not to belong to a union. Now they are to be second-class citizens.

The policy substance of the President's gambit is sufficiently bad, but we suggest there is an even larger issue, one that goes to the very heart of our constitutional form of government.

One of the great strengths of our Republic is a Constitution that reflects, and nicely balances, the tension between democratic representation in the legislative branch and the executive power of the President. The Founders established Congress in article I as the source of all legitimate authority, all legislative powers; that is, the authority granted by the people. The executive branch, at least in terms of domestic policy, is constrained by the requirement that the President take care that the laws be faithfully executed.

Fairly elementary stuff. But in reality, of course, there has been a continuous struggle among the branches over where the legislative power begins and ends. Normally, these tensions erupt at times of great crisis: Lincoln during the Civil War, Truman and the steel mills. Typically they are bound up in questions of war and peace and the President's foreign policy role.

What we face during the twilight of the Clinton era is something very different and much more worrisome. What we see now is a calculated strategy by the White House to ignore the unhappy reality that the President was reelected with less than a majority vote while the Republicans were reelected to a majority in Congress. Now, it appears his goal is to encourage gridlock in the Congress while issuing Executive orders and regulations that exceed his legal power to act.

There is perhaps no area of Federal policy more contentious than labor issues. This has been true in fact for most of this century. It is also clear that labor bosses and leaders faced continued loss of power and declining membership. They have been stymied time and again in their efforts to expand their powers over unwilling American workers.

So what has the President done here? He is issuing an Executive order that deprives nonunion employees of their right to choose whom they support in the political process. He attempted to bar, through an Executive order, any company that exercises its right to hire replacement workers during a strike, though the courts properly struck this down. He is now about to issue an Executive order that would allow agencies to bar—prohibit—Federal contractors if they do not use unionized labor.

Most recently, he is playing with a change in procurement regulations that would bar companies from Federal contracts unless they had satisfactory labor relations. Determined by whom? The President. Unions could have a field day with that. All they would have to do is initiate a lawsuit under the National Labor Relations Act and, presto, you have a company that has unsatisfactory labor relations. This would be laughable if the impact were not so grave. Hundreds of billions of dollars and hundreds of thousands of jobs are at stake.

In short, President Clinton's actions twist beyond recognition the role of the Presidency in the legislative process. The Framers were careful to ensure that the President's voice was a negative one by granting him the veto. They did not grant him the equal and opposite power—he did not get the power of decree. A negative power like a veto is more easily used to avert harm. The decree smacks of autocracy.

But give the White House their due. The White House has carefully established precedents based on issues that are difficult to confront. Ironically, some of the most contentious issues are going to be the most difficult for the Congress to resolve. In some cases, perhaps a majority of Congress would agree, in others they will not. But we believe those are precisely the types of issues that are intended for legislative consideration and a majority vote. This is known as representative democracy. It might be messy. It might take longer than the pundits like. The results may not please everybody. But it is a process that is founded on the consent of our citizenry.

This is a time when there are many questions on whether various individuals in the White House have been engaged in unlawful activity. Only time will tell how that plays out. What we do know right now is that even more than all these financial and campaign issues, the President's abuse of Executive orders and regulations is a direct threat to the rule of law in America.

Mr. President, I now yield to my good colleague from New Hampshire 5 minutes of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I thank the Senator from Georgia for his excellent statement, which sets the premise for this hour of discussion that has been reserved relative to the proposal by the administration and the President and the Vice President to unilaterally take control over what is clearly a legislative prerogative and determine, unilaterally, that 89 percent—89 percent—of the work force in this country which would participate in Federal jobs will no longer be able to participate in those jobs. That is the practical effect of this proposal which is being put forward by the President and which was announced by the Vice President, was announced by the Vice President at a convention of a building trades union.

One could be cynical and say, "Well, the building trades unions in the last campaigns spent $35 million reported"—we suspect maybe it may be closer to twice that unreported—"spent $35 million reported for the purposes of electing this President and that therefore this decision by the President to exceed his authority, as announced by the Vice President, is a return of that favor." One could be cynical and one would be accurate, I suspect, in making that statement.

But as the Senator from Georgia has pointed out, this goes well beyond the cynicism of this administration, which has already been displayed in a most significant way in a variety of other instances relative to campaign financing and fundraising and what will be done by this administration to benefit people who contribute to them. It goes well beyond that cynical approach and abuse of power which has become almost a hallmark of this administration. It goes to the essence of the separation of powers on which our Government is structured.

This Congress is the Congress of the people. It is the Congress which is elected by the people. You may agree with it. You may disagree with it. But the fact is that the membership of this Congress is sent here for the purpose of writing the laws which govern the people whom we represent.

As the Senator from Georgia has so adequately pointed out, the President's power in the legislative process is that of a negative, not of a creator of that law. In fact, ironically, the President does not even participate as a negative on some of the most significant laws that affect this country.

For example, the budget of the United States is not signed or vetoed or subject to signature or veto by the President of the United States. It is purely a law driven by the body of the people of this country, which is the Congress. When a decision is going to be made to disenfranchise 89 percent of the people who presently participate in working for the Federal Government as contractors, that cannot be unilaterally done by the executive branch. That is a decision of such weight and of such importance that it is reserved clearly to the House of the people and to the Senate of the United States. And yet, this President has decided to do that and to, by fiat, by an arbitrary decision, put together who knows what.

It certainly was not put together through the process of a legislative hearing. It was not put together through a process of a legislative debate. It was not put together through a process of a legislative vote in a committee, and a legislative vote on the floor of the Senate, and a legislative vote in the House, and a legislative conference, creating a bill which is sent to the President.

No, it was put together by somebody sitting in a back row, writing an idea which was given to the Vice President of the United States, who went to a labor union annual meeting and announced, "This will be the new law of the land." That is not the way we govern in a democracy.

For that reason, I strongly support the initiative today put forward by our leader in the Senate, Senator LOTT, which, said as I understand, the nomination of the Secretary of Labor shall not be brought before the body until this matter is cleared up, because that is our prerogative. That is our legal right as a representative of the people to advise and consent on the nominees for Cabinet positions. That is a legal and constitutional right. We have the legal and constitutional right to limit our advice and consent, and to not approve a member of this Cabinet, or to approve a member of the Cabinet.

In this instance, we certainly have a right to hold up that nomination until this arbitrary act of excess on the part of the executive branch, done for whatever reason, is clarified and withdrawn. And, in fact, it would be my view that we should hold up probably just about every nomination which the administration wants to proceed with, because if they are not going to proceed in good faith in governing, if they are going to proceed in a manner which clearly exceeds the bounds of authority of the executive branch, then it is incumbent upon us as the legislative branch, as the branch elected by the people, to govern and to legislate, to make it clear to the President that that type of action will not be tolerated and cannot be tolerated if we are to maintain a constitutional democracy, a democracy built on the concept of checks and balances, a democracy which was designed by Madison and has survived so well for so many years.

The issue has been laid out. The fight has been joined. I believe this Congress must assert its prerogative to retain its right as a legislative body of the people of this country.

I yield back the balance of my time.

Mr. COVERDELL. Mr. President, I thank the Senator from New Hampshire for his comments with regard to this very crucial and, in fact, constitutional issue.

We have been joined by my good colleague from Arkansas. I yield such time as the Senator from Arkansas desires to address this issue.

S. 606, THE OPEN COMPETITION ACT OF 1997

Mr. HUTCHINSON. Mr. President, I am pleased to introduce today an important piece of legislation which will guarantee to all Americans an equal opportunity to compete for the nearly $60 billion of Government contracts.

The Open Competition Act of 1997 ensures that no single special interest group will have an exclusive claim on Federal contracts, and would accomplish this by amending the National Labor Relations Act to simply prohibit discrimination in bidding for contracts funded by the Federal Government.

The Clinton administration, specifically the Vice President, recently announced their intent to issue an Executive order which would, in practice, create a union-only mandate for all Federal projects.

Upon closer examination, a disturbing connection exists between contributions made by big labor interests, the announcement of the proposed Executive order, and the individuals who actually drafted the language of this order.

For the American people to fully understand what prompted these actions by the Clinton administration, it is essential to understand exactly what big labor did for them during the 1996 election.

As widely reported after the November election cycle, labor unions spent between $300–400 million on the 1996 elections—Wall Street Journal, April 11, 1997.

This amount is even more astonishing when you consider that it was financed in large part by dues-paying union members who were never asked by the union leadership if this was how they wanted their hard-earned wages spent.

I firmly believe in the constitutional right to donate money to the political candidate of your choice. However, the problem here is what is asked for in return for this money, and even worse, what is given.

The question must be asked—What did the labor unions get in return for the incredible amount of money they spent in the 1996 election?

On February 18 of this year, at the AFL–CIO convention in Los Angeles, the Vice President pledged the administration's support for organized labor and announced several initiatives the administration would be launching in coming months.

"How you treat your employees and how you treat unions counts with us," said the Vice President—White House Press Release, February 18, 1997. He told the executive council of the AFL–CIO that the administration would issue an Executive order which would require Federal agencies to consider using project labor agreements on all Federal contracts—Bureau of National Affairs, February 19, 1997.

These project labor agreements require all contracts for a particular job to be awarded only to contractors who agree to recognize designated unions as the representatives of their employees on that job.

In addition, these agreements would require all contractors to use only union hiring halls to obtain workers, pay union wages and benefits, and obey the union restrictive rules, job classifications and arbitration procedures. The Open Competition Act would do away with this requirement and restore fairness to the bidding process.

Just 3 days ago, on April 14, the Vice President announced that the administration was prepared to offer an Executive order encouraging Federal agencies to use project labor agreements—again, which generally require union representation—on Federal construction projects.

His announcement was greeted by thunderous applause by almost 3,000 AFL–CIO trade union officials in Washington, DC.

This Executive order becomes very interesting when you consider the parties who had a hand in drafting the language. The language in the draft was jointly developed by the AFL–CIO, the Clinton administration, and the Builders and Construction Trades Department.

I believe this is a clear indication that the money spent by big labor during the 1996 elections not only provided the catalyst for this Executive order, but also gave them a seat at the table when it was written.

Is this the way to build trust with the American worker?

The Clinton administration would have us believe their actions benefit the majority of the American work force. But when you consider the percentage of Americans who belong to labor unions, this is clearly not the case.

Of the total work force in America, only 14.5 percent belong to unions. When you consider just those workers in the construction industry, only 18.5 percent of those are union members.

The facts clearly show that if this Executive order is implemented, only a minority of American workers will benefit. The 81.5 percent of workers who do not belong to a labor union will be placed at a clear disadvantage to the 18.5 percent who do.

Essentially, this means 4 out of every 5 workers would face discrimination. This is clearly not the way to help the American worker.

I want to make it very clear to the American people the detrimental effect this action by the administration will have on the American work force.

The Open Competition Act which I am introducing today, will assure the vast majority of American workers that their government will not discriminate against them.

This proposed Executive order will have the effect of creating a union-only mandate for all Federal construction projects. In addition, it would directly attack the principle of open competition in Federal contracting by excluding from the bidding process four out of every five workers who have chosen not to be represented by unions.

The Federal Government should not be ordering discrimination against open shop companies which bid for federally-funded construction contracts. Rather, it should be encouraging competition for these contracts and promoting participation in the process by all companies who wish to bid.

The Open Competition Act of 1997 would make sure this occurs.

It would simply be unconscionable to institute a federal policy which would allow a special interest group to have an exclusive claim on Federal contracts based on their enormous political contributions to the current occupants of the White House.

This distinguished body has the obligation to insure that Federal contracts are awarded through full, open, and competitive procedures. The Open Competition Act which I am introducing today along with Senators LOTT, NICKLES, MACK, COVERDELL, CRAIG, THURMOND, JEFFORDS, COATS, GREGG, FRIST, ENZI, COLLINS, WARNER, MCCONNELL, ALLARD, BROWNBACK, HAGEL, KYL, and ROBERTS, guarantees that our constitutional prerogatives will not be infringed upon.

I ask my colleagues to join me in supporting this legislation and guarantee to the American worker that their own Government will not discriminate against them.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 606

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Open Competition Act of 1997".

SEC. 2. PROHIBITION REGARDING CONSIDERATION OF CERTAIN LABOR RELATIONS POLICIES OF OFFERORS ON FEDERALLY FUNDED CONTRACTS.

Section 8(e) of the National Labor Relations Act (29 U.S.C. 158(e)) is amended by adding at the end the following: "Notwithstanding any other provision of this Act, no person may be discriminated against when bidding on a prime contract, funded in whole or in part with funds provided by the Federal Government, where such discrimination is based in whole or in part on a requirement that such person enter into or adhere to a collective bargaining agreement or any similar agreement as a condition of performing work under the contract.".

SEC. 3. CONSTRUCTION.

The amendment made by section 2 shall not be construed—

(1) to apply to subcontractors, or

(2)(A) to prohibit a contractor from voluntarily entering into a lawful agreement with a labor organization; or

(B) to discourage contractors who have entered into such an agreement from bidding on Federal contracts.

SEC. 4. APPLICATION.

The amendment made by section 2 shall apply to contracts made directly with any agency of the Federal Government and to contracts made with any entity that is managing or operating a facility owned or controlled by the Federal Government on behalf of the Federal Government.

Mr. COVERDELL. Mr. President, I thank the Senator from Arkansas not only for his statement and understanding of the issue but for taking the initiative affirmatively to correct it. I only wish it had not been the case that the legislative branch has engaged in legislation to protect its constitutional rights.

If I might, I will take just a moment to describe by precedent the sequence of events that are occurring here. In the 1992 campaign for President, President Clinton took a position on striker replacement which had been in labor law since the mid-1930's, which, under certain circumstances, would allow a company meeting certain criteria to replace strikers who were striking not over economic matters. This has been a contentious issue. The President said he would support legislation that would prohibit that, even though it has been in labor law for over three decades.

He was thwarted in that. Even though he controlled the Congress—he controlled the White House and he had a majority in the Senate and the House—and he could not secure consensus on that pledge that he had made. So the beginning of this new concept began to unfold, even in the early days of this administration. The President issued an Executive order on striker replacement because, as I said, he had promised this in his campaign, could not get the Congress to agree.

After wooing labor during the election with promises of a ban, President Clinton made good on his pledge on March 8, 1995, when he issued Executive Order 12954, titled, "Ensuring the Economical and Efficient Administration and Completion of Federal Government Contracts." The order authorized the Secretary of Labor to debar a contractor after finding that the contractor has permanently replaced lawfully striking employees, thus, making the contractor ineligible to receive Government contracts.

As I said, Congress had rejected this legislatively. So the President ignored the will of the people, ignored the Congress, and imposed it through an Executive order. Now, what happened? Well, back to the ingeniousness of the forefathers. There is an executive, legislative, and judicial branch. Quite properly—I repeat, properly—a Federal appeals court unanimously declared that the Executive order exceeded the President's authority. He had overreached. He was governing by decree. This is not a part of the American republic.

Now, here we come again, another Presidential campaign is carried out, commitments are made, but the President is finding a people's branch, the legislative branch, that will not accept an egregious command that excludes 80 percent of the work force. So according to the Bureau of National Affairs publication, it says, "The proposed Executive order would encourage Federal agencies to consider requiring the use of a project labor agreement for federally funded construction projects." This is interesting language in the draft: "The Executive order was jointly developed by the Building and Construction Trades Department, the AFL–CIO, and the Clinton administration," according to Robert A. Geogine, BCTD President, the President of that union.

Here we have this new Senate Chamber, opened in 1859, and the House on the other side, the House and the Senate and the legislative process; but one trade union drew this law that would be imposed on all the American people and that would exclude 80 percent of the work force from having an opportunity to engage in these contracts.

Mr. President, to add to this sequence of events, making it a little clearer—this is a new form of making laws in the American Republic, far from these hallowed Halls. This is a memo to the national and international union presidents from John J. Sweeney, president of the AFL–CIO. It says: "Support for a proworker Federal procurement reform * * *" dated March 25, 1997. What it doesn't say is it's support for 20 percent of the workers, in a very select category, and to the exclusion of the others. And it says: "As you may recall, the Clinton administration recently announced its intention to undertake several initiatives that will," in his words, "protect workers' rights and workplace standards * * *"—he is talking about the workers that belong to his union, not the rest of the workers—"* * * while improving Federal Government procurement and contracting practices * * *"—which means that the practices are designed to benefit his interest but not the other 80 percent. It says: "If properly implemented, these initiatives will affect the expenditure of * * *"—his words—"hundreds of billions of dollars every year." In any given year, Federal contracts total as much as $200 billion, and Federal contractors and subcontractors employ approximately one-fifth of the labor force.

He goes on in the memorandum to say, "The Government will be issuing proposed regulations that will accomplish three reforms. First, the Government will evaluate whether a bidder for a Government contract has a satisfactory record of labor relations."

Well, who makes that decision? I guess it would be made in the same room in which these procurement regulations were written, and that they would become the arbitrators of what is a satisfactory performance, just like they are the authors of this law that is being placed on the people of America, without any lawmaker ever voting on it.

He goes on to say: "Second, the Government will not reimburse Federal contractors for the costs they incur in unsuccessfully defending against an unfair labor practice suit."

This has been an argument in the Labor Relations Board for over 30 years, as I said.

"Third, the Government will not reimburse contractors for the money they spent to fight unionization." Perhaps, but this is where we make these decisions, not wherever this room was. This goes on to say—and this is a very pertinent paragraph in this memo of March 25: "President Clinton will also issue an Executive order directing all Federal departments to consider using a project labor agreement when they undertake Government-funded construction projects. This order is not subject to notice and comment, or other administrative steps." I repeat, "This order is not subject to notice and comment, or other administrative steps." In other words, fiat, decree, governance by decree. And then it goes on and meticulously points out how the recipients of this memorandum should begin building cases. Lawyers should provide citations to the National Labor Relations Board and copies of all decisions, settlement agreements, et cetera. Organizers should provide information about campaigns and work sites. And lobbyists should review their files where local unions and other internal bodies have requested intervention, et cetera, et cetera, et cetera.

Decree—written in some room between the Building Construction Trade Department, the AFL–CIO, and the President. It is a new way of writing law, Mr. President.

I yield up to 10 minutes to my good colleague from Idaho, Senator CRAIG.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, let me thank the Senator from Georgia for the time he has taken today to bring this critical issue to the floor and for an open discussion among Senators and, hopefully, the American people on a proposed Executive order that our President is at least talking about at this moment, and that the Vice President has pledged that the administration will act upon, which would significantly change the dynamics of Federal contracting.

Without doubt, open competition in a free enterprise environment is the only way the Government of this country and the taxpayers can expect fair treatment of the tax dollar when it comes to buying the goods of Government or the projects of Government for the citizens of this country. We spend hundreds of billions of dollars a year in this business of contracting.

As Government provides services and, of course, provides capital expenditures for construction of roads, bridges, and buildings, that are a part of what we think is necessary, for the President to suggest a whole new dynamics as to how that contracting ought to come about, significantly skewing it toward organized labor is, at best, not being responsible to the taxpayers and, at worst, if I can simply say it, paying off for the great service provided in the last election by organized labor to the Democrat party.

Is that a blunt and cold statement? Well, it is. But it falls on the heels of hundreds of millions of dollars worth of expenditures, targeted specifically at members of the Republican Party. And now I must say that it appears that union bosses were literally sitting inside the offices of this administration to help craft what we believed would be a significant change in the way the bidding process of a fair and competitive market would work on Government contracts. "Require Federal departments and agencies to evaluate whether a bidder for a Government contract has a satisfactory record of labor relations and other employment practices, in determining whether or not the bidder is a responsible contractor, eligible to receive a particular Government contract."

This regulation, if it were to become regulation under Executive order, would require the companies bidding for Federal contracts to have a spotless record of compliance throughout the Federal regulatory spectrum, including collective bargaining, wages, benefits, equal opportunity, health, and safety.

In an era of regulatory overkill, when OSHA can issue a $13,200 fine to a roofing company for having a broken shovel in the back of a truck, my guess is there is hardly a potential contractor out there today that can meet all of this criteria. And now we have added dramatically to it a second possibility, "to prohibit Government reimbursement of Federal contracts for the costs they incur in unsuccessfully defending against or settling unfair labor practice complaints brought against them by the NLRB." "Prohibit Government reimbursement of contractors for money they spend to fight unionization of their employees," and so on and so forth.

Why is it significant that we talk about this today? The Executive order that we are concerned about has not yet been issued. Well, here is the reason why we talk about it and think it is extremely important. It wasn't very long ago that the Vice President went before organized labor and suggested to them that there would be an Executive order sent forward on worker replacement, and it was. It took a Federal court action to strike down this particular action on the part of the administration as simply being outside the law in relation to the National Labor Relations Board and its ability to make decisions. And, therefore, it was an illegal act, or certainly an act outside the law, and the decision was struck down.

Now, it is interesting that our Vice President would follow the same process. I think that we can suggest to the courts that this kind of an Executive order would fall under very similar kinds of guidelines that the one of a year ago did, because it probably falls under the Supreme Court's decision of 1986 of Wisconsin Department of Industries.

I think what concerns all of us is the use of Executive order and rule and regulation on the part of this administration, instead of coming to the Congress of the United States and saying this is good policy. Do you mean this policy can't be debated on the floor of the Senate and voted on as a part of the law for contracting of Government programs? It should be, if that is how we are going to make public policy instead of by Executive order of the kind and the nature that is being talked about in this potential Executive order. Union-only subject agreements clearly have an exclusive and an anticompetitive nature to them. It is not for me to give an anti-union speech. Clearly, companies that are unionized ought to have every right to bid. But other companies that meet reasonable standards can compete over good bids, and do it in a fair and responsible way and provide the service to the Government as expected. They ought to have a right in that same market. That is exactly what George Bush said when he said it very clearly in 1992 in an Executive order requiring all Federal agencies to use an open competitive process for all Federal contracts. President Clinton's executive order would revoke this basically. That was revoked in 1983, and this would go even further to narrow it and define who could bid. It just so happens that only a limited few could bid. Last year, if this Executive order, as we understand it, were in place—I guess it is a contract for fiscal year 1993—it would have been well over 13 percent more of them at about $182 billion.

In addition to contracts with major corporations, a study identified with contracts with Duke University, with Loyola University, and others, would fall subject to them and could well shut them off from their kind of contracts for research and development in the area of AIDS research in one and biomedical research in another.

Mr. President, what our President proposes and what the Vice President has openly talked about to be expected this next week is in itself, in my opinion, a travesty of the way Government works and the way the executive and the legislative branch come together to build good public policy. This is special interest group legislating in the worst form. It is very bold, and it is very open. But, then again, hundreds of millions of dollars worth of campaign contributions later, I guess they can figure they can be that bold and that open because, certainly, in the shadow of what has occurred in the last election, this appears to be a response to those kinds of levels of participation.

I thank my colleague and the Senator from Georgia for bringing this issue to the floor. It must be talked about. It must be understood openly by the American people. And, as I say, what the American people want for their tax dollar, its expenditure for and purchase of Government services and the need for capital expenditure within the Government is a fair and open bidding process and a good product in the end. Certainly, the President at this moment may well be accused of attempting to skew that into less competitive and most assuredly a less open process.

I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I thank the Senator from Idaho for his usual contribution. He has contributed substantively to this discussion.

PRIVILEGE OF THE FLOOR—S. 495

Mr. President, I ask unanimous consent that Jeanine Esperna, staff member, and David Stephens, fellow for Senator KYL, be granted privileges of the floor this afternoon during consideration of S. 495.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, I want to first make it clear—and I think Senator CRAIG alluded to this—that this is a constitutional confrontation. There is a growing propensity on the part of the administration, faced with a Congress that the people elected that are of a majority of the other party, to try to obviate the legislative branch through two courses: By Executive order or decree—and we have certainly seen the abuses of that throughout the world, which is why the Republic is so carefully constructed; and by regulation, which is something that has become unique in our own development in this country, where more and more regulators are lawmakers. You can't blame this administration alone for that kind of activity, but it has certainly accelerated.

I want to point out that I have already pointed out that the U.S. appellate court struck down the President's last attempt at this kind of reconstruction of the Republic. But there are other judicial precedents.

Mr. President, I am going to yield the remainder of my time in just a moment. I see my good friend from Alabama. They are dealing with the logistics of time here in terms of trying to deal with the Chemical Weapons Convention.

I will close by simply saying there is a growing outrage in the Congress with regard to these attempts to reconstruct lawmaking. Lawmaking in America cannot be done in an isolated room with just special interests. Obviously, all interests have a rising ability to contribute their thoughts so long as they are debated and aired ultimately in the people's body and not bypassed. This is a clear attempt to bypass the legislature, and I do not believe it will be successful. Perhaps the administration needs to take counsel with itself with regard to the suggestions they have put forward—that major labor law would be written somewhere other than the Congress of the United States.

Mr. President, I yield back all remaining time to the Senator from Alabama.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

CHEMICAL AND BIOLOGICAL WEAPONS THREAT REDUCTION ACT

Mr. SHELBY. Mr. President, I rise in support of the Chemical and Biological Weapons Threat Reduction Act.

With the end of the cold war, we live in a much safer, but still unstable, world. Without the bi-polar domination of two superpowers, we now face a world comprised of many nations that have gained power on the world stage by producing a relatively inexpensive means of war.

Among the most deplorable methods of war-making known to the world, chemical and biological weapons are horrific tools of mass destruction.

Long ago, the United States discontinued and dismantled its biological weapons program and is currently unilaterally destroying its stockpile of poison gas. We would hope that other nations would follow suit, and destroy these weapons as well.

However, there are rogue States that are pursuing dangerous weapons programs contrary to international norms against the use and stockpiling of biological and chemical weapons.

Some countries are even suspected of pledging to ratify international agreements, while secretly continuing to develop and stockpile these lethal weapons.

One significant problem in the fight against chemical and biological weapons is the stunning lack of enforcement of existing international protocols.

International agreements, such as the 1925 Geneva Protocol and the 1972 Biological and Toxin Weapons Convention, ban the use of poison gas in war and prohibit the acquisition, development, production, and stockpiling of biological weapons. However, they have not been used as an effective deterrent.

For example, as the world watched with horror and disbelief when Iraq used poison gas against its own nationals, the community of nations failed to punish the perpetrators of this act.

In addition, there is currently no U.S. law which provides criminal or civil penalties relating to the use of these weapons in the United States.

Therefore, with the hope of reinforcing U.S. international leadership on chemical and biological weapons, I am proud to be a cosponsor of the Chemical and Biological Weapons Threat Reduction Act.

This legislation demonstrates our firm commitment to destroy U.S. chemical weapons, setting a strong example for other countries to follow.

Further, this initiative reinvigorates U.S. efforts to enforce existing international prohibitions against chemical weapons, provides strong deterrence, and sends a clear message to nations around the world that the United States will not tolerate the use of these weapons.

Specifically, the Chemical and Biological Weapons Threat Reduction Act sets out civil and criminal penalties for the acquisition, possession, transfer, and use of chemical and biological weapons.

This legislation mandates the death penalty where the use of these weapons leads to the loss of life and provides for a $100,000 penalty for civil violations.

The Chemical and Biological Weapons Threat Reduction Act requires enhancements to U.S. chemical and biological defenses to protect our military men and women. Further, it would require U.S. sanctions, termination of foreign assistance, and suspension of diplomatic relations against any country that uses chemical and biological weapons against another country or its own people.

The Chemical and Biological Weapons Threat Reduction Act provides concrete and achievable measures to reduce the threat of these abhorrent weapons. It is the best thing we can do to protect our country, our allies, and our world from any future atrocities caused by the use of chemical and biological weapons.

I yield the floor. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, first I want to go ahead and speak on the legislation, S. 495, the Chemical and Biological Weapons Threat Reduction Act of 1997, in the interest of time. I think this is very important legislation, and I wanted to comment on it. But while we are in the final efforts to get an agreement on the unanimous consent agreement on how to consider the completion of this legislation, then when and how to take up the Chemical Weapons Convention next week, and how issues that are still in disagreement would be handled and how the motions to strike would be ordered—all of that is in the final phases of negotiation at this time.

I would like to thank, at the beginning, Senator KYL for the work he has put into this legislation and for his effort to come up with a fair and reasonable unanimous consent agreement as to how we would proceed. I thank Senator HELMS for his cooperation and the highly respectable and respectful manner in which he has dealt with this issue in the very important hearings he had.

Also, Senator DASCHLE has been persistent, but he has been reasonable in allowing us to have time to work through all the details. I think with an agreement of this importance and with as many parts to it as there is, you never could get it worked out to where it would just be 100 percent what everybody wants. But I think we have gotten it now to where it is fair, and I hope we can go ahead and close the loop, complete consideration of the legislation and then be prepared next week to move to the treaty itself.

I see the Democratic leader is on the floor.

Mr. President, before I begin my remarks on the bill, in anticipation of entering into a unanimous-consent agreement, I will first observe the absence of a quorum.

I withhold. Does the Senator from Texas wish to proceed at this time?

Mrs. HUTCHISON. Mr. President, I was going to proceed if there was no business in the Chamber, subject to the Senator from Arizona saying I would not encroach on his time.

Apparently that is the case.

Mr. LOTT. I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Texas will need to extend morning business for the time she wishes to speak.

Mrs. HUTCHISON. I thank the Chair.

I thank the Senator from Arizona because, in fact, I do want to talk about the bill that will be in the Chamber very shortly. The bill is sponsored by the junior Senator from Arizona, the Chemical and Biological Weapons Threat Reduction Act. I am an original cosponsor of this bill. I think it is very important that we pass this bill. This bill provides the most strength that we will ever be able to get to deal with the real chemical and biological weapons issues.

I like this bill because it has real teeth. It permits the U.S. military to use tear gas, for instance, when it is necessary to rescue a downed pilot or for the control of prisoners, which has been done, because tear gas is basically harmless. I would much prefer that we be able to use tear gas rather than shoot people. It would make more sense.

That is one of the problems, Mr. President, I have with the chemical weapons treaty. This bill deals with my concerns in a positive way by assuring that we are not going to unilaterally disarm ourselves from a weapon such as tear gas. So this solves one of the problems that I have with the Chemical Weapons Convention that we will have in the Chamber a few days from now.

This bill also preserves the Australia Group. The Australia Group is an effective international export control organization that really has done the most, the very most, to restrict the transfer of biological and chemical materials and technology. It is the one thing that is working and would be vitiated by the chemical weapons treaty.

So I am very pleased that this preserves the Australia Group because this is the one thing we have that works. This will strengthen U.S. biological and chemical defense programs. It does require Russian cooperation and, of course, it is very important that we work together with Russia in the dismantling of their chemical and biological weapons. S. 495 has a requirement that we cooperate with Russia. So I think it is a very important, positive step that we must take. Frankly, if we can pass this bill, it will take away many of the fears that many of us have about the chemical weapons treaty.

What this bill does not do is require the sharing of chemical defense capabilities with countries like Iran. That is one of the concerns many people have with the Chemical Weapons Convention, the treaty we will be taking up toward the end of next week. S. 495 does not require such sharing. So we would not have to sit down with a country like Iran—knowing that they will not abide by the treaty as we do—and share our chemical weapons capabilities or secrets with them. We do not produce chemical weapons, but we certainly have the technologies to do so in this country. In that case, of course, we should know what is going on with chemical weapons in other countries.

This bill does not require the expansion of trade in chemicals. This is another concern that we have with the chemical weapons treaty that S. 495 addresses. We are not going to expand the trade.

We are not going to circumvent the United States Constitution with this bill. S. 495 will not take away the fourth amendment right against unreasonable searches and seizures, which many of us believe is inherent in the chemical weapons treaty. It certainly does not permit an intrusive inspection of U.S. businesses by international inspection teams, which is another concern that we have with the chemical weapons treaty. Small businesses that are making chemical-related products should not suddenly be faced with a surprise inspection by an international team of experts. And who knows for what kind of intelligence those groups would be looking? Who knows who would even be in the groups? What kind of protection would a small company making fertilizer or cleaning products have against unwarranted intrusion by an international group that might include someone from the Government of Iran or the Government of China? Who could really tell exactly who would be in those groups?

I think the Senator from Arizona has fashioned a very good bill. It is a positive bill. It does alleviate many of the concerns that others have expressed about the reliability, the verifiability and the negative impact of the chemical weapons treaty, but it also makes this country stronger in its ability to enforce restrictions against the actual export of products that could be used in producing chemical weapons. The Australia Group is the best avenue that we have, and S. 495 would preserve it.

So I commend the Senator from Arizona. I am very pleased to be an original cosponsor of this bill. I am pleased that he is gaining cosponsors by the minute. I think people are beginning to see that we do have an alternative to stiffen the penalties, to stiffen our resolve against chemical and biological weapons and at the same time, make sure that we have laws with real teeth that would disallow the export of products that could be used to produce chemical weapons from our country or other countries in the Australia Group. This is the kind of legislation that I think will help make America stronger and will help protect this great country even more from the future use of chemical or biological weapons.

I thank the Chair. I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. KYL. I thank the Senator from Texas for a brilliant statement. I really appreciate that very much.

I ask unanimous consent that Senator ASHCROFT be added as a cosponsor of S. 495.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, on behalf of the Democratic leader and I, we just want to announce again that what we are about to do within the next 10 minutes or so is offer a unanimous-consent agreement on the Chemical Weapons Convention. We are still working to make sure we have a mutual understanding of exactly what is in it, and we want all Senators to be aware that we are preparing to do that.

I would be glad to yield at this point to the Senator.

Mr. DASCHLE. I appreciate the majority leader's yielding.

I heard him thank a number of people, and I want to express my gratitude as well to the majority leader and so many others who have brought us to this point. We have hot-lined this unanimous-consent request.

Let me just urge all of my Democratic colleagues to respond as favorably and as quickly as they possibly can. I have very closely examined once more this request, and I must say I think it is fair to all sides. It is not everything we would like, but it is not everything that the Republicans would like either. It is important for purposes of completing our work on time that we get this agreement today, this afternoon.

So I urge my Democratic colleagues to support the request and to allow us to enter into an agreement no later than 2:15 this afternoon. So again I thank the majority leader, all of those on our side of the aisle for their great work in bringing us to this point.

I yield the floor.

Mr. LOTT. I thank the Senator.

EXTENSION OF MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that morning business time be extended for an additional 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHEMICAL AND BIOLOGICAL WEAPONS THREAT REDUCTION ACT

Mr. LOTT. Mr. President, I am pleased to speak in support of this legislation that has been drafted by Senator KYL and joined in with cosponsorship from Senators HELMS, NICKLES, MACK, COVERDELL, SHELBY, HUTCHISON, and myself, as well as others. We introduced this legislation on March 21. This is important legislation. I know there are a lot of people who are trying to assess will this legislation favorably or unfavorably affect the final vote on the Chemical Weapons Convention. I do not think you can really judge that. Senators that will vote on both sides of the issue on this bill and that bill will view it in different ways depending on their own personal perspective. The most important thing is this is a bill we should have passed. We should already have passed it irrespective of what might happen on the Chemical Weapons Convention.

As I have gotten into this issue and studied this bill, I am amazed that we do not already have laws on the books dealing with sanctions against any country that uses chemical and biological weapons against another country or its own nationals, that we do not allow a range of chemical and biological weapons within the United States. I cannot believe we have not already done it.

This is very good legislation. I hope action on this legislation will put one myth to rest once and for all: No one supports chemical weapons in the United States. Everyone is opposed to them. We all know they are terrible things. Whether they are used in a military situation or civilian situation like we have seen in recent instances in other parts of the world, they are a horrendous thing and they should be eliminated from the face of the Earth in any way we can do it.

As a matter of U.S law, our chemical weapons stockpile will be destroyed by 2004. No matter what happens on the chemical weapons treaty, we already made a commitment and in fact are in the process of destroying our own stockpiles by 2004. Whether or not we pass this bill or whether or not we ratify the Chemical Weapons Convention, the weapons in the United States are being destroyed.

Next week, when we get this UC agreement worked out, the Senate will debate and vote on the Chemical Weapons Convention. I have a number of key concerns about the convention which have not yet been resolved, but to the credit of the proponents and the administration, they have been working with us, I believe, in good faith. We have had a number of minor and some major improvements. We are still working on that language at this very moment. But fundamental issues exist, some of which have not been resolved.

I do think that requiring search warrants for involuntary searches is essential. Protecting United States intelligence information is vital; ensuring United States chemical defensive technology and equipment, making sure it is not shared with Iran or other countries that could possibly under this convention get access to United States information or information from other parts of the world in terms of how chemical technology can be utilized for chemical weapons or also how that technology or equipment could be used in defense capability. We do not want that kind of information spread throughout the globe to those rogue countries that in fact have already been using chemical weapons, have that capability and have indicated they either will be in the convention or may not.

But serious concerns remain. Whether the convention is verifiable enough, whether Russia is taking steps to perhaps violate the treaty and, most importantly, whether provisions in the convention actually increase the likelihood of chemical weapons proliferation, those are all very important questions and we will vote on those issues next week in one form or another through a motion to strike or on final passage. I know all Senators are weighing the information very seriously. To the credit of our committee, the Foreign Relations Committee, in the hearings they have been having, we have been hearing testimony from very distinguished Americans on both sides of the issue.

It is being analyzed and critiqued in articles and editorials. I believe the Senate now is focusing on this issue, and that is as it should be. This bill will help to do that.

Today, though, the Senate will have an opportunity to take real enforceable and effective action to address the threat of chemical weapons. The Chemical and Biological Weapons Threat Reduction Act includes comprehensive domestic and international steps to act against these horrible weapons.

Domestically, this bill provides for civil and criminal penalties for the acquisition, possession, transfer or use of chemical or biological weapons. Again, it is amazing we do not already have this on the books.

It designates the FBI as the lead domestic agency to address chemical weapons threats.

Our bill provides for a Federal death penalty in cases when the use of weapons results in the loss of life. Swift and certain punishment can help ensure that terrorists do not use chemical weapons against America, and ending bureaucratic struggles can help ensure any terrorists get caught quickly.

Internationally, this legislation directs the administration to add enforcement provisions to existing international bans on the use of chemical weapons. Use of chemical weapons has been banned since 1925 in the Geneva Protocol, but the world knows this ban has not been effective. In fact, in the 1980's, after clear evidence—clear evidence—of Iraq's use of chemical weapons against its own people, the international community did nothing—did nothing. It is time to add enforcement mechanisms to that Geneva Protocol.

S. 495 includes a number of provisions to stem chemical and biological weapons proliferation around the world. It requires mandatory sanctions on countries which use these weapons.

It mandates enhancements to our chemical and biological defenses.

It requires the administration to name names in an annual report to identify the people and the countries which are aiming for and aiding the chemical weapons programs of rogue states.

I believe these provisions make good common sense. I believe the American people would want us to upgrade our chemical defenses and to impose sanctions on countries that use weapons of mass destruction.

Much has been said about another provision of the legislation requiring certain minimum criteria be met before United States taxpayers send dollars to Russia. Our legislation calls on Russia to implement and comply with the bilateral destruction agreement it signed 5 years ago to present accurate information about its chemical weapons program and to comply with the Biological Weapons Convention signed more than 20 years ago.

I cannot understand why anyone would oppose this provision. U.S. aid is not an entitlement to be given no matter how recipients behave. If Russia complies with its agreements, Russia should get assistance as it moves toward more free enterprise and more toward democracy. If they do not comply, why in the world should they get aid? But there have been concerns about the impact this legislation might have on the so-called Nunn-Lugar legislation.

Senator KYL from Arizona has heard those concerns, and, as I understand it, he has a modification that has addressed that problem.

We have heard much over the past few weeks about what the Senate should do to prevent the spread of chemical weapons and related technologies and equipment. Many people say the Chemical Weapons Convention will do that. I have my doubts. I am not sure that the day after that vote—if, in fact, it should pass—that we will have fewer chemical weapons in the world. I fear that without further action, we could have more. That is a basic, fundamental part of the concerns that I have and that I have enumerated over the past few days and weeks to the proponents of the legislation.

Today, though, the Senate can vote for the Kyl bill and take serious steps for enforcement of effective and achievable chemical weapons arms control.

Once we enter into this unanimous consent request and, hopefully, its agreement, we will begin the actual debate under a time arrangement that we have worked out, I believe, and go to completion of this bill, hopefully, by a relatively early hour this afternoon. Hopefully, we can get it done between 4 and 5 o'clock. We will be prepared to make that request shortly.

Mr. President, we have another 5 minutes, I believe, remaining in morning business.

The PRESIDING OFFICER. That is correct.

Mr. LOTT. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, we are still in the process of trying to work out the details of a unanimous-consent agreement. Part of the question is whether we can get to a vote on this matter by 3:45, or thereabouts, this afternoon. We are trying to leap to that conclusion, and in order to allow people to continue to talk about that and perhaps reach that point, I am going to begin discussing this bill now as if it were before us, so I will not have to speak later and, therefore, we will not have to use more time, hoping to be helpful in that regard.

What we are talking about doing here this afternoon is having a couple hours of debate on a bill called the Chemical and Biological Weapons Threat Reduction Act. The bill is S. 495. This legislation is before us because in the process of leading up to the debate on the Chemical Weapons Convention itself—which, if there is a unanimous-consent agreement, will be taken up next week—we discovered there were several things actually we could do right now, very practical, realistic steps we could take to help ameliorate the threat. Senator HUTCHISON from Texas has already spoken to it. Let me detail what those things are.

It, basically, involves closing some loopholes in existing law and ensuring that the administration and the Congress work together in those ways that we can, right here at home, irrespective of whether the Chemical Weapons Convention passes or does not pass, to actually reduce this threat. One example of the kind of thing we are talking about is the fact that existing U.S. law does not make it a crime to manufacture or possess chemical weapons in the United States. If we are going to have this big debate about the chemical weapons treaty, the first thing you want to do is make sure that kind of activity is outlawed here at home. It is a provision of the law we add as a result of S. 495.

There are several things like that in this bill, and I will go through them briefly. I want to assure my colleagues, whether you are for the Chemical Weapons Convention or opposed to the Chemical Weapons Convention, this legislation is legislation you can support. If you are against the convention, you can see this as an alternative. If you are for it, you can see it as a supplement. I am not trying to sell it as either one. I am saying these are good, practical steps we can take right now, and we should do it.

Let me quickly go through the specifics of the provisions of the legislation. I think my colleagues will see it is exactly as we have said that it is.

For the first time in history, we would be criminalizing the entire range of chemical weapons activities. The current law only prohibits the use or attempt or conspiracy to use chemical weapons. It does outlaw, with respect to biological weapons, the possession or manufacture. We combine the two and say that it is against the law to manufacture, to possess, to use or to conspire to use either chemical or biological weapons. So, for the first time, we contain all of those things in our criminal code, and that is against the law in the United States. That is the first thing this bill would do.

The second thing it would do is to revoke certain export privileges of companies that violate the law. That is a commonsense proposition, and it has the additional benefit, by the way, of helping us to prevent American companies from assisting countries who we believe should not have chemicals, the precursors to making their biological or chemical weapons.

The third section deals with sanctions against the use of chemical or biological weapons. Mr. President, today under existing law, the President of the United States is obligated to impose sanctions against countries that use chemical or biological weapons, and he is given a list of 10 sanctions that he is to impose. They are in two different tiers—five in one tier and five in another tier. He also has a waiver authority.

What we do in this legislation is to grant him more flexibility, to keep the same sanctions, but not to have the one tier and two tier. So he can actually decide, based upon the circumstances at the time, exactly how he wants to proceed. The price for that flexibility is that we reduce somewhat his flexibility on the waiver, but he still has the ability, under the supreme-national-interest-waiver clause to waive the imposition of those sanctions should he deem it appropriate.

Obviously, that waiver would not likely be used by a President if a country actually used chemical or biological weapons. He would, under the law today, under the law as we have it written today, want to impose sanctions. As I said, we provide more flexibility in those sanctions.

In addition, in this section, we call on the President to block transactions of any property that is owned by a country found to have used chemical or biological weapons. In other words, just to use a hypothetical, country A uses biological or chemical weapons, and they have assets in banks in the United States. The President could block any transaction of that property, basically freeze those assets as a way of preparing to indemnify victims of the use of that chemical weapon. This is a way we can provide real, meaningful relief. This is new in law. This does not exist today. We would have a way, therefore, at least of providing a fund should we be able to indemnify victims of such a horrible, horrible crime.

Another thing we do is have a section on continuation and enhancement of multilateral control regimes, which is really a fancy way of saying that we are expressing the sense of the Senate and establishing United States policy that the President continue to maintain our role in the Australia group, that group of countries that has agreed among itself not to trade chemicals to countries we believe might want to use them to create a biological or chemical weapon with them.

We establish the policy that the President will attempt to block any attempt to substantially weaken the controls established by the Australia group. I believe that as a general proposition—this is the administration's policy anyway—I do not think that this is particularly new, but it puts into statute our policy expressing this strong position. It should, therefore, assist the President in the advocacy of that position in the Australia group meetings.

There is another section dealing with assistance to Russia. A year ago, in the 1996 Defense Authorization Act, the Congress actually fenced, meaning it set aside the expenditure of funds under the so-called Nunn-Lugar provision for chemical- and biological-related activities. We did this because we felt there was some question about whether Russia was actually proceeding in good faith to dismantle their chemical and biological capability. As a result of the compromise that was struck by Senators Nunn and LUGAR, there was actually a provision for four conditions in that legislation that had to be certified by the President prior to the release of part of these funds.

What we have done in this legislation is to reinstate—essentially the same language that was in that 1996 defense authorization bill—and to reestablish those four conditions for certification by the President. Those conditions, as I said, are essentially the same conditions that existed before and would be certified by the President or, as was done in that defense authorization bill, the President could also release the funds if he formally certifies that he is unable to make the certification.

So the President has total flexibility here, but at least it focuses attention on the degree of cooperation by the Russians with respect to the dismantlement of their CW and BW programs.

The next section calls for reports on the state of chemical and biological weapons proliferation. It asks the administration to provide us an annual classified report that will enable us to better understand the threat that is out there.

The next section would strengthen the 1925 Geneva Protocol. It is a sense of the Senate, but what it does do is urge and direct the Secretary of State to work to convene an international negotiating forum for the purpose of putting some teeth into this 1925 Geneva Protocol, which is the agreement that actually prevents or prohibits the use of chemical weapons, not just the manufacture or possession of them. We provide $5 million for the State Department to begin this process.

We think this would be useful because countries of greatest concern to us, like Iran and Iraq, North Korea, Russia, China, Syria, and Libya, are all signatories to the 1925 Geneva Protocol. If we could make an international agreement that puts some teeth into that, it would be clearly useful. As I say, it is a sense of the Senate, but we believe it is useful nonetheless.

Next it says, until the United States has developed its resolution of ratification of the Chemical Weapons Convention—if it does—we would not be providing funding for that organization.

The next section is that it is the sense of the Senate that we actually do some things to beef up our military defenses against the use of chemical or biological weapons.

The General Accounting Office, in 1996, issued a report that was very distressing in that it reported that U.S. forces are inadequately equipped, organized, trained and exercised for operations in battlefields in which chemical and biological weapons are being used.

So this bill recommends three specific corrective steps to deal with that and, as a result, we think, will help to actually improve and enhance our defensive capability should our forces ever be confronted with the use of these weapons.

The last two sections, Mr. President.

The first is relating to negative security assurances. It is a sense of the Senate that calls on the President to reevaluate the current policy of the United States on negative assurances and its impact on deterrent strategy.

In effect, what this is all about is the following. In return for a nation's decision to join the nuclear nonproliferation treaty as a nonnuclear weapons state, the United States pledges never to threaten or use nuclear weapons against that state unless it was allied with a nuclear weapons state in aggression against the United States.

So today, when chemical and biological threats seem like the larger concern, this negative security assurance could undermine our effective deterrence against such an attack. Would Saddam Hussein, for example, feel free to use chemical weapons if he did not think we would possibly retaliate with nuclear weapons? As a result, that is in here.

Finally, we have the riot control agent provision which has been much spoken of. We think it is important for the rescue of downed pilots or in a situation where civilians are present that riot control agents be used. And our act provides for that.

These are all, I would say, very helpful, very specific, very realistic provisions that constructively deal with the proliferation of this threat. As a result, we think this legislation is important. Again, as I say, whether you are pro or con on the treaty, this legislation enhances the security of the United States. I certainly request my colleagues to consider it and to support the vote, assuming we have the vote here before long.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, again, I want to thank the Senator from Arizona, Senator KYL, for his work on this legislation.

We do have a unanimous-consent request ready to offer now.

UNANIMOUS-CONSENT AGREEMENT—S. 495 AND THE CHEMICAL WEAPONS CONVENTION

Mr. LOTT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 495, entitled the Chemical and Biological Weapons Threat Reduction Act of 1997 on Thursday, April 17, and the Senate proceed to its immediate consideration on Thursday, April 17, at a time to be determined by the majority leader after notification of the Democratic leader under the following agreement: 30 minutes under the control of Senator KYL, 30 minutes under the control of Senator LEAHY, and 15 minutes each for Senators LEVIN and BIDEN, or their designees, on the bill and no amendments or motions be in order, other than a modification of the bill to be offered by Senator KYL and submitted for the RECORD at the time of this agreement.

I further ask unanimous consent that following the use or yielding back of the time, the Senate proceed to third reading and final passage of the bill, all without further action or debate.

I further ask unanimous consent as if in executive session that on Wednesday, April 23, the Foreign Relations Committee be immediately discharged from further consideration of treaty document No. 103–21 and the document be placed on the Executive Calendar.

I further ask unanimous consent that the Senate proceed to executive session to consider treaty document No. 103–21 at 10 a.m. on Wednesday, April 23, and the treaty be advanced through its various parliamentary stages, up to and including the presentation of the resolution of ratification, and the Senate Foreign Relations Committee be discharged of Executive Resolution 75—that is the text of the Helms negotiations—and that it be immediately substituted for the resolution of ratification.

I further ask unanimous consent the resolution be considered under the following time restraints: 10 hours of debate on the resolution of ratification, to be equally divided between the chairman and ranking minority member or their designees.

Mr. DASCHLE. Would the majority leader yield at that point?

Mr. LOTT. Yes.

Mr. DASCHLE. At that point I would add 1 hour under the control of Senator LEAHY.

Mr. LOTT. Mr. President, I further ask unanimous consent that Senator LEAHY be recognized then for up to 1 hour on Wednesday, April 23. I ask that additional request be placed at this point in the unanimous-consent request.

I ask unanimous consent that the first 28 conditions, declarations, statements, and understandings shall be identified as being agreed to between the chairman and ranking minority member, that these 28 conditions, declarations, statements, or understandings not be subject to further amendments or motions, and it be in order for the Senate to vote on the agreed-upon items, and if agreed to, the motion to reconsider be laid upon the table.

I further ask unanimous consent that the final 5 of the 33 conditions, declarations, statements, or understandings shall be identified as not being agreed to between the chairman and ranking minority member, that it be in order for the Democratic leader or his designee to offer one motion to strike each of the conditions, declarations, statements, or understandings, as listed below, and the motion be limited to 1 hour to be equally divided.

The conditions, declarations, statements, or understandings subject to motions to strike are as follows:

First, Russian elimination of chemical weapons;

Second, chemical weapons in countries other than Russia;

Third, designation of inspectors and inspection assistants;

Fourth, stemming the proliferation of chemical weapons; and

Fifth, essential verifiability.

The full text by title is appended hereto. I send it to the desk and ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(29) RUSSIAN ELIMINATION OF CHEMICAL WEAPONS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Congress that—

(A) Russia is making reasonable progress in the implementation of the Agreement between the United States of America and the Union of Soviet Socialist Republics on Destruction and Nonproduction of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, signed on June 1, 1990 (in this resolution referred to as the "1990 Bilateral Destruction Agreement");

(B) the United States and Russia have resolved, to the satisfaction of the United States, outstanding compliance issues under the Memorandum of Understanding Between the Government of the United States of America and the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989, also known as the "1989 Wyoming Memorandum of Understanding", and the 1990 Bilateral Destruction Agreement;

(C) Russia has deposited the Russian instrument of ratification for the Convention and is in compliance with its obligations under the Convention; and

(D) Russia is committed to forgoing any chemical weapons capability, chemical weapons modernization program, production mobilization capability, or any other activity contrary to the object and purpose of the Convention.

(30) CHEMICAL WEAPONS IN OTHER STATES.—

(A) CERTIFICATION REQUIREMENT.—Prior to the deposit of the United States instrument of ratification the President, in consultation with the Director of Central Intelligence, shall certify to the Congress that countries which have been determined to have offensive chemical weapons programs, including Iran, Iraq, Syria, Libya, the Democratic People's Republic of Korea, China, and all other countries determined to be state sponsors of international terrorism, have ratified or otherwise acceded to the Convention.

(31) EXERCISE OF RIGHT TO BAR CERTAIN INSPECTORS.—

(i) IN GENERAL.—The President shall exercise United States rights under paragraphs 2 and 4 of Part II of the Verification Annex to indicate United States non-acceptance of all inspectors and inspection assistants who are nationals of countries designated by the Secretary of State as supporters of international terrorism under section 40(d) of the Arms Export Control Act, or nationals of countries that have been determined by the President, in the last five years, to have violated United States nonproliferation law, including—

(I) chapters 7, 8, and 10 of the Arms Export Control Act;

(II) sections 821 and 824 of the Nuclear Proliferation Prevention Act of 1994;

(III) sections 11b and 11c of the Export Administration Act of 1979;

(IV) the Export-Import Bank Act of 1945; and

(V) sections 1604 and 1605 of the Iran-Iraq Nonproliferation Act of 1992.

(ii) OTHER GROUNDS OF EXCLUSION.—The President shall also bar such nationals from entering United States territory for the purpose of conducting any activity associated with the Convention, notwithstanding paragraph 7 of Part II of the Verification Annex.

(32) STEMMING THE PROLIFERATION OF CHEMICAL WEAPONS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(A) the State Parties have concluded an agreement amending the Convention—

(i) by striking Article X; and

(ii) by amending Article XI to strike any provision that states or implies disapproval of trade restrictions in the field of chemical activities, including paragraphs 2(b), 2(c), 2(d), and 2(e); and

(B) no provision has been added to the Convention or to any of its annexes, and no statement, written or oral, has been issued by the Organization, stating or implying the right or obligation of States Parties to share or facilitate the exchange among themselves of chemical weapons defense technology, chemicals, equipment, or scientific and technical information.

(33) EFFECTIVE VERIFICATION.—

(A) CERTIFICATION.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that compliance with the Convention is effectively verifiable.

(B) DEFINITIONS.—In this paragraph:

(i) EFFECTIVELY VERIFIABLE.—The term "effectively verifiable" means that the Director of Central Intelligence has certified to the President that the United States intelligence community (as defined in section 3(4) of the National Security Act of 1947) has a high degree of confidence in its ability to detect militarily significant violations of the Convention, including the production, possession, or storage of militarily significant quantities of lethal chemicals, in a timely fashion, and to detect patterns of marginal violation over time.

(ii) MILITARILY SIGNIFICANT.—The term "militarily significant" means one metric ton or more of chemical weapons agent.

(iii) TIMELY FASHION.—The term "timely fashion" means detection within one year of the violation having occurred.

Mr. LOTT. Mr. President, I further ask unanimous consent no substitute or second-degree amendments be in order and no other reservations, conditions, declarations, statements, or understandings be in order to the resolution of ratification.

I further ask unanimous consent that it be in order for the majority leader, after notification of the Democratic leader, to call for a closed session of the Senate, to be held in the Old Senate Chamber, to hear confidential debate regarding the Chemical Weapons Convention, not to exceed 2 hours, to be equally divided, again, between the two leaders or their designees, and 48 hours before moving to the closed session all classified material to be used during the debate by any Senator be given to both leaders.

Further, I ask unanimous consent that following the disposition of the above-listed amendments, closed session, and the use or yielding back of time, the Senate proceed to vote on adoption of the resolution of ratification, as amended, all without further action or debate, and following the vote the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action or, if the resolution is defeated, the resolution to return to the President be deemed agreed to and the Senate resume legislative session.

Further, I ask unanimous consent, Mr. President, that prior to the Memorial Day recess the majority leader, after notification of the Democratic leader, shall turn to the consideration of the implementing legislation, and it be considered under a time agreement of 2 hours to be equally divided, again, between the chairman and the ranking minority member, and there be only one amendment in order to be offered by the majority leader or his designee, and one amendment only to be offered by the Democratic leader or his designee, and limited to 1 hour each, to be equally divided in the usual form, and each amendment must be relevant to the implementing legislation.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Reserving the right to object, I just want to clarify that the amendments we will offer to strike will be in order Thursday regardless of whether the 10 hours of debate has been completed and that the vote on the agreed-on reservations will occur prior to consideration of the reservations in this agreement.

Mr. LOTT. Mr. President, let me ask you to state that again—that the motions to strike would be in order on Thursday, the 24th, whether or not the 10 hours has been completed?

Reserving the right to object, Mr. President, if I could address this question to the Democratic leader.

I do not see any reason why we should not have completed at that time, but you are just saying if the time is not agreed to, you want to delay the actions on the motions to strike.

Mr. President, that would be my intent. I think that is what the agreement indicates. That is what we will do. I believe we will be able to get our time in on Wednesday or we will have an agreement to take part of the time Thursday morning and move immediately to a motion to strike, because we want to make sure that that time and those motions to strike are in order. And the time is required. There is about 6 hours or so. We will make sure that time is there.

Mr. DASCHLE. Reserving the right to object, I just only clarify this because that is the understanding. I appreciate very much the distinguished majority leader's assurances in that regard.

Mr. President, as I said a moment ago, this is the product of several days' worth of work. I thank the majority leader for his leadership and the cooperation he has shown in bringing us to this point.

I also thank Senators BIDEN, LEAHY, LEVIN, KERRY, BINGAMAN, and many others who had so much to do on our side with this effort. I think it's a very good agreement and appreciate the cooperation from all of our colleagues.

I have no objection.

Mr. KYL. Mr. President, reserving the right to object, may I inquire? This agreement would provide for a separate vote on the so-called 28 items in agreement; is that correct? If that is correct, I will have to object because that was never my understanding of the agreement.

Mr. LOTT. Mr. President, let me put in a quorum call at this point so we can make sure we understand the question to make sure we go over the history of why that language would be in there.

I must say this is the longest and the most complicated unanimous-consent agreement that I have worked on since I have been majority leader. I know that the Senator from West Virginia has probably entered in some much longer, more complicated than this. But as I was reading through it, I even hesitated, to go back and reread at least one section there, to make sure it was accurate. I understood exactly what it meant. But we do need to clarify this particular point.

I would like to suggest the absence of a quorum so I can get a proper explanation.

Mr. BYRD addressed the Chair.

Mr. LOTT. Mr. President, I will be glad to withhold that and yield to the Senator.

Mr. BYRD. Will the distinguished majority leader yield for a question or perhaps a brief statement before he asks for a quorum?

Mr. LOTT. Yes.

Mr. BYRD. Mr. President, I have been informed that our offices were notified 20 minutes ago, roughly, about this agreement. I assume that it was thought that if there were no objections registered within 15, 20 minutes, whatever it was, there were none and therefore we would go ahead with the agreement.

It seems to me that at times certainly that is not in the best interest of the Senate. I am not complaining. Here is a very lengthy unanimous-consent agreement. I have not seen it. I am not one of the principal players in this situation. I probably am going to vote for the treaty.

But the approval of resolutions of ratification of treaties is one of the unique reasons for the Senate's raison d'etre. Consequently, to just, at first blush, come up here to the floor and hear this long agreement read and then go along without objecting, at least for a little while until I can read it, it seems to me I am not doing my duty to the Senate, my duty under the Constitution, my duty to my people.

Twenty minutes. If a hotline goes to the office on a lengthy agreement like this and I am out doing other things—and we do have other important duties that are part of the people's business—nobody in the office is in a position to approve or to object.

Mr. DASCHLE. Mr. President, would the distinguished—I do not know who has the floor.

Mr. LOTT. I would be happy to yield.

Mr. DASCHLE. I would like to respond, if I could, to the distinguished Senator from West Virginia.

There were four notifications, I would explain to my dear colleague, the senior Senator from West Virginia.

First, we had sent out the substance of this agreement about 48 hours ago. So staffs have had this now for the better part of 2 days.

Second, we discussed it in the caucus on Tuesday.

Third, we had the opportunity to talk to all relevant committee staff and then, of course, to those who had a particular interest in it over the last 24 hours.

Then, finally, of course, we have explained it again in a policy committee just about 2½ hours ago.

So I really think that in this case there ought not be any surprises for any of our colleagues if they had an interest.

We have really made the effort as this has evolved to bring people along with the understanding of where we are. This is simply a confirmation of what I have been explaining to our caucus now for the better part of a week.

Mr. LOTT. If I could say to the distinguished Senator from West Virginia, we have been working on both sides of the aisle to make sure that this was a very carefully and fairly drawn unanimous-consent agreement. There has been give-and-take on both sides. I am sure the way it is set up would not be the first choice for some of our colleagues that are proponents of the treaty. Let me assure you there are some things in here that the distinguished chairman of the Foreign Relations Committee, Senator HELMS, had to swallow hard to agree to. But we have been talking to Senator BIDEN, Senator HELMS, Senator KYL, Senator MCCAIN, and I am sure that Senator LUGAR and Senator LEAHY have been following closely. In fact, let me assure everyone they have been following closely, because Senator LEAHY got another bite of the apple at the end.

I believe we have set it up in a way that is fair. We set it up in a way, sir, where Senators like yourself will actually take the time to read the statements and conditionalities, will have time today and over the weekend and Monday and Tuesday, and even during the debate. We set it up carefully so there is adequate time for full debate. With a motion to strike, and hours of debate, we will have, I believe, and I certainly hope, the time to fully discharge our responsibilities.

This is a very, very difficult issue for me. I have people I respect dearly, ultimately, on both sides of this treaty. It is a very important treaty dealing with a very important issue. I certainly have wanted to be careful about how we set it up, to have the time, have the hearings that are necessary so we hear from some of the opponents that we have not heard from, and give the proponents opportunities.

I think the leadership always at the end tries to pull it together before one more cork pops loose, and we try to push it at the conclusion, at the end. If we missed a Senator or two, it certainly has just not been our intention, and we will work with you in every way we can to make sure you have the time to consider it, sir.

Mr. BYRD. The only thing I am accusing my leaders of is that they always act with the very best of intentions and they are very sincere.

I was at the caucus on Tuesday. I never heard this agreement discussed. Am I wrong?

Mr. DASCHLE. I do not know if you were there. If the distinguished Senator will yield again, I do not know that he was there when this segment of it was discussed, but we brought it up at the end of the caucus. I think the Senator may have already left the caucus.

Mr. BYRD. I am talking about the details of this agreement.

Mr. DASCHLE. That is right. We talked about the timeframe—which is what this agreement addresses—within which all of the legislation affecting the agreement will be considered. I spoke at some length in describing what the scenario would be, and again repeated it, as I said, at the policy committee this afternoon.

Mr. BYRD. I was not at the policy committee this afternoon. That is not the leader's fault. I have had some other things that demand my attention, one of them being the election challenge to MARY LANDRIEU, which took some time, at least before noon.

Mr. DASCHLE. Again, I reiterate, we also had the text of this agreement. The substantive portions of this agreement have all been transmitted to every Democratic office now for some time. It should be in the office of every Senator. Every Democratic Senator and staff should have been well aware of it. We then faxed the specific agreement about an hour ago.

Mr. BYRD. I have not seen that. That is not the leader's fault. That may have been my office. It has not been called to my attention. I will discuss that with my staff. The leader knows we are very short in our staffs—shorthanded. I will go back and take a look at that.

There is one thing I thought I had clearly understood, and that was when we have an agreement and we go to third reading and part of the agreement is to the effect that we go immediately after third reading without further action or debate to final passage, I objected to that last year, but I see that the agreements that are being proposed now go back to that same kind of phraseology. I am a little troubled by that.

Mr. DASCHLE. If I could say, the distinguished Senator from West Virginia has made himself very clear on this point. I agree with him.

I think that we ought to use the language that will allow for consideration of final passage after reaching the third reading, which is what the Senator has suggested.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I renew my previous unanimous-consent request, which I read into the RECORD in its entirety, with two changes. On the second page, I would make this change:

That the first 28 conditions, declarations, statements, and understandings shall be identified as being agreed to between the chairman and the ranking minority member, that these 28 conditions, declarations, statements, or understandings not be subject to further amendments or motions, and a vote occur on adoption of Executive Resolution 75 to be followed by a vote on the agreed-upon 28 items, and, if agreed to, the motion or motions to reconsider be laid upon the table.

Basically what that is saying is that there would be a voice vote on the underlying resolution and on the 28 conditions and declarations.

Also, at the end of the unanimous-consent request, I would make this request:

I further ask that Senator LEAHY be recognized for up to 1 hour on Wednesday, April 23, and that prior to the adoption of the resolution or ratification there be an additional 10 minutes equally divided between the two leaders at that time.

Mr. DASCHLE. Mr. President, reserving the right to object, let me just say that I think this has again addressed all of the concerns raised. And I appreciate very much everyone's cooperation here. The clock is ticking. We are losing time. We need to get on with consideration of the Kyl bill. And I hope now that we can enter into this unanimous-consent agreement.

I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. Is there objection?

No objection is heard.

Mr. KYL. Mr. President, reserving the right to object, I want to clarify that this will be a voice vote on both of the two matters indicated in the unanimous-consent request.

Mr. LOTT. Mr. President, I absolutely confirm that that is the case.

Mr. LEAHY. Reserving the right to object, I shall not object, the voice vote on the which?

Mr. LOTT. On the underlying resolution of the committee and on the 28 conditions that have been agreed to.

The PRESIDING OFFICER. No objection is heard.

Without objection, it is so ordered.

CHEMICAL AND BIOLOGICAL WEAPONS THREAT REDUCTION ACT OF 1997

Mr. LOTT. I ask unanimous consent that the Senate now proceed to the consideration of S. 495, under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill.

The bill clerk read as follows:

A bill (S. 495) to provide criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical weapon or biological weapon, and to reduce the threat of acts of terrorism or armed aggression involving the use of any such weapon against the United States, its citizens, or Armed Forces, or those of any allied country, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, first of all, I understand that the amendment which was referred to in the unanimous-consent agreement as the modified bill is at the desk.

The PRESIDING OFFICER. The modification is at the desk.

The modification follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Chemical and Biological Weapons Threat Reduction Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Policy.
Sec. 4. Definitions.

TITLE I—PENALTIES FOR UNLAWFUL ACTIVITIES SUBJECT TO THE JURISDICTION OF THE UNITED STATES

Subtitle A—Criminal and Civil Penalties

Sec. 101. Criminal and civil provisions.

Subtitle B—Revocations of Export Privileges

Sec. 111. Revocations of export privileges.

TITLE II—FOREIGN RELATIONS AND DEFENSE-RELATED PROVISIONS

Sec. 201. Sanctions for use of chemical or biological weapons.
Sec. 202. Continuation and enhancement of multilateral control regimes.
Sec. 203. Criteria for United States assistance to Russia relating to the elimination of chemical and biological weapons.
Sec. 204. Report on the state of chemical and biological weapons proliferation.
Sec. 205. International conference to strengthen the 1925 Geneva Protocol.
Sec. 206. Restriction on use of funds for the Organization for the Prohibition of Chemical Weapons.
Sec. 207. Enhancements to robust chemical and biological defenses.
Sec. 208. Negative security assurances.
Sec. 209. Riot control agents.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the United States eliminated its stockpile of biological weapons pursuant to the 1972 Biological Weapons Convention and has pledged to destroy its entire inventory of chemical weapons by 2004, independent of the Chemical Weapons Convention entering into force;

(2) the use of chemical or biological weapons in contravention of international law is abhorrent and should trigger immediate and effective sanctions;

(3) United Nations Security Council Resolution 620, adopted on August 26, 1988, states the intention of the Security Council to consider immediately "appropriate and effective" sanctions against any nation using chemical and biological weapons in violation of international law;

(4) the General Agreement on Tariffs and Trade recognizes that national security concerns may serve as legitimate grounds for limiting trade; title XXI of the General Agreement on Tariffs and Trade states that "nothing in this Agreement shall be construed . . . to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests. . .";

(5) on September 30, 1993, the President declared by Executive Order No. 12868 a national emergency to deal with "the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States" posed by the proliferation of nuclear, biological and chemical weapons, and of the means for delivering such weapons;

(6) Russia has not implemented the 1990 United States-Russian Bilateral Agreement on Destruction and Non-Production of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, known as the "BDA", nor has the United States and Russia resolved, to the satisfaction of the United States, the outstanding compliance issues under the Memorandum of Understanding Between the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related To Prohibition on Chemical Weapons, known as the "1989 Wyoming MOU";

(7) the Intelligence Community has stated that a number of countries, among them China, Egypt, Iran, Iraq, Libya, North Korea, Syria, and Russia, possess chemical and biological weapons and the means to deliver them;

(8) four countries in the Middle East—Iran, Iraq, Libya, and Syria—have, as a national policy, supported international terrorism;

(9) chemical and biological weapons have been used by states in the past for intimidation and military aggression, most recently during the Iran-Iraq war and by Iraq against its Kurdish minority;

(10) the grave new threat of chemical and biological terrorism has been demonstrated by the 1995 nerve gas attack on the Tokyo subway by the Japanese cult Aum Shinrikyo;

(11) the urgent need to improve domestic preparedness to protect against chemical and biological threats was underscored by enactment of the 1997 Defense Against Weapons of Mass Destruction Act;

(12) the Department of Defense, in light of growing chemical and biological threats in regions of key concern, including Northeast Asia, and the Middle East, has stated that United States forces must be properly trained and equipped for all missions, including those in which opponents might threaten use of chemical or biological weapons; and

(13) Australia Group controls on the exports of chemical and biological agents, and related equipment, and the Missile Technology Control Regime, together provide an indispensable foundation for international and national efforts to curb the spread of chemical and biological weapons, and their delivery means.

SEC. 3. POLICY.

It should be the policy of the United States to take all appropriate measures to—

(1) prevent and deter the threat or use of chemical and biological weapons against the citizens, Armed Forces, and territory of the United States and its allies, and to protect against, and manage the consequences of, such use should it occur;

(2) discourage the proliferation of chemical and biological weapons, their means of delivery, and related equipment, material, and technology;

(3) prohibit within the United States the development, production, acquisition, stockpiling, possession, and transfer to third parties of chemical or biological weapons, their precursors and related technology; and

(4) impose unilateral sanctions, and seek immediately international sanctions, against any nation using chemical and biological weapons in violation of international law.

SEC. 4. DEFINITIONS.

In this Act:

(1) AUSTRALIA GROUP.—The term "Australia Group" refers to the informal forum of countries, formed in 1984 and chaired by Australia, whose goal is to discourage and impede chemical and biological weapons proliferation by harmonizing national export controls on precursor chemicals for chemical weapons, biological weapons pathogens, and dual-use equipment, sharing information on target countries, and seeking other ways to curb the use of chemical weapons and biological weapons.

(2) BIOLOGICAL WEAPON.—The term "biological weapon" means the following, together or separately:

(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

(iii) deleterious alteration of the environment.

(B) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of those biological weapons specified in subparagraph (A).

(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

(D) Any living organism specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

(3) CHEMICAL WEAPON.—The term "chemical weapon" means the following, together or separately:

(A) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen mustard, phosgene oxime, lewisite, phenyldichloroarsine, ethyldichloroarsine, methyldichloroarsine, phosgene, diphosgene, hydrogen cyanide, cyanogen chloride, and arsine.

(B) Any of the 54 chemicals other than a riot control agent that is controlled by the Australia Group as of the date of the enactment of this Act.

(C) Any other chemical agent that may be developed if the use of the agent would be intended to produce an effect consistent with that of a chemical agent or other chemical described in subparagraph (A) or (B).

(D) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of a chemical weapon specified in subparagraph (A), (B), or (C).

(E) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (D).

(4) KNOWINGLY.—The term "knowingly" is used within the meaning of "knowing" as that term is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2).

(5) NATIONAL OF THE UNITED STATES.—The term "national of the United States" has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(6) PERSON.—The term "person" means any individual, corporation, partnership, firm, association, or other legal entity.

(7) RIOT CONTROL AGENT.—The term "riot control agent" means any substance, including diphenylchloroarsine, diphenylcyanoarsine, adamsite, chloroacetophenone, chloropicrin, bromobenzyl cyanide, 0-chlorobenzylidene malononitrile, or 3-Quinuclidinyl benzilate, that is designed or used to produce rapidly in humans any nonlethal sensory irritation or disabling physical effect that disappears within a short time following termination of exposure.

(8) UNITED STATES.—The term "United States" means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

(A) any of the places within the provisions of paragraph (41) of section 40102 of title 49, United States Code;

(B) any civil aircraft or public aircraft of the United States, as such terms are defined in paragraphs (18) and (36) of section 40102 of title 49, United States Code; and

(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b)).

TITLE I—PENALTIES FOR UNLAWFUL ACTIVITIES SUBJECT TO THE JURISDICTION OF THE UNITED STATES

Subtitle A—Criminal and Civil Penalties

SEC. 101. CRIMINAL AND CIVIL PROVISIONS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 11A the following new chapter:

"CHAPTER 11B—CHEMICAL AND BIOLOGICAL WEAPONS

"Sec.
"229. Prohibited activities.
"229A. Penalties.
"229B. Criminal forfeitures; destruction of weapons.
"229C. Other prohibitions.
"229D. Injunctions.
"229E. Requests for military assistance to enforce prohibition in certain emergencies.
"229F. Definitions.

"§ 229. Prohibited activities.

"(a) UNLAWFUL CONDUCT.—Except as provided in subsections (b) and (c), it shall be unlawful for any person knowingly—

"(1) to develop, produce, otherwise acquire, transfer, directly or indirectly, receive, stockpile, retain, own, possess, or use, or threaten to use, any chemical weapon or any biological weapon; or

"(2) to assist or induce, in any way, any person to violate paragraph (1), or to attempt or conspire to violate paragraph (1).

"(b) EXEMPTED CONDUCT.—Subsection (a) does not apply to conduct that satisfies the following requirements of both paragraphs (1) and (2):

"(1) LAWFUL PURPOSE.—The chemical weapon or biological weapon is intended for any of the following purposes:

"(A) PEACEFUL PURPOSES.—Any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other activity.

"(B) PROTECTIVE PURPOSES.—Any purpose directly related to protection against a chemical or biological weapon.

"(C) UNRELATED MILITARY PURPOSES.—Any military purpose of the United States that is not connected with the use of a chemical weapon or biological weapon or that is not dependent on the use of the toxic or poisonous properties of the chemical weapon or biological weapon to cause death or other harm.

"(D) LAW ENFORCEMENT PURPOSES.—Any law enforcement purpose, including any domestic riot control purpose.

"(E) INDIVIDUAL SELF-DEFENSE PURPOSES.—Any individual self-defense purpose involving a pepper spray or chemical mace.

"(2) LIMITATION ON TYPE AND QUANTITY.—

"(A) IN GENERAL.—The type and quantity of the chemical weapon or biological weapon is strictly limited to the type and quantity that can be justified for the purpose intended under paragraph (1).

"(B) EXCESSIVE QUANTITIES PER PERSON.—The requirement of this paragraph is not satisfied if the quantity per person at any given time is, under the circumstances, inconsistent with the purpose intended under paragraph (1).

"(c) EXEMPTED AGENCIES AND PERSONS.—

"(1) IN GENERAL.—Subsection (a) does not apply to the retention, ownership, possession, transfer, or receipt of a chemical weapon or a biological weapon by a department, agency, or other entity of the United States, or by a person described in paragraph (2), pending destruction of the weapon.

"(2) EXEMPTED PERSONS.—A person referred to in paragraph (1) is—

"(A) a member of the Armed Forces of the United States or any other person that is authorized by law or by an appropriate officer of the United States to retain, own, possess, transfer, or receive the chemical or biological weapon; or

"(B) in an emergency situation, any other person if the person is attempting to destroy or seize the weapon or if the person is a victim of the use of the weapon.

"(d) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if the prohibited conduct—

"(1) takes place in the United States;

"(2) takes place outside of the United States and is committed by a national of the United States;

"(3) is committed against a national of the United States while the national is outside the United States; or

"(4) is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States.

"§ 229A. Penalties

"(a) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any person who violates section 229 of this title shall be fined under this title, or imprisoned for any term of years, or both.

"(2) DEATH PENALTY.—Any person who violates section 229 of this title and by whose action the death of another person is the result shall be punished by death or imprisoned for life.

"(b) CIVIL PENALTIES.—

"(1) IN GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any person who violates section 229 of this title and, upon proof of such violation by a preponderance of the evidence, such person shall be subject to pay a civil penalty in an amount not to exceed $100,000 for each such violation.

"(2) RELATION TO OTHER PROCEEDINGS.—The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

"(c) REIMBURSEMENT OF COSTS.—The court shall order any person convicted of an offense under subsection (a) to reimburse the

United States for any expenses incurred by the United States incident to the seizure, storage, handling, transportation, and destruction or other disposition of any property that was seized in connection with an investigation of the commission of the offense by that person. A person ordered to reimburse the United States for expenses under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under this subsection to reimburse the United States for the same expenses.

"§ 229B. Criminal forfeitures; destruction of weapons

"(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—Any person convicted under section 229A(a) shall forfeit to the United States irrespective of any provision of State law—

"(1) any property, real or personal, involved in the offense, including any chemical weapon or biological weapon;

"(2) any property constituting, or derived from, and proceeds the person obtained, directly or indirectly, as the result of such violation; and

"(3) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to section 229A(a), that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by section 229A(a), a defendant who derived profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

"(b) PROCEDURES.—Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by subsections (b) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except that any reference under those subsections to—

"(1) 'this subchapter or subchapter II' shall be deemed to be a reference to section 229A(a); and

"(2) 'subsection (a)' shall be deemed to be a reference to subsection (a) of this section.

"(c) DESTRUCTION OR OTHER DISPOSITION.—The Attorney General shall provide for the destruction or other appropriate disposition of any chemical or biological weapon seized and forfeited pursuant to this section.

"(d) ASSISTANCE.—The Attorney General may request the head of any agency of the United States to assist in the handling, storage, transportation, or destruction of property seized under this section.

"§ 229C. Other prohibitions

"(a) IN GENERAL.—Whoever knowingly uses riot control agents as an act of terrorism, or knowingly assists any person to do so, shall be fined under this title or imprisoned for a term of not more than 10 years, or both.

"(b) JURISDICTION.—Conduct prohibited by this section is within the jurisdiction of the United States if the prohibited conduct—

"(1) takes place in the United States;

"(2) takes place outside of the United States and is committed by a national of the United States;

"(3) is committed against a national of the United States while the national is outside the United States; or

"(4) is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States.

"§ 229D. Injunctions

"The United States may obtain in a civil action an injunction against—

"(1) the conduct prohibited under section 229 or 229C of this title; or

"(2) the preparation or solicitation to engage in conduct prohibited under section 229 or 229C of this title.

"§ 229E. Requests for military assistance to enforce prohibition in certain emergencies

"The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 229 of this title in an emergency situation involving a biological weapon or chemical weapon. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

"§ 229F. Definitions

"In this chapter:

"(1) AUSTRALIA GROUP.—The term 'Australia Group' refers to the informal forum of countries, formed in 1984 and chaired by Australia, whose goal is to discourage and impede chemical and biological weapons proliferation by harmonizing national export controls on precursor chemicals for chemical weapons, biological weapons pathogens, and dual-use equipment, sharing information on target countries, and seeking other ways to curb the use of chemical and biological weapons.

"(2) BIOLOGICAL WEAPON.—The term 'biological weapon' means the following, together or separately:

"(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

"(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

"(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

"(iii) deleterious alteration of the environment.

"(B) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of those biological weapons specified in subparagraph (A).

"(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

"(D) Any living organism specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

"(3) CHEMICAL WEAPON.—The term 'chemical weapon' means the following, together or separately:

"(A) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen mustard, phosgene oxime, lewisite, phenyldichloroarsine, ethyldichloroarsine, methyldichloroarsine, phosgene, diphosgene, hydrogen cyanide, cyanogen chloride, and arsine.

"(B) Any of the 54 chemicals, other than a riot control agent, controlled by the Australia Group as of the date of the enactment of this Act.

"(C) Any other chemical agent that may be developed if the use of the agent would be intended to produce an effect consistent with that of a chemical agent or other chemical described in subparagraph (A) or (B).

"(D) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of a chemical weapon specified in subparagraph (A), (B), or (C).

"(E) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (D).

"(4) KNOWINGLY.—The term 'knowingly' is used within the meaning of 'knowing' as that term is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2).

"(5) NATIONAL OF THE UNITED STATES.—The term 'national of the United States' has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(6) PERSON.—The term 'person' means any individual, corporation, partnership, firm, association, or other legal entity.

"(7) RIOT CONTROL AGENT.—The term 'riot control agent' means any substance, including diphenylchloroarsine, diphenylcyanoarsine, adamsite, chloroacetophenone, chloropicrin, bromobenzyl cyanide, 0-chlorobenzylidene malononitrile, or 3-Quinuclidinyl benzilate that is designed or used to produce rapidly in humans any nonlethal sensory irritation or disabling physical effect that disappears within a short time following termination of exposure.

"(8) TERRORISM.—The term 'terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; and

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping.

"(9) UNITED STATES.—The term 'United States' means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

"(A) any of the places within the provisions of section 40102(41) of title 49, United States Code;

"(B) any civil aircraft or public aircraft of the United States, as such terms are defined in paragraphs (16) and (37), respectively, of section 40102 of title 49, United States Code; and

"(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(b)).".

(b) CONFORMING AMENDMENTS.—

(1) WEAPONS OF MASS DESTRUCTION.—Section 2332a of title 18, United States Code, is amended—

(A) by striking "**§ 2332a. Use of weapons of mass destruction**" and inserting "**§ 2332a. Use of certain weapons of mass destruction**";

(B) in subsection (a), by striking ", including any biological agent, toxin, or vector (as those terms are defined in section 178)" and inserting "other than a chemical weapon or biological weapon (as those terms are defined in section 229F)"; and

(C) in subsection (b), by inserting “(other than a chemical weapon or biological weapon (as those terms are defined in section 229F))” after “weapon of mass destruction”.

(2) TABLE OF CHAPTERS.—The table of chapters for part I of title 18, United States Code, is amended—

(A) by striking the item relating to chapter 10; and

(B) by inserting after the item for chapter 11A the following new item:

“11B. Chemical and Biological Weapons .... 229”.

(c) REPEALS.—The following provisions of law are repealed:

(1) Chapter 10 of title 18, United States Code, relating to biological weapons.

(2) Section 2332c of title 18, United States Code, relating to chemical weapons.

(3) In the table of sections for chapter 113B of title 18, United States Code, the item relating to section 2332c.

Subtitle B—Revocations of Export Privileges

SEC. 111. REVOCATIONS OF EXPORT PRIVILEGES.

If the President determines, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that any person within the United States, or any national of the United States located outside the United States, has committed any violation of section 229 of title 18, United States Code, the President may issue an order for the suspension or revocation of the authority of the person to export from the United States any goods or technology (as such terms are defined in section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415)).

TITLE II—FOREIGN RELATIONS AND DEFENSE-RELATED PROVISIONS

SEC. 201. SANCTIONS FOR USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

Title III of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102–182) is amended—

(1) by redesignating section 309 as section 312; and

(2) by striking sections 306 through 308 and inserting the following new sections:

“SEC. 306. PURPOSE.

“The purpose of sections 306 through 311 is—

“(1) to provide for the imposition of sanctions against any foreign government—

“(A) that has used chemical or biological weapons in violation of international law; or

“(B) that has used chemical or biological weapons against its own nationals; and

“(2) to ensure that the victims of the use of chemical or biological weapons shall be compensated and awarded punitive damages, as may be determined.

“SEC. 307. PRESIDENTIAL DETERMINATION.

“(a) BILATERAL SANCTIONS.—Except as provided in subsections (c) and (d), the President shall, after the consultation with Congress, impose the sanctions described in subsections (a) and (b) of section 308 if the President determines that any foreign government—

“(1) has used a chemical weapon or biological weapon in violation of international law; or

“(2) has used a chemical weapon or biological weapon against its own nationals.

“(b) MULTILATERAL SANCTIONS.—The sanctions imposed pursuant to subsection (a) are in addition to any multilateral sanction or measure that may be otherwise agreed.

“(c) PRESIDENTIAL WAIVER.—The President may waive the application of any of the sanctions imposed pursuant to subsection (a) if the President determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that implementing such measures would have a substantial negative impact upon the supreme national interests of the United States.

“(d) SANCTIONS NOT APPLIED TO CERTAIN EXISTING CONTRACTS.—A sanction described in section 308 shall not apply to any activity pursuant to a contract or international agreement entered into before the date of the Presidential determination under subsection (a) if the President determines that performance of the activity would reduce the potential for the use of a chemical weapon or biological weapon by the sanctioned country.

“SEC. 308. MANDATORY SANCTIONS.

“(a) MINIMUM NUMBER OF SANCTIONS.—After consultation with Congress and making a determination under section 307 with respect to the actions of a foreign government, the President shall impose not less than 5 of the following sanctions against that government for a period of three years:

“(1) FOREIGN ASSISTANCE.—The United States Government shall terminate assistance under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

“(2) ARMS SALES.—The United States Government shall not sell any item on the United States Munitions List and shall terminate sales to that country under this Act of any defense articles, defense services, or design and construction services. Licenses shall not be issued for the export to the sanctioned country of any item on the United States Munitions List, or for commercial satellites.

“(3) ARMS SALE FINANCING.—The United States Government shall terminate all foreign military financing under this Act.

“(4) DENIAL OF UNITED STATES GOVERNMENT CREDIT OR OTHER FINANCIAL ASSISTANCE.—The United States Government shall deny any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

“(5) EXPORT CONTROLS.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export of any goods or technology on that part of the control list established under section 5(c)(1) of that Act, and all other goods and technology under this Act (excluding food and other agricultural commodities and products) as the President may determine to be appropriate.

“(6) MULTILATERAL BANK ASSISTANCE.—The United States shall oppose, in accordance with section 701 of the International Financial Institutions Act, the extension of any loan or financial or technical assistance by international financial institutions.

“(7) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit, including to any agency or instrumentality of the government, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

“(8) AVIATION RIGHTS.—

“(A) IN GENERAL.—

“(i) NOTIFICATION.—The President is authorized to notify the government of a country with respect to which the President has made a determination pursuant to section 307(a) of his intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

“(ii) SUSPENSION OF AVIATION RIGHTS.—Within 10 days after the date of notification of a government under subclause (I), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

“(B) TERMINATION OF AIR SERVICE AGREEMENTS.—

“(i) IN GENERAL.—The President may direct the Secretary of State to terminate any air service agreement between the United States and a country with respect to which the President has made a determination pursuant to section 307(a), in accordance with the provisions of that agreement.

“(ii) TERMINATION OF AVIATION RIGHTS.—Upon termination of an agreement under this clause, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government of that country to engage in foreign air transportation to or from the United States.

“(C) EXCEPTION.—The Secretary of Transportation may provide for such exceptions from the sanction contained in subparagraph (A) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

“(D) DEFINITIONS.—For purposes of this paragraph, the terms ‘aircraft’, ‘air transportation’, and ‘foreign air carrier’ have the meanings given those terms in section 40102 of title 49, United States Code.

“(9) DIPLOMATIC RELATIONS.—The President shall use his constitutional authorities to downgrade or suspend diplomatic privileges between the United States and that country.

“(b) BLOCKING OF ASSETS.—Upon making a determination under section 307, the President shall take all steps necessary to block any transactions in any property subject to the jurisdiction of the United States in which the foreign country or any national thereof has any interest whatsoever, for the purpose of compensating the victims of the chemical or biological weapons use and for punitive damages as may be assessed.

“(c) STATUTORY CONSTRUCTION.—Nothing in this section limits the authority of the President to impose a sanction that is not specified in this section.

“SEC. 309. REMOVAL OF SANCTIONS.

“(a) CERTIFICATION REQUIREMENT.—The President shall remove the sanctions imposed with respect to a foreign government pursuant to this section if the President determines and so certifies to the Congress, after the end of the three-year period beginning on the date on which sanctions were initially imposed on that country pursuant to section 307, that—

“(1) the government of that country has provided reliable assurances that it will not use any chemical weapon or biological weapon in violation of international law and will not use any chemical weapon or biological weapon against its own nationals;

“(2) the government of the country is willing to accept onsite inspections or other reliable measures to verify that the government is not making preparations to use any chemical weapon or biological weapon in violation of international law or to use any chemical weapon or biological weapon against its own nationals; and

"(3) the government of the country is making restitution to those affected by any use of any chemical weapon or biological weapon in violation of international law or against its own nationals.

"(b) REASONS FOR DETERMINATION.—The certification made under this subsection shall set forth the reasons supporting such determination in each particular case.

"(c) EFFECTIVE DATE.—The certification made under this subsection shall take effect on the date on which the certification is received by the Congress.

"SEC. 310. NOTIFICATIONS AND REPORTS OF CHEMICAL OR BIOLOGICAL WEAPONS USE AND APPLICATION OF SANCTIONS.

"(a) NOTIFICATION.—Not later than 30 days after persuasive information becomes available to the executive branch of Government indicating the substantial possibility of the use of chemical or biological weapons by any person or government, the President shall so notify Congress in writing.

"(b) REPORT.—Not later than 60 days after making a notification under subsection (a), the President shall submit a report to Congress that contains—

"(1) an assessment by the President in both classified and unclassified form of the circumstances of the suspected use of chemical or biological weapons, including any determination by the President made under section 307 with respect to a foreign government; and

"(2) a description of the actions the President intends to take pursuant to the assessment, including the imposition of any sanctions or other measures pursuant to section 307.

"(c) PROGRESS REPORT.—Not later than 60 days after submission of a report under subsection (b), the President shall submit a progress report to Congress describing actions undertaken by the President under sections 306 through 311, including the imposition of unilateral and multilateral sanctions and other punitive measures, in response to the use of any chemical weapon or biological weapon described in the report.

"(d) RECIPIENTS OF NOTIFICATIONS AND REPORTS.—Any notification or report required by this section shall be submitted to the following:

"(1) The Majority Leader of the Senate and the Speaker of the House of Representatives.

"(2) The Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

"(3) The Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

"SEC. 311. DEFINITIONS.

"In sections 306 through 310:

"(1) BIOLOGICAL WEAPON.—The term 'biological weapon' means the following, together or separately:

"(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

"(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

"(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

"(iii) deleterious alteration of the environment.

"(B) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of those biological weapons specified in subparagraph (A).

"(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

"(D) Any living organism specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

"(2) CHEMICAL WEAPON.—The term 'chemical weapon' means the following, together or separately:

"(A) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen mustard, phosgene oxime, lewisite, phenyldichloroarsine, ethyldichloroarsine, methyldichloroarsine, phosgene, diphosgene, hydrogen cyanide, cyanogen chloride, and arsine.

"(B) Any of the 54 chemicals, other than a riot control agent, controlled by the Australia Group as of the date of the enactment of this Act.

"(C) Any other chemical agent that may be developed if the use of the agent would be intended to produce an effect consistent with that of a chemical agent or other chemical described in subparagraph (A) or (B).

"(D) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of a chemical weapon specified in subparagraph (A), (B), or (C).

"(E) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (D).

"(3) PERSON.—The term 'person' means any individual, corporation, partnership, firm, association, or other legal entity.".

SEC. 202. CONTINUATION AND ENHANCEMENT OF MULTILATERAL CONTROL REGIMES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that any collapse of the informal forum of states known as the "Australia Group", either through changes in membership or lack of compliance with common export controls, or any substantial weakening of common Australia Group export controls and nonproliferation measures in force as of the date of enactment of this Act, would seriously undermine international and national efforts to curb the spread of chemical and biological weapons and related equipment.

(b) POLICY.—It shall be the policy of the United States—

(1) to continue close cooperation with other countries in the Australia Group in support of its current efforts and in devising additional means to monitor and control the supply of chemicals and biological agents applicable to weapons production;

(2) to maintain an equivalent or more comprehensive level of control over the export of toxic chemicals and their precursors, dual-use processing equipment, human, animal and plant pathogens and toxins with potential biological weapons application, and dual-use biological equipment, as that afforded by the Australia Group as of the date of enactment of this Act;

(3) to block any effort by any Australia Group member to achieve Australia Group consensus on any action that would substantially weaken existing common Australia Group export controls and nonproliferation measures or otherwise undermine the effectiveness of the Australia Group; and

(4) to work closely with other countries also capable of supplying equipment, materials, and technology with particular applicability to the production of chemical or biological weapons in order to devise and harmonize the most effective national controls possible on the transfer of such materials, equipment, and technology.

(c) CERTIFICATION.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall determine and certify to Congress whether—

(1) the Australia Group continues to maintain an equivalent or more comprehensive level of control over the export of toxic chemicals and their precursors, dual-use processing equipment, human, animal, and plant pathogens and toxins with potential biological weapons application, and dual-use biological equipment, as that afforded by the Australia Group as of the date of the last certification under this subsection, or, in the case of the first certification, the level of control maintained as of the date of enactment of this Act; and

(2) the Australia Group remains a viable mechanism for curtailing the spread of chemical and biological weapons-related materials and technology, and whether the effectiveness of the Australia Group has been undermined by changes in membership, lack of compliance with common export controls, or any weakening of common controls and measures that are in effect as of the date of enactment of this Act.

(d) CONSULTATIONS.—

(1) IN GENERAL.—The President shall consult periodically, but not less frequently than twice a year, with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, on Australia Group export controls and nonproliferation measures.

(2) RESULTING FROM PRESIDENTIAL CERTIFICATION.—If the President certifies that either of the conditions in subsection (c) are not met, the President shall consult within 60 days of such certification with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on steps the United States should take to maintain effective international controls on chemical and biological weapons-related materials and technology.

SEC. 203. CRITERIA FOR UNITED STATES ASSISTANCE TO RUSSIA RELATING TO THE ELIMINATION OF CHEMICAL AND BIOLOGICAL WEAPONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, United States assistance described in subsection (d) may not be obligated or expended unless a certification by the President is in effect under subsection (b) or subsection (c).

(b) CERTIFICATION WITH RESPECT TO RUSSIAN CHEMICAL AND BIOLOGICAL PROGRAM.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall certify that—

(1) Russia is making reasonable progress toward the implementation of the Bilateral Destruction Agreement;

(2) the United States and Russia have made substantial progress toward resolution, to the satisfaction of the United States, of outstanding compliance issues under the Wyoming Memorandum of Understanding and the Bilateral Destruction Agreement;

(3) Russia has fully and accurately declared all information regarding its unitary and binary chemical weapons, chemical

weapons production facilities, and other facilities associated with the development of chemical weapons; and

(4) Russia is in compliance with its obligations under the Biological Weapons Convention.

(c) ALTERNATIVE CERTIFICATION.—A certification under this subsection is a certification by the President that the President is unable to make a certification under subsection (b).

(d) PERIOD OF EFFECTIVENESS OF CERTIFICATIONS.—Each certification made under this section shall not be effective for a period of more than one year.

(e) UNITED STATES ASSISTANCE COVERED.—United States assistance described in this subsection is United States assistance out of funds made available for fiscal year 1998 or any fiscal year thereafter that is provided with respect to Russia only for the purposes of—

(1) facilitating the transport, storage, safeguarding, and elimination of any chemical weapon or biological weapon or its delivery vehicle;

(2) planning, designing, or construction of any destruction facility for a chemical weapon or biological weapon; or

(3) supporting any international science and technology center.

(f) DEFINITIONS.—

(1) BILATERAL DESTRUCTION AGREEMENT.—The term "Bilateral Destruction Agreement" means Agreement Between the United States of America and the Union of Soviet Socialist Republics on Destruction and Nonproduction of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, signed on June 1, 1990.

(2) BIOLOGICAL WEAPONS CONVENTION.—The term "Biological Weapons Convention" means the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow on April 10, 1972.

(3) WYOMING MEMORANDUM OF UNDERSTANDING.—The term "Wyoming Memorandum of Understanding" means the Memorandum of Understanding Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

(4) UNITED STATES ASSISTANCE.—The term "United States assistance" has the meaning given the term in section 481(e)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(4)).

SEC. 204. REPORT ON THE STATE OF CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION.

Not later than 180 days after the date of enactment of this Act, and every year thereafter, the President shall submit to the Speaker of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate a report containing the following:

(1) PROLIFERATION BY FOREIGN COUNTRIES.—A description of any efforts by China, Egypt, India, Iran, Iraq, Libya, North Korea, Pakistan, Russia, and Syria, and any country that has, during the five years prior to submission of the report, used any chemical weapon or biological weapon or attempted to acquire the material and technology to produce and deliver chemical or biological agents, together with an assessment of the present and future capability of the country to produce and deliver such agents.

(2) FOREIGN PERSONS ASSISTING IN PROLIFERATION.—An identification of—

(A) those persons that in the past have assisted the government of any country described in paragraph (1) in that effort; and

(B) those persons that continue to assist the government of the country described in paragraph (1) in that effort as of the date of the report.

(3) THIRD COUNTRY ASSISTANCE IN PROLIFERATION.—An assessment of whether and to what degree other countries have assisted any government or country described in paragraph (1) in its effort to acquire the material and technology described in that paragraph.

(4) INTELLIGENCE INFORMATION ON THIRD COUNTRY ASSISTANCE.—A description of any confirmed or credible intelligence or other information that any country has assisted the government of any country described in paragraph (1) in that effort, either directly or by facilitating the activities of the persons identified in subparagraph (A) or (B) of paragraph (3) or had knowledge of the activities of the persons identified in subparagraph (A) or (B) of paragraph (3), but took no action to halt or discourage such activities.

(5) INTELLIGENCE INFORMATION ON SUBNATIONAL GROUPS.—A description of any confirmed or credible intelligence or other information of the development, production, stockpiling, or use, of any chemical weapon or biological weapon by subnational groups, including any terrorist or paramilitary organization.

(6) FUNDING PRIORITIES FOR DETECTION AND MONITORING CAPABILITIES.—An identification of the priorities of the executive branch of Government for the development of new resources relating to detection and monitoring capabilities with respect to chemical weapons and biological weapons.

SEC. 205. INTERNATIONAL CONFERENCE TO STRENGTHEN THE 1925 GENEVA PROTOCOL.

(a) DEFINITION.—In this section, the term "1925 Geneva Protocol" means the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva June 17, 1925 (26 UST 71; TIAS 8061).

(b) POLICY.—It shall be the policy of the United States—

(1) to work to obtain multilateral agreement to effective, international enforcement mechanisms to existing international agreements that prohibit the use of chemical and biological weapons, to which the United States is a state party; and

(2) pursuant to paragraph (1), to work to obtain multilateral agreement regarding the collective imposition of sanctions and other measures described in title III of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, as amended by this Act.

(c) RESPONSIBILITY.—The Secretary of State shall, as a priority matter, take steps necessary to achieve United States objectives, as set forth in this section.

(d) SENSE OF THE SENATE.—The Senate urges and directs the Secretary of State to work to convene an international negotiating forum for the purpose of concluding an international agreement on enforcement of the 1925 Geneva Protocol.

(e) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated to the Department of State for fiscal year 1998 under the appropriations account entitled "International Conferences and Contingencies", $5,000,000 shall be available only for payment of salaries and expenses in connection with efforts of the Secretary of State to conclude an international agreement described in subsection (d).

SEC. 206. RESTRICTION ON USE OF FUNDS FOR THE ORGANIZATION FOR THE PROHIBITION OF CHEMICAL WEAPONS.

(a) PROHIBITION.—None of the funds appropriated pursuant to any provision of law, including previously appropriated funds, may be available to make any voluntary or assessed contribution to the Organization for the Prohibition of Chemical Weapons, or to reimburse any account for the transfer of in-kind items to the Organization, unless or until the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature at Paris January 13, 1993, enters into force for the United States.

(b) STATUTORY CONSTRUCTION.—Nothing in subsection (a) may be construed to apply to the Preliminary Commission for the establishment of the Organization for the Prohibition of Chemical Weapons.

SEC. 207. ENHANCEMENTS TO ROBUST CHEMICAL AND BIOLOGICAL DEFENSES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the threats posed by chemical and biological weapons to United States Armed Forces deployed in regions of concern will continue to grow and will undermine United States strategies for the projection of United States military power and the forward deployment of United States Armed Forces;

(2) the use of chemical or biological weapons will be a likely condition of future conflicts in regions of concern;

(3) it is essential for the United States and key regional allies of the United States to preserve and further develop robust chemical and biological defenses;

(4) the United States Armed Forces, both active and nonactive duty, are inadequately equipped, organized, trained, and exercised for operations in chemically and biologically contaminated environments;

(5) the lack of readiness stems from a deemphasis by the executive branch of Government and the United States Armed Forces on chemical and biological defense;

(6) the armed forces of key regional allies and likely coalition partners, as well as civilians necessary to support United States military operations, are inadequately prepared and equipped to carry out essential missions in chemically and biologically contaminated environments;

(7) congressional direction contained in the 1997 Defense Against Weapons of Mass Destruction Act is intended to lead to enhanced domestic preparedness to protect against the use of chemical and biological weapons; and

(8) the United States Armed Forces should place increased emphasis on potential threats to deployed United States Armed Forces and, in particular, should make countering the use of chemical and biological weapons an organizing principle for United States defense strategy and for the development of force structure, doctrine, planning, training, and exercising policies of the United States Armed Forces.

(b) DEFENSE READINESS TRAINING.—The Secretary of Defense shall take those actions that are necessary to ensure that the United States Armed Forces are capable of carrying out required military missions in United States regional contingency plans despite the threat or use of chemical or biological weapons. In particular, the Secretary of Defense shall ensure that the United States

Armed Forces are effectively equipped, organized, trained, and exercised (including at the large unit and theater level) to conduct operations in chemically and biologically contaminated environments that are critical to the success of United States military plans in regional conflicts, including—

(1) deployment, logistics, and reinforcement operations at key ports and airfields;

(2) sustained combat aircraft sortie generation at critical regional airbases; and

(3) ground force maneuvers of large units and divisions.

(c) DISCUSSIONS WITH ALLIED COUNTRIES ON READINESS.—

(1) HIGH-PRIORITY JOINT RESPONSIBILITY OF SECRETARIES OF DEFENSE AND STATE.—The Secretary of Defense and the Secretary of State shall give a high priority to discussions with key regional allies and likely regional coalition partners, including those countries where the United States currently deploys forces, where United States forces would likely operate during regional conflicts, or which would provide civilians necessary to support United States military operations, to determine what steps are necessary to ensure that allied and coalition forces and other critical civilians are adequately equipped and prepared to operate in chemically and biologically contaminated environments.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall jointly submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate and to the Speaker of the House of Representatives a report describing—

(A) the results of the discussions held under paragraph (1) and plans for future discussions;

(B) the measures agreed to improve the preparedness of foreign armed forces and civilians; and

(C) any proposals for increased military assistance, including assistance provided through—

(i) the sale of defense articles and defense services under the Arms Export Control Act;

(ii) the Foreign Military Financing program under section 23 of that Act; and

(iii) chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training).

(d) UNITED STATES ARMY CHEMICAL SCHOOL.—

(1) COMMAND OF SCHOOL.—The Secretary of Defense shall take those actions that are necessary to ensure that the United States Army Chemical School remains under the oversight of a general officer of the United States Army.

(2) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the transfer, consolidation, and reorganization of the United States Army Chemical School should not disrupt or diminish the training and readiness of the United States Armed Forces to fight in a chemical-biological warfare environment; and

(B) the Army should continue to operate the Chemical Defense Training Facility at Fort McClellan until such time as the replacement facility at Fort Leonard Wood is functional.

(e) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and on January 1 every year thereafter, the President shall submit a report to the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate and the Committee on International Relations, the Committee on National Security, and the Committee on Appropriations of the House of Representatives, and the Speaker of the House of Representatives on previous, current, and planned chemical and biological weapons defense activities of the United States Armed Forces.

(2) CONTENT OF REPORT.—Each report required by paragraph (1) shall include the following information for the previous fiscal year and for the next three fiscal years:

(A) ENHANCEMENT OF DEFENSE AND READINESS.—Proposed solutions to each of the deficiencies in chemical and biological warfare defenses identified in the March 1996 General Accounting Office Report, titled "Chemical and Biological Defense: Emphasis Remains Insufficient to Resolve Continuing Problems", and steps being taken pursuant to subsection (b) to ensure that the United States Armed Forces are capable of conducting required military operations to ensure the success of United States regional contingency plans despite the threat or use of chemical or biological weapons.

(B) PRIORITIES.—An identification of priorities of the executive branch of Government in the development of both active and passive defenses against the use of chemical and biological weapons.

(C) RDT&E AND PROCUREMENT OF DEFENSES.—A detailed summary of all budget activities associated with the research, development, testing, and evaluation, and procurement of chemical and biological defenses, set forth by fiscal year, program, department, and agency..

(D) VACCINE PRODUCTION AND STOCKS.—A detailed assessment of current and projected vaccine production capabilities and vaccine stocks, including progress in researching and developing a multivalent vaccine.

(E) DECONTAMINATION OF INFRASTRUCTURE AND INSTALLATIONS.—A detailed assessment of procedures and capabilities necessary to protect and decontaminate infrastructure and installations that support the ability of the United States to project power through the use of its Armed Forces, including progress in developing a nonaqueous chemical decontamination capability.

(F) PROTECTIVE GEAR.—A description of the progress made in procuring lightweight personal protective gear and steps being taken to ensure that programmed procurement quantities are sufficient to replace expiring battledress overgarments and chemical protective overgarments to maintain required wartime inventory levels.

(G) DETECTION AND IDENTIFICATION CAPABILITIES.—A description of the progress made in developing long-range standoff detection and identification capabilities and other battlefield surveillance capabilities for biological and chemical weapons, including progress on developing a multichemical agent detector, unmanned aerial vehicles, and unmanned ground sensors.

(H) THEATER MISSILE DEFENSES.—A description of the progress made in developing and deploying layered theater missile defenses for deployed United States Armed Forces which will provide greater geographic coverage against current and expected ballistic missile threats and will assist the mitigation of chemical and biological contamination through higher altitude intercepts and boost-phase intercepts.

(I) TRAINING AND READINESS.—An assessment of the training and readiness of the United States Armed Forces to operate in chemically and biologically contaminated environments and actions taken to sustain training and readiness, including at national combat training centers.

(J) MILITARY EXERCISES.—A description of the progress made in incorporating consideration about the threat or use of chemical and biological weapons into service and joint exercises as well as simulations, models, and wargames, together with the conclusions drawn from these efforts about the United States capability to carry out required missions, including with coalition partners, in military contingencies.

(K) MILITARY DOCTRINE.—A description of the progress made in developing and implementing service and joint doctrine for combat and noncombat operations involving adversaries armed with chemical or biological weapons, including efforts to update the range of service and joint doctrine to better address the wide range of military activities, including deployment, reinforcement, and logistics operations in support of combat operations, and for the conduct of such operations in concert with coalition forces.

(L) DEFENSE OF CIVILIAN POPULATION.—A description of the progress made in resolving issues relating to the protection of United States population centers from chemical and biological attack and from the consequences of such an attack, including plans for inoculation of populations, consequence management, and progress made in developing and deploying effective cruise missile defenses and a national ballistic missile defense.

SEC. 208. NEGATIVE SECURITY ASSURANCES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that in order to achieve an effective deterrence against attacks of the United States and United States Armed Forces by chemical weapons, the President should reevaluate the extension of negative security assurances by the United States to nonnuclear-weapon states in the context of the Treaty on the Non-Proliferation of Nuclear Weapons.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives a report, both in classified and unclassified forms, setting forth—

(1) the findings of a detailed review of United States policy on negative security assurances as a deterrence strategy; and

(2) a determination by the President of the appropriate range of nuclear and conventional responses to the use of chemical or biological weapons against the United States Armed Forces, United States citizens, allies, and third parties.

(c) DEFINITIONS.—In this section:

(1) NEGATIVE SECURITY ASSURANCES.—The term "negative security assurances" means the assurances provided by the United States to nonnuclear-weapon states in the context of the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) that the United States will forswear the use of certain weapons unless the United States is attacked by that nonnuclear-weapon state in alliance with a nuclear-weapon state.

(2) NONNUCLEAR-WEAPON STATES.—The term "nonnuclear-weapon states" means states that are not nuclear-weapon states, as defined in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968 (21 UST 483).

SEC. 209. RIOT CONTROL AGENTS.

(a) PROHIBITION.—The President shall not issue any order or directive that diminishes, abridges, or alters the right of the United States to use riot control agents—

(1) in any circumstance not involving international armed conflict; or

(2) in a defensive military mode to save lives in an international armed conflict, as provided for in Executive Order No. 11850 of April 9, 1975.

(b) Circumstances Not Involving International Armed Conflict.—The use of riot control agents under subsection (a)(1) includes the use of such agents in—

(1) peacekeeping or peace support operations;

(2) humanitarian or disaster relief operations;

(3) noncombatant evacuation operations;

(4) counterterrorist operations and the rescue of hostages; and

(5) law enforcement operations and other internal conflicts.

(c) Defensive Military Mode.—The use of riot control agents under subsection (a)(2) may include the use of such agents—

(1) in areas under direct and distinct United States military control, including the use of such agents for the purposes of controlling rioting or escaping enemy prisoners of war;

(2) to protect personnel or material from civil disturbances, terrorists, and paramilitary organizations;

(3) to minimize casualties during rescue missions of downed air crews and passengers, prisoners of war, or hostages;

(4) in situations where combatants and noncombatants are intermingled; and

(5) in support of base defense, rear area operations, noncombatant evacuation operations, and operations to protect or recover nuclear weapons.

(d) Sense of Congress.—It is the sense of Congress that international law permits the United States to use herbicides, under regulations applicable to their domestic use, for control of vegetation within United States bases and installations or around their immediate defensive perimeters.

(e) Authority of the President.—The President shall take all necessary measures, and prescribe such rules and regulations as may be necessary, to ensure that the policy contained in this section is observed by the Armed Forces of the United States.

Mr. KYL. Mr. President, I ask unanimous consent that Senator ABRAHAM be added as cosponsor to S. 495.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, let me say for the benefit of my colleagues, to whom we had indicated that we would try to ensure that we would have a vote on this matter at about 3:45, that even though, under the unanimous-consent agreement, we have a half-hour to discuss this legislation in order to try to accommodate my colleagues, to set an example for those on the other side who may wish not to take their full compliment of time, that at this time I am going to express a willingness to discuss this bill no further but just take a couple of minutes to close and to relinquish the floor to those who may be in opposition, again with the plea to them that since we had earlier advised colleagues that a vote would occur on this matter at about 3:45 that anyone who can possibly do so truncate their remarks in order to accommodate our colleagues.

Mr. BYRD. Mr. President, reserving the right to object, has the unanimous-consent agreement not yet been agreed to?

The PRESIDING OFFICER. Yes. The unanimous-consent agreement has been reached.

Mr. BYRD. Mr. President, I was in my office. I still have not had an opportunity—I am not blaming anyone for that—to read this agreement. But in listening to what was said, I thought I heard that a part of the agreement was to the effect that certain votes would occur by voice. Am I correct?

Mr. DASCHLE. Mr. President, if the distinguished Senator will yield, the agreement calls for a vote on the Helms amendments, and on the 28 amendments in agreement. It was stated by at least one of our colleagues that it was his hope that these votes would be voice votes, and the majority leader indicated that it was his desire to have a voice vote. But no one is precluded, of course, from calling for a rollcall as is his constitutional right.

So the distinguished Senator from West Virginia makes a good point. A Senator is not precluded. It is my hope, working with the majority leader, that we can have voice votes on these matters and that we can move ahead as the agreement anticipates. But certainly it is anyone's right to call for a rollcall on this or any other vote.

Mr. BYRD. Mr. President, my concerns have been allayed, and I thank the distinguished leader.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I understand the concern of the Senator from Arizona and others in wanting to move forward with S. 495.

Frankly, Mr. President, we may be seeking a greater good here on the chemical weapons treaty. Those who are opposed to it will feel that it isn't important that they have a chance to vote against it; but those who are for it, as am I, will feel it is important to have a chance to vote for it.

But S. 495 in my mind does not have such urgency.

In an effort to cooperate with the Democratic leader, and with the Republican leader, who is seeking to fulfill, I think, a responsible commitment to the President of the United States to have this bill up here, or to have the treaty up here, I did not object to S. 495, the Kyl bill, coming up. But, Mr. President, I would point out that this is a bill that was introduced—the first version of it was introduced and referred to the Senate Judiciary Committee a day or two before our last recess. There has never been a hearing on it. There has not been 21 seconds of debate on it in the Senate Judiciary Committee, and today we have before us a 70-page and a 70-page substitute for it. We are going to be asked sometime in the next few minutes to vote on a substitute for S. 495. We are going to be asked to vote on a bill that has had no hearings, no debate in committee, no markups, no votes, no report, and no discussion.

I am willing to wager that there will not be more than five Senators who can walk off the floor and tell people honestly, looking them straight in the eye, and say they read it and understood what is in it.

In fact, I would make this challenge to the press. I would make this challenge to the press of every one of the 50 States. I would ask, if the press really wants to do their job, to do this: Call each of the Senators. All it requires is for the press in each State to call up only two people immediately after the vote on S. 495, and say, "Did you read this bill that you just voted on? Did you understand what was in this bill you just voted on? Could you explain this bill to me that you just voted on?" And if somebody says they voted for a major issue like this, then I think it is reasonable to ask, "Did you read it? Did you understand it? Do you know what is in it?"

There may be some very good things in the bill. I have heard that it borrows much from the administration's proposals for implementation legislation. I understand that there are some aspects of it that are very similar to legislation that I introduced. And that may very well be so. There may well be some parts of this bill that I would eagerly support and vote for. But the fact of the matter is I do not know and am not being given an opportunity to find out, let alone have hearings or an opportunity to seek to improve the bill.

We have not had an opportunity or the benefit of discussion. We have not had the opportunity or the benefit of debate—and we will not have debate on it today.

The sole reason it is up here under this expedited procedure is to give some kind of cover one way or the other to bring up the chemical weapons treaty. What we have is the majority insisting that we consider, without review, a revised substitute version of a bill that was not made available to us until this afternoon.

Nobody has said in the Senate Judiciary Committee this could not have a prompt hearing. Certainly I would support the chairman of the Senate Judiciary Committee, Senator HATCH, if he wanted to have a prompt hearing on it.

The principal sponsor of the bill, the distinguished Senator from Arizona, would certainly pursue it strongly through the committee, and I have no doubts that he would be able to explain it very, very well in the committee and answer any questions that might come up. He is a diligent and hard-working Senator who would be able to do that. But under this procedure, we will never know. This committee has a majority of Republicans, as all Senate committees do, but yet the committee will never vote on it.

The majority leader, who is my good friend, has always described himself as one who seeks regular order. I think the Washington Post had a front-page story on December 3, 1996, in which they quote the Senator describing himself as an "order" kind of guy.

I recall when our distinguished majority leader came to the floor and said:

> There is a way to do things around here. You bring up a bill reported by a committee, have debate, offer amendments, you vote, and win or lose, and you move on, and then it goes to conference.

Well, we are not bringing up a bill reported by a committee. We are really not going to have debate. We are not going to offer amendments. We will vote. And that is about the only reflection of order.

If we were considering a resolution to commend the cherry blossom princess or to say we will open the doors of the Senate 5 minutes early or something like that, I could understand. Instead, we are talking about a 70-page bill which is to provide criminal and civil penalties for acquisition, transfer, or use of any chemical weapon or biological weapon, to reduce the threats of acts of terrorism, armed aggression, and so on. This bill refers to patent law, to chemical and biological weapons, to aircraft, and to continuation and enhancements of multilateral control regimes. It refers to the Australia group—I would like to have five Senators stand up and tell me what the Australia group is, to the Wyoming Memorandum of Understanding and the 1990 Bilateral Destruction Agreement. These are major things. Vaccine production and stocks, decontamination of infrastructure are also serious matters and we have not had any hearing, any debate, any discussion of it. The bill refers to owner or possessor liability and warrantless seizures and seizures on warrants and reimbursement of costs, saying how people will have to pay the United States certain amounts of money under certain circumstances and all. This may be heady stuff, Mr. President, very heady stuff.

Now, we have had the Chemical Weapons Convention before us since November 1993. It has been bottled up in committee. We have the April 28, 1997, deadline approaching after which our lack of ratification risks economic sanctions against our chemical industry. This could cost U.S. chemical companies hundreds of millions of dollars. We are talking about thousands of jobs and hundreds of millions of dollars on something that has been stalled, stalled for years.

Now but all of a sudden, whoop-de-do, we have a bill and a substitute bill and the Senate is to take 12 minutes and go ahead with it.

I am afraid that without proper review of the domestic law changes in criminal laws against chemical and biological weapons, we may inadvertently weaken protections already in the law. I know my friend from Arizona does not intend to weaken our laws, but that could be the effect of this bill.

There is no need for this irregular procedure. We ought to be able to take a look at S. 495. I would have no objection to its coming up in regular order after hearings, but it is not a substitute for the Chemical Weapons Convention. It is not a substitute or alternative to implementing legislation.

After we delayed something that President Reagan had negotiated, something that President Bush had negotiated, something that President Clinton had negotiated, the Chemical Weapons Convention, after we delayed it for year after year after year, now we are going to take up in less than 3 hours and pass this 70-page bill that nobody has read. We delay something that has been debated, argued, considered, we delay that for years, but then we take a major piece of legislation that nobody has seen and do not even debate it and it is out the door. Something has gone wrong here.

On April 15, every American had to file their taxes or the IRS comes after them. That is the law. We also have a law that says that the House and the Senate shall pass a budget by April 15. With all due respect to my friends on the Republican side, they control the Speaker of the House, they control the majority in the House, they control the majority leader and a majority in the Senate, but we have not had one second of debate on a budget resolution even though the law requires them to pass it by April 15.

April 15 comes and goes. Can you imagine, Mr. President, if you took that same attitude in filing your taxes and said well, you know, I am busy, I cannot do it. You would hear the doorbell ring and there would be the IRS after you. But nobody comes after us for doing the same thing.

We have nearly 100 vacancies on the Federal bench, and we cannot get a quorum in the Judiciary Committee to report them out.

Yet this 70-page major piece of legislation suddenly comes zipping forth. There are a lot of problems in it. As I said, there may be some things I like. But it says, for example, the bill would prohibit the production of 16 specific chemicals and 54 more already controlled by the Australia group. Do we know what chemicals are in this bill that would be criminalized? I doubt that any one of us could even pronounce the chemicals. We do not know what we are voting to ban?

The bill prohibits any other chemical that may be developed that produces the same effect as the other listed chemicals. I take it this means chemicals developed in the future. But what about other terrible weapons that now exist? Would chemical weapons that exist now but not listed in the bill be OK? What deadly chemicals that are prohibited under current law, which has a far broader definition of chemical weapons, would be freed from criminal penalties?

We have had no answer. This bill repeals the two major chapters of the Federal Criminal Code dealing with biological weapons and with chemical weapons. The ink is barely dry on the chemical weapons law that this legislation would repeal. The chemical weapons statute became law as part of the Antiterrorism and Effective Death Penalty Act of 1996. It was enacted April 14, 1996. It is barely 1 year old and we are going to repeal it without a single hearing, single expert comment about what might be wrong with a bill that we passed a year ago. Do we replace it with a stronger law? No.

First, the definition of chemical weapons that will be banned under this bill is far more limited than the chemical weapons banned under current law.

The bill has a number of exemptions to the overall prohibitions on chemical and biological weapons that are far broader in scope than what are in current law. For example, current law bars chemical weapons for anything but lawful authority. This bill replaces that limited, circumscribed rule with five extensive exemptions including for any peaceful purpose related to any activity.

What does that mean? Is that an exemption any enterprising terrorist or criminal caught with a chemical weapon could use to great advantage? Someone could make a strong argument that way.

While there are parts of the bill I may well like, there are a lot of other parts that raise unanswered questions. Again, any Senator who votes for this, I would challenge the press in his or her State to ask: You voted for it, do you know what was in it? Did you read the bill? Did you understand the bill? Were all your questions answered? Did you feel you repealed any criminal laws we now have that we should have kept?

Mr. President, we spent far, far, far more time this week in quorum calls when we did nothing than we have on hearings on this bill. We spent more time voting on a 100-to-0 resolution on assisted suicide to make us all feel good. We spent far more time on that than we have hearings on this bill. Mr. President, we spent more time with the Chaplain's prayer this morning than we spent on hearings on this 70-page bill. We spent more time saying good morning to each other this morning than we have had in hearings on this 70-page bill. It takes more time for the elevator to go from the second floor to the first than we have had in hearings on this 70-page bill.

I do not fault the Senator from Arizona for this. The leadership is willing to bring it forward, and if it is his legislation, then he is obviously going to go for it.

But before the Senate becomes irrelevant, if we do not have time and will not even follow the law, which requires us to have a budget by April 15, if we only had time to confirm two Federal judges in 4 months and we have a 100-judge vacancy, if we do not have time to have 18 seconds of debate on the budget, if we can bottle up the chemical weapons treaty for years, following the support of President Reagan, President Bush and President Clinton, why in Heaven's name do we suddenly have to come rushing forth with something we do not need now and we do not have to have now?

If we are going to have an expedited process, I think the emergency should be the leadership bringing forward the budget that the law requires. If we have urgency for something, fill some of those judgeships. After all, the Chief Justice has said that is a judicial crisis. If we have urgency for something, let us take something that has actually had a hearing.

So with all due respect to the sponsors of this bill and knowing there are parts of the bill as I have read them that I like, there are a lot of other parts that raise far more questions than are answered in my mind. I will oppose it. I would find extremely interesting the explanations of those who vote for it.

I see the distinguished sponsor of the bill, and I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I just want to respond to a couple of things my distinguished colleague has raised. He is certainly correct to point out the fact that in my view there has been inadequate attention paid to this entire subject. I wish we could spend a lot more time debating the Chemical Weapons Convention, as a matter of fact, but in an effort to meet the deadline imposed or that the administration has indicated it needs to meet, we have had to accordion a great deal of debate and consideration of items into a very small period of time.

I desperately wanted to spend more time on the Chemical Weapons Convention, but in order to agree to get that done on time, we have all made some compromise agreements of how much time to take on things. That is why there is not much time taken on this legislation. The one thing I did want to assure my colleague of, and that is the portions where he sees sections having been repealed, those sections were picked up in a new title under title I, section 101, chapter 11(B) and the following.

Essentially what was done, I assure my colleague, is the chemical and biological provisions of the code were combined and the same activities that are illegal as to one are now illegal as to both with the same penalties. So nothing was dropped from the law; it was merely consolidated in a different place. The definition of chemicals, incidentally, is the same definition that is contemplated by the Chemical Weapons Convention.

I might also note, the subject matter here has been debated and was the subject of hearings really for the last 3 years in the Senate Foreign Relations Committee, by and large, and the exact language of this legislation has been aided by the FBI and others in the administration as well.

My colleague is correct, it would be better to have more time to spend not only on this bill but on the Chemical Weapons Convention itself. In an effort to try to get all of this done under the timeframe the administration is working under, we have all made compromises. I would like a lot more time to brag about what is in this bill, but I agreed to keep my remarks to a couple minutes.

I will not take more time at this point. I appreciate the spirit in which the comments of the Senator from Vermont were made.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Vermont controls 10 minutes 35 seconds. The Senator from Arizona controls 25 minutes 33 seconds.

Mr. LEAHY. Mr. President, the opposition will soon be led by the ranking member of the Foreign Relations Committee. I guess I will yield my time to him. I will speak 1 more minute until he arrives, and then I will yield the floor.

I understand what my friend from Arizona says about wanting to vote for it now, but we do not need S. 495 now. The clock is ticking on the chemical weapons treaty. It was ticking on it last year, the year before, and the year before that. It ticks right up until midnight April 28. If there is anything we have to vote on and should vote on as responsible Senators, either vote up or down, it is the chemical weapons treaty. S. 495 can wait for the normal hearing route.

When you have the merger of current chemical and biological weapons chapters in the criminal code but with different definitions and different exemptions for lawful conduct, this is a matter we ought to at least debate.

Again, I urge everybody to ask and whether members can look their constituents in the eye and say in this 70-page major piece of legislation on chemical weapons, can they say they read it, they understood it, and they are prepared to vote on it?

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KYL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I have time remaining, and I am perfectly happy to yield back almost all of that time in an effort to get this matter to a vote. I urge my colleagues on the other side, if they have opposition, to please make their arguments in opposition so we can bring this to a vote and our colleagues can try to catch their airplanes, which I know they are trying to do.

Until someone is here to speak, I will reiterate the basic point of the legislation. I do urge my colleagues who may be in opposition to please come to the floor to make their arguments to try to accommodate our colleagues.

This legislation, again, Mr. President, is simply designed to complement the provisions of existing law and is also complementary to the Chemical Weapons Convention. It does not create a great deal that is new, but rather plugs loopholes in existing law. We noted, for example, that while it is illegal for one to manufacture and possess and use biological weapons in the United States, we have overlooked passing a law that makes it illegal to manufacture or possess chemical weapons. If we are going to be serious about the chemical weapons business and trying to prevent proliferation, obviously we need to make that conduct illegal as well. We do that in this legislation.

It is not anything Members should have concern about. In fact, they should want that. Who would be against providing the President a little more flexibility and imposing sanctions on countries that violate international law by using chemical or biological weapons?

Who could be against asking the President of the United States to do his best to keep the Australia group together, working as a group of countries in the world that do not sell chemicals, precursor chemicals, to nations that might make chemical weapons of them? It is the policy of the United States, and a sense of the Senate, that the President should ensure that the Australia group restrictions are not weakened in any way. That is consistent totally with the Chemical Weapons Convention. Again, I cannot imagine anyone objecting to that.

We continue the conditions that were imposed in the 1996 defense authorization bill on aid to Russia, which is designed to help them dismantle their chemical weapons. We say they have to demonstrate reasonable progress toward that dismantlement. We pick the same language that was the subject of the Nunn-Lugar compromise in the 1996 defense authorization bill. What we have done is simply to continue that same requirement of Presidential certification of compliance by Russia, or, if all else fails, the President can certify that he cannot certify, and we still send the money to them. So it is not a condition I can imagine anyone would object to. If anything, we would want to make it stronger.

Our legislation calls for an annual report on the state of proliferation of chemical and biological weapons, something that the Congress needs in order to work with the President in doing everything we can to stop the proliferation of these weapons.

We ask the President to convene a group of nations to try to put some teeth into the Geneva protocol, which is the treaty that currently bans the use of chemical weapons. Like the Chemical Weapons Convention, it does not have strong teeth in it. So we are urging the President to try to get a group of nations together to try to do that. Again, I cannot imagine any opposition to that.

We provide our military be better protected against chemical warfare. The GAO issued a report last year that found grave deficiencies in the way that our troops were being equipped and trained to deal with chemical warfare and biological warfare. That needs to be remedied, and we have three specific things in here that we think will help the Defense Department in ensuring that our troops are adequately protected.

One of the things that we recommend, for example, is that the U.S. Army Chemical School remain under the oversight of a general officer, just to make our point that we think this is an important matter, and certainly at least a one-star general ought to be in charge of that facility and that operation.

We provide for a fixed riot-control agent problem, Mr. President. This is the problem that has arisen because this administration has signaled an intention to change the understanding that has been in existence since President Ford's days when the opportunity to use riot-control agents, or tear gas, was said to be permitted in certain instances where it would help to save lives. For example, where we have a downed pilot that is being held by a group of hostile civilians, we can rescue that downed pilot, not by shooting civilians but by the use of tear gas. Where you have a group of civilians protecting someone that you want to get out, or you want to control a group of hostile prisoners of war, that kind of thing, you do not want to shoot anybody, you can do it with riot-control agents, tear gas. We want to assure that is possible under the law.

These are the things that are the key elements of S. 495, Mr. President, and there should not be anything controversial here. It should be provisions that all of us can support. We simply identified each of these items in the course of all of the hearings and all of the debate about the Chemical Weapons Convention and found there were a lot of practical things we could do in legislation.

Bear in mind, this legislation has to go over to the House, it has to pass the House, it has to go to the President. Therefore, there are plenty of scrubs on it, even though the Senate has not had a great deal of opportunity to debate it.

I hope that our colleagues, if there is anyone else in opposition, will say so and we can get on with a vote on this matter pursuant to the unanimous-consent agreement.

Mr. President, I ask unanimous consent that if there are any more quorum calls, that the time be subtracted equally from both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I would like to begin my comments on S. 495 with two observations. First, if the United States desires to be an original member of the Chemical Weapons Convention, this body must act to ratify this treaty within the next 7 days. Second, the whole world is watching what we say and do on the CWC—a treaty that I believe is one of the most important arms control agreements this body will consider for many years to come.

Having made these observations, one would think the Senate would be moving to immediate consideration of the Chemical Weapons Convention. Instead, the Senate unfortunately finds itself debating S. 495—a bill that its most ardent supporters have characterized in recent days as the conservatives' substitute to the Chemical Weapons Convention.

I must tell the Senate that despite these claims, S. 495 is not the Chemical Weapons Convention. In fact, I think it's safe to say S. 495 is not even a distant relative of the Chemical Weapons Convention. And, as former Democratic leader George Mitchell was fond of reminding many of his colleagues at moments like this, saying something repeatedly does not make it so.

Mr. President, the Chemical Weapons Convention offers this Nation an oasis of security in an increasingly threatening world. S. 495 offers us a mirage—a mirage, that if pursued, would jeopardize our national security and our economy.

First, Mr. President, S. 495 only requires the United States to do what it is already doing under an existing law signed by President Reagan in 1986—destroy our stockpile of chemical weapons. S. 495 does absolutely nothing to force other nations to eliminate their stocks of these deadly materials.

Second, the supporters of S. 495 act as if the CWC does not exist at all. S. 495 directs the Secretary of State to negotiate a whole new agreement. The purpose of this new agreement would be to enhance enforcement of an old agreement—the 1925 Geneva protocol. The Geneva protocol merely prohibits the use of chemical weapons. If you care about getting tough on chemical weapons, CWC is the only real answer. CWC bans the development, production, and stockpiling of chemical weapons as well as their use.

Third, S. 495 does nothing to address the trade sanctions that would hit the American chemical industry if we fail to ratify the CWC. Everyone needs to understand that this treaty will take effect with or without us on April 29. Without U.S. ratification of the CWC, U.S. firms will immediately have to secure end-user certificates for the export of chemicals. The implications for U.S. business will be as swift as they are costly.

Finally, I must note with a bit of irony that, according to legal experts who have examined this bill, S. 495, the so-called Chemical and Biological Weapons Threat Reduction Act of 1997, may actually weaken existing law in the very same areas it seeks to toughen them up. As a result of exemption clauses in this bill, passage of S. 495 could undercut the very purpose of the bill itself.

In closing, Mr. President, I ask the Senate not to pursue this mirage. S. 495 is not a real substitute for the Chemical Weapons Convention. I ask that the Senate reject this false vision and that we then get on with the real debate—consideration of the Chemical Weapons Convention.

Mr. CRAIG. Mr. President, the Chemical Weapons Convention has such far-reaching domestic and national security implications that it deserves the most thorough and thoughtful examination by the Senate. I have given this matter a careful review and now rise to discuss some of the conclusions I have reached.

If I thought supporting this treaty would make chemical weapons disappear, and give us all greater security from these heinous weapons, I would not hesitate in giving my support. Unfortunately, the facts do not demonstrate this; indeed, implementing this treaty may actually create opportunities for security breaches.

The Convention has been signed by 160 nations and ratified by only 70—less than 50 percent. Five countries who are thought to have chemical weapons are not even signatories of the Convention: Egypt, Iraq, Libya, North Korea, and Syria. Another six nations have signed, but not ratified the Convention: China, India, Iran, Pakistan, Israel, and Russia. In short, this Convention is not global in scale.

Mr. President, even if it were true that this treaty had been signed and ratified by 160 nations, serious problems would remain. Compliance with the Chemical Weapons Convention is not verifiable. I think it is timely and appropriate to remember the principle President Reagan insisted upon when negotiating an arms control treaty—trust, but verify. Unlike nuclear weapons which require a large, specialized industrial base, chemical weapons can be manufactured almost anywhere. Moreover, many lethal chemicals are common and have peaceful uses. Chemicals help us to manufacture products such as pesticides, pharmaceuticals, plastics, and paints. With such a broad spectrum of uses, it would be difficult to discern the legitimate from the illicit.

Even if verification of compliance were not a concern, this treaty would be difficult to enforce. In a sound arms control treaty, the United States must be able to punish other countries caught in violation of the agreement. The Chemical Weapons Convention provides only vague, unspecified sanctions to be imposed on a country found in breach of the Convention. Ultimately, the Chemical Weapons Convention leaves the U.N. Security Council to impose penalties severe enough to change behavior out an outlaw nation. Since any one of the five members of the Security Council can veto any enforcement resolution lodged against them or their friends, China and Russia, for example, could simply veto resolutions imposing sanctions if they disagreed with other Security Council members. In sum, Mr. President, it does not appear that this agreement is verifiable or enforceable.

Appropriate questions have also been raised about the treaty's compatibility with our Constitution. The Convention creates an international monitoring regime called the Organization for the Prohibition of Chemical Weapons, or OPCW. The OPCW will be granted the most extensive and intrusive monitoring power of any arms control treaty ever because it extends coverage to governmental and civilian facilities.

The intrusive nature of this treaty brings up important issues in regards to our citizens' constitutional protection against unreasonable search and seizure of private property. Mr. John Yoo, an acting professor of law at the University of California at Berkeley wrote yesterday in a Wall Street Journal op-ed that "Under the CWC, a drug dealer running a crack house will have more constitutional rights than the law-abiding operator of a chemical plant." Proponents of the Chemical Weapons Convention have suggested that there are a wide variety of solutions to the constitutional problem. However, the Chemical Weapons Convention states that it is "unlawful to disrupt, delay, impede an inspection or refuse entry of an inspection team." It appears as though this treaty is incompatible with our Constitution.

Furthermore, Mr. President, I do not want to look for ways to get around the so-called constitutional problem. If the treaty flies in the face of rights protected under the fourth and fifth amendments, we cannot and should not ratify.

The authority of the international monitoring regime also raises concern about foreign nationals having such broad authority to obtain access to property held by private U.S. citizens. The U.S. chemical industry is known to be one of the top industries targeted for espionage by foreign companies and governments. There is legitimate worry that international inspections could jeopardize confidential business information, trade secrets, and other proprietary data. Since the United States will be expected to pay 25 percent, or approximately $50 million, of the OPCW's operating costs, American tax dollars could be subsidizing increased risk for U.S. business interests. And even though we would pay the lion's share of the OPCW's budget, the United States would have no special status over other signatory nations, no veto power, and no assurance of being a member of the executive council.

Despite my objections to ratification of the Chemical Weapons Convention, I believe Senator KYL's Chemical and Biological Threat Reduction Act will help protect our citizens and troops from the threat of chemical and biological weapons. This bill would establish workable national policies for confronting the chemical and biological weapons threats, while not jeopardizing our national security like the CWC.

Currently, there exists no U.S. law providing comprehensive criminal, civil, and other penalties for the acquisition, possession, transfer, or use of chemical or biological weapons. Senator KYL's bill would impose stiff criminal and civil penalties for illegal possession of chemical weapons. The death penalty could be a punishment for an individual who causes the death of another through this bill.

The Chemical and Biological Threat Reduction Act also imposes mandatory sanctions against nations that use biological and chemical weapons against other countries or their own citizens. Unlike the Chemical Weapons Convention that only vaguely defines sanctions which could be thwarted by the U.N. Security Council, this bill would automatically terminate foreign assistance, suspend arms sales, impose import and export restrictions, and end financial assistance from multilateral banks. This act also would improve the readiness of U.S. military forces against chemical weapons attacks by improving troop preparedness.

In view of some of the contacts I've had from Idahoans concerning Senator KYL's bill, I think it's important to point out that this bill does not ratify the flawed Chemical Weapons Convention. It would enhance our own methods to deal with chemical terrorism without making us vulnerable to the defects of the Chemical Weapons Convention.

Mr. President, making the production and possession of chemical weapons illegal according to international law will not make them disappear. Use of such weapons has been prohibited since 1907, yet we have seen the results of their use. We all know about the tens of thousands of deaths from poison gas in World War I, and no one could forget the tragic photographs of the Iranian children killed during the 1980's by the Iraqi Government. Illegal? Yes, but still in use, nonetheless.

Mr. President, I stand today with all Americans expressing a grave concern over the increasing proliferation of chemical and biological weapons. The real question here seems to be whether ratification of the Chemical Weapons Convention will increase our own national security. Unfortunately, the answer is no. There is little value in implementing international laws which do little to decrease illegal research, development, and proliferation of chemical weapons worldwide.

I support the goal of making the world safe from the threat of chemical weapons. I applaud the honorable statement the CWC makes against these heinous weapons. However, I believe the best way to protect ourselves from this threat is by rejecting this treaty. The Convention does nothing to better our security, but may even open the door to increasing risks against our vital security interests and infringing on the rights of innocent citizens. For these reason, I am compelled to vote against the ratification of the Chemical Weapons Convention.

Mr. ALLARD. Mr. President, today I rise as a cosponsor and supporter of S. 495, The Chemical and Biological Weapons Threat Reduction Act of 1997. This bill will truly provide the United States the tools it needs and deserves from chemical and biological weapons. It is a comprehensive domestic and international plan to reduce the threat of chemical and biological weapons use, setting forth practical, realistic, and achievable nonproliferation measures to combat the very real dangers posed by these weapons.

Because of the horrible nature of these weapons, the United States has dismantled its biological weapons program and is now unilaterally destroying its entire stockpile of chemical weapons. This bill reinforces our commitment to finish the job.

S. 495 contains many provisions that will improve our ability to protect our citizens and military against these deadly weapons. The bill imposes criminal, as well as civil, penalties for the development, production, stockpiling, and transfer of chemical and biological weapons. Penalties range from civil action of up to **$100,000** per violation to the death penalty on individuals who use chemical weapons which cause death to another.

Also, the export privileges of violators can be revoked as well. And, it preserves the system of multilateral export controls on biological and chemical materials and technologies, better known as the Australia group.

For our Armed Services, it strengthens U.S. biological and chemical defense programs and it preserves the military's ability to use riot control agents, such as tear gas. It also requires the President to review the policy of negative security assurance to widen U.S. options to respond with nuclear weapons against such an attack by a nonnuclear weapons state.

For foreign countries who use biological or chemical weapons in war or against its own citizens, mandatory 3-year sanctions are imposed as listed in the bill. Plus, it calls an international conference to strengthen the existing 1925 Geneva Protocol. Lastly, it requires Russian cooperation in disarmament of CW/BW weapons in return for continued U.S. assistance for dismantling these weapons of mass destruction. This applies only to CW/BW destruction and not to any other Russian assistance, such as the Nunn-Lugar programs.

I hope all my colleagues support S. 495. It toughens our domestic laws on those who use these weapons. For all the talk about chemical weapons, little has been done domestically to punish users of these horrible weapons. This bill will do just that. Support this bill and let's make it known that we will not tolerate the use of these weapons against American citizens or any other people.

Mr. BOND. Mr. President, I rise today in support of S. 495, the Chemical and Biological Weapons Threat Reduction Act of 1997. In the wake of World War I, nations from all around the world came together to sign the 1925 Geneva Protocol. Having witnessed the horrible effects of poison gas in battle, this agreement banned its use in interstate conflict. However, at the time no provisions were made in U.S. law to establish criminal or civil penalties pertaining to such weapons.

Today, for the first time, legislation has come to the Senate floor that provides criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical or biological weapon and gives domestic law enforcement authorities the needed legal basis to enforce prohibitions on chemical weapons activities within the United States. Most importantly, in light of recent domestic terrorist attacks and the actual release of Sarin gas in a Tokyo subway, S. 495 allows the death penalty for the use of chemical or biological weapons that leads to the loss of life.

From the international perspective, this legislation conditions continued United States aid to Russia for chemical and biological weapons dismantlement and destruction upon Russia demonstrating that it is abiding by existing agreements in this area. It urges enhancement of multilateral regimes to control trade in chemical and biological weapons-related materials, while requiring that the United States continue strengthening chemical and biological defenses, particularly in terms of equipment and training. Finally, S. 495 establishes, for the world, U.S. policy on the use of riot control agents and permits the use of tear gas for such things as the rescuing of downed pilots.

The Chemical and Biological Weapons Threat Reduction Act of 1997 augments existing international norms and agreements by establishing a framework for U.S. sanctions against nations which use chemical or biological weapons and by directing the Secretary of State to convene an international negotiating forum for the purpose of reaching an agreement on the enforcement of the 1925 Geneva Protocol which bans the use of chemical weapons in war.

I wish to point out that supporting S. 495 is not in conflict with the ratification of the Chemical Weapons Convention. Instead it complements the CWC by reducing the threat of acts of terrorism and armed aggression against the United States involving chemical and biological weapons. Therefore, I urge my colleagues to support this legislation and take a step toward making our country safer with a comprehensive plan that provides realistic and practical measures to combat the dangers of these repugnant weapons.

Mr. KYL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent to proceed for not to exceed 1 minute as in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Vermont may proceed.

SENATE TRADITIONS

Mr. LEAHY. Mr. President, I just had reason to go and check the RECORD on something and realized a change had been made in the Office of the Official Reporters of Debates. In the 22 years I have been here, it has been right off the floor, which is the logical place for that office to be.

I guess I am sort of a traditionalist. I believe that traditions that work should take precedence over perks that some may want. Frankly, I have no idea who made this decision to do all these changes. I do not think it is a good one. As a Senator who prefers tradition over perks, I wish things would go back to the way they were. Sometimes we should realize as Senators, we are only here temporarily. The Senate outlasts us.

Mr. President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

CHEMICAL AND BIOLOGICAL WEAPONS THREAT REDUCTION ACT OF 1977

The Senate continued with the consideration of the bill.

Mr. THURMOND. Mr. President, I rise in support of S. 495, the Chemical and Biological Threat Reduction Act of 1997, offered by the Senator from Arizona, Senator KYL, and others.

There has been criticism of this legislation by Members of the Senate as well as by the administration. The criticism largely centers around charges that it falls short as an alternative to the Chemical Weapons Convention [CWC].

I do not know what the outcome will be of the Senate vote on advice and consent to ratification of the Chemical Weapons Convention. This legislation could possibly be an alternative in the event two-thirds of the Members present do not vote for the treaty. On the other hand, it may also complement the treaty, if it passes.

I want the RECORD to be clear, whatever the outcome of the vote on the CWC, I support efforts by the Senate to provide comprehensive criminal, civil, and other penalties for the acquisition, possession, transfer, or use of chemical or biological weapons. I also want the RECORD to reflect my continued support for the destruction of the U.S. unitary stockpile.

I urge my colleagues to vote for S. 495.

Mr. HUTCHINSON. Mr. President, I proudly stand here today as a cosponsor of S. 495, Senator JON KYL's Chemical and Biological Weapons Threat Reduction Act of 1997. First and foremost, I want to thank the good Senator from Arizona for his commitment and hard work regarding chemical and biological weapon threats. This legislation certainly provides a comprehensive domestic and international plan to reduce the threat of chemical and biological weapon use.

It sets forth practical, realistic, and achievable nonproliferation measures to combat the very real dangers posed by these weapons.

Today the U.S. Senate will vote on the Chemical and Biological Weapons Threat Reduction Act. Mr. President, for the first time in U.S. history, we will have legislation that provides the needed criminal and civil penalties against those who produce, stockpile, and transfer chemical weapons in the United States.

Mr. President, as this body begins debate on the chemical weapons issue, I wholeheartedly believe that S. 495 will not only reinforce our strong commitment to eliminating chemical and biological weapons, but more importantly this legislation will provide our domestic law enforcement authorities the needed legal basis to enforce prohibitions on chemical weapons activities within the United States.

I have heard the arguments against S. 495, including that it amounts to the "U.S. go at it alone," approach. However, Mr. President, this bill sets forth a strong moral example for other nations to follow and in doing so underscores our commitment to global nonproliferation efforts.

Furthermore, through the Australia Group, the United States and its principal international partners have worked together to prevent the transfer of dual-use chemicals and chemical weapon-related equipment. The Australia Group must remain a cornerstone of our international nonproliferation effort and Mr. President, the passage of this legislation accomplishes this goal.

Mr. President, let me emphasize the strong points of this bill:

It requires U.S. sanctions against any country that uses chemical and/or biological weapons against another country. In effect a range of sanctions can be imposed: arms sales, trade restrictions, foreign assistance, etc.;

It outlaws the entire range of chemical and biological weapons activities within the United States. This bill mandates a $100,000 penalty for civil violations and provides the death penalty where chemical and/or biological weapons use leads to the loss of life;

It establishes criteria for continued United States aid to Russia for chemical and biological weapons dismantlement and destruction;

Most importantly, the assistance for dismantling Russia's chemical weapons stockpiles is contingent upon Russia's commitment to abide by already existing bilateral and multilateral agreements on chemical and biological weapons; and

This legislation requires calling an international conference to strengthen the 1925 Geneva Protocol, which prohibits the use of biological and chemical weapons. The Geneva Protocol has been violated on numerous occasions with little or no response from the states observing its prohibitions. Section 205 of this legislation would call for the creation of an international body whose purpose would be to ensure that the participating states will penalize any state violating the Geneva Protocol.

Mr. President, we must, to the best of our ability, avoid the horrible events of the 1980's, when the international community witnessed the horrors of Iraq's use of chemical weapons against its own people. However, we took no action despite the clear and compelling evidence that this atrocity had taken place.

To answer this threat, Senator KYL's legislation directs the Secretary of State to convene an international negotiating forum for the purpose of concluding an international agreement on the enforcement of the 1925 Geneva Protocol banning the use of poison gas in war.

Mr. President, one of the most important provisions of S. 495 is that it strengthens U.S. biological and chemical defense programs. The bill recommends three steps to improve the readiness of U.S. military forces in the area of biological and chemical defense. First, it would require the Secretary of Defense to ensure that U.S. military forces are prepared to conduct operations in a contaminated environment, particularly in the areas of operating ports and air fields. Second, it would seek improved allied support for biological and chemical defense to sustain operations in a contaminated environment. Third, it would require that the U.S. Army Chemical School remain under the oversight of a general officer.

Mr. President, as we begin the debate on the Chemical Weapons Convention and whether to ratify or not, I believe that this legislation, S. 495, is significant because it establishes substantive and workable national policies for confronting the chemical weapons threat.

The American people, with justification, will ask their leaders how and where they stand on the issue of chemical weapons.

Mr. President, the passage of S. 495 will send a clear and unmistakable message to the American people that this Congress will do everything in its power to rid our world of all chemical and biological weapons. I urge my colleagues to adopt this measure.

I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan. The Senator has 11 minutes remaining.

Mr. LEVIN. Mr. President, how much time is remaining on the bill itself?

The PRESIDING OFFICER. The Senator from Michigan and the Senator from Delaware have 11 minutes each, the Senator from Arizona has 13, and the Senator from Vermont has 4½.

Mr. LEVIN. Mr. President, the bill before the Senate is an unusual piece of legislation. It comes to the Senate in an expedited fashion rarely witnessed in this body. The so-called Chemical and Biological Weapons Threat Reduction Act has been presented as something of an alternative to or substitute for the Chemical Weapons Convention.

In contrast, though, to the Chemical Weapons Convention, which has taken 3½ years and counting to reach the Senate floor, S. 495 comes to us a mere 3½ weeks following its introduction. The substitute amendment to S. 495 that the Senate is now considering—all 64 pages of bill language—was made available to Senators just a few hours ago. So it is so new, the substitute, that copies of the amendment are just practically warm to the touch.

The CWC has undergone a thorough and rigorous evaluation in the Senate since its submission in November 1993, the subject of 17 hearings, dozens of witnesses, 1,500 pages of testimony, questions and answers, letters, reports, and other documentation.

By contrast, the bill before us, S. 495, arrives fresh and green, never having been reported out of committee, never having been the subject of a single congressional hearing.

This is not the way the Senate should consider important legislation, particularly given the gravity of the subject matter contained in this bill. S. 495 changes existing American law with respect to domestic law enforcement, criminal penalties, international sanctions, and export controls. From what I can determine in these few hours, many of the changes contained in S. 495 would weaken existing law.

Also, S. 495 conditions United States assistance to Russia for the safeguarding and destruction of its vast chemical and biological weapon stockpile of 40,000 tons. These changes and others contained in S. 495 significantly alter American domestic and foreign policy, and as such should be carefully studied by the Judiciary Committee, the Armed Services Committee, and the Foreign Relations Committee at a minimum before the Senate acts on it. But that has not happened.

The timing of this bill as a prelude to considering the Chemical Weapons Convention leaves the unmistakable impression that proponents of S. 495, or some of them, see it as an alternative or substitute to the treaty. It is nothing of the kind.

The Chemical Weapons Convention has been signed by 161 nations and ratified by 72. It is a global treaty that bans an entire class of weapons of mass destruction. It prohibits the production, acquisition, stockpiling, transfer, and use of chemical weapons. The treaty, negotiated and signed under Republican administrations and strongly supported by our military leaders and battlefield commanders, is the product of American leadership in combating the international proliferation of weapons of mass destruction. The CWC joins the Nuclear Nonproliferation Treaty and the Comprehensive Test Ban Treaty as the triumvirate of multinational nonproliferation treaties that strengthen U.S. national security while at the same time enhancing global stability.

The bill, S. 495, falls well short of what U.S. participation in the Chemical Weapons Convention can deliver. It does not have the depth, the scope and the boldness of the CWC. More importantly, if this bill is passed as an alternative to the CWC, it would undermine our efforts to deprive aggressor nations and terrorist organizations of the use of chemical weapons.

The CWC makes illegal the development, production, or possession of chemical weapons by signatory states. S. 495 applies only to the United States. Furthermore, S. 495 would require sanctions against countries only if they use chemical weapons, punishment already existing in U.S. law. Nations that produce, possess, or transfer chemical weapons would not be affected by S. 495.

The CWC requires that signatory states begin destruction of their chemical weapons within 1 year of the treaty's entry into force and complete that destruction in 10 years, a commitment the United States has already made independently of the CWC. By contrast, S. 495 does not require the destruction of a single chemical bomb or warhead.

The CWC, our Chemical Weapons Convention that will come before us next week, creates a verification regime to provide for on-site inspection of signatory nations to ensure compliance with the prohibitions created in the treaty. S. 495 concerns itself with punishing individuals and/or nations after chemical weapons are used and lives are lost, not with the abolition of the insidious weapons prior to their use.

Countries that are not signatories to the CWC are isolated from the world community and prohibited from buying certain dual-use chemicals from member states that could be fashioned into weapons of mass destruction, in the process hampering the economic potential of their domestic industries, chemical and otherwise. S. 495 does nothing to leverage nonsignatory nations to forswear the production and possession of chemical weapons, thereby leaving open the door for the spread of these destabilizing weapons.

Those are some of the major shortcomings of S. 495 as an alternative to Senate ratification of the Chemical Weapons Convention and its implementation legislation.

S. 495 is not simply an ineffective tool in ridding the world of chemical weapons; it also contains a number of legal ambiguities and policy flaws that weaken existing U.S. law and add weight to why the Senate should reject the bill. Even a quick reading of S. 495 reveals significant problems with the bill from both a legal and national security perspective. I think a more careful analysis by the committees of jurisdiction would undoubtedly reveal more problems.

There are two sections in S. 495, and I ask unanimous consent that the analysis of these two sections of S. 495 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> S. 495 is divided into two sections: Title I sets forth penalties for unlawful activities within the United States or by United States nationals abroad. Title II makes changes to the Arms Export Control Act and other portions of existing law regarding the imposition of economic and diplomatic sanctions against any foreign government determined to have used chemical or biological weapons illegally. Other significant changes are contained in Title II, including placing limits on U.S. assistance to Russia for the transportation, safeguarding and destruction of such weapons of mass destruction.

Mr. LEVIN. There are a number of policy flaws in S. 495 which I want to highlight in the few minutes remaining, Mr. President. Specifically, this bill would substantially weaken current criminal provisions in at least five significant areas. This bill weakens existing criminal law in at least five areas, from even a cursory view.

First, new provisions in title I of the bill would expressly authorize ownership, production, sale or use of chemical and biological weapons for a broad array of purposes described as exempted conduct. The FBI has expressed concern about this new exemption in law, stating if this approach is taken, "the legitimate purpose allowed must be specifically defined and narrowly tailored" to avoid rendering the prohibitions toothless.

But, unfortunately, section 229(b) defines the term "exempted conduct" to include:

> (A) any peaceful purpose related to an industrial, agricultural, research, medical, pharmaceutical activity,
>
> (B) any protective purpose directly related to protection against the chemical or biological weapon.

The FBI has found significant ambiguities in this definition that can become major loopholes in the statute. For instance, any research purpose could mean a terrorist group or cult conducting research into chemical or biological weapons. Obviously they would assert it was for a peaceful purpose, but under this new provision of law would it fall within the realm of research intended to be prohibited? The Aum Shinrikyo was conducting research and testing. If they were discovered before they released deadly chemical agents into the subway in Tokyo in 1995, they would not have necessarily violated this act, especially since they were recognized at the time as a legitimate religious group and were not viewed at that time as a terrorist organization.

The phrase in this bill "any protective purpose" which is used in exemption (B) is too broad, as well. Although hopefully not intended, this exemption could be asserted in self-defense claims. A case involving an individual in possession of Ricin, a potent toxin, who used it as a form of a booby-trap is illustrative of a potential protective purpose. This could be asserted by survivalist-type groups that may store these types of weapons, as was the case, according to the FBI, in 1985 when a white supremacist organization had a drum of chemical agents at their wooded compound.

Second, section 229(c)(2) of the new provision contains an exclusion permitting any ownership and possession of chemical and biological weapons by any member of the U.S. Armed Forces. This provision is poorly written. It does not appear to require official authorization for the ownership or possession of the weapon. Just if you are in uniform, then you are exempted, whether or not you have authority or not to be in possession of the weapon.

The same paragraph contains broad language authorizing ownership and possession of chemical and biological weapons by any person who is "attempting to seize the weapon." That language could conceivably include a terrorist who is attempting to seize chemical or biological weapons. By contrast, the existing law that it would replace covers any use that is without lawful authority. That is a big difference. Again, this bill weakens current law. Current law says if you have it without lawful authority, you violate the law. This provision substitutes a weaker law, a weaker provision, for what is in current law and exempts people who are attempting to seize a weapon, whether or not they have lawful authority or not. That is a significant weakening of current law.

Third, current law authorizes a life sentence for any person who "knowingly assists a foreign state or any organization" to acquire biological warfare agents—or delivery systems for use with such weapons—or who attempts, threatens, or conspires to do so. This aspect of the law would be repealed by title I of S. 495 with no substitute.

Fourth, section 229C(a) of the new provision would authorize a maximum sentence of 10 years for any person who knowingly uses riot control agents as an act of terrorism, or knowingly assists any person to do so. By contrast, the existing law it would replace subjects any person who uses chemical weapons, including riot control agents, without lawful authority to a life sentence.

Fifth, section 229C of the new provision would prohibit the unauthorized use of riot control agents only if use is an act of terrorism. Before any penalty could be imposed, law enforcement officials would be required to prove that the chemicals were used to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by assassination or kidnaping. The existing law it would replace contains no similar requirement; requires no proof. Possession is enough.

Turning attention to title II of S. 495, one of the most troublesome and counterproductive provisions of this bill is section 203 entitled "Criteria for United States Assistance to Russia." This section is a conglomeration of several of the conditions that have been proposed to the CWC resolution of ratification, but which the administration cannot accept. Section 203 would require four Presidential certifications concerning Russian compliance with existing chemical/biological agreements before United States assistance under the cooperative Threat Reduction Program—also known as the Nunn-Lugar program—can be provided. As Chairman of the Joint Chiefs General Shalikashvili articulated to the Senate Armed Services Committee earlier this year, the CWC's greatest attraction from a military standpoint is the requirement for all parties to destroy their chemical weapons stockpiles, including the eventual destruction of approximately 40,000 tons of declared Russian chemical agents, the largest stockpile in the world. Limiting cooperative threat reduction funding for this purpose might endanger prospects for Russian ratification of the CWC as well as remove the most effective United States tool for inducing Russia to dismantle its massive chemical weapons stockpile.

Another section of the bill that should concern Senators is section 208, entitled "Negative Security Assurances." This provision calls for classified and unclassified reports to Congress on "the appropriate range of nuclear and conventional responses to the use of chemical or biological weapons against the United States Armed Forces, United States citizens, allies and third parties." The text of this provision is different from the agreed-to condition contained in the CWC Resolution of Ratification and requires the submission of the report to the Senate Committees on Armed Services and Foreign Relations and the Speaker of the House, a peculiar designation to say the least. Furthermore, the Office of the Secretary of Defense has indicated that an unclassified report on this issue is not possible and, more importantly, is concerned that the language in section 208 is designed to lead to a major change in U.S. Government policy in this area.

Mr. President, 1997 marks 80 years since the advent of chemical warfare on the western front during World War I. It was in 1917 that stymied field commanders lifted the lid of Pandora's Box and unleashed on the world a new kind of warfare, horrifying in its effects and insidious in its indiscriminate application on the battlefield. It was 80 years ago that dense, yellowish-green vapors, pushed along by light winds, crept across the desolation of no-mans land and filled the bloodied trenches of a doomed generation of soldiers. Thousands of unprotected men suffocated to death in an excruciatingly painful and protracted fashion, the inner lining of their lungs eaten away by the pervasive gas. The world's abhorrence over the use of gas warfare in the latter years of World War I led to the Geneva protocol of 1925 prohibiting the use of these weapons of mass destruction.

Now, decades later, we are on the verge of the united world community dedicated to the complete abolition of these battlefield poisons. The only question is whether the United States will follow through with the leadership it has shown in the past 15 years by joining the community of civilized nations and ratifying the CWC. The CWC has languished in the Senate for 3½ years and time is short for us to act. We should not be distracted by S. 495, a bill so rushed, so flawed, and so counterproductive to our law enforcement, counterterrorism and national security interests.

Its approval would constitute a step backward from the commitments we made as a nation when President Bush signed the CWC in January, 1993. In its descriptive title, S. 495 claims to be the Chemical and Biological Weapons Threat Reduction Act. But, in fact, it is nothing of the sort. Nothing in this bill will remove chemical or biological weapons from foreign military weapons arsenals. Nothing in this bill will deprive terrorists of the chemical or biological ingredients necessary to threaten and kill innocent men, women and children in a subway or at a shopping mall. S. 495 concerns itself with reacting to the use of these weapons, not preventing their use.

History has shown that the threat of criminal penalties and economic sanctions will do little to deter those with no regard for international law and the sanctity of human life. The best way to prevent a chemical weapons attack is by preventing the attacker from obtaining such a weapon in the first place. This is the philosophical underpinning of the CWC. It seeks to prevent the use of chemical weapons through abolition, while S. 495 relies on the deterrent effect of criminal penalties and economic sanctions, already contained in U.S. and international law, to inhibit their use.

Mr. President, I urge my colleagues to vote against S. 495. Even after a cursory review, the shortcomings of S. 495 are sufficiently numerous and serious enough to warrant its defeat. The real test of this body's resolve to strengthen our national security interests and promote global stability will come when the Senate turns its attention to the consideration of the Chemical Weapons Convention. To endorse S. 495 prior to our vote on ratification would send mixed signals to our allies and the rest of the international community about America's willingness to lead in the fight against chemical weapons. At a time when the world community looks to us for leadership in the effort to counter the proliferation of weapons of mass destruction, we cannot afford to renege on such an important obligation.

Mr. KYL. In the interest of time, since we would like to get on with the vote, I respond by saying that is a misreading of the bill. The exemptions are the same as the implementing legislation submitted by the administration. The same for protective purposes. And he misreads the exemption he spoke to about seizing the weapon. That is related only to the pending destruction of the weapon authorized by law.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I have 15 minutes.

The PRESIDING OFFICER. The Senator from Delaware has 11 minutes.

Mr. BIDEN. I have colleagues who have planes to catch, so I will try to be brief.

Let me be very, very blunt, as the Chair knows I usually am, much to my detriment on occasion. This is not about anything, this vote. This vote is really designed to try to come up with a substitute for the chemical weapons treaty—to give people who want to say they voted against chemical weapons an ability, then, to vote against the Chemical Weapons Convention.

I know we are supposed to be more diplomatic than that, and I know all that, and I am not suggesting that things in the bill are not worthwhile. They are. But this is what happens after we pass the treaty, that is, the implementing legislation. The way treaties work is, if we pass a treaty like the Chemical Weapons Convention, then we will come back here and pass implementing legislation. Just today, Senator LUGAR and I have introduced legislation called the implementing legislation. That is, how do we domestically implement what we have just signed on to internationally.

Now, this bill does some of those things. Some of the things in here, in this bill—and I have great respect for my friend from Arizona, I really do. I always kid him and say my problem with him is he is too bright. I always prefer people who I am usually in disagreement with philosophically that are not very bright. He is very bright. That is a problem. So he is more effective. But I hope he will not be offended. I think he would be willing to tell you not only does he believe in what is in here, he also hopes it has the political benefit of gathering enough votes to allow people the option to vote against the Chemical Weapons Convention.

So, when I give this short shrift, I am not giving short shrift to the ideas, please understand. But the RECORD should note that this is not the norm; nobody that I am aware of, at least as long as I have been here, is usually willing to allow, without any hearings, a major bill to be brought up that is 64 pages long that most of us have not had a chance to read.

I just want the RECORD to reflect why I am going to truncate this a great deal because this debate is not really about the substance here but about the treaty. I will tell you why we need a treaty and why this legislation, even if I knew all that was in it, and even if I agreed with all that was in it, would not get the job done.

First, the treaty addresses two flaws in the Geneva Protocol which focused on a single wrong. It said we would ban the use of chemical weapons. The Chemical Weapons Treaty says you cannot produce chemical weapons, you cannot own chemical weapons, you cannot stockpile them. This legislation does nothing to affect any other country. Nothing we do in here in any way puts or imposes a prohibition on other countries other than as it relates to how we will deal with them on a bilateral basis.

Second, we need a Chemical Weapons Convention because it will strengthen the ability of nations of the world to cooperate in placing strict global controls on trade and chemicals. We want to be able to trace the precursor chemicals that go from one country to another country, from one country or company to an individual, because that is the thing that will allow us to trace down and see whether the bad guys, whether they be terrorists and or countries at large, are doing bad things. That is, possessing, building, or designing chemical capability. This does nothing on that score.

Third, we need a Chemical Weapons Convention because we have decided to get rid of most of our chemical stockpile, and that decision was jointly made by the Congress and the President in the 1980's. After the gulf war, George Bush announced we would destroy the rest.

The fourth reason is we need a treaty because it greatly enhances our ability to detect and deter a chemical weapons program. This will do nothing to affect anybody else's chemical weapons programs.

In sum, the CWC will be a powerful instrument. This, at best, you could say, would be something along the line of implementing legislation, if we had that treaty passed, which I hope we will.

I might add, I agreed to allow this bill to come up before the treaty, which is a very unusual way to do this because, quite frankly, I had no other way of getting the treaty up. Had I not agreed to this, my colleagues could have filibustered or prevented it from coming out of committee. Even though I have the votes in the committee for the treaty I could have prevented it from coming to the floor. This must be confusing to people listening to this debate today, because why would we vote on this before the international treaty? The answer is that we have no choice. The answer is they've got me by the procedural ears here. If we don't get a chance to vote on the CWC by the 28th, we are not in the deal and we, as a nation, are very much out of sync.

I will conclude by suggesting that Senator KYL's bill calls for a couple of things that already are in the treaty. The bill does nothing to eliminate other nations' chemical weapons. It requires us to go back and renegotiate the Chemical Weapons Convention, which, as General Brent Scowcroft, not a man known for hyperbole, said the concept of starting over was pure fantasy.

Next, this bill does nothing to strengthen trade controls internationally. It has language about the Australia Group—an organization that is already in place and will stay in place. There is nothing extraordinary about that. The Australia Group exists and will continue to enforce trade controls.

Third, the Kyl bill provides sanctions against nations that use chemical weapons. That's already in law. The bill does strengthen this in minor respects, but it weakens it in others. It doesn't make it illegal to produce or stockpile these weapons.

Fourth, the Kyl bill does nothing to address trade sanctions that will apply against U.S. companies if the Chemical Weapons Convention enters into force with us.

In sum, the Kyl bill is not a substitute for the Chemical Weapons Treaty, although there are things in the Kyl bill that I would vote for.

As I told my friend—and I really do think he is my friend, and we have been completely straight with one another—I am going to vote against this and urge my colleagues to do the same, because I don't know enough to know what is in here. I will never forget that when I first got here, Senator Pastore of Rhode Island, an old fellow, was a very powerful Senator; I asked him about something and he said, "Boy, let me tell you something. If you don't know what's in it, it's always safer to vote no." So I am voting no. Although there might be some merit to this, I can't find it. It is clearly not a substitute for the CWC.

I yield the floor.

Mr. KYL. Mr. President, I am prepared to yield my time back. I hope Senator LEAHY will yield his time. In passing, at another time I will respond to my friend from Delaware. I make the point that there is nothing in this legislation that requires any renegotiation of the treaty. I assure my colleague of that.

Mr. BIDEN. Mr. President, we yield back all of our time.

Mr. KYL. Mr. President, I urge my colleagues to support the legislation.

I yield back all my time.

The PRESIDING OFFICER. All time has been yielded back.

The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. KYL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Missouri [Mr. BOND] are necessarily absent.

I further announce that, if present and voting, the Senator from Missouri [Mr. BOND] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 45 Leg.]

YEAS—53

Abraham
Allard
Ashcroft
Bennett
Brownback
Burns
Campbell
Chafee
Coats
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—44

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnson

Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NOT VOTING—3

Bond
Cochran
Faircloth

The bill (S. 495) was passed.

Mr. LOTT. Mr. President, I move to reconsider the vote by which the bill, as modified, was passed.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I ask unanimous consent that I might proceed as if in morning business for the next 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. CHAFEE. Mr. President, in addition to the request which I made, which was granted, on behalf of the leader, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each. Mr. President, that 5 minutes each follows my remarks, for which I have been granted permission for 15 minutes.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

The Senator from Rhode Island is recognized.

Mr. CHAFEE. I thank the Chair.

(The remarks of Mr. CHAFEE and Mr. REED pertaining to the submission of Senate Concurrent Resolution 22 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

OPEN COMPETITION ACT OF 1997

Mr. KENNEDY. Mr. President, I rise in opposition to S. 606, the so-called Open Competition Act of 1997, introduced this afternoon by Senator HUTCHINSON from Arkansas. As I understand the proposal, it would forbid the Federal Government from entering into so-called project labor agreements on any Federal construction project. What prompted the bill is a proposed Executive order under consideration by the administration.

That Executive order would permit Federal agencies to consider requiring contractors on certain large Federal construction projects to comply with labor contracts for the duration of the project. The Executive order would not mandate this procedure for any contract. It would simply direct the agencies to consider such agreements in appropriate circumstances.

These so-called project labor agreements have been used with great success on numerous large-scale construction projects in the past. They were used on large flood control and hydroelectric projects in the 1930's. They were used when Disney World was being built in the 1970's. They were used on the Trans-Alaska Pipeline System in the 1970's and 1980's.

These agreements have also been used on Federal projects for decades. In the late 1940's, the agreements were used regularly for construction at atomic energy facilities.

And the agreements continued to be used today. Across the country, nuclear sites are being decontaminated and decommissioned. The Department of Energy has entered into project labor agreements at the Oak Ridge facility in Tennessee; the Idaho National Engineering Laboratory in Idaho; the Savannah River site in South Carolina; the Fernald facility in Ohio; the Hanford/Richland site in Washington State; and the Lawrence Livermore facility in California—just to name a few.

The agreements are also being used by State governments. In the Boston Harbor cleanup, for example, the State of Massachusetts required contractors to comply with such labor agreements for the duration of the work. That was a very large project, which is taking years to complete. The labor agreement is helping to ensure that the project is carried out efficiently and safely.

According to an October 4, 1996, letter from the manager of industrial relations on that project, the Boston Harbor cleanup was originally projected to cost $6.1 billion. Now, the estimated total cost of the project is $3.4 billion. Accident rates are significantly lower than for projects of similar size and duration. And, during the nearly 7½ years that the project has been underway, "there have been approximately 20 million craft hours worked without lost time due to strike or lockout." Anti-union contractors challenged the requirement in the Boston Harbor case, and in 1993 the U.S. Supreme Court unanimously upheld the State's ability to issue the requirement.

Other States have taken the same approach. In January 1997, Governor Pataki of New York issued an Executive order strikingly similar to that under consideration by the President. Governor Pataki's order directed that "Each state agency shall establish procedures to consider, in its proprietary capacity, the utilization of one or more project labor agreements with respect to individual public construction projects." The Governors of New Jersey and Nevada have recently issued similar orders.

Despite the very clear advantages that such agreements can provide, the proponents of this bill that has been introduced this afternoon, contend that Government agencies should not enter into them because they deny nonunion contractors and workers the opportunity to bid and work on federally funded projects. This is false. Nonunion contractors are completely free to bid on projects subject to project labor agreements—and many do. In the Boston Harbor cleanup, for example, 40 percent of the subcontractors are nonunion firms.

Nor is it true that project labor agreements restrict jobs only to labor union members. No such agreement requires that an individual join the union to be referred for a job. In fact, the National Labor Relations Act forbids unions from discriminating against nonmembers when making job referrals.

Obviously, some of our Republican colleagues disagree strongly with such labor agreements. Many of us support them as sensible Federal contracting policy and needed protection for working families.

At the very least, the Federal Government should not be denied the opportunity to gain the substantial benefits and savings that such agreements can supply, and that is why I hope that legislation introduced to prohibit those agreements will not be favorably considered by the Senate.

RENEWING THE ISRAELI-PALESTINIAN PEACE PROCESS

Mr. BYRD. Mr. President, our indefatigable negotiator with responsibility for mediating the outstanding, difficult issues between the Israeli Government and the Palestinian authorities is back at work in the Middle East. The peace process was derailed by the intemperate action by the government led by Prime Minister Netanyahu, in supporting new Israeli settlements in Jerusalem. There appears little doubt that, regardless of the failings of Mr. Arafat to fully restrain Palestinian reactions to this action, the Israeli leader bears very heavy responsibility to undo the mischief which brought that elaborate tango of negotiations and actions called the peace process crashing down.

Now we read of an unfolding, unprecedented scandal centered around that same Prime Minister. I have no judgment to make on that, but I hope that, as I have said before on this floor, Mr. Netanyahu will rise above the pressures on him, particularly from his right wing, and face history squarely. It is up to him to make the crucial moves that will halt the settlement construction, and take a courageous step. I call upon him, again, to do this, for the sake of the people of Israel and the Palestinians.

It is important that the Clinton administration continue to take the position that the settlement construction must be halted. Ambassador Ross is reported today to be pressing the Prime Minister to do so. The United States has an important stake in this matter. As the strongest ally and the best friend that Israel ever had, or will have, it is surely not too much to expect some consideration of the U.S. position on this matter on the part of Mr. Netanyahu. He surely cannot expect to continue stonewalling the United States on this critical matter. I, for one, felt he should not have come to the United States to meet extensively with our President with nothing in mind to offer apparently. That is not what a good ally or a good friend does. He certainly cannot expect us to stand by while he gives an American President—our President—no more than a hello and goodbye on such a critical matter, and also then still expects the United States to provide our annual supplement of over $3 billion in American tax dollars to Israel without batting an eye—$3 billion. I wonder if the American people are aware of that, every year.

This is a crucial period for the Likud government. I hope that it will see that support from the American people cannot continue to be in the form of a blank check no matter what that government does to stall or derail the process of making peace with the Palestinians. It does not do the Israeli people any good whatsoever for the message to go to them that whatever happens is essentially fine with the United States Government. We need to be consistent, both in Washington and in New York. The Clinton administration needs to take this into consideration, as well. We cannot take one position, against the settlements construction, here in Washington, and water it down by not endorsing the same policy embodied in Security Counsel resolutions. That is speaking out of both sides of our mouth. That is speaking with a forked tongue. Therefore, I urge my colleagues to speak in one voice with the administration, and I urge the administration to be completely consistent, not inconsistent, because inconsistency creates confusion. It sends the wrong message. Make it clear that we will continue to act in good faith as a mediator and as an ally of Israel, but we expect the Israeli Government to step up to the plate and make the kind of moves that will be necessary to breathe new vigor and new life into the process of peacemaking, which is so critical to the people of Israel, to the Palestinians, to the United States and to our allies.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIRNESS IN FEDERAL CONTRACTING

Mr. JEFFORDS. Mr. President, I rise today to address a very real threat to the economic well being of our Nation. I speak, of course, of the anticipated issuance by President Clinton, of an Executive order that would likely lead to the exclusion of nonunion contractors from Federal construction. I also wish to express my strong support for S. 606, introduced today by Senator HUTCHINSON, which I have cosponsored.

The strength and prosperity of this great Nation are in large part a result of the industrial peace between labor and management, that has been the norm since the passage, in 1935, of the Wagner Act. That act, and its progeny, form the keystone of our national labor relations policy. The bedrock belief supporting this policy has been to recognize that the parties—workers, employers, and unions—are in the best position to resolve their differences and to set and to achieve their goals. To this end, Congress has maintained a basic hands-off policy, preferring to set only the broadest boundaries, beyond which the conduct of the parties must not stray. I have to say that our congressional predecessors legislated wisely, for this policy of Federal Government neutrality has allowed the United States to become the envy of the industrialized world.

This is not to say that there have not been bumps in the road to labor-management harmony. Congress has amended the Federal labor laws, and also has considered, and rejected, amendments to the Federal labor laws. Attempts by Congress to smooth the bumps, however, have been subjected to one overriding process—any changes to the laws that nurture the balance between the parties in the industrial arena will have been forged in the heat of legislative debate and advocacy.

Today, sadly, the Clinton administration considers an action that would displace Federal neutrality, thereby renouncing over 60 years of national labor policy, and ignoring 60 years of fine tuning of that policy by Congress and the courts. Simply put, the Executive order being considered by the Clinton administration would result in most, if not all, Federal construction being performed by union shop contractors. This would give a whole new meaning to the term top down organizing. It would represent union organizing from the very top—the Presidency of the United States.

Further, this Clinton initiative would occur without benefit of the legislative process, the process which in my opinion is mandated by the Constitution of the United States. And I find it even more disheartening that this end run by the administration, of the policy setting role of the Congress, seems less designed to serve the public interest than to advance political interests.

Now, I understand that the administration will probably argue that the proposed order does not mandate the adoption of a project labor agreement, and therefore does not inescapably lead to union-only contractors on Federal construction projects. The administration would go on to argue that since the order requires the Federal agencies to make a finding that use of a project labor agreement would advance the Government's procurement interest, only where that finding is made would union agreements be required. This argument, however, is suspect. The introductory paragraphs of the draft order clearly indicate the President's preferences as to use of a project labor agreement. Since the boss thinks it is such a good idea, it is not likely that persons that the President selected to head the executive branch agencies would think otherwise.

There is one other factor that is very important, and must be noted. Employment in the construction industry, particularly where union agreements are in place, is done through hiring hall referrals. If a nonunion contractor is forced, because of a project labor agreement, to become a party to a union agreement, it is not hard to picture what would happen to that contractor's employees. They would be at the back of the line when it comes to hiring hall referrals. This is despite the fact that the overwhelming majority of construction workers have not chosen to belong to a union.

I, and my Republican colleagues on the Committee on Labor and Human Resources, have written to the President, asking him not to issue this or any similar Executive order. We noted that if the proposed order were adopted, it would undermine the benefits derived from a nondiscriminatory competitive bidding process, likely resulting in substantially higher Federal construction costs to the American taxpayer. We further pointed out that, if adopted, the order would cause harm to the important principle of employee freedom of choice to select or reject representation by a union. Mr. President, I ask unanimous consent that this letter be printed in the RECORD following my remarks.

Finally, I congratulate Senator HUTCHINSON on introducing S. 606, and offer my full support in gaining its passage. The bill would prevent a Federal agency from requiring a bidder on a Federal contract to be a union contractor. Frankly, it is unfortunate that we need to legislate open competition, and outlaw this type of anticompetitive restriction, in the Federal procurement process. The Clinton initiative, however, demonstrates the need for S.

606. I further note, that no matter what one thinks of any specific provision of S. 606, my colleagues, from both sides of the aisle, must be comforted to know, that before any changes are made by S. 606 to Federal labor policy, those proposals will be subjected to the debate, opinion gathering, and fact finding, that is the hallmark of the legislative process. And whatever comes out of that process will be better, for this Nation, because of that process.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON
LABOR AND HUMAN RESOURCES,
Washington, DC, April 16, 1997.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: It has been widely reported that the Administration is preparing to issue an Executive Order promoting the use of "project labor agreements" on federal and federally funded construction projects. We have reviewed a published draft of this proposed order and are writing to you to express our grave concerns regarding this initiative.

The proposal would require executive branch agencies, which are preparing to implement or fund a construction project, to determine whether the use of a project labor agreement on that project would "advance the government's procurement interest in economical, efficient, and timely high quality project performance by promoting labor-management stability and project compliance with applicable legal requirements governing safety and health, equal employment opportunity, labor standards and other matters . . ." While these are laudable objectives, we note that federal law already requires that they be met.

Under the proposal after an agency has made the requisite determination, the ensuing construction project could be performed only pursuant to an agreement with a union. We note that any agency would be hard pressed not to answer this determination in the positive, given that in the introduction of the proposal, you extol the use of project labor agreements. The bottom line of this proposal Executive Order is that most, if not all, federal construction would be performed by union shop contractors.

If the proposed order is issued, union status might well trump savings to the taxpayers. Even if a qualified non-union contractor might be able to bid the project at a substantial savings to the American taxpayer, a higher-priced union bidder would be awarded the contract under your proposal. Even though the overwhelming majority of construction workers have not chosen to belong to a union, they would be effectively barred from federal construction work. It comes as no surprise that the head of AFL-CIO Building and Constructions Trades Department is reported to have participated in the drafting of this proposal.

We believe that this proposed order threatens to undermine the benefits derived from a nondiscriminatory competitive bidding process, likely resulting in substantially higher federal construction costs to the American taxpayer. Further, the order would reverse the over sixty years of neutrality in matters of labor-management relations by the federal government. It also would injure an overreaching principle of our nation's labor relations policy, that of employee freedom of choice to select or reject representation by a union.

We urge you in the strongest terms to reconsider this initiative, and not promulgate this or any similar Executive Order giving greater encouragement to project labor agreements for federal and federally assisted construction.

Sincerely,

JAMES M. JEFFORDS,
JUDD GREGG,
MIKE DEWINE,
TIM HUTCHINSON,
JOHN W. WARNER,
DAN COATS,
BILL FRIST,
MICHAEL B. ENZI,
SUSAN M. COLLINS,
MITCH MCCONNELL,
U.S. Senators.

EXPRESSION OF GRATITUDE TO RON LEDLOW, DEPUTY DIRECTOR OF THE SENATE SERVICE DEPARTMENT

Mr. LOTT. Mr. President, I rise today to express the deep gratitude of the Senate to Ron Ledlow, the Deputy Director of the Senate Service Department, who is retiring after nearly 30 years of dedicated service to the Senate.

Ron Ledlow began his career 27 years ago this week as a pressman on the night shift in the Service Department and rose through the journeyman ranks into management, eventually serving as the Director of the Senate Service Department.

Ron has used his skill, creativity, and expertise in shepherding the Senate through nearly 30 years of changes in print, production, and graphics technology on which we as Members, and an institution, rely.

Through all of these changes, Ron has been driven by his high standards for quality control and exceptional customer service. His professionalism and respect for his employees and this institution have been a great example to his coworkers, and to all of us here in the Senate.

His contributions in support of democratic institutions are not limited to the U.S. Senate. In 1990, under the Gift of Democracy Resolution, Ron, along with several other congressional representatives, went to Poland as a technical adviser. His counsel and assistance helped strengthen the emerging democratic institutions of Poland. Ron's assistance was so valuable, that he was asked to return to Poland for another tour of duty.

Outside of his work in the Service Department, Ron has served on several committees for the U.S. Senate Federal Credit Union. Ron was an active member of the Senate Staff Club and served as the club's president in the mideighties. In 1991, Ron was presented with the Roll Call Sid Yudain Congressional Staffer of the Year Award.

Mr. President, our Senate family wishes Ron, his wife Dee, and his children Gerald and Steven the very best. We hope that Ron and Dee enjoy their well-deserved time on the links of South Carolina.

REGISTRATION OF MASS MAILINGS

The filing date for 1997 first quarter mass mailings is April 25, 1997. If a Senator's office did no mass mailings during this period, a form should be submitted that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office on (202) 224–0322.

MESSAGES FROM THE HOUSE

At 12:16 p.m. on Wednesday, April 16, 1997, a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R 1001. An act to extend the term of appointment of certain members of the Prospective Payment Assessment Commission and the Physician Payment Review Commission.

H.R. 1225. An act to make a technical correction to title 28, United States Code, relating to jurisdiction for lawsuits against terrorist states.

H.R. 1226. An act to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information.

At 11:51 am. on Thursday, April 17, 1997, a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R 111. An act to provide for the conveyance of a parcel of unused agricultural land in Dos Palos, California, to the Dos Palos Ag Boosters for use as a farm school.

H.R. 173 An act to amend the Federal Property and Administrative Services Act of 1949 to authorize donation of Federal law enforcement canines that are no longer needed for official purposes to individuals with experience handling canines in the performance of law enforcement duties.

H.R. 607. An act to amend the Real Estate Settlement Procedures Act of 1974 to require notice of cancellation rights to private mortgage loans and to provide for cancellation of such insurance, and for other purposes.

H.R. 930. An act to require Federal employees to use Federal travel charge cards for all payments of expenses of official Government travel, to amend title 31, United States Code, to establish requirements for prepayments audits of Federal agency transportation expenses, to authorize reimbursement of Federal agency employees for taxes incurred on travel or transportation reimbursements, and to authorize test programs for the payment of Federal employee travel expenses and relocation expenses.

H.R. 1090. An act to amend title 38, United States Code, to allow revision of veterans benefits decisions based on clear and unmistakable error.

H.R. 1092. An act to amend title 38, United States Code, to extend the authority of the Secretary of Veterans' Affairs to enter into enhanced-use leases for Department of Veterans Affairs property, to rename the United States Court of Veterans Appeals and the National Cemetery System, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 61. Concurrent resolution honoring the lifetime achievements of Jackie Robinson.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R 111. An act to provide for the conveyance of a parcel of unused agricultural land in Dos Palos, California, to the Dos Palos Ag Boosters for use as a farm school; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 173. An act to amend the Federal Property and Administrative Services Act of 1949 to authorize donation of Federal law enforcement canines that are no longer needed for official purposes to individuals with experience handling canines in the performance of law enforcement duties; to the Committee on Governmental Affairs.

H.R. 930. An act to Federal employees to use Federal travel charge cards for all payments of expenses of official Government travel, to amend title 31, United States Code, to establish requirements for prepayments audits of Federal agency transportation expenses, to authorize reimbursement of Federal agency employees for taxes incurred on travel or transportation reimbursements, and to authorize test programs for the payment of Federal employee travel expenses and relocation expenses; to the Committee on Governmental Affairs.

H.R. 1090. An act to amend title 38, United States Code, to allow revision of veterans benefits decisions based on clear and unmistakable error; to the Committee on Veterans' Affairs.

H.R. 1092. An act to amend title 38, United States Code, to extend the authority of the Secretary of Veterans' Affairs to enter into enhanced-use leases for Department of Veterans Affairs property, to rename the United States Court of Veterans Appeals and the National Cemetery System, and for other purposes; to the Committee on Veterans' Affairs.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 61. Concurrent resolution honoring the lifetime achievements of Jackie Robinson; to the Committee on Commerce, Science, and Transportation.

MEASURE PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R 1226. An act to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1583. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94-10; to the Committee on Appropriations.

EC-1584. A communication from the Assistant Secretary of the Interior for Indian Affairs, transmitting, pursuant to law, a rule (RIN1076-AD66) received on April 10, 1997; to the Committee on Indian Affairs.

EC-1585. A communication from the Chairman of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, the report on the practice of preferencing; to the Committee on Banking, Housing, and Urban Affairs.

EC-1586. A communication from the General Counsel of the Department of the Treasury, transmitting, a draft of proposed legislation to amend the Bretton Woods Agreements Act; to the Committee on Foreign Relations.

EC-1587. A communication from the Director of the Peace Corps, transmitting, a draft of proposed legislation entitled "The Peace Corps Act Amendments of 1997"; to the Committee on Foreign Relations.

EC-1588. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the transmittal of the certification of proposed issuance of an export license; to the Committee on Foreign Relations.

EC-1589. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the transmittal of the certification of proposed issuance of an export license; to the Committee on Foreign Relations.

EC-1590. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the transmittal of the certification of the proposed approval of a manufacturing license agreement; to the Committee on Foreign Relations.

EC-1591. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the transmittal of the certification of the proposed approval of a manufacturing license agreement; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-46. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 11

Whereas, the United States Environmental Protection Agency (EPA) has a responsibility to review periodically the National Ambient Air Quality Standards (NAAQS) for ozone and particulate matter (PM); and

Whereas, the EPA is considering establishing a more stringent ozone standard and a new, more stringent standard for particulate matter at or below 2.5 microns (PM2.5); and

Whereas, Michigan, through its local jurisdictions, businesses, and citizens, has supported health-based National Ambient Air Quality Standards (NAAQS) that are premised on sound science; and

Whereas, Michigan has made significant progress in meeting current NAAQS for both ozone and particulate matter (PM) under the Clean Air Act amendments of 1990, although there are some areas that have not yet come into compliance with the current standard(s); and

Whereas, Michigan, through its local jurisdictions, businesses, consumers, and taxpayers, has borne considerable cost to come into compliance with the current NAAQS for ozone and particulate matter; and

Whereas, the proposed new standards will significantly expand the number of nonattainment areas for both ozone and particulate matter. This may result in additional emission controls in all areas, thus imposing significant economic, administrative, and regulatory burdens on Michigan, its citizens, businesses, and local governments; and

Whereas, EPA's own Clean Air Science Advisory Committee (CASAC) was unable to find any "bright line" that would distinguish any public health benefit among any of the proposed new standards for ozone, including the current standard; and

Whereas, there is very little existing PM2.5 monitoring data; and

Whereas, there are many unanswered questions and scientific uncertainties regarding the health effects of particulate matter, in particular PM2.5, including: Divergent opinions among scientists who have investigated the issue; Exposure misclassification; Measurement errors; Lack of supporting toxicological data; Lack of a plausible toxicological mechanism; Lack of correlation between recorded PM levels and public health effects; Influence of other variables; and The existence of possible alternative explanations; and

Whereas, no scientific proof exists that establishing a more stringent ozone standard or a new, more stringent PM2.5 standard would avoid alleged adverse health, but it would assuredly impose significantly higher costs; and

Whereas, the issue of transported volatile organic compounds is not adequately addressed; Now therefore, be it

Resolved by the House of Representatives (the Senate concurring), That we advise and strongly urge the EPA to reaffirm the existing NAAQS for ozone; and be it further

Resolved, That we advise and strongly urge the EPA to reaffirm the existing NAAQS for PM10; and be it further

Resolved, That we advise and strongly urge the EPA to refrain from establishing a new NAAQS for PM2.5 at this time and to gather the necessary PM2.5 monitoring data and conduct all necessary research needed to address the issue of causality and other critical and important unanswered scientific questions concerning PM2.5; and be it further

Resolved, That we advise and strongly urge the EPA to identify any unfunded mandates or other administrative and economic burdens for state or local governments or agencies that would result from the proposed changes to the NAAQS for ozone and particulate matter; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, the administrator of the United States Environmental Protection Agency, and other appropriate administration officials.

POM–47. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Environment and Public Works.

Senate Resolution No. 22

Whereas, the United States Environmental Protection Agency (EPA) has a responsibility to review periodically the National Ambient Air Quality Standards (NAAQS) for ozone and particulate matter (PM); and

Whereas, the EPA is considering establishing a more stringent ozone standard and a new, more stringent standard for particulate matter at or below 2.5 microns (PM2.5); and

Whereas, Michigan, through its local jurisdictions, businesses, and citizens, has supported health-based National Ambient Air Quality Standards (NAAQS) that are premised on sound science; and

Whereas, Michigan has made significant progress in meeting current NAAQS for both ozone and particulate matter (PM) under the Clean Air Act amendments of 1990, although there are some areas that have not yet come into compliance with the current standard(s); and

Whereas, Michigan, through its local jurisdictions, businesses, consumers, and taxpayers, has borne considerable cost to come into compliance with the current NAAQS for ozone and particulate matter; and

Whereas, the proposed new standards will significantly expand the number of nonattainment areas for both ozone and particulate matter. This may result in additional emission controls in all areas, thus imposing significant economic, administrative, and regulatory burdens on Michigan, its citizens, businesses, and local governments; and

Whereas, EPA's own Clean Air Science Advisory Committee (CASAC) was unable to find any "bright line" that would distinguish any public health benefit among any of the proposed new standards for ozone, including the current standard; and

Whereas, there is very little existing PM2.5 monitoring data; and

Whereas, there are many unanswered questions and scientific uncertainties regarding the health effects of particulate matter, in particular PM2.5, including: Divergent opinions among scientists who have investigated the issue; Exposure misclassifications; Measurement errors; Lack of supporting toxicological data; Lack of a plausible toxicological mechanism; Lack of correlation between recorded PM levels and public health effects; Influence of other variables; and The existence of possible alternative explanations; and

Whereas, no scientific proof exists that establishing a more stringent ozone standard or a new, more stringent PM2.5 standard would avoid alleged adverse health, but it would assuredly impose significantly higher costs; and

Whereas, the issue of transported volatile organic compounds is not adequately addressed; and

Whereas, the EPA and its Clean Air Science Advisory Committee have raised issues relative to serious health concerns that may be addressed with a new PM2.5 standard; and

Whereas, scientists on the Clean Air Science Advisory Committee (CASAC) panel voted 19–2 that some new standard should be set to regulate PM 2.5; Now, therefore, be it

Resolved by the Senate, That we advise and strongly urge the EPA to reaffirm the existing NAAQS for ozone; and be it further

Resolved, That we advise and strongly urge the EPA to reaffirm the existing NAAQS for PM10; and be it further

Resolved, That we advise and strongly urge the EPA to continue to work to establish a clear consensus among its own Science Advisory Committee for the level of a PM 2.5 standard at a level at which the benefits outweigh the costs and to continue; and be it further

Resolved, That we advise and strongly urge the EPA to identify any unfunded mandates or other administrative and economic burdens for state or local governments or agencies that would result from the proposed changes to the NAAQS for ozone and particulate matter; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, the administrator of the United States Environmental Protection Agency, and other appropriate administration officials.

POM–48. A concurrent resolution adopted by the Legislature of the State of West Virginia; to the Committee on Environment and Public Works.

House Concurrent Resolution No. 7

Whereas, ambient air quality, regulated under the Federal Clean Air Act, has improved substantially since 1970 in West Virginia, and will continue to improve as the Clean Air Act amendments of 1990 are implemented to further reduce pollutants; and

Whereas, the U.S. Environmental Protection Agency, which periodically reviews the National Ambient Air Quality Standards, proposes revisions to those standards that could increase the number of areas in West Virginia considered to be in nonattainment with federal air quality standards; and

Whereas, nonattainment with federal air quality standards could have a serious economic impact in West Virginia and may result in severe restrictions on economic development, loss of jobs and in a potential loss of federal highways funds; and

Whereas, substantial scientific uncertainties surround the determination of causality for potential adverse health effects that may be associated with exposure to fine particulates; and

Whereas, there is little existing data regarding the monitoring of fine particulate matter; and

Whereas, the Environmental Protection Agency's Clean Air Science Advisory Committee has not determined that there are significant public health benefits associated with revising the standards on ozone and fine particulate matter; and

Whereas, West Virginia, through its Legislature, citizens, businesses and regulatory agencies, worked hard to reduce air pollution and to meet clean air requirements, resulting in all counties in the state currently being in compliance with the present standards for ozone and particulate matter; and

Whereas, the coal, chemical, primary metals, electric utility and other West Virginia industries who already have expended considerable resources and suffered negative impacts resulting from programs designed to meet the existing requirements of the Clean Air Act could be subjected to further negative impacts resulting from the proposed standards; and

Whereas, West Virginia is a major source of electric generation and stands to benefit from proposed electric utility deregulation, a benefit that could be significantly lessened by the resulting increase in the cost of electric service to the citizens and businesses of the state due to the proposed standards; and

Whereas, the development of the economy in this state has historically faced significant obstacles, and recent economic development indicators demonstrate that West Virginia is poised for growth while maintaining present air quality standards; therefore, be it

Resolved by the Legislature of West Virginia: That the Congress of the United States is requested to enact legislation that requires the Administrator of the United States Environmental Protection Agency to maintain the current National Ambient Air Quality Standards for ozone and fine particulate matter until there is a thorough review by the scientific community, as well as a thorough, scientifically valid and comprehensive cost-benefit analysis, where appropriate, of the impact of the proposed changes to the current standards; and, be it further

Resolved, That the Clerk of the House of Delegates shall, immediately upon its adoption, transmit duly authenticated copies of this resolution to the Speaker and the Clerk of the United States House of Representatives, the President Pro Tempore and the Secretary of the United States Senate, the members of the West Virginia congressional delegation and the Administrator of the EPA.

POM–49. A petition from a citizen of the State of California relative to habeas corpus; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 506. A bill to clarify certain copyright provisions, and for other purposes.

S. 568. A bill to make a technical correction to title 28, United States Code, relating to jurisdiction for lawsuits against terrorist states.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Donald M. Middlebrooks, of Florida, to be United States District Judge for the Southern District of Florida.

Jeffrey T. Miller, of California, to be United States District Judge for the Southern District of California.

Robert W. Pratt, of Iowa, to be United States District Judge for the Southern District of Iowa.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated on Thursday, April 10, 1997:

By Mr. SHELBY:

S. 561. A bill to require States receiving prison construction grants to implement requirements for inmates to perform work and engage in educational activities, to eliminate certain sentencing inequities for drug offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mr. Faircloth, Mr. Bennett, Mr. Sarbanes, Mr. Dodd, Mr. Kerry, Mr. Bryan, Mrs. Boxer, Ms. Moseley-Braun, Mr. Johnson, and Mr. Reed):

S. 562. A bill to amend section 255 of the National Housing Act to prevent the funding of unnecessary or excessive costs for obtaining a home equity conversion mortgage; to the Committee on Banking, Housing, and Urban Affairs.

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated on Thursday, April 17, 1997:

By Ms. SNOWE:

S. 601. A bill to amend title 18, United States Code, to prohibit taking a child hostage in order to evade arrest; to the Committee on the Judiciary.

S. 602. A bill to provide a mandatory minimum sentence for State crimes involving the use of a firearm, impose work requirements for prisoners, and prohibit the provision of luxury items to prisoners; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. Feingold, and Mr. Kohl):

S. 603. A bill to require the Secretary of Agriculture to collect and disseminate statistically reliable information from milk manufacturing plants on prices received for bulk cheese and to provide the Secretary with the authority to require reporting by such manufacturing plants throughout the U.S. on prices received for cheese, butter, and nonfat dry milk; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SPECTER:

S. 604. A bill to amend the Agricultural Market Transition Act to require the Secretary of Agriculture to use the price of feed grains and other cash expenses as factors that are used to determine the basic formula price for milk and any other milk price regulated by the Secretary; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CONRAD (for himself and Mr. Dorgan):

S. 605. A bill to require the Secretary of Agriculture to provide emergency assistance to producers for cattle losses that are due to damaging weather or related condition occurring during the 1996-97 winter season, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HUTCHINSON (for himself, Mr. Lott, Mr. Nickles, Mr. Mack, Mr. Coverdell, Mr. Thurmond, Mr. Jeffords, Mr. Coats, Mr. Gregg, Mr. Frist, Mr. Enzi, Ms. Collins, Mr. Warner, Mr. McConnell, Mr. Allard, Mr. Brownback, Mr. Sessions, Mr. Hagel, Mr. Kyl, Mr. Roberts, and Mr. Craig):

S. 606. A bill to prohibit discrimination in contracting on federally funded projects on the basis of certain labor policies of potential contractors; to the Committee on Labor and Human Resources.

By Mr. COATS:

S. 607. A bill to amend the Communications Act of 1934 to provide for the implementation of systems for rating the specific content of specific television programs; to the Committee on Commerce, Science, and Transportation.

By Mr. FEINGOLD:

S. 608. A bill to authorize the enforcement by State and local governments of certain Federal Communications Commission regulations regarding use of citizens band radio equipment; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself, Ms. Mikulski, Mr. Daschle, Mr. Dodd, Mr. Harkin, Mr. Wellstone, Mrs. Murray, Mrs. Boxer, Ms. Moseley-Braun, Mrs. Feinstein, Mr. Ford, and Mr. Inouye):

S. 609. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for reconstructive breast surgery if they provide coverage for mastectomies; to the Committee on Labor and Human Resources.

By Mr. LUGAR (for himself and Mr. Biden):

S. 610. A bill to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, known as "the Chemical Weapons Convention" and opened for signature and signed by the United States on January 13, 1993; to the Committee on the Judiciary.

By Mr. MACK (for himself, Mr. D'Amato, Mr. Shelby, Mr. Bennett, Mr. Domenici, Mr. Chafee, Mr. Abraham, Mr. Helms, Mr. Brownback, and Mr. Lugar):

S. 611. A bill to require the Board of Governors of the Federal Reserve System to focus on price stability in establishing monetary policy to ensure the stable, long-term purchasing power of the currency, to repeal the Full Employment and Balanced Growth Act of 1978, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROTH (for himself and Mr. Moynihan):

S. 612. A bill to amend section 355 of the Internal Revenue Code of 1986 to prevent the avoidance of corporate tax on prearranged sales of corporate stock, and for other purposes; to the Committee on Finance.

By Mr. THOMPSON (for himself and Mr. Frist):

S. 613. A bill to provide that Kentucky may not tax compensation paid to a resident of Tennessee for certain services performed at Fort Campbell, Kentucky; to the Committee on Finance.

By Mr. BREAUX (for himself and Mr. D'Amato):

S. 614. A bill to amend the Internal Revenue Code of 1986 to provide flexibility in the use of unused volume cap for tax-exempt bonds, to provide a $20,000,000 limit on small issue bonds, and for other purposes; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mrs. Feinstein, Mr. D'Amato, Mr. Lieberman, Mr. DeWine, Mr. Moynihan, and Ms. Mikulski):

S. 615. A bill to amend the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide for continued eligibility for supplemental security income and food stamps with regard to certain classifications of aliens; to the Committee on Finance.

By Mr. ALLARD:

S. 616. A bill to amend titles 23 and 49, United States Code, to improve the designation of metropolitan planning organizations, and for other purposes; to the Committee on Environment and Public Works.

By Mr. JOHNSON (for himself, Mr. Craig, Mr. Daschle, Mr. Burns, and Mr. Baucus):

S. 617. A bill to amend the Federal Meat Inspection Act to require that imported meat, and meat food products containing imported meat, bear a label identifying the country of origin; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SARBANES:

S. 618. A bill to amend the Federal Water Pollution Control Act to assist in the restoration of the Chesapeake Bay, and for other purposes; to the Committee on Environment and Public Works.

S. 619. A bill to establish a Chesapeake Bay Gateways and Watertrails Network, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GREGG (for himself, Mr. Roth, Mrs. Hutchison, Mr. Jeffords, Mr. Murkowski, Mr. Faircloth, Mr. Santorum, Mr. Bond, Ms. Collins, Mr. DeWine, Mr. Roberts, Mr. Craig, Mr. Nickles, Mr. McConnell, Mr. Kyl, Ms. Snowe, Mr. Mack, Mr. Hagel, and Mr. Grassley):

S. 620. A bill to amend the Internal Revenue Code of 1986 to provide greater equity in savings opportunities for families with children, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HELMS:

S. Res. 75. An executive resolution to advise and consent to the ratification of the Chemical Weapons Convention, subject to certain conditions; to the Committee on Foreign Relations.

By Mr. CHAFEE (for himself and Mr. Reed):

S. Con. Res. 22. A concurrent resolution to provide that the statue of Roger Williams be returned to the United States Capitol Rotunda at the conclusion of the temporary display of the Portrait Monument of Elizabeth Cady Stanton, Susan B. Anthony and Lucretia Mott; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 601. A bill to amend title 18, United States Code, to prohibit taking a child hostage in order to evade arrest; to the Committee on the Judiciary.

S. 602. A bill to provide a mandatory minimum sentence for State crimes involving the use of a firearm, impose work requirements for prisoners, and prohibit the provision of luxury items to prisoners; to the Committee on the Judiciary.

CRIME LEGISLATION

Ms. SNOWE. Mr. President, I rise today to introduce two bills intended to protect innocent Americans from the violent will of criminals and fugitives. One need take only a quick review of recent statistics to realize the chilling scope of our nation's crime problems. For instance, the Bureau of Justice Statistics reports that 11 million Americans were the victims of violent crime in 1994 alone. The Bureau of Justice Statistics also reports that approximately 3.5 million Americans were accosted at gunpoint during that same year. These statistics should galvanize us all into taking concrete steps to protect innocent Americans against senseless victimization and turn the tide against criminals once and for all. My bills will help to do just that.

The first bill I introduce today, the Crime Control Act of 1997, will ensure that an individual convicted of committing a violent crime or engaging in drug trafficking activities while in possession of a gun, will go to jail for 10 years, and not a day less. If an offender fires a gun while committing those crimes, that offender will go to jail for 20 years. And should that criminal make the mistake of using a machinegun or a gun with a silencer to commit those crimes, that criminal will be incarcerated for 30 years. Once imprisoned, the Crime Control Act provides hardened criminals with no option for parole or reduced sentences that would allow them another chance to harm innocent citizens.

Simply put, the passage of my Crime Control Act ensures that if you do the crime, you will most certainly do the time. And under my bill, that time won't be easy. A key initiative of the Crime Control Act is the creation of work programs for all able bodied prisoners by the Attorney General. In addition, my bill prohibits the government from providing any entertainment devices, like televisions, radios, or stereos, for use in individual prisoner cells. Federal prisons are not the place for entertainment. They are not intended to be fun. They are the places where individuals repay their debt to society and in the case of violent criminals, it is a very large debt indeed. My Crime Control Act makes sure that violent criminals pay that debt, and I hope my colleagues will join me in supporting this important and effective crime control measure.

The second bill I introduce today applies directly to actions taken by fugitives who resist arrest. Over the past few years, America has witnessed an unfortunate trend involving standoffs between the U.S. Government and parties who reject its authority to enforce the laws of this land—specifically, the incidents in Waco, TX; Ruby Ridge, ID; and Garfield County, MT. Thankfully, the episode involving the Freemen did not escalate to violence or bloodshed. Regrettably, this does not hold true for Waco or Ruby Ridge, where there was a tragic loss of life to civilians and Government agents alike.

Each of these situations jeopardized children's lives—innocent children who had no choice in the role they played in these standoffs. In Waco, 25 young children under the age of 15 died in the blaze that spread throughout the compound. These deaths occurred despite the repeated efforts by Federal agents to encourage Branch Davidians leaders to allow children to leave the compound.

At Ruby Ridge, a 14-year-old died after being caught in gunfire. And during the Freeman standoff, Americans across the Nation held their breath—praying that violence would not erupt. Once again, the lives of children were placed in jeopardy. But thankfully, this time, the children—and adults—emerged unharmed.

As we have seen, tragedy can occur in these very tense situations. Above all else, we need to ensure that children are kept out of these situations in the future. People who arm themselves after failing to comply with warrants or because they seek to avoid arrest must realize that, whether or not it is intended, children are implicated in these standoffs. We cannot allow this to continue any longer. We cannot allow another child's life to be endangered in this manner.

This bill seeks to protect children from harm in these standoff situations. My bill would make it a crime to detain a child when two conditions are met: if a person is trying to evade arrest or avoid complying with a warrant, and that person uses force, or threatens to use force, against a Federal agent. Any person convicted of violating this act would be imprisoned for 10–25 years. If a child is injured, the penalty would be increased to 20–35 years. If a child is killed, the penalty would be life imprisonment.

No law can ever assure that children will be kept free from harm. But this legislation will help assure that children do not become inadvertent, innocent pawns when violent situations arise. It will provide a deterrent to involving a child in any standoff—and severe penalties for those who ignore the law.

Both of the bills I introduce today are aimed at protecting the innocents in our society, and I urge my colleagues to support them. America needs to be a place where innocent citizens do not have to fear for their life because gun-toting criminals and drug pushers linger on the streets. It needs to be a place where children are not the captives of adults intent upon resisting arrest. Freedom from violence and captivity are basic tenets of our society, which most Americans enjoy and respect. Those among us who don't share our respect for the laws of our society must realize that their actions are criminal, and that in America, criminal actions have repercussions. The passage of these bills will make sure that they do.

By Mr. SPECTER (for himself, Mr. FEINGOLD, and Mr. KOHL):

S. 603. A bill to require the Secretary of Agriculture to collect and disseminate statistically reliable information from milk manufacturing plants on prices received for bulk cheese and to provide the Secretary with the authority to require reporting by such manufacturing plants throughout the United States on prices received for cheese, butter, and nonfat dry milk; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SPECTER:

S. 604. A bill to amend the Agricultural Market Transition Act to require the Secretary of Agriculture to use the price of feed grains and other cash expenses as factors that are used to determine the basic formula price for milk and any other milk price regulated by the Secretary; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL LEGISLATION

Mr. SPECTER. Mr. President, I have sought recognition to introduce two pieces of legislation which will respond to a very serious problem on the falling prices of milk which have occurred in Pennsylvania, especially in northeastern Pennsylvania, and across the country.

In introducing this legislation, I am pleased to have a chance to address this issue in the presence of the distinguished Senator from Kansas, who was the chairman of the House Agriculture Committee, and is making quite an addition to the U.S. Senate. It is not inappropriate to note that Senator ROBERTS is from Kansas, as I am a native of Kansas. I was born in Wichita, grew up in Russell, and worked on a farm as a teenager and have some appreciation of the problems of the farmers.

During my tenure in the U.S. Senate, I have been on the Agriculture Subcommittee of the Appropriations Committee. There are more people living in rural Pennsylvania than live in the rural part of any State in the Union. Mr. President, my colleague from Kansas, we have 2½ million people living in rural Pennsylvania. When I last looked, which is a while ago, there were not 2½ million people living in all of Kansas, let alone 2 million people—slightly reduced—when I moved into Pennsylvania. So I approach this issue with some due regard for the expert presiding over the U.S. Senate. Having discussed this issue with him before, I am not sure he agrees with me on all aspects.

I am of the firm opinion that something needs to be done to help the milk farmers. I say that because the price of milk has fallen precipitously from almost $16 per hundredweight down to $11 per hundredweight. It has gone back up a little, but not a great deal.

In responding to that problem, I asked the distinguished Secretary of

Agriculture, Dan Glickman, also a Kansan, to accompany me to northeastern Pennsylvania, which he did, on February 10. We met a crowd of approximately 500 to 750 angry farmers who complained about the precipitous drop in the price of milk.

During the course of my analysis of this pricing problem, I found that the price of milk depended upon a number of factors, one of which was the price of cheese. For every 10 cents the price of cheese was raised, the price of milk would be raised by $1 per hundredweight. Then I found that the price of cheese was determined by the National Cheese Exchange in Green Bay, WI. At least according to a survey made by the University of Wisconsin, there was an issue as to whether the price of cheese established by the Green Bay exchange was accurate or not. The authors of the report used a term as tough as manipulation. Whether that is so or not, there was a real question as to whether that price was accurate.

Since this controversy has arisen—perhaps it brought the matter to a head, perhaps not; perhaps it would have happened anyway—it has been announced that the Green Bay exchange will close and will be replaced by a new commodity market on May 1. In any event, in my discussions with Secretary Glickman, I found he had the power to raise the price of milk unilaterally by establishing a different price of cheese.

This subject was aired during the course of his testimony when he came before the appropriations subcommittee. It is a very good time to find a more-agreeable-than-usual Cabinet officer when a Cabinet officer comes in for the appropriations process for his Department's budget.

During the course of that hearing, we could not explore fully the issue of the price of milk and the price of cheese, so our distinguished chairman, Senator COCHRAN, agreed to have a special hearing, which we had a couple of weeks later. At that time, Secretary Glickman said that they had ascertained the identity of 118 people or entities who had cheese transactions that could establish a different price of cheese. He told me they had written to the 118 and were having problems getting responses. I suggested it might be faster to telephone those people.

Secretary Glickman provided my staff and me with the list of people, and we telephoned them and found, after reaching approximately half of them, that the price of cheese was, in fact, 16 cents higher by those individuals than otherwise.

I have been pressing Secretary Glickman since. If he has C-SPAN2, or if he knows someone who has C-SPAN2 or if he talks to someone who has C-SPAN2, my staff has been exhorting his staff daily to act on it, and I am going to send him a fax letter before the day is up to try to get a determination on this issue, because I am on my way to northeastern Pennsylvania again next Monday on a routine trip to the Wilkes-Barre/Scranton area. The Presiding Officer knows what that is like. There will be people who want answers to questions, and I shall answer with due diligence, which I think I have. I hope the Secretary of Agriculture will note this different price of cheese and act accordingly to raise the price of milk.

The legislation which I am introducing today goes to two points. One is to amend the Agriculture Market Transition Act to require the Secretary to use the price of feed grains and other cash expenses in the dairy industry as factors that are used to determine the basic formula for the price of milk and other milk prices regulated by the Secretary.

Simply stated, the Government should use what it costs for production to establish the price of milk, so that if the farmers are caught with rising prices of feed and other rising costs of production, they can have those rising costs reflected in the cost of milk.

The second piece of legislation would require the Secretary of Agriculture to collect and disseminate statistically reliable information from milk manufacturing plants on prices received for bulk cheese and provide the Secretary with the authority to require reporting by such manufacturing plants throughout the United States on the prices for cheese, butter, and nonfat dry milk.

Frankly, I am reluctant to impose this obligation anywhere, but I think it is a fair request to make since the Secretary told the Subcommittee on Agriculture of the Appropriations Committee that the Secretary could not get this information on a voluntary basis. People would not comply. My staff found that corroborated when we telephoned the individuals who had these transactions. Burdensome as it is, I think it is fair to give the Secretary the authority to require this reporting.

Mr. President, I am authorized to say that the distinguished Senator from Wisconsin, Senator FEINGOLD, wishes to cosponsor the piece of legislation requiring the information to be collected.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask unanimous consent that the full text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 603

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.

(1) Not later than 30 days after the enactment of this Act, the Secretary shall collect and disseminate, on a weekly basis, statistically reliable information, obtained from cheese manufacturing areas in the United States on prices received and terms of trade involving bulk cheese, including information on the national average price for bulk cheese sold through spot and forward contract transactions. To the extent practicable, the Secretary shall report the prices and terms of trade for spot and forward contract transaction separately.

(2) The Secretary may require dairy product manufacturing plants in the United States to report to the Secretary on a weekly basis the price they receive for cheese, butter and nonfat dry milk sold through spot sales arrangements, forward contracts or other sales arrangements.

(3) All information provided to, or acquired by, the Secretary under subsections (1) and (2) shall be kept confidential by each officer and employee of the Department of Agriculture except that general weekly statements may be issued that are based on the information and that do not identify the information provided by any person.

S. 604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BASIC FORMULA PRICE.

Section 143(a) of the Agricultural Market Transition Act (7 U.S.C. 7253(a)) is amended by adding at the end the following:

"(5) BASIC FORMULA PRICE.—In carrying out this subsection and section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, the Secretary shall use as factors that are used to determine the basic formula price for milk and any other milk price regulated by the Secretary—

"(A) the price of feed gains, including the cost of concentrates, byproducts, liquid whey, hay, silage, pasture, and other forage; and

"(B) other cash expenses, including the cost of hauling, artificial insemination, veterinary services and medicine, bedding and litter, marketing, custom services and supplies, fuel, lubrication, electricity, machinery and building repairs, labor, association fees, and assessments.".

Mr. FEINGOLD. Mr. President, I am pleased today to introduce with the Senator from Pennsylvania, Senator SPECTER, a bill which attempts to address problems in the dairy industry stemming from the lack of adequate price discovery in manufactured dairy product markets.

There has been a great deal of controversy surrounding the National Cheese Exchange [NCE], currently located in Green Bay, WI. The NCE is a small cash market that trades less than 1 percent of all bulk cheese sold nationally, has few traders, short trading periods, and infrequent trading sessions. Those characteristics make this exchange vulnerable to price manipulation. Trading on this exchange would not be a concern if it did not have such tremendous influence over cheese prices nationally. However, because the Cheese Exchange is the only source of cheese price information in the country, it acts as a benchmark or reference price for most off-exchange cheese sales. There simply is no other reliable source of information, no other source of price discovery, available for buyers and sellers in this industry to use as an indicator of market conditions. Because the price for cheese directly and indirectly affects the price of milk, dairy farmers are justifiably concerned about the lack of adequate cheese price information and the influence of the NCE on prices they receive for milk.

Concern about the Cheese Exchange among dairy farmers, while on-going for many years, heightened late last year when cheese prices at the exchange fell dramatically in just a few weeks, causing record declines in milk prices paid to farmers. While milk prices have recovered slightly, they are expected to fall again next month as a result of further price declines at the National Cheese Exchange.

While the National Cheese Exchange is closing its doors at the end of this month, a new but nearly identical cash market for cheese is opening at the Chicago Mercantile Exchange. It is expected that this new market, which appears to share a number of the flaws of the Cheese Exchange, will serve as the reference price for cheese throughout the country. It is unclear whether this market will be capable of providing adequate price discovery for the dairy industry.

That is why the Senator from Pennsylvania, Senator SPECTER, and I are introducing this bill today. This legislation requires the Secretary to collect and disseminate statistically reliable cheese price information collected from cheese manufacturing plants throughout the country—a provision also included in my bill, S. 258, which I introduced in February. A price series of this type will not only provide more price information, it will provide more reliable information based on transactions throughout the country rather than on one thinly traded cash market.

Secretary of Agriculture Dan Glickman has already begun this process. Last August, I asked the Secretary to use his existing administrative authority to initiate a weekly price survey of cheese plants to improve cheese price discovery and lessen the influence of the small but powerful National Cheese Exchange on milk prices. Secretary Glickman graciously agreed to conduct such a survey, which formally began this January on a monthly basis, and became a weekly survey last month. I have been very pleased with the Secretary's response to the concerns about cheese pricing and effect of the National Cheese Exchange on farm-level milk prices and I appreciate his efforts on this matter.

Since that survey is relatively new, it is still unclear whether it will produce prices which reflect market conditions. That depends upon the voluntary participation of those manufacturers reporting prices as well as on the integrity of the data reported.

On March 13, both Secretary Glickman and I testified before the Senate Agriculture Appropriations Committee about the problem of the Cheese Exchange and the lack of reliable price information in the dairy industry and the potential for this new price series to address that problem. At that time, the Secretary indicated that if participation by cheese manufacturers in his new survey was inadequate, the Department may need to consider requiring participation in that survey. However, under current law, the Secretary has only very limited authority to require cheese price reporting by manufacturing plants.

The bill we are introducing today requires the Secretary to continue his cheese price collection and reporting activities and provides him with broader authority to require participation by cheese manufacturers in that survey. I want to make clear that this bill does not mandate that the Secretary require participation in the cheese price survey, but merely provides him with the authority to do so if it is necessary to ensure the new cheese price survey is statistically reliable. Under the current survey procedures, many cheese manufacturers are already participating voluntarily, so this new Secretarial authority may not be necessary.

Mr. President, it is essential that dairy farmers have some assurances that cheese prices, which have such a dramatic impact on the price of milk, are reflective of market conditions and not vulnerable to manipulation. By improving price discovery, the new USDA cheese price survey implemented by Secretary Glickman may help accomplish that goal. If mandatory price reporting is necessary to produce accurate survey data, our bill provides the Secretary with the authority to require participation. However, I am hopeful that participation in the survey will continue to be high so that mandatory reporting never becomes necessary.

I thank the Senator from Pennsylvania for working with me to devise legislation that might effectively improve price discovery in the dairy industry and I welcome his interest in this important issue. I urge my colleagues to support this legislation.

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 605. A bill to require the Secretary of Agriculture to provide emergency assistance to producers for cattle losses that are due to damaging weather or related condition occurring during the 1996–97 winter season, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL EMERGENCY ASSISTANCE LEGISLATION

Mr. CONRAD. Mr. President, my State has been hit by one of the most remarkable series of events ever in the history of our State.

First we had the greatest snowfall in our State's history, over 100 inches of snow. Then the last of eight major blizzards hit. The eighth and final blizzard was the most powerful winter storm in 50 years. It included almost 2 feet of snow as well as major ice storms, then followed by 70 mile-an-hour winds that were devastating—80,000 people lost their electricity, many of them for a week. The economic devastation is truly remarkable.

Now in the last 12 hours even more disaster is occurring. I am going to read just briefly from the major newspaper in my State, which is in the largest city of our State, Fargo, ND.

The article begins this way:

> At 12:15 a.m. today, the flood of 1997 officially became the worst in Fargo-Moorhead's history.
>
> The National Weather Service said a reading taken at that time put the Red River's level at 39.12 feet. That exceeds . . . the river level measured in the flood of 1897—until this morning, the worst ever.
>
> That also means the Red [River] has hit the 500-year flood level.
>
> Speaking on [a local] radio [station] at 1:15 a.m., city Operations Manager Dennis Walaker struck an ominous note.
>
> Walaker said, "We are at river stages that exceed the 1897 level. No one has ever seen this much water in the Fargo area, ever. All we can do is react."

I just talked to the mayor, and I just talked to Mr. Walaker. He tells me they have 15 square miles of water headed for Fargo, ND. This on top of the river which is 20 feet above flood stage. There is just a mass scramble to try to deal with this extraordinary flood threat.

> The crest is not expected to be much higher than [about 39.5 feet] but officials will reevaluate the situation this morning. . . .
>
> Iced-over farm fields liquefied. Shelterbelt snowdrifts shrank. Drainage ditches whooshed into coulees and merged with rivers.
>
> In rural Cass County . . . winter turned into water.
>
> By noon, sheets of melted snow rolled toward the Red River. Water that couldn't fit into engorged rivers, particularly the Wild Rice River, took off over land. The overland flows crossed I–29—
>
> The major north-south Federal highway—
>
> near the Horace exit and threatened homes in southwest Fargo.
>
> At midmorning, [the mayor] warned residents of approaching overland flooding. He suggested people leave work and check their property if they live in—

Certain residential areas.

> By midafternoon, some students were leaving [schools] because of the flood threat.
>
> The situation was even more urgent next to the Red River. Fargo-Moorhead homeowners who hadn't lost the battle Tuesday asked for more sandbags and sandbaggers. North Dakota State University canceled classes so students could help in the fight.

I will not go further, Mr. President, other than to say this is absolutely an extraordinary time. One of the areas in which we have been hit the hardest is cattle death losses. The number of cattle losses are at least 112,000 head at this point. North Dakota Farm Service Agency reports that nearly 80,000 of them are from the weekend storm of April 4 through 6 alone, a storm that is being called Blizzard Hannah. I fear, Mr. President, that many more calves may die.

This is such an extraordinary set of events. These pictures depict some of the situations and scenes that we are seeing across the State of North Dakota. Here, one cow is nuzzling a calf with a dead cow alongside. What happened in this storm, which was so powerful, is that not only did cattle freeze to death, but many suffocated because the winds were so intense that compacted snow was blown up into their nostrils and they suffocated.

Mr. President, this next picture shows what we are seeing all too often. Here a farmer is coming down the road to inspect the herd. Here is a cow dead in a ditch. All across North Dakota, carcasses are littered after this devastation.

Here is an all-too-often sight. This is a cow frozen in a snow bank. It is not just a snow bank, it is actually ice and snow together. People report that these snow banks are like concrete. There was first this heavy snowfall, then the ice, then these incredible winds. These cattle did not have a chance.

For that reason, today I am introducing legislation that will provide for an indemnification payment. I hope that this legislation will be enacted. I hope that my colleagues will understand the massive economic loss in my State.

Under this legislation, producers who have experienced a 5-percent loss of their cattle herd or calf crop would receive indemnity payments of $200 per head, up to 200 of lost livestock. In some cases, losses will be covered by private insurance. In these instances, producers will be able to receive indemnity payments under my program, but the total payments of private insurance and Government indemnity cannot exceed the expected value of a cow.

I have been working with my colleagues from the Dakotas, Senator DORGAN from North Dakota, and Senator DASCHLE and Senator JOHNSON from South Dakota to implement assistance to livestock producers in North Dakota and South Dakota. We will continue working to provide meaningful, comprehensive relief.

Cattle producers in my State have asked for something simple and something that will help them overcome these overwhelming difficulties. My legislation accomplishes those goals, and I call on my colleagues to offer this assistance to livestock producers.

I understand I have a colleague standing by who would like to have time as well, so I do not want to extend this, other than to send the legislation to the desk and ask it be appropriately referred. I introduce it on behalf of myself and my colleague from North Dakota, Senator DORGAN. I urge my colleagues' close attention to it.

Again, Mr. President, we are faced with what I call a slow-motion disaster, because it is a circumstance in which you do not have the flood come and leave. In this circumstance, the flood has come, and it is staying. In addition to that, we have all of these other severe weather factors to cope with.

I, again, hope that we will move expeditiously with the supplemental disaster legislation so that we can fund the programs necessary to help in the recovery that is so urgently needed, not only in my State but in the States of Minnesota and South Dakota as well.

By Mr. FEINGOLD:

S. 608. A bill to authorize the enforcement by State and local governments of certain Federal Communications Commission regulations regarding use of citizens band radio equipment; to the Committee on Commerce, Science, and Transportation.

CB RADIO FREQUENCY INTERFERENCE LEGISLATION

Mr. FEINGOLD. Mr. President, I rise to introduce legislation designed to provide a practical solution to the all too common problem of interference with residential home electronic equipment caused by unlawful use of citizens band [CB] radios. This problem can be extremely distressing for residents who cannot have a telephone conversation, watch television, or listen to the radio without being interrupted by a neighbor's illegal use of a CB radio. Unfortunately, under the current law, those residents have little recourse. The bill I am introducing today will provide those residents with a practical solution to this problem.

Up until recently, the FCC has enforced its rules outlining what equipment may or may not be used for CB radio transmissions, how long transmissions may be broadcast, what channels may be used, as well as many other technical requirements. FCC also investigated complaints that a CB radio enthusiast's transmissions interfered with a neighbor's use of home electronic and telephone equipment. FCC receives thousands of such complaints annually.

Mr. President, for the past 3 years I have worked with constituents who have been bothered by persistent interference of nearby CB radio transmissions in some cases caused by unlawful use of radio equipment. In each case, the constituents have sought my help in securing an FCC investigation of the complaint. In each case, Mr. President, the FCC indicated that due to a lack of resources, the Commission no longer investigates radio frequency interference complaints. Instead of investigation and enforcement, the FCC is able to provide only self-help information which the consumer may use to limit the interference on their own.

In many cases, residents implement the self-help measures recommended by FCC such as installing filtering devices to prevent the unwanted interference, working with their telephone company, or attempting to work with the neighbor they believe is causing the interference. In many cases these self-help measures are effective.

However, in some cases filters and other technical solutions fail to solve the problem because the interference is caused by unlawful use of CB radio equipment such as unauthorized linear amplifiers.

Municipal residents, after being denied investigative or enforcement assistance from the FCC, frequently contact their city or town government and ask them to police the interference. However, the Communications Act of 1934 provides exclusive authority to the Federal Government for the regulation of radio, preempting municipal ordinances or State laws to regulate radio frequency interference caused by unlawful use of CB radio equipment. This has created an interesting dilemma for municipal governments. They can neither pass their own ordinances to control CB radio interference, nor can they rely on the agency with exclusive jurisdiction over interference to enforce the very Federal law which preempts them.

Let me give an example of the kind of frustrations people have experienced in attempting to deal with these problems. Shannon Ladwig, a resident of Beloit, WI, has been fighting to end CB interference with her home electronic equipment that has been plaguing her family for over a year. Shannon worked within the existing system, asking for an FCC investigation, installing filtering equipment on her telephone, attempting to work with the neighbor causing the interference, and so on. Nothing has been effective. Shannon's answering machine picks up calls for which there is no audible ring, and at times records ghost messages. Often, she cannot get a dial tone when she or her family members wish to place an outgoing call. During telephone conversations, the content of the nearby CB transmission can frequently be heard and on occasion, her phone conversations are inexplicably cut off. Her TV transmits audio from the CB transmission rather than the television program her family is watching. Shannon never knows if the TV program she taped with her VCR will actually record the intended program or whether it will contain profanity from a nearby CB radio conversation.

Shannon did everything she could to solve the problem and a year later she still feels like a prisoner in her home, unable to escape the broadcasting whims of a CB operator using illegal equipment with impunity. Shannon even went to her city council to demand action. The Beloit City Council responded by passing an ordinance allowing local law enforcement to enforce FCC regulations—an ordinance the council knows is preempted by Federal law. Earlier this year, the Beloit City Council passed a resolution supporting the legislation I am introducing today, which will allow at least part of that ordinance to stand.

The problems experienced by Beloit residents are by no means isolated incidents. I have received very similar complaints from at least 10 other Wisconsin communities in the last several years in which whole neighborhoods are experiencing persistent radio frequency interference. Since I have begun working on this legislation, my staff has also been contacted by a number of other congressional offices who are also looking for a solution to the problem of radio frequency interference in their States or districts caused by unlawful CB use. The city of Grand Rapids, MI, in particular, has contacted me about this legislation because, they face a persistent interference problem very similar to that in Beloit. In all, FCC receives more than 30,000 radio frequency interference complaints annually—most of which are caused by CB radios. Unfortunately, FCC no longer has the staff, resources, or the field capability to investigate these complaints and localities are blocked from exercising any jurisdiction to provide relief to their residents.

The legislation I am introducing today attempts to resolve this dilemma by allowing States and localities to enforce existing FCC regulations regarding authorized CB equipment and frequencies while maintaining exclusive Federal jurisdiction over the regulation of radio services. It is a commonsense solution to a very frustrating and real problem which cannot be addressed under existing law. Residents should not be held hostage to a Federal law which purports to protect them but which cannot be enforced.

This legislation is by no means a panacea for the problem of radio frequency interference. My bill is intended only to help localities solve the most egregious and persistent problems of interference—those caused by unauthorized use of CB radio equipment and frequencies. In cases where interference is caused by the legal and licensed operation of any radio service, residents will need to resolve the interference using FCC self-help measures that I mentioned earlier.

In many cases, interference can result from inadequate home electronic equipment immunity from radio frequency interference. Those problems can only be resolved by installing filtering equipment and by improving the manufacturing standards of home telecommunications equipment. The electronic equipment manufacturing industry, represented by the Telecommunications Industry Association and the Electronics Industry Association, working with the Federal Communications Commission, has adopted voluntary standards to improve the immunity of telephones from interference. Those standards were adopted by the American National Standards Institute last year. Manufacturers of electronic equipment should be encouraged to adopt these new ANSI standards. Consumers have a right to expect that the telephones they purchase will operate as expected without excessive levels of interference from legal radio transmissions. Of course, Mr. President, these standards assume legal operation of radio equipment and cannot protect residents from interference from illegal operation of CB equipment.

This bill also does not address interference caused by other radio services, such as commercial stations or amateur stations. Mr. President, last year, I introduced S. 2025, a bill with intent similar to that of the bill I am introducing today. The American Radio Relay League [ARRL], an organization representing amateur radio operators, frequently referred to as "ham" operators, raised a number of concerns about that legislation. ARRL was concerned that while the bill was intended to cover only illegal use of CB equipment, FCC-licensed amateur radio operators might inadvertently be targeted and prosecuted by local law enforcement. ARRL also expressed concern that local law enforcement might not have the technical abilities to distinguish between ham stations and CB stations and might not be able to determine what CB equipment was FCC-authorized and what equipment is illegal.

Over the past several months, I have worked with the ARRL representatives and amateur operators from Wisconsin to address these concerns. As a result of those discussions, the bill I am introducing today incorporates a number of provisions suggested by the league. First, my legislation makes clear that the limited enforcement authority provided to localities in no way diminishes or affects FCC's exclusive jurisdiction over the regulation of radio. Second, the bill clarifies that possession of an FCC license to operate a radio service for the operation at issue, such as an amateur station, is a complete protection against any local law enforcement action authorized by this bill. Amateur radio enthusiasts are not only individually licensed by FCC, unlike CB operators, but they also self-regulate. The ARRL is very involved in resolving interference concerns both among their own members and between ham operators and residents experiencing problems.

Third, my legislation also provides for an FCC appeal process by any radio operator who is adversely affected by a local law enforcement action under this bill. FCC will make determinations as to whether the locality acted properly within the limited jurisdiction this legislation provides. FCC will have the power to reverse the action of the locality if local law enforcement acted improperly. And fourth, my legislation requires FCC to provide States and localities with technical guidance on how to determine whether a CB operator is acting within the law.

Again, Mr. President, my legislation is narrowly targeted to resolve persistent interference with home electronic equipment caused by illegal CB operation. Under my bill, localities cannot establish their own regulations on CB use. They may only enforce existing FCC regulations on authorized CB equipment and frequencies. This bill will not resolve all interference problems and it is not intended to do so. Some interference problems need to continue to be addressed by the FCC, the telecommunications manufacturing industry, and radio service operators. This bill merely provides localities with the tools they need to protect their residents while preserving FCC's exclusive regulatory jurisdiction over the regulation of radio services.

I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 608

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENFORCEMENT OF REGULATIONS REGARDING CITIZENS BAND RADIO EQUIPMENT.

Section 302 of the Communications Act of 1934 (47 U.S.C. 302) is amended by adding at the end the following:

"(f)(1) Except as provided in paragraph (2), a State or local government may enforce the following regulations of the Commission under this section:

"(A) A regulation that prohibits a use of citizens band radio equipment not authorized by the Commission.

"(B) A regulation that prohibits the unauthorized operation of citizens band radio equipment on a frequency between 24 MHz and 35 MHz.

"(2) Possession of a station license issued by the Commission pursuant to section 301 in any radio service for the operation at issue shall preclude action by a State or local government under this subsection.

"(3) The Commission shall provide technical guidance to State and local governments regarding the detection and determination of violations of the regulations specified in paragraph (1).

"(4)(A) In addition to any other remedy authorized by law, a person affected by the decision of a State or local government enforcing a regulation under paragraph (1) may submit to the Commission an appeal of the decision on the grounds that the State or local government, as the case may be, acted outside the authority provided in this subsection.

"(B) A person shall submit an appeal on a decision of a State or local government to the Commission under this paragraph, if at all, not later than 30 days after the date on which the decision by the State or local government becomes final.

"(C) The Commission shall make a determination on an appeal submitted under subparagraph (B) not later than 180 days after its submittal.

"(D) If the Commission determines under subparagraph (C) that a State or local government has acted outside its authority in enforcing a regulation, the Commission shall reverse the decision enforcing the regulation.

"(5) The enforcement of a regulation by a State or local government under paragraph (1) in a particular case shall not preclude the Commission from enforcing the regulation in that case concurrently.

"(6) Nothing in this subsection shall be construed to diminish or otherwise affect the jurisdiction of the Commission under this section over devices capable of interfering with radio communications.".

By Mr. KENNEDY (for himself, Ms. MIKULSKI, Mr. DASCHLE, Mr. DODD, Mr. HARKIN, Mr. WELLSTONE, Mrs. MURRAY, Mrs. BOXER, Ms. MOSELEY-BRAUN, Mrs. FEINSTEIN, Mr. FORD, and Mr. INOUYE):

S. 609. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for reconstructive breast surgery if they provide coverage for mastectomies; to the Committee on Labor and Human Resources.

RECONSTRUCTIVE BREAST SURGERY BENEFITS ACT OF 1997

Mr. KENNEDY. Mr. President, today I am introducing the Reconstructive Breast Surgery Benefits Act of 1997. An identical bill is being introduced by Representative ANNA ESHOO in the House of Representatives. Our purpose in introducing this legislation is to improve the lives of thousands of women who suffer from breast cancer.

Breast cancer is the most common form of cancer in American women, affecting one woman out of every nine. Nearly three million American women are living with the disease, and 46,000 die from it each year. Over 180,000 more women will be diagnosed with breast cancer this year, and nearly half of the women will suffer the loss of one or both breasts in order to survive.

Reconstructive surgery or use of a prothesis can help women cope with the consequences of this deadly illness. Every woman deserves the opportunity to have these important options available if breast cancer strikes. It is also a distressing fact that some women avoid early detection procedures, for fear that it may result in the loss of a breast if cancer is detected. For these women, breast reconstruction surgery should be available as a part of treatment, since its availability can alleviate fears about the disease and encourage life-saving early detection and treatment.

Many insurers classify this important medical procedure as cosmetic, however, and deny coverage for it. In addition, as many as 25 percent of women who undergo breast cancer treatments are affected by lymphedema, a complication resulting from mastectomy. Many insurers also refuse to cover treatment and management of this condition. This legislation will end these types of discrimination.

Currently, 12 States have laws that require coverage for breast reconstruction following mastectomy. Nine States require coverage for prosthesis. This legislation will extend these protections to all women.

This bill will amend the Public Health Service Act and the Employee Retirement Income Security Act in order to accomplish the following important actions:

It requires insurers and companies that provide coverage for mastectomy to provide coverage for reconstructive breast surgery, prosthesis and other treatments which may be necessary as a result of surgical complications, including lymphedema;

It prohibits monetary payments or rebates that encourage a woman to accept less than the minimum medical protection available; and

Finally, it prohibits insurers using penalties or incentives to encourage providers to furnish levels of care inconsistent with this legislation.

This bill has been endorsed by major national organizations involved in the diagnosis and treatment of breast cancer, including the American Cancer Society, the National Breast Cancer Coalition, the National Women's Health Network, and the national medical and nursing groups concerned with this disease.

Our goal is to end the cruel and arbitrary practice that unfairly discriminates against breast cancer patients and their needs. I look forward to early action by Congress, and I hope that it will receive the overwhelming bipartisan support it deserves.

By Mr. LUGAR (for himself and Mr. BIDEN):

S. 610. A bill to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, known as "the Chemical Weapons Convention" and opened for signature and signed by the United States on January 13, 1993; to the Committee on the Judiciary.

THE CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ACT OF 1997

Mr. LUGAR. Mr. President, I introduce, by request, on behalf of Senator BIDEN and myself, the Chemical Weapons Convention Implementation Act.

The Chemical Weapons Convention was signed by the United States on January 13, 1993, and was submitted by President Clinton to the United States Senate on November 23, 1993, for its advice and consent to ratification.

The Chemical Weapons Convention contains a number of provisions that require implementing legislation to give them effect within the United States. These include: international inspections of U.S. facilities; declarations by U.S. chemical and related industry; and establishment of a "National Authority" to serve as the liaison between the United States and the international organization established by the Chemical Weapons Convention and States Parties to the Convention.

Mr. President, I ask unanimous consent that this Implementation Act that we are introducing at the request of the administration be printed in the RECORD together with the transmitted letter to the President of the Senate from ACDA Director John D. Holum.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 610

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chemical Weapons Convention Implementation Act of 1997."

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Congressional findings.
Sec. 4. Congressional declarations.
Sec. 5. Definitions.
Sec. 6. Severability.

TITLE I—NATIONAL AUTHORITY

Sec. 101. Establishment.

TITLE II—APPLICATION OF CONVENTION PROHIBITIONS TO NATURAL AND LEGAL PERSONS

Sec. 201. Criminal provisions.
Sec. 202. Effective date.
Sec. 203. Restrictions on scheduled chemicals.

TITLE III—REPORTING

Sec. 301. Reporting of information.
Sec. 302. Confidentiality of information.
Sec. 303. Prohibited acts.

TITLE IV—INSPECTIONS

Sec. 401. Inspections pursuant to Article VI of the Chemical Weapons Convention.
Sec. 402. Other inspections pursuant to the Chemical Weapons Convention and lead agency.
Sec. 403. Prohibited acts.
Sec. 404. Penalties.

Sec. 405. Specific enforcement.
Sec. 406. Legal proceedings.
Sec. 407. Authority.
Sec. 408. Saving provision.

SEC. 3. CONGRESSIONAL FINDINGS.

The Congress makes the following findings:

(1) Chemical weapons pose a significant threat to the national security of the United States and are a scourge to humankind.

(2) The Chemical Weapons Convention is the best means of ensuring the nonproliferation of chemical weapons and their eventual destruction and forswearing by all nations.

(3) The verification procedures contained in the Chemical Weapons Convention and the faithful adherence of nations to them, including the United States, are crucial to the success of the Convention.

(4) The declarations and inspections required by the Chemical Weapons Convention are essential for the effectiveness of the verification regime.

SEC. 4. CONGRESSIONAL DECLARATIONS.

The Congress makes the following declarations:

(1) It shall be the policy of the United States to cooperate with other States Parties to the Chemical Weapons Convention and to afford the appropriate form of legal assistance to facilitate the implementation of the prohibitions contained in title II of this Act.

(2) It shall be the policy of the United States, during the implementation of its obligations under the Chemical Weapons Convention, to assign the highest priority to ensuring the safety of people and to protecting the environment, and to cooperate as appropriate with other States Parties to the Convention in this regard.

(3) It shall be the policy of the United States to minimize, to the greatest extent practicable, the administrative burden and intrusiveness of measures to implement the Chemical Weapons Convention placed on commercial and other private entities, and to take into account the possible competitive impact of regulatory measures on industry, consistent with the obligations of the United States under the Convention.

SEC. 5. DEFINITIONS.

(a) IN GENERAL.—Except as otherwise provided in this Act, the definitions of the terms used in this Act shall be those contained in the Chemical Weapons Convention. Nothing in paragraphs 2 or 3 of Article II of the Chemical Weapons Convention shall be construed to limit verification activities pursuant to Parts X or XI of the Annex on Implementation and Verification of the Convention.

(b) OTHER DEFINITIONS.—

(1) The term "Chemical Weapons Convention" means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

(2) The term "national of the United States" has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(3) The term "United States," when used in a geographical sense, includes all places under the jurisdiction or control of the United States, including (A) any of the places within the provisions of section 101(41) of the Federal Aviation Act of 1958, as amended (49 U.S.C. Sec. 40102(41)), (B) any public aircraft or civil aircraft of the United States, as such terms are defined in sections 101(36) and (18) of the Federal Aviation Act of 1958, as amended (49 U.S.C. Secs. 40102(37) and 40102(17)), and (C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C. App. Sec. 1903(b)).

(4) The term "person," except as used in section 201 of this Act and as set forth below, means (A) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States; and (B) any legal successor, representative, agent or agency of the foregoing located in the United States. The phrase "located in the United States" in the term "person" shall not apply to the term "person" as used in the phrases "person located outside the territory" in sections 203(b) and 302(d) of this Act and "person located in the territory" in section 203(b) of this Act.

(5) The term "Technical Secretariat" means the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons established by the Chemical Weapons Convention.

SEC. 6. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TITLE I—NATIONAL AUTHORITY

SEC. 101. ESTABLISHMENT.

Pursuant to paragraph 4 of Article VII of the Chemical Weapons Convention, the President or the designee of the President shall establish the "United States National Authority" to, inter alia, serve as the national focal point for effective liaison with the Organization for the Prohibition of Chemical Weapons and other States Parties to the Convention.

TITLE II—APPLICATION OF CONVENTION PROHIBITIONS TO NATURAL AND LEGAL PERSONS

SEC. 201. CRIMINAL PROVISIONS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by—

(1) redesignating chapter 11A relating to child support as chapter 11B; and

(2) inserting after chapter 11 relating to bribery, graft and conflicts of interest the following new chapter:

"CHAPTER 11A—CHEMICAL WEAPONS

"Sec.
"227. Penalties and prohibitions with respect to chemical weapons.
"227A. Seizure, forfeiture, and destruction.
"227B. Injunctions.
"227C. Other prohibitions.
"227D. Definitions.

"SEC. 227. PENALTIES AND PROHIBITIONS WITH RESPECT TO CHEMICAL WEAPONS.

"(a) IN GENERAL.—Except as provided in subsection (b), whoever knowingly develops, produces, otherwise acquires, stockpiles, retains, directly or indirectly transfers, uses, owns or possesses any chemical weapon, or knowingly assists, encourages or induces, in any way, any person to do so, or attempts or conspires to do so, shall be fined under this title or imprisoned for life or any term of years, or both.

"(b) EXCLUSION.—Subsection (a) shall not apply to the retention, ownership or possession of a chemical weapon, that is permitted by the Chemical Weapons Convention pending the weapon's destruction, by any agency or department of the United States. This exclusion shall apply to any person, including members of the Armed Forces of the United States, who is authorized by any agency or department of the United States to retain, own or possess a chemical weapon, unless that person knows or should have known that such retention, ownership or possession is not permitted by the Chemical Weapons Convention.

"(c) JURISDICTION.—There is jurisdiction by the United States over the prohibited activity in subsection (a) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and is committed by a national of the United States.

"(d) ADDITIONAL PENALTY.—The court shall order that any person convicted of any offense under this section pay to the United States any expenses incurred incident to the seizure, storage, handling, transportation and destruction or other disposition of property seized for the violation of this section.

"SEC. 227A. SEIZURE, FORFEITURE, AND DESTRUCTION.

"(a) SEIZURE.—

"(1) Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any chemical weapon defined in section 227D(2)(A) of this title that is of a type or quantity that under the circumstances is inconsistent with the purposes not prohibited under the Chemical Weapons Convention.

"(2) In the exigent circumstances, seizure and destruction of any such chemical weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant.

"(b) PROCEDURE FOR FORFEITURE AND DESTRUCTION.—Except as provided in paragraph (2) of subsection (a), property seized pursuant to subsection (a) shall be forfeited to the United States after notice to potential claimants and an opportunity for a hearing. At such a hearing, the Government shall bear the burden of persuasion by a preponderance of the evidence. Except as inconsistent herewith, the provisions of chapter 46 of this title related to civil forfeitures shall extend to a seizure or forfeiture under this section. The Attorney General shall provide for the destruction or other appropriate disposition of any chemical weapon seized and forfeited pursuant to this section.

"(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense against a forfeiture under subsection (b) that—

"(1) such alleged chemical weapon is for a purpose not prohibited under the Chemical Weapons Convention; and

"(2) such alleged chemical weapon is of a type and quantity that under the circumstances is consistent with that purpose.

"(d) OTHER SEIZURE, FORFEITURE, AND DESTRUCTION.—

"(1) Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any chemical weapon defined in section 227D(2) (B) or (C) of this title that exists by reason of conduct prohibited under section 227 of this title.

"(2) In exigent circumstances, seizure and destruction of any such chemical weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant.

“(3) Property seized pursuant to this subsection shall be summarily forfeited to the United States and destroyed.

“(e) Assistance.—The Attorney General may request assistance from any agency or department in the handling, storage, transportation or destruction of property seized under this section.

“(f) Owner Liability.—The owner or possessor of any property seized under this section shall be liable to the United States for any expenses incurred incident to the seizure, including any expenses relating to the handling, storage, transportation and destruction or other disposition of the seized property.

“SEC. 227B. INJUNCTIONS.

“(a) In General.—The United States may obtain in a civil action an injunction against—

“(1) the conduct prohibited under section 227 of this title;

“(2) the preparation or solicitation to engage in conduct prohibited under section 227 of this title; or

“(3) the development, production, other acquisition, stockpiling, retention, direct or indirect transfer, use, ownership or possession, or the attempted development, production, other acquisition, stockpiling, retention, direct or indirect transfer, use, ownership or possession, of any alleged chemical weapon defined in section 227D(2)(A) of this title that is of a type or quantity that under the circumstances is inconsistent with the purposes not prohibited under the Chemical Weapons Convention, or the assistance to any person to do so.

“(b) Affirmative Defense.—It is an affirmative defense against an injunction under subsection (a)(3) that—

“(1) the conduct sought to be enjoined is for a purpose not prohibited under the Chemical Weapons Convention; and

“(2) such alleged chemical weapon is of a type and quantity that under the circumstances is consistent with that purpose.

“SEC. 227C. OTHER PROHIBITIONS.

“(a) In General.—Except as provided in subsection (b), whoever knowingly uses riot control agents as a method of warfare, or knowingly assists any person to do so, shall be fined under this title or imprisoned for a term of not more than ten years, or both.

“(b) Exclusion.—Subsection (a) shall not apply to members of the Armed Forces of the United States. Members of the Armed Forces of the United States who use riot control agents as a method of warfare shall be subject to appropriate military penalties.

“(c) Jurisdiction.—There is jurisdiction by the United States over the prohibited activity in subsection (a) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and is committed by a national of the United States.

“SEC. 227D. DEFINITIONS.

“As used in this chapter, the term—

“(1) ‘Chemical Weapons Convention’ means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993;

“(2) ‘chemical weapon’ means the following, together or separately:

“(A) a toxic chemical and its precursors, except where intended for a purpose not prohibited under the Chemical Weapons Convention, as long as the type and quantity is consistent with such a purpose;

“(B) a munition or device, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device; or

“(C) any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B);

“(3) ‘toxic chemical’ means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere. (For the purpose of implementing the Chemical Weapons Convention, toxic chemicals which have been identified for the application of verification measures are listed in Schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.);

“(4) ‘precursor’ means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multicomponent chemical system. (For the purpose of implementing the Chemical Weapons Convention, precursors which have been identified for the application of verification measures are listed in Schedules contained in the Annex on Chemicals of the Chemical Weapons convention.);

“(5) ‘key component of a binary or multicomponent chemical system’ means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system;

“(6) ‘purpose not prohibited under the Chemical Weapons Convention’ means—

“(A) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;

“(B) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons;

“(C) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warefare; or

“(D) law enforcement purposes, including domestic riot control purposes;

“(7) ‘national of the United States’ has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

“(8) ‘United States,’ when used in a geographical sense, includes all places under the jurisdiction or control of the United States, including (A) any of the places within the provisions of section 101(41) of the Federal Aviation Act of 1958, as amended (49 U.S.C. Sec. 40102(41)), (B) any public aircraft or civil aircraft of the United States, as such terms are defined in sections 101(36) and (18) of the Federal Aviation Act of 1958, as amended (49 U.S.C. Secs. 40102(37) and 40102(17)), and (C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C. App. Sec. 1903(b));

“(9) ‘person’ means (A) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity; and (B) any legal successor, representative, agent, or agency of the foregoing; and

“(10) ‘riot control agent’ means any chemical not listed in a Schedule in the Annex on Chemicals of the Chemical Weapons Convention, which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure.

Nothing in paragraphs (3) or (4) of this section shall be construed to limit verification activities pursuant to part X or part XI of the Annex on Implementation and Verification of the Chemical Weapons Convention.”

(b) Clerical Amendments.—The table of chapters for part I of title 18, United States Code, is amended by—

(1) in the item for chapter 11A relating to child support, redesignating “11A” as “11B”; and

(2) inserting after the item for chapter 11 the following new item:

“11A. CHEMICAL WEAPONS .... 227.”

SEC. 202. EFFECTIVE DATE.

This title shall take effect on the date the Chemical Weapons Convention enters into force for the United States.

SEC. 203. RESTRICTIONS ON SCHEDULED CHEMICALS.

(a) Schedule 1 Activities.—It shall be unlawful for any person, or any national of the United States located outside the United States, to produce, acquire, retain, transfer or use a chemical listed on Schedule 1 of the Annex on Chemicals of the Chemical Weapons Convention, unless—

(1) the chemicals are applied to research, medical, pharmaceutical or protective purposes;

(2) the types and quantities of chemicals are strictly limited to those that can be justified for such purposes; and

(3) the amount of such chemicals per person at any given time for such purposes does not exceed a limit to be determined by the United States National Authority, but in any case, does not exceed one metric ton.

(b) Extraterritorial Acts.—

(1) It shall be unlawful for any person, or any national of the United States located outside the United States, to produce, acquire, retain or use a chemical listed on Schedule 1 of the Annex on Chemicals of the Chemical Weapons Convention outside the territories of the States Parties to the Convention or to transfer such chemicals to any person located outside the territory of the United States, except as provided for in the Convention for transfer to a person located in the territory of another State Party to the Convention.

(2) Beginning three years after the entry into force of the Chemical Weapons Convention, it shall be unlawful for any person, or any national of the United States located outside the United States, to transfer a chemical listed on Schedule 2 of the Annex on Chemicals of the Convention to any person located outside the territory of a State Party to the Convention or to receive such a chemical from any person located outside the territory of a State Party to the Convention.

(c) Jurisdiction.—There is jurisdiction by the United States over the prohibited activity in subsections (a) and (b) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and is committed by a national of the United States.

TITLE III—REPORTING

SEC. 301. REPORTING OF INFORMATION.

(a) REPORTS.—The Department of Commerce shall promulgate regulations under which each person who produces, processes, consumes, exports or imports, or proposes to produce, process, consume, export or import, a chemical substance subject to the Chemical Weapons Convention shall maintain and permit access to such records and shall submit to the Department of Commerce such reports as the United States National Authority may reasonably require pursuant to the Chemical Weapons Convention. The Department of Commerce shall promulgate regulations pursuant to this title expeditiously, taking into account the written decisions issued by the Organization for the Prohibition of Chemical Weapons, and may amend or change such regulations as necessary.

(b) COORDINATION.—To the extent feasible, the United States National Authority shall not require any reporting that is unnecessary, or duplicative of reporting required under any other Act. Agencies and departments shall coordinate their actions with other agencies and departments to avoid duplication of reporting by the affected persons under this Act or any other Act.

SEC. 302. CONFIDENTIALITY OF INFORMATION.

(a) FREEDOM OF INFORMATION ACT EXEMPTION FOR CERTAIN CHEMICAL WEAPONS CONVENTION INFORMATION.—Any information reported to, or otherwise obtained by, the United States National Authority, the Department of Commerce, or any other agency or department under this Act or under the Chemical Weapons Convention shall not be required to be publicly disclosed pursuant to section 552 of title 5, United States Code.

(b) PROHIBITED DISCLOSURE AND EXCEPTIONS.—Information exempt from disclosure under subsection (a) shall not be published or disclosed, except that such information—

(1) shall be disclosed or otherwise provided to the Technical Secretariat or other States Parties to the Chemical Weapons Convention in accordance with the Convention, in particular, the provisions of the Annex on the Protection of Confidential Information;

(2) shall be made available to any committee or subcommittee of Congress of appropriate jurisdiction upon the written request of the chairman or ranking minority member of such committee or subcommittee, except that no such committee or subcommittee, or member thereof, shall disclose such information or material;

(3) shall be disclosed to other agencies or departments for law enforcement purposes with regard to this Act or any other Act, and may be disclosed or otherwise provided when relevant in any proceeding under this Act or any other Act, except that disclosure or provision in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding; and

(4) may be disclosed, including in the form of categories of information, if the United States National Authority determines that such disclosure is in the national interest.

(c) NOTICE OF DISCLOSURE.—If the United States National Authority, pursuant to subsection (b)(4), proposes to publish or disclose or otherwise provide information exempted from disclosure in subsection (a), the United States National Authority shall, where appropriate, notify the person who submitted such information of the intent to release such information. Where notice has been provided, the United States National Authority may not release such information until the expiration of 30 days after notice has been provided.

(d) CRIMINAL PENALTY FOR WRONGFUL DISCLOSURE.—Any officer or employee of the United States or former officer or employee of the United States, who by virtue of such employment or official position has obtained possession of, or has access to, information the disclosure or other provision of which is prohibited by subsection (a), and who knowing that disclosure or provision of such information is prohibited by such subsection, willfully discloses or otherwise provides the information in any manner to any person, including person located outside the territory of the United States, not entitled to receive it, shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both.

(e) INTERNATIONAL INSPECTORS.—The provisions of this section on disclosure or provision of information shall also apply to employees of the Technical Secretariat.

SEC. 303. PROHIBITED ACTS.

It shall be unlawful for any person to fail or refuse to (a) establish or maintain records, (b) submit reports, notices, or other information to the Department of Commerce or the United States National Authority, or (c) permit access to or copying of records, as required by this Act or a regulation thereunder.

TITLE IV—INSPECTIONS

SEC. 401. INSPECTIONS PURSUANT TO ARTICLE VI OF THE CHEMICAL WEAPONS CONVENTION.

(a) AUTHORITY.—For purposes of administering this Act—

(1) any duly designated member of an inspection team of the Technical Secretariat may inspect any plant, plant site, or other facility or location in the United States subject to inspection pursuant to the Chemical Weapons Convention; and

(2) the National Authority shall designate representatives who may accompany members of an inspection team of the Technical Secretariat during the inspection specified in paragraph (1). The number of duly designated representatives shall be kept to the minimum necessary.

(b) NOTICE.—An inspection pursuant to subjection (a) may be made only upon issuance of a written notice to the owner and to the operator, occupant or agent in charge of the premises to be inspected, except that failure to receive a notice shall not be a bar to the conduct of an inspection. The notice shall be submitted to the owner and to the operator, occupant or agent in charge as soon as possible after the United States National Authority receives it from the Technical Secretariat. The notice shall include all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought, including, for challenge inspections pursuant to Article IX of the Chemical Weapons Convention, appropriate evidence or reasons provided by the requesting State Party to the Convention with regard to its concerns about compliance with the Chemical Weapons Convention at the facility or location. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection.

(c) CREDENTIALS.—If the owner, operator, occupant or agent in charge of the premises to be inspected is presented, a member of the inspection team of the Technical Secretariat, as well as, if present, the representatives of agencies or departments, shall present appropriate credentials before the inspection is commenced.

(d) TIME FRAME FOR INSPECTIONS.—Consistent with the provisions of the Chemical Weapons Convention, each inspection shall be commenced and completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner. The Department of Commerce shall endeavor to ensure that, to the extent possible, each inspection is commenced, conducted and concluded during ordinary working hours, but no inspection shall be prohibited or otherwise disrupted for commencing, continuing or concluding during other hours. However, nothing in this subsection shall be interpreted as modifying the time frames established in the Chemical Weapons Convention.

(e) SCOPE.—

(1) Except as provided in paragraph (2) of this subsection and subsection (f), an inspection conducted under this title may extend to all things within the premises inspected (including records, files, papers, processes, controls, structures and vehicles) related to whether the requirements of the Chemical Weapons Convention applicable to such premises have been complied with.

(2) To the extent possible consistent with the obligations of the United States pursuant to the Chemical Weapons Convention, no inspection under this title shall extend to—

(A) financial data;

(B) sales and marketing data (other than shipment data);

(C) pricing data;

(D) personnel data;

(E) research data;

(F) patent data;

(G) data maintained for compliance with environmental or occupational health and safety regulations; or

(H) personnel and vehicles entering and personnel and personal passenger vehicles exiting the facility.

(f) FACILITY AGREEMENTS.—

(1) Inspection of plants, plant sites, or other facilities or locations for which the United States has a facility agreement with the Organization for the Prohibition of Chemical Weapons shall be conducted in accordance with the facility agreement.

(2) Facility agreements shall be concluded for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraph 4 of Article VI of the Chemical Weapons Convention unless the owner and the operator, occupant or agent in charge of the facility and the Technical Secretariat agree that such an agreement is not necessary. Facility agreements should be concluded for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraphs 5 or 6 of Article VI of the Chemical Weapons Convention if so requested by the owner and the operator, occupant or agent in charge of the facility.

(3) The owner and the operator, occupant or agent in charge of a facility shall be notified prior to the development of the agreement relating to that facility and, if they so request, may participate in the preparations for the negotiation of such an agreement. To the extent practicable consistent with the Chemical Weapons Convention, the owner and the operator, occupant or agent in charge of a facility may observe negotiations of the agreement between the United States and the Organization for the Prohibition of Chemical Weapons concerning that facility.

(g) SAMPLING AND SAFETY.—

(1) The Department of Commerce is authorized to require the provision of samples to a member of the inspection team of the

Technical Secretariat in accordance with the provisions of the Chemical Weapons Convention. The owner or the operator, occupant or agent in charge of the premises to be inspected shall determine whether the sample shall be taken by representatives of the premises or the inspection team or other individuals present.

(2) In carrying out their activities, members of the inspection team of the Technical Secretariat and representatives of agencies or departments accompanying the inspection team shall observe safety regulations established at the premises to be inspected, including those for protection of controlled environments within a facility and for personal safety.

(b) COORDINATION.—To the extent possible consistent with the obligations of the United States pursuant to the Chemical Weapons Convention, the representatives of the United States National Authority, the Department of Commerce and any other agency or department, if present, shall assist the owner and the operator, occupant or agent in charge of the premises to be inspected in interacting with the members of the inspection team of the Technical Secretariat.

SEC. 402. OTHER INSPECTIONS PURSUANT TO THE CHEMICAL WEAPONS CONVENTION AND LEAD AGENCY.

(a) OTHER INSPECTIONS.—The provisions of this title shall apply, as appropriate, to all other inspections authorized by the Chemical Weapons Convention. For all inspections other than those conducted pursuant to paragraphs 4, 5 or 6 of Article VI of the Convention, the term "Department of Commerce" shall be replaced by the term "Lead Agency" in section 401.

(b) LEAD AGENCY.—For the purposes of this title, the term "Lead Agency" means the agency or department designated by the President or the designee of the President to exercise the functions and powers set forth in the specific provision, based, inter alia, on the particular responsibilities of the agency or department within the United States Government and the relationship of the agency or department to the premises to be inspected.

SEC. 403. PROHIBITED ACTS.

It shall be unlawful for any person to fail or refuse to permit entry or inspection, or to disrupt, delay or otherwise impede an inspection as required by this Act or the Chemical Weapons Convention.

SEC. 404. PENALTIES.

(a) CIVIL.—

(1) (A) Any person who violates a provision of section 203 of this Act shall be liable to the United States for a civil penalty in an amount not to exceed $50,000 for each such violation.

(B) Any person who violates a provision of section 303 of this Act shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each such violation.

(C) Any person who violates a provision of section 403 of this Act shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. For purposes of this subsection, each day such a violation of section 403 continues shall constitute a separate violation of section 403.

(2)(A) A civil penalty for a violation of section 203, 303 or 403 of this Act shall be assessed by the Lead Agency by an order made on the record after opportunity (provided in accordance with this subparagraph) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Lead Agency shall give written notice to the person to be assessed a civil penalty under such order of the Lead Agency's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

(B) In determining the amount of a civil penalty, the Lead Agency shall take into account the nature, circumstances, extent and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, the existence of an internal compliance program, and such other matters as justice may require.

(C) The Lead Agency may compromise, modify or remit, with or without conditions, any civil penalty which may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

(3) Any person who requested in accordance with paragraph (2)(A) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may be filed only within the 30-day period beginning on the date the order making such assessment was issued.

(4) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3); or

(B) after a court in an action brought under paragraph (3) has entered a final judgment in favor of the Lead Agency;

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount and appropriateness of such penalty shall not be subject to review.

(b) CRIMINAL.—Any person who knowingly violates any provision of section 203, 303 or 403 of this Act, shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) for such violation, be fined under title 18, United States Code, imprisoned for not more than two years, or both.

SEC. 405. SPECIFIC ENFORCEMENT.

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction over civil actions to—

(1) restrain any violation of section 203, 303 or 403 of this Act; and

(2) compel the taking of any action required by or under this Act or the Chemical Weapons Convention.

(b) CIVIL ACTIONS.—A civil action described in subsection (a) may be brought—

(1) in the case of a civil action described in subsection (a)(1), in the United States district court for the judicial district wherein any act, omission, or transaction constituting a violation of section 203, 303 or 403 of this Act occurred or wherein the defendant is found or transacts business; or

(2) in the case of a civil action described in subsection (a)(2), in the United States district court for the judicial district wherein the defendant is found or transacts business. In any such civil action process may be served on a defendant wherever the defendant may reside or may be found, whether the defendant resides or may be found within the United States or elsewhere.

SEC. 406. LEGAL PROCEEDINGS.

(a) WARRANTS.—

(1) The Lead Agency shall seek the consent of the owner or the operator, occupant or agent in charge of the premises to be inspected prior to the initiation of any inspection. Before or after seeking such consent, the Lead Agency may seek a search warrant from any official authorized to issue search warrants. Proceedings regarding the issuance of a search warrant shall be conducted ex parte, unless otherwise requested by the Lead Agency. The Lead Agency shall provide to the official authorized to issue search warrants all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought, including, for challenge inspections pursuant to Article IX of the Chemical Weapons Convention, appropriate evidence or reasons provided by the requesting State Party to the Convention with regard to its concerns about compliance with the Chemical Weapons Convention at the facility or location. The Lead Agency shall also provide any other appropriate information available to it relating to the reasonableness of the selection of the plant, plant site, or other facility or location for the inspection.

(2) The official authorized to issue search warrants shall promptly issue a warrant authorizing the requested inspection upon an affidavit submitted by the Lead Agency showing that—

(A) the Chemical Weapons Convention is in force for the United States;

(B) the plant site, plant, or other facility or location sought to be inspected is subject to the specific type of inspection requested under the Chemical Weapons Convention;

(C) the procedures established under the Chemical Weapons Convention and this Act for initiating an inspection have been complied with; and

(D) the Lead Agency will ensure that the inspection is conducted in a reasonable manner and will not exceed the scope or duration set forth in or authorized by the Chemical Weapons Convention or this Act.

(3) The warrant shall specify the type of inspection authorized; the purpose of the inspection; the type of plant site, plant, or other facility or location to be inspected; to the extent possible, the items, documents and areas that may be inspected; the earliest commencement and latest concluding dates and times of the inspection; and the identities of the representatives of the Technical Secretariat, if known, and, if applicable, the representatives of agencies or departments.

(b) SUBPOENAS.—In carrying out this Act, the Lead Agency may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents, answers to questions and other information that the Lead Agency deems necessary. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In the event of contumacy, failure or refusal of any person to obey any such subpoena, any district court of the United States in which venue is proper shall have jurisdiction to order any such person to comply with such subpoena. Any failure to obey such an order of the court is punishable by the court as a contempt thereof.

(c) INJUNCTIONS AND OTHER ORDERS.—No court shall issue an injunction or other order that would limit the ability of the Technical Secretariat to conduct, or the United States National Authority or the Lead Agency to facilitate, inspections as required or authorized by the Chemical Weapons Convention.

SEC. 407. AUTHORITY.

(a) REGULATIONS.—The Lead Agency may issue such regulations as are necessary to implement and enforce this title and the provisions of the Chemical Weapons Convention, and amend or revise them as necessary.

(b) ENFORCEMENT.—The Lead Agency may designate officers or employees of the agency or department to conduct investigations pursuant to this Act. In conducting such investigations, those officers or employees may, to the extent necessary or appropriate for the enforcement of this Act, or for the imposition of any penalty or liability arising under this Act, exercise such authorities as are conferred upon them by other laws of the United States.

SEC. 408. SAVING PROVISION.

The purpose of this Act is to enable the United States to comply with its obligations under the Chemical Weapons Convention. Accordingly, in addition to the authorities set forth in this Act, the President is authorized to issue such executive orders, directives or regulations as are necessary to fulfill the obligations of the United States under the Chemical Weapons Convention, provided such executive orders, directives or regulations do not exceed the requirements specified in the Chemical Weapons Convention.

U.S. ARMS CONTROL AND
DISARMAMENT AGENCY,
Washington, DC, March 27, 1997.

Hon. RICHARD G. LUGAR,
Committee on Foreign Relations,
U.S. Senate.

DEAR SENATOR LUGAR: On behalf of the Administration, I hereby submit for consideration the "Chemical Weapons Convention Implementation Act of 1997." This proposed legislation is identical to the legislation submitted by the Administration in 1995. The Chemical Weapons Convention (CWC) was signed by the United States in Paris on January 13, 1993, and was submitted by President Clinton to the United States Senate on November 23, 1993, for its advice and consent to ratification. The CWC prohibits, inter alia, the use, development, production, acquisition, stockpiling, retention, and direct or indirect transfer of chemical weapons.

The President has urged the Senate to provide its advice and consent to ratification as early as possible this year so that the United States will be an original State Party and can continue to lead the fight against these terrible weapons. The CWC will enter into force, with or without the United States, on April 29, 1997. if the United States has not ratified by that time, we will not have a seat on the governing council which will oversee implementation of the Convention and U.S. nationals will not be able to serve as inspectors and in other key positions. Here at home, the U.S. chemical industry could lose hundreds of millions of dollars and many well-paying jobs because of CWC-mandated trade restrictions against non-Parties. As Secretaries Albright and Cohen have recently underscored, ratifying the CWC before it enters into force is in the best interests of the United States.

The CWC contains a number of provisions that require implementing legislation to give them effect within the United States. These include: carrying out verification activities, including inspections of U.S. facilities; collecting and protecting the confidentiality of data declarations by U.S. chemical and related companies; and establishing a "National Authority" to serve as the liaison between the United States and the international organization established by the CWC.

In addition, the CWC requires the United States to prohibit all individuals and legal entities, such as corporations, within the United States, as well as all individuals outside the United States, possessing U.S. citizenship, from engaging in activities that are prohibited under the Convention. As part of this obligation, the CWC requires the United States to enact "penal" legislation implementing this prohibition (i.e., legislation that penalizes conduct, either by criminal, administrative, military or other sanctions).

Expeditious enactment of implementing legislation is very important to the ability of the United States to fulfill its obligations under the Convention. Enactment will enable the United States to collect the required information from industry, to provide maximum protection for confidential information, and to allow the inspections called for in the Convention. It will also enable the United States to outlaw all activities related to chemical weapons, except CWC permitted activities such as chemical defense programs. This will help fight chemical terrorism by penalizing not just the use, but also the development, production and transfer of chemical weapons. Thus, the enactment of legislation by the United States and other CWC States Parties will make it much easier for law enforcement officials to investigate and punish chemical terrorists early, before chemical weapons are used.

As the President indicated in his transmittal letter of the Convention: "The CWC is in the best interests of the United States. Its provisions will significantly strengthen United States, allied and international security, and enhance global and regional stability." Therefore, I urge the Congress to enact the necessary implementing legislation as soon as possible.

The Office of Management and Budget advises that there is no objection to the submission of this proposal and its enactment is in accord with the President's program.

Sincerely,

JOHN D. HOLUM,
Director.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S. 612. A bill to amend section 355 of the Internal Revenue Code of 1986 to prevent the avoidance of corporate tax on prearranged sales of corporate stock, and for other purposes; to the Committee on Finance.

CORPORATE ACQUISITION TRANSACTIONS LEGISLATION

Mr. ROTH. Mr. President, I ask unanimous consent that the following joint statement by the ranking member of the Finance Committee, Senator MOYNIHAN, and myself, be inserted in the RECORD at this point, along with the text of a bill we are introducing today.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 612

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPLICATION OF SECTION 355 TO DISTRIBUTIONS FOLLOWED BY ACQUISITIONS AND TO INTRAGROUP TRANSACTIONS.

(a) DISTRIBUTIONS FOLLOWED BY ACQUISITIONS.—Section 355 of the Internal Revenue Code of 1986 (relating to distribution of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

"(e) RECOGNITION OF GAIN WHERE CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES ARE FOLLOWED BY ACQUISITION.—

"(1) GENERAL RULE.—If there is a distribution to which this subsection applies, the following rules shall apply:

"(A) ACQUISITION OF CONTROLLED CORPORATION.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to any controlled corporation (or any successor thereof), any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

"(B) ACQUISITION OF DISTRIBUTING CORPORATION.—If there is an acquisition described in paragraph (2)(A)(ii) with respect to the distributing corporation (or any successor thereof), the controlled corporation shall recognize gain in an amount equal to the amount of net gain which would be recognized if all the assets of the distributing corporation (immediately after the distribution) were sold (at such time) for fair market value. Any gain recognized under the preceding sentence shall be treated as long-term capital gain and shall be taken into account for the taxable year which includes the day after the date of such distribution.

"(2) DISTRIBUTIONS TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to any distribution—

"(i) to which this section (or so much of section 356 as relates to this section) applies, and

"(ii) which is part of a plan (or series of related transactions) pursuant to which a person acquires stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation (or any successor of either).

"(B) PLAN PRESUMED TO EXIST IN CERTAIN CASES.—If a person acquires stock representing a 50-percent or greater interest in the distributing corporation or any controlled corporation (or any successor of either) during the 4-year period beginning on the date which is 2 years before the date of the distribution, such acquisition shall be treated as pursuant to a plan described in subparagraph (A)(ii) unless it is established that the distribution and the acquisition are not pursuant to a plan or series of related transactions.

"(C) CERTAIN ACQUISITIONS NOT TAKEN INTO ACCOUNT.—If—

"(i) a person acquires stock in any controlled corporation by reason of holding stock in the distributing corporation, and

"(ii) such person did not acquire the stock in the distributing corporation pursuant to a plan described in subparagraph (A)(ii),

the acquisition described in clause (i) shall not be taken into account for purposes of subparagraph (A)(ii) or (B).

"(D) COORDINATION WITH SUBSECTION (d).—This subsection shall not apply to any distribution to which subsection (d) applies.

"(3) DEFINITION AND SPECIAL RULES.—For purposes of this subsection—

"(A) 50-PERCENT OR GREATER INTEREST.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

"(B) DISTRIBUTIONS IN TITLE 11 OR SIMILAR CASE.—Paragraph (1) shall not apply to any distribution made in a title 11 or similar case (as defined in section 368(a)(3)).

"(C) AGGREGATION AND ATTRIBUTION RULES.—

"(i) AGGREGATION.—The rules of paragraph (7) of subsection (d) shall apply.

"(ii) ATTRIBUTION.—Section 318(a)(2) shall apply in determining whether a person holds stock or securities in any corporation. Except as provided in regulations, section 318(a)(2)(C) shall be applied without regard to the phrase '50 percent or more in value' for purposes of the preceding sentence.

"(D) STATUTE OF LIMITATIONS.—If there is an acquisition to which paragraph (1) (A) or (B) applies—

"(i) the statutory period for the assessment of any deficiency attributable to any part of the gain recognized under this subsection by reason of such acquisition shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) that such acquisition occurred, and

"(ii) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

"(A) providing for the application of this subsection where there is more than 1 controlled corporation,

"(B) treating 2 or more distributions as 1 distribution where necessary to prevent the avoidance of such purposes, and

"(C) providing for the application of rules similar to the rules of subsection (d)(6) where appropriate for purposes of paragraph (2)(B)."

(b) SECTION 355 NOT TO APPLY TO CERTAIN INTRAGROUP TRANSACTIONS.—Section 355 of the Internal Revenue Code of 1986, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(f) SECTION NOT TO APPLY TO CERTAIN INTRAGROUP TRANSACTIONS.—Except as provided in regulations, this section shall not apply to the distribution of stock from 1 member of an affiliated group filing a consolidated return to another member of such group, and the Secretary shall provide proper adjustments for the treatment of such distribution, including (if necessary) adjustments to—

"(1) the adjusted basis of any stock which—

"(A) is in a corporation which is a member of such group, and

"(B) is held by another member of such group, and

"(2) the earnings and profits of any member of such group."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after April 16, 1997.

(2) TRANSITION RULE FOR DISTRIBUTIONS FOLLOWED BY ACQUISITIONS.—The amendments made by subsection (a) shall not apply to any distribution after April 16, 1997, if such distribution is—

(A) made pursuant to a written agreement which was (subject to customary conditions) binding on such date and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission required solely by reason of the distribution.

This paragraph shall not apply to any written agreement, ruling request, or public announcement or filing unless it identifies the acquirer of the distributing corporation or any controlled corporation, whichever is applicable.

JOINT INTRODUCTORY STATEMENT OF SENATORS ROTH AND MOYNIHAN

BACKGROUND

Several recent news reports describe corporate acquisition transactions in which one corporation distributes the stock of one—or more—of its subsidiaries to its shareholders—in a so-called spin-off—and, pursuant to a pre-arranged plan, either the distributed subsidiary or the old parent corporation is acquired by another, unrelated corporation. Often, the corporation that is to be acquired borrows or assumes a large amount of debt incurred prior to the spin-off, while the proceeds of such indebtedness are retained by the other corporation.

For Federal income tax purposes, the initial distribution generally is tax free pursuant to section 355 of the Internal Revenue Code and the subsequent acquisition is tax free pursuant to one of the various reorganization provisions described in section 368. Such positions are consistent with the holding in the case of Commissioner v. Mary Archer W. Morris Trust, 367 F.2d 794 (4th Cir. 1966) and published IRS rulings.

Congress did not intend that section 355 apply to insulate these transactions from tax. Section 355 was intended to permit tax free restructurings of several businesses among existing shareholders, with limitations to prevent the bail-out of corporate earnings and profits to the shareholders as capital gains. The recent transactions that raise concerns have very little to do with individual shareholder tax planning. Rather, they are pre-arranged structures designed to avoid corporate-level gain recognition. In essence, these transactions resemble sales.

Today's introduced legislation is intended to treat transactions occurring after April 16, 1997, the general effective date of the bill, as sales at the corporate level.

A technical explanation of the legislation is provided below. This legislation affects complex transactions and additional or alternative legislative changes also may be appropriate. For example, it may be appropriate to amend or repeal present-law section 355(d), and to treat certain asset acquisitions as stock acquisitions. Written comments on the issues raised by this bill are welcome.

DESCRIPTION OF PROPOSAL

Acquisitions of distributing or controlled corporations pursuant to plan

The proposal would adopt additional restrictions under section 355. Under the proposal, if pursuant to a plan or arrangement in existence on the date of distribution, either the controlled or distributing corporation is acquired, gain would be recognized by the other corporation as of the date of the distribution.

Whether a corporation is acquired would be determined under rules similar to those of present-law section 355(d), except that acquisitions would not be restricted to purchase transactions. Thus, an acquisition would occur if a person—or persons acting in concert—acquired more than 50 percent of the vote or value of the stock of the controlled or distributing corporation pursuant to a plan or arrangement. For example, assume a corporation ("P") distributes the stock of its wholly-owned subsidiary ("S") to its shareholders. If, pursuant to a plan or arrangement, either P or S is acquired, the proposal would apply to require gain recognition by the corporation not acquired. It is anticipated that certain asset acquisitions would be treated as stock acquisitions.

Acquisitions occurring within the 4-year period beginning 2 years before the date of distribution would be presumed to have occurred pursuant to a plan or arrangement. Taxpayers could avoid gain recognition by showing that an acquisition occurring during this 4-year period was unrelated to the distribution.

In the case of an acquisition of the controlled corporation, the amount of gain recognized by the distributing corporation would be the amount of gain that the distributing corporation would have recognized had the stock of the controlled corporation been sold for fair market value on the date of distribution. In the case of an acquisition of the distributing corporation, the amount of gain recognized by the controlled corporation would be the amount of net gain that the distributing corporation would have recognized had it sold its assets for fair market value immediately after the distribution. This gain would be treated as long-term capital gain. No adjustment to the basis of the stock or assets of either corporation would be allowed by reason of the recognition of the gain.

The proposal would not apply to a distribution pursuant to a title 11 or similar case.

The Treasury Department would be authorized to prescribe regulations as necessary to carry out the purposes of the proposal, including regulations to provide for the application of the proposal in the case of multiple distributions.

Treatment of distributions within affiliated groups

Except as provided in Treasury regulations, section 355 would not apply to a distribution of stock of one member of an affiliated group of corporations filing a consolidated return to another member. In the case of a distribution of stock within an affiliated group, the Secretary of the Treasury would be instructed to provide appropriate rules for the treatment of the distribution, including rules governing adjustments to the adjusted basis of the stock and the earnings and profits of the members of the group.

EFFECTIVE DATE

The proposal would be effective for distributions after April 16, 1997, unless the distribution is: First, made pursuant to a written agreement with an acquirer which was (subject to customary conditions) binding on or before such date and at all times thereafter; second, described in a ruling request that identifies the acquirer and is submitted to the IRS on or before such date; third, described in a Securities and Exchange Commission ("SEC") filing made on or before such date, to the extent such filing was required to be made on account of the distribution and identifies the acquirer; or fourth, described in a public announcement that identifies the acquirer on or before such date. The exceptions for written agreements, IRS ruling requests, SEC filings, and public announcements would not apply to distributions of stock within a consolidated group of corporations.

By Mr. THOMPSON (for himself and Mr. FRIST):

S. 613. A bill to provide that Kentucky may not tax compensation paid to a resident of Tennessee for certain services performed at Fort Campbell, KY; to the Committee on Finance.

FORT CAMPBELL TAX FAIRNESS ACT OF 1997

Mr. THOMPSON. Mr. President, today I am introducing legislation to provide much-needed tax relief to the residents of my State who are employed as civilians on Fort Campbell, KY. These Clarksville area Tennesseans are hard working citizens who, I believe, are being taxed unfairly by the Commonwealth of Kentucky.

Fort Campbell is the home of the Army's famous 101st Airborne Division. This installation straddles the border between Tennessee and Kentucky. In fact, 80 percent of it lies within the State of Tennessee. But because the post office is located on the Kentucky side of the base, it is best known to most people as Fort Campbell, KY.

Civilian residents of both Tennessee and Kentucky are employed by the Federal Government to perform important nonmilitary functions at Fort Campbell. Approximately 2,000 of the Tennesseans who work on post are employed on the Kentucky side in the schools, at the post office, at the post exchange, and on the primary airfield. Unfortunately, these Tennesseans are forced to pay income tax to the Commonwealth of Kentucky of up to 6 percent of their wages, in addition to the sales and excise taxes they pay to their home State of Tennessee.

Because the State of Tennessee does not have an income tax, Kentuckians employed on the Tennessee side of Fort Campbell do not pay income tax to the State of Tennessee. Nor are Kentuckians required to pay Tennessee sales tax on Fort Campbell. All of the facilities on the Tennessee side of Fort Campbell to which Kentuckians have access, the KFC and the Taco Bell, for example, are exempt from State sales tax. It is only when a Kentucky resident leaves post that he or she becomes subject to Tennessee sales tax on purchases made in the State.

Mr. President, I believe it is unfair of Kentucky to impose income tax on Tennesseans, because Tennesseans who work on the Kentucky side of Fort Campbell do not consume any services provided by the Commonwealth. Fort Campbell is a Federal installation. All emergency fire, police, and medical services on post are provided by the Federal Government, not the Commonwealth of Kentucky. All roads on Fort Campbell, both on the Kentucky and the Tennessee side, are maintained by the Federal Government. Water and sewer services are paid for by the Federal Government. If a Tennessean who worked on the Kentucky side of Fort Campbell were laid off, he or she would not be eligible to obtain unemployment benefits from Kentucky, despite the fact that he or she had been paying income tax to the Commonwealth of Kentucky. Finally, Tennesseans have no voice in the Kentucky legislature to affect change to this law. Tennesseans are being unfairly taxed without the benefit of representation—a principle anathema to this country. As I see it, the Commonwealth of Kentucky is receiving free money from residents of Tennessee who work on a Federal installation that happens to border their State.

And although Kentucky likes to argue that the residents of Clarksville are not forced to work on the Kentucky side of Fort Campbell, employees are often moved on the base where a change of buildings means a change of State. A Tennessean forced to move into a Fort Campbell job across the border takes an automatic pay cut of up to 6 percent—just for moving across the street. This situation has been the cause of significant morale problems at Fort Campbell. According to Kentucky, however, those employees can escape paying the income tax by quitting their jobs. I find this alternative an unacceptable one. It is for this reason that I am introducing legislation to prohibit Kentucky from imposing its income tax on these Tennesseans employed either by the Federal Government or by a contractor with the Federal Government at Fort Campbell. I am pleased to be joined by my colleague, Senator FRIST. Congressman ED BRYANT has introduced the similar legislation in the other body.

Let me provide some history on this issue. According to legislation enacted by Congress in 1940, the Commonwealth of Kentucky is permitted to impose its income tax on Federal employees working in the State. This legislation, the Buck Act, repealed a prior law prohibiting States from imposing income tax on individuals who live or work on Federal property. However, Congress has also granted exemptions from State income tax to classes of Federal employees based on their obvious special circumstances: military personnel and Members of Congress and their employees. In addition, Congress enacted legislation in 1990 to exempt Amtrak employees from State taxation in the States in which they do not reside but through which they travel while working. Congress intended these exemptions to provide relief from inequitable situations. The Tennesseans employed at Fort Campbell also merit an exemption.

Mr. President, I firmly believe that a State has the right to raise revenue in whatever manner its residents believe is most appropriate. In the case of Tennessee, residents have chosen sales and excise taxes to fund their cost of government—only one of six States in the United States without an income tax. But it should be noted that Kentucky has entered into reciprocal tax agreements with surrounding income tax States to ensure that Kentuckians are treated fairly. Unfortunately, Kentucky has refused to negotiate any type of reciprocal tax agreement with Tennessee, because it knows it has Tennesseans over a barrel. Prohibiting the Commonwealth of Kentucky from taxing Tennesseans working on the Kentucky side of Fort Campbell is the best way to resolve this inequitable situation.

During this week in April Americans are reminded of their obligations to government. I believe that Americans are willing to pay their fair share of taxes, but citizens should not be expected to pay tax to a government from which they receive nothing and in which they have no voice.

THE FORT CAMPBELL TAX FAIRNESS ACT OF 1997

Mr. FRIST. Mr. President, I rise today to join my friend, colleague, and senior Senator from Tennessee, FRED THOMPSON, to introduce the Fort Campbell Tax Fairness Act of 1997.

We are introducing this legislation today to rectify a tax injustice imposed on Tennessee residents at Fort Campbell in northwest Tennessee. Fort Campbell, a 105,000-acre military installation that serves as America's premier power projection platform, straddles the border of Tennessee and Kentucky. Under current law, about 2,000 Tennesseans who work on the Kentucky side of Fort Campbell are forced to pay income tax to Kentucky—even though they receive no benefits or services from the Kentucky State government.

They cannot send their children to Kentucky public schools. In an emergency, these residents cannot use Kentucky fire, ambulance, and police services. Tennesseans who want to attend a Kentucky public university must pay out-of-State tuition. Tennesseans who want to hunt and fish in Kentucky must pay out-of-State rates for licenses. Most importantly, these Tennesseans who are paying Kentucky income taxes cannot vote in Kentucky elections. I consider this inherently unfair situation a case of "taxation without representation"—violating a fundamental principle of our American Revolution.

Our bill, like its bipartisan companion in the House introduced by Representatives ED BRYANT and JOHN TANNER, simply provides that Kentucky may not tax compensation paid to Tennessee Federal workers and contractors working on the Kentucky side of Fort Campbell. I look forward to working with Senator THOMPSON and other members of the Tennessee delegation to enact this bill into law.

By Mr. BREAUX (for himself and Mr. D'AMATO):

S. 614. A bill to amend the Internal Revenue Code of 1986 to provide flexibility in the use of unused volume cap for tax-exempt bonds, to provide a $20,000,000 limit on small issue bonds, and for other purposes; to the Committee on Finance.

TAX-EXEMPT BONDS LEGISLATION

Mr. BREAUX. Mr. President, I rise today with Mr. D'AMATO to introduce legislation that will improve the use of tax-exempt bonds as a financing mechanism for small manufacturing facilities and other important uses.

The first thing our bill does is give States more flexibility under the annual $50 per capita or $150 million cap. Under current law, if the State designates bond money for a project and, for whatever reason, that project is not started in 3 years the State cannot put the bond money toward another project. This bill would allow States to reallocate that bond money to another type of project needed elsewhere in the State.

In addition, the $10 million limit on capital expenditures a company can maintain and still qualify for this industrial bond money would increase to $20 million under our bill. The increase reflects the effects of inflation since 1978, when the program was first created and also corrects for future effects of inflation on a company's real worth.

Finally, our bill would further clean up an omission in the current law. The 3-year carryover provision does not apply to small manufacturing facilities. In researching current law, it appears that denying carryover to manufacturing facilities is nothing more than an oversight. The legislation that we are introducing today will correct this error and allow Governors the flexibility to allow tax-exempt authority for manufacturing facilities to be carried over for 3 years in the same way as other activities allocated tax-exempt bonds.

Tax-exempt bonds are essential for States to finance industrial development projects, ranging from small manufacturing facilities to pollution control and resource recovery facilities. Our legislation would help States fund industrial development and better allocate their scarce tax-exempt bond authority.

I hope my colleagues will join me in cosponsoring this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 614

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. UNLIMITED 3-YEAR CARRYFORWARD OF UNUSED VOLUME CAP FOR BONDS, INCLUDING SMALL ISSUE BONDS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 146(d) of the Internal Revenue Code of 1986 (relating to State ceiling) are amended to read as follows:

"(1) IN GENERAL.—The State ceiling applicable to any State for any calendar year is an amount equal to the sum of—

"(A) the current year State ceiling of such State, plus

"(B) the unused State ceiling (if any) of such State for the preceding 3 calendar years.

"(2) CURRENT YEAR STATE CEILING.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The current year State ceiling of any State for any calendar year is an amount equal to the greater of—

"(i) an amount equal to $50 multiplied by the State population, or

"(ii) $150,000,000.

"(B) APPLICATION TO POSSESSIONS.—Clause (ii) of subparagraph (A) shall not apply to any possession of the United States.

"(3) UNUSED STATE CEILING.—For purposes of paragraph (1), the unused State ceiling of any State for any calendar year is the excess (if any) of the State ceiling of such State for such calendar year over the aggregate State ceiling allocated by the State for such calendar year.

"(4) RULES OF APPLICATION.—For purposes of paragraph (1), with respect to any calendar year—

"(A) the current year State ceiling shall be fully allocated before the allocation of the unused State ceiling, and

"(B) unused State ceiling shall be allocated in the order of the calendar years in which the unused State ceiling arose.".

(b) CONFORMING AMENDMENT.—Section 146(f)(1)(A) of the Internal Revenue Code of 1986 (relating to elective carryforward of unused limitation for specified purpose) is amended by inserting "and before 1998" after "after 1985".

(c) EFFECTIVE DATE; SPECIAL ELECTION.—

(1) EFFECTIVE DATE.—The amendments made by this section apply to the State ceiling for calendar years after 1997.

(2) SPECIAL ELECTION.—Notwithstanding section 146(f) of the Internal Revenue Code of 1986, within 120 days after the date of enactment of this Act, the person or entity responsible for allocating the State ceiling may irrevocably elect to treat (with the consent of each allocation recipient) such portion of the carryforwards elected under section 146(f) of such Code for the 3 calendar years ending in 1997 as unused State ceiling under section 146(d)(1) of such Code (as amended by this section).

SEC. 2. $20,000,000 CAPITAL EXPENDITURE LIMIT ON QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (A) of section 144(a)(4) of the Internal Revenue Code of 1986 (relating to $10,000,000 limit in certain cases) is amended by inserting "in excess of $10,000,000" after "amount of capital expenditures".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to—

(1) obligations issued after the date of the enactment of this Act, and

(2) capital expenditures made after such date with respect to obligations issued on or before such date.

By Mr. CHAFEE (for himself, Mrs. FEINSTEIN, Mr. D'AMATO, Mr. LIEBERMAN, Mr. DEWINE, Mr. MOYNIHAN, and Ms. MIKULSKI):

S. 615. A bill to amend the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide for continued eligibility for supplemental security income and food stamps with regard to certain classifications of aliens; to the Committee on Finance.

THE FAIRNESS FOR LEGAL IMMIGRANTS ACT OF 1997

Mr. CHAFEE. Mr. President, today Senators FEINSTEIN, D'AMATO, LIEBERMAN, DEWINE, MOYNIHAN, and MIKULSKI and I are introducing legislation to protect legal immigrants who are facing the loss of critical SSI and food stamp benefits later this summer.

Now that the welfare bill has become law, the crisis facing many legal immigrants, especially the elderly and disabled, is all too evident. For those legal immigrants who face the loss of assistance in August and September, the outlook is grim.

The bill we are introducing focuses on the plight of these legal immigrants. First, our bill grandfathers all legal immigrants who were receiving SSI or food stamp benefits as of August 22, 1996, the date the President signed the welfare bill. Second, our bill grandfathers those refugees who were in the country on August 22, 1996, regardless of whether they were receiving benefits.

Why this approach? To us, it is a matter of fundamental fairness. That is the principle that underlies our bill. We believe that those who were in this country and playing by the rules should not have the rules suddenly changed out from under them. As for refugees, we provide them a slightly broader provision, since unlike other immigrants they do not have sponsors and they come here to flee persecution.

This is a matter of great importance to the residents in the States represented before you today. In my own State, a significant percentage of our total population is immigrants, indeed, measured in those terms, Rhode Island is one of the top immigrant States in the country. Some 10,000 legal immigrants in my State rely on SSI and food stamp benefits, quite a lot by RI standards.

We believe that our approach is a reasonable, commonsense proposal that will appeal to Members on both sides of the aisle and that can be enacted this year. By introducing this bipartisan bill today, we hope to signal to our colleagues the seriousness of our concern and the strength of our resolve. We intend to fight for passage of this bill, and we have every expectation of meeting with success.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the text of my statement be submitted in the RECORD at the appropriate place.

The welfare reform law that passed last year will have an adverse impact on legal immigrants who are elderly and disabled, the most vulnerable of our population.

That is why I am joining my colleagues, Senators CHAFEE, FEINSTEIN, MOYNIHAN, DEWINE, LIEBERMAN and MIKULSKI in introducing this legislation to protect vulnerable legal immigrants who are facing a loss of their supplemental security income [SSI] and food stamp benefits this August.

Now that the welfare reform law is being implemented, with nearly 900,000 SSI recipients nationwide receiving preliminary noncitizen status notices of the changes in the law, there has emerged a crisis facing legal immigrants who are elderly and disabled.

The Social Security Administration has estimated that these welfare reform changes may result in 434,000 legal immigrants actually losing SSI benefits.

Of the 80,000 legal immigrants at risk of losing their SSI benefits in New York State, roughly 70,000 are in New York City. New York City also expects that more than 130,000 legal immigrants currently receiving food stamps will lose those benefits by 1998.

The bill we are introducing will grandfather those immigrants who were receiving SSI or food stamp benefits as of August 22, 1996, the date of enactment of the Welfare bill. And it will grandfather refugees and asylees who were in this country as of August 22, 1996.

This bill is about making sure that some of the most vulnerable people, the elderly and the disabled, are not pushed out of the SSI and Food Stamp Programs.

The people of America recognize that many people who are elderly and disabled are in fact unable at times to take care of themselves without assistance through no fault of their own. To turn our back on these people would be cruel and not in keeping with our Nation's tradition of supporting those in need.

Refugees who have been granted political asylum also merit that extra consideration that comes from leaving one's own country under duress searching for freedom and a new way of life. They also need a hand up and that too is in the great and long tradition of America.

This is not a welfare bill, it is a bill of fundamental fairness and compassion. These people came to the United Sates and have been living under our laws for years. It is unfair to change the rules on them suddenly. That is the crux of this bill.

This isn't just a matter of statistics and hypothetical situations of what might happen. There are real people out there, and you can be sure that they are going to get hurt if we do nothing. We are not going to let that happen.

We want to work with our colleagues to pass a bill that will not put the elderly and the disabled out on the streets.

Mrs. FEINSTEIN. Mr. President, when Congress approved and the President signed the comprehensive welfare reform legislation last year, it was clear to many that it was not a perfect bill.

I, along with many of my colleagues expressed grave concern about a number of provisions that will have a devastating impact, not only on States and counties in terms of a huge cost shift, but on the lives and well-being of many elderly and disabled people—people who are now dependent upon public assistance for their survival.

The provision denying supplemental security income [SSI] and food stamps to virtually all legal immigrants who are noncitizens, even those who are elderly and disabled, who cannot support themselves, who have no sponsor or other means of support, such as refugees, in my view, is one of the most egregious flaws in that bill, and one of the main reasons why I voted against its passage.

Today, Senator CHAFEE and I, along with Senators D'AMATO, MOYNIHAN, DEWINE, LIEBERMAN, and MIKULSKI are offering legislation to correct this flaw.

The Fairness for Legal Immigrants Act of 1997 would grandfather in from the ban on SSI and food stamps: those elderly and disabled legal permanent residents who were receiving SSI and food stamps on or before August 22, 1996 and, those refugees who were in the country as of August 22, 1996.

This legislation prohibits SSI and food stamps for legal permanent residents who are not refugees and who were not receiving SSI and food stamps as of August 22, 1996.

This legislation also prohibits SSI and food stamps for all legal permanent residents and refugees coming to this country following the date of enactment of the Welfare Reform Bill, August 22, 1996.

Mr. President, to not correct this flaw in the bill represents an enormous unfunded mandate to States and counties by simply shifting the cost of caring for the seriously ill, disabled, and elderly legal immigrants who are destitute and have no other way to survive.

As I speak, SSA is sending out 125,000 SSI ban notices per week, to 800,000 legal immigrants who are on SSI nationwide. SSA estimates that more than 62.5 percent or 500,000 people currently receiving SSI benefits nationwide will lose their benefits under the current law—more than 40 percent, 205,000 of them in California. Many of these elderly and disabled legal immigrants have no family or friends to turn to for support and will become completely destitute. Their only recourse will be county general assistance programs or, at worst, homeless shelters.

Let me give you an example from my home State:

My staff met with a 73-year-old legal immigrant on SSI. She was welcomed to this county from Vietnam in 1980. She was a refugee from communism with no family in the United States. She speaks no English and she is suffering from kidney failure. She requires dialysis three times a week. Under this new law, this 73-year-old woman will lose SSI, her only source of support. Her well-being will become the responsibility of the county.

I am the first to acknowledge that prior to welfare reform, there was abuse of the SSI program in this country. Elderly noncitizens could collect SSI, even if they lived with their children, as long as they claimed to be financially independent from the children.

And the number of noncitizens receiving SSI has skyrocketed at a disproportionate rate to that of citizens. The number of noncitizens collecting SSI increased 477 percent in 14 years, from 1980 to 1994, while the number of U.S. citizens receiving SSI increased 33 percent during that same period.

Although I strongly support efforts to hold sponsors accountable for the support of legal immigrants they bring into the country, the welfare reform bill passed by Congress simply went too far. It banned SSI and food stamps for virtually all legal immigrants, even those whose sponsors cannot afford to support them, or who have no sponsors at all.

The current welfare reform bill will not just eliminate fraudulent cases from the SSI rolls. It will eliminate truly needy people like the 73-year-old elderly refugee. Surely, it was not the intent of this Congress to leave elderly, disabled, and destitute people with nowhere to go to except county relief or the streets.

If we do not revise the welfare ban for legal immigrants the financial costs to States and counties will be enormous, and the human toll even greater:

Los Angeles County estimates that 93,000 legal immigrants in its county will lose SSI benefits at a cost of up to $236 million a year to the county.

San Francisco estimates that 20,000 legal noncitizens may turn to the county's general assistance program, at a total cost of up to $74 million annually.

I believe this body must finish what it started last year. In this time of budgetary constraints where tough choices have to be made, we must act with prudence and compassion toward those who truly have no one to turn to, while at the same time preserving portions of the savings needed to balance the budget and enact meaningful reform.

I urge my colleagues to support this legislation.

Mr. President, I ask that the SSA table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

NUMBERS OF SSI RECIPIENTS RECEIVING PRELIMINARY NONCITIZEN STATUS NOTICES BY STATE, NUMBERS OF SSI RECIPIENTS CODED AS NONCITIZENS BY CATEGORY BY STATE, AND NUMBER OF SSI RECIPIENTS RECEIVING TYPE II NOTICES BY STATE

State	Notices		Noncitizens recipients on SSI	
	All[1]	Type II[2]	LAPR	Refugees[3]
Alabama	9.800	9,215	502	123
Alaska	757	117	569	95
Arizona	8,511	2,979	6,318	1,295
Arkansas	4,958	4,569	335	96
California	310,409	76,356	206,038	80,803
Colorado	6,149	1,898	3,353	1,426
Connecticut	5,071	1,111	3,440	1,009
Delaware	665	334	275	55
D.C	1,473	769	741	127
Florida	77,560	21,999	52,489	15,921
Georgia	13,794	9,474	3,235	1,366
Hawaii	4,616	1,026	3,461	554
Idaho	811	405	364	144
Illinois	27,446	6,783	16,233	6,769
Indiana	2,874	1,749	904	304
Iowa	2,055	1,053	631	454
Kansas	1,928	608	979	412
Kentucky	4,781	4,028	439	357
Louisiana	8,694	6,550	2,002	536
Maine	1,500	1,039	318	191
Maryland	9,645	2,456	5,424	2,087
Massachusetts	27,171	7,782	16,184	7,383
Michigan	12,136	5,232	5,364	2,069
Minnesota	8,025	1,529	3,319	3,362
Mississippi	8,232	7,852	363	72
Missouri	4,971	3,141	996	872
Montana	462	302	103	75
Nebraska	1,023	427	402	238
New Hampshire	510	187	264	100
New Jersey	25,918	6,403	18,918	3,244
New Mexico	4,412	2,195	3,049	360
New York	125,919	28,583	81,701	32,917
North Carolina	9,645	7,468	1,659	627
North Dakota	429	314	66	70
Ohio	9,298	4,281	3,074	2,228
Oklahoma	4,785	3,743	923	243
Oregon	5,511	1,323	2,547	1,952
Pennsylvania	17,176	6,579	6,485	4,737
Rhode Island	3,755	1,194	2,640	724
South Carolina	6,119	5,535	505	124
South Dakota	504	337	56	115
Tennessee	8,952	7,622	968	426
Texas	66,750	31,421	50,434	5,772
Utah	1,753	389	995	503
Vermont	543	385	110	73
Virginia	10,336	3,830	5,247	1,500
Washington	15,583	2,622	7,579	6,242
West Virginia	1,316	1,181	118	23
Wisconsin	7,472	2,562	2,591	2,490
Wyoming	144	97	41	77
Totals	895,204	299,817	526,695	193,142

[1] Number of notices differs from number of noncitizens recipients because some SSI recipients' records do not contain information about their citizenship status (Type II notices) plus some of those designated as noncitizens did not receive notices because SSA records indicated that they met certain exemption from the ban on eligibility. Number reflects status as of 1/31/97.

[2] Type II notice are those mailed to recipients whose records do not contain information on citizenship status as of 1/31/97. These recipients were on the SSI roles prior to 1978 when this information began to be verified in SSA records.

[3] Category includes refugees, asylees, and other noncitizen recipients currently shown in SSA's records as permanently residing in the U.S. status as of 2/20/97.

By Mr. ALLARD:

S. 616. A bill to amend titles 23 and 49, United States Code, to improve the designation of metropolitan planning organizations, and for other purposes; to the Committee on Environment and Public Works.

THE METROPOLITAN PLANNING ORGANIZATIONS REFORM ACT OF 1997

Mr. ALLARD. Mr. President, today I am introducing legislation that will reform the relationship between central cities and their outlying areas in terms of distribution of highway funds. This issue was brought to my attention by one county in my State and they were quickly joined by several others who feel they have been treated unfairly in their MPO.

The current law governing MPO's is the 1991 Intermodal Service Transportation and Efficiency Act. This legislation established the planning powers of MPO's and also set standards for membership and qualifications for leaving MPO's. A number of counties in my State have indicated they are unhappy in their particular MPO and would like to leave. However, current law prohibits this.

One case in particular that has been brought to my attention is Douglas County's experience since 1991. Douglas County is directly south of Denver and is the fastest growing county in the Nation. Furthermore, they are a linkage county connecting Denver and Colorado Springs, which makes Douglas County's transportation needs tremendous. To meet these needs they have attempted to work with their MPO to receive an equitable share of funds. Douglas County has demonstrated that these attempts have failed, while they are 5.27 percent of their MPO, over the years their funding has been .35 percent for the fiscal year 1993–1995 cycle, 1.2 percent for the fiscal year 1995–1997 cycle, and .4 percent of the fiscal year 1997–1999 cycle. Clearly, there is a problem with how these funds are being distributed.

This issue cannot be dismissed as a one county problem either. In the Denver regional county of governments MPO [DRCOG], with the exception of Denver County, I have received letters from every county supporting the legislation I am introducing today.

This legislation would lower the barrier for disaffected parties that would like to create their own MPO or join an adjacent MPO. This legislation eliminates the 75 percent of the effected population threshold to leave necessary in current law, and lowers that to 50 percent. Furthermore, it would eliminate the central city veto authority.

This legislation will have no effect on those who are content with their MPO. Nor will this legislation have any impact on central cities that have worked with their MPO members equitably. It will only impact those areas where counties are being held in a relationship they feel is unfair. It's my hope that in future deliberations on transportation matters we can address and resolve this issue.

By Mr. JOHNSON (for himself, Mr. CRAIG, Mr. DASCHLE, Mr. BURNS, and Mr. BAUCUS):

S. 617. A bill to amend the Federal Meat Inspection Act to require that imported meat, and meat food products containing imported meat, bear a label identifying the country of origin; to the Committee on Agriculture, Nutrition, and Forestry.

THE IMPORTED MEAT LABEL ACT OF 1997

Mr. JOHNSON. Mr. President, I am pleased today to introduce legislation that would require that imported meat and meat food products containing imported meat be labeled for country of origin so that consumers can make the choice to buy meat produced from livestock raised on American ranches and farms. This act would require that these products be labeled for country of origin prior to their sale at the retail level in the United States.

Senator CRAIG, Senator DASCHLE, Senator BURNS, and Senator BAUCUS join me today in introducing this needed policy change. I welcome and applaud their support. I would also point out to my colleagues the support this legislation has received from the National Farmers Union, the American Farm Bureau Federation, the National Cattlemen's Beef Association, and the

American Sheep Industry. From my State, this legislation is supported by the South Dakota Farmers Union, South Dakota Farm Bureau, South Dakota Livestock Auction Markets Association, and the South Dakota Cattlemen's Association. I hope that other Senators join us in support of this measure and help us to quickly pass this bill.

America's livestock producers are proud of their record of producing quality meat and meat food products from American raised livestock. While labeling products from other industries for country of origin is commonplace, imported meat and meat food products containing imported meat are often not labeled at all. With the passage of the Canadian Free-Trade Agreement, NAFTA, and GATT, we are moving toward more imported meat. Exports of American meat are high quality, value added items that American exporters are proud to advertise as American produced. On the other hand, meat imports into the United States tend to be of lower quality and importers generally do not advertise the country of origin.

American consumers deserve to know the source of their meat and meat food products. The legislation that my colleagues and I are introducing will allow America's consumers to know the source of their meat and meat food products. Considering that food safety and the wisdom of production systems in other countries are concerns that consumers consistently have, this legislation allows the competitive free market to determine the prices and demand for imported meat and meat food products.

Finally, American taxpayers have invested heavily in our food safety system—and it is undoubtedly the safest in the world. It just makes good sense for these same taxpayers and consumers to know the origin of the meat they buy.

Mr. President, I ask unanimous consent to have the complete text of the legislation printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 617

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Imported Meat Labeling Act of 1997".

SEC. 2. COUNTRY OF ORIGIN LABELING OF IMPORTED MEAT AND MEAT FOOD PRODUCTS.

(a) LABELING REQUIRED.—Section 1(n) of the Federal Meat Inspection Act (21 U.S.C. 601(n)) is amended by adding at the end the following:

"(13)(A) If it is imported into the United States unless it bears or is accompanied by labeling that identifies the country of origin of the animal that is the source of the imported carcass, part thereof, or meat or is part of the contents of the imported meat food product.

"(B) If it originates from an animal that was imported into the United States less than 10 days prior to slaughter unless it bears or is accompanied by labeling that identifies the country of origin of the animal.

"(C) If it is a meat food product prepared in the United States using any carcass, part thereof, or meat imported into the United States unless the meat food product bears or is accompanied by labeling that identifies the country of origin of the animal that is the source of the imported carcass, part thereof, or meat.

"(D) In this paragraph, the term 'country of origin' means the country or countries in which an animal is raised before slaughter."

(b) CONFORMING AMENDMENTS.—Section 1(n) of the Federal Meat Inspection Act is amended—

(1) by striking "if" at the beginning of each of paragraphs (1) through (12) and inserting "If";

(2) by striking the semicolon at the end of each of paragraphs (1) through (10) and inserting a period, and

(3) in paragraph (11), by striking "; or" at the end and inserting a period.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.

Mr. CRAIG. Mr. President, I am pleased to join my colleague from South Dakota today as an original cosponsor of the Imported Meat Labeling Act of 1997. This act would require the labeling of imported meat and meat products prior to their sale at a retail level in the United States.

For the record, I want my colleagues to know that this type of action is legal under the terms of our GATT Agreement. In addition, a number of groups have policy that support this type of measure including the American Farm Bureau, National Cattlemen's Beef Association, and the American Sheep Industry.

Again, I commend Senator JOHNSON for introducing the Imported Meat Labeling Act of 1997 and Senator BURNS from Montana for his additional efforts on this topic. I hope that other Senators will join us in support of this measure. I would pledge my support of addressing any legitimate concerns that this legislation might raise and ask in return that we seek quick resolution and passage of this bill.

One legitimate concern with this legislation is the treatment of Canadian cattle that are slaughtered in the United States. Concern along the northern tier States that border Canada is high among all areas of Canadian trade. Producers in these States might ask how cattle that are born in Canada, fed in Canada, but shipped to the United States for slaughter would be labeled. Realistically, these animals are Canadian and the beef produced from them should be labeled as such. However, if the legal interpretation is different, I state my willingness for the record to amend this legislation and address this type of concern.

Mr. BURNS. Mr. President, I rise today to sponsor a bill being introduced by myself, Mr. CRAIG, and Mr. JOHNSON on an issue of great importance to my State and the agricultural industry in Montana. The issue is that of labeling meat coming into America from other countries.

We are offering today language, which will require all meat products that come from a foreign country to be labeled with the country of origin of that meat. This will allow all Americans to know and understand where the meat they are purchasing really comes from. This bill will protect the consumer as well as an industry which has had to face severe competition from foreign countries in recent years.

Today when shopping at the local grocery market, the American consumer is buying meat products without all the information they need to make an informed decision on the product they are purchasing. Our consumers go to the market and purchase meat products with no idea of where the meat they are buying comes from. Recent events in foreign countries have made this issue important to the retail consumer. Outbreak of disease and problems with the quality of foreign products makes it necessary that we provide our consumers with all the information they should have when making an informed decision about the food they are buying.

If we look at the vast majority of products that are imported into our country, we find that they are labeled with the country in which that product was produced. We have consumers that for numerous years have established a custom of purchasing only products with a Made in America label. It only seems right that we provide these same consumers with the information that will allow them to make the same intelligent decision when shopping for the food that they consume.

Our consumers today go to the market and buy meat products under the assumption that if it carries a USDA inspection and graded label that the meat they are purchasing comes from the United States. This, we have recently found out, can be far from the truth. Just carrying that label does nothing to inform the consumer that the hamburger they are purchasing is from this country.

As I stated earlier, recent outbreaks of disease in foreign countries has haunted our American meat producers. The public fears that the beef they are buying could be from a European country with a disease that has killed their citizens. Out breaks in meat and vegetable products leads Americans to fear the purchase of American meat and vegetables because they are under the assumption that the product is American in origin. This is not always the case. The recent outbreak of hepatitis found in strawberries is proof.

American agriculture provides the American consumer with the safest most reliable source of food and fiber in the world. With this in mind we then should be informing the American consumer that they really are purchasing American product or if they so chose product raised in a foreign country.

I am proud and very pleased to add my name to this bill and I look forward to moving this through the legislative process so we can give our consumers the information on meat that we have provided to them on other numerous consumer goods.

By Mr. SARBANES:

S. 618. A bill to amend the Federal Water Pollution Control Act to assist in the restoration of the Chesapeake Bay, and for other purposes; to the Committee on Environment and Public Works.

THE CHESAPEAKE BAY RESTORATION ACT OF 1997

By Mr. SARBANES:

S. 619. A bill to establish a Chesapeake Bay Gateways and Watertrails Network, and for other purposes; to the Committee on Environment and Public Works.

THE CHESAPEAKE BAY GATEWAYS AND WATERTRAILS ACT OF 1997

Mr. SARBANES. Mr. President, today I am introducing—along with a number of my colleagues—two measures to continue and enhance efforts to restore the Chesapeake Bay. Joining me in sponsoring one or both of these measures are my colleagues from Virginia, Pennsylvania, and Maryland, Senators WARNER, SANTORUM, ROBB, and MIKULSKI.

The Chesapeake Bay is one of the world's great natural resources. It is a world-class fishery that still produces a significant portion of the fin fish and shellfish catch in the United States.

It provides vital habitat for living resources, including more than 2,700 plant and animal species. It is a major resting area for migratory birds and waterfowl along the Atlantic flyway, including many endangered and threatened species.

As our Nation's largest estuary, the Chesapeake Bay is also key to the ecological and economic health of the mid-Atlantic region. The bay is a treasured asset for all our citizens, particularly for the nearly 15 million of us who live within the six State watershed. It is a one-of-a-kind recreational asset enjoyed by 9 million people, including many Members of this body.

The bay is also a major commercial waterway and shipping center for the region and much of the eastern United States. And it provides thousands of jobs for the people in this region. Certainly, we in Maryland regard the bay as a defining element in our State's history, and as a key to Maryland's quality of life.

Most people are aware of these and other dimensions of the bay. Certainly, our Nation's scientists are aware, and have consistently regarded the bay's protection and enhancement as an extremely important national objective.

When the bay began to experience serious unprecedented declines in water quality and living resources in recent decades, people in the region, including those in my State, suffered as well. We lost thousands of jobs in the fishing industry and much of the wilderness that defined the watershed.

We began to appreciate for the first time the profound impact that human activity could have on the Chesapeake Bay ecosystem. Untreated sewage, deforestation, toxic chemicals, farm runoff, and increased development resulted in a degradation of water quality and destruction of wildlife and its habitat.

Fortunately, over the last two decades we have also come to understand that humans can have a positive influence on the environment, and that we can, if we choose, assist nature to repair much of the damage which has been done.

We now treat sewage before it enters our waters, and even have a successful waste treatment pilot project here in Washington that utilizes state-of-the-art biological methods to significantly reduce nutrients entering the bay.

We banned toxic chemicals that were killing the wildlife, initiated programs to reduce nonpoint source pollution in the bay's tributaries, and we have taken aggressive steps to successfully restore the striped bass and other species.

We have undertaken the Nation's largest habitat restoration project on Poplar Island in the upper bay, and enacted legislation protecting the estuary from economically and ecologically harmful aquatic nuisance species.

The States of Maryland, Virginia, and Pennsylvania deserve much of the credit for undertaking many of the actions that have put the bay and its watershed on the road to recovery.

All three States have had major cleanup programs and have made significant commitments in terms of resources. The cleanup has remained an important priority item supported by Governors, State legislatures and the public. And a number of private organizations—the Chesapeake Bay Foundation and Alliance for the Chesapeake Bay come to mind—have done stellar work in this area.

But the Federal Government has played a critical catalyzing role in helping to bring about these successes. Without the Federal Clean Water Act, the Federal ban on DDT, and EPA's watershed-wide coordination of bay restoration and cleanup activities, we would not have been able to bring about the concerted effort, the real partnership, that is succeeding in improving bay water quality and in bringing back many fish and wildlife species that were on the verge of extinction.

The Chesapeake Bay is getting cleaner, but we cannot affort to be complacent. Ever increasing population and commercial stresses are imposed upon the bay. So we must not relax if we hope to maintain, and build upon, our past successes.

The first measure I am introducing today is designed to build upon our National Government's past role in the Chesapeake Bay Program, the highly successful Federal-State-local partnership to which I made reference, that so ably coordinates and directs efforts to restore the bay.

This legislation carries forward and enhances the role of the Environmetnal Protection Agency as the lead Federal agency committed to cleaning up the bay. It redoubles efforts to ensure wide compliance with Chesapeake Bay agreement goals, including habitat restoration and toxics reduction.

And it establishes a mechanism for EPA to further assist communities with local watershed restoration and protection projects in the bay and its tributaries. This is an especially important component of this measure. Let me spend a moment to explain why.

The initial stages of the bay cleanup focused on the mainstem bay. But it became increasingly clear that many of the bay's problems originate in the rivers and streams which flow into the bay. It also became obvious that we must expand efforts within these waters if we hope to achieve nutrient reductions and other improvements in the overall bay watershed.

The bay partners recognized this urgent need with 1992 and subsequent amendments to the Chesapeake Bay agreement that committed the bay partners to develop and implement tributary-specific strategies throughout the watershed, and the States are making tremendous progress in this regard.

It is clear that one of the most cost-effective ways to protect the rivers and streams in the watershed is to help, encourage and promote stewardship among citizens and others who have a direct stake in a specific local situation. After all, stewardship starts with the individual citizens who live in the watershed. And that is what this measure encourages by providing EPA with mechanisms to stimulate such local efforts.

The second measure I am introducing today would connect natural, historic, cultural, and recreational resources to create an innovative Chesapeake Bay Gateways and Watertrails Network throughout the mainstem bay and its tributaries.

The vast bay watershed contains many distinctive treasures that combine to tell a unique story about the evolvement of human settlement and culture within the area. Each region within the watershed is dotted with historic seaports, Federal and State parks, and other natural, cultural, or recreational sites.

Many residents of the bay are familiar with the rich resources within their particular region. Similarly, countless visitors to a particular segment of the watershed are exposed to selective sites, but receive only a limited if any introduction to similar resources throughout the entire bay. They learn little about the bay's collective cultural and natural history, and perhaps little about comprehensive bay cleanup efforts.

What we currently lack—and what this measure provides—is a mechanism that links these many valuable resources and sites throughout the watershed into a unified network of jewels of the Chesapeake.

This shared linkage and identity can improve access to the bay. It can further educate residents and visitors about this treasured resource.

It can boost the already substantial economic activity generated by tourism and recreation within the watershed, and it can entice additional residents within the watershed to play more active roles in the bay restoration effort.

This measure would accomplish these worthy goals in several ways. First, it authorizes and directs the Secretary of the Interior to identify and protect resources throughout the watershed, to identify these individual jewels as Chesapeake Bay Gateways, and to link them with trails, tour roads, scenic byways, and other sites.

Second, it directs the Secretary to develop and establish Chesapeake Bay Watertrails, consisting of important water routes, and connects these watertrails with gateways sites and other land resources to create a Chesapeake Bay Gateways and Watertrails Network. This network will guide residents and visitors alike along important water routes and the many land based resources within the watershed.

Third, this legislation authorizes the Secretary to provide technical and financial assistance to State and local partners for conserving and restoring these important resources throughout the watershed.

The Chesapeake Bay cleanup effort, and Federal-State efforts to protect related resources and to promote economic activity, have been major bipartisan undertakings in this body. The bay has been strongly supported by virtually all Members of the Senate, as evidenced by enactment of three of the five related measures introduced last session. I urge my colleagues to continue the momentum by supporting this legislation and contributing to the improvement and enhancement of one of our Nation's most valuable and treasured natural resources.

Mr. President, I ask unanimous consent that the Chesapeake Bay Restoration Act of 1997 and the Chesapeake Bay Gateways and Watertrails Act of 1997 be printed in the RECORD. I also ask unanimous consent that copies of letters from the Governor, State of Maryland, from the Chesapeake Bay Commission, from the Chesapeake Bay Foundation and from the Chesapeake Bay Local Government Advisory Committee be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chesapeake Bay Restoration Act of 1997".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Chesapeake Bay is a national treasure and a resource of worldwide significance;

(2) in recent years, the productivity and water quality of the Chesapeake Bay and the tributaries of the Bay have been diminished by pollution, excessive sedimentation, shoreline erosion, the impacts of population growth and development in the Chesapeake Bay watershed, and other factors;

(3) the Federal Government (acting through the Administrator of the Environmental Protection Agency), the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, the Governor of the Commonwealth of Pennsylvania, the Chairperson of the Chesapeake Bay Commission, and the Mayor of the District of Columbia have committed as Chesapeake Bay Agreement signatories to a comprehensive and cooperative program to achieve improved water quality and improvements in the productivity of living resources of the Bay;

(4) the cooperative program described in paragraph (3) serves as a national and international model for the management of estuaries; and

(5) there is a need to expand Federal support for monitoring, management, and restoration activities in the Chesapeake Bay and the tributaries of the Bay in order to meet and further the original and subsequent goals and commitments of the Chesapeake Bay Program.

(b) PURPOSES.—The purposes of this Act are—

(1) to expand and strengthen cooperative efforts to restore and protect the Chesapeake Bay; and

(2) to achieve the goals established in the Chesapeake Bay Agreement.

SEC. 3. CHESAPEAKE BAY.

Section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended to read as follows:

"CHESAPEAKE BAY

"SEC. 117. (a) DEFINITIONS.—In this section:

"(1) CHESAPEAKE BAY AGREEMENT.—The term 'Chesapeake Bay Agreement' means the formal, voluntary agreements executed to achieve the goal of restoring and protecting the Chesapeake Bay ecosystem and the living resources of the ecosystem and signed by the Chesapeake Executive Council.

"(2) CHESAPEAKE BAY PROGRAM.—The term 'Chesapeake Bay Program' means the program directed by the Chesapeake Executive Council in accordance with the Chesapeake Bay Agreement.

"(3) CHESAPEAKE BAY WATERSHED.—The term 'Chesapeake Bay watershed' shall have the meaning determined by the Administrator.

"(4) CHESAPEAKE EXECUTIVE COUNCIL.—The term 'Chesapeake Executive Council' means the signatories to the Chesapeake Bay Agreement.

"(5) SIGNATORY JURISDICTION.—The term 'signatory jurisdiction' means a jurisdiction of a signatory to the Chesapeake Bay Agreement.

"(b) CONTINUATION OF CHESAPEAKE BAY PROGRAM.—

"(1) IN GENERAL.—In cooperation with the Chesapeake Executive Council (and as a member of the Council), the Administrator shall continue the Chesapeake Bay Program.

"(2) PROGRAM OFFICE.—The Administrator shall maintain in the Environmental Protection Agency a Chesapeake Bay Program Office. The Chesapeake Bay Program Office shall provide support to the Chesapeake Executive Council by—

"(A) implementing and coordinating science, research, modeling, support services, monitoring, data collection, and other activities that support the Chesapeake Bay Program;

"(B) developing and making available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Chesapeake Bay;

"(C) in cooperation with appropriate Federal, State, and local authorities, assisting the signatories to the Chesapeake Bay Agreement in developing and implementing specific action plans to carry out the responsibilities of the signatories to the Chesapeake Bay Agreement;

"(D) coordinating the actions of the Environmental Protection Agency with the actions of the appropriate officials of other Federal agencies and State and local authorities in developing strategies to—

"(i) improve the water quality and living resources of the Chesapeake Bay; and

"(ii) obtain the support of the appropriate officials of the agencies and authorities in achieving the objectives of the Chesapeake Bay Agreement; and

"(E) implementing outreach programs for public information, education, and participation to foster stewardship of the resources of the Chesapeake Bay.

"(c) INTERAGENCY AGREEMENTS.—The Administrator may enter into an interagency agreement with a Federal agency to carry out this section.

"(d) TECHNICAL ASSISTANCE AND ASSISTANCE GRANTS.—

"(1) IN GENERAL.—In consultation with other members of the Chesapeake Executive Council, the Administrator may provide technical assistance, and assistance grants, to nonprofit private organizations and individuals, State and local governments, colleges, universities, and interstate agencies to carry out this section, subject to such terms and conditions as the Administrator considers appropriate.

"(2) FEDERAL SHARE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of an assistance grant provided under paragraph (1) shall be determined by the Administrator in accordance with Environmental Protection Agency guidance.

"(B) SMALL WATERSHED GRANTS PROGRAM.—The Federal share of an assistance grant provided under paragraph (1) to carry out an implementing activity under subsection (g)(2) shall not exceed 75 percent of eligible project costs, as determined by the Administrator.

"(3) NON-FEDERAL SHARE.—An assistance grant under paragraph (1) shall be provided on the condition that non-Federal sources provide the remainder of eligible project costs, as determined by the Administrator.

"(4) ADMINISTRATIVE COSTS.—Administrative costs (including salaries, overhead, and indirect costs for services provided and charged against projects supported by funds made available under this subsection) incurred by a person described in paragraph (1) in carrying out a project under this subsection during a fiscal year shall not exceed 10 percent of the grant made to the person under this subsection for the fiscal year.

"(e) IMPLEMENTATION GRANTS.—

"(1) IN GENERAL.—If a signatory jurisdiction has approved and committed to implement all or substantially all aspects of the Chesapeake Bay Agreement, on the request of the chief executive of the jurisdiction, the Administrator shall make a grant to the jurisdiction for the purpose of implementing the management mechanisms established under the Chesapeake Bay Agreement, subject to such terms and conditions as the Administrator considers appropriate.

"(2) PROPOSALS.—A signatory jurisdiction described in paragraph (1) may apply for a grant under this subsection for a fiscal year by submitting to the Administrator a comprehensive proposal to implement management mechanisms established under the Chesapeake Bay Agreement. The proposal shall include—

"(A) a description of proposed management mechanisms that the jurisdiction commits to take within a specified time period, such as reducing or preventing pollution in the Chesapeake Bay and to meet applicable water quality standards; and

"(B) the estimated cost of the actions proposed to be taken during the fiscal year.

"(3) APPROVAL.—If the Administrator finds that the proposal is consistent with the Chesapeake Bay Agreement and the national goals established under section 101(a), the Administrator may approve the proposal for a fiscal year.

"(4) FEDERAL SHARE.—The Federal share of an implementation grant provided under this subsection shall not exceed 50 percent of the costs of implementing the management mechanisms during the fiscal year.

"(5) NON-FEDERAL SHARE.—An implementation grant under this subsection shall be made on the condition that non-Federal sources provide the remainder of the costs of implementing the management mechanisms during the fiscal year.

"(6) ADMINISTRATIVE COSTS.—Administrative costs (including salaries, overhead, and indirect costs for services provided and charged against projects supported by funds made available under this subsection) incurred by a signatory jurisdiction in carrying out a project under this subsection during a fiscal year shall not exceed 10 percent of the grant made to the jurisdiction under this subsection for the fiscal year.

"(f) COMPLIANCE OF FEDERAL FACILITIES.—

"(1) SUBWATERSHED PLANNING AND RESTORATION.—A Federal agency that owns or operates a facility (as defined by the Administrator) within the Chesapeake Bay watershed shall participate in regional and subwatershed planning and restoration programs.

"(2) COMPLIANCE WITH AGREEMENT.—The head of each Federal agency that owns or occupies real property in the Chesapeake Bay watershed shall ensure that the property, and actions taken by the agency with respect to the property, comply with the Chesapeake Bay Agreement.

"(g) CHESAPEAKE BAY WATERSHED, TRIBUTARY, AND RIVER BASIN PROGRAM.—

"(1) NUTRIENT AND WATER QUALITY MANAGEMENT STRATEGIES.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in consultation with other members of the Chesapeake Executive Council, shall ensure that management plans are developed and implementation is begun by signatories to the Chesapeake Bay Agreement for the tributaries of the Chesapeake Bay to achieve and maintain—

"(A) the nutrient goals of the Chesapeake Bay Agreement for the quantity of nitrogen and phosphorus entering the main stem Chesapeake Bay;

"(B) the water quality requirements necessary to restore living resources in both the tributaries and the main stem of the Chesapeake Bay;

"(C) the Chesapeake Bay basinwide toxics reduction and prevention strategy goal of reducing or eliminating the input of chemical contaminants from all controllable sources to levels that result in no toxic or bioaccumulative impact on the living resources that inhabit the Bay or on human health; and

"(D) habitat restoration, protection, and enhancement goals established by Chesapeake Bay Agreement signatories for wetlands, forest riparian zones, and other types of habitat associated with the Chesapeake Bay and the tributaries of the Chesapeake Bay.

"(2) SMALL WATERSHED GRANTS PROGRAM.—The Administrator, in consultation with other members of the Chesapeake Executive Council, may offer the technical assistance and assistance grants authorized under subsection (d) to local governments and nonprofit private organizations and individuals in the Chesapeake Bay watershed to implement—

"(A) cooperative tributary basin strategies that address the Chesapeake Bay's water quality and living resource needs; or

"(B) locally based protection and restoration programs or projects within a watershed that complement the tributary basin strategies.

"(h) STUDY OF CHESAPEAKE BAY PROGRAM.—Not later than January 1, 1999, and each 3 years thereafter, the Administrator, in cooperation with other members of the Chesapeake Executive Council, shall complete a study and submit a comprehensive report to Congress on the results of the study. The study and report shall, at a minimum—

"(1) assess the commitments and goals of the management strategies established under the Chesapeake Bay Agreement and the extent to which the commitments and goals are being met;

"(2) assess the priority needs required by the management strategies and the extent to which the priority needs are being met;

"(3) assess the effects of air pollution deposition on water quality of the Chesapeake Bay;

"(4) assess the state of the Chesapeake Bay and its tributaries and related actions of the Chesapeake Bay Program;

"(5) make recommendations for the improved management of the Chesapeake Bay Program; and

"(6) provide the report in a format transferable to and usable by other watershed restoration programs.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 1998 through 2003.".

S. 619

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chesapeake Bay Gateways and Watertrails Act of 1997".

SEC. 2. DEFINITIONS.

In this Act:

(1) CHESAPEAKE BAY GATEWAYS SITES.—The term "Chesapeake Bay Gateways sites" means the Chesapeake Bay Gateways sites identified under section 5(a)(2).

(2) CHESAPEAKE BAY GATEWAYS AND WATERTRAILS NETWORK.—The term "Chesapeake Bay Gateways and Watertrails Network" means the network of Chesapeake Bay Gateways sites and Chesapeake Bay Watertrails created under section 5(a)(5).

(3) CHESAPEAKE BAY WATERSHED.—The term "Chesapeake Bay Watershed" shall have the meaning determined by the Secretary.

(4) CHESAPEAKE BAY WATERTRAILS.—The term "Chesapeake Bay Watertrails" means the Chesapeake Bay Watertrails established under section 5(a)(4).

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior (acting through the Director of the National Park Service).

SEC. 3. FINDINGS.

Congress finds that—

(1) the Chesapeake Bay is a national treasure and a resource of international significance;

(2) the region within the Chesapeake Bay watershed possesses outstanding natural, cultural, historical, and recreational resources that combine to form nationally distinctive and linked waterway and terrestrial landscapes;

(3) there is a need to study and interpret the connection between the unique cultural heritage of human settlements throughout the Chesapeake Bay Watershed and the waterways and other natural resources that led to the settlements and on which the settlements depend; and

(4) as a formal partner in the Chesapeake Bay Program, the Secretary has an important responsibility—

(A) to further assist regional, State, and local partners in efforts to increase public awareness of and access to the Chesapeake Bay;

(B) to help communities and private landowners conserve important regional resources; and

(C) to study, interpret, and link the regional resources with each other and with Chesapeake Bay Watershed conservation, restoration, and education efforts.

SEC. 4. PURPOSES.

The purposes of this Act are—

(1) to identify opportunities for increased public access to and education about the Chesapeake Bay;

(2) to provide financial and technical assistance to communities for conserving important natural, cultural, historical, and recreational resources within the Chesapeake Bay Watershed; and

(3) to link appropriate national parks, waterways, monuments, parkways, wildlife refuges, other national historic sites, and regional or local heritage areas into a network of Chesapeake Bay Gateways sites and Chesapeake Bay Watertrails.

SEC. 5. CHESAPEAKE BAY GATEWAYS AND WATERTRAILS NETWORK.

(a) IN GENERAL.—The Secretary shall provide technical and financial assistance, in cooperation with other Federal agencies, State and local governments, nonprofit organizations, and the private sector—

(1) to identify, conserve, restore, and interpret natural, recreational, historical, and cultural resources within the Chesapeake Bay Watershed;

(2) to identify and utilize the collective resources as Chesapeake Bay Gateways sites for enhancing public education of and access to the Chesapeake Bay;

(3) to link the Chesapeake Bay Gateways sites with trails, tour roads, scenic byways, and other connections as determined by the Secretary;

(4) to develop and establish Chesapeake Bay Watertrails comprising water routes and connections to Chesapeake Bay Gateways sites and other land resources within the Chesapeake Bay Watershed; and

(5) to create a network of Chesapeake Bay Gateways sites and Chesapeake Bay Watertrails.

(b) COMPONENTS.—Components of the Chesapeake Bay Gateways and Watertrails Network may include—

(1) State or Federal parks or refuges;

(2) historic seaports;

(3) archaeological, cultural, historical, or recreational sites; or

(4) other public access and interpretive sites as selected by the Secretary.

SEC. 6. CHESAPEAKE BAY GATEWAYS GRANTS ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a Chesapeake Bay Gateways Grants Assistance Program to aid State and local governments, local communities, nonprofit organizations, and the private sector in conserving, restoring, and interpreting important historic, cultural, recreational, and natural resources within the Chesapeake Bay Watershed.

(b) CRITERIA.—The Secretary shall develop appropriate eligibility, prioritization, and review criteria for grants under this section.

(c) MATCHING FUNDS AND ADMINISTRATIVE EXPENSES.—A grant under this section—

(1) shall not exceed 50 percent of eligible project costs;

(2) shall be made on the condition that non-Federal sources, including in-kind contributions of services or materials, provide the remainder of eligible project costs; and

(3) shall be made on the condition that not more than 10 percent of all eligible project costs be used for administrative expenses.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $3,000,000 for each fiscal year.

STATE OF MARYLAND,
OFFICE OF THE GOVERNOR,
April 5, 1997.

Hon. PAUL S. SARBANES,
U.S. Senate,
Washington, DC.

DEAR PAUL: Congratulations on the introduction of the Chesapeake Bay Restoration Act of 1997. Passage of this legislation will enable the State of Maryland to build on the progress that has been achieved in cleaning up the Bay by strengthening and expanding the federal Chesapeake Bay Program.

Your bill provides a much-needed increased focus on watershed planning and management. This effort skillfully complements the Tributary Strategy effort to reduce nutrient loadings into the Bay. The additional federal resources will also greatly increase the effectiveness of our joint effort to protect and restore the Bay.

The Chesapeake Bay is a national treasure. Your longstanding determined commitment to its protection and restoration has been key to the improvements in the water quality and living resources of the Bay. I stand ready to help you secure passage of this important legislation.

Sincerely,

PARIS N. GLENDENING,
Governor.

CHESAPEAKE BAY COMMISSION,
Annapolis, MD, March 20, 1997.

Hon. PAUL S. SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: I am writing, in my capacity as Chairman of the Chesapeake Bay Commission, to commend you for taking the initiative to reauthorize the Chesapeake Bay Program through the introduction of the Chesapeake Bay Restoration Act of 1997. The Commission strongly supports the legislation. We commit to you our resources and expertise in working to secure its passage.

We believe that the cooperation of government at the federal, state and local level is, and will continue to be, essential to protecting and restoring the Bay. Your bill helps to establish the blueprint for that cooperation. It provides new opportunities on habitat restoration through the creation of low-cost restoration and enhancement demonstration projects. These projects are key to protecting the living resources of the Bay, the main goal of the Chesapeake Bay Agreement.

As a signatory to the 1987 Chesapeake Bay Agreement, the Commission is committed to the reduction of nutrient and toxic loads entering the Chesapeake Bay. To do this, we have developed a river-specific approach to the implementation of pollution control strategies. The tributary strategy provisions of the legislation will support this effort and ensure that these strategies are implemented, basinwide.

The Chesapeake Bay watershed will face increasing environmental threats in the years ahead. The population of the watershed is growing. Development of our natural resource lands is commonplace. The burdens placed on our pollution control infrastructure are constantly expanding. The Commission has long recognized that coordinated, locally-based programs can help to counter these pressures.

For this reason, we are particularly supportive of the small watershed grants component of your bill. We believe that it will enhance efforts made by non-governmental organizations, local governments and private individuals to implement water quality and habitat protection programs at the local level. The small watershed grants program is also directly complementary to the Local Government Participation Action Plan, developed by the Chesapeake Bay Program in 1996, to better involve local governments in Bay restoration activities.

In our watershed, there are many examples of small watershed projects that would benefit from a cost-share grant program. In Maryland, residents and local government officials in Worcester and Somerset Counties have committed to improve the local economy through well-planned conservation and the promotion of natural, historic and cultural resources. In Pennsylvania, the Lackawanna River Corridor Association has been working to improve water quality by addressing acid mine drainage, combined sewer overflows and urban stormwater flow problems by developing public-private partnerships that leverage resources and expertise. And in my own home state of Virginia, private organizations have joined forces with local, state and federal government officials in the Chesconessex Creek Watershed to establish a project to restore vital habitat and living resources on Virginia's Eastern Shore.

In closing, I want to thank you, and Charles Stek and Kevin Miller of your office, for consulting extensively with our staff, and with the many sectors of the Bay community during the drafting of your legislation. The final product reflects a strong cooperative relationship with the Chesapeake Bay Program and will allow us to build on the progress that we have already made.

I look forward to working with you. We hope that this legislation can be moved forward as quickly as possible, and we offer our assistance with the hope that it will be enacted before this Congress comes to a close. I am,

Sincerely yours,

W. TAYLOE MURPHY, Jr.,
Chairman.

CHESAPEAKE BAY FOUNDATION,
Annapolis, MD, April 9, 1997.

Hon. PAUL S. SARBANES,
Washington, DC.

DEAR SENATOR SARBANES: I am writing to express the Chesapeake Bay Foundation's support for the Chesapeake Bay Restoration Act of 1997. Although I realize that no single piece of legislation can save the Chesapeake Bay, I believe this bill will help push the Bay Program towards an increased effort to carrying out the commitments made by the signatories.

I am particularly glad to see the section enhancing the oversight responsibilities of the Environmental Protection Agency. CBF has long felt that it is important for the Environmental Protection Agency to take a stronger leadership role in assuring that the participants are held accountable for their commitments.

I am also enthusiastic about the provisions providing for a small watershed grant program. Restoration of the Bay's essential habitat—its forests, wetlands, and grass beds—is a critical component of the effort to save the Bay, and this legislation should help move that effort forward.

In summary, this legislation provides a step forward for the Bay Program, and will help steer it in the right direction. I would like to thank you and your cosponsors for your efforts on behalf of this legislation and on behalf of the Chesapeake Bay.

Very truly yours,

WILLIAM C. BAKER,
President.

CHESAPEAKE BAY LOCAL
GOVERNMENT ADVISORY COMMITTEE,
Easton, MD, April 7, 1997.

Hon. SENATOR PAUL SARBANES,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of the Maryland Delegation of the Chesapeake Bay Local Government Advisory Committee (LGAC), I would like to offer support for the Bill to amend section 117 of the Clean Water Act which specifies a financial commitment by the Federal Government to the Chesapeake Bay protection effort. Specifically, the Maryland Delegation is in strong support of the Small Watershed Grants Program component of the Bill. This Program holds much promise to augment the important efforts being made by local governments in restoring, protecting, and sustaining the health of the Chesapeake Bay and its tributaries.

Additionally, the Bill directly supports policies of the Chesapeake Executive Council. The Executive Council recently adopted the Local Government Partnership Initiative and the Local Government Participation Action Plan. The aim of these policies is to broaden the efforts of local governments in restoring and protecting the Chesapeake Bay and its tributaries. The Action Plan includes a commitment to seek a small watershed grants program through reauthorization of the Clean Water Act.

Over 14.9 million people live within the jurisdiction of more than 1,650 local governments within the Chesapeake Bay watershed. Each local government has the statutory authority to manage land use, manage infrastructure, including sewage treatment facilities and stormwater, and take a leadership role in fostering a land stewardship ethic in its community. Supporting local governments' collective efforts to restore, protect and sustain the health of Chesapeake Bay is a critical element of the Bay effort.

The Chesapeake Bay is a regional and national treasure that local governments throughout the watershed cherish and value. The LGAC commends the leadership role you have taken in furthering the efforts being made to protect and sustain the health of the Chesapeake Bay and its tributaries.

Sincerely,

GARY G. ALLEN,
Vice Chair.

CHESAPEAKE BAY LOCAL
GOVERNMENT ADVISORY COMMITTEE,
Easton, MD, April 7, 1997.

Hon. SENATOR PAUL SARBANES,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of the Pennsylvania Delegation of the Chesapeake Bay Local Government Advisory Committee (LGAC), I would like to offer support for the Bill to amend section 117 of the Clean Water Act which specifies a financial commitment by the Federal Government to the Chesapeake Bay protection effort. Specifically, the Pennsylvania Delegation is in strong support of the Small Watershed Grants Program component of the Bill. This Program holds much promise to augment the important efforts being made by local governments in restoring, protecting, and sustaining the health of the Chesapeake Bay and its tributaries.

Additionally, the Bill directly supports policies of the Chesapeake Executive Council. The Executive Council recently adopted the Local Government Partnership Initiative and the Local Government Participation Action Plan. The aim of these policies is to broaden the efforts of local governments in restoring and protecting the Chesapeake Bay and its tributaries. The Action Plan includes a commitment to seek a small watershed grants program through reauthorization of the Clean Water Act.

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The Chesapeake Bay is a regional and nation treasure that local governments throughout the watershed cherish and value. The LGAC commends the leadership role you have taken in furthering the efforts being made to protect and sustain the health of the Chesapeake Bay and its tributaries.

Sincerely,

RUSSELL PETTYJOHN,
Chair.

CHESAPEAKE BAY LOCAL
GOVERNMENT ADVISORY COMMITTEE,
Easton, MD, April 7, 1997.

Hon. SENATOR PAUL SARBANES,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of the Washington, D.C. Delegation of the Chesapeake Bay Local Government Advisory Committee (LGAC), I would like to offer support for the Bill to amend section 117 of the Clean Water Act which specifies a financial commitment by the Federal Government to the Chesapeake Bay protection effort. Specifically, the District of Columbia Delegation is in strong support of the Small Watershed Grants Program component of the Bill. This Program holds much promise to augment the important efforts being made by local governments in restoring, protecting, and sustaining the health of the Chesapeake Bay and its tributaries.

Additionally, the Bill directly supports policies of the Chesapeake Executive Council. The Executive Council recently adopted the Local Government Partnership Initiative and the Local Government Participation Action Plan. The aim of these policies is to broaden the efforts of local governments in restoring and protecting the Chesapeake Bay and its tributaries. The Action Plan includes a commitment to seek a small watershed grants program through reauthorization of the Clean Water Act.

Over 14.9 million people live within the jurisdiction of more than 1,650 local governments within the Chesapeake Bay watershed. Each local government has the statutory authority to manage land use, manage infrastructure, including sewage treatment facilities and stormwater, and take a leadership role in fostering a land stewardship ethic in its community. Supporting local governments' collective efforts to restore, protect and sustain the health of Chesapeake Bay is a critical element of the Bay effort.

The Chesapeake Bay is a regional and national treasure that local governments throughout the watershed cherish and value. The LGAC commends the leadership role you have taken in furthering the efforts being made to protect and sustain the health of the Chesapeake Bay and its tributaries.

Sincerely,

WILLIAM RUMSEY, Jr.,
Vice-Chair.

By Mr. GREGG (for himself, Mr. ROTH, Mrs. HUTCHISON, Mr. JEFFORDS, Mr. MURKOWSKI, Mr. FAIRCLOTH, Mr. SANTORUM, Mr. BOND, Ms. COLLINS, Mr. DEWINE, Mr. ROBERTS, Mr. CRAIG, Mr. NICKLES, Mr. MCCONNELL, Mr. KYL, Ms. SNOWE, Mr. MACK, Mr. HAGEL, and Mr. GRASSLEY):

S. 620. A bill to amend the Internal Revenue Code of 1986 to provide greater equity in savings opportunities for families with children, and for other purposes; to the Committee on Finance.

THE WOMEN'S INVESTMENT AND SAVINGS EQUITY ACT

Mr. GREGG. Mr. President, I rise to introduce important and unique legislation known as the Women's Investment and Savings Equity Act, or the WISE bill.

As chairman of the Republican Task Force on Retirement Security, I have worked with other task force members to explore various ways that the Federal Government might better facilitate adequate savings for retirement. I am extremely pleased that Majority Leader LOTT convened this task force, and asked me to lead it, because the problem of ensuring adequate retirement savings has been one in which I have become increasingly engaged. I am extremely pleased to have had the assistance and cooperation of all of the other Senators in the task force.

We are currently in the process of drafting a comprehensive package of legislation designed to increase retirement saving through a diverse variety of means. However, one of these legislative initiatives, the WISE bill, has struck us as being so important that it warrants separate introduction and action. I am very proud of this legislation, and I am gratified to see the rapid growth in support for it.

One thing has become ever more clear in the course of our work: this Nation must increase retirement saving—at every level—in order to meet retirement needs in the 21st century.

The problem for women is particularly severe. They live longer than men, and they have less saving. As a result, they are almost twice as likely as men to spend their retirement years in poverty.

If you wan to see a demonstration of why it is important that we permit greater saving by women in their own name, all that you must do is to review the poverty rates for widows and divorcees. Overall, elderly women have a poverty rate of 15.7 percent. For men, the level is 8.9 percent. Divorcees suffer poverty rates of 29.1 percent, widows 21.5 percent. For too many women, it is the case that they enter their elderly years, after devoting much of their lives to raising a family, only to find themselves alone and without sufficient means of financial support. That is not right.

Current law has an unequal impact on women because they are more likely to interrupt their periods of paid employment in order to raise children. When they finally do return to the work force, and when they finally may have surplus money for saving, the law places tight limits on what they can contribute towards their own retirement.

We shouldn't force women to choose between attentive parenting and saving for retirement. Women shouldn't be more likely to enter poverty in retirement simply because they have taken time out from work to raise a child.

Our legislation would do three things:

First, it would strengthen the homemaker IRA law. We would permit homemakers—and other workers without a pension—to make deductible contributions to IRA, regardless of whether their spouse participates in a pension plan.

This is good for saving. It is also good for women; we shouldn't deprive homemakers of the opportunity to save on the basis of their spouse's participation in a pension plan. This is an idea that already has broad bipartisan support.

Second, we would permit catch-up contributions to 401(k) retirement plans—and other types of elective deferral plans—for parents who miss time from work for maternity or paternity leave.

Under current law, if an individual goes on unpaid leave from work for service in the National Guard or certain other military service, they may make "catch-up" contributions to their 401(k) or similar retirement plans for the time that they missed.

We would make similar "catch-up" contributions available to cover the employee portion of contributions that would have been made by parents had they not gone on parental leave. This is good savings policy, and good family policy.

Third, and this is the most creative aspect of the legislation: We would create higher contribution limits—in "catch-up years"—for parents who have returned to work after a long period of nonparticipation in a pension plan.

Consider a too-familiar story: A woman spends 15 years working at home, raising a family. Or—and let me stress that our provision applies in this case, too—maybe she works part-time, but she cannot contribute to a pension plan because she needs that money for day care. Either way, she spends a large amount of her life, unable to contribute to a pension plan.

If she returns to the workforce at age 45 or 50, and her children are "out of the nest," perhaps only then does she have surplus money to put into retirement savings. But current law is inflexible; she can't "catch-up" for the lost years. She is limited by a short number of working years, and tight annual limits on what she can contribute.

Our legislation would simply do the following: For every year that you are unable to participate in a pension plan, and during which you are caring for a dependent child, you may take that number of "catch-up" years when you return to plan participation.

During that catch-up year, you can make your normal allowed contribution to a 401(k) or similar plan, and you can make an additional contribution of equal size to "catch-up" for a missed year. You can do this for up to 18 years.

Working people have been telling us that they need some flexibility in being allowed to "catch-up" for missed opportunities to save. Not everyone has the money to save when they are 25. The problem is most severe for parents—for mothers. The least we can do is to make the law flexible enough to permit additional retirement contributions when they can afford it.

These issues are not abstractions. For too many women, this is how life works. Maybe they suddenly become widows, or they go through a divorce. And they have forever lost their opportunity to generate saving in their own name. We see the results in the comparatively large number of women in poverty.

This legislation would build additional flexibility into the law so that women—and all parents—are not penalized for making the choice to raise a child.

Current law assumes that you have the same opportunity to save in every year of your life. That is just not so. Families with children often find it very difficult to save money, and this legislation would give them a chance to catch up when they reach a point where they at last can save.

I believe this legislation is worthy of favorable consideration by the Senate. I also believe that prospects are good that we can pass at least a version of it. The chairman of the Finance Committee, Senator ROTH, has contributed his valuable support, as has the chairman of the Labor Committee, Senator JEFFORDS. With the support of the leadership, and the support of the appropriate committee chairmen, I believe there is a basis for optimism that such overdue reforms will be passed by the Senate.

Mr. ROTH. Mr. President, Today, I am proud to join the Republican pension task force chaired by Senator GREGG to introduce the Women's Investment and Savings Equity Act of 1997, known as the Wise bill. I want to commend Senator GREGG for his leadership of the Republican pension task force and his hard work in putting this bill together.

Of the 63 million baby boomers in America, a full 32 million of them are saving less than one-third of what they will need for retirement. This concerns me. It concerns me even further that the overwhelming majority of these Americans, unprepared for retirement, are women. According to the Census Bureau, retired women are almost twice as likely as men to live in poverty. The poverty rate for elderly single women is about four times greater than the rate for those who are married.

I consider the Wise bill one of the beginning steps toward creating an environment where Americans can work for self-reliance and a secure future. It will go a long way toward establishing equity in the Tax Code for stay-at-home parents who want to save for their retirement years. And while it's called the women's investment and savings equity bill—because the majority of those who will benefit are women—it covers both mothers and fathers, whichever serves as homemaker.

The Wise bill of 1997 will allow homemakers and other workers without a pension plan to make a full $2,000 tax-deductible IRA contribution each year, regardless of their spouse's pension plan. In addition, parents who take maternity or paternity leave will be allowed to make catch-up payments to their retirement plans after they return to work. Even homemakers who return to employment after an extended absence, and working parents who cannot afford pension contributions while raising children, will be able to catch-up for the years they were raising children.

This bill is an important first step of a larger retirement savings and security expansion bill by the Republican pension task force. It will give families the tools for a secure retirement.

ADDITIONAL COSPONSORS

S. 65

At the request of Mr. HATCH, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 65, a bill to amend the Internal Revenue Code of 1986 to ensure that members of tax- exempt organizations are notified of the portion of their dues used for political and lobbying activities, and for other purposes.

S. 293

At the request of Mr. HATCH, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Oregon [Mr. WYDEN], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 293, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for clinical testing expenses for certain drugs for rare diseases or conditions.

S. 295

At the request of Mr. JEFFORDS, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 295, a bill to amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes.

S. 304

At the request of Mr. DORGAN, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 304, a bill to clarify Federal law with respect to assisted suicide, and for other purposes.

S. 328

At the request of Mr. HUTCHINSON, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 328, a bill to amend the National Labor Relations Act to protect employer rights, and for other purposes.

S. 387

At the request of Mr. HATCH, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software.

S. 405

At the request of Mr. HATCH, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 405, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to allow greater opportunity to elect the alternative incremental credit.

S. 415

At the request of Mr. BAUCUS, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 415, a bill to amend the medicare program under title XVIII of the Social Security Act to improve rural health services, and for other purposes.

S. 419

At the request of Mr. BOND, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 419, a bill to provide surveillance, research, and services aimed at prevention of birth defects, and for other purposes.

S. 438

At the request of Mr. GRASSLEY, the names of the Senator from Michigan [Mr. ABRAHAM], the Senator from Arkansas [Mr. HUTCHINSON], and the Senator from Arizona [Mr. KYL] were added as cosponsors of S. 438, a bill to provide for implementation of prohibitions against payment of social security benefits to prisoners, and for other purposes.

S. 495

At the request of Mr. KYL, the names of the Senator from Missouri [Mr. ASHCROFT], the Senator from Michigan [Mr. ABRAHAM], and the Senator from Kansas [Mr. BROWNBACK] were added as cosponsors of S. 495, a bill to provide criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical weapon or biological weapon, and to reduce the threat of acts of terrorism or armed aggression involving the use of any such weapon against the United States, its citizens, or Armed Forces, or those of any allied country, and for other purposes.

S. 575

At the request of Mr. DURBIN, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 575, A bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals.

At the request of Mr. HAGEL, the names of the Senator from Wyoming [Mr. ENZI], the Senator from Kansas [Mr. BROWNBACK], the Senator from Arkansas [Mr. HUTCHINSON], and the Senator from Alabama [Mr. SESSIONS] were added as cosponsors of S. 575, supra.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the names of the Senator from New Jersey [Mr. TORRICELLI], the Senator from Nevada [Mr. REID], the Senator from Georgia [Mr. CLELAND], and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE CONCURRENT RESOLUTION 13

At the request of Mr. SESSIONS, the names of the Senator from Mississippi [Mr. LOTT], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of Senate Concurrent Resolution 13, A concurrent resolution expressing the sense of Congress regarding the display of the Ten Commandments by Judge Roy S. Moore, a judge on the circuit court of the State of Alabama.

SENATE CONCURRENT RESOLUTION 22—RELATIVE TO THE STATUE OF ROGER WILLIAMS

Mr. CHAFEE (for himself and Mr. REED) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 22

Whereas Roger Williams was the primary architect of the lively experiment of church-state separation as the necessary corollary of religious liberty;

Whereas Roger Williams was an ardent advocate of the legal rights of Native Americans, maintained a close friendship with them and purchased land from them;

Whereas Roger Williams may also be seen as the first European environmentalist on this continent; and

Whereas Roger Williams was the founder of the first Baptist church in America and the founder of the first Baptist denomination in this hemisphere: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the statue of Roger Williams shall be returned to the United States Capitol Rotunda at the conclusion of the temporary display of the Suffragists Portrait Monument.

Mr. CHAFEE. Mr. President, this weekend while we are away from the Capitol, an unusual event will occur here. Areas in the Capitol rotunda and the small rotunda, which are ordinarily open to the public, will be closed to visitors, as will the passageway to the majority leader's office. And starting tomorrow, temporary structures will be constructed in these areas. Under the able supervision of the Architect of the Capitol's office, steps are underway to move the statue of Roger Williams, which stands in the rotunda, to the second floor hallway outside of the majority leader's office.

In February, Senator WARNER, chairman of the Committee on Rules and Administration, notified me that the statue of Roger Williams would be moved from the rotunda in order to accommodate the so-called portrait monument of Elizabeth Cady Stanton, Susan B. Anthony, and Lucretia Mott in accordance with a concurrent resolution approved by both houses during the last Congress. While I have no objection to moving the portrait monument to the rotunda, I was disappointed to learn that it would result in the dislocation of the statue of Roger Williams. Senator WARNER assured me that the Roger Williams statue would receive an excellent new location and that none of the alternatives—namely in the rotunda—were available.

Senator WARNER certainly kept his word. The new location is very satisfactory. The statue will stand in the second floor hallway between the Senate Chamber and the rotunda, on the way to the majority leader's office. It is a bright and sunny space with windows looking out beyond the West Front of the Capitol to the Washington Monument. The statue of Roger Williams will be in good company, too. Other statues in this area depict Maria L. Sanford, a 19th century Minnesota teacher known as the best loved woman of the North Star State; Edward Douglas White of Louisiana, who served as Chief Justice of the U.S. Supreme Court; John Hanson, who was among the strongest colonial advocates for independence and who served as President of the United States in Congress Assembled under the Articles of Confederation from 1781 to 1782; representing Kentucky is a statue of Ephraim McDowell who was an eminent surgeon and founder of Centre College in Danville, KY; William Edgar Borah, a former chairman of the Senate Foreign Relations Committee who is best remembered for his integrity, his skills as an orator, and his bipartisanship, and finally; John Middleton Clayton who served in the Delaware State Legislature, the U.S Senate, as chief justice of the Delaware Supreme Court, and as Secretary of State.

I would like to commend the Architect of the Capitol, Alan Hantman, and his staff, most notably Roberto Miranda, Satish Gupta, and Ralph Atkins, for their extraordinary efforts to protect the statue of Roger Williams as it is transported to its new perch overlooking the National Mall. To ensure the safety of the statue which is quite delicate, it was wrapped in numerous layers of protective materials. First it was completely covered in plastic wrap. Then, it was wrapped in several layers of aluminum foil which was secured with duct tape. Next, it was covered with paraffin wax and a quarter of an inch of latex rubber was applied. All of this was bundled in burlap and a second layer of latex was applied. It was then completely covered with plaster, and tomorrow all of this will be encased in fiberglass. The actual move is expected to occur on Saturday, and on Sunday, after the statue is replaced on its base and precisely positioned in the hallway, all of these layers of covering will be removed with the same kind of instrument orthopedic surgeons use to remove casts from patients. I have every confidence in the Architect's office and the office of the Curator that the job of relocating the Roger Williams statue will be skillfully completed.

As satisfied as I am with all of this, Mr. President, I am submitting a concurrent resolution to return this statue of Roger Williams to the rotunda when the portrait monument is removed. I do this because I believe that the millions of girls and boys, men and women, from all parts of the United States and of the world, should be reminded of the principles for which Roger Williams is known.

Roger Williams was born in England around 1603 to James and Alice Williams. He grew up in a section of London in which religious dissenters were burned at the stake. Through his personal ingenuity, he gained notice by Sir Edward Coke, who helped young Roger attend school. Later he was able to attend Pembroke Hall in Cambridge University. He was ordained by the Church of England and made chaplain at a manor house in Essex. It was there that he met and married his wife, Mary Barnard.

By 1629, Roger Williams had accepted many of the views of the Puritans and 1 year later, he and Mary left England aboard the *Lyon* to start a new life in New England.

He refused to join the congregation at Boston because of its close ties to the Church of England, and instead, became minister at Salem. The bad blood between Roger Williams and the Boston magistrates led to his departure from Salem. He moved to Plymouth where he joined the Separatist Pilgrims. He remained in Plymouth for 2 years, and eventually became assistant pastor. It was during his time in Plymouth that Roger Williams first became acquainted with and interested in native Americans.

Eventually he returned to Boston where he found himself again embroiled in controversy, this time because he questioned the validity of the Massachusetts Bay Colony's Charter. Roger Williams pointed out that the King of England had no authority to grant a charter giving away lands that were owned by the native Americans. Of course, this was virtual heresy, and Roger Williams, once again, was banished.

You can see that Roger Williams was way ahead of his time with his concern for native Americans and that they be paid fairly for their land. Because of this, once again he was banished.

Leaving his wife and baby daughter behind, he journeyed for 14 weeks through the winter harshness to seek refuge with his native American friends in Narragansett County. In the spring, he was joined by others, but soon this small group of dissenters was forced to uproot themselves again because they were still within the boundaries of the Massachusetts Bay Colony. They traveled across the Seekonk River, landed at Slate Rock on the west side of the Seekonk River and, in gratefulness for the goodness of God to him, he named the area where he was "Providence," and therefrom came the name of Providence. Subsequently, of course, it was the capital of the State of Rhode Island.

Roger Williams and his followers purchased land from Canonicus and Miantonomi, the chief sachems of the Narragansett Tribe, and in 1636, founded a new colony devoted to religious freedom and tolerance, the first time in the history of the world that there had been anything like this.

No one was turned away or banished because of his or her religious beliefs. Roger Williams embraced people of all faiths. In fact, the first synagogue in the New World was built in Newport, RI, and, after joining the Baptist faith, Roger Williams built the first Baptist Church in the New World. Both of these historic and religious landmarks still stand today and are completely operational, a living tribute to Roger Williams.

Roger Williams was banished time and again for having the courage of his convictions. He believed that every individual should be free to practice whatever faith he chose, a view that today is as integral to our national consciousness as is freedom of expression. He believed in the separation of church and state. And he believed in protecting the rights of those who first inhabited this beautiful land, the native Americans. This weekend, he will be banished once more from the pantheon of leaders with whom he certainly deserves to stand.

Mr. President, I believe it is only fair for this statue of Roger Williams—in this symbol here you see the picture on the stamp that was issued depicting his settlement in the State of Rhode Island in 1636.

I believe it only fair for this statue of Roger Williams, his symbol of tolerance, be returned to the Capitol Rotunda. This provision in the concurrent resolution says—the suggestion is that the statue of the women, the so-called monument, will only be there for a temporary period. Indeed, the resolution says that at the conclusion of the temporary display of the suffragettes—how long the temporary period is we are not sure. We are not against the statue of the suffragettes at all. But when that is moved, we ask that the statue of Roger Williams go back into the Rotunda.

As I say, I have no desire to hasten the removal of the portrait monument. But at the appropriate time, I and my colleagues believe that the Roger Williams statue should be returned.

So I send the concurrent resolution to the desk, and ask that it be referred to the appropriate committee.

I thank the Chair.

Mr. REED. Mr. President, I rise this evening to join my colleague, Senator CHAFEE, in support of his resolution to return a statue of Roger Williams to the Capitol rotunda, and also to commend Senator CHAFEE for his excellent statement. He has described in detail the central role that Roger Williams has played not only in the life of Rhode Island, but in the life of this Nation.

His displacement from the rotunda will not be the first time he was banished. In 1635 he was banished from his first home because he advocated at that time the revolutionary idea that there should be a separation between church and state, that individuals should have freedom of conscience, that individuals should be able to worship the god of their choice, and that the system of government should respect that choice.

In a sense he began the intellectual revolution that would culminate years later in the revolution against Great Britain that would lead to our Declaration of Independence and to the Constitution of the United States, because he emphasized in his quest for the rights of conscience that element of individuality which is so much a part of America.

Roger Williams was a central figure not only in the history of Rhode Island but in the history of this country, and we recognize that by giving him a place of honor and distinction in the rotunda of the Capitol.

Like Senator CHAFEE, I do not object at all to the display of the suffragettes statute. That is once again a recognition of individual Americans who showed us the way, who advocated for the right of people. In fact, their behavior was in some way directly or indirectly inspired by the tradition established by Roger Williams in the 1600's.

I also respect the deliberations of Senator WARNER to find a location which would be appropriate for Roger Williams. But my feeling, as well as my colleague's feeling, is that he is of such a historical character, not just to Rhode Island but to the Nation, that he well deserves a place in the rotunda of the Capitol of the United States.

When Roger Williams came to Rhode Island he created not just a State, but an attitude, an idea, that men and women could worship as they saw fit. He inspired the development of the first Baptist church in America which stands today in Providence. That spirit of tolerance, a respect for individuality, of respect for the dignity of the individual to choose, became a beacon for people around the world to come to

Rhode Island. As Senator CHAFEE indicated, the first Jewish synagogue in North America was established in Newport and stands today as a symbol of Roger Williams' legacy, of our commitment to tolerance, and the right and dignity of the individual.

Such accomplishments, which go to the very fiber and the spirit of America, must be recognized, and, in fact, I feel should be appropriately recognized by the display of the Roger Williams statue in the rotunda of the Capitol.

When Roger Williams established Rhode Island, he said he was going to begin a lively experiment, and he has. That lively experiment has spun through the ages the creation of our Government; the very debate that we have here today. His legacy is monumental. His monument should be in the rotunda.

I am proud to join my colleague from Rhode Island to cosponsor this resolution and to urge, along with him, that at the first appropriate moment the statue of Roger Williams should be returned to the rotunda, that its temporary banishment from the rotunda be ended, and that scores of Americans in this generation and generations to come can recognize his accomplishments, can recognize his particular contributions to America and, in recognizing those contributions, can continue to reaffirm the spirit of religious freedom, of tolerance, and of individual dignity which he represents so magnificently. I am proud to be associated with my senior colleague and hope that this Senate will move quickly to support the return of Roger Williams to the rotunda.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, our good friends and colleagues from Rhode Island make a very important statement about one of our very significant, historic leaders. But we in Massachusetts take some credit because Roger Williams really originated in Massachusetts before going to Rhode Island.

As a Senator from Massachusetts, I want to say that all of us in Massachusetts hope that our two friends and colleagues are going to be successful because we, too, hold this very important and significant historical figure in very high regard.

SENATE EXECUTIVE RESOLUTION 75—RELATIVE TO THE CHEMICAL WEAPONS CONVENTION

Mr. HELMS submitted the following executive resolution; which was referred to the Committee on Foreign Relations:

S. Exec. Res. 75

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO CONDITIONS.

The Senate advises and consents to the ratification of the Chemical Weapons Convention (as defined in section 3 of this resolution), subject to the conditions in section 2.

SEC. 2. CONDITIONS.

The Senate's advice and consent to the ratification of the Chemical Weapons Convention is subject to the following conditions, which shall be binding upon the President:

(1) EFFECT OF ARTICLE XXII.—Upon the deposit of the United State instrument of ratification, the President shall certify to the Congress that the United States has informed all other States Parties to the Convention that the Senate reserves the right, pursuant to the Constitution of the United States, to give its advice and consent to ratification of the Convention subject to reservations, notwithstanding Article XXII of the Convention.

(2) FINANCIAL CONTRIBUTIONS.—Notwithstanding any provision of the Convention, no funds may be drawn from the Treasury of the United States for payments or assistance (including the transfer of in-kind items) under paragraph 16 of Article IV, paragraph 19 of Article V, paragraph 7 of Article VIII, paragraph 23 of Article IX, Article X, or any other provision of the Convention, without statutory authorization and appropriation.

(3) ESTABLISHMENT OF AN INTERNAL OVERSIGHT OFFICE.—

(A) CERTIFICATION.—Not later than 240 days after the deposit of the United States instrument of ratification, the President shall certify to the Congress that the current internal audit office of the Preparatory Commission has been expanded into an independent internal oversight office whose functions will be transferred to the Organization for the Prohibition of Chemical Weapons upon the establishment of the Organization. The independent internal oversight office shall be obligated to protect confidential information pursuant to the obligations of the Confidentiality Annex. The independent internal oversight office shall—

(i) make investigations and reports relating to all programs of the Organization;

(ii) undertake both management and financial audits, including—

(I) an annual assessment verifying that classified and confidential information is stored and handled securely pursuant to the general obligations set forth in Article VIII and in accordance with all provisions of the Annex on the Protection of Confidential Information; and

(II) an annual assessment of laboratories established pursuant to paragraph 55 of Part II of the Verification Annex to ensure that the Director General of the Technical Secretariat is carrying out his functions pursuant to paragraph 56 of Part II of the Verification Annex;

(iii) undertake performance evaluations annually to ensure the Organization has complied to the extent practicable with the recommendations of the independent internal oversight office;

(iv) have access to all records relating to the programs and operations of the Organization;

(v) have direct and prompt access to any official of the Organization; and

(vi) be required to protect the identity of, and prevent reprisals against, all complainants.

(B) COMPLIANCE WITH RECOMMENDATIONS.—The Organization shall ensure, to the extent practicable, compliance with recommendations of the independent internal oversight office, and shall ensure that annual and other relevant reports by the independent internal oversight office are made available to all member states pursuant to the requirements established in the Confidentiality Annex.

(C) WITHHOLDING A PORTION OF CONTRIBUTIONS.—Until a certification is made under subparagraph (A), 50 percent of the amount of United States contributions to the regular budget of the Organization assessed pursuant to paragraph 7 of Article VIII shall be withheld from disbursement, in addition to any other amounts required to be withheld from disbursement by any other provision of law.

(D) ASSESSMENT OF FIRST YEAR CONTRIBUTIONS.—Notwithstanding the requirements of this paragraph, for the first year of the Organization's operation, ending on April 29, 1998, the United States shall make its full contribution to the regular budget of the Organization assessed pursuant to paragraph 7 of Article VIII.

(E) DEFINITION.—For purposes of this paragraph, the term "internal oversight office" means the head of an independent office (or other independent entity) established by the Organization to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the Organization.

(4) COST SHARING ARRANGEMENTS.—

(A) ANNUAL REPORTS.—Prior to the deposit of the United States instrument of ratification, and annually thereafter, the President shall submit a report to Congress identifying all cost-sharing arrangements with the Organization.

(B) COST-SHARING ARRANGEMENT REQUIRED.—The United States shall not undertake any new research or development expenditures for the primary purpose of refining or improving the Organization's regime for verification of compliance under the Convention, including the training of inspectors and the provision of detection equipment and on-site analysis sampling and analysis techniques, or share the articles, items, or services resulting from any research and development undertaken previously, without first having concluded and submitted to the Congress a cost-sharing arrangement with the Organization.

(C) CONSTRUCTION.—Nothing in this paragraph may be construed as limiting or constricting in any way the ability of the United States to pursue unilaterally any project undertaken solely to increase the capability of the United States means for monitoring compliance with the Convention.

(5) INTELLIGENCE SHARING AND SAFEGUARDS.—

(A) PROVISION OF INTELLIGENCE INFORMATION TO THE ORGANIZATION.—

(i) IN GENERAL.—No United States intelligence information may be provided to the Organization or any organization affiliated with the Organization, or to any official or employee thereof, unless the President certifies to the appropriate committees of Congress that the Director of Central Intelligence, in consultation with the Secretary of State and the Secretary of Defense, has established and implemented procedures, and has worked with the Organization to ensure implementation of procedures, for protecting from unauthorized disclosure United States intelligence sources and methods connected to such information. These procedures shall include the requirement of—

(I) the offer and provision of advice and assistance to the Organization in establishing and maintaining the necessary measures to ensure that inspectors and other staff members of the Technical Secretariat meet the highest standards of efficiency, competence, and integrity, pursuant to paragraph 1(b) of the Confidentiality Annex, and in establishing and maintaining a stringent regime governing the handling of confidential information by the Technical Secretariat, pursuant to paragraph 2 of the Confidentiality Annex;

(II) a determination that any unauthorized disclosure of United States intelligence information to be provided to the Organization or any organization affiliated with the Organization, or any official or employee thereof, would result in no more than minimal damage to United States national security, in light of the risks of the unauthorized disclosure of such information;

(III) sanitization of intelligence information that is to be provided to the Organization to remove all information that could betray intelligence sources and methods; and

(IV) interagency United States intelligence community approval for any release of intelligence information to the Organization, no matter how thoroughly it has been sanitized.

(ii) WAIVER AUTHORITY.—

(I) IN GENERAL.—The Director of Central Intelligence may waive the application of clause (i) if the Director of Central Intelligence certifies in writing to the appropriate committees of Congress that providing such information to the Organization or an organization affiliated with the Organization, or to any official or employee thereof, is in the vital national security interests of the United States and that all possible measures to protect such information have been taken, except that such waiver must be made for each instance such information is provided, or for each such document provided. In the event that multiple waivers are issued within a single week, a single certification to the appropriate committees of Congress may be submitted, specifying each waiver issued during that week.

(II) DELEGATION OF DUTIES.—The Director of Central Intelligence may not delegate any duty of the Director under this paragraph.

(B) PERIODIC AND SPECIAL REPORTS.—

(i) IN GENERAL.—The President shall report periodically, but not less frequently than semiannually, to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives on the types and volume of intelligence information provided to the Organization or affiliated organizations and the purposes for which it was provided during the period covered by the report.

(ii) EXEMPTION.—For purposes of this subparagraph, intelligence information provided to the Organization or affiliated organizations does not cover information that is provided only to, and only for the use of, appropriately cleared United States Government personnel serving with the Organization or an affiliated organization.

(C) SPECIAL REPORTS.—

(i) REPORT ON PROCEDURES.—Accompanying the certification provided pursuant to subparagraph (A)(i), the President shall provide a detailed report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives identifying the procedures established for protecting intelligence sources and methods when intelligence information is provided pursuant to this section.

(ii) REPORTS ON UNAUTHORIZED DISCLOSURES.—The President shall submit a report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives within 15 days after it has become known to the United States Government regarding any unauthorized disclosure of intelligence provided by the United States to the Organization.

(D) DELEGATION OF DUTIES.—The President may not delegate or assign the duties of the President under this section.

(E) RELATIONSHIP TO EXISTING LAW.—Nothing in this paragraph may be construed to—

(i) impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(5)); or

(ii) supersede or otherwise affect the provisions of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(F) DEFINITIONS.—In this section:

(i) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

(ii) ORGANIZATION.—The term "Organization" means the Organization for the Prohibition of Chemical Weapons established under the Convention and includes any organ of that Organization and any board or working group, such as the Scientific Advisory Board, that may be established by it.

(iii) ORGANIZATION AFFILIATED WITH THE ORGANIZATION.—The terms "organization affiliated with the Organization" and "affiliated organizations" include the Provisional Technical Secretariat under the Convention and any laboratory certified by the Director-General of the Technical Secretariat as designated to perform analytical or other functions.

(6) AMENDMENTS TO THE CONVENTION.—

(A) VOTING REPRESENTATION OF THE UNITED STATES.—A United States representative will be present at all Amendment Conferences and will cast a vote, either affirmative or negative, on all proposed amendments made at such conferences.

(B) SUBMISSION OF AMENDMENTS AS TREATIES.—The President shall submit to the Senate for its advice and consent to ratification under Article II, Section 2, Clause 2 of the Constitution of the United States any amendment to the Convention adopted by an Amendment Conference.

(7) CONTINUING VITALITY OF THE AUSTRALIA GROUP AND NATIONAL EXPORT CONTROLS.—

(A) DECLARATION.—The Senate declares that the collapse of the informal forum of states known as the "Australia Group," either through changes in membership or lack of compliance with common export controls, or the substantial weakening of common Australia Group export controls and nonproliferation measures in force on the date of United States ratification of the Convention, would constitute a fundamental change in circumstances to United States ratification of the Convention.

(B) CERTIFICATION REQUIREMENT.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(i) nothing in the Convention obligates the United States to accept any modification, change in scope, or weakening of its national export controls;

(ii) the United States understands that the maintenance of national restrictions on trade in chemicals and chemical production technology is fully compatible with the provisions of the Convention, including Article XI(2), and solely within the sovereign jurisdiction of the United States;

(iii) the Convention preserves the right of State Parties, unilaterally or collectively, to maintain or impose export controls on chemicals and related chemical production technology for foreign policy or national security reasons, notwithstanding Article XI(2); and

(iv) each Australia Group member, at the highest diplomatic levels, has officially communicated to the United States Government its understanding and agreement that export control and nonproliferation measures which the Australia Group has undertaken are fully compatible with the provisions of the Convention, including Article XI(2), and its commitment to maintain in the future such export controls and nonproliferation measures against non-Australia Group members.

(C) ANNUAL CERTIFICATION.—

(i) EFFECTIVENESS OF AUSTRALIA GROUP.—The President shall certify to Congress on an annual basis that—

(I) Australia Group members continue to maintain an equally effective or more comprehensive control over the export of toxic chemicals and their precursors, dual-use processing equipment, human, animal and plant pathogens and toxins with potential biological weapons application, and dual-use biological equipment, as that afforded by the Australia Group as of the date of ratification of the Convention by the United States; and

(II) the Australia Group remains a viable mechanism for limiting the spread of chemical and biological weapons-related materials and technology, and that the effectiveness of the Australia Group has not been undermined by changes in membership, lack of compliance with common export controls and nonproliferation measures, or the weakening of common controls and nonproliferation measures, in force as of the date of ratification of the Convention by the United States.

(ii) CONSULTATION WITH SENATE REQUIRED.—In the event that the President is, at any time, unable to make the certifications described in clause (i), the President shall consult with the Senate for the purposes of obtaining a resolution of continued adherence to the Convention, notwithstanding the fundamental change in circumstance.

(D) PERIODIC CONSULTATION WITH CONGRESSIONAL COMMITTEES.—The President shall consult periodically, but not less frequently than twice a year, with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, on Australia Group export control and nonproliferation measures. If any Australia Group member adopts a position at variance with the certifications and understandings provided under subparagraph (B), or should seek to gain Australia Group acquiescence or approval for an interpretation that various provisions of the Convention require it to remove chemical-weapons related export controls against any State Party to the Convention, the President shall block any effort by that Australia Group member to secure Australia Group approval of such a position or interpretation.

(E) DEFINITIONS.—In this paragraph:

(i) AUSTRALIA GROUP.—The term "Australia Group" means the informal forum of states, chaired by Australia, whose goal is to discourage and impede chemical and biological weapons proliferation by harmonizing national export controls chemical weapons precursor chemicals, biological weapons pathogens, and dual-use production equipment, and through other measures.

(ii) HIGHEST DIPLOMATIC LEVELS.—The term "highest diplomatic levels" means at the levels of senior officials with the power to authoritatively represent their governments, and does not include diplomatic representatives of those governments to the United States.

(8) NEGATIVE SECURITY ASSURANCES.—

(A) REEVALUATION.—In forswearing under the Convention the possession of a chemical weapons retaliatory capability, the Senate understands that deterrence of attack by chemical weapons requires a reevaluation of the negative security assurances extended to non-nuclear-weapon states.

(B) CLASSIFIED REPORT.—Accordingly, 180 days after the deposit of the United States instrument of ratification, the President shall submit to the Congress a classified report setting forth the findings of a detailed review of United States policy on negative security assurances, including a determination of the appropriate responses to the use of chemical or biological weapons against the Armed Forces of the United States, United States citizens, allies, and third parties.

(9) PROTECTION OF ADVANCED BIOTECHNOLOGY.—Prior to the deposit of the United States instrument of ratification, and on January 1 of every year thereafter, the President shall certify to the Committee on Foreign Relations and the Speaker of the House of Representatives that the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms in the United States are not being significantly harmed by the limitations of the Convention on access to, and production of, those chemicals and toxins listed in Schedule 1 of the Annex on Chemicals.

(10) MONITORING AND VERIFICATION OF COMPLIANCE.—

(A) DECLARATION.—The Senate declares that—

(i) the Convention is in the interests of the United States only if all State Parties are in strict compliance with the terms of the Convention as submitted to the Senate for its advice and consent to ratification, such compliance being measured by performance and not by efforts, intentions, or commitments to comply; and

(ii) the Senate expects all State Parties to be in strict compliance with their obligations under the terms of the Convention, as submitted to the Senate for its advice and consent to ratification;

(B) BRIEFINGS ON COMPLIANCE.—Given its concern about the intelligence community's low level of confidence in its ability to monitor compliance with the Convention, the Senate expects the executive branch of the Government to offer regular briefings, not less than four times a year, to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on compliance issues related to the Convention. Such briefings shall include a description of all United States efforts in bilateral and multilateral diplomatic channels and forums to resolve compliance issues and shall include a complete description of—

(i) any compliance issues the United States plans to raise at meetings of the Organization, in advance of such meetings;

(ii) any compliance issues raised at meetings of the Organization, within 30 days of such meeting;

(iii) any determination by the President that a State Party is in noncompliance with or is otherwise acting in a manner inconsistent with the object or purpose of the Convention, within 30 days of such a determination.

(C) ANNUAL REPORTS ON COMPLIANCE.—The President shall submit on January 1 of each year to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a full and complete classified and unclassified report setting forth—

(i) a certification of those countries included in the Intelligence Community's Monitoring Strategy, as set forth by the Director of Central Intelligence's Arms Control Staff and the National Intelligence Council (or any successor document setting forth intelligence priorities in the field of the proliferation of weapons of mass destruction) that are determined to be in compliance with the Convention, on a country-by-country basis;

(ii) for those countries not certified pursuant to clause (i), an identification and assessment of all compliance issues arising with regard to the adherence of the country to its obligation under the Convention;

(iii) the steps the United States has taken, either unilaterally or in conjunction with another State Party—

(I) to initiate challenge inspections of the noncompliant party with the objective of demonstrating to the international community the act of noncompliance;

(II) to call attention publicly to the activity in question; and

(III) to seek on an urgent basis a meeting at the highest diplomatic level with the noncompliant party with the objective of bringing the noncompliant party into compliance;

(iv) a determination of the military significance and broader security risks arising from any compliance issue identified pursuant to clause (ii); and

(v) a detailed assessment of the responses of the noncompliant party in question to action undertaken by the United States described in clause (iii).

(D) COUNTRIES PREVIOUSLY INCLUDED IN COMPLIANCE REPORTS.—For any country that was previously included in a report submitted under subparagraph (C), but which subsequently is not included in the Intelligence Community's Monitoring Strategy (or successor document), such country shall continue to be included in the report submitted under subparagraph (C) unless the country has been certified under subparagraph (C)(i) for each of the previous two years.

(E) FORM OF CERTIFICATIONS.—For those countries that have been publicly and officially identified by a representative of the intelligence community as possessing or seeking to develop chemical weapons, the certification described in subparagraph (C)(i) shall in be unclassified form.

(F) ANNUAL REPORTS ON INTELLIGENCE.—On January 1, 1998, and annually thereafter, the Director of Central Intelligence shall submit to the Committees on Foreign Relations, Armed Services, and the Select Committee on Intelligence of the Senate and to the Committees on International Relations, National Security, and Permanent Select Committee of the House of Representatives, a full and complete classified and unclassified report regarding—

(i) the status of chemical weapons development, production, stockpiling, and use, within the meanings of those terms under the Convention, on a country-by-country basis;

(ii) any information made available to the United States Government concerning the development, production, acquisition, stockpiling, retention, use, or direct or indirect transfer of novel agents, including any unitary or binary chemical weapon comprised of chemical components not identified on the schedules of the Annex on Chemicals, on a country-by-country basis;

(iii) the extent of trade in chemicals potentially relevant to chemical weapons programs, including all Australia Group chemicals and chemicals identified on the schedules of the Annex on Chemicals, on a country-by-country basis;

(iv) the monitoring responsibilities, practices, and strategies of the intelligence community (as defined in section 3(4) of the National Security Act of 1947) and a determination of the level of confidence of the intelligence community with respect to each specific monitoring task undertaken, including an assessment by the intelligence community of the national aggregate data provided by State Parties to the Organization, on a country-by-country basis;

(v) an identification of how United States national intelligence means, including national technical means and human intelligence, is being marshaled together with the Convention's verification provisions to monitor compliance with the Convention; and

(vi) the identification of chemical weapons development, production, stockpiling, or use, within the meanings of those terms under the Convention, by subnational groups, including terrorist and paramilitary organizations.

(G) REPORTS ON RESOURCES FOR MONITORING.—Each report required under subparagraph (F) shall include a full and complete classified annex submitted solely to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee of the House of Representatives regarding—

(i) a detailed and specific identification of all United States resources devoted to monitoring the Convention, including information on all expenditures associated with the monitoring of the Convention; and

(ii) an identification of the priorities of the executive branch of Government for the development of new resources relating to detection and monitoring capabilities with respect to chemical and biological weapons, including a description of the steps being taken and resources being devoted to strengthening United States monitoring capabilities.

(11) ENHANCEMENTS TO ROBUST CHEMICAL AND BIOLOGICAL DEFENSES.—

(A) SENSE OF THE SENATE.—It is the sense of the Senate that—

(i) chemical and biological threats to deployed United States Armed Forces will continue to grow in regions of concern around the world, and pose serious threats to United States power projection and forward deployment strategies;

(ii) chemical weapons or biological weapons use is a potential element of future conflicts in regions of concern;

(iii) it is essential for the United States and key regional allies to preserve and further develop robust chemical and biological defenses;

(iv) the United States Armed Forces are inadequately equipped, organized, trained and exercised for chemical and biological defense against current and expected threats, and that too much reliance is placed on non-active duty forces, which receive less training and less modern equipment, for critical chemical and biological defense capabilities;

(v) the lack of readiness stems from a deemphasis of chemical and biological defenses within the executive branch of Government and the United States Armed Forces;

(vi) the armed forces of key regional allies and likely coalition partners, as well as civilians necessary to support United States military operations, are inadequately prepared and equipped to carry out essential missions in chemically and biologically contaminated environments;

(vii) congressional direction contained in the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201) should lead to enhanced domestic preparedness to protect against chemical and biological weapons threats; and

(viii) the United States Armed Forces should place increased emphasis on potential threats to forces deployed abroad and, in particular, make countering chemical and biological weapons use an organizing principle for United States defense strategy and development of force structure, doctrine, planning, training, and exercising policies of the United States Armed Forces.

(B) ACTIONS TO STRENGTHEN DEFENSE CAPABILITIES.—The Secretary of Defense shall take those actions necessary to ensure that the United States Armed Forces are capable of carrying out required military missions in United States regional contingency plans, despite the threat or use of chemical or biological weapons. In particular, the Secretary of Defense shall ensure that the United States Armed Forces are effectively equipped, organized, trained, and exercised (including at the large unit and theater level) to conduct operations in a chemically or biologically contaminated environment that are critical to the success of the United States military plans in regional conflicts, including—

(i) deployment, logistics, and reinforcement operations at key ports and airfields;

(ii) sustained combat aircraft sortie generation at critical regional airbases; and

(iii) ground force maneuvers of large units and divisions.

(C) DISCUSSIONS WITH REGIONAL ALLIES AND LIKELY COALITION PARTNERS.—

(i) IN GENERAL.—The Secretaries of Defense and State shall, as a priority matter, initiate discussions with key regional allies and likely regional coalition partners, including those countries where the United States currently deploys forces, where United States forces would likely operate during regional conflicts, or which would provide civilians necessary to support United States military operations, to determine what steps are necessary to ensure that allied and coalition forces and other critical civilians are adequately equipped and prepared to operate in chemically and biologically contaminated environments.

(ii) REPORTING REQUIREMENT.—Not later than one year after deposit of the United States instrument of ratification, the Secretaries of Defense and State shall submit a report to the Committees on Foreign Relations and Armed Services of the Senate and to the Speaker of the House on the result of these discussions, plans for future discussions, measures agreed to improve the preparedness of foreign forces and civilians, and proposals for increased military assistance, including through the Foreign Military Sales, Foreign Military Financing, and the International Military Education and Training programs pursuant to the Foreign Assistance Act of 1961.

(D) UNITED STATES ARMY CHEMICAL SCHOOL.—The Secretary of Defense shall take those actions necessary to ensure that the United States Army Chemical School remains under the oversight of a general officer of the United States Army.

(E) SENSE OF THE SENATE.—Given its concerns about the present state of chemical and biological defense readiness and training, it is the sense of the Senate that—

(i) in the transfer, consolidation, and reorganization of the United States Army Chemical School, the Army should not disrupt or diminish the training and readiness of the United States Armed Forces to fight in a chemical-biological warfare environment;

(ii) the Army should continue to operate the Chemical Defense Training Facility at Fort McClellan until such time as the replacement training facility at Fort Leonard Wood is functional.

(F) ANNUAL REPORTS ON CHEMICAL AND BIOLOGICAL WEAPONS DEFENSE ACTIVITIES.—On January 1, 1998, and annually thereafter, the President shall submit a report to the Committees on Foreign Relations, Appropriations, and Armed Services of the Senate and the Committee on International Relations, National Security, and Appropriations of the House of Representatives, and Speaker of the House on previous, current, and planned chemical and biological weapons defense activities. The report shall contain for the previous fiscal year and for the next three fiscal years—

(i) proposed solutions to each of the deficiencies in chemical and biological warfare defenses identified in the March 1996 report of the General Accounting Office entitled "Chemical and Biological Defense: Emphasis Remains Insufficient to Resolve Continuing Problems", and steps being taken pursuant to subparagraph (B) to ensure that the United States Armed Forces are capable of conducting required military operations to ensure the success of United States regional contingency plans despite the threat or use of chemical or biological weapons;

(ii) identification of the priorities of the executive branch of Government in the development of both active and passive chemical and biological defenses;

(iii) a detailed summary of all budget activities associated with the research, development, testing, and evaluation of chemical and biological defense programs;

(iv) a detailed summary of expenditures on research, development, testing, and evaluation, and procurement of chemical and biological defenses by fiscal years defense programs, department, and agency;

(v) a detailed assessment of current and projected vaccine production capabilities and vaccine stocks, including progress in researching and developing a multivalent vaccine;

(vi) a detailed assessment of procedures and capabilities necessary to protect and decontaminate infrastructure to reinforce United States power-projection forces, including progress in developing a nonaqueous chemical decontamination capability;

(vii) a description of progress made in procuring light-weight personal protective gear and steps being taken to ensure that programmed procurement quantities are sufficient to replace expiring battle-dress overgarments and chemical protective overgarments to maintain required wartime inventory levels;

(viii) a description of progress made in developing long-range standoff detection and identification capabilities and other battlefield surveillance capabilities for biological and chemical weapons, including progress on developing a multi-chemical agent detector, unmanned aerial vehicles, and unmanned ground sensors;

(ix) a description of progress made in developing and deploying layered theater missile defenses for deployed United States Armed Forces which will provide greater geographic coverage against current and expected ballistic missile threats and will assist in mitigating chemical and biological contamination through higher altitude intercepts and boost-phase intercepts;

(x) an assessment of—

(I) the training and readiness of the United States Armed Forces to operate in a chemically or biologically contaminated environment; and

(II) actions taken to sustain training and readiness, including training and readiness carried out at national combat training centers;

(xi) a description of progress made in incorporating chemical and biological considerations into service and joint exercises as well as simulations, models, and war games and the conclusions drawn from these efforts about the United States capability to carry out required missions, including missions with coalition partners, in military contingencies;

(xii) a description of progress made in developing and implementing service and joint doctrine for combat and non-combat operations involving adversaries armed with chemical or biological weapons, including efforts to update the range of service and joint doctrine to better address the wide range of military activities, including deployment, reinforcement, and logistics operations in support of combat operations, and for the conduct of such operations in concert with coalition forces; and

(xiii) a description of progress made in resolving issues relating to the protection of United States population centers from chemical and biological attack, including plans for inoculation of populations, consequence management, and a description of progress made in developing and deploying effective cruise missile defenses and a national ballistic missile defense.

(12) PRIMACY OF THE UNITED STATES CONSTITUTION.—Nothing in the Convention requires or authorizes legislation, or other action, by the United States prohibited by the Constitution of the United States, as interpreted by the United States.

(13) NONCOMPLIANCE.—

(A) IN GENERAL.—If the President determines that persuasive information exists that a State Party to the Convention is maintaining a chemical weapons production or production mobilization capability, is developing new chemical agents, or is in violation of the Convention in any other manner so as to threaten the national security interests of the United States, then the President shall—

(i) consult with the Senate, and promptly submit to it, a report detailing the effect of such actions;

(ii) seek on an urgent basis a challenge inspection of the facilities of the relevant party in accordance with the provisions of the Convention with the objective of demonstrating to the international community the act of noncompliance;

(iii) seek, or encourage, on an urgent basis a meeting at the highest diplomatic level with the relevant party with the objective of bringing the noncompliant party into compliance;

(iv) implement prohibitions and sanctions against the relevant party as required by law;

(v) if noncompliance has been determined, seek on an urgent basis within the Security Council of the United Nations a multilateral imposition of sanctions against the noncompliant party for the purposes of bringing the noncompliant party into compliance; and

(vi) in the event that the noncompliance continues for a period of longer than one year after the date of the determination made pursuant to subparagraph (A), promptly consult with the Senate for the purposes of obtaining a resolution of support of continued adherence to the Convention, notwithstanding the changed circumstances affecting the object and purpose of the Convention.

(B) CONSTRUCTION.—Nothing in this section may be construed to impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(5)).

(C) PRESIDENTIAL DETERMINATIONS.—If the President determines that an action otherwise required under subparagraph (A) would impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure, the President shall report that determination, together with a detailed written explanation of the basis for that determination, to the chairmen of the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence not later than 15 days after making such determination.

(14) FINANCING RUSSIAN IMPLEMENTATION.—The United States understands that, in order to be assured of the Russian commitment to a reduction in chemical weapons stockpiles, Russia must maintain a substantial stake in financing the implementation of both the 1990 Bilateral Destruction Agreement and the Convention. The United States shall not accept any effort by Russia to make deposit of Russia's instrument of ratification contingent upon the United States providing financial guarantees to pay for implementation of commitments by Russia under the 1990 Bilateral Destruction Agreement or the Convention.

(15) ASSISTANCE UNDER ARTICLE X.—

(A) IN GENERAL.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Congress that the United States shall not provide assistance under paragraph 7(a) of Article X.

(B) COUNTRIES INELIGIBLE FOR CERTAIN ASSISTANCE UNDER THE FOREIGN ASSISTANCE ACT.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Congress that for any State Party the government of which is not eligible for assistance under chapter 2 of part II (relating to military assistance) or chapter 4 of part II (relating to economic support assistance) of the Foreign Assistance Act of 1961—

(i) no assistance under paragraph 7(b) of Article X will be provided to the State Party; and

(ii) no assistance under paragraph 7(c) of Article X other than medical antidotes and treatment will be provided to the State Party.

(16) PROTECTION OF CONFIDENTIAL INFORMATION.—

(A) UNAUTHORIZED DISCLOSURE OF UNITED STATES BUSINESS INFORMATION.—Whenever the President determines that persuasive information is available indicating that—

(i) an officer of employee of the Organization has willfully published, divulged, disclosed, or made known in any manner or to any extent not authorized by the Convention any United States confidential business information coming to him in the course of his employment or official duties or by reason of any examination or investigation of any return, report, or record made to or filed with the Organization, or any officer or employee thereof, and

(ii) such practice or disclosure has resulted in financial losses or damages to a United States person,

the President shall, within 30 days after the receipt of such information by the executive branch of Government, notify the Congress in writing of such determination.

(B) WAIVER OF IMMUNITY FROM JURISDICTION.—

(i) CERTIFICATION.—Not later than 270 days after notification of Congress under subparagraph (A), the President shall certify to Congress that the immunity from jurisdiction of such foreign person has been waived by the Director-General of the Technical Secretariat.

(ii) WITHHOLDING OF PORTION OF CONTRIBUTIONS.—If the President is unable to make the certification described under clause (i), then 50 percent of the amount of each annual United States contribution to the regular budget of the Organization that is assessed pursuant to paragraph 7 of Article VIII shall be withheld from disbursement, in addition to any other amounts required to be withheld from disbursement by any other provision of law, until—

(I) the President makes such certification, or

(II) the President certifies to Congress that the situation has been resolved in a manner satisfactory to the United States person who has suffered the damages due to the disclosure of United States confidential business information.

(C) BREACHES OF CONFIDENTIALITY.—

(i) CERTIFICATION.—In the case of any breach of confidentiality involving both a State Party and the Organization, including any officer or employee thereof, the President shall, within 270 days after providing written notification to Congress pursuant to subparagraph (A), certify to Congress that the Commission described under paragraph 23 of the Confidentiality Annex has been established to consider the breach.

(ii) WITHHOLDING OF PORTION OF CONTRIBUTIONS.—If the President is unable to make the certification described under clause (i), then 50 percent of the amount of each annual United States contribution to the regular budget of the Organization that is assessed pursuant to paragraph 7 of Article VIII shall be withheld from disbursement, in addition to any other amounts required to be withheld from disbursement by any other provision of law, until—

(I) the President makes such certification, or

(II) the President certifies to Congress that the situation has been resolved in a manner satisfactory to the United States person who has suffered the damages due to the disclosure of United States confidential business information.

(D) DEFINITIONS.—In this paragraph:

(i) UNITED STATES CONFIDENTIAL BUSINESS INFORMATION.—The term "United States confidential business information" means any trade secrets or commercial or financial information that is privileged and confidential, as described in section 552(b)(4) of title 5, United States Code, and that is obtained—

(I) from a United States person; and

(II) through the United States National Authority or the conduct of an inspection on United States territory under the Convention.

(ii) UNITED STATES PERSON.—The term "United States person" means any natural person or any corporation, partnership, or other juridical entity organized under the laws of the United States.

(iii) UNITED STATES.—The term "United States" means the several States, the District of Columbia, and the commonwealths, territories, and possessions of the United States.

(17) CONSTITUTIONAL PREROGATIVES.—

(A) FINDINGS.—The Senate makes the following findings:

(i) Article II, Section 2, Clause 2 of the United States Constitution states that the President "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur".

(ii) At the turn of the century, Senator Henry Cabot Lodge took the position that the giving of advice and consent to treaties constitutes a stage in negotiation on the treaties and that Senate amendments or reservations to a treaty are propositions "offered at a later stage of the negotiation by the other part of the American treaty making power in the only manner in which they could then be offered".

(iii) The executive branch of Government has begun a practice of negotiating and submitting to the Senate treaties which include provisions that have the purported effect of—

(I) inhibiting the Senate from attaching reservations that the Senate considers necessary in the national interest; or

(II) preventing the Senate from exercising its constitutional duty to give its advice and consent to treaty commitments before ratification of the treaties.

(iv) During the 85th Congress, and again during the 102d Congress, the Committee on Foreign Relations of the Senate made its position on this issue clear when stating that "the President's agreement to such a prohibition cannot constrain the Senate's constitutional right and obligation to give its advice and consent to a treaty subject to any reservation it might determine is required by the national interest".

(B) SENSE OF THE SENATE.—It is the sense of the Senate that—

(i) the advice and consent given by the Senate in the past to ratification of treaties containing provisions which prohibit amendments or reservations should not be construed as a precedent for such provisions in future treaties;

(ii) United States negotiators to a treaty should not agree to any provision that has the effect of inhibiting the Senate from attaching reservations or offering amendments to the treaty; and

(iii) the Senate should not consent in the future to any article or other provision of any treaty that would prohibit the Senate from giving its advice and consent to ratification of the treaty subject to amendment or reservation.

(18) LABORATORY SAMPLE ANALYSIS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate that no sample collected in the United States pursuant to the Convention will be transferred for analysis to any laboratory outside the territory of the United States.

(19) EFFECT ON TERRORISM.—The Senate finds that—

(A) without regard to whether the Convention enters into force, terrorists will likely view chemical weapons as a means to gain greater publicity and instill widespread fear; and

(B) the March 1995 Tokyo subway attack by the Aum Shinrikyo would not have been prevented by the Convention.

(20) CONSTITUTIONAL SEPARATION OF POWERS.—

(A) FINDINGS.—The Senate makes the following findings:

(i) Article VIII(8) of the Convention allows a State Party to vote in the Organization if the State Party is in arrears in the payment of financial contributions and the Organization is satisfied that such nonpayment is due to conditions beyond the control of the State Party.

(ii) Article I, Section 8 of the United States Constitution vests in Congress the exclusive authority to "pay the Debts" of the United States.

(iii) Financial contributions to the Organization may be appropriated only by Congress.

(B) SENSE OF SENATE.—It is therefore the sense of the Senate that—

(i) such contributions thus should be considered, for purposes of Article VIII(8) of the Convention, beyond the control of the executive branch of the United States Government; and

(ii) the United States vote in the Organization should not be denied in the event that Congress does not appropriate the full amount of funds assessed for the United States financial contribution to the Organization.

(21) ON-SITE INSPECTION AGENCY.—It is the sense of the Senate that the On-Site Inspection Agency of the Department of Defense should have the authority to provide assistance in advance of any inspection to any facility in the United States that is subject to a routine inspection under the Convention, or to any facility in the United States that is the object of a challenge inspection conducted pursuant to Article IX, if the consent of the owner or operator of the facility has first been obtained.

(22) LIMITATION ON THE SCALE OF ASSESSMENT.—

(A) LIMITATION ON ANNUAL ASSESSMENT.—Notwithstanding any provision of the Convention, and subject to the requirements of subparagraphs (B), (C), and (D) the United States shall pay as a total annual assessment of the costs of the Organization pursuant to paragraph 7 of Article VIII not more than $25,000,000.

(B) RECALCULATION OF LIMITATION.—On January 1, 2000, and at each 3-year interval thereafter, the amount specified in subparagraph (A) is to be recalculated by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period.

(C) ADDITIONAL CONTRIBUTIONS REQUIRING CONGRESSIONAL APPROVAL.—

(i) AUTHORITY.—Notwithstanding subparagraph (A), the President may furnish additional contributions which would otherwise be prohibited under subparagraph (A) if—

(I) the President determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the failure to provide such contributions would result in the inability of the Organization to conduct challenge inspections pursuant to Article IX or would otherwise jeopardize the national security interests of the United States; and

(II) Congress enacts a joint resolution approving the certification of the President.

(ii) STATEMENT OF REASONS.—The President shall transmit with such certification a detailed statement setting forth the specific reasons therefor, and the specific uses to which the additional contributions provided to the Organization would be applied.

(D) ADDITIONAL CONTRIBUTIONS FOR VERIFICATION.—Notwithstanding subparagraph (A), for a period of not more than ten years, the President may furnish additional contributions to the Organization for the purposes of meeting the costs of verification under Articles IV and V.

(23) ADDITIONS TO THE ANNEX ON CHEMICALS.—

(A) PRESIDENTIAL NOTIFICATION.—Not later than 10 days after the Director-General of the Technical Secretariat communicates information to all States Parties pursuant to Article XV(5)(a) of a proposal for the addition of a chemical or biological substance to a schedule of the Annex on Chemicals, the President shall notify the Committee on Foreign Relations of the Senate of the proposed addition.

(B) PRESIDENTIAL REPORT.—Not later than 60 days after the Director-General of the Technical Secretariat communicates information of such a proposal pursuant to Article XV(5)(a) or not later than 30 days after a positive recommendation by the Executive Council pursuant to Article XV(5)(c), whichever is sooner, the President shall submit to the Committee on Foreign Relations of the Senate a report, in classified and unclassified form, detailing the likely impact of the proposed addition to the Annex on Chemicals. Such report shall include—

(i) an assessment of the likely impact on United States industry of the proposed addition of the chemical or biological substance to a schedule of the Annex on Chemicals;

(ii) a description of the likely costs and benefits, if any, to United States national security of the proposed addition of such chemical or biological substance to a schedule of the Annex on Chemicals; and

(iii) a detailed assessment of the effect of the proposed addition on United States obligations under the Verification Annex.

(C) PRESIDENTIAL CONSULTATION.—The President shall, after the submission of the notification required under subparagraph (A) and prior to any action on the proposal by the Executive Council under Article XV(5)(c), consult promptly with the Senate as to whether the United States should object to the proposed addition of a chemical or biological substance pursuant to Article XV(5)(c).

(24) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the Constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification with respect to the INF Treaty. For purposes of this declaration, the term "INF Treaty" refers to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the related memorandum of understanding and protocols, approved by the Senate on May 27, 1988.

(25) FURTHER ARMS REDUCTIONS OBLIGATIONS.—The Senate declares its intention to consider for approval international agreements that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the treaty power as set forth in Article II, section 2, clause 2 of the Constitution.

(26) RIOT CONTROL AGENTS.—

(A) PERMITTED USES.—Prior the the deposit of the United States instrument of ratification, the President shall certify to Congress that the United States is not restricted by the Convention in its use of riot control agents, including the use against combatants who are parties to a conflict, in any of the following cases:

(i) UNITED STATES NOT A PARTY.—The conduct of peacetime muilitary operations within an area of ongoing armed conflict when the United States is not a party to the conflict (such as recent use of the United States Armed Forces in Somalia, Bosnia, and Ruanda).

(ii) CONSENSUAL PEACEKEEPING.—Consensual peacekeeping operations when the use of force is authorized by the receiving state, including operations pursuant to Chapter VI of the United Nations Charter.

(iii) CHAPTER VII PEACEKEEPING.—Peacekeeping operations when force is authorized by the Securtity Council under Chapter VII of the United Nations Charter.

(B) IMPLEMENTATION.—The President shall take no measure, and prescribe no rule or regulation, which would alter or eliminate Executive Order 11850 of April 8, 1975.

(C) DEFINITION.—In this paragraph, the term "riot control agent'" has the meaning given the term in Article II(7) of the Convention.

(27) CHEMICAL WEAPONS DESTRUCTION.—Prior to the deposit of the United States instrument of ratification of the Convention, the President shall certify to the Congress that all of the following conditions are satisfied:

(A) EXPLORATION OF ALTERNATIVE TECHNOLOGIES.—The President has agreed to explore alternative technologies for the destruction of the United States stockpile of chemical weapons in order to ensure that the United States has the safest, most effective and environmentally sound plans and programs for meeting its obligations under the Convention for the destruction of chemical weapons.

(B) CONVENTION EXTENDS DESTRUCTION DEADLINE.—The requirement in section 1412 of Public Law 99-145 (50 U.S.C. 1521) for completion of the destruction of the United States stockpile of chemical weapons by December 31, 2004, will be superseded upon the date the Convention enters into force with respect to the United States by the deadline required by the Convention of April 29, 2007.

(C) AUTHORITY TO EMPLOY A DIFFERENT DESTRUCTION TECHNOLOGY.—The requirement in Article III(1)(a)(v) of the Convention for a declaration by each State Party not later than 30 days after the date the Convention enters into force with respect to that Party, on general plans of the State Party for destruction of its chemical weapons does not preclude in any way the United States from deciding in the future to employ a technology for the destruction of chemical weapons different than that declared under that Article.

(D) PROCEDURES FOR EXTENSION OF DEADLINE.—The President will consult with Congress on whether to submit a request to the Executive Council of the Organization for an extension of the deadline for the destruction of chemical weapons under the Convention, as provided under part IV(A) of the Annex on Implementation and Verification to the Convention, if, as a result of the program of alternative technologies for the destruction of chemical munitions carried out under section 8065 of the Department of Defense Appropriations Act, 1997 (as contained in Public

Law 104-208), the President determines that alternatives to the incineration of chemical weapons are available that are safer and more environmentally sound but whose use would preclude the United States from meeting the deadlines of the Convention.

(28) CONSTITUTIONAL PROTECTION AGAINST UNREASONABLE SEARCH AND SEIZURE.—

(A) IN GENERAL.—In order to protect United States citizens against unreasonable searches and seizures, prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(i) for any challenge inspection conducted on the territory of the United States pursuant to Article IX, where consent has been withheld, the United States National Authority will first obtain a criminal search warrant based upon probable cause, supported by oath or affirmation, and describing with particularity the place to be searched and the persons or things to be seized; and

(ii) for any routine inspection of a declared facility under the Convention that is conducted on an involuntary basis on the territory of the United States, the United States National Authority first will obtain an administrative search warrant from a United States magistrate judge.

(B) DEFINITION.—For purposes of this resolution, the term "National Authority" means the agency or office of the United States Government designated by the United States pursuant to Article VII(4) of the Convention.

(29) RUSSIAN ELIMINATION OF CHEMICAL WEAPONS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Congress that—

(A) Russia is making reasonable progress in the implementation of the Agreement between the United States of America and the Union of Soviet Socialist Republics on Destruction and Nonproduction of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, signed on June 1, 1990 (in this resolution referred to as the "1990 Bilateral Destruction Agreement");

(B) the United States and Russia have resolved, to the satisfaction of the United States, outstanding compliance issues under the Memorandum of Understanding Between the Government of the United States of America and the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989, also known as the "1989 Wyoming Memorandum of Understanding", and the 1990 Bilateral Destruction Agreement;

(C) Russia has deposited the Russian instrument of ratification for the Convention and is in compliance with its obligations under the Convention; and

(D) Russia is committed to forgoing any chemical weapons capability, chemical weapons modernization program, production mobilization capability, or any other activity contrary to the object and purpose of the Convention.

(30) CHEMICAL WEAPONS IN OTHER STATES.—

(A) CERTIFICATION REQUIREMENT.—Prior to the deposit of the United States instrument of ratification the President, in consultation with the Director of Central Intelligence, shall certify to the Congress that countries which have been determined to have offensive chemical weapons programs, including Iran, Iraq, Syria, Libya, the Democratic People's Republic of Korea, China, and all other countries determined to be state sponsors of international terrorism, have ratified or otherwise acceded to the Convention.

(31) EXERCISE OF RIGHT TO BAR CERTAIN INSPECTORS.—

(i) IN GENERAL.—The President shall exercise United States rights under paragraphs 2 and 4 of Part II of the Verification Annex to indicate United States non-acceptance of all inspectors and inspection assistants who are nationals of countries designated by the Secretary of State as supporters of international terrorism under section 40(d) of the Arms Export Control Act, or nationals of countries that have been determined by the President, in the last five years, to have violated United States nonproliferation law, including—

(I) chapters 7, 8, and 10 of the Arms Export Control Act;

(II) sections 821 and 824 of the Nuclear Proliferation Prevention Act of 1994;

(III) sections 11b and 11c of the Export Administration Act of 1979;

(IV) the Export-Import Bank Act of 1945; and

(V) sections 1604 and 1605 of the Iran-Iraq Nonproliferation Act of 1992.

(ii) OTHER GROUNDS OF EXCLUSION.—The President shall also bar such nationals from entering United States territory for the purpose of conducting any activity associated with the Convention, notwithstanding paragraph 7 of Part II of the Verification Annex.

(32) STEMMING THE PROLIFERATION OF CHEMICAL WEAPONS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(A) the State Parties have concluded an agreement amending the Convention—

(i) by striking Article X; and

(ii) by amending Article XI to strike any provision that states or implies disapproval of trade restrictions in the field of chemical activities, including paragraphs 2(b), 2(c), 2(d), and 2(e); and

(B) no provision has been added to the Convention or to any of its annexes, and no statement, written or oral, has been issued by the Organization, stating or implying the right or obligation of States Parties to share or facilitate the exchange among themselves of chemical weapons defense technology, chemicals, equipment, or scientific and technical information.

(33) EFFECTIVE VERIFICATION.—

(A) CERTIFICATION.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that compliance with the Convention is effectively verifiable.

(B) DEFINITIONS.—In this paragraph:

(i) EFFECTIVELY VERIFIABLE.—The term "effectively verifiable" means that the Director of Central Intelligence has certified to the President that the United States intelligence community (as defined in section 3(4) of the National Security Act of 1947) has a high degree of confidence in its ability to detect militarily significant violations of the Convention, including the production, possession, or storage of militarily significant quantities of lethal chemicals, in a timely fashion, and to detect patterns of marginal violation over time.

(ii) MILITARILY SIGNIFICANT.—The term "militarily significant" means one metric ton or more of chemical weapons agent.

(iii) TIMELY FASHION.—The term "timely fashion" means detection within one year of the violation having occurred.

SEC. 3. DEFINITIONS.

As used in this resolution:

(1) CHEMICAL WEAPONS CONVENTION OR CONVENTION.—The terms "Chemical Weapons Convention" and "Convention" mean the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, Opened for Signature and Signed by the United States at Paris on January 13, 1993, including the following protocols and memorandum of understanding, all such documents being integral parts of and collectively referred to as the "Chemical Weapons Convention" or the "Convention" (contained in Treaty Document 103–21):

(A) The Annex on Chemicals.

(B) The Annex on Implementation and Verification.

(C) The Annex on the Protection of Confidential Information.

(D) The Resolution Establishing the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons.

(E) The Text on the Establishment of a Preparatory Commission.

(2) ORGANIZATION.—The term "Organization" means the Organization for the Prohibition of Chemical Weapons established under the Convention.

(3) STATE PARTY.—The term "State Party" means any nation that is a party to the Convention.

(4) UNITED STATES INSTRUMENT OF RATIFICATION.—The term "United States instrument of ratification" means the instrument of ratification of the United States of the Convention.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, April 17, 1997, at 9 a.m. in SR–328A to receive testimony regarding crop and revenue insurance oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mrs. HUTCHISON. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, April 17, 1997, beginning at 10 a.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 17, 1997, at 10 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, April 17, 1997, at 9:15 a.m. for a hearing on public education improvement opportunities for the District of Columbia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mrs. HUTCHISON. Mr. President, the Committee on the Judiciary would like to request unanimous consent to hold an executive business meeting on Thursday, April 17, 1997, at 10 a.m., in Room 226 of the Senate Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, April 17, 1997, beginning at 9:30 a.m. to consider the course of action regarding petitions in connection with a contested U.S. Senate election held in Louisiana in November 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mrs. HUTCHISON. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing to hear the testimony of Gen. Colin Powell on Persian Gulf War issues. The hearing will be held on April 17, 1997, at 9:30 a.m., in room 216 of the Hart Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, April 17, 1997, at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EASTERN AND SOUTH ASIAN AFFAIRS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 15, 1997, at 2 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMPLOYMENT AND TRAINING

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a Employment and Training Subcommittee Hearing on Innovations in Youth Training, during the session of the Senate on Thursday, April 17, 1997, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL SECURITY, SECURITY, PROLIFERATION, AND FEDERAL SERVICES

Mrs. HUTCHISON. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Thursday, April 17, at 10:30 a.m. for a classified hearing on "Proliferation: Chinese Case Studies."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Subcommittee of Readiness of the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, April 17, 1997, in open session, to receive testimony on the status of the operational readiness of the U.S. Military Forces in review of S. 450, the National Defense Authorization Act for fiscal year 1998 and 1999.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SURFACE TRANSPORTATION AND EFFICIENCY ACT

● Mr. JEFFORDS. Mr. President, I am pleased to join 31 of my fellow Senators in introducing a reauthorization of our Nation's transportation legislation, the Intermodal Surface Transportation and Efficiency Act [ISTEA]. This bill commits our country to sound transportation planning and development and reflects the vital role transportation plays in our expanding economy.

In 1991, I was proud to be a member of the Environment and Public Works Committee and an original author of ISTEA. This innovative law has resulted in the development of efficient and effective transportation throughout our country. ISTEA shifted decision making from Washington to local communities, enhanced air quality health standards, increased mobility and allowed our economy to grow in an intelligent manner.

Today, I am equally honored to be involved in the introduction of ISTEA WORKS, the continuation of this successful law. This bill retains the basic structure of ISTEA, preserving the role of States and local communities in deciding transportation policies, continuing the emphasis on intermodalism and maintaining support for strong environmental provisions. The bill protects the important enhancements programs, expands the Congestion Mitigation and Air Quality program and improves safety.

This legislation also addresses an issue important to Vermont and the Nation. As we have heard recently, Amtrak continues to struggle with its finances. Although I know Amtrak will survive, action must be taken to improve the system now. ISTEA WORKS grants States the flexibility to use Federal transportation dollars for operating and maintaining passenger service. This flexibility is important to Vermont, where we are running two of the most successful passenger trains in the Nation. The new authority will also enable our State to expand passenger rail and upgrade rail lines to benefit freight rail traffic.

Mr. President, this is a historic occasion. With the introduction of this legislation, we begin to raise the awareness of the success of ISTEA and the urgent need to reauthorize this important legislation with few major changes.●

NOMINATION OF PETE PETERSON TO BE AMBASSADOR TO VIETNAM

● Mr. FEINGOLD. Mr. President, I was pleased to see the Senate consider the President's nomination of Douglas "Pete" Peterson to be the United States Ambassador to Socialist Republic of Vietnam late last week. I supported this nomination in the Foreign Relations Committee. But I did so after careful consideration of the symbolism of this vote and of the signal it sends to Americans.

Mr. President, the appointment of an ambassador is a normal consequence of having full diplomatic relations with a given country. And we have had diplomatic relations with Vietnam since July 1995 when the President signed an executive order establishing such ties. So, technically, the Senate's view on this nominee does not represent a statement of policy. It simply represents the normal procedure by which the Senate provides its advice and consent to a Presidential nomination.

There has never been any serious question raised regarding the President's selection of Mr. Peterson to fill this position. Mr. Peterson is an outstanding citizen and public servant. He spent nearly 30 years in the U.S. Air Force, including 6½ years as a prisoner of war in Vietnam, and has received numerous awards for his valiant service. As a three-term Member of Congress from the second district in Florida, Mr. Peterson also has devoted significant energies to working with both the Bush administration and the Clinton administration to bolster the U.S. search program for POW/MIA's. There are few people who have as deep of an understanding of the uniqueness of America's relationship with Vietnam, so I fully support the President's choice.

This does not mean that there do not remain myriad outstanding questions and issues in our bilateral relations with Vietnam. One issue that is of particular concern to me is the human rights record of the Vietnamese Government which remains poor. According to the most recent State Department Report on Human Rights Practices, the Government of Vietnam continues to restrict basic freedoms; of speech, of the press, of assembly, of association, of privacy, and of religion.

Citizens can be arbitrarily arrested or detained for trying to express political or religious objections to government policies. And although the Vietnamese Constitution provides for the right to privacy, according to the State Department, the Vietnamese Government continues to operate a "nationwide system of surveillance and control through * * * block wardens who use informants to keep track of individuals' activities." The Vietnamese Government also has in place a policy of forced family planning.

Mr. President, this is not a country that shares with the United States the principle that government should exist to promote the general welfare of its people. Nor is it one that has respect for the rule of law.

But, as I said in 1995 when the President first announced his decision to restore diplomatic relations with Vietnam, I believe that diplomatic relations actually enhance our ability to advocate for issues such as human rights and political freedoms. Through a permanent, high-level presence in the country, I believe the United States can intensify the dialog on human rights, work more closely with Vietnamese reformers, and more effectively monitor developments in the human rights situation.

Now I have listened carefully to the veterans in Wisconsin and to the national veterans' organizations. I recognize that the veterans themselves have differing opinions on the issue of diplomatic relations, in general, and of Senate confirmation of this nomination, in particular. The concerns are two-fold: Does having an ambassador on the ground in Vietnam actually help advance the accounting of POW and MIA cases? Or does the dispatching of a President's representative with ambassadorial rank imply that the United States no longer thinks we have reason to withhold a special privilege for Vietnam?

Mr. President, it is my view that having an ambassador resident in Hanoi can serve to better advance U.S. interests, in human rights, as I said earlier, and on issues related to the continued accounting of our POW's and MIA's. I salute the efforts of all those who have tirelessly sought details about missing U.S. service men and women, and, from most of their testimony, I am inclined to believe that we will enhance our ability to collect more information about the remaining POW and MIA cases through fulfilling the President's commitment to full diplomatic relations.

On the other hand, I think it is equally important to acknowledge that sending a Presidential representative of ambassadorial rank does indicate a symbolic change in our relationship with Vietnam that I know some observers still are hesitant to send. It is my view, however, that the United States can serve two purposes by that change: Better advance our interests as described above, and better indicate our concerns about Vietnam or its government through other actions. For example, that is why I voted against lifting the trade embargo against Vietnam and why I have supported congressional efforts to limit United States assistance to Vietnam.

However, I believe that in an era of global engagement and integration, it usually makes little sense to refuse diplomatic relations with a country in the international community. Vietnam is a large presence in a fast-growing region where the United States has ever-increasing interests. We can no longer hope to isolate it, nor will isolation serve to advance any of our goals.

To reiterate, Mr. President, I support the President's choice of Pete Peterson to be Ambassador to Vietnam because I believe that the United States best serves its citizens by having a Presidential representative of the highest order resident in the country. Nevertheless, I remain concerned about other aspects of our bilateral relations in that country and I will continue to scrutinize carefully the President's policies in that regard.•

COMMENDATION OF LT. COL. STEPHEN G. GRESS, JR.

• Mr. SANTORUM. Mr. President, I rise today to pay tribute to Lt. Col. Stephen G. Gress, Jr., who recently retired from the U.S. Air Force. A native of Pittsburgh, PA, Lieutenant Colonel Gress has served his country with valor and distinction for more than 22 years as an instructor pilot, a combat pilot, and as a member of the Air Force legislative liaison.

One needs only to look at Steve's academic credentials to see that he is a man of exceptional achievement. In addition to graduating from the Air Force Academy, Lieutenant Colonel Gress earned a masters degree in operation research from the Air Force Institute of Technology at Wright-Patterson Air Force Base. Likewise, Steve became a distinguished graduate of the Air Command and Staff College at Maxwell Air Force Base in 1987.

Mr. President, Lieutenant Colonel Gress was one of the military's premier pilots. He served as an instructor pilot for the T–38 at Webb Air Force Base, and later, for the T–41 at his alma mater, the U.S. Air Force Academy. In 1979, the Air Force chose Steve from a very select few to become an F–15 fighter pilot. Steve also distinguished himself in the Air Force Special Programs Office, where he managed the development of future fighter weapons systems. During his tenure at Bitburgh Air Force Base, Steve's extensive knowledge of fighter combat operations led to an appointment as the chief of wing inspections, a position that is critical to the combat effectiveness of all Air Force organizations.

I would also note that Lieutenant Colonel Gress is a war hero. As an F–15 flight leader, he flew 19 combat missions in Operation Desert Storm.

Later in 1991, Steve returned to the Pentagon. Once again, the Air Force came to rely upon his keen understanding of fighter combat. As the branch chief for both air to air weapons and fighter development, he worked to ensure that the next generation of fighter systems would secure American air dominance.

Steve moved to the Office of the Air Force Legislative Liaison in 1993. He worked his way up from the branch chief for fighter and fighter weapons to the division chief of the weapons systems division. As always, Steve took tremendous pride in his work. He strove to ensure that critical military issues were presented to Congress in a clear and nonparochial manner. Over the years, many congressional staff members have come to know Steve both as a serious professional and as a man of integrity.

As Lt. Col. Stephen G. Gress, Jr. retires to private life, I ask my colleagues will join me in commending the outstanding service he has given this country. On behalf of the Senate, I would like to wish Lieutenant Colonel Gress and his family the very best.•

FENTON A.J. PHILLIPS LIBRARY

• Mr. LEVIN. Mr. President, I rise today to honor the Fenton A.J. Phillips Library as it celebrates the 10th anniversary of operations in its current building. The history of the library dates back to 1906, when local industrialist A.J. Phillips bequeathed his old office building to the community for use as a library. Since then, the library has experienced many changes, but it has never stopped serving the residents of Fenton. In order to properly celebrate this achievement, the city of Fenton and the Fenton Library Board is holding a gala event which will include some of Neil Simon's hilarious sketches. These will be presented by the actors of the Readers Theatre at the library. Mayor Patricia Lockwood has proclaimed April 17, "Pride in the Fenton A.J. Phillips Library Day."

The Fenton Library is one of 18 libraries in the Genesee County Library System. It serves over 10,000 residents of Fenton, Fenton Township, and Tyrone Township. It contains over 55,000 volumes and offers online services to the community. It provides CD's, videos, and books on tape. The library also offers special programs for adults and children, and complete reference services. In 1988, the library was awarded the Michigan Municipal League's Municipal Achievement Award Honorable Mention for its outstanding work.

I recently visited the Fenton A.J. Phillips Library and saw the positive influence it has on the local community. In this era when institutions are being asked to do more with less, it is heartening to see this library continue to provide quality service to the public. I know my Senate colleagues will join me in honoring the Fenton A.J. Phillips Library on its 10th Anniversary.•

COMMEMORATING THE FIRST INTERNATIONAL SCHOOL OF AMERICA

• Mrs. HUTCHISON. Mr. President, I rise today to recognize the Dallas Public School System in my State of Texas, and North Dallas High School in particular. Today the school is holding a celebration of cultural unity to recognize a wonderfully diverse student body made up of young Americans with family heritage from 33 different cultures around the world. To celebrate the day, the students of North Dallas High School have painted a mural titled "Unity Among Cultures," which will be unveiled today.

The Dallas Public School System, which administers North Dallas High School, covers over 300 square miles and 208 schools. Over 60 different cultural and linguistic groups are represented, from Amharic to Vietnamese. Within this school system, and most notably at the newly designated First International School of America, these diverse cultures come together as they always have in this country to form the great American culture.

Since its very beginnings as an independent republic, Texas has been a place to which people come to build their lives while helping build the land. No State in this great Nation represents a more diverse and exciting mix of cultures than Texas.

The First International School of America represents this great Texas heritage in a truly unique way, and gives life to the very foundation of these United States, engraved on the wall above me: E Pluribus Unum—From Many, One.

Mr. President, the future of my State and our country passes through the schoolhouse doors of Texas and schools around the country every day. I ask my colleagues to join me in commending North Dallas High School—the First International School of America—for leadership and wisdom in celebrating the cultural unity that makes America great.•

FIRST A.M.E. OF LOS ANGELES AND REV. CECIL MURRAY

• Mrs. BOXER. Mr. President, I would like to pay tribute today and commemorate the 125th anniversary of the First African Methodist Episcopal Church in Los Angeles, CA. First A.M.E., as it is known to millions of southern Californians, is the oldest predominately African-American church in Los Angeles. For the past 20 years, First A.M.E. has been led by the Reverend Cecil L. "Chip" Murray, who has distinguished himself as one of the leading black clergymen in America during his tenure at this church.

This year's anniversary celebration is about much more than longevity. It is about a legacy of and commitment to leadership and inspiration. First A.M.E. is not only the oldest and most well-known African-American church in Los Angeles, it is also the most highly respected. Its reputation as a place of worship and a center of black community fellowship and action is known to Angelenos of every social and ethnic background. Its voice has been an essential part of a city known for dynamic civic dialog.

In addition to its central role as a church, First A.M.E. also provides much-needed leadership and social service assistance in the community. Church outreach efforts include providing food and housing assistance to families and individuals in need, job training and placement services and working with young people to encourage them along the paths of personal and spiritual fulfillment and social responsibility. Although its focus is primarily local, First A.M.E. has also hosted leaders of national and international stature at its Sunday services. In so doing, First A.M.E. has provided a valuable forum, which has stimulated dialog and action in the community.

One-hundred and twenty-five years ago, a former slave, Biddy Mason, founded the First A.M.E. in her home in what is now downtown Los Angeles. Today, the congregation worships in a beautiful building designed by the renowned black architect Paul Williams. When the first service was held there were only 12 people in attendance. When I was there last year, there were over 600 people at just one service, and there were several held that day.

The Reverend Chip Murray joined First A.M.E. in 1977, when the congregation had but 300 active members. Today, this number has increased to over 9,000, representing all age ranges and every socioeconomic group in Los Angeles' diverse African-American community. Under Reverend Murray's leadership, First A.M.E. has developed 30 task forces that focus on such issues as health, substance abuse, aid to needy families and the elderly, housing and economic development, job training, and tutoring. I cannot say enough about First A.M.E.'s efforts to reach out to people from all walks of life.

Reverend Murray's mission has been to expand the church beyond its walls. As an example, every new congregant is asked to participate in a task force. Efforts such as this help ensure that First A.M.E. remains intimately involved in the life and times of the great city which it serves. Because of this dedication to public service, Reverend Murray and First A.M.E. have become beacons of hope and inspiration in a city where all too often fear and despair prevail. Their hard work and boundless decency represent well the power of faith leavened with action.•

WASTE TIRE RECYCLING, ABATEMENT, AND DISPOSAL ACT OF 1997

• Mr. CHAFEE. Mr. President, on March 14, I came to the floor to introduce S. 445, the Waste Tire Recycling, Abatement, and Disposal Act of 1997. Today, I want to make sure that the record is clear on an issue relating to the retreading of radial-type tires.

It has come to my attention that my remarks regarding retreading have led to some concern on the part of those engaged in the retreading industry. There are approximately 1,440 retreading plants in the United States, and approximately 90 percent of the retreading plants are independently owned small businesses.

In my oral remarks on March 14, I said "the nature of modern steel belted radial tires makes it very difficult to recycle these tires into new ones. Once upon a time, old tires were retreaded, as we all know. You cannot do that with radial tires." While that statement is true with regards to recycling rubber from modern radial tires directly into new radial tires, it is not accurate with respect to retreading of radials.

The Tire Retread Information Bureau and the International Tire and Rubber Association recently provided me with the information on the retreading of tires in 1996, when a total of 29.1 million tires were retreaded in the United States. This breaks down to approximately 4.2 million passenger car tires, 99 percent of them radials; 7 million light truck tires, 80 percent of them radials; and 16.5 million medium truck tires—tires for so-called 18 wheelers, 89 percent of them radials. The remainder are off-road vehicle tires, aircraft tires, and specialty tires.

My bill, S. 445, recognizes that retreading tires is an environmentally beneficial fate for tires that would otherwise require immediate disposal. Proposed section 4011(d)(1)(B) provides tire retreaders with an exception to the general prohibition on storage of more than 1,500 unshredded waste tires for a period greater than 7 days. This section affirmatively promotes retreading by allowing retreaders to store at their plants the greater of either 2,500 tires; or a number equal to the number of tires to be retreaded over a 30-day period.•

IN SUPPORT OF SENATE RESOLUTION 72

• Mr. DODD. Mr. President, I rise today in support of Senate Resolution

72, to allow disabled people with floor privileges to bring supporting services onto the floor with them when appropriate. For years, the disability community has fought for the right to be included and to be brought into the economic and social mainstream of American life. This resolution represents one more step forward in that long struggle to win equal treatment.

Throughout our history, the rules of the Senate have served us extraordinarily well. They enable us to preserve order and decorum so that the affairs of our Nation can be debated, discussed, and considered in a reasoned, deliberate manner. Yet, as is true of any set of rules, occasionally the need for change becomes apparent. Such a moment occurred in the Senate on Monday when a Senator sought floor privileges for a member of his staff who is blind and utilizes a guide dog in her work.

As a body, we responded to this moment as we should have: Carefully, deliberately, and swiftly. The staff member in question was granted access to the floor, and Senate Resolution 72 was promptly referred to the Committee on Rules and Administration. I am hopeful that, in due course, we will revise our rules to allow all people with disabilities to bring supporting services with them to the floor when appropriate.

Former Senator Lowell Weicker of my home State once said that people with disabilities spend a lifetime overcoming not what God wrought but what man imposed by custom and law. This resolution gratefully eliminates some of those customs and laws. It is an important step for disabled Americans, for the Senate, and for the entire country.•

U.S. ATTORNEY CHUCK STEVENS

• Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to a trusted colleague and dedicated public servant, Chuck Stevens. During his three-and-a-half-year tenure as the United States Attorney for the Eastern District of California, he compiled an undeniably strong record. However, what may be most impressive about Chuck is his self-effacing demeanor in a position that often requires being pushed into the limelight.

Chuck Stevens' career exemplifies the kind of integrity, dedication and skills essential for anyone who seeks to be an effective public servant. His success at the helm of the Eastern District in California so early in his career undoubtedly will be followed by great accomplishments in the future.

A native of Cranford, NJ, Mr. Stevens moved to California to study law at the University of California, Berkeley where he graduated in 1982. Prior to his current position, he worked as a litigator in complex cases in the private sector and as an Assistant United States Attorney.

Mr. Stevens returned to public service when he was appointed by President Clinton in November 1993 to be the United States Attorney for the Eastern District of California. I had the honor of recommending Mr. Stevens to the President for appointment.

Since then, Chuck has succeeded in prosecuting a multitude of crimes—from hate crimes to political corruption to halting health care fraud—with distinction and diligence. He was also appointed by United States Attorney General Reno to serve on her advisory committee representing United States Attorneys across the nation.

The Sacramento-based Eastern District of California is the tenth largest of the Nation's 94 Federal judicial districts. It covers 34 counties with 6 million residents scattered across 87,000 square miles from Oregon to Los Angeles and Nevada to the coastal range.

Members of the legal community and Federal investigative agents give Mr. Stevens universally high marks for his job performance. He is credited with having "no ego about himself and his work, unlike most lawyers," according to Sacramento based Federal Defender Quin Denvir. As anyone who has worked with Chuck knows, his work speaks for itself.

Recently, Mr. Stevens' office has handled the weighty responsibility of trying the Unabomber case for incidents that occurred in California. Due to Mr. Stevens' leadership, Sacramento was considered as a site for the Federal trial against Ted Kacyzinski. It comes as no surprise that this case has been handled without fanfare, but with the utmost professionalism Mr. Stevens is known for.

Chuck has always been ready and able to provide valuable advice on some of the State's most troubling problems. He is one of the most practical problem solvers in the criminal justice system.

Chuck leaves the United States Attorney's office to form his own law firm in California's capitol with his predecessor, former United States Attorney George O'Connell. I am sure this formidable pair will quickly make its mark in the Sacramento legal community.

Congratulations, Chuck, on the great opportunities that lie ahead and thank you for your outstanding public service to the people of this State and this Nation.•

TRIBUTE TO DR. VARTAN GREGORIAN, PRESIDENT OF BROWN UNIVERSITY

• Mr. REED. Mr. President, I rise today to commend a fellow Rhode Islander and friend, Dr. Vartan Gregorian. On January 6, Dr. Gregorian announced that he will leave his post as president of Brown University in Providence, RI, to become President of the Carnegie Corp. After 9 years on College Hill, he leaves behind a flourishing campus and community. Brown has more than doubled its endowment during his tenure. An ambitious capital campaign has raised over $500 million under Dr. Gregorian's leadership, and he has brought 275 new faculty members to Brown, including 72 new professors.

But, Mr. President, the true measure of Vartan Gregorian is not his skill as an administrator, booster, and fund raiser, it is his passion for teaching and learning. Even in the midst of the demands of his presidency, he has managed to find time to continue to teach, and I understand that he also continues to serve as an advisor for several fortunate students. In this regard, he is unique among his peers, and they recognize his prodigious efforts. James Freedman, president of Dartmouth, said of Dr. Gregorian, "He communicates the joy of learning."

Vartan Gregorian's interest in education is not limited to Brown or to other institutions of higher learning. He is deeply concerned about the condition of the Nation's public schools. As his colleague, Theodore Sizer, said recently, "No Ivy League president has put his shoulder to the wheel of public education more than Vartan Gregorian."

Last month, Dr. Gregorian wrote an article in Parade magazine entitled "10 Things You Can Do to Make Our Schools Better." Mr. President, I commend this article to my colleagues, and I hope all Senators read and benefit from Dr. Gregorian's observations, particularly that it is everyone's job to help improve our public schools. Mr. President, I ask that Dr. Gregorian's article be printed in the RECORD following my remarks.

Mr. President, no matter where he has gone, Vartan Gregorian has taken his appreciation for education and left behind him successful institutions and inspired students. Brown, Providence, and Rhode Island will miss him, but we know he will stay in close touch and that he will continue to lead at his new post at the Carnegie Corp. We wish him well.

The article follows:

10 THINGS YOU CAN DO TO MAKE OUR SCHOOLS BETTER

(By Vartan Gregorian)

When I was invited by Parade to write an article about improving our public educational system, I thought for a moment of titling it "In Praise of Public School Teachers." This is because, while our schools badly need reform and upgrading, the responsibility for their problems cannot simply be dumped on our teachers, who by and large are a dedicated, hardworking and undervalued corps of professionals.

In fact, even as we acknowledge that our public schools need help, we ought to recognize their achievements and successes along with their shortcomings. They face problems that reflect those of our entire society, and they have to contend with burdens and restrictions that don't affect most of the private and parochial schools with which they are sometimes unfairly compared. Nevertheless, our public schools should be better—much better—than they are, and improving them is a job for everyone from parents to college presidents.

What are some of the things that you, as a concerned individual, can do right now to better the schools and the educational process in your own area? Here are 10 practical steps you can take in this direction.

1. Visit your schools. It's not enough for parents to go once or twice a year for PTA meetings. I'd like to see schools make it easier for parents to visit regularly, even holding weekend and evening open houses for parents who can't get there during their working hours.

2. Involve the grandparents. This is especially important in cases of single parents.

3. Make the public school a magnet for the community. Hold social and community functions in school buildings.

4. Volunteer to help in your school. When rules permit, parents or others should offer to take over nonteaching jobs, such as hall monitors or cafeteria supervisors. Teachers should be treated as professionals whose job is teaching.

5. Read to your children. Nothing is more important than this. Start your children with nursery rhymes and go on from there.

6. Give every schoolchild a library card. When I was president of the New York Public Library, we arranged with Mayor Ed Koch to give one million library cards to the city's schoolchildren. We found that the majority of them were put to good use. Every town library should issue a card to each child in the community.

7. Organize and attend shows that the children put on. They encourage children to work together and also serve as a bond with the community.

8. Recognize that too much television has a terrible effect. Consider making television a chore rather than an amusement. Let children watch four hours a day if they want to, but require them to write papers on what they see. My objection to television is not only the time it wastes but also the passivity it brings. It produces isolation, not communication. If children had to critique what they watched, it might even serve to reduce the violence on the screen.

9. Let our children go. Schools should take children on expeditions, and not just to a museum or zoo. Business and civic leaders could invite whole classes to visit workplaces for a day—banks, hospitals, universities, factories, police stations, places of worship, government offices.

10. Restore the arts as a major element in education. We've made a tremendous mistake in diminishing or eliminating art, music and dance as fluff or frills. The arts like sports, play a vital role in bringing students together and promoting teamwork. Athletics provide stability and a way to release energy. The arts allow children to develop creativity and imagination. The Duke Ellington School in Washington, D.C., has one of the lowest dropout rates anywhere. Ninety percent of the participants in The Boys Choir of Harlem go to college following high school. It's almost impossible to overemphasize the significance of the creative arts in education. Make sure that your own school district recognizes this.

An important challenge faced by today's schools that didn't exist in the past is the changed expectations of the public. Today, it is assumed that almost everybody has to go to college. A university education is regarded more as a necessity than as something extraordinary. And we glamorize the past. The 1930s and '40s had high dropout rates too, but fewer people then were deeply concerned about that. American society has changed and raised its expectations of what an educational system should provide.

How can we meet those expectations? The core of the teaching process is, and always will be, the teacher. I believe that to become a teacher is to join a noble profession. Teachers have an awesome responsibility: We entrust our sons and daughters to teachers to help prepare them for life. Yet too often teachers are held in low esteem. We pay them less than we pay plumbers and mechanics, and we complain about them more readily. As I have suggested, teachers today are not just teachers—they're called upon to be supervisors, custodians, counselors, hall and cafeteria monitors, law and order officers. Despite all this, thousands and thousands of men and women are public school teachers because they are dedicated people.

Are teachers' unions part of the solution? Yes. They are interested in the economic aspects of teaching, and they should be. But they have a moral; professional and historical obligation to help rescue and reform our public schools. The burnout rate among teachers in our nation's public schools is very high. Unions should join in an effort to allow teachers to be retrained, re-educated and immersed in the very disciplines in which they need renewal so they can further the horizons of education and knowledge.

There is a great need for strengthening the schools of education in our colleges and universities, so we can raise our standards of teaching. This is something in which college presidents can play a part, for too often the school of education is not regarded as highly as the rest of the university. The arts and science faculties in many universities have no close affinity with the schools of education. Schools of education often stress the technique rather than the substance of the subject matter. We really need to rethink our teacher-education and teacher-retraining programs.

I don't agree with those who feel that school vouchers are a panacea for our educational ills. Vouchers may solve individual problems, but not society's. Choice is meaningless for the millions of Americans who live in rural areas with few schools. Choice between bad schools is not useful to city dwellers.

Parents who want their children to attend private schools learn quickly that parents don't choose private schools—private schools choose children. I have a drastic solution for a school that is bad: Shut it down. We don't allow a bad hospital to function: why should we allow a bad school?

A national consensus exists on the need for school reform. According to a *Wall Street Journal*/NBC News poll taken just before the election, four in 10 voters said education should be one of the next President's two top priorities. It ranked evenly with keeping the economy healthy as the No. 1 concern. During the last decade, there has been a nationwide movement for school reform, and there is a major national effort now being made to bring this about—the Annenberg Challenge, which deserves to be widely recognized.

The Annenberg Challenge is a metaphor for change in our schools. It was launched in 1993 with a five-year, $500 million grant by Walter Annenberg, our former ambassador to Great Britain. Since it was a 2-for-1 matching challenge, the total amount will reach $1.5 billion, the largest such grant ever made to American public education. The Annenberg Challenge is not for budget relief; it is for enhancement. A full 90 percent must go to teaching and to the classroom, with only 10 percent to be spent on overhead.

The Annenberg Challenge operates on a variety of fronts. It includes grants to some of the nation's largest urban school systems, a rural schools initiative and an arts initiative, as well as aid to such organizations as the New American Schools Development Corporation, the Education Commission of the States and the Annenberg Institute of School Reform to carry forward their respective programs.

Wherever it has been put in operation, the Annenberg Challenge has required a cooperative effort by the school boards, labor leaders and legislators, as well as corporate and foundation executives. In New York City, Chicago, Philadelphia, Los Angeles, Detroit and other localities where the Challenge now functions, I actually have witnessed the encouraging phenomenon of such groups working together to produce results. As of now, some 4500 schools throughout the country are benefiting from the program. The Annenberg Challenge money itself will not reform the entire system, but it has created laboratories for change.

So I am optimistic about the possibilities of improving our schools. As a college president, especially, I know how important it is that we do so, for I do not want to see our universities turn into remedial schools. The superstructure cannot stand without a healthy infrastructure. When the *Titanic* sinks, you cannot say, "I was traveling first class." We all are our future's guardians, and our future is our children.●

TRIBUTE TO PATRICK H. WINDHAM

● Mr. HOLLINGS. Mr. President, I want to take a few moments to remark on the outstanding Senate career of my long time science staffer, Pat Windham, whose last day on the Senate Commerce Committee staff will be tomorrow. At the end of this month, Pat will be returning to the San Francisco area where he grew up. With his wife Arati and their cute infant daughter Katie, he will be living within shouting distance of Stanford University, his undergraduate alma mater, and across the bay from the University of California at Berkeley where he received his masters in public policy.

Pat first came to the Senate in the late 1970's for a 2-year stint on the Commerce Committee staff as a congressional fellow in connection with his doctoral program at Berkeley. He returned in 1982, when he served for 2 years as a legislative assistant on my personal staff. Since 1984 he has been the Commerce Committee's resident expert on science policy, touching on virtually every science and technology issue you can imagine.

Early in his career here Pat was deeply involved in the ocean and coastal issues that are so important to the recreational and commercial needs of South Carolinians. On my personal staff he also mastered the myriad complexities of the Nation's nuclear energy policy, acquiring detailed knowledge of nuclear powerplant technology and waste storage problems.

In his service for the Commerce Committee's Science, Techology, and Space Subcommittee, he has had principal responsibility for overseeing technology policy and industrial competitiveness. I strongly believe that the key to our national economic strength is the link between technology and industry. Pat shares this vision, and has made an enormous difference to me in developing programs that are targeted at forging that link. One such program is the Manufacturing Extension Partnership, which facilitates the transfer of manufacturing technology directly from the laboratory to the operations of the small- and medium-sized firms that carry out the bulk of U.S. manufacturing. Thanks in large part to Pat's tenacity in working to steadily improve the program, there are now locally run and cost-shared manufacturing extension centers in South Carolina and throughout the Nation that provide essential technical assistance to thousands of small manufacturers.

Another such program is the Advanced Technology Program [ATP], overseen by the National Institute of Science and Technology within the Department of Commerce. ATP recognizes the intense investor pressure on American companies to cut costs and spend limited research dollars on projects with short-term payoffs. It is a peer-reviewed, industry-led undertaking that provides matching funds for the development of advanced technologies—in areas like electronics, information technology, robotics, advanced materials, and biotechnology—that will be central to the formation of new industries in the 21st century. Pat spearheaded the creation of ATP in the late 1980's, and now that ATP is beginning to bear fruit, he has fought tirelessly against efforts to undercut its effectiveness.

During his 17 years of Senate service, Pat has earned wide respect and affection from Members of Congress and staff, administration officials, and the scientific community for his commitment to the development of sound science and technology policy. He has an extraordinary capacity to digest large amounts of highly technical information in a number of scientific fields and communicate it clearly to decisionmakers. Further, in spite of his intense dedication to achieving his legislative goals, Pat has made loyal and enthusiastic friends among allies and adversaries alike.

I have no doubt that in his new surroundings Pat will find ways to further his splendid contributions to our Nation's industry and technological progress. He has certainly been everything I have wanted, and more, as a staff professional, and I thank him for his excellent work.

I wish Pat, Arati, and little Katie the bestoffortuneinalltheirfuture endeavors.•

TRIBUTE TO JACKIE AND RACHEL ROBINSON

• Mr. DODD. Mr. President, this past Tuesday, more than 34,000 baseball fans, including President Clinton, came to Shea Stadium in New York to honor Jackie Robinson on the 50th anniversary of his breaking the color barrier for major league baseball. For all Americans, and especially for African-Americans, Jackie Robinson's historic achievement was a source of inspiration, and it forever changed the face of our society.

Jackie Robinson's legacy is of particular importance to the State of Connecticut, because Jackie Robinson's family retired to Stamford in 1956. Among those in attendance at Shea Stadium on Tuesday were 640 children from Stamford, who are participants in the Jackie Robinson Park of Fame project. The project's goal is to celebrate Jackie Robinson's life and instill our young people with courage and confidence.

Hopefully, these children will learn about Jackie Robinson's heroic feats on the baseball diamond, and, most of all, the grace with which he overcame the many obstacles that were placed in his path as he sought to almost single-handedly integrate our national pastime. More important, I hope that these children and all Americans will learn about Jackie Robinson's sacrifices away from baseball and his undying commitment to uplifting his race and his country.

For anyone who saw Jackie Robinson play, they would probably be surprised to learn that some believe baseball was Jackie's worst sport. He was UCLA's first-ever four-sport letterman, starring in football, basketball, and track, as well as baseball. While there were many Negro League players who were talented enough to play in the major leagues, Jackie Robinson was a special person whose intelligence, character, and athleticism uniquely qualified him to become major league baseball's first African-American player.

When Brooklyn Dodgers' President Branch Rickey signed Jackie Robinson to break baseball's color line, Jackie had to agree that, for two full seasons, he would turn the other cheek no matter what abuse was directed at him by opposing players and fans. Jackie Robinson withstood a seemingly endless barrage of verbal, physical, and psychological assaults and was still able to excel in nearly every facet of the game with an uncommon dignity. When Robinson would slide into second base with an easy double, the opposing shortstop would sometimes slam Jackie in the face with his glove so hard that you could hear it in the dugout. In response, Jackie Robinson would simply stand up, dust himself off, and then steal third on the very next pitch.

Jackie Robinson's quiet humility and devotion to principle stand in sharp contrast to today's pro athletes who seem more interested in corporate sponsorships and performance bonuses in their multimillion dollar contracts than in giving back to their communities. For Jackie Robinson, baseball was about more than individual statistics and lucrative contracts. It was about breaking down barriers and instilling others with a sense of hope.

Jackie Robinson's silence did not last forever, and his actions after retiring from baseball are often overlooked but equally deserving of praise. Many would argue that, by integrating baseball, Jackie Robinson had done more for the cause of racial justice than any other individual of that era. But Jackie Robinson did not view his baseball career as the peak of his life, and his greatest contributions to American society may have come after his retirement.

Whereas his fame and wealth would have allowed him to enjoy a very comfortable retirement, Jackie Robinson remained committed to the fight against racism and social injustice until his death. He helped to establish the Freedom National Bank in Harlem, which provided loans to African-Americans trying to start their own businesses. He also founded his own construction company which built housing for low-income families in New York.

Jackie Robinson was also active politically. He spoke throughout the country in support of civil rights, participated in protest marches, and raised large sums of money for civil rights organizations. He also worked actively for several politicians who promoted the cause of racial equality.

Despite all the sacrifices in his life, Jackie Robinson always maintained that there was more work to be done. Hence, he entitled his autobiography, "I Never Had It Made." He wrote, "I am grateful for all the breaks and honors and opportunities I've had, but I always believe I won't have it made until the humblest black kid in the most remote backwoods of America has it made."

Unfortunately, 50 years after the fall of baseball's color barrier and 25 years after Jackie Robinson's death, America still has a long way to go if it hopes to ever meet Jackie Robinson's vision of what America should be. But while we still have not evolved into a society that is completely free from prejudice and social injustice, there are countless visible signs of Jackie Robinson's impact on this country.

Last week, we all witnessed a true testament to Jackie Robinson's legacy as we watched 21-year-old Tiger Woods become the first person of color to win the Masters—golf's most prestigious tournament. But perhaps the most encouraging aspect of Tiger Woods' performance came during his acceptance speech. Tiger Woods specifically credited Lee Elder, Charlie Sifford, and Teddy Rhodes, the first African-Americans to ever compete at Augusta, for opening doors for him. He acknowledged that, without the sacrifices of trailblazers like these men and Jackie Robinson, very few of today's minority athletes would know the success that they have grown accustomed to. This is why we must celebrate the achievements of Jackie Robinson and other pioneers, because the lessons that they taught us are as relevant today as they were decades ago, and we must heed their words and actions or we will cease to be a progressive society.

Tuesday night's event at Shea Stadium had many special moments, but the most touching came when Rachel Robinson, Jackie's widow, spoke in honor of her husband, and the audience gave her the warm ovation that she so richly deserved. Her sacrifices were as great as her husband's, and too often we forget that Jackie Robinson, who was described as the loneliest man in sports, endured and prevailed only with the support of his partner Rachel, who was always by his side.

Rachel Robinson sacrificed her own personal aspirations during Jackie's playing career and dedicated herself to raising their children and supporting her husband. But upon their retirement to Connecticut, she earned her master's degree in psychiatric nursing at Yale. She later operated a day clinic for acutely ill psychiatric patients, taught at Yale's School of Nursing, and served as director of nursing for the Connecticut Mental Health Center. Despite her own personal success, Rachel Robinson again displayed tremendous selflessness after Jackie's death in 1972.

Upon his passing, it would have been easy for Rachel Robinson to continue the pursuit of her own career, but instead she gave up her medical career and dedicated her life to preserving the legacy of her husband. In 1973, she formed the Jackie Robinson Foundation, which has awarded more than 450 college scholarships to minority and disadvantaged students who have exhibited leadership potential and shown a commitment to community service. Throughout his life, Jackie Robinson always stressed the importance of education, and for a man whose life was dedicated to creating opportunities for others, providing young adults the chance to go to college is perhaps the most fitting tribute one could ever pay to this great man. I am proud to say that Rachel Robinson still resides in my home State of Connecticut, and we are truly fortunate to call her one of our own.

While many glorious words have been spoken in honor of Jackie Robinson, I truly believe that the greatest tribute that we could ever pay to this man would be through our actions. As Rachel Robinson eloquently said, "This anniversary * * * has given us an opportunity to reassess the challenges of the present. It is my passionate hope that we can take this reawakened feeling of unity and use it as a driving force so that each of us can recommit to equality of opportunity for all Americans." I hope that America will listen to the words of Rachel Robinson and work together to fulfill Jackie's and her dream.

America is a better place because of Jackie and Rachel Robinson, and I want to thank both of them for their courage and sacrifice.●

BABY TALK

● Mr. DURBIN. Mr. President, I rise today to pay tribute to a group of citizens in Decatur, IL, who noticed a serious problem in their community, banded together to develop a solution to this problem, and then saw this practical solution through with a strong sense of commitment and compassion.

All over this country, communities like Decatur are responding to the realization that the experiences of the earliest years of life have a powerful influence on how human beings develop. Research indicates that young children are developing brain patterns which will affect everything they do for the rest of their lives. The way they process information, the way they relate to other people, their abilities in every domain—these important human functions are being written on the minds of children at a time in their lives when basic needs often go unmet. We often realize the importance of this time only when it is too late to go back and fill in the gaps—when these children fail in school or commit a crime or become a burden to society.

The people of Decatur, IL, realized that the most important resource every child must have is a loving adult who cares for them, understands their needs, and makes that child a priority. How can we encourage parents to nurture their own children? How can we take advantage of this wonderful window of opportunity for young children by making sure they are loved and encouraged to develop?

My friends in Decatur pondered these very questions in 1986 and the result is Baby Talk. Baby Talk is a community collaboration that reaches out to all parents of very young children and gives them the support that they need. This project is a joint effort of schools, hospitals, libraries, health clinics, Head Start, literacy projects, and local government. Baby Talk establishes a relationship with every family who has a newborn child in order to offer encouragement and support for the most important task they will ever undertake—raising a child.

Baby Talk delivers programs where parents and children already are. In this way, Baby Talk reaches the entire population of child raising families casting a net of support over the community. Every parent of a child born in one of Decatur's two hospitals, receives a personal visit from Baby Talk to learn about their newborn's abilities and needs. Parents receive a book and advice about how to read aloud with their child. They also receive a magnet with the Baby Talk telephone number to call for assistance.

Information about predictable challenges and encouragement for parents are provided at child clinics and through letters sent to families every 2 to 3 months through the child's first 3 years. "Baby Talk Times" and "Lapsit" groups meet weekly at many locations where parents and children play, sing, read books, and share their challenges and achievements.

Parents who did not finish high school participate in Baby Talk's Even Start program where comprehensive family literacy programming is offered at the health department and Head Start.

Baby Talk makes 4,000 contacts monthly with parents and children of different backgrounds and income levels. Fortunately, this service does not exist only in Decatur. Professionals from 30 States and Canada have received training and materials from the Baby Talk organization to serve families in their communities.

Baby Talk has been recognized by the U.S. Department of Education for meeting Goal One of the America 2000 Strategy: "That by the year 2000, all children will start school ready to learn."

Recently, Baby Talk celebrated its 10th anniversary with the announcement that it has served the families of 20,000 babies. I would specifically like to commend the efforts of Claudia Quigg who was the initial pioneer of this effort and currently acts as Baby Talk's executive director. Through the efforts of Ms. Quigg and many other dedicated Baby Talk staff members, the city of Decatur is investing in its future and putting into practice their belief that a stitch in time saves nine.

We are looking forward to the years ahead when thousands of Baby Talk children grow up to be caring, successful, and productive citizens. I present Baby Talk as an example of what can be accomplished when a community pulls together and stays committed to an important goal. I am very proud to have this organization performing their good works in my State and I hope others can learn from the accomplishments that Baby Talk has had in Illinois.●

AUTHORITY TO MAKE APPOINTMENTS TO SENATE ARMS CONTROL OBSERVER GROUP

Mr. CHAFEE. Mr. President, I ask unanimous consent that during the 105th Congress, the authority of the majority leader to make six appointments and that of the Democratic leader to make seven appointments to the Senate Arms Control Observer Group, pursuant to Senate Resolution 105 of the 101st Congress, as amended, shall be increased to eight appointments for the majority leader and nine appointments for the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Senate Resolution 105, adopted April 13, 1989, as amended by Senate Resolution 280, adopted October 8, 1994, announces the following appointments and designations to the Senate Arms Control Observer Group:

The Senator from Alaska [Mr. STEVENS] as majority administrative cochairman;

The Senator from South Carolina [Mr. THURMOND] and the Senator from Indiana [Mr. LUGAR] as cochairmen for the majority;

The Senator from Rhode Island [Mr. CHAFEE];

The Senator from Mississippi [Mr. COCHRAN];

The Senator from North Carolina [Mr. HELMS];

The Senator from Arizona [Mr. KYL];

The Senator from Mississippi [Mr. LOTT];

The Senator from Oklahoma [Mr. NICKLES];

The Senator from New Hampshire [Mr. SMITH];

The Senator from Maine [Ms. SNOWE]; and

The Senator from Virginia [Mr. WARNER].

The Chair, on behalf of the majority leader, after consultation with the Democratic leader, pursuant to Public Law 104-201, appointed the following individuals as members of the Commission on Maintaining United States Nuclear Weapons Expertise: Henry G. Chiles, Jr., of Virginia, and Robert A. Hoover, of Idaho.

ORDER TO PLACE H.R. 1226 ON THE CALENDAR

Mr. CHAFEE. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 1226, it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, APRIL 21, AND TUESDAY, APRIL 22, 1997

Mr. CHAFEE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Monday, April 21, for a pro forma session only. I further ask unanimous consent that immediately following the pro forma session, the Senate stand in adjournment until the hour of 10 a.m. on Tuesday, April 22.

I further ask unanimous consent that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and there then be a period for the transaction of morning business, with Senators to speak for up to 5 minutes each, with the following exceptions: Senator COVERDELL, or his designee, in control of 60 minutes from 1 p.m. to 2 p.m.—that is from 1300 to 1400—Senator DASCHLE, or his designee, for 60 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE RESOLUTION 75

Mr. CHAFEE. Mr. President, I ask unanimous consent, as in executive session, that if executive resolution 75 is defeated, the Senate then agree to the motion to reconsider that vote and the resolution then be pending once again.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CHAFEE. Mr. President, for the information of all Senators, there will be no session of the Senate on Friday, and the Senate will be in session on Monday for a pro forma session only. No business will be conducted during Monday's pro forma session.

The Senate will then reconvene on Tuesday for a period of morning business. As previously announced, there will be no rollcall votes during Tuesday's session. Also as a reminder to my colleagues, policy lunches normally held on Tuesday will occur on Wednesday of this coming week. All Senators should be aware that under the previous order, the Senate will begin consideration of the Chemical Weapons Convention Treaty on Wednesday and Thursday. Rollcall votes can therefore be expected beginning Wednesday of next week.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. CHAFEE. Mr. President, I ask unanimous consent that committees be permitted to file legislative or executive calendar items from 10 a.m. to 12 noon on Friday, April 18 and Monday, April 20.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Calendar Nos. 63, 64, 66, and 69. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations appear at this point in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

Susan R. Baron, of Maryland, to be a member of the National Corporation for Housing Partnerships for the term expiring October 27, 1997.

NATIONAL INSTITUTE OF BUILDING SCIENCES

Charles A. Gueli, of Maryland, to be a member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1999, vice Walter Scott Blackburn, term expired.

EXECUTIVE OFFICE OF THE PRESIDENT

Jeffrey A. Frankel, of California, to be a member of the Council of Economic Advisers, vice Martin Neil Baily, resigned.

TENNESSEE VALLEY AUTHORITY

Johnny H. Hayes, of Tennessee, to be a member of the Board of Directors of the Tennessee Valley Authority for a term expiring May 18, 2005.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ADJOURNMENT UNTIL MONDAY, APRIL 21, 1997

Mr. CHAFEE. If there is no further business to come before the Senate, Mr. President, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:37 p.m., adjourned until Monday, April 21, 1997, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 17, 1997:

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

SUSAN R. BARON, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS FOR THE TERM EXPIRING OCTOBER 27, 1997.

NATIONAL INSTITUTE OF BUILDING SCIENCES

CHARLES A. GUELI, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1999.

EXECUTIVE OFFICE OF THE PRESIDENT

JEFFREY A. FRANKEL, OF CALIFORNIA, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS.

TENNESSEE VALLEY AUTHORITY

JOHNNY H. HAYES, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR A TERM EXPIRING MAY 18, 2005.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Thursday, April 17, 1997*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. KOLBE].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

> WASHINGTON, DC,
> *April 17, 1997.*
>
> I hereby designate the Honorable JIM KOLBE to act as Speaker pro tempore on this day.
>
> NEWT GINGRICH,
> *Speaker of the House of Representatives.*

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We know, gracious God, that Your blessings can flood our hearts and give us vision for the new day if we are open to Your good grace and hear Your words of forgiveness and promise. With all the distractions of everyday life and with all the tasks before us, may Your eternal presence and Your reconciling spirit guide, guard, and gird us along life's way so that Your blessings touch us in the depths of our hearts and lead us in the way of truth. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Ms. JACKSON-LEE of Texas. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Indiana [Mr. ROEMER] come forward and lead the House in the Pledge of Allegiance.

Mr. ROEMER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

> H.R. 1003. An act to clarify Federal law with respect to restricting the use of Federal funds in support of assisted suicide.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

> H.R. 914. An act to make certain technical corrections in the Higher Education Act of 1965 relating to graduation data disclosures.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain ten 1-minutes on each side.

ETHICS ASSESSMENT

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, for months the political opponents of Speaker GINGRICH have been on a singular mission to destroy him. That mission has failed.

Today, the Speaker has assured us of his intent to pay the full amount of his ethics assessment out of his own pocket. This is the responsible thing to do, and I support his decision and thank him for his sacrifice.

We can finally put an end to the sad display of bitter partisan attacks that we saw from the other side. They wanted to destroy the Speaker because they have no new ideas. They wanted to destroy him because they have nothing substantial to contribute to mainstream political dialog.

The American people want lower taxes and less Government. And they respect leaders who take responsibility when things go wrong, unlike what we see at the other end of Pennsylvania Avenue.

I applaud the Speaker. I respect the Speaker. I thank the Speaker.

DEVELOPING FERTILE MINDS

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, just a month ago on the front page of Time magazine, we have a cover story talking about our children in this country and new, brandnew research coming out how a child's brain develops fertile minds. We find that researchers across our great country are saying that the best time to learn a new language, to learn new things in our educational progress as people, might be between 0 and 5. That is what our researchers and our parents and our educators are telling us.

At the White House today the President and the First Lady are convening a session on what we do and how we help our families get this information out there even more. But here in the House of Representatives, yesterday in our Committee on Appropriations, the Republicans proposed to slash WIC programs, which are for education and nutrition and development for our children and our families. What better contrast between the White House and our House of Representatives.

Let us invest in our children.

DOING THE RIGHT THING

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, today, Speaker GINGRICH is doing the right thing. The reimbursement that he is paying is not a fine. The committee itself makes it clear that the reimbursement of legal expenses are for costs only. The Committee on Standards of Official Conduct imposed no restrictions on how the reimbursement could be paid. Speaker GINGRICH could have used campaign funds to reimburse the committee. Others have done this, the gentleman from Missouri [Mr. GEPHARDT], the gentleman from Texas [Mr. FROST], former Congressman Rose.

Speaker GINGRICH could have used the NEWT GINGRICH trust fund approved by the committee for the stated purpose of paying the reimbursement. Instead, the Speaker chose to do the

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

right thing by reimbursing the taxpayers and taking full responsibility with borrowed money under his own name. I commend Speaker GINGRICH for the effort that he is putting forward.

PUT EDUCATION FIRST

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I rise today to call on the people's House to put education first on our Nation's agenda.

As a former two-term State superintendent in North Carolina, I know firsthand what can happen and what a difference a strong educational system can make in the lives of our people. My State has proven that bold, visionary leadership can make a difference tangibly in the lives of young people when we do the right thing.

Mr. Speaker, when students, parents, teachers, and communities get involved, strong improvement is the result of what happens. Several weeks ago, the rigorous NAEP scores came out, and in our State, North Carolina, students came out near the top in this country.

Mr. Speaker, as the first member of my family to graduate from college, I learned long ago the value of educational excellence. As a Congressman, I know how important education is to my constituents and to this Nation. We must provide safe healthy schools and we must do it now.

NEW DAY IN CONGRESS

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, today represents a new day in this Congress. The Speaker has accepted full responsibility for the reimbursement that is owed to the American people. It is now the duty of this Congress to move forward with our agenda, an agenda that the American people have asked us to implement.

That agenda signals a desire to put the country on a new path, a path of greater freedom, more personal responsibility and less interference from Washington. This represents a change in direction, Mr. Speaker. Most Americans agree that the country has been moving in a direction of bigger Government, higher taxes and a decay in the American spirit of unlimited possibilities.

I want to renew that spirit. It is a spirit that attracts over 1 million immigrants to our shores every year. It is a spirit that animates freedom lovers from Tiananmen Square to Moscow. It is a spirit that tells all American children that they can dream their dreams and grow up to be whatever they wish to be and soar to whatever heights their talents and efforts take them. Mr. Speaker, now let us move forward with that renewed spirit. I thank you for your leadership.

SPECIAL INTEREST MONEY IN THE PEOPLE'S HOUSE

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, when will it ever end? When will it ever end with respect to special interest money and public policy in the people's House. Later today we will learn that Speaker GINGRICH will pay his fine for lying to Congress by borrowing it from Bob Dole, Bob Dole who was recently hired by big tobacco to get a settlement in the Congress of the United States for all of the people that tobacco has injured because of addiction and the cancer causing agent. We now have the chief lobbyists for big tobacco financing the payoff of the Speaker's fine for lying to the Congress.

Is there nothing that we cannot do without special interest money? Is there nothing that we cannot do that is on the level? Do we now have to bring in big tobacco to rescue the ethics of the Speaker of the House of Representatives?

This is a very sad day for the House of Representatives when the tobacco industry is paying the legal fines of Members of Congress.

DO THE RIGHT THING

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, the American people have just witnessed a good example of how difficult it is in the environment of the House of Representatives on some days to do the right thing.

The Speaker is going to come to this floor very shortly and do the right thing, set the highest possible standard. He was not required to repay this reimbursement, not a fine, reimbursement for expenses, out of his own funds, but he is going to do so today to move this institution forward on the important agenda of the American people.

Now we just have a Member of this House come forward who decides he is going to continue this battle in the days ahead. That is a mistake. The gentleman who was just at the well is the man who said, NEWT GINGRICH has command and control of the Republicans and we are going to take him out.

Well, they did not take him out and the bitterness is showing today. Mr. GINGRICH, our Speaker, is stepping forward once again to set a high standard of personal responsibility, to pay this reimbursement out of his personal resources. I believe that every Member of this House should step forward and commend the Speaker for his action.

NO PRICE ON HONESTY

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, it has been said that no price can be placed on honesty, not $3, not $300,000.

After 3 months of carefully calculating every angle, of exploring fully the political calculus of every other alternative, the Speaker has reluctantly decided to do what law violators do in America every day: pay the fine for an offense on which a guilty plea was entered and a conviction found.

This decision, though belated, should be accepted by this House on both sides of the aisle, accepted but not applauded, not applauded any more than we would applaud the decision of a major polluter who had injured the public health and welfare through its pollution and then paid a fine for the conviction.

For pollution is what has occurred here, lies and deception that threaten the very fabric of our democracy. Nor does this payment remove other offenses that are still pending, some over 18 months. There is nothing noble about the payment of the fine. There is something very ignoble about the conduct that produced it.

PRIDE IN THE SPEAKER

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN. Mr. Speaker, I must say, this is a fascinating debate. Finally we have somebody in this political maelstrom who does the right thing, who goes above and beyond fairness and does the right thing, as the Speaker of the House, and the other side cannot stand it.

I want to tell my colleagues, I am proud of the Speaker. I am proud to be associated with him. I am proud to be part of his leadership team. He did not have to pay this reimbursement for legal services, but he has chosen to do that to set a new standard.

□ 1015

It seems to me when we have a Speaker of the House that is willing to set a standard in the House of Representatives, maybe a standard the White House could take a little information from, we ought to praise him.

I tell my colleagues it is time for the American people, who have helped us to come to this decision, to come back with us and mesh in a partnership, take back the agenda of this House, get the problems solved, the problems we know that are hurting America today, and get off this politicized ethics process. We need to get back to the work at hand.

I call for bipartisanship, I call for great praise of the Speaker of the House.

ATTACKS ON ATTORNEY GENERAL JANET RENO UNJUSTIFIED

(Mrs. KENNELLY of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY of Connecticut. Mr. Speaker, I will do exactly as the gentlewoman suggests. I rise today to speak out for an honest woman, our Attorney General, Janet Reno. We have continued to expect much of her and she continues to conduct herself with grace under pressure and courage under fire.

I understand that many are concerned about her decision not to seek a special prosecutor at this time and, of course, that is their right, but I must speak out against the unjustified attacks on the Attorney General's motives.

Janet Reno knew that her decision would be controversial, so she has relied on the advice of a universally well-regarded team of career attorneys. She has resisted pressure from both sides, declining to act hastily. She has not shut down the investigation, which continues. In short, she has not rushed to judgment, and neither should her critics.

We are indeed fortunate to have a woman of such integrity, an honest woman, leading our Department of Justice.

SPEAKER GINGRICH TO COMPENSATE TAXPAYERS FOR COST OF ETHICS INVESTIGATION

(Mr. BOB SCHAFFER of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I am one of the freshmen here. I have been here on the job for 4 months, and I had hoped to come to Washington and deal with the matters that my constituents and the people of the country expect us to deal with, cutting taxes, providing tax relief, balancing the budget, returning authority back to the States, and doing things of a noble nature, noble causes.

Instead, I have come here and heard the other side berate our Speaker day after day and try to discredit the institution of Congress for what I consider to be, instead, a rather noble cause and a courageous response.

The Speaker taught a college course on American civilization and disclosed the terms of that course to the Committee on Standards of Official Conduct, apparently not to the satisfaction of the committee. He reached an agreement, and in the process of that agreed to compensate the taxpayers for the cost of the hearings and the investigation.

He stood up to the task and he agreed to participate and to compensate the taxpayers: A courageous act. I ask the American people to contrast that act of courage with the cowardice that we have heard from those who would oppose the Speaker.

SPEAKER SHOULD NOT BE APPLAUDED FOR VIOLATING ETHICS LAWS OF HOUSE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, I cannot believe what I am hearing today from my Republican colleagues. The Speaker brought discredit upon this House; he admitted that he lied to the Congress. Republicans are celebrating the fact that the gentleman from Georgia, NEWT GINGRICH, is paying a $300,000 fine for lying to Congress.

There is nothing to celebrate, my friends. The Speaker should not be applauded for violating the ethics law of this body. He should not be applauded for paying this fine after delaying for 4 months. Any American citizen would have had to pay that fine immediately.

The facts on his payment remain sketchy. Is it a loan or a $350,000 gift from the chief lobbyist of the tobacco industry? Let us not forget, let us not forget that the Speaker pled guilty. It is nothing to celebrate. It is, in fact, a sad day for the House of Representatives.

SPEAKER GINGRICH DID NOT LIE TO CONGRESS

(Mrs. FOWLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FOWLER. Mr. Speaker, I have to take umbrage with the comments from my good friend and colleague, the gentlewoman from Connecticut [Ms. DELAURO]. She is totally inaccurate. The Speaker did not lie to the American Congress.

The Committee on Standards of Official Conduct found that the Speaker broke no rules, broke no regulations. The only thing was that due diligence was not exercised in committee correspondence. That is all. This is a fact. Read through the Committee on Standards of Official Conduct finding.

This is a reimbursement for the expenses incurred by that committee, and I commend our Speaker. It is a courageous step he has taken today to accept full personal responsibility, reimbursing the expenses of the Committee on Standards of Official Conduct out of his own personal funds. I think this is a great step for him to take. He has said as Speaker that he has the responsibility to do the right thing and to serve the American people responsibly.

Senator Bob Dole, who was given the Presidential Medal of Freedom by President Clinton, has stepped forward to help a friend. And Bob Dole is not a registered lobbyist, contrary to what the other side has been saying today. He is helping a friend.

So we all need to get together now and move forward and do the work the American people sent us here to this Congress to do.

CONGRESS SHOULD DO A BETTER JOB FOR THE AMERICAN PEOPLE

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, there is a need for us to do a much better job on behalf of the American people.

Monday, the Speaker of the House attacked the integrity of the Attorney General because she refused to appoint a special prosecutor, when it was clear that there were individuals with integrity in the Justice Department doing the right thing.

Then on Wednesday, in this House and in a committee, we provided for 350,000 children not to have food by voting against an increase in the WIC Program.

Now, on Thursday, we come today to find that Members have risen to the floor of the House to say that the Speaker has not violated any rules; that there is no problem with the way he might be paying back this loan; that there is no question on how he would be repaying it and what the structure of the loan might be.

I would say that the American people are telling us we can do a much better job for them. We can recognize when rules have been broken, when the rules of the Committee on Standards of Official Conduct have been broken. We can recognize there is a need to directly pay back a loan from personal funds.

I believe the American people are saying we can do a much better job for us, and we should say just do it.

SPEAKER GINGRICH UNDERSTANDS PRINCIPLE OF LEADERSHIP

(Mr. THUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THUNE. Mr. Speaker, leadership is about many things. One vital aspect of leadership is setting the right example. The Speaker's decision today tells all Members of Congress and the American people that the gentleman from Georgia, NEWT GINGRICH understands this principle of leadership.

The Speaker did not have to take the action he is taking. Indeed, it goes beyond the actions required of other Members of Congress. The Speaker is recognizing a higher standard in sending a clear signal to all that courage and responsibility are essentials of leadership.

The Speaker's courageous decision today brings closure to this matter and allows the Congress to focus on the priorities of the American people. The American people are waiting for Congress to implement the agenda that the majority of voters have expressed a wish to see pursued. Let us move forward today and pursue that agenda.

GET CAMPAIGN FINANCE REFORM LEGISLATION PASSED THIS YEAR

(Mr. KIND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIND. Mr. Speaker, I come to the House floor after completing a meeting of a bipartisan task force on campaign finance reform. It is a freshman task force, six Democrats, six Republicans, working together to try to advance some comprehensive campaign finance reform.

We are taking baby steps. It is a complex, difficult process, but we realize that as freshmen, as new Members of this institution, we are not going to be able to do it on our own. I am here today to ask for the leadership in this Congress to take a lead on this issue, to start responding to the calls for help from the American people and figure out a way to get big money out of the American political process.

I wish I had a magic wand as a freshman and could wave over this House and get one piece of legislation passed this year, and that is campaign finance reform. We are running out of precious time. We have an off election year. We have to do it in a bipartisan fashion to be successful before we get into another election year cycle.

The people back home in western Wisconsin, the district I represent, have a common refrain. They beg me every time I have town hall meetings to get campaign finance reform passed and to get big money out of politics. Let us start the work now.

CONGRESS SHOULD BE MOVING FORWARD TO HELP THE AMERICAN PUBLIC

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I am amazed at the hypocrisy of this Chamber. The minority leader had a similar circumstance—a similar fine levied against him by the Federal Election Committee. He paid out of campaign funds. So, while he paid his fine out of campaign funds, we hear this hue and cry from the other side that the gentleman from Georgia [Mr. GINGRICH] is somehow doing wrong.

Had he borrowed the money from the bank, there would have been further questions about the bank's involvement with those funds. The Speaker has done the honorable thing by stepping forward and paying out of his own proceeds.

The gentleman from Florida [Mr. DEUTSCH], offers a privileged resolution wanting interest payments on the fine. The gentleman from Florida, when he ran for this job, loaned his own campaign $300,000. Upon his election to this Chamber, he went to the PAC community and solicited funds from them in order to repay the loan to himself. Does the American public have the opportunity to go to PAC's to repay their loans as he used a little special-interest venture capital to finance his run for office? Absolutely not. The gentleman from Florida does, and then he files a resolution asking for the payment of interest.

Mr. Speaker, we are putting this behind us and we are moving forward to help the American people.

SPEAKER'S COMPENSATION FOR COST OF ETHICS INVESTIGATION

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, I am surprised to see my Republican colleagues on the floor today congratulating Speaker NEWT GINGRICH for doing something he should have done months ago, paying $300,000 for lying to Congress.

Speaker GINGRICH admitted to bringing discredit on the House of Representatives. He has admitted to lying to this House.

Mr. SOLOMON. Mr. Speaker, I ask the gentleman's words be taken down.

The SPEAKER pro tempore (Mr. KOLBE). The gentleman will suspend. The gentleman from Georgia will be seated.

☐ 1030

The SPEAKER pro tempore (Mr. KOLBE). The Clerk will report the words.

The Clerk read as follows:

> I am surprised to see my Republican colleagues on the floor today congratulating Speaker NEWT GINGRICH for doing something he should have done months ago, paying $300,000 for lying to Congress. Speaker GINGRICH admitted to bringing discredit on the House of Representatives. He has admitted to lying to this House.

The SPEAKER pro tempore. The Chair is prepared to rule.

The words of the gentleman from Georgia constitute a personality against the Speaker. Under the precedents, the debate should not go to the official conduct of a Member where that question is not pending as a question of privilege on the House floor. The fact that the House has addressed a Member's conduct at a prior time does not permit this debate at this time. Therefore, the gentleman's words are out of order.

Without objection, the gentleman's words will be stricken from the RECORD.

Mr. DOGGETT. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The question before the House is: Shall the gentleman's words be stricken from the RECORD?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DOGGETT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 190, answered "present" 3, not voting 12, as follows:

[Roll No. 82]

AYES—227

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kind (WI)
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas

Luther
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Minge
Molinari
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wolf
Young (AK)
Young (FL)

NOES—190

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Cummings
Danner
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (TX)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Schumer
Scott
Serrano
Sherman
Sisisky
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

ANSWERED "PRESENT"—3

Berman
Cardin
Sawyer

NOT VOTING—12

Allen
Andrews
Costello
Crane
Davis (IL)
Harman
Istook
Morella
Owens
Schiff
Tierney
Whitfield

☐ 1103

Mrs. MALONEY of New York, Ms. FURSE, and Mr. MOAKLEY changed their vote from "aye" to "no."

So the motion to strike the words was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. KOLBE). Without objection, the gentleman from Georgia [Mr. LEWIS] may proceed in order.

Mr. SOLOMON. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard from the gentleman from New York [Mr. SOLOMON].

MOTION OFFERED BY MR. DOGGETT

Mr. DOGGETT. Mr. Speaker, I move that the gentleman from Georgia [Mr. LEWIS] be allowed to proceed in order.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DOGGETT] that the gentleman from Georgia [Mr. LEWIS] be allowed to proceed in order.

Mr. SOLOMON. Mr. Speaker, I move to table the motion offered by the gentleman from Texas [Mr. DOGGETT].

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SOLOMON] to lay on the table the motion offered by the gentleman from Texas [Mr. DOGGETT].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DOGGETT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 223, noes 199, not voting 10, as follows:

[Roll No. 83]

AYES—223

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—199

Abercrombie
Ackerman
Allen
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin

Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—10

Andrews
Costello
Crane
Farr
Harman
Istook
Jefferson
Morella
Schiff
Tierney

☐ 1121

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KOLBE). The Chair announces that further 1-minutes will be postponed until the end of the day.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 963

Mr. WYNN. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 963.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DAVIS of Virginia. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 317, noes 100, not voting 15, as follows:

[Roll No. 84]

AYES—317

Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Boswell
Boucher
Boyd
Brady
Brown (FL)
Bryant
Bunning
Burr
Burton
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Cox
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (IL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Etheridge
Evans
Everett
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Metcalf
Mica
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Oxley
Packard
Pappas
Parker
Pastor
Paul
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Reyes
Riggs
Riley
Rivers
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryun
Salmon
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Torres
Towns
Traficant
Turner
Upton
Vento
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—100

Abercrombie
Ackerman
Baldacci
Barcia
Berry
Bishop
Bonior
Borski
Brown (OH)
Buyer
Callahan
Clay
Clyburn
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Doggett
Edwards
Engel
English
Ensign
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gephardt
Goode
Green
Gutierrez
Hastings (FL)
Hefley
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (RI)
Kennelly
Kilpatrick
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Maloney (NY)
Markey
McCarthy (NY)
McDermott
McGovern
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Neal
Oberstar
Olver
Owens
Pallone
Pascrell
Payne
Pickett
Pomeroy
Poshard
Ramstad
Roemer
Rush
Sanchez
Sherman
Skaggs
Slaughter
Stabenow
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson
Velázquez
Visclosky
Watt (NC)
Weller
Wexler
Yates

NOT VOTING—15

Andrews
Becerra
Bono
Brown (CA)
Costello
Crane
Eshoo
Ewing
Farr
Gekas
Istook
Morella
Sabo
Schiff
Tierney

☐ 1142

So the Journal was approved.

The result of the vote was announced as above recorded.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 17, 1997.

Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the original certificate of election from the Honorable Antonio O. Garza, Jr., Secretary of State, State of Texas, indicating that, at a special run-off election held on Saturday, April 12, 1997, the Honorable Ciro D. Rodriguez was duly elected to the Office of Representative in Congress from the Twenty-eighth Congressional District, State of Texas.

With warm regards,

ROBIN H. CARLE.

SWEARING IN OF THE HONORABLE CIRO D. RODRIGUEZ OF TEXAS AS A MEMBER OF THE HOUSE

The SPEAKER. Will the Member-Elect, Mr. CIRO D. RODRIGUEZ, come forward, escorted by the Members of the Texas delegation.

Mr. RODRIGUEZ appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations, you are now a Member of the U.S. House of Representatives.

☐ 1145

WELCOME CIRO D. RODRIGUEZ

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute.)

Mr. GONZALEZ. Mr. Speaker, as the dean of the Texas delegation, it is a pleasure and a very great honor to introduce to the House our newest Member, the gentleman from Texas, CIRO D. RODRIGUEZ.

Not long ago, many of us mourned the tragic passing of our esteemed and loved colleague, Frank Tejeda. Yet, I think Frank would be happy to know that his work will be carried on by an individual like CIRO RODRIGUEZ.

Like Frank, Representative RODRIGUEZ has quite substantial legislative experience; and like Frank, he is a lifelong resident of the city of San Antonio. The gentleman also has that same deep commitment to the community, that same attachment to the people that he serves, and so I think we have in him a most worthy successor.

CIRO RODRIGUEZ served in the House of Representatives of the great State of Texas for 10 years and was an honored and valued member of that body right up to the time of his departure for today's swearing in. He was dean of the county's delegation and served with distinction on many committees, most particularly those that were related to public education.

He began his community service early. He was an educational consultant and he performed social work dealing with the problems of substance abuse and mental health concerns. He served on the local school board for 12 years before being elected to the Texas legislature.

Mr. Speaker, CIRO RODRIGUEZ brings to the House a deep knowledge of his community and long-seasoned experience in the House of Texas legislature. He brings to this House not only this knowledge and experience, but a heart filled with compassion and a soul filled with energy. He is ready to hit the ground running, and I feel certain that, beginning today, all of us will be finding that he is indeed a valued colleague and a very, very promising Member of the House.

I am very pleased and highly honored to introduce and welcome our newest Member.

READY TO BEGIN DUTIES AS NEW MEMBER OF HOUSE OF REPRESENTATIVES

(Mr. RODRIGUEZ asked and was given permission to address the House for 1 minute.)

Mr. RODRIGUEZ. Mr. Speaker, I know my colleagues put this function together just for me; right?

Let me first of all introduce my wife and my daughter. I want to ask them to stand up. Carolina, my wife, is a teacher, and we are real proud she got Teacher of the Year in San Antonio last year.

My daughter, Xochil. And my daughter, Xochil, is a 14-year-old. I also want to recognize some of the other members that have been real supportive, and I ask them to stand up for me today.

Let me just briefly thank my colleagues. There is no doubt that I am here with mixed emotions. I had the pleasure of being in high school when Congressman Tejeda was there, in the same high school in Harlandale. I had the pleasure of being in classes with him when we were in Saint Mary's University.

I also had the pleasure of being in the Texas House when he was in the Texas Senate. And I have had the pleasure of working on a variety of projects with him. And we all mourn the loss of Congressman Tejeda.

Today, I am also humbled in having been elected to this body. I know that my colleagues probably felt the same way I feel now, coming in, kind of in awe. It has not hit me yet. But I do want to thank all my fellow colleagues for allowing me to come in today and allowing my family to come in.

I do want to just indicate a few things. As I ran for office, one of the key things, one of the basic principles I have always had, when I ran for the school board 12 years ago, and I spent 12 years on the school board when I ran for the legislature, was that education is key.

I know President Kennedy once commented, in this same body 35 years ago, on the importance of human development, the importance of recognizing the individual, and in being able to do whatever we can to enhance the quality of that individual. I have always worked from that perspective.

I want to continue to work on that principle, that as far as I am concerned, as we move on to the next century, what is going to be the strength of this country is going to be its people, and we need to invest in ourselves and in our people. With that, come the investment in human development and investment in education and investment in training.

I want to take this opportunity to say it was a big honor for me growing up in San Antonio and having as my Congressman the gentleman from Texas, Congressman HENRY B. GONZALEZ. And for him to have given the introduction, I just want to thank him very much. I have always admired his hard work and his dedication.

So I say to my colleagues, I will be here representing the 28th Congressional District of the State of Texas, and I am looking forward to working with my colleagues. I will try to hit it running as quickly as I can. Muchas gracias.

QUESTION OF PERSONAL PRIVILEGE

Mr. GINGRICH. Mr. Speaker, I rise to a point of personal privilege.

The SPEAKER pro tempore. (Mr. KOLBE). The gentleman from Georgia [Mr. GINGRICH] is recognized for 1 hour.

Mr. GINGRICH. Mr. Speaker, I am standing here in the People's House at the center of freedom, and it is clear to me that for America to be healthy, our House of Representatives must be healthy. The Speaker of the House has a unique responsibility in this regard.

When I became Speaker of the House, it was the most moving day I could have imagined. It was the culmination of a dream. Little did I know that only 2 years later, I would go through a very painful time.

During my first 2 years as Speaker, 81 charges were filed against me. Of the 81 charges, 80 were found not to have merit and were dismissed as virtually meaningless. But the American public might wonder what kind of man has 81 charges brought against him?

Under our system of government, attacks and charges can be brought with impunity against a Congressman, sometimes with or without foundation. Some of these charges involved a college course I taught about renewing American civilization.

I am a college teacher by background. After years of teaching, it never occurred to me that teaching a college course about American civilization and the core values that have made our country successful could become an issue. However, as a precaution, I received the Committee on Standards of Official Conduct's approval in advance for teaching the course, and I accepted no payment for teaching the course.

Nonetheless, the course became embroiled in controversy. The most significant problem surfaced not from teaching the course but from answering the Committee on Standards of Official Conduct's inquiries.

Before the 1994 election, the committee asked questions, and I submitted a letter in response. The committee agreed that this letter was accurate. Later, I hired a law firm to assist me in answering additional questions coming from the committee. A letter developed by the law firm became the heart of the problem. I signed that letter, and it became the basis for a later, longer letter signed by an attorney. I was deeply saddened to learn almost 2 years later that these letters were inaccurate and misleading.

While the letters were developed and drafted by my former attorneys, I bear the full responsibility for them, and I accept that responsibility.

Those letters should not have been submitted. The members of the Committee on Standards of Official Conduct should never have to worry about the quality and accuracy of information that that committee receives. Mainly because these two letters contradicted my own earlier and correct letter, the Committee on Standards of Official Conduct spent a great deal of time and money to figure out exactly what happened.

For this time and effort, for which I am deeply sorry and deeply regret, I have agreed to reimburse the American taxpayers $300,000 for legal expenses and costs incurred by the committee in its investigation.

It was the opinion of the committee and my own opinion that had accurate information been submitted in those two letters, the investigation would have ended much sooner with less cost to the taxpayer. It was not based on violation of any law or for the misuse of charitable contributions. There was no finding by the committee that I purposely tried to deceive anyone. To me, it simply seemed wrong to ask the taxpayers to pay for an investigation that should have been unnecessary. That is why I voluntarily agreed to reimburse the taxpayers.

Never before in history has a Member of Congress agreed to be responsible for the cost of an investigation conducted by a committee of the House. This $300,000 reimbursement is not a fine, as some have asserted. The settlement itself and the report of the Committee on Standards of Official Conduct makes it clear that it is a reimbursement of legal expenses and costs only.

The committee and its special counsel did not stipulate how the reimbursement should be paid. One option is to pay completely with campaign funds. As a matter of law, the attorneys tell me there is little question that my campaign has the legal authority under existing law and committee rules to pay the reimbursement.

The second option is to pay by means of a legal defense fund. The committee has previously determined that Members may set up such a fund.

A third option is to sue the law firm and apply the proceeds to the reimbursement.

And the fourth option is to pay completely with personal funds.

As we considered these options, we sought to do what was right for the House as it relates to future precedents and for reestablishing the trust of the American people in this vital institution. My campaign could have paid the entire amount, and it would have been legal and within past precedents of the House. Yet, on reflection, it was clear that many Americans would have regarded this as another example of politics as usual and of avoiding responsibility.

□ 1200

A lawsuit against the lawyers who prepared the two documents is a future possibility for me as a citizen, but that option could take years in court. A legal trust fund was in many ways the most appealing. There is more than adequate precedent for such a fund. Many friends from across the entire country had called to offer contributions. Many of my colleagues on both sides of the aisle felt that this was the safest approach. Yet on reflection it was clear that a legal trust fund would simply lead to a new controversy over my role.

I have a higher responsibility as Speaker to do the right thing in the right way and to serve responsibly. I also must consider what the personal payment precedent would mean to this House as an institution. Many Members in this Chamber, on both sides of the aisle, have raised serious concerns, citing the fear that a personal payment will establish a precedent that could financially ruin Members who were assessed costs incurred by special counsels. In the current environment, who could feel safe? There should be no precedent that penalizes the spouses and children of our Members, but that is what this option could effectively do. This is something we must address.

Yet the question still remains. What is the right decision for me and my wife personally, for my family, for this institution, and for the American people?

Marianne and I have spent hours and hours discussing these options. She is here too today. Let me just say that I have never been prouder of Marianne than over the last few months. Her ability to endure the press scrutiny, to live beyond the attacks, to enjoy life despite hostilities, has been a remarkable thing to observe and a wonderful thing to participate in. But she always came back to the same key question: What is the right thing to do for the right principles? Through the difficult days and weeks as we reviewed the options, it was the courage of her counsel which always led me to do my best. Marianne and I decided whatever the consequences, we had to do what was best, what was right, morally and spiritually. We had to put into perspective how our lives had been torn apart by the weight of this decision. We had to take into account the negative feelings that Americans have about government, Congress, and scandals. We had to take into account the responsibility that the Speaker of the House has to a higher standard.

That is why we came to the conclusion, of our own choice without being forced, that I have a moral obligation to pay the $300,000 out of personal funds; that any other step would simply be seen as one more politician shirking his duty and one more example of failing to do the right thing.

Therefore, as a person of limited means, I have arranged to borrow the money from Bob Dole, a close personal friend of impeccable integrity, and I will personally pay it back. The taxpayers will be fully reimbursed. The agreement will be completely honored. The integrity of the House ethics process will have been protected. This is my duty as Speaker, and I will do it personally.

I will also ask the House to pass a resolution affirming that this is a voluntary action on my part and that it will establish no precedent for any other Member in the future. It is vital that we not go down the road of destroying middle-class Members by establishing any personal burden in a nonjudicial system.

It is important to put decisions about politics and Government in perspective. This past year I have experienced some personal losses. I lost my father, and my mother lost her husband of 50 years. My mother, due to serious health problems, is being forced to move into assisted living. My mother has lost her home, her husband, and her life as she knew it.

This week before making this decision I visited my mother in her hospital in Harrisburg. I should say she is now out and is in the assisted living facility. I asked her how she could handle these setbacks with such a positive attitude. She said,

> Newtie—she still calls me that. I do not think I am ever going to get to Mr. Speaker with my mother—she says, Newtie, you just have to get on with life.

Coming back from Harrisburg, I realized that she gave me strength and made me realize that for Marianne and myself, moving on with our lives, in the right way, by doing the right thing was our most important goal.

Let me make clear: We endure the difficulties, and the pain of the current political process, but we believe renewing America is the great challenge for our generation. I said on the day I became Speaker for the second time that we should focus on the challenges of race, drugs, ignorance and faith. Over the past few months, I have met with Americans of all backgrounds and all races as we discussed new approaches and new solutions. I am convinced that we can enter the 21st century with a renewed America of remarkable power and ability.

This is a great country, filled with good people. We do have the capacity to reform welfare and help every citizen move from welfare to work. We do have the potential to help our poorest citizens move from poverty to prosperity. We do have the potential to replace quotas with friendship and set-asides with volunteerism. We can reach out to every American child of every ethnic background, in every neighborhood, and help them achieve their Creator's endowed unalienable right to pursue happiness. We cannot guarantee happiness, but we can guarantee the right to pursue.

Recently, I had a chance to have breakfast with the fine young men and women of the 2d Infantry Division in Korea where my father had served. Today South Korea is free and prosperous because young Americans, for 47 years, have risked their lives in alliance with young Koreans.

I was reminded on that morning that freedom depends on courage and integrity; that honor, duty, country is not just a motto, it is a way of life. We in this House must live every day in that tradition. We have much to do to clean up our political and governmental processes. We have much to do to communicate with our citizens and with those around the world who believe in freedom and yearn for freedom. Everywhere I went recently, in Hong Kong, Beijing, Shanghai, Taipei, Seoul, and Tokyo, people talked about freedom of speech, free elections, the rule of law, an independent judiciary, the right to own private property, and the right to pursue happiness through free markets.

We in this House are role models. People all over the world watch us and study us. When we fall short, they lose hope. When we fail, they despair.

To the degree I have made mistakes, they have been errors of implementation but never of intent. This House is at the center of freedom, and it deserves from all of us a commitment to be worthy of that honor.

Today, I am doing what I can to personally live up to that calling and that standard. I hope my colleagues will join me in that quest.

May God bless this House, and may God bless America.

21ST CENTURY PATENT SYSTEM IMPROVEMENT ACT

Mr. McINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 116 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 116

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 400) to amend title 35, United States Code, with respect to patents, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, modified as specified in section 2 of this resolution. The committee amendment in the nature of a substitute, as modified, shall be considered as read. All points of order against the committee amendment in the nature of a substitute, as modified, are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute, as modified. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in H.R. 400 is modified as follows:

(a) page 14, line 19, after "at" insert "a rate not to exceed"; and

(b) page 46, line 15, strike "activities" and insert in lieu thereof "activities, subject to the submission of a plan to the Committees on Appropriations of the House and Senate in accordance with the procedures set forth in section 605 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act 1997".

□ 1215

PARLIAMENTARY INQUIRY

Ms. JACKSON-LEE of Texas. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. LaHOOD). The gentlewoman from Texas will state her parliamentary inquiry.

Ms. JACKSON-LEE of Texas. Mr. Speaker, after the conciliatory remarks of the previous speaker, I have an inquiry to the Speaker as to his recollection: In the last 90 years of this House have we any time where this House has voted to censor a Member the entire day by rollcall vote?

I would appreciate a response on that inquiry, Mr. Speaker.

The SPEAKER pro tempore. The Chair would advise the gentlewoman from Texas [Ms. JACKSON-LEE] in the House Manual on page 322, the Chair responded on June 25, 1992, to parliamentary inquiries relating in a practical sense to the pending proceedings but did not respond to requests to place them in historical context.

The gentleman from Colorado [Mr. McINNIS] is recognized for 1 hour.

Mr. McINNIS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I might consume. During the consideration of this resolution all time is yielded for the purpose of debate only.

Mr. Speaker, House Resolution 116 is a noncontroversial resolution. The proposed rule is an open rule providing for 1 hour of general debate divided equally between the chairman and the ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the 5-minute rule.

Furthermore, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill modified as specified in section 2 of House Resolution 1616. The resolution waives all points of order against the committee amendment in the nature of a substitute, as modified, and provides that it shall be considered as read.

Furthermore, Mr. Speaker, the resolution allows the Chair to accord priority recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD, and the Chair may postpone votes in the Committee of the Whole and reduce votes to 5 minutes if those votes follow a 15-minute rule.

At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted.

Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, this open rule was reported out of the Committee on Rules by a voice vote without any opposition. Under the proposed rule each Member has an opportunity to have their concerns addressed, debated and ultimately voted on, up or down, by this body.

I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague, my friend from Colorado [Mr. MCINNIS], for yielding me the customary half hour.

Mr. Speaker, I think this is a day for celebration. We have finally gotten an open rule here on the floor. One of the 13 bills brought to the House by a rule this session, only 3 of them have been open. And as all my colleagues know, Mr. Speaker, we were promised more open rules, so I certainly hope that this is the beginning of a trend and not just a one-time occurrence.

I do find it ironic, Mr. Speaker, however, that just 2 days ago, just 2 days ago my colleagues on the Republican side of the aisle spent an entire afternoon trying to pass a constitutional amendment to require a two-thirds vote for any tax increase. Now they are bringing to the floor a bill that would pose new taxes. They can call them user fees, but I have got a letter from the gentleman from Texas [Mr. ARCHER], chairman of the Committee on Ways and Means, which says these are taxes, and they still increase costs to the American people.

Mr. Speaker, the goals of H.R. 400 are laudable, to strengthen our patent laws and patent process and to bring them into compliance with the standards utilized by the international community. The bill would also establish the U.S. Patent and Trademark Office as a separate Government agency to serve in a more efficient manner for those who utilize its services.

The United States, Mr. Speaker, is No. 1 in the world when it comes to the production of intellectual property. The development of a sound and effective policy for the protection of this property is critically important to our Nation's future dominance in this area.

But having said that, Mr. Speaker, this bill is not without its controversies. Some small inventors and others have some valid concerns with this legislation. But the time and place to address these problems is during the consideration of the bill itself. Under the open rule process, any amendment or substitute that is germane and does not violate any other House rules can be offered at that time.

Hopefully, these concerns will be thoroughly debated and addressed by the full House.

So, Mr. Speaker, I urge passage of this rule so that we may proceed to the consideration of the bill itself.

Mr. Speaker, I reserve the balance of my time.

Mr. MCINNIS. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, the day has finally come, and I rise in support of the rule and in opposition to H.R. 400. I know a lot of people may vote in favor of my substitute to H.R. 400 just to shut me up and to keep me from giving all these special orders all the time, but the day has finally come when we will have a head-to-head discussion on the issue of what the patent law of the United States of America should be, and as I have pointed out on numerous occasions over the last few months, that the bill that was being crafted and, yes, the bill that finally went through the system is taking America in exactly the wrong direction.

Mr. Speaker, the United States of America has had essentially the same patent protections, the strongest patent system in the world up until this date, and if this vote passes today on H.R. 400, America's patent system will be gutted, that is gutted, and we will hear during this debate that they are doing it simply to get out a thing called the submarine patent.

Let me note this: That is very similar by saying the only way we are going to be able to handle Hustler magazine is to destroy all freedom of speech in the United States or the equivalent of saying, "You have a hangnail that might be infected, and the only way to cure it is to cut off your leg," and that is not the case. The Congressional Research Service states that my substitute bill to H.R. 400 will eliminate the practice of submarine patenting. It never was necessary to cut one's leg off to handle the hangnail.

What we have here is an attempt to use a small problem which can be cured in other ways, the submarine patent problem, as an excuse to gut the strongest patent system in the world.

The essential ingredient, we have offered to compromise time and time again with those people who are supporting H.R. 400, but they came back and were unwilling to compromise on the essential point, which was our country believes that, until a patent is issued, that the patent applicant has a right of confidentiality. This bill as it is written, and it has not changed, they have not exempted any of the small business they claim to have exempted; this bill would mandate that all of our secrets, every one of our secrets that would be held confidential under the current system under what they are proposing is a system that will publish them after 18 months for the world to see. Everyone can understand that.

Mr. Speaker, that is why the American people have risen up and called their Member of Congress to say we do not want to make America's technology vulnerable to foreign theft and the theft from huge corporations domestically. This, after asking for compromise for 2 years, we have not been able to compromise on this point because that is what the purpose of this bill is.

H.R. 400, when it was introduced last session, was called the Patent Publication Act. So all of the other wonderful things that we hear about this bill we have accepted in the substitute. I will be offering in the substitute almost all the wonderful things that we will hear, but the disagreement, the fundamental disagreement, is, No. 1, should we basically gut the patent system by corporatizing the Patent Office and taking it out of the U.S. Government, making it a corporate entity, taking our patent examiners, making them vulnerable to outside influences, No. 1; and No. 2, should we publish the information about our inventors' patent applications even before the patent is granted? If we succeed today or if the other side succeeds today, foreign corporations, whether in China or Japan or elsewhere, will be able to steal this information, use it, go into production, but those proponents say: But we give them the right to sue once the patent is issued.

Mr. and Mrs. America has to decide on that. Is this really an option if the People's Liberation Army is manufacturing some technology developed here and 4 or 5 years later the patent is issued giving the person who owns the patent the right to sue the People's Liberation Army 5 years later? Is that really recourse?

This is setting up, this is a set up for the biggest ripoff of technology in the history of the United States. Our most important ideas will be stolen from us by our worst adversaries and used against us; and when the court action comes up, what is going to happen? When the court action comes up, they will be using the money for manufacturing with stolen technology to defeat our people in court.

I ask my colleagues to support the rule, I ask my colleagues to oppose H.R. 400, the Steal American Technologies Act, and to support the Rohrabacher substitute.

Mr. MOAKLEY. Mr. Speaker, I would like to inquire of my distinguished colleague from Colorado how many speakers he has left.

Mr. MCINNIS. To my good friend from Massachusetts, I have a number of speakers who have just now signed up, so I assume that I will take the entire 30 minutes.

Mr. MOAKLEY. The only speaker I have is myself to finish our side of the debate, so I will allow my dear friend from Colorado to go forward.

Mr. Speaker, I reserve the balance of my time.

Mr. MCINNIS. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Speaker, I have been called a puppet of the Japanese industrial complex as a result of this bill. I resent it. I have been called worse than that. We have tried to keep this on an evenhanded course, but alas to no avail.

The patent law, Mr. Speaker, as my colleagues know, provides a forum whereby cute, sexy questions can be propounded, but because of the complexity of the subject matters, cute, sexy responses are not that easy to be forthcoming.

This is a good bill. In contrast to what our opponents would have my colleagues believe, H.R. 400 has received more process than any patent bill in history. It is developed over a 2-year period and was the subject of more than 50 negotiating sessions with interested parties and the administration. And incidently, Mr. Speaker, in addition to the Clinton administration, the Bush and Reagan administrations heartily endorsed this proposal. During this time over 80 witnesses testified at eight different hearings to help craft its contents. I have no pride of exclusive authorship in H.R. 400 since so many fingerprints cover the bill including those of independent inventors, small and big business, industry groups, universities and research laboratories.

□ 1230

Our bill is supported by 75 American companies responsible for 90 percent of the patents issued to American applicants in the United States. Twenty-one CEO's of our Nation's high-technology companies which employ 1.4 million men and women and which hold 55,000 U.S. patents endorse H.R. 400 and oppose the Rohrabacher substitute. Mr. Speaker, pardon my immodesty, but that hardly sounds like a puppet of the Japanese industrial complex.

Title I of H.R. 400 would transform the Patent and Trademark Office, or the PTO, into a Government corporation. It would remain a Federal agency subject to congressional oversight and protected by all of the benefits and safeguards afforded any agency and its employees under title V of the U.S. Code.

The whole point of title I is to allow the PTO to operate more efficiently on a day-to-day basis. To illustrate, the agency would no longer be required to solicit permission from the General Services Administration each time it wished to buy a box of pencils or note pads.

Furthermore, title I would permit the PTO to keep all its funding derived from user fees. Last year alone, $92 million were diverted from those funds, which are exclusively funded by users, and the intent at the time of collection is to use those fees to operate and maintain the Patent and Trademark Office.

First, H.R. 400 helps American inventors under title II who file for patent protection overseas. Since all other developed countries which have patent systems require publication after 18 months, American inventors have their applications published in the language of the relative host country at this time. In contrast, foreign companies which seek protection in the United States do not reveal their applications until the U.S. patent issues. This is unfair on its face, since foreign companies are therefore able to study our latest technological developments abroad but are not required to reveal their work to our inventors on these same terms here. Eighteen-month publication, therefore, levels the international playing field.

Second, the publication inhibits the practice of patent submarining. My colleagues will hear more about that as this debate develops. A submariner is a bad-faith inventor who attempts to game the existing patent system by indulging in dilatory tactics that prevent the expeditious review of the application. By biding his time, the submariner can eventually identify a company which has independently developed the same idea, then sue for royalties. Quite obviously, this constitutes bad public policy, since the submariner has no intention of using an invention to manufacture a product or create a new job. The motivation of the submariner is to subsist off the work of others, and they do real well at it. I refer my colleagues to a recent article that appeared in last week's Wall Street Journal.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. CONYERS], the ranking member on the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I am here in my capacity as ranking member to urge that this rule be adopted. I understand that everybody that has spoken on the rule is supporting the rule, so very good. The only thing is that the first speaker, the gentleman from California [Mr. ROHRABACHER], in supporting the rule, said this was a bill that would gut the American patent process, if I heard him correctly. He is nodding, and apparently I did hear him correctly; that this bill, H.R. 400, would gut the U.S. patent process.

This is the same bill that has passed out of two Republican Congresses and two judiciary committees unanimously, and but for the tremendous acumen of the gentleman from California [Mr. ROHRABACHER] we would unwittingly have passed out last Congress and this Congress a bill that would gut the patent process of the United States of America.

We obviously owe this gentleman from California [Mr. ROHRABACHER] a huge debt. I mean our obligation must go up to the sky. I thank the gentleman from California [Mr. ROHRABACHER] for this great single feat of saving the American legal system from what would happen were it not for his substitute.

Fortunately, however, there is a remedy. The rule will call for the substitute, but until the debate occurs, could the gentleman help us keep the confusion level down to about its norm by refraining from these unsubstantiated statements so far in this debate. I know in the gentleman's mind the gentleman is pretty firm where he is coming from, but for those who may not be committed yet to this bill and who may not be on the substitute, could we have a debate that merely tries to describe what our humble Committee on the Judiciary and two Congresses have attempted to do on this, and if we could do that, I think it would win the approval of all of us in the Congress and it would help us a great deal.

Now, this bill is supported by five of the last six Commissioners of the Patent and Trademark Office. That means that the highest Government officials on this subject in the past have all signed off on this bill. There have been years of negotiation on this bill. We have finally reached, we thought, almost unanimity. It will stop cheating in the patent process by ending the prime delaying tactic, and on this, the gentleman from California [Mr. ROHRABACHER] and I agree, submarine patenting. It will end that process where lawyers now are coming forward representing people that are subverting the patent process.

This is the best thing that has ever happened for the small inventor, and I urge the support of the rule.

Mr. McINNIS. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from Colorado for yielding me this time.

Mr. Speaker, I appreciate and I rise in strong support of this wide-open rule providing for consideration of H.R. 400. This open rule will allow for full debate on this very complex and controversial measure.

Mr. Speaker, the objective of this legislation is to promote greater efficiency in our patent system, and of course put us on an even footing overseas, at the same time balance this with fair protection for the independent inventor, and this is obviously a very delicate process.

My district is home to the Edison Inventors Association. We are very proud of that. They have directly and personally conveyed to me their very real concerns with the legislation as it is written, and I am sure the gentleman from California [Mr. ROHRABACHER] is going to speak to several of those issues as the day goes along. I have also spoken with proponents of H.R. 400, and they have made a compelling case for certain items in H.R. 400. So it seems we are getting most of the good issues out.

Among the inventors, there is a real concern that the 18-month publication period provision in this bill will pose a risk to the little guy, the independent inventor. We certainly do not want to inadvertently create a situation, unintended negative consequences, where these entrepreneurs are squeezed out in the courtroom by large corporations. This is a real concern, and I know it will be addressed today.

On the other hand, I think we all agree that the proposed diversion of fees paid to the Patent and Trademark Office in the Clinton budget is a very bad idea. There was unanimity on this issue yesterday, I believe, in the Committee on Rules, and I am gratified that H.R. 400 hits this right on. Our inventors need to know that these fees are not being diverted to fund other initiatives, but are helping to speed the patent process along.

Mr. Speaker, I am not certain that the promised benefits in H.R. 400 are not outweighed by the potential setbacks. I am waiting to be convinced by the debate. Whenever we consider sweeping reform we would be wise, in my view, to follow the model of the medical profession. First, do no harm. While I remain uncertain that H.R. 400 is truly a step forward, I am glad that we are going to be able to have vigorous debate on this floor where both sides can make their case, and I certainly appreciate the hard work and long efforts of the committee on this process.

What we have here today is deliberative democracy at work in the people's House. I urge support for this good rule for that reason, and I commend the gentleman from New York [Mr. SOLOMON] and the gentleman from Colorado [Mr. MCINNIS] for bringing this rule forward.

Mr. MOAKLEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I really cannot pass this opportunity to mention one more time that this bill contains a revenue increase. This bill contains a tax increase.

The fee in question is clearly a revenue increase, under the Speaker's guidelines on jurisdictional concepts distinguishing user fees from taxes. The guidelines were announced again on opening day, January 7, 1997, page H32, CONGRESSIONAL RECORD. The proceeds will be used to benefit some who did not pay the charge, and thus cannot be construed as a user fee. There are substantive charges to the existing patent fee so as to make this charge a tax.

Mr. Speaker, I include for the RECORD at this time a letter from the gentleman from Texas [Mr. ARCHER], the chairman of the Committee on Ways and Means, making it very clear that this fee is a tax.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, April 16, 1996.

Hon. HENRY J. HYDE,
Chairman, House Committee on Judiciary, Rayburn HOB, Washington, DC.

DEAR CHAIRMAN HYDE: As you know, H.R. 400, the "21st Century Patent System Improvement Act," would make various changes regarding the Patent and Trademark Office. In particular, section 122 would extend permanently these patent and trademark fee surcharges. In addition, it would also permit the imposition and collection of new fees to recover the costs of publication of patent applications and reexamination proceedings.

In determining what is a revenue measure within the jurisdiction of the Committee on Ways and Means, the Committee relies upon the statement issued by Speaker Foley in January 1991 (and reiterated by Speaker Gingrich on January 7, 1997) regarding the jurisdiction of the House Committees with respect to fees and revenue measures. Pursuant to that statement, the Committee on Ways and Means generally will not assert jurisdiction over "true" regulatory fees that meet the following requirements:

(i) The fees are assessed and collected solely to cover the costs of specified regulatory activities (not including public information activities and other activities benefiting the public in general);

(ii) The fees are assessed and collected only in such manner as may reasonably be expected to result in an aggregate amount collected during any fiscal year which does not exceed the aggregate amount of the regulatory costs referred to in (i) above;

(iii) The only persons subject to the fees are those who directly avail themselves of, or are directly subject to, the regulatory activities referred to in (i) above; and

(iv) The amounts of the fees (a) are structured such that any person's liability for such fees is reasonably based on the proportion of the regulatory activities which relate to such person, and (b) are nondiscriminatory between foreign and domestic entities.

Additionally, pursuant to the Speaker's statement, the mere reauthorization of a preexisting fee that had not historically been considered a tax would not necessarily require a sequential referral to the Committee on Ways and Means. However, if such a preexisting fee were fundamentally changed, it properly should be referred to the Committee on Ways and Means.

On October 20, 1995, I wrote to you regarding a fee provision adopted by the Committee on Judiciary during its budget reconciliation recommendations. That provision would have extended the expiration date of certain patent and trademark fee surcharges for four years, until 2002. Although the Committee on Ways and Means did not assert any jurisdictional claim over the fee at that time, I expressed my strong interest in working with you to conform this provision as closely as possible to a true "fee." With respect to similar "fees" that raise more revenue than is reasonable, the Committee on Ways and Means has worked with other committees on jurisdiction to design a means of reducing the "fees" over time so that the charges become true "fees" that are tied to the cost of the regulatory activity. I extended the same offer to work with you and the Appropriations Committee to reduce these charges over time so that they become true regulatory fees.

I understand that H.R. 400 is intended to make the current fees more closely resemble true "fees." Since he surcharge was imposed by the Omnibus Budget Reconciliation Act of 1990, only a portion of the surcharge proceeds have been made available to the PTO. The balance of the proceeds have been diverted to finance other governmental activities. By making the PTO fully financed through fees, this excessive imposition of PTO fees should be substantially reduced.

Nonetheless, the surcharge and the reexamination fee (due to its 50% reduction for qualified small entities) do not meet all four requirements set forth above. To the extent that any fee is set at a level to recover completely an agency's costs associated with a particular entity, a surcharge, by definition, will be excessive and therefore cause the "fees" to exceed the agency's costs associated with the entity. Moreover, at least a portion of the activities of the PTO benefit the public generally and cannot be recovered through narrowly-based fees.

With respect to the reexamination fee, to the extent that it is based upon the size of the affected entity, rather than the costs associated with that entity, it would violate (iv) above. Accordingly, I have been advised that the bill in its present form would violate Rule XXI clause 5(b) to the Rules of the House, which provides that no bill carrying a tax or tariff measure shall be reported by any committee not having jurisdiction to report tax and tariff measures.

Although the amount of fees and the manner in which they are imposed do not conform to the criteria discussed above, the modifications made by the bill would make PTO fees generally less of a revenue measure than they are currently. I also understand that H.R. 400 reflects a carefully constructed balance of competing interests, and is shortly due to be considered on the House Floor. Accordingly, I will not seek a sequential referral, or object to consideration of H.R. 400 on the Floor at this time.

However, this is being done with the understanding that the Committee will be treated without prejudice in the future as to its jurisdictional prerogatives on this or similar provisions, and it should not be considered as precedent for consideration of matters of jurisdictional interest to the Committee on Ways and Means in the future. It is also being done with the understanding that you will contact me if the fees are modified on the House floor or in conference, in which case I reserve the right to seek to have Members of the Committee on Ways and Means named as additional conferees. Finally, I would appreciate your response to this letter, confirming this understanding with respect to H.R. 400.

Thank you for your cooperation in this matter. With best personal regards,

Sincerely,

BILL ARCHER,
Chariman.

Since it is a tax increase, Mr. Speaker, I am waiting to see if my colleagues who supported the constitutional amendment to seek to amend the rule to require two-thirds vote to increase taxes will come forward because this is an open rule. They can come forward and put an amendment in to increase the vote by two-thirds in order to pass this bill because it has a tax increase.

Mr. Speaker, I reserve the balance of my time.

Mr. MCINNIS. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank my friend for yielding this time to me. I thank all of the Members of this debate, because I think we are starting to frame the debate fairly effectively.

Let me say first that the gentleman from Illinois [Mr. HYDE], the chairman of the full committee, is one of the giants of this legislature, and I think we all recognize him as such on both sides of the aisle; the gentleman from North Carolina [Mr. COBLE], my good friend, who is the chairman of the subcommittee, one of my finest friends ever in the House of Representatives, and a superb legislator and a guy for whom I have a lot of respect. I know both gentlemen have worked long and hard on this bill.

Let me say that as we move along in this body, we begin to realize more and more how easy it is to get up and complain about something that is a work product that other folks have done a lot of work on, and we should not take that role or that opportunity frivolously.

Mr. Speaker, I thought one of the last things that the gentleman from Florida [Mr. GOSS] said was a very important thing. He said that the first rule of the physician is do no harm.

□ 1245

While I think there are a lot of good things in H.R. 400, I think there are a few fatal defects that do some harm.

The other thing that I think we have to realize when we go into this debate is that this is an enormous debate because it has a great deal to do with our most important property rights, our intellectual property rights; the centerpiece of America, the idea, the creator of technology, the innovator. And this property is just as valuable as real property that we cherish, the right to have real property; this right of an inventor to go out, come up with an idea, and get paid for that idea. We have a system that accords certain rights and privileges to that inventor. We are changing those rights and privileges markedly in this bill.

There are two sides to this debate, I think that is something we need to establish early, two legitimate sides to the debate. I was just going through the list of people who oppose the bill. Dr. Forrest Bird, inventor of the neonatal respirator; Dr. Paul Burstein, the inventor of rocket motor inspection system. Raymond Damadian, inventor of the MRI. He is opposed to the bill.

We have several Nobel laureates here: Gertrude Elion, the inventor of leukemia-fighting and transplant rejection drugs, Nobel laureate; the inventor of the Hovercraft, Charles Fletcher; Franco Modigliani, the inventor of the credit management system, Nobel laureate.

There are legitimate arguments on the other side of this bill. We are going to lay those out. The one thing that I am going to concentrate on is publication, because every inventor needs a period of secrecy, and there is no substitute for secrecy. I think that is what we are going to find out as this debate goes on. If we publish, if we expose this inventor's secrets 18 months after he has applied, it is going to kill him. I think we can lay that out clearly in the debate. I thank the gentleman for yielding me this time, and I like the rule.

Mr. MOAKLEY. Mr. Speaker, it gives me great pleasure to yield 4 minutes to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Speaker, I think there has been a great debate in the public that has unnecessarily and I think unduly alarmed Americans who are not immersed or totally familiar with the arcane details of patent law, and it has become very difficult for people to sort through the various arguments that are being made back and forth, and I am sure being made in good faith.

But I thought it would be helpful to this House to hear the comments made by the technology chairs of the White House Conference on Small Business, because much has been said that this might be a bill between the big guys and the little guys.

For those of us who have spent the past 2½ years sorting through this bill line by line so it would represent a good, solid, bipartisan effort to protect American industry, we were encouraged that the technology chairs of the White House Conference on Small Business were assigned by the other small business men and women of America to take a look at the bill and to examine the various claims being made.

It was very gracious of them to give the following report. I will not read their entire comments, but I would like to quote a few specific items. This is a direct quote: "During the past year," all 10 chair persons say, "Independent inventors and the small business community have been subjected to an intense campaign of fear, xenophobia, and misinformation. The White House Conference on Small Business researched many of the most emotional issues and found that much of the information being promulgated is simply wrong. Legislation based on bad data is bad legislation."

And then they go through the issues. First, the 20-year system. They conclude that "We believe most of the hysteria over the new 20-year term is based on misinformation."

Regarding the publication of patent applications, they say, "The vast majority of American patent applications are also filed in foreign countries where they are automatically published. Failure to publish these applications in the United States gives our foreign competitors a huge advantage. They can read our applications but we cannot read theirs. We need a level playing field with our foreign competitors."

Finally, on the issue of stealing American inventions, the small business men and women said, "It is misleading to suggest that the opportunity to copy U.S. inventions would be newly created by either of these bills." To that they refer to the predecessor bills to both H.R. 400 and the Rohrabacher amendment.

Mr. Speaker, the feared opportunity already exists. Foreigners are presently free to read and copy any U.S. patent. The publication provision of either of these bills will have no effect on this reality. "Stealing" is a false issue.

"The barrage of misinformation has caused great confusion and alarm," they say. "Further attention has been diverted from the much-needed modernization of U.S. Patent Law." Then they go on to endorse the elements that are encompassed in H.R. 400.

Mr. Speaker, it is important for the many citizens and Congress Members who are watching this debate today to understand that it is easy to make wild allegations, but hard, to do the tough work done by the gentleman from Michigan [Mr. CONYERS] and the gentleman from Illinois [Mr. HYDE], by the gentleman from North Carolina [Mr. COBLE] and the gentleman from Massachusetts [Mr. FRANK]—to go through the bill that protects American inventions and fosters prosperity for this country.

Mr. MCINNIS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. FORBES].

Mr. FORBES. Mr. Speaker, I rise today in support of the rule and in vehement opposition to H.R. 400.

My dear friends, much has been made just a moment ago about small business. I could tell the Members that the Small Business Legislative Council, the Small Business Survival Caucus and Committee, and the Small Business Technological Committee and Coalition have all opposed H.R. 400 because they believe that it will be bad for small businesses and even more horrendous for entrepreneurs and the people out there who are working full-time jobs and spending extra hours at their garage or kitchen table coming up with a new invention. We are talking about Americans coming up with ideas that they will try to market here in America, not abroad.

I would just reference two wonderful books, which are two of many. If Members would remember, there are so many young children out there who go to the fourth grade or fifth grade, they go to the library and they take out books about Eli Whitney and books about Thomas Edison, and the great inventors of this Nation. They come home and they get energized about the greatness of America and that all things are possible.

H.R. 400 would kill that off, and it would make the entrepreneur extinct as far as the current patent situation as we know it today.

Mr. MCINNIS. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Speaker, there are two very serious errors in H.R. 400. Let me just start with these and try to return to these frequently. They are these.

First of all, if you are an inventor, you should not have to publish what your invention is until you get the patent. You should not have to. The reason for that is that if you do not want to make it known to the world at large, you should not have to, because you might be able to market it to a company as a trade secret. The reward to inventors sometimes is not to get it patented but to apply a trade secret. That is what Coca-Cola has done for more than a century.

This bill, H.R. 400, requires that even if you have not gotten the patent, when 18 months have run from the time that you have applied, you have to publish. That is a mistake.

The second error is this: When there is a prior user, somebody else who has been using this idea in a commercial way, under existing law that person does not win over the person who invents, the person who files the patent. That person has the right to that invention. But H.R. 400 says no, if there is a prior commercial user, that prior commercial user can continue, and not only continue, he or she can expand. If they were making 10 products a month, they can go to a thousand, and then if they are seeking to be acquired by a company, what they can do is say, "Look, here is the crown jewel. We have a prior commercial use as to this patent. Take over our company, and maybe we do not have the ability to go from 10 to 1 million units, but you do."

On these two points there is a very serious taking away from the patent applicant in the United States law from the present system. Somebody who spends the time to invent right now has the right to go around and market their idea and say, you know, it is a patent pending right now. If we get the patent, I am willing to sell it to you. If we do not, I am going to find that out from the Patent Office and keep it secret and try to sell you a trade secret. That would now change.

These are very significant differences. I have to ask the question: For what purpose? The answer we most frequently get is because there are submarine patents out there, and this is the term of art we will hear very frequently. The submariner is somebody who is gaming the system. That person can be dealt with explicitly, with a laser beam instead of with a floodlight.

The individual who is attempting to game the system is somebody who files a patent application and then asks that it be continued, and asks that it be continued and then delayed and delayed, waiting for some other company to take the idea, turn it into a profitable enterprise, and then the submarine surfaces and fires its torpedoes.

The solution to that is to deal with the person who is gaming the system. In other words, let us just say that the publication requirement, which obviously defeats this strategy, ought to apply if you have filed applications to continue to delay, to postpone.

So I went to my good friend and colleague, the gentleman from California [Mr. ROHRABACHER], and asked if he could add that to his bill, because I thought that the high-tech companies had a good point, that there might be an occasional instance of this submarine strategy, and he graciously agreed to do so.

My colleague and dear friend, the gentleman from North Carolina, entertained the idea, but in the final event, he was not able to accept it. So in H.R. 400, what we have is a very, very broad solution to a very narrow problem, with the result that the inventor loses what he or she has under American law.

We have heard already that H.R. 400 is supposed to level the playing field. Let me assure my colleagues, the level playing field exists right now. If you file in Europe, whether you are European, Asian, African, or American, you have to disclose after 18 months. If you file in America, whether you are Asian, European, American, or African, you do not. So there are two systems in the world. They are fair to everybody in each system, but the systems are different.

I wish to conclude with a personal note of gratitude to the chairman, the gentleman from North Carolina, HOWARD COBLE. This man is not engaged with any intent to do harm to the American public or to do harm to our patent system, by his lights.

I have respectfully come to the conclusion that I cannot support his bill, but that does not diminish in the slightest my respect for him or the intentions that motivate him, which I believe are of the highest order. It is only my regret that after 2 months of good faith negotiations, we were not able to reach the accommodations in H.R. 400 that I was able to achieve with H.R. 811 and H.R. 812.

I support the rule because it allows the Rohrabacher alternative to be in order, and that, to me, is the preferable bill.

Mr. MOAKLEY. Mr. Speaker, in the spirit of comity, I yield 2 minutes to the gentleman from Indiana [Mr. PEASE], on the other side of the aisle.

Mr. PEASE. Mr. Speaker, I thank the gentleman for yielding time to me.

I had not intended that my first remark to this body would be without aid of a script prepared by my staff; however, the script prepared by my staff will be reserved for the later debate this afternoon.

Let me just say this. I bring, I hope, to this discussion a different perspective. As many of the Members know, I am fortunate to have come from higher education, and there, though I do not speak for higher education, I have spoken extensively with the higher education community on this subject. They bring to us a perspective that is reflective of the inventor's community.

We have solo practitioners, faculty members, and students who work on their own in the invention field, and we have those who work under contract with major international corporations.

□ 1300

So we come from the higher education community with the perspective that includes all of the players that one would hope would be protected in this legislation that is before us.

The higher education community has debated extensively about the proposals in H.R. 400, and we have stayed in contact with them throughout the time that I have been involved in this discussion as well. Though most of them have not taken a position in terms of opposition or support of the proposed legislation, I am convinced, particularly with the amendments that will be offered through the floor managers' work, that the concerns that have been raised on this floor today will be addressed in the amended bill and that it will protect both the small inventors and the major corporate inventors and be good for the country.

I urge Members' support of the rule and of the bill.

Mr. MCINNIS. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman from Colorado for yielding me this time. I rise in support of the rule and in strong support of H.R. 400.

This is a very good bill and a very, very important bill to protect the competitiveness of American business and American inventors, large and small. Let me make that point very, very clear.

I commend the gentleman from North Carolina [Mr. COBLE], my good conservative friend, and the gentleman from Illinois, the chairman of the Committee on the Judiciary, for pushing this legislation forward. Mr. HYDE and Mr. COBLE know how important this legislation is for the American people.

We are not dealing with what the opponents would tell us is the Steal American Technologies Act. We are dealing with a situation where we have got to act and act now to protect American inventors from a situation where that technology is being stolen under current law.

Under current law, every single patent that is filed in the other major industrial countries around the world is published after 18-months, in Japanese, in German, in French, for those inventors and those countries to see. Forty-five percent of all the patents filed with the U.S. Patent Office are filed by foreign inventors, and U.S. inventors do not get to see that technology filed here in the United States.

This bill provides greater protection for the small inventor by improving the patent pending provisions of the law. This bill protects the small inventor in this country by giving them the opportunity to get capital behind those inventions much sooner than they get under current law.

The opponents would tell us that under the 18-month publication, they are going to have a gap between that publication, when they get the patent, and somebody is going to steal their ideas. That is not the experience they have had in Europe.

In Europe they get that capital sooner because the entrepreneurial investors in Europe know that that particular inventor is the lead inventor on that item because it has been published, published ahead of anybody else who might be in the system ahead of them. We have no way of knowing that in this country. So the capital does not come here until the patent is issued. In Europe that has changed.

This will help small inventors by giving them the opportunity to get that capital, get that product on the market sooner. It will give them the opportunity not to have to reinvent the wheel because they will know whether somebody else is already in the marketplace with that idea.

This is a good bill. It is a good bill for the little guy, and we should vote for the rule and vote for the bill and get this major improvement, major improvement to competitiveness in the United States against our foreign competition done.

Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I reluctantly rise in support of this rule because, once it is passed, Members like myself who oppose H.R. 400 are going to be given about 15 minutes out of the hour, only one-quarter of the time to present our views. That is typical of what has been happening on this extremely important bill.

I understand what the floor managers have to do here, but I truly object to the fact that we are not given equal time during debate to handle a bill of this magnitude. There is absolutely no question that this bill concerns America's future. It concerns our jobs. It concerns who controls our technology.

To be muzzled on the floor when we consider a bill that has constitutional implications is beyond my wildest dreams. Why would they do this to us? We know the Committee on Small Business has not been able to hold hearings because small inventors have not been allowed to present their case to the Congress. Now on the floor we will also have our hands tied behind our backs and be allowed so little time to discuss the merits.

In view of that, I say to the Members who are listening to this debate and to the people of the country, how many complaints have you ever gotten from your inventors about the current patent system? The United States leads the world in patent filings. We have 10 times more intellectual property breakthroughs than any other Nation in the world. Why would we want to change our system?

I heard the prior speaker say, "Japan or some other country." But, we lead the world. Why would we want to do anything to harm the system that has created the largest industrial and agricultural power on the face of the Earth? There is much at stake here, and there are many private interests that want to get their hands into what is happening at our Patent Office. We understand that well.

But there is more at stake here than just arcane rules that may be administered by a department that handles our patents.

I say to the membership, if they have not read this bill, if they do not understand its implications, vote no on H.R. 400 and vote for the substitute.

We will talk a lot about how the period is shortened for our inventors where, if you file a patent, in 18 months they will be able to get your blueprints. Your work will not be kept secret as it is today until the patent is issued. That is absolutely wrong. Why would we want to do that to the people who are creating our future in this country?

Why would we want to corporatize the Patent Office and take away the objectivity of its examiners? And why in heaven's name would you want to produce a bill, page 11, lines 15 through 17, which permits this Office, which will not have the same kind of control we have today, to accept monetary gifts or donations of services, of real estate, personal or mixed property in order to carry out the functions of the Office? We have seen all kinds of bribes in this city.

I hear from the chairman that may be out. Well, I will be really interested in what else is out of the bill because this truly is a work in progress. It is unfair to the membership. It is unfair to the people of this country who are creating our future to be muzzled here on this floor.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

As I said before, just a couple days ago there was a bill to amend the Constitution that required two-thirds to increase taxes. This bill increases taxes. And I was waiting to hear the amendment to the rule to require two-thirds vote for this bill to pass because it does raise taxes, but evidently it is not coming forward.

Mr. Speaker, I yield back the balance of my time.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

I would like to clarify the comments just made by the gentlewoman from the State of Ohio. Her remarks were that she would be and, for some reason, Members that favor her position were being muzzled on the House floor. It is unfortunate that she was not in here for the previous conversations that we have had, but to assist her knowledge, I would suggest that she study an open rule. This is an open rule. No one is being muzzled here. An open rule allows open debate.

I notice that the gentlewoman on a number of occasions, at least two, during her comments used the word "muzzled." I think it is that kind of rhetoric, frankly, that heats up the debate here unnecessarily. It is an open rule.

Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], distinguished chairman.

The SPEAKER pro tempore (Mr. HOBSON). The gentleman from Illinois [Mr. HYDE] is recognized for 2½ minutes.

Mr. HYDE. Mr. Speaker, I say to my dear friend from Toledo, it is too bad she did not come up to the Committee on Rules and ask to structure a rule that would give her all the time she wants. But she did not, and we got an hour's debate. And out of the goodness of our hearts, we are yielding 7½ minutes, I assume the gentleman from Michigan [Mr. CONYERS], out of the goodness of his heart, will yield 7½ minutes, and there is 15 minutes plus an open rule. I think that ought to be enough, at least that is my humble opinion.

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Out of an hour, then I understand, Mr. Speaker, we will receive 15 minutes?

Mr. HYDE. We each have a half hour. We have a half hour over here. We are going to give the gentlewoman 7½ minutes of it. She is against our bill, yes.

Ms. KAPTUR. So 15 over 60 is 25 percent. So we are not being given equal time.

Mr. HYDE. Mr. Speaker, the gentlewoman can talk to 6 p.m. or beyond this evening because we have an open rule. The gentleman from Massachusetts [Mr. MOAKLEY] wanted it open.

Ms. KAPTUR. Mr. Speaker, the rule is open to some, not all.

Mr. HYDE. Mr. Speaker, let me just suggest to my friends that H.R. 400 is a very good bill. We have heard about corporatizing the U.S. Patent Office, new word, "corporatizing." There is more oversight over the corporate U.S. Patent Office than if we kept it as a bureau of the Department of Commerce. There will be an inspector general. There are reporting requirements to Congress. There are reporting requirements to the administration. The Government Cooperation Control Act has over 100 accountability provisions plus there is an advisory board, so that is a red herring.

What is really at stake in this issue, and I could not imagine patent law could be made exciting or interesting, but we have submarines floating around. I expect to see periscopes surfacing during this debate because that is what this is all about, protecting people who do not invent to make society a better place but to make a fast buck.

They file their applications and God forbid they should be published. They want to keep it below the surface so some poor guy who goes into business and is using a process and they find out about it, they surface, up periscope, and sue. And one person made $450 million doing that. His lawyer made $150 million, and they tell us submarine patenting is not a problem.

If you want to protect your invention, you have to file overseas. And when, you file, it is published after 18 months. The whole patent system was set up to give you exclusivity for a term of years, hopefully 20 years, in exchange for sharing your deep, dark secret with the world and making this a better place to live. That is the tradeoff. If you do not want to have your secret published, do not file for a patent. Keep it as a trade secret.

Now, not publishing protects the submarine patent gamester who is out not to assist the economy but to fatten his personal treasury. It is, as I have said, the foreign patents. If you want protection overseas, you have got to file overseas in their language. They file here and it is not published. Nobody can find it. We want to play by the same rules overseas as we play here.

This is a good bill. I have a letter from the commissioners of patents under Nixon, Ford, Reagan, Bush; all say this is an excellent bill. And the Democratic administration presently, the President's administration supports it.

I say, pay attention, something is going on here. One of the handouts says, "Don't be fooled." Those are good words. Do not be fooled. Do not protect the submarine patent gamesters who use the system not to assist society but to make a fast buck.

Mr. McINNIS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1314

The SPEAKER pro tempore (Mr. HOBSON). Pursuant to House Resolution 116 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 400.

The Chair designates the gentleman from Illinois [Mr. LAHOOD] as Chairman of the Committee of the Whole, and requests the gentleman from Michigan [Mr. CAMP] to assume the Chair temporarily.

□ 1315

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 400) to amend title 35, United States Code, with respect to patents, and for other purposes, with Mr. CAMP, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from North Carolina [Mr. COBLE] and the gentleman from Michigan [Mr. CONYERS] each will control 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I yield myself such time as I may consume and say, before I get into this, that I want to extend what the gentleman from Illinois [Mr. HYDE] said to the gentlewoman from Ohio earlier about being muzzled and having their hands tied.

We have, in the ultimate sense of fairness and comity, agreed to give 7½ minutes to the gentleman from California [Mr. ROHRABACHER] to manage as he sees fit, but that in no way binds the gentleman from Michigan [Mr. CONYERS]. That was an agreement on this side, and the gentleman from Michigan may do as he likes.

I just wanted to get that on the table, Mr. Chairman.

Mr. Chairman, I ask unanimous consent to yield 7½ minutes to the gentleman from California [Mr. ROHRABACHER] and that he be permitted to control that time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROHRABACHER. Mr. Chairman, I yield myself such time as I may consume to thank the gentleman from North Carolina [Mr. COBLE] very much for the courtesy of being able to participate in this debate as it goes along.

Mr. Chairman, I reserve the balance of my time.

PARLIAMENTARY INQUIRIES

Mr. HYDE. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. HYDE. Mr. Chairman, it was our intention that the gentleman from California [Mr. ROHRABACHER] be given 7½ minutes from our side. We had hoped, and I had not had the opportunity to ask the gentleman from Michigan [Mr. CONYERS] to give him 7½ minutes. The purpose was so that he could go first and get his statements out and then we could proceed with the rest of the debate.

Evidently, Mr. Chairman, the gentleman wants to go last. So if the gentleman wishes to reserve his time and then go last, that is not in the contemplation of our agreement or our wish.

Mr. Chairman, I would ask the gentleman from Michigan if he is so inclined to give 7½ minutes to the gentleman from California?

Mr. CONYERS. Mr. Chairman, I hate to reveal my inclination at this time, but there has been nobody that has requested it.

Mr. ROHRABACHER. Mr. Chairman, the gentlewoman from Ohio [Ms. KAPTUR] was probably not informed of the agreement.

Mr. HYDE. Mr. Chairman, on my parliamentary inquiry, I yield to the gentleman from California.

The CHAIRMAN pro tempore. The gentleman may not yield on a parliamentary inquiry.

The Chair would state that three Members are in control of time and would ask which Member chooses to yield time.

Mr. ROHRABACHER. Point of information, Mr. Speaker.

The CHAIRMAN pro tempore. Does the gentleman wish to state a parliamentary inquiry?

Mr. ROHRABACHER. Yes, or point of information.

Mr. Chairman, when someone yields a 7½-minute segment during a debate like this, it is possible for us to have an interchange so that the whole 7½ minutes is not used up at one moment, is it not, so that we can actually have an exchange of ideas rather than just having one person express their point of view and having the rest of the time being used to refute those arguments?

The CHAIRMAN pro tempore. The gentleman controls his time and may reserve it.

Mr. COBLE. Point of inquiry, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. COBLE. Mr. Chairman, my point of inquiry is that I assume I have the right to close debate; is that correct?

The CHAIRMAN pro tempore. The gentleman from North Carolina is correct; he has the right to close debate.

Mr. ROHRABACHER. Mr. Chairman, I would ask permission from the gentleman from Michigan [Mr. CONYERS] if I can claim the 7½ minutes and yield it to the gentlewoman from Ohio [Ms. KAPTUR] if she does show up here for the debate.

Mr. CONYERS. Mr. Chairman, if the gentleman would yield, I have never yielded a Republican Democratic time in that large amount.

Mr. ROHRABACHER. So the gentlewoman from Ohio [Ms. KAPTUR], another Democrat, would have to come forward for that time to be yielded to.

I am told the gentlewoman is on the way, by the way.

The CHAIRMAN pro tempore. The Chair must insist on some Member using his time.

Mr. COBLE. Mr. Chairman, to alleviate the problem, I will do that with the understanding that our side has the right to close, which the Chairman just assured me of.

The CHAIRMAN pro tempore. The gentleman from North Carolina [Mr. COBLE] is recognized.

Mr. COBLE. Mr. Chairman, I yield myself such time as I may consume.

Rhetoric is conventionally defined as the art of speaking or writing effectively, but it may also be defined as speaking or writing redundantly, deceptively, misleadingly, inaccurately, or untruthfully. All these versions, Mr. Chairman, have surfaced during the debate that has surrounded H.R. 400.

Patent law is complex and arcane. It is not sexy or engaging when seriously discussed, especially on television or radio. And when the rhetoric pertaining to such a subject is clearly manipulated and twisted to distort the facts, the complexity of the issue is compounded, and utter confusion is the result.

Mr. Chairman, I am not a patent lawyer, but the members of the Subcommittee on Courts and Intellectual Property are not assigned the duty of litigating contested patent cases. Our responsibility is to draft and promote the enactment of responsible legislation as it applies to the patent and trademark community, including the PTO, the Patent and Trademark Office, inventors, small and large, those with limited means and others blessed with more generous resources. The ultimate beneficiary of our work is the American consumer.

One need not possess the intellect of a rocket scientist, and incidentally, neither am I a rocket scientist, to conclude that H.R. 400 is sound, fair legislation that will benefit American consumers and American inventors, contrary to some of the aforementioned rhetoric that has been widely disseminated on the subject at hand.

Mr. Chairman, title I of H.R. 400 consists of those changes needed to streamline the Patent and Trademark Office into a modern government agency subject to the oversight authority of Congress. Currently, patent filings have greatly increased, but the PTO, as a result of government restrictions may not hire, train, and retain with extra pay additional examiners. This regulatory burden only results in fewer patents being processed expeditiously, which hurts the users of the system who fund the agency.

Under H.R. 400, the agency will have the authority to earmark the necessary funds more quickly, to hire more examiners. Another prominent feature of title I is that all application or user fees paid to the PTO will remain with the agency. Last year, $54 million of PTO money was spent elsewhere, and this next fiscal year, $92 million is proposed. This practice will cease under H.R. 400.

I should also emphasize that nothing in title I compromises the ability of the PTO employees to discharge their duties in a professional manner. All workers under the bill are protected by the full panoply of title 5 civil service safeguards.

Title II of H.R. 400 contains major improvements to our examining procedures for patents. The first of these will require, in most instances, the publication of a patent application after 18 months from the date of filing. Since the entire patent system is predicated on bringing new inventions into the public light for development, no inventor who seeks court-enforced patent protection can credibly assert his inventions should be kept secret based on a personal whim. If so, such an inventor may pursue protection provided by State trade secret and unfair competition statutes.

Most patents are granted within a 20- to 22-month timeframe, and all patents under the current system are published upon grant. Why make the change to 18 months?

First, it will enable small inventors to advertise or shop their ideas to perspective backers. This is important because small investors lack the necessary venture capital to commercialize an idea.

Second, it levels the playing field between our inventors and foreign corporations. Under present law, all other developed countries have an 18-month publication requirement. This means that an American inventor filing for protection abroad, and incidentally, Mr. Chairman, 75 to 78 percent of all patents filed in this country are filed abroad, this means the American inventor filing for protection abroad has his application published after 18 months in the language of the host country, enabling foreign companies to review the latest developments in American technology.

In contrast, however, a foreign corporation, filing in the United States, does not have its application published within the same time frame. This is unfair, since the practical effect is that they can study our technology overseas while our inventors are denied the same right to inspect their work in the United States.

The 18-month publication provision of H.R. 400 will, therefore, level this playing field between American inventors and their foreign counterparts.

Finally, publication at 18 months helps to deter an ongoing abuse in the current system, previously mentioned, "patent submarining." Submarining is appropriately described as those efforts in which a patent filer games the existing system by indulging in dilatory practices.

I quoted the words of a country song yesterday entitled "Playin' Possum and Layin' Low." That is precisely, Mr. Chairman, what a submarine patent applicant does. But to what end? Such an ill-intentioned inventor has no desire to help the Patent and Trademark Office process his or her application to secure a patent as quickly as possible.

Instead, the submariner waits to identify an unsuspecting inventor who has no knowledge of the unpublished application. Upon locating a company or inventor that has developed its idea independently and which has commercialized it through investment, manufacturing and the creation of jobs, the submariner surfaces and sues the company for infringement.

Mr. Chairman, this activity damages the American economy by promoting duplicative research, distorting financial decisionmaking and encouraging unnecessary litigation.

The 18-month publication requirement will place the good-faith company and inventor in this illustration on notice that a patent is pending on an invention it wishes to develop. The inventor may then decide how to devote or expend the financial resources to other endeavors.

Notwithstanding these benefits that accrue from the publication requirements of title II, a special provision has been inserted in H.R. 400 that will protect the independent inventors and small businesses who are genuinely unsure as to the patentability of an idea. The Manager's Amendment to H.R. 400, which we will discuss later, gives an independent inventor or small business who does not file abroad the option to withdraw his application up to 3 months prior to publication if the PTO has made two determinations that a patent will not issue. The inventor may then refine the application and try again, or seek protection under State trade secrecy law.

Most importantly, title II of the bill creates the presumption that any good-faith inventor who has diligently assisted the PTO in prosecuting his application is the victim of unusual administrative delay after 3 years of nonissuance, and at that point, the applicant is granted a day-for-day protection once the patent issues, in other words, a guarantee for a minimum of 17 years of term.

Finally, current law affords no protection against any third party which appropriates the subject of a patent and commercializes it before the patent is granted. H.R. 400 corrects this problem by establishing a new inventor entitlement, a provisional right to compensation, which addresses the problem the gentlewoman from Ohio mentioned. This would allow an inventor to receive fair compensation from any third party who commercializes his or her idea between the time of publication and the time the patent issues.

Title III of the bill addresses the issue of prior domestic commercial use of a patented technology.

I want to speed this up so I can give my chairman some time.

Title IV of H.R. 400 is designed to protect novice inventors from unscrupulous invention development firms which often charge unsuspecting clients thousands of dollars for little work that rarely results in a patent or a commercial use of the invention.

Title V makes needed but limited changes to PTO reexamination procedures. The existing system was intended to provide an efficient and inexpensive way for the PTO to consider whether an issued patent was violated in light of patents and printed materials , which an examiner may have overlooked during the initial examination.

□ 1330

H.R. 400 amends the existing reexamination process to provide more due process for a third party.

Mr. Chairman, this concludes my general description of the contents of H.R. 400. The legislation will benefit members of the patent and trademark communities as well as the public at large.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I rise to announce that, as Chairman HYDE indicated, out of the goodness of my heart, I will yield to the gentlewoman from Ohio [Ms. KAPTUR], a dear friend of mine, 7½ minutes for her to dispense with as she chooses.

The CHAIRMAN pro tempore (Mr. CAMP). Without objection, the gentlewoman from Ohio [Ms. KAPTUR] will control 7½ minutes.

There was no objection.

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume. I thank the gentleman for yielding me the time. Though I hoped it would be more, we will take what we can get at this point, so I thank the gentleman very much.

Mr. Chairman, I rise in obvious strong opposition to H.R. 400. If this bill were so wonderful, then why are America's preeminent inventors opposed to it? Dr. Raymond Damadian, inventor of magnetic resonance scanning, Dr. Wilson Greatbatch, inventor of the cardiac pacemaker, Dr. Stephanie Kwolick, inventor of Kevlar, Dr. Jay Forrester, inventor of core memory, the first practical RAM. If this is such a great idea, then why are the people who have created America's future opposing it?

I have to say this bill is about a whole lot more than just arcane patent law. It is about what our Constitution guaranteed, and that is the property rights of our inventors. I hear all this concern about foreign countries and putting us on an equal footing with foreign countries. The facts are, we are the leader in the world.

Why should we want to dumb down our system or make it easier for others to tap into the inventions that our people produce? Why should we ask our inventors to have a greater burden of proof? Why should we make them be forced to get into this reexamination system? Why should we do this to the people who have built the greatest industrial and agricultural power on the face of the Earth?

I say to the membership, how many complaints have my colleagues received from their small inventors except on this bill? The system works for them. The only complaint one might get is about the maintenance fees, how much they have to pay to maintain a patent, and truly that needs to be improved. But we have a wonderful system that says if you have an idea, you file it at our patent office, that that idea is yours, it is secret until that patent is issued. Why would we want to change that system?

Mr. HUNTER. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank my friend for yielding.

The theme has been that we should be like Europe and Japan, but the fact is that high technology startups are something that is uniquely American. There are very few high technology startup companies in Europe and Japan. That is because they lose the one thing which is central to their success, and that is secrecy, because once they publish in 18 months, the big companies come in and sweep them off the map by patenting around them, which is called patent flooding. The gentlewoman is absolutely right.

Ms. KAPTUR. Mr. Chairman, reclaiming my time, I thank the gentleman for that comment. This whole question of submarine patents and so forth, there is less than 13/1000 percent of those that even affect this entire system, and even then we have to be about the task of protecting American inventors' rights. To the extent we can get other nations to conform their systems to ours, terrific, but why should we try to conform our system to theirs? Why should we make it more difficult for our inventors to pay the fees?

This office I am told has been changed as we are sitting here today. With this corporatization of the patent office, that now apparently is not going to be allowed to accept gifts and real estate, because of pressure from Members of Congress like myself, as it is in the base bill, when I read the amendment, and I really do not have a copy of it here, but it basically says you are going to require gift rules be drafted to ensure that gifts to this new office are not only legal but avoid any appearance of impropriety. Why should they be given those gifts in the first place? Why should that be happening under this bill? And why should we take away the objectivity of our patent examiners who are completely insulated from any kind of economic coercion by the current system?

I have to say that patents are the trade routes for the 21st century. America under H.R. 400 is throwing away our technological lead by publishing patent applications much earlier and taking away the secrecy that is inherent in our system to our inventors and making other radical changes which, by the way, to the membership, if anybody has a final copy of this bill I hope they will give it to me because somebody who has been as involved in this issue as any other Member, I cannot give my colleagues a bill that we will be asked to vote on here today that is accurate in terms of legislative language.

We have the choice here today to create prosperity for our Nation, to provide opportunities to our children, but if we change the patent system as H.R. 400 proposes, we will be throwing away the American dream of opportunity embedded in the Constitution of the United States. I guarantee my colleagues if this bill passes, there is going to be decades of litigation as the American people fight for the rights they were granted under our Constitution.

Our patent system is the heart of our economic strength because it creates new money, jobs, and new industries. I ask the membership to vote no on H.R. 400.

Mr. Chairman, I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Chairman, I reserve the balance of my time.

Mr. COBLE. Mr. Chairman, I yield 6½ minutes to the gentleman from the Roanoke Valley of Virginia [Mr. GOODLATTE] who has been very helpful in the movement of this bill, H.R. 400.

Mr. GOODLATTE. Mr. Chairman, I rise in strong support of H.R. 400, the 21st Century Patent System Improvement Act. Just remember that title. That is what this is about, improving our patent system. I would like to thank the gentleman from North Carolina [Mr. COBLE], chairman, for his hard work and dedication on this important issue.

This legislation has been subject to a great deal of confusion in recent weeks, due largely to the blatant misrepresentations of its opponents. People who make their livings gaming our patent laws will stop at nothing in their effort to prevent meaningful and necessary reform of the system. Opponents of patent reform have engaged in a campaign of deliberate misrepresentation and confusion in the hopes that they might convince Members that H.R. 400 is an international sellout that will undermine the patent system created by our Founding Fathers. Nothing could be further from the truth.

H.R. 400 is one of the most thoroughly debated bills to come before the House this year. The provisions contained in this bill have been developed over the last 2 years and have been the subject of 10 full days of hearings with over 80 witnesses. Patent and trademark commissioners who dedicate themselves to the integrity of our patent system, from the Nixon, Ford, Reagan, Bush, and Clinton administrations support the major provisions of H.R. 400. These experts also oppose the major provisions of the Rohrabacher substitute, which was written on behalf of those who ignore the intent of our Founding Fathers by using subterfuge to destroy the integrity of the U.S. patent system. Taking the word of patent submariners on patent reform is like asking a fox for advice on how to guard the henhouse.

H.R. 400 is the unanimous product of the Committee on the Judiciary. Unanimous, 35 members of the committee. Not one voted against this, not one Democrat, not one Republican. Yet this issue has been demagogued by a very few. Through the legislative process, the committee has worked with independent inventors, small businesses, universities, industry groups, the White House Conference on Small Business, and the Senate. Over 75 U.S. companies, large and small alike, which employ 1.4 million American workers and hold 55,000 U.S. patents, support H.R. 400.

This legislation is critical to ensuring that America maintains our position as the world leader in intellectual property. H.R. 400 benefits independent inventors, small businesses, and other Americans who utilize our patent system in four key areas.

First, it guarantees diligent patent applicants at least 17 years of patent term and ensures that they will not lose their rights due to delays by the patent office. Second, the bill protects early domestic commercial inventors, including universities and researchers who use later patented technologies. Third, the legislation deters invention promoters from defrauding unsuspecting inventors. Finally, H.R. 400 gives all Americans a new property right while their patents are pending before the Patent Office.

Unfortunately, opponents of patent reform are unwilling to give up the loopholes through which they undermine the integrity of America's patent system. Their proposal, offered today by the gentleman from California [Mr. ROHRABACHER] as a substitute to H.R. 400, would encourage abuses of our patent system that currently cost American taxpayers and consumers hundreds of millions of dollars. Although they may argue otherwise, the Rohrabacher substitute is nothing more than a recipe for economic disaster.

Since opponents of meaningful patent reform allege that H.R. 400 is a huge corporate giveaway, I would like to respond by highlighting the ways in which H.R. 400 benefit small inventors. First, under H.R. 400, small inventors will be able to acquire venture capital to market their inventions more quickly and easily. This will put small inventors on a more level playing field with large multinational corporations, allowing individuals and small businesses to fully compete in the global marketplace.

Mr. Chairman, H.R. 400 also gives small inventors greater protection against those who try to steal their ideas. Under current law, small inventors have no protection against would-be thieves that steal the subject of a patent and commercialize it before the patent is granted. These inventors are then helpless to stop the commercialization of their inventions or to share in the profits until the patents are granted.

I should also note that the Rohrabacher substitute does nothing to help small inventors with this problem.

H.R. 400, however, allows small inventors to receive fair compensation from any third party who commercializes their ideas between the time of publication and the time the patent issues. Every one of us has seen the words "patent pending" on a product, but in the current system, these words do not provide any legal protection.

Under H.R. 400, small inventors will be given a new property right while their patents are pending, so they can punish intellectual property thieves who try to steal their ideas.

Additionally, H.R. 400 gives small inventors longer patent protection than they receive under current law. Under the old system, which the Rohrabacher substitute seeks to resurrect, patent protection was only available for 17 years from the date a patent was granted.

H.R. 400, however, guarantees good-faith patent applicants a minimum of 17 years of patent protection, with most applicants receiving more. The bill also provides extended protection for up to 10 years in cases where the Patent Office fails to give applicants firm rulings on their applications in a timely manner.

Finally, H.R. 400 gives small inventors a special option to avoid publication of their patents. During the application process, some inventors may have second thoughts about publishing their applications, especially in cases where an initial Patent Office review is not favorable.

Under H.R. 400, inventors may withdraw their applications prior to publication and either refile them in the future or seek protection under State trade secrecy law.

Mr. Chairman, the Framers of our Constitution created a system in which the Government grants exclusive rights to inventors for a fixed period of time, in exchange for the prompt public disclosure of their inventions. This exchange allows all of American society to benefit from the creation of new ideas.

H.R. 400 is exactly what our Founding Fathers intended. It promotes invention by guaranteeing longer patent terms, prevents fraud and abuse by stopping patent submariners from swindling American taxpayers out of hundreds of millions of dollars, and protects small inventors by giving them new property rights in their pending patent applications.

I urge my colleagues to vote for H.R. 400 and against the misguided Rohrabacher substitute.

Mr. ROHRABACHER. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. ROSCO BARTLETT], one Member of Congress who has 20 patents to his name and who can speak with expertise on the issue of patents.

Mr. BARTLETT of Maryland. Mr. Chairman, as the holder of 20 patents myself, I feel compelled to rise today in support of the Rohrabacher substitute. For over 200 years, the American patent system has empowered inventors to make this country the most innovative in the world.

If H.R. 400 becomes law, small businesses and inventors will be forced to publish their patents before receiving a patent. This opens the door for every copycat in the world to steal this information and begin manufacturing and marketing before the inventor has patent protection.

Ladies and gentlemen, our Founding Fathers had the wisdom to recognize the need for a patent system unlike anywhere else in the world that promoted the concept of entrepreneurship and protected ingenuity.

□ 1345

Their foresight has resulted in the greatest industrial power this world has ever seen. Let us not weaken this protection in the name of international harmonization.

Next week I will hold hearings in the Subcommittee on Government Programs of the Committee on Small Business on this issue. I look forward to continuing this dialog.

Mr. COBLE. Mr. Chairman, I have only one speaker remaining. As I have the right to close, I will reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 3½ minutes to the gentlewoman from California [Ms. LOFGREN], in whose district there are an incredible number of inventors and biotech people.

Ms. LOFGREN. Mr. Chairman, I rise in strong support of H.R. 400 and urge my colleagues to join me in voting for this important legislation.

As the gentleman from Michigan [Mr. CONYERS] has just indicated, I represent Silicon Valley in California. I know well the importance of ideas and the value of intellectual property. Our thriving economy back home is based on ideas and on technology.

It is worth pointing out to many Members who do not have exposure to high technology in their own districts the origin and history of our system of patent law. As my colleagues know, our Founding Fathers recognized the value of ideas in American ingenuity, and they put in our Constitution the authority of Congress to, "promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." That is in section 8, article I of the Constitution. By sharing ideas, inventors would advance the body of human knowledge and they would avoid the duplication of other scientists and knowledgeable people, and in exchange for sharing their ideas to advance human knowledge the inventors would receive for a period of time the exclusive ownership of that idea; and that really is the gist of patent law then and now.

Obviously the patent system today is different than it was in the 19th century. The original patent reform legislation was in 1836. We had revisions again in 1952. And here we are at the dawn of the 21st century once again updating patent law for the information society. H.R. 400 does that very well, as many of the speakers have already indicated.

I do, however, want to talk about some of the comments that have been made in criticism of the bill because it is important that they be put in the context of what is actually part of the law.

First, I have heard today and elsewhere the issue of gifts. I think that is quite a stretch, but it has confused many Members of this House because H.R. 400 does not change the current law in any respect relative to gifts. In fact, the Patent Trademark Office presently enjoys the right to use the authority to accept gifts and bequests granted to the Secretary of Commerce, and they are not unique in that regard.

For example, the Library of Congress is able to accept gifts and bequests along with the Secretary of Agriculture for the national ag lobby. We have taken it out. Unfortunately we have taken it out in the manager's amendment only to deal with an issue that did not need to be dealt with in reality.

There has been a lot of discussion that all of the inventors and all of the innovators are opposed to H.R. 400. Nothing could be farther from the truth. I would like to tell my colleagues that of the really thousands and thousands of people who are immersed and employed in technology, the overwhelming thrust from Silicon Valley is in favor of this reform of our patent bill, and of the high-tech companies who have been in communication with me, I would say there have been none, none who have opposed H.R. 400. Hewlett-Packard, Intel, and the inventors at IBM all beg us to adopt H.R. 400. I must say also they are considerably confused by the controversy that has erupted over this and cannot understand any of the argument being made in opposition since those arguments bear so little relationship to the law, to the facts and to the need for this update.

Mr. ROHRABACHER. Mr. Chairman I yield myself 1 minute.

So we have heard the submarine patent, that is the reason why we have to change the fundamental patent law of the United States that has been in place, the protections have been in place since the founding of our country. This is the equivalent of saying that because Hustler magazine is out, we have got to eliminate freedom of speech and totally restructure the civil liberties concerning freedom of speech in our country.

That is absolutely ridiculous. It is like saying, you got a hang nail, thus you got to amputate your whole leg in order to solve that problem.

No, the submarine patent issue is not the issue here. I put it into my substitute, I have been willing to end this problem all along. Congressional Research Service has found, has a finding, that my substitute ends the practice of submarine patenting. This is being used as a fig leaf to cover one of the most grotesque power grabs in the history of this country.

Little ROSCOE BARTLETT, the ROSCOE BARTLETT'S out there who discovered the wonderful things that change our lives, are being put at risk. It was very simple. We heard him say they are going to publish everything that he does so that everybody in the world can steal it and then say, "Sue them," to get it back.

Ms. KAPTUR. Mr. Chairman, I yield 1¼ minutes to the gentleman from Cleveland, OH [Mr. KUCINICH], our esteemed colleague.

Mr. KUCINICH. Mr. Chairman, I rise in opposition to H.R. 400.

The essence of this bill is a hostile takeover of the American patent system by private interests. The American patent system is a public trust. It is operated by a responsible government organization for the benefit of the American people and individual inventors. It exists to enhance the capacity of our economy to cultivate and commercialize new technologies.

If H.R. 400 becomes law, the integrity and independence of the patent system will be undermined. H.R. 400 would convert the Patent and Trademark Office, now part of the Department of Commerce, into a "corporate body not subject to direction or supervision by any department of the United States."

Another disturbing aspect of H.R. 400 is the establishment of a management advisory committee composed of corporate and management executives who will oversee the policies, goals and performance, budget, and user fees of this new government corporation. Even though the director of the Patent and Trademark Office would be appointed by the President of the United States, the director would be compelled to consult with a private sector board on all major decisions. The transformation of the PTO into a corporate body combined with the influence of the management advisory committee places our Nation on a slippery slope to corporate domination of the patent system and the destructive undermining of the democratic tradition which has produced some of the greatest inventions in the world from the American people.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. DELAHUNT].

Mr. DELAHUNT. Mr. Chairman, as a member of the committee and a cosponsor of House Resolution 400, I rise in support of the manager's amendment, and I want to commend our subcommittee chair, the gentleman from North Carolina [Mr. COBLE], for the fine work and for the patient and thoughtful way he has tried to reconcile all interests to perfect this legislation.

The critics have claimed that publication would enable foreign competitors to appropriate American ideas. The truth is that competitors who appropriate an invention after publication are liable for damages to the applicant, just as they would be once a patent is granted. The real issue is reciprocity.

The vast majority of American inventors seek patent protection not only at home but in foreign countries as well. To do so, they must publish their application in foreign countries 18 months after filing. But since America is the only industrialized Nation that does not have such a requirement, foreign companies seeking U.S. patent protection have no obligation to publish in the United States.

In other words Americans have to publish abroad while foreigners do not have to publish here. This puts U.S. inventors at a serious disadvantage which the bill would correct.

This bill is about protecting American inventors, American businesses and American workers, and I urge passage of House Resolution 400.

Mr. Chairman, as a member of the committee and a cosponsor of H.R. 400, I rise in support of the manager's amendment and in opposition to the amendment in the nature of a substitute which will be offered by the gentleman from California.

I want to commend our subcommittee chairman, Mr. COBLE, for the patient and thoughtful way in which he has worked with all interested parties to refine and perfect this legislation over the past 3 years. I also wish to thank the ranking member, Mr. FRANK, and the chairman and ranking member of the full committee, Mr. HYDE and Mr. CONYERS, for their efforts on behalf of this legislation.

As a new member of the Subcommittee on Courts and Intellectual Property, I can sympathize with those of my colleagues who may feel intimidated by this complex and arcane subject. Unfortunately, that feeling has been compounded by a well-orchestrated campaign waged by opponents of this legislation to convince independent inventors and small businesses that this bill would benefit large international corporations at their expense.

I am proud to have many independent scientists, inventors, and startup companies in my district, and was appalled at what I was hearing from some of them about this bill. If what they were saying was true, this was David against Goliath, and I was not about to side with the Philistine. Frankly, I was ready to get out my slingshot too, until I learned the facts.

And the facts told a different story. I listened carefully to the testimony and studied the language of the bill, and found that this legislation had been totally mischaracterized by its opponents. The truth is that this bill benefits not only the major corporations and universities in my region who enthusiastically support it. It benefits every inventor and developer of advanced technology, whether large or small—from software developers and biotechnology companies on the South Shore to marine biologists at Woods Hole.

H.R. 400 creates a level playing field between U.S. patent applicants and their international competitors. It modernizes the patent office and reduces administrative delays. It protects inventors even before a patent is granted through publication of patent applications, and creates a "prior user" defense against claims of infringement for those who have independently developed and used inventions that are subsequently patented. These reforms will help ensure that the U.S. patent system keeps pace with the demands of the 21st century.

But what will all this mean for the independent inventor? Critics of the bill have claimed that requiring patent applicants to publish their application 18 months after filing would enable others to rob them of their work. The truth is that by publishing the application, the inventor gains a form of provisional protection not available under current law. Today, an inventor has no protection against a third party who exploits the inventor's idea while the application is pending. The phrase "patent pending" announces to the world that an application has been filed but affords no legal protection. By publishing the application, the inventor stakes a claim that entitles him or her to compensation for infringement from any third party that makes use of the idea between the date of publication and the date the patent issues.

Perhaps even more important for a small business or an independent inventor is the fact that other applicants must publish, too. Under current law, an applicant has no way of knowing whether another has filed first until one of them receives a patent. By then, the losing party may have invested everything it has in an idea that belongs to someone else. Under H.R. 400, an applicant will know if a patent has already been applied for.

The critics have claimed that publication would enable foreign competitors to appropriate American ideas. The truth is that competitors who appropriate an invention after publication are liable for damages to the applicant, just as they would be once a patent is granted. The real issue is reciprocity: The vast majority of American inventors seek patent protection not only at home but in foreign countries as well. To do so, they must publish their application in the foreign country 18 months after filing. But since America is the only industrialized nation that does not have such a requirement, foreign companies seeking U.S. patent protection have no obligation to publish in the United States. In other words, Americans have to publish abroad, while foreigners do not have to publish here. This puts U.S. inventors at a serious disadvantage which the bill would correct.

But what about inventors who have no intention of applying for a patent overseas? The critics have claimed that they have no recourse. The truth is that the bill will allow inventors applying for a patent exclusively in the United States to delay publication until 3 months after the Patent and Trademark Office has taken a second action with respect to the application. Since, in most cases, the second Office action is the issuance of the patent itself, this provision effectively exempts independent inventors and small businesses from the publication requirements. On the other hand, if the second Office action is a determination that a patent is unlikely to be issued, the applicant may withdraw the application and seek protection under the trade secret and unfair competition laws.

The other major claim made by critics of the bill is that the proposed term of 20 years from the date the application is filed would give inventors less protection than the current term of 17 years from the date the patent is granted. The truth is that those who apply in good faith and do not attempt to delay their applications are guaranteed a minimum of 17 years under the bill. Most applicants will receive more than 17 years of protection, since most applications are processed within less than 2 years. A diligent applicant who is forced to wait more than 3 years would be granted an extra day of patent protection for each day of delay.

I do not mean to suggest that all of the concerns that have been raised about this legislation are illegitimate. What I do believe is that the legitimate concerns raised by the gentleman from California and other critics of the legislation as originally drafted have been addressed. H.R. 400 includes numerous amendments that effectively respond to these and many other concerns raised over the 3 years that this legislation has been on the drawing board.

Those are the facts. It is unfortunate that the truth has been obscured by misinformation and demagoguery. But the loudest voices are not always right, and the constant repetition of a falsehood does not make it true. H.R. 400 is good for inventors, both large and small. It is good for our Nation as a whole. I urge my colleagues to reject the Rohrabacher amendment and pass the bill.

Mr. ROHRABACHER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, it should be apparent by now that there are some fundamental issues at play here between two people over a disagreement, an honest disagreement. Let me note this: that everything that has been said that is good about H.R. 400 has been included in my alternative bill which will be offered as a substitute on the floor.

What we have now are several issues that differentiate us, and one is, of course, after 18 months all of our technological information will be made public to the world. Why is this? Why are they insisting on publication? They say it is to handle the submarine patent issue, although we have already solved that according to the Congressional Research Service. It is because there has been an agreement made with Japan that I have put in the CONGRESSIONAL RECORD, time and time again, to harmonize our law; in other words, make American law like Japan's.

Mr. Chairman, if our colleagues listen very carefully to the arguments we have heard today that is what is being said. We have got to have a law like they have in Japan and in Europe. How has it worked in Japan? The little guy gets kicked and smothered and beaten down. We do not want a system like that here.

Mr. COBLE. Mr. Chairman, as I said previously. I only have one speaker left, and I have the right to close.

Mr. Chairman. I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentleman from California [Mr. ROHRABACHER] has 4½ minutes remaining, the gentleman from North Carolina [Mr. COBLE] has 5 minutes remaining, the gentleman from Michigan [Mr. CONYERS] has 16½ minutes remaining, and the gentlewoman from Ohio [Ms. KAPTUR] has 1¼ minutes remaining.

Mr. CONYERS. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, we are gathered here under unique circumstances. We have a manager's amendment which I think will clear up many of the problems, I hope, that the gentleman from California [Mr. ROHRABACHER] has posed. I do not know if he is familiar with the manager's amendment. Apparently he is not.

Mr. ROHRABACHER. It would be very difficult because it did not come on the floor or was available to us until just a few hours ago.

Mr. CONYERS. Then the gentleman from California is not familiar with it.

Just a moment; I have not yielded.

Mr. ROHRABACHER. I thought the gentleman from Michigan was asking me a question. I am sorry.

Mr. CONYERS. No, I will handle this. The gentleman is not familiar with it, and it just came on the floor. It was brought forward at the Committee on Rules hearing yesterday that the gentleman attended with myself and the chairman of the Committee on the Judiciary.

Mr. ROHRABACHER. If the gentleman would yield, I am sorry I was not.

Mr. CONYERS. Mr. Chairman, I did not yield to the gentleman from California. Please. I know this is an anxious moment which the gentleman awaited a long time, and we have granted him time, but he cannot interrupt me.

□ 1400

Now, the manager's amendment might help bridge the difference between the unanimous conclusions of every Democrat and Republican on the Committee on the Judiciary and the distinguished gentleman from California. Manager's amendments have a way of coming up at Committee on Rules hearings. If it had been prepared earlier, we would have brought it out with the bill.

So I would propose that myself and the chairman of this committee make available to the gentleman from California [Mr. ROHRABACHER] the amendment, if the gentleman has not seen it, to see if it actually bridges any of the differences that we have, or if it fails, because if it does not, it limits what we are doing.

Now, according to the gentleman from California [Mr. ROHRABACHER] and the document the gentleman has held on the floor, the submarine issue is resolved. We resolved it, the gentleman resolved it, it is not in contention from the gentleman's position. The manager's amendment also might help resolve some more issues. I am just trying to reach some resolution here. So hopefully, that will happen.

Now, the vast majority of patents are filed both in the United States and abroad simultaneously, 80 percent of them. Abroad they are required to be published. So this requirement will not affect 80 percent of the patents. There is an exemption from the publications requirement for small businesses, and for the small inventor there is an exemption. This is relatively fundamental. It is in our bill.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, it is not in the bill, and I would like to ask a question about that. As I read the manager's amendment, there is the opportunity for a small business to opt, if they have had two office actions, to either opt out of the patent system or to delay publication for 3 months, but they still have the publication mandate after 18 months, from the way I read the manager's amendment, and I ran that by the inventors.

Mr. CONYERS. Mr. Chairman, as far as the Rohrabacher group goes then, we do not solve that.

Then let me try the prior-use doctrine. The prior-use doctrine here protects the first to invent, not the person who steals the intellectual property, and we are attempting to give that protection, which does not exist now, and that is why publication in the end, I say to my colleagues, is so important. It stops the process whereby foreign competitors can game our patent system process by filing incomplete patent applications and extend their legal monopoly rights up to 40 years.

Now, the Wall Street Journal is not for or against H.R. 400 or the Rohrabacher substitute, but they are writing about Americans who are gaming the system. That is what we are trying to stop. Hence, the bill.

So there is something missing here in this debate. After years of working with both sides, inventors, lawyers, former patent commissioners, the administration, we finally come to closure with a unanimous vote in this Congress, and the last, and now the gentleman is telling us that this thing really was not cured. And I am stunned to find the Wall Street Journal pointing out that these kinds of fellows are the ones that we are trying to stop with this H.R. 400 and that we are not undermining the American patent process, we are really undergirding it and bringing the protection to small inventors.

That is why this Member supports the bill. I am not a shill for big corporations or any other kind of association, but the fact of the matter is, we are making this a better patent law by improving the defects that have existed for a considerable number of years. I urge Members to think of these arguments.

We will have the 5-minute rule in effect, and I hope that we can take care of every one of the reservations that my dear friend from Ohio [Ms. KAPTUR] has so articulately put forward in this debate, because that is what we are here for. We want to do the right thing, and I hope that my colleagues will move our debate along in that spirit.

Mr. Chairman, I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CAMPBELL] who represents the Silicon Valley area.

Mr. CAMPBELL. Mr. Chairman, I wish to speak on the question of who is on which side. I think that is a useful way to analyze the factors in these bills.

The inventors want to keep the rights that they have when they invent and do not want to be forced to disclose. The commercializers want to have as much disclosure as possible so that they can make use of those inventions.

I am not condemning either side, but by identifying them, I think we see that if we can achieve the commercializers' legitimate interests without undercutting the inventors, then we have achieved something. That is what is in the Rohrabacher bill.

Some of my colleagues on the other side have spoken about the high-tech companies who support H.R. 400, and I agree they do. But it is very interesting to me that the university community has been silent and has not rushed to support H.R. 400. In fact, I have had extensive dealings with the university community and they are staying off, because they are worried about what this might do to the inventive process.

Mr. Chairman, I would conclude with one last observation, and that is that people speak of a level playing field with Europe. I say to my colleagues, I do not want a level playing field. We are better.

Mr. ROHRABACHER. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. FORBES].

Mr. FORBES. Mr. Chairman, much has been made about previous administrations supporting this kind of initiative. Well, I have in my hand a Commerce Department news release which shows clearly what this is really about. It is not about submarines. It is about gaining access to foreign markets.

In this news release it says, quite specifically, that in exchange for loosening up U.S. patent protections that we will make concessions to other nations, and that clearly is what it is about, access to foreign markets. It is no secret why the political appointees want this for access to greater markets overseas, but let us talk about why we need to protect American ideas, American patents within America's borders. That is the key here.

Patent examiners, their association, oppose this bill. They find it horrendous. And it will hurt the small business people and the entrepreneurs, and if we care about small business and the entrepreneurs, the little guy, then my colleagues will support my amendment to this legislation.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, our hearings have revealed, and this is why we support the bill, it showed that 300 foreign companies were able to come into this country and game the process, so the previous speaker who says that this is all just about domestic, well, it is about foreign companies coming onto our turf, sir, and taking our patents. That is what we are trying to stop.

So to say that it does not involve foreign companies, it involves 300 foreign companies, according to our hearings. In one case, a British pharmaceutical company was so effective at the submarining game that the United States competitor had to relocate its operations abroad to be able to produce a competing project.

So we have our companies going out of the United States to come back in because of the submarine system, and some say this is just a domestic problem. It is not. It is a national, international problem.

Now, the submarine patents which we claim are now corrected on both sides, I would point out that there was one American, and this is not a foreign entrepreneur, was able to get $500 million in royalties. For doing what? For simply delaying for 35 years in some instances, the prosecution of a patent, and then suing other manufacturers who, in the meantime, not knowing about it, started using the process. Gilbert Hyatt submarined his patent for 20 years and extracted $70 million from Texas Instruments, who started using the same computer chip technology, totally unaware of Hyatt's submarine patent.

If the Rohrabacher bill cures it and the bill discussed by all of the members of the Committee on the Judiciary and two Congresses, what is wrong with H.R. 400? As a matter of fact, the gentleman from California [Mr. ROHRABACHER] came before the committee, and his ideas and discussion were taken into consideration, and we thought that we treated him very kindly.

So this is a big problem we are curing. It is not overturning the patent system; it is not undermining the American process which we have put together; it is really taking care of a problem that has to be addressed and is being addressed in the committee bill. Mr. Chairman, I urge its continued support.

Mr. Chairman, I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding.

We were told in some previous statements, I think the gentleman from Virginia [Mr. GOODLATTE] pointed to Japan and Europe and said, why can we not be like them? This poster shows the number of Noble Laureates in science and technology from the United States as opposed to the number from Japan. There are 175 from the United States, that is our broken system; and there are 5 from Japan, that is the good system.

Now, why are there so many from the United States and why are there so few from Japan? And I think my colleagues would see exactly the same numbers with Europe. Why are there almost no high-technology startup businesses in Japan and Europe and lots of them in the United States? Secrecy. Being able to keep one's idea under a cloak while one lines up the money and the power to get it into production.

□ 1415

You can do that in the United States. You cannot do it in Japan, you cannot do it in Europe. There is no running room.

We want to give our innovators running room. Do Members know something? We give it to them. They have some secrecy. There is no substitute for that secrecy, because after two of these office actions, we still are going to publish under the main bill, we are going to publish those folks. That is what we have said. The Patent Office tell us that clearly, more than 30 percent of the patents that are ultimately issued go past two office actions. So that means those folks are going to be exposed.

Submarine patents, do Members know how many submarine patents there have been in the last 2.3 million patents that have been issued? Three hundred and seventy. We do not need to expose all of our people to cut out 370.

Mr. COBLE. Mr. Chairman, will the gentleman from Michigan [Mr. CONYERS] yield 2 minutes to me?

Mr. CONYERS. I yield 2 minutes to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I had not planned to, but it is tough to remain silent here. As my friend, the gentleman from Michigan, said, there has probably been more excitement surrounding the law of patents than has happened in the last 15 years. But the gentleman from New York stood in the well and said, this is not about submarine patenting. Mr. Chairman, it is about submarine patenting.

I direct the gentleman's attention to the front page of the Wall Street Journal, to which the gentleman from Michigan previously alluded, indicating in broad print that it is a big-time problem, submarine patenting. For the benefit of the uninformed, the last time I checked, the Wall Street Journal is not a yellow journalistic sheet, so I think there is some authenticity behind that.

I say to my good friend, the gentleman from California [Mr. CAMPBELL], one of the most learned people in this body, he mentioned the university system. He will recall that in the dialog in which he and I engaged we made amendments in order, and the manager's amendment reflects some of that, that satisfies the university community. They came back to me, and perhaps to others on the committee, telling us that it is far better than it was earlier. I think they are taking no position on either bill. So we did do some good work on that.

Mr. ROHRABACHER. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore. The gentleman from California [Mr. ROHRABACHER] is recognized for his remaining 1 minute.

Mr. ROHRABACHER. Mr. Chairman, that is why this is not about submarine patents, because the Congressional Research Service has found that my bill, as well as the bill we are talking about, H.R. 400, deals with submarine patents. What we are talking about is a subterranean agreement with Japan, which I have held up, put in the CONGRESSIONAL RECORD, no one wants to comment on it, to harmonize our law with Japan's; Japan, where economic shoguns beat their people into submission because all of the secrets of the average person are made vulnerable to the big guys coming in and stealing it legally.

It does not make me feel any better that you have given the rights to the American people, after exposing them to theft, to sue Mitsubishi Corp. or the People's Liberation Army if they come over here and start stealing from our people.

This is about exposing the gentleman from Maryland [Mr. ROSCOE BARTLETT] and every other inventor in this country, and the five Nobel laureates who support my substitute bill, to grand theft and the lowering of the American standard of living because we have lost our technological edge, because we have given it away.

We have exposed it to theft, and if we pass this bill, a bill that opens up all of our secrets for our enemies to steal, we deserve it.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we heard about a secret agreement with Japan that no one speaks about. I am happy to find out about it. I presume that the gentleman from California is referring to a part of the GATT conference?

At any rate, I will be happy to deal with that in the 5 minutes.

Mr. Chairman, could I just review a few circumstances that may come out as the debate goes on. The substitute of the gentleman from California [Mr. ROHRABACHER] provides that applications filed in this country may not be published sooner than 5 years after they are filed, and then, not if the application is under appellate review.

This is one of the ways a submariner delays its own application, is to file spurious law claims and appeals. In addition, the director of the PTO must find that the application is not being pursued by an applicant before the publication can occur. I think we have some problems, because as anyone can imagine, it is almost impossible to identify maneuvers by patent lawyers to delay the processing of their applications.

So this provision is not very helpful in eliminating submarining, and is almost impossible to enforce, from my perspective. Imagine telling a judge that he can only allow the public to see the court documents relating to a case when a finding was made as to whether the merits were diligently pursued.

All judges, patent judges included, must give the benefit of the doubt to the filers that they are proceeding in good faith, and that they are legitimately pursuing their claims, or the whole system goes down.

The Rohrabacher substitute, as I understand it, demands a presumption of guilt in order to require publishing. This is a presumption that almost never can be established, and therein lies a serious grievance between the substitute and the bill, H.R. 400.

Mr. Chairman, what we are saying here is that we have a little submarining going on here on the floor. We have one bill that corrects submarining, a substitute that says, but we do, too, and then when we look at it a little more carefully there are a number of questions. And they may be drafting problems, or they may just not have been as tightly drawn, but they certainly cannot equally be said to deal with the problem of submarining. I do not think that is the case.

There is another way to game the system, under the Rohrabacher substitute. An applicant could file appeals, and listen carefully to this, an applicant under the Rohrabacher substitute could file an appeal to the Board of Patent Appeals which, while unlikely to succeed, are not so frivolous as to draw sanctions. That is what submariners love, new ways to game the system.

I am not saying this is done in bad faith. I am sure he is trying to cure it. But it simply does not cure it. That is why 37 members on the Committee on the Judiciary took this approach in H.R. 400.

PARLIAMENTARY INQUIRY

Mr. ROHRABACHER. Parliamentary inquiry, Mr. Chairman. If a Member is referred to by name on the floor and a question is asked, is it out of order for the Member then to ask if the person wants an answer to the point?

The CHAIRMAN pro tempore. The Member who controls the time decides if he wants to relinquish the time.

Ms. KAPTUR. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore. The gentlewoman from Ohio [Ms. KAPTUR] is recognized for 1¼ minutes.

Ms. KAPTUR. Mr. Chairman, I say to the Members, if they have not read H.R. 400, I say vote "no." No one will have been able to read it because it has been changed so much, there is no final bill for Members to review.

Support the substitute. Remember, the United States leads the world in intellectual property breakthroughs by 10 times. Why change a system that is working, for a bill which Members have no final copy of to review? Why support a bill that takes away the guaranty of secrecy our patent applicants receive until their patent is granted? Why do that to them?

Why support H.R. 400, when it puts a greater burden of proof on our inventors to defend themselves, forcing them to sue, forcing them to greater re-examination procedures? Why do this to them?

Why support a bill that undermines the objectivity of our patent examiners, and changes our Patent Office?

This is a battle that goes to the heart of the constitutional rights of our citizens to invent opportunity in the 21st century. Vote "no" on H.R. 400. Support the substitute.

Mr. COBLE. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], the distinguished chairman of the Committee on the Judiciary.

The CHAIRMAN pro tempore. The gentleman from Illinois [Mr. HYDE] is recognized for 5 minutes.

Mr. HYDE. Mr. Chairman, this is about submarine patenting, and lest anyone be confused, a submarine patent is an application made by somebody who does not really want a quick and speedy issuance or grant of a patent. He wants to keep his application alive below the surface, hoping that somebody else will come along and start marketing, start manufacturing, start using an idea which is a part of his application. Then he surfaces suddenly, periscope up, and sues.

That may sound convoluted, but there are people making millions and millions of dollars, and the only way to effectively dispel that gaming of the system is to expose the applicant to publication after a reasonable length of time. Eighteen months has been determined by the world and us to be a reasonable length of time.

The gentleman from California [Mr. ROHRABACHER] claims that his substitute effectively dispels the submarine problem. That is, forgive me, nonsense. Here is how he dispels the submarine problem.

His amendment provides for publication no sooner than 5 years after the filing date, but not even then, if the submariner files an appeal, which may or may not be legitimate.

□ 1430

That is a way to stretch this thing out. So under his curative amendment, submarines must surface after 5 years. That is a lifetime in the computer business. That is a lifetime in the pharmaceutical business. That is a lifetime in the biotech industry.

It is just no cure. I just think it is a convoluted way to continue gaming the system.

We have heard about stealing secrets. My God, we Americans are so brilliant and we invent these things and we clutch them to our bosom and nobody is going to steal them. Well, the problem is, if you want to be protected in Japan, if you want to be protected in France or Germany, you have to file over there. And if you file over there, you are going to be published in 18 months. On the other hand, 45 percent of the applications for patents in our country are from foreign countries, foreign inventors, rather, and they are not published under our present law, so we cannot see what they are doing; but, boy, they can see what we are doing.

Now, after publication, which is a healthy, good thing, not a poisonous thing, publication gives rise to what are called provisional rights, which means after your idea has been published but before you get a patent, you have rights which are enforceable in damages should somebody steal your idea and infringe your patent. So those things have to be taken into consideration.

This patent law is esoteric. It is difficult. But it is darned important to our economy and it is critical to our international competitiveness. I have heard language I expect to hear in the early 1940s about this country can go it alone, we are not involved in an international trade situation. Oh, yes we are. And this committee, the Committee on the Judiciary, has been involved in hearings and the study of this legislation for 3 years. There have been full and open hearings on this issue, and we have heard from scores of witnesses.

Mr. Chairman, the committee has marked up the bill twice, and both times key improvements were made to address the reasonable concerns of the parties involved. I ask that Members consider the fact that the Committee on the Judiciary has produced a bill that has twice been unanimously approved by voice vote.

Yes, the United States is the world's largest producer of intellectual property, but this success is dependent on a rational and sound and modern system of protection. To stay on top of an ever-changing technology and ever-changing economy, we have to make a number of changes in our patent code over the years. And we cannot ignore what is going on overseas.

First, in an era of unprecedented competition, the intellectual property industries have emerged as an area of American strength; and, second, technological innovations, especially in the areas of biotechnology and computer science, have increased substantially.

Today there are more than 1,300 companies employing more than 100,000 Americans in the biotech industry. That is just one industry that would not exist if we did not have strong patent protection.

Mr. WELDON of Florida. Mr. Chairman, I rise to express my concerns about H.R. 400, patent reform legislation. As the bill is currently drafted, I cannot support this legislation. While I appreciate the concerns by Members on both sides of this issue, I believe that H.R. 400 has some flaws that I cannot overlook.

For the past 200 years, the U.S. patent system has been the envy of the world. I believe that H.R. 400 as brought to the House floor would significantly alter this system which has done so much throughout our history to make the United States the world's leading source of innovation. We must carefully guard against any changes that might adversely impact the United States.

If major issues are not addressed during the debate on this bill, I will cast a no vote when we take a final vote on H.R. 400.

I thank the chairman for giving me this opportunity to speak on this matter.

Mr. SPENCE. Mr. Chairman, I rise in support of the manager's amendment to H.R. 400, the 21st Century Patent System Improvement Act.

Section 202 of this act would require the publication of patent applications 18 months after they are filed with the Patent and Trademark Office. This is a significant departure from the current practice, whereby this information is not published until after the patent is granted. There is a national security issue here. Under the current process, before a patent is issued a review of the patent application is conducted to determine if it contains technical information that is sensitive from a national security standpoint. If, after a review by the Department of Defense and the Department of Energy it is determined that the public release of the information in the patent application would be detrimental to national security, the patent application is put under a secrecy order prohibiting its public release.

In reviewing the original draft of H.R. 400, I was concerned that it would require the publication of the patent application before the Defense Department had completed its security review. A historical review determined that during fiscal years 1994 and 1995 eight of the patent applications that were eventually placed under secrecy orders did not have security review completed within 18 months. While that number is small, in 2 years there would have been eight instances in which classified technical information would have been publicly released under the procedures proposed by H.R. 400.

To address this problem, I submitted an amendment on behalf of the National Security Committee to the Judiciary Committee that would prevent the publication of patent applications until the secrecy reviews have been completed and it is found that their publication would not be detrimental to national security. I am pleased to report that the chairman of the Courts and Intellectual Property Subcommittee, Mr. COBLE, has agreed to accept this change and thereby fix this problem.

I want to thank the Judiciary Committee and its staff for their assistance and for working with us to ensure that sensitive national security information is not inadvertently released as a consequence of reforming the patent system.

Mrs. KELLY. Mr. Chairman, I rise in strong support of H.R. 400, the 21st Century Patent System Improvement Act, legislation which might be more aptly titled the Keep America Competitive Act.

H.R. 400 makes a number of commonsense improvements to our patent system, but I want to focus on one particular problem inherent in the current system that this legislation will correct.

I'm talking about the problem of so-called submarine patents, situations where a patent applicant intentionally delays the issuance of a patent, sometimes for a decade or more, through repeated refilings, which has the effect of submerging their original application from public view.

At the same time, other individuals or companies, without knowledge of that pending application, develop and market the same new technology. The original filer then allows his pending application to issue as a patent—the submarine surfaces—and then proceeds to hit unknowing businesses with costly royalty claims.

Mr. Chairman, this is not how our patent system was intended to work. We need a system which encourages innovation and protects legitimate inventors who develop new ideas with the intention of bringing those ideas to market—not a system which encourages sham artists who file patent applications with no intention of developing a product, but every intention of hitting unsuspecting companies with huge royalties.

This is a very real problem for one of the major employers in my district—IBM. Time and time again, IBM is hit with royalty claims from patents that were filed as much as 20 years ago, but only recently surface as the patent issues. This is not rhetoric, Mr. Chairman, this is real; it costs the company millions of dollars and it hurts their ability to compete.

Now let me share with you some additional facts. The information technology industry is characterized by very short product cycles. A technology that is developed and goes to market today could be obsolete less than a year from now. Our patent system has not kept up with the pace of technology development in today's economy. We need a patent system that will take us into the 21st century, and yet forcing companies like IBM to wait 5 years or more before a patent application is published is totally out of step with the realities of the information age.

A 5-year publication requirement will accomplish one of two things: You will either inhibit new technologies from coming to market or you will ensure that submarine patents remain a problem, or both.

An 18-month publication requirement, as included in H.R. 400, gets the technology to the marketplace quicker and, most importantly, ensures that the inventor enjoys the royalty proceeds from their invention sooner.

I urge my colleagues to join me in supporting this important legislation to keep America competitive in the 21st century. Vote for H.R. 400. Thank you, Mr. Chairman.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill, modified as specified in section 2 of House Resolution 116, shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 400

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "21st Century Patent System Improvement Act".

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TITLE I—PATENT AND TRADEMARK OFFICE MODERNIZATION

SEC. 101. SHORT TITLE.

This, title may be cited as the "Patent and Trademark Office Modernization Act".

Subtitle A—United States Patent and Trademark Office

SEC. 111. ESTABLISHMENT OF PATENT AND TRADEMARK OFFICE AS A GOVERNMENT CORPORATION.

Section 1 of title 35, United States Code, is amended to read as follows:

"§ 1. Establishment

"(a) ESTABLISHMENT.—The United States Patent and Trademark Office is established as a wholly owned Government corporation subject to chapter 91 of title 31, separate from any department of the United States, and shall be an agency of the United States under the policy direction of the Secretary of Commerce. For purposes of internal management, the United States Patent and Trademark Office shall be a corporate body not subject to direction or supervision by any department of the United States, except as otherwise provided in this title.

"(b) OFFICES.—The United States Patent and Trademark Office shall maintain its principal office in the metropolitan Washington, D.C. area, for the service of process and papers and for the purpose of carrying out its functions. The United States Patent and Trademark Office shall be deemed, for purposes of venue in civil actions, to be a resident of the district in which its principal office is located, except where jurisdiction is otherwise provided by law. The United States Patent and Trademark Office may establish satellite offices in such other places as it considers necessary and appropriate in the conduct of its business.

"(c) REFERENCE.—For purposes of this title, the United States Patent and Trademark Office shall also be referred to as the 'Office' and the 'Patent and Trademark Office'.".

SEC. 112. POWERS AND DUTIES.

Section 2 of title 35, United States Code, is amended to read as follows:

"§ 2. Powers and duties

"(a) IN GENERAL.—The United States Patent and Trademark Office, under the policy direction of the Secretary of Commerce—

"(1) shall be responsible for the granting and issuing of patents and the registration of trademarks;

"(2) may conduct studies, programs, or exchanges of items or services regarding domestic and international law of patents, trademarks, and other matters, the administration of the Office, or any function vested in the Office by law, including programs to recognize, identify, assess, and forecast the technology of patented inventions and their utility to industry;

"(3)(A) may authorize or conduct studies and programs cooperatively with foreign patent and trademark offices and international organizations, in connection with patents, trademarks, and other matters; and

"(B) with the concurrence of the Secretary of State, may authorize the transfer of not to exceed $100,000 in any year to the Department of State for the purpose of making special payments to international intergovernmental organizations for studies and programs for advancing international cooperation concerning patents, trademarks, and other matters; and

"(4) shall be responsible for disseminating to the public information with respect to patents and trademarks.

The special payments under paragraph (3)(B) shall be in addition to any other payments or contributions to international organizations described in paragraph (3)(B) and shall not be subject to any limitations imposed by law on the amounts of such other payments or contributions by the United States Government.

"(b) SPECIFIC POWERS.—The Office—

"(1) shall have perpetual succession;

"(2) shall adopt and use a corporate seal, which shall be judicially noticed and with which letters patent, certificates of trademark registrations, and papers issued by the Office shall be authenticated;

"(3) may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings, subject to the provisions of section 7;

"(4) may indemnify the Director, and other officers, attorneys, agents, and employees (including members of the Management Advisory Board established in section 5) of the Office for liabilities and expenses incurred within the scope of their employment;

"(5) may adopt, amend, and repeal bylaws, rules, regulations, and determinations, which—

"(A) shall govern the manner in which its business will be conducted and the powers granted to it by law will be exercised;

"(B) shall be made after notice and opportunity for full participation by interested public and private parties;

"(C) shall facilitate and expedite the processing of patent applications, particularly those which can be filed, stored, processed, searched, and retrieved electronically, subject to the provisions of section 122 relating to the confidential status of applications;

"(D) may govern the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the Office, and may require them, before being recognized as representatives of applicants or other persons, to show that they are of good moral character and reputation and are possessed of the necessary qualifications to render to applicants or other persons valuable service, advice, and assistance in the presentation or prosecution of their applications or other business before the Office; and

"(E) recognize the public interest in continuing to safeguard broad access to the United States patent system through the reduced fee structure for small entities under section 41(h)(1) of this title;

"(6) may acquire, construct, purchase, lease, hold, manage, operate, improve, alter, and renovate any real, personal, or mixed property, or any interest therein, as it considers necessary to carry out its functions;

"(7)(A) may make such purchases, contracts for the construction, maintenance, or management and operation of facilities, and contracts for supplies or services, without regard to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 and following), the Public Buildings Act (40 U.S.C. 601 and following), and the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 and following); and

"(B) may enter into and perform such purchases and contracts for printing services, including the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the products of such processes, as it considers necessary to carry out the functions of the Office, without regard to sections 501 through 517 and 1101 through 1123 of title 44;

"(8) may use, with their consent, services, equipment, personnel, and facilities of other departments, agencies, and instrumentalities of the Federal Government, on a reimbursable basis, and cooperate with such other departments, agencies, and instrumentalities in the establishment and use of services, equipment, and facilities of the Office;

"(9) may obtain from the Administrator of General Services such services as the Administrator is authorized to provide to other agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

"(10) may, when the Director determines that it is practicable, efficient, and cost-effective to do so, use, with the consent of the United States and the agency, government, or international organization concerned, the services, records, facilities, or personnel of any State or local government agency or instrumentality or foreign government or international organization to perform functions on its behalf;

"(11) may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946');

"(12) may retain and use all of its revenues and receipts, including revenues from the sale, lease, or disposal of any real, personal, or mixed property, or any interest therein, of the Office, including for research and development and capital investment, subject to the provisions of section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note);

"(13) shall have the priority of the United States with respect to the payment of debts from bankrupt, insolvent, and decedents' estates;

"(14) may accept monetary gifts or donations of services, or of real, personal, or mixed property, in order to carry out the functions of the Office;

"(15) may execute, in accordance with its bylaws, rules, and regulations, all instruments necessary and appropriate in the exercise of any of its powers; and

"(16) may provide for liability insurance and insurance against any loss in connection with its property, other assets, or operations either by contract or by self-insurance.

"(c) CONSTRUCTION.—Nothing in this section shall be construed to nullify, void, cancel, or interrupt any pending request-for-proposal let or contract issued by the General Services Administration for the specific purpose of relocating or leasing space to the United States Patent and Trademark Office.".

SEC. 113. ORGANIZATION AND MANAGEMENT.

Section 3 of title 35, United States Code, is amended to read as follows:

"§3. Officers and employees

"(a) DIRECTOR.—

"(1) IN GENERAL.—The management of the United States Patent and Trademark Office shall be vested in a Director of the United States Patent and Trademark Office (in this title referred to as the 'Director'), who shall be a citizen of the United States and who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be a person who, by reason of professional background and experience in patent or trademark law, is especially qualified to manage the Office.

"(2) DUTIES.—

"(A) IN GENERAL.—The Director shall be responsible for the management and direction of the Office, including the issuance of patents and the registration of trademarks, and shall perform these duties in a fair, impartial, and equitable manner.

"(B) ADVISING THE PRESIDENT.—The Director shall advise the President, through the Secretary of Commerce, of all activities of the Office undertaken in response to obligations of the United States under treaties and executive agreements, or which relate to cooperative programs with those authorities of foreign governments that are responsible for granting patents or registering trademarks. The Director shall also recommend to the President, through the Secretary of Commerce, changes in law or policy which may improve the ability of United States citizens to secure and enforce patent rights or trademark rights in the United States or in foreign countries.

"(C) CONSULTING WITH THE MANAGEMENT ADVISORY BOARD.—The Director shall consult with the Management Advisory Board established in section 5 on a regular basis on matters relating to the operation of the Office, and shall consult with the Advisory Board before submitting budgetary proposals to the Office of Management and Budget or changing or proposing to change patent or trademark user fees or patent or trademark regulations.

"(D) SECURITY CLEARANCES.—The Director, in consultation with the Director of the Office of Personnel Management, shall maintain a program for identifying national security positions and providing for appropriate security clearances.

"(3) TERM.—The Director shall serve a term of 5 years, and may continue to serve after the expiration of the Director's term until a successor is appointed and assumes office. The Director may be reappointed to subsequent terms.

"(4) OATH.—The Director shall, before taking office, take an oath to discharge faithfully the duties of the Office.

"(5) COMPENSATION.—The Director shall receive compensation at a rate not to exceed the rate of pay in effect for level III of the Executive Schedule under section 5314 of title 5 and, in addition, may receive as a bonus, an amount which would raise the Director's total compensation to not more than the equivalent of the level of the rate of pay in effect for level I of the Executive Schedule under section 5312 of title 5, based upon an evaluation by the Secretary of Commerce of the Director's performance as defined in an annual performance agreement between the Director and the Secretary. The annual performance agreement shall incorporate measurable goals as delineated in an annual performance plan agreed to by the Director and the Secretary.

"(6) REMOVAL.—The Director may be removed from office by the President. The President shall provide notification of any such removal to both Houses of Congress.

"(7) DESIGNEE OF DIRECTOR.—The Director shall designate an officer of the Office who shall be vested with the authority to act in the capacity of the Director in the event of the absence or incapacity of the Director.

"(b) OFFICERS AND EMPLOYEES OF THE OFFICE.—

"(1) COMMISSIONERS.—The Director shall appoint a Commissioner for Patents and a Commissioner for Trademarks for terms that shall expire on the date on which the Director's term expires. The Commissioner for Patents shall be a person with demonstrated experience in patent law and the Commissioner for Trademarks shall be a person with demonstrated experience in trademark law. The Commissioner for Patents and the Commissioner for Trademarks shall be the principal policy and management advisers to the Director on all aspects of the activities of the Office that affect the administration of patent and trademark operations, respectively.

"(2) OTHER OFFICERS AND EMPLOYEES.—The Director shall—

"(A) appoint such officers, employees (including attorneys), and agents of the Office as the Director considers necessary to carry out the functions of the Office; and

"(B) define the authority and duties of such officers and employees and delegate to them such of the powers vested in the Office as the Director may determine.

The Office shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Office shall be taken into account for purposes of applying any such limitation.

"(c) CONTINUED APPLICABILITY OF TITLE 5.—Officers and employees of the Office shall be subject to the provisions of title 5 relating to Federal employees. Section 2302 of title 5 applies to the Office, notwithstanding subsection (a)(2)(B)(i) of such section.

"(d) ADOPTION OF EXISTING LABOR AGREEMENTS.—The Office shall adopt all labor agreements which are in effect, as of the day before the effective date of the Patent and Trademark Office Modernization Act, with respect to such Office (as then in effect).

"(e) CARRYOVER OF PERSONNEL.—

"(1) FROM PTO.—Effective as of the effective date of the Patent and Trademark Office Modernization Act, all officers and employees of the Patent and Trademark Office on the day before such effective date shall become officers and employees of the Office, without a break in service.

"(2) OTHER PERSONNEL.—Any individual who, on the day before the effective date of the Patent and Trademark Office Modernization Act, is an officer or employee of the Department of Commerce (other than an officer or employee under paragraph (1)) shall be transferred to the Office if—

"(A) such individual serves in a position for which a major function is the performance of work reimbursed by the Patent and Trademark Office, as determined by the Secretary of Commerce;

"(B) such individual serves in a position that performed work in support of the Patent and Trademark Office during at least half of the incumbent's work time, as determined by the Secretary of Commerce; or

"(C) such transfer would be in the interest of the Office, as determined by the Secretary of Commerce in consultation with the Director.

Any transfer under this paragraph shall be effective as of the same effective date as referred to in paragraph (1), and shall be made without a break in service.

"(3) ACCUMULATED LEAVE.—The amount of sick and annual leave and compensatory time accumulated under title 5 before the effective date described in paragraph (1), by those becoming officers or employees of the Office pursuant to this subsection, are obligations of the Office.

"(f) TRANSITION PROVISIONS.—

"(1) INTERIM APPOINTMENT OF DIRECTOR.—On or after the effective date of the Patent and Trademark Office Modernization Act, the President shall appoint an individual to serve as the Director until the date on which a Director qualifies under subsection (a). The President shall not make more than one such appointment under this subsection.

"(2) CONTINUATION IN OFFICE OF CERTAIN OFFICERS.—(A) The individual serving as the Assistant Commissioner for Patents on the day before the effective date of the Patent and Trademark Office Modernization Act may serve as the Commissioner for Patents until the date on which a Commissioner for Patents is appointed under subsection (b).

"(B) The individual serving as the Assistant Commissioner for Trademarks on the day before the effective date of the Patent and Trademark Office Modernization Act may serve as the Commissioner for Trademarks until the date on which a Commissioner for Trademarks is appointed under subsection (b).".

SEC. 114. MANAGEMENT ADVISORY BOARD.

Chapter 1 of part I of title 35, United States Code, is amended by inserting after section 4 the following:

"§5. Patent and Trademark Office Management Advisory Board

"(a) ESTABLISHMENT OF MANAGEMENT ADVISORY BOARD.—

"(1) APPOINTMENT.—The United States Patent and Trademark Office shall have a Management Advisory Board (hereafter in this title referred to as the 'Advisory Board') of 12 members, 4 of whom shall be appointed by the President, 4 of whom shall be appointed by the Speaker of the House of Representatives, and 4 of whom shall be appointed by the majority leader of the Senate. Not more than 3 of the 4 members appointed by each appointing authority shall be members of the same political party.

"(2) TERMS.—Members of the Advisory Board shall be appointed for a term of 4 years each, except that of the members first appointed by each appointing authority, 1 shall be for a term of 1 year, 1 shall be for a term of 2 years, and 1 shall be for a term of 3 years. No member may serve more than 1 term.

"(3) CHAIR.—The President shall designate the chair of the Advisory Board, whose term as chair shall be for 3 years.

"(4) TIMING OF APPOINTMENTS.—Initial appointments to the Advisory Board shall be made within 3 months after the effective date of the Patent and Trademark Office Modernization Act, and vacancies shall be filled within 3 months after they occur.

"(5) VACANCIES.—Vacancies shall be filled in the manner in which the original appointment was made under this subsection. Members appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor is appointed.

"(6) COMMITTEES.—The Chair shall designate members of the Advisory Board to serve on a committee on patent operations and on a committee on trademark operations to perform the duties set forth in subsection (e) as they relate specifically to the Office's patent operations, and the Office's trademark operations, respectively.

"(b) BASIS FOR APPOINTMENTS.—Members of the Advisory Board shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the United States Patent and Trademark Office, and shall include individuals with substantial background and achievement in corporate finance and management.

"(c) APPLICABILITY OF CERTAIN ETHICS LAWS.—Members of the Advisory Board shall be special Government employees within the meaning of section 202 of title 18.

"(d) MEETINGS.—The Advisory Board shall meet at the call of the chair to consider an agenda set by the chair.

"(e) DUTIES.—The Advisory Board shall—

"(1) review the policies, goals, performance, budget, and user fees of the United States Patent and Trademark Office, and advise the Director on these matters; and

"(2) within 60 days after the end of each fiscal year, prepare an annual report on the matters referred to in paragraph (1), transmit the report to the President and the Committees on the Judiciary of the Senate and the House of Representatives, and publish the report in the Patent and Trademark Office Official Gazette.

"(f) COMPENSATION.—Members of the Advisory Board shall be compensated for each day (including travel time) during which they are attending meetings or conferences of the Advisory Board or otherwise engaged in the business of the Advisory Board, at the rate which is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

"(g) ACCESS TO INFORMATION.—Members of the Advisory Board shall be provided access to records and information in the United States Patent and Trademark Office, except for personnel or other privileged information and information concerning patent applications required to be kept in confidence by section 122.".

SEC. 115. CONFORMING AMENDMENTS.

(a) DUTIES.—Chapter 1 of title 35, United States Code, is amended by striking section 6.

(b) REGULATIONS FOR AGENTS AND ATTORNEYS.—Section 31 of title 35, United States Code, and the item relating to such section in the table of sections for chapter 3 of title 35, United States Code, are repealed.

SEC. 116. TRADEMARK TRIAL AND APPEAL BOARD.

Section 17 of the Act of July 5, 1946 (commonly referred to as the "Trademark Act of 1946") (15 U.S.C. 1067) is amended to read as follows:

"SEC. 17. (a) In every case of interference, opposition to registration, application to register as a lawful concurrent user, or application to cancel the registration of a mark, the Director shall give notice to all parties and shall direct a Trademark Trial and Appeal Board to determine and decide the respective rights of registration.

"(b) The Trademark Trial and Appeal Board shall include the Director, the Commissioner for Patents, the Commissioner for Trademarks, and administrative trademark judges who are appointed by the Director.".

SEC. 117. BOARD OF PATENT APPEALS AND INTERFERENCES.

Chapter 1 of title 35, United States Code, is amended by striking section 7 and inserting after section 5 the following:

"§6. Board of Patent Appeals and Interferences

"(a) ESTABLISHMENT AND COMPOSITION.—There shall be in the United States Patent and Trademark Office a Board of Patent Appeals and Interferences. The Director, the Commissioner for Patents, the Commissioner for Trademarks, and the administrative patent judges shall constitute the Board. The administrative patent judges shall be persons of competent legal knowledge and scientific ability who are appointed by the Director.

"(b) DUTIES.—The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, review adverse decisions of examiners upon applications for patents and shall determine priority and patentability of invention in interferences declared under section 135(a). Each appeal and interference shall be heard by at least 3 members of the Board, who shall be designated by the Director. Only the Board of Patent Appeals and Interferences may grant rehearings.".

SEC. 118. SUITS BY AND AGAINST THE OFFICE.

Chapter 1 of part I of title 35, United States Code, is amended by inserting after section 6 the following new section:

"§7. Suits by and against the Office

"(a) ACTIONS UNDER UNITED STATES LAW.—Any civil action or proceeding to which the United States Patent and Trademark Office is a party is deemed to arise under the laws of the United States. The Federal courts shall have exclusive jurisdiction over all civil actions by or against the Office.

"(b) REPRESENTATION BY THE DEPARTMENT OF JUSTICE.—The United States Patent and Trademark Office shall be deemed an agency of the United States for purposes of section 516 of title 28.

"(c) PROHIBITION ON ATTACHMENT, LIENS, ETC.—No attachment, garnishment, lien, or similar process, intermediate or final, in law or equity, may be issued against property of the Office.".

SEC. 119. ANNUAL REPORT OF DIRECTOR.

Section 14 of title 35, United States Code, is amended to read as follows:

"§14. Annual report to Congress

"The Director shall report to the Congress, not later than 180 days after the end of each fiscal year, the moneys received and expended by the Office, the purposes for which the moneys were spent, the quality and quantity of the work of the Office, and other information relating to the Office. The report under this section shall also meet the requirements of section 9106 of title 31, to the extent that such requirements are not inconsistent with the preceding sentence. The report required under this section shall not be deemed to be the report of the United States Patent and Trademark Office under section 9106 of title 31, and the Director shall file a separate report under such section.".

SEC. 120. SUSPENSION OR EXCLUSION FROM PRACTICE.

Section 32 of title 35, United States Code, is amended by inserting before the last sentence the following: "The Director shall have the discretion to designate any attorney who is an officer or employee of the United States Patent and Trademark Office to conduct the hearing required by this section.".

SEC. 121. FUNDING.

Section 42 of title 35, United States Code, is amended to read as follows:

"§42. Patent and Trademark Office funding

"(a) FEES PAYABLE TO THE OFFICE.—All fees for services performed by or materials furnished by the United States Patent and Trademark Office shall be payable to the Office.

"(b) USE OF MONEYS.—Moneys from fees shall be available to the United States Patent and Trademark Office to carry out, to the extent provided in appropriations Acts, the functions of the Office. Moneys of the Office not otherwise used to carry out the functions of the Office shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed by the United States, or in obligations or other instruments which are lawful investments for fiduciary, trust, or public funds. Fees available to the Office under this title shall be used for the processing of patent applications and for other services and materials relating to patents. Fees available to the Office under section 31 of the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946'; 15 U.S.C. 1113), shall be used only for the processing of trademark registrations and for other services and materials relating to trademarks.

"(c) BORROWING AUTHORITY.—The United States Patent and Trademark Office is authorized to issue from time to time for purchase by the Secretary of the Treasury its debentures, bonds, notes, and other evidences of indebtedness (hereafter in this subsection referred to as 'obligations') to assist in financing its activities. Borrowing under this subsection shall be subject to prior approval in appropriations Acts. Such borrowing shall not exceed amounts approved in appropriations Acts. Any borrowing under this subsection shall be repaid only from fees paid to the Office and surcharges appropriated by the Congress. Such obligations shall be redeemable at the option of the Office before maturity in the manner stipulated in such obligations and shall have such maturity as is determined by the Office with the approval of the Secretary of the Treasury. Each such obligation issued to the Treasury shall bear interest at a rate not less than the current yield on outstanding marketable obligations of the United States of comparable maturity during the month preceding the issuance of the obligation as determined by the Secretary of the Treasury. The Secretary of the Treasury shall purchase any obligations of the Office issued under this subsection and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such purpose. Payment under this subsection of the purchase price of such obligations of the United States Patent and Trademark Office shall be treated as public debt transactions of the United States.".

SEC. 122. EXTENSION OF SURCHARGES ON PATENT FEES.

(a) IN GENERAL.—Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended to read as follows:

"SEC. 10101. PATENT AND TRADEMARK OFFICE USER FEES.

"(a) SURCHARGES.—There shall be a surcharge on all fees authorized by subsections (a) and (b) of section 41 of title 35, United States Code, in order to ensure that the amounts specified in subsection (c) are collected.

"(b) USE OF SURCHARGES.—Notwithstanding section 3302 of title 31, United States Code, all surcharges collected by the Patent and Trademark Office—

"(1) shall be credited to a separate account established in the Treasury and ascribed to the activities of the United States Patent and Trademark Office as offsetting collections,

"(2) shall be collected by and available to the United States Patent and Trademark Office for all authorized activities and operations of the Office, including all direct and indirect costs of services provided by the office, and

"(3) shall remain available until expended.

"(c) ESTABLISHMENT OF SURCHARGES.—The Director of the United States Patent and Trademark Office shall establish surcharges under subsection (a), subject to the provisions of section 553 of title 5, United States Code, in order to ensure that $119,000,000, but not more than $119,000,000, are collected in fiscal year 1999 and each fiscal year thereafter.

"(d) APPROPRIATIONS ACT REQUIRED.—Notwithstanding subsections (a) through (c), no fee established by subsection (a) shall be collected nor shall be available for spending without prior authorization in appropriations Acts.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1998.

SEC. 123. TRANSFERS.

(a) TRANSFER OF FUNCTIONS.—Except to the extent that such functions, powers, and duties relate to the direction of patent or trademark policy, there are transferred to, and vested in, the United States Patent and Trademark Office all functions, powers, and duties vested by law in the Secretary of Commerce or the Department of Commerce or in the officers or components in the Department of Commerce with respect to the authority to grant patents and register trademarks, and in the Patent and Trademark Office, as in effect on the day before the effective date of this title, and in the officers and components of such Office.

(b) TRANSFER OF FUNDS AND PROPERTY.—The Secretary of Commerce shall transfer to the United States Patent and Trademark Office, on the effective date of this title, so much of the assets, liabilities, contracts, property, records, and unexpended and unobligated balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Department of Commerce, including funds set aside for accounts receivable, which are related to functions, powers, and duties which are vested in the Patent and Trademark Office by this title.

SEC. 124. GAO STUDY AND REPORT.

The Comptroller General shall conduct a study of and, not later than the date that is 2 years after the effective date of this title, submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on—

(1) the operations of the Patent and Trademark Office as a Government corporation; and

(2) the feasibility and desirability of making the trademark operations of the Patent and Trademark Office a separate Government corporation or agency.

Subtitle B—Effective Date; Technical Amendments

SEC. 131. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 4 months after the date of the enactment of this Act.

SEC. 132. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 35.—

(1) The item relating to part I in the table of parts for chapter 35, United States Code, is amended to read as follows:

"I. United States Patent and Trademark Office .... 1".

(2) The heading for part I of title 35, United States Code, is amended to read as follows:

"PART I—UNITED STATES PATENT AND TRADEMARK OFFICE".

(3) The table of chapters for part I of title 35, United States Code, is amended by amending the item relating to chapter 1 to read as follows:

"1. Establishment, Officers and Employees, Functions .... 1".

(4) The table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

"CHAPTER 1—ESTABLISHMENT, OFFICERS AND EMPLOYEES, FUNCTIONS

"Sec.
"1. Establishment.
"2. Powers and duties.
"3. Officers and employees.
"4. Restrictions on officers and employees as to interest in patents.
"5. Patent and Trademark Office Management Advisory Board.
"6. Board of Patent Appeals and Interferences.
"7. Suits by and against the Office.
"8. Library.
"9. Classification of patents.
"10. Certified copies of records.
"11. Publications.
"12. Exchange of copies of patents with foreign countries.
"13. Copies of patents for public libraries.
"14. Annual report to Congress.".

(5) Section 155 of title 35, United States Code, is amended by striking "Commissioner of Patents and Trademarks" and inserting "Director".

(6) Section 155A(c) of title 35, United States Code, is amended by striking "Commissioner of Patents and Trademarks" and inserting "Director".

(7) Section 302 of title 35, United States Code, is amended by striking "Commissioner of Patents" and inserting "Director".

(8) Section 303(b) of title 35, United States Code, is amended by striking "Commissioner's" and inserting "Director's".

(9) Title 35, United States Code, is amended by striking "Commissioner" each place it appears and inserting "Director".

(10) Section 41(a)(8)(A) of title 35, United States Code, is amended by striking "On" and inserting "on".

(b) OTHER PROVISIONS OF LAW.—

(1)(A) Section 45 of the Act of July 5, 1946 (commonly referred to as the "Trademark Act of 1946"; 15 U.S.C. 1127), is amended by striking "The term 'Commissioner' means the Commissioner of Patents and Trademarks." and inserting "The term 'Director' means the Director of the United States Patent and Trademark Office.".

(B) The Act of July 5, 1946 (commonly referred to as the "Trademark Act of 1946"; 15 U.S.C. 1051 and following), except for section 17, as amended by section 116 of this Act, is amended by striking "Commissioner" each place it appears and inserting "Director".

(2) Section 9101(3) of title 31, United States Code, is amended by adding at the end the following:

"(R) the United States Patent and Trademark Office.".

(3) Section 500(e) of title 5, United States Code, is amended by striking "Patent Office" and inserting "United States Patent and Trademark Office".

(4) Section 5102(c)(23) of title 5, United States Code, is amended to read as follows:

"(23) administrative patent judges and designated administrative patent judges in the United States Patent and Trademark Office;".

(5) Section 5316 of title 5, United States Code (5 U.S.C. 5316) is amended by striking "Commissioner of Patents, Department of Commerce.", "Deputy Commissioner of Patents and Trademarks.", "Assistant Commissioner for Patents.", and "Assistant Commissioner for Trademarks.".

(6) Section 9(p)(1)(B) of the Small Business Act (15 U.S.C. 638(p)(1)(B)) is amended to read as follows:

"(B) the Director of the United States Patent and Trademark Office; and".

(7) Section 12 of the Act of February 14, 1903 (15 U.S.C. 1511) is amended by striking "(d) Patent and Trademark Office;" and redesignating subsections (a) through (g) as paragraphs (1) through (6), respectively.

(8) Section 19 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831r) is amended—

(A) by striking "Patent Office of the United States" and inserting "United States Patent and Trademark Office"; and

(B) by striking "Commissioner of Patents" and inserting "Director of the United States Patent and Trademark Office".

(9) Section 182(b)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2242(b)(2)(A)) is amended by striking "Commissioner of Patents and Trademarks" and inserting "Director of the United States Patent and Trademark Office".

(10) Section 302(b)(2)(D) of the Trade Act of 1974 (19 U.S.C. 2412(b)(2)(D)) is amended by striking "Commissioner of Patents and Trademarks" and inserting "Director of the United States Patent and Trademark Office".

(11) The Act of April 12, 1892 (27 Stat. 395; 20 U.S.C. 91) is amended by striking "Patent Office" and inserting "United States Patent and Trademark Office".

(12) Sections 505(m) and 512(o) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(m) and 360b(o)) are each amended by striking "Patent and Trademark Office of the Department of Commerce" and inserting "United States Patent and Trademark Office".

(13) Section 702(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372(d)) is amended by striking "Commissioner of Patents" and inserting "Director of the United States Patent and Trademark Office".

(14) Section 105(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)) is amended by striking "United States Patent Office" and inserting "United States Patent and Trademark Office".

(15) Section 1295(a)(4) of title 28, United States Code, is amended—

(A) in subparagraph (A) by inserting "United States" before "Patent and Trademark"; and

(B) in subparagraph (B) by striking "Commissioner of Patents and Trademarks" and inserting "Director of the United States Patent and Trademark Office".

(16) Section 1744 of title 28, United States Code is amended—

(A) by striking "Patent Office" each place it appears in the text and section heading and inserting "United States Patent and Trademark Office";

(B) by striking "Commissioner of Patents" and inserting "Director of the United States Patent and Trademark Office"; and

(C) by striking "Commissioner" and inserting "Director".

(17) Section 1745 of title 28, United States Code, is amended by striking "United States Patent Office" and inserting "United States Patent and Trademark Office".

(18) Section 1928 of title 28, United States Code, is amended by striking "Patent Office" and inserting "United States Patent and Trademark Office".

(19) Section 151 of the Atomic Energy Act of 1954 (42 U.S.C. 2181) is amended in subsections c. and d. by striking "Commissioner of Patents" and inserting "Director of the United States Patent and Trademark Office".

(20) Section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182) is amended by striking "Commissioner of Patents" each place it appears and inserting "Director of the United States Patent and Trademark Office".

(21) Section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457) is amended—

(A) in subsection (c) by striking "Commissioner of Patents" and inserting "Director of the United States Patent and Trademark Office (hereafter in this section referred to as the 'Director')"; and

(B) by striking "Commissioner" each subsequent place it appears and inserting "Director".

(22) Section 12(a) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5510(a)) is amended by striking "Commissioner of the Patent Office" and inserting "Director of the United States Patent and Trademark Office".

(23) Section 1111 of title 44, United States Code, is amended by striking "the Commissioner of Patents,".

(24) Section 1114 of title 44, United States Code, is amended by striking "the Commissioner of Patents,".

(25) Section 1123 of title 44, United States Code, is amended by striking "the Patent Office,".

(26) Sections 1337 and 1338 of title 44, United States Code, and the items relating to those sections in the table of contents for chapter 13 of such title, are repealed.

(27) Section 10(i) of the Trading With the Enemy Act (50 U.S.C. App. 10(i)) is amended by striking "Commissioner of Patents" and inserting "Director of the United States Patent and Trademark Office".

(28) Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in paragraph (1)—

(i) by striking "and" before "the chief executive officer of the Resolution Trust Corporation;";

(ii) by striking "and" before "the Chairperson of the Federal Deposit Insurance Corporation;";

(iii) by striking "or" before "the Commissioner of Social Security,"; and

(iv) by inserting "or the Director of the United States Patent and Trademark Office;" after "Social Security Administration;"; and

(B) in paragraph (2)—

(i) by striking "or" before "the Veterans' Administration,"; and

(ii) by striking "or the Social Security Administration" and inserting "the Social Security Administration, or the United States Patent and Trademark Office".

Subtitle C—Miscellaneous Provisions

SEC. 141. REFERENCES.

(a) IN GENERAL.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department or office from which a function is transferred by this title—

(1) to the head of such department or office is deemed to refer to the head of the department or office to which such function is transferred; or

(2) to such department or office is deemed to refer to the department or office to which such function is transferred.

(b) SPECIFIC REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Patent and Trademark Office—

(1) to the Commissioner of Patents and Trademarks is deemed to refer to the Director of the United States Patent and Trademark Office;

(2) to the Assistant Commissioner for Patents is deemed to refer to the Commissioner for Patents; or

(3) to the Assistant Commissioner for Trademarks is deemed to refer to the Commissioner for Trademarks.

SEC. 142. EXERCISE OF AUTHORITIES.

Except as otherwise provided by law, a Federal official to whom a function is transferred by this title may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

SEC. 143. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Secretary of Commerce, any officer or employee of any office transferred by this title, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this title, and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(b) PROCEEDINGS.—This title shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office transferred by this title, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS.—This title shall not affect suits commenced before the effective date of this title, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Commerce or the Secretary of Commerce, or by or against any individual in the official capacity of such individual as an officer or employee of an office transferred by this title, shall abate by reason of the enactment of this title.

(e) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and under this title such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred by this title shall apply to the exercise of such function by the head of the Federal agency, and other officers of the agency, to which such function is transferred by this title.

SEC. 144. TRANSFER OF ASSETS.

Except as otherwise provided in this title, so much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred to an official or agency by this title shall be available to the official or the head of that agency, respectively, at such time or times as the Director of the Office of Management and Budget directs for use in connection with the functions transferred.

SEC. 145. DELEGATION AND ASSIGNMENT.

Except as otherwise expressly prohibited by law or otherwise provided in this title, an official to whom functions are transferred under this title (including the head of any office to which functions are transferred under this title) may delegate any of the functions so transferred to such officers and employees of the office of the official as the official may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this section or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

SEC. 146. AUTHORITY OF DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET WITH RESPECT TO FUNCTIONS TRANSFERRED.

(a) DETERMINATIONS.—If necessary, the Director of the Office of Management and Budget shall make any determination of the functions that are transferred under this title.

(b) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title. The Director shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SEC. 147. CERTAIN VESTING OF FUNCTIONS CONSIDERED TRANSFERS.

For purposes of this title, the vesting of a function in a department or office pursuant to reestablishment of an office shall be considered to be the transfer of the function.

SEC. 148. AVAILABILITY OF EXISTING FUNDS.

Existing appropriations and funds available for the performance of functions, programs, and activities terminated pursuant to this title shall remain available, for the duration of their period of availability, for necessary expenses in connection with the termination and resolution of such functions, programs, and activities, subject to the submission of a plan to the Committees on Appropriations of the House and Senate in accordance with the procedures set forth in section 605 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act 1997.

SEC. 149. DEFINITIONS.

For purposes of this title—

(1) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(2) the term "office" includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

TITLE II—EXAMINING PROCEDURE IMPROVEMENTS: PUBLICATION WITH PROVISIONAL ROYALTIES; TERM EXTENSIONS; FURTHER EXAMINATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Examining Procedure Improvements Act".

SEC. 202. PUBLICATION.

Section 122 of title 35, United States Code, is amended to read as follows:

"§ 122. Confidential status of applications; publication of patent applications

"(a) CONFIDENTIALITY.—Except as provided in subsection (b), applications for patents shall be kept in confidence by the Patent and Trademark Office and no information concerning applications for patents shall be given without authority of the applicant or owner unless necessary to carry out the provisions of an Act of Congress or in such special circumstances as may be determined by the Director.

"(b) PUBLICATION.—

"(1) IN GENERAL.—(A) Subject to paragraph (2), each application for patent, except applications for design patents filed under chapter 16 of this title and provisional applications filed under section 111(b) of this title, shall be published, in accordance with procedures determined by the Director, promptly after the expiration of a period of 18 months from the earliest filing date for which a benefit is sought under this title. At the request of the applicant, an application may be published earlier than the end of such 18-month period.

"(B) No information concerning published patent applications shall be made available to the public except as the Director determines.

"(C) Notwithstanding any other provision of law, a determination by the Director to release or not to release information concerning a published patent application shall be final and nonreviewable.

"(2) Exceptions.—(A) An application that is no longer pending shall not be published.

"(B) An application that is subject to a secrecy order pursuant to section 181 of this title shall not be published.

"(C)(i) Upon the request of the applicant at the time of filing, the application shall not be published in accordance with paragraph (1) until 3 months after the Director makes a notification to the applicant under section 132 of this title.

"(ii) Applications filed pursuant to section 363 of this title, applications asserting priority under section 119 or 365(a) of this title, and applications asserting the benefit of an earlier application under section 120, 121, or 365(c) of this title shall not be eligible for a request pursuant to this subparagraph.

"(iii) In a request under this subparagraph, the applicant shall certify that the invention disclosed in the application was not and will not be the subject of an application filed in a foreign country.

"(iv) The Director may establish appropriate procedures and fees for making a request under this subparagraph.

"(D)(i) In a case in which an applicant, after making a request under subparagraph (C)(i), determines to file an application in a foreign country, the applicant shall notify the Director promptly. The application shall then be published in accordance with the provisions of paragraph (1).

"(ii) The Director may establish appropriate fees to cover the costs of processing notifications under clause (i), including the costs of any special handling of applications resulting from the initial request under subparagraph (C)(i).

"(c) Pre-Issuance Opposition.—The provisions of this section shall not operate to create any new opportunity for pre-issuance opposition. The Director may establish appropriate procedures to ensure that this section does not create any new opportunity for pre-issuance opposition.".

SEC. 203. TIME FOR CLAIMING BENEFIT OF EARLIER FILING DATE.

(a) In a Foreign Country.—Section 119(b) of title 35, United States Code, is amended to read as follows:

"(b)(1) No application for patent shall be entitled to this right of priority unless a claim is filed in the Patent and Trademark Office, at such time during the pendency of the application as is required by the Director, that identifies the foreign application by specifying its application number, the country in or for which the application was filed, and the date of its filing.

"(2) The Director may consider the failure of the applicant to file a timely claim for priority as a waiver of any such claim, and may require the payment of a surcharge as a condition of accepting an untimely claim during the pendency of the application.

"(3) The Director may require a certified copy of the original foreign application, specification, and drawings upon which it is based, a translation if not in the English language, and such other information as the Director considers necessary. Any such certification shall be made by the intellectual property authority in the foreign country in which the foreign application was filed and show the date of the application and of the filing of the specification and other papers.".

(b) In the United States.—Section 120 of title 35, United States Code, is amended by adding at the end the following: "No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed application is submitted at such time during the pendency of the application as is required by the Commissioner. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Director may establish procedures, including the payment of a surcharge, to accept unavoidably late submissions of amendments under this section.".

SEC. 204. PROVISIONAL RIGHTS.

Section 154 of title 35, United States Code, is amended—

(1) in the section caption by inserting "**; provisional rights**" after "**patent**"; and

(2) by adding at the end the following new subsection:

"(d) Provisional Rights.—

"(1) In general.—In addition to other rights provided by this section, a patent shall include the right to obtain a reasonable royalty from any person who, during the period beginning on the date of publication of the application for such patent pursuant to section 122(b) of this title, or in the case of an international application filed under the treaty defined in section 351(a) of this title designating the United States under Article 21(2)(a) of such treaty, the date of publication of the application, and ending on the date the patent is issued—

"(A)(i) makes, uses, offers for sale, or sells in the United States the invention as claimed in the published patent application or imports such an invention into the United States; or

"(ii) if the invention as claimed in the published patent application is a process, uses, offers for sale, or sells in the United States or imports into the United States products made by that process as claimed in the published patent application; and

"(B) had actual notice of the published patent application and, where the right arising under this paragraph is based upon an international application designating the United States that is published in a language other than English, a translation of the international application into the English language.

"(2) Right based on substantially identical inventions.—The right under paragraph (1) to obtain a reasonable royalty shall not be available under this subsection unless the invention as claimed in the patent is substantially identical to the invention as claimed in the published patent application.

"(3) Time limitation on obtaining a reasonable royalty.—The right under paragraph (1) to obtain a reasonable royalty shall be available only in an action brought not later than 6 years after the patent is issued. The right under paragraph (1) to obtain a reasonable royalty shall not be affected by the duration of the period described in paragraph (1).

"(4) Requirements for international applications.—The right under paragraph (1) to obtain a reasonable royalty based upon the publication under the treaty defined in section 351(a) of this title of an international application designating the United States shall commence from the date that the Patent and Trademark Office receives a copy of the publication under such treaty of the international application, or, if the publication under the treaty of the international application is in a language other than English, from the date that the Patent and Trademark Office receives a translation of the international application in the English language. The Director may require the applicant to provide a copy of the international publication of the international application and a translation thereof.".

SEC. 205. PRIOR ART EFFECT OF PUBLISHED APPLICATIONS.

Section 102(e) of title 35, United States Code, is amended to read as follows:

"(e) the invention was described in—

"(1) an application for patent, published pursuant to section 122(b) of this title, by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) of this title shall have the effect under this subsection of a national application published under section 122(b) of this title only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language, or

"(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, or".

SEC. 206. COST RECOVERY FOR PUBLICATION.

The Director of the United States Patent and Trademark Office shall recover the cost of early publication required by the amendment made by section 202 by adjusting the filing, issue, and maintenance fees under title 35, United States Code, by charging a separate publication fee, or by any combination of these methods.

SEC. 207. CONFORMING CHANGES.

The following provisions of title 35, United States Code, are amended:

(1) Section 11 is amended in paragraph 1 of subsection (a) by inserting "and published applications for patents" after "Patents".

(2) Section 12 is amended—

(A) in the section caption by inserting "**and applications**" after "**patents**"; and

(B) by inserting "and published applications for patents" after "patents".

(3) Section 13 is amended—

(A) in the section caption by inserting "**and applications**" after "**patents**"; and

(B) by inserting "and published applications for patents" after "patents".

(4) The items relating to sections 12 and 13 in the table of sections for chapter 1, as amended by section 132(a)(4) of this Act, are each amended by inserting "and applications" after "patents".

(5) The item relating to section 122 in the table of sections for chapter 11 is amended by inserting "; publication of patent applications" after "applications".

(6) The item relating to section 154 in the table of sections for chapter 14 is amended by inserting "; provisional rights" after "patent".

(7) Section 181 is amended—

(A) in the first paragraph—

(i) by inserting "by the publication of an application or" after "disclosure"; and

(ii) by inserting "the publication of the application or" after "withhold";

(B) in the second paragraph by inserting "by the publication of an application or" after "disclosure of an invention";

(C) in the third paragraph—

(i) by inserting "by the publication of the application or" after "disclosure of the invention"; and

(ii) by inserting "the publication of the application or" after "withhold"; and

(D) in the fourth paragraph by inserting "the publication of an application or" after "and" in the first sentence.

(8) Section 252 is amended in the first paragraph by inserting "substantially" before "identical" each place it appears.

(9) Section 284 is amended by adding at the end of the second paragraph the following: "Increased damages under this paragraph shall not apply to provisional rights under section 154(d) of this title.".

(10) Section 374 is amended to read as follows:

"§374. Publication of international application: Effect

"The publication under the treaty defined in section 351(a) of this title of an international application designating the United States shall confer the same rights and shall have the same effect under this title as an application for patent published under section 122(b), except as provided in sections 102(e) and 154(d) of this title.".

(11) Section 135(b) of title 35, United States Code, is amended—

(A) by inserting "(1)" after "(b)";

(B) by striking "from the date on which the patent was granted" and inserting "after the date on which the patent is granted and the applicant makes a prima facie showing of prior invention"; and

(C) by adding at the end the following:

"(2) A claim which is the same as, or for the same or substantially the same subject matter as, a claim of a published application may be made in an application filed after the published application is published only if the claim is made prior to one year after the date on which the published application is published and the applicant of the later filed application makes a prime facie showing of prior invention.".

SEC. 208. PATENT TERM EXTENSION AUTHORITY.

Section 154(b) of title 35, United States Code, is amended to read as follows:

"(b) Term Extension.—

"(1) Basis for patent term extension.—

"(A) Delay.—Subject to the limitations set forth in paragraph (2), if the issue of an original patent is delayed due to—

"(i) a proceeding under section 135(a) of this title, including any appeal under section 141, or any civil action under section 146, of this title,

"(ii) the imposition of an order pursuant to section 181 of this title,

"(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued pursuant to a decision in the review reversing an adverse determination of patentability, or

"(iv) an unusual administrative delay by the Patent and Trademark Office in issuing the patent,

the term of the patent shall be extended for the period of delay.

"(B) Administrative delay.—For purposes of subparagraph (A)(iv), an unusual administrative delay by the Patent and Trademark office is the failure to—

"(i) make a notification of the rejection of any claim for a patent or any objection or argument under section 132 of this title or give or mail a written notice of allowance under section 151 of this title not later than 14 months after the date on which the application was filed;

"(ii) respond to a reply under section 132 of this title or to an appeal taken under section 134 of this title not later than 4 months after the date on which the reply was filed or the appeal was taken;

"(iii) act on an application not later than 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 of this title or a decision by a Federal court under section 141, 145, or 146 of this title in a case in which allowable claims remain in an application;

"(iv) issue a patent not later than 4 months after the date on which the issue fee was paid under section 151 of this title and all outstanding requirements were satisfied; or

"(v) issue a patent within 3 years after the filing date of the application in the United States, if the applicant—

"(I) has not obtained further limited examination of the application under section 209 of the Examining Procedure Improvements Act;

"(II) has responded to all rejections, objections, arguments, or other requests of the Patent and Trademark Office within 3 months after the date on which they are made;

"(III) has not benefitted from an extension of patent term under clause (i), (ii) or (iii) of paragraph (1)(A);

"(IV) has not sought or obtained appellate review by the Board of Patent Appeals and Interferences or by a Federal Court other than in a case in which the patent was issued pursuant to a decision in the review reversing an adverse determination of patentability; and

"(V) has not requested any delay in the processing of the application by the Patent and Trademark Office.

"(2) Limitations.—(A) The total duration of any extensions granted pursuant to either clause (iii) or (iv) of paragraph (1)(A) or both such clauses shall not exceed 10 years. To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any extension granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

"(B) The period of extension of the term of a patent under this subsection shall be reduced by a period equal to the time in which the applicant failed to engage in reasonable efforts to conclude prosecution of the application. The Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application in order to ensure that applicants are appropriately compensated for any delays by the Patent and Trademark Office in excess of the time periods specified in paragraph (1)(B).

"(C) No patent the term of which has been disclaimed beyond a specified date may be extended under this section beyond the expiration date specified in the disclaimer.

"(3) Procedures.—The Director shall prescribe regulations establishing procedures for the notification of patent term extensions under this subsection and procedures for contesting patent term extensions under this subsection.".

SEC. 209. FURTHER EXAMINATION OF PATENT APPLICATIONS.

The Director of the United States Patent and Trademark Office shall prescribe regulations to provide for the further limited reexamination of applications for patent. The Director may establish appropriate fees for such further limited reexamination and shall be authorized to provide a 50 percent reduction on such fees for small entities that qualify for reduced fees under section 41(h)(1) of title 35, United States Code.

SEC. 210. LAST DAY OF PENDENCY OF PROVISIONAL APPLICATION.

Section 119(e) of title 35, United States Code, is amended by adding at the end the following:

"(3) If the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the period of pendency of the provisional application shall be extended to the next succeeding business day.".

SEC. 211. REPORTING REQUIREMENT.

The Director of the United States Patent and Trademark Office shall report to the Congress not later than April 1, 2001, and not later than April 1 of each year thereafter, regarding the impact of publication on the patent applications filed by an applicant who has been accorded the status of independent inventor under section 41(h) of title 35, United States Code. The report shall include information concerning the frequency and number of initial and continuing patent applications, pendency, interferences, reexaminations, rejection, abandonment rates, fees, other expenses, and other relevant information related to the prosecution of patent applications.

SEC. 212. EFFECTIVE DATE.

(a) Sections 202 Through 207.—Sections 202 through 207, and the amendments made by such sections, shall take effect on April 1, 1998, and shall apply to all applications filed under section 111 of title 35, United States Code, on or after that date, and all international applications designating the United States that are filed on or after that date.

(b) Sections 208 Through 210.—The amendments made by sections 208 through 210 shall take effect on the date of the enactment of this Act and, except for a design patent application filed under chapter 16 of title 35, United States Code, shall apply to any application filed on or after June 8, 1995.

TITLE III—PROTECTION FOR PRIOR DOMESTIC USERS OF PATENTED TECHNOLOGIES

SEC. 301. SHORT TITLE.

This title may be cited as the "Protection for Prior Domestic Commercial and Research Users of Patented Technologies Act".

SEC. 302. DEFENSE TO PATENT INFRINGEMENT BASED ON PRIOR DOMESTIC COMMERCIAL OR RESEARCH USE.

(a) Defense.—Chapter 28 of title 35, United States Code, is amended by adding at the end the following new section:

"§273. Prior domestic commercial or research use; defense to infringement

"(a) Definitions.—For purposes of this section—

"(1) the terms 'commercially used', 'commercially use', and 'commercial use' mean the use in the United States in commerce or the use in the design, testing, or production in the United States of a product or service which is used in commerce, whether or not the subject matter at issue is accessible to or otherwise known to the public;

"(2) in the case of activities performed by a nonprofit research laboratory, or nonprofit entity such as a university, research center, or hospital, a use for which the public is the intended beneficiary shall be considered to be a use described in paragraph (1) if the use is limited to activity that occurred within the laboratory or nonprofit entity or by persons in privity with that laboratory or nonprofit entity before the effective filing date of the application for patent at issue, except that the use—

"(A) may be asserted as a defense under this section only by the laboratory or nonprofit entity; and

"(B) may not be asserted as a defense with respect to any subsequent use by any entity other than such laboratory, nonprofit entity, or persons in privity;

"(3) the terms 'used in commerce', and 'use in commerce' mean that there has been an actual sale or other arm's-length commercial transfer of the subject matter at issue or that there has been an actual sale or other arm's-length commercial transfer of a product or service resulting from the use of the subject matter at issue; and

"(4) the 'effective filing date' of a patent is the earlier of the actual filing date of the application for the patent or the filing date of any earlier United States, foreign, or international application to which the subject matter at issue is entitled under section 119, 120, or 365 of this title.

"(b) Defense to Infringement.—(1) A person shall not be liable as an infringer under section 271 of this title with respect to any subject

matter that would otherwise infringe one or more claims in the patent being asserted against such person, if such person had, acting in good faith, commercially used the subject matter before the effective filing date of such patent.

"(2) The sale or other disposition of the subject matter of a patent by a person entitled to assert a defense under this section with respect to that subject matter shall exhaust the patent owner's rights under the patent to the extent such rights would have been exhausted had such sale or other disposition been made by the patent owner.

"(c) LIMITATIONS AND QUALIFICATIONS OF DEFENSE.—The defense to infringement under this section is subject to the following:

"(1) DERIVATION.—A person may not assert the defense under this section if the subject matter on which the defense is based was derived from the patentee or persons in privity with the patentee.

"(2) NOT A GENERAL LICENSE.—The defense asserted by a person under this section is not a general license under all claims of the patent at issue, but extends only to the subject matter claimed in the patent with respect to which the person can assert a defense under this chapter, except that the defense shall also extend to variations in the quantity or volume of use of the claimed subject matter, and to improvements in the claimed subject matter that do not infringe additional specifically claimed subject matter of the patent.

"(3) EFFECTIVE AND SERIOUS PREPARATION.—With respect to subject matter that cannot be commercialized without a significant investment of time, money, and effort, a person shall be deemed to have commercially used the subject matter if—

"(A) before the effective filing date of the patent, the person actually reduced the subject matter to practice in the United States, completed a significant portion of the total investment necessary to commercially use the subject matter, and made an arm's-length commercial transaction in the United States in connection with the preparation to use the subject matter; and

"(B) thereafter the person diligently completed the remainder of the activities and investments necessary to commercially use the subject matter, and promptly began commercial use of the subject matter, even if such activities were conducted after the effective filing date of the patent.

"(4) BURDEN OF PROOF.—A person asserting the defense under this section shall have the burden of establishing the defense.

"(5) ABANDONMENT OF USE.—A person who has abandoned commercial use of subject matter may not rely on activities performed before the date of such abandonment in establishing a defense under subsection (b) with respect to actions taken after the date of such abandonment.

"(6) PERSONAL DEFENSE.—The defense under this section may only be asserted by the person who performed the acts necessary to establish the defense and, except for any transfer to the patent owner, the right to assert the defense shall not be licensed or assigned or transferred to another person except in connection with the good faith assignment or transfer of the entire enterprise or line of business to which the defense relates.

"(7) ONE-YEAR LIMITATION.—A person may not assert a defense under this section unless the subject matter on which the defense is based had been commercially used or actually reduced to practice more than one year prior to the effective filing date of the patent by the person asserting the defense or someone in privity with that person.

"(d) UNSUCCESSFUL ASSERTION OF DEFENSE.—If the defense under this section is pleaded by a person who is found to infringe the patent and who subsequently fails to demonstrate a reasonable basis for asserting the defense, the court shall find the case exceptional for the purpose of awarding attorney's fees under section 285 of this title.

"(e) INVALIDITY.—A patent shall not be deemed to be invalid under section 102 or 103 of this title solely because a defense is established under this section.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 28 of title 35, United States Code, is amended by adding at the end the following new item:

"273. Prior domestic commercial or research use; defense to infringement.".

SEC. 303. EFFECTIVE DATE AND APPLICABILITY.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act, but shall not apply to any action for infringement that is pending on such date of enactment or with respect to any subject matter for which an adjudication of infringement, including a consent judgment, has been made before such date of enactment.

TITLE IV—ENHANCED PROTECTION OF INVENTORS' RIGHTS

SEC. 401. SHORT TITLE.

This title may be cited as the "Enhanced Protection of Inventors' Rights Act".

SEC. 402. INVENTION DEVELOPMENT SERVICES.

Part I of title 35, United States Code, is amended by adding after chapter 4 the following new chapter:

"CHAPTER 5—INVENTION DEVELOPMENT SERVICES

"Sec.
"51. Definitions.
"52. Contracting requirements.
"53. Standard provisions for cover notice.
"54. Reports to customer required.
"55. Mandatory contract terms.
"56. Remedies.
"57. Records of complaints.
"58. Fraudulent representation by an invention developer.
"59. Rule of construction.

"§51. Definitions

"For purposes of this chapter—

"(1) the term 'contract for invention development services' means a contract by which an invention developer undertakes invention development services for a customer;

"(2) the term 'customer' means any person, firm, partnership, corporation, or other entity who is solicited by, seeks the services of, or enters into a contract with an invention promoter for invention promotion services;

"(3) the term 'invention promoter' means any person, firm, partnership, corporation, or other entity who offers to perform or performs for, or on behalf of, a customer any act described under paragraph (4), but does not include—

"(A) any department or agency of the Federal Government or of a State or local government;

"(B) any nonprofit, charitable, scientific, or educational organization, qualified under applicable State law or described under section 170(b)(1)(A) of the Internal Revenue Code of 1986; or

"(C) any person duly registered with, and in good standing before, the United States Patent and Trademark Office acting within the scope of that person's registration to practice before the Patent and Trademark Office; and

"(4) the term 'invention development services' means, with respect to an invention by a customer, any act involved in—

"(A) evaluating the invention to determine its protectability as some form of intellectual property, other than evaluation by a person licensed by a State to practice law who is acting solely within the scope of that person's professional license;

"(B) evaluating the invention to determine its commercial potential by any person for purposes other than providing venture capital; or

"(C) marketing, brokering, licensing, selling, or promoting the invention or a product or service in which the invention is incorporated or used, except that the display only of an invention at a trade show or exhibit shall not be considered to be invention development services.

"§52. Contracting requirements

"(a) IN GENERAL.—(1) Every contract for invention development services shall be in writing and shall be subject to the provisions of this chapter. A copy of the signed written contract shall be given to the customer at the time the customer enters into the contract.

"(2) If a contract is entered into for the benefit of a third party, such party shall be considered a customer for purposes of this chapter.

"(b) REQUIREMENTS OF INVENTION DEVELOPER.—The invention developer shall—

"(1) state in a written document, at the time a customer enters into a contract for invention development services, whether the usual business practice of the invention developer is to—

"(A) seek more than 1 contract in connection with an invention; or

"(B) seek to perform services in connection with an invention in 1 or more phases, with the performance of each phase covered in 1 or more subsequent contracts; and

"(2) supply to the customer a copy of the written document together with a written summary of the usual business practices of the invention developer, including—

"(A) the usual business terms of contracts; and

"(B) the approximate amount of the usual fees or other consideration that may be required from the customer for each of the services provided by the developer.

"(c) RIGHT OF CUSTOMER TO CANCEL CONTRACT.—(1) Notwithstanding any contractual provision to the contrary, a customer shall have the right to terminate a contract for invention development services by sending a written letter to the invention developer stating the customer's intent to cancel the contract. The letter of termination must be deposited with the United States Postal Service on or before 5 business days after the date upon which the customer or the invention developer executes the contract, whichever is later.

"(2) Delivery of a promissory note, check, bill of exchange, or negotiable instrument of any kind to the invention developer or to a third party for the benefit of the invention developer, without regard to the date or dates appearing in such instrument, shall be deemed payment received by the invention developer on the date received for purposes of this section.

"§53. Standard provisions for cover notice

"(a) CONTENTS.—Every contract for invention development services shall have a conspicuous and legible cover sheet attached with the following notice imprinted in boldface type of not less than 12-point size:

"'YOU HAVE THE RIGHT TO TERMINATE THIS CONTRACT. TO TERMINATE THIS CONTRACT, YOU MUST SEND A WRITTEN LETTER TO THE COMPANY STATING YOUR INTENT TO CANCEL THIS CONTRACT. THE LETTER OF TERMINATION MUST BE DEPOSITED WITH THE UNITED STATES POSTAL SERVICE ON OR BEFORE FIVE (5) BUSINESS DAYS AFTER THE DATE ON WHICH YOU OR THE COMPANY EXECUTE THE CONTRACT, WHICHEVER IS LATER.

"'THE TOTAL NUMBER OF INVENTIONS EVALUATED BY THE INVENTION DEVELOPER FOR COMMERCIAL POTENTIAL IN

THE PAST FIVE (5) YEARS IS ________. OF THAT NUMBER, ________ RECEIVED POSITIVE EVALUATIONS AND ________ RECEIVED NEGATIVE EVALUATIONS.

"'IF YOU ASSIGN EVEN A PARTIAL INTEREST IN THE INVENTION TO THE INVENTION DEVELOPER, THE INVENTION DEVELOPER MAY HAVE THE RIGHT TO SELL OR DISPOSE OF THE INVENTION WITHOUT YOUR CONSENT AND MAY NOT HAVE TO SHARE THE PROFITS WITH YOU.

"'THE TOTAL NUMBER OF CUSTOMERS WHO HAVE CONTRACTED WITH THE INVENTION DEVELOPER IN THE PAST FIVE (5) YEARS IS ________. THE TOTAL NUMBER OF CUSTOMERS KNOWN BY THIS INVENTION DEVELOPER TO HAVE RECEIVED, BY VIRTUE OF THIS INVENTION DEVELOPER'S PERFORMANCE, AN AMOUNT OF MONEY IN EXCESS OF THE AMOUNT PAID BY THE CUSTOMER TO THIS INVENTION DEVELOPER IS ________.

"'THE OFFICERS OF THIS INVENTION DEVELOPER HAVE COLLECTIVELY OR INDIVIDUALLY BEEN AFFILIATED IN THE LAST TEN (10) YEARS WITH THE FOLLOWING INVENTION DEVELOPMENT COMPANIES: (LIST THE NAMES AND ADDRESSES OF ALL PREVIOUS INVENTION DEVELOPMENT COMPANIES WITH WHICH THE PRINCIPAL OFFICERS HAVE BEEN AFFILIATED AS OWNERS, AGENTS, OR EMPLOYEES). YOU ARE ENCOURAGED TO CHECK WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE, THE FEDERAL TRADE COMMISSION, YOUR STATE ATTORNEY GENERAL'S OFFICE, AND THE BETTER BUSINESS BUREAU FOR ANY COMPLAINTS FILED AGAINST ANY OF THESE COMPANIES.

"'YOU ARE ENCOURAGED TO CONSULT WITH AN ATTORNEY OF YOUR OWN CHOOSING BEFORE SIGNING THIS CONTRACT. BY PROCEEDING WITHOUT THE ADVICE OF AN ATTORNEY REGISTERED TO PRACTICE BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE, YOU COULD LOSE ANY RIGHTS YOU MIGHT HAVE IN YOUR IDEA OR INVENTION.'.

"(b) OTHER REQUIREMENTS FOR COVER NOTICE.—The cover notice shall contain the items required under subsection (a) and the name, primary office address, and local office address of the invention developer, and may contain no other matter.

"(c) DISCLOSURE OF CERTAIN CUSTOMERS NOT REQUIRED.—The requirement in the notice set forth in subsection (a) to include the 'TOTAL NUMBER OF CUSTOMERS WHO HAVE CONTRACTED WITH THE INVENTION DEVELOPER IN THE PAST FIVE (5) YEARS' need not include information with respect to customers who have purchased trade show services, research, advertising, or other nonmarketing services from the invention developer, nor with respect to customers who have defaulted in their payments to the invention developer.

"§54. Reports to customer required

"With respect to every contract for invention development services, the invention developer shall deliver to the customer at the address specified in the contract, at least once every 3 months throughout the term of the contract, a written report that identifies the contract and includes—

"(1) a full, clear, and concise description of the services performed to the date of the report and of the services yet to be performed and names of all persons who it is known will perform the services; and

"(2) the name and address of each person, firm, corporation, or other entity to whom the subject matter of the contract has been disclosed, the reason for each such disclosure, the nature of the disclosure, and complete and accurate summaries of all responses received as a result of those disclosures.

"§55. Mandatory contract terms

"(a) MANDATORY TERMS.—Each contract for invention development services shall include in boldface type of not less than 12-point size—

"(1) the terms and conditions of payment and contract termination rights required under section 52;

"(2) a statement that the customer may avoid entering into the contract by not making a payment to the invention developer;

"(3) a full, clear, and concise description of the specific acts or services that the invention developer undertakes to perform for the customer;

"(4) a statement as to whether the invention developer undertakes to construct, sell, or distribute one or more prototypes, models, or devices embodying the invention of the customer;

"(5) the full name and principal place of business of the invention developer and the name and principal place of business of any parent, subsidiary, agent, independent contractor, and any affiliated company or person who it is known will perform any of the services or acts that the invention developer undertakes to perform for the customer;

"(6) if any oral or written representation of estimated or projected customer earnings is given by the invention developer (or any agent, employee, officer, director, partner, or independent contractor of such invention developer), a statement of that estimation or projection and a description of the data upon which such representation is based;

"(7) the name and address of the custodian of all records and correspondence relating to the contracted for invention development services, and a statement that the invention developer is required to maintain all records and correspondence relating to performance of the invention development services for such customer for a period of not less than 2 years after expiration of the term of such contract; and

"(8) a statement setting forth a time schedule for performance of the invention development services, including an estimated date in which such performance is expected to be completed.

"(b) INVENTION DEVELOPER AS FIDUCIARY.—To the extent that the description of the specific acts or services affords discretion to the invention developer with respect to what specific acts or services shall be performed, the invention developer shall be deemed a fiduciary.

"(c) AVAILABILITY OF INFORMATION.—Records and correspondence described under subsection (a)(7) shall be made available after 7 days written notice to the customer or the representative of the customer to review and copy at a reasonable cost on the invention developer's premises during normal business hours.

"§56. Remedies

"(a) IN GENERAL.—(1) Any contract for invention development services that does not comply with the applicable provisions of this chapter shall be voidable at the option of the customer.

"(2) Any contract for invention development services entered into in reliance upon any material false, fraudulent, or misleading information, representation, notice, or advertisement of the invention developer (or any agent, employee, officer, director, partner, or independent contractor of such invention developer) shall be voidable at the option of the customer.

"(3) Any waiver by the customer of any provision of this chapter shall be deemed contrary to public policy and shall be void and unenforceable.

"(4) Any contract for invention development services which provides for filing for and obtaining utility, design, or plant patent protection shall be voidable at the option of the customer unless the invention developer offers to perform or performs such act through a person duly registered to practice before, and in good standing with, the Patent and Trademark Office.

"(b) CIVIL ACTION.—(1) Any customer who is injured by a violation of this chapter by an invention developer or by any material false or fraudulent statement or representation, or any omission of material fact, by an invention developer (or any agent, employee, director, officer, partner, or independent contractor of such invention developer) or by failure of an invention developer to make all the disclosures required under this chapter, may recover in a civil action against the invention developer (or the officers, directors, or partners of such invention developer) in addition to reasonable costs and attorneys' fees, the greater of—

"(A) $5,000; or

"(B) the amount of actual damages sustained by the customer.

"(2) Notwithstanding paragraph (1), the court may increase damages to not more than 3 times the amount awarded.

"(c) REBUTTABLE PRESUMPTION OF INJURY.—For purposes of this section, substantial violation of any provision of this chapter by an invention developer or execution by the customer of a contract for invention development services in reliance on any material false or fraudulent statements or representations or omissions of material fact shall establish a rebuttable presumption of injury.

"§57. Records of complaints

"(a) RELEASE OF COMPLAINTS.—The Director shall make all complaints received by the United States Patent and Trademark Office involving invention developers publicly available, together with any response of the invention developers.

"(b) REQUEST FOR COMPLAINTS.—The Director may request complaints relating to invention development services from any Federal or State agency and include such complaints in the records maintained under subsection (a), together with any response of the invention developers.

"§58. Fraudulent representation by an invention developer

"Whoever, in providing invention development services, knowingly provides any false or misleading statement, representation, or omission of material fact to a customer or fails to make all the disclosures required under this chapter, shall be guilty of a misdemeanor and fined not more than $10,000 for each offense.

"§59. Rule of construction

"Except as expressly provided in this chapter, no provision of this chapter shall be construed to affect any obligation, right, or remedy provided under any other Federal or State law.".

SEC. 403. TECHNICAL AND CONFORMING AMENDMENT.

The table of chapters for part I of title 35, United States Code, is amended by adding after the item relating to chapter 4 the following:

"5. Invention Development Services 51".

SEC. 404. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 60 days after the date of the enactment of this Act.

TITLE V—IMPROVED REEXAMINATION PROCEDURES

SEC. 501. SHORT TITLE.

This title may be cited as the "Improved Reexamination Procedures Act".

SEC. 502. DEFINITIONS.

Section 100 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(e) The term 'third-party requester' means a person requesting reexamination under section 302 of this title who is not the patent owner.".

SEC. 503. REEXAMINATION PROCEDURES.

(a) Request for Reexamination.—Section 302 of title 35, United States Code, is amended to read as follows:

“§ 302. Request for reexamination

“Any person at any time may file a request for reexamination by the Office of a patent on the basis of any prior art cited under the provisions of section 301 of this title or on the basis of the requirements of section 112 of this title other than the requirement to set forth the best mode of carrying out the invention. The request must be in writing, must include the identity of the real party in interest, and must be accompanied by payment of a reexamination fee established by the Director pursuant to the provisions of section 41 of this title. The request must set forth the pertinency and manner of applying cited prior art to every claim for which reexamination is requested or the manner in which the patent specification or claims fail to comply with the requirements of section 112 of this title. Unless the requesting person is the owner of the patent, the Director promptly shall send a copy of the request to the owner of record of the patent.”.

(b) Determination of Issue by Director.—Section 303 of title 35, United States Code, is amended to read as follows:

“§ 303. Determination of issue by Director

“(a) Reexamination.—Not later than 3 months after the filing of a request for reexamination under the provisions of section 302 of this title, the Director shall determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request, with or without consideration of other patents or printed publications. On the Director's initiative, at any time, the Director may determine whether a substantial new question of patentability is raised by any other patent or publication or by the failure of the patent specification or claims of a patent to comply with the requirements of section 112 of this title other than the best mode requirement described in section 302.

“(b) Record.—A record of the Director's determination under subsection (a) shall be placed in the official file of the patent, and a copy shall be promptly given or mailed to the owner of record of the patent and to the third-party requester, if any.

“(c) Final Decision.—A determination by the Director pursuant to subsection (a) shall be final and nonappealable. Upon a determination that no substantial new question of patentability has been raised, the Director may refund a portion of the reexamination fee required under section 302 of this title.”.

(c) Reexamination Order by Director.—Section 304 of title 35, United States Code, is amended to read as follows:

“§ 304. Reexamination order by Director

“If, in a determination made under the provisions of section 303(a) of this title, the Director finds that a substantial new question of patentability affecting a claim of a patent is raised, the determination shall include an order for reexamination of the patent for resolution of the question. The order may be accompanied by the initial action of the Patent and Trademark Office on the merits of the reexamination conducted in accordance with section 305 of this title.”.

(d) Conduct of Reexamination Proceedings.—Section 305 of title 35, United States Code, is amended to read as follows:

“§ 305. Conduct of reexamination proceedings

“(a) In General.—Subject to subsection (b), reexamination shall be conducted according to the procedures established for initial examination under the provisions of sections 132 and 133 of this title. In any reexamination proceeding under this chapter, the patent owner shall be permitted to propose any amendment to the patent and a new claim or claims, except that no proposed amended or new claim enlarging the scope of the claims of the patent shall be permitted.

“(b) Response.—(1) This subsection shall apply to any reexamination proceeding in which the order for reexamination is based upon a request by a third-party requester.

“(2) With the exception of the reexamination request, any document filed by either the patent owner or the third-party requester shall be served on the other party.

“(3) If the patent owner files a response to any action on the merits by the Patent and Trademark Office, the third-party requester shall have 1 opportunity to file written comments within a reasonable period not less than 1 month after the date of service of the patent owner's response. Written comments provided under this paragraph shall be limited to issues covered by action of the Patent and Trademark Office or the patent owner's response.

“(c) Special Dispatch.—Unless otherwise provided by the Director for good cause, all reexamination proceedings under this section, including any appeal to the Board of Patent Appeals and Interferences, shall be conducted with special dispatch within the Office.”.

(e) Appeal.—Section 306 of title 35, United States Code, is amended to read as follows:

“§ 306. Appeal

“(a) Patent Owner.—The patent owner involved in a reexamination proceeding under this chapter—

“(1) may appeal under the provisions of section 134 of this title, and may appeal under the provisions of sections 141 through 144 of this title, with respect to any decision adverse to the patentability of any original or proposed amended or new claim of the patent; and

“(2) may be a party to any appeal taken by a third-party requester pursuant to subsection (b) of this section.

“(b) Third-Party Requester.—A third-party requester in a reexamination proceeding—

“(1) may appeal under the provisions of section 134 of this title, and may appeal under the provisions of sections 141 through 144 of this title, with respect to any final decision in the reexamination proceeding that is favorable to the patentability of any original or proposed amended or new claim of the patent; and

“(2) may be a party to any appeal taken by the patent owner with respect to a decision in the reexamination proceeding, subject to subsection (c) of this section.

“(c) Participation as Party.—(1) A third-party requester who, under the provisions of sections 141 through 144 of this title, files a notice of appeal, or who participates as a party to an appeal by the patent owner, with respect to a reexamination proceeding, is estopped from asserting at a later time, in any forum, the invalidity of any claim determined to be patentable on that appeal on any ground which the third-party requester raised or could have raised during the reexamination proceeding. This subsection does not prevent the assertion of invalidity based on newly discovered prior art unavailable to the third-party requester and the Patent and Trademark Office at the time of the reexamination proceeding.

“(2) For purposes of paragraph (1), a third-party requester is deemed not to have participated as a party to an appeal by the patent owner unless, not later than 20 days after the patent owner has filed a notice of appeal, the third-party requester files notice with the Commissioner electing to participate.”.

(f) Reexamination Prohibited.—(1) Chapter 30 of title 35, United States Code, is amended by adding at the end the following new section:

“§ 308. Reexamination prohibited

“(a) Order for Reexamination.—Notwithstanding any provision of this chapter, once an order for reexamination of a patent has been issued under section 304 of this title, neither the patent owner nor the third-party requester, if any, nor privies of either, may, unless authorized by the Director, file a subsequent request for reexamination of the patent until a certificate relating to that reexamination proceeding is issued and published under section 307 of this title.

“(b) Final Decision.—Once a final decision has been entered against a party in a civil action arising in whole or in part under section 1338 of title 28 that the party has not sustained its burden of proving the invalidity of any patent claim in suit, or if a final decision in a reexamination proceeding instituted by a third-party requester is favorable to the patentability or any original or proposed amended or new claim of the patent and such decision is not appealed by the third-party requester under section 306(b), then neither that party nor its privies may thereafter request reexamination of any such patent claim on the basis of issues which that party or its privies raised or could have raised in such civil action or reexamination proceeding. This subsection does not prevent the assertion of invalidity based on newly discovered prior art unavailable to the party or privies and the Office at the time of the civil action or reexamination proceeding, as the case may be.”.

(2) The table of sections for chapter 30 of title 35, United States Code, is amended by adding at the end the following:

“308. Reexamination prohibited.”.

(g) Report to Congress.—Within 4 years after the effective date of this title, the Director of the United States Patent and Trademark Office shall submit to the Congress a report evaluating whether the reexamination proceedings established under the amendments made by this title are inequitable to any of the parties in interest and, if so, the report shall contain recommendations for changes to the amendments made by this title to remove such inequity.

SEC. 504. CONFORMING AMENDMENTS.

(a) Board of Patent Appeals and Interferences.—The first sentence of section 6(b) of title 35, United States Code, as amended by section 117 of this Act, is amended to read as follows: “The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, or a patent owner or a third-party requester in a reexamination proceeding, review adverse decisions of examiners upon applications for patents and decisions of examiners in reexamination proceedings, and shall determine priority and patentability of invention in interferences declared under section 135(a) of this title.”.

(b) Patent Fees; Patent and Trademark Search Systems.—Section 41(a)(7) of title 35, United States Code, is amended to read as follows:

“(7) On filing each petition for the revival of an unintentionally abandoned application for a patent, for the unintentionally delayed payment of the fee for issuing each patent, or for an unintentionally delayed response by the patent owner in a reexamination proceeding, $1,250, unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be $110.”.

(c) Appeal to the Board of Patent Appeals and Interferences.—Section 134 of title 35, United States Code, is amended to read as follows:

"§ 134. Appeal to the Board of Patent Appeals and Interferences

"(a) PATENT APPLICANT.—An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(b) PATENT OWNER.—A patent owner in a reexamination proceeding may appeal from the final rejection of any claim by the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(c) THIRD-PARTY.—A third-party requester may appeal to the Board of Patent Appeals and Interferences from the final decision of the primary examiner favorable to the patentability of any original or proposed amended or new claim of a patent, having once paid the fee for such appeal.".

(d) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended by amending the first sentence to read as follows: "An applicant, a patent owner, or a third-party requester, dissatisfied with the final decision in an appeal to the Board of Patent Appeals and Interferences under section 134 of this title, may appeal the decision to the United States Court of Appeals for the Federal Circuit.".

(e) PROCEEDINGS ON APPEAL.—Section 143 of title 35, United States Code, is amended by amending the third sentence to read as follows: "In ex parte and reexamination cases, the Director shall submit to the court in writing the grounds for the decision of the United States Patent and Trademark Office, addressing all the issues involved in the appeal.".

(f) CIVIL ACTION TO OBTAIN PATENT.—Section 145 of title 35, United States Code, is amended in the first sentence by inserting "(a)" after "section 134".

SEC. 505. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date that is 6 months after the date of the enactment of this Act and shall apply to all reexamination requests filed on or after such date.

TITLE VI—MISCELLANEOUS IMPROVEMENTS

SEC. 601. PROVISIONAL APPLICATIONS.

(a) ABANDONMENT.—Section 111(b)(5) of title 35, United States Code, is amended to read as follows:

"(5) ABANDONMENT.—Notwithstanding the absence of a claim, upon timely request and as prescribed by the Director, a provisional application may be treated as an application filed under subsection (a). If no such request is made, the provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival thereafter.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any provisional application filed on or after June 8, 1995.

SEC. 602. INTERNATIONAL APPLICATIONS.

Section 119 of title 35, United States Code, is amended—

(1) in subsection (a), by inserting "or in a WTO member country," after "or to citizens of the United States,"; and

(2) by adding at the end the following new subsections:

"(f) APPLICATIONS FOR PLANT BREEDER'S RIGHTS.—Applications for plant breeder's rights filed in a WTO member country (or in a UPOV Contracting Party) shall have the same effect for the purpose of the right of priority under subsections (a) through (c) of this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'WTO member country' has the same meaning as the term is defined in section 104(b)(2) of this title; and

"(2) the term 'UPOV Contracting Party' means a member of the International Convention for the Protection of New Varieties of Plants.".

SEC. 603. PLANT PATENTS.

(a) TUBER PROPAGATED PLANTS.—Section 161 of title 35, United States Code, is amended by striking "a tuber propagated plant or".

(b) RIGHTS IN PLANT PATENTS.—The text of section 163 of title 35, United States Code, is amended to read as follows: "In the case of a plant patent, the grant shall include the right to exclude others from asexually reproducing the plant, and from using, offering for sale, or selling the plant so reproduced, or any of its parts, throughout the United States, or from importing the plant so reproduced, or any parts thereof, into the United States.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply on the date of the enactment of this Act. The amendment made by subsection (b) shall apply to any plant patent issued on or after the date of the enactment of this Act.

SEC. 604. ELECTRONIC FILING.

Section 22 of title 35, United States Code, is amended by striking "printed· or typewritten" and inserting "printed, typewritten, or on an electronic medium".

SEC. 605. DIVISIONAL APPLICATIONS.

Section 121 of title 35, United States Code, is amended—

(1) in the first sentence by striking "If" and inserting "(a) If"; and

(2) by adding at the end the following new subsections:

"(b) In a case in which restriction is required on the ground that two or more independent and distinct inventions are claimed in an application, the applicant shall be entitled to submit an examination fee and request examination for each independent and distinct invention in excess of one. The examination fee shall be equal to the filing fee, including excess claims fees, that would have applied had the claims corresponding to the asserted independent and distinct inventions been presented in a separate application for patent. For each of the independent and distinct inventions in excess of one for which the applicant pays an examination fee within two months after the requirement for restriction, the Director shall cause an examination to be made and a notification of rejection or written notice of allowance provided to the applicant within the time period specified in section 154(b)(1)(B)(i) of this title for the original application. Failure to meet this or any other time limit set forth in section 154(b)(1)(B) of this title shall be treated as an unusual administrative delay under section 154(b)(1)(A)(iv) of this title.

"(c) An applicant who requests reconsideration of a requirement for restriction under this section and submits examination fees pursuant to such requirement shall, if the requirement is determined to be improper, be entitled to a refund of any examination fees determined to have been paid pursuant to the requirement.".

The CHAIRMAN. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as read.

The Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment and may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device, without intervening business, provided that the time for voting by electronic device on the first in a series of questions shall not be less than 15 minutes.

Are there any amendments?

AMENDMENT OFFERED BY MR. COBLE

Mr. COBLE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. COBLE:

Page 3, insert in the table of contents after the item relating to section 149 the following:

Subtitle D—Under Secretary of Commerce for Intellectual Property Policy

Sec. 151. Under Secretary of Commerce for Intellectual Property Policy.
Sec. 152. Relationship with existing authorities.

Page 3, in the item relating to section 402, strike "development" and insert "promotion".

Page 5, line 12, insert "(1)" before "For purposes".

Page 5, insert after line 15 the following:

"(2) As used in this title, the term 'Under Secretary' means the Under Secretary of Commerce for Intellectual Property Policy.

Page 5, line 21, strike "under" and insert "subject to".

Page 6, line 1, strike "conduct" and insert ", in support of the Under Secretary, assist with".

Page 6, line 4, strike ", the administration" and all that follows through line 8 and insert a semicolon.

Page 6, line 9, strike "authorize or conduct studies and programs cooperatively" and insert ", in support of the Under Secretary, assist with studies and programs conducted cooperatively".

Page 7, strike line 23 and all that follows through page 8, line 3, and insert the following:

"(5) may establish regulations, not inconsistent with law, which—

"(A) shall govern the conduct of proceedings in the Office;

Page 9, line 1, insert "shall" after "(E)".

Page 9, after line 6, insert the following:

"(F) provide for the development of a performance-based process that includes quantitative and qualitative measures and standards for evaluating cost-effectiveness and is consistent with the principles of impartiality and competitiveness;

Page 11, strike lines 15 through 17 and redesignate the succeeding paragraphs accordingly.

Page 11, add the following after line 25:

"In exercising the Director's powers under paragraphs (6) and (7)(A), the Director shall consult with the Administrator of General Services when the Director determines that it is practicable, efficient, and cost-effective to do so.".

Page 13, strike lines 4 through 18 and redesignate the succeeding subparagraphs accordingly.

Page 14, strike line 18 and all that follows through page 15, line 7, and insert the following:

"(5) COMPENSATION.—The Director shall be paid an annual rate of basic pay not to exceed the maximum rate of basic pay of the Senior Executive Service established under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of title 5. In addition, the Director may receive a bonus in an amount up to, but not in excess of, 50 percent of such annual rate of basic pay, based upon an evaluation by the Secretary of Commerce of the Director's performance as defined in an annual performance agreement between the Director and the Secretary. The annual performance agreement shall incorporate measurable organization and individual goals in key operational areas as delineated in an annual performance plan agreed to by the Director and the Secretary. Payment of a bonus under this paragraph may be made to the Director only to the extent that such payment does not cause the Director's total aggregate compensation in a calendar year to equal or exceed the amount of the salary of the President under section 102 of title 3.

Page 16, line 2, strike "policy and".

Page 16, insert the following after line 20:

"(3) TRAINING OF EXAMINERS.—The Patent and Trademark Office shall develop an incentive program to retain as employees patent and trademark examiners of the primary examiner grade or higher who are eligible for retirement, for the sole purpose of training patent and trademark examiners.".

Page 21, line 13, insert "including inventors," after "Office,".

Page 21, line 20, insert after "call of the chair" the following: ", not less than every 6 months,".

Page 27, line 9, insert after the period close quotation marks and a second period.

Page 27, strike line 10 and all that follows through page 28, line 14.

Page 32, insert the following immediately before line 10 and redesignate the succeeding paragraphs accordingly:

(5) Section 41(h) of title 35, United States Code, is amended by striking "Commissioner of Patents and Trademarks" and inserting "Director".

Page 33, line 7, strike "Title" and insert "(A) Except as provided in subparagraph (B), title".

Page 33, insert the following after line 9:

(B) Chapter 17 of title 35, United States Code, is amended by striking "Commissioner" each place it appears and inserting "Commissioner of Patents".

Page 33, insert the following after line 12:

(12) Section 157(d) of title 35, United States Code, is amended by striking "Secretary of Commerce" and inserting "Director".

(13) Section 181 of title 35, United States Code, is amended in the third paragraph by striking "Secretary of Commerce under rules prescribed by him" and inserting "Director under rules prescribed by the Patent and Trademark Office".

(14) Section 188 of title 35, United States Code, is amended by striking "Secretary of Commerce" and inserting "Patent and Trademark Office".

(15) Section 202(a) of title 35, United States Code, is amended by striking "iv)" and inserting "(iv)".

Page 46, add the following after line 23:

Subtitle D—Under Secretary of Commerce for Intellectual Property Policy

SEC. 151. UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY POLICY.

(a) APPOINTMENT.—There shall be within the Department of Commerce an Under Secretary of Commerce for Intellectual Property Policy, who shall be appointed by the President, by and with the advice and consent of the Senate. On or after the effective date of this title, the President may appoint an individual to serve as the Under Secretary until the date on which an Under Secretary qualifies under this subsection. The President shall not make more than 1 appointment under the preceding sentence.

(b) DUTIES.—The Under Secretary of Commerce for Intellectual Property Policy, under the direction of the Secretary of Commerce, shall perform the following functions with respect to intellectual property policy:

(1) In coordination with the Under Secretary of Commerce for International Trade, promote exports of goods and services of the United States industries that rely on intellectual property.

(2) Advise the President, through the Secretary of Commerce, on national and international intellectual property policy issues.

(3) Advise Federal departments and agencies on matters of intellectual property protection in other countries.

(4) Provide guidance, as appropriate, with respect to proposals by agencies to assist foreign governments and international intergovernmental organizations on matters of intellectual property protection.

(5) Conduct programs and studies related to the effectiveness of intellectual property protection throughout the world.

(6) Advise the Secretary of Commerce on programs and studies relating to intellectual property policy that are conducted, or authorized to be conducted, cooperatively with foreign patent and trademark offices and international intergovernmental organizations.

(7) In coordination with the Department of State, conduct programs and studies cooperatively with foreign intellectual property offices and international intergovernmental organizations.

(c) DEPUTY UNDER SECRETARIES.—To assist the Under Secretary of Commerce for Intellectual Property Policy, the Secretary of Commerce shall appoint a Deputy Under Secretary for Patent Policy and a Deputy Under Secretary for Trademark Policy as members of the Senior Executive Service in accordance with the provisions of title 5, United States Code. The Deputy Under Secretaries shall perform such duties and functions as the Under Secretary for Intellectual Property Policy shall prescribe.

(d) COMPENSATION.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary of Commerce for Intellectual Property Policy.".

(e) FUNDING.—Funds available to the United States Patent and Trademark Office shall be made available for all expenses of the office of the Under Secretary for Intellectual Property Policy, subject to prior approval in appropriations Acts. Amounts made available under this subsection shall not exceed 2 percent of the projected annual revenues of the Patent and Trademark Office from fees for services and goods of that Office. The Secretary of Commerce shall determine the budget requirements of the office of the Under Secretary for Intellectual Property Policy.

SEC. 152. RELATIONSHIP WITH EXISTING AUTHORITIES.

Nothing in section 151 shall derogate from the duties of the United States Trade Representative as set forth in section 141 of the Trade Act of 1974 (19 U.S.C. 2171).

Page 48, insert the following after line 18:

"(B) An application that is in the process of being reviewed by the Atomic Energy Commission, the Department of Defense, or a defense agency pursuant to section 181 of this title shall not be published until the Director has been notified by the Atomic Energy Commission, the Secretary of Defense, or the chief officer of the defense agency, as the case may be, that in the opinion of the Atomic Energy Commission, the Secretary of Defense, or such chief officer, as the case may be, publication or disclosure of the invention by the granting of a patent would not be detrimental to the national security of the United States.".

Page 48, line 19, strike "(B)" and insert "(C)".

Page 48, strike line 22 and all that follows through page 49, line 2, and insert the following:

"(D)(i) Upon the request at the time of filing by an applicant that is a small business concern or an independent inventor entitled to reduced fees under section 41(h)(1) of this title, the application shall not be published in accordance with paragraph (1) until 3 months after the Director makes a second notification to such applicant on the merits of the application under section 132 of this title. The Director may require applicants that no longer have the status of a small business concern or an independent inventor to so notify the Director not later than 15 months after the earliest filing date for which a benefit is sought under this title.

Page 49, line 7, strike ", 121,".

Page 49, insert after line 8 the following:

"(iii) Applications asserting the benefit of an earlier application under section 121 shall not be eligible for a request pursuant to this subparagraph unless filed within 2 months after the date on which the Director required the earlier application to be restricted to 1 of 2 or more inventions in the earlier application.

Page 49, line 9, strike "(iii)" and insert "(iv)".

Page 49, line 13, strike "(iv)" and insert "(v)".

Page 49, line 14, insert "nominal" before "fees".

Page 49, line 16, strike "(D)" and insert "(E)".

Page 49, line 17, strike "(C)" and insert "(D)".

Page 50, line 2, strike "(C)" and insert "(D)".

Page 50, after line 2, insert the following:

"(F) No fee established under this section shall be collected nor shall be available for spending without prior authorization in appropriations Acts.".

Page 58, strike lines 1 through 17 and insert the following:

(11) Section 135(b) of title 35, United States Code, is amended to read as follows:

"(b)(1) A claim which is the same as, or for the same or substantially the same subject matter as, a claim of an issued patent may only be made in an application if—

"(A) such a claim is made prior to 1 year after the date on which the patent was granted; and

"(B) the applicant files evidence which demonstrates that the applicant is prima facie entitled to a judgment relative to the patent.

"(2)(A) A claim which is the same as, or for the same or substantially the same subject matter as, a claim of a published application may only be made in an application filed after the date of publication of the published application if, except in a case to which subparagraph (B) applies—

"(i) such a claim is made prior to 1 year after the date of publication of the published application; and

"(ii) the applicant of the application filed after the date of publication of the published application files evidence that demonstrates that the applicant is prima facie entitled to a judgment relative to the published application.

"(B) If the applicant of the application filed after the date of publication of the published application alleges that the invention claimed in the published application was derived from that applicant, such a claim may only be made if that applicant files evidence which demonstrates that the applicant is prima facie entitled to a judgment relative to the published application.".

Page 59, line 7, strike "appellate".

Page 61, strike lines 5 through 9 and redesignate subclauses (III) through (V) as subclauses (II) through (IV), respectively.

Page 62, insert the following after line 6:

"(B) The period of extension of the term of a patent under clause (iv) of paragraph (1)(A), which is based on the failure of the Patent and Trademark Office to meet the criteria set forth in clause (v) of paragraph (1)(B), shall be reduced by the cumulative total of any periods of time that an applicant takes to respond in excess of 3 months after the date on which the Patent and Trademark Office makes any rejection, objection, argument, or other request.

Page 62, line 7, strike "(B)" and insert "(C)".

Page 62, line 19, strike "(C)" and insert "(D)".

Page 63, insert the following after line 4:

Section 132 of title 35, United States Code, is amended—

(1) in the first sentence by striking "Whenever" and inserting "(a) Whenever"; and

(2) by adding at the end the following:

Page 63, strike lines 5 through 7 and insert the following:

"(b) The Director shall prescribe regulations to provide for the further limited examination of applications for patent at the request of the applicant.

Page 63, line 9, strike "reexamination" and insert "examination".

Page 63, strike lines 11 and 12 and insert the following:

qualify for reduced fees under section 41(h)(1) of this title."

Page 63, line 21, insert "secular or" after "succeeding".

Page 64, lines 2 and 3, strike "an applicant who has been accorded the status of independent inventor under section 41(h)" and insert "applicants who are independent inventors entitled to reduced fees under section 41(h)(1)".

Page 71, line 8, strike "**DEVELOPMENT**" and insert "**PROMOTION**".

Page 71, line 11, strike "**DEVELOPMENT**" and insert "**PROMOTION**".

Page 71, in the item relating to section 58 in the matter after line 12, strike "developer" and insert "promoter".

Page 71, line 15, strike "development" and insert "promotion".

Page 71, lines 16 and 17, strike "developer" and insert "promoter".

Page 71, line 17, strike "development" and inserting "promotion".

Page 71, strike line 20 and all that follows through page 72, line 1, and insert the following: "partnership, corporation, or other entity who enters into a financial relationship or a contract".

Page 72, line 22, strike "development" and insert "promotion".

Pages 73 through 84, strike "invention developer" and "INVENTION DEVELOPER" each place it appears and insert "invention promoter" and "INVENTION PROMOTER", respectively.

Pages 73 through 84, strike "invention development" and "INVENTION DEVELOPMENT" each place it appears and insert "invention promotion" and "INVENTION PROMOTION", respectively.

Page 74, line 1, strike "Developer" and insert "Promoter".

Page 74, line 22, strike "developer" and insert "invention promoter".

Page 77, line 1, strike "DEVELOPER'S" and insert "PROMOTER'S".

Page 81, line 7, strike "Developer" and insert "Promoter".

Page 81, line 16, strike "developer's" and insert "promoter's.

Page 83, lines 19 and 21, and page 84, line 2, strike "developers" and insert "promoters".

Page 84, lines 3 and 4, strike "**developer**" and insert "**promoter**".

Page 84, in the matter after line 19, strike "**Development**" and insert "**Promotion**".

Page 85, line 16, strike "Any" and insert "(a) Request for Reexamination.—".

Page 85, line 19, strike "or on the basis of" and all that follows through "invention" on line 21.

Page 86, line 2, strike "or the" and all that follows through line 4 and insert a period.

Page 86, line 7, strike the quotation marks and second period and insert the following: "If multiple requests for reexamination of a patent are filed, they shall be consolidated by the Office into a single reexamination, if a reexamination is ordered.

"(b) Collection and Availability of Fees.—No fee for reexamination shall be collected nor shall be available for spending without prior authorization in appropriations Acts.".

Page 86, line 21, strike "or by the failure" and all that follows through line 24 and insert a period.

Page 89, line 8, insert before the quotation marks the following: "Special dispatch shall not be construed to limit the patent owner's ability to extend the time for taking action by payment of the fees set forth in section 41(a)(8) of this title.".

Page 95, line 13, strike "6 months" and insert "1 year".

Page 95, line 15, insert "effective" after "such".

Page 95, line 25, strike "If" and insert "Subject to section 119(e)(3) of this title, if".

Page 98, line 2, strike "Section" and insert "(a) In General.—Section".

Page 99, add the following after line 8:

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date that is 2 years after the date of the enactment of this Act and shall apply to applications for patent filed on or after such effective date.

SEC. 606. PUBLICATIONS.

Section 11 of title 35, United States Code, is amended by adding at the end the following:

"(c) The Patent and Trademark Office shall make available for public inspection during regular business hours all solicitations issued by the Office for contracts for goods or services, and all contracts entered into by the Office for goods or services.".

Amend the table of contents accordingly.

Mr. COBLE. Mr. Chairman, generally on this Hill the Committee on the Judiciary is not known as the most bipartisan committee here, but there is an exception which has been struck to that belief on this bill. I would be remiss prior to putting my oars into the water and commencing this voyage if I did not recognize a few of my colleagues. Start naming Members and I will inevitably omit someone who should have been named, but I want to mention the gentleman from Michigan [Mr. Conyers], the gentleman from Massachusetts [Mr. Frank], the gentleman from Massachusetts [Mr. Delahunt], the gentlewoman from California [Ms. Lofgren], of course, our chairman, the gentleman from Illinois [Mr. Hyde], the gentleman from Roanoke Valley, VA [Mr. Goodlatte], the gentleman from Indiana [Mr. Pease] has been helpful, the gentleman from Utah [Mr. Cannon]; others I am sure, as well. But we have done this in a bipartisan manner, Mr. Chairman. I think we have crafted a bill, perfect; no, there is not much perfect done around this town or in this world, but a good, solid bill that will serve Americans well.

I rise in support of the manager's amendment to H.R. 400, Mr. Chairman. Some of these amendments are technical. Most of them have been created for the benefits of small businesses defined as those who employ under 500 workers, and independent inventors, who are deserving of some extra protection in our patent system. The manager's amendment took an extremely long time to develop, and it strikes some very crucial compromises by granting additional protection while still preventing abuse.

Inventors have complained that the Patent and Trademark Office has not been able to spend its valuable resources on the most important function of the office, that is, granting patents and registering trademarks with quality review in the shortest time possible. The manager's amendment separates completely policy functions from operational functions. Policy functions are left to the Department of Commerce, giving patent and trademark policy a necessary representative at the President's table, while management and operational functions, day to day, if you will, are vested completely in the PTO. This will allow the PTO to be led by a director who will have only one mission: to process and adjudicate efficiently and fairly the important Government functions of granting and issuing patents and registering trademarks.

As we know, Mr. Chairman, the Committee on the Judiciary has been working with several groups to reach a compromise on special protections for small businesses and independent inventors from publication. We are offering a compromise which will grant protection while still preventing the practice of submarine patenting. While publication has many benefits for both independent inventors and small businesses, the manager's amendment gives these groups a choice over whether or not they wish to be published. It will effectively exempt independent inventors and small businesses from publication by deferring publication until 3 months after the inventor has received at least two determinations on the merits of each invention claimed, on whether or not their patent will issue.

At this stage, the applicant knows whether or not he or she will receive a patent, in which case the patent would be published upon grant anyway under today's law. If it will not be granted, the applicant then may withdraw his application and avoid publication and protect the invention by another means.

Mr. Chairman, this is not a perfect exemption for opponents of this bill, nor is it a perfect exemption for supporters; rather, it is a compromise. If the applicant purposely tries to delay an application between the first and second office action, he or she will, unfortunately, succeed. If the PTO is slow and does not issue a second office action within 18 months, publication will still not occur until 3 months after that second action. The PTO has indicated that after two office actions of those who wish to proceed, 97 percent are granted in short order and, therefore, published. This should move the date of publication to almost exactly the time when publication would occur today.

However, those who want to purposely procrastinate for long periods of time and frustrate the prosecution of their patent applications will be published and, therefore, ultimately unable to submarine.

Another provision concerned the so-called gift provision contained in the bill. While the provisions contained in the bill did not grant the PTO any authority it does not already possess, we have deleted it from the bill. The PTO can accept a gift today.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. COBLE] has expired.

(By unanimous consent, Mr. COBLE was allowed to proceed for 3 additional minutes.)

Mr. COBLE. Mr. Chairman, the manager's amendment also adopts two measures included in the bill introduced by the gentleman from California [Mr. HUNTER] which provide for an incentive program to better train examiners. While the current bill ensures that the advisory board for the new PTO should be composed of diverse users of the office in order to help Congress conduct more effective oversight, the manager's amendment expressly requires that inventors be included as members.

The Committee on Appropriations has expressed concern over the borrowing authority in the bill, as have some critics, although many misunderstood how the authority works under the control of Congress. Much ado has been made about a procedure which would offer a small possibility for the new PTO to borrow money instead of having to raise fees on inventors to pay for any high-technology future products. Accordingly, our amendment strikes the borrowing authority.

In further guaranteeing diligent inventors at least 17 years of patent term from the time of issuance, the manager's amendment allows inventors adequate time to respond to inquiries from the PTO regarding their applications.

Small businesses and independent inventors have been concerned that the new PTO may not recognize the longstanding reduction in fees applicable to these constituencies. The manager's amendment requires that the agency continue to provide that small businesses and independent inventors pay half price for their patent applications.

Independent inventors have claimed that the scope of the reexamination provisions contained in H.R. 400 is too broad. This has been amended to extend greater due process. As we can tell, Mr. Chairman, the committee has worked hard to accommodate the interests of our small business community, not just in this amendment but in the many amendments adopted throughout the process, while maintaining strong protection for U.S. interests against our foreign competitors. I strongly urge all of my colleagues to vote "yes" on the manager's amendment.

Mr. CAMPBELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wonder if I could engage my colleague and friend from North Carolina in a colloquy regarding the manager's amendment.

Mr. Chairman, I will state what I believe is true, and I just want to know if I have it correct or not. I believe that, even with the manager's amendment, every filer for a patent in the United States under the gentleman's bill would have to make public that application even if the patent has not yet been granted; is that correct?

Mr. COBLE. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from North Carolina.

Mr. COBLE. Mr. Chairman, the applicant can, of course, withdraw if it is not to be granted.

Mr. CAMPBELL. Mr. Chairman, every applicant for a patent in the United States who intends to continue in the application process for a patent, even if he has not yet gotten that patent, must eventually disclose under the bill; is that correct?

Mr. COBLE. The purpose for that, Mr. Chairman, if I may say so, is to direct attention to the submariner.

Mr. CAMPBELL. Mr. Chairman, I appreciate the gentleman's understanding. But I believe his answer is yes; am I correct?

Mr. COBLE. Yes, sir.

Mr. CAMPBELL. I thank the gentleman.

Mr. Chairman, we have, I think, very clearly identified what is wrong with H.R. 400 and that it is not solved by the manager's amendment.

Every applicant for a patent who wishes to get that patent, even before they get the patent, is obliged to disclose. Goodbye to the strategy that you say, "Well I am trying for a patent but if I do not get it, I want to keep it secret and try the trade secret route."

One of the aspects that American patent law has right now is a tremendous incentive to the inventor because it allows just that opportunity. I will try for the patent, but if I do not get it, if it does not look like I am going to, then I am going to try the trade secret route.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I just wanted to ask a question. Assuming that happened to an inventor and he or she were published and that information were taken by some other interest in another nation, knowing some of the inventors that I know, if they had to sue, many of them do not have deep enough pockets. In fact, 80 percent of the inventors are small inventors and, if they had to take a case, would it not be extremely difficult for many inventors to try to protect their property rights internationally?

Mr. CAMPBELL. Mr. Chairman, my colleague from Ohio is quite right, but even more right than one might think; because what is the lawsuit about? Under H.R. 400, it is permitted to disclose. It is required to disclose. So if a foreigner takes that and uses that, what are you going to be hiring an attorney for?

Here is a question, Mr. Chairman, if I might instruct my colleagues to allow me to continue.

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Mr. CAMPBELL. Mr. Chairman, why are we messing with the U.S. patent system? Why are we messing with it?

We saw the chart of my colleague from California, Mr. HUNTER. We have Nobel prize winners. We have technology advancement second to none in the world. Why are we messing with it? Do my colleagues not think we should have a good reason before we change such a system as this that has produced such success for our country?

What answers have we heard today? We have heard one, submarine patents. This is what the Congressional Research Service says about the Rohrabacher substitute and House Resolution 400. It says the patent disclosure provisions of the Rohrabacher substitute, House Resolution 811, should substantially curtail the practice of submarine patenting. Both bills seek to curtail submarine patenting and would likely end the practice. That is on pages 12 and 13 of the CRS report.

Let me repeat that. Both bills seek to curtail submarine patenting and would likely end the practice.

If we are messing with the U.S. patent system because of the abuse of the submarine patent, for heaven sakes, let us not go as broad and do the additional damage as House Resolution 400 would do when we can solve it with a much narrower solution, which is in the Rohrabacher substitute.

But let us ask one further question. How large, how deep, how profound is this problem of the submarine patent? Commissioner Lehman, in GATT hearings, was reported in the Washington Times of April 15 of this year to have said that the submarine patent constitutes approximately 1 percent of 1 percent of all patent filings. The numbers that he gave worked out to thirteen one-thousandths of 1 percent of all patent filings.

For that we are going to compel all patent filings, after 18 months, to be made public, whether or not there has been the patent granted? It simply is unnecessary for the small problem and it does a tremendous amount of collateral damage.

Mr. Chairman, I wish to conclude by pointing out that there has been no other case made for changing this present system that has worked so well, no other compelling case. If at the very least we do no harm, we have served our constituents well.

Mr. Chairman, I ask unanimous consent, as my colleague did, for 2 additional minutes.

Mr. GOODLATTE. Mr. Chairman, reserving the right to object, and I will not object, but I would ask that the gentleman from California, if we are going to conduct this debate under the 5-minute rule, recognize that he can make unanimous-consent requests for additional time.

No one here wants to do it, but if the gentleman is only going to recognize folks who agree with his opinion, he is not entering into a genuine debate, and I think we should have that.

So I will not object, but I would make the point to the gentleman.

The CHAIRMAN. The gentleman withdraws his objection and the gentleman from California is recognized for 2 additional minutes.

Mr. CAMPBELL. Mr. Chairman, since my colleague from North Carolina had 3, I would ask unanimous consent for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CAMPBELL. Mr. Chairman, I will reserve one of those minutes for a colloquy with my good friend, the gentleman from Virginia [Mr. GOODLATTE].

So we have the submarine patent as rationale for messing with the system, a small problem and one which is equally solved by the Rohrabacher substitute.

We have heard that research institutions are holding off. They are. Is it not troubling to my colleagues that we are going to be changing the U.S. patent system in a way that the major research universities of our country have chosen not to embrace?

Let me be very clear. They do not embrace the Rohrabacher substitute; they do not embrace the bill introduced by the gentleman from North Carolina. It seems they do not want a change. And I cannot blame them for that attitude. If we are going to change such a successful system, does it not cause us concern that the research universities are not here asking us to do it?

Oh, the commercializers are. And I do not put any negative spin on that phrase, a commercializer is important, as well as an inventor, but they are different, and the motive of the commercializer is to get available as quickly as possible the information and to use it for commercial purpose as quickly as possible. The inventor loses under House Resolution 400 in order to achieve that objective.

Last, we have heard the reference to a need to level the playing field. Well, I do not think we need to rush to equalize when we see the comparison in the numbers of inventions and Nobel prizes as a signal measure of the state of our country and others.

I repeat, in closing, reserving the last minute for our colloquy, no one responded to my point about a prior commercial user. Under the Coble bill, House Resolution 400, somebody who did not file, but has made use of this idea, can expand that use, can take what was making $10 a month and make it $1 million a month, totally eviscerating the value of the patent and destroying the incentive to invent in the first place.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding, and I wanted to join in the conversation he had with the gentlewoman from Ohio, and point out the concern expressed by the two of them about situations in which foreign businesses might steal patent ideas published after 18 months presumes some important facts:

First, that that inventor did not file for a patent in a number of other foreign countries. If they do not file for the patent when the patent is issued, and the average patent is issued in 19 months in this country, there is nothing to stop that same thing from happening upon issuance of the patent all over the world.

Mr. CAMPBELL. Mr. Chairman, if I can reclaim my time to respond, the gentleman's point is quite right. If we file overseas, we put ourselves into the overseas system. If we file overseas, we put ourselves into the European system. And if we choose not to, because we prefer the American system, and for good reason we prefer it, because it has more incentives for invention and more protections for the inventor, we should be allowed to proceed under the American system.

The CHAIRMAN. The time of the gentleman from California [Mr. CAMPBELL] has expired.

The Chair would advise all Members that we will go back and forth and we will give priority to members of the committee.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word, although I might want to put it back by the time I am through.

I rise in support of the manager's amendment of the bill. I am the ranking minority member of the relevant subcommittee, so I have immersed myself to some extent in this. I have had some of my colleagues say to me that they do not quite understand why there is all this passion about the bill, and I will say to those who are looking to me for enlightenment on this that they will go unenlightened.

I think there is a dynamic of rhetoric that keeps arguments going even when they are not necessarily there anymore. There has been some convergence here. Originally, I was a cosponsor with the gentleman from California [Mr. ROHRABACHER]. I had heard from the biotechnology people that they did not like the alternative. That was several years ago.

In the interim, the bills have become less different. I do not expect the entrenched partisans on either side to acknowledge that, but it does seem to me we may want to look at it. In fact, the manager's amendment that came forward further bridges the difference, further reduces the problem of publication.

One point that should be made clear, and I say this because not every Member is fully familiar with it, and some Members were puzzled by publication, people should understand that we do not lose any legal right by publication.

There are some people who think it will be published before I have my patent and then I am not protected. No, that is not true. There is absolutely no diminution of legal right. What people are arguing is that the practical situation in which we are put to defend our legal right might be more difficult. But understand that there is no diminution of our legal right.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, the gentleman is correct, and not only that, but because we improve the patent pending protections, then we can come back and get royalties during that patent pending term after we have been published that we cannot get under current law.

And, in addition, we found that the Europeans get that capital financing. One of the problems they have is the gap between the 18-month publication, when the patent is actually issued, saying, I am going to be exposed during that time. But, actually, the capital comes sooner because they know that since we have been published and no one else has been published ahead of us, we are the one that has that idea; and if they want to invest in it, they can do it now rather than wait until the patent is issued.

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, I think the general rule is sentence-yield, sentence-yield. So now it is time for a sentence, and then I will yield again after I get to say a sentence.

The sentence is, and it is actually a couple: We made another change in this. Under prior law, if two people both filed a similar patent, they were on equal terms before the law and had an equal burden in terms of proving who had invented first, not who filed first, which is not relevant.

We added to the bill after the bill was filed and added language that says, if we have published and someone files subsequent to our publication, we are no longer on an equal footing. We are now in a super-legal position. The person who filed subsequent to us has the burden of proof.

We will indeed, in fact, almost assume that the person copied our patent from the publication. And that is a very important difference.

It is true under old law we could file, somebody else could file, we would publish, someone else would file, and we would be at greater risk. We have further strengthened the hand of the person who files and is subject to publication.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman, because I know he approaches all these issues with complete objectivity and he tries to do what is best for the country.

Mr. FRANK of Massachusetts. On these issues. I get worked up on some others.

Ms. KAPTUR. In this case we disagree. I think that one of my greatest misgivings about the H.R. 400, and the reason I am supporting the substitute is because, having met many inventors, in a State like Ohio, what this bill does is it, and the gentleman says, well, they can defend their rights, and the gentleman from the other side was saying the same thing, but this is a real lawyers' field day because the small inventor, maybe the person who is working on their first patent, will be forced to take money that many of them do not have.

People can defend themselves if they are representatives of a large corporation that has a patent or is filing for a patent. They do not have as much trouble. But the average small inventor under this bill is seriously compromised by the system the gentleman is setting up where we publish after 18 months.

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, I say to the gentlewoman she has made her point and I want both to affirm it and then respond to it.

That is what I meant before. The legal right is not diminished. The gentlewoman is not contesting that. We have the same legal right whether or not there has been publication. The argument has been that those who want to intrude on our patent will do so, and if we are not a person with a lawyer, then we are at a disadvantage.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

(By unanimous consent, Mr. FRANK of Massachusetts was allowed to proceed for 2 additional minutes.)

Mr. FRANK of Massachusetts. That is also true once we have gotten a patent, Mr. Chairman.

In other words, if there are people out there who are determined to use their superior resources and their access to lawyers to infringe on and chip away at and take the benefit from our patent, they can do that whether it has been published or not once it is patented.

Yes, anybody in this society, I guess, who might be in difficulty is at more of a disadvantage if they do not have a lawyer handy than if they do. There might be other cases when people might consider it a disadvantage to be too near a lawyer, but in the case of a dispute, it is probably helpful. But that is true whether the patent is issued or not, whether or not there are people out there after us.

The point I would make is that publication, particularly with the safeguards we have, does not weaken either our legal position nor the disadvantage we might be at because of a lack of access to attorneys.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, it was for exactly that reason I never made the argument about the burdensome lawyers. My argument was different. I wonder what the gentleman's response might be to that.

I understand our legal rights are not changed by H.R. 400 in this regard, but as a practical matter, publication does destroy the applicant's opportunity to go the trade secret route and existing patent law does not. Would the gentleman agree?

Mr. FRANK of Massachusetts. Well, Mr. Chairman, first of all, let me say I welcome the support of the gentleman from California of my argument against the gentlewoman from Ohio. Because he just said he did not like her argument, and I appreciate that. I know they are friends in general, but I should like to point out that the gentleman from California——

Ms. KAPTUR. They are both attorneys. It is so interesting the way this debate goes.

Mr. FRANK of Massachusetts. Yes, but I have never practiced.

I did want to point out that my friend from California has just joined me in opposing the argument of the gentlewoman from Ohio, and I would say there may be an argument of his that she may not like, and I would be glad to have her join in on that one, too.

The next point is that that is true, that we are not forced, except for this thing. There is an inconsistency in the gentleman's question.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

(By unanimous consent, Mr. FRANK of Massachusetts was allowed to proceed for 2 additional minutes.)

Mr. FRANK of Massachusetts. Mr. Chairman, my understanding is that the trade secret is what we invoke as an alternative to patent.

The gentleman said if we file and are published, we lose our right to go for trade secrets. But my understanding is if we go the patent route, that is the alternative to trade secrets. So, therefore, yes, if we decide to get a patent, then we have given up our right to go the trade secret route.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, here is the question I was asking, and I did take the gentleman's answer to my previous question to be "yes," for which I am grateful.

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, maybe the gentleman misunderstood me, and I will clarify it.

The question was, if we are published, do we give up our ability to use trade secrets. My answer was, if that was the question, the answer is that any time we go for a patent, we give up the right to go trade secrets.

□ 1500

I want to finish the one question which was, is there a conflict between trade secrets and publication? My understanding, as I said, is that applying for a patent is an alternative to trade secret. If that was not the question, rather than claiming I answered "Yes," the gentleman ought to rephrase the question.

Mr. CAMPBELL. It was the question, if the gentleman will yield.

Mr. FRANK of Massachusetts. I tried to respond to the gentleman. He then frankly, it seemed to me, somewhat distorted what I said. I am not going to simply allow that to happen, so I want to restate it.

If the question was, does publication take away your right to do trade secret, I would have to say I am surprised at the question, because any patent takes away your chance to use trade secret. Publication is not the operational problem there, it is the desire to ask for a patent.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield again to the gentleman from California.

Mr. CAMPBELL. I thank the gentleman. If somebody under present law wants to try for a patent and wants to keep that going until they are fairly sure they will not get it, they can still go the trade secret route, but under House Resolution 400, come 18 months, they cannot. That is a difference, is it not?

Mr. FRANK of Massachusetts. I would say this to the gentleman. That is a circumstance I had not previously thought about. In other words, what the gentleman is saying is you decide you are not going to get the patent and you withdraw it. I would be prepared to work on an amendment, which I suspect would make no difference to the gentleman overall.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has again expired.

Mr. FRANK of Massachusetts. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

Mr. CAMPBELL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. FRANK of Massachusetts. Mr. Chairman, I ask unanimous consent to proceed for an additional 30 seconds.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

Mr. CAMPBELL. Mr. Chairman, reserving the right to object, if the gentleman would split the time with me.

Mr. FRANK of Massachusetts. No. I do not think the gentleman is interested in the conversation.

Mr. CAMPBELL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. GOODLATTE. Mr. Chairman, I move to strike the requisite number of words,, and I yield to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. I thank my friend from Virginia for yielding.

Mr. Chairman, the point is this. We are talking about a very, very limited circumstance. I think to some extent what we may be patenting—and maybe you cannot patent this, maybe we would copyright it—examples of horrible and extremist that we can come up with that might possibly under certain circumstances create a problem. The gentleman from California has had one. Here is what I think he is positing.

You apply for a patent. Your patent application is published. You subsequently decide that you are not going to get the patent, so you withdraw it and have you then lost your right to protect it under trade secrets?

I do not think it would do any violence to the bill in that circumstance where no one had previously suggested to say that no, you would not lose that. I would be glad to do that. I would be glad to support an amendment in a subsequent part of the process that said if in fact the only thing that happened was that you were published and you were not going to get a patent, that that would not destroy your limited right of trade secrets. That one does not bother me at all. It is the first I had heard of it in all my conversations with the gentleman.

Mr. GOODLATTE. Reclaiming my time, I would point out to the gentleman that there is a provision in the bill already that preserves the right of anybody to withdraw their patent application prior to the 18-month publication date and preserve their right to go the trade secret route. The problem we have here is there is an inherent difference between trade secrets and patents. Trade secrets are protected by keeping them secret. The formula for Coca-Cola, that is not patented, that is a recipe. They keep it locked up in a safe.

On the other hand, if you want to protect something by use of the patent system, the way we do that is the U.S. Government tells the whole world that that individual is the first person to come forward with that patent and they have that protection and that right, and all publication does is give them that right sooner. It does not in any way harm them or take away that right. If they want to go the trade secret route, they can still do it by withdrawing that application.

I would also point out that the average patent in this country takes 19 months, 1 month longer than the 18-month provision. So the fact of the matter is that we are doing very little to harm people and in fact publication is a positive thing.

Ms. LOFGREN. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentlewoman from California.

Ms. LOFGREN. Is it not the case that in the bill if you are only filing in the United States and not abroad and are a small inventor or small businessperson, you have the ability to delay publication until after the second Office action, which is an up or down, and then have the ability to withdraw? So, the issue being raised is really not a problem because it has been dealt with in the bill.

Mr. GOODLATTE. The gentlewoman is correct.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I would also say I was a little bit surprised to hear my friend from California worried so much about the rights of people under trade secrets because I had previously in my conversations with him and in his amendment understood him to be somewhat critical of the trade secrets doctrine and to be interested in narrowing it substantially.

Mr. KIM. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from California.

Mr. KIM. I thank the gentleman for yielding. Mr. Chairman, I would like to have a colloquy with the gentleman from North Carolina [Mr. COBLE].

I would like to talk about a totally new subject, real estate.

Under section 112 of H.R. 400, the new Government corporation is not subject to the provisions of the Property Act of 1949, nor the Public Buildings Act of 1959. The bill would grant to each new corporation the ability to sign a lease and buy and sell property, construct a facility without regard to this law that I mentioned.

Indeed, the Patent and Trademark Office [PTO] is currently in the midst of having a new headquarters acquired by GSA, the landlord of the Federal Government. The PTO has requested acquisition of 2.3 million square feet of office space that could cost over $57 million annually, or even $1 billion over the next 20 years.

In fact, section 112 recognizes this action by stating that the land does not nullify, void, cancel or interrupt any pending request for proposal or acquisition by GSA for the express purpose of relocating or leasing space for the Patent and Trademark Office.

Is that the gentleman's understanding?

Mr. COBLE. If the gentleman will yield, that is my understanding, and I will be happy and any of the rest of us on the committee will be happy to work with the gentleman from California [Mr. KIM] on his committee of jurisdiction with Federal buildings, and I presume that is what prompts his question.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from California.

Mr. CAMPBELL. I thank the gentleman for yielding.

Mr. Chairman, I simply wanted to point out this distinction and then get the benefit of the gentleman's response to it. Many people go into the patent system hoping to get the patent and they are disappointed, but they get indications of that disappointment.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. GOODLATTE] has expired.

(By unanimous consent, Mr. GOODLATTE was allowed to proceed for 1 additional minute.)

Mr. GOODLATTE. Mr. Chairman, I continue to yield to the gentleman from California.

Mr. CAMPBELL. So disappointed, they then choose to go the trade secret route. So that the choice is not only at the beginning but along the path when it does not look like you are going to get a patent. In that context the average time of a patent being 19 months means that a substantial number, more than half, will see the present right held by a patent applicant being taken away. That is my point. I would be grateful to hear the gentleman's response.

Mr. GOODLATTE. I would be happy to respond.

The individual who is in the process and is having a lengthier time processing the patent application than the 19-month average would be concerned about that. Under those circumstances, they would withdraw the patent application and if they wanted to try for the patent again, they are not in any way deprived from having the opportunity to resubmit the patent application which will then pick up with a lot of the work already having been done previously and process the patent through. I doubt there will be very much time lost.

Against that, I want to weigh the benefit of publication. No inventor wants to spend years of their life working on something to find out that somebody else had previously already filed, whether they are a deliberate submarine patenter like some who have kept them submerged for 30 years or others.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. GOODLATTE] has again expired.

(By unanimous consent, Mr. GOODLATTE was allowed to proceed for 1 additional minute.)

Mr. GOODLATTE. Therefore, publication has a number of benefits to inventors, including knowing that you are not wasting your time doing something that somebody else is already ahead of you on, and getting capital investment in your invention sooner because they know that you are the first out there because you are the first published and therefore they can invest in you sooner than they can if they have to wait until they are sure you are going to get the patent because they do not know under our current secret process whether or not somebody else got in there ahead of you. This is a benefit to the small investor, not a harm.

I yield to the gentleman again.

Mr. CAMPBELL. Mr. Chairman, I would just conclude, and I sure do appreciate the gentleman yielding, that overwhelmingly the commercializers are with the gentleman from North Carolina [Mr. COBLE], but overwhelmingly the inventors are with the gentleman from California [Mr. ROHRABACHER].

Mr. GOODLATTE. I have not found that to be the case.

Mr. CAMPBELL. That has been my observation, though I appreciate the gentleman might have a different one. I think that distinction speaks volumes to what the inventor sees as a hurt to his or her entrepreneurial activity.

Mr. GOODLATTE. That has not been the experience in Europe where this process has been used, and I would suggest that this is very much the type of change that we need in this country. This committee has improved the patent system for 200 years. I urge the support of this bill.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the manager's amendment offered by the gentleman from North Carolina [Mr. COBLE], the subcommittee chairman.

Mr. Chairman, I would point out that the two major items in this amendment is, one, to completely separate the operational function of the Patent and Trademark Office from the policy responsibilities of the Patent and Trademark Office, thereby making it most efficient.

I presume that most everybody is for that. I do not recall much objection to it.

Mr. COBLE. I would say to the gentleman from Michigan, not unlike many other features about this bill, a lot of it was misunderstood, but I have heard virtually no complaints about that.

Mr. CONYERS. I did not think so.

I thank the gentleman.

The second most important part of the manager's amendment, from my point of view, is the exemption of the small inventor from the necessity of publication if he chooses to do so. And so, here this exemption from publication for the small inventor is that they do not have to publish until 3 months after the second patent and trademark action, which is usually the final decision regarding a patent.

That has great merit because it gives the protection to the small inventor. Ladies and gentlemen, those who are against GATT and NAFTA, listen up. This is precisely why I am supporting the bill and the manager's amendment because we provide additional protection to the small inventor, we give him the option of publishing 3 months after what is called the second PTO action, which is almost always the final decision regarding the issuance of a patent.

There are a number of technical amendments to the Coble manager's amendment. It is 18 pages long. The provision that I am referring to that exempts small inventors starts at page 10, line 1. Please read it. It is not complicated language.

It is not any more complex than anything we handle every day in the making of laws for the United States of America. It is pretty straightforward. It should not create any problem to anybody that is interested in protecting American inventors who are not corporations to give them the option that they require that they have never had before which does not subvert the patent process, it makes it stronger and is why we are here on the floor with this bill after several years.

Mr. TIAHRT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just went through the manager's amendment, and it is a little difficult to sort through. I am not a lawyer, and I kind of think this ought to be approached in more of a pragmatic way. And so, in weighing this bill, I went back to those who are concerned with it and I talked to some of the people that deal with patents on a daily basis and in trying to improve themselves and our lives by taking their ideas into the patent system.

And I just want to tell my colleagues about a guy in Wichita, KS. His name is Jay Hajeer. He works for Sol Gate, and he has a very simple idea. This simple idea was to increase the size of a memory for most computer models even beyond the amount of design capacity that the computer already has in it.

Jay was able to keep his simple idea quiet enough as it went through the patent process until he did a little planning as far as production, a little planning as far as a way of marketing his product; and he was able to acquire the patent and go ahead and produce this simple product.

And now that it is out and available on the market, I would like to explain it. It is simply a clip. You take the memory board out of your computer, slip this clip in place and slide your memory board in plus an additional memory board, thereby, in this case, doubling the size of the memory.

You can do it for additional memory boards, also. But it is just a very simple idea, just a little plastic clip with a couple of connectors on it. And so, when he had this idea, he did not have to lay it out in front of other people.

□ 1515

I think that having to publish these ideas before they get a patent on it is kind of like playing cards with a mirror at your back. The opponent on the other side of the table is able to read your cards, and he can see what is in your hand. And so in that respect it becomes a level playing field for your opponent, and I do not think we want to make a level playing field for our opponents, especially for other countries.

So let me go back to this simple design. Not only did Jay have time to develop the concept, get the drawings done, also develop a manufacturing plan and a marketing plan by the time he got his patent, once that was achieved, he was able to go right into the marketplace. Now if he had to publish this and there was a delay in his plans, it would have made it easier, especially for the companies in Southeast Asia, to capture this idea and go ahead with manufacturing and push them out of the market. He is a small investor, does not have a big company; he just has good ideas. So this open publishing of the idea, I think, would have made him vulnerable to larger manufacturers even in foreign governments.

So I am a little concerned about this level playing field concept, I am a little concerned about forcing someone to lay their cards on the table, letting them play cards with a mirror to their back. I think that we want to protect ideas and provide incentives for individuals.

And I guess the second point I would like to make is I am not very concerned about these alleged submariners, and perhaps I do not quite have a good grasp of the idea, but what we are trying to do is protect people who have ideas. That is why we have so many Nobel laureates, and that is why we have so many people who come up with ideas in America, is we give them incentives to sit around and dream up ideas.

I rode back to Wichita one time with a guy on the airplane who came up with an idea of mixing naphtha and water together, and one can burn it in a gasoline engine; and he has a license with Caterpillar to do just that. It is an idea that he has come up with that we can use water as a portion of the fuel. It cuts down emissions, it is a great idea. But he has to have a way of protecting his ideas so that he cannot lay his cards on the table and allow someone else to run with the ball until he gets the capital or gets the needs that he has.

So I guess I am not as concerned about the submariners as everybody else is because I think it is good to have a bank of ideas, to have them protected so that you can go on to the next idea while somebody develops a manufacturing process.

So those are my concerns on H.R. 400 and also in the manager's amendment, and that is why I will be voting against it, because it levels the playing field when I do not think it should; it levels it for the opponents.

Mr. HYDE. Mr. Chairman, I have a unanimous consent request that I would like to present to the House, but I would like just to say about those Nobel Prize winners, a lot of them have foreign accents, the ones I have met anyway.

Mr. Chairman, I ask unanimous consent that, when we finish with this manager's amendment, which I pray will be soon, I pray it is imminent, that debate on the Rohrabacher amendment and all amendments thereto be limited to 2 hours equally divided between proponents and opponents, the time to be controlled by the gentleman from California [Mr. ROHRABACHER] and the gentleman from North Carolina [Mr. COBLE] and that they be permitted to yield blocks of time.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. ROHRABACHER. Reserving my right to object, Mr. Chairman, is his unanimous consent request saying that there would be 2 hours of debate for my substitute?

Mr. HYDE. Yes, Mr. Chairman.

Mr. ROHRABACHER. Mr. Chairman, but not for my substitute coupled with all the other amendments?

Mr. HYDE. No, Mr. Chairman. No, the other amendments will stand on their own, and we will probably get to them next week. It is simply trying to get the important amendment, if the other offerers will forgive me for downgrading their amendments, and get it out of the way and have an idea when we can secure because people would like to leave.

Mr. ROHRABACHER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. FORBES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in all due respect, I have not had a chance, but 1 minute, to speak at various times here, so I would like to make a couple of points. I know the dialogue has gone on, and I will not try not to indulge the House too much longer.

I think it is very, very important though in this critical debate to understand that, while we have spent a lot of time on the submarine patent idea—you know, the notion that somebody hides this kind of prospective patent and it rears its ugly head to challenge somebody else later in the future, I appreciate that. And I think it has been well established here in this body this afternoon that either the main bill, H.R. 400, or the Rohrabacher substitute does deal with the submarine patent issue.

I think it is important again to stress that of the 2.3 million patents that were issued from 1971 to 1993, 2.3 million patents, 627 of those patents were deemed submarine, and almost half of those were by the U.S. Government. So the problem is not necessarily foreign interests bearing these submarine, these patents. So I think that is an important point to understand here, but we have dealt with the submarine issue, so I will not prolong that.

I think we get back to the essence here, and the essence of all of this really is again that we have American inventors who have defined this Nation as a place where somebody with a good American idea could come to Washington, DC, with that idea and protect that idea and it would not be made available to the whole world to steal.

I understand the distinction if one files overseas. I am today talking specifically about our American citizens who come up with good ideas and want to protect those ideas on American soil. That is what I am talking about, and I think we need to protect them.

That is why I am asking in a most aggressive manner through my amendment that we do protect the entrepreneur, the people who are working extra jobs to protect this idea that they have been working on, the small business people.

Look, the corporations, the multinational corporations, are well protected. They will be well protected in this legislation, they will have the battery of lawyers they need, but the little guys out there with no resources who have wonderful ideas that have made America great who have made us the superior Nation on the face of the earth because of our ideas and our technology, we are going to compromise that away. We will no longer have Alexander Graham Bells, we will no longer have first generation Americans coming up with a great ideas like Thomas Edison, and we will no longer have the Eli Whitneys or all the other people who have come through generations that have made this country the greatest Nation because of our people that go out there, come up with a great idea, send it to Washington and protect it. Now we are saying, "Sorry, individuals; sorry, small business people; you are not going to have the protections because you'll have to share your idea with the whole world after 18 months or some few months after that based on the manager's amendment which says, well, we will make a little alteration there."

If we are really caring about the individual in this country and not the corporate interests, we will make an exception for individuals, small business people, who do not have the resources that this bill will mandate.

Mr. Chairman, my colleague from Ohio was exactly correct. This will be a lawyer's field day because we will turn it over to the courts, and even the presumption that the patent holder is protected will be put in jeopardy under these changes.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FORBES. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, is the gentleman aware of page 10 of the Coble manager's amendment starting at line one that exempts the small independent inventor from publication?

Mr. FORBES. Only if that inventor withdraws their patent application. It is not exemption.

Mr. CONYERS. It is optional with the small inventor; and if I might just read the sentence, it might change the gentleman's entire speech, and here is what it says. Just hear this.

The small, the independent, inventor in small businesses have expressed concern, and so the manager's amendment will give them a choice over whether or not they wish to be published. It will effectively exempt independent inventors by deferring until 3 months.

Mr. FORBES. Reclaiming my time, with all due respect I say to the gentleman I read it myself. And what it says is if someone is an individual in this country or a small business, and they do not have the resources, and they do not want their patent protected; I mean published, excuse me; then what they can do is they can opt out of participating in the patent protection system because then they will not get published.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. FORBES. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, the gentleman is reading from the summary and not from the actual text. I note that point. But the summary is correct, and so was my colleague from New York. One can always get out of the mandatory publication rule.

The CHAIRMAN. The time of the gentleman from New York [Mr. FORBES] has expired.

(By unanimous consent, Mr. FORBES was allowed to proceed for 2 additional minutes.)

Mr. FORBES. Mr. Chairman, I yield to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Chairman, I appreciate the gentleman yielding continuously.

All that speaks to, Mr. Chairman, the gentleman from Michigan's point, all it speaks to, if one chooses to opt out of the patent system, then they do not have to disclose. But that is always the case. One can opt out of the patent system.

Mr. FORBES. Reclaiming my time, if I might, and in my remaining minute here I think it is just important to stress to my colleagues who have real problems understanding the technicalities of this issue, and I can appreciate it; this is very, very important. I am talking about the little people in this country, the small inventors, the people who do not have vast sums of money who have made this country great and changed the face of the economy of this Nation over the last 200 years. They will be hurt by this change.

Mr. Chairman, this is a harmful piece of legislation. In all due respect to the folks who have drafted it, this is not good for the little people in America, it is not good for small businesses, and I urge the defeat of H.R. 400.

Ms. LOFGREN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I doubt that I will use the entire 5 minutes. I just think it is important to point out a few things. There is an accuracy deficit here.

Mr. Chairman, in the bill with the exemptions provided for in the manager's amendment, which I support, publication is at 18 months, and the inventor is protected from that time forward. So it is not as if we are asking people to publish their invention without protection.

Mr. Chairman, I would like to complete my sentence. There has been a lot of discussion that the little guy will not be protected because he or she does not have access to the fancy lawyers and the legal system that is necessary to protect themselves. Let me point this out:

If someone obtains a patent—they have an invention, they file for their patent and their patent is issued—that patent is only as good as their ability to enforce it. Enforcing the patent requires them to oftentimes come into contact with the legal profession and to actually expend fees in pursuit of protecting their patent. And I would point out that there are many lawyers, if they have a good case, who will take the case on a contingent fee if the patent holder is being attacked by a foreign corporation in a patent infringement action.

It is important to talk about the issue of submarine patents. I have heard a lot about statistics. I do not hear those same sorts of arguments when we stand here and talk about, for example, product liability law. It is not our problem because it is only a percentage. If it is 500 million, it does not matter because it is only one case.

Let me talk about the case of Jerome Lemelson who filed in America for a bar code and robotic technologies who delayed his patent for 35 years. He collected $500 million in royalties from manufacturers from the late 1980's until the early 1990's. His patent attorney made $150 million in 1 year, and then later the Federal district court found that he did not have an enforceable patent.

I do not know Mr. Lemelson, I have nothing against him personally. I would just say that is nothing to advance the economic interests of America or of working people or of countries or of innovation. That is important; do not tell me about percentages. We need to prevent it.

Mr. GOODLATTE. Mr. Chairman, will the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I ask do we know how many hundreds of millions of dollars the attorney for Mr. Lemelson received in fees thus far for his submarine patenting?

Ms. LOFGREN. I do not know and I certainly never fault an attorney for earning an honest living. I would just point out that this issue is a big deal to those companies that paid those fees and the attorney fees.

I will tell the gentleman something else, and I do not want to quote the entire letter, but some of my colleagues have heard of Charles Trimble, the president and CEO of Trimble Navigation, a brilliant physicist and an individual who owns many patents and who was a leader in global positioning systems. Were it not for Dr. Trimble, we may not have that technology at all. I had the opportunity to talk to Dr. Trimble just a few short weeks ago. He followed our conversation with a letter to me. He is the owner of the patents. He is the one who has designed this system. He is fighting off submarine patents right and left.

□ 1530

It is not the right thing for our country to allow.

Mr. GOODLATTE. Mr. Chairman, if the gentlewoman will continue to yield, I think the point is that this patent reform bill fights against abuse of and gaming of the current system, which is a great playground for some lawyers to make huge fees at the expense of the American consumers and taxpayers, and we are correcting that with this legislation today, quite to the contrary of those who would allege that the new laws will help lawyers, quite to the contrary.

Ms. LOFGREN. Mr. Chairman, reclaiming my time, that is correct. The main point I wanted to make is to have rights that are enforceable one must seek access to courts, which requires lawyers, whether your rights attach at publication, whether the rights attach, as used to be the case, at issuance or the like. Your rights are only as good as what you stand up for.

Mr. DICKS. Mr. Chairman, will the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I rise today to speak in strong support of H.R. 400, a package of patent reforms that will have significant positive impact in several key industries in the

State of Washington, namely the information technology, biotech, aerospace, and defense industries. I believe that this legislation will result in tangible improvements in our Nation's patent system, and that it strikes a balance between the need to assure strong patent protection for inventors while allowing for the free flow of information regarding new technologies. In this regard, I believe that H.R. 400 will foster the best of American ingenuity and serve as an important mechanism for spurring U.S. economic growth and competitiveness.

I regret, Mr. Chairman, that opponents of this legislation have sought to portray this patent debate as a David versus Goliath fight when, in fact, the reforms contained in the bill will benefit large and small companies alike. The committee bill protects the work and intellectual capital of thousands of Americans, whether working in basement laboratories or in teams at major U.S. corporations. By cutting bureaucratic red tape, reducing the operating costs, and promoting self-funded PTO, all patent filers stand to gain from a more predictable, efficient, inexpensive, and equitable patent system. H.R. 400 also contains several safeguards to protect independent inventors, and in this regard I note that nationwide associations representing 30,000 small business members are in support of the legislation we are debating today.

I also rise in strong opposition today to the amendment offered by the gentleman from California [Mr. ROHRABACHER] who seeks to substitute his legislation which, in my judgment, will reverse the positive patent reforms that were achieved through the GATT and would encourage abuse and manipulation of the patent system. The gentleman from California has maintained that the issue of the so-called submarine patents represent only a miniscule problem for our system. But I believe it has been shown that this gaming of the system has cost inventors, U.S. companies, and consumers billions of dollars and it would only continue under the language Mr. ROHRABACHER is asking us to adopt.

As a member of the National Security Appropriations Subcommittee and the House Intelligence Committee, and as a Representative of a State that depends upon the best of human and intellectual creativity, I can assure you I would never endorse a proposal that undermines our national security or undercuts our global competitiveness. In the 2 years prior to the passage of the 1995 GATT law, 300 foreign companies manipulated the patent system to their advantage, at the expense of American inventors and consumers. Despite Mr. ROHRABACHER's disingenuous label of H.R. 400 as the "Steal American Technology Act," I am afraid that the bill he is offering as a substitute would only worsen that draining of intellectual capital from the United States.

This is a major issue for all high-technology areas of the United States, and particularly for the Pacific Northwest, which has become an intellectual center for software development and biotechnology—two areas in which the United States leads the rest of the world. The foundation of the information technology industry in my region and nationwide is its intellectual capital, and as such, intellectual property protection is critical to the continued growth and success of this industry. In 1975, Microsoft was founded on the ideas and hard work of a handful of people; in just over 20 years, it now has almost 20,000 employees. Hundreds of startup companies have been launched following Microsoft's success, further contributing to the thriving high-technology industry in the area. The software industry as a whole provides high-wage, high-skilled jobs for more than 500,000 American workers and currently enjoys 70 percent of the world market—a share that will rapidly diminish if intellectual property protection is minimized. As R&D spending continues to increase, and while product cycles are condensing into timeframes of 9 to 12 months, predictability and full disclosure of existing patent applications becomes ever more critical. Due to the complexity of software patents, and a lack of prior art and expertise in the field, the average patent pendency for software is 36 months, double the PTO's average processing time. For this reason, an efficient PTO with highly trained and experienced examiners is becoming increasingly important.

Passage of the Rohrabacher substitute, H.R. 811, and a return to the previous system enabling the practice of submarine patents, also threatens the biotechnology industry which is thriving in the State of Washington. Patents are critical to the research of the biotechnology industry into cures and therapies for deadly and costly diseases like cancer, AIDS, Alzheimer's, cystic fibrosis, multiple sclerosis, heart disease, and 5,000 genetic diseases. Any law which undermines the ability of biotechnology companies to secure patents with a full term undermines funding for research on deadly, disabling and costly diseases. Capital will not be invested in biotechnology companies if they are not able to secure intellectual property protection ensuring that they have a full term for a patent in which to recoup the substantial investments they must make in developing a product for market. Today, the United States remains preeminent in the field of biotechnology but has become a target of other country's industrial policies. Only by maintaining strong intellectual property protection, and preventing the gaming of the patent systems by foreign companies can the U.S. biotech industry continue to remain dominant.

I am convinced Mr. Chairman, that intellectual property is rapidly becoming the critical national resource of the next century's world economies, and I urge my colleagues to move forward with the improvements to our current patent system contained in the H.R. 400, which I have cosponsored, not backward with the substitute offered by Mr. ROHRABACHER. An efficient and predictable patent system encourages both job creation and the research and development activities that have made the United States the global leader in many high-technology sectors. This is precisely what H.R. 400 seeks to do.

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to reiterate what I said at the start of this good, robust debate, and that is that I have great respect for the gentleman from Illinois [Mr. HYDE], the chairman of the full committee and my great friend, and the gentleman from North Carolina [Mr. COBLE], the chairman of the subcommittee, my other great friend. I want to thank both of them for all of the great work that they have done.

I think one thing that we have proved to the world over the last several hours is that this is a fairly complex subject. I think that the area that the gentlewoman from California [Ms. LOFGREN] just spoke to is a huge area. It is an area of great importance, because we keep getting up on our side and saying that there is publication after 18 months, that all of these inventors have their secrecy ripped away from them, and then people can come in and unscrupulously flood around them with patents, which the practice of flooding is used in Europe and Japan where that 18-month publication system exists, and then the other side gets up and says, no, we have fixed that, there is an exception for small inventors. They do not have to publish.

Let us walk through that. Right now you do not have to publish until some 20 years after you have applied for your patent, and that gives you a long time, especially if you have a very complex piece of technology, to go out and get the money, get the running room that these Nobel laureates who support the Rohrabacher bill apparently want to keep. They do not like the new bill. But under the new bill, you jerk that veil of privacy away from them after 18 months.

Now, they do have a choice under the committee bill, but the choice for small businesses is not to be published. They do not have that choice. They either have to publish after 18 months or get out. They have to get out of the patent system and give up their attempt to get a patent and give up forever the chance to get that very important protection.

Now, it is true, and I want to hold up this list of people, very bright people who do not want this protection that the committee wants to give them. The gentleman, Nobel laureate, Franco Modigliani who developed management systems; Kary Mullis, Nobel laureate, polymerase chain reactor; Gertrude Elion, Nobel laureate, transplant antirejection drugs; the guy who invented the neonatal respirator; the guy who invented the MRI machine. Lots of these very bright people do not want to be published early under the system that exists in Japan.

Now, this chart tells you maybe why they do not want to be published. Why are there so few Nobel laureates in the sciences in Japan? Only five. There are 175 in the United States. The reason is very clear. These people get their privacy ripped away after 18 months. That means they do not have the running room to go out and get capital, to get a start-up company, to go out and line up the support that it takes to get a technology into production.

In the United States we have a ton of Nobel laureates because we give them protection, we give them some running room. So let us get this straight once and for all. The committee bill says that after you have had two office actions in the Patent Office, that at least a third of the patents go way beyond two office actions, but after you have two office actions, you have 3 months to decide whether to publish to the world or get out of the patent system.

Now, let us go to submarine patents for just 1 minute. Submarine patents have been the subject of almost three-quarters of the argument time spent by the proponents of this bill. I am told by the testimony that I read, or the summary of the testimony, by the Patent Commissioner was that over the last 20 years of 2.3 million patents issued, 370 of those patents were submarine patents. That is less than one-tenth of 1 percent.

So a lot of these Nobel laureates would probably say, you know what we would go along with? We are not a bunch of phoney submariners, we have good stuff, we just want to protect it. What we would go along with is a provision from the bill that would say, if you do not use due diligence, then the Patent Office should publish you.

That will take care of that problem. That takes care of those 370 submariners. That is in the Rohrabacher bill. If you do not use due diligence, you get published. So the guy that hides for years and years and years gets brought out into the open and published.

I think one reason these Nobel laureates do not like this is they are saying why do you expose 2.3 million patent holders early, early in the game and let people take advantage of them because of what 370 guys did? It does not make sense.

So once again, I want to thank the chairman of the subcommittee, the gentleman from North Carolina [Mr. COBLE], and the full committee chairman, the gentleman from Illinois [Mr. HYDE], for bringing this very important bill forward, but I go back to the beginning of the debate when the gentleman from Florida [Mr. GOSS] said first do no harm. Folks, we are doing harm with this bill.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

First of all, I want to acknowledge the leadership that my good friend from California, [Mr. ROHRABACHER], has shown on this issue, and I think that the gentleman has taken up the interests of how we are going to be able to compete in the high-technology environment and in a global economy in a way that I was very supportive of in the last Congress. I commend the gentleman from California [Mr. ROHRABACHER] for the initiative that he has shown on this issue.

My feeling, after having listened to this debate and recognizing that I come from a district that represents universities such as Massachusetts Institute of Technology and Harvard University, I have more universities than any other Member of Congress, over 48 different universities come from the eighth district of Massachusetts. There is more research and development money spent in my congressional district than any other congressional district in the United States of America. I should not tell my colleagues all this because they will cut it all.

So anyway, I have to skip that part of the speech and get into the fact that what we have is an enormous concern over patent law and patent law deficiencies that have occurred during the course of the last few years. We have seen this most particularly with regard to the last few years in direct result of some of the GATT agreement that ended up as a result of a long negotiation providing protections for some of our inventors and some of our patent applicants here in the United States, but only after a very difficult set of negotiations. As a result of my involvement in that issue, I was happy to support the efforts of the gentleman from California [Mr. ROHRABACHER] in the last Congress.

My understanding, and I would be open to hearing from the gentleman from California [Mr. ROHRABACHER], is that the gentleman from North Carolina [Mr. COBLE] has, in fact, tried to take up some of the concerns.

We just heard the gentleman from California [Mr. HUNTER] talk about the fact that there is an issue pertaining to the small businessman or the small inventor that comes up with a particular idea and the fact that, as I understand it, in the legislation of the gentleman from North Carolina [Mr. COBLE], there would be, in fact, an 18-month protection, that there would be an opt-in for a total trade secret protection.

Now, that might not be fully protective of all of the interests of the small inventor, because at some point someone might go around him and try to steal the patent and then he is into a big lawsuit with a larger company. But it does seem to me that the gentleman from North Carolina [Mr. COBLE] has tried to come up with a reasonable compromise for us to be able to support.

So I would like to entertain just a discussion with the gentleman from California [Mr. ROHRABACHER], who, as I say, I did support in the last Congress. My inclination was to support the gentleman from North Carolina [Mr. COBLE] today. So I would like to hear what the gentleman's concern is.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Massachusetts. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, no. I would say the efforts of the gentleman from North Carolina [Mr. COBLE] have not in any way met my concerns and, in fact, have raised more concerns the more I look into the legislation.

In fact, if the gentleman will notice from the universities that are in his district, none of them, none of them support H.R. 400. Had the gentleman from North Carolina [Mr. COBLE] actually gone and moved forward, trying to take those concerns that we all had last year into consideration, they would be here. Instead, the central issue, and the central issue which remains, as everyone can see, is whether or not our information that we have developed during a research and development process, so important to our colleges and universities, whether or not that information is going to be forcibly published so that everyone else in the world will be able to steal it.

Mr. KENNEDY of Massachusetts. Mr. Chairman, reclaiming my time briefly, I have been in touch with the universities of my district. While they are not perhaps as actively supportive as the gentleman from North Carolina [Mr. COBLE] would like, they do not oppose this amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Massachusetts. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I would think we could state this very clearly. No, the universities are not supporting the committee bill, they are not supporting the bill of the gentleman from California. He is being unusually reticent. My friend from California is being unusually reticent in leaving his own bill out of this conversation. He is not ordinarily so modest about it.

I have worked with the universities, with Harvard, and MIT and some others. My understanding of their position is that while they were originally opposed to H.R. 400, the changes we have made have brought them to a position of neutrality as between the two bills. I do believe they want to see a bill passed, but the fact is it seems rather odd for the proponents of one bill to be citing the universities' neutrality when the universities are neutral as between the two bills.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Massachusetts. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, I think the correct point is that the universities have chosen to stay on the sidelines, and my colleague from Massachusetts, and I have both been in contact with them.

I believe this is very significant, because if one asks them, and this is my guess, I am not saying anyone told me precisely, though one actually did, they would prefer neither. They would prefer we do not mess with the system.

So the burden of proof should be on somebody who is proposing a major change in the patent bill. Research universities prefer no change, and that is what I think we should do.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. KENNEDY] has expired.

(By unanimous consent, Mr. KENNEDY of Massachusetts was allowed to proceed for 2 additional minutes.)

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Massachusetts. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, that is the oddest invocation of the burden of proof I have heard. The burden of proof is somehow on those who would support one bill, but not on those who would support one equally important.

The gentleman said the burden of proof is on one. As a matter of fact, what is clear to me from working with the universities is this: They had some objections. We have improved the bill from their standpoint to the point where they do not now object to it. They are not choosing between the two bills. But I would differ. At least with the universities I have talked to, there are elements in this bill, including, for instance, blocking the diversion of patent fees from the Patent Office, which makes them want some bill, and there are others who believe that some action in light of what is going on internationally is important.

The key point is this: People who are the proponents of one position versus another should not come in and simply say, oh, the universities do not like your position, when they have a neutral position. I think some Members got the impression that they have taken sides.

Mr. KENNEDY of Massachusetts. Mr. Chairman, reclaiming my time, let me yield to the gentleman from California. If the Chairman would just let me know when I have about 30 seconds left so I might close.

Mr. CAMPBELL. Mr. Chairman, there were things in the bill, however, that the universities do not like, like the reexamination procedure. They think they have a patent and then suddenly under this bill it can be opened up for reexamination in ways and in processes not under existing law.

I agree with my colleague, the gentleman from Massachusetts [Mr. FRANK]. The burden of proof is on anyone who wants to change the status quo, and that is true of the gentleman from California [Mr. ROHRABACHER] and it is true of the gentleman from North Carolina [Mr. COBLE]. But if you ask the universities, their bottom line is leave it alone, and that is what we should do today.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I would just like to close.

I have come into this debate with an open mind. My sense is that there has been, in fact, significant advancements made on where the Moorhead bill was 2 years ago to where the Coble bill is today.

My inclination, after having talked with the various universities and a lot of the small businesses, as well as other companies within my own district, that I think the gentleman from North Carolina [Mr. COBLE] is making a significant effort forward, and I look forward to supporting his bill.

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Mr. PEASE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just wish to follow up the comments of my colleague, the gentleman from Massachusetts [Mr. FRANK], who has been in personal conversation with a number of the universities in the Northeast. Our staff, at the request of the chairman, the gentleman from North Carolina [Mr. COBLE], together with his staff have spent a lot of time in conversation with associations which represent universities of all sizes, both public and private, across the country.

My assessment of those conversations is that the representation of the gentleman from Massachusetts [Mr. FRANK] is in fact accurate; that while there were concerns about some portions of the initial legislation, those concerns have been addressed, and while no piece of legislation may be perfect, that what we have before us with the manager's amendment does meet the great majority of those concerns from what is a very diverse audience that includes public and private schools, small and large schools, individual professors working alone, and professors working together and in cooperation with major corporations.

I think it would be as difficult to get consensus in higher education on this subject as it would be in this body to get consensus. But my assessment of the view of the associations with which we have worked is that the bill that we will have before us, after the manager's amendment, does address their major concerns.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I yield to the gentleman from California.

Mr. CAMPBELL. I am grateful for the gentleman's yielding.

Mr. Chairman, it is my understanding that there are four universities who have expressed an opinion, and if this is wrong I am asking the gentleman to correct it.

It is my understanding that the State University of New York at Stony Brook supports Rohrabacher; that Louisiana State University supports Rohrabacher; that the University of Delaware supports Coble; that Rice University supports Coble; and that every other university has chosen not to take sides in this debate.

If that is incorrect, I would most welcome the correction. But if it is correct, I would suggest that the burden of my remarks that I made, that the universities would really prefer that we not mess with this system, is more accurate.

Mr. PEASE. Mr. Chairman, I cannot speak for the four universities individually to which the gentleman has made reference because we spoke only with associations, those who represent groups of universities, and not with individual universities. We did have conversations with individual universities, a number of them in the Midwest. In each case they referred us to the associations of which they were members.

Mr. CAMPBELL. If the gentleman will continue to yield, Mr. Chairman, does the gentleman know, since he has been in touch with the university associations, does any association of universities support either of these two bills, to the gentleman's knowledge?

Mr. PEASE. To my knowledge, none of the major associations has taken a position on either bill.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I think we may be back in the Subcommittee on the Constitution of the Committee on the Judiciary, apparently. It sounds like some of my friends are about to create a third house of Congress, which is the universities, and only if they vote positively can we pass a bill.

Mr. Chairman, I differ with the implicit imputation of great inarticulateness to the university sector. The gentleman from California says it is true they have said they do not support or oppose either bill. They do not oppose it. But the gentleman says that he infers from the fact that they do not support or oppose either bill the fact that they oppose any bill at all.

In my experience, universities are not reticent. When universities have positions, they tell us. The fact that the universities have not said they were opposed to this would lead me to the conclusion, perhaps it is going out on a limb, but when the universities tell me they are not opposed to a bill, I infer they are not opposed to a bill. Perhaps there are subtleties unbeknownst to me.

I worked with universities when they were opposed, and when they were they have said so. So we have made some changes, and they are not now opposed to this, they are neutral. It does not seem to me we have to absolutely do whatever they say, anyway. But neutrality is not opposition.

Mr. CAMPBELL. Mr. Chairman, if the gentleman will yield further, I believe that the gentleman from Massachusetts and I agree that there is a burden of proof in debate, there is a burden of proof in those who would change the status quo, and the university community is not a third house of Congress, nor have I set it up to be so.

But they are important. And they are not reticent in letting us know things they want, like major assistance with research, particularly in the times of a shrinking budget. That they have not done so is to me a very important point. That they have chosen to be silent regarding this bill is to me quite significant, if we start from the premise that there is a burden of proof on anyone who wants to change the status quo.

What we are left with, and I appreciate the gentleman's yielding, is that there are those who commercialize, like the Coble bill, those who invent, like the Rohrabacher bill, and universities have one foot in each camp, they both commercialize and invent, and it seems to me for that reason they are staying out.

Ms. KAPTUR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Rohrabacher substitute and against H.R. 400. Mr. Chairman, I wanted to read into the RECORD some of the organizations that are opposing H.R. 400 and supporting the Rohrabacher substitute, organizations like the Alliance for American Innovation, the American College of Physician Inventors, the American Small Business Association, the National Association for the Self-employed, the National Association of Women Business Owners, the National Congress of Inventor Organizations, the National Patent Association, the National Small Business United. These are not insignificant organizations.

The Patent Office Professional Association, the Ohio State Bar Association, from my home State. This is a very small, partial list. The Small Business Legislative Council, the Small Business Technology Coalition, the Small Entity Patent Owners Association, United Inventors of America. One of the great scholars of our time, Franklin Modigliani at MIT, a Nobel laureate.

These are not insignificant organizations, nor individuals; inventors like Dr. Paul Burstein, the inventor of rocket motor inspection systems, or Gertrude Elion, the inventor of leukemia-fighting and transplant rejection drugs.

There are people here who recognize what is being proposed in the base bill is in fact a significant departure from current practice. They are not satisfied with the so-called changes that are being made actually every moment, from what I can tell from this position here, in order to accommodate the flaws that exist in the base bill.

So I would say to the Members, Mr. Chairman, that it is very important to recognize that we not tamper with a system that is working, that has worked for centuries, and certainly for the last several decades as the United States in this century became the preeminent industrial and agricultural leader of the world.

H.R. 400, in contrast to the substitute, is actually taking us back, not forward. Why we would want to subject our inventors to divulge the contents of their patent application before it is granted is beyond me. I do not know why we want to take that secret protection away and involve them in litigation. Why would we want to do that? Why would we want to do that domestically, and certainly why would we want to subject them to cases internationally, which are so expensive that most of the smaller inventors cannot even afford to defend their interests?

The average American knows it is hard for them to go to court and pay the court costs in this country. Can Members imagine what it is going to be like to deal with international infringements on their patent applications if they have to function under this proposed base bill?

Mr. ROHRABACHER. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, this is, after all, the ultimate bipartisan issue that we have been discussing today, and who supports the little guy. That is what we are trying to do with the Rohrabacher substitute.

Most people know there are a lot of conservative Republicans who have spoken today, and the gentlewoman has been here as well. Are there not many people on the gentlewoman's side of the aisle who are very concerned about this? Perhaps the gentlewoman would like to talk about some of the others who are supporting the Rohrabacher substitute, because I am proud to have many, many, liberal Democrats on our side protecting the little guy.

Ms. KAPTUR. Mr. Chairman, that is right. Actually, the gentlewoman from California, Ms. MAXINE WATERS, was down here earlier and had to go back to a markup. She is supporting this legislation.

The gentleman from Missouri, Mr. DICK GEPHARDT, our minority leader, will be supporting the Rohrabacher substitute.

The gentleman from Michigan, Mr. DAVID BONIOR, on our side of the aisle will be supporting the substitute. So frankly, I think this issue goes down to the point of who has actually read the legislation and who has not, and most Members do not serve on the Subcommittee on Courts and Intellectual Property of the Committee on the Judiciary. Therefore, they have not had an opportunity to follow some of the machinations.

I respect the gentlewoman's work on this measure. I know how hard she has worked on it. I know she has been accommodating to many of the changes we have been trying to make.

Mr. Chairman, the bill is not where we would like it to be yet, and therefore I remain supporting the Rohrabacher substitute, but we have broad bipartisan support on our side of the issue, and I look forward to the vote.

Ms. LOFGREN. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentlewoman from California.

Ms. LOFGREN. Mr. Chairman, I just wanted to point out that that leaves only right-wing Democrats such as the gentleman from Massachusetts [Mr. FRANK] and myself in support of the manager's amendment.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems that the debate on submarine patenting has calmed down a bit, seeing the fact that we have stated over and over and over again, and used the Congressional Research Service finding, to prove beyond anyone's reasonable doubt that we have taken care of any potential submarine patenting problem.

I have with me the Congressional Research Service report that says that our alternative, basically the Rohrabacher substitute, will end the practice of submarine patenting. So that is the only substantial argument that the other side has to say that we should fundamentally change our patent system. They are proposing, in the name of stopping submarine patenting, because it is the only way to stop it is to change the fundamental law that has protected American technology for 225 years.

No, I have an alternative. The alternative was found by an independent reading by the Congressional Research Service to end submarine patenting. So what do we have? We have a proposal here to gut fundamental protections for American inventors, giving our technology away in order to end the submarine patenting problem, which we say we found another way to solve.

No, we do not have to cut our leg off in order to cure a hangnail or an infected toe. We do not have to destroy all freedom of speech because someone wants to publish Hustler magazine. In this particular case, people are moving forward to change the fundamentals, the fundamentals in our system that have served our country well, that have made us the leader in technology and ensured our people the highest standard of living, ensured our country the security we have because we have had the technological edge.

We have had the technological edge because the fundamentals have been right. This bill would change those fundamentals. One fundamental is a guaranteed patent term of 17 years. Their bill would go along with the elimination of that which took place 3 years ago when someone, in an underhanded maneuver, snuck that change into the GATT implementation legislation, although it was not required by GATT; the most underhanded move that I have seen since I have been here in Congress. Our bill would restore that guaranteed 17-year patent term that has served America well for 225 years.

The second element that my substitute restores and guarantees, the confidentiality; the right of our citizens, that when they apply for a patent, that until that patent is issued it is going to be secret. We are not going to give away all the secrets to foreign multinational corporations to steal until the patent is issued.

What do we hear here? We have effectively exempted small business. We can put that argument to rest, too. What does "effectively" mean? We know what that means. That is a weasel word. The public knows what it means, too. It means that someone is trying to project that a change has happened and the change has not happened. That is what effectively means.

No, small business has not been exempt, individuals have not been exempt. As the gentleman from California, Mr. TOM CAMPBELL, brought out with his colloquy, no; they are not. They are still going to be published. The whole world will see every one of our secrets.

Please do not tell us that the Chinese Liberation Army is going to be deterred from using our secrets, going into manufacturing, making profit from those secrets, using those secrets in their technology against us, and then 5 years later or 10 years later, when the inventor is finally issued the patent, he gets to sue the Peoples Liberation Army?

They have taken care of the problem? That is a joke, and it is a sick joke that opens up all of our people to the worst kind of theft. Yes, the Chinese Army, I can hear them now, or Mitsubishi Corp: "I am using your technology? So, sue me." Yes, great. That is going to really protect our people and protect our country. This is an escalator down for our leadership in American technology.

By the way, something else I have heard today, yes, we have heard today that they have taken the provision out that permits this new corporatized Patent Office, where the Patent Office is part of the Government, making it a corporate entity; but they did manage to take out that part that says this corporate organization can accept gifts.

Why? Because the gentleman from North Carolina [Mr. COBLE] has explained, because they were permitted to accept gifts anyway. But what was not explained was that yes, they are able to accept gifts like anybody else, but this bill waives restrictions, because now it is a corporate entity, and they will not have the same restrictions that other Government agencies have when they accept gifts.

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The GSA, the Commerce Department are no longer going to be in control of how those gifts are used. So what we have got is a Patent Office that can accept foreign gifts, and the controls over how those gifts are used are being taken away.

The CHAIRMAN. The time of the gentleman from California [Mr. ROHRABACHER] has expired.

(By unanimous consent, Mr. ROHRABACHER was allowed to proceed for 2 additional minutes.)

Mr. ROHRABACHER. Mr. Chairman, the patent examiners who work so hard in this country, these are people who make decisions that are worth billions and billions of dollars and whether our country will enjoy them, who will benefit from them, these patent examiners work hard and they have been totally insulated from outside influences because they have been part of the U.S. Government. They are opposed to H.R. 400. They are pleading with us, do not do this to us, because they have no idea what outside influences will come to play. No one knows.

We change something so fundamentally as making it a corporate structure rather than part of our Government, who knows what pressures will be put on these stalwart Government employees who are trying to do their job.

Finally let me say, my substitute has taken everything that has been done that is of benefit, that is a good thing for America out of the work of the gentleman from North Carolina [Mr. COBLE] and out of H.R. 400, and we have incorporated it into the substitute.

What we do not have is the publication that will make available to everyone to steal our technology after 18 months. We do not have the corporatization that will open up our patent examiners to outside influences, and what we do is we protect the fundamental system of American patent law that has made America the greatest country in the world. That is why we have so many Nobel laureates and all the Nobel laureates are on our side.

Do not be fooled with the idea that you to have cut your leg off to cure the hangnail of submarine patenting. We need to protect this American system that has done so much wonder for our people and created such a wondrous land. Those people in the small businesses, those Nobel laureates, those inventors, they are on our side. The big corporations are on the other side, and they put a lot of pressure on the universities and a lot of pressure on other people.

But we still have a democracy. The people still rule here. This bill protects the fundamental rights of Americans. That is why we do not want to harmonize with Japan. We do not want to harmonize with Europe. We want to have a better system where the individual rights of our citizens are protected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. COBLE].

The amendment was agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. ROHRABACHER:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Rights and Sovereignty Act of 1997".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the right of an inventor to secure a patent is assured through the authorization powers of the Congress contained in Article I, section 8 of the Constitution, has been consistently upheld by the Congress, and has been the stimulus to the unique technological innovativeness of the United States;

(2) the right must be assured for a guaranteed length of time in the term of the issued patent and be further secured by maintaining absolute confidentiality of all patent application data until the patent is granted if the applicant is timely prosecuting the patent;

(3) the quality of United States patents is also an essential stimulus for preserving the technological lead and economic well-being of the United States in the next century;

(4) the process of examining and issuing patents is an inherently governmental function that must be performed by Federal employees acting in their quasi-judicial roles under regular executive and legislative oversight; and

(5) the quality of United States patents is inextricably linked to the professionalism of patent examiners and the quality of the training of patent examiners as well as to the resources supplied to the Patent and Trademark Office in the way of adequate manpower, appropriately maintained search files, and other needed professional tools.

SEC. 3. SECURE PATENT EXAMINATION.

Section 3 of title 35, United States Code, is amended by adding at the end thereof the following:

"(f) All examination and search duties for the grant of United States patents are sovereign functions which shall be performed within the United States by United States citizens who are employees of the United States Government.".

SEC. 4. MAINTENANCE OF EXAMINERS' SEARCH FILES.

Section 9 of title 35, United States Code, is amended—

(1) by striking "may revise and maintain" and inserting "shall maintain and revise"; and

(2) by adding at the end thereof the following: "United States patents, and all such

other patents and printed publications shall be maintained in the examiners' search files under the United States Patent Classification System.".

SEC. 5. PATENT EXAMINER TRAINING.

(a) In General.—Chapter 1 of title 35, United States Code, is amended by adding at the end the following new section:

"§ 15. Patent examiner training

"(a) In General.—All patent examiners shall spend at least 5 percent of their duty time per annum in training to maintain and develop the legal and technological skills useful for patent examination.

"(b) Trainers of Examiners.—The Patent and Trademark Office shall develop an incentive program to retain as employees patent examiners of the primary examiner grade or higher who are eligible for retirement, for the sole purpose of training patent examiners who have not achieved the grade of primary examiner.".

(b) Conforming Amendment.—The table of sections for chapter 1 is amended by adding at the end the following:

"15. Patent examiner training."

SEC. 6. ADMINISTRATIVE MATTERS.

(a) Limitations on Personnel.—Section 3(a) of title 35, United States Code, is amended by adding at the end thereof the following: "The Office shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Office shall be taken into account for purposes of applying any such limitation.".

(b) Retention of Fees.—(1) Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after the item relating to the National Credit Union Administration, credit union share insurance fund, the following new item:

"Patent and Trademark Office".

(2) Section 10101(b)(2)(B) of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended by striking ", to the extent provided in appropriation Acts," and inserting "without appropriation".

(3) Section 42(c) of title 35, United States Code, is amended by striking the first sentence and inserting the following: "Revenues from fees shall be available to the Commissioner to carry out the activities of the Patent and Trademark Office, in such allocations as are approved by Act of Congress. Such revenues shall not be made available for any purpose other than that authorized for the Patent and Trademark Office.".

(c) Use of Fees.—Section 42(c) of title 35, United States Code, is amended by adding at the end thereof the following: "All patent application fees collected under paragraphs (1), (3)(A), (3)(B), and (4) through (8) of section 41(a), and all other fees collected under section 41 for services or the extension of services to be provided by patent examiners shall be used only for the pay and training of patent examiners.".

(d) Publications.—Section 11 of title 35, United States Code, is amended by adding at the end thereof the following:

"(c) The Patent and Trademark Office shall make available for public inspection during regular business hours all solicitations issued by the Office for contracts for goods or services and all contracts for goods or services entered into by the Office.

"(d) Notice of a proposal to change United States patent law that will be made on behalf of the United States to a foreign country or international body shall be published in the Federal Register before, or at the same time as, the proposal is transmitted.".

SEC. 7. GAO STUDY AND REPORT.

(a) In General.—The Comptroller General shall conduct a study of—

(1) the total number of patents applied for, issued, abandoned, and pending in the period of the study;

(2) the classification of the applicants for patents in terms of the country they are a citizen of and whether they are an individual inventor, small entity, or other;

(3) the pendency time for applications for patents and such other time and tracking data as may indicate the effectiveness of the amendments made by this Act;

(4) the number of applicants for patents who also file for a patent in a foreign country, the number of foreign countries in which such filings occur and which publish data from patent applications in English and make it available to citizens of the United States through governmental or commercial sources;

(5) a summary of the fees collected by the Patent and Trademark Office for services related to patents and a comparison of such fees with the fully allocated costs of providing such services; and

(6) recommendations regarding—

(A) a revision of the organization of the Patent and Trademark Office with respect to its patent functions, and

(B) improved operating procedures in carrying out such functions,

and a cost analysis of the fees for such procedures and the impact of the fees.

(b) Additional Study Matter.—The Committees on Appropriations, Judiciary, and Small Business of the House of Representatives and the Senate may, no later than 12 months after the beginning of the study under subsection (a), direct the Comptroller General to include other matters relating to patents and the Patent and Trademark Office in the study conducted under subsection (a).

(c) Report.—Upon the expiration of 36 months after the beginning of the study under subsection (a), the Comptroller General shall report the results of the study to the Congress.

SEC. 8. PATENT TERMS.

(a) Amendment of Title.—Effective on the date of the enactment of this Act, section 154 of title 35, United States Code, as amended by the Uruguay Round Agreements Act, is amended—

(1) in paragraph (2) of subsection (a), by striking "and ending" and all that follows in that paragraph and inserting "and ending—

"(A) 17 years from the date of the grant of the patent, or

"(B) 20 years from the date on which the application for the patent was filed in the United States, except that if the application contains a specific reference to an earlier filed application or applications under section 120, 121, or 365(c) of this title, 20 years from the date on which the earliest such patent application was filed,

whichever is later.".

(2) in subsection (c)(1), by striking "shall be the greater of the 20-year term as provided in subsection (a), or 17 years from grant" and inserting "shall be the term provided in subsection (a)".

(b) Technical Amendment.—Section 534(b) of the Uruguay Round Agreements Act is amended by striking paragraph (3).

SEC. 9. DEFINITION OF SPECIAL CIRCUMSTANCES TO PROTECT THE CONFIDENTIALITY STATUS OF APPLICATIONS.

Section 122 of title 35, United States Code, is amended by striking "as may be determined by the Commissioner" and inserting "as in any of the following:

"(1) In the case of an application under section 111(a) for a patent for an invention for which the applicant intends to file or has filed an application for a patent in a foreign country, the Commissioner may publish, at the discretion of the Commissioner and by means determined suitable for the purpose, no more than that data from such application under section 111(a) which will be made or has been made public in such foreign country. Such a publication shall be made only after the date of the publication in such foreign country and shall be made only if the data is not available, or cannot be made readily available, in the English language through commercial services.

"(2)(A) If the Commissioner determines that a patent application which is filed after the date of the enactment of this paragraph—

"(i) has been pending more than 5 years from the effective filing date of the application,

"(ii) has not been previously published by the Patent and Trademark Office,

"(iii) is not under any appellate review by the Board of Patent Appeals and Interferences,

"(iv) is not under interference proceedings in accordance with section 135(a),

"(v) is not under any secrecy order pursuant to section 181,

"(vi) is not being diligently pursued by the applicant in accordance with this title, and

"(vii) is not in abandonment,

the Commissioner shall notify the applicant of such determination.

"(B) An applicant which received notice of a determination described in subparagraph (A) may, within 30 days of receiving such notice, petition the Commissioner to review the determination to verify that subclauses (i) through (vii) are all applicable to the applicant's application. If the applicant makes such a petition, the Commissioner shall not publish the applicant's application before the Commissioner's review of the petition is completed. If the applicant does not submit a petition, the Commissioner may publish the applicant's application no earlier than 90 days after giving such a notice.

"(3) If after the date of the enactment of this paragraph a continuing application has been filed more than 6 months after the date of the initial filing of an application, the Commissioner shall notify the applicant under such application. The Commissioner shall establish a procedure for an applicant which receives such a notice to demonstrate that the purpose of the continuing application was for reasons other than to achieve a delay in the time of publication of the application. If the Commissioner agrees with such a demonstration by the applicant, the Commissioner shall not publish the applicant's application. If the Commissioner does not agree with such a demonstration by the applicant or if the applicant does not make an attempt at such a demonstration within a reasonable period of time as determined by the Commissioner, the Commissioner shall publish the applicant's application.

The Commissioner shall ensure that publications under paragraph (1), (2), or (3) will not result in third-party pre-issuance oppositions which will delay or interfere with the issuance of the patents whose applications' data will be published.".

SEC. 10. INVENTION DEVELOPMENT SERVICES.

(a) Invention Development Services.—Part I of title 35, United States Code, is amended by adding after chapter 4 the following new chapter:

"CHAPTER 5—INVENTION DEVELOPMENT SERVICES

"Sec.
"51. Definitions.
"52. Contracting requirements.
"53. Standard provisions for cover notice.
"54. Reports to customer required.
"55. Mandatory contract terms.
"56. Remedies.
"57. Records of complaints.
"58. Fraudulent representation by an invention developer.
"59. Rule of construction.

"§ 51. Definitions

"For purposes of this chapter—

"(1) the term 'contract for invention development services' means a contract by which an invention developer undertakes invention development services for a customer;

"(2) the term 'customer' means any person, firm, partnership, corporation, or other entity who is solicited by, seeks the services of, or enters into a contract with an invention promoter for invention promotion services;

"(3) the term 'invention promoter' means any person, firm, partnership, corporation, or other entity who offers to perform or performs for, or on behalf of, a customer any act described under paragraph (4), but does not include—

"(A) any department or agency of the Federal Government or of a State or local government;

"(B) any nonprofit, charitable, scientific, or educational organization, qualified under applicable State law or described under section 170(b)(1)(A) of the Internal Revenue Code of 1986; or

"(C) any person duly registered with, and in good standing before, the United States Patent and Trademark Office acting within the scope of that person's registration to practice before the Patent and Trademark Office; and

"(4) the term 'invention development services' means, with respect to an invention by a customer, any act involved in—

"(A) evaluating the invention to determine its protectability as some form of intellectual property, other than evaluation by a person licensed by a State to practice law who is acting solely within the scope of that person's professional license;

"(B) evaluating the invention to determine its commercial potential by any person for purposes other than providing venture capital; or

"(C) marketing, brokering, licensing, selling, or promoting the invention or a product or service in which the invention is incorporated or used, except that the display only of an invention at a trade show or exhibit shall not be considered to be invention development services.

"§ 52. Contracting requirements

"(a) IN GENERAL.—(1) Every contract for invention development services shall be in writing and shall be subject to the provisions of this chapter. A copy of the signed written contract shall be given to the customer at the time the customer enters into the contract.

"(2) If a contract is entered into for the benefit of a third party, such party shall be considered a customer for purposes of this chapter.

"(b) REQUIREMENTS OF INVENTION DEVELOPER.—The invention developer shall—

"(1) state in a written document, at the time a customer enters into a contract for invention development services, whether the usual business practice of the invention developer is to—

"(A) seek more than 1 contract in connection with an invention; or

"(B) seek to perform services in connection with an invention in 1 or more phases, with the performance of each phase covered in 1 or more subsequent contracts; and

"(2) supply to the customer a copy of the written document together with a written summary of the usual business practices of the invention developer, including—

"(A) the usual business terms of contracts; and

"(B) the approximate amount of the usual fees or other consideration that may be required from the customer for each of the services provided by the developer.

"(c) RIGHT OF CUSTOMER TO CANCEL CONTRACT.—(1) Notwithstanding any contractual provision to the contrary, a customer shall have the right to terminate a contract for invention development services by sending a written letter to the invention developer stating the customer's intent to cancel the contract. The letter of termination must be deposited with the United States Postal Service on or before 5 business days after the date upon which the customer or the invention developer executes the contract, whichever is later.

"(2) Delivery of a promissory note, check, bill of exchange, or negotiable instrument of any kind to the invention developer or to a third party for the benefit of the invention developer, without regard to the date or dates appearing in such instrument, shall be deemed payment received by the invention developer on the date received for purposes of this section.

"§ 53. Standard provisions for cover notice

"(a) CONTENTS.—Every contract for invention development services shall have a conspicuous and legible cover sheet attached with the following notice imprinted in boldface type of not less than 12-point size:

"'YOU HAVE THE RIGHT TO TERMINATE THIS CONTRACT. TO TERMINATE THIS CONTRACT, YOU MUST SEND A WRITTEN LETTER TO THE COMPANY STATING YOUR INTENT TO CANCEL THIS CONTRACT. THE LETTER OF TERMINATION MUST BE DEPOSITED WITH THE UNITED STATES POSTAL SERVICE ON OR BEFORE FIVE (5) BUSINESS DAYS AFTER THE DATE ON WHICH YOU OR THE COMPANY EXECUTE THE CONTRACT, WHICHEVER IS LATER.

"'THE TOTAL NUMBER OF INVENTIONS EVALUATED BY THE INVENTION DEVELOPER FOR COMMERCIAL POTENTIAL IN THE PAST FIVE (5) YEARS IS ________. OF THAT NUMBER, ________ RECEIVED POSITIVE EVALUATIONS AND ________ RECEIVED NEGATIVE EVALUATIONS.

"'IF YOU ASSIGN EVEN A PARTIAL INTEREST IN THE INVENTION TO THE INVENTION DEVELOPER, THE INVENTION DEVELOPER MAY HAVE THE RIGHT TO SELL OR DISPOSE OF THE INVENTION WITHOUT YOUR CONSENT AND MAY NOT HAVE TO SHARE THE PROFITS WITH YOU.

"'THE TOTAL NUMBER OF CUSTOMERS WHO HAVE CONTRACTED WITH THE INVENTION DEVELOPER IN THE PAST FIVE (5) YEARS IS ________. THE TOTAL NUMBER OF CUSTOMERS KNOWN BY THIS INVENTION DEVELOPER TO HAVE RECEIVED, BY VIRTUE OF THIS INVENTION DEVELOPER'S PERFORMANCE, AN AMOUNT OF MONEY IN EXCESS OF THE AMOUNT PAID BY THE CUSTOMER TO THIS INVENTION DEVELOPER IS ________.

"'THE OFFICERS OF THIS INVENTION DEVELOPER HAVE COLLECTIVELY OR INDIVIDUALLY BEEN AFFILIATED IN THE LAST TEN (10) YEARS WITH THE FOLLOWING INVENTION DEVELOPMENT COMPANIES: (LIST THE NAMES AND ADDRESSES OF ALL PREVIOUS INVENTION DEVELOPMENT COMPANIES WITH WHICH THE PRINCIPAL OFFICERS HAVE BEEN AFFILIATED AS OWNERS, AGENTS, OR EMPLOYEES). YOU ARE ENCOURAGED TO CHECK WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE, THE FEDERAL TRADE COMMISSION, YOUR STATE ATTORNEY GENERAL'S OFFICE, AND THE BETTER BUSINESS BUREAU FOR ANY COMPLAINTS FILED AGAINST ANY OF THESE COMPANIES.

"'YOU ARE ENCOURAGED TO CONSULT WITH AN ATTORNEY OF YOUR OWN CHOOSING BEFORE SIGNING THIS CONTRACT. BY PROCEEDING WITHOUT THE ADVICE OF AN ATTORNEY REGISTERED TO PRACTICE BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE, YOU COULD LOSE ANY RIGHTS YOU MIGHT HAVE IN YOUR IDEA OR INVENTION.'.

"(b) OTHER REQUIREMENTS FOR COVER NOTICE.—The cover notice shall contain the items required under subsection (a) and the name, primary office address, and local office address of the invention developer, and may contain no other matter.

"(c) DISCLOSURE OF CERTAIN CUSTOMERS NOT REQUIRED.—The requirement in the notice set forth in subsection (a) to include the 'TOTAL NUMBER OF CUSTOMERS WHO HAVE CONTRACTED WITH THE INVENTION DEVELOPER IN THE PAST FIVE (5) YEARS' need not include information with respect to customers who have purchased trade show services, research, advertising, or other nonmarketing services from the invention developer, nor with respect to customers who have defaulted in their payments to the invention developer.

"§ 54. Reports to customer required

"With respect to every contract for invention development services, the invention developer shall deliver to the customer at the address specified in the contract, at least once every 3 months throughout the term of the contract, a written report that identifies the contract and includes—

"(1) a full, clear, and concise description of the services performed to the date of the report and of the services yet to be performed and names of all persons who it is known will perform the services; and

"(2) the name and address of each person, firm, corporation, or other entity to whom the subject matter of the contract has been disclosed, the reason for each such disclosure, the nature of the disclosure, and complete and accurate summaries of all responses received as a result of those disclosures.

"§ 55. Mandatory contract terms

"(a) MANDATORY TERMS.—Each contract for invention development services shall include in boldface type of not less than 12-point size—

"(1) the terms and conditions of payment and contract termination rights required under section 52;

"(2) a statement that the customer may avoid entering into the contract by not making a payment to the invention developer;

"(3) a full, clear, and concise description of the specific acts or services that the invention developer undertakes to perform for the customer;

"(4) a statement as to whether the invention developer undertakes to construct, sell, or distribute one or more prototypes, models, or devices embodying the invention of the customer;

"(5) the full name and principal place of business of the invention developer and the name and principal place of business of any parent, subsidiary, agent, independent contractor, and any affiliated company or person who it is known will perform any of the services or acts that the invention developer undertakes to perform for the customer;

"(6) if any oral or written representation of estimated or projected customer earnings is given by the invention developer (or any agent, employee, officer, director, partner, or independent contractor of such invention developer), a statement of that estimation or projection and a description of the data upon which such representation is based;

"(7) the name and address of the custodian of all records and correspondence relating to the contracted for invention development services, and a statement that the invention developer is required to maintain all records and correspondence relating to performance of the invention development services for such customer for a period of not less than 2 years after expiration of the term of such contract; and

"(8) a statement setting forth a time schedule for performance of the invention development services, including an estimated date in which such performance is expected to be completed.

"(b) INVENTION DEVELOPER AS FIDUCIARY.—To the extent that the description of the specific acts or services affords discretion to the invention developer with respect to what specific acts or services shall be performed, the invention developer shall be deemed a fiduciary.

"(c) AVAILABILITY OF INFORMATION.—Records and correspondence described under subsection (a)(7) shall be made available after 7 days written notice to the customer or the representative of the customer to review and copy at a reasonable cost on the invention developer's premises during normal business hours.

"§ 56. Remedies

"(a) IN GENERAL.—

"(1) VOIDABLE CONTRACT.—Any contract for invention development services that does not comply with the applicable provisions of this chapter shall be voidable at the option of the customer.

"(2) RELIANCE ON FALSE, FRAUDULENT, OR MISLEADING INFORMATION.—Any contract for invention development services entered into in reliance upon any material false, fraudulent, or misleading information, representation, notice, or advertisement of the invention developer (or any agent, employee, officer, director, partner, or independent contractor of such invention developer) shall be voidable at the option of the customer.

"(3) WAIVER.—Any waiver by the customer of any provision of this chapter shall be deemed contrary to public policy and shall be void and unenforceable.

"(4) ACTION BY DEVELOPER.—Any contract for invention development services which provides for filing for and obtaining utility, design, or plant patent protection shall be voidable at the option of the customer unless the invention developer offers to perform or performs such act through a person duly registered to practice before, and in good standing with, the Patent and Trademark Office.

"(b) CIVIL ACTION.—

"(1) IN GENERAL.—Any customer who is injured by a violation of this chapter by an invention developer or by any material false or fraudulent statement or representation, or any omission of material fact, by an invention developer (or any agent, employee, director, officer, partner, or independent contractor of such invention developer) or by failure of an invention developer to make all the disclosures required under this chapter, may recover in a civil action against the invention developer (or the officers, directors, or partners of such invention developer) in addition to reasonable costs and attorneys' fees, the greater of—

"(A) $5,000; or

"(B) the amount of actual damages sustained by the customer.

"(2) DAMAGE INCREASE.—Notwithstanding paragraph (1), the court may increase damages to not more than 3 times the amount awarded.

"(c) REBUTTABLE PRESUMPTION OF INJURY.—For purposes of this section, substantial violation of any provision of this chapter by an invention developer or execution by the customer of a contract for invention development services in reliance on any material false or fraudulent statements or representations or omissions of material fact shall establish a rebuttable presumption of injury.

"§ 57. Records of complaints

"(a) RELEASE OF COMPLAINTS.—The Director shall make all complaints received by the United States Patent and Trademark Office involving invention developers publicly available, together with any response of the invention developers.

"(b) REQUEST FOR COMPLAINTS.—The Director may request complaints relating to invention development services from any Federal or State agency and include such complaints in the records maintained under subsection (a), together with any response of the invention developers.

"§ 58. Fraudulent representation by an invention developer

"Whoever, in providing invention development services, knowingly provides any false or misleading statement, representation, or omission of material fact to a customer or fails to make all the disclosures required under this chapter, shall be guilty of a misdemeanor and fined not more than $10,000 for each offense.

"§ 59. Rule of construction

"Except as expressly provided in this chapter, no provision of this chapter shall be construed to affect any obligation, right, or remedy provided under any other Federal or State law.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part I of title 35, United States Code, is amended by adding after the item relating to chapter 4 the following:

"5. Invention Development Services ... 51".

SEC. 11. PROVISIONAL APPLICATIONS, PLANT BREEDER'S RIGHTS, DIVISIONAL APPLICATIONS.

(a) ABANDONMENT.—Section 111(b)(5) of title 35, United States Code, is amended to read as follows:

"(5) ABANDONMENT.—Notwithstanding the absence of a claim, upon timely request and as prescribed by the Director, a provisional application may be treated as an application filed under subsection (a). If no such request is made, the provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival thereafter.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to any provisional application filed on or after June 8, 1995.

(c) INTERNATIONAL APPLICATIONS.—Section 119 of title 35, United States Code, is amended—

(1) in subsection (a), by inserting "or in a WTO member country" after "the United States" the first place it appears; and

(2) by adding at the end the following new subsections:

"(f) APPLICATIONS FOR PLANT BREEDER'S RIGHTS.—Applications for plant breeder's rights filed in a WTO member country (or in a UPOV Contracting Party) shall have the same effect for the purpose of the right of priority under subsections (a) through (c) of this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'WTO member country' has the same meaning as the term is defined in section 104(b)(2) of this title; and

"(2) the term 'UPOV Contracting Party' means a member of the International Convention for the Protection of New Varieties of Plants.".

(d) PLANT PATENTS.—

(1) TUBER PROPAGATED PLANTS.—Section 161 of title 35, United States Code, is amended by striking "a tuber propagated plant or".

(2) RIGHTS IN PLANT PATENTS.—The text of section 163 of title 35, United States Code, is amended to read as follows: "In the case of a plant patent, the grant shall include the right to exclude others from asexually reproducing the plant, and from using, offering for sale, or selling the plant so reproduced, or any of its parts, throughout the United States, or from importing the plant so reproduced, or any parts thereof, into the United States.".

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply on the date of the enactment of this Act. The amendment made by paragraph (2) shall apply to any plant patent issued on or after the date of the enactment of this Act.

(e) ELECTRONIC FILING.—Section 22 of title 35, United States Code, is amended by striking "printed or typewritten" and inserting "printed, typewritten, or on an electronic medium".

(f) DIVISIONAL APPLICATIONS.—Section 121 of title 35, United States Code, is amended—

(1) in the first sentence by striking "If" and inserting "(a) If"; and

(2) by adding at the end the following new subsections:

"(b) In a case in which restriction is required on the ground that two or more independent and distinct inventions are claimed in an application, the applicant shall be entitled to submit an examination fee and request examination for each independent and distinct invention in excess of one. The examination fee shall be equal to the filing fee, including excess claims fees, that would have applied had the claims corresponding to the asserted independent and distinct inventions been presented in a separate application for patent. For each of the independent and distinct inventions in excess of one for which the applicant pays an examination fee within two months after the requirement for restriction, the Director shall cause an examination to be made and a notification of rejection or written notice of allowance provided to the applicant within the time period specified in section 154(b)(1)(B)(i) of this title for the original application. Failure to meet this or any other time limit set forth in section 154(b)(1)(B) of this title shall be treated as an unusual administrative delay under section 154(b)(1)(A)(iv) of this title.

"(c) An applicant who requests reconsideration of a requirement for restriction under this section and submits examination fees pursuant to such requirement shall, if the requirement is determined to be improper, be entitled to a refund of any examination fees determined to have been paid pursuant to the requirement.".

SEC. 12. PROVISIONAL RIGHTS.

Section 154 of title 35, United States Code, is amended—

(1) in the section caption by inserting "; **provisional rights**" after "**patent**"; and

(2) by adding at the end the following new subsection:

"(d) PROVISIONAL RIGHTS.—

"(1) IN GENERAL.—In addition to other rights provided by this section, a patent shall include the right to obtain a reasonable royalty from any person who, during the period beginning on the date of publication of the application for such patent pursuant to the voluntary disclosure provisions of section 122 or the publication provisions of section 122(1) or 122(2) of this title, or in the case of an international application filed under the treaty defined in section 351(a) of this title designating the United States under Article 21(2)(a) of such treaty, the date of publication of the application, and ending on the date the patent is issued—

"(A)(i) makes, uses, offers for sale, or sells in the United States the invention as claimed in the published patent application or imports such an invention into the United States; or

"(ii) if the invention as claimed in the published patent application is a process, uses, offers for sale, or sells in the United States or imports into the United States products made by that process as claimed in the published patent application; and

"(B) had actual notice of the published patent application and, where the right arising under this paragraph is based upon an international application designating the United States that is published in a language other than English, a translation of the international application into the English language.

"(2) RIGHT BASED ON SUBSTANTIALLY IDENTICAL INVENTIONS.—The right under paragraph (1) to obtain a reasonable royalty shall not be available under this subsection unless the invention as claimed in the patent is substantially identical to the invention as claimed in the published patent application.

"(3) TIME LIMITATION ON OBTAINING A REASONABLE ROYALTY.—The right under paragraph (1) to obtain a reasonable royalty shall be available only in an action brought not later than 6 years after the patent is issued. The right under paragraph (1) to obtain a reasonable royalty shall not be affected by the duration of the period described in paragraph (1).

"(4) REQUIREMENTS FOR INTERNATIONAL APPLICATIONS.—The right under paragraph (1) to obtain a reasonable royalty based upon the publication under the treaty defined in section 351(a) of this title of an international application designating the United States shall commence from the date that the Patent and Trademark Office receives a copy of the publication under such treaty of the international application, or, if the publication under the treaty of the international application is in a language other than English, from the date that the Patent and Trademark Office receives a translation of the international application in the English language. The Director may require the applicant to provide a copy of the international publication of the international application and a translation thereof.".

SEC. 13. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.

The CHAIRMAN. Under the previous unanimous-consent agreement, the gentleman from California [Mr. ROHRABACHER] will be recognized for 1 hour, and a Member opposed will also be recognized for 1 hour.

Mr. COBLE. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from North Carolina [Mr. COBLE] will be recognized for 1 hour.

Mr. ROHRABACHER. Mr. Chairman, I yield 30 minutes to the gentlewoman from Ohio [Ms. KAPTUR], and I ask unanimous consent that she be allowed to control the time.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentlewoman from Ohio [Ms. KAPTUR] will be recognized for 30 minutes.

Mr. COBLE. Mr. Chairman, I yield 30 minutes to the gentlewoman from California [Ms. LOFGREN], and I ask unanimous consent that she be allowed to control the time.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. The gentlewoman from California [Ms. LOFGREN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, what the House is now considering is the Rohrabacher substitute. The Rohrabacher substitute has taken on many shapes and designs over these last few weeks, because we have tried our best to incorporate the very best aspects of H.R. 400 into our substitute. All of the good reforms that have been worked out by the gentleman from North Carolina [Mr. COBLE] and others on the committee have been incorporated into my substitute.

In fact, where we keep the fees of the Patent Office right there at the Patent Office so that people can make that Office more effective, we have done that. And we have made sure that all the hard work of this committee has not gone for naught.

In fact, I would like to compliment Mr. COBLE and I would like to say at this time that I have nothing but respect for the opposition here. Mr. COBLE and the gentleman from Virginia [Mr. GOODLATTE] and the gentleman from Illinois [Mr. HYDE] and others who, right now, we have such a heated debate going on, we have a great deal of mutual respect for one another. I have no doubt that their motives are good. It is just that we have a really fundamental disagreement on this piece of legislation, and we will likely be the best of allies 1 week from now on another piece of legislation.

So with that said, let me go into the fundamentals of how we differ on this. It comes down to three or four basic points. Unfortunately, those basic points are right at the heart of what America's patent system is all about.

What has differentiated us from other patent systems of the world, why we have had some economic progress here, why has our military been secure and actually one step ahead of our adversaries when we went into conflicts? Because we have a strong patent system that nurtured the creative genius of our people.

The two elements of that patent system that differentiated us from the Japanese and from the Europeans was a guaranteed 17-year patent term, which means no matter how long it takes you to get your patent issued, you are going to have that 17 years of a guaranteed protection time to earn that money back and to make a profit from it. That is why we have so many people willing to invest here in the United States in the creation of new technology. Otherwise, the Government would have to do it because there would be no guaranteed time that we could have a return on our investment.

The second end of it, the second part of our system was that when someone applied for a patent, it was absolutely confidential, the right of confidentiality until that patent was issued. What that did is it prevented the big guys from stealing from the little guys.

In Japan, where they have the system that I am afraid H.R. 400 is trying to impose on us, that system has worked to create a class of economic shoguns that beat down the average person, that over in Japan, where it may be a democracy but it is not a free country like ours in the sense that people have a right to challenge the economic elite, the economic elite in those countries can beat down any inventor who wants to create something.

In Japan that system permits, where you have, after 18 months, you have publication, the reason why the economic powers that be have sufficient leverage, they come immediately into the process when they find out that someone is developing a new technology, something that will create new wealth, and they have what they call patent flooding. They will form a circle around the little inventor and the little guy, the small businessman, and beat him down until he has agreed to give up all of his rights.

That is what will happen right here if we change our law. They can come right over to our system and do exactly the same thing. What makes us think they will not do that? That is what has happened there.

In fact, that is one of probably the worst flaws of H.R. 400, because now we are publishing. What are the consequences of that publishing? Very wealthy and powerful interests will get involved in the process where they have not done it before to try to thwart the issuance of that person's patent until he would agree to give up certain rights.

This is not the formula for a strong America. This is an escalator clause for America going downhill. Twenty years from now Americans will not know what hit them. It is Pearl Harbor in slow motion.

I will say, I have a copy and I have held it up several times. The reason why we are pushing on this, and you have heard it in the debate, we have to be like those other countries, we should not be like other countries, but yet we signed an agreement, a subterranean agreement 5 years ago to harmonize our law with Japan. Now they are seeking to try to push it through the system like when they tried to sneak that change through in the GATT implementation legislation.

We are going to thwart this power grab. We are going to thwart it, and we are going to make sure in doing so we protect America's future. If we lose our technological edge, if the individual inventor loses his rights and becomes vulnerable to these outside influences, if our patent examiners become vulnerable to all sorts of interferences and outside influences, America will cease to be a great country in decades ahead, and they will never know what hit them. It will be Pearl Harbor in slow motion, and we are going to stop that.

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the base bill that this substitute would replace essentially, as Mr. ROHRABACHER, who has led such a good fight on this and so many Members who have supported him, calls for a massive change in the way that we protect the secrecy of those who file patents in our country.

Now, to me, to move from a system that basically says when you file a patent your ideas can be protected for up to 17 years, up to the point that that patent is granted, and if the review office takes longer than 2 years, if it takes 4 years or 5 years for whatever reason, that your ideas are protected, why would we want to take away the property rights of our inventors by saying after 18 months, and where did the 18-month magic come from anyway, that after that point their ideas could be made available to whomever might want them?

To go from 17 years to 18 months to me is a massive change in the way the current system functions. I have never had an inventor in my district come up to me and ask for this change, so I wonder who it is that is proposing the change that is in the base bill.

I want to compliment Mr. ROHRABACHER for helping to expose this issue in detail so that we can better protect our inventors' technologies in this country.

From the inventors I have talked to, they have some pretty big problems, once they involve themselves in this whole idea of patenting their inventions. Number one is the cost. The fact that a really small person does have to put a lot forward in the first place just to patent their idea.

If you are a big company, that does not affect you as much. You have great wholeness in the system. You have the ability to float. But for the small people that are out there in their garages and their basements where wonderful ideas have come from, it is much more difficult for them to do that even in the existing system.

Once they do, one of the challenges they have as an inventor is that big companies, if they try to commercialize the technology, often try to buy their idea out before it is even applied in the manufacturing sector, because an inventor does not control the manufacturing process. They are not into the commercialization side. Under the current system, it is even difficult for many of these inventors to get someone to buy their idea.

Also we have a situation under the current system where inventors find that their ideas are counterfeited. In fact, we have had dumping of computer terminals that have come over from China and other places.

I wish the committee would have given a little more attention to the real problems that inventors are having out there, trying to work in this current system. But they have never complained to me about the protections they receive in this country for their property rights. They have never complained about the time period.

They are complaining to me now. The Ohio State Bar Association is very aware of what this bill does and has made its views known to us. And many, many other inventors throughout the State of Ohio.

But I say to myself, what could have propelled this committee into proposing this kind of change? I looked down the list of multinational corporations that want this particular right. They already function on the international front. They are the very same firms that try to buy out these small inventors and do not permit them to commercialize their technology, if they do not have deep pockets. They are the very same interests that are able to float in their little boats in international waters when the average inventor is not. They are the very ones that have no problems with existing fees. And it just seems to me that they got the red carpet rolled out for them when they went before the respective institutions of this House.

On the other hand, the small inventors of my community have not been afforded the opportunity to come before the committee. The small inventors of my community have not been allowed to come before the Committee on Small Business.

I heard one of the Members, the gentleman from Maryland [Mr. BARTLETT], say that the hearings would be held next week. My friends, the horse is already out of the barn. Next week? This bill is being heard today. So it seems to me that we have a responsibility to represent the majority of inventors in this country, most of whom do not have deep pockets.

Our job is not just to represent the multinationals who have lots of good ideas and they have a great ability to float their boats, but they are not the only ones out there in the ocean.

I would certainly say to those who would want to bend over backwards to other countries who do not give us market access, we have a $50 to $60 billion trade deficit with Japan, a $40 billion trade deficit with China, and it is growing. The situation we have with Mexico is abominable post-NAFTA. A lot of these other countries are going to be advantaged through this agreement. Why?

□ 1615

Why are we doing this to our inventors when in fact our country has 10 times more intellectual property breakthrough technologies than any other country in the world? We protect these property rights. It is inherent in the Constitution of this Nation. Why would we want to do this to the people of our Nation?

Now, let us take a look at the burden of proof and the fact that people say here, well, they can sue. If people do not like this new bill, H.R. 400, and they fail to vote for the Rohrabacher substitute, well, gosh, we will give them a chance to go to court.

A lot of these inventors out there do not have the money. They worry about paying their maintenance fees under the existing system, under the existing system. So why force them into cases where the burden is on them to prove that what they are doing is OK? Under the current system, it is.

Why place that burden on them? Why force them to go into these reexamination procedures? Why would we want to do that to our own people?

Frankly, for a lot of these nations or companies that function offshore, my own view is unless they give us market access, why give them anything? Why give them any advantage into this Nation's most precious seed corn, which is our patented inventors' property rights?

The whole idea of corporatizing the patent office, it is interesting that the people who work over there do not want this to happen. They are civil servants. They objectively can review, regardless of what type of inventor comes in there with an invention.

None of us really understand the gentleman's proposal of what this quasi-government corporation or new entity, this PTO, what that is going to be. We have not had a chance to fully digest what that means down the road. How objective will these examiners be allowed to be? What will the CEO of that corporation, what rights will that individual have over those individual decisions? How objective and judiciallike will those decisions be able to be?

It seems to me there are a lot of issues in H.R. 400 that no Member here, including the people on the committee, can fully appreciate. Why do we not have an opportunity to clean this bill up? Let us adopt the Rohrabacher substitute, let us keep the system clean, the way it is, and then work through some of the issues that are of deep concern to Members here who want to represent not just those with deep pockets, but small inventors around our country who are really creating the future of us.

It was mentioned earlier there are some people concerned about jobs in our country and our trade policy who have engaged in this debate. Certainly we have, because we understand what it is like to negotiate against a country that uses every kind of barrier to disallow our product into their market.

But the inventions, the ideas, the intellectual property is the heart of our system. To allow them into the door when we have all sorts of other problems out there and we do not fully appreciate the long-term consequences of what is being proposed here, is a very dangerous position in which to place our country for the next century.

There is no question that patents are the primary source of job creation in this country. It goes to the heart of how we develop as an economy. When I see people like Nobel Laureates opposing the changes in H.R. 400, and I see the gentleman from California [Mr. ROHRABACHER] and our own minority leader, the gentleman from Missouri [Mr. GEPHARDT], and the gentleman from Maryland [Mr. HOYER], and others in this body, the gentleman from California [Mr. HUNTER], people on both sides of the aisle who have respect for members of the committee, but feel that we have not had our concerns solved, we have no choice but to wholeheartedly support the Rohrabacher substitute.

So I want to urge the membership, please, that if they have not read the bill, if they have not followed this debate, to support the Rohrabacher substitute. Do not fix a system that is not broken. Let us work hard, as this Congress progresses, in order to fix the current system if there are problems, but do not completely turn it upside down and take away the property rights of our inventors, especially the small inventors whose canoes are very small to row in the oceans of the international marketplace.

Mr. Chairman, I reserve the balance of my time.

Mr. COBLE. Mr. Chairman, I yield 7 minutes to the gentleman from Utah, [Mr. CANNON].

Mr. CANNON. Mr. Chairman, I take the podium at the far right, the farthest right we can go here in the room as a Republican and a conservative.

And may I be the first Republican to welcome my colleague, the gentlewoman from California, [Ms. LOFGREN], and at her suggestion, also our colleague from Massachusetts, [Mr. FRANK], into the conservative wing of the party of the House.

Ms. LOFGREN. Mr. Chairman, will the gentleman yield?

Mr. CANNON. I yield to the gentlewoman from California.

Ms. LOFGREN. Mr. Chairman, I want to thank the gentleman for the compliment, and acknowledge that it was certainly made in jest. I had to do that for my district, to clarify that.

Mr. CANNON. Mr. Chairman, reclaiming my time, I say to the gentlewoman she is always welcome over here.

I do want to speak to those conservatives in the House, Mr. Chairman, about why I support H.R. 400. Before I do so, I want to establish my credentials on this issue.

I am a businessman and have invested in numerous companies, some large, mostly small. I have also funded several high-tech new ventures and my district is a high-tech center. We have biomedical companies, software companies, computer hardware companies and a host of innovative start-ups, start-ups based on innovative ideas, some of which have been patented, some which have not. Many of them have been commercial successes and many of those people who have been successful have, in fact, helped out in the commercialization of other technologies. But I do not know, in my district at least, of a distinction between commercializers and inventors.

The heart of my district, Utah County, has been compared to Silicon Valley, with Route 128 in Boston, with North Carolina's Research Triangle. The small town of Provo always shows up on these maps of where the technological centers in America are.

I am also a member of the Subcommittee on Courts and Intellectual Property. As many know, in the last Congress there was vigorous debate on patent reform, and as a new member, my staff and I took time carefully to review the arguments. After that review, I chose to cosponsor H.R. 400, and I want to detail why.

First, we conservatives support the use of a reasoned, thoughtful process of public policy. The development of H.R. 400 easily passes that test. Over the past couple of years the provisions of H.R. 400 have been subject to 8 full hearings over 10 days, involving 80 witnesses. The gentleman from California, [Mr. ROHRABACHER], has testified four times. Every side of every view has had the chance to be heard, not once but many times on this issue.

Second, conservatives, in particular Republican conservatives, hate bureaucracy. H.R. 400 takes the Patent Office out of the Commerce Department and gives it the flexibility to serve those seeking patent and trademark protection.

Third, conservatives support property rights. H.R. 400 expands the scope of protection afforded patent seekers. H.R. 400 guarantees diligent patent owners at least, let me emphasize at least, 17 years of patent term. But that is not all. In many cases, under H.R. 400, patent owners will receive even more than 17 years of patent term, in many cases about 18½ years of patent protection. This is both more protection than is available currently and more than available under Mr. ROHRABACHER's alternative.

Fourth, conservatives oppose giving individuals, corporations or foreign interests the ability to play games with our legal system. We believe in a system of laws. H.R. 400 is the only bill that drives a stake in the heart of submarine patents, an expensive, manipulative patent-seeking technique. While there is some debate over the number of submarine patents, the evidence is clear that submarine patents hurt both American industry and consumers. Submarine patents deserve to be permanently sunk, and H.R. 400 does the job.

Fifth, conservatives want U.S. companies to have a level playing field with their foreign competitors. That brings me to one of the most controversial provisions of the bill, the concept of publication. Frankly, this is a provision that is little understood and is easily misunderstood.

Let me provide some context by talking about what happens today to U.S. inventors who seek patent protection around the world.

The three primary places most inventors seek protection are Japan, the United States and Europe. A U.S. inventor who files in all three areas is published in 18 months in Japan and in Europe in a variety of European languages and in Japanese. Of course, that makes it easy for U.S. inventors' foreign competitors to read the American inventors' patent application in their own language and in their own country.

The U.S. inventor lacks the same advantage. Because the United States does not publish patent applications, an American inventor must go to Japan or Europe to find out about the activities of his or her foreign competitors. This hurts small American businesses which cannot afford travel or translation. Publication in the United States simply helps our own people keep an eye on their overseas competitors.

Some have argued that publication is great for big U.S. companies, but it might hurt small U.S. inventors. That brings me to my sixth point. Conservatives should argue about real issues. The fact is, the current version of H.R. 400, based upon concerns previously raised by small inventors, effectively exempts small inventors from publication.

My last point is that conservatives should respect fellow conservatives. The driving forces behind this bill are conservatives, particularly the gentleman from North Carolina, [Mr. COBLE], and the gentleman from Illinois, [Mr. HYDE]. These are men of great integrity, great thoughtfulness and great judgment and should be accorded due deference.

Mr. Chairman, I encourage Members to pause before they vote today. I know patent law seems like a black art, but our decisions today are important. As a conservative, my considered opinion is that H.R. 400 is a balanced, rational package that strengthens our patent system, encourages high-tech innovation, and protects U.S. economic interests, including my favorite sector, the small business sector.

Ms. LOFGREN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, a number of the speakers, and especially the last speaker, have addressed important issues for Members examining this whole issue. But I do want to address the matter that has been raised by a number of speakers, and that is the position of employees of the Patent Office regarding the bill, H.R. 400, as well as the Rohrabacher substitute.

I have here in my hand, and I include for the RECORD, dated April 16, a letter from the National Treasury Employees Union.

THE NATIONAL TREASURY
EMPLOYEES UNION,
Washington, DC, April 16, 1997.

Hon. ZOE LOFGREN,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE LOFGREN: As the full House of Representatives prepares to consider important intellectual property reform legislation later this week, I am writing to bring your attention to an issue of great importance to members of the National Treasury Employees Union.

H.R. 400, the "21st Century Patent System Improvement Act" is scheduled for floor consideration on April 17, 1997. It has come to my attention that Rep. Dana Rohrabacher (R-CA) is expected to offer H.R. 811 and H.R. 812—two patent bills introduced earlier this year—as a substitute to this legislation.

While H.R. 811 deals primarily with patent term and publication issues, H.R. 812 includes a number of provisions that would exclusively benefit the PTO's patent examiners. NTEU supports improving the training and benefits of all of the PTO's employees, and we therefore believe that it would be grossly unfair for such benefits to accrue only to patent examiners and not to their counterparts in the Trademark Office.

For this reason, I urge you to oppose the Rohrabacher substitute if it includes these provisions when intellectual property reform is considered by the full House.

H.R. 400 includes several important elements of H.R. 811 and H.R. 812, including a provision allowing for the above referenced training and benefits for patent examiners and trademark examiners. Although NTEU has remaining concerns about the labor-relations provisions in H.R. 400, and would prefer to see the labor-relations language approved last year by the House Judiciary Committee adopted as this issue goes forward, this bill is a better alternative to the proposed Rohrabacher substitute.

Sincerely,

ROBERT M. TOBIAS,
National President.

Mr. Chairman, I will not read it all, but I will say, and this is a quote, "I urge you to oppose the Rohrabacher substitute."

And the final paragraph says, and this is again from Mr. Robert Tobias, the national president of the National Treasury Employees Union, "H.R. 400 includes several important elements. Although NTEU does have remaining concerns about the labor relations provisions in H.R. 400, and would prefer to see the labor relations language approved last year by the House Committee on the Judiciary adopted as this issue goes forward, this bill is a better alternative to the proposed Rohrabacher substitute."

I think it is important to note, and perhaps the Chairman and ranking member can address the issue raised as to the remaining labor-management relations issue that the Treasury Employees Union wants addressed, and I, for one, would pledge to work with them on that issue, but it is important to note that even without that issue being resolved, the Treasury Union employees prefer H.R. 400 and they oppose the Rohrabacher substitute. I think that is an important issue for Members to know.

Second, I have heard a lot of discussion in this Chamber today, and people discussing it at large, about a variety of issues that have absolutely nothing to do with the issues before us. We have heard about GATT, we have heard about NAFTA, we have heard about the Red Chinese Army, we have heard about multinational businesses. That is not what this bill is about. It has nothing to do with the patent bill.

What this bill is about is not deferring foreign countries or conforming our law to theirs. What H.R. 400 is about is to advantage Americans who are presently being disadvantaged by our patent law.

I have heard people say, well, why would we want to dumb down our patent law? Why would we expect the rest of the world to change, to conform with us? My response is because they are taking advantage of us right now.

□ 1630

Why should they change when they are taking advantage of us? Why should we expect them to willingly give up the advantage that they currently have? It is up to this Congress to stand up for America by rejecting the Rohrabacher substitute and supporting H.R. 400.

Finally, I would like to thank the gentleman from Utah [Mr. CANNON] for his eloquent comments about why a conservative would support H.R. 400 and oppose the Rohrabacher amendment. I think it is also important to note that the high-techology sector has accounted for 40 percent of the growth in the gross domestic product in the last several years.

These companies are not all multinational corporations. Some of them are. I am not opposed to that. In fact, I think Intel Corp. is a great citizen. They just made a decision to give stock options to every single employee in their company down to the janitor. They do a great business. They have many patents, they are innovative, they are successful, and they support H.R. 400. I am proud that they do.

But I would like to point out that the Biotechnology Industry Organization also supports H.R. 400, and also opposes the Rohrabacher substitute, and 95 percent of the membership of the Biotechnology Industry Organization is made up of companies with 500 employees or less.

Mr. Chairman, I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Chairman, I yield 5 minutes to the gentleman from the Silicon Valley area of California [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Chairman, what is a compelling need to change the patent system of the United States that has served us so well? The case has not been made on the floor today.

I have one additional reason to suggest that H.R. 400 actually does more harm than has previously been brought forward in this debate, but before I do that I do wish to identify and draw some very clear focus on the fact that the only argument that has been made for the need to change is the submarine patent. That issue is taken off the table once we realize that the Rohrabacher bill also deals with the submarine patent. I believe that issue is no longer in debate. For those who are in doubt, those Members perhaps who are watching the debate, do check the Congressional Research Service, page 12 and 13, the quotation that I gave before. Both bills seek to curtail submarine patenting and would likely end the practice.

So what is the compelling need? Does it make sense that there is some benefit to be gained by those large firms who wish to have earlier and more ready access to information that would otherwise be patented? Yes, it is in their interest. But insofar as it enhances their interest, it takes from the inventor. The inventor cannot be substituted for. There can be commercializers, there can be developers. Japan of course is the key commercializer probably in the world of somebody else's ideas. But America is unique as being the key inventor. So in the absence of a compelling need, I would think the logic would be, let us let it be, let us not change this system that has worked so well.

But let me now draw attention to the one additional problem that I believe H.R. 400 introduces that is of great seriousness. Do my colleagues realize that under H.R. 400, but not under the Rohrabacher substitute, anybody who was using the subject matter that eventually gets patented, who is using that subject matter commercially, before the grant of the patent, is exempted. That such a person can continue commercialization of that idea without ever having to pay a royalty to the person who invented and filed, followed the rules, in other words, of our patent system? And this is not in the existing law.

So what H.R. 400 does is to say, "Inventor, today you know that you have the right to your invention and if anybody else has been using it, they have got to pay you royalties." That is a whale of an incentive to go through the sweat and the hard work to invent. But after H.R. 400, if it becomes law, that right is substantially cut back. Any prior commercial user can continue that use, and not just in the scope of maybe a ma and pa who might have had one or two units made.

Let me read from the bill itself, from title 3:

> The defense, the prior commercial user defense, shall also extend to variations in the quantity or volume of use of the claimed subject matter.

This is remarkable. We have spent a lot of time on the floor this afternoon speaking about the requirement of early disclosure, but look what this does. Any prior commercial user can expand the use and utterly undermine the commercial value of the invention that was filed and that was patented. The harm is not even done there. Because if it is in the financial interest of this firm, this commercializer that has used the idea before the inventor patented it, if that commercializer wishes to sell it, well, so long as it is part of the sale of a general company, he or she may do so.

And I quote from the bill:

> The defense under this section may only be asserted by the person who performed the acts necessary to establish the defense . . . except in connection with the good faith assignment or transfer of the entire enterprise or line of business to which the defense relates.

So here is the situation. Today a person who does the hard work to get an idea has the protection of 17 years from the grant of that patent. After H.R. 400 it will not be 17 years from the grant of the patent. It will be something that could very well be less because it is 20 years from the date you applied. And if the Patent Office takes 3 years or longer, that is your risk, the time of your protection is less.

No. 2, today you are allowed to keep your idea as you are going toward a patent. After H.R. 400, you cannot, you have to disclose it, after 18 months.

No. 3, today if you are the first person to go into the patent system and to get your patent, no prior user can take that away from you. Under H.R. 400, it can be.

Ms. LOFGREN. Mr. Chairman, I yield myself such time as I may consume, just to simply say I do not want to address every single issue raised by the gentleman from California [Mr. CAMPBELL] because Members are getting restive. I just would point out that in H.R. 400, if the patent issuance is delayed through no fault of the applicant, the term is extended and added on to remainder of the 20-year term.

Mr. CAMPBELL. Mr. Chairman, will the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from California.

Mr. CAMPBELL. I understand that, but the burden is to show by the patent applicant that the fault was the Patent Office's. If that burden has not been met, if things just chug along in their dear sweet time and it takes longer than 3 years, it is the patent applicant who suffers.

Ms. LOFGREN. Mr. Chairman, reclaiming my time, if the applicant does not take action to delay it, the term is extended and added on to the 20-year term.

Mr. CAMPBELL. And if the gentlewoman will continue to yield, but the burden of proving that is upon the applicant. So in order to get the benefit of the tacked-on time, I have to show that it was not my fault.

Ms. LOFGREN. You have to show that you did not continually amend your application.

Mr. CAMPBELL. Then our understanding is the same.

Ms. LOFGREN. Reclaiming my time, not an enormous burden, I might add.

Mr. Chairman, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. COBLE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. COBLE. Mr. Chairman, am I correct in concluding that we have the right to close?

The CHAIRMAN. The gentleman from North Carolina is correct.

Mr. COBLE. Mr. Chairman, I yield myself such time as I may consume.

We have heard a lot of talk this afternoon about secrecy, how important secrecy is. Mr. Chairman, if I may paraphrase the Constitution, what the Constitution conveyed to all of us Americans and patent applicants in particular is this: You get a limited monopoly with protection in exchange for society being able to see your secret. Illumination, light on the subject. I am told, Mr. Chairman, that mushrooms thrive in dark cellars. Submariners thrive in high weeds and below the water.

We have been told today, the gentleman from Illinois [Mr. HYDE] mentioned as have others, and the answer was, oh, this is not about submarine patenting. Mr. Chairman, to say that is not unlike saying that war is not about killing. I was born in the morning, but not yesterday morning. You all sell that submarine story to somebody else.

Let me review that with my colleagues.

Under the Rohrabacher substitute, applications filed in the United States only may not be published sooner than 5 years after they are filed, and then not if the application is under appellate review. One of the many ways a submariner delays its own application is to file spurious appeals.

In addition, and most importantly, under the Rohrabacher substitute, the director of the Patent and Trademark Office must find that the application is not being diligently pursued by an applicant before publication can occur.

As my colleagues can imagine, it is virtually impossible to identify maneuvers by patent lawyers to delay the processing of their applications. This is a sham provision that is impossible to enforce.

Can you imagine telling a judge that he or she can only allow the public to see court documents relating to a case when a finding was made as to whether the merits were diligently pursued?

All judges, including patent judges, must give the benefit of the doubt to the filers that they are proceeding in good faith and they are pursuing their claims legitimately or our whole system would collapse.

The Rohrabacher substitute demands a presumption of guilt in order to require publishing. This presumption probably could never be established. The Rohrabacher substitute further provides for publication of any amendment to an application, called a continuing application, which is filed more than 6 months after the application it amends, unless the applicant can demonstrate that the amendment was filed for any reason other than to achieve a delay in the time of publication.

What does this mean? Any lawyer wanting to delay can claim that the amendment is necessary to reflect the full richness of further developments of the invention in the application. While this may be totally spurious, it would be virtually impossible to prove. This is the way it works in real patent law practice.

Here is another way to gain the system under the Rohrabacher substitute: An applicant can file appeals to the Board of Patent Appeals, which, while unlikely to succeed, are not so frivolous as to draw sanctions. There are many ways to delay which simply cannot be uncovered.

Submarine patenting, my colleague, is serious. And the Rohrabacher substitute, in my opinion, goes out of its way to create smoking mirrors around this burgeoning business of litigation.

The real question is: Why does the Rohrabacher substitute go out of its way to protect submariners? I want someone to answer that question for me before the end of this session.

The claim of the gentleman from California [Mr. ROHRABACHER] that his bill puts a stop to the practice of submarining in the real world is false. Just ask one of the lawyers mentioned on the front page of the Wall Street Journal last week who are joining the new, currently legal, cottage industry of suing those who invest in our economy.

I ask my colleagues to vote no on the Rohrabacher substitute and to support the bipartisan Judiciary Committee bill, H.R. 400.

I reserve the balance of my time, Mr. Chairman.

Mr. ROHRABACHER. Mr. Chairman, I yield myself 5 minutes.

We knew we would hear a lot of talk about submarine patenting because there has to be some excuse that people would use in order to justify gutting the American patent system that has been in place for 225 years, there has to be some excuse for these fundamental changes.

What we got is what is called in debate school as the scarecrow argument. We just create a scarecrow there and we fill it full of hay and we claim that that is a real big threat.

Submarine patents, there is some problem. It is a minor problem I believe. The opposition claims it is a major problem.

In fact, however, my colleagues have not used one example of any submarine patent since the late 1970's. And I might add, in the 1970's, there was a system established in the Patent Office called the palm system; and it was established specifically to prevent people from delaying their patent intentionally, in other words, to deal with the submarine patent system issue.

Since that time there has not been any example, and that has been instituted already, there has not been one example of any submarine patent since the palm system was instituted in the Patent Office.

□ 1645

Now we are being told submarine patents are so bad that we have to destroy the current patent system, we have got to corporatize our patent office, taking patent examiners that are basically insulated from outside influences, and we got to corporatize that office, and who knows what type of outside influences are going to be brought to bear in this new system? We do not know. All we have got is the word of our friends. It does not say in our bill that they are going to be able to be any outside influences. Well, thanks. There are a lot of unintended consequences when one makes such radical changes as this. But, of course, the radical change is really necessary. It is the only way to deal with a submarine patent issue.

Well that is just not the case, my colleagues. The only way to deal with a hangnail is not to amputate the leg. The way to deal with magazines, obscene magazines, is not to destroy freedom of speech or freedom to publish and freedom of the press for everybody in the country. There are ways we deal with it legally that can bring the law to bear. My bill did that, and for 2 years I have been begging all of my colleagues and begging every organization that came to see me about patent law, give me the language of how we can stop submarine patenting and I will put it in my bill as long as it does not destroy the guaranteed patent term. And do my colleagues know what? We put the very strongest language we could.

Now we can read portions of anything and try to make it sound like it does not cover it, but the fact is we put in the strongest language we could. I in fact had the No. 1, one of the No. 1, legal minds in the House of Representatives, the gentleman from California [TOM CAMPBELL] who represents Silicon Valley, to consult with me and say, come up with the language that we can once and for all end submarine patenting but does not destroy the guaranteed patent term. We put that into my substitute, and guess what? It is not a sham. It may be a sham to the opposition who wants to destroy the patent system as we know it today, but it is not a sham to people who have an independent look at what we put in the substitute, the people independently who have no axe to grind who looked at my bill said that my bill and their bill would effectively end submarine patenting, say that Congressional Research Service has basically decided that that day they did their very best job to analyze it. They do not have an axe to grind. We are going to end submarine patenting.

Oh, no. Now we cannot accept that. That is just a sham. It is a sham when somebody who is independent makes that analysis. Why is that a sham? Because that is the only excuse people have for the radical changes that they are proposing for the Patent Office. They are proposing that we make fundamental changes in the technological legal system that protected technological development in the United States of America. In the past that system provided the United States of America with the highest standard of living, with a technological edge that kept us prosperous, kept us free, kept us secure, and of course these multinational corporations which they have lists of many, and many of them have been active out in hither and yon, trying to support proposition—H.R. 400 I should say—that these corporations do have an axe to grind as well. They are going to make a big profit if they can get all the secrets from the little guy after 18 months.

My job was to try to put together a bill that ended submarine patenting because I knew it would come up as an issue. We did our very best. TOM CAMPBELL and I did our very, very best. The Congressional Research Service said we succeeded. So that issue should be out of the way. So what excuse do my colleagues have of having this radical reform? What excuse do my colleagues have?

Mr. Chairman, what other excuse is there for exposing? As my colleagues know, it is very easy for the American people to understand what is happening here. As my colleagues know, the fog that comes off the Potomac may blind some of the Members who come here to vote on the floor of the House of Representatives but it certainly does not blind the people back at home. The fundamental issue we are deciding today, I put all of the good stuff that is in H.R. 400, all the real reforms into my substitute, we have ended submarine patenting.

The real issue is what? There are two fundamenatal issues—publication, publication—and that issue is very easy for people to understand. The American people know that before—throughout our country's history, if someone applied for a patent, that Goddard from the Goddard Rocket Center who developed rocket fuel, that was secret, and the Germans then could not get a hold of it, see, because it was secret and our competitors cannot get a hold of things. People who hate America cannot get that information because it has been secret. They want to change that. They want our worst enemies to have all of our secrets and to be able to use them against us.

They say, "Ah, but we have taken care so that if somebody does steal that, we'll show you a way to deal with that. We're going to let you sue them." My colleagues, 10 years later or 5 years later when the patent is issued, they now are given the right by this H.R. 400 to sue the People's Liberation Army in China if they decide to manufacture things and use them against us that violate our patent laws. Mitsubishi Corp., Sony, name it, all these huge corporations overseas, even our own corporations, do my colleagues think that really is going to deter anybody from stealing—any of these gangsters from stealing—our technology and using it against us?

This is an invitation, it is an invitation to steal American technology. I have heard nothing in this debate, nothing in this debate that has changed my mind, nor have I heard nothing in this debate that has convinced me that my rhetoric has been out of line, and I think the American people are listening really hard, and when they see these maneuvers like saying it virtually exempts small business, and then during colloquies understand that, well, no they really are not exempt, people understand that there is a power play going on in Washington, DC. It is a power play that will not work to the benefit of the people of the United States. It changes the fundamental rules and rights and freedoms that we have had for 225 years that have served us well.

The patent owners, the people who have—the inventors, the Nobel laureates, the great creators of our society, are against H.R. 400 and for the Rohrabacher substitute. There is a reason for that. The big corporations, the multinational corporations that use technology and also have all sorts of connections overseas, I might add; yes, they are opposed to the Rohrabacher substitute and support H.R. 400. There is a reason for that too.

So it comes down to corporatization; do we want to change the fundamental system that has been set up that makes these decisions as to who owns what, making our patent examiners, as my colleagues know, open to who knows what kind of pressures? And do we want to publish all of our secrets in exchange for the right of our citizens to sue some huge multinational corporation years later, years later once they get their patent? No, that is not a good deal. I do not think the American people think it is a good deal, and I do not think the American people are fooled by the argument that we got to cut our leg off in order to cure the submarine patent infected toe. They are not buying that, they are not buying that at all, and I would suggest that we have a system that served us well, we should not rush into these dramatic changes to harmonize our law with Japan.

What is pushing this all along is an agreement that was made with Japan, and I have held it up several times right here, to harmonize American patent law with Japan. We do not want to be like them. We want to have rights that are protected.

Ms. LOFGREN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to make a couple of clarifications statements for those Members who are listening to this debate.

First, I think it is important to emphasize that any matter that is sensitive from a national security point of view that is a secure matter may be held confidentially under the past law before it was changed last year under current law, under H.R. 400 and under the Rohrabacher substitute. So there is no question that none of the alternatives would allow national security matters to be published, and I think that is important.

Second, I want to address the issue of the Congressional Research Service. Now I am a relatively new Member but I have found CRS to be a useful office here, and I from time to time get their publications and read them, and I do not know the author of the report that has been quoted here. I will say, however, that in my experience in reading through Congressional Research Service publications, they are not always the only person with a viewpoint nor are they always the most expert person in the world with a viewpoint. And I think it is worth pointing out that the intellectual property section of the American Bar Association, lawyers of whom represent both patent defenders and those who might attack patents who do not have—they are not for one side or the other. The intellectual property section of the California Bar Association where most of the high-tech industry in the country is located and most of the patents issued in the country I believe emanate from California, as well as the American Intellectual Property Law Association, as well as the Intellectual Property Owners Association, all oppose the Rohrabacher substitute, all support H.R. 400.

Mr. Chairman, I reserve the balance of my time.

Mr. CAMPBELL. Mr. Chairman, will the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, I am so grateful to the gentlewoman.

I do just wish to clarify that whereas the CRS said that both Chairman COBLE and Congressman ROHRABACHER's bill reflected in fixing the submarine patent, the additional sources the gentlewoman cited did not speak to that issue. They favored Chairman COBLE's bill or she would not have been citing them, but they were not rebutting CRS's conclusion that—is that correct?

Ms. LOFGREN. Actually that is incorrect. In fact, the President of the American Intellectual Property Law Association, and I have spoken as recently as 2 days ago indicating it was his judgment the Rohrabacher substitute does not solve the submarine patent association, and, if I may conclude this, does not resolve the submarine patent issue, whereas H.R. 400 in his judgment would.

Mr. CAMPBELL. If the gentlewoman will yield further on that point, I would be very interested in having that reduced to writing so that I could look at it. I do have the CRS report reduced to writing.

Ms. LOFGREN. Reclaiming my time, I will see if I can get that done.

Mr. CAMPBELL. I have one additional point which I might put to the gentlewoman if she continues to yield.

Ms. LOFGREN. I will.

Mr. CAMPBELL. As to the lawyers' associations which support H.R. 400, could one not interpret that that is a natural response to the fact that the bill will create much more opportunity for their employment?

Ms. LOFGREN. I do not believe that is correct and the gentleman and I are both from California, we both taught law and we are both—I think the gentleman was formerly on the Committee on the Judiciary, and perhaps I am wrong on that. I am currently serving on the Subcommittee on Courts and Intellectual Property. Certainly people can have divergences of opinion. But I do not believe that and I doubt very much that that would be the motivation for the intellectual property section.

Mr. CAMPBELL. Would the gentlewoman find it shocking if a group of lawyers in finding a bill beneficial saw some opportunity for enhanced—call upon their own services. That is all.

Mr. GOODLATTE. Mr. Chairman, will the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from Virginia.

Mr. GOODLATTE. The lawyers that the gentleman suggests will benefit by this work for the many, many, many American businesses who strongly support this legislation. And would the gentleman suggest, and I am sure the gentlewoman would not suggest, that those businesses are interested in legislation because it will give them the opportunity to pay more in legal fees? Of course not. They are interested in this legislation because it stops submarine patenting where one lawyer, one lawyer got $150 million in contingent fees. And do my colleagues know where that money came from? It came from American business. And do my colleagues know what it gets paid for? American business passes their costs on to the consumers and taxpayers in this country, and that is what this legislation is all about. It is not to help lawyers.

Ms. LOFGREN. Reclaiming my time, I would concur with the gentleman's comments, noting that the National Association of Manufacturers, the Pharmaceutical Research and Manufacturers of America, the Semiconductor Industry Association, the Software Publishers Association and the like have rarely been in favor of more litigation.

Mr. Chairman, I reserve the balance of my time.

Mr. COBLE. Mr. Chairman, I yield 5 minutes to the gentleman from the Roanoke Valley in Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding this time to me, and I rise in strong opposition to the Rohrabacher substitute which would be a disastrous turn to take in American patent law.

First I want to address some of the comments being made by some of the supporters of this substitute and the opponents of the bill. The gentlewoman from Ohio [Ms. KAPTUR] said that we had not been fair and open in this process; and by the way, I will not yield to the gentlewoman because she refused to yield to me earlier, but I want to make this point.

This bill has been more carefully studied and worked in this Congress in very public open hearings than any other legislation considered in this Congress this year. Hearings have been held in the Committee on Science, hearings have been held in the Committee on Small Business, hearings have been held in the Committee on International Relations, and eight public hearings have been held in the Committee on the Judiciary on this legislation. So there is absolutely no possibility that this legislation is not something that has been very fairly and openly debated throughout the process.

□ 1700

Second, the gentlewoman made the point, which is totally inaccurate, that we were going from a 17-year protection for inventors down to 18 months. Well, that is hardly the case at all.

Under our bill, any inventor gets a minimum of 17 years' protection, provided that they themselves do not cause a delay in the issuance of the patent. So they are going to get an increase.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield on that point?

Mr. GOODLATTE. Mr. Chairman, no, I will not yield.

Ms. KAPTUR. Just to clarify, Mr. Chairman.

Mr. GOODLATTE. Mr. Chairman, I would ask for order.

The CHAIRMAN. The House will be in order, and the gentleman from Virginia [Mr. GOODLATTE] may proceed.

Mr. GOODLATTE. I thank the Chairman.

The fact of the matter is the gentlewoman had 30 minutes of time, I have much less, and unfortunately, we have not had the opportunity to have that colloquy.

But the fact of the matter is, under our legislation, they have that same amount of time, they have that time under the new legislation, and they will have, in most cases, more time than they have under current law.

Furthermore, the average patent in this country today is issued after 19 months. This calls for publication after 18 months. So most patents are not going to experience any significant difference in how quickly they are published. But here is the important fact about this, and this is what is wrong about this entire debate by the opponents.

We are not talking about trade secrets here, we are talking about publication of patents. Patents have always been protected in this country by publication. That is how we say to the world that an American inventor has put forward an idea that is entitled to be protected under our laws.

We do not tell them to hide it under a rock. We do not tell them to lock it up in a safe. We tell them that the U.S. Government will publish their patent and say they were the first with that idea and they are entitled to 17-years-plus protection.

That is what they get under this bill as well, only they get it better, because now they are going to be published sooner. When they are published sooner the world knows sooner that they were the first with that idea, and the capitalists who wanted to invest in that small inventor's opportunity to bring that unique idea that is so uniquely American, as the opponents have pointed out, that we lead the world in developing ideas, but we do not lead the world in getting those ideas to market, and one of the reasons why is because we do not get the capital to the inventor quickly enough.

If we change the law so that we have the opportunity to publish after 18 months, and not yours published after 18 months, but anybody who might be competing with you, that is important, because if you do not know that somebody else is in the patent system with something hidden, something called a submarine patent, ready to surface up and take your claim and try to get royalties from you, what you wind up with is a system where the capitalist does not know when to put the money in until you get the patent.

Under this change in the law, which has worked so well in Europe and other places, the money gets to the inventor from the entrepreneurial investor sooner because they know sooner that that person has the idea, and that is the one that is going to have the protection for 17 years.

Now, the gentleman from California claims that submarine patents are eliminated by his substitute. Nothing could be further from the truth. While I have great respect for the CRS, they say both bills seek to curtail submarine patenting. But there is often "many a slip twixt the wrist and the lip," and that is exactly what is true of the gentleman's substitute. It may seek to eliminate submarine patenting, but it certainly does not succeed, because it eliminates one form of delaying the patent process, and that is amending the application.

But there are hundreds of ways that a good patent lawyer, who under the current laws makes a very good living with abusing our current system, there are hundreds of ways that one can delay the processing of a patent application that will not be covered by the gentleman's substitute.

As a result, what we have is a situation where the only way to cure this very serious problem that costs American consumers and taxpayers hundreds of millions of dollars a year is to have publication, which, as I indicated earlier, is not bad, it is not detrimental to the small inventor, it is good for the small inventor, because publication is what tells the world that that small inventor was the first one out of the box.

We also protect them by giving patent pending, a protection that it does not have now. That small inventor who has that idea that he turns into a product and puts on the shelf in the store and says patent pending, under the new law, they can get protection during the time that the patent is pending. If somebody wants to steal it and rip it off, they can get royalties for the entire time. Under the current law, they get no royalties except for the time that the patent is actually issued.

The result of all of this is a vast improvement of our patent system. As we have on numerous occasions over the 200-plus years of our history, this committee and this Congress is what has created the wonderful patent system we have in this country, and no one should ever suggest that it has never been changed in the 200 years since we originally wrote our Constitution recognizing that patent system.

We have to constantly look at it and improve it. When you do not, that is when you fall behind. If you want to look for examples of people who have said in the past that we are the best in the world and we do not have to worry about anybody outside, go talk to the big-three automobile makers and ask them what they thought back in the 1960's and 1970's about their superiority over the Japanese. They learned very quickly that if they did not change the way they do things to keep up with the times, they would fall behind.

If you want to look for a place where there is strong, strong support for these patent reforms to protect American business, American jobs, and American technology, go to the big-three automakers, because all three of them support H.R. 400 because they want to make sure that our patent system remains the best in the world, and that is what this legislation does.

Oppose Rohrabacher, support H.R. 400.

Mr. ROHRABACHER. Mr. Chairman, I yield myself 1 minute.

Just so my friend from Virginia, Mr. GOODLATTE, will understand, if I could quote from the report here, the Congressional Research Service, it says, yes, it does, as he stated, both bills seek, and it did, said seek to curtail, but you did not finish the sentence, and would likely end the practice.

So I mean this is very similar to what we have heard in other parts of the debate where something will effectively permit small business and the little guy to be exempted, but "effectively" is not really an accurate description.

The Congressional Research Service, which is an independent body, and people who do not have an ax to grind, have determined, and I have gone out of my way, and my colleague, the gentleman from California [Mr. CAMPBELL] has gone out of his way, to put the strongest language we could in, and an independent body is agreeing with us, that we would likely end the practice. We have done our very best. This fig leaf could not be used to justify radical changes in our system.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair would advise all Members that the gentleman from California [Mr. ROHRABACHER] has 10 minutes remaining; the gentleman from North Carolina [Mr. COBLE] has 12½ minutes remaining; the gentlewoman from Ohio [Ms. KAPTUR] has 20 minutes remaining; and the gentlewoman from California [Ms. LOFGREN] has 19 minutes remaining.

The Chair recognizes the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I yield myself such time as I may consume. I will yield time to the gentleman from Maryland [Mr. HOYER] in just a second, but I wanted to answer the gentleman from Virginia [Mr. GOODLATTE], since he referenced me at least three times in his remarks.

Mr. Chairman, I see a big difference between 18 months, 17 years, and 20 years. Under the bill the gentleman supports, the gentleman requires that there be publishing of all patent applications 18 months after they have been filed, whether or not the patent has been issued. Eighteen months is less than 2 years.

The GAO says it takes at least 4 years, the Patent Office says it takes 2 years, average application time, but whatever the time is, some patents take 10 years, 12 years. The gentleman is saying 18 months. That information is made available under the gentleman's radical proposal. It is a radical departure from the current system which says that once a patent is issued, an inventor has protection for 17 years, almost 2 decades.

The gentleman said, oh, but I give you 20 years, 20 years is better than 17 years. No, your 20 years does not begin when the patent is issued, it begins when the patent is filed. I was courteous to the gentleman when he was talking to me. I would certainly appreciate a little eye contact here while I am talking to him.

So there is a big difference, numerical difference to the protection of the inventors of this country. I feel bad the gentleman from Virginia [Mr. GOODLATTE] did not yield to me, but I wanted to clarify for the RECORD, there is a whole lot at stake. Every single day of a patenter's life of his invention is important. They have a lot on the line. Some of them have their whole future on the line. For America, we have America's future on the line.

So the difference between 17 years of guaranteed covered and 18 months when you have to divulge the secrecy of your information is a pretty big difference.

Mr. Chairman, I yield 8 minutes to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank the gentlewoman for yielding me this time, and I thank my friend from California for letting me proceed.

I want to say that those of us who are not expert in the field of patents, and I dare say that is probably 100 percent of us, some of us know more than others, that is for sure, but I would presume, unless there is a patent lawyer among us, obviously Mr. CAMPBELL, a law professor, a distinguished law professor, has done a lot of work on this. I am a lawyer, but I want to have a disclaimer at the front that I do not know a lot about this issue from a technical standpoint.

So like most Members, I come from the standpoint of what is best for the people I represent? What is best for the country? What is best for competitiveness, both domestically and internationally, and what best protects the people that I represent?

Now, very frankly, I have heard from numerous people, individuals who are very concerned about this bill. I have read in The New York Times, for instance, articles of inventors, small business, associations who are very concerned at the exposure that this bill brings. The gentlewoman from Ohio [Ms. KAPTUR] referred to the time of 18 months or 17 years or 20 years or whatever the time frame might be.

I have heard the debate back and forth. I would say to my friends that, at the outset, I do accept the premise of the CRS report, that both bills not only seek, as has been pointed out, but do, in fact, accomplish the objective of getting at the problem, to the extent it exists, of the submarine patents.

The gentleman from California [Mr. HUNTER] who spoke earlier pointed out that there were some 300 submarine patents that could be described out of the millions of patents. So the percentage of submarine patents, if they exist, and obviously they do, is as the gentleman from California [Mr. HUNTER] pointed out, incredibly small.

In pursuit of that objective, we are placing at risk the 99.9 percent of inventors, innovators, entrepreneurs who have an idea that they want to protect so that they can justifiably profit in a free enterprise system from the integrity and protection of that idea.

It is for that reason, my friends, that I rise, convinced not of the technical merits one way or the other, because as I said at the outset, I am not an expert, but that there is so much concern in the small business community.

I believe this bill would harm small business and independent inventors. We must remember that small business, as all of us know, represents the fastest growing sector of the economy and are truly America's greatest source of job creation and technology development.

I am not opposed to everything in H.R. 400, as I am sure most are not. In fact, I know my friend [Mr. ROHRABACHER], the principal sponsor of the alternative, which I support, is not an opponent of all. I support the inventor protection electronic filing sections of the bill. However, despite the rhetoric surrounding the manager's amendment, the publication time still poses a threat to America's small business.

Too many small business organizations have voiced their concerns and opposition to H.R. 400. I am not going to go through the list, but my colleagues have seen, I think most of our colleagues have seen, the list of 2 or 3 pages, small-type, of small inventors, small investors, small businessmen and entrepreneurs who are concerned and have said, do not move on this bill.

□ 1715

In fact, the Chamber of Commerce itself has held itself aloof from this bill. The Chamber of Commerce itself has held itself aloof from this bill because they believe there is a risk.

Mr. Chairman, it is a strange alliance that we see on this floor on this bill, on both sides, perhaps because some come from a more involved process with this bill and some a less involved, and are, frankly, looking not so much at the technical aspects of this bill but at the risks that it will pose to the people from whom we are hearing.

Mr. Chairman, the U.S. Chamber of Commerce, as I said, has been conspicuously silent on this bill, and the National Association for the Self-Employed, an organization of 325,000 members, is not only silent, they are strongly opposed to H.R. 400, because they believe it places their small business people at risk. This is a very important issue. We must not rush to judgment. In fact, we are not rushing to judgment, as the gentleman from Alabama is pointing out to me.

The proponents of H.R. 400 claim that there are remedies and processes set up to protect small business. If that is the case, why have the Chamber and the NFIB and small business and small inventors not come forward and said that they have achieved protection? They have not. In fact, they have done the opposite, as I said. Three hundred twenty-five thousand strong have said, we are strongly opposed to this bill.

We all know that small businesses have neither the attorneys nor the resources. The gentleman from California [Mr. CAMPBELL] has spoken to this, the gentleman from California [Mr. ROHRABACHER], the gentlewoman from Ohio [Ms. KAPTUR] have all spoken to it. It is fine to say, yes, if they learn your information very early on you get protection, because you were published. That is great.

That is great, and if you have $1 million or $5 million, like some of the egregious people, I understand, and let us not hoist on the petard of one or two or three multimillionaires who are gaming the system, thousands of folks who are not only not gaming the system but it is the only protection that they have.

Mr. Chairman, in closing, because my time is coming to a close, let me say that I am also concerned, as someone who is deeply involved in governmental organization issues, deeply involved in Federal employee issues, I understand that my friends in the NTU believe that H.R. 400, my good friend, the gentlewoman from California [Ms. LOFGREN] who has fought so fervently for this bill, she and I disagree on the substance, but she is an able advocate of this bill, and they have talked about the NTU.

Let me say, as so many have said on this floor, I am concerned about this critically important process, which must be insulated from outside influence, being altered in the way that H.R. 400 alters it; that it is not a Federal employee, insulated from outside pressure and influence and involvement, who will make decisions critical to the economic welfare not only of small business and inventors and innovators, but also of this country.

So I would ask my colleagues to vote for the amendment offered by the gentleman from California [Mr. ROHRABACHER], incorporating the amendment of the gentleman from California [Mr. HUNTER] as well, and to vote against H.R. 400.

Ms. LOFGREN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would say there has been much discussion of the Congressional Research Service. I would like to note that the commissioner of patents and trademarks, who actually is an expert in this whole subject area, has noted that the Rohrabacher amendment, in his words, would allow the patent system to continue to be misused by those who are not interested in obtaining patent protection early, and goes on to further detail the submarine patent provisions that would remain.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY of California. Mr. Chairman, like the gentleman from Maryland [Mr. HOYER], I do not come to the well of the House as an expert on patent law either. But unlike the gentleman from Maryland, I come to complete disagreement in terms of what is the proper policy that we should institute in order to create a fiscal and financial environment that is going to ensure that our economy and in fact small businesses will prosper.

When we look at what has happened in just the last decade when we have seen 40 percent of the growth in our economy has occurred primarily in the high-technology industry, we have to ask ourselves, how did that happen? It happened in a large way because we had a lot of small businesses that were able to attract capital, that were able to make the appropriate investments. That created jobs, it created products, it allowed us to become the leader in the information services and computer services and software services and the biotechnology industry throughout the world today.

The changes we are considering making in our patent laws I am convinced are even going to do more to enhance that regulatory environment to ensure that a lot of our inventors that are out seeking capital will have greater access to it, because we will be able to find the investment community, and they will be much more willing to take a risk, to make a gamble on investing on the person who has an idea or an invention, if they have greater assurances that there is not somebody that is holding back a secret patent that could create financial jeopardy down the road.

I guess that is where it comes to the fundamental disagreement in the discussion that we have had on the floor today, was whether or not the Rohrabacher amendment provides a level of protection on the submarine patents as does H.R. 400 offered by the gentleman from North Carolina [Mr. COBLE]. I have come to the conclusion that it does not.

Part of that is based just strictly on the language, in that you can have an extension of the publication of a patent, if the office of director of patents and trademarks does not make a determination that there was not an effort being engaged by the individual that could demonstrate that they were diligently pursuing the publication of their patent.

They furthermore go on to say that if you can have an amendment, and again, you have to have a determination made by the regulatory body that this amendment was not done so simply to prevent the publication of the patent. These are determinations that have to be made that are going to be very difficult.

I am concerned that with those provisions in, we will not deal with the fundamental issue of dealing with the submarine patents, and that is what is impeding, I think, the flow of capital which is so important to U.S. inventors, people that have a good idea that can build products in this country, that can create jobs and be such a benefit to our economy.

Mr. Chairman, I urge people to vote no on the Rohrabacher substitute, and support the bill offered by the gentleman from North Carolina [Mr. COBLE].

Mr. ROHRABACHER. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland, Mr. ROSCOE BARTLETT, one of the only inventors in the U.S. Congress, who is also a professor, a technologist, who shares the Committee on Science with me.

Mr. BARTLETT of Maryland. Mr. Chairman, I would just like to speak to the Members for a few moments from the heart. I am not an expert in patents, but maybe I have some credibility. I hold 20 patents. I was in the academic world for 24 years, and during a part of that I was an inventor. I was a small business man with an R&D company, and my intellectual creations were the basis of that small business.

Mr. Chairman, there is just no reason, no defensible justification for publishing these patents 18 months after they are filed. The only possible reason could be to prevent submarine patents, but CRS has said, and we can see it here by me, both bills seek to curtail submarine patenting and would likely end the practice.

If the Rohrabacher bill is not perfect, let us make it perfect. But let us not undermine the protection that countless thousands of small inventors like myself have with the present system. We do not need to change this system.

I have had a lot of mail on this. I have not had a single telephone call, a single fax, or a single letter that said "Support H.R. 400;" not a one of them, and not all of these small people out there can be wrong. I had the notion when I came to Congress that maybe the great wisdom of the country was not inside the Beltway. The longer I am here, the surer I am that that is true. These people from outside the Beltway have called me and faxed me and written letters to me, and every one of them who have done it, and there have been a large number, have said, please do not vote for H.R. 400, vote for the Rohrabacher bill.

We do not need to bring down our patent system to the level of the Japanese, to harmonize under our GATT agreement. Let them come up to our level of excellence. If we pass H.R. 400, it will cost us jobs. It will cost us jobs because of the lack of protection that our entrepreneurs now have. We are the greatest economic force this world has seen. It is largely because of the protection of our entrepreneur system.

It is true that to at least some degree, America's future is on the line in this vote. Please do the right thing for the little guy that I represented so many years out there. Do not vote to give away our secrets to every copycat around the world. Protect our entrepreneurs. Vote for the Rohrabacher amendment.

Ms. KAPTUR. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I do not want to leave anyone behind on this issue. I, too, though a member of the Committee on the Judiciary, am not going to pretend to be a longstanding expert on this issue.

But I want to raise two points. I hope that maybe we will be able to respond to the concerns. First, this substitute addresses the question that I have heard throughout my district, and that is on small businesses, and how they are protected. I do not think we can go forward without acknowledging and responding to those concerns. We have the time.

Second, I would like to speak to the issue that now I am told is not outsourcing the patent staff, but corporatizing. I would simply say that the concern is that if you have had an independent civil body, then that civil body needs to be and remain independent. The substitute addresses that question.

I would imagine that even in spite of having just met with members of the European Commission who have asked that we have a patent system which they can relate to, even with trying to relate on the international system, there does not seem a reason why we cannot protect small businesses and why we cannot protect the civil servants who are part of the Patent Office who have for years been able to provide good service to our inventors, our scientists, those who have knowledge, and bring knowledge to this country.

This substitute responds to those concerns. If there is reason to repair the substitute and the larger bill, then I would offer to say that we should stand in support of small businesses and, of course, those longstanding civil servants who have done the job in the Patent Office for years and years and years.

Ms. LOFGREN. Mr. Chairman, I yield 2½ minutes to the distinguished gentlewoman from California [Mrs. TAUSCHER].

□ 1730

Mrs. TAUSCHER. Mr. Chairman, I rise today in strong support of H.R. 400, because I am the granddaughter of one of the little guys.

My mother, who I talked to on the phone just a few minutes ago, has been confused about the debate she has watched today. But I strongly support H.R. 400 because I also strongly support our Nation's businesses and the small and independent inventors. I believe this important and needed legislation will improve our competitiveness, reduce the loss of wasted and precious R&D dollars and eliminate the real and dangerous scourge of submarine patents.

Many have valid concerns about the publication of patent information 18 months after filing. But H.R. 400 contains an exemption for all small businesses and independent inventors, allowing them to withhold publication until 3 months after the second meritorious PTO action. Furthermore, upon publication, inventors receive the constitutional monopoly over their invention.

Others mention that the patent term will now be cut below the traditional 17-year term. Nothing could be further from the truth. The fact is that H.R. 400 allows a diligent patent applicant to receive extensions of term for many reasons, including appellate review, administrative delays caused by PTO actions or inactions, the imposition of a secrecy order, or in the case of interference from a competing claim or infringement. Many of these extensions are unlimited to ensure that inventors will not lose any patent term.

Mr. Chairman, nearly 45 percent of all patent applications filed with the PTO are from foreign companies and inventors who have manipulated our patent system to their advantage while U.S. inventors filing abroad are subjected to open examination. H.R. 400 levels the playing field in favor of U.S. businesses while providing additional protection for American inventors. I urge my colleagues to oppose the Rohrabacher amendment and support H.R. 400.

Mr. ROHRABACHER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, these are my concluding remarks. I would like first of all to thank the gentleman from North Carolina [Mr. COBLE], the gentleman from Illinois [Mr. HYDE] and the other Members who have put up with me for the last months in my opposition, and I happen to have very strong beliefs about this. I appreciate the gentleman from Michigan [Mr. CONYERS] for putting up with me.

The bottom line is, when you have strong disagreements in this democratic body, sometimes people get mad at one another, but the fact is we are all friends. We will be working on other issues and working together, and we are all people of integrity.

Mr. Chairman, I also wanted to thank the gentlewoman from Ohio [Ms. KAPTUR] and the gentleman from Maryland [Mr. HOYER] and the gentleman from California [Mr. CAMPBELL], the gentleman from Maryland [Mr. BARTLETT], and of course, the gentleman from New York [Mr. FORBES], who has been so articulate as well.

A lot of Members have put a lot of time and effort into this because this is a really important issue. It is something that will make the difference in the future of our country. We all believe that. Twenty years from now America will be a different kind of place because of the decision we are making today.

We are trying today to make a decision as to whether or not we will fundamentally veer from the system that has protected the technological development of the United States of America for 225 years, a system that has assured the American people of the highest standard of living, the greatest degree of freedom and security for our country of any system in the world.

We do not want to be like the Japanese. We do not want to harmonize our law to a Japanese model. We do not want the European model. People came here because this is where people's individual rights were protected. Again, what has been our rights, our rights have been we can invent and it will be kept confidential, our patent application, until that patent is issued and we own that technology. It has protected us. That has been such an important part of the development of technology in our country. Now it is just being cast away saying, we will exchange it for a system where you can sue somebody if they steel it from you. That somebody may be a huge corporation in Japan or China, but then that will replace it with that system. That is no protection at all.

I ask my colleagues to support my substitute. We have included the good stuff and left out the bad stuff.

Ms. LOFGREN. Mr. Chairman, I yield myself such time as I may consume.

I wanted to make just a few remarks before the gentleman from Illinois [Mr. HYDE] concludes, I believe, the debate for today. As a relatively new Member, I have found this entire process to be a fascinating one, unfortunately, I think sometimes a confused one.

We have heard and I have heard debates, late-hour radio talk show discussions about patents for the first time in my life. We have heard about patents on talk shows, people thinking it had something to do with foreign governments or trade agreements or the Red Army. In fact, as Mr. HYDE knows, and the gentleman from Michigan, Mr. CONYERS, knows, it does not. And then people becoming concerned and alarmed and afraid and communicating to their Members of Congress, including myself, that they do not want the wrong thing for their country. Of course not. None of us do. None of us do.

Then we get here today with, unfortunately and not unusually, most people in the country, I would venture and it has been said here today, most Members of the House not being experts in patent law, not having had a chance to take the courses in patent law or to practice patent law and to really familiarize themselves with it and then doubt and concern.

Mr. Chairman, it is my hope that Members have found this debated useful so that they can sort through the conflicting and occasionally extravagant claims to do what is right for our country because this is not a freebie vote. This is an enormously important vote for America. When I think about the companies and the inventors and the innovators in Silicon Valley and the role that they now play and will play in making sure our country advances technologically and has a wonderful quality of life, that we have high employment, that we have a bright future, that is dependent on this body going beyond its confusion and doing the right thing by defeating the Rohrabacher substitute and supporting H.R. 400. The bill that was crafted by Chairman HYDE and Ranking Member CONYERS, that was supported and nurtured by the gentleman from North Carolina, Mr. COBLE, the chairman, and the gentleman from Massachusetts, Mr. FRANK, the ranking member, these are unlikely allies who have come together in the best interest of the Nation on a bipartisan basis.

I will close simply by saying this. The White House conference on small business technology chairs have analyzed the debate, analyzed the talk show allegations and have found that the misinformation, they say misinformation, is part of an intense campaign of fear and xenophobia. They say the information being promulgated is simply wrong. They point out that legislation based on bad data is bad legislation. They urge defeat of the Rohrabacher amendment and they urge support of H.R. 400.

Mr. COBLE. Mr. Chairman, I want to express appreciation to all who participated in today's debate and to thank the Chair as well.

Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], chairman of the House Committee on the Judiciary.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding me the time. I will not spend time congratulating everybody, but I do in a blanket way because everybody connected with this issue and this debate on both sides, even the gentleman from California [Mr. CAMPBELL], Professor CAMPBELL, I congratulate.

If my colleagues do not think submarine patenting is a serious problem, and it has been diminuendo by some on the other side, let me quote from a witness before the subcommittee of the gentleman from California [Mr. ROHRABACHER], a gentleman named Bill Budinger, an independent single inventor who had his own little company, Rodel Company, and here is what he said to Mr. ROHRABACHER's committee:

"I have heard people say there is no such thing as submarine patents, and to borrow a phrase from earlier, I think the folks that say that are either naive or disingenuous. Here is a list of 300 patents that were issued in the 2-year period before the law changed," that is 1994. "Each of these patents will monopolize a segment of American technology for a period of 25 years or more. They are going to provide a minimum of 25-year monopolies and some of the monopolies here are 40 years. Every one of these patents is issued to and owned by a foreign corporation. So these folks learned how to game the system."

Now, submarine patents are not the only reason we are here with this bill. Do you not understand that we need access to foreign inventors' ideas? They come over and register and file their applications in our Patent Office, and we do not get to read them. We do not get to see them in English. Whereas our patents, our applications are filed in Japan, filed in France, filed in Germany, and after 18 months, they are published there. So we ought to have parity with foreign inventors; 45 percent of the applications for patents are filed by foreigners in this country.

We saw a rather embarrassing list of Nobel Prize winners but they may not have the technologists. They have the inventors, 45 percent of them. Small business is protected. Small business can opt out. Small business cannot be published until after two office actions. That means you are going to get your patent. Then you have 3 more months when you are not published. That is a different treatment from a so-called big business.

Let us dispel the notion that publication is a betrayal of our secrets. Publication is protection.

There is an animal called provisional rights that arises as soon as your publication occurs. It is the same as though you had a patent and, once your idea has been published, it is yours. It is notice to the world, I thought of it. I thought of it first, do not tread on me. And not only that, but if anybody tries it, they are liable in damages for infringement. So there are provisional rights. Do not tread on me, and it also is an advertisement to investors who might say, hey, this guy has got an idea. I might want to invest in this.

Every patent commissioner except one who is working for the other side has come out for H.R. 400. The Nixon, Ford, Reagan, Bush have all signed a letter saying we like 400. The Clinton administration says, we like 400. And so if it is good enough for them, it ought to give us pause if we do not think we want to support it.

The gentleman from California, [Mr. ROHRABACHER], God love him, says his bill, and he has a CRS report. If I were the teacher, I would give that about a D minus because it misses the mark horribly, horribly. The gentleman from California, Mr. TOM CAMPBELL, a fine lawyer, I just want to ask if he really thinks this eliminates the submarine patent. Under the Rohrabacher amendment, you cannot publish for 5 years. Let me put the question this way: Have you ever spent 5 years in a submarine?

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, under the Rohrabacher amendment, you must publish, there is no 5-year delay if you are a gamester, if you are a submariner as determined and applied for a continuation. No 5-year delay.

Mr. HYDE. Mr. Chairman, the gentleman is asking that the patent examiner have an astrological gift to be able to tell whether or not what one is doing is gaming the system.

There is much more to say, I sense an impatience in the Chamber. And not wishing to dull my antennae any more than they are, I hope my colleagues will support 400. I hope my colleagues will tell the gentleman from California, [Mr. ROHRABACHER], he is a swell guy but has a lousy bill.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. ROHRABACHER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROHRABACHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 227, not voting 28, as follows:

[Roll No. 85]

AYES—178

Abercrombie
Bachus
Baldacci
Ballenger
Barcia
Barr
Barrett (WI)
Bartlett
Bereuter
Bilirakis
Bonilla
Bonior
Bono
Brown (OH)
Burton
Calvert
Campbell
Cardin
Chambliss
Chenoweth
Christensen
Clayton
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Coyne
Cramer
Crapo
Cubin
Cunningham
Danner
Deal
DeFazio
Dellums

Diaz-Balart
Dixon
Doolittle
Doyle
Duncan
Emerson
English
Ensign
Everett
Filner
Foley
Forbes
Fowler
Gallegly
Gephardt
Gibbons
Gillmor
Goode
Goodling
Goss
Graham
Hansen
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jones

Kaptur
Kildee
Kim
King (NY)
Kingston
Kleczka
Klink
Kucinich
LaHood
Largent
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
Martinez
Mascara
McCarthy (NY)
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Menendez
Metcalf
Mica
Miller (CA)
Miller (FL)
Mink

Molinari
Moran (KS)
Murtha
Myrick
Neumann
Ney
Norwood
Oberstar
Obey
Olver
Ortiz
Pallone
Pappas
Parker
Pascrell
Paul
Payne
Petri
Pickering
Pombo
Poshard
Radanovich
Regula
Riggs
Riley
Rivers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaffer, Bob
Sessions
Shadegg
Sherman
Smith (MI)
Smith (NJ)
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Strickland
Stump
Sununu
Talent
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Walsh
Wamp
Waters
Watts (OK)
Weygand
Whitfield
Young (AK)

NOES—227

Ackerman
Aderholt
Allen
Archer
Armey
Baesler
Bass
Bateman
Becerra
Bentsen
Berman
Berry
Bilbray
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Bryant
Burr
Buyer
Camp
Canady
Cannon
Capps
Carson
Castle
Chabot
Clement
Clyburn
Coble
Conyers
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
Delahunt
DeLauro
DeLay
Deutsch
Dickey
Dingell
Doggett
Dooley
Edwards
Ehlers
Ehrlich
Engel
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gekas
Gilchrest
Gilman
Gonzalez
Goodlatte
Gordon
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hastert
Hastings (FL)
Hefner
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hyde
Inglis
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
Knollenberg
Kolbe
LaFalce
Lampson
Lantos
Latham
Levin
Lewis (GA)
Linder
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McHale
Meehan
Meek
Minge
Moakley
Mollohan
Moran (VA)
Morella
Nadler
Neal
Nethercutt
Northup
Nussle
Owens
Oxley
Packard
Pastor
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Pickett
Pitts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Reyes
Rodriguez
Roemer
Rogan
Rogers
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sandlin
Sawyer
Schumer
Scott
Serrano
Shaw
Shays
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (OR)
Smith (TX)
Smith, Adam
Spratt
Stabenow
Stark
Stenholm
Stokes
Stupak
Tanner
Tauscher
Tauzin
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Turner
Upton
Velàzquez
Vento
Visclosky
Watkins
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOT VOTING—28

Andrews
Baker
Barrett (NE)
Barton
Blumenauer
Borski
Bunning
Callahan
Clay
Costello
Crane
DeGette
Dicks
Dreier
Dunn
Etheridge
Flake
Foglietta
Harman
Hinchey
Johnson, Sam
Klug
McCrery
Millender-McDonald
Schaefer, Dan
Schiff
Sensenbrenner
Towns

□ 1804

The Clerk announced the following pair:

On this vote:

Mr. Dan Schaefer of Colorado, for with Ms. Dunn against.

Ms. EDDIE BERNICE JOHNSON of Texas and Messrs. DAVIS of Illinois, FAWELL, SERRANO, EDWARDS, and GUTIERREZ changed their vote from "aye" to "no."

Mr. PAYNE changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BARRETT of Nebraska. Mr. Chairman, I was unable to be present for the vote on the Rohrabacher substitute amendment to H.R. 400. Had I been present, I would have voted "no."

Mr. COBLE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. UPTON) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 400) to amend title 35, United States Code, with respect to patents, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. ETHERIDGE. Mr. Speaker, on two recent occasions, I was unavoidably detained on official business in my congressional district while the House was in session. Had I been present, I would have voted "yes" on rollcall votes 72 and 73 and "no" on rollcall vote 85.

RESIGNATION AS MEMBER OF COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Government Reform and Oversight:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
April 17, 1997.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: I hereby resign from the Committee on Government Reform and Oversight effective April 17, 1997.

Thank you very much for your consideration.

Sincerely,

TIM HOLDEN,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON RESOURCES

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Resources:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 17, 1997.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Capitol, Washington, DC.

DEAR MR. SPEAKER: I hereby resign from the Committee on Resources, effective April 17, 1997.

Sincerely,

NICK LAMPSON,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON SCIENCE

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Science:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
April 17, 1997.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER, I hereby resign from the Committee on Science.

Sincerely,

LLOYD DOGGETT.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

CONCERNING PROMOTION OF PEACE, STABILITY, AND DEMOCRACY IN ZAIRE

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the resolution (H. Res. 115) concerning the promotion of peace, stability, and democracy in Zaire, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. MENENDEZ. Mr. Speaker, reserving the right to object, and it is not my intention to object. I yield to the gentleman from California [Mr. ROYCE] the chairman of the Subcommittee on Africa to explain his unanimous-consent request.

Mr. ROYCE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this resolution has been cleared on both sides of the aisle and no recorded votes are anticipated.

Mr. Speaker, we have seen the headlines. Zaire is in crisis. Its government has collapsed, having lost much of its territory to rebel forces. There is humanitarian suffering throughout the country. This is a complex crisis.

Mr. Speaker, one of these forces has been a constant throughout this, and that has been the corrupt and despotic rule of President Mobutu. For more than 30 years, Mr. Mobutu has ruled Zaire with disdain for its people. Zaire is now politically collapsed. It is also economically collapsed. What should be a prosperous country is now one of the world's poorest.

Meanwhile, Mr. Mobutu is one of the world's wealthiest men. Simply put, Mobutu has bled Zaire. Repairing this economic damage will not be easy. Repairing the political damage of Mobutu will be a bigger challenge. The immediate task is to stop the fighting, develop a transitional government, and start on the path toward democracy.

Let us be clear: Mr. Mobutu has no role to play in this process. He should immediately resign from the office of the Presidency, leave Zaire, and withdraw from all political activity. That is what the resolution states. Mr. Mobutu should leave Zaire now.

This is a strong statement for the U.S. House of Representatives to send. It is an important statement. America has a big stake in Zaire, and what the United States Congress says about Zaire is taken seriously in Zaire.

This resolution is directed against Mobutu, but it is really about bringing democracy to Zaire. It calls on the administration to support democratic, multiparty elections. Getting to that goal is a tall order. Multiparty democracy is difficult under the best of circumstances. But single-party democracy long ago proved to be a mirage.

Zaire does not need another leader emerging from the chaos to become a tyrant. That is what Mobutu did. Zaire can do better.

This is a bipartisan resolution. It is the work of the members of the Subcommittee on Africa, who have been very interested in Zaire's political and humanitarian crisis, interested in making things better for the people of Zaire.

I want to thank the gentleman from New Jersey [Mr. MENENDEZ], the ranking member on the subcommittee, who has spoken forcefully on Zaire's crisis; and I want to thank the gentleman from New Jersey [Mr. PAYNE], who has long been engaged in Zaire; and I also want to thank the gentleman from New York, Chairman GILMAN, and the gentleman from Indiana [Mr. HAMILTON] of the Committee on International Relations for supporting this resolution.

As I say, this is a good resolution for Zaire and for the United States.

Mr. MENENDEZ. Mr. Speaker, reclaiming my time and continuing my reservation of objection, I am very pleased that we have been able to work together.

The gentleman from California [Mr. ROYCE] is the committee chair, and I want to commend my colleague for his work in this regard and the rapidity with which we have dealt with this issue because we think it is timely and it makes a difference now if we pursue it.

Also, I want to commend my colleague, the gentleman from New Jersey [Mr. PAYNE], who has for quite some time pursued the course of justice and democracy in Zaire and I understand is a cosponsor with the chairman on this resolution; and the gentleman from California [Mr. CAMPBELL], as well as the committee, for their hard work negotiating, compromising to make this happen.

What we do and what is being offered in this resolution is to send a strong message to our colleagues in Congress and the State Department but most importantly to the Mobutu regime by passing this collaborative resolution.

The Congress can play a unique role different than the role of the State Department in foreign policy by reflecting the beliefs and opinions of the American people.

In this resolution, I think we have done just that. The resolution is carefully drafted to address Zaire's real problem, and that is Mobutu.

□ 1815

The resolution states that Mobutu should resign from the office of president, leave Zaire and withdraw from all political activity. We are on the brink of a new era in Zaire. Rebel leader Kabila has launched a process long overdue, the transition from Mobutu to democracy. And while it is Kabila who has ushered in this process, we have got to be cautious not to anoint him or anyone else for that fact before they have proven their commitment to democracy, a free market economy, a commitment to holding elections in a reasonable time frame. And I know at the State Department is working very hard to communicate our expectations to Mr. Kabila, and they are also working behind the scenes to thwart an escalation of violence which could become potentially uncontrollable and destabilized, not just Zaire, but the fragile peace process in Angola.

It is important that the United States send a message to all parties in Zaire and to other countries in the region that the continued flow of arms into Zaire and the escalation of violence will undermine, not support the Nation's transition process. Years of pillaging Zaire's natural resources and its inattention to the development of its infrastructure, economy and support systems like education and health have left Zaire years behind where it might have been under qualified and well-intentioned leadership. But the Zairian people are resilient, it as a country has enormous tremendous potential, it has natural resources and its people to become politically and economically a strategic power within Africa and the world.

So, Mr. Speaker, as we send this message we think that it is extremely important for our colleagues to join with us sending a unified strong message and creating the opportunity for the United States to play a very significant role in creating a broad-based transitional government pledged to democracy ultimately holding democratic elections.

Mr. Speaker, under my reservation of objection I yield to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN of Virginia. Mr. Speaker, I rise in support of this resolution. It is long passed due, and it is entirely appropriate that this body pass such a resolution because Mobutu was able to stay in power. We established his power base, we sustained him in power for years, long past any time when he could allege to be a legitimate leader of his country. We did that because we assumed he was anticommunist. And so through our misguided ideological objectives, we established in power a leader whose sole objective was his own self-serving interest.

And so over the last quarter century what he has done is to extract the natural resources of his country, he has exploited its people, he has acquired immense wealth, he has used that wealth to spend most of his time in his European villas while the people of his country suffer.

Mr. Speaker, it is long past time when this country should have cut bait on this guy. I am extremely pleased that the people of Zaire have risen and are about to depose him. It is now time for the United States to play a constructive role in that transition. This resolution outlines that constructive role, and I strongly support it.

Mr. MENENDEZ. Mr. Speaker, under my continuing reservation of objection I yield to the distinguished gentleman from New Jersey [Mr. PAYNE], who has worked with the chairman in helping to draft this resolution that is being proposed.

Mr. PAYNE. Mr. Speaker, let me thank the chairman and ranking member of the Africa Subcommittee for their diligence and work on H.R. 115. This is by far the most important piece of legislation on Africa we have before us today.

This bill calls for Mobutu Sese Seko, the President of Zaire, to step down from his office immediately. The bill is symbolic in that it means this is the first step of getting rid of the colonial dictators like the Abachas and the Mobutus that prevent true democracy. They have been an extension of the colonial rule in the past, and they must leave.

Before I came to Congress and for many years after that, I have been an outspoken critic of the corrupt military regime of Mobutu, so I believe it is timely that we do this in this session.

I introduced in the 102d Congress a resolution calling for the administration to draw on its power to have Mobutu resign and leave Zaire. Although it passed overwhelmingly, it did not move him out.

Mr. Speaker, we all know Mobutu imprisoned Patrice Lumumba in which, those years, he was captured and killed under the aid of our CIA surveillance. And 2 years later, the United States actively supported African allies during the cold war in which the CIA virtually helped bring Mobutu to power in 1965.

At this time, Kabila and Lumumba were fighting for the same cause. It was at the height of the cold war, and things today are very different. And so we should take a different look at what is going on.

I know it was U.S.'s policy of supporting UNITA and Jonas Savimba in Angola, the RENEMO forces in Mozambique, Ian Smith in Rhodesia, our policy of constructive engagement in South Africa, and Sergeant Doe following the brutal coup in Liberia in the 1980's.

Along with that, 75 years of colonial rule by Belgium, France's influence on a continent and one of the wealthiest countries in Africa will perhaps for the first time be able to have self-governance. Mobutu's army is notorious for depending on foreign troops and mercenaries to combat there and fight their fights. As my colleagues know, Serbian troops were there recently. Troops from UNITA have also been in the country.

Today 1.1 million refugees have returned to Rwanda, which has increased the stability in Uganda and Burundi. In the last 6 months the Alliance for Democratic Forces for the Liberation of the Congo-Zaire, the ADFL, have gained control over Kisangani, Zaire's third largest city, Mbuji, one of the other large cities, and Lumbumashi, the second largest city. We hope that Kinshasha will not have to be fought over and destroyed.

I am not pro-Kabila or anti-Kabila, but I think that the time is right, that we should see new leadership in that country.

And so I stand here with my colleagues saying that we should ask the United States to be engaged in the negotiations, to be engaged with our diplomats trying to help the Europeans move along, a removal of Mobutu and then move towards a transitional government so that elections could be held and so that we can move this country for the first time to have free, transparent and democratic society.

Once again I thank my colleagues for allowing me this time.

Mr. MENENDEZ. Mr. Speaker, under my continuing reservation of objection I yield to the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Speaker, I want to commend both the gentleman from New York [Mr. GILMAN] and the gentleman from California [Mr. ROYCE] as well as the Africa Subcommittee staff for the excellent job they have done in bringing this important and timely resolution to the floor. I also want to express a special appreciation to my colleague from New Jersey [Mr. PAYNE] and also the gentleman from New Jersey [Mr. MENENDEZ], both of whom have shown great leadership on this very important issue for years now.

The message we are sending to Zaire is straightforward. President Mobutu must resign from office immediately and leave the country. The transition from dictatorship to democracy can only begin after the dictator himself has gone. The continuing political chaos in Zaire can only exacerbate a very bad situation and could, sadly, lead to chaos in all of central Africa.

Witnesses testifying before our subcommittee maintain that, and I quote, a disintegration of Zaire could create a dangerous situation in that region that could take decades to fix. Mobutu's exit from Zaire will help to prevent that disintegration from taking place.

Mr. Speaker, the beleaguered people of Zaire have suffered for far too long under the autocratic and thoroughly corrupt rule of President Mobutu. They deserve a better life than they have under him at this time. They deserve freedom. This resolution expresses the sense of this House that the United States supports the creation in Zaire of the enabling environment necessary to conduct democratic multiparty elections as soon as humanly possible. It is a good resolution, and it sends a strong message to President Mobutu.

I urge adoption of the resolution.

Mr. MENENDEZ. Mr. Speaker, further reserving the right to object, as the ranking member I appreciate the work and the courtesies extended by the chair and other colleagues.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 115

Whereas Zairian President Mobutu Sese Seko's 31-year rule has turned his potentially prosperous country into one of the world's poorest, where human suffering long has been widespread;

Whereas the Mobutu Government has systematically violated the human rights and undermined the security of Zaire's 46,000,000 people;

Whereas the Mobutu Government has proven itself unwilling to allow a genuine transition to multi-party democracy and continues to cling to power against the best interests of Zaire's people;

Whereas the Mobutu Government permitted the circulation of extremist propaganda in the refugee camps that undermined voluntary repatriation efforts of the United Nations High Commission on Refugees;

Whereas the international community is concerned about the humanitarian needs of the hundreds of thousands of refugees and displaced Zairians;

Whereas there are continuing reports of human rights violations by all parties that stem from the continued fighting in Zaire;

Whereas representatives of the Zairian Government and the Alliance of Democratic Forces for the Liberation of Congo-Zaire (ADFL) negotiated in South Africa, under the supervision of the United Nations and the Organization of African Unity, with no cease-fire agreement; and

Whereas the objectives of the United States Government, achieving the cessation of hostilities and achieving political reforms in Zaire, continue to be stymied: Now, therefore, be it

Resolved, That—

(1) it is the sense of the House of Representatives that—

(A) President Mobutu Sese Seko of Zaire should immediately resign from the office of the Presidency of Zaire, leave Zaire, and withdraw from all political activity;

(B) the United States Government should unequivocally call on Mobutu Sese Seko to immediately leave Zaire and withdraw from all political activity;

(C) the United States should continue to distance itself and its foreign policy from President Mobutu and his government in order to hasten his departure from Zaire's government and political life;

(D) the United States should work with all interested African and European nations to oppose the presence in Zaire of foreign government and mercenary forces, halt the flow of arms into the country, and encourage the warring parties to negotiate a cease-fire leading to a lasting peace; and

(E) the United States Government should play a leading role in the international effort in supporting the creation of a broad-based transitional government of national unity composed of all democratic forces in Zaire; and

(2) the House of Representatives supports the creation in Zaire of the enabling environment necessary to conduct democratic, multi-party elections at the earliest feasible time, as well as the necessary conditions to establish the rule of law, respect for human rights, and the effective provision of humanitarian assistance.

AMENDMENT OFFERED BY MR. ROYCE

Mr. ROYCE. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROYCE:

Page 3, line 14, strike "and".

Page 3, after line 19, insert the following:

(F) the United States should actively pursue an immediate agreement among the various parties to permit the immediate and unhindered provision of humanitarian relief and the presence of international humanitarian workers to aid refugees and displaced persons in the Zaire; and

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California [Mr. ROYCE].

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. ROYCE

Mr. ROYCE. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mr. ROYCE:

After the fifth clause of the preamble, insert the following:

Whereas many thousands of Rwandans seeking to return home are now too ill to walk and scores succumb each day to cholera, malnutrition, malaria, dehydration, and other diseases while awaiting final agreements among parties to the conflict, the Government of Rwanda, and international humanitarian organizations, to permit the organization and implementation of a speedy air evacuation and the regular supply of urgently needed relief supplies and medical care;

Whereas in Zaire there have been numerous attempts to obstruct humanitarian relief to these populations at risk and to hinder relocation of civilians and the repatriation of refugees wishing to return home;

Mr. ROYCE (during the reading). Mr. Speaker, I ask unanimous consent that the amendment to the preamble be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from California [Mr. ROYCE].

The amendment to the preamble was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the matter just considered.

The SPEAKER pro tempore. Is their objection to the request of the gentleman from California?

There was no objection.

ELECTION AS MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. PALLONE. Mr. Speaker, I offer a resolution (H. Res. 120) and I ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

HOUSE RESOLUTION 120

Resolved, That the following named Members be, and that they are hereby, elected to the following standing committees of the House of Representatives:

To the Committee on Transportation and Infrastructure: Tim Holden of Pennsylvania; Nick Lampson of Texas.

To the Committee on Science: Ellen Tauscher of California.

To the Committee on International Relations: James Davis of Florida.

To the Committee on National Security: Ciro Rodriguez of Texas.

To the Committee on Resources: Lloyd Doggett of Texas.

To the Committee on Government Reform and Oversight: Harold Ford of Tennessee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EXTENDING ORDER OF THE HOUSE OF FEBRUARY 12, 1997 THROUGH APRIL 23, 1997

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the order of the House of February 12, 1997, be extended through April 23, 1997.

The SPEAKER pro tempore. Is there objection to request of the gentleman from Florida?

There was no objection.

ADJOURNMENT TO MONDAY, APRIL 21, 1997

Mr. GOSS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 3 p.m. on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ADJOURNMENT FROM MONDAY, APRIL 21, 1997, TO WEDNESDAY, APRIL 23, 1997

Mr. GOSS. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, April 21, 1997, it adjourn to meet at 2 p.m. on Wednesday, April 23.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1830

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PEASE). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TREMENDOUS STRIDES AT HUGHES DANBURY OPTICAL SYSTEMS, INC.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. MALONEY] is recognized for 5 minutes.

Mr. MALONEY of Connecticut. Mr. Speaker, I rise today with great admiration and gratitude for the tremendous strides that have been made in the last 4 decades by the people of Hughes Danbury Optical Systems, Inc. Hughes Optical is not only a long-time employer in Connecticut's Fifth District, they have made enormous contributions toward our Nation's pioneering efforts in space. Their technological leadership has resulted in advanced instruments that have enabled scientists around the world to probe the universe and gain a better understanding of our cosmological origins.

Most recently, Hughes developed and manufactured both the optical telescope assembly and the fine guidance sensors for NASA's Hubble space telescope. They have been a critical team member in the successful daily operations of this space observatory and the on-orbit servicing missions that will keep Hubble healthy and productive for years to come. In fact, one instrument, the first of Hubble's to be recycled, has been returned to Danbury this month for its 1-billion-mile maintenance work.

In operation for nearly 7 years and having orbited our globe over 37,000 times, this fine guidance sensor will be refurbished and upgraded by the skilled engineers and technicians at Hughes Danbury Optical. It will then be returned to Hubble in 1999 to carry out the final leg of the space telescope's planned 15-year mission.

In addition, we can confidently look forward to further achievements in science when NASA's advanced X-ray astrophysics facility, a companion observatory to the Hubble, is launched later this decade, also carrying optics manufactured by this dedicated group at Hughes Danbury Optical Systems.

I salute all of Hughes' talented and dedicated people for giving us the ability to confidently enter the new high-tech millennium ahead. Their cutting edge contributions have played an irreplaceable role in making our Nation the leader in both the discovery of our universe and in the development of our technological achievements.

GOVERNMENT SHUTDOWN SHOULD NEVER HAPPEN AGAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GEKAS] is recognized for 5 minutes.

Mr. GEKAS. Mr. Speaker, the budget negotiations, by some accounts, are not getting very close to agreement. This brings up again, and I say again advisedly, the prospect of a shutdown of Government. It is not too early to start thinking about that, even though we have not finished the month of April. But because of the nature of the budget process, it is something that can be in our futures, unfortunately.

Everybody knows by now that since 1989, for four or five Congresses since then, or whatever that number is, I have been proposing legislation that would prevent a Government shutdown, and it works on a simple formula: At the end of the budget period of September 30, for instance, if no new budget has been negotiated between the President and the Congress, then automatically, by way of instant replay, as I am fond to say, the next day, the dawn of the new fiscal year, would bring about last year's numbers for a period of time under a continuing resolution until a budget can be met. This means, upon passage of this type of legislation, we will never face a shutdown again. That was a horrible aspect of the last Congress when we had to explain to the American people how it was that the Government shut down.

I myself believe that the President failed in his responsibilities there, because if he had signed the appropriations in the first place, the shutdown would not have occurred. Others blame the Republican Congress for proposing measures that the President found necessary to veto. So, who is to blame? That blame game can be played all year long, and we would never get the business of the Congress accomplished. My legislation would ensure that no shutdown would occur.

Now, where are we? Here in 1997, we are approaching the period of time when we will be dealing with the supplemental appropriations. We have good information to the effect that on the Senate side, Senators MCCAIN and LOTT, HUTCHINSON, STEVENS, and others are pursuing the proposals that I have made over these years. In fact, I have conferred with them several times and have had press conferences with them. They are ready to insert into the supplemental appropriations a measure that is similar to mine.

This is good news, because it means eventually that the House will have to act on it. Meanwhile, our own appropriations process for the supplementals is on its way to fruition. We are going to see what we can do to add it to this side's complement of the budget process for supplemental appropriations.

In the meantime, we have received endorsement from several important citizen organizations. The most recent one was from the Concord Coalition which, in response to our proposal, sent us a letter saying, quote:

> Enactment now of this fall-back funding would remove the possibility that Government agencies would shut down later this year due to the inability of the Congress and the President to agree on spending. Your amendment tilts the process in favor of making these tough decisions and away from counterproductive and deficit-increasing political games.

That is an important endorsement that we received from the Concord Coalition.

The U.S. Chamber of Commerce commented in a letter to us:

> Your legislation's provision of temporary funding until Congress and the President come to an agreement means that the threat of closing portions of the Government could no longer be used by either side in an attempt to pass a budget. Negotiations over spending bills would then remain more focused on the legislation's merits, yielding a more rational and sound process.

So says the President of the U.S. Chamber of Commerce in a letter directly sent to us to endorse our legislation.

We have many, many different kinds of endorsements from citizens' groups, contractors' groups, Federal employees' groups, and others. The time has come to allow this process to become a part of our law. It is a shame to permit our Government to shut down at any time, not for 5 minutes.

I cite the most blatant example of why it should never happen. On the Columbus Day weekend of 1990, while we had amassed 500,000 of our young people in Saudi Arabia waiting for Desert Storm, our Government shut down. We should never let anything like that happen again.

TAX CODE SHOULD NOT PUNISH MARRIED COUPLES AND FAMILIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. MCINTOSH] is recognized for 5 minutes.

Mr. MCINTOSH. Mr. Speaker, today, on this Thursday of tax week, I would like to talk with my colleagues and the American people about one of the worst features in our Tax Code. It is the way in which the Government punishes families and punishes husbands and wives for deciding to be married.

Just a couple of weeks ago I received a letter from one of my constituents in Straughn, IN, Sharon Mallory and Darryl Pierce. Here is a portrait of them that they sent along with their letter.

Sharon writes to me, My boyfriend, Darryl Pierce, and I would very much like to get married, but we figured, if we get married, not only would I forfeit my $900 tax refund check, we would be writing a check to the IRS for $2,800. This amount was figured for us by an accountant at the local H&R Block in New Castle.

"Now," Sharon goes on to write, "this system is old and outdated, antiquated. I do not understand how the Government can ask such questions as single, married, dependents. Employers, bankers, realtors and creditors are forbidden by law to ask these questions. The same should apply to the Government."

The marriage penalty is clearly punishing Sharon and Darryl. They want to get married, and yet their accountant tells them the U.S. Government is going to tax them more when they do get married.

Oftentimes, we find that the Tax Code penalizes families with children as well.

One of the worst aspects of the marriage penalty is that it discriminates against women. If a woman has been married, started to raise a family and the children start to be old enough so that she can go back to work, she faces a marginal tax rate of over 50 percent. That means for every dollar she earns, 50 cents goes to the Government in taxes.

This is wrong, and we should not be punishing women who make that choice to go back to work.

Now, married couples are punished by the Tax Code with the marriage penalty, but when couples decide to get married and then have children, they are punished once again. According to the Center for Policy Analysis, the marriage penalty for a couple earning $20,000, that is not a lot of money, maybe about minimum wage for both people, they will be punished approximately $1,200, and they have two children.

Right now, the marriage penalty is about $180 for a couple. When they have children, it skyrockets to $1,265. Or, for example, the Center points out that a married couple earning $50,000 each is punished $1,300 for being married, but when they start to have children, that skyrockets to $1,500 per child. People ask me, does this really discourage families, does it discourage marriage?

Well, my wife, Ruthie and I met a couple the other week in Indianapolis. Both of them are doctors, and their accountant told them, you could save $6,000 if you file for a divorce and file your taxes separately.

This is wrong and we must end the marriage penalty in our Tax Code. It is wrong for Government to punish married couples in this country. It is wrong for them to punish families who have children.

Why should young people, when they decide to get married and start a family, face the prospect of the Government telling them, you are going to pay more in taxes because you are married? Just think what families could do with that money. Many families need it to pay the electric bill or buy food for their children. $1,500 per children per year means that they could save about $30,000 when their children go to college.

We need to let these working families keep more of their money so that they can pay the bills, they can buy food for their children, and they can save for college.

Let me quote from Sharon and Darryl's letter. They closed it by saying, "Darryl and I would very much like to be married, and I must say, it broke our hearts when we found out we can't because the Government punishes us. We hope some day the Government will allow us to get married and not penalize us for it."

Sharon and Darryl are right. It is wrong for the Government to punish people who decide to get married. We must end the marriage penalty; we must pass a bill and send it to President Clinton that would eliminate that penalty, and when we do that, we will show that the Government is on the side of families, not working against them.

We will show that Government is not going to discriminate against women who go back into the work force, and we will show that Government is going to allow working families to keep more of their hard-earned income and decide how they want to spend it in raising their children, paying the bills, saving for the future, maybe giving them a chance to go to college.

I urge my colleagues to join me in passing the bill to repeal the marriage penalty in our Tax Code, not only for ourselves and all Americans, but especially for Sharon and Darryl, who fondly want to get married, to let them have their dream of having a family together.

STRAUGHN, IN,
February 17, 1997.

Hon. DAVID MCINTOSH,
Muncie, IN.

DEAR REPRESENTATIVE MCINTOSH: My boyfriend, Darryl Pierce, and I have been living together for quite some time. We would very much like to get married.

We both work at Ford Electronics in Connersville Indiana. We both make less than $10.00 an hour; however, we do work overtime whenever it is available. Also Darryl does some farming on the side.

I can't tell you how disgusted we both are over this tax issue. If we get married not only would I forfeit my $900.00 refund check, we would be writing a check to the IRS for $2,800.00. This amount was figured for us by an accountant at the local H&R Block office in New Castle.

Now there is nothing right about this. After we continually hear the government preach to us about "family values."

Nothing new about the hypocrites in Washington. Why don't we do away with the current tax system? It is old and outdated. Antiquated. The flat tax is the most sensible method to use and no one is being penalized. Everyone would be treated the same.

I don't understand how the government can ask such questions as: single? married? dependents? Employers, bankers, realators, and creditors are forbidden by law to ask these questions. The same should apply to the government.

Darryl and I would very much like to be married and I must say it broke our hearts when we found out we can't afford it.

We hope someday the government will allow us to get married by not penalizing us.

Yours Very Truly,
SHARON MALLORY.
DARRYL PIERCE.

☐ 1845

IT IS CALLED ACCOUNTABILITY

The SPEAKER pro tempore (Mr. PEASE). Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, in the early morning of April 9, a large group of United States-trained Haitian National Police forcefully entered and illegally searched the family home of a longtime employee of the International Republican Institute, which is an adjunct of the National Endowment for Democracy, which is of great interest to this institution.

The contents of the home, which were owned by the employee's aunt, who happens to be an American citizen, were destroyed and photographs of the employee and his family were confiscated. We have received confirmation from the United States Embassy officials that the Haitian National Police have taken responsibility for the action, and they have claimed that they were thinking that there was a gang operating out of the home. It is worth noting that they failed, regardless of the merit or lack in the claim about the gang. It is worth noting that they never gained proper authorization to take such an action or stage such a raid.

More troubling still is that this raid comes after an already-harrowing series of specific threats against this employee's family in the lead-up to the latest round of elections some 10 days ago, threats that many believe can be directly linked to the employee's work for the IRI. And those of us who have followed Haiti very closely will recall that this pattern mirrors that which preceded the forced departure of Haitian Chamber of Deputy member Dooley Brutus.

We must ask the administration if in fact the Clinton administration has lost control of the program in Haiti to the degree that we are now supporting blatant human rights violations with United States taxpayers' dollars. In fact, tensions in Haiti have been running so high in recent weeks for IRI that it has had to close its office and move its operations to a new, safe site where security can be provided more effectively. This does not sound like a democracy to me.

Mr. Speaker, an attack of this sort is inexcusable in a democracy, even a fledgling democracy. We cannot tolerate this. Not only is the victimization of an American citizen inappropriate, to put it mildly, but the attack on an individual working to further the development of democracy in Haiti is deeply troubling. The fact that the same type of raid was carried out on the same night, in the same neighborhood, in the home of a prominent business family suggests that these types of raids are not all that uncommon. Sadly, that seems to be so.

Rest assured that we will be looking to the United States Embassy, the Haitian Government, and Colin Granderson's civilian mission for a thorough report on this incident.

We also expect the administration to place a priority on ensuring that this assault against an American citizen and property is thoroughly investigated by the Government of Haiti. We know from our experience with the Gonzalez and Bertin cases that the investigation stage is generally where the Haitian judicial system breaks down totally.

The involvement of United States-trained Haitian National Police also means that there are questions to be answered about the apparent lack of progress on the rule of law in Haiti after so great a commitment of United States personnel and tax dollars. One certainly must ask if the wanton destruction of property was included as part of the training we provided with U.S. tax dollars. I hope that is not so.

How many American or Haitian citizens have to be traumatized in this way before the Clinton administration will be willing to take off the rose-colored glasses and give us an honest assessment of the situation in Haiti? It appears that it is quite a sad saga.

If we have a serious problem in Haiti, a problem directly linked to United States tax dollars, let us acknowledge it and get on with the process of fixing it. That is called accountability and the American people expect nothing less, even though we have been getting less for some time from the Clinton administration when we seek candor on the subject of Haiti.

EARTH DAY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I would like to address the House tonight on the subject of Earth Day. Since the House is going out of session this evening and will not be returning because of the Passover holidays until Wednesday for any legislative action, this is the only opportunity before Earth Day, which is next Tuesday, April 22, to talk about the significance of that occasion, not only to Congress but to the American people.

Next Tuesday, April 22, is in fact Earth Day. I believe it is the 26th Earth Day. Earth Day has always been a day to celebrate the environment and our natural heritage. It has also served to raise people's awareness about the quality of their environment and the importance of environmental protection and responsible living.

In more recent years, however, Earth Day has become a time for people to grandstand on the environment, particularly politicians, and although it is very popular, it is not always easy to be green. We cannot simply feign interest, particularly politicians, in environmental quality, we actually have to do something about it here in the Congress.

Even though the quality of the environment has substantially improved over the last 20 years, the environment is still high on people's lists. If you do poll or talk to your constituents, they always tell you they are very concerned about the environment. That is because, in my opinion, they understand the connection between the environment and public health.

People want their representatives in Washington to be working to protect their families from environmental health hazards, and people want us to help them protect themselves by providing them with the information that they need to formulate their own decisions about the environment.

Finally, people also want to know that their children and their grandchildren will be able to enjoy the same outdoor experiences that they had the opportunity to experience. This also happens to be the Week of the Young Child, and I do not think it is any surprise, if you will, that Earth Day follows on that, because I think in many ways one of the major reasons why adults are concerned about the environment is because they worry about their children and their grandchildren and their future here on this planet.

Mr. Speaker, I have to say, though, that in the last Congress, the Republican majority really launched a relentless attack on the basic environmental protections that ensure the safety of the water that our children drink and the air that they breathe.

In fact, the Earth Day founder, Gaylord Nelson, declared that the 104th Congress had the worst environmental record in history. I think that is very fair to say. Republicans basically showed their antienvironmental hand in the last Congress, but I think that what they found out is that as the election in November 1996 approached, that bashing the environment really was not a very good thing to do politically, and so all of a sudden we saw less bashing of the environment, and I think this year we are not seeing it much at all.

I think there is fear, really, on the part of the majority of further reprisals from the voters if they try to weaken environmental legislation, and so essentially the Republican leadership is trying to avoid openly bashing the environment this year. But as the Los Angeles Times observed on April 7, and I quote, "Their language masks a reality. Behind these gentler words, the Republican majority is still working hard to relax or abolish many environmental regulations."

Just to give the Members an idea in terms of the antienvironmental battle this year, the House Republican whip, the gentleman from Texas [Mr. DeLay], who last year said he did not believe that acid rain or global warming existed, this year told the House committee that drinking mouthwash or milk is more likely to give you cancer than air pollution is to be damaging to a person's health.

Mr. Speaker, fortunately we see the gentleman from Texas [Mr. DeLay] making these comments because he is at least openly expressing some of his antienvironmental views, but we do not see as much of it on the floor, and I think what we are seeing is that the effort to weaken environmental laws in many ways is now taking place in the back rooms, or as part of some action that may come later in committee.

Democrats, however, still feel it is very important to move ahead with a proenvironmental agenda, and Democrats will continue to put forward environmental initiatives this year, and will press the Republican majority for action on these bills. I think that we can often get Republican Members to join us, even if the leadership does not necessarily support us with this proenvironmental agenda.

Today, in anticipation of Earth Day next Tuesday, leading House Democrats announced a 5-point environmental challenge to the Republican majority. We issued a special report detailing that challenge. Democrats are basically challenging the Republicans to enact legislation to protect the health and safety of American children and put the Republicans essentially on notice that Democrats will oppose any attempts to roll back environmental protections.

I just wanted to describe, if I could, for a brief time during this hour these five legislative challenges that the Democrats put forward today. The first, and I think a very important one, is the challenge to enact the Defense of the Environment Act by July 4. The Defense of the Environment Act basically allows for a separate debate and vote on any legislative provision that would weaken environmental protection.

Some may say, why do you need something like that? Well, there are a lot of reasons for that. Congress needs to act, I think, as a steward of the Nation's environment and natural resources. We owe that to our children and grandchildren. A critical step we can take for them is to ensure that there is full and open debate on any provisions that would weaken the protection of the environment.

The Defense of the Environment Act will put a spotlight on backroom attempts to weaken our environmental laws. This was a bill that was introduced by the gentleman from California [Mr. Miller], the gentleman from California [Mr. Waxman] and the gentleman from Missouri [Mr. Gephardt].

Basically what it does is allows for a separate debate and vote on these legislative provisions. Mr. Speaker, again, we might say why is that necessary? Well, to be honest, it is necessary because of what we saw happen in the last Congress with the Republicans in the majority.

In early 1995, Congress adopted procedural steps that ensured that unfunded mandates and tax increases cannot be enacted unless specifically considered and approved by the House. The Defense of the Environment Act simply extends this protection to provisions that weaken environmental protection.

The need is clear. When Republicans took control in 1995, they compiled the worst environmental record in history. What we essentially saw was an effort to do this weakening of environmental legislation either in committee or on the floor, but articulating a position that was totally to the contrary.

So what we are saying with the Defense of the Environment Act is that we do not want to let the industry lobbyists rewrite legislation; we do not want, with regard, for example, to toxic waste, to let Republicans turn polluter pays into pay the polluter. We want to be able to bring these provisions, these weakening provisions, to the floor for a separate vote whenever possible, when legislation comes up that might impact the environment.

The second challenge that the Democrats, again, are making to our Republican colleagues is that the Republicans drop the attack on the basic protections of the Clean Air Act. Specifically, Republicans need to abandon their version of regulatory reform that would undermine the fundamental principles of the Clean Air Act, including health-based standards.

I have to say that I believe that the Clean Air Act has been a tremendous success. Nothing, really, has been more important in protecting the health of American children than both the clean air act that was initially enacted in 1970 and the Clean Air Amendments of 1990. If we look at these two and we look at the statistics, they show that the air our children breathe is dramatically cleaner as a result of these two measures.

The EPA recently put out a report entitled "The Benefits and Costs of the

Clean Air Act, 1970 to 1990." That just documents some figures that I think are really important; first, that in that 20-year period airborne lead emissions were reduced by 99 percent, carbon monoxide emissions were reduced by 50 percent, and sulfur dioxide emissions were reduced by 40 percent.

If we look specifically at the Clean Air Act amendments of 1990, just to give some of the results of that, over 50 percent of the cities that did not meet the air quality standard for urban smog in 1990 now meet that standard. Over 75 percent of the cities that did not meet the air quality standard for carbon monoxide in 1990 now meet the standard.

So clearly we have had success. But the Republican regulatory reform bills would roll back basic clean air protections. During the last Congress, House Republicans used these regulatory reform bills to make backdoor attacks on America's most important environmental laws, but most important, the Clean Air Act.

One such GOP proposal was their risk assessment bill, H.R. 1022, a key part of the Republican Contract With America. This passed on February 28, 1995. The risk assessment bill had a supermandate that supplemented all the public health standards of existing environmental laws, requiring, in effect, that the EPA design all standards to minimize the compliance costs for polluters first.

The bill would have undercut the Clean Air Act standards that are now set solely in the best interests of protecting public health. The EPA would have been compelled to select the cheapest pollution reduction option, rather than the most effective option for protecting America's children at a time when childhood asthma rates are rising very sharply.

The GOP bill would also have added additional roadblocks by dramatically expanding the cost-benefit analyses needed to justify new public health standards and giving polluters broad new rights to sue the EPA to block improvements in clean air rules.

This Republican risk assessment bill would also have allowed parties with a financial interest in weakening clean air requirements to sit on mandatory peer review groups that would assess EPA's proposed air standards.

□ 1900

Fortunately, the House and the Senate GOP regulatory reform bills did not get to conference and therefore died at the end of the Congress, but we expect that they will come up again in some form and we are saying today, do not do it. We are tired of these, the use of these regulatory reform bills as a method of trying to weaken the Clean Air Act and other environmental legislation.

Our third challenge in our report, our third challenge to the Republicans, is to pass the brownfields initiative by July 4. This is linked to the cleanup of hazardous waste material primarily in urban areas but also in suburban areas, old industrial sites, hence the term "brownfield."

Again, it is linked to children and children's health needs. Kids need cleaner cities. They need a strong economy. Democrats have been offering to work with Republicans to promptly move the brownfields legislation, but so far Republicans have refused. They have been saying and insisting on a broader Superfund bill or Superfund reauthorization that would transfer cleanup costs from polluters to taxpayers. And each day of delay, again, on the brownfields measure basically denies funding for another cleanup.

Currently there are about, there are actually several million children who live within 5 miles of these polluted sites, the so-called brownfields. If you clean up the sites, they can be replaced with different kind of businesses or commercial activities that actually would create jobs in the cities.

Just a little discussion, if I could, about what the brownfields initiative does. It basically provides for the establishment of a new partnership of the Federal Government with States and local governments and the private sector to undertake cleanups.

Two broad purposes: One is to significantly increase the pace of cleanup at the sites by promoting and encouraging the creation, development, and enhancement of State voluntary cleanup programs; and second, to benefit the public health, welfare, and the environment by cleaning up and returning these sites to economically productive or other beneficiary uses.

Essentially, what we are doing is trying to recognize the key role that States have played in cleanup and will continue to play in identifying, assessing and cleaning up brownfields. A lot of people think that the Superfund Program, which is the Federal program for the cleanup of hazardous waste sites, covers all the sites.

Actually, it only covers, I think, certainly less than 50 percent. In my home State of New Jersey, we have about 6,000 hazardous waste sites but we only have less than 150 Superfund sites. So you can see it is only a very small portion of the number of hazardous waste sites.

So to the extent that the Federal Government can expand the Superfund program to provide for more cleanup of sites that are not on the national priority or Superfund list, it actually would help significantly in the State efforts, in the overall effort to clean up a lot of these toxic waste sites.

Under the Democrats brownfields bill, the EPA would give flexibility to the States so that they can get the job done. The bill calls for specific funding for State grants, $15 million per year for 5 years to develop and enhance State clean-up programs.

It also contains $45 million per year for 3 years to local governments to inventory and cleanup brownfields where local officials, developers and purchasers and citizens believe that these redeveloped sites have the most chance of creating new jobs and new opportunities.

A lot of my colleagues on the Republican side have expressed support for the brownfields initiative. It has broad bipartisan support. However, what is happening is that the Republican leadership is insisting that the brownfields initiative be tied to much more controversial legislation; that is, the GOP version of Superfund reform.

And, of course, we cannot support that because essentially it is like the Superfund bill that the Republicans tried to push through in the last Congress that would weaken the Superfund law, that would allow cleanup to be temporary rather than permanent, that would cap the number of sites that can be put on the Superfund list, that would essentially rather than requiring those who caused the pollution, the toxic waste, to bear most of the cost of the cleanup, would in fact put most of the cost of the cleanup on the Federal Government and essentially let a lot of polluters get off.

So what we are really calling upon the GOP leadership is to say, look, pass the brownfields initiative that can expand the Superfund Program in a very effective way by giving money back to States, which is something that many Republicans say is part of their ideology, but at the same time let us get that bill passed. That would be a very proenvironment bill that would help a lot with toxic waste cleanup. Do not link it to this overall effort to weaken the Superfund Program, because all that means is that nothing is going to pass and nothing progressive to move on an environmental agenda will occur here in the Congress.

The fourth challenge that Democrats are making again to the Republicans for Earth Day this year is to increase funding for national parks and to reform unjustified natural resource subsidies. Right now we know that, I should say that we know that beginning with President Teddy Roosevelt, who was a Republican, preserving our natural resources has been a bipartisan enterprise. But unfortunately that was not the case in the last Congress.

We need a bipartisan effort in this 105th Congress in the tradition of someone like Teddy Roosevelt. With regard to the need for funding for national parks, the inadequate funding for national parks is highlighted by a statistic, if I could just quote, that says in constant dollars the total National Park Service's appropriation has declined by more than $200 million between fiscal year 1983 and fiscal year 1997.

In the 104th Congress, the last Congress, the Republicans constantly voted to cut the funding for the National Park Service many times. I do not want to get into all the details but there were actually park shutdowns, the Republicans actually shut down and closed every park for the first time since the National Park Service was created in 1916. At that time, when the Government was shut down because of certain actions that were taken here, we actually had about 725,000 visitors that were turned away at the park gates.

There are also a number of tax subsidies, if you will, unjustified subsidies to natural resource companies that also need to be addressed in this Congress. Part of our challenge with regard to natural resources also affects these subsidies. The most egregious example of the need for reform is with regard to an 1872 mining law. Many people are familiar with this but not everyone. It is an anachronism, basically, from the 19th century that allows the mining of gold, silver, and other valuable minerals on public lands without payments of royalties to the Treasury.

The 1997 annual report of the Council of Economic Advisors points out that between May 1994 and September 1996, the Interior Department was forced, by this 1872 mining law, to give away over $15.3 billion worth of minerals in return, for which the taxpayers received only $19,190. This is probably the most egregious example of a government subsidy. Imagine, $15.3 billion in revenue lost, and we received only $19,190.

I could go on with some of the other subsidies, but there are a number of natural resources subsidies that are just totally unjustified and need to be reformed and should be addressed as part of this environmental challenge.

The last Democratic challenge to our Republican colleagues is, some may say that is not very significant, but I think it is, because one of the things that is so important is that Congress set an example and apply the laws that it passes to itself.

We actually have a rule or provision that was passed in the last Congress that says that you have to do that. But it is, nonetheless not always followed in practice, even if it is theoretically the law.

So our fifth challenge refers to the House of Representatives recycling program. We are calling upon the Republicans to repair the House of Representatives recycling program. We know millions of kids carefully recycle their glass bottles and paper but not the Congress. If you talk to your children or your grandchildren, you know that most of them are very concerned about recycling. It is the way for an individual to interact and get involved in environmental protection. So all the kids around the country or certainly a good portion of them are out there recycling their glass bottles and paper but not the Congress. SAM GEJDENSON, a Democratic Congressman from Connecticut, has introduced a resolution that will ensure that Congress plays by the same rules that our kids do with regard to recycling.

Specifically, he has introduced a resolution that provides for a mandatory recycling program in the House of Representatives. And we challenge the Republican Congress to adopt this resolution over the next few months and get the House back on the right track on recycling.

Just to give you some example of how recycling has declined under the Gingrich Congress, I think it is very important that we set an example. Under the leadership of the Speaker, it has declined.

I just want to give you some statistics, because I really think it is interesting. Since the Republicans took over, the percentage of House offices participating in recycling programs has declined, dropped from 90 percent in the 103d Congress to about 50 to 60 percent in the 105th Congress.

With regard to bottles, since the Republicans took over, the tonnage of bottles that are recycled has fallen by 83 percent. Specifically, the tonnage of recycled bottles has fallen from 109.76 tons in 1994 to 18.15 tons in 1996.

Let me give you some statistics with regard to recycled cans. Since the Republicans took over, the tonnage of recycled cans has fallen by 74 percent. Specifically, the tonnage of recycled cans has fallen from 10.76 tons in 1994, to 2.83 tons in 1996.

Now, specifically, what Congressman GEJDENSON's resolution does is mandatory implementation. It provides in the resolution that each Member and each employing authority of the House of Representatives shall participate in the office waste recycling program. The Architect of the Capitol has to ensure that all employees of the House of Representatives whose responsibilities include custodial duties are adequately trained in the implementation of the office waste recycling program. The Architect of the Capitol shall require any contractor under a contract with the House of Representatives for carrying out the office waste recycling program has to ensure that all personnel are adequately trained in the implementation of the program. And finally the architect has to submit semiannually to the Committee on House Oversight a progress report on compliance with the office waste recycling program.

Again, I think this is important. Democrats are calling upon the Republicans to adopt this resolution and work with us to turn the House into a model for recycling for the country, rather than an embarrassment, which I think in many cases we have become with regard to this recycling program.

Again, before I conclude, I just want to say that I think that we need to all join together on this anniversary of Earth Day. And I am pleased with the fact that at least on the floor so far this session, we have not seen any overt efforts to turn back the clock on environmental protection, but I believe very strongly that there is certainly momentum out there on the Republican side with the Republican leadership to start moving towards some of the same measures last year with regard to the Clean Water Act, with regard to the Superfund program, with regard to the Endangered Species Act that would seek to bring up legislation that would weaken some of these very important environmental provisions. And rather than even have the status quo, I think we need to move forward on progressive legislation such as some of the things that I mentioned as part of this Democratic 5 point challenge.

The bottom line is that although the environment has been significantly cleaned up, there is still a lot that needs to be done. The health and safety of our children and our grandchildren depend upon our taking action in a positive way towards cleaning up the environment and setting an example, if you will, for the House of Representatives in that regard.

I wanted to talk a little bit more, if I could, about the brownfields program, because I think that that is something that right now we could move on a bipartisan basis and that there is essentially a consensus to get it accomplished.

Just to give you a little more information about the brownfields program, essentially what it consists of, it is called the Community Revitalization and Brownfield Cleanup Act of 1997. And I think I mentioned before the specific amounts of money that are dedicated, both for inventory, doing an inventory of sites that would be potential cleanup sites for this program and also the amount of money that the Federal Government would provide.

But it also allows a State to request the EPA to make a determination that the State's program is a qualified program, if it provides, one, for response actions that are protective of human health and the environment; two, opportunities for technical assistance; three, meaningful opportunities for public participation. And let me stress that. One of the best aspects of the Superfund program now has been community involvement.

I know that in my own district in New Jersey, the sixth district of New Jersey that I represent, many of the local community organizations, citizens action organizations, if you will, have become directly involved in proposing cleanup and the way to go about cleaning up a Superfund site.

□ 1915

So we are asking that the same thing be done with the Brownfields Program, that basically the community be involved in the decisions about how to go about the cleanup.

That is really a very important part of any environmental initiative. Anything that we pass in Congress should contain a community involvement program, a citizen action program, because that basically gets the initiative from the grassroots and at the same time teaches local citizens, if you will, about how they can become involved in environmental protection.

I think that is a very important aspect of Earth Day, and part of the lesson of Earth Day is getting people involved on an individual basis as well as on a community basis. But ultimately we in Congress have to make the decisions, we have to move forward on a positive environmental agenda and hopefully this Earth Day next Tuesday will be our opportunity to launch that and to get our Republican colleagues involved as well in a bipartisan way.

Mr. Speaker, I yield back the balance of my time.

CHILD LABOR AND THE CRUSADE OF IQBAL MASIH

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Virginia [Mr. MORAN] is recognized for the balance of the time as the designee of the minority leader.

EARTH DAY

Mr. MORAN of Virginia. Mr. Speaker, I thank the gentleman from New Jersey for raising these very important issues to recognize the importance of Earth Day.

It behooves the Congress to look back at history before there was an environmental sensitivity. We had a lake in Ohio that actually caught on fire. We had air that was not fit to breathe. We have created greenhouse gas emissions that have led to a global warming that one day will inundate several very populous islands. The Seychelles, for example, inevitably will go below sea level because of the greenhouse gas emissions that have resulted in the warming of our entire planet.

The ozone layer has been depleted because of chlorofluorocarbons carbons. We have an area the size of North America in the Antarctic, and while it may not concern people that penguins are not able to reproduce like they were, the fact is that it is a warning to all of us the effects of ignoring our environment.

In this country, we find that children's cancer is the second leading cause of death among children, and we know that 80 percent of the cause is environmentally related, 90 percent worldwide. It is because of pesticides in foods that children eat. It is because of the toxic chemicals that we put in our ground and on our grass that children play on and touch and get into their skin. It is because of the particles that they breathe. It is because of some of the water that they drink.

And so, as a result, we have despoiled this planet in many ways. And it certainly behooves us not to look back at what we have accomplished, but to look even more forward.

There are a lot of things that need to be done. For one thing, we ought to be measuring the toxicity level of environmental risks as they would effect children, not fully grown adults.

And so we have a lot to do, and I know that the gentleman from New Jersey will be in the lead in accomplishing those objectives. Hopefully, it will be sooner rather than later. Hopefully, not too late.

But Mr. Speaker, I would like to raise another equally compelling issue. It is an international issue, but it is one that has immediate effects upon our own population and our responsible role in the world. And so I would like to go down to the podium and address the House from there.

Mr. Speaker, what I would like to speak about is child labor, the exploitation of children for profit. This week is the 2-year anniversary of the death of a real leader in the crusade against child labor. He was murdered because of that crusade. His name is Iqbal Masih.

Let me begin by telling you a little bit about the life of Iqbal Masih and how he became a crusader against child labor. Iqbal grew up Muritke, Pakistan. Iqbal's family lived in poverty, as do millions of other families in Pakistan.

Clearly it was very difficult for Iqbal's parents to scrape together enough to feed their children. By the time Iqbal was 4, his older brother was ready to marry. It should have been a time of great celebration.

Perhaps if by accident of birth Iqbal were born into a different family, one in the United States or a country as prosperous as ours, with the kind of employment opportunities that we afford, perhaps your family or mine, then Iqbal would have taken part in the ceremony and celebrated the marriage of his brother.

But Iqbal was not born into such a family. Iqbal did not get to take part in his brother's wedding. His family could not afford the wedding. They needed $12 to properly wed their son, and they did not have it.

So how did Iqbal's family pay for the wedding? Did Iqbal's father look for more work? Did they try to find a cheaper way to finance the wedding? No. Instead they took out a loan for the $12. But they did not have a house to put a second mortgage on. They did not have a pension plan to borrow against.

So they used their son Iqbal. They traded Iqbal to the moneylender as collateral on a $12 loan. The moneylender was not a banker merely looking for insurance on his loan. In fact, Iqbal's parents were never expected to pay the loan. Iqbal was expected to pay off the loan.

But how does a 4-year-old pay off his parents' debts? Well, he is forced to work. Iqbal had become a bonded laborer. Bonded labor is one step removed from child slavery.

The moneylender, now Iqbal's master, could trade or sell Iqbal to others. He exercised complete control over Iqbal. Because Iqbal's small fingers were nimble, he was forced to tie knots in handmade carpets.

Carpet manufacturers prefer to get children when they are young. As one manufacturer said, their hands are nimbler and their eyes are better, too. They are faster when they are small. They are also easier to control.

Because the carpet manufacturer controls what or even if these children eat, he can easily control them. Some manufacturers are not so subtle. Many of them chain the children to their looms. They must eat, work, and sleep tied to their loom.

At 4 years old, all these children know of the world is their village. They probably do not even know the name of their village. They are often taken hundreds of miles away. Even if they were lucky enough to escape, they would not know where to go. And even if they knew where to go, corrupt government officials merely return them to their masters.

So how do you escape from bonded labor? Iqbal was told he could escape if he raised enough money to pay off his parents' $12 loan. The carpet manufacturer said he would deduct Iqbal's salary from the amount Iqbal's parents owed.

The carpet manufacturer also added any of Iqbal's expenses to the amount his parents owed. These expenses included room and board. Iqbal had to pay for the privilege of sleeping chained to a loom and fines for any mistakes that 4-year-old boy made. The carpet manufacturer also charged interest on the loan.

Within a few years, Iqbal's $12 debt had increased 2,100 percent. Iqbal tied tiny knots for as much as 20 hours a day. He usually worked 6 days a week, and frequently all 7 days of the week he would work. He was beaten when he made any mistakes.

Iqbal worked for 6 years as a bonded laborer until he was freed with the help of the Bonded Labor Liberation Front, a human rights group. Iqbal was only 10 when he escaped. He then traveled around the world speaking out about the horrors that he and millions of other children experienced. His efforts focused international attention on the problem of child labor.

Because of his efforts on behalf of other child laborers, Iqbal won the Reebok Human Rights Award in 1994.

Although a hero to other children, Iqbal made many enemies. Carpet manufacturers had to pay bigger bribes to continue business as usual. They were losing money.

Iqbal returned to his home village of Muritke, Pakistan in April 1995. On Easter Sunday, 2 years ago yesterday, Iqbal was riding his bicycle with two friends when he was shot and killed. Iqbal was 12 years old, 12 years old.

Mr. Speaker, the International Labor Organization estimates that worldwide there are as many as 200 million children working in Africa, one quarter of all the children are working; in Asia, 18 percent; Latin America, 7 percent. Child labor takes many forms. The worst is bonded labor and indentured servitude like Iqbal Masih endured.

Children also work in more traditional manufacturing centers, such as factories. Some children are minors. Some work on fishing rigs in the ocean. Some work on the streets shining shoes or selling their bodies. They work as glassblowers and as carpenters. They sort hazardous recyclables, like broken batteries soaked in acid and used hospital syringes dirty with blood.

Children have little resistance to adults that seek to exploit them. Unfortunately, almost invariably, children wind up at the bottom of all national agendas for political and social action.

I want people to focus on this picture. It is of a little girl at a shoe shine stand in Ecuador. She is less than 4 years old. She represents the millions of children who work on the streets of the world cities.

The cycle begins when a farm family moves to the city in search of work. They soon find that the city is not what they expected. They lack the skills necessary for a good job and find city life far more expensive than they had planned on.

The family's mother may find work as a maid, but typically the father turns to alcohol or leaves the family. If children are surrounded by models of chronic inactivity and frustration at home, they may even be attracted to the excitement of the street.

Children are sent onto streets to work or beg. While seeking work, they are easy prey. They are given a job like this girl shining shoes. They must turn over all the money they receive to an older child who then gives them a small portion as salary.

The older child is equivalent to a pimp raking in profits by exploiting a small army of children. Frequently, though, the older child is in a similar relationship with even older children who may control large groups of these child pimps. Those that are beggars may be maimed to make them look more miserable and helpless than other beggars.

As the children grow older, they may realize they can make more money by theft or by exploiting children younger than themselves.

Street life cannot be easy for anyone, especially a 4-year-old girl. Tragically, when these children need to be thrown a life preserver, they often turn to drugs. The common drug for them today is glue. When they are hungry or very cold, they sniff glue to kill the pain. After sniffing glue the children stagger. They slur their speech, and their eyes swell and turn red. Soon they have irreversible brain damage.

While these tragic lives may sound parallel to life on our own city streets, there is an important distinction: The role of corrupt government officials.

In Brazil, one counselor said if a boy does not have enough money to give a cop, he may beat him. With the proper payoff a kid can keep out of the reform inventory or he can keep his place on the park bench for another night.

I would like to show the next picture, which is of a boy in Aligarth, India. It is a town in the Providence of Uttar Pradesh on the border of Nepal. This picture was presented to the Committee on International Relations last year by a constituent of mine Ms. Francoise Remington, director of a nonprofit group called Forgotten Children.

Uttar Pradesh is known for its production of brass and other metal products. This boy is making tiny padlocks. The average pay for children in the metal industry is $6 a month. The children work 60-hour work weeks. The children are recruited by middle men called dalals, who are paid by the thekedar, or contractor, who prefers children because they are so easy to control.

Although most metal factories claim to be family businesses to skirt India's scant child labor regulations, there are virtually no incidences of actual family metal shops in this part of India.

These children remove molten metal from molds near furnaces. These children work with furnaces at temperatures of 2,000 degrees. Burns are a constant danger. Children also work at electroplating, polishing, and applying chemicals to metal. This child is polishing padlocks on a small grindstone. Fumes and metal dust are constantly inhaled by these children, causing tuberculosis and respiratory illnesses.

Child labor in India is still the norm rather than the exception. There are about 250 million children in India. Estimates of the amount of children working in India ranges from 44 to 100 million. The Indian Government admits to at least 17 million.

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The next picture is of Silgi. She is sewing soccer balls.

Nearby Pakistan, nearby to India, has similar problems with child labor.

Mr. Speaker, you may remember this picture from Life magazine last June. This is a picture of 3-year-old Silgi. She sits on a mud floor, in a filthy dress, stitching soccer balls bound for Los Angeles—Los Angeles, this country for which we pay large sums of money of which she gets a pittance. With needles longer than her fingers her stitching is adequate, but her hands are so small that she cannot handle scissors. She must get assistance from a fellow employee, her sister. Silgi lives in Sialkot, a city of 300,000 that produces 35 million soccer balls per year, 80 percent of the world's supply.

Mr. Speaker, children like Silgi can sew up to 80 hours each week, 80 hours a week in silence and near total darkness. Their foreman says darkness discourages photographers who may wish to expose their trade. They are punished if they fall asleep or if they waste materials or miscut patterns. They are also punished if they complain to their parents or speak to any strangers outside the factory. These children may be punished in a small room in the back of the factory. They may be hung upside-down by their knees or they may be contained. Frequently they are starved.

Let me show the last picture. This is of a girl bashing rocks. You could find pictures like any of these, scenes like any of these children that are pictured here today in any of these countries that we refer to.

Sometimes the entire family is working in bondage, perhaps to pay the debt of a diseased relative. Children are required to work alongside their parents to maximize production. They work up to 14 hours a day carrying rocks or breaking them into pieces. This young girl is doing just that. She lives in an area where gravel is scarce. In order to make cement, rocks must be broken down to small stones, and many rural areas' traditional class or caste systems perpetuate bonded labor.

Pledging one's labor and that of his children may be the only resource a family has and may be all they can pledge as security for a loan. Unfortunately, the same family may be uneducated and illiterate. It is easy prey to the money lender who may charge outrageous interest rates, and in those cases in which the labor of the family is pledged, debts are passed from parent to child often for generations upon generations.

Mr. Speaker, a surprising number of children are minors. The hazards they face are enormous. In the jungles of southeastern Peru, children work mining gold. In 1991, common graves of child workers—these are mass graves of child workers—were uncovered. The corpses reveal that these children died from disease and from work-related injuries.

Mr. Speaker, let me just speak briefly as to what the United States can do about this. First thing we need to know is that it exists, to spread the word so that we can become mobilized. There are many Members of Congress who have introduced legislation to combat these horrors, and just this week the Clinton administration announced a new voluntary code of conduct and labeling program. We need to gather it, this information, because in developing a solution to the problem of child labor we need to know the scope of the problem, the sources of the problem and what it is that we can do in the most cost-effective and efficient manner to change this situation.

Because many governments are in denial over the scope of child exploitation in their country, the international labor organization has made progress working with specific countries in human rights groups in conducting surveys. For example, until recently Pakistan had never conducted a survey to determine the scope of its problem. Pakistan and the International Labor Organization should be commended for undertaking this project. The study indicated that at least 8 percent of Pakistan's 40 million children were actively working and being exploited. More than half of the child laborers were located in the province of Punjab. So while the release of hard data and the scope of the child labor problem may hurt Pakistan in the short term, it now knows where resources are most urgently needed.

The United States compiles two sources of government information on child labor and human rights. The State Department's Annual Country Reports on Human Rights contains an overview of the human rights issues in every country. Unfortunately each report only contains a paragraph or two on child labor issues. Today I introduced legislation to add an additional section to the human rights reports that would detail the scope of child labor in every country. It would include an overview of the country's child labor laws and whether they are effectively enforced. It would include a discussion of government corruption and bribery and their relation to the effectiveness of child labor laws. It would greatly enhance the information available to us today.

The other major source of government information are the reports published by the Bureau of International Labor Affairs under the direction of Under Secretary Andrew Samet. These reports are dedicated to specific aspects of the child labor problem. The first dealt with manufactured and mined imports, the second with forced and bonded child labor, and the third with goods imported into the United States. They have just undertaken their fourth report which I am sure will be as excellent as the last three.

Unfortunately, Mr. Speaker, we are a contributing factor to the propagation of child labor. Few U.S. investors and even fewer U.S. consumers would knowingly buy products made from the sweat and toil of children. As consumers, we should ensure that when we spend $30 to $50 to buy a soccer ball for our children that the money does not go to companies that deny other children their childhoods by working them for pennies a day under inhumane conditions. As investors we should be sure our businesses are doing more than giving lip service to avoiding child labor.

On Monday the Clinton administration took the first step in addressing these concerns. They brought several members of the manufacturing sector together with labor leaders and public interest groups to craft a voluntary labeling program.

The first part of the President's program develops a "Workplace Code of Conduct" for apparel manufacturers. A code of conduct embodies a company's policy on a host of issues typically including ethical conduct which may differ from culture to culture. By firmly stating the company's policy on discrimination, forced labor, wages, benefits and other terms of employment, an American business can put its licensees and subcontractors on notice about the types of conditions it finds acceptable. By incorporating codes of conduct into contracts with licensees and subcontractors, a business can have greater control over how its goods are produced worldwide.

Many American firms have taken upon themselves to adopt strong codes of conduct prohibiting child labor, yet problems persist. One clear example was Nike's recent experience in Pakistan. Nike has a strong code of conduct prohibiting child labor among its subcontractors and anyone they do business with. Yet numerous reports documented children stitching soccer balls for Nike.

So why did they not know there was a problem producing soccer balls? Largely it was because when Nike's subcontractor in Pakistan became overworked, it subcontracted out some of its work, and in doing so did not impose the same code of conduct. This second level of subcontractors were unscrupulous profiteers who farmed out the work to whoever they could get to do it cheaply, the most cheaply, primarily children like Silgi.

Multiple levels of subcontracting are common in global manufacturing. Unfortunately they add levels of complexity to enforcing labor codes.

To ensure that the various levels of subcontractors and licensees are adhering to codes of conduct, businesses need to have reputable firms inspect their subcontractors periodically. Many small firms have been doing this successfully for years, and we are finally seeing the major accounting firms break into this market.

To a certain extent, adopting codes of conduct makes economic sense. The more a code of conduct is enforced, the less likely the controlling firm is subject to claims of worker exploitation and perhaps litigation.

President Clinton's recent initiative includes a code of conduct requiring no more than a 60-hour work week, a minimum age for employment of children, and compliance with local minimum wage laws. Even though an undeveloped country may not see enforcing its minimum wage laws as a priority, our codes of conduct will require that goods bound for the United States be made in compliance with these local laws.

Mr. Speaker, may I inquire at this point how much time is remaining?

The SPEAKER pro tempore (Mr. PEASE). The gentleman has 8 minutes remaining.

Mr. MORAN. Mr. Speaker, today, short of spending many, many hours in a library, consumers have no way of knowing if the products they buy are produced by children, and in exchange for complying with the suggested codes of conduct manufacturers will be permitted to use a new "No Sweat" label on their goods. Consumers will find it easy to look for the No Sweat label. Quick and easy access to such information will empower consumers to show the manufacturing industry the importance of staying child-labor free. I would hope that every parent would look for this label and would understand but for the grace of God their child could be in a similar exploited condition.

Labeling programs do have critics. Some fear that labels will be easily forged. Some fear that labeling requirement will be increased over time and used as protectionist measures. These are valid concerns and only serve to underscore the importance of fighting the battle against child labor on many fronts.

One is trade sanctions. We could ban imports made by children. This is the approach taken by Senator HARKIN and Congressman FRANK and their legislation. This approach would keep track of specific products that were routinely made with child labor from certain countries. These products would be banned unless the importer could demonstrate that child labor was not used in the manufacture of the product.

Another approach is through utilization of the generalized system of preferences program. The GSP, which is the acronym for this program, is designed to provide preferential trade treatment to developing countries. If a country qualifies, certain products are given reduced tariff rates.

A condition of receiving these generalized system of preferences benefits for any particular product is that the export country ensure that basic worker rights are protected. If not, the United States can revoke GSP benefits to all products from the country, or the United States can revoke generalized system of preference benefits for specific products. Last year, Commerce Secretary Kantor suspended GSP benefits to Pakistan on surgical equipment, sporting goods and hand-knotted carpets for failing to effectively fight child labor in these industries.

Because the export country usually wants to restore GSP benefits quickly, it has an incentive active to cooperate with the United States. The executive branch has the authority to reinstate GSP benefits if it is satisfied that the export country is making a good faith effort to rectify the problem.

Unfortunately, all of these approaches only help solve the child labor problem to the extent it is connected with U.S. trade. But about 95 percent of all child labor does not involve products bound for the United States. Most involves domestic products or services and cannot be effected by U.S. trade policy.

For this reason I introduced the Working Children's Human Rights Act which would deny non-humanitarian U.S. assistance to countries that have not enacted or refuse to enforce their own child labor laws. U.S. taxpayers should not be forced to support rogue regimes that turn a blind eye to government corruption and inaction that perpetuates the exploitation of children. Withholding foreign aid has a limited effect, though, because only a small handful of countries receive any U.S. assistance today.

The United States does, however, have leverage through lending institutions such as the World Bank. The World Bank provides loans, technical assistance and policy guidelines to help its developing country members reduce poverty and improve living standards through sustainable economic growth. The bank does a tremendous job at financing necessary projects such as infrastructure improvement which is necessary to attract private sector investment. Because of the importance of assistance such as World Bank loans to developing countries, it is appropriate for the United States to condition its vote in favor of loans to a particular country on that country's compliance with major U.S. foreign policy goals.

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Today, the United States votes against loans to countries which the President has certified as major illicit drug-producing countries. The eradication of child exploitation ought to be as important to United States foreign policy as combating narcotics, which is terribly important. That is why my legislation would require the United States to vote against loans to countries who have not adopted or refused to enforce their own child labor laws.

There is a more immediate step the World Bank could take. Last year we heard testimony before the Subcommittee on International Relations and Human Rights, on which I sat, that hundreds of children worked on infrastructure improvements on one particular project in India. Who knows how many thousands of children like them work on such projects?

The World Bank and other such institutions should take a more active role in eradicating child labor by requiring that no children work on projects for which World Bank funds are used. Surely U.S. taxpayers do not want their contributions to the World Bank used for development projects that exploit children.

Mr. Speaker, I want to share with my colleagues some success stories in our battle to end exploitation of the children. The first is a project in Bangladesh that would not have been possible without the dedication of U.S. Ambassador David Merrill.

Bangladesh's garment sector began thriving in 1977 and currently exports over $750 million per year into the United States. The industry's main products include shirts, trousers, jackets, T-shirts, shorts, briefs, and sweatsuits.

By 1990, estimates of the number of working 10- to 14-year-old children in Bangladesh were between 5 and 15 million children. The vast majority of these children worked in the garment sector. Typically, garment factories in Bangladesh were dimly lit with poor ventilation. Hours were very long. Workers usually were forced to work without break; the doors are locked during the shift. Only occasionally is a guard with a key near the door. During time of high demand, workers are locked in until their work is finished, often overnight. They work 24 hours a day.

In 1990, the Bangladesh garment manufacturers insisted that children were only in factories to accompany their working mothers who could not afford child care. Not true. Yet the Asian-American Free Labor Institute study showed children walking to factories with their time cards in hand. When that institute probed further, they learned that children really worked at the same factories with their relatives.

In the fall of 1993, Senator TOM HARKIN and Representative George Brown introduced legislation to ban imports made by child labor from entry into the United States. Fearing passage of this bill, the Bangladesh garment manufacturers abruptly fired 50,000 child workers.

Unfortunately, firing the children from the manufacturing centers meant they were forced to look for other work. Many went to work as brickmakers or fish processors, using more dangerous equipment that exposed them to even more risks. Through the hard work of Ambassador Merrill and human rights groups, an historical memorandum of understanding was signed by the Bangladesh garment manufacturers, the International Labor Organization and UNICEF on July 4, 1995.

As a result of this agreement, children are moving from factories to schools while they receive a monthly stipend. The Bangladesh garment manufacturers, UNICEF and the ILO, the International Labor Organization, all contribute to a fund to build schools and educate these children, and that is the solution. That is what we have to be doing. They pay the children one-half of what they would have made in the garment factories.

It is working. We can make progress. We need to be making that kind of progress in other countries. It is wrong to continue exploiting over 100 million children per year.

Mr. Speaker, I appreciate the time. I appreciate my colleague, the gentleman from California [Mr. CUNNINGHAM] having the patience to wait through this. I would urge my colleagues not only to cosponsor the legislation on human rights for children, but to get involved in this issue seeking a long-term solution.

CHINESE COMMUNIST COMPANY COSCO IS THREAT TO UNITED STATES NATIONAL SECURITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from California [Mr. CUNNINGHAM] is recognized for 30 minutes as the designee of the majority leader.

Mr. CUNNINGHAM. Mr. Speaker, my friend from Virginia [Mr. MORAN] just talked about human rights and he makes many, many good points, and I support the gentleman's assessments.

Let me say that I would ask the gentleman to support us, the attorney general from California and all of the police chiefs in the State of California, and I am sure there are other States that are affected. They brought some pretty gruesome pictures of children being imported from Mexico, we are talking 7-year-olds, 8-year-olds, 9-year-olds and teenagers, across the border to serve in methamphetamine labs across the United States.

One out of four of these exploded in fires, and they had grizzly pictures of these children burned. Not over a period of weeks or months or years, but these children are dying within minutes of breathing in the fumes and the chemicals of methamphetamines.

I will work with the gentleman. We do not have to look very far, and I understand that, yes, there are human rights violations like these, but even within our own borders. I think it is criminal, and we ought to do everything we can to stop it.

Mr. MORAN. Mr. Speaker, if the gentleman would yield, I thank the gentleman for his concern, which I know is very sincere and his commitment to do something about it. I thank the gentleman.

Mr. CUNNINGHAM. Let me just say briefly, Mr. Speaker, that the gentleman that spoke before, the gentleman from Virginia [Mr. MORAN] talked about the Republicans destroying the environment; and I would like to make just about 30 seconds' worth of comments.

The gentleman has a right to his opinion, only he states it as fact, and I would say that the gentleman is factually challenged. He has a right to his view, but those from the left that would take all the power in Washington, DC, and control that power, whether it be environmental, whether it be education, whether it be private property, whether it be religious beliefs, and control it within the walls of this body, I disagree with.

Let me give a classic example. The Superfund, which was created to clean up toxic wastesites, over 70 percent of the dollars that we allocate to clean it up go to trial lawyers in litigation. What we are saying is that over 85 percent of the cleanup of these Superfund sites is done by the State and the people within that State.

Now, it is up to your opinion, Mr. Speaker, whether having the money and having it wasted here in Washington, DC, over 70 percent are getting 90 percent of the dollars down to the State, who actually does the cleanup, and focusing the money on the problem instead of bureaucracy. There are two different views there.

The EPA, the dollars go to over 50 percent of the bureaucracy, and we believe on the Republican side, with many of our colleagues on the other side, that it is more important to get the dollars to clean up clean air, more important to get the dollars out of those that pollute the air, and support this country.

With those comments I would like to move on to the title subject tonight, Mr. Speaker. I want to talk about COSCO. Not Price Club, Mr. Chairman, as we know it, not Costco or Price Club, as many Americans know it, but the China Ocean Shipping Company owned and controlled by only one CEO, chief executive officer, and that chief executive officer is Communist China itself.

There is no board of directors, there are no bosses above COSCO or these other corporations set up by Communist China. They all answer and are directed, and if they do not, one can imagine the consequences.

What I want to speak to tonight is that recently, within the last couple of days, a judge, just the day before yesterday, agreed to examine the validity of the lease made by the Port of Long Beach to a shipping company owned by the Communist Chinese Government.

This is what the COSCO president, a Communist Chinese, says about its shipping company: Call the charges totally false. A handful of U.S. individuals with ulterior motives have made use of the media to fabricate reports that have gravely injured the reputation of COSCO.

In the same article, the newspaper article, and I quote, COSCO's past problems, however, have given its critics ammunition. Six of these ships were cited for safety violations by our Coast Guard last year and considered unsafe. A COSCO ship, owned by Communist China again, recently plowed into a New Orleans dock in December, injuring 116 people. Customs officials found over 2,000 AK-47's being smuggled into Oakland last year by COSCO. The company that makes the AK-47's, the company that distributes the AK-47's and COSCO are all controlled by the same chief executive officer: Communist China, Mr. Chairman.

They also brought in two ships. I remember in the press this year where we had two shiploads of illegal Chinese trying to enter the United States. Mr. chairman, those were COSCO ships.

Now, supporters in the administration will tell us that one of those ship's registrations had expired and they went and asked Communist China, is that still your ship? Well, that is like if I had a car and drove it into Mexico with a load of cocaine and it did not have registration, but it was my car and the Mexican Government came back and said, hey, DUKE, is that your car? I am not going to say, sure, that is my car.

Well, Mr. Speaker, I think common sense should prevail.

This is the same company, Mr. Speaker, that shipped nuclear weapons components to Pakistan. This is the same company, Mr. Speaker, that is shipping chemical and biological weapons to North Korea, to Iran, to Iraq, to Syria, and yes, to the Mujahedin, Hamas, and Bosnia, which impacts the safety of every American citizen and free world citizen in this world. We disagree with the Communist Chinese taking over and controlling a United States port.

There is currently, Mr. Speaker, an FBI report reported to us by intelligence. It is current, and it states that as of today even, the Communist Chinese, through COSCO, are deploying both industrial spies and national security spies into every port, whether they are a tenant or whether they control it. that, to me, Mr. Speaker, is a national security threat and must be examined.

I would state that Councilman Roberts from Long Beach said, it broke our hearts when the Navy made its decision to leave Long Beach. This has been an incredible struggle for the city.

Mr. Speaker, Long Beach has lost thousands of jobs. Why? The President's extreme defense cuts and the additional BRAC process, base closing process, closed Kelly Air Force Base in California. It closed El Toro Base in California, it closed Long Beach Naval Shipyard in California, it took out the training center in San Diego and has devastated over 1 million jobs in the State of California, Mr. Speaker.

We vowed to the people of Long Beach and those other cities that have been devastated by those cuts by the administration that we will do every single thing we can to help, but not at the cost of letting and having a national security threat, a known threat to this country, the Communist Chinese. Even though we are involved in trading negotiations, to think that they are our ally or our friend, in my opinion, is foolhardy.

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What is that opinion based on? That opinion is based on my service on Seventh Fleet staff, responsible for all Southeast Asia exercises and defense of those countries, including planning the invasions of those countries in time of war. It also was gained at Naval Fighter Weapons School, and planning the invasions and defense of those countries.

Just today in the newspaper, Mr. Speaker: "Geneva—After an intense lobbying campaign marked both by threats and tantalizing promises, China succeeded once again yesterday in blocking U.N. criticism of its human rights record."

The gentleman from Virginia [Mr. MORAN] spoke of children being in slavery, and used. It is also done in China, not just India and other countries, Mr. Speaker.

If we take a look at the threat, when that U.N. resolution was blocked by Communist China through threats, they followed through with that threat. Here is another article in today's paper: "U.N. consideration of resolution condemning its human rights record." "The Chinese government took diplomatic retaliation against Denmark for sponsoring the measure," just for sponsoring and speaking their feelings.

"Accusing the Danish government of hurting the feelings of the Chinese people, China announced that it will suspend bilateral state visits with Copenhagen. The motion urged China to relax controls on freedom of expression and religion and release political prisoners, and improve its judicial system." yet China retaliated against a country that expressed its opinion on human rights.

We look at the terrorism threat in Bahrain, shipped in by Cosco and the Communist Chinese. We look at the murders that took place in Germany and France and England and the World Trade Center. Many of these materials were shipped by Cosco ships to the terrorist countries that are a direct threat. We look at North Korea, threatening withdrawal from the nuclear agreement with the United

States. Cosco also delivers nuclear weapons materials to North Korea.

I would say, Mr. Speaker, that why would the people of Long Beach, some of them, and many do not, but we are getting calls every day from all over the United States and all over the world in outrage of this country allowing a Communist Chinese-run shipping company to take over the port.

But if we take a look at the devastation that has gone on in these bases and with these people, they are worried about putting bread on the table, about putting their children through school. They are concerned. So are we, Mr. Speaker.

I would say that President Clinton took a personal role in promoting the interests of Cosco, and at the same time he was cutting over 100 warships out of national security for this country. That is a 23 percent cut. The symbolism could not be made more stark. Richard Fisher, a senior policy analyst of the Asian Studies Center, noted the real, very real security concerns of the Long Beach deal in a Washington Times column of April 3rd.

His main point is given: "If it so desires, the Chinese leadership can direct that Cosco's assets be put at the disposal of the Peoples Liberation Army (the PLA), or the main espionage organ, which the FBI has reports that it is currently doing, the Ministry of State Security, the MSS * * *. Do we really want a subsidiary of the Peoples Republic of China to have such a large presence" in the port?

Mr. Speaker, Cosco has had a position at Long Beach for many years. I have no problems with that. They can be a tenant and I will not object, Mr. Speaker. But to give a Communist Chinese-operated shipping company, with its past violations, full access, and they control everything that comes into the port, they control who sees what containers that go out in the middle of the night, they control what goes out of this country. Mr. Speaker, they will ship in illegals, they will ship in illegal arms, they will ship in intelligence officers, as they do around the rest of the world. We must be vigilant, Mr. Speaker, on stopping that.

Russia told the United States, air defense arms are not sold to Iran, but we find out, yes, they are. I think if we have a bright star in the Clinton administration, it is Madeleine Albright, because I would say, Mr. Speaker, that she is tough, and I think that this gentlewoman has the pizzazz, if you want to use that word, to stand up for American workers' rights.

I would say, Mr. Speaker, that under Republican administrations and under Democrat administrations the weakling of our foreign policy has been our State Department. They will not stand up for our workers' rights, and I think Madeleine Albright is the person to do that.

Let me give the Members a quick story. When the world first started trading with China, with sails and wooden ships, and this is a true story, Mr. Speaker, one of the sailors from a ship threw over a bucket on a line, and it so happened that there was a sanpan down below it, and it impacted a lady, by mistake, on the head, and it killed the lady.

The Chinese, much like in the movie "Sand Pebble," stormed the ship and tried to take the sailor off the ship. The crew stood with arms protecting the sailor, and would not let him go off the ship, because the Chinese wanted to execute the individual right there. They waited three days. The Chinese emissary came back to the ship and threatened the fleet, to withhold all trade to those fleets.

That day the fleet gave over that sailor, Mr. Speaker, and the Chinese executed him, for an accident. So many times when our countries are threatened with economic power of foreign countries, our State Department does not stand up for our rights, does not stand up for our workers, and we need to be more vigilant in that.

I believe in trade. I supported NAFTA. I supported GATT. But all of our fears on both sides of the issue were that we would not make it be fair trade, and more and more we are finding that that in some cases is the case.

I have an article here that says "Marines Lost Bid for Site to China Cosco Firm." The United States Marine Corps wanted the facility at Cosco, and the Clinton administration allowed it to go to a Chinese Communist-controlled company. As Members know, as the Chinese Ocean Shipping Company, Cosco, while it is true that Cosco has been a tenant at Long Beach since 1991, the agreement would turn over 145 acres.

It was a Cosco ship *Empress Phoenix* that shipped in the 2,000 AK–47 automatic rifles into San Francisco base a year ago. Mr. Speaker, these are the same type of weapons that were recently used in Los Angeles in the bank hold-ups which placed in jeopardy the lives of our law enforcement agencies. Yet, the President says, I do not want any assault weapons in this country. These are truly fully automatic weapons of war and assault weapons. There was a shipment of M–2's that we recently stopped at the border in San Diego, fully automatic weapons. We need to stop that, Mr. Speaker. The Chinese regime is not a steady United States ally.

On July 24, 1996, the U.S. Times reported warnings by the former United States Ambassador Charles Freeman quoting a Chinese official that China could intimidate Taiwan because United States leaders would care more about Los Angeles than they do Taiwan.

What was that about? Remember when China fired missiles at Taiwan this last year? When the United States fleet started going through the straits, Communist China responded with a nuclear threat on the city of Los Angeles, and made the statement, "Do you prefer Los Angeles more than you do Taiwan?" And do you think that Taiwan is a possible conflict in the next year? Absolutely, it is.

With American aircraft in the straits, the Chinese official had conveyed an anonymous message to Tony Lake, Anthony Lake, President Clinton's national security adviser, that American interference in Beijing's effort to bring Taipei to heel would result in a devastating attack on the city of Los Angeles. Yet, we are going to allow this same Communist control in Long Beach Naval Shipyard. The San Diego Union Tribune, 3/31/96.

Mr. Speaker, the Panama Canal, one of the most strategic locations in the world for the United States, the Panama Canal, that we paid for with blood and sweat and tears and American citizens digging the canal, was recently turned over to Hutchinson, out of Hong Kong, a controlled Chinese Communist country, both ends of the Panama Canal.

Now, why? The major export to China from the United States is wheat. Why do they not go around the horn? For the same reason sailors have not for 200 years, especially with cargo ships, container ships: The weather. They go through the Panama Canal. Yet the Chinese took over control of both ends of it.

The major export port for wheat going to China is where? Guess where, Mr. Speaker? Long Beach Naval Shipyard. They will control price-fixing of our agriculture interests. They will not only have a national security threat, they will have an economic threat to this country.

In the President's budget, he just gave $50 million to Communist China. Maybe $50 million is not very much to a lot of people, but it is to most. In his budget he cut impact education aid, but he gives $50 million to the Communist Chinese for a coal-burning plant in Beijing.

The President also gave China, after the elections, over $100 million to build Cosco ships in a non-recourse loan to Communist China, a loan to Communist China which takes away our Title XI money for our own shipbuilders to build American ships. Those same ships are not going to be sailed by U.S. sailors, they are going to be sailed by Chinese sailors. Those exports, under the control of price-fixing, will go out of the United States.

That is what I talk about regarding our State Department, Mr. Speaker. If we do not speak from a position of strength, instead of a position of weakness, then the United States and America loses again, just another reason why we are in opposition to this move.

Johnny Chung, a Chinese American businessman from California, gave $366,000 to the DNC, the Democratic National Committee, that was later returned on suspicion it illegally came from foreign sources. Guess what? Mr. Chung brought six Chinese officials to the White House last year to hear President Clinton make his weekly radio address.

Mr. Speaker, guess who two of those guests were: The person that owned Cosco, how Chinese shipping was set up, he was the head of it, controlled by Communist China. And one of the others was the very gun runners that smuggled in 2,000 AK-47's into the United States, and after being caught they were penalized and put in prison. Do you know why they were putting the AK-47's into this country? To disrupt our inner cities in the United States, and to go to our gangs.

The M-2's going to Mexico, during the next 90 days Mexico has critical elections. Do we want a left-wing Communist legislature in Mexico City? No. We want a pro-American, we want a pro-reform Mexican legislature, and not to have some Communist country disrupt the elections of countries next to us, whether it is Mexico or Canada.

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On the campaign trail last year and in a White House meeting in 1995, President Clinton endorsed a proposal to transfer Long Beach Naval Shipyard to COSCO. A COSCO adviser was among the Chinese businessmen invited to hear the President in the Oval Office.

Over the past year, a COSCO ship recently plowed, if you remember, Mr. Speaker, it was a COSCO ship that totally destroyed the pier in New Orleans. Not only shipping two shiploads of illegal aliens, they are not only shipping in AK-47's, they have not only been violated six times by our Coast Guard, they took out an entire pier, injuring over 116 people, causing millions of dollars in New Orleans and declared unsafe. This is the company that we want controlling and having access within the United States? Mr. Speaker, in my humble opinion, that is ludicrous.

We want to make it clear, as the Heritage Foundation, Asia analyst, Richard Fisher said, Increasing trade with China should not be pursued at the expense of U.S. national security. We believe there is enough evidence of these COSCO transactions presenting a threat to U.S. national security, particularly when the Clinton administration has been intimately involved throughout, that Congress should exercise its responsibility with prudent and robust oversight.

We plan to do so, Mr. Speaker.

Mr. Speaker, I think that if the United States does not get involved in trade, including with China, that economically we are going to die. But as many Members on both sides of the aisle are afraid of, that should be fair trade, not trade with the United States having the largest, largest trade deficit in the world with China.

We want fair trade. We want the Chinese and our State Department, along with the President, must demand, not should demand, must demand that, first, that Christians quit being abused in Communist China, that weapons to our enemies, our real enemies, terrorists of Iran, Iraq, Syria, and North Korea cease now, that they quit supplying areas like Bosnia that can be used against our troops, that they quit shipping in weapons to nations close to the United States like Mexico, that the human rights violations be moved on, not thwarted in the United Nations with threats to other countries. And that is another reason, Mr. Speaker, that the United Nations should be and must be changed.

The Speaker of the House, NEWT GINGRICH, was correct in his recent trip to Asia and China. He said that perhaps one of the first signs that China can make is how the handling of the turnover of Hong Kong to the Communist Chinese looks. The next step should be its policy toward Taiwan as a free nation. And yes, I think that our State Department and our President need to focus on the trade deficit, not only with China but other countries as well.

As the gentleman from Virginia [Mr. MORAN] said, its utilization of children, we are not talking teenagers, Mr. Speaker, we are talking about 5- and 6- and 7-year-olds working 14 hours a day just to survive for a handful of rice. And then guess what? Those products come to this country, but our businesses out of business because we cannot meet that labor cost.

We need to take a look at Long Beach and the biodiversity that the interest groups are currently looking at, including the Audubon Society, Mr. Speaker.

I would be happy to sum up by saying that I will not object to Long Beach having COSCO or other nations as a tenant, but, Mr. Speaker, let us not give them control and complete access of a former national security base, not with the record of COSCO, not with the current threat from the Chinese Communists who just increased their defense by 30 percent and bought 250 SU-27's, which are better than our F-14 and F-15 Strike Eagles, our aircraft, and not with the current China shipping arms to our enemies.

Let us be tough. Let us talk softly and carry a big stick, Mr. Speaker. But when the time comes, I would ask the President, the State Department, and this body to be able to speak with a strong voice and be willing to use that stick. And God bless America.

PRIDE IN THE SPEAKER

The SPEAKER pro tempore (Mr. METCALF). Under the Speaker's announced policy of January 7, 1997, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 30 minutes as the designee of the majority leader.

Mr. SCARBOROUGH. Mr. Speaker, I want to speak on an issue that is not only important to me but also I think very important to this Chamber and also very important to the people of America.

I could not help but take note of the statements of our previous speaker, the gentleman from California [Mr. CUNNINGHAM] on the problems that we are having right now with China, with the influence peddling.

Of course, Mr. CUNNINGHAM brought up some very good points but also some very disturbing points about possible influence that Communist Chinese have been seeking in the United States of America.

We, of course, have been reading with horror over the past few weeks some of the concerns about investigations of people looking into scandals on whether this White House actually sold access to the Communist Chinese. That is something that we all have to be paying very close attention to, especially in this body, because of the constitutional role that we play, the oversight that we play. Nothing has been proven yet. I think that is very important to say. But at the same time the gentleman from California brings up some very good points and some points that we have to be concerned about.

I do want to say that one of the things that has disturbed me over the past few months, as we have been talking about some of the scandals that have been arising concerning the dealings with China and concerning other scandals that have just been absolutely horrifying to me as a United States Representative and as an American and as a father, are some of these moral equivalency arguments that have been trotted out there.

At times we have been told that the possibility of selling access to China, the possibility of a lot of these other things that have been going on somehow is morally equivalent to what the Speaker was charged with earlier. I have been outrages for quite some time at that, because history will plainly show, and the Speaker's critics certainly know this even though they make disingenuous arguments, that there is no moral equivalency.

The Speaker submitted 50,000 documents to the Ethics Committee, told the truth in those documents, but the fact is that one of those 50,000 documents contradicted another statement that he had made in the document production to the Ethics Committee. Because of that, he agreed to a fine that today he decided to take care of.

Let me just say that I am here today to praise the Speaker of the House for what he decided to do in bringing, I believe, honor on this House. I can tell you right now, the Speaker and certainly others know that I have always spoken my mind when addressing the Speaker of the House.

Two weeks ago, I did it in a very, very public way, in a very public confrontation. And I even suggested that if things did not change regarding the direction of the House leadership, that we might have to look in new directions. I have been very pleased with what has been going on for the past few weeks, but I also have said that if things go wrong again in the future, I will speak my mind again.

So tonight I come here not as a mindless cheerleader of the Speaker, not as a political lap dog or a party line parrot, but instead as a U.S. Congressman, as an American citizen, and as a father who is proud of what the Speaker of the House did today.

I believe in his actions today that his character really did shine through, and it is so difficult teaching my two boys about character when there seem to be so few people in public view that seem to be worthy of emulating. But when I teach my 9-year-old boy, Joey, and my 6-year-old boy, Andrew, about accountability and personal responsibility and stepping up to the plate and looking somebody in the eye and being straightforward with them and taking full accountability, I will give the example of what the Speaker of the House did today on April 17, 1997.

I wanted to read a release that talks about what he did. It said, in an example of accountability, NEWT GINGRICH announced that he will reimburse taxpayers in full, using $300,000 of his own personal funds. In order to fulfill his promise, GINGRICH has secured a loan from Bob Dole to be repaid in full in a timely manner. The Speaker said, my wife and I, Marianne, decided that whatever the consequences, we had to do what was best, what was right, morally and spiritually. We had to put in perspective how our lives had been torn apart by the weight of this decision. We had to take into account the negative feelings that Americans have about Government, Congress, and scandals. We had to take into account the responsibility that the Speaker of the House has to a higher standard, and that is why we came to the conclusion of our own choice, without being forced, that I have the moral obligation to pay the $300,000 out of personal funds and that any other step would simply be seen as one more politician shirking his duty and one more example of failing to do the right thing.

Now, let me just say that as a practical matter, I do disagree with what the Speaker did today. But let me qualify that. I disagree because of the precedent that it might set. But at the same time I am very proud that he recognized that it might set a bad precedent in the future and, therefore, he wants to bring about a resolution that would take care of that, but, more importantly, for he and his wife and his family's future, this could have some very devastating consequences. But he decided that at this point in history, that it was the best thing to do, not for himself, not for his party, but for the U.S. Congress and for America.

We do live in a very, very cynical age. I am absolutely horrified when I read accounts in the newspaper of how Americans believe that White Houses have always sold access to the Lincoln bedroom. I am absolutely shocked when I hear that Americans believe that Presidents have always sold access to Air Force One and used it as a reward.

I am horrified when I hear that Americans actually believe that everybody does it, that everybody sells access, that everybody is willing to open themselves up to foreign influence, that everybody is willing to possibly change foreign policy based on money coming in.

That is not the case. No other administration has ever done things to the level that this administration has. And that is an undisputed fact.

□ 2030

I think that had to weigh heavily on the Speaker's mind, because when the Speaker of the House came forward and made his decision, it was not something he had to do.

The Committee on Standards of Official Conduct, in fact, told him he could repay it any way he wanted to under certain guidelines, that it did not have to come out of personal funds.

In fact, if you look back to the history, the 200-year history of the House of Representatives, the fact that he was even fined for this mistake, for this technical error, and that is what it was, is unprecedented, has never occurred before, and the only time that someone is to pay based on a mistake is when that person made a financial gain because of ethical violation.

And not one person has been able to come forward with a straight face and say that the Speaker of the House gained one penny based on his attorney's technical error.

Mr. CUNNINGHAM. Will the gentleman from Florida [Mr. SCARBOROUGH] yield for one moment?

The gentleman I think has mischaracterized the term "fine" with a voluntary payment, and the Speaker has stated that the Committee on Standards of Official Conduct attempted to put a fine, that he would have fought it in court if it was a fine.

Mr. SCARBOROUGH. And I certainly do apologize for that. That is just like last year when we heard the radicals on the left talking about cuts, cuts, cuts, cuts, cuts and actually we were increasing spending on Medicare, increasing funding for school lunch programs, increasing funding on just about every program that you can increase funding on except for military programs. Of course, the leftists, the radicals called those cuts and in fact they were not cuts, and I made a similar mistake here because there was not a fine, the Speaker was simply going to reimburse the American taxpayers for the investigation.

Something else happened today, and it encouraged me, and this was that Senator Bob Dole stepped forward and decided that he wanted to help the Speaker out any way he could and offered to loan him the money with interest because that needed to be done for technical reasons. But Bob Dole, the former Senate majority leader, 1996 Republican Presidential nominee, issued this statement today.

I applaud the decision by the Speaker beginning to pay with personal funds and taking responsibility for his actions and making this difficult decision despite other options for payment. He has yet again shown himself to be a man of integrity. And let me tell you that is coming from a man of incredible integrity himself as a senior leader of the Republican Party. I am pleased that our highest ranking official has chosen to set an example of accountability and ethics for the Nation through his words and action. For that reason and many more NEWT is a friend, and I am pleased that I can be of assistance.

I consider this not only an opportunity to support a friend but a long-term investment for the future of our party that today we bring this story to a close. An ever united Republican Party moves forward with his positive vision for the next millennium, as articulated by one of our most effective leaders NEWT GINGRICH. It certainly was a great statement from a great man.

Today there was another statement from NRCC Chairman JOHN LINDER, who said that the Republican Party of the majority will now move forward. NEWT will lead us to our goals of balancing the budget, improving safety for our schools and communities, saving Medicare and providing tax relief for all Americans. But he ended with an ominous warning.

He said, knowing that the American people side with our ideas and our ideology, the Democrats will have nothing to do but fall back on vicious attacks.

I have got to say, unfortunately, before the ink was dried on that statement the vicious attacks began in this Chamber. I was disheartened to see that they decided since they could not attack the Speaker because the Speaker had not only abided by the law but had gone well beyond what the law required, that instead they would viciously smear the great name of Bob Dole.

They attacked an honorable man who fought in World War II and almost gave his life to free Europe from the Nazis. He left part of himself on the fields of Europe. He went on to fight through years of physical struggle and still, even through his physical struggle, served America for over 40 years.

In fact, this President himself gave Bob Dole the highest honor that the United States of America can give to any citizen. But he was savagely attacked today by desperate, vicious minorities who will do anything to seize power, the minority. The minority party has done it before. They will continue to do it.

It was interesting today, though, that the architect of the attack was none other than the man who a few years back said we will do anything we can do to destroy NEWT GINGRICH because we know that NEWT GINGRICH is the nerve center of the Republican Party and the conservative movement. He said that himself, and he continues to prove just how desperate the Democratic Party, let me say the radicals in the Democratic Party are.

You see, over the last 2 years they have filed 81 ethics charges against the Speaker. Eighty have been dismissed. This one technical violation based on a mistake by the Speaker's attorney is the only ethics charge that he even had to acknowledge. Eighty out of eighty-one have been dismissed.

I have got to say if one ethics charge was filed against me or other Members of this Chamber, it would be devastating. I just cannot imagine going through week after week after week, 81 charges.

If that is not bad enough, the unions, radicals on the left and other organizations, spent over $100 million vilifying this man, who they say is the nerve center of the conservative movement.

Mr. Speaker, I just cannot imagine what it would be like to have 81 ethics charges filed against me over 2 years, have $100 million spent to personally try to destroy me, and how could I continue to fight.

I have got to tell you, everybody in our party has said that if that happened to any of us we probably would not have the stamina to go on. I do not know how anybody does it. He has been vilified in a way that no other American has been vilified in the past quarter century, and yet he continues.

From the first day, the gentleman from California I am sure can illuminate some facts on this, too, the first day the attacks began and they continued unabated. In fact, before he was even sworn in ever as Speaker, Time magazine ran a cover story and they had a cartoon of him dressed up as a Gingrich and the title was "The Gingrich that stole Christmas." Now, this was before he was even elected Speaker of the House, "The Gingrich that stole Christmas."

Do you know what is so frightening, what is so dangerous about what he said he wanted to do, that it would destroy the radical left's grip on power in Washington, DC. This is all about power because what did he say he wanted to do? He wanted to cut taxes for middle class Americans and what did that do? That took money out of Washington, DC, out of the hands of politicians, out of the hands of bureaucrats, out of the hands of Washington power brokers and returned it back to middle class families like mine, like yours, and like others. He wanted to pass a balanced budget amendment.

That was called radical. And yet, we are $5.6 trillion in debt. That is the debt, my colleagues, that will be passed on to our children and our grandchildren, my boys, and your children.

These were not radical concepts. They were not radical concepts, unless you were a radical who believed that we could continue to tax Americans over 50 percent for every dollar that they earned and you believed that a $5.6 trillion debt was a debt that was sufficient enough to pass on to our children.

And you know, the Medicare demagoguery was the worst of all. The President's own task force said that Medicare would be bankrupt in 5 years.

The Speaker, I think, did an incredible job in trying to put together a plan that AARP and others could agree on; and yet, he was vilified, again, by attack ads, by Members on the left.

When you had the Washington Post saying it was a good idea, that the Democrats were engaged in demagoguery, you had the New Republic, which is usually a left wing magazine, saying that the Speaker was right, that he showed courage in trying to save Medicare, and you had Ted Koppel on "Nightline" run an entire show called "Mediscare," talking about how the President had proposed similar reforms a few years ago before the Speaker did.

And yet, the President turned around with the help of the unions and those on the left and savagely attacked the Speaker for trying to save Medicare for my father, who just had a double bypass operation, for my mother, for my grandparents, and for my other elderly friends and constituents.

I hope that this will end. I hope that we can move forward as a country, and I certainly hope that this horrible chapter is over in the life of the Speaker because he conducted himself very honorably today. And I can say today that I am very honored that we did elect him again as Speaker of the House.

I yield to the gentleman from California [Mr. CUNNINGHAM] who I know has some comments on his dealings with the Speaker.

Mr. CUNNINGHAM. We have all worked for people that we respect and believe that have vision on both sides of the aisle. And I would like to state that we had our Republican Caucus just before the decision was made about the Speaker and before the Speaker made the decision to come forward to the body.

The Speaker's own legal advisors, the special prosecutor that looked into the allegations, came before the caucus and told the Speaker that if he wanted to fight every one of the allegations in that one ethics violation that he would win 100 percent, he could fight them and he would win because they had no basis.

And yet, the left leadership of the Democrat Party wanted its pound of flesh and, for them to give us a bipartisan agreement, had to have the extra pound of flesh and the Speaker had to agree to pay the $300,000.

Knowing that he could win, why would not the Speaker do it? Because on both sides of the counsel, they told him, Mr. Speaker, you will win, but at what cost; and what the gentleman just covered, we would have been in the year of disruption, with the Democrats demagoguing, with the Democrats attacking and partisan rhetoric, because they want the power here in Washington, DC.

And the Speaker's vision is what the gentleman from California was talking about and swore to destroy the Speaker because he was the leader of the Republican Party, the gentleman from Florida that did the same thing. And the leadership has sworn to destroy politically the Speaker, because he is so effective.

I would say to the gentleman, that is wrong; and I think the American people think it is wrong, too. But in the face of that, when you look at leadership, in the face of attending to the people's business of saving Medicare, of providing Medicaid, and balancing a budget and tax reform and revising Superfund, where 70 percent does not go to trial lawyers, and attending to this House and its functions, the Speaker elected not to disrupt the House, not to have this House disabled because of partisan attacks, and went through personal sacrifice.

As the gentleman from Florida [Mr. SCARBOROUGH] said, how many of us could go through a $300,000 voluntary settlement? That is a mansion in a lot of areas. It takes a long time. I could not pay cash for it, and it would be devastating.

So when we talk about leadership, I think it is important to see the Speaker's vision that even at the expense of his own personal family and Marianne, his beautiful wife, making those decisions right with the Speaker, and which he blessed today, I think it is important for the American people to see that.

I would also like to remind the Speaker here tonight that the gentleman from Missouri, the minority leader of the Democrat Party, had ethics violations that filed improper IRS returns that benefited him personally and was found to have ethics violations.

□ 2045

How did he pay his fine, quote? Out of his campaign funds. But yet the speaker choose not today do to that because the Speaker of the House should be held high, and he takes full responsibility. That to me, Mr. Speaker, is leadership. That is vision, and that is wisdom.

Today the gentleman had talked about the gentleman from California attacking the Speaker, the same gentleman that had vowed to destroy the Speaker only last year, and he said that he will do anything he can to remove the political strength of the Speaker.

Is that what the American people want on this body? I do not think so.

The same gentleman from California attacked then Bob Dole, as the gentleman mentioned. Is it not a shame that the gentleman from California will never ever reach the heights of the accomplishments or the values and the respect of the gentleman from Kansas, Bob Dole, and neither will he ever lead this body or have the vision of the Speaker of the House today, NEWT GINGRICH.

And I think it is important to just let me go through real quickly, unless you have something you would like to talk about, I would like to go through just a few quick points and just mention them.

This is what the liberal left stands for in this body, the abolition of private property and land and application of all rents and lands to public purposes to be controlled by the Government. A good example: San Diego County, the Government owns over 54 percent. Many States have over 80 percent of it owned. A heavily progressive or graduated income tax. Abolishment of all rights of inheritance, i.e. the death tax. Confiscation of the property of all immigrants and rebels to centralize the credit in the hands of the government by means of national bank with State capital and exclusive monopoly; i.e., Medicare. The centralization of the means of communication and transport in the hands to the State. The extension of factories, an instrument and production owned by the State bringing into cultivation waste lands and soil into government control. Equal obligation of all to work and the establishment of industrial armies, the unions. The abolition of the distinction between town and country, only the government. Free education for all, but yet controlled by the government. Class distinctions and class warfare to achieve it. Political power, property, properly so-called is merely the organized power of one class for oppressing the other.

I would State, Mr. Speaker, and to the gentleman that yielded his time, I am reading from the Communist Manifesto by Karl Marx and Friedrich Engels.

Mr. SCARBOROUGH. Reclaiming my time, I thank the gentleman for his remarks on the Speaker, and certainly those final words do give us a moment to pause and consider that this is not a personality war, this is a war of ideas, war of ideas on who is going to control this country in the 21st century. It is going to be the Federal Government getting larger and larger, or are we going to finally go back to the ideals of Jefferson and Madison who said that the government that governs least governs best, or the ideals of Madison who said we have staked the entire future of the American civilization not upon the power of government but on the capacity of the individual to govern himself, control himself and to sustain himself according to the Ten Commandments of God.

It is a war of ideas, a war that is being waged the way Americans wage wars, at the ballot box and in the halls of congress, and that is the genius of democracy that was passed to us from the Greeks and through the Romans, through the British empire up to the United States of America.

And today as I stood here, which is the epicenter of freedom, a center that will ring throughout the ages, and I saw the Speaker of the House today step forward and give a splendid example of personal responsibility, I was proud not only to be an American but to be a Member of this Chamber.

And I certainly was hoping that my children were watching on TV. It was a splendid speech. And the minority leader of the Senate, a Democrat, TOM DASCHLE, also applauded the speaker and said that he thought that the Speaker had done what he needed to do. And I also looked across the Chamber at my Democratic friends, and I saw several good Democrats who applauded the Speaker, who even gave him a standing ovation because they knew that, like I, that this was a moment that transcended mere politics, mere party labels, mere ideology, and instead, we were not looking at the leader of a political party but a man who was going to be a leader of a movement that will take us well into the next century.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. HARMAN (at the request of Mr. GEPHARDT), for today after 3 p.m., on account of official business in the district.

Mr. COSTELLO (at the request of Mr. GEPHARDT), for today, on account of an illness in the family.

Mr. CRANE (at the request of Mr. ARMEY), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mrs. KELLY, for 5 minutes, today.

Mr. MCINTOSH, for 5 minutes, today.

Mr. GOSS, for 5 minutes, today.

Mr. CHRISTENSEN, for 5 minutes, today.

Mr. HUNTER, for 5 minutes, today.

Mrs. MORELLA, for 5 minutes, today.

Mr. JONES, for 5 minutes, on April 23.

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. MALONEY of Connecticut, for 5 minutes, today.

Mr. RUSH, for 5 minutes, today.

Mr. HINOJOSA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. LEVIN.
Ms. NORTON.
Ms. EDDIE BERNICE JOHNSON of Texas.
Mr. LANTOS.
Mr. LIPINSKI.
Mr. HAMILTON.
Mr. STOKES.
Mr. DOYLE.
Mr. NEAL of Massachusetts.
Mr. FOGLIETTA.
Mr. BARCIA.
Mr. SKELTON.
Mr. MENENDEZ.
Mr. EVANS.
Mr. HOYER.
Mr. BORSKI.
Mr. DELLUMS.
Mr. KILDEE.
Ms. ESHOO.
Mrs. MALONEY of New York.
Mr. HILLIARD.
Mr. MARKEY.
Mr. CLAY.
Mr. WEYGAND.
Mr. CAPPS.
Mr. ACKERMAN.

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. GILMAN in three instances.
Mr. FAWELL.
Mr. ENSIGN.

Mr. WALSH.
Mr. MCKEON in two instances.
Mr. PAPPAS.
Mr. SMITH of New Jersey.
Mr. PACKARD.
Mr. COLLINS.
Mr. GOODLING.
Mr. FORBES.
Mr. YOUNG of Florida.
Mr. BAKER.
Mr. SOLOMON in two instances.
Mr. HANSEN.
Mr. RADANOVICH.
Mr. EVERETT.
Mr. HORN.

(The following Members (at the request of Mr. SCARBOROUGH) and to include extraneous matter:)

Mr. HILLEARY in two instances.
Mrs. MORELLA.
Mr. SKAGGS.
Mr. SMITH of New Jersey.
Ms. FURSE.
Mr. THOMPSON.
Mr. KLINK.
Mr. LAZIO of New York.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1003. An act to clarify Federal law with respect to restricting the use of Federal funds in support of assisted suicide.

ADJOURNMENT

Mr. SCARBOROUGH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 52 minutes p.m.), under its previous order, the House adjourned until Monday, April 21, 1997, at 3 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2851. A letter from the Director, Defense Finance and Accounting Service, Department of Defense, transmitting notification that the Defense Finance and Accounting Service [DFAS] is initiating a cost comparison of all Department of Defense [DOD] transportation accounting functions, pursuant to 10 U.S.C. 2304 note; to the Committee on National Security.

2852. A letter from the Secretary of the Army, transmitting notification that certain major defense acquisition programs have breached the unit cost by more than 25 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on National Security.

2853. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation entitled "Revisions to the Appointment of Members to the National Ocean Research Leadership Council"; to the Committee on National Security.

2854. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize a food cost based basic allowance for subsistence for enlisted military personnel; to the Committee on National Security.

2855. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize the U.S. participation in and appropriations for the U.S. contribution to the 11th replenishment of the resources of the International Development Association, pursuant to 31 U.S.C. 1110; to the Committee on Banking and Financial Services.

2856. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize consent to and authorize appropriations for a U.S. contribution to the interest subsidy account of the successor to the enhanced structural adjustment facility of the International Monetary Fund, pursuant to 31 U.S.C. 1110; to the Committee on Banking and Financial Services.

2857. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize appropriations to pay for the U.S. capital subscription as part of the eight general capital increase of the Inter-American Development Bank, pursuant to 31 U.S.C. 1110; to the Committee on Banking and Financial Services.

2858. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize U.S. participation in and appropriations for the U.S. contribution to the sixth replenishment of the resources of the Asian Development Fund, pursuant to 31 U.S.C. 1110; to the Committee on Banking and Financial Services.

2859. A letter from the Acting General Counsel, Department of Energy, transmitting a draft of proposed legislation entitled the "Powerplant and Industrial Fuel Use Repeal Act"; to the Committee on Commerce.

2860. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's "Major" final rule—Rulemaking To Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5–29.5 GHz Frequency Band, To Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services [CC Docket No. 92–297] received April 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2861. A letter from the Chair, Federal Energy Regulatory Commission, transmitting the Commission's final rule—Statement of Compliance with Section 223 of the Small Business Regulatory Enforcement Fairness Act of 1996 [Docket No. RM97–2–000; Order No. 594] received April 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2862. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a draft of proposed legislation to authorize appropriations for the Nuclear Regulatory Commission for fiscal year 1998, pursuant to 31 U.S.C. 1110; to the Committee on Commerce.

2863. A letter from the Secretary of Health and Human Services, transmitting the 11th, 12th and 13th annual reports to Congress of the Orphan Products Board [OPR]; pursuant to 42 U.S.C. 236(e); to the Committee on Commerce.

2864. A letter from the Secretary of Health and Human Services, transmitting the Department's "Major" final rule—Individual Market Health Insurance Reform: Portability from Group to Individual Coverage; Federal Rules for Access in the Individual Market; State Alternative Mechanisms to Federal Rules [BPD–882–IFC] (RIN: 0938–AH75) received April 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2865. A letter from the Director of Congressional Relations, U.S. Consumer Product Safety Commission, transmitting the Commission's annual report for fiscal year 1996, pursuant to 15 U.S.C. 2076(j); to the Committee on Commerce.

2866. A letter from the Secretary of Commerce, transmitting a report regarding highly migratory species, pursuant to 16 U.S.C. 971; to the Committee on Resources.

2867. A letter from the Secretary of Health and Human Services, transmitting the 29th in a series of reports on refugee resettlement in the United States covering the period October 1, 1994, through September 30, 1995, pursuant to 8 U.S.C. 1523(a); to the Committee on the Judiciary.

2868. A letter from the Assistant Attorney General, Department of Justice, transmitting the Department's report on settlements for calendar year 1996 for damages caused by the FBI, the Drug Enforcement Administration, the U.S. Marshals Service, and the Immigration and Naturalization Service, pursuant to 31 U.S.C. 3724(b); to the Committee on the Judiciary, April 17, 1997.

2869. A letter from the Secretary, Judicial Conference of the United States, transmitting recommendations for the uniform percentage adjustment of each dollar amount specified in title 11 regarding bankruptcy administration and in 28 U.S.C. 1930 with respect to bankruptcy fees, pursuant to 11 U.S.C. 104 note; to the Committee on the Judiciary.

2870. A letter from the Secretary, Judicial Conference of the United States, transmitting a draft of proposed legislation to authorize the appointment of additional bankruptcy judges and for other purposes, pursuant to 28 U.S.C. 152(b)(2); to the Committee on the Judiciary.

2871. A letter from the Secretary, Judicial Conference of the United States, transmitting the report of the Judicial Conference of the United States on the Confidentiality of Communications Between Sexual Assault Victims and Their Counselors, pursuant to 42 U.S.C. 13942 (c); to the Committee on the Judiciary.

2872. A letter from the Assistant Secretary of the Army (Civil Works), Department of Army, transmitting the Department's final rule—Danger Zones and Restricted Areas (U.S. Army Corps of Engineers) [33 CFR Part 334] received April 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2873. A letter from the Acting Administrator, General Services Administration, transmitting an informational copy of the construction prospectus for the U.S. Secret Service classroom building in Beltsville, MD, pursuant to 40 U.S.C. 606(a); to the Committee on Transportation and Infrastructure.

2874. A letter from the Secretary of Veterans Affairs, transmitting a report covering the disposition of cases granted relief from administrative error, overpayment and forfeiture by the Administrator in 1996, pursuant to 38 U.S.C. 210(c)(3)(B); to the Committee on Veterans' Affairs.

2875. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to allow the Director of the Federal Bureau of Investigation to permit Federal Bureau of Investigation employees to participate in leave sharing programs with employees of other Department of Justice components and other Federal agencies; jointly, to the Committees on Government Reform and Oversight and the Judiciary.

2876. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965; jointly, to the Committees on Transportation and Infrastructure and Banking and Financial Services.

2877. A letter from the Director, U.S. Arms Control and Disarmament Agency, transmitting a draft of proposed legislation to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, known as "the Chemical Weapons Convention" and opened for signature and signed by the United States on January 13, 1993; jointly, to the Committees on International Relations, the Judiciary, and Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLILEY: Committee on Commerce. H.R. 688. A bill to amend the Solid Waste Disposal Act to require at least 85 percent of funds appropriated to the Environmental Protection Agency from the leaking underground storage tank trust fund to be distributed to States for cooperative agreements for undertaking corrective action and for enforcement of subtitle I of such act (Rept. 105–58 Pt. 1).

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on Ways and Means discharged from further consideration. H.R. 688 referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 688. Referral to the Committee on Ways and Means extended for a period ending not later than April 17, 1997.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BUYER (for himself, Mr. Hamilton, Mr. McIntosh, Ms. Carson, Mr. Pease, Mr. Burton of Indiana, Mr. Roemer, Mr. Hostettler, Mr. Souder, and Mr. Visclosky):

H.R. 1358. A bill to amend the Solid Waste Disposal Act to permit a Governor to limit the disposal of out-of-State solid waste in the Governor's State, and for other purposes; to the Committee on Commerce.

By Mr. DeFAZIO (for himself, Ms. Furse, Ms. Hooley of Oregon, Ms. Christian-Green, Mrs. Maloney of New York, Mr. Gutierrez, Mr. Hinchey, and Mr. Lewis of Georgia):

H.R. 1359. A bill to amend the Public Utility Regulatory Policies Act of 1978 to establish a means to support programs for electric energy conservation and energy efficiency, renewable energy, and universal and affordable service for electric consumers; to the Committee on Commerce.

By Mr. DIAZ-BALART (for himself, Ms. Ros-Lehtinen, Mrs. Johnson of Connecticut, Mr. Bonilla, Mr. Kennedy of Rhode Island, Mrs. Meek of Florida, Mr. Manton, Mr. Meehan, and Ms. Christian-Green):

H.R. 1360. A bill to amend the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide for an exception to limited eligibility for SSI and food stamps for certain permanent resident aliens who are unable because of physical or developmental disability or mental impairment to naturalize; to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS (for himself and Mr. Porter):

H.R. 1361. A bill to prohibit economic support fund assistance under the Foreign Assistance Act of 1961 for the Government of Turkey for fiscal year 1998 unless that Government makes certain improvement relating to human rights; to the Committee on International Relations.

By Mr. STUMP (for himself, Mr. Evans, Mr. Stearns, Mr. Gutierrez, Mr. Smith of New Jersey, Mr. Kennedy of Massachusetts, Mr. Everett, Mr. Filner, Mr. Quinn, Mr. Clyburn, Mr. Dan Schaefer of Colorado, Ms. Brown of Florida, Mr. Moran of Kansas, Mr. Doyle, Mr. Cooksey, Mr. Mascara, Mr. Hutchinson, Mr. Peterson of Minnesota, Mrs. Chenoweth, Ms. Carson, Mr. LaHood, Mr. Reyes, Mr. Hayworth, Mr. Snyder, and Mr. Barrett of Nebraska):

H.R. 1362. A bill to establish a demonstration project to provide for Medicare reimbursement for health care services provided to certain Medicare-eligible veterans in selected facilities of Department of Veterans Affairs; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. JOHNSON of Connecticut (for herself, Mr. Matsui, Mr. Riggs, Mr. Stark, Mrs. Morella, and Mr. Shays):

H.R. 1363. A bill to provide grants to States to provide uninsured children with access to health care insurance coverage; to the Committee on Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. JOHNSON of Connecticut (for herself, Mr. Matsui, Mr. Riggs, Mr. Stark, Mrs. Morella, Mrs. Roukema, and Mr. McGovern):

H.R. 1364. A bill to provide grants to States to provide uninsured children with access to health care insurance coverage and to amend the Internal Revenue Code of 1986 to increase the excise taxes on tobacco products for the purpose of funding such grants and reducing the deficit; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARCHER:

H.R. 1365. A bill to amend section 355 of the Internal Revenue Code of 1986 to prevent the avoidance of corporate tax on prearranged sales of corporate stock, and for other purposes; to the Committee on Ways and Means.

By Mr. BAESLER (for himself, Mr. Turner, Ms. Harman, Mr. Berry, Mr. Boyd, Mr. Condit, Mr. Cramer, Mr. Goode, Mr. Holden, Mr. John, Mr. Lipinski, Mr. McIntyre, Mr. Minge, Mr. Peterson of Minnesota, Mr. Sisisky, Mr. Stenholm, Mr. Tanner, and Mr. Blumenauer):

H.R. 1366. A bill to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for election for Federal office, and for other purposes; to the Committee on House Oversight.

By Mr. BARRETT of Wisconsin (for himself, Mrs. Kelly, Mr. Frank of Massachusetts, and Mr. Kleczka):

H.R. 1367. A bill to prohibit Federal agencies from making available through the Internet certain confidential records with respect to individuals, and to provide for remedies in cases in which such records are made available through the Internet; to the Committee on Government Reform and Oversight.

By Mr. BRYANT (for himself, Mr. Clement, and Mr. Tanner):

H.R. 1368. A bill to provide that Kentucky may not tax compensation paid to a resident of Tennessee for services at Fort Campbell, KY; to the Committee on the Judiciary.

By Mr. BUNNING of Kentucky:

H.R. 1369. A bill to amend the Internal Revenue Code of 1986 to modify the tax treatment of qualified State tuition programs; to the Committee on Ways and Means.

By Mr. CASTLE (for himself (by request), Mr. Flake, Mr. Leach, Mr. Gonzalez, Mr. Bereuter, Mr. LaFalce, Mr. Manzullo, Mr. Bentsen, Mr. Gejdenson, Mrs. Maloney of New York, Mr. Metcalf, and Mr. Gilman):

H.R. 1370. A bill to reauthorize the Export-Import Bank of the United States; to the Committee on Banking and Financial Services.

By Mrs. CHENOWETH (for herself and Mr. Pomeroy):

H.R. 1371. A bill to amend the Federal Meat Inspection Act to require that imported meat, and meat food products containing imported meat, bear a label identifying the country of origin; to the Committee on Agriculture.

By Mr. COX of California (for himself, Mr. Bachus, Mr. Baker, Mr. Ballenger, Mr. Barr of Georgia, Mr. Barrett of Nebraska, Mr. Bartlett of Maryland, Mr. Barton of Texas, Mr. Bass, Mr. Bateman, Mr. Bereuter, Mr. Berry, Mr. Bilbray, Mr. Bilirakis, Mr. Blunt, Mr. Boehlert, Mr. Bonilla, Mr. Bono, Mr. BRYANT, Mr. BUNNING of Kentucky, Mr. BURR of North Carolina, Mr. BURTON of Indiana, Mr. BUYER, Mr. CALLAHAN, Mr. CALVERT, Mr. CAMP, Mr. CAMPBELL, Mr. CANADY of Florida, Mr. CASTLE, Mr. CHABOT, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. CHRISTENSEN, Mr. COBLE, Mr. COBURN, Mr. COLLINS, Mr. COMBEST, Mr. CONDIT, Mr. COOK, Mr. COOKSEY, Mr. CRANE, Mr. CRAPO, Mrs. CUBIN, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. DELAY, Mr. DIAZ-BALART, Mr. DICKEY, Mr. DOOLITTLE, Mr. DREIER, Mr. DUNCAN, Ms. DUNN of Washington, Mr. EHLERS, Mr. EHRLICH, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. EWING, Mr. FOLEY, Mr. FOX of Pennsylvania, Mr. FORBES, Mr. FRANKS of New Jersey, Mr. GALLEGLY, Mr. GANSKE, Mr. GEKAS, Mr. GIBBONS, Mr. GILCHREST, Mr. GILLMOR, Mr. GILMAN, Mr. GOODLATTE, Mr. GOODLING, Mr. GOSS, Mr. GRAHAM, Mr. GREENWOOD, Mr. GUTKNECHT, Mr. HALL of Texas, Mr. HANSEN, Ms. HARMAN, Mr. HASTERT, Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. HEFLEY, Mr. HERGER, Mr. HILL, Mr. HILLEARY, Mr. HOEKSTRA, Mr. HORN, Mr. HOSTETTLER, Mr. HOUGHTON, Mr. HUNTER, Mr. HUTCHINSON, Mr. HYDE, Mr. INGLIS of South Carolina, Mr. ISTOOK, Mrs. JOHNSON of Connecticut, Mr. SAM JOHNSON, Mr. JONES, Mrs. KELLY, Mr. KIM, Mr. KING of New York, Mr. KINGSTON, Mr. KLUG, Mr. KNOLLENBERG, Mr. KOLBE, Mr. LAHOOD, Mr. LARGENT, Mr. LATHAM, Mr. LATOURETTE, Mr. LAZIO of New York, Mr. LEACH, Mr. LEWIS of California, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. LUCAS of Oklahoma, Mr. MCCOLLUM, Mr. MCCRERY, Mr. MCDADE, Mr. MCHUGH, Mr. MCINNIS, Mr. MCINTOSH, Mr. MCINTYRE, Mr. MCKEON, Mr. MANZULLO, Mr. MICA, Mr. MILLER of Florida, Ms. MOLINARI, Mr. MORAN of Kansas, Mrs. MYRICK, Mr. NETHERCUTT, Mr. NEUMANN, Mr. NEY, Mrs. NORTHUP, Mr. NORWOOD, Mr. OXLEY, Mr. PACKARD, Mr. PAPPAS, Mr. PARKER, Mr. PAXON, Mr. PETERSON of Minnesota, Mr. PETERSON of Pennsylvania, Mr. PETRI, Mr. PICKERING, Mr. PITTS, Mr. POMBO, Mr. PORTMAN, Mr. POSHARD, Ms. PRYCE of Ohio, Mr. QUINN, Mr. RADANOVICH, Mr. RAMSTAD, Mr. RIGGS, Mr. ROGAN, Mr. ROHRABACHER, Ms. ROS-LEHTINEN, Mrs. ROUKEMA, Mr. ROYCE, Mr. RYUN, Mr. SALMON, Mr. SANFORD, Mr. SAXTON, Mr. SCARBOROUGH, Mr. DAN SCHAEFER of Colorado, Mr. BOB SCHAFFER, Mr. SCHIFF, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHADEGG, Mr. SHAW, Mr. SHAYS, Mr. SHUSTER, Mr. SKEEN, Mr. SMITH of Oregon, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. SMITH of Michigan, Mr. SNOWBARGER, Mr. SOLOMON, Mr. SOUDER, Mr. SPENCE, Mr. STEARNS, Mr. STENHOLM, Mr. STUMP, Mr. SUNUNU, Mr. TALENT, Mr. TAUZIN, Mr. THOMAS, Mr. THORNBERRY, Mr. THUNE, Mr. TIAHRT, Mr. UPTON, Mr. WALSH, Mr. WAMP, Mr. WATKINS, Mr. WATTS of Oklahoma, Mr. WELDON of Pennsylvania, Mr. WELDON of Florida, Mr. WELLER, Mr. WHITE, Mr. WICKER, Mr. WHITFIELD, and Mr. WOLF):

H.R. 1372. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to reform the budget process, and for other purposes; to the Committee on the Budget, and in addition to the Committees on Rules, and Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DELAURO (for herself, Mr. HOYER, and Mr. MCGOVERN):

H.R. 1373. A bill to establish a grant program to improve the quality and expand the availability of child care services, and of family support services, for families with children less than 3 years of age; to amend the Internal Revenue Code of 1986 to modify the taxation of income of controlled foreign corporations attributable to imported property; to amend the Family and Medical Leave Act of 1993 to cover employers that have more than 20 employees; to amend the Head Start Act to authorize appropriations for fiscal years 1999 through 2002 and to increase the funds reserved for services for families with children less than 3 years of age; and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DELLUMS:

H.R. 1374. A bill to establish a U.S. Health Service to provide high quality comprehensive health care for all Americans and to overcome the deficiencies in the present system of health care delivery; to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENSIGN (for himself, Mr. SERRANO, Mrs. JOHNSON of Connecticut, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BAESLER, Mr. BERMAN, Mr. BLAGOJEVICH, Mr. BOEHLERT, Mr. BONIOR, Mr. BORSKI, Mr. BOUCHER, Mr. BROWN of Ohio, Mr. CALVERT, Ms. CHRISTIAN-GREEN, Mrs. CLAYTON, Mr. CLYBURN, Mr. COSTELLO, Mr. COYNE, Mr. DAVIS of Illinois, Mr. DEFAZIO, Ms. DEGETTE, Mr. ENGEL, Mr. ENGLISH of Pennsylvania, Ms. ESHOO, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FLAKE, Mr. FOGLIETTA, Mr. FORD, Mr. FOX of Pennsylvania, Mr. FRANK of Massachusetts, Mr. FROST, Ms. FURSE, Mr. GEJDENSON, Mr. GIBBONS, Mr. GILMAN, Mr. GONZALEZ, Mr. GORDON, Mr. GUTIERREZ, Mr. HALL of Ohio, Mr. HASTINGS of Florida, Mr. HINCHEY, Ms. KAPTUR, Mrs. KELLY, Mr. KENNEDY of Massachusetts, Mr. KILDEE, Mr. KING of New York, Mr. KLUG, Mr. KUCINICH, Mr. LAHOOD, Mr. LAZIO of New York, Mr. LEWIS of Georgia, Mr. MCCRERY, Mr. MCGOVERN, Mrs. MALONEY of New York, Mrs. MINK of Hawaii, Mr. MOAKLEY, Mr. NEAL of Massachusetts, Mr. NADLER, Mr. OLVER, Mr. ORTIZ, Ms. PELOSI, Mr. PETERSON of Minnesota, Ms. PRYCE of Ohio, Mr. RAHALL, Mr. REYES, Ms. RIVERS, Mr. RUSH, Mr. SABO, Mr. SANDERS, Mr. SAWYER, Mr. SCHUMER, Mr. SHAYS, Ms. SLAUGHTER, Mr. ADAM SMITH of Washington, Mr. SNYDER, Mr. SOLOMON, Ms. STABENOW, Mr. TANNER, Mrs. THURMAN, Mr. TIERNEY, Mr. TORRES, Mr. TOWNS, Mr. TRAFICANT, Mr. VENTO, Mr. VISCLOSKY, Mr. WALSH, Mr. WAXMAN, Mr. WELDON of Florida, Mr. WEYGAND, Mr. WISE, Mr. YATES, Mr. YOUNG of Alaska, Mr. LEACH, Ms. LOFGREN, Mr. DELAHUNT, Mr. NETHERCUTT, Ms. DELAURO, Mr. MALONEY of Connecticut, Mr. PALLONE, and Mrs. MEEK of Florida):

H.R. 1375. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare Program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ESHOO (for herself, Mrs. MALONEY of New York, Mr. ACKERMAN, Mr. ANDREWS, Mr. BROWN of California, Mr. BONIOR, Mr. BERMAN, Mr. CAPPS, Mr. CARDIN, Mr. CLAY, Mr. CONYERS, Ms. CHRISTIAN-GREEN, Mr. DAVIS of Illinois, Ms. DELAURO, Mr. DELLUMS, Mr. DELAHUNT, Mr. EVANS, Mr. FARR of California, Mr. FLAKE, Mr. FRANK of Massachusetts, Mr. FROST, Mr. FILNER, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HINCHEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KENNEDY of Massachusetts, Ms. KILPATRICK, Mr. KUCINICH, Mr. LANTOS, Mr. LEWIS of Georgia, Ms. LOFGREN, Mrs. LOWEY, Ms. MCKINNEY, Mr. MCGOVERN, Mr. MEEHAN, Mrs. MEEK of Florida, Mr. MORAN of Virginia, Mr. NADLER, Ms. NORTON, Mr. PAYNE, Ms. RIVERS, Ms. ROYBAL-ALLARD, Mr. SANDERS, Mr. SCHUMER, Mr. SERRANO, Mr. SHERMAN, Ms. SLAUGHTER, Mr. STARK, Mr. THOMPSON, Mr. TIERNEY, Ms. VELÁZQUEZ, Ms. WATERS, Mr. WAXMAN, Ms. WOOLSEY, and Mr. YATES):

H.R. 1376. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and related laws to strengthen the protection of native biodiversity and ban clearcutting on Federal lands, and to designate certain Federal lands as Northwest Ancient Forests, roadless areas, and Special Areas where logging and other intrusive activities are prohibited; to the Committee on Agriculture, and in addition to the Committees on Resources, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FAWELL (for himself, Mr. PAYNE, Mr. GOODLING, Mr. POMEROY, Mr. KNOLLENBERG, Mr. PETRI, Mr. FROST, Mr. CASTLE, Mr. TALENT, Mrs. ROUKEMA, Mr. BALLENGER, Mr. MARTINEZ, Mr. SAXTON, Mr. FATTAH, Mr. HINOJOSA, Mrs. MCCARTHY of New York, Mr. MCKEON, Mr. UPTON, Mrs. KELLY, Mr. TOWNS, Mr. HILLIARD, Ms. NORTON, Mr. MCCOLLUM, Mr. CALVERT, Mr. WELLER, and Ms. WATERS):

H.R. 1377. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to encourage retirement income savings; to the Committee on Education and the Workforce.

By Mr. HAYWORTH (for himself, Mr. ARMEY, Mr. DELAY, Mr. BOEHNER, Mr.

PAXON, Mr. LINDER, Mr. HEFLEY, Mr. BONILLA, Mr. PITTS, Mr. NETHERCUTT, Mr. TIAHRT, Mr. HUTCHINSON, Mr. STUMP, Mr. KOLBE, Mrs. CUBIN, Mr. EHRLICH, Mr. SHADEGG, Mrs. CHENOWETH, Mr. HOEKSTRA, Mr. COBURN, Mr. WICKER, Mr. SALMON, Mr. CUNNINGHAM, Mr. COOKSEY, Mr. HILLEARY, Mr. GANSKE, Mr. SCARBOROUGH, Mrs. MYRICK, Mr. WATTS of Oklahoma, Mr. JONES, Mr. PARKER, Mr. ISTOOK, Mr. TALENT, Mr. LEWIS of Kentucky, Mr. BOB SCHAFFER, Mr. COBLE, and Mr. CHRISTENSEN):

H.R. 1378. A bill to prohibit discrimination in contracting on federally funded projects on the basis of certain labor policies of potential contractors; to the Committee on Education and the Workforce.

By Mr. HILL:

H.R. 1379. A bill to amend the Internal Revenue Code of 1986 to lower the maximum capital gains rate to 15 percent with respect to assets held for more than 3 years, to replace the estate and gift tax rate schedules, and for other purposes; to the Committee on Ways and Means.

By Mr. HOYER:

H.R. 1380. A bill to amend the Internal Revenue Code of 1986 to reduce estate taxes on family-owned farm businesses and to exclude gain from the sale or exchange of a farming business to the extent of the medical expenses paid by the taxpayer; to the Committee on Ways and Means.

By Mr. KOLBE (for himself and Mr. PASTOR):

H.R. 1381. A bill to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the U.S. Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes; to the Committee on Education and the Workforce.

By Mr. LEVIN (for himself and Mr. ENGLISH of Pennsylvania):

H.R. 1382. A bill to amend the Internal Revenue Code of 1986 to provide that certain educational benefits provided by an employer to children of employees shall be excludable from gross income as a scholarship; to the Committee on Ways and Means.

By Mr. LEWIS of Georgia (for himself, Mr. HOUGHTON, Mr. QUINN, Mr. ACKERMAN, Mr. BORSKI, Ms. CHRISTIAN-GREEN, Mr. CUMMINGS, Mr. DELAHUNT, Mr. EDWARDS, Mr. ENGEL, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GEPHARDT, Mr. HINCHEY, Mrs. LOWEY, Mrs. MALONEY of New York, Mr. MANTON, Mr. MCGOVERN, Mr. MCNULTY, Mr. MEEHAN, Mrs. MEEK of Florida, Mr. MOAKLEY, Mr. NADLER, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. RAHALL, Mr. SABO, Mr. SCHUMER, Ms. SLAUGHTER, Mr. TIERNEY, Mr. TOWNS, Mr. TRAFICANT, and Ms. VELÁZQUEZ):

H.R. 1383. A bill to designate the Federal building located at 10th Street and Constitution Avenue, NW, in Washington, DC, as the "Robert F. Kennedy Department of Justice Building"; to the Committee on Transportation and Infrastructure.

By Mr. MCHUGH:

H.R. 1384. A bill to amend the Immigration and Nationality Act to establish a telephone reporting system to permit certain individuals traveling by boat to enter the United States from Canada without applying for admission at a port of entry; to the Committee on the Judiciary.

By Mr. MCKEON (for himself, Mr. GOODLING, and Mr. KILDEE):

H.R. 1385. A bill to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes; to the Committee on Education and the Workforce.

By Mr. METCALF:

H.R. 1386. A bill to require uniform appraisals of certain leaseholds of restricted Indian lands, and for other purposes; to the Committee on Resources.

By Mr. MILLER of Florida (for himself, Mr. SCHUMER, Mr. CHABOT, Mr. QUINN, Mr. FRELINGHUYSEN, Mr. CAMPBELL, Mr. SHAW, Mr. HORN, Mr. KLUG, Mr. BARRETT of Wisconsin, Mr. MCINTOSH, Mr. MCGOVERN, Mr. LOBIONDO, Mr. PORTER, Mr. SENSENBRENNER, Mr. ROHRABACHER, Mr. CASTLE, Mr. ROYCE, Mr. SHAYS, Mr. RAMSTAD, Mrs. ROUKEMA, Mr. KENNEDY of Rhode Island, Mr. FRANKS of New Jersey, Mr. MEEHAN, Mr. CARDIN, Mr. MCHALE, Mr. NEUMANN, Mr. SOUDER, Mr. SANFORD, Mr. ENGLISH of Pennsylvania, Mr. PORTMAN, Mr. FAWELL, Mr. FOGLIETTA, Mr. OLVER, Mr. FRANK of Massachusetts, Mr. HINCHEY, Mr. MARKEY, Mr. NADLER, Mr. NEY, Mrs. LOWEY, Mrs. MCCARTHY of New York, Mr. MOAKLEY, Mrs. MALONEY of New York, Mr. DAVIS of Virginia, Mr. WOLF, Mr. GOSS, Mr. ENSIGN, Mr. LIPINSKI, Mr. OWENS, Mr. YATES, Mr. STARK, Mr. GEKAS, Mrs. MORELLA, Mr. PETRI, Mr. KASICH, Mr. VISCLOSKY, Mr. FORBES, Mr. WAMP, Mr. BASS, Mr. SMITH of New Jersey, and Mr. KOLBE):

H.R. 1387. A bill to amend the Agricultural Market Transition Act to convert the price support program for sugarcane and sugar beets into a system of solely recourse loans and to provide for the gradual elimination of the program; to the Committee on Agriculture.

By Ms. NORTON:

H.R. 1388. A bill to provide authority for leave transfer for Federal employees who are adversely affected by disasters or emergencies, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. PACKARD:

H.R. 1389. A bill to amend the Internal Revenue Code of 1986 to provide that the amount of the aviation excise taxes for any fiscal year shall equal the expenditures from the Airport and Airway Trust Fund for the prior fiscal year, and for other purposes; to the Committee on Ways and Means.

By Mr. PALLONE (for himself and Mr. MCCOLLUM):

H.R. 1390. A bill to authorize the Government of India to establish a memorial to honor Mahatma Gandhi in the District of Columbia; to the Committee on Resources.

By Mr. PORTMAN (for himself, Mr. CARDIN, Mr. ACKERMAN, and Mrs. KELLY):

H.R. 1391. A bill to amend the Internal Revenue Code of 1986 to provide an exemption from tax for gain on sale of a principal residence; to the Committee on Ways and Means.

By Mr. REGULA (for himself and Mr. MURTHA):

H.R. 1392. A bill to require the administrator of the Environmental Protection Agency to establish a program under which States may be certified to carry out voluntary environmental cleanup programs and to amend CERCLA regarding the liability of landowners and prospective purchasers; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. RIVERS:

H.R. 1393. A bill to amend the Toxic Substances Control Act to establish certain requirements regarding the approval of facilities for the disposal of polychlorinated biphenyls, and for other purposes; to the Committee on Commerce.

By Ms. ROS-LEHTINEN (for herself and Mr. KENNEDY of Massachusetts):

H.R. 1394. A bill to amend the Internal Revenue Code of 1986 to modify the tax treatment of qualified State tuition programs; to the Committee on Ways and Means.

By Mr. ROTHMAN (for himself, Mr. OLVER, Mr. HINCHEY, and Mr. PASTOR):

H.R. 1395. A bill to assist the States and local governments in assessing and remediating brownfield sites and encouraging environmental cleanup programs, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration for such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAXTON (for himself, Mr. SMITH of Michigan, Mr. KOLBE, Mr. PETERSON of Pennsylvania, and Mr. GRAHAM):

H.R. 1396. A bill to require the Board of Governors of the Federal Reserve System to focus on price stability in establishing monetary policy to ensure the stable, long-term purchasing power of the currency, to repeal the Full Employment and Balanced Growth Act of 1978, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committees on Education and the Workforce, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SKAGGS (for himself, Mr. EVANS, and Mr. SANDERS):

H.R. 1397. A bill to provide health insurance benefits to certain former employees at defense nuclear facilities of the Department of Energy for injuries caused by exposure to ionizing radiation; to the Committee on Commerce.

By Mr. SMITH of New Jersey (for himself, Mr. SAXTON, Mr. HAYWORTH, Mr. CUNNINGHAM, Mr. STEARNS, Mr. RAHALL, Mr. WELDON of Pennsylvania, Mr. WALSH, Mr. KING of New York, Mr. LAFALCE, Mr. BUNNNING of Kentucky, Mr. BOB SCHAFFER, and Mr. NORWOOD):

H.R. 1398. A bill to amend the Public Health Service Act to provide for the establishment of a program for research and training with respect to Parkinson's disease; to the Committee on Commerce.

By Mr. SMITH of New Jersey:

H.R. 1399. A bill to amend title 38, United States Code, to provide a presumption of service connection for injuries classified as cold weather injuries which occur in veterans who while engaged in military operations had sustained exposure to cold weather; to the Committee on Veterans' Affairs.

By Mr. SMITH of Oregon (for himself, Mr. DEFAZIO, Ms. FURSE, Ms. HOOLEY of Oregon, and Mr. BLUMENAUER):

H.R. 1400. A bill to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to participate in a water conservation project with the Tumalo Irrigation District in the State of Oregon; to the Committee on Resources.

By Mr. THOMAS (for himself, Mr. MATSUI, Mr. NUSSLE, Mr. EHLERS, Ms. DUNN of Washington, Mr. FAZIO of California, Mr. MCDERMOTT, and Mr. MINGE):

H.R. 1401. A bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind; to the Committee on Ways and Means.

By Mr. TRAFICIANT:

H.R. 1402. A bill to establish the Commission on Probabilistic Methods; to the Committee on Transportation and Infrastructure.

By Mr. UNDERWOOD (for himself, Ms. CHRISTIAN-GREEN, Mr. RANGEL, Mr. JEFFERSON, and Mrs. MINK of Hawaii):

H.R. 1403. A bill to extend the supplemental security income benefits program to Guam and the U.S. Virgin Islands; to the Committee on Ways and Means.

By Mr. WAXMAN (for himself, Mr. GEPHARDT, Mr. MILLER of California, Mr. BROWN of California, Mrs. MALONEY of New York, Mr. FLAKE, Mr. FRANK of Massachusetts, Mr. SERRANO, Mr. TIERNEY, Mr. KENNEDY of Rhode Island, Mr. LEWIS of Georgia, Mr. BONIOR, Mr. PALLONE, Ms. PELOSI, and Mr. MCGOVERN):

H.R. 1404. A bill to provide for the defense of the environment, and for other purposes; to the Committee on Rules, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAZIO of New York (for himself, Mr. SPENCE, and Mr. STUMP):

H. Con. Res. 64. Concurrent resolution commending the members of the Armed Forces and civilian personnel of the Government who served the United States faithfully during the cold war; to the Committee on Government Reform and Oversight.

By Mr. PALLONE:

H.J. Res. 120. Resolution designating minority membership on certain standing committees of the House; considered and agreed to.

By Mr. HORN (for himself, Mr. GILMAN, and Mr. BEREUTER):

H.J. Res. 121. Resolution expressing the sense of the House of Representatives regarding the March 30, 1997, terrorist grenade attack in Cambodia; to the Committee on International Relations.

By Mr. BAKER (for himself, Mr. MASCARA, Mr. BENTSEN, Mr. LAZIO of New York, Mr. KING of New York, Ms. RIVERS, Mr. KANJORSKI, Mr. LAHOOD, Mr. FRANK of Massachusetts, Mr. FROST, Mr. MURTHA, Mr. SCHUMER, Mr. SMITH of New Jersey, Mrs. MALONEY of New York, Mr. STARK, and Mr. RILEY):

H.J. Res. 122. Resolution expressing the sense of the House of Representatives regarding tactile currency for the blind and visually impaired; to the Committee on Banking and Financial Services.

By Mrs. MORELLA (for herself and Mr. DAVIS of Virginia):

H.J. Res. 123. Resolution amending the Rules of the House of Representatives to postpone final House action on legislative branch appropriations for any fiscal year until all other regular appropriations for that fiscal year are enacted into law; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

44. By the SPEAKER. Memorial of the Legislature of the Commonwealth of Virginia, relative to Senate Joint Resolution No. 377 urging Congress to amend the Fair Labor Standards Act to better address the unique characteristics of emergency medical service employees, and to provide and overtime exemption for such employees similar to that provided for fire, police, and corrections employees; to the Committee on Education and the Workforce.

45. Also, memorial of the Legislature of the State of West Virginia, relative to House Concurrent Resolution No. 7 urging Congress to enact legislation that requires the Administrator of the U.S. Environmental Protection Agency to maintain the current national ambient air quality standards for ozone and fine particulate matter until there is a thorough review by the scientific community; to the Committee on Commerce.

46. Also, memorial of the House of Representatives of the State of Georgia, relative to House Resolution 379 urging the U.S. Environmental Protection Agency to reaffirm the existing air quality standards for ozone and particulate matter; to the Committee on Commerce.

47. Also, memorial of the Senate of the State of Oregon, relative to Senate Resolution 3 urging Congress to ensure that Federal agencies operate or direct operation of Klamath project in accordance with Oregon's system for allocation of water rights; to the Committee on Resources.

48. Also, memorial of the Legislature of the Commonwealth of Virginia, relative to Senate Joint Resolution No. 343 urging Congress to proceed immediately with an extension of waivers to the Program for All Inclusive Care for the Elderly [PACE] Program or to pass S. 999, extending provider status to the PACE Program; jointly, to the Committees on Ways and Means and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4: Mr. ANDREWS, Mr. COBURN, Mr. DELAHUNT, Mr. ROTHMAN, Mr. JENKINS, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mr. BLAGOJEVICH, Mr. CAPPS, Mr. SCHUMER, Mr. BROWN of California, Mr. BLUMENAUER, Mr. SMITH of New Jersey, Mr. CAMPBELL, Mr. GIBBONS, Mr. COLLINS, Mr. SCARBOROUGH, Mr. JONES, Mr. MORAN of Kansas, Mr. SOLOMON, Mr. TIERNEY, Mr. MCINTYRE, and Mr. LUCAS of Oklahoma.

H.R. 12: Mr. MEEHAN and Mr. PASCRELL.

H.R. 14: Mr. WHITFIELD, Mr. EWING, Mr. BARR of Georgia, Mr. KINGSTON, Mr. RILEY, Mr. CAPPS, Mr. SOUDER, and Mr. COOK.

H.R. 15: Mr. LAMPSON, Mr. KIND of Wisconsin, Mr. BUYER, Mr. NUSSLE, Ms. PELOSI, Mr. DUNCAN, Mr. LINDER, Mr. PALLONE, Mr. DAN SCHAEFER of Colorado, Mr. BAESLER, Mr. MANZULLO, Mr. KLINK, Mr. WHITFIELD, Mrs. EMERSON, Mr. SANDERS, and Mr. SOLOMON.

H.R. 66: Mr. TAYLOR of Mississippi, Mr. CALVERT, Mr. THORNBERRY, Mr. COBLE, and Mr. STUMP.

H.R. 80: Mr. FRANKS of New Jersey, Ms. ESHOO, Mr. LARGENT, Mr. DEFAZIO, MR. CALLAHAN, Mr. TAYLOR of Mississippi, Mr. COX of California, Mr. PARKER, Mr. BENTSEN, Mr. MARTINEZ, and Mrs. THURMAN.

H.R. 85: Mr. LIPINSKI, Mr. KUCINICH, and Ms. FURSE.

H.R. 86: Mr. WATKINS.

H.R. 96: Mr. SKELTON, Mr. GOODE, Mr. HILLIARD, and Mr. SNOWBARGER.

H.R. 122: Mr. CHABOT, Mr. TALENT, and Mr. HAYWORTH.

H.R. 123: Mr. TAYLOR of Mississippi.

H.R. 192: Mr. GILLMOR, Mr. DEUTSCH, Mrs. CUBIN, Mr. KIND of Wisconsin, Ms. BROWN of Florida, Mr. ETHERIDGE, Mr. PALLONE, and Mr. BALDACCI.

H.R. 200: Ms. GRANGER, Mr. DEAL of Georgia, and Mr. MCGOVERN.

H.R. 218: Mr. BARR of Georgia, Mr. MCINTYRE, and Mr. HULSHOF.

H.R. 242: Mr. MATSUI.

H.R. 277: Mr. KENNEDY of Massachusetts.

H.R. 279: Mr. GALLEGLY, Ms. ROYBAL-ALLARD, Ms. MOLINARI, Mr. BALLENGER, Mr. GORDON, Mr. BRADY, Mr. MARTINEZ, Mr. SABO, Mrs. EMERSON, Mr. HILLIARD, Ms. CARSON, Mr. STUPAK, Mrs. KENNELLY of Connecticut, Ms. ROS-LEHTINEN, Mr. DIAZ-BALART, Mr. ALLEN, Mr. OXLEY, Mr. LARGENT, Mr. BARCIA of Michigan, Mr. CRANE, Mr. NETHERCUTT, Mr. EVANS, Mr. SHIMKUS, Mr. ADERHOLT, Mr. MALONEY of Connecticut, Mr. RODRIGUEZ, Mr. KINGSTON, Mr. WISE, Mr. BOUCHER, Mr. CRAMER, Mr. DOOLEY of California, Mr. HAMILTON, Mr. BORSKI, Ms. DANNER, Mr. PASCRELL, Mr. POMEROY, Mr. DAVIS of Florida, Mr. FAWELL, Mr. GILCHREST, Mr. PICKETT, Mr. SANDERS, Mrs. FOWLER, Ms. KAPTUR, Mr. BLILEY, Ms. MCCARTHY of Missouri, Mr. WEXLER, Mrs. TAUSCHER, Mr. SKELTON, MR. STENHOLM, Mr. SESSIONS, Mr. POSHARD, Mr. BATEMAN, Mr. BLUNT, Mr. DEAL of Georgia, Mr. JOHNSON of Wisconsin, Mr. COBLE, and Mr. BARTLETT of Maryland.

H.R. 292: Mr. HILLEARY.

H.R. 304: Mr. LEWIS of Georgia.

H.R. 305: Ms. FURSE, Mr. GUTIERREZ, and Mr. JEFFERSON.

H.R. 306: Mr. FILNER and Mr. MCHUGH.

H.R. 335: Mr. GOODE.

H.R. 367: Mr. ADERHOLT, Mr. PAXON, and Mr. LINDER.

H.R. 414: Mr. DEUTSCH, Ms. BROWN of Florida, Mrs. MEEK of Florida, Mr. PALLONE, and Mr. BALDACCI.

H.R. 415: Mr. WELDON of Florida and Mr. DICKEY.

H.R. 426: Mr. KNOLLENBERG and Mr. CAPPS.

H.R. 437: Mr. CAPPS, Mr. GILLMOR, Mr. CASTLE, Mr. ORTIZ, Mr. CALVERT, Mr. KILDEE, and Mr. SABO.

H.R. 443: Mr. KUCINICH and Mr. GONZALEZ.

H.R. 475: Mr. SMITH of Michigan.

H.R. 492: Ms. BROWN of Florida and Mr. MEEHAN.

H.R. 519: Mr. BLAGOJEVICH.

H.R. 558: Ms. WOOLSEY.

H.R. 561: Ms. CARSON.

H.R. 586: Mr. COOK, Mrs. MCCARTHY of New York, Mr. MCINTYRE, and Mr. MCNULTY.

H.R. 603: Mr. RAMSTAD and Mr. SMITH of New Jersey.

H.R. 623: Mr. WYNN.

H.R. 695: Mr. PAXON and Mr. WELDON of Florida.

H.R. 716: Mr. SNOWBARGER and Mr. BRYANT.

H.R. 753: Ms. ROYBAL-ALLARD, Mr. BARRETT of Wisconsin, Mr. OWENS, Mr. STRICKLAND, and Mr. DELAHUNT.

H.R. 754: Mr. JEFFERSON and Mr. ACKERMAN.

H.R. 775: Mr. DeFazio, Mr. Gutierrez, Mr. Thompson, Ms. Waters, Mr. Torres, and Mr. McGovern.

H.R. 820: Mr. Davis of Illinois, Mr. Stark, Mr. Matsui, and Mr. Rush.

H.R. 857: Mr. Manzullo and Mr. Crapo.

H.R. 864: Mrs. Morella, Mr. Hilliard, Mrs. Maloney of New York, Ms. Waters, Mr. Kildee, Mr. Rush, Mr. Ford, Mr. Towns, Mr. Dixon, Ms. Lofgren, Mr. DeFazio, Mr. LaTourette, Mr. Payne, Mr. Lipinski, Mr. Traficant, and Mr. Martinez.

H.R. 865: Mr. Clement.

H.R. 866: Mr. English of Pennsylvania, Mr. Coble, and Mr. Watts of Oklahoma.

H.R. 867: Mr. Houghton.

H.R. 871: Mr. Adam Smith of Washington.

H.R. 872: Mr. Bunning, Mr. Condit, Mrs. Cubin, Mr. Fox of Pennsylvania, Mr. Gillmor, Mr. Hefner, Mr. McHugh, Mr. Moran of Virginia, Mr. Packard, Mrs. Roukema, Mr. Dan Schaefer of Colorado, Mr. Sessions, Mr. Stenholm, and Mr. Towns.

H.R. 875: Mr. Snyder.

H.R. 895: Mr. Davis of Illinois.

H.R. 901: Mr. Burr of North Carolina, Mr. Hobson, Mr. Rogers, Mr. Rohrabacher, Mr. McCrery, Mr. McIntyre, Mr. Smith of Texas, and Mr. Deal of Georgia.

H.R. 911: Mr. Bilirakis and Mr. Barr of Georgia.

H.R. 920: Ms. Woolsey.

H.R. 928: Mr. Largent, Mr. Stump, Mr. Graham, Mr. Sessions, Mr. Paul, Mr. Souder, Ms. Dunn of Washington, and Mrs. Chenoweth.

H.R. 947: Mr. Cardin.

H.R. 955: Mr. Gibbons, Mrs. Chenoweth, Mr. Hefner, Mr. Snowbarger, and Mr. Ehrlich.

H.R. 965: Mr. Linder, Mr. Nethercutt, Mr. Livingston, Mr. Paxon, Mr. Hastert, Mr. King of New York, Mr. Camp, and Mr. Cook.

H.R. 977: Mr. Fazio of California, Mr. Abercrombie, Mr. Radanovich, and Mr. Traficant.

H.R. 990: Mr. Shays.

H.R. 1002: Mr. Lewis of Georgia, Mr. Wexler, Mr. Wise, and Mr. Filner.

H.R. 1009: Mr. Bunning of Kentucky.

H.R. 1022: Mr. Yates.

H.R. 1047: Mr. Dellums, Mr. Ford, and Mr. Meehan.

H.R. 1074: Ms. Carson, Mr. Dellums, Mr. Dixon, Ms. Eshoo, Mrs. Maloney of New York, Mr. Kind of Wisconsin, Mr. Foglietta, Mr. Conyers, Mr. Jackson, Ms. Norton, Mrs. Meek of Florida, Mrs. Clayton, and Ms. Jackson-Lee.

H.R. 1104: Mr. Kennedy of Rhode Island, Mr. Boucher, Mr. Poshard, and Mr. Weygand.

H.R. 1118: Mrs. Maloney of New York and Mr. Owens.

H.R. 1120: Mr. Pallone and Mr. Kennedy of Rhode Island.

H.R. 1130: Mr. Bonior, Mr. Miller of California, Mr. Stark, Mr. McDermott, Mr. Neal of Massachusetts, Mr. Wynn, Ms. Velázquez, Mr. Stupak, Ms. Harman, Ms. Kaptur, Mr. Fattah, Ms. Woolsey, Mr. Green, Mr. Schumer, Mr. Waxman, Mr. Moakley, Mr. Frank of Massachusetts, Mr. Hoyer, Mr. Kennedy of Rhode Island, Mr. Thompson, Mr. Berman, Mr. Hefner, Mr. Engel, Ms. Eddie Bernice Johnson of Texas, Ms. Roybal-Allard, Ms. Danner, Mr. Dooley of California, Mr. Brown of Ohio, Mr. Ford, Mr. Lampson, Mr. Cramer, Mr. Bishop, Mr. Holden, Mr. Watt of North Carolina, and Mr. Maloney of Connecticut.

H.R. 1134: Mr. John.

H.R. 1146: Mr. Stump.

H.R. 1153: Mr. Underwood and Mr. Pickering.

H.R. 1161: Mr. Condit.

H.R. 1169: Mr. Lewis of Georgia, Mr. Condit, Mr. Cardin, Mr. Gejdenson, Mr. Flake, Mr. Brown of Ohio, Mr. Filner, Mr. Largent, Mrs. Kelly, and Mr. Kleczka.

H.R. 1170: Mr. Packard, Mr. Rogan, Mr. Inglis of South Carolina, Mr. Foley, Mr. Largent, and Mr. Hutchinson.

H.R. 1178: Mr. Martinez.

H.R. 1188: Mr. Lewis of Georgia and Mr. Davis of Illinois.

H.R. 1189: Mr. Stupak, Mr. Klug, Mr. Skelton, and Mr. McHugh.

H.R. 1201: Mr. Borski, Mr. Dellums, Mr. Flake, and Mr. Davis of Illinois.

H.R. 1216: Mr. Davis of Illinois and Mr. Stark.

H.R. 1219: Mr. Coyne, Mr. Davis of Virginia, Ms. Lofgren, Mrs. McCarthy of New York, Ms. Pryce of Ohio, Mr. Rush, and Mr. Wexler.

H.R. 1232: Mr. Coburn.

H.R. 1259: Ms. Furse, Ms. Eshoo, and Mr. Wexler.

H.R. 1264: Mr. Meehan.

H.R. 1291: Mr. Flake.

H.R. 1315: Mr. LaTourette, Mr. Meehan, Mrs. Meek of Florida, Mr. Jefferson, Mr. Towns, and Mr. Parker.

H.R. 1323: Mr. Stark and Mr. Sanders.

H.R. 1327: Mr. Watts of Oklahoma, Mr. Metcalf, Mr. Deal of Georgia, and Mr. Walsh.

H.R. 1340: Mr. Sanford and Mr. Barrett of Wisconsin.

H.R. 1353: Mr. Poshard.

H.J. Res. 26: Mrs. Northup.

H.J. Res. 67: Mr. Crapo, Mr. Paul, Mr. Cunningham, MrMr. English of Pennsylvania, Mr. Christensen, Mr. Jenkins, Mr. Talent, Mr. Boyd, and Mr. Souder.

H. Con. Res. 8: Mr. Capps and Mr. Shaw.

H. Con. Res. 10: Mr. Cox of California, Mr. Holden, Mr. Fawell, Mr. McNulty, and Mr. Hobson.

H. Con. Res. 13: Mr. Weygand, Mr. Menendez, and Ms. Roybal-Allard.

H. Con. Res. 52: Mr. Holden, Mr. Gillmor, Mr. Traficant, Mr. Minge, Mr. Weller, Mr. Brown of Ohio, and Mr. Borski.

H. Res. 96: Mrs. Lowey, Mr. Stark, and Ms. Christian-Green.

H. Res. 110: Mr. Traficant, Mr. Peterson of Minnesota, Mr. Cox of California, Mr. Porter, and Mr. Campbell.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII. sponsors were deleted from public bills and resolutions as follows:

H.R. 963: Mr. Wynn.

EXTENSIONS OF REMARKS

HOUSE RESOLUTION 121 SUPPORTS PEACE AND DEMOCRACY IN CAMBODIA

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. HORN. Mr. Speaker, I will be returning home this weekend for a particularly happy event. To celebrate the Cambodian New Year and the beginning of the Year of the Ox, we are expecting between 40,000 and 50,000 people from all over America to attend a 3-day celebration in my congressional district, home to the largest Cambodian community in America. Unfortunately, in Cambodia itself, this New Year does not come with the same joy we will see in California.

According to news reports, many families have stayed at home rather than risk their personal safety by attending festivals or touring in cities, particularly in Phnom Penh, the capital of Cambodia. Fear of violence has returned to the daily life of many Cambodians as relations between the two leading political parties have plummeted.

On March 30 of this year, Sam Rainsy, the leader of the Khmer Nation Party, was the target of a grenade attack that killed 19 and injured more than 100, including Ron Abney, an American who was in Cambodia working on behalf of the International Republican Institute to advance the cause of democracy. Sam Rainsy was only slightly injured in this attack. Sadly, those of us who championed the victory of the democratic process in Cambodia leading up to the free elections in 1993 are now watching the unraveling of peace and democracy in Cambodia.

Following the 1991 Paris Peace Agreements, the United States worked closely to help the people of Cambodia create an environment that would allow democracy to prosper. In the 1993 elections, more than 93 percent of eligible voters turned out to the polls. In the period following these elections, the people of Cambodia made great strides to bring greater prosperity and security to their land. Now, we are seeing these gains slip, causing increasing concern in Cambodia and in the United States. The elections expected in 1998 must not fall victim to attempts by undemocratic forces to turn back the gains made in this decade and plunge Cambodia back into chaos and violence.

Today, I am introducing House Resolution 121 with my distinguished colleagues BEN GILMAN, chairman of the Committee on International Relations, and DOUG BEREUTER, chairman of the Subcommittee on Asia and the Pacific. Both have been leaders in the long effort to establish democracy and peace in Cambodia. The United States must continue to help the people of Cambodia advance the democratic process and do so in an unbiased manner so that the people of Cambodia choose representatives who they want to lead them. We are introducing this resolution to express our deep concern over the events occurring in Cambodia and our concern for where these events may lead, while expressing our sympathy to the individuals wounded in the attack of March 30 and to the families of those killed. It condemns this incident as the act of terrorism that it was.

House Resolution 121 calls upon our Government to offer assistance to Cambodian officials to help track down and prosecute those responsible for the attack and calls upon the Cambodian Government to accept this offer. Finally, it calls upon all political parties in Cambodia to renounce and condemn all forms of political violence. The right of the people of Cambodia to choose their future without coercion must be maintained.

I know that many Members of this House also are committed to democracy and peace in Cambodia. We encourage you to cosponsor this important resolution.

Mr. Speaker, I ask that House Resolution 121 be printed at the end of my remarks:

Whereas Cambodia continues to recover from more than three decades of recent warfare, including the genocide committed by the Khmer Rouge from 1975 to 1979;

Whereas Cambodia was the beneficiary of a massive international effort to ensure peace, democracy, and prosperity after the October 1991 Paris Peace Agreements on Cambodia;

Whereas more than 93 percent of the Cambodians eligible to vote in the 1993 elections in Cambodia did so, thereby demonstrating the commitment of the Cambodian people to democracy;

Whereas since those elections, Cambodia has made significant economic progress which has contributed to economic stability in Cambodia;

Whereas since those elections, the Cambodia Armed Forces have significantly diminished the threat posed by the Khmer Rouge to safety and stability in Cambodia;

Whereas other circumstances in Cambodia, including the recent unsolved murder of journalists and political party activists, the recent unsolved attack of party officials of the Buddhist Liberal Democratic in 1995, and the quality of the judicial system—described in a 1996 United Nations report as "thoroughly corrupt"—raise international concern for the state of democracy in Cambodia;

Whereas Sam Rainsy, the leader of the Khmer Nation Party, was the target of a terrorist grenade attack on March 30, 1997, during a demonstration outside the Cambodia National Assembly;

Whereas the attack killed 19 Cambodians and wounded more than 100 men, women, and children; and

Whereas among those injured was Ron Abney, a United States citizen and employee of the International Republican Institute who was assisting in the advancement of democracy in Cambodia and observing the demonstration: Now, therefore, be it

Resolved, That the House of Representatives—

(1) extends its sincerest sympathies to the families of the persons killed, and the persons wounded, in the March 30, 1997, terrorist grenade attack outside the Cambodia National Assembly;

(2) condemns the attack as an act of terrorism detrimental to peace and the development of democracy in Cambodia;

(3) calls upon the United States Government to offer to the Cambodia Government all appropriate assistance in identifying and prosecuting those responsible for the attack;

(4) calls upon the Cambodia Government to accept such assistance and to expeditiously identify and prosecute those responsible for the attack; and

(5) calls upon all Cambodian political parties to renounce and condemn all forms of political violence.

RECOGNITION OF MR. JASON WONG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me today in commending Mr. Jason Wong, a senior at the Abraham Lincoln High School and the recipient of the Congressional Youth Excellence Award in the 12th Congressional District of California.

Mr. Wong's scholastic achievements are impressive indeed. He has maintained a high grade point average while taking challenging classes, and he ranks in the top 10 students in his high school class. His academic excellence has been recognized by his earning Golden State Exam honors in algebra and chemistry.

In addition to his impressive academic achievements, Mr. Wong has taken an active role in community service. He is the president of the Lincs Service Society, as well as a volunteer tutor at Ulloa Elementary School. He is a member of the Red Cross Club, American Culture Club, the International Committee against Racism, and the Chemistry Club. He has served as vice-president, secretary, and treasurer of the California Scholarship Federation, as well as a volunteer for the San Francisco Annual Chinese New Year Parade.

Mr. Speaker, I invite my colleagues to join me in commending Mr. Jason Wong for his outstanding service to our community and congratulating him for his academic achievements.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

TRIBUTE TO THE LATE HONORABLE CHARLES A. HAYES OF ILLINOIS

SPEECH OF

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. STOKES. Mr. Speaker, I want to thank our distinguished colleague from Illinois, BOBBY RUSH, for reserving this special order. We gather to pay tribute to our good friend and former colleague, Charles Hayes, who passed away on April 8, 1997. We join members of his family, the people of Illinois, and others throughout the Nation in mourning his death.

When he was elected to the U.S. Congress in 1983, Charlie Hayes become the first elected representative of rank and file trade unionists to serve in this legislative body. It was a significant achievement for an individual who had devoted his life to fighting for the rights of working men and women.

Mr. Speaker, Charlie Hayes was born in Cairo, IL. At an early age, he found employment at a flooring company where he was paid 15 cents per hour. Racism forced blacks who were employed at the plant to work in the lowest paid and least desirable positions, and to endure insults and indignation. The black workers formed a local union, later recognized by the company as the Carpenter's Local Union 1424, and Charlie was elected president at the age of 20. The action started him on a long career dedicated to protecting the rights of workers.

For more than 40 years, Charlie Hayes would fight to guarantee job benefits, equal employment opportunities and job protection for workers. He held various union posts including international field representative, district director, international vice president and regional director, and executive vice president. During his union days, Charlie was one of the highest ranking black elected union officials in the country.

Charlie Hayes was also intimately involved in the civil rights movement in this country. He worked side-by-side with Dr. Martin Luther King, Jr., during the 1956 Montgomery bus boycott and the 1963 March on Washington. Charlie was also involved in the 1966 campaign for open housing in Chicago, the march in support of hospital workers in Charleston, SC, and Dr. King's last march in support of sanitary workers in Memphis, TN.

Mr. Speaker, in 1983 Charlie Hayes was elected to Congress from the First Congressional District of Illinois. He won the seat vacated by his friend, Harold Washington, following Harold's historic election as mayor of Chicago. Like many of my colleagues gathered in the Chamber this evening, I enjoyed a close friendship with Charlie Hayes. He was a hard working and dedicated public servant whom I respected and admired. He was also a close friend.

We recall Charlie Hayes for his strong leadership on education issues. As a member of the Education Committee, he made great strides in addressing the Nation's school dropout rates. He introduced full employment legislation, denounced unemployment as "morally unacceptable," and fought for national health insurance. Throughout his tenure, however, Charlie never forgot the working men and women of America. He stood strong for workers' rights and boasted a 100 percent voting record on issues important to labor.

Mr. Speaker, it saddens me that Charlie Hayes has been taken from our midst. We are comforted, however, in knowing that he will never be forgotten. His contributions on behalf of the working men and women of this Nation, and on behalf of his constituents, has earned him a place in history. Charlie has found rest from his labors and he is at peace. I extend my sympathy to Charlie's family and the people of Illinois during this period of mourning.

TRIBUTE TO THE LATE HONORABLE CHARLES A. HAYES OF ILLINOIS

SPEECH OF

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to give a parting tribute to one of the foremost pioneers to the working man and woman. The late Congressman Charles Arthur Hayes spent more than 45 years of his life as a trade unionist. He succeeded the late Harold Washington in the House when Washington was elected mayor of Chicago. Congressman Hayes was a man who had a knack for organizing workers on all levels. He helped to organize Local 1424 of the United Brotherhood of Carpenters & Joiners of America and served as its president from 1940 to 1942.

From 1979 until his retirement in September 1983, Congressman Hayes was the international vice president and director of Region Twelve of the United Food & Commercial Workers International Union. In addition to seeking increased benefits and improved conditions for workers, Congressman Hayes also fought to eliminate segregation and discrimination in hiring and promotion in the industry. Congressman Hayes also sought to provide African-American and women workers with opportunities to serve as leaders in the labor movement.

Mr. Speaker, during his congressional career Congressman Hayes introduced several pieces of legislation to address the educational and employment needs of many Americans. Prominent among these are acts to encourage school dropouts to reenter and complete their education and to provide disadvantaged young people with job training and support services. Congressman Hayes also sponsored bills to reduce high unemployment rates and make it easier for municipalities to offer affordable utility companies. He consistently opposed the actions and programs of South Africa's white-minority government and in 1984 joined other demonstrators at its Washington Embassy in protest of the Pretoria regime's policies of racial separation.

Mr. Speaker, I rise with the rest of my colleagues in tribute not only to a pioneer in workers rights but to a pioneer in human rights.

PROTECTION OF OUR NATION'S FORESTS

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Ms. ESHOO. Mr. Speaker, today I am introducing, along with Representative CAROLYN MALONEY and over 50 cosponsors, the Act to Save America's Forests.

This bill is a dramatic and bold change in direction in how we as a nation protect and treat our public lands. Mudslides, scarred landscapes, preventable forest fires and destruction caused by clearcutting and other misguided forest management must end. This legislation is a huge step in that direction.

Our Nation's 155 national forests are home to 34 million acres of remote wilderness areas and 4,385 miles of wild and scenic rivers. They are a valuable resource that generates nearly $199 billion in recreation dollars. For a century we have tried to balance the conservation of the land and continued access to those who use it. But, now, how we manage our public lands is no longer in balance. We favor timber creation instead of careful stewardship.

There are currently eight times more roads in National Forests than there are in the National Highway System. Year after year below cost timber sales are pushed through, which does not benefit the environment or the taxpayer. The most egregious step was the passage of the Timber Salvage Rider in the last Congress which waived all laws protecting these forests and had a devastating impact on the land, rivers and wildlife of our Nation.

The Act to Save America's Forest will end clearcutting and other even-age logging techniques throughout all lands controlled by the Federal Government. Under this bill, maintaining native forest biological diversity will be the priority of the Federal forest management activities. No longer will the Forest Service be charged with the task of exploiting and selling off our resources, often below costs, instead of conserving them.

The passage of this bill would also protect once and for all core areas of biodiversity including Roadless Areas, the Ancient Forests of the Pacific Northwest and over 100 specified areas spread throughout our Nation's forest system.

The overwhelming majority of American people support more environmental protection, not less. The bill I introduce today is a giant step forward fulfilling our obligation to protect and leave for future generations the lands that have been entrusted to us.

RECOGNITION OF ANNIE CHAU

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me today in commending

Annie Chau, a sophomore at San Mateo High School and the recipient of the Congressional Youth Excellence Award in the 12th Congressional District of California.

Ms. Chau's scholastic achievements are impressive indeed. She has maintained a 4.0 grade point average while undertaking a challenging class schedule. Her academic achievements include the San Mateo High School McConville Award in Freshman Spanish, Golden State Exam Awards in first year algebra, geometry, and chemistry, as well as membership in the California Scholarship Federation. At San Mateo High School, she has served as class treasurer, as well as a member of the math team, Amnesty International, the Interact Club, and the International Club.

In addition to her impressive academic achievements, Ms. Chau has taken an active role in community service. She is a member of the San Mateo County Youth Commission, the San Mateo County Volunteer Center Youth Board, and the Foster City Youth Advisory Committee. Furthermore, she volunteers her talents at the Foster City Recreation Department, the ELLIPSE Peninsula AIDS Services, and the Peninsula Association for Retarded Children and Adults [PARCA].

Mr. Speaker, I invite my colleagues to join me in commending Ms. Annie Chau for her outstanding service to our community and congratulating her for her academic achievements.

LINKED FINANCING—A NEW ALTERNATIVE FOR AVIATION FUNDING

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. PACKARD. Mr. Speaker, I rise today to introduce legislation which will establish a new funding mechanism for the Federal Aviation Administration called linked financing. This is an innovative and bold new mechanism for ensuring that the Federal Aviation Administration receives the funding it requires while preserving the advantages of the existing tax structure.

I have worked closely with the Aircraft Owners and Pilots Association on this legislation, and I must credit my friend and former colleague, Jim Lightfoot of Iowa, with advancing this idea in the previous Congress.

Linked financing is based on a simple premise: The services provided by the FAA are an essential Government function, for which users pay. So it ought to be possible to spend more on FAA programs—when and if users are willing to pay more. But as we know, this isn't necessarily the case under existing budget rules. The cap on overall discretionary spending constrains our ability to increase spending on certain transportation programs, even when the users are willing to increase their contribution.

The administration has proposed replacing the current aviation taxes with direct user fees for FAA services to pilots and the airlines. However, user fees have many problems. They are costly to collect, they provide no incentive to manage costs, they have safety implications, and—most important—FAA would have little direct accountability to Congress for how the agency spends the money.

Linked financing is a better alternative. It would retain the excise taxes which airway system users now pay on airline tickets, fuel, and cargo. These taxes would continue to feed the Airport and Airway Trust Fund. The trust fund is for aviation spending only, and it finances most of the FAA's budget.

Under linked financing, what aviation users pay in taxes for a given year would depend on what Congress allowed the FAA to spend the year before. When the FAA's spending goes up, the taxes collected would be adjusted upward by a corresponding amount the following year, according to a predetermined formula. A narrow upper limit on the tax rates would keep the rates at a reasonable level. The objective is for tax revenues to match spending from year to year. I am confident that almost all of the necessary growth in tax revenue would result from aviation industry growth, not tax rate increases. After all, most of the long-term growth in FAA operations spending is justified by increased aviation industry growth. But if circumstances make it necessary for this essential safety-related agency to receive more revenue through tax rate adjustment, the formula would provide for that.

On the other hand, when FAA spending drops, tax rates would drop automatically the following year to reflect the decrease. This would ensure that users aren't paying for something they don't get. And aviation users would see a swift and direct benefit from coming to Congress with ways to reduce FAA spending as well as to increase it.

Linked financing also addresses the constraints imposed by the discretionary spending cap. Under the current rules, additional aviation revenue doesn't automatically lead to additional aviation spending. Why? Because overall discretionary spending is capped, regardless of how much money the Government takes in for a particular function.

The purpose of the spending caps is to help reduce the deficit by controlling government spending instead of raising taxes. However, under linked financing, aviation users would pay for the increased spending for FAA—not other taxpayers.

Therefore, the linked financing plan establishes an annual trust fund reserve account which would be available to the appropriations committees to supplement the resources otherwise available to them within the discretionary cap. This annual reserve account would be outside the discretionary cap, so the discretionary cap would not limit the ability of Congress to spend the funds deposited in the reserve account. The amount deposited in the annual reserve account each year would be equal to the annual increase in Aviation Trust Fund revenue, if any.

The key elements of linked financing are:

First, an adjustable tax rate which is linked to the amount of spending on the air transportation system.

Second, an annual reserve account outside the discretionary cap which is linked to the yearly increase in aviation tax revenue.

Linked financing assures that the taxes that aviation users pay are promptly spent for aviation purposes. And it does this without major changes to the current budget process or the ability of Congress to oversee FAA's spending.

As an innovative mechanism for using dedicated taxes—taxes collected for a specific purpose—linked financing could offer a solution for other user-financed government programs, as well.

Mr. Speaker, the Clinton administration's ongoing opposition to balancing the Federal budget has caused the surplus in the Aviation Trust Fund, once measured in billions of dollars, to dry up. For years I joined many Members of this House in asking that these surplus funds be spent on the intended purpose. The reauthorization of aviation taxes and highway spending programs gives the 105th Congress offers of a unique opportunity to change the way we fund these priority capital programs.

In fact, Senators BOND and CHAFEE recently introduced legislation in the other body which establishes a direct link between the amount collected annually in gas tax revenues and spending for highway programs. And although I disagree with the administration's user fee concept, I was interested to read in the President's budget that a direct link is now needed between dedicated taxes and the level of funding for the agency operations that affect them.

I believe linked financing holds considerable promise for addressing the future funding needs of our Nation's air transportation system, and could also be a solution for other transportation modes, and even other functions of government with dedicated sources of revenue.

Mr. Speaker, linked financing is an idea which deserves serious consideration. I urge my colleagues to give it their attention.

TRIBUTE TO THE MEMORY OF JACKIE ROOSEVELT ROBINSON

SPEECH OF

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, it is with great pleasure and honor that I stand here in this Chamber and shower the late, great Jackie Robinson with praises and accolades for his contribution to major league baseball. Jackie Robinson always had fire in his eyes. There was an intensity in them, a determination from the lonesome odyssey of 1947 when he integrated baseball and changed America.

The versatile Jackie Robinson began his stellar sporting career in 1933 as a letterman in football, basketball, baseball, and track in Pasadena, CA. Destined for stardom, Robinson made the Pomona (CA) Tournament Baseball All-Star team, in his senior year, that included future major league standouts such as Ted Williams and Bob Lemon.

Jackie Robinson's baseball career led him to many challenges outside the sports arena. After being traded to the New York Giants in

December 1956, Robinson contemplated retirement. The following month, Robinson announced his retirement, moving from the dugout to a desk, trading his bat for a pen. Robinson became vice president of Community Affairs for the Chock Full O'Nuts Co., a restaurant chain. In 1964, he resigned from the restaurant company to organize the Freedom National Bank in Harlem.

The black-owned bank's mission was "a community enterprise which will in every way belong to the people it is to serve * * *." As chairman of the board, Robinson helped raise more than $1.5 million.

That same year, 1964, Gov. Nelson Rockefeller of New York, asked him to become one of six deputy national directors. Robinson was Rockefeller's first black staff member. Rockefeller later named him to his executive committee as special assistant of community affairs.

Today, 50 years later, we honor Jack Roosevelt Robinson for his contributions to our beloved game of peanuts and crackerjacks. Our game where the only race that matters is the race to the bag. When color is only a means to distinguish one uniform from that of another. Robinson made it possible for all Americans to see beyond skin color and assess a person's true character. For without Jackie's inspiration and dedication, America's game would not be what it is today, our national pastime. For this reason we have cause to celebrate the 50th anniversary of this barrier breaker and remember his hardships as well as his triumphs.

PRESIDENTIAL SUPPORT FOR ASSISTANCE TO THE NEW INDEPENDENT STATES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. HAMILTON. Mr. Speaker, on March 17, 1997 I wrote to the President to express my support for his $900 million budget request for the New Independent States [NIS] of the former Soviet Union. On April 11, 1997 I received a reply from the President, outlining why he believes his budget request for the NIS serves the American national interest, promotes market and democratic reform, and merits full bipartisan support. I commend the correspondence to the attention of my colleagues. The text follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 17, 1997.

Hon. WILLIAM J. CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: I write to commend you for your Fiscal Year 1998 budget request for increased funding for the New Independent States of the former Soviet Union. I support your request for $900 million, including your Partnership for Freedom initiative to encourage economic growth, sustain civil society and promote people-to-people linkages in the New Independent States.

Your direct involvement and leadership in 1993 made the difference in the decision by Congress to appropriate the very large sum of $2.5 billion in assistance for the New Independent States. I believe your direct involvement and leadership will also be essential to win Congressional support for your FY 1998 budget request.

Democratic and market reform in Russia and the NIS are in the national security interests of the United States, and your assistance request promotes these critical U.S. interests.

I urge you to speak out in support of your budget request, and to resist earmarks that impair the effectiveness of the U.S. assistance program.

I look forward to working with you in support of this important initiative.

With best regards,
Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

THE WHITE HOUSE,
Washington, April 11, 1997.

Hon. LEE H. HAMILTON,
House of Representatives, Washington, DC.

DEAR LEE: Thank you for your letter supporting my FY 1998 budget request for $900 million to reinforce the next phase of reform in the New Independent States of the former Soviet Union. These funds will help us seize a historic opportunity: to turn the nascent foundations of market economies in the NIS into competitive, open markets that benefit their citizens and Americans alike.

Already, two-thirds of the people in the NIS live under democratically elected leaders in emerging market economies. Reforms are taking hold, but it is clear that the NIS still has a long way to go. Our timely, targeted investments in democracy and market economies can make the crucial difference.

Priority one is to tackle barriers to investment, lock in economic reform and, at the same time, open the region's vast resources to American business. The changes we support today in tax laws, commercial codes, judicial systems and legal protections against crime and corruption will resonate for decades to come. And these investments in good policy can leverage billions of dollars in trade and investment, which means jobs for Americans at home.

Priority two is to bolster generational change, and in so doing strengthen the social underpinnings of democracy. Our proposal will allow us to double people-to-people exchanges that will forge lasting ties with today's pioneers of reform and the young people who will be tomorrow's leaders. With carefully targeted support, we can work hand-in-hand with American foundations, universities, business associations and volunteer groups to nurture an emerging civil society. Indeed, the seeds planted today through thousands of reforms and grassroots networks will become a bedrock for pluralism and good governance.

This funding request also gives us the opportunity to complete structural reforms still under way in Ukraine, Central Asia and the Caucasus. Many of these countries face the challenge of completing their privatization programs, restructuring energy systems and unleashing the potential of small business. The impact will be seen in thousands of private sector jobs that will be the driving force for economic growth.

I am even more convinced, following the Helsinki Summit, that the time is ripe for this initiative. President Yeltsin pledged to pursue a bold new reform agenda to stimulate investment and growth in Russia. Our assistance can bolster him in this effort. And the leaders of Ukraine, Georgia and many of the region's other countries have committed to take steps to make reform irreversible.

This initiative—what I call a true Partnership for Freedom—has my strongest commitment. By helping to entrench democratic practices and market economies in the NIS, it advances our overarching national interest in seeing that these countries develop as partners of America. The Partnership for Freedom merits full bipartisan support.

Sincerely,

BILL CLINTON.

VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1997

SPEECH OF

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 9, 1997

Mr. MICA. Mr. Speaker, I would like to clarify for the record the proper interpretation of this legislation as it relates to the judiciary. First, let me address the issue of assigning numerical ratings to applicants who are veterans. As amended, H.R. 240 does not require the judicial branch to employ a numerical rating system or assign numerical points to veterans. Nor does this legislation in any way authorize executive branch agencies to adjudicate complaints within the judiciary. All that H.R. 240 requires of the judicial branch is to provide the same degree of protection.

Second, concern was expressed about the appropriateness of the use of the term "regulation" for the judicial branch. Its use is appropriate. Although many of the statutes in title 28 regarding the judiciary and judicial procedures use terms such as "guidelines" or "procedures," a number also explicitly refer to "regulations" issued by the Judicial Conference. For example, 28 U.S.C. §§ 153(b), 155(b), 375(h), 1869(k). The use of this term in H.R. 240 is consistent with these statutes. To be sure, it is not the intent of this bill to require the Judicial Conference to follow Administrative Procedure Act—like procedures to which they are not otherwise subject.

Third, questions have been raised regarding the impact of the provision in this legislation that requires consultation with veterans' service organizations. This provision will not impair the independence of the judiciary. It is my understanding that the judicial branch already consults from time to time with various types of groups such as practitioners who routinely appear before the courts, through the Judicial Conference and through various circuit conferences. Veterans' service organizations have a keen understanding regarding veterans' employment problems and could offer valuable assistance to the Judicial Conference in formulating its policies. Finally, all that is required by this provision is consultation not agreement. None of these organizations would have veto power over any regulations promulgated by the judiciary under this provision of the bill.

Mr. Speaker, this concludes my remarks. As previously noted, my purpose in addressing the above issues is to present the proper interpretation of these provisions for the record.

A SALUTE TO RUTH HAYRE—DEFENDER OF PHILADELPHIA'S CHILDREN

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. FOGLIETTA. Mr. Speaker, I rise to honor Ruth Hayre, grande dame of Philadelphia's public schools. Ms. Hayre recently announced her retirement from the Philadelphia School Board.

Her departure marks the end of a career in city schools that has spanned five decades. Ms. Hayre was an honor graduate of West Philadelphia High School at age 15. By the time she was 20, she had earned her master's degree at the University of Pennsylvania and was headed toward a career in education.

In 1931, Ms. Hayre was denied a teaching job in Philadelphia because of the color of her skin. She joined the school district a decade later as one of the first African-American professionals in the system. Hers was a life of firsts: the first black high school teacher, the first black principal, the first black district superintendent, and the first black woman named to the school board.

Always an advocate for high academic standards, Ruth Hayre in 1988 established a college scholarship program for needy high school students.

In 1946, when she first came to the old William Penn High School for Girls—which was then two-thirds black—Hayre was struck by the way African-American students were pushed into less demanding courses. She complained that one course she was assigned to teach had little value of direction. When she became principal of the school a decade later, she immediately abolished the course.

In 1991, she became the first black woman to serve as president of the Philadelphia School Board. As president, she spearheaded the effort to modernize Philadelphia's schools and to bring the district's curriculum and health education efforts into the 20th century.

As the Philadelphia Inquirer editorialized last week, "For decades, Ruth Wright Hayre's name has been synonymous with quality education. Her retirement next month for health reasons from the School Board of Philadelphia should inspire her colleagues to live up to the exciting standard she set."

In light of her many accomplishments in education, civil rights and the arts, and the void she leaves in lives of all Philadelphians, I am proud to honor Ruth Hayre.

TRIBUTE TO THE CRANBURY LIONS CLUB 65TH ANNIVERSARY

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. PAPPAS. Mr. Speaker, I rise today to pay tribute to the Cranbury Township Lions Club which is celebrating its 65th anniversary this year. Coincidently, the Lions 65th anniversary coincides with Cranbury's tercentennial.

Having served as a Lion myself since 1982, I am well aware of the important role and contribution that the Lions Club makes in so many communities around our country.

We have heard before, right here in this Chamber, that the era of big government is over. But it is not good enough to just say it, we must act and reach out to our neighbors and those in need. The Lions have been doing just that for many years all over the country and the world.

We in this Nation have a choice. A choice to volunteer and help each other or let government assume that role. If big government is truly over, then we as individuals need to assume some of the responsibilities of government. We the people, need to help our fellow citizens who are in need.

The Lions Clubs around our Nation have consistently been involved in efforts to help those in need to see better through the collection and refurbishment of used eyeglasses, diabetes education, and a host of other activities. America's Lions are doing their share.

The Cranbury Lion's Club has for the past 8 years supported Project Quest, a campaign for drug prevention focused on Kindergarten through eighth grade students. Project Quest provides funding for teacher training and materials in the fight against illegal drugs and drug abuse among the community's youth.

It is these kinds of efforts, people in one community selflessly helping to solve its own problems, that will guide America into the next century. Since its founding in 1932, by Dr. Gerald Miller, the Cranbury Lions has quietly served as an example to us all.

I would like to congratulate some of the club's longest serving members, Judson Hagerty, Jay Schuyler, Arthur Danser, and George Conley. Each of these men have served the club and their community for over 40 years and together they represent close to 200 years of service.

Each year, the Cranbury Lions are responsible for hosting the township's Memorial Day parade. I want to pay early congratulations to Frank Brennan who is this year's parade committee chairman.

As this Congress continues to emphasize the need for service organizations and volunteers to assume a greater role, it will be organizations like the Cranbury Lions that year after year continue to bring about positive change.

Tomorrow night, the Cranbury Lions will hold their 65th anniversary dinner and I would like to extend my best wishes.

As America looks toward the 21st century, Lion's Clubs around the Nation stand ready and committed, full of energy, creativity, and solutions to help us become a better society and solve the problems that face our Nation. Among those groups is the Cranbury Lions.

PROTECT THE ENVIRONMENT AND LOW INCOME FAMILIES IN ELECTRICITY DEREGULATION

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. DEFAZIO. Mr. Speaker, today I am introducing legislation that would create a national fund to provide matching grants to State and local programs promoting energy conservation, renewable energy resources like wind and solar power, and universal electricity service for low income, rural and other consumers for whom basic electricity service may be compromised by deregulation.

Nationwide, it is estimated that regulated utilities spend between $6 and $7.5 billion annually on energy conservation, renewable energy, and low income energy assistance programs. In the brave, new world of deregulated electricity markets, many of these public purposes could fall through the cracks. My bill provides a stable funding source to not only help maintain existing energy conservation, renewable energy and low income energy assistance programs, but to expand them around the Nation.

This is not a new Federal bureaucracy. It is a simple mechanism that will funnel money directly to programs crafted at the State and local level. Its cost to the Federal Treasury will be near zero.

The national program would be funded by a competitively neutral, non-bypassable transmission access charge paid by all electricity suppliers. The charge would be set to a level sufficient to fund qualifying State programs each year, but would be limited to no more than 2 tenths-of-a-cent per kilowatt-hour. The fund would be administered by a joint Federal-State board with oversight from the Department of Energy.

If fully utilized, the national electric systems benefits fund would provide between $5 and $6 billion each year in matching grants for locally designed energy efficiency, renewable and low income energy assistance programs. Electric utility industry deregulation without this important incentive-based program would be a disaster for the environment and for low income families.

TAXPAYER BROWSING PROTECTION ACT

SPEECH OF

HON. BILL PAXON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. PAXON. Mr. Speaker, I rise today in strong support of H.R. 1226, the Taxpayer Browsing Protection Act.

The American public should know that the problem of IRS agents browsing through taxpayer files is not exclusive to Washington, DC. Just last week in Buffalo, NY, it was revealed that at least 18 Buffalo-area IRS agents had used their access as Government officials to snoop through the tax files of thousands of upstate New Yorkers. And of these 18, only 2 were fired for their actions.

Quite simply, if the Government is going to compel personal information from its citizens, then there is a corresponding obligation to preserve the privacy of that information. Tax snooping is a clear case of abuse of Government authority, at the expense of others' privacy and freedom.

The repugnance of Government agents rifling through our possessions without cause is precisely what sparked our constitutional prohibition against unreasonable search and seizure.

That is why I support H.R. 1226, the Taxpayer Browsing Protection Act, and I urge my colleagues to do the same.

TRIBUTE TO THE HONORABLE MICHAEL A. MARTONE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. LEVIN. Mr. Speaker, I rise to salute the Honorable Michael A. Martone, an Oakland County District Court judge from Troy, MI who will receive the Italian-American of the Year Award. This award, presented to Judge Martone by the Italian-American Study Group of Troy, is in recognition of his outstanding and continued commitment to the youth of our community.

Judge Martone has developed and implemented a unique alcohol and drug intervention program which actually brings the courtroom to middle and high schools. His program, dubbed "Court in the Schools: Critical Life Choices," illustrates to young adults the lifelong consequences of failing to think critically and breaking the law. On September 9, 1996, Judge Martone gained national recognition for his efforts to establish the program around the nation when he was profiled on NBC's "Today Show." More than 12,500 students have participated in the program, not only in Michigan but in New York, Missouri, Florida, and Arkansas.

In addition to continuing his expansion of "Court in the Schools," Judge Martone remains active in the community as a volunteer with the Troy Community Coalition, Oakland County's HAVEN Courage House, and the Juvenile Diabetes Foundation.

Mr. Speaker, I ask my colleagues to join me in recognizing Judge Martone's accomplishments and outstanding contributions to the youth of our Nation. On this special occasion, I send my very best wishes to him and his wife, Martha Rose and their two sons, Jonathan and James.

75TH ANNIVERSARY OF SANTA CLARITA VALLEY'S BOY SCOUT TROOP 2

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. MCKEON. Mr. Speaker, I am proud to announce that on Saturday, April 19, 1997, Santa Clarita Valley's Boy Scout Troop 2, will celebrate its 75th anniversary. Sponsored by the Kiwanans Club of Valencia, Troop 2 remains the largest troop in the valley, with over 130 boys currently registered.

Throughout the years, Troop 2 has served almost 3,000 boys and produced 65 Eagle Scouts while managing to remain an active part of the community. From helping distribute emergency water supplies in the aftermath of the 1994 Northridge earthquake to participating in the annual 4th of July parade, Troop 2's volunteer efforts serve as a reminder of the dedication and commitment of the Boy Scouts of America.

On behalf of the citizens of the Santa Clarita Valley, I am honored today to help recognize the tremendous accomplishments of Troop 2.

THE UNDER 12 SYRACUSE BLITZ BOYS SOCCER TEAM WINS NATIONAL INDOOR SOCCER CHAMPIONSHIP

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. WALSH. Mr. Speaker, today I ask my colleagues to join me in congratulating the under 12 Syracuse Blitz Boys soccer team for winning the National Indoor Soccer Championship on March 17, 1997.

The North American Indoor Soccer Championship features qualifying regional tournaments at 20 sites around the country. The winning teams are then invited to participate in the grand finals. This dedicated group of athletes competed against 22 teams in their age bracket, including teams from Massachusetts, Maryland, Kansas, and Tennessee, as well as Ohio, Indiana, and Michigan. It was Syracuse's second championship win in a row, as they won the indoor title last year.

Our central New York community is proud of the hard work and dedication displayed by the members of the 1997 Syracuse Blitz Boys soccer team.

Members of the 1997 Syracuse Blitz Boys under 12 National Indoor Champions are: Brian Knapp, Brian Perry, Mac Wilkie, Isaac Collings, Devin Dean, Josh Kristoff, Frank Monteleone, Patrick Ridall, Joey Spadaro, Alex Dowley, Brendan Quinlan, Joey Antonacci, Chris Paulus, Justin Crowley, and Matt Ponichtera. Coaches include Coach Bob Escobar, and assistant coaches Don Ridall and Craig Wilkie.

Congratulations to all the team members and coaches for their impressive achievements.

THE INTRODUCTION OF THE FEDERAL EMPLOYEES EMERGENCY LEAVE TRANSFER ACT OF 1997

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Ms. NORTON. Mr. Speaker, on May 26, 1995, in response to the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, the Office of Personnel Management [OPM] transmitted to Congress the Federal Employees Emergency Leave Transfer Act of 1995. With jury selection just begun in the Oklahoma City trial, it is time to pass this bill that would enhance the use of transfers of leave to assist Federal employees who are adversely affected by disasters or emergencies as declared by the President. I am reintroducing the bill today as we mark the anniversary month of the bombing in Oklahoma City. The bill was passed by the Senate and House last year and failed to go to conference because of opposition to an unrelated amendment attached in the House.

In 1988, Congress authorized a 5-year test of voluntary leave transfer and leave bank programs within Federal agencies. These programs were designed to help employees faced with a medical or family emergency who had already exhausted all available leave. In 1994, the House Post Office and Civil Service Committee's Subcommittee on Compensation and Employee Benefits held a hearing on the programs, which documented their success. Legislation I authored making them permanent was subsequently enacted.

Current leave transfer law limits, in some situations, the transfer of donated leave from one agency to another. Current law also requires that donated leave be used only for personal or family medical emergencies, and that employees exhaust all personal leave balances before qualifying for leave donations.

In the wake of the bombing of the Murrah Federal Building in Oklahoma City in April 1995, affected employees were excused from duty without being required to use their available leave. This was made possible by OPM's efforts to coordinate agencies' existing leave transfer programs. It became apparent from this experience that such situations would be better handled by establishing in law the necessary authority for special leave transfer programs to address needs created by Presidentially declared disasters and emergencies.

Senator TED STEVENS (R-AK), chairman of the Senate Governmental Affairs Committee first introduced OPM's proposal, S. 868, on June 21, 1995. The bill was approved by the committee, without amendment, on August 10, 1995. It passed the Senate by unanimous consent on October 19, 1995. The Congressional Budget Office determined that S. 868 would not affect direct spending or receipts, and that any administrative costs resulting from its implementation would be minimal.

S. 868 was referred to the House Subcommittee on Civil Service which did not hold hearings on the measure, but referred the bill to the full House Government Reform and Oversight Committee. The full committee attached several other measures, including the Veterans Preference bill, to S. 868, and the House subsequently passed the bill as amended. The Senate, however, failed to consider the bill as amended and it did not become law.

The bill I introduce today is identical to S. 868. It requires that in the event of a major disaster or emergency, the President would have the authority to direct OPM to create a special leave transfer program for affected Federal employees. Employees need not be facing a medical emergency to qualify, they would need the leave because of the adverse effects of the disaster or emergency. The bill would allow agency approved recipients to use donated leave without having to first exhaust their own accumulated leave. It would allow employees in any executive agency to donate leave for transfer to affected employees in the same agency or other agencies. It would also allow agency leave banks to donate leave to any emergency leave transfer program established under this act. OPM would be permitted to establish rules for the operation of this special program.

The Federal Employees Emergency Leave Transfer Act enjoys the support not only of OPM but of the Federal employee organizations, has no budgetary impact, and has not been controversial. I urge my colleagues to support this important bill.

IN HONOR OF THE PULASKI CADETS, INC., 164TH ANNIVERSARY MILITARY REVIEW AND BALL

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to the Pulaski Cadets, Inc., an organization which will be celebrating its 164th anniversary on April 19, 1997. This momentous occasion will recognize the contributions of Danuta Sieminska, operations manager of the Polish and Slavic Federal Credit Union and Thomas Wojslawowicz, president of the Pulaski Day Parade at the annual Military and Review Ball to be held in the Crystal Ballroom of the United Poles in America in Perth Amboy.

The Pulaski Cadets, Inc., have a long and distinguished history of service to their fellow Americans. This independent company, named after the famous Revolutionary War Gen. Kazimierz Pulaski, was incorporated in 1833. Its roots extend back to March 1778 when General Pulaski, commander of the American Cavalry, received permission from the Continental Congress to form an independent legion headquartered in Baltimore. During the War for Independence, the Pulaski Legion participated in a number of battles including Egg Harbor, Yorktown, and Savannah where General Pulaski was mortally wounded.

After the Revolutionary War, the Pulaski Legion was ordered to report to New York to defend that region of the new nation. In 1833, some descendants of the Pulaski Legion veterans decided to organize their own unit and named it the Pulaski Cadets. The official title of New York City Guard was bestowed upon the Pulaski Cadets in 1839. This elite military unit was attached as 1st Company to the 11th Regiment and later to Company G of the 55th Regiment, which caused an awkward situation since the 55th Regiment spoke mostly in French. They were subsequently granted a transfer to the 9th Regiment. During the Civil War, many of the commissioned officers served with honor and distinction. The organization of the Militia—now called National Guard—made it possible for the company to continue on an independent basis. This tradition was kept alive until shortly after World War I.

The organization of the Pulaski Cadets was revived in 1985 by Brig. Gen. Jan K. Krepa and his Adjutant LTC Dziekanowski. The mission of this newly revitalized group included providing educational opportunity for the young people of the area through the Pulaski Cadets Scholarship Fund. Over the past 12 years, more than $12,000 has been distributed to qualified students attending American colleges and universities. This financial assistance has made a real contribution to the academic success of many fine young men and women.

It is an honor to have such an exceptional organization working on behalf of the residents of my district. The Pulaski Cadets, Inc.'s efforts to promote the educational achievement will be long remembered. I am certain that my colleagues will rise with me and pay tribute to an important piece of our American history.

25TH ANNIVERSARY OF THE OAK LANE COMMUNITY ACTION ASSOCIATION

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. BORSKI. Mr. Speaker, I rise today in honor of the Oak Lane Community Action Association [OLCAA] as they celebrate their 25th anniversary. In 1972 a group of citizens formed an organization based on the ideas of community action and involvement. As the group approaches their silver anniversary, they have upheld the ideals of the original founders.

OLCAA began their activism with a series of block meetings regarding quality of life issues in the neighborhood. They soon began expanding these meetings into all inclusive East Oak Lane town meetings. As the organization stands now, it not only has a positive impact on the neighborhood, but on the city of Philadelphia as well.

OLCAA has been able to take a diverse community and package its differences into a unified body of energy and strength. By working as a team, they have experienced successful community improvements in many different arenas. The group has sponsored initiatives such as integration in real estate, citizen safety programs, and educational and recreational projects at Ellwood School and the Oak Lane Library. With the 35th Police District as their partners, OLCAA developed the first Police Bike Patrol program in residential Philadelphia.

I wish to honor the members of this organization and community for diligent hard work and passion that should serve as a model to all communities in this Nation. They have focused their energy on creating a better community for themselves and their neighbors. Unselfishly, they have extended this focus to the city of Philadelphia and its residents. OLCAA has overcome obstacles to create a neighborhood that fosters close relationships between citizens, and is a place of unity.

On their 25th anniversary, I would like to wish the Oak Lane Community Action Association continued success in their efforts, and I congratulate them on achievements already made.

CAMBODIA

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. LIPINSKI. Mr. Speaker, a couple of months ago, I took part in a congressional delegation that traveled to Cambodia. It was a distinctly unique opportunity to visit a country where the people democracy has taken root, although not without its fair share of difficulties, and has begun to grow and mature with the assistance of the United States.

First of all, I want to commend our fellow Americans in the United States Embassy in Phnom Penh, Cambodia, especially Ambassador Kenneth Quinn and Edward Birgell of the Agency for International Development. They have done an outstanding job in less than ideal circumstances, and I strongly believe that the growth of democracy in Cambodia is due in no small part to their efforts.

Ambassador Quinn and his colleagues at the United States Embassy play a pivotal role in Cambodia's development. Under Ambassador Quinn's guidance, they work on a number of extremely important initiatives. They provide assistance to Cambodia to rebuild the judicial system and implement the rule of law. They coordinate POW/MIA efforts with the Cambodian Government. They helped Cambodia draft labor laws in accordance with international standards. Most importantly, they are heavily involved with establishing and strengthening the democratic processes, which provides permanence to their work in Cambodia. Their achievements are truly remarkable, and I salute each and every one of them.

As most of you know, Cambodia has had a difficult time in the last few decades—a tumultuous history to say the least. In 1975, the country was torn apart and nearly decimated by the genocidal Khmer Rouge. The turbulent civil wars punctuated by short periods of rest did not end until the United Nations [U.N.] sponsored the October 1991 peace treaty followed by U.N.-supervised elections in 1993. As a result of the elections, a new democratically elected government headed by two prime ministers was established. This "power-sharing" arrangement, although somewhat unwieldy, was necessary to maintain the fragile partnership and put Cambodia in a positive direction for the last 5 years—a generally forward-looking, fledgling democracy with market-based economic policies, free press, multiparty political system, and nongovernmental organizations. It is fair to say that the last several years have been Cambodia's most peaceful and productive period in the 20th century.

Ripped apart by civil wars, the people of Cambodia are in the midst of rebuilding their nation. Cambodia still bears wounds from those past internal conflicts. For instance, the country is still a huge minefield. About 1 in 10 Cambodians have been injured by landmines. While there is a concerted effort to remove the landmines—over 1,500 people are employed specifically for this task—at the current pace, it will still take at least several decades. Still they persevere.

Unfortunately, the U.N.-brokered fragile partnership by necessity is rapidly fraying at the edges. With the 1998 national elections right around the corner, cooperation between the two prime ministers has almost ceased. The results are dramatic. Human and civil rights violations are rising and corruption is running rampant. These factors increase the political and economic risks resulting in a slowdown in foreign investment and aid. The downward spiral will result only in chaos.

This dramatic downturn deeply concerns me, for it undermines all the hard work of Ambassador Quinn and his colleagues in the U.S. Embassy to keep the peace. In my conversations and meetings with them, I was deeply impressed with their conviction and devotion to the Cambodian people. They have made tremendous personal sacrifices. In many cases, their families are unable to join them in Cambodia. Also, they work in facilities that are in dire need of improvements. I saw facilities that would not pass OSHA regulations here in the United States, and it deeply concerns me that our fellow Americans must work in such conditions. Moreover, Embassy staff are at a security risk, for there have been numerous threats against their lives. We should all be extremely proud that this group of devoted people represents us and our interests in Cambodia. They represent the epitome of public service.

It also undermines all of the hard work that the Cambodian people have put in—paid for by their blood, sweat, tears, and untold number of lives. They are amazing. I can honestly say that I have never seen a more inspired and hard working group than the people of Cambodia. Their resilience and perseverance deeply moved me. Over a million Cambodians were killed in one of the bloodiest genocides in history, yet they still persevere. Human and civil rights violations rise, yet they still persevere. Political violence occurs more and more frequently, yet they still persevere.

They persevere because the burning fire of eternal optimism in the face of insurmountable odds resides in the Cambodian people. I saw it in their faces. I heard it in their voices. I felt it in their deeds. They persevere because they have suffered under a totalitarian regime. And now, they have tasted democracy and have seen the shining city on the hill. They look to America and see the nation that Cambodia can be—a nation of freedom and opportunity. They look forward with the hope of a better tomorrow. They have tasted democracy, and they have no wish to go back.

We must reaffirm our commitment to Cambodia by fully supporting our Embassy in Cambodia. We must provide them with the resources necessary to do their job effectively. In the coming months as we consider the annual appropriation bills, I strongly urge my colleagues to consider the situations of our fellow Americans working in the Embassy and our Cambodian friends. Ambassador Quinn and his colleagues are promoting the basic ideals that form the core of our Nation in the great democratic tradition—the ideals that make America the greatest nation in the world. Let us do all that we can to give them the support they deserve.

MEDICAL NUTRITION THERAPY ACT OF 1997

HON. JOHN E. ENSIGN

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. ENSIGN. Mr. Speaker, today I am introducing a bill that will contribute to the improved health and well-being of many Americans. The symptoms and complications related to diseases such as cancer, heart disease, diabetes, kidney disease, and hypertension could be significantly diminished by a change in lifestyle brought about with the help of medical nutrition therapy. Medical nutrition therapy is a service provided by a registered dietitian (RD) or nutrition professional that entails counseling in diet, drug interaction, vitamin therapy, and physical activity. It can improve the quality of life of seriously ill patients while saving health care dollars by speeding recovery, reducing the incidence of medical complications, lowering the number and length of hospital stays, and decreasing the need for drug and surgery treatments. Currently, this treatment is not covered by Medicare, thereby discouraging those who do not want to pay for it out-of-pocket from receiving it.

Today, I am introducing the Medicare Medical Nutrition Therapy Act of 1997 with Congressman JOSÉ SERRANO and Congresswoman NANCY JOHNSON and 98 cosponsors. This bill will provide Medicare coverage for medical nutrition therapy by a registered dietitian or nutrition professional upon the referral of a physician. My colleagues and I have drafted this bill with the intention of changing what is currently a sick care system, which only pays for care when people get sick and sicker, to a health care system which pays to keep people as healthy as possible. It is my hope that this bill will help to save Medicare, and most importantly, to save lives.

We all know we should not wait until we hear a crunching sound under the hood of a car before going in for an oil change. Medicare is paying for the health care equivalent of rebuilding engines, but won't pay for the oil change to prevent it.

IN HONOR OF REGINA RUTKOWSKI: CHOSEN TO BE MARSHALL OF BAYONNE'S CONTINGENT IN THE TRI-STATE PULASKI DAY PARADE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to an exceptional woman, Regina Rutkowski, who was chosen as marshall of Bayonne's contingent to the Tri-State Pulaski Day Parade which will march along Fifth Avenue in New York City on October 20, 1997. Mrs. Rutkowski will be invested with the marshall's sash at a brunch held in her honor on Sunday, April 20 at the Hi-Hat Caterers in Bayonne.

The journey which has led Mrs. Rutkowski to be recognized with this honor began in Poland where she was born to Franciszka and Teodor Razin. Along with her family, the future Mrs. Rutkowski suffered the ravages of World War II. Her father, a noncommissioned officer in the Polish Cavalry, was captured by the Nazis and placed in a concentration camp for 3 years. The family was later relocated to a German labor farm from which Mrs. Rutkowski still can clearly recall the bombardments in this strange country. After the war, her family moved to England where Mrs. Rutkowski's father joined the British Army, becoming a member of the military band. Mrs. Rutkowski acquired a passion for music from her father, an accomplished musician and composer. In her own right, Mrs. Rutkowski is an accomplished artist with numerous works of art to her credit.

Upon her family's arrival in the United States, Mrs. Rutkowski continued her education which culminated with her graduation from Jersey City State College magna cum laude with a perfect 4.0 grade point average. Subsequently, the former Regina Razin met and married Richard a Rutkowski who went on to become mayor of Bayonne from 1990 to 1994. This joyful union produced three children: Richard, Jr. who manages the Hi-Hat Caterers along with his wife Bonnie; Stephen, a chiropractor in Connecticut who is married to Dr. Teresa Rutkowski; and Robert, a graduate of Widener University Law School. Mrs. Rutkowski's family circle is completed by her brother and sister-in-law Thomas and Helen Razin and their two sons Thomas and Richard.

Mrs. Rutkowski has long been an active community member. This extraordinary woman has been a valued member of many Polish-American organizations, including the Pro Arte League of the Kosciuszko Foundation, AMERPOL Club of New Jersey, the Polish-American Heritage Committee of Bayonne, and Bayonne's Third of May Polish Constitution observances. Additionally, Mrs. Rutkowski serves on the Parish Council of Our Lady of Mt. Carmel Church in Bayonne and is a member of the parish's centennial committee and the Mt. Carmen Guild.

Regina Rutkowski is a vivid example of community spirit. It is an honor to have such a caring and dedicated individual in my district working on behalf of her fellow residents of Bayonne.

HONORING TO PATRICK GRIFFIN TANNER

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. HILLIARD. Mr. Speaker, I rise to pay tribute to the late Patrick Griffin Tanner, who tragically died last week at the tender age of 19 in New Orleans. Patrick, a native of Washington, DC, was a tireless worker for the enrichment and betterment of his city, Nation, and world.

In his short, yet tireless and noble life, young Patrick was involved in the Big-Brother program; a volunteer at the Ivymount School; a volunteer at the Chevy Chase Presbyterian Church; he worked in the Special Olympics;

served as a volunteer for housing rehabilitation and disaster relief programs in several States, as well as in rural Virginia and the Anacostia neighborhood of Washington. At the close of his life, he was working in New Orleans for the Habitat for Humanity organization. He was indeed a well-rounded and giving boy.

I knew of Patrick through my efforts as a Congressman to give him advice and encouragement for his desire to enter the U.S. Naval Academy. He would have been a credit to the U.S. Navy.

When I dwell on how tragic it is to lose such a fine, upstanding young man, I must say that of all the benefits which education and virtue confer upon me, the contempt of the death of a young person is one of the greatest.

In composing my remarks for Patrick's tribute, I recalled some remarks by the Roman poet Horace. Horace wrote the following in the year 65 B.C., but it seems as though when he wrote these remarks, he was thinking of Patrick Tanner. Horace wrote:

> The wise man who can command his passions, who fears not want, nor death, nor chains, finally resisting his appetites and despising the honors of the world, who relies wholly upon himself, whose angular points of character have all been rounded off and polished is indeed a free man.

Mr. Speaker, Patrick Griffin Tanner is indeed a free man now. The chains and shackles of this world have indeed been lifted; his spirit has soared, his soul is at rest.

In closing, I send my heartfelt wishes to his parents, John and Nancy Tanner, as well as to his sister, grandparents, relatives, and friends. Patrick will be sorely missed.

"WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION" PROGRAM

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. THOMPSON. Mr. Speaker, I would like to congratulate the Vicksburg High School for winning first place at the State competition of the "We the People . . . The Citizen and the Constitution" program. This organization works to educate young people about the Constitution, the Bill of Rights, and their place in American history and our lives. Over the past 10 years, more than 75,000 teachers and 24 million students have developed a better understanding of their responsibilities as American citizens through participation in this program.

The following distinguished students will be participating in the "We the People . . . The Citizen and the Constitution" national finals which will be held here in Washington on April 26–28: Adrian Brown, Benjamin Bryant, William Campbell, Brian Crawford, Sarah Czaika, Richard Feibelman, Michael Finney, Katherine Flanagan, Stacey George, Beth Hassell, Claude Jarrett, Eric Johnson, David Jones, Quincy Jones, Ormonde Landry, Shelia Lewis, Scott Lovorn, Farrah Martin, Dionne Murphy, Nicole Nixon, Allison Price, Taylor Rowland, Ryan Roy, Amanda Schilling, Anna Sorey, Jason Stewart, Jennifer Sykes, David Thomas, Tonya Tonth, John Vollor, Michael Warren, Emily Weatherly, and Hugh Whitten.

I would also like to recognize their teacher, Sherry Fisher, who deserves much of the credit for the team's success. The district coordinator, Sam Habeeb, and the State coordinator, Lynette McBrayer, also made important contributions to the team's efforts.

These students set an example for responsible American citizens and scholars. They are a great asset to their families, the Second Congressional District, the State of Mississippi, and this Nation. I wish them the best of luck at the national finals.

HONORING BERTHA DAUBENDIEK

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to a dear friend of our environment, Ms. Bertha Daubendiek. On Saturday, April 19, as part of Michigan's Earth Day activities, Ms. Daubendiek will be recognized and honored for her longtime accomplishments in working to preserve our precious natural resources.

After graduating with honors from Grinnell College in 1938, Bertha Daubendiek made Michigan her home, and made activism and voluntarism her new calling. In 1970, her activities prompted both chambers of the Michigan legislature to acknowledge her as one of the States's premier volunteers. As her interest turned to the environment, her commitment to community increased as well. In 1979, Ms. Daubendiek received the Detroit News' Michiganian of the Year Award for her work in the completion of 50 nature preservation projects. In 1994, Ms. Daubendiek was inducted into the Michigan women's Hall of Fame.

Some of Ms. Daubendiek's most significant work has been as founder and executive director of the Michigan Nature Association. This unique group of individuals have banded together and created preserves in 51 of Michigan's 83 counties, enhancing the State's natural beauty. They have performed this task without using a penny of taxpayer funds. In addition to this, Ms. Daubendiek is the author of Michigan's natural beauty road law. Passed in 1970, the law is responsible for the preservation of more than 800 miles or roadside habitat.

If you drive around the great State of Michigan, you may notice new license plates on some of our automobiles that display the saying, "Great Lakes Splendor." I believe this statement is true because of the efforts of people like Bertha Daubendiek.

Mr. Speaker, it is indeed an honor and pleasure for me to rise today to pay tribute to a true environmental hero, Bertha Daubendiek. She is an inspiration to me and countless others who work to protect our precious environment.

INTRODUCTION OF H.R. 1362—VETERANS MEDICARE REIMBURSEMENT DEMONSTRATION ACT OF 1997

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. EVANS. Mr. Speaker, today I have joined with Congressman STUMP, many of the Republican and all of the Democratic members of the Veterans' Affairs Committee to introduce the Veterans Medicare Reimbursement Demonstration Act of 1997. This strong show of support by so many members of the committee clearly indicates the high priority my colleagues and I give this legislation.

For some time our committee has been exploring the intra-government transfer, or subvention, from Medicare to VA. This year the committee began the process at the urging of veterans and the Veterans Health Administration. Veterans wanted to gain access to the veterans health care system. VA felt it was in their best interest to explore nonappropriated funding as a growing part of their resource base.

VA has submitted a budget during this session of Congress that identified VA collecting and keeping funding from the Medicare trust funds for treatment of certain Medicare-eligible veterans. This is a critical part of the strategy VA has outlined for its future. The Independent Budget, an assessment of veterans programs' resource needs written by four of the major veterans' service organizations and sponsored by many more, also endorses the concept of using Medicare funds in VA.

I am convinced the Veterans Medicare Reimbursement Demonstration Act of 1997 we are introducing today offers the best and the most risk-free way of exploring the viability of this funding option for both VA and for Medicare. This bill does not propose VHA develop a new managed care system tailored to treating a new population of veterans. Instead, it provides VA the opportunity to offer the services it has available to treat aging veterans who might not otherwise receive this care. This will allow VA to limit its care responsibility for new veterans to the services and capabilities that it has available right now.

In addition, the demonstration project authorized by this legislation is time- and site-limited. There are additional safeguards in place to ensure that the Medicare trust fund will not spend any additional funding for veterans who choose VA as a health care provider.

The veterans that this bill will affect are lower and middle-income veterans—some of whom have lost access to VA health care services as constrained resources have compelled VA to stop treating so-called discretionary veterans. VA will receive no funding from Medicare for veterans who are receiving care in VA medical centers today.

We believe that our bill creates opportunities for everyone involved to benefit. The Medicare trust funds have a chance to save money because VA will discount Medicare's rates for providing care to the new Medicare-eligible veterans it will treat. Specifically, Medicare would receive a mandatory 5-percent discount on its reimbursement for services provided to eligible veterans in VA. For this reason, it is our strong view that this bill will produce savings for the Medicare trust funds.

VA will benefit by opening its doors to care for new veterans. Most importantly, veterans will benefit by having a new choice of health care provider.

I hope that my colleagues will view this bill, not just as a bill good for veterans, but as an opportunity to help preserve Medicare for older Americans as well.

TRIBUTE TO TUFTS UNIVERSITY TUFTONIA'S DAY 1997, APRIL 21, 1997

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. MARKEY. Mr. Speaker, I rise today to recognize Tufts University in Medford, MA and to honor the more than 78,000 alumni who this Monday, April 21, 1997, will turn their attention to their alma mater in celebration of the 13th annual Tuftonia's Day.

Tuftonia's Day is a gathering of students, alumni, professors, administrators, and parents to celebrate the achievements of the Tufts community. This community extends not only to the campuses in Medford, Boston, and Grafton, MA, but also as far away as the campus abroad in Talloires, France. Students and graduates of Tufts live in more than 100 countries around the world. Tufts is truly a world-class institution of higher education. Tufts University strives to instill in all its students, from undergraduate through the professional degree program, the importance of volunteerism and the need to give something back to one's community.

For this reason the focus of this year's Tuftonia's Day is again TuftServe. The purpose of this is to highlight and show appreciation for the volunteer work that the alumni of Tufts have contributed to their local communities. In fact, Tufts alumni logged over 218,915 hours of community service last year. This outstanding record should stand as an inspiration to us all. I congratulate the alumni of Tufts University for their commitment to the community and loyalty to their alma mater.

TAX LIMITATION CONSTITUTIONAL AMENDMENT

SPEECH OF

HON. MICHAEL F. DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. DOYLE. Mr. Speaker, I rise today to voice my opposition to House Joint Resolution 62 as it was considered on the floor of the House of Representatives earlier this week. Although the House considered related legislation, House Joint Resolution 159, during the 104th Congress, the differences between these two measures is substantial. House Joint Resolution 159 would have required a supermajority in Congress to approve any bill which would raise Federal revenue. This year, however, the House leadership decided to include an exception to this rule. While I agree there may have been a need to provide for exemptions to the supermajority requirement, I believe the leadership should have excluded measures which would close tax loopholes or eliminate corporate welfare provisions from the Internal Revenue Code. Unfortunately, House Joint Resolution 62 did not address either of these possibilities.

Instead, the resolution was specifically altered to allow for a change in the Tax Code which would overwhelmingly benefit the wealthiest 1 percent of families in the United States. The night before this measure was considered on the floor, Members of the House leadership drafted language which would, in effect, exempt legislation designed to modify capital gains tax rates.

As a result, House Joint Resolution 62 would have made it more difficult for Congress to cut out corporate welfare, while making it easier to enact tax programs that would disproportionately benefit the wealthiest Americans. When House Joint Resolution 159 was considered during the 104th Congress, it did not contain this glaring inequity, and I was able to support it. However, this is clearly not the same initiative we considered a year ago.

I believe it is crucial that Members of Congress commit themselves to eliminating the budget deficit and crafting a fair and equitable Tax Code. Certainly, an income tax hike is no way to accomplish these goals. House Joint Resolution 62, as it was first drafted, was a well-intentioned initiative, designed to protect the American public from such an increase. However, in the end, it became a disfunctional, inequitable measure which could have obstructed our path toward these objectives. I am pleased the House defeated this measure, and I urge my colleagues to turn their attention to eliminating unwarranted revenue subsidies and putting our Nation's financial house in order.

SALUTE TO CLEVE McDOWELL

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. THOMPSON. Mr. Speaker, I rise today to honor the late Dr. Cleve McDowell who was born to the late Mr. and Mrs. Fudge McDowell on August 6, 1941, in Drew, MS. Dr. McDowell departed this life on Thursday, March 13, 1997, leaving a proud legacy as a mentor, civil rights leader, and community activist.

He received his early education in the Drew (MS) Public School system where he served as class president, editor of the school newspaper, captain of the debating team, and a member of several varsity sports teams.

Dr. McDowell was an honor graduate of Jackson State University in 1963, and had done further study on the graduate level during the 1970's. While at Jackson State University, he worked as a student assistant under the last Medgar Evers (1962–63). He became the first African-American student to attend a white graduate school in Mississippi by enrolling in the University of Mississippi Law School with the aid of a Federal Court Order and the U.S. Army troops in June 1963. He later enrolled in Texas Southern University Law School in Houston, TX, where he became president of the Student Bar Association and received several merit awards. He later worked on the field staff for the Mississippi State Conference (1964). Dr. McDowell left the Mississippi Field Staff to join the staff of the Chicago Branch of the NAACP and served on committees of the National Youth Work Committee of the NAACP, where he worked in employment, voter education registration, fund raising, and community development.

He served as staff consultant to the Cook County Department of Public Aid (Chicago). He also served as personnel director-program analyst for Coahoma Opportunities, Inc., of Clarksdale, MS. In April 1969, McDowell joined the Mississippi Head Start Training Coordinating Council as its executive director. In October 1973, he joined the Governor's Office of Human Resources and OEO as the Head Start coordinator for the State of Mississippi. In May 1974, McDowell became associate director of the Mississippi Bar Legal Services Program where he served until he started his private practice of law in Drew, MS, in 1975. In addition, he served as managing attorney for the North Mississippi Rural Legal Services in Clarksdale, MS, from 1977 to 1979; served as a member of the Mississippi State Penitentiary Board of Directors (1971–76); and was elected to serve as Tunica County Judge (1978–82).

He was a member of the Mississippi State Bar Association, the American Bar Association, and the Magnolia Bar Association. He was admitted to practice in the Northern and Southern United States District Courts, Fifth Circuit U.S. Court of Appeals and the Eleventh Circuit U.S. Court of Appeals.

Dr. McDowell was an active member of Epsilon Xi Lambda Chapter of Alpha Phi Alpha Fraternity and was worshipful master of Drew Lodge No. 6 of the Most Worshipful Stringer Masonic Grand Lodge (Prince Hall) of Mississippi. He was also a member of the Knights Templars Royal Arch, a 32d Degree, and Shriner Masonic units.

Dr. McDowell was the senior pastor of the Greater Holly Grove Missionary Baptist Church of Drew, MS, and chairman of the Sunflower County, Democratic Party. He also served as the public defender for Sunflower County, MS. He was also a former member of the board of alderman and past vice-mayor of the city of Drew, MS.

Mr. Speaker, I ask you to join me and the civil rights community in saluting Dr. Cleve McDowell for his outstanding contributions to this Nation.

INTRODUCTION OF LEGISLATION

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. LEVIN. Mr. Speaker, over the past two decades, college tuition costs have skyrocketed by over 200 percent while median household income increased by just 82 percent.

Increasing college tuition has caused many students to rely more and more on college loans and other forms of aid to finance their way through college. The average student loan has risen from $518 in 1980 to $2,417 in 1995. In total, student loan debt has reached an all time high of $24 billion.

Education is a high priority, and we have to find other ways to finance it besides sinking our children into debt. That's why I am introducing this bill that would allow families to exclude from income tax any educational assistance provided by their employers toward the education of their children.

Several companies have already taken the lead in providing this kind of assistance. for example, General Motors [GM], Ford Motor Co., Chrysler Corp., and the United Auto Workers [UAW] have developed the Scholarship Program for Dependent Children. Under GM's program, the auto maker will provide up to $1,000 annually in tuition assistance for each dependent child of active, retired, or deceased GM workers who are pursuing postsecondary education or training.

We need to encourage this kind of employer-employee partnership to meet the needs of working Americans without expanding the size of Government. This legislation would do just that.

Mr. Speaker, I urge my colleagues to cosponsor this bill and support employer-employee cooperation in education.

MINNECHAUG GIRLS BASKETBALL TEAM WINS STATE CHAMPIONSHIP

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. NEAL of Massachusetts. Mr. Speaker, I rise today to congratulate the Minnechaug Regional High School girls basketball team on winning the Massachusetts Division I championship.

Throughout the season, these young women's positive attitude distinguished them from their competition. On the way to 23 victories and only 2 defeats, their teamwork, selflessness, and the courage to never give up, propelled their success. Game after game, they rallied to victory after disappointing starts. This is the hallmark of a championship team.

In winning their first State championship, first western Massachusetts championship, and the first championship by any western Massachusetts team in 4 years, I commend them. This is a milestone achievement. I hope that the members of the team, coach Dave Yelle, and the Minnechaug Regional High School community know that all of us in the second district join them in taking pride in their season. Congratulations, Falcons.

KILDEE SALUTES CESAR CHAVEZ AWARDS CEREMONY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. KILDEE. Mr. Speaker, I rise before you today to pay tribute to an outstanding leader, whose efforts have helped improve the lives of all Hispanics. Cesar Chavez has been immortalized in my home town of Flint, MI.

On April 19, 1997, the Labor Council for Latin American Advancement Flint/Genesee Chapter will hold the Third Annual Cesar Chavez Awards Ceremony. The day will begin with a "March for Justice" which will take place on Cesar Chavez Drive in Flint, MI. The march will pay tribute to 20,000 strawberry workers and also honor the memory of Cesar Chavez and the 10th anniversary of the naming of Cesar Chavez Drive in Flint, MI.

It is with great pride and admiration that I will honor Cesar Chavez and the legacy he has left behind for all Americans to follow. Cesar Chavez fought for many of the same ideals and human rights that I have fought for during my tenure in the U.S. House of Representatives. Cesar Chavez worked selflessly to create a foundation for future generations of Hispanics to build upon.

Therefore, it is reassuring to see the Hispanic community in Flint carrying on the work that Cesar dedicated his life to. It will be an honor for me to welcome Richard Chavez to Flint, MI on April 19, 1997. Richard Chavez is the brother of Cesar and is currently an executive board member of the United Farm Workers.

Mr. Speaker, it is indeed an honor and a pleasure for me to rise today before my colleagues in the U.S. House of Representatives to pay tribute to Cesar Chavez and all American workers who continue to fight for equal rights for all people.

SALUTE TO REPRESENTATIVE WILLIAM "BILL" RICHARDSON

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. THOMPSON. Mr. Speaker, I rise today to honor the late Mississippi [MS] State Representative William "Bill" Richardson who was born December 26, 1951, in Indianola, MS.

Mr. Richardson suddenly departed his life on Tuesday, March 25, leaving a proud legacy as a husband, father, educator, community activist, and public servant. He was the faithful husband to Doris and the loving father to Hope and Tiffany. Words cannot describe the dedication and devotion he showed to his wonderful family.

He received his early education in the Sunflower [MS] County Public Schools and received a bachelor's degree from Mississippi Valley State University [MVSU] and did post graduate work at both MVSU and the University of Southern Mississippi.

Mr. Richardson served almost 20 years as an educator in the Indianola [MS] School District where he taught Social Studies and Civics. In 1992, after an active career in the Sunflower County community he was elected to the Mississippi State House of Representatives. While serving in the Mississippi Legislature he was appointed to the Committee on Education, the Committee on Agriculture and the Joint Legislative Parole Commission. During the 1995 Legislative Session, Representative Richardson was elected Sergeant-at-arms of the Mississippi Legislative Black Caucus.

During his illustrative career, he remained active in the Mississippi Association of Educators, he National Educators Association, the Indiana Association of Educators, the Board of Directors for Delta Housing, the National Association for the Advancement of Colored People, the Rasberry United Methodist Men's Club, and the Sunflower County Chapter of the MVSU Alumni Association.

Mr. Speaker, I ask you to join me in honoring a devoted husband, father, and public servant for his outstanding contributions to the State of Mississippi.

IN SUPPORT OF H.R. 607: HOMEOWNERS INSURANCE PROTECTION ACT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. GILMAN. Mr. Speaker, I rise today in support of the Homeowners Insurance Protection Act which will amend the Truth in Lending Act and stop the abusive practice of overcharging homeowners for private mortgage insurance.

Private mortgage insurance has given millions of Americans the opportunity to become homeowners. This is a valuable service that mortgage industry provides; however, most homeowners are unclear about their rights under this insurance. Many Americans believe that private mortgage insurance insures them, when, in fact, it insures the lender while the homeowner pays the premium. As the practice stands, homeowners who have paid off 20 percent of their loan no longer need the insurance, but they do not realize it and continue to pay the premium throughout the life of their mortgage. In some cases, 20 to 30 extra years of payments. For an individual who pays $350 per year on a 30-year mortgage, that can mean paying an extra $7,000 to $10,000 of unnecessary premiums.

This legislation will bring about two simple reforms. It will require full disclosure of a homeowners' right to cancel the insurance once they have down 20 percent on their home. It will also require the mortgage lenders to inform consumers at least once a year of their cancellation rights. Both of these requirements must be provided by the creditor at no extra cost to the consumer.

This bill will protect the rights of homeowners from overpaying unnecessary premiums while maintaining the important role of private mortgage insurance in promoting home ownership. Accordingly, I strongly urge my colleagues to join me in supporting this important legislation.

TRIBUTE TO CIVIL SERVANTS ON THE 2-YEAR ANNIVERSARY OF THE OKLAHOMA CITY TRAGEDY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. HOYER. Mr. Speaker, on Saturday, April 19, 1997 we mark the 2-year anniversary of the Oklahoma City bombing, one of the most reprehensible tragedies in our Nation's history. I rise today to pay tribute to the fallen Federal workers and the other victims who perished in an event that continues to tug at the heart strings of the entire Nation.

The cowardly and meaningless act of terrorism against the civil servants and children in the Alfred P. Murrah Federal building has touched off a 2-year period of national soul-searching and introspection. Many of the victims families are attempting to move forward in their lives. In fact, the mother of Baylee Almon, whose limp body in the arms of a firefighter became the symbol of the heroism and heartbreak of the bombing, was recently married and is taking steps to move beyond her daughter's death.

We lost many of these fine men and women 2 years ago and I want to once again extend my heartfelt sympathies to all of their families, their friends, their coworkers, their neighbors, and those they serve. As the old saying goes, "time heals all wounds"; but, the Oklahoma City tragedy will require significantly more than 2 years to diminish the effect it has had on the entire country.

Mr. Speaker, it has long been my view that Federal workers are one of our Nation's greatest assets. As President Lyndon Johnson once noted:

> So very much of what we are as a Nation—and what we are to achieve as a people—depends on the calibre and character of the Federal career people. In no other endeavor can you more directly serve our country's cause—or the values on which we stand—than in the public service.

Mr. Speaker, the people we lost in the bombing were not nameless faceless bureaucrats, and, Mr. Speaker let me be perfectly clear and to the point—I get angry over those who would denigrate our civil servants. All too often it is the prevailing habit of this body to attack the character and devotion of our Federal employees. Mr. Speaker, we must stop the senseless scapegoating and needless bashing of our civil servants.

Yes, there are nonperformers, just like there are at corporations and factories across our country. But, Mr. Speaker, the great majority of these men and women are Americans with a deep love for their Nation who, in many cases, have bypassed more lucrative careers to serve their fellow citizens.

Federal employees play an integral, albeit often invisible role in our daily lives. Federal employees make sure that our senior citizens get their monthly Social Security checks and that our veterans get the care and treatment they need. Federal employees are responsible for printing our money and insuring it when we make deposits at the bank. Federal employees protect our borders and make sure the food we eat is safe. The bottom line is that Federal employees devote their days, and often their nights, to ensuring that our Government and our country is a better place to live.

So, as we pay tribute to the victims and survivors of the Oklahoma City tragedy, I urge my colleagues and my fellow Americans to give great care and thought to those who would criticize our Federal Government. Yes, you get angry at the IRS; yes, you may get angry at law enforcement officials, but do not allow that anger to be directed at individuals. Let it be directed at policy. Let us all be a civil society and strive to make America the great Nation we all know it can be.

TRIBUTE TO RICHARD HENDRICKSON

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. FORBES. Mr. Speaker, I rise today to pay tribute to Richard Hendrickson of Bridgehampton, Long Island, NY, an esteemed and accomplished meteorologist who has been bestowed the 1997 Albert J. Myer Award for a career of dedicated service to the National Weather Service.

Mr. Hendrickson is an exceptional and worthy recipient of this honor, named for Brigadier General Myer who founded the National Weather Service in 1870. For 67 years, Mr. Hendrickson has provided an unbroken tenure to the National Weather Service, which operates a forecast facility at Brookhaven National Laboratory in Upton, Long Island.

During his highly distinguished career, Mr. Hendrickson has been awarded numerous honors by the National Weather Service for his accomplishments as weather forecaster. These prestigious awards include the Helmut E. Landsberg Award, named for the father of modern climatology; the Thomas Jefferson Award, named for America's third President who, among his many talents, was an accomplished weather observer; and the Edward H. Stoll Award, given to weather observers with 50 years of service.

Mr. Hendrickson is so clearly worthy of the many professional honors and recognitions bestowed upon him. He is also deserving of the personal gratitude of all Americans for a lifetime of superior service to the study of weather observation. Mr. Hendrickson's efforts have broadened our understanding of the science of weather observation, and has contributed greatly to the ability of all meteorologists to forecast the force of powerful weather systems. Thanks to the efforts of Mr. Hendrickson and weather observers like him, many lives have been saved because our neighbors have been able to take precautionary actions before destructive hurricanes or blizzards have struck their communities.

Mr. Speaker, I ask my colleagues in the U.S House of Representatives to join me in offering our collective praise and gratitude to Richard Hendrickson for his 67 years of dedicated, accomplished service to the National Weather Service.

ACT TO SAVE AMERICA'S FORESTS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mrs. MALONEY of New York. Mr. Speaker, as a New Yorker, I feel strongly about a former New York Governor, Teddy Roosevelt's legacy: The National Forest System; 95 percent of America's forests have been cut down, just 5 percent remain standing—which is owned by the American people.

The practice of clearcutting forests and even aged logging is destroying one of America's most beloved resources.

It not only upsets the forest ecosystem by draining the soil of important nutrients. It weakens the land—creating the potential for dangerous mud slides.

The poor policing of loggers is also threatening the existence of the American grizzly bear, salmon, and common song birds.

Our legislation will:

Prohibit clear cutting and even aged logging and other abusive practices on Federal land.

Change the mission of the Forest Service by setting it up as the enforcement agency for preserving plants and animals native to forests. It actually requires the Forest Service to repair past damage either by program or by allowing the forest to heal itself.

And it brings Americans into the enforcement fold by providing rewards for citizens who report violations.

In America right now—Less than 6 percent of the original forests are still standing.

In the lower 48 States just 1 percent remain.

This legislation doesn't cost much—but it can save 100's of millions in road building subsidies.

The Act of Save America's Forest will effectively shift the focus of the forest management of Federal lands from corporate profit, to protection and nurturing of our rare and natural resources.

THE JOSEPHINE BUTLER UNITED STATES HEALTH SERVICE ACT

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. DELLUMS. Mr. Speaker: I rise to honor the memory of Josephine Butler by introducing the Josephine Butler United States Health Act. This legislation is named after a heroic African-American fighter who lived in this Nation's Capital. The Josephine Butler United States Health Service Act seeks a comprehensive, universal national health care system based on health care for people, not profits; on community control of health care, not corporate control; commits to the proposition that a health care system in the richest Nation in the world should be available to everyone living in this Nation, and that such a health care system must be dedicated to the whole person, their family, and their community.

Josephine Butler was a holistic activist, whose passion and tireless energy encompassed not only health care but statehood for the District of Columbia, the environment, the trade union movement, women's rights, the welfare of children, the arts, peace and justice for all nations, and neighborhood parks. Josephine Butler, called by some the Harriet Tubman of the District of Columbia, a founder and former chairperson of the D.C. Statehood Party, was guided by a fierce commitment to the right of self-determination for all peoples. Ms. Butler brought the D.C. statehood movement to people across the United States and to the United Nations.

Josephine Butler was an international and a courageous peace activist. She was founder of the D.C. chapter of the Paul Robeson Society, and a founder of the World Congress of Peace. Her concern for peace was worldwide—from the former Soviet Union, to the island of Grenada, the Middle East, South Africa, and back to the District of Columbia. In 1994 Ms. Butler received the National Partnership Leadership Award from President Clinton for the work she had done in transforming the once crime-ridden Meridian Hill/Malcolm X Park into a place of beauty. Her work as cochair of the Friend of Meridian Hill led the President to cite the group as a "shining example for the nation" of what community activism can accomplish.

Johsphine Butler, born January 24, 1920, moved to Washington, DC, seeking medical treatment for typhoid fever as a young girl from the Brandywine area of Prince George's County where her father had been a sharecropper. She began working in a laundry and took the lead in organizing laundry workers in the D.C. area into a union. She remained involved in union activities, committed to the rights of workers for the rest of her life.

In the late 1950's and early 1960's, Jo Butler was incapacitated with tuberculosis. Upon recovery, she became a volunteer for the D.C. Lung Association, and then the association's community health educator, where she worked from 1969 to 1980. Her deep commitment to adequate health care for all led her to serve as a founding board member of the Committee for a National Health Service formed in the 1970's. She died on March 29, 1997, but remains alive in our hearts, supporting our efforts to achieve universal health care for this great Nation.

INTRODUCTION OF THE EMPLOYMENT, TRAINING, AND LITERACY ENHANCEMENT ACT OF 1997

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. McKEON. Mr. Speaker, today I am joining the distinguished chairman of the Committee on Education and the Workforce, Mr. GOODLING, and the ranking Democrat on the Postsecondary Education, Training, and Life-Long Learning Subcommittee, Mr. KILDEE, to introduce important, bipartisan legislation to reform this Nation's fragmented and duplicative array of employment, training, and literacy programs. The Employment, Training, and Literacy Enhancement Act will consolidate over 70 Federal programs through the establishment of three block grants to States and localities for the provision of employment, training, and literacy services, and through amendments to the Rehabilitation Act of 1973.

The bill would accomplish key reforms in this country's job training system by building on the three principles of individual choice; quality training for the 21st century; and the transfer of resources and authority for employment, training, and literacy programs to States and local communities. By amending, consolidating, and improving existing programs established under the Job Training Partnership Act [JTPA], the Adult Education Act, the Wagner Peyser Act, and other statutes, we hope to build on the many positive reforms that are already underway in States and local communities, while encouraging further reform and breaking down barriers to State and local program integration.

The three block grants that are established under division A of the bill would comprise each State's employment, training, and literacy system—an adult employment and training opportunities grant; a disadvantaged youth employment and training opportunities grant; and an adult education and family literacy grant. While the legislation separately amends the Rehabilitation Act of 1973, vocational rehabilitation programs are not block granted with job training.

Specifically, title I would drastically reform the current JTPA State and local delivery structure, as well as its fiscal and performance accountability provisions. The bill provides maximum authority to States and localities in the design and operation of their individual employment, training, and literacy systems. We reduce administrative requirements, paperwork, duplicative planning, reporting, and data collection requirements and eliminate bureaucracy throughout the system. At the State level, Governors would pull together representatives of the State legislature, key State agency heads, and leaders from business, local communities, and others to develop a single State plan and performance measurement system for the three block grants and for programs authorized under the Wagner-Peyser Act. Governors are also asked to designate work force development areas throughout the State, for the distribution of funds and service delivery under much of the system.

To ensure the involvement of employers in the design and implementation of local systems, the bill requires the establishment of local, employer-led, work force development boards. These boards would provide policy guidance and oversight over local systems, and would be responsible for the establishment of local full-service employment and training delivery systems—easily accessible single points of entry into the employment and training system. Local elected officials would continue to play an important role in the development and implementation of the local system.

Title II of the bill amends JTPA by merging its existing nonschool-based summer employment and year-round programs—resulting in the disadvantaged youth employment and training opportunities block grant. The main focus of reform under this block grant is to increase the focus of these programs on longer term academic and occupational training, rather than short-term employment fixes—requiring that all employment experiences under these programs be tied to academic and occupational learning opportunities. Under the bill, communities may continue to carry out programs such as summer youth employment, if linked to additional learning opportunities. The block grant is designed to result in improved academic and occupational opportunities for disadvantaged youth in the community, as well as completion of high school, or its equivalent, and other positive results such as placement and retention in employment, or continuation into postsecondary education or training. States and localities would also be required to show how the hardest to serve disadvantaged youth are served within their programs.

Title III of the bill would amend the current adult employment and training programs authorized under JTPA by establishing a single delivery system for all adults, that maximizes individual choice in the selection of occupations and training providers. The bill encourages an employment first approach to job training—providing training services to individuals who are unable to obtain initial employment, or employment that will lead to self-sufficiency, through core services and intensive job search assistance. With limited exceptions, training services for adults would be provided through the use of vouchers—referred to as skill grants in the bill—distributed through an easily accessible full-service employment and training delivery system. While a single employment and training system would be established through this block grant, funding for dislocated workers would remain protected. States would continue to be required to use State reserve funds to provide rapid response assistance—for dislocated workers—and additional assistance to areas that experience substantial worker dislocation. The bulk of funding under the adult training system would be sent to local work force development areas for the establishment of full-service employment and training delivery systems; provision of core or up-front services through the full service system; provision of intensive services; and the provision of training services. Not only will this legislation result in improved services to dislocated workers, but it will also result in enhanced services provided to welfare recipients who must make the transition from welfare to work.

Title V of the bill amends the current Adult Education Act and the National Literacy Act, consolidating numerous categorical programs into a block grant to the States. While this title is maintained as a separate act, adult education and literacy programs share planning and performance provisions with the job training system, pulling adult education and family literacy programs into the broader system. This is particularly important because a large number of under-and unemployed individuals will need to improve their literacy skills before they can participate in job training programs.

The legislation requires States to send 85 percent of available funds to a variety of local service providers to be used for adult education programs, English as a second language programs and family literacy programs. All set asides and caps have been removed, allowing States to use the funds to meet the unique literacy needs of their citizens. The bill contains continued authorization for the National Institute for Literacy and for national activities conducted by the Department of Education.

In the area of vocational rehabilitation, the bill amends the Rehabilitation Act of 1973 by extending its authorization through 2000. It also makes some minor substantive changes to the law that promote consumer choice and promote State agency accountability. The amendments would create a limited written plan at the option of the person with a disability. This alternative to the statutorily required individualized written rehabilitation plan, would allow individuals with disabilities who know what they are seeking from the vocational rehabilitation system to obtain it without wasting unnecessary paperwork and time. Other changes include a shift of current State plan requirements to standard and indicators, allowing agencies to focus on definable indicators instead of malleable process monitoring; and a deletion of a number of out-of-date and unnecessary State plan obligations. Finally, the amendments also repeal 25 programs authorized by the act for which Congress has never appropriated funds.

The skills of this Nation's work force are more important today than ever before—both to American workers and to U.S. competitiveness. However our current patchwork of Federal programs is not the answer. The Employment, Training and Literacy Enhancement Act is a first, important step in addressing our long-term work force preparation needs by helping States and local communities to make sense out of our current confusing array of training programs. I thank our distinguished chairman for his insight and leadership on this vital issue, and I thank the ranking Democrat Member of our Subcommittee, Mr. KILDEE, for his valuable input in development of this legislation. I invite all of my colleagues to join with us in this dramatic effort to overhaul our current employment, training, and literacy programs.

VETERANS COLD WEATHER INJURY COMPENSATION ACT

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Thursday, April 17, 1997

Mr. SMITH of New Jersey. Mr. Speaker, today I have introduced legislation that will assist disabled veterans who were exposed to extremely cold weather conditions for prolonged periods of time while defending our nation during World War II and the Korean war, and more recently while serving in the peacekeeping mission in Bosnia. In fact, Mr. Speaker, veterans of the Battle of the Chosin Reservoir in Korea are recognized as having suffered especially high rates of severe cold injuries.

In many instances, service members did not seek or were unable to obtain medical care after cold injuries because of battlefield conditions, which impeded the ability of veterans to acquire supporting documentation, such as buddy letters, which are often used to support claims to the Veterans Administration. For too long, our Government has failed to recognize the severity of the injuries suffered by these veterans, and this legislation will help to right that wrong.

Mr. Speaker, my bill instructs the Secretary of Veterans Affairs to create and maintain a registry of veterans exposed to extremely cold weather for a great length of time. It will use that information to analyze all clinical data obtained by the Department of Veterans Affairs in connection with exams and treatment given to veterans that may help in determining what kind of association there is between the disability and the cold weather. In addition, if a veteran suffers from a cold weather injury after serving in a war or battle that was fought in prolonged, extreme weather circumstances, it would be presumed—for the purpose of disability benefits—that the injury was caused by the severe weather.

Veterans from all over New Jersey, and the Nation, have been requesting that we provide a simplified process of recognizing and identifying this service-connected affliction, which has been ignored for far too long. We have the moral obligation and duty to ensure that our veterans are cared for when injuries and disabilities result from war and service to our country.

Mr. Speaker, I would also like to take this opportunity to thank Larry St. Laurent, director, and John Dorrity, assistant director, of the Ocean County Veterans Service Bureau, for their hard work and assistance in writing the Veterans Cold Weather Injury Compensation Act.

I would urge all of my colleagues to please consider supporting this bill.

INTRODUCTION OF THE SAVER ACT

HON. HARRIS W. FAWELL

OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Thursday, April 17, 1997

Mr. FAWELL. Mr. Speaker, I am very pleased to join with my colleague DONALD PAYNE, the ranking Democrat on the Employer-Employee Relations Subcommittee, as well as 25 other Democrats and Republicans from across the political spectrum, in introducing bipartisan legislation addressing a critical national problem: the lack of individual retirement savings.

America faces a ticking demographic time bomb that requires increased retirement savings. Today we introduce the Savings Are Vital to Everyone's Retirement Act of 1997, the SAVER Act, as a first step in defusing the retirement time bomb. The SAVER Act initiates projects to educate American workers about retirement savings and convenes a National Summit on Retirement Savings.

Through this bill, we hope to facilitate a public-private partnership to educate the public on this serious and underreported national problem. Workers need to know the importance of saving for the future, and of saving as soon as possible. As a survey released this year by the Employee Benefit Research Institute [EBRI] reveals, there is much work to do. Less than a third of Americans have even tried to calculate how much they need to have saved by retirement. Furthermore, less than 20 percent are very confident they will have enough money to live comfortably throughout their retirement. Far too few Americans—particularly the young—have either the knowledge or the resources necessary to take advantage of the extensive benefits offered by our retirement savings system.

We know the old adage that you feed someone for life by teaching them to fish. We need to apply this principle to retirement savings. The same EBRI survey found that while only a quarter of workers expressed confidence in their ability to map out a retirement savings strategy, an encouraging 50 percent said they would stick to a plan if they had one. We must find ways to get the information and skills out to workers to harness this latent energy.

The SAVER Act directs the Department of Labor [DOL] to maintain an ongoing program of education and outreach to the public through public service announcements, public meetings, creation of educational materials, and establishment of a site on the Internet. The information to be disseminated will include a means for individuals to calculate their estimated retirement savings needs, a thorough description of the types of retirement savings arrangements currently available to both individuals and employers, and an explanation for employers, in simple terms, of how to establish different retirement savings arrangements for their workers.

The SAVER Act also convenes a National Summit on Retirement Savings at the White House, cohosted by the executive and legislative branches, to be held by April 15, 1998, and again every 4 years thereafter. The National Summit would advance the public's knowledge and understanding of retirement savings and facilitate the development of a broad-based, public education program; identify the barriers which hinder workers from setting aside adequate savings for retirement and impede employers, especially small employers, from assisting workers in accumulating retirement savings; and develop specific recommendations for legislative, executive, and private sector actions to promote retirement savings among American workers.

The national summit would bring together experts in the fields of employee benefits and retirement savings, key leaders of government, and interested parties from the private sector and general public. The delegates would be selected equally by the majority and minority leaders of the two Houses of Congress and would represent the diversity of thought in the field without regard to their political affiliation. The national summit would be largely funded through the existing educational appropriations for the DOL and by contributions from the private sector.

The lack of adequate retirement savings will only become a more pressing problem as the baby boomers begin to retire. It does not take a mathematician to recognize that in the future retiring Americans will have to rely less on Social Security and more on pensions and other personal savings. But make no mistake, we have known of this problem for a long time. Sixteen years ago President Carter's Commission on Pension Policy reported that a serious crisis existed in our retirement income programs, and that baby boomers will place severe strains on an already overburdened system. It's 16 years later and the problems have only gotten bigger as they have come closer. The American people can afford to wait no longer.

I hope that the SAVER Act can be a first step in a truly bipartisan effort to reverse the long course of neglect of this vital issue, and help American workers better prepare for a comfortable and secure retirement.

HONORING THE CONTRIBUTIONS AND SACRIFICES BY THE MEN AND WOMEN OF THE U.S. SPECIAL OPERATIONS COMMAND

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. SKELTON. Mr. Speaker, today I ask all Members of the House to join me in honoring the limitless contributions, valorous acts, and tremendous sacrifices demonstrated daily by the men and women of the U.S. Special Operations Command [USSOCOM]. As we observe the 10th anniversary of the creation of USSOCOM, we should make note of the unique military capability provided to our National Command Authority.

The immeasurable achievement of USSOCOM since its birth—a scant 10 years ago—is testament to the vision, forethought, and dedication of those who have come before us in service of our Nation. We should also recognize the work of our former colleagues Sam Nunn, Bill Cohen, and the late Dan Daniel, effort essential for the existence of this command. Their efforts led to passage of the Nunn-Cohen amendment to what is known as the Goldwater-Nichols Defense Reorganization Act.

The special operators of USSOCOM—"the quiet professionals"—are truly dedicated men and women. They provide a unique, unmatched, and necessary capability to our Nation in the areas of contingency response, counterterrorism, and unconventional warfare. Whether conflict erupts in Panama, Southwest Asia, Somalia, Liberia, Haiti, Bosnia, or some other unnamed site around the globe, we should gain comfort knowing they stand ready to serve our national security objectives. I hope my colleagues can join in recognizing their tradition. God bless them all.

LEGISLATION TO CLOSE A CORPORATE TAX LOOPHOLE

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. ARCHER. Mr. Speaker, several recent news reports describe corporate acquisition transactions in which one corporation distributes the stock of one—or more—of its subsidiaries to its shareholders in a so-called spinoff and, pursuant to a prearranged plan, either the distributed subsidiary or the old parent corporation is acquired by another, unrelated corporation. Often, the corporation that is to be acquired borrows or assumes a large amount of debt incurred prior to the spinoff, while the proceeds of such indebtedness are retained by the other corporation.

For Federal income tax purposes, taxpayers take the position, and the IRS apparently rules, that the initial distribution is tax-free pursuant to section 355 of the Internal Revenue Code and the subsequent acquisition is tax-free pursuant to one of the various reorganization provisions described in section 368. Such positions are consistent with the holding in the case of *Commissioner* v. *Mary Archer W. Morris Trust,* 367 F.2d 794 (4th Cir. 1966) and published IRS rulings.

Congress did not intend that section 355 apply to insulate these transactions from tax. Section 355 was intended to permit tax-free restructurings of several businesses among existing shareholders, with limitations to prevent the bail-out of corporate earnings and profits to the shareholders as capital gains. The recent transactions that raise concerns have very little to do with individual shareholder tax planning. Rather, they are prearranged structures designed to avoid corporate-level gain recognition. In essence, these transactions resemble sales. If such transactions were treated as sales for tax purposes, the remaining corporation would recognize gain with respect to the stock of the acquired corporation.

Today's introduced legislation is intended to treat transactions occurring after April 16, 1997, the general effective date of the bill, as sales at the corporate level.

A technical explanation of the legislation is provided below. This legislation affects complex transactions and additional or alternative legislative changes also may be appropriate. For example, it may be appropriate to amend or repeal present-law section 355(d) and to treat certain asset acquisitions as stock acquisitions. Written comments on the issues raised by this bill are welcome.

DESCRIPTION OF PROPOSAL—ACQUISITIONS OF DISTRIBUTING OR CONTROLLED CORPORATIONS PURSUANT TO PLAN

The proposal would adopt additional restrictions under section 355. Under the proposal, if pursuant to a plan or arrangement in existence on the date of distribution, either the controlled or distributing corporation is acquired, gain would be recognized by the other corporation as of the date of the distribution.

Whether a corporation is acquired would be determined under rules similar to those of present-law section 355(d), except that acquisitions would not be restricted to purchase transactions. Thus, an acquisition would occur if a person—or persons acting in concert—acquired more than 50 percent of the vote or value of the stock of the controlled or distributing corporation pursuant to a plan or arrangement. For example, assume a corporation, P distributes the stock of its wholly owned subsidiary S to its shareholders. If, pursuant to a plan or arrangement, either P or S is acquired, the proposal would apply to require gain recognition by the corporation not acquired. It is anticipated that certain asset acquisitions would be treated as stock acquisitions.

Acquisitions occurring within the 4-year period beginning 2 years before the date of distribution would be presumed to have occurred pursuant to a plan or arrangement. Taxpayers could avoid gain recognition by showing that an acquisition occurring during this 4-year period was unrelated to the distribution.

In the case of an acquisition of the controlled corporation, the amount of gain recognized by the distributing corporation would be the amount of gain that the distributing corporation would have recognized had stock of the controlled corporation been sold for fair market value on the date of distribution. In the case of an acquisition of the distributing corporation, the amount of gain recognized by the controlled corporation would be the amount of net gain that the distributing corporation would have recognized had it sold its assets for fair market value immediately after the distribution. This gain would be treated as long-term capital gain. No adjustment to the basis of the stock or assets of either corporation would be allowed by reason of the recognition of the gain.

The proposal would not apply to a distribution pursuant to a title 11 or similar case.

The Treasury Department would be authorized to prescribe regulations as necessary to carry out the purposes of the proposal, including regulations to provide for the application of the proposal in the case of multiple distributions.

TREATMENT OF DISTRIBUTIONS WITHIN AFFILIATED GROUPS

Except as provided in Treasury regulations, section 355 would not apply to a distribution of stock of one member of an affiliated group of corporations filing a consolidated return to another member. In the case of a distribution of stock within an affiliated group, the Secretary of the Treasury would be instructed to provide appropriate rules for the treatment of the distribution, including rules governing adjustments to the adjusted basis of the stock and the earnings and profits of the members of the group.

EFFECTIVE DATE

The proposal would be effective for distributions after April 16, 1997, unless the distribution is: First, made pursuant to a written agreement with an acquirer which was—subject to customary conditions—binding on or before such date and at all times thereafter; second, described in a ruling request that identifies the acquirer and is submitted to the IRS on or before such date; third, described in a Securities and Exchange Commission [SEC] filing made on or before such date, to the extent such filing was required to be made on account of the distribution and identifies the acquirer; or fourth, described in a public announcement that identifies the acquirer on or before such date. The exceptions for written agreements, IRS ruling requests, SEC filings, and public announcements would not apply to distributions of stock within a consolidated group of corporations.

INVESTIGATING FOR FAIRNESS

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to my friend Jay Brandow, an outstanding individual from my hometown of Bay City. For the past 12 years Jay has been an investigative reporter for WNEM–TV 5. Jay is not only an exceptional reporter but also a true asset to the community. His superb reporting has provided information that has enlightened and greatly impacted our community, our State, and our Nation.

I have had the pleasure of knowing Jay for many years. I first knew him when I was a Michigan State Senator. The stories Jay investigated and reported have uncovered several critical issues in our community. Although many of his stories were significant, his Bancroft-Eddy story truly stands out. This news story revealed the terrible and unsafe public housing that was existing in our own community.

Jay's investigative reporting helped bring attention to the low-income public housing that was being subsidized by the Department of Federal Housing and Urban Development. The apartment buildings were unsafe, unclean, and hazardous to its tenants. The condition of the complex was alarming. His relentless investigation and reporting, resulted in a critical investigation into the housing condition of the Bancroft-Eddy complex. This official investigation by both the Michigan State Housing Development Authority and the Department of Housing and Urban Development resulted in effective efforts to improve this public housing. Jay's determination brought him to Washington DC to meet with HUD officials as well as myself, in my capacity as the fifth district Congressman. He was willing to go that extra mile to thoroughly investigate and demand improvement. Mr. Brandow's superior investigation and reporting skills forced the State and Federal Government to improve the Bancroft-Eddy housing complex in Saginaw, MI.

Mr. Brandow should be proud of his efforts. Our community now has safe, clean, and livable low-income housing for those individuals and families who are truly in need of help. Jay's investigation and reporting proved that he is not only an outstanding reporter, but that he cares for the less fortunate in our society.

Mr. Speaker, I ask you and all of our colleagues to join me in congratulating Jay Brandow as he is presented an award from the Tri-County Fair Housing Commission. We wish him the best for the new challenges ahead.

* * *

COMMENDING AMERICANS WHO SERVED IN THE COLD WAR

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. LAZIO. Mr. Speaker, I am proud to introduce a concurrent resolution commending those Americans who serviced during the cold war.

Fifty years ago this July, George Kennan, in his article "The Sources of Soviet Conduct," defined the challenge facing America with the onset of the cold war. After describing the expansionist and totalitarian nature of the Soviet state, Kennan called for "a policy of firm containment, designed to confront the Russians with unalterable counterforce at every point where they show signs of encroaching upon the interests of a peaceful and stable world." Kennan was convinced that the Soviet dictatorship would eventually be undermined by its own internal weaknesses. But until that happened, he exhorted Americans to face "this implacable challenge" by drawing upon the strength of our national character. In Kennan's memorable words: "To avoid destruction the United States need only measure up to its won best traditions and prove itself worthy of preservation as a great nation." He concluded that the American people, in standing up to totalitarian aggression, were shouldering the "Responsibilities of moral and political leadership that history plainly intended them to bear.

We look back today at this stirring call to action and see how history has confirmed Kennan's words. The Soviet régime, a regime which accepted no moral or legal restraints, which aggressively sought to recast the rest of the world in its image, which subordinated all its natural and human resources to building a vast military machine, has collapsed. America, in contrast, stands strong in the durability of its democracy, the dynamism of its economy, and the vitality of its citizens. Clearly, we have met and surpassed the implacable challenge described by George Kennan as he surveyed events in those dark early days of the cold war.

It is now time to recognize all of those Americans who served during the cold war. The men and women of our Armed Forces, our intelligence community, our foreign service, and many other areas of our government met the challenge of the cold war with skill and dedication. Americans served in every corner of the globe, often isolated from family and friends, sometimes under the most arduous conditions. some laid down their lives when the cold war turned hot in places like Korea and Vietnam. Others accepted discomfort, loneliness, and risk while maintaining our military readiness against a foe capable of launching a devastating attack with little notice. All of them lived up to America's best traditions and ensured America's preservation as a great nations

Through their efforts, almost 500 million people have been freed from Communist tyranny. Nations once submerged by Soviet imperialism can now claim their rightful place in the international community. Fears of a nuclear holocaust now seem a distant memory.

For Americans, the cold war ended with no parades, no fanfare, no speeches. After a conflict where so much was a stake, not enough has been done to acknowledge our country's victory and our debt to those who make it possible.

During the 104th Congress, my resolution honoring Americans who served during the cold war passed the House of Representatives by a unanimous vote. Unfortunately, the resolution did not come up for a vote in the Senate.

It is now time to recognize all Americans who served during the long, demanding years of the cold war. We are worthy of preservation as a great nation because so many of our most talented and dedicated citizens did their part for so long in a conflict that seemed endless.

* * *

HEALTH CARE COVERAGE FOR CHILDREN

SPEECH OF

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. STOKES. Mr. Speaker, I want to thank my colleague, the gentleman from New Jersey, Congressman FRANK PALLONE, for sponsoring this special order this evening. I am pleased to join FRANK and others as we discuss an issue of great importance to the Congress and this Nation. The issue under discussion is that of children's health.

I want to use the time allocated to call attention to the millions of children who are uninsured. Just recently, the Democratic caucus children's health care task force convened a hearing which focused on the problem of uninsured children in America. According to the U.S. Census Bureau, nearly 10 million children across the nation, or 13.8 percent of all children under the age of 18, are uninsured.

The rate for African-American children without any health insurance at all is even higher, at 15.3 percent. Statistics further indicate that 2.9 million of those children are eligible for Medicaid but are not enrolled.

Mr. Speaker, the urgency to insure these children lies in the fact that uninsured children are less likely than insured children to get much needed health and preventive care. The lack of such care can have adverse effects on these children's health for the rest of their lives. In my home State of Ohio, nearly 300,000 children are without health insurance. It is estimated that as many as a quarter of all children in Ohio may have been uninsured for at least 1 month over the last 2 years. While the overall rate for the State is 9.6 percent, slightly less than the national rate, far too many children still remain uninsured.

As a member of the House Appropriations Subcommittee on Labor-Health and Human Services-Education, I know that the problem of uninsured children is taking a toll on many families across this Nation. The Congress must make this issue a top priority. We must be willing to explore the expansion of Medicaid eligibility, and reforms of outreach and service delivery systems in order to provide access to comprehensive health care services for uninsured children.

Mr. Speaker, it has been said on many occasions that our children represent our future. It is time for the Congress to take action on behalf of our Nation's youth. I join Congressman PALLONE and members of the Democratic children's health task force in urging our colleagues to move forward to insure and protect America's greatest resource—our children.

INTRODUCTION OF A RESOLUTION TO ENACT LEGISLATIVE BRANCH APPROPRIATIONS LAST

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mrs. MORELLA. Mr. Speaker, I rise today to introduce a resolution to ensure that the legislative branch appropriations bill is the last appropriations bill we enact. My resolution would amend the rules of the House to postpone final action on legislative branch appropriations for any fiscal year until all other regular appropriations for that fiscal year have been enacted. By doing so, we would both avert another shutdown and restore responsibility to the appropriations process.

This resolution adds new points of order under House rules governing appropriations to prohibit final action on the regular legislative branch appropriations bill unless all other regular appropriations bills for the fiscal year are enacted. Similarly, a continuing resolution could not contain legislative branch appropriations unless it also included continuing appropriations for the same period for all other regular appropriations bills not already signed into law.

Unless all other appropriations bills were signed into law, this means that there could not be final action on the conference report for legislative branch appropriations. It would not preclude the Appropriations Committee or the House from considering the legislative branch appropriations bill before other bills; the House simply could not vote on final passage of a conference report, a motion on a Senate amendment or a continuing resolution, if we have not first, or concurrently, provided appropriations for the other twelve bills.

This resolution would demonstrate our commitment to govern responsibly and to put the American people before ourselves. By enacting our own funding bill last, we may be more likely to find common ground on the other bills and to avert another Government shutdown. We must never again shut down the Federal Government; it devastated our constituents who depend on Government services, our Federal employees, contractors and their families, and our communities. By linking our own funding to the enactment of all appropriations bills, we would ensure that we would take our responsibility seriously and work to find common ground.

During the November 1995 shutdown, Congress made the mistake of passing the fiscal year 1996 legislative branch appropriations bill before taking care of all of the other bills. The President vetoed it—not because of its content, but because of its timing. When it was enacted later that year, legislators lost that extra motivation to negotiate the remaining bills during the prolonged Government shutdown—after all, their salaries and their staffs were secured.

I encourage my colleagues to join Representative TOM DAVIS and me in putting the American people first. Please help me to ensure that before we pay ourselves, we meet our obligations to take care of Government agencies and the public that we are here to serve.

TRIBUTE TO VANDERGRIFT FIRE DEPARTMENT

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. KLINK. Mr. Speaker, I rise today in recognition of the George G. McMurtry Vandergrift No. 1 Volunteer Fire Department of Westmoreland County. The fire department was founded on November 29, 1897 and is celebrating its centennial with several festivities throughout the year. I would like to take this opportunity to join the citizens of Vandergrift in congratulating the volunteers, both past and present, for 100 years of outstanding public service to their community.

The Vandergrift Fire Department is made up of dedicated individuals who risk and sacrifice their personal safety every day as volunteers in their community. They have careers independent of their volunteer service. They have families and daily responsibilities. However, when the emergency call sounds, the members of the Vandergrift Fire Department put their own lives on hold to provide safety and emergency services to the citizens of Vandergrift. They have proven that by joining together they provide an invaluable service to the entire community.

On behalf of my colleagues in the House of Representatives, I would like to wish the George G. McMurtry Vandergrift No. 1 Volunteer Fire Department another 100 years of successful public service. They have protected the lives of their families, their property, and the spirit of their community with dignity. Their service represents a local heroism which has guided a community for a century—with honor, courage, and self-sacrifice.

TRIBUTE TO CHARLES A. HAYES

SPEECH OF

HON. WILLIAM L. CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 16, 1997

Mr. CLAY. Mr. Speaker, I rise to pay tribute to our former colleague and my dear friend, Charles Hayes—a leader, a visionary and a man of the people. Charlie passed away on April 8, 1997, in Chicago, IL.

Charles Hayes was a crusader for justice, fairness, and decency. He began his quest to make the world a better place before most Members of this body were born.

Emerging from the fiery furnace of the Great Depression as a member of the Civilian Conservation Corps, he learned the importance of work and fairness early on.

At the young age of 20, Charlie stood up against racism and discrimination in the workplace. He organized a group of black carpenters in a flooring plant and formed a local union to secure fairer wages and better working conditions for the employees. He was elected president of that local and began his climb to become one of the most important labor leaders in America.

In 1954, as district one director of the United Packinghouse Workers of America, Charlie forced the union to acknowledge and address the employment concerns of women in the workplace.

For more than three decades, this working man from Cairo, IL used his union office to fight for the rights of ordinary people.

Charlie was an advocate for full national health care for every American before anyone ever heard of Medicare. He voiced strong support for protecting American jobs from foreign competition long before the international trade imbalance became a major national concern.

Everywhere you looked, you saw Charlie Hayes standing up for the little guy. From strikes to marches. From jobs and civil rights issues to health care and housing concerns. You could always count on Charlie Hayes to be there when the going got tough.

In 1983, the people of the First Congressional District of Illinois sent Charles Hayes to Congress to fight for them—and fight he did.

I had the privilege of serving with him on both the Committee on Education and Labor and the Committee on Post Office and Civil Service. He brought with him decades of hard work and experience on the front lines that helped him to make important contributions to both committees. He never forgot the struggle. He crafted every bill with a sincere commitment to securing justice and equality for working men and women.

He introduced full employment legislation and denounced unemployment as morally unacceptable. While a number of politicians were arguing about how best to cut taxes on the rich, Charlie Hayes was arguing about how best to help those in our society who could not help themselves.

When Charlie left Congress, he went back to Chicago to fight once again on the front lines with men and women who had served on the various task forces he formed while in Congress. Each day he fought the good fight.

Though his struggle is over, Charlie's legacy will live on. We will always remember his strength of character, his love for life and his fighting spirit.

I ask our colleagues to join me in honoring his wonderful life by continuing to champion the cause of American workers.

I salute my dear friend Charlie Hayes and I bid him farewell.

RECOGNIZING MAYOR EMORY FOLMAR'S 20 YEARS OF SERVICE TO THE CITY OF MONTGOMERY

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. EVERETT. Mr. Speaker, this month the city of Montgomery, AL marks an important milestone; two decades of courageous, visionary leadership embodied by a remarkable public servant, Mayor Emory Folmar.

To those of us native to South Alabama, the words Emory Folmar speak for themselves. They evoke images of strong, effective leadership; courageous political stands; and, an undaunted spirit of patriotism and loyalty to home and country.

Mayor Emory Folmar, bolstered by a uniquely charming and indispensable political partner, his wife Anita, has forged a legendary record of service to his community and his beloved State that any high public official would envy. Under his two-decade-old watch, Montgomery has become a bustling and beautiful capital city for which all of Alabama can be proud.

He has tackled crime and city service problems head-on and in-person, earning the respect of city workers and citizens alike. His embrace of Maxwell-Gunter Air Force Base has ensured that the military not only maintains a high profile presence in central Alabama, but that the Air force retains one of the very best educational, training, and software support facilities in the country.

In reviewing his record of public office, it is fitting to note that Emory Folmar began his career as mayor by defeating no less than 44 candidates without a run-off. That was on April 12, 1977, and that same indomitable character lives on today, even more determined than ever to put Montgomery, AL first.

As a personal friend, I have no doubt that Emory Folmar will pay little attention to this anniversary and will instead continue being the man of the people he truly is. As long as Montgomery's best days lie ahead—and they will because of his vigilance—Emory Folmar will be at his best, serving the public.

I congratulate Emory and Anita Folmar and I look forward to 20 more years of their brand of successful leadership for Alabama. Thank you Mr. Speaker.

UNITED STATES RESUMES AID TO TURKEY

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. RADANOVICH. Mr. Speaker, yesterday, April 16, 1997, President Clinton notified Congress that he will be invoking the national security waiver clause in the Humanitarian Aid Corridor Act, therefore resuming United States aid to Turkey despite that country's immoral blockade of humanitarian assistance to Armenia. This course marks a continued failure by the administration to grasp the deep distress Armenia and its people are suffering as a result of Turkey's cruel 4-year blockade. There is neither grounds for Turkey's blockade of Armenia, nor any overriding policy objective cited by the administration which legitimizes this injustice.

Recently, I was honored to visit Armenia. I know first-hand of the courageous efforts of Armenia's leaders to move forward with market reforms and policies designed to foster political and economic integration with Western institutions and economies. I am committed to encouraging this process, and I believe it is disgraceful that the administration turns a blind-eye to policies that suffocate a land so rich in potential. The Clinton administration has correctly articulated the U.S. foreign policy objectives in the Caucasus region are stability, peace, democracy and economic prosperity. Unfortunately, with yesterday's waiver, the administration demonstrated its inability to recognize the means for achieving these ends. By assisting in the enforcement of this blockade, President Clinton has sentenced Armenia and her people to another painful year.

TALENTED HIGH SCHOOL STUDENTS REPRESENTING OREGON

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Ms. FURSE. Mr. Speaker, on April 26–28, 1997, more than 1,200 students from 50 States and the District of Columbia will be in Washington, DC to compete in the national finals of the We the People . . . The Citizens and the Constitution program. I am proud to announce that the class from Lincoln High School from Portland will represent Oregon and the First Congressional District. These young scholars have worked diligently to reach the national finals by winning local competitions in their home State.

The distinguished members of the team representing Oregon are: Joseph Bartels, Alexandra Boule-Buckley, Eric Fitzgerald, Joel Fowlks, Jason Franklin, Nina Handelman, Morgan Harvey, Calder Hughes, Leah Hyman, Marguerite Ingalsbe, Katherine Johansen, Conor Jones, Katherine Kennedy, Ruben Litwer-Mos, Christopher Lorenz, Emma McCandlish, Andrew Moore, Pernilla Nathan, Michael Nguyen, Jacob Oken-Berg, Nels Overgard-Cook, Elizabeth Schaub, Ashley Schmidt, Adam Smith, Thomas Steinberger, Joseph Streckert, Lakesha Thomas, Kimvi To, Zachary Vanderkooy.

I would also like to recognize their teacher, Mr. Hal Hart, who deserves much of the credit for the success of the team. The district coordinator, Mr. Daniel James, and the State coordinator, Ms. Marilyn Cover, also contributed a significant amount of time and effort to help the team reach the national finals.

The We the People . . . The Citizens and the Constitution program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, the We the People . . . program, now in its ninth academic year, has reached more than 75,000 teachers, and 24 million students nationwide at the upper elementary, middle and high school levels. Members of Congress and their staff enhance the program by discussing current constitutional issues with students and teachers.

The We the People . . . program provides an excellent opportunity for students to gain an informed perspective on the significance of the U.S. Constitution and its place in our history and our lives. I wish these students the best of luck in the national finals and look forward to their continued success in the years ahead.

COMMEMORATING THE SPECIAL OPERATIONS COMMAND'S 10TH ANNIVERSARY

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. YOUNG of Florida. Mr. Speaker, many of my colleagues may not be aware, but this week marks the 10th anniversary of the Special Operations Command, based at MacDill Air Force Base in Tampa.

The 47,000 soldiers who make up the special operations command are the most elite forces that the U.S. military has to offer. This command coordinates special forces members from the Army, Navy, Air Force, and Marine Corp who currently operate in 140 countries worldwide. Despite their numbers, range of deployment and unique talents, the Special Operations Command makes up only 1 percent of DOD's budget and 1 percent of the U.S. military. Deployed to some of the most hostile environments in the world, these bold warriors are a constant presence for the United States.

Special forces have been an indispensable asset to the United States in armed conflicts since the American Revolutionary War. Today, the modern special forces operator is prepared to meet both humanitarian and military challenges wherever they are deployed. Teamwork and cooperation are essential for the survival of each member of the unconventional warfare community. In 1987, the special operations command was borne out this need to coordinate the complicated and dangerous missions assigned to special forces members.

In recognition of the anniversary of the Special Operations Command, Orval Jackson of the Tampa Tribune has written a very comprehensive history of the command which I commend to my colleagues attention.

Mr. Speaker I know I speak for all my colleagues in admiration of the sacrifices and service of the men and women who serve and have served in the special forces—many in virtual anonymity.

[From the Tampa Tribune, Apr. 14, 1997]

10 YEARS BOLD

(By Orval Jackson)

TAMPA.—It stands to reason Special Operations forces are on duty in many of the world's trouble spots, such as Bosnia and the Persian Gulf.

More surprising, however, is that Special Operations forces also are deployed to more than 140 nations, providing governments with a variety of military and humanitarian skills.

Most Americans don't know about these missions, because the command, based at MacDill Air Force Base, doesn't publicize them. And that's the whole point: They're special operations.

"Special Operations forces offer a unique, versatile and global joint service force, which continuously operates worldwide," said Army Gen. Hugh Shelton, commander in chief of the unified command.

The successes and wide-ranging tasks of the special forces will be recognized this week as the Special Operations Command commemorates it's 10th anniversary.

Many of the deployments, Shelton said, are in areas plagued by disease, starvation, poverty and civil strife—incubators for future insurgencies, humanitarian crises and ethnic conflict.

"U.S. Special Operations forces have become extremely skillful in practicing the art of peace, while still remaining prepared for and preserving the option of force," Shelton said.

Case in point: Somalia. A humanitarian program there in 1992 evolved into a military one the next year. In it, two Special Operations soldiers became the first Americans since Vietnam to receive the Medal of Honor.

In October 1993, Master Sgt. Gary I. Gordon and Sgt. 1st Class Randall D. Shughart disregarded their own safety while trying to rescue crewmen from two downed helicopters. Gordon and Shughart held heavily armed crowds at bay until they ran out of ammunition and were killed. The lone survivor of the crash, who was wounded, was taken prisoner and later was released.

Gordon and Shughart were part of about 47,000 active, reserve and national guard forces of the Army, Navy and Air Force that make up the Special Operations Command. Despite its worldwide involvement, it represents only 1 percent of the nation's military and 1 percent of the Defense Department's budget.

Its anniversary week will be highlighted Wednesday when Secretary of Defense William Cohen is presented the Bull Simons Award, given annually to those who embody the spirit, values and skills of a legendary special operator.

Cohen, who was a Republican senator from Maine, and Sam Nunn, a Senate Democrat from Georgia at the time, wrote the legislation that created the Special Operations Command in 1987. Nunn, who is unable to attend the MacDill events, received his Bull Simon Award recently in Atlanta.

Nearing the end of his 34-year career, Simons led a Special Forces raid on the Son Tay prisoner-of-war camp in North Vietnam in 1970. The prisoners had been moved before the forces arrived, but the raid was credited with forcing the North Vietnamese to improve the care of POWs.

Another bold, but ultimately unsuccessful, mission spurred the creation of the Special Operations Command. In 1980, an attempt to rescue 53 American hostages in Iran led to the death of eight military personnel when two rescue aircraft collided in the Iranian desert.

As efforts were under way in the Department of Defense to reform the special forces operations, the process was spurred on by the 1983 terrorist bombing attack that killed 237 marines in Lebanon and the invasion of Grenada, which was successful despite operational problems within the military units.

Then-President Reagan approved establishment of the new command April 13, 1987, and three days later it was activated by the Department of Defense under the command of Army Gen. James Lindsay. It took over the facilities of the U.S. Readiness Command at MacDill, whose missions were transferred to other commands.

During its 10 years, the command has participated in five other major operations in addition to Somalia, including its first big test in December 1989, when more than 4,400 special operations forces participated in operation Just Cause in Panama. It led to the capture of dictator Manuel Noriega.

In 1990-91, more than 9,400 personnel were deployed to operations Desert Shield and Desert Storm.

Last April, Special Operations helicopters flew through some of the worst conditions to reach a mountainside above Dubrovnik, Croatia, where Secretary of Commerce Ron Brown and 34 others were killed when their plane crashed.

In addition to well-publicized military operations, Special Operations forces have a number of lesser-known missions.

They include combating terrorism; seizing or destroying weapons of mass destruction; assisting host countries in civil affairs; conducting rescue missions and antidrug activities; and providing humanitarian assistance.

"I think as you look at the situation we are facing today and in the foreseeable future, there are challenges Special Operation forces should be handling and I see a greater need for them than ever," said retired Army Gen. Carl W. Stiner, who followed Lindsay as commander in chief.

"One significant thing I think we did was keep the focus on readiness and modernization of our forces," Stiner said. "Another was to work with the regional CINCs [commanders in chief], educating them on the utility of Special Operations forces and their capability of assisting in achieving reasonable objectives."

"VISION OF THE FUTURE"—15-YEAR-OLD LEVI TILLEMANN-DICK DISCUSSES THE IMPACTS OF TECHNOLOGY IN TWO GENERATIONS—ESSAY WINS NATIONAL CONTEST

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. ACKERMAN. Mr. Speaker, I would like to call the attention of my colleagues to a young man who at the tender age of 15 has already established himself as a thoughtful analyst of the future. Levi Tillemann-Dick of Denver, CO, was winner of a recent essay competition, "Vision of the Future", sponsored by the Association of Computer Manufacturers [ACM] to examine how changes in computer technology will change our lives over the next 50 years.

The essay contest was held in order to highlight the Association's celebration of the next half-century of computing, and it was conducted with the assistance and cooperation of the magazine Popular Science. The purpose of the contest and the focus of the judges involved in evaluating the essays submitted was getting students to realize that whatever choices they make with computer science will have future implications for society, economy, and across all spectra of life.

The essays were judged on the basis of their creativity and sense of excitement about what future technologies will be like and how they will affect our daily lives. Levi was awarded a college scholarship of $2,500 for his winning essay—an important incentive for a student in this age when advanced education is essential for young people to reach their full potential in this information age.

Levi Tillemann-Dick, at the age of only 15, is currently studying at Regis College in Denver. Until January of this year he was schooled at home by his mother, Annette Tillemann-Dick, the daughter of our colleague from California, TOM LANTOS.

Levi Tillemann-Dick's winning essay, "Gigatrends: Technology's Impacts Two Generations from Today", reflects the kind of thoughtful education in technology that is essential for the future of our Nation. Mr. Speaker, I ask that this outstanding essay be placed in the RECORD, and I invite my colleagues to read it. It is important as we here in this body consider the effect that technology will have upon the lives of our children and grandchildren, and these are the kinds of problems on which we in this body should be focusing.

GIGATRENDS: TECHNOLOGY'S IMPACTS TWO GENERATIONS FROM TODAY

(By Levi M. Tillemann-Dick, the Yale Academy, Denver, CO)

Fifty years ago, a Naval scientist labored for hours beside a computer the size of a small bus, calculating the trajectory of a single artillery shell. Today's notebook computer can perform the same operation in a fraction of a second. IBM and Hewlett-Packard have just announced the invention of the PAN—Personal Area Network—a set of devices that use the human as a conductor to relay detailed textual information from one person to another simply by touch. While it is very difficult to predict what the hardware will be like in fifty years, it is possible to make reasonable predictions of what the technology will be and how it will affect our lives.

Computers have demonstrated themselves to be especially well adapted to two types of activities: communications transactions, and information processing and storing. In key respects, computers have operated with much the same impact on society as did the printing press and the book, but accelerated a million times. Tom Sawyer on the printed page created a virtual reality device that led us toward the media of today and the shared experiences and artificial sensations of tomorrow.

The Internet's technology is the communications gateway to the near future. It will wholly transform people's lives. The Internet will, of course, be used for commerce, personal communications, entertainment, and research. It is a relatively small conceptual step, however, from the PAN processor that relays a written message through one's body by a shake of the hand, to a microcell sensory transmission system that relays ideas and sensations directly to and from the most powerful processor in the world, one's brain. Within a few decades, developments stemming from PAN-type research will transform the Internet into the LifeNet, a comprehensive sensory environment for human habitation. Our minds will be afforded wireless direct sensory interfacing with other people and various databases. A dramatically enhanced version of what we now call "virtual reality" will become as common as air conditioning. Telephones, TVs, PCs and other media conveyors will be replaced by wireless sensory feeds from, and to, communal microcells. The LifeNet will become infinitely more important to mankind than the telephone is today. It will become as essential to our lifestyles as electricity or running water is now.

What are the implications for our society? Strong arguments can be made that the place of technological advancement will be accelerated, and human interactions forever altered. Some have suggested that today's Internet is addictive. They have hit on a key point but used the wrong terminology. It is not addiction that causes these people to return to the Internet each day, but the fact that they can craft a new identity for themselves—any identity they choose. Or they can participate in experiences that are otherwise beyond their reach. If today's crude mess of wires and two-dimensional web sites so captivate people, consider the impact of a technology affording a lifestyle where you could go wherever you wanted to go, and be whoever you wanted to be whenever you chose. Every field of human endeavor would be affected, from business to entertainment to courtship and art. Over the course of not many years, the technology's impact upon society would be all-encompassing.

Fifty years ago, the average person in the workforce was a farmer or laborer. They were physically strong. They ate more, but weighted less. Today's office and service workers have diminished physical capabilities, but are better educated. The LifeNet will accelerate this trend. The amount of food needed to survive when spending weeks, months, or years on the 'Net would be drastically reduced from the amount needed to sustain a body that is undergoing today's activity. Like most changes, this is a two-edged sword. Resource depletion resulting from overpopulation will cease to be a major issue when we are subsisting on 600 calories a day in a sensory reality where we can eat all we want. Our mansions will be built in our minds, and our future Ferrari's will be driven along the roads of our collective imaginations. The physical body (over a period of time) would deteriorate to a state where the full recovery back to a state of good physical health would take months—if it was possible at all. Fifty years from now, our minds will be working and playing in ways now beyond our imagination, and paradoxically, the sensations we will feel will be just as real as those we experience today.

The time constraints relating to day and night will dissolve when we can communicate effortlessly anywhere in the world. It is likely that humans will require less sleep, since we will need only the time to file and store the information that our brains have collected and not to rest our physical bodies.

These technologies will not be expensive. On a per capita basis, participation in the LifeNet will consume far fewer resources than an automobile, and reduce our housing and other needs. This fact, along with a lack of prior investment in other infrastructures like highways and copper cabling, will prompt the rapid expansion of the LifeNet into third-world countries. The equipment required for the microcellular sensory transmission technology will be modular, redundant, and like that for the Internet, incrementally inexpensive. Countries that have problems with overcrowding and famine would quickly embrace the LifeNet. Their resources would be extended, and planners would likely program the system to minimize the population's reproductive drive.

People will still have jobs. There will be lots of work to do. People will want to consume the newest experiential sensations. Some food will need to be prepared, and equipment manufactured. Government would be divided into two categories: geographical-physical and communicative. The responsibilities of the geographic governments will be to defend landmasses and keep order in the physical world—much as they do today. However, there will likely be another type of government co-existing with today's political successors. The responsibilities of these communicative governments will be to administer, regulate, and defend cyberspace. The communicative government will also be responsible for the maintenance of the input-output microcells. The communicative governments already exist in the form of the various online services—and their monthly fees are the taxes. As they mature, these communicative governments will develop such things as better defense systems against the threats of cyberspace terrorism.

Religion has been, is and it is safe to assume always will be, a major part of society. Televangelism's success leads us to the conclusion that the LifeNet will support religions of many sorts. It is not clear whether people will completely forego interpersonal religious contact as the LifeNet becomes pervasive.

The darker side of religion and the LifeNet may the result of a large and potentially violent antitechnological cult movement that could arise. These cults would likely be something parallel to today's right-wing extremists and Muslim fundamentalists, but vastly more diverse and considerably more dangerous. It is frightening to contemplate the destructive "holy wars" that they could embark upon and the grave consequences for LifeNet residents

Some people would have to remain physically active and strong, because of the nature of their labor. There will always be tools and equipment that will break down and will have to be repaired, and there will always be operations and experiments that must be carried out physically to know the outcome. Manufacturers, natural resource harvesters, and explorers of all sorts are likely to be visitors to the LifeNet, rather than residents.

The field of manufacturing would be dramatically reduced in size, considering that large cut of the world's population would no longer need much in the way of cars, clothing, physical tools and countless other physical objects. Natural resource harvesters will work in every field from farming to mining. Harvesters will be supported of new technologies and these activities would also decrease for the same reasons as manufacturing would—the virtual elimination of every physical non-necessity.

One of the few physical job categories that would likely grow is that of the explorers. An explorer is anyone from a cellular biochemist to an astronaut. This field is sure to expand in the years to come, as science expands and becomes more complex, and as space and deep-sea exploration become further reaching.

Another small category of physical beings would work for various medical and life-support companies. They would have the lives of every individual in the cyberworld in their hands. They would be paid to keep the devices that nourish and climatically maintain all the people who chose to enter into the cyberlife. They would have the solemn but necessary responsibility of—after the allotted amount of time—turning off the machines.

It is impossible to predict exactly what the technology will be in fifty years considering that when my Dad was fourteen there were no PCs, and when my Grandma was fourteen electricity was cutting-edge technology. But one thing is certain: There will be things that are wonderful, things that are beautiful, and some things that are deeply frightening that will all become realities in the next fifty years.

ATTORNEY GENERAL RENO: DEFENDING THE POWERS THAT BE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. SOLOMON. Mr. Speaker, I wanted to draw your attention to the following editorial from a major newspaper that serves the Capital District region of my home State of New York, the Times-Union. It deals with a subject with which I've been paying a great deal of attention, and that's the fundraising activities of the Democrat National Committee and the Clinton White House. It's no longer any secret that the open-ended dealings of the White House in attracting large sums of campaign cash may have led to violations of national security, breaches of classified information, changes in U.S. foreign policy, and economic espionage, not to mention the violation of a whole slew of laws related to campaign fundraising, the activities of Federal employees, the use of Federal property, and the expenditure of Federal tax dollars.

I've investigated and monitored this situation with such zeal since last October, not because of any partisan interest, but because of my genuine concern for this country's security, especially when a foreign power like China, under a Communist government I have viewed with distrust for many years based on a wide variety of policies, is being investigated for actively trying to infiltrate our political system for their own gain. In any other administration, Mr. Speaker, no matter who was in the White House, or the Justice Department for that matter, there came a point where politics were cast aside for the best interests of the country. Tragically, that line has been blurred, if not erased, as a great deal of the fundraising activities that may have compromised American business and security interests were condoned, and even orchestrated, by the Clinton administration.

But, I know and have known all along, that in order to prevent the entire controversy from being lost and consumed in the shadows and barbs of partisan politics, and independent prosecutor was necessary. Mr. Speaker, there are a few moments in history where a particular person in power or in public service will make a decision that will be judged over time as either a monumental stand for what is right and just, or as cow-towing to the powers that be. I fear Attorney General Reno has had her moment and the powers that be are smiling.

[From the Times-Union, Apr. 16, 1997]

JANET RENO, WRONG AGAIN

U.S. Attorney General Janet Reno was wrong to resist previous calls to appoint a special prosecutor to look into widening allegations surrounding President Clinton's campaign last year. She was wrong again on Monday, when she rejected, for a fourth time, a similar entreaty.

Ms. Reno's explanation for sticking to her position grows weaker by the day. She continues to insist that there is still no credible evidence of possible criminal wrongdoing by any of the high government officials who are covered under the special prosecutor statute. She argues the Justice Department is capable of handling the inquiry.

There are at least two reasons why a special prosecutor is warranted now. One is the accumulation of charges that point to possible criminal wrongdoing at the White House level. The now infamous "coffees" may have violated federal prohibitions against fund raising on federal property. So might Vice President Gore's phone solicitations. The trail of Asian money may have influenced Clinton administration policy on China and Taiwan. Government phones and credit cards may have been improperly used.

Each day, it seems, more allegations come forth, to the point where the public is now so overwhelmed by the charges and countercharges that only a credible, outside investigation can clear the air.

The second reason for Ms. Reno to act is even more compelling: To avoid the appearance that she is reluctant to turn on Mr. Clinton after he agreed to keep her on for his second term.

It is no secret that Ms. Reno had earned Mr. Clinton's disfavor with her readiness to appoint special prosecutors during his first term. It seemed apparent that she would remain on the Clinton team only if she promised to change her ways. Could this be the reason she has once again rebuffed a call for an independent inquiry?

There is only one way for the attorney general to give a reassuring answer to that question. By doing the right thing, and calling for a special prosecutor.

MANAGEMENT POLICIES CURRENTLY IN PRACTICE AT YELLOWSTONE NATIONAL PARK

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. HANSEN. Mr. Speaker, I want to draw my colleague's attention to an article on the management policies currently in practice at Yellowstone National Park written by Montana Representative Rick Hill. Rick invites us to give some serious reflection about the role and condition of Yellowstone and its future stewardship. Recent testimony in the Parks Subcommittee indicates that the park is badly overgrazed. The impact of this mismanagement goes way beyond the overpopulation of bison to impact the entire Yellowstone system. My friends our colleague has sounded the alarm, and I would ask you to take a few moments to read this article to gain a better appreciation of the current state of Yellowstone and the substantial problem we must address. I submit the article for the Record.

Opinion by Congressman Rick Hill

(February 28, 1997)

This week Congress received more bad news about our beloved Yellowstone Park: It's being ravaged by misguided environmental policies. In testimony before the House Resources Subcommittee on National Parks, Dr. Charles Kay, discussed his research that indicates many of the native plants and animals in the park are being wiped out.

How can this happen you ask in an area as carefully monitored and managed as a national park? According to Kay, it is those very management practices that have led to the near disappearance of willow, beavers, berry shrubs, and mule deer. Most alarming of all, is that even grizzly habitat, which we are spending millions of dollars to expand in other areas of Montana, is being allowed to dwindle within the park. According to one study, there is now 100 times more stream bank erosion on Yellowstone's denuded streams than on the same willow-lined streams outside the park.

It would seem only logical that the park service would reassess the natural management program it has used over the last 30 years, especially given the disastrous results of the "let-it-burn" policy. However, we now are seeing the "let-em-starve" version of that same misguided thinking applied to the animal population of the park.

In questioning Park Director Roger Kennedy, during the House hearing, the committee was told that this policy dates back 30 years and that no one has made a conscious decision how the bison will be managed. It is clear from the park director's testimony and meetings with Secretary Babbitt that the Department of the Interior and the Park Service do not consider their current management policy as a failure. Nor do they have any immediate plans to change the policy despite testimony that called it foolish and misguided.

While Secretary Babbit continues to engage in finger pointing, he is overseeing the systematic destruction of our nation's oldest national park. In a letter to Governor Racicot, Secretaries Babbitt and Glickman suggest three steps to reach a solution. The first of these is an expansion of the range for the bison. However, all parties agree that this is not much more than a temporary band-aid. What do we do when the bison have overgrazed the new range? Perhaps the secretary sees all of Montana as the eventual range of the bison? Their second proposal is that we control the size of the herd. We all agree the size needs to be controlled, but again there is no willingness on the part of the Department of the Interior to take the actions necessary to control herd size. In a meeting with Montana's delegation Babbit refused to commit to any action that would result in a reduced herd size. Their third step is to eliminate Brucellosis. Once again there is total agreement on the need to eliminate this most serious disease. However, Babbitt flatly refuses to discuss even testing for the disease or a systematic vaccination program. It is hard to see how Brucellosis can be eliminated without either testing or vaccination.

No one is advocating the wholesale slaughter of bison. However, we cannot ignore the fact that over population which leads to overgrazing is killing Yellowstone Park. For the Department of the Interior to insist that nothing can be done to control the size of the herd is irresponsible. Bison herds at Moiese, Montana, have been successfully managed for years, as was the herd we are discussing in Yellowstone Park up until the change to hands-off management.

What every Montanan knows and now many Americans also realize from sensationalized news reports, is that Bison are dying. Overlooked by most of these reports is the cause of this "slaughter." Until we turn the discussion to the underlying cause of this problem, we will repeat this same tragedy every few years. Our goal must be a complete reassessment of management policy for Yellowstone Park. Montanans and Congress need to prevail upon the National Park service and the Secretary of the Interior to take action immediately in order to stop this from happening again.

DEFENSE WORKERS HEALTH BENEFITS LEGISLATION

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. SKAGGS. Mr. Speaker, I am today again introducing legislation to provide health insurance benefits to former employees at defense nuclear facilities such as the Rocky Flats site in Colorado.

This bill, the Defense Nuclear Workers' Health Insurance Act of 1997, is essentially identical to a bill I introduced in the last Congress, and is based on provisions of a Defense nuclear workers' bill of rights that I introduced in 1991. Other provisions of that larger bill were enacted as part of the 1993 defense authorization bill.

The bill I am introducing today would establish a health insurance program to help with the costs of serious illnesses resulting from workplace exposure to radiation or toxic materials. This would be funded through the Department of Energy and would cover treatment costs exceeding $25,000 for the covered illnesses or injuries.

Mr. Speaker, nuclear weapons plant workers were on America's front lines in the cold war. They helped our national defense mission, working with dangerous materials often under conditions that would not be acceptable by today's standards. Now, as the work force at these sites is reduced, we need to act to assure prospective future employers that company health insurance rates will not be adversely affected if they hire these former defense workers. We also need to act to give these workers assurance that they'll have insurance coverage for work-related illnesses.

This is the right thing to do. America has already rightly recognized a special obligation to veterans and to those exposed to dangerous levels of radiation during the cold war—uranium miners, people who were downwind from nuclear tests, and "atomic veterans." Nuclear weapons workers deserve similar consideration, and this bill would provide that.

INTRODUCTION OF THE FARMER ESTATE TAX RELIEF ACT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. HOYER. Mr. Speaker, today I am introducing the Farmer Estate Tax Relief Act of 1997. This bill is designed to make it easier for America's farming families to keep farming.

In discussions and visits with farmers throughout my district, I have learned that there is serious concern about the ability to pass farms on to future generations. The $600,000 exclusion from estate taxes is not enough to preserve these small businesses that are so dependent upon large capital and land investments.

In Maryland, I understand that there are about 1,000 farms valued at more than $1 million. A typical farm has anywhere from $20,000 to $200,000 worth of equipment.

It is a shame to hear stories of sons and daughters that must sell off part of their parents' farm simply to pay off the estate tax. While retaining the $750,000 "special use" valuation, my legislation would raise the exclusion by $1.4 million, allowing these heirs to exclude a total of $2 million of farm assets.

To encourage these heirs to stay in one of America's most crucial professions, my bill offers the total higher exclusion only to heirs that continue farming for at least 10 years.

Maryland farmers have raised a second issue with me that is addressed by my bill. These independent business people, who often do tough, physical labor into their 70's and 80's, must sometimes sell farm assets to pay high medical bills.

The legislation I am introducing today would allow a one-time exclusion from capital gains taxation for up to $500,000 of medical expenses. Taxpayers could apply this exclusion to the sale of farm or farm assets in the year of, before, or after the medical expenses occurred.

I know that there are many other Members that share my concerns on these issues. While estate taxes can also have a negative impact on other types of family businesses, I am most concerned about the impact on the men and women who put food on our tables.

As a nation, we cannot afford to push these farm families out of business and I am pleased to introduce this bill to provide them with relief. I urge prompt passage of the Farmer Estate Tax Relief Act.

EARTH DAY

HON. WALTER H. CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. CAPPS. Mr. Speaker, the main reason I am an environmentalist is because of a little guy named David—my grandson. Environmentalism is all about what we leave him and his generation.

The district that I live in and represent is one of the most beautiful places on earth—the central coast of California. Living in Santa Barbara, the birthplace of the environmental movement, has taught me a vital lesson. It has taught me that wilderness, nature, and open space has a value beyond what money can measure. While nature can be measured for its trees that can be cut, its fish that can be caught, and its ore that can be mined, its value is priceless as a resource that renews the human spirit.

For this reason, the protection of our public lands is such an important concept. All Americans regardless of where they live, must have access to the natural beauty of this Nation.

The more time that we spend in cars and offices, moving too quickly to think, the more our spirits require the rejuvenation that comes from being outside in fresh air surrounded by beautiful sights. That is what I have enjoyed in my district for three decades. I want to ensure our future generations have the same opportunity.

We are all responsible for the stewardship of our resources—conservationists farmers, ranchers, outdoorsmen, and sportsmen. We must use our resources wisely—in a manner that does not destroy the environment in which we must continue to live. While the strategies for putting that stewardship action are always an issue of vigorous debate, we must work together and remember that the only end game is ensuring a healthy environment for our posterity.

Earth Day serves the purpose of reminding us all of our common responsibilities of good stewardship. Today, we can forget all else and focus on this end—passing on these priceless resources to our grandchildren and our grandchildren's children. It is our responsibility to ensure that they too can live in and find refuge in a healthy natural world. Our children deserve nothing less.

CONGRATULATIONS OFFICER FARRI

HON. VAN HILLEARY

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. HILLEARY. Mr. Speaker, Saturday, March 15, 1997 was a very special day in the life of my friend, U.S. Capitol Police Officer Vincent Farri. At 11:30 p.m. that night, Vincent's wife Christina gave birth to their first child, a boy named Richard Vincent. The child entered the world at the healthy weight of 8 pounds, 10.6 ounces, and a length of 21 inches.

I have known Vincent for some time now. He is an outstanding member of our Capitol police force. In addition to his fine service overall, he has been a great help to me personally as I have brought constituents through the Capitol. I thank him for it, and I want to congratulate him on the birth of his son, Richard.

Knowing Vincent as I do, I can say with great confidence that he will be a terrific father. Young Richard may be unaware of it now, but someday he will understand how lucky he is to have such a good family raising him.

It is a true pleasure for me to enter these remarks into the CONGRESSIONAL RECORD. I am privileged to have the opportunity to play a small part in this special time for the Farri family. How wonderful it must be for Vincent and Christina to enjoy firsthand the miracle of birth! to them I offer my heartfelt congratulations. To their son Richard, I offer my warmest welcome into this world as a citizen of the greatest country on Earth.

TACTILE CURRENCY FOR THE VISUALLY IMPAIRED

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. BAKER. Mr. Speaker, today I am introducing legislation that encourages the Bureau of Engraving and Printing to consider making Federal Reserve Notes tactually identifiable by the blind and visually impaired. This legislation enjoys considerable bipartisan support from my colleagues on the House Committee on Banking as well as other Members who share the same interests in assisting visually impaired individuals exert their independence.

In March 1994, the Bureau of Engraving and Printing commissioned the National Academy of Science to executive a study entitled "Currency Features for Visually Impaired People." This study explores methods of making currency more accessible for all Americans.

The report concluded that the needs of the blind could be better served if further study on specific changes such as size, color, and tactile marks be initiated.

Currently, the Department of Treasury is engaged in efforts to redesign the Federal Reserve note to prevent counterfeiting. Indeed, the new $100 bill already been issued nationwide. With this window of opportunity upon us, I believe Congress has the change to assist the millions of visually impaired Americans who strive to live independently by making their money more accessible to them.

My bill simply endorses the efforts of the Bureau of Engraving and Printing to study cost-effective tactile changes in Federal Reserve notes and encourages the incorporation of those changes in the national currency.

My bill does not cost the Federal Government any money, nor does it impose and undue, unfair mandates.

Such a minor change in currency will have a significant impact on the independence of visually impaired Americans. Further, a tactual mark can serve other purposes, such as being an additional counterfeit deterrent.

Visually impaired individuals are capable, independent people whose valuable contributions touch all of our lives. It is important that all Americans are afforded equal opportunities to perform at the best of their abilities. My bill stresses that importance. I hope all Members will join me to pass this legislation.

JONES ACT RESOLUTION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. SOLOMON. Mr. Speaker, today, I and my distinguished colleague on the Rules Committee, Mr. MOAKLEY, join a bipartisan group of our colleagues in introducing a resolution that will strongly reaffirm the Congress' support for the Jones Act—section 27 of the Merchant Marine Act of 1920.

The Jones Act has its origins in the earliest days of our Nation. Its basic requirement is that any vessel used to transport cargo between ports in the United States must be built in the United States, registered under the U.S. flag, and carrying a crew made up of U.S. citizens. Relying on American ships and crewmembers, the Jones Act provides tangible benefits for our national defense. The Jones Act fleet provides the experience needed to maintain trained and loyal American-citizen merchant mariners. Our merchant marine vessels, both private sector and Government owned, rely on the abilities of these merchant mariners to operate. Without the Jones Act, we jeopardize our national security interests and place our men and women in the Armed Forces in tremendous danger.

As important as our national security, our Jones Act fleet is also an essential part of the transportation industry in this country. The fleet contributes approximately $15 billion a year to our economy and employs 124,000 American workers. Because of the Jones Act, the United States will always have a safe and reliable maritime system.

With these important benefits in mind, I rise today to urge my colleagues to support this resolution and to reaffirm in the strongest possible terms our support for the Jones Act.

This resolution spells out, loud and clear, that Congress will not allow the Jones Act to be weakened. It says that we will not allow substandard foreign-flag vessels—and their foreign crewmembers who are paid less than minimum wage—to push the U.S.-flag fleet out of its own market. It declares that if we did not have the Jones Act, these same foreign-flag vessels, free of virtually all U.S. laws and taxes, would also be able to compete unfairly against our domestic trucking, railroad, and pipeline industries. This resolution says that we will not allow that to happen.

This resolution says we are not going to hand over an entire American industry to foreign operators. More than 40 other maritime nations have laws similar to the Jones Act, and in this country we have similar laws that preserve our other transportation markets—like trucking and aviation—to American companies and American workers. With this resolution, Congress reasserts this Nation's commitment to maintaining a strong domestic maritime industry—with American ships and American workers.

This resolution promotes fairness to American businesses and American working men and women. It promotes our commitment to a strong national defense with no cost to the taxpayer. It promotes a safe and reliable national transportation system. And it promotes a vital sector of our economy. I ask my colleagues to join in supporting this resolution.

100TH ANNIVERSARY OF THE RHODE ISLAND AUDUBON SOCIETY

HON. ROBERT A. WEYGAND

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. WEYGAND. Mr. Speaker, I rise today to bring to your attention the momentous occasion of the 100th anniversary of the Rhode Island Audubon Society.

Founded as the State's first environmental organization, the Audubon Society of Rhode Island was originally established to protect birds from the feather trade. It now actively addresses a wide range of natural resources and environmental issues and is dedicated to advocacy, education, natural area protection, and land management. The Audubon Society of Rhode Island independently protects over 8,000 acres of coastal property and woodlands of diverse natural habitats. Each year, over 15,000 students and teachers statewide participate in environmental education programs ranging from classroom sessions, natural history field trips, summer camps, and teacher workshops and trainings.

Serving the second most densely populated State in the Nation, one with limited natural resources and an industrial economy, the Audubon Society of Rhode Island actively fulfills its environmental stewardship through preservation and protection of Rhode Island's treasured natural heritage.

With 3,500 members, the Audubon Society of Rhode Island is a very respected voice in local ecological issues.

Mr. Speaker, I ask that you join me, our colleagues, the members of the Audubon Society of Rhode Island and the State of Rhode Island, in recognizing the momentous occasion of the founding of the Audubon Society of Rhode Island, and expressing our warmest appreciation and thanks for a century of dedication to improving the quality of environment for wildlife and for humans alike. We wish them another 100 years of success.

ON THE DEATH OF FORMER ISRAELI PRESIDENT CHAIM HERZOG

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. GILMAN. Mr. Speaker, we were all saddened today to learn of the passing of the former President of Israel, Chaim Herzog. Mr. Herzog's life mirrored the birth and early history of the State of Israel. During his career, he served as a distinguished soldier, author, and diplomat.

Mr. Herzog was born in Belfast, Ireland, in 1918, the son of a rabbi, and immigrated to mandatory Palestine in 1935. He served as an officer in the British Army during the Second World War, and landed with Allied troops at Normandy in 1944.

Later he served with distinction in defending Israel from Arab attack during Israel's war of independence in 1948. After the June 1967 war, Mr. Herzog was appointed Israel's first military governor of the West Bank.

In the 1970's, he served at the Israeli Embassy in Washington, and was later named Israel's Ambassador to the United Nations. He was the author of several books, including "Israel's Finest Hour," a historical account of the 1967 war. Mr. Herzog was elected Israel's President in 1983.

Mr. Speaker, Chaim Herzog has been described by his contemporaries as "a man of war who loved peace." The American people extend to his family and to the people of Israel their deepest condolences for the passing of a man who has helped shape the history of Israel, and who was a lover of peace.

[From the Washington Post]

FORMER ISRAEL PRESIDENT HERZOG DIES

(By Dafna Linzer)

JERUSALEM (AP)—Chaim Herzog, Israel's longest-serving president as well as a distinguished soldier, author and diplomat, died today. He was 78.

Herzog suffered heart failure after contracting pneumonia during a recent visit to the United States, said Rachel Sofer, spokeswoman of Tel Hashomer Hospital in Tel Aviv.

When Herzog became Israel's sixth president in 1983, the country was divided by the war in Lebanon and facing international isolation. During his 10 years in the largely ceremonial post, Herzog made 45 visits abroad and was credited with helping to shape Israel's image internationally.

He got mixed reviews, however, when he set free Shin Bet secret service agents in 1986 who were accused of murdering two Palestinian militants. Four years later, he pardoned members of the Jewish underground convicted of attacking Palestinians.

Speaking in 1993, Herzog said his pardons saved the morale and effectiveness of Shin Bet after the scandal known as "Bus 300." The agency had tried to frame Yitzhak Mordechai, the current defense minister but at the time an army commander, for the deaths of two Palestinian bus hijackers. It was later learned that Shin Bet ordered the killings.

Born Vivian Herzog in Belfast on Sept. 17, 1918, Herzog was Ireland's bantamweight boxing champion before immigrating to prestate Palestine in 1935. His father, Isaac Herzog, became the first Ashkenazi chief rabbi when Israel gained independence in 1948.

During World War II, he was an officer in the British army, landing with the allied troops in Normandy. He was one of the last British officers to question Nazi Gen. Heinrich Himmler before he committed suicide in prison.

President Ezer Weizman, who served in battle with Herzog in the 1948 War of Independence, described him as a "talented man and good friend."

Shimon Peres, the former premier and Labor Party leader, called Herzog "a man of war who loved peace."

"Herzog was the most statesman-like man in Israel. He was a military man, a president, son of rabbis and man of the modern age," Peres said on Israel radio.

Following the war, he was named the first military governor of the West Bank, which Israel captured from Jordan in the 1967 Mideast War. The aristocratic Herzog won plaudits for his commentaries during the war, when his balanced and soothing reports put the nation at ease.

Later, he became the first head of Israeli military intelligence, served as U.S. military attache in Washington, and in 1975, was appointed Israel's ambassador to the United Nations.

During his three-year stint as U.N. ambassador, he made a celebrated but unsuccessful defense of his country against a resolution equating Zionism with racism.

He ripped up a copy of the resolution while speaking at the podium. That year he also wrote "The War of Atonement," an account of the 1973 Yom Kippur war and its political effects.

Among his other books was a historical look at the 1967 war entitled "Israel's Finest Hour."

In 1978, Herzog returned to Israel and opened a law practice in Tel Aviv. He was voted into parliament as a Labor representative in 1981.

In March 1983, he was elected president, overcoming intense opposition from the right-wing Likud party, headed by then-premier Menachem Begin.

When he took office, Herzog vowed to be a "people's president," but he lacked the common touch for the rough-and-tumble of Israeli political culture.

"He acted like a European, with European culture, grace and dignity. He tried to be folksy, but it was hard in a three-piece suit," said Gabi Brun, who covered the presidency for the daily Yedioth Ahronot for 20 years.

Herzog adopted the traditional president's role as the watchdog of the country's morality, decrying racial intolerance and religious strife.

THE INTRODUCTION OF THE PARKINSON'S RESEARCH ACT OF 1997

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 17, 1997

Mr. SMITH of New Jersey. Mr. Speaker, today I am introducing legislation that will provide for and coordinate greater research efforts on Parkinson's disease. I am introducing this bill for two reasons.

First, I support expanding life-affirming research on Parkinson's. Increasing resources to find a cure is not only a compassionate response to the suffering experienced by over 500,000 Americans, but it is a wise and economical use of our nation's tax dollars. In addition to the human tragedy resulting from the condition, Parkinson's patient advocates note that this terrible disease costs our society some $25 billion a year in direct medical expenses and reduced productivity. Parkinson's is a progressive and debilitating disease that affects a large segment of our population. Therefore, the discovery of a cure or an effective treatment will pay dividends far in excess of the $100 million in authorized funds provided in this bill.

As you already know, Parkinson's disease results from a degenerative condition in the brain whereby nerve cells lose the ability to produce the neurotransmitting chemical dopamine. Common symptoms include tremors—particularly in the extremities—rigidity, loss of balance, and bradykinesia, or very slow movements.

Parkinson's disease is an incurable condition which afflicts roughly 1 in every 100 people over the age of 60. Existing treatments, such as L-dopa, a pharmaceutical substitute for dopamine, and pallidotomy, a surgical technique which can relieve symptoms, are not long-term solutions, and their effectiveness diminishes over time.

While new drugs, medical devices, and surgical techniques which offer symptom relief are all extremely important, a real cure requires the ability to halt the neurodegenerative cycle and repair damaged brain cells. This year, it is estimated that another 50,000 Americans will be diagnosed with Parkinson's disease.

Despite these troubling numbers, Parkinson's disease does not get the attention it deserves in our federal medical research institutes. Patient advocates correctly note that while federally funded medical research spends roughly $1,000 per person with AIDS, and $255 per person with cancer, Parkinson's disease receives only $21 per person in research from NIH. This does not mean that other, more prominently discussed, diseases and conditions should receive less, but it does mean that more Parkinson's research is desperately needed, and soon.

Second, I continue to have a serious concern that under the Morris K. Udall Parkinson's Research bill—H.R. 1260—introduced by our colleagues from Michigan and California, NIH could expand its research using tissue from intentionally aborted babies. As someone with a deep respect for life during all of its phases, I find the exploitation of these murdered innocents simply unethical. The end, even though I agree it is very worthy, does not justify immoral means.

The Parkinson's research expansion bill being introduced today by me and 12 of our colleagues addresses this concern. It authorizes the same research funding level as the Udall bill, but bars the use of these funds for research using tissue from aborted babies. Unlike the Udall bill, this legislation will ensure that 100 percent of the funds authorized for Parkinson's research are ethically unimpeachable and noncontroversial.

Let me be clear: Parkinson's research is vitally important and should be increased. However, unborn children should not be exploited in the process. In fact, were the Udall bill to come up before the House with the pro-life safeguards included in my legislation, I would enthusiastically support it.

Unfortunately, there is a well-founded concern with respect to the issue of fetal tissue research. In January 1993, one of President Clinton's first acts was to overturn a Bush administration policy prohibiting NIH funding of research involving the transplantation of fetal tissue from intentionally aborted babies. In June 1993, a new NIH bill specifically authorized NIH funding of human fetal tissue transplantation research using tissue from any source: ectopic pregnancies, miscarriages, and induced abortions.

Since 1993, there have been four awards by NIH for research on human fetal tissue transplantation, and every single one of them has been in the area of Parkinson's research. So the fetal tissue research issue is clearly relevant to a bill dealing with research to find treatments for Parkinson's disease.

Another reason pro-life people have reason to be concerned about the issue of fetal tissue research as it relates to Parkinson's is provided by an April 1996 article in The Washingtonian. In that article, Morton Kondracke writes that the "fight over lifting a ban on federal funding of fetal-transplant research is what got Joan Samuelson into Parkinson's activism." Joan Samuelson, as you may know, is the president of the Parkinson's Action Network, which is the principal organization lobbying Members of Congress to cosponsor H.R. 1260.

Of course, there is nothing improper about people or organizations lobbying Congress to endorse fetal tissue research. If people disagree with my view on this issue, that is their right. However, many Members of Congress have been given the impression that there is absolutely no connection whatsoever between fetal tissue research and Parkinson's disease. To the contrary, my colleagues should understand that the forces urging them to cosponsor H.R. 1260 are substantially similar to the forces that lobbied Congress during the Bush administration to endorse fetal tissue research involving intentionally aborted unborn children. Many of the same players also opposed an amendment to the NIH reauthorization bill in 1993 which would have ensured that all of the safeguards recommended by an NIH advisory panel were in place before tax dollars were used for fetal tissue transplantation research.

In conclusion, Mr. Speaker, the legislation I am offering is identical to the Udall bill both in structure and in the funding authorization provided. The only differences between my bill and the Udall bill are: First, the title, to prevent confusion; and second, the pro-life protections contained in the bill. Everything else is identical.

Therefore, there is no debate over the commitment to fighting Parkinson's disease. There is no debate over funding levels. There is no debate over the structure of the new program. Indeed, if we could simply focus Federal funding toward the overwhelming majority of Parkinson's research that is uncontroversial, there would be no debate, and the expansion of Parkinson's research could begin almost immediately.

SENATE—*Monday, April 21, 1997*

The Senate met at 10 a.m., on the expiration of the adjournment, and was called to order by the President pro tempore [Mr. THURMOND].

ADJOURNMENT UNTIL 10 A.M., TUESDAY, APRIL 22, 1997

The PRESIDENT pro tempore. Under the previous order, the Senate stands in adjournment until the hour of 10 a.m., on Tuesday, April 22, 1997.

Thereupon, the Senate, at 10 o'clock and 20 seconds a.m., adjourned until Tuesday, April 22, 1997, at 10 a.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

HOUSE OF REPRESENTATIVES—*Monday, April 21, 1997*

The House met at 3 p.m. and was called to order by the Speaker pro tempore [Mr. MILLER of Florida].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 21, 1997.

I hereby designate the Honorable DAN MILLER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray using the words of Psalm 85:

Lord, Thou wast favorable to Thy land; Thou didst restore the fortunes of Jacob. Thou didst forgive the iniquity of Thy people; Thou didst pardon all their sin. Thou didst withdraw all Thy wrath; Thou didst turn from Thy hot anger. Restore us again, O God of our salvation, and put away Thy indignation toward us. Wilt Thou be angry with us forever? Wilt Thou prolong Thy anger to all generations? Wilt Thou not revive us again, that Thy people may rejoice in Thee? Show us Thy steadfast love, O Lord, and grant us Thy salvation.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Wisconsin [Mr. SENSENBRENNER] come forward and lead the House in the Pledge of Allegiance.

Mr. SENSENBRENNER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PERMISSION FOR COMMITTEE ON SCIENCE TO HAVE UNTIL 6 P.M. TUESDAY, APRIL 22, 1997 TO FILE REPORTS ON H.R. 1276, ENVIRONMENTAL RESEARCH, DEVELOPMENT AND DEMONSTRATION AUTHORIZATION ACT; H.R. 1277, DEPARTMENT OF ENERGY CIVILIAN RESEARCH AND DEVELOPMENT ACT; AND H.R. 1278, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the Committee on Science have until 6 p.m. Tuesday, April 22, 1997 to file reports on the following bills:

H.R. 1276, the Environmental Research, Development and Demonstration Authorization Act;

H.R. 1277, the Department of Energy Civilian Research and Development Act; and

H.R. 1278, the National Oceanic and Atmospheric Administration Authorization Act.

These requests have been cleared with and approved by the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CORRECTION OF THE RECORD OF APRIL 17, 1997, PAGE 5831

SPEAKER'S COMPENSATION FOR COST OF ETHICS INVESTIGATION

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, . . .

Mr. SOLOMON. Mr. Speaker, I ask the gentleman's words be taken down.

The SPEAKER pro tempore (Mr. KOLBE). The gentleman will suspend. The gentleman from Georgia will be seated.

□ 1030

The SPEAKER pro tempore (Mr. KOLBE). The Clerk will report the words.

The Clerk read as follows:

I am surprised to see my Republican colleagues on the floor today congratulating Speaker NEWT GINGRICH for doing something he should have done months ago, paying $300,000 for lying to Congress. Speaker GINGRICH admitted to bringing discredit on the House of Representatives. He has admitted to lying to this House.

The SPEAKER pro tempore. The Chair is prepared to rule.

The words of the gentleman from Georgia constitute a personality against the Speaker. Under the precedents, the debate should not go to the official conduct of a Member where that question is not pending as a question of privilege on the House floor. The fact that the House has addressed a Member's conduct at a prior time does not permit this debate at this time. Therefore, the gentleman's words are out of order.

Without objection, the gentleman's words will be stricken from the RECORD.

Mr. DOGGETT. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The question before the House is: Shall the gentleman's words be stricken from the RECORD?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DOGGETT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 190, answered "present" 3, not voting 12, as follows:

[Roll No. 82]

AYES—227

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kind (WI)
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Livingston
LoBiondo
Lucas
Luther
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Minge
Molinari
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wolf
Young (AK)
Young (FL)

NOES—190

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Cummings
Danner
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Goode
Gordon
Green
Gutierrez
Hall (TX)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Schumer
Scott
Serrano
Sherman
Sisisky
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Torres
Towns
Turner
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

ANSWERED "PRESENT"—3

Berman
Cardin
Sawyer

NOT VOTING—12

Allen
Andrews
Costello
Crane
Davis (IL)
Harman
Istook
Morella
Owens
Schiff
Tierney
Whitfield

□ 1103

Mrs. MALONEY of New York, Ms. FURSE, and Mr. MOAKLEY changed their vote from "aye" to "no."

So the motion to strike the words was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SENSENBRENNER) to revise and extend their remarks and include extraneous material:)

Mr. RIGGS, for 5 minutes, on April 24.

Mr. HULSHOF, for 5 minutes, on April 24.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SENSENBRENNER) and to include extraneous matter:)

Mr. ROEMER.

Mrs. MALONEY of New York.

Mr. DELLUMS.

Mr. RANGEL.

ADJOURNMENT

Mr. SENSENBRENNER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 4 minutes p.m.), under its previous order, the House adjourned until Wednesday, April 23, 1997, at 2 p.m.

OATH OF OFFICE, MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Members of the 105th Congress, pursuant to the provisions of 2 U.S.C. 25:

ALABAMA

1. Sonny Callahan
2. Terry Everett
3. Bob Riley
4. Robert B. Aderholt
5. Robert E. (Bud) Cramer, Jr.
6. Spencer Bachus
7. Earl F. Hilliard

ALASKA

At Large

Don Young

ARIZONA

1. Matt Salmon
2. Ed Pastor
3. Bob Stump
4. John B. Shadegg
5. Jim Kolbe
6. J. D. Hayworth

ARKANSAS

1. Marion Berry
2. Vic Snyder
3. Asa Hutchinson
4. Jay Dickey

CALIFORNIA

1. Frank Riggs
2. Wally Herger
3. Vic Fazio
4. John T. Doolittle
5. Robert T. Matsui
6. Lynn C. Woolsey
7. George Miller
8. Nancy Pelosi
9. Ronald V. Dellums
10. Ellen O. Tauscher
11. Richard W. Pombo
12. Tom Lantos
13. Fortney Pete Stark
14. Anna G. Eshoo
15. Tom Campbell
16. Zoe Lofgren
17. Sam Farr
18. Gary A. Condit
19. George P. Radanovich
20. Calvin M. Dooley
21. William M. Thomas
22. Walter H. Capps
23. Elton Gallegly
24. Brad Sherman
25. Howard P. "Buck" McKeon
26. Howard L. Berman
27. James E. Rogan
28. David Dreier
29. Henry A. Waxman
30. Xavier Becerra
31. Matthew G. Martinez
32. Julian C. Dixon
33. Lucille Roybal-Allard
34. Esteban Edward Torres
35. Maxine Waters
36. Jane Harman
37. Juanita Millender-McDonald

38. Stephen Horn
39. Edward R. Royce
40. Jerry Lewis
41. Jay Kim
42. George E. Brown, Jr.
43. Ken Calvert
44. Sonny Bono
45. Dana Rohrabacher
46. Loretta Sanchez
47. Christopher Cox
48. Ron Packard
49. Brian P. Bilbray
50. Bob Filner
51. Randy "Duke" Cunningham
52. Duncan Hunter

COLORADO

1. Diana DeGette
2. David E. Skaggs
3. Scott McInnis
4. Bob Schaffer
5. Joel Hefley
6. Dan Schaefer

CONNECTICUT

1. Barbara B. Kennelly
2. Sam Gejdenson
3. Rosa L. DeLauro
4. Christopher Shays
5. James H. Maloney
6. Nancy L. Johnson

DELAWARE

At Large

Michael N. Castle

FLORIDA

1. Joe Scarborough
2. Allen Boyd
3. Corrine Brown
4. Tillie K. Fowler
5. Karen L. Thurman
6. Cliff Stearns
7. John L. Mica
8. Bill McCollum
9. Michael Bilirakis
10. C. W. Bill Young
11. Jim Davis
12. Charles T. Canady
13. Dan Miller
14. Porter J. Goss
15. Dave Weldon
16. Mark Foley
17. Carrie P. Meek
18. Ileana Ros-Lehtinen
19. Robert Wexler
20. Peter Deutsch
21. Lincoln Diaz-Balart
22. E. Clay Shaw, Jr.
23. Alcee L. Hastings

GEORGIA

1. Jack Kingston
2. Sanford D. Bishop, Jr.
3. Mac Collins
4. Cynthia A. McKinney
5. John Lewis
6. Newt Gingrich
7. Bob Barr
8. Saxby Chambliss
9. Nathan Deal
10. Charlie Norwood
11. John Linder

HAWAII

1. Neil Abercrombie
2. Patsy T. Mink

IDAHO

1. Helen Chenoweth
2. Michael D. Crapo

ILLINOIS

1. Bobby L. Rush
2. Jesse L. Jackson, Jr.
3. William O. Lipinski
4. Luis V. Gutierrez
5. Rod R. Blagojevich
6. Henry J. Hyde
7. Danny K. Davis
8. Philip M. Crane
9. Sidney R. Yates
10. John Edward Porter
11. Jerry Weller
12. Jerry F. Costello
13. Harris W. Fawell
14. J. Dennis Hastert
15. Thomas W. Ewing
16. Donald A. Manzullo
17. Lane Evans
18. Ray LaHood
19. Glenn Poshard
20. John Shimkus

INDIANA

1. Peter J. Visclosky
2. David M. McIntosh
3. Tim Roemer
4. Mark E. Souder
5. Stephen E. Buyer
6. Dan Burton
7. Edward A. Pease
8. John N. Hostettler
9. Lee H. Hamilton
10. Julia Carson

IOWA

1. James A. Leach
2. Jim Nussle
3. Leonard L. Boswell
4. Greg Ganske
5. Tom Latham

KANSAS

1. Jerry Moran
2. Jim Ryun
3. Vince Snowbarger
4. Todd Tiahrt

KENTUCKY

1. Ed Whitfield
2. Ron Lewis
3. Anne M. Northup
4. Jim Bunning
5. Harold Rogers
6. Scotty Baesler

LOUISIANA

1. Bob Livingston
2. William J. Jefferson
3. W. J. (Billy) Tauzin
4. Jim McCrery
5. John Cooksey
6. Richard H. Baker
7. Christopher John

MAINE

1. Thomas H. Allen
2. John Elias Baldacci

MARYLAND

1. Wayne T. Gilchrest
2. Robert L. Ehrlich, Jr.
3. Benjamin L. Cardin
4. Albert Russell Wynn
5. Steny H. Hoyer
6. Roscoe G. Bartlett
7. Elijah E. Cummings
8. Constance A. Morella

MASSACHUSETTS

1. John W. Olver
2. Richard E. Neal
3. James P. McGovern
4. Barney Frank
5. Martin T. Meehan
6. John F. Tierney
7. Edward J. Markey
8. Joseph P. Kennedy II
9. John Joseph Moakley
10. William D. Delahunt

MICHIGAN

1. Bart Stupak
2. Peter Hoekstra
3. Vernon J. Ehlers
4. Dave Camp
5. James A. Barcia
6. Fred Upton
7. Nick Smith
8. Debbie Stabenow
9. Dale E. Kildee
10. David E. Bonior
11. Joe Knollenberg
12. Sander M. Levin
13. Lynn N. Rivers
14. John Conyers, Jr.
15. Carolyn C. Kilpatrick
16. John D. Dingell

MINNESOTA

1. Gil Gutknecht
2. David Minge
3. Jim Ramstad
4. Bruce F. Vento
5. Martin Olav Sabo
6. Bill Luther
7. Collin C. Peterson
8. James L. Oberstar

MISSISSIPPI

1. Roger F. Wicker
2. Bennie G. Thompson
3. Charles W. "Chip" Pickering
4. Mike Parker
5. Gene Taylor

MISSOURI

1. William (Bill) Clay
2. James M. Talent
3. Richard A. Gephardt
4. Ike Skelton
5. Karen McCarthy
6. Pat Danner
7. Roy Blunt
8. Jo Ann Emerson
9. Kenny C. Hulshof

MONTANA

At Large

Rick Hill

NEBRASKA

1. Doug Bereuter
2. Jon Christensen
3. Bill Barrett

NEVADA

1. John E. Ensign
2. Jim Gibbons

NEW HAMPSHIRE

1. John E. Sununu
2. Charles F. Bass

NEW JERSEY

1. Robert E. Andrews
2. Frank A. LoBiondo
3. Jim Saxton
4. Christopher H. Smith
5. Marge Roukema
6. Frank Pallone, Jr.
7. Bob Franks
8. Bill Pascrell, Jr.
9. Steven R. Rothman
10. Donald M. Payne
11. Rodney P. Frelinghuysen
12. Michael Pappas
13. Robert Menendez

NEW MEXICO

1. Steven Schiff
2. Joe Skeen
3. Bill Richardson

NEW YORK

1. Michael P. Forbes
2. Rick Lazio
3. Peter T. King
4. Carolyn McCarthy
5. Gary L. Ackerman
6. Floyd H. Flake
7. Thomas J. Manton
8. Jerrold Nadler
9. Charles E. Schumer
10. Edolphus Towns

11. Major R. Owens
12. Nydia M. Velázquez
13. Susan Molinari
14. Carolyn B. Maloney
15. Charles B. Rangel
16. José E. Serrano
17. Eliot L. Engel
18. Nita M. Lowey
19. Sue W. Kelly
20. Benjamin A. Gilman
21. Michael R. McNulty
22. Gerald B. H. Solomon
23. Sherwood L. Boehlert
24. John M. McHugh
25. James T. Walsh
26. Maurice D. Hinchey
27. Bill Paxon
28. Louise McIntosh Slaughter
29. John J. LaFalce
30. Jack Quinn
31. Amo Houghton

NORTH CAROLINA

1. Eva M. Clayton
2. Bob Etheridge
3. Walter B. Jones, Jr.
4. David E. Price
5. Richard Burr
6. Howard Coble
7. Mike McIntyre
8. W. G. (Bill) Hefner
9. Sue Myrick
10. Cass Ballenger
11. Charles H. Taylor
12. Melvin L. Watt

NORTH DAKOTA

At Large

Earl Pomeroy

OHIO

1. Steve Chabot
2. Rob Portman
3. Tony P. Hall
4. Michael G. Oxley
5. Paul E. Gillmor
6. Ted Strickland
7. David L. Hobson
8. John A. Boehner
9. Marcy Kaptur
10. Dennis J. Kucinich
11. Louis Stokes
12. John R. Kasich
13. Sherrod Brown
14. Thomas C. Sawyer
15. Deborah Pryce
16. Ralph Regula
17. James A. Traficant, Jr.
18. Robert W. Ney
19. Steven C. LaTourette

OKLAHOMA

1. Steve Largent
2. Tom A. Coburn
3. Wes Watkins
4. J. C. Watts, Jr.
5. Ernest J. Istook, Jr.
6. Frank D. Lucas

OREGON

1. Elizabeth Furse
2. Robert F. Smith
3. Earl Blumenauer
4. Peter A. DeFazio
5. Darlene Hooley

PENNSYLVANIA

1. Thomas M. Foglietta
2. Chaka Fattah
3. Robert A. Borski
4. Ron Klink
5. John E. Peterson
6. Tim Holden
7. Curt Weldon
8. James C. Greenwood
9. Bud Shuster
10. Joseph M. McDade
11. Paul E. Kanjorski
12. John P. Murtha
13. Jon D. Fox
14. William J. Coyne
15. Paul McHale
16. Joseph R. Pitts
17. George W. Gekas
18. Michael F. Doyle
19. William F. Goodling
20. Frank Mascara
21. Phil English

RHODE ISLAND

1. Patrick J. Kennedy
2. Robert A. Weygand

SOUTH CAROLINA

1. Marshall "Mark" Sanford
2. Floyd Spence
3. Lindsey O. Graham
4. Bob Inglis
5. John M. Spratt, Jr.
6. James E. Clyburn

SOUTH DAKOTA

At Large

John R. Thune

TENNESSEE

1. William L. Jenkins
2. John J. Duncan, Jr.
3. Zach Wamp
4. Van Hilleary
5. Bob Clement
6. Bart Gordon
7. Ed Bryant
8. John S. Tanner
9. Harold E. Ford, Jr.

TEXAS

1. Max Sandlin
2. Jim Turner
3. Sam Johnson
4. Ralph M. Hall
5. Pete Sessions
6. Joe Barton
7. Bill Archer
8. Kevin Brady
9. Nick Lampson
10. Lloyd Doggett
11. Chet Edwards
12. Kay Granger
13. William M. "Mac" Thornberry
14. Ron Paul
15. Rubén Hinojosa
16. Silvestre Reyes
17. Charles W. Stenholm
18. Sheila Jackson Lee
19. Larry Combest
20. Henry B. Gonzalez
21. Lamar S. Smith
22. Tom DeLay
23. Henry Bonilla
24. Martin Frost
25. Ken Bentsen
26. Richard K. Armey
27. Solomon P. Ortiz
28. Frank Tejeda
29. Gene Green
30. Eddie Bernice Johnson

UTAH

1. James V. Hansen
2. Merrill Cook
3. Chris Cannon

VERMONT

At Large

Bernard Sanders

VIRGINIA

1. Herbert H. Bateman
2. Owen B. Pickett
3. Robert C. Scott
4. Norman Sisisky
5. Virgil H. Goode, Jr.
6. Bob Goodlatte
7. Tom Bliley
8. James P. Moran
9. Rick Boucher
10. Frank R. Wolf
11. Thomas M. Davis

WASHINGTON

1. Rick White
2. Jack Metcalf
3. Linda Smith
4. Doc Hastings
5. George R. Nethercutt, Jr.
6. Norman D. Dicks
7. Jim McDermott
8. Jennifer Dunn
9. Adam Smith

WEST VIRGINIA

1. Alan B. Mollohan
2. Robert E. Wise, Jr.
3. Nick J. Rahall II

WISCONSIN

1. Mark W. Neumann
2. Scott L. Klug
3. Ron Kind
4. Gerald D. Kleczka
5. Thomas M. Barrett
6. Thomas E. Petri
7. David R. Obey
8. Jay W. Johnson
9. F. James Sensenbrenner, Jr.

WYOMING

At Large

Barbara Cubin

PUERTO RICO

At Large

Carlos A. Romero-Barceló

AMERICAN SAMOA

At Large

Eni F. H. Faleomavaega

DISTRICT OF COLUMBIA

At Large

Eleanor Holmes Norton

GUAM

At Large

Robert A. Underwood

VIRGIN ISLANDS

At Large

Donna M. Christian-Green

OATH OF OFFICE, MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the

House of Representatives by the following Member of the 105th Congress, pursuant to the provisions of 2 U.S.C. 25:

Honorable CIRO D. RODRIGUEZ, 28th District Texas.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2878. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Viruses, Serums, Toxins, and Analogous Products; In Vitro Tests for Serial Release [APHIS Docket No. 94–051–3] (RIN: 0579–AA66) received April 18, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2879. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Export Certification of Animal Products [APHIS Docket No. 93–168–2] received April 18, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2880. A letter from the Under Secretary for Acquisition and Technology, Department of Defense, transmitting the Department's 1997 report entitled "International Cooperative Research and Development Program," pursuant to 10 U.S.C. 2350(f)(1); to the Committee on National Security.

2881. A letter from the Assistant Secretary for Force Management Policy, Department of Defense, transmitting notification that the report on military permanent medical nondeployables will be completed by May 31, 1997; to the Committee on National Security.

2882. A letter from the Assistant Secretary for Health Affairs, Department of Defense, transmitting the fiscal year 1996 annual report on the third party collection program, pursuant to section 718 of the fiscal year 1994 National Defense Authorization Act; to the Committee on National Security.

2883. A letter from the Assistant Secretary for Health Affairs, Department of Defense, transmitting an interim report on the progress of a study on the means of improving the provision of uniform and consistent medical and dental care to members of the reserve components serving on active duty; to the Committee on National Security.

2884. A letter from the Secretary of Defense, transmitting a report on the effects of mergers and acquisitions in the defense industry, pursuant to Public Law 104–201, section 826(b) (110 Stat. 2611); to the Committee on National Security.

2885. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting a report on the application of the Electronic Fund Transfer Act to electronic stored-value products, pursuant to Public Law 104–208, section 2601(b) (110 Stat. 3009–469); to the Committee on Banking and Financial Services.

2886. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Poland, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

2887. A letter from the Chairman, National Foundation on the Arts and the Humanities, transmitting the Federal Council on the Arts and Humanities' 21st annual report on the Arts and Artifacts Indemnity Program for fiscal year 1996, pursuant to 20 U.S.C. 959(c); to the Committee on Education and the Workforce.

2888. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; District of Columbia and State of Maryland—1990 Base Year Emission Inventory for the Metropolitan Washington DC Area [DC010–5914a; MD033–7157a; FRL–5814–1] received April 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2889. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Eufaula, Wagoner, Warner, and Sand Springs, Oklahoma) [MM Docket No. 96–94, RM–8790) received April 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2890. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Premont, Texas) [MM Docket No. 95–120, RM–8650) received April 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2891. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cawker City, Kansas) [MM Docket No. 96–207, RM–8874) received April 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2892. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Powhatan and Goochland, Virginia) [MM Docket No. 96–167, RM–8843, RM–8899) received April 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2893. A letter from the Manager Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Claremore and Chelsea, Oklahoma) [MM Docket No. 95–167, RM–8699] received April 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2894. A letter from the Manager Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Hilton and Albion, New York) [MM Docket No. 96–125, RM–8807, RM–8861] received April 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2895. A letter from the Manager Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cambridge and St. Michaels, Maryland) [MM Docket No. 95–291, RM–8133] received April 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2896. A letter from the Manager Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Battle Mountain, Nevada) [MM Docket No. 95–145, RM–8831] received April 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2897. A letter from the Manager Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Alexandria and Ball, Louisiana) [MM Docket No. 95–143, RM–8826, RM–8890] received April 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2898. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Zapata, Texas) [MM Docket No. 95–142, RM–8685] received April 16, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2899. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of 47 CFR Part 1.1200 et seq. Concerning Ex Parte Presentations in Commission Proceedings [GC Docket No. 95–21] received April 21, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2900. A letter from the Assistant Commissioner (Examination), Internal Revenue Service, transmitting the Service's final rule—Pharmaceutical Industry Coordinated Issue: Medicaid Rebates—received April 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2901. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Release of Patients Administered Radioactive Materials [Regulatory Guide 8.39] received April 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2902. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective March 30, 1997, the danger pay rate for Albania was designated at the 25 percent level, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

2903. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

2904. A letter from the Chief Counsel, Office of Foreign Assets Control, transmitting the Office's final rule—Iranian Transactions Regulations: Reporting on Foreign Affiliates; Oil-Related Transactions [31 CFR Part 560] received April 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

2905. A letter from the Chief Counsel, Office of Foreign Assets Control, transmitting the Office's final rule—Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations: Resolution of Claims Regarding Blocked Yugoslav Vessels and Removal of Names from Appendix C to 31 CFR Chapter V [31 CFR Part 585 and Chapter V] received April 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

2906. A letter from the Chairman Pro Tempore, Council of the District of Columbia; transmitting a copy of D.C. Act 12–63, "District of Columbia Taxicab Commission Establishment Act of 1985 Temporary Amendment Act of 1997" received April 17, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the

Committee on Government Reform and Oversight.

2907. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 12–61, "Tenant Representative Services Lease Negotiation and Review Temporary Amendment Act of 1997; received April 17, 1997, to the Committee on Government Reform and Oversight.

2908. A letter from the Director, Office of Communication and Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Commission's final rule—Procedures for Previously Exempt State and Local Government Employee Complaints of Employment Discrimination under the Government Employee Rights Act of 1991 (RIN: 3046–AA45) received April 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

2909. A letter from the President, Federal Financing Bank, transmitting the Bank's annual management report for fiscal year 1996, pursuant to 31 U.S.C. 9106; to the Committee on Government Reform and Oversight.

2910. A letter from the Postmaster General, U.S. Postal Service, transmitting a report of activities under the Freedom of Information Act for the calendar year 1996, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

2911. A letter from the Acting General Counsel, Department of Energy, transmitting the Department's final rule—Final Power Allocations of the Post–2000 Resource Pool—Pick-Sloan Missouri Basin Program, Eastern Division (Western Area Power Administration) [10 CFR Part 905] received April 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2912. A letter from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 961126334–7025–02; I.D. 041497A] received April 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2913. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery Off the Southern Atlantic States; Amendment 2 [Docket No. 961226370–7074–02; I.D. 111896A] (RIN: 0648–AI15) received April 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2914. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/"Other Flatfish" Fishery Category by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands [Docket No. 961107312–7021–02; I.D. 041097E] received April 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2915. A letter from the Acting Director, Office of Surface Mining Reclamation Enforcement, transmitting the Office's final rule—Ownership and Control; Permit Application Process; Improvidently Issued Permits (RIN: 1029–AB91) received April 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2916. A letter from the Secretary of Commerce, transmitting the Department's report entitled "Summary of Scientific Studies of the Hatchery System in the Pacific Northwest"; to the Committee on Resources.

2917. A letter from the Attorney General, Department of Justice, transmitting the 1996 annual report of the Federal Prison Industries, Inc. [FPI], pursuant to 18 U.S.C. 4127; to the Committee on the Judiciary.

2918. A letter from the Assistant Attorney General, Department of Justice, transmitting the first annual report on the Police Corps, pursuant to 42 U.S.C. 14102; to the Committee on the Judiciary.

2919. A letter from the Assistant Attorney General, Department of Justice, transmitting the report on the impact of the Public Safety and Recreational Firearms Use Protection Act of 1994, pursuant to Public Law 103–322, section 110104 (108 Stat. 2000); to the Committee on the Judiciary.

2920. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Waiver of the Two-Year Home Country Physical Presence Requirement for Certain Foreign medical Graduates [INS No. 1688–95] (RIN: 1115–AD89) received April 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2921. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's final rule—Foreign Workers Seeking to Employ Temporary Alien Workers in the H, O, and P Nonimmigrant Classifications [INS 1653–94] (RIN: 1115–AC72) received April 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

2922. A letter from the Secretary, Naval Sea Cadet Corps, transmitting the annual audit Report of the Corps for the year ended December 31, 1996, pursuant to 36 U.S.C. 1101(39) and 1103; to the Committee on the Judiciary.

2923. A letter from the Director, Federal Emergency Management Agency, transmitting notification that funding under title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, will exceed $5 million for the response to the emergency declared on October 23, 1996, as a result of the severe fire storms which occurred from October 21–31, 1996, pursuant to 42 U.S.C. 5193; to the Committee on Transportation and Infrastructure.

2924. A letter from the Chairman, Federal Maritime Commission, transmitting the 35th annual report of the Federal Maritime Commission for fiscal year 1996, pursuant to 46 U.S.C. app. 1118; to the Committee on Transportation and Infrastructure.

2925. A letter from the Secretary of Transportation, transmitting the Department's report entitled "Federal Highway Administration's Oversight of the Buy America Program", pursuant to Public Law 104–59, section 359(c)(2) (109 Stat. 627); to the Committee on Transportation and Infrastructure.

2926. A letter from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting the Department's final rule—Regulations Governing Book-Entry Treasury Bonds, Notes and Bills (Bureau of the Public Debt) [31 CFR Part 357] received April 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2927. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and Determination Letters [Rev. Proc. 97–23] received April 17, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2928. A letter from the Director, Office of Thrift Supervision, transmitting the Office's 1996 annual consumer report to Congress, pursuant to 12 U.S.C. 1462a(g); jointly, to the Committees on Banking and Financial Services and Commerce.

2929. A letter from the Director, Defense Security Assistance Agency, transmitting a report on deliveries under section 540 of Public Law 104–107 to the Government of Bosnia and Herzegovina, pursuant to Public Law 104–107, section 540(c) (110 Stat. 736); jointly, to the Committees on International Relations and Appropriations.

2930. A letter from the Under Secretaries of State and Commerce, Departments of State and Commerce, transmitting the Secretaries joint report to Congress entitled "Annual Reports on Improving Export Mechanisms and on Military Assistance," pursuant to Public Law 104–106, section 1324(a) (110 Stat. 480); jointly, to the Committees on International Relations, Ways and Means, and National Security.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on Science. H.R. 437. A bill to reauthorize the National Sea Grant College Program Act, and for other purposes; with an amendment (Rept. 105–22, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 39. A bill to reauthorize the African Elephant Conservation Act (Rept. 105–59). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 363. A bill to amend section 2118 of the Energy Policy Act of 1992 to extend the Electric and Magnetic Fields Research and Public Information Dissemination Program; with an amendment (Rept. 105–60, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on Science. H.R. 363. A bill to amend section 2118 of the Energy Policy Act of 1992 to extend the Electric and Magnetic Fields Research and Public Information Dissemination Program; with an amendment (Rept. 105–60, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on Science. H.R. 1271. A bill to authorize the Federal Aviation Administration's research, engineering, and developing programs for fiscal years 1998 through 2000, and for other purposes; with an amendment (Rept. 105–61). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on Science. H.R. 1272. A bill to authorize appropriations for fiscal years 1998 and 1999 for the U.S. Fire Administration, and for other purposes; with an amendment (Rept. 105–62). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on Science. H.R. 1273. A bill to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes; with an amendment (Rept. 105–63). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on Science. H.R. 1274. A bill to authorize appropriations for the National Institute of Standards and Technology for fiscal years 1998 and 1999, and for other purposes; with an amendment (Rept. 105–64). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on Science. H.R. 1275. A bill to authorize appropriations for the National Aeronautics and Space Administration for fiscal years 1998 and 1999, for other purposes; with an amendment (Rept. 105–65). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII,

Mr. MORAN of Virginia introduced a bill (H.R. 1405) to amend the Foreign Assistance Act of 1961 to require that information relating to U.S. policy to establish and encourage an international strategy to reduce violations of the human rights of working children be included in the annual human rights report of the Department of State; which was referred to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

49. By the SPEAKER: Memorial of the Senate of the State of New Jersey, relative to Senate Resolution No. 73 urging the Federal Communications Commission to refrain from assigning channel 21 to commercial broadcasters in the southern New Jersey, Philadelphia region; to the Committee on Commerce.

50. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 32 urging the President of the United States and Congress to support legislation authorizing States to restrict the amount of solid waste being imported from other States; to the Committee on Commerce.

51. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to a Senate resolution urging the President of the United States and the U.S. Congress to restore federally funded benefits to legal immigrants residing in the United States; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 165: Mr. McCollum and Mr. McIntyre.

H.R. 279: Mr. Adam Smith of Washington, Mr. Shuster, Mr. Luther, Mr. Kleczka, and Mr. Kasich.

H.R. 437: Mr. Jones, Mr. Camp, Mr. Towns, Ms. Pelosi, and Mr. Tauzin.

H.R. 483: Mr. Delahunt.

H.R. 602: Mr. Meehan.

H.R. 680: Mr. Rush and Mrs. Kelly.

H.R. 727: Mr. Riggs.

H.R. 761: Ms. Furse and Mr. Meehan.

H.R. 778: Mr. Barrett of Wisconsin.

H.R. 779: Mr. Barrett of Wisconsin.

H.R. 780: Mr. Barrett of Wisconsin.

H.R. 825: Mr. Dellums, Mr. Yates, Mr. Clement, and Mr. Clyburn.

H.R. 1006: Ms. Slaughter, Mr. Ramstad, Mr. Spratt, Mr. Gutierrez, and Mr. Watkins.

H.R. 1007: Mr. Smith of New Jersey.

H.R. 1008: Mr. Frost, Mr. Smith of New Jersey, and Ms. DeLauro.

H.R. 1072: Mr. Ackerman, Mr. Abercrombie, Mr. Barrett of Wisconsin, Ms. Norton, Ms. Christian-Green and Mr. Rush.

H.R. 1161: Mr. Martinez and Mr. Lipinski.

H.R. 1162: Mr. Watkins.

H.R. 1238: Mr. Meehan.

H.R. 1239: Mr. Meehan.

H.R. 1271: Mr. Brown of California, Mr. Ehlers, Mr. Gordon, Mr. Davis of Virginia, and Ms. Jackson-Lee.

H.R. 1272: Mr. Brown of California, Ms. Jackson-Lee, Mr. Barcia of Michigan, Mrs. Morella, Mr. Pickering, Mr. Sessions, and Mr. Ehlers.

H.R. 1273: Mr. Brown of California, Mr. Capps, Ms. Jackson-Lee, Mr. Barcia of Michigan, Mrs. Morella, Mr. Pickering, Mr. Sessions, and Mr. Ehlers.

H.R. 1274: Mr. Brown of California, Mr. Ehlers, Mr. Gordon, Mr. Davis of Virginia, and Ms. Jackson-Lee.

H.R. 1275: Mr. Brown of California, Mr. Cramer, Mr. Weldon of Florida, Mr. Traficant, Mr. Foley, Ms. Jackson-Lee, Mr. Pickering, Mr. Capps, Mr. Lampson, and Mr. Barton of Texas.

H.J. Res. 66: Mrs. Mink of Hawaii, Ms. Brown of Florida, Ms. Velázquez, Mr. Farr of California, Ms. DeGette, Mr. Dellums, and Ms. Rivers.

H. Con. Res. 39: Mrs. Kennelly of Connecticut, Mr. Lewis of Georgia, Mr. Dellums, Mr. Jefferson, Mrs. Lowey, and Mrs. Morella.

EXTENSIONS OF REMARKS

DR. HICKEY LEAVES VIBRANT LEGACY AT ST. MARY'S

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 21, 1997

Mr. ROEMER. Mr. Speaker, it is a great honor today to rise in appreciation of Dr. William A. Hickey, who will retire as the president of St. Mary's College at the close of the academic year.

St. Mary's and the city of South Bend both have greatly benefited from Dr. Hickey's service to the college and the community. First arriving at St. Mary's in 1960 as an instructor of biology, Dr. Hickey rose through the faculty ranks to serve as professor, chair of the biology department, vice president and dean of the faculty, and twice interim president before assuming full duties as president in 1980. In addition to his administrative responsibilities, Dr. Hickey also excelled in his chosen field, receiving a number of awards for his work in insect genetics.

Since Dr. Hickey became president, the college has maintained its high level of academic standards and its focus on students and the faculty. Furthermore, St. Mary's endowment has more than doubled and the college has now operated in the black for 28 successive years. All these factors have helped make St. Mary's the premier women's Catholic college in the Nation.

Dr. Hickey also was active in the local community, serving on boards such as the South Bend Symphony, the Michiana Arts and Sciences Council, and the Stanley Clark School.

Dr. Hickey has spent his entire career in higher education at St. Mary's College and serving in the greater South Bend community. Personally, I will always appreciate the professionalism and courtesy he exhibited toward me and my staff. He has had a positive influence on literally thousands of students at St. Mary's, and he will be greatly missed. Whatever his next endeavor, I am sure Dr. Hickey will continue to play a constructive and important role in influencing the lives of students and all of those who come into contact with him.

IN HONOR OF THE POLISH & SLAVIC CENTER

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 21, 1997

Mrs. MALONEY of New York. Mr. Speaker, I rise today to pay tribute to the Polish & Slavic Center, an organization that has made invaluable contributions to Metropolitan New York's Polish-American community for a quarter of a century. I am proud to report that the PSC is celebrating its 25th anniversary this month.

The center plays a vital role in creating a sense of community for New York's Polish-Americans. With a membership of approximately 40,000 and growing at a rate of 400 new members monthly, the PSC is the east coast's largest Polish-American organization.

The Polish & Slavic Center serves as a uniting force for the community by mobilizing social forces to gain and support Polish-Americans' rights. Through its four social service programs, the PSC aids immigrants, seniors, children, and the poor with everyday problems that can often seem insurmountable.

The center's admirable cultural and educational services fulfill the PSC's mission to better the Polish-American society by improving the individual human condition. Through a monthly publication, two television programs, and a concert auditorium, PSC serves as an important source of information about Polish current events, history, and culture. Its English as a second language program is an extremely important resource for many Polish-Americans as they assimilate into the United States.

Mr. Speaker, I ask that my colleagues rise with me in this tribute and pay honor to the Polish & Slavic Center in their celebration of 25 important years serving New York's Polish-American community. Their contributions to the community's quality of life are without limit.

TRIBUTE TO THE MEMORY OF JACKIE ROOSEVELT ROBINSON

SPEECH OF

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. DELLUMS. Mr. Speaker, I rise today to honor the 50th anniversary of Jackie Robinson's integration of major league baseball. Robinson broke the color barrier and paved the way for talented minorities in professional sports careers. Half a century ago Robinson began his major league career with the Brooklyn Dodgers in 1947. As the first African-American to play major league baseball, he endured insults and threats with a quiet dignity and his talent won him recognition as a great player. Included in his esteemed titles are 1947 National League Rookie of the Year, 1949 National League Most Valuable Player, and 1962 Hall of Fame Inductee. In his decade long career, Robinson led the league in stolen bases and hitting, and he also garnered six All-Star selections.

Following his career in baseball, Robinson served as the first African-American vice president of a major American corporation and played an active role in the civil rights movement. We should remember that Robinson's integration of major league baseball preceded the Brown versus Board of Education Supreme Court decision and Rosa Parks by 7 and 8 years respectively. He struggled to bring dignity to his participation in major league baseball and other avenues of American life for African-Americans.

As a young man, with Jackie Robinson as a profound role model, I considered a career in baseball and because of his impact to the sport, I thought it was a viable possibility. I proudly join with others to salute the contributions of Jackie Robinson to major league baseball and to political activist culture.

IN HONOR OF THE POLISH & SLAVIC FEDERAL CREDIT UNION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 21, 1997

Mrs. MALONEY of New York. Mr. Speaker, I rise today to pay a respectful tribute to the Polish & Slavic Federal Credit Union which is celebrating its 20th anniversary of devoted service to Metropolitan New York's Polish-American community.

The Polish & Slavic Federal Credit Union was founded in 1978 as the financial arm of the Polish & Slavic Center. The credit union expands the center's dedication to New York's Polish and Slavic communities by providing financial opportunities unavailable to them prior to its establishment. Over the years, the credit union has guaranteed financial security to thousands of Polish-Americans and provided immeasurable benefits to the community.

The Polish & Slavic Federal Credit Union, which operates five branches that serve over 42,000 members, has achieved great results over the years. Not only does it hold the distinct honor of reaching the highest return on assets among the largest credit unions in the United States, its capital to assets ratio is the highest in the country. The credit union is so successful that two more branches of the Polish & Slavic Federal Credit Union are expected to open in the near future to service the community's financial concerns.

Mr. Speaker, I ask that my colleagues rise with me in this tribute and to pay honor to the Polish & Slavic Federal Credit Union as they celebrate their 20th anniversary.

TRIBUTE TO THE MEMORY OF JACKIE ROOSEVELT ROBINSON

SPEECH OF

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 15, 1997

Mr. RANGEL. Mr. Speaker, I rise today to pay special tribute to Jackie Robinson, the first

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

African-American to play major league baseball in the 20th century.

Jackie Robinson, came from humble beginnings and was born on January 31, 1919. The son of a sharecropper, was never one to let adversity or racial discrimination stand in his path.

He attended the University of California, where he won acclaim in basketball, football, baseball, and track and field. Jackie's collegiate experience was cut short in 1941 because of financial hardship. Jackie was forced to leave the university. To support his family, Jackie enlisted in the Army in 1942 and was subsequently commissioned as a second lieutenant in 1943.

In 1947, the Brooklyn Dodgers signed Jackie up as a player. He became the first African-American to play major league baseball. During the early years, his debut into professional baseball was anything but easy. Jackie was forced to face facial discrimination, hatred and bigotry from white major league baseball players and fans on an almost daily basis. Yet, despite this hostile environment, Jackie achieved fame as one of the greatest baseball players.

Before his retirement in 1956, Jackie had compiled a career batting average of .311 and had played for six pennant winners and one world championship team in Brooklyn. He was named Rookie of the Year in 1947 and Most Valuable Player in the National League in 1949, the year he led the league in stolen bases. Although Jackie played many positions, he was primarily a second baseman.

Jackie's lifetime accomplishments go well beyond the limits of a baseball diamond. He was a' noted civil rights leader, devoted family man and shrewd businessman and banker. Harlem was his adopted home.

Today is indeed a special occasion, for it marks the 50th anniversary of Jackie Robinson's debut into the professional baseball league. Jackie has been a positive role model for so many aspiring youth. We have only to look at the recent accomplishments of Tiger Woods.

Please join me in celebrating the 50th anniversary of Jackie Robinson's debut into professional baseball.

HONORING OUR SIBLINGS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 21, 1997

Mrs. MALONEY of New York. Mr. Speaker, I rise today in support of the establishment of "Siblings Day," a day to honor our sisters and brothers for the many ways in which they have enriched our lives. This celebration would give us the opportunity to show our appreciation for our siblings, much the same way that Mother's Day and Father's Day are celebrated.

Siblings make an important contribution to who we are. Often, when our parents are gone, our siblings are our only remaining family. And sometimes, as in the case of one of my constituents, Siblings Day will help us remember siblings who we have lost at an early age.

My constituent, Claudia Evart, has been working to promote April 10 as Siblings Day. This day would mark the birthday of Claudia's sister Lisette, who died tragically in 1972 at age 19 in a car accident that also killed their father. An additional tragedy struck in 1987, when Ms. Evart's older brother, Alan, died in an accident at his home. He was 36 years old.

Ms. Evart has been lobbying for the past year to create a State and national siblings day holiday to be celebrated on April 10, her sister's birthday. She is working with the U.S. Committee for UNICEF, Students Against Drunk Driving, and the Estonian House, a Manhattan-based organization that celebrates Estonian heritage.

Siblings are often our first roommate or our first friend. I call on the Congress to recognize the importance of family members by recognizing the contributions made by our siblings. I applaud the work of Claudia Evart, who has created a loving tribute to her deceased siblings by her work to establish Siblings Day. Her inspired work should serve as a lesson to us all.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, April 22, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 23

9:30 a.m.
Labor and Human Resources
To resume hearings on proposed legislation authorizing funds for programs of the Higher Education Act.
SD–430

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on medical programs.
SD–192

Appropriations
District of Columbia Subcommittee
To hold hearings on an additional funding request for fiscal year 1997 by the District of Columbia Financial Responsibility and Management Assistance Authority for capital improvements to D.C. public schools and for public safety agencies.
SD–138

Armed Services
To hold hearings on the Administration's proposal on NATO enlargement.
SH–216

Commerce, Science, and Transportation
Manufacturing and Competitiveness Subcommittee
To hold hearings to examine the current state of manufacturing in the United States.
SR–253

Finance
To hold hearings on S. 436, to provide for the transfer of one-half cent of the 4.3 cents-per-gallon motor fuels tax now being deposited into the General Fund to a designated trust fund for Amtrak.
SD–215

Governmental Affairs
To hold hearings on S. 261, to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government.
SD–342

Judiciary
To hold hearings on the national crisis of gangs.
SD–226

2:30 p.m.
Select on Intelligence
To hold closed hearings on intelligence matters.
SH–219

APRIL 24

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on U.S. agricultural export issues.
SR–332

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the National Endowment for the Arts/National Endowment for the Humanities.
SD–192

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1998 for the Corp of Engineers and the Bureau of Reclamation, Department of the Interior.
SD–124

Environment and Public Works
Clean Air, Wetlands, Private Property, and Nuclear Safety Subcommittee
To hold hearings on ozone and particulate matter standards proposed by the Environmental Protection Agency.
SD–406

Rules and Administration
To hold hearings to discuss revisions to Title 44, relating to the operations of the Government Printing Office.
SR–301

Small Business
To hold hearings to review the Small Business Administration's non-credit programs.
SR–428A

10:00 a.m.
Labor and Human Resources
To hold hearings to examine issues relating to vocational education.
SD–430

12:30 p.m.

Governmental Affairs

Oversight of Government Management, Restructuring and the District of Columbia Subcommittee

To hold oversight hearings to review the opportunities for management reforms at the National Oceanic and Atmospheric Administration.

SD–342

2:00 p.m.

Appropriations

Commerce, Justice, State, and the Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the National Oceanic and Atmospheric Administration, Department of Commerce.

S–146, Capitol

Foreign Relations

East Asian and Pacific Affairs Subcommittee

To hold hearings to examine U.S. policy toward Hong Kong.

SD–419

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

APRIL 25

9:30 a.m.

Labor and Human Resources

Public Health and Safety Subcommittee

To hold hearings to examine how the United States' health care workforce must evolve to meet future needs.

SD–430

APRIL 29

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Veterans Affairs.

SD–138

Energy and Natural Resources

To hold oversight hearings to review a GAO evaluation of the development of the Draft Tongass Land Management Plan.

SD–366

Indian Affairs

Business meeting, to mark up S. 459, to authorize funds for and extend the Native American Programs Act of 1974; to be followed by an oversight hearing on the implementation of the San Carlos Water Rights Settlement Act of 1991 (P.L. 102-575).

SR–485

Special on Aging

To hold hearings to examine the chronic health care delivery system.

SH–216

10:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Commodity Futures Trading Commission, and the Food and Drug Administration, Department of Health and Human Resources.

SD–124

Labor and Human Resources

To hold hearings on proposed legislation authorizing funds for programs of the National Endowment for the Arts and the Humanities.

SD–430

APRIL 30

9:30 a.m.

Rules and Administration

To resume hearings to discuss revisions to Title 44, relating to the operations of the Government Printing Office.

SR–301

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on the structure and modernization of the National Guard.

SD–192

Judiciary

To hold hearings to examine the operations of the Department of Justice.

SD–226

MAY 1

9:00 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of the Interior.

SD–192

9:30 a.m.

Energy and Natural Resources

National Parks, Historic Preservation, and Recreation Subcommittee

To hold hearings on S. 357, to authorize the Bureau of Land Management to manage the Grand Staircase-Escalante National Monument.

SD–366

Labor and Human Resources

Public Health and Safety Subcommittee

To hold hearings to examine biomedical research priorities.

SD–430

Small Business

To hold hearings on the Small Business Administration's finance programs.

SR–428A

MAY 5

2:30 p.m.

Energy and Natural Resources

To hold hearings on S. 430, to amend the Act of June 20, 1910, to protect the permanent trust funds of the State of New Mexico from erosion due to inflation and modify the basis on which distributions are made from those funds.

SD–366

MAY 6

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the National Aeronautics and Space Administration.

SD–138

2:00 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for foreign assistance programs, focusing on Russia and the Newly Independent States.

S–128, Capitol

MAY 7

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.

SD–192

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Transportation, focusing on transportation infrastructure financing issues.

SD–124

MAY 8

9:30 a.m.

Energy and Natural Resources

To hold a workshop to examine competitive change in the electric power industry, focusing on the effects of competition on fuel use and types of generation.

SH–216

MAY 14

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on environmental programs.

SD–192

MAY 21

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense, focusing on Air Force programs.

SD–192

MAY 22

9:30 a.m.

Energy and Natural Resources

To resume a workshop to examine competitive change in the electric power industry, focusing on the financial implications of restructuring.

SH–216

JUNE 4

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.

SD–192

JUNE 11

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1998 for the Department of Defense.

SD–192

JUNE 12

9:30 a.m.

Energy and Natural Resources

To resume a workshop to examine competitive change in the electric power industry, focusing on the benefits and risks of restructuring to consumers and communities.

SH–216